START

Title: FEDERAL REGISTER.

Volume: 66 **Issues:** 241-250

PAGES: 64735-67702

Date: DECEMBER 14 - 31, 2001

UMI Number: 2575.00

Notes: **REEL NO:** 9 OF 9

INCLUDES:
LSA (JULY-DECEMBER 2001)

UMI
Bell & Howell Information and Learning Company
300 North Zeeb Road
P.O. Box 1346
Ann Arbor, MI 48106-1346

VOL
66
ISS
2
4
1
DE
14
2001
UMI

Unite
Gove
Printi
SUPERIN
OF DOC
Washing
OFFICIA
Penalty f

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–14–01
Vol. 66 No. 241

Friday
Dec. 14, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

*****************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
1
DE
14
2001
UMI

ANN ARBOR MI 48106

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
LITTERA SCRIPTA MANET
1985

Federal Register

12–14–01
Vol. 66 No. 241
Pages 64735–64908

Friday
Dec. 14, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

Editorial Note: Due to the closing of Federal government executve departments and agencies on Monday, December 24, 2001 (Executive Order 13238), the effective dates chart for December 2001 has been revised, and can be found in the Reader Aids section of today's **Federal Register**.

Agency for Healthcare Research and Quality
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 64835–64837

Agriculture Department
See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service

Alcohol, Tobacco and Firearms Bureau
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64899–64902

Animal and Plant Health Inspection Service
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64796–64797
Environmental statements; availability, etc.:
  Melaleuca quinquenervia; biological control agents use to reduce severity of melaleuca infestations, 64797–64798

Army Department
NOTICES
Privacy Act:
  Systems of records, 64811–64814

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64837–64838

Centers for Medicare & Medicaid Services
NOTICES
Meetings:
  Ambulatory Payment Classification Groups Advisory Panel, 64838–64839
  Medicare—
    Diagnostic data collection from Medicare+Choice organizations for risk adjustments; activities, 64839–64840

Coast Guard
PROPOSED RULES
Ports and waterways safety:
  Savannah River, GA; regulated navigation area, 64778–64783
Vessel documention and measurement:
  Lease-financing for vessels engaged in coastwise trade, 64784
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64897–64898
Meetings:
  International Maritime Security Initiative, 64898–64899

Commerce Department
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 64804–64806

Copyright Office, Library of Congress
PROPOSED RULES
Copyright arbitration royalty panel rules and procedures:
  Mechanical and digital phonorecord delivery compulsory license, 64783

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
  AmeriCorps*VISTA financial asset development projects, 64806–64810

Defense Department
See Army Department
See Defense Logistics Agency
NOTICES
Meetings:
  Science Board, 64810–64811

Defense Logistics Agency
NOTICES
Privacy Act:
  Systems of records, 64814–64816

Education Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request; correction, 64816–64817

Employment and Training Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  H-1B Technical Skills Training Program, 64859–64872
  Workforce Investment Act—
    People with disabilities; Work Incentive Program, 64873–64884

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 64884–64885

Environmental Protection Agency

RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
  Colorado, 64751–64759
Air quality implementation plans; approval and promulgation; various States:
  Wisconsin, 64750–64751
Pesticide programs:
  Pesticide products labeling for clarity, etc., 64759–64768
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  Avermectin, etc., 64768–64775
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
  Wisconsin, 64783–64784
NOTICES
Agency information collection activities:
  Reporting and recordkeeping requirements, 64817–64818
Environmental statements; availability, etc.:
  Agency statements—
    Comment availability, 64819
    Weekly receipts, 64818–64819
Pesticide, food, and feed additive petitions:
  Dow AgroSciences LLC, 64819–64823
  Interregional Research Project (No. 4) et al., 64823–64828
  Sygenta Crop Protection Inc., 64828–64832
Superfund; response and remedial actions, proposed settlements, etc.:
  Western Sand & Gravel Site, RI, 64832

Executive Office of the President

See Presidential Documents
See Trade Representative, Office of United States

Federal Aviation Administration

RULES
Airworthiness directives:
  Bombardier, 64739–64740
PROPOSED RULES
Air traffic operating and flight rules, etc.:
  Grand Canyon National Park, AZ; special flight rules in vicinity—
    Aircraft operations; noise limitations, 64778

Federal Communications Commission

RULES
Common carrier services:
  Federal-State Joint Board on Universal Service—
    Contributions to Federal universal service support mechanisms; waiver request denied, 64775–64776
Radio stations; table of assignments:
  Georgia, 64777
  Various States, 64776–64777
PROPOSED RULES
Common carrier services:
  Local telecommunications markets; competitive networks promotion, 64785
Radio services, special:
  Aviation services, 64785–64792
Radio stations; table of assignments:
  Wyoming, 64792–64793
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64832–64833
Meetings; Sunshine Act, 64833–64835

Fish and Wildlife Service

NOTICES
Reports and guidance documents; availability, etc.:
  Service Manual chapters on audits, 64845–64853

Food and Drug Administration

NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 64840–64841

Food and Nutrition Service

NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64798–64799

Forest Service

NOTICES
Appealable decisions; legal notice:
  Northern Region, 64799
Environmental statements; notice of intent:
  Salmon-Challis National Forest, ID, 64799–64800
  Tahoe National Forest, CA, 64800–64803
Meetings:
  Glenn/Colusa County Resource Advisory Committee, 64803
  Grays Harbor Resource Advisory Committee, 64803–64804
  Olympic Peninsula Resource Advisory Committee, 64804
  Tehama County Resource Advisory Committee, 64804

General Services Administration

NOTICES
Environmental statements; availability, etc.:
  Suitland Federal Center, Suitland MD; correction, 64905

Health and Human Services Department

See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health

Housing and Urban Development Department

NOTICES
Grants and cooperative agreements, etc.:
  Facilities to assist homeless—
    Excess and surplus Federal property, 64843–64845

Indian Affairs Bureau

NOTICES
Electric utility power rate and service fee adjustment:
  Mission Valley Power Utility, 64853–64855
Tribal-State Compacts approval; Class III (casino) gambling:
  Confederated Salish and Kootenai Tribes of Flathead Nation, MT, 64855–64856
  Pueblos of Isleta et al., NM, 64856
  Pueblos of Tesuque and San Felipe, NM, 64856

Interior Department

See Fish and Wildlife Service
See Indian Affairs Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service

RULES
Procedure and administration:
  Internal revenue taxes payment by credit card and debit card, 64740–64744

PROPOSED RULES
Income taxes:
  Catch-up contributions for individuals age 50 or over
    Correction, 64905

International Trade Commission
NOTICES
Import investigations:
  Oscillating sprinklers, sprinkler components, and nozzles, 64856–64857

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Labor Statistics Bureau
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64857–64858
  Submission for OMB review; comment request, 64858–64859

Labor Statistics Bureau
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64885–64888

Library of Congress
See Copyright Office, Library of Congress

National Institutes of Health
NOTICES
Meetings:
  National Institute of Child Health and Human Development, 64841–64842
  National Institute of Dental and Craniofacial Research, 64842
  National Institute of Diabetes and Digestive and Kidney Diseases, 64841
  National Institute on Deafness and Other Communication Disorders, 64841
  Scientific Review Center, 64842–64843

National Oceanic and Atmospheric Administration
PROPOSED RULES
Endangered and threatened species:
  Findings on petitions, etc.—
    North American green sturgeon, 64793–64795
  Sea turtle conservation requirements, 64793

National Science Foundation
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64889–64890

Nuclear Regulatory Commission
RULES
Minor errors in regulatory text; correction, 64737–64738
NOTICES
Enforcement actions:
  Alternative dispute resolution use; evaluation; comment request, 64890–64893
Regulatory guides; issuance, availability, and withdrawal, 64893

Office of United States Trade Representative
See Trade Representative, Office of United States

Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64888–64889

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
  Allocation of assets—
    Interest assumptions for valuing and paying benefits, 64744–64746
NOTICES
Multiemployer plans:
  Interest rates and assumptions, 64893–64894

Presidential Documents
EXECUTIVE ORDERS
Afghanistan; designating airspace as a combat zone (EO 13239), 64907–64909
ADMINISTRATIVE ORDERS
Government agencies and employees:
  Federal law enforcement training and exchange programs in Northern Ireland; certification (Memorandum of December 7, 2001), 64735

Public Health Service
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 64894–64895
Self-regulatory organizations; proposed rule changes:
  New York Stock Exchange, Inc., 64895–64896

Small Business Administration
RULES
Business loans:
  Loan guaranty and amounts, minimum guaranteed dollar amount of 7(a) loans, financing percentages, etc.
    Withdrawn, 64739
NOTICES
Disaster loan areas:
  Tennessee et al., 64896–64897

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
  Louisiana, 64746–64750

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
  Burlington Northern & Santa Fe Railway Co., 64899

Trade Representative, Office of United States
NOTICES
Caribbean Basin Economic Recovery Act; determinations:
  Beneficiary countries; preferential treatment list, 64897
Trade Policy Staff Committee:
  U.S.-Chile Free Trade Agreement; environmental review, 64897

Transportation Department
See Coast Guard

See Federal Aviation Administration
See Surface Transportation Board

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Internal Revenue Service

Veterans Affairs Department

RULES

Medical benefits:
  Inpatient hospital care and outpatient medical care; copayments
    Correction, 64905

NOTICES

Lead-based paint hazards in VA-acquired properties; notification, evaluation, and reduction; insufficient appropriations to cover implementation costs, 64902–64903

Separate Parts In This Issue

Part II
The President, 64907–64909

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
13239....................64907
Administrative Orders:
Memorandums:
December 7, 2001..........64735
10 CFR
20....................64737
30....................64737
32....................64737
34....................64737
40....................64737
50....................64737
51....................64737
13 CFR
120....................64739
14 CFR
39....................64739
Proposed Rules:
93....................64778
26 CFR
301....................64740
Proposed Rules:
1....................64904
29 CFR
4022....................64744
4044....................64744
30 CFR
918....................64746
33 CFR
Proposed Rules:
165....................64778
37 CFR
Proposed Rules:
255....................64783
38 CFR
17....................64904
40 CFR
52 (2 documents)..........64750, 64751
81....................64751
152....................64759
156....................64759
180....................64768
Proposed Rules:
52....................64783
46 CFR
Proposed Rules:
67....................64784
47 CFR
54....................64775
73 (2 documents)..........64776, 64777
Proposed Rules:
1....................64785
2....................64785
73....................64792
87....................64785
50 CFR
Proposed Rules:
222....................64793
223 (2 documents)..........64793
224....................64793

VOL
66

ISS
2
4
1

DE
14
2001

UMI

Federal
Vol. 66,
Friday,

Title 3

The I

[FR Doc.
Filed 12–
Billing co

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

Presidential Documents

Title 3—

The President

Memorandum of December 7, 2001

Certification Related to Northern Ireland Under Section 405 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001

Memorandum for the Secretary of State

Pursuant to section 405 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted in Public Law 106–113, I hereby certify that: (i) training or exchange programs conducted by the Federal Bureau of Investigation or other Federal law enforcement agencies for the Police Service of Northern Ireland (PSNI) or PSNI members are necessary to improve the professionalism of policing in Northern Ireland and advance the peace process in Northern Ireland; (ii) such programs will include in the curriculum a significant human rights component; (iii) vetting procedures have been established in the Departments of State and Justice, and any other appropriate Federal agency, to ensure that training or exchange programs do not include PSNI members who there are substantial grounds for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland; and (iv) the Governments of the United Kingdom and Republic of Ireland are committed to assisting in the full implementation of the recommendations contained in the Patten Commission report issued September 9, 1999.

You are authorized and directed to transmit this certification to the appropriate congressional committees and to publish it in the **Federal Register**.

THE WHITE HOUSE,
Washington, December 7, 2001.

[FR Doc. 01–31023
Filed 12–13–01; 8:45 am]
Billing code 4710–10–M

VOL
66

ISS
2
4
1

DE

14

2001

UMI

Rule

This secti
contains r
applicabili
are keyed
Federal R
50 titles p

The Code
the Super
new book
REGISTE

NUCLEA
COMMIS

10 CFR
51

RIN 3150

Minor E
Correcti

AGENCY:
Commis

ACTION:
amendm

SUMMAR
Commis
final rul
correctio
is neces
typograp
citations
the NRC

EFFECTIV

FOR FUR
Michael
Directive
Adminis
Adminis
Commis
telephon
mtl@nrc

SUPPLEM
is neces
typograp
citations
Title 10,
Federal
corrects
rulemak
publishe
17506)(
Termina
Facilitie
Becau
minor co
regulatio
that noti
Adminis
553(b)(A

Rules and Regulations

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 30, 32, 34, 40, 50, and 51

RIN 3150–AG92

Minor Errors in Regulatory Text; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correcting amendments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing this final rule to make a number of minor corrections to its regulations. This rule is necessary to correct omissions, typographical errors, and erroneous citations and references that appear in the NRC's regulations.

EFFECTIVE DATE: December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–7163, e-mail *mtl@nrc.gov*.

SUPPLEMENTARY INFORMATION: This rule is necessary to correct omissions, typographical errors, and erroneous citations and references that appear in Title 10, Chapter I of the Code of Federal Regulations. This rule also corrects an omission of text in a final rulemaking that was originally published on April 12, 1999 (64 FR 17506)(Radiological Criteria for License Termination of Uranium Recovery Facilities).

Because these amendments involve minor corrections to existing regulations, the NRC has determined that notice and comment under the Administrative Procedure Act 5 U.S.C. 553(b)(A) and (B) is unnecessary and that good cause exists to dispense with such notice and comment. For these reasons, good cause also exists to dispense with the usual 30-day delay in the effective date. Therefore, the amendments are effective upon their publication in the **Federal Register**.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because the final rule makes corrections to the regulations.

Backfit Analysis

The NRC has determined that these amendments do not involve any provision which would impose backfits as defined in 10 CFR 50.109(a)(1); therefore, a backfit analysis need not be prepared.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 30

Byproduct material, Criminal penalties, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 34

Criminal penalties, Packaging and containers, Radiation protection, Radiography, Reporting and recordkeeping requirements, Scientific equipment, Security measures.

10 CFR Part 40

Criminal penalties, Government contracts, Hazardous materials transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 30, 32, 34, 50, and 51.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202,206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

§ 20.2103 [Amended]

2. In § 20.2103(b)(3), the reference to "§ 20.1703(a)(3)(i) and (ii)" is revised to read "§ 20.1703(c)(1) and (2)".

VOL 66 ISS 241 DEC 14 2001 UMI

§ 20.2201 [Amended]

3. In § 20.2201(c), the reference to "§ 73.67 (e)(3)(vi)" is revised to read "§ 73.67(e)(3)(vii)".

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

4. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123, (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§ 30.37 [Amended]

5. In § 30.37(a), "Form 314" is revised to read "Form 313".

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

6. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 32.21 [Amended]

7. In § 32.21(a)(2), the reference to "§ 32.27(a)(2)" is revised to read "§ 32.72(a)(2)".

PART 34—LICENSES FOR INDUSTRIAL RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS

8. The authority citation for Part 34 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 34.45 also issued under sec. 206, 88 Stat. 1246, (42 U.S.C. 5846).

§ 34.53 [Amended]

9. In § 34.53, "(a) and (b)" is inserted after § 20.1902.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

10. The authority citation for Part 40 continues to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022); sec. 193, 104 Stat. 2835, as amended by Pub. L. 104–134, 110 Stat. 1321, 1321–349 (42 U.S.C. 2243).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§ 40.42 [Amended]

11. In § 40.42(j)(2), insert "or, for uranium milling (uranium and thorium recovery) facilities, Criterion 6(6) of Appendix A to this part." after "Subpart E".

12. In § 40.42, paragraphs (k)(3)(i) and (ii), insert "or, for uranium milling (uranium and thorium recovery) facilities, Criterion 6(6) of Appendix A to this part;" after "Subpart E".

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

13. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.13, 50.54(dd), and 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Sections 50.23, 50.35, 50.55, and 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80—50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

§ 50.49 [Amended]

14. In § 50.49(b)(2), the phrase "(i) through (iii) of paragraph (b)(1)" is revised to read "(b)(1)(i)(A) through (C)".

§ 50.59 [Amended]

15. In § 50.59(b), in the last sentence, insert the words "of nuclear fuel," between the words "possession" and "but".

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

16. The authority citation for Part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953, (42 U.S.C. 2201, 2297f); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842). Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853–854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95–604, Title II, 92 Stat. 3033–3041; and sec. 193, Pub. L. 101–575, 104 Stat. 2835 (42 U.S.C. 2243). Sections 51.20, 51.30, 51.60, 51.80. and 51.97 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241, and sec. 148, Pub. L. 100–203, 101 Stat. 1330–223 (42 U.S.C. 10155, 10161, 10168). Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036–3038 (42 U.S.C. 2021) and under Nuclear Waste Policy Act of 1982, sec. 121, 96 Stat. 2228 (42 U.S.C. 10141). Sections 51.43, 51.67, and 51.109 also under Nuclear Waste Policy Act of 1982, sec. 114(f), 96 Stat. 2216, as amended (42 U.S.C. 10134(f)).

Part 51, Appendix B to Subpart A [Amended]

17. In Part 51, Subpart A, Appendix B, in Table B–1 under the heading "Uranium Fuel Cycle and Waste Management," across from the subheading under, "Issue", "Offsite Radiological Impact (Collective Effects)" under the subheading "Findings", in the first sentence, insert the word "excepted," between the words "disposal" and "is".

Dated at Rockville, Maryland, this 7th day of December, 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–30832 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AE68

Business Loans and Development Company Loans

AGENCY: Small Business Administration (SBA).

ACTION: Withdrawal of direct final rule.

SUMMARY: The SBA is withdrawing the direct final rule published on November 14, 2001 (66 FR 56985) implementing various changes in the Business Loan Program enacted by the Small Business Reauthorization Act of 2000. Pending further evaluation SBA will publish a new rule.

DATES: The direct final rule published at 66 FR 56985, November 14, 2001 is withdrawn, as of December 14, 2001.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Director, Office of Loan Programs, Office of Financial Assistance, (202) 205–6490.

SUPPLEMENTARY INFORMATION: The SBA published a direct final rule on November 14, 2001, (66 FR 56985), which incorporated changes to SBA rules concerning loan guaranty and loan amounts, minimum guaranteed dollar amount of 7(a) loans, percentages of financing which can be guaranteed by SBA, guarantee fees paid by lenders, real estate occupancy rules, and borrower prepayment penalties. Subsequent to the publication of the direct final rule, SBA has decided to withdraw it and reconsider portions of the rule. After such reconsideration, SBA will publish a new rule at an early date.

List of Subjects in 13 CFR Part 120

Loan program—business, Small businesses.

Authority: 15 U.S.C. 634(b)(6), 636(a) and (h), 696(3), and 697(a)(2).

Hector V. Barreto,

Administrator.

[FR Doc. 01–30842 Filed 12–13–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–68–AD; Amendment 39–12488; AD 2001–22–09]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects information in an existing airworthiness directive (AD) that applies to certain Bombardier Model CL–600–2B19 series airplanes. That AD currently requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. This document corrects an error that resulted in the omission of the AD and amendment numbers in the "Product Identification" section of the AD. This correction is necessary to ensure that the correct AD and amendment numbers are specified.

DATES: Effective December 4, 2001.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of December 4, 2001 (66 FR 54658, October 30, 2001).

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: On October 22, 2001, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 2001–22–09, amendment 39–12488 (66 FR 54658, October 30, 2001), which applies to certain Bombardier Model CL–600–2B19 series airplanes. A correction of the rule was published in the **Federal Register** on November 26, 2001 (66 FR 58931). That AD requires repetitive eddy current inspections for cracking of the main landing gear (MLG) main fittings, and replacement with a new or serviceable MLG, if necessary. That AD also requires servicing the MLG shock struts; inspecting the MLG shock struts for nitrogen pressure, visible chrome dimension, and oil leakage; and performing corrective actions, if necessary. The actions specified by that AD are intended to prevent failure of the MLG main fitting, which could result in collapse of the MLG upon landing. The actions are intended to address the identified unsafe condition.

Need for the Correction

The FAA inadvertently omitted the AD and amendment numbers from the "Product Identification" section of the AD. As a result, we have determined that a correction to AD 2001–22–09 is necessary. The correction will correctly add the AD and amendment numbers in the "Product Identification" section of the AD.

Correction of Publication

This document corrects the error and correctly adds the AD as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The AD is reprinted in its entirety for the convenience of affected operators. The effective date of the AD remains December 4, 2001.

Since this action only adds the omitted AD and amendment numbers, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public procedures are unnecessary.

List of Subject in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Corrected]

2. Section 39.13 is amended by correctly adding the following airworthiness directive (AD):

2001–22–09 Bombardier: Amendment 39–12488. Docket 2000–NM–68–AD.

Applicability: Model CL–600–2B19 series airplanes, certificated in any category, having serial numbers 7003 and subsequent, and equipped with a main landing gear (MLG) main fitting having part number (P/N)

VOL 66 ISS 241 DE 14 2001 UMI

17064–101, 17064–102, 17064–103, or 17064–104.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of MLG main fitting, which could result in collapse of the MLG upon landing, accomplish the following:

Inspection and Replacement

(a) Prior to the accumulation of 1,500 total flight cycles, or within 150 flight cycles after December 4, 2001, the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking of the MLG main fittings, in accordance with Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. If any cracking is found, prior to further flight, replace the cracked fitting with a new or serviceable fitting in accordance with the alert service bulletin. Repeat the inspection thereafter at intervals not to exceed 500 flight cycles.

Servicing the Shock Struts

(b) Prior to the accumulation of 1,500 total flight cycles since the date of manufacture, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Perform a servicing (Oil and Nitrogen) of the MLG shock struts (left and right main landing shock struts), in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Other Inspections

(c) Within 500 flight cycles after completing the actions required by paragraph (b) of this AD: Perform an inspection of the MLG left and right shock struts for nitrogen pressure, visible chrome dimension, and oil leakage, in accordance with Part E of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. Thereafter, repeat the inspection at intervals not to exceed 500 flight cycles.

Corrective Actions for Certain Inspections

(d) If the chrome extension dimension of the shock strut pressure reading is outside the limits specified in the Airplane Maintenance Manual, Task 32–11–05–220–801, or any oil leakage is found: Prior to further flight, service the MLG shock strut in accordance with Part C (for airplanes on the ground) or Part D (for airplanes on jacks) of the Accomplishment Instructions of Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000.

Extension of the Repetitive Interval

(e) After the effective date of this AD: After a total of five consecutive inspections of the MLG shock struts that verify that the shock struts are serviced properly, and a total of five consecutive eddy current inspections of the MLG main fitting has been accomplished that verify there is no cracking of the main fitting, in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000, the repetitive interval for the eddy current inspections required by paragraph (a) of this AD may be extended from every 500 flight cycles to every 1,000 flight cycles.

Reporting Requirement

(f) Within 30 days after each inspection and servicing required by paragraphs (a), (b), and (c) of this AD, report all findings, positive or negative, to: Bombardier Aerospace, Regional Aircraft, CRJ Action Desk, fax number 514–855–8501. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) The actions shall be done in accordance with Bombardier Alert Service Bulletin A601R–32–079, Revision D, dated December 1, 2000. This incorporation by reference was approved previously by the Director of the Federal Register as of December 4, 2001 (66 FR 54658, October 30, 2001). Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–1999–32R1, dated January 22, 2001.

Effective Date

(j) The effective date of this amendment remains December 4, 2001.

Issued in Renton, Washington, on December 7, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30863 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8969]

RIN 1545–AW37

Payment by Credit Card and Debit Card

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations authorizing the Commissioner to accept payment of internal revenue taxes by credit card or debit card and limit the use and disclosure of information relating to payment of taxes by credit card and debit card. Additionally, the final regulations provide that payments of tax by check or money order should be made payable to the United States Treasury. The final regulations reflect changes to the law made by the Taxpayer Relief Act of 1997 and affect persons who pay their tax liabilities by credit card, debit card, check, or money order.

DATES: *Effective Date:* These final regulations are effective December 14, 2001.

Applicability Date: For dates of applicability, see § 301.6311–2(h).

FOR FURTHER INFORMATION CONTACT: Brinton Warren, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending the Procedure and Administration Regulations (26 CFR part 301) under sections 6103 and 6311 of the Internal Revenue Code (Code). The final regulations reflect the amendment of sections 6103 and 6311 by section 1205 of the Taxpayer Relief Act of 1997, Public Law 105–34 (111 Stat. 788) (TRA 1997); section 4003(k) of the Tax and Trade Relief Extension Act of 1998, Public Law 105–277 (112 Stat. 2681) (TREA 1998); and section 3703 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206 (112 Stat. 685) (RRA 1998).

On December 15, 1998, the IRS and Treasury published temporary regulations (TD 8793) in the **Federal Register** (63 FR 68995). A notice of proposed rulemaking (REG–111435–98) cross-referencing the temporary regulations was published on the same day in the **Federal Register** (63 FR 69031). (References herein to the proposed regulations shall be to the temporary regulations.) No public hearing was requested or held. Two written comment letters were received. After consideration of the comments, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed. The comments and revisions are discussed below.

Explanation of Provisions

Section 301.6311–1 currently provides that checks or money orders should be made payable to the Internal Revenue Service. Section 3703 of RRA 1998 states that the Secretary of the Treasury shall establish such rules, regulations, and procedures as are necessary to allow payment of taxes by check or money order payable to the United States Treasury. The amendment to § 301.6311–1 accordingly provides that checks and money orders should be made payable to the United States Treasury.

As amended by section 1205 of TRA 1997, section 6311(a) provides that it shall be lawful for the Secretary of the Treasury to receive payment for internal revenue taxes by any commercially acceptable means that the Secretary deems appropriate, to the extent and under the conditions provided in regulations prescribed by the Secretary. The legislative history accompanying TRA 1997 explains that commercially acceptable means include "electronic funds transfers, including those arising from credit cards, debit cards, and charge cards." H.R. Conf. Rep. No. 105–220, at 652 (1997). The current regulations under § 301.6311–1 permit payment of taxes by checks, drafts drawn on financial institutions, or money orders. The final regulations add payments by credit cards (which includes charge cards) and debit cards to the acceptable methods of payment under section 6311. Section 6302 and the regulations thereunder remain the authority for forms of payment by electronic funds transfer other than payment by credit card or debit card.

Only credit cards or debit cards approved by the Commissioner may be used for payment of internal revenue taxes under section 6311, only the types of tax liabilities specified by the Commissioner may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Commissioner. The Commissioner has entered into contracts with third party service providers who will process the credit and debit card transactions. The Commissioner may not impose any fee on persons making payment of taxes by credit card or debit card. However, other persons participating in the program, including third party service providers who process credit or debit card transactions, are not prohibited from charging fees.

The final regulations provide, as required by section 6311(d)(3), that the payment of taxes by credit card or debit card is subject to the error resolution procedures of section 161 of the Truth in Lending Act (TILA) (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693f), or any similar provisions of state or local law. The payment, however, is subject to the error resolution procedures of these statutes only for the purpose of resolving errors relating to the credit card or debit card account, and not for the purpose of resolving any errors, disputes, or adjustments relating to the underlying tax liability. These provisions ensure that any disputes concerning the merits of the tax liability will be resolved in the traditional administrative and judicial forums (e.g., by filing a petition in Tax Court or by paying the disputed tax and filing a claim for refund), and will not be raised in any dispute with the card issuer, financial institution, or other person participating in the credit card or debit card transaction.

As authorized by section 6311(d)(3)(E), the final regulations permit the Commissioner to return funds erroneously received due to errors relating to the credit card or debit card account by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or other appropriate financial institution or person. Returns of funds through credit card or debit card account credits, however, are available only to correct errors relating to the credit card or debit card account, and not to refund overpayments of taxes.

The final regulations also provide the procedures required under sections 6103(k)(9) and 6311(e) with respect to the use and disclosure of information relating to payment of taxes by credit card and debit card. Section 1205(c)(1) of TRA 1997 (as amended by section 6012(b)(2) of RRA 1998) added section 6103(k)(9), which authorizes the IRS to disclose returns and return information to financial institutions and others to the extent necessary for the administration of section 6311. Section 6103(k)(9) further provides that disclosures of information for purposes other than to accept payments by check or money order (for example, to accept payment by credit card or debit card) shall be made only to the extent authorized by written procedures promulgated by the Secretary. Section 6311(e) provides that no person shall use or disclose any information relating to credit card or debit card transactions obtained pursuant to section 6103(k)(9), except to the extent authorized by written procedures promulgated by the Secretary.

Pursuant to section 6311(e), the final regulations provide that information received by any person in connection with the payment of tax by credit card or debit card shall be treated as confidential by all persons who receive such information, whether such information is received from the IRS or from any other person, including the taxpayer. IRS personnel are authorized to disclose to card issuers, financial institutions, and other persons information necessary to process the tax payment or to bill or collect the amount charged or debited (for example, to resolve billing errors).

The final regulations set forth the limited purposes and activities for which such information may be used or disclosed by card issuers, financial institutions, and other persons. The permitted purposes and activities principally involve credit card and debit card processing, billing, collection, account servicing, account transfers, internal business records, legal compliance, and legal proceedings. The final regulations expressly prohibit the selling of information, the sharing of information with credit bureaus, or the use of information for any marketing purpose. Any person who uses or discloses information in violation of section 6311(e) is subject to civil liability for damages under section 7431(a)(2). See section 7431(h), added by section 1205(c)(2) of TRA 1997 (as amended by section 6012(b)(3) of RRA 1998).

Summary of Comments

Commentators recommended that the final regulations be amended to permit the IRS to compensate private sector companies for the services they provide in connection with the payment of taxes by credit and debit card. However, section 6311(d)(2) prohibits the payment of such compensation. Thus, the final regulations do not adopt this recommendation.

Commentators also recommended that the final regulations incorporate by reference the applicable regulations and staff commentaries adopted by the Federal Reserve Board under the provisions of TILA and EFTA referenced in the final regulations. The final regulations do not adopt this recommendation because the references in section 6311 and the final regulations to section 161 of TILA and section 908 of EFTA are sufficient to make the Federal Reserve Board regulations and other legal guidance under section 161 of TILA and section 908 of EFTA applicable to the payment of taxes by credit card or debit card, except as explicitly excepted in sections 6311(d)(3)(A) and (C).

Commentators also recommended a clarification of § 301.6311–2T(c)(2) of the temporary regulations, which provides that the United States has a lien for the guaranteed amount of a transaction upon all the assets of the institution making the guarantee if the United States is not duly paid after the taxpayer tenders a payment of taxes by credit card or debit card. The commentators note that the mere tendering of payment by credit card or debit card is not sufficient for the United States to have a lien. Rather, the parties involved in the transaction must also follow the applicable procedures required to authorize the transaction and to obtain the guarantee. Thus, the commentators recommended that language be added to the final regulations to provide that the United States will not have a lien unless the parties involved follow the procedures required to authorize the transaction and obtain a guarantee.

Under the temporary regulations, the financial institution must expressly guarantee the payment in order for the United States to have a lien on the assets of the institution making the guarantee. The financial institution's express guarantee will arise only if the applicable procedures necessary to authorize the transaction and obtain the guarantee are properly followed. Additional language in the final regulations is therefore unnecessary.

One commentator questioned the use of the term *commercial transactions* in § 301.6311–2T(d)(2)(D). The commentator recommended removing the word *commercial* because, in general, TILA does not apply to *commercial* transactions. The final regulations adopt this recommendation by replacing § 301.6311–2T(d)(2)(D) in the final regulations with a provision covering other types of errors similar to the ones explicitly covered by error resolution procedures in the final regulations.

One commentator recommended clarification of § 301.6311–2T(g)(3)(i), which prohibits use or disclosure of information relating to credit and debit card transactions for purposes related to the *sale or exchange* of such information separate from the underlying receivable or account. The commentator stated that this provision conflicts with other provisions in the temporary regulations that specifically permit an exchange of credit and debit card information to process credit and debit card transactions and resolve billing errors without a sale or exchange of the underlying receivable or account. The commentator's concern stems from an ambiguity created by the use of the term *exchange*. To avoid confusion, the final regulations replace *exchange* with *transfer for consideration*.

Explanation of Other Revisions

Other changes to the final regulations include the following. First, the final regulations clarify that sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles, is a permissible disclosure. See § 301.6311–2(g)(1)(i)(E). Second, the final regulations clarify that disclosure of information necessary to complete a transaction by the taxpayer with a state or local government agency (for example, to pay state or local tax by credit card or debit card) is a permissible disclosure when explicitly authorized by the taxpayer. This allows a taxpayer to make a state or local tax payment immediately after making a federal tax payment without requiring the taxpayer to reenter information (for example, name and Taxpayer Identification Number). See § 301.6311–2(g)(1)(i)(F). Third, the final regulations provide that the term *tax* as used in these final regulations includes interest, penalties, additional amounts, and additions to tax. See § 301.6311–2(a)(1). The temporary regulations did not refer to *additional amounts.*

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations, and because these final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is R. Bradley Taylor of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division).

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 301.6103(k)(9)–1 also issued under 26 U.S.C. 6103(k)(9) and 26 U.S.C. 6103(q).

* * *

Section 301.6311–2 also issued under 26 U.S.C. 6311. * * *

Par. 2. Section 301.6103(k)(9)–1 is added to read as follows:

§ 301.6103(k)(9)–1 Disclosure of returns and return information relating to payment of tax by credit card and debit card.

Officers and employees of the Internal Revenue Service may disclose to card issuers, financial institutions, or other persons such return information as the Commissioner deems necessary in connection with processing credit card and debit card transactions to effectuate payment of tax as authorized by

§ 301.6311–2. Officers and employees of the Internal Revenue Service may disclose such return information to such persons as the Commissioner deems necessary in connection with billing or collection of the amounts charged or debited, including resolution of errors relating to the credit card or debit card account as described in § 301.6311–2(d).

§ 301.6103(k)(9)–1T [Removed]

Par. 3. Section 301.6103(k)(9)–1T is removed.

§ 301.6311–1 [Amended]

Par. 4. In section 301.6311–1, paragraph(a)(1)(i) is amended by removing the language "Internal Revenue Service" from the third sentence and adding the language "United States Treasury" in its place.

Par. 5. Section 301.6311–2 is added to read as follows:

§ 301.6311–2 Payment by credit card and debit card.

(a) *Authority to receive*—(1) *Payments by credit card and debit card.* Internal revenue taxes may be paid by credit card or debit card as authorized by this section. Payment of taxes by credit card or debit card is voluntary on the part of the taxpayer. Only credit cards or debit cards approved by the Commissioner may be used for this purpose, only the types of tax liabilities specified by the Commissioner may be paid by credit card or debit card, and all such payments must be made in the manner and in accordance with the forms, instructions and procedures prescribed by the Commissioner. All references in this section to *tax* also include interest, penalties, additional amounts, and additions to tax.

(2) *Payments by electronic funds transfer other than payments by credit card and debit card.* Provisions relating to payments by electronic funds transfer other than payments by credit card and debit card are contained in section 6302 and the Treasury Regulations promulgated pursuant to section 6302.

(3) *Definitions*—(i) *Credit card* means any credit card as defined in section 103(k) of the Truth in Lending Act (15 U.S.C. 1602(k)), including any credit card, charge card, or other credit device issued for the purpose of obtaining money, property, labor, or services on credit.

(ii) *Debit card* means any accepted card or other means of access as defined in section 903(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693a(1)), including any debit card or similar device or means of access to an account issued for the purpose of initiating electronic fund transfers to obtain money, property, labor, or services.

(b) *When payment is deemed made.* A payment of tax by credit card or debit card shall be deemed made when the issuer of the credit card or debit card properly authorizes the transaction, provided that the payment is actually received by the United States in the ordinary course of business and is not returned pursuant to paragraph (d)(3) of this section.

(c) *Payment not made*—(1) *Continuing liability of taxpayer.* A taxpayer who tenders payment of taxes by credit card or debit card is not relieved of liability for such taxes until the payment is actually received by the United States and is not required to be returned pursuant to paragraph (d)(3) of this section. This continuing liability of the taxpayer is in addition to, and not in lieu of, any liability of the issuer of the credit card or debit card or financial institution pursuant to paragraph (c)(2) of this section.

(2) *Liability of financial institutions.* If a taxpayer has tendered a payment of internal revenue taxes by credit card or debit card, the credit card or debit card transaction has been guaranteed expressly by a financial institution, and the United States is not duly paid, then the United States shall have a lien for the guaranteed amount of the transaction upon all the assets of the institution making such guarantee. The unpaid amount shall be paid out of such assets in preference to any other claims whatsoever against such guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such institution.

(d) *Resolution of errors relating to the credit card or debit card account*—(1) *In general.* Payments of taxes by credit card or debit card shall be subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of state or local law, for the purpose of resolving errors relating to the credit card or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability.

(2) *Matters covered by error resolution procedures.* (i) The error resolution procedures of paragraph (d)(1) of this section apply to the following types of errors—

(A) An incorrect amount posted to the taxpayer's account as a result of a computational error, numerical transposition, or similar mistake;

(B) An amount posted to the wrong taxpayer's account;

(C) A transaction posted to the taxpayer's account without the taxpayer's authorization; and

(D) Other similar types of errors that would be subject to resolution under section 161 of the Truth in Lending Action (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f, or similar provisions of state or local law.

(ii) An error described in paragraph (d)(2)(i) of this section may be resolved only through the procedures referred to in paragraph (d)(1) of this section and cannot be a basis for any claim or defense in any administrative or court proceeding involving the Commissioner or the United States.

(3) *Return of funds pursuant to error resolution procedures.* Notwithstanding section 6402, if a taxpayer is entitled to a return of funds pursuant to the error resolution procedures of paragraph (d)(1) of this section, the Commissioner may, in the Commissioner's sole discretion, effect such return by arranging for a credit to the taxpayer's account with the issuer of the credit card or debit card or any other financial institution or person that participated in the transaction in which the error occurred.

(4) *Matters not subject to error resolution procedures.* The error resolution procedures of paragraph (d)(1) of this section do not apply to any error, question, or dispute concerning the amount of tax owed by any person for any year. For example, these error resolution procedures do not apply to determine a taxpayer's entitlement to a refund of tax for any year for any reason, nor may they be used to pay a refund. All such matters shall be resolved through administrative and judicial procedures established pursuant to the Internal Revenue Code and the rules and regulations thereunder.

(5) *Section 170 of the Truth in Lending Act not applicable.* Payments of taxes by credit card or debit card are not subject to section 170 of the Truth in Lending Act (15 U.S.C. 1666i) or to any similar provision of state or local law.

(e) *Fees or charges.* The Internal Revenue Service may not impose any fee or charge on persons making payment of taxes by credit card or debit card. This section does not prohibit the imposition of fees or charges by issuers of credit cards or debit cards or by any other financial institution or person participating in the credit card or debit card transaction. The Internal Revenue

VOL 66 ISS 241 DEC 14 2001 UMI

Service may not receive any part of any fees that may be charged.

(f) *Authority to enter into contracts.* The Commissioner may enter into contracts related to receiving payments of tax by credit card or debit card if such contracts are cost beneficial to the Government. The determination of whether the contract is cost beneficial shall be based on an analysis appropriate for the contract at issue and at a level of detail appropriate to the size of the Government's investment or interest. The Commissioner may not pay any fee or charge or provide any other monetary consideration under such contracts for such payments.

(g) *Use and disclosure of information relating to payment of taxes by credit card and debit card.* Any information or data obtained directly or indirectly by any person other than the taxpayer in connection with payment of taxes by a credit card or debit card shall be treated as confidential, whether such information is received from the Internal Revenue Service or from any other person (including the taxpayer).

(1) No person other than the taxpayer shall use or disclose such information except as follows—

(i) Card issuers, financial institutions, or other persons participating in the credit card or debit card transaction may use or disclose such information for the purpose and in direct furtherance of servicing cardholder accounts, including the resolution of errors in accordance with paragraph (d) of this section. This authority includes the following—

(A) Processing the credit card or debit card transaction, in all of its stages through and including the crediting of the amount charged on account of tax to the United States Treasury;

(B) Billing the taxpayer for the amount charged or debited with respect to payment of the tax liability;

(C) Collecting the amount charged or debited with respect to payment of the tax liability;

(D) Returning funds to the taxpayer in accordance with paragraph (d)(3) of this section;

(E) Sending receipts or confirmation of a transaction to the taxpayer, including secured electronic transmissions and facsimiles; and

(F) Providing information necessary to make a payment to state or local government agencies, as explicitly authorized by the taxpayer (e.g., name, address, taxpayer identification number).

(ii) Card issuers, financial institutions or other persons participating in the credit card or debit card transaction may use and disclose such information for the purpose and in direct furtherance of any of the following activities—

(A) Assessment of statistical risk and profitability;

(B) Transfer of receivables or accounts or any interest therein;

(C) Audit of account information;

(D) Compliance with federal, state, or local law; and

(E) Cooperation in properly authorized civil, criminal, or regulatory investigations by federal, state, or local authorities.

(2) Notwithstanding the provisions of paragraph (g)(1) of this section, use or disclosure of information relating to credit card and debit card transactions for purposes related to any of the following is not authorized—

(i) Sale of such information (or transfer of such information for consideration) separate from a sale of the underlying account or receivable (or transfer of the underlying account or receivable for consideration);

(ii) Marketing for any purpose, such as, marketing tax-related products or services, or marketing any product or service that targets those who have used a credit card or debit card to pay taxes; and

(iii) Furnishing such information to any credit reporting agency or credit bureau, except with respect to the aggregate amount of a cardholder's account, with the amount attributable to payment of taxes not separately identified.

(3) Use and disclosure of information other than as authorized by this paragraph (g) may result in civil liability under sections 7431(a)(2) and (h).

(h) Effective date. This section applies to payments of taxes made on and after December 14, 2001.

§ 301.6311–2T [Removed]

Par. 6. Section 301.6311–2T is removed.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 10, 2001.

Mark Weinberger,

Acting Assistant Secretary of the Treasury.

[FR Doc. 01–30934 Filed 12–13–01; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in January 2002. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during January 2002, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during January 2002, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during January 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 5.80 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions (in comparison with those in effect for December 2001) reflect a 5-year increase in the period during which the initial rate applies (from a period of 20 years following the valuation date to a period of 25 years following the valuation date). The initial rate, in effect during the 25-year period, represents a decrease (from the initial rate in effect for December 2001) of 0.30 percent. The ultimate rate, in effect thereafter, represents a decrease (from the ultimate rate in effect for December 2001) of 2.00 percent.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.50 percent for the period during which a benefit is in pay status, and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions are unchanged from those in effect for December 2001.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during January 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 99, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
99	1–1–02	2–1–02	4.50	4.00	4.00	4.00	7	8

3. In appendix C to part 4022, Rate Set 99, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
99	1–1–02	2–1–02	4.50	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

VOL 66 ISS 241 DE 14 2001 UMI

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
*	*	*	*	*	*	*
January 2002	.0580	1–25	.0425	>25	N/A	N/A

Issued in Washington, DC, on this 11th day of December 2001.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–30963 Filed 12–13–01; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA–020–FOR]

Louisiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposed to add standards for measuring revegetation success on pastureland. Louisiana intends to revise the Louisiana program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

EFFECTIVE DATE: December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Louisiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Louisiana program on October 10, 1980. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

II. Submission of the Amendment

By letter dated June 1, 2001 (Administrative Record No. LA–365.04), Louisiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Louisiana sent the amendment in response to our letters dated March 24, 1999, and August 16, 2000, that we sent to Louisiana under 30 CFR 732.17 (Administrative Record Nos. LA–365 and LA–365.01, respectively).

We announced receipt of the amendment in the June 27, 2001, **Federal Register** (66 FR 34137). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on July 27, 2001. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns relating to sampling procedures; data submission and analysis; data forms for ground cover and whole release area harvesting; example uses of sample adequacy formulas for ground cover and hay production measurements; statistical analysis on whole release area harvesting; and acceptable plant species for permanent ground cover. We notified Louisiana of these concerns by letter dated August 20, 2001 (Administrative Record No. LA–365.10).

By letter dated October 10, 2001 (Administrative Record No. LA–365.11), Louisiana sent revisions to its program amendment. Because the revisions merely clarified certain provisions of Louisiana's amendment, we did not reopen the public comment period.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendment to the Louisiana program.

Louisiana submitted revegetation success guidelines that describe the standards and procedures for determining revegetation success on pastureland. The Federal regulations at 30 CFR 816.116(a)(1) require that each regulatory authority select revegetation success standards and statistically valid sampling techniques for measuring revegetation success and include them in its approved regulatory program. Louisiana developed its revegetation success guidelines for pastureland to satisfy this requirement. The guidelines for pastureland include revegetation success standards and statistically valid sampling techniques for measuring revegetation success of reclaimed pastureland in accordance with Louisiana's counterpart to 30 CFR 816.116. Louisiana's standards, criteria, and parameters for revegetation success on pastureland reflect the extent of cover, species composition, and soil stabilization required in the Federal regulations at 30 CFR 816.111. As required by the Federal regulations at 30 CFR 816.116(a)(2) and (b), Louisiana's revegetation success standards include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover and production suitable to the approved postmining land use of pastureland. Louisiana's guidelines specify the procedures and techniques to be used for sampling, measuring, and analyzing vegetation parameters. Ground cover and production suitable to the approved postmining land use of pastureland is considered equal to the approved success standard when they are not less than 90 percent of the success standard. Sampling techniques for measuring success use a 90-percent statistical confidence interval. We find that use of these procedures and techniques will ensure consistent, objective collection of vegetation data.

For the above reasons, we find that the revegetation success standards and statistically valid sampling techniques for measuring revegetation success contained in Louisiana's revegetation success guidelines for pastureland satisfy the requirements of 30 CFR 816.116(a)(1).

IV. Summary and Disposition of Comments

Federal Agency Comments

On June 12, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Louisiana program (Administrative Record No. LA–365.05). The Natural Resources Conservation Service (NRCS) responded on July 10, 2001 (Administrative Record No. LA–365.08) with extensive comments on the technical adequacy of the amendment. These comments are discussed below.

A. The NRCS recommends that Louisiana delete the word "density" from its introductory language at A.2. concerning "ground cover" because Louisiana does not use the term "ground cover density" in the remainder of its revegetation guidelines for pastureland.

We disagree with the NRCS's comment. The Federal regulation at 30 CFR 701.5 defines ground cover as "the area of ground covered by the combined aerial parts of the vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement." Louisiana definition of ground cover at § 105 is substantively identical to the Federal definition. The addition of the word "density" to the phrase "ground cover" does not in any way change the regulatory definition of ground cover. Furthermore, because this is an introductory paragraph rather than a detailed requirement for revegetation standards and methods, we believe the use of the word "density" is of no consequence.

B. The NRCS states that Louisiana should change the scientific name for Kudzu found at B.2.f. As proposed, Louisiana uses the name *Pueraria lobata*. The NRCS recommends that Louisiana change it to *Pueraria montana* var. *lobata*.

We recognize that the NRCS promotes the use of the scientific name of the species of plants listed in the NRCS plants database. However, *Pueraria lobata* is the accepted scientific name for Kudzu listed in "Common Weeds of the United States" by the USDA in 1971, and in the current 1995 volume of the Southern Weed Science Society. Furthermore, Louisiana gives both the scientific and common names. Thus, we find Louisiana's use of the scientific name *Pueraria lobata* acceptable.

C. The NRCS states that, at C.1.c. concerning success standards and measurement frequency, it is unclear whether adequate sample size still needs to be documented when the initial mean is greater than or equal to the standard. The NRCS maintains that even though initial sampling results in a mean that is greater than the standard, documentation that the mean is from an adequate sample should still be required.

Section D.3.a. of Louisiana's guidelines gives the detailed requirements for determining sample adequacy for ground cover data. Specifically, it requires a minimum number of samples in a multi-stage sampling procedure where sample adequacy is calculated after the minimum samples are collected. This requirement is further clarified in Appendix F: Example Use of Sample Adequacy Formula for Ground Cover Measurements, where it is clearly stated that the sample adequacy requirements must be fulfilled before a comparison to the standard can be made. Thus, we find that Louisiana's guidelines are clear that an adequate sample size needs to be documented prior to comparing the sample mean with the standard.

D. The NRCS expressed concern about the provision at C.2.a., which provides that the success standard for production of hay on pastureland shall be 90 percent of an approved reference area if a reference area is established, or 90 percent of the estimated yield found in the NRCS parish soil survey at Appendix K. The NRCS states that most of the species listed in Appendix L, which contains a list of acceptable plant species for ground cover, do not have production estimates in the soil survey found in Appendix K, and existing reference areas that have these species are rare. The NRCS also states that species such as buffalograss and the gama grasses listed do not have the production potential of a bermudagrass stand under a high level of management.

Louisiana's guidelines specify that forage production will use the standards of yields found in the NRCS parish soil survey in Appendix K. Because the only species listed in the survey are common bermudagrass, improved bermudagrass, bahiagrass, coastal bermudagrass, pensacola bahiagrass, and tall fescue, the reclaimed pasture will need to be seeded to one of these species in order to have a valid comparison to the standard. Once the production standard is selected, the presence of other planted or volunteer species in the pasture will in no way change the production standard for comparison. If it is determined that the operator could not meet the production standard due to an overabundance of acceptable volunteer species that were not as productive as the approved seed mix, then the operator would have to manage the stand to increase the cover of the approved species and decrease the cover of the acceptable species until the standard could be met.

Louisiana allows in its determination of ground cover that up to 15 percent of that cover can be volunteer species that are acceptable based on the list provided in Appendix L. Because this list is for the purposes of ground cover, no production rates for the species listed are required.

E. The NRCS expressed concern that the phrase, "similar plant species and diversity," found at C.3.a.i. is too vague. The NRCS asks how the terms "similar" and "diversity" will be determined, and points out that there are several different methods to define these terms.

We disagree with this comment. The word "similar" is a commonly used term, and we do not believe further definition is required. Furthermore, Louisiana must use the entire list of factors at C.3.a. when determining the similarity of the reference area to the reclaimed area. This is a qualitative assessment based on the expertise and judgement of the Louisiana program consistent with factors cited in the scientific literature for the establishment of reference areas for this purpose.

The word "diversity" is defined at C.1.b. Louisiana's guidelines provide that ground cover must consist of the species mixture approved in the original permit or an approved acceptable species mixture as recommended by the NRCS for use in that area. Furthermore, no more than 15% of the stand can be approved species not listed in the permit. The Federal regulations at 30 CFR 816.111 require vegetative diversity as a performance standard for plant establishment. Louisiana has established a qualitative standard for diversity. This is consistent with the Federal regulations, which allows a qualitative standard for diversity.

F. The NRCS states that the use of the phrases, "proposed mined release area," "mined test area," "reclaimed area," and "pastureland area" at C.3.a.ii., iv., v., and ix. is confusing. The NRCS suggests that if all these terms are meant

VOL 66 ISS 241 DE 14 2001 UMI

to denote pastureland in the reclaimed area, Louisiana should use the same term. If they are not meant to mean the same thing, the NRCS states that Louisiana should more clearly define them.

Louisiana proposes nine factors to be evaluated in order to determine if an unmined reference area is representative of a reclaimed area. Based on a simple reading of the terms in the context presented, it is clear that all the above phrases refer to the reclaimed area. We do not believe additional clarification is necessary.

G. The NRCS points out that D.2.a. describes three sampling methods in which a sample is defined as a single point, a single point frame, or a transect. Further, the provision at D.4.a. requires a minimum of 100 samples be taken. The NRCS expressed concern that the level of effort required for each of the methods is very different, and asks if this is what Louisiana intended. If not, the NRCS recommends that Louisiana clarify the provision at D.4.a.

We agree with this comment. In a letter dated August 20, 2001 (Administrative Record No. LA–365.10), we informed Louisiana that, while a minimum sample size of 100 may be appropriate for the pin sampling technique, a sample size of 100 seems excessive for the point frame and line intercept sampling techniques.

On October 10, 2001 (Administrative Record No. LA–365.11), Louisiana revised section D. by removing D.3. concerning representative test plots, redesignating D.4. as D.3., and revising the provision at redesignated D.3. to specify that the minimum sample size depends upon the results of the first stage of a multi-staged sampling procedure. We find that the revisions to section D. are appropriate, and resolve the NRCS's concerns.

H. The NRCS states that, at section D.4. concerning sample adequacy, it is unclear if sample adequacy will be determined for the reference area when using a reference area for comparison to the reclaimed site. The NRCS also states that the sample adequacy equations in this section do not account for Beta error.

Section C.3.a. concerning reference area requirements states that either statistically adequate subsampling or whole plot harvesting may be used to determine yields. Thus, sample adequacy must be determined for reference areas. Furthermore, the Federal regulations at 30 CFR 816.116(a)(2) require that the sampling techniques for measuring success will use a 90% statistical confidence interval (i.e. one-sided test with a 0.10 alpha error). Neither SMCRA not the Federal regulations require consideration of Beta error.

I. The NRCS recommends that, in Appendix A: Selection of Random Sampling Sites, Louisiana revise the last sentence of the second paragraph by replacing the word, "axes" with the phrase, "grid intervals."

We find that Louisiana's use of the term "axes" as a reference line to a coordinate system is acceptable.

J. The NRCS points out that the example found in Appendix F: Example Use of Sample Adequacy Formula for Ground Cover Measurements shows only ten transects sampled, when the minimum required by D.4.a. is 100. The NRCS states Louisiana should consider reducing the number of minimum samples for transects to between 15 and 30. The NRCS also expressed concern that the calculations shown in the example are incorrect.

We agree with this comment. As stated above in the response to comment G., we informed Louisiana in our August 20, 2001, letter, that the example calculations for determining sample adequacy for ground cover in the appendices need to reflect the appropriate required minimum sample size. We further informed Louisiana that in Appendix F, the mean value in the last calculation of sample adequacy needs to be changed from 72.48 to 74.8.

In its October 10, 2001, letter, Louisiana revised the provision at redesignated D.3. to specify that the minimum sample size depends upon the results of the first stage of a multi-staged sampling procedure. Louisiana further revised the mean value in the last calculation of sample adequacy. We find that the revisions to section D.3. and Appendix F are appropriate, and resolve the NRCS's concerns.

K. Finally, the NRCS recommends that Louisiana change the names of several species found in Appendix L.

We agree with this comment. In our August 20, 2001, letter, we recommended that Louisiana correct several of the scientific and common names found in Appendix L. In its October 10, 2001, letter, Louisiana made the revisions we recommended. We find that the revisions Louisiana made are appropriate, and resolve the NRCS's concerns.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). However, none of the revisions that Louisiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. LA–365.05). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On June 12, 2001, we requested comments on Louisiana's amendment (Administrative Record No. LA–365.05), but neither responded to our request.

Public Comments

We asked for public comments on the amendment, but did not receive any.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Louisiana on June 1, 2001, and as revised on October 10, 2001.

We approve the revegetation success standards for pastureland that Louisiana proposed with the provision that they be published in identical form to the revegetation success standards for pastureland sent to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 918, which codify decisions concerning the Louisiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

November 14, 2001.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 918 is amended as set forth below:

PART 918—LOUISIANA

1. The authority citation for Part 918 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 918.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§918.15 Approval of Louisiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
June 1, 2001	12/14/01	Revegetation Success Standards for Pastureland

VOL 66 ISS 241 DEC 14 2001 UMI

[FR Doc. 01–30895 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI109–01–7339a, FRL–7115–7]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Automobile Refinishing Operations

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a February 1, 2001, request from Wisconsin to revise its State Implementation Plan (SIP) for ozone. This rule revises Wisconsin's regulations to control volatile organic compound emissions from automobile refinishing operations. In addition, on July 31, 2001, Wisconsin submitted a SIP revision that, among other things, renumbers a portion of the regulations submitted on February 1, 2001. EPA acted on the majority of the July 31, 2001 submittal in our approval of the state's one-hour ozone attainment demonstration. We are addressing the renumbering portion of that submittal with this action.

DATES: This rule is effective on February 12, 2002, unless EPA receives adverse written comments by January 14, 2002. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What action is EPA taking?
II. Why did Wisconsin adopt regulations for automobile refinishing operations?
III. Why is EPA taking this action?
IV. Is this action final, or may I still submit comments?
V. What administrative requirements did EPA consider?

I. What Action Is EPA Taking?

EPA is approving revisions to Wisconsin's regulations to control volatile organic compound (VOC) emissions from automobile refinishing operations.

II. Why Did Wisconsin Adopt Regulations for Automobile Refinishing Operations?

Section 182(b)(1)(A) of the Clean Air Act (the Act) required states with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from 1990 baseline levels. As part of Wisconsin's 15 percent plan, the state chose to adopt rules to reduce VOC emissions from automobile refinishing operations. EPA approved Wisconsin's rules in a February 12, 1996 **Federal Register** document (61 FR 5306). Subsequently, EPA promulgated National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings (40 CFR part 59, subpart B) in a September 11, 1998 **Federal Register** document (63 FR 48806).

Wisconsin's February 1, 2001 submittal revises the state's automobile refinishing regulations to ensure consistency with the Federal rules. In addition, Wisconsin's revisions exempt automobile refinishing sources from permitting requirements, if they emit less than 1,666 pounds of VOC per month, prior to entering any control equipment (slightly less than 10 tons per year). This is lower than the threshold of 40 tons per year for VOCs set by Federal permitting requirements.[1] Wisconsin has also repealed the emission limitation for cleanup solvents for non-plastic substrates. The low VOC solvent required to comply with Wisconsin's original rule did not allow a source to clean or prepare the surface adequately to accept a primer coating. As a result, vehicles needed to be repainted to achieve an acceptable finish.

III. Why Is EPA Taking This Action?

EPA is approving Wisconsin's rule revisions because they are consistent with the Act and consistent with EPA's national rule for automobile refinish coatings, as promulgated on September 11, 1998. EPA's rule does not contain an emission limit for cleanup solvent for non-plastic substrates, and repainting inadequately prepared surfaces is counterproductive. The emission level used to exempt automobile refinishing operations from permitting requirements is consistent with other VOC source category exemption levels, and nothing the state is proposing is less stringent than Federal permitting requirements. EPA is incorporating a section of the automobile refinishing regulations that became effective on September 1, 2001, because portions of that rule had to be renumbered.

IV. Is This Action Final, or May I Still Submit Comments?

EPA is publishing this action without prior proposal, because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comments by January 14, 2002. Should the Agency receive such comment, we will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If we do not receive comments, this action will be effective on February 12, 2002.

V. What Administrative Requirements Did EPA Consider?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain an unfunded mandate nor does it significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

---

[1] Alternately, if a VOC is listed as a hazardous air pollutant (HAP) under section 112 of the Act, Federal permitting requirements set a threshold of 25 tons per year for any combination of two or more of these listed HAPs and 10 tons per year of a single listed HAP.

This rule also does not have tribal implications, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications, because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that is both economically significant, as defined under Executive Order 12866, and concerns an environmental health or safety risk that EPA has reson to believe may have a disproportionate effect on children. This rule is not subject to Executive Order 13045 because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272 note, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a SIP submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Volatile organic compounds.

Authority: 42 U.S.C.7401–7671q.

Dated: November 28, 2001.

Bertram C. Frey,

Acting Regional Administrator, Region 5.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(104) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(104) A revision to the Wisconsin State Implementation Plan for ozone was submitted on February 1, 2001. It contained revisions to the state's regulations that control volatile organic compound emissions from automobile refinishing operations. A portion of these regulations were renumbered and submitted on July 21, 2001.

(i) Incorporation by reference. The following sections of the Wisconsin Administrative code are incorporated by reference.

(A) NR 406.04 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(B) NR 407.03 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(C) NR 419.02 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

(D) NR 422.095 as published in the (Wisconsin) Register August, 2001, No. 548, effective September 1, 2001.

(E) NR 484.10 as published in the (Wisconsin) Register January, 2001, No. 541, effective February 1, 2001.

[FR Doc. 01–30814 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0045; CO–001–0046; CO–001–0047; CO–001–0052; CO–001–0053; CO49–1–7187; CO–001–0061; CO–001–0062; CO–001–0064 FRL–7117–4]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 22, 2001, EPA published a notice of proposed rulemaking (NPR) to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (hereafter, Denver) "serious" carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the CO maintenance plan for the Denver area and the additional State Implementation

VOL 66 ISS 241 DE 14 2001 UMI

Plan elements involving revisions to Colorado's Regulation No. 11 "Motor Vehicle Emissions Inspection Program", Colorado's Regulation No. 13 "Oxygenated Fuels Program", and the Governor's May 7, 2001, submittal of a SIP revision ("United States Postal Service (USPS) revision") that is intended to be a substitute for a Clean Fuel Fleet Program.

In this action, EPA is approving the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11 and Regulation No. 13, the USPS revision and the CO transportation conformity budgets.

EFFECTIVE DATE: January 14, 2002.

ADDRESSES: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at:Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

FOR FURTHER INFORMATION CONTACT: For questions concerning the Denver CO redesignation, contact Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466,Telephone number: (303) 312–6479.

For questions regarding the Regulation No. 11, Regulation No. 13, and the U.S. Postal Service revisions, contact Kerri Fiedler, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, Telephone number: (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

On August 22, 2001, we published a NPR that proposed approval of the Denver CO redesignation request, maintenance plan, and associated SIP elements. See 66 FR 44097. The NPR also opened a 30-day public comment period on this proposed Agency action. We did not receive any comments.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the CO NAAQS (hereafter referred to as "CO NAAQS" or "CO standard"), we're approving the maintenance plan that is designed to keep the area in attainment for CO for the next 12 years, we're approving the changes to the State's Regulation No. 11 for the implementation of motor vehicle emissions inspections, we're approving the changes to the State's Regulation No. 13 for the implementation of the wintertime oxygenated fuels program, and we've approving of the USPS revision that requires the destruction, relocation, and replacement with cleaner vehicles of certain USPS vehicles, as a substitute for a Clean Fuel Fleet Program for the Denver metropolitan area. We are also approving the CO transportation conformity budgets.

We originally designated Denver as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 43 FR 8962, March 3, 1978). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Denver area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. Under section 186 of the CAA, Denver was originally classified as a "moderate" CO nonattainment area with a design value greater than 12.7 parts per million (ppm), and was required to attain the CO NAAQS by December 31, 1995. See 56 FR 56694, November 6, 1991. The Denver area, however, violated the CO NAAQS in 1995. With our final rule of March 10, 1997 (62 FR 10690), we approved the State's 1994 State Implementation Plan (SIP) submittal and bumped-up the Denver area to a "serious" CO nonattainment classification. Further information regarding these classifications and the accompanying requirements are described in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990." See 57 FR 13498, April 16, 1992.

Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why we are also approving the revisions to Regulation No. 11, Regulation No. 13, and the USPS revision.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Denver CO redesignation request, the maintenance plan, the revisions to Regulation No. 11, and the revisions to Regulation No. 13 on January 10, 2000. The AQCC adopted the redesignation request, maintenance plan, and revisions to Regulation No. 11 and Regulation No. 13 directly after the hearing. These SIP revisions became State effective March 1, 2000, and were submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal was administratively and technically complete. Our completeness determination was sent on August 7, 2000, through a letter from Rebecca W. Hanmer, Acting Regional Administrator, to Governor Bill Owens.

For the USPS revision, the Colorado AQCC held a public hearing on March 16, 2000. The AQCC adopted the USPS revisions directly after the hearing. The USPS revision became State effective May 30, 2000, and was submitted by the Governor to us on May 7, 2001. On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS revision to us.

We have evaluated the Governor's submittal of the USPS revision and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR part 51, Appendix V and determined that the Governor's submittal, with the subsequent administrative corrections provided by the State's Attorney General's office, was administratively and technically complete. Our completeness determination was sent on June 15, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Bill Owens.

III. EPA's Evaluation of the Denver Redesignation Request and Maintenance Plan

We have reviewed the Denver CO redesignation request and maintenance plan and believe that approval of the request is warranted. With our August 22, 2001, NPR (see 66 FR 44097), we solicited public comments on these materials and the additional SIP elements. We did not receive any public comments. We have determined that all required SIP elements, including the maintenance plan, have either been approved or will be fully approved with this final rule, that the area has attained the NAAQS for the CO standard, and that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable implementation plan, applicable Federal air pollutant control regulations, and other permanent and enforceable reductions. Thus, with the Governor's submittals of May 10, 2000, and May 7, 2001, the five criteria in section 107(d)(3)(E) of the Clean Air Act (CAA) have been met and approval of the redesignation request is warranted.

Detailed descriptions of how the section 107(d)(3)(E) requirements have been met area provided in our August 22, 2001, NPR for this action (see 66 FR 44097) and, for the most part, will not be repeated here. Our discussion below takes into account our prior evaluation presented in our August 22, 2001, NPR and provides further emphasis regarding the maintenance plan and the additional SIP elements.

As stated above, section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation.

In this **Federal Register** action, we are approving the State of Colorado's maintenance plan for the Denver CO nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal of May 10, 2000, meets the requirements of section 175A and is consistent with EPA interpretations of the CAA section 175A of the CAA and our September 4, 1992, policy memorandum.[1] Our analysis of the pertinent maintenance plan requirements, was fully described in our August 22, 2001, proposed rule (see 66 FR 44097) and is restated, in part, with particular reference to the Governor's May 10, 2000, submittal:

(a) Emissions Inventories—Attainment Year and Projections

Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. However, under the CAA, many areas (such as Denver) were required to submit a modeled attainment demonstration to show that reductions in emissions would be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration is to be based on the same level of modeling (see the September 4, 1992, Calcagni Memorandum). For the Denver area, this involved the use of EPA's Urban Airshed Model (UAM) in conjunction with intersection Hotspot modeling using the CAL3QHC model (see 62 FR 10690, March 10, 1997).

The maintenance plan that the Governor submitted on May 10, 2000, included comprehensive inventories of CO emissions for the Denver area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State used the 2001 attainment year inventory, from the March 10, 1997, EPA-approved attainment SIP (see 62 FR 10690) and included an interim-year projection for 2006 along with the final maintenance year of 2013. Additional mobile source emission inventories were provided for the years 2002, 2003, 2004, and 2005. These particular mobile source inventories present CO emissions during the phase-in period of the revisions to Regulation No. 11 for the Remote Sensing Device (RSD) program, the phase-in of more stringent cutpoints for the motor vehicle enhanced Inspection and Maintenance, or I/M240, program, and the phase-down of the oxygenated gasoline program under the revisions to Regulation No. 13. More detailed descriptions of the 2001 attainment year inventory from the approved nonattainment SIP for Denver, the 2006 projected inventory, the 2013 projected inventory, and the 2002, 2003,

---

[1] EPA issued maintenance plan interpretations in the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (57 FR 13498, April 16, 1992), "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental" (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992.

VOL 66 ISS 241 DE 14 2001 UMI

2004, and 2005 mobile source projected inventories are documented in the maintenance plan in Part II, Chapter 4, section B, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 2001 attainment year and the interim projected years are provided in Table III.–1 below.

TABLE III–1.—SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR DENVER

	2001	2002	2003	2004	2005	2006	2013
Point Sources	70.2					46.7	46.7
Area Sources	198.2					172.8	172.6
Non-Road Mobile Sources	59.9					61.2	64.9
On-Road Mobile Sources	*875.2	*851	*850	*827	*850	*844.7	*867.2
Total	*1203.3					*1125.4	*1151.4

*These figures represent CO emissions for the Denver CO modeling domain which is slightly larger than the Denver CO nonattainment area.

We note in Table III–1 there are significant reductions projected in years 2006 and 2013 for point sources and area sources. The majority of the area source projected reductions are from the State's estimates for less woodburning in future years. We believe this projection of less woodburning is reasonable. For point sources, the original Denver CO nonattainment plan modeled all point sources at their potential-to-emit (PTE) for 2001, and Table III–1 retains these values for 2001. For years 2006 and 2013, the State projected emissions for elevated point sources at PTE, but projected emissions from surface point sources based on actual emissions. This accounts for the reduction in emissions from point sources in 2006 and 2013. The State's approach follows EPA guidance on projected emissions and we believe it is acceptable.[2] Further information on these projected emissions may also be found in Section 2 "Emission Inventories" of the State's TSD.

(b) Demonstration of Maintenance

The September 4, 1992, Calcagni Memorandum states that where modeling was relied on to demonstrate maintenance, the plan is to contain a summary of the air quality concentrations expected to result from the application of the control strategies. Also, the plan is to identify and describe the dispersion model or other air quality model used to project ambient concentrations.

For the Denver CO redesignation maintenance demonstration, the State used the Urban Airshed dispersion Model (UAM) in conjunction with concentrations derived from the CAL3QHC intersection (or "hotspot") model. This was the same level of modeling as was used for the 1994 Denver CO SIP attainment demonstration, which was approved by EPA on March 10, 1997 (62 FR 10690), and addressed the requirements of section 187(a)(7) of the CAA. The UAM and CAL3QHC models were applied to the 2006 and 2013 inventories using meteorological data from December 5, 1988. This was the episode day used in the modeling in the EPA-approved 1994 Denver CO nonattainment SIP revision and was thought to represent the worst-case meteorological conditions. For the CAL3QHC intersection component, six intersections were selected for modeling based on the latest information from Denver Regional Council Of Governments (DRCOG) regarding the highest volume and most congested intersections in the Denver CO nonattainment area. This was done consistent with our modeling guidance.

After an analysis, the State concluded that the Continuous Air Monitoring Project (CAMP) ambient air quality monitor, located at the intersection of Broadway and Champa Street, was still the maximum concentration monitor for the Denver CO nonattainment area. This analysis is further detailed in Part II, Chapter 4, section C of the maintenance plan and in the State's TSD. We agree with the State's conclusion regarding the maximum concentration monitor. The results of the State's modeling for 2006 and 2013 are presented in Part II, Chapter 4, section C, of the maintenance plan, in the State's TSD, and are reproduced in Table III–2 below:

TABLE III–2.—DISPERSION MODELING AND INTERSECTION MODELING RESULTS (IN PARTS PER MILLION)

Intersection	2006			2013		
	UAM[1]	CAL3QHC[2]	Total	UAM	CAL3QHC	Total
Broadway & Champa[1]	7.59	1.12	8.71	7.88	1.08	8.96
Foothills & Arapahoe	0.9	4.8	5.7	0.9	4.7	5.6
1st & University	4.0	4.3	8.3	3.9	4.2	8.0
Hampden & University	1.9	3.6	5.5	1.9	4.3	6.2
Parker & Iliff	2.7	3.2	5.8	2.6	3.0	5.6
Arapahoe & University	1.3	3.6	5.0	1.3	3.9	5.3

Footnotes for Table III–2:

[1] UAM (Urban Airshed Model). This column represents the dispersion model's calculated background CO concentration at each location.

[2] CAL3QHC (Intersection Model). This column represents the intersection model's calculated CO component concentration.

[3] The use of two significant figures by the State for the Broadway and Champa intersection, where the CAMP monitor is located, reflects the fact that the modeling done for the maximum concentration location was more detailed.

---

[2] "Use of Actual Emissions in Maintenance Demonstrations for Ozone and Carbon Monoxide (CO) Nonattainment Areas", signed by D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993.

The modeling results presented in the Denver CO maintenance plan, the State's TSD, and as repeated in Table III–2 above show that CO concentrations are not estimated to exceed the 9.0 ppm 8-hour average CO NAAQS during the maintenance period's time frame through 2013. Therefore, we believe the Denver area has satisfactorily demonstrated maintenance of the CO NAAQS.

(c) Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Denver area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the Denver CO maintenance plan. In Part II, Chapter 4, sections E and F.2, the State commits to continue the operation of the CO monitors in the Denver area and to annually review this monitoring network and make changes as appropriate. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

Based on the above, we are approving these commitments as satisfying the relevant requirements. We note that this final approval renders the State's commitments federally enforceable.

(d) Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. Please see our August 22, 2001, NPR (66 FR 44097) for a more detailed description.

We find that the contingency measures provided in the State's Denver CO maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

(e) Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan eight years after our approval of the redesignation.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budget(s) in the SIP (40 CFR 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines the CO motor vehicle emissions budget in the Denver CO attainment/maintenance area as 800 tons per day for all years 2002 and beyond. This budget is equal to the maintenance year (2013) mobile source emissions inventory for CO for the attainment/maintenance area. We have scaled the modeling domain emissions projections for 2002 to the attainment/maintenance area values and believe the 800 tons per day value is essentially equivalent to the mobile source inventory for the attainment/maintenance area in 2002. In addition, our analysis indicates that the 800 tons per day budget is consistent with maintenance of the CO NAAQS throughout the maintenance period. Therefore, we are approving the 800 tons per day CO emissions budget for the Denver area.

Pursuant to section 93.118(e)(4) of EPA's transportation conformity rule, as amended, EPA must determine the adequacy of submitted mobile source emissions budgets. EPA reviewed the Denver CO budget for adequacy using the criteria in 40 CFR 93.118(e)(4), and determined that the budget was adequate for conformity purposes. EPA's adequacy determination was made in a letter to the Colorado APCD on July 12, 2000, and was announced in the **Federal Register** on August 3, 2000 (65 FR 47726). As a result of this adequacy finding, the 800 ton per day budget took effect for conformity determinations in the Denver metro area on August 18, 2000. However, we are not bound by that determination in acting on the maintenance plan.

V. EPA's Evaluation of the Regulation No. 11 Revisions

Colorado's Regulation No. 11 is entitled "Motor Vehicle Emissions Inspection Program" (hereafter referred to as Regulation No. 11). As described in our August 22, 2001, NPR (see 66 FR 44097), the version of Regulation No. 11 that was adopted on January 10, 2000, became effective on March 1, 2000, and was submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan supersedes and replaces the other revisions of Regulation No. 11.

We concur with the revisions enacted by the State to Regulation No. 11 and are approving them.

VI. EPA's Evaluation of the Regulation No. 13 Revisions

Colorado's Regulation No. 13 is entitled "Oxygenated Fuels Program" (hereafter referred to as Regulation No. 13). As described in our August 22, 2001, NPR (see 66 FR 44097), the revisions to Regulation No. 13 were adopted on January 10, 2000, became effective on March 1, 2000, and were submitted by the Governor in conjunction with the Denver CO redesignation request and maintenance plan.

We concur with the revisions enacted by the State to Regulation No. 13 and are approving them.

VII. EPA's Evaluation of the USPS Revision

As stated in our NPR of August 22, 2001 (see 66 FR 44097), section 246(a)(2)(B) of the CAA requires areas such as Denver to have a clean fuel vehicle program in the EPA-approved SIP.

We had previously advised the State that we would be unable to redesignate the Denver area to attainment for CO unless the Governor submitted a clean fuel vehicle program meeting the requirements of section 246(a)(2)(B) of the CAA or a substitute program pursuant to CAA section 182(c)(4).[3] The State chose to submit a substitute program.

On May 22, 2000, the State, EPA, and USPS entered into an agreement under EPA's Project eXcellence and Leadership program (Project XL) and Colorado's Environmental Leadership Program under which the USPS agreed to destroy or relocate several hundred pre-1984 high-emitting postal delivery vehicles and replace them with low-emitting vehicles (LEV[4]) and low-emitting flexible fuel vehicles.[5] As part of this agreement, the USPS agreed that the State could incorporate the major components of the agreement into a SIP revision that the State could use as a

---

[3] Section 182(c)(4)(B) of the CAA refers to ozone-producing emissions; however, EPA has interpreted this section to allow for substitute programs for CO as well.

[4] A LEV is any vehicle certified to the low emission vehicle standards specified in 40 CFR 86, subpart R.

[5] A flexible fuel vehicle or dual fuel vehicle is a vehicle which operates on the combination of gasoline and an alternative fuel (any fuel other than gasoline and diesel fuel, such as methanol, ethanol, and gaseous fuels (40 CFR 86.000–2)), such as E-85 (gasoline blended with 85% ethanol).

VOL 66 ISS 241 DEC 14 2001 UMI

substitute for a clean fuel vehicle program.

The AQCC adopted the USPS revision on March 16, 2000, and the revision became State-effective on May 30, 2000. The Governor submitted the USPS SIP revision to us on May 7, 2001.

On May 30, 2001, the Colorado Attorney General's Office submitted administrative corrections to the USPS SIP revision[6].

We concur with and are approving the State's USPS SIP revision because we have determined that the State will achieve greater reductions in emissions of CO with the USPS revision than would have been achieved by the clean fuels vehicle program required by CAA section 246(a)(2)(B).

VIII. Final Rulemaking Action

In this action, we are approving the Governor's May 10, 2000, request to redesignate the Denver carbon monoxide NAAQS nonattainment area to attainment, the Denver carbon monoxide NAAQS maintenance plan submitted May 10, 2000, the revisions to Regulation No. 11 and the revisions to Regulation No. 13 submitted May 10, 2000, and the Governor's May 7, 2001, USPS revision including the Attorney General's office administrative corrections of May 30, 2001. We are also approving the carbon monoxide transportation conformity budgets contained in the maintenance plan. This final action will become effective on January 14, 2002.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

(b) Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

(c) Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(d) Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. In addition, redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

(e) Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211 "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

(f) Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final approval will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the SIP final approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.*, v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements. Redesignation to attainment is an action that affects the legal designation of a geographical area and does not impose any regulatory requirements. Therefore, because the final approval of the redesignation does not create any new requirements, I certify that the final approval of the redesignation request will not have a significant economic impact on a substantial number of small entities.

---

[6] Following adoption of the USPS revision, the AQCC inadvertently neglected to put the revision in final form before sending it to the Governor's office for submittal to EPA. In correcting the USPS revision, State Staff merely removed headings that indicated the USPS revision was "draft", dated and titled the revision, and inserted the correct date for the USPS Project XL agreement.

(g) Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this final approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

(h) Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective January 14, 2002.

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(j) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 12, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Clean Air Act.)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas

Dated: December 3, 2001.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(96) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(96) On May 10, 2000, the Governor of Colorado submitted SIP revisions to Colorado's Regulation No. 11 "Motor Vehicle Emissions Inspection Program" that supersede and replace all earlier versions of the Regulation and made several changes to the motor vehicle inspection and maintenance requirements including the implementation of a remote sensing device (RSD) program for the Denver metropolitan area. On May 10, 2000, the Governor also submitted SIP revisions to Colorado's Regulation No. 13 "Oxygenated Fuels Program" that supersede and replace all earlier versions of the Regulation and modified the oxygenated fuel requirements for the Denver metropolitan area.

(i) Incorporation by reference.

(A) Regulation No. 11 "Motor Vehicle Emissions Inspection Program", 5 CCR 1001–13, as adopted on January 10, 2000, effective March 1, 2000, as follows: Part A, Part B, Part C, Part D, Part E, and Part F.

(B) Regulation No. 13 "Oxygenated Fuels Program", 5 CCR 1001–16, as adopted on January 10, 2000, effective March 1, 2000, as follows: Sections I.A., I.B., I.C., I.D., I..E., II..A, II.B., II.C., II.D., II.E., II..F., II.G., and II.H.

3. Section.52.349 is amended by adding paragraph (g) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(g) Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS Redesignation Request and

VOL 66 ISS 241 DEC 14 2001 UMI

Maintenance Plan for Denver entitled "Carbon Monoxide Redesignation Request and Maintenance Plan for the Denver Metropolitan Area, "excluding Chapter 1, Chapter 2, and Appendix C, as adopted by the Colorado Air Quality Control Commission on January 10, 2000, State effective March 1, 2000, and submitted by the Governor on May 10, 2000.

4. New § 52.351 is added to read as follows:

§ 52.351 United States Postal Service substitute Clean Fuel Fleet Program.

Revisions to the Colorado State Implementation Plan, carbon monoxide NAAQS, United States Postal Service substitute clean-fuel vehicle program, as allowed under section 182(c)(4)(B) of the Clean Air Act, to address the requirements of section 246 of the Clean Air Act for the Denver Metropolitan carbon monoxide nonattainment area. The revisions were adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000, and submitted by the Governor on May 7, 2001. Administrative corrections to the Governor's May 7, 2001, submittal were submitted by the Colorado Attorney General's office on May 30, 2001.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-*et seq.*

2. In § 81.306, the table entitled "Colorado-Carbon Monoxide" is amended by revising the entry for "Denver-Boulder Area" to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
*	*	*	*	* * *
Denver-Boulder Area:				
The boundaries for the Denver nonattainment area for carbon monixide (CO) are described as follows: Start at Colorado Highway 52 where it intersects the eastern boundary of Boulder County; Follow Highway 52 west until it intersects Colorado Highway 119; Follow northern boundary of Boulder city limits west to the 6,000-ft. elevation line; Follow the 6000-ft. elevation line south through Boulder and Jefferson Counties to US 6 in Jefferson County; Follow US 6 west to the Jefferson County-Clear Creek County line; Follow the Jefferson County western boundary south for approximately 16.25 miles; Follow a line east for approximately 3.75 mile to South Turkey Creek; Follow South Turkey Creek northeast for approximately 3.5 miles; Follow a line southeast for approximately 2.0 miles to the junction of South Deer Creek Road and South Deer Creek Canyon Road; Follow South Deer Creek Canyon Road northeast for approximately 3.75 miles; Follow a line southeast for approximately five miles to the northern-most boundary of Pike National Forest where it intersects the Jefferson County-Douglas County line; follow the Pike National forest boundary southeast through Douglas County to the Douglas County-El Paso County line; Follow the southern boundary on Douglas County east to the Elbert County line; Follow the eastern boundary of Douglas County north to the Arapahoe County line; Follow the southern boundary of Araphoe County east to Kiowa Creek; Follow Kiowa Creek northeast through Arapahoe and Adams Counties to the Adams-Weld County line; Follow the northern boundary of Adams County west to the Boulder County line; Follow the eastern boundary of Boulder County north to Highway 52.	January 14, 2002 ..	Attainment		
Adams County (part)				
Arapahoe County (part)				
Boulder County (part)				
Denver County				
Douglas County (part)				
Jefferson County (part)				
*	*	*	*	* * *

---

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 01–30816 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 152 and 156

[OPP–300890A; FRL–6752–1]

RIN 2070–AD14

Pesticide Labeling and Other Regulatory Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revising certain labeling regulations for pesticide products for clarity. EPA is also interpreting the Federal Insecticide, Fungicide and Rodenticide Act as it applies to nitrogen stabilizers, and revising regulations that contain statutory provisions excluding certain types of products from regulation of pesticides. These topics were part of a larger proposal concerning antimicrobial products, and are being promulgated separately for convenience.

EFFECTIVE DATE: This rule is effective on February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington DC 20460; telephone: (703) 305–5944; and e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or importer, or pesticide manufacturer. Potentially affected categories and entities may include but are not limited to:

Category	NAICS Code	Examples
Producers	32531	Nitrogen stabilizer products
	32532	Pesticide products
	32561	Antimicrobial products
Wholesalers	42269	Antimicrobial products
	42291	Pesticide products

This table is not exhaustive, but is intended as a guide to entities likely to be regulated by this action. The North American Industrial Classification System codes have been provided to assist you in determining whether this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information or Copies of Support Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents are available from the EPA Home page at http://www.epa.gov/. On the Home Page, select "Laws and Regulations," "Regulations and Proposed Rules" and then look up the entry for this document under the "**Federal Register**—Environmental Documents."

2. *In person.* The Agency has established an official record for this action under docket control number OPP–36195. The official records consists of the documents specifically referred to in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). The official record includes documents that are physically located in the docket, as well as documents that are referred to in those documents. The public version of the official record does not include any information claimed as CBI. The public version of this record, including printed versions of any electronic comments, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. EPA Proposal

In the **Federal Register** of September 17, 1999 (64 FR 50672) (FRL–5770–6), EPA issued a proposed rule entitled "Registration Requirements for Antimicrobial Pesticide Products and Other Pesticide Regulatory Changes." The proposal was primarily directed at implementing provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requiring EPA to issue regulations streamlining its management of the registration process for antimicrobial pesticides, and the main body of the proposal addressed antimicrobial procedures and policies.

At the same time, EPA chose to include additional proposals.

1. EPA proposed to codify a statutory provision excluding from regulation under FIFRA certain liquid chemical sterilants. The effect of the statutory exclusion was to eliminate double jurisdiction over liquid chemical sterilants by EPA and the Food and Drug Administration (FDA).

2. EPA proposed to exempt from FIFRA regulation under section 25(b) non-liquid chemical sterilants that met essentially the same criteria as those statutorily excluded. This proposal was intended to supplement the statutory exclusion to give FDA jurisdiction over all chemical sterilants for similar purposes.

3. EPA proposed to permit consolidated applications for amendment of several products at one time, under prescribed conditions.

4. EPA proposed to interpret a new provision of FIFRA defining certain nitrogen stabilizer products as pesticides, thus subjecting them to regulation under FIFRA.

5. EPA proposed to reformat, clarify, and make minor revisions to its labeling regulations that affect all pesticide products, including antimicrobial pesticides.

EPA is promulgating a final rule on the topics enumerated above separately from the main body of the antimicrobial proposal. EPA's decision is based partly on the fact that these proposals are general for all pesticides and are not limited to antimicrobial pesticides. Moreover, they were non-controversial and received little comment in proposal.

With few exceptions, noted in Unit III. of this Preamble, EPA is adopting the changes as proposed.

EPA is not at this time promulgating any of the core antimicrobial proposals, which were comprised of procedural regulations for registration, labeling requirements pertaining to the efficacy of public health products, and associated revisions to accommodate the new antimicrobial provisions.

III. Comments

In this unit, EPA will discuss briefly the major comments received on the topics listed above and any resulting revisions. Of the 20 sets of comments received on the entire proposal, the vast majority were directed to the antimicrobial provisions. Most comments on the topics being promulgated today came from major trade associations and large producers of antimicrobial products. They were, by and large, editorial or clarifying. A

VOL 66 ISS 241 DE 14 2001 UMI

number of commenters also misconstrued EPA's proposals, or suggested revisions in areas that EPA did not propose to modify. Comments not discussed in the preamble are responded to in the docket.

A. Chemical Sterilants

EPA proposed to codify the statutory provisions excluding from regulation liquid chemical sterilants intended for use on critical or semi-critical medical devices, and further proposed to exempt under the authority of section 25(b) FIFRA non-liquid sterilants for the same uses. To accommodate the statutory exclusion for liquid chemical sterilants, and others scattered throughout the regulations, EPA proposed to create a new § 152.6 in which to locate all statutory exclusions from regulation. EPA also proposed to revise §§ 152.8 and 152.25 by moving existing statutory exclusions into the new § 152.6. In addition, EPA would add the section 25(b) exemption for non-liquid chemical sterilants to existing § 152.20, which contains exemptions for pesticides adequately regulated by another Federal agency. No comments were received on any of these proposals, and they are adopted as proposed.

B. Consolidation of Amendments

EPA proposed to allow registrants of products who wish to make identical amendments to multiple registrations to do so with one application, provided that no data are needed to support the amendment. Although this situation occurs informally for some amendments, registrants had informed the Agency that it was not clear in the regulations that the practice was permitted. No comments were received on this proposal, and it is adopted as proposed.

EPA emphasizes that consolidated amendments under this provision must be identical, and must not require supporting data. The types of amendments EPA envisions being most appropriate are labeling changes, such as revision of precautionary statements to add a specific type of statement. Another area where a consolidated application may be useful would be to accomplish EPA-requested changes made by notice to registrants. Changes in composition are unlikely to be eligible for consolidated applications because composition changes will generally not apply to multiple products.

C. Nitrogen Stabilizers

FIFRA, as amended in 1996, generally subjected nitrogen stabilizers to FIFRA regulation by defining them as pesticides. EPA proposed an interpretation of the term "nitrogen stabilizer" that would codify the statutory definition and explain how the Agency would determine that a product was or was not a nitrogen stabilizer subject to FIFRA regulation. In proposed § 152.6, EPA structured the requirement as an exclusion from regulation, since the statutory definition of nitrogen stabilizer is a loosely framed set of exclusions.

In the final rule, EPA has incorporated all of the exclusion criteria that were clearly delineated in section 2(hh) of FIFRA, including specific chemicals that were excluded, and dates of commercial introduction of the nitrogen stabilizer. In the area of claims, where the statute was not explicit, EPA proposed a common sense interpretation of the types of claims that EPA would regard as nitrogen stabilization claims. EPA received two comments on its interpretation.

The first commenter noted that, while the regulatory text is clear, EPA's preamble appeared to imply that products that make ammonia volatilization claims might be considered nitrogen stabilizers even though they do not act upon soil bacteria. The commenter requested clarification in the final rule. EPA emphasizes that unless a product functions by acting upon soil bacteria, it would not be regarded as a nitrogen stabilizer product upon examination by EPA. This point is clear in § 152.6, so EPA has not revised the text.

However, with the complex interactions affecting nitrogen uptake and utilization, it is not always possible to discern the mechanism of action of a product, particularly if a product makes claims that could otherwise be construed as nitrogen stabilizer claims. In its proposal, EPA identified types of claims that it would deem to be nitrogen stabilizer claims. Claims alone would not definitively identify a product as a nitrogen stabilizer, but in the absence of confirmation that the product does not act upon soil bacteria, claims that appear to be nitrogen stabilization claims would be a trigger for EPA evaluation of the product's pesticide status. By considering the claims along with the composition and mode of action of a product, EPA ultimately would be able to determine whether a product bearing such claims was a nitrogen stabilizer.

Any product that makes what appear to be nitrogen stabilization claims as listed in § 152.6 will be presumed in the first instance to be a nitrogen stabilizer. The producers of such products bear the burden of demonstrating that the product accomplishes the claimed effect without having an effect on soil bacteria.

The second commenter noted that some vitamin-hormone horticultural products currently make claims that EPA might regard as nitrogen stabilization claims. The result, it was asserted, would be that products specifically excluded from FIFRA would be drawn in by virtue of the nitrogen-related claims. With respect to vitamin-hormone products, EPA believes such products do not contain ingredients that would achieve the effects of a nitrogen stabilizer, i.e. an effect upon soil bacteria leading to greater nitrogen availability to plants. EPA plant pathologists believe, based upon their experience, that vitamin-hormone products contain no more than their names suggest—vitamins and hormones, which are not known to function as nitrogen stabilizers via effects upon soil bacteria. EPA has not revised the rule as a result of this comment.

This same commenter raised a second concern, which EPA agrees has merit. Certain fungi known as *mycorrhizae* have a symbiotic relationship with plant roots in the soil and are believed to have an effect on macronutrient uptake into plants. Products containing *mycorrhizae* are sold to enhance such uptake, which might include nitrogen uptake. The effect is believed not to result from action on soil bacteria, although EPA has not evaluated such products. The significant difference between *mycorrhizae* and a nitrogen stabilizer as defined in § 152.6 is that a *mycorrhizae* is a living organism, while a nitrogen stabilizer is a chemical substance. EPA has in the final rule revised § 152.6(b)(1) to exclude living organisms, which should ensure that the presence of *mycorrhizae* does not itself make a product a nitrogen stabilizer within the meaning of the Act.

D. Labeling Revisions

EPA proposed a number of minor revisions to its pesticide labeling regulations in 40 CFR part 156. EPA views these revisions as "housekeeping" provisions, intended primarily to improve the structure of the regulations to make them more understandable to users, and to clarify some requirements currently in effect but not stated in the regulations. With one exception, EPA is adopting its proposal unchanged.

1. *First aid heading.* The single area that EPA is revising as a result of comments concerns first aid statements. EPA proposed to require that the heading "First Aid" be used for all

products, instead of the current "Statement of Practical Treatment." Agricultural product registrants who commented were concerned that they might be compelled to revise their labels for what they viewed as an unnecessarily rigid requirement They noted that the current "Statement of Practical Treatment" heading has been in use since 1975, and that agricultural users are familiar with the heading. EPA's research under the Consumer Labeling Initiative, on which its proposal was based, was limited to consumer products such as household cleaners, insecticides, and garden products. EPA agrees that the results may not be representative of agricultural product users, and has revised § 156.68 to allow the use of either heading. EPA encourages the use of "First Aid" as the heading on consumer and residential/household products, because research conducted under the Agency's Consumer Labeling Initiative revealed that consumers understood the phrase "First Aid" better than "Statement of Practical Treatment."

2. *Proposals adopted without change.* Table 1 in this unit lists the EPA proposed revisions, which, after consideration of comments, the Agency is adopting without change.

TABLE1.—PROPOSALS ADOPTED WITHOUT CHANGE

Proposed revision	Change
Reformatting and upgrading structure of part 156	Human hazard and precautionary statements will be located in subpart D (§ § 156.60–156.79). Environmental hazard and precautionary statements will be located in subpart E(§ § 156.80–156.99).
Signal word	Products in Toxicity Category IV will no longer be required to bear a signal word. The Child Hazard Warning is still required on such products.
Signal word	A product may not bear a signal word reflecting higher or lower toxicity than demonstrated by testing of the product as distributed and sold
Child Hazard Warning (Keep Out of Reach of Children)	Variations on the standard statement may be approved or required by EPA
Use dilution statements	Products may bear additional information in the precautionary statements and in the first aid instructions concerning the product as diluted for use. These instructions augment, but do not replace, statements concerning the product as sold or distributed.
First Aid Statement	All products assigned to Toxicity Category I by any route of exposure would be required to bear a First Aid or Statement of Practical Treatment on the front panel of the label. (Products assigned to Toxicity Category II or III could bear the statement on any panel of the label.)

3. *Additional comments received.* In proposing to upgrade the codified structure, EPA included the entire content of the new subparts for convenience, including many provisions for which no substantive change was proposed. Nonetheless, some commenters suggested changes in addition to those EPA proposed. EPA has not changed the rule based on those comments. Detailed responses to all comments are contained in the public docket for this rulemaking, OPP–36195, at the location given under ADDRESSES.

The thrust of several comments was that EPA regulations should be made consistent with the Agency's Label Review Manual (LRM). Commenters generally ascribed to the LRM more regulatory standing than it has.

Because of the variety of pesticide products, purposes and uses, it is impossible for EPA to describe in regulatory form the majority of the individual labeling decisions that are required under the licensing scheme of FIFRA. EPA's labeling regulations in part 156 are of necessity general, serving as a framework for individual decisions and allowing flexibility for both the Agency and applicants to tailor actual labeling to the extent practicable to a particular product and its uses. The labeling regulations clearly specify in many cases that the statements provided are examples— representative or typical of the types of statements that EPA may require.

The LRM is a non-regulatory guidance document to assist applicants and the Agency in developing and reviewing labeling submitted for approval. It reflects, but does not supersede or change the underlying regulations. Its purpose is to elaborate on how the labeling regulations in part 156 can be applied in individual product decisions. EPA does not revise its regulations to conform to the LRM; rather, the LRM reflects the regulations.

IV. Correction

In its proposal, EPA intended to reorganize existing material concerning statutory exceptions, now scattered both in FIFRA and its regulations, into a single location, new § 152.6. To accomplish this, EPA proposed to move material from existing § § 152.8, 152.20, and 152.25 to the new section. However, EPA inadvertently proposed to remove material from § 152.8 without concurrently including it in new § 152.6. The text in question concerned the statutory exclusion as "plant regulators" of plant nutrients, trace elements, plant inoculants and soil amendments. In this final rule, EPA has corrected this omission. Former paragraphs 152.8(c)(1), (2) and (3) now appear in § 152.6(g).

V. Summary of Sections Affected

Table 2 in this unit summarizes the sections in the Code of Federal Regulation that are affected by this final rule, and the nature of the change.

TABLE 2.—CFR PARTS AND SECTIONS AFFECTED BY THIS FINAL RULE.

CFR part or section number	Title	Action
152.6	Substances excluded from regulation by FIFRA	New. Material incorporated from § § 152.8, 152.20 and 152.25; Chemical sterilants added; nitrogen stabilizers added.
152.8	Products that are not pesticides because they are not for use against pests	Material moved to § 152.6.

VOL 66 ISS 241 DE 14 2001 UMI

TABLE 2.—CFR PARTS AND SECTIONS AFFECTED BY THIS FINAL RULE.—Continued

CFR part or section number	Title	Action
152.20	Exemptions for pesticides regulated by another Federal agency	Material moved to § 152.6; chemical sterilants added
152.25	Exemptions for pesticides of a character not requiring FIFRA regulation	Material moved to § 152.6
152.44	Application for amended registration	Clarification and reformatting
156.10	Labeling requirements	Material moved to new subparts D and E; conforming changes
Part 156, subpart D (§ § 156.60–156.78)	Human Hazard and Precautionary Statements	Reorganized material from § 156.10. New material added.
Part 156, subpart E (§ § 156.80–156 85)	Environmental Hazards and Precautionary Statements	Reorganized material from § 156.10. No change in substance.

VI. Implementation of this Rule

The revisions being promulgated today will be (or have been) implemented as described in this unit. Portions of the regulations being promulgated today have been in place for some time, and are included to provide context for the reorganized and reformatted elements and for the convenience of readers.

The exclusion for liquid chemical sterilants was effective on August 3, 1996, when FIFRA was amended by the Food Quality Protection Act (FQPA). Since August 3, 1996, FDA has been responsible for the regulation of liquid chemical sterilants described by § 152.6. Codifying the exclusion is merely for the convenience of sterilant producers, and is not required for the exclusion to be effective.

The companion exemption for non-liquid chemical sterilants is self-implementing. The exemption removes the dual jurisdiction which has existed for these products, and which is being relinquished by EPA. After the effective date of this rule, non-liquid chemical sterilants described in § 152.20 will be regulated solely by FDA.

The provisions pertaining to nitrogen stabilizers were effective on August 3, 1996, when nitrogen stabilizers were made subject to FIFRA regulation. Although EPA is unaware of any products currently being marketed that are subject to this rule, it will identify such products through its compliance and inspection initiatives in the marketplace, and will apply the interpretation in § 152.6 to determine whether the products are subject to FIFRA regulation.

The provision for consolidated amendment applications is self-implementing. Applications that meet the criteria for consolidated amendments in § 152.44 may be submitted at any time.

Labeling provisions will be implemented by the Agency on a case-by-case basis, as applications for registration, amended registration, or reregistration are submitted. No specific action by any registrant is required because of the issuance of this final rule. Registrants who wish to avail themselves of any of the provisions must submit an application for amended registration to the Agency, in accordance with normal application procedures.

VII. Statutory Requirements

In accordance with section 25 of FIFRA, a draft of this final rule was provided to the Secretary of Agriculture and to appropriate Committees of Congress. Neither had comments on the final rule. The FIFRA Scientific Advisory Panel previously had waived its review of the proposed and final rules.

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). There are no costs or burdens associated with this rule. In most cases, this final rule provides regulatory relief or flexibility for pesticide producers. In the case of nitrogen stabilizer products, where the statute and this final rule potentially subject products to FIFRA regulation, EPA is not aware of any affected entities, and consequently has not identified or evaluated any costs. The Economic Analysis for the proposed rule identified costs and burdens solely associated with the antimicrobial provisions, which are being promulgated separately.

B. Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. Today's rule for the most part clarifies and reformats existing labeling requirements. The provisions addressing nitrogen stabilizers potentially affect small businesses, but EPA is not aware of any business entities that currently produce nitrogen stabilizer products subject to regulation under the provisions of the rule.

Information relating to this determination is provided upon request to the Chief Counsel for Advocacy of the Small Business Administration, and is included in the docket for this rulemaking. No comments were received on this determination in response to the proposal.

C. Paperwork Reduction Act

This regulatory action does not contain any information collection requirements requiring approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

D. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). This action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The cost associated with this action are described in Unit VI.A. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Environmental Justice

Under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. This rule does not affect minority or low income populations.

F. Children's Health Protection

This action is not an economically significant action (i.e., it is not expected to have an annual adverse impact of $100 million or more) that would require additional OMB review under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

G. Federalism

Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this rule.

H. Consultation and Coordination with Indian Tribal Governments

This rule does not have tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This does not significantly or uniquely affect the communities of Indian trial governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 276755, May 19, 1998), do not apply to this rule. Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000), which took effect on January 6, 2001, revokes Executive Order 13084 as of that date. EPA developed this rulemaking, however, during the period when Executive Order 13084 was in effect; thus, EPA addressed tribal considerations under Executive Order 13084. For the same reasons stated for Executive Order 13084, the requirements of Executive Order 10175 do not apply to this rule either.

I. Energy Effects

This rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

IX. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 152

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements

40 CFR Part 156

Environmental protection, Labeling, Occupational safety and health, Pesticides and pests, Reporting and recordkeeping requirements

Dated: November 29, 2001.

Christine T. Whitman,

Administrator.

Therefore, 40 CFR chapter I, subchapter E is amended as follows:

PART 152—[AMENDED]

1. In part 152:

a. The authority citation for part 152 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

b. Section 152.6 is added, to read as follows:

§ 152.6 Substances excluded from regulation by FIFRA.

Products and substances listed in this section are excluded from FIFRA regulation if they meet the specified conditions or criteria.

(a) *Liquid chemical sterilants.* A liquid chemical sterilant product is not a pesticide under section 2(u) of FIFRA if it meets all of the following criteria. Excluded products are regulated by the Food and Drug Administration (FDA). Products excluded are those meeting all of the following criteria:

(1) *Composition.* The product must be in liquid form as sold or distributed. Pressurized gases or products in dry or semi-solid form are not excluded by this provision. Ethylene oxide products are not liquid products and are not excluded by this provision.

(2) *Claims.* The product must bear a sterilant claim, or a sterilant plus subordinate level disinfection claim. Products that bear antimicrobial claims solely at a level less than "sterilant" are not excluded and are jointly regulated by EPA and FDA. "Sterilant" is defined in § 156.441 of this chapter.

(3) *Use site.* (i) The product must be intended and labeled only for use on "critical or semi-critical devices." A "critical device" is any device which is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body. A *semi-critical device* is any device which contacts intact mucous membranes but which does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

(ii) Liquid chemical sterilants that bear claims solely for use on non-critical medical devices are jointly regulated by EPA and FDA.

(iii) Liquid chemical sterilants that bear claims solely for use on sites that are not medical devices, such as veterinary equipment, are not excluded and are regulated solely by EPA.

(b) *Nitrogen stabilizers.* A nitrogen stabilizer is excluded from regulation under FIFRA if it is a substance (or mixture of substances), meeting all of the following criteria:

(1) The substance prevents or hinders the process of nitrification, denitrification, ammonia volatilization, or urease production through action affecting soil bacteria and is distributed and sold solely for those purposes and no other pesticidal purposes. For purposes of this section, living organisms are not considered to be substances, and the actions of living organisms are not relevant to whether a substance is deemed to be a nitrogen stabilizer.

(2) The substance was in "commercial agronomic use" in the United States before January 1, 1992. EPA considers a substance to be in commercial agronomic use if it is available for sale or distribution to users for direct agronomic benefit, as opposed to limited research, experimental or demonstration use.

VOL 66 ISS 241 DE 14 2001 UMI

(3) The substance was not registered under FIFRA before January 1, 1992.

(4) Since January 1, 1992, the distributor or seller has made no claim that the product prevents or hinders the process of nitrification, denitrification, ammonia volatilization or urease production. EPA considers any of the following claims (or their equivalents) to be a claim that the product prevents or hinders nitrification, denitrification, ammonia volatilization or urease production:

(i) Improves crop utilization of applied nitrogen.

(ii) Reduces leaching of applied nitrogen or reduces groundwater nitrogen contamination.

(iii) Prevents nitrogen loss.

(iv) Prolongs availability of nitrogen.

(v) Increases nitrogen uptake, availability, usage, or efficiency.

(5) A product will be considered to have met the criterion of paragraph (b)(4) of this section that no nitrogen stabilization claim has been made if:

(i) The nitrogen stabilization claim, in whatever terms expressed, is made solely in compliance with a State requirement to include the claim in materials required to be submitted to a State legislative or regulatory authority, or in the labeling or other literature accompanying the product; and

(ii) The State requirement to include the claim was in effect both before the product bearing the claim was introduced into commercial agronomic use, and before the effective date of this rule.

(6) A product that meets all of the criteria of this paragraph with respect to one State is not thereby excluded from FIFRA regulation if distributed and sold in another State whose nitrogen stabilization statement requirement does not meet the requirements of paragraph (b)(5)(ii) of this section.

(c) *Human drugs.* Fungi, bacteria, viruses or other microorganisms in or on living man are not "pests" as defined in section 2(t) of FIFRA. Products intended and labeled for use against such organisms are human drugs subject to regulation by the FDA under the FFDCA.

(d) *Animal drugs*—(1) Fungi, viruses, bacteria or other microorganisms on or in living animals are not "pests" under section 2(t) of FIFRA. Products intended for use against such organisms are "animal drugs" regulated by the FDA under the FFDCA.

(2) A "new animal drug" as defined in section 201(w) of the FFDCA, or an animal drug that FDA has determined is not a "new animal drug" is not a pesticide under section 2(u) of FIFRA. Animal drugs are regulated by the FDA under the FFDCA.

(e) *Animal feeds.* An animal feed containing a new animal drug is not a pesticide under section 2(u) of FIFRA. An animal feed containing a new animal drug is subject to regulation by the FDA under the FFDCA.

(f) *Vitamin hormone products.* A product consisting of a mixture of plant hormones, plant nutrients, inoculants, or soil amendments is not a "plant regulator" under section 2(v) of FIFRA, provided it meets the following criteria:

(1) The product, in the undiluted package concentration at which it is distributed or sold, meets the criteria of § 156.62 of this chapter for Toxicity Category III or IV; and

(2) The product is not intended for use on food crop sites, and is labeled accordingly.

(g) *Products intended to aid the growth of desirable plants.* A product of any of the following types, intended only to aid the growth of desirable plants, is not a "plant regulator" under section 2(v) of FIFRA, and therefore is not a pesticide:

(1) A plant nutrient product, consisting of one or more macronutrients or micronutrient trace elements necessary to normal growth of plants and in a form readily usable by plants.

(2) A plant inoculant product consisting of microorganisms to be applied to the plant or soil for the purpose of enhancing the availability or uptake of plant nutrients through the root system.

(3) A soil amendment product containing a substance or substances intended for the purpose of improving soil characteristics favorable for plant growth.

§ 152.8 [Amended]

c. In § 152.8, by removing paragraphs (a), (b), (c) introductory text, (c)(2), (c)(3) and (c)(4), and redesignating paragraph (c)(1) as paragraph (a) and paragraph (d) as paragraph (b).

d. In § 152.20, by revising paragraph (b) to read as follows:

§ 152.20 Exemptions for pesticides regulated by another Federal agency.

* * * * *

(b) *Non-liquid chemical sterilants.* A non-liquid chemical sterilant, except ethylene oxide, that meets the criteria of § 152.6(a)(2) with respect to its claims and § 152.6(a)(3) with respect to its use sites is exempted from regulation under FIFRA.

§ 152.25 [Amended]

e. Section 152.25 is amended by removing paragraph (d) and redesignating paragraphs (e) through (g) as (d) through (f).

f. Section 152.44 is amended by removing paragraph (b)(3), redesignating paragraph (b)(4) as paragraph (b)(3), and adding new paragraph (c), to read as follows:

§ 152.44 Application for amended registration.

* * * * *

(c) A registrant may at any time submit identical minor labeling amendments affecting a number of products as a single application if no data are required for EPA to approve the amendment (for example, a change in the wording of a storage statement for designated residential use products). A consolidated application must clearly identify the labeling modification(s) to be made (which must be identical for all products included in the application), list the registration number of each product for which the modification is requested, and provide required supporting materials (for example, labeling) for each affected product.

PART 156—[AMENDED]

2. In part 156:

a. The authority citation for part 156 continues to read as follows:

Authority: 7 U.S.C. 136–136y.

b. In § 156.10, by revising paragraph (a)(1)(vii) and removing paragraph (h), to read as follows:

§ 156.10 Labeling requirements.

(a) * * *

(1) * * *

(vii) Hazard and precautionary statements as prescribed in subpart D of this part for human and domestic animal hazards and subpart E of this part for environmental hazards.

* * * * *

c. By adding new subpart D, to read as follows:

Subpart D—Human Hazard and Precautionary Statements

Sec.
156.60 General.
156.62 Toxicity category.
156.64 Signal word.
156.66 Child hazard warning.
156.68 First aid statement.
156.70 Precautionary statements for human hazards.
156.78 Precautionary statements for physical or chemical hazards.

Subpart D—Human Hazard and Precautionary Statements

§ 156.60 General.

Each product label is required to bear hazard and precautionary statements for humans and domestic animals (if applicable) as prescribed in this subpart. Hazard statements describe the type of hazard that may occur, while precautionary statements will either direct or inform the user of actions to take to avoid the hazard or mitigate its effects.

(a) *Location of statements*—(1) *Front panel statements.* The signal word, child hazard warning, and, in certain cases, the first aid statement are required to appear on the front panel of the label, and also in any supplemental labeling intended to accompany the product in distribution or sale.

(2) *Statements elsewhere on label.* Hazard and precautionary statements not required on the front panel may appear on other panels of the label, and may be required also in supplemental labeling. These include, but are not limited to, the human hazard and precautionary statements, domestic animal statements if applicable, a Note to Physician, and physical or chemical hazard statements.

(b) *Placement and prominence*—(1) *Front panel statements.* All required front panel warning statements shall be grouped together on the label, and shall appear with sufficient prominence relative to other front panel text and graphic material to make them unlikely to be overlooked under customary conditions of purchase and use. The table below shows the minimum type size requirements for the front panel warning statements for various front panel sizes.

TYPE SIZES FOR FRONT PANEL WARNING STATEMENTS

Size of Label Front Panel (Square Inches)	Point Size	
	Signal Word (All Capital Letters)	Child Hazard Warning
5 and under	6	6
Over 5 to 10	10	6
Over 10 to 15	12	8
Over 15 to 30	14	10
Over 30	18	12

(2) *Other required statements.* All other hazard and precautionary statements must be at least 6 point type.

§ 156.62 Toxicity Category.

This section establishes four Toxicity Categories for acute hazards of pesticide products, Category I being the highest toxicity category. Most human hazard, precautionary statements, and human personal protective equipment statements are based upon the Toxicity Category of the pesticide product as sold or distributed. In addition, toxicity categories may be used for regulatory purposes other than labeling, such as classification for restricted use and requirements for child-resistant packaging. In certain cases, statements based upon the Toxicity Category of the product as diluted for use are also permitted. A Toxicity Category is assigned for each of five types of acute exposure, as specified in the table in this paragraph.

ACUTE TOXICITY CATEGORIES FOR PESTICIDE PRODUCTS

Hazard Indicators	I	II	III	IV
Oral LD_{50}	Up to and including 50 mg/kg	>50 thru 500 mg/kg	>500 thru 5,000 mg/kg	>5,000 mg/kg
Dermal LD_{50}	Up to and including 200 mg/kg	>200 thru 2000 mg/kg	>2000 thru 20,000 mg/kg	>20,000 mg/kg
Inhalation LC_{50}	Up to and including 0.2 mg/liter	>0.2 thru 2 mg/liter	>2 thru 20 mg/liter	>20 mg/liter
Eye irritation	Corrosive; corneal opacity not reversible within 7 days	Corneal opacity reversible within 7 days; irritation persisting for 7 days	No corneal opacity; irritation reversible within 7 days	No irritation
Skin irritation	Corrosive	Severe irritation at 72 hours	Moderate irritation at 72 hours	Mild or slight irritation at 72 hours

§ 156.64 Signal word.

(a) *Requirement.* Except as provided in paragraph (a)(4), each pesticide product must bear on the front panel a signal word, reflecting the highest Toxicity Category (Category I is the highest toxicity category) to which the product is assigned by any of the five routes of exposure in § 156.62. The signal word must also appear together with the heading for the human precautionary statement section of the labeling (see § 156.70).

(1) *Toxicity Category I.* Any pesticide product meeting the criteria of Toxicity Category I for any route of exposure must bear on the front panel the signal word "DANGER." In addition, if the product is assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye irritation), the word "Poison" must appear in red on a background of distinctly contrasting color, and the skull and crossbones symbol must appear in immediate proximity to the word "Poison."

(2) *Toxicity Category II.* Any pesticide product meeting the criteria of Toxicity Category II as the highest category by any route of exposure must bear on the front panel the signal word "WARNING."

(3) *Toxicity Category III.* Any pesticide product meeting the criteria of Toxicity Category III as the highest category by any route of exposure must bear on the front panel the signal word "CAUTION."

(4) *Toxicity Category IV.* A pesticide product meeting the criteria of Toxicity Category IV by all routes of exposure is not required to bear a signal word. If a signal word is used, it must be "CAUTION."

(b) *Use of signal words.* In no case may a product:

(1) Bear a signal word reflecting a higher Toxicity Category than indicated by the route of exposure of highest toxicity, unless the Agency determines that such labeling is necessary to prevent unreasonable adverse effects on man or the environment;

(2) Bear a signal word reflecting a lesser Toxicity Category associated with a diluted product. Although precautionary statements for use dilutions may be included on label, the signal word must reflect the toxicity of the product as distributed or sold; or

(3) Bear different signal words on different parts of the label.

VOL 66 ISS 241 DE 14 2001 UMI

§ 156.66 Child hazard warning.

(a) Each pesticide product must bear on the front panel of the label the statement "Keep Out of Reach of Children." That statement, or any alternative statement approved by EPA, must appear on a separate line in close proximity to the signal word, if required. The statement is required on Toxicity Category IV products that do not otherwise require a signal word.

(b) In its discretion, EPA may waive the requirement, or require or permit an alternative child hazard warning, if:

(1) The applicant can demonstrate that the likelihood of exposure of children to the pesticide during distribution, marketing, storage or use is remote (for example, an industrial use product); or

(2) The pesticide is approved for use on children (for example, an insect repellent).

(c) EPA may approve an alternative child hazard warning that more appropriately reflects the nature of the pesticide product to which children may be exposed (for example, an impregnated pet collar). In this case, EPA may also approve placement on other than the front panel.

§ 156.68 First aid statement.

(a) *Product as sold and distributed.* Each product must bear a first aid statement if the product has systemic effects in Category I, II, or III, or skin or eye irritation effects in Category I or II.

(b) *Product as diluted for use.* If the product labeling bears directions for dilution with water prior to use, the label may also include a statement describing how the first aid measures may be modified for the diluted product. Such a statement must reflect the Toxicity Category(ies) of the diluted product, based upon data for the route of exposure (or calculations if appropriate). If the labeling provides for a range of use dilutions, only that use dilution representing the highest concentration allowed by labeling may be used as the basis for a statement pertaining to the diluted product. The statement for a diluted product may not substitute for the statement for the concentrate, but augments the information provided for the concentrate.

(c) *Heading.* The heading of the statement may be "First Aid" or "Statement of Practical Treatment."

(d) *Location of first aid statement.* The first aid statement must appear on the front panel of the label of all products assigned to Toxicity Category I by any route of exposure. Upon review, the Agency may permit reasonable variations in the placement of the first aid statement if a reference such as "See first aid statement on back panel" appears on the front panel. The first aid statement for products assigned to Toxicity Categories II or III may appear on any panel of the label.

§ 156.70 Precautionary statements for human hazards.

(a) *Requirement.* Human hazard and precautionary statements as required must appear together on the label or labeling under the general heading "Precautionary Statements" and under appropriate subheadings similar to "Humans and Domestic Animals," "Environmental Hazards" (see subpart E of this part) and "Physical or Chemical Hazards." The phrase "and Domestic Animals" may be omitted from the heading if domestic animals will not be exposed to the product.

(b) *Content of statements.* When data or other information show that an acute hazard may exist to humans or domestic animals, the label must bear precautionary statements describing the particular hazard, the route(s) of exposure and the precautions to be taken to avoid accident, injury or toxic effect or to mitigate the effect. The precautionary paragraph must be immediately preceded by the appropriate signal word.

(c) *Typical precautionary statements.* The table below presents typical hazard and precautionary statements. Specific statements pertaining to the hazards of the product and its uses must be approved by the Agency. With Agency approval, statements may be augmented to reflect the hazards and precautions associated with the product as diluted for use. Refer to § 156.68(b) for requirements for use dilution statements.

TYPICAL HUMAN HAZARD AND PRECAUTIONARY STATEMENTS

Toxicity Category	Systemic effects (oral, dermal, inhalation toxicity)	Irritation effects (skin and eye)	Sensitizer (There are no categories of sensitization.)
I	Fatal (poisonous) if swallowed [inhaled or absorbed through skin]. Do not breathe vapor [dust or spray mist]. Do not get in eyes, on skin, or on clothing. [Front panel first aid statement required.]	Corrosive, causes eye and skin damage [or skin irritation]. Do not get in eyes on skin, or on clothing. Wear goggles or face shield and rubber gloves when handling. Harmful or fatal if swallowed. [Front panel first aid statement required.]	If product is a sensitizer: Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals.
II	May be fatal if swallowed, [inhaled or absorbed through the skin]. Do not breathe vapors [dust or spray mist]. Do not get in eyes, on skin, or on clothing. [Appropriate first aid statement required.]	Causes eye [and skin] irritation. Do not get in eyes, on skin, or on clothing. Harmful if swallowed. [Appropriate first aid statement required.]	
III	Harmful if swallowed [inhaled or absorbed through the skin]. Avoid breathing vapors [dust or spray mist]. Avoid contact with skin [eyes or clothing]. [Appropriate first aid statement required.]	Avoid contact with skin, eyes or clothing.	
IV	No precautionary statements required	No precautionary statements required.	

§ 156.78 Precautionary statements for physical or chemical hazards.

(a) *Requirement.* Warning statements on the flammability or explosive characteristics of the pesticide product are required if a product meets the criteria in this section. Warning statements pertaining to other physical/chemical hazards (e.g., oxidizing potential, conductivity, chemical reactions leading to production of toxic substances) may be required on a case-by-case basis.

(b) *Pressurized products.* The table below sets out the required flammability label statements for pressurized products.

FLAMMABILITY STATEMENTS FOR PRESSURIZED PRODUCTS

Flash point/flame extension of product	Required labeling statement
—Flash point at or below 20° F OR —Flashback at any valve opening	*Extremely flammable.* Contents under pressure. Keep away from fire, sparks, and heated surfaces. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting.
—Flash point >20° F to 80° F OR —Flame extension more than 18 in. long at a distance of 6 in from the flame	*Flammable.* Contents under pressure. Keep away from heat, sparks and open flame. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting.
All other pressurized products	*Contents under pressure.* Do not use or store near heat or open flame. Do not puncture or incinerate container. Exposure to temperatures above 130° F may cause bursting.

(c) *Non-pressurized products.* The table below sets out the required flammability label statements for non-pressurized products.

FLAMMABILITY STATEMENTS FOR NON-PRESSURIZED PRODUCTS

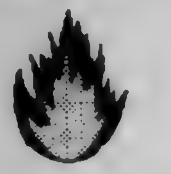
Flash point	Required labeling statement
At or below 20° F	*Extremely flammable.* Keep away from fire, sparks and heated surfaces.
Greater than 20° F to 80° F	*Flammable.* Keep away from heat and open flame.
Greater than 80° F to 150° F	*Combustible.* Do not use or store near heat or open flame.

(d) *Total release fogger products.* (1) A *total release fogger* is defined as a pesticide product in a pressurized container designed to automatically release the total contents in one operation, for the purpose of creating a permeating fog within a confined space to deliver the pesticide throughout the space.

(2) If a pesticide product is a total release fogger containing a propellant with a flash point at or below 20° F, then the following special instructions must be added to the "Physical and Chemical Hazards" warning statement, in addition to any flammability statement required by paragraph (b) of this section:

This product contains a highly flammable ingredient. It may cause a fire or explosion if not used properly. Follow the Directions for Use on this label very carefully.

(3) A graphic symbol depicting fire, such as illustrated in this paragraph, or an equivalent symbol, must be displayed along with the required language adjoining the "Physical and Chemical Hazards" warning statement. The graphic symbol must be no smaller than twice the size of the first character of the human hazard signal word.



Highly Flammable Ingredient

Ingrediente Altamente Inflamable

d. By adding new subpart E, to read as follows:

Subpart E—Environmental Hazard and Precautionary Statements

Sec.
156.80 General.
156.85 Non-target organisms.

Subpart E—Environmental Hazard and Precautionary Statements

§ 156.80 General.

(a) *Requirement.* Each product is required to bear hazard and precautionary statements for environmental hazards, including hazards to non-target organisms, as prescribed in this subpart. Hazard statements describe the type of hazard that may be present, while precautionary statements direct or inform the user of actions to take to avoid the hazard or mitigate its effects.

(b) *Location of statements.* Environmental hazard and precautionary statements may appear on any panel of the label and may be required also in supplemental labeling. The environmental hazard statements must appear together under the heading "Environmental Hazards." Typically the statements are grouped as a sub-category within the "Precautionary Statements" section of the labeling.

(c) *Type size.* All environmental hazard and precautionary statements must be at least 6 point type.

§ 156.85 Non-target organisms.

(a) *Requirement.* Where a hazard exists to non-target organisms, EPA may require precautionary statements of the nature of the hazard and the appropriate precautions to avoid potential accident, injury, or damage.

(b) *Examples.* The statements in this paragraph illustrate the types of hazard statements that EPA may require and the circumstances under which they are typically required. These statements are not comprehensive; other statements may be required if more appropriate to the formulation or use.

(1) If a pesticide intended for outdoor use contains an active ingredient with a mammalian acute oral LD_{50} of 100 mg/kg or less, the statement, "This pesticide is toxic to wildlife" is required.

(2) If a pesticide intended for outdoor use contains an active ingredient with a fish acute LC_{50} of 1 ppm or less, the statement, "This pesticide is toxic to fish" is required.

(3) If a pesticide intended for outdoor use contains an active ingredient with an avian acute oral LD_{50} of 100 mg/kg or less, or a subacute dietary LC_{50} of 500 ppm or less, the statement, "This pesticide is toxic to wildlife" is required.

(4) If either accident history or field studies demonstrate that the use of the pesticide may result in fatality to birds, fish or mammals, the statement, "This pesticide is extremely toxic to wildlife (fish)" is required.

VOL 66 ISS 241 DE 14 / 2001 UMI

(5) If a product is intended for or involves foliar application to agricultural crops, forests or shade trees, or mosquito abatement treatments, and contains a pesticide toxic to pollinating insects, the label must bear appropriate label cautions.

(6) If a product is intended for outdoor use other than aquatic applications, the label must bear the caution, "Keep out of lakes, ponds or streams. Do not contaminate water by cleaning of equipment or disposal of wastes."

[FR Doc. 01–30820 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301194; FRL–6814–2]

RIN 2070–AB78

Extension of Tolerances for Emergency Exemptions; Multiple Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for the various pesticides listed in this document. These actions are in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of these pesticides. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA.

DATES: This regulation is effective December 14, 2001. Objections and requests for hearings, identified by docket control number OPP–301194, must be received by EPA on or before January 14, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, electronically, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301194 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: See the listing below for the name of a specific contact person. The following information applies to all contact persons: Emergency Response Team, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366.

Pesticide/CFR cite	Contact person
Maneb, 180.110 Zinc phosphide, 180.284 Clopyralid, 180.431 Propiconazole, 180.434 Fenpropathrin, 180.466 Imazapic-ammonium, 180.490	Libby Pemberton pemberton.libby@epa.gov
Avermectin, 180.449 Difenoconazole, 180.475	Dan Rosenblatt rosenblatt.dan@epa.gov
Carboxin, 180.301 Propyzamide, 180.317 Metolachlor, 180.368 Metsulfuron-methyl, 180.428 Bifenthrin, 180.442 HOE 107892, 180.509 Fludioxonil, 180. 516	Andrew Ertman ertman.andrew@epa.gov
Fenbuconazole, 40 CFR 180.480	Shaja R. Brothers brothers.shaja @epa.gov
Cyprodinil, 180.532 Desmidipham, 180.353	Stephen Schaible schaible.stephen@epa.gov
Mancozeb, 180.176 Thiabendazole, 180.242 Emamectin benzoate, 180.505	Meredith Laws laws.meredith@epa.gov
Tebuconazole, 180.474	Andrea Conrath conrath.andrea@epa.gov

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00 /Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301194. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA published final rules in the **Federal Register** for each chemical/commodity listed in this document. The initial issuance of these final rules announced that EPA, on its own initiative, under FFDCA section 408 , 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) was establishing time-limited tolerances.

EPA established the tolerances because FFDCA section 408(l)(6) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or time for public comment.

EPA received requests to extend the use of these chemicals for this year's growing season. After having reviewed these submissions, EPA concurs that emergency conditions exist. EPA assessed the potential risks presented by residues for each chemical/commodity. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18.

The data and other relevant material have been evaluated and discussed in the final rule originally published to support these uses. Based on that data and information considered, the Agency reaffirms that extension of these time-limited tolerances will continue to meet the requirements of FFDCA section 408(l)(6). Therefore, the time-limited tolerances are extended until the date listed in this document. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on the date listed, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on the commodity after that date will not be unlawful, provided the residue is present as a result of an application or use of a pesticide at a time and in a manner that was lawful under FIFRA, the tolerance was in place at the time of the application, and the residue does not exceed the level that was authorized by the tolerance. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Tolerances for the use of the following pesticide chemicals on specific commodities are being extended:

Avermectin. EPA has authorized under FIFRA section 18 the use of avermectin on spinach for control of leafminers in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on spinach at 0.05 parts per million (ppm) for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on August 19, 1997 (62 FR 44089) (FRL–5737–1).

Avermectin. EPA has authorized under FIFRA section 18 the use of avermectin on avocado for control of thrips in California. This regulation extends a time-limited tolerance for combined residues of the insecticide avermectin, a mixture of avermectins containing greater than or equal to 80% avermectin B1a (5-0-demethyl avermectin A1) and less than or equal to 20% avermectin B1b (5-0-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A1 and its delta 8,9-isomer in or on avocado at 0.02 ppm for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on April 7, 1999 (64 FR 16843) (FRL–6070–6).

Bifenthrin. EPA has authorized under FIFRA section 18 the use of bifenthrin on peanuts for control of spider mites in Oklahoma. This regulation extends a time-limited tolerance for residues of the insecticide bifenthrin ((2-methyl [1,1'-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3-trifluoro-1-propenyl)-2-dimethylcyclopropanecarboxylate) in or on peanuts, nutmeats at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal**

Register on January 25, 2000 (65 FR 3860) (FRL–6485–2).

Carboxin. EPA has authorized under FIFRA section 18 the use of carboxin on onion seed for control of onion smut in California. This regulation extends a time-limited tolerance for combined residues of the fungicide carboxin (5,6-dihydro-2-meth-yl-1,4-oxathiin-3-carboxanilide) and its metabolite 5,6-dihydro-3-carboxanilide-2-methyl-1,4-oxathiin-4-oxide (calculated as carboxin) in or on onions, dry bulb at 0.2 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on February 3, 1997 (62 FR 4911) (FRL–5584–5).

Clopyralid. EPA has authorized under FIFRA section 18 the use of clopyralid on flax for control of Canada thistle and perennial sowthistle in North Dakota. This regulation extends a time-limited tolerance for residues of the herbicide clopyralid (3,6-dichloro-2-pyridinecarboxylic acid) in or of flax see at 0.5 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on November 17, 1999 (64 FR 62588) (FRL–6388–5).

Cyprodinil. EPA has authorized under FIFRA section 18 the use of cyprodinil on caneberries for control of gray mold in Oregon and Washington. This regulation extends a time-limited tolerance for residues of the fungicide cyprodinil in or on caneberries at 10 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on June 30, 1999 (64 FR 35032) (FRL–6086–3).

Desmedipham. EPA has authorized under FIFRA section 18 the use of desmidipham on garden beets for control of various weed pests in New York. This regulation extends a time-limited tolerance for residues of the herbicide desmedipham in or on red beet roots at 0.2 ppm and red beet tops at 15 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 29, 1997 (62 FR 45741) (FRL–5738–5).

Difenoconazole. EPA has authorized under FIFRA section 18 the use of difenoconazole on corn seed for control of damping off and die-back diseases in corn in Idaho. This regulation extends time-limited tolerances for residues of the fungicide difenoconazole (1-((2-(2-chloro-4-(4-chlorophenoxy)phenyl)-4-methyl-1,3-dioxolan-2-yl)methyl)-1H-1,2,4-triazole) in or on corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover at 0.1 ppm for an additional 1–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on September 1, 1999 (64 FR 47680) (FRL–6094–3).

Emamectin benzoate. EPA has authorized under FIFRA section 18 the use of emamectin benzoate on cotton for control of beet armyworm and tobacco budworm in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for residues of the insecticide emamectin benzoate: 4'-epi-methylamino-4'-deoxyavermectin B1 benzoate in or on cotton gin byproduct at 0.025 ppm; cotton hulls at 0.004 ppm; cotton meal at 0.002 ppm; cottonseed at 0.002 ppm; cottonseed oil at 0.006 ppm; meat, fat; meat byproduct of cattle, goats, hogs, and sheep at 0.002 ppm; and milk for an additional 1–year period. These tolerances will expire and are revoked on December 31, 2002. Time-limited tolerances were originally published in the **Federal Register** on January 12, 2000 (65 FR 1796) (FRL–6398–5).

Fenbuconazole. EPA has authorized under FIFRA section 18 the use of (alpha-[2-4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile on grapefruit for control of greasy spot in Florida. This regulation extends time-limited tolerances for combined residues of the fungicide (alpha-[2-4-chlorophenyl)-ethyl]alpha-phenyl-3-(1H-1,2,4-triazole)-1-propanenitrile and its metabolites cis -5-(4-chlorophenyl)-dihydro-3-phenyl-3-(1H-1,2,4-triazole-1-ylmethyl)-2-3H-furanone and trans-5(4-chlorophenyl)dihydro-3-phenyl-3-(1H1,2,4-triazole-1-ylmethyl-2-3H-furanone in or on fat of cattle, goats, hogs, horses, and sheep at 0.01 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on July 26, 2000 (65 FR 45920) (FRL–6596–6).

Fenpropathrin. EPA has authorized under FIFRA section 18 the use of fenpropathrin on currants for control of currant borer (*Synanthedon tipuliformes*) in Washington. This regulation extends a time-limited tolerance for esidues of the insecticide fenpropathrin (alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on currants at 15 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on July 14, 1997 (62 FR 37516) (FRL–5731–3).

Fludioxonil. EPA has authorized under FIFRA section 18 the use of fludioxonil on apricots, nectarines, peaches, and plums for control of brown rot, gray mold rot, and Rhizopus rot in Alabama, California, Georgia, New Jersey, Oregon, and South Carolina. This regulation extends time-limited tolerances for residues of the fungicide fludioxonil 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-1H-pyrrole-3-carbonitrile in or on apricots, nectarines, peaches, and plums at 5.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 24, 1998 (63 FR 34304) (FRL–5797–5).

HOE-107892 (mefenpyr-diethyl). EPA has authorized under FIFRA section 18 the use of HOE-107892 on wheat and barley for control of foxtail in Montana and North Dakota. This regulation extends time-limited tolerances for residues of the the inert ingredient, herbicide safener HOE-107892 and its metabolites HOE-113225, HOE-109453, and HOE-094270 in or on barley grain at 0.05 ppm, barley hay at 0.5 ppm, barley straw at 0.1 ppm, and the processed by-products of barley grain: pearled barley at 1.0 ppm, bran at 0.4 ppm, and flour at 0.1 ppm and wheat grain at 0.01 ppm and wheat straw at 0.05 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 8, 1997 (wheat) (62 FR 42678) (FRL–5731–7) and September 9, 1998 (barley) (63 FR 48116) (FRL–6024–7).

Imazapic-ammonium. EPA has authorized under FIFRA section 18 the use of imazapic-ammonium on pasture/rangeland and land in the conservation reserve program for control of leafy spurge in Colorado, Montana, Nebraska, North Dakota, and South Dakota. This regulation extends time-limited tolerances for combined residues of the herbicide imazapic-ammonium, (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid, applied as its ammonium salt and its metabolite (+)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-

yl]-5-hydromethyl-3-pyridinecarboxylic acid both free and conjugated in or on grass forage at 30 ppm; grass hay at 15 ppm; milk; fat, meat; meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep at 0.10 ppm; kidney of cattle, goats, hogs, horses, and sheep at 1 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on October 6, 1999 (64 FR 54218) (FRL–6382–3).

Mancozeb. EPA has authorized under FIFRA section 18 the use of mancozeb on ginseng for control of stem and leaf blight in Michigan and Wisconsin. This regulation extends a time-limited tolerance for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate and its metabolite ETU in or on ginseng at 2.0 ppm for an additional 1–year period. This tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on May 24, 2000 (65 FR 33469) (FRL–6556–9).

Maneb. EPA has authorized under FIFRA section 18 the use of maneb on walnuts for control of bacterial blight in California. This regulation extends a time-limited tolerance for combined residues of the fungicide maneb (manganous ethylenebisdithiocarbamate) calculated as zinc ethylenebisdithiocarbamate, and its metabolite ethylenethiourea in or on walnuts at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on March 17, 1999 (64 FR 13097) (FRL–6067–9).

Metolachlor. EPA has authorized under FIFRA section 18 the use of metolachlor on spinach for control of weeds in Arizona, Colorado, Maryland, New Jersey, Oklahoma, Pennsylvania, Texas, Virginia, and Wisconsin. This regulation extends a time-limited tolerance for the combined residues (free and bound) of the herbicide metolachlor 2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on spinach at 0.3 ppm for an additional 6–month period. This tolerance will expire and is revoked on June 30, 2002. A time-limited tolerance was originally published in the **Federal Register** on November 29, 1996 (61 FR 60617) (FRL–5477–7).

Metsulfuron-methyl. EPA has authorized under FIFRA section 18 the use of metsulfuron-methyl on sorghum for control of weeds in Kansas, Nebraska, New Mexico, Oklahoma, and Texas. This regulation extends time-limited tolerances for the combined residues of the herbicide metsulfuron methyl and its 4-hydroxy metabolite (methyl 2-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]-amino]sulfonyl]-4-hydroxybenzoate) in or on sorhum, fodder at 0.5 ppm; sorhum, forage at 0.3 ppm; and sorhum, grain at 0.4 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 16, 1999 (64 FR 70184) (FRL–6391–8).

Propiconazole. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot in Nebraska, New Mexico, and Texas. This regulation extends time-limited tolerances for combined residues of the fungicide propiconazole, 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl]methyl]-1H-1,2,4-triazole and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound in or on grain sorghum, grain at 0.2 ppm; grain sorghum, stover at 1.5 ppm; and sorghum aspirated grain fractions at 20 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on August 13, 1997 (62 FR 43284) (FRL–5735–2).

Propyzamide. EPA has authorized under FIFRA section 18 the use of propyzamide on cranberries for control of dodder in Delaware, Massachusetts, New Jersey, and Rhode Island. This regulation extends a time-limited tolerance for the combined residues of the herbicide propyzamide and its metabolites containing the 3,5-dichlorobenzoyl moiety (calculated as 3,5-dichloro-*N*-(1,1-dimethyl-2-propenyl)benzamide) in or on cranberries at 0.05 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on September 16, 1998 (63 FR 49479) (FRL–6022–5).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on wheat for control of Fusarium head blight in Michigan, North Dakota, and South Dakota. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on wheat hay at 15.0 ppm and wheat straw at 2.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on barley for control of Fusarium head blight in North Dakota and South Dakota. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole (alpha-[2-(4-chlorophenyl)-ethyl]-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol) in or on barley grain at 2.0 ppm, barley hay at 20.0 ppm, and barley straw at 20.0 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerance were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on sunflower for control of rust in Colorado. This regulation extends time-limited tolerances for residues of the fungicide tebuconazole in or on sunflower oil at 0.4 ppm and sunflower seed at 0.2 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on June 20, 1997 (62 FR 33550) (FRL–5725–7).

Tebuconazole. EPA has authorized under FIFRA section 18 the use of tebuconazole on garlic for control of garlic rust in California. This regulation extends a time-limited tolerance for residues of the fungicide tebuconazole in or on garlic at 0.1 ppm for an additional 2–year period. This tolerance will expire and is revoked on December 31, 2003. A time-limited tolerance was originally published in the **Federal Register** on May 26, 1999 (64 FR 28377) (FRL–6079–1).

Thiabendazole. EPA has authorized under FIFRA section 18 the use of thiabendazole on lentils for control of ascochyta blight in Idaho, Montana, North Dakota, and Washington. This regulation extends a time-limited tolerance for residues of the fungicide thiabendazole in or on lentils at 0.1 ppm for an additional 1–year period. This

VOL 66 ISS 241 DE 14 2001 UMI

tolerance will expire and is revoked on December 31, 2002. A time-limited tolerance was originally published in the **Federal Register** on February 25, 1998 (63 FR 9435) (FRL–5767–6).

Zinc phosphide. EPA has authorized under FIFRA section 18 the use of zinc phosphide on barley, potatoes, sugarbeets, and wheat for control of meadow voles and field mice in Idaho. This regulation extends time-limited tolerances for residues of phosphine resulting from the use of the rodenticide zinc phosphide in or on barley, grain at 0.010 ppm; barley, hay at 0.20 ppm; barley, straw at 0.20 ppm; potatoes at 0.05 ppm; sugar beet (roots) at 0.05 ppm; sugar beet (tops) at 0.10 ppm; and wheat, aspirated grain fractions; wheat grain; wheat hay; and wheat, straw at 0.010 ppm for an additional 2–year period. These tolerances will expire and are revoked on December 31, 2003. Time-limited tolerances were originally published in the **Federal Register** on December 9, 1998 (63 FR 67794) (FRL–6046–1) and August 16, 2000 (65 FR 49936) (FRL–6598–9).

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by FQPA, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new FFDCA section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301194 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 14, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27).

Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301194, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established under FFDCA section 408(l)(6) in response to an exemption under FIFRA section 18, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 374.

§ 180.110 [Amended]

2. In § 180.110, in the table to paragraph (b), amend the entry for walnuts by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.176 [Amended]

3. In § 180.176, in the table to paragraph (b), amend the entry for ginseng by revising the expiration date "12/31/01" to read "12/31/02."

§ 180.242 [Amended]

4. In § 180.242, in the table to paragraph (b), amend the entry for lentils by revising the expiration date "12/31/01" to read "12/31/02."

§ 180.284 [Amended]

5. In § 180.284, in the table to paragraph (b), amend the entry for barley, grain; barley, hay; barley, straw; potatoes; sugar beet (roots); sugar beet (tops); wheat, aspirated grain fractions; wheat, grain; wheat, hay; and wheat, straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.301 [Amended]

6. In § 180.301, in the table to paragraph (b), amend the entry for onions, dry bulb by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.317 [Amended]

7. In § 180.317, in the table to paragraph (b), amend the entry for cranberries by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.353 [Amended]

8. In § 180.353, in the table to paragraph (b), amend the entry for red beet roots and red beet tops by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.368 [Amended]

9. In § 180.368, in the table to paragraph (b), amend the entry for spinach by revising the expiration date "12/31/01" to read "6/30/02."

§ 180.428 [Amended]

10. In § 180.428, in the table to paragraph (b), amend the entry for sorghum, fodder; sorghum, forage; and sorghum, grain by revising the expiration date "12/31/01" to read "12/31/03."

VOL 66 ISS 241 DE 14 2001 UMI

§ 180.431 [Amended]

11. In § 180.431, in the table to paragraph (b); amend the entry for flax seed by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.434 [Amended]

12. In § 180.434, in the table to paragraph (b), amend the entry for sorghum, aspirated grain fractions; sorghum, grain, grain; and sorghum, grain, stover by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.442 [Amended]

13. In § 180.442, in the table to paragraph (b), amend the entry for peanuts, nutmeats by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.449 [Amended]

14. In § 180.449, in the table to paragraph (b), amend the entry for avocado by revising the expiration date "12/31/02" to read "12/31/03" and also amend the entry for spinach by revising the expiration date "1/31/02" to read "12/31/03."

§ 180.466 [Amended]

15. In § 180.466, in the table to paragraph (b), amend the entry for currants by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.474 [Amended]

16. In § 180.474, in the table to paragraph (b)(1), amend the entries for barley, grain; barley, hay; barley, straw; garlic; sunflower oil; sunflower seed; wheat, hay; and wheat, straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.475 [Amended]

17. In § 180.475, in the table to paragraph (b), amend the entry for corn, sweet (kernel + corn with husk removed); corn, sweet, forage; and corn, sweet, stover by revising the expiration date "12/31/02" to read "12/31/03."

§ 180.480 [Amended]

18. In § 180.480, in the table to paragraph (b), amend the entry for cattle, fat; goats, fat; hogs, fat; horses, fat; and sheep, fat by revising the expiration date "12/31/01" to read "12/31/03."

19. In § 180.490, the table in paragraph (b) is revised to read as follows:

§ 180.490 Imazapic-ammonium; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Cattle, fat	0.10	12/31/03
Cattle, kidney	1.0	12/31/03
Cattle, mbyp (except kidney)	0.1	12/31/03
Cattle, meat	0.1	12/31/03
Goats, fat	0.1	12/31/03
Goats, kidney	1.0	12/31/03
Goats, mbyp (except kidney)	0.1	12/31/03
Goats, meat	0.1	12/31/03
Grass, forage	30	12/31/03
Grass, hay	15	12/31/03
Hogs, fat	0.1	12/31/03
Hogs, kidney	1.0	12/31/03
Hogs, mbyp (except kidney)	0.1	12/31/03
Hogs, meat	0.1	12/31/03
Horses, fat	0.1	12/31/03
Horses, kidney	1.0	12/31/03
Horses, mbyp (except kidney)	0.1	12/31/03
Horses, meat	0.1	12/31/03
Sheep, fat	0.1	12/31/03
Sheep, kidney	1.0	12/31/03
Sheep, mbyp (except kidney)	0.1	12/31/03
Sheep, meat	0.1	12/31/03

* * * * *

20. In § 180.505, the table in paragraph (b) is revised to read as follows:

§ 180.505 Emamectin benzoate; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
Cattle, fat	0.002	12/31/02
Cattle, meat	0.002	12/31/02
Cattle, meat byproduct	0.002	12/31/02
Cotton gin byproduct	0.025	12/31/02
Cotton hulls	0.004	12/31/02
Cotton, meal	0.002	12/31/02
Cottonseed	0.002	12/31/02
Cottonseed oil	0.006	12/31/02
Goats, fat	0.002	12/31/02
Goats, meat	0.002	12/31/02
Goats, meat byproduct	0.002	12/31/02
Hogs, fat	0.002	12/31/02
Hogs, meat	0.002	12/31/02
Hogs, meat byproduct	0.002	12/31/02
Milk	0.002	12/31/02

Commodity	Parts per million	Expiration/revocation date
Sheep, fat	0.002	12/31/02
Sheep, meat	0.002	12/31/02
Sheep, meat byproduct	0.002	12/31/02

* * * * *

§ 180.509 [Amended]

21. In § 180.509, in the table to paragraph (b), amend the entries for barley, bran; barley, flour; barley, grain; barley, hay; barley, pearled; barley, straw; wheat grain; wheat straw by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.516 [Amended]

22. In § 180.516, in the table to paragraph (b), amend the entries for apricots, nectarines, peaches, and plums by revising the expiration date "12/31/01" to read "12/31/03."

§ 180.532 [Amended]

23. In § 180.532, in the table to paragraph (b), amend the entry for caneberries by revising the expiration date "12/31/01" to read "12/31/03."

[FR Doc. 01–30916 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–268]

Federal-State Joint Board on Universal Service; Petition of Federal Transtel, Inc. for Waiver of Universal Service Fund Contribution Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of waiver request.

SUMMARY: In this document, the Commission denies the request of Federal Transtel, Inc. (Federal Transtel) to waive or reconsider the Commission's rules and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order and Order on Reconsideration in CC Docket No. 96–45 released on September 20, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this Order, the Commission denies the request of Federal Transtel to waive or reconsider the Commission's rules in 47 CFR 54.703, 54.709, and 54.711 and permit Federal Transtel to recalculate its 1998 and 1999 contributions to the federal universal service mechanisms. Specifically, the Commission concludes that Federal Transtel has failed to demonstrate good cause to grant a waiver. Furthermore, to the extent that Federal Transtel's petition seeks reconsideration of Commission rules that required carriers to base federal universal service contributions on prior year revenues, the Commission denies such request as untimely. In so doing, we also note that the Commission has recently amended its contribution methodology and these changes may address many of the substantive concerns raised in Federal Transtel's petition.

II. Discussion

2. The Commission concludes that Federal Transtel has failed to demonstrate that good cause exists to grant its request to waive the Commission's rules and thereby permit the recalculation of its 1998 and 1999 contributions to the federal universal service mechanisms. Consistent with the Commission's prior decisions, we conclude that granting such a request would be contrary to the principle of competitive neutrality and Congress' mandate that all carriers contribute to the federal universal service mechanisms on an equitable and nondiscriminatory basis. To the extent that Federal Transtel seeks reconsideration of the requirement to base federal universal service contributions on prior year revenues, the Commission concludes that such request is untimely. In addition, many of Federal Transtel's concerns have been addressed in a recent Commission proceeding.

A. Federal Transtel's Waiver Petition

3. Generally, the Commission's rules may be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

4. We are not persuaded that Federal Transtel's alleged inability to recover contributions in 1998 and 1999 from its current customers is a special circumstance warranting waiver of the prior year revenue contribution methodology. The Commission does not require carriers to recover their universal service contributions from customers. Rather, the Commission has given carriers the flexibility to decide whether and how they should recover their contributions, as markets become increasingly competitive. Although the Commission permits carriers to pass through all or part of their universal service contributions to their customers, the requirement to contribute remains whether or not a carrier passes such costs through to its customers. In addition, carriers are not precluded from anticipating the possible effects of declining revenues in the following year and reserving a portion of their current revenues to meet the contribution obligations that arise in the following year. Contrary to Federal Transtel's contention, the obligation to contribute to the universal service mechanisms based upon prior year revenues was not retroactively imposed on carriers. Carriers were given notice in July 1997 that contributions to the federal universal service mechanisms in 1998 would be based on prior year revenues. Therefore, the Commission concludes that carriers were provided with sufficient notice to develop business plans in anticipation of the implementation of the universal service contribution methodology beginning January 1, 1998.

5. Furthermore, The Commission concludes that such a waiver would not serve the public interest. We note that section 254(d) requires that the Commission establish a universal service contribution mechanism that is "specific, predictable and sufficient" to preserve and advance universal service. As discussed, in implementing section 254, the Commission adopted rules setting forth the specific method of computation for universal service contributions. To grant retroactively a waiver or reconsideration of those rules to individual carriers from one year to the next creates the potential for continuing uncertainty and confusion in the administration of the fund. The Commission notes in particular that Federal Transtel has not suggested how its contributions should be calculated if it were granted a waiver of the Commission's rules. The Commission finds that it cannot reconcile granting the waiver with the Act's mandate that the universal service mechanisms be specific and predictable, and that all telecommunications providers of interstate telecommunications service contribute on an equitable and nondiscriminatory basis. This mandate is essential to the preservation and advancement of universal service to ensure that consumers who rely upon universal service funding, including low-income consumers and those residing in rural and high-cost areas, may continue to receive telecommunications at affordable rates.

B. Federal Transtel's Petition for Reconsideration

6. To the extent that Federal Transtel seeks reconsideration of the universal service contribution methodology, we dismiss that request as untimely. The Commission's rules require that petitions for reconsideration be filed within 30 days after public notice of the Commission action. Federal Transtel's petition was filed on July 20, 1999, nearly two years after the deadline to file petitions for reconsideration of the *Second Order on Reconsideration*, 62 FR 56120, October 29, 1997, in which the Commission adopted the contribution methodology based on prior year revenues. Accordingly, the Commission dismisses Federal Transtel's petition for reconsideration as untimely filed. Moreover, even if this petition were timely filed, the Commission would not grant such a request. The Commission has recently provided substantive reasoning for denying similar requests. The Commission does note, however, that based on a newly developed industry-wide record, the Commission recently took action to reduce the interval between the accrual of revenues by carriers and the assessment for universal service contributions. We believe this action alleviates many of the concerns raised in Federal Transtel's petition. In addition, the Commission has recently sought further comment on how to streamline and reform both the manner in which the Commission assesses carrier contributions to the universal service fund and the manner in which carriers may recover those costs from their customers. Although the Commission dismisses Federal Transtel's petition, we will incorporate a copy of its petition into the record relating to the *Contribution Methodology NPRM*, 66 FR 28718, May 24, 2001.

III. Ordering Clause

7. It is ordered, pursuant to sections 1, 4(i), 254, and 405 of the Communications Act of 1934, as amended, and §§ 1.3 and 1.429 of the Commission's rules, that the Petition for Waiver or Reconsideration filed July 20, 1999 by Federal Transtel, Inc. is denied.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30793 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2782; MM Docket No. 00–129; RM–9909 & RM–10017]

Radio Broadcasting Services; Moberly, Malta Bend, Chillicothe, Lee's Summit, La Monte, Warsaw, Nevada, Maryville & Madison, MO, Topeka, Junction City, Humboldt, Marysville & Burlington, KS, & Auburn, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition filed by Best Broadcasting, Inc., the Commission issued a Notice of Proposed Rule Making proposing the substitution of Channel 247C2 for Channel 247C3 at Moberly, Missouri, and modification of the license for Station KCSX accordingly, with additional substitutions at Malta Bend, MO and Chillicothe, MO. *See* 65 FR 45745, July 25, 2000. In response to a counterproposal filed by Best Broadcasting, Inc. and First Broadcasting Company, this document substitutes Channel 247C1 for Channel 247C3 at Moberly, Missouri, reallots Channel 247C1 from Moberly to Lee's Summit, MO and modifies the authorization for Station KCSX to specify operation at Lee's Summit on Channel 247C1. The coordinates for Channel 247C1 at Lee's Summit are 39–04–20 and 94–35–45. To accommodate the allotment at Lee's Summit, we shall make the following changes: substitute Channel 233C for Channel 247C, Topeka, Kansas (39–00–19 & 96–02–58), substitute Channel 248C1 for Channel 233C1 at Junction City, Kansas (39–00–53 & 96–52–15), substitute Channel 237C3 for Channel 232C3 at Humboldt, Kansas (37–43–21 & 95–33–41) , substitute Channel 249A for Channel 237A at Burlington, Kansas (39–10–08 & 95–39–07), substitute Channel 276C3 for Channel 234C3 at Auburn, Nebraska (40–27–57 & 95–45–38),[1] substitute Channel 238C3 for Channel 276C3 at Marysville, Kansas (39–56–06 & 94–47–33), substitute Channel 280C3 for Channel 243C3 at Malta Bend, Missouri (39–21–59 & 93–24–12), substitute Channel 253A for Channel 280C3 at Chillicothe, Missouri (39–43–40 & 93–35–43), substitute Channel 249C2 for Channel 246C3 at La Monte, Missouri (38–48–23 & 93–09–08), substitute Channel 246A for Channel 249A at Warsaw, Missouri (38–20–41 & 93–23–10), substitute Channel 248A for Channel 249A at Nevada, Missouri (37–52–06 & 94–20–01). We shall also allot Channel 247C3 at Madison, Missouri, as a first local service at coordinates 39–24–37 and 92–10–58. The issue of opening the allotment at Madison for auction will be addressed by the Commission in a subsequent order.

DATES: Effective January 14, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report andOrder, MM Docket No. 00–129, adopted November 21, 2001, and released November 30, 2001. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com*.

---

[1] The authorization for Station KNCY–FM was amended to specify operation on Channel 234C3 in lieu of Channel 288A in a one-step application (BPH–19990816IE). We will take this opportunity to correct the FM Table of Allotments.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 247C3 at Moberly and adding Lee's Summit, Channel 247C1; by removingChannel 248C3 and adding Channel 280C3 at Malta Bend; by removing Channel 280C3 and adding Channel 253A at Chillicothe; by removing Channel 246C3 and adding Channel 249C2 at La Monte; by removing Channel 249A and adding Channel 246A at Warsaw; by removingChannel 249A and adding Channel 248A at Nevada; and by adding Madison, Channel 247C3.

3. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 247C and adding Channel 233C at Topeka; by removing Channel 233C1 and adding Channel 248C1 at Junction City; by removing Channel 232C3 and adding Channel 237C3 at Humboldt; by removing Channel 237A and adding Channel 249A at Burlington; and by removing Channel 276C3 and adding Channel 238C3 at Marysville.

4. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by removing Channel 288A and adding Channel 276C3 at Auburn.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30870 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2784; MM Docket No. 98–162; RM–9263]

Radio Broadcasting Services; Sugar Hill and Taccoa, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants a Petition for Reconsideration filed by Southern Broadcasting of Pensacola, Inc. to the extent of setting aside a previous action substituting Channel 291C1 for Channel 291C at Taccoa, Georgia, reallotting Channel 291C1 to Sugar Hill, Georgia, and modifying the license of Station WNGC to specify operation on Channel 291C1 at Sugar Hill. *See* 66 FR 39456, published July 20, 2001. As a result, Station WNGC will continue to be licensed on Channel 291C at Taccoa, Georgia. The reference coordinates for Channel 291C at Taccoa, Georgia, are 34–22–41 and 83–39–30.

DATES: Effective December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 98–162, adopted November 28, 2001, and released November 30, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Sugar Hill, Channel 291C1.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Taccoa, Channel 291C.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30866 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

VOL 66
ISS 241
DE 14 2001
UMI

Proposed Rules

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2001–11128]

RIN 2120–AG34

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of working draft.

SUMMARY: This document notifies the public that a copy of a working draft of a Supplemental Notice of Proposed Rulemaking (SNPRM) Noise Limitations for Aircraft operations in the Vicinity of Grand Canyon National Park was released to an industry representative contrary to Department of Transportation (DOT) policy. This notice provides information to allow other persons the same access to this information to ensure fairies in the rulemaking process.

ADDRESSES: You may obtain a copy of the working draft of the SNPRM from the DOT public docket through the Internet at *http://dms.dot.gov/*, docket number FAA–2001–11128. If you do not have access to the Internet, you may obtain a copy of the working draft by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify Docket Number FAA–2001–11128 and request a copy of the working draft of the supplemental notice of proposed rulemaking entitled "Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park".

You may also review the public docket in person in the Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office is on the plaza level.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas L. Connor, Manager, Technology Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; Telephone: (202) 267–8933; Email: *thomas.1.connor@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA published a notice of proposed rulemaking (NPRM) on December 31, 1996 entitled "Nose Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park" (Noise Limitations NPRM, 61 FR 69334; Notice 96–15). This NPRM proposed to establish noise efficiency limitations for certain aircraft operations in the vicinity of Grand Canyon National Park (GCNP). Given the length of time since the issuance of the NPRM, the FAA and the National Park Service (NPS) determined that an SNPRM should be issued to provide the public an opportunity to comment again in light of developments since 1996. The standards for quiet technology proposed in this SNPRM would assist the NPS achieve its statutory mandate to provide for the substantial restoration of natural quiet and experience in the GCNP. The SNPRM would also respond to the comments that the FAA received pertaining to the Noise Limitations NPRM.

A copy of a working draft of the SNPRM ("working draft") was released to an industry representative contrary to Department of Transportation policy. We regret this action. To ensure that the rulemaking process is open and fair to all, we are placing a copy of the working draft in the public docket. the **ADDRESSES** section above provides information about where you may obtain a copy of the working draft.

The FAA, DOT, NPS and Office of Management and Budget (OMB) management have not completed review of the working draft. Therefore, it may not accurately represent the agency's final proposal, if one is issued. Because the working draft is not yet a formal proposal, and may or may not be published, it is premature for the FAA to request comments on this document. We have filed the working draft in the public docket solely to ensure that all interested persons have access to information that was released by the FAA and to ensure that the fairness and integrity of the rulemaking process is not compromised.

Issued in Washington, DC, December 7, 2001.

Paul Dykeman,

Acting Director, Office of Environment and Energy.

[FR Doc. 01–30836 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–01–037]

RIN 2115–AE84

Regulated Navigation Area; Savannah River, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to create a Regulated Navigation Area (RNA) on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

DATES: Comments and related material must reach the Coast Guard on or before February 12, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia, 31401. Marine Safety Office Savannah maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07–01–037], will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652–4353 extension 205.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD07–01–037], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you submit them by mail and would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not intend to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Savannah at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The port of Savannah is receiving LNG tankships at the Southern Liquefied Natural Gas (LNG) facility on Elba Island. This facility has been struck by passing vessels twice in the past 20 years. This proposed rule is necessary to protect the safety of life and property on the navigable waters of the United States from hazards associated with LNG activities.

The Savannah River has a narrow and restricted channel with many bends. The LNG facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving a LNG tankship must be addressed.

In both instances when the Elba Island LNG facility was struck, the facility was inactive, however, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with a LNG tankship moored at the Elba Island dock. This rulemaking is needed to prevent incidents involving a LNG tankship in transit or while moored at the facility.

On June 19, 2001, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** entitled Regulated Navigation Area: Savannah River, Georgia (66 FR 32915). We received 22 comment letters in response to this proposed rule. On October 10, 2001 we published a temporary final rule in the **Federal Register** entitled Regulated Navigation Area: Savannah River, Georgia (66 FR 51562). That temporary rule, effective until March 21, 2002, was necessary to address the risk proposed by the resumption of LNG activities, while allowing us to redraft and receive comments on this supplemental notice of proposed rulemaking.

Discussion of Proposed Rule

The Coast Guard received 22 comment letters addressing the original notice of proposed rulemaking. The Coast Guard has considered all of these comments and has made content changes and other administrative and numbering corrections in this supplemental notice of proposed rulemaking. The specific section of the original proposed rule that each comment or group of comments addresses is indicated in bold text. The Coast Guard's response to the comments immediately follows the bolded text.

Two comments concerned the proposed construction of the Jasper County waterfront facility in the vicinity of the LNG terminal. While we acknowledge the possibility of this facility's construction, no regulatory approvals have been granted for the proposed Jasper County facility. We have not modified the original proposed rule in light of these two comments.

33 CFR 165.756 (d) (1) (i). "Except for a vessel that is moored at a marina, wharf, or pier, and that remains moored, no vessel greater than 1600 gross tons is permitted within the Regulated Navigation Area without the consent of the Captain of the Port (COTP)."

The Coast Guard received four comments expressing concern over potential delays during a LNG tankship arrival and departure. The Coast Guard believes that any potential delays associated with LNG tankship movements will be minimized through coordination during pre-transit conferences conducted by the Captain of the Port (COTP) prior to a LNG tankship's arrival and departure and by the pre-positioning of additional towing vessels by the LNG facility in support of this RNA.

33 CFR 165.756 (d) (2) (iv) Requirements for vessels carrying LNG: "Not enter or get underway within the regulated navigation area if visibility during the transit is, or is expected to be, less than three (3) miles. * * *"

Two respondents provided specific comments concerning the three-mile visibility restriction. The comments noted the original proposed rule would impose visibility-based restrictions on LNG tankships that may be considered different from those applicable to similar size vessels. The Coast Guard has carefully considered these comments and proposes to eliminate the specific language requiring at least three miles of visibility. Instead, visibility issues will be addressed on a case-by-case basis with input from the Coast Guard, the pilot and the master of the LNG tankship during the pre-transit conference required in the Savannah Area Liquefied Natural Gas (LNG) Vessel Management and Emergency Plan. This will allow greater flexibility for vessel entry, based on the professional judgment of the mariners making the transit and the Coast Guard. We propose to modify and renumber § 165.756 (d)(2)(iv) of the original proposed rule. The new section number would be § 165.756 (d)(1)(iii)(D) and it would read, "Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel. . . ."

33 CFR 165.756 (d) (3). "Restrictions on vessel operations while a LNG vessel is moored:"

The Coast Guard proposes to amend the original proposed rule concerning the protection of passing vessels under 1600 gross tons as they pass a LNG tankship while it is moored at the LNG terminal. This new proposed rule prohibits vessels less than 1600 gross tons from approaching within 70 yards of a moored LNG tankship. This change was made to protect vessels less than 1600 gross tons from the hazards associated with the transfer of LNG at the Elba Island terminal. This change will not restrict vessel movement within the deep draft channel and will have minimal or no impact on commercial or recreational vessel traffic.

33 CFR 165.756 (d) (3) (i) and (ii) Towing vessel requirements for the LNG facility. The LNG facility "* * * shall station and provide a minimum of two (2) towing vessels each with a minimum of 100,000 pounds of bollard pull to safely maneuver transiting vessels greater than 1600 gross tons * * *" and for transiting vessels over 1600 gross

VOL 66 ISS 241 DE 14 2001 UMI

tons while a LNG vessel is moored at the facility, "when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull. * * *"

The Coast Guard has amended this 2-tug requirement based on simulations conducted at Marine Safety International. The objective of this section is to prevent or mitigate the potential consequences of a vessel alliding with a moored LNG tankship. Based on simulations conducted and a review of existing industry escort operations, the Coast Guard has determined that an adequate level of safety can be achieved with two towing vessels having adequate bollard pull, horsepower and the capability to operate in the "indirect mode." These simulations also revealed that other combinations of operation by towing vessels not made-up to the escorted vessel prior to the onset of the same emergent situation, or by towing vessels not capable of safely operating in the indirect mode, whether made-up or not, consistently failed to prevent a high impact allision. Similar escort requirements typically applied to tankships on the West Coast of the United States have successfully controlled and/or arrested escorted vessels' movements under emergent circumstances.

Therefore, the Coast Guard proposes to amend section (d)(3)(ii) of the original proposed rule to read: "Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to safely operate in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty."

The Coast Guard received two comments concerning the potential for liability claims due to the facility having to provide escort towing vessel services. These comments generally asserted that because escort tugs were being required by a federal regulation, the facility should not be liable for any damages incurred during escort operations.

This proposed rule addresses safety issues associated with the navigable waters of the United States and attempting to address liability issues in this rule is inappropriate. Ultimately, issues related to liability will be resolved in the legal process.

33 CFR 165.756 (d) (3) (ii). "Transiting vessels over 1600 gross tons when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull made up in a way to safely maneuver past the transferring LNG vessel. Outbound vessels shall be escorted from the terminus of the Fort Jackson range until the vessel is safely past the LNG dock. Inbound vessels shall be escorted from Field's Cut until the vessel is safely past the LNG dock."

The Coast Guard received 16 comments objecting to the requirement that tugs make-up (physically attach) to vessels over 1600 gross tons as they pass a moored LNG tankship. These comments agreed with the requirement for having vessels escorted but asserted that either the pilot, the master and/or the towing vessel operators should make the decision on whether to make-up, or that towing vessels should not be made-up because this type of arrangement provided no additional level of safety.

We disagree with comments asserting that the towing vessel should not be made-up. As previously discussed in the NPRM under the heading of 33 CFR 165.756(d)(3)(i) and (ii), Coast Guard research clearly indicates that the most effective way to maneuver and control a vessel is if it is made-up to towing vessels. These conclusions have been tested and were verified by simulations based on similar historical casualty scenarios.

Considering the proximity of the moored LNG tankship to the shipping channel and the restricted nature of the waterway, requiring towing vessels to be made-up to the escorted vessel is prudent. During a casualty (steering or propulsion), reaction time is critical. By ensuring the escorting towing vessels are made-up prior to a casualty. control will be immediate and any delays associated with attempting to make-up at the point of extremis will be eliminated.

We received nine comments expressing concern related to potential cost for the delays associated with the making-up of towing vessels to vessels passing the moored LNG tanker. Many of the comments stated that delays due to towing vessel availability and the time required to make-up would have an adverse economic impact.

Based on simulations conducted, marginal delays associated with making-up was minimal as compared with normal transits and passing at minimum speed. The time required to make-up results in minimal delays because the passing vessel continues its forward movement during this evolution. The make-up time is critical, however, when a vessel is in extremis and reaction time must be nearly instantaneous. For these reasons and as previously discussed, the Coast Guard continues to require that the escort towing vessels be made-up to the escorted vessel.

The Coast Guard received eight comments concerning the length of the escort zone for vessels passing an LNG tankship while it is moored. The original proposed zone was from Fort Jackson to Elba Island Cut. Since publishing the original notice of proposed rulemaking, additional research has been conducted which suggests that a reduction in the size of the escort zone will not adversely affect the level of safety. We agree with the comments and have amended this proposed rule accordingly.

We recognize circumstances will dictate the distance and time required to make-up the towing vessels. It is left to the professional judgment of the mariners involved in the evolution to ensure the vessels are properly made-up prior to passing Bight Channel Light 46 for outbound vessels and Elba Island Light 37 for inbound vessels, and that vessels remain made-up until clear of the LNG tankship. (NOTE: The distance between Lights 46 & 37 is approximately 2.1 nautical miles or approximately 1 nautical mile on either side of the facility. The originally proposed zone size was 3.3 nautical miles or roughly 1.6 nautical miles on either side.)

33 CFR 165.756 (d) (3) (iii). "* * * the operator of the facility where the LNG vessel is moored shall provide at least one towing vessel with sufficient capacity to safely hold the LNG vessel to the dock while transiting vessels pass."

Two respondents provided specific comments concerning the requirement to provide at least one towing vessel with sufficient capacity to safely hold the LNG tankship to the dock while transiting vessels pass. The Coast Guard has carefully considered these comments and has determined that the original wording of this requirement may restrict the flexibility of the "standby" towing vessel to assist in a wider range of casualty scenarios. The Coast Guard proposes to amend and renumber section (d)(3)(iii) of the original proposed rule to now read (d)(2)(ii): "In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take any appropriate actions in an emergency as directed by the LNG vessel bridge watch."

Regulatory Evaluation

This proposed rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal so that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Only an estimated one percent of the annual transits on the Savannah River will be LNG tankships. Further, all LNG transits will be coordinated and scheduled with the pilots and the Coast Guard Captain of the Port to minimize port disruption and delays for other commercial traffic, and LNG tankships. Finally, requests to enter the RNA may be granted on a case-by-case basis by the Coast Guard Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities because LNG vessels will comprise an estimated one percent of the large commercial vessel transits on the Savannah River. Further, the tug escort requirements of this rule for vessels transiting past a moored LNG vessel will only affect an estimated 12 percent of all large commercial vessel transits on the River. Delays, if any, will be minimal because vessel speeds would be reduced regardless of the tug requirements. Delays for inbound and outbound traffic due to LNG transits will be minimized through pre-transit conferences with the pilots and the Coast Guard Captain of the Port. Finally, the RNA requirements are less burdensome for smaller vessels, which are more likely to be small entities, because of the lower risk associated with these vessels.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this proposed rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the proposed rule would affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. Small businesses may also send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

VOL 66 ISS 241 DE 14 2001 UMI

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Safety measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Section 165.756 is added to read as follows:

§ 165.756 Regulated Navigation Area; Savannah River, Georgia.

(a) *Regulated Navigation Area (RNA).* The Savannah River between Fort Jackson (32°04.93′ N, 081°02.19′ W) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area.

(b) *Definitions.* The following definitions are used in this section:

Bollard pull is an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

Direct mode is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which a towing vessel generates by thrust alone, forces on an escorted vessel at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

Indirect mode is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which an escorting towing vessel generates towline forces on an escorted vessel by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and/or controlling the motion of an escorted vessel.

LNG tankship means a vessel as described in Title 46, Code of Federal Regulations, Part 154.

Made-up means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

Make-up means the act of, or preparations for becoming made-up.

Operator means the person who owns, operates, or is responsible for the operation of a facility or vessel.

Savannah River Channel Entrance Sea Buoy means the aid to navigation labeled R W "T" Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

Standby means immediately available, ready, and equipped to conduct operations.

Underway means that a vessel is not at anchor, made fast to the shore, or aground.

(c) *Applicability.* This section applies to all vessels operating within the RNA, including naval and other public vessels, except vessels that are engaged in one of the following operations:

(1) Law enforcement or search and rescue operations;

(2) Servicing aids to navigation;

(3) Surveying, maintenance, or improvement of waters in the RNA; or

(4) Actively engaged in escort, maneuvering or support duties for the LNG tankship.

(d) *Regulations.*

(1) Restrictions on vessel operations while an LNG tankship is underway within the RNA.

(i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater is permitted within the RNA without the consent of the Captain of the Port (COTP).

(ii) All vessels under 1600 gross tons shall keep clear of transiting LNG tankships.

(iii) The owner, master, or operator of a vessel carrying LNG shall:

(A) Comply with the notice requirements of 33 CFR part 160. Updates are encouraged at least 12 hours before arrival at the RNA boundaries. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic. LNG tankships are further encouraged to include in their notice a report of the vessel's propulsion and machinery status and any outstanding recommendations or deficiencies identified by the vessel's classification society and, for foreign flag vessels, any outstanding deficiencies identified by the vessel's flag state.

(B) Obtain permission from the COTP before commencing the transit into the RNA.

(C) While transiting, make security broadcasts every 15 minutes as recommended by the U.S. Coast Pilot 5 Atlantic Coast. The person directing the vessel must also notify the COTP telephonically or by radio on channel 13 or 16 when the vessel is at the following locations: Sea Buoy, Savannah Jetties, and Fields Cut.

(D) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(E) While transiting the RNA, the LNG tankship shall have sufficient towing vessel escorts.

(2) Requirements for LNG facilities:

(i) The operator of a facility where a LNG tankship is moored shall station and provide a minimum of two (2) escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past the moored LNG tankship.

(ii) In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take appropriate actions in an emergency as directed by the LNG vessel bridge watch.

(3) Requirements for vessel operations while an LNG tankship is moored:

(i) While moored within the RNA, LNG tankships shall maintain a bridge watch of appropriate personnel to monitor vessels passing under escort and to coordinate the actions of the standby towing vessel required in paragraph (d)(2)(ii) of this section in the event of emergency.

(ii) Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty. While it is anticipated that vessels will utilize the facility, provided towing vessel services required in paragraph(d)(2)(i) of this section, this regulation does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(iii) All vessels of less than 1600 gross tons shall not approach within 70 yards of an LNG tankship.

(e) *LNG schedule.* The Captain of the Port will issue a Broadcast Notice to Mariners to inform the marine community of scheduled LNG tankship activities during which the restrictions imposed by this section are in effect.

(f) *Waivers.*

(1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security.

(2) An application for a waiver of these requirements must state the compelling need for the waiver and describe the proposed operation and methods by which adequate levels of safety are to be obtained.

(g) *Enforcement.* Violations of this RNA should be reported to the Captain of the Port, Savannah, at (912) 652–4353. In accordance with the general regulations in § 165.13 of this part, no person may cause or authorize the operation of a vessel in the Regulated Navigation Area contrary to the regulations.

Dated: December 1, 2001.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–30840 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–U

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 255

[Docket No. RM 2000–7A]

Mechanical and Digital Phonorecord Delivery Compulsory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for comment.

SUMMARY: The Recording Industry of America, Inc. ("RIAA"), the National Music Publishers' Association, Inc. ("NMPA"), and The Harry Fox Agency, Inc. ("HFA"), have submitted a joint statement to the Copyright Office to advise the Office of certain developments relevant to the Copyright Office's Notice of Inquiry regarding the interpretation and application of the mechanical and digital phonorecord compulsory license, 17 U.S.C. 115, to certain digital music services. The Copyright Office requests additional public comment on its Notice of Inquiry in light of the RIAA/NMPA/HFA agreement filed in this proceeding.

DATES: Comments are due no later than January 28, 2002. Reply comments are due February 27, 2002.

ADDRESSES: If sent by mail, an original and ten copies of comments and reply comments should be addressed to: Office of the Copyright General Counsel, P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, an original and ten copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE., Washington, DC 20540.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panels, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On March 9, 2001, the Copyright Office published a Notice of Inquiry requesting comments from the public concerning the interpretation and application of the copyright laws to certain kinds of digital transmissions of prerecorded musical works. 66 FR 14099 (March 9, 2001). Since that time, the Recording Industry of America, Inc. ("RIAA"), the National Music Publishers Association ("NMPA") and The Harry Fox Agency, Inc. ("HFA") have negotiated a private agreement which concerns the application of the mechanical compulsory license, as set forth in the Copyright Act, 17 U.S.C. 115, to "On-Demand Streams" and "Limited Downloads," two services identified in the Notice of Inquiry. RIAA, NMPA and HFA publicly announced this agreement October 9, 2001.

In the March 9 Notice of Inquiry, an "On-Demand Stream" was defined as an "on-demand, real-time transmission using streaming technology such as Real Audio, which permits users to listen to the music they want when they want and as it is transmitted to them" and a "Limited Download" was defined as an "on-demand transmission of a time-limited or other use-limited (i.e. non-permanent) download to a local storage device (e.g., the hard drive of the user's computer), using technology that causes the downloaded file to be available for listening only either during a limited time (e.g., a time certain or a time tied to ongoing subscription payments) or for a limited number of times." 66 FR at 14100.

The Office received several comments in response to the notice of inquiry, some of which raised additional issues relating to section 115 of the Copyright Act (17 U.S.C. 115), incidental digital phonorecord deliveries, and other matters relating to digital transmissions of music.

Because the RIAA/NMPA/HFA agreement concerns many of the same issues raised in the March 9 Notice of Inquiry, RIAA, NMPA and HFA submitted a joint statement with the Copyright Office on December 6, 2001, in which they explain the terms of the agreement and list the benefits these parties associate with the agreement. The parties also included a copy of the agreement as an exhibit to the filing. The joint statement and the accompanying exhibits are posted on our website at: *http://www.loc.gov/copyright/carp/10–5agreement.pdf.*

The Copyright Office recognizes that the RIAA/NMPA/HFA agreement is a significant development that may affect the Office's inquiry into digital transmissions of music. Consequently, the Copyright Office invites comment from the public on the effect of the RIAA/NMPA/HFA agreement on the issues identified in the Notice of Inquiry. Comments are due no later than January 28, 2002. Reply comments are due February 27, 2002.

Dated: December 11, 2001.

David O. Carson,

General Counsel.

[FR Doc. 01–30931 Filed 12–13–01; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI109–01–7339b, FRL–7115–8]

Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Automobile Refinishing Operations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a February 1, 2001, request from Wisconsin to revise its State Implementation Plan (SIP) for ozone. Wisconsin's submittal revises the state's regulations to control volatile organic compound (VOC) emissions from automobile refinishing operations. In addition, on July 31, 2001, Wisconsin submitted a SIP revision that, among other things, renumbers a portion of the regulations submitted on February 1, 2001. EPA acted on the majority of the July 31, 2001 submittal in our approval

VOL 66
ISS 241
DEC 14
2001
UMI

of the state's one-hour ozone attainment demonstration. We are addressing the renumbering portion of that submittal with this proposed action. In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP revision, as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If we receive no adverse comments in response to that direct final rule, we plan to take no further action in relation to this proposed rule. If we receive significant adverse comments, in writing, which we have not addressed, we will withdraw the direct final rule and address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document.

DATES: Written comments must be received on or before January 14, 2002.

ADDRESSES: Send written comments to: Carlton Nash, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

You may inspect copies of the documents relevant to this action during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767.

SUPPLEMENTARY INFORMATION:

Where Can I Find More Information About This Proposal and the Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: November 28, 2001.

Bertram C. Frey,

Acting Regional Administrator, Region 5.

[FR Doc. 01–30815 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[USCG–2001–8825]

RIN 2115–AG08

Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade

AGENCY: Coast Guard, DOT.

ACTION: Notice of reopening of comment period.

SUMMARY: In response to public requests, the Coast Guard is reopening the comment period on its notice of proposed rulemaking (NPRM) on Vessel Documentation: Lease-Financing for Vessels Engaged in the Coastwise Trade. Reopening the comment period gives the public more time to submit comments and recommendations on the issues raised in our NPRM. These proposed rules address statutory amendments eliminating certain barriers to seeking foreign financing by lease for U.S.-flag vessels. These proposals would clarify the information needed to determine the eligibility of a vessel financed in this manner for a coastwise endorsement. Based on comments received during the last comment period, the Coast Guard is contemplating issuing a supplemental notice of proposed rulemaking (SNPRM).

DATES: Comments on the NPRM and related material must reach the Docket Management Facility on or before January 28, 2002.

ADDRESSES: To make sure your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov/*.

(2) By fax to the Docket Management Facility at 202–493–2251.

(3) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) By mail to the Docket Management Facility, (USCG–2001–8825), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

In choosing among these means, please give due regard to the recent difficulties with delivering mail through the U.S. Postal Service to Federal facilities.

You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Docket Management Facility maintains the public docket for the rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may electronically access the public docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: For questions on viewing, or submitting material to, the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329. For information on the NPRM provisions contact Patricia Williams, Deputy Director, National Vessel Documentation Center (NVDC), Coast Guard, telephone 304–271–2506.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to submit written data, views, or arguments. If you submit comments, you should include your name and address, identify the NPRM [USCG–2001–8825; published in the **Federal Register** on May 2, 2001 (66 FR 21902)] and the specific section or question in the document to which your comments apply, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period, and may change the proposed rules in view of the comments. An SNPRM is being considered.

Dated: December 7, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–30838 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 99–217; DA 01–2751]

Promotion of Competitive Networks in Local Telecommunications Markets

AGENCY: Federal Communications Commission.

SUMMARY: In this document, the Commission is requesting comments on the current state of the market for local and advanced telecommunications services in multitenant environments ("MTEs"). The comments requested will aid the Commission in gauging the effects of the rules implemented in the WT Docket No. 99–217 proceeding and of the Model Access Agreement and Best Practices Guide adopted by a real estate industry association.

DATES: Comments are due no later than February 1, 2002.

ADDRESSES: Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW.; TW–A325; Washington, DC 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.*

FOR FURTHER INFORMATION CONTACT: Leon Jackler, Wireless Telecommunications Bureau at (202) 418–0946.

SUPPLEMENTARY INFORMATION: This is a summary of a document in WT Docket No. 99–217, DA 01–2751 that was released on November 30, 2001. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893. The document is also available via the Internet at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-01-2751A1.pdf.*

On October 25, 2000, the Commission released a First Report and Order and Further Notice of Proposed Rulemaking ("Further Notice") authorizing the Wireless Telecommunications Bureau to issue a public notice requesting additional information on the state of the market for local and advanced telecommunications services in multiple tenant environments (MTEs) eight months after the release of the Further Notice (66 FR 2322, January 11, 2001). The Commission in the Further Notice noted that an assessment of the market "would best be guided by information that measures the current state of the market * * * after a reasonable period of time has passed after the implementation of the Competitive Networks Order and the best practices proposed by the real estate industry." On May 22, 2001, a real estate industry association released a set of best practices and a model contract for use in negotiating access agreements with carriers. In light of that development and a delay in the effective date of the new rules, the Bureau issued a public notice on June 25, 2001, postponing its request for additional information regarding the state of the market in order to allow sufficient opportunity to gauge the effects of the model access agreement, industry best practices, and Competitive Networks rules in the marketplace. Specifically, the Bureau stated its intent to issue a document on or about November 30, 2001.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30867 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 87

[WT Docket No. 01–289; FCC 01–303]

Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this *Notice of Proposed Rule Making (NPRM),* the FCC proposes to consolidate, revise, and streamline the Commission rules governing the Aviation Radio Service. The proposed rule changes are designed to ensure that these rules reflect recent technological advances, as well as ensuring that these rules are consistent with other Commission rules. The FCC is initiating this proceeding to eliminate regulations that are duplicative, outmoded, or otherwise unnecessary in the Aviation Radio Service.

DATES: Written comments by the public on the proposed and/or modified information collections are due March 14, 2002 and reply comments are due on or before April 15, 2002.

ADDRESSES: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 Twelfth Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Edward.Springer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Jeffrey Tobias, Wireless Telecommunications Bureau, at (202) 418–0680 and for additional information concerning the information collections contained in this NPRM contact Judy Boley at 202–418–0214, or via the Internet at *jboley@fcc.gov.*

Paperwork Reduction: This *NPRM* contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Pub. Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM;* OMB notification of action is due 60 days from date of publication of this *NPRM* in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Notice of Proposed Rule Making, FCC 01–303, adopted on October 10, 2001 and released on October 16, 2001. The full text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, SW, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, Room CY–B402, Washington, D.C. 20554. The full text may also be downloaded at *www.fcc.gov.* Alternative formats are

VOL
66
ISS
2
4
1
DE
14
2001
UMI

available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

OMB Approval Number: 3060–xxxx.
Title: Section 87.109 Station logs.
Form No.: Not applicable.
Type of Review: New collection.
Respondents: 3.
Number of Responses: 3.
Estimated Time Per Response: 100 hours.
Total Annual Burden: 300 hours.
Estimated costs per respondent: none.

Needs and Uses: The rule is needed to require fixed station in the international aeronautical mobile service to maintain a written or automatic log in accordance with the provisions of the International Civil Aviation Organization (ICAO) Convention. The log is necessary to document the service fixed stations, including the harmful interference, equipment failure and logging of distress and safety calls where applicable.

OMB Approval Number: 3060–xxxx.
Title: Section 87.147 Authorization of equipment.
Form No.: Not applicable.
Type of Review: New collection.
Respondents: 25.
Number of Responses: 25.
Estimated Time Per Response: 1 hours.
Total Annual Burden: 25 hours.
Estimated costs per respondent: none.

Needs and Uses: The rule is needed to require applicants for aviation equipment certification to submit an FAA determination of the equipment's compatibility with the National Airspace System (NSA). This will ensure that radio equipment operating in certain frequencies is compatible with the NAS, which shares system components with the military.

1. The Aviation Radio Service is an internationally-allocated family of radio services designed to enhance and protect the safety of life and property in air navigation. In this *NPRM* we propose to consolidate, revise, and streamline our Part 87 rules governing the Aviation Radio Service. These proposed rule changes are designed to ensure that these rules reflect recent technological advances, as well as ensuring that these rules are consistent with other Commission rules. We are also initiating this proceeding to eliminate regulations that are duplicative, outmoded, or otherwise unnecessary in the Aviation Radio Service.

2. In the *NPRM*, we propose to update the technical specifications for Aeronautical Mobile Satellite (Route) Service (AMS(R)S) equipment; amend our equipment certification procedures to permit the certification of dual spacing transceivers for aircraft also operating in countries which employ 8.33 kHz channel spacing; allow the certification of radios that operate outside the civil aviation band for aircraft in the Civil Reserve Airfleet, and streamline the certification process for equipment needing a Federal Aviation Administration (FAA) showing of compatibility with the National Airspace System.

3. The NPRM also prepares to authorize the use of the Differential Global Positioning System (DGPS) in the 108–118 and 1559–1610 MHz bands and license DGPS licensees on a non-developmental basis, and allow the use of temporary call signs for aircraft operation under the provisions of wet lease agreements.

4. The NPRM also seeks comment on major issues such as:

(1) Whether to authorize AMS(R)S under the 47 CFR part 87 rules in the 1610–1626.5 and 5000–5150 MHz bands;

(2) Whether to amend § 87.261(c) of our rules to allow more than one aeronautical enroute station to be authorized at any one location;

(3) Whether to amend our 47 CFR part 87 rules to accommodate Time Division Multiple Access emissions in the very high frequency Aeronautical Mobile (Route) Service (AMRS) band, as an alternative to 8.33 kHz channel spacing to allow greater use of spectrum for domestic air travel;

(4) Whether to eliminate all specific references to the Civil Air Patrol in Part 87; and

(5) Whether to revise our licensing rules and procedures for aeronautical advisory (unicom) stations.

Procedural Matters

5. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in our Rules.

6. *Comment Dates.* Pursuant to §§ 1.415 and 1.419 of our Rules, interested parties may file comments on or before March 14, 2002, and reply comments on or before April 15, 2002. Comments may be filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies.

7. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, then commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

8. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–A325, Washington, DC 20554.

9. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to Jeffrey Tobias, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, 445 12th St., SW., Washington, DC 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number in this case, WT Docket No. 01–289, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters should send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth St., SW., Room CY–B402, Washington, DC 20554.

Initial Regulatory Flexibility Certification

10. The Regulatory Flexibility Act (RFA) requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a

significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

11. The proposals in the *NPRM* are intended to reduce the administrative burden on applicants and entities seeking certification of equipment, ensure that the Commission's rules reflect the latest technical and industry standards, and correct typographical or ministerial errors in the Commission's Rules. The changes we propose are of an administrative nature, and will not have a substantial economic impact on small entities. If there is an economic impact on small entities as a result of these proposals, however, we expect the impact to be a positive one.

12. The Commission therefore certifies, pursuant to the RFA, that the proposals in this *NPRM*, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in the *NPRM* require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the *NPRM*, including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA. In addition, a copy of the *NPRM* and this initial certification will be published in the **Federal Register**.

Ordering Clauses

13. Pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), 403, this *Notice of Proposed Rule Making* is adopted.

List of Subjects

47 CFR Part 2

Communications equipment, Radio, Telecommunications

47 CFR Part 87

Air transportation, Civil defense, Radio, Reporting and recordkeeping requirements

Federal Communications Commission
William F. Caton,
Deputy, Secretary.

Rules Changes

For the reasons discussed in the preamble the Federal Communications Commission proposes to amend 47 CFR Parts 2 and 87 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Revise pages

b. 26 and 44.

c. In the list of United States (US) Footnotes, add footnote US343.

The revisions and addition read as follows:

§ 2.106 Table of Frequency Allocations.

BILLING CODE 6712-01-C

S5.175 S5.179 S5.184 S5.187	75.4-76 FIXED MOBILE	75.4-87 FIXED MOBILE S5.149 S5.182 S5.183 S5.188	75.4-88	75.4-76 FIXED MOBILE NG3 NG49 NG56	Public Mobile (22) Private Land Mobile (90) Personal Radio (95)
87.5-100 BROADCASTING S5.190	76-88 BROADCASTING Fixed Mobile S5.185	87-100 FIXED MOBILE BROADCASTING		76-88 BROADCASTING NG128 NG129 NG149	Broadcast Radio (TV) (73) Auxiliary Broadcasting (74)
	88-100 BROADCASTING		88-108 US93	88-108 BROADCASTING US93 NG2 NG128 NG129	Broadcast Radio (FM) (73) Auxiliary Broadcasting (74)
100-108 BROADCASTING S5.192 S5.194					
108-117.975 AERONAUTICAL RADIONAVIGATION S5.197			108-117.975 AERONAUTICAL RADIONAVIGATION US93 US343		Aviation (87)
117.975-137 AERONAUTICAL MOBILE (R) S5.111 S5.198 S5.199 S5.200 S5.201 S5.202 S5.203 S5.203A S5.203B			117.975-121.9375 AERONAUTICAL MOBILE (R) S5.111 S5.199 S5.200 591 US26 US28		
			121.9375-123.0875 591 US30 US31 US33 US80 US102 US213	121.9375-123.0875 AERONAUTICAL MOBILE 591 US30 US31 US33 US80 US102 US213	
			123.0875-123.5875 AERONAUTICAL MOBILE S5.200 591 US32 US33 US112		
			See next page for 123.5875-137 MHz		See next page for 123.5875-137 MHz

1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.353A Earth exploration-satellite Fixed Mobile except aeronautical mobile S5.341 S5.342 S5.351 S5.354	1530-1535 SPACE OPERATION (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.353A Earth exploration-satellite Fixed Mobile S5.343 S5.341 S5.351 S5.354	1530-1535 MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) Mobile (aeronautical telemetry) S5.341 S5.351 US78 US315	Aviation (87)
1535-1559 MOBILE-SATELLITE (space-to-Earth) S5.341 S5.351 S5.353A S5.354 S5.355 S5.356 S5.357 S5.357A S5.359 S5.362A		1535-1544 MOBILE-SATELLITE (space-to-Earth) MARITIME MOBILE-SATELLITE (space-to-Earth) S5.341 S5.351 US315	Satellite Communications (25) Maritime (80)
		1544-1545 MOBILE-SATELLITE (space-to-Earth) S5.341 S5.356	
		1545-1549.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) Mobile-satellite (space-to-Earth) S5.341 S5.351 US308 US309	Aviation (87)
		1549.5-1558.5 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) MOBILE-SATELLITE (space-to-Earth) S5.341 S5.351 US308 US309	
		1558.5-1559 AERONAUTICAL MOBILE-SATELLITE (R) (space-to-Earth) S5.341 S5.351 US308 US309	
1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) S5.341 S5.355 S5.359 S5.363		1559-1610 AERONAUTICAL RADIONAVIGATION RADIONAVIGATION-SATELLITE (space-to-Earth) S5.341 US208 US260 US343	

* * * * *

United States (US) Footnotes

* * * * *

US343 Differential-Global-Positioning-System (DGPS) Stations may be authorized on a primary basis in the bands 108–117.975 MHz and 1559–1610 MHz for the specific purpose of transmitting DGPS information intended for aircraft navigation.

* * * * *

PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read as follows:

Authority: 47 U.S.C. 154, 303 and 307(e), unless otherwise noted.

2. Section 87.27 is revised to read as follows:

§ 87.27 License term.

(a) Licenses for stations in the aviation services will normally be issued for a term of ten years from the date of original issuance, or renewal.

(b) Licenses for developmental stations will be issued for a period not to exceed one year and are subject to change or to cancellation by the Commission at any time, upon reasonable notice, but without a hearing.

3. Section 87.45 is revised to read as follows:

§ 87.45 Time in which station is placed in operation.

This section applies only to unicom stations and radionavigation land stations, excluding radionavigation land test stations. When a new license has been issued or additional operating frequencies have been authorized, the station or frequencies must be placed in operation no later than one year from the date of the grant. The licensee must notify the Commission in accordance with § 1.946 of this chapter that the station or frequencies have been placed in operation.

4. Section 87.107 is amended by adding paragraph (a)(6) to read as follows:

§ 87.107 Station identification.

(a) * * *

(6) Aircraft operating under Wet Lease Agreements as provided in 14 CFR part 119 may identify themselves by lessee carrier's call sign, followed by the suffix "WLA."

* * * * *

1. Section 87.109 is revised to read as follows:

§ 87.109 Station logs.

(a) A station at a fixed location in the international aeronautical mobile service must maintain a log in accordance with Annex 10 of the ICAO Convention.

(b) A station log must contain the following information:

(1) The name of the agency operating the station.

(2) The identification of the station.

(3) The date.

(4) The time of opening and closing the station.

(5) The frequencies being guarded and the type of watch (continuous or scheduled) being maintained on each frequency.

(6) Except at intermediate mechanical relay stations where the provisions of this paragraph need not be complied with, a record of each communication showing text of communication, time communications completed, station(s) communicated with, and frequency used.

(7) All distress communications and action thereon.

(8) A brief description of communications conditions and difficulties, including harmful interference. Such entries should include, whenever practicable, the time at which interference was experienced, the character, radio frequency and identification of the interfering signal.

(9) A brief description of interruption to communications due to equipment failure or other troubles, giving the duration of the interruption and action taken.

(10) Such additional information as may be considered by the operator to be of value as part of the record of the station's operations.

(c) Stations maintaining written logs must also enter the signature of each operator, with the time the operator assumes and relinquishes a watch.

6. In § 87.131 amend the table by revising the entries for Aeronautical enroute and aeronautical fixed, Aircraft Earth and footnote 8 to read as follows:

§ 87.131 Power and emissions.

* * * * *

Class of station	Frequency band frequency	Authorized emission(s)[9]	Maximum power[1]
* * *	*	* *	*
Aeronautical enroute and aeronautical fixed	HF	R3E, H3E, J3E, J7B, H2B, J2D	6 kW.
	HF	A1A, F1B, J2A, J2B	1.5 kw.
	VHF	A3E, A9W, G1D	200 watts.[2]
* * *	*	* *	*
Aircraft Earth	UHF	G1D, G1E, G1W	80 watts.[8]
* * *	*	* *	*

[8] Power may not exceed 80 watts per carrier as measured at the output of the high power amplifier. The maximum EIRP may not exceed 2000 watts per carrier.

* * * * *

7. In § 87.137, amend the table in paragraph (a) by revising the second entry for A3E to read as follows:

§ 87.137 Types of emission.

(a) * * *

VOL 66 ISS 241 DEC 14 2001 UMI

Class of emission	Emission designator	Authorized bandwidth (kilohertz)		
		Below 50 MHz	Above 50 MHz	Frequency deviation
*	*	*	*	*
A3E	8K33A3E		([17])	
*	*	*	*	*

* * * * *

[17] Only authorized for use by aircraft in international flight or for equipment certification purposes.

* * * * *

8. Section 87.139 is amended by removing paragraph (i)(2) and redesignating paragraphs (i)(3) and paragraph (i)(4) as paragraphs (i)(2) and (i)(3) and revising paragraphs (i)(1) and newly redesignated paragraph (i)(3) to read as follows:

§ 87.139 Emission limitations.

* * * * * * *

(i) * * *

(1) At rated output power, while transmitting a modulated single carrier, the composite spurious and noise output shall be attenuated below the mean power of the transmitter, pY, by at least:

Frequency (MHz)	Attenuation (dB)[1]
0.01 to 1525	135 dB/4 kHz
1525 to 1559	203 dB/4 kHz
1559 to 1585	155 dB/1 MHz
1585 to 1605	143 dB/1 MHz
1605 to 1610	117 dB/1 MHz
1610 to 1610.6	95 dB/MHz
1610.6 to 1613.8	80 dBW/MHz
1613.8 to 1614	95 dB/MHz
1614 to 1626.5	70 dB/4 kHz
1626.5 to 1660	70 dB/4 kHz[2]
1660 to 1670	49.5 dB/20 kHz[2]
1670 to 1735	60 dB/4 kHz
1735 to 12000	105 dB/4 kHz
12000 to 18000	70 dB/4 kHz

[1] These values are expressed in dB below the carrier referenced to the bandwidth indicated, and relative to the maximum emission envelope level, or where the attenuation is shown in dBW, the attenuation is expressed in terms of absolute power referenced to the bandwidth indicated.

[2] Attenuation measured within the transmit band excludes the band ± 35 kHz of the carrier frequency.

* * * * *

(3) The transmitter emission limit is a function of the modulation type and symbol rate (SR). Symbol Rate is expressed in symbols per second.

Frequency offset (normalized to SR)	Attenuation (dB)
+/−0.75×SR	0
+/−1.40×SR	20
+/−2.95×SR	40

Where:

SR = Symbol Rate
SR = 1×channel rate for BPSK
SR = 0.5×channel rate for QPSK

* * * * *

9. Section 87.147 is amended by adding paragraph (f) and revising paragraphs (d) and (d) (2) to read as follows:

§ 87.147 Authorization of equipment.

* * * * *

(d) An applicant for certification of equipment intended for transmission in any of the frequency bands listed in paragraph (d)(3) of this section must notify the FAA of the filing of a certification application. The letter of notification must be mailed to: FAA, Office of Spectrum Policy and Management, 800 Independence Ave., SW., Washington, DC 20591 prior to the filing of the application with the Commission.

* * * * *

(2) The certification application must include a copy of the notification letter to the FAA as well as a copy of the FAA's subsequent determination of the equipment's compatibility with the National Airspace System.

* * * * *

(f) Certification may be requested for equipment that has the capability to transmit in the 138–144 MHz, 148–149.9 MHz, or 150.5–150.8 MHz bands as well as frequency bands set forth in § 87.173. The Commission will only certify this equipment for use in the bands regulated by this part.

10. Section 87.171 is revised to read as follows:

§ 87.171 Class of station symbols.

AX—Aeronautical fixed
AXO—Aeronautical operational fixed
DGP—Differential GPS
FA—Aeronautical land (unspecified)
FAU—Aeronautical advisory (unicom)
FAC—Airport control tower
FAE—Aeronautical enroute
FAM—Aeronautical multicom
FAP—Civil Air Patrol
FAR—Aeronautical search and rescue
FAS—Aviation support
FAT—Flight test
FAW—Automatic weather observation
GCO—" Ground Communication Outlet
MA—Aircraft (Air carrier and Private)
MA1—Air carrier aircraft only
MA2—Private aircraft only
MOU—Aeronautical utility mobile
MRT—ELT test
RCO—Remote Communications Outlet
RL—Radionavigation land (unspecified)
RLA—Marker beacon
RLB—Radiobeacon
RLD—" RADAR/TEST

VOL 66 ISS 241 DE 14 2001 UMI

RLG—Glide path
RLL—Localizer
RLO—VHF omni-range
RLS—Surveillance radar
RLT—Radionavigation land test
RLW—Microwave landing system
RNV—“ Radio Navigation Land/DME
RPC—“ Ramp Control
TJ—Aircraft earth station in the Aeronautical Mobile-Satellite Service

11. In § 87.173 amend the table in paragraph (b) by adding the entries for 510–535 kHz, 108.00–117.975 MHz, and 1559–1610 MHz to read as follows:

§ 87.173 Frequencies.

* * * * *

(b) Frequency table:

Frequency or frequency band	Subpart	Class of station	Remarks
* * * * *		*	*
510–535 kHz	Q	RLB	Radiobeacons.
* * * * *		*	*
108.000–117.975 MHz	Q	DGP	Differential GPS.
* * * * *		*	*
1559–1610 MHz	Q	DGP	Differential GPS.
* * * * *		*	*

12. Section 87.187 is amended by revising a new paragraph (dd) to read as follows:

§ 87.187 Frequencies.

* * * * *

(dd) The frequency 121.95 is authorized for air-to-ground and air-to-air communications for aircraft up to 13000 feet above mean sea level (AMSL) within the area bounded by the following coordinates (all coordinates are referenced to North American Datum 1983 (NAD83)):

32–35–00 N. Lat.;	117–12–00 W. Long.
32–42–00 N. Lat.;	116–56–00 W. Long.
32–41–00 N. Lat.;	116–41–00 W. Long.
32–35–00 N. Lat.;	116–38–00 W. Long.
32–31–00 N. Lat.;	117–11–00 W. Long.

13. Section 87.189 is amended by revising paragraph (c) to read as follows:

§ 87.189 Requirements for public correspondence equipment and operations.

* * * * *

(c) A continuous watch must be maintained on the frequencies used for safety and regularity of flight while public correspondence communications are being handled.

For aircraft earth stations, this requirement is satisfied by compliance with the priority and preemptive access requirements of § 87.187(q).

* * * * *

14. Section 87.217 is amended by revising paragraph (a) introductory text to read as follows:

§ 87.217 Frequencies.

(a) Only one unicom frequency will be assigned at any one airport. Applicants must request a particular frequency, which will be taken into consideration when the assignment is made. The frequencies assignable to unicoms are:

* * * * *

15. Section 87.475 is amended by revising paragraphs (b)(2) and (c)(2) introductory text to read as follows:

§ 87.475 Frequencies.

* * * * *

(b) * * *

(2) Radiobeacon stations enable an aircraft station to determine bearing or direction in relation to the radiobeacon station. Radiobeacons operate in the bands 190–285 kHz; 325–435 kHz; 510–525 kHz; and 525–535 kHz. Radiobeacons may be authorized, primarily for off-shore use, in the band 525–535 kHz on a non-interference basis to travelers information stations.

* * * * *

(c) * * *

(2) The frequencies available for assignment to radionavigation land test stations for the testing of airborne receiving equipment are 108.000 and 108.050 MHz for VHF omni-range; 108.100 and 108.150 MHz for localizer; 334.550 and 334.700 MHz for glide slope; 978 and 979 MHz (X channel)/ 1104 MHz (Y channel) for DME; 1030 MHz for ATC radar beacon transponders; 1090 MHz for Traffic Alert and Collision Avoidance Systems (TCAS); and 5031.0 MHz for microwave landing systems. Additionally, the frequencies in paragraph (b) of this section may be assigned to radionaviagion land test stations after coordination with the FAA. The following conditions apply:

* * * * *

[FR Doc. 01–30432 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2783; MM Docket No. 01–113; RM–9655]

Radio Broadcasting Services; Big Piney, LaBarge, WY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, dismissal.

SUMMARY: The Commission dismisses a petition for rule making filed by Mount Rushmore Broadcasting, Inc., requesting the allotment of Channel 259A at Big Piney, Wyoming, and Channel 261A at La Barge, Wyoming. Petitioner filed no comments in response to the Notice of Proposed Rulemaking. No other party filed comments.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, and (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–113 adopted November 21, 2001 and released November 30, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–30865 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[I.D. 062501B]

RIN 0648–AN62

Endangered and Threatened Wildlife; Sea Turtle Conservation Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public hearing notice; extension of public comment period.

SUMMARY: Notice is hereby given that the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, will extend the public comment period, through February 15, 2002, for the purpose of receiving comments on the proposed rule to amend the regulations protecting sea turtles to enhance their effectiveness in reducing sea turtle mortality resulting from shrimp trawling in the Atlantic and Gulf Areas of the southeastern United States, published in the **Federal Register** on October 2, 2001.

DATES: Written comments should be received by February 15, 2002.

ADDRESSES: Written comments should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Robert Hoffman (ph. 727–570–5312, fax 727-570-5517, e-mail Robert.Hoffman@noaa.gov), or Therese A. Conant (ph. 301–713–1401, fax 301–713–0376, e-mail *Therese.Conant@noaa.gov*).

SUPPLEMENTARY INFORMATION: Turtle excluder devices (TEDs) have proven to be effective at excluding sea turtles from shrimp trawls; however, NMFS has determined that modifications to the design of TEDs need to be made to exclude leatherbacks and large, sexually mature loggerhead and green turtles. Several approved TED designs are also structurally weak and do not function properly under normal fishing conditions. Additionally, modifications to the trynet and bait shrimp exemptions to the TED requirements are necessary to decrease lethal take of sea turtles. These proposed amendments are necessary to protect endangered and threatened sea turtles in the Atlantic and Gulf Areas.

Dated: December 7, 2001.

Donald R. Knowles,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–30929 Filed 12–13–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 011130289–1289–01; I.D. 111501C]

Endangered and Threatened Wildlife and Plants: 90-Day Finding for a Petition to List North American Green Sturgeon as Threatened or Endangered under the Endangered Species Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of petition finding; request for information and comments.

SUMMARY: NMFS announces a 90–day finding for a petition to list the North American green sturgeon (*Acipenser medirostris*) as a threatened or endangered species and to designate critical habitat under the Endangered Species Act (ESA). NMFS finds that the petition presents substantial scientific information indicating that the petitioned action may be warranted. NMFS will conduct a status review of the green sturgeon to determine if the petitioned action is warranted. To ensure that the review is comprehensive, NMFS is soliciting information and comments pertaining to this species, and seeks suggestions from the public for peer reviewers for the agency's review of the petitioned action.

DATES: Information and comments on the action must be received by March 14, 2002.

ADDRESSES: Requests for copies of the petition, and information and comments on this action should be submitted to the Assistant Regional Administrator, Protected Resources Division, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. The petition is available for public inspection by appointment, Monday through Friday, at the same address.

FOR FURTHER INFORMATION CONTACT: Craig Wingert, NMFS, Southwest Region, (562) 980–4021 or David O'Brien, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4 (b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires that NMFS make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. NMFS' ESA implementing regulations (50 CFR 424.14) define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists for a petition to list a species, NMFS takes into account several factors, including information submitted with and referenced in the petition and all other information readily available in NMFS files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If NMFS finds that a petition presents substantial information indicating that the requested action may be warranted, section 4 (b)(3)(B) of the ESA requires the Secretary of Commerce (Secretary) to conduct a status review of the species and make a finding as to whether the petitioned action is warranted within 1 year of the receipt of the petition.

Analysis of Petition

On June 12, 2001, NMFS received a petition from the Environmental Protection Information Center, Center for Biological Diversity, and Waterkeepers Northern California regarding the North American green sturgeon. The petition requested that NMFS list the North American green sturgeon as either an endangered or threatened species under the ESA, and that it designate critical habitat for the species concurrently with any listing determination.

The green sturgeon is a large, anadromous fish. In North America, the green sturgeon ranges from Alaska to

Mexico in marine waters and forages in estuaries and bays ranging from San Francisco Bay to British Columbia. The green sturgeon is recognized as a single species, but until recently, geographic variation in the species that could indicate the presence of subspecies or distinct populations had received little attention. Although Russian and Asian forms of the green sturgeon are morphologically similar to the North American form, Moyle et al. (1992) indicated the Russian and Asian forms likely belong to a different taxon. Birstein (1993), among others, recently demonstrated genetic differences between the Asian and North American forms, suggesting they are two distinct species. The green sturgeon has been aged to 42 years old, but this is probably an underestimate and ages of 60 to 70 are more likely. Males mature sexually sometime after they reach 120 cm, or approximately 17 years old. Females mature after attaining 145 cm, or approximately 21 years old and may return to spawn every 3 to 7 years. Males spawn more frequently.

Sturgeon species worldwide have experienced population declines because they are a long-lived, late-maturing species that have low fecundity and spawn only periodically, a combination of traits that makes them particularly susceptible to over-fishing and habitat degradation (Musick, 1999). Spawning green sturgeon are highly vulnerable to over-fishing because they tend to hold in deep, cold pools in rivers, thus concentrating the spawning population. In a recent review paper, Musick et al. (2000) cited evidence that green sturgeon populations have declined by 88 percent throughout much of its range, and there appears to have been recent declines in green sturgeon in the Umpqua River in Oregon and the Fraser River in Canada. Each of the known or suspected spawning populations of green sturgeon presently contain at most a few hundred mature females (Musick et al., 2000).

The current spawning range of green sturgeon in North America has contracted from its historic range, and they now spawn in only a limited number of large river systems. Green sturgeon historically spawned in the Eel, the South Fork Trinity, and the San Joaquin Rivers in California, but apparently no spawning occurs there currently. The only known remaining spawning populations of the North American green sturgeon are in the Sacramento and Klamath River basins in California, with more spawning apparently occurring in the Klamath River basin. It is also possible that spawning occurs in the Rogue River in Oregon since running-ripe adults and young of the year have been observed in the Rogue River, but exact spawning locations have not been confirmed. The contraction in spawning range, and the reduction in the number and size of green sturgeon spawning populations, could represent a significant reduction in the spawning area and potential for the species. Since North American green sturgeon spawning is limited to low numbers of spawners in a very few rivers, they are vulnerable to local changes in flow and temperature resulting from water diversions, increased sedimentation, entrainment in pumping facilities, and contaminant loading.

The green sturgeon in North America may face ongoing threats from the loss and/or degradation of habitat, particularly in those river systems where they are known or thought to spawn (e.g. Klamath and Sacramento River basins), and impacts to the species from harvest in sport fisheries or as bycatch in other fisheries (e.g. white sturgeon fishery). Specific concerns regarding habitat loss and degradation cited by the petitioners include the construction of dams and operation of large scale water projects in the Sacramento and Klamath Rivers and other coastal systems, and logging agriculture, mining, road construction and urban development in coastal watersheds. Some fisheries that occur in coastal Washington and the Columbia River that target white sturgeon or salmon take green sturgeon as bycatch. Some of this bycatch is in areas where green sturgeon spawning does not occur, suggesting that green sturgeon harvest in some areas is supported by the limited number of known spawning populations (e.g., Klamath and Sacramento River basins).

Petition Finding

Given documented declines in abundance and contraction of spawning range, and the possibility of ongoing threats, NMFS has determined that the petition presents substantial information that listing green sturgeon in North America under the ESA may be warranted. Accordingly, NMFS will initiate a status review of the North American green sturgeon. In accordance with section 4 (b)(3)(B) of the ESA, the Secretary will make his determination whether the petitioned action is warranted within 12 months from the date the petition was received (June 12, 2001) following completion of an ESA status review.

Listing Factors and Basis for Determination

Under section 4 (a)(1) of the ESA, a species may be determined to be threatened or endangered based on any of the following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continuing existence. Listing determinations are based solely on the best available scientific and commercial data after taking into account any efforts being made by any state or foreign nation to protect the species.

Information Solicited

To ensure that North American green sturgeon status review is complete and is based on the best available scientific and commercial data, NMFS is soliciting information and comments on this species. NMFS specifically requests the following information: (1) Biological or other relevant data that may help identify distinct population segments of this species (e.g., age structure, genetics, migratory patterns, morphology); (2) the range, distribution, habitat use and abundance of this species, including information on the spawning populations of the species; (3) current or planned activities and their possible impact on this species (e.g., harvest impacts, habitat impacting activities or actions); (4) efforts being made to protect this species in California, Oregon, Washington and Canada.

Critical Habitat

NMFS is also requesting information on areas that may qualify for critical habitat for the North American green sturgeon. Areas that include the physical and biological features essential to the conservation of the species should be identified. Essential features include, but are not limited to: (1) space for individual and population growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical and ecological distributions of the species (50 CFR 424.12).

For areas potentially qualifying as critical habitat, NMFS requests information describing (1) the activities that affect the areas or could be affected by the designation, and (2) the economic costs and benefits of additional requirements of management measures likely to result from the designation.

Peer Review

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. NMFS is soliciting the names of recognized experts in the field that could take part in the peer review process for this status review. Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

Birstein, V.J. 1993. Is *Acipencer medirostris* one or two species? The Sturgeon Quarterly 1(2):8 (1993).

Moyle, P.B., P.J. Foley and R.M. Yoshiyama. 1992. Status of green sturgeon, *Acipencer medirostris*, in California. Final Report submitted to National Marine Fisheries Service, Terminal Island, CA.

Musick, J.A., M.M. Harbin, S.A. Berkeley, G.H. Burgess, A.M. Eklund, L. Findley, R.G. Gilmore, J.T. Golden, D.S. Ha, G.R. Huntsman, J.C. McGovern, S.J. Parker, S.G. Poss, E. Sala, T.W. Schmidt, G.R. Sedberry, H. Weeks, and S.G. Wright. 2000. Marine, Estuarine, and Diadromous Fish Stocks at Risk of Extinction in North America (Exclusive of Pacific Salmonids). Fisheries 25(11): 6–30.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: December 10, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–30930 Filed 12–13–01; 8:45 am]

BILLING CODE 3510–22–S

VOL 66 ISS 241 DE 14 2001 UMI

Notices

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–105–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the gypsy moth program.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by February 12, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–105–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–105–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–105–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: For information on the gypsy moth identification worksheet, contact Mr. Jonathan Jones, Operations Officer, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–5038. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Gypsy Moth Identification.

OMB Number: 0579–0104.

Type of Request: Extension of approval of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for, among other things, the control and eradication of plant pests. The Plant Protection Act authorizes the Department to carry out this mission.

To this end, Plant Protection and Quarantine (PPQ) of the Animal and Plant Health Inspection Service (APHIS), USDA, engages in detection surveys to monitor for the presence of, among other things, the European gypsy moth and the Asian gypsy moth.

The European gypsy moth was introduced into the United States in the 1860's and has been damaging woodland areas in the Northeast for the last 100 years. The Asian gypsy moth, which is not established in this country, is considered to pose an even greater threat to trees and forested areas.

Unlike the flightless European gypsy moth female adult, the Asian gypsy moth female adult is capable of strong directed flight between mating and egg deposition, significantly increasing its ability to spread over a much greater area and become widely established within a short time.

To determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, we set traps in high-risk areas to collect specimens. Once an infestation is identified, control and eradication work (usually involving State cooperation) is initiated to eliminate the moths.

APHIS personnel, with assistance from State agriculture personnel, check traps for the presence of gypsy moths. If a suspicious moth is found in the trap, it is sent to APHIS laboratories at the Otis Methods Development Center in Michigan so that it can be correctly identified through DNA analysis. (Since the European gypsy moth and the Asian gypsy moth are strains of the same species, they cannot be visually distinguished from each other. DNA analysis is the only way to accurately identify these insects.)

The PPQ or State employee submitting the moth for analysis completes a gypsy moth identification worksheet (PPQ Form 305), which accompanies the insect to the laboratory. The worksheet enables both Federal and State regulatory officials to identify and track specific specimens through the DNA identification tests that we conduct.

The information provided by the gypsy moth identification worksheets is vital to our ability to monitor, detect, and eradicate gypsy moth infestations.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.083 hours per response.

Respondents: State cooperators.

Estimated annual number of respondents: 120.

Estimated annual number of responses per respondent: 2.

Estimated annual number of responses: 240.

Estimated total annual burden on respondents: 20 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 10th day of December, 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30897 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–096–1]

Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that an environmental assessment has been prepared by the Animal and Plant Health Inspection Service relative to the control of *Melaleuca quinquenervia*. The environmental assessment considers the effects of, and alternatives to, the release of two nonindigenous organisms into the environment for use as biological control agents to reduce the severity of melaleuca infestations. The environmental assessment has been prepared to provide the public with documentation of our review and analysis of the potential environmental impacts and plant pest risks associated with releasing these biological control agents into the environment.

DATES: We invite you to comment on the environmental assessment. We will consider all comments we receive that are postmarked, delivered, or e-mailed by January 14, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–096–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–096–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–096–1" on the subject line.

You may read the environmental assessment and any comments that we receive on the environmental assessment in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Tracy Horner, Entomologist, Permits and Risk Assessment, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1228; (301) 734–5213.

SUPPLEMENTARY INFORMATION: As part of an integrated control project to reduce the severity of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae) infestations in Florida, the Animal and Plant Health Inspection Service (APHIS) is proposing to release two nonindigenous organisms, *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and *Lophyrotoma zonalis* Rohwer (Hymenoptera: Pergidae) in areas affected by melaleuca.

Melaleuca, a broad-leaf paper bark tree native to Australia, was originally introduced in Florida during the early 1900's as an ornamental and was later planted along dikes and levees for erosion control and to convert wetlands into productive forest lands. Over the last four decades, it has spread throughout southern Florida, displacing native plant and animal species, and threatening the stability of the Florida Everglades ecosystem. The purpose of the proposed action is to reduce the severity of the infestations of melaleuca throughout the affected areas.

APHIS' current melaleuca control project encompasses the areas known to be infested in central and south Florida and involves an integrated control approach sensitive to site-specific conditions, which may include a combination of physical, biological, and/or chemical controls. In response to permit applications the Agency received for the release of *B. melaleucae*, a psyllid native to Australia, and *L. zonalis*, a sawfly also native to Australia, APHIS is investigating the use of these biological control agents to control melaleuca in the affected areas. If APHIS decides to issue permits to release *B. melaleucae* and/or *L. zonalis*, these organisms would be added to the integrated control methods already available. Presently, there is only one biological control agent, a nonindigenous weevil (*Oxyops vitiosa*), used to suppress melaleuca.

APHIS has completed an environmental assessment that considers the effects of, and alternatives to, releasing *B. melaleucae* and *L. zonalis* into the environment. *B. melaleucae* and *L. zonalis* are known to attack only species within the family Myrtaceae. Our findings indicate that *L. zonalis* and *B. melaleucae* will not develop on any native species of Myrtaceae, but may temporarily feed on, and cause minor damage to, introduced species of *Callistemon* and Myrtaceae, and possibly wax myrtle. There is no evidence that the release of these two biological control agents will adversely affect threatened and endangered species or their habitat, or cultural, historical, and archaeological resources.

L. zonalis is being tested for toxicity to vertebrates because a closely related species, *Lophyrotoma interrupta* Klug, is reported to be toxic to cattle in Australia under certain conditions. Until further testing is completed, *L. zonalis* will not be released into the environment. Therefore, we are considering the release of *B. melaleucae* and, pending further testing, the release of *L. zonalis* to reduce the severity of melaleuca infestations in Florida.

APHIS' review and analysis of the potential environmental impacts associated with releasing these biological control agents into the environment are documented in detail in an environmental assessment entitled "Field Release of Two Biological Control Agents *Boreioglycaspis melaleucae* Moore (Hemiptera: Psyllidae) and *Lophyrotoma zonalis* Rohwer (Hymenoptera: Pergidae) for the Control of *Melaleuca quinquenervia* (Cav.) S.T. Blake (Myrtales: Myrtaceae)

VOL 66 ISS 241 DE 14 2001 UMI

in South Florida" (September 2001). We are making this environmental assessment available to the public for review and comment.

The environmental assessment may be viewed on the Internet at http://www.aphis.usda.gov/ppq/ by accessing "Forms," then "Permits-Pests;" the environmental assessment is document number 0030. Copies of the environmental assessment may be obtained by calling the Plant Protection and Quarantine Automated Fax System at (301) 734–4327 or (301) 734–3560; please enter document number 0030 when prompted. You may also request copies of the environmental assessment by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the environmental assessment when requesting copies. The environmental assessment is also available for review in our reading room (information on the location and hours of the reading room is listed under the heading ADDRESSES at the beginning of this notice.)

The environmental assessment has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 10th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–30896 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Nutrition Education Materials for Food and Nutrition Service Population Groups

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection. This information collection is based on the Child Nutrition Act of 1966, as amended, the National School Lunch Act of 1966, as amended, the Food Stamp Act of 1977, as amended, the Agriculture and Consumer Protection Act of 1973, as amended, and the Emergency Food Assistance Act of 1983, as amended. This project is a new collection of information.

DATES: Written comments must be received on or before February 12, 2002.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Judy F. Wilson, Director, Nutrition Services Staff, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1012, Alexandria, VA 22302. Comments may also be faxed to the attention of Judy F. Wilson at (703) 305–2576.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 1012.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Judy F. Wilson, (703) 305–2585 or Marion Hinners, (703) 305–2116.

SUPPLEMENTARY INFORMATION:

Title: Nutrition Education Materials for FNS Population Groups.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection.

Abstract: Diet has a significant impact on the health of citizens and is linked to four leading causes of disease and premature death. Diet also plays a role in the development of other health conditions, which can reduce the quality of life and contribute to premature death. One of FNS' goals includes improving the nutrition of children and low-income families by providing access to program benefits and nutrition education in a manner that supports American agriculture and inspires public confidence.

Materials in support of nutrition education goals will be developed by FNS. Eat Smart. Play Hard.™ (ESPH) is a project geared particularly towards children, including their caregivers, who are eligible for FNS nutrition assistance programs. Components already completed for ESPH consist of a spokes character with accompanying posters, brochures, activity sheets, and a kit of promotional materials.

As part of the Phase II development of ESPH, FNS will develop the following:

1. Additional messages and materials for a subsection of the children and caregivers group, materials for Hispanic children and caregivers as well as public service announcements (PSA's); and
2. An interactive Internet Web site.

In addition to ESPH Phase II, FNS will also develop materials to include:

1. Low-literacy education materials and tools to communicate and promote the implementation of the Dietary Guidelines for Americans; and
2. The conversion of existing English nutrition education materials to appropriate language and culture for the Hispanic audiences.

The materials will be tested using focus groups, short semi-structured interviews, and web-based tools to test the interactive Web site. The groups tested will provide information regarding the acceptability of materials and products during both the developmental process and during the final product development stage. Semi-structured short interviews will be conducted with FNS program recipients, staff, stakeholders and consumer volunteers at the State and local levels to determine acceptability and efficacy of materials and products developed. Interviews will be integrated into other program activities as appropriate.

FNS will also collect information regarding effective nutrition education initiatives being implemented by State agencies that administer nutrition assistance programs to address critical nutrition issues.

Respondents: Recipients of and those persons eligible for FNS nutrition assistance programs, State and local staff administering FNS programs, FNS stakeholders and consumers.

Estimated Number of Respondents: (including padding for variables of recruitment, site activity, etc.)

Phase II of ESPH

Child intercepts—200 respondents × 4 locations = 800 respondents (padded to 1000)
Adult intercepts—200 respondents × 4 locations = 800 respondents (padded to 1000)
Child focus groups—24 grps × 12 respondents/grp = 288 respondents (padded to 300)
Adult focus groups—32 grps × 12 respondents/grp = 384 respondents (padded to 400)
Professional staff—120 respondents
Total = 2272 respondents (padded up to 2700)

Phase II of ESPH Web Site Development

Total = 300 respondents

Dietary Guidelines Low-Literacy Materials

English-speaking intercepts—80 respondents (padded to 100)
Spanish-speaking intercepts—80 respondents (padded to 100)
English-speaking focus groups—12 groups × 10 respondents = 120 respondents
Spanish-speaking focus groups—12 groups × 10 respondents = 120 respondents
Professional staff—30 respondents (padded to 60)
Total = 430 respondents (padded up to 500)

Spanish Conversion

Spanish focus groups—12 groups × 10 respondents = 120 respondents
Spanish intercepts—112 respondents (padded to 130)
Total = 232 respondents (padded to 250)

Grand Total = 3750 respondents.

Number of Responses per Respondent: 15.

Estimated Time per Response:

Total Intercepts (one on one interviews) = 2810 × 30 min (per contractor) = 84,300/60 = 1405 hours.

Total Focus Groups = 1060 × 2 hrs (per contractor) = 2120 hours.

Total Estimated Hours of Burden not to exceed = 3525 hours.

Estimated Total Annual Burden on Respondents: Public reporting burden for this collection of information is estimated to average 3750 respondents with a total estimated burden of 3525 hours.

Dated: December 5, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–30835 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for the Northern Region; Idaho, Montana, North Dakota, and Portions of South Dakota and Eastern Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Forests, and the Regional Office of the Northern Region to publish legal notice of all decisions subject to appeal under 36 CFR parts 215 and 217 and to publish notices for public comment and notice of decision subject to the provisions of 36 CFR part 215. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices for public comment or decisions; thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after December 14, 2001. The list of newspapers will remain in effect until another notice is published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Appeals and Litigation Group Leader; Northern Region; PO Box 7669; Missoula, Montana 59807. Phone: (406) 329–3696.

The newspapers to be used are as follows:

Northern Regional Office.—Regional Forester decisions in Montana:

The Missoulian, Great Falls Tribune, and the Billings Gazette.

Regional Forester decisions in Northern Idaho and Eastern Washington: The Spokesman Review.

Regional Forester decisions in North Dakota: Bismarck Tribune.

Regional Forester decisions in South Dakota: Rapid City Journal.

Beaverhead/Deerlodge—Montana Standard
Bitterroot—Ravalli Republic
Clearwater—Lewiston Morning Tribune
Custer—Billings Gazette (Montana)
Rapid City Journal (South Dakota)
Dakota Prairie National Grasslands—Bismarck Tribune (North Dakota)
Rapid City Journal (South Dakota)
Flathead—Daily Interlake
Gallatin—Bozeman Chronicle
Helena—Independent Record
Idaho Panhandle—Spokesman Review
Kootenai—Daily Interlake
Lewis & Clark—Great Falls Tribune
Lolo—Missoulian
Nez Perce—Lewiston Morning Tribune

Supplemental notices may be placed in any newspaper, but time frames/deadlines will be calculated based upon notices in newspapers of record listed above.

Dated: December 7, 2001.

Kathleen A. McAllister,

Deputy Regional Forester.

[FR Doc. 01–30861 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Salmon-Challis National Forest Noxious Weed Environmental Impact Statement; Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Forest-Wide Noxious Weed Management Program

AGENCY: Forest Service, USDA.

ACTION: Notice of intent.

SUMMARY: The USDA, Forest Service is gathering information and preparing an Environmental Impact Statement (EIS) for a forest-wide noxious weed management program. The intent of this program is to: Protect the natural condition and biodiversity of ecosystems by preventing and/or limiting the introduction and subsequent spread of invasive, non-native plant species that displace native vegetation; eliminate new invaders before they become established; contain and reduce known and potential weed seed sources throughout the forest; prevent or limit the spread of established weeds into areas containing little or no infestation; protect sensitive and unique habitats including research natural areas, wetlands, riparian areas, and sensitive plant populations; and develop criteria to prioritize invasive weed species and treatment areas. Prioritization will be given to treating areas that may contribute to the spread of weeds into Lemhi, Custer, and Butte Counties within the Salmon-Challis National Forest (S–CNF).

SUPPLEMENTARY INFORMATION:

Background

The Salmon-Challis NF embraces Integrated Pest Management (IPM) practices (as defined in Forest Service Handbook 3409) in managing various pests, including noxious and invasive non-native weeds. This philosophy is

VOL 66 ISS 241 DE 14 2001 UMI

predicated on the principle that a single management method will not be successful; but that implementing a fully integrated approach in weed management significantly improves the chances of a successful program. A variety of activities can be carried out under an IPM program and provides for a full range of management strategies, including prevention and public education.

Weeds can alter ecosystem processes, including productivity, decomposition, hydrology, nutrient cycling, and natural disturbance patterns such as frequency and intensity of wildfires. Changing these processes can lead to displacement of native plant species, eventually impacting wildlife and native plant habitat, recreational opportunities, natural hydrologic processes, and scenic beauty. The economic effects from the subsequent loss of productivity and resource values can be considerable.

The Draft EIS will focus on restoring native species and wildlife habitat while reducing runoff and erosion by containing and reducing weed infestations and seed sources throughout the forest, controlling the spread of existing weeds, and preventing the establishment of new weed species. This project will encompass portions of the S–CNF, with complete analysis expected by January 2003.

EIS Scope

Potential alternatives for weed management may include mechanical, biological, vegetative (e.g. seedings), controlled grazing, and ground-based and aerial herbicide applications. Methods of management will be evaluated based on environmental concerns, management restrictions, and site characteristics to ensure weed management activities are as successful as possible. The project area and analysis will encompass the entire Salmon-Challis National Forest excluding the Frank Church River of No Return Wilderness, an area of approximately 3,108,827 acres. Specific treatment areas may be throughout the project area and would include big game summer and winter range, roads, trails, trailheads, administrative sites, and other emphasis areas such as disturbed sites and high use areas. preliminary issues identified for analysis in the EIS include the potential effects and relationship of the project to human health risk, water quality, fisheries, native plant communities, wildlife habitat, soil productivity, recreation, scenery, heritage resources, and sensitive plants.

Public Involvement

The Forest Service intends to schedule at least three public information meetings before the close of the comment period. For the Forest Service to best use the scoping input, comments should be received by January 31, 2002.

Public participation will be an integral component of the study process, and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State, County, and local agencies, individuals, and organizations that may be interested in or affected by the proposed activities. The scoping process will include: (1) Identification of potential issues, (2) identification of issues to be analyzed in depth, (3) identification of alternatives and (4) elimination of non-significant issues or those that have been covered by previous environmental reviews. Written scoping comments will be solicited through a scoping package that will be sent to the project mailing list and local newspapers.

At this early stage, the Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EIS's must structure their participation in the environmental review of the proposal, so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v *NRDC,* 435 U.S. 519, 553, (1978). Also, environmental objections that could have been raised at the Draft EIS stage, but that are not raised until completion of the Final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period on the Draft EIS, so that substantive comments and any objections are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns of the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft EIS. Comments may address the adequacy of the Draft EIS, as well as the merits of the alternatives formulated and discussed in the Draft EIS. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1503.3, in addressing these points.

DATES: Dates, times and locations of these meetings will be announced. Written comments concerning the scope of this project should be received by the Salmon-Challis National Forest by January 31, 2002.

ADDRESSES: Please send written comments to: Salmon-Challis National Forest, 50 Highway 93 South, Salmon, ID 83467. Attn: Lyle Powers, RE: Salmon-Challis NF Noxious Weed EIS.

FOR FURTHER INFORMATION CONTACT: Lyle Powers, Planning Staff Officer, telephone (208) 756–5557, E-mail: *lepowers@fs.fed.us,* or Bill Diage, Planning Team Ecologist, telephone (208) 756–5562, E-mail: *wdiage@fs.fed.us,* Salmon-Challis National Forest, 50 Highway 93 South, Salmon, ID 83467.

Permits/Authorizations: The proposed action will not require any site-specific amendments to the Salmon nor Challis National Forest Land and Resource Management Plans.

Responsible Official: George Matejko, Forest Supervisor, Salmon-Challis National Forest, is the responsible official. In making the decision, the responsible official will consider the comments; responses; disclosure of environmental consequences; and applicable laws, regulations, and policies. The responsible official will state the rationale for the chosen alternative in the Record of Decision.

Dated: December 7, 2001.

George Matejko,

Forest Supervisor.

[FR Doc. 01–30885 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

B-Line Phase III (Sewer Export Pipeline Replacement), Lake Tahoe Basin Management Unit (LTBMU), El Dorado County, California; Notice of Intent

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The USDA Forest Service will prepare an environmental impact statement (EIS) to address whether or not to authorize the South Tahoe Public Utility District to construct Phase III of the B-Line Export Pipeline. This project would complete the replacement of the original effluent export pipeline that runs from South Lake Tahoe, CA to the Tahoe Basin boundary.

DATES: The public is asked to provide any additional information they believe the Forest Service may still not have at this time and to submit any issues (points of concern, debate, dispute or disagreement) regarding potential effects of the proposed action or alternatives by January 15, 2002.

ADDRESSES: Send written comments to Michael Rhoades, Associate Planner, Tahoe Regional Planning Agency, P.O. Box 1038, Zephyr Cove, NV 89448. Telephone: 775/588–4547, Fax: 775/588–4527, E-mail: *mrhoades@trpa.org*.

FOR FURTHER INFORMATION CONTACT: Michael Rhoades at the above address.

Decision to be Made: The Forest Supervisor will decide whether or not to authorize construction of the proposed pipeline and if so which route the new pipeline will follow.

Purpose and Need: The South Tahoe Public Utility District's owns and operates an effluent export system that pumps treated effluent from the District's wastewater treatment plant in South Lake Tahoe to the Harvey Place Reservoir in Alpine County, CA. The original force main was installed in 1969/70 and utilized steel pipe that was installed using poorly monitored construction techniques. Problems developed soon after the installation was completed, and have continued as the line has aged. The existing pipeline is no longer reliable. Leaks and breaks in the existing line sometimes occur.

Proposed Action: Authorize the South Tahoe Public Utility District (District) to construct Phase III of the B-Line Export Pipeline Replacement. The proposed action and alternatives are described in greater detail below.

Lead Agencies: The USDA Forest Service will serve as lead agency under the National Environmental Policy Act (NEPA). The Tahoe Regional Planning Agency (TRPA) will serve as lead agency under the TRPA rules of procedure (Ordinances Chapter 5). The South Tahoe Public Utility District will serve as the lead agency under the California Environmental Quality Act (CEQA). The U.S. Environmental Protection Agency will work closely with the Forest Service under NEPA. Implementation of the proposal would require permits from TRPA, the California Regional Water Quality Control Board Lahontan Region and the Forest Service.

Scoping: The planning for this project is being coordinated by the three lead agencies. The environmental documents will be drafted to meet the requirements of NEPA, CEQA and TRPA. Scoping meetings are being held before the TRPA Advisory Planning Commission on December 12, 2001 and the Governing Board on December 19, 2001. The CEQA/TRPA Notice of Preparation request comments by December 30, 2001. The Forest Service is requesting Scoping comments by January 15, 2002.

Response Time: Please send your comments no later than January 15, 2001 to Michael Rhoades, Associate Planner,—Tahoe Regional Planning Agency,—PO Box 1038,—Zephyr Cove, NV 89448. Telephone: 775/588–4547, Fax: 775/588–4527, E-mail: *mrhoades@trpa.org*.

FOR FURTHER INFORMATION: Contact Michael Rhoades at the address or telephone number provided above.

SUPPLEMENTARY INFORMATION:

Project Name and Description and Background

The South Tahoe Public Utility District's (District) owns and operates an effluent export system that pumps treated effluent from the District's wastewater treatment plant in South Lake Tahoe to the Harvey Place Reservoir in Alpine County, CA. The export system is divided into three segments, the A-Line, B-Line, and C-Line. The B-Line consists of the portion of the pipeline between the Luther Pass Pump Station and the top of Luther Pass where the force main breaks to gravity. The original force main was installed in 1969/70 and utilized steel pipe that was installed using poorly monitored construction techniques. Problems developed soon after the installation was completed, and have continued as the line has aged. Construction is currently being completed on the reach that extends from the 1980 replacement to the gravity break at Luther Pass (approximately 9,982 lineal feet known as B-Line Phase II). The current proposal will extend from the Luther Pass Pump Station to the middle of the Forest Service campground (where the Phase I replacement began) and will result in the complete replacement of the original B-Line pipeline. The proposal is to authorize the District to construct Phase III of the B-Line Export Pipeline. The project includes the construction of a new effluent export pipeline between the Luther Pass Pump Station and the project's terminus within the campground east of State Route 89. This segment of the B-Line pipeline is located approximately 3.5 miles south of Meyers, CA. The project would consist of a pressurized 24-inch-diameter pipeline placed below ground level. The pipeline trench would be a minimum of 7 feet deep and approximately four to six feet wide, depending upon soil conditions. The 24-inch diameter pipeline replaces an existing 20-inch diameter pipeline. Following replacement, the existing pipeline would be abandoned in place.

The pipeline would be constructed using excavators and rubber-tired loaders, with the steel pipe welded onsite. The welding and coating activity would take place adjacent to and above the trench. Following welding and pipeline coating activities, the pipe segments (up to 1,000 feet in length) would be placed into the trench. Due to the need to conduct welding along side the pipeline trench, all ground vegetation will need to be removed within the immediate trench corridor to avoid the risk of wild fire. The proposed widths for the construction corridor are provided below.

Within the campground road, an option exists to use a rock-trencher for trenching activities. The benefit of using a rock-trencher is that it requires a narrower construction corridor than traditional construction methods (vehicles can work front to back rather than side by side). However, the rock trencher is much heavier than an excavator or other rubber-tired equipment and requires a more stable base from which to operate.

A 50-foot-wide temporary construction easement has been requested by the District for the pipeline construction within forested areas. Within the 50-foot easement, a 25-foot-wide construction corridor will be established to allow construction of the trench. Within the 25-foot-wide construction corridor, trees, surface vegetation and top soil would either be removed or significantly disturbed by construction equipment. The trench does not need to be centered within this corridor, rather the corridor can be shifted to allow for significant trees and rock outcrops to be preserved. However, 25-feet is the minimum clearance area needed for construction of the pipeline. Adjacent to the 25-foot corridor, and within the 50-foot temporary easement, tree removal would only occur if approved beforehand by the Forest Service and TRPA. Within this portion of the easement, disturbance would occur from construction equipment access and material storage. Following construction, the 50-foot construction easement and any adjacent soil disturbance caused by construction activities will be revegetated pursuant to

Forest Service and TRPA approved plans.

Pipeline Replacement Alternatives A and B (described below) would cross Highway 89 in one location. At the crossing locations, project construction activities would be timed to avoid the simultaneous closure of both travel lanes on Highway 89. Delays due to lane closure shall not exceed 30 minutes. Open trenches in Highway 89 would be backfilled or covered with non-skid plates during times when construction activities are stopped.

Pipeline Replacement Alternative C would follow Highway 89 from its intersection with Grass Lake Road to the intersection with the campground road. Within this corridor, 24-hour lane closures would be required seven days a week, including the use of "K" rail to separate construction activities from the open travel lane. Blasting would be required for trenching within the right-of-way. During blasting activities, traffic would be held in both directions.

To prevent erosion and discharge into down-slope drains or low lying drainages, pipeline trench erosion control practices shall be used. Erosion control practices would require filter fabric fencing down slope of construction activities. No erosion or runoff shall be allowed to reach any adjacent creeks. Under alternatives B and C, the pipeline will cross Grass Lake Creek. In these locations, more detailed erosion control and restoration plans will be required to ensure adequate diversion of the creek flows during pipeline construction. The pipeline will cross Grass Lake Creek in two of the three action alternatives (Alternatives B and C). One of the creek crossings would occur in an undisturbed area to the north of the South Upper Truckee Road (Alternative B). At this creek crossing location, the project would require the construction of a temporary roadway to facilitate equipment access. The creek will be temporarily diverted using pumps or placed in a culvert under the temporary roadway during construction. After construction is completed, the roadway material will be removed and the creek will be restored to pre-project conditions. Two other creek crossings would occur within Highway 89 for Alternative C and within the campground road for Alternatives B and C. In both locations, the creek flows through a culvert. The Highway 89 crossing would occur within the roadway prism and above the existing box culvert. The campground road crossing would also occur within the roadway prism, but could either be constructed underneath or above the existing corrugated metal pipe (cmp). Construction of the pipeline underneath the cmp would require removal and replacement of the culvert. Construction of the pipeline above the cmp would avoid effects to the cmp but would require raising the road grade.

It is anticipated that some groundwater will be intercepted during trenching activities. In order to prevent the discharge of trench waters, water collected from dewatering operations shall be disposed as follows: (1) Water from the pipeline trench will be pumped into a settling tank or water trucks with sufficient volume to handle projected water quantities, (2) water will be decanted from the settling tanks or trucks for use as construction water during backfilling operations, (3) settled water will be taken to the Luther Pass summit and placed in the gravity export pipeline (C-Line) that flows to the Harvey Place reservoir, or (4) settled water will be placed in the sanitary sewer in Grass Lake Road.

The South Upper Truckee Road is proposed for temporary material stockpiling and equipment staging. To use the roadway for material stockpiling and staging, the District will request its closure. This roadway is under the control of the El Dorado County Department of Transportation. The proposed closure would be located between Highway 89 and the roadway's crossing of the Upper Truckee River (west of Highway 89). Stockpile areas will be surrounded by filter fabric fencing, and covered with plastic sheeting prior to storm events. Historic trail resources adjacent to the roadway will be protected by temporary construction fencing.

To protect trees within the 50-foot construction easement (outside of the 25-foot construction corridor), vegetation protection fencing will be installed around every live tree or group of trees greater than 6 inches dbh. In addition, no tree roots greater than 1.5 inches in diameter shall be cut without the prior authorization of the Forest Service and TRPA. In situations where tree roots greater than 1.5 inches must be cut, the contractor shall treat the roots in accordance with standard practices. All areas disturbed by construction activity shall be revegetated. The revegetation shall be with a matching seed mix to restore the loss of vegetation that will result from pipeline construction. A goal of vegetation/site restoration following construction shall be to ensure that the pipeline corridor does not become a new trail for recreational bicyclists.

Groundwater channeling would be minimized by using an aggregate (Class 2) fill for the pipeline bedding zone (this zone is the area 6 inches under the pipeline to one foot above the pipeline). Any excavated soils that are wet require air drying to proper moisture content or mixing with drier soils prior to being used as compacted backfill. In addition, the installation of trench cutoff walls or "coffer dams" is proposed in areas where high groundwater and the slope of the terrain would dictate that groundwater channeling is a probability.

During pipeline trenching, field inspections of the trenches would be performed to make final determinations regarding the need for cutoff walls to control potential high groundwater flows. During construction, the pipeline will be pressure tested at 2,000 foot intervals. The pressure testing will be performed using potable water. At the conclusion of construction, the entire segment of new pipeline will be tested before it is placed into operation.

The construction of the pipeline must comply with TRPA's standard conditions of approval and the Handbook of Best Management Practices (BMPs) Standards. The use of BMPs will be documented in a Stormwater Pollution Prevention Plan (SWPPP) prepared for approval by CA. Regional Water Quality Ccontrol Board, Lahontan Region. The purpose of the SWPPP is to provide a site-specific plan for preventing storm water pollution caused by construction activities, including land disturbance. The SWPPP will be designed to comply with the federal requirements to achieve compliance with the effluent limits and receiving water objectives set forth in the California General NPDES Permit for Discharges of Storm Water Associated with Construction Activities through implementation of BMPs. The SWPPP will be implemented concurrent with the commencement of construction activities.

Alternatives: Four alternatives have been identified for further study in the STPUD B-Line Phase III Export Pipeline Replacement Project EIR/EIS.

Alternative A—Parallel Existing Pipeline Alignment would parallel the existing pipeline alignment through National Forest lands from the Luther Pass Pump Station to the project's terminus in the Forest Service campground. However, the pipeline would not use the existing pipeline's trench because it would still be in operation during construction. The pipeline would parallel the existing pipeline with at least 50 feet of separation from the existing pipeline to avoid damage during construction activities, such as blasting. This alternative would be approximately

4,400 feet in length. *Alternative B—Proposed Action* would begin at the Luther Pass Pump Station and end within the Forest Service campground at a connection with the B-Line Phase I replacement project. The total length of the proposed action is approximately 5,900 feet. The proposed action would begin at the pump station, generally follow the hillside contours to the south, cross Grass Lake Creek, cross South Upper Truckee Road twice, continue on to Highway 89, cross Highway 89, follow the campground access road, and end at the terminus of the B-Line Phase I replacement project that was constructed in 1996. *Alternative C—Parallel Existing Roadways* would follow existing roadway rights-of-way. This alternative would use Grass Lake Road to the intersection of Highway 89. At the intersection of Grass Lake Road and Highway 89, the alternative would follow Highway 89 south to the campground access road. At this intersection, Alternative C would follow the same route as Alternative B to the project's terminus. This alternative would be approximately 16,000 feet in length. Approximately 8,700 feet of the pipeline alignment would be located within Highway 89. Of this total, approximately 60 percent (5,200 feet) would have to be located inside the fog line of the highway (within the roadway pavement). Due to the pipeline's length, additional storage capacity may be needed at the Luther Pass Pump Station to allow for the draining of the pipeline during maintenance operations. This additional storage capacity would require construction of a third storage tank, or enlargement of an existing tank. As a sub-alternative to Alternative C, the Luther Pass Pump Station may be relocated to a location near the intersection of Grass Lake Road and Highway 89. *Alternative D—No Project/No Action* would maintain the existing pipeline that was constructed in 1969. While no immediate action would occur, the continued use of the existing pipeline will increase the chances of a pipeline break. Pipeline breaks require immediate repair by the District.

Commenting: The draft environmental impact statement is expected to be available for public review and comment in May 2002. The comment period on the draft statement will be at least 45 days from the date of availability published in the **Federal Register** by the Environmental Protection Agency. The final environmental impact statement and its Record of Decision is expected in October 2002.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel, 803 F.2d 1016, 1022 (9th Circut, 1986) and Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments should be as specific as possible. It is helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. The decision will be appealable under applicable Forest Service regulations.

Dated: December 7, 2001.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 01–30860 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn/Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Glenn/Colusa County Resource Advisory Committee (RAC) will hold its first meeting.

DATES: The meeting will be held on January 10, 2002, and will begin at 9 a.m.

ADDRESSES: The meeting will be held at the Willows City Council Chambers at 201 N. Lassen Ave., Willows, CA.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; E-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Introductions of all committee members, alternate members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 10, 2001.

James F. Giachino,

Designated Federal Officer.

[FR Doc. 01–30884 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Grays Harbor Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Grays Harbor Resource Advisory Committee will hold its first meeting on January 8, 2002. The meeting will be held at the Grays Harbor County Courthouse, Montesano, Washington. The meeting will begin at 9:30 AM and end at approximately 3:45 PM. Agenda topics are: (1) Introductions; (2) Federal Advisory Committee Act (FACA) overview; (3) Resource Advisory Committee (RAC) Roles and Responsibilities; (4) RAC Rules and Bylaws; (5) RAC Guidebook review; (6) RAC Communication; (7) Future meetings and agendas; (8) Project Process for submission; (9) County Update on Title II Projects; (10) Election of RAC Chairperson; and (11) Public comments.

All Grays Harbor Resource Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, RAC Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA

VOL 66 ISS 241 DE 14 2001 UMI

98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor and Designated Federal Official, at (360) 956–2301.

Dated: December 7, 2001.

Luis Santoto,

Acting Forest Supervisor, Olympic National Forest.

[FR Doc. 01–30859 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee will hold its first meeting on January 10, 2001. The meeting will be held at the Washington State University Cooperative Extension Office, 201 W. Pattison, Port Hadlock, Washington. The meeting will begin at 9:30 AM and end at approximately 3:45 PM. Agenda topics are: (1) Introduction; (2) Federal Advisory Committee Act (FACA) overview: (3) Resource Advisory Committee (RAC) Roles and Responsibilities; (4) RAC Rules and Bylaws; (5) RAC Guidebook review; (6) RAC Communication; (7) Future meetings and agendas; (8) Project Process for submission; (9) County Update on Title II Projects; (10) Election of RAC Chairperson; and (11) Public comments. All Olympic Peninsula Resource Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Ken Eldredge, RAC Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2323 or Dale Hom, Forest Supervisor and Designated Federal Official, at (360) 956–2301.

Dated: December 7, 2001.

Luis Santoto,

Acting Forest Supervisor, Olympic National Forest.

[FR Doc. 01–30858 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will hold its first meeting.

DATES: The meeting will be held on January 30, 2002, and will begin at 9 a.m.

ADDRESSES: The meeting will be held at the Tehama County Court House Annex, Conference Room E, 444 Oak Street, Red Bluff, CA.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; Email *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Introductions of all committee members, alternate members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 10, 2001.

James F. Giachino,

Designated Federal Officer.

[FR Doc. 01–30883 Filed 12–13–01; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: January 14, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 13, August 3, August 10, August 17, October 19 and October 26, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 FR 36741, 40671, 42197, 43180, 53201, 54193/94) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are added to the Procurement List:

Commodities

Shelf Assembly, Top
  3920–00–000–8908
"Cusheeze" Pencil Grips, Foam Rubbe
  7510–01–383–7680
Paper, Xerographic & Inkjet (Large Format)
  7530–00–NIB–0483
  7530–00–NIB–0598
  7530–00–NIB–0599
  7530–00–NIB–0600
  7530–00–NIB–0601
  7530–00–NIB–0602
  7530–00–NIB–0603
  7530–00–NIB–0604
  7530–00–NIB–0605
  7530–00–NIB–0606
  7530–00–NIB–0607
  7530–00–NIB–0608

7530–00–NIB–0609
7530–00–NIB–0610
7530–00–NIB–0611
7530–00–NIB–0612
7530–00–NIB–0613
7530–00–NIB–0614
7530–00–NIB–0615
7530–00–NIB–0616
7530–00–NIB–0617
7530–00–NIB–0618
7530–00–NIB–0619
7530–00–NIB–0620
7530–00–NIB–0621
7530–00–NIB–0622
7530–00–NIB–0623
7530–00–NIB–0624
7530–00–NIB–0625
7530–00–NIB–0626
7530–00–NIB–0627
7530–00–NIB–0628
7530–00–NIB–0629
7530–00–NIB–0630
7530–00–NIB–0631
7530–00–NIB–0632
7530–00–NIB–0633
7530–00–NIB–0634
7530–00–NIB–0635
7530–00–NIB–0636
7530–00–NIB–0637
7530–00–NIB–0638
7530–00–NIB–0639
7530–00–NIB–0640
7530–00–NIB–0641
7530–00–NIB–0642

Inkjet Media—Small Format
7530–00–NIB–0593
7530–00–NIB–0594
7530–00–NIB–0595
7530–00–NIB–0596
7530–00–NIB–0597

Services

File Maintenance, VA Medical Center, Northport, New York
Operation of Support Services, National Advocacy Center, Columbia, South Carolina
Photocopying, Environmental Protection Agency, Research Triangle Park, North Carolina

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action will not have a severe economic impact on future contractors for the commodities and services.
3. The action will result in authorizing small entities to furnish the commodities and services to the Government.
4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are deleted from the Procurement List:

Commodities

Adhesive Tape, Surgical
6510–01–368–2659
6510–01–368–2660
6510–01–285–3896
6510–01–370–4099
6510–01–370–4100
6510–01–284–5110
6510–00–926–8882
6510–00–926–8883
6510–01–107–0223
6510–01–060–1639

Lancet, Finger Bleeding
6515–01–135–8497
6515–01–225–4757

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 01–30920 Filed 12–13–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee is proposing to add to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 15, 2002.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each commodity will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.
2. The action will result in authorizing small entities to furnish the commodities to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Commodity

Liner, Low Density, Linear, Premium
8105–00–NIB–1149
8105–00–NIB–1150
8105–00–NIB–1151
8105–00–NIB–1152
8105–00–NIB–1153
8105–00–NIB–1154
8105–00–NIB–1155
8105–00–NIB–1156
8105–00–NIB–1157
8105–00–NIB–1158
8105–00–NIB–1159
8105–00–NIB–1160
8105–00–NIB–1161
8105–00–NIB–1162
8105–00–NIB–1163
8105–00–NIB–1164
8105–00–NIB–1165
8105–00–NIB–1166
8105–00–NIB–1167
8105–00–NIB–1168
8105–00–NIB–1169
8105–00–NIB–1170
8105–00–NIB–1171
8105–00–NIB–1172
8105–00–NIB–1173
8105–00–NIB–1174
8105–00–NIB–1175
8105–00–NIB–1176
8105–00–NIB–1177
8105–00–NIB–1178

NPA: Envision, Inc. Wichita, Kansas

Government Agency: Defense Supply Center, Philadelphia.

Gloves, Patient Examining
6515–01–365–6183
NPA: Bosma Industries for the Blind, Inc. Indianapolis, Indiana

Government Agency: GSA/Office Supplies and Paper Products Commodity Center.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–30921 Filed 12–13–01; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Funding Opportunity for AmeriCorps*VISTA Financial Asset Development Projects, Placements of AmeriCorps*VISTA Members, and Supervisory Grants

AGENCY: Corporation for National and Community Service.

ACTION: Notice of funding opportunity.

SUMMARY: Subject to the availability of appropriations, AmeriCorps*VISTA (Volunteers In Service To America), a program of the Corporation for National and Community Service, is seeking applications to sponsor AmeriCorps*VISTA projects to build financial assets for low-income individuals and communities. This includes three types of program activity: (1) Building individual assets (individual development accounts, micro-enterprise development, entrepreneur education, financial literacy, home ownership, etc.), (2) building organizational assets (helping nonprofit organizations to achieve long term financial security through their purchasing of real estate, developing diversified income streams, creating efficiencies through the application of technology, etc.), and (3) building community assets (developing new credit unions, establishing cooperatives, creating business opportunities, etc.). Applicants will sponsor a project of three (3) or more AmeriCorps*VISTA members. Projects under this announcement may be national, regional, state, or local in scope. The sponsor will participate in recruiting and training the members and will provide supervision and project support. State and/or local public agencies, and nonprofit private organizations including faith-based organizations that are local, statewide, regional, or national in scope are eligible to apply under this announcement. Applicants should be organizations that are currently developing financial assets in low-income communities or are supporting social venture capital activities. Applicants must demonstrate that they have the capacity to support and supervise AmeriCorps*VISTA members.

It is anticipated that proposed projects will create new capacity in the sponsoring organization (or nonprofit organizations targeted by venture philanthropists) to develop financial assets in communities with demonstrated needs. Sponsors should be self-sustaining following a specified period of AmeriCorps*VISTA support, usually three (3) years.

AmeriCorps*VISTA intends to enter into Memoranda of Agreement with organizations selected under this announcement.

A total of up to 400 AmeriCorps*VISTA members with an established Corporation allocation of approximately $1,420,000 may be allocated for placement. Applicant organizations will be expected to place no less than three (3) AmeriCorps*VISTA members per site. Under this announcement, small supervision grants for all sponsors selected for a supervisory grant of up to approximately $200,000 total, will be considered based on the size and scope of the project. Short-term, eight-to-ten week summer placements may also be requested under this announcement.

While sharing the cost of a cadre of members is not a requirement, the contribution of resources by applicants to support the AmeriCorps*VISTA members will be considered in the rating of applications. For example, applicants are encouraged to collaborate with financial institutions and other businesses to provide mentoring, training, and additional resources to AmeriCorps*VISTA members. Applicant organizations are encouraged to create partnerships with colleges and universities to provide academic credit for AmeriCorps*VISTA service and service-related technical training, without compromising the full immersion experience of AmeriCorps*VISTA. Additional consideration also will be made to organizations that provide housing for members.

DATES: All applications must arrive at the Corporation no later than 5:00 p.m., Eastern Standard Time, January 28, 2002. Applications submitted via overnight mail that arrive after the closing date will be accepted if they are postmarked at least two days prior to the closing date. Otherwise, late applications will not be accepted. The Corporation anticipates announcing its selections under this announcement in early March. Projects awarded under this announcement should be prepared to (1) attend supervisors training in April 2002 and (2) recruit AmeriCorps*VISTA members for the July 2002 Pre-Service Orientation.

ADDRESSES: One (1) signed original and three (3) copies of the application must be submitted to the Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW., Attn: David Gurr, Washington, DC 20525. The Corporation will not accept applications that are submitted via facsimile or e-mail transmission.

FOR FURTHER INFORMATION CONTACT: For further information on how to apply under this announcement, go to *www.americorps.org/vista/sponsorinfo.html*, call (202) 606–5000, ext. 204, or e-mail *vista@americorps.org*. Background information, including project applications, are available from the Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Ave., NW., Washington, DC 20525, (202) 606–5000, ext. 134; TTY (202) 565–2799, or TTY via the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Background

The Corporation is a federal government corporation that encourages Americans of all ages and backgrounds to engage in community-based service. This service addresses the nation's educational, public safety, environmental, and other human needs to achieve direct and demonstrable results. In addressing those needs, we strive to foster civic responsibility, strengthen the ties that bind us together as Americans, and provide educational opportunities for those who make a substantial commitment to service. We support a range of national service programs, including AmeriCorps, Learn and Serve America, and the National Senior Service Corps.

AmeriCorps*VISTA, a component of AmeriCorps, is authorized under the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113). The statutory mandate of AmeriCorps*VISTA is "to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups . . . (to) assist in the solution of poverty and poverty-related problems, and . . . to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose (of the program)." (42 U.S.C. 4951) AmeriCorps*VISTA carries out its legislative mandate by assigning individuals 18 years and older, on a full-time, year-long basis, to public and private nonprofit organizations whose goals are in accord with AmeriCorps*VISTA's legislative mission. Each AmeriCorps*VISTA project must focus on the mobilization of community resources, the transference of skills to community residents, and the expansion of the capacity of community-based organizations to solve local problems. Programming should encourage permanent, long-term solutions to problems confronting low-income communities rather than short-term approaches for handling emergency needs.

AmeriCorps*VISTA project sponsors must actively elicit the support and/or participation of local public and private sector elements in order to enhance the chances of a project's success as well as to make the activities undertaken by AmeriCorps*VISTA members self-sustaining when the Corporation no longer provides resources.

B. Purpose of This Announcement

The purpose of this announcement is to support the use of financial/business strategies to fight poverty by building financial assets for individuals, organizations, and communities. Financial asset development is an important strategy designed to move people out of poverty. It provides people with the financial security to escape poverty for the long term by purchasing a car or home, furthering their education, or starting a business. For community organizations, it can provide the means to achieve long-term stability by adopting recognized business practices, diversifying revenue streams, and applying technology.

Financial assets for individuals include individual development accounts (IDAs), home ownership, small business start-up, financial/entrepreneurial education, or other equity-building strategies. Increased equity offers financial stability for individuals moving out of poverty, provides opportunities for investment in education, diversifies income streams, and enables low-income individuals to escape poverty.

Likewise, many struggling nonprofit organizations can benefit from organizational financial asset development. Some examples of organizational financial asset development include diversifying income sources (including for-profit enterprises within nonprofit structures), purchasing real estate, and increasing efficiencies through the application of technology.

For many low-income communities with little economic development and few service providers, there are few opportunities to use new skills or to build asset values in property. With limited small business development and single, large employers, the community becomes over-dependent on one source of jobs and can be devastated by small changes in the economy or choices to move production elsewhere. Community asset development strategies to overcome these structural problems include developing credit unions, cooperatives, and small business opportunities for low-income entrepreneurs. Each of these institutions can enable low-income, asset-poor communities to become self-sufficient and not dependent on single financial, employment, or consumer institutions. The designation of enterprise zones is an excellent example of targeting resources to specific communities in order to build community assets.

C. Eligible Applicants

State and/or local public agencies, and nonprofit private organizations that are local, statewide, regional, or national in scope are eligible to apply under this announcement. Organizational and community financial asset development efforts are frequently supported through social venture capital institutions that are committed to investment in antipoverty enterprises with a view toward long-term return. These types of philanthropic entities, if public or non-profit private organizations, are encouraged to apply.

Pursuant to the Lobbying Disclosure Act of 1995, an organization described in section 501(c)(4) of the Internal Revenue Code of 1986, 26 U.S.C. 501(c)(4), which engages in lobbying, is not eligible to apply.

D. Scope of Project

AmeriCorps*VISTA projects traditionally work with local community-based organizations and it is anticipated that all projects under this announcement will have at least three (3) AmeriCorps*VISTA members. If a project is national in scope, it is anticipated that each project will support between 25 and 50 AmeriCorps*VISTA members on a full-time basis for one year of service and that each local project affiliated with the national project will support at least three (3) members.

Applicants are encouraged to request AmeriCorps*VISTA Leaders for projects of eight (8) or more members. Leaders are former AmeriCorps*VISTA members who have completed a year of service in the AmeriCorps*VISTA program or have completed two years of service with the Peace Corps. They are charged with coordinating member activities across the project and assisting in recruitment and training activities.

Some applicants may want to apply for the Summer Associate program as part of their application. Summer Associates serve for 8–10 weeks on a full-time basis to bring an additional infusion of energy and expertise to achieving the projects' goals. Summer Associates receive the same living allowance (pro-rated for their length of service) and a partial education award, but are not eligible for relocation funds or national training. For example, applicants may consider incorporating into the proposal the placement of MBA students or business major undergraduates as a Summer Associate component to their project. An organization cannot propose a Summer Associates program without also proposing a full-year AmeriCorps*VISTA project.

Quality supervision of AmeriCorps*VISTA projects are critical for their success. At a minimum, there should be one full-time supervisor dedicated exclusively to the project for every 20 AmeriCorps*VISTA members and the equivalent prorated level for projects with fewer members. Supervision grants, if requested, are restricted to supporting a portion of the salary package of a person employed to directly supervise AmeriCorps*VISTA projects and for travel by staff listed under Project Personnel in the budget. No supervision grant can be less than $20,000 and typically does not exceed $1,000 per AmeriCorps*VISTA member requested.

Project applicants, particularly those applying for supervision grants, should demonstrate their commitment to matching the federal contribution toward the operation of the AmeriCorps*VISTA project by offsetting all, or part of, the costs of member supervision, transportation, on-site orientation and training, as well as the basic costs of the program itself (e.g., space, telephone, etc.). This support can be achieved through cash or in-kind contributions, and it must be documented in the budget.

Further, applicant organizations are encouraged to share in costs traditionally covered by federal funds.

In a cost-share arrangement, sponsoring organizations cover the living allowance (approximately $9,400 per member) for a specified number of AmeriCorps*VISTA positions. The Corporation will pay for training, relocation allowances, education awards, health care, and other expenses relating to the members' service.

Applications must demonstrate a multi-year development plan including work plans for individual members, broken down by quarter. Projects may be awarded for a three or five year project period and approved on a twelve-month cycle. The Corporation has no obligation to provide additional funding or AmeriCorps*VISTA placements for subsequent years. Continuation of a project, and possible funding of a supervisory grant, for approved projects is contingent upon the availability of funds, satisfactory progress in relation to the approved objectives, submission of proposed changes in activities or objectives, a detailed budget and budget narrative for the applicable program year, and other criteria established in the Memorandum of Agreement and grant award agreement. AmeriCorps*VISTA projects are usually expected to achieve capacity-building goals at a given site within three (3) years, or five (5) years if there is significant cost-share participation. Typically, these project time lines are broken down into quarterly benchmarks to ensure the achievement of work plan objectives. Applicants under this announcement should describe a clear time frame for the project to achieve new capacity, identify regular objectives and/or outcomes for intermediate achievements, and describe the proposed transition at the conclusion of the project time line. Satisfactory performance ratings during annual reviews will be based on meeting the time lines proposed in the application.

Publication of this announcement does not obligate the Corporation to award any specific number of grants, or to obligate the entire amount of funds or members available, or any part thereof, for grants under the AmeriCorps*VISTA program, or to approve any specific number of non-grant projects for the placement of AmeriCorps*VISTA members.

The Corporation will provide technical assistance to applicants under this announcement to complete project applications, including detailed budgets.

E. Responsibilities of Sponsoring Organization

Applicant organizations must demonstrate: the existing capacity and experience needed to monitor and support a project; previously demonstrated strong institutional commitment of personnel, resources, training, and technical expertise; and a well-coordinated project rather than loosely tying together several unrelated activities.

The Corporation State Offices will work with those governmental agencies and organizations selected as project sites to finalize Part B (CNS Form 1421B) (OMB Control Number 3045–0038) of the project application, assist in recruiting and training members to serve as AmeriCorps*VISTA members, and discuss various implementation issues including in-service training and technical assistance for members. The Corporation State Office also provides training to AmeriCorps*VISTA supervisors. The sponsoring organization is required to submit a Project Progress Report (CNS Form 1433) (OMB Control Number 3045–0043) to the Corporation State Office on a federal fiscal year quarterly basis.

F. Submission Requirements

1. A one-page narrative summary description, single-spaced, single-sided, of the proposed AmeriCorps*VISTA project including the name, address, telephone number, and contact person for the applicant organization. The summary should include the expected long-term antipoverty outcomes of the project, a description of what will be created that did not exist before the project started, and a description of how the project will be sustained once AmeriCorps*VISTA resources are withdrawn. The summary will be used as a project abstract to provide reviewers with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary that accurately and concisely reflects the proposal.

2. Application for Federal Assistance (SF 424) (OMB Approval Number 0348–0043), including the Part II Budget. This is a standard form used by applicants as a required face sheet for applications requesting federal assistance. It includes attachments requiring signatures to ensure that applicants comply with all other relevant federal laws, rules and regulations, and certifications that: (a) The applicant has not been debarred from receiving federal assistance, (b) that it has a drug-free work plan, and (c) that it will comply with federal requirements governing lobbying activities.

3. Part A (CNS Form 1421A) (OMB Control Number 3045–0039) containing a description of the organization's mission, population to be served, experience in the areas of service, and specific problems of poverty to be addressed. In addition, the applicant must state:

- The specific needs of the low-income community or communities that will be served by the project, particular challenges facing that community, the scarcity of similar programs providing financial asset development opportunities, and recent demographic or socioeconomic changes that have increased challenges to the low-income community or communities.
- The specific strategy that will be used to achieve the financial asset development goals and how the success of that strategy will be measured.
- The long-term impacts that the new strategy, once institutionalized, will have on helping people out of poverty.
- The elements necessary for that strategy to be sustainable after AmeriCorps*VISTA resources are withdrawn.
- The activities that members undertake in each of the three years to achieve institutionalization of the strategy.
- The applicant's experience in coordinating the efforts of community volunteers and/or service participants.
- The resources that exist to support the project, including the organizations that will serve as collaborators, the amount of cost-share investment the applicant can make, the additional resources dedicated to training members, and whether housing will be provided.

4. Part B (CNS Form 1421B) (OMB Control Number 3045–0038) which includes a measurable and quantifiable description of the specific problem(s) the AmeriCorps*VISTA project will address, current activities to address the problem, and how AmeriCorps*VISTA members will complement this effort. This section needs to address site specific information and include the following:

- A detailed work plan must be completed for the first year of the project; it should contain objectives that are measurable, quantifiable, and time-phased according to specific milestones established by the applicant. A more general work plan must be submitted for each of the subsequent years. While there is no standard project length, the AmeriCorps*VISTA resource is a time-limited form of assistance and the application should provide a timetable necessary to complete the project. An evolution of AmeriCorps*VISTA member work plans from the first year of the project to the last should clearly show how the project will reach maturity and then phase out in a way that leads to sustained support from the sponsor and its community partners.

- A list of the tasks and activities of the AmeriCorps*VISTA member assignments, required skills and qualifications of members, and factors to be considered in assigning members with disabilities.
- A description of the applicant's strategy for recruiting qualified AmeriCorps*VISTA members, including a sample position description for the online AmeriCorps recruitment system for each type of member desired.
- A description of how members will be supervised.
- A description of how project beneficiaries will be involved in the planning of the project (including its development and implementation), what resources will be provided by the community for a successful project, and how the community will be involved in assuring project sustainability.
- An overview of the content of an on-site orientation and training (typically one to three weeks) that the applicant will provide to enable members to quickly understand their assignment and the community in which they are serving.
- A description of on-going training and technical assistance the applicant will provide to their AmeriCorps*VISTA members.
- Plans for publicizing the project, recognizing member accomplishments, and generating community support in sustaining the project.

5. Documentation in the form of letters of support from collaborating organizations and/or individuals stating what will be provided by them in the overall project effort.

6. Copy of Articles of Incorporation (not applicable to public governmental entities).

7. List of Board of Directors or governing body (not applicable to public governmental entities).

8. Organizational chart illustrating the location of the AmeriCorps*VISTA project within the overall applicant organization.

9. List of Advisory Council Members if already selected.

10. Tax exempt status: either IRS determination or copy of application to IRS for exemption (not applicable to public governmental entities).

11. Copy of supervisor's resume and job description.

12. Copy of most recent financial audit if available.

13. A list of potential local project sponsors including all necessary contact information.

G. Criteria for Project Selection

All of the following elements will be used in judging the applications:

I. Program Design

a. Getting Things Done

The proposed project must:

1. Describe the community or communities that will be served and explain why they are of particular need at this time. The explanation may include comparable poverty rates, recent demographic changes, or data indicating a concerning shift, lack of financial asset development programs (for individual asset development projects) or nonprofit management services available (for organizational projects), etc.

2. Address the needs of low-income communities and otherwise comply with the provisions of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951 *et seq.*) applicable to AmeriCorps*VISTA and all applicable published regulations, guidelines, and Corporation policies.

3. Contain clear and measurable objectives/outcomes in the project application during the proposed timeline for the project (with quarterly benchmarks) that address the overall objectives of the initiative. Applicants must show how the new capacity the AmeriCorps*VISTA members will build will contribute to specific outcomes related to increased opportunity for low-income people. It is expected that outcome objectives will reflect the evolution of the project.

4. Indicate how the proposed project complements and/or enhances activities already underway in the communities that will be served by the project. To the extent possible, applicant organizations should seek out opportunities to collaborate with other Corporation programs, as well as with other community partners, including universities and colleges, the business sector, and foundations.

5. Describe how the number of AmeriCorps*VISTA members requested is appropriate for the project goals/objectives, and how the skills requested are appropriate for the assignment(s).

b. Strengthening Communities

The applicant organization must:

1. Describe how the financial asset development strategy described will help provide a clear step on the road to allowing people to leave poverty for the long-term.

2. Describe how the project will develop a new and sustainable capacity in the local community to effectively support the long-term financial asset strategies.

3. Demonstrate collaboration with organizations that provide supportive services to enhance project outcomes.

4. Explain how the project will be designed to generate public and/or private sector resources, and to promote local, part-time volunteer service at the community level.

5. Describe in measurable terms the anticipated outcomes at the conclusion of the project, including outcomes related to the sustainability of the project activities and the project's impact on poverty.

c. Member Development

The applicant organization must:

1. Clearly state how AmeriCorps*VISTA members will be trained, supervised, and supported to ensure the achievement of project goals and objectives as stated in the project work plan.

2. Describe any additional benefits that will be provided members in order to make the assignment more attractive or offer value to the member when he or she has completed service. Additional consideration will be given to proposals that include partnering with universities and colleges for academic credit, collaboration with financial institutions and other businesses, and for housing the members. An AmeriCorps*VISTA member may take, at any given time, no more than one educational course that must be directly related to the member's project assignment and/or be part of a member's career plan. Advance permission of the project supervisor and the Corporation State Program Director is required to take these courses.

3. Describe how AmeriCorps*VISTA assignments are designed to use the full-time AmeriCorps*VISTA members' time to the maximum extent.

II. Organizational Capacity

The applicant organization must:

1. Ensure that resources needed to achieve project goals and objectives are available.

2. Have the management and technical capability to implement the project successfully.

3. Have demonstrated experience in addressing the issues proposed by the project application.

4. Have systems for evaluating and monitoring project activities. Applicants must describe the methods that will be

used to track progress toward the stated objectives, and the procedures that will provide the feedback needed to make adjustments that improve project quality.

5. Invest its own resources in the administration, management, and supervision of members.

6. Consider cost-sharing AmeriCorps*VISTA members and if they are unable to do so, including future plans for possibly supporting cost-shared slots.

7. Explore partnering with higher education institutions and the business community in order to support this antipoverty initiative.

III. Budget/Cost-Effectiveness

The applicant organization must:

1. Include a budget that adequately supports the project design.

2. Include a budget that adheres to budget guidance provided with the application.

3. Describe how the applicant organization is committing resources necessary for project implementation.

H. Application Review

Proposal Evaluation

To ensure fairness to all applicants, the Corporation reserves the right to take action, up to and including disqualification, in the event that an application fails to comply with any requirements specified in this Notice.

The following weights will be used in judging the elements described above.

1. Program Design (60%) in the following order of importance:

a. Responsiveness to Strengthening Communities Criteria (25%)

b. Responsiveness to Getting Things Done Criteria (15%)

c. Responsiveness to Member Development Criteria (10%)

2. Organizational Capacity including demonstrated capacity in addressing proposed issues (25%).

3. Budget/Cost-Effectiveness (15%).

I. Geographic Diversity

After evaluating the overall quality of the proposal and its responsiveness to the criteria noted above, the Corporation will take into consideration whether funded projects are in areas of high concentration of low-income residents, including for example those in empowerment zones and enterprise communities, and rural champion communities.

J. Program Authority

Corporation authority to make these grants and approve projects is authorized under Title I, Part A of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113).

Dated: December 10, 2001.

Robert L. Bush,

*Acting Director, AmeriCorps*VISTA, Corporation for National and Community Service.*

[FR Doc. 01–30843 Filed 12–13–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Meetings

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Defense Against Terrorists' Use of Biological Weapons will meet in closed session on February 18–19, 2002; March 11–12, 2002; April 1–2, 2002; April 29–30, 2002; June 3–4, 2002; June 24–25, 2002; and July 22–23, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will assess the scope of activities conducted by the DoD to ensure its future preparedness to deter, defend against, respond to, and attribute attack of the U.S. homeland by terrorists using biological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will conduct an assessment of the most probable biological threats and the implications of new technologies on the threat spectrum, deterrence and consequence management; identify new technologies to provide satisfactory surveillance and verification of known and emerging diseases to ensure implementation of proactive defense measures and event mitigation; identify reliable and effective vaccines, anti-viral drugs and antibiotics, including the availability of sufficient vaccine and drug manufacturing capacity; determine logistical adequacy of the current supply chain for drug and vaccine production; identify capabilities to achieve reliable attribution of attackers once a BW attack has occurred; and identify defense capabilities and postures that have the largest potential for comprehensive protection of military and civilian targets.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: December 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30844 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Precision Compellence will meet in closed session on February 25–26, 2002, and March 26–27, 2002, at SAIC, 4001 N. Fairfax Drive, Arlington, VA. The Task Force will conduct a comprehensive study of the ends and means of precision compellence, of the nuanced use of force, in concert with coalition partners, to achieve political, economic and moral change in countries affecting US interests.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force on Precision Compellence will survey the focused use of force so as to alter regimes' behavior, and in ways that are most promising to isolate regimes of concern from their populations and supporting organs and bureaucracies. This will include the means to acquire a well-founded conceptual delineation of targets critically important to the diplomatic, economic and military dominance of the regime. A regime's values and vulnerabilities being highly idiosyncratic, the Task Force shall select some concrete case studies for exploration in depth. These might include current rogue states, terrorist organizations, and future potential adversaries. Of particular relevance are the cleavage planes, where the discriminating use of force might divide the interests of different strata, political, ethnic or religious groups, or even personal rivalries.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: December 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30845 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Meeting

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Defense Against Terrorists' Use of Biological Weapons will meet in closed session on February 18–19, 2002; March 11–12, 2002; April 1–2, 2002; April 29–30, 2002; June 3–4, 2002; June 24–25, 2002; and July 23–23, 2002, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA. This Task Force will assess the scope of activities conducted by the DoD to ensure its future preparedness to deter, defend against, respond to, and attribute attack of the US homeland by terrorists using biological weapons.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will conduct an assessment of the most probable biological threats and the implications of new technologies on the threat spectrum, deterrence and consequence management; identify new technologies to provide satisfactory surveillance and verification of known and emerging diseases to ensure implementation of proactive defense measures and event mitigation; identify reliable and effective vaccines, anti-viral drugs and antibiotics, including the availability of sufficient vaccine and drug manufacturing capacity; determine logistical adequacy of the current supply chain for drug and vaccine production; identify capabilities to achieve reliable attribution to attackers once a BW attack has occurred; and identify defense capabilities and postures that have the largest potential for comprehensive protection of military and civilian targets.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these matters will be closed to the public.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30847 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The alteration adds a routine use and expands the purposes for collecting the information.

DATES: This proposed action will be effective without further notice on January 14, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on November 29, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0381–20b DAMI

SYSTEM NAME:

Counterintelligence/Security Files (October 4, 1995, 60 FR 51990).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Counterintelligence/Information Operations/Security Files'.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add to the entry 'individuals identified in foreign intelligence or counterintelligence reports and supportive material, including individuals involved in matters of foreign intelligence interest'', 'terrorism, narcotics trafficking, or activities that are a direct threat to national security, conduct of military operations''; and 'or those individuals suspected or involved in criminal and intelligence activities directed against or involving DoD Information Systems.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'intelligence requirements, analysis, and reporting; operational records; articles, open source data, and other published information on individuals and events of interest to INSCOM; actual or purported correspondence;'.

Delete 'requests for and National Agency checks' and (Defense Clearance and Investigations Index) (System Notice V5–02)'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry '10 U.S.C. 3013, Secretary of the Army; 18 U.S.C. 2511, Interception and Disclosure of Electronic Communications Prohibited; DoD Directive 5240.1, DoD Intelligence Activities; Army Regulation 381–10, U.S. Army Intelligence Activities'.

PURPOSE(S):

Add a new paragraph 'To maintain records on information operations, foreign intelligence, counterintelligence, counter-terrorism, counter-narcotics,

VOL 66 ISS 241 DE 14 2001 UMI

and matters relating to the protection of the national security, DoD personnel, facilities and equipment, including but not limited to, information systems. This information is shared with other DoD components for the purpose of collaborating on production of intelligence product and countering terrorist acts."

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add to entry 'To the Department of State, Department of Treasury, Department of Justice, Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Central Intelligence Agency for the purpose of collaborating on production of intelligence product and countering terrorist acts."

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Records are retrieved by name, aliases, or title in combination with Social Security Number or regular dossier number; date and/or place of birth. For those subjects who have no identifying data other than the name, the name only index is searched'.

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'From individuals; DoD records; U.S. agencies and organizations; media, including periodicals, newspapers, broadcast transcripts; intelligence source documents/reports; other relevant Army documents and reports; informants; various Federal, state and local investigative and law enforcement agencies; foreign governments; and other individuals or agencies/organizations that may supply pertinent information."

* * * * *

A0381–20b DAMI

SYSTEM NAME:

Counterintelligence/Information Operations/Security Files.

SYSTEM LOCATION:

U.S. Army Intelligence and Security Command, 8825 Beulah Street, Fort Belvoir, VA 22060–5246.

Decentralized segments are located at U.S. Army Intelligence brigades, groups, battalions, companies, detachments, field offices and resident offices worldwide. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel of the U.S. Army, including active duty, National Guard, reservists and retirees; civilian employees of the Department of the Army (DA), including contract, temporary, part-time, and advisory, citizen and alien employees located both in the U.S. and in overseas areas; individuals identified in foreign intelligence or counterintelligence reports and supportive material, including individuals involved in matters of foreign intelligence interest; industrial or contractor personnel working in private industry which have contracts involving classified Department of Defense (DoD) information; aliens granted limited access authorization to U.S. Defense information; alien personnel investigated for visa purposes; certain non-DoD affiliated persons whose activities involve them with the DoD, namely, activities involving requests for admission to DoD facilities or requests for certain information regarding DoD personnel, activities, or facilities; persons formerly affiliated with the DoD; persons who applied for or are/were being considered for employment with or access to DoD such as applicants for military service, pre inductees and prospective contractors; individuals residing on, having authorized official access to, or conducting or operating any business or other function at any DoD installation and facility; and U.S. Army Intelligence sources; and U.S. persons who have been declared missing, prisoners of war (POW), civilian persons who are being detained or held hostage or personnel recovered from hostile control; individuals about whom there is a reasonable basis to believe that they are engaged in, or plan to engage in, activities such as (1) sabotage, (2) possible compromise of classified defense information by unauthorized disclosure or by espionage, treason or spying, terrorism, narcotics trafficking, or activities that are a direct threat to national security, conduct of military operations, (3) subversion of loyalty, discipline or morale of DA military or civilian personnel by actively encouraging violation of lawful orders and regulations or disruption of military activities, and (4) activities that are a direct threat to the conduct of military operations or DoD personnel, facilities and material or classified Defense contractor facilities or those individuals suspected or involved in criminal and intelligence activities directed against or involving DOD Information Systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for and results of investigations or inquiries conducted by U.S. Army Intelligence or other DoD, Federal, State or local investigative agency. Record includes: Personal history statements; fingerprint cards; personnel security questionnaire; medical and/or educational records and waivers for release; local agency checks; military records; birth records; employment records; education records; credit records and waivers for release; interviews of education, employment, and credit references; interviews of listed and developed character references; interviews of neighbors; requests for, documentation pertaining to, results of electronic surveillance, intelligence polygraph examinations and technical documents, physical surveillance, and mail cover and or search; polygraph examination summaries; documents which succinctly summarize information in subject's investigative file; case summaries prepared by both investigative control offices and requesters of investigative interrogation reports; temporary documents concerning security, suitability, and criminal incidents lawfully collected by U.S. Army counterintelligence units in the performance of the counterintelligence mission; intelligence requirements, analysis, and reporting; operational records; articles, open source data, and other published information on individuals and events of interest to INSCOM; actual or purported correspondence; correspondence pertaining to the investigation, inquiry, or its adjudication by clearance or investigative authority to include; (1) the chronology of the investigation, inquiry, and adjudication; (2) all recommendations regarding the future status of the subject; (3) actions of security/loyalty review boards (4) final actions/determinations made regarding the subject; and (5) security clearance, limited access authorization, or security determination; index tracing reference which contains aliases and the names of the subject and names of co-subjects; security termination and inadvertent disclosure statements; notification of denial, suspension, or revocation of clearance; and reports of casualty, biographic data and intelligence/counterintelligence debriefing reports concerning U.S. personnel who are missing, captured, or detained by a hostile entity. Case control and management documents that serve as the basis for conducting the investigation such as documents requesting the investigation and documents used in case management and control such as lead sheets, other field tasking documents, and transfer forms. Administrative records required by the U.S. Army Investigative Records Repository for records management purposes such as form transmitting investigative or operational material to the U.S. Army Investigative Records Repository and providing instructions for indexing the record in the Defense Central Index of Investigations and release of material contained therein, form indicating dossier has been reviewed and all material therein conforms to DoD policy regarding retention criteria, form pertaining to the release of information pertaining to controlled records, form to indicate material has been removed and forwarded to other authorized Federal agencies such as the Defense Investigative Service, cross reference sheet to indicate the removal of investigative documents requiring limited access, form identifying material that has been segregated and or is exempt from release, and records accounting for the disclosure of intelligence, counterintelligence and security information made outside of the DoD.

Paper and automated indices of personnel investigations/operations which are under controlled access within the U.S. Army Investigative Records Repository, such as key USAINSCOM personnel, general officers, file procurement officers and their agencies, and sensitive spying, treason, espionage, sabotage, sedition, and subversion investigations and/or counterintelligence operations. Microform and automated indices and catalogue files, which constitute an index to all U.S. Army Investigative Records Repository holdings contained in microfilmed investigative and operational records.

Automated record indices maintained by the U.S. Army Investigative Records Repository to keep a record of all original dossiers charged out of the U.S. Army Investigative Records Repository on loan to user agencies or permanently transferred to National Archives and Records Administration.

Paper, card file, microform and computerized case and incident indices containing name, date/place of birth, address, case or incident title and number, and brief summary of case or incident of current interest to investigative activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; E.O. 10450, Security Requirements for Government Employees; E.O. 12333, United States Intelligence Activities; the National Security Act of 1947, as amended; the Defense Authorization Act for FY 1988 and 1989; the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 401); 18 U.S.C. 2511, Interception and Disclosure of Electronic Communications Prohibited; DoD 5240–R, DoD Intelligence Activities; Army Regulation 381–10, U.S. Army Intelligence Activities; and E.O. 9397 (SSN).

PURPOSE(S):

To provide information to assess an individual's acceptability for assignment to or retention in sensitive positions consistent with the interest of national security; to document U.S. intelligence, counterintelligence and security investigations and operations pertaining to the U.S. Army's responsibilities for counterintelligence, and to detect, identify, and neutralize foreign intelligence and international terrorist threats to the DoD; and to temporarily document security, suitability, and criminal incident information not within U.S. Army counterintelligence jurisdiction to investigate, which is lawfully provided to U.S. Army counterintelligence units by cooperating sources of information collected incidental to the counterintelligence mission.

To maintain records on information operations, foreign intelligence, counterintelligence, counter-terrorism, counter-narcotics, and matters relating to the protection of the national security, DoD personnel, facilities and equipment, including but not limited to, information systems. This information is shared with other DoD components for the purpose of collaborating on production of intelligence product and countering terrorist acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as routine uses pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Immigration and Naturalization Service, Department of Justice for use in alien admission and naturalization inquiries conducted under section 105 of the Immigration and Naturalization Act of 1952, as amended.

To the Department of Veterans Affairs for the purpose of using the information in benefit determinations.

To the Department of State, the Department of Treasury, the Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Administration, U.S. Customs Service, the Bureau of Alcohol, Tobacco and Firearms, and the Central Intelligence Agency for the purpose of collaborating on production of intelligence product and countering terrorist acts. The distribution of investigative information is based on the Army's evaluation of the requesting agency's needs and the relevance of the information to the use for which it is provided. Information collected for one purpose is not automatically used for other purposes or by the other users indicated in this description.

The DoD 'Blanket Routine Uses' published at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

Records are retrieved by name, aliases, or title in combination with Social Security Number or regular dossier number; date and/or place of birth. For those subjects who have no identifying data other than the name, the name only index is searched.

SAFEGUARDS:

Buildings employ alarms, security guards, and or rooms are security-controlled areas accessible only to authorized persons. Paper and microform records are maintained in General Service Administration approved security containers. Paper and microform records in the U.S. Army Investigative Records Repository are stored in security-controlled areas accessible only to authorized persons. Electronically and optically stored records are maintained in 'fail-safe' system software with password-protected access. Records are accessible only to authorized persons with a need-to-know who are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Personnel security/adjudicative records on non-DoD persons who are considered for affiliation with DoD are destroyed after 1 year if affiliation is not completed.

Personnel security investigations and adjudicative records of a routine nature

VOL 66 ISS 241 DE 14 2001 UMI

are retained in the active file until no longer needed; retired to the U.S. Army Investigative Records Repository and retained for 15 years after last action reflected in the file, except that files which contain significant derogatory information and or resulted in adverse action(s) against the individual are destroyed after 25 years. However, once affiliation is terminated, acquiring and adding material to the file is prohibited unless affiliation is renewed. Records determined to be of historical value, of wide spread value, or Congressional interest and investigations of treason, spying, espionage, sabotage, sedition, and subversion or other major investigations or operations of a counterintelligence or security nature are permanent. They will be retained in the U.S. Army Investigative Records Repository for 25 years after the date of the last action reflected in the file and then permanently transferred to the National Archives.

Records pertaining to U.S. persons declared POW, missing, or detainees will be maintained in the active file until no longer needed, retired to the U.S. Army Investigative Records Repository and retained for 50 years after the date of the last action reflected in the file or the subject is declared Killed in Action or dead and then permanently transferred to the National Archives.

Records pertaining to counterintelligence polygraph technical files will be maintained in the active file until no longer needed and then disposed of after the final quality control review as follows: (1) For counterintelligence scope cases, 90 days for favorably resolved cases or 15 years for other than favorably resolved cases, (2) for counterintelligence investigative cases, 15 years, and (3) for offensive counterintelligence operations and Human Intelligence cases, material is transferred to the U.S. Army Investigative Records Repository, incorporated into an operational dossier, and disposed of 25 years from the date of last action.

Security, suitability, and criminal incident information that is collected in the performance of the counterintelligence mission and which is not within the U.S. Army counterintelligence jurisdiction to investigate is retained at the location only so long as necessary to transmit it to the appropriate law enforcement or investigative agency having jurisdiction for this incident.

Summarized records pertaining to local intelligence, counterintelligence or incidents of interest to the local military intelligence activity are reviewed annually and destroyed when determined to be of no further operational value. Destruction of records will be by shredding, burning, or pulping for paper records; magnetic erasing for computerized records. Optical digital data records should not be destroyed pending the development of a satisfactory destruction method.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Intelligence, Headquarters, Department of the Army, 1001 Army Pentagon, Washington, DC 20310–1001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Intelligence and Security Command, Freedom of Information/Privacy Office, 8825 Beulah Street, Fort Belvoir, VA 22060–5246.

Individual should provide their full name, aliases, date and place of birth, Social Security Number, service number(s), or other information verifiable from the records in written request.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the U.S. Army Intelligence and Security Command, Freedom of Information/Privacy Office, 8825 Beulah Street, Fort Belvoir, VA 22060–5246

Individual should provide their full name, aliases, date and place of birth, Social Security Number, service number(s), current address, and telephone number in written request.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From individuals; DoD records; U.S. agencies and organizations; media, including periodicals, newspapers, broadcast transcripts; intelligence source documents/reports; other relevant Army documents and reports; informants; various Federal, state and local investigative and law enforcement agencies; foreign governments; and other individuals or agencies/organizations that may supply pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection 5 U.S.C. 552a(j)(2), may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of the information, the individual will be provided access to the information exempt to the extent that disclosure would reveal the identify of a confidential source. NOTE: When claimed, this exemption allows limited protection of investigative reports maintained in a system of records used in personnel or administrative actions.

Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c), and (e) and published in 32 CFR part 505. For additional information contact the system manager.

[FR Doc. 01–30849 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on January 14, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS–

C, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 5, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 7, 2001

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records (June 1, 2001, 66 FR 29780).

CHANGES:

* * * * *

SYSTEM LOCATION:

For the primary location, delete "AHIPC, 985 West Entrance Drive" and replace with "EDS–SMC1, 1035 West Entrance Drive."

Add a new paragraph 'Biometrics data is maintained at the Department of Defense Biometrics Fusion Center, 1600 Aviation Way, Bridgeport, WV 26330–9476.'

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

After 'disability documentation,' add 'Medicare eligibility and enrollment data,'.

* * * * *

PURPOSE:

Add to entry 'to include appropriate collection actions arising out of any debts incurred as a consequence of such programs.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later.'

S322.50 DMDC

SYSTEM NAME:

Defense Eligibility Records.

SYSTEM LOCATION:

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943–5000.

BACK-UP LOCATION:

Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Biometrics data is maintained at the Department of Defense Biometrics Fusion Center, 1600 Aviation Way, Bridgeport, WV 26330–9476.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty Armed Forces and reserve personnel and their family members; retired Armed Forces personnel and their family members; 100 percent disabled veterans and their dependents or survivors; surviving family members of deceased active duty or retired personnel; active duty and retired Coast Guard personnel and their family members; active duty and retired Public Health Service personnel (Commissioned Corps) and their family members; active duty and retired National Oceanic and Atmospheric Administration employees (Commissioned Corps) and their family members; and State Department employees employed in a foreign country and their family members; civilian employees of the Department of Defense; contractors; and any other individuals entitled to care under the health care program or to other DoD benefits and privileges; providers and potential providers of health care; and any individual who submits a health care claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computer files containing beneficiary's name, Service or Social Security Number, enrollment number, relationship of beneficiary to sponsor, residence address of beneficiary or sponsor, date of birth of beneficiary, sex of beneficiary, branch of Service of sponsor, dates of beginning and ending eligibility, number of family members of sponsor, primary unit duty location of sponsor, race and ethnic origin of beneficiary, occupation of sponsor, rank/pay grade of sponsor, disability documentation, Medicare eligibility and enrollment data, index fingerprints and photographs of beneficiaries, blood test results, dental care eligibility codes and dental x-rays.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. Chapters 53, 54, 55, 58, and 75; 10 U.S.C. 136; 31 U.S.C. 3512(c); 50 U.S.C. Chapter 23 (Internal Security); DoD Directive 1341.1, Defense Enrollment/Eligibility Reporting System; DoD Instruction 1341.2, DEERS Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system is to provide a database for determining eligibility to DoD entitlements and privileges; to support DoD health care management programs; to provide identification of deceased members; to record the issuance of DoD badges and identification cards; and to detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Health and Human Services; Department of Veterans Affairs; Department of Commerce; Department of Transportation for the conduct of health care studies, for the planning and allocation of medical facilities and providers, for support of the DEERS enrollment process, and to identify individuals not entitled to health care. The data provided includes Social Security Number, name, age, sex, residence and demographic parameters of each Department's enrollees and family members.

To the Social Security Administration (SSA) to perform computer data matching against the SSA Wage and Earnings Record file for the purpose of identifying employers of Department of Defense (DoD) beneficiaries eligible for health care. This employer data will in turn be used to identify those employed beneficiaries who have employment-related group health insurance, to coordinate insurance benefits provided by DoD with those provided by the other insurance. This information will also be used to perform computer data matching against the SSA Master Beneficiary Record file for the purpose of identifying DoD beneficiaries eligible for health care who are enrolled in the Medicare Program, to coordinate insurance benefits provided by DoD with those provided by Medicare.

To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

To each of the fifty states and the District of Columbia for the purpose of conducting an ongoing computer matching program with state Medicaid agencies to determine the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

To provide dental care providers assurance of treatment eligibility.

The DoD "Blanket Routine Uses" published at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes and disks, and are housed in a controlled computer media library.

RETRIEVABILITY:

Records about individuals are retrieved by an algorithm which uses name, Social Security Number, date of birth, rank, and duty location as possible inputs. Retrievals are made on summary basis by geographic characteristics and location and demographic characteristics. Information about individuals will not be distinguishable in summary retrievals. Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.

SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures (e.g., fire protection regulations).

Access to personal information is restricted to those who require the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of passwords which are changed periodically.

RETENTION AND DISPOSAL:

Data is destroyed when superseded or when no longer needed for operational purposes, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, DSS–C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests for the information should contain full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location.

For personal visits the individual should be able to provide full name and Social Security Number of individual and sponsor, date of birth, rank, and duty location. Identification should be corroborated with a driver's license or other positive identification.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: DSS-C, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

Individuals, personnel pay, and benefit systems of the military and civilian departments and agencies of the Defense Department, the Coast Guard, the Public Health Service, Department of Commerce, the National Oceanic and Atmospheric Administration, Department of Commerce, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–30848 Filed 12–13–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On December 7, 2001, a notice was published for the Discretionary Grant collection, "Generic Application Package for Discretionary Grant Programs" in the **Federal Register** (Volume 66, Number 236) dated December 7, 2001. This collection needed to be processed through the emergency clearance process. Refer to last week's publication for the specific details of the collection. Since this information collection is now an emergency, ED is requesting OMB approval by December 17, 2001. ED is requesting emergency processing and a December 17 approval for this information collection since it could potentially result in public harm if this collection went through the normal clearance process. Approval by this date is urgent and directly relates to the nature of the work that will be funded under the grants to be awarded using this information collection. Applications for research grants must be available in early January in order to provide applicants with sufficient time to develop and submit strong research applications by March 1, 2002. The Department of Education must award these grants by the end of April or sooner to allow the involved local education agencies—essential participants in the research applications—sufficient time for planning during the summer so that implementation occurs in September, 2002. Any delay would jeopardize the timing of the conduct of important research on early childhood curricula. ED will consider any public comment received in order to improve this information collection. The Leader, Regulatory Information Management,

Office of the Chief Information Officer, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: December 10, 2001.

John Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

[FR Doc. 01–30872 Filed 12–13–01; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7118–4]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices.

SUMMARY: This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. Seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at 260–2740, or E-mail at *Farmer.sandy@epa.gov,* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1885.01; IAQ Practices in Schools Survey; in 40 CFR part 68 was approved 07/27/01; OMB No. 2060–0463; expires 07/31/2004.

EPA ICR No. 2004.01; 2001 Emergency Planning and Community Right-to-know Act (EPCRA) and Risk Management Program (RMP) Implementation Status Questionnaire for Tribal Emergency Response Commission in 40 CFR part 68; was approved 08/13/2001; OMB No. 2009–0001; expires 08/31/2004.

EPA ICR No. 1755.05; Regulatory Reinvention Pilot Projects Under Projects XL: Pretreatment Program; was approved 08/01/2001; OMB No. 2010–0026; expires 02/28/2002.

EPA ICR No. 1425.05; Application for Reimbursement to Local Governments for Emergency Response to Hazardous Substance Releases Under CERCLA section 123 in 40 CFR part 310; was approved 08/21/2001; OMB No. 2050–0077; expires 08/31/2004.

EPA ICR No. 0155.07; Certification of Pesticide Applicators in 40 CFR part 171 was approved 08/24/2001; OMB No. 2070–0029; expires 08/31/2004.

EPA ICR No. 1715.03; TSCA Section 402 and Section 404 Training and Certification, Accreditation and Standards for Lead-Based Paint Activities in 40 CFR part 745 was approved 08/24/2001; OMB No. 2070–0155; expires 08/31/2004.

EPA ICR No. 1928.02; Information Collection Request for Filter Backwash Recycling Rule (Final Rule) in 40 CFR 141.76 and 142.16; OMB No. 2040–0224; was approved 08/14/2001; expires 08/31/2004.

EPA ICR No. 1988.01; 2001 Aquatic Animal Production Industry Surveys; was approved 08/01/2001; OMB No. 2040–0237; expires 08/31/2004.

EPA ICR No. 0866.06; Quality Assurance Specification and Requirements; was approved 08/29/2001; OMB No. 2080–0033; expires 08/31/2004.

EPA ICR No. 1446.07; PCB's Consolidated Reporting and Recordkeeping Requirements; in 40 CFR part 61; was approved on 08/29/2001; OMB No. 2070–0112; expires 08/31/2004.

EPA ICR No. 0922.06; Data Call-Ins for the Special Review and Registration Review Programs; was approved 08/29/2001; OMB No. 2070–0057; expires 08/31/2004.

EPA ICR No. 1695.07; Certification and the Averaging, Banking, and Trading Program for Non-road Spark-Ignition Engines at or Below 19 Kilowatts, in 40 CFR part 90, subpart C; was approved 09/21/2001; OMB No. 2060–0338; expires 09/30/2004.

EPA ICR No. 1862.02; Transition Program for Equipment Manufacturers, in 40 CFR part 89.101; was approved 09/21/2001; OMB No. 2060–0369; expires 09/30/2004.

EPA ICR No. 1718.03; Tax-exempt (Dyed) Highway Diesel Fuel; Requirements for Transferors and Transferees; in 40 CFR part 80.29(c), was approved 09/21/2001; OMB No. 2060–0308; expires 09/30/2004.

EPA ICR No. 0193.07; NESHAP for Beryllium in 40 CFR part 61, subpart C; was approved 09/21/2001; OMB No. 2060–0092; expires 09/30/2004.

EPA ICR No. 1722.03; Spark-ignition Marine Engine Application for Emission Certification and Participation in the Averaging, Banking and Trading Program in 40 CFR part 91, subpart B and C; was approved 09/21/2001; OMB No. 2060–0321; expires 09/30/2004.

EPA ICR No. 1681.04; NESHAP: Epoxy Resin and Non-Nylon Polyamide Production in 40 CFR part 63, subpart W; was approved 09/21/2001; OMB No. 2060–0290; expires 09/30/2004.

EPA ICR No. 1725.03; Marine Engine Manufacturer Production Line Testing Reporting and Recordkeeping Requirements, in 40 CFR part 91; was approved 09/21/2001; OMB No. 2060–0323; expires 09/30/2004.

EPA ICR No. 1761.03; Regulations for a Voluntary Emissions Standards Program Applicable to Manufacturers of Light-Duty Vehicles and Trucks Beginning in Model Year 1997 in part 40 CFR 86.1700; was approved 09/21/2001; OMB No. 2060–0345; expires 09/30/2004.

EPA ICR No. 1684.05; Non-Road Compression-Ignition Engine and On-Highway Heavy Duty Engine Application for Emissions Certification, and Participation in the Averaging, Banking, and Trading Program in 40 CFR 86.094, was approved 09/25/2001; OMB No. 2060–0287; expires 09/30/2004.

EPA ICR No. 1767.03; MACT for Primary Aluminum Reduction Plants in 40 CFR part 63, subpart LL; was approved 09/25/2001; OMB No. 2060–0360; expires 09/30/2004.

EPA ICR No. 1504.04; Data Generation for Pesticide Reregistration; in 40 CFR part 158 was approved 09/07/2001; OMB No. 2070–0107; expires 09/30/2004.

EPA ICR No. 1922.02; Storage, Treatment, Transportation, and Disposal of Mixed Waste (Final Rule); in 40 CFR part 266 was approved 08/02/2001; OMB No. 2050–0181; expires 08/31/2004.

Comments Filed

EPA ICR No. 1976.01; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reinforced Plastic Composites Production; in 40 CFR part 63, subpart WWWW on 09/21/2001 OMB filed a comment under comment No. 2060–0466. Note, this is not an OMB approval number.

Short Term Extensions

EPA ICR No. 1637.04; General Conformity of Federal Actions to State Implementation Plans, 40 CFR part 51, subpart W and 40 CFR part 93, subpart B; OMB No. 2060–0279; on 9/28/2001 OMB extended the expiration date through 12/30/2001.

Comments Filed

EPA ICR No. 1976.01; National Emission Standards for Hazardous Air

VOL 66 ISS 241 DE 14 2001 UMI

Pollutants (NESHAP) for Reinforced Plastic Composites Production; in 40 CFR part 63, subpart WWWW on 09/21/2001 OMB filed a comment under comment No. 2060–0466. Note, this is not an OMB approval number.

EPA ICR No. 1954.01; National Emission Standards for Hazardous Air Pollutant: Surface Coating of Large Appliances; in 40 CFR part 63, subpart NNNN on 09/21/2001 OMB filed a comment under comment No. 2060–0457. Note, this is not an OMB approval number.

Dated: November 28, 2001.

Oscar Morales, Director,

Collection Strategies Division.

[FR Doc. 01–30911 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed December 03, 2001 Through December 07, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010506, DRAFT EIS, AFS, UT, Quitchupah Creek Road Project, Construct a Public Road, To Provide Public Access from SR–10 to the Acord Lakes Road, Application for Right-of-Way, Fishlake National, Forest, Sevier County Special Services District (SSD), Sevier and Emery Counties, UT, Comment Period Ends: February 15, 2002, *Contact:* Linda Jackson (435) 896–9233.

EIS No. 010507, FINAL EIS, COE, ND, Maple River Dam and Reservoir, Construction and Operation, Flood Control, Cass County Joint Water Resource District, Cass County, ND, Wait Period Ends: January 14, 2002, *Contact:* Robert Nebel (402) 221–4621.

EIS No. 010508, DRAFT EIS, FHW, WV, US–340 Transportation Corridor Improvement Study, Implementation, Proposal to Improve US 340 from the four-lane Section of the Charles-Town Bypass, Jefferson County, WV, Comment Period Ends: February 08, 2002, *Contact:* Thomas Smith (304) 347–5928.

EIS No. 010509, DRAFT EIS, COE, AR, Greers Ferry Lake Shoreline Management Plan (SMP), Implementing Revision to Replace the 1994 Shore Management Plan, Revision include Zoning of Limited Development Areas, Vegetation Modification Provisions for Grandfathered Docks and Restrictions on Boats, Van Buren, Cleburne, Searcy, Stone, White, Independence and Pope Counties, AR, Comment Period Ends: January 28, 2002, *Contact:* Patricia Anslow (501) 324–5028.

EIS No. 010510, FINAL EIS, AFS, MT, Tobacco Root Vegetation Management Plan, Restore and Maintain a Mix of Vegetation, Beaverhead-Deer Lodge National Forest, Madison Ranger District, Madison County, MT , Wait Period Ends: January 14, 2002, *Contact:* Jan M. Bowey (406) 842–5432.

EIS No. 010511, FINAL EIS, APH, Fruit Fly Cooperative Control Program, Eradication Program, Implementation, Wait Period Ends: January 14, 2002, *Contact:* Harold T. Smith (301) 734–6742. This document is available on the Internet at: *http:www.aphis.usda.gov/ppd/es/ppq/ffeis.pdf*

EIS No. 010512, FINAL SUPPLEMENT, COE, CA, Prado Dam Water Conversion Plan, Implementation, New Information Concerning New Modified Flood Protection Features, Remaining Features of the Santa Ana River Project (SARP) and Stabilization of the Bluff Toe at Norco Bluffs, Riverside, Orange and San Bernardino Counties, CA, Wait Period Ends: January 14, 2002, *Contact:* Ms. Hayle Lovan (213) 452–3863.

EIS No. 010513, DRAFT EIS, FHW, OR, Lincoln Bypass Construction, South of Industrial Boulevard to North of Riosa Road, Funding and U.S. Army COE Section 404 Permit Issuance, Placer County, CA, Comment Period Ends: January 28, 2002, *Contact:* Maiser Khaled (916) 498–5020.

EIS No. 010514, FINAL EIS, USN, ME, South Weymouth Naval Air Station, Disposal and Reuse, Norfolk and Plymouth Counties, MA, Wait Period Ends: February 11, 2002, *Contact:* Robert K. Ostermueller (610) 595–0759.

EIS No. 010515, FINAL EIS, HUD, CA, North Hollywood Arts and Entertainment District Project, Construction and Operation, North Hollywood Redevelopment Project, City of Los Angeles, and Los Angeles County, CA, Wait Period Ends: January 14, 2002, *Contact:* Mr. Tony Kochinas (213) 847–4307.

EIS No. 010516, DRAFT EIS, FHW, OR, South Medford Interchange Project, Interchange Project, Relocation on I–5 south of its current location at Barnett Road, Funding, Jackson County, OR, Comment Period Ends: January 14, 2002, *Contact:* John Gernhauser (503) 399–5749. Due to an Administrative Error by the FHWA the above DEIS was not properly filed with the USEPA. FHWA has confirmed that distribution of the DEIS was made available to federal agencies and interested parties for a 45-Day Comment Period Ending on 12/03/2001. FHWA has Extended the Comment Period for 30-Days Ending 01/14/2002. For further information contact Mr. Greg Holthoff at 503–986–3504.

EIS No. 010517, DRAFT EIS, FRC, WA, Georgia Strait Crossing Pipeline (LP) Project, Construction and Operation, To Transport Natural Gas from the Canadian Border near Sumas, WA to US/Canada Border at Boundary Pass in the Strait of Georgia, Docket Nos. CP01–176–000 and CP01–179–000, Whatcom and San Juan Counties, WA, Comment Period Ends: February 04, 2002, *Contact:* Linwood A. Watson (202) 208–0400.

EIS No. 010518, FINAL EIS, IBR, WA, Potholes Reservoir Resource Management Plan, Implementation, COE Section 404 and NPDES Permits, Moses Lake, Grant County, WA, Wait Period Ends: January 14, 2002, *Contact:* Jim Blanchard (509) 754–0226.

EIS No. 010519, DRAFT EIS, TVA, TN, KY, MS, AL, GA, NC, Browns Ferry Nuclear Plant, Operating License Renewal, To Extend Operation of Units 2 and 3, and Potentially Unit 1, Athens, Limestone County, AL, Comment Period Ends: January 30, 2002, *Contact:* Bruce L. Yeager (865) 632–8051.

EIS No. 010520, FINAL SUPPLEMENT, NPS, AZ, Organ Pipe Cactus National Monument General Management Plan and Development Concept Plan Implementation, Portion of the Sonoran Desert, Pima County, AZ , Wait Period Ends: January 14, 2002, *Contact:* William E. Wellman (520) 387–7661.

EIS No. 010521, FINAL EIS, AFS, MT, Gold/Boulder/Sullivan (GBS), Implementation of Timber Harvest and Associated Activities Prescribed Burning, Kootenai National Forest, Rexford Ranger District, Lincoln County, MT , Wait Period Ends: January 14, 2002, *Contact:* Ron Komac (406) 296–2536.

EIS No. 010522, FINAL EIS, COE, OH, Ashtabula River and Harbor Dredging and Disposal Project, Design, Construction, Operation and Maintenance, Ashtabula River Partnership (ARP), Ashtabula County, OH , Wait Period Ends: January 14, 2002, *Contact:* John Mahan (440) 964–0277.

Amended Notices

EIS No. 010305, DRAFT SUPPLEMENT, FAA, MN, Flying Cloud Airport, Substantive Changes to Alternatives and New Information, Extension of the Runways 9R/27L and 9L/27R, Long-Term Comprehensive Development, In the City of Eden Prairie, Hennepin County, MN, Comment Period Ends: December 07, 2001, *Contact:* Glen Orcutt (612) 713–4354. Revision of FR Notice Published on 08/24/2001: CEQ. Comment Period Ending on 12/07/2001 has been Extended to 01/31/2002.

EIS No. 010401, DRAFT SUPPLEMENT, FHW, MI, US–31 Petoskey Area Improvement Study, To Reduce Congestion on US–31 in the City of Petoskey and Resort and Bear Creek Townships, COE Section 404 Permit, Emmet County, MI, Comment Period Ends: December 17, 2001, *Contact:* James A. Kirschensteiner (517) 702–1835. Revision of FR Notice Published on 11/02/2001: CEQ. Comment Period Ending 12/17/2001 has been extended to 01/15/2002.

EIS No. 010500, DRAFT SUPPLEMENT, BIA, NV, Moapa Paiute Energy Center/Associated Facilities Construction, Operation and Maintenance of a 760 Megawatt (MW) Baseload Natural Gas-Fired Combined Cycle Power Plant, New Information concerning Structural, Route and Substation Location Changes, Moapa River Indian Reservation and Bureau of Land Management Lands, Clark County, NV, Comment Period Ends: January 14, 2002, *Contact:* Amy L. Heuslien (602) 379–6750. Revision of FR notice published on 11/30/2001: CEQ Comment Period Ending 01/04/2002 has been Corrected to 01/14/2002.

Dated: December 11, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–30932 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–AFS–L65388–WA Rating EC2, Crystal Mountain Master Development Plan, To Provide Winter and Summer Recreational Use, Special-Use-Permit, Mt. Baker-Snoqualmie National Forest, Silver Creek Watershed, Pierce County, WA.

Summary: EPA expressed environmental concerns related to the purpose and need statement, the No Action Alternative, impacts to water quality and quantity, improved inter-governmental coordination, and more fully disclosed indirect and cumulative effects.

ERP No. D–CGD–A59014–00 Rating EC2, Programmatic EIS—Integrated Deepwater System Project, Surface, Air, Logistics Communication and Sensor Systems, Aging Nation-Wide System Replacement

Summary: EPA expressed concerns regarding potential impacts to the marine environment and air quality, and requested clarification of the methodology used to analyze cumulative impacts and potential impacts from hazardous wastes.

ERP No. D–SFW–A65170–00 Rating LO, Light Goose Management Plan, Implementation, Reducing and Stabilizing Specific Populations "Light Geese" in North America.

Summary: EPA did not identify any environmental concerns with the Service's preferred alternative of modifying harvest regulations and refuge management in order to reduce high population levels of light geese. EPA recommended that following selection of a management approach, the Service should carefully monitor its implementation and remain open to exploring other options as necessary and appropriate.

Final EISs

ERP No. F–AFS–J65344–MT Burned Area Recovery, Proposal to Reduce Fuels, Improve Watershed Conditions and Reforest Burned Lands, Sula, Darby, West Fork and Stevensville Ranger Districts, Bitterroot National Forest, Ravalli County, MT.

Summary: While the development of a new preferred alternative, Alternative F, was responsive to EPA's environmental concerns about sediment production and increased water yield from fuels reduction treatments, EPA still has concerns about sediment production from ground based logging systems.

Dated: December 11, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–30933 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[PF–1061; FRL–6813–5]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1061, must be received on or before January 14, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1061 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: William G. Sproat, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8587; e-mail address: sproat.william@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

VOL 66 ISS 241 DE 14 2001 UMI

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF-1061. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1061 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1061. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the

FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Dow AgroSciences LLC

PP EUP-LN

EPA has received a pesticide petition (PP EUP-LN) from Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of spinosad in or on the raw agricultural commodity stored grain (wheat, barley, corn, oats, rice, and sorghum/milo) at 3 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of spinosad in plants (apples, cabbage, cotton, tomato, and turnip) and animals (goats and poultry), are adequately understood for the purposes of these tolerances. A rotational crop study showed no carryover of measurable spinosad-related residues in representative test crops.

2. *Analytical method*. There is a practical method (immunoassay) for detecting (0.005 ppm) and measuring (0.01 ppm) levels of spinosad in or on food with a limit of detection that allows monitoring of food with residues at or above the level set for these tolerances. The method has had a successful method tryout in EPA's laboratories.

3. *Magnitude of residues*. Tolerances as high as 10 ppm (Brassica) and 8 ppm (leafy vegetables) have been previously established for crop commodities treated with spinosad. Magnitude of residue studies were conducted at three sites for artichokes. Residues found in these studies ranged from 0.062 ppm to 0.156 ppm. Magnitude of residue studies were conducted at three sites for asparagus. Residues found in these studies were all less than 0.009 ppm. Magnitude of residues studies were conducted at five sites for garden beet tops (one of the representative crops for the leaves of root and tuber vegetable crop group). Residues found in these studies ranged from 0.03 ppm to 4.0 ppm. Previously submitted data used in support of the established residue tolerance on Brassica (cole) leafy vegetables are also to be used in support of the proposed residue tolerance for leaves of root and tuber vegetables. Magnitude of residue studies were conducted at six sites for pears (one of the representative crops for the pome fruit crop group). Residues found in these studies ranged from non-detectable to 0.08 ppm. Previously submitted data used in support of the established residue tolerance on apples are to be used in support of the proposed residue tolerance for pome fruit. Magnitude of residue studies were conducted at four sites on pecans (one of the representative crops for the tree nut crop group). Residues found in these studies ranged from less than 0.0010 ppm to 0.0076 ppm. Previously submitted data used in support of the established residue tolerance on almonds are also to be used in support of the proposed residue tolerance for tree nuts and pistachio. A magnitude of residue study was conducted at 20 sites on tomatoes and peppers (two of the representative crops for the fruiting vegetables crop group). Residues found in this study ranged from less than 0.01 ppm to 0.13 ppm in tomatoes, and 0.01 ppm to 0.18 ppm in peppers. Previously submitted data used in support of the established residue tolerance on fruiting vegetables (except cucurbits) are to be used in support of the proposed residue tolerance for okra. Magnitude of residue studies were conducted at six sites for cranberry. No quantifiable residues (>0.01 ppm) were observed in any test sample. Magnitude of residue studies were conducted at five sites for garden beet roots (one of the representative crops for the root and tuber vegetable crop group) and tops (one of the representative crops for the leaves of root and tuber vegetable crop group). Residues found in beet tops ranged from 0.03 ppm to 4.0 ppm. Previously submitted data used in support of the established residue tolerance on Brassica (cole) leafy vegetables are also to be used in support of the proposed residue tolerance for leaves of root and tuber vegetables. This data support tolerances of 0.1 ppm in garden and sugar beet roots and a 10.0 ppm tolerance for Crop Group 2.

B. Toxicological Profile

1. *Acute toxicity*. Spinosad has low acute toxicity. The rat oral LD_{50} is 3,738 milligrams/kilograms (mg/kg) for males and >5,000 mg/kg for females, whereas the mouse oral LD_{50} is >5,000 mg/kg. The rabbit dermal LD_{50} is >5,000 mg/kg and the rat inhalation LC_{50} is >5.18 miligram/liter (mg/L) air. In addition, spinosad is not a skin sensitizer in guinea pigs and does not produce significant dermal or ocular irritation in rabbits. End use formulations of spinosad that are water based suspension concentrates have similar low acute toxicity profiles.

2. *Genotoxicity*. Short-term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an *in vitro* assay for cytogenetic damage using the chinese hamster ovary (CHO) cells, an *in vitro* mammalian gene mutation assay using mouse lymphoma cells, an *in vitro* assay for DNA damage and repair in rat hepatocytes, and an *in vivo* cytogenetic assay in the mouse bone marrow (micronucleus test) have been conducted with spinosad. These studies show a lack of genotoxicity.

3. *Reproductive and developmental toxicity*. Spinosad caused decreased body weights in maternal rats given 200 mg/kg/day by gavage (highest dose tested (HDT)). This was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The no observed adverse effect levels (NOAELs) for maternal and fetal toxicity in rats were 50 and 200 mg/kg/day, respectively. A teratology study in rabbits showed that spinosad caused decreased body weight gain and a few abortions in maternal rabbits given 50 mg/kg/day highest dose tested (HDT). Maternal toxicity was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The NOAELs for maternal and fetal toxicity in rabbits were 10 and 50 mg/kg/day, respectively. In a 2–generation reproduction study in rats, parental toxicity was observed in both males and females given 100 mg/kg/day highest dose tested (HDT). Perinatal effects (decreased litter size and pup weight) at 100 mg/kg/day were attributed to maternal toxicity. The NOAEL for maternal and pup effects was 10 mg/kg/day.

4. *Subchronic toxicity*. Spinosad was evaluated in 13–week dietary studies and showed NOAELs of 4.89 and 5.38 mg/kg/day, respectively in male and female dogs; 6 and 8 mg/kg/day, respectively in male and female mice; and 33.9 and 38.8 mg/kg/day, respectively, in male and female rats. No dermal irritation or systemic toxicity occurred in a 21–day repeated dose

dermal toxicity study in rabbits given 1,000 mg/kg/day.

5. *Chronic toxicity*. Based on chronic testing with spinosad in the dog and the rat, EPA has set a reference dose (RfD) of 0.027 mg/kg/day for spinosad. The RfD has incorporated a 100–fold safety factor to the NOAELs found in the chronic dog study to account for interspecies and intraspecies variation. The NOAELs shown in the dog chronic study were 2.68 and 2.72 mg/kg/day, respectively for male and female dogs. The NOAELs (systemic) shown in the rat chronic/carcinogenicity/neurotoxicity study were 9.5 and 12.0 mg/kg/day, respectively for male and female rats. Using the Guidelines for Carcinogen Risk Assessment published in the **Federal Register** September 24, 1986 (51 FR 33992), it is proposed that spinosad be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in an 18–month mouse feeding study and a 24–month rat feeding study at all dosages tested. The NOAELs shown in the mouse oncogenicity study were 11.4 and 13.8 mg/kg/day, respectively for male and female mice. A maximum tolerated dose was achieved at the top dosage level tested in both of these studies based on excessive mortality. Thus, the doses tested are adequate for identifying a cancer risk. Accordingly, a cancer risk assessment is not needed.

Spinosad did not cause neurotoxicity in rats in acute, subchronic, or chronic toxicity studies.

6. *Animal metabolism*. There were no major differences in the bioavailability, routes or rates of excretion, or metabolism of spinosyn A and spinosyn D following oral administration in rats. Urine and fecal excretions were almost completed in 48–hours post-dosing. In addition, the routes and rates of excretion were not affected by repeated administration.

7. *Metabolite toxicology*. The residue of concern for tolerance setting purposes is the parent material (spinosyn A and spinosyn D). Thus, there is no need to address metabolite toxicity.

8. *Endocrine disruption*. There is no evidence to suggest that spinosad has an effect on any endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure from use of spinosad on the raw agricultural commodities listed in this notice, as well as from other existing spinosad crop uses, a conservative estimate of aggregate exposure is determined by basing the theoretical maximum residue contribution (TMRC) on the proposed tolerance level for spinosad and assuming that 100% of the proposed new crops and other existing (registered for use) crops grown in the U.S. were treated with spinosad. The TMRC is obtained by multiplying the tolerance residue levels by the consumption data which estimates the amount of crops and related foodstuffs consumed by various population subgroups. The use of a tolerance level and 100% of crop treated clearly results in an overestimate of human exposure and a safety determination for the use of spinosad on crops cited in this summary that is based on a conservative exposure assessment. In addition, for the use of dermal application of spinosad to cattle, the risk assessment applies a conservative (overestimate) 35% of market share for the dermal application to cattle, to the tolerance levels for animal commodities based on existing crop uses.

Drinking water. Another potential source of dietary exposure is residues in drinking water. Based on the available environmental studies conducted with spinosad wherein its properties show little or no mobility in soil, there is no anticipated exposure to residues of spinosad in drinking water. In addition, there is no established maximum concentration level (MCL) for residues of spinosad in drinking water.

2. *Non-dietary exposure*. Spinosad is currently registered for use on a number of crops including cotton, fruits, and vegetables in the agriculture environment. Spinosad is also currently registered for outdoor use on turf and ornamentals at low rates of application (0.04 to 0.54 lb active ingredient per acre) and indoor use for drywood termite control (extremely low application rates used with no occupant exposure expected). Thus, the potential for non-dietary exposure to the general population is considered negligible.

D. Cumulative Effects

The potential for cumulative effects of spinosad and other substances that have a common mechanism of toxicity is also considered. In terms of insect control, spinosad causes excitation of the insect nervous system, leading to involuntary muscle contractions, prostration with tremors, and finally paralysis. These effects are consistent with the activation of nicotinic acetylcholine receptors by a mechanism that is clearly novel and unique among known insecticidal compounds. Spinosad also has effects on the gamma aminobatopic acid (GABA) receptor function that may contribute further to its insecticidal activity. Based on results found in tests with various mammalian species, spinosad appears to have a mechanism of toxicity like that of many amphiphilic cationic compounds. There is no reliable information to indicate that toxic effects produced by spinosad would be cumulative with those of any other pesticide chemical. Thus, it is appropriate to consider only the potential risks of spinosad in an aggregate exposure assessment. Spinosad is classified in a mechanism-of-action group of its own for the purpose of resistance management in insects and for rotation with other crop protection products.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions and the RfD described above, the aggregate exposure to spinosad use on existing crop uses utilizes 36.9% of the RfD for the U.S. population from a previous EPA assessment based on the chronic population adjusted dose (cPAD) (as posted in the **Federal Register** of May 3, 2000 (65 FR 25721) (FRL–6555–9)). EPA generally has no concern for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The new crop uses proposed in this notice are minor ones and are expected to contribute only a negligible impact to the RfD. Thus, it is clear that there is reasonable certainty that no harm will result from aggregate exposure to spinosad residues on existing and all pending crop uses listed in this notice.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of spinosad, data from developmental toxicity studies in rats and rabbits and a 2–generation reproduction study in the rat is considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability and potential systemic toxicity of mating animals and on various parameters associated with the well-being of pups.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. Based on the current toxicological data requirements, the data base for spinosad relative to prenatal and postnatal effects for children is complete. Further, for spinosad, the NOAELs in the dog chronic feeding study which was used to calculate the RfD (0.027 mg/kg/day) are already lower than the NOAELs from the developmental studies in rats and rabbits by a factor of more than 10–fold. Concerning the reproduction study in rats, the pup effects shown at the HDT were attributed to maternal toxicity. Therefore, it is concluded that an additional uncertainty factor (UF) is not needed and that the RfD at 0.027 mg/kg/day is appropriate for assessing risk to infants and children. In addition, EPA has determined that the 10X factor to account for enhanced sensitivity of infants and children is not needed because:

i. The data provided no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to spinosad. In the prenatal developmental toxicity studies in rats and rabbits and 2–generation reproduction in rats, effects in the offspring were observed only at or below treatment levels that resulted in evidence of parental toxicity.

ii. No neurotoxic signs have been observed in any of the standard required studies conducted.

iii. The toxicology data base is complete and there are no data gaps.

iv. Exposure data are complete or is estimated based on data that reasonably account for potential exposure.

Using the conservative exposure assumptions previously described (tolerance level residues), the percent RfD utilized by the aggregate exposure to residues of spinosad on existing crop uses is 81.9% for children 1 to 6 years old, the most sensitive population subgroup from an EPA assessment based on the cPAD (as posted in the **Federal Register** of May 3, 2000). Additional refinements to the dietary exposure based on market share information would reduce the exposure of children 1 to 6 years old to less than 50% the cPAD. Grain treated under a temporary tolerance is expected to contribute only a negligible impact to the RfD. Thus, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to spinosad residues on the above proposed uses, including existing crop uses.

F. International Tolerances

There is no Codex maximum residue levels established for residues of spinosad.

[FR Doc. 01–30913 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1060; FRL–6813–2]

Notice of Filing Pesticide Petitions to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1060, must be received on or before January 14, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1060 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–3194; e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1060. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is

VOL 66 ISS 241 DE 14 2001 UMI

imperative that you identify docket control number PF–1060 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1060. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner's summaries of pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of petitions were prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petitions summaries verbatim without editing them in any way. The petitions summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such methods are needed.

Interregional Research Project Number 4 (IR–4) and Uniroyal Chemical Company

PP 0E6167, 1E6347, and 1F6235

EPA has received pesticide petitions (0E6167, 1E6347 and 1F6235) from the Interregional Research Project Number 4 (IR-4), 681 US Highway #1 South, North Brunswick, NJ 08902 and Uniroyal Chemical Company Inc., Middlebury, CT 06749 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.377 by establishing tolerances for residues of diflubenzuron, (*N*-[[(4-chlorophenyl)amino]carbonyl-2,6-difluorobenzamide) in or on the following raw agricultural commodities:

- PP 0E6167 proposes the establishment of a tolerance for pear at 0.5 part per million (ppm).
- PP 1E6347 proposes the establishment of a tolerance for the grass, forage, fodder, and hay group at 6.0 ppm.
- PP 1F6235 proposes the establishment of tolerances for stonefruit (except cherries) at 0.05 ppm, tree nuts and pistachios at 0.05 ppm, almond hulls at 5.0 ppm, peppers at 1.0 ppm, and meat-by-products at 0.15 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions. This notice of filing contains a summary of the petition provided by Uniroyal Chemical Company, Inc., the registrant.

A. Residue Chemistry

1. *Plant metabolism.* The nature of the residue in plants is adequately understood. The metabolism of diflubenzuron was investigated in soybeans, oranges, and rice. The main component of residues in rice was p-chlorophenylurea (CPU); levels of p-chloroaniline (PCA) were negligible to non-detectable. The main component of the residues in soybeans and oranges was the parent diflubenzuron (DFB). A considerable portion of the residues were bound. DFB showed very limited absorption and translocation in plants

with most of the residues remaining on the surface.

2. *Analytical method.* Practical analytical methods for detecting levels of DFB, CPU and PCA, in or on food with a limit of detection that allows monitoring of the residue at or above the level set in the tolerance was used to determine residues in the proposed commodities. Residues of the individual analytes are detectable and quantifiable using three separate analytical methods. Residues of DFB are extracted from the proposed commodities with dichloromethane. Extracts are purified with deactivated florisil. An aliquot of the extract is hydrolyzed with phosphoric acid and the DFB is partitioned into hexane. The resulting extract is derivatized in heptafluorobutyric anhydride (HFBA). Quantification of DFB is accompanied by gas chromatography using an electron capture detector.

The analytical method for quantitation of the 4-chlorophenylurea requires ethyl acetate extraction of the residue from the matrix. Column chromatography is utilized for clean-up of the extract immediately prior to derivitization with HFBA. Derivatized extracts are analyzed by gas chromatography equipped with an electron capture detector.

The analysis for the determination of PCA residues from the proposed commodities utilize an internal standard method. Samples of matrix to be analyzed are fortified with the internal standard. Residues of 12C-PCA and the internal standard are subjected to acid and base hydrolysis. The final extract is passed through florisil column for clean-up and derivatized with HFBA in hexane. An aliquot of the derivatized extract is analyzed by gas chromatography using a mass spectrometry detector in the selective ion monitoring mode. Recovery of PCA is determined by the combined peak areas for the two mass spectral ions obtained from the derivatized 12C-PCA relative to the response factor derived from the combined areas of the corresponding two mass spectral ions from the internal standard.

3. *Magnitude of residues.* Individual residue trials have been conducted with diflubenzuron on the proposed commodities. Analyses of these trials show that the maximum total residue for diflubenzuron and its conversion products PCA and CPU will be at or below the proposed tolerance levels.

B. Toxicological Profile

1. *Acute toxicity.* Studies for diflubenzuron technical indicate the acute oral toxicity in rats and mice is >4,640milligram per kilogram (mg/kg), and the acute dermal toxicity in rats is >10,000 mg/kg. The acute inhalation lethal concentration (LC)$_{50}$ in rats is >35 mg/L (6 hours). Diflubenzuron technical is not an eye or skin irritant to rabbits, and is not a dermal sensitizer in guinea pigs.

2. *Genotoxicity.* Diflubenzuron did not show any mutagenic activity in point mutation assays employing *S. typhimurium*, *S. cerevisiae*, or L5178Y Mouse Lymphoma cells. Diflubenzuron did not induce chromosomal aberrations in chinese hamster ovary (CHO) cells and it did not induce unscheduled DNA synthesis (UDS) in human WI–38 cells. Diflubenzuron was also negative in mouse micronucleus and mouse dominant lethal assays and it did not induce cell transformation in Balb/3T3 cells.

3. *Developmental and reproductive.* In a rat developmental toxicity study, diflubenzuron was administered by oral gavage to pregnant female rats at dosage levels of 0, 1, 2, and 4 mg/kg/day. No treatment-related effects were seen. A subsequent study was conducted in pregnant Sprague Dawley rats at a dose of 0 and 1,000 mg/kg/day. No maternal toxicity was observed. The incidence of fetuses with skeletal abnormalities was slightly increased in the treated group, but was within historical background range. The no observed adverse effect level (NOAEL) for maternal and developmental toxicity in rats was greater than 1,000 mg/kg/day.

Diflubenzuron was also administered by oral gavage to pregnant New Zealand white rabbits at dosage levels of 0, 1, 2, and 4 mg/kg/day. No treatment-related effects were seen. A subsequent study was conducted in pregnant rabbits at a dose of 0 and 1,000 mg/kg/day. No maternal or developmental toxicity was seen. The NOAEL for maternal and developmental toxicity in rabbits was greater than 1,000 mg/kg/day.

In a rat reproduction study, diflubenzuron was fed to 2–generations of male and female rats at dietary concentrations of 0, 10, 20, 40, and 160 ppm. No effects were seen on parental body weight gain and there were no reproductive effects. A subsequent study was conducted on one generation (1 litter) of rats at dietary concentrations of 0, 1,000, and 100,000 ppm. Systemic effects were seen in adults at these doses but there was no effect on reproductive parameters. The NOAEL for reproductive toxicity was greater than 100,000 ppm (5 g/kg/day).

4. *Subchronic toxicity.* To assess subchronic toxicity, a 4–week inhalation study and a 3–week dermal study were conducted. In the inhalation study rats were exposed nose only to 10, 30, or 100 milligram per cubic meters (mg/m^3) for 6 hours per day, 5 days per week for 4 weeks. Treatment-related findings were a slight reduction in erythrocytes, hemoglobin and hematocrit in male and female rats at a concentration of 100 mg/m^3 and an increase in total bilirubin in high dose female rats. There was no effect on methemoglobin concentration at any dose level. The NOAEL for subchronic inhalation toxicity was 30 mg/m^3.

To assess subacute dermal toxicity, diflubenzuron was applied to the backs of male and female CD rats for 3 weeks at dose levels of 20, 500, and 1,000 mg/kg/day. Hematology evaluation showed reductions in red blood cell (RBC), hemoglobin (Hgb) and hematocrit values at 500 and 1,000 mg/kg/day. An increased incidence of *polychromasia*, *hypochromasia*, and *anisocytosis* was seen at 500 and 1,000 mg/kg/day. An increase in methemoglobin and sulfhemoglobin values was seen at 1,000 mg/kg/day. The NOAEL for systemic toxicity was 20 mg/kg/day. Also, a dermal absorption factor of 0.5%, for systemic absorption, was derived from a study where rats were dosed with either 0.005 or 0.05 mg/cm^2 of (^{14}C) diflubenzuron technical. This value can be used for converting dermal exposure to oral equivalents.

5. *Chronic toxicity.* Diflubenzuron was given by capsule to male and female Beagle dogs for 1 year at dose levels of 0, 2, 10, 50, and 250 mg/kg/day. Body weight (bwt) gain was slightly reduced in females at 250 mg/kg/day. Absolute liver and spleen weights were increased in males given 50 and 250 mg/kg/day. A reduction in hemoglobin and mean corpuscular hemoglobin concentration, with an elevation in reticulocyte count, was seen at 50 and 250 mg/kg/day. Methemoglobin and sulfhemoglobin values were increased at doses of 10 mg/kg/day and greater. Histopathological findings were limited to pigmented macrophages and Kupffer cells in the liver at doses of 50 and 250 mg/kg/day. The NOAEL for chronic toxicity in dogs was 2 mg/kg/day.

Diflubenzuron was fed to male and female Sprague Dawley rats for 2 years at dose levels of 0, 156, 625, 2,500, and 10,000 ppm. Methemoglobin values were elevated in female rats at all dose levels and in male rats at the two highest dose levels. Sulfhemoglobin was elevated in females, only, at dose levels of 2,500 and 10,000 ppm. Mean corpuscular volume (MCV) and reticulocyte counts were increased in high dose females. Spleen and liver weights were elevated at the two highest doses. Histopathological examination demonstrated an increase in hemosiderosis of the liver and spleen, bone marrow and erythroid hyperplasia and areas of cellular alteration in the liver. In another study diflubenzuron was administered to male and female CD rats for 2 years at dose levels of 0, 10, 20, 40, and 160 ppm. Elevated methemoglobin levels were seen in high dose males and females. No additional effects, including carcinogenic findings, were observed. The NOAEL for chronic toxicity in rats was 40 ppm (2 mg/kg/day).

A 91–week carcinogenicity study in CFLP mice was conducted at doses of 0, 16, 80, 400, 2,000, and 10,000 ppm. There was no increase in tumor incidence as a result of diflubenzuron administration. Target organ effects included: Increased methemoglobin and sulfhemoglobin values, Heinz bodies, increased liver and spleen weight, hepatocyte enlargement, and vacuolation, extramedullary hemopoiesis in the liver and spleen, siderocytosis in the spleen and pigmented Kupffer cells. A NOAEL for these effects was 16 ppm (2 mg/kg/day).

Diflubenzuron was fed to male and female Sprague Dawley rats for 2 years at dose levels of 0, 156, 625, 2,500, and 10,000 ppm. Methemoglobin values were elevated in female rats at all dose levels and in male rats at the two highest dose levels. Blood sulfhemoglobin was elevated in females, only, at dose levels of 2,500, and 10,000 ppm. MCV and reticulocyte counts were increased in high dose females. Spleen and liver weights were elevated at the two highest doses. Histopathological examination demonstrated an increase in hemosiderosis of the liver and spleen, bone marrow and erythroid hyperplasia, and areas of cellular alteration in the liver. There was no increase in tumor formation. In another study, diflubenzuron was administered to male and female CD rats for 2 years at dose levels of 0, 10, 20, 40, and 160 ppm. Elevated methemoglobin levels were seen in high dose males and females. No additional effects, including carcinogenic findings, were observed.

6. *Animal metabolism.* DFB in rats at a single dose of 100 mg/kg and 5 mg/kg single and multiple oral doses depicted limited absorption from the gastrointestinal tract. No major difference was observed between the single and multiple doses. In single dose treatments, after 7 days, 20% and 3% of the applied dose 5 and 100 mg/kg, respectively, were excreted in urine, while 79% and 98% of the applied dose 5 and 100 mg/kg, respectively, were eliminated in the feces. Very little bioaccumulation in the tissues was observed. In the feces, only unchanged parent compound was detected. Several metabolites were observed in the urine which are, among others, 2,6-diflurobenzoic acid (DFBA), 2,6-difluorophippuric acid, 2,6-difluorobenzamide (DFBAM), and 2-hydroxydiflubenzuron (2-HDFB). An unresolved peak that was characterized as *p-chloroaniline* (PCA) and/or *p-chlorophenylurea* (CPU) was found. This latter peak accounted for about 2% of the administered dose (5 mg/kg). To resolve if PCA and CPU are indeed metabolites of DFB, rats were administered a single oral dose, 100 mg/kg of 14C DFB. The major metabolites identified in rat urine were 4-chloroaniline-2-sulfate, accounting for almost 50% of the total radioactive residue (TRR) in the urine and *N*-(4-chlorophenyl)oxamic acid which accounted for about 15% of the (TRR). Neither CPU, PCA nor their *N*-hydroxyl derivatives were found in rat urine at a limit of detection of 23 parts per billion (ppb). As in the previous study, DFB was the only residue found in the feces.

7. *Metabolite toxicology.* NCI/NTP conducted chronic feeding and gavage studies with p-chloroaniline (PCA), a minor potential metabolite of diflubenzuron, in Fischer 344 rats and B6C3F1 mice.

PCA was administered in the diet to Fischer 344 rats at dietary concentrations of 250 and 500 ppm for 78 weeks, followed by a 24–week observation period. A slight body weight depression was seen in high dose females rats, compared to controls. Survival was reduced in high dose males compared to controls. In male rats there was a slight increase in uncommon fibromas or fibrosarcomas of the spleen, which was not statistically significant. Non-neoplastic proliferative and chronic inflammatory lesions were found in spleens of treated rats. It was concluded that, under the conditions of the assay, sufficient evidence was not found to establish the carcinogenicity of PCA for Fischer 344 rats.

PCA was administered 5 days/week by oral gavage, as a hydrochloride salt in water, to male and female F344/N rats at doses of 0, 2, 6, or 18 mg/kg/day. Mean body weights of dosed rats were generally within 5% of those of controls throughout the study. High dose animals generally showed mild hemolytic anemia and dose-related methemoglobinemia. Non-neoplastic lesions seen were bone marrow hyperplasia, hepatic hemosiderosis, and splenic fibrosis, suggesting treatment-related effects on the hematopoietic system. Adrenal medullary hyperplasia was observed in high dose female rats. The incidence of uncommon sarcomas of the spleen was significantly increased in high dose male rats. A marginal increase in pheochromocytomas of the adrenal gland was seen in high dose male and female rats. It was concluded that, under the conditions of this 2–year gavage study, there was clear evidence of carcinogenic activity of PCA hydrochloride for male F344/N rats and equivocal evidence of carcinogenic activity of PCA hydrochloride for female F344/N rats.

PCA was administered in the diet to B6C3F6 mice at dietary concentrations of 2,500 and 5,000 ppm for 78 weeks followed by a 13–week observation period. A body weight depression was seen in treated mice of both sexes, compared to controls. An increased incidence of hemangiomas and hemangiosarcomas in spleen, kidney, liver, and other sites was seen in treated mice of both sexes; however this increase was not statistically significant compared to controls. Non-neoplastic proliferative and chronic inflammatory lesions were found in spleens of treated mice. The evidence was considered insufficient to conclusively relate the hemangiomatous tumors in mice to compound administration. It was concluded that, under the conditions of the assay, sufficient evidence was not found to establish the carcinogenicity of PCA for B6C3F1 mice.

PCA hydrochloride was administered 5 days/week by oral gavage to male and female B6C3F1 mice at doses of 0, 3, 10, or 30 mg/kg/day. Mean body weights of high dose male and female mice were generally within 5% of those of controls throughout the study. The incidence of hepatocellular adenomas or carcinomas (combined) was increased in a non-dose-dependent manner in treated male mice. Metastasis of carcinoma to the lung was seen in the high dose group. An increased incidence of hemangiosarcomas of the liver or spleen was seen in high dose male mice. It was concluded that, under the conditions of this 2–year gavage study, there was some evidence of carcinogenic activity of PCA hydrochloride for male B6C3F1 mice and no evidence of carcinogenic activity of PCA hydrochloride for female B6C3F1 mice.

In addition to PCA, 4-chlorophenylurea (CPU) is also a potential minor metabolite of diflubenzuron. By association with PCA, EPA has concluded that CPU has carcinogenic potential and the same carcinogenic potency (q^{1*}) as PCA. In the NTP report of the PCA bioassay, it is proposed that PCA undergoes *N*-hydroxylation to form the corresponding *N*-hydroxylamine metabolites; *N*-hydroxylation of aromatic amines is a well know mechanism of aromatic amine carcinogenicity. This metabolite, or proximate carcinogen, is then conjugated to form the ultimate carcinogen capable of ionizing and reacting with DNA to form adducts which result in splenic tumor formation. An alternate mechanism involving toxicity resulting in erythrocyte damage, splenic scavenging, hemorrhage, hyperplasia and fibrosis and ultimately splenic tumor formation is also proposed, but both mechanisms are based on the formation of *N*-hydroxy PCA.

This metabolite also causes methemoglobinemia in animals. Therefore, methemoglobin formation can be used as an indicator of the presence of PCA and *N*-hydroxy metabolite. However, in recent CPU rat toxicity studies, both dietary (7–day) and gavage, and a CPU rat metabolism study, it has been demonstrated that CPU does not induce methemoglobin formation and it is neither metabolized to PCA nor forms an *N*-hydroxylamine derivative. Since *N*-hydroxylation is the required first step in the mechanism of action of PCA's carcinogenicity, it can be concluded that CPU's mechanism of action and toxicity is different from that of PCA's.

8. *Endocrine disruption*. The standard battery of required studies has been completed and evaluated to determine potential estrogenic or endocrine effects of diflubenzuron. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects. No such effects were noted in any of the studies with diflubenzuron.

C. Aggregate Exposure

1. *Dietary exposure*. Since 1–day single dose oral studies in rats and mice indicated only marginal effects, an acute exposure risk assessment is not needed, as there were no significant acute effects observed.

i. *Food*—a. *Diflubenzuron*. The chronic dietary exposure from diflubenzuron was estimated based on the average residue values from the various currently labeled raw agricultural commodities (RACs) and the proposed pear use. Percent of crop treated was also factored into the estimate. Residues in meat, milk, and egg products were obtained from extrapolation of metabolism study data to anticipated livestock dietary burdens. The dietary exposure analysis was estimated based on 1989–1992 USDA food consumption data.

For the U.S. population (total), the dietary exposure of diflubenzuron was estimated as 0.000027 mg/kg/day. For nursing and non-nursing infants, the exposure was estimated as and 0.000110 and 0.000304 mg/kg/day, respectively. For children, the exposure was 0.000046 and 0.000033 mg/kg/day for 1–6 year olds and 7–12 year olds, respectively.

b. *p-Chloroaniline*. The chronic dietary exposure from p-chloroaniline (PCA) which has been detected in some food products was also determined. Average residues from field trials for mushrooms, rice, pears, nut crops, and pistachios, stonefruit (except cherries), and peppers were used. Residues in liver were obtained from extrapolation of metabolism data to anticipated livestock dietary burdens. EPA has previously used a 2% *in vivo* conversion factor of DFB to PCA for foods derived from plant products. However, based on results of a recent rat metabolism study showing that no PCA is formed, this is no longer appropriate. The percent treated of each crop was also factored into the exposure estimate.

For the U.S. population (total), the dietary exposure of PCA was estimated as <0.000001 mg/kg/day. For nursing and non-nursing infants, the exposure was estimated as 0.000002 and 0.000007 mg/kg/day, respectively. For children 1 to 6 years old and 7 to 12 years old, the exposure was 0.000001 mg/kg/day.

ii. *Drinking water*. Diflubenzuron degrades in soil relatively quickly with an aerobic half-life ranging from 3 to 7 days. Major degradates include difluorobenzoic acid (DFBA) and CPU. DFBA is further metabolized through decarboxylation and ring cleavage by soil microbes whereas CPU is slowly degraded to soil-bound entities. Under anaerobic aquatic conditions, diflubenzuron has a half-life of 34 days with the main degradates being DFBA and CPU. In surface water, diflubenzuron is degraded by microbes with a half-life of 5 to 10 days. The soil mobility of diflubenzuron is considered quite limited based on a number of experimental studies as well as by computer modeling. CPU has also been shown to be relatively immobile in soil. Although DFBA shows mobility in soil, it is rapidly degraded. Therefore, based on results of laboratory and field studies, it is not likely that diflubenzuron or its degradates will impact ground water quality to any significant extent.

Based on EPA's PRZM/EXAMS modeling, the average annual mean concentration of diflubenzuron in surface water sources is not expected to exceed 0.05 ppb. These values were determined using the maximum concentrations for any diflubenzuron crop uses including the proposed commodities. The drinking water level of concern (DWLOC) for chronic (non-cancer) exposure to diflubenzuron in drinking water was determined as 700 ppb for the U.S. population (total) and approximately 200 ppb for infants and children. The estimated maximum concentration of diflubenzuron in surface and ground water (0.05 ppb) is much less than the DWLOCs as a contribution to chronic (non-cancer) aggregate exposure.

2. *Non-dietary exposure*. Diflubenzuron is a restricted use pesticide based on its toxicity to aquatic invertebrates. This restricted use classification makes it unavailable for use by homeowners. Occupational uses of diflubenzuron may expose people in residential locations, parks, or forests treated with diflubenzuron. However, diflubenzuron has very low residues detected in forestry dissipation studies, low dermal absorption rate (0.05%), and extremely low dermal and inhalation toxicity.

D. Cumulative Effects

Uniroyal Chemical Co. has considered the potential for cumulative effects of diflubenzuron and other substances with a common mechanism of toxicity. The mammalian toxicity of diflubenzuron is well defined. We are not aware of any other pesticide product registered in the United States that could be metabolized to p-chloroaniline. For this reason, consideration of potential cumulative effects of residues from pesticidal substances with a common mechanism of action as diflubenzuron is not appropriate. Thus only the potential exposures to diflubenzuron were considered in the total exposure assessment.

E. Safety Determination

1. *U.S. population*. Based on the available toxicology and exposure data base for diflubenzuron, Uniroyal has determined that the total possible non-occupational aggregate exposure from diflubenzuron would occur from the dietary route. Dietary exposure to the U.S. population (total) from diflubenzuron was estimated at 0.000027 mg/kg/day. Based on the 0.02 mg/kg/day RfD (reference dose) derived from the dog chronic NOAEL of 2 mg/kg/day and a 100–fold safety factor, this dietary exposure is 0.1% of the RfD. Despite the potential for exposure to diflubenzuron in drinking water,

aggregate exposure is not expected to exceed 100% of the RfD.

For PCA, Uniroyal has also determined that the total possible non-occupational aggregate exposure would occur from the dietary route. Dietary exposure to the U.S. population (total) from PCA was estimated as less than 0.000001 mg/kg/day. The risk from diflubenzuron-derived PCA can be estimated using a linear extrapolation of the dose-response from the rat chronic study conducted by the National Toxicology Program in which rats were dosed via gavage with p-chloroaniline (hydrochloride) for 24 months. EPA has determined the q^{1*} as 0.0638 based on the combined sarcoma incidence in the spleen of male rats.

In view of the results of recent CPU rat mechanistic and metabolism studies, and the DFB rat metabolism study, the dietary risk assessment included here considers only actual residues of PCA found in food and animal by-products. This is consistent with a parent compound, such as diflubenzuron, which is negative (category E) for carcinogenicity.

Using the q^{1*} of 0.0638, the risk to the U.S. population (total) from dietary exposure to diflubenzuron-derived PCA is 3.09 x 10^{-8}.

2. *Infants and children*. The same assumptions as for the U.S. population were used for the dietary exposure risk determination in infants and children. The dietary exposure of diflubenzuron was calculated as 0.000110 and 0.000304 mg/kg/day, respectively for nursing and non-nursing infants. These values are 0.6% and 1.5%, respectively of the RfD for diflubenzuron. The dietary exposure from diflubenzuron in children 1 to 6 years and 7 to 12 years old was determined as 0.000046 mg/kg/day and 0.000033 mg/kg/day, respectively. These values are 0.2% of the RfD.

As previously discussed, the NOAELs for maternal and developmental toxicity in rats and rabbits were greater than 1,000 mg/kg/day, and the NOAEL for reproductive toxicity was greater than 5,000 mg/kg/day. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Uniroyal concludes that there is reasonable certainty that no harm will result in infants and children from aggregate exposure to residues of diflubenzuron and its conversion products containing the p-chloroaniline moiety.

F. International Tolerances

There is a Codex maximum residue limit (MRL) for pears at 1.0 mg/kg, a Mexican MRL at 1.0 mg/kg, and no limits set for Canada for pears. A Codex MRL has also been established for plums (including prunes) at 1.0 mg/kg. There are no Codex maximum residue limits established for other stonefruit, tree nuts or peppers.

[FR Doc. 01–30914 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1057; FRL–6812–4]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1057, must be received on or before January 14, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1057 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Dani Daniel, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5409; e-mail address: daniel.dani@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311	Crop production Animal production Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1057. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1057 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1057. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the Federal Food, Drug, and Cosmetic Act (FFDCA). The summary of the petition was prepared by the petitioner and represents the view of the petitioners. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Sygenta Crop Protection Inc.

PP 1E6349

EPA has received a pesticide petition (1E6349) from Sygenta Crop Protection Inc., P.O. Box 18300, Greensboro, NC 27419–8300 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of thiamethoxam and its metabolite, (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine, in or on the raw agricultural commodity imported green and roasted coffee beans and instant coffee at 0.05 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism.* The primary metabolic pathways of thiamethoxam in plants (corn, rice, pears, and cucumbers) were similar to those described for animals, with certain extensions of the pathway in plants. Parent compound, thiamethoxam, and its metabolite, (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine, were the major residues in all crops. The metabolism of thiamethoxam in plants and animals is understood for the purposes of the proposed tolerances. Parent thiamethoxam and the metabolite, are the residues of concern for tolerance setting purposes.

2. *Analytical method.* Syngenta Crop Protection Inc. has submitted practical analytical methodology for detecting and measuring levels of thiamethoxam in or on raw agricultural commodities. The method is based on crop specific cleanup procedures and determination by liquid chromatography with either ultraviolet (UV) or mass spectrometry (MS) detection. The limit of detection (LOD) for each analyte of this method is 1.25 nanogram (ng) injected for samples analyzed by UV and 0.25 ng injected for samples analyzed by MS, and the limit of quantitation (LOQ) is 0.005 ppm for

VOL 66 ISS 241 DE 14 2001

milk and juices and 0.01 ppm for all other substrates.

3. *Magnitude of residues.* A residue program was performed for thiamethoxam on coffee as prescribed in draft EPA Guidance on Import Tolerances. A total of nine trials were conducted in the major coffee producing countries of Brazil (four), Columbia (three) and Mexico (two). The applications in these trials consisted of soil applications (trench, furrow or broadcast) at the proposed maximum rate of 300 grams active ingredient per hectare. The first applications were made just after petal fall and a second application at the beginning of fruit development. There were no detectable residues <0.02 ppm of thiamethoxam or the metabolite CGA–322701 in coffee berries or dried green coffee beans.

In addition, there was a single 5X exaggerated rate processing trial conducted. There were detectable residues of thiamethoxam and its metabolite (<0.022 ppm and 0.012 ppm, respectively) in the dry beans for processing. There were no detectable residues (<0.005 ppm) of thiamethoxam or it metabolite, in roasted beans, ground roasted beans, brewed extracts, spent grounds or instant coffee.

B. Toxicological Profile

1. *Acute toxicity.* The acute oral LD_{50} for thiamethoxam in the rat is 1,563 mg/kg body weight. The acute dermal LD_{50} of thiamethoxam is >2,000 milligrams/kilogram (mg/kg) body weight. Thiamethoxam is non-toxic at atmospheric concentrations of 3.72 mg/L. Thiamethoxam is minimally irritating to the eye, non-irritating to skin, and is not a dermal sensitizer.

In an acute neurotoxicity screening study in rats (OPPTS 870.6200a), the no observed adverse effect level (NOAEL) was 100 mg/kg/day with a NOAEL of 500 mg/kg/day based on drooped palpebral closure, decrease in rectal temperature and locomotor activity and increase in forelimb grip strength (males only). At higher dose levels, mortality, abnormal body tone, ptosis, impaired respiration, tremors, longer latency to first step in the open field, crouched over posture, gait impairment, hypo-arousal, decreased number of rears, uncoordinated landing during the righting reflex test, slight lacrimation (females only), and higher mean average input stimulus value in the auditory startle response test (males only).

2. *Genotoxicity.* In gene mutation studies with *S. typhimurium* and *E. coli* (OPPTS 870.5100 and 870.5265), there was no evidence of gene mutation when tested up to 5,000 µg/plate and there was no evidence of cytotoxicity. In a gene mutation study with chinese hamster V79 cells at HGPRT focus (OPPTS 870.5300) there was no evidence of gene mutation when tested up to the solubility limit.

In a CHO cell cytogenetics study (OPPTS 870.5375) there was no evidence of chromosomal aberrations when tested up to cytotoxic or solubility limit concentrations.

An *in vivo* mouse bone marrow micronucleus study (OPPTS 870.5395) was negative when tested up to levels of toxicity in whole animals; however, there was no evidence of target cell cytotoxicity.

An UDS assay (OPPTS 870.5550) was negative when tested up to precipitating concentrations.

3. *Reproductive and developmental toxicity.* A prenatal developmental study in the rat (OPPTS 870.3700) resulted in maternal and developmental NOAELs of 30 mg/kg/day and 200 mg/kg/day, respectively. The maternal lowest observed adverse effect level (LOAEL) is 200 mg/kg/day based on decreased body weight, body weight gain and food consumption. The developmental LOAEL was 750 mg/kg/day based on decreased fetal body weight and an increased incidence of skeletal anomalies.

A prenatal developmental study in the rabbit (OPPTS 870.3700) resulted in maternal and developmental NOAELs of 50 mg/kg/day. The maternal and developmental LOAEL is 150 mg/kg/day. The maternal LOAEL is based on maternal deaths, hemorrhagic discharge, decreased body weight, and food intake during the dosing period. The developmental LOAEL is based on decreased fetal body weights, increased incidence of post-implantation loss and a slight increase in the incidence of a few skeletal anomolies/variations.

In a reproduction and fertility effects study in rats (OPPTS 870.3800) the parental/systemic NOAEL is 1.84 (males), 202.06 (females) mg/kg/day; the reproductive NOAEL is 0.61 (males), 202.06 (females) mg/kg/day, and the offspring NOAEL is 61.25 (males), 79.20 (females) mg/kg/day. The parental/systemic LOAEL is 61.25 (males), not determined (females) mg/kg/day based on increased incidence of hyaline change in renal tubules in F0 and F1 males. The reproductive LOAEL is 1.84 (males), not determined females mg/kg/day based on increased incidence and severity of tubular atrophy observed in testes of the F1 generation males. The offspring LOAEL is 158.32 (males), 202.06 (females) mg/kg/day based on reduced body weight gain during the lactation period in all litters.

4. *Subchronic toxicity.* A 90–day oral toxicity study in rats (OPPTS 870.3100) resulted in a NOAEL of 1.74 (males) and 92.5 (females) mg/kg/day. The LOAEL is 17.64 (male), 182.1 (female) mg/kg/day based on increased incidence of hyaline change of renal tubules epithelium (males), fatty change in adrenal gland of females, liver changes in females, all at the LOAEL.

A 90–day oral toxicity study in mice (OPPTS 870.3100) resulted in an NOAEL of 1.41 (males) and 19.2 (females) mg/kg/day. The LOAEL was 14.3 (male) and 231 (female) mg/kg/day based on an increased incidence of hepatocellular hypertrophy. At higher dose levels: decrease in body weight and body weight gain, necrosis of individual hepatocytes, pigmentation of Kupffer cells, and a lymphocytic infiltration of the liver in both sexes; slight hematologic effects and decreased absolute and relative kidney weights in males; and ovarian atrophy, decreased ovary and spleen weights and increased liver weights in females.

In a 90–day oral toxicity study in dogs (OPPTS 870.3150), the NOAEL is 8.23 (males) and 9.27 (females) mg/kg/day. The LOAEL is 32.0 (male), 33.9 (female) mg/kg/day based on slightly prolonged prothrombin times and decreased plasma albumin and A/G ration (both sexes); decreased calcium levels and ovary weights and delayed maturation in the ovaries (female); decreased cholesterol and phospholipid levels, testes weights, spermatogenesis, and spermatic giant cells in testes (male).

In a 28–day dermal study in rats (OPPTS 870.3200) the NOAEL was 250 (male) and 60 (female) mg/kg/day. The LOAEL was 1,000 (male),and 250 (female) mg/kg/day based on an increased plasma glucose, triglyceride levels, and alkaline phosphatase activity and an inflammatory cell infiltration in the liver and necrosis if single hepatocytes in females and a hyaline change in renal tubules and a very slight reduction in body weight in males. At higher dose levels in females, chronic tubular lesions in the kidneys and an inflammatory cell infiltration in the adrenal cortex were observed.

In a subchronic neurotoxicity screening study in rats (OPPTS 870.6200) the NOAEL was 95.4 (male) and 216.4 (female) mg/kg/day, both at the highest dose tested. The LOAEL was not determined. No treatment-related observations at any dose level. LOAEL was not achieved. May not have been tested at sufficiently high dose levels; however, a new study is not required because the weight of the evidence from other toxicity studies indicates no evidence of concern.

UMI

5. *Chronic toxicity*. In a chronic toxicity study in dogs (OPPTS 870.4100) the NOAEL was 4.05 (male), and 4.49 (female) mg/kg/day. The LOAEL was 21.0 (male) and 24.6 (female) mg/kg/day based on an increase of creatinine in both sexes, transient decrease in food consumption in females, and an occasional increase in urea levels, decrease in ALT, and atrophy of seminiferous tubules in males.

In a mouse carcinogenicity study (OPPTS 870.4200) the NOAEL was 2.63 (male) and 3.68 (female) mg/kg/day. The LOAEL was 63.8 (male) and 87.6 (female) mg/kg/day based on hepatocyte hypertrophy, single cell necrosis, inflammatory cell infiltration, pigment deposition, foci of cellular alteration, hyperplasia of Kupffer cells and increased mitotic activity, also an increase in the incidence of hepatocellular adenoma (both sexes). At higher doses, there was an increase in the incidence of hepatocelluar adenocarcinoma (both sexes) and the number of animals with multiple tumors, evidence of carcinogenicity. In a combined chronic caricinogenicity study in rats (OPPTS 870.4300), the NOAEL was 21.0 (male) and 50.3 (female) mg/kg/day. The LOAEL was 63.0 (male) and 255 (female) mg/kg/day based on an increased incidence of lymphocytic infiltration of the renal pelvis and chronic nephropathy in males and decreased body weight gain, slight increase in the severity of hemosiderosis of the spleen, foci of cellular alteration in liver and chronic tubular lesions in kidney in females. No evidence of carcinogenicity.

In a hepatic cell proliferation study in mice, the NOAEL was 16 (male) and 20 (female) mg/kg/day. The LOAEL was 72 (male) and 87 (female) mg/kg/day based on proliferative activity of hepatocytes. At higher dose levels, increases in absolute and relative liver weights, speckled liver, heptocellular glycogenesis/fatty change, heptocellular necrosis, apoptosis and pigmentation were observed.

In a 28–day feeding study to assess replicative DNA syntehsis in the male rat, the NOAEL was 711 mg/kg/day. The LOAEL was not established. Immunohistochemical staining of liver sections from control, and high dose animals for proliferating cell nuclear antigen gave no indication for a treatment-related increase in the fraction of DNA syntesizing hepatocytes in S-phase. Thiamethoxam did not stimulate hepatocyte cell proliferation in male rats.

In a special study to assess liver biochemistry in the mouse, the NOAEL was 17 (male) and 92 (female) mg/kg/day. The LOAEL was 74 (male) and 92 (female) mg/kg/day based on marginal to slight increases in absolute and relative liver weights, a slight increase in the microsomal protein content of the livers, moderate increases in the cytochrome P450 content, slight to moderate increases in the activity of several microsomal enzymes, slight to moderate induction of cytosolic glutathionw S-transfersase activity. Treatment did not affect peroxisomal fatty acid B-oxidation.

6. *Animal metabolism*. The metabolism of thiamethoxam in rats and livestock animals is adequately understood. The residues of concern have been determined to be parent thiamethoxam and its metabolite (N-(2-chloro-thiazol-5-ylmethyl)-N'methyl-N-nitro-guanidine).

7. *Metabolite toxicology*. For risk assessment purposes, residues of the metabolite corrected for molecular weight are considered to be toxicologically equivalent to parent thiamethoxam.

C. Aggregate Exposure

1. *Dietary exposure*. Permanent tolerances have been established (40 CFR 180.565) for the combined residues of the insecticide thiamethoxam, 3-[(2-chloro-5-thiazolyl)methyl]tetrahydro-5-methyl-N-nitro-4H-1,3,5-oxadiazin-4-imine and it metabolite (N-(2-chloro-thiazol-5-ylmethyl)-N'-methyl-N-nitro-guanidine), in or on a variety of raw agricultutal commodities at levels ranging from 0.02 ppm to 1.5 ppm including barley, canola, cotton, sorghum, wheat, cucurbit vegetables, fruiting vegetables, pome fruits and livestock commodities. Pending tolerances include coffee, grapes, raisins, grape juice, pecans, peanut nutmeats, peanut hay, corn grain, sweet corn (kernal with husk removed), pop corn, corn forage and stover, head and stem brassica, leafy brassica greens and leafy vegetables.

i. *Food—a. Acute risk*. The acute dietary risk from food use tolerances previously set as published in the **Federal Register** of December 21, 2000 (65 FR 80343) (FRL–6758–1) and May 23, 2001 (66 FR 28386) (FRL–6784–7) indicate that acute dietary exposure from food will occupy 3% of the acute population adjusted dose (aPAD) for the U.S. population, 2% of the aPAD for females 13–50 years old, 8% of the aPAD for infants less than 1 year old and 7% of the aPAD for children 6–11 years old. Therefore, it is expected that the proposed tolerances for coffee will have minimal impact on acute dietary risk, and that the aggregate exposure will not exceed 100% of the aPAD.

b. *Chronic risk*. The chronic dietary risk from food use tolerances previously set as published in the **Federal Register** of December 21, 2000 (65 FR 80343), and May 23, 2001 (66 FR 28386) indicate that chronic dietary exposure from food will utilize 5% of the chronic population adjusted dose (cPAD) for the U.S. population, 13% of the cPAD for children 1–6 years old. Therefore, it is expected that the proposed tolerances for coffee will have minimal impact on chronic dietary risk and the aggregate exposure will not exceed 100% of the cPAD.

c. *Cancer risk*. Since there were no detectable residues of thiamethoxam or its metabolite in samples from the residue trials conducted in Brazil, Columbia and Mexico, it can be concluded that there is no increased cancer risk from the proposed use on imported coffee. Syngenta DEEM analysis indicates that the proposed tolerance on coffee contributes only 3.00 x 10^{E-9} lifetime dietary cancer risk.

ii. *Drinking water*. Since the proposed tolerance is for imported coffee, there is no potential exposure from drinking water.

2. *Non-dietary exposure*. Thiamethoxam is not currently registered for use on any sites that would result in residential exposure.

D. Cumulative Effects

The potential for cumulative effects of thiamethoxam, and other substances that have a common mechanism of toxicity has also been considered. Thiamethoxam belongs to a new pesticide chemical class known as the neonicotinoids. There is no reliable information to indicate that toxic effects produced by thiamethoxam would be cumulative with those of any other chemical including another pesticide. Therefore, Syngenta believes it is appropriate to consider only the potential risks of thiamethoxam in an aggregate risk assessment.

E. Safety Determination

1. *U.S. population*. Syngenta concludes, as described above, that there is reasonable certainty that no harm to the U.S. population will result from aggregate acute or chronic dietary exposure to thiamethoxam residues including the proposed tolerances for imported coffee.

2. *Infants and children*. Syngenta concludes, as described above, that there is reasonable certainty that no harm to infants and children will result from aggregate acute or chronic exposure to thiamethoxam residues, including the proposed tolerances for imported coffee.

VOL 66 ISS 241 DE 14 2001 UMI

F. International Tolerances

There are no Codex maximum residue levels established for residues of thiamethoxam on coffee.

[FR Doc. 01–30915 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7116–5]

Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Western Sand and Gravel Superfund Site, Located on the Boundary of Burrillville and North Smithfield, RI

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601, *et. seq.*, notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency ("EPA") and Supreme Mid-Atlantic Corporation, Inc. ("Purchaser"). The Purchaser plans to acquire approximately 25 acres of property that is currently owned by Western Sand and Gravel, Inc., a portion of which was used for the disposal of liquid wastes, including hazardous substances. The Purchaser intends to use the property for the purpose of constructing and operating a truck body manufacturing plant. Under the Proposed Agreement, the United States grants a Covenant Not to Sue to the Purchaser with respect to existing contamination at the Site in exchange for the Purchaser's agreement to pay EPA $25,000. In addition, the Purchaser agrees to provide an irrevocable right of access to representatives of EPA and to comply with Institutional Controls.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214.

DATES: Comments must be submitted on or before January 14, 2002.

ADDRESSES: Comments should be addressed to the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region I, One Congress Street, Suite 1100, Mailcode RAA, Boston, Massachusetts 02203, and should refer to: In re: Western Sand and Gravel Superfund Site, U.S. EPA Docket No. CERCLA–01–2001–0067.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed Agreement and Covenant Not to Sue can be obtained from Ann Gardner, Paralegal, U.S. Environmental Protection Agency, Region I, One Congress Street, Mailcode SES, Boston, Massachusetts 02214, (617) 918–1895.

Dated: October 17, 2001.

Robert V. Varney,

Regional Administrator, Region I.

[FR Doc. 01–30912 Filed 12–13–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

December 5, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 12, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A–804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0567.

Title: Section 76.962 Implementation and certification of compliance.

Form Number: N/A.

Type of Review: Delegated.

Respondents: Business or other for-profit entities, State, local or Tribal Government.

Number of Respondents: 500.

Estimated Time Per Response: .5 hours (30 minutes).

Total Annual Burden to Respondents: 250.

Total Annual Costs: $0.00.

Needs and Uses: Section 76.962 requires any cable operator that has been deemed subject to remedial requirements to certify to the Commission its compliance with the Commission order requiring prospective rate reductions, refunds or other relief to subscribers. The certification must be filed with the Commission within 90 days from the date the Commission released the order mandating a remedy. These certifications are used by the Commission to monitor a cable operator's compliance with Commission rate orders.

OMB Control Number: 3060–0668.

Title: Section 76.936 Written Decisions.

Form Number: N/A.

Type of Review: Delegated.

Respondents: State or Local, or Tribal government.

Number of Respondents: 1,200.

Estimated Time Per Response: 1 hour.

Total Annual Burden to Respondents: 1,200 hours.

Total Annual Costs: $0.

Needs and Uses: Section 76.936 states that a franchising authority must issue a written decision in a rate-making proceeding whenever it disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase whole or in part over the objection of interested parties. Franchising authorities are required to issue a written decision in rate-making proceedings pursuant to section 76.936 so that cable operators and the public are made aware of the proceeding.

OMB Control Number: 3060–0673.

Title: Section 76.956 Cable Operator Response.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50.

Estimated Time Per Response: 4 hours.

Total Annual Burden to Respondents: 200 hours.

Total Annual Costs: $0.

Needs and Uses: Section 76.956 states that unless otherwise directed by the local franchising authority, a cable operator must file with the local franchising authority a response to a cable service complaint. In addition to responding to the merits of a complaint, the cable operator also may move for dismissal of the complaint for failure to meet the minimum showing requirement. The local franchising authority and the Commission use this information to ensure a process for cable operators to file a motion to dismiss a rate complaint filed against them if they feel that the complaint fails to meet the minimum showing.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30868 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

December 5, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 12, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0289.

Title: Section 76.76.601(a) Performance Tests, Section 76.1704(a)(b) Proof of Performance Test Data, Section 76.1705 Performance Tests (Channels Delivered).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 10,838.

Estimated Time Per Response: .5–70 hours.

Total Annual Burden to Respondents: 328,379 hours.

Total Annual Costs: $3,000.00.

Needs and Uses: These rules require that the operator of each cable television system shall be responsible for insuring that each such system is designed, installed, and operated in a manner that fully complies with the provisions of the Commission rules. In addition, the rules require proof of performance tests and identify files to be maintained and a list of channels that a system delivers to its subscribers. The Commission uses this information to assure compliance with such rules.

OMB Control Number: 3060–0638.

Title: Section 76.934(g) Alternative rate regulation agreements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 10,838.

Estimated Time Per Response: .5 hours.

Total Annual Burden to Respondents: 50 hours.

Total Annual Costs: $300.

Needs and Uses: This rule requires that local franchising authorities, certified pursuant to section 76.910, and small systems operated by small cable companies may enter into an alternative rate regulation agreements affecting the basic service tier and the cable programming service tier. Small systems must file with the Commission a copy of the operative alternative agreement within 30 days after its effective date. Alternative rate regulation agreements are filed with the Commission so that verification can be made the such agreements have been entered into and executed pursuant to the Commission rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30869 Filed 12–13–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Revised Sunshine Notice*; Open Commission Meeting Wednesday, December 12, 2001

December 11, 2001.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, December 12, 2001, which is scheduled to commerce at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

Item No. and Bureau	Subject
1 Common Carrier	*Revised Title:* Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; SBC Petition for Expedited Ruling That it is Non-Dominant in its Provision of Advanced Services and for Forbearance from Dominant Carrier Regulation of Those Services. *Revised Summary:* The Commission will consider a Notice of Proposed Rule Making initiating a comprehensive examination of the appropriate regulatory requirements for incumbent LECs' provision of broadband services. As part of this proceeding, the Commission also invites comment on the Petition filed by SBC Communications, Inc.
2 Common Carrier	*Title:* Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of the 1996 (CC Docket No. 96–98); and Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98–147). *Summary:* The Commission will consider a Notice of Proposed Rule Making to initiate its "triennial" review of the definitions of and rules concerning access to incumbent LEC unbundled network elements.
3 Common Carrier	*Title:* Numbering Resource Optimization (CC Docket No. 99–200); Petition for Declaratory Ruling and Request For Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717 (CC Docket No. 96–98); and Telephone Number Portability (CC Docket No. 95–116). *Summary:* The Commission will consider a Third Report and Order and Second Order on Reconsideration in CC Docket No. 96–98 and CC Docket No. 99–200 regarding plans for nationwide thousands-block number pooling and other strategies to ensure that the numbering resources of the North American Numbering Plan are used efficiently.
4 Mass Media	*Title:* Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies (MM Docket No. 98–204). *Summary:* The Commission will consider a Second Notice of Proposed Rule Making concerning new equal employment opportunity rules for broadcast licensees and cable entities.
5 Office of Engineering and Technology and Wireless Telecommunications.	*Title:* Reallocation and Service Rules for the 698–746 MHz Spectrum Band (Television Channels 52–59) (GN Docket No. 01–74). *Summary:* The Commission will consider a Report and Order concerning allocation and service rules to reallocate television channels 52–59, pursuant to the Balanced Budget Act of 1997.
6 Office of Engineering and Technology	*Title:* Revision of part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). *Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International (202) 863–2893; Fax (202) 863–2898; TTY (202) 863–2897. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at Qualex@apl.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast past at <*http://www.fcc.gov/realaudio/*>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 of fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–1470, Ext. 10; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30987 Filed 12–12–01; 12:00 pm]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From December 12th Open Meeting; Sunshine Act

December 11, 2001.

The following item has been deleted from the list of agenda items scheduled for consideration at the December 12, 2001, Open Meeting and previously listed in the Commission's Notice of December 5, 2001.

Item No. and Bureau	Subject
6 Office of Engineering and Technology	*Title:* Revision of Part 15 of the Commission's Rules Regarding Ultra-Wideband Transmission System (ET Docket No. 98–153). *Summary:* The Commission will consider a First Report and Order to provide for new ultra-wideband devices.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–30988 Filed 12–12–01; 12 pm]

BILLING CODE 6712–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection: "Voluntary Customer Surveys of 'Partners' for the Agency for Healthcare Research and Quality." In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection request to allow AHRQ to conduct these customer satisfaction surveys.

This proposed information collection was previously published in the **Federal Register** on September 21, 2001 and allowed 60 Days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 Days of public comment.

DATES: Comments on this notice must be received by January 14, 2002.

ADDRESSES: Written comments should be submitted to: Allison Eydt, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, OMB: New Executive Office Building, Room 10235; Washington, DC 20503.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Surveys of "Partners" for the Agency for Healthcare Research and Quality.

In response to Executive Order 12862, the Agency for Healthcare Research and Quality (AHRQ) plans to conduct voluntary customer surveys of "partners" to identify how well AHRQ is performing its functions with its partners and to use this information to determine the kind and quality of services they like and expect, their level of satisfaction with existing services, and to implement improvements where feasible and practical.

AHRQ partners are typically health care payers, plans, practitioners and providers, researchers, professional associations, AHRQ data suppliers, and State and local governments, as well as persons or entities that provide service to the public for AHRQ, e.g., dissemination of AHRQ publications by a "middle man" such as a professional society.

Partner surveys to be conducted by AHRQ may include surveys of research grantees to measure satisfaction with technical assistance received from AHRQ. The questions asked may include whether there is a need for extended hours to answer inquiries related to grant applications or for the development of a comprehensive manual on submission of grant applications. In addition, AHRQ wants to survey individual recipients of training grants to evaluate their experience with AHRQ training grant programs. Similarly, the Office of Health Care Information (OHCI) is proposing to survey researchers to determine how AHRQ could better serve the research community. Results of these surveys will be used to assess and redirect resources and efforts needed to improve services.

Method of Collection

The data will be collected using a combination of preferred methodologies appropriate to each survey. These methodologies are:

- Mail and telephone surveys;
- Electronic technologies; and
- Focus groups.

The estimated annual hour burden is as follows:

Type of survey	Number of respondents	Average burden/response in minutes	Total hours of burden
Mail/Telephone Surveys/Electronic Technologies	9,400	20	3,133 3
Focus Groups	700	97.7	1140
Totals	10,100	25.4	4,273.3

Request for Comments

In accordance with the above cited Paperwork Reduction Act legislation, comments on this AHRQ information collection proposals are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record. Copies of the proposed collection plans and can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: December 10. 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–30850 Filed 12–13–01: 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request the Office of Management and Budget (OMB) to allow the proposed information collection project: "Medical Expenditure Panel Survey—Medical Provider Component (MEPS–MPC) for 2001 and 2002." In accordance with the Paperwork Reduction Act as amended (see in particular 44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

The proposed information collection was previously published in the **Federal Register** on October 3, 2001 and allowed 60 Days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 Days for public comment.

DATES: Comments on this notice must be received by January 14, 2002.

ADDRESSES: Written comments should be submitted to: Allison Eydt, Human Resources and Housing Branch, Office of Information and Regulatory Affairs, OMB: New Executive Office Building, Room 10235; Washington, DC 20503.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 594–3132.

SUPPLEMENTARY INFORMATION:

Proposed Project

"Medical Expenditure Panel Survey—Medical Provider Component (MEPS–MPC) for 2001 and 2002"

The MEPS–MPC is a survey of hospitals, physicians and other medical providers. The purposes of this survey is to supplement and verify the information provided by household respondents in the household component of the MEPS (MEPS–HC) about the use of medical services in the United States based on a nationally representative sample. With the permission of members of the households surveyed in the MEPS–HC, AHRQ contractor will contract the medical providers of the HC Survey respondents to determine the actual dates of service, the diagnoses, the services provided, the amount that was charged, the amount that was paid and the source of payment. Thus, the MPC is derived from or is based upon the core survey, (MEPS–HC) and will improve the quality of the core survey data.

The Medical Expenditure Panel Survey Household Component (MEPS–HC) to be conducted in 2001 through 2003, will provide annual, nationally representative estimates of health care use, expenditures, sources of payment and insurance coverage, for the U.S. civilian non-institutionalized population for 2001 and 2002 respectively. MEPS is co-sponsored by the Agency for Healthcare Research and Quality (AHRQ) and the National Center For Health Statistics (NCHS).

Data from medical providers linked to household respondents in the MEPS Household component for calendar year 2001, will be collected beginning in 2002 and continuing into the year 2003, data for calendar year 2002 will be collected beginning in 2003 and continue into the year 2004.

Data Confidentiality Provisions

MEPS data confidentiality is protected under the NCHS and AHRQ confidentiality statutes, sections 308(d) and 924(c) of the Public Service Act [42 U.S.C. 242m(d) and 42 U.S.C. 299c–3(c) respectively].

Method of Collection

The medical provider survey will be conducted predominantly by telephone, but may include self-administered mail surveys, if requested by the respondent.

The *MPC for Calendar Year 2001* estimated annual hour burden is as follows:

Type of provider	Number of respondents	Average number of patients/providers	Average number of events/patient	Average burden/event (in minutes)	Total hours of burden
Hospital	5,000	2.15	3.2	5 (.083 hrs.)	2,867
Office-based Director	23,000	1.15	3.5	5	7,715
Separately Billing Doctor	11,200	1.22	1.3	5	1,480
Home Health	500	1.0	5.8	5	242
Pharmacy	9,000	1.75	10.3	3	8,111
Estimated Annual Burden Total					20,415

MPC for Calendar Year 2002

Type of provider	Number of respondents	Average number of patients/providers	Average number of events/patient	Average burden/event (in minutes)	Total hours of burden
Hospital	5,000	2.60	3.2	5 (.083 hrs.)	3,467
Office-based Doctor	24,000	1.15	3.5	5	8,050
Separately Billing Doctor	13,360	1.22	1.3	5	1,766
Home Health	500	1.00	5.8	5	290
Pharmacy	10,700	1.75	10.3	3	9,643
Estimated Annual Burden Total					23,216

Request for Comments

In accordance with the above cited Paperwork Reduction Act legislation, comments on this AHRQ information collection proposals are requested with regard to any of the following: (a) Whether the proposed collections of information is necessary for the proper performance of functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and, (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection. All comments will become a matter of public record. Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer (see above).

Dated: December 7, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01–30851 Filed 12–13–01; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–16]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Formative Research and Evaluation of Native American and Asian American Populations associated with CDC's Youth Media Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

In FY 2001, Congress established the Youth Media Campaign at the Centers for Disease Control and Prevention (CDC). Specifically, the House Appropriations Language said: The Committee believes that, if we are to have a positive impact on the future health of the American population, we must change the behaviors of our children and young adults by reaching them with important health messages. CDC, working in collaboration with the Health Resources and Services Administration (HRSA), the National Center for Child Health and Human Development (NICHD), and the Substance Abuse and Mental Health Services Administration (SAMHSA), is coordinating an effort to plan, implement, and evaluate a campaign designed to clearly communicate messages that will help kids develop habits that foster good health over a lifetime. The Campaign will be based on principles that have been shown to enhance success, including: Designing messages based on research; testing messages with the intended audiences; involving young people in all aspects of Campaign planning and implementation; enlisting the involvement and support of parents and other influencers; tracking the Campaign's effectiveness and revising Campaign messages and strategies as needed.

For the Campaign to be successful, a thorough understanding of Native American and Asian American tweens (youth ages 9–13), the health behaviors promoted, and the barriers and motivations for adopting and sustaining them is essential. Additionally, a thorough understanding of those who can influence the health behaviors of Native American and Asian American tweens is important. This understanding will facilitate the development of messages, strategies, and tactics that resonate with Native American and Asian American tweens, parents and other influencers.

Research for the national and minority audience components of the Youth Media Campaign will identify the Native American and Asian American target audience(s) using standard market research techniques and will address geographic and demographic diversity to the extent necessary to assure appropriate audience representation. This Native American and Asian American audience research may include, but not be limited to, intercept interviews, theater testing, expert reviews, in-depth interviews, pilot/field tests/partial launches, telephone and/or face-to-face interviews, and mail questionnaires with various Native American and Asian American audiences (tweens, ages 9–13; parents; adult influencers; older teen influencers; and partners/alliances). In addition, panels or reoccurring focus groups of Native American and Asian American tweens and parents will convene to generate on-going feedback to the Campaign. The panels will suggest ideas, review creative executions, and provide feedback on what works and what does not work.

The intent of this Native American and Asian American audience research is to solicit input and feedback from audiences on a national level and from Native American and Asian American audiences within targeted populations. Information gathered from both Native American and Asian American audiences will be used to modify/refine and/or revise Campaign messages and strategies and evaluate Campaign effectiveness.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Tweens (ages 9–13)	5,000	1	15/60	1,250

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Reoccurring tween panel(s)	10	4	2	80
Parents	2,500	1	15/60	625
Reoccurring parent panel(s)	20	4	2	160
Adult influencers	1,000	1	15/60	250
Older teen influencers	500	1	15/60	125
Total				2,490

Dated: December 6, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–30862 Filed 12–13–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[HCFA–1191–N]

Medicare Program; Meeting of the Advisory Panel on Ambulatory Payment Classification Groups

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. App. 2), this notice announces the second annual meeting of the Advisory Panel on Ambulatory Payment Classification Groups. The purpose of this panel is to review the ambulatory payment classification (APC) groups and provide technical advice to the Secretary of the Department of Health and Human Services (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (the Administrator) concerning the clinical integrity of the APC groups and their associated weights. This meeting is taking place at this time because the technical advice of the panel will be considered as CMS prepares its annual Notice of Proposed Rulemaking that will propose changes to the Outpatient Prospective Payment System (OPPS) that will be published in the spring of 2002. The next meeting of the panel will be in early calendar year 2003.

DATES: The meeting is scheduled for Tuesday, January 22, Wednesday, January 23, and Thursday, January 24, 2002 from 9 a.m. to 5 p.m. e.s.t.

ADDRESSES: The meeting will be held in the Multipurpose Room at the CMS Central Office, 7500 Security Boulevard, Baltimore, MD 21244.

FOR FURTHER INFORMATION CONTACT: Angela Mason (410) 786–7452 or Valerie Barton (410) 786–2803. Please refer to the CMS Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local), or the Internet at *http://www.hcfa.gov/fac/apcpage.htm* for additional information and updates on committee activities.

SUPPLEMENTARY INFORMATION: The Secretary is required by section 1833(t)(9)(A) of the Social Security Act (the Act), as added by section 201(h)(1)(B) and redesignated by section 202(a)(2) of the Balanced Budget Refinement Act of 1999, to consult with an APC advisory panel. The panel will meet once annually to review the APC groups and provide technical advice to the Secretary and the Administrator of CMS concerning the clinical integrity of the groups and their associated weights. The technical advice provided by the panel at its annual meeting will be considered as CMS prepares the annual Notice of Proposed Rulemaking that will propose changes to the OPPS for the next calendar year.

The panel consists of 15 representatives of Medicare providers that are subject to the OPPS. The members were selected by the Administrator of CMS based upon either self-nominations or nominations submitted by providers or organizations.

The current members of the panel are: Michelle Burke, R.N.; Leslie Jane Collins, R.N.; Geneva Craig, R.N.; Lora A. DeWald, M.Ed; Gretchen M. Evans, R.N.; Robert E. Henkin, M.D.; Lee H. Hilborne, M.D.; Stephen T. House, M.D.; Kathleen P. Kinslow, CRNA, Ed.D; Mike Metro, R.N.; Gerald V. Naccarelli, M.D.; Beverly K. Philip, M.D.; Karen L. Rutledge, B.S.; William A. Van Decker, M.D.; and Paul E. Wallner, D.O. The panel Chairperson is Paul M. Rudolf, M.D., J.D., a CMS medical officer.

The agenda will provide for discussion and comment on the following topics:

- Reconfiguration of APCs, such as splitting of an APC and moving CPT codes from one APC to another.
- Consideration of the effects of using single versus multiple claims in setting relative weights.
- Consideration of guidelines for hospital billing of clinic visits and evaluation and management visits.
- Other technical issues concerning APC structure.

The panel will not be discussing the incorporation of the estimated cost of the pass-through devices into the base APC rates at this meeting.

For more detailed information on the agenda topics see our web site at *http://www.hcfa.gov/fac/apcpage.htm.*

Comments relating to this meeting must be received no later than 5 p.m. on Tuesday, January 8, 2002. Send comments to the following address: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attn: Valerie Barton, Mail Stop C4–05–17, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be sent via electronic mail to *outpatientpps@cms.hhs.gov.* Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission and cannot acknowledge or respond individually to comments we receive. Comments that are included in the agenda topics will be addressed in the proposed rule that will be published in the spring of 2002.

The meeting is open to the public, but attendance is limited to the space available. Individuals or organizations wishing to make oral presentations on the agenda items must submit a copy of the presentation and the name, address and telephone number of the proposed presenter. In addition, all presentations must contain, at a minimum, the following supporting information and data:

- Financial relationship(s), if any, with any company whose products, services, or procedures are under consideration;
- CPT codes involved;
- APC(s) affected;
- Description of the issue;

- Clinical description of the service under discussion, with comparison to other services within the APC;
- Description of the resource inputs associated with the service under discussion, with a comparison to other services within the APC;
- Recommendations and rationale for change; and
- Expected outcome of change and potential consequences of no change.

Further details can be found on our web site at *http://www.hcfa.gov/fac/apcpage.htm.* Presentations submitted without the required data and information will not be considered.

In order to be scheduled to speak, this information must be received no later than 5 p.m., Tuesday, January 8, 2002 at the above address. Alternatively, the information may be sent electronically to the email address specified above. Because of staffing and resource limitations, we cannot accept this information by facsimile (FAX).

Presentations are limited to no more than 5 minutes and must be on the listed agenda topics only. The number of presentations may be limited by the time available.

In addition to formal presentations, there will be an opportunity during the meeting for public comment, limited to 1 minute for each individual or organization. The number of speakers may be limited by the time available.

Any persons wishing to attend this meeting located on Federal property must call the meeting coordinator, Angela Mason, at (410) 786–7452 to register at least 72 hours in advance. Persons attending must show a photographic identification to the Federal Protective Service or Guard Service personnel before they will be allowed to enter the building. Persons not registered in advance will not be permitted into the building and will not be permitted to attend the meeting. News media representatives should contact the CMS Press Office at (202) 690–6145.

Individuals requiring sign language interpretation for the hearing impaired or other special accommodations should contact the meeting coordinator at least 10 days before the meeting.

Authority: Section 1833 of the Social Security Act (42 U.S.C. 1395l) and section 10(a) of Public Law 92–463 (5 U.S.C. App. 2, section 10(a)); 45 CFR part 11)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; and Program No. 93.774, Medicare-Supplementary Medical Insurance Program)

Dated: December 11, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–30990 Filed 12–13–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers For Medicare & Medicaid Services

[CMS–4031–N]

Medicare Program; Open Public Meeting on January 16, 2002 to Discuss Activities Related to the Collection of Diagnostic Data from Medicare+Choice Organizations for Risk Adjustment

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting to provide Medicare+Choice Organizations (M+COs), providers, practitioners, and other interested parties an opportunity to ask questions and raise issues regarding the risk adjustment model that will be selected for use beginning in 2004 and reporting requirements for diagnostic information. The purpose of the meeting is to provide information about risk adjustment model options and associated data collection issues and to allow for public comment regarding the models and data collection.

DATES: The meeting is scheduled for January 16, 2002 from 9 a.m. until 4 p.m., EST.

ADDRESSES: The meeting will be held in the CMS Auditorium, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

FOR FURTHER INFORMATION CONTACT: Bobbie Knickman at (410) 786–4161. To submit public comment no later than February 1, 2002, email: Bobbie Knickman at *bknickman@cms.hhs.gov* or fax to (410) 786–1048.

SUPPLEMENTARY INFORMATION:

Background

The Balanced Budget Act of 1997 (BBA) (Public Law 105–33) established the Medicare+Choice program that significantly expanded the health care options available to Medicare beneficiaries. Under the BBA, the Secretary of the Department of Health and Human Services (the Secretary) must implement a risk adjustment methodology that accounts for variations in per capita costs based on health status and other demographic factors for payment to Medicare+Choice organizations (M+COs). The BBA also gives the Secretary the authority to collect inpatient hospital data for discharges on or after July 1, 1997, and additional data for other services occurring on or after July 1, 1998. Risk adjustment implementation began January 1, 2000. Payments to M+COs are made at 10 percent risk adjusted rates and 90 percent demographically adjusted rates for years 2000 through 2003. The Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act (BIPA), enacted in December 2000, stipulates that the risk adjustment methodology for 2004 and succeeding years should be based on data from inpatient hospital and ambulatory settings. BIPA contains a provision that phases in future risk adjusted payments as follows: 30 percent in 2004; 50 percent in 2005; 75 percent in 2006; and 100 percent in 2007. The collection of physician encounter data, which began on October 1, 2000, and hospital outpatient encounter data, which began on April 1, 2001, was suspended on May 25, 2001 through July 1, 2002. The Secretary indicated that we will be working closely with all interested parties to explore and implement a risk adjustment process for M+C payments that balances accuracy with administrative burden. The meeting will address the following topics:

- Risk adjustment models incorporating ambulatory and inpatient diagnoses;
- Collection/reporting of beneficiary and diagnostic information for Medicare+Choice enrollees in hospital inpatient, outpatient, and physician settings for use in risk adjustment models; and
- Data issues.

The agenda will include presentations by our staff and a question and answer sessions. Written public comments are preferred following the meeting and will be accepted until February 1, 2002.

Registration

Registration for this public meeting is required and will be on a first-come, first-serve basis, limited to two attendees per organization. A waiting list will be available for additional requests. The registration deadline will be January 11, 2002 at 5:00 pm. EST. Registration will be done via the Internet at *http://www.hcfa.gov/events/events.htm.* A confirmation notice will be sent to attendees upon finalization of registration.

VOL 66 ISS 241 DEC 14 2001 UMI

Persons who are not registered in advance will not be permitted into the Federal Building and thus not be able to attend the meeting. Persons attending the meeting will be required to show a photographic identification, preferably a valid drivers' license before entering the building. Please note that if the meeting is cancelled we will post that information on our website.

Attendees will be provided with meeting materials at the time of the meeting. Written meeting materials will be posted on the CMS website before the January 16, 2002 meeting at: *http://www.hcfa.gov* and *http://www.cms.hhs.gov*. We will accept written questions about meeting logistics or requests for meeting materials either before the meeting or up to 14 days after the meeting. Written submissions must be sent to:

Aspen Systems Corporation, ATTN: Kim Slaughter, 2275 Research Boulevard, Mail Stop 5W, Rockville, Maryland 20850.

You may also contact Encounter Data Representative: Kim Slaughter, Telephone Number: (301) 519–5388, Fax Number: (301) 519–6360, E-mail: *encounterdata@aspensys.com*.

Written public comments will be accepted until February 1, 2002. Written public comments should be sent to Bobbie Knickman at bknickman@cms.hhs.gov or fax to (410) 786–1048.

(Authority: Sections 1851 through 1859 of the Social Security Act (42 U.S.C. 1395w–21 through 1395w–28))

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 11, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–30991 Filed 12–13–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0393]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prescription Drug Product Labeling; Medication Guide Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by January 14, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prescription Drug Product Labeling; Medication Guide Requirements (OMB Control No. 0910–0393)—Extension

FDA regulations require the distribution of patient labeling, called Medication Guides, for certain prescription human drug and biological products used primarily on an outpatient basis that pose a serious and significant public health concern requiring distribution of FDA-approved patient medication information. These Medication Guides inform patients about the most important information they should know about these products in order to use them safely and effectively. Included are information such as the drug's approved uses, contraindications, adverse drug reactions, and cautions for specific populations, with a focus on why the particular product requires a Medication Guide. These regulations are intended to improve the public health by providing information necessary for patients to use certain medication safely and effectively.

The regulations contain the following reporting requirements that are subject to the PRA. The estimates for the burden hours imposed by the following regulations are listed in table 1 of this document:

21 CFR 208.20—Applicants must submit draft Medication Guides for FDA approval according to the prescribed content and format.

21 CFR 314.70(b)(3)(ii) and 601.12(f)—Application holders must submit changes to Medication Guides to FDA for prior approval as supplements to their applications.

21 CFR 208.24(e)—Each authorized dispenser of a prescription drug product for which a Medication Guide is required, when dispensing the product to a patient or to a patient's agent, must provide a Medication Guide directly to each patient unless an exemption applies under § 208.26 (21 CFR 208.26).

Section 208.26(a)—Requests may be submitted for exemption or deferral from particular Medication Guide content or format requirements.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
208.20	8	1	8	242	1,936
314.70(b)(3)(ii) and 601.12(f)	3	1	3	24	72
208.24(e)	55,000	8.3	460,000	.0014	644
208.26(a)	1	1	1	4	4
Total					2,656

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

In the **Federal Register** of September 25, 2001 (66 FR 49024), the agency requested comments on the proposed collections of information. FDA received one comment on the September 25, 2001, notice. The comment stated that clarification is needed as to whether Medication Guides would be needed for medical devices that have a prescription drug either as a coating or incorporated into the material of the device, or as a component in a kit. The comment said that some of these types of products might be considered combination products.

FDA requested comments on the information collection burden estimates described in the notice. Because the comment does not pertain to the burden estimates, FDA has forwarded the comment to Docket Number 93N–0371, "Prescription Drug Product Labeling; Medication Guide Requirements." FDA appreciates the comment and will consider it as part of its Medication Guide program.

Dated: December 7, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30852 Filed 12–13–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: January 6–8, 2002.

Time: 7 p.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Wales, 1295 Madison Avenue, New York, NY 10128.

Contact Person: Francisco O. Calvo, PhD, Chief, Review Branch, DEA, NIDDK, Room 752, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8897.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30874 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communications Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communications Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Deafness and Other Communication Disorders Advisory Council.

Date: January 18, 2002.

Open: 8:30 a.m. to 11:15 a.m.

Agenda: Staff reports on divisional, programmatic, and special activities.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

Closed: 11:15 a.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: 31 Center Drive, Bldg. 31, Conf. Rm. 6, Bethesda, MD 20892.

Contact Person: Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *www.nidcd.nih.gov/about/councils/ndcdac/ndcdac.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30875 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Mental Retardation and Developmental Disabilities.

Date: December 10, 2001.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institute of Health, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing

VOL 66 ISS 241 DE 14 2001 UMI

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: December 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30877 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–12, Review of R01 Grants.

Date: December 13, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–16, Review of R 13 Grants.

Date: December 17, 2001.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD., Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel. 02–30, Review of R44 Grants.

Date: December 18, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room H, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD. DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–17, Review of R01 Grants.

Date: January 4, 2002.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Building, Conference Room C, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna Sandberg, MPH, DRPH, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–3089.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel. 02–26, Review of R44 Grants.

Date: January 10, 2002.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Natcher Bldg., Conf. Rms. A & D, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Washko, PhD, DMD, Scientific Review Administrator, 45 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel 02–35, Review of R 13 Grants.

Date: January 16, 2002.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: H. George Hausch, PhD, Acting Director, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30878 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 10, 2001.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 10, 2001.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 12, 2001.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 14, 2001.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 20, 2001.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 5, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30873 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review: Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 13, 2001.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1725.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 19, 2001.

Time: 11 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Heath, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, *srinivar@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–30876 Filed 12–13–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–50]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or

VOL 66 ISS 241 DE 14 2001 UMI

(3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utili8ze a suitable property, providers should submit their written expressions of interest as soon a possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Julie Jones-Conte, Headquarters, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, Program Integration Office, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310–0600; (703) 692–9223; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., Washington, DC 20240; (202) 219–0728; (These are not toll-free numbers).

Dated: December 6, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/14/01

Suitable/Available Properties

Buildings (by State)

Arizona

15 Bldgs.
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Location: 44116, 44305, 44306, 44409, 44410, 44411, 44415, 44416, 44501, 44502, 44503, 44504, 44505, 44506, 44507.
Landholding Agency: Army.
Property Number: 21200140074.
Status: Excess.
Comment: Family housing, duplex, triplex, fourplex, sixplex, (2–3 bedrooms), presence of asbestos/lead paint, off-site use only.

Georgia

Bldg. 02301
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army.
Property Number: 21200140075.
Status: Unutilized.
Comment: 8484 sq. ft., needs major rehab. potential asbestos/lead paint, most recent use—storage, off-site use only.

Idaho

Ditchrider House
25822 Middleton Rd.
Middleton Co: Canyon ID 83644–
Landholding Agency: Interior.
Property Number: 61200140006.
Status: Unutilized.
Comment: 832 sq. ft., residence, needs rehab, off-site use only.

Maryland

Bldgs. 187, 239, 999
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140077.
Status: Unutilized.
Comment: 2284 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140078.
Status: Unutilized.
Comment: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 229
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140079.
Status: Unutilized.
Comment: 2250 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 287
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140080.
Status: Unutilized.
Comment: 2892 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140081.
Status: Unutilized.
Comment: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only.

Bldg. 942
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140082.
Status: Unutilized.
Comment: 3557 sq. ft., presence of asbestos/lead paint, most recent use—chapel, off-site use only.

Bldg. 949
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140083.
Status: Unutilized.
Comment: 2441 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 979
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140084.
Status: Unutilized.
Comment: 2331 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140085.
Status: Unutilized.
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 2122
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140086.
Status: Unutilized.
Comment: 9092 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Bldg. 3000
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140087.
Status: Unutilized.
Comment: 10,663 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only.

Bldg. 4283
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army.
Property Number: 21200140088.
Status: Unutilized.
Comment: 2609 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only.

Ohio

Quarters 120
Defense Supply Center
Columbus Co: Franklin OH 43216–5000.
Landholding Agency: Army.
Property Number: 21200140089.
Status: Unutilized.
Comment: 5670 sq. ft., needs repair, presence of lead paint, most recent use—residence, off-site use only.

Texas

Federal Courthouse
512 Starr Street
Corpus Christi Co: Nueces TX 78401–
Landholding Agency: GSA.
Property Number: 54200140011.
Status: Excess.
Comment: 6000 sq. ft., needs maintenance, eligible for Nat'l Register of Historic Places.
GSA Number: 7–G–TX–1049.

Land (by State)

Arizona

WC–1–2c & WC–1–2f
Range 1 East
Peoria Co: Maricopa AZ 85382–
Landholding Agency: Interior.
Property Number: 61200140007.
Status: Excess.
Comment: 10 acres, portion of parcels, remote location, no utilities.

Suitable/Unavailable Properties

Buildings (by State)

Georgia

Bldg. 2410
Fort Gordon
Ft. Gordon Co: Richmond GA 30905–
Landholding Agency: Army.
Property Number: 21200140076.
Status: Unutilized.
Comment: 8480 sq. ft., needs rehab, potential asbestos/lead paint, most recent use—storage, off-site use only.

Unsuitable Properties

Buildings (by State)

California

Solstice Canyon House
Santa Monica Mountains
Malibu Co: Los Angeles CA 90265–
Landholding Agency: Interior.
Property Number: 61200140003.
Status: Unutilized.
Reason: Extensive deterioration.

Screen House
Rt 140/RT 120
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior.
Property Number: 61200140004.
Status: Unutilized.
Reason: Extensive deterioration.

Florida

U.S. Customs House
1700 Spangler Boulevard
Hollywood Co: Broward FL 33316–
Landholding Agency: GSA.
Property Number: 54200140012.
Status: Surplus.
Reason: Within 2000 ft. of flammable or explosive material Secured Area.
GSA Number: 4–G–FL–1173.

Storage Bldg.
75th Street
Bradenton Co: Manatee FL 34209–
Landholding Agency: Interior.
Property Number: 61200140005.
Status: Unutilized.
Reason: Extensive deterioration.

[FR Doc. 01–30644 Filed 12–13–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 1018–AH69

U.S. Fish and Wildlife Service Manual Chapters on Audits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice and request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) plans to establish policy on State audits accomplished by its Division of Federal Aid by issuing U.S. Fish and Wildlife Service Manual Chapters on the subject. The Service is requesting comments and suggestions on the chapters as described below.

DATES: Comments must be received by February 12, 2002.

ADDRESSES: Comments should be addressed to Kris E. LaMontagne, Chief, Division of Federal Aid, Attn: Audit Chapters, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 140, Arlington, Virginia 22203. Send e-Mail comments to *Fw9_Federal_Aid@fws.gov*, with "Audit Chapter Comment" in the subject line.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Region 7 Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Telephone: (907) 786–3545.

SUPPLEMENTARY INFORMATION:

Background

Through the Federal Aid in Sport Fish and Wildlife Restoration Program, the Service disburses funds to States in the form of grants to restore and manage the Nation's fish and wildlife resources. The States use the funds to conduct research, surveys and management; purchase and restore habitat; operate fish hatcheries; build boat access sites; and provide education, outreach and communications.

The Program is authorized by the Federal Aid in Sport Fish Restoration Act, 16 U.S.C. 777 *et seq.*, enacted in 1950 and the Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 *et seq.*, enacted in 1937. The Program's regulations can be found in Title 50 Code of Federal Regulations, part 80, "Administrative Requirements, Federal Aid in Fish and Federal Aid in Wildlife Restoration Acts;" Title 43 Code of Federal Regulations, part 12, "Administrative and Cost Principles for Assistance Programs;" and other applicable regulations. Various Office of Management and Budget (OMB) circulars, and guidance in the form of Service policy also apply to these chapters.

Funds for the Program are derived from excise and import taxes on fishing equipment, firearms, archery equipment and certain motorboat fuels paid into the Sport Fish Restoration Account or the Federal Aid to Wildlife Restoration Fund. The manufacturer or U.S. Customs (on imports) collects these taxes and pays it to the U.S. Department of the Treasury, who transfers the money to the Service for distribution to the States.

Periodically the Service conducts audits of our State partners, testing for compliance with applicable Acts, regulations, accounting principles, and Service policy. The purpose of these proposed chapters is to clarify the processes and guidelines for conducting an audit, from beginning through close-out of the audit process and resolution of any findings or other issues.

Generally our State partners are: The 50 States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and American Samoa.

We are inviting comments on all chapters. Comments are welcome regarding completeness of the content of material in chapters; clear, easy to

VOL 66 ISS 241 DE 14 2001 UMI

understand language; any burden placed on any Division of the Service, the Department of the Interior, or a State partner; or any other aspect of these documents. Comments must be written, but e-mailed comments are acceptable. The administrative record for this rule is available for viewing, by appointment only, Monday through Friday, 9 a.m. to 3 p.m., in the Division of Federal Aid, 4401 North Fairfax Drive, Suite 140, Arlington, Virginia 22203.

The draft chapters are as follows:

Chapter 1, Policy and Responsibilities for Grantee Audits, Part 417 Fish and Wildlife Service Manual (417 FW 1)

1.1 What Is the Purpose of This Chapter?

This chapter establishes policy and responsibilities for grantee audits, defines terms associated with audits, and provides an overview of the audit process. Other chapters in this Part (417) establish policy and procedures for audit scoping and planning, conducting and reporting, resolution, and appeals.

1.2 To What Program Does This Part Apply?

This Part applies to audits of grantees who receive grants through the Federal Aid Program.

1.3 What Authorities Govern the Conduct of Grantee Audits?

A. OMB Circular A–50, Audit Followup

B. OMB Circular A–87, Cost Principles for State, Local and Indian Tribal Governments

C. OMB Circular A–133, Audits of States, Local Governments, and Non-Profit Organizations

D. 43 CFR 12, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

E. 50 CFR 80, Administrative Requirements, Federal Aid in Sport Fish and Federal Aid in Wildlife Restoration Acts

F. Part 360 (Departmental Audits), Department Manual

G. Part 361(Audit Followup), Department Manual

H. Part 415 (Departmental Audits), Fish and Wildlife Service Manual

I. Government Auditing Standards (Yellow Book)

J. Wildlife and Sport Fish Restoration Programs Improvement Act of 2000

1.4 What Is the Service's Policy Regarding Grantee Audits?

We will:

A. Audit each grantee, once in each five-year period, as specified in the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000. The Regional Director notifies the grantee(s), in writing, of the five-year audit schedule.

B. Provide adequate oversight and financial resources to ensure timely audit completion.

C. Cooperate and coordinate fully with grantees, auditors, the Office of the Inspector General (OIG), and Office of Financial Management (PFM).

1.5 What Are the Objectives of the Federal Aid Program Grantee Audit?

The Federal Aid Audit Program supplements single statewide audits performed according to the requirements of OMB Circular A–133 (see 417 FW 6). The objectives of Federal Aid grantee audits are to:

A. Promote economy, efficiency, and effectiveness in administration of programs and operations.

B. Aid in the prevention and detection of fraud and abuse in programs and operations.

C. Assure financial integrity, accountability, and financial controls of the Federal Aid Program in accordance with generally accepted accounting principles.

D. Assure compliance with applicable Federal laws, rules, and regulations.

1.6 Who Is Responsible for Administering the Federal Aid Audit Program?

A. Director

(1) Oversees the Federal Aid Audit Program.

(2) Makes the final decision on internal Service disagreements associated with resolving audit findings and preparing Corrective Action Plans (CAP).

(3) Makes the final decision on all grantee appeals to the Service.

B. Regional Directors

(1) Ensure that Federal Aid Program staff receive the training necessary to oversee audits.

(2) Provide information to the auditor on Region-specific issues proposed for audit.

(3) Provide guidance and interpret laws, rules, regulations, and policies for the auditor during an audit.

(4) Work with the grantee and auditor throughout the audit to resolve issues as they arise and to identify those issues with potential national implications.

(5) Negotiate with grantees to develop corrective actions to resolve audit findings. Approve, distribute, and monitor implementation of the CAP.

(6) Request closeout of the audit when the grantee has resolved all findings.

(7) Maintain records pertaining to grantee audits, including the CAP and all appeals.

C. Assistant Director—Migratory Birds and State Programs

(1) Ensures consistent interpretation and application of rules, regulations, and laws concerning the Federal Aid Audit Program.

(2) Establishes the national audit schedule pursuant to the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000.

(3) Coordinates Washington Office review of the CAP prior to signature by the Regional Director.

(4) Provides an objective representation of issues when there is a disagreement between the Regional Director and the Assistant Director on the CAP.

(5) Evaluates the Federal Aid Audit Program for efficiency, timeliness, and effectiveness prior to initiating each national audit cycle. The Assistant Director produces a written report at least once every five years, for the Director identifying issues and making recommendations for improving the Audit Program.

D. Chief, Division of Federal Aid (Washington Office)

(1) Advises the Assistant Director—Migratory Birds and State Programs on scheduling of grantee audits. Coordinates audits and provides an independent auditor to conduct the audit.

(2) Ensures that audits are in accordance with Federal policies, regulations, and laws.

(3) Identifies national audit training needs and makes training available. Ensures that appropriate Washington Office Federal Aid Program staff receive the training necessary to oversee audits.

(4) Establishes the scope of the Audit Program in accordance with Government Auditing Standards (Yellow Book).

(5) Provides technical assistance on audit issues to the Regional Office staff and the Assistant Director—Migratory Birds and State Programs prior to and during the development of the CAP's.

(6) Coordinates with the Chief, Division of Policy and Directives Management and the OIG to determine appropriate means of responding to audit-related Freedom of Information Act (FOIA) requests and for distributing final audit reports and final CAP's.

E. Chief, Division of Policy and Directives Management

(1) Oversees activities of the Service Audit Liaison Officer, who, in turn,

serves as liaison to PFM and OIG regarding Federal Aid grantee audit followup.

(2) Advises Service officials on audit liaison matters.

(3) Tracks the implementation of audit recommendations and reports to the Directorate and PFM on grantee audit followup.

1.7 Who Maintains Audit Resolution Files?

The Regional Director is responsible for maintaining audit resolution files in accordance with the Service's records schedule. The office or Region that administers the grant being audited will maintain the following documents in the audit resolution file:

A. All audit-related correspondence, incoming and outgoing.

B. OIG final audit report.

C. Approved CAP for both tracked and nontracked audit findings.

D. Documentation provided by the grantee and used by the Regional Director to verify that the grantee resolved each finding or implemented the auditor's recommendation.

E. Documentation that the audit has been officially closed out.

1.8 What Are the Definitions for Terms Used in This Part?

A. Appeal

A deliberative process that the grantee initiates when he/she does not agree with the Regional Director's determinations, corrective actions, or the resolutions contained in the CAP.

B. Audit

Examination of Federal Aid Program grantees conducted by the Department of the Interior, OIG, other Federal agencies, and independent public accountants.

C. Auditor

The OIG's designee to conduct the audit.

D. Corrective Action

Specific action(s) to resolve an audit finding in a manner consistent with the Service determination.

E. Corrective Action Plan

Management's two-part plan for addressing all audit findings and implementing all recommendations contained in audit reports. The first part addresses all audit findings and recommendations identified in the OIG's transmittal memorandum with the final audit report. The second part, called the addendum, addresses all other audit findings in the final audit report not specifically identified in the OIG's transmittal memorandum. The audit resolution plan in each part contains four components: Auditor's Findings and Recommendations, Service Determination, Corrective Action, and Resolution.

F. Draft Audit Report

Any report prepared by the auditor for review and comment by the Service or the grantee prior to issuance of the final audit report by the OIG.

G. Engagement Letter

The official notification of a pending audit from the auditor to the grantee.

H. Entrance Conference

The meeting involving the auditor, the Service, the grantee, and others, if needed, that officially begins the onsite portion of the audit.

I. Exit Conference

The meeting involving the auditor, the Service, the grantee, and others, if needed, to review the draft audit report and end the field audit.

J. Federal Aid Program

A Program that administers the responsibilities of the Secretary of the Interior under the Federal Aid in Sport Fish Restoration Act, Federal Aid in Wildlife Restoration Act, Clean Vessel Act, Coastal Wetlands Act, the Partnerships for Wildlife Act, and other Acts that establish grant programs. The Service's Division of Federal Aid fulfills these responsibilities.

K. Field Audit

Work that the auditor performs while on the grantee's premises or project sites.

L. Final Action

The completion of all actions, including documentation, necessary to implement a specific audit recommendation and resolve an audit finding.

M. Final Audit Report

The auditor's final report of findings for an audit of a grantee, issued by the OIG. It includes the auditor's recommendations, the grantee's response to the draft audit report, and the auditor's rejoinder.

N. Grantee

The entity to which the Service awards a grant and who is accountable for use of the Federal funds provided.

O. Office of Financial Management

The Department of the Interior organization under the Assistant Secretary—Policy, Management and Budget that tracks audit recommendations to final action.

P. Office of the Inspector General

The Department of the Interior organization responsible for conducting, supervising, and coordinating audits, investigations, and other activities in the Department designed to promote economy and efficiency or prevent and detect fraud, waste, and abuse.

Q. Planning

Helps to ensure that we conduct audits in an economical and efficient manner.

R. Rejoinder

The auditor's answer to the grantee's response to an audit finding and recommendation.

S. Resolution

A process to address and resolve each finding and recommendation in the audit report.

T. Scoping

The process to identify programmatic and financial elements to be audited.

U. Service Audit Liaison Officer

The Washington Office representative that serves as the point of contact for certain followup activities pertaining to grantee audits.

V. Service Determination

The Service decision to sustain (accept) or not sustain (reject) the auditor's finding and recommendation.

W. Single Audit Report

An audit of a grantee completed in accordance with the requirements of the Single Audit Act of 1984 and OMB Circular A–133. These audits are separate from Federal Aid Program specific audits (grantee audits).

X. We/Us

As used throughout this Part, the terms we or us refer to the Fish and Wildlife Service.

1.9 What Phases Are Included in a Federal Aid Program Grantee Audit?

A. Scoping and Planning, Part 417 Fish and Wildlife Service Manual, Chapter 2 (417 FW 2)

During the scoping phase, the auditor identifies programmatic and financial elements to be audited, establishes the period to be audited, identifies issues of potential concern, and ensures that the audit meets Government standards. The planning phase helps to ensure a nationally consistent, effective, and timely audit process. Audit planning establishes the audit schedule, identifies who will conduct the audit, identifies point(s) of contact, sets milestones, and describes logistical requirements.

B. Conducting and Reporting, Part 417 Fish and Wildlife Service Manual, Chapter 3 (417 FW 3)

The audit conduct and reporting phase helps to ensure independent examination of grantees consistent with Government auditing standards.

C. Resolution, Part 417 Fish and Wildlife Service Manual, Chapter 4 (417 FW 4)

The audit resolution phase ensures that all findings and recommendations are tracked and resolved in a timely and efficient manner.

D. Appeals, Part 417 Fish and Wildlife Service Manual, Chapter 5 (417 FW 5)

The appeals process allows a grantee to appeal Service determinations, corrective actions, or resolutions.

E. Single Audit Act Audits, Part 417 Fish and Wildlife Service Manual, Chapter 6 (417 FW 6)

Policy for resolving findings from audits conducted under the Single Audit Act.

Chapter 2, Scoping and Planning, Part 417 Fish and Wildlife Service Manual (417 FW 2)

2.1 What Is the Purpose of This Chapter?

This chapter describes the audit scoping and planning processes. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit conducting and reporting, resolution, and appeals.

2.2 What Is Audit Scoping?

This process identifies the programmatic and financial elements to be audited.

2.3 Who Determines the Scope of an Audit?

The Chief, Division of Federal Aid (Washington Office) establishes the overall scope of grantee audits nationwide. Through discussions with the grantee and the auditor, Regional Directors help define the scope of specific audits. However, the auditor, supplementing and building upon other audits of the grantee, is responsible for identifying the depth and coverage of the audit.

2.4 What Could an Audit Include?

An audit may include one or more of the following components.

A. A financial compliance component to determine if:

(1) A grantee properly conducts financial operations,

(2) Financial reports conform with generally accepted accounting principles, and

(3) Operations comply with applicable laws and regulations.

B. A component to determine whether or not the grantee accomplished the work approved in the grant.

C. An economy and efficiency component to determine whether or not the grantee efficiently and economically managed resources; e.g., personnel, property, space, etc.

2.5 What Steps Are Involved In Audit Scoping?

A. Pre-Audit Coordination

After consulting with the Chief, Division of Federal Aid (Washington Office), the Regional Director, and the grantee about the appropriate time frames for the audit, the auditor schedules a pre-audit coordination meeting with the Regional Director to: (1) Define the period of the audit, identify specific concerns, and (2) to become familiar with grants that were active during the audit period.

B. Coordination With State Auditor

The auditor contacts the audit agency or group that performed the Statewide audit to obtain access to audit work papers. The auditor reviews prior audits of the grantee's program to: (1) Aid in identifying issues to be evaluated, (2) obtain a general understanding of the grantee's accounting and internal control systems; and (3) avoid duplication of effort.

C. Engagement Letter

The auditor is responsible for notifying a grantee of a pending audit. The auditor sends an engagement letter to the grantee, with a copy to the Regional Director, at least 30 calendar days prior to the audit entrance conference. This letter informs the grantee of the audit objectives, the audit period, the key program elements being audited, the information and documents the grantee must make available, and the logistical needs for conducting the field audit.

2.6 Can a Grantee Appeal the Scope of An Audit?

No. An audit is an independent examination of the grantee's Federal Aid Program.

2.7 Will the Auditor Review Past Audit Findings?

Yes. Using Government Auditing Standards, the auditor is required to review corrective actions from prior audits to determine if the grantee has implemented them or if additional actions are needed.

2.8 Can the Scope of the Audit Change?

Yes. The scope of the audit may change when new information becomes available as the audit progresses. We expect the depth and coverage of work to change throughout the course of the audit. This is a routine aspect of the audit, not a change in scope. The most significant change in scope that we normally encounter is the need to change the period being audited.

2.9 Who Can Change the Audit Period?

The auditor provides a written recommendation to change the audit period to the Chief, Division of Federal Aid (Washington Office). The Chief, in consultation with the Regional Director, determines whether or not to change the audit period. The Regional Director provides the grantee written notification of any change in the period and the reason for the change.

2.10 What Is Audit Planning and Why Do It?

Audit planning helps to ensure that we have a nationally consistent, effective, and timely audit process. Audit planning establishes the audit schedule, identifies who will conduct the audit, identifies point(s) of contact for the grantee, sets audit milestones, and describes logistical requirements. The auditor coordinates with the grantee and Service representatives during audit planning.

2.11 Who Ensures That Audit Planning is Accomplished?

The Assistant Director—Migratory Birds and State Programs ensures collaboration among Service staff, the auditor, and the grantee by monitoring audit progress through the Chief, Division of Federal Aid (Washington Office).

2.12 What Steps Does Audit Planning Involve?

A. Grantee's Initial Reply to the Auditor

The grantee will acknowledge the auditor's engagement letter within 30 calendar days providing as much information as possible. See paragraph 2.13.

B. Consultation With the Service

Prior to starting the field audit, the auditor meets with Service Regional Federal Aid staff to discuss specific program audit concerns. Regional Federal Aid staff solicit grantee input during this process.

2.13 What Is the Content of the Grantee's Initial Reply to the Engagement Letter?

The grantee acknowledges the auditor's engagement letter by providing a written response, including as much requested data as is practical at that time. The grantee notifies the auditor of any information that is not available and estimates the date when the information will be available or explains why he/she cannot provide the information. Auditor review of data prior to arriving onsite will help to ensure a more timely and efficient onsite audit with minimal disruption of the grantee's normal operations.

Chapter 3, Conducting and Reporting on Grantee Audits, Part 417 Fish and Wildlife Service Manual (417 FW 3)

3.1 What Is the Purpose of This Chapter?

This chapter provides procedures for conducting and reporting on audits of Federal Aid Program grantees. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping and planning, resolution, and appeals.

3.2 What Is the Objective of the Conduct and Reporting Phase?

To ensure independent examination of grantees consistent with Government auditing standards. This examination results in a final audit report issued by the OIG.

3.3 What Steps Does the Conducting and Reporting Phase Involve?

A. Audit Entrance Conference

This meeting marks the official beginning of the field audit.

B. Field Audit

Field audits usually take three to four months to complete, including site visits. The auditor, the grantee, and the Regional Director communicate regularly to resolve potential audit findings and recommendations before the auditor prepares the draft audit report.

C. Draft Audit Report

Following the field audit, the auditor prepares a draft audit report for review by the Chief, Division of Federal Aid (Washington Office) and the Regional Director. This review may result in revisions or requests for further audit work before the draft audit report is provided to the grantee.

D. Audit Exit Conference

After the auditor releases the draft audit report, he/she schedules an audit exit conference with the Regional Director and the grantee. This conference provides an opportunity for the grantee and Service representatives to ask for or provide further clarification as well as to address any other concerns. The conclusion of the conference marks the completion of the field audit.

E. Auditor Issues Draft Audit Report to OIG

The auditor includes both the grantee's response and the auditor's rejoinder in the draft audit report, and submits the report to the OIG for review and approval.

F. OIG's Final Audit Report

If the OIG accepts the auditor's draft audit report, the OIG assigns an OIG number to the audit report and issues the report to the Regional Director.

3.4 What Is An Audit Entrance Conference?

The auditor schedules this conference in consultation with the grantee and the Regional Director to mark the official beginning of the field audit. Participants include the auditor and representatives from the grantee and the Region. The auditor will explain the audit objectives and process, address logistical needs, establish a tentative schedule, and answer questions.

3.5 Who Provides Technical Guidance to the Auditor on Interpretation and Application of Federal Aid Program Rules and Regulations?

The Regional Director provides guidance and interprets laws, rules, regulations, and policies for the auditor during the conduct of the audit. The Assistant Director—Migratory Birds and State Programs ensures consistent interpretation and application of rules, regulations, and laws nationwide.

3.6 Will the Auditor Issue Status Reports?

Yes. During the field audit, the auditor provides monthly status reports to the Regional Director and the Chief, Division of Federal Aid (Washington Office). The status report contains a brief description of preliminary findings and how the audit is progressing.

3.7 How Does the Service Process Monthly Status Reports?

The Regional Director forwards a copy of the status report to the grantee and maintains a copy in the audit file. If the Regional Director or the Chief, Division of Federal Aid (Washington Office), has a concern about potential findings by the auditor, he/she contacts the Assistant Director, the auditor, or the grantee to deal with the issue(s) as soon as practicable. If the Regional Director or the Chief believe that an issue is of national concern, he/she notifies the Assistant Director—Migratory Birds and State Programs. The Assistant Director determines the appropriate action for national application and issue resolution and issues written guidance to the Regional Directors where the issue is relevant.

3.8 Is the Service Required To Share Monthly Status Reports?

No. The auditor's monthly status reports are proprietary, and we will share these reports with the grantee only.

3.9 Will the Auditor Consult With the Service on Potential Findings While the Audit is in Progress?

Yes. The auditor must report all potential findings to the Regional Director as soon as possible or at least monthly in the status reports. However, in the case of illegal activity or suspected fraud, the auditor must immediately report such findings to the OIG.—Division of Investigations without notice to the Service.

3.10 Can Audit Findings Be Resolved While the Field Audit is Still in Progress?

Yes. When practical and feasible, we work with grantees to resolve audit findings while the auditor is still onsite so that he/she can verify and document the resolution in audit work papers, and report the resolution in the final audit report. The auditor must document all reportable conditions, including those resolved during the audit, to meet Government Auditing Standards.

3.11 Will the Service Have An Opportunity To Review Audit Findings Before the Draft Audit Report is Available to the Grantee?

Yes. Following the field audit, the auditor prepares a draft audit report for review by the Assistant Director—Migratory Birds and State Programs and the Regional Director. We have 30 calendar days from receipt of the draft audit report to complete this review. This review may result in revisions or request for further audit work. After the review is complete, the Regional Director will provide the draft audit report to the grantee at least 30 calendar days prior to the audit exit conference.

3.12 Who Schedules the Audit Exit Conference and When Does It Occur?

The auditor schedules the audit exit conference with the Service and the grantee, to occur on a mutually agreeable date. This conference is a formal opportunity for the grantee and the Service to request or provide further clarification on the potential findings and to address any other concerns relating to the conduct of the audit and the draft audit report. Participants include the auditor and representatives of the Service and the grantee.

3.13 Can Audit Findings Change as a Result of the Exit Conference?

Yes. The auditor takes information received during the exit conference under advisement. The auditor may modify the findings or recommendations before submitting the draft audit report to the OIG.

3.14 Will the Grantee Have An Opportunity To Review and Respond to Audit Findings and Recommendations Before the Auditor Submits the Draft Audit Report to the Office of Inspector General for Approval?

Yes.

A. After the exit conference, the grantee has 30 calendar days to:

(1) Concur with the audit findings and recommendations, or

(2) Disagree with audit findings or recommendations, and provide additional information, if appropriate, to support the grantee's position on specific audit findings.

B. The auditor will summarize the grantee's response in the final report and include the complete text of the grantee's response as an attachment. The grantee may ask the Regional Director for additional review time. This written request must include supporting justification. The Regional Director responds to the grantee's request and instructs the auditor and the grantee accordingly, in writing.

3.15 Will the Auditor Respond to the Grantee's Written Comments on Draft Audit Findings and Recommendations?

Yes. The auditor answers the grantee in the draft audit report in the auditor's rejoinder.

3.16 When Is the Auditor's Report Submitted to the OIG?

After the grantee's response and the auditor's rejoinder are incorporated, the auditor submits the draft audit report to the OIG.

3.17 Who Issues the Final Audit Report and To Whom Is It Issued?

After reviewing the auditor's draft audit report, the OIG issues the final audit report to the Regional Director via a transmittal memorandum. The auditor sends copies of the report to the Chief, Division of Federal Aid (Washington Office), the Service Audit Liaison Officer, and all other Regional Directors.

3.18 Who Provides the Final Audit Report to the Grantee?

The Regional Director transmits a copy of the final audit report to the grantee within 10 working days of receipt of the report from the OIG.

3.19 Who Can Distribute the Final Audit Report to the Public?

The OIG originates the final audit report and is responsible for distribution. The Regional Director may, with permission from the OIG, distribute this report to the public, but only after the grantee has received the report. The grantee may release the report at its discretion.

3.20 Will You Post the Final Audit Report on the Internet?

The Chief, Division of Federal Aid (Washington Office) will coordinate with the Chief, Division of Policy and Directives Management, and the OIG to determine if posting a specifically requested document on the Internet is appropriate.

Chapter 4, Audit Resolution, Part 417 Fish and Wildlife Service Manual (417 FW 4)

4.1 What Is the Purpose of this Chapter?

This chapter establishes policy and procedures for tracking and resolving findings and implementing recommendations from audits of Federal Aid Program grantees. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping, planning, conducting and reporting, and appeals.

4.2 When Does Audit Resolution Begin?

The formal audit resolution process begins on the date the OIG issues the final audit report. However, the Regional Director will work with the grantee while the audit is in progress to resolve issues that the auditor identifies. Exhibit 1 provides the maximum time frames for each phase of the audit resolution process.

4.3 What Is the Purpose of the OIG's Transmittal Memorandum?

The OIG's transmittal memorandum transmits the final audit report to the Service and is the document of record for identifying the audit findings that we must address specifically in the CAP and report to the OIG.

4.4 Who Prepares the CAP?

The Regional Director and the grantee negotiate the terms of the CAP through written and oral discussions of the auditor's findings and recommendations, the grantee's response, the auditor's rejoinder, and the Service's determination. The Regional Chief, Division of Federal Aid, in coordination with the grantee and the Washington Office Division of Federal Aid, prepares the CAP for the Regional Director's signature.

4.5 How Much Time Does the Service Have To Prepare a CAP?

The Service has 90 calendar days from the date the OIG issues the final audit report to resolve all audit findings with the grantee and to prepare the CAP.

4.6 Can the Service Request Additional Time To Prepare the CAP?

Either we or a grantee may need additional time to gather information necessary to develop the CAP. Requests are made as follows:

A. If the grantee needs an extension, he/she must notify the Regional Director in writing at least 15 calendar days prior to the 90 calendar day deadline and provide a justification for the extension.

B. We can make one request to the OIG for 30 additional calendar days to prepare the CAP. If the Regional Director requests additional time, he/she will explain why the additional time is necessary and provide a copy of the request to the grantee.

4.7 What Are the Content and Format for a CAP?

A. Include a cover page that clearly identifies the grantee audited, the years audited, and the report number. Obtain this information from the title of the OIG's final audit report.

B. The CAP contains two parts. The first part addresses all audit findings and recommendations that the OIG identifies in the transmittal memorandum. The second part, called the addendum, addresses any other findings in the final audit report. Each part contains:

(1) Auditor's Findings and Recommendations. The OIG reports these for resolution. The OIG's transmittal memorandum identifies questioned costs or procedures and the auditor's recommendations that we must address in the CAP. It assigns titles and numbers to the auditor's

recommendations for tracking in the CAP.

(2) Service Determination. The Service sustains (accepts) or does not sustain (rejects) the auditor's finding and recommendation. Sustained recommendations from the final audit report must result in planned corrective actions. If the Regional Director does not sustain an audit finding, he or she explains the basis, including legal citations, for that determination. The CAP addresses both sustained and nonsustained findings.

(3) Corrective Action. This component identifies specific corrective action(s) to resolve the finding consistent with the Service Determination. It specifies necessary actions, target dates, and the person responsible for carrying out each action. It also specifies how the grantee should implement the corrective actions to resolve the issues.

(4) Resolution. This component describes documentation that we require of the grantee to verify implementation of the corrective action(s) and target dates.

4.8 Who Must Review and Concur With the CAP?

The Assistant Director—Migratory Birds and State Programs will review the draft CAP and decide whether to concur or not concur within 30 calendar days from the date the Region forwards the CAP to the Washington Office.

4.9 What Happens if the Assistant Director Does Not Concur With the Region's Draft CAP?

The Assistant Director will work with the Regional Director to resolve any disagreements with the CAP. If they cannot resolve their differences, the Director will make the final decision. The Assistant Director may request a 30 calendar day extension from the OIG if needed and if we have not requested a previous extension.

4.10 Who Reviews and Concurs With the CAP at the Department Level?

The Assistant Secretary for Policy, Management and Budget is the audit followup official for the Department of the Interior and makes final determination on audit resolution. The Office of Financial Management (PFM) is the Departmental office delegated authority by the Assistant Secretary to deal with audit resolution. The PFM notifies the Director whether or not it concurs with the Service's determination.

4.11 Are All Audit Recommendations Tracked by the Department?

No.

A. The OIG identifies the recommendations that we must resolve and describes them in the final audit report transmittal memorandum. If we have not resolved the identified recommendations within the 90 calendar days specified in the memorandum (or 120 calendar days if an extension has been granted), the OIG will refer them to PFM for tracking. The PFM reports back to the OIG when those recommendations are resolved.

B. Nontracked audit recommendations are all other recommendations in the final audit report. We do not report resolution of nontracked recommendations to the OIG. However, the Regional Director is responsible for resolving all audit recommendations-both tracked and nontracked.

4.12 How Are Nontracked Audit Recommendations Resolved?

The Regional Director negotiates and documents resolution of nontracked recommendations in the CAP addendum. The addendum follows the same format as part 1 of the CAP. The Regional Director retains the addendum and tracks corrective actions outlined therein. Resolution and issue closure documentation must meet the same standards as those described for part 1. These records are retained in Regional Federal Aid audit files. A grantee may appeal the actions contained in the CAP addendum by initiating the process described in 417 FW 5.

4.13 How Much Time Does the Grantee Have To Implement the CAP?

The corrective action for each finding has a specific deadline as negotiated during development of the CAP. A grantee may request additional time from the Regional Director. The request must be in writing and justify the time requested. The Regional Director responds in writing within 10 working days and copies the Chief, Division of Federal Aid (Washington Office). The Chief notifies the Audit Liaison Officer of the change.

4.14 Who Monitors Implementation of the CAP?

The Regional Director monitors, tracks, and documents implementation of the CAP and keeps the Director, through the Chief, Division of Policy and Directives Management, informed of implementation progress.

4.15 Who Forwards the CAP to the OIG?

Within 2 weeks of the Washington Office decision, the Regional Director signs and forwards the CAP,

A. Excluding the addendum, to the OIG, and

B. Including the addendum, to the grantee for implementation, and provides a copy to the Chief, Division of Federal Aid (Washington Office).

4.16 Who Can Distribute the CAP to the Public?

The Regional Director originates the CAP and makes it available to the public upon request, but only after the grantee has received a copy. A grantee may release a copy of the CAP at his or her discretion.

4.17 Will You Publish a Copy of the CAP on the Internet?

The Chief, Division of Federal Aid (Washington Office) will coordinate with the Chief, Division of Policy and Directives Management, and the OIG to determine if posting a specifically requested document on the Internet is appropriate.

4.18 How Can a Final CAP Be Modified?

The final CAP may only be modified by the Director of the Service or the Secretary, Department of the Interior as the result of an appeal completed in accordance with Part 417 FW 5 or 50 CFR 80.7 except that deadlines for implementation of corrective actions may be changed upon written approval by the Regional Director in accordance with paragraph 4.13 and after consultation with the Chief, Division of Federal Aid (Washington Office).

4.19 Can a Grantee Appeal a Service Determination or Corrective Action in the Final CAP?

Yes. A grantee may appeal a Service determination, corrective action, or resolution contained in the final CAP by the appeals process described in 417 FW 5.

4.20 Are Status Reports Required During Implementation of the CAP?

If the PFM requires us to submit status reports on specific corrective actions, we will request status reports from the grantee.

4.21 How Is an Audit Closed?

The Regional Director sends a memorandum to the Director documenting that final action is complete (all corrective actions have been implemented) and requesting the audit be closed. The memorandum is routed through the Chief, Division of Federal Aid (Washington Office) and the Chief, Division of Policy and Directives Management for review and concurrence. When all concerns are satisfied, the Service Audit Liaison Officer forwards the memorandum to PFM. If PFM concurs that all action has been implemented, PFM notifies the Service Audit Liaison Officer that the audit is closed. The Service Audit Liaison Officer notifies the Chief, Division of Federal Aid (Washington Office) who conveys the message of acceptance and audit closure to the appropriate Regional Director. The Regional Director notifies the grantee after the PFM concurs that the audit findings are resolved and closed.

Time Frames

Audit Resolution Process for Federal Aid Grant Audits

Note: The OIG allows 90 calendar days for bureaus to prepare a corrective action plan. The number of days indicated below is the established maximum time period for each resolution phase.

Calendar day	Responsible organization	Action/comments
1	OIG	OIG issues final audit report. (Resolution time tracking process starts.)
2–45	RO/State/ WO (FA)	RO prepares draft CAP in coordination with State and WO Division of Federal Aid. Submits the draft CAP to the AD–MBSP, attention: FA. (RO must complete action with 45 calendar days from OIG issuance of final report.)
46—75	WO (FA/AD–MBSP)	FA reviews the draft CAP and submits to the AD–MBSP for concurrence and return to the RO. (WO must complete action within 30 calendar days of date that RO forwards report to WO.)
76—90	AD–MBSP/D OIG	If disagreement exists between the RO and WO, the AD–MBSP forwards the draft CAP to the Director for decision and formally requests a 30-day extension from the OIG. (WO must complete action prior to 90-day resolution time frame.)
76—120	RO	RO prepares final CAP for Regional Director signature. RO transmits original to OIG with copies to the WO and the State within 2 weeks of WO decision. (RO must complete action within 2 weeks of WO decision.) *
90–120	OIG	OIG reviews the final CAP and notifies PFM that either: —Recommendations are placed in tracking with PFM, or —FWS has failed to resolve the audit.
120+	PFM/FWS	PFM works with FWS to track audit until all resolution actions are complete.

* Appeal Process: If the Region cannot resolve the audit, the State may appeal to the Director, Fish and Wildlife Service (see 417 FW 6).

Legend:

AD–MBSP—Assistant Director—Migratory Birds and State Programs
D—Director
FA—Division of Federal Aid, WO
FWS—Fish and Wildlife Service
OIG—Office of the Inspector General
PFM—Office of Financial Management (Department)
RD—Regional Director
RO—Regional Office
State—State fish and game agency
WO—Washington Office

Chapter 5, Audit Appeals, Part 417 Fish and Wildlife Service Manual (417 FW 5)

5.1 What Is the Purpose of This Chapter?

This chapter establishes policy and procedures for appealing audit findings or corrective actions for Federal Aid Program grantee audits. See 417 FW 1 for authorities, responsibilities, and definitions. Other chapters in this Part establish policy and procedures for audit scoping, planning, conducting and reporting, and resolution.

5.2 Who May Appeal?

A grantee impacted by a CAP may appeal Service determinations, corrective actions, or resolutions in the CAP.

5.3 How Much Time Does the Grantee Have To Appeal?

A grantee must file a written appeal to the Director within 21 calendar days from the date the Regional Director approved the CAP.

5.4 What Does the Appeal Contain?

The appeal must:

A. Specify which Service determinations, corrective actions, or resolutions they are appealing.

B. Provide information as to why an appeal is being made and include justification and citations supporting their position. This justification supplements information that the grantee provided in the original response to the audit findings.

C. Include a brief summary of prior discussions or negotiations with the Service on the action being appealed.

5.5 Who Makes the Final Decision on an Appeal to the Service?

The Director makes the final decision on each appeal after consultation with technical experts. The Director will work with the grantee(s), appropriate Service Region(s), Washington Office staff, and others as needed to resolve the appeal within 30 calendar days after receipt of all pertinent documents.

5.6 Can a Grantee Appeal the Service Director's Decision?

Yes. A grantee may appeal the Service Director's decision within 30 days of the date of mailing of the adverse decision. It must be directed to the Department of the Interior, Director, Office of Hearings and Appeals. The Director, Office of Hearings and Appeals, an Ad Hoc Appeals Board appointed by that Director, or an Administrative Law Judge of that office, will review the record, hold a hearing on all or part of the record, or listen to oral arguments, and make disposition of the appeal. Such an appeal should be made pursuant to 43 CFR 4.700—4.704.

Chapter 6, Single Audit Act Report Resolution, Part 417 Fish and Wildlife Service Manual (417 FW 6)

6.1 What Is the Purpose of This Chapter?

This chapter establishes Service policy for resolving findings and implementing recommendations from audits of Federal Aid Program grantees under the Single Audit Act. See 417 FW 1 for authorities, responsibilities, and definitions.

6.2 To what Program Does This Chapter Apply?

This chapter applies to Single Audit Act audits of grantees that receive funds through the Federal Aid Program. These audits are separate from the Federal Aid Program specific audits.

6.3 Is the Service Responsible for Resolving All Audit Findings?

No. We are only responsible for resolving findings, recommendations, and questioned costs that directly relate to funds that we provide to the grantee.

6.4 Does the OIG Notify the Service When Audits Are Completed?

The OIG will provide excerpts from the Single Audit Report to the Director or Regional Director if there are issues that we must address. The OIG's transmittal memorandum will identify the specific findings and questioned costs that we must resolve. The OIG does not notify us if the Single Audit Report contains no findings directly related to funds that we provide to the grantee.

6.5 What happens When the Service Receives a Single Audit Report?

A. OIG Provides Report to Washington Office

The Service Audit Liaison Officer:

(1) Notifies the Chief, Division of Federal Aid (Washington Office) and other Service offices, as needed, that we have received a Single Audit report that contains findings that we must resolve.

(2) Forwards the documents to the Chief, Division of Federal Aid (Washington Office) for review and transmittal to the appropriate Regional Director for action.

B. OIG Forwards Reports to the Regional Office

The Chief, Division of Federal Aid (Regional Office) will notify and provide a copy to the Chief, Division of Federal Aid (Washington Office) and the Service Audit Liaison Officer. The Service Audit Liaison Officer will coordinate with other affected offices, as necessary.

6.6 How Much Time Does the Service Have To Respond to the Single Audit Report?

The OIG establishes a deadline in the transmittal memorandum submitted with the Single Audit Report. The Regional Director may, with concurrence of the Assistant Director—Migratory Birds and State Programs, request that the OIG provide additional time for response. The request will include a justification for the extension.

6.7 How Are Findings Resolved?

The Regional Director is responsible for overseeing and monitoring the Service response to Single Audit Reports in accordance with procedures in 417 FW 4.

6.8 Who Maintains Single Audit Report Resolution Files?

The Regional Director will maintain all files related to resolution of Single Audit Act audit findings. These files will include, but not be limited to:

A. Copies of all relevant correspondence.

B. Single Audit Report and OIG transmittal memorandum.

C. Service response to OIG's transmittal memorandum.

D. CAP and revised corrective actions, when appropriate.

E. Documentation that the grantee has resolved the audit findings and questioned costs in accordance with approved corrective actions.

6.9 Can the Grantee Appeal a Corrective Action?

Yes. Grantees may appeal using the procedures outlined in 417 FW 5.

Dated: November 2, 2001.

Joseph E. Doddridge,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 01–30905 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Electric Utility Power Rate and Service Fee Adjustment, Mission Valley Power

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rate adjustment.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to adjust the electric power rates for operation and maintenance assessed to customers of the Mission Valley Power Utility. We request your comments on the proposed rate adjustment.

DATES: Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before February 12, 2002.

ADDRESSES: All comments on the proposed rate adjustment must be in writing and addressed to: Terrance Virden, Director, Office of Trust Responsibilities, Attn.: Irrigation and Power, MS–3061–MIB, Code 210, 1849 C Street, NW, Washington, DC 20240, Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Region Office, 911 NE 11th Avenue, Portland, Oregon 97232–4169, Telephone (503) 231–6702.

SUPPLEMENTARY INFORMATION:

What Is Mission Valley Power (MVP)?

MVP is a tribal enterprise of the Confederated Salish and Kootenai Tribes (CSKT) operating and maintaining the federally-owned power utility on the Flathead Indian Reservation under the authority of a Public Law 93–638 contract (25 U.S.C. 450f).

Where Can Information on the Regulatory and Legal Citations in This Notice Be Obtained?

You can contact the Northwest Regional Director's office at the location stated above or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

What Is the Purpose of This Notice?

This notice is to notify you that we propose to adjust the power rates and service fees for one of our power utilities. We are publishing this notice in accordance with the BIA's regulations governing its power rates and service fees of power utilities, specifically, 25 CFR 175.10–175.12. These sections provide for the fixing and announcing of power rates and related information for BIA Indian Electric Power Utilities.

What Authorizes Us To Issue This Notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301, and the Act of August 7, 1946 (60 Stat. 895; 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual, and by memorandum dated January 25, 1994, from the Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

When Will the Rate Adjustment Be Effective?

The rate adjustment will be in effect starting on, and retroactive to, November 1, 2001.

How Do We Calculate Our Rates?

We calculate rates in accordance with 25 CFR 175.10 by estimating the cost of normal operation and maintenance at our power utility for which you receive service. Normal operation and maintenance mean the expenses we incur to provide direct support or benefit for the power utility's activities for administration, operation, maintenance, and rehabilitation. These costs are then applied as stated in the rate table in this notice.

What Kinds of Expenses Are Included in Determining Our Estimated Cost of Normal Operation and Maintenance?

We include the following expenses as prescribed in 25 CFR 175.10:

(a) Personnel salary and benefits for the utility engineer/manager and utility employees under their management control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(e) Capitalization expenses;

(f) Acquisition expenses;

(g) Maintenance of a reserve fund available for contingencies or emergency expenses for, and insuring, reliable operation of the power system; and

(h) Other expenses we determine necessary to properly perform the activities and functions characteristic of a power utility.

When Should You Pay Your Power Bill?

We will mail you a bill for your power service and energy consumption. You should pay your bill no later than the due date stated on the bill. The due date is normally based on locally established payment requirements at each of our projects.

What Information Must We Collect for Billing Purposes and Why Are We Collecting It?

We must collect certain information from you to ensure we can properly process, bill for, and collect monies owed to the United States. We are required to collect the taxpayer identification number or social security number under the authority of, and as prescribed, in the Debt Collection Improvement Act of 1996. At a minimum, this information is:

(a) Full legal name of person or entity responsible for paying the bill;

(b) Adequate and correct address for mailing or hand delivering our bill; and

(c) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

What Can Happen If You Do Not Provide the Information We Require for Billing Purposes?

We can refuse to provide you service as prescribed in 25 CFR 175.21, 175.22.

What Can Happen if You Don't Pay Your Bill by the Due Date and Could This Affect Your Power Service?

If you do not pay your bill by the due date, you will receive a past due notice no less than 30 days after the due date. We have the right to refuse power service to your facility where the bill is past due for that facility. We can continue to refuse power service to that facility until you pay the past due bill or make payment arrangements that we agree to. When you receive your bill, it will have additional information concerning your rights. Our authority to demand payment of your past due bill is 31 CFR 901.2, "Demand for payment."

Are There any Additional Charges if you Are Late Paying Your Bill?

Yes. We will use the value of funds to the United States as established by the Secretary of the Treasury to calculate the interest you will be assessed. You will not be assessed this charge until your bill becomes past due which occurs on the 31st day after the due date indicated on your bill. However, interest will accrue from the due date on your bill and you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. Should your bill become over 90 days past due, you will be assessed a penalty charge of 6 percent per annum and it will accrue from the date your bill initially became past due. Our authority to assess interest, penalties, and administration fees on past due bills is prescribed in 31 CFR 901.9, "Interest, penalties, and administration costs".

What Else Can Happen to Your Past Due Bill?

If you do not pay your bill or make payment arrangements that we agree to, we are required to send your past due bill to the United States Treasury (Treasury) for further action. We must forward your bill to Treasury no later than 180 days after the original due date of your power bill. Our authority to send your bill to Treasury is prescribed in 31 CFR 901.1, "Aggressive agency collection activity".

What Power Rates and Service Fees Are Proposed for Adjustment by This Notice?

The following table shows the proposed rate adjustment. Not all rates were adjusted. The rates that are proposed for adjustment are noted.

Rate class (• denotes proposed rate or fee adjustment)	Present rate	Proposed rate
Residential:		
Basic charge per month	$5.00	$5.00
Energy charge per kilowatt-hour	0.04739	0.04739
• Minimum monthly charge (May 1–October 31)	10.00	(1)
• Minimum monthly charge (November 1–April 30)	20.00	(1)
• Minimum Monthly Charge (year round)	(1)	10.00
Small commercial without demand:		
Basic charge per month	$5.00	$5.00
• Energy Rate per kilowatt-hour	0.05495	0.05495
Small commercial service with demand charge, rename to General Service with demand charge:		
Single phase service basic charge per month	20.00	20.00
Three phase service basic charges per month	40.00	40.00
• Demand charge per kilowatt of billing demand	4.50	4.10
• Energy charge per kilowatt-hour	0.04064	0.03735
Large commercial service:		
Basic charge per month	125.00	125.00
Demand charge per kilowatt of billing demand	5.00	5.00
Energy charge per kilowatt-hour	0.03115	0.03115
Irrigation pump service:		
Seasonal charge (whichever is greater):		

Rate class (• denotes proposed rate or fee adjustment)	Present rate	Proposed rate
Minimum charge, or	132.00	132.00
Charge per horsepower	6.00	6.00
Monthly charge per rated horsepower of pump	11.05	11.05
Energy charge per kilowatt-hour	0.03586	0.03586
Area lighting rate class, monthly charge:		
Install on existing pole or structure:	6.87	7.20
• 7,000 lumen, mercury vapor unit (existing only)	9.82	10.30
• 20,000 lumen, mercury vapor unit (existing only)	6.36	6.70
• 9,000 lumen, high-pressure sodium unit	8.60	9.00
• 22,000 lumen, high-pressure sodium unit.		
Install with new pole:	8.62	9.05
• 7,000 lumen, mercury vapor unit (existing only)	11.28	11.85
• 20,000 lumen, mercury vapor unit (existing only)	8.12	8.50
• 9,000 lumen, high-pressure sodium unit	10.32	10.85
• 22,000 lumen, high-pressure sodium unit.		
Street lighting service:		
Metered Service (not including street light fixtures):		
Basic monthly charge	5.00	5.00
Energy charge	0.05495	0.05495
Unmetered Service:		
This rate class is available only to municipalities or communities for ten or more lighting units in a group. The charges for this service are subject to a negotiated contract with MVP.	(2)	(2)
Unmetered service charge per month:		
• Charges for an unmetered service under the present rate structure are determined on an individual basis. The rate proposed for this service is a flat monthly charge (unmetered street light service is not part of this rate class).	(2)	15.00

[1] Not used.
[2] Negotiated.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

The CSKT operates the utility under a Public Law 93–638 contract. As part of the contractual relationship, there are continuing consultations between the CSKT and the BIA. These consultations meet the spirit and intent of the Executive Order.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

This is a notice for a proposed rate adjustment at a BIA owned electric power utility. These rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposed rate adjustment be implemented.

Regulatory Planning and Review (Executive Order 12866)

This rate adjustment is not a significant regulatory action and does not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

This rate adjustment is not a rule for the purposes of the Regulatory Flexibility Act because it is "a rule of particular applicability relating to rates". 5 U.S.C. 601(2)(1996).

Unfunded Mandates Act of 1995

This rate adjustment imposes no unfunded mandates on any governmental or private entity and is in compliance with the provisions of the Unfunded Mandates Act of 1995.

Takings (Executive Order 12630)

The Department has determined that this rate adjustment does not have significant "takings" implications. The rate adjustment does not deprive the public, state, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that this rate adjustment does not have significant Federalism effects because it pertains solely to Federal-tribal relations and will not interfere with the roles, rights, and responsibilities of states.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act of 1995

This rate adjustment does not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995. The OMB control number is 1076–0141 and expires November 30, 2002.

National Environmental Policy Act

The Department has determined that this rate adjustment does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321) *et. seq.* (1996).

Dated: December 3, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–30882 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice

of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Class III Gaming Agreement between the Confederated Salish and Kootenai Tribes of the Flathead Nation and the State of Montana, which was executed on October 12, 2001.

DATES: This action is effective December 14, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–30906 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compacts.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compacts between the Pueblos of Isleta, Laguna, Sandia, San Juan, Santa Ana, Santa Clara and Acoma and the State of New Mexico, which were executed on or about October 3, 2001.

DATES: This action is effective December 14, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–30908 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compacts.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compacts between the Pueblos of Tesuque and San Felipe and the State of New Mexico, which were executed on October 12, 2001.

DATES: This action is effective December 14, 2001.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240; (202) 219–4066.

Dated: November 30, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–30907 Filed 12–13–01; 8:45 am]

BILLING CODE 4310–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–448]

In the Matter of Certain Oscillating Sprinklers, Sprinkler Components, and Nozzles; Request for Written Submissions on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission is requesting briefing on remedy, the public interest, and bonding in the above-captioned investigation. The Commission previously found the only remaining respondent in the investigation to be in default.

FOR FURTHER INFORMATION CONTACT: Laurent de Winter, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–708–5452. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–Line) at *http://dockets.usitc.gov/eol.public.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain oscillating sprinklers, sprinkler components, and nozzles, on February 9, 2001. 66 FR 9721.

On June 12, 2001, the Commission determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 7) finding respondent Watex International Co. Ltd., ("Watex") to be in default for claims pending against it relating to U.S. Letters Patent 5,645,218, ("the '218 patent") and U.S. Letters Patent 5,511,727 ("the '727 patent"). On October 1, 2001, complainant L.R. Nelson Corp. ("Nelson") filed a declaration seeking, pursuant to section 337(g)(1) and rule 210.16(c)(1), entry of a limited exclusion order against Watex barring importation into the United States of Watex sprinklers infringing the claims in issue of the '218 and '727 patents. In its declaration, Nelson did not seek issuance of a cease and desist order against Watex.

On September 13, 2001, Nelson moved to withdraw all allegations related to U.S. Letters Patent 6,036,117 ("the '117 patent") from the investigation. On September 25, 2001, the ALJ issued an ID (Order No. 26) granting the motion to withdraw the allegations relating to the '117 patent, and on October 26, 2001, the Commission determined not to review that ID. This withdrawal terminated the investigation with respect to all respondents except Watex, which still has claims relating to the '218 and '727 patents pending against it.

Section 337(g)(1), 19 U.S.C. (g)(1), authorizes the Commission to order limited relief against a respondent found in default unless, after consideration of public interest factors, it finds that such relief should not issue. If the Commission decides to issue a limited exclusion order, it must consider what the amount of the bond should be during the Presidential review period.

In connection with the final disposition of this investigation, the only potential remedy is a limited exclusion order that would result in the exclusion of sprinklers manufactured by Watex from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the scope of such an order. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, it should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see In the Matter of Certain Devices for Connecting Computers via Telephone Lines, Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates a remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider in this investigation include the effect that a limited exclusion order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission issues a limited exclusion order, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed limited exclusion orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than close of business on January 11, 2002. Reply submissions, if any, must be filed no later than the close of business on January 18, 2002. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original document and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See § 201.6 of the Commission's rules of practice and procedure, 19 CFR 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.16 of the Commission's rules of practice and procedure, 19 CFR 210.16.

Issued: December 11, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–30924 Filed 12–13–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy; Agency Information Collection Activities; Proposed collection; Comment request; Employer Assistance Referral Network (EARN)

AGENCY: Office of Disability Employment Policy, Department of Labor.

ACTION: Notice of proposed collection.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation process to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95)[44 U.S.C. 3506(c)(2)(A)]. This process helps ensure that requested data can be provided in the desired format, reporting burdens are minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Office of Disability Employment Policy (ODEP) is soliciting comments concerning the proposed data collection for the following Employer Assistance Referral Network (EARN) forms: EARN Provider Enrollment Form; EARN Employer Enrollment Form; EARN Employer and Provider Surveys. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office shown in the address section below on or before February 12, 2002.

ADDRESSES: Catherine Breitenbach, U.s. Department of Labor, Office of Disability Employment Policy, 1331 F Street, NW, Third Floor, Washington, DC 20004. Telephone: (202) 376–6200. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Catherine Breitenbach, telephone: (202) 376–6200, e-mail: *Breitenbach-catherine@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Employer Assistance Referral Network (EARN) is a new nationwide service designed to provide employers with a technical, educational, and informational resource to simplify and encourage the hiring of qualified workers. Historically, disability programs required employers to do much of the work in the finding and hiring of people with disabilities. The Office of Disability Employment Policy (ODEP) of the Department of Labor has designed EARN to alleviate these barriers and do much of the work for the employer.

EARN is a new service from the Office of Disability Employment Policy (ODEP) of the Department of Labor. This referral service links employers with providers who refer appropriate candidates with disabilities. The service is provided by means of a nationwide toll-free Call Center.

EARN is a service of the Office of Disability Employment Policy which was established pursuant to section 1(a)(1) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554) (enacting

H.R. 5656, see Title I, "Departmental Management") 29 U.S.C. 551 *et seq.*; 5 U.S.C. 301; and Executive Order 13187, "The President's Disability Employment Partnership Board (PDEPB) (January 10, 2001).

This service, and the data collection component is authorized pursuant to Pub. L. 106–554 which direct the Office of Disability Policy to provides initiatives such as EARN to "further the objective of eliminating employment barriers to the training and employment of people with disabilities".

II. Desired Focus of Comments

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Action

This proposed ICR covers four forms: EARN Provider Enrollment Form, EARN Employer Enrollment Form, EARN Employer Survey and EARN Provider Survey. The enrollment forms (Employer Enrollment and Provider Enrollment) will be used to enroll provider and employers who wish to participate and use this service. The surveys (Employer Survey and Provider Survey) will collect quantitative data on participants' levels of satisfaction with individual service elements and their satisfaction with the service as a whole. The surveys will also solicit free-text comments from participants regarding the service.

Agency: U.S. Department of Labor, Office of Disability Employment Policy.

Titles: EARN Provider Enrollment Form, EARN Employer Enrollment Form, EARN Employer Survey, EARN Provider Survey.

OMB Number:

Frequency: Once.

Affected Public: Participating Employer and Service Providers.

Number of Respondents: EARN Provider Enrollment Form—6,000, EARN Employer Enrollment Form—7,500, EARN Employer Survey—300, EARN Provider Survey—300.

Estimated Time Per Respondent: EARN Provider Enrollment Form—20 minutes, EARN Employer Enrollment Form—20 minutes, EARN Employer Survey—20 minutes, EARN Provider Survey—20 minutes.

Total Burden Hours:

EARN Provider Enrollment Form—1,980 hours, EARN Employer Enrollment Form—2,475 hours, EARN Employer Survey—100 hours, EARN Provider Survey—100 hours.

Total Burden Cost (capital/startup): 0 for all.

Total Burden Cost (operating/maintaining): 0 for all.

Description: These surveys are designed to collect data from service providers and employers. For each provider, we will collect Point of Contact (POC) information and information about the types of clients the provider serves. We also request information about the size of the provider organization, whether a fee is charged for placement services, and employer references. For each employer, we will collect information about the number of employees, geographic location, industry, specific jobs offered, and Point of Contact (POC) information. The Employer Survey and Provider Survey will collect quantitative data on participants' levels of satisfaction with individual service elements and their satisfaction with the service as a whole. The surveys will also solicit free-text comments from participants regarding the service. We will present survey data in the aggregate for all Employers and Providers. We will combine survey data with system-generated data reports containing demographic data for the sample groups as well as performance data for the Call Center.

Signed at Washington, DC this 9th day of November, 2001.

William J. Mea,

Deputy Assistant Secretary.

[FR Doc. 01–30854 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 6, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at (202) 693–4158 or E-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Bureau of Labor Statistics (BLS).

Title: BLS/OSHS Federal/State Cooperative Agreement (Application Package).

OMB Number: 1220–0149.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 57.

Number of Annual Responses: 285.

Estimated Time Per Response and Total Burden Hours:

Form	Annual responses	Average burden (in hrs.)	
		Per response	Annually
Work Statements	1	2	2
BLS–OSHS2	4	1	4
Totals	5	....	6

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The Bureau of Labor Statistics signs cooperative agreements with states, and political subdivisions thereof, to assist them in developing and administering programs that deal with Occupational safety and Health Statistics (OSHS) and to arrange through these agreements for research to further the objectives of the Occupational Safety and Health Act. The OSHS Cooperative Agreement (CA) is the vehicle through which State Agencies are awarded funds.

Federal regional and national office staffs use information collected under the CA in order to carry out their fiduciary responsibilities to negotiate the CA funding levels with the State Agencies, to monitor their financial and programmatic performance, and to monitor their adherence to administrative requirements, which are imposed by 29 CFR part 967 and other grants-management-related regulations.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 01–30856 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

[SGA No. DFA 02–102]

H–1B Technical Skills Training Grants

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice of availability of funds and solicitation for grant applications (SGA). This notice contains all of the necessary information and forms needed to apply for grant funding.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of grant funds for skills training programs for unemployed and employed workers. These grants are financed by a user fee paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. As part of the H–1B nonimmigrant visa program, this skills training program was authorized under the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA), as amended. The grants are intended to be a long-term solution to domestic skill shortages in high skill and high technology occupations. Grant awards will be made only to the extent that funds are available. Section 414(c) of ACWIA as amended, (Pub. L. 106–313; 114 Stat. 1257, 29 USC 2916a(2)(A)(ii)) specifies that the Secretary of Labor shall award 25 percent of the grants under these provisions for demonstration projects or programs under section 171 of the Workforce Investment Act (Pub. L. 105–220, 29 USC 2916) to partnerships that shall consist of at least two businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided through workforce investment boards under H–1b technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209), due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. Community organizations may include faith-based organizations. Grants will be distributed fairly across rural and urban areas and across geographic regions.

This solicitation describes the application submission requirements, the process that eligible entities must use to apply for funds covered by this solicitation, and how grantees will be selected. This solicitation is the first in a series to fund grants to business partnerships or business-related non-profits.

Approximately $20 million will be available for funding projects under in this solicitation, with six to 16 projects to be selected for funding. The maximum award of each grant will not exceed $3 million. It is anticipated that an additional $16 million will be available for funding projects covered in the 25% of this year's funding through the competitive process for a total $36 million committed to this effort.

DATES: Applications for grant awards will be accepted commencing immediately. The closing date for receipt of applications shall be February 12, 2002, at 4:00 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications will be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ella Freeman, SGA/DFA 02–102, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Questions should be faxed to Ella Freeman, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879. This is not a toll free number. All inquiries should include the SGA number (DFA 02–102) and a contact name, fax and phone number. This solicitation will also be published on the Internet on the Employment and Training Administration's Homepage at *http://www.doleta.gov*. Award notifications will also be published on this Homepage.

SUPPLEMENTARY INFORMATION: The Employment and Training Administration (ETA), U.S. Department of Labor (DOL), announces the availability of grant funds for skill training programs for unemployed and employed workers. These grants are financed by a user fee paid by employers to bring foreign workers into the U.S. under a new H–1B nonimmigrant visa or at visa renewal. As part of the H–1B nonimmigrant visa program, this skills training program was authorized under the American Competitiveness and Workforce Improvement Act of 1998 ("the Act"), as amended. The grants are intended to be a long-term solution to domestic skill shortages in high skill and high technology occupations.

The Act creates two separate grant programs. Seventy-five (75%) percent of the available grant funds will be awarded to Local Workforce Investment Boards (Local Boards) established under section 117 of the Workforce Investment Act (WIA) (Pub. L. 105–220, 29 USC 2832), or regional consortia of Local Boards. Regional consortia of boards may be interstate. Each Local Board or consortium of boards receiving grant funds must represent a local or regional public-private partnership that is comprised of at least: (i) One Local Board; (ii) one business or business-related non-profit organization such as a trade association; and (iii) one community-based organization or higher education institution or labor union. Community organizations may include faith-based organizations that will carry out such programs or projects through the One-Stop delivery systems

VOL 66 ISS 241 DE 14 2001 UMI

established under section 121 of WIA (29 USC 2841). These funds were made available under H–1B Technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209).

This SGA concerns the remaining 25 percent of the available funds that will be awarded to business partnerships that consist of at least two businesses or a business-related nonprofit organization that represents more than one business. The partnership may also include any educational, labor, community organization, or Local Board. Community organizations may include faith-based organizations. These grant funds may be used only to carryout a strategy that would otherwise not be eligible for the 75 percent funds discussed above. Applicants for the 25 percent funds must explain the barriers they faced in meeting the partnership eligibility criteria for the 75 percent funds—for example, the business partnerships may be on a national, multi-state, regional or rural area basis (such as rural telework programs).

ACWIA 2000 provides resources for skill training in high skill and high technology occupations that are in demand by U.S. business. One key measure of this demand is determined by the number of employer H–1B applications for foreign workers. For example, industries that appear to generate the most current H–1B demand are information technology (IT) and health care. Some examples of specific occupations that can be trained for through this initiative include: registered nurses with four-year degrees, physical therapists, and laboratory technicians. Appendix B to this solicitation provides information on the kinds of occupations certified under the H–1B program by the Department of Labor for the first five months of Fiscal Year 2000 (October 1, 1999 through February 29, 2000) and the number of job openings certified in each occupation.

This initiative will build on similar ETA initiatives that deal with the issue of skill shortages including the June 1998 dislocated worker technology demonstration, the new dislocated worker technology demonstration, the regional skills consortium building awards announced in March 2000, the individual training account demonstration grant awards announced in February 2000 and the skills strategies, partnership training/system building demonstration awards which were announced in June 2000. These efforts were intended to strengthen linkages between employers experiencing skill shortages in specific occupations and the publicly-funded workforce system. In June 1998, $7.5 million in JTPA Title III dislocated worker funds were awarded to 11 organizations throughout the country to train workers in skills related to the information technology industry. In June 1999, over $9.57 million was awarded to 10 grantees to train dislocated workers in the skills necessary to obtain work requiring advanced skills in occupations in manufacturing industry settings, including computers and electronics manufacturing, machinery and motor vehicles, chemicals and petroleum, specialized instruments and devices, and biomedics. On March 2, 2000, 23 awards totaling $15.2 million were announced for the regional skills consortium competition. Finally, this solicitation is taking into account the experience gained from the first, second and third rounds of the H–1B competition for which 9 awards totaling $12.4 million were announced on February 10, 2000, 12 awards totaling $29.2 million were announced on July 19, 2000, and 22 awards totaling $54.0 million were announced on October 20, 2000.

In this round, ETA is soliciting proposals on a competitive basis for the conduct of demonstration projects to provide technical skills training for workers, including both employed and unemployed workers.

This announcement consists of three parts:

- Part I—Application Process.
- Part II—Statement of Work/ Reporting Requirements.
- Part III—Review Process/Rating Criteria.

Part I—Application Process

A. Eligible Applicants

ACWIA, as amended, specifies that grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under provisions establishing the Local Board-based grant, due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. Such barriers might include the nationwide, regional or multi-state nature of the applicant firms' business or training needs or labor-management partnerships; a dispersed client base such as rural or other special populations; the use of a geographically dispersed network of education providers or innovative dispersed training methodologies (such as rural telework).

The applicant's proposal is expected to provide a detailed discussion of participating organizations' respective responsibilities. As required by ACWIA, ETA will give consideration in awarding grants to any proposal that demonstrates a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business (which ACWIA defines as 100 employees or less) or with a labor-management training program or project. The need for training shall be justified through reliable regional, state or local data.

The application must clearly identify the applicant (or the fiscal agent), the grant recipient (and/or fiscal agent), and describe its capacity to administer this project. The fiscal agent may be one of the partner businesses, a business-related nonprofit organization, an educational institution, labor union, community-based organization (which may be faith-based), Local Board or related unit of state or local government.

Part III of this announcement enumerates and defines in depth a series of criteria that will be utilized to rate applicant submissions. Briefly, these criteria are:

I. Statement of Need
II. Service Delivery Strategy
III. Target Population
IV. Sustainability
V. Linkages with Key Partners
VI. Outcomes
VII. Cost Effectiveness

B. Submission of Proposals

Applicants must submit one original and two copies of their proposal. The proposal must consist of two (2) separate and distinct parts, Parts I and II.

Part I of the proposal must contain the Standard Form (SF) 424, "Application for Federal Assistance" (Appendix C) and the Budget Information Form (Appendix D). Upon confirmation of an award, the individual signing the SF 424 on behalf of the applicant shall represent the responsible financial and administrative entity.

In preparing the Budget Information form, the applicant must provide a concise narrative explanation to support the request. The statutory language of ACWIA, is specific in stating that grant resources are to be expended for programs or projects to provide technical skills training. The administrative costs are limited to no more than 10 percent of the request and must clearly support the goals of the project. An illustrative, but not exclusive, list of allowable and allocable types of administrative costs are provided in the WIA regulations at 20 CFR 667.200. Equipment purchases shall be limited to no more than the amount allocated for start-up costs. The budget narrative should discuss precisely how the administrative costs support the project goals.

ACWIA, limits the amount of start-up costs of partnerships or new training projects which may be charged to these grants (29 U.S.C. 2916a(3)). Except for partnerships of small businesses (100 employees or less), the limit is five percent of any single grant or costs not to exceed $75,000, whichever is less. For partnerships consisting primarily of small businesses (100 employees or less), the limit is ten percent of any single grant or a maximum of $150,000, whichever is less.

Part II must contain a technical proposal that demonstrates the Applicant's capabilities in accordance with the Statement of Work. A technical proposal of the grant application is limited to 25 double-spaced, single-sided, 8.5 inch x 11 inch pages with 1-inch margins. Text type shall be 11 point or larger. The Applicant may provide resumes, a staffing pattern, statistical information and related material in attachments which may not exceed 15 pages. Although not required, letters of commitment from partners or from those providing matching resources may be submitted as attachments. Such letters will count against the allowable maximum page total. The applicant must briefly itemize those participating entities in the text of the proposal. Applications that do not meet these requirements will not be considered. Each application must include a Time Line outlining project activities *and* an Executive Summary that is not to exceed two pages. The Time Line and the Executive Summary do not count against the 25 page limit. No cost data or reference to prices should be included in the technical proposal.

Grantee organizations will be subject to: ACWIA, these guidelines; the terms and the conditions of the grant and any subsequent modifications; applicable Federal laws (including provisions in appropriations law); all applicable requirements under H–1B Technical Skills Training Grants announced in the **Federal Register** on April 13, 2001 (66 FR 19209).

In addition, the grantee must ensure that each individual participating in this program has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section.

Under section 18 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1611), an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, or loan.

Note: Except as specifically provided in this solicitation, DOL/ETA's acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirements and/or procedures. For example, applicable OMB Circulars require, and applicant and subapplicant procurement procedure(s) must require, that all procurement transactions are conducted, as much as practical, to provide open and free competition. If a proposal identifies a specific entity to provide services, the DOL/ETA's award does not provide the justification or basis to sole-source the procurement, i.e., it does not authorize the applicant to avoid competition when procuring these services.

C. Hand Delivered Proposals

If proposals are hand delivered, they must be received at the address identified above by February 12, 2002, at 4 p.m., Eastern Time. All overnight mail will be considered to be hand delivered and must be received at the designated place by 2:00 p.m., on the specified closing date. Telegraphed and/or faxed proposals will not be accepted. Failure to adhere to the above instructions will be a basis for a determination of nonresponsiveness.

D. Late Proposals

A proposal received at the designated office after the exact time specified for receipt will not be considered unless it is received before award is made and it:

1. Was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (*e.g.*, a proposal submitted in response to a solicitation requiring receipt of applications by the 19th of the month must be mailed by the 14th);

2. Was sent by U.S. Postal Service Express Mail Next Day Service, Post Office to addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for proposals. The term "working days" excludes weekends and U.S. Federal holidays.

The only acceptable evidence that an application was sent in accordance with these requirements is a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied or affixed on the date of mailing by employees of the U.S. Postal Service.

E. Period of Performance

The initial period of performance will be 24 months from the date of execution of the grant documents. It is anticipated that about $20 million will be disbursed under this announcement. U.S. Department of Labor may extend these grants for an additional period not to exceed 12 months, with or without additional funding, based on the availability of funds and successful program operation.

F. Definitions for Purposes of This Solicitation

Technical skills training may be generally defined as the Atraining services' described in section 134(d)(4)(D) of WIA (29 U.S.C. 2864(d)(4)(D)). The H–1B Technical Skills Training Grant emphasizes training in high-demand, high-level skills to individuals where there is a shortage of qualified workers. Training may include a combination of academic and work-place learning, including on-the-job training, and instruction, as well as customized training to meet the needs of individual participants and/or the needs of individual employers. Customized training that is developed in partnership with an employer (or group of employers) must be accompanied by an employer=s commitment to hire those trainees upon successful completion of the training. Training may be provided to American citizens and nationals and immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Note that workers admitted under non-immigrant visas, such as the H–1B program and related programs, are not eligible for training with these grant funds.

Region may be defined as an area which exhibits a commonality of economic interest. A region may be comprised of more than one labor market area or be one large labor market, one labor market area joined together with adjacent rural districts, special purpose districts, and contiguous and non-contiguous Local Boards. A region may be either intrastate or interstate, and may be identical to the boundry of a single Local Board.

Career Ladders may generally be defined as a system of career options which encourage opportunities for professional growth and upward mobility.

VOL 66 ISS 241 DE 14 2001 UMI

Older Workers are those who meet the age standard prescribed in the Older Americans Act (42 USC 3056)—fifty five years or older—who are seeking full-time employment.

G. Matching Funds

Applicants must demonstrate the ability to obtain resources equivalent to at least 100 percent of the grant award amount as a match. Additionally, at least 50 percent of the match must be from the businesses or business related non-profit involved. This statutory match may be provided in cash or in-kind contributions. Federal resources may not be counted against the matching requirement. The provision of essential capital equipment, such as computers and furniture, is allowed as part of the match. The match may also include supportive services not paid for with federal funds. The amount and nature of the match must be clearly described in the application.

The 100 percent matching requirement is designed to assist grantees in initiating sustainability for the proposed project. The Department is particularly interested that the applicants demonstrate clear evidence that matching resources will sustain training activities after the expiration of the grant. Although matches may be one-time occurrences, applicants are encouraged to seek partnerships that reflect a commitment, financially and non-financially, to the future success of the proposed program.

Part II—Statement of Work/Reporting Requirements

A. Principles

Five basic key principles underlie this effort:

Partnership Sustainability: The primary focus of these awards is technical skills training. The statutory 100 percent non-Federal matching requirement is an integral part of ensuring sustainability because the matching resources are expected to help extend the skills shortages training effort beyond the term of the grant. The requirement that at least one-half of the matching funds must come from the business sector partners is designed to ensure the direct and active participation of employers whose labor needs can be filled by this program. This partnership sustainability concept relates to two rating criteria: Links with Key Partners and Sustainability (the resources each partner offers and the role of external resources in building the foundation for a permanent partnership).

Current Skills Gap: Access to training to fill current local or regional skills shortages is the immediate focus of this initiative. Training investments should be targeted in occupational areas that have been identified on the basis of H–1B occupations as skills shortage areas. This key principle relates to two criteria: Statement of Need and Service Delivery Strategy (the innovative manner in which skills training will meet the skill needs of the region.)

Innovative and Effective Tools: The grantees will use innovative or proven tools and approaches, that may include on-the-job training, to close particular skills gaps and provide strategies for training that promote regional development. This principle relates to two criteria: Service Delivery Strategy in which innovation is encouraged, and Cost Effectiveness. Innovative training programs may result in better employment outcomes and higher levels of skill achieved by those participants for the same cost.

Target Population: Technical skills training under ACWIA, as amended, is geared towards employed and unemployed workers who can be trained and placed directly in highly skilled H–1B occupations (See Attachment B for examples of these occupations). Training may be provided to American citizens and nationals and immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General. Note that workers admitted under non-immigrant visas, such as the H–1B program and related programs, are not eligible for training with grant funds. Up to 5 additional points will be awarded for special efforts to include outreach to target women, minorities, persons with disabilities, older workers, and workers in rural areas. This key principle is related to the Target Population rating criterion.

Career Ladders: Employees at the H–1B skills level are generally characterized as having a Bachelor=s degree or comparable work experience. H–1B technical skills training is targeted to but not limited to skills levels commensurate with a 4-year degree. The training may prepare workers for a broad range of positions along a career ladder. ACareer ladder" may generally be defined as a system of career options which encourage opportunities for professional growth and upward mobility. The technical skills training can include a broad range of positions along a career ladder that eventually lead to a high skills level job. Thus, potential trainees are not required to enter training with a 4-year degree. Additionally, trainees are not expected to acquire a 4-year degree to be successful. Career ladders create opportunities for individuals who may vary in experience and education levels (such as vocational training and Associates= degrees) to advance along a career ladder and qualify for H–1B related occupations.

B. Skills Shortages

Section 414(c) of ACWIA, as amended (29 USC 2916a0, mandates that the grants awarded under this authority be used for technical skills training to employed and unemployed workers. The basis of the funding for the grants is a user fee paid with the H–1B visa application by an employer seeking highly-skilled personnel to fill high-skill shortages in American industries. Training must focus on occupations that are experiencing skills shortage in the domestic job market. The long-term goal of the program is to train American workers in the necessary/appropriate skills to fill shortages in highly skilled industries.

C. Skills Standards

Skills standards represent a benchmark by which an individual's achieved competence can be measured. Work in this area has been performed by private industry and trade associations, registered apprenticeship training systems, and public and private partnerships (including the Job Corps). Well-defined skills standards can be useful tools in matching training goals to targeted occupational areas. Applicants are encouraged to survey the progress to date in developing occupational skills standards in their communities, such as establishing a clearly defined set of expectations for the requisite capabilities of workers.

As noted earlier, the definition of the minimum proficiency level required to be considered an H–1B occupation, contained in section 214(i), of the Immigration and Naturalization Act (INA) (USC 1184(i)), speaks to a very high skills level for these "specialty occupations." These are occupations that require "theoretical and practical application of a body of highly specialized knowledge," and full state licensure to practice in the occupation (if it is required). These occupations also must require either completion of at least a bachelor's degree or experience in the specialty equivalent to the completion of such degree and recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

D. Regional Planning

As applicable, applicants must describe the local area or region that will be served with particular emphasis on its skills shortages. The proposal also must identify the governmental jurisdictions to be included and provide an enumeration of the specific local areas that are served under WIA. Although comprehensive occupational vacancy data are unavailable, current H–1B applicant data should be utilized to the extent feasible to describe occupational shortages. Attachment B to this solicitation is a listing by occupations for which H–1B visas are being sought as shown by the most current H–1B applicant data. Requests for H–1B visas for the applicant's region may reflect a skills shortage of those occupations, as well.

Applicants are encouraged to utilize all available state and local data, including that provided by area businesses and business associations, in making determinations of regional shortages. Applicants are encouraged to analyze data made available by their state labor market information (LMI) organization, the Bureau of Labor Statistics (BLS), and through the local One-Stop delivery system, *www.servicelocator.org*.

E. Service Delivery and Supportive Services

Applicants should carefully describe the skills training that will be provided under the grant in the context of the goals that are to be achieved by participants. ACWIA, states that consideration will be given to applicants who commit to provide at least one of three target outcomes for participants who complete training. These outcomes are the hiring or effecuate the hiring of unemployed trainees, increased wages or salaries of employed workers, and receipt of skill certificates documenting skills acquisition or a link to industry accepted occupational skill standards, certificates, or licensing requirements (29 U.S.C. 2916a(4)(A)).

ACWIA, requires that at least 80 percent of grants be awarded to projects which target occupations in high technology, information technology and biotechnology. For example, this includes skills needed in software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services. Not more than 20 percent of the available funds may be awarded for training in any single specialty occupation, as defined by section 214(i) of the Immigration and Nationalization Act (8 U.S.C. 1184(i)). A response to the Statement of Work criterion should provide a detailed discussion of the kinds of training to be provided and the mechanisms to be used to provide it. Applicants must include in their work statement a discussion of the types of skills training being provided, the targeted skills levels, how the skills will be measured, and how skills shortages in the local area or region will be met through this training.

Grant funds may not be used to provide supportive services. However, applicants may need to make a range of supportive services available to enhance the quality and effectiveness of the skill training provided under the grant. Appropriately focused services, as defined by section 101(46) of WIA (29 U.S.C. 2801(46))—such as transportation or childcare—are considered as important enhancements to the technical skills training package. In order to provide a full range of supportive services, applicants may build linkages to the One-Stop Career Center network. Successful applicants are encouraged to leverage such Federal resources as part of making the technical skills training project more effective. Applicants are also encouraged to use their own non-federal funds to provide supportive services as part of the matching requirement or leveraged Federal resources from other sources. Additional federal resources cannot be counted toward the matching requirement.

Where possible, applicants are encouraged to form partnerships with local Workforce Investment Boards ("Local Boards"). WIA requires Local Boards to prepare a strategic workforce investment plan for the areas that they embrace. Local Boards also designate One-Stop service center operators (Local Boards don't select eligible training providers). In short, Local Boards already are engaged in much of the necessary work that could provide a solid foundation for the training activities to be undertaken under ACWIA, as amended.

F. Reporting Requirements

The grantee is required to provide the reports and documents listed below:

- *Quarterly Financial Reports*. The grantee must submit to the Grant Officer's Technical Representative (GOTR) within the 30 days following each quarter, two copies of a quarterly Financial Status Report (Standard Form 269) until such time as all funds have been expended or the period of availability has expired.
- *Progress Reports*. The grantee must submit a narrative with the quarterly reports to the GOTR within the 30 days following each quarter. Two copies are to be submitted providing a detailed account of activities undertaken during that quarter including:

1. A discussion of the occupational areas for which skills training is being provided;
2. The number of individuals currently in training, the number who have successfully completed training and the number who are unsuccessful or who have dropped out of training;
3. Job placements in skills shortage occupations of unemployed workers;
4. Wage increases in skills shortage occupations of employed workers;

a. Number of skill certifications received or training completions to industry accepted occupational skill standards, certifications or licensing requirements; and

b. An indication of any current problems which may affect performance and proposed corrective action.

- *Final Report*. A draft final report which summarizes project activities and employment outcomes and related results of the demonstration must be submitted no later than the expiration date of the grant. One original and two copies of the final report must be submitted no later than 60 days after the grant expiration date.

G. Evaluation

As required by ACWIA, as amended, applications must include an agreement that the program or project shall be subject to evaluation (or evaluations) by the Secretary of Labor to measure their effectiveness. To learn from these skill training grants, ETA will arrange for or conduct an independent evaluation of the outcomes, impacts, and benefits of the demonstration projects. Evaluation findings will help ETA identify promising practices and approaches that will be disseminated throughout the publicly-funded workforce system. Grantees must agree to make records on participants, employers and funding available and to provide access to program operating personnel and to participants, as specified by the evaluator(s) under the direction of ETA, including after the period of operation.

Part III—Review Process & Rating Criteria

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria listed below. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the (SF) 424, which constitutes a binding offer. In making her determination, the Grant Officer may consider any relevant information that comes to her attention. The Grant Officer will make final award decisions based upon what is most advantageous to the Federal Government in terms of geographical mix, technical quality and other factors.

1. Statement of Need (15 points)

ACWIA, as amended, is a response to skills shortages around the country in specific occupations. The most recent H–1B application data are provided as Attachment B to this solicitation. Applicants should clearly describe the local area or region for which services are to be provided and the skills shortages prevalent in the region.

ACWIA, as amended, specifies that grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under the Local Workforce Investment Board based grant, due to barriers in meeting those partnership eligibility criteria, on a national, multi-state, regional, or rural area (such as rural telework programs) basis. These barriers must be specified here. The applicant must provide sufficient detail on such barriers to justify why application is not made on a local basis through a Local Board. Failure to adequately fulfill this criterion will result in disqualification of the application.

The applicant is encouraged to utilize all available data resources to assure that its description of need is relevant to local labor market shortages, as applicable to the business partnership or business-related nonprofit. Establishing viable partnerships are essential. In responding to this criterion, applicants can make use of information that can include, but is not limited to, state labor market information, H–1B applications, census data, newspaper want ads, expressed employer hiring demands, and information from the One-Stop system. Descriptive items about the local area or region, such as whether it is rural or urban, should be included. (What high technology needs and opportunities exist in the region? What are the particular characteristics of the local political, economic and administrative jurisdictions—Local Boards, labor market areas, or special district authorities—that led them to associate for the purpose of this application?)

A general description of the local area or region should include socioeconomic data, with a particular focus on the general education and skills level prevalent in the area. Applicants are encouraged to include information such as transportation patterns, and statistical and demographic information (e.g., age and income data). Other germane information that will provide greater depth of description include:

- What is the general business environment.
- What industries and occupations are growing and declining.
- What types of skills are being sought in the local area or region by the major employers in general, and the partnership member companies, in particular.

2. Service Delivery Strategy (25 points)

Applicants must lay out a comprehensive strategy for providing the technical skills training that is mandated as the core activity of these grant awards. A brief discussion of the impact of skills training in response to the identified skills shortages of the region should be included. Specific issues that must be addressed as part of this section include:

- The range of potential training providers, the types of skills training that will be offered, how the training will meet the local area or regional skills needs, and how the training will be provided.
- What steps will be taken to reach out to potential community(ies) to provide information about the project and planned training activities.
- How will the types of training planned for project participants be determined.

We encourage applicants to be innovative in the training services they provide. Innovation in the context of service delivery can represent a wide variety of items. Innovation may be implemented in the manner in which training services are provided—e.g., new partnerships to provide or participate in training, use of technology (such as distance learning to provide instruction, interactive video self-instructional materials), and flexible class scheduling (sections of the same class scheduled at different times of the day to accommodate workers whose schedules fluctuate). Creativity in developing the service strategy also is encouraged.

3. Target Population (10 points, 5 bonus points)

The eligibility criteria for skills training enumerated in ACWIA 2000 are extremely broad and include employed and unemployed workers. Training may be provided to American citizens and nationals and to immigrants authorized by the Attorney General to work in the United States, which includes lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General. Note that workers admitted under non-immigrant visas, such as H–1B and related programs, are not eligible for training with these grant funds. This section should clearly identify the targeted workers, including their characteristics, and explain why they are targeted. A discussion of what assessment procedures are to be used is critical. The applicant should address some specific issues relating to the target employed worker population such as:

- How many employed workers will be targeted for services and why.
- The technical skills training needs of those workers to fulfill skills shortage occupations.
- The selection process for workers, both employed and unemployed, should be carefully described to make it clear how those individuals will be determined to possess the capacity after the completion of training to accept jobs that previously were filled via the H–1B visa process. In the case of unemployed workers, an extensive discussion of the criteria to be used to assess and enroll individuals should be included.
- The applicant should describe the outreach methods to target minorities, women, individuals with disabilities, older workers, and individuals in rural areas. Applicants who effectively target such workers will be awarded up to 5 additional points.

4. Sustainability (10 points)

Applicants must demonstrate a statutory 100 percent match to the resources for proposed projects. At least one-half of these funds must come from the business partners or business-related nonprofit organizations involved. Matches may either be in cash or in-kind contributions. Federal resources may not be counted against the matching requirement. Applicants must describe to what extent the partners are providing matching funds or services and how this contribution assists in building the foundation for a permanent partnership, *i.e.*, sustainability. Partnerships and matching resources are considered an integral element of the project, as they support and strengthen the quality of the technical skills training provided and contribute materially toward sustainability.

We encourage applicants to give preference for identifying other resources both Federal and non-Federal, because they can contribute materially toward quality outcomes and sustainability. (Note that although Federal resources may not be counted as match, they may be counted to demonstrate the project sustainability.) Applicants are also encouraged to establish relationships with State and Local Workforce Investment Boards and relevant state agencies, as they may provide valuable assistance and resources that can contribute to the success and sustainability of a proposed project. Applicants should enumerate these resources in this section to support their discussion of sustainability and also describe any specific existing contractual commitments. The sustainability issue can be addressed by providing concrete evidence that activities supported by the proposal will be continued after the expiration date of the grant by using other public or private resources.

5. Linkages With Key Partners (15 points)

The applicant should identify the partners and how they will interact together, *i.e.*, what role each will play and what resources each partner will offer. In particular, this section should identify partnerships with the private and public sectors, including ties with small and medium-sized businesses and small business federations. The Service Delivery Strategy section of the Statement of Work describes the role of each of the actors in delivering the proposed services, while this section is intended to look at the linkages from a more structural perspective with particular emphasis on the employers in the consortium that are experiencing skills shortages and how the proposal will train participants to meet employers' needs.

ETA also is interested in the extent of the involvement of small businesses in the partnership. Consideration will be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

6. Outcomes (15 points)

Applicants must describe the predicted outcomes resulting from this training. It is estimated that the projected results will be somewhat varied given the broad range of people who will probably be served. For example, employed workers are more likely to be trained to achieve a higher skills level than most unemployed workers. Participant success can be determined through placements in H–1B skills shortage occupations, increased wages, or skills attainment in H–1B occupations, or in training for or placement in positions on a career ladder toward such skills attainment.

There are, however, unemployed workers, including dislocated workers who have been laid off permanently from their jobs through no fault of their own, who may well already possess a very high skills level. They could receive additional technical skills training to enhance their skills.

The outcomes for this group may be projected in terms of gaining new employment and skills attainment.

Outcomes for employed workers may be at a somewhat higher level than for those unemployed workers who do not possess similar skills at the outset. Because of the differing skill levels and backgrounds of participants in an H–1B training program, the outcomes section should discuss proposed gains attained for individual participants in context of their backgrounds and skill levels when they entered. Therefore, the focus of the discussion in this section should emphasize very specifically the benefits that occur because of the training. For example, an applicant might state that a certain skills level is projected for a given group and indicate what change in skills that represents and how that might translate into an increase in earnings.

The application must identify the occupations participants will be trained in. Please identify each occupation in terms of skills in high technology, information technology and biotechnology, including skills needed for software and communication services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, bio-technology and biomedical research and manufacturing and innovation services, or in terms of other high skilled specialty occupations.

Consideration in the award of grants will be given to applicants which commit to achieving one or more of the following outcome goals upon successful completion of a training program:

(1) The hiring of or effecuate the hiring of unemployed trainees (if applicable);

(2) Increases in the wages or salaries of already employed trainees (if applicable); and

(3) Awards of skills certifications to trainees or linking the training to industry-accepted occupational skill standards, certificates or licensing requirements.

7. Cost Effectiveness (10 points)

Applicants will provide a detailed cost proposal, including a discussion of the expected cost effectiveness of their proposal in terms of the expected cost per participant compared to the expected benefits for these participants. Applicants should address the employment outcomes, increased salary, promotion or retention and the levels of skills to be achieved (such as attaining state licensing in an occupation) relative to the amount of training that the individual needed to receive to achieve those outcomes. Benefits can be described both qualitatively in terms of skills attained and quantitatively in terms of wage gains.

Cost effectiveness may be demonstrated in part by cost per participant and cost per activity in relation to services provided and outcomes to be attained. This section MUST contain a detailed discussion of the size, nature, and quality of the non-Federal match. Proposals not presenting a detailed discussion of the non-Federal match or not meeting the statutory 100 percent match requirement, or not demonstrating that businesses or business-related nonprofit organizations involved provide at least half the match will be considered non-responsive and will not be considered.

The application must specify a management entity, the resumes of major staff members and detailed descriptions of the roles of various entities participating in the partnership. Each application MUST designate an individual who will serve as project director and who will devote a substantial portion of his/her time to the project, which may be defined as at least 40 percent. A short portion of this discussion should describe the organizational capacity and track record in high skill training and related activities of the primary actors in the partnership.

Signed in Washington, DC, this 11th day of December, 2001.

James W. Stockton,

Grant Officer.

Appendix A: Legislative Mandate

Appendix B: Selected H–1B Professional, Technical and Managerial Occupations, and Fashion Models: Number of Job Openings Certified by the U.S. Department of Labor, Fiscal Year 2000 (Oct. 1, 1999–Feb. 29, 2000)

Appendix C: (SF) 424–Application Form

Appendix D: Budget Information Form

VOL 66 ISS 241 DE 14 2001 UMI

Appendix A. Legislative Mandate

The relevant portions of ACWIA 2000, and the Immigration and Nationality Act dealing with the establishment of a fund for implementing a program of H–1B skill training grants state:

Immigration and Nationality Act, Section 286(s), (8 U.S.C. 1356(s))—H–1B NONIMMIGRANT PETITIONER ACCOUNT

(1) IN GENERAL—There is established in the general fund of the Treasury a separate account, which shall be known as the "H–1B Nonimmigrant Petitioner Account."

Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the account all fees collected under section 214(c)(9) of the Immigration and Nationality Act (8 U.S.C. 1184 (c)(9)).

(2) USE OF FEE FOR JOB TRAINING—55 percent of amounts deposited into the H–1B Nonimmigrant Petitioner Account shall remain available to the Secretary of Labor until expended for demonstration programs and projects described in section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 2916a).

SEC. 414(c) OF ACWIA (29 U.S.C. 2916a) DEMONSTRATION PROGRAMS AND PROJECTS TO PROVIDE TECHNICAL SKILLS TRAINING FOR WORKERS.—

(1) IN GENERAL.—(A) FUNDING.—The Secretary of Labor shall use funds available under section 286(s)(2) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(2)) to establish demonstration programs or projects to provide technical skills training for workers, including both employed and unemployed workers.

(B) TRAINING PROVIDED.—Training funded by a program or project described in subparagraph (A) shall be for persons who are currently employed and who wish to obtain and upgrade skills as well as for persons who are unemployed. Such training is not limited to skill levels commensurate with a four-year undergraduate degree, but should include the preparation of workers for a broad range of positions along a career ladder. Consideration shall be given to the use of grant funds to demonstrate a significant ability to expand a training program or project through such means as training more workers or offering more courses, and training programs or projects resulting from collaborations, especially with more than one small business or with a labor-management training program or project. The need for the training shall be justified through reliable regional, State, or local data.

(2) GRANTS.—(A) ELIGIBILITY.—To carry out the programs and projects described in paragraph (1)(A), the Secretary of Labor shall, in consultation with the Secretary of Commerce, subject to the availability of funds in the HB1B Nonimmigrant Petitioner Account, award—

(i) 75 percent of the grants to a local workforce investment board established under section 116(b) or section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2831(b), 2832) or consortia of such boards in a region. Each workforce investment board or consortia of boards receiving grant funds shall represent a local or regional public-private partnership consisting of at least—

(I) One workforce investment board;

(II) One community-based organization or higher education institution or labor union; and

(III) One business or business-related nonprofit organization such as a trade association: Provided, That the activities of such local or regional public-private partnership described in this subsection shall be conducted in coordination with the activities of the relevant local workforce investment board or boards established under the Workforce Investment Act of 1998 (29 U.S.C. 2832); and

(ii) *25 percent of the grants under the Secretary of Labor's authority to award grants for demonstration projects or programs under section 171 of the Workforce Investment Act (29 U.S.C. 2916) to partnerships that shall consist of at least 2 businesses or a business-related nonprofit organization that represents more than one business, and that may include any educational, labor, community organization, or workforce investment board, except that such grant funds may be used only to carry out a strategy that would otherwise not be eligible for funds provided under clause (i), due to barriers in meeting those partnership eligibility criteria, on a national, multistate, regional, or rural area (such as rural telework programs) basis.* (emphasis added)

(B) DESIGNATION OF RESPONSIBLE FISCAL AGENTS.—Each partnership formed under subparagraph (A) shall designate a responsible fiscal agent to receive and disburse grant funds under this subsection.

(C) PARTNERSHIP CONSIDERATIONS.—Consideration in the awarding of grants shall be given to any partnership that involves and directly benefits more than one small business (each consisting of 100 employees or less).

(D) ALLOCATION OF GRANTS.—In making grants under this paragraph, the Secretary shall make every effort to fairly distribute grants across rural and urban areas, and across the different geographic regions of the United States. The total amount of grants awarded to carry out programs and projects described in paragraph (1)(A) shall be allocated as follows:

(i) At least 80 percent of the grants shall be awarded to programs and projects that train employed and unemployed workers in skills in high technology, information technology, and biotechnology, including skills needed for software and communications services, telecommunications, systems installation and integration, computers and communications hardware, advanced manufacturing, health care technology, biotechnology and biomedical research and manufacturing, and innovation services.

(ii) No more than 20 percent of the grants shall be available to programs and projects that train employed and unemployed workers for skills related to any single specialty occupation, as defined in section 214(i) of the Immigration and Nationality Act (8 U.S.C. 1184(i)).

(3) START-UP FUNDS.—(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 5 percent of any single grant, or not to exceed $75,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(B) EXCEPTION.—In the case of partnerships consisting primarily of small businesses, not more than 10 percent of any single grant, or $150,000, whichever is less, may be used toward the start-up costs of partnerships or new training programs and projects.

(C) DURATION OF START-UP PERIOD.—For purposes of this subsection, a start-up period consists of a period of not more than 2 months after the grant period begins, at which time training shall immediately begin and no further Federal funds may be used for start-up purposes.

(4) TRAINING OUTCOMES.—(A) CONSIDERATION FOR CERTAIN PROGRAMS AND PROJECTS.—Consideration in the awarding of grants shall be given to applicants that provide a specific, measurable commitment upon successful completion of a training course, to—

(i) Hire or effectuate the hiring of unemployed trainees (where applicable);

(ii) Increase the wages or salary of incumbent workers (where applicable); and

(iii) Provide skill certifications to trainees or link the training to industry-accepted occupational skill standards, certificates, or licensing requirements.

(B) REQUIREMENTS FOR GRANT APPLICATIONS.—Applications for grants shall—

(i) Articulate the level of skills that workers will be trained for and the manner by which attainment of those skills will be measured;

(ii) Include an agreement that the program or project shall be subject to evaluation by the Secretary of Labor to measure its effectiveness; and

(iii) In the case of an application for a grant under subsection (c)(2)(A)(ii), explain what barriers prevent the strategy from being implemented through a grant made under subsection (c)(2)(A)(i).

(5) MATCHING FUNDS.—Each application for a grant to carry out a program or project described in paragraph (1)(A) shall state the manner by which the partnership will provide non-Federal matching resources (cash, or in-kind contributions, or both) equal to at least 50 percent of the total grant amount awarded under paragraph (2)(A)(i), and at least 100 percent of the total grant amount awarded under paragraph (2)(A)(ii). At least one-half of the non-Federal matching funds shall be from the business or businesses or business-related nonprofit organizations involved. Consideration in the award of grants shall be given to applicants that provide a specific commitment or commitments of resources from other public or private sources, or both, so as to demonstrate the long-term sustainability of the training program or project after the grant expires.

(6) ADMINISTRATIVE COSTS.—An entity that receives a grant to carry out a program or project described in paragraph (1)(A) may not use more than 10 percent of the amount of the grant to pay for administrative costs associated with the program or project." The Immigration and Nationality Act (INA)(section 101(a)(15)(H)(i)(b), 8 U.S.C.

11011(a)(15)(H)(i)(b)) defines the H–1B alien as one who is coming temporarily to the United States to perform services in a specialty occupation or as a fashion model.

The IMMIGRATION AND NATIONALIZATION ACT (Section 214(i)) 8 U.S.C. 1184(i) defines the term "specialty occupation" as:

(1)(A) Theoretical and practical application of a body of highly specialized knowledge and,

(B) Attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States

(2) For purposes of section 101(a)(15)(H)(i)(b)), the requirements of this paragraph with respect to a specialty occupation are—

(A) Full state licensure to practice in the occupation, if such licensure is required to practice in the occupation.

(B) Completion of the degree described in paragraph (1)(B) for the occupation, or

(C)(i) Experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.

The WORKFORCE INVESTMENT ACT defines training services (Sec 134(d)(4)(D), 29 U.S.C. 2864(d)(4)(D)

(D) TRAINING SERVICES —Training services may include—

(i) Occupational skills training, including training for nontraditional employment;

(ii) On-the-job training;

(iii) Programs that combine workplace training with related instruction, which may include cooperative education programs;

(iv) Training programs operated by the private sector;

(v) Skill upgrading and retraining;

(vi) Entrepreneurial training;

(vii) Job readiness training;

(viii) Adult education and literacy activities provided in combination with services described in any of clauses (i) through (vii); and

(ix) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

WIA prohibits discrimination against certain non-citizens in the provision of services, including the demonstration grant program under which this program is conducted. (Sec 188(a)(5), 29 U.S.C. 2938(a)(5):

Participation in programs and activities or receiving funds under this title shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

WIA also specifies that participants comply with the Military Selective Service Act. (Sec. 189, (h), 29 U.S.C. 2939):

The Secretary shall ensure that each individual participating in any program or activity established under this title (Title I of the Workforce Investment Act), or receiving any assistance or benefit under this title, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

Appendix B

H–1B PROGRAM—SUMMARY DATA FY '92–FY '00

	Number of LCA's[1] certified	Number of job openings certified[2]
FY '92	43,808	120,776
FY '93	62,285 (+42.2%)	127,652 (+5.7%)
FY '94	84,898 (+36.3%)	270,014 (+111.5%)
FY '95	97,040 (+14.3%)	312,563 (+15.8%)
FY '96	120,512 (+24.2%)	246,725 (−21.1%)
FY '97	162,363 (+34.7%)	398,324 (+61.4%)
FY '98	208,156 (+28.2%)	591,635 (+48.5%)
FY '99	275,244 (+32.2%)	1,207,874 (+104.2%)
FY '00	332,545 (+10.1%)	1,187,053 (−1.7%)

[1] Labor Certified Applicants.

[2] Note that while there is generally a 195,000 limit on the number of visas which may be issued each fiscal year, there is no corresponding limit on the number of job openings which may be certified by the Department.

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '00

	Number of openings certified	Percent of total
1. Computer-related[3]	852,657	71.8
2. Accountants/Auditors	46,375	3.9
3. Electrical/Electron Eng.	41,071	3.5
4. Other Architecture, Engineering & Surveying	26,634	2.2
5. College/University Faculty	18,164	1.5
6. Miscellaneous Managers	16,990	1.4
7. Budget & Management System Analyst	15,117	1.3
8. Physicians & Surgeons	13,700	1.2
9. Mis. Professional, Tech. & Manag. Occ.	13,426	1.1
10. Economists	13,171	1.1
Total Top 10	1,057,305	89.1
Other Occupations	129,748	10.9

[3] Occupations in: Systems Analysis/Programming; Computer Systems Technical Support, Data Communications and Networks; Computer System User Support; and other Computer-related.

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '99

	Number of openings certified	Percent of total
1. Computer-related	579,631	48.0
2. Therapists	311,411	25.8
3. Accountants/Auditors	58,831	4.9
4. Other Administrative	38,320	3.2
5. Electrical/Electron Eng.	26,947	2.2
6. Other Architecture, Engineering & Surveying	19,404	1.6
7. Physicians & Surgeons	16,695	1.4
8. College/University Faculty	14,962	1.2
9. Mis. Managers and Officials	13,048	1.1
10. Mis. Professional, Tech. & Mana. Occ.	11,636	1.0
Total Top 10	1,090,885	90.3
Other Occupations	116,989	9.7

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '98

	Number of openings certified	Percent of Total
1. Computer-related	340,231	57.5
2. Therapists	80,605	13.6
3. Accountants/Auditors	42,713	7.2
4. Electrical/Electron Eng.	16,640	2.8
5. Other Architecture, Engineering & Surveying	8,605	1.5
6. Physicians/Surgeons	7,941	1.3
7. Mis. Professional, Tech. & Mana. Occ.	7,827	1.3
8. College/University Faculty	7,721	1.3
9. Mechanical Engineers	5,994	1.0
10. Economist	5,343	0.9
Total Top 10	523,620	88.5
Other Occupations	68,015	11.5

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '97

	Number of openings certified	Percent of Total
1. Computer related	177,034	44.4
2. Therapists	103,097	25.9
3. Electrical/Electron Eng.	12,366	3.1
4. Accountants/Auditors	9,865	2.5
5. University Faculty	8,052	2.0
6. Physicians/Surgeons	7,360	1.8
7. Other Architecture, Engineering & Surveying	6,488	1.6
8. Mechanical Engineers	5,585	1.4
9. Miscellaneous Occup.	5,427	1.4
10. Economists	4,677	1.1
Total Top 10	335,057	84.1
Other Occupations	63,267	15.9

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '96

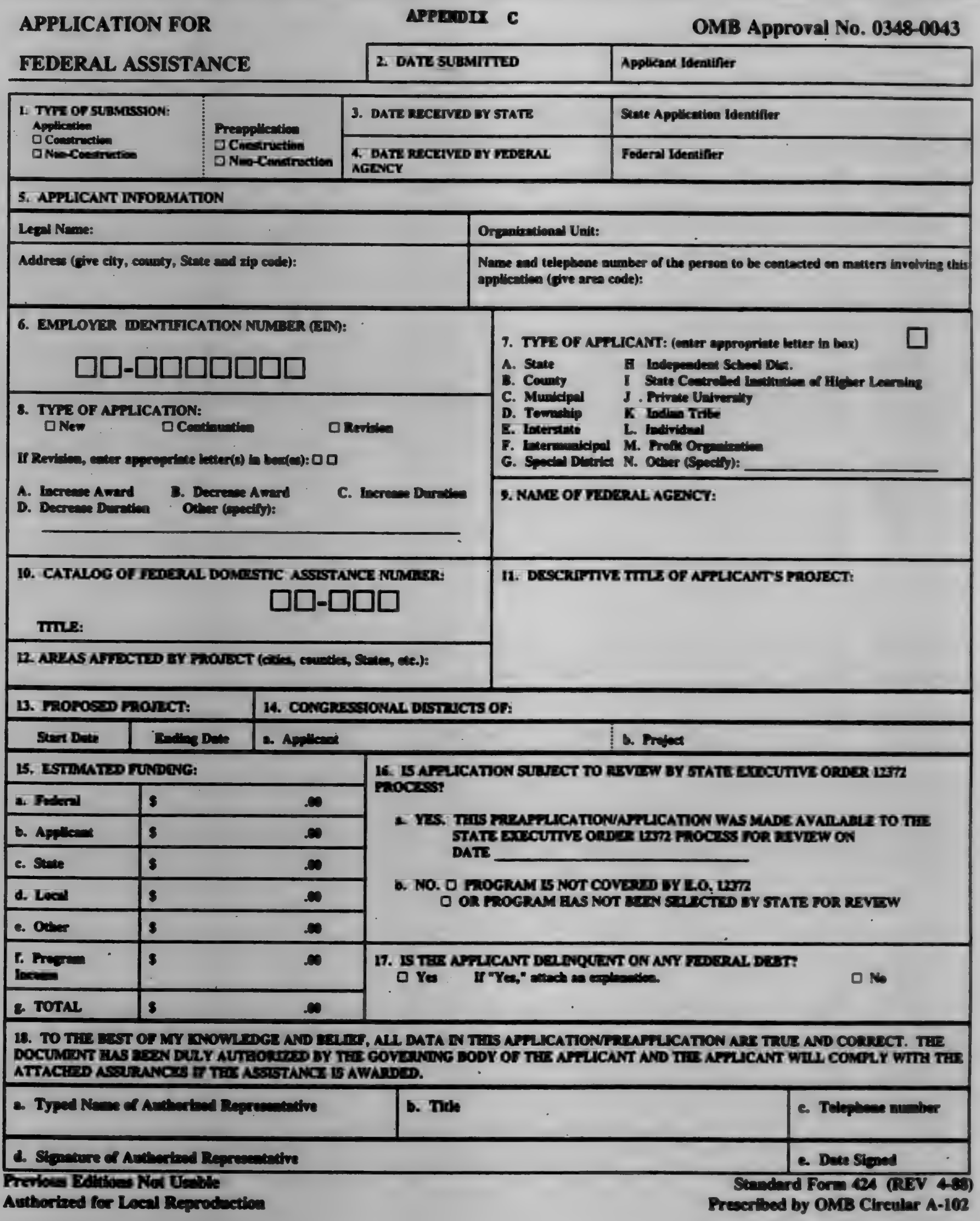
	Number of openings certified	Percent of Total
1. Computer-related	102,422	41.5
2. Therapists	48,154	19.5
3. Other Medicine/Health	12,010	4.9
4. College/University Faculty	7,070	2.9
5. Registered Nurses	6,117	2.5
6. Accountants/Auditors	6,040	2.4
7. Physicians/Surgeons	5,796	2.3
8. Miscellaneous Occup.	4,389	1.8
9. Mechanical Engineering	4,112	1.7
Other Architecture, Engineering & Surveying	3,774	1.5
Total Top 10	199,884	81.0
Other Occupations	46,841	19.0

TOP 10 OCCUPATIONAL CLASSIFICATIONS IN FY '95

	Number of openings Certified	Percent of Total
1. Therapists	167,209	53.5
2. Computer-related	79,921	25.6
3. College/University Faculty	6,478	2.1
4. Physicians/Surgeons	5,629	1.8
5. Accountants/Auditors	4,757	1.5
6. Miscellaneous Occup.	3,703	1.2
7. Other Medicine/Health	3,345	1.1
8. Other Architecture, Engineering & Surveying	3,318	1.1
9. Mechanical Engineering	3,149	1.0
10. Biological Sciences	2,710	.9
Total Top 10	280,219	89.7
Other Occupations	32,344	10.3

BILLING CODE 4510-30-P

APPENDIX C



APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application
☐ Construction
☐ Non-Construction
Preapplication
☐ Construction
☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State	H Independent School Dist.
B. County	I State Controlled Institution of Higher Learning
C. Municipal	J . Private University
D. Township	K Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify): ______

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):
______

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE ______

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable
Authorized for Local Reproduction

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

VOL 66 ISS 241 DE 14 2001 UMI

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

APPENDIX D

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	*(B)*	*(C)*
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	*(B)*	*(C)*
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: *Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).*

VOL 66 ISS 241 DE 14 2001 UMI

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. *Personnel: Show salaries to be paid for project personnel which you are required to provide with W2 forms.*
2. *Fringe Benefits: Indicate the rate and amount of fringe benefits.*
3. *Travel: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*
4. *Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more. Also include a detailed description of equipment to be purchased including price information.*
5. *Supplies: Include the cost of consumable supplies and materials to be used during the project period.*
6. *Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*
7. *Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*
8. *Total, Direct Costs: Add lines 1 through 7.*
9. *Indirect Costs: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*
10. *Training /Stipend Cost: (If allowable)*
11. *Total Federal funds Requested: Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

BILLING CODE 4510-30-C

[FR Doc. 01-30922 Filed 12-13-01; 8:45 am]

BILLING CODE 4510-30-P

DEPARTMENT OF LABOR

Employment and Training Administration

[SGA No. DFA 02–101]

Work Incentive Grants

AGENCY: Employment and Training Administration (ETA), DOL.

ACTION: Notice of availability of funds; Solicitation for Grant Applications (SGA).

This Notice Contains All of the Necessary Information and Forms Needed to Apply for Grant Funding.

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the availability of approximately $20 million to award competitive grants designed to enhance the employability, employment and career advancement of people with disabilities through enhanced service delivery in the new One-Stop delivery system established under the Workforce Investment Act of 1998 (WIA). The Work Incentive Grant program will provide grant funds to consortia and/or partnerships of public and private non-profit entities working in coordination with the One-Stop delivery system to augment the existing programs and services and ensure programmatic access and streamlined, seamless service delivery for people with disabilities.

DATES: Applications will be accepted commencing on the date of publication of this solicitation. The closing date for receipt of applications under this announcement is January 28, 2002. Applications must be received by 4 p.m. (EST) at the address below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will not be honored.

ADDRESSES: Applications shall be mailed to: U.S. Department of Labor, Employment and Training Administration, Division of Federal Assistance, Attention: Ms. Yvonne Harrell, SGA/DFA 02–101, 200 Constitution Avenue, NW., Room S–4203, Washington, DC 20210.

FOR FURTHER INFORMATION, CONTACT: Questions should be faxed to Ms. Yvonne Harrell, Grants Management Specialist, Division of Federal Assistance, Fax (202) 693–2879 (this is not a toll-free number). All inquiries should include the SGA number (DFA 02–101) and a contact name, fax and phone numbers. This announcement will also be published on the Internet on the ETA's disAbility online Home Page at: *http://wdsc.doleta.gov/disability/*, and the ETA homepage at *http://doleta.gov*. Award notifications will also be published on the ETA homepage.

Delivery of Applications

1. *Late Applications.* Any application received after the exact date and time specified for receipt at the office designated in this notice will not be considered, unless it is received before awards are made and it (a) was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (e.g., an application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been post marked by the 15th of that month); or (b) was sent by the U.S. Postal Service Express Mail Next Day Service to addressee not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of applications. The term "working days" excludes weekends and Federal holidays. "Post marked" means a printed, stamped or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

2. *Withdrawal of Applications.* Applications may be withdrawn by written notice or telegram (including mail gram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt of the proposal.

3. *Hand-Delivered Proposals.* It is preferred that applications be mailed at least five days prior to the closing date. To be considered for funding, hand-delivered applications must be received by 4 p.m., EST, at the specified address. Failure to adhere to the above instructions will be basis for a determination of non-responsiveness. Overnight express mail from carriers other than the U.S. Postal Service will be considered hand-delivered applications and MUST BE RECEIVED by the above specified date and time.

SUPPLEMENTARY INFORMATION:

Part I. Authority

Provisions relating to the One-Stop delivery system are at sections #121, 134(c), 189(c) of the Workforce Investment Act (29 U.S.C. 2841, 2864(c), 2939(c); Wagner-Peyser Act (29 U.S.C. 49f(e)) and Department of Labor Appropriations Act for 2001 (Pub. L.106–554). Regulations governing the Workforce Investment Act are at 20 CFR parts 652, 660 " 671, #(65 FR 49294 (August 11, 2000)).

Part II. Background

The Workforce Investment Act of 1998 (WIA) establishes comprehensive reform of existing Federal job training programs with amendments impacting service delivery under the Wagner-Peyser Act, Adult Education and Literacy Act, and the Rehabilitation Act. WIA also repeals and supersedes the Job Training Partnership Act. A number of other Federal programs are also identified as required partners in the One-Stop delivery system in order to provide comprehensive services for all Americans to access the information and resources available to assist them in the development and implementation of their career goals. The intention of the One-Stop system is to establish programs and providers in co-located and integrated settings that are accessible for individuals and businesses alike in approximately 600 workforce investment areas established throughout the nation.

WIA establishes State and Local Workforce Investment Boards focused on strategic planning, policy development, and oversight of the workforce system with significant authority for the Governor and chief elected officials in local areas to build on existing reforms in order to implement innovative and comprehensive workforce investment systems. Recognizing that many One-Stop delivery systems may not currently have the capacity to provide comprehensive services to people with disabilities, the Work Incentive Grant is designed to provide seed monies to support the development of the One-Stop infrastructure with an objective of achieving model, seamless and comprehensive services for people with disabilities.

Many people with disabilities are looking to the new workforce investment system to address their employment and training needs in a progressive, enlightened environment with cutting-edge technologies. They also expect the One-Stop delivery system to provide comprehensive services to meet multiple barriers, which frequently limit their access to a productive, economically rewarding work life. These services may include, but are not limited to, the availability of basic skill development; vocational skill training or advanced educational opportunities; apprenticeship and entrepreneurial training; transportation assistance to reach training or employment sites; housing assistance or advice on retaining existing housing upon employment; and access to medical health coverage upon employment. Twenty-three Work Incentive Grants were awarded at the end of Fiscal Year 2000 as the first round of this grant program. If you would like more information on last year's Work Incentive Grant awards, please go to *http://wdsc.doleta.gov/disability/*.

This Solicitation for Grant Applications (SGA) is for grant awards under the Work Incentive Grant program with funds made available July 1, 2001, under the Fiscal Year 2001 appropriation. The Work Incentive Grant program is consistent with the objectives of the President's New Freedom Initiative. This year's Work Incentive Grant announcement places a greater emphasis on addressing infrastructure inadequacies and programmatic access of the One-Stop system for people with disabilities and includes making a larger proportion of grant funds available for procuring assistive technology and establishing adequate employment counseling capacity than did previous work incentive grants.

The Department of Labor's Office of Disability Employment Policy (ODEP) also has several grant initiatives underway. These include a Customized Employment Grant, Innovative Demonstration Programs for WIA-assisted Youth, High-School/High Tech Start-up and Realignment Grants, and WIA Disability Technical Assistance Consortia. The Customized Employment Grants are distinct from ETA's Work Incentive Grants in that the ODEP grants will be awarded to Local Workforce Investment Boards to develop comprehensive, strategic and cutting-edge models of service delivery for individuals with disabilities who have never been employed, whose experience is limited to subsidized employment, or may be considered unable to be employed. The Customized Employment grants will involve cutting edge approaches such as use of customized employment strategies and the active involvement of programs of both required and non-required partners of the workforce system. If you would like more information on the ODEP grants and other programs administered by ODEP, please go to: *http://www.dol.gov/dol/odep/*.

Part III. Funding Availability and Period of Performance

The Department of Labor anticipates awarding approximately 20–40 grants ranging from $500,000 to $1 million. The period of performance will be approximately 30 months from the date of execution by the Department. The grant funds would be available for expenditure until June 30, 2004, when the authority for these funds will expire. The Department may elect to extend these grants based on the availability of funds and satisfactory performance.

Part IV. Eligible Applicants

Eligible applicants are State or Local Workforce Investment Boards ("State Boards" or "Local Boards"), established under the Workforce Investment Act of 1998 (WIA) working in partnership with other state and/or local, public and/or private non-profit, disability-related organizations. We encourage State or Local Board to be the lead applicant. However, if the State or Local Board is not the lead it must be a partner in the consortium. Eligible applicants partnered with State or Local Broads may be:

- State/local public agencies such as Vocational Rehabilitation, Mental Health, Mental Retardation/Developmental Disability, or Temporary Assistance for Needy Families (TANF); and/or
- Private non-profit organizations such as Centers for Independent Living (CIL's), disability advocacy, provider organizations, federally-funded disability grant entities, and other non-profit organizations, including faith-based entities, which provide services and/or advocacy for people with disabilities.

The lead administrative and fiscal agent applying for the grant must be identified in the application.

Applications can be statewide in scope. Statewide applications must propose strategies for enhancing and improving services to people with disabilities involving all local workforce investment areas in the State. State-wide grant projects should obtain and provide letters of commitment from Local Boards to the extent possible. However, a statewide project must include the State Board as a consortium partner, with applicable letters of commitment provided in the application.

Applications that are not state-wide projects but which involve one or more local workforce investment areas should also include letters of commitment from each Local Board covered under the grant, or one letter of commitment signed by all Local Boards in the local area (if all commitments cannot be obtained, explanation must be provided). Current Work Incentive grantees may apply under this solicitation, but must cover an increased number of workforce investment areas; identify significant need; address outstanding deficiencies or a significant improvement to the local workforce investment system.

Indian and Native American Tribal entities, or consortia of Tribes, may apply for Work Incentive Grants. These grants would involve coordination of services and enhancements to an One-Stop system approach for people with disabilities in a specific Indian community or covering multiple Tribal entities which may cut across multiple States and/or workforce investment areas. In such cases, letters of commitment from Local Boards may not be applicable. Grants to Indian and Native American tribal grantees are treated differently because of sovereignty and self-governance established under the Indian Self-Determination and Education Assistance Act allowing for the government-to-government relationship between the Federal and Tribal Governments.

Note: Except as specifically provided, DOL/ETA acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, the OMB circulars require that an entity's procurement procedures must require that *all procurement transactions* must be conducted, as practical, to provide open and free competition. If a proposal identifies a specific entity to provide the services, the DOL/ETA's award *does not* provide the justification or basis to sole-source the procurement, i.e., avoid competition.

Part V. Format Requirements for Grant Application

General Requirements—Applicants must submit one (1) copy with an original signature and 2 additional copies of their proposal. The Application Narrative must be double-spaced, and on single-sided, numbered pages with the exception of format requirements for the Executive Summary. The Executive Summary must be limited to no more than two single-spaced, single-sided pages. A font size of at least twelve (12) pitch is required throughout.

There are three required sections of the application. Requirements for each section are provided in this application package. Applications that fail to meet the requirements will not be considered.

Section I—Project Financial Plan

Section II—Executive Summary—Project Synopsis

Section III—Project Narrative (Including Appendices, Not To Exceed 40 Pages)

Section I. Project Financial Plan—Section I of the application must include the following two required elements: (1) Standard Form (SF) 424, Application for Federal Assistance, and (2) Budget Information Form and budget narrative. The application must include one SF 424 with the original signatures of the legal entity applying for grant funding and 2 additional copies. Applicants shall indicate on the SF 424 the organization's IRS Status, if applicable. Under the Lobbying Disclosure Act of 1995, section 18 (29 U.S.C. 1611), an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan. The Catalog of Federal Domestic Assistance (CFDA) number is 17.207.

The Project Financial Plan will not count against the application page limits. The financial plan must describe all costs associated with implementing the project that are to be covered with grant funds. All costs should be necessary and reasonable according to the Federal guidelines set forth in the "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," (also known as the "Common Rule") codified at 29 CFR part 97, and "Grants and Agreements with Institutes of Higher Education, Hospitals, and Other Non-Profit Organizations (also known as OMB Circular A–110), codified at 29 CFR part 95, and must comply with the applicable OMB cost principles circulars, as identified in 29 CFR 95.27 and 29 CFR 97.22(b).

The financial plan must contain the following parts:

- Completed "SF 424—Application for Federal Assistance" (See Appendix A of this SGA for required form).
- Completed "Budget Information Form" by line item for all costs required to implement the project design effectively. (See Appendix B of this SGA for required forms.)
- Budget narrative/justification, which provides sufficient information to support the reasonableness of the costs, included in the budget in relation to the service strategy and planned outcomes.

Please Note: Work Incentive Grant project designs may incorporate procurement or implementation of software or hardware to assure assistive and accessible technologies in the One-Stop setting, which may equal up to 40% of the grant award.

Section II. Executive Summary—Project Synopsis [Format requirements for the Executive Summary are limited to no more than two single-spaced, single-sided pages]

Each application shall include a project synopsis, which identifies the following:

- The applicant;
- The type of organization the applicant represents;
- Identification of consortium partners and the type of organizations they represent;
- The project service area;
- Whether the service area is an entire local workforce investment area, more than one local area, or all local areas in a State;
- The specific areas of focus in the announcement which are addressed by the project;
- The amount of funds requested;
- The planned period of performance;
- The comprehensive strategy proposed for providing seamless service delivery, for addressing the multi-faceted barriers to training and employment which affect people with disabilities, and for improving access for people with disabilities in the generic workforce system;
- The ways in which the proposal is coordinated with other disability related grant initiatives from DOL, Department of Education (ED), Department of Health & Human Services (HHS), Social Security Administration (SSA), Department of Housing & Urban Development (HUD) or other Federal partners
- How counseling and other support needs will be addressed in the One-Stop Center system;
- The actions already taken by the State or Local Workforce Investment Board to address the needs of people with disabilities in the One-Stop delivery system;
- The extent to which the One-Stop facilities and satellite site(s) incorporate physical access for people with disabilities;
- The extent to which Vocational Rehabilitation is integrated or coordinated with the One-Stop delivery system;
- Data on the extent to which people with disabilities have been served under the Wagner-Peyser Act and previously, under the Job Training Partnership Act, and WIA;
- The level of commitment the applicant and consortium members have to serving people with disabilities; and
- The extent and manner in which the needs of individuals with disabilities from diverse cultural and/or ethnic groups will be addressed.

Section III. Project Narrative [Format requirements limited to no more than forty (40) double-spaced, single-sided, numbered pages. **Note:** The Executive Summary is not included in this forty (40)-page limit].

Section III of the application, the project narrative, the Government Requirements/Statement of Work section, as described below in the "Required Content for Work Incentive Grant Applications—Program Year 2001." The forty (40)-pages limit includes any Attachments, which are provided by the applicant. Letters of general support or recommendation for a proposal should NOT be submitted and will count against the page limits. However, letters of commitment or a commitment signatory page are required from partner/consortia organizations, including State and/or Local Workforce Investment Board(s) clearly stating their intent to provide services and resources to the grant. As noted in Part IV of this solicitation, (Eligible Applicants), should also include letters of commitment from each Local Board covered under the grant, or one letter of commitment signed by all Local Boards in the local area (if all commitments cannot be obtained, explanation must be provided).

Part VI. Monitoring and Reporting

Monitoring

The Department shall be responsible for ensuring the effective implementation of each competitive grant project in accordance with the provisions of this announcement and the negotiated grant agreement. Applicants should assume that Department staff, or their designees would conduct on-site project reviews, periodically. Reviews will focus on timely project implementation, performance in meeting the grant's programmatic goals and objectives, expenditure of grant funds on allowable activities, integration and coordination with other resources and service providers in the local area, and project management and administration in achieving project objectives. Work Incentive Grants may be subject to other additional reviews at the discretion of the Department.

Reporting

Grantees will be required to submit quarterly financial and narrative progress reports under the Work Incentive Grant program covering the workforce area(s) included in the grant project design. DOL will analyze data of workforce investment area(s) reports submitted annually under the

VOL 66 ISS 241 DE 14 2001 UMI

Workforce Investment Standardized Record Data (WIASARD) for workforce areas covered under the grant. [**Note:** Information on the WIASRD can be found under performance accountability at *http://workforce.org*].

- Financial reporting will be required quarterly using the Standard Form 269—Financial Status Report (FSR).
- A narrative progress report will be required quarterly.
- The Department of Labor plans to establish a process report on a semi-annual basis which includes summary information pertaining to WIA implementation and the numbers of people with disabilities registered, receiving training services, and employed through the One-Stop system. [**Note:** DOL will seek OMB review for the collection of this data].

The Department will establish performance goals with successful applicants that are consistent with the Department's Government Performance and Results Act (GPRA) goals.

Part VII. Rating Criteria

The Project Narrative, or Section III, of the grant application should provide complete information on how the applicant will address the Department of Labor's priorities for the Fiscal Year (FY) 2001 Work Incentive Grant program to achieve enhancements to the basic infrastructure and service delivery of the One-Stop system, in particular Wagner-Peyser and WIA-funded programs. These are:

- Developing comprehensive One-Stop Centers which are welcoming and are valued providers of choice by customers with disabilities seeking workforce assistance by assuring the availability of staff trained on disability issues, personalized employment counseling, coordinated planning support related to employment barriers and incentives, and availability of accommodations and assistive technologies for diverse disability needs.
- Implement strategies, which significantly increase opportunities for skill training, employment and workforce inclusion of people with disabilities resulting in self-sustaining employment and career advancement through participation in the One-Stop system.

The applicant should address government requirements and statement of work provisions outlined here as these address the applicant's needs and project design to achieve the Department's priorities. Therefore, all four criteria must be addressed but each item under the criteria does not necessarily have to be incorporated in the applicant's proposal design. At the same time, it is important to provide full information on the status of the workforce environment as it impacts people with disabilities.

1. Statement of Need [25 points]

- Identify the number of workforce areas in the State and the geographic jurisdiction of each local workforce investment area(s) in the State.
- Identify which local areas(s) in the State will be covered by the project and whether the project is Statewide, involves multiple local areas or is for a single local area.
- Identify whether a Work Incentive Grant award was received in the FY 2000 competition covering the identified workforce investment areas in this application and the reasons for application under this Solicitation for Grant Application.
- Identify consortium members if any, their primary mission irrespective of participation in the grant proposal, and what political and geographic jurisdictions (e.g., cities, counties, subsections of cities/counties) they cover.
- Describe how the project will address a primary objective of the Work Incentive Grant program to assure the integration of people with disabilities into the workforce investment system, including the availability of Wagner-Peyser and WIA Title I programs and services.
- Identify the percentage of people with disabilities in the State and/or local area, including the percentage of people who are beneficiaries of Social Security Disability Insurance (SSDI) and/or Social Security Income Program (SSI).
- Identify the most recent unemployment rate(s) in the workforce investment area(s) covering the project.
- Describe any significant deficiencies in the State or local workforce investment system that represent barriers to employment for people with disabilities and what will be accomplished under this grant to address them.
- Identify additional State and/or local funds and resources that will be used to support the overall objectives of the grant and which will assist in addressing the identified issues the grant project is addressing.
- For proposals targeted to a specific Indian community or covering multiple Tribal entities which may cut across multiple States and/or local areas, describe the overall approach of the project, and identify the inadequacies and deficiencies of the service delivery to the applicable community, and how the project expects to address these.
- Recognizing that the One-Stop delivery system may not have extensive knowledge or skills in working with people with disabilities, describe the level of expertise of the One-Stop system in the local area(s) addressed in the grant and the projects plans for addressing inadequacies.
- Describe the overall status and actions taken to-date by the One-Stop delivery system to address services to people with disabilities. This should include actions to ensure that, State and/or local facilities are physically and programmatically accessible; training is provided to staff; that the number and percent of people with disabilities receiving services under Job Training Partnership Act (JTPA), WIA and Employment Service programs during the previous three years compared with that of people without disabilities; plans to increase services to people with disabilities, if applicable.
- Describe coordination and linkage with regional Disability Business and Technical Assistance Centers (DBTAC's) and State Governors Committees on Employment of People with Disabilities. For example, Have DBTAC's provided training to the One-Stop delivery system on the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, or other disability-related training? If not, are plans to do so incorporated into the applicant project?
- Identify public and private non-profit provider entities participating under Job Training Partnership Act (JTPA), WIA and Employment Service grant program, and which barriers to employment their programs and services that are contributing to the overall applicant proposal may address. Specifically, describe State or local area provisions regarding Medicaid and/or Medicare coverage; current transportation infrastructure; how individuals with all types of disabilities will access training, employment, housing, food stamps and other supportive services.

2. Comprehensive Service Strategy [25 points]

- Identify how you will ensure that trained staff are available to provide counseling or employment planning support who have adequate knowledge of diverse disabilities and information on the following:
- Education and training program options and opportunities available under a broad array of programs such as Adult Education, Individuals with Disability Education Act for those under 22 without a high school degree,

Vocational Education, Vocational Rehabilitation and School-to-Work programs for adults and youth with disabilities;

- Services and resources for a wide range of disabilities, which may include both documented and undocumented physical, sensory, developmental/cognitive (e.g., mental retardation and learning disabilities, among others), mental and other health related functional disabilities;
- Tax benefits and incentives to employers of people with disabilities that provide financial support for workplace modifications and accommodations;
- Entrepreneurial, job carving and other employment options for people with disabilities;
- Impact of employment on individual benefits such as SSDI, SSI, TANF, Medicaid, Medicare, subsidized housing, and food stamps;
- Availability of Social Security work incentive programs and Ticket to Work options available to SSDI and SSI recipients; and
- Other resources available to assure successful employment and job retention such as transportation and housing options.
- Describe changes to be achieved under the grant to create seamless service delivery for One-Stop customers with disabilities.
- Describe the process that will be used to maintain and expand the service structure for individuals with disabilities accessing the workforce investment system.
- Describe how people with disabilities who are not eligible for Vocational Rehabilitation services or do not fall under the State's Order of Selection will be served through Wagner-Peyser services or WIA services through the Adult, Dislocated Worker, Youth or National Programs, including programs and services under the Older Americans Act.
- Identify the provisions of Memoranda of Understanding or other agreements between the partners, State Vocational Rehabilitation (VR) Agency, the State Rehabilitation Council, and the State or Local Boards in terms of the provision of services to people with disabilities; the plans for cost sharing; the arrangements for referral of people with disabilities between WIA Title I programs and VR as appropriate; the extent of integration and co-location of VR in One-Stop Centers, including sharing of Management Information Systems (MIS) or participation in case management data base technologies; the extent to which there is joint funding of participant services or leveraging of funds to expand access to services; and use of Individual Training Accounts (ITA's) for people with disabilities.
- Describe linkages with the State and local Independent Living Center (CIL) systems; Mental Health Departments, Mental Retardation/Developmental Disability Agencies, State Councils on Developmental Disabilities, State Vocational Rehabilitation, and Councils on Employment and other local provider or advocate organizations serving individuals with developmental and/or psychiatric disabilities, including how these agencies fit in a comprehensive service delivery strategy.
- Describe coordination and linkages with Learning Disabilities and Training Dissemination hub centers established under grants from the U.S. Department of Education's Office of Vocational and Adult Education and how these may be used to provide services to people with learning and other disabilities.
- Identify how State TANF programs and Welfare to Work (WtW) competitive grant projects will be linked or leveraged with objectives of the applicant's project.
- Identify plans and strategies to develop the capacity of the comprehensive One-Stop Center to function as an Employment Network under the Ticket to Work & Work Incentive Improvement Act (TWWIIA). Project plans in this regard should involve building the capacity of the WIA Title I programs and One-Stop system so that more in-depth services and information will be readily available to individuals with disabilities at the comprehensive One-Stop Center. The description of increased capacity must be an adjunct to the State Vocational Rehabilitation Agency, which is an automatic Employment Network provider under the TWWIIA.
- Describe how the project will be coordinated with grant programs, which are funded under the SSA Benefits Planning, Assistance and Outreach Cooperative Agreement and HHS Medicaid Infrastructure Grant programs, if applicable.

3. Innovation and Model Services [25 points]

- Describe your strategy for substantially increasing the number and percent of people with disabilities served, trained and entered into unsubsidized employment through the One-Stop Center system, particularly in WIA Title I programs. This should be related to, or refer back to, service delivery history under JTPA and the first year of WIA identified under the Statement of Need.
- Describe the status of accessible technologies within the Comprehensive One-Stop and plans to procure and implement accessible technologies, including video interpreting services for clients who are deaf or electronic door openers for wheelchair users, and how they address current system deficiencies.
- Identify the scope of technology implementations, if applicable, and the extent to which implementation is comprehensive and across the workforce area(s) and/or statewide.
- Identify whether assessment tools are used to identify individuals with learning disabilities in the One-Stop delivery system, including plans and processes to identify applicable assessment tools, train staff and incorporate such assessments as part of the service delivery structure.
- Describe how public supports needed by people with disabilities may be affected by their employment or training and State or local conditions, and actions to sustain benefits and services following successful job placement. For example, does the State or local area have provisions to continue supported or Section 8A housing (The Housing Act of 1992, Title IV), where applicable, for individuals who enter unsubsidized employment?
- Has the State adopted Medicaid "buy-in" options, or are there Medicaid waivers that extend health care coverage for individuals who enter employment?
- Describe plans for outreach and marketing to the disability community and organizations which represent or work with people with disabilities; and plans for training disability-related organizations on the resources and programs available to them in the One-Stop system.
- Identify individualized strategies that establish client control of training funds, VR funds, ITA's, or other funding sources to which these individuals may have access, and co-mingle funds in a seamless, customer friendly manner, including plans for obtaining waivers to the extent program requirements necessitate this.
- Identify plans or strategies to deploy Ticket to Work voucher provisions for beneficiaries of SSDI and recipients of SSI.
- Describe strategies to foster entrepreneurial and self-employment options using ITA's, Plans for Achieving Self-Support (PASS) and other SSA work incentives, and Medicaid coverage for individuals with disabilities who start or return to work.
- Describe specific approaches for developing relationships with and support of area employers that establish

employment opportunities for individuals with disabilities accessing the One-Stop delivery system, including any commitments by employers to hire these individuals.

- Describe how opportunities for competitive employment for individuals with disabilities will be provided or developed within the local workforce investment area and how this is unique or different than what is normally performed by the applicant(s).
- Identify available Federal and State tax incentives available to employers when hiring an individual with a disability; how this information will be marketed and disseminated to employers, the individual and workforce staff; and how employers may use such tax credits to address structural and technological accommodation needs.
- Describe opportunities for increasing integrated, competitive employment through use of strategies such as individualized job development for individuals with the most significant disabilities currently working in segregated facilities or waiting for employment services.

4. Demonstrated Capability [25 points]

- Identify whether the State or Local Boards will be the lead for the grant project and how they will include the disability community in plans.
- Identify the critical activities, time frames and responsibilities for effectively implementing the project, including the management and evaluation process for assuring successful implementation of grant objectives.
- Include a project organizational chart, which identifies the staff with key management responsibilities, including a matrix of organizational responsibilities of key entities and participating consortium organizations, where applicable.
- Describe the specific experience of the applicant(s) in serving people with disabilities, in providing workforce services, in addressing specific barriers to employment, in achieving expected outcomes in the delivery of such services/programs, and in implementing and administering specific project plans of the grant project. For example, such information might include the local Department of Transportation as a key partner agency addressing transportation barriers and how this entity has participated in similar efforts in the past and the success of these past efforts, and potential success of coordination on the applicant(s) grant project.

Part VIII. Review Process and Evaluation Criteria

A careful evaluation of applications will be made by a technical review panel, which will evaluate the applications against the criteria listed in this SGA. The panel results are advisory in nature and not binding on the Grant Officer. The Department may elect to award grants either with or without discussion with the offeror. In situations without discussions, an award will be based on the offeror's signature on the SF 424, which constitutes a binding offer. The Grant Officer may consider any information that is available and will make final award decisions based on what is most advantageous to the Government, considering factors such as:

- Panel findings;
- Geographic distribution of the competitive applications;
- The availability of funds.

Signed at Washington, DC, this 11th day of December, 2001.

James W. Stockton,
Grant Officer.

Appendix "A"—Application for Federal Assistance (SF-424) (with instructions)

Appendix "B"—Budget Information Form (with budget narrative instructions)

Appendix "C"—Application Cover Sheet

BILLING CODE 4510-30-P

APPENDIX "A"

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State	H Independent School Dist.
B. County	I State Controlled Institution of Higher Learning
C. Municipal	J . Private University
D. Township	K Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify): ____________

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE ____________

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable
Authorized for Local Reproduction

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

VOL 66 ISS 241 DE 14 2001 UMI

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required face sheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable)

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided.

   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities.

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

APPENDIX "B" *PART II - BUDGET INFORMATION*

SECTION A - Budget Summary by Categories

	(A)	*(B)*	*(C)*
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	*(B)*	*(C)*
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: *Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).*

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

SGA COVER SHEET

DFA-SGA-01-111

APPENDIX "C"

WORK INCENTIVE GRANT PROGRAM

WORK INCENTIVE GRANT PROGRAM

APPLICANT(S) NAME:

____

Please check box if applicable:

- ☐ Partnership
- ☐ Public Non-profit
- ☐ Private Non-profit
- ☐ Disability Related Organization
- ☐ State
- ☐ Local WIB(s)

[FR Doc. 01–30923 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–30–C

VOL 66 ISS 241 DE 14 2001 UMI

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled "General Wage determinations Issued Under the Davis-Bacon and related Acts" are listed by Volume and States:

Volume V

New Mexico
- NM010011 (Dec. 14, 2001)

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New Hampshire
- NH010001 (Mar. 2, 2001)
- NH010005 (Mar. 2, 2001)
- NH010007 (Mar. 2, 2001)
- NH010008 (Mar. 2, 2001)

New Jersey
- NJ010001 (Mar. 2, 2001)
- NJ010002 (Mar. 2, 2001)
- NJ010003 (Mar. 2, 2001)

Volume II

Delaware
- DE010002 (Mar. 2, 2001)
- DE010005 (Mar. 2, 2001)

Pennsylvania
- PA010001 (Mar. 2, 2001)
- PA010002 (Mar. 2, 2001)
- PA010004 (Mar. 2, 2001)
- PA010005 (Mar. 2, 2001)
- PA010012 (Mar. 2, 2001)
- PA010014 (Mar. 2, 2001)
- PA010015 (Mar. 2, 2001)
- PA010017 (Mar. 2, 2001)
- PA010018 (Mar. 2, 2001)
- PA010019 (Mar. 2, 2001)
- PA010020 (Mar. 2, 2001)
- PA010025 (Mar. 2, 2001)
- PA010030 (Mar. 2, 2001)
- PA010040 (Mar. 2, 2001)
- PA010042 (Mar. 2, 2001)
- PA010050 (Mar. 2, 2001)
- PA010054 (Mar. 2, 2001)
- PA010060 (Mar. 2, 2001)
- PA010065 (Mar. 2, 2001)

Volume III

Kentucky
- KY010004 (Mar. 2, 2001)
- KY010029 (Mar. 2, 2001)

Volume IV

Illinois
- IL010001 (Mar. 2, 2001)
- IL010002 (Mar. 2, 2001)
- IL010004 (Mar. 2, 2001)
- IL010006 (Mar. 2, 2001)
- IL010008 (Mar. 2, 2001)
- IL010018 (Mar. 2, 2001)
- IL010028 (Mar. 2, 2001)
- IL010034 (Mar. 2, 2001)
- IL010044 (Mar. 2, 2001)
- IL010047 (Mar. 2, 2001)
- IL010049 (Mar. 2, 2001)
- IL010060 (Mar. 2, 2001)
- IL010063 (Mar. 2, 2001)

Minnesota
- MN010001 (Mar. 2, 2001)
- MN010003 (Mar. 2, 2001)
- MN010005 (Mar. 2, 2001)
- MN010012 (Mar. 2, 2001)
- MN010039 (Mar. 2, 2001)
- MN010043 (Mar. 2, 2001)
- MN010049 (Mar. 2, 2001)
- MN010057 (Mar. 2, 2001)

Volume V

Iowa
- IA010031 (Mar. 2, 2001)

Louisiana
- LA010005 (Mar. 2, 2001)
- LA010009 (Mar. 2, 2001)
- LA010018 (Mar. 2, 2001)
- LA010031 (Mar. 2, 2001)

Nebraska
- NE010001 (Mar. 2, 2001)
- NE010003 (Mar. 2, 2001)
- NE010009 (Mar. 2, 2001)
- NE010011 (Mar. 2, 2001)
- NE010019 (Mar. 2, 2001)

New Mexico
- NM010001 (Mar. 2, 2001)
- NM010005 (Mar. 2, 2001)

Volume VI

- Idaho
  - ID010001 (Mar. 2, 2001)
  - ID010003 (Mar. 2, 2001)
- North Dakota
  - ND010002 (Mar. 2, 2001)
- Oregon
  - OR010001 (Mar. 2, 2001)
  - OR010017 (Mar. 2, 2001)
- Washington
  - WA010001 (Mar. 2, 2001)
  - WA010002 (Mar. 2, 2001)
  - WA010003 (Mar. 2, 2001)
  - WA010004 (Mar. 2, 2001)
  - WA010005 (Mar. 2, 2001)
  - WA010007 (Mar. 2, 2001)
  - WA010008 (Mar. 2, 2001)
  - WA010011 (Mar. 2, 2001)
  - WA010023 (Mar. 2, 2001)

Volume VII

- California
  - CA010001 (Mar. 2, 2001)
  - CA010002 (Mar. 2, 2001)
  - CA010028 (Mar. 2, 2001)
  - CA010030 (Mar. 2, 2001)
- Nevada
  - NV010001 (Mar. 2, 2001)
  - NV010002 (Mar. 2, 2001)
  - NV010005 (Mar. 2, 2001)
  - NV010007 (Mar. 2, 2001)
  - NV010009 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www/access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 6th day of December 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–30728 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c) (2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed new collection of the American Time Use Survey (ATUS). A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 12, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

According to economist William Nordhaus, "Inadequate data on time-use is the single most important gap in federal statistics' (1997). Approximately 50 other countries collect, or will soon collect, time-use data. Such data are considered important indicators of quality of life. They measure, for example, time spent with children, working, sleeping, or doing leisure activities. In the United States, several existing Federal surveys collect income and wage data for individuals and families, and analysts often use such measures of material prosperity as proxies for quality of life. Time-use data will substantially augment these quality-of-life measures. The data can also be used in conjunction with wage data to evaluate the contribution of non-market work to national economies. This enables comparisons of production between nations that have different mixes of market and non-market activities.

The ATUS will develop nationally representative estimates of how people spend their time. Respondents will also report who was with them during activities, where they were, how long each activity lasted, and if they were paid.

All of this information will have numerous practical applications for sociologists, economists, educators, government policy makers, businesspersons, lawyers, and others, potentially answering the following questions: Do the ways people use their time vary across demographic and labor force characteristics, such as age, sex, race, ethnicity, employment status, earnings, and education? How much time do parents spend in the company of their children, either actively providing care, occasionally checking on them, or being with them while socializing, relaxing, or doing other things? How are earnings related to leisure time'do those with higher earnings spend more or less time relaxing and socializing? Where do people work'at a workplace, in their homes, or someplace else? For application in personal injury or wrongful death cases: What is the approximate value of non-market work, such as household activities or childcare, in one's day? What are some non-economic effects of government policy decisions? Should lawmakers develop new or change existing policies to address the changing needs of our society? The ATUS data will be

VOL 66 ISS 241 DE 14 2001 UMI

collected on an ongoing, monthly basis, so time series data will eventually become available, allowing analysts to identify changes in how people spend their time.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the new collection of the American Time Use Survey. This survey will collect information on how individuals in the United States use their time. Collection will be on a continuous, monthly basis. The survey sample will be drawn from households completing their final month of interviews for the Current Population Survey (CPS). Households will be selected to ensure a representative demographic sample, and one individual from each household will be selected to take part in one Computer Assisted Telephone Interview. The interview will ask respondents to report all of their activities for one pre-assigned 24-hour day, the day prior to the interview. A short series of summary questions and CPS updates follows the core time diary collection. After one full year of collection, annual national estimates of time use for an average weekday or weekend day will be available. Eventually, time series data will be available.

Because the ATUS sample will be a subset of households completing interviews for the CPS, the same demographic information collected from that survey will be available for the ATUS respondents. Comparisons of activity patterns across characteristics such as sex, race, age, and education of the respondent, as well as the presence of children and the number of adults living in the respondent's household will be possible.

Type of Review: New Collection.

Agency: Bureau of Labor Statistics

Title: American Time Use Survey.

OMB Number: 1220–NEW.

Affected Public: Individuals.

Total Respondents: 24,000.

Frequency: Monthly.

Total Responses: 24,000.

Average Time Per Response: 30 minutes.

Estimated Total Burden Hours: 12,000 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 7th day of December, 2001.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–30855 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the "Producer Price Index Survey." A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the Addresses section of this notice on or before February 12, 2002.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, NE., Washington, DC 20212, telephone number 202–691–7628 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, telephone number 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Producer Price Index (PPI), one of the Nation's leading economic indicators, is used as a measure of price movements, as an indicator of inflationary trends, for inventory valuation, and as a measure of purchasing power of the dollar at the primary-market level. It is also used for market and economic research and as a basis for escalation in long-term contracts and purchase agreements.

PPI data provide a description of the magnitude and composition of price change within the economy, and serve a wide range of governmental needs. These monthly indexes are closely followed and are viewed as sensitive indicators of the economic environment. Price data are vital in helping both the President and Congress set fiscal spending targets. Producer prices are monitored by the Federal Reserve Board Open Market Committee to help decide monetary policy. Federal policy-makers at the Department of Treasury and the Council of Economic Advisors use these statistics to help form and evaluate monetary and fiscal measures, and to help interpret the general business environment. Furthermore, dollar-denominated measures of economic performance, such the Gross Domestic Product, require accurate price data in order to convert nominal-dollar values to constant-dollar values. Inflation-free national income accounting figures are vital to fiscal and monetary policy-makers when setting objectives and targets. In addition, it is common to find one or more PPIs, alone or in combination with other measures, used to escalate the delivered price of goods for government purchases.

In addition to governmental uses, PPI data are used by the private sector.

Private industry uses PPI data for contract escalation. For one particular method of tax-related Last-In-First-Out (LIFO) inventory accounting, the Internal Revenue Service suggests that firms use PPI data for making calculations. Private businesses make extensive use of industrial-price data for planning and operating. Price trends are used to assess market conditions. Firms commonly compare the prices they pay for material inputs and the prices they receive for products that they make and sell with changes in similar PPIs.

Economic researchers and forecasters also use the PPI. Price indexes are widely used to probe and measure the interaction of market forces. Some examples of research topics that require extensive price data include: The identification of varying price elasticities and the degree of cost pass-through in the economy, the identification of potential lead and lag structures among price changes, and the identification of prices which exert major impacts throughout market structures. In the end, both policy and business planning are affected by the completeness of price trend descriptions.

II. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

Office of Management and Budget clearance is being sought for the Producer Price Index Survey.

A description of recent and projected improvements meant to improve data completeness, increase efficiency, and reduce overall respondent burden to the maximum degree possible follows.

A. *Disaggregation*—Recent modifications made to disaggregation (*i.e.*, item selection procedures) help to better define a publication structure that is: (1) Publishable in its entirety, (2) meets user needs, (3) continuous, and (4) permits meaningful classification of current production. In order to obtain and maintain publishability of an entire structure, data are now collected using a method where price-quotation selection is spread across predetermined product categories that correspond to the publication cells for a Standard Industrial Classification (SIC). The design of the revised disaggregation method nearly guarantees that the PPI will collect enough price quotations to populate more lightly weighted cells. More heavily weighted (and populated) cells will receive slightly fewer price quotations than would have been selected under the previous method. As a result, indexes constituting the PPI's publication objectives are much more likely to remain published over time. (For a complete description, see "Change in PPI Publication Structures for Resampled Industries Introduced in January 1997," PPI Detailed Report, January 1997.)

B. *Sampling*—Recent modifications made to sampling procedures permit the PPI to update weights of industry indexes without initiating a new set of respondents. This process change is called "recycling without resampling." The PPI has also made it operationally feasible to augment the sample of price quotations for a single product line within an SIC, rather than having to initiate an entirely new set of respondents when such needs arise. These capabilities are major breakthroughs, since they enable the PPI program to reduce both data-collection expenses and respondent burden, while permitting efficient reallocation of program resources. Volatile, technologically sophisticated, and never-before-sampled SICs may now be updated or introduced into the PPI in a timelier manner.

C. *Publication*—The PPI mission includes a mandate requiring the program work toward publication, wherever possible, of output price indexes for every four-digit industry defined by the SIC Manual. Historically, the PPI had been a family of indexes focusing on the mining, manufacturing, agriculture, and forestry sectors. This publication mandate has resulted in expansion of coverage into non-goods producing sectors of the economy. PPI sampling and data-collection methodology have permitted systematic retrieval of specific service-industry classifications, and have resulted in the publication of various four-digit SIC aggregate indexes, as well as service-line and detailed service-category price indexes. The PPI currently publishes about seventy-five industry-based indexes for service-sector activities. Over the preceding decade, the PPI has introduced indexes encompassing transportation, real estate, health, legal, accounting, and many other service-based industries. Industry expansion continues on a regular basis, as funding permits. Since 1999, the PPI has introduced price indexes for SIC 6311 (Life insurance carriers), SIC 54 (Food stores), SIC 59 (Retail trade), and SIC 6211 (Security brokers, dealers, and investment banking companies).

D. *NAICS Classification*—At present, sampling and data collection are conducted according to the SIC Manual system of organization. However, the PPI survey has begun to make modifications that will permit smooth conversion to the North American Industrial Classification System (NAICS).

E. *Electronic Data Collection*—The vast majority of data collected by the BLS is confidential respondent information. The BLS is currently developing electronic data collection procedures that will reduce respondent burden and increase efficiency. However, procedures must exist to safeguard respondent information. Transmission of data by e-mail presents at least two types of security risks: The data could be intercepted and/or altered by unauthorized persons; and the data are subject to inadvertent disclosure by the use of incorrect group names and accidental forwarding. Complete elimination of e-mail for data collection purposes likely would decrease response and is not a feasible option. The BLS is pursuing technological solutions to increase the security of e-mail transmission. In the interim, however, short-term restrictions in e-mail use are needed to reduce the risks of disclosing confidential data. Effective November 16, 2001, the BLS authorized the use of e-mail for collection of confidential data through a pilot test conducted by the BLS National Compensation Survey. Policies regarding: (1) Communication of confidential respondent information within the BLS, (2) BLS contacts with government agencies participating in BLS statistical surveys, and, (3) BLS contacts with respondents were also updated. These revised policies permit limited use of e-mail in communications pertaining to confidential respondent information outside the BLS pilot study being conducted by National Compensation Survey. E-mail communication between the BLS and respondents containing confidential data can now occur if the following conditions are met: (1) It is necessary, as a last resort, to obtain a usable response, and the transmission contains the fewest data elements necessary. (2) Purely logistical information, although it could tend to disclose an individual respondent's identification, may be exchanged with individual respondents (or potential respondents) using regular Internet e-mail if doing so promotes the efficiency of survey collection and is acceptable to the respondent. (3) E-mail must only be used as a data collection mechanism if it is necessary to obtain cooperation from the respondent. (4) No group names are to be used when addressing an e-mail message containing confidential data. Whenever confidential communications occur, the BLS e-mail must include the "BLS Statement to Respondent in the Use of Electronic Data transmission," which states the inherent risks to information confidentiality.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Producer Price Index Survey.

OMB Number: 1220–0008.

Affected Public: Business and other for-profit.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
BLS 1810A, A1, B, C, C1, and E	1,585	Once	6,340	120	12,680
BLS 473P	26,250	Monthly	1,260,000	18	378,000
Totals	27,835		1,266,340		390,680

Estimated Total Burden Hours: 390,680 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 7th day of December, 2001.

Jesús Salinas,

Acting Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 01–30892 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and other federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data is provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

By this notice, the Department is soliciting comments concerning the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice. The proposed Form EFAST–1 is also available for viewing and downloading through the Department of Labor's Internet site (*http://www.efast.dol.gov*).

DATES: Written comments must be submitted to the office listed in the addresses section below on or before February 12, 2002.

ADDRESSES: Interested parties are invited to submit written comments regarding the collection of information. Send comments to Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Avenue, NW, Room N–5647, Washington, DC 20210. Telephone: (202) 693–8414; Fax: (202) 219–4745. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

Under part 1 of Title I of the Employee Retirement Income Security Act of 1974 (ERISA), Title IV of ERISA, and the Internal Revenue Code of 1986, as amended, administrators of pension and welfare benefit plans (collectively, employee benefit plans) subject to those provisions and employers sponsoring certain fringe benefit plans and other plans of deferred compensation are required to file returns/reports annually concerning the financial condition and operations of the plans. These reporting requirements are satisfied generally by filing the Form 5500 Series in accordance with its instructions and the related regulations.

Beginning with the 1999 plan year, the Agency announced the availability of computer scannable forms and the development of electronic filing technologies. The computer scannable formats were developed to facilitate the implementation of a computerized system designed to process the Form 5500 and the IRS Form 5500–EZ—the ERISA Filing and Acceptance System, or EFAST. The Form 5500 and Form 5500–EZ may also be filed electronically via modem, magnetic tape, floppy diskette, or CD–ROM.

In order to participate in the electronic filing program, applicants are required to submit an Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1), the subject of this ICR. Applicants who may file the Form EFAST–1 include: (1) Individuals applying for an electronic signature to sign a Form 5500 or 5500–EZ as, or on behalf of, plan administrators, employers/plan sponsors, or Direct Filing Entities (DFEs) using modem, magnetic tape, floppy diskette, or CD–ROM to file electronically; (2) transmitters (a company, trade, business, or other person) applying for codes to transmit Forms 5500 and/or

Forms 5500–EZ for electronic filing using modem, magnetic tape, floppy diskette, or CD–ROM; and, (3) software developers (a company, trade, business, or other person that creates, programs, or otherwise modifies computer software) applying for codes required to develop EFAST-compliant computer software for electronically preparing and filing the Form 5500 and/or Form 5500–EZ. Applicants provide some or all of the following information depending on applicant type: name and title of applicant, mailing address, Employer Identification Number (EIN), telephone number, facsimile number and e-mail address (optional), contact person if different than applicant, and a signed agreement concerning the terms and conditions of the electronic filing program. Applicants receive, depending on applicant type, some or all of the following codes: electronic signature; filer identification number; personal identification number; encryption key; electronic filing identification number; password; and software developer ID. Applicants use these codes, as applicable, in connection with electronic filing, electronic transmission, or the development of EFAST software for the Form 5500 and 5500–EZ.

The information provided by the applicants on EFAST–1, combined with the codes supplied to the applicants by the program, allow EFAST to verify a filer, transmitter, or software developer's standing as a qualified participant in the EFAST electronic filing program for the Form 5500 and 5500–EZ. EFAST–1 information also establishes a means of contact between the EFAST program and filers, transmitters, and software developers for information exchange.

Type of Review: Extension of a currently approved collection.

Agency: Department of Labor, Pension and Welfare Benefits Administration.

Title: Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers.

Agency Form: EFAST–1.

OMB Number: 1210–0117.

Frequency: On occasion.

Affected Public: Individuals or households; business or other for-profit; Not-for-profit institutions.

Total Respondents: 10,800.

Total Responses: 10,800.

Estimated Total Burden Hours: 3,600.

Estimated Total Burden Cost: $4,100.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

III. Current Actions

The Pension and Welfare Benefits Administration is requesting an extension of the currently approved ICR pertaining to the Application for EFAST Electronic Signature and Codes for EFAST Transmitters and Software Developers (Form EFAST–1). The Department is not proposing or implementing changes to the existing ICR at this time.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: December 11, 2001.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Pension and Welfare Benefits Administration.

[FR Doc. 01–30891 Filed 12–13–01; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by February 12, 2002, to be assured of consideration. Comments received after that date would be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by E-mail to *splimpto@nsf.gov*.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send E-mail to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: The Evaluation of NSF's Louis Stokes Alliance for Minority Participation (LSAMP) Program.

OMB Control No.: 3145–NEW.

Expiration Date of Approval: Not applicable.

1. Abstract

This document has been prepared to support the clearance of data collection instruments to be used in the evaluation of the Louis Stokes Alliance of Minority Participation (LSAMP) Program. The goal of this program is to increase the number of interested, academically qualified minority students receiving baccalaureate degrees in science, technology, engineering and math (STEM), continuing to graduate school to attain a STEM graduate degree, and entering the STEM workforce. The program makes awards to alliances, which are composed of institutional partnerships (e.g., with two- and four-year higher education institutions, business, research labs, and local, state, and federal agencies). LSAMP projects fund students, offer a range of student support services, and undertake systemic reform of undergraduate education in STEM (particularly curricular improvement and faculty professional development). This mixed-methods study will gather data through telephone interviews with project staff, a survey questionnaire of program graduates, and in person interviews with faculty, staff, and students at three selected case study sites. The process evaluation component of this study will identify strategies that accelerate or inhibit the attainment of project goals, strategies employed to promote linkages among Alliance partners, and the manner in which the LSAMP model has evolved since its inception. The impact evaluation component of this study will examine program impact on institutions of higher education in promoting diversity in STEM, and participant career outcomes.

2. Expected Respondents

The expected respondents are project directors and/or managers of all 27 projects; LSAMP graduates who received program funding and who earned STEM baccalaureate degrees between 1992 and 1997; ad, faculty, staff, and student participants at the three selected case study sites.

3. Burden on the Public

The total elements for this collection are 308 burden hours for a maximum of 795 participants annually, assuming a 90–100% response rate. The average annual reporting burden is under 1 hour per respondent. The burden on the public is negligible because the study is limited to project participants that have received funding from the LSAMP Program.

Dated: December 10, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–30893 Filed 12–13–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Enforcement Program and Alternative Dispute Resolution Request for Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comments.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing its intent to evaluate the use of Alternative Dispute Resolution (ADR) in the NRC's enforcement program, which is governed by the NUREG–1600, "General Statement of Policy and Procedure for NRC Enforcement Actions" (Enforcement Policy). The NRC is undertaking this evaluation because ADR techniques have proven to be efficient and effective in resolving a wide range of disputes government-wide. The Commission is seeking public comment in the form of answers to questions presented in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: The comment period expires January 28, 2002.

ADDRESSES: Submit written responses to the questions presented in the Supplementary Information section of this notice to Michael Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852. Comments may also be sent electronically to Mr. Lesar, E-mail *mtl@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Terrence Reis, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 (301) 415–3281, E-mail *txr@nrc.gov,* or Francis X. Cameron, NRC ADR Specialist, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, (301) 415–1642, E-mail *fxc@nrc.gov.*

SUPPLEMENTARY INFORMATION: "ADR" is a term that refers to a number of voluntary processes, such as mediation and facilitated dialogues, that can be used to assist parties in resolving disputes and potential conflicts. The Administrative Dispute Resolution Act of 1996 (ADR Act) encourages the use of ADR by Federal agencies, and defines ADR as "any procedure that is used to resolve issues in controversy, including but not limited to, conciliation, facilitation, mediation, fact finding, minitrials, arbitration, and use of an ombudsman, or any combination thereof" (5 U.S.C. 571(3)). These techniques involve the use of a neutral third party, either from within the agency or from outside the agency, and are typically voluntary processes in terms of the decision to participate, the type of process used, and the content of the final agreement. Federal agency experience with ADR has demonstrated that the use of these techniques can result in more efficient resolution of issues, more effective outcomes, and improved relationships between the agency and the other party.

The NRC has a general ADR policy (57 FR 36678; August 14, 1992) that supports and encourages the use of ADR in NRC activities. In addition, the NRC has used ADR effectively in a variety of circumstances, including rulemaking and policy development, and EEO disputes. Section 2.203 of the Commission's regulations provides for the use of "settlement and compromise" in proceedings dealing with enforcement issues. In addition, § 2.337 of the Commission's proposed revisions to the NRC hearing process provides for ADR in NRC proceedings (see, 66 FR 19610, 19645; April 16, 2001). In at least one instance, an NRC enforcement case has been resolved through the use of a "settlement judge" from the Atomic Safety and Licensing Board Panel pursuant to 10 CFR 2.203 of the Commission's regulations, but there has been no systematic evaluation of the need for ADR in the enforcement process. The NRC's participation in a 1998 interagency initiative to encourage the use of ADR by Federal agencies, and the NRC's receipt of a request to use ADR in a recent enforcement case, have prompted the agency to consider whether a new, specific ADR policy would be beneficial in the enforcement area.

Use of ADR by the NRC and other Federal Agencies. In order to encourage Federal agencies to take advantage of the benefits of ADR, Congress enacted the ADR Act. The Act requires each agency to do the following:

1. Adopt a policy that addresses the use of ADR;
2. Designate a senior official to be the dispute resolution specialist for the agency;
3. Provide ADR training on a regular basis; and
4. Review each standard agency agreement for contracts, grants, and other assistance with an eye towards encouraging the use of ADR.

As noted above, "ADR" is a term that describes a set of processes which assist parties in resolving their disputes quickly and efficiently. Mediation, early neutral evaluation, facilitated dialogues, and arbitration are examples of these ADR processes. Central to each ADR process is the use of an objective third party or neutral, for example, a facilitator or mediator, to assist the parties in resolving their dispute. Experience has shown that ADR can resolve disputes in a manner that is quicker, cheaper, and less adversarial than the traditional litigation process. In ADR, parties meet with each other directly, under the guidance of a neutral professional who is trained and experienced in handling disputes. The parties talk about the problems that led to the dispute and discuss possible resolution strategies. With the assistance of the neutral professional, the parties are able to retain control over their own disputes and work collaboratively to find creative, effective solutions that are agreeable to all sides. ADR commonly involves mediation and facilitation, in which a third party neutral assists the parties in coming to agreement. The neutral in these cases does not impose any decision on the parties.

Many Federal agencies have established or are considering the use of ADR in civil enforcement actions. For example, the Environmental Protection Agency has used ADR to assist in the resolution of numerous disputes related to the enforcement of Superfund and other environmental statutes that EPA administers. Mediated negotiations have ranged from two-party Clean Water Act cases to Superfund disputes involving upwards of 1200 parties. The U.S. Navy has entered into an innovative partnering agreement with the State of Florida to address compliance with environmental regulations at naval installations. The Federal Energy Regulatory Commission has established an alternative licensing process that provides for a facilitated dialogue to assist parties in negotiating licensing agreements. The Federal Mine Safety and Health Review Commission has proposed the use of settlement judges serving as mediators to assist parties in reaching settlement prior to an administrative hearing on contested compliance cases arising under the Federal Mine Safety and Health Act of 1997. The NRC staff has consulted several of these agencies that are experienced in the application of ADR to enforcement cases. These discussions have highlighted a number of important points for the NRC to consider in the course of its evaluation:

The use of ADR should be understood broadly. ADR encompasses many different techniques that might be employed at various points in the enforcement process. For example, although mediation is the most commonly used ADR technique in the enforcement arena, techniques such as neutral fact-finding or facilitated negotiation can also assist in resolving disputes and avoiding potential conflicts. In addition, ADR can be used at any point in the enforcement process where a discussion or negotiation between the parties takes place.

ADR should not be viewed as an alternative to settlement. Agencies, including the NRC, have traditionally attempted to settle disputes in the enforcement area. ADR is simply a set of additional tools that an agency can use to more effectively address potential settlement issues, whether in the enforcement area or elsewhere. A key distinguishing feature of ADR-assisted settlement discussions is the presence of a neutral third party (i.e., a mediator, a facilitator) with expertise in conflict resolution techniques. "Effectiveness" in this context may include a faster and more systematic settlement process, as well as better and more enduring outcomes, reduced transaction costs, and improved relationships between the parties. However, the potential effectiveness of ADR must be evaluated within the context of an agency's mission, process, and procedures.

The use of ADR is not appropriate in all circumstances. There will always be cases that should go to litigation, rather than be settled, for example, because of an important policy objective or in cases of first impression.

Although there are many potential beneficial uses of ADR, the ADR Act also identifies several situations where an agency should consider not using ADR:

1. A definitive or authoritative resolution of the matter is required for precedential value;

2. The matter involves significant questions of government policy that require additional procedures before a final resolution is made;

3. Maintaining established policies is of special importance so that variations among individual decisions are not increased;

4. The matter significantly affects persons or organizations that are not parties to the proceeding;

5. A full public record of the proceeding is important and a dispute resolution proceeding cannot provide such a record; and

6. The agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in light of changed circumstances.

The NRC intends to consider these factors, along with the public comments on this notice, in evaluating whether, and to what extent, a specific ADR policy in the enforcement area is needed.

The NRC Enforcement Process. The NRC's Enforcement Process is generally based on open, fact-finding and evaluative processes that rely on the principles of transparency to the public and early and full discourse to the party responsible for the apparent violation.[1]

In brief, the agency's enforcement process, as governed by the Enforcement Policy (NUREG–1600, General Statement of Policy and Procedure for NRC Enforcement Actions, February 16, 2001), can be summarized as follows:

Agency enforcement actions arise from the results of inspections and investigations. Following identification of potentially escalated enforcement actions the issue is brought to a multi-disciplinary NRC staff panel to achieve consensus that a violation of NRC requirements has occurred and that the violation warrants escalated enforcement action. Enforcement actions also include the issuance of orders to modify, suspend or revoke a license which may be based on a violation or noncompliance with a requirement or other public health and safety issue. If consensus is reached, the licensee or individual is then formally notified that the NRC considers an issue an apparent violation and is told the basis for the apparent violation. The licensee or individual is then offered an opportunity to have a conference with the NRC or provide its position in writing. The licensee or individual subject to the action is always asked to state whether it agrees or disagrees with apparent violations as stated. After the licensee or individual presents its case, the multi-disciplinary panel meets again to determine what enforcement action, if any, is appropriate. If it is determined that a civil penalty is warranted in accordance with the enforcement policy, that decision and the basis for it are formally transmitted to the licensee or individual in the form of a Notice of Violation and Proposed Civil Penalty. At this stage the licensee or individual has the opportunity to restate its case in writing. If after reviewing the response, the NRC continues to maintain the action is appropriate, the civil penalty is imposed by order. After imposition, the licensee or individual then has the opportunity to request a hearing and proceed with adjudication. After a hearing has been requested, settlement is subject to the provisions in 10 CFR 2.203.

If only a Notice of Violation is proposed, such is normally the case for issues dispositioned under the Reactor

---

[1] Investigations, however, are confidential, and enforcement conferences involving wrongdoing are closed.

Oversight Process, the licensee is required to respond to the violation and may contest it. However, in such cases there are no hearing rights as there are in cases where an Order is issued or a civil penalty is imposed.

Data on enforcement cases suggest that the agency's current enforcement process offers ample opportunity for settlement and avoids costly litigation without specifically employing ADR techniques. Since 1988, out of approximately 1300 civil penalties proposed, there have been 222 Orders imposing civil monetary penalties, and 29 related requests for hearings (out of a total of 79 enforcement related hearing requests). The majority of those requests were settled prior to hearing. However, these statistics do not provide insights as to whether there might be additional opportunities to use ADR at various points in the enforcement process or whether existing settlement discussions might be improved by the use of ADR.

Specific Issues. The NRC has identified a number of issues that it believes must be evaluated in order to determine whether an enforcement specific ADR policy is needed. Two of the more notable issues are:

At what point in the enforcement process should ADR be used? If the agency is to pursue implementing ADR in its enforcement processes, it must decide what types of disputes would be appropriate for resolution through ADR. Enforcement is intended to act as a deterrence and to ensure appropriate and lasting corrective action to prevent the recurrence of a non-compliance; in this sense, it is one means by which the agency ensures compliance with its regulations and license requirements, which, in turn, supports the "adequate protection" standard of the Atomic Energy Act. Enforcement sanctions are a function of the significance of violations. Viewing ADR from a narrow perspective, one could argue that, in terms of the enforcement program, only disputes pertinent to the existence and significance of a violation need be considered. The NRC's rules of practice for enforcement, as set forth in Subpart B of 10 CFR Part 2, provide the right to request a hearing in connection with orders imposing civil penalties, orders modifying, suspending, or revoking a license, or orders restricting an individual's right to engage in a licensed activity. There are no hearing rights for notices of violation issued without a corresponding civil penalty. Given the limited scope of issues in dispute in the enforcement arena—existence and significance of violations, and in the case of civil penalties, the appropriate amount—should the use of ADR techniques be reserved only for those issues that are eligible to be adjudicated?

What are the implications of ADR for the confidentiality of settlement discussions in the enforcement area? The ADR Act (5 U.S.C. 571–584) provides for confidentiality of "dispute resolution communications" in "dispute resolution proceedings" involving a Federal agency "administrative program." A Federal agency "administrative program" includes any Federal function which involves the protection of the public interest and the determination of the rights, privileges, and obligations of private persons through rulemaking, adjudication, licensing or investigation. NRC enforcement processes and proceedings would fall under this definition. A "dispute resolution proceeding" is any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate. The ADR Act provides for a broad reading of the term "dispute resolution proceeding" and incorporates all ADR forms and techniques, including convening, facilitation, mediation, and fact-finding. The neutral may be a private person or a Federal government employee who is acceptable to the parties. The ADR Act supports the use of neutrals to assist parties during all stages of the resolution of a disagreement, from the convening of the participants and design of an effective process to the conduct of settlement discussions. "Confidential Information," in the context of a dispute resolution proceeding, means information that a neutral or a party cannot, by law or agreement, voluntarily disclose to anyone, or if disclosed, cannot be admitted into evidence in any future legal proceeding. Note that a key distinction between "dispute resolution proceedings" under the ADR Act and traditional settlement discussions conducted by the NRC and other agencies is the presence of a neutral who functions specifically to aid the parties in resolving the controversy.

Settlement discussions between NRC staff and licensees or other parties have traditionally been closed and the information kept confidential. Like the practice under the ADR Act, the settlement agreement itself must be disclosed. Unlike the ADR Act, oral and written communications by the parties during joint sessions may be kept confidential. No discovery has been allowed on the issues in settlement discussions in NRC enforcement cases.

Confidentiality can be a critical component of a successful ADR process. Guarantees of confidentiality, whether in joint session of all the parties with the neutral, or in a caucus involving the neutral and one party, allow parties to freely engage in candid, informal discussions of their interests in order to reach the best possible settlement of their claims. A promise of confidentiality allows parties to speak openly without fear that statements made during an ADR process will be used against them later. Confidentiality can reduce "posturing" and destructive dialogue among parties during the settlement process. Neutrals try to promote a candid and informal exchange regarding events of concern, as well as about the parties' perceptions of and attitudes toward these events, and encourage parties to think constructively and creatively about ways in which their differences might be resolved. This frank exchange may be achieved only if the participants know that what is said in the ADR process will not be used to their detriment in some later proceeding or in some other manner. These considerations would seem to apply regardless of whether a neutral was involved in the settlement discussions.

However, some ADR practitioners believe that mediation and other forms of ADR will work without confidentiality and that there is no need to preserve confidentiality in an ADR process. As noted above, the ADR Act does not provide confidentiality to statements or written comments by the parties made during joint session. Therefore, it may be possible to limit confidentiality to the caucuses involving the neutral and one of the parties, and still open the information provided in the joint sessions to public scrutiny, if not public observation. In addition, public policies that place an emphasis on access rather than confidentiality may lead to disclosure of information in joint ADR sessions. In fact, to the extent that settlement discussions on enforcement issues are public, there may be a value in having these sessions assisted by a neutral.

The policy choice may not be between ADR-assisted settlement discussions and traditional settlement discussions without the assistance of a neutral. Rather, the choice seems to be whether or not to engage in any confidential settlement discussions on enforcement issues, particularly certain types of enforcement issues, such as when wrongdoing is involved.

Questions for Public Comment. In order for the NRC to evaluate whether, and to what extent, ADR should be used in the enforcement arena, the NRC has identified a number of issues for public comment. The NRC is seeking public comment on the following specific questions and also invites general comments on the questions, and also invites general comments on the use of ADR in NRC enforcement cases.

It should be noted that the NRC's Discrimination Task Group already addressed and initially rejected the use of ADR in employment discrimination cases in its draft report which has been released for public comment (66 FR 32966 dated June 19, 2001 and *http://www.nrc.gov*—;Electronic Reading Room, ADAMS Accession No. ML011200244). The Commission, however, desires to more thoroughly examine the use of ADR in enforcement proceedings, including discrimination cases. Accordingly, the Discrimination Task Group will await evaluation of comments received as a result of this **Federal Register** Notice before finalizing its recommendation on the use of ADR.

The specific questions are as follows.

1. Is there a need to provide additional avenues, beyond the encouragement of settlement in 10 CFR 2.203, for the use of ADR in NRC enforcement activities?

2. What are the potential benefits of using ADR in the NRC enforcement process?

3. What are the potential disadvantages of using ADR in the NRC enforcement process?

4. What should be the scope of disputes in which ADR techniques could be utilized?

5. At what points in the existing enforcement process might ADR be used?

6. What types of ADR techniques might be used most effectively in the NRC enforcement process?

7. Does the nature of the existing enforcement process for either reactor or materials licensees limit the effectiveness of ADR?

8. Would any need for confidentiality in the ADR process be perceived negatively by the public?

9. For policy reasons, are there any enforcement areas where ADR should not be used, e.g., wrongdoing, employment discrimination, or precedent-setting areas?

10. What factors should be considered in instituting an ADR process for the enforcement area?

11. What should serve as the source of neutrals for use in the ADR process for enforcement?

Dated at Rockville, Maryland, this 10th day of December 2001.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 01–30926 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, DG–1111 (which should be mentioned in all correspondence concerning this draft guide), is "Atmospheric Relative Concentrations for Control Room Radiological Habitability Assessments at Nuclear Power Plants." This draft guide is being developed to provide guidance on determining atmospheric relative concentration (X/Q) values in support of design basis control room radiological habitability assessments at nuclear power plants. This guide describes methods acceptable to the NRC staff for determining X/Q values that will be used in control room radiological habitability assessments performed in support of applications for licenses and license amendment requests.

This draft guide has not received complete staff approval and does not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by March 15, 2002.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC home page (*http://www.nrc.gov*). This site provides the ability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guide and the related documents, contact Mr. S.F. LaVie at (301) 415–1081; e-mail *SFL@NRC.GOV*.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; email *PDR@NRC>GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to <*DISTRIBUTION@NRC.GOV*>; or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 29th day of November 2001.

For the Nuclear Regulatory Commission.

Gina F. Thompson,

Senior Budget Analyst, Program Management, Policy Development and Analysis Staff, Office of Nuclear Regulatory Research.

[FR Doc. 01–30928 Filed 12–13–01; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates

VOL 66 ISS 241 DE 14 2001 UMI

are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in December 2001. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in January 2002.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the "required interest rate") in determining a single-employer plan's variable-rate premium. The required interest rate is the "applicable percentage" (currently 85 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The required interest rate to be used in determining variable-rate premiums for premium payment years beginning in December 2001 is 4.35 percent (*i.e.*, 85 percent of the 5.12 percent yield figure for November 2001).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between January 2001 and December 2001.

For premium payment years beginning in:	The required interest rate is:
January 2001	4.67
February 2001	4.71
March 2001	4.63
April 2001	4.54
May 2001	4.80
June 2001	4.91
July 2001	4.82
August 2001	4.77
September 2001	4.66
October 2001	4.66
November 2001	4.52
December 2001	4.35

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in January 2002 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 11th day of December 2001.

Steven A. Kandarian,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 01–30964 Filed 12–13–01; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [66 FR 63422, December 6, 2001].

STATUS: Open Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Thursday, December 13, 2001 at 10 a.m.

CHANGE IN THE MEETING: Cancellation of Meeting/Additional Meetings.

The open meeting schedule for Thursday, December 11, 2001, has been cancelled, and rescheduled for Wednesday, December 19, 2001, at 10 a.m., in Room 1C30, the William O. Douglas Room. In addition to the open meeting scheduled for Wednesday, December 19, 2001, the Commission will hold a closed meeting on Tuesday, December 18, 2001, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(2)(5), (7), (9)(A), (9)(B), and (10) and 17 CFR 200.402(a)(5), (7), 9(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting scheduled for Tuesday, December 18, 2001 will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders of investigation.

The subject matter of the open meeting scheduled for Wednesday, December 19, 2001 will be:

1. The Commission will consider the Nasdaq Stock Market, Inc.'s request that the Commission interpret section 28(e) of the Securities Exchange Act of 1934 to apply to riskless principal transactions in certain securities in light of recent amendments to Nasdaq's trade reporting rules.

For further information, please contact Catherine McGuire or Joseph Corcoran, Division of Market Regulation, at (202) 942–0073).

2. The Commission will consider whether to extend an order exempting broker-dealers from the requirement of Securities Exchange Act of 1934 section 17(e)(1)(B) and rule 17a–5(c) to regularly send certain financial information to their customers. To take advantage of the exemption, a broker-dealer must send its customers certain net capital information and must provide its customers instructions for obtaining the remainder of its required financial disclosures on its web site or by dialing a toll-free number for a paper copy. The curernt order (Exchange Act Release No. 42222, December 10, 1999) granted the exemption for two yeaers as a pilot program ending December 31, 2001.

For further informataion please contact Thomas K. McGowan, Assistant Director, Division of Market Regulation, at (202) 942–4886.

3. The Commission will consider whether to adopt amendments to the disclosure requirements under the Securities Exchange Act of 1934 applicable to annual reports filed on Forms 10–K and 10–KSB and to proxy and information statements. The amendments will enhance disclosure about equity compensation plans, including the number of outstanding options, warrants and rights, as well as the number of securities remaining available for future issuance. The amendments require registrants to provide information separately for plans that have not been approved by security holders.

For further information, please contact Mark A. Borges, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910.

4. The Commission will consider whether to adopt an amendment to rule

135b under the Securities Act of 1933. The amendment will clarify that an Options Disclosure Document prepared pursuant to rule 0b–1 under the Securities Exchange Act of 1934 is not a prospectus and therefore is not subject to liability under section 12(a)(2) of the Exchange Act.

For further information, please contact Ray Be, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910.

5. The Commission will consider whether to propose an amendment to rule 146 under the Securities Act of 1933. The proposed amendment provides a definition of the term "qualified purchaser" for purposes of section 18(b)(3) of the Securities Act and thus posits an additional "covered security" preempting state securities registration and review.

For further information, please contact Marva Simpson, Office of Small Business Policy, Division of Corporation Finance, at (202) 942–2950.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: December 11, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–30979 Filed 12–12–01; 11:43 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Federal Register Citation of Previous Announcement: 66 FR 63422, December 6, 2001.

Status: Closed meeting.

Place: 450 Fifth Street, NW., Washington, DC

Date and Time of Previously Announced Meeting: Thursday, December 13, 2001 at 10:00 a.m.

Change in the Meeting: Time Change.

The closed meeting scheduled for Thursday, December 13, 2001 at 10 a.m. has been changed to Friday, December 14, 2001 at 10 a.m.

Dated: December 12, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31031 Filed 12–12–01; 4:02 pm]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44138; File No. SR–NYSE–2001–42]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc., Establishing the Fees for NYSE OpenBook™

December 7, 2001.

On October 15, 2001, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change establishing the fees for its NYSE OpenBook service. The proposed rule change was published for comment in the **Federal Register** on October 29, 2001.[3] The Commission received one comment letter on the proposed rule change.[4] This order approves the proposed rule change.

I. Description of the Proposed Rule Change

A. Proposed Fees for NYSE OpenBook Service

The Exchange proposes to establish certain fees for its NYSE OpenBook service. NYSE OpenBook is a compilation of limit order data that the Exchange will provide to market data vendors, broker-dealers, private network providers, and other entities through a data feed. According to the Exchange, for every limit price, NYSE OpenBook will include the aggregate order volume. The Exchange will make the NYSE OpenBook data feed available through the Exchange's Common Access Point ("CAP") network. Initially, the Exchange will update NYSE OpenBook every ten seconds.

The Exchange has proposed two fees. First, the Exchange proposes to collect a fee equal to $5,000 per month from each entity that elects to receive the NYSE OpenBook data feed. Second, the Exchange proposes to collect an end-user fee of $50.00[5] per month for each terminal through which the end user is able to display the NYSE OpenBook.

B. NYSE OpenBook Service Agreements

The Exchange will require each NYSE OpenBook data feed recipient to enter into the existing form of "vendor" agreement. That agreement will authorize the data feed recipient to provide NYSE OpenBook display services to its customers or to distribute the data internally. In addition, the Exchange represents that it will require each end-user that receives NYSE OpenBook displays from a vendor or broker-dealer to execute the existing "subscriber" agreement.

The Exchange intends to supplement the vendor agreements with additional terms that are unique to NYSE OpenBook. First, the vendor agreements prohibit a data feed recipient that redisseminates the NYSE OpenBook outside of its organization from enhancing, integrating, or consolidating the redisseminated NYSE OpenBook data with limit order data of other markets or trading systems (*i.e.*, the data feed recipient may only redisseminate the display of the NYSE's OpenBook in a separate "window"[6] marked "NYSE OpenBook™"). A vendor, however, may place other markets' limit order displays on the same page as the NYSE OpenBook window. This restriction only applies to vendors that redisseminate the NYSE OpenBook outside of their organization. It does not apply to those entities that receive the data feed for their own internal use. In other words, data feed recipients will be permitted to enhance, integrate, or consolidate the NYSE OpenBook data with other markets' or trading systems' limit order data for their own internal use.

Second, the vendor agreement precludes a data feed recipient from retransmitting the NYSE OpenBook data feed. Thus, any entity that wishes to receive the data feed so that it may enhance, integrate, or consolidate the data with other markets' data for its own internal use must obtain the data feed from the NYSE. The Exchange, however, has represented that once it and the marketplace gains experience with the product, the Exchange will permit retransmission of the NYSE OpenBook data feed by vendors.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 44962 (October 19, 2001), 66 FR 54562.

[4] *See* Letter from W. Hardy Callcott, Senior Vice President and General Counsel, Charles Schwab & Co., Inc. to Jonathan G. Katz, Secretary, Commission, dated November 20, 2001 ("Schwab Letter").

[5] The Exchange noted that although no other exchange currently offers a limit order data compilation, a few markets offer services that provide a point of reference According to the Exchange, the Nasdaq Stock Market charges $50 per terminal for its Nasdaq Level II service for professional interrogation devices, which provides the best bid and offer from all market makers and ECNs (although it does not otherwise provide depth-of-book or depth-of-market information). The Exchange also believes that the London Stock Exchange charges $144–$219 per terminal for the price and size of limit orders in stocks that are included in the FTSE 250 index. Further, the Exchange believes that the Toronto Stock Exchange charges $30 per terminal for its order books.

[6] The "window" requirement does not literally require a separate window, only separate displays. In other words, a vendor could format multiple displays in a single window.

II. Summary of Comments

The Commission received one comment letter on the proposal.[7] Generally, the commenter supports the Exchange's efforts in making its depth-of-book information available to investors as soon as possible. However, the commenter believes that the fee structure and the restrictions on how the NYSE OpenBook data can be used are unreasonable and unfairly discriminate against individual retail investors.

The commenter believes that the proposed fee structure deprives retail investors of equal and fair access to the same type of information as institutions and professionals because the proposed end-user fee is prohibitively expensive. Therefore, the commenter believes that retail firms, and in particular, firms with a large online retail client base, are placed at an unfair competitive disadvantage to firms that cater to institutional investors or serve their clients solely through telephone and in-person service. The commenter also states that the NYSE did not justify or attempt to explain the reasonableness of the $50 per device or end-user fee. Therefore, without a cost-effective alternative for retail investors, the commenter believes that the proposal does not meet investor protection standards.

In addition, the commenter states that the proposal unduly restricts the availability of critically important market data on a fair and equal basis. The commenter believes that the restrictions on the form and content of OpenBook would result in retail investors getting an inferior information product than would be available to institutions and professionals because retail investors would only receive a one-size-fits-all information product (*i.e.*, the NYSE OpenBook display), as opposed to enhanced or consolidated market information.[8]

In response to the commenter, the Exchange stated that the commenter's concerns generally focused on the absence of a retail online fee. The Exchange argued that as a product innovator, it was simply exercising its perogative to roll out NYSE OpenBook in phases, as dictated by demand.

III. Discussion

After careful review, the Commission finds that the Exchange's proposed rule change to establish fees for NYSE OpenBook service is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange.[9] In particular, the Commission finds that the fee proposal is consistent with section 6(b)(4) of the Act,[10] which requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities.

Specifically, the Commission believes that the Exchange's proposed charges of $5,000 per month for receipt of the NYSE OpenBook data feed, and $50 per month for the end-user fee per terminal are reasonable when compared to similar types of service provided by other markets.[11]

The Commission considered the commenter's concern that the Exchange's proposed fees unfairly discriminate against retail investors. The Exchange, however, has represented that as it gains experience with NYSE OpenBook, it may design a data product that is more suitable for use by registered representatives, and should ademand develop, it would consider designing a limit order data product for the retail, nonprofessional customer.

The Commission notes that this order only approves the filing submitted by the NYSE, for the fees for the NYSE OpenBook service. Therefore, the Commission is not approving or disapproving the terms of the NYSE's vendor or subscriber agreements. The NYSE's proposed restrictions on vendor redissemination of OpenBook data, including the prohibition on providing the full data feed and providing enhanced, integrated, or consolidated data found in these agreements are on their face discriminatory, and may raise fair access under the Act.[12]

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NYSE–2001–42) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30879 Filed 12–13–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3379]

State of Tennessee (and Contiguous Counties in the State of Arkansas, Kentucky and Mississippi)

Henry and Shelby Counties and the contiguous Counties of Benton, Carroll, Fayette, Stewart, Tipton and Weakley in the State of Tennessee; Crittenden County in the State of Arkansas; Calloway and Graves Counties in the State of Kentucky; and DeSoto and Marshall Counties in the State of Mississippi constitute a disaster area due to damages caused by tornadoes and heavy rains that occurred on November 21, 2001 and continued through November 30, 2001. Applications for loans for physical damage may be filed until the close of business on February 5, 2002 and for economic injury until the close of business on September 6, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.500
Homeowners Without Credit Available Elsewhere	3.250
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The numbers assigned to this disaster for physical damage are 337912 for Tennessee; 338012 for Arkansas; 338112 for Kentucky; and 338212 for Mississippi. For economic injury, the numbers are 9N6800 for Tennessee; 9N6900 for Arkansas; 9N7000 for Kentucky; and 9N7100 for Mississippi.

---

[7] *See* Schwab Letter, note 4, *supra*.

[8] The commenter questioned whether the restriction on redissemination applied only to the redissemination of the data feed itself for whether it was a complete ban on external redistribution of the OpenBook display. The NYSE clarified that the restriction on redissemination applied only to the redissemination of the data feed.

[9] In approving this rule, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78f(b)(4).

[11] *See* note 5, *supra*.

[12] For a complete discussion of the relevant provisions of the Act, *see* Securities Exchange Act Release No. 44962 (October 19, 2001), 66 FR 54562 (October 29, 2001).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 6, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–30841 Filed 12–13–01; 8:45 am]

BILLING CODE 8025-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Renewal of Treatment on Government Procurement of Products From Countries Designated Under the Caribbean Basin Economic Recovery Act

AGENCY: Office of the United States Trade Representative.

ACTION: Renewal of treatment on government procurement of products from countries designated under the Caribbean Basin Economic Recovery Act

Under the authority delegated to me by the President in section 1–201 of Executive Order 12260 of December 31, 1980, I hereby direct that products of countries, listed below, designated by the President as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.), with the exception of the Dominican Republic, Honduras, and Panama, shall continue to be treated as eligible products for purposes of section 1–101 of the Executive Order. Such treatment shall not apply to products originating in these countries that are excluded from duty free treatment under 19 U.S.C. 2703(b). Decisions on the continued application of this treatment will be based on ongoing evaluation of beneficiaries' efforts to improve domestic procurement practices, on their support for relevant international initiatives, such as those in the World Trade Organization (WTO) Working Group on Transparency in Government Procurement and the Free Trade Area of the Americas (FTAA) Negotiating Group on Government Procurement, and on their progress toward acceding to the WTO Government Procurement Agreement. Beneficiaries' performance with respect to the foregoing factors will be analyzed annually in September, although changes in the application of this treatment may be made at any time. Notice of any changes in this treatment with respect to any beneficiary will be published in the **Federal Register**.

List of Countries Designated as Beneficiary Countries for Purpose of the Caribbean Basin Economic Recovery Act (CBERA): Antigua and Barbuda, Aruba, the Bahamas, Barbados, Belize, Costa Rica, Dominica, the Dominican Republic; El Salvador; Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, Montserrat, Netherlands Antilles, Saint Kitts-Nevis, British Virgin Islands.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–30857 Filed 12–13–01; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Extension of Deadline for the Submission of Public Comments on Draft Environmental Review of the Proposed U.S.-Chile Free Trade Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Extension of deadline for submission of comments via E-mail or Fax on the Draft Environmental Review of the Proposed U.S.-Chile Free Trade Agreement.

SUMMARY: The Office of the U.S. Trade Representative, through the Trade Policy Staff Committee, is extending the deadline for the submission of public comments via fax or E-mail for the draft environmental review of the proposed U.S.-Chile Free Trade Agreement form November 20, 2001 to January 9, 2002. The draft environmental review is available at *http://www.ustr.gov/environment/environmental.shtml*:

DATES: The new deadline for comments is January 9, 2002. Please note the comments at the present time may only be sent by fax to (202) 395–5141 or by E-mail to *FR0002@ustr.gov*.

FOR FURTHER INFORMATION CONTACT: Darci Vetter, Office of the U.S. Trade Representative, Environment and Natural Resources Section, telephone 202–395–7320.

SUPPLEMENTARY INFORMATION: The draft environmental review for the U.S.-Chile Free Trade Agreement was conducted pursuant to Executive Order 13141 on Environmental Review of Trade Agreements (64 FR 63169, Nov. 18, 1999) and its accompanying guidelines (65 FR 79442, Dec. 19, 2000), both of which are available at *http://www.ustr.gov/environment/environmental.shtml*. On November 5 of 2001, the Office of the U.S. Trade Representative requested public comments on the draft environmental review. The deadline for comments has been extended to reflect the extension of the U.S.-Chile FTA negotiations into early 2002. A final environmental review will be made publicly available following the conclusion of the U.S.-Chile Free Trade Agreement negotiations.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–30965 Filed 12–12–01; 11:26 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–11105]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 2115–0638.

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of one Information Collection Request (ICR). The ICR concerns the National Survey of Recreational Boating. Before submitting the ICR to OMB, the Coast Guard is requesting comments on it.

DATES: Comments must reach the Coast Guard on or before February 12, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2001–11105] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (G–CIM–2), U.S. Coast Guard Headquarters, room 6106 (Attn: Barbara Davis), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; or Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

Request for Comments

The Coast Guard encourages interested persons to submit comments. Persons submitting comments should include their names and addresses, identify this document [USCG 2001–11105], and give the reasons for the comments. Please submit all comments and attachments in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped self-addressed postcards or envelopes.

Information Collection Request

Title: The National Survey of Recreational Boating.

OMB Control Number: 2115–0638.

Summary: The mission of the national program of the U.S. Coast Guard on Safety of Recreational Boating to minimize the loss of life, the personal injury, the property damage, and the environmental impact associated with the use of recreational boats. The purpose of the national survey of recreational boating is to capture information from recreational boaters nationwide so we can better serve their needs and more effectively accomplish our mission. Information captured from the survey will enable us to better understand current boating practices, the types and number of boats used in each State, and the various types of activities associated with recreational boating. Our collecting this type of information from boaters across the nation is critical in our efforts to implement effective safety initiatives and activities with our partners in the States.

Need: In compliance with the Government Performance and Results Act (GPRA), the collection of information is necessary to: (1) Link the effectiveness of the national program to reductions in a person's risk of having a boating accident, (2) improve the effectiveness of the program by implementing well-defined goals, and (3) enhance policymaking by the Administration and Congress, spending decisions, and superintendence of the program using the best performance measures and safety indicators.

Respondents: Recreational boaters.

Frequency: Every three to five years.

Burden: The estimated burden is 11,458 hours a year.

Dated: December 7, 2001.

V.S. Crea,

Director of Information and Technology.

[FR Doc. 01–30839 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11138]

International Maritime Security Initiative

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Coast Guard announces a public meeting on January 3, 2002 to discuss a proposed United States submission to the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) on maritime security.

DATES: This meeting will be held on January 3, 2002, from 9 a.m. to 5 p.m. Comments and related material must reach the Docket Management Facility on or before February 7, 2001.

ADDRESSES: The public meeting will be held in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593.

To make sure your comments and related material may be considered if you are unable to attend, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility [USCG–2001–11138], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By hand delivery to room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1492.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this public meeting. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice or general information regarding the meeting, contact Martin L. Jackson, Office of Standards Evaluation and Development, (G–MSR–2), U.S. Coast Guard Headquarters, telephone 202–267–6826, fax 202–267–4547 or E-mail *mjackson@comdt.uscg.mil*. If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

This notice announces a public meeting where the U.S. Coast Guard is soliciting comments from the public on measures that should be included in a U.S. submission to IMO on maritime security. We encourage you to participate by submitting comments and related material. If you do so, please include your name and address, identify this docket (USCG–2001–11138), and indicate the specific concerns and reasons for each comment. You may submit your comments and materials by mail or hand delivery. Submit them in an unbound format, no larger than 8½ × 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you submit them by mail and would like confirmation of receipt, please enclose a stamped, self-addressed postcard or envelope. Comments and material should be received prior to February 7, 2002.

Public Meeting

The Coast Guard will hold a public meeting regarding international maritime security initiatives on Thursday, January 3, 2002 from 9 a.m. to 5 p.m. The meeting will be held at the address under **ADDRESSES**.

Background

At the recently concluded (November 19–29, 2001) 22nd Session of the International Maritime Organization (IMO) Assembly, the Secretary General of IMO proposed a resolution on review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships (Resolution A.924(22)), which was adopted by the Assembly. In view of the importance of the matter, the Assembly further agreed to convene an international conference on maritime security in December 2002, with a view towards adopting maritime security related amendments to the International Convention on the Safety of Life at Sea (SOLAS). Proposals to be considered at this conference will first be considered at the 75th session of the Maritime Safety Committee (MSC) during May 2002.

To adequately prepare for the upcoming MSC session in May 2002, the Assembly has agreed to convene an MSC intersessional working group meeting on February 11–15, 2002 at IMO. The United States Coast Guard is preparing a paper to present at this working group meeting.

This notice announces a public meeting where the U.S. Coast Guard is soliciting comments from the public on measures that should be included in a U.S. submission to IMO on maritime security. We will place the draft on the docket for this notice as soon as it is available.

The Coast Guard is also scheduling a public workshop to discuss security procedures, programs, and capabilities within marine transportation systems. The public workshop is a separate meeting from this public meeting and a separate notice will be published in the **Federal Register**.

Information on Service for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Martin Jackson at the phone number under **FOR FURTHER INFORMATION CONTACT**.

Dated: December 10, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–30910 Filed 12–13–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34069 (Sub-No. 1)]

Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts the trackage rights described in STB Finance Docket No. 34069[1] to permit the trackage rights to expire, as they relate to the operations in the vicinity of Moccasin, MT, on January 1, 2003.

DATES: This exemption is effective on January 13, 2002. Petitions for stay must be filed by December 26, 2001. Petitions to reopen must be filed by January 3, 2002.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34069 (Sub-No. 1) must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioners' representatives: (1) Tammy Wyatt-Shaw, Esq., Phillips & Bohyer, P.C., PO Box 8569, Missoula, MT 59807; and (2) Yolanda Grimes Brown, Esq., 2500 Lou Menk Drive, PO Box 961039, Fort Worth, TX 76161–0039.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1 (800) 877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.]

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: December 7, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30935 Filed 12–13–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

DATES: Written comments should be received on or before February 12, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20026, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

---

[1] On October 29, 2001, Central Montana Rail, Inc. (CMR) filed a notice of exemption under the Board's class exemption procedures at 49 CFR 1180.2(d)(7). The notice covered the trackage rights agreement (agreement) by which The Burlington Northern and Santa Fe Railway Company (BNSF) granted temporary overhead trackage rights to CMR over BNSF's line between milepost 134.4 and milepost 134.57, in the vicinity of Moccasin, MT, a distance of 0.17 miles. *See Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 34069 (STB served Nov. 16, 2001). The agreement is scheduled to expire on January 1, 2003. The trackage rights operations under the exemption were scheduled to be consummated on November 5, 2001.

VOL 66 ISS 241 DE 14 2001 UMI

Title: Licensed Firearms Dealers Records of Acquisition, Disposition and Supporting Data.

OMB Number: 1512–0490.

Form Number: ATF F 4473 (5300.24) Part I(LV), Firearms Transaction Record Part I Low Volume, Over-the-Counter and ATF F 4473 (5300.25) Part II(LV), Firearms Transaction Record Part II Low Volume, Intra-State Non-Over-the-Counter.

Recordkeeping Requirement ID Number: ATF REC 7570/2.

Abstract: These records furnish specific information indispensable to ATF's mission to enforce the firearms laws and regulations. The low volume forms are used only by Federal firearms licensees disposing of 50 or fewer firearms per 12-month period. They are kept at the licensee's option, in lieu of ATF F 4473 and records of acquisition and disposition. The record retention requirement for this information collection is 20 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit, individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 1,042.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–30899 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond Covering Removal To and Use of Wine At Vinegar Plant.

DATES: Written comments should be received on or before February 12, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Tom Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Bond Covering Removal To and Use of Wine At Vinegar Plant.

OMB Number: 1512–0529.

Form Number: ATF F 1676 (5510.2).

Abstract: ATF F 1676 (5510.2) is a bond form which serves as a contact between the proprietor of a vinegar plant and a surety. The bond coverage stated on the form is in an amount sufficient to cover the federal excise tax on wine in transit to and stored on the vinegar plant premises until the wine becomes vinegar.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for profit.

Estimated Number of Respondents: 25.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 25.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–30900 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Firearms Transaction Record, Part II Non-Over-The-Counter.

DATES: Written comments should be received on or before February 12, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Gary Thomas, Chief, Firearms Programs Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7770.

SUPPLEMENTARY INFORMATION:

Title: Firearms Transaction Record, Part II Non-Over-The-Counter.

OMB Number: 1512–0130.

Form Number: ATF F 4473 (5300.9) Part II.

Abstract: ATF F 4473 (5300.9) Part II is used to determine the eligibility under the Gun Control Act (GCA) of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is also used in law enforcement in investigations/inspections to trace firearms or to confirm criminal activity of persons violating the GCA. The record retention requirement for this information collection is 20 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 20,900.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 9,057.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management), CFO.

[FR Doc. 01–30901 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Bond-Export Warehouse Proprietor, Export Bond-Customs Bonded Cigar Manufacturing Warehouse, Extension of Coverage of Bond, Bond Under 26 U.S.C. 6423, Bond—Manufacturer of Tobacco Products.

DATES: Written comments should be received on or before February 12, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Tom Crone, Chief, Regulations Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8210.

SUPPLEMENTARY INFORMATION:

Title: Bond—Export Warehouse Proprietor, ATF F 2103 (5220.5), Export Bond-Customs Bonded Cigar Manufacturing Warehouse, ATF F 2104 (5200.15), Extension of Coverage of Bond, ATF F 2105 (5000.7), Bond Under 26 U.S.C. 6423, ATF F 2490 (5620.10), Bond-Manufacturer of Tobacco Products, ATF 3070 (5210.13).

OMB Number: 1512–0534.

Form Number: See Titles.

Abstract: These forms provide an efficient method of collecting the required information for the excise tax on wine, and provides a statutory system of controls for securing payment of taxes properly due. The record retention requirement for this information collection is 2 years.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 15.

Estimated Time Per Respondent: 1 hour and 40 minutes.

Estimated Total Annual Burden Hours: 25.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–30902 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Search for Artifacts and Memorabilia.

DATES: Written comments should be received on or before February 12, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Sheila Roscoe, New Building Projects Office, 800 K Street, NW., Washington, DC 20226, (202) 927–3500.

SUPPLEMENTARY INFORMATION:

Title: Search for Artifacts and Memorabilia.

OMB Number: 1512–0568.

Abstract: The search document is used to aid the Commemorative Artifacts and Memorabilia Program with discovering and obtaining artifacts and memorabilia pertaining to the history, mission, and spirit of the Bureau of Alcohol, Tobacco and Firearms to develop exhibits for the new National Laboratory and Headquarters building.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,900.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 317.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–30903 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Computer Security Incident Report.

DATES: Written comments should be received on or before February 12, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Katanya Dottin, Information Services Division, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–7870.

SUPPLEMENTARY INFORMATION:

Title: Computer Security Incident Report.

OMB Number: 1512–0567.

Form Number: ATF F 7500.1.

Abstract: ATF F 7500.1 is used to report computer security incidents that occur within the Bureau of Alcohol, Tobacco and Firearms and enables the Bureau to timely assess and resolve possible automated information systems vulnerabilities. ATF must make a report of any serious incident adversely effecting Bureau information technology equipment within 4 hours.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Individuals or households, Federal Government.

Estimated Number of Respondents: 5,500.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 2,750.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 5, 2001.

William T. Earle,

Assistant Director (Management) CFO.

[FR Doc. 01–30904 Filed 12–13–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Insufficient VA Appropriations To Implement Requirements for Notification, Evaluation, and Reduction of Lead Based Paint Hazards in VA-Acquired Properties

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: This document provides notice of a determination by the Department of Veterans Affairs (VA) that it lacks appropriations sufficient to cover the costs of implementing certain regulations concerning Lead Based Paint hazards in single family properties acquired by VA in the operation of the VA guaranteed home loan program.

FOR FURTHER INFORMATION CONTACT: William Lutes, Assistant Director for Property Management and Strategic Development, (263), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans

Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7379.

SUPPLEMENTARY INFORMATION: This Notice sets forth a determination by VA that it lacks appropriations sufficient to cover the costs of implementing certain regulations for notification, evaluation, and reduction of Lead Based Paint hazards in VA-acquired properties.

On September 5, 1999, the Department of Housing and Urban Development (HUD) published in the **Federal Register** (64 FR 50140) a final rule to ensure that housing receiving Federal assistance and Federally-owned housing that is to be sold does not pose lead-based paint hazards to young children. These regulations were designed to implement the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992; 42 U.S.C. 4851 *et seq.* These HUD rules are codified at 24 CFR part 35.

Requirements for the disposition of residential property owned by a Federal agency other than HUD are contained in 24 CFR, part 35, subpart C. Such requirements do not apply if appropriations to the agency are insufficient to cover the costs of implementing such statute and regulations. 42 U.S.C. 4822(a)(3)(C) and 24 CFR part 35.115(b).

VA hereby gives notice that, pursuant to 24 CFR 35.115(b), it has made a determination that it does not have appropriations sufficient to cover the costs of implementing 42 U.S.C. 4822(a)(3)(A)–(B) and 24 CFR, part 35, subpart C.

Dated: December 6, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–30936 Filed 12–13–01; 8:45 am]

BILLING CODE [illegible]

VOL 66 ISS 241 DE 14 2001 UMI

Corrections

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–142499–01]

RIN 1545–BA24

Catch-Up Contributions for Individuals Age 50 and Over

Correction

In proposed rule document 01–26566 beginning on page 53555 in the issue of Tuesday, October 23, 2001, make the following correction:

§ 1.414 (v)-1 [Corrected]

On page 53562, in the second column, in §1.414(v)-1 (g)(1), in the fourth line, "includable" should read, "includible".

On the same page, in the same column, in §1.414(v)-1 (g)(2), in the sixth line, "includable" should read, "includible".

[FR Doc. C1–26566 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK50

Copayments for Inpatient Hospital Care and Outpatient Medical Care

Correction

In rule document 01–30182 beginning on page 63446 in the issue of Thursday, December 6, 2001, make the following correction:

On page 63446, in the first column, in the **ACTION:** heading, in the first line, "Interim and Final Rule" should read "Interim Final Rule".

[FR Doc. C1–30182 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

Record of Decision: Programmatic Development Plan and Phase 1 Implementation for the Suitland Federal Center (SFC) in Suitland, MD

Correction

In notice document 01–29128 beginning on page 58495 in the issue of Wednesday, November 21, 2001 make the following correction:

On page 58499, the table is corrected to read as set forth below:

Impacted areas	Phase	Mitigation measure
* * * * *		
Transportation Systems	Phase 2	• Undertake necessary roadway and signal improvements to ensure that intersections surrounding the SFC operate at acceptable LOS. • Prepare a TMP.
* * * * *		

[FR Doc. C1–29128 Filed 12–13–01; 8:45 am]

BILLING CODE 1505–01–D

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 14, 2001

Part II

The President

Executive Order 13239—Designation of Afghanistan and the Airspace Above as a Combat Zone

VOL
66
ISS
2
4
1
DE
14
2001
UMI

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

Presidential Documents

Title 3—

The President

Executive Order 13239 of December 12, 2001

Designation of Afghanistan and the Airspace Above as a Combat Zone

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States of America, including section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112), I designate, for purposes of that section, Afghanistan, including the airspace above, as an area in which Armed Forces of the United States are and have been engaged in combat.

For purposes of this order, I designate September 19, 2001, as the date of the commencement of combatant activities in such zone.

THE WHITE HOUSE,
December 12, 2001.

[FR Doc. 01-31119
Filed 12-13-01; 11:38 am]
Billing code 3195-01-P

Reader Aids

Federal Register
Vol. 66, No. 241
Friday, December 14, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**

Presidential Documents

Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**

Other Services

Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497
7513	64095

Executive Orders:

11582 (See EO 13238)	63903
12958 (See Order of December 10, 2001)	64347
13238	63903
13239	64907

Orders:

Order of December 10, 2001	64347

Administrative Orders:

Presidential Determinations:

No. 02–07 of November 21, 2001	63487

Memorandums:

December 7, 2001	64735

5 CFR

302	63905
317	63905
330	63905
333	63905
335	63905
534	63906
591	63906
930	63906
6001	60139

Proposed Rules:

890	64160

7 CFR

301	63151

Proposed Rules:

352	63005
1410	63339

9 CFR

70	63588
78	63910
88	63588
94	62913, 63910, 63911

Proposed Rules:

94	63633

10 CFR

20	64737
30	64737
32	64737
34	64737
40	64737
50	64737
51	64737

Proposed Rules:

72	63964

12 CFR

5	62914

Proposed Rules:

Ch. IX	63008
226	64381
584	63517

13 CFR

120	64739

14 CFR

25	64349
39	60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739
71	63489, 63623
73	63433
91	63888
93	63294
97	64139, 64141
107	63474
108	63474

Proposed Rules:

39	63009, 63010, 63341
71	60162, 63517
93	64778

15 CFR

801	63916, 63918

16 CFR

3	64142
4	64142
305	63749

17 CFR

Proposed Rules:

15	64383

18 CFR

381	63162

19 CFR

12	63490

20 CFR

655	63296

Proposed Rules:

404	63634

VOL 66 ISS 241 DEC 14 2001 UMI

21 CFR

510 ... 63163, 63164, 63499
520 ... 63165, 63166
524 ... 63164
556 ... 62916
558 ... 62916, 63499, 63500
Proposed Rules:
500 ... 63519
1310 ... 64173

24 CFR

30 ... 63436

26 CFR

1 ... 63920
301 ... 64351, 64740
602 ... 64076, 64351
Proposed Rules:
1 ... 63203, 64385, 64904
301 ... 64386
602 ... 64386

29 CFR

578 ... 63501
579 ... 63501
580 ... 63501
4022 ... 64744
4044 ... 64744

30 CFR

256 ... 60147
918 ... 64746
944 ... 62917
Proposed Rules:
936 ... 63968

31 CFR

211 ... 63623

33 CFR

100 ... 63624
117 ... 62935, 62936, 62938, 62939, 62940, 63626, 63627
165 ... 60151, 62940, 64144
Proposed Rules:
1 ... 63640
147 ... 63642
165 ... 64778
175 ... 63645
181 ... 63650

34 CFR

Proposed Rules:
Ch. VI ... 63203

37 CFR

201 ... 62942, 63920
Proposed Rules:
255 ... 64783

38 CFR

17 ... 63446, 63449, 64904
20 ... 60152
Proposed Rules:
3 ... 64174

39 CFR

20 ... 64353

40 CFR

8 ... 63454
52 ... 63311, 63921, 64146, 64148, 64750, 64751
62 ... 63311, 63938, 64151, 64152
63 ... 63313
70 ... 62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81 ... 64751
152 ... 64759
156 ... 64759
180 ... 63192, 64768
261 ... 60153, 62973
271 ... 63331
300 ... 64357
721 ... 63941
Proposed Rules:
52 ... 63204, 63343, 63972, 63982, 64176, 64783
60 ... 64176
62 ... 63985, 64207, 64208
80 ... 60153
300 ... 64387

42 CFR

411 ... 60154
1001 ... 62980, 63749

43 CFR

3600 ... 63334
3610 ... 63334
3620 ... 63334
3800 ... 63334

44 CFR

64 ... 63627
Proposed Rules:
61 ... 60176

46 CFR

Proposed Rules:
67 ... 64784

47 CFR

1 ... 62992
25 ... 63512
54 ... 64775
73 ... 60156, 60157, 63199, 63629, 64776, 64777
76 ... 62992
101 ... 63512
Proposed Rules:
1 ... 64785
2 ... 64785
51 ... 63651
73 ... 63209, 63653, 63654, 63986, 63997, 64792
87 ... 64785

48 CFR

202 ... 63334
212 ... 63335
215 ... 63334
217 ... 63336
237 ... 63335
242 ... 63334
Proposed Rules:
235 ... 63348
1823 ... 64391
1836 ... 64391
1852 ... 64391

49 CFR

241 ... 63942
571 ... 60157, 64154, 64358
572 ... 64368
Proposed Rules:
107 ... 63096
171 ... 63096
172 ... 63096
173 ... 63096
177 ... 63096
178 ... 63096
180 ... 63096
219 ... 64000
573 ... 64078, 64087
577 ... 64078, 64087

50 CFR

17 ... 62993, 63752
230 ... 64378
600 ... 63199
622 ... 60161
635 ... 63003, 64378
648 ... 63003
660 ... 63199, 63630
679 ... 64380
Proposed Rules:
17 ... 63349, 63654
20 ... 63665
21 ... 63349, 63665
222 ... 64793
223 ... 64793
224 ... 64793
648 ... 63013, 63666, 64392

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 14, 2001

ENERGY DEPARTMENT

- Nuclear waste repositories:
  - Yucca Mountain Site, NV; suitability guidelines; published 11-14-01

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Missouri; published 10-15-01
  - Texas; published 11-14-01
- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Avermectin, etc.; published 12-14-01

FEDERAL COMMUNICATIONS COMMISSION

- Radio stations; table of assignments:
  - Georgia; published 12-14-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

- Organization, functions, and authority delegations:
  - Food Safety and Applied Nutrition Center; address change; published 11-6-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - Louisiana; published 12-14-01

JUSTICE DEPARTMENT

Immigration and Naturalization Service

- Immigration:
  - Aliens—
    - Continued detention of aliens subject to removal orders; published 11-14-01

NUCLEAR REGULATORY COMMISSION

- Minor errors in regulatory text; correction; published 12-14-01

POSTAL SERVICE

- Domestic Mail Manual:
  - Mail delivery to commercial mail receiving agency; published 11-14-01

TREASURY DEPARTMENT

Internal Revenue Service

- Procedure and administration:
  - Internal revenue taxes payment by credit card and debit card; published 12-14-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Beef promotion and research; comments due by 12-18-01; published 10-19-01 [FR 01-26395]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Exportation and importation of animals and animal products:
  - Bovine spongiform encephalopathy; disease status change—
    - Japan; comments due by 12-17-01; published 10-16-01 [FR 01-25953]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:
  - Mediterranean fruit fly; comments due by 12-18-01; published 10-19-01 [FR 01-26329]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - West Coast States and Western Pacific fisheries—
    - Pacific Coast groundfish; comments due by 12-20-01; published 12-5-01 [FR 01-30112]

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Architect-engineer contractors selection; new consolidated form; comments due by 12-18-01; published 10-19-01 [FR 01-26203]

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Cost-reimbursement contracts for services; prompt payment; comments due by 12-21-01; published 10-22-01 [FR 01-26298]

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Fixed-price construction contracts; payments; comments due by 12-17-01; published 10-18-01 [FR 01-26009]

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Veterans Entrepreneurship and Small Business Development Act of 1999; implementation; comments due by 12-21-01; published 10-22-01 [FR 01-26300]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

- Electric utilities (Federal Power Act):
  - Standard generator interconnection agreements and procedures; comments due by 12-21-01; published 11-1-01 [FR 01-27438]
- Practice and procedure:
  - Natural gas pipelines and transmitting public utilities (transmission providers); standards of conduct; comments due by 12-20-01; published 11-5-01 [FR 01-27674]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollutants, hazardous; national emission standards:
  - Hydrochloric acid production facilities; extension of comment period; comments due by 12-19-01; published 11-19-01 [FR 01-28857]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollutants, hazardous; national emission standards:
  - Pesticide active ingredient production; comments due by 12-21-01; published 11-21-01 [FR 01-29098]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollutants, hazardous; national emission standards:
  - Pesticide active ingredient production; comments due by 12-21-01; published 11-21-01 [FR 01-29099]
- Air pollution control; new motor vehicles and engines:
  - Nonroad large spark ignition engines and recreational engines (marine and land-based); emissions control; comments due by 12-19-01; published 10-5-01 [FR 01-23591]
    - Correction; comments due by 12-19-01; published 11-2-01 [FR 01-27466]
- Air pollution; standards of performance for new stationary sources:
  - Large municipal waste combustors; emission guidelines, etc.; comments due by 12-17-01; published 11-16-01 [FR 01-28085]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution; standards of performance for new stationary sources:
  - Large municipal waste combustors; emission guidelines, etc.; comments due by 12-17-01; published 11-16-01 [FR 01-28084]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Kansas; comments due by 12-19-01; published 11-19-01 [FR 01-28858]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; State authority delegations:
  - Arizona; comments due by 12-17-01; published 11-16-01 [FR 01-28342]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; State authority delegations:
  - Arizona; comments due by 12-17-01; published 11-16-01 [FR 01-28343]
- Air quality implementation plans; approval and promulgation; various states:
  - Missouri; comments due by 12-17-01; published 11-15-01 [FR 01-28520]
- Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:
  - Arizona; comments due by 12-19-01; published 11-19-01 [FR 01-28859]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and

VOL 66 ISS 241 DE 14 2001 UMI

promulgation; various States:
- California; comments due by 12-17-01; published 11-15-01 [FR 01-28341]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 12-17-01; published 11-16-01 [FR 01-28344]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- California; comments due by 12-17-01; published 11-16-01 [FR 01-28345]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Maryland; comments due by 12-17-01; published 11-15-01 [FR 01-28187]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Maryland; comments due by 12-17-01; published 11-15-01 [FR 01-28188]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Missouri; comments due by 12-17-01; published 11-15-01 [FR 01-28519]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Missouri; comments due by 12-17-01; published 11-16-01 [FR 01-28737]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Montana; comments due by 12-17-01; published 11-15-01 [FR 01-28189]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- Montana; comments due by 12-17-01; published 11-15-01 [FR 01-28190]

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste program authorizations:
- New York; comments due by 12-17-01; published 11-16-01 [FR 01-28627]

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste program authorizations:
- New York; comments due by 12-17-01; published 11-16-01 [FR 01-28628]

Superfund program:
- Toxic chemical release reporting; community right-to-know—
  - Alloys corrosion; report; comments due by 12-20-01; published 8-22-01 [FR 01-21198]

FEDERAL COMMUNICATIONS COMMISSION

Digital television stations; table of assignments:
- Connecticut; comments due by 12-17-01; published 10-31-01 [FR 01-27346]

Radio stations; table of assignments:
- Alabama; comments due by 12-18-01; published 10-24-01 [FR 01-26751]
- Texas; comments due by 12-17-01; published 11-8-01 [FR 01-28074]

Television broadcasting:
- Noncommercial educational television; television table of allotments amendment to delete noncommercial reservation of Channel 16 in Pittsburgh, PA; comments due by 12-17-01; published 10-16-01 [FR 01-25997]

GENERAL SERVICES ADMINISTRATION

Acquisition regulations:
- Real property leasehold interests; historic preference; comments due by 12-18-01; published 10-19-01 [FR 01-26446]

Federal Acquisition Regulation (FAR):
- Architect-engineer contractors selection; new consolidated form; comments due by 12-18-01; published 10-19-01 [FR 01-26203]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Cost-reimbursement contracts for services; prompt payment; comments due by 12-21-01; published 10-22-01 [FR 01-26298]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Fixed-price construction contracts; payments; comments due by 12-17-01; published 10-18-01 [FR 01-26009]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Veterans Entrepreneurship and Small Business Development Act of 1999; implementation; comments due by 12-21-01; published 10-22-01 [FR 01-26300]

LABOR DEPARTMENT

Employment and Training Administration

Aliens:
- Labor certification and petition process for temporary employment of nonimmigrant aliens in U.S. agriculture; fee structure modification; comments due by 12-17-01; published 10-24-01 [FR 01-26867]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Architect-engineer contractors selection; new consolidated form; comments due by 12-18-01; published 10-19-01 [FR 01-26203]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Cost-reimbursement contracts for services; prompt payment; comments due by 12-21-01; published 10-22-01 [FR 01-26298]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Fixed-price construction contracts; payments; comments due by 12-17-01; published 10-18-01 [FR 01-26009]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
- Veterans Entrepreneurship and Small Business Development Act of 1999; implementation; comments due by 12-21-01; published 10-22-01 [FR 01-26300]

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
- Investment and deposit activities, and corporate credit unions—
  - Capital and credit concentration limits; comments due by 12-20-01; published 9-21-01 [FR 01-23290]

NUCLEAR REGULATORY COMMISSION

Federal claims collection; comments due by 12-19-01; published 10-5-01 [FR 01-25000]

STATE DEPARTMENT

Irish Peace Process Cultural and Training Program; comments due by 12-17-01; published 10-16-01 [FR 01-25598]

Visas; nonimmigrant documentation:
- Irish Peace Process Cultural and Training Program; Q classification; comments due by 12-17-01; published 10-16-01 [FR 01-25597]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Airbus; comments due by 12-19-01; published 11-19-01 [FR 01-28795]
- Bombardier; comments due by 12-19-01; published 11-19-01 [FR 01-28797]
- British Aerospace; comments due by 12-21-01; published 11-19-01 [FR 01-28809]
- CFM International, S.A.; comments due by 12-18-01; published 10-19-01 [FR 01-26325]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Eurocopter France; comments due by 12-17-01; published 10-16-01 [FR 01-25694]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Honeywell; comments due by 12-18-01; published 10-19-01 [FR 01-26323]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

McDonnell Douglas; comments due by 12-17-01; published 10-17-01 [FR 01-25663]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

McDonnell Douglas; comments due by 12-17-01; published 10-16-01 [FR 01-25662]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pilatus Britten-Norman Ltd.; comments due by 12-21-01; published 11-23-01 [FR 01-29192]

Pratt & Whitney; comments due by 12-20-01; published 11-20-01 [FR 01-28707]

Airworthiness standards:

Special conditions—

Gulfstream G-1159, G-1159A, G-1159B series airplanes; comments due by 12-17-01; published 11-16-01 [FR 01-28676]

Class E5 airspace; comments due by 12-20-01; published 11-20-01 [FR 01-28496]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Design-build contracting; comments due by 12-18-01; published 10-19-01 [FR 01-26234]

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alchohol, tobacco, and other excise taxes:

Tobacco products and cigarette papers and tubes—

Removal from manufacturer's premises for experimental purposes; application requirement eliminated; comments due by 12-17-01; published 10-17-01 [FR 01-25843]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Acceptable evidence from foreign countries; comments due by 12-18-01; published 10-19-01 [FR 01-26382]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

S. 1459/P.L. 107–60

To designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse". (Dec. 12, 2001; 115 Stat. 810)

S. 1573/P.L. 107–61

Afghan Women and Children Relief Act of 2001 (Dec. 12, 2001; 115 Stat. 811)

Last List December 11, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 2001

Editorial Note: Due to the closing of Federal government executive departments and agencies on Monday, December 24, 2001 (Executive Order 13238), the effective dates chart for December 2001 has been revised.

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Dec 3	Dec 18	Jan 2	Jan 17	Feb 1	March 4
Dec 4	Dec 19	Jan 3	Jan 18	Feb 4	March 4
Dec 5	Dec 20	Jan 4	Jan 22	Feb 4	March 5
Dec 6	Dec 21	Jan 7	Jan 22	Feb 4	March 6
Dec 7	Dec 26	Jan 7	Jan 22	Feb 5	March 7
Dec 10	Dec 26	Jan 9	Jan 24	Feb 8	March 11
Dec 11	Dec 26	Jan 10	Jan 25	Feb 11	March 11
Dec 12	Dec 27	Jan 11	Jan 28	Feb 11	March 12
Dec 13	Dec 28	Jan 14	Jan 28	Feb 11	March 13
Dec 14	Dec 31	Jan 14	Jan 28	Feb 12	March 14
Dec 17	Jan 2	Jan 16	Jan 31	Feb 15	March 18
Dec 18	Jan 2	Jan 17	Feb 1	Feb 19	March 18
Dec 19	Jan 3	Jan 18	Feb 4	Feb 19	March 19
Dec 20	Jan 4	Jan 22	Feb 4	Feb 19	March 20
Dec 21	Jan 7	Jan 22	Feb 4	Feb 19	March 21
Dec 26	Jan 10	Jan 25	Feb 11	Feb 25	March 26
Dec 27	Jan 11	Jan 28	Feb 11	Feb 25	March 27
Dec 28	Jan 14	Jan 28	Feb 11	Feb 26	March 28
Dec 31	Jan 15	Jan 30	Feb 14	March 1	April 1

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                /
                         DEC97 R 1
AER SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                                /
                         DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR)**; *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $764 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $699 each per year.

The total cost of my order is $________. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ - ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
2
4
1
DE
14
2001
UMI

Public Laws

107th Congress, 1st Session, 2001

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 107th Congress, 1st Session, 2001.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara005.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy! VISA
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 107th Congress, 1st Session, 2001 for $225 per subscription.

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

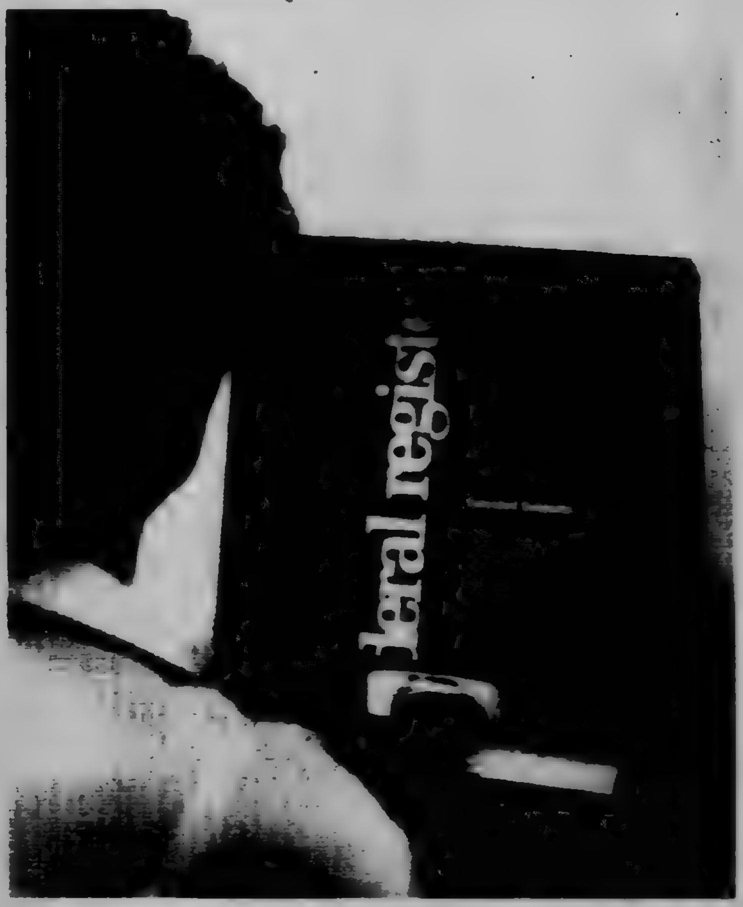
Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Microfiche Editions Available...



Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $264.00
Six months: $132.00

Code of Federal Regulations:

Current year (as issued): $298.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ **One year at $264 each**
☐ **Six months at $132.00**

_____ **Code of Federal Regulations** (CFRM7) ☐ **One year at $298 each**

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66

ISS
2
4
1

DE
14

2001

UMI

Now Available Online
through
GPO Access
A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient,
FREE

Keeping America Informed

. . .electronically!

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

VOL
66
ISS
2
4
1
DE
14
2001
UMI

Printed on recycled paper

VOL
66
ISS
2
4
2
DE
17
2001
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–17–01
Vol. 66 No. 242

Monday
Dec. 17, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
2
DE
17
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–17–01
Vol. 66 No. 242
Pages 64909–65090

Monday
Dec. 17, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov; or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512-1262; or call (202) 512-1530 or 1-888-293-6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

Agricultural Marketing Service
PROPOSED RULES
California Prune/Plum (Tree Removal) Diversion Program; implementation, 64918–64924

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Natural Resources Conservation Service

Army Department
See Engineers Corps
NOTICES
Military Traffic Management Command:
  Defense Transportation Tracking System; Satellite Motor Surveillance Service, 64961–64962

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 64980–64982

Coast Guard
RULES
Ports and waterways safety:
  Gulf Intracoastal Waterway Port Isabel, TX; safety zone, 64912–64915
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65019–65020
Meetings:
  Marine transportation systems; security measures, standards and responses to threats and acts of crime and terrorism; public workshop, 65020–65022

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Technology Administration

Defense Department
See Army Department
See Engineers Corps
NOTICES
Arms sales notification; transmittal letter, etc., 64955–64958
Committees; establishment, renewal, termination, etc.:
  Defense Business Practice Implementation Board, 64958
Meetings:
  Electron Devices Advisory Group, 64958–64960
  Science Board, 64960
Privacy Act:
  Systems of records, 64960–64961

Education Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request; correction, 64963
Grants and cooperative agreements; availability, etc.:
  Educational research and improvement—
    Preschool curriculum evaluation research program, 65081–65086

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
  Portsmouth Gaseous Diffusion Plant; reindustrialization program, 64963–64964
Grants and cooperative agreements; availability, etc.:
  Sustainable forestry, gasification, fiber modification and VOC and HAP emission technology areas; cost-shared research and technology development, 64964
Natural gas exportation and importation:
  San Diego Gas & Electric Co. et al., 64964–64965

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
  Chickamauga Lock Project, Hamilton County, TN, 64962–64963

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
  Phosphoric acid manufacturing and phosphate fertilizers production plants, 65071–65078
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
  Phosphoric acid manufacturing and phosphate fertilizers production plants, 65078–65080
NOTICES
Water pollution; discharge of pollutants (NPDES):
  State programs—
    South Dakota, 64977–64979

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Class E airspace, 64909–64911
PROPOSED RULES
Airworthiness directives:
  Cessna, 64925–64928
  MD Helicopters Inc., 64931–64934
  SOCATA-Groupe AEROSPATIALE, 64928–64931
NOTICES
Meetings:
  Air Traffic Procedures Advisory Committee, 65022–65023
Passenger facility charges; applications, etc.:
  Albuquerque International Sunport, 65023
Technical standard orders:
  Integrated Modular Avionics hardware elements, 65023–65024

Federal Communications Commission
PROPOSED RULES
Common carrier services:
  Interconnection—
    Unbundled network elements and interconnection; performance measurements and standards, 64946–64947

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
  Puerto Rico, 64979–64980

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
  Northwest Natural Gas Co. et al., 64965–64969
Meetings; Sunshine Act, 64969–64977

Federal Maritime Commission
NOTICES
Ocean transportation intermediary licenses:
  Unitrans International Corp. (S.F.), 64980

Federal Reserve System
NOTICES
Banks and bank holding companies:
  Formations, acquisitions, and mergers, 64980

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 64986–64987
Marine mammals permit applications, 64987
Meetings:
  Service Regulations Committee, 64987

Food and Drug Administration
NOTICES
Reporting and recordkeeping requirements, 64982

Forest Service
NOTICES
Meetings:
  Giant Sequoia National Monument Scientific Advisory Board, 64948

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration

Indian Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
  Health Professions Preparatory, Pregraduate and Indian Health Professions Scholarship Program, 64982–64985

Interior Department
See Fish and Wildlife Service

Internal Revenue Service
RULES
Procedure and administration:
  Subsidiary corporations; entity classification, elective changes (check the box regulations), 64911–64912
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65024–65025

International Trade Administration
NOTICES
Antidumping:
  Freshwater crawfish tail meat from—
    China, 64948–64950
  Stainless steel plate in coils from—
    Belgium, 64950
  Stainless steel sheet and strip from—
    Korea, 64950–64953

Justice Department
PROPOSED RULES
Interstate Transportation of Dangerous Criminals Act; implementation:
  Private companies that transport violent prisoners; minimum safety and security standards, 64934–64946

Labor Department
See Mine Safety and Health Administration
See Occupational Safety and Health Administration
NOTICES
Meetings:
  Employment of Adults With Disabilities Presidential Task Force, 64987–64988

Mine Safety and Health Administration
NOTICES
Petitions for safety standard modifications; summary of affirmative decisions, 64988–64992
Safety standard petitions:
  Wabash Mine Holding Co., et al., 64992–64993

National Archives and Records Administration
NOTICES
Nixon Presidential historical materials; opening of materials, 64993–64994

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
  Alaska; fisheries of Exclusive Economic Zone—
    North Pacific Halibut and Sablefish IFQ Cost Recovery Program, 64915–64917
PROPOSED RULES
Fishery conservation and management:
  Alaska; fisheries of Exclusive Economic Zone—
    American Fisheries Act; implementation, 65027–65069
NOTICES
Meetings:
  North Pacific Fishery Management Council, 64953–64954
  Pacific Fishery Management Council, 64954

Natural Resources Conservation Service
NOTICES
Field office technical guides; changes:
  Oregon, 64948

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 65010–65011
Applications, hearings, determinations, etc.:
  Exelon Generation Co. LLC, et al., 64994–64996
  PSEG Nuclear LLC, 64996–64998
  Rochester Gas & Electric Corp., 64998
  Tennessee Valley Authority, 64998–65010

Occupational Safety and Health Administration
PROPOSED RULES
Safety and health standards, etc.:
  Indoor air quality proposal; withdrawal, 64946
NOTICES
Nationally recognized testing laboratories, etc.:
  Fee schedule; correction, 65026

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Service
NOTICES
Meetings; Sunshine Act, 65011

Presidential Documents
PROCLAMATIONS
Special observances:
  Wright Brothers Day (Proc. 7514), 65087–65090

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service
See Substance Abuse and Mental Health Services Administration

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
  Exemption applications—
    Blue Cross and Blue Shield of Kansas, Inc., 65011–65013
Practice and procedure:
  Accounting policies; cautionary advice regarding disclosure, 65013–65014
Self-regulatory organizations; proposed rule changes:
  Depository Trust Co., 65014–65015
  Pacific Exchange, Inc., 65015–65017
  Stock Clearing Corp. of Philadelphia, 65017–65018

Small Business Administration
NOTICES
Disaster loan areas:
  Alabama, 65018
  Indiana, 65018–65019
  Mississippi, 65019

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 64985

Technology Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  National Medal of Technology Program, 64955

Trade Representative, Office of United States
NOTICES
Bilateral free trade agreements:
  Socialist Republic of Vietnam; nondiscriminatory tariff treatment, 65019

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Internal Revenue Service

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 65027–65069

Part III
Environmental Protection Agency, 65071–65080

Part IV
Education Department, 65081–65086

Part V
The President, 65087–65090

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7514 65089
7 CFR
Proposed Rules:
81 64918
14 CFR
71 (2 documents) 64909; 64910
Proposed Rules:
39 (3 documents) 64925, 64928, 64931
26 CFR
301 64911
28 CFR
Proposed Rules:
97 64934
29 CFR
Proposed Rules:
1910 64946
1915 64946
1926 64946
1928 64946
33 CFR
165 64912
40 CFR
63 65072
Proposed Rules:
63 65079
47 CFR
Proposed Rules:
51 64946
50 CFR
679 64915
Proposed Rules:
679 65028

Rules and Regulations

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airport Docket No. 01–AWP–28]

Establishment of a Class E Enroute Domestic Airspace Area, Bristol Mountains, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of the Bristol Mountains, CA, to replace existing Class G uncontrolled airspace.

EFFECTIVE DATE: 0901 UTC February 21, 2002. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before January 16, 2002.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–28, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION: This action will establish a Class E enroute domestic airspace area with a base altitude of 1,200 feet AGL in the vicinity of the Bristol Mountains, CA. A review of the airspace in southern California revealed large areas of uncontrolled (Class G) airspace immediately adjacent to numerous federal airways. Because this airspace is Class G(uncontrolled) below 14,500 feet mean sea level (MSL), the Los Angeles Air Route Traffic Control Center (ARTCC) cannot initiate instrument flight rules (IFR) air traffic services within Class G airspace. IFR services may be provided to aircraft operating in Class G airspace only when the pilot requests such service. This procedure effectively limits the flexibility of Los Angeles ARTCC in providing off route vectors and direct routing to aircraft in these areas. En route domestic airspace areas are intended to create controlled airspace in those areas where there is a requirement, or need, to provide instrument Flight Rules (IFR) en route air traffic control services but the Federal airway segment is inadequate. The intended effect of this action is to establish Class E controlled airspace within the boundaries of the above-mentioned area, thereby replacing the existing uncontrolled airspace.

Class E enroute domestic airspace areas are published in Paragraph 6006 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or argument as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 01–AWP–28." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does

VOL 66 ISS 242 DE 17 2001 UMI

not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 18054, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6006 Enroute Domestic Airspace Areas.

* * * * *

Bristol Mountains, CA [Established]

That airspace extending upward from 1200 feet above the surface bounded on the north by V8–210, bounded on the east by V514–538, bounded on the south by V264, bounded on the west by V386 and V8–21–283–587, excluding that airspace within the Twentynine Palms, CA Class E airspace area, the Sundance MOA, and that airspace designated for federal airways.

Issued in Los Angeles, California, on October 31, 2001.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–30999 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–23]

Revocation of Class E Surface Area at Lompoc, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, request for comments.

SUMMARY: This action revokes the Class E Surface Area airspace at Lompoc Airport in Lompoc, CA. The airport does not meet Class E Surface Area criteria due to inadequate radio communications capabilities between the Los Angeles Air Route Traffic Control Center (ARTCC) and operators on the airport surface at Lompoc, CA.

DATES: *Effective Date:* 0901 UTC February 21, 2002. *Comment date:* Comments for inclsion in the Rules Docket must be received on or before January 16, 2002.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager,Airspace Branch, AWP–520, Docket No. 01–AWP–23, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Division, Airspace Specialist, AWP–520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION: This action revokes the Class E2 airspace designated as a Surface Area at Lompoc Airport in Lompoc, CA. Existing Class E5 airspace, extending upward from 700 feet above the surface, will continue to support instrument operations at Lompoc Airport, and will not be changed as a result of this action. The intended effect of this action is to retain only the minimum Class E airspace required to protect instrument operations at Lompoc Airport, consistent with airspace criteria contained in FAA Order 7400.2E, Procedures for Handling Airspace Matters. Class E airspace areas designated as surface areas for airports are published in Paragraph 6002 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace revocation listed in this document will be published subsequently in that Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a meet final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 01–AWP–23." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as a Surface Area for an airport.

* * * * *

AWP CA E2 Lompoc, CA [Removed]

Lompoc Airport, CA

(Lat. 34°39′56″ N, long. 120°28′00″ W)

Within a 4.3-mile radius of Lompoc Airport, excluding that airspace within Restricted Areas R–2516 and R–2517. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on November 23, 2001.

Leonard A. Mobley,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–31000 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8970]

RIN 1545–AY16

Amendment, Check the Box Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to elective changes in entity classification under section 7701 of the Internal Revenue Code. The regulations apply to subsidiary corporations that elect to change their classification for Federal tax purposes from a corporation to either a partnership or disregarded entity.

DATES: *Effective Date:* These regulations are effective December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Beverly Katz, (202)622–3050 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 29, 1999, final regulations were published in the **Federal Register** (TD 8844, 64 FR 66580 (1999–2 C.B. 661)) describing the transactions that are deemed to occur when an entity elects to change its classification for Federal tax purposes. Those regulations did not address certain requirements of section 332 as applied to the deemed liquidation incident to an association's election to be classified as a partnership or to be disregarded as an entity separate from its owner. This amendment to the final regulations addresses those requirements.

On January 25, 2000, final regulations were published in the **Federal Register** (TD 8869, 65 FR 3843 (2000–6 I.R.B. 498)) relating to qualified subchapter S subsidiaries (QSub). In order to permit the deemed transaction resulting from a QSub election to comply with the requirement of section 332 that a plan of liquidation has been adopted at the time of a liquidating distribution, the final regulations provide that a plan of liquidation is deemed adopted immediately before the deemed liquidation incident to the QSub election, unless a formal plan of liquidation that contemplates the filing of a QSub election is adopted on an earlier date. The preamble to the QSub regulations provides that Treasury and the IRS intend to amend the section 7701 regulations regarding elective changes in entity classification to provide a similar rule concerning the timing of the plan of liquidation.

Consistent with the commitment in the preamble to the QSub regulations, on January 17, 2001, proposed regulations were published in the **Federal Register** (REG–110659–00, 66 FR 3959 (2001–12 I.R.B. 917)) under section 7701. No comments were received from the public in response to the proposed regulations. No public hearing was requested or held. The proposed regulations are adopted by this Treasury decision.

Explanation of Provisions

Section 301.7701–3(g)(1) describes how elective changes in the classification of an entity will be treated for tax purposes. Section 301.7701–3(g)(1)(ii) provides that an elective conversion of an association to a partnership is deemed to have the following form: the association distributes all of its assets and liabilities to its shareholders in liquidation of the association, and immediately thereafter, the shareholders contribute all of the distributed assets and liabilities to a newly formed partnership. Section 301.7701–3(g)(1)(iii) provides that an elective conversion of an association to an entity that is disregarded as an entity separate from its owner is deemed to have the following form: the association distributes all of its assets and liabilities to its single owner in liquidation of the association.

Section 332 may be relevant to the deemed liquidation of an association if it has a corporate owner. Under section 332, no gain or loss is recognized on the receipt by a corporation of property distributed in complete liquidation of another corporation if the requirements of section 332(b) are satisfied. Those requirements include the adoption of a plan of liquidation at a time when the corporation receiving the distribution owns stock of the liquidating corporation meeting the requirements of section 1504(a)(2) (i.e., 80 percent of vote and value). The elective change from an association to a partnership or to a disregarded entity results in a constructive liquidation of the association for federal tax purposes. Formally adopting a plan of liquidation for the entity, however, is potentially incompatible with an elective change under section 301.7701–3, which allows the local law entity to remain in existence while liquidating only for federal tax purposes. Accordingly, to provide tax treatment of an association's deemed liquidation that is compatible with the requirements of section 332, the regulations state that, for purposes of satisfying the requirement of adoption of a plan of liquidation under section 332(b), a plan of liquidation is deemed adopted immediately before the deemed liquidation incident to an elective change in entity classification, unless a formal plan of liquidation that contemplates the filing of the elective change in entity classification is adopted on an earlier date.

Effective Date

These regulations apply to elections filed on or after December 17, 2001; however, taxpayers may apply the amendments retroactively if the corporate owner claiming treatment under section 332 and its subsidiary making the election take consistent positions with respect to the Federal tax consequences of the election.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 533(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Beverly M. Katz of the Office of Associate Chief Counsel (Passthroughs & Special Industries) and David J. Sotos of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and Recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 301.7701–3 is amended as follows:

1. Redesignating the text of paragraph (g)(2) as paragraph (g)(2)(i) and adding a heading for newly designated paragraph (g)(2)(i).
2. Adding a new paragraph (g)(2)(ii).
3. Revising the first sentence of paragraph (g)(4).

The additions and revision read as follows:

§ 301.7701–3 Classification of certain business entities.

* * * * *

(g) * * *

(2) *Effect of elective changes*—(i) *In general.* * * *

(ii) *Adoption of plan of liquidation.* For purposes of satisfying the requirement of adoption of a plan of liquidation under section 332, unless a formal plan of liquidation that contemplates the election to be classified as a partnership or to be disregarded as an entity separate from its owner is adopted on an earlier date, the making, by an association, of an election under paragraph (c)(1)(i) of this section to be classified as a partnership or to be disregarded as an entity separate from its owner is considered to be the adoption of a plan of liquidation immediately before the deemed liquidation described in paragraph (g)(1)(ii) or (iii) of this section. This paragraph (g)(2)(ii) applies to elections filed on or after December 17, 2001. Taxpayers may apply this paragraph (g)(2)(ii) retroactively to elections filed before December 17, 2001, if the corporate owner claiming treatment under section 332 and its subsidiary making the election take consistent positions with respect to the federal tax consequences of the election.

* * * * *

(4) *Effective date.* Except as otherwise provided in paragraph (g)(2)(ii) of this section, this paragraph (g) applies to elections that are filed on or after November 29, 1999. * * *

* * * * *

Approved: December 10, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue Service.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–31006 Filed 12–14–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Corpus Christi 01–002]

RIN 2115–AA97

Safety Zone; Gulf Intracoastal Waterway, Port Isabel, TX

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary safety zone to ensure the safety of navigation within a radius of 1000 feet of Queen Isabella Bridge construction vessels and machinery. Vessels transiting the Gulf Intracoastal Waterway through the Queen Isabella Bridge may do so during daylight hours only. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by construction in the vicinity of the Queen Isabella Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Corpus Christi.

DATES: This regulation becomes effective at 2 p.m. on September 26, 2001 and terminates when the re-construction of the Queen Isabella Bridge is completed and certified by the Texas Department of Transportation to the satisfaction of the Captain of the Port or September 26, 2002 which ever is earlier. A document announcing the termination date will be published later in the **Federal Register**. Comments and related material must reach the Coast Guard on or before February 15, 2002.

ADDRESSES: Any comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket COTP Corpus Christi 01–002 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Corpus Christi, 555 N. Carancahua Street, Suite 500, Corpus Christi, Texas, 78478 between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG C. J. Bright, Chief, Waterways Section, Coast Guard Captain of the Port Corpus Christi, 555 N. Carancahua St. Suite 500, Corpus Christi, Texas, 78478, (361) 888–3162

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the potential safety hazards associated with emergency bridge repairs.

Under 5.U.S.C 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to respond to the potential safety hazards associated with the bridge construction.

Although the Coast Guard has good cause in implementing this regulation, we want to afford the maritime community the opportunity to participate in this rulemaking by submitting comments and related material regarding the size and boundaries of the safety zone in order to minimize unnecessary burdens. If you do so, please include your name and address, identify the docket number for this rulemaking, COTP Corpus Christi 01–002, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped self addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

Background and Purpose

At approximately 2:15 a.m., on September 15, 2001, the Uninspected Towing Vessel BROWN WATER V allided with the Queen Isabella Bridge in position 26°05.1′ N, 097°12.8′ W, Intracoastal Waterway Mile Marker 665 near Port Isabel, Texas. The resulting damage caused the Queen Isabella Bridge to collapse in the Intracoastal Waterway blocking the channel and severely impacting the ability to safely navigate the area encompassed by the Captain of the Port Corpus Christi Zone. As a result of the bridge collapse, the power for the lighting of the bridge and the bridge fendering system was also rendered inoperable. The re-construction of the bridge will take approximately six months to complete and will involve various construction vessels and equipment. The Texas Department of Transportation has certified to the satisfaction of the Captain of the Port that the bridge is safe for vessels to transit the Intracoastal Waterway during the re-construction. Vessels transiting the Intracoastal Waterway shall do so during daylight hours only, at a minimum and safe speed, and maintain a distance of at least 1,000 feet around construction vessels and machinery. The daylight transits restriction may be lifted when lighting for the bridge and fendering system is operational to the satisfaction of the Captain of the Port. This information will be made available by Marine Information Broadcast when the Captain of the Port removes the daylight transit restriction. A 1000 foot radius around the construction area is necessary to ensure the safety of vessels transiting the area during the re-construction, prevent any further damage to the bridge, and allow the re-construction vessels and machinery to operate safety. The 1000 foot radius will remain in effect during all hours and until the re-construction is completed. The Coast Guard is establishing a temporary safety zone in a 1000 foot radius around the re-construction of the Queen Isabella Bridge and limiting vessel transit of the Intracoastal Waterway (Mile Marker 665) through the bridge to daylight hours only, until it can be determined that the waters are safe for navigation.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for a short period of time and notification to the marine community will be made through broadcast notice to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. The impact on small entities is expected to be minimal due to the short period of this regulation. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit the Intracoastal Waterway and the area surrounding the Queen Isabella Bridge while the safety zone is established. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only the duration of the re-construction of the Queen Isabella Bridge as a result of the allision. The 1000-foot safety zone does not prohibit commercial traffic (tug and barge combinations) from transiting the Intracoastal Waterway and provides smaller vessels (commercial or recreational) ample room to transit around the safety zone. When these operations are completed the Intracoastal Waterway will be reopened and the safety zone cancelled. Before the effective period, we will issue maritime advisories widely available to users of the Intracoastal Waterway and surrounding navigable waters.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effect

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new § 165.T08–080 is added to read as follows:

§ 165.T08–080 Safety Zone; Queen Isabella Bridge, Gulf Intracoastal Waterway, Brownsville, Texas

(a) *Location.* The following area is a safety zone: All waters within a 1000-foot radius of vessels and machinery involved in the re-construction of the Queen Isabella Bridge.

(b) *Effective dates.* This regulation becomes effective at 2 p.m. on September 26, 2001 and terminates when the re-construction of the Queen Isabella Bridge is completed and certified by the Texas Department of Transportation to the satisfaction of the Captain of the Port or on September 26, 2002 which ever is earlier.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port Corpus Christi.

(2) The safety zone is in effect during all hours of the day. Vessels transiting the Intracoastal Waterway (Mile Marker 665.0) under the bridge shall proceed at minimum speed to maintain steerageway and during daylight hours only.

(3) No vessels may enter this safety zone unless specifically authorized by the Captain of the Port Corpus Christi. The Captain of the Port will notify the public of changes in the status of this zone by Marine Radio Safety Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: September 26, 2001.

William J. Wagner III,

Captain, U.S. Coast Guard, Captain of the Port Corpus Christi.

[FR Doc. 01–31012 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 991207325–0063–02; I.D. 100699A]

Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Halibut and Sablefish IFQ Cost Recovery Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Announcement of standard prices and fee percentage for North Pacific halibut and sablefish Individual Fishing Quota (IFQ) cost recovery program.

SUMMARY: The National Marine Fisheries Service publishes IFQ standard prices and notification of adjustment of the IFQ fee percentage for the IFQ Cost Recovery Program in the halibut and sablefish fisheries of the North Pacific. This action is intended to provide holders of halibut and sablefish IFQs with information to calculate the payments required for IFQ cost recovery fees due by January 31, 2002.

DATES: Effective December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Kristie Balovich, Fee Coordinator, 907–586–7344.

SUPPLEMENTARY INFORMATION:

Background

NMFS, Alaska Region, administers the halibut and sablefish IFQ programs in the North Pacific. The IFQ Programs are limited access systems authorized by section 303(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982. Fishing under the IFQ Programs began in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679.

In 1996, the Magnuson-Stevens Act was amended (by Pub. L. 104–297) to, among other things, require the Secretary of Commerce to "collect a fee to recover the actual costs directly related to the management and enforcement of any . . . individual fishing quota program" (Section 304(d)(2)(A)). Section 304(d)(2)(B) of the Magnuson-Stevens Act specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited. Section 303(d)(4) of the Magnuson-Stevens Act allows NMFS to reserve up to 25 percent of the fees collected for use in an IFQ loan program to aid in financing the purchase of IFQ or quota share (QS) by entry-level and small-vessel fishermen.

NMFS published, on December 27, 1999 (64 FR 72302), a proposed rule to implement the IFQ Cost Recovery Program and published the final rule on March 20, 2000 (65 FR 14919). The final regulations implementing the IFQ Cost Recovery Program are set forth at 50 CFR 679.45.

Under the regulations, an IFQ permit holder incurs a cost recovery fee liability for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee liability for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting a fee liability payment to NMFS on or before the due date of January 31 following the year in which the IFQ landings were made. The dollar amount of the fee due is determined by multiplying the annual IFQ fee percentage (3 percent or less) by the ex-vessel value of each IFQ landing made on a permit and summing the totals of each permit (if more than one).

Fee Percentage

Three percent of the ex-vessel value of IFQ halibut and IFQ sablefish harvested is the maximum fee amount allowed by section 304(d)(2)(B) of the Magnuson-Stevens Act. Regulations at § 679.45(d) allow the Administrator, Alaska Region, NMFS (Regional Administrator) to reduce the fee percentage if actual management and enforcement costs could be recovered through a lesser percentage. In this event the Regional Administrator will publish a notification of any adjustment of the IFQ fee percentage in the **Federal Register** pursuant to § 679.45(d)(4).

For 2001, the Regional Administrator has determined that a fee of 2.0 percent (0.020) is necessary to recover the actual management and enforcement costs. Therefore, the Regional Administrator is adjusting the cost recovery fee applicable to year 2001 IFQ landings from 3 percent (0.03) to 2.0 percent (0.020).

Standard Prices

The fee liability is based on the sum of all payments of monetary worth made to fishermen for the sale of the fish. This includes any retro-payments (e.g., bonuses, delayed partial payments, post-season payments) made to the IFQ permit holder for previously landed IFQ halibut or sablefish.

For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: "Actual ex-vessel value" and "standard ex-vessel value." "Actual ex-vessel value" is the amount of money an IFQ permit holder received as payment for his or her IFQ fish sold. "Standard ex-vessel value" is the default value on which to base fee liability calculations. However, IFQ permit holders have the option of using "actual ex-vessel value" if they can satisfactorily document those values.

Regulations at § 679.45(c)(2)(i) require the Regional Administrator to publish IFQ standard prices during the last quarter of each calendar year. These standard prices are used, along with estimates of IFQ halibut and sablefish landings, to calculate standard values. The standard prices are described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and IFQ sablefish landings made during the year. IFQ equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted ("net") weight for halibut. NMFS calculates the standard prices to reflect, as closely as possible, by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings. The standard prices for IFQ halibut and IFQ sablefish are listed in the following table. Data from ports are combined as necessary to protect confidentiality of data submissions.

REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR 2001 IFQ SEASON

LANDING LOCATION	PERIOD ENDING	HALIBUT STANDARD EX-VESSEL PRICE	SABLEFISH STANDARD EX-VESSEL PRICE
CORDOVA	March 31		
	April 30		
	May 31	$2.08	
	June 30		
	July 31	$2.15	
	August 31	$2.21	
	September 30	$2.25	
	October 31	$2.25	
	November 30	$2.25	
DUTCH HARBOR	March 31		
	April 30		
	May 31	$1.62	
	June 30	$1.66	
	July 31	$1.76	
	August 31	$1.78	$1.88
	September 30	$1.79	
	October 31	$1.79	
	November 30	$1.79	
HOMER	March 31		
	April 30		
	May 31		
	June 30	$2.03	
	July 31	$2.14	
	August 31	$2.08	
	September 30	$2.07	
	October 31	$2.07	
	November 30	$2.07	
KODIAK	March 31	$2.06	$2.27
	April 30	$2.00	$2.11
	May 31	$1.81	
	June 30	$1.90	
	July 31	$1.97	
	August 31	$1.94	
	September 30		
	October 31		
	November 30		
PETERSBURG	March 31	$2.39	
	April 30	$2.23	
	May 31	$2.15	
	June 30	$2.08	
	July 31	$2.17	
	August 31	$2.19	
	September 30	$2.16	
	October 31	$2.16	
	November 30	$2.16	
SEWARD	March 31	$2.40	$2.35
	April 30	$2.10	$1.97
	May 31	$2.02	$1.96
	June 30		
	July 31		
	August 31		
	September 30		
	October 31		
	November 30		
[1]BERING SEA	March 31		
	April 30		$1.89
	May 31	$1.61	$1.86
	June 30	$1.66	$1.76
	July 31	$1.76	$1.81
	August 31	$2.05	$2.05
	September 30	$1.76	$2.02
	October 31	$1.76	$2.02
	November 30	$1.76	$2.02
[2]CENTRAL GULF	March 31	$2.39	$2.25
	April 30	$2.16	$2.02
	May 31	$1.98	$2.01
	June 30	$1.96	$2.02
	July 31	$2.02	$2.16
	August 31	$2.02	$2.28
	September 30	$1.98	$2.10

REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR 2001 IFQ SEASON—Continued

LANDING LOCATION	PERIOD ENDING	HALIBUT STANDARD EX-VESSEL PRICE	SABLEFISH STANDARD EX-VESSEL PRICE
	October 31	$1.98	$2.10
	November 30	$1.98	$2.10
[3]SOUTHEAST	March 31	$2.41	$2.25
	April 30	$2.27	$2.16
	May 31	$2.22	$2.00
	June 30	$2.28	$2.16
	July 31	$2.26	$2.13
	August 31	$2.24	$2.06
	September 30	$2.18	$2.19
	October 31	$2.18	$2.19
	November 30	$2.18	$2.19
[4]ALL	March 31	$2.40	$2.24
	April 30	$2.21	$2.07
	May 31	$2.05	$2.00
	June 30	$2.03	$2.07
	July 31	$2.01	$2.09
	August 31	$2.09	$2.10
	September 30	$1.98	$2.15
	October 31	$1.98	$2.15
	November 30	$1.98	$2.15

---

[1] *Landing locations Within Port Group—Bering Sea*: Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Chefornak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, Unalaska.

[2] *Landing Locations Within Port Group—Central Gulf of Alaska*: Anchor Point, Anchorage, Chignik, Cordova, Eagle River, False Pass, West Anchor Cove, Girdwood, Chinitna Bay, Halibut Cove, Homer, Kasilof, Kenai, Kenai River, Alitak, Kodiak, Port Bailey, Nikiski, Ninilchik, Old Harbor, Palmer, Sand Point, Seldovia, Resurrection Bay, Seward, Valdez.

[3] *Landing Locations Within Port Group—Southeast Alaska*: Angoon, Baranof Warm Springs, Craig, Edna Bay, Elfin Cove, Excursion Inlet, Gustavus, Haines, Hollis, Hoonah, Hyder, Auke Bay, Douglas, Tee Harbor, Juneau, Kake, Ketchikan, Klawock, Metlakatla, Pelican, Petersburg, Portage Bay, Port Alexander, Port Graham, Port Protection, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, Yakutat.

[4] *Landing Locations Within Port Group— All*: For Alaska: All landing locations included in 1, 2, and 3. For California: Eureka, Fort Bragg, Other California. For Oregon: Astoria, Aurora, Lincoln City, Newport, Warrenton, Other Oregon. For Washington: Anacortes, Bellevue, Bellingham, Nagai Island, Edmonds, Everett, Granite Falls, Ilwaco, La Conner, Port Angeles, Port Orchard, Port Townsend, Ranier, Fox Island, Mercer Island, Seattle, Standwood, Other Washington. For Canada: Port Hardy, Port Edward, Prince Rupert, Vancouver, Haines Junction, Other Canada.

Dated: December 11, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31014 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–22–S

VOL 66 ISS 242 DE 17 2001 UMI

Proposed Rules

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 81

[Docket No. FV01–81–01 PR]

RIN 0581–AC03

Regulations Governing the California Prune/Plum (Tree Removal) Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule invites comments on procedures for a California Prune/Plum Diversion Program. The program is voluntary and would consist wholly of tree removal. The program would be implemented under clause (3) of Section 32 of the Act of August 24, 1935, as amended. The proposed program would help the California dried plum industry address its severe oversupply problems. The tree removal is expected to bring supplies into closer balance with market needs, and provide some relief to growers faced with excess supplies and acreage, and low prices.

DATES: Comments received by January 16, 2002, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, Room 2525—South Building, Washington, D.C. 20090–6456; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http:/www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Anne M. Dec, Marketing Order Administration Branch, at the above address; Telephone: 202–720–2491; Fax: 202–720–8938; or E-mail: *Anne.Dec@usda.gov*.

Small businesses may request information on the diversion program by contacting Jay Guerber at the above address, telephone, fax, or E-mail: *Jay.Guerber@usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget (OMB). In accordance with Executive Order 12866, the Department of Agriculture (USDA) has prepared a regulatory cost-benefit assessment and a civil rights impact analysis. These documents can be obtained by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State and local governments, in the aggregate, or by the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the AMS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State and local governments or the private sector of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions, or which would otherwise impede its full implementation. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the reporting and recordkeeping provisions that would be generated by this proposed rule will be submitted to the Office of Management and Budget (OMB).

Two forms are needed for the administration of the tree removal program. Growers who wish to participate in the program would have to submit an "Application for Prune Tree Removal Program." We estimate that 200 growers may submit an application, and that each form would take about 30 minutes to complete, for a total burden of 100 hours. After removing their trees, growers will then have to sign a statement stating they wish payment. No additional burden has been estimated for this second form which would require only a signature. Finally, participants will be required to retain records pertaining to the tree removal program for two years after the year of removal.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V published at 48 FR 29115 (June 24, 1983).

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Authority for Tree Removal Program

The proposed program is intended to reestablish prune/plum farmers' purchasing power. Programs to reestablish farmers' purchasing power are authorized by clause (3) of Section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c)("Section 32"). This clause of Section 32 authorizes USDA to "* * * reestablish farmers" purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption." Section 32 also authorizes USDA to use Section 32 funds "* * * at such times, and in such manner, and in such amounts, as USDA finds will effectuate substantial accomplishments of any one or more of the purposes of this section." Furthermore, "Determinations by USDA as to what constitutes * * * normal production for domestic consumption shall be final."

Need for the Tree Removal Program

Production of prune/plums for marketing as dried plums is concentrated in California. Production of dried plums during the 2000 season increased for the second consecutive year, to nearly 219,000 tons (natural condition).

Changes in growing conditions have substantially altered the production outlook for 2001. Production was originally estimated to be 220,000 tons. However, due to a lighter crop-set in major producing areas, as well as freezing temperatures and hail, production for the 2001 crop year is now estimated at about 155,000 tons. This smaller crop somewhat alleviates the oversupply situation, but does not represent a change in the longer-term oversupply situation.

When the crop was estimated at 220,000 tons in the spring of 2001, the industry discussed the use of volume control authorized under the Federal marketing order. In addition, carryin inventories from the 2000 crop year were reported at 100,829 tons. With this level of inventories and crop, the total available supply would have been 320,829 tons.

With this estimated crop size, establishing a 48 percent reserve (52 percent free tonnage) was discussed. The industry does not have a history of establishing reserve percentages, and reserve percentages were last used in the 1970's. The fact that the marketing order committee even considered use of the reserve provision indicates the gravity with which the industry views the oversupply problem. The use of marketing order reserve provisions is intended to help industries deal with surplus production and facilitate orderly marketing of their crops.

The Prune Bargaining Association (PBA) represents about 40 percent of the independent growers and negotiates a selling price for its members. With the large anticipated crop for the 2001 season and the large carryin inventory, the PBA had difficulty establishing a price with handlers. Even with the smaller crop of 155,000 tons, the PBA could only negotiate a price of $763 per ton. This compares to $845 for the 2000 season, or a decrease of 9.7 percent. Although the price has been set, not all handlers have signed the agreement. Even this lower price may be too high in the eyes of the non-signing handlers, given current supply conditions.

The smaller crop size for 2001 has provided the industry some relief in reducing total available supplies. However, there are still a large number of nonbearing acres (15,000) that will become productive over the next six years. In addition, there are many acres with older, less productive trees which could be replanted in the near future. A tree removal program would assist growers who are facing difficult replanting decisions by allowing them to receive funds for the removal of trees and, at the same time, prohibit those growers from replanting prune/plums in those orchards. Prune/plum growers also tend to be producers of almonds, walnuts, and cling peaches. Plantings of these crops could increase in future years as growers remove prune/plum acreage.

Bearing acreage expanded to a record 86,000 acres during the 2000 season and the average yield increased 19 percent. Yields are anticipated to increase further as more densely planted acres become productive over the next several years.

Nonbearing acreage, which is an indicator of future production levels, increased to an all-time high of 26,000 acres in 1998. This represented a 22-percent increase in the productive capacity of the industry. The non-bearing acres are more densely planted than in previous years which results in a higher yield per acre.

The dried plum industry faces a long-run surplus situation. For the 2000 crop year, bearing acres were 86,000 and non-bearing acres were 15,000. Bearing acres could exceed 100,000 in the near future. With yields in excess of 2.0 tons per acre, production could be expected to be above 200,000 tons in many crop years.

Total domestic shipments exceeded 100,000 tons for six seasons in the late 1980's and early 1990's, but have declined from a high of 108,085 processed tons in 1996. Per capita consumption has been steadily declining since 1980. Export shipments have been stagnant. As a result of these domestic and export trends, total shipments have never exceeded 190,000 processed tons.

Until recently, export shipments were a source of growth in the dried plum industry. In 2000, exports represented 47 percent of total shipments. However, the strong dollar and the downturn in the economies in Asia and Europe have significantly slowed export sales.

Due to the significant supply-demand imbalance, the industry anticipates several years in which the expected annual carryin inventories will exceed the industry's desirable carryin level of approximately 40,000 tons. If dried plum markets continue to be over-supplied with product, grower prices and grower relations with packers will deteriorate significantly. Even with the lower production estimate for the 2001 crop year, the carryout inventory is expected to exceed 76,000 tons.

High prices from 1992 through 1995, and a more balanced supply and demand situation, helped to stimulate investments in new acreage. This additional acreage came from a variety of sources, mainly rice and pasture land. Intensifying the anticipated surplus situation is the fact that new acres are more productive than existing acres, which causes output to grow more rapidly in proportion to acreage growth.

It takes dried plum trees 6 years to become fully productive. Many of the costs of producing plum trees are "sunk," making it difficult to reverse decisions once those acres are planted. Because supply is slow to adjust to changing market conditions, the industry anticipates many years of production outpacing demand, resulting in continued distressed grower conditions.

From 1980 through 2000, the total cost per ton of producing dried plums exceeded the growers' season-average prices. Similarly, the total cost per acre exceeded revenue per acre.

However, it is also important to consider variable cost. In recent years, the total revenue per ton and per acre has been greater than the total variable cost per ton and per acre. Prices and revenues greater than variable costs provide some indication of why a dried plum producer continues to harvest and process a crop despite losing money.

Tree Removal Diversion Program

The industry is requesting a voluntary tree removal program estimated to cost $17 million. The industry would like to remove a minimum of 20,000 bearing acres of prune/plum trees. With many of the current bearing acres reaching the age where replanting would be considered, the industry is trying to provide an incentive to growers to remove older trees, while ensuring that those orchards are not replanted with prune/plum trees.

To be eligible for the proposed tree removal program, orchards must have a minimum yield of 1.5 tons per acre. With a minimum threshold yield of 1.5 tons per acre, sufficient land would be enrolled in the tree removal program to reduce annual production by approximately 30,000 tons.

The industry has estimated that it will take $8 to $9 per tree to induce growers to participate in such a program. It is believed that financial institutions that provide growers operating funds would not allow them to participate if the payment per tree is below this level.

This type of one-time decrease in production would more closely align supply with demand, while assuring an adequate supply. This would allow the industry to concentrate their efforts on rebuilding demand for future years.

The industry has already undertaken an initial smaller-scale tree removal program. However, to finance this grower-initiated tree pull program, grower assessments for promotion were reduced from $50 per ton to $30 per ton. Less money is available for promotion, but growers felt that this re-direction of funds was necessary to help redress the oversupply situation.

The tree removal program would be administered through the Agricultural Marketing Service (AMS) and the Prune Marketing Committee (Committee). The Committee is an administrative agency appointed by AMS to locally administer the terms of Federal Marketing Order No. 993.

Any prune/plum producer wishing to participate in the program would file an application with the Committee. The application period would begin 15 days after publication of the program announcement and last for 30 days.

Each applicant would provide information needed by the Committee to operate the program. This would include, for example, the number of trees the applicant wished to remove and their location. The applicant would have to certify that he/she has not contracted to sell the land or otherwise already arranged to have the trees removed. The Committee would review each application for completeness, and would make reasonable efforts to contact growers to obtain any missing information.

In order to be eligible to participate in the program, the orchards or blocks of trees being removed from production would have to have a minimum yield of 1.5 tons per net planted acre during both the 1999 and 2000 crop years. A net planted acre is the actual acreage planted with prune/plum trees. This would mean that abandoned orchards would not be eligible for participation. The Department considered establishing the minimum qualifying yield at 2.2 tons per acre, but determined that at that level, too many orchards would be ineligible for the program.

USDA has allocated $17 million for this program, including administrative costs. Applications would be approved until the level of available funding was reached. Each participating grower would have to then remove trees from production by June 30, 2002. Growers would be paid $8.50 for each eligible tree removed. This level of payment is deemed necessary for a significant number of growers to participate in the tree-removal program. It would cover most of the costs of removing the trees (bulldozing, cutting, etc.), and preparing the land for other uses. The costs vary depending on the number of acres removed. Some cost savings may accrue with larger acreage removals.

Estimated costs for removing, piling, chipping, or other disposal methods range from $142–$225 per acre or from $1.29–$2.05 per tree. Costs for removing the roots and other debris are expected to range from $163–$289 per acre or from $1.48–$2.63 per tree. Leveling of the ground is expected to cost $161–$401 per acre or $1.46–$3.65 per tree. Fumigation of the tree holes is expected to cost $550 per acre or $5.00 per tree. This would amount to $9.23–$13.33 for each tree removed. The $8.50 payment proposed under the program is expected to offset most of the grower's costs.

Each grower participating in the program would have to agree not to replant prune/plum trees on land cleared under this program through June 30, 2004. Because it takes new acres at least six years to be productive, acreage participating in the tree-removal program would not return to commercial prune/plum production for at least eight years and possibly nine years because plantings occur in January and February. Alternative crops could be planted. Additionally, the current economic conditions in the industry, specifically weak demand, reduced per capita consumption, stagnant domestic shipments and exports, and declining grower prices and revenues, would appear to limit the incentives for replanting acreage to prune/plum trees.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to actions in order that small businesses will not be unduly or disproportionately burdened.

There are approximately 1,250 producers of dried plums in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000. An estimated 32 producers, or less than 13 percent of the 1,250 total producers, would be considered large producers with annual incomes over $750,000.

This proposed rule would establish a tree removal program diversion program for California dried prune/plums. Authority for the program is provided in clause (3) of Section 32 of the act of August 24, 1935, as amended.

Participation in the diversion program is strictly voluntary, so individual producers, both small and large, can weigh the benefits and costs for their own operations before deciding whether to participate in the program.

Economic Assessment of the Tree Removal Diversion Program

To assess the impact a tree removal program would have on prices growers receive for their product, impacts on grower prices and inventories with a tree removal program and without a tree removal program were estimated. An econometric model was estimated for the purpose of estimating nominal season average grower prices under both scenarios.

A tree removal program will directly reduce the number of bearing acres, but there will not be an impact until the 2002 crop year since harvesting of the 2001 crop is completed.

In 2000, there were still 15,000 non-bearing acres. The industry has indicated that no additional plantings of prune/plum trees for acreage expansion are occurring at this time. Therefore, after the 15,000 non-bearing acres come into production, the productive capacity of the industry is assumed to stay constant.

The tree removal analysis assumes that 20,000 acres are removed through the tree removal program, while 3,000 of the non-bearing acres become productive in 2002. This results in bearing acres being reduced from 86,000 in 2001 to 69,000 in 2002. Bearing acres increase by 3000 acres in each of the subsequent years until 2007, rising to 72,000 in 2003, 75,000 in 2004, 78,000 in 2005, and 81,000 in 2006 and 2007.

Production for the 2001 crop year is currently estimated by the Department's National Agricultural Statistics Service (NASS) at 155,000 natural condition tons. Marketable production is generally 93 percent of total production, yielding an estimated 144,500 marketable tons for 2001. Carryin inventory for the 2001 crop year was computed by the marketing order committee at 100,829 tons as of June 30, 2001. These figures are used to derive an estimated total available supply of 244,979 tons for 2001. This level of supply accounts for the fact that a number of voluntary measures have been taken by the industry to reduce the level of production for the 2001 crop year, including crop abandonment and cutbacks on cultural practices.

Shipments are estimated to grow by 1 percent annually, which results in estimated total shipments of 165,932 tons for 2001. The one percent growth in shipments reflects decreased government surplus purchases and possible retail price effects.

For 2002, total shipments are estimated at 165,932 tons and the carryin inventory is estimated at 79,047 tons. With the tree removal diversion program reducing bearing acres to 69,000 for the 2002 crop year, total available supply is estimated at 256,900 tons. It should be noted that through 2001, carryin inventory does not exactly match the prior year's difference between total available supply and total shipments. This is due to shrinkage and other minor adjustments computed by the Federal marketing order committee. However, for this analysis, the estimated carryin from 2002 to 2007 is estimated to be the exact difference between estimated total supply and estimated shipments from the prior year.

The analysis also assumes that yields will fluctuate up and down, in keeping with the known "alternate bearing" tendency of prune/plum trees. Estimated production, computed by multiplying acreage times yield, fluctuates accordingly.

As carryin inventories are reduced, the total available supply moderates for crop years 2003 through 2007, relative to the situation without a tree removal program. This results in season average grower prices ranging from $845 to $1,084 during that same time span. It should be noted that the margin of error for these estimates becomes very large for future crop years.

Even though season-average grower prices per ton rise under the tree removal program, all product produced is not necessarily of marketable quantity. Costs are incurred on all the production, but revenue is received only on product actually marketed. Thus, the economic effect of the tree removal program on a per acre basis is to dramatically reduce losses and bring producer returns closer to a break-even level. With losses still being incurred by producers, there should be only a limited incentive to further expand production as a result of the tree removal program. It will remain for growers to control costs and to expand demand to ensure their longer-term economic stability.

Grower prices are a small component of the finished dried plum product and are not closely associated with movements in retail prices. However, the increases in grower prices estimated for crop years 2003 through 2007 may have an impact on retail prices. The extent of any retail price increases would depend on processor and retailer margins and the pricing and availability of substitute products, such as raisins or other dried fruits. It should be noted that dried plum prices are estimated to increase with or without a tree removal program, but the magnitude of the grower price increase is greater with the program.

Without a tree removal program, bearing acres are estimated to increase to 89,000 by the 2002 crop year. Production would be in excess of 200,000 tons, resulting in carryout inventories in excess of 100,000 tons in 2003. In addition, under this scenario, 2002 grower prices are estimated at $789 per ton. With high inventories and low grower prices, market forces are assumed to induce growers to remove less productive acres and the number of bearing acres is estimated to decline from 89,000 in 2002 to 84,000 in 2007. Even with the decline in bearing acres, production and inventories remain excessive from 2002 through 2007. However, in 2007, carryout inventories fall to an estimated 6,592 tons.

Under both scenarios, grower prices increase and inventories become more manageable. The difference is that, under a tree removal program, adjustments to inventories and prices occur more rapidly. This would accelerate benefits to growers, who would otherwise be struggling to break even in a depressed market, until market forces brought about a slow correction.

In addition to the direct impact on growers' prices and revenues that a tree removal program would have, there are also indirect impacts. A tree removal program assists in decreasing burdensome (undesirable) carryout inventories. Without a tree removal program, large quantities of dried plums held in packers' inventories prevent grower pools from being closed, which delays grower payments. Large amounts of undesirable inventory lead to strained grower-packer relations. In an attempt to sell the excessive inventories, packers reduce f.o.b. prices, which in turn leads to market share battles and lower prices being passed back to producers. A more balanced supply and demand situation allows growers and packers to jointly continue developing markets in ways that benefit the entire industry.

Industry Self-Help Initiatives

The California dried plum industry has undertaken an initiative to reduce acreage and production. The industry implemented a pre-harvest tree removal program during the 2001 crop year. The industry collected about $3 million to support this effort by reducing assessments under their California State marketing order from $50 to $30 a ton. The $20 per ton reduced assessment was used to support the industry tree removal program.

The program was successful in removing about 3,500 acres. The effects of this industry self-help diversion are included in the analysis of the Federal program.

The industry also has taken measures to stimulate demand, including: (1) The development of new products and new uses for dried plums; (2) marketing efforts to attract younger customers; and (3) domestic and export market promotion programs under the California State marketing order and the Foreign Agricultural Service's Marketing Assistance Program (MAP). One of the most recent initiatives involved securing approval from the Food and Drug Administration to change the name "dried prunes" to "dried plums." This has allowed the industry to redirect its generic marketing efforts to attract a new generation of consumers.

Benefits of the Program

The economic assessment of the tree removal program indicates that it is expected to benefit producers, particularly small, under-capitalized producers, as well as the entire dried plum industry, including packers. The per ton sales price is projected to increase from 2002-2007, reducing losses and moving producer returns closer to break-even levels. The benefit to producers from reduced losses is projected to total approximately $128 million over the six-year period 2002–2007. The benefits over the six-year period would average nearly $24 million annually.

Costs of the Program

The major cost of the program would be the payment to producers for removing their prune/plum trees. A total of $17 million, less Committee administrative costs, is available for the tree removal program. Committee administrative costs for reviewing applications and verifying tree removals are expected to be about $125,000. Major expense categories for administration include costs for salaries and benefits; vehicle rental and maintenance; insurance and overhead, and supplies.

Total producer costs associated with filing applications to participate in the program and maintaining records for the period specified after tree removal are expected to be about $1,000.

Overall Assessment

Payments made through this program could help prune/plum producers by addressing the oversupply problem that is adversely affecting the dried plum industry. A tree removal program is expected to allow supply to be adjusted downward more quickly. Market forces will also result in supplies being reduced, but this adjustment may occur more slowly, likely resulting in a number of farm failures. The tree-removal program may be beneficial in reducing the risk of loan default for lenders that financed prune/plum growers. This program will likely help small, under-capitalized producers to stay in business. These producers are often efficient, but do not have adequate resources to continue to operate given the current depressed conditions within their industry.

Reducing the level of unprofitability also should provide opportunities for the industry to engage in additional demand-enhancing activities, especially directed at the domestic market. Even a moderate increase in domestic per capita consumption will have a significant, positive impact on grower returns.

Costs for the program would include the $17 million to be paid growers and to the Committee for administration costs under the Federal tree removal diversion program. Additionally, growers would incur costs totaling $1,000 to comply with the filing and record-keeping requirements of the program.

Benefits to growers under the tree removal program could total approximately $93 million. The first step in this calculation is to multiply marketable production for each of the six years (2002–2007) times the difference between grower price and variable cost, and to sum those figures. This is done for each of the two scenarios (with and without a tree pull program). The $93 million difference between those figures represents a conservative (low-end) estimate of program benefits resulting from reduced grower losses. This cost calculation assumes that the acreage on which trees are removed remain idle, and that growers must therefore absorb all fixed costs on that acreage. To the extent that the land is put to other productive uses, growers would not be absorbing all fixed costs of producing prune/plums, and grower benefits would be higher.

If growers are earning more, it follows that processors and/or retailers beyond the farmgate would pay higher raw product costs to obtain the prune/plums from the growers. These higher costs could be passed on to consumers through higher retail prices or could be absorbed as reduced operating margins for other affected sectors of the economy—processors, wholesalers, or retailers. An estimate of these costs is obtained by multiplying the estimated grower price changes over each of the six years (2002–2007) times annual shipments (an average of the prune/plum shipments with the tree pull program and without the tree pull program). That figure, summed over the six years, is approximately $68 million. However, this $68 million cost is likely overstated due to the fact that grower prices are currently less than the cost of production. Adjustments in retail prices, and retailer and processor margins, are anticipated to change with or without a tree removal program.

Another cost of the tree removal program is the reduced economic activity due to the growers purchasing fewer inputs (labor, chemicals, etc.) from the reduction in prune/plum acres managed and harvested. Input producers (laborers and agricultural chemical firms) would see less revenue because of lowered purchases of these inputs. To the extent that acreage removed is replanted in other crops, those costs could be somewhat offset by purchases of inputs to produce the alternative crops. This cost of the tree removal program is difficult to quantify and is not included in this analysis.

Savings over the same period of up to $60 million could be realized through reduced surplus removal purchases of dried plum products for Federal feeding programs. These government savings would be used to purchase other commodities for use in school and other food assistance programs.

Historically, the dried plum industry has not relied heavily on the Federal surplus removal program. Since the 1991 season, the industry has requested and received surplus removal purchases in only 4 of the past 11 seasons. Should the tree removal program be implemented and supplies be reduced as expected, it would be unlikely that the dried plum industry would seek government assistance in the form of surplus removal purchases for several years to come.

Conclusion

Based on this information, USDA has determined that there is a surplus of dried plums, and that reestablishment of producers' purchasing power would be encouraged by using Section 32 funds to reduce supplies under a Diversion Program for Dried Plums/Prunes consisting wholly of a tree-removal program. USDA has further determined that this program would be a long-term solution to the oversupply situation that exists in the California dried plum industry, and that it would provide relief to growers.

List of Subjects in 7 CFR Part 81

Administrative practice and procedures, Agriculture, Prunes, Reporting and recordkeeping requirements, Surplus agricultural commodities.

For the reasons set forth in the preamble, it is proposed that Title 7, Subtitle B, Chapter 1 be amended as follows:

1. The authority citation for 7 CFR part 81 reads as follows:

Authority: 7 U.S.C. 612c.

1. In Subtitle B, Chapter 1, Part 81 is added to read as follows:

PART 81—PRUNE/DRIED PLUM DIVERSION PROGRAM

Sec.

81.1 Applicability.
81.2 Administration.
81.3 Definitions.
81.4 Length of program.
81.5 General requirements.
81.6 Rate of payment.
81.7 Eligibility for payment.
81.8 Application and approval for participation.
81.9 Inspection and certification of diversion.
81.10 Claim for payment.
81.11 Compliance with program provisions.
81.12 Inspection of premises.
81.13 Records and accounts.
81.14 Offset, assignment, and prompt payment.
81.15 Appeals.

81.16 Refunds; joint and several liability.
81.17 Death, incompetency or disappearance.

Authority: 7 U.S.C. 612c.

PART 81—PRUNE/DRIED PLUM DIVERSION PROGRAM

§ 81.1 Applicability.

Pursuant to the authority conferred by section 32 of the Act of August 24, 1935, as amended (7 U.S.C. 612c)(Section 32), the Secretary of Agriculture will make payment to California producers who divert prune/plums by removing trees on which the fruit is produced in accordance with the terms and conditions set forth in this part.

§ 81.2 Administration.

The program will be administered under the general direction and supervision of the Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), and will be implemented by the Prune Marketing Committee (Committee). The Committee, or its authorized representatives, does not have authority to modify or waive any of the provisions of this part.

§ 81.3 Definitions.

(a) *Application* means "Application for Prune Tree Removal Program."

(b) *Diversion* means the removal of prune-plum trees after approval of applications by the Committee through June 30, 2002.

(c) *Removal* means that the prune-plum trees are no longer standing and capable of producing a crop. The producer can accomplish removal by any means the producer desires.

(d) *Producer* means an individual, partnership, association, or corporation in the State of California who grows prune/plums that are dehydrated into dried plums for market.

(e) *Committee* means the Prune Marketing Committee established by the Secretary of Agriculture to locally administer Federal Marketing Order No. 993 (7 CFR part 993), regulating the handling of dried prunes produced in California.

§ 81.4 Length of program.

This program is implemented January 2, 2002, through June 30, 2004. Producers diverting prune/plums by removing prune-plum trees must complete the diversion no later than June 30, 2002.

§ 81.5 General requirements.

(a) To be eligible for this program, during one of the last two seasons, the trees to be removed must have yielded at least 1.5 tons per net planted acre during the 1999 or 2000 crop year. A net planted acre is the actual acreage planted with prune-plum trees. Abandoned orchards and dead trees will not qualify. In new orchards diverted, qualifying trees must be at least 5 years of age (6th leaf), contain at least two scaffolds, and be capable of producing at least 1.5 tons per net planted acre. The block of trees for removal must be easily definable by separations from other blocks and contain at least 1,000 eligible trees or comprise an entire orchard.

(b) Any grower participating in this program must agree not to replant prune-plum trees on the land cleared under this program through June 30, 2004. Participants bear responsibility for ensuring that trees are not replanted, whether by themselves, or by successors to the land, or by others, until after June 30, 2004. If trees are replanted before June 30, 2004, by any persons, participants must refund any USDA payment, with interest, made in connection with this tree removal program.

§ 81.6 Rate of payment.

(a) The rate of payment for each eligible prune-plum tree removed will be $8.50 per tree.

(b) Payment under paragraph (a) of this section will be made after tree removal has been verified by the staff of the Committee.

(c) The $8.50 per tree payment is intended to cover the costs of tree removal. USDA will make no other payment with respect to such removals. The producer will be responsible for arranging, requesting, and paying for the tree removal in the specified orchard blocks or orchard(s), as the case may be.

§ 81.7 Eligibility for payment.

(a) If applications for payment do not exceed $17,000,000, less administration costs, payments will be made under this program to any producer of prune/plums who complies with the requirements in § 81.8 and all other terms and conditions in this part.

(b) If applications for participation in the program authorized by this part exceed $17,000,000, less administration costs, the Committee will approve the applications (subject to the requirements in § 81.8) in the order in which the completed applications are received in the Committee office. Applications received after total outlays exceed the amount of money available will be denied.

§ 81.8 Application and approval for participation.

(a) Applications will be reviewed for program compliance and approved or disapproved by Committee office personnel.

(b) Applications for participation in the Prune-Plum Diversion Program can be obtained from the Committee office at 3841 North Freeway Boulevard, Suite 120, Sacramento, California 95834; telephone (916) 565–6235.

(c) Any producer desiring to participate in the prune-plum diversion program must file an application with the Committee prior to January 31, 2002. The application shall be accompanied by a copy of any two of the following four documents: Plat Map from the County Hall of Records; Irrigation Tax Bill; County Property Tax Bill; or any other documents containing an Assessor's Parcel Number. Such application shall include at least the following information:

(1) The name, address, telephone number and tax identification number/social security number of the producer;

(2) The location and size of the production unit to be diverted;

(3) The prune/plum production from the orchard or portion of the orchard to be diverted during the 1999–2000 and 2000–2001 seasons;

(4) A statement that all persons with an equity interest in the prune/plums in the production unit to be diverted consent to the filing of the application. That is, the applicant has clear title to the property in question, or agreement to participate in the tree removal program from lien or mortgage holders, and/or land owners, lessors, or similar parties;

(5) A statement that the applicant agrees to comply with all of the regulations established for the prune/plum diversion program;

(6) The producer applicant shall sign the application certifying that the information contained in the application is true and correct;

(7) The year that the unit of prune/plums was planted;

(8) The handlers who received the prune/plums from the producer in the last two years.

(d) After the Committee receives the producer applications, it shall review them to determine whether all the required information has been provided and that the information appears reliable.

(e) If the number of trees to be removed in such applications,

VOL 66 ISS 242 DE 17 2001 UMI

multiplied by $8.50 per tree, exceeds the amount of funds available for the diversion program, each grower's application will be considered in the order in which they are received at the Committee office.

(f) After the application reviews and confirmation of eligible trees are completed, the Committee shall notify the applicant, in writing, as to whether or not the application has been approved and the number of trees approved for payment after removal. If an application is not approved, the notification shall specify the reason(s) for disapproval.

§ 81.9 Inspection and certification of diversion.

When the removal of the prune-plum trees is complete, the producer(s) will notify the Committee on a form provided by the Committee. The Committee will certify that the trees approved for removal from the block or orchard, as the case may be, have been removed, and notify AMS.

§ 81.10 Claim for payment.

(a) To obtain payment for the trees removed, the producer must submit to the Committee by June 30, 2002, a completed form provided by the Committee. Such form shall include the Committee's certification that the qualifying trees from the blocks or orchards have been removed. AMS will then issue a check to the producer in the amount of $8.50 per eligible tree removed.

§ 81.11 Compliance with program provisions.

If USDA or the Committee determines that any provision of this part have not been complied with by the producer, the producer will not be entitled to diversion payments in connection with tree removal. If a producer does not comply with the terms of this part, including the requirement specified in § 80.5(b), the producer must refund any USDA payment made in connection with such tree removal, and will also be liable to USDA for any other damages incurred as a result of such failure. The Committee or USDA may deny any producer the right to participate in this program or the right to receive payments in connection with any diversion previously made under this program, or both, if the Committee or USDA determines that:

(a) The producer has failed to properly remove the prune/plum trees from the applicable block or the whole orchard regardless of whether such failure was caused directly by the producer or by any other person or persons;

(b) The producer has not acted in good faith in connection with any activity under this program; or

(c) The producer has failed to discharge fully any obligation assumed by him or her under this program.

§ 81.12 Inspection of premises.

The producer must permit authorized representatives of USDA or the Committee, at any reasonable time, to have access to their premises to inspect and examine the orchard block where trees were removed and records pertaining to the orchard to determine compliance with the provisions of this part.

§ 81.13 Records and accounts.

(a) The producers participating in this program must keep accurate records and accounts showing the details relative to the prune/plum tree removal, including the contract entered into with the firm removing the trees, as well as the invoices.

(b) The producers must permit authorized representatives of USDA, the Committee, and the General Accounting Office at any reasonable time to inspect, examine, and make copies of such records and accounts to determine compliance with provisions of this part. Such records and accounts must be retained for two years after the date of payment to the producer under the program, or for two years after the date of any audit of records by USDA, whichever is later.

§ 81.14 Offset, assignment, and prompt payment.

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the crop proceeds thereof in favor of the producer or any other creditors except agencies of the U.S. Government.

(b) Payments which are earned by a producer under this program may be assigned in the same manner as allowed under the provisions of 7 CFR part 1404.

(c) Prompt payment interest will not be applicable.

§ 81.15 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination.

§ 81.16 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application of this part, and if any refund of a payment to AMS shall otherwise become due in connection with the application of this part, all payments made under this part to any producer shall be refunded to AMS together with interest.

(b) All producers signing an application for payment as having an interest in such payment shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application of this part.

(c) Interest shall be applicable to refunds required of any producer under this part if AMS determines that payments or other assistance were provided to a producer who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the Commodity Credit Corporation (CCC) for funds, as of the date AMS made benefits available. Such interest shall accrue from the date of repayment or the date interest increases as determined in accordance with applicable regulations. AMS may waive the accrual of interest if AMS determines that the cause of the erroneous determination was not due to any action of the producer.

(d) Interest determined in accordance with paragraph (c) of this section may be waived on refunds required of the producer when there was no intentional noncompliance on the part of the producer, as determined by AMS.

(e) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed for those claims which are addressed in 7 CFR part 792.

(f) Producers must refund to AMS any excess payments, as determined by AMS, with respect to such application.

(g) In the event that a benefit under this part was provided as the result of erroneous information provided by the producer, the benefit must be repaid with any applicable interest.

§ 81.17 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance, or dissolution of a prune/plum producer that is eligible to receive benefits in accordance with this part, such person or persons in the same manner as specified in 7 CFR part 707 for other payments and benefits may receive such benefits, as determined appropriate by AMS.

Dated: December 12, 2001.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–31038 Filed 12–13–01; 8:44 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–42–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company P206, TP206, TU206, U206, 207, T207, 210, P210, and T210 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Cessna Aircraft Company (Cessna) P206, TP206, TU206, U206, 207, T207, 210, P210, and T210 series airplanes. This proposed AD would require you to visually inspect certain horizontal stabilizer attachment reinforcement brackets for the existence of seam welds and replace any reinforcement bracket found without seam welds. This proposed AD authorizes the pilot to check the logbooks to determine whether one of the affected horizontal stabilizer attachment reinforcement brackets is installed. This proposed AD is the result of a report that certain parts were manufactured without seam welds. The actions specified by this proposed AD are intended to detect and replace structurally deficient horizontal stabilizer attachment brackets. Continued use of such brackets could result in structural failure of the horizontal stabilizer with reduced or loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 11, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–42–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; facsimile: (316) 942–9006. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Al Phillips, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4116; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There Any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule.

You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–42–AD." We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

Cessna notified FAA of a defect in the manufacturing of the horizontal stabilizer attachment reinforcement brackets. Cessna manufactured reinforcement brackets without seam welds on certain Cessna Model 206H and T206H airplanes. AD 2001–09–06, Amendment 39–12211, (66 FR 21278, April 30, 2001), addresses these airplanes. The seam welds help provide the required structural integrity for the horizontal stabilizer attachment bracket.

Since the issuance of AD 2001–09–06, Cessna determined that certain Model P206, TP206, TU206, U206, 207, T207, 210, P210, and T210 series airplanes may have had horizontal stabilizer attachment reinforcement brackets (part number 1232624–1) without seam welds installed as replacement parts. Cessna shipped these brackets from February 27, 1998, through March 17, 2000.

What Are the Consequences if the Condition Is Not Corrected?

This condition, if not corrected, could result in structural failure of the horizontal stabilizer with reduced or loss of control of the airplane.

Is There Service Information That Applies to This Subject?

Cessna has issued Service Bulletin SEB00–10, dated November 6, 2000.

What Are the Provisions of This Service Information?

The service bulletin includes procedures for:

- Visually inspecting the right and left horizontal stabilizer attachment reinforcement brackets for the existence of seam welds along the lower inboard and outboard wall/flange; and
- Removing and replacing the horizontal stabilizer assemblies with new parts.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on other Cessna P206, TP206, TU206, U206, 207, T207, 210, P210, and T210 series airplanes of the same type design;
- The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
- AD action should be taken in order to correct this unsafe condition.

What Would This Proposed AD Require?

This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

What Are the Differences Between the Service Information and This Proposed AD?

Cessna requires you to inspect and, if necessary, replace the horizontal stabilizer attachment reinforcement brackets, part number 1232624–1, within 20 hours time-in-service (TIS),

VOL 66 ISS 242 DE 17 2001 UMI

not to exceed 30 days, of operation. We are proposing a requirement that you inspect and, if necessary, replace the horizontal stabilizer attachment reinforcement brackets, part number 1232624–1, within 50 hours TIS of operation after the effective date of the proposed AD.

We do not have justification to require this action within 20 hours TIS. Compliance times such as this are utilized when we have identified an urgent safety of flight situation. We believe that 50 hours TIS will give the owners/operators of the affected airplanes enough time to have the proposed actions accomplished without compromising the safety of the airplanes.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 144 airplanes in the U.S. registry.

What Would Be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × $60 = $120	Not applicable	$120	$120 × 144 = $17,280.

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
24 workhours to replace both brackets × $60 = $1,440.	$135 for both the right and left bracket	$1,440 + $135 = $1,575.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Cessna Aircraft Company: Docket No. 2001–CE–42–AD

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
P206C and TP206C	P206–0420 through P206–0519.
P206D and TP206D	P206–0520 through P206–0603.
P206E and TP206E	P20600604 through P20600647, and P206–0001.
U206C and TU206C	U206–0915 through U206–1234.
U206D and TU206D	U206–1235 through U206–1444, U20601445 through U20601587.
U206E and TU206E	U20601588 through U20601700.
U206F and TU206F	U20601701 through U20602588, and U20602590 through U20603521.
U206G and TU206G	676, U20602589,,and U20603522 through U20607020.
207 and T207	20700001 through 20700362.
207A and T207A	20700363 through 20700788.
210G	21058819 through 21058936.
210H	21058937 through 21059061.
210J	21059062 through 21059199.
210K and T210K	21059200 through 21059502.
210L and T210L	21059503 through 21061041, and 21061043 through 21061573.
210M and T210M	21061042, and 21061574 through 21062954.
210N and T210N	21062955 through 21064897.
P210N	P21000001 through P21000834.
T210G	T210–0198 through T210–0307.

Model	Serial Nos.
T210H	T210–0308 through T210–0392.
T210J	T210–0393 through T210–0454, and 21058140.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and replace structurally deficient horizontal stabilizer attachment brackets. Continued use of such brackets could result in structural failure of the horizontal stabilizer with reduced or loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Maintenance Records Check: (i) Check the maintenance records to determine whether a horizontal stabilizer attachment reinforcement bracket, part number (P/N) 1232624–1 shipped by Cessna from February 27, 1998, through March 17, 2000, is installed. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may perform this check. (ii) If, by checking the maintenance records, the owner/operator can positively show that a horizontal stabilizer attachment reinforcement bracket, P/N 1232624–1 shipped by Cessna from February 27, 1998, through March 17, 2000, is not installed, then the inspection requirement of paragraph (d)(2) and the replacement requirement of paragraph (d)(3) of this AD does not apply. You must make an entry into the aircraft records that shows compliance with this portion of the AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).	Within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.	No special procedures required to check the logbook.
(2) Inspection: Visually inspect the right and left horizontal stabilizer attachment reinforcement brackets, part number (P/N) 1232624–1, for the existence of seam welds along both the lower inboard and outboard wall/flange.	Within the next 50 hours TIS after the effective date of this AD, unless already accomplished.	In accordance with the Accomplishment Instructions in Cessna Service Bulletin SEB00–10, dated November 6, 2000, and the applicable maintenance manual.
(3) Replacement: (i) If no seam weld is found along both the lower inboard and outboard wall/flange on the right and left horizontal stabilizer attachment reinforcement bracket during the inspection required in paragraph (d)(2) of this AD, replace with a new or airworthy P/N 1232624–1 horizontal stabilizer attachment reinforcement bracket. (ii) If the right and left horizontal stabilizer attachment reinforcement bracket has seam welds along both the lower inboard and outboard wall/flange, no further action is required.	Accomplish any necessary replacements prior to further flight after the inspection required by this AD, unless already accomplished.	In accordance with the Accomplishment Instructions in Cessna Service Bulletin SEB00–10, dated November 6, 2000, and the applicable maintenance manual.
(4) Installation Prohibition: Do not install any P/N 1232624–1 horizontal stabilizer attachment reinforcement bracket (or FAA-approved equivalent part) unless the bracket: (i) is inspected as required in paragraph (d)(2) of this AD; and (ii) has seam welds along both the lower inboard and outboard wall/flange	Not applicable	Not applicable.

VOL 66 ISS 242 DE 17 2001 UMI

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Al Phillips, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4116; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 6, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30954 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–41–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe Aerospatiale Models MS 892A–150, MS 892E–150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 150T, and Rallye 150ST Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 77–15–06, which applies to all SOCATA—Groupe Aerospatiale (Socata) Models MS 892A–150, MS 892E–150, MS 893A, MS 893E, Rallye 150T, and Rallye 150ST airplanes. AD 77–15–06 currently requires you to repetitively inspect the engine mount assembly for cracks, repair any cracks found, and modify the brackets on airplanes with right angle engine mounts. This proposed AD is the result of the French airworthiness authority's determination that updated service information and additional aircraft should be added to the applicability of AD 77–15–06. This proposed AD would retain the inspection and repair requirements of the current AD and would add the information communicated by the French airworthiness authority. The actions specified by this proposed AD are intended to detect and correct cracks in the engine mount assembly. Such a condition could cause the engine mount assembly to fail, which could result in loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this rule on or before January 11, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–41–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from SOCATA Groupe Aerospatiale, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: 011 33 5 62 41 73 00; facsimile: 011 33 5 62 41 76 54; or the Product Support Manager, SOCATA—Groupe Aerospatiale, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 894–1160; facsimile: (954) 964–4191. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–41–AD." We will date stamp and mail the postcard back to you.

Discussion

Has FAA taken any action to this point? Fatigue cracks found on the engine mount assemblies of Socata Models MS 892A–150, MS 892E–150, MS 893A, MS 893E, Rallye 150T, and Rallye 150ST airplanes caused us to issue AD 77–15–06, Amendment 39–2975. This AD currently requires the following:

- —Inspecting the engine mount assembly for cracks at repetitive intervals;

—Repairing any cracks found; and
—Modifying the brackets on airplanes with right angle engine mounts.

What has happened since AD 77–15–06 to initiate this action? The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified FAA of the need to change AD 77–15–06. The DGAC reports that:

—The manufacturer has issued new service information to address the unsafe condition;
—Additional airplane models should be added to the applicability; and
—The initial compliance time should be changed from 100 hours time-in-service (TIS) to 50 hours TIS.

Is there service information that applies to this subject? Socata has issued Service Bulletin SB 156–17, dated May 2001.

What are the provisions of this service bulletin? The service bulletin includes procedures for:

—Repetitively inspecting certain engine mount assemblies for cracks; and
—Repairing cracks that are a certain length.

What action did the DGAC take? The DGAC classified this service bulletin as mandatory and issued French AD 2001–400(A), dated September 19, 2001, in order to ensure the continued airworthiness of these airplanes in France.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, DGAC has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of the Proposed AD

What has FAA decided? The FAA has examined the findings of the DGAC; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on certain Socata Models MS 892A–150, MS 892E–150, MS 893A, MS 893E, MS 894A, MS 894E, Rallye 150T, and Rallye 150ST airplanes of the same type design that are on the U.S. registry;
—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require? This proposed AD would supersede AD 77–15–06 with a new AD that would require you to:

—Repetitively inspect any engine mount assembly that is not part number 892–51–0–035–0 (or FAA-approved equivalent part number) for cracks;
—Repair cracks that do not exceed a certain length; and
—Replace the engine mount when the cracks exceed a certain length and cracks are found on an engine mount that already has two repairs.

Cost Impact

How many airplanes would the proposed AD impact? We estimate that the proposed AD affects 81 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish each proposed inspection(s):

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
1 workhour × $60=$60	No parts required	$60	$60 × 81=$4,860

We estimate the following costs to accomplish any necessary repairs that would be required based on the results of the proposed inspection(s). We have no way of determining the number of airplanes that may need such repair:

Labor cost	Parts cost	Total cost per airplane
3 workhours × $60=$180	No parts required	$180

We estimate the following costs to accomplish any necessary replacements that would be required based on the results of the proposed inspection(s). We have no way of determining the number of airplanes that may need such replacement:

Labor cost	Parts cost	Total cost per airplane
9 workhours × $60=$540	$3,500	$540 + $3,500=$4,040

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules

VOL 66 ISS 242 DE 17 2001 UMI

Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends Section 39.13 by removing Airworthiness Directive (AD) 77–15–06, Amendment 39-2975, and by adding a new AD to read as follows:

SOCATA—Groupe Aerospatiale: Docket No. 2001-CE-41-AD; Supersedes AD 77–15–06, Amendment 39–2975.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category and do not have a part number 892-51-0-035-0 engine mount assembly (or FAA-approved equivalent part number) installed:

Model	Serial Nos.
MS 892A–150	All serial numbers.
MS 892E–150	All serial numbers.
MS 893A	All serial numbers.
MS 893E	All serial numbers.
MS 894A	1005 through 2204 equipped with kit OPT8098 9037.
MS 894E	1005 through 2204 equipped with kit OPT8098 9037.
Rallye 150T	All serial numbers.
Rallye 150ST	All serial numbers.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the engine mount assembly. Such a condition could cause the engine mount assembly to fail, which could result in loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect the engine mount assembly for cracks.	For airplanes previously affected by AD 77–15–06: inspect or within the next 50 hours time-in-service (TIS) after the last inspection required by AD 77–15–06 or within the next 50 hours TIS after the effective date of this AD, whichever occurs first, and thereafter at intervals not to exceed 50 hours TIS. For all other airplanes: inspect within the next 50 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 50 hours TIS.	In accordance with the Accomplishment Instructions section of Socata Service Bulletin SB 156–71, dated May 2001.
(2) If any crack is found during any inspection required by this AD that is less than 0.24 inches (6 mm) in length, repair the engine mount assembly. If two repairs on the engine mount have already been performed, replace in accordance with paragraph (d)(3) of this AD.	Prior to further flight after the inspection in which the crack is found.	In accordance with the Accomplishment Instructions section of Socata Service Bulletin SB 156–71, dated May 2001.
(3) If any crack is found during any inspection required by this AD that is 0.24 inches (6 mm) or longer in length or if any crack is found and two repairs on the engine mount have already been performed, replace the engine mount assembly with part number 892-51-0-035-0 (or FAA-approved equivalent part number).	Prior to further flight after the inspection in which the crack is found. Repetitive inspections are no longer required after this replacement.	In accordance with the applicable maintenance manual.
(4) You may terminate the repetitive inspections of this AD after installing engine mount assembly, part number 892-51-0-035-0 (or FAA-approved equivalent part number).	At any time but it must be done prior to further flight if any of the criteria of paragraph (d)(3) are met.	In accordance with the applicable maintenance manual.

(e) *Can I comply with this AD in any other way?*

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) Alternative methods of compliance approved in accordance with AD 77–15–06, which is superseded by this AD, are not approved as alternative methods of compliance with this AD.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas

City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: 011 33 5 62 41 73 00; facsimile: 011 33 5 62 41 76 54; or the Product Support Manager, SOCATA Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 894–1160; facsimile: (954) 964–4191. You may examine these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(i) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 77–15–06, Amendment 39–2975.

Note 2: The subject of this AD is addressed in French AD 2001–400(A), dated September 19, 2001.

Issued in Kansas City, Missouri, on December 6, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–30953 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–39–AD]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters Inc. Model MD–900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes superseding an existing airworthiness directive (AD) for MD Helicopters Inc. Model MD–900 helicopters. That AD currently requires inspecting the main rotor upper hub assembly drive plate attachment flange (flange), determining the torque of each flange nut (nut), and if a crack is found, before further flight, replacing the hub assembly. In addition to the current requirements, this action would require visually inspecting the outer surface of the flange at specified intervals and removing the drive plate and visually inspecting the flange for a crack at specified intervals and replacing any unairworthy hub assembly. This proposal is prompted by reports that cracks starting at the drive plate attachment holes were found in the main rotor hub. The actions specified by the proposed AD are intended to detect a crack in the flange and to prevent failure of the hub assembly, loss of drive to the main rotor, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before February 15, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–39–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5322, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–39–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–39–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On December 17, 1999, the FAA issued Emergency AD 99–26–20 to require certain inspections of the hub assembly for a crack, ensuring the correct torque of each nut, and replacing any cracked hub assembly with an airworthy hub assembly. That action was prompted by three occurrences of cracked hub assemblies. The FAA discovered errors after issuing Emergency AD 99–26–20 and corrected those errors by superseding that Emergency AD with AD 2001–07–09, Amendment 39–12175 (66 FR 19383, April 16, 2001). The requirements of that AD were intended to prevent failure of the hub assembly, loss of drive to the main rotor, and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has received reports indicating that additional cracks have been found in the main rotor hub emanating from the drive plate attachment holes.

This unsafe condition is likely to exist or develop on other MD Helicopters Inc. Model MD–900 helicopters of the same type design. Therefore, the proposed AD would supersede AD 2001–07–09 to contain the current requirements and to also require the following:

- Visually inspect the outer surface of the flange using a light and a 10x or higher magnifying glass at intervals not to exceed 100 hours TIS.
- Remove the drive plate and visually inspect the flange for a crack at intervals not to exceed 300 hours TIS.
- Replace any unairworthy hub assembly before further flight.

The FAA estimates 28 helicopters of U.S. registry would be affected by this proposed AD. It would take approximately 1 work hour per helicopter to verify the torque, 3 work hours per helicopter to perform the inspection, and 10 work hours per helicopter to replace the hub assembly,

VOL 66 ISS 242 DE 17 2001 UMI

if necessary. The proposed actions would require approximately 1 work hour for a 100-hour TIS inspection, and 3 work hours for a 300-hour TIS inspection, at an average labor rate of $60 per work hour. Required parts to replace the hub assembly, if necessary, would cost approximately $21,610 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $159,770 for the first year, assuming 5 hub assembly replacements and assuming each helicopter has 6 torque verifications, 6 inspections, two 100-hour inspections, and one 300-hour inspection.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended].

2. Section 39.13 is amended by removing Amendment 39–12175 (66 FR 19383, April 16, 2001), and by adding a new airworthiness directive (AD), to read as follows:

MD Helicopters, Inc.: Docket No. 2001–SW–39–AD. Supersedes AD 2001–07–09, Amendment 39–12175, Docket No. 2000–SW–15–AD.

Applicability: Model MD–900 helicopters, with main rotor upper hub (hub) assembly, part number (P/N) 900R2101006–105 or 900R2101006–107, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the hub assembly, loss of drive to the main rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) For the hub assembly, P/N 900R2101006–107,

(1) Within 6 hours time-in-service (TIS), visually inspect the main rotor upper hub assembly drive plate attach flange (flange) for a crack and determine the torque of each flange attach nut (nut) in accordance with the Accomplishment Instructions, Part I, paragraph 2.A., steps (1) through (7) of MD Helicopter Inc. Service Bulletin SB 900–072, dated December 10, 1999 (SB). If a crack is found, before further flight, remove and replace the hub assembly with an airworthy hub assembly.

(2) Within 25 hours TIS, accomplish Part II, of the Accomplishment Instructions, paragraph 2.B., steps (1) through (6), (8), and (9) of the SB. If a crack is found, before further flight, remove and replace the hub assembly with an airworthy hub assembly.

(b) For the hub assembly, P/N 900R2101006–105,

(1) Within 6 hours TIS, visually inspect the flange for a crack and determine the torque of each nut in accordance with the Accomplishment Instructions, Part I, paragraph 2.A., steps (1) through (7) of the SB.

Note 2: The SB effectivity does not include hub assembly, P/N 900R2101006–105; however, certain provisions of this AD do apply to this P/N.

(2) If any nut has less than 180 inch pounds (20.34 Nm) of torque, before further flight, remove the drive plate and fretting buffer and inspect the flange in accordance with the procedures in paragraph (b)(3) of this AD. If a crack is detected, before further flight, remove and replace the hub assembly with an airworthy hub assembly. Reassemble in accordance with the procedures in paragraph (b)(3) of this AD.

(3) Within 25 hours TIS, remove the main rotor drive plate assembly and anti-fretting ring and visually inspect the main rotor hub assembly as follows:

(i) If present, remove sealant from the drive plate attachment to the hub assembly.

(ii) Mark the main rotor hub holes to correspond with the drive plate hole numbers (see Figure 1 of this AD).

(iii) Remove the main rotor drive plate (drive plate) assembly and anti-fretting ring (fretting buffer).

(iv) Inspect drive plate to rotor hub assembly mating surfaces and the fretting buffer for fretting.

(v) Using paint stripper (Consumable Item List C313 or equivalent) and cleaning solvent (C420 or equivalent), remove the paint from the upper mating surface of the hub assembly to enable an accurate visual inspection of each drive plate attachment bolt hole (bolt hole) area for cracking (Figure 1). Ensure the paint stripper and solvent DO NOT contaminate the upper bearing and upper grease seal areas.

(vi) Using a 10 × or higher magnifying glass and light, inspect the mating surface area and the area around and inside the 10 boltholes of the hub assembly for a crack. If a crack is found, prior to further flight, replace the hub assembly with an airworthy hub assembly.

(vii) If no crack is found, remove fretting debris from the mating surfaces of the hub assembly and the drive plate assembly, reassemble, fillet seal (C211 or equivalent) the surface of the drive plate to fretting buffer to hub assembly mating lines, and seal all exposed unpainted upper surfaces of the hub assembly.

(viii) Reinstall the main rotor drive plate using 10 new sets of replacement attachment hardware. Torque the nuts to 160 inch pounds above locknut locking/run-on torque in the sequence shown (Figure 1). Record in the rotorcraft logbook, or equivalent record, the locknut locking/run-on torque for each nut.

(ix) After the next flight, verify that the torque on each of the 10 nuts is at least 160 inch pounds above the locknut locking/run-on torque (minimum torque). Retorque as required without loosening nuts.

(x) Thereafter, at intervals of at least 4 hours TIS, not to exceed 6 hours TIS, verify that the torque of each of the 10 nuts is at least the minimum torque. Retorque as required without loosening nuts. This torque verification is no longer required after the torque on each of the 10 nuts has stabilized at a torque value of 160 or more inch pounds for each nut during two successive torque verifications.

BILLING CODE 4910–13–P

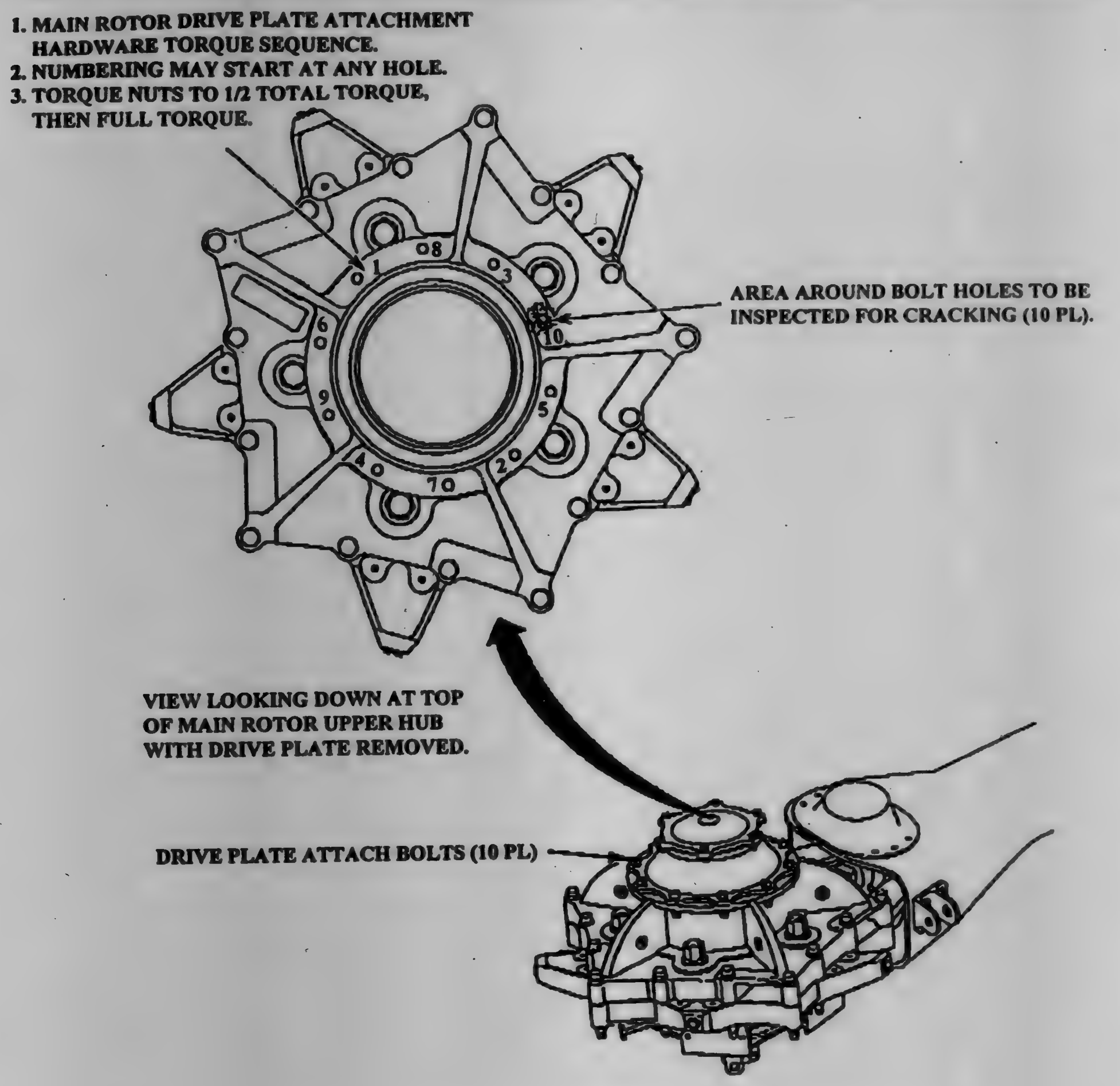

1. MAIN ROTOR DRIVE PLATE ATTACHMENT HARDWARE TORQUE SEQUENCE.
2. NUMBERING MAY START AT ANY HOLE.
3. TORQUE NUTS TO 1/2 TOTAL TORQUE, THEN FULL TORQUE.
1
8
3
10
5
2
7
4
9
6
AREA AROUND BOLT HOLES TO BE INSPECTED FOR CRACKING (10 PL).
VIEW LOOKING DOWN AT TOP OF MAIN ROTOR UPPER HUB WITH DRIVE PLATE REMOVED.
DRIVE PLATE ATTACH BOLTS (10 PL)

Figure 1. Main Rotor Upper Hub Assembly Inspection.

BILLING CODE 4913-10-C

(c) Within 100 hours TIS and thereafter at intervals not to exceed 100 hours TIS, visually inspect the outer surface of the flange for a crack using a light and a 10 × or higher magnifying glass. If a crack is detected, replace the unairworthy hub assembly with an airworthy hub assembly before further flight.

(d) At intervals not to exceed 300 hours TIS, remove the drive plate and visually inspect the flange for a crack using a light and a 10 × or higher magnifying glass. If a crack is detected, replace the unairworthy hub assembly with an airworthy hub assembly before further flight.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (LAACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, LAACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the LAACO.

(f) If any nut torque is below minimum torque and no hub assembly crack is found before disassembly inspection, after retorque

VOL 66 ISS 242 DE 17 2001 UMI

in accordance with the applicable Maintenance Manual, a special flight permit for one flight below 100 knots indicated airspeed may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

Issued in Fort Worth, Texas, on December 11, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31042 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 97

[OAG 100P; AG Order No. 2539–2001]

RIN 1105–AA77

Establishment of Minimum Safety and Security Standards for Private Companies That Transport Violent Prisoners

AGENCY: Office of the Attorney General, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: In the Interstate Transportation of Dangerous Criminals Act of 2000 ("the Act"), Congress instructed the Department of Justice ("the Department") to promulgate regulations providing minimum safety and security standards for private companies that transport violent prisoners on behalf of State and local jurisdictions. The Act provides that the regulations shall not impose stricter standards with respect to private prisoner transport companies than are applicable to certain Department agencies that transport violent prisoners under comparable circumstances. This rule proposes minimum standards in only those areas that Congress identified in the Act.

DATES: *Comment date:* Comments must be submitted on or before February 15, 2002.

ADDRESSES: Please submit written comments to Lizette Benedi, Office of Legal Policy, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530. Comments may also be submitted by fax at (202) 353–9164 and by electronic mail at Jeannas.Act.Comments@usdoj.gov. To ensure proper handling, please reference "Jeanna's Act" on your correspondence.

FOR FURTHER INFORMATION CONTACT: For matters relating to this proposed rule, please contact Lizette Benedi, (202) 514–3824.

SUPPLEMENTARY INFORMATION:

A. Background

What Does This Rule Propose?

This rule proposes a limited number of minimum safety and security standards for private companies that engage in the business of transporting violent prisoners on behalf of State and local jurisdictions. The proposed rule requires private prisoner transport companies to establish measures designed to improve public safety by preventing escapes of violent prisoners and establishing appropriate safeguards and procedures in the event of the escape of a violent prisoner.

In addition, the rule proposes minimum standards to ensure the safety of violent prisoners during transportation.

Why Is This Rule Needed?

In enacting the Interstate Transportation of Dangerous Criminals Act of 2000, Public Law 106–560 (114 Stat. 2784)(enacted December 21, 2000), Congress found that State and local jurisdictions are increasingly turning to private companies to transport their violent prisoners, and that escapes have occurred. Congress determined that minimum regulations for the private prisoner transport industry were necessary to provide protection against risks to the public that are inherent in the transportation of violent prisoners and to assure the safety of those being transported.

Does Compliance With These Regulations Mean That Private Prisoner Transport Companies Have Met All of Their Legal Obligations?

No. These regulations implement the Act and do not pre-empt any applicable Federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. For example, all Federal laws and regulations governing interstate commerce (*e.g.,* Federal laws regulating the possession of weapons and Federal Aviation Administration rules and regulations governing travel on commercial aircraft) will continue to apply to private prisoner transport companies.

Because these regulations implement the Act, they affect only limited aspects of a private prisoner transport company's operations. Therefore, these regulations are not intended to be model guidelines or a complete set of standards for the private prisoner transport industry. Private prisoner transport companies should be aware that compliance with these regulations will mean only that they will not be subject to the sanctions established in the Act. The regulations are not meant to prevent or discourage private prisoner transport companies from adopting additional or more stringent standards relating to the transportation of prisoners. Similarly, these regulations do not limit the authority of Federal, State, or local governments to impose additional safety requirements or impose a higher standard of care upon private companies that transport violent prisoners.

The purpose of these regulations is to enhance public security and the safety of both prisoners and guards during transportation. The regulations are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Thus, for example, compliance with these regulations is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by these regulations will remain subject to the standard of care that is imposed by statute and common law upon their activities (or other activities of a similarly hazardous nature).

Overview of the Standards That This Rule Proposes

This proposed rule would (1) require that private prisoner transport companies comply with minimum standards for fingerprint-based criminal background checks and preemployment drug testing for potential employees; (2) provide minimum standards for the length and type of employee training; and (3) establish restrictions on the number of hours that transportation employees can be on duty during a given time period.

This rule also proposes that private prisoner transport companies comply with minimum standards for the use of restraints while transporting violent prisoners, and it establishes categories of violent offenders required to wear identifying clothing. Further, the rule proposes a minimum guard-to-prisoner ratio that must be observed while transporting violent prisoners, and proposes that private prisoner transport companies comply with standards regarding employee uniforms and employee identification.

In addition, the rule proposes to require private prisoner transport companies to notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction when transporting violent prisoners. In the event of the escape of a violent offender, the proposed rule requires that the private prisoner transport company personnel immediately notify appropriate law enforcement officials in the jurisdiction where the escape occurs, as well as the governmental entity that contracted with the private prisoner transport company for the transport of the escaped violent prisoner.

Finally, the rule proposes that private prisoner transport companies adopt certain minimum standards to protect the safety of violent prisoners in accordance with applicable Federal and State law.

Pursuant to section 4(c) of the Act, except for the standards regarding the categories of violent prisoners required to wear brightly colored clothing, these proposed standards are not stricter than the standards applicable to the United States Marshals Service (USMS), Immigration and Naturalization Service (INS), and the Federal Bureau of Prisons (BOP) when transporting violent prisoners under comparable circumstances.

Who Is Covered by This Proposed Rule?

The proposed rule only covers "private prisoner transport companies," which are defined in Section 3 of the Act as "any entity, other than the United States, a State, or an inferior political subdivision of a State, which engages in the business of the transporting for compensation, individuals committed to the custody of any State or of an inferior political subdivision of a State, or any attempt thereof."

Section 3 of the Act defines a "violent prisoner" as "any individual in the custody of a State or an inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof."

The term "crime of violence" has the same meaning as in section 924(c)(3) of title 18, United States Code. Pursuant to this subsection, a crime of violence is an offense that is a felony and (a) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

Does This Rule Affect Companies That Only Transport Violent Prisoners Within the Boundaries of One State, Only Those Companies That Transport Prisoners Across State Lines, or All Private Prisoner Transport Companies?

If a company meets the definition of "private prisoner transport company" as defined in section 3(2) of the Act, the company must comply with this rule even if it does not transport prisoners across state lines. Congress passed the Act in order to impose regulations upon a previously federally unregulated industry that operates across the United States and engages in a potentially dangerous activity. In section 2 of the Act, Congress found that, "when a government entity opts to use a private prisoner transport company to move violent prisoners, then the company should be subject to regulation in order to enhance public safety." This finding by Congress indicates that the threat that it intended to remedy was that posed by an unregulated industry engaging in business that could potentially affect the safety of citizens in all states.

Although the Act is officially titled the "Interstate Transportation of Dangerous Criminals Act of 2000," it is the Department's view that limiting the Act's provisions to only those companies that cross state borders would create the unacceptable result of leaving unregulated certain members of the industry that Congress clearly intended to regulate. In addition, the definition that Congress provided for "private prisoner transport company" does not require that the company engage in the interstate transportation of violent prisoners in order to be covered by the Act's provisions.

The statutory direction of Congress to the Department was clear on this point. Section 4(a) of the Act states that the Department "shall promulgate regulations relating to the transportation of violent prisoners in or affecting interstate commerce." A company that only operates intrastate can affect interstate commerce in several ways (*e.g.*, by using interstate highways, by utilizing communications systems that rely on interstate modes of communications or satellites, by transporting prisoners who generally seek to cross state lines during escapes, by relying on the law enforcement agencies of nearby states in the event of an escape, etc.). Therefore, it is the Department's view that Congress clearly contemplated that, viewed either singly or in the aggregate, private companies that engage in the commercial activity of transporting violent prisoners within a state sufficiently affect interstate commerce to be covered by the requirements of this proposed rule.

What Are the Penalties For Noncompliance With the Regulations?

Section 5 of the Act states that violators shall be fined up to $10,000 per violation and the costs of prosecution. Violators also will be responsible for making restitution to any public entity that expends funds for the purpose of apprehending any violent prisoner who escaped, in whole or in part, because of a violation of the Act. As discussed above, conduct constituting a violation of these regulations may also result in unrelated penalties as a result of criminal, administrative, or civil process pursuant to local, State, or other Federal laws.

Additional Considerations

There is considerable variation in the classification of prisoners that the Department transports and the circumstances under which those prisoners are transported. For example, unlike private prisoner transport companies, INS at times transports entire family groups (of both sexes and of different ages) who have been apprehended after illegally entering the United States. Under other circumstances, INS (along with BOP and USMS) transports offenders who have committed very violent crimes and are considered to be a high security risk. Accordingly, the Department's components that transport prisoners have developed differing standards for prisoner transport that are appropriately tailored to their roles and missions.

By requiring the Department to promulgate regulations in this area, Congress appears to have at least two goals in mind. First, uniform standards for transporting prisoners serve to improve public security and the safety of the prisoners and guards during transportation. Second, by providing that the Department's regulations for the private sector not be stricter than those governing the Department's own components, Congress appears to have been concerned that the regulations not be unduly burdensome.

The Department shares Congress' concerns that any regulations that the Department issues should not unduly burden private industry, especially small entities, while still addressing the problems that motivated the passage of this Act. However, regulations that fully reflect the considerable variation of the Department's own prisoner transport activities might be so complex as to be burdensome on the affected entities and, nonetheless, still not fully comply with congressional intent in certain areas.

Therefore, consistent with section 4(c) of the Act, for some of the specific requirements of the Act (*e.g.*, that prisoners ordinarily be required to wear brightly colored clothing) the rule proposes standards somewhat more stringent than the Department uses itself for the transport of prisoners, under certain circumstances. Moreover, for certain requirements that Congress imposed on private entities, the Department may have greater flexibility in its comparable internal procedures because the functions of Departmental agencies differ significantly from those of private prisoner transport companies, and therefore the circumstances are not comparable.

For other requirements of the Act (*e.g.*, the guard-to-prisoner ratio), the Department is proposing for comment a one-guard-to-six-violent-prisoner ratio for promulgation in the final rule. The Department specifically invites comments from private prisoner transport companies, from State and local law enforcement entities, and from the general public concerning what ratio the Department should adopt in the final rule.

The Department also seeks comment on the potential impacts that these regulations may have on the ability of sheriffs' departments and other operators of local jails to arrange safe and efficient violent prisoner transport in response to writs or other requirements.

How Does the Rule Affect the Transportation of Juveniles?

It is the Department's view that the provisions of the Act do not apply to the transportation of juveniles unless the juvenile has been charged or convicted as an adult for a crime of violence as defined in 18 U.S.C. § 924(c)(3).

The Act defines a violent prisoner as one "who has previously been convicted of or is currently charged with a crime of violence." The Act gives the term "crime of violence" the same meaning as that term has in 18 U.S.C. § 924(c)(3). Section 924(c)(3) includes in its definition of "crime of violence" the requirement that it be "an offense that is a felony." This should be understood as referring to adults convicted of or facing felony criminal charges and to juveniles who previously have been convicted of or who are being prosecuted as adults for violent felony offenses. Unless juvenile offenders have been or are being tried as adults under federal law, they generally are not considered to have been "convicted" or "charged" with a "crime of violence" as defined in 18 U.S.C. 924(c)(3). Instead, they are considered to have been adjudicated delinquent or found guilty (or found "involved") in a juvenile delinquency proceeding, rather than convicted of a crime. *E.g., United States* v. *Frasquillo-Zomosa*, 626 F.2d 99, 101 (9th Cir. 1980)("A successful prosecution under the [Federal Juvenile Delinquency] Act results not in a conviction of a crime but rather in adjudication of a status"). Although some provisions under federal law create an exception to this general understanding by explicitly providing that a "conviction" includes certain juvenile adjudications, *e.g.*, 18 U.S.C. § 924(e)(2)(B)("violent felony" includes "any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for [a term exceeding one year] if committed by an adult"), neither 18 U.S.C. 924(c)(3) nor the Act itself contain any language that would support interpreting the Act as including within its scope the transportation of juvenile offenders who have been adjudicated or who are to be tried as juveniles.

Who Was Consulted During the Development of This Proposed Rule?

In accordance with the Act, Department of Justice officials met with several representatives of the private prisoner transport industry, the American Correctional Association (ACA), and law enforcement groups, including the National Sheriffs' Association, American Jail Association, National Association of Police Organizations, and the National Association of Government Employees International Brotherhood of Police Officers. During this rulemaking process, the Department looks forward to hearing additional comments from law enforcement groups, the public, and the private prisoner transport industry.

B. Detailed Discussion of the Proposed Requirements Covering Private Prisoner Transport

1. Background Checks and Drug Testing Standards for Potential Employees

Under the proposed rule, potential employees of private prisoner transport companies will have to pass a preliminary fingerprint-based criminal background check prior to being hired. This background check will disqualify from employment those applicants convicted of a misdemeanor crime of domestic violence or any felony conviction. The fingerprint-based criminal background check would be performed by providing the applicant's fingerprints to the governmental agency that is contracting with the private prisoner transport company, for submission through the state history record repository to the FBI. The background check also must include a credit report check, a physical examination, and a personal interview.

Also, potential employees of private prisoner transport companies must undergo testing to detect the prior or current use of controlled substances as a condition of employment. The pre-employment drug testing must be done in accordance with applicable State law. In the event that there is no applicable State law, private prisoner transport companies must comply with the pre-employment drug testing requirements that apply to commercial drivers (*See*, 49 CFR 382.301).

2. Length and Type of Employee Training

The Act states that the Department may require that employees of private prisoner transport companies participate in up to 100 hours of preservice training relating to the transportation of prisoners. This training must be in the following areas: use of restraints, searches, use of force (including use of appropriate weapons and firearms), CPR, map reading, and defensive driving. This rule proposes to require private prisoner transport companies to provide their employees with 100 hours of preservice training in those areas.

The training of Department personnel who transport violent prisoners is notably more rigorous in length and in type than the 100-hour maximum that Congress established in the Act for private prisoner transport companies. For instance, the BOP requires any employee who assists with prisoner bus transport to have successfully completed, at a minimum, one "probationary" year of service and attended 80 hours of Institutional Familiarization, 120 hours of Introduction to Correctional Techniques, 24 hours of Basic Prisoner Transport, and 80 hours of Bus Operations Training. In addition, a BOP employee must undergo 40 hours of refresher training annually and must possess a commercial drivers license.

Similarly, INS employees who transport prisoners must undergo a minimum of 196 hours of training, including 20 hours of driving-related training, 16 hours of first-aid training and CPR, 6 hours of training on conducting searches, 48 hours of training on the use of firearms, and 88 hours of training on the proper use of force.

The USMS also requires that its employees who transport prisoners undergo rigorous training, including follow-up courses. As part of its required training regimen, the USMS requires over 100 hours of training in the areas of prisoner handling, prisoner searches, proper application and removal of restraints, tactical training in dealing with combative subjects, the proper escalation and de-escalation of force, vehicle operation, and firearms safety.

The proposed rule does not address the minimum quality standards required for training programs, the need for in-service training, or instructor qualifications, although these are critical factors that enable Department agencies to transport prisoners safely. In its consultations with ACA and private prisoner transport companies, the Department has learned that there is currently no accredited training program to serve the function of training the employees of private prisoner transport companies. The ACA has reported that it has begun to develop standards for such training. The Department seeks comment from the private prisoner transport industry, the public, and law enforcement officials on the manner in which this training should be conducted and its quality assured.

3. Number of Hours an Employee May Be on Duty During a Given Time Period

This proposed rule sets requirements to ensure that drivers of private prisoner transport companies comply with Federal standards that limit the amount of time a commercial driver may be on duty during a given time period. Pursuant to 49 CFR 395.3, no driver of a commercial vehicle may drive more than 10 hours following 8 consecutive hours off duty. A commercial driver will be barred from driving if the driver has been on duty (regardless of whether the employee drove) for 15 hours following 8 consecutive hours off duty.

If the motor vehicle carrier operates commercial vehicles every day of the week, a driver will be barred from driving if the driver has been on duty for 70 hours in any period of 8 consecutive days. If the motor vehicle carrier does not operate commercial vehicles every day of the week, a driver will be barred from driving if the driver has been on duty for 60 hours in any period of 7 consecutive days.

4. The Number of Personnel That Must Supervise Violent Prisoners

The Act directs the Department to develop minimum standards for the number of private prisoner transport personnel that must supervise violent prisoners. The Act states that these minimum standards shall not exceed a requirement of one agent for every six violent prisoners. In addition, the Act states that the Department must not impose stricter standards on private prisoner transport companies than are applicable, without exception, to the USMS, BOP, and INS. As a minimum standard, the Department believes that a one-agent-to-six-violent-prisoner ratio is the most appropriate standard to protect the public from the threat of violent prisoner escapes.

Although the Act states that the Department should establish a minimum guard-to-prisoner ratio, the Act also permits the Department to give private prisoner transport companies "appropriate discretion" in this area. The Department seeks comment from law enforcement entities, private prisoner transport industry members, and the public as to the proper level of discretion that private prisoner transport companies should have in relation to the one-guard-to-six-violent-prisoner ratio proposed by this regulation.

Department Practices and Procedures

When Justice Department components transport high-risk, maximum custody, or violent offenders, the guard-to-prisoner ratios are often significantly more strict than one guard for every six prisoners. For instance, when BOP personnel transport their maximum custody inmates on escorted trips (for medical treatment or other purposes), the BOP policy guidelines require that for each such inmate, there must be three BOP staff escorts, one of whom must be a Lieutenant. The guidelines also require that additional BOP staff ride along for the duration of the trip in a follow vehicle. Because BOP policy guidelines recommend that two BOP staff ride in the follow vehicle, the guard-to-prisoner ratio in this case is five guards to one prisoner. BOP policy guidelines require that this guard-to-prisoner ratio be maintained regardless of the number of prisoners being transported. When BOP transports prisoners who do not pose the highest security risk (regardless of the purpose of the trip), the BOP still requires that two employees ride in the van or car in which the prisoners are being transported, but without a requirement for a follow vehicle.

Similarly, when USMS transports prisoners in a sedan (with a maximum capacity of three prisoners), USMS guidelines require a minimum of two armed deputies, for a minimum ratio of two guards to three prisoners. If only two prisoners are being transported by the USMS in a sedan, the two-deputy requirement still applies, yielding a ratio of one guard to one prisoner. If, for any reason, a sedan or van with a safety screen is not available, USMS guidelines require a minimum of a one-guard-to-one-prisoner ratio. Similar to the BOP policy, when the USMS transports prisoners in a van, USMS guidelines require that a minimum of two armed deputies accompany the prisoner. The resulting ratio will be at least two armed USMS deputies for 12 prisoners, yielding a ratio of one guard for six prisoners.

INS guidelines require that if an INS detainee is being transported in an unsecured sedan, van, or utility vehicle by one INS officer, there is a minimum guard-to-detainee ratio of one guard for every two INS detainees. If there are more than two INS detainees being transported, there must be another INS guard present. The maximum capacity of an unsecured INS van is six detainees, resulting in a minimum possible guard-to-detainee ratio of one guard to three detainees for travel in an unsecured INS van. For secured sedans, vans, and utility vehicles, there is a minimum requirement of one officer unless the trip is over a long distance or requires stops for food or fuel. In that case, another officer would normally be required.

There are instances where Department personnel must transport prisoners in buses, and in these cases, the guard-to-prisoner ratio typically diminishes. At times, this ratio may decrease to less than one guard for every six prisoners. The BOP guidelines require that three BOP staff accompany bus movements (not including the transportation of high risk offenders described above). Similarly, USMS policy mandates that a minimum of two armed deputies and a driver be used during bus transportation. Regulations of the INS require a minimum of two INS agents on each bus; however, the regulations also state that the minimum number of agents should be increased, or an escort vehicle added, if INS agents determine that the risk level of detainees warrants it.

Despite any decrease in the guard-to-prisoner ratio, there are numerous Department operating procedures that are not required of private prisoner transport companies that ensure the security of the Department vehicles,

VOL 66 ISS 242 DE 17 2001 UMI

officers, and prisoners. For instance, there are Department operating procedures that require buses and other vehicles to have the rear cage door locked while inmates are aboard, to be equipped with security screens that separate the driver from the prisoners, to have steel mesh over the windows and doors, to have inside door handles removed, and to be searched for contraband before and after each prisoner movement. There are extensive Department guidelines that govern the movement of prisoners to and from buses, and also govern prisoner seating arrangements once on the bus. There are additional policies and procedures for monitoring and controlling prisoner conduct while on the bus and during stops. In addition, Department personnel have extensive training and knowledge of proven safety techniques (e.g., rules that handcuff keys are to be carried on separate key rings from vehicle ignition keys). This proposed rule will not require that any of these measures be adopted by private prisoner transport companies.

Simplified Guard-To-Prisoner Ratio for Industry

As discussed in the preceding paragraphs, the Department's guard-to-prisoner ratio varies depending upon the nature and security classification of the offender, the escape risk, and other factors. This ratio is often significantly more strict than the maximum ratio the Act permits the Department to require for private companies. The Department's ratio is also sometimes less strict than the one-to-six ratio referred to in the Act. The Department's own excellent record in transporting prisoners safely and securely with ratios lower than one guard to six prisoners is due in large measure to the extensive training that custodial and transport personnel receive (training that greatly exceeds the maximum training that the Department is permitted to require by regulation), to the carefully designed physical configuration of the transport vehicles, and to the elaborate procedures set forth in the Department's guidelines.

It should be noted that this proposed rule does not require that private transport companies adhere to all of the Department's own guidelines regarding prisoner transport. Compliance with such guidelines would likely be very expensive for private companies. Further, a multi-tiered approach that the Department follows for conducting its own transport of prisoners would be administratively burdensome for private companies and require them to obtain information about each prisoner (such as their escape risk or security classification) which they are not at present likely to receive from the committing authority. But in the absence of mandated compliance with all of these safeguards, private prisoner transport does not involve "comparable circumstances" that would permit use of ratios more lenient than one to six.

In an effort to comply both with the statutory requirement that the guard-to-prisoner ratio not exceed one to six and the statutory requirement that the Department not impose on private companies stricter requirements than it adheres to without exception, the Department proposes to require that private companies transporting offenders not exceed a ratio of one agent to six violent prisoners.

The Department believes that this ratio provides a security level consistent with congressional intent but without imposing an elaborate set of multi-tiered ratios, compliance with which would be complex for private entities lacking the Department's resources. The Department further believes that the circumstances under which it transports prisoners with a ratio less stringent than one to six are fully justified by the additional security precautions that the Department takes that will not be imposed upon private companies.

The Department recognizes that the private prisoner transport industry may experience significant variations in the carrying capacity of vehicles used, the number of prisoners transported per trip, and the security levels of the prisoners being transported. The variation among these factors may complicate the construction of a workable guard-to-violent-offender ratio; therefore, the Department seeks input from industry, law enforcement, and the public as to the factors that should guide the development of a minimum guard-to-violent-prisoner ratio.

5. Employee Uniforms and Identification

The rule proposes to require that private prisoner transport companies comply with certain minimum requirements for employee uniforms and identification. These standards will require the wearing of a uniform with a badge or insignia that identifies to the prisoners and others that the employee is a transportation officer.

While engaged in the transportation of violent prisoners, private prisoner transport company employees must wear a uniform that clearly identifies them as such. The uniforms should be readily distinguishable in color and style from uniforms worn by Department of Justice personnel who transport violent prisoners.

The rule also proposes that private prisoner transport companies require their employees to have identification credentials on their uniform that are visible at all times while engaged in the transportation of violent prisoners. The identification credentials must have a photograph of the employee that is at least one inch square, and a printed personal description of the employee, including the employee's name, the signature of the employee, and date of issuance. This standard is in accordance with Department regulations that require Department employees to carry proper identification (and a badge under certain circumstances).

While Department regulations require its employees to possess proper identification at all times, under the proposed rule private prisoner transport company employees will only be required to possess and display proper identification while transporting violent prisoners.

6. Uniforms for Violent Prisoners

The Act directs the Department to create standards establishing categories of violent prisoners required to wear brightly colored clothing clearly identifying them as prisoners. Congress has observed that a number of violent prisoners have escaped from private prisoner transport companies while wearing civilian clothing. An escaped violent prisoner wearing civilian clothing presents a much more serious risk to the public than an escaped prisoner who is clearly identified as a prisoner. The absence of any requirement for transported prisoners to wear distinctive and brightly colored clothing has unnecessarily hindered law enforcement officers in their search for escaped prisoners.

After consulting with representatives of the law enforcement community, the private prisoner transport industry, and the ACA, the Department has determined that the category of prisoners required to wear distinctive prisoner uniforms should consist of all violent prisoners covered by the Act. Therefore, this rule proposes to require all violent prisoners transported by private prisoner transport companies to wear distinctive clothing that clearly identifies them as prisoners. As currently defined, this category is sufficiently broad to encompass those prisoners who may constitute a threat to public safety without requiring private companies to conduct intensive individualized risk assessments for each prisoner transported. This rule will not prohibit or in any way impede the ability of private prisoner transport companies to require the wearing of uniforms by some or all other prisoners. The Department welcomes comments from interested parties as to whether it would be beneficial to broaden or narrow the category of prisoners required to wear such clothing.

The Department recognizes that there are circumstances when it may be inappropriate or impractical to transport violent prisoners in distinctive brightly colored clothing (*e.g.*, traveling on commercial aircraft, to a court appearance, or in the case of a particular physical disability). In keeping with the intent of the Act, any exceptions to the prisoner clothing requirement will be narrow. The Department seeks comment from the public, law enforcement, and industry as to what types of security or other specific considerations may warrant exceptions to the prisoner clothing requirement. Nothing in this proposed rule or in the final rule will supersede any applicable Federal Aviation Administration rules or regulations concerning the transportation of prisoners on commercial aircraft.

The Department also learned from its consultations with the industry that it might be advisable for the Department to establish a standardized, brightly colored, and distinctive prisoner uniform that all private prisoner transport companies would be required to use. Industry representatives indicated that a standardized style, color, or pattern of prisoner uniform could have practical advantages, such as being easier and less expensive for the companies to purchase in bulk and making a more definite impression in the mind of the public to help them easily identify a prisoner in transit. The Department seeks comment from all interested parties as to whether a standardized prisoner uniform would be a useful or valuable element of prisoner transportation by private companies.

From those entities who believe that the concept of a standardized prisoner uniform should be pursued, the Department welcomes recommendations as to the color (bright yellow, black and white striped, etc.) as well as style (jump-suits, two-piece uniforms that accommodate restraints, etc.) of prisoner uniform that should be adopted. Any recommendations for a particular color or style of standardized prisoner uniform should consider that the prisoner uniform must be distinctive without being confusingly similar to uniforms in use by other public or private entities. Such recommendations should also be distinctive from brightly colored clothing worn by law-abiding citizens, such as the "blaze orange" worn by hunters and road crews or the bright yellow clothing worn by certain firefighters.

The Department requests comments on whether private prisoner transport companies that currently require violent prisoners to wear distinctive uniforms should be required to purchase new uniforms to comply with a new standard (if a new standard is established). As an alternative to the Department requiring the immediate replacement of currently-used brightly colored prisoner uniforms with some standard uniform, the Department requests comments on whether it should permit those companies that currently use prisoner uniforms to continue to use their current inventory until the uniforms are replaced in the ordinary course of business before being required to comply with any new standard. Under this alternative, the regulations would only require that any new uniforms that are purchased (or new contracts for the purchase of uniforms entered into) after the effective date must conform to the standard uniform described in the regulations.

This part of the proposed rule would require that private prisoner transport companies take precautions that are similar to those taken by Department agencies must ensure that violent prisoners wear brightly colored clothing that identifies them as prisoners when they are being transported. Absent extenuating circumstances, the BOP requires that all inmates who travel on BOP buses be transported in government-issued clothing, including shoes. The INS requires violent prisoners to wear orange or red uniforms and less dangerous offenders to wear blue or yellow uniforms.

7. Restraints To Be Used While Transporting Prisoners

The Department agencies that transport violent prisoners have similar policies governing the type of restraints that must be used on violent prisoners, during transportation. Violent prisoners, and those defined by the BOP to be "Maximum Custody" prisoners, are to be transported in handcuffs, leg irons, and waist chains. This rule proposes to apply this standard to private prisoner transport companies. Violent prisoners are to be transported in handcuffs, leg irons, and waist chains unless the use of all three restraints would create a serious health risk to the prisoner, or unless extenuating circumstances make the use of all three restraints impracticable. Examples of such exceptions would include the pregnancy or physical disability of a violent prisoner.

The Department is considering the implementation of additional minimum requirements for private prisoner transport companies concerning the use of restraints. These additional minimum requirements would be similar to certain guidelines used by Department agencies during transportation of violent prisoners. For example, Department agencies have regulations that dictate when and how a violent prisoner is to be restrained during movement to the bus and during rest stops. Department agencies are also required to maintain an adequate supply of all types of restraint equipment on the bus. Each BOP bus is required to carry a minimum of two sets of modified leg irons to be used as handcuffs for large inmates. In addition, each BOP bus is required to have a 35-foot long chain and padlock in the event that a mass emergency evacuation of the bus is required.

Department agencies also adhere to standards concerning the maintenance of restraints. All restraining equipment is to be inspected daily while the bus is operational. This inspection is necessary to avoid the use of restraining equipment that may have been altered during a previous trip. Comment is requested on the potential inclusion of one or more of these additional requirements as part of the minimum transportation requirements.

8. Notification of Local Law Enforcement Prior to Stops Within Their Jurisdiction

When a prisoner transport vehicle is stopped, the risk of escape is greatest because prisoners may be boarding or exiting the vehicle and guards may be distracted while getting food, fueling the vehicle, or attending to medical or other emergencies. In the Act, Congress found that the private prisoner transport process can last for weeks as violent prisoners are dropped off and picked up at a network of hubs nationwide. Because each stop involves a potentially high security risk, Congress has imposed a requirement that when transporting violent prisoners, private prisoner transport companies are to notify local law enforcement officials 24 hours prior to a scheduled stop in their jurisdiction.

For the purposes of this proposed rule, a "scheduled stop" is defined as a predetermined stop at a State, local, or private correctional facility for the purpose of loading or unloading prisoners or using such facilities for overnight, meal, or restroom breaks. Scheduled stops do not include routine fuel stops or emergency stops. Notice is

VOL 66 ISS 242 DE 17 2001 UMI

to be given to law enforcement officials prior to these scheduled stops to ensure that the risk of a prisoner escaping is as small as possible.

There is no comparable requirement for Department agencies to provide advanced notice of scheduled stops because the transporting agency is a law enforcement entity. Any emergency or other disturbance may be instantaneously reported to other law enforcement entities through the Emergency Alert System that links all BOP buses with the central office. There is no need for BOP buses to relate their location to local law enforcement because the BOP central office is able to locate the bus via the Global Positioning System that is installed on each BOP bus.

The rule will not propose that the use of specific technological equipment be required of private prisoner transport companies, such as the installation of a satellite tracking system that is linked to law enforcement. However, the rule will propose to require that notice of scheduled stops be given to local law enforcement 24 hours prior to the stop.

9. Immediate Notification of Law Enforcement in the Event of an Escape

In the event of the escape of a violent prisoner, the private prisoner transport company must immediately notify appropriate law enforcement officials in the jurisdiction where the escape occurred, and also contact the governmental entity that contracted with the transport company. Private prisoner transport companies should be sufficiently equipped to provide immediate notification to law enforcement in the event of a prisoner escape. Law enforcement officials must receive notification no later than 15 minutes after an escape is detected unless the company can demonstrate that extenuating circumstances necessitated a longer delay.

Congress imposed this requirement because there was at least one occasion when a violent prisoner's escape from a private transport company was not reported to law enforcement until hours after the escape was detected. Such a delay placed the public at risk and irreparably harmed the ability of law enforcement to secure the area, establish roadblocks, conduct intensive searches in the vicinity, notify the public about the possibility of danger, and identify relevant witnesses who could have aided in the capture of the prisoner.

All Department agencies that transport violent offenders have guidelines that require providing notice to other law enforcement agencies in the event of a prisoner escape during transit. The USMS regulations require that prisoner escapes and attempted escapes immediately be reported to the United States Marshals Communications Center and the U.S. Marshal, Chief Deputy U.S. Marshal, or Supervisory Deputy U.S. Marshal. The United States Marshals Communications Center will then notify the Investigative Services Division and the Prisoner Services Division of the USMS. Similarly, in the event of a prisoner escape from a BOP vehicle, the BOP is required to contact the USMS and the nearest BOP institution, which will begin notifications up the chain of command as necessary. State and local law enforcement will also typically be contacted.

Department agencies have adopted a uniform rule in the event of a prisoner escape that the first priority is to secure the remaining prisoners and transport them to their final destination. Under no circumstances will the supervision of the other inmates be relaxed in order to pursue an escaping inmate. The Department is considering proposing that private prisoner transport companies adopt similar procedures.

10. Safety of Violent Prisoners

Congress has determined that private prisoner transport companies must provide standards of safety for violent prisoners in accordance with applicable Federal and State law. Department agencies have implemented extensive requirements to ensure the safety of violent prisoners who are transported. In addition to the protections provided by existing State and Federal laws, the Department may propose that private prisoner transport companies adopt some of the safety measures that Department agencies have adopted including: requiring safety equipment on buses (including first-aid kits, extra blankets, sirens, and extra restraining devices); abiding by rigid maintenance schedules for vehicles; mandatory inspections of vehicles; requirements for communications systems on vehicles; prohibitions on tobacco use in vehicles; seating arrangements to accommodate troublesome prisoners or those with medical needs; and requirements that prisoners be searched and restrained in a professional, systematic, methodical, and consistent manner.

Similarly, Department agencies engaged in prisoner transport have procedures to conduct searches of vehicles and prisoners as needed to ensure that no contraband or weapons are brought onto the vehicle. To protect the safety of prisoners, Department personnel are rigorously trained in the proper use of firearms and the appropriate use of force. Also, to protect prisoners, appropriate forms and records must be filed prior to the use of specialized restraints on a prisoner and after a strip search that occurs for reasons other than receipt of a new prisoner (this report documents the identity of the prisoner searched, date, place, time, and duration of the search, reason for the search, names of those present, and a description of any weapons, evidence, or contraband found). The final rule may adopt all or some of the safety measures discussed above that have been implemented by Department agencies.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is designed to have the lowest possible impact on businesses that transport violent prisoners while still protecting the safety of the public. This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804, and it will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

By this rule, the Department is proposing to implement the requirements of the Act, which imposes minimum security and safety standards upon private companies transporting violent offenders. The Act's requirements as implemented by these regulations may increase the operating costs of some of these private companies. While State and local governments are the primary entities that contract with private prisoner transport companies, this proposed rule does not impose any direct requirements upon State or local governments or upon their law enforcement offices.

The Act requires potential private company employees to undergo a background check. Federal law does not permit dissemination of criminal history records to private employers for screening unless statutorily authorized. Because current statutory law does not grant private entities the authority to request Federal criminal history records, the private prisoner transport companies must arrange to do so with the contracting State or local government. Therefore, to effectuate Congress' intent, this proposed rule suggests private prisoner transport companies arrange with the State or local law enforcement agency with which they are contracting to obtain a fingerprint-based background check of their employees or potential employees.

Local law enforcement agencies routinely provide fingerprinting services for various public purposes (e.g. teacher applicants and bar examinations). If a governmental agency wishes to contract its prisoner transport obligations out to a private company, it will need to make arrangements for submitting the applicant's fingerprints to the FBI to conduct a criminal history background check on the applicant. The governmental agency submitting the fingerprints would incur the initial financial responsibility associated with these applications. The cost of the background check is determined by individual State procedure, not Federal procedure, and thus will vary from State to State. The Department has been informed that such application fees range from $14 to $95. However, even assuming the highest fee, the Department does not anticipate that this requirement will have a significant financial affect on State or local entities. Because of Federal limitations upon dissemination of background information, the Department does not believe that there are other viable options that would allow private companies to meet the background investigation requirement.

The Department has no evidence to indicate how much of any possible cost increases upon private businesses—from mandatory background checks or any other requirements imposed by this proposed rule—will be passed along as price increases to the State and local jurisdictions contracting with them. However, because of the relatively small number of private prisoner transport companies and the number of people employed by these companies, the Department believes that this proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments.

Executive Order 12866

The Department of Justice has reviewed this proposed rule in light of Executive Order 12866, Section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and, accordingly, this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132

The proposed rule only covers the business practices of private companies. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This proposed rule meets the applicable standards set forth in Sections 3(a) and 3(b) of Executive Order 12988, Civil Justice Reform.

Paperwork Reduction Act

This rule imposes no new information collection requirements.

Initial Regulatory Flexibility Act Analysis

The Department of Justice drafted this rule in a way to minimize its impact on small businesses while meeting its intended objectives. Based upon the preliminary information available to the Department at this time, we are unable to state with certainty that this rule, if promulgated, will not have the effect on small businesses of the type described in 5 U.S.C. 605. Accordingly, the Department has prepared the following initial Regulatory Flexibility Act analysis in accordance with 5 U.S.C. 603.

A. Need for and Objectives of This Proposed Rule

This proposed rule will implement the Act, which requires the Attorney General to establish regulations imposing minimum safety and security standards on private companies engaged in transporting violent prisoners for State and local jurisdictions.

The Act reflects Congress' concerns about the growing number of State and local jurisdictions that are utilizing the services of private companies as an alternative to sworn law enforcement officers when transporting violent prisoners. Congress found that violent prisoners have escaped from private transport companies and that these escapes have led to further crimes committed by the escaped prisoners as well as significant expenditures by law enforcement units attempting to capture the escapees. As a result of these findings, Congress determined that it was necessary to regulate the private prisoner transport industry in order to enhance public safety.

Congress required that the Department consult with the ACA and the private prisoner transport industry in promulgating these regulations. On March 30, 2001, Department of Justice officials met in Washington, DC, with representatives of the ACA and the private prisoner transport industry. Several representatives who were not able to attend the meeting in person participated through a conference call. The ACA, and each participating industry representative, agreed that higher standards in this area are much needed. In addition, the consultations provided the Department with information that indicates that the minimum standards imposed by the proposed rules will have little economic impact on these particular companies. Most of the standards proposed in this rule are already followed by the industry leaders and, in many cases, the standards followed by the companies in the private prisoner transport industry are much stricter than those found in this proposed rule.

As is discussed more fully below, the Department has been informed that the private prisoner transport industry includes a large number of small entities. Many of these entities are smaller than those having Washington-based or other staff representatives whom the Department could identify and with whom it could consult in the limited time available under this Act to promulgate regulations.

B. Description and Estimates of the Number of Small Entities Affected by This Proposed Rule

A "small business" is defined by the Regulatory Flexibility Act (RFA) to be the same as a "small business concern" under the Small Business Act ("SBA"), 15 U.S.C. 32. Under the SBA, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.[1] As the demand for transporting prisoners increases, local and State governments find themselves unable to handle all their transportation needs. Therefore, these governmental entities enter into contracts with private companies to

---

[1] See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632.

VOL 66 ISS 242 DE 17 2001 UMI

provide for the transportation of their violent prisoners.

Based upon the information available to the Department at present, there appear to be two distinct groups of businesses in the private prisoner transport industry: Larger companies that contract with various jurisdictions nationwide, and smaller entities often made up of a few individuals who provide transportation for law enforcement departments on an as-needed basis. Both groups of private transport companies would be regulated by this proposed rule and both fall under the definition of a "small business" pursuant to the RFA. The discussion in this section will first focus on the larger companies involved in transporting violent prisoners and then examine issues specific to the smaller companies.

Although the Department consulted with some of the affected entities it was able to identify during the drafting of this proposed rule, the Department realizes that not all interested persons and entities may have been fully represented prior to the publication of this proposal. Therefore, the Department is requesting that further comments be submitted to help ensure that the concerns of all interested parties are considered. Commenters may wish to identify the type of industry, including: The number of companies/individuals involved and the annual income of business they conduct; how the proposed regulatory requirements would impact that industry; and, within the statutory requirements, any suggestions or comments on how the final regulations might be better tailored to the industry without compromising the basic intent of the law which is to enhance public safety by imposing minimum standards on private companies engaged in the transport of violent prisoners.

Commenters should note that the submission of any comments or information on these or other matters addressed by this proposed rule is entirely *voluntary*. The Department is not prescribing the use of any form for this information.

Pursuant to the RFA and public policy concerns, the Department encourages all affected commercial entities and law enforcement agencies to provide *specific* estimates, wherever possible, of the economic costs that this rule will impose on them and the benefits that it will bring to them and to the public. The Department asks affected small businesses to estimate what these regulations will cost as a percentage of their total revenues in order to enable the Department to ensure that small businesses are not unduly burdened.

1. Larger Private Prisoner Transport Companies

In passing the Act, Congress specifically called upon the Attorney General to consult with the ACA and the private prisoner transport industry while drafting this proposed rule. During these consultations, the Department learned that there are approximately 10 to 12 larger private prisoner transport companies currently operating in the United States. However, there is no public or private entity that monitors when a private prisoner transport business enters or exits the industry. Therefore, it is difficult to accurately estimate the number of industry participants.

The Department has drafted this proposed rule to have the minimum possible impact on these businesses while still complying with the intent of the Act. During the Department's consultations, it was informed that many of the proposed minimum standards contained in this proposed rule are already followed by the larger companies. In some instances, the larger industry participants have actually adopted more stringent internal standards than those that would be imposed by the proposed rule. Where the proposed rule would require companies to implement a practice not currently followed, industry opinion was taken into consideration so as to impose no greater burden than necessary.

2. Smaller Entities Engaged in the Transport of Violent Prisoners

In addition to the larger private companies that transport prisoners, the Department believes that there is a large number of smaller entities that contract with State and local authorities to transport prisoners. Although the Department does not have an exact number of smaller companies, the ACA and industry leaders estimated that 500 such entities may exist. The Department was informed that these entities are often composed of merely one or two people who enter into contracts with sheriffs' offices on an as-needed basis. It is therefore difficult to address the impact that the proposed regulation would have on the smaller participants in the industry without knowing approximately how many of these smaller entities transport violent prisoners (and therefore would be regulated) or what their current safety and security practices are.

However, the Department is concerned that these smaller companies will experience the greatest impact as a result of these regulations. For example, a minimum standard that imposes a ratio of at least one guard for every six violent prisoners might be a greater burden to a smaller entity that lacks the personnel resources of a larger company. Similarly, the need to possess a sufficient amount of specialized equipment, as required by these regulations, could create a greater economic burden on smaller entities. Because the Department has not been able to identify such entities, we are specifically requesting comment on the impact that this proposed rule would have on them.

3. Impact of These Regulations on Small Governmental Entities

In section 3(2) of the Act, Congress specifically exempted from the minimum standards any Federal, State, or local governmental entity engaged in the transport of violent prisoners. The proposed rule would not regulate these entities. However, the Department is cognizant of the possibility that these regulations may place a burden on small governmental entities that contract with private prisoner transport companies. The Department therefore has consulted with the National Sheriffs' Association and the American Jail Association, as well as representatives from local police departments, to gain a better understanding of the impact this proposed rule will have on their operations.

C. Specific Requirements Imposed That Would Impact Private Companies

1. Standards Requiring the Use of Specialized Equipment

Some of the minimum standards proposed by this rule might require private companies to purchase various pieces of equipment, thereby causing an increase in expenditures. The standards regarding mandatory restraints, uniforms for agents, identification credentials for agents, and uniforms for violent prisoners fall into this category. By imposing these standards, companies that are not already in possession of these items, or not in possession of a sufficient quantity, would have to purchase them in order to satisfy the requirements of the regulations.

However, after consulting with representatives from the industry, the Department believes that the proposed rule will not have a significant economic impact on the larger entities in the private prisoner transport industry. With the exception of prisoner uniforms, all companies consulted indicated that they currently require the use of all equipment specified in this proposed rule. The companies currently use hand-cuffs, leg chains, and waist chains, and all agents are issued uniforms and possess credentials. Therefore, this rule will not propose any new standards that require extra expenditures. Indeed, the private companies consulted by the Department indicated that, in many instances, they require more equipment than the rule proposes. For example, many of the companies require "black boxes" on their restraints in order to prevent a prisoner from picking the lock. In addition, many of the companies require their agents to have cell phones or Global Positioning Systems in their transport vehicles, features that go well beyond the standards contained in this proposed rule.

The larger companies in the industry do not currently require prisoner uniforms for all violent prisoners. This rule proposes to implement a mandatory provision of the Act that requires violent prisoners to be transported in brightly colored clothing that clearly identifies the wearer as a violent prisoner. Because there is no current policy on prisoner attire, this standard would require companies to invest in a sufficient number of prisoner uniforms.

As is discussed elsewhere in this proposed rule, the Department believes that a standardized uniform for violent prisoners might benefit all interested parties, but most importantly, the public. If one were established, a standardized uniform would be able to be produced in larger quantities by clothing manufacturers at a lower cost to the private transport industry. Further, once the color/pattern of uniform for violent prisoners in private transit became widely known, it would become easier both for law enforcement and the general public to identify such prisoners in the event of an escape. Finally, by proposing a single standardized color/pattern for violent prisoners, the Department would hope to avoid any confusion with brightly colored articles of clothing worn by law abiding members of the community engaged in particular activities (*e.g.*, the blaze orange clothing worn by many hunters).

2. Training

This rule proposes to require private companies to train their employees in six enumerated areas for a minimum of 100 total hours of training before the employee may transport violent prisoners. This standard might require private companies to incur the cost of training where their current practices fail to meet the standard. Companies would need to engage qualified instructors with the ability to properly train personnel. However, all of the companies consulted by the Department currently have training procedures in place, many of which are more extensive than those required by the proposed rule. Most of the companies indicated that they require firearms training equivalent to the training received by law enforcement officers. In addition, all of the companies consulted require their personnel to undergo follow-up training during the course of employment. It is therefore unlikely that the new training standards will have a significant impact on the larger industry participants.

3. Personnel

The rule proposes to require a minimum ratio of one guard for every six violent prisoners during transport. It is possible that this standard would require companies to increase their personnel in order to meet the mandated ratio. However, all the companies consulted indicated that they already impose minimum guard-to-prisoner ratios, all of which are more stringent than the one proposed in this rule.

4. Other Standards Imposed on Companies

Many of the minimum standards in this proposed rule will place affirmative duties on private prisoner transport companies. The standards dealing with pre-employment background checks and drug testing, notification of local law enforcement 24 hours before scheduled stops, and immediate notification of law enforcement should an escape occur all fall into this category. Of these, only the first standard regarding conducting background checks and drug testing carries with it the possibility of increased expenditures. While the notification requirements in this proposed rule do place an affirmative duty on the companies, they do not impose any economic burden on the companies.

5. Impact on Smaller Entities

The Department does not have any specific information about how much of an economic impact this rule might have on the smaller industry participants in the foregoing areas: specialized equipment, training, personnel, background checking, and drug testing. However, it is reasonable to assume some aspects of this rule may have a proportionately larger economic impact upon small entities. For example, this may be the case with respect to equipment purchases where, typically, the larger the quantity purchased, the lower the per unit cost becomes. Given the inexpensive nature of handcuffs, leg irons, and waist chains, however, the additional cost burden should not be significant, especially because private prisoner transport companies are likely already to possess this equipment.

With respect to the training requirements, there may be a greater impact on a small prisoner transport entity that might have only one or two employees. Such an entity might temporarily have to suspend operations while its agents undergo training. On the other hand, a larger entity with more employees might be able to continue operations while its employees rotate through training. Similarly, it might be easier for larger entities to meet the minimum guard-to-prisoner ratio than it would be for smaller entities.

It should be stressed, however, that in proposing these regulations, the Department is merely implementing the mandatory requirements of the Act and that it has attempted to do so with the least economic impact upon any entity, large or small.

D. Reporting and Recordkeeping Requirements

This proposed rule does not impose any additional reporting or recordkeeping requirements on private prisoner transport companies or on the State and local entities that contract with them.

E. Issues Raised and Alternatives Suggested

1. Issues Raised

While consulting with representatives of the larger companies, the Department was apprised of an issue concerning the impact that this proposed rule would have on sheriffs' departments that employ private companies to transport violent prisoners. According to information provided to the Department, many of the local law enforcement offices across the nation employ smaller entities to transport prisoners, not the major companies, when the need arises. The Department, however, cannot exempt these smaller entities from the standards because they clearly fall into the definition of "private prisoner transport company" provided by Congress in the Act.

It is important to note that this proposed rule does not impose any minimum standards on governmental entities nor on their employees engaged in official conduct. However, the Department acknowledges the possibility that these entities may be indirectly affected in contracting with private companies. The Department, therefore, seeks comment from both the smaller companies engaged in transporting violent prisoners as well as State and local entities that contract with private companies to meet their transportation needs.

2. Alternatives Suggested

An alternative suggestion was made during a consultation meeting between the Department and industry representatives concerning whether the Department should provide more guidance as to the quality of training required by this proposed rule. It was suggested an association, such as the ACA, develop an accredited training program and that any final rule should require private companies to receive accreditation from such a program. While the Department believes that this suggestion is worth further consideration, there is currently no such program in place and it is the Department's understanding that the earliest date by which the ACA could develop such a program would be January of 2002. Absent a standardized quality assurance program, the Department declines at this time to impose any requirements regarding the quality of training.

A second alternative that was suggested pertained to the requirement that private companies notify local law enforcement when traveling through a jurisdiction. Initially, the Department intended to require 24 hour advance notification to local law enforcement of any scheduled stop within a jurisdiction, with "scheduled stop" broadly defined. However, it was suggested during the Department's consultations with law enforcement and industry leaders that the definition of "scheduled stop" should be more narrowly defined. Law enforcement groups and industry leaders agreed that if a transport company had to provide notification for any stop, including for such things as refueling, eating, and bathroom trips, the notification requirement could pose a security threat. Therefore, the Department proposes to construe more narrowly the definition of "scheduled stop" so that the regulations would apply only to predetermined stops at State, local, or private correctional facilities for the purpose of loading or unloading prisoners, or using such facilities for overnight, meal, or restroom breaks.

A third alternative was suggested that would have delayed the implementation and enforcement of these provisions to allow smaller entities a longer period with which to comply with the new regulations. The Act provides no authority for delayed implementation or delayed enforcement of the new regulations. It is the Department's view that public safety would be most effectively protected if these minimum safety and security standards are applied to all private prisoner transportation companies equally, without regard to the size of the company.

F. Conclusion

The Department believes that, given the mandatory nature of the Act, this proposed rule meets its stated objectives while reducing as much as possible the burden imposed on private companies engaged in the private transport of violent prisoners. As statutorily required, the Department consulted with industry leaders and the ACA in developing this rule. The Department took into account their concerns, as well as the concerns of law enforcement representatives, in drafting the proposed rule. The Department intends to maintain an on-going dialogue with the affected industry and law enforcement entities. In addition, the Department is attempting to identify additional entities that might be affected by this proposed rule and looks forward to receiving additional comments to this proposed rule.

List of Subjects in 28 CFR Part 97

Business and industry, Penalties, Prisoners, Transportation.

Accordingly, for the reasons set forth in the preamble, part 97 of chapter I of Title 28 of the Code of Federal Regulations is proposed to be added to read as follows:

PART 97—STANDARDS FOR PRIVATE ENTITIES PROVIDING PRISONER OR DETAINEE SERVICES

Sec.

97.1 Purpose.
97.2 Definitions.
97.11 Pre-employment screening.
97.12 Employee training.
97.13 Maximum driving time.
97.14 Guard-to-prisoner ratio.
97.15 Employee uniforms and identification.
97.16 Clothing requirements for transported violent prisoners.
97.17 Mandatory restraints to be used while transporting violent prisoners.
97.18 Notification of local law enforcement prior to scheduled stops.
97.19 Immediate notification of local law enforcement in the event of an escape.
97.20 Standards to ensure the safety of violent prisoners during transport.
97.22 No Pre-emption of federal, State, or local laws or regulations.
97.24 No civil defense created.
97.30 Enforcement.

Authority: Public Law 106–560, 114 Stat. 2784 (42 U.S.C. 13726b).

§ 97.1 Purpose.

This part implements the provisions of The Interstate Transportation of Dangerous Criminals Act of 2000 (the Act), Public Law 106–560, 114 Stat. 2784 (42 U.S.C. 13726b) (enacted December 21, 2000), to provide minimum security and safety standards for private companies that transport violent prisoners on behalf of State and local jurisdictions.

§ 97.2 Definitions.

(a) *Crime of violence.* The term *crime of violence* has the same meaning as in section 924(c)(3) of title 18, United States Code. Section 924(c)(3) states that the term *crime of violence* means an offense that is a felony and—has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(b) *Private prisoner transport company.* The term *private prisoner transport company* (company) means any entity, other than the United States, a State, or an inferior political subdivision of a State, that engages in the business of transporting for compensation, individuals committed to the custody of any State or of an inferior political subdivision of a State, or any attempt thereof.

(c) *Violent prisoner.* The term *violent prisoner* means any individual in the custody of a State or an inferior political subdivision of a State who has previously been convicted of or is currently charged with a crime of violence or any similar statute of a State or the inferior political subdivisions of a State, or any attempt thereof.

§ 97.11 Pre-employment screening.

Private prisoner transport companies must adopt pre-employment screening measures for all potential employees. The pre-employment screening measures must include a background check and a test for use of controlled substances. The failure of a potential employee to pass either screening measure will act as a bar to employment.

(a) Background checks must include:

(1) A fingerprint-based criminal background check that disqualifies persons with either a prior felony conviction or a State or Federal conviction for a misdemeanor crime of

domestic violence as defined in 18 U.S.C. 921;

(2) A Credit Report check;

(3) A physical examination; and

(4) A personal interview.

(b) Testing for controlled substances must be in accordance with applicable State law. In the event that there is no applicable State law, private prisoner transport companies must test potential employees for controlled substances in accordance with 49 CFR 382.301.

(c) The criminal background check references in paragraph (a)(1) of this section may not be submitted directly to the FBI or any other Federal agency. The private prisoner transport companies must work out the procedures for accomplishing the criminal background checks with their contracting governmental agencies.

§ 97.12 Employee training.

Private prisoner transport companies must require the completion of a minimum of 100 hours of employee training before an employee may transport violent prisoners. Training must include instruction in each of these six areas:

(a) Use of restraints;

(b) Searches of prisoners;

(c) Use of force, including use of appropriate weapons and firearms;

(d) Cardiopulmonary resuscitation (CPR);

(e) Map reading; and

(f) Defensive driving.

§ 97.13 Maximum driving time.

Companies covered under this part must adhere to the maximum driving time provisions applicable to commercial motor vehicle operators, under 49 CFR 395.3.

§ 97.14 Guard-to-prisoner ratio.

Companies covered under this part must adhere to certain minimum standards with respect to the number of employees required to monitor violent prisoners during transportation. Private prisoner transport companies must ensure that at least one guard be on duty for every six violent prisoners transported. This requirement does not preclude a contracting entity from establishing more stringent guard-to-prisoner ratios.

§ 97.15 Employee uniforms and identification.

(a) *Employee uniforms.* Uniforms used by private prisoner transport companies must meet the following requirements:

(1) Uniforms must be readily distinguishable in style and color from official uniforms worn by United States Department of Justice employees who transport violent offenders;

(2) Uniforms must prominently feature a badge or insignia that identifies the employee as a prisoner transportation employee; and

(3) Uniforms must be worn at all times while the employee is engaged in the transportation of violent prisoners.

(b) *Employee identification.* Identification utilized by private prisoner transport companies must meet the following requirements:

(1) The identification credentials must clearly identify the employee as a transportation employee. The credentials must have a photograph of the employee that is at least one inch square, a printed personal description of the employee including the employee's name, the signature of the employee, and date of issuance; and

(2) The employee must display proper identification credentials on his or her uniform and ensure that the identification is visible at all times during the transportation of violent prisoners.

§ 97.16 Clothing requirements for transported violent prisoners.

Companies covered under this part must ensure that all violent prisoners they transport are clothed in brightly colored clothing that clearly identifies them as violent prisoners, unless security or other specific considerations make such a requirement inappropriate.

§ 97.17 Mandatory restraints to be used while transporting violent prisoners.

Companies covered under this part must, at a minimum, require that violent prisoners be transported wearing handcuffs, leg irons, and waist chains unless the use of all three restraints would create a serious health risk to the prisoner, or extenuating circumstances (such as pregnancy or physical disability) make the use of all three restraints impracticable.

§ 97.18 Notification of local law enforcement prior to scheduled stops.

When transporting violent prisoners, private prisoner transport companies are required to notify local law enforcement officials 24 hours in advance of any scheduled stops in their jurisdiction. For the purposes of this part, a scheduled stop is defined as a predetermined stop at a State, local, or private correctional facility for the purpose of loading or unloading prisoners or using such facilities for overnight, meal, or restroom breaks. Scheduled stops do not include routine fuel stops or emergency stops.

§ 97.19 Immediate notification of local law enforcement in the event of an escape.

Private prisoner transport companies must be sufficiently equipped to provide immediate notification to law enforcement in the event of a prisoner escape. Law enforcement officials must receive notification no later than 15 minutes after an escape is detected unless the company can demonstrate that extenuating circumstances necessitated a longer delay. In the event of the escape of a violent prisoner, a private prisoner transport company must:

(a) Ensure the safety and security of the remaining prisoners;

(b) Provide notification within 15 minutes to the appropriate State and local law enforcement officials;

(c) Provide notification as soon as practicable to the governmental entity that contracted with the transport company; and

(d) Provide complete descriptions of the escapee and the circumstances surrounding the escape to State and local law enforcement officials if needed.

§ 97.20 Standards to ensure the safety of violent prisoners during transport.

Companies covered under this section must comply with applicable State and federal laws that govern the safety of violent prisoners during transport. In addition, companies covered under this section are to ensure that:

(a) Protective measures are in place to ensure that all vehicles are safe and well-maintained;

(b) Vehicles are equipped with efficient communications systems that are capable of immediately notifying State and local law enforcement officials in the event of a prisoner escape;

(c) Policies are in effect to ensure the health and physical safety of the prisoners during transport, including a first-aid kit and employees who are qualified to dispense medications and administer CPR and emergency first-aid;

(d) Policies are in effect to prohibit the mistreatment of prisoners, including prohibitions against covering a prisoner's mouth with tape, and against the use of excessive force and sexual misconduct;

(e) Policies are in effect to ensure that juvenile prisoners are separated from adult prisoners during transportation, where practicable;

(f) Policies are in effect to ensure that female prisoners be separated from male prisoners during transportation, where practicable;

(g) Policies are in effect to ensure that female guards are on duty to supervise the transportation of female violent prisoners, where practicable; and

VOL 66 ISS 242 DE 17 2001 UMI

(h) Staff are well trained in the handling and restraint of prisoners, including the proper use of firearms and other restraint devices, and have received specialized training in the area of sexual harassment.

§ 97.22 No pre-emption of federal, State, or local laws or regulations.

The regulations in this part implement the Act and do not pre-empt any applicable federal, State, or local law that may impose additional obligations on private prisoner transport companies or otherwise regulate the transportation of violent prisoners. All federal laws and regulations governing interstate commerce (*e.g.*, federal laws regulating the possession of weapons and Federal Aviation Administration rules and regulations governing travel on commercial aircraft) will continue to apply to private prisoner transport companies. The regulations in this part in no way pre-empt, displace, or affect the authority of States, local governments, or other federal agencies to address these issues.

§ 97.24 No civil defense created.

The regulations in this part on private prisoner transport companies are not intended to create a defense to any civil action, whether initiated by a unit of government or any other party. Compliance with the regulations in this part is not intended to and does not establish a defense against an allegation of negligence or breach of contract. Regardless of whether a contractual agreement establishes minimum precautions, the companies affected by the regulations in this part will remain subject to the standards of care that are imposed by constitutional, statutory and common law upon their activities (or other activities of a similarly hazardous nature).

§ 97.30 Enforcement.

Any person who is found in violation of the regulations in this part will:

(a) Be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation;

(b) Be liable to the United States for the costs of prosecution; and

(c) Make restitution to any entity of the United States, of a State, or of an inferior political subdivision of a State, that expends funds for the purpose of apprehending any violent prisoner who escapes from a prisoner transport company as the result, in whole or in part, of a violation of the regulations in this part promulgated pursuant to the Act.

Dated: December 11, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–30937 Filed 12–14–01; 8:45 am]

BILLING CODE 4401–19–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1926 and 1928

[Docket Number H–122A]

RIN 1218–AB37

Indoor Air Quality

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Withdrawal of proposal.

SUMMARY: OSHA is withdrawing its Indoor Air Quality proposal and terminating the rulemaking proceeding. In the years since the proposal was issued, a great many state and local governments and private employers have taken action to curtail smoking in public areas and in workplaces. In addition, the portion of the proposal not related to environmental tobacco smoke (ETS) received little attention during the rulemaking proceedings, and much of that consisted of commenters calling into question significant portions of the proposal. As a result, record evidence supporting the non-ETS portion of the proposal is sparse.

Withdrawal of this proposal will also allow the Agency to devote its resources to other projects. The Agency's current regulatory priorities, as set forth in the Regulatory Agenda, include a number of important occupational safety and health standards. This document does not preclude any agency action that OSHA may find to be appropriate in the future.

DATES: The withdrawal is made on December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, OSHA Public Affairs Office, Occupational Safety and Health Administration, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 693–1999; Fax (202) 693–1634.

Authority and Signature

This document was prepared under the direction of John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1594, 29 U.S.C. 655) and 29 C.F.R. 1911.18.

Signed at Washington, DC this 12th of December, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–31165 Filed 12–14–01; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 01–318, CC Docket No. 98–56, CC Docket No. 98–157, CC Docket No. 96–98, CC Docket No. 98–141; DA 01–2859]

Performance Measurements and Standards for Unbundled Network Elements and Interconnection

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document grants a motion requesting an extension of the comment period established in the above-captioned docket. The order grants a 21-day extension to both the comment and reply comment deadlines.

DATES: Comments are due January 22, 2002 and Reply Comments are due February 12, 2002.

FOR FURTHER INFORMATION CONTACT: Cathy Carpino, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION:

1. On November 19, 2001, the Commission released a Notice of Proposed Rulemaking (66 FR 59759 (November 30, 2001)) establishing the pleading cycle for comments and reply comments in the above-captioned docket. The deadline for comments was established as December 31, 2001, and January 22, 2002 for reply comments.

2. On December 3, 2001, the United States Telecom Association (USTA) filed a Motion for Extension of Time to extend the date for comments and reply comments by 30 days. According to USTA, it seeks this extension to permit its membership the opportunity "to undertake the dialogue necessary to pursue an industry wide solution" to unbundled network element (UNE) performance standards in response to the *UNE Measurements and Standards Notice.* USTA argues that the current comment schedule, which, it notes, falls within the upcoming holiday season, would not provide USTA's members an

adequate opportunity to consider the issues raised in this proceeding and that an extension would not prejudice the interests of other parties.

3. On December 4, 2001, BellSouth Corporation (BellSouth) filed comments in support of USTA's extension request, noting that during this holiday season, many of BellSouth's personnel who are necessary to address the issues raised in this proceeding are often unavailable. BellSouth argues that affording the parties additional time to prepare comments will facilitate the development of a more complete record that will, in turn, enable the Commission to conclude this proceeding in a reasonable and timely manner. On December 5, 2001, the Competitive Telecommunications Association (CompTel) filed similar comments in support of the USTA Motion. Like BellSouth, CompTel contends that a modest extension of the comment period would permit interested parties to provide more substantive and complete comments on the complex issues raised in the *UNE Measurements and Standards Notice.* CompTel argues that the subject matter about which the Commission requested comment will require a great deal of inter-company coordination between operations, engineering, provisioning and policy experts to provide the Commission with the most useful information. CompTel notes that the upcoming holiday season will only exacerbate an undertaking that will already be complicated by the dispersion of expertise within the organizations of both competitive and incumbent carriers.

4. It is the policy of the Commission that extensions of time are not routinely granted. In this instance, however, the Bureau finds that USTA, BellSouth, and CompTel have shown good cause for a limited extension of the deadline for filing comments and reply comments in this proceeding. Because of the complexity and the sheer number of issues presented in the *UNE Measurements and Standards Notice,* the Commission's desire to obtain a complete record with input from both carriers and state public utility commissions, and the impending holiday season, a 21-day extension is granted for both comments and reply comments from the dates those comments were due initially.

5. Accordingly, pursuant to authority found in section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and sections 0.91, 0.291 and 1.46 of the Commission's rules, 47 CFR 0.91, 0.291, 1.46, USTA's Motion for Extension of Time *is granted* to the extent described herein to establish a new comments deadline of January 22, 2002 and reply comments deadline of February 12, 2002.

Federal Communications Commission.

Michelle M. Carey,

Chief, Policy and Program Planning Division.

[FR Doc. 01–30984 Filed 12–14–01; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Scientific Advisory Board; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Giant Sequoia National Monument Scientific Advisory Board (Scientific Advisory Board) will meet at the Visalia Convention Center in Visalia, California, January 10 and 11, 2002. The purpose of the meeting is to hear comments from the public and consider alternatives to the Proposed Action as presented by the Planning Team.

DATES: The meeting will be held Thursday and Friday, January 10 and 11, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Visalia Convention Center, 303 E. Acequia Avenue, Visalia, California, in room San Joaquin D.

FOR FURTHER INFORMATION CONTACT: To receive further information, contact Arthur L. Garrfrey, 559–784–1500.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If you are planning to attend, please contact Arthur L. Gaffrey to ensure adequate seating. Guidelines for the public participation portion of the Scientific Advisory Board's meeting are as follows: The public will be allowed to address the Scientific Advisory Board during the first 30 minutes of the meeting on January 10; when registering, participants must provide 9 written copies of their presentation, one copy for each member of the Board and one copy to be included in the meeting minutes; oral presentations may be no more than 5 minutes in length, depending on the number of people wishing to address the Scientific Advisory Board; priority for presentations will be given to persons who did not make a presentation at a previous meeting; and all presentations must be related to the science surrounding the development of the Management Plan for the Giant Sequoia National Monument. Some members of the Scientific Advisory Board may participate in the meeting via telephone. In that event, arrangements will be made to enable the public to listen to all the members participating in the meeting.

Written comments for the Scientific Advisory Board may be submitted to Forest Supervisor Arthur L. Gaffrey, Sequoia National Forest, 900 West Grand Avenue, Porterville, California 93257.

A final agenda can be obtained by contacting Arthur L. Gaffrey or by visiting the Giant Sequoia National Monument web site at *www.r5.fs.fed.us/giant_sequoia*

Dated: December 11, 2001.

Arthur L. Gaffrey,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 01–30966 Filed 12–14–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Oregon

AGENCY: Natural Resources Conservation Service (NRCS), Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Oregon for review and comment.

SUMMARY: It is the intention of NRCS in Oregon to issue a revision to Conservation Practice Standard 702, Agrichemical Handling Facility, in Section IV of the State Technical Guide in Oregon. This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before January 16, 2002. Once the review and comment period is over and the standard is finalized, it will be placed in the individual Field Office Technical Guide in each field office.

ADDRESSES: Address all requests and comments to Roy M. Carlson, Jr., Leader for Technology, Natural Resources Conservation Service (NRCS), 101 SW Main Street, Suite 1300, Portland, Oregon 97204. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to *roy.carlson@or.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Roy M. Carlson, Jr., 503–414–3231.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oregon will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Oregon regarding disposition of those comments and a final determination of changes will be made. In Oregon, "technical guides" refers to the Field Office Technical Guide maintained at each NRCS Field Office in Oregon.

Dated: November 30, 2001.

Roy M. Carlson, Jr.,

Acting State Conservationist, Portland, Oregon.

[FR Doc. 01–30955 Filed 12–14–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–848]

Freshwater Crawfish Tail Meat From the People's Republic of China; Notice of Final Results of New Shipper Review and Final Rescission of Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On September 6, 2001, the Department of Commerce (the Department) published the preliminary results of its new shipper review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). *See Preliminary Results of Antidumping*

Duty New Shipper Review: Freshwater Crawfish Tail Meat From the People's Republic of China, 66 FR 46601 (September 6, 2001) (*Preliminary Results*). The new shipper review covers the period September 1, 1999 through September 30, 2000.

Based on our analysis of comments received, we have made changes to the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margin for the reviewed firm is listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Mark Hoadley; Office of Antidumping/Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–2312 and (202) 482–0666, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR part 351 (2000).

Background

The company covered by this new shipper review is Shanghai Taoen International Trading Co., Ltd. (Shanghai Taoen). Since the publication of the Preliminary Results, the following events have occurred. On September 26, 2001, we received a timely submission of publicly available information on the surrogate values for whole live crawfish and crawfish scrap from the Crawfish Processors Alliance (petitioner) and the Louisiana Department of Agriculture & Forestry and Bob Odom, Commissioner. On October 9, 2001, we received a case brief from the petitioner. On October 15, 2001, we received a rebuttal brief from Shanghai Taoen. The Department has now completed this review in accordance with section 751 (a)(2)(B) of the Act.

Scope of Review

The product covered by this review is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10 and 1605.40.10.90, which are the new HTS for prepared foodstuffs, indicating peeled crawfish tail meat and other, as introduced by the U.S. Customs Service in mid-year 2000, and HTS items 0306.19.00.10 and 0306.29.00, which are reserved for fish and crustaceans in general. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the briefs filed by parties to this new shipper review are addressed in the *Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement Group III, to Faryar Shirzad, Assistant Secretary for Import Administration: Issues and Decision Memo for the Final Results of the Antidumping New Shipper Review of Freshwater Crawfish Tail Meat from the People's Republic of China*, dated December 7, 2001 (*Decision Memo*), which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the *Decision Memo* can be accessed directly on the internet at *http://ia.ita.doc.gov*. The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes in the margin calculations. For a discussion of the issues and changes made, refer to the *Decision Memo*.

Final Results of Reviews

We determine that the following weighted-average margin exists for the period September 1, 1999 through September 30, 2000:

Manufacturer/Exporter	Margin (percent)
Shanghai Taoen International Trading Co., Ltd	7.53

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated importer-specific per kilogram assessment rates for Shanghai Taoen. We will direct the Customs Service to assess the per kilogram rate against the entered customs quantity for each entry of subject merchandise from Shanghai Taoen during the review period.

Cash Deposit Requirements

The following deposit requirement will be effective upon publication of this notice of new shipper review for all shipments exported by Shanghai Taoen of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: the per kilogram cash deposit rate for Shanghai Taoen will be the total amount of dumping margins calculated for the POR divided by the total quantity it sold during the POR.

The following rates are in effect and remain unaffected by the results of this new shipper review: (1) For previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (2) for all other PRC exporters, the rate will be the current PRC-wide ad valorem rate, 201.63 percent, established in the most recently completed administrative review (*Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review and New Shipper Reviews*, and Final Partial Rescission of Antidumping Duty Administrative Review, 66 FR 20634 (April 24, 2001)); and (3) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with § 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: December 7, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

List of Issues

1. Surrogate Value for Whole, Live Crawfish.
2. Surrogate Value for Whole, Live Crawfish Based on Size-Specific Prices
3. Wet/Dry Conversion Factor for Scrap
4. Relevance of Chitin Extraction from Shrimp Shells

[FR Doc. 01–31020 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of administrative review.

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482–0162, Abdelali Elouaradia at (202) 482–1374, or Julio Fernandez at (202) 482–0190, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

The Department of Commerce (the Department) received a request from ALZ N.V. (ALZ) and TrefilARBED, Inc., and from petitioners, on May 16, 2001, and May 31, 2001, respectively, for an administrative review of the antidumping duty order on stainless steel plate in coils from Belgium. On June 19, 2001, the Department published a notice of initiation of this administrative review covering the period of May 1, 2000 through April 30, 2001 (66 FR 32934).

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Act, the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245-day period to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

In light of the complexity of analyzing ALZ's cost reconciliation, it is not practicable to complete this review by the current deadline of January 31, 2002.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results by 120 days, until no later than May 31, 2002. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: December 10, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–31019 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip From the Republic of Korea; Final Results and Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of stainless steel sheet and strip from the Republic of Korea.

SUMMARY: On August 8, 2001, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results and partial rescission of its administrative review of the antidumping duty order on stainless steel sheet and strip from the Republic of Korea (66 FR 41530). This review covers imports of subject merchandise from Pohang Iron & Steel Co., Ltd. ("POSCO"), Samwon Precision Metals Co., Ltd. ("Samwon"), Daiyang Metal Co., Ltd. ("DMC"), and Sammi Steel Co. ("Sammi") including any of its affiliates within the meaning of section 771(33) of the Tariff Act of 1930, as amended ("the Act"), or any successor or surviving company to Sammi. The period of review ("POR") is January 4, 1999 through June 30, 2000.

Based on our analysis of the comments received, we have made changes in the margin calculations for POSCO. Therefore, the final results differ from the preliminary results of review. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Review." In addition, we are rescinding the review with respect to Sammi.

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Stephen Shin ("Samwon"), Catherine Bertrand ("DMC"), Brandon Farlander ("Sammi") or Laurel LaCivita ("POSCO"), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0413, (202) 482–3207, (202) 482–0182, or (202) 482–4243, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2001).

Background

On August 8, 2001, the Department published *Notice of Preliminary Results and Partial Recission of Antidumping Duty Administrative Review for Stainless Steel Sheet and Strip in Coils From the Republic of Korea*, 66 FR 41530 (August 8, 2001) ("*Preliminary Determination*"). We invited parties to comment on these preliminary results. The review covers imports of subject merchandise from POSCO, Samwon, DMC, and, at the request of petitioners,[1] Sammi. As we stated in that notice, we preliminarily rescinded this review with respect to Sammi, pursuant to its claim of no shipments of the subject merchandise during the POR. We are now rescinding this review with respect to Sammi, since no information has been developed on the record demonstrating that Sammi made any shipments during the POR. The POR is January 4, 1999 through June 30, 2000. We received written comments on September 17, 2001 from petitioners, POSCO and Samwon. On September 24, 2001, we received rebuttal comments from petitioners, POSCO and DMC. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

For purposes of this administrative review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, *etc.*) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[2], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTS, "Additional U.S. Note" 1(d).

In response to comments by interested parties, the Department has determined that certain specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness

---

[1] Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Specialty Steel, Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC.

[2] Due to changes to the HTS numbers in 2001, 7219, 13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

VOL 66 ISS 242 DE 17 2001 UMI

between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."[3]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials ("ASTM") specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."[4]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this review. This high-strength, ductile stainless steel product is designated under the Unified Numbering System ("UNS") as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[6] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6".[7]

Recission of Review

In the *Preliminary Results*, we stated that Sammi reported, and the Department confirmed through independent U.S. Customs Service data, that it had no shipments of subject merchandise during the POR. Since Sammi did not report any shipments during the POR, we had no basis for determining a margin. Consequently, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we preliminarily rescinded our review with respect to Sammi. Since we have received no information since the *Preliminary Results* that contradicts the decision made in the preliminary results of review, we are rescinding the review with respect to Sammi. Since Sammi did not participate in the original investigation, its cash deposit rate will remain at 12.12 percent, which is the all others rate established in the less than fair value ("LTFV") investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("*Decision Memorandum*") from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Bernard Carreau, Acting Assistant Secretary for Import Administration, dated December 6, 2001, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/frnhome.htm*. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for POSCO. The changes to POSCO's margin calculations are listed below:

- We adjusted POSCO's reported costs to include an amortized portion of its deferred foreign exchange losses.
- We adjusted POSCO's reported foreign exchange ratio to include gains and losses associated with cash, A/P, "other" accounts, and loans payable in the numerator.
- We reversed our position on affiliated party inputs from the preliminary results and, for these final results, we are not making an adjustment to POSCO's costs for affiliated party inputs.
- We revised the calculation of POSCO's per-unit G&A expense to apply POSCO's G&A ratio to the sum of the revised cost of manufacturing plus packing.
- We calculated an adjustment for warranty expense and included it as an adjustment to U.S. price.
- We have recalculated home market credit for POSCO's U.S. dollar home market sales using POSAM's U.S. dollar interest rate instead of POSCO's Korean won interest rate.
- We have recalculated POSAM's indirect selling expenses to adjust the amount of interest expense applicable to U.S. sales of subject merchandise and to take into account an offset for imputed credit.

---

[3] "Arnokrome III" is a trademark of the Arnold Engineering Company.

[4] "Gilphy 36" is a trademark of Imphy, S.A.

[5] "Durphynox 17" is a trademark of Imphy, S.A.

[6] This list of uses is illustrative and provided for descriptive purposes only.

[7] "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

- We have revised our calculations to deduct U.S. indirect selling expenses from U.S. starting price rather than add them.
- We have revised the total cost of production included in both our cost and constructed value calculations to include interest expenses ("INTEX"), which were erroneously omitted from the calculation in our preliminary results of review.

We made no changes to Daiyang's or Samwon's calculations for the final results of review.

Final Results of Review

We determine that the following percentage margin exists for the period January 4, 1999 through June 30, 2000:

STAINLESS STEEL SHEET AND STRIP IN COILS FROM KOREA

Manufacturer/exporter/reseller	Margin (percent)
POSCO	0.03
Samwon	7.88
DMC	2.74

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. For duty-assessment purposes, we will calculate importer-specific assessment rates by dividing the dumping margins calculated for each importer by the total entered value of sales for each importer during the period of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of stainless steel sheet and strip from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for POSCO, Samwon and DMC will be the rates shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate will be the "all others" rate, which is 12.12 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties or countervailing duties occurred and the subsequent assessment of double antidumping duties or countervailing duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 771(i) of the Act.

Dated: December 6, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

Appendix 1—Issues in Decision Memorandum

A. Issues with Respect to POSCO

Comment 1: Indirect Selling Expenses for POSAM
Comment 2: Unrecognized Bad Debt
Comment 3: Duty Drawback
Comment 4: Export Warranty Expenses
Comment 5: G&A Calculation
Comment 6: Scrap Costs
Comment 7: Affiliated-Supplied Inputs
Comment 8: L-Grade Adjustment
Comment 9: Energy Costs
Comment 10: Financial Expenses
Comment 11: Home Market Credit
Comment 12: Programming Error with Respect to U.S. Indirect Selling Expenses
Comment 13: Imputed Credit Expenses in the Calculation of Indirect Selling Expenses
Comment 14: Deferred Foreign Exchange Losses in the Calculation of G&A

B.Issues with Respect to DMC

Comment 15: Indirect Selling Expenses
Comment 16: G&A Expenses
Comment 17: Marine Insurance and U.S. Inland Freight
Comment 18: Commission Offset for DMC
Comment 19: OMC's Indirect Selling Expense Ratio
Comment 20: Short-Term Borrowing Rate in the Home Market
Comment 21: Ministerial Errors

C.Issues with Respect to Samwon

Comment 22: Use of Partial Facts Available
Comment 23: Use of a Single Weighted-Average COP

[FR Doc. 01–31018 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701D]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Observer Committee will meet in Seattle, WA.

DATES: The meeting will be held on January 7–8, 2002.

ADDRESSES: The meeting will be held at the Alaska Fisheries Science Center (Center), 7600 Sand Point Way NE, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Nicole Kimball, North Pacific Fishery Management Council; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9 a.m. on Monday, January 7, continue through Monday, January 8. The committee's agenda includes the following issues:

1. Review draft analysis for three regulatory changes to the North Pacific Groundfish Observer Program, and
2. Review the goals and objectives of the North Pacific Groundfish Observer Program.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal

VOL 66 ISS 242 DE 17 2001 UMI

action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: December 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31015 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad Hoc Groundfish Multi-Year Management Committee (GMMC) will hold a work session, which is open to the public.

DATES: The GMMC will meet Thursday, January 10, 2002, from 10 a.m. until 5 p.m; and Friday, January 11, 2002, from 8 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at the Pacific Fishery Management Council, West Conference Room, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; 503-326–6352.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; 503-326–6352.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck or Don McIsaac, Pacific Fishery Management Council, 503-326–6352.

SUPPLEMENTARY INFORMATION: The formation of this ad hoc committee is in response to the Council's request for a committee to scope multi-year management approaches for the West Coast groundfish fishery. Multi-year management of the groundfish fishery would be synchronized with a multi-year groundfish stock assessment schedule. Full accommodation of federal notice and comment requirements would also be incorporated into the multi-year cycle. This is the second meeting of the committee, and the primary purpose of the meeting is to further develop the purpose and objectives of multi-year management, as well as alternative multi-year management approaches.

Although nonemergency issues not contained in the GMMC meeting agenda may come before the GMMC for discussion, those issues may not be the subject of formal GMMC action during the meeting. GMMC action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMMC's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: December 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31016 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701B]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) and Scientific and Statistical Committee (SSC) Salmon Subcommittee will hold two joint work sessions, which are open to the public.

DATES: The work sessions will be held Thursday, January 3, 2002, from 8:30 a.m. to 5 p.m., and Wednesday, February 6, 2002, from 8:30 a.m. to 5 p.m.

ADDRESSES: Both work sessions will be held at the Embassy Suites Hotel, 7900 NE 82nd Ave., Portland, OR 97220.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Salmon Management Staff Officer, Pacific Fishery Management Council (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to brief the STT and SSC on changes made to or proposed for the coho Fishery Regulation Assessment Model (FRAM) and the Klamath Ocean Harvest Model (KOHM), review the scientific bases for those changes, and compare results from the updated model with those from the previous version. The coho FRAM will be reviewed on January 3, 2002 and the KOHM will be reviewed on February 6, 2002.

Although non-emergency issues not contained in the meeting agendas may come before the STT and the SSC subcommittee for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: December 10, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31017 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology Program Nomination Applications

AGENCY: Technology Administration, Commerce.

ACTION: Proposed collection; Comment request.

SUMMARY: The Department of Commerce (DOC), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing and proposed information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 15, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 1401 Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Mildred Porter, Director, National Medal of Technology Program, Technology Administration, 1401 Constitution Avenue, NW., Room 4226, Washington, DC 20230. In addition, written comments may be sent via fax, (202) 501–8153, and e-mail to mporter@ta.doc.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is critical for the Nomination Evaluation Committee to determine nomination eligibility and merit according to specified criteria or the annual selection of the Nation's leading technological innovators honored by the President of the United States. The information is needed to comply with Pub. L. 96–480 and Pub. L. 105.309. Comparable information is not available on a standardized basis.

II. Method of Collection

By mail, but the nomination forms and instructions are electronically posted on the National Medal of Technology web site so interested parties can review criteria and informational requirements.

III. Data

OMB Number: 0692–0001.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; and Federal Government.

Estimated Number of Respondents: 102.

Estimated Time Per Response: 25 hours.

Estimated Total Annual Respondent Burden Hours: 2550.

Estimated Total Annual Respondent Cost Burden: 0.

IV. Requests for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 12, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–30985 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–13]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–13 with attached transmittal and policy justification.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

BILLING CODE 5001–08–M

VOL
66
ISS
2
4
2
DE
17
2001
UMI

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEFENSE SECURITY COOPERATION AGENCY
WASHINGTON, DC 20301-2800

29 NOV 2001
In reply refer to:
I-01/013537

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 02-13 and under separate cover, the classified documents thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Austria for defense articles and services estimated to cost $1,739 million. Soon after this letter is delivered to your office, we plan to notify the news-media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale are described in the enclosed confidential attachment.

Sincerely,

Tome Walters

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Separate Cover:
Classified Annex
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-13

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Austria

(ii) Total Estimated Value:

Major Defense Equipment*	$1,294 million
Other	$ 445 million
TOTAL	$1,739 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Thirty F-16C/D Block 50/52 fighter aircraft with engines, three Pratt and Whitney F100-PW-229 or General Electronic F110-GE-129 spare engines, four AIM-120C Advance Medium Range Air-to-Air Missiles (AMRAAM), nine AIM-120C AMRAAM Air Vehicle Instrumented missiles, 20 AIM-9M-8/9 SIDEWINDER missiles, and 15 AIM-9M-8/9 SIDEWINDER practice/training missiles. Associated simulators, support equipment, software development/integration, logistics support, training missiles, ammunition, spare and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability.

(iv) Military Department: Air Force (SAE)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex under separate cover

(viii) Date Report Delivered to Congress: 29 NOV 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Austria - F-16C/D Block 50/52 Fighter Aircraft

The Government of Austria has requested a possible sale of 30 F-16C/D Block 50/52 fighter aircraft with engines, three Pratt and Whitney F100-PW-229 or General Electronic F110-GE-129 spare engines, four AIM-120C Advance Medium Range Air-to-Air Missiles (AMRAAM), nine AIM-120C AMRAAM Air Vehicle Instrumented missiles, 20 AIM-9M-8/9 SIDEWINDER missiles, and 15 AIM-9M-8/9 SIDEWINDER practice/training missiles. Associated simulators, support equipment, software development/integration, logistics support, training missiles, ammunition, spare and repair parts, flight test instrumentation, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor technical and logistics personnel services, and other related requirements to ensure full program supportability. The estimated cost is $1,739 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Europe.

The Austrian Air Force (AAF) currently operates SAAB JAS-35 Draken and SAAB-105 aircraft. These aging fighters are expensive to operate and maintain. This proposed sale will provide operational capabilities as the SAAB aircraft eventually are retired. It will also allow AAF to meet training requirements starting in early 2003. This proposed sale will not impact regional military balance of power.

The principal contractors will be Lockheed Martin Aeronautics Company in Fort Worth, Texas; Pratt and Whitney in East Hartford, Connecticut; General Electric in Cincinnati, Ohio, and Raytheon Corporation in Lexington, Massachusetts. One or more proposed offset agreements may be related to this proposed sale.

Implementation will require the assignment of approximately 12 each U.S. Government and contractor representatives for a period of up to four years to provide program support commencing with delivery of the aircraft to Austria.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 01–30948 Filed 12–14–01; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Establishment of the Defense Business Practice Implementation Board

AGENCY: Department of Defense (DoD).

ACTION: Notice of establishment.

SUMMARY: The Defense Business Practice Implementation Board (DSPIB) is being established in consonance with the public interest and in accordance with the provisions of Pub. L. 92–463, the "Federal Advisory Committee Act," title 5 U.S.C., Appendix 2. The DBPIB will make recommendations to the Secretary's Executive Council (SEC) on effective strategies to adopt best business practices of interest to the Department of Defense.

The Panel will consist of approximately 20 members selected on the basis of their preeminence in the fields of management, production, logistics, personnel leadership, and the defense industrial base. Consultants with special expertise also may be designated to assist the Board on and ad hoc basis.

FOR FURTHER INFORMATION CONTACT: Louis Douglas, Office of the Under Secretary of Defense (Comptroller/Chief Financial Officer), on 703–602–0193.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30943 Filed 12–14–01; 8:45 am]

BILLING CODE 5001-00-MM

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, January 9, 2002.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc. 1745, Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745, Jefferson Davis Highway, Crystal Square

Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. sec. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b)(1), and that accordingly, this meeting will be closed to the public.

Dated: December 10, 2001.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30944 Filed 12–14–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, January 8, 2002.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. 92–463, as amended (5 U.S.C. App. sec. 10(d) it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30945 Filed 12–14–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Change in Meeting Date of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting.

DATES: The meeting will be held at 1400, Wednesday, January 9, 2002.

ADDRESSES: The meeting will be held Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. sec. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Liason Officer, Department of Defense.

[FR Doc. 01–30946 Filed 12–17–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Advisory Group on Electron Devices, Department of Defense.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, January 30, 2002.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and

VOL 66 ISS 242 DE 17 2001 UMI

Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended, (5 U.S.C. App. sec. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: December 10, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30947 Filed 12–14–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Meetings

AGENCY: Department of Defense

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board (DSB) Task Force on Enduring Freedom Lessons Learned will meet in closed session on January 5–15, 2002, at various locations within the U.S. Central Command's area of responsibility; and January 17–18, 2002, at IDA, 1801 N. Beauregard Street, Alexandria, VA. This Task Force will review current activities of Operation Enduring Freedom to determine both near and longer-term technical and operational considerations that could be used to improve this operation and future campaigns initiated in the War Against Terrorism.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board Task Force will review and evaluate operational policy and procedures, command and control, intelligence, combat support activities, weapon system performance, and science and technology requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II), it has been determined that these Defense Science Board Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

Dated: December 7, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–30846 Filed 12–14–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The alteration adds a new category of records being maintained and a new purpose for these records.

DATES: The changes will be effective on January 16, 2002 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 601–4722 x124.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being altered are set forth below followed by the notices, as amended, published in their entirety.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on October 24, 2001, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: December 4, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DPAD 12

SYSTEM NAME:

DOD National Media Pool Files (February 22, 1993, 58 FR 10227).

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with "DoD National Media Pool and Pentagon Correspondent Files".

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Add a new paragraph to entry "Pentagon correspondents who may conduct interviews with Pentagon executive level personnel."

CATEGORIES OF RECORDS IN THE SYSTEM:

Add a new paragraph to entry "Pentagon correspondents files consist of their photographs and biographies."

* * * * *

PURPOSE(S):

Delete entry and replace with "Media Pool Files are used to issue Pentagon building passes, Media Pool Press Passes, orders, to arrange foreign country clearances and visas, and to determine individual's suitability/preparedness for deployment with the media pool.

"Pentagon correspondent records are used by Pentagon executive level personnel to provide a brief summary of a correspondent's professional experience and background."

* * * * *

RETRIEVABILITY:

Delete entry and replace with "Paper records are retrieved by individual's last name, Social Security Number, bureau, or organization. Electronic records are retrieved by last name, Social Security Number and/or news organization."

SAFEGUARDS:

Add to entry "Electronic records are accessible only by the Directorate of

Defense Information administrative staff."

* * * * *

DPAD 12.0

SYSTEM NAME:

DoD National Media Pool and Pentagon Correspondent Files.

SYSTEM LOCATION:

Office of the Assistant Secretary of Defense (Public Affairs), Directorate for Plans, Room 2D757, 1400 Defense Pentagon, Washington, DC 20301–1400 for Media Pool records.

Office of the Assistant Secretary of Defense (Public Affairs), Directorate of Defense Information, 1400 Defense Pentagon, Room 2E765, Washington, DC 20301–1400 for the Pentagon Correspondent records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian media representatives nominated by their respective bureaus to be members of the DoD National Media Pool.

Pentagon correspondents who may conduct interviews with Pentagon executive level personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

DoD National Media Pool files consist of accreditation and other questionnaires and forms soliciting the media correspondent's name, age, nationality, Social Security Number, office and home addresses and phone numbers, passport information, medical information, and person to be notified in an emergency effecting individual.

Pentagon correspondent files consist of their photographs and biographies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 138; and E.O. 9397 (SSN).

PURPOSE(S):

Media Pool Files are used to issue Pentagon building passes, Media Pool Press Passes, orders, to arrange foreign country clearances and visas, and to determine individual's suitability/preparedness for deployment with the media pool.

Pentagon correspondent records are used by Pentagon executive level personnel to provide a brief summary of the correspondent's professional experience and background.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and computerized electronic records.

RETRIEVABILITY:

Paper records are retrieved by individual's last name, Social Security Number, bureau, or organization. Electronic records are retrieved by last name, Social Security Number, and/or news organization.

SAFEGUARDS:

Records are accessed by authorized personnel with an official need-to-know who have been trained for handling Privacy Act information. Electronic records are accessible only by the Directorate of Defense Information administrative staff.

RETENTION AND DISPOSAL:

National media files are cut off annually and kept in the office for 5 years. Files are then transferred to the Washington National Records Center for 25 years. They are then offered to the National Archives for permanent retention after 25 years.

Pentagon correspondent files disposition pending (until NARA has approved a retention and disposition schedule, records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

For DoD National Media Pool files: Office of the Assistant Secretary of Defense (Public Affairs), Directorate for plans, Room 2D757, 1400 Defense Pentagon, Washington, DC 20301–1400.

FOR PENTAGON CORRESPONDENT FILES:

Deputy Director, Directorate for Defense Information, Office of the Assistant Secretary of Defense (Public Affairs), 1400 Defense Pentagon, Room 2E765, Washington, DC 20301–1400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the appropriate System manager above.

The request should contain individual's full name, individual's Social Security Number, and bureau or organization where employed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the appropriate System manager above.

The request should contain individual's full name, individual's Social Security Number, and bureau or organization where employed.

CONTESTING RECORD PROCEDURES:

The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Accreditation and other questionnaires and forms completed or provided by the individual and information provided by the individual's employer or bureau.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–30495 Filed 12–14–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Change in Acquisition Policy—Satellite Motor Surveillance Service

AGENCY: Headquarters, Military Traffic Management Command, DOD.

ACTION: Notice of intent.

SUMMARY: The Military Traffic Management Command (MTMC) proposes to revise transportation services associated with the Defense Transportation Tracking System (DTTS) by requiring carriers to incorporate any charges for Satellite Motor Surveillance Service (SNS) into the basic linehaul transportation rate for motor freight shipments. This proposed revision applies to the movement of arms, ammunition and explosives (AA&E) shipments.

DATES: The policy proposed by this notice shall be effective no earlier than February 15, 2002. Interested parties are requested to submit comments on this notice. All comments submitted within 60 days of publication of this notice will be carefully considered before a final decision is made on the matter.

ADDRESSES: Comments should be addressed to Headquarters, Military Traffic Management Command, Hoffman Building II, 200 Stovall Street, Room 10S07, Alexandria, VA 22332–5000, ATTN: MT–DAC.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Galluzzo, (703) 428–2327.

SUPPLEMENTARY INFORMATION: The Defense Transportation Tracking System (DTTS) provides satellite tracking of domestic motor shipments while enroute (between origin and destination) and increases security and response capability for AA&E shipments in the event of accident or incident. SNS is a transportation protective service that permits Department of Defense (DOD) to obtain periodic in-transit reports and messages on shipment movements in the DTTS. Since its inception in February 1989, the DTTS has been expanded to cover a large number of shipments involving Security Risk Categorized (CAT) munitions. It is the DOD policy to track all CAT I through IV and Uncategorized Munitions shipments using SNS. Included in these categories are most types of arms, ammunition and explosives shipped by DOD or DOD contractor-sponsored shipments.

On July 6, 1993 MTMC published a **Federal Register** notice July 6, 1993 (58 FR 36188) stating that motor carriers would be required to include SNS charges for AA&E shipments in their transportation line haul rates, and that SNS charges as an accessorial service would no longer be accepted for these shipments. In response to industry comments MTMC stated in a **Federal Register** notice on January 3, 1994 (59 FR 75) that charges for SNS would continue to be expressed as a separate accessorial charge and considered along with linehaul rates and other accessorial charges to determine the overall low rate carrier for rating and routing purposes. The primary basis for the MTMC decision to continue separate SNS charges was stated to be that the SNS program objectives for AA&E shipments had not been completely implemented, but that MTMC's policy would continue to be procurement of services and selection of a carrier based on existing criteria.

MTMC has reconsidered the policy of separate SNS charges, and now proposes that SNS accessorial charges be discontinued for AA&E shipments. SNS services would still be required on AA&E shipments. However, in lieu of an accessorial charge, each carrier would include all costs of providing satellite tracking service in the carrier's basic linehaul transportation rate. At one time many munitions shipments did not require SNS service. Transportation Officers ordered SNS as needed, on a shipment-by-shipment basis. Thus, it was not logical or economical to include such charges in the linehaul rate. An agreed stipulation signed in December 1994 by the Munitions Carriers Conference and the United States provided that SNS would be continued at that time as a separate accessorial charge. Thee stipulation also provided that it would not prevent MTMC from making any policy change which it determines to be necessary to protect the public interest or the fiscal and operational requirements of the DOD.

MTMC now proposes to change this policy for AA&E shipments since it is expected to result in operational efficiencies and lower overall transportation costs to the public, thus furthering the public interest and protecting the fiscal requirement of the DOD. Satellite tracking devices are now in universal use by motor carriers. MTMC requires satellite tracking be provided routinely on all DOD motor freight shipments of arms, ammunition and similarly classified commodity categories. There is no longer any reason to maintain a separate accessorial charge for a service that is considered essential to these shipments and can be included in the carriers' basic linehaul rate.

MTMC requirements and standards for SNS and related services can be found at *www.mtmc.army.mil* in the MTMC Freight Traffic Rules Publication No. 1B dated October 19, 2001.

This proposed policy change applies only to the movement of AA&E shipments. MTMC will continue to maintain an accessorial service in the Freight Traffic Rules Publication No. 1Bb for shippers to order motor surveillance service (SNS) for certain types of shipments which require this type of surveillance. Typically these shipments may include historical and high value articles, one of a kind items or other items of a unique nature that require SNS during the transportation process. SNS for these articles will be ordered by the shipper on a case-by-case basis and only from carriers who provide this service and have a rate on file with MTMC. MTMC will develop and publish a in the Freight Traffic Rules Publication No. 1B an accessorial item for this service.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–31005 Filed 12–14–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of Draft Supplemental Environmental Impact Statement (DSEIS) For Proposed Changes to the Chickamauga Lock Project, Hamilton County, TN

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: The Corps of Engineers, Nashville District, and the Tennessee Valley Authority (Cooperating Agency) has prepared a Draft Supplemental Environmental Impact Statement (DSEIS) to the 1995 Environmental Impact Statement titled Chickamauga Dam—Navigation Lock Project Final Environmental Impact Statement (FEIS). This supplement is necessary to provide information unknown and not required at the time the FEIS was completed.

DATES: Written comments must be received by the Corps of Engineers on or before January 29, 2002.

ADDRESSES: Written comments on issues to be considered in the SEIS shall be mailed to: Wayne Easterling or Patty Coffey, Project Planning Branch, Nashville District Corps of Engineers, PO Box 1070 (PM–P), Nashville, Tennessee 37202–1070.

FOR FURTHER INFORMATION CONTACT: For additional information concerning the notice, please contact Wayne Easterling, Environmental Team, (615) 736–7847, or Patty Coffey, Environmental Team, (615) 736–7865.

SUPPLEMENTARY INFORMATION: 1. The intent of the Supplemental EIS is to provide National Environmental Policy Act coverage for the Chickamauga Lock project on issues that were unknown or not required when the original EIS was prepared. The original EIS for Chickamauga Lock was completed in 1995 and a Record of Decision signed in 1996. The original EIS considered four alternatives including no action (closing the existing lock), constructing a new 110 × 600 foot lock (preferred alternative), constructing a new 60 × 360 foot lock (replacement in kind) and constructing a new 75 × 400 foot lock. The SEIS now proposed will cover cumulative effects and compliance with section 106 of the Historic Preservation Act. Coordination with the U.S. Fish and Wildlife Service will include a Biological Assessment/Opinion for Endangered Species Act and a Fish and Wildlife Coordination Act Report.

2. This notice serves to solicit comments from the public; federal, state and local agencies and officials; Indian

Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received by us will be considered during the preparation of this Supplemental Environmental Impact Statement.

Luz D. Ortiz,
Army Federal Register Liaison Officer.
[FR Doc. 01–31004 Filed 12–14–01; 8:45 am]
BILLING CODE 3710–GF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On December 4, 2001, a 60-day notice inviting comment from the public was published for "An Assessment of the Rehabilitation Services Administration (RSA) Pre-Service Training Program" in the **Federal Register** (Volume 66, Number 233) dated December 4, 2001. The title of this collection has been changed to "An Evaluation of the Rehabilitation Services Administration (RSA) Training Program Responsiveness to State VR Agency Needs for Qualified Personnel". The study title, as currently drafted, does not indicate the conduct of an evaluation nor does it reflect the full scope of the surveys and data collection. The first sentence of the abstract has also been changed to read, "This study evaluates the impact of RSA's Training Program on the supply of qualified rehabilitation counselors needed by State agencies and will identify possible policy options." The second and last sentence of the abstract remains the same. The Leader, Regulatory Information Management, Office of the Chief Information Officer, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: December 11, 2001.

John Tressler,
Leader, Regulatory Information Management Group, Office of the Chief Information Officer.
[FR Doc. 01–30959 Filed 12–14–01; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Wetlands Involvement for the Portsmouth Gaseous Diffusion Plant Reindustrialization Program

AGENCY: Office of Environmental Management, DOE.

ACTION: Notice of wetland involvement.

SUMMARY: The U.S. Department of Energy (DOE) is proposing to implement a Reindustrialization Program at the Portsmouth Gaseous Diffusion Plant (PORTS) in Piketon, Ohio. The PORTS facility contains a number of wetlands. The Reindustrialization Program would enable DOE to transfer real and personal property (*i.e.*, underutilized, surplus, or excess PORTS land and facilities) by lease and/or disposal (*e.g.*, sale, donation, transfer to another federal agency, or exchange). The Southern Ohio Diversification Initiative (SODI) is the local community reuse organization actively involved in seeking new uses of the DOE's PORTS excess or underutilized land and facilities. DOE is presently proposing to transfer a parcel of land (approximately 340 acres in size) to SODI for these purposes. The land in consideration includes several wetlands. More detail on these wetlands is provided in the supplementary information.

DATES: Comments are due to the address below no later than January 2, 2002.

ADDRESSES: Comments should be addressed to Ms. Kristi Wiehle, U.S. Department of Energy, Portsmouth Gaseous Diffusion Plant, PO Box 700, 3930 U.S. Route 23, Perimeter Road, Piketon, OH 45661–0700. Comments may be faxed to (740) 897–5020.

FOR FURTHER INFORMATION CONTACT: Ms. Kristi Wiehle, U.S. Department of Energy, Portsmouth Gaseous Diffusion Plant, PO Box 700, 3930 U.S. Route 23, Perimeter Road, Piketon, OH 45661–0700, (740) 897–5020.

For Further Information on General DOE Wetland Environmental Review Requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 200585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: In accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE NEPA Implementing Regulations (10 CFR 1021), DOE has prepared a draft Environmental Assessment (EA) to evaluate the proposed action. The draft EA was issued for public review and comment on May 9, 2001, via a notice placed in three Portsmouth area newspaper. As a part of the EA (DOE/EA–1346), DOE is including a wetlands assessment to assess the existing wetlands environment as well as the potential impact of the proposed Reindustrialization Program implementation. (The wetlands assessment is available by contracting the PORTS representative named above.) DOE proposes to implement and conduct the Reindustrialization Program in a manner that avoids or minimizes potential adverse effects to the wetlands at the site. Reindustrialization would enable DOE to transfer real and personal property by lease and/or disposal. Under the program, DOE would transfer the property to a community reuse organization, to other federal agencies, or to other interested persons and entities, should DOE determine them suitable. Transferred land and facilities may then be developed or utilized for a range of industrial and commercial uses including, but not limited to manufacturing, warehousing, office/business park, rail and intermodal transportation, and retail and service operations.

Land and facilities presently available for transfer occupy approximately 526.1 hectares (ha) [1300 acres (ac)] or about 35% of the 1503 ha (3714 ac) of PORTS. For the most part, this area is comprised of previously industrialized areas, infrastructure corridors, roads, loading and parking areas, and open and forested buffer areas. Of the land available for transfer, there are 41 wetlands under the jurisdictional regulation of the U.S. Army Corps of Engineers and 4 non-jurisdictional wetlands totaling 13.92 ha (34.36 ac). In addition to regulation by the Corps, the State of Ohio also regulates wetlands in a "tiered" approach structured around avoidance, minimization, mitigation, and compensation, where avoidance is the most desirable means to protect and preserve the resource and compensation the least desirable. The majority of the wetlands are associated with wet fields, areas of previous disturbance, drainage ditches, or wet areas along roads and railway tracks.

The potential for and degree of impacts to the wetlands could result from a variety of actions that might occur, depending upon how the tenant or new owner proposes to use the land. Some or all of the wetlands could potentially experience impacts by development in the wetlands themselves or by Reindustrialization activities in nearby areas. The worst-case scenario would involve filling the wetlands. Other lesser impacts could result from siltation due to poor soil erosion control measures at nearby locations, spills or leaks of oil or other chemicals, overuse of pesticides or herbicides that could lead to contamination and potentially harm animal species that use the wetlands for cover or forage, etc., planting of exotic species that could rapidly colonize and eventually choke-off the wetlands, such as purple loosestrife (*Lythrum salicaria*).

For purposes of the environmental restoration activities ongoing at PORTS, the site is divided into 4 "Quadrants" based on groundwater flow patterns. Quadrant I (the southern part of the site) has 13 jurisdictional wetlands totaling 5.22 ha (12.91ac). The wetlands in Quadrant I range in size from .093 ha (.0230 ac) in a drainage ditch to one that is 1.874 ha (4.626 ac), that is the former site of a never-completed building project. Of the 13 wetlands, 5 are associated with roadways and ditches and the remaining 8 are the result of site preparation, grading and drainage alternation for building construction. None of the wetlands are hydrologically connected although they do periodically support wetland plant species and may exhibit hydric soil conditions.

Quadrant II, the eastern part of the site, contains 3 jurisdictional wetlands with a total area of 5.2 ha (12.86 ac). The wetlands in Quadrant II range in size from the smallest, .182 ha (.45 ac), associated with an area of previous disturbance, to .821 ha (2.028 ac) in a radiologically contaminated area, to one that is 4.203 ha (10.378 ac), and that is within the Little Beaver Creek drainage. Only 1 of the 3 wetlands is within an area considered for Reindustrialization.

Quadrant III, the central and western part of the site, has 6 jurisdictional wetlands totaling 0.82 ha (2.02 ac). The smallest wetland in Quadrant III is .015 ha (.036 ac) and the largest is .486 ha (1.201 ac). Of the 6 wetlands, 4 are associated with roads and ditches, and the remaining 2 with previously disturbed areas, one of which is radiologically contaminated. Only 1 of these 6 wetlands is within an area proposed for Reindustrialization. None of the wetlands are hydrologically connected although they do periodically support wetland plant species and may exhibit hydric soil conditions.

Quadrant IV, the northern section of the site, has 19 jurisdictional wetlands and 4 non-jurisdictional wetlands totaling 2.66 ha (6.58 ac). The 4 non-jurisdictional wetlands are associated with active sludge lagoons. The smallest wetland in Quadrant IV is .005 ha (.012 ac) and 15 of the 19 jurisdictional wetlands are less than .1 ha (~¼ ac) in size. The largest wetland is .949 ha (2.32 ac) and is within an old borrow area. Of these 19 wetlands, all except 4 are the result of man-made disturbance including road and ditch construction, dams, and borrow areas. The 4 remaining wetlands are open fields, 3 of which have been disturbed by plant activities. Although 19 wetlands are in this Quadrant, proposed Reindustrialization activities, namely the proposed transfer of 340 acres to SODI, would only involve 6 of the wetlands. There are no other areas within Quad IV that contain wetlands that are being proposed for Reindustrialization. Of those 6 wetlands, 5 are ditches and within a borrow area and the remaining 1 is associated with a previously disturbed natural area.

In accordance with DOE regulations for compliance with wetlands environmental review requirements (10 CFR part 1022), a wetland assessment will be included within the Environmental Assessment for the Reindustrialization Program at the Portsmouth Gaseous Diffusion Plant (DOE/EA–1346).

Issued in Oak Ridge, Tennessee, on November 13, 2001.

James L. Elmore,

Alternate NEPA Compliance Officer.

[FR Doc. 01–30894 Filed 12–13–01; 8:45 am]

BILLING CODE 6450–50–01–M

DEPARTMENT OF ENERGY

Forest Products Visions of the Future

AGENCY: Idaho Operations Office, Department of Energy.

ACTION: Notice of availability of solicitation number DE–PS07–02ID14271.

SUMMARY: The American Forest and Paper Association in cooperation with the U.S. Department of Energy, is seeking applications for cost-shared research and development of technologies, which will reduce energy consumption, enhance economic competitiveness, and reduce environmental impacts of the Forest Products Industry. The research is to address research priorities in the higher value through sustainable forestry, gasification, fiber modification and VOC and HAP emission technology areas.

DATES: The deadline for receipt of applications is 5 p.m. EST on April 15, 2002.

ADDRESSES: Applications should be submitted to: David Friedman, American Forest and Paper Association, 1111 19th Street, NW., Suite 800, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Carol Van Lente, Contract Specialist, at *vanlencl@id.doe.gov*.

SUPPLEMENTARY INFORMATION: The statutory authority for this program is the Federal Non-Nuclear Energy Research & Development Act of 1974 (P.L. 93–577). Approximately $2,000,000 in federal funds is expected to be available to fund the first year of selected research efforts. DOE anticipates making three cooperative agreement awards each being $500,000 to $700,000 per year with a duration of three to five years. Collaborations between industry, university, and National Laboratory participants are encouraged. The solicitation is available in full text via the Internet at the following address: *http://www.oit.doe.gov/cfm/fullSolicitation.cfm/id=123*.

Issued in Idaho Falls on December 10, 2001.

R.J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 01–30981 Filed 12–14–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 01–70–NG 01–74–NG 01–71–NG 01–73–NG 01–75–NG 01–81–NG 01–63–NG 01–78–NG 90–09–NG 01–82–NG 00–61–NG 01–77–NG 01–80–NG 01–79–NG]

Orders Granting, Amending, and Transferring Authority To Import and Export Natural Gas; San Diego Gas & Electric Co.; et al.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy gives notice that during November 2001, it issued Orders granting, amending, and transferring authority to import and export natural gas. These Orders are summarized in the attached appendix and may be found on the FE web site at *http://www.fe.doe.gov* (select gas regulation), or on the electronic bulletin board at (202) 586–7853. They are also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities, Docket Room 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on December 11, 2001.

Thomas W. Dukes,

Acting Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

Appendix—Orders Granting, Amending, and Transferring Import/Export Authorizations

DOE/FE Authority

Order No.	Date issued	Importer/Exporter Fe Docket No.	Import volume	Export volume	Comments
1733	11-8-01	San Diego Gas & Electric Company 01-70-NG.	74 Bcf		Import natural gas from Canada beginning on December 1, 2001, and extending through November 30, 2003.
1734	11-8-01	Western Gas Resources, Inc. 01-74-NG	73 Bcf	73 Bcf	Import and export natural gas from and to Canada, beginning on November 26, 2001, and extending through November 25, 2003.
1735	11-9-01	Ontario Energy Savings Corp. 01-71-NG	200 Bcf		Import and export a combined total of natural gas from and to Canada, beginning on November 1, 2001, and extending through October 31, 2003.
1736	11-13-01	Crestar Energy marketing Corp. 01-73-NG	100 Bcf		Import and export a combined total of natural gas from and to Canda, beginning on July 11, 2001, and extending through July 10, 2003.
1737	11-15-01	Toronto Hydro Energy Services 01-75-NG	3 Bcf	3 Bcf	Import and export natural gas from and to Canada, beginning on December 1, 2001, and ending on November 30, 2003.
1738	11-27-01	Murphy Gas Gathering Inc. 01-81-NG	75 Bcf		Import natural gas from Canada, beginning on December 12, 2001, and extending through November 30, 2003.
1723-A	11-27-01	PC&E Energy Trading, Canada Corporation 01-63-NG.		150 Bcf	Amendment to import authority to include exports of natural gas to Canada, over a two-year term beginning on the date of first delivery of either the import or export.
1739	11-29-01	UtiliCorp United Inc. 01-78-NG	200 Bcf		Import natural gas from Canada, beginning on January 1, 2002, and extending through December 31, 2003.
551-F	11-29-01	USGen New England, Inc. 90-09-NG	Amendment of volumes		Reduction in volumes in long-term authority from 35,000 Mcf per day to 8,137 Mcf per day.
1740	11-29-01	Wisconsin Public Service Corporation 01-82-NG.	6 Bcf		Import natural gas from Canada, beginning on September 1, 2001, and extending through August 31, 2003.
1623-A	11-30-01	Aquila, Inc. (Successor to Aquila Energy Marketing Corporation) 00-61-NG.	Transfer of authority		Transfer of authority and name change.
1741	11-30-01	Mirant Americas Energy Marketing LP 01-77-NG.	730 Bcf		Import and export natural gas from and to Canada, beginning on December 1, 2001, and extending through November 3, 2003.
1742	11-30-01	Direct Energy Marketing Limited 01-80-NG	400 Bcf		Import and export natural gas from and to Canada, over a two-year term beginning on the date of first import or export.
1743	11-30-01	William Energy Marketing & Trading Company 01-79-NG.	200 Bcf		Import natural gas from Canada, beginning on November 1, 2001, and extending through October 31, 2003.

[FR Doc. 01-30982 Filed 12-14-01; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02-30-000, et al.]

Northwest Natural Gas Company, et al.; Electric Rate and Corporate Regulation Filings

December 7, 2001.

Take notice that the following filings have been made with the Commission:

1. Northwest Natural Gas Company and Portland General Electric Company

[Docket No. EC02-30-000]

Take notice that on November 30, 2001, Northwest Natural Gas Company (NW Natural) and Portland General Electric Company (PGE) (collectively, the Applicants) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Northwest Natural Holding Company (NW Natural Holdco), a newly-formed holding company, will acquire all of the outstanding common stock of PGE.

The Applicants state that the transaction will not have an adverse effect on competition, will not have an adverse effect on rates, and will not have an adverse effect on competition.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Power Ventures, L.P.

[Docket No. EG02-25-000]

Take notice that on December 5, 2001, Entergy Power Ventures, L.P., 20 Greenway Plaza, Suite 1025, Houston, Texas 77046, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale

VOL 66 ISS 242 DE 17 2001 UMI

generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended. The applicant is a limited partnership that will be engaged directly or indirectly and exclusively in the business of developing and ultimately owning and/or operating an interest in a 550 megawatt gas-fired, combined cycle electric generating facility located in Harrison County, Texas and selling electric energy at wholesale.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Duke Energy Arlington Valley, LLC

[Docket No. EG02–40–000]

Take notice that on November 30, 2001, Duke Energy Arlington Valley, LLC (Duke Arlington Valley) filed an application with the Federal Energy Regulatory Commission (the Commission) for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Arlington Valley is a Delaware limited liability company that will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities to be located in Maricopa County, Arizona. The eligible facilities will consist of an approximately 1,200 MW natural gas-fired, combined cycle electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. FPL Energy Marcus Hook, L.P.

[Docket No. EG02–41–000]

Take notice that on November 30, 2001, FPL Energy Marcus Hook, L.P. (Applicant), with its principal office at 700 Universe Boulevard, Juno Beach, FL 33408, tendered for filing with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it is a Delaware limited partnership engaged directly and exclusively in the business of developing and operating an approximately 740 MW generating facility to be located in Marcus Hook, Pennsylvania. Electric energy produced by the facility will be sold at wholesale or at retail exclusively to foreign consumers.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. ISO New England Inc.

[Docket No. EL00–62–039]

Take notice that on December 3, 2001, ISO New England Inc. (the ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing in response to the August 28, 2001 order in the referenced proceeding.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

6. Liberty Electric Power, LLC

[Docket No. ER01–2398–003]

Take notice that on December 4, 2001, Liberty Electric Power, LLC, which will own and operate a natural gas-fired electric generating facility in the Borough of Eddystone, Pennsylvania submitted for filing with the Federal Energy Regulatory Commission (Commission) its Supplement No. 1 to its FERC Electric Tariff Original Volume No. 1, in compliance with the Commission's November 20, 2001 letter order to include a code of conduct reflecting Liberty Electric's pending affiliation with Reliant HL&P.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Colton Power L.P.

[Docket Nos. ER01–2644–003]

Take notice that on December 4, 2001, Colton Power L.P. (Applicant) tendered for filing with the Federal Energy Regulatory Commission (Commission) a further amended market-based rate schedule under section 205 of the Federal Power Act in order to comply with the Federal Energy Regulatory Commission's Order Establishing Refund Effective Date and Proposing to Revise Market-Based Rate Tariffs and Authorization issued in Docket No. EL01–118 on November 20, 2001.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. New York Independent System Operator, Inc.

[Docket No. ER01–3001–002]

Take notice that on December 4, 2001, the New York Independent System Operator, Inc. (NYISO) submitted with the Federal Energy Regulatory Commission (Commission) a report on the status of its demand side management programs and the status of the addition of new generation resources in New York State in compliance with the Commission's October 25, 2001 Order in this proceeding. The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Open Access Transmission Tariff and Market Administration and Control Area Services Tariff.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Mid-Continent Area Power Pool

[Docket No. ER02–163–001]

Take notice that on December 4, 2001, the Mid-Continent Area Power Pool (MAPP), tendered for filing with the Federal Energy Regulatory Commission (Commission) on behalf of its members that are subject to Commission jurisdiction as public utilities under section 201(e) of the Federal Power Act, tendered for filing, pursuant to Order No. 614, Cover Sheets for the termination of Short-Term and Non-Firm Point-To-Point Transmission Service Agreements between MAPP and El Paso Merchant Energy, L.P., formerly Coastal Merchant Energy, L.P. and originally Engage Energy US, L.P.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Pool

[Docket No. ER02–434–000]

Take notice that on November 30, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials (1) to permit NEPOOL to expand its membership to include Mohawk River Funding III, L.L.C. (Mohawk); and (2) to terminate the membership of IRATE, Inc (IRATE). The Participants Committee requests an effective date of February 1, 2002 for commencement of participation in NEPOOL by Mohawk and December 1, 2001 for the termination of IRATE.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER02–435–000]

Take notice that on November 29, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, Florida Power Corporation. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5. Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

CP&L requests an effective date of November 8, 2001 for this Service Agreement.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER02–436–000]

Take notice that on November 29, 2001, Commonwealth Edison Company (ComEd) submitted for filing with the Federal Energy Regulatory Commission (Commission) a Form of Service Agreement for Short-Term Firm Point-To-Point Transmission Service and a Form of Service Agreement for Non-Firm Point-To-Point Transmission Service (Service Agreements) between ComEd and Dominion Nuclear Marketing II, Inc. (Dominion Nuclear) under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on Dominion Nuclear.

ComEd requests an effective date of November 1, 2001, and accordingly seeks waiver of the Commission's notice requirements.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Wayne-White Counties

[Docket No. ER02–437–000]

Electric Cooperative

Take notice that Wayne-White Counties Electric Cooperative (Wayne-White or Cooperative) on November 29, 2001, tendered for filing an executed Service Agreement for Firm Point-to-Point Transmission Service with Illinois Power Company. Under the Service Agreement, Wayne-White will provide firm point-to-point transmission service to Illinois Power Company under the Cooperative's Open Access Transmission Tariff. Wayne-White requests an effective date of January 1, 2002, the date service will be first provided.

A copy of the filing was served upon Illinois Power Company.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Midwest Independent Transmission System Operator, Inc., Alliant Energy Corporate Services, Inc., et al.

[Docket No. ER02–438–000]

Take notice that on November 30, 2001, the Midwest ISO Transmission Owners submitted their transmission loss factors that will be used in connection with the loss recovery methodology of the Midwest Independent Transmission System Operator, Inc. (Midwest ISO). The Midwest ISO Transmission Owners state that the loss factors are calculated in the same manner as those filed on April 28, 2000 in Docket No. ER98–1438–006 and approved by the Commission's Opinion No. 453, but have been revised and supplemented to reflect the significant changes in the composition of the membership of the Midwest ISO Transmission Owners since April 28, 2000.

In addition, the Midwest ISO and Midwest ISO Transmission Owners jointly submitted related changes to Attachment M of the Midwest ISO Open Access Transmission Tariff, to clarify the handling of losses for transmission transactions occurring solely within a single control area or within certain transmission zones that each will be treated as a "control area" for purposes of Attachment M.

The Midwest ISO and Midwest ISO Transmission Owners propose an effective date of January 1, 2002 for these tariff sheets, to ensure that loss factors that are compatible with the loss calculation methodology in the Midwest ISO tariff are effective on the same day that tariff becomes effective.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER02–439–000]

Take notice, that on November 30, 2001, Southern California Edison Company (SCE) tendered for filing the Amended and Restated Winter Power Sales (Agreement) between SCE and PacifiCorp, which provides the terms to revise the pricing and scheduling provisions to the Winter Sale Power Agreement (Original Agreement) to take into account the changes in the market since the California Power Exchange closed and to provide for use of certain California Independent System Operator markets and/or scheduling protocols in the implementation of the Original Agreement for the delivery season beginning October 15, 2001.

SCE requests the Commission to assign an effective date October 15, 2001 to the Agreement.

Copies of this filing were served upon the Public Utilities Commission of California and PacifiCorp.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Southern California Edison Company

[Docket No. ER02–440–000]

Take notice that on November 30 , 2001, Southern California Edison Company (SCE) submitted a Letter Agreement between SCE and Whitewater Energy Corporation (Whitewater). The Letter Agreement specifies the terms and conditions under which SCE will provide pre-interconnection activities including engineering, design, and procurement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Whitewater.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER02–441–000]

Take notice that the California Independent System Operator Corporation, (ISO) on November 30, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) a Participating Generator Agreement between the ISO and CalPeak Power—Panoche LLC for acceptance by the Commission.

The ISO states that this filing has been served on CalPeak Power—Panoche LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective November 26, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Company

[Docket No. ER02–442–000]

Take notice that on November 30, 2001, New England Power Company (NEP) submitted Second Revised Service Agreement No. 4 (Service Agreement) between NEP and

VOL
66
ISS
2
4
2
DE
17
2001
UMI

Georgetown Municipal Light Department for network integration transmission service under NEP's open access transmission tariff—New England Power Company, FERC Electric Tariff, Second Revised Volume No. 9. This Service Agreement is an amended version of the First Revised Service Agreement that was filed on August 8, 2001, in Docket No. ER01–2802–000.

The terms of the amended agreement are identical to the terms of the original agreement, except for an address correction and a change in the agreement's expiration date. NEP requests an effective date of November 30, 2001.

NEP states that a copy of this filing has been served upon the Department of Telecommunications and Energy of the Commonwealth of Massachusetts and parties to the agreement.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Duke Energy Arlington Valley, LLC

[Docket No. ER02–443–000]

Take notice that on November 30, 2001, Duke Energy Arlington Valley, LLC (Duke Arlington Valley) tendered for filing pursuant to Section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Arlington Valley seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Arlington Valley also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Arlington Valley seeks an effective date 60 days from the date of filing for its proposed rate schedules.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. Constellation Power Source Generation, Inc.

[Docket No. ER02–444–000]

Take notice that on November 30, 2001, Constellation Power Source Generation, Inc. submitted for filing a First Amendment to Power Sales Agreement between Constellation Power Source Generation, Inc. and Constellation Power Source, Inc. effective November 1, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Calvert Cliffs Nuclear Power Plant, Inc.

[Docket No. ER02–445–000]

Take notice that on November 30, 2001, Calvert Cliffs Nuclear Power Plant, Inc. submitted for filing a First Amendment to Power Sales Agreement between Calvert Cliffs Nuclear Power Plant, Inc. and Constellation Power Source, Inc. effective November 1, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. California Independent System Operator Corporation

[Docket No. ER02–446–000]

Take notice that on November 30, 2001, the California Independent System Operator Corporation, (ISO) tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and CalPeak Power—Panoche LLC for acceptance by the Commission.

The ISO states that this filing has been served on CalPeak Power—Panoche LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective November 26, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Midwest Energy, Inc.

[Docket No. ER02–447–000]

Take Notice that on November 29, 2001, Midwest Energy, Inc. (Midwest) tendered for filing with the Federal Energy Regulatory Commission (Commission) the Transaction Service Agreement entered into between Midwest and Southwestern Public Service Company governing the sale of power under Midwest's Wholesale Service Tariff.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Tucson Electric Power Company

[Docket No. ER02–448–000]

Take notice that on November 29, 2001, Tucson Electric Power Company (Tucson), tendered for filing the Second Amended and Restated Wholesale Power Supply Agreement between Tucson Electric Power Company and Navajo Tribal Utility Authority dated November 1, 2001. The Second Amended and Restated Wholesale Power Supply Agreement is a result of a re-negotiation of the power supply arrangement between Tucson and the Navajo Tribal Utility Authority. Tucson has mailed a copy of the filing to the Navajo Tribal Utility Authority.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. PG&E Dispersed Generating Company, LLC

[Docket No. ER02–449–000]

Take notice that on November 30, 2001, PG&E Dispersed Generating Company, LLC (PG&E Dispersed Gen) tendered for filing a service agreement for power sales (Service Agreement) with its affiliate, PG&E Energy Trading-Power, L.P. (PGET) pursuant to which PG&E Dispersed Gen will sell capacity, energy and ancillary services to PGET at market-based rates according to its FERC Electric Tariff, Original Volume No. 1.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. PJM Interconnection, L.L.C.

[Docket No. ER02–450–000]

Take notice that on November 30, 2001, PJM Interconnection, L.L.C. (PJM), tendered for filing an executed service agreement for firm point-to-point transmission service for ODEC.

Copies of this filing were served upon ODEC and the state commissions within the PJM control area.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

27. American Transmission Company LLC

[Docket No. ER02–451–000]

Take notice that on November 30, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and City of Menasha. ATCLLC requests an effective date of June 25, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

28. Exelon Generation Company, LLC

[Docket No. ER02–452–000]

Take notice that on November 29, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing a power sales service agreement between Exelon Generation and City of Rochelle under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 1.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

29. Conectiv Bethlehem, Inc.

[Docket No. ER02–453–000]

Take notice that on November 30, 2001, Conectiv Bethlehem, Inc. (CBI), filed an application for market-based rate authority pursuant to section 205 of the Federal Power Act. The application includes a market-based rate tariff (the Tariff). The application also includes a tolling agreement between CBI and Conectiv Energy Supply, Inc., which is a service agreement under the Tariff. Conectiv requests that the Tariff and the service agreement become effective on February 1, 2002, sixty days after the date of this filing.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

30. West Penn Power Company, Monongahela Power Company, The Potomac Edison Company, ba Allegheny Power

[Docket No. ER02–454–000]

Take notice that on November 30, 2001, West Penn Power Company, Monongahela Power Company, and The Potomac Edison Company, all doing business as Allegheny Power filed a Network Integration Transmission Service Agreement and a Network Operating Agreement for service to Allegheny Electric Cooperative, Inc. and an unexecuted network integration transmission service agreement for service to Allegheny Electric Cooperative, Inc. Allegheny Power requests an effective date of December 1, 2001.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

31. Pacific Gas and Electric Company, PG&E Corporation, On Behalf of Its Subsidiaries ETrans LLC and Electric Generation LLC

[Docket No. ES02–17–000]

Take notice that on November 30, 2001, Pacific Gas and Electric Company (PG&E) and PG&E Corporation (Parent), on behalf of its subsidiaries, ETrans LLC (ETrans) and Electric Generation LLC (Gen) (collectively, the Applicants), submitted for filing, pursuant to section 204 of the Federal Power Act, and part 34 of the Commission's regulations, an Application for the issuance of securities and the assumption of liabilities, and waiver of the Commission's competitive bidding and negotiated placement requirements under section 34.2 of the Commission's regulations, in connection with the proposed "Plan of Reorganization under Chapter 11 of the Bankruptcy Code for Pacific Gas and Electric Company" (Plan) jointly filed by PG&E and Parent with the Bankruptcy Court on September 20, 2001, as it may be amended from time-to-time.

Applicants require authority to issue long-term notes in an amount not to exceed $1.415 billion for ETrans, $2.59 billion for Gen and $5.585 billion for PG&E, as well as $345 million of long-term mortgage bonds for PG&E. Applicants also seek authority to issue short-term notes in an amount not to exceed $500 million for ETrans, $350 million for Gen and $2.0 billion for PG&E (the amount of these short-term notes, together with all long-term notes issued, also is not to exceed the amount listed above for long-term notes). Applicants further seek authority to make drawings and provide letters of credit pursuant to short-term working capital facilities in an amount not to exceed $380 million for ETrans, $180 million for Gen and $1.2 billion for PG&E. In addition, Applicants seek authority for assumptions of liabilities in an amount not to exceed $105 million for ETrans, $264 million for Gen and $401 million for PG&E. Finally, PG&E requests authority to issue up to 170 million shares of its common stock and to distribute stock purchase rights to each of its shareholders, and ETrans seeks authority to issue additional equity in an amount not to exceed $200 million.

Applicants request that the Commission's authorization be effective on the later of the date on which Applicants notify the Commission that the Bankruptcy Court has issued an order authorizing issuances of securities in connection with the Plan or the date of the Commission's order authorizing these transactions (which is requested to be issued no later than July 30, 2002) and extending for three years from the effective date of the authorization. Applicants provide pursuant to section 34.4 of the Commission's regulations historical financial statements for PG&E and projected financial statements for each of the Applicants.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–30960 Filed 12–14–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act; Meeting

December 12, 2001.

The following notice of meeting is published pursuant to section 3(A) of the government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: December 19, 2001, 10:00 a.m.

PLACE: ROOM 2C, 888 First Street, N.E. Washington, D.C. 20426.

STATUS: OPEN.

MATTERS TO BE CONSIDERED: Agenda * Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Linwood A. Watson, Jr., Acting Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

78th—Meeting December 19, 2001; Regular Meeting 10 a.m. Markets, Tariffs and Rates Electric

E–1.
  DOCKET# EX02–7, 000, Transmission Constraints
E–2.
  DOCKET# RM01–12, 000, Electricity Market Design and Structure
E–3.
  DOCKET# ER02–162, 000, Erie Boulevard Hydropower, L.P.
  OTHER#S ER00–2998, 001, Southern Company Services, Inc.

ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 000, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–4.
DOCKET# ER02–159, 000, GNE, LLC
E–5.
DOCKET# ER02–209, 000, New York Independent System Operator, Inc.
E–6.
DOCKET# ER01–2783, 000, ODEC Power Trading, Inc.
OTHER#S ER01–2783, 001, ODEC Power Trading, Inc.
E–7.
DOCKET# ER02–194, 000, New York Independent System Operator, Inc.
E–8.
DOCKET# ER01–812, 000, Geysers Power Company, LLC
OTHER#S ER01–812, 001, Geysers Power Company, LLC
E–9.
DOCKET# ER02–198, 000, Mirant Delta, LLC and Mirant Potrero, LLC
E–10.
DOCKET# ER02–185, 000, New England Power Pool
OTHER#S ER02–185, 001, New England Power Pool
E–11.
DOCKET# ER02–208, 000, Pacific Gas and Electric Company
E–12.
DOCKET# ER02–235, 000, PJM Interconnection, LLC
E–13.
DOCKET# ER02–246, 000, Boston Edison Company, Cambridge Electric Light Company and Commonwealth Electric Company (NSTAR Companies)
E–14.
DOCKET# ER02–250, 000, California Independent System Operator Corporation
E–15.
DOCKET# ER02–240, 000, Duke Energy Oakland LLC
E–16.
DOCKET# ER02–236, 000, Geysers Power Company, LLC
E–17.
DOCKET# ER02–249, 000, ISO New England Inc.
OTHER#S ES02–7 000, ISO New England Inc.
ER02–233 000, ISO New England Inc.
E–18.
DOCKET# ER02–40, 000, Attala Generating Company, LLC
OTHER#S ER02–40, 001, Attala Generating Company, LLC
E–19.
DOCKET# ER02–269, 000, Mill Run Windpower, LLC
OTHER#S ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–20.
DOCKET# ER02–270, 000, Somerset Windpower, LLC
OTHER#S ER00–2998, 001, Southern Company Services, Inc.
ER00–2999 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–21.
DOCKET# ER02–275 000, Wisconsin Electric Power Company
OTHER#S ER02–285, 000, American Transmission Company, LLC
ER02–288, 000, Madison Gas and Electric Company
ER02–291, 000, Wisconsin Public Service Corporation
ER02–291, 001, Wisconsin Public Service Corporation
ER02–299, 000, Wisconsin Power and Light Company
E–22.
DOCKET# ER02–305, 000, Condon Wind Power, LLC
OTHER#S ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–23.
DOCKET# RM02–1, 000, Standardizing Generator Interconnection Agreement and Procedures
E–24.
DOCKET# ER99–3144, 000, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation On behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
OTHER#S EC99–80, 000, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 001, Alliance Companies, Ameren Cor-Poration, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 002, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 003, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 004, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 005, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company
EC99–80, 006, Alliance Companies, Ameren Corporation, Union Electric

Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 007, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 008, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 009, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 010, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 011, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 012, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 014, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 001, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 002, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 003, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 004, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 005, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 006, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 007, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus

VOL 66 ISS 242 DE 17 2001 UMI

Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 008, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 009, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 010, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 011, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 012, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 014, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–26, 000, Northern Indiana Public Service Company

RT01–37, 000, The Dayton Power and Light Company

RT01–84, 000, Illinois Power Company

RT01–84, 001, Illinois Power Company

RT01–88, 000, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 001, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 002, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 003, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 004, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 006, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 007, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 008, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power

Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 009, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 010, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 011, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER01–123, 000, Illinois Power Company

ER01–123, 001, Illinois Power Company

ER01–123, 002, Illinois Power Company

ER01–123, 003, Illinois Power Company

ER01–123, 004, Illinois Power Company

ER01–2992, 000, Exelon Corporation on behalf of: Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc., First Energy Corporation on behalf of: American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Company

ER01–2993, 000, Virginia Electric and Power Company

ER01–2995, 000, American Electric Power Company, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

ER01–2997, 000, The Dayton Power and Light Company

ER01–2999, 000, Illinois Power Company

RT01–37, 001, The Dayton Power and Light Company

RT01–26, 001, Northern Indiana Public Service Company

E–25.

DOCKET# ER01–1152, 000, PacifiCorp

OTHER#S ER01–1152, 001, PacifiCorp

ER01–1152, 002, PacifiCorp

ER01–1152, 003, PacifiCorp

E–26.

DOCKET# ER01–1938, 000, Southern Indiana Gas & Electric Company

E–27.

DOCKET# ER01–2566, 000, Public Service Company of New Mexico

OTHER#S ER01–2566, 001, Public Service Company of New Mexico

ER01–2566, 002, Public Service Company of New Mexico

ER01–2566, 003, Public Service Company of New Mexico

E–28.

DOCKET# ER01–2754, 000, Nevada Power Company

OTHER#S ER01–2754, 001, Nevada Power Company

ER01–2755, 000, Nevada Power Company

ER01–2755, 001, Nevada Power Company

ER01–2757, 000, Sierra Pacific Power Company and Nevada Power Company

ER01–2757, 001, Sierra Pacific Power Company and Nevada Power Company

ER01–2758, 000, Sierra Pacific Power Company and Nevada Power Company

ER01–2758, 001, Sierra Pacific Power Company and Nevada Power Company

ER01–2759, 000, Sierra Pacific Power Company and Nevada Power Company

ER01–2759, 001, Sierra Pacific Power Company and Nevada Power Company

E–29.

DOCKET# ER01–3000, 000, International Transmission Company

OTHER#S RT01–101, 000, International Transmission Company

EC01–146, 000, DTE Energy Company

E–30.

DOCKET# ER01–3066, 000, Southern Power Company

OTHER#S ER01–3067, 000, Southern Power Company

ER00–2998, 001, Southern Company Services, Inc.

ER00–2999, 001, Southern Company Services, Inc.

ER00–3000, 001, Southern Company Services, Inc.

ER00–3001, 001, Southern Company Services, Inc.

E–31.

DOCKET# ER02–42, 000, GWF Energy LLC

OTHER#S ER00–2998, 001, Southern Company Services, Inc.

ER00–2999, 001, Southern Company Services, Inc.

ER00–3000, 001, Southern Company Services, Inc.

ER00–3001, 001, Southern Company Services, Inc.

E–32.

DOCKET# ER02–22, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

OTHER#S ER02–23, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

ER02–24, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

ER02–25, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

ER02–300, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

ER02–301, 000, Dresden Energy, LLC, S.W.E.C., LLC, Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC.

E–33.

OMITTED

E–34.

DOCKET# RT01–87, 000, Midwest Independent Transmission System Operator, Inc.

OTHER#S RT01–87, 001, Midwest Independent Transmission System Operator, Inc.

ER02–106, 000, Midwest Independent Transmission System Operator, Inc.

ER02–108, 000, Midwest Independent Transmission System Operator, Inc.

E–35. DOCKET# EL00–95, 034, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange

OTHER#S EL00–95, 008, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange

EL00–95, 040, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange

EL00–98, 009, Investigation of Practices of the California Independent System Operator and the California Power Exchange

EL00–98, 033, Investigation of Practices of the California Independent System Operator and the California Power Exchange

EL00–98, 038, Investigation of Practices of the California Independent System Operator and the California Power Exchange

E–36.

DOCKET# EL01–111, 000, California Independent System Operator Corporation

E–37.

DOCKET# EL00–95, 025, San Diego Gas & Electric Company v. Sellers of Energy

VOL 66 ISS 242 DE 17 2001 UMI

and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

OTHER#S EL00–95, 022, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

EL00–95, 023, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

EL00–95, 024, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

EL00–98, 021, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

EL00–98, 022, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

EL00–98, 023, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

EL00–98, 024, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

E–38.

DOCKET# ER98–3813, 007, DukeSolutions, Inc.

E–39.

DOCKET# OA96–161, 000, Puget Sound Energy, Inc.

OTHER#S ER96–697, 000, Puget Sound Energy, Inc.

ER96–697, 001, Puget Sound Energy, Inc.

ER96–1456, 000, Puget Sound Energy, Inc.

ER96–1456, 001, Puget Sound Energy, Inc.

ER97–4468, 000, Puget Sound Energy, Inc.

E–40.

DOCKET# EC02–2, 000, Commonwealth Atlantic Limited Partnership, and Commonwealth Atlantic Power, LLC

OTHER#S ER90–24, 002, Commonwealth Atlantic Limited Partnership, and Commonwealth Atlantic Power, LLC

ER91–215, 001, Commonwealth Atlantic Limited Partnership, and Commonwealth Atlantic Power, LLC

E–41.

DOCKET# EC01–137, 000, DTE Energy Company and International Transmission Company

E–42.

DOCKET# EC02–7, 000, Rockland Electric Company and PJM Interconnection, L.L.C.

OTHER#S ER02–109, 000, Rockland Electric Company and PJM Interconnection, L.L.C.

E–43. DOCKET# EC02–20, 000, Green Country Energy, LLC

OTHER#S EL02–17, 000, Green Country Energy, LLC

E–44.

OMITTED

E–45.

DOCKET# EL00–95, 048, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

OTHER#S EL00–95, 049, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

E–46.

DOCKET# EG02–13, 000, Cinergy Power Investments, Inc.

E–47.

DOCKET# EL01–68, 000, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council

E–48.

DOCKET# EL00–95, 045, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange

OTHER#S

EL00–98, 042, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange

EL01–36, 000. Coral Power, L.L.C., Enron Power Marketing, Inc., Arizona Public Service Company, Cargill Alliant, LLC, San Diego Gas & Electric Company, Avista Energy, Inc., Sempra Energy Trading Corporation, PacifiCorp and Constellation Power Source v. California Power Exchange Corporation

EL01–37, 000, Salt River Project Agricultural Improvement and Power District and Sacramento Municipal Utility District v. California Power Exchange Corporation

EL01–43, 000, Public Service Company of New Mexico v. California Power Exchange Corporation

E–49.

DOCKET# ER01–1136 004 Ameren Services Company

E–50.

DOCKET# ER01–1639, 003, Pacific Gas & Electric Company

E–51.

DOCKET# ER02–139, 000, Florida Power & Light Company

E–52. OMITTED

E–53.

DOCKET# EL01–7, 000, Pacific Gas and Electric Company v. Sunnyside Cogeneration Partners, L.P. RW Monterey, Inc., Ridgewood Electric Power Trust II and Ridgewood Power LLC

OTHER#S QF91–50, 000, Pacific Gas and Electric Company v. Sunnyside Cogeneration Partners, L.P. RW Monterey, Inc., Ridgewood Electric Power Trust II and Ridgewood Power LLC

E–54.

DOCKET# EL01–80 001 National Grid USA

OTHER#S EC99–80, 013 Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

EC99–80, 015, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

ER99–3144, 013, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 005, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison Company and International Transmission Company

RT01–88, 012, Alliance Companies, Ameren Corporation, Union Electric Company, Central Illinois Public Service Company, American Electric Power Service Corporation on behalf of: Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, Consumers Energy Company and Michigan Electric Transmission Company, Dayton Power and Light Company, Detroit Edison

Company and International Transmission Company
ER01–2995, 000, American Electric Power Company, Appalachian Power Company, Columbus Southern Power Company, Indiana Michigan Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company
ER01–2992, 000, Exelon Corporation on behalf of: Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc., First Energy Corporation on behalf of: American Transmission Systems, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Company
ER01–2993, 000, Virginia Electric and Power Company
RT01–26, 000, Northern Indiana Public Service Company
RT01–37, 000, The Dayton Power and Light Company
RT01–84, 000, Illinois Power Company
ER01–123, 000, Illinois Power Company
ER01–2999, 000, Illinois Power Company

E–55.
DOCKET# EL02–22, 000, Allegheny Energy Supply Company, LLC

E–56.
DOCKET# EL00–99, 000, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.
OTHER#S EL00–100, 000, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.
EL00–112, 000, Maine Public Utilities Commission, United Illuminating Company and Bangor Hydro-Electric Company v. ISO New England, Inc.

E–57.
DOCKET# EL00–79 000 Mid-Tex G&T Electric Cooperative, Inc., Big Country Electric Cooperative, Inc., Coleman County Electric Cooperative, Inc., Concho Valley Electric Cooperative, Inc., Golden Spread Electric Cooperative, Inc., Kimble Electric Cooperative, Inc., Lighthouse Electric Cooperative, Inc., Rio Grande Electric Cooperative, Inc., Southwest Texas Electric Cooperative, Inc. and Taylor Electric Cooperative, Inc. v. West Texas Utilities Company

E–58.
DOCKET# EL01–86, 000, Indeck Maine Energy, L.L.C. v. ISO New England Inc.

E–59.
DOCKET# EL01–92, 000, Bangor Hydro-Electric Company v. ISO New England Inc.

E–60.
DOCKET# EL01–106, 000, Old Dominion Electric Cooperative v. PJM Interconnection, L.L.C.

E–61.
DOCKET# EL01–40, 000, Tucson Electric Power Company

E–62.
DOCKET# ER99–3426, 002, San Diego Gas & Electric Company

E–63.
DOCKET# ER99–4392, 001, Southwest Power Pool, Inc.

E–64.
DOCKET# ER00–1969, 002, New York Independent System Operator, Inc.
OTHER#S ER00–1969, 003 New York Independent System Operator, Inc.
EL00–57, 001 Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–57, 002 Niagara Mohawk Power Corporation v. New York Independent System Operator, Inc.
EL00–60, 001, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–60, 002, Orion Power New York GP, Inc. v. New York Independent System Operator, Inc.
EL00–63, 000, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
EL00–63, 002, New York State Electric & Gas Corporation v. New York Independent System Operator, Inc.
EL00–64, 000, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.
EL00–64, 002, Rochester Gas and Electric Corporation v. New York Independent System Operator, Inc.

E–65.
DOCKET# EL00–95, 001, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
OTHER#S EL00–95, 004, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 005, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 006, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 007, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 010, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 011, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 019, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 039, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 046, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–95, 047, San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL00–97, 001, Reliant Energy Power Generation, Inc., Dynegy Power Marketing, Inc. and Southern Energy California, L.L.C. v. California Independent System Operator Corporation
EL00–98, 001, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 004, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 005, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 006, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 008, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 010, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 011, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 018, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 037, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 043, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–98, 044, Investigation of Practices of the California Independent System Operator Corporation and the California Power Exchange
EL00–104, 001, California Electricity Oversight Board v. All Sellers of Energy and Ancillary Services into the Energy and Ancillary Services Markets Operated

VOL 66 ISS 242 DE 17 2001 UMI

by the California Independent System Operator and the California Power Exchange
EL00–107, 002, Public Meeting in San Diego, California
ER00–3461, 001, California Power Exchange Corporation
ER00–3673, 001, California Independent System Operator
EL01–1, 001, California Municipal Utilities Association v. All Jurisdictional Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange
EL01–2, 001, Californians for Renewable Energy, Inc. v. Independent Energy Producers, Inc. and All Sellers of Energy and Ancillary Services into Markets Operated by the California Independent System Operator and the California Power Exchange; All Scheduling Coordinators Acting on behalf of the Above Sellers; California Independent System Operator Corporation and California Power Exchange Corporation
EL01–10, 001, Puget Sound Energy, Inc. v. All Jurisdictional Sellers of Energy and/or Capacity at Wholesale into Electric Energy and/or Capacity Markets in the Pacific Northwest, including Parties to the Western Systems Power Pool Agreement
EL01–34, 000, Southern California Edison Company and Pacific Gas and Electric Company
EL01–34, 001, Southern California Edison Company and Pacific Gas and Electric Company
EL01–68, 002, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council
EL01–68, 008, Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council
RT01–85, 002, California Independent System Operator Corporation
RT01–85, 005, California Independent System Operator Corporation
ER01–607, 000, California Independent System Operator Corporation
ER01–607, 001, California Independent System Operator Corporation
ER01–1444, 001, Arizona Public Service Company
ER01–1445, 001, Automated Power Exchange, Inc.
ER01–1446, 001, Avista Energy, Inc.
ER01–1447, 001, California Power Exchange Corporation
ER01–1448, 002, Duke Energy Trading and Marketing, LLC
ER01–1449, 002, Dynegy Power Marketing, Inc.
ER01–1450, 001, Nevada Power Company
ER01–1451, 002, Portland General Electric Company
ER01–1452, 001, Public Service Company of Colorado
ER01–1453, 001, Reliant Energy Services, Inc.
ER01–1454, 002, Sempra Energy Trading Corporation
ER01–1455, 002, Mirant California, LLC, Mirant Delta, LLC and Mirant Potrero, LLC
ER01–1456, 002, Williams Energy Services Corporation
ER01–1579, 001, California Independent System Operator Corporation

E–66.
DOCKET# ER01–2536, 002, New York Independent System Operator, Inc.

E–67.
DOCKET# ER01–312, 002, Alliant Energy Corporate Services, Inc.

E–68.
DOCKET# EL01–104, 001, Dynegy Power Marketing, Inc. v. Southwest Power Pool, Inc.

E–69.
DOCKET# EL00–62, 038, ISO New England Inc.

E–70.
DOCKET# EL01–93, 002, Mirant Americas Energy Marketing, L.P., Mirant New England, LLC, Mirant Kendall, LLC and Mirant, LLC v. ISO New England Inc.

E–71.
DOCKET# RM00–1, 000, Electronic Filing of FERC Form No. 423

E–72.
DOCKET# RM01–8, 000, Revised Public Utility Filing Requirements

E–73.
DOCKET# OA02–1, 000, Central Maine Power Company

E–74.
DOCKET# OA02–2, 000, Maine Electric Power Company, Inc.

E–75.
DOCKET# ER02–207, 000, Exelon Generation Company, LLC and Exelon Energy Company
OTHER#S ER00–2998 001 Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.

E–76.
DOCKET# EG02–14, 000, Nine Mile Point Nuclear Station, LLC

E–77.
DOCKET# EL01–122, 000, PJM Interconnection L.L.C.
OTHER#S IN01–7, 000, Exelon Corporation, PECO Energy Company, Exelon Generation Company, L.L.C. and Exelon Power Team

E–78.
DOCKET# EL01–73, 001 Northeast Texas Electric Cooperation, Inc., Rusk County Electric Cooperative, Inc., Upshur-Rural Electric Cooperative, Inc. and Wood County Electric Cooperative, Inc.

E–79.
DOCKET# ER01–2413, 001, American Electric Power Service Corporation

Miscellaneous Agenda

M–1.
DOCKET# RM02–3, 000, Accounting and Reporting of Financial Instruments, Comprehensive Income, Derivatives and Hedging Activities

M–2.
DOCKET# RM02–5, 000, Amendment to Rules Governing Off-the-Record Communications

Markets, Tariffs and Rates—Gas Agenda

G–1.
DOCKET# RP00–328, 001, Algonquin LNG, Inc.

G–2.
DOCKET# RP01–169, 000, Northern Natural Gas Company
OTHER#S RP01–169, 001, Northern Natural Gas Company

G–3.
DOCKET# PR01–9, 000, Cranberry Pipeline Corporation

G–4.
DOCKET# RP00–395, 002, Panhandle Eastern Pipe Line Company
OTHER#S RP96–348, 010, Panhandle Eastern Pipe Line Company
RP00–613, 000, Panhandle Eastern Pipe Line Company

G–5.
DOCKET# RP00–332, 000, ANR Pipeline Company
OTHER#S RP00–597, 001, ANR Pipeline Company
RP00–332, 001, ANR Pipeline Company
RP00–597, 001, ANR Pipeline Company

G–6.
OMITTED

G–7.
DOCKET# RP00–406, 000, Great Lakes Gas Transport, L.L.C.
OTHER#S RP01–53, 001, Great Lakes Gas Transport, L.L.C.

G–8.
DOCKET# RP01–172, 003, Mojave Pipeline Company

G–9.
DOCKET# PR01–5, 000, Magic Valley Pipeline, L.P.

G–10.
DOCKET# PR01–7, 000, Transok, LLC

G–11.
DOCKET# RP01–262, 001, Columbia Gas Transmission Corporation
OTHER#S RP01–262, 002, Columbia Gas Transmission Corporation

G–12.
DOCKET# RP01–245, 005, Transcontinental Gas Pipe Line Corporation

G–13.
DOCKET# RP00–325, 006, Colorado Interstate Gas Company
OTHER#S RP01–38, 003, Colorado Interstate Gas Company

G–14.
DOCKET# RM96–1, 020, Standards for Business Practices of Interstate Natural Gas Pipelines

G–15.
DOCKET# RP00–241, 000, Public Utilities Commission of the State of California v. El Paso Natural Gas Company, El Paso Merchant Energy-Gas, L.P. and El Paso Merchant Energy Company

G–16.
DOCKET# RP00–390, 003, Granite State Gas Transmission, Inc.
OTHER#S RP00–390, 002, Granite State Gas Transmission, Inc.

G–17.
DOCKET# RP01–278, 003, Texas Gas Transmission Corporation

OTHER#S RP01–278, 002, Texas Gas Transmission Corporation

Energy Projects—Hydro

H–1.
DOCKET# P–11393, 009, City of Saxman, Alaska
H–2.
DOCKET# P–2069, 006, Arizona Public Service Company
H–3.
DOCKET# P–2342, 012, PacifiCorp
H–4.
DOCKET# P–137, 030, Pacific Gas and Electric Company
H–5.
DOCKET# P–2114, 102, Public Utility District No. 2 of Grant County, Washington

Energy Projects—Certificates

C–1.
DOCKET# CP01–4, 000, Maritimes & Northeast Pipeline, L.L.C.
OTHER#S CP01–5, 000, Algonquin Gas Transmission Company
CP01–5 001 Algonquin Gas Transmission Company
C–2.
DOCKET# CP01–87, 000, Dominion Transmission, Inc.
OTHER#S CP01–87, 002, Dominion Transmission, Inc.
C–3.
DOCKET# CP01–384, 000, Islander East Pipeline Company, L.L.C.
OTHER#S CP01–387, 000, Algonquin Gas Transmission Company
CP01–385, 000, Islander East Pipeline Company, L.L.C.
CP01–386, 000, Islander East Pipeline Company, L.L.C.
C–4.
DOCKET# CP01–406, 000, Transok, LLC
OTHER#S CP01–407, 000, Ozark Gas Transmission, L.L.C.
C–5.
DOCKET# CP01–375, 000, East Tennessee Natural Gas Company
C–6.
DOCKET# CP98–150, 000, Millennium Pipeline Company, L.P.
OTHER#S CP98–150, 002, Millennium Pipeline Company, L.P.
CP98–154, 000, Millennium Pipeline Company, L.P.
CP98–155, 000, Millennium Pipeline Company, L.P.
CP98–156, 000, Millennium Pipeline Company, L.P.
CP98–151, 000, Columbia Gas Transmission Corporation
C–7.
DOCKET# CP01–376, 000, Intermountain Municipal Gas Agency v. Questar Gas Company
C–8.
OMITTED
C–9.
DOCKET# CP01–103, 001, Transcontinental Gas Pipe Line Corporation
OTHER#S CP01–104, 001, Williams Gas Processing-Gulf Coast Company, L.P.
C–10.
DOCKET# CP01–368, 001, Transcontinental Gas Pipe Line Corporation
OTHER#S RP01–245, 004, Transcontinental Gas Pipe Line Corporation
CP01–369, 000, Williams Gas Processing-Gulf Coast Company, L.P.
C–11.
DOCKET# CP01–34, 002, Transcontinental Gas Pipe Line Corporation
OTHER#S CP01–32, 001, Williams Gas Processing-Gulf Coast Company, L.P.
C–12.
DOCKET# CP01–76, 001, Cove Point LNG Limited Partnership
OTHER#S CP01–156, 001, Cove Point LNG Limited Partnership
CP01–77, 001, Cove Point LNG Limited Partnership
RP01–217, 001, Cove Point LNG Limited Partnership
C–13.
DOCKET# CP97–315, 006, Independence Pipeline Company
OTHER#S CP97–319, 004, ANR Pipeline Company
C–14.
DOCKET# CP00–232, 000, Iroquois Gas Transmission System, L.P.
OTHER#S CP00–232, 001, Iroquois Gas Transmission System, L.P.
CP00–232, 002, Iroquois Gas Transmission System, L.P.

Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters
A–2.
DOCKET# AD02–7, 000, Customer Matters, Reliability, Security and Market Operations

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31059 Filed 12–13–01; 10:13 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7118–8]

State Program Requirements; Revision of the Approved National Pollutant Discharge Elimination System (NPDES) Program in South Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Approval of revision of the South Dakota NPDES Program under the Clean Water Act.

SUMMARY: On October 22, 2001, the Acting Regional Administrator for Region VIII of the Environmental Protection Agency (EPA) approved a revision to the existing South Dakota Pollutant Discharge Elimination System program. With this revision, the State of South Dakota is now authorized to administer and enforce a sludge management (biosolids) program where the State has jurisdiction. This program will be administered by the South Dakota Department of Environment and Natural Resources (SDDENR).

FOR FURTHER INFORMATION CONTACT: Bob Brobst, Water Permits Team (8P–W–P), US EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466; telephone number (303) 312–6129; email address *brobst.bob@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under Section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, the EPA may issue permits allowing discharges of pollutants from point sources into waters of the United States, subject to various requirements of the CWA. These permits are known as National Pollutant Discharge Elimination System (NPDES) permits. Section 402(b) of the CWA, 33 U.S.C. 1342(b), allows states to apply to the EPA for authorization to administer their own NPDES permit programs. In 1993, South Dakota applied to the EPA for authority to administer the South Dakota Pollutant Discharge Elimination System (SDPDES) program. The EPA approved South Dakota's application on December 30, 1993, as described in a January 11, 1994 **Federal Register** notice (59 FR 1535).

Section 405 of the CWA, 33 U.S.C. 1345, authorizes the EPA to issue permits for the disposal of sewage sludge. Section 405(c) of the CWA, 33 U.S.C. 1345(c), authorizes any state desiring to administer its own permit program for the sludge disposal to do so in accordance with Section 402 of the CWA. On August 12, 1998, South Dakota submitted such an application to the EPA, requesting that the State's original NPDES authorization be amended to include a state sludge management program described in an accompanying proposal dated March 23, 1998.

The EPA, having found that South Dakota's application meets all pertinent requirements in the CWA and the EPA's regulations, particularly 40 CFR parts 123 and 501, has approved South Dakota's application for primary authority to administer a sludge management program.

II. Public Comments

The EPA provided two periods for any interested member of the public to comment on this application. No comments were received.

VOL 66 ISS 242 DE 17 2001 UMI

Initially, the EPA described this application in a **Federal Register** notice dated October 5, 2000 (65 FR 59385), in notices published in the Rapid City Journal and the Sioux Falls Argus-Leader on October 20, 2000, and in individual mailings to persons known to be interested in such matters. In the October 5, 2000 **Federal Register** notice, the EPA stated it would consider any comments received on or before November 20, 2000. In a second **Federal Register** notice, which was dated January 18, 2001, the EPA extended the public comment period to March 5, 2001, because the first **Federal Register** notice had omitted mention of the fact that a public hearing could be requested on the application. No public hearing was requested, and none was held.

III. Threatened and Endangered Species

On June 29, 2000, following discussions with representatives of the EPA, the Field Supervisor of the South Dakota Field Office of the United States Fish and Wildlife Service concurred with the EPA's determination that approving South Dakota's biosolids program application was unlikely either to jeopardize the continued existence of any species listed as threatened or endangered under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, or to result in the adverse modification of any designated critical habitat for any such species.

IV. Historic Preservation

On November 5, 1999, the South Dakota State Historical Society provided the EPA with a written determination that the addition of the biosolids program to the SDPDES program would have no effect on historic properties in South Dakota.

V. Indian Country

South Dakota is not authorized to carry out its biosolids program in Indian Country, as defined in 18 U.S.C. 1151. This includes, but is not limited to: Lands within the exterior boundaries of the following Indian reservations located within the State of South Dakota:

A. Cheyenne River Indian Reservation,

B. Crow Creek Indian Reservation,

C. Flandreau Indian Reservation,

D. Lower Brule Indian Reservation,

E. Pine Ridge Indian Reservation,

F. Rosebud Indian Reservation,

G. Standing Rock Indian Reservation, and

H. Yankton Indian Reservation.

VI. Administrative Requirements

The EPA has long considered a determination to approve or deny a State NPDES program submission to constitute an adjudication, not a rulemaking. This is because an "approval," as that term is used in the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, constitutes a "license," which, in turn, is the product of an "adjudication." Therefore, the requirements for rules that are established by the statutes and Executive Orders mentioned below would not apply to this action. Even if this action were considered a rulemaking, the statutes and Executive Orders discussed below would not apply for the following reasons.

A. Paperwork Reduction Act

The EPA has determined that there is no need for an Information Collection Request under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this action would not impose any new federal reporting or record-keeping requirements. Because the State of South Dakota has adopted the EPA's sludge management regulation at 40 CFR part 503 by reference, the matters subject to reporting and record-keeping requirements will remain the same after the EPA's approval of South Dakota's program.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

As Acting Regional Administrator for EPA Region VIII, I hereby certify, pursuant to 5 U.S.C. 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA is generally required to prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The EPA's approval of South Dakota's program is not a "Federal mandate," because there is no federal mandate for states to establish sludge management programs.

D. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 section 12(d) (15 U.S.C. 272 note), directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards, *e.g.*, material specifications, test methods, sampling procedures, and business practices, that are developed or adopted by voluntary consensus standards bodies. This action does not involve the use of technical standards subject to the NTTAA.

E. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether its regulatory actions are "significant" and therefore subject to review by the OMB. The EPA has determined that this approval action is not "significant" for purposes of Executive Order 12866 because, as mentioned above, South Dakota has adopted the EPA's sludge management regulations.

F. Executive Order No. 12898—Environmental Justice

Executive Order No. 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," dated February 11, 1994, focuses federal attention on the environmental and human health conditions of minority populations and low-income populations with the goal of achieving environmental protection for all communities. Today's action will not diminish the health protection to minority and low-income populations because, as mentioned above, it will not impose any different requirements than those already in effect for sludge management facilities.

G. Executive Order No. 13045—Protection of Children

Executive Order No. 13045, dated April 23, 1997 (62 FR 19885), applies to any rule that (1) is determined to be "economically significant" as defined in Executive Order No. 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. This action is not subject to Executive Order No. 13045 because it is not economically significant as defined in Executive Order No. 12866.

H. Executive Order No. 13175—Consultation with Tribes

Under Executive Order No. 13175, no federal agency may issue a regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments or the agency consults with tribal officials early in the process of developing the proposed regulation. This action will not significantly affect any Indian tribe. As indicated above, South Dakota is not authorized to implement its sludge management program in Indian Country. The EPA will continue to administer the existing sludge management program in Indian Country in South Dakota.

I. Executive Order No. 13132—Federalism

Executive Order No. 13132, entitled "Federalism," dated August 10, 1999 (64 FR 43255), requires the EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." The phrase "policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on States, on the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government." This action does not have federalism implications. It will not have any substantial direct effects on the States, on the relationship between States and the national government, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order No. 13132. It will merely put in place a State regulatory program that is identical to the existing federal program.

J. Executive Order No. 13211—Energy Effects

Because it is not a "significant regulatory action" under Executive Order No. 12866, this action is not subject to Executive Order No. 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001).

Dated: December 4, 2001.

Kerrigan Clough,

Acting Regional Administrator, Region VIII.

[FR Doc. 01-31011 Filed 12-14-01; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1396-DR]

Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA-1396-DR), dated November 28, 2001, and related determinations.

EFFECTIVE DATE: November 28, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705 or madge.dale@fema.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated November 28, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (the Stafford Act), as follows:

> I have determined that the damage in certain areas of the Commonwealth of Puerto Rico, resulting from severe storms, flooding, mudslides and landslides on November 7, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the Commonwealth of Puerto Rico.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.
>
> Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Justo Hernández of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Puerto Rico to have been affected adversely by this declared major disaster:

> Barranquitas, Bayamón, Ciales, Corozal, Jayuya, Juncos, Morovis, Naranjito, San Lorenzo, and Utuado Municipalities for Public Assistance.

All municipalities within the Commonwealth of Puerto Rico are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01-31021 Filed 12-14-01; 8:45 am]

BILLING CODE 6718-02-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1396-DR]

Puerto Rico; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Puerto Rico (FEMA-1396-DR), dated November 28, 2001, and related determinations.

EFFECTIVE DATE: November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2705 or madge.dale@fema.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for

VOL 66 ISS 242 DE 17 2001 UMI

this disaster is closed effective November 9, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31022 Filed 12–14–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Correction

In the **Federal Register** Notice published November 15, 2001 (66 FR 57467–57468), Notice of Ocean Transportation Intermediary License Revocations, incorrectly noticed revocation of license number 2581F, issued to Unitrans International Corporation of Inglewood, CA 90301. The notice is corrected to read:

License Number: 2581F.

Name: Unitrans International Corporation (S.F.).

Address: 461 Littlefield Ave., South San Francisco, CA 94080.

Date Revoked: July 30, 2001.

Reason: Surrendered License Voluntarily.

Licensee Unitrans International Corporation, License Number 1989F, address 709 S. Hindry Avenue, Inglewood, CA 90301 remains duly licensed by the Federal Maritime Commission with a branch office located at 461 Littlefield Avenue, South San Francisco, CA 94080.

Dated: December 11, 2001.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–30942 Filed 12–14–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 10, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Mercantile Bancorp, Inc., Quincy, Illinois; to acquire 9 percent of the voting shares of NorthStar Bancshares, Inc., Kansas City, Missouri, and thereby indirectly acquire voting shares of NorthStar Bank, N.A., Kansas City, Missouri.

B. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Buerge Bancshares, Inc., Joplin, Missouri; to acquire 100 percent of the voting shares of Grand Lake Bancorp, Inc., Tulsa, Oklahoma, and thereby indirectly acquire Grand Lake Bank, Tulsa, Oklahoma, and Sarcoxie Bancorp, Inc., Joplin, Missouri, and thereby indirectly acquire voting shares of Sarcoxie National Bank of Sarcoxie, Sarcoxie, Missouri.

Board of Governors of the Federal Reserve System.

Dated: December 11, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–30962 Filed 12–14–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–17]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: Childhood Lead Poisoning Prevention Programs OMB No. 0920–0282—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC). Lead poisoning is the most common and societally devastating environmental disease of young children in the United States. The adverse health effects of lead on young children can be profound. Severe lead exposure can cause coma, convulsions, and even death. Lower levels of lead, which rarely cause symptoms, can result in decreased intelligence, developmental disabilities, behavioral disturbances, and disorders of blood production. In 1992, CDC National Center for Environmental Health (NCEH) began the National Childhood Lead Surveillance Program. The goals of the childhood lead surveillance program are to (1) establish childhood lead surveillance systems at the state and national levels; (2) use surveillance data to estimate the extent of elevated blood-lead levels among children; (3) assess the follow-up of children with elevated blood-lead levels; (4) examine potential sources of lead exposure; and (5) help allocate resources for lead poisoning prevention activities. In 2001, CDC awarded 60 grants and cooperative agreements to fund childhood lead poisoning prevention programs. The quarterly report is designed to collect blood lead screening and test confirmation data from CDC-funded programs. The quarterly report consists of four data tables requiring the following information: (1) The number of children screened by age and Medicaid enrollment status; (2) The number of children screened and confirmed by blood lead level; (3) The number of children screened by ethnicity; and (4) The number of children screened by race. OMB approval for this package will expire on January 31, 2002. This request is for a 3-year revision with a change in the burden hours. There is no cost to respondents.

Type of respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
State and Local Grant and Cooperative Agreement Programs	60	4	2	480
Total				480

Dated: December 7, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease, Control and Prevention.

[FR Doc. 01–30949 Filed 12–14–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–18]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090. CDC is requesting an emergency clearance for this data collection and that OMB act on this package 3 weeks after the publication of this **Federal Register** Notice.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice.

Proposed Project: Program Evaluation of the Distribution of Antimicrobial Agents to Prevent Anthrax, Assessment of Adverse Events and Adherence—New—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention. A 60-day course of antimicrobial prophylaxis has been recommended for approximately 7,500 persons with exposures to Bacillus anthracis related to bioterrorist attacks. To provide the antimicrobial agents necessary to meet this need, the National Pharmaceutical Stockpile (NPS) and the Centers for Disease Control and Prevention (CDC) has continued to support state and local health departments in responding to a nationwide public health emergency. This support has consisted of both the provision of additional antimicrobial agents as well as technical assistance from CDC to ensure effective transfer and distribution of supplies and medications, assess ongoing needs, and assist in management of other issues arising from the distribution of stockpile materials.

In order to evaluate this program, a telephone interview will be administered to persons who were recommended to receive 60 days of antibiotics after potential exposure to anthrax. The purpose of this interview will be to assess the provision of stockpile medications at 60 days after initiation of prophylactic campaigns for inhalation anthrax, assess the number of antibiotic-related adverse events, and determine the adherence to antimicrobial regimens. Results of this evaluation will be an important tool to determine the level and characteristics of technical assistance that the NPS and CDC will need to provide with any future anthrax post-exposure prophylaxis campaigns. This systematic approach to evaluation of an essential organization practice in public health will be used to improve public health actions. There is no cost to the respondent.

Respondents	Number of respondents	Number of responses/ respondent	Average burden per response (in hours)	Total burden (in hours)
Telephone interview	7,500	1	5/60	625
Total				625

Dated: December 10, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control, and Prevention.

[FR Doc. 01–30950 Filed 12–14–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0174]

Agency Information Collection Activities; Announcement of OMB Approval; FDA Recall Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "FDA Recall Regulations" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 17, 2001 (66 FR 43263), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0249. The approval expires on October 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: December 7, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–30938 Filed 12–14–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Health Professions Preparatory, Pregraduate and Indian Health Professions Scholarship Programs

AGENCY: Indian Health Service, HHS.

ACTION: Notice of availability of funds for Health Professions Preparatory, Pregraduate, and Indian Health Professions Scholarship Programs for Fiscal Year (FY) 2002.

SUMMARY: The Indian Health Service (IHS) is publishing a Notice of Availability of Funds for Health Professions Preparatory, Pregraduate, and Indian Health Professions Scholarship Programs for Fiscal Year (FY) 2002.

The IHS announces the availability of approximately $3,750,800 to fund scholarships for the Health Professions Preparatory and Pregraduate Scholarship Programs for FY 2002 awards. These programs are authorized by section 103 of the Indian Health Care Improvement Act (IHCIA), Pub. L. 94–437, as amended by Pub. L. 100–713, Pub. L. 102–573, and Pub. L. 104–313.

The Indian Health Scholarship (Professions), authorized by section 104 of the IHCIA, Pub. L. 94–437, as amended by Pub. L. 100–713, by Pub. L. 102–573, and by Pub. L. 104–313 has approximately $8,215,500 available for FY 2002 awards.

Full-time and part-time scholarships will be funded for each of the three scholarship programs.

The Indian Health Professions Preparatory Scholarship is listed as No. 93.123 in the Office of Management and Budget *Catalog of Federal Domestic Assistance* (CFDA). The Health Professions Pregraduate Scholarship is listed as No. 93.971, and the Indian Health Scholarship (Professions) is listed as No. 93.972 in the CFDA.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of *Healthy People 2010*, a PHS-led activity for setting priority areas. This program announcement is related to the priority area of Education and Community-Based Programs. Potential applicants may obtain a copy of *Health People 2010*, (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2010* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

DATES: The application deadline for both new and continuing applicants is April 1, 2002. If April 1 falls on the weekend, the application will be due on the following Monday. Applications shall be considered as meeting the deadline if they are received by the appropriate Scholarship Coordinator on the deadline date or postmarked on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) Applications received after the announced closing date will be returned to the applicant and will not be considered for funding.

ADDRESSES: Application packets may be obtained by calling or writing to the addresses listed below. The application form number is IHS 856, 856–2 through 856–8, 815, 816, 818 (approved under OMB No. 0917–0006).

IHS Area Office and States/Locality Served; Scholarship Coordinator/ Address:

Aberdeen Area IHS

Iowa
Nebraska
North Dakota
South Dakota
  Ms. Lila Topalian, Scholarship Coordinator, Aberdeen Area IHS, Federal Building, Room 309, 115 4th Avenue, SE, Aberdeen, SD 57401, Tele: 605–226–7553

Alaska Area Native Health Service

Alaska
  Ms. Rea Bavilla, Scholarship Coordinator, Alaska Area IHS, 4141 Ambassador Drive, Rm. 349, Anchorage, Alaska 99508, Tele: 907–729–1332

Albuquerque Area IHS

Colorado
New Mexico
  Ms. Alvina Waseta, Scholarship

Coordinator, Albuquerque Area IHS, 5300 Homestead Road, NE, Albuquerque, NM 87110, Tele: 505–248–4513

Bemidji Area IHS

Illinois
Indiana
Michigan
Minnesota
Wisconsin
Mr. Tony Buckanaga, Scholarship Coordinator, Bemidji Area IHS, 522 Minnesota Avenue, NW, Bemidji, MN 56601, Tele: 218–759–3415

Billings Area IHS

Montana
Wyoming
Mr. Sandy Macdonald, Scholarship Coordinator, Billings Area IHS, Area Personnel Office, P.O. Box 36600, 2900 4th Avenue, North, Billings, MT 59103, Tele: 406–247–7210

California Area IHS

California
Hawaii
Ms. Mona Celli, Scholarship Coordinator, California Area IHS, 650 Capitol Mall, 3rd Floor, Sacramento, CA 95814, Tele: 916–930–3981

Nashville Area IHS

Alabama
Arkansas
Connecticut
Delaware
Florida
Georgia
Kentucky
Louisiana
Maine
Maryland
Massachusetts
Mississippi
New Hampshire
New Jersey
New York
North Carolina
Ohio
Pennsylvania
Rhode Island
South Carolina
Tennessee
Vermont
Virginia
West Virginia
District of Columbia
Ms. Alvina Waseta, Scholarship Coordinator, Nashville Area IHS, 5300 Homestead Road, NE, Albuquerque, NM 87110, Tele: 505–248–4513

Navajo Area IHS

Arizona
New Mexico
Utah
Ms. Roselinda Allison, Scholarship Coordinator, Navajo Area IHS, P.O. Box 9020, Window Rock, AZ 86515, Tele: 520–871–1358

Oklahoma City Area IHS

Kansas
Missouri
Oklahoma
Mr. Jim Ingram, Scholarship Coordinator, Oklahoma City Area IHS, Five Corporate Plaza, 3625 NW., 56th Street, Oklahoma City, OK 73112, Tele: 580–276–4801

Phoenix Area IHS

Arizona
Nevada
Utah
Lena Fasthorse, Scholarship Coordinator, Phoenix Area IHS, Two Renaissance Square, 40 North Central Avenue, Suite #600, Phoenix, AZ 85004, Tele: 602–364–5220

Portland Area IHS

Idaho
Oregon
Washington
Ms. Darlene Marcellay-Hyland, Scholarship Coordinator, Portland Area IHS, 1220 SW Third Avenue, Rm. 440, Portland, OR 97204–2892, Tele: 503–326–2015

Tucson Area IHS

Arizona
Texas
Ms. Malinda Paul, Scholarship Coordinator, Tucson Area IHS, 7900 South "J." Stock Rd., Tucson, AZ 85746, Tele: 520–295–2441

FOR FURTHER INFORMATION CONTACT: Please address application inquiries to the appropriate Indian Health Service Area Scholarship Coordinator. Other programmatic inquiries may be addressed to Mr. Darrell Pratt, Team Leader, Health Professions Support, Indian Health Service, 801 Thompson Avenue, Suite 120, Rockville, Maryland, 20852; Telephone 301–443–6197. (This is not a toll free number.) For grants information, contact Mr. Al Whiteman, Grants Management Officer, Grants Management Branch, Division of Acquisition and Grants Operations, Indian Health Service, 801 Thompson Avenue, Suite 120, Rockville, Maryland, 20852; Telephone 301–443–5204. (This is not a toll-free number.)

A. *General Program Purpose:* These grants programs are intended to encourage American Indians and Alaska Natives to enter the health professions and to assure the availability of Indian health professionals to serve Indians.

B. *Eligibility Requirements:*

1. The Health Professions Preparatory Scholarship awards are made to American Indians or Alaska Natives who meet the criteria in section 4(c) of the IHCIA, as amended, who have successfully completed high school education or high school equivalency and who have been accepted for enrollment in a compensatory, pre-professional general education course or curriculum. Support is limited to 2 years for full-time students and the part-time equivalent of 2 years not to exceed 4 years for part-time students.

2. The Health Professions Pregraduate Scholarship awards are made to American Indians or Alaska Natives who meet the criteria in section 4(c) of the IHCIA, as amended, who have successfully completed high school education or high school equivalency and who have been accepted for enrollment or are enrolled in an accredited pregraduate program leading to a baccalaureate degree in pre-medicine or pre-dentistry. Support is limited to 4 years for full-time students and the part-time equivalent of 4 years not to exceed 8 years for part-time students.

3. The Indian Health Scholarship (Professions) may be awarded only to an individual who is a member of a federally recognized tribe as provided by section 104, 4(c), and 4(d) of the IHCIA. Membership in a Tribe recognized only by a state does not meet this statutory requirement. To receive an Indian Health Scholarship (Professions) an otherwise eligible individual must be enrolled in an appropriately accredited school and pursuing a course of study in a health profession as defined by section 4(n) of the IHCIA. Support is limited to 4 years for full-time students and the part-time equivalent of 4 years not to exceed 8 years for part-time students.

Awards for the Indian Health Scholarships (Professions) will be made in accordance with 42 CFR 36.330. Recipients shall incur a service obligation prescribed under section 338C of the Public Health Service Act (43 U.S.C. 244m) which shall be met by service:

(1) In Indian Health Service;

(2) In a program conducted under a contract or compact entered into under the Indian Self-Determination Act;

(3) In a program assisted under title V of the Indian Health Care Improvement Act (Pub. L. 94–437) and its amendments; and

(4) In private practice of his or her profession, if the practice (a) is situated in a health professional shortage area, designated in regulations promulgated

by the Secretary and (b) addresses the health care needs of a substantial number of Indians as determined by the Secretary in accordance with guidelines of the Service;

Pursuant to the Indian Health Amendments of 1992 (Pub. L. 104–313), a recipient of an Indian Health Professions Scholarship may, at the election of the recipient, meet his/her active duty service obligation prescribed under section 338c of the Public Health Service Act (42 U.S.C. 254m) by a program specified in options (1)—(4) above that:

(i) Is located on the reservation of the Tribe in which the recipient is enrolled; or

(ii) Serves the Tribe in which the recipient is enrolled.

In summary, all recipients of the Indian Health Scholarship (Professions) are reminded that recipients of this scholarship incur a service obligation. Moreover, this obligation shall be served at a facility determined by the Director, IHS, consistent with IHCIA, Pub. L. 94–437, as amended by Pub. L. 100–713, and Pub. L. 102–573.

C. *Fund Availability.* Both part-time and full-time scholarship awards will be made in accordance with regulations at 42 CFR 36.320, incorporated in the application materials, for Health Professions Preparatory Scholarship Program for Indians and 42 CFR 36.370, incorporated in the application materials, for Health Professions Pregraduate Scholarship Program for Indians. Approximately 238 awards, 100 of which are continuing, will be made under the Health Professions Preparatory and Pregraduate Scholarship Programs for Indians. The awards are for 10 months in duration and the average award to a full-time student is approximately $18,000. In FY 2002, approximately $1,500,000 is available for continuation awards and approximately $2,250,000 is available for new awards.

Approximately 393 awards, 179 of which are continuing, will be made under the Indian Health Scholarship (Professions) Program. Awards will be made to both full-time and part-time students. The awards are for 12 months in duration and the average award to a full-time student is for approximately $23,000. In FY 2002, approximately $3,410,000 is available for continuation awards, and $4,485,000 is available for new awards.

No more than 20% of available funds will be used for part-time scholarships this fiscal year. Students are considered part-time if they are enrolled for a minimum of 6 hours of instruction and are not considered in full-time status by their college/university. Documentation must be received from part-time applicants that their school and course curriculum allows less than full-time status.

D. *Criteria for Evaluation.* Applications will be evaluated against the following criteria:

1. Needs of the IHS. Applicants are considered for scholarship awards based on their desired career goals and how these goals relate to current Indian health manpower needs. Applications for each health career category are reviewed and ranked separately.

2. Academic Performance. Applicants are rated according to their academic performance as evidenced by transcripts and faculty evaluations. In cases where a particular applicant's school has a policy not to rank students academically, faculty members are asked to provide a personal judgment of the applicant's achievement. Health Professions applicants with a cumulative GPA below 2.0 are not eligible to apply.

3. Faculty/Employer Recommendations. Applicants are rated according to evaluations by faculty members and current and/or former employers regarding the applicant's potential in the chosen health related professions.

4. Stated Reasons for Asking for the Scholarship and Stated Career Goals. Applicants must provide a brief written explanation of reasons for asking for the scholarship and of career goals. The applicant's narrative will be judged on how well it is written and content.

5. Applicants who are closest to graduation or completion are awarded first. For example, senior and junior applicants under the Health Professions Pregraduate Scholarship receive funding before freshmen and sophomores.

E. Priority Categories: Regulations at 42 CFR 36.304 provide that the IHS shall, from time to time, publish a list of health professions eligible for consideration for the award of Indian Health Professions Preparatory and Pregraduate Scholarships and Indian Health Scholarships (Professions). Section 104(b)(1) of the IHCIA, as amended by the Indian Health Care Amendment of 1988, Pub. L. 100–713, authorizes the IHS to determine specific health professions for which Indian Health Scholarships will be awarded. The list of priority health professions that follow, by scholarship program, and based upon the needs of the IHS as well as upon the needs of the American Indians and Alaska Natives for additional service by specific health profession.

1. Health Professions Preparatory Scholarship Scholarships (Below is the list of disciplines to be supported and priority is based on academic level.)

A. Pre-Dietetics.
B. Pre-Engineering.
C. Pre-Medical Technology.
D. Pre-Nursing.
E. Pre-Pharmacy.
F. Pre-Physical Therapy.
G. Pre-Social Work (Jr and Sr undergraduate years).

2. Health Professions Pregraduate Scholarships. (Below is the list of disciplines to be supported and priority is based on academic level: Senior, Junior, Sophomore, Freshman).

A. Pre-Dentistry.
B. Pre-Medicine.

3. Indian Health Scholarships (Professions). (Below is a list of disciplines to be supported and priority is based on academic level, unless specified: Graduate, Senior, Junior, Sophomore, Freshman.

A. Associate Degree Nurse.
B. Chemical Dependency Counseling.
C. Civil Engineering: B.S.
D. Clinical Psychology: Ph.D. only
E. Coding Specialist: Certificate
F. Counseling Psychology: Ph.D. only
G. Dental Hygiene: B.S.
H. Dentistry: B.S, and M.S.
I. Dietitian: B.S.
J. Environmental Engineering: B.S.
K. Health Care Administration: B.S. and M.S.
L. Health Education: Masters level only.
M. Health Records: R.H.I.T and R.H.I.A.
N. Injury Prevention Specialist
O. Medical Social Work: Masters level only.
P. Medical Technology: B.S.
Q. Medicine: Allopathic and Osteopathic.
R. Nurse: B.S.*
S. Nurse: M.S.*
T. Nurse: R.N.A.
* (Priority consideration will be given to Registered Nurses employed by the Indian Health Service; in a program assisted under a contract entered into under the Indian Self-Determination Act; or in a program assisted under Title V of the Indian Health Care Improvement Act.)
U. Optometry.
V. Para-Optometric.
W. Pharmacy: B.S., Pharm D.
X. Physician Assistant.
Y. Physical Therapy.
Z. Podiatry: D.P.M.
AA. Public Health: M.P.H. only (Applicants must be enrolled or accepted in a school of public health in specialty areas such as Dietetics and Community Development in health).

BB. Public Health Nutrition: Masters level only.
CC. Radiologic Technology: Certificate, Associate, and B.S.
DD. Respiratory Therapy: Associate.
EE. X-Ray/Ultrasonography.

Interested individuals are reminded that the list of eligible health and allied health professions is effective for applicants for the 2002–2003 academic year. These priorities will remain in effect until superseded. Applicants for health and allied health professions not on the above priority list will be considered pending the availability of funds and dependent upon the availability of qualified applicants in the priority areas.

Dated: December 7, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01–30939 Filed 12–14–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a list of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

National Survey on Drug Use and Health: Clinical Validation Study of the Substance Dependence and Abuse Measures—(New)—The Substance Abuse and Mental Health Services Administration's (SAMHSA) National Survey on Drug Use and Health (NSDUH), formerly the National Household Survey on Drug Abuse, is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy, other Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

From 2001–2003, the NSDUH plans a two-phase Clinical Validation Study of Substance Dependence and Abuse Measures. Specific aims are to achieve the best overarching format, and the best wording and ordering for the assessment questions. The goal is quicker administration time, improved validity, and reduced respondent burden.

Half of all subject will be between 12 and 17, and half 18 years of age or older; subjects will be recruited from the Research Triangle and the Triad areas of North Carolina. In Phase 1, subjects, recruited through fliers and newspaper ads, will be asked (1) demographic information and (2) questions from two self-administered sections of the NSDUH questionnaire: questions about the quantity and frequency of use of drugs and alcohol, and questions about symptoms of substance dependence and abuse. A semi-structured clinical interview will then be administered to these same subjects by a trained clinician to determine the presence or absence of substance dependence and abuse. The clinical instruments used to assess subjects will be the substance abuse modules from the Structured Clinical Interview for DSM–IV (SCID) (for adults) and the Kiddie Schedule for Affective Disorders and Schizophrenia (K–SADS) (for those between 12 and 17 years of age). The correspondence of the diagnosis of substance dependence and abuse between the clinical and survey interview will then be compared.

Information from Phase 1 will then be used to assess if a lack of correspondence exists between the clinical and survey measures. If there is a lack of sufficient correspondence, we will then examine reasons for any lack of correspondence, and make decisions about how to modify the NSDUH questions on substance dependence and abuse to achieve better correspondence. This information will then be used to develop a revised NSDUH substance dependence and abuse module.

In Phase 2, a second clinical validation study will be conducted using the same procedures as Phase 1. This will allow a determination of the correspondence (kappa) between the revised diagnosis obtained from the NSDUH substance dependence and abuse module and the diagnosis from the structured clinical interviews. Final revisions to the survey instrument will be made based on findings from Phase 2. All decisions about final revisions to the module will balance the need for correspondence across different groups. The following table summarizes the total burden associated with this two-year project.

	Number of respondents	Responses per respondent	Hours per response	Total burden hours
Phase I:				
Screener only	150	1	.08	12
Screener and Interview	345	1	1.5	518
Phase II:				
Screener only	300	1	.08	24
Screener and Interview	595	1	1.5	892
Total	1,390			1,446
Annual Average	695			723

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Lauren Wittenberg, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 11, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Administration.

[FR Doc. 01–30967 Filed 12–14–01; 8:45 am]

BILLING CODE 4162–20–P

VOL 66 ISS 242 DE 17 2001 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Steven Paul Dupuy, Addis, LA, PRT–050470.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: November 30, 2001.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–30994 Filed 12–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Jeffrey L. Meyerl, Mars, PA, PRT–050657.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Jonathan Evans, Littleton, CO, PRT–050612.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: George Carden Circus Intl., Inc., Springfield, MO, PRT–784521.

The applicant requests the re-issuance of its permit to re-export and re-import Asian elephants (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Rick Thomas, dba Thomas Production, Las Vegas, NV, PRT–037177.

The applicant requests a permit to export and re-import captive-born tigers (Panthera tigris) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Miller Equipment Company, Inc. dba Carson Barnes Circus, Hugo, OK, PRT—050703 & 050708.

The applicant requests a permit to re-export and re-import Asian elephants (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: U.S. Geological Survey, College Station, TX, PRT–050834.

The applicant requests a permit to import 50 non-viable eggs/egg shells of Aplomado falcons (*Falco femoralis septentrionalis*) from Mexico for the purpose of scientific research.

Applicant: International Center for Gibbon Studies, Santa Clarita, CA, PRT–048712.

The applicant requests a permit to import 1.1 hoolock gibbons (Hylobates hoolock) of wild origin from the Yangon Zoological Garden, Myanmar, for the purpose of scientific research and enhancement of the propagation of the species and enhancement of the survival of the species through conservation education.

Applicant: New Marine World Foundation, Vallejo, CA, PRT–048985.

The applicant requests a permit to import 0.2 Asian elephants (Elephas maximus) of captive bred origin from India for the purpose of scientific research and enhancement of the propagation of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: December 7, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–30995 Filed 12–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt.

The following applicant has applied for a permit to conduct certain activities with an endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended.

Applicant: U.S. Geological Survey, Silvio O. Conte Anadromous Fish Research Center, Turners Falls, Massachusetts, PRT–TE050317–0.

The applicant requests authorization to take (harm, harass, and kill) 12,000 eyed eggs of the Atlantic salmon (Salmo salar). The eggs were captively bred at the U.S. Fish and Wildlife Service's Craig Brook National Fish Hatchery, East Orland, Maine, and will be transferred to the Conte Anadromous Fish Research Center, Turners Falls, Massachusetts to conduct specific research activities.

Written data or comments should be submitted to the Regional Permits Coordinator, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts, 01035, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035. Attention: Diane Lynch, Regional Permits Coordinator. Telephone: 413–253–8628; Fax: 413–253–8482.

Dated: November 21, 2001.

Richard O. Bennett,

Acting Regional Director.

[FR Doc. 01–31105 Filed 12–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On September 25, 2001, a notice was published in the **Federal Register** (66 FR 49035), that an application had been filed with the Fish and Wildlife Service by Clayton Green for a permit (PRT–048095) to import one polar bear (*Ursus maritimus*) taken from the Southern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on November 21, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: December 7, 2001.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–30996 Filed 12–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Service Regulations Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) will conduct an open meeting on January 24, 2002, to identify and discuss preliminary issues concerning the 2002–03 migratory bird hunting regulations.

DATES: The meeting will be held January 24, 2002.

ADDRESSES: The Service Regulations Committee will meet at the Arlington Square Building, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 200 A/B, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION: Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on January 24, 2002, at 8:30 a.m. to identify preliminary issues concerning the 2002–03 migratory bird hunting regulations for discussion and review by the Flyway Councils at their March meetings.

In accordance with Departmental policy regarding meetings of the Service Regulations Committee attended by any person outside the Department, these meetings are open to public observation. Members of the public may submit written comments on the matters discussed to the Director.

Dated: November 27, 2001.

Kevin R. Adams,

Acting Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–30997 Filed 12–14–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF LABOR

Office of the Secretary

Presidential Task Force on Employment of Adults With Disabilities; Notice of Open Meeting

Background and Authority

The Presidential Task Force on Employment of Adults with Disabilities (Task Force) was established by Executive Order 13078. The primary purpose of the Task Force is "* * * to create a coordinated and aggressive national policy to bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population."

Task Force membership includes the following Executive Branch positions: Secretary of Labor; Secretary of Education, Secretary of Veterans Affairs; Secretary of Health and Human Services; Commissioner of the Social Security Administration; Secretary of the Treasury; Secretary of Commerce; Secretary of Transportation; Secretary of Housing and Urban Development, Secretary of the Interior, Secretary of Agriculture, the Attorney General of the United States; Director of the Office of Personnel Management; Administrator of the Small Business Administration; Chair of the Equal Employment Opportunity Commission; Chair of the Federal Communications Commission; and Chair of the National Council on

Disability. The Secretary of Labor has been designated as Task Force Chair.

Notice of Meeting Including Specifications as to Time and Place

An open meeting of the Task Force will take place on Monday, January 28, 2002 from 9 a.m. to 12 noon at the U. S. Chamber of Commerce, 1615 H Street, NW., Washington, DC 20062.

Agenda Items

This being the first Task Force meeting since the introduction of the President's *New Freedom Initiative*, the agenda will include: (1) Reports on the implementation of the President's *New Freedom Initiative* to date, (2) discussion of the interagency coordination needed to expand upon the *New Freedom Initiative*, (3) future actions departments or agencies will undertake to further the goals of the *New Freedom Initiative*, and (4) a demonstration of assistive technology products.

Special Accommodations

Any individuals wishing to attend the Task Force meeting who need special accommodations or require further information should contact Mr. Paul Bennett at 202/693–4939 (voice), 202/693–4929 (fax), or 202/693–4920 (TTY) by Friday, January 18, 2001.

Signed in Washington, DC, this 7th day of December, 2001.

William R. McKinnon,

Acting Executive Director, Presidential Task Force on Employment of Adults with Disabilities.

[FR Doc. 01–30986 Filed 12–14–01; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101 of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor (Secretary) may allow the modification of the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA, as designee of the Secretary, has granted or partially granted the requests for modification listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision. The term "FR Notice" appears in the list of affirmative decisions below. The term refers to the **Federal Register** volume and page where MSHA published a notice of the filing of the petition for modification.

FOR FURTHER INFORMATION: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703–235–1910.

Dated at Arlington, Virginia this 10th day of December 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances, Enclosures.

Affirmative Decisions on Petitions for Modification

Docket No.: M–2000–104–C.

FR Notice: 65 FR 58819.

Petitioner: West Ridge Resources, Inc.

Regulation Affected: 30 CFR 75.901

Summary of Findings: The petitioner's proposal is to use an alternative method of grounding a diesel generator. The petitioner proposes to use a 480-volt, wye connected, 320 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the 480-volt, three-phase, 320KW diesel powered generator (DPG) set, Serial No. 31545, used to supply power to a 400 KVA autotransformer and three-phase 480- and 995-volt power circuits for the West Ridge Mine with conditions.

Docket No.: M–2000–113–C.

FR Notice: 65 FR 58820.

Petitioner: Blue Mountain Energy, Inc.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal is to use air coursed through conveyor belt entries to ventilate working places. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the Deserado Mine with conditions.

Docket No.: M–2000–118–C.

FR Notice: 65 FR 58821.

Petitioner: West Ridge Resources, Inc.

Regulation Affected: 30 CFR 75.1002–1(a)

Summary of Findings: Petitioner's proposal is to use nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment within 150 feet of pillow workings, and limited to laptop computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressures and flow measurements devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, and electronic tachometers. Other testing and diagnostic equipment may be used if approved by the District Manager. This is considered an acceptable alternative method for the West Ridge Mine. MSHA grants the petition for modification for the use of low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings at the West Ridge Mine with conditions.

Docket No.: M–2000–125–C.

FR Notice: 65 FR 64261.

Petitioner: Snyder Coal Company.

Regulation Affected: 30 CFR 75.1405.

Summary of Findings: The petitioner's proposal is to use bar and pin or link and pin couplers on underground haulage equipment. This is considered an acceptable alternative method for the Rattling Run Slope Mine. MSHA grants the petition for modification for the Rattling Run Slope Mine with conditions.

Docket No.: M–2000–126–C.

FR Notice: 65 FR 64261.

Petitioner: Three W–M Coal Company.

Regulation Affected: 75.1400(c).

Summary of Findings: The petitioner's proposal is to use stronger rope and secondary safety rope connections in place of safety catches or other no less effective devices on a slope conveyance (gunboat) in transporting persons. This is considered an acceptable alternative method for the Orchard Slope Mine. MSHA grants the petition for modification for the Orchard Slope Mine with conditions.

Docket No.: M–2000–128–C.

FR Notice: 65 FR 64261.

Petitioner: Girdner Mining Company, Inc.

Regulation Affected: 30 CFR 75.380(f)(4)(i).

Summary of Findings: The petitioner's proposal is to use one twenty-or two ten-pound portable chemical fire extinguishers on each Mescher Jeep, to have the fire extinguishers readily accessible to the equipment operator, to instruct the equipment operator to inspect each fire extinguisher on a daily basis and replace all defective fire extinguishers prior to entering the mine, and to maintain records of all inspections. This is considered an acceptable alternative method for the Mine No. 1. MSHA grants the petition for modification for the Mine No. 1 with conditions.

Docket No.: M–2000–131–C.

FR Notice: 65 FR 64262.

Petitioner: Mountain Coal Company, L.L.C.

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: The petitioner's proposal is to use high-voltage (2,400-volt) cables within 150 feet of pillar workings for continuous miners. This is considered an acceptable alternative method for the West Elk Mine. MSHA grants the petition for modification for the West Elk Mine with conditions.

Docket No.: M–2000–134–C.

FR Notice: 65 FR 64262.

Petitioner: Aracoma Coal Company.

Regulation Affected: 30 CFR 75.1002.

Summary of Findings: The petitioner's proposal is to use 4,160-volt longwall mining system. This is considered an acceptable alternative method for the Aracoma Alma Mine No. 1. MSHA grants the petition for modification for the Aracoma Alma Mine No. 1 with conditions.

Docket No.: M–2000–139–C.

FR Notice: 65 FR 75974.

Petitioner: R & R Coal Company.

Regulation Affected: 30 CFR 75.335.

Summary of Findings: The petitioner's proposal is to use wooden materials of moderate size and weight to construct seals, due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings. This is considered an acceptable alternative method for the R & R Coal Company Mine. MSHA grants the petition for modification for the R & R Coal Company Mine with conditions.

Docket No.: M–2001–140–C.

FR Notice: 65 FR 75974.

Petitioner: R & R Coal Company.

Regulation Affected: 30 CFR 75.1200(d) and (i).

Summary of Findings: The petitioner's proposal is to use cross-sections in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined. This is considered an acceptable alternative method for the R & R Coal Company Mine. MSHA grants the petition for modification for the R & R Coal Company Mine with conditions.

Docket No.: M–2001–141–C.

FR Notice: 65 FR 75974.

Petitioner: R & R Coal Company.

Regulation Affected: 30 CFR 75.1202–1(a).

Summary of Findings: The petitioner's proposal is to revise and supplement mine maps annually instead of every six (6) months, and to update the maps daily by hand notations. This is considered an acceptable alternative method for the R & R Coal Company Mine. MSHA grants the petition for modification for the R & R Coal Company Mine with conditions.

Docket No.: M–2000–148–C.

FR Notice: 65 FR 75975.

Petitioner: D & F Deep Mine Buck Drift.

Regulation Affected: 30 CFR 49.2(b).

Summary of Findings: The petitioner's proposal is to reduce its mine rescue teams to two teams with three members and one alternate for either team instead of two teams with five members and one alternate each. This is considered an acceptable alternative method for the Buck Drift Mine. MSHA grants the petition for modification for the Buck Drift Mine with conditions.

Docket No.: M–2000–149–C.

FR Notice: 65 FR 75975.

Petitioner: D & F Deep Mine Buck Drift.

Regulation Affected: 30 CFR 75.335(a)(1).

Summary of Findings: The petitioner's proposal is to use wooden materials of moderate size and weight to construct seals due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings. This is considered an acceptable alternative method for the Buck Drift Mine. MSHA grants the petition for modification for the Buck Drift Mine with conditions.

Docket No.: M–2001–151–C.

FR Notice: 65 FR 75975.

Petitioner: D & F Deep Mine Buck Drift.

Regulation Affected: 30 CFR 75.1200(d) and (i).

Summary of Findings: The petitioner's proposal is to use cross-sections in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined. This is considered an acceptable alternative method for the Buck Drift Mine. MSHA grants the petition for modification for the Buck Drift Mine with conditions.

Docket No.: M–2000–152–C.

FR Notice: 65 FR 75975.

Petitioner: D & F Deep Mine Buck Drift.

Regulation Affected: 30 CFR 75.1202–1(a).

Summary of Findings: The petitioner's proposal is to revise and supplement mine maps annually instead of every six(6) months, and update the maps daily by hand notations. This is considered an acceptable alternative method for the Buck Drift Mine. MSHA grants the petition for modification for the Buck Drift Mine with conditions.

Docket No.: M–2000–154–C.

FR Notice: 65 FR 75976.

Petitioner: Canyon Fuel Company, LLC.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: The petitioner's proposal is to use belt air to ventilate active working places. This is considered an acceptable alternative method for the Skyline Mine No. 3. MSHA grants the petition for modification to allow air coursed through conveyor belt haulage entries to be used to ventilate working places at the Skyline Mine No. 3 with conditions.

Docket No.: M–2000–156–C.

FR Notice: 65 FR 75976.

Petitioner: Oxbow Carbon and Minerals, Inc.

Regulation Affected: 30 CFR 75.701.

Summary of Findings: The petitioner's proposal is to use an alternative method of grounding a diesel generator. The petitioner proposes to use a 480-volt, wye connected, 260 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the Sanborn Creek Mine. MSHA grants the petition for modification for the 480-volt, three-phase, 260KW/325KVA diesel powered generator (DPG) set, Serial No. 31475–1/01, used to supply power to a three-phase wye connected 300 KVA auto-transformer and three-phase 480-volt and 995-volt power circuits for the Sanborn Creek Mine with conditions.

Docket No.: M–2000–157–C.

FR Notice: 65 FR 75976.

Petitioner: Oxbow Carbon and Minerals, Inc.

Regulation Affected: 30 CFR 75.901.

Summary of Findings: The petitioner's proposal is to use an alternative method of grounding a diesel generator. The petitioner proposes to use a 480-volt, wye connected, 260 KW portable diesel powered generator for utility power and to move electrically powered mining equipment in and around the mine. This is considered an acceptable alternative method for the Sanborn Creek Mine. MSHA grants the petition for modification for the 480-volt, three-phase, 260KW/325KVA diesel powered generator (DPG) set, Serial No. 31475–1/01, used to supply power to a three-phase wye connected 300 KVA transformer and three-phase 480-volt and 995-volt power circuits for the Sanborn Creek Mine with conditions.

Docket No.: M–2000–158–C.

FR Notice: 66 FR 18660.

Petitioner: Newtown Energy, Inc.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: The petitioner's proposal is to use belt air to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide monitoring system as an early warning fire-detection system all belt entries used to course air to a working place. This is considered an acceptable alternative method for the Eagle Mine No. 1. MSHA grants the petition for modification to allow air coursed through conveyor belt entries to be used to ventilate working places for the Eagle Mine No. 1 with conditions.

Docket No.: M–2000–159–C.

FR Notice: 66 FR 18660.

Petitioner: G & P Contractors, Inc.

Regulation Affected: 30 CFR 75.380(f)(4)(i).

Summary of Findings: The petitioner's proposal is to use two ten-pound portable chemical fire extinguishers on each Mescher Jeep, to have the fire extinguishers readily accessible to the equipment operator, to instruct the equipment operator to inspect each fire extinguisher daily prior to entering the mine and replace all fire extinguishers that are defective. This is considered an acceptable alternative method for the Powers Branch Mine. MSHA grants the petition for modification for the Powers Branch Mine with conditions.

Docket No.: M–2000–160–C.

FR Notice: 66 FR 18660.

Petitioner: G & P Contractors, Inc.

Regulation Affected: 30 CFR 75.342.

Summary of Findings: The petitioner's proposal is to use hand-held methane and oxygen indicators instead of machine-mounted methane monitors on three-wheel tractors with drag bottom buckets. This is considered an acceptable alternative method for the Powers Branch Mine. MSHA grants the petition for modification to use hand-held continuous multi-gas detectors for the Mescher permissible three-wheel battery-powered tractors used to load coal at the Powers Branch Mine with conditions.

Docket No.: M–2000–161–C.

FR Notice: 66 FR 18660.

Petitioner: Rosebud Mining Company.

Regulation Affected: 30 CFR 75.1100–2(e)(2).

Summary of Findings: The petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Clementine Mine. MSHA grants the petition for modification for the temporary electrical installations provided the petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100–1(e) at each of the temporary electrical installations for the Clementine Mine.

Docket No.: M–2001–162–C.

FR Notice: 66 FR 18660.

Petitioner: Penn American Coal L.P.

Regulation Affected: 30 CFR 75.350.

Summary of Findings: The petitioner's proposal is to use air ventilating the belt entry and associated entries in common with the belt, to ventilate a working section or sections. The petitioner proposes to install a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to ventilate active working places. This is considered an acceptable alternative method for the Burrell Mine. MSHA grants the petition for modification for the Burrell Mine with conditions.

Docket No.: M–2000–163–C.

FR Notice: 66 FR 18660.

Petitioner: T.J.S. Mining, Inc.

Regulation Affected: 30 CFR 75.1100–2(e)(2).

Summary of Findings: The petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the T.J.S. #1 Mine, T.J.S. No. 4 Mine, Darmac #3 Mine, and Darmac #2 Mine. MSHA grants the petition for modification for the temporary electrical installations provided the Petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for a portable fire extinguisher in 30 CFR 75.1100–1(e) at each of the temporary electrical installations for the T.J.S. #1 Mine, T.J.S. No. 4 Mine, Darmac #3 Mine, and Darmac #2 Mine.

Docket No.: M–2000–166–C.

FR Notice: 66 FR 18661.

Petitioner: Straight Fork Mining, Inc.

Regulation Affected: 30 CFR 75.503 (18.41(f) of Part 18).

Summary of Findings: The petitioner's proposal is to use a permanently installed spring-loaded device on mobile battery-powered equipment to prevent unintentional loosening of battery plugs from battery receptacles instead of using padlocks. This is considered an acceptable alternative method for the Skullfork Mine. MSHA grants the petition for modification for the Skullfork Mine with conditions.

Docket No.: M–2000–167–C.

FR Notice: 66 FR 18661.

Petitioner: Big Ridge, Inc.

Regulation Affected: 30 CFR 75.1700.

Summary of Findings: The petitioner's proposal is to plug oil and gas wells and then mine in close proximity or through the plugged wells using the specific procedures outlined in its petition for modification. This is considered an acceptable alternative method for the Willow Lake Portal Mine. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to Section 75.1700) plugged oil or gas wells penetrating the Illinois No. 5 seam and other minable coal seams at the Willow Lake Portal Mine with conditions.

Docket No.: M–2000–168–C.

FR Notice: 66 FR 18661.

Petitioner: D & R Coal Company, Inc.

Regulation Affected: 30 CFR 75.342.

Summary of Findings: The petitioner's proposal is to use hand-held, continuous-duty methane and oxygen indicators on three-wheel tractors with drag bottom buckets instead of using machine-mounted monitors. This is considered an acceptable alternative method for the Mine No. 2. MSHA grants the petition for modification for the Mescher permissible three-wheel battery-powered tractors used to load coal in the Mine No. 2 with conditions.

Docket No.: M–2000–169–C.

FR Notice: 66 FR 18661.

Petitioner: D & R Coal Company, Inc.

Regulation Affected: 30 CFR 75.380(f)(4)(i).

Summary of Findings: The petitioner's proposal is to install two five-pound or one ten-pound portable chemical fire extinguisher in the operator deck of each Mescher tractor, to have the fire extinguishers readily accessible to the equipment operator, to instruct the equipment operator to inspect each fire extinguisher on a daily basis and replace all defective fire extinguishers prior to entering the mine, and to maintain records of all inspections. This is considered an acceptable alternative method for the Mine No. 2. MSHA grants the petition for modification for Mescher three-wheel tractors to be operated in the primary intake escapeway at the Mine No. 2 with conditions.

Docket No.: M–2000–170–C.

FR Notice: 66 FR 9724.

Petitioner: Aracoma Coal Company.

Regulation Affected: 30 CFR 75.1700.

Summary of Findings: The petitioner's proposal is to plug and mine through oil or gas wells using the specific procedures outlined in this petition for modification. This is considered an acceptable alternative method for the Aracoma Alma Mine No. 1. MSHA grants the petition for modification for mining through or near (whenever the safety barrier diameter is reduced to a distance less than the District Manager would approve pursuant to Section 75.1700) plugged oil or gas wells penetrating the Alma Coal Seam and other minable coal seams at the Aracoma Alma Mine No. 1 with conditions.

Docket No.: M–2000–173–C.

FR Notice: 66 FR 18661.

Petitioner: Penn View Mining, Inc.

Regulation Affected: 30 CFR 75.1100–2(e)(2).

Summary of Findings: The petitioner's proposal is to use two (2) fire extinguishers or one fire extinguisher of twice the required capacity at all temporary electrical installations instead of using 240 pounds of rock dust. This is considered an acceptable alternative method for the Penn View Mine. MSHA grants the petition for modification for the temporary electrical installations provided the petitioner maintains two portable fire extinguishers having at least the minimum capacity specified for portable fire extinguisher in 30 CFR 75.1100–1(e) at each of the temporary electrical installations for the Penn View Mine with conditions.

Docket No.: M–1999–044–C.

FR Notice: 64 FR 32553.

Petitioner: Energy West Mining Company.

Regulation Affected: 30 CFR 75.326 (Now 75.350 and 75.352).

Summary of Findings: The petitioner's proposal is to amend the Decision and Order (D&O) for its previously granted petition for modification because the requirements in the previous D&O have proven to be outdated due to changes in circumstances that originally supported the terms and conditions of the D&O. This is considered an acceptable alternative method for the Deer Creek Mine. MSHA grants the petition for modification to the Deer Creek Mine for a two-entry mining system, based on compliance with the stipulations from the original D&O as modified and supplemented by additional special terms and conditions.

Docket No.: M–1999–046–C.

FR Notice: 64 FR 32554.

Petitioner: Twentymile Coal Company.

Regulation Affected: 30 CFR 75.500(d).

Summary of Findings: The petitioner's proposal is to use low-voltage or battery operated non-permissible electronic testing and diagnostic equipment into and inby the last open crosscut and in its continuous miner development sections. This is considered an acceptable alternative method for the Foidel Creek Mine. MSHA grants the petition for modification, under controlled conditions, for the Foidel Creek Mine upon compliance with the terms and conditions.

Docket No.: M–1999–095–C.

FR Notice: 64 FR 57662.

Petitioner: Wabash Mine Holding Company.

Regulation Affected: 30 CFR 75.332(a)(2).

Summary of Findings: The petitioner's proposal is to use two continuous miners within the same split of air. The petitioner proposes to allow one continuous miner to clean up the working face cut it previously mined while a second continuous miner on the section starts to cut and load coal from another working face on the same working section, all on the same single split of intake air. This is considered an acceptable alternative method for the Wabash Mine. MSHA grants the petition for modification for the Wabash Mine with conditions.

Docket No.: M–1999–122–C.

FR Notice: 64 FR 70732.

Petitioner: McElroy Coal Company.

Regulation Affected: 30 CFR 75.364(b)(1).

Summary of Findings: The petitioner's proposal is to conduct weekly examinations of designated monitoring stations instead of traveling and conducting weekly examinations in certain intake and return entries of the McElroy Mine. The petitioned areas are the same as those already granted modifications of the standard (old standard 30 CFR 75.305 for weekly examinations now addressed under 30 CFR 75.364) to allow daily evaluations of unsafe-for-travel aircourse segments at monitoring stations in lieu of travel in previous Proposed Decisions and Orders (PDOs) Docket Number M–91–078–C issued June 16, 1992; Docket Number M–92–142–C issued June 2, 1993; and Docket Number M–93–007–C issued October 28, 1993, and Amended December 8, 1997. This is considered an acceptable alternative method for the McElroy Mine. MSHA grants the petition for modification for evaluation of one unsafe-for-examination intake aircourse segment and two unsafe-for-travel segments of designated return aircourses, one of which includes the B North Mine seals near the Fish Creek air shaft for the McElroy Mine with conditions.

Docket No.: M–1999–123–C.

FR Notice: 64 FR 70732.

Petitioner: Blue Mountain Energy, Inc.

Regulation Affected: 30 CFR 75.500(d).

Summary of Findings: The petitioner's proposal is use low-voltage non-permissible electronic testing or diagnostic equipment in or inby the last open crosscut. This is considered an acceptable alternative method for the Deserado Mine. MSHA grants the petition for modification for the use of low voltage or battery powered non-permissible electronic testing and diagnostic equipment taken into or inby the last open crosscut for the Deserado Mine with conditions.

Docket No.: M–1999–150–C.

FR Notice: 64 FR 5701.

Petitioner: Perry County Mining Company.

Regulation Affected: 30 CFR 75.364(b)(1).

Summary of Findings: The petitioner's proposal is to establish four check points in certain areas of the intake aircourse as air measurement stations, due to deteriorating roof conditions. This is considered an acceptable alternative method for the Eas No. 1 Mine. MSHA grants the petition for modification for the examination of approximately 5,600 feet of unsafe-to-travel intake aircourse beginning in the mains inby the Big Creek Fan and into the Rolls Mains to allow effective evaluation of air flow quantity and quality entering and leaving the petitioned, unsafe-for-travel, intake aircourse segment of for the Eas No. 1 Mine with conditions.

Docket No.: M–2000–007–M.

FR Notice: 65 FR 58821.

Petitioner: Sierra Minerals Corporation.

VOL 66 ISS 242 DE 17 2001 UMI

Regulation Affected: 30 CFR 57.17010.

Summary of Findings: The petitioner's proposal is to eliminate the use of cap lamp during daylight hours at its quarry operation because there is enough natural lighting in all working areas of the quarry to provide illumination under all operating conditions and for safe exit from the working areas and that quarry work is done only in daylight hours. The petitioner will use cap lamps if it is necessary to extend work into hours of darkness. This is considered an acceptable alternative method for the Yule Quarry Mine. MSHA grants the petition for modification for the Yule Quarry Mine with conditions.

Docket No.: M–2000–009–M.

FR Notice: 65 FR 64262.

Petitioner: Echo Bay Minerals Company.

Regulation Affected: 30 CFR 49.8(b).

Summary of Findings: The petitioner's proposal is to participate in the Central Mine Rescue (CMR) of Wallace, Idaho. which consists of four training sessions per year, once per quarter, for the team in addition to annual Refresher and Competition training. This is considered an acceptable alternative method for the Echo Bay Minerals, Kettle River Operations, comprised of the K–2 Mine Site, and the Lamefoot Mine Site. MSHA grants the petition for modification with conditions provided that all mine rescue members receive at least 40 hours of refresher training annually, that any member that is unable to attend a training session make up that training within the 30 days following the session missed or the mine rescue member will not be eligible until that training is made up.

[FR Doc. 01–30941 Filed 12–14–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Wabash Mine Holding Company

[Docket No. M–2001–098–C]

Wabash Mine Holding Company, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219 has filed a petition to modify the application of 30 CFR 75.332(a)(2) (working sections and working places) to its Wabash Mine (I.D. No. 11–00877) located in Wabash County Illinois. The petitioner requests that Item 29 of the Proposed Decision and Order for its previously granted petition for modification, docket number M–1999–095–C be amended to permit the scrubber system to be operational and maintained to provide 6,500 cfm instead of 7,500 cfm of output capacity while cleanup is being performed. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Hopkins County Coal, LLC

[Docket No. M–2001–099–C]

Hopkins County Coal, LLC, P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Island Mine No. 1 (I.D. No. 15–17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to permit evaluation points (A, inby and B, outby) in lieu of traveling approximately 75 feet of the return air course. The petitioner states that due to deteriorating roof conditions, traveling the affected area would be unsafe. The petitioner proposes to: (1) Establish evaluation points outby the #3 entry at/near spad #22+21/3 and inby at/near spad #23+21/3, to provide ingress/egress to the outby evaluation point (B) at crosscut #43 and to provide ingress/egress to the inby evaluation point (A) at crosscut #51; (ii) post signs in strategic locations that would direct personnel to each evaluation point; and (iii) have a certified person examine the evaluation points on a weekly basis to determine methane and oxygen concentrations, quantity of air, and to determine if the air is moving in the proper direction and record the results of the examinations in a book maintained on the surface. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. San Juan Coal Company

[Docket No. M–2001–100–C]

San Juan Coal Company, P.O. Box 561, Waterflow, New Mexico 87421 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its San Juan South Mine (I.D. No. 29–02170) and San Juan Deep Mine (I.D. No. 29–02201) both located in San Juan County, New Mexico. The petitioner proposes to: (i) Equip each continuous miner with a General Monitor S800 Methane Monitor with detection sensors near the cutter drum and one sensor on each side of the machine; (ii) equip each roof-bolting machine with a General Monitors S800 Methane Monitor that would have detection sensors on ATRS for a total of one sensor; and (iii) to conduct tests every twenty minutes at the operator's station while operating the roof-bolting machine on or inby the last open crosscut. The petitioner states that the methane monitor would provide a visual alert when the methane concentration reaches 1 percent and provide automatic shutdown when the methane concentration reaches 2 percent at any of the sensors, the monitors would provide continuous monitoring of the methane content rather than just testing every twenty minutes and would test for methane near the roof where methane is likely to be found, the monitors would calibrated with a known concentration of methane at intervals not to exceed 31 days, and that calibration would be performed by a certified person. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Canyon Fuel Company, LLC

[Docket No. M–2001–101–C]

Canyon Fuel Company, LLC, P.O. Box 1029, Wellington, Utah 84542 has filed a petition to modify the application of 30 CFR 75.500(d) (permissible electric equipment) to its Dugout Canyon Mine (I.D. No, 42–01890) located in Carbon County, Utah. The petitioner proposes to use the following non-permissible low-voltage or battery powered electronic testing and diagnostic equipment inby the last open crosscut: Lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, and electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other tests and diagnostic equipment use in or inby the last open crosscut will be permissible. The petitioner has listed in this petition for modification specific procedures that would be followed when using this equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Canyon Fuel Company, LLC

[Docket No. M–2001–102–C]

Canyon Fuel Company, LLC, P.O. Box 1029, Wellington, Utah 84542 has filed a petition to modify the application of 30 CFR 75.1001–1(a) (location of other electric equipment; requirements for permissibility) to its Dugout Canyon Mine (I.D. No. 42–01890) located in Carbon County, Utah. The petitioner proposes to use the following non-permissible low-voltage or battery powered electronic testing and diagnostic equipment in by the last open crosscut: Lap top computers, oscilloscopes, vibration analysis machines, cable fault detectors, point temperature probes, infrared temperature devices and recorders, pressure and flow measurement devices, signal analyzer devices, ultrasonic thickness gauges, electronic component testers, and electronic tachometers, and may use other testing and diagnostic equipment if approved by the District Office. The petitioner states that all other test and diagnostic equipment use in or in by the last open crosscut will be permissible. The petitioner has listed in this petition for modification specific procedures that would be followed when using this equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Consol Pennsylvania Coal Company

[Docket No. M–2001–103–C]

Consol Pennsylvania Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.312 (c) and (d) (main mine fan examinations and records) to its Enlow Fork Mine (I.D. No. 36–07416) located in Greene County, Pennsylvania. The petitioner requests a modification of the standard to permit testing of the automatic closing door(s) and the automatic fan signal device at least every 31 days without shutting down the fan and without removing miners from the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Oxbow Mining, Inc.

[Docket No. M–2001–104–C]

Oxbow Mining, Inc., 3737 Hwy 133, P.O. Box 535, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner proposes to use a 2,400-volt longwall power circuit in the active pillar workings. The petitioner has listed in this petition specific procedures for implementing its proposed alternative method. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard and has listed specific procedures in this petition for modification for implementing the alternative method.

8. Oxbow Mining, Inc.

[Docket No. M–2001–105–C]

Oxbow Mining, Inc., 3737 Hwy 133, P.O. Box 535, Somerset, Colorado 81434 has filed a petition to modify the application of 30 CFR 75.804(a) (underground high-voltage cables) to its Elk Creek Mine (I.D. No. 05–04674) located in Gunnison County, Colorado. The petitioner requests a modification of the standard to allow the use of a No. 16 A.W.G. ground check conductor in a high-voltage cable. The petitioner proposes to use the following flame-resistant cables on the high-voltage longwall system(s): Anaconda Type SHD+GC, Pirelli Type SHD–Center–GC, Tiger Brand Type SHD–CGC, and other brands of cable of identical construction. The petitioner asserts that these brands of cable utilize a flexible No. 16 A.W.G. ground check conductor for the ground continuity check circuit and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. FMC Westvaco

[Docket No. M–2001–005–M]

FMC Westvaco, FMC Corporation, Box 872, Green River, Wyoming 82935 has filed a petition to modify the application of 30 CFR 57.22305 (approved equipment (III mines)) to its FMC Trona Mine (I.D. No. 48–00152) located in Sweetwater County, Wyoming. The petitioner requests a modification of the standard to permit the use of portable low power 0.5–2.0 watt radios for communication in face areas. The petitioner proposes to use (Audiovox, or equivalent) radios inby the last open break or face areas of the time to improve communications, conduct examinations to test for methane in the mine atmosphere at least every ten minutes before using the radios in the face area, and instruct all mine employees in the petition requirements and complete training forms before using the radios. The petitioner states that these radios would not be used where methane is 1.0 percent or more, or in the same mining section where blasting is taking place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to "*comments@msha.gov*," or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4014 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 16, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia this 10th day of December 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–30940 Filed 12–14–01; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional Nixon presidential historical materials. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and section 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR Part 1275), the agency has identified, inventoried, and prepared for public access approximately 494 hours of Nixon White House tape recordings among the Nixon Presidential historical materials.

DATES: The National Archives and Records Administration (NARA) intends to make the materials described in this notice available to the public beginning February 28, 2002. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense on or before January 16, 2002.

ADDRESSES: The materials will be made available to the public at the National Archives at College Park research room, located at 8601 Adelphi Road, College Park, Maryland, beginning at 8:45 a.m. on February 28, 2002.

In accordance with 36 CFR 1275.44, petitions asserting a legal or constitutional right or privilege which would prevent or limit access must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Road, College Park, Maryland 20740–6001.

FOR FURTHER INFORMATION CONTACT: Karl Weissenbach, Director, Nixon Presidential Materials Staff, 301–713–6950.

SUPPLEMENTARY INFORMATION: NARA is proposing to open approximately 4,125 conversations which were recorded at the Nixon White House from January 1972 to June 1972. These tape segments total approximately 425 hours of listening time. In addition, the National Archives is proposing to open 360 declassified segments of conversations recorded in the Cabinet Room at the Nixon White House from February 1971—July 1973. These segments total approximately 69 hours of listening time. These previously restricted segments were reviewed for release and declassified in accordance with the mandatory review provisions of Executive Order 12958 and 36 CFR 1275.56 (Public Access Regulations.).

This is the ninth opening of Nixon White House tapes since 1980. Previous releases included conversations constituting "abuses of governmental power" and conversations recorded in the Cabinet Room of the Nixon White House. The tapes now being proposed for opening consist of the third of five segments comprising the remaining hours of conversations, processed for release in chronological order starting with February 1971.

There are no transcripts for these tapes. Tape logs, prepared by NARA, are offered for public access as a finding aid to the tape segments and a guide for the listener. There is a separate tape log entry for each segment of conversation released. Self-service copying of the tapes will be permitted. Researchers must bring their own recording equipment and blank tapes. Each tape log entry includes the names of participants; date, time, and location of the conversation; and an outline of the content of the conversation.

The tape recordings will be made available to the general public in the research room at 8601 Adelphi Road, College Park, Maryland, Monday through Friday between 8:45 a.m. and 4:30 p.m. Researchers must have a NARA researcher card, which they may obtain when they arrive at the facility. Listening stations will be available for public use on a first come, first served basis. NARA reserves the right to limit listening time in response to heavy demand. Copies of the tape log will be available for a fee in accordance with 36 CFR 1258.12.

Dated: December 11, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–30983 Filed 12–14–01; 8:45 am]

BILLING CODE 7515–01–U

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–277 and 50–278]

Exelon Generation Company, LLC, PSEG Nuclear LLC, Peach Bottom Atomic Power Station, Units 2 and 3; Exemption

1.0 Background

Exelon Generation Company, LLC (Exelon) and PSEG Nuclear LLC (the licensees) are the holders of Facility Operating Licenses Nos. DPR–44 and DPR–56, which authorize operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom or the facilities). The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or the Commission) now or hereafter in effect.

The facilities consist of two boiling water reactors located at the licensees' site in York County, Pennsylvania.

2.0 Request/Action

Section III.F of Appendix R to Title 10 of the Code of Federal Regulations (10 CFR), part 50, requires that automatic fire detection systems (capable of operating with or without offsite power) be installed in all areas of the plant that contain or present an exposure fire hazard to safety-related or safe shutdown systems or components. By letter dated June 15, 2001, Exelon requested an exemption from Section III.F of Appendix R regarding the provisions for an automatic fire detection capability in room 222, a Unit 2 feedwater heater room in the turbine building, and room 429, the Unit 2 and Unit 3 turbine generator hall in the turbine building.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present when application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of the rule is to reasonably assure the capability to achieve and maintain safe shutdown in the event of a fire.

The NRC staff examined Exelon's rationale to support the exemption request and concluded that notwithstanding the absence of an automatic fire detection system in rooms 222 and 429, given the circumstances discussed below, the underlying purpose of 10 CFR 50, Appendix R, section III.F would still be met with respect to those rooms.

Room 222

Room 222 is a feedwater heater room located in the Unit 2 turbine building on elevation 135. Exelon has determined that the only safe shutdown or safety-related systems or components located in this room susceptible to fire damage are circuits associated with offsite power. This room has not been provided with automatic fire detection in accordance with the provisions specified in section III.F of Appendix R. The fire hazards in this room consist solely of electrical cables located in three cable trays that are, or will be provided with metal covers. There are no transient combustibles stored in this area during plant operation. When hot work is performed in this room, a continuous fire watch is stationed in the room. The cables located in the trays are either qualified in accordance with the flame test provisions specified in Institute of Electrical and Electronics Engineers (IEEE) Standard 383, "Standard for Type Test of Class 1E Electric Cables, Field Splices, and Connections for Nuclear Power Generating Stations," or qualified to a flame test equivalent to the one adopted by IEEE–383. There are no fire protection systems or features provided in this room. Due to the high radiation field present in this area during plant operation, this room is normally locked

VOL 66 ISS 242 DE 17 2001 UMI

with restricted personnel access. The cable associated with offsite power is routed in a cable tray which passes vertically through the room along the north wall. This cable tray (2BV080) is separated from the other cable trays (2BV070 & 2BV090) by a minimum horizontal distance of 24 inches. Exelon has determined that the failure of the cables in this room will not adversely impact the availability of offsite power to the 4kV safeguard switchgear required to achieve and maintain safe shutdown following a fire event. Exelon has determined that the only combustibles located in this room consist of a limited quantity of cables qualified in accordance with the criteria specified in IEEE 383 or a test equivalent to that specified in IEEE 383. Cables qualified in accordance with the provisions specified in IEEE–383 are less susceptible to self-ignition or ignition from an external source and have a lower flame spread than non-qualified cables. These qualified cables also remain operable at a higher temperature than non-qualified cables. In the event of a fire involving the adjacent cable trays (2BV070 & 2BV090), the spatial separation of the trays (24 inches to 96 inches) and the metal covers provided on all the trays reduces the potential for damage to the cables located in tray 2BV080. The addition of fire detection in this room would provide little benefit for a self-ignited cable fire in tray 2BV080, as damage would likely occur prior to the response of the plant fire brigade. In the event that damage does occur, either due to a self-ignited cable fire in tray 2BV080 or an exposure fire from the other trays due to hot work, Exelon has determined that an alternate offsite power supply to the 4kV safeguard switchgear is available and will remain free of fire damage. The transfer from the #343–SU offsite power located in room 222 to the #2–SU offsite power is automatic; therefore the transfer does not require any additional operator actions. Hot work performed in this area requires a continuous fire watch, in accordance with plant procedures, which can provide for rapid detection of a fire in this room and the prompt notification of the plant fire brigade. Based on the lack of significant fire hazards in this room (IEEE–383 qualified cables only), the separation of the cable trays in the room, the enclosure of the cables in the tray with metal covers, and the restricted access during plant operation, the NRC staff concludes that the lack of fire detection in room 222 does not present an undue risk to the public health and safety, fire detection specified by the rule is not necessary to achieve the underlying purpose of Section III.F of Appendix R, and that the NRC's principles of defense-in-depth are satisfied without the addition of fire detection capability.

Room 429

Room 429 is located in the common area of the Peach Bottom turbine building, elevation 165, and Exelon has determined that the only safe shutdown and/or safety-related systems or components located in this room susceptible to fire damage are circuits associated with the #343–SU offsite power to the 4kV safeguard switchgear, and reactor vessel pressure and level instrumentation. This room has not been provided with full area automatic fire detection in accordance with the provisions specified in Section III.F of Appendix R. The fire hazards in this area consist of turbine lube oil, hydrogen used for generator cooling, two maintenance office/shop structures, electrical cabinets and cable trays. The circuits associated with offsite power are located in three conduits routed along the west wall of room 429. Exelon has determined that the circuits in this room related to reactor vessel pressure and level instrumentation identified in a previous submittal dated December 31, 1998, as supplemented on January 14 and April 14, 2000, are "associated circuits" as defined in Generic Letter 81–12, "Fire Protection Rule," dated February 20, 1981, and Exelon has committed to perform an analysis to ensure that the failure of these circuits (i.e. hot shorts, open circuits, or shorts to ground) will not adversely impact the operation of the instrumentation required to achieve and maintain safe shutdown following a fire event. Exelon has committed to make a physical plant change if necessary to assure safe shutdown capability following the completion of the analysis. However, the instrumentation circuits are not within the scope of Section III.F of Appendix R and thus are not being assessed by the NRC staff in this exemption request. Fire protection systems and features in this room include sprinkler protection on the turbine bearings, smoke detection over each turbine bearing lift pump, hydrogen pressure monitoring, and sprinkler systems in the maintenance office and shops. The conduits containing the offsite power cables are located at least 30 feet horizontally from the significant fire hazards in this room. Exelon has determined that in the event that fire damages the conduits located in this room, a separate offsite power source is available to achieve and maintain safe shutdown. The conduits of interest in this area are adjacent to the entrance to the main control room and this is a high-traffic area for plant personnel. Due to the personnel passing through, a fire would not go undetected for very long. The spatial separation of over 30 feet from the conduits to the significant fire hazards present in this room, the high ceilings and large volume above the turbine operating floor, the fire protection provided on the significant hazards present in this room (i.e. turbine bearings, lift pumps, offices/shops and hydrogen system), and the high-personnel traffic through the area provide reasonable assurance that a fire that has the potential to damage the conduits associated with offsite power located on the west wall will be detected by the existing fire protection systems, or plant personnel prior to damaging the offsite power cables. The existing fire suppression systems in conjunction with the plant fire brigade should be effective in controlling and extinguishing fires prior to damage occurring to the conduits located on the west wall of room 429. In the event that the existing fire suppression systems, or the plant fire brigade is not able to prevent damage to the conduits containing the cables related to offsite power, Exelon has determined that an alternate offsite power supply to the 4kV safeguard switchgear is available and will remain free of fire damage. The transfer from the #343–SU offsite power located in room 429, to the #2–SU offsite power is automatic; therefore the transfer does not require any additional operator actions. Therefore, based on the information provided by Exelon, the NRC staff concludes that pursuant to 10 CFR 50.12(a)(2)(ii) additional fire detection in room 429 is not necessary to achieve the underlying purpose of section III.F of Appendix R, the NRC's principles of defense-in-depth are satisfied without the addition of full area fire detection capability, and the lack of full area fire detection in room 429 does not present an undue risk to the public health and safety.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present in that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. Therefore, the

VOL
66
ISS
2
4
2
DE
17
2001
UMI

Commission hereby grants Exelon an exemption from the requirements of 10 CFR part 50, Appendix R, section III.F, for rooms 222 and 429, for Peach Bottom Units 2 and 3, with the provision that metal covers are installed on all cable trays in room 222.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 50696).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 7th day of December 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30968 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–272]

PSEG Nuclear LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–70, issued to PSEG Nuclear LLC (the licensee), for operation of the Salem Nuclear Generating Station, Unit No. 1 (Salem Unit 1), located in Salem County, New Jersey.

The proposed amendment would allow a one-time change to the Technical Specification (TS) Action Statement for the Service Water System (SWS). The proposed change would revise TS 3/4.7.4, "Service Water System," by increasing the allowed outage time for one nuclear header out of service from 72 hours to 10 days. The proposed amendment would modify the present Action Statement for TS 3.7.4.1, to include a note that would allow operation with only the 11 SWS loop for up to 10 days. This note would be applicable for one-time use during Salem Unit 1, Cycle 15.

The licensee has requested that this amendment be approved under exigent circumstances. On November 30, 2001, PSEG operations personnel noted water rising up through the gravel in front of the Service Water intake structure. The water was located approximately 5 feet from the building. The 12 SWS nuclear header is located below the location where the water was observed, and was considered to be a likely source of the leak.

The licensee subsequently determined that the leak is associated with the 12 SWS nuclear supply header. PSEG is currently postulating that the leak is coming from an underground mechanical joint or mechanical connection associated with the buried portion of the 12 SWS nuclear supply header located near the service water structure. In the area where the leak is suspected, the service water nuclear supply header is 24" nominal diameter buried piping. This piping design is prestressed concrete cylindrical water pipe, which uses either standard flanged fittings, or flexible tied extensible bell bolt type joints for the major connections.

While the 12 SWS nuclear supply header is currently considered operable, PSEG believes that repairs will be required before the next scheduled refueling outage. Approval of this license amendment request under exigent circumstances would allow the licensee to repair the leaking header during more advantageous weather and river water temperature conditions. This, in turn, would likely minimize the duration that the 12 SWS header would be inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Service Water System (SWS) will remain capable of performing its required safety function. The proposed change results in an insignificant increase in the incremental conditional core damage probability and so does not involve a significant increase in the probability of an accident. The proposed change to extend the allowed outage time from 72 hours to 10 days does not significantly increase consequences of an accident previously evaluated, since the capability of SWS is maintained.

Therefore, the proposed change will not significantly increase the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously analyzed?

Response: No.

The completion of the maintenance activity, the post maintenance testing, and the surveillance testing associated with demonstrating OPERABILITY of 12 service water nuclear header will not result in the plant being operated in a manner that will create the possibility of a new or different kind of accident from any previously evaluated. While repair to the buried portion of the 12 service water nuclear header is in progress, the service water system will be operated as described in the Updated Final Safety Analysis Report. This configuration does not create a new failure mechanism, malfunction or accident initiator.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The 11 service water nuclear header will remain operational and capable of performing its required safety functions. Sufficient safety-related equipment and systems will remain available to ensure that the consequences of design basis transients and accidents are mitigated as assumed in the Salem UFSAR. Preventive maintenance activities that could adversely affect the reliability of the Unit 1 service water system, Emergency Diesel Generators, 4kv vital buses or offsite A.C. electrical power sources will be controlled during the extended allowed outage time.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 16, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at *http://www.access.gpo.gov/nara/cfr*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jeffrie J. Keenan, Esquire, PSEG Nuclear—N21, P.O. Box 236, Hancocks Bridge, NJ 08038, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Further details with respect to this action, see the application for amendment dated December 10, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/reading-rm.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 11th day of December 2001.

For the Nuclear Regulatory Commission.

Richard B. Ennis,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30972 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–244, License No. DPR–18]

Order Approving Application Regarding Proposed Corporate Acquisition

In the Matter of Rochester Gas and Electric Corporation (R.E. Ginna Nuclear Power Plant).

I

Rochester Gas and Electric Corporation (RG&E or the licensee) is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to possess, maintain, and operate the R. E. Ginna Nuclear Power Plant (Ginna) under Facility Operating License No. DPR–18, issued by the Commission on December 10, 1984. The facility is located in Wayne County, New York.

II

By application dated June 22, 2001, RG&E requested that the Commission consent to the indirect transfer of the facility operating license for Ginna. The indirect transfer would result from the planned acquisition of RG&E's parent company, RGS Energy Group, Inc. (RGS), by Energy East Corporation (Energy East).

According to the application, on February 16, 2001, RGS and Energy East entered into an agreement pursuant to which RGS would be merged with and into a wholly owned subsidiary of Energy East. After the planned merger transaction, RG&E will continue to exist as a wholly owned indirect subsidiary of Energy East. RG&E would continue to own Ginna following approval of the proposed indirect transfer of the license, and would continue to be exclusively responsible for the operation, maintenance, and eventual decommissioning of the facility. No physical changes to the facility or operational changes were proposed in the application.

Approval of the indirect transfer of the operating license was requested by RG&E pursuant to 10 CFR 50.80. Notice of the request for approval and an opportunity for a hearing was published in the **Federal Register** on August 14, 2001 (66 FR 42687). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. After reviewing the information in the application from RG&E and other information before the Commission, the NRC staff has determined that the acquisition by Energy East of RGS resulting in the establishment of Energy East as the new ultimate indirect parent of RG&E will not affect the qualifications of RG&E as the holder of the license, and that the indirect transfer of the license, to the extent effected by the foregoing transaction, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The foregoing findings are supported by a safety evaluation dated December 10, 2001.

III

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect transfer of the license referenced above is approved, subject to the following conditions:

(1) RG&E shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from RG&E to any direct or indirect parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of RG&E's consolidated net utility plant, as recorded on RG&E's books of account.

(2) Should the planned acquisition by Energy East of RGS not be completed by December 31, 2002, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended. This Order is effective upon issuance.

IV

For further details with respect to this action, see the application dated June 22, 2001, and the safety evaluation dated December 10, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*.

Dated at Rockville, Maryland, this 10th day of December, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30973 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–390]

Tennessee Valley Authority; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–90 issued to Tennessee Valley Authority (TVA or the licensee) for operation of Watts Bar Nuclear Plant (WBN), Unit 1, located in Rhea County, Tennessee.

The proposed amendment would revise the Final Safety Analysis Report to reflect a change in the spent fuel pool (SFP) cooling analysis methodology. TVA proposes to increase the existing WBN SFP heat load limit from its current value of 32.6 MBTU/HR to 47.4 MBTU/HR. The proposed change would give TVA the capability to off-load the core during outages as early as 100 hours after shutdown. In addition, the change would compensate for the projected increase in SFP decay heat from tritium production activities.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed methodology change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The spent fuel pool cooling and cleanup system (SFPCCS) will see higher heat loading for the spent fuel as a result a 100[-]hour core offload as well as tritium producing burnable rod (TPBAR) irradiation. The analysis methodology change takes advantage of operating data as input into the SFP cooling analysis assumptions. Specifically, by taking credit for actual (lower) fouling of the SFPCCS heat exchangers and using actual component cooling system (CCS) temperatures, higher allowable heat loads can be safely placed within the SFP without exceeding existing design limitations. The increased quantity of heat being rejected to the CCS system is well within the system's design capability. The actual SFP cooling system is not being modified from what was previously evaluated and will continue to provide cooling as previously described. Existing maximum SFP temperatures will not be exceeded. Should loss of all cooling (loss of two trains) occur, ample time and sources for providing makeup water, are available, therefore there is no increased probability for SFP boil-off to uncover the stored spent fuel. Since the stored fuel will remain covered, there is no increase in radiological effects of such an event.

Therefore, the proposed methodology change does not increase the probability or consequences of an accident previously evaluated.

B. The proposed methodology change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The SFP cooling system will see higher heat loading for the spent fuel as a result a 100 hour core offload as well as TPBAR irradiation, the methodology change takes advantage of operating data as input into the SFP cooling analysis assumptions. The actual SFP cooling system is not being modified from what was previously evaluated and will continue to provide cooling as previously described. The current UFSAR [Updated Final Safety Analysis Report] recognizes that a complete loss of SFP cooling (loss of two trains) would ultimately result in a SFP boiling condition. However, the revised analysis has shown that even with higher allowable decay heat loads placed in the SFP, adequate sources for makeup exists to allow reasonable time (over three days) to mitigate such an event, without reducing the SFP water level to unacceptable levels (10 feet above fuel storage racks).

Loss of one train of cooling remains within the piping design analysis basis and the pool liner structural analysis since the peak temperatures projected are the same.

An error in the determination of the heat exchanger fouling factor would be detected by comparing trends from past determinations and through measured pool temperature.

Therefore, the proposed methodology change does not create a new or different kind of accident from any accident previously evaluated.

C. The proposed methodology change does not involve a significant reduction in a margin of safety.

This methodology change further refines assumptions made in the SFP cooling analysis based upon operating data. The SFP cooling system is not being modified and will continue to provide cooling as previously described. The current UFSAR recognizes that a complete loss of SFP cooling (loss of two trains) would ultimately result in a SFP boiling condition. However, the revised analysis has shown that even with higher allowable decay heat loads placed in the SFP, adequate sources for makeup exist to allow adequate time (over three days) to mitigate such an event, without reducing the SFP water level to unacceptable levels (10 feet above fuel storage racks). While the revised analysis has shown a decrease in the time to react to a complete loss of SFP cooling, the resulting time available to mitigate such an event is acceptable. Additionally, the analyses for loss of cooling events all considered steady state heat loads from the fuel. Since a loss of two trains must first be postulated, over three days exists to restore cooling, heat load decreases over the three days, and multiple sources of makeup (one qualified) exist, adequate assurance is provided that the proposed change will not involve a significant reduction in any margin of safety related to SFPCCS operation or storage of spent fuel.

The higher heat loads rejected to the CCS system are well within its design basis allowable heat loads experienced in other operating modes, therefore the CCS system can safety remove the increased decay heat from the SFP.

Therefore, this proposed methodology change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 16, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should

VOL 66 ISS 242 DE 17 2001 UMI

consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC web site (*http://www.nrc.gov*). If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 20, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC web site (*http://www.nrc.gov*).

Dated at Rockville, Maryland, this 11th day of December 2001.

For the Nuclear Regulatory Commission.

L. Mark Padovan,

Project Manager, Project Directorate II–2, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30969 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License Nos. DRP–77 and DRP–79 issued to the Tennessee Valley Authority (TVA or the licensee) for operation of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, located in Soddy-Daisy, Tennessee.

The proposed amendments would change Technical Specifications (TSs) to allow SQN to provide incore irradiation services for the U.S. Department of Energy (DOE). This change would allow TVA to insert up to 2256 tritium-producing burnable absorber rods (TPBARs) into the reactor cores to support DOE in maintaining its tritium inventory for national defense purposes. Each SQN core contains 193 fuel assemblies and each fuel assembly contains 264 fuel rods. In this amendment request, TVA proposes to insert up to 24 TPBARs in selected fuel assemblies (adjacent to but not in place of the 264 fuel rods). The TPBARS absorb neutrons and are similar to (and would replace) normal burnable neutron absorber rods that serve to shape neutron flux in the core. The TPBARs contain no fissile material and will be installed in fuel assemblies where burnable absorber rods are normally placed in selected fuel assemblies. Therefore, the TPBARs would fill the same role as burnable absorber rods in the operation of the reactor. However, most of the neutron absorber (lithium) in the TPBARs still remains at the end of core life as compared to normal burnable neutron absorbers (boron or gadolinium). Therefore, the proposed license amendments involve (1) revising the measurement range for the source range neutron monitors specified in TS Table 3.3–9, (2) increasing the required boron concentration for both the cold leg accumulators (TS 3/4.5.1) and the refueling water storage tank (RWST) (TS 3/4.5.5), (3) deleting the boron concentration and spent fuel storage requirements and associated Bases for the cask pit pool in TS Section 3/4.7.14 and Section 5.6, (4) establishing a limit on the number of TPBARs that can be irradiated in TS Section 5.3.1, (5) providing storage requirements for spent fuel assemblies that contain TPBARs after irradiation in TS Section 5.6 and the Bases for TS Section 3/4.7.13, and (6) implementing a TPBAR consolidation activity. This submittal also provides proposed revisions to the associated TS Bases in Section 3/4.6.4 regarding combustible gas control. Changes (1) and (2) above are necessary because the uranium-235 (U–235) enrichment of fuel assemblies containing TPBARs must be increased (to no more than 4.95 weight percent) to compensate for the higher neutron absorbing properties of the lithium-7 in the TPBARs. The NRC has previously approved maximum U–235 fuel enrichments of 4.95 ± 0.05 weight percent for SQN Units 1 and 2. Five percent enrichment is the NRC's upper limit for reactor licensing. Therefore, enrichments resulting from the proposed amendments are bounded by the current SQN Operating License and licensing basis.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration in its application dated September 21, 2001, which is presented below:

> A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> 1.TS Table 3.3–9—Remote Shutdown Monitoring Instrumentation—Revised Source Range Monitor Range
>
> The backup source range monitors are for indication of unit shutdown conditions only and do not perform any trip or mitigation functions. The monitors are not active components such that they could initiate a postulated accident and are not considered a contributor to accident generation. Therefore, the lowering of the indication range for this monitor will not increase the probability of an accident.
>
> Since the monitor has only an indication function, it does not serve to mitigate postulated accidents. While the indications from this monitor can help to identify changing core conditions and promote actions to prevent undesired conditions, this is not a mitigation function credited in the accident analysis and is considered a diverse capability of the plant instrumentation system. Therefore, the proposed change will not impact any credited accident mitigation functions, and by improving shutdown monitoring capability, will not [involve a significant] increase [in] the [probability or] consequences of an accident [previously evaluated].
>
> 2.TS 3/4.5.1—Cold Leg Injection Accumulators—Boron Concentration Increase
>
> The accumulator boron concentration does not affect any initiating event for accidents currently evaluated in the Updated Final Safety Analysis Report (UFSAR). The increased concentrations will not adversely affect the performance of any system or component which is placed in contact with the accumulator water. The integrity and operability of the stainless steel surfaces in the accumulator and affected nuclear steam supply system (NSSS) components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-]induced stress corrosion cracking and assure that there is no significant degradation of polymer materials. The design, material and construction standards of all components which are placed in contact with the accumulator water remain unaffected. Therefore, the possibility [probability] of an accident has not been increased.
>
> The consequences of an accident previously evaluated in the UFSAR will not be increased. The change in the concentrations increase the amount of boron in the sump during a loss-of-coolant accident (LOCA). The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Testing has indicated that TPBARs can experience cladding breach at Large Break LOCA (LBLOCA) conditions if the cladding temperature and internal pressure of the TPBARs reach limiting values. Consequently, the post-LOCA critical boron calculations account[ed] for the potential loss of a LiAlO2 [lithium aluminate] pencil, as well as partial leaching of lithium from the remaining pencils. Based on conservative assumptions, the calculations confirm that the tritium production core will remain subcritical following a LOCA. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant emergency operating procedures (EOPs). Thus, there will be no added post-LOCA long-term cooling problems associated with boron precipitation in the core following a large break LOCA (LBLOCA).
>
> An evaluation of the non-LOCA events shows that the accumulators do not actuate. An increase in accumulator boron concentration would have no effect on either the steam line break (SLB) at hot zero power event, the feedwater line break event, or the spurious operation of safety injection (SI) system event (events in which an SI signal does occur). Therefore, there is no increase in consequences of the non-LOCA events associated with the proposed increase in accumulator boron concentration.
>
> The accumulators are not assumed to actuate in the steam generator tube rupture (SGTR) event analysis, and the SLB mass and energy (M&E) release evaluation relies on control rods for shutdown margin and assumes a minimum boron concentration: In addition, the increase in accumulator boron concentrations and subsequent slight decrease in containment sump and spray pH does not impact the LOCA dose evaluation since the analysis of record does not credit sump pH as an input or assumption regarding volatile iodine removal efficiencies. Therefore, the present analysis remains bounding. Also, the slight decrease in sump, core and spray fluid pH has been evaluated to not significantly impact the corrosion rate (and subsequent generation of hydrogen) of aluminum and zinc inside containment. Further, the decreased sump, core and spray fluid pH has been evaluated to not affect the amount of hydrogen generated from the post-LOCA radiolytic decomposition of the sump and core solution. The likelihood of containment failure due to hydrogen deflagration is therefore not impacted by pH changes.
>
> In view of the preceding, it is concluded that the proposed change in accumulator boron concentration will not increase the radiological [probability or] consequences of an accident previously evaluated in the UFSAR.
>
> 3. TS 3/4.5.5—Refueling Water Storage Tank—Boron Concentration Increase
>
> The RWST boron concentration does not affect any initiating event for accidents

currently evaluated in the UFSAR. The increased concentration will not adversely affect the performance of any system or component which is placed in contact with the RWST water. The integrity and operability of the stainless steel surfaces in the RWST and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride induced stress corrosion cracking and assure that there is no significant degradation of polymer materials. The design, material and construction standards of all components which are placed in contact with the RWST water remain unaffected. Therefore, the probability of an accident has not changed.

The consequences of an accident previously evaluated in the UFSAR will not be increased. The change in the RWST boron concentration increases the amount of boron in the sump following a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Testing has indicated that TPBARs can experience cladding breach at Large Break LOCA (LBLOCA) conditions if the cladding temperature and internal pressure of the TPBARs reach limiting values. Consequently, the post-LOCA critical boron calculations accounted for the potential loss of a $LiAiO_2$ pencil, as well as partial leaching of lithium from the remaining pencils. Based on conservative assumptions, the calculations confirm that the tritium production core will remain subcritical following a LOCA. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no added post-LOCA long-term cooling problems associated with boron precipitation in the core following a LOCA.

An evaluation of the non-LOCA events indicates that an SI initiation occurs in the SLB at hot zero power event, the feedwater line break event, and the spurious operation of the SI system event. An increase in the RWST boron concentration would effectively reduce the return to power subsequent to a SLB. Boration is not credited in the feedwater line break analysis and the proposed boron increase is conservatively bounded by the boron inputs to the spurious SI system operation analysis. Therefore, there is no increase in consequences of the non-LOCA events associated with the proposed increase in RWST boron concentration.

The SLB M&E release evaluation relies on control rods for shutdown margin and assumes a minimum boron concentration. For the SGTR, the boron concentration in the accumulators and the RWST are not modeled. In addition, the increase in RWST boron concentrations and subsequent slight decrease in containment sump and spray pH does not impact the LOCA dose evaluation. While higher pH helps maintain volatile iodine in solution and lower pH drives the equilibrium to favor volatile iodine in a gaseous state, the change in sump pH is not sufficient to result in any measurable change in post-LOCA releases.

Furthermore, current radiological analyses do not take credit for volatile iodine removal efficiencies based on sump pH. Therefore, since the change in pH is minimal, and no credit is taken in release analysis, the present analysis remains bounding. Also, the slight decrease in sump, core and spray fluid pH has been evaluated to not significantly impact the corrosion rate (and subsequent generation of hydrogen) of aluminum and zinc inside containment and the present analysis remains bounding. Further, the decreased sump, core and spray fluid pH has been evaluated to not affect the amount of hydrogen generated from the radiolytic decomposition of the sump and core solution and therefore will not challenge containment integrity.

In view of the preceding, it is concluded that the proposed change in RWST boron concentration will not increase the radiological [probability or] consequences of an accident previously evaluated in the UFSAR.

4. TS 3/4.7.14 and Bases—Cask Pit Pool Minimum Boron Concentration—Deletion of Requirements

This change removes the provisions that allow and support the storage of spent fuel in the cask pit pool. By eliminating this provision, the potential for criticality events associated with stored fuel in the cask pit pool is no longer credible. Not having boron concentration requirements for the cask pit for storage considerations is acceptable based on the removal of TS provisions that would allow such storage. The boron concentration requirement is not considered a contributor to accident generation and therefore, this deletion does not increase the potential [probability] for accident generation because spent fuel will not be stored in this location. Likewise, the consequences of an accident [previously evaluated] will not be [significantly] increased because the dose generation source, in the form of spent fuel stored in the cask pit, will not be allowed.

5. TS 5.3.1—Design Features/Reactor Core/Fuel Assemblies

The insertion of TPBARs into the SQN reactor core does not adversely affect reactor neutronic or thermal-hydraulic performance; therefore, they do not significantly increase the probability of accidents or equipment malfunctions while in the reactor. The neutronic behavior of the TPBARS mimics that of standard burnable absorbers with only slight differences which are accommodated in the core design. The reload safety analysis performed for SQN Units 1 and 2 prior to each refueling cycle will confirm that any minor effects of TPBARS on the reload core will be within fuel design limits.

As described in the [Department of Energy's] tritium production core (TPC) topical [report, NDP–98–181, Revision 1], the TPBAR design is robust to all accident conditions except the large break LOCA (LBLOCA) where the rods are susceptible to failure. However, the failure of TPBARs has been determined to have an insignificant effect on the thermal hydraulic response of the core to this event, and analysis has shown that the core will remain subcritical following a LOCA.

The impacts of TPBARs on the radiological consequences for all evaluated events are very small, and they remain within [well below] 10 CFR 100 regulatory limits. The additional offsite doses due to tritium are small with respect to LOCA source terms and are well within regulatory limits.

The TPBAR[s] could result in an increase in combustible gas released to the containment in a LBLOCA. This increase was found to be approximately 1495 scf which remains within the capability of the recombiners.

Analysis has shown that TPBARs are not expected to fail during Condition I through IV events [as described in Chapter 15 of the UFSAR, Condition I being normal operation and operational transients, Condition II being faults of moderate frequency, Condition III being infrequent faults, and Condition IV being limiting faults] with the exception of a LBLOCA and a fuel handling accident. The radiological consequences of these events are [well] within 10 CFR 100 limits. Therefore, there is no significant increase in the [probability or] consequences of these previously evaluated accidents.

6. TS 5.6 and TS 3/4.7.13 Bases—Design Features/Fuel Storage and Spent Fuel Pool Minimum Boron Concentration—Revised Storage Requirements for Fuel Assemblies Containing TPBARs

A specified amount of soluble boron is needed in the spent fuel pool to provide margin to criticality sufficient to mitigate the effects of the most serious spent fuel pool accident condition. Previous spent fuel pool criticality safety analyses (for Type A fuel) [spent fuel that has not hosted TPBARs] determined the required amount of soluble boron to be 700 parts per million (ppm). The new spent fuel pool criticality safety analysis accounting for storage of Type T fuel [spent fuel that has hosted TPBARS] confirmed that 700 ppm soluble boron still provides the required margin to criticality. Therefore, there is no significant increase in the consequences of previously evaluated accidents postulated for the spent fuel pool. Additionally, the administrative controls for loading the spent fuel pool are not changed and will continue to maintain acceptable storage configurations consistent with the analysis. Therefore, the proposed change will not [involve a significant] increase [in] the probability [or consequences] of an accident [previously evaluated].

7. TPBAR Consolidation Activity

TPBAR consolidation and associated handling activities are designed to be consistent with the existing fuel handling and heavy load handling processes and equipment currently utilized at the facility, and are designed to preclude increased probability of an accident previously evaluated.

Consequences of a fuel handling accident for fuel containing TPBARs is evaluated and does not result in exceeding [or even approaching]10 CFR Part 100 limits for off-site dose. All consolidation and heavy load handling activities are designed such that the current fuel handling accident scenario remains bounding. Therefore the [probability or] consequences of an accident previously evaluated [will not be significantly increased] remains within acceptable limits.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

1. TS Table 3.3–9—Remote Shutdown Monitoring Instrumentation—Revised Source Range Monitor Range

The backup source range monitors are for indication of unit shutdown conditions only and do not perform any trip or mitigation functions. The monitors are not active components such that they could initiate a postulated accident and are not considered a contributor to accident generation. Therefore, the lowering of the indication range for this monitor will not create the possibility of a new or different kind of accident [from any accident previously evaluated].

2. TS 3/4.5.1—Cold Leg Injection Accumulators—Boron Concentration Increase

The change to the accumulator concentration does not cause the initiation of any accident nor create any new credible limiting single failure. The change does not result in a condition where the design, material, and construction standards of the accumulators and other potentially affected NSSS components, that were applicable prior to the changes, are altered. The integrity and operability of the stainless steel surfaces in the accumulator and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained during a LOCA since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-]induced stress corrosion cracking and assure that there is no significant degradation of polymer materials.

The changes in the concentrations increase the amount of boron in the sump following a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no boron precipitation in the core following a LOCA.

All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed change has no adverse a[e]ffect on any safety-related system or component and does not challenge the performance or integrity of any safety[-]related system. Therefore, the proposed increase in accumulator boron concentration does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. TS 3/4.5.5—Refueling Water Storage Tank—Boron Concentration Increase

The change to the RWST concentration does not cause the initiation of any accident nor create any new credible limiting single failure. The change does not result in a condition where the design, material, and construction standards of the RWST and other potentially affected NSSS components, that were applicable prior to the changes, are altered. The integrity and operability of the stainless steel surfaces in the RWST and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained during a LOCA since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-]induced stress corrosion cracking and assure that there is no significant degradation of polymer materials.

The changes in the concentrations increase the amount of boron in the sump following a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no boron precipitation in the core following a LOCA.

All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed change has no adverse affect on any safety-related system or component and does not challenge the performance or integrity of any safety[-]related system. Therefore, the proposed increase in RWST boron concentration does not create the possibility of a new or different kind of accident from any accident previously evaluated.

4. TS 3/4.7.14 and Bases—Cask Pit Pool Minimum Boron Concentration—Deletion of Requirements

This change removes the provisions that allow and support the storage of spent fuel in the cask pit pool. By eliminating this provision, the potential for criticality events associated with stored fuel in the cask pit pool is no longer credible. The boron concentration requirement for the cask pit pool is not considered a contributor to accident generation and therefore, this deletion does not increase the [possibility of] potential for [a new or different kind of] accident [from any accident previously evaluated] generation because spent fuel will not be stored in this location.

5. TS 5.3.1—Design Features/Reactor Core/Fuel Assemblies

TPBARS have been designed to be compatible with existing fuel assemblies supplied by Framatome-ANP and its predecessor Framatome Cogema Fuels and with conventional Burnable Poison Rod Assembly (BPRA) handling tools, equipment, and procedures. Therefore, no new [or different kind of] accidents or equipment malfunctions are created by the handling of TPBARs. * * *

TPBARs use materials with known and predictable performance characteristics and are compatible with pressurized water reactor coolant. The TPBAR design has specifically included material similar to those used in standard burnable absorber rods with the exception of internal assemblies used in the production and retention of tritium. As described in the TPC Topical Report, these materials are compatible with the reactor coolant system (RCS) and core design. Therefore, no new accidents or equipment malfunctions are created by the presence of the TPBARs in the RCS.

Mechanical design criteria have been established to ensure that TPBARs will not fail during Condition I or II events. Analysis has shown that TPBARs, appropriately positioned in the core, operate within the established thermal-hydraulic criteria. Due to the expected high reliability of TPBAR components, the frequency of TPBAR cladding failures is very small, such that multiple adjacent TPBAR failures in limiting locations is not considered credible. In addition, analysis has shown that if a single TPBAR fails catastrophically in a high power location during normal operation and the lithium is leached out, the global reactivity increase is negligible and the local power peaking is small enough that DNBR [departure from nucleate boiling ratio] limits and fuel rod integrity are not challenged. Therefore, no new [or different kind of] accidents or equipment malfunctions are created by the presence of the TPBARs in the reactor.

Analysis has shown that TPBARs will not fail during Condition III and IV events with the exception of a LBLOCA and a fuel handling accident. The radiological consequences of these events are within 10 CFR 100 limits. Therefore, there is no significant increase in consequences of these previously evaluated accidents.

TPBARs do not adversely affect reactor neutronic [or] thermal-hydraulic performance, therefore they do not create the possibility of [new or different kinds of] accidents or equipment malfunctions of a different type [of accident] than previously evaluated while in the reactor.

6. TS 5.6 and TS 3/4.7.13 Bases—Design Features/Fuel Storage and Spent Fuel Pool Minimum Boron Concentration—Revised Storage Requirements for Fuel Assemblies Containing TPBARs

The storage in the spent fuel pool of spent fuel that has contained TPBARs is not a fundamental change in the use of the spent fuel pool. Specific provisions have been made for burnup and cooling time requirements in allowable configurations to ensure safe storage. The same administrative program to control storage requirements in the spent fuel pool will be utilized to handle Type A and Type T spent fuel. Therefore, the possibility of a new or different [kind of] accident than [any accident] previously evaluated has not been created.

7. TPBAR Consolidation Activity

The consolidation and handling systems are designed to preclude the possibility of a consolidating and/or handling event which could damage more than 24 TPBARs. Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any [accident] previously evaluated.

VOL 66 ISS 242 DE 17 2001 UMI

C. The proposed amendment does not involve a significant reduction in a margin of safety.

1. TS Table 3.3–9—Remote Shutdown Monitoring Instrumentation—Revised Source Range Monitor Range

The backup source range monitors are for indication of unit shutdown conditions only and do not perform any trip or mitigation functions. The lowering of the monitor's range does allow improved indication of core conditions with the TPCs. While this monitor does not have any trip or accident mitigation functions, this change will improve the ability to assess the conditions of the unit such that necessary actions can be initiated to prevent undesired conditions. Therefore, the proposed change will not reduce [does not involve a significant reduction in] a margin of safety.

2. TS 3/4.5.1—Cold Leg Injection Accumulators—Boron Concentration Increase

The change does not invalidate any of the non-LOCA safety analysis results or conclusions, and all of the non-LOCA safety analysis acceptance criteria continue to be met. The licensing basis small break LOCA (SBLOCA) analysis does not credit the accumulator boron and is not affected by the proposed change. Therefore, there is no reduction in the margin to the peak clad temperature (PCT) limit for the SBLOCA. There is no increase in the LBLOCA PCT; therefore, the ECCS acceptance criteria limit, dictated by 10 CFR 50.46, is not exceeded with regard to the LBLOCA analysis. The increased boron concentration is sufficient to maintain subcriticality during the LBLOCA, and a post-LOCA long-term core cooling analysis demonstrated that the post-LOCA sump boron concentration is sufficient to prevent recriticality. The revised hot leg switchover time, which will be implemented in the EOPs, will prevent long-term cooling problems associated with boron precipitation in the reactor vessel and core. The licensing analyses for containment, equipment qualification, and environmental consequences remain bounding and applicable and the acceptance criteria of the related events continue to be met. The proposed increase in accumulator boron concentration, therefore, does not involve a significant reduction in a margin of safety.

3. TS 314.5.5—Refueling Water Storage Tank—Boron Concentration Increase

The change does not invalidate any of the non-LOCA safety analysis results or conclusions, and all of the non-LOCA safety analysis acceptance criteria continue to be met. The licensing basis SBLOCA analysis does not credit the RWST boron and is not affected by the proposed change. Therefore, there is no reduction in the margin to the PCT limit for the SBLOCA. There is no increase in the LBLOCA PCT; therefore, the ECCS acceptance criteria limit, dictated by 10 CFR 50.46, is not exceeded with regard to the LBLOCA analysis. The increased boron concentration is sufficient to prevent recriticality. The revised hot leg switchover time, which will be implemented in the EOPs, will prevent boron precipitation. The licensing analyses for containment, equipment qualification, and environmental consequences remain bounding and applicable and the acceptance criteria of the related events continue to be met. The proposed increase in RWST boron concentration, therefore, does not involve a significant reduction in a margin of safety.

4. TS 3/4.7.14 and Bases—Cask Pit Pool Minimum Boron Concentration—Deletion of Requirements

This change removes the provisions that allow and support the storage of spent fuel in the cask pit pool. This change will not alter plant systems, operating methods, or plant setpoints that maintain the margin of safety. Boron concentration will continue to be properly maintained for the storage of spent fuel in the spent fuel pool as required by the analysis to control inadvertent criticality events. Therefore, this change will not reduce [does not involve a significant reduction in] the margin of safety.

5. TS 5.3.1—Design Features/Reactor Core/Fuel Assemblies

TPBARs have been designed to be compatible with existing fuel assemblies. TPBARs do not adversely affect reactor neutronic or thermal-hydraulic performance. Analysis indicates that reactor core behavior and offsite doses remain relatively unchanged. For these reasons, the proposed amendment does not involve a significant reduction in a margin of safety.

6. TS 5.6 and TS 3/4.7.13 Bases—Design Features/Fuel Storage and Spent Fuel Pool Minimum Boron Concentration—Revised Storage Requirements for Fuel Assemblies Containing TPBARs

Addition of fuel assemblies containing TPBARs to the spent fuel pool is consistent with the pool design function. Specific provisions have been made as a result of reanalysis of spent fuel pool criticality safety analysis to limit storage configurations and burnup or cooling time requirements to those that will provide for safe storage of fresh and spent fuel. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

7. TPBAR Consolidation Activity

The changes do not affect the safety-related performance of any plant operations, system, structures, or components. Therefore, there is no [it does not involve a] significant reduction in the margin of safety.

The NRC staff has reviewed the no significant hazards consideration analysis provided by TVA with respect to the three criteria listed in 10 CFR 50.92(c). The staff's safety evaluation is in its early stages and will require several months to complete. However, in terms of 10 CFR 50.92(c), the staff finds that the TVA application addresses all applicable accidents discussed in the UFSAR, including LOCAs, SGTRs, and fuel handling considerations. Insertion of the TPBARS for the purpose of producing tritium (which is sealed inside the TPBARs) requires a higher degree of fuel enrichment with uranium-235. Because the TPBARs neither contain fissile material nor replace normal reactor fuel, and because the TPBARs will not adversely affect reactor neutronic or thermal-hydraulic performance, their presence in the core should have no effect upon the probability or consequences of previously analyzed accidents, including fuel handling accidents. For the same reasons, the possibility of a new or different kind of accident would not be expected to result from irradiation of the TPBARS in the SQN reactor cores. TVA's analysis of a possible reduction in safety margins addressed PCT limits resulting from an SBLOCA and the increased boron concentration to maintain subcriticality.

Based on the NRC staff's review of the analysis provided by the licensee, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 16, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10

CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by E-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to General Counsel, Tennessee Valley Authority, ET 11A, 400 West Summit Hill Drive, Knoxville, TN 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Further details with respect to this action may be found in the application for amendment dated September 21, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by E-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 11th day of December 2001.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30970 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–390]

Tennessee Valley Authority; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–90 issued to the Tennessee Valley Authority (TVA or the licensee) for operation of the Watts Bar Nuclear Plant (WBN), Unit 1, located in Rhea County, Tennessee.

The proposed amendment would change Technical Specifications (TSs) to allow WBN to provide incore irradiation services for the U.S. Department of Energy (DOE). This change would allow TVA to insert up to 2304 tritium-producing burnable absorber rods

VOL 66 ISS 242 DE 17 2001 UMI

(TPBARs) into the reactor core to support DOE in maintaining the nation's tritium inventory for national defense purposes. Each WBN core contains 193 fuel assemblies and each fuel assembly contains 264 fuel rods. In this amendment request, TVA proposes to insert up to 24 TPBARs in selected fuel assemblies (adjacent to but not in place of the 264 fuel rods). The TPBARS absorb neutrons and are similar to (and would replace) normal burnable neutron absorber rods that serve to shape neutron flux in the core. The TPBARs contain no fissile material and will be installed in fuel assemblies where burnable absorber rods are normally placed in selected fuel assemblies. Therefore, the TPBARs would fill the same role as burnable absorber rods in the operation of the reactor. However, most of the neutron absorber (lithium) in the TPBARs still remains at the end of core life as compared to normal burnable neutron absorbers (boron or gadolinium). Therefore, the proposed license amendment involves increasing the required boron concentration for both the cold-leg accumulators (TS 3.5.1) and the refueling water storage tank (TS 3.5.4), removing the Region 2 burnup credit racks in the spent fuel pool and clarifying fuel storage restrictions (TSs 3.7.15 and 4.3.3), adding a limit on the number of TPBARs that can be irradiated (TS Section 4.2.1), and implementing a TPBAR consolidation activity. This submittal also provides proposed revisions to the associated TS Bases to modify the switchover time for containment sump to hot leg recirculation (TS B3.5.2) and to modify the hydrogen recombiner section to properly describe the possible sources of hydrogen gas (TS B3.6.7). The uranium-235 (U–235) enrichment of fuel assemblies containing TPBARs must be increased to no more than 4.95 weight percent to compensate for the higher neutron absorbing properties of the lithium-7 in the TPBARs. The NRC has previously approved maximum U–235 fuel enrichments of 5.0 weight percent for WBN Unit 1. Five percent enrichment is the NRC's upper limit for reactor licensing. Therefore, enrichments resulting from the proposed amendment are bounded by the current WBN Operating License and licensing basis.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration in its application dated August 20, 2001, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

1. TS 3.5.1—Cold Leg Accumulator—Boron Concentration Increase

The accumulator boron concentration does not affect any initiating event for accidents currently evaluated in the Updated Final Safety Analysis Report (UFSAR). The increased concentrations will not adversely affect the performance of any system or component which is placed in contact with the accumulator water. The integrity and operability of the stainless steel surfaces in the accumulator and affected Nuclear Steam Supply System (NSSS) components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-]induced stress corrosion cracking and assure that there is no significant degradation of polymer materials. The design, material and construction standards of all components which are placed in contact with the accumulator water remain unaffected. Therefore, the possibility [probability] of an accident has not been [significantly] increased.

The consequences of an accident previously evaluated in the UFSAR will not be [significantly] increased. The change in the concentrations increase the amount of boron in the sump during a Loss of Coolant Accident (LOCA). The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Testing has indicated that TPBARs can experience cladding breach at Large Break LOCA (LBLOCA) conditions if the cladding temperature and internal pressure of the TPBARs reach limiting values. Consequently, the post-LOCA critical boron calculations account[ed] for the potential loss of a $LiAlO_2$ [lithium aluminate] pencil, as well as partial leaching of lithium from the remaining pencils. Based on conservative assumptions, the calculations confirm that the tritium production core will remain subcritical following a LOCA. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant Emergency Operating Procedures (EOPs). Thus, there will be no boron precipitation in the core following a LBLOCA.

The only non-LOCA event that assumes accumulator actuation is the Major Rupture of a Main Steamline event, however, it assumes a minimum amount of boron. Furthermore, there is no impact on the SGTR [steam generator tube rupture] event since the accumulators are not assumed to be actuated, and the SLB [steam line break] M&E [mass and energy] release evaluation relies on control rods for shutdown margin and assumes a minimum boron concentration.

In addition, the increase in accumulator boron concentrations and subsequent slight decrease in containment sump and spray pH does not impact the LOCA dose evaluation since the analysis of record does not credit sump pH as an input or assumption regarding volatile iodine removal efficiencies. Therefore, the present analysis remains bounding. Also, the slight decrease in sump, core and spray fluid pH has been evaluated to not significantly impact the corrosion rate (and subsequent generation of Hydrogen) of Aluminum and Zinc inside containment. Further, the decreased sump, core and spray fluid pH has been evaluated to not affect the amount of hydrogen generated from the post-LOCA radiolytic decomposition of the sump and core solution. The likelihood of containment failure due to hydrogen deflagration is therefore not impacted by pH changes.

In view of the preceding, it is concluded that the proposed change will not [significantly] increase the radiological [probability or] consequences of an accident previously evaluated in the FSAR.

2. TS 3.5.4 and the Associated TS Bases Page—Refueling Water Storage Tank (RWST)—Boron Concentration Increase

The RWST boron concentration does not affect any initiating event for accidents currently evaluated in the UFSAR. The increased concentration will not adversely affect the performance of any system or component which is placed in contact with the RWST water. The integrity and operability of the stainless steel surfaces in the RWST and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-induced stress corrosion cracking and assure that there is no significant degradation of polymer materials. The design, material and construction standards of all components which are placed in contact with the RWST water remain unaffected. Therefore, the probability of an accident has not changed.

The consequences of an accident previously evaluated in the UFSAR will not be [significantly] increased. The change in the concentrations increases the amount of boron in the sump following a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. This analysis assumes partial leaching. Testing has indicated that TPBARs can experience cladding breach at LBLOCA conditions if the cladding temperature and internal pressure of the TPBARs reach limiting values. Consequently, the post-LOCA critical boron calculations accounted for the potential loss of a LiAlO^2 pencil, as well as partial leaching of lithium from the remaining pencils. Based on conservative assumptions, the calculations confirm that the tritium production core will remain subcritical following a LOCA. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no boron precipitation in the core following a LOCA.

The Inadvertent Operation of Emergency Core Cooling System (ECCS) event is the only non-LOCA event which assumes the maximum RWST boron concentration, and an evaluation has shown that the proposed increase does not cause an adverse impact on this transient.

The Steam Line Break (SLB) mass and energy (M&E) release evaluation relies on control rods for shutdown margin and assumes a minimum boron concentration. For the Steam Generator Tube Rupture (SGTR) event, the increased boron concentration will help maintain adequate shutdown margin, which will be evaluated as part of the reload process.

In addition, the increase in RWST boron concentrations and subsequent slight decrease in containment sump and spray pH does not impact the LOCA dose evaluation. While higher pH helps maintain volatile iodine in solution and lower pH drives the equilibrium to favor volatile iodine in a gaseous state, the change in sump pH is not sufficient to result in any measurable change in post LOCA releases.

Furthermore, current radiological analyses do not take credit for volatile iodine removal efficiencies based on sump pH. Therefore, since the change in pH is minimal, and no credit is taken in release analysis, the present analysis remains bounding. Also, the slight decrease in sump, core and spray fluid pH has been evaluated to not significantly impact the corrosion rate (and subsequent generation of Hydrogen) of Aluminum and Zinc inside containment and the present analysis remains bounding. Further, the decreased sump, core and spray fluid pH has been evaluated to not affect the amount of hydrogen generated from the radiolytic decomposition of the sump and core solution and therefore will not challenge containment integrity.

In view of the preceding, it is concluded that the proposed change will not [significantly] increase the radiological probability or consequences of an accident previously evaluated in the FSAR.

3. TS 3.7.15 and the Associated TS Bases Pages—Plant Systems/Spent Fuel Assembly Storage

The Region 2 burnup credit racks described in TS section 4.3.3 are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Therefore, since they are not installed, there is no [significant] increase in the probability or consequences of an accident previously evaluated.

4. TS 4.2.1—Design Features/Reactor Core/Fuel Assemblies

The insertion of TPBARs into the WBN reactor core does not adversely affect reactor neutronic or thermal-hydraulic performance; therefore, they do not significantly increase the probability of accidents or equipment malfunctions while in the reactor. The neutronic behavior of the TPBARS mimics that of standard burnable absorbers with only slight differences which are accommodated in the core design. The reload safety analysis performed for WBN Unit 1 prior to each refueling cycle will confirm that any minor effects of TPBARS on the reload core will be within fuel design limits.

As described in the [Department of Energy's] TPC [Tritium Production Core] Topical [Report, NDP–98–181, Revision 1], the TPBAR design is robust to all accident conditions except the large break LOCA where the rods are susceptible to failure. However, the failure of TPBARs has been determined to have an insignificant effect on the thermal hydraulic response of the core to this event, and analysis has shown that the core will remain subcritical following a LOCA.

The impacts of TPBARs on the radiological consequences for all evaluated events are very small, and they remain within [well below]10 CFR 100 regulatory limits. The additional offsite doses due to tritium are small with respect to LOCA source terms and are well within regulatory limits.

The TPBAR could result in an increase in combustible gas released to the containment in a large break LOCA. This increase was found to be approximately 1474 scf [standard cubic feet] which remains within the capability of the recombiners.

Analysis has shown that TPBARs are not expected to fail during Condition I through IV events [as described in Chapter 15 of the UFSAR, Condition I being normal operation and operational transients, Condition II being faults of moderate frequency, Condition III being infrequent faults, and Condition IV being limiting faults]. TPBARs may fail during a LBLOCA or as a result of fuel handling accident. The radiological consequences of these events are [well] within 10 CFR 100 limits. Therefore, there is no significant increase in the [probability or] consequences of these previously evaluated accidents.

5. TS 4.3.3—Design Features/Fuel Storage/Capacity

The Region 2 burnup credit racks described in this TS section are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Due to the deletion of the Region 2 racks, the additional detail provided clarifies existing storage restrictions. Therefore, since they are not installed, there is no [significant] increase in the probability or consequences of an accident previously evaluated.

6. TS Bases 3.5.2—Emergency Core Cooling Systems/ECCS Operating

Due to the increase of the boron concentration in the RWST and the accumulators, initial mixed boron concentrations are higher and the precipitation concentration is reached sooner. As a result, the hot leg switchover is being shortened. However, the time being shortened does not change the switchover function. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

7. TS Bases 3.6.7—Hydrogen Recombiners

This change is administrative in nature and involves only identifying another source of hydrogen gas (tritium) to the bases. The functions for the hydrogen recombiners remain the same. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

8. TPBAR Consolidation Activity

TPBAR consolidation and associated handling activities are designed to be consistent with the existing fuel handling and heavy load handling processes and equipment currently utilized at the facility, and are designed to preclude increased probability of an accident previously evaluated.

Consequences of a fuel handling accident for fuel containing TPBARs is evaluated and does not result in exceeding [or even approaching] 10 CFR Part 100 limits for off-site dose. All consolidation and heavy load handling activities are designed such that the current fuel handling accident scenario remains bounding. Therefore the consequences of an accident previously evaluated remains within acceptable limits.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

1. TS 3.5.1—Cold Leg Accumulator—Boron Concentration Increase

The change to the accumulator concentration does not cause the initiation of any accident nor create any new credible limiting single failure. The change does not result in a condition where the design, material, and construction standards of the accumulators and other potentially affected NSSS components, that were applicable prior to the changes, are altered. The integrity and operability of the stainless steel surfaces in the accumulator and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained during a LOCA since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride[-]induced stress corrosion cracking and assure that there is no significant degradation of polymer materials.

The changes in the concentrations increase the amount of boron in the sump following

VOL 66 ISS 242 DE 17 2001 UMI

a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no boron precipitation in the core following a LOCA.

All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed change has no adverse affect on any safety-related system or component and does not challenge the performance or integrity of any safety related system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2. TS 3.5.4 and Associated TS Bases Page—RWST—Boron Concentration Increase

The change to the RWST concentration does not cause the initiation of any accident nor create any new credible limiting single failure. The change does not result in a condition where the design, material, and construction standards of the RWST and other potentially affected NSSS components, that were applicable prior to the changes, are altered. The integrity and operability of the stainless steel surfaces in the RWST and affected NSSS components/systems will be maintained. The decrease in solution pH is small and will not degrade the stainless steel. Also, the integrity of the Class 1E instrumentation and control equipment will be maintained during a LOCA since the lower sump pH, resulting from the increased boron concentrations, is still within the applicable equipment qualification limits. These limits are set to preclude the possibility of chloride-induced stress corrosion cracking and assure that there is no significant degradation of polymer materials.

The changes in the concentrations increase the amount of boron in the sump following a LOCA. The increased boron in the sump is sufficient to maintain the core in a subcritical condition. Also, a revised hot leg switchover time has been calculated and will be implemented in the plant EOPs. Thus, there will be no boron precipitation in the core following a LOCA.

All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed change has no adverse affect on any safety-related system or component and does not challenge the performance or integrity of any safety[-]related system. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. TS 3.7.15 and Associated TS Bases Pages—Plant Systems/Spent Fuel Assembly Storage

The Region 2 burnup credit racks described in section 4.3.3 are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Therefore, since they are not installed, this change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

4. TS 4.2.1—Design Features/Reactor Core/Fuel Assemblies

TPBARS have been designed to be compatible with existing Westinghouse 17x17 fuel assemblies and conventional Burnable Poison Rod Assembly (BPRA) handling tools, equipment, and procedures, and therefore, no new [or different kind of] accidents or equipment malfunctions are created by the handling of TPBARs * * *

TPBARs use materials with known and predictable performance characteristics and are compatible with pressurized water reactor (PWR) coolant. The TPBAR design has specifically included material similar to those used in standard burnable absorber rods with the exception of internal assemblies used in the production and retention of tritium. As described in the TPC Topical Report, these materials are compatible with the reactor coolant system (RCS) and core design. Therefore, no new [or different kind of] accidents or equipment malfunctions are created by the presence of the TPBARs in the RCS.

Mechanical design criteria have been established to ensure that TPBARs will not fail during Condition I or II events. Analysis has shown that TPBARs, appropriately positioned in the core operate within the established thermal-hydraulic criteria. Due to the expected high reliability of TPBAR components the frequency of TPBAR cladding failures is very small, such that multiple adjacent TPBAR failures in limiting locations is not considered credible. In addition, analysis has shown that if a single TPBAR fails catastrophically in a high power location during normal operation and the lithium is leached out, the global reactivity increase is negligible and the local power peaking is small enough that DNBR [departure from nucleate boiling ratio] limits and fuel rod integrity are not challenged. Therefore, no new [or different kind of] accidents or equipment malfunctions are created by the presence of the TPBARs in the reactor.

Analysis has shown that TPBARs will not fail during Condition III and IV events. TPBARs may fail during a cold leg large break loss-of-coolant-accident or as a result of a fuel handling accident. The radiological consequences of these events are within 10 CFR 100 limits. Therefore, there is no significant increase in consequences of these previously evaluated accidents.

TPBARs do not adversely affect reactor neutronic or thermal-hydraulic performance; therefore they do not create the possibility of accidents or equipment malfunctions of a [new or] different type than previously evaluated while in the reactor.

5.TS 4.3.3—Design Features/Fuel Storage/Capacity

The Region 2 burnup credit racks described in this section are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Due to the deletion of the Region 2 racks, the additional detail provided clarifies existing storage restrictions. Therefore, since they are not installed, this change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

6. Bases 3.5.2—Emergency Core Cooling Systems/ECCS Operating

Due to the increase of the boron concentration in the RWST and the accumulators, initial mixed boron concentrations are higher and the precipitation concentration is reached sooner. As a result, the hot leg switchover value is being shortened. This time being shortened does not change the switchover function. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

7. Bases 3.6.7—Hydrogen Recombiners

This change is administrative in nature and only involves only identifying another source of hydrogen gas (tritium) to the bases. The functions for the hydrogen recombiners remain the same. Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

8. TPBAR Consolidation Activity—

The consolidation and handling activities are bounded by current fuel handling evaluations. Therefore, this proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

1. TS 3.5.1—Cold Leg Accumulator—Boron Concentration Increase

The change does not invalidate any of the non-LOCA safety analysis results or conclusions, and all of the non-LOCA safety analysis acceptance criteria continue to be met. The licensing basis SBLOCA analyses does not credit the accumulator boron and is not affected by the proposed change.

Therefore, there is no reduction in the margin to the Peak clad temperature (PCT) limit for the SBLOCA. There is no increase in the Best Estimate LBLOCA PCT; therefore, there continues to be a high level of probability that the ECCS acceptance criteria limit is not exceeded with regard to the LBLOCA analysis. The increased boron concentration is sufficient to maintain subcriticality during the LBLOCA, and a post-LOCA long term core cooling analysis demonstrated that the post-LOCA sump boron concentration is sufficient to prevent recriticality. The revised hot leg switchover time, which will be implemented in the EOPs, will prevent boron precipitation. The licensing basis containment and SLB M&E releases remain bounding, and the SGTR event acceptance criteria continue to be met. Furthermore, the changes do not affect the safety[-]related performance of the accumulator or related NSSS components. Therefore, there is no significant reduction in the margin of safety.

2. TS 3.5.4 and Associated TS Bases Page—RWST—Boron Concentration Increase

The change does not invalidate any of the non-LOCA safety analysis results or conclusions, and all of the non-LOCA safety analysis acceptance criteria continue to be met. The licensing basis SBLOCA analyses does not credit the RWST boron and is not affected by the proposed change. Therefore, there is no reduction in the margin to the PCT limit for the SBLOCA. There is no increase in the Best Estimate LBLOCA PCT; therefore, there continues to be a high level of probability that the ECCS acceptance criteria limit is not exceeded with regard to the LBLOCA analysis. The increased boron concentration is sufficient to prevent recriticality. The revised hot leg switchover time, which will be implemented in the EOPs, will prevent boron precipitation. The licensing basis containment and SLB M&E releases remain bounding, and the SGTR event acceptance criteria continue to be met. Furthermore, the changes do not affect the safety[-]related performance of the RWST or related NSSS components. Therefore, there is no significant reduction in the margin of safety.

3. TS 3.7.15 and Associated TS Bases Pages—Plant Systems/Spent Fuel Assembly Storage

The Region 2 burnup credit racks described in section 4.3.3 are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Therefore, since they are not installed, this change would not involve a [significant] reduction in a margin of safety.

4. TS 4.2.1—Design Features/Reactor Core/Fuel Assemblies

TPBARs have been designed to be compatible with existing fuel assemblies. TPBARs do not adversely affect reactor neutronic or thermal-hydraulic performance. Analysis indicates that reactor core behavior and offsite doses remain relatively unchanged. For these reasons, the proposed amendment does not involve a significant reduction in a margin of safety.

5. TS 4.3.3—Design Features/Fuel Storage/Capacity

The Region 2 burnup credit racks described in section 4.3.3 are not currently installed in the plant. Since the time that these racks were licensed, TVA has determined not to install or utilize this storage option. Due to the deletion of the Region 2 racks, the additional detail provided clarifies existing storage restrictions and does not reduce the margin of safety in existing storage requirements. Therefore, since they are not installed, this change would not involve a [significant] reduction in a margin of safety.

6. Bases 3.5.2—Emergency Core Cooling Systems/ECCS Operating

Due to the increase of the boron concentration in the RWST and the accumulators, initial mixed boron concentrations are higher and the precipitation concentration is reached sooner. As a result, the hot leg switchover value is being shortened. This time being shortened does not change the switchover function. Therefore, this change does not involve a [significant] reduction in the margin of safety.

7. Bases 3.6.7—Hydrogen Recombiners

This change is administrative in nature and only involves only identifying another source of hydrogen gas (tritium) in the bases. The functions for the hydrogen recombiners remain the same. Therefore, this change does not involve a [significant] reduction in the margin of safety.

8. TPBAR Consolidation Activity

The changes do not significantly affect the safety[-]related performance of any plant operations, system, structures, or components. The consolidation activity is bounded by current fuel handling evaluations. Therefore, there is no [does not involve a] significant reduction in the margin of safety.

The NRC staff has reviewed the no significant hazards consideration analysis provided by TVA with respect to the three criteria listed in 10 CFR 50.92(c). The staff's safety evaluation is in its early stages and will require several months to complete. However, in terms of 10 CFR 50.92(c), the staff finds that the TVA application addresses all applicable accidents discussed in the UFSAR, including LOCAs, SGTRs, and fuel handling considerations. Insertion of the TPBARS for the purpose of producing tritium (which is sealed inside the TPBARs) requires a higher degree of fuel enrichment with U–235. Because the TPBARs neither contain fissile material nor replace normal reactor fuel, and because the TPBARs will not adversely affect reactor neutronic or thermal-hydraulic performance, their presence in the core should have no effect upon the probability or consequences of previously analyzed accidents, including fuel handling accidents. For the same reasons, the possibility of a new or different kind of accident would not be expected to result from irradiation of the TPBARS in the WBN reactor core. TVA's analysis of a possible reduction in safety margins addressed PCT limits resulting from an SBLOCA and the increased boron concentration to maintain subcriticality.

Based on the NRC staff's review of the analysis provided by the licensee, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 16, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html*. If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by E-mail to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's

VOL 66 ISS 242 DE 17 2001 UMI

property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to General Counsel, Tennessee Valley Authority, ET 11A, 400 West Summit Hill Drive, Knoxville, TN 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Further details with respect to this action may be found in the application for amendment dated August 20, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by E-mail to *pdr@nrc.gov.*

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 11th day of December 2001.

L. Mark Padovan,

Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–30971 Filed 12–14–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Federal Register Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of December 17, 24, 31, 2001, January 7, 14, 21, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 17, 2001

There are no meetings scheduled for the Week of December 17, 2001.

Week of December 24, 2001—Tentative

There are no meetings scheduled for the Week of December 24, 2001.

Week of December 31, 2001—Tentative

There are no meetings scheduled for the Week of December 31, 2001.

Week of January 7, 2002—Tentative

Wednesday, January 9, 2002

9:30 a.m. Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of January 14, 2002—Tentative

There are no meetings scheduled for the Week of Janaury 14, 2002.

Week of January 21, 2002—Tentative

There are no meetings scheduled for the Week of January 21, 2002.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov*

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: December 12, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–31160 Filed 12–13–01; 2:47 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting; Notification of Item Added to Meeting Agenda

DATE OF MEETING: December 3, 2001.

STATUS: Closed.

PREVIOUS ANNOUNCEMENT: 66 FR 59035, November 26, 2001.

ADDITION: Rate Case R2001–1.

At its meeting on December 3, 2001, the Board of Governors of the United States Postal Service voted unanimously to add this item to the agenda of its closed meeting and that no earlier announcement was possible. The General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC.

David G. Hunter,

Secretary.

[FR Doc. 01–31169 Filed 12–13–01; 2:47 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25316; 812–12696]

Blue Cross and Blue Shield of Kansas, Inc.; Notice of Application

December 11, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under sections 6(c) and 6(e) of the Investment Company Act of 1940 (the "Act") exempting an escrow account established by the applicant from all provisions of the Act, except section 9 and sections 36 through 53 of the Act, and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicant requests an order on behalf of an escrow account (the "Escrow Account") to be established in connection with applicant's conversion to a stock life insurance company and its subsequent acquisition by Anthem Insurance Companies, Inc. ("Anthem"). The Escrow Account will hold a portion of the cash consideration from the sale pending the resolution of a specified litigation matter involving applicant. The order would exempt the Escrow Account from certain provisions of the Act and the rules and regulations under those provisions.

Applicant: Blue Cross and Blue Shield of Kansas, Inc. (the "Company").

Filing Date: The application was filed on November 23, 2001 and amended on December 10, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 7, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicant: Kenneth J. Berman, Debevoise & Plimpton, 555 13th Street, NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. The Company is a Kansas mutual life insurance company that proposes to convert to a stock life insurance company (the "Conversion") pursuant to a plan of conversion (the "Plan") in accordance with Kansas law. As a mutual life insurance company, the Company has no authorized, issued or outstanding capital stock. The policyholders of the Company, through the purchase of insurance policies and contracts, acquire insurance coverage and "Membership Interests" which consist principally of the right to vote in the election of directors of the Company and the right to share in any residual value of the Company if the Company were to undergo liquidation in the future.

2. Pursuant to an Alliance Agreement between the Company and Anthem, an Indiana stock insurance company (the "Alliance Agreement"), Anthem or an affiliate of Anthem will acquire the Company upon the Company's Conversion (the "Acquisition"). On the date of effectiveness of the Conversion and the closing of the Acquisition (the "Conversion Date"), the Membership Interests of the Company policyholders will be extinguished, the Company's policyholders eligible to vote and receive consideration in the Conversion ("Eligible Policyholders") will be entitled to receive consideration as provided in the Alliance Agreement and the Plan, and the Company will become a direct or indirect wholly-owned subsidiary of Anthem.

3. The Company's board of directors has adopted the Plan. The Plan has been submitted to the Commissioner of Insurance of the State of Kansas (the "Commissioner") for approval. Article 40 of Chapter 40 of the Kansas Statutes Annotated (the "Kansas Conversion Law") requires the Commissioner to hold a public hearing at which the Company's policyholders would have the right to appear and be heard. The Commissioner must approve the Plan if the Commissioner finds that (a) the Plan is fair and equitable to policyholders, (b) the Plan complies with the provisions of the Kansas Conversion Law, (c) the Plan does not unjustly enrich any director, officer, agent or employee of the Company and (d) the Company would meet minimum requirements to be issued a certificate of authority by the Commissioner to transact business in Kansas and the continued operations of the Company would not be hazardous to existing or future policyholders or the public.

4. Eligible Policyholders also must approve the Plan, including the establishment of the Escrow Account. As required by the Kansas Conversion Law, Eligible Policyholders will have received from the Company a comprehensive information booklet

describing the Plan, including all material aspects of the Escrow Account, at least 30 days prior to a special meeting to be held on January 11, 2002 at which the Eligible Policyholders will be required to vote on the Plan. The information booklet was reviewed and approved by the staff of the Kansas Insurance Department.

5. Under the proposed transaction, Eligible Policyholders will be entitled to receive $142 million of the $190 million purchase price paid by Anthem for the stock of the Company upon the Conversion, with the remaining $48 million of the purchase price deposited into the Escrow Account on the Conversion Date. The Escrow Account will be established to address issues arising from a subpoena, dated February 28, 2001, that the Company received from the Office of the Inspector General, U.S. Department of Health and Human Services (the "Contingent Litigation Matter").[1] The amounts held in the Escrow Account will be used to pay all costs, expenses and liabilities related to the Contingent Litigation Matter, pay related taxes which might become payable, and pay all costs and expenses of the Escrow Account. Any remaining amounts will be distributed to Eligible Policyholders following final resolution of the Contingent Litigation Matter.

6. The Escrow Account will be a separately designated investment account established on or prior to the Conversion Date pursuant to an escrow agreement (the "Escrow Agreement") to be entered into among the Company, Anthem and an escrow agent (the "Escrow Agent"). The Escrow Agent will be a bank, savings and loan association or trust company. The sole purpose of the Escrow Account will be to liquidate its assets and distribute the income to the Eligible Policyholders in as prompt and orderly a fashion as possible following the resolution of the Contingent Litigation Matter. Amounts held in the Escrow Account will be invested by the Escrow Agent solely in obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States of America or an agency or instrumentality thereof with a maturity date of one year or less from the date of the investment ("Government Securities"). The Escrow Agent will not have the authority to borrow funds from, or on behalf of the Escrow Account, sell securities to, or acquire securities from, the Escrow Account, or, acquire any other assets except for Government Securities. The rights of the Eligible Policyholders to amounts held in the Escrow Account will not be represented by any form of certificate or instrument and will not be transferable or assignable except by will, the laws of intestacy or by other operation of law. The Commissioner will retain regulatory oversight over the Escrow Account, including the investment and distribution of the assets held in the Escrow Account to ensure that the interests of Eligible Policyholders are protected.

7. The Escrow Account will continue until the Contingent Litigation Matter has been finally disposed of by binding settlement, court order or otherwise, all tax amounts have been finally determined, all amounts that are reasonably recoverable from any insurer in respect of the Contingent Litigation Matter are recovered, and all amounts in the Escrow Account have been paid or distributed by the Escrow Agent in accordance with the Escrow Agreement and the Alliance Agreement. Any amounts remaining in the Escrow Account will be distributed to Eligible Policyholders in accordance with the distribution principles set forth in the Plan.

Applicant's Legal Analysis

1. Section 3(a)(1)(A) of the Act defines the term "investment company" to include an issuer that is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities. Because the assets held in the Escrow Account will be invested exclusively in Government Securities and the Escrow's sole source of income will be investment income attributable to such securities, applicant states that it is possible that the Escrow Account could be deemed to be an investment company as defined in section 3(a)(1)(A).

2. Section 6(c) of the Act provides, in relevant part, that the Commission may exempt any person or persons, or any transaction or transactions, from any provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities.[2] Section 6(e) of the Act provides that, in connection with any order exempting an investment company from any provision of section 7, the Commission may specify that certain provisions of the Act will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicant contends that the costs involved in registering and operating the Escrow Account under the Act are not necessary to protect the interests of the Eligible Policyholders and would reduce the amount of cash consideration actually distributed to the Eligible Policyholders. Because of the limited nature of the Escrow Account's activities, the Company believes that most provisions of the Act are not relevant to the Escrow Account. The Escrow Account is being organized for a limited purpose, will have a limited life, and will be subject to the Commissioner's oversight. Moreover, management of the Escrow Account's assets by the Escrow Agent will be severely restricted. Accordingly, applicant states that the requested order meets the requirements of section 6(c) of the Act.

Applicant's Conditions

Applicant agrees that any order granting the requested relief shall be subject to the following conditions:

1. The Escrow Account will not hold itself out as being an investment company, but instead will hold itself out as an escrow account in the process of liquidating and distributing its assets to the Eligible Policyholders.

2. The Escrow Account will be limited to making temporary investments in Government Securities.

3. The Escrow Account will terminate, in accordance with the terms of the Escrow Agreement, upon final disposition of the Contingent Litigation Matter by binding settlement, court order or otherwise, final determination of certain tax matters, reasonable recovery from any insurer of costs associated with the Contingent Litigation Matter and distribution of all amounts in the Escrow Account by the Escrow Agent.

---

[1] The subpoena seek documents in connection with an investigation of possible improper claims against Medicare pursuant to 5 U.S.C. App. 3 Section 6(a)(4).

[2] Applicant notes that the last sentence of section 7(b) of the Act provides that the broad injunction against actions by unregistered investment companies contained in section 7 of the Act does not apply to "transactions of an investment company which are merely incident to its dissolution." Applicant states that due to the nature of the Contingent Litigation Matter, it is likely that the life of the Escrow Account may need to extend beyond three years and that applicant therefore may be unable to rely on this provision in section 7(b).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30977 Filed 12–14–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8040; 34–45149; FR–60]

Accounting Policies; Cautionary Advice Regarding Disclosure

AGENCY: Securities and Exchange Commission.

ACTION: Cautionary advice regarding disclosure about critical accounting policies.

SUMMARY: The Securities and Exchange Commission is issuing a statement regarding the selection and disclosure by public companies of critical accounting policies and practices.

FOR FURTHER INFORMATION CONTACT: Robert A. Bayless, Special Assistant to the Chief Accountant, 202–942–4400.

SUPPLEMENTARY INFORMATION: As public companies undertake to prepare and file required annual reports with us, we wish to remind management, auditors, audit committees, and their advisors that the selection and application of the company's accounting policies must be appropriately reasoned. They should be aware also that investors increasingly demand full transparency of accounting policies and their effects.

Reported financial position and results often imply a degree of precision, continuity and certainty that can be belied by rapid changes in the financial and operating environment that produced those measures. As a result, even a technically accurate application of generally accepted accounting principles ("GAAP") may nonetheless fail to communicate important information if it is not accompanied by appropriate and clear analytic disclosures to facilitate an investor's understanding of the company's financial status, and the possibility, likelihood and implication of changes in the financial and operating status.

Of course, public companies should be mindful of existing disclosure requirements in GAAP and our rules. Accounting standards require information in financial statements about the accounting principles and methods used and the risks and uncertainties inherent in significant estimates.[1] Our rules governing Management's Discussion and Analysis ("MD&A") currently require disclosure about trends, events or uncertainties known to management that would have a material impact on reported financial information.[2]

We have observed that disclosure responsive to these requirements could be enhanced. For example, environmental and operational trends, events and uncertainties typically are identified in MD&A, but the implications of those uncertainties for the methods, assumptions and estimates used for recurring and pervasive accounting measurements are not always addressed. Communication between investors and public companies could be improved if management explained in MD&A the interplay of specific uncertainties with accounting measurements in the financial statements. We intend to consider new rules during the coming year to elicit more precise disclosures about the accounting policies that management believes are most "critical"—that is, they are both most important to the portrayal of the company's financial condition and results, and they require management's most difficult, subjective or complex judgments, often as a result of the need to make estimates about the effect of matters that are inherently uncertain.

Even before new rules are considered, however, we believe it is appropriate to alert companies to the need for greater investor awareness of the sensitivity of financial statements to the methods, assumptions, and estimates underlying their preparation. We encourage public companies to include in their MD&A this year full explanations, in plain English, of their "critical accounting policies," the judgments and uncertainties affecting the application of those policies, and the likelihood that materially different amounts would be reported under different conditions or using different assumptions. The objective of this disclosure is consistent with the objective of MD&A.

Investors may lose confidence in a company's management and financial statements if sudden changes in its financial condition and results occur, but were not preceded by disclosures about the susceptibility of reported amounts to change, including rapid change. To minimize such a loss of confidence, we are alerting public companies to the importance of employing a disclosure regimen along the following lines:

1. Each Company's Management and Auditor Should Bring Particular Focus to the Evaluation of the Critical Accounting Policies Used in the Financial Statements

As part of the normal audit process, auditors must obtain an understanding of management's judgments in selecting and applying accounting principles and methods. Special attention to the most critical accounting policies will enhance the effectiveness of this process. Management should be able to defend the quality and reasonableness of the most critical policies, and auditors should satisfy themselves thoroughly regarding their selection, application and disclosure.

2. Management Should Ensure That Disclosure in MD&A Is Balanced and Fully Responsive

To enhance investor understanding of the financial statements, companies are encouraged to explain in MD&A the effects of the critical accounting policies applied, the judgments made in their application, and the likelihood of materially different reported results if different assumptions or conditions were to prevail.

3. Prior To Finalizing and Filing Annual Reports, Audit Committees Should Review the Selection, Application and Disclosure of Critical Accounting Policies

Consistent with auditing standards, audit committees should be apprised of the evaluative criteria used by management in their selection of the accounting principles and methods.[3]

---

[1] *See, e.g.*, Accounting Principles Board Opinion No. 22, "Disclosure of Accounting Policies" (Apr. 1972); AICPA Statement of Position No. 94–6, "Disclosure of Certain Significant Risks and Uncertainties" (Dec. 1994).

[2] The underlying purpose of MD&A is to provide investors with "information that the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations." Item 303(a) of Regulation S–K [17 CFR 229.303(a)]. As we have previously stated, "'[i]t is the responsibility of management [in MD&A] to identify and address those key variables and other qualitative and quantitative factors which are peculiar to and necessary for an understanding and evaluation of the company.'" Securities Act Rel. No. 6835 (May 18, 1989) [54 FR 22427] (quoting Securities Act Rel. No. 6349 (Sept. 28, 1981) [not published in the **Federal Register**]).

[3] *See* Codification of Statements on Auditing Standards, AU § 380, Communication with Audit Committees or Others with Equivalent Authority and Responsibility ("SAS 61"). SAS 61 requires independent auditors to communicate certain matters related to the conduct of an audit to those who have responsibility for oversight of the financial reporting process, specifically the audit committee. Among the matters to be communicated to the audit committee are: (1) Methods used to account for significant unusual transactions; (2) the effect of significant accounting policies in

Continued

VOL 66 ISS 242 DE 17 2001 UMI

Proactive discussions between the audit committee and the company's senior management and auditor about critical accounting policies are appropriate.

4. If Companies, Management, Audit Committees or Auditors Are Uncertain About the Application of Specific GAAP Principles, They Should Consult With our Accounting Staff

We encourage all those whose responsibility it is to report fairly and accurately on a company's financial condition and results to seek out our staff's assistance. We are committed to providing that assistance in a timely fashion; our goal is to address problems before they happen.

Dated: December 12, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30978 Filed 12–14–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45146; File No. SR–DTC–2001–14]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change Relating to the Closing Down of the Mortgage-Backed Securities Division of The Depository Trust Company

December 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on July 24, 2001, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change concerns the closing of DTC's Mortgage-Backed Securities Division ("MBS Division").[2] To accomplish this, DTC plans to close the MBS Division's transaction processing system and to amend DTC's rules to delete the MBS Division's rules.[3] The securities formerly services by the MBS Division will remain eligible for processing on DTC's main processing system to the same extent that other Fedwire securities are currently processed at DTC although the issuance and the majority of clearance of these securities will be moved to the Fedwire system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[4]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to obtain Commission approval of DTC's closing the operations of its MBS Division. Currently, among other things, the MBS Division issues and settles mortgage-backed securities that are guaranteed by the Government National Mortgage Association ("GNMA"). However, GNMA wishes to transfer the settlement of these mortgage-backed securities to the Fedwire system of the Federal Reserve Board.[5] GNMA plans to convert its securities to Fedwire by the end of the first quarter of 2002.

GNMA announced its plans to move its securities to Fedwire in May 2000. The conversion plans were developed in consultation with a task force organized by The Bond Market Association ("BMA") that consisted of representatives from broker-dealers, custodial banks, GNMA, the Federal Reserve Banks, the Mortgage Bankers Association, DTC, and the BMA. The force formed a GNMA Conversion Subcommittee to develop a conversion plan and implementation schedule. In February 2001, the subcommittee issued its Conversion Plan.[6]

The conversion is taking place in phases over a series of weekends beginning October 6, 2001, and is scheduled for completion by March 31, 2002. During this period, different classes of GNMA securities will be moved electronically from the MBS Division to Fedwire in accordance with delivery instructions provided to the MBS Division by the MBS Division's participants. Other securities issued and settled on the books of the MBS Division, namely securities guaranteed by the Department of Veterans Affairs and a limited number of FNMA and FHLMC securities which are collateralized by GNMA securities, will also move to Fedwire at some time during the GNMA conversion or immediately after on dates to be determined.

Shortly after the completion of the payment of principal and interest with respect to securities last converted to Fedwire, DTC will close the transaction processing system of the MBS Division, return the MBS Division participant fund deposits to the MBS Division's participants, and amend DTC's rules to delete the rules that apply to the MBS Division. After the conversion, FNMA securities will remain eligible for processing on DTC's main system in the same manner as other Fedwire securities are currently processed at DTC. Fedwire securities processed at DTC must be deposited and withdrawn free of payment over Fedwire to and from DTC's Fedwire account. Once deposited at DTC, Fedwire-eligible securities will be processed among DTC participants subject to DTC's rules and procedures without additional restrictions.

In connection with the conversion of GNMA securities to Fedwire, DTC considered expanding its processing to permit GNMA securities to be delivered versus payment into and from DTC's Fedwire account subject to regulatory approval. DTC solicited comments from its participants, but fewer than a dozen

---

controversial or emerging areas for which there is a lack of authoritative guidance or consensus; (3) the process used by management in formulating particularly sensitive accounting estimates and the basis for the auditor's conclusions regarding the reasonableness of those estimates; and (4) disagreements with management over the application of accounting principles, the basis for management's accounting estimates, and the disclosures in the financial statements. *Id.*

[1] 15 U.S.C. 78s(b)(1)

[2] The MBS Division is the successor to The Participants Trust Company, which was merged into DTC effective August 31, 1998.

[3] These rules are currently in Annex A of DTC's Rules.

[4] The Commission has modified the text of the summaries prepared by DTC.

[5] The Fedwire system of the Federal Reserve Board is currently used for, among other things, the issuance and settlement of U.S. Treasury securities and mortgage-backed securities guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC") and the Federal National Mortgage Association ("FNMA").

[6] The Conversion Plan is available online at <*www.frbservices.org*> and at <*www.bondmarkets.com/regulatory*>. A copy of the Conversion Plan is also attached as Exhibit 2 of DTC's filing [DTC Important Notice No. 1483 (Feb. 15, 2001)], which is available through the Commission's Public Reference Section or through DTC.

participants expressed an interest in using such a service. In light of the development costs involved and the limited interest expressed by its participants, DTC's Board of Directors concluded that DTC's resources would be better applied to projects that serve a wider participant base.

DTC will notify the MBS Division's participants and the Commission upon the completion of the closure of the MBS Division.[7]

DTC believes that the proposed rule change is consistent with the requirements of section 17(A)(b)(3)(A) of the Act and the rules and regulations thereunder applicable to DTC because it promotes and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

DTC solicited written comments from its participants on GNMA's proposal to move its securities to Fedwire in DTC Important Notice No. 0057 dated June 1, 2000.[8] Participants responded by telephone and through discussions at meetings of the BMA, the GNMA Settlement Task Force formed under the auspices of the BMA, and DTC's Operations and Planning Committee. The consensus at these meetings and discussions was that DTC should support the proposed conversion to Fedwire and that GNMA securities should remain eligible for processing at DTC to the same extent as are other Fedwire eligible securities currently processed at DTC. DTC is a member of the GNMA Conversion Subcommittee and has worked closely with the BMA, GNMA, the Federal Reserve Banks, and interested industry members to facilitate the transition to Fedwire. DTC has issued Important Notices to DTC and MBS Division participants detailing the conversion processing flows and testing procedures.[9]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so filing or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rue change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at DTC's principal office. All submissions should refer to File No. SR–DTC–2001–14 and should be submitted by January 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30958 Filed 12–14–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45144; File No. SR–PCX–2001–45]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Inactive Lessors' Eligibility to Serve on the Board of Governors

December 10, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2001, the Pacific Exchange, Inc. ("PCX" of "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend Article III, Section 2(b) of the PCX Constitution and PCX rule 1.1(h) to provide for the eligibility of inactive lessors to serve on the PCX Board of Governors ("Board"). Below is the text of the proposed rule change. Text in italics indicates material to be added.

* * * * *

Article III

Eligibility of Governors

SEC. 2(b). Any member, allied member or person who is an officer or director of the parent or subsidiary corporation of a member firm, or a general partner in a partnership which owns or is wholly owned by a member firm, or an officer or director of a member firm or of a participant firm of any subsidiary of the Exchange performing depository or clearing functions, or an officer, director or general partner of the parent or a subsidiary corporation of such clearing member firm or depository participant firm, *or an inactive lessor* or any person not affiliated with a broker or dealer in securities is eligible to be elected as a member of the board of Governors. Of the governors, in each of the classes specified in Sec. 2(a), above, at least one shall be a member of the Exchange, at least one shall be an office member or office allied member of the Exchange.

---

[7] Notwithstanding the closure of the MBS Division, DTC will maintain the documents and records of the MBS Division in accordance with the regulations promulgated under Section 17(a) of the Exchange Act, 15 U.S.C. 78q.

[8] A copy of this notice is attached as Exhibit 2 of DTC's filing, which is available through the Commission's Public Reference Section or through DTC.

[9] Attached as Exhibit 2 of DTC's filing are the following DTC Important Notices relating to the GNMA conversion: Nos. 0057 (June 1, 2000); 1483 (Feb. 15, 2001) (Conversion Plan attached); 1937 (May 24, 2001); 2158 (June 21, 2001); 2159 (June 19, 2001); and 2198 (July 5, 2001). These documents are available through the Commission's Public Reference Section or through DTC.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and at least three shall be representatives of the public and shall not be, or be affiliated with, a broker or dealer in securities. There shall be at least two floor members on the board at all times, one of which shall be an Equity Trading Permit Holder, and Equity-ASAP Holder or an Allied Person of an ETP or an Equity ASAP Holder.

* * * * *

Inactive Lessor

Rule 1.1(h). Inactive Lessor: The term "inactive lessor" shall refer to a natural person, firm or other such entity as the Board may approve, who owns or inherits a membership for the sole purpose of acting as a lessor. *For purposes of the composition of the Board of Governors, inactive lessors are not deemed to be representatives of the public.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In the filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend the PCX Constitution and Rules to clearly establish that PCX inactive lessors are eligible to serve on the Exchange's Board. An inactive lessor is defined in the PCX Constitution as "a natural person, firm or other such entity as the Board may approve, who owns or inherits a membership for the sole purpose of acting as a lessor."[3] Previously, some of the PCX's inactive lessors had requested to have their interests represented on the Board. A number of these inactive lessors have presented their names to the PCX's Nominating Committee so that they may be nominated and stand for election to the Board. The Exchange believes that permitting these individuals to serve on the Board is appropriate.

The PCX requirements relating to the eligibility of persons to serve on the Board is set forth in Article III, Section 2(b) of the PCX Constitution, which provides, in part, as follows:

"Any member,[4] allied member[5] or person who is an officer or director of the parent or subsidiary corporation of a member firm,[6] or a general partner in a partnership which owns or is wholly owned by a member firm, or an officer or director of a member firm or of a participant firm of any subsidiary of the Exchange performing depository or clearing functions, or an officer, director or general partner of the parent or a subsidiary corporation of such clearing member firm or depository participant firm, or any person not affiliated with a broker or dealer in securities is eligible to be elected as a member of the Board of Governors." (Footnotes added)

Article III, Section 2(a) of the PCX Constitution provides that the Exchange's elected Governors are divided into three classes, each of which is composed of seven Governors. At each Annual Meeting of the PCX, a new class (consisting of seven Governors) is elected. Pursuant to Article III, Section 2(b), of the seven Governors elected at each Annual Meeting, at least one must be a member of the Exchange; at least one must be an office member or office allied member of the Exchange; and at least three must be representatives of the public. This leaves two slots per class (and a total of six slots on the Board at any given time) that may be filled by other qualified persons. Under the proposal, an inactive lessor would be qualified to fill one of these open slots. However, the Exchange notes that Article III, Section 2(b) requires that these open slots must otherwise be filled when necessary to meet other requirements set forth in Section 2(b), namely that there must be at least two floor members on the Board at all times (one of which must be an Equity Trading Permit Holder, an Equity-ASAP Holder or an Allied Person of an ETP Firm or an Equity ASAP Holder) and that, beginning in the year 2001, there must be eleven representatives of the public on the Board at all times.

The proposed rule change is not intended to permit any change to the number of public representatives eligible to serve on the PCX's Board. The Exchange represents that it will not place an inactive lessor on the Board in order to fill a slot designated for a "representative of the public." According, the Exchange proposes to amend PCX Rule 1.1(h), which defines the term "inactive lessor," to clarify that for purposes of the composition of the PCX's Board, inactivee lessors are not deemed to be representatives of the public.[7]

Inactive lessors have an interest in the activities of the Exchange because they have a financial interest in the Exchange by virtue of owning a membership. The value of their investments is directly tied to decisions made by the Board. The PCX Constitution, Article III, Section 2(c), states that care should "be taken to have the various interest of the membership represented on the Board of Governors."

Finally, the Exchange notes that the Constitution of the Chicago Board Options Exchange ("CBOE") has a similar provision that permits service by a "lessor director" on its Board of Directors. Specifically, the CBOE provision permits service by a member "who directly or indirectly owns and controls a membership with respect to which he acts solely as lessor and who is not actively engaged in business as a 'person associated with a broker-dealer' as those terms are defined in the Securities Exchange Act of 1034.

* * *"[8]

---

[3] *See* PCX Rule 1.1(h).

[4] The term "member" is defined as "a natural person in whose name the membership is held and who is in good standing." *See* PCX Constitution, Article V, Section 3. The term "floor member" is defined as "a member of the Exchange, who meets the qualification requirements for the purpose of exercising full trading privileges on a floor of the Exchange on behalf of a member organization." *See* PCX Constitution, Article V, Section 8.

[5] The term "allied member" refers to a non-member who is one of the following: "(1) An employee of a member firm who controls such member firm, or (2) an employee of a member firm corporation who is a director or a principal executive officer of such corporation, or (3) an employee of a member firm limited liability company who is a manager or a principal executive officer of such limited liability company, or (4) a general partner in member firm partnership; and who has been approved by the Exechange as an allied member." *See* PCX Constitution, Article V, Section 6.

[6] "Member firm" is defined as "a partnership, corporation, limited liability company or other organization in good standing who owns or leases a membership or upon whom a member has conferred privileges of membership pursuant to and in compliance with Article VIII of this Constitution." *See* PCX Constitution, Article V, Section 4 and PCX Rule 1.1(j).

[7] The PCX states that the proposed language in PCX Rule 1.1(h) to clarify the role of inactive lessors on the Board is intended as an interpretation of Article III, Section 2(b) of the PCX Constitution. Telephone conversation between Michael D. Pierson, Vice President, Regulatory Policy, PCX, and Kelly M. Riley, Senior Special Counsel and Cyndi N. Nguyen, Attorney, SEC on December 5, 2001.

[8] *See* CBOE Constitution, Article VI, Section 6.1.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that it is designed to promote just and equitable principals of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in the furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–45 and should be submitted by January 2, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30957 Filed 12–14–01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45145; File No. SR–SCCP–2001–01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Adopting a Fee Schedule for Electronic Communications Networks

December 10, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 23, 2001, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") and on June 25, 2001, and November 27, 2001, amended the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

SCCP has adopted a new fee schedule for SCCP participants for trades executed on the Philadelphia Stock Exchange, Inc. ("Phlx") for Electronic Communications Networks ("ECNs").[2] The new fee schedule will operate as a pilot program for one year, wherein SCCP proposes to waive certain dues, fees and charges, including trade recording fees, value fees, treasury transactions charges but not account fees, research fees, computer transmission/tapes charges, or miscellaneous charges on SCCP's fee schedule.[3]

After the initial pilot period, an ECN will be eligible for the new fee schedule only if it has achieved average daily equity volume on the Phlx of at least 5,000 trades and 5,000,000 shares in the twelfth month after the ECN first became subject to the ECN fee schedule.[4] If the targeted amount is not met, the ECN will be subject to the SCCP fee schedule in effect at that time. After this pilot program ends in 2002, SCCP will make another rule filing with the Commission to establish new fees based on volume thresholds for ECNs.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[5]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed changes to SCCP's fee schedule are intended to attract equity order flow from ECNs to Phlx by substituting a more competitive fee schedule tied to high volume targets. The high volume targets would be triggered in the twelfth month of the fee. Should an ECN not meet the targeted volume numbers described above, it

---

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-counter ("OTC") market maker, and permits such orders to be executed against in whole or in part; except that the term ECN shall not include: any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivative pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by or on behalf of an OTC market maker or exchange market maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

[3] Certain provisions of the SCCP Fee Schedule will not apply to ECNs because they apply to specialists and/or relate to margin financing, such as specialist discount, margin account interest, P&L statements charges, and buy-ins.

[4] Because this volume requirement only applies to volume in the twelfth month (meaning *to* the thirteenth month's fee), actually waiving SCCP fees that month would necessarily require an extension of the pilot program beyond the initial 12 months. In the extension, SCCP would address whether the targets would continue to be monthly.

[5] The Commission has modified the text of the summaries prepared by SCCP.

VOL 66 ISS 242 DE 17 2001 UMI

may become subject to the then current SCCP fee schedule in the thirteenth month.

SCCP believes that the ECN fee schedule provides competitive fees with appropriate incentives, thus providing a reasonable method to attract large order flow providers such as ECNs to the Exchange. Additional order flow should enhance liquidity and improve Phlx's and SCCP's competitive position in equity trading and clearance.

SCCP believes that the proposed changes to its fee schedule are consistent with section 17A of the Act because that they provide for the equitable allocation of reasonable dues, fees, and other charges in order to attract a new form of order flow to Phlx.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[6] and Rule 19b–4(f)(2)[7] thereunder because the proposed rule change establishes a fee. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at Phlx's principal office. All submissions should refer to File No. SR–SCCP–2001–01 and should be submitted by January 7, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–30956 Filed 12–14–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3384]

State of Alabama

As a result of the President's major disaster declaration on December 7, 2001, I find that Autauga, Blount, Butler, Calhoun, Cherokee, Clay, Dale, DeKalb, Etowah, Fayette, Jefferson, Lamar, Lawrence, Madison, Marion, Marshall, St. Clair, Talladega and Winston Counties in the State of Alabama constitute a disaster area due to damages caused by severe storms and tornadoes occurring on November 24–25, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 5, 2002 and for economic injury until the close of business on September 9, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Barbour, Bibb, Chilton, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, Elmore, Franklin, Geneva, Henry, Houston, Jackson, Lauderdale, Limestone, Lowndes, Monroe, Montgomery, Morgan, Pickens, Pike, Randolph, Shelby, Tallapoosa, Tuscaloosa, Walker and Wilcox counties in the State of Alabama; Chattooga, Dade, Floyd, Polk and Walker counties in the State of Georgia; Itawamba, Lowndes and Monroe counties in the State of Mississippi; Franklin and Lincoln counties in the State of Tennessee.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	6.500
Homeowners without Credit Available Elsewhere	3.250
Businesses with Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) with Credit Available Elsewhere	6.375
For Economic Injury:	
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 338411. For economic injury the number is 9N7600 for Alabama; 9N7700 for Georgia; 9N7800 for Mississippi; and 9N7900 for Tennessee.

Dated: December 10, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–30975 Filed 12–14–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3385]

Disaster Loan Area; State of Indiana

Shelby County and the contiguous counties of Bartholomew, Decatur, Hancock, Johnson, Marion and Rush in the State of Indiana constitute a disaster area due to damages caused by severe storms and tornadoes that occurred on November 24, 2001. Applications for loans for physical damage may be filed until the close of business on February 11, 2002 and for economic injury until the close of business on September 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.500

---

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–(f)(2).

[8] 17 CFR 200.30–3(a)(12).

	Percent
Homeowners without credit available elsewhere	3.250
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 338511 and for economic injury is 9N8000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 11, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–30976 Filed 12–14–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3383]

State of Mississippi

As a result of the President's major disaster declaration on December 7, 2001, I find that Bolivar, DeSoto, Hinds, Humphreys, Madison, Panola, Quitman, Sunflower, Tate and Washington Counties in the State of Mississippi constitute a disaster area due to damages caused by severe storms, tornadoes and flooding that occurred on November 24, 2001 and continue. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 5, 2002 and for economic injury until the close of business on September 9, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Attala, Claiborne, Coahoma, Copiah, Holmes, Issaquena, Lafayette, Leake, LeFlore, Marshall, Rankin, Scott, Sharkey, Simpson, Tallahatchie, Tunica, Warren, Yalobusha and Yazoo in the State of Mississippi; Chicot, Crittenden, Desha and Phillips counties in the State of Arkansas; East Carroll parish in the State of Louisiana; and Shelby county in the State of Tennessee.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.500
Homeowners without credit available elsewhere	3.250
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 338311. For economic injury the number is 9N7200 for Mississippi; 9N7300 for Arkansas; 9N7400 for Louisiana; and 9N7500 for Tennessee.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 10, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–30974 Filed 12–14–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination of Effective Date of U.S.-Vietnam Bilateral Trade Agreement

AGENCY: Office of the United States Trade Representatives.

ACTION: Notice.

SUMMARY: The United States Trade Representative ("the USTR") has determined that the effective date of the "Agreement between the United States and the Socialist Republic of Vietnam on Trade Relations" ("the Agreement"), and the grant of nondiscriminatory tariff treatment to the products of Vietnam is December 10, 2001. This determination is made pursuant to the terms of the Agreement and as required in Presidential proclamation 7449 (66 FR 31375).

FOR FURTHER INFORMATION CONTACT: Elena Bryan, Director for India and Indochina Affairs, Office of the United States Trade Representative, (202) 395–6813.

SUPPLEMENTARY INFORMATION: On July 13, 2000, the United States and Vietnam concluded the Agreement in accordance with the requirements of the Trade Act of 1974, as amended (19 U.S.C. 2431 *et seq.*) ("the Trade Act"). Section 405(c) of the Trade Act (19 U.S.C. 2435(c)) provides that a bilateral commercial agreement providing nondiscriminatory treatment to the products of a country denied such treatment prior to the date of enactment of the Trade Act, and a proclamation implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) of the Trade Act (19 U.S.C. 2191(b)(3)) that approves of the Agreement is enacted into law.

President Bush signed Proclamation 7449 on June 8, 2001, and transmitted the Agreement to Congress on that date for its approval. In the proclamation, the President directed the USTR to publish notice of the effective date of the Agreement. Congress approved the Agreement on October 3, 2001 and the President signed the legislation approving the Agreement on October 16, 2001. The National Assembly of Vietnam approved the resolution ratifying the Agreement on November 28, 2001 and the President of Vietnam signed the legislation on December 4, 2001.

Chapter VII, Article 8:1 of the Agreement provides that it shall enter into force on the date of exchange of written notices of acceptance by the two Governments. On December 10, 2001, Ambassador Robert B. Zoellick, the United States Trade Representative and Vu Khoan, Minister of Trade of the Socialist Republic of Vietnam, exchanged written notices of acceptance, thus implementing the Agreement. Thus, in accordance with the terms of the Agreement, the effective date of nondiscriminatory treatment for products of Vietnam is December 10, 2001.

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–30961 Filed 12–14–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–10613]

Information Collection Under Review by the Office of Management and Budget (OMB): 2115–0003

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one

VOL 66 ISS 242 DE 17 2001 UMI

Information Collection Report (ICR) abstracted below to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before January 16, 2002.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG 2001–10613] more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. (b) OIRA, 725 17th Street NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a), next above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) OIRA, at the address given in paragraph (1)(b), next above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Docket Management Facility at 202–493–2251 or (b) OIRA 202–395–7285, attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.* (b) OIRA does not have a website on which you can post your comments.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 (Plaza level), 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

Copies of the complete ICR are available for inspection and copying in public dockets. A copy of it is available in docket USCG 2001–10613 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second Street SW, Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published [66 FR 48157 (September 18, 2001)] the 60-day notice required by OIRA. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2001–10613. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Requests

1. *Title:* Information on Marine Casualties; Testing Personnel of Commercial Vessels for Drugs and Alcohol; and Management Information Systems.

OMB Control Number: 2115–0003.

Type of Request: Extension of a currently approved collection.

Affected Public: The owner, agent, master, operator, or person-in-charge of a vessel involved in a marine casualty.

Forms: CG–2692, CG–2692A, CG–2692B, and CG–5573.

Abstract: The Coast Guard needs information with which it can investigate mishaps to commercial vessels causing death, extensive damage, and the like, as mandated by Congress. It needs information from chemical testing so it can detect and reduce the use of drugs and alcohol by mariners, also as mandated by Congress. And it needs certain information on management so it can evaluate the effectiveness of its programs.

Annual Estimated Burden Hours: The estimated burden is 19,195 hours a year.

Dated: December 11, 2001.

J.E. Evans,

Acting Director of Information & Technology.

[FR Doc. 01–31013 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11137]

Maritime Security

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard is holding a public workshop to discuss security procedures, programs, and capabilities within marine transportation systems. Discussions will focus on identifying possible security measures, standards, and responses to threats and acts of crime and terrorism. We encourage interested parties to attend the workshop and submit comments for discussion during the workshop. We also seek comments to the docket, especially from any party unable to attend the workshop.

DATES: The public workshop will be held on January 28 through 30, 2002, from 9 a.m. to 5 p.m., at The Grand Hyatt Washington at Washington Center in Washington DC. We may end the workshop early, if we have covered all of the agenda topics and if the people attending have no further comments. Persons wishing to make presentations must contact CDR Mike Rand by January 7, 2002. Comments and related material must reach the Docket Management Facility on or before February 14, 2002.

ADDRESSES: The workshop will be held at the following location: Grand Hyatt Washington at Washington Center, 1000 H Street, NW., Washington DC., 20001, Phone (202) 582–1234.

You may submit your comments directly to the Docket Management Facility. To make sure that your comments and related material do not enter the docket [USCG–2001–11137] more than once, please submit them by only one of the following means:

(1) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov/*.

(2) By fax to the Docket Management Facility at 202–493–2251.

(3) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) By mail to the Docket Management Facility, (USCG–2001–11137), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this notice in the docket on the Internet at *http://dms.dot.gov/*. Comments in the docket are available to the public for inspection and further comment, including proprietary information if submitted.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or the public workshop, write or call CDR Mike Rand, at the Vessel and Facility Security Division (G–MP), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20590, mrand@comdt.uscg.mil, or at 202–267–6853. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief of Dockets, Department of Transportation, at 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this workshop by submitting comments and related material. If you do so, please include your name and address, identify the docket number [USCG–2001–11137] and give the reason for each comment. You may submit your comments and material electronically, by fax, by delivery, or by mail to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

Public Workshop

The Coast Guard encourages owners and operators of vessels, offshore platforms, and facilities, agencies in law enforcement and emergency planning, port authorities, shipping agents, insurance companies, Protection and Indemnity Clubs, and other interested persons to attend the workshop. Workshop attendees will have the opportunity to verbally comment on topics scheduled for discussion on the agenda. We may ask questions to clarify comments given by an attendee. The workshop will be held January 28 through 30 from 9 a.m. to 5 p.m. each day at The Grand Hyatt Washington at Washington Center in Washington DC. Separate sessions discussing threats to the marine transportation system's security in such areas as physical security, operational measures, and access control will be held simultaneously each day to allow for comments and/or presentations on these topics. The completed agenda will be placed on the docket approximately two weeks before the workshop. We also will announce the availability of the agenda on the docket in a notice published in the **Federal Register**.

For those wishing to make a presentation at the workshop, please notify CDR Mike Rand with the following information:

(1) The topic you wish to talk about;

(2) The date and time you would like to schedule the presentation; and

(3) Any materials (such as video and audio equipment) you might need to conduct your presentation.

Persons wishing to make presentations must contact CDR Mike Rand by January 7, 2002. Information on how to contact him is under **FOR FURTHER INFORMATION CONTACT.**

Information on Services for Individuals With Disabilities

To obtain information on facilities or services for individuals with disabilities or to ask that we provide special assistance at the workshop, please notify CDR Mike Rand at the address or phone number under **FOR FURTHER INFORMATION CONTACT.**

Background and Purpose

The terrorist attacks of September 11, 2001, and the attack on USS COLE, a Navy ship moored in Yemen that killed 17 sailors and injured 37 in October of 2000, make it clear that the marine transportation system faces unprecedented threats.

The United States can ill afford to ignore the potential vulnerability of its marine transportation system (MTS). More than 95 percent of U.S. foreign trade by volume now travels by sea. The MTS, whether at port facilities in coastal waters or along inland waterways, plays a vital role in America's transportation network.

In addition, U.S. ports handle more than 17 million containers each year. Containers raise a specific concern because they are, by design, intermodal. A container unloaded at a port on one day is often deployed deep into America's heartland soon thereafter by truck or rail. With only a small percentage of those containers currently being inspected by federal agencies, the potentiality for illegal activities is enormous.

Ports are not the only potential maritime targets; other such targets include but are not limited to—tank vessels, passenger vessels, cargo vessels, facilities for exploration and production of oil, power plants, bridges, other critical infrastructure, and the marine environment also need protection. Furthermore, the United States has more than 95,000 miles of coastline, providing many infiltration routes into the country.

It is important to note that the Coast Guard and Congress were concerned about MTS security even before September 11, 2001. Indeed, the Port and Maritime Security Act was introduced at the close of the 106th Congress. If passed, the Act would, among other things, authorize the Coast Guard to establish an MTS security task force in consultation with the U.S. Customs Service, and the Maritime Administration.

The proposed Act was prompted by the work of the President's Interagency Commission on Crime and Security in U.S. Seaports, which subsequently issued a report highlighting the threats to our nation's ports. The Commission found that:

- The state of security in U.S. seaports generally ranges from poor to fair, and, in a few cases, good. There are no widely accepted standards or guidelines for physical, procedural, and personnel security for seaports, although some ports are making outstanding efforts to improve security. Control of access to the seaport or sensitive areas within it is often lacking. Practices to restrict or control the access of vehicles to vessels, the receipt and

VOL 66 ISS 242 DE 17 2001 UMI

delivery of cargo, and the processing of passengers at seaports are either not present or not consistently enforced, increasing the risk that violators could quickly remove cargo or contraband. Many ports do not issue identification cards to personnel to restrict the access to vessels, the receipt and delivery of cargo, and the processing of passengers.

- Vessel manifests, import and export, are sometimes deficient for import risk assessment and export control. Information from them is easier to use for drug enforcement and commercial compliance if it is received as electronic data before the arrival of vessels.
- Although the Federal government has established formal structures for coordinating governmental efforts and has developed national strategies to address drug trafficking, terrorism, other domestic and international crime, and to guarantee economic mobility, seaport security per se has not been adequately addressed. Stronger and more focused coordination among agencies and between the public and private sectors to enhance Security is needed.

Topic of Discussion: Security of Marine Transportation Systems

The Coast Guard is conducting this workshop to assess existing MTS security standards and measures to gather ideas on possible improvements. To facilitate discourse during the workshop attendees should, before attending the workshop, evaluate threats to MTS security in such areas as physical security, operational measures, and access control. After recognizing threats to MTS security, the public should evaluate existing MTS security standards and measures to identify vulnerabilities, and then develop possible adjustments to decrease those vulnerabilities. The workshop will provide the public an opportunity to present ideas and to discuss the threats, vulnerabilities, and adjustments to MTS security. In the future we may propose new or amendatory rules that would address issues broached during the workshop.

Three general areas of MTS security, to wit, physical security, operational measures, and access control, will almost certainly arise during the workshop. Persons planning to attend the workshop should be prepared to discuss these general areas as they relate to security, protection, and economic performance of the maritime industry. Workshop attendees will be asked to discuss a host of possible costs and benefits that could result from identifying and addressing physical security, operational measures, and access-control vulnerabilities.

We request information about all current Federal, State, and local governmental laws, procedures, regulations, and standards that are either functioning or that are planned. We also request industry to provide any current and planned standards and procedures covering the security of vessels and facilities. Finally, we request recommendations toward needed improvement or added regulations. Examples of the types of information we are interested in receiving are:

Physical security. Discussions of the physical security of personnel, ports, facilities, and vessels might include, but are not limited to:

- Measures and standards currently being used at a facility or on board a vessel.
- Criteria for measures and standards at a facility or on board a vessel such as fences, gates, alarms, lighting, antennas, and personnel on watch.
- Security technologies currently used or possible to make ports, facilities, and vessels more secure against the threat or commission of crimes or terrorism.

Operational measures. Discussions of the operational measures for personnel, ports, facilities, and vessels might include, but are not limited to:

- Effectiveness of existing passenger terminals and passenger vessels security plan requirements.
- Effectiveness of existing terminal and security plans for ports, vessels, offshore platforms, and industry.
- Facilities and vessels, other than passenger terminals and passenger vessels regulated in 33 CFR parts 120 and 128, which should have security plans.
- Response plans in place to prevent criminal and terrorist acts and threats.
- Details of measures taken in response to such acts and threats.
- Necessity of MTS security committees and the sharing of intelligence and threat advisories between the Coast Guard and industry.
- Criteria and need for a tracking system for vessels trafficking the navigable waters of the United States.

Access control. Discussions of access control for personnel, passengers, and cargo might include, but are not limited to:

- Criteria and process for background check prior to employment.
- Check points that screen personnel, passengers, cargo, and baggage.
- Additional information, currently used or deemed necessary to document or certificate personnel, facilities, and vessels.
- Types of credentials (such as identification cards, employment cards, and access passes) used to limit access.

Dated: December 10, 2001.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–31171 Filed 12–13–01; 3:46 pm]

BILLING CODE 4910-15-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held from January 14–17, 2002, from 8 a.m. to 4 p.m. each day.

ADDRESSES: The meeting will be held at the McCarran International Airport, Main Terminal (Second Floor), Mezzanine Rooms 2 & 3, 5757 Wayne Newton Blvd., Las Vegas, NV 89111.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Harrell, Executive Director, ATPAC, Air Traffic Planning and Procedures, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9155.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held January 14 through January 17, 2002, at the McCarran International Airport, Main Terminal (Second Floor), Mezzanine Rooms 2 & 3, 5757 Wayne Newton Blvd., Las Vegas, NV 89111.

The agenda for this meeting will cover: a continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes.
2. Submission and Discussion of Areas of Concern.
3. Discussion of Potential Safety Items.
4. Report from Executive Director.
5. Items of Interest.

6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify the person listed above not later than January 11, 2002. The next quarterly meeting of the FAA ATPAC is planned to be held from April 16–19, 2002, in Washington, DC.

Any member of the public may present a written statement to the Committee at any time at the address given above.

Issued in Washington, DC, on December 10, 2001.

Eric Harrell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 01–31001 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to a Passenger Facility Charge (PFC) at Albuquerque International Sunport, NM and Use the Revenue at Albuquerque International Sunport and Double Eagle II Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose at Albuquerque Sunport and use the revenue from a PFC at Albuquerque International Sunport and Double Eagle II Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 16, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Dewey V. Cave, Manager of Albuquerque International Sunport at the following address: Mr. Dewey V. Cave, Airport Manager, Albuquerque International Sunport, PO Box 9948, Albuquerque, NM 87119–1048.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose the revenue from a PFC at Albuquerque International Sunport (ABQ) and use the revenue at Albuquerque International Sunport (ABQ) and Double Eagle II Airport (AEG) under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 6, 2001, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 5, 2002.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: May 1, 2002.

Proposed charge expiration date: December 1, 2007.

Total estimated PFC revenue: $44,483,079.

PFC application number: 02–02–C–00–ABQ.

Brief Description of Proposed Project(s)

Projects To Impose and Use PFC's

1. 1993 Master Plan Update (ABQ)
2. Taxiway E Reconstruction (ABQ)
3. Taxiway A & B Improvements (ABQ)
4. Terminal Apron Expansion (ABQ)
5. Runway 3–21 Extension and Upgrade (ABQ)
6. Runway 12–30 Extension and Reconstruction (ABQ)
7. Double Eagle II Ramp and Runway Improvements (ABQ) & (AEG)
8. Access Road D Construction (ABQ)
9. Sunport Boulevard Construction (ABQ)
10. Air Cargo Apron Expansion (ABQ)
11. PFC Application #1 and #2 Development (ABQ)

Proposed class or clases of air carriers to be exempted from collecting PFC's: FAR Part 135 on demand air Taxi/Commercial Operator (ATCO) reporting on FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person or Albuquerque International Sunport.

Issued in Fort Worth, Texas on December 6, 2001.

Joseph G. Washington,

Acting Manager, Airports Division.

[FR Doc. 01–31003 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2001–11153]

Integrated Modular Avionics (IMA) Hardware Elements.

AGENCY: Federal Aviation Administration, DOT

ACTION: Notice of availability for public comment.

SUMMARY: This notice announces the availability of and requests comments on a proposed Technical Standard Order (TSO) pertaining to integrated modular avionics hardware elements (IMA). The proposed TSO prescribes the criteria for the minimum performance standard (MPS) that IMA hardware element equipment must meet to be identified with the appropriate TSO marking.

DATES: Comments must be received on or before January 16, 2002.

ADDRESSES: Send all comments on the proposed technical standard order to: Technical Programs & Continued Airworthiness Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Room 815, Washington, DC 20591. Or deliver comments to: Federal Aviation Administration (FAA), Room 815, 800 Independence Avenue, SW., Washington, DC 20591. Comments must identify the TSO file number.

FOR FURTHER INFORMATION CONTACT: Mr. John Lewis, Technical Programs & Continued Airworthiness Branch, AIR-120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Room 815, Washington, DC 20591; Telephone No.—(202) 493–4841; FAX No.—(202) 267–5340; E-mail address—*John.Lewis@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed TSO listed in this notice by submitting such written data, views, or arguments as they desire to the above specified address. Comments received on the proposed TSO may be examined, before and after the comment closing date, in Room 815, FAA Headquarters Building (FOB–10A), 800 Independence Avenue, SW., Washington, DC 20591, weekdays except Federal holidays, between 8:30 a.m. and 4:30 p.m. All communications received on or before the closing date for comments specified above will be considered by the Director, Aircraft Certification Service before issuing the final TSO.

Background

Traditionally, avionics systems consisted of dedicated Line Replaceable Units (LRUs) which performed specific functions such as autoflight, flight management, and flight deck display. TSOs were written for these LRUs and their functions. Advancements in digital technology have created a trend toward higher levels of integration and modularity. In many modern integrated systems software determines functionality, while hardware serves as a platform for input, output, data storage, and software execution. Since these basic attributes tend to be similar for various applications, efficiencies can be gained by using various types of generic airborne hardware elements to execute these functions.

This TSO refers to these generic hardware elements as "IMA hardware elements", which includes modules, cabinets, or racks. A module may contain software to enable electronic part marking and/or future loading of functional software. These modules will not function without being installed in specific cabinets or racks. Module types may include data processing modules, power supply modules, communication and data bus modules, or others. Cabinets or racks are use to host IMA modules. These cabinets or racks may be simple mechanical enclosures, or they may incorporate active cooling elements, power supplies, communication interfaces, backplanes for data and power, or any combination of these features.

How to Obtain Copies

You may obtain a copy of the proposed TSO via Internet (*http://av-info.faa.gov/software/drafts.htm*) or on request from the office listed under **FOR FURTHER INFORMATION CONTACT.** Copies of Document Nos. RTCA/DO–160D (change 2), RTCA/DO–178B, and RTCA/DO–254 may be purchased from the RTCA Inc., 1828 L Street, NW., Suite 807, Washington, DC 20036 (website: *http://www.rtca.org*). Aviation Recommended Practice number ARP–4754 may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096–0001 (website: *http://www.sae.org*).

You may inspect the RTCA documents at the FAA office location listed under **ADDRESSES.** However, RTCA documents are copyrighted and may not be reproduced without the written consent of RTCA, Inc.

Issued in Washington, DC on December 11, 2001.

David W. Hempe,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 01–31002 Filed 12–14–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8879

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8879, IRS e-file Signature Authorization.

DATES: Written comments should be received on or before February 15, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization.

OMB Number: 1545–1758.

Form Number: 8879.

Abstract: Form 8879 is used to allow taxpayers to authorize the Electronic Return Originators to enter the taxpayer's PIN on the electronically filed tax returns.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individual or households.

Estimated Number of Respondents: 8,000,000.

Estimated Time Per Respondent: 41 minutes.

Estimated Total Annual Burden Hours: 5,440,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 10, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31008 Filed 12–14–01; 8:45 am]

BILLING CODE 4830-01-P

VOL 66 ISS 242 DE 17 2001 UMI

Corrections

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL95–F–1]

Nationally Recognized Testing Laboratories, Proposed Revised Fee Schedule

Correction

In notice document 01–30727 beginning on page 64274 in the issue of Wednesday, December 12, 2001, make the following correction:

On page 64274, in the third column, in the **DATES** section, in the fourth line, “December 27, 2002” should read, “December 27, 2001”.

[FR Doc. C1–30727 Filed 12–14–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
December 17, 2001

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments 61/61/13/8 to Implement Major Provisions of the American Fisheries Act; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 011128283–1283–01; I.D. 111401B]

RIN 0648–AN55

Fisheries of the Exclusive Economic Zone Off Alaska; Amendments 61/61/13/8 to Implement Major Provisions of the American Fisheries Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 61 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, Amendment 61 to the Fishery Management Plan for Groundfish of the Gulf of Alaska, Amendment 13 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab, and Amendment 8 to the Fishery Management Plan for the Scallop Fishery off Alaska (FMPs). These amendments incorporate the provisions of the American Fisheries Act (AFA) into the FMPs and their implementing regulations. Proposed management measures to implementing the AFA include: Regulations limiting entry by vessels and processors into all sectors of the Bering Sea and Aleutian Islands (BSAI) pollock fishery, a new formula allocating the BSAI pollock total allowable catch (TAC) among the inshore, catcher/processor, and mothership processing sectors and the Community Development Quota (CDQ) Program, regulations governing the formation and operation of fishery cooperatives (cooperatives) in the BSAI pollock fishery, harvesting and processing limits known as "sideboards" to protect vessels and processors in other fisheries from spillover effects resulting from the rationalization and privatization of the BSAI pollock fishery, observer coverage requirements for vessels and processors in the BSAI pollock fishery, catch weighing and scale requirements for BSAI pollock processors, vessel monitoring system (VMS) requirements for AFA catcher vessels and AFA catcher/processors fishing for groundfish in the BSAI and GOA; and a 2–year extension of the inshore/offshore regime for pollock and Pacific cod in the Gulf of Alaska (GOA). These amendments are necessary to implement the AFA and are intended to do so in a manner consistent with the environmental and socioeconomic objectives of AFA, the Magnuson-Stevens Fishery Management and Conservation Act (Magnuson-Stevens Act), the FMPs, and other applicable laws.

DATES: Comments on the proposed rule must be received on or before January 31, 2002.

ADDRESSES: Comments must be sent to Sue Salveson, Assistant Administrator, Sustainable Fisheries Division, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to Federal Building, Fourth Floor, 709 West 9th Street, Juneau, AK, and marked Attn: Lori Gravel. Copies of the Environmental Impact Statement/Regulatory Impact Review/ Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) prepared for Amendments 61/61/13/8 may be obtained from NMFS at the above address or online at *http://www.fakr.noaa.gov*. Send comments on collection-of-information requirements to NMFS, Alaska Region and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228 or kent.lind@noaa.gov

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone (EEZ) of the BSAI and Gulf of Alaska (GOA) under the FMPs for groundfish in the respective areas. With Federal oversight, the State of Alaska (State) manages the commercial king crab and Tanner crab fisheries in the BSAI and the commercial scallop fishery off Alaska under the FMPs for those fisheries. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

American Fisheries Act—Background Information

On October 21, 1998, the President signed into law the AFA (Div. C, Title II, Pub. L. No. 105–277, 112 Stat. 2681 (1998)). The AFA is divided into two subtitles establishing certain requirements for fishery endorsements for all U.S. fishing vessels, and providing for the reorganization and rationalization of the BSAI pollock fishery, respectively.

Subtitle I—Fisheries Endorsements established a 25 percent foreign ownership and control limit for all U.S. documented fishing vessels over 100 ft (30.9 meters (m)) registered length. Subtitle I also limits new U.S. documented fishing vessels to no more than 165 ft (59.3 m) registered length, no more than 3,000 lbs (1.36 mt) shaft horsepower, and no more than 750 gross registered tons (680 mt). The provisions of this subtitle apply to all U.S. documented fishing vessels fishing anywhere in the U.S. EEZ and are being implemented by the Maritime Administration (MARAD) and the U.S. Coast Guard.

Subtitle II—Bering Sea Pollock Fishery mandated sweeping changes to the BSAI pollock fishery and to a lesser extent, affected the management of the other groundfish, crab, and scallop fisheries off Alaska. The purpose of Amendments 61/61/13/8 is to implement the management program required by Subtitle II of the AFA.

Congress identified two primary objectives in passing the AFA. The first objective was to complete the process begun in 1976 to give U.S. interests a priority in the harvest of U.S. fishery resources. This objective was accomplished through the restrictions on foreign ownership and control that are set out in Subtitle I of the AFA. The second objective was to significantly decapitalize the Bering Sea pollock fishery. This objective was addressed by Subtitle II of the AFA. Under the council system established by the Magnuson-Stevens Act, Congressional action is generally not needed to address fishery conservation and management issues in specific fisheries. However, Congress believed that the overcapacity in the BSAI pollock fishery prior to the AFA was due, in part, to mistakes in, and misinterpretations of, the 1987 Commercial Fishery Industry Vessel Anti-Reflagging Act (Anti-Reflagging Act). In passing the AFA, Congress noted that the Anti-Reflagging Act had allowed a flood of foreign-rebuilt catcher/processors into the BSAI pollock fishery and did not limit foreign control of such vessels in the manner in which Congress had intended. Without Subtitle II, the Council and NMFS did not have authority to provide funds under the Federal Credit Reform Act to buy out and retire vessels from the BSAI pollock fishery, to strengthen U.S. controlling interest standards for fishing vessels, or to implement the inshore cooperative program contained in the AFA.

Subtitle 2 of the AFA contains numerous provisions that affect the management of the groundfish and crab fisheries off Alaska. Key provisions include:

1. The buyout of nine pollock catcher/processors and the subsequent scrapping of eight of these vessels through a combination of $20 million in Federal appropriations and $75 million in direct loan obligations;

2. A new allocation scheme for BSAI pollock that allocates 10 percent of the BSAI pollock total allowable catch (TAC) to the CDQ program, and after allowance for incidental catch of pollock in other fisheries, allocates the remaining TAC as follows: 50 percent to vessels harvesting pollock for processing by inshore processors, 40 percent to vessels harvesting pollock for processing by catcher/processors, and 10 percent to vessels harvesting pollock for processing by motherships;

3. A fee of six-tenths (0.6) of one cent for each pound round weight of pollock harvested by catcher vessels delivering to inshore processors for the purpose of repaying the $75 million direct loan obligation;

4. A prohibition on entry of new vessels and processors into the BSAI pollock fishery. The AFA lists by name vessels and processors and/or provides qualifying criteria for those vessels and processors eligible to participate in the non-CDQ portion of the BSAI pollock fishery;

5. New observer coverage and scale requirements for AFA catcher/processors;

6. New standards and limitations to guide the creation and operation of fishery cooperatives in the BSAI pollock fishery;

7. An individual fishing quota program for inshore catcher vessel cooperatives under which NMFS grants individual allocations of the inshore BSAI pollock TAC to inshore catcher vessel cooperatives that are formed around a specific inshore processor and that agree to deliver at least 90 percent of their pollock catch to that processor;

8. The establishment of harvesting and processing limits known as "sideboards" on AFA pollock vessels and processors to protect the interests of fishermen and processors in other fisheries from spillover effects resulting from the rationalization of the BSAI pollock fishery; and

9. A 17.5 percent excessive share harvesting cap for BSAI pollock and a requirement that the Council develop excessive share caps for BSAI pollock processing and for the harvesting and processing of other groundfish.

Some of the above provisions of the AFA already have been implemented by NMFS and other agencies. The buyout of the nine ineligible factory trawlers and their subsequent scrapping was completed by NMFS in 1999 under the schedule mandated by the AFA. This action was accomplished by contract with the vessel owners rather than regulation. The inshore pollock fee program required by the AFA was implemented by NMFS through final regulations published February 3, 2000 (65 FR 5278). MARAD has implemented the new U.S. ownership requirements and size restrictions for U.S. fishing vessels through final regulations published July 19, 2000 (65 FR 44860). MARAD's regulations also set out procedures for review of compliance with excessive share harvesting limits contained in this proposed rule.

Development of Amendments 61/61/13/8 and AFA-Related Actions Taken to Date

Since the passage of the AFA in October 1998, NMFS and the Council have undertaken an extensive public process to develop the management program proposed under Amendments 61/61/13/8. Amendments 61/61/13/8 were prepared and revised during the course of 12 Council meetings over the past 2 years and have been the subject of numerous additional public meetings held by the Council and NMFS to address specific aspects of the AFA. While the permanent management program proposed under Amendments 61/61/13/8 was under analysis and development by the Council and NMFS, the statutory deadlines in the AFA were met on an interim basis through several emergency interim rules that were extended through the end of 2001 by Pub. L. No. 106–554, which mandated that all management measures in effect as of July 2000 be extended through the end of 2001. The following time line provides a summary of the 2–year public process through which NMFS and the Council prepared Amendments 61/61/13/8.

November 1998. After the passage of the AFA in October 1998, the Council held a special meeting in November 1998, in Anchorage, AK, to address among other things, the new requirements of the AFA and the effect of the AFA on the fisheries under the jurisdiction of the Council. The Council made various recommendations to NMFS regarding the regulation of cooperatives in the catcher/processor sector and the management of sideboards for AFA catcher/processors for the 1999 fishery and began the process of identifying issues and alternatives for upcoming AFA-related actions.

December 1998. At its December 1998 meeting in Anchorage, AK, the Council approved two emergency rules to implement required provisions of the AFA for the 1999 fishing year. The first emergency interim rule required two observers on all AFA-listed catcher processors and motherships, and established procedures for making inseason sideboard closures (64 FR 3435, January 22, 1999; extended at 64 FR 33425, June 23, 1999). The second emergency interim rule made several technical changes to the CDQ program regulations to accommodate the new requirements of the AFA (64 FR 3887, January 26, 1999; extended at 64 FR 34743, June 29, 1999). After extensive public testimony and input from the Council's Advisory Panel (AP) and Scientific and Statistical Committee (SSC), the Council identified a suite of alternatives for the management program that subsequently became known as Amendments 61/61/13/8.

February 1999. At its February 1999 meeting in Anchorage, AK, the Council finalized sideboard and AFA management measure alternatives with the intent that a draft analysis would be reviewed at the April 1999 meeting with a final decision scheduled for June 1999 to allow the Council to meet the July 1999 deadline imposed by the AFA for recommendation of sideboard measures. The Council also began preparation of a separate discussion paper to examine the structure of the inshore cooperative program. This separate analysis was in response to a proposal by a group of independent inshore catcher vessel owners who advocated a change in the program to allow the formation of an independent vessel cooperative that would not be tied to a particular processor. A draft analysis was scheduled for review in June 1999, with further discussion in October 1999.

April 1999. At its April 1999 meeting in Anchorage, AK, the Council reviewed its draft analysis for Amendments 61/61/13/8, and received extensive public testimony regarding alternatives and other issues that should be considered under Amendments 61/61/13/8. The Council directed staff to make various revisions and additions to the analysis with the intent that the amendment package would be brought before the Council for final action in June 1999. The Council also reviewed its discussion paper on the structure of the inshore cooperative program and the independent inshore catcher vessel cooperative proposal and requested that a broader analysis be prepared for initial review at the October 1999 meeting. In

VOL 66 ISS 242 DE 17 2001 UMI

addition, the Council formed an inshore cooperative implementation committee to advise NMFS on many of the technical issues related to the formation and management of inshore cooperatives.

May 1999. The Council's inshore cooperative implementation committee held a public meeting with NMFS on May 10–13 in Seattle, WA, to examine alternative management approaches for inshore catcher vessel cooperatives. The approach to implementing and managing inshore cooperatives developed at this meeting forms the basis of the inshore cooperative management program contained in this proposed rule.

June 1999. At its June 1999 meeting in Kodiak, AK, the Council reviewed Amendments 61/61/13/8 and after extensive public testimony, approved a suite of AFA-related recommendations including restrictions on the formation and operation of cooperatives, harvesting sideboards for catcher/processors and catcher vessels, and catch weighing and monitoring requirements. However, the Council was unable to reach a decision on two AFA-related issues: groundfish processing sideboards and excessive processing share caps. To address these issues, the Council established an industry committee to further examine alternatives and work with State and Federal managers to resolve implementation issues with the intent that the Council would review the committee's recommendations in October 1999.

August 1999. The Council's processing sideboard industry committee held a public meeting in Seattle, WA, to examine alternatives for processing sideboards and excessive processing share caps. The committee was unable to reach complete consensus on a recommended approach for processing sideboard caps. However, the committee did develop some general recommendations for the Council and provided the Council with some requests for additional analysis and information.

October 1999. At its October 1999 meeting in Seattle, WA, the Council reviewed its analysis on the structure of the inshore cooperative program, including the proposal to allow formation of independent inshore catcher vessel cooperatives, and received extensive public discussion on this issue. However, the Council voted to postpone action until February 2000 and requested further analysis on this issue. The Council also re-examined its June 1999 catcher vessel sideboard exemption recommendations and requested that NMFS delay implementation of these measures until the Council had the opportunity to analyze and discuss possible revisions to its recommended catcher vessel sideboard exemptions. The Council announced that it would be revising its sideboard exemption recommendations at its December 1999 meeting. Finally, the Council reviewed what had become a separate analysis of groundfish processing sideboards and excessive processing share caps. After extensive discussion and public comment on this issue, the Council chose to expand and revise its analysis with intent to review the issue again in February 2000 with final action scheduled for June 2000.

December 1999. At its December 1999 meeting in Anchorage, AK, the Council recommended two emergency interim rules to implement required provisions of the AFA for the 2000 fishing year. These measures were necessary to meet certain statutory deadlines in the AFA while the comprehensive suite of permanent management measures under Amendments 61/61/13/8 continued to undergo development, revision, and analysis by the Council and NMFS. The first emergency interim rule set out permit requirements for AFA vessels, processors, and cooperatives (65 FR 380, January 5, 2000; extended at 65 FR 39107, June 23, 2000). The second emergency interim rule established sector allocations, cooperative regulations, sideboards, and catch monitoring requirements for the AFA fleets (65 FR 4520, January 28, 2000; extended at 65 FR 39107, June 23, 2000).

February 2000. At its February 2000 meeting in Anchorage, AK, the Council reviewed its revised analysis of groundfish processing sideboards and excessive share processing caps and requested analysis of several additional issues with the stated intent that the analysis would be reviewed again in June 2000. The Council postponed action on the proposed changes to the structure of the inshore cooperative program and the independent inshore catcher vessel proposal until June 2000. Finally, at that meeting, the Council and NMFS decided it would be appropriate to expand the environmental assessment (EA) prepared for Amendments 61/61/13/8 into an EIS given the magnitude of the proposed management program to implement the AFA.

April 2000. At its April 2000 meeting in Anchorage, AK, the Council received extensive testimony from industry on several elements of Amendments 61/61/13/8. Catcher vessel owners requested that the Council consider revising several of its recommendations related to catcher vessel sideboards, retirement of vessels, and the formula for calculating inshore cooperative allocations. The Council requested preparation of a supplemental analysis of these issues for consideration in June 2000. The Council also received testimony from crab fishermen who opposed the crab processing caps implemented in 2000 through emergency interim rule. The Council announced its intent to examine alternatives for crab processing caps at its June 2000 meeting with final action on any changes scheduled for September 2000. In addition, the April Council meeting was used as a scoping meeting to solicit input from the public on issues and alternatives that should be addressed in the EIS being prepared for Amendments 61/61/13/8.

June 2000. At its June 2000 meeting in Portland, OR, the Council reviewed its analysis of proposed structural changes to the inshore cooperative program including the independent inshore catcher vessel proposal. The Council did not adopt changes promoted by independent inshore catcher vessel owners that would have allowed greater flexibility in choosing which cooperative a vessel could join. Instead, the Council recommended two changes related to retirement of vessels and allocation formulas that would supersede the measures set out in the AFA. These changes were incorporated as revisions to Amendments 61/61/13/8. The Council also examined the issue of groundfish processing sideboards and excessive processing share caps and voted to release its analysis for public review with intent to take final action on these measures at its October 2000 meeting. The Council's original intent was to include groundfish processing sideboards and excessive processing share caps in Amendments 61/61/13/8. However, due to the extensive additional analysis required for these two issues, the Council decided to address these issues on a separate timetable with a separate analysis.

September 2000. At its September 2000, meeting in Anchorage, AK, the Council examined proposed changes to crab processing sideboard limits and recommended that the 1995–1997 formula used to calculate crab processing caps under the AFA be revised by adding 1998 processing history and giving it double-weight. In other words, 1995 through 1998 would be used to determine crab processing history with the 1998 year counting twice. The purpose of this change was to give greater emphasis to recent processing history in consideration of changes to the crab processing industry that have occurred since 1995.

October 2000. At its October 2000 meeting in Sitka, AK, the Council considered the issues of BSAI pollock excessive processing share limits and groundfish processing sideboard limits. The Council adopted a 30 percent excessive processing share limit for BSAI pollock that would be applied using the same 10 percent entity rules set out in the AFA to define AFA entities for the purpose of the 17.5 percent excessive harvesting share limit contained in the AFA. This action represents the Council's final revision to Amendments 61/61/13/8 before official submission of the amendments to the Secretary of Commerce for review and approval. With respect to non-pollock groundfish processing sideboards, the Council took no action. The Council believed that placing non-pollock groundfish processing limits on AFA processors could have negative effects on markets for both AFA and non-AFA catcher vessels. In addition, the Council concluded that its suite of harvesting sideboard restrictions on AFA catcher vessels and catcher/processors also serve to protect non-AFA processors in the BSAI, which are primarily non-AFA catcher/processors. Instead of imposing non-pollock processing limits on AFA processors, the Council indicated its intent to explore revisions to its Improved Retention/Improved Utilization (IR/IU) program set out at 50 CFR 679.27. Testimony from non-AFA processors indicated that such changes could be a more effective means of providing a more level playing field for non-AFA catcher/processors.

Submission of Amendments 61/61/13/8 for Secretarial Review and Public Comment

The Council has submitted Amendments 61/61/13/8 for Secretarial review and a Notice of Availability of the FMP amendments was published in the Federal Register on November 27, 2001, with comments on the FMP amendments invited through January 28, 2002. Comments may address the FMP amendments, the proposed rule, or both, but must be received by January 28, 2002, to be considered in the approval/disapproval decision on the FMP amendments. All comments received by January 28, 2002, whether specifically directed to the FMP amendments or the proposed rule, will be considered in the approval/disapproval decisions on the FMP amendments.

Elements of the Proposed Rule

The following is a summary of the major elements of the proposed rule to implement Amendments 61/61/13/8.

Permit Requirements for Vessels and Processors

Amendments 61/61/13/8 would establish permit requirements for AFA catcher/processors, AFA catcher vessels, AFA motherships, AFA inshore processors, and AFA inshore cooperatives. Once issued, AFA vessel and processor permits would be valid until December 31, 2004, which is the expiration date for section 208 of the AFA. Any vessel used to engage in directed fishing for a non-CDQ allocation of pollock in the BSAI and any processor that receives pollock in a non-CDQ directed pollock fishery in the BSAI would be required to maintain a valid AFA permit onboard the vessel or at the processor location at all times that non-CDQ pollock is being harvested or processed. In addition, these new AFA permits would not exempt a vessel operator, vessel owner, or pollock processor from any other applicable permit or licensing requirements required by State or Federal regulations. Finally, the AFA does not limit who may participate in the CDQ pollock fishery. Therefore, vessels or processors participating in the pollock CDQ fishery would not be required to have AFA permits.

NMFS has already issued interim AFA permits to owners of AFA catcher vessels, AFA catcher/processors, AFA motherships, and AFA inshore processors under the emergency interim rule published January 5, 2000 (65 FR 380). Under this proposed rule, these interim permits would expire 60 days after the effective date of the final rule and the owners of AFA catcher vessels, AFA catcher/processors, AFA motherships, and AFA inshore processors would be required to re-apply for final AFA permits. These final AFA permits would be valid for the duration of section 208 of the AFA that extends through December 31, 2004. The owners of all AFA vessels and processors would be required to re-apply for their AFA permits because this proposed rule requires submission of additional ownership information on AFA permit applications that was not collected under the emergency interim rule.

The deadline for application for all new AFA vessel and processor permits would be 60 days after the effective date of the final rule. This deadline would apply to the owners of any vessels and processors for which NMFS has not already received a permit application under the emergency interim rule but would not apply to replacement vessel permit applications. NMFS would not accept applications for new AFA vessel and processor permits after this date and any owners of vessels or processors who have not already been issued AFA permits under the emergency interim rule or for which an application has not been received by this date would be permanently ineligible to receive AFA permits for those respective vessels and/or processors. The purpose of this application deadline is to finalize the list of vessels and processors to which AFA fishing privileges and sideboard restrictions apply. A final list of AFA-permitted vessels is necessary because inshore cooperative allocations and catcher vessel sideboards are based on the aggregate catch histories of the various AFA-permitted fleets.

Under the proposed rule, AFA vessel and processor permits could not be used on or transferred to another vessel or processor, except under the replacement vessel provisions outlined below. However, AFA permits may be amended to reflect any change in the ownership of the vessel or processor. In contrast to vessel and processor permits, AFA inshore cooperative permits, discussed below, are valid only for the fishing year for which they are issued. However inshore cooperative fishing permits would be renewable on an annual basis following approval of a submitted permit application.

AFA Permit Application and Administrative Appeals Process

Application forms for all AFA permits would be available upon request from the NMFS Alaska Region (see **ADDRESSES**) and would be available for downloading on the NMFS Alaska Region home page (*http://www.fakr.noaa.gov*). AFA vessel and processor permits would be issued to the current owner of a qualifying vessel or processor. The proposed rule also sets out an administrative appeals process under which applicants would be able to appeal NMFS determinations related to AFA permits and AFA inshore cooperative allocations. The appeals process for AFA permits would be similar to the process currently in place for the individual fishing quota program and license limitation program (LLP) appeals set out at 50 CFR 679.4(k).

AFA Catcher/Processor Permits

Subsection 208(e) of the AFA, which took effect on January 1, 1999, lists by name catcher/processors that are eligible to harvest the catcher/processor sector BSAI pollock directed fishing

VOL 66 ISS 242 DE 17 2001 UMI

allowance. Under this proposed rule, two categories of AFA catcher/processor permits would be issued. Vessels listed by name in paragraphs 208(e)(1) through (20) of the AFA would be issued "listed AFA catcher/processor permits." Vessels qualifying for AFA catcher/processor permits under paragraph 208(e)(21) would be issued "unlisted AFA catcher/processor permits," which would restrict such vessels, in the aggregate, to a harvest of no more than 0.5 percent of the catcher/processor sector pollock TAC allocation. In addition, a catcher/processor would not need an AFA catcher/processor permit to participate in the CDQ sector of the BSAI pollock fishery because the AFA does not limit participation in the CDQ pollock fishery.

All owners of AFA catcher/processors would be required to reapply for their AFA permits under this proposed rule because this proposed rule requires the additional submission of vessel ownership information that was not previously collected. All applicants for AFA catcher/processor permits would be required to disclose the identities of all persons who hold a 10 percent or greater direct or indirect interest in the vessel in question. This information is necessary for NMFS to track compliance with the 17.5 percent excessive harvesting share limit established under the AFA and discussed below in the section on excessive shares.

AFA Catcher Vessel Permits

Under the AFA, a catcher vessel is qualified to engage in directed fishing for BSAI pollock if it is listed by name in subsections 208(b), 208(c), or 211(e) of the AFA, or if its history of participation in the BSAI pollock fishery meets certain criteria set out in subsections 208(a), 208(b), or 208(c) of the AFA. Under this proposed rule, AFA catcher vessel permits would be endorsed to authorize directed fishing for pollock for delivery to one or more of the three processing sectors: Catcher/processors, inshore processors, and motherships. Under the AFA, a catcher vessel may be authorized to engage in directed fishing for pollock for delivery to both AFA inshore processors and AFA motherships, depending on its qualifying catch history. However, a vessel that is eligible to deliver to catcher/processors is ineligible for an endorsement to deliver to inshore processors or motherships. In addition, a catcher vessel would not need an AFA catcher vessel permit to participate in the CDQ sector of the BSAI pollock fishery because the AFA does not limit participation in the CDQ pollock fishery.

All owners of AFA catcher vessels would be required to reapply for their AFA permits under this proposed rule because this proposed rule requires the additional submission of vessel ownership information that was not previously collected. All applicants for AFA catcher vessel permits would be required to disclose the identities of all persons who hold a 10 percent or greater direct or indirect interest in the vessel in question. This information is necessary for NMFS to track compliance with the 17.5 percent excessive harvesting share limit established under the AFA and discussed below in the section on excessive shares. NMFS has created an official AFA record that includes the relevant catch histories of all potentially qualifying catcher vessels and will review for verification all claims of endorsement qualification against the official AFA record.

AFA Catcher Vessel Crab Sideboard Endorsements

Under subparagraph 211(c)(1)(A) of the AFA, the Council is required to recommend measures to limit the participation of AFA catcher vessels in BSAI crab fisheries. Subparagraph 211(c)(2)(C) of the AFA also prohibits section 208(b) catcher vessels (i.e., AFA catcher vessels eligible to deliver to catcher/processors) "from participating in a directed fishery for any species of crab in the Bering Sea and Aleutian Islands Management Area unless the catcher vessel harvested crab in the directed fishery for that species of crab in such Area during 1997." At its June 1999 and June 2000 meetings, the Council developed final recommendations under Amendments 61/61/13/8 for limits on the participation of AFA catcher vessels in BSAI crab fisheries in order to comply with these two provisions of the AFA. These recommendations would apply to all AFA catcher vessels and would supersede the crab sideboards set out in subparagraph 211(c)(2)(C) of the AFA that apply to section 208(b) vessels only.

Under the proposed rule, NMFS would implement these catcher vessel crab sideboard limits through crab sideboard endorsements on AFA catcher vessel permits. The owner or operator of a catcher vessel who wishes to participate in a BSAI king or Tanner crab fishery would be required to have a sideboard endorsement for that crab species on the vessel's AFA catcher vessel permit. An AFA catcher vessel permit would be endorsed for the Bristol Bay Red King Crab (BBRKC), St. Matthew Island blue king crab, Pribilof Island red or blue king crab, Aleutian Islands brown king crab, Aleutian Islands red king crab, Opilio Tanner crab, and Bairdi Tanner crab fisheries based on the vessel's history of participation in such crab fisheries. The specific qualifying criteria for each fishery are set out in § 679.4(l)(3)(ii)(D) of this proposed rule.

The Council based some of its crab sideboard recommendations on whether a particular vessel is "LLP qualified" for a particular crab fishery. To implement this recommendation, the AFA catcher vessel permit application includes questions related to vessel catch history using the same qualifying years as the LLP program. This rule would require an applicant for an AFA catcher vessel permit to indicate on the permit application which AFA crab sideboard endorsements the vessel qualifies for based on the qualifying criteria set out in this rule. NMFS would verify all claims of qualification.

Finally, the Council recommended exempting from all crab harvesting sideboards, any AFA catcher vessel that made a legal landing of crab in every BBRKC, Opilio Tanner crab, and Bairdi Tanner crab fishery opening from 1991–1997. A vessel qualifying for this exemption would receive an AFA catcher vessel permit with an endorsement indicating that the vessel is exempt from all crab harvesting sideboards. The Council recommended the exemption to mitigate the adverse effect of crab sideboards on vessels that are almost exclusively crab vessels but, due to a small amount of pollock landings, fell within the criteria for AFA eligibility. The exemption would mitigate the adverse effect of the crab sideboard restrictions on such vessels.

An owner of a catcher vessel should be aware that qualification for a crab sideboard endorsement would not, in and of itself, provide sufficient authorization to participate in a BSAI crab fishery. To participate in a BSAI crab fishery, the operator of an AFA catcher vessel would be required to have a valid LLP license for that crab fishery as well as an AFA catcher vessel permit naming that vessel and containing an endorsement for that crab fishery.

Groundfish Sideboard Exemptions

Under this proposed rule, groundfish catcher vessel harvest sideboard limits detailed below would apply to all AFA catcher vessels in the aggregate regardless of sector and regardless of participation in a cooperative, except the Council recommended that catcher vessels less than 125 ft (38.1 m) whose annual BSAI pollock landings averaged less than 1700 mt from 1995–1997 (i.e., landed less than 5,100 mt of pollock over the 3–year period) would be exempt from BSAI Pacific cod sideboards if they made 30 or more legal landings of BSAI Pacific cod in the BSAI directed fishery for Pacific cod during that 3–year period. In addition, AFA catcher vessels that meet the same vessel length and BSAI pollock landing criteria and that made 40 or more legal landings of GOA groundfish during the 1995–1997 time period would be exempt from groundfish sideboards in the GOA.

In recommending these exemptions, the Council noted that many of the AFA catcher vessels with relatively low catch histories of BSAI pollock have traditionally targeted BSAI Pacific cod and GOA groundfish during much of the year and may be only minor participants in the BSAI pollock fishery. The Council believed that imposing aggregate sideboards on such vessels in the BSAI Pacific cod fishery and GOA groundfish fisheries could severely harm the owners of such vessels given their historic high levels of participation in non-pollock fisheries, and the fact that their historic dedication to groundfish fisheries other than the BSAI pollock fishery fisheries may account for their lower catch histories of BSAI pollock during the AFA qualifying years. The owners of vessels who believe their vessel may be eligible for one or both of these exemptions would have to apply for the sideboard exemption on their AFA catcher vessel permit application form.

AFA Mothership Permits

Under subsection 208(d) of the AFA, three named vessels are eligible for AFA permits that authorize them to process pollock harvested in the BSAI directed pollock fishery for delivery to motherships. Under this proposed rule, NMFS would issue to the owner of a mothership an AFA mothership permit if the mothership is listed by name in paragraphs 208(d)(1) through (3) of the AFA and the owner applies for such permit. However, the owner of a mothership wishing to process pollock harvested by a fishery cooperative also would need to apply for and receive a cooperative processing endorsement on its AFA mothership permit. This requirement is necessary because NMFS must identify and issue crab processing restrictions to any AFA entity that owns or controls an AFA mothership or an AFA inshore processor that receives pollock harvested by a cooperative.

Subparagraph 211(c)(2)(A) of the AFA imposes crab processing restrictions on the owners of AFA mothership and AFA inshore processors that receive pollock from a fishery cooperative. Under the AFA, these processing limits extend not only to the AFA processing facility itself, but also to any entity that directly or indirectly owns or controls a 10–percent or greater interest in the AFA mothership or in the AFA inshore processor. To implement the crab processing restrictions contained in subparagraph 211(c)(2)(A) of the AFA, NMFS would require that applicants for AFA mothership and AFA inshore processor permits disclose on their permit applications all entities directly or indirectly owning or controlling a 10–percent or greater interest in the AFA mothership or AFA inshore processor and the names of BSAI crab processors in which such entities directly or indirectly own or control a 10–percent or greater interest. An applicant for an AFA mothership or an AFA inshore processor permit who did not disclose this crab processor ownership information could still receive an AFA mothership permit or an AFA inshore processor permit but would be denied an endorsement authorizing the processor to receive and process pollock harvested by a fishery cooperative.

AFA Inshore Processor Permits

Under the AFA, shoreside processors and stationary floating processors (collectively known as inshore processors) may be authorized to receive and process BSAI pollock harvested in the directed fishery, based on their levels of processing in both 1996 and 1997. An inshore processor would be eligible for an unrestricted AFA inshore processing permit if the facility annually processed more than 2,000 mt round weight of pollock harvested in the BSAI inshore directed pollock fishery in both 1996 and 1997. An inshore processor would be eligible for a restricted AFA inshore processor permit if the facility processed pollock harvested in the inshore directed pollock fishery during 1996 or 1997, but did not process annually more than 2,000 mt round weight of pollock in both 1996 and 1997. A restricted AFA inshore processor permit would prohibit the inshore processing facility from processing more than 2,000 mt round weight of BSAI pollock harvested in the directed fishery in any one calendar year.

The owner of an AFA inshore processor wishing to process pollock harvested by a fishery cooperative would need a cooperative processing endorsement on the AFA inshore processing permit. The requirements for an AFA inshore processor cooperative processing endorsement are the same as those listed for AFA motherships above.

Finally, AFA inshore processors would be restricted to processing BSAI pollock in a single geographic location in State waters during a fishing year. The purpose of this restriction is to implement subparagraph 208(f)(1)(A) of the AFA, which includes in the category of AFA inshore processors, vessels that operate in a single geographic location in State waters. Under the proposed rule, shoreside (land-based) processors would be restricted to operating in the physical location in which the facility first processed pollock during a fishing year. Stationary floating processors would be restricted to receiving and processing BSAI pollock in a location within Alaska state waters that is within 5 nautical miles (nm) of the position in which the stationary floating processor first processed BSAI pollock during a fishing year. NMFS believes that 5 nm is an appropriate distance for this requirement because it allows the operator of a floating processor some flexibility in choosing an appropriate anchorage, but it still requires that the processor be located in the same body of water for the duration of a fishing year while receiving and processing BSAI pollock.

Approval of New AFA Inshore Processors

Paragraph 208(f)(2) of the AFA provides that:

> Upon recommendation by the North Pacific Council, the Secretary may approve measures to allow catcher vessels eligible under subsection (a) to deliver pollock harvested from the directed fishing allowance under section 206(b)(1) to shoreside processors not eligible under paragraph (1) if the total allowable catch for pollock in the Bering Sea and Aleutian Islands Management Area increases by more than 10 percent above the total allowable catch in such fishery in 1997, or in the event of the actual total loss or constructive total loss of a shoreside processor eligible under paragraph (1)(A).

To implement this provision of the AFA, the proposed rule provides a mechanism for the Council to recommend that NMFS issue AFA inshore processor permits to inshore processors that would not otherwise be eligible under the AFA. In the event that the BSAI pollock TAC exceeds 1,274,900 mt (10 percent above the 1997 combined BSAI TAC of 1,159,000 mt), or in the event of the actual total loss or constructive loss of an AFA inshore processor, the Council may recommend that an additional inshore processor (or processors) be issued AFA inshore processing permits. The Council's recommendation to NMFS must identify (1) the processor (or processors) that would be issued AFA inshore

VOL 66 ISS 242 DE 17 2001 UMI

processing permits, (2) the type of AFA inshore processing permit(s) to be issued (restricted or unrestricted), and the duration of any such permit(s). The Council may recommend any length of duration for permits issued under this provision, from a single fishing season to the duration of the AFA. Or the Council may recommend that any such permits remain valid as long as the criteria that lead to their issuance remain in effect (i.e., TAC remains above 1,274,900 mt).

Replacement Vessels

The proposed rule provides that in the event of the actual total loss or constructive total loss of an AFA catcher vessel, AFA mothership, or AFA catcher/processor, the owner of such vessel may designate a replacement vessel that would be eligible in the same manner as the original vessel after submission of an application for an AFA replacement vessel that is subsequently approved by NMFS. The AFA contains specific restrictions on replacement vessels that are set out in detail in the proposed rule regulatory text at § 679.4(l)(7). Paragraph 208(g)(5) of the AFA states that a vessel may be used as a replacement vessel if:

> the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel;

NMFS believes that Congress intended this clause to apply to eligible vessels with engines incapable of producing more than 3,000 shaft horsepower rather than engines incapable of producing less than 3,000 shaft horsepower. No catcher vessel operating in Alaska has engines incapable of producing less than 3,000 shaft horsepower, and construing this clause literally would make this provision a nullity. Any vessel engine regardless of size is capable of producing less than 3,000 shaft horsepower at less than full throttle or at idle. Therefore, NMFS is using the phrase “incapable of producing more than 3,000 shaft horsepower” to implement paragraph 208(g)(5) of the AFA.

In the event of the loss of an approved AFA replacement vessel, the owners of the replacement vessel may designate a subsequent replacement vessel provided that the original replacement vessel is lost under conditions that meet the criteria set out in the AFA for lost vessels. In the event of multiple vessel replacements, the length, horsepower, and tonnage limits for any subsequent replacement vessels would be based on the length, horsepower, and tonnage of the originally qualifying AFA vessel.

Under the proposed rule, any vessel that meets the replacement vessel criteria may be designated as a replacement for a lost vessel including an existing AFA vessel. In the event that an existing AFA catcher vessel is designated as a replacement for a lost AFA catcher vessel, the catch histories of the two vessels would be merged for the purpose of making inshore cooperative allocations, crab sideboard endorsements, and groundfish sideboard exemptions. However the catch histories of two vessels would not be merged until NMFS receives and approves an application for a replacement vessel from the owner(s) of the affected vessels.

Official AFA Record and Appeals

In order to issue AFA permits, NMFS is compiling available information about vessels and processors that were used to participate in the BSAI pollock fisheries during the qualifying periods. Information in the official AFA record includes vessel ownership information, documented harvests made from vessels during AFA qualifying periods, vessel characteristics, and documented amounts of pollock processed by pollock processors during AFA qualifying periods. Under this proposed rule, the official AFA record would be presumed to be correct for the purpose of determining eligibility for AFA permits. An applicant for an AFA permit would have the burden of proving correct any information submitted in an application that is inconsistent with the AFA official record.

This proposed rule also would establish an appeals process under which the owners of vessels and processors may appeal NMFS determinations about either AFA eligibility or inshore cooperative allocations. The appeals process for AFA permits and inshore cooperative allocations would be based on the existing appeals process in place for the individual fishing quota and LLP programs.

Restrictions on Transfer of LLP Licenses

This proposed rule also contains a revision to the LLP program for groundfish and crab that would prevent LLP licenses earned on AFA vessels from being used on non-AFA vessels. The purpose of this restriction is to prevent the owners of retired AFA vessels from re-deploying the LLP license in the groundfish and/or crab fisheries off Alaska on a new vessel that would not be subject to the same sideboard restrictions as the retired AFA vessel. Without this restriction, owners of AFA vessels would be able to evade the harvesting sideboard restrictions contained in this rule by using the LLP licenses from their AFA vessels to deploy new vessels into the groundfish and crab fisheries that are not subject to AFA sideboards.

Under this proposed restriction, no person could use an LLP license that was derived in whole or in part from the qualifying fishing history of an AFA catcher vessel or a listed AFA catcher/processor to fish for groundfish or crab on a non-AFA catcher vessel or non-AFA catcher/processor. NMFS would identify all such licenses affected by this restriction and inform the holders of such licenses of this restriction through a letter to the permit holder and/or an endorsement printed on the face of the license. Persons would be able to file an administrative appeal of NMFS' determination under § 679.4(l)(8).

Procedures and Formulas for Allocating the BSAI Pollock TAC

Under this proposed rule, the procedures for allocating pollock TAC among industry sectors and apportioning each sector's TAC between seasons and/or areas would be revised to incorporate the changes required by the AFA. Ten percent of the pollock TAC specified for the Bering Sea (BS) subarea and the Aleutian Islands (AI) subarea would be allocated to the CDQ program. The remaining TAC for each subarea, after establishment of an incidental catch allowance for pollock harvested as incidental catch in other groundfish fisheries, would be allocated 50 percent to AFA catcher vessels harvesting pollock for processing by AFA inshore processors; 40 percent to AFA catcher/processors and AFA catcher vessels harvesting pollock for processing by AFA catcher/processors, with not less than 8.5 percent of this allocation made available to AFA catcher vessels delivering to catcher/processors; and 10 percent to AFA catcher vessels harvesting pollock for processing by AFA motherships. The inshore pollock TAC would be further divided into two allocations; one allocation to vessels participating in inshore fishery cooperatives, and one allocation to vessels not participating in a fishery cooperative. The annual allocation to inshore cooperatives would be equal to the aggregate annual allocations made to each inshore cooperative. The annual allocation to the inshore open access fishery, which is composed of the remaining AFA inshore catcher vessels that are not in a cooperative, would be equal to the remaining inshore allocation after subtraction of the allocation to fishery cooperatives.

Management of the 8.5 Percent Allocation for AFA Catcher Vessels Delivering to Catcher/Processors

Under subsection 210(c) of the AFA "not less than 8.5 percent of the [catcher/processor sector] directed fishing allowance . . . shall be available for harvest only by the catcher vessels eligible under section 208(b)." Subsection 210(c) further provides that "The owners of such catcher vessels may participate in a fishery cooperative with the owners of the catcher/processors eligible under paragraphs (1) through (20) of section 208(e)." NMFS is proposing to implement these two related provisions by establishing two different procedures based on whether such catcher vessels are members of a cooperative with AFA catcher/processors during a given fishing year.

Allocation procedure with cooperatives. If prior to December 1 of each year the owners of all such AFA catcher vessels enter into a cooperative agreement, and the owners of such vessels also have entered into a cooperative agreement or inter-cooperative agreement with the owners of the listed AFA catcher/processors, and such agreement provides for at least 8.5 percent of the cooperative harvest shares for such catcher vessels, then NMFS would assume that the 8.5 percent catcher vessel allocation has been provided for within the cooperative or inter-cooperative agreement. In such event, NMFS would make a single allocation of pollock to the catcher/processor sector that is not subdivided between catcher vessels and catcher/processors. Owners of catcher/processors would then be able to enter into cooperative agreements that allow them to harvest some or all of the 8.5 percent of the TAC reserved for catcher vessels, or catcher vessels could harvest some or all of 91.5 percent catcher/processor limit.

Allocation procedure without cooperatives. If the AFA catcher vessels eligible to deliver to catcher/processors did not form a cooperative and did not enter into a cooperative or inter-cooperative agreement with the listed AFA catcher/processor fleet, and all such agreements were not filed with NMFS prior to December 1 of each year, then NMFS would limit AFA catcher/processors to harvesting no more than 91.5 percent of the catcher/processor sector allocation to guarantee that not less than 8.5 percent of the catcher/processor sector allocation is made available for harvest by AFA catcher vessels. In other words, AFA catcher/processors would be limited to harvesting no more than 91.5 percent of the catcher/processor allocation and only eligible catcher vessels would be able to harvest the remaining 8.5 percent of the catcher/processor sector allocation for delivery to catcher/processors. This 91.5 percent catcher/processor harvest limit would be published in the annual harvest specifications and would be applied to each fishing season.

Management of the 0.5 percent cap for unlisted AFA catcher/processors.

Under paragraph 208(e)(21) of the AFA, unlisted catcher/processors are "prohibited from harvesting in the aggregate a total of more than one-half (0.5) of a percent of the pollock apportioned to the [AFA catcher/processor sector]." Under the proposed rule, this 0.5 percent limit would be apportioned seasonally using whatever seasonal apportionment formula is in effect for the overall catcher/processor sector. This is to prevent unlisted catcher/processors from taking their entire 0.5 percent limit during the A/B season when pollock have higher value. However, NMFS would allow for the rollover of any uncaught amount of this 0.5 percent limit from the A/B to the C/D season so that unlisted catcher/processors could take their entire annual limit during the C/D season if they so choose. This 0.5 percent limit is not a separate allocation to unlisted AFA catcher/processors but rather a cap on their harvest activity within the overall catcher/processor sector allocation. Consequently, if unlisted AFA catcher/processors chose not to fish, this opportunity would be foregone in favor of other AFA catcher/processors and AFA catcher vessels delivering to catcher/processors.

Inshore Cooperative Allocations

Subparagraph 210(b)(1)(B) of the AFA sets out a specific formula for determining the allocation of pollock to each inshore cooperative. Under this subparagraph:

> the Secretary shall allow only such catcher vessels . . . to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels . . . in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels . . . from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

In other words, under the AFA, each inshore cooperative's pollock allocation is a percentage of the inshore sector allocation that is equal to the aggregate inshore landings by all member vessels in the cooperative from 1995–1997 relative to the total inshore landings during that same period.

However, paragraph 213(c)(3) of the AFA provides the Council with the authority to recommend an alternative allocation formula:

> The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act . . . that supersede the criteria required in paragraph (1) of section 210(b) to be used by the Secretary to set the percentage allowed to be harvested by catcher vessels pursuant to a fishery cooperative under such paragraph.

Using the authority provided in paragraph 213(c)(3) of the AFA, the Council has recommended three changes that would supersede the inshore cooperative allocation formula set out in the AFA. These changes are contained in the proposed rule and described below.

Offshore compensation. The first change recommended by the Council at its June 1999 meeting would allow inshore catcher vessels to receive inshore catch history credit for landings made to catcher/processors if the vessel made cumulative landings to catcher/processors of more than 499 mt of BSAI pollock during the 1995 through 1997 qualifying period. The Council recommended this change to assist the cooperatives in meeting the intent of paragraph 210(b)(4) of the AFA, which requires that:

> Any contract implementing a fishery cooperative under paragraph (1) which has been entered into by the owner of a qualified catcher vessel eligible under section 208(a) that harvested pollock for processing by catcher/processors or motherships in the directed pollock fishery during 1995, 1996, and 1997 shall, to the extent practicable, provide fair and equitable terms and conditions for the owner of such qualified catcher vessel.

The Council believed that catcher vessels with sustained participation delivering to catcher/processors, but excluded from delivering to catcher/processors under subsection 208(b) of the AFA, should not be disadvantaged by the new management regime. The Council chose 499 mt as the threshold based on information presented in the EIS/RIR/IRFA, which indicated that 499 mt provided a good "break point" between vessels with significant history of delivering to catcher/processors and vessels that only had incidental deliveries to catcher/processors during the 1995 through 1997 qualifying period. The Council recommended that only deliveries to catcher/processors be considered for such "compensation" and not deliveries made to the three motherships listed in subsection 208(d) of the AFA, because any vessel with more than 250 mt of pollock deliveries to one of the three AFA motherships during the qualifying period would earn an endorsement to deliver pollock to AFA motherships under the AFA and therefore, has not "lost" any fishing privileges as a result of the AFA.

Using the best 2 of 3 years from 1995–1997. The second change recommended by the Council at its June, 1999, meeting, would modify the allocation formula so that the share of the BSAI pollock TAC that each catcher vessel brings into a cooperative would be based on average annual pollock landings in its best 2 out of 3 years from 1995 through 1997. This change, along with the offshore compensation formula, was unanimously endorsed by industry representatives during public testimony at the June 1999 Council meeting. These changes were viewed as a more equitable method of allocating pollock catch because some vessels may have missed all or part of the inshore fishery in a given year due to unavoidable circumstances such as vessel breakdowns or lack of markets.

Revised open access formula. Finally, the Council recommended a third change to the allocation formula at its June 2000 meeting. This change would reduce the denominator in the formula from "the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component" to "the aggregate total amount of pollock harvested by AFA catcher vessels with inshore sector endorsements." The effect of this change is to eliminate from the formula all 1995 through 1997 catch history made by vessels that are not AFA catcher vessels with inshore sector endorsements. One consequence of the formula set out in the AFA is that all inshore catch history made by non-AFA vessels, and AFA catcher vessels without inshore endorsements, defaults to the open access sector. The Council believed that this resulted in an inshore open access allocation that was unfairly inflated to the detriment of vessels in cooperatives. The Council believed that inflating the open access quota in such a manner would provide incentives for vessels to leave cooperatives that could disrupt the objective of rationalizing the BSAI pollock fishery. Under the Council's recommended change, the cooperative and the open access sectors would be treated equally and allocations to both cooperatives and the open access sector would be based only on the fishing histories of the vessels in each group. All three of these changes have been incorporated into Amendments 61/61/13/8 as recommendations that supersede the AFA.

Separate allocations for Bering Sea and Aleutian Islands Subareas. Under the proposed rule, NMFS would use the allocation formula recommended by the Council to make annual allocations of pollock to each inshore cooperative for each subarea of the BSAI; the Bering Sea subarea and the Aleutian Islands subarea. These two subareas would be treated as separate pollock stocks under the FMP and receive separate TACs during the annual specification process. The Aleutian Islands subarea is currently closed to directed fishing for pollock as a protection measure for Steller sea lions. Consequently, under this proposed rule, as long as this closure remains in effect, NMFS would not make separate cooperative allocations of pollock for the Aleutian Islands subarea. Each cooperative would receive an annual allocation of Bering Sea subarea pollock only.

Each sector's annual Bering Sea Subarea allocation of pollock also would be further apportioned among fishing seasons. In a separate action, NMFS is implementing management measures to temporally and spatially disperse the BSAI pollock fishery to implement reasonable and prudent alternatives (RPAs) to protect endangered Steller sea lions. These temporal and spatial dispersion measures would be applied to each sector's BSAI pollock allocations in the manner set out in regulations implementing the Steller sea lion RPAs.

Treatment of the F/V HAZEL LORRAINE AND F/V PROVIDIAN pursuant to Pub. L. 106–562. In December 2000, the President signed Pub. L. 106–562 into law. This law, among other things, includes a provision that includes the F/V HAZEL LORRAINE and F/V PROVIDIAN as AFA inshore catcher vessels. The relevant section reads as follows:

> SEC 501. TREATMENT OF VESSEL AS AN ELIGIBLE VESSEL.Notwithstanding paragraphs (1) through (3) of sections 208(a) of the American Fisheries Act . . . the catcher vessel HAZEL LORRAINE . . . and catcher vessel PROVIDIAN . . . shall be considered to be vessels that are eligible to harvest the directed fishing allowance under section 206(b)(1) of that Act pursuant to a Federal fishing permit in the same manner as, and subject to the same requirements and limitations on that harvesting as apply to, catcher vessels that are eligible to harvest that directed fishing allowance under section 208(a) of that Act.

After reviewing the legislative history of this statute including a statement by Senator Snow in the Congressional Record (S. 11894, December 15, 2000), NMFS has determined that Pub. L. 106–562 directs NMFS to include both the F/V HAZEL LORRAINE and F/V PROVIDIAN as eligible vessels and directs NMFS to use the 1992 through 1994 pollock catch history of the F/V OCEAN SPRAY instead of 1995 through 1997 catch history of the F/V PROVIDIAN for the purpose of determining inshore cooperative quota allocations. Consequently, the proposed regulations provide that the 1992 through 1994 catch history of the F/V OCEAN SPRAY would be used to determine inshore cooperative allocations for any cooperative for which the F/V PROVIDIAN is a member.

Excessive Shares Harvesting and Processing Limits

Harvesting limits. Paragraph 210(e)(1) of the AFA establishes an excessive harvesting share cap of 17.5 percent of the directed pollock fishery as follows:

> HARVESTING. No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a total of more than 17.5 percent of the pollock available to be harvested in the directed pollock fishery.

To implement this provision of the AFA, NMFS would publish in the annual harvest specifications, the tonnage amount that equates to 17.5 percent of the pollock available to be harvested in the directed pollock fishery excluding CDQ. The proposed rule also contains a definition of "AFA entity" to identify which entities are affected by this 17.5 percent excessive harvesting share limit. The proposed definition of AFA entity is discussed in detail in the definitions section.

Processing limits. Paragraph 210(e)(2) of the AFA states that:

> Under the authority of section 301(a)(4) of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(4)), the North Pacific Council is directed to recommend for approval by the Secretary conservation and management measures to prevent any particular individual or entity from processing an excessive share of the pollock available to be harvested in the directed pollock fishery. In the event the North Pacific Council recommends and the Secretary approves an excessive processing share that is lower than 17.5 percent, any individual or entity that previously processed a percentage greater than such share shall be allowed to continue to process such percentage, except that their

> percentage may not exceed 17.5 percent (excluding pollock processed by catcher/processors that was harvested in the directed pollock fishery by catcher vessels eligible under 208(b)) and shall be reduced if their percentage decreases, until their percentage is below such share. In recommending the excessive processing share, the North Pacific Council shall consider the need of catcher vessels in the directed pollock fishery to have competitive buyers for the pollock harvested by such vessels.

At its October 2000 meeting, the Council considered various options for processing excessive share limits for the BSAI pollock fishery and adopted a BSAI pollock excessive processing share limit of 30 percent of the non-CDQ directed fishing allowance. The Council also recommended that the same 10 percent entity rules established for excessive harvesting shares be used for excessive processing shares as well. Under this proposed rule, NMFS would publish in the annual harvest specifications, the excessive processing share limit in tons that equates to 30 percent of the pollock available to be harvested in the non-CDQ directed pollock fishery. An AFA entity would be prohibited from processing BSAI pollock from the BSAI directed pollock fishery that was in excess of this excessive processing share limit.

Regulations Governing the Formation and Operation of Fishery Cooperatives

This proposed rule contains regulations that would govern the formation and operation of fishery cooperatives. The first set of regulations are filing deadlines and annual reporting requirements that would apply to all cooperatives operating in the BSAI pollock fishery regardless of sector. The second set of regulations are required provisions of cooperative contracts that would be required to be included in all catcher vessel cooperatives operating in the BSAI pollock fishery that are intended to govern the harvest of sideboard species by catcher vessel cooperatives. The third set of regulations would be specific requirements and restrictions on inshore catcher vessel cooperatives that are applying for an inshore cooperative fishing permit to receive an annual allocation of the inshore sector BSAI pollock TAC.

Regulations that Apply to all Cooperatives

The following proposed regulations would apply to all fishery cooperatives formed for the purpose of managing directed fishing for pollock within any sector of the BSAI pollock fishery.

Filing deadlines. Each fishery cooperative would be required to file with NMFS and the Council, a signed copy of its cooperative contract, and any material modifications to any such contract, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. The Council and NMFS would make this information available to the public upon request. The proposed filing deadline for cooperatives operating in the catcher/processor and mothership sectors is 30 days prior to the start of any fishing activity conducted under the terms of the contract. The proposed filing deadline for cooperatives operating in the AFA inshore sector is December 1 of the year prior to the year in which fishing under the contract would occur. The December 1 deadline for inshore sector cooperatives is necessary because inshore sector cooperative allocations must be included in the BSAI interim harvest specifications that are published prior to January 31 of each year. Under this proposed rule, NMFS would not make sub-allocations of pollock to catcher/processor and mothership cooperatives. Such cooperatives operate at the sector level. Consequently, catcher/processor and mothership sector cooperative information does not need to be included in the BSAI interim harvest specifications.

Designated representative. Each cooperative would be required to appoint a designated representative. The designated representative would be the primary contact person for NMFS on issues related to the operation of the cooperative and would be responsible for fulfilling regulatory requirements on behalf of the cooperative including, but not limited to, filing of cooperative contracts, filing of annual reports, and in the case of inshore sector catcher vessel cooperatives, signing cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports. The owners of the member vessels would be jointly and severally responsible for compliance and ensuring that the designated representative complies with the requirements contained in this proposed rule.

Agent for service of process. Each cooperative would be required to appoint an agent who is authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of the cooperative. The agent for service of process may be the same individual as the cooperative's designated representative, or may be a different individual. Service on or notice to the cooperative's appointed agent would constitute service on or notice to all members of the cooperative. NMFS may, at its option, attempt to serve every member of the cooperative individually in addition to service on the cooperative's appointed agent. However, failure to achieve service on the individual member would not affect the validity of notice if service is accomplished on the cooperative's appointed agent for service of process. The agent for service of process would have to be capable of accepting service on behalf of the cooperative until December 31 of the year 5 years after the calendar year for which the fishery cooperative has filed its intent to operate. If the agent is unable to complete this obligation, the cooperative would be required to appoint a replacement agent who could complete the term of service.

Required contract elements for all fishery cooperatives. Under the proposed rule, all cooperative contracts formed for the purpose of managing directed fishing for pollock in the BSAI must: (1) List parties to the contract, (2) list all vessels and processors that will harvest and process pollock harvested under the cooperative, (3) specify the amount or percentage of pollock allocated to each party to the contract, and (4) pursuant to subsection 210(f) of the AFA, include a contract clause under which the parties to the contract agree to make payments to the State for any pollock harvested in the directed pollock fishery which is not landed in the State, in amounts which would otherwise accrue had the pollock been landed in the State subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid would result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 *et seq.*).

Annual reporting requirements for all cooperatives. Under this proposed rule all cooperatives would be required to submit preliminary and final annual written reports on fishing activity to the Council. The Council would make copies of each report available to the public upon request. The preliminary report covering activities through November 1 would have to be submitted by December 1 of each year. The final report covering activities for an entire calendar year would have to be submitted by February 1 the following year.

The preliminary and final written reports would be required to contain, at a minimum: (1) The cooperative's allocated catch of pollock and sideboard species, and any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on a vessel-by-vessel basis; (2) the cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis; (3) a description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and (4) a description of any actions taken by the cooperative to penalize vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries.

The purpose of this proposed annual report requirement is to assist the Council and NMFS in meeting the requirements of paragraph 210(a)(1) of the AFA, which requires that NMFS make such information available to the public in a manner that NMFS and the Council decide is appropriate. Section 210(a) requires the release of this information, despite the confidentiality provisions of the Magnuson-Stevens Act or any other law. It requires that the Secretary and Council take into account the interest of parties to any cooperative contract in protecting the confidentiality of propriety information. The Secretary and the Council have no discretion in whether to release this information, despite the possibility that it might be confidential commercial or financial information.

After analyzing various methods of providing this information to the public, the Council determined that the most appropriate method for disseminating information about each cooperative would be to require an annual report from each cooperative that could be reviewed by the Council and distributed to the public. The information that would be released is based on observer data and, except for the exception in section 210(a), such information may have been protected from public disclosure under the Freedom of Information Act.

During the development of this proposed reporting requirement, pollock industry representatives did not present to NMFS or the Council concerns about these reporting requirements, and have not indicated that disclosure of such information could reasonably be expected to cause substantial competitive harm. In addition, the annual report does require the release of observer data on specific hauls (e.g., haul location, fishing depth, and catch composition) that might disclose confidential information on specific fishing operations. The requirement that each cooperative report the actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis would not disclose when and where individual vessels fished and what they caught at those locations which could have disclosed to competitors the identity of fishing grounds. Therefore, NMFS believes the disclosure of catch and bycatch information on an annual basis and by large management areas would not identify any vessel's specific fishing grounds and what was harvested at those specific locations.

For these reasons, NMFS has concluded that the annual reporting requirements as proposed by the Council are an appropriate way to comply with the public disclosure requirements of paragraph 210(a)(1) of the AFA.

Regulations for Cooperatives that Contain AFA Catcher Vessels

In addition to the general regulations described above that would apply to all fishery cooperatives operating in the BSAI directed pollock fishery, this proposed rule would impose additional contract requirements for all cooperatives that contain AFA catcher vessels. These regulations would apply to catcher vessel cooperatives operating in all sectors of the BSAI pollock fishery. The purpose of these regulations is to hold catcher vessel cooperatives responsible for managing the harvest of groundfish sideboard species and prevent an all out race for sideboard species by AFA catcher vessels.

Under the proposed rule, a cooperative contract that includes AFA catcher vessels must include adequate provisions to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following criteria: (1) The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as announced by NMFS, or (2) in the case of two or more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as announced by NMFS.

This requirement that catcher vessel cooperatives address the issue of sideboard management in their cooperative contracts was recommended by the Council at its December 1999 meeting as a means to prevent increased competition for sideboard species. To comply with this requirement, each cooperative contract must have penalty provisions on individual vessels that would be payable to owners of vessels outside the cooperative. The amount and type of such penalties are left to the discretion of the cooperatives. However, NMFS may disapprove an inshore cooperative fishing permit application if the Regional Administrator determines that such penalties are inadequate.

Regulations for Inshore Catcher Vessel Cooperatives

Under the AFA, a fundamental difference exists between the fishery cooperatives authorized to operate in the AFA catcher/processor and AFA mothership sectors, and the fishery cooperatives authorized to operate in the inshore sector. AFA catcher/processor and AFA mothership cooperatives operate at the sector level and NMFS does not make sub-allocations of each sector's BSAI pollock TAC to individual cooperatives. Inseason management of the AFA catcher/processor and AFA mothership sectors would continue to occur at the sector level regardless of the presence or absence of fishery cooperatives.

However, the inshore catcher vessel cooperatives authorized by the AFA require an entirely different management structure. Subsection 210(b) of the AFA requires that NMFS make separate TAC allocations to inshore catcher vessel cooperatives that form around an AFA inshore processor and that meet certain restrictions. For this reason, inshore cooperatives require substantially greater regulatory and management infrastructure than AFA catcher/processor and AFA mothership sector cooperatives. This proposed rule implements the following inshore cooperative management measures as required by subsection 210(b) of the AFA.

Application for inshore cooperative fishing permits. Under this proposed rule, inshore catcher vessel cooperatives wishing to receive an allocation of the BSAI inshore pollock TAC would be required to submit an application for an inshore cooperative fishing permit on an annual basis by December 1 of the year prior to the year in which the cooperative fishing permit would be in effect. Applications for an inshore cooperative fishing permit would need to be accompanied by a copy of the cooperative contract itself and by a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the U.S. Department of Justice and any response to such request. Inshore cooperative fishing permit applications that are not received by NMFS by December 1 would be disapproved.

As part of the application for an inshore cooperative fishing permit, the cooperative's designated representative, who is signing the permit application on behalf of the various members, would be required to certify that: (1) Each catcher vessel in the cooperative is a "qualified catcher vessel" according to the definition of qualified catcher vessel described below, (2) the cooperative contract was signed by the owners of at least 80 percent of the qualified catcher vessels that delivered pollock harvested in the BSAI directed pollock fishery to the cooperative's designated AFA inshore processor during the year prior to the year in which the cooperative fishing permit would be in effect, (3) the cooperative contract requires that the cooperative deliver at least 90 percent of its BSAI pollock catch to its designated AFA processor, and (4) each member vessel has no permit sanctions or other type of sanctions against it that would prevent it from fishing for groundfish in the BSAI. A catcher vessel that cannot legally harvest BSAI pollock due to enforcement action, permit sanctions, lack of a valid AFA catcher vessel permit, or lack of other required permit, would be barred from membership in an inshore cooperative that receives an inshore cooperative fishing permit.

To add or subtract a qualified catcher vessel, the cooperative would be required to submit a new application prior to the December 1 deadline, and the new application must be subsequently approved by the Regional Administrator.

Definition of qualified catcher vessel. At its June, 2000, meeting, the Council voted to recommend a definition of "qualified catcher vessel" that would supersede the definition contained in the AFA. Paragraph 210(b)(3) of the AFA defines "qualified catcher vessel" as follows:

> QUALIFIED CATCHER VESSEL. For the purposes of this subsection, a catcher vessel shall be considered a "qualified catcher vessel" if, during the year prior to the year in which the fishery cooperative will be in effect, it delivered more pollock to the shoreside processor to which it will deliver pollock under the fishery cooperative in paragraph (1) than to any other shoreside processor.

The effect of this definition was to prevent the retirement of catcher vessels that are no longer needed to harvest a cooperative's annual allocation of pollock because each vessel was required to make a qualifying landing every year to remain in the cooperative in each subsequent year. At its June 2000, meeting, the Council recommended that this definition be replaced with a new definition under which an inactive vessel would remain qualified to join the cooperative that is associated with the processor where it delivered more pollock to than any other inshore processor in the last year in which the vessel participated in the inshore sector of the BSAI directed pollock fishery. The Council's recommended change would not affect vessels that were active in the BSAI pollock fishery during the year prior to the year in which the cooperative fishing permit would be in effect.

The Council derives its authority to recommend an alternative definition of "qualified catcher vessel" from paragraph 213(c)(1) of the AFA, which provides the Council with the authority to recommend measures to supersede certain provisions of the AFA. Paragraph 213(c)(1) provides that:

> CHANGES TO FISHERY COOPERATIVE LIMITATIONS AND POLLOCK CDQ ALLOCATION. The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act
>
> (1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery;

In making the recommendation under Amendments 61/61/13/8 to supersede the AFA definition of "qualified catcher vessel" the Council determined that this change would mitigate adverse effects on some owners of fewer than three catcher vessels. Some independently owned AFA catcher vessels are relatively small vessels that may be less safe to operate at great distances from shore under the new Steller sea lion RPA protection measures which have closed many nearshore areas to pollock fishing. A requirement that all such vessels fish each year to remain qualified to join a cooperative each following year would impose unnecessary risks that could be mitigated with a revision to the definition of qualified catcher vessel. In addition, some catcher vessels that are eligible to fish for pollock under the AFA have since been lost or may no longer be safe to operate without major rebuilding. Under this change, the owners of such vessels could remain in cooperatives without the need to rebuild or deploy new vessels into the BSAI pollock fishery. In making this recommendation, the Council also noted that a primary objective of the AFA is to reduce excess capacity in the BSAI pollock fishery and that changing the definition of "qualified catcher vessel" would further that objective.

This proposed rule also makes an additional clarification to the definition of "qualified catcher vessel." Under the proposed rule, only pollock harvested in the BSAI directed pollock fishery would be used to determine vessel qualification. Pollock that is landed as incidental bycatch in other fisheries would not be used to determine which cooperative a catcher vessel is qualified to join and a catcher vessel cannot qualify to join a cooperative based on incidental catch of pollock in other fisheries. This clarification is necessary to prevent a vessel's incidental bycatch of pollock in other fisheries from inadvertently affecting its cooperative qualification. Counting pollock bycatch could create the unintended effect of restricting the ability of catcher vessels to deliver non-pollock groundfish to other markets. Because pollock is a common bycatch species in the Pacific cod fishery and other groundfish fisheries, AFA catcher vessels fishing for Pacific cod may land significant amounts of pollock as incidental bycatch that would be counted against the pollock incidental catch allowance and not the vessel's cooperative quota. The AFA makes no restrictions on either the delivery or processing of non-pollock groundfish species in the BSAI. Consequently, AFA catcher vessels fishing for Pacific cod are free to deliver their Pacific cod and associated incidental catch of pollock to any processor, not just to one of the eight AFA processors that are authorized to receive pollock harvested in the BSAI directed pollock fishery.

If an AFA vessel's cooperative qualification were based on all catch of pollock and not just pollock harvested in the directed fishery, then an AFA catcher vessel fishing for Pacific cod and delivering to a processor other than its AFA pollock processor could inadvertently disqualify itself from its cooperative of choice due to incidental pollock harvests in other fisheries. In fact, because Pacific cod processors other than the eight AFA inshore pollock processors also operate in the BSAI, an active AFA catcher vessel delivering Pacific cod to a non-AFA processor could inadvertently find itself ineligible to join any inshore cooperative because the processor to

VOL 66 ISS 242 DE 17 2001 UMI

which it delivered more pollock than any other processor may be a non-AFA processor.

Additional contract requirements. Inshore cooperatives wishing to receive an allocation of pollock would have several additional contract requirements. An inshore cooperative contract eligible for a pollock allocation must be signed by the owners of at least 80 percent of the qualified catcher vessels. In addition, inshore cooperative contracts must specify that the cooperative will deliver at least 90 percent of the pollock harvested in the directed pollock fishery to its designated inshore processor during the year in which the fishery cooperative would be in effect and that its designated inshore processor has agreed to process such pollock. Finally, a catcher vessel would be barred from membership in an inshore cooperative if the vessel does not have all necessary permits to engage in directed fishing for pollock in the BSAI, or if the vessel is subject to any permit sanction that would prevent it from engaging in directed fishing for pollock in the BSAI. The purpose of this restriction is to prevent the granting of a limited access fishing quota to any catcher vessel that cannot legally fish for pollock in the BSAI. If an inshore cooperative fishing permit application does not meet all of these requirements, the permit application would be denied by NMFS and the cooperative would be provided the opportunity to submit a revised contract and permit application.

Inshore Cooperative Fishing Restrictions. This proposed rule would impose a variety of requirements and management standards on inshore fishery cooperatives. First, only catcher vessels listed on the cooperative's AFA inshore cooperative fishing permit would be permitted to harvest the cooperative's annual cooperative allocation. Second, all BSAI inshore pollock harvested by a member vessel while engaging in directed fishing for inshore pollock would accrue against the cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded and regardless of where the pollock was delivered. Third, each inshore pollock cooperative would be responsible for reporting to NMFS its BSAI pollock harvest on a weekly basis according to recordkeeping and reporting requirements published as part of the annual revisions to recordkeeping and reporting requirements for the groundfish fisheries of the BSAI and GOA. Fourth, each inshore pollock cooperative would be prohibited from exceeding its annual allocation of BSAI pollock, and the owners and operators of all vessels listed on the cooperative fishing permit would be held jointly and severally liable for overages of the cooperative's annual allocation.

Inseason Management of Inshore Cooperatives. Under this proposed rule, NMFS would manage the inshore cooperative sector and inshore open access sector as two separate inshore pollock fisheries. The various inshore cooperatives would be managed as a single aggregate allocation for the purpose of making season and area TAC apportionments and for the purpose of issuing directed fishing closures. When NMFS determines that the cooperative sector has reached a season or area apportionment of BSAI pollock, NMFS would close inshore cooperative fishing for that season or area. Under this system, each inshore cooperative would be given the opportunity to harvest its entire annual allocation of BSAI pollock, but would receive no harvest guarantee for each season and area. NMFS is encouraging the various inshore cooperatives to form an inter-cooperative agreement to govern cooperative fishing activities within each season and area. Such an inter-cooperative agreement was formed in January 2000 to manage cooperative fishing under the emergency interim rules and has operated successfully to date. The proposed management approach is that NMFS would manage the cooperative pollock quota and various sideboard quotas in the aggregate and encourage the various cooperatives to work together to develop a cooperative management program to govern activities by individual cooperatives and individual vessels. Such cooperation between cooperatives will be necessary to prevent the activities of one cooperative from affecting the plans of another cooperative.

Harvesting and Processing Sideboard Restrictions

The AFA requires that harvesting and processing limits be placed on AFA vessels and processors in other groundfish, crab, and scallop fisheries to protect the participants in other fisheries from spillover effects resulting from the rationalization of the BSAI pollock fishery and the formation of fishery cooperatives in the BSAI pollock fishery. Potential spillover effects could take many forms. Most obviously, excess harvesting and processing capacity from the rationalization of the BSAI pollock fishery could flood into other fisheries as a result of the AFA to the detriment of current participants in other fisheries. In addition, fishery cooperatives provide vessels with greater flexibility to schedule their fishing activity because they are no longer racing for pollock at the start of every season. As a result, vessels in cooperatives would have the ability to enter other fisheries that might previously have been conducted concurrent with the BSAI pollock fishery. Finally, companies involved in the AFA pollock fishery are expected to benefit financially from the formation of fishery cooperatives and non-AFA companies fear that such profits may be used to expand into other groundfish and crab fisheries.

To address these potential negative effects of the AFA on the participants in other groundfish, crab, and scallop fisheries, the AFA sets out a complex set of harvest and processing restrictions, which have become known as "sideboards". These sideboard measures have been further refined by the Council's recommendations for catcher/processor and catcher vessel sideboards under Amendments 61/61/13/8. The Council's recommendations have been incorporated into this proposed rule and are summarized below.

Catcher/Processor Harvesting Sideboards

The AFA establishes harvest restrictions or "sideboards," that restrict the participation of listed AFA catcher/processors in other BSAI groundfish fisheries and completely prohibit listed AFA catcher/processors from fishing in the GOA. These sideboards apply only to AFA catcher/processors listed in paragraphs 208(e)(1) through (20) of the AFA and are not extended to unlisted AFA catcher/processors that qualify to fish for pollock under paragraph 208(e)(21) of the AFA. The language establishing catcher/processor harvest caps is set out in paragraphs 211(b)(1) and (2) of the AFA as follows:

> (b) CATCHER/PROCESSOR RESTRICTIONS.—
>
> (1) GENERAL. The restrictions in this subsection shall take effect on January 1, 1999 and shall remain in effect thereafter except that they may be superceded (with the exception of paragraph (4)) by conservation and management measures recommended after the date of the enactment of this Act by the North Pacific Council and approved by the Secretary in accordance with the Magnuson-Stevens Act.
>
> (2) BERING SEA FISHING. The catcher/processors eligible under paragraphs (1) through (20) of section 208(e) are hereby prohibited from, in the aggregate
>
> (A) exceeding the percentage of the harvest available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total harvest by such catcher/processors and the catcher/

> processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997;
>
> (B) exceeding the percentage of the prohibited species available in the offshore component of any Bering Sea and Aleutian Islands groundfish fishery (other than the pollock fishery) that is equivalent to the total of the prohibited species harvested by such catcher/processors and the catcher/processors listed in section 209 in the fishery in 1995, 1996, and 1997 relative to the total amount of prohibited species available to be harvested by the offshore component in the fishery in 1995, 1996, and 1997; and
>
> (C) fishing for Atka mackerel in the eastern area of the Bering Sea and Aleutian Islands and from exceeding the following percentages of the directed harvest available in the Bering Sea and Aleutian Islands Atka mackerel fishery
>
> (i) 11.5 percent in the central area; and
>
> (ii) 20 percent in the western area.

For the 1999 fishing year, NMFS implemented these provisions by publishing the harvest limits in the 1999 BSAI harvest specifications and prohibiting listed AFA catcher/processors from engaging in directed fishing for a groundfish species or species group when NMFS determined that the sideboard limit was likely to be met or exceeded. For the 2000 and 2001 fishing years these limits were set out by emergency interim rule (65 FR 4520, January 28, 2000; extended at 65 FR 39107, June 23, 2000; and 66 FR 7276, January 22, 2001).

At its June 1999 meeting, the Council recommended that catcher/processor harvest limits for BSAI groundfish other than Atka mackerel be based on the 1995 through 1997 retained catch of such groundfish species by the 20 listed AFA catcher/processors listed in paragraphs 208(e)(1) through (20) of the AFA and the nine ineligible catcher/processors listed in section 209 of the AFA, except for Pacific cod which would be based on 1997 retained catch only. The Council made a distinction between retained and total catch for the purpose of calculating sideboards and felt that AFA vessels should not receive sideboard credit for groundfish that was discarded and not utilized. Given NMFS' and the Council's longstanding emphasis on reduction of discards and waste in the groundfish fisheries off Alaska, the Council believed it was reasonable not to allow the members of a sector of the groundfish fleet to claim fishing privileges based on catch that they discarded and did not utilize, especially given that such discards may have resulted in foregone catch and loss of fishing opportunities for other sectors of the industry.

In addition, the Council recommended several other relatively minor changes to the catcher/processor sideboard formula set out in the AFA. The Council recommended that only 1997 catch history be used to determine Pacific cod harvest limits, because 1997 was the first year in which the BSAI Pacific cod trawl gear allocation was split between catcher/processors and catcher vessels. Prior to 1997 the BSAI Pacific cod TAC was not allocated between catcher/processors and catcher vessels, meaning that pre–1997 Pacific cod TACs and harvest percentages by AFA catcher/processors are not directly comparable to present day Pacific cod allocations. The Council also recommended that only the years 1996 and 1997 be used to calculate Pacific ocean perch (POP) sideboard amounts because 1996 was the first year in which the POP TAC was divided between the Bering Sea and Aleutian Islands subareas.

The Atka mackerel catcher/processor sideboard percentages set out in subparagraph 211(b)(1)(C) of the AFA would be implemented unchanged. The AFA catcher/processor sideboard limit for Atka mackerel would be zero percent of the Bering Sea subarea and Eastern Aleutians annual TAC, 11.5 percent of the Central Aleutians annual TAC, and 20 percent of the Western Aleutians annual TAC. These Atka mackerel sideboard amounts would be divided by area and season and would be limited inside critical habitat in the same manner as the overall Atka mackerel TAC for each area.

The Council did not recommend any changes to the formula for establishing prohibited species catch (PSC) bycatch limits set out in subparagraph 211(b)(2)(B) of the AFA. However, the Council recommended that NMFS not implement catcher/processor sideboards for salmon and herring because extensive management measures are already in place to limit bycatch of those PSC species in the BSAI pollock fishery and incidental bycatch of salmon or herring is primarily a concern in the pollock fishery and not in the directed fisheries for other groundfish species.

Management of Catcher/Processor Harvest Sideboards

Under this proposed rule, catcher/processor sideboards would be managed through directed fishing closures. NMFS would evaluate each groundfish harvest limit specified according to the formula outlined previously and would authorize directed fishing by listed AFA catcher/processors only for those BSAI groundfish species for which the harvest limit is large enough to support a directed fishery by listed AFA catcher/processors. Groundfish species for which the catcher/processor harvest limit is too small to support a directed fishery would be closed to directed fishing by listed AFA catcher/processors at the beginning of the fishing year. The sideboard amounts for these species would then be specified as the incidental catch amounts harvested in other directed groundfish fisheries.

In some instances where catcher/processors have a history of harvesting a particular species as bycatch in the pollock fishery and have not traditionally retained that species, the retained catch formula for setting sideboard amounts would result in a sideboard amount for that species that likely would be far below its intrinsic bycatch rate in the BSAI pollock fishery. Squid and POP fall into this category. An expected consequence of basing sideboard amounts on retained catch rather than total catch is that actual harvests of some species as bycatch in the directed pollock fishery would exceed the published sideboard amount. As a result, NMFS proposes a management approach in the proposed rule that would allow for continued incidental catch of species under sideboard provisions that acknowledge historical bycatch needs, while ensuring that listed AFA catcher/processors would not participate in directed fisheries for other BSAI groundfish species at levels that would exceed their level of participation in such fisheries from 1995 through 1997. NMFS believes that this approach is consistent with the language and intent of the AFA.

Catcher Vessel Sideboards

This proposed rule would establish catcher vessel harvest limits for BSAI crab, BSAI and GOA groundfish, and the Alaska scallop fishery. These measure are required under subparagraph 211(c)(1)(A) of the AFA which states:

> By not later than July 1, 1999, the North Pacific Council shall recommend for approval by the Secretary conservation and management measures to . . . prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery.

The Council met this requirement by adopting a comprehensive suite of catcher vessel sideboard measures at its June 1999 meeting as part of Amendments 61/61/13/8.

Because the BSAI king and Tanner crab fisheries and the Alaska scallop

VOL 66 ISS 242 DE 17 2001 UMI

fishery are managed by the State under Federal oversight, the Council recommended that crab and scallop catcher vessel sideboards be implemented jointly through State and Federal actions. Amendment 4 to the scallop FMP was approved by NMFS on June 8, 2000 and authorized a license limitation program (LLP) for the Alaska scallop fishery under which only one AFA catcher vessel is eligible to receive a scallop license. NMFS and the Council have determined that the scallop LLP program effectively prevents additional effort in the scallop fishery by other AFA catcher vessels and that additional restrictions on entry by AFA catcher vessels are unnecessary. As a further measure under Amendments 61/61/13/8, the Council also has recommended that the State implement an AFA catcher vessel scallop sideboard limit equal to the percentage of the scallop guideline harvest level that was harvested by the AFA catcher vessel in 1997. This sideboard harvest restriction would be implemented under State regulations. Therefore, scallop sideboard measures are not included in this proposed rule.

Under Amendments 61/61/13/8, the Council has recommended that NMFS limit participation in BSAI crab fisheries through crab sideboard endorsements on AFA catcher vessel permits. The Council has recommended that only AFA catcher vessels with a demonstrated history in a particular crab fishery may continue participating in that fishery. A catcher vessel that lacks the appropriate crab sideboard endorsements on its AFA permit would be prohibited from retaining BSAI king and Tanner crab even if that vessel was authorized to do so under an LLP for that crab fishery. These sideboard endorsements are described above in the discussion of AFA catcher vessel permits.

In addition to permit restrictions, the Council also recommended that the State implement AFA catcher vessel harvest limits for the Bristol Bay red king crab and Bairdi Tanner crab fisheries to keep the AFA vessels from harvesting more such crab than they had traditionally harvested. With respect to the Bristol Bay red king crab fishery, the Council recommended an AFA catcher vessel sideboard limit equal to the percentage of Bristol Bay red king crab harvested by AFA catcher vessels from 1991 through 1997, excluding 1994 and 1995 when the fishery was closed. For the Bairdi Tanner crab fishery, the Council recommended that AFA catcher vessels be excluded from the fishery until the Council's Bairdi rebuilding goal is reached, and then be limited to their historic catch percentage from 1995–1996. The Alaska Board of Fisheries has developed a management program to implement these restrictions which has been in effect since the 2000 Bristol Bay red king crab fishery.

For the BSAI and GOA groundfish fisheries, the Council recommended that AFA catcher vessel sideboards be established based on landed catch and be managed through directed fishing closures in the same manner as AFA catcher/processor sideboards. However, a significant difference between catcher/processor and catcher vessel groundfish sideboards is that the Council recommended that certain AFA catcher vessels be exempt from some BSAI and GOA groundfish sideboards while no exemptions were recommended for listed AFA catcher/processors. These sideboard exemptions were described previously under the section on AFA catcher vessel permits. This proposed rule contains the Council's recommended BSAI and GOA groundfish and PSC sideboards for AFA catcher vessels, which are summarized below.

Catcher Vessel Groundfish Sideboards in the BSAI

Catcher vessel groundfish sideboards would be established for all BSAI groundfish species using a formula based on the retained catch of all non-exempt AFA catcher vessels of each sideboard species from 1995 through 1997 (1997 only for BSAI Pacific cod) divided by the available TAC for that species over the same period. AFA catcher vessel sideboards would apply to all non-exempt AFA catcher vessels regardless of sector and regardless of participation in a cooperative. The criteria for catcher vessel sideboard exemptions were outlined in the AFA catcher vessel permit section.

In addition, AFA catcher vessels with mothership endorsements would be exempt from Pacific cod sideboard closures after March 1 of each year. The March 1 exemption for AFA catcher vessels with mothership endorsements was recommended for several reasons. In most years, the BSAI Pacific cod fishery is largely concluded by March 1 and fishing is often less productive in terms of catch per unit effort after that date. Given that as few as two non-AFA catcher vessels have fished for BSAI Pacific cod in recent years, the Council believed that some additional vessels might be needed after this date to completely harvest the TAC so that processors are not faced with a slow trickle of Pacific cod deliveries that are uneconomical to process. The Council recommended that AFA catcher vessels with mothership endorsements be allowed to re-enter the BSAI Pacific cod fishery after March 1 because the mothership sector received a relatively smaller pollock quota under the AFA and mothership catcher vessels are more likely to be finished with their pollock operations by that date.

Catcher vessel PSC sideboards for BSAI groundfish fisheries would be managed in the same manner as catcher/processor PSC sideboards, however the sideboard amounts would be calculated differently. Because individual vessel PSC catch histories are not available for AFA catcher vessels, PSC sideboard amounts would be pro-rated based on percentage of groundfish catch in each BSAI groundfish fishery.

Catcher Vessel Groundfish Sideboards in the GOA

Catcher vessel sideboards for GOA groundfish fisheries would be established and managed in the same manner as the catcher vessel sideboards in the BSAI groundfish fisheries except that catcher vessels less than 125 ft (38.1 m) LOA whose annual BSAI pollock landings averaged less than 1700 mt from 1995 through 1997 (i.e., landed less than 5,100 mt of pollock over the 3-year period) and that made 40 or more GOA groundfish landings over the same period would be exempt from sideboard closures for GOA groundfish fisheries. The catch histories of the exempt vessels would not be counted towards the sideboard amounts for non-exempt vessels. As with the BSAI Pacific cod fishery, the Council noted that many AFA catcher vessels with relatively low catch histories in BSAI pollock have traditionally participated in GOA groundfish fisheries. Indeed, many of these vessels are based in Kodiak and other GOA ports and have historically concentrated their fishing effort in GOA fisheries. The Council believed that it would be inequitable to limit such vessels from participating in GOA fisheries when they have historically fished in the GOA and may have relatively low pollock catch histories in the BSAI during the AFA qualifying years due to their history of fishing primarily in the GOA.

The Council specifically limited both the BSAI Pacific cod and GOA groundfish sideboard exemptions to vessels with a significant history of participation in those fisheries and indicated that it believed such exemptions were consistent with the catcher vessel sideboard provisions at paragraph 211(c)(1) of the AFA, which require that:

> By not later than July 1, 1999, the North Pacific Council shall recommend for

> approval by the Secretary conservation and management measures to
>
> (A) prevent the catcher vessels eligible under subsections (a), (b), and (c) of section 208 from exceeding in the aggregate the traditional harvest levels of such vessels in other fisheries under the authority of the North Pacific Council as a result of fishery cooperatives in the directed pollock fishery . . . .

NMFS estimates that 12 catcher vessels would be exempt from BSAI Pacific cod sideboards in the BSAI and 12 catcher vessels would be exempt from groundfish sideboards in the GOA. The Council noted that because these exempt vessels traditionally have participated at high levels in the BSAI Pacific cod and GOA groundfish fisheries, such exemptions were not likely to cause the aggregate harvest levels of all AFA catcher vessels to exceed traditional levels in these fisheries. However, the Council noted that, even if fishing in the BSAI Pacific cod and GOA groundfish fisheries by exempt vessels does cause the aggregate harvest of all AFA catcher vessels to exceed historic levels in other groundfish fisheries, the exemptions are warranted and within the authority of the Council to recommend under paragraph 213(c)(1) of the AFA, which states:

> The North Pacific Council may recommend and the Secretary may approve conservation and management measures in accordance with the Magnuson-Stevens Act
>
> (1) that supersede the provisions of this title, except for sections 206 and 208, for conservation purposes or to mitigate adverse effects in fisheries or on owners of fewer than three vessels in the directed pollock fishery caused by this title or fishery cooperatives in the directed pollock fishery, provided such measures take into account all factors affecting the fisheries and are imposed fairly and equitably to the extent practicable among and within the sectors in the directed pollock fishery.

The Council believed that these two exemptions are warranted to mitigate adverse economic effects as described above on owners of fewer than three vessels in the directed pollock fishery given that the exempt vessels are primarily owned by independent fishermen who own fewer than three vessels in the directed pollock fishery.

Crab Processing Sideboards

Subparagraph 211(c)(2)(A) of the AFA establishes limits on crab processing by AFA inshore processors and AFA motherships that receive pollock harvested by a fishery cooperative:

> Effective January 1, 2000, the owners of the motherships eligible under section 208(d) and the shoreside processors eligible under section 208(f) that receive pollock from the directed pollock fishery under a fishery cooperative are hereby prohibited from processing, in the aggregate for each calendar year, more than the percentage of the total catch of each species of crab in directed fisheries under the jurisdiction of the North Pacific Council than facilities operated by such owners processed of each such species in the aggregate, on average, in 1995, 1996, 1997. For the purposes of this subparagraph, the term "facilities" means any processing plant, catcher/ processor, mothership, floating processor, or any other operation that processes fish. Any entity in which 10 percent or more of the interest is owned or controlled by another individual or entity shall be considered to be the same entity as the other individual or entity for the purposes of this subparagraph.

These crab processing limits were implemented by NMFS in the emergency interim rule published January 28, 2000 (65 FR 4520, extended at 65 FR 39107). However, at its September 2000 meeting, the Council recommended that the basis years used to calculate crab processing sideboard amounts be revised by adding 1998 and giving it double-weight. Some crab fishermen and AFA processors expressed concern that too many non-AFA processors have left the crab fisheries since 1997 and that the 1995–1997 years do not accurately reflect the composition of the crab processing industry at the time of passage of the AFA. Some crab fishermen were concerned that AFA crab processing caps were restricting markets for crab fishermen and having a negative effect on exvessel prices. By adding 1998 and giving it double-weight relative to 1995–1997, the Council believed that the crab processing caps would more accurately reflect the status of the crab processing industry at the time of passage of the AFA and that such a change to supersede this provision of the AFA was warranted to mitigate adverse effects on markets for crab fishermen.

Entity-based processing caps. NMFS has developed a definition of "AFA entity" for the purpose of implementing these crab processing limits and for the purpose of implementing the 17.5 percent excessive harvesting share limit discussed above. This definition is explained below in the section on definitions. To implement these crab processing limits, NMFS would require that the owners of an AFA mothership or AFA inshore processor intending to process pollock harvested by a cooperative identify on their permit applications all individuals, corporations, or other entities that directly or indirectly own or control a 10–percent or greater interest in the AFA mothership and/or inshore processor (collectively the AFA inshore or mothership entity), and any other crab processors in which such entities have a 10–percent or greater interest (the associated AFA crab facilities). For each BSAI king and Tanner crab fishery, NMFS would calculate the average percentage of the total crab harvest processed by the associated AFA crab facilities and issue entity-wide crab processing caps for each crab fishery to each AFA inshore or mothership entity on its AFA mothership or AFA inshore processor permit. Each individual, corporation, or other concern comprising an AFA inshore or mothership entity would be responsible for ensuring that the AFA crab processing facilities associated with the AFA inshore or mothership entity do not exceed the entity's caps. The individuals, corporations and other concerns comprising the AFA inshore or mothership entity would be held jointly and severally liable for any overage.

Determining crab processing percentages. Upon receipt of an application for a cooperative processing endorsement from the owners of an AFA mothership or AFA inshore processor, the Regional Administrator would calculate a crab processing cap percentage for the associated AFA inshore or mothership entity. The crab processing cap percentage for each BSAI king or Tanner crab species would be equal to the percentage of the total catch of each BSAI king or Tanner crab species that the AFA crab facilities associated with the AFA inshore or mothership entity processed in the aggregate, on average, in 1995, 1996, 1997, and 1998 with 1998 given double-weight (counted twice).

Each AFA inshore or mothership entity's crab processing cap percentage for each BSAI king or Tanner crab species would be listed on the AFA mothership or AFA inshore processor permit that contains a cooperative pollock processing endorsement.

Conversion of crab processing sideboard percentages to poundage caps. Prior to the start of each BSAI king or Tanner crab fishery, NMFS would convert each AFA inshore or mothership entity's crab processing sideboard percentage to a poundage cap by multiplying the crab processing sideboard percentage by the pre-season guideline harvest level established for that crab fishery by ADF&G. Each entity and the public would be notified of the crab processing poundage caps through notification in the Federal Register and/ or through information bulletins published on the NMFS-Alaska Region world wide web home page (*http:www.fakr.noaa.gov*).

CDQ crab harvest. Under the proposed rule, processing of CDQ crab would not accrue against an entity's

VOL 66 ISS 242 DE 17 2001 UMI

crab processing cap. Only crab harvested in the non-CDQ directed crab fisheries would accrue against an entity's crab processing cap. Custom processing. These crab processing caps would apply to all crab processed by the associated AFA crab processing facilities including any "custom processing" activity. Custom processing refers to a contractual relationship in which one processing facility processes crab on behalf of another processor. Custom processing of crab would not be prohibited, but any custom processing of crab done under contract with an AFA crab processor would be counted against the associated AFA inshore or mothership entity's crab processing cap.

Observer Coverage Requirements for AFA Vessels and Processors

Under Amendments 61/61/13/8, NMFS proposes new observer coverage requirements for AFA catcher/processors, AFA motherships, and AFA inshore processors. However, no changes to observer coverage requirements are proposed for AFA catcher vessels. These proposed new observer coverage requirements are described below.

Listed AFA Catcher/Processors and AFA Motherships

Two observer requirement. Subparagraph 211(b)(6)(A) of the AFA requires that unrestricted AFA catcher/processors have two observers on board at any time the vessel is fishing for groundfish in the BSAI. This proposed rule would set out this requirement in regulation and extend the requirement to AFA motherships. NMFS believes it is appropriate to extend this requirement to AFA motherships because AFA motherships operate in a similar manner to AFA catcher/processors in that they receive unsorted codends from catcher vessels. In a mothership operation, all weighing and sorting of catch occurs on the mothership rather than the catcher vessel. The only practical difference between catcher/processor and mothership operations is that motherships do not actually engage in trawling. Under this proposed rule, a listed AFA catcher/processor or AFA mothership would be required to have aboard two NMFS certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. In addition, at least one observer on board each AFA catcher/processor and AFA mothership would have to be a lead level 2 observer at all times that the vessel is fishing for groundfish or processing groundfish harvested in the BSAI or GOA.

Observer workload requirement. This proposed rule also would extend the CDQ program observer workload limits to AFA catcher/processor and AFA motherships. These workload limits are necessary to insure that all groundfish harvested and processed by AFA catcher/processors and motherships can be sampled by a NMFS observer. Consequently, more than two observers might be required to allow each haul brought on board the vessel to be sampled by an observer. This situation may occur for some AFA motherships, depending on how many deliveries they receive from catcher vessels in a day.

Lead level 2 observer requirement. Under this proposed rule, at least one observer on board each AFA catcher/processor and AFA mothership would have to be a lead level 2 observer (formerly known as a lead CDQ observer) and would allow the second observer position to be filled by any NMFS certified observer. Observers are an increasingly important element of NMFS' monitoring program for AFA catcher/processor and AFA mothership sector pollock harvests. Prior to the AFA, NMFS monitored offshore pollock harvests using a blend of observer data and processor weekly production reports. However, under the AFA with its statutory requirement that AFA catcher/processors carry two observers at all times and weigh their catch using NMFS-approved scales, NMFS is now relying only on observers and scale weights to provide inseason harvest data for the AFA catcher/processor sector and is no longer using vessel production data for quota management purposes. In addition, NMFS relies on observers to monitor catcher/processor groundfish sideboards as well as catcher vessel sideboards for catcher vessels delivering to catcher/processors and AFA motherships. Given this increased reliance on observers and scales, NMFS believes that the lead level 2 observer requirement is necessary to ensure that at least one of the observers aboard each AFA catcher/processor and AFA mothership has prior experience sampling on a trawl catcher/processor or mothership, is trained and experienced in the use of on-board scales, and is available to monitor the use and calibration of such scales. In addition, NMFS believes that the requirement for at least one lead level 2 observer is necessary to ensure that the compliance monitoring role of the observers aboard AFA catcher/processors can be successfully accomplished.

In order to monitor and enforce the newly imposed harvest limitations for unrestricted AFA catcher/processors and AFA motherships, observers with more experience and training must be aboard. NMFS-certified lead level 2 observers have that experience and training. Level 2 observers receive special training in sampling for species composition in situations where bycatch may be limiting, in working with vessel personnel to resolve access to catch and other sampling problems, and in using flow scales for catch weight measurements. Monitoring by level 2 observers is essential for accurate catch accounting, given the fact that a fishery cooperative has been established and that the potential exists for fishing to be curtailed when either groundfish or prohibited species harvest limitations specified for unrestricted AFA catcher/processors have been reached.

Consolidation of CDQ and AFA observer requirements. Under the emergency interim rules governing the AFA pollock fishery in 1999 and 2000, AFA catcher/processors and motherships were required to have one lead level 2 observer at all times but the second observer requirement could be filled by any NMFS-certified observer. However, the CDQ program imposed a higher requirement of one lead level 2 observer and a second level 2 observer for catcher/processor and motherships participating in the CDQ pollock fishery. Under this proposed rule, the observer requirements for catcher/processors and motherships in the AFA and CDQ pollock fisheries would be consolidated into a single standard that would require at least one lead level 2 observer on board at all times but would allow the second observer position to be filled by any NMFS certified observer.

Data quality needs for the AFA fishery take into account the vessel-specific nature of the fishery and the operational environment under which observers collect the data. This vessel-specific nature of the AFA has increased the responsibility of the observer to generate data of a quality equivalent to a "final post-debrief" level prior to the structured NMFS debriefing process. This raises the standard for experience and advanced training requirements. Since implementation of the AFA, the quality of data collected by observers at-sea has been assessed by the rigorous post-cruise debriefing process and has overall been found to meet expectations of high quality data at the point of collection.

The catcher/processors and motherships involved in this fishery provide the most straightforward sampling situations for observers in the groundfish fleet due to typically minimal bycatch, as well as excellent working conditions for the observer.

Multiple opportunities for oversight of the work performed by the second, potentially less experienced, observer has been shown to successfully ensure all data collected from each AFA catcher/processor or mothership meets high data quality standards. Oversight of data collection and recording by the second observer is performed by the lead observer who has extensive observer experience on trawl catcher/processors. Additionally, in-season advising and supervision for observers at sea is provided on an on-going basis by NMFS Observer Program staff through communication via the ATLAS at-sea reporting system required on all catcher/processors and motherships. The NMFS Observer Program has also substantially increased field support for observers. Finally, catcher/processors operating in the BSAI pollock fishery have been considered the best assignments for new trainees, preparing them for further development as an observer. The need to keep open this opportunity to develop observer experience is essential to ensure the continued existence of a pool of qualified level 2 lead observers.

Consistency in observer requirements between the AFA program and the directed pollock fishery in the Multispecies Community Development Quota (MS CDQ) program is essential. The data quality needs for MS CDQ and AFA pollock catch accounting are virtually identical. Further, vessels often fish for MS CDQ and AFA-allocated pollock during the same fishing trip. Uniform observer requirements would simplify observer deployment logistics for such vessels. Therefore, NMFS is proposing to change the current observer requirements under the MS CDQ program for only those catcher/processors and motherships participating in directed fishing and/or processing of MS CDQ-allocated pollock to be consistent with the proposed AFA observer requirements for those vessel classes.

Requirements for unlisted AFA catcher/processors. Under this proposed rule, vessels receiving unlisted AFA catcher/processor permits under paragraph 208(e)(21) of the AFA would be required to meet the same observer coverage, scale, and sampling station requirements as for listed AFA catcher/processors during any fishing trip in which the vessel engages in directed fishing for BSAI pollock or receives deliveries of pollock from AFA catcher vessels engaged in directed fishing for BSAI pollock. This proposed requirement is necessary because NMFS must monitor the 0.5 percent pollock harvest limit on unlisted AFA catcher/processors and cannot adequately do so without scales and an observer on duty at all times. However, because the AFA catcher/processor sideboard limits in other groundfish fisheries do not apply to unlisted AFA catcher/processors, NMFS is not proposing to change the observer coverage requirements for unlisted AFA catcher/processors when such vessels are engaged in directed fishing for groundfish other than pollock. Unlisted AFA catcher/processors participating in non-pollock fisheries would simply be required to meet whatever observer coverage requirements are in place for the fishery in question.

AFA Inshore Processors. Under this proposed rule, an AFA inshore processor would be required to have a NMFS-certified observer for each consecutive 12-hour period in which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in directed fishing for BSAI pollock. An AFA inshore processor that takes delivery of or processes pollock during more than 12 consecutive hours in any calendar day would be required to have two NMFS-certified observers available during that calendar day. At least one observer assigned to work at each AFA inshore processor must be a level 2 observer during each calendar day that the processor receives or processes pollock harvested in the BSAI directed pollock fishery. Furthermore, under this proposed rule, observers working at AFA inshore processors may not be assigned to cover more than one processing plant during a calendar day.

NMFS is proposing these new observer coverage requirements for AFA inshore processors so that NMFS can adequately monitor cooperative pollock allocations at each AFA inshore processor. Prior to the AFA, the inshore pollock fishery was managed in the aggregate across the entire sector with NMFS issuing a single closure for the entire inshore sector upon the attainment of a seasonal allocation of pollock TAC. Under the inshore cooperative system set out in this proposed rule, each inshore processor and its affiliated cooperative would be operating on its own proprietary pollock allocation. Because NMFS would no longer manage the inshore sector in the aggregate, increased monitoring is required at each individual processor to ensure that cooperative allocations are not exceeded.

AFA Catcher Vessels

Catcher vessels fishing for pollock may deliver an unsorted codend directly to a mothership or inshore processor, in which case sorting or weighing the catch prior to delivery is not possible. Alternatively, they may bring the codend onto the deck and put the catch into tanks for delivery to a mothership or inshore processor. Depending on the size of the trawl alley, sorting and discarding prohibited species at sea also may not be possible. For these reasons, complete at-sea sorting and weighing of catch is rarely possible. Because of these constraints, much of the data concerning catch weight and composition is gathered when the catch is delivered to a mothership or inshore processor. Thus, NMFS does not believe it is necessary for AFA catcher vessels to provide the same level of observer coverage or equipment that is required for AFA processors.

For this reason, NMFS does not propose any changes to existing observer coverage levels for AFA catcher vessels. Under the management program set out in this proposed rule, the primary location for pollock and sideboard catch accounting is at the processor and NMFS is increasing monitoring at all AFA processors to accommodate these increased monitoring needs. AFA catcher vessels would continue to be required to meet the observer coverage requirements for catcher vessels set out at 50 CFR 679.50(c).

Scales and Catch-Weighing Requirements

The AFA authorizes eligible vessels and processors to form cooperatives in all sectors of the BSAI pollock fishery. Inshore cooperatives that meet the criteria set out in this proposed rule would be eligible to receive an inshore cooperative fishing permit authorizing the member vessels in the cooperative to harvest a specific allocation of the BSAI pollock TAC. The members of the cooperative may decide among themselves how to share the allocation made to that cooperative. While not an individual fishing quota (IFQ) program per se, the inshore cooperative quota program established by the AFA does share many characteristics with traditional IFQ programs in terms of how the program would operate. In effect, fishery cooperatives are privately operated IFQ programs under which the cooperative, rather than NMFS, makes individual allocations to member vessels. Fishing patterns and behaviors under the inshore cooperative program are expected to be similar to those that would be seen under a traditional IFQ program and the management demands are much the same. Just as with IFQ programs, individual cooperative members and the cooperative as a whole

VOL 66 ISS 242 DE 17 2001 UMI

would have a strong incentive to maximize the amount of pollock harvested and processed in any given year within the constraints of a fixed quota of pollock granted to the cooperative. While catcher/processor and mothership sector cooperatives do not receive individual allocations of pollock from NMFS, they function in the same manner as inshore cooperatives because NMFS makes allocations of pollock to each sector and the cooperatives include all eligible participants in each sector.

To manage the AFA pollock fishery properly, NMFS must have data that will provide reliable independent estimates of the total catch by species and area for each cooperative. Because pollock cooperatives are operating under their own individual quotas, they have a vested interest in ensuring that catch data do not overestimate the pollock harvest by that cooperative. Based on experience gained under the CDQ program, NMFS anticipates that observer or NMFS estimates of catch will be routinely questioned by industry. Under a system of fishery cooperatives, a processor stands to benefit directly if catch is underweighed because that processor is operating under an individual allocation. For this reason, NMFS is proposing a catch-weighing system for AFA pollock that is more rigorous than that required in open access groundfish fisheries.

In the draft EIS prepared for Amendments 61/61/13/8, NMFS identified two primary objectives for monitoring catch in the AFA fisheries. First, NMFS must be able to ensure that the total weight, species composition, and catch location for each delivery are reported accurately. An acceptable catch-monitoring system based on this objective must allow for independent verification of catch weight, species composition and haul location data; ensure that all catch is weighed accurately; and provide a record of the weight of each delivery that may be audited by NMFS. Second, the quality and level of catch monitoring should be functionally equivalent between sectors. This objective recognizes that a catch-monitoring approach that is appropriate for one sector of the industry may not be appropriate for all sectors while, at the same time, acknowledging that the overall quality of catch data should be equivalent, and no sector should be given a competitive advantage because of differences in catch monitoring standards. Based on these objectives, NMFS has developed the following catch monitoring regulations for each sector.

Scale and Catch-Weighing Requirements for AFA Catcher/Processors

Subparagraph 211(b)(6)(B) of the AFA requires that all listed AFA catcher/processors "weigh [their] catch on a scale onboard approved by the National Marine Fisheries Service while harvesting groundfish in fisheries under the authority of the North Pacific Council." To implement this requirement of the AFA, NMFS proposes to extend the existing catch weighing and observer sampling station requirements for catcher/processors participating in the CDQ fisheries, found at 50 CFR 679.28, to AFA catcher/processors. These catch-weighing requirements include the following:

1. Scales must meet the performance and technical requirements specified in appendix A to 50 CFR 679. At this time, Marel hf and Skanvaegt International A/S produce scales that have been approved by NMFS for weighing total catch. Marel hf, Skanvaegt International A/S and Pols hf manufacture scales that have been approved for use in observer sampling stations.
2. Each scale must be inspected and approved annually by a NMFS-approved scale inspector.
3. Each observer sampling station scale must be accurate within 0.5 percent when its use is required.
4. The observer sampling station scale must be accompanied by accurate test weights sufficient to test the scale at 10, 25 and 50 kg.
5. Each scale used to weigh total catch must be tested daily by weighing at least 400 kg of fish or test material on the total catch weighing scale and then weighing it again on an approved observer-sampling station scale.
6. When tested, the total catch weighing scale and the observer sampling station scale must agree within 3 percent.

Observer sampling stations provide a location where observers can work safely and effectively. On June 4, 1998, NMFS published a final rule that established requirements for observer sampling stations and required their use on specified vessels participating in CDQ fisheries (63 FR 30381). Further information on, and the rationale for, observer sampling stations may be found in that rule. Observer sampling stations must meet specifications for size and location and be equipped with an observer sampling station scale, a table, adequate lighting and running water. Each observer sampling station must be inspected and approved by NMFS annually.

AFA listed catcher/processors would be required to comply with the regulations for additional observer coverage, scales, observer sampling stations, and an approved vessel monitoring system (VMS) when participating in any groundfish fishery off Alaska. Unless other regulations require them to do so, unlisted AFA catcher/processors would only be required to comply with these regulations when engaged in directed fishing for BSAI pollock or when processing pollock harvested in the BSAI directed pollock fishery. Because unlisted AFA catcher/processors are not bound by sideboard limits when participating in other groundfish fisheries, NMFS does not believe that imposing this more rigorous catch-weighing and monitoring regime on such vessels is necessary when they are not fishing for pollock. Such unlisted AFA catcher/processors would continue to be bound by all catch-weighing and monitoring requirements that are in effect for any non-pollock fishery in which they participate.

Scale and Catch-weighing Requirements for AFA Motherships

The AFA does not require that motherships weigh all catch or provide additional observer coverage. However, because motherships receive and process groundfish in a manner similar to catcher/processors, NMFS proposes that similar regulations be implemented for AFA motherships. Requirements for catch weighing, observer sampling stations and observer coverage would be identical to those described above for AFA listed catcher/processors and would apply at all times that the AFA mothership is receiving or processing groundfish harvested in the BSAI or GOA.

Scale and Catch-Weighing Requirements for AFA Inshore Processors

This proposed rule would establish a new catch monitoring system for inshore processors. The catch management goals established by NMFS for the AFA pollock fishery are the same for the inshore and offshore sectors. However, NMFS does not believe that the regulations developed for catcher/processors and motherships are appropriate for inshore processors for two reasons. First, inshore processors vary more in size, facilities and layout than do catcher/processors or motherships. Second, the State is responsible for approving scales used for trade by inshore processors and has developed an effective program for their inspection and approval.

Catch monitoring and control plans. The catch weighing and monitoring system developed by NMFS for catcher/processors and motherships is based on the vessel meeting a series of design criteria. Because of the wide variations in factory layout, NMFS believes that a performance based catch monitoring system is more appropriate for inshore processors. Under this system, each plant would be required to submit a Catch Monitoring and Control Plan (CMCP) to NMFS for approval. The CMCP would detail how the plant would meet the following standards:

1. All catch delivered to the plant must be sorted and weighed by species. The CMCP must detail the amount and location of space for sorting catch, the number of staff devoted to catch sorting and the maximum rate that catch will flow through the sorting area.

2. Each processor must designate an "observation area." The observation area is the location designated in the CMCP where an individual may monitor the flow of fish during a delivery. From the observation area, an individual must be able to monitor the entire flow of fish and ensure that no removals of catch have occurred between the delivery point and a location where all sorting has taken place and each species has been weighed.

3. Each processor must designate a "delivery point." The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. The delivery point would most likely be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, this would most likely be the bin or belt where the brailer discharges the catch.

4. The observation area must be located near the observer work station.

5. The observer workstation must be located where the observer has access to unsorted catch.

6. An observer work station, for the exclusive use of the observer, must provide: a platform scale of at least 50 kg capacity; an indoor working area of at least 4.5 square meters, a table, and a secure and lockable cabinet.

7. Designation of a plant liaison, who would be responsible for orienting new observers to the plant, ensuring that the CMCP is implemented, and assisting in the resolution of observer concerns.

The plant would be inspected by NMFS to ensure that the plant layout conforms to the elements of the plan. A CMCP that meets all of the performance standards would be approved by NMFS for 1 year, unless during the year changes are made in plant operations or layout that do not conform to the CMCP. After 1 year, NMFS would review the CMCP with plant management to ensure that the CMCP has been implemented and that the performance standards continue to be met.

A single individual cannot effectively monitor the flow of fish from the delivery point to where they have been completely sorted and weighed at any of the existing AFA inshore processors. Therefore, none of the current AFA inshore processors would meet the proposed performance standards without modifying the layout of the plant or developing alternative methods of monitoring catch flow. As a consequence, the process of developing the CMCP may be fairly complex. NMFS anticipates that plant management would wish to work closely with NMFS staff before making any modifications to the plant layout or purchasing equipment. NMFS staff would review draft CMCPs and would pre-inspect inshore processors as requested by plant management.

Scale requirements for AFA inshore processors. Catch weighing for catcher/processors and motherships is based on the use of scales approved by NMFS. Because NMFS and the State use different standards when approving scales, most NMFS-approved scales are not legal for trade in Alaska and most State-approved scales do not meet NMFS criteria for inseason testing and auditing. NMFS believes that the State should be the primary authority responsible for approving and testing scales in shoreplants and that weighing all catch on scales approved by NMFS is unnecessary. Inshore processors are required, under State regulations, to weigh all catch that is being bought or sold on State-approved scales. These scales must be inspected annually by inspectors authorized by the Division of Measurement Standards and Commercial Vehicle Enforcement.

However, State regulations do not provide for inseason testing of scales nor do they require that scales produce a printed record of each delivery. NMFS believes that these are essential features of an acceptable catch weighing system. Therefore, in cooperation with the State, NMFS has developed a catch-weighing system that implements these additional features within the existing framework of State scale inspection and approval. The development of this system involved consultation with the Alaska State Division of Measurement Standards in acknowledgment of the State's role to ensure that scales used for trade in the State are accurate. Personnel from the Alaska Division of Measurement Standards are responsible for inspecting and approving those scales. Scales that are not used in a trade related transaction, or scales that are used outside of State waters are generally not required to be inspected and approved.

This proposed rule would implement two sets of catch weighing requirements. The first, is that catcher/processors and motherships would be required to weigh all catch on scales approved by NMFS. These vessels weigh their catch outside of State waters and the approval and inspection of those scales does not in any way interfere with existing State programs.

The second set of conditions would require AFA inshore processors to weigh all of their catch on scales approved by the State and that those scales meet additional requirements for printouts and inseason testing. In order to prevent duplicative regulations or involve itself in an existing State function, NMFS worked closely with the Alaska Division of Measurement Standards to develop these requirements. NMFS staff met with the Director of the Division and his staff twice during 2000 to discuss these requirements, and draft versions of the proposed regulations were provided to Division personnel for review and comment. In October 2000, the Administrator, Alaska Region, sent a letter to the Director of the Division of Measurement Standards expressing his acknowledgment and appreciation for the work that the State had put into assisting NMFS in developing the catch weighing regulations.

Thus, this propose rule reflects cooperative State and Federal development of catch weighing requirements for AFA inshore processors and includes the following provisions:

1. Each scale used to weigh catch and its intended use would have to be identified by serial number in the CMCP. Each scale would have to be inspected and approved by the State annually.

2. As part of the CMCP, each plant would submit a scale testing plan that gives the procedure the plant would use to test each scale identified in the CMCP. The testing plan would list: the test weights and equipment required to test the scale; where the test weights and equipment are stored; and, the plant personnel responsible for testing the scale. Test amounts for various scale types are shown in Table 1.

3. Test weights would have to be certified at least biannually by a metrology laboratory approved by the National Institute of Standards and Technology.

4. Authorized officers or NMFS-authorized personnel could request that any scale be tested in accordance with

the testing plan, provided that the scale had not been tested and found accurate within the past 24 hours.

5. Each scale would have to be accurate within the limits specified in Table 2 (maximum permissible errors and test weight amounts) when tested by the plant staff.

6. Each scale used to weigh catch would have to be equipped with a printer, and a printout or printouts showing the total weight of each delivery would have to be generated after each delivery had been weighed. The printouts would have to be retained by the plant and made available to NMFS-authorized personnel including observers.

TABLE 1. SCALE TYPES AND TEST WEIGHT AMOUNTS

Scale Type	Capacity[1]	Test Weights[2]	Test Loads[3]
Automatic Hopper	0 to 150 kg	Minimum Weighment[1] or 10 kg (20 lb), whichever is greater. Maximum[1]	Minimum[1] Maximum[1]
Automatic Hopper	>150 kg	Minimum Weighment[1] or 10 kg, whichever is greater 25 percent of Maximum or 150 kg, whichever is greater.	Minimum[1] Maximum[1]
Platform or flatbed	0 to 150 kg	10 kg Midpoint Maximum[1]	Not Acceptable
Platform or flatbed	>150 kg	10 kg 12.5 percent of Maximum[1] or 75 kg, whichever is greater 25 percent of Maximum[1] or 150 kg, whichever is greater.	Not Acceptable 50 percent of Maximum[1] or 75 kg, whichever is greater 75 percent of Maximum[1] or 150 kg, whichever is greater
Observer sampling scale	≥50 kg	10 kg 25 kg 50 kg	Not Acceptable

[1] These amounts will be shown on the scale marking plate.

[2] Test Weights are weights that have been approved by a NIST-approved laboratory.

[3] Test load is any combination of approved test weights and other material that is specified in the scale testing plan. Test material other than test weights must be weighed on an accurate observer platform scale at the time of each use.

TABLE2. MAXIMUM PERMISSIBLE ERRORS FOR INSEASON SCALE TESTING[1]

Accuracy Class[3]	Maximum Error in Scale Divisions[2] 1	2	3	5 Test Load in Scale Divisions[2]
III	0–500	501–2,000	2,001–4,000	>4,000
IIII	0–50	51–200	201–400	>400
III L	0–500	501–1,000	Add 1 d for each additional 500d or fraction thereof.	

[1] Maximum permissible errors and testing procedure for inseason testing are not the same as for State scale approval. A scale that is accurate for the purposes of inseason testing may or may not be accurate enough to be approved by the State.

[2] Division size is shown on the scale's marking plate.

[3] Scales are divided into accuracy classes according to the number and value of scale divisions. The accuracy class is shown on the scale's marking plate.

Vessel Monitoring System (VMS) Requirements

Under the proposed rule, all AFA catcher/processors and AFA catcher vessels would be required to deploy an operating NMFS-approved VMS transmitter at all times that the vessel is fishing for groundfish in the BSAI or GOA. In a final rule published October 17, 2000 (65 FR 61264), NMFS established VMS requirements for trawl vessels engaged in directed fishing for Atka mackerel. These requirements would be extended to AFA catcher/processors and AFA catcher vessels. An AFA catcher/processor or AFA catcher vessel would be required to carry and use a NMFS-approved VMS transmitter whenever fishing for groundfish off Alaska. These transmitters automatically determine the vessel's location several times per hour using Global Positioning System (GPS) satellites and send the position information to NMFS via a mobile communication service provider. The VMS transmitters are designed to be tamper-resistant and automatic. The vessel owner should be unaware of exactly when the unit is transmitting and would be unable to alter the signal or the time of transmission.

NMFS believes that a VMS system is an essential component of a monitoring program for the AFA pollock fishery. A VMS system would allow NMFS to verify catch locations inside and outside of the Steller Sea Lion Conservation Area (SCA). Under the proposed rule, each sector and cooperative would be limited in the amount of BSAI pollock that can be taken inside the SCA during

VOL 66 ISS 242 DE 17 2001 UMI

each season. Without the means to verify fishing location on a vessel-by-vessel basis, NMFS would be forced to implement a more conservative management program in which all catch by a sector is assumed to have been taken inside the SCA until that sector's SCA limit has been reached. Such a management program would not allow individual vessels to be credited for fishing location and would not allow cooperatives to manage their SCA harvest limits on an individual vessel basis. In addition, a VMS program would provide necessary management information that would enable NMFS to track participation in various sideboard fisheries and better ensure that small sideboard amounts are not exceeded.

In the proposed rule to require VMS in the Atka mackerel fishery (65 FR 36810) NMFS established criteria for the approval of VMS components. At this time, only one transmitter, the ArgoNet Mar GE, and its associated communications service provider, North American Collection and Location by Satellite, Inc. (NACLS), have been approved by NMFS. A vessel owner wishing to purchase this system may contact the provider or NMFS for additional information (see **ADDRESSES**).

The MAR GE transmitter and NACLS communications service provider have also been approved for use in the Atlantic Highly Migratory Species Fisheries. Additional details concerning these VMS components may be found in the NMFS notice of approval of these VMS components published in the Federal Register on September 9, 1999 (64 FR 48988).

Definition of AFA Entity and the Concept of Affiliation

The proposed rule would establish a definition for "AFA entity" that would be used to determine compliance with the 17.5 percent pollock excessive harvesting share limit and the 30 percent pollock excessive processing limit, and would be used for establishing crab processing sideboard limits. An "AFA entity" would be defined as a group of affiliated individuals, corporations, or other business concerns that harvest or process pollock in the BSAI directed pollock fishery.

Definition of "Affiliation"

The concept of "affiliation" is central to the definition of "AFA entity." Simply stated, "affiliation" means a relationship between two or more individuals, corporations, or other business concerns in which one concern directly or indirectly owns a 10 percent or greater interest in the other, exerts 10 percent or greater control over the other, or has the power to exert 10 percent or greater control over the other; or a third individual, corporation, or other business concern directly or indirectly owns a 10 percent or greater interest in both, exerts 10 percent or greater control over both, or has the power to exert 10 percent or greater control over both. Ownership and control are two overlapping concepts that may arise through a wide variety of relationships between two or more individuals, corporations, or other concerns. The following forms of affiliation are included in the proposed rule.

Affiliation through ownership. Affiliation would arise between two or more individuals, corporations, or other concerns if one individual, corporation, or other concern holds a 10 percent or greater direct or indirect interest in another, or a third party holds a 10 percent or greater direct or indirect interest in both. An indirect interest is one that passes through one or more intermediate entities. NMFS is proposing a multiplicative rule to measure levels of indirect interest. Under this multiplicative rule, an entity's percentage of indirect interest in a second entity is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's direct or indirect interest in the second entity.

Affiliation through shared assets and/or liabilities. Affiliation would arise if two or more individuals, corporations, or other concerns have 10 percent or greater shared assets and/or liabilities.

Affiliation through stock ownership. Affiliation would arise if an individual, corporation, or other business concern directly or indirectly owns or controls, or has the power to control, 10 percent or more of the voting stock of a second corporation or other business concern.

Affiliation through management control. Affiliation would arise if an individual, corporation, or other business concern has the right to direct the business of a second corporation or business concern; or limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of a second corporation or business concern.

Affiliation through cooperative agreements. Affiliation would arise if an individual, corporation, or other business concern (1) has the power to control a fishery cooperative through 10 percent ownership or control over a majority of the voting rights of the cooperative, (2) has the power to appoint, remove, or limit the actions of or replace the chief executive officer of the cooperative, or (3) has the power to appoint, remove, or limit the actions of a majority of the board of directors of the cooperative. In such instances the individual, corporation, or other entity in question would be deemed to have 10 percent or greater control over all member vessels of the cooperative.

Affiliation through control over operations and manning. Affiliation would arise if an individual, corporation, or other business concern has the power to direct the operation or manning of a vessel or processor. In such instances, the individual, corporation, or other business concern in question would be deemed to have 10 percent or greater control over the vessel or processor;

Potential for multiple affiliations. Under this definition of affiliation, an individual or corporation could be affiliated with more than one AFA entity. This could occur, for example, if two different AFA entities have partial ownership in a single fishing vessel or processor. In such instances, any fishing or processing activity by a vessel or processor that is affiliated with more than one AFA entity would count against the excessive harvesting or processing share limits of both AFA entities simultaneously. However, the two parent entities would not necessarily be considered to be affiliated and, therefore, part of a single entity unless they are directly affiliated with each other.

Extension of Inshore/Offshore Regime in the GOA

Amendment 61 to the FMP for groundfish of the GOA also would extend the expiration date for inshore/offshore allocations of GOA pollock and Pacific cod until December 31, 2004. The Council elected to extend the GOA inshore/offshore expiration date so that BSAI inshore/offshore allocations under the AFA and GOA inshore/offshore allocations would expire on the same date and could be reevaluated at the same time. Extensive background information on GOA inshore/offshore allocations is contained in the EA/RIR/FRFA prepared for Amendment 51/51, the most recent inshore/offshore amendments for the BSAI and GOA. Both EA/RIR/FRFA documents are available from the Council (see *ADDRESSES*).

Changes to Definitions

Added Definitions. Under the proposed rule, the following new definitions would be added to describe vessels and processors eligible to participate in the BSAI pollock fishery under the AFA: "AFA catcher/

VOL 66 ISS 242 DE 17 2001 UMI

processor," "AFA catcher vessel," "AFA inshore processor," "AFA mothership," "Designated primary processor," "Listed AFA catcher/processor," "Official AFA record," "Restricted AFA inshore processor," "Stationary floating processor," "Unlisted AFA catcher/processor," and "Unrestricted AFA inshore processor." A definition of "Designated primary processor" would be added to describe the processor to which an inshore fishery cooperative will deliver at least 90 percent of its BSAI pollock. A definition for "Official AFA record" would be added to describe the relevant catch histories of all potentially qualifying vessels in the BSAI pollock fisheries. The definition for "Stationary floating processor" would be added to define a vessel of the United States operating solely as a mothership in Alaska State waters that remains anchored or otherwise remains stationary while processing groundfish harvested in the GOA or BSAI.

Revised Definitions. In the GOA, the inshore/offshore definitions would be revised to remove reference to the BSAI.

Removed Definitions. The definitions for "Inshore component in the BSAI" and "Offshore component in the BSAI" would be removed because the previous inshore/offshore regime for pollock in the BSAI has been superseded by the AFA.

Classification

At this time, NMFS has not determined that the FMP amendments that this rule would implement are consistent with the national standards of the Magnuson-Stevens Act, the AFA, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an initial regulatory flexibility analysis (IRFA) that describes the impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from the Council (see **ADDRESSES**). The IRFA describes in detail the reasons why this action is being proposed, namely to fulfill the statutory requirements of the AFA as outlined under **SUPPLEMENTARY INFORMATION** and AFA-Background information. The IRFA describes the objectives and legal basis for the proposed rule. With regard to commercial fishing vessels operating in the directed pollock fishery in the BSAI, the AFA provides the legal basis for taking actions to achieve the objective of reducing excessive fishing capacity and establishes regulatory conditions that could foster operational efficiencies in this fishery (Division C, Title II of Public Law 105–277), including cooperative formation and development of sideboard measures. Mitigation of potential adverse impacts to non-AFA fishermen and processors is mandated by the AFA.

The IRFA contains a description of and an estimate of the number of small entities to which the proposed rule would apply. The IRFA concluded that none of the catcher/processors, motherships and inshore processors affected by this proposed rule are small entities. All of the inshore and mothership processors participating in the BSAI pollock fishery are subsidiaries or close affiliates of corporations with more than 500 employees worldwide, and exceed the criterion for small entities. In addition, all 21 AFA catcher/processors have estimated annual gross revenues in excess of the $3 million small entity criterion for fish harvesting operations. Therefore, none of the catcher/processors, motherships, or inshore processors in the BSAI pollock fishery appear to meet the RFA criteria for small entities.

With respect to the catcher vessel fleet, NMFS expects that approximately 120 catcher boats will be eligible to harvest BSAI pollock under this rule (7 in the offshore delivery sector, 92 in the inshore sector, 7 in the mothership sector, and 14 which are eligible in both the inshore and mothership sectors). Ownership information presented in the IRFA indicates that, of the 92 catcher boats that operated exclusively or partly in the inshore sector, the available ownership data identify 26 vessels owned, in whole or in part, by inshore processors. These 26 vessels may be considered to be affiliated with their respective inshore processor owners and cannot be considered small entities because none of the inshore processors in the BSAI pollock fishery, themselves, are small entities for RFA purposes. An additional 5 catcher boats have been identified as closely affiliated with an inshore floating processor. These 5 catcher boats, taken together with their affiliated processor, exceed the $3 million criterion for fish harvesting operations and are, therefore, not believed to be small entities.

Furthermore, an additional 20 catcher boats have ownership affiliations with other catcher boats or catcher processors. The gross annual receipts of each of these groups of affiliated catcher boats is believed to exceed the $3 million criterion for small entities, when all their fisheries earnings are taken as a whole. The remaining 40 catcher boats operating exclusively or partly in the inshore sector are believed to be small entities.

Twenty-eight catcher boats operated in the offshore sector exclusively (e.g., delivering to catcher/processors and motherships), while 22 operated in both inshore and offshore sectors for a total of 50 offshore catcher boats. Of the combined offshore catcher boat sector, 13 have ownership affiliations with large inshore or offshore processors and, therefore, do not meet the $3 million criterion for small entities. An additional 13 catcher boats have ownership affiliations with other vessels or operations that, taken together with their affiliated entities, are believed to exceed the $3 million gross receipts criterion for small entities. The remaining 24 catcher boats operating exclusively or partly in the offshore sector are believed to qualify as "small entities" (and are among the same 120 total vessels described earlier).

The IRFA further concluded that the formation of inshore fishery cooperatives among predetermined groups of catcher vessels and a corresponding inshore processor will create distinct sets of entities, large and small, and their potential for inter-related economic effects resulting from such affiliation. In the context of an RFA analysis, a fish harvesting concern is a small entity if it has annual receipts not in excess of $3 million or it is not dominant in its field (defined in 13 CFR part 121, Standard Industrial Code categorizations). An independent catcher vessel operating in the "open access" or non-cooperative directed pollock fishery would typically meet that criteria. However, under SBA regulations for determining entity size, businesses that are affiliated with each other through joint-venture or cooperative arrangements are not considered "independent" and the affiliated businesses must be taken as a whole when determining entity size. In the case of AFA inshore cooperatives, the $3 million criterion will be exceeded for every inshore cooperative meaning that once independent catcher vessels join a cooperative, they can no longer be considered a small business concern for RFA purposes.

Despite the fact that catcher vessels will lose their small entity size status upon entry into cooperatives, the IRFA nonetheless examined the economic consequences of cooperative formation on independent catcher vessels. Approximately 43 small entities, including 40 independent catcher vessels delivering to inshore processors and three neighboring communities, would be expected to be directly impacted by the establishment of AFA cooperatives. The significance of these impacts on small independent catcher vessel businesses will depend primarily on the contractual relationship between such vessels, and their delivery processor as moderated by their collective cooperative agreement and cooperative by-laws. The IRFA concluded that if conventional cooperative motives exist between processor and catcher vessel business members as to foster a mutually beneficial economic relationship, this cooperative action would not be expected to significantly impact a substantial number of these small entities. Indeed, the action would be a net gain for cooperative members and their neighboring communities. Conversely, if the processor associated with the cooperative decides to exploit its position as the sole purchaser of pollock from cooperative co-members that operate as catcher vessels, then it would be highly probable that a substantial number of small entities would be significantly impacted by this action implementing such fishery cooperatives as authorized under AFA. Until empirical data become available, likely after cooperatives have been in operation for 2 or more years, these questions cannot be definitively addressed.

At its June 2000 meeting in Portland, OR, the Council considered and postponed action on a proposal from independent fishermen, known as the "Dooley-Hall" proposal, that would have allowed catcher vessel owners to switch cooperatives from year-to-year without needing to spend a year in the open access fishery to qualify for the new cooperative. Independent fishermen made this proposal to reduce negative economic impacts of this action on their sector of small entities. The IRFA concluded that the economic implications of the Dooley-Hall alternative on independent catcher vessels would be positive. It would also allow them to both retain the exclusive harvesting privilege associated with their cooperative's collective pollock allocation as well as provide for their ability to accept the highest exvessel price for such pollock landings as offered by an eligible inshore processor.

The IRFA concluded that potentially significant economic and institutional efficiencies could be further achieved if inshore catcher vessel operators were allowed to establish cooperatives comprised of memberships which they choose themselves. This is in contrast to the proposed inshore AFA cooperative structure requiring cooperative membership strictly as a function of historical landings to a given processor. Establishment of more efficient long-term cooperative relationships would exist among members if they are based on commonly shared objectives as well as on economic efficiencies of scale created by business affiliation decisions. The IRFA concluded that sales to a specific processor is a less than optimal index of commonality in operational objectives among a sub-set of inshore catcher vessels. The long-term viability of cooperatives has traditionally proven most successful when they are naturally organized among members who share commitment and loyalty based on their inherent commonalities such as business focus, institutional structure, operational philosophy, geographic relationship, or cultural orientation. The IRFA concluded that such factors should be given due consideration when managers seek to foster the development of inshore pollock fishery cooperatives that will realize long-term benefits to both the fishery participants specifically, and to the Nation in general.

The proposed AFA cooperative structure does not allow a catcher vessel to change its cooperative affiliation from year to year while maintaining cooperative membership. To change cooperative membership (and exvessel buyer affiliation), the catcher vessel must fish in the open-access fishery for 1 year. For this open-access year, the AFA does not allow the vessel to retain its harvest privilege of pollock "quota share". It must compete for its share of pollock in the race-for-fish scenario of the open-access fishery. Should the vessel owner choose to join an AFA cooperative the following year and sell to the cooperative's designated inshore processor, the harvest privilege for the catcher vessel would be reauthorized. This open-access transition year requirement creates economic and resource inefficiencies associated with the catcher vessel's harvest allocation amount. This same amount of pollock would probably be harvested over a shorter time period in the open-access fishery than if harvested under a cooperative arrangement. As a result, open-access pollock harvests would generally yield lower recovery rates and create conditions for less than optimal market prices due to the surge in supply. Furthermore, per unit operating costs would likely be higher for the open-access operation than what could be expected under a more flexible inshore cooperative structure. The transition year constraint imposed by the AFA on inshore catcher vessel owners who seek to shift their vessel's membership between AFA cooperatives, will create the potential for more, rather than less, inefficiency in the inshore component of the BSAI directed pollock fishery.

To further explore the effects of inshore cooperatives on independent catcher vessels, the Council supplemented the IRFA by contracting with experts in the fields of economics and industrial organization from the University of Washington to prepare a supplemental analysis. This supplemental analysis examined the economic and policy issues associated with the formation of catcher vessel cooperatives and included analysis of three alternatives to the proposed structure for inshore cooperatives and is incorporated into the EIS/RIR/IRFA as an appendix.

The supplemental analysis concluded that an independent catcher vessel is likely to be worse off if inshore cooperatives form and the vessel chooses to remain independent. Under the most plausible scenario, per-vessel share of the remaining TAC allocated on open-access or non-cooperative fishing would be much lower than in the absence of cooperatives. Catcher vessels with large cooperative catch histories would be most likely to join cooperatives in order to preserve this catch history while vessels with little or no catch history during the qualifying years would have less incentive to join cooperatives. Therefore, if inshore cooperatives form, the vessels choosing not to join cooperatives will likely be faced with increased competition for a smaller portion of the TAC.

The supplemental analysis also noted that the presence of processor-owned vessels in a cooperative could have a negative effect on independent vessels if processors are able to exert undue influence over the cooperative by virtue of their ownership of member vessels. Therefore, the analysis concluded that independent catcher vessels likely will be adversely affected by the AFA's provisions for cooperatives. However, the supplemental analysis also noted that, to the extent that the cooperatives are implemented, the race for fish will abate. The resulting rationalization will increase both the total rents in the fishery and the effective amount of capacity in harvesting and processing.

The IRFA (and supplemental analysis) considered three alternatives that would mitigate adverse effects of this rule to small entities. The analysis concluded that under the Dooley-Hall proposal cited previously, independent catcher vessels would be better off, and processors worse off than under the AFA provisions in this proposed rule.

VOL 66 ISS 242 DE 17 2001 UMI

Another alternative would supersede paragraph 210(b)(6) of the AFA to raise the 10 percent limit on the amount of pollock that a cooperative could deliver to a processor other than its designated processor. Raising this limit would facilitate rationalization under the AFA. Whether it would reduce the probability of adverse economic effects on independent catcher vessels would depend in part on whether they could exercise the transfer option without hindrance from processors. The third alternative would supersede paragraph 210(b)(3) of the AFA by eliminating the qualification requirement for cooperative membership, so that a catcher vessel could change processors without having to spend a year fishing in the open access pollock fishery.

Finally, the IRFA examined the impacts of catcher vessel sideboard measures on small entities, and examined the effects of this proposed rule on small vessels excluded from the pollock fishery under the AFA. With respect to the effects of catcher vessel sideboards on AFA catcher vessels, the IRFA examined a range of alternatives that would mitigate adverse effects on small entities, especially small catcher vessels that may have little pollock catch history in the BSAI and would therefore receive little benefit under the AFA. The Council recommended, and this rule contains, an exemption from BSAI Pacific cod and GOA groundfish sideboards for catcher vessels that have less than 1700 mt average annual pollock harvests in the BSAI from 1995–1997. The intent of this alternative is to eliminate the impact of sideboards on AFA catcher vessels that have not traditionally focused the bulk of their effort in BSAI pollock, and that are more dependent on GOA groundfish fisheries.

This proposed rule contains collection of information requirements subject to the Paperwork Reduction Act (PRA) which have been approved by OMB under control numbers 0648–0393, 0648–0401, and 0648–0425.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person will be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The estimated response times shown include the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The estimated time for the operator to complete the AFA catcher vessel permit application is 2 hours; the estimated time for an operator of an AFA mothership or manager of an inshore processor to complete the AFA mothership and inshore processor permit application is 2 hours; the estimated time for a cooperative representative to complete the AFA inshore cooperative permit application is 2 hours; the estimated time for an operator to complete the AFA permit application for a replacement vessel is 30 minutes; the estimated time for a manager to complete the shoreside processor electronic logbook is 30 minutes; the estimated time for a manager to electronically submit the shoreside processor electronic logbook report is 5 minutes; the estimated time for an operator to complete the at-sea scale inspection request is 2 minutes; the estimated time for an operator to retain the at-sea scale inspection request is 1 minute; the estimated time for an operator to complete the at-sea scale test report is 45 minutes; the estimated time for an operator to print the record of haul weight is 5 minutes; the estimated time for an operator to retain a scale audit trail print-out is 3 minutes; the estimated time for an operator to complete the observer sampling station inspection request is 2 minutes; the estimated time for an operator of a mothership or catcher/processor to electronically submit the weekly production report is 5 minutes; the estimated time for a cooperative representative to complete a catcher vessel cooperative pollock catch report is 5 minutes; the estimated time for a cooperative representative to submit a copy of the cooperative contract is 5 minutes; the estimated time for a cooperative representative to complete a annual written report from each AFA cooperative is 8 hours.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and to OIRA, OMB (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: December 1, 2001

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 is revised to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105–277; Sec. 3027, Pub. L. 106–31, 113 Stat. 57.

2. In § 679.1, paragraph (k) is revised to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(k) *American Fisheries Act measures.* Regulations in this part were developed by NMFS and the Council under the Magnuson-Stevens Act and American Fisheries Act (AFA) to govern commercial fishing for BSAI pollock according to the requirements of the AFA. This part also governs payment and collection of the loan, under the AFA, the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all those persons who harvest pollock from the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

3. In § 679.2, the definitions of "Appointed agent for service of process (applicable through December 31, 2001)" "Designated cooperative representative (applicable through December 31, 2001)," "Directed fishing" paragraph (3), "Inshore component in the GOA," and "Offshore component of the GOA," are removed; definitions of "ADF&G processor code," "AFA catcher/processor," "AFA catcher vessel," "AFA crab processing facility," "AFA entity," "AFA inshore processor," "AFA mothership," "Affiliation for the purpose of defining AFA entities," "Appointed agent for service of process," "Designated cooperative representative," "Designated primary processor," "Listed AFA catcher/processor," "Official AFA record," "Restricted AFA inshore processor," "Stationary floating processor," "Unlisted AFA catcher/processor," " and Unrestricted AFA inshore processor," are added in alphabetical order, and under the

definition of "Directed fishing," paragraph (5) is redesignated as paragraph (3), and paragraph (4) is revised to read as follows:

§ 679.2 Definitions.

* * * * *

ADF&G processor code means State of Alaska Department of Fish & Game (ADF&G) Intent to operate processor license number (example: F12345).

AFA catcher/processor means a catcher/processor permitted to harvest BSAI pollock under § 679.4(l)(2).

AFA catcher vessel means a catcher vessel permitted to harvest BSAI pollock under § 679.4(l)(3).

AFA crab processing facility means a processing plant, catcher/processor, mothership, floating processor or any other operation that processes any FMP species of BSAI crab, and that is affiliated with an AFA entity that processes pollock harvested by a catcher vessel cooperative operating in the inshore or mothership sectors of the BSAI pollock fishery.

AFA entity means a group of affiliated individuals, corporations, or other business concerns that harvest or process pollock in the BSAI directed pollock fishery.

AFA inshore processor means a shoreside processor or stationary floating processor permitted to process BSAI pollock under § 679.4(l)(5).

AFA mothership means a mothership permitted to process BSAI pollock under § 679.4(l)(5).

* * * * *

Affiliation for the purpose of defining AFA entities means a relationship between two or more individuals, corporations, or other business concerns in which one concern directly or indirectly owns a 10 percent or greater interest in another, exerts 10 percent or greater control over another, or has the power to exert 10 percent or greater control over another; or a third individual, corporation, or other business concern directly or indirectly owns a 10 percent or greater interest in both, exerts 10 percent or greater control over both, or has the power to exert 10 percent or greater control over both.

(1) *What is 10-percent or greater ownership*? For the purpose of determining affiliation, 10-percent or greater ownership is deemed to exist if any of the following relationships are present:

(i) *Direct or indirect interest.* If an individual, corporation, or other business concern directly or indirectly owns 10 percent or greater interest in a second corporation or other business concern, or

(ii) *Shared assets and liabilities.* If 10 percent or more of the assets and/or liabilities of one corporation or other business concern are the same as those of a second corporation or other business concern.

(2) *What is an indirect interest*? An indirect interest is one that passes through one or more intermediate entities. An entity's percentage of indirect interest in a second entity is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's direct or indirect interest in the second entity.

(3) *What is 10-percent or greater control*? For the purpose of determining affiliation, 10-percent or greater control is deemed to exist if an individual, corporation, or other business concern has any of the following relationships or forms of control over another individual, corporation, or other business concern:

(i) Controls 10 percent or more of the voting stock of another corporation or business concern;

(ii) Has the authority to direct the business of the entity which owns the fishing vessel or processor. The authority to "direct the business of the entity" does not include the right to simply participate in the direction of the business activities of an entity which owns a fishing vessel or processor;

(iii) Has the authority in the ordinary course of business to limit the actions of or to replace the chief executive officer, a majority of the board of directors, any general partner or any person serving in a management capacity of an entity that holds 10 percent or greater interest in a fishing vessel or processor. Standard rights of minority shareholders to restrict the actions of the entity are not included in this definition of control provided they are unrelated to day-to-day business activities. These rights include provisions to require the consent of the minority shareholder to sell all or substantially all the assets, to enter into a different business, to contract with the major investors or their affiliates or to guarantee the obligations of majority investors or their affiliates;

(iv) Has the authority to direct the transfer, operation or manning of a fishing vessel or processor. The authority to "direct the transfer, operation, or manning" of a vessel or processor does not include the right to simply participate in such activities;

(v) Has the authority to control the management of or to be a controlling factor in the entity that holds 10 percent or greater interest in a fishing vessel or processor;

(vi) Absorbs all the costs and normal business risks associated with ownership and operation of a fishing vessel or processor;

(vii) Has the responsibility to procure insurance on the fishing vessel or processor, or assumes any liability in excess of insurance coverage;

(viii) Has the authority to control a fishery cooperative through 10 percent or greater ownership or control over a majority of the voting members of the cooperative, has the authority to appoint, remove, or limit the actions of or replace the chief executive officer of the cooperative, or has the authority to appoint, remove, or limit the actions of a majority of the board of directors of the cooperative. In such instance, all members of the cooperative are considered affiliates of the individual, corporation, or other business concern that exerts 10 percent or greater control over the cooperative;

(ix) Has the ability through any other means whatsoever to control the entity that holds 10 percent or greater interest in a fishing vessel or processor.

* * * * *

Appointed agent for service of process means an agent appointed by the members of an inshore catcher vessel cooperative to serve on behalf of the cooperative. The appointed agent for service of process may be the owner of a vessel listed as a member of the cooperative or a registered agent. If at any time the cooperative's appointed agent for service of process becomes unable to accept service, then the cooperative members are required to notify the Regional Administrator of a substitute appointed agent.

* * * * *

Designated cooperative representative means an individual who is designated by the members of an inshore pollock cooperative to fulfill requirements on behalf of the cooperative including, but not limited to, the signing of cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports.

Designated primary processor means an AFA inshore processor that is designated by an inshore pollock cooperative as the AFA inshore processor to which the cooperative will deliver at least 90 percent of its BSAI pollock allocation during the year in which the AFA inshore cooperative fishing permit is in effect.

* * * * *

Directed fishing means * * *

* * * * *

(4) With respect to the harvest of groundfish by AFA catcher/processors

and AFA catcher vessels, any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under § 679.20.

* * * * *

Listed AFA catcher/processor means an AFA catcher/processor permitted to harvest BSAI pollock under § 679.4(l)(2)(i).

* * * * *

Official AFA record means the information prepared by the Regional Administrator about vessels and processors that were used to participate in the BSAI pollock fisheries during the qualifying periods specified in § 679.4(l). Information in the official AFA record includes vessel ownership information, documented harvests made from vessels during AFA qualifying periods, vessel characteristics, and documented amounts of pollock processed by pollock processors during AFA qualifying periods. The official AFA record is presumed to be correct for the purpose of determining eligibility for AFA permits. An applicant for an AFA permit will have the burden of proving correct any information submitted in an application that is inconsistent with the official record.

* * * * *

Restricted AFA inshore processor means an AFA inshore processor permitted to harvest pollock under § 679.4(l)(5)(i)(B).

* * * * *

Stationary floating processor means a vessel of the United States operating as a processor in Alaska State waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI.

* * * * *

Unlisted AFA catcher/processor means an AFA catcher/processor permitted to harvest BSAI pollock under § 679.4(l)(2)(ii).

Unrestricted AFA inshore processor means an AFA inshore processor permitted to harvest pollock under § 679.4(l)(5)(i)(A).

* * * * *

4. In § 679.4 paragraph (k)(9) is added and paragraph (l) is revised to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(9) *Restrictions on licenses earned on AFA catcher vessels and listed AFA catcher/processors.* No person may use an LLP license that was derived in whole or in part from the qualifying fishing history of an AFA catcher vessel or a listed AFA catcher/processor to fish for groundfish or crab on a non-AFA catcher vessel or non-AFA catcher/processor. NMFS will identify all such licenses affected by this restriction and inform the holders of such licenses of this restriction through a restriction printed on the face of the license.

(l) *AFA permits*—(1) *General*—(i) *Applicability.* In addition to any other permit and licensing requirements set out in this part, any vessel used to engage in directed fishing for a non-CDQ allocation of pollock in the BSAI and any shoreside processor, stationary floating processor, or mothership that receives pollock harvested in a non-CDQ directed pollock fishery in the BSAI must have a valid AFA permit onboard the vessel or at the facility location at all times while non-CDQ pollock is being harvested or processed. An AFA permit does not exempt a vessel operator, vessel, or processor from any other applicable permit or licensing requirement required under this part or in other state or Federal regulations.

(ii) *Duration.* Except as provided in paragraphs (l)(5)(v)(B)(*3*) and (l)(6)(iii) of this section, and unless suspended or revoked, AFA vessel and processor permits are valid until December 31, 2004.

(iii) *Application for permit.* NMFS will issue AFA vessel and processor permits to the current owner(s) of a qualifying vessel or processor if the owner(s) submits to the Regional Administrator a completed AFA permit application that is subsequently approved.

(iv) *Amended permits.* AFA vessel and processor permits may not be used on or transferred to any vessel or processor that is not listed on the permit. However, AFA permits may be amended to reflect any change in the ownership of the vessel or processor. An application to amend an AFA permit must include the following:

(A) The original AFA permit to be amended, and

(B) A completed AFA permit application signed by the new vessel or processor owner.

(v) *Application deadline.* All AFA vessel and processor permits must be received by the Regional Administrator by [*INSERT DATE 60 DAYS AFTER EFFECTIVE DATE OF FINAL RULE*]. AFA vessel and processor permits received after [*INSERT DATE 60 DAYS AFTER EFFECTIVE DATE OF FINAL RULE*] will not be accepted by the Regional Administrator and will be permanently ineligible to receive the requested AFA permit.

(2) *AFA catcher/processor permits*—(i) *Listed AFA catcher/processors.* NMFS will issue to an owner of a catcher/processor a listed AFA catcher/processor permit if the catcher/processor is one of the following (as listed in AFA paragraphs 208(e)(1) through (20)):

AMERICAN DYNASTY (USCG documentation number 951307);

KATIE ANN (USCG documentation number 518441);

AMERICAN TRIUMPH (USCG documentation number 646737);

NORTHERN EAGLE (USCG documentation number 506694);

NORTHERN HAWK (USCG documentation number 643771);

NORTHERN JAEGER (USCG documentation number 521069);

OCEAN ROVER (USCG documentation number 552100);

ALASKA OCEAN (USCG documentation number 637856);

ENDURANCE (USCG documentation number 592206);

AMERICAN ENTERPRISE (USCG documentation number 594803);

ISLAND ENTERPRISE (USCG documentation number 610290);

KODIAK ENTERPRISE (USCG documentation number 579450);

SEATTLE ENTERPRISE (USCG documentation number 904767);

US ENTERPRISE (USCG documentation number 921112);

ARCTIC STORM (USCG documentation number 903511);

ARCTIC FJORD (USCG documentation number 940866);

NORTHERN GLACIER (USCG documentation number 663457);

PACIFIC GLACIER (USCG documentation number 933627);

HIGHLAND LIGHT (USCG documentation number 577044);

STARBOUND (USCG documentation number 944658).

(ii) *Unlisted AFA catcher/processors.* NMFS will issue to an owner of a catcher/processor an unlisted AFA catcher/processor permit if the catcher/processor is not listed in § 679.4(l)(2)(i) and is determined by the Regional Administrator to have harvested more than 2,000 mt of pollock in the 1997 BSAI directed pollock fishery.

(iii) *Application for AFA catcher/processor permit.* A completed application for an AFA catcher/processor permit must contain:

(A) *Vessel information.* The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

(B) *Ownership information*—(*1*) *Managing owner*. The managing owner name(s), tax ID number(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(*2*) *Identification of affiliated persons*. The name, registered address, and percentage of ownership of all persons that are "affiliated" with the vessel by virtue of holding 10 percent or greater direct or indirect ownership or control of the vessel as defined in § 679.2.

(C) *Certification of notary and applicant*. Managing owners signature(s), date of signature, printed name(s), and the notary stamp, signature, and date commission expires of a notary public.

(3) *AFA catcher vessel permits*. NMFS will issue to an owner of a catcher vessel an AFA catcher vessel permit containing sector endorsements and sideboard restrictions upon receipt and approval of a completed application for an AFA catcher vessel permit.

(i) *Qualifying criteria*—(A) *Catcher vessels delivering to catcher/processors*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to a catcher/processor if the catcher vessel:

(*1*) Is one of the following (as listed in paragraphs 208(b)(1) through (7) of the AFA):

AMERICAN CHALLENGER (USCG documentation number 633219);

FORUM STAR (USCG documentation number 925863);

MUIR MILACH (USCG documentation number 611524);

NEAHKAHNIE (USCG documentation number 599534);

OCEAN HARVESTER (USCG documentation number 549892);

SEA STORM (USCG documentation number 628959);

TRACY ANNE (USCG documentation number 904859); or

(*2*) Is not listed in § 679.4(l)(3)(i)(A)(*1*) and is determined by the Regional Administrator to have delivered at least 250 mt and at least 75 percent of the pollock it harvested in the directed BSAI pollock fishery in 1997 to catcher/processors for processing by the offshore component.

(B) *Catcher vessels delivering to AFA motherships*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA mothership if the catcher vessel:

(*1*) Is one of the following (as listed in paragraphs 208(c)(1) through (19) and in subsection 211(e) of the AFA):

ALEUTIAN CHALLENGER (USCG documentation number 603820);

ALYESKA (USCG documentation number 560237);

AMBER DAWN (USCG documentation number 529425);

AMERICAN BEAUTY (USCG documentation number 613847);

CALIFORNIA HORIZON (USCG documentation number 590758);

MAR-GUN (USCG documentation number 525608);

MARGARET LYN (USCG documentation number 615563);

MARK I (USCG documentation number 509552);

MISTY DAWN (USCG documentation number 926647);

NORDIC FURY (USCG documentation number 542651);

OCEAN LEADER (USCG documentation number 561518);

OCEANIC (USCG documentation number 602279);

PACIFIC ALLIANCE (USCG documentation number 612084);

PACIFIC CHALLENGER (USCG documentation number 518937);

PACIFIC FURY (USCG documentation number 561934);

PAPADO II (USCG documentation number 536161);

TRAVELER (USCG documentation number 929356);

VESTERAALEN (USCG documentation number 611642);

WESTERN DAWN (USCG documentation number 524423);

LISA MARIE (USCG documentation number 1038717); or

(*2*) Is not listed in § 679.4(l)(3)(i)(B)(*1*) and is determined by the Regional Administrator to have delivered at least 250 mt of pollock for processing by motherships in the offshore component of the BSAI directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998, and is not eligible for an endorsement to deliver pollock to catcher/processors under § 679.4(l)(3)(i)(A).

(C) *Catcher vessels delivering to AFA inshore processors*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA inshore processor if the catcher vessel is:

(*1*) One of the following vessels authorized by statute to engage in directed fishing for inshore sector pollock:

(*i*) HAZEL LORRAINE (USCG documentation number 592211),

(*ii*) LISA MARIE (USCG documentation number 1038717),

(*iii*) PROVIDIAN (USCG documentation number 1062183); or

(*2*) Is not listed in § 679.4(l)(3)(i)(A), and:

(*i*) Is determined by the Regional Administrator to have delivered at least 250 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998; or

(*ii*) Is less than 60 ft (18.1 meters) LOA and is determined by the Regional Administrator to have delivered at least 40 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998.

(ii) *Application for AFA catcher vessel permit*. A completed application for an AFA catcher vessel permit must contain:

(A) *Vessel information*. The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

(B) *Ownership information*—(*1*) *Managing owner*. The managing owner name(s), tax ID number(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(*2*) *Identification of affiliated persons*. The name, registered address, and percentage of ownership of all persons that are "affiliated" with the vessel by virtue of holding 10% or greater direct or indirect ownership or control of the vessel as defined in § 679.2.

(C) *Vessel AFA qualification information*. AFA catcher vessel permit endorsement(s) requested; and

(D) *Vessel crab activity information required for crab sideboard endorsements*. The owner of an AFA catcher vessel wishing to participate in any BSAI king or Tanner crab fishery must apply for a crab sideboard endorsement authorizing the catcher vessel to retain that crab species. An AFA catcher vessel permit may be endorsed for a crab species if the owner requests a crab sideboard endorsement and provides supporting documentation that the catcher vessel made the required legal landing(s) of a crab species and if the Regional Administrator verifies the legal landing(s) according to the following criteria:

(*1*) *Bristol Bay Red King Crab (BBRKC)*. A legal landing of any BSAI king or Tanner crab species in 1996, 1997, or on or before February 7, 1998. A BBRKC sideboard endorsement also authorizes a vessel to retain Bairdi Tanner crab harvested during the duration of a BBRKC opening if the vessel is otherwise authorized to retain

VOL
66
ISS
242
DE
17
2001
UMI

Bairdi Tanner crab while fishing for BBRKC under state and Federal regulations.

(*2*) *St. Matthew Island blue king crab.* A legal landing of St. Matthew Island blue king crab in that fishery in 1995, 1996, or 1997.

(*3*) *Pribilof Island red and blue king crab.* A legal landing of Pribilof Island blue or red king crab in that fishery in 1995, 1996, or 1997.

(*4*)*Aleutian Islands (Adak) brown king crab.* A legal landing of Aleutian Islands brown king crab during in each of the 1997/1998 and 1998/1999 fishing seasons.

(*5*) *Aleutian Islands (Adak) red king crab.* A legal landing of Aleutian Islands red king crab in each of the 1995/1996 and 1998/1999 fishing seasons.

(*6*) *Opilio Tanner crab.* A legal landing of Chionoecetes(C.) opilio Tanner crab in each of 4 or more years from 1988 to 1997.

(*7*) *Bairdi Tanner crab.* A legal landing of C. bairdi Tanner crab in 1995 or 1996.

(*8*)*Exemption to crab harvesting sideboards.* An AFA catcher vessel permit may be endorsed with an exemption from all crab harvesting sideboards if the owner requests such exemption and provides supporting documentation that the catcher vessel made a legal landing of crab in every BBRKC, Opilio Tanner crab, and Bairdi Tanner crab fishery opening from 1991 to 1997 and if the Regional Administrator verifies the legal landings.

(E) *Vessel exemptions from AFA catcher vessel groundfish sideboard directed fishing closures.* An AFA catcher vessel permit may contain exemptions from certain groundfish sideboard directed fishing closures. If a vessel owner is requesting an exemption from groundfish sideboard-directed closures, the application must provide supporting documentation that the catcher vessel qualifies for the exemption based on the criteria set out below. The Regional Administrator will review the vessel's catch history according to the following criteria:

(*1*) *BSAI Pacific cod.* For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the BSAI Pacific cod fishery, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5,100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and have made 30 or more legal landings of Pacific cod in the BSAI directed fishery for Pacific cod from 1995 through 1997.

(*2*) *GOA groundfish species.* For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the GOA groundfish fisheries, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5;100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and made 40 or more legal landings of GOA groundfish in a directed fishery for GOA groundfish from 1995 through 1997.

(F) *Certification of notary and applicant.* Owner signature(s), date of signature, printed name(s), and the notary stamp, signature, and date commission expires of a notary public.

(4) AFA mothership permits. NMFS will issue to an owner of a mothership an AFA mothership permit if the mothership is one of the following (as listed in paragraphs 208(d)(1) through (3) of the AFA):

EXCELLENCE (USCG documentation number 967502);

GOLDEN ALASKA (USCG documentation number 651041); and

OCEAN PHOENIX (USCG documentation number 296779).

(i) *Cooperative processing endorsement.* The owner of an AFA mothership who wishes to process pollock harvested by a fishery cooperative formed under § 679.61 must apply for and receive a cooperative processing endorsement on the vessel's AFA mothership permit.

(ii) *Application for AFA mothership permit.* A completed application for an AFA mothership permit must contain:

(A) *Type of permit requested.* Type of processor and whether requesting an AFA cooperative endorsement.

(B) *Vessel information.* The mothership name, ADF&G processor code, USCG documentation number, Federal fisheries permit number, gross tons, shaft horsepower, and registered length (in feet).

(C) *Ownership information*—(*1*) *Managing owner.* The managing owner name(s), tax ID number(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(*2*) *Identification of affiliated persons.* The name, registered address, and percentage of ownership of all persons that are "affiliated" with the vessel by virtue of holding 10 percent or greater direct or indirect ownership or control of the vessel as defined in § 679.2.

(D) *AFA crab facility ownership information.* If the applicant is applying for a cooperative pollock processing endorsement, the AFA mothership application must list the name, type of facility, ADF&G processor code, and percentage of ownership or control of each AFA crab facility that is affiliated with the AFA entity that owns or controls the AFA mothership;

(E) *Data confidentiality waiver.* If the applicant is applying for a cooperative pollock processing endorsement, the AFA mothership application must contain a valid signed data confidentiality waiver for each crab processing facility listed on the permit application that authorizes public release of the 1995–1998 total processing history of each BSAI king and Tanner crab species, and

(F) Certification of notary and applicant. Owner signature(s), date of signature, printed name(s), and the notary stamp, signature, and date commission expires of a notary public.

(5)*AFA inshore processor permits.* NMFS will issue to an owner of a shoreside processor or stationary floating processor an AFA inshore processor permit upon receipt and approval of a completed application.

(i) *Qualifying criteria*—(A) *Unrestricted processors.* NMFS will issue an unrestricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the processor facility processed annually more than 2,000 mt round-weight of pollock harvested in the inshore component of the directed BSAI pollock fishery during each of 1996 and 1997.

(B) *Restricted processors.* NMFS will issue a restricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the facility processed pollock harvested in the inshore component of the directed BSAI pollock fishery during 1996 or 1997, but did not process annually more than 2,000 mt round-weight of BSAI pollock during each of 1996 and 1997.

(ii) *Cooperative processing endorsement.* The owner of an AFA inshore processor who wishes to process pollock harvested by a fishery cooperative formed under § 679.62 must apply for and receive a cooperative processing endorsement on the AFA inshore processor permit.

(iii) *Single geographic location requirement.* An AFA inshore processor permit authorizes the processing of pollock harvested in the BSAI directed pollock fishery only in a single geographic location during a fishing year. For the purpose of this paragraph, single geographic location means:

(A) *Shoreside processors.* The physical location at which the land-based shoreside processor first processed BSAI pollock harvested in the

BSAI directed pollock fishery during a fishing year;

(B) *Stationary floating processors.* A location within Alaska state waters that is within 5 nm of the position in which the stationary floating processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year.

(iv) Application for permit. A completed application for an AFA inshore processor permit must contain:

(A) *Type of permit requested.* Type of processor, whether requesting an AFA cooperative endorsement, and amount of BSAI pollock processed in 1996 and 1997;

(B) *Stationary floating processor information.* The vessel name, Federal processor code, ADF&G processor code, USCG documentation number, Federal processor permit number, gross tons, shaft horsepower, registered length (in feet), and business telephone number, business FAX number, and business E-mail address used onboard the vessel.

(C) *Shoreside processor information.* The processor name, Federal processor permit number, ADF&G processor code, business street address; business telephone and FAX numbers, and business e-mail address.

(D) *Ownership information*—(*1*) *Managing owner.* The managing owner name(s), tax ID number(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(*2*) *Identification of affiliated persons.* The name, registered address, and percentage of ownership of all persons that are "affiliated" with the processor by virtue of holding 10 percent or greater direct or indirect ownership or control of the processor as defined in § 679.2.

(E) *AFA crab facility ownership information.* If the applicant is applying for a cooperative pollock processing endorsement, the AFA inshore processor application must list the name, type of facility, ADF&G processor code, and list the percentage of ownership or control and describe the nature of the interest in each AFA crab facility that is affiliated with the AFA entity that owns or controls the AFA inshore processor;

(F) *Data confidentiality waiver.* If the applicant is applying for a cooperative pollock processing endorsement, the AFA mothership application must contain a valid signed data confidentiality waiver for each crab processing facility listed on the permit application that authorizes public release of the 1995–1998 total processing history of each BSAI king and Tanner crab species by that facility, and

(G) *Certification of notary and applicant.* Owner signature(s), date of signature, printed name(s), and notary stamp and signature of a notary public.

(v) *Authorization of new AFA inshore processors.* If the Council recommends and NMFS approves a combined BSAI pollock TAC that exceeds 1,274,900 mt for any fishing year, or in the event of the actual total loss or constructive loss of an existing AFA inshore processor, the Council may recommend that an additional inshore processor (or processors) be issued AFA inshore processing permits.

(A) *Timing of Council action.* At any time prior to or during a fishing year in which the combined BSAI pollock TAC exceeds 1,274,900, or at any time after the actual total loss or constructive total loss of an existing AFA inshore processor, the Council may, after opportunity for public comment, recommend that an additional inshore processor (or processors) be issued AFA inshore processor permits.

(B) *Required elements in Council recommendation.* Any recommendation from the Council to add an additional inshore processor (or processors) must include the following information:

(*1*) *Identification of inshore processor(s).* The Council recommendation must identify by name the inshore processor(s) to which AFA inshore processor permits would be issued;

(*2*)*Type of AFA inshore processor permit(s).* The Council recommendation must specify whether the identified inshore processor(s) should be issued a restricted or unrestricted AFA inshore processor permit.

(*3*) *Duration of permit.* The Council recommendation must specify the recommended duration of the permit. Permit duration may be for any duration from a single fishing season to the duration of section 208 of the AFA. Alternatively, the Council may recommend that the permit be valid as long as the conditions that led to the permit remain in effect. For example, the Council could recommend that a permit issued under this paragraph remain valid as long as the combined annual BSAI pollock TAC remains above 1,274,900 mt. or a lost AFA inshore processor is not reconstructed.

(*4*) *Council procedures.* The Council may establish procedures for the review and approval of requests to authorize additional AFA inshore processors. However, such procedures must be consistent with the Magnuson-Stevens Act, the national standards, and other applicable law.

(*5*) *Action by NMFS.* Upon receipt of a recommendation from the Council to authorize additional AFA inshore processors, NMFS may issue an AFA inshore processor permit to the identified inshore processor(s) of the type and duration recommended by the Council, provided the Council has met the requirements identified in paragraphs (l)(5)(v)(B)(*1*) through (*4*) of the same section, and the owner(s) of the identified inshore processor has submitted a completed application for an AFA inshore processor permit that is subsequently approved.

(6) *Inshore cooperative fishing permits*—(i) *General.* NMFS will issue to an inshore catcher vessel cooperative formed pursuant to(15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor an AFA inshore cooperative fishing permit upon receipt and approval of a completed application.

(ii) *Application for permit.* A completed application for an inshore cooperative fishing permit must contain the following information:

(A) *Cooperative contact information.* Name of cooperative; name of cooperative representative; and business mailing address, business telephone number, business fax number, and business e-mail address of the cooperative;

(B) *Designated cooperative processor.* The name and physical location of AFA Inshore Processor who is designated in the cooperative contract as the processor to whom the cooperative has agreed to deliver at least 90 percent of its BSAI pollock catch. If the processor is a stationary floating processor, the single geographic location (latitude and longitude) at which the processor will process BSAI pollock under the AFA; and Federal processor permit number of the AFA inshore processor;

(C)*Cooperative contract information.* A copy of the cooperative contract and a written certification that:

(*1*) The contract was signed by the owners of at least 80 percent of the qualified catcher vessels;

(*2*) The cooperative contract requires that the cooperative deliver at least 90 percent of its BSAI pollock catch to its designated AFA processor; and

(*3*) Each catcher vessel in the cooperative is a qualified catcher vessel and is otherwise eligible to fish for groundfish in the BSAI, has an AFA catcher vessel permit with an inshore endorsement, and has no permit sanctions or other type of sanctions against it that would prevent it from fishing for groundfish in the BSAI;

VOL 66 ISS 242 DE 17 2001 UMI

(D) *Qualified catcher vessels.* For the purpose of this paragraph, a catcher vessel is a qualified catcher vessel if it meets the following permit and landing requirements:

(*1*) *Permit requirements*—(*i*) *AFA permit.* The vessel must have a valid AFA catcher vessel permit with an inshore endorsement;

(*ii*) *LLP permit.* The vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling for pollock in the Bering Sea subarea and in the Aleutian Islands subarea if the vessel's Aleutian Islands subarea fishing history is used to generate a cooperative allocation for the Aleutian Islands subarea; and

(*iii*)*Permit sanctions.* The vessel has no permit sanctions that otherwise make it ineligible to engage in fishing for pollock in the BSAI.

(*2*) *Landing requirements*—(*i*) *Active vessels.* The vessel delivered more pollock harvested in the BSAI inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect; or

(*ii*) *Inactive vessels.* The vessel delivered more pollock harvested in the BSAI inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the last year in which the vessel delivered BSAI pollock harvested in the BSAI directed pollock fishery to an AFA inshore processor.

(E) *Business review letter.* A copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and of any response to such request;

(F) *Vessel information.* For each cooperative catcher vessel member: Vessel name, ADF&G registration number, USCG documentation number, AFA permit number; and

(G) *Certification of notary and applicant.* Signature and printed name of cooperative representative, date of signature, and notary stamp or seal, signature and date commission expires of a notary public.

(iii) *Duration of cooperative fishing permits.* Inshore cooperative fishing permits are valid for 1 calendar year.

(iv) *Addition or subtraction of vessels.* The cooperative representative must submit a new application to add or subtract a catcher vessel to or from an inshore cooperative fishing permit to the Regional Administrator prior to the application deadline. Upon approval by the Regional Administrator, NMFS will issue an amended cooperative fishing permit.

(v) *Application deadline.* An inshore cooperative fishing permit application and any subsequent contract amendments that add or subtract vessels must be received by the Regional Administrator by December 1 prior to the year in which the inshore cooperative fishing permit will be in effect. Inshore cooperative fishing permit applications or amendments to inshore fishing cooperative permits received after December 1 will not be accepted by the Regional Administrator for the subsequent fishing year.

(*7*) *Replacement vessels.* (i) In the event of the actual total loss or constructive total loss of an AFA catcher vessel, AFA mothership, or AFA catcher/processor, the owner of such vessel may replace such vessel with a replacement vessel. The replacement vessel will be eligible in the same manner as the original vessel after submission and approval of an application for an AFA replacement vessel, provided that:

(A) Such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

(B) The replacement vessel was built in the United States and, if ever rebuilt, rebuilt in the United States;

(C) The USCG certificate of documentation with fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

(D) If the eligible vessel is greater than 165 ft (50.3 meters (m)) in registered length, or more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

(E) If the eligible vessel is less than 165 ft (50.3 m) in registered length, fewer than 750 gross registered tons, and has engines incapable of producing more than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons, or shaft horsepower of the eligible vessel; and

(F) If the replacement vessel is already an AFA catcher vessel, the inshore cooperative catch history of both vessels may be merged in the replacement vessel for the purpose of determining inshore cooperative allocations except that a catcher vessel with an endorsement to deliver pollock to AFA catcher/processors may not be simultaneously endorsed to deliver pollock to AFA motherships or AFA inshore processors.

(G) *Replacement of replacement vessels.* In the event that a permitted replacement vessel is lost under the circumstances described in paragraph (l)(7)(i)(A) of this section, the replacement vessel may be replaced according to the provisions of this paragraph (l) (7). However, the maximum length, tonnage, and horsepower of any subsequent replacement vessels are determined by the length, tonnage, and horsepower of the originally qualifying AFA vessel and not by those of any subsequent replacement vessels.

(ii) *Application for permit.* A completed application for an AFA permit for a replacement vessel must contain:

(A) Identification of lost AFA eligible vessel.

(*1*) Name, ADF&G vessel registration number, USCG documentation number, AFA permit number, gross tons, shaft horsepower, and registered length from USCG documentation of the vessel;

(*2*) Name(s), tax ID number(s), business mailing address(es), telephone number(s), FAX number(s), and e-mail address(es) of owner(s);

(*3*) The last year in which the vessel harvested or processed pollock in a BSAI directed pollock fishery; and

(*4*) Description of how the vessel was lost or destroyed. Attach a USCG Form 2692 or insurance papers to verify the claim.

(B) Identification of replacement vessel.

(*1*) Name, ADF&G vessel registration number, USCG documentation number, gross tons, shaft horsepower, registered length, net tons for USCG documentation, length overall (in feet), and Federal Fisheries Permit number of the vessel;

(*2*) Name(s), tax ID number(s), business mailing address(es), business telephone number(s), business FAX number(s), and business e-mail address(es) of the owner(s);

(*3*) YES or NO indication of whether the vessel was built in the United States; and

(*4*) YES or NO indication of whether the vessel has ever been rebuilt, and if so whether it was rebuilt in the United States.

(C) Certification of applicant and notary. Signature(s) and printed name(s) of owner(s) and date of signature; signature, notary stamp or seal of notary public, and date notary commission expires.

(8) *Application evaluations and appeals*—(i) *Initial evaluation.* The Regional Administrator will evaluate an application for an AFA fishing or processing permit submitted in accordance with paragraph (l)(1) of this section and compare all claims in the application with the information in the official AFA record. Claims in the application that are consistent with information in the official AFA record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless supported by evidence, will not be accepted. An applicant who submits claims based on inconsistent information or fails to submit the information specified in the application for an AFA permit will be provided a single 60–day evidentiary period to submit the specified information, submit evidence to verify the applicant's inconsistent claims, or submit a revised application with claims consistent with information in the official AFA record. An applicant who submits claims that are inconsistent with information in the official AFA record has the burden of proving that the submitted claims are correct.

(ii) *Additional information and evidence.* The Regional Administrator will evaluate the additional information or evidence submitted to support an applicant's claims within the 60–day evidentiary period. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the inconsistent claims in his or her application are correct, the official AFA record will be amended and the information will be used in determining whether the applicant is eligible for an AFA permit. However, if the Regional Administrator determines that the additional information or evidence does not meet the applicant's burden of proving that the inconsistent claims in his or her application is correct, the applicant will be notified by an initial administrative determination that the applicant did not meet the burden of proof to change information in the official AFA record.

(iii) *Sixty-day evidentiary period.* The Regional Administrator will specify by letter a 60–day evidentiary period during which an applicant may provide additional information or evidence to support the claims made in his or her application, or to submit a revised application with claims consistent with information in the official AFA record, if the Regional Administrator determines that the applicant did not meet the burden of proving that the information on the application is correct through evidence provided with the application. Also, an applicant who fails to submit required information will have 60 days to provide that information. An applicant will be limited to one 60–day evidentiary period. Additional information or evidence, or a revised application received after the 60–day evidentiary period specified in the letter has expired will not be considered for the purposes of the initial administrative determination.

(iv) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 60–day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to rebut the presumption that the official AFA record is correct or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 60–day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available information or evidence. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will receive an interim AFA permit that authorizes a person to participate in an AFA pollock fishery and will have the specific endorsements and designations based on the claims in his or her application. An interim AFA permit based on claims contrary to the Official Record will expire upon final agency action.

(v) *Effect of cooperative allocation appeals.* An AFA inshore cooperative may appeal the pollock quota share issued to the cooperative under § 679.62; however, final agency action on the appeal must occur prior to December 1 for the results of the appeal to take effect during the subsequent fishing year.

5. In § 679.7, paragraph (k) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(k) *Prohibitions specific to the AFA.* It is unlawful for any person to do any of the following:

(1) *Catcher/processors*—(i) *Permit requirement.* Use a catcher/processor to engage in directed fishing for non-CDQ BSAI pollock without a valid AFA catcher/processor permit on board the vessel.

(ii) *Fishing in the GOA.* Use a listed AFA catcher/processor to harvest any species of fish in the GOA.

(iii) *Processing BSAI crab.* Use a listed AFA catcher/processor to process any species of crab harvested in the BSAI.

(iv) *Processing GOA groundfish.* Use a listed AFA catcher/processor to process any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

(v) *Directed fishing after a sideboard closure.* Use a listed AFA catcher/processor to engage in directed fishing for a groundfish species or species group in the BSAI after the Regional Administrator has issued an AFA catcher/processor sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv) or § 679.21(e)(3)(v).

(vi) *Catch weighing*—(A) *Listed AFA catcher/processors.* Process any groundfish that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each haul must be sampled by an observer for species composition.

(B) *Unlisted AFA catcher processors.* Process groundfish harvested in the BSAI pollock fishery that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each haul must be sampled by an observer for species composition.

(vii) *Observer sampling station.*—(A) *Listed AFA catcher/processors.* Process any groundfish without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(B) *Unlisted AFA catcher/processors.* Process groundfish harvested in the BSAI pollock fishery without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(viii) *VMS.* Use a listed or unlisted AFA catcher processor to participate in any groundfish fishery or process any groundfish harvested in the BSAI or GOA unless that vessel carries a NMFS-

VOL 66 ISS 242 DE 17 2001 UMI

approved Vessel Management System (VMS) transmitter and complies with the requirements described at § 679.28(f).

(2) *Motherships*—(i) *Permit requirement.* Use a mothership to process pollock harvested by an AFA catcher vessel with an inshore or mothership sector endorsement in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA permit on board the vessel.

(ii) *Cooperative processing endorsement.* Use an AFA mothership to process groundfish harvested by a fishery cooperative formed under § 679.61 unless the AFA mothership permit contains a valid cooperative pollock processing endorsement.

(iii) *Catch weighing.* Process any groundfish that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each delivery must be sampled by an observer for species composition.

(iv) *Observer sampling station.* Process any groundfish without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(3) *AFA inshore processors*—(i) *Permit requirement.* Use a shoreside processor or stationary floating processor to process groundfish harvested in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA inshore processor permit at the facility or vessel.

(ii) *Cooperative processing endorsement.* Use a shoreside processor or stationary floating processor required to have an AFA inshore processor permit to process groundfish harvested by a fishery cooperative formed under § 679.62 unless the AFA inshore processor permit contains a valid cooperative pollock processing endorsement.

(iii) *Restricted AFA inshore processors.* Use an AFA inshore processor with a restricted AFA inshore processor permit to process more than 2,000 mt round weight of non-CDQ pollock harvested in the BSAI directed pollock fishery in any one year.

(iv) *Single geographic location requirement.* Use an AFA inshore processor to process pollock harvested in the BSAI directed pollock fishery at a location other than the single geographic location defined as follows:

(A) *Shoreside processors.* The physical location at which the land-based shoreside processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year;

(B) *Stationary floating processors.* A location within Alaska State waters that is within 5 nm of the position in which the stationary floating processor first processed BSAI pollock harvested in the BSAI directed pollock fishery during a fishing year.

(v) *Catch weighing.* Process any groundfish that was not weighed on a scale approved by the State of Alaska and meeting the requirements specified in § 679.28(c).

(vi) *Catch monitoring and control plan (CMCP).* Take deliveries or process groundfish delivered by a vessel engaged in directed fishing for BSAI pollock without following an approved CMCP as described at § 679.28(g). A copy of the CMCP must be maintained on the premises and made available to authorized officers or NMFS-authorized personnel upon request.

(4) *Catcher vessels*—(i) *Permit requirement.* Use a catcher vessel to engage in directed fishing for non-CDQ BSAI pollock for delivery to any AFA processing sector (catcher/processor, mothership, or inshore) unless the vessel has a valid AFA catcher vessel permit on board that contains an endorsement for the sector of the BSAI pollock fishery in which the vessel is participating.

(ii) *Crab sideboard endorsement.* Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(iii) Groundfish sideboard closures. Use an AFA catcher vessel to engage in directed fishing for a groundfish species or species group in the BSAI or GOA after the Regional Administrator has issued an AFA catcher vessel sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv), § 679.21(d)(8) or § 679.21(e)(3)(iv), if the vessel's AFA permit does not contain a sideboard exemption for that groundfish species or species group.

(iv) *VMS.* Participate in any groundfish fishery or transport any groundfish without carrying a NMFS-approved Vessel Management System (VMS) transmitter and complying with the requirements of § 679.28(f).

(5) *AFA inshore fishery cooperatives*—(i) *Quota overages.* Use an AFA catcher vessel listed on an AFA inshore cooperative fishing permit to harvest non-CDQ pollock in excess of the cooperative's annual allocation of pollock specified under § 679.62.

(ii) *Liability.* An inshore pollock cooperative is prohibited from exceeding its annual allocation of BSAI pollock TAC. The owners and operators of all vessels listed on the cooperative fishing permit are responsible for ensuring that all cooperative members comply with all applicable regulations contained in part 679. The owners and operators will be held jointly and severally liable for overages of an annual cooperative allocation, and for any other violation of these regulations committed by a member vessel of a cooperative.

(6) *Excessive harvesting shares.* It is unlawful for an AFA entity to harvest, through a fishery cooperative or otherwise, an amount of BSAI pollock that exceeds the 17.5 percent excessive share limit specified under § 679.20(a)(5)(i)(A)(*6*). The owners and operators of the individual vessels comprising the AFA entity that harvests BSAI pollock will be held jointly and severally liable for exceeding the excessive harvesting share limit.

(7) *Excessive processing shares.* It is unlawful for an AFA entity to process an amount of BSAI pollock that exceeds the 30 percent excessive share limit specified under § 679.20(a)(5)(i)(A)(*7*). The owners and operators of the individual processors comprising the AFA entity that processes BSAI pollock will be held jointly and severally liable for exceeding the excessive processing share limit.

(8) *Crab processing limits.* It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity under § 679.66. The owners and operators of the individual entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

6. In § 679.20, paragraph (a)(5)(ii) is redesignated as paragraph (a)(5)(iii), a new paragraph (a)(5)(ii) is added, and paragraphs (a)(5)(i)(A), (a)(6), (b)(1)(i), (c)(4), and (d)(1)(iv) are revised to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(5) * * *

(i) *Bering Sea Subarea*—(A) *AFA allocations (applicable through December 31, 2004).* The pollock TAC apportioned to the Bering Sea Subarea, after subtraction of the 10 percent CDQ reserve under § 679.31 (a), will be allocated as follows:

(*1*) *Incidental catch allowance.* The Regional Administrator will establish an incidental catch allowance to account for projected incidental catch of pollock by vessels engaged in directed fishing for groundfish other than pollock and by vessels harvesting non-pollock CDQ. If during a fishing year, the Regional Administrator determines that the incidental catch allowance has been set too high or too low, he/she may issue inseason notification in the Federal Register that reallocates pollock to/from the directed pollock fisheries to/from the incidental catch allowance according to the proportions established under paragraph (a)(5)(i)(A) of this section.

(*2*) *Directed fishing allowance.* The remaining pollock TAC apportioned to the Bering Sea subarea is established as a directed fishing allowance.

(*3*) *Inshore sector allocation.* Fifty percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA inshore processors. The inshore allocation will be further divided into separate allocations for cooperative and open access fishing.

(*i*) *Inshore cooperatives.* The inshore cooperative allocation will be equal to the aggregate annual allocations of all AFA inshore catcher vessel cooperatives that receive pollock allocations under § 679.62(e).

(*ii*) *Inshore open access.* The inshore open access allocation will equal that portion of the inshore sector allocation that is not allocated to inshore cooperatives.

(*4*) *Catcher/processor sector allocation.* Forty percent of the directed fishing allowance will be allocated to AFA catcher/processors and AFA catcher vessels delivering to catcher processors.

(*i*) *Catcher/processor and catcher vessel cooperatives.* If by December 1 of the year prior to the year when fishing under the cooperative agreement will begin, NMFS receives filing of cooperative contracts and/or an inter-cooperative agreement entered into by listed AFA catcher/processors and all AFA catcher vessels with catcher/processor sector endorsements, and the Regional Administrator determines that such contracts provide for the distribution of harvest between catcher/processors and catcher vessels in a manner agreed to by all members of the catcher/processor sector cooperative(s), then NMFS will not subdivide the catcher/processor sector allocation between catcher vessels and catcher/processors.

(*ii*) *Catcher vessel allocation.* If such contract is not filed with NMFS by December 1 of the preceding year, then NMFS will allocate 91.5 percent of the catcher/processor sector allocation to AFA catcher/processors engaged in directed fishing for pollock and 8.5 percent of the catcher/processor sector allocation to AFA catcher vessels delivering to catcher/processors.

(*iii*) *Unlisted AFA catcher processors.* Unlisted AFA catcher/processors will be limited to harvesting not more than 0.5 percent of catcher/processor sector allocation.

(*5*) *Mothership sector allocation.* Ten percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA motherships.

(*6*) *Excessive harvesting share.* NMFS will establish an excessive harvesting share limit equal to 17.5 percent of the directed fishing allowance. The excessive harvesting share limit will be published in the annual harvest specifications.

(*7*) *Excessive processing share.* NMFS will establish an excessive processing share limit equal to 30.0 percent of the directed fishing allowance. The excessive processing share limit will be published in the annual harvest specifications.

(ii) *Aleutian Islands Subarea and Bogoslof District.* If the Aleutian Islands subarea and/or Bogoslof District is open to directed fishing for pollock by regulation, then the pollock TAC for those areas will be allocated according to the same procedure established for the Bering Sea subarea at paragraph (a)(5)(i) of this section. If the Aleutian Islands subarea and/or Bogoslof District is closed to directed fishing for pollock by regulation then the entire TAC for those areas will be allocated as an incidental catch allowance.

(6) *GOA inshore/offshore allocations*—(i) *GOA pollock.* The apportionment of pollock in all GOA regulatory areas and for each season allowance described in paragraph (a)(5)(iii) of this section will be allocated entirely to vessels harvesting pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(ii) *GOA Pacific cod.* The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels harvesting Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels harvesting Pacific cod for processing by the offshore component in the GOA.

* * * * *

(b) *Reserves*—(1) *BSAI*—(i) *General.* Fifteen percent of the BSAI TAC for each target species and the "other species" category, except pollock and the hook-and-line and pot gear allocation for sablefish, is automatically placed in a reserve, and the remaining 85 percent of the TAC is apportioned for each target species and the "other species" category, except pollock and the hook-and-line and pot gear allocation for sablefish.

* * * * *

(c) * * *

(4) *AFA and inshore/offshore allocations*—(i) *BSAI pollock.* The annual harvest specifications will specify the allocation of pollock for processing by each AFA industry component in the BSAI, and any seasonal allowances thereof, as authorized under paragraph (a)(5) of this section.

(ii) *GOA pollock and Pacific cod.* The annual harvest specifications will specify the allocation of GOA pollock and GOA Pacific cod for processing by the inshore component in the GOA and the offshore component in the GOA, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

* * * * *

(d) * * *

(1) * * *

(iv) *AFA sideboard limitations* (applicable through December 31, 2004)—(A) If the Regional Administrator determines that any sideboard harvest limit for a group of AFA vessels established under § 679.64 has been or will be reached, the Regional Administrator may establish a sideboard directed fishing allowance for the species or species group applicable only to the identified group of AFA vessels.

(B) In establishing a directed fishing allowance under paragraph (d)(1)(iv)(A) of this section, the Regional Administrator will consider the amount of the sideboard limit established for a group of AFA vessels under § 679.64 that will be taken as incidental catch by those vessels in directed fishing for other species.

(C) If the Regional Administrator determines that a sideboard amount is insufficient to support a directed fishery for that species then the Regional Administrator may set the sideboard directed fishing allowance at zero for that species or species group.

* * * * *

7. In § 679.21, paragraphs (d)(8) and (e)(3)(v) are revised to read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(d) * * *

(8) *AFA halibut bycatch limitations* (applicable through December 31, 2004). Halibut bycatch limits for AFA catcher vessels will be established according to the procedure and formula set out in § 679.64(b) and managed through directed fishing closures for AFA catcher vessels in the groundfish fisheries to which the halibut bycatch limit applies.

* * * * *

(e) * * *

(3) * * *

(v) *AFA prohibited species catch limitations* (applicable through December 31, 2004). Halibut and crab PSC limits for AFA catcher/processors and AFA catcher vessels will be established according to the procedures and formulas set out in § 679.64 (a) and (b) and managed through directed fishing closures for AFA catcher/processors and AFA catcher vessels in the groundfish fisheries for which the PSC limit applies.

* * * * *

8. In § 679.28, paragraph (c) is revised, and a new paragraph (g) is added to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(c) *Scales approved by the State of Alaska.* Scale requirements in this paragraph are in addition to those requirements set forth by the State of Alaska, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State of Alaska or its territorial sea. Scales used to weigh groundfish catch that are also required to be approved by the State of Alaska under Alaska Statute 45.75 must meet the following requirements:

(1) *Verification of approval.* The scale must display a valid State of Alaska sticker indicating that the scale was inspected and approved within the previous 12 months.

(2) Visibility. The owner and manager of the processor must ensure that the scale and scale display are visible simultaneously to the observer. Observers, NMFS personnel, or an authorized officer must be allowed to observe the weighing of fish on the scale and be allowed to read the scale display at all times.

(3) *Printed scale weights.* (i) The owner and manager of the processor must ensure that printouts of the scale weight of each haul, set, or delivery are made available to observers, NMFS personnel, or an authorized officer at the time printouts are generated and thereafter upon request for the duration of the fishing year. The owner and manager must retain scale printouts as records as specified in § 679.5(a)(13).

(ii) A scale identified in a CMCP (see paragraph g of this section) must produce a printed record for each delivery, or portion of a delivery, weighed on that scale. If approved by NMFS as part of the CMCP, scales not designed for automatic bulk weighing may be exempted from part or all of the printed record requirements. The printed record must include:

(A) The processor name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of fish in each delivery, or portion of the delivery that was weighed on that scale;

(D) The total cumulative weight of all fish or other material weighed on the scale since the last annual inspection;

(E) The date and time the information is printed;

(F) The name and ADF&G number of the vessel making the delivery. This information may be written on the scale printout in pen by the scale operator at the time of delivery.

(4) *Inseason scale testing.* Scales identified in an approved CMCP (see paragraph (g) of this section) must be tested by plant personnel in accordance with the CMCP when testing is requested by NMFS-staff or NMFS-authorized personnel. Plant personnel must be given no less than 20 minutes notice that a scale is to be tested and no testing may be requested if a scale test has been requested and the scale has been found to be accurate within the last 24 hours.

(i) *How does a scale pass an inseason test?* To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, weight values are visible on the display until the value is printed, and the scale does not exceed the maximum permissible errors specified below:

Test Load in Scale Divisions	Maximum Error in Scale Divisions
0–500	1
501–2,000	2
2,001–4,000	3
>4000	5

(ii) How much weight is required to do an inseason scale test? Scales must be tested with the amount and type of weight specified below.

Scale Type	Capacity	Certified Test Weights	Other test material
Automatic Hopper	0 to 150 kg (0 to 300 lb)	Minimum Weighment or 10 kg (20 lb), whichever is greater Maximum	Minimum Maximum
Automatic Hopper	>150 kg (300 lb)	Minimum Weighment or 10 kg (20 lb), whichever is greater 25 percent of Maximum or 150 kg (300 lb), whichever is greater..	Minimum Maximum
Platform or flatbed	0 to 150 kg (0 to 300 lb)	10 kg (20 lb) Midpoint Maximum	Not Acceptable
Platform or flatbed	>150 kg (300 lb)	10 kg (20 lb) 12.5 percent of Maximum or 75 kg (150 lb), whichever is greater. 25 percent of Maximum or 150 kg (300 lb), whichever is greater.:	Not Acceptable 50 percent of Maximum or 75 kg (150 lb), whichever is greater 75 percent of Maximum or 150 kg (300 lb), whichever is greater
Observer sampling scale	≥50 kg	10 kg 25 kg 50 kg	Not Acceptable

(iii) *Certified test weights.* Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years. An observer platform scale must be provided with sufficient test weights to test the scale at 10 kg, 25 kg and 50 kg. All other scales identified in an approved CMCP must be provided with sufficient test weights to test the scale as described in this paragraph (c)(4). Test weights for observer platform scales must be denominated in kilograms. Test weights for other scales may be denominated in pounds.

(iv) *Other test material.* When permitted in paragraph (c)(4)(ii) of this section, a scale may be tested with test material other than certified test weights. This material must be weighed on an accurate observer platform scale at the time of each use.

(v) *Observer sampling scales.* Platform scales used as observer sampling scales must:

(A) Have a capacity of no less than 50 kg;

(B) Have a division size of no less than 5 g;

(C) Indicate weight in kilograms and decimal subdivisions; and

(D) Be accurate within plus or minus 0.5 percent when tested at 10 kg, 25 kg and 50 kg by NMFS staff or a NMFS-certified observer.

* * * * *

(g) *Catch monitoring and control plan (CMCP).* A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in paragraph (g)(6) of this section.

(1) *Who is required to prepare and submit a CMCP for approval?* The owner and manager of an AFA inshore processor is required to prepare and submit a CMCP which must be approved by NMFS prior to the receipt of pollock harvested in the BSAI directed pollock fishery.

(2) *How is a CMCP approved by NMFS?* NMFS will approve a CMCP if it meets all the performance standards specified in paragraph (g)(6) of this section. The processor must be inspected by NMFS prior to approval of the CMCP to ensure that the processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receiving a complete CMCP and conducting a CMCP inspection. If NMFS disapproves a CMCP, the plant owner or manager may resubmit a revised CMCP or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(3) *How is a CMCP inspection arranged?* The time and place of a CMCP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. NMFS will schedule an inspection within 10 working days after NMFS receives a complete application for an inspection. The inspection request must include:

(i) Name and signature of the person submitting the application and the date of the application;

(ii) Address, telephone number, fax number, and email address (if available) of the person submitting the application;

(iii) A proposed CMCP detailing how the processor will meet each of the performance standards in paragraph (g)(6) of this section.

(4) *For how long is a CMCP approved?* NMFS will approve a CMCP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMCP.

(5) *How do I make changes to my CMCP?* An owner and manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the performance standards specified in paragraph (e)(2) of this section. Depending on the nature and magnitude of the change requested, NMFS may require a CMCP inspection as described in paragraph (g)(3) of this section. A CMCP addendum must contain:

(i) Name and signature of the person submitting the addendum;

(ii) Address, telephone number, fax number and email address (if available) of the person submitting the addendum;

(iii) A complete description of the proposed CMCP change.

(6) *Catch monitoring and control standards*—(i) Catch sorting and weighing requirements. All groundfish delivered to the plant must be sorted and weighed by species. The CMCP must detail the amount and location of space for sorting catch, the number of staff assigned to catch sorting and the maximum rate that catch will flow through the sorting area.

(ii) *Scales used for weighing groundfish.* The CMCP must identify by serial number each scale used to weigh groundfish and describe the rational for its use.

(iii) *Scale testing procedures.* Scales identified in the CMCP must be accurate within the limits specified in paragraph (c)(4)(i) of this section. For each scale identified in the CMCP a testing plan must be developed that:

(A) Describes the procedure the plant will use to test the scale;

(B) Lists the test weights and equipment required to test the scale;

(C) Lists where the test weights and equipment will be stored;

(D) Lists the plant personnel responsible for conducting the scale testing.

(iv) *Printed record.* The owner and manager must ensure that the scale produces a complete and accurate printed record of the weight of each species in a delivery. All of the groundfish in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (c)(3) of this section. However, NMFS may exempt scales not designed for automatic bulk weighing from some or all of the printed record requirements if the CMCP identifies any scale that cannot produce a complete printed record, states how the processor will use the scale, and states how the plant intends to produce a complete record of the total weight of each delivery.

(v) *Delivery point.* Each CMCP must identify a single delivery point. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. It the catch is pumped from the hold of a catcher vessel or a codend, the delivery point normally will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the delivery point normally will be the bin or belt where the brailer discharges the catch.

(vi) *Observation area.* Each CMCP must designate an observation area. The observation area is a location designated on the CMCP where an individual may monitor the flow of fish during a delivery. The owner and manager must ensure that the observation area meets the following standards:

(A) *Access to the observation area.* The observation area must be freely accessible to NMFS staff or NMFS-authorized personnel at any time a valid CMCP is required.

(B) *Monitoring the flow of fish.* From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire flow of fish between the delivery point and a location where all sorting has taken place and each species has been weighed.

VOL 66 ISS 242 DE 17 2001 UMI

(vii) *Observer work station.* Each CMCP must identify and include an observer work station for the exclusive use of NMFS-certified observers. Unless otherwise approved by NMFS, the work station must meet the following criteria:

(A) *Location of observer work station.* The observer work station must be located in an area protected from the weather where the observer has access to unsorted catch.

(B)*Platform scale.* The observer work station must include a platform scale as described in paragraph (c)(4) of this section;

(C) *Proximity to observer work station.* The observer area must be located near the observer work station. The plant liaison must be able to walk between the work station and the observation area in less than 20 seconds without encountering safety hazards.

(D) *Workspace.* The observer work station must include: A working area of at least 4.5 square meters, a table as specified in paragraph (d)(4) of this section, and meet the other requirements as specified in paragraph (d)(6) of this section.

(E) *Lockable cabinet.* The observer work station must include a secure and lockable cabinet or locker of at least 0.5 cubic meters.

(viii) *Communication with observer.* The CMCP must describe what communication equipment such as radios, pagers or cellular phones, is used to facilitate communications within the plant. The plant owner must ensure that the plant manager provides the NMFS-certified observer with the same communications equipment used by plant staff.

(ix) *Plant liaison.* The CMCP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers to the plant;

(B) Assisting in the resolution of observer concerns;

(C) Informing NMFS if changes must be made to the CMCP.

(x) *Scale drawing of plant.* The CMCP must be accompanied by a scale drawing of the plant showing:

(A) The delivery point;

(B) The observation area;

(C) The observer work station;

(D) The location of each scale used to weigh catch;

(E) Each location where catch is sorted.

9. In § 679.31, paragraph (a) is revised to read as follows:

§ 679.31 CDQ reserves.

* * * * *

(a) *Pollock CDQ reserve*—(1) *Bering Sea.* In the annual harvest specifications required by § 679.20(c), 10 percent of the Bering Sea subarea pollock TAC will be allocated to a CDQ reserve.

(2) *Aleutian Islands Subarea and Bogoslof District.* In the annual harvest specifications required by § 679.20(c), 10 percent of the Aleutian Islands subarea and Bogoslof District pollock TAC will be allocated to a CDQ reserve unless the Aleutian Islands subarea and/or Bogoslof District is closed to directed fishing for pollock by regulation. If the Aleutian Islands subarea and/or Bogoslof District is closed to directed fishing for pollock by regulation then no pollock CDQ reserve will be established for those areas and incidental harvest of pollock by CDQ groups will accrue against the incidental catch allowance for pollock established under § 679.20(a)(5)(i)(A)(*1*).

* * * * *

10. In § 679.32, a new paragraph (c)(3)(vi) is added to read as follows:

§ 679.32 Groundfish and halibut CDQ catch monitoring.

* * * * *

(c) * * *

(3) * * *

(vi) *AFA inshore processors.* Take deliveries from a vessel engaged in directed fishing for pollock CDQ without following an approved CMCP as described at § 679.28(g).

* * * * *

11. In § 679.50, paragraph (c)(4)(i) is revised, paragraphs (c)(6) and (d)(6) are redesignated as paragraphs (c)(5) and (d)(5), respectively, and newly redesignated paragraphs (c)(5) and (d)(5) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

* * * * *

(c) * * *

(4) * * *

(i) *Motherships or catcher/processors using trawl gear*—(A) *Multi-species CDQ fishery.* A mothership or catcher/processor using trawl gear to participate in the multi-species CDQ fishery must have at least two level 2 observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead level 2 observer.

(B) *Pollock CDQ fishery.* A mothership or catcher/processor using trawl gear to participate in a directed fishery for pollock CDQ must have at least two NMFS-certified observers aboard the vessel, at least one of whom must be certified as a lead level 2 observer.

* * * * *

(5) *AFA catcher/processors and motherships (applicable through December 31, 2004)*—(i) *Coverage requirement*— (A) *Listed AFA catcher/processors and AFA motherships.* The owner or operator of a listed AFA catcher/processor or AFA mothership must provide at least two NMFS-certified observers, at least one of which must be certified as a lead level 2 observer, for each day that the vessel is used to harvest, process, or take deliveries of groundfish. More than two observers are required if the observer workload restriction at § 679.50(c)(5)(iii) would otherwise preclude sampling as required under § 679.63(a)(1).

(B) *Unlisted AFA catcher/processors.* The owner or operator of an unlisted AFA catcher/processor must provide at least two NMFS-certified observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or takes deliveries of pollock harvested in the BSAI. At least one observer must be certified as a lead level 2 observer. When an unlisted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving deliveries of pollock harvested in the BSAI, the observer coverage requirements at § 679.50(c)(1)(iv) apply.

(ii) *Observer work load.* The time required for the observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24–hour period, and, the observer may not sample more than 9 hours in each 24–hour period.

* * * * *

(d) * * *

(5) *AFA inshore processors (applicable through December 31, 2004)*—(i) *Coverage level.* An AFA inshore processor is required to provide a NMFS certified observer for each 12 consecutive hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BSAI. An AFA inshore processor that takes delivery of or processes pollock harvested in the BSAI directed pollock fishery for more than 12 consecutive hours in a calendar day is required to provide two NMFS-certified observers for each such day.

(ii) *Multiple processors.* An observer deployed to an AFA inshore processor may not be assigned to cover more than one processor during a calendar day in which the processor receives or processes pollock harvested in the BSAI directed pollock fishery.

(iii) *Observers transferring between vessels and processors.* An observer transferring from an AFA catcher vessel to an AFA inshore processor may not be assigned to cover the AFA inshore processor until at least 12 hours after offload and sampling of the catcher vessel's delivery is completed.

* * * * *

12. In 50 CFR part 679, Subpart F—American Fisheries Act Management Measures is revised to read as follows:

Subpart F—American Fisheries Act Management Measures (applicable through December 31, 2004)

679.60 Authority and related regulations.
679.61 Formation and operation of fishery cooperatives.
679.62 Inshore sector cooperative allocation program.
679.63 Catch weighing requirements for vessels and processors.
679.64 Harvesting sideboard limits in other fisheries.
679.65 Crab processing sideboard limits.

§ 679.60 Authority and related regulations.

Regulations under this subpart were developed by the National Marine Fisheries Service and the North Pacific Fishery Management Council to implement the American Fisheries Act (AFA) [Div. C, Title II, Subtitle II, Pub. L. No. 105–277, 112 Stat. 2681 (1998)]. Additional regulations in this part that implement specific provisions of the AFA are set out at § 679.2 Definitions, 679.4 Permits, 679.5 Recordkeeping and reporting, 679.7 Prohibitions, 679.20 General limitations, 679.21 Prohibited species bycatch management, 679.28 Equipment and operational requirements for Catch Weight Measurement, 679.31 CDQ reserves, and 679.50 Groundfish observer program. Regulations developed by the Department of Transportation to implement provisions of the AFA are found at 50 CFR part 356.

§ 679.61 Formation and operation of fishery cooperatives.

(a) *Who must comply this section?* Any fishery cooperative formed under section 1 of the Fisherman's Collective Marketing Act 1934 (15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for BSAI pollock must comply with the provisions of this section.

(b) *Who is responsible for compliance?* The owners and operators of all the member vessels that are signatories to a fishery cooperative are jointly and severally responsible for compliance with the requirements of this section. Each cooperative also must appoint a designated representative and agent for service of process and must ensure that the cooperative's designated representative and agent for service of process comply with the regulations in this part.

(1) *Designated representative.* Any cooperative formed under this section must appoint a designated representative to fulfill regulatory requirements on behalf of the cooperative including, but not limited to, filing of cooperative contracts, filing of annual reports, and in the case of inshore sector catcher vessel cooperatives, signing cooperative fishing permit applications and completing and submitting inshore catcher vessel pollock cooperative catch reports. The designated representative is the primary contact person for NMFS on issues relating to the operation of the cooperative.

(2) *Agent for service of process.* Any cooperative formed under this section must appoint an agent who is authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of the cooperative. The cooperative must provide the Regional Administrator with the name, address and telephone number of the appointed agent. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

(c) *What is the term of service and process for replacing the agent for service of process?* The agent for service of process must be capable of accepting service on behalf of the cooperative until December 31 of the year five years after the calendar year for which the fishery cooperative has filed its intent to operate. The owners and operators of all member vessels of a cooperative are responsible for ensuring that a substitute agent is designated and the Agency is notified of the name, address and telephone number of the substitute agent in the event the previously designated agent is no longer capable of accepting service on behalf of the cooperative or the cooperative members within that 5–year period.

(d) *What is the requirement for annual filing of cooperative contracts?* You must file on an annual basis with the Council and NMFS a signed copy of your fishery cooperative contract, and any material modifications to any such contract, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. The Council and NMFS will make this information available to the public upon request.

(e) *Where must contracts be filed?* You must send a signed copy of your cooperative contract and the required supporting materials to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK; 99501; and to the NMFS Alaska Region. The mailing address for the NMFS Alaska Region is P.O. Box 21668, Juneau, AK, 99802. The street address for delivery by private courier is 709 West 9th St., Suite 401, Juneau, AK 99801.

(f) *What is the deadline for filing?* The contract and supporting materials must be received by NMFS and by the Council at least 30 days prior to the start of any fishing activity conducted under the terms of the contract. In addition, an inshore cooperative that is also applying for an allocation of BSAI pollock under § 679.62 must file its contract, any amendments hereto, and supporting materials no later than December 1 of the year prior to the year in which fishing under the contract will occur.

(g) *What are the required elements in all fishery cooperative contracts?* Any cooperative contract filed under paragraph (b) of this section must:

(1) List of parties to the contract,

(2) List of all vessels and processors that will harvest and process pollock harvested under the cooperative,

(3) Specify the amount or percentage of pollock allocated to each party to the contract, and

(4) Specify a designated representative and agent for service of process.

(5) Include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery which is not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid will result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 *et seq.*).

(h) *What are the required elements in all fishery cooperatives that include AFA catcher vessels?* A cooperative contract that includes catcher vessels must include adequate provisions to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following formula:

(1) The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed

the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced to the cooperative by the Regional Administrator, or

(2) In the case of two or more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced by the Regional Administrator.

(i) *Annual reporting requirements for fishery cooperatives.* Any fishery cooperative governed by this section must submit preliminary and final annual written reports on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501. The Council will make copies of each report available to the public upon request.

(j) *What are the deadlines for submission?* The preliminary report covering activities through November 1 must be submitted by December 1 of each year. The final report covering activities for an entire calendar year must be submitted by February 1 the following year.

(k) *What information must be included in the annual reports?* The preliminary and final written reports must contain, at a minimum:

(1) The cooperative's allocated catch of pollock and sideboard species, and any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on a vessel-by-vessel basis;

(2) The cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis;

(3) A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and

(4) A description of any actions taken by the cooperative in response to any vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries.

(l) *What is the minimum number of copies and required format?* The minimum number of copies that must be submitted is one. However, cooperatives are welcome and encouraged to submit multiple copies of their annual report to the Council for distribution to the public. At least one copy of each annual report must be submitted to the Council ready for duplication on unbound single-sided 8.5- by 11–inch paper.

§ 679.62 Inshore sector cooperative allocation program.

(a) *How will inshore sector cooperative allocations be made?* An inshore catcher vessel cooperative that applies for and receives an AFA inshore cooperative fishing permit under § 679.4(l)(6) will receive a sub-allocation of the annual Bering Sea subarea inshore sector directed fishing allowance. If the Aleutian Islands Subarea is open to directed fishing for pollock then the cooperative also will receive a sub-allocation of the annual Aleutian Islands Subarea inshore sector directed fishing allowance. Each inshore cooperative's annual allocation amount(s) will be determined using the following procedure:

(b) *How will individual vessel catch histories be calculated?* The Regional Administrator will calculate an official AFA inshore cooperative catch history for every inshore-sector endorsed AFA catcher vessel according to the following steps:

(1) *Determination of annual landings.* For each year from 1995 through 1997 the Regional Administrator will determine each vessel's total non-CDQ inshore pollock landings from the Bering Sea Subarea and Aleutian Islands Subarea separately, except for the F/V PROVIDIAN (USCG documentation number 1062183).

(2) *Determination of annual landings for the F/V PROVIDIAN.* For the F/V PROVIDIAN, pursuant to Public Law 106–562, the Regional Administrator will substitute the 1992 through 1994 total Bering Sea subarea and Aleutian Islands subarea pollock non-CDQ inshore landings made by the F/V OCEAN SPRAY (USCG documentation number 517100 for the purpose of determining annual quota share percentage.

(3) *Offshore compensation.* If a catcher vessel made a total of 500 or more mt of landings of non-CDQ Bering Sea Subarea pollock or Aleutian Islands Subarea pollock to catcher/processors or offshore motherships other than the EXCELLENCE (USCG documentation number 967502); GOLDEN ALASKA (USCG documentation number 651041); or OCEAN PHOENIX (USCG documentation number 296779) over the 3–year period from 1995 through 1997, then all non-CDQ offshore pollock landings made by that vessel during from 1995 through 1997 will be added to the vessel's inshore catch history by year and subarea.

(4) *Best two out of three years.* After steps (i) and (ii) are completed, the 2 years with the highest landings will be selected for each subarea and added together to generate the vessel's official AFA inshore cooperative catch history for each subarea. A vessel's best 2 years may be different for the Bering Sea subarea and the Aleutian Islands Subarea.

(c) *How will individual vessel catch histories be converted to annual cooperative quota share percentages?* Each inshore pollock cooperative that applies for and receives an AFA inshore pollock cooperative fishing permit will receive an annual quota share percentage of pollock for each subarea of the BSAI that is equal to the sum of each member vessel's official AFA inshore cooperative catch history for that subarea divided by the sum of the official AFA inshore cooperative catch histories of all inshore-sector endorsed AFA catcher vessels. The cooperative's quota share percentage will be listed on the cooperative's AFA pollock cooperative permit.

(d) *How will annual quota share percentages be converted to annual TAC allocations?* Each inshore pollock cooperative that receives a quota share percentage for a fishing year will receive an annual allocation of Bering Sea and/ or Aleutian Islands pollock that is equal to the cooperative's quota share percentage for that subarea multiplied by the annual inshore pollock allocation for that subarea. Each cooperative's annual pollock TAC allocation may be published in the interim, and final BSAI TAC specifications notices.

(e) *What are the restrictions on fishing under an inshore cooperative fishing permit?* Any cooperative that receives a cooperative fishing permit under § 679.4(l)(6) must comply with the following fishing restrictions. The owners and operators of all the member vessels that are named on an inshore cooperative fishing permit are jointly and severally responsible for compliance.

(f) *What vessels are eligible to fish under an inshore cooperative fishing permit?* Only catcher vessels listed on a cooperative's AFA inshore cooperative fishing permit are permitted to harvest any portion of an inshore cooperative's annual pollock allocation.

(g) *What harvests accrue against the cooperative allocation?* All BSAI inshore pollock harvested by a member vessel while engaging in directed fishing for inshore pollock in the BSAI during the fishing year for which the annual cooperative allocation is in effect will accrue against the cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded.

(h) *How must cooperative harvests be reported*? Each inshore pollock cooperative must report its BSAI pollock harvest to NMFS on a weekly basis according to the recordkeeping and reporting requirements set out at § 679.5(o).

§ 679.63 Catch weighing requirements for vessels and processors.

(a) *What are the requirements for listed AFA catcher/processors and AFA motherships*? (1) *Catch weighing.* All groundfish landed by listed AFA catcher/processors or received by AFA motherships must be weighed on a NMFS-certified scale and made available for sampling by a NMFS certified observer. The owner and operator of a listed AFA catcher/processor or an AFA mothership must ensure that the vessel is in compliance with the scale requirements described at § 679.28(b), that each groundfish haul is weighed separately, and that no sorting of catch takes place prior to weighing.

(2) *Observer sampling station.* The owner and operator of a listed AFA catcher/processor or AFA mothership must provide an observer sampling station as described at § 679.28(d) and must ensure that the vessel operator complies with the observer sampling station requirements described at § 679.28(d) at all times that the vessel harvests groundfish or receives deliveries of groundfish harvested in the BSAI or GOA.

(b) *What are the requirements for unlisted AFA catcher/processors*? The owner or operator of an unlisted AFA catcher/processor must comply with the catch weighing and observer sampling station requirements set out in paragraph (a) of this section at all times the vessel is engaged in directed fishing for pollock in the BSAI.

(c) *What are the requirements for AFA inshore processors*? (1) *Catch weighing.* All groundfish landed by AFA catcher vessels engaged in directed fishing for pollock in the BSAI must be sorted and weighed on a scale approved by the State of Alaska as described in § 679.28(c), and be made available for sampling by a NMFS certified observer. The observer must be allowed to test any scale used to weigh groundfish in order to determine its accuracy.

(2) The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of BSAI pollock by an AFA catcher vessel at least 1 hour prior to offloading. An observer must monitor each delivery of BSAI pollock from an AFA catcher vessel and be on site the entire time the delivery is being weighed or sorted.

§ 679.64 Harvesting sideboards limits on other fisheries.

(a) *Harvesting sideboards for listed AFA catcher/processors.* The Regional Administrator will restrict the ability of listed AFA catcher/processors to engage in directed fishing for non-pollock groundfish species to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery.

(1) *How will groundfish sideboard limits for AFA listed catcher/processors be calculated*? (i) For each groundfish species or species group in which a TAC is specified for an area or subarea of the BSAI, the Regional Administrator will establish annual AFA catcher/processor harvest limits as follows:

(ii) *Pacific cod.* The Pacific cod harvest limit will be equal to the 1997 aggregate retained catch of Pacific cod by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the amount of Pacific cod caught by trawl catcher/processors in 1997 multiplied by the Pacific cod TAC available for harvest by trawl catcher/processors in the year in which the harvest limit will be in effect.

(2) *Aleutian Islands Pacific ocean perch.* (i) The Aleutian Islands Pacific ocean perch harvest limit will be equal to the 1996 through 1997 aggregate retained catch of Aleutian Islands Pacific ocean perch by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the Aleutian Islands Pacific ocean perch catch in 1996 and 1997 multiplied by the Aleutian Islands Pacific ocean perch TAC available for harvest in the year in which the harvest limit will be in effect.

(ii) If the amount of Pacific ocean perch calculated under paragraph (a)(1)(ii)(A) of this section is determined by the Regional Administrator to be insufficient to meet bycatch needs of AFA catcher/processors in other directed fisheries for groundfish, the Regional Administrator will prohibit directed fishing for Aleutian Islands Pacific ocean perch by AFA catcher processors and establish the sideboard amount equal to the amount of Aleutian Islands Pacific ocean perch caught by AFA catcher processors incidental to directed fishing for other groundfish species.

(3) *Atka mackerel.* The Atka mackerel harvest limit for each area and season will be equal to:

(i) Bering Sea subarea and Eastern Aleutian Islands, zero;

(ii) Central Aleutian Islands, 11.5 percent of the annual TAC specified for Atka mackerel; and

(iii) Western Aleutian Islands, 20 percent of the annual TAC specified for Atka mackerel.

(4) *Remaining groundfish species.* (i) Except as provided for in paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the harvest limit for each BSAI groundfish species or species group will be equal to the 1995 through 1997 aggregate retained catch of that species by catcher/processors listed in paragraphs 208(e)(1) through (20) and section 209 of the AFA in non-pollock target fisheries divided by the sum of the catch of that species in 1995 through 1997 multiplied by the TAC of that species available for harvest by catcher/processors in the year in which the harvest limit will be in effect.

(ii)If the amount of a species calculated under paragraph (a)(1)(iv) of this section is determined by the Regional Administrator to be insufficient to meet bycatch needs for AFA catcher/processors in other directed fisheries for groundfish, the Regional Administrator will prohibit directed fishing for that species by AFA catcher processors and establish the sideboard amount equal to the amount of that species caught by AFA catcher processors incidental to directed fishing for other groundfish species.

(5) *How will halibut and crab PSC sideboard limits be calculated*? For each halibut or crab PSC limit specified for catcher/processors in the BSAI, the Regional Administrator will establish an annual listed AFA catcher/processor PSC limit equal to the estimated aggregate 1995 through 1997 PSC bycatch of that species by catcher/processors listed in paragraphs 208(e)(1) through (20) and 209 of the AFA while engaged in directed fishing for species other than pollock divided by the aggregate PSC bycatch limit of that species for catcher/processors from 1995 through 1997 multiplied by the PSC limit of that species available to catcher/processors in the year in which the harvest limit will be in effect.

(6) *How will AFA catcher/processor sideboard limits be managed*? The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher/processors through directed fishing closures in non-pollock groundfish fisheries in accordance with the

VOL 66 ISS 2 4 2 DE 17 2001 UMI

procedures set out in §§ 679.20(d)(1)(iv), and 679.21(e)(3)(v).

(b) *Harvesting sideboards for AFA catcher vessels.* The Regional Administrator will restrict the ability of AFA catcher vessels to engage in directed fishing for other groundfish species to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery.

(1) *To whom do the catcher vessel sideboard limits apply?* Catcher vessel harvest limits and PSC bycatch limits apply to all AFA catcher vessels participating in all GOA groundfish fisheries and all non-pollock groundfish fisheries in the BSAI except vessels qualifying for sideboard exemptions in the specific fisheries identified in paragraph (b)(2) of this section.

(2) *Who is exempt from catcher vessel sideboards?* (i) *BSAI Pacific cod sideboard exemptions*—(A) AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by the Regional Administrator to have harvested a combined total of less than 5,100 mt of BSAI pollock, and to have made 30 or more legal landings of Pacific cod in the BSAI directed fishery for Pacific cod from 1995 through 1997 are exempt from sideboard closures for BSAI Pacific cod.

(B) AFA catcher vessels with mothership endorsements are exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year.

(ii) *GOA groundfish sideboard exemptions.* AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by the Regional Administrator to have harvested less than 5100 mt of BSAI pollock and to have made 40 or more landings of GOA groundfish from 1995 through 1997 are exempt from GOA groundfish catcher vessel sideboard directed fishing closures.

(3) *How will groundfish sideboard limits be calculated?* For each groundfish species or species group in which a TAC is specified for an area or subarea of the GOA and BSAI; the Regional Administrator will establish annual AFA catcher vessel groundfish harvest limits as follows:

(i) *BSAI groundfish other than Pacific cod.* The AFA catcher vessel groundfish harvest limit for each BSAI groundfish species or species group other than BSAI Pacific cod will be equal to the aggregate retained catch of that groundfish species or species group from 1995 through 1997 by all AFA catcher vessels; divided by the sum of the TACs available to catcher vessels for that species or species group from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(ii) *BSAI Pacific cod.* The AFA catcher vessel groundfish harvest limit for BSAI Pacific cod will be equal to the retained catch of BSAI Pacific cod in 1997 by AFA catcher vessels not exempted under § 679.64(b)(2)(i)(A) divided by the BSAI Pacific cod TAC available to catcher vessels in 1997; multiplied by the BSAI Pacific cod TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(iii) *GOA groundfish.* The AFA catcher vessel groundfish harvest limit for each GOA groundfish species or species group will be equal to the aggregate retained catch of that groundfish species or species group from 1995 through 1997 by AFA catcher vessels not exempted under § 679.64(b)(2)(ii); divided by the sum of the TACs of that species or species group available to catcher vessels from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(4) *How will PSC bycatch limits be calculated?* The AFA catcher vessel PSC bycatch limit for halibut in the BSAI and GOA, and each crab species in the BSAI for which a trawl bycatch limit has been established will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997.

(5) *How will catcher vessel sideboard limits be managed?* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher vessels using directed fishing closures according to the procedures set out at § 679.20(d)(1)(iv) and 679.21(d)(8) and (e)(3)(v).

§ 679.65 Crab processing sideboard limits.

(a) *What is the purpose of crab processing limits?* The purpose of crab processing sideboard limits is to protect processors not eligible to participate in the directed pollock fishery from adverse effects as a result of the AFA and the formation of fishery cooperatives in the directed pollock fishery.

(b) *To whom do the crab processing sideboard limits apply?* The crab processing sideboard limits in this section apply to any AFA inshore or mothership entity that receives pollock harvested in the BSAI directed pollock fishery by a fishery cooperative established under § 679.61 or § 679.62.

(c) *How are crab processing sideboard percentages calculated?* Upon receipt of an application for a cooperative processing endorsement from the owners of an AFA mothership or AFA inshore processor, the Regional Administrator will calculate a crab processing cap percentage for the associated AFA inshore or mothership entity. The crab processing cap percentage for each BSAI king or Tanner crab species will be equal to the percentage of the total catch of each BSAI king or Tanner crab species that the AFA crab facilities associated with the AFA inshore or mothership entity processed in the aggregate, on average, in 1995, 1996, 1997, and 1998 with 1998 given double-weight (counted twice).

(d) *How will AFA entities be notified of their crab processing sideboard percentages?* An AFA inshore or mothership entity's crab processing cap percentage for each BSAI king or Tanner crab species will be listed on each AFA mothership or AFA inshore processor permit that contains a cooperative pollock processing endorsement.

(e) *How are crab processing sideboard percentages converted to poundage caps?* Prior to the start of each BSAI king or Tanner crab fishery, NMFS will convert each AFA inshore or mothership entity's crab processing sideboard percentage to a poundage cap by multiplying the crab processing sideboard percentage by the pre-season guideline harvest level established for that crab fishery by ADF&G.

(f) *How will crab processing sideboard poundage caps be announced?* The Regional Administrator will notify each AFA inshore or mothership entity of its crab processing sideboard poundage cap through a letter to the owner of the AFA mothership or AFA inshore processor. The public will be notified of each entity's crab processing sideboard poundage cap through information bulletins published on the NMFS-Alaska Region world wide web home page (http:www.fakr.noaa.gov).

13. In § 679.5, 679.30, 679.32 and 679.50, at each of the paragraphs shown in the first column, remove the phrase indicated, respectively, second column, CHANGE FROM and replace it with the phrase indicated, respectively, in the third column, CHANGE TO, to read as follows:

In Paragraph:	CHANGE FROM	CHANGE TO	FREQUENCY
§ 679.5(n)(2)(v)(A)(*1*)	CDQ observer's	observer's	1
§ 679.5(n)(2)(v)(A)(*1*)	CDQ observer	observer	1
§ 679.5(n)(2)(v)(A)(*2*)	CDQ observer's	observer's	1
§ 679.5(n)(2)(v)(A)(*2*)	CDQ observer	observer	1
§ 679.7(d)(15)	CDQ observer	level 2 observer	1
§ 679.30(a)(5)(i)(A)(*2*)(*i*)	CDQ observers	level 2 observers	2
§ 679.30(a)(5)(i)(A)(*2*)(*i*)	CDQ observer	level 2 observer	2
§ 679.30(a)(5)(ii)(D)	CDQ observer	level 2 observer	2
§ 679.32(c)(2)(i)(B)	CDQ observer	level 2 observer	1
§ 679.32(c)(2)(i)(C)	CDQ observer	level 2 observer	1
§ 679.32(c)(2)(ii)(A)	CDQ observer	level 2 observer	1
§ 679.32(c)(2)(ii)(B)(*1*)	CDQ observer	level 2 observer	1
§ 679.32(c)(2)(ii)(B)(*2*)	CDQ observer	level 2 observer	1
§ 679.32(c)(3)(i)	CDQ observer	level 2 observer	2
§ 679.32(c)(3)(iv)	CDQ observer	level 2 observer	1
§ 679.32(c)(4)(i)	CDQ observer(s)	level 2 observer(s)	2
§ 679.32(c)(4)(iv)	CDQ observer	level 2 observer	1
§ 679.32(c)(4)(v)	CDQ observer	level 2 observer	1
§ 679.32(d)(2)(ii)	CDQ observer	level 2 observer	1
§ 679.32(d)(2)(iii)	CDQ observer's	level 2 observer's	1
§ 679.32(d)(2)(iv)(A)	CDQ observer's	level 2 observer's	1
§ 679.32(d)(2)(iv)(B)	CDQ observer's	level 2 observer's	1
§ 679.32(d)(2)(v)	CDQ observer's	level 2 observer's	1
§ 679.32(d)(2)(vi)	CDQ observer's	level 2 observer's	1
§ 679.50(c)(4) introductory	CDQ observer	level 2 observer	2
§ 679.50(c)(4)(i)	CDQ observers	level 2 observers	1
§ 679.50(c)(4)(i)	CDQ observer	level 2 observer	1
§ 679.50(c)(4)(ii)	CDQ observer	level 2 observer	4
§ 679.50(c)(4)(ii)	CDQ observers	level 2 observers	2
§ 679.50(c)(4)(iii)	CDQ observer	level 2 observer	1
§ 679.50(c)(4)(iv)	CDQ observer	level 2 observer	1
§ 679.50(d)(4)	CDQ observer	level 2 observer	3
§ 679.50(h)(1)(i)(D)	CDQ observer	level 2 observer	1
§ 679.50(h)(1)(i)(D)(*3*)	CDQ observer	level 2 observer	1
§ 679.50(h)(1)(i)(E) introductory	CDQ observer	level 2 observer	1
§ 679.50(h)(1)(i)(E)(*1*)	CDQ observer	level 2 observer	1
§ 679.50(h)(1)(i)(E)(*2*)	CDQ observer	level 2 observer	1
§ 679.50(h)(1)(i)(E)(*3*)	CDQ observer	level 2 observer	1

[FR Doc. 01–30385 Filed 12–14–01; 8:45 am]

BILLING CODE 3510–22–S

VOL
66
ISS
2
4
2
DE
17
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 17, 2001

Part III

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants; Final Rule and Proposed Rule

VOL 66 ISS 242 DE 17 2001 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7118–7]

RIN 2060–AE44

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: The EPA is taking direct final action to amend the national emission standards for hazardous air pollutants (NESHAP) for phosphoric acid manufacturing plants and the NESHAP for phosphate fertilizers production plants which were promulgated on June 10, 1999 under authority of section 112 of the Clean Air Act (CAA). The NESHAP apply to owners and operators of phosphoric acid and phosphate fertilizers production facilities that are major sources of hazardous air pollutants (HAP). The EPA is amending specific provisions in the NESHAP to resolve issues and questions raised after promulgation of the final rules. The amendments do not significantly change EPA's original projections for the environmental benefits, compliance costs, and burden on industry, and do not affect the number of affected facilities.

DATES: The direct final rule will be effective on February 15, 2002 without further notice, unless significant adverse comments are received by January 16, 2002.

If significant material adverse comments are received by January 16, 2002, this direct final rule will be withdrawn and the comments addressed in a subsequent final rule based on the proposed rule. If no significant material adverse comments are received, no further action will be taken on the proposal and this direct final rule will become effective on February 15, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–94–02, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–94–02, Room M–1500, U.S. EPA, 401 M Street, SW., Washington DC 20460. The EPA requests a separate copy of the comments also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ms. Tanya Medley, Minerals and Inorganic Chemicals Group, Emission Standards Division (MC–C504–05), U.S. EPA, Research Triangle Park, North Carolina 27709, telephone number (919) 541–5422, facsimile number (919) 541–5600, electronic mail (e-mail) address: medley.tanya@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. We are publishing this direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this direct final rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A–94–02.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Today's action applies to process components at new and existing phosphoric acid manufacturing plants and phosphate fertilizers production plants. Regulated categories and entities include:

Source category	SIC	NAICS	Examples of regulated entities
Industrial	2874	325314	Phosphoric acid manufacturing facilities (wet process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, purified phosphoric acid process line).
Industrial	2874	325314	Phosphate fertilizers production (diammonium and/or monoammonium phosphate process line, granular triple superphosphate process line, granular triple superphosphate storage building).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria of the rules. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review

Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 15, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by this direct final rule may not be challenged separately in any civil or criminal proceeding brought to enforce these requirements.

Outline

The information presented in this preamble is organized as follows:

- I. Background
- II. Amendments Specific to Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants
  - A. Standards for Existing Sources
  - B. Standards for New Sources
  - C. Monitoring Requirements
- III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants
  - A. Applicability
  - B. Monitoring Requirements
  - C. Applicability of General Provisions
- IV. Administrative Requirements
  - A. Executive Order 12866, Regulatory Planning and Review
  - B. Executive Order 13132, Federalism
  - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
  - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
  - E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
  - F. Unfunded Mandates Reform Act of 1995
  - G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
  - H. Paperwork Reduction Act
  - I. National Technology Transfer and Advancement Act of 1995
  - J. Congressional Review Act

I. Background

The EPA, under 40 CFR part 63, subparts AA and BB, promulgated NESHAP for Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants. The NESHAP established standards to control HAP emissions from facilities producing phosphoric acid and phosphate fertilizers. The standards were promulgated on June 10, 1999 (64 FR 31358).

On August 4, 1999, The Fertilizer Institute filed for judicial review of the NESHAP, as provided for in CAA section 307(b), with respect to certain provisions regarding emissions standards for phosphate rock calciners, monitoring requirements in general, and applicability of the general provisions.

II. Amendments Specific to Subpart AA—National Emissions Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants

The EPA is amending 40 CFR part 63, subpart AA, to correct errors, to revise the emissions limit for phosphate rock calciners, to clarify certain monitoring requirements, and to clarify applicability of certain parts of the general provisions.

A. Standards for Existing Sources

The EPA promulgated standards for phosphate rock calciners based on performance of the floor technology which was identical wet scrubbing technology installed on six identical calciners at one facility, plus data from a calciner with wet scrubbers at a second facility. The promulgated standard under 40 CFR 63.602 for existing calciners of 0.1380 grams per dry standard cubic meter (g/dscm)(0.060 grains per dry standard cubic foot (gr/dscf)) was based on emissions data for the floor technology which was available to EPA at that time. Subsequent to the petition, additional emissions and operating data from compliance tests of those same scrubbers over a 7-year period were submitted to EPA. The data covered a range that exceeded the promulgated standards. Therefore, upon review of the operating and emission data from the same scrubbers upon which the promulgated standards were based, the EPA is changing the emission standard under 40 CFR 63.602 for existing calciners to 0.1810 g/dscm (0.080 gr/dscf).

B. Standards for New Sources

The standards for new phosphate rock dryers in 40 CFR 63.603(c) are being revised to correct an error in the units of the standards. The promulgated rule included units of kilogram/metric ton per megagram of phosphate rock feed. The standards are being corrected to units of kilogram/megagram of phosphate rock feed.

C. Monitoring Requirements

The promulgated monitoring requirements under 40 CFR 63.605 require the owner or operator of each new or existing phosphate rock dryer or phosphate rock calciner to install a system to permanently record the mass flow of feed material to the process. Due to process variations and available measurement techniques, it is easier to accurately measure the rock dryer and calciner outputs than to measure the input. Therefore, the EPA is revising 40 CFR 63.605 to specify that the phosphate rock dryer and phosphate rock calciner output rates be monitored and recorded. That change does not affect the stringency of the standards for those sources. Since the standards for rock dryers under 40 CFR 63.602 and 63.603 are in the format of kilogram/megagram or metric ton (pounds/ton) of rock feed, the owner/operator of the source will either need to measure the feed rate and production rate during compliance tests, or measure the product rate and the moisture contents of the feed and output product to then calculate the feed rate and show compliance.

III. Amendments to Both Subpart AA—National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Subpart BB—National Emission Standards for Hazardous Air Pollutants From Phosphate Fertilizers Production Plants

The EPA is amending 40 CFR part 63, subparts AA and BB, for applicability, monitoring requirements, and applicability of the general provisions.

A. Applicability

The applicability criteria in 40 CFR 63.600 and 63.620 are being clarified to state that excursions from applicable emissions limits and operating parameter ranges during periods of startup, shutdown or malfunction are not violations of the standards, provided the source is operated in accordance with the Startup, Shutdown, and Malfunction Plan submitted pursuant to 40 CFR 63.6(e)(3) and complies with the duty pursuant to 40 CFR 63.6(e)(i) to operate in a manner consistent with good air pollution control practices for minimizing emissions.

B. Monitoring Requirements

The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being clarified to specifically identify the averaging period as a daily average. The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being clarified to allow a source to retain a previously established parameter range if the last compliance test shows compliance with the emissions limits and the operating parameters fall within the established range.

The monitoring requirements in 40 CFR 63.605(d) and 63.625(f) are being changed to correct an error. Those sections as promulgated require compliance with new operating parameter ranges the day after a new compliance emissions test. That cannot be done as test samples need to be analyzed, and any new parameter ranges need to be established. Therefore, those

VOL 66 ISS 242 DE 17 2001 UMI

sections are being changed to allow 30 days after submittal of test results to the permitting Agency before compliance with any new operating limits is required.

C. Applicability of General Provisions

The applicability of the general provisions requirements in 40 CFR 63.608 and 63.628 both refer to an appendix A in each rule. Both appendices list 40 CFR part 63, subpart A citations to § 63.6(e)(1) and (2), (e)(3), and (f) in the first column of each table and show a comment column with comments regarding additional requirements. The comments portion for the citations was erroneously included in the promulgated rules and are deleted under this action.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless EPA consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and EPA's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, the EPA must include a certification from the EPA's Federalism Official stating that EPA has met the requirements of Executive Order 13132 in a meaningful and timely manner.

The rule amendments will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The rule amendments would not impose directly enforceable requirements on States, nor would they preempt them from adopting their own more stringent programs to control emissions. Thus, the requirements of section 6 of the Executive Order do not apply to these rule amendments.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" are defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The rule amendments do not have tribal implications. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. No tribal governments are known to own or operate phosphoric acid manufacturing facilities or phosphate fertilizers production facilities. Thus, Executive Order 13175 does not apply to the rule amendments.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These rule amendments are not subject to Executive Order 13045 because they are based on technology performance, not health or safety risks. Furthermore, the rule amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy, Supply, Distribution, or Use

The direct final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not significant regulatory actions under Executive Order 12866.

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least-costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed, under section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Because today's amendments do not add new requirements or costs, the EPA has determined that the rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that the rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, today's rule amendments are not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this direct final rule on small entities, the EPA found that 2 of the 21 firms that potentially could be subject to the standards are small firms. Of the two, data indicate that one is an area source which would not be covered by the standards. The second source could be major and subject to the requirements of the standards. Information available to EPA shows, however, that the second source is able to achieve the control levels associated with the promulgated rules using existing equipment. The second source would not be significantly impacted by this proposed action because it clarifies and makes corrections to the promulgated rules but imposes no additional regulatory requirements.

Because today's rule amendments impose no additional regulatory requirements on owners or operators of phosphoric acid manufacturing plants or phosphate fertilizers production plants, the EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The OMB has approved the information collection requirements contained in the phosphoric acid manufacturing and phosphate fertilizers production NESHAP under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control No. 2060–0361. An Information Collection Request (ICR) document has been prepared by EPA, and a copy may be obtained from Sandy Farmer by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by e-mail at *farmer.sandy@epa.gov*, or by calling (202) 260–2740.

The amendments contained in this direct final rule will have no net impact on the information collection burden estimates made previously. Consequently, the ICR has not been revised.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113 (March 7, 1996), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when EPA does not use available and applicable voluntary consensus standards.

This action does not involve the use of any new technical standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to this direct final rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as NESHAP for Phosphoric Acid Manufacturing Phosphate Fertilizers Production 22 added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency adopting the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing this direct final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of this direct final rule in the **Federal Register**. A major rule

VOL 66 ISS 242 DE 17 2001 UMI

cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 10, 2001

Christine Todd Whitman,
Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA—[Amended]

2. Section 63.600 is amended by revising paragraph (a) and by adding new paragraph (e) to read as follows:

§ 63.600 Applicability.

(a) Except as provided in paragraphs (c), (d), and (e) of this section, the requirements of this subpart apply to the owner or operator of each phosphoric acid manufacturing plant.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i) and the Startup, Shutdown, and Malfunction Plan submitted pursuant to § 63.6(e)(3).

3. Section 63.602 is amended by revising paragraph (d) to read as follows:

§ 63.602 Standards for existing sources.

* * * * *

(d) *Phosphate rock calciner.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.1810 gram per dry standard cubic meter (g/dscm) (0.080 grains per dry standard cubic foot (gr/dscf)).

* * * * *

4. Section 63.603 is amended by revising paragraph (c) to read as follows:

§ 63.603 Standards for new sources.

* * * * *

(c) *Phosphate rock dryer.* On or after the date on which the performance test required to be conducted by §§ 63.7 and 63.606 is required to be completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected source any gases which contain particulate matter in excess of 0.030 kilogram/megagram of phosphate rock feed (0.060 lb/ton).

* * * * *

5. Section 63.605 is amended by:

a. Redesignating paragraph (a) as paragraph (a)(1) and revising newly designated paragraph (a)(1);
b. Adding new paragraph (a)(2);
c. Revising paragraph (b)(2); and
d. Revising paragraphs(d)(1) and (2).

The revisions and additions read as follows:

§ 63.605 Monitoring requirements.

(a)(1) Each owner or operator of a new or existing wet-process phosphoric acid process line or superphosphoric acid process line subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record the mass flow of phosphorus-bearing feed material to the process. The monitoring system shall have an accuracy of ±5 percent over its operating range.

(2) Each owner or operator of a new or existing phosphate rock dryer or phosphate rock calciner subject to the provisions of this subpart shall install, calibrate, maintain, and operate a monitoring system which can be used to determine and permanently record either the mass flow of phosphorus-bearing feed material to the dryer or calciner, or the mass flow of product from the dryer or calciner. The monitoring system shall have an accuracy of ±5 percent over its operating range. Since the emissions limits under §§ 63.602(c) and 63.603(c) for the phosphate rock dryer are in the format of kilogram/megagram (lb/ton) of phosphate rock feed, during performance testing required in § 63.606, the owner or operator that chooses to operate a monitoring system to determine and permanently record the mass flow of product from the dryer must either simultaneously monitor the dryer feed rate and dryer output rate, or monitor the dryer output rate and the dryer input and output moisture contents and calculate the corresponding dryer input rate.

(b)(1) * * *

(2) Each owner or operator of a new or existing phosphate rock calciner or phosphate rock dryer subject to the provisions of this subpart shall maintain a daily record of the following:

(i) For owners and operators that monitor the mass flow of phosphorus-bearing feed material to the dryer or calciner, a daily record of phosphate rock feed by determining the total mass rate in metric ton/hour of phosphorus-bearing feed using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a)(2) of this section.

(ii) For owners and operators that monitor the mass flow of product from the dryer or calciner, a daily record of product by determining the total mass rate in metric ton/hour of product using a monitoring system for measuring mass flowrate which meets the requirements of paragraph (a)(2) of this section.

* * * * *

(d) * * *

(1) The allowable range for the daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system is ±20 percent of the baseline average value determined as a requirement of § 63.606(c)(4), (d)(4), or (e)(2). The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard, but, in no instance shall the adjustment be reduced to less than ±10 percent. The owner or operator must notify the Administrator of the baseline average value and must notify the Administrator each time that the baseline value is changed as a result of the most recent performance test. When a source using the methodology of this paragraph is retested, the owner or operator shall determine whether new allowable ranges of baseline average values will be based upon the new performance test or (if the new performance test results are within the previously established range) whether there will be no change in the operating parameters derived from previous tests. When a source using the methodology of this paragraph is retested and the performance test results are submitted to the Administrator pursuant to §§ 63.607(c)(1), 63.7(g)(1), and/or 63.10(d)(2), the owner or operator will indicate whether the operating range will be based on the new performance test or the previously established range. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the

performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

(2) The owner or operator of any new or existing affected source shall establish, and provide to the Administrator for approval, allowable ranges for the daily averages of the pressure drop across and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with this subpart. Allowable ranges may be based upon baseline average values recorded during previous performance tests using the test methods required in § 63.606(c)(4), (d)(4), or (e)(2). As an alternative, the owner or operator can establish the allowable ranges using the results of performance tests conducted specifically for the purposes of this paragraph using the test methods required in this subpart and established in the manner required in § 63.606(c)(4), (d)(4), or (e)(2). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to establish the allowable ranges were obtained. The allowable ranges developed pursuant to the provisions of this paragraph must be submitted to the Administrator for approval. The owner or operator must request and obtain approval of the Administrator for changes to the allowable ranges. When a source using the methodology of this paragraph is retested, the owner or operator shall determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

* * * * *

6. Appendix A to subpart AA is amended by revising the entries "63.6(e)(1) and (2)," "63.6(e)(3)," and "63.6(f)" to read as follows:

APPENDIX A TO SUBPART AA OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART AA

40 CFR citation	Requirement	Applies to subpart AA	Comment
* * * * * * *			
63.6(e)(1) and (2)	Operation & Maintenance Requirements	Yes.	
63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes.	
63.6(f)	Compliance with Emission Standards	Yes.	
* * * * * * *			

Subpart BB—[Amended]

7. Section 63.620 is amended by revising paragraph (a) and by adding new paragraph (e) to read as follows:

§ 63.620 Applicability.

(a) Except as provided in paragraphs (c), (d), and (e) of this section, the requirements of this subpart apply to the owner or operator of each phosphate fertilizers production plant.

* * * * *

(e) The emission limitations and operating parameter requirements of this subpart do not apply during periods of startup, shutdown, or malfunction, as those terms are defined in § 63.2, provided that the source is operated in accordance with § 63.6(e)(1)(i) and the Startup, Shutdown, and Malfunction Plan submitted pursuant to § 63.6(e)(3).

8. Section 63.625 is amended by revising paragraphs (f)(1) and (2) to read as follows:

§ 63.625 Monitoring requirements.

* * * * *

(f) * * *

(1) The allowable range for the daily averages of the pressure drop across each scrubber and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system is ±20 percent of the baseline average value determined as a requirement of § 63.626(c)(4) or (d)(4). The Administrator retains the right to reduce the ±20 percent adjustment to the baseline average values of operating ranges in those instances where performance test results indicate that a source's level of emissions is near the value of an applicable emissions standard, but in no instance shall the adjustment be reduced to less than ±10 percent. The owner or operator must notify the Administrator of the baseline average value and must notify the Administrator each time that the baseline value is changed as a result of the most recent performance test. When a source using the methodology of this paragraph is retested, the owner or operator shall determine whether new allowable ranges of baseline average values will be based upon the new performance test or (if the new performance test results are within the previously established range) whether there will be no change in the operating parameters derived from previous tests. When a source using the methodology of this paragraph is retested and the performance test results are submitted to the Administrator pursuant to §§ 63.627(c)(1), 63.7(g)(1), and/or 63.10(d)(2), the owner or operator will indicate whether the operating range will be based on the new performance test or the previously established range. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

(2) The owner or operator of any new or existing affected source shall establish, and provide to the Administrator for approval, allowable ranges for the daily averages of the pressure drop across and of the flow rate of the scrubbing liquid to each scrubber in the process scrubbing system for the purpose of assuring compliance with this subpart. Allowable ranges may be based upon baseline average values recorded during previous performance tests using the test methods required in § 63.626(c)(4) or (d)(4). As an alternative, the owner or operator can establish the allowable ranges using the results of performance tests conducted specifically for the purposes of this paragraph using the test methods required in this subpart and established in the manner required in § 63.626(c)(4) or (d)(4). The source shall certify that the control devices and processes have not been modified subsequent to the testing upon which the data used to

establish the allowable ranges were obtained. The allowable ranges developed pursuant to the provisions of this paragraph must be submitted to the Administrator for approval. The owner or operator must request and obtain approval of the Administrator for changes to the allowable ranges. When a source using the methodology of this paragraph is retested, the owner or operator shall determine new allowable ranges of baseline average values unless the retest indicates no change in the operating parameters outside the previously established ranges. If the Administrator has not denied approval of the new operating ranges within 30 days of submission of the performance test results, the new ranges shall be deemed approved and the new baseline value shall then be effective on the 31st day following submission.

9. Appendix A to subpart BB is amended by revising the entries "63.6(e)(1) and (2)," "63.6(e)(3)," and "63.6(f)" to read as follows:

APPENDIX A TO SUBPART BB OF PART 63—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A) TO SUBPART BB

40 CFR citation	Requirement	Applies to subpart BB	Comment
* *	* * *	*	*
63.6(e)(1) and (2)	Operation & Maintenance Requirements	Yes.	
63.6(e)(3)	Startup, Shutdown, and Malfunction Plan	Yes.	
63.6(f)	Compliance with Emission Standards	Yes.	
* *	* * *	*	*

[FR Doc. 01–31009 Filed 12–14–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7118–6]

RIN 2060–AE44

National Emission Standards for Hazardous Air Pollutants From Phosphoric Acid Manufacturing Plants and Phosphate Fertilizers Production Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: The EPA is proposing to amend the national emission standards for hazardous air pollutants (NESHAP) for phosphoric acid manufacturing plants and the NESHAP for phosphate fertilizers production plants which were promulgated on June 10, 1999 under authority of section 112 of the Clean Air Act (CAA). This action proposes to amend specific provisions in the NESHAP to resolve issues and questions raised after promulgation of the NESHAP. The proposed amendments would revise the emissions limit for phosphate rock calciners and clarify several provisions regarding parameter monitoring and the applicability of the general provisions.

In the Rules and Regulations section of this **Federal Register**, we are making the corrections in a direct final rule, without prior proposal, because we view the revisions as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for the corrections in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on this proposed rule. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register**. All public comments will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on that subsequent final rule. Any parties interested in commenting must do so at this time.

DATES: *Comments.* Written comments must be received by January 16, 2002, unless a hearing is requested by December 27, 2001. If a hearing is requested, written comments must be received by January 31, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by December 27, 2001, a public hearing will be held on January 2, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–94–02, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–94–02, Room M–1500, U.S. EPA, 401 M Street, SW., Washington DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**). Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION.**

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina at 10:30 a.m.

Docket. Docket No. A–94–02 contains supporting information used in developing the NESHAP. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M–1500, Waterside Mall (ground floor), and may be inspected from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Tanya Medley, Minerals and Inorganic Chemicals Group, Emission Standards Division (MC–C504–05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5422, facsimile number (919) 541–5600, electronic mail (e-mail) address: medley.tanya@epa.gov.

SUPPLEMENTARY INFORMATION: A direct final rule identical to this proposal is published in the Rules and Regulations section of this **Federal Register**. If relevant adverse comments are received on this proposal, the direct final rule will be withdrawn and the comments will be addressed in a subsequent final rule. If relevant adverse comments are received only on a discrete portion of the rule, we will consider withdrawing only that portion of the rule. If no relevant adverse comments are received, no further action will be taken on this proposal and the direct final will become effective as provided in that notice.

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplementary information, see the direct final rule.

Comments. Comments and data may be submitted by e-mail to: *a-and-r-docket@epa.gov*. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect format. All comments and data submitted in electronic form must note the docket number A–94–02. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: OAQPS Document Control Officer, MC–C404–02, Attn: Ms. Tanya Medley, U.S. EPA, Research Triangle Park, NC 27709. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing

Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Tanya Medley, U.S. EPA, MC–C504–05, Research Triangle Park, NC 27709, telephone (919) 541–5422, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Tanya Medley to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.

Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section

VOL 66 ISS 242 DE 17 2001 UMI

307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities

The regulated category and entities affected by this action include:

Source category	SIC	NAICS	Examples of regulated entities
Industrial	2874	325314	Phosphoric acid manufacturing facilities (wet process phosphoric acid process line, superphosphoric acid process line, phosphate rock dryer, phosphate rock calciner, purified phosphoric acid process line).
Industrial	2874	325314	Phosphate fertilizers production (diammonium and/or monoammonium phosphate process line, granular triple superphosphate process line, granular triple superphosphate storage building).

This table is not intended to be exhaustive, but rather provides a guide for readers likely to be interested in the revisions to the rule affected by this action. To determine whether your facility, is regulated by this action, you should examine the applicability criteria of the rules. If you have questions regarding the applicability of these proposed amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Are the Administrative Requirements for This Action?

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, the EPA found that 2 of the 21 firms that potentially could be subject to the standards are small firms. Of the two, data indicate that one is an area source which would not be covered by the standards. The second source could be major and subject to the requirements of the standards. Information available to EPA shows, however, that the second source is able to achieve the control levels associated with the promulgated rules using existing equipment. The second source would not be significantly impacted by this proposed action because it clarifies and makes corrections to the promulgated rules but imposes no additional regulatory requirements.

Because the proposed rule amendments impose no additional regulatory requirements on owners or operators of phosphoric acid manufacturing plants or phosphate fertilizers production plants, I certify that this action will not have a significant economic impact on a substantial number of small entities.

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the Rules and Regulations section of this **Federal Register** publication.

List of Subjects in 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 10, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–31010 Filed 12–14–01; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 17, 2001

Part IV

Department of Education

Office of Educational Research and Improvement (OERI): Preschool Curriculum Evaluation Research Grant Program Inviting Applications for New Awards for Fiscal Year (FY) 2002; Notice

VOL 66 ISS 242 DE 17 2001 UMI

DEPARTMENT OF EDUCATION

[CFDA No. 84.305J]

Office of Educational Research and Improvement (OERI): Preschool Curriculum Evaluation Research Grant Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: The purpose of this program is to implement rigorous evaluations of preschool curricula that will provide information to support informed choices of classroom curricula for early childhood programs. This competition will focus support on a new program of research that will determine, through randomized clinical trials, whether one or more curricula produce educationally meaningful effects on children.

Eligible Applicants: Public and private agencies, institutions, and organizations, including for-profit and non-profit organizations; institutions of higher education; State and local education agencies; and regional educational laboratories.

Deadline for Receipt of Letter of Intent: January 15, 2002.

A Letter of Intent is *optional,* but encouraged, for each application. The Letter of Intent is for OERI planning purposes and will not be used in the evaluation of the application.

Applications Available: December 17, 2001.

Deadline for Transmittal of Applications: March 15, 2002.

Estimated Available Funds: Up to $4,000,000 for the first year of this program.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Size of Awards: Funds available per award will depend on the sample size, the nature of the supplemental research proposed, and any non-federal resources to be devoted to the project. We expect to be able to make about 10 awards and that a typical first year award, with the minimal sample size, described subsequently, will be approximately $350,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 48 months.

Page Limits: The application must include the following sections: title page form (ED 424), one-page abstract, research narrative, literature cited, curriculum vitae for principal investigator(s) and other key personnel, budget summary form (ED 524) with budget narrative, appendix, and statement of equitable access (GEPA 427). The research narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the research narrative (text plus all figures, charts, tables, and diagrams) to the equivalent of 25 pages and the appendix to 20 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the research narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to the title page form, the one-page abstract, the budget summary form and narrative budget justification, the curriculum vitae, literature cited, or the assurances and certifications.

Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

We have found that reviewers are able to conduct the highest quality review when applications are concise and easy to read, with pages consecutively numbered.

Applicable Statute and Regulations: (a) 20 U.S.C. 6031; (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except as limited in 34 CFR 700.5), 77, 80, 81, 82, 85, 86 (part 86 applies only to Institutions of Higher Education), 97, 98, and 99; and (c) The regulations in 34 CFR part 700.

Selection Criteria: The Secretary selects the following selection criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. The criteria below will receive the following percentage weights.

(a) National Significance (.2)
(b) Quality of the Project Design (.5)
(c) Quality and Potential Contributions of Personnel (.2)
(d) Adequacy of Resources (.1)

Strong applications for Preschool Curriculum Evaluation Research (PCER) grants clearly address each of the applicable selection criteria. They make a well-reasoned and compelling case for the national significance of the problems or issues that will be the subject of the proposed research, and present a research design that is complete, clearly delineated, and incorporates sound research methods. In addition, the personnel descriptions included in strong applications make it apparent that the project director, principal investigator, and other key personnel possess training and experience commensurate with their duties.

Pre-Application Meeting: We will hold a pre-application meeting on January 24, 2002, to discuss the funding priority. You are invited to participate. You will receive technical assistance and information about the funding priority. The meeting will be held at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., room 101, Washington, DC, between 1 p.m. and 4 p.m. A summary of the meeting will be posted on the Internet at: *http://www.ed.gov/offices/OERI*

Assistance to Individuals With Disabilities at the Meeting

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT** at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

SUPPLEMENTARY INFORMATION:

Background

Research has long established the importance of early experiences in supporting successful child development. More recently, the focus has turned to the role of early child-care and preschool experiences in supporting cognitive development and other skills that are essential for successful transition into school. Policy makers have begun to respond to the mounting evidence of the importance of early experience with calls to provide better quality preschool programs. For example, The National Research Council's 2000 report, Eager to Learn, concluded that: "Many children, especially those in low-income households, are served in child care programs of such low quality that learning and development are not enhanced and may even be jeopardized." Furthermore, the First Lady's White House Summit on Early Childhood Cognitive Development, held in 2001, called attention to the need for preschool programs to enhance their instructional content in the area of early cognition and pre-reading skills. One result of the Early Childhood Cognitive Development Summit was the formation of an Interagency Task Force in Early Childhood Development involving representatives from the U.S. Department of Education, Health and Human Services, and the National Institute of Child Health and Human Development. This funding announcement is one product of that Task Force.

The evidence that would allow informed choices of classroom curricula for early childhood programs is weak. When rigorous preschool program evaluations exist, they are for programs designed and delivered decades ago. Most currently available curricula have no link to those historical programs, and those that do have changed in content and method of delivery as they have evolved over the years. While the results from historical evaluations of preschool curricula and current research on the learning and development of young children provide some insights into general features of successful preschool programs, they give little guidance for selecting from among the ever-expanding list of available preschool curricula. For example, the State of Georgia, which has a universal pre-K program, allows providers to choose among seven different nationally available curricula. There is little evidence that would allow providers to make an informed choice among these curricula. New York, another state providing universal pre-K, does not provide a list of approved curricula. Instead it requires that approved providers deliver a curriculum that conforms to general guidelines such as meeting "the social, cognitive, linguistic, emotional, cultural and physical needs of all eligible children." However, there is little evidence for choosing among curriculum options based on such guidelines. The Preschool Curriculum Evaluation Research (PCER) grants are intended to address the lack of rigorous, systematic evaluation of preschool curricula that are currently in use for children in the pre-K years.

PCER is intended to build on recent initiatives aimed at evaluating the preschool experiences of children. In 1997, Head Start undertook The Family and Child Experiences Survey (FACES), a large-scale national study of Head Start programs. FACES is a national longitudinal study of the cognitive, social, emotional, and physical development of children; the characteristics, well-being, and accomplishments of their families; the observed characteristics of their classrooms; and the characteristics, needs, and opinions of their teachers and other program staff. In addition, the Early Childhood Longitudinal Survey-Kindergarten (ECLS–K) and the Early Childhood Longitudinal Survey-Birth Cohort (ECLS–B), both ongoing projects of the National Center for Education Statistics within OERI, offer additional insight into how to measure family, school, and individual variables using a set of measures that overlap substantially with the FACES measures. The FACES measures will form the core set of indicators used in PCER funded projects.

The outcomes of greatest interest to PCER are those skills that are most highly predictive of academic success in the early years of elementary school and that are most amenable to influence by factors within the realm of classroom curricula and practice. These outcomes include language development, pre-reading and pre-math abilities, cognition, general knowledge, and social competence.

The curricula of primary interest to PCER are those with sufficient standardized training procedures and published curriculum materials to support implementation of the curriculum by entities other than and at a distance from the curriculum developers. In addition, the curricula of interest to PCER are those that focus on the child outcomes described above, and those with instructional approaches that find support in the scientific literature on learning and instruction. These will be existing curricula that are already in use in a number of sites. PCER is not intended to support the development of new curricula; that will be the focus of other programs of research to be sponsored by the Interagency Task Force.

Program Description

Grantees will coordinate with a national evaluation contractor (to be funded separately by OERI) to ensure that evaluations carried out in different locations follow consistent protocols and use a core set of comparable measures. The national contractor will be responsible for collecting pre- and post-intervention data and kindergarten and first grade follow-up data on children and classrooms, and for analysis and reporting of these data across program sites. This type of centralized data coordination mechanism has been found to be important in maximizing the systematic collection of cross-site knowledge obtained from multiple research projects. The cross-site data will be returned to applicants in a timely manner to serve as a basis for local analyses (as part of any complementary research), as well as eventually made available in public use datasets. Additional local measures and data analysis of implementation and outcomes may be carried out by the applicants as part of complementary research projects (described subsequently) using program funds. This arrangement allows applicants to consider more intensive data collection approaches to augment the available core measures. Cooperative agreement budgets should include costs of data collection for local measures, assuming a common core of data to be provided by the external data collection center without cost to the grantee.

The core set of evaluation data collected by the national contractor will utilize FACES instruments to measure both classroom and family characteristics and practices, and child outcomes. Children, parents and preschool staff participate in data collection. In addition, the preschool classrooms are assessed by outside observers. The FACES instruments cover a range of areas. The primary focus is on child outcomes, including cognitive outcomes assessed using standard instruments such as the Woodcock-Johnson Letter Word Identification, and socio-emotional outcomes such as social skills ratings completed by the teacher. For purposes of calculating participant burden, the current FACES child direct assessment is completed in approximately 30 minutes per child. For a full listing of the measures used in the 1997–2000 FACES study, please see *http://www2.acf.dhhs.gov/programs/hsb/hsreac/faces/instruments.html.*

Applicants must consider methods for assessing the characteristics of the preschool program(s), including those programs that serve as controls. Such methods could examine such factors as allocation of time during the preschool day, nature of interactions between children and teacher, and fidelity of the curriculum implementation.

Applicants may also propose complementary research studies to further our knowledge of the mechanisms by which curricula support children's learning, including the development of new instruments to measure processes related to the effects of curriculum and instruction on learning and development in young children. The complementary research may address a range of issues related broadly to curriculum effectiveness such as the impact of curriculum implementation on preschool staff, the influence of individual differences in children on program impact, the development of instrumentation, or other related topics.

The complementary research studies are intended to supplement, complement and enrich the core evaluation. Investigators will have an opportunity to explore mediating events or the theoretical pathways that explain the results that are obtained in the evaluation. In addition, complementary research provides an opportunity to identify outcomes that, because of data constraints, are not explored in the core evaluation or are specific to an individual site. It also expands the possibilities for multiple measures of the same construct, and for the development of new measures.

Two areas of complementary research are of particular interest:

(1) Studies that address how individual or background differences in children interact with the curriculum to influence developmental outcomes. Such studies would address the question, for which children under which conditions is the curriculum most successful?

(2) Studies that compare different versions of the curriculum or different approaches to implementation in order to identify key features of the curriculum and approaches that might improve effectiveness and ease of implementation. Such studies would address the question, under what circumstances does the curriculum achieve the greatest impact?

Specific complementary research questions might include:

Individual differences: How are age, gender, language, disability, and other key child characteristics, as well as cultural issues, addressed? How do family characteristics interact with the child's preschool experience to influence school readiness? To what populations are evaluation results likely to be generalizable? For which children is the curriculum most effective/least effective and why?

Replication/dissemination: What variations in context, target populations, and program delivery might affect implementation in other sites, and how might they affect the outcomes of the curriculum? To what extent does the curriculum have to be modified to adapt to local conditions? What are the key elements that have to be sustained to maintain effectiveness of the curriculum?

Classroom, program, and community context: What are the structures and supports necessary to implement the curriculum? What are the key activities that are conducted to include or gain support from community stakeholders and collaborators, with program administrators and policy councils, with classroom teachers and other staff, with parents of children in the classrooms? What are the contextual variables that might influence how the curriculum is implemented: *e.g.*, culture, neighborhood characteristics, organizational climate, level of poverty in the community, teacher backgrounds, education, motivation, skills and attitudes, levels of support (financial and otherwise), competing priorities within a program or classroom, management and organizational structures? What are the relationships among the individuals who are stakeholders and/or participants in the curriculum?

Grantees will be required to propose a research and evaluation work plan that will be negotiated between the applicant and OERI and updated on a yearly basis. The work plan proposed by the applicant will include details of how the evaluation will be implemented, *e.g.*, the number of classrooms, their characteristics, their existing approach, how training will be provided, how randomization will occur, how informed consent will be obtained. A work plan is also necessary for the complementary research, if such research is proposed by the applicant. The evaluation portion of each PCER's proposed work plan will be reviewed by OERI and the national evaluation contractor before the final evaluation plan is approved.

Time Frame

PCER projects will be funded for up to a four-year period. Evaluation designs should include both short term and long term outcomes. Initial results are expected at the end of the first year of curriculum implementation. Long term outcomes should include follow-up into kindergarten and first grade. Applicants should plan for an implementation in pre-K classrooms in year 1, follow-up into kindergarten in year 2, follow-up into first grade in year 3, and completion of data analysis and reports in year four. Complementary research designs could involve continued pre-K implementations and ongoing research in the pre-K setting for some or all years of the grant, while children in the first cohort are being followed up into first grade.

In the event that a PCER project does not generate meaningful differences between intervention and control classrooms in terms of children's outcomes at the end of year 1, and when this lack of effect appears to be attributable to unforeseen and remediable problems in implementation, grantees will be given a second year of funding to repeat a pre-K implementation of their selected curriculum. When curriculum effects on children's outcomes are not obtained at the end of the pre-K year, and this lack of effect appears to be a valid indicator of program ineffectiveness, grantees will be encouraged to implement and evaluate curricula that have proven effective as deployed by other grantees.

Type of Awards

OERI will use a cooperative agreement mechanism that allows substantial Federal involvement in the activities undertaken with Federal financial support. Details of the responsibilities, relationships and governance of the cooperative agreement will be elaborated in the terms and conditions of the award. The specific responsibilities of the Federal staff and project staff will be identified and agreed upon prior to the award of each cooperative agreement.

Priority

This competition focuses on projects designed to meet the following absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

Absolute Priority

The preschool curriculum evaluation research grants are designed to determine through a randomized clinical trial whether one or more curricula produce educationally meaningful effects on children's outcomes. Each grantee must implement one or more identified pre-K curricula, including attention to fidelity of the curriculum implementation; and coordinate with a national contractor the assessment of children and classrooms in the fall and spring of the pre-K year, and in the spring of the kindergarten and first grade year.

Specifically, successful applicants must:

(1) Obtain agreement of a sufficient number of preschool sites to participate in the study;

(2) Obtain agreement of the cooperating sites to random assignment of children or classrooms to the

curriculum being evaluated versus one or more comparison approaches;

(3) Obtain informed consent of parents of children participating in the study, and all teachers and other administrators from whom data will be collected;

(4) Provide all necessary materials and professional development to teachers and staff to implement the curriculum to be evaluated in the intervention classrooms;

(5) Make all on-site arrangements necessary for the national contractor to conduct assessments of participating children and classrooms;

(6) Obtain parent and teacher interview data; and

(7) Provide an on-site coordinator to manage all aspects of data collection, curriculum implementation, and interaction with the national contractor.

Complementary research projects may be embedded within the evaluation design or include additional data collection activities. However, activities related to the complementary research must not compromise the core evaluation responsibilities and are not required in order to receive funding.

Applicants who are research organizations are free to involve curriculum developers or distributors in the project as they think best, from having the curriculum developers as full partners in their proposals to utilizing off-the-shelf curriculum materials without involvement of the developer or publisher. Involvement of the curriculum developer or distributor must not jeopardize the objectivity of the evaluation and must not involve a level of professional training or support for the curriculum that rises above that available to ordinary adopters of the curriculum. Applicants who are not research organizations will need to obtain the services of at least one consultant who is an established researcher and who has committed enough time to the project to assure the integrity of the local evaluation and to participate in all required meetings. Applicants who are commercial curriculum developers should indicate in the budget summary the value of any nonfederal resources that will be devoted to the research project, such as their curriculum products.

Applicants must employ random assignment in the evaluation design. Preschool program(s) that are to be the sites for curriculum implementation must agree to cooperate fully with the random assignment as a condition for the applicant to receive an award under this announcement. In order to facilitate random assignment, applicants are encouraged to consider the use of incentives for schools and families. These may include: Compensation for additional preschool staff time required to cooperate with the research effort; funding for a new classroom; provision of additional resources to enable a program to conduct new activities; securing vehicles for transportation; stipends to families, etc.

In proposing a curriculum for evaluation and in the evaluation design, applicants should consider the following questions:

(1) What scientific research supports the use of this particular curriculum to improve school readiness or other identified outcomes?

(2) What levels of staff qualifications are required?

(3) What training and materials are needed?

(4) What are the costs of the curriculum in terms of materials and professional training and support?

(5) How is classroom or program practice to be affected?

(6) How will fidelity of the curriculum be maintained over the program year?

(7) What are possible program staff or family barriers to acceptance?

Applicants need to pay special attention to the nature of the curriculum or approach that will be used in control classrooms. Successful applicants for this initial round of PCER awards are not expected to compare different well-articulated well-implemented preschool curricula, though such applications are not discouraged. Rather, we expect the typical applicant to propose to implement a well articulated, well-implemented curriculum in preschools in which the prevailing approach is a home grown, garden variety, unlabeled preschool experience that is short on specific instructional goals and that lacks a detailed curriculum. That existing practice would continue in the classrooms randomized into the control condition. Applicants who propose a control condition in which the curriculum is one that might well be proposed as the intervention condition by another applicant should provide a convincing rationale for their intervention being likely to improve children's outcomes compared with the known effects of the curriculum used in the control condition. In this regard and for all the projects, the ethics of random assignment require a reasonable assumption that children in the intervention classrooms will experience neutral to positive outcomes compared with children in the control classrooms, rather than negative outcomes.

Because children who are most unprepared for entry into school are found disproportionately among low-income households, and because variations in the quality of preschool programs appear to have their greatest effects among such children, applicants must either focus on preschools that serve children from low-income backgrounds or assure that such children are present in significant numbers within the preschool classrooms that are sampled.

Applicants will follow children who participate in studies of PCER curricula that generate educationally meaningful effects at the end of the pre-K year into kindergarten and first grade. Assessment of children at follow-up in both the intervention and control conditions will be the responsibility of the national contractor. However, all arrangements to allow such assessments to occur, including obtaining parent permission and negotiating access to children for testing in their schools, will be the responsibility of the successful applicant. Applicants must address how they will provide access to children for follow-up testing.

Applicants must be able to guarantee access to a minimum of 10 classrooms with a total of 150 children. Children included must be in the age range such that they would be eligible for entrance into public kindergarten in the following year. In addition, the evaluation design must include attention to the following:

(1) Description of the control condition and the intervention condition(s).

(2) Explanation of procedures for random assignment and discussion of procedures for tracking fidelity to the assignment and potential sources of contamination.

(3) Logic of sampling so as to capture, to the degree possible, diversity in the preschool population studied. Core variables to consider for capturing diversity include: race, ethnicity/language status; household income; parental education.

(4) Discussion of possible variations in the structure of the participating preschool program(s) (part-day or full day, public or private, profit or non-profit, etc.) and how these variations will be taken into consideration in the evaluation design.

Applicants must provide a letter of cooperation from participating preschool programs for the purposes of conducting the research, with the responsibilities of the preschool program clearly indicated and accepted in the letter of cooperation. The applicant must be willing to work with the national evaluation contractor for the collection of cross-site data, in coordination with any local data collection activities. The principal investigator must agree to attend up to four meetings each year of the grantees, contractor, and Federal staff. The budget should reflect travel funds for such purposes.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in FY 2002, the Secretary has decided to issue this application notice without first publishing a proposed priority for public comment. These regulations will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

OERI is conducting its first grant competition under the national research institutes authority for the purpose of funding projects that will implement rigorous evaluations of classroom curricula currently in use for the pre-K years (20 U.S.C. 6031). This new program of research is intended to address the critical question of which curricula produce or contribute to educationally meaningful outcomes for children of this age. As noted earlier, the evidence that would allow informed choices of classroom curricula for early childhood programs is weak or non-existent. Thus, for the first time, OERI is soliciting applications that will address the lack of rigorous, systematic study and evaluation of existing curricula.

In a separate **Federal Register** notice to be published in the near future, the Assistant Secretary will ask for public comment on the priority for the purpose of designing and conducting future grant competitions for this research.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Heidi Schweingruber, U.S. Department of Education, 555 New Jersey Avenue, room 602–O, Washington, DC 20208–5501. Telephone: (202) 219–2040 or via Internet: *Heidi.Schweingruber@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT**.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting Heidi Schweingruber. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Preschool Curriculum Evaluation Research Grant Program (CFDA 84.305J) is one of the programs included in the pilot project. If you are an applicant under the PCER program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the PCER Program at: *http://e-grants.ed.gov.*

Due to software upgrades, it is anticipated that the e-Application software will be unavailable for several days in mid-January. The tentative dates for this system down time are January 11–21, 2002. Please check this site for future updates on system availability.

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 6031.

Dated: December 13, 2001.

Grover J. Whitehurst,

Assistant Secretary for Educational, Research and Improvement.

[FR Doc. 01–31127 Filed 12–14–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Monday,
December 17, 2001

Part V

The President

Proclamation 7514—Wright Brothers Day, 2001

Federal Register
Vol. 66, No. 242
Monday, December 17, 2001

Presidential Documents

Title 3—

The President

Proclamation 7514 of December 13, 2001

Wright Brothers Day, 2001

By the President of the United States of America

A Proclamation

On December 17, 1903, from the dunes near Kitty Hawk, North Carolina, Orville Wright made the first manned flight in an engine-powered aircraft. Though the flight only covered 120 feet and lasted just 12 seconds, Orville and his brother Wilbur Wright changed history on that cold and gusty winter day.

Success had not come easily to the Wright brothers. Many thought powered flight impossible; and skeptics called the Wrights dreamers for even entertaining the idea. Undeterred, the Wrights spent years in study, analyzing the flight of birds and experimenting with model airplanes in their bicycle shop in Dayton, Ohio. After many trials and errors, the Wright brothers finally achieved a controlled flight and opened the door to a new world.

On December 17 of each year, we honor the Wright brothers for their contributions to our Nation. Their invention of powered flight made the world community more connected. We have since traveled to the Moon and back, and space shuttles orbit our planet. All of these amazing advances can be traced back to that windy day at Kitty Hawk when the indomitable will of the Wrights persevered to triumph over the supposed impossible.

Air travel now is an essential part of this Nation's everyday life. This proud industry will endure through the new challenges presented by the tragedies of September 11. Joining together as a Nation, we will continue to strengthen security while maintaining the economic and social benefits of an efficient air transportation system.

This Wright Brothers Day we salute all the scientific pioneers and visionaries who, despite the critics, have over come seemingly insurmountable odds and made great advances for man. The Wright brothers' perseverance and creativity can serve as an inspiration for those inventors who will take us to new heights in the 21st century.

The Congress, by a joint resolution approved December 17, 1963 (77 Stat. 402; 36 U.S.C. 143), has designated December 17 of each year as "Wright Brothers Day," and has authorized and requested the President to issue annually a proclamation inviting the people of the United States to observe that day with appropriate ceremonies and activities.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim December 17, 2001, as Wright Brothers Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

[FR Doc. 01-31208
Filed 12-14-01; 10:38 am]
Billing code 3195-01-P

Reader Aids

Federal Register

Vol. 66, No. 242

Monday, December 17, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497
7513	64095
7514	65089
Executive Orders:	
11582 (See EO 13238)	63903
12958 (See Order of December 10, 2001)	64347
13238	63903
13239	64907
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

302	63905
317	63905
330	63905
333	63905
335	63905
534	63906
591	63906
930	63906
6001	60139
Proposed Rules:	
890	64160

7 CFR

301	63151
Proposed Rules:	
81	64918
352	63005
1410	63339

9 CFR

70	63588
78	63910
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

10 CFR

20	64737
30	64737
32	64737
34	64737
40	64737
50	64737
51	64737
Proposed Rules:	
72	63964

12 CFR

5	62914
Proposed Rules:	
Ch. IX	63008
226	64381
584	63517

13 CFR

120	64739

14 CFR

25	64349
39	60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739
71	63489, 63623, 64909, 64910
73	63433
91	63888
93	63294
97	64139, 64141
107	63474
108	63474
Proposed Rules:	
39	63009, 63010, 63341, 64925, 64928, 64931
71	60162, 63517
93	64778

15 CFR

801	63916, 63918

16 CFR

3	64142
4	64142
305	63749

17 CFR

Proposed Rules:	
15	64383

18 CFR

381	63162

19 CFR

12	63490

20 CFR

655	63298

Proposed Rules:
404.......63634

21 CFR

510.......63163, 63164, 63499
520.......63165, 63166
524.......63164
556.......62916
558.......62916, 63499, 63500

Proposed Rules:
500.......63519
1310.......64173

24 CFR

30.......63436

26 CFR

1.......63920
301.......64351, 64740, 64911
602.......64076, 64351

Proposed Rules:
1.......63203, 64385, 64904
301.......64386
602.......64386

28 CFR

Proposed Rules:
97.......64934

29 CFR

578.......63501
579.......63501
580.......63501
4022.......64744
4044.......64744

Proposed Rules:
1910.......64946
1915.......64946
1926.......64946
1928.......64946

30 CFR

256.......60147
918.......64746
944.......62917

Proposed Rules:
936.......63968

31 CFR

211.......63623

33 CFR

100.......63624
117.......62935, 62936, 62938, 62939, 62940, 63626, 63627
165.......60151, 62940, 64144, 64912

Proposed Rules:
1.......63640
147.......63642
165.......64778
175.......63645
181.......63650

34 CFR

Proposed Rules:
Ch. VI.......63203

37 CFR

201.......62942, 63920

Proposed Rules:
255.......64783

38 CFR

17.......63446, 63449, 64904
20.......60152

Proposed Rules:
3.......64174

39 CFR

20.......64353

40 CFR

8.......63454
52.......63311, 63921, 64146, 64148, 64750, 64751
62.......63311, 63938, 64151, 64152
63.......63313, 65072
70.......62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81.......64751
152.......64759
156.......64759
180.......63192, 64768
261.......60153, 62973
271.......63331
300.......64357
721.......63941

Proposed Rules:
52.......63204, 63343, 63972, 63982, 64176, 64783
60.......64176
62.......63985, 64207, 64208
63.......65079
80.......60153
300.......64387

42 CFR

411.......60154
1001.......62980, 63749

43 CFR

3600.......63334
3610.......63334
3620.......63334
3800.......63334

44 CFR

64.......63627

Proposed Rules:
61.......60176

46 CFR

Proposed Rules:
67.......64784

47 CFR

1.......62992
25.......63512
54.......64775
73.......60156, 60157, 63199, 63629, 64776, 64777
76.......62992
101.......63512

Proposed Rules:
1.......64785
2.......64785
51.......63651, 64946
73.......63209, 63653, 63654, 63986, 63997, 64792
87.......64785

48 CFR

202.......63334
212.......63335
215.......63334
217.......63336
237.......63335
242.......63334

Proposed Rules:
235.......63348
1823.......64391
1836.......64391
1852.......64391

49 CFR

241.......63942
571.......60157, 64154, 64358
572.......64368

Proposed Rules:
107.......63096
171.......63096
172.......63096
173.......63096
177.......63096
178.......63096
180.......63096
219.......64000
573.......64078, 64087
577.......64078, 64087

50 CFR

17.......62993, 63752
230.......64378
600.......63199
622.......60161
635.......63003, 64378
648.......63003
660.......63199, 63630
679.......64380, 64915

Proposed Rules:
17.......63349, 63654
20.......63665
21.......63349, 63665
222.......64793
223.......64793
224.......64793
648.......63013, 63666, 64392
679.......65028

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 17, 2001

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Alaska; fisheries of Exclusive Economic Zone—
    - North Pacific Halibut and Sablefish IFQ Cost Recovery Program; published 12-17-01

DEFENSE DEPARTMENT

- Prototype projects; transactions other than contracts, grants, or cooperative agreements; published 11-15-01

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control:
  - State operating permits programs—
    - Maine; published 10-18-01
    - Pennsylvania; published 11-1-01
- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Vermont; published 10-16-01
- Air quality implementation plans; approval and promulgation; various States:
  - New York; published 10-16-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

- Medical devices:
  - Anesthesiology devices; reclassification of three preamendments Class III devices into Class II; published 11-15-01
  - Radiology devices—
    - Class II devices; premarket notification exemptions; published 11-15-01

TRANSPORTATION DEPARTMENT

Coast Guard

- Drawbridge operations:
  - Florida; published 11-15-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Cirrus Design Corp.; published 12-11-01
  - Raytheon; published 11-7-01

TREASURY DEPARTMENT

Internal Revenue Service

- Procedure and administration:
  - Subsidiary corporations; entity classification, elective changes (check the box regulations); published 12-17-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:
  - Citrus canker; comments due by 12-27-01; published 11-27-01 [FR 01-29473]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Northeastern United States fisheries—
    - Summer flounder, scup, and black sea bass; comments due by 12-28-01; published 12-13-01 [FR 01-30828]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - West Virginia; comments due by 12-27-01; published 11-27-01 [FR 01-29471]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28852]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28851]
- Radioactive waste disposal:
  - Transuranic radioactive waste characterization program documents for disposal at Waste Isolation Pilot Plant—
    - Hanford Site, WA; comments due by 12-27-01; published 11-27-01 [FR 01-29454]
    - Savannah River Site, SC; comments due by 12-27-01; published 11-27-01 [FR 01-29455]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29469]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29470]

FEDERAL COMMUNICATIONS COMMISSION

- Radio stations; table of assignments:
  - North Carolina and South Carolina; comments due by 12-26-01; published 11-20-00 [FR 00-29626]
- Television broadcasting:
  - Cable television systems—
    - Horizontal and vertical ownership limits and broadcast and MDS attribution rules; comments due by 12-26-01; published 10-11-01 [FR 01-25479]

FEDERAL RESERVE SYSTEM

- Risk-based capital:
  - Supplementary capital elements (tier 2 capital); deferred tax assets (Regulations H and Y); comments due by 12-27-01; published 11-27-01 [FR 01-29331]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

- Medicare and Medicaid:
  - Fire safety standards for certain health care facilities; comments due by 12-26-01; published 10-26-01 [FR 01-25422]
- Medicare:
  - Supplementary medical insurance premium surcharge agreements; comments due by 12-26-01; published 10-26-01 [FR 01-27120]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - Illinois; comments due by 12-27-01; published 11-27-01 [FR 01-29452]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- Grant and Cooperative Agreement Handbook; cooperative agreements with cooperative firms; policy clarification, process improvements, etc.; comments due by 12-28-01; published 10-29-01 [FR 01-26622]

NUCLEAR REGULATORY COMMISSION

- Rulemaking petitions:
  - Leyse, Robert H.; comments due by 12-26-01; published 10-12-01 [FR 01-25672]
  - Nuclear Energy Institute; comments due by 12-26-01; published 10-11-01 [FR 01-25565]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Bell; comments due by 12-28-01; published 10-29-01 [FR 01-26966]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Dassault; comments due by 12-26-01; published 11-26-01 [FR 01-29342]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Enstrom Helicopter Corp.; comments due by 12-28-01; published 10-29-01 [FR 01-26965]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Honeywell; comments due by 12-28-01; published 10-29-01 [FR 01-26968]

VOL 66 ISS 242 DEC 17 2001 UMI

Applications, hearings, determinations, etc.:

BAE Systems (Operations) Ltd.; comments due by 12-28-01; published 11-28-01 [FR 01-29599]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Highway bridge replacement and rehabilitation program; comments due by 12-26-01; published 9-26-01 [FR 01-24091]

National bridge inspection standards; comments due by 12-26-01; published 9-26-01 [FR 01-24092]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

S. 1459/P.L. 107–80

To designate the Federal building and United States courthouse located at 550 West Fort Street in Boise, Idaho, as the "James A. McClure Federal Building and United States Courthouse". (Dec. 12, 2001; 115 Stat. 810)

S. 1573/P.L. 107–81

Afghan Women and Children Relief Act of 2001 (Dec. 12, 2001; 115 Stat. 811)

Last List December 11, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1. 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1]Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1. 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1. 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1. 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1. 2001
27–52	(869–044–00008–3)	45.00	Jan. 1. 2001
53–209	(869–044–00009–1)	34.00	Jan. 1. 2001
210–299	(869–044–00010–5)	56.00	Jan. 1. 2001
300–399	(869–044–00011–3)	38.00	Jan. 1. 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1. 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1. 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1. 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1. 2001
1900–1939	(869–044–00018–1)	21.00	[4]Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4]Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1. 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1. 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1. 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1. 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1. 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1. 2001
1000–End	(869–044–00046–6)	53.00	Jan. 1. 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1. 2001
200–239	(869–044–00049–1)	51.00	Apr. 1. 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1. 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1. 2001
400–499	(869–044–00057–1)	57.00	Apr. 1. 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1. 2001
100–169	(869–044–00060–1)	44.00	Apr. 1. 2001
170–199	(869–044–00061–0)	45.00	Apr. 1. 2001
200–299	(869–044–00062–8)	16.00	Apr. 1. 2001
300–499	(869–044–00063–6)	27.00	Apr. 1. 2001
500–599	(869–044–00064–4)	44.00	Apr. 1. 2001
600–799	(869–044–00065–2)	15.00	Apr. 1. 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1. 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1. 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1. 2001
300–End	(869–044–00069–5)	42.00	Apr. 1. 2001
23	(869–044–00070–9)	40.00	Apr. 1. 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1. 2001
200–499	(869–044–00072–5)	45.00	Apr. 1. 2001
500–699	(869–044–00073–3)	27.00	Apr. 1. 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1. 2001
1700–End	(869–044–00075–0)	26.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1. 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1. 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1. 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1. 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1. 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1. 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1. 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1. 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1. 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1. 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1. 2001
30–39	(869–044–00090–3)	37.00	Apr. 1. 2001
40–49	(869–044–00091–1)	25.00	Apr. 1. 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
300–499	(869–044–00093–8)	54.00	Apr. 1. 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1. 2001
600–End	(869–044–00095–4)	15.00	Apr. 1. 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

VOL 66 ISS 242 DE 17 2001 UMI

Title	Stock Number	Price	Revision Date
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
*1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
*1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
*166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
*1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
*7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00202–7)	26.00	Oct. 1, 2001
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
*400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

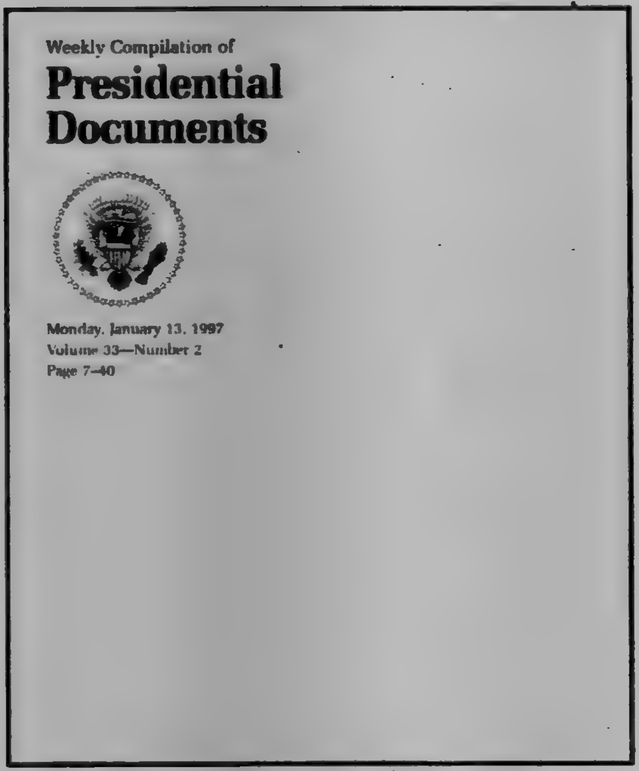
[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000. through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



Weekly Compilation of

Presidential Documents

Monday, January 13, 1997
Volume 33—Number 2
Page 7–40

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order.
It's Easy!
VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
*** 5420**

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $151.00 First Class Mail ☐ $92.00 Regular Mail

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Herbert Hoover

Harry Truman

Dwight D. Eisenhower

John F. Kennedy

Lyndon B. Johnson

Richard Nixon

Gerald R. Ford

Jimmy Carter

Ronald Reagan

George Bush

William J. Clinton

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	**$51.00**
1993 (Book II)	**$51.00**
1994 (Book I)	**$56.00**
1994 (Book II)	**$52.00**
1995 (Book I)	**$60.00**
1995 (Book II)	**$65.00**
1996 (Book I)	**$66.00**
1996 (Book II)	**$72.00**
1997 (Book I)	**$69.00**
1997 (Book II)	**$78.00**
1998 (Book I)	**$74.00**
1998 (Book II)	**$75.00**
1999 (Book I)	**$71.00**
1999 (Book II)	**$75.00**
2000–2001 (Book I)	**$68.50**

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA

(Rev. 12/01)

VOL
66
ISS
2
4
2
DE
17
2001
UMI

Order Now!

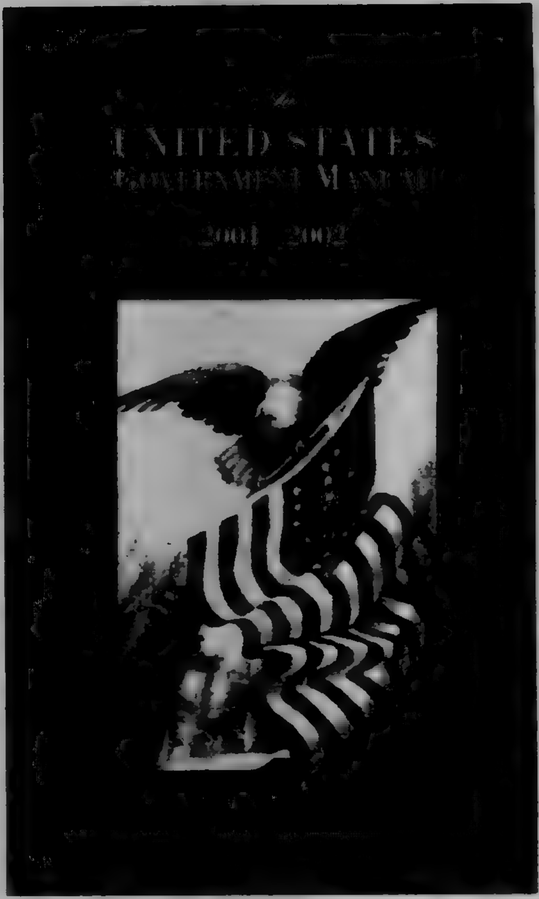
The United States Government Manual 2001/2002

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.



$41 per copy

Superintendent of Documents **Publications** Order Form

United States Government
INFORMATION
PUBLICATIONS ● PERIODICALS ● ELECTRONIC PRODUCTS

Order Processing Code
***7917**

Charge your order.
It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please send me ——— copies of **The United States Government Manual** 2001/2002,
S/N 069–000–00134–3 at $41 ($51.25 foreign) each.

Total cost of my order is $ ————. **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)
May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

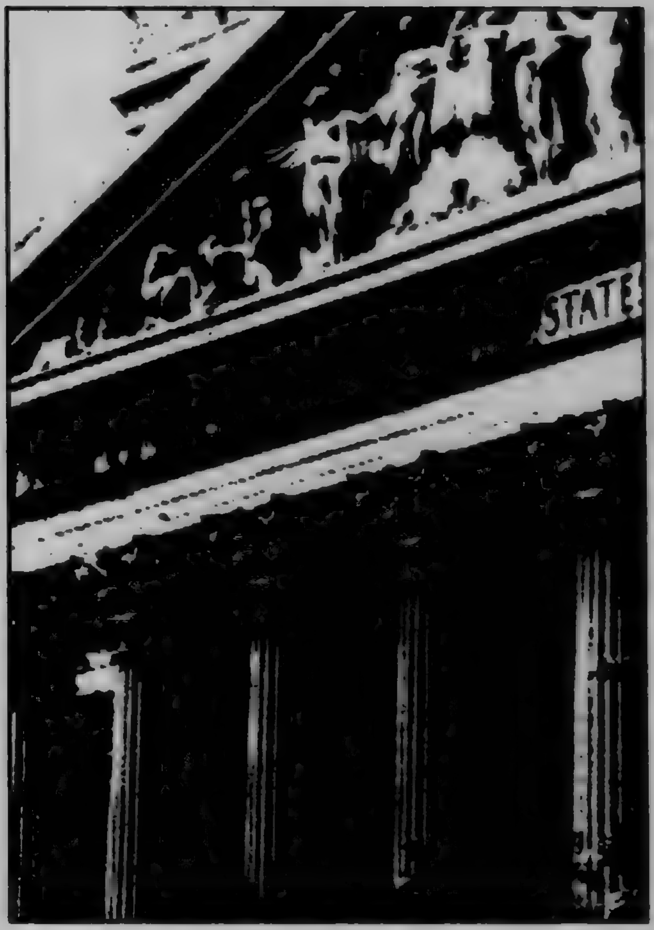
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected.
$35 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.
$30 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



- -

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

Charge your order.
It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $35 per year.
_____ **Federal Register Index** (FRUS) $30 per year.

The total cost of my order is $ ________. **Price includes regular domestic postage and handling** and is subject to change.
International customers please add 25%.

____
Company or personal name (Please type or print)

____
Additional address/attention line

____
Street address

____
City, State, ZIP code

____
Daytime phone including area code

____
Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

____
Authorizing Signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66 ISS 242 DE 17 2001 UMI

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be
sent approximately 90 days
before the shown date.

DEC97 R 1
AFR SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

A renewal notice will be
sent approximately 90 days
before the shown date.

DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $764 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $699 each per year.

The total cost of my order is $_________. **Price includes regular domestic postage and handling,** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐

☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
2
4
2
DE
17
2001
UMI

Printed on recycled paper

VOL
66

ISS
2
4
3

DE
18

2001

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–18–01
Vol. 66 No. 243

Tuesday
Dec. 18, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use $300

PERIODICALS
Postage and Fees Paid
U S Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
3
DE
18
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–18–01
Vol. 66 No. 243
Pages 65091–65422

Tuesday
Dec. 18, 2001

VOL 66
ISS 243
DE 18 2001
UMI

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498
Single copies/back copies:	
Paper or fiche	512–1800
Assistance with public single copies	512–1803
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register
Vol. 66, No. 243
Tuesday, December 18, 2001

Agriculture Department
See Forest Service
See National Agricultural Library
See Rural Business-Cooperative Service
See Rural Housing Service
See Rural Utilities Service

Army Department
NOTICES
Privacy Act:
  Systems of records, 65180–65183

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request; correction, 65213

Coast Guard
RULES
Drawbridge operations:
  Florida, 65104–65105
Ports and waterways safety:
  Maine Yankee Nuclear Power Plant, Wiscasset, ME; security zone, 65105–65107
NOTICES
Reports and guidance documents; availability, etc.:
  Merchant mariners; demonstrations of proficiency for persons in charge of medical care; assessment guidelines, 65237–65243

Commerce Department
See Export Administration Bureau
See International Trade Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
  Bangladesh, 65177
  Indonesia, 65178
  Romania, 65177–65178
Textile and apparel categories:
  Correlation with U.S. Harmonized Tariff Schedule, 65178–65179

Defense Department
See Army Department
RULES
Federal Acquisition Regulation (FAR):
  Component and end product; definitions, 65348–65351
  Contractor personnel; information technology services procurement, 65370–65372
  Discussion requirements in competitive negotiated acquisitions, 65367–65369
  Energy-efficiency of supplies and services, 65350–65353
  Iceland; newly designated country under Trade Agreements Act, 65369–65371
  Introduction, 65347–65349
  Javits-Wagner-O'Day Act; subcontract preference under service contracts, 65366–65368
  North American Industry Classification System, 65369–65370
  Prompt payment and overpayment recovery, 65352–65367
  Small entity compliance guide, 65371–65374
  Subcontract; definition, 65368–65370
NOTICES
Civilian health and medical program of uniformed services (CHAMPUS):
  DRG-based payment system (2002 FY)—
    TRICARE revised weights, thresholds, and per diem rates, 65179–65180

Education Department
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65183

Employment and Training Administration
NOTICES
Adjustment assistance:
  A-1 Manufacturing, Inc., 65222
  Aquaterra Biochemical Corp. of America, 65222
  ARA Cutting, LC, 65222
  Centis, Inc., 65222–65223
  Color Tex International, 65223
  Engineered Sintered Components, 65223
  Jonathan Engineered Solutions, 65223
  Littonian Shoe et al., 65224
  Mike Dent Enterprises et al., 65224–65225
  Thomaston Mills, Inc., 65225
Adjustment assistance and NAFTA transitional adjustment assistance:
  Cognis Corp. et al., 65220–65221
  Summit Timber Co., 65221–65222
NAFTA transitional adjustment assistance:
  Cemex Kosmos Cement Co., 65225–65226
  Centis, Inc., 65226
  Fedders Corp., 65226
  Gynecare, 65226
  Imperial Home Decor Group, 65226–65227
  Indiana Knitwear-Willacy Apparel et al., 65227–65229
  Jonathan Engineered Solutions, 65229
  JPS Apparel Fabrics Corp., 65229
  Laser Tool, 65230
  Thomaston Mills, Inc., 65230

Energy Department
See Energy Efficiency and Renewable Energy Office
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
  Environmental Management Site-Specific Advisory Board—
    Chairs, 65185
    Rocky Flats, CO, 65184
    Savannah River Site, SC, 65184–65185

VOL 66 ISS 243 DE 18 2001 UMI

Energy Efficiency and Renewable Energy Office

RULES
- Consumer products; energy conservation program:
  - Test procedures—
    - Dishwashers, 65091–65097

Energy Information Administration

NOTICES
- Agency information collection activities:
  - Submission for OMB review; comment request, 65185–65186

Environmental Protection Agency

RULES
- Water pollution control:
  - National Pollutant Discharge Elimination System—
    - Cooling water intake structures for new facilities, 65255–65345

PROPOSED RULES
- Air pollution control; new motor vehicles and engines:
  - Nonroad large spark ignition engines and recreational engines (marine and land-based); emissions control, 65164
- Air programs:
  - Fuels and fuel additives—
    - Reformulated gasoline terminal receipt date; correction, 65164

NOTICES
- Grants and cooperative agreements; availability, etc.:
  - Environmental Justice Small Grants Program; correction, 65208
- Reports and guidance documents; availability, etc.:
  - Dioxin-like compounds in United States; environmental releases; sources database; 1987 and 1995 reference years, 65208–65209
- Superfund; response and remedial actions, proposed settlements, etc.:
  - Gardner & Hubbardston Site, MA, 65209
- Water pollution; discharge of pollutants:
  - Gulf of Mexico, OCS operations—
    - Western portion; oil and gas extraction category, general permit, 65209–65210

Executive Office of the President

See National Drug Control Policy Office

Export Administration Bureau

NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65175–65176

Federal Aviation Administration

RULES
- Airworthiness directives:
  - Sikorsky, 65102–65103

NOTICES
- Exemption petitions; summary and disposition, 65243
- Meetings:
  - RTCA, Inc., 65243–65244
- Passenger facility charges; applications, etc.:
  - Oneida County, WI, et al., 65244–65247
  - Palm Beach International Airport, FL, 65247–65248

Federal Communications Commission

RULES
- Television broadcasting:
  - Digital television conversion; rules and policies, 65122–65140

PROPOSED RULES
- Television stations; table of assignments:
  - Utah and Nevada, 65164–65165

NOTICES
- Common carrier services:
  - Pine Belt Cellular and Pine Belt PCS; telecommunication carrier designation for Alabama; petition; comment request, 65210–65211

Federal Deposit Insurance Corporation

PROPOSED RULES
- Federal Deposit Insurance Act:
  - Post-insolvency interest payment in receiverships with surplus funds, 65144–65146

NOTICES
- Meetings; Sunshine Act, 65211

Federal Emergency Management Agency

RULES
- Flood elevation determinations:
  - Various States, 65107–65122

NOTICES
- Disaster and emergency areas:
  - Alabama, 65211–65212
  - Guam, 65212
  - Mississippi, 65212

Federal Energy Regulatory Commission

NOTICES
- Agency information collection activities:
  - Submission for OMB review; comment request, 65186–65187
- Electric rate and corporate regulation filings:
  - UAE Mecklenburg Cogeneration LP et al., 65196–65198
- Environmental statements; availability, etc.:
  - Cominco American Inc., 65198
  - Upper Peninsula Power Co., 65198
- Environmental statements; notice of intent:
  - PG&E Gas Transmission, Northwest Corp., 65199–65201
- Hydroelectric applications, 65201–65207
- Meetings:
  - Energy Infrastructure Conference, 65207
- National Register of Historic Places:
  - Programmatic agreement for managing properties; restricted service list—
    - Great Northern Paper, Inc., 65207–65208
- *Applications, hearings, determinations, etc.:*
  - Canyon Creek Compression Co., 65187
  - Cargill-Alliant, LLC, 65187
  - Columbia Gas Transmission Corp., 65187
  - Columbia Gulf Transmission Co., 65187–65188
  - Consolidated Edison Co. of New York, Inc., 65188
  - Dominion Transmission, Inc., 65188–65189
  - Flambeau Hydro, LLC, 65189–65190
  - Gulf South Pipeline Co., LP, 65190
  - High Island Offshore System, L.L.C., 65190
  - Inland Power & Light Co., 65190–65191
  - Marseilles Hydro Power LLC, 65191
  - Nautilus Pipeline Co., L.L.C., 65191
  - Northern Border Pipeline Co., 65191–65192
  - Northwest Pipeline Corp., 65192
  - Oildale Energy LLC, 65192
  - Orange & Rockland Utilities, Inc., 65193
  - Pacific Gas & Electric Co., 65194–65195
  - Pacific Gas & Electric Co. et al., 65193–65194
  - Questar Pipeline Co., 65195
  - Tennessee Gas Pipeline Co., 65195
  - William Gas Pipelines Central, Inc., 65195

Federal Housing Enterprise Oversight Office

RULES

- Practice and procedure:
  - Federal Home Loan Mortgage Corporation and Federal National Mortgage Association—
    - Flood insurance, 65097–65102

PROPOSED RULES

- Risk-based capital:
  - Counterparty haircuts, multifamily loans, and refunding; technical amendments and corrections, 65146–65162

Federal Reserve System

NOTICES

- Banks and bank holding companies:
  - Formations, acquisitions, and mergers, 65213
- Meetings; Sunshine Act, 65213

Fish and Wildlife Service

NOTICES

- Endangered and threatened species permit applications, 65218–65219

Food and Drug Administration

NOTICES

- Meetings:
  - Oncologic Drugs Advisory Committee, 65213–65214
- Reports and guidance documents; availability, etc.:
  - Filth from insects, rodents, and other pests in food, 65214

Forest Service

NOTICES

- Meetings:
  - Modoc Resource Advisory Committee, 65174

General Services Administration

RULES

- Federal Acquisition Regulation (FAR):
  - Component and end product; definitions, 65348–65351
  - Contractor personnel; information technology services procurement, 65370–65372
  - Discussion requirements in competitive negotiated acquisitions, 65367–65369
  - Energy-efficiency of supplies and services, 65350–65353
  - Iceland; newly designated country under Trade Agreements Act, 65369–65371
  - Introduction, 65347–65349
  - Javits-Wagner-O'Day Act; subcontract preference under service contracts, 65366–65368
  - North American Industry Classification System, 65369–65370
  - Prompt payment and overpayment recovery, 65352–65367
  - Small entity compliance guide, 65371–65374
  - Subcontract; definition, 65368–65370

Health and Human Services Department

See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Housing and Urban Development Department

See Federal Housing Enterprise Oversight Office

PROPOSED RULES

- Mortgage and loan programs:
  - Uniform Financial Reporting Standards; additional entity filing requirements
    - Correction, 65162–65163

Interior Department

See Fish and Wildlife Service
See Land Management Bureau
See National Indian Gaming Commission

Internal Revenue Service

NOTICES

- Agency information collection activities:
  - Proposed collection; comment request, 65252–65253

International Trade Administration

NOTICES

- Antidumping:
  - Individually quick frozen red raspberries from—
    - Chile, 65177

International Trade Commission

NOTICES

- Import investigations:
  - Ethyl alcohol for fuel use, 65219–65220

Labor Department

See Employment and Training Administration
See Labor-Management Standards Office

Labor-Management Standards Office

PROPOSED RULES

- Federal contractors and subcontractors:
  - Employee rights concerning union dues or fees payment
    - Duplicate copies of comments requested due to mail delivery problems, 65163–65164

Land Management Bureau

NOTICES

- Environmental statements; notice of intent:
  - Lander County, NV; Pipeline/South Pipeline Pit expansion, 65219

National Aeronautics and Space Administration

RULES

- Federal Acquisition Regulation (FAR):
  - Component and end product; definitions, 65348–65351
  - Contractor personnel; information technology services procurement, 65370–65372
  - Discussion requirements in competitive negotiated acquisitions, 65367–65369
  - Energy-efficiency of supplies and services, 65350–65353
  - Iceland, newly designated country under Trade Agreements Act, 65369–65371
  - Introduction, 65347–65349
  - Javits-Wagner-O'Day Act; subcontract preference under service contracts, 65366–65368
  - North American Industry Classification System, 65369–65370
  - Prompt payment and overpayment recovery, 65352–65367
  - Small entity compliance guide; 65371–65374
  - Subcontract; definition, 65368–65370

National Agricultural Library

NOTICES

- Agency information collection activities:
  - Proposed collection; comment request, 65174–65175

VOL 66 ISS 243 DE 18 2001 UMI

National Drug Control Policy Office
NOTICES
- Meetings:
  - Drug Control Research, Data, and Evaluation Committee, 65210

National Foundation on the Arts and the Humanities
NOTICES
- Meetings:
  - Leadership Initiatives Advisory Panel, 65230
  - Partnerships Advisory Panel, 65231

National Highway Traffic Safety Administration
RULES
- Motor vehicle safety standards:
  - Occupant crash protection—
    - Future air bags designed to create less risk of serious injuries for small women and young children, etc., 65375–65421

PROPOSED RULES
- Motor vehicle safety standards:
  - Defect and noncompliance reports—
    - Recalled tires disposition, 65165–65173

NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65248–65251
  - Submission for OMB review; comment request, 65251–65252

National Indian Gaming Commission
NOTICES
- Indian Gaming Regulatory Act:
  - Fee rates, 65231

National Institutes of Health
NOTICES
- Inventions, Government-owned; availability for licensing, 65214–65215
- Meetings:
  - National Center for Complementary and Alternative Medicine, 65215
  - National Institute of Dental and Craniofacial Research, 65215
  - National Institute of Diabetes and Digestive and Kidney Diseases, 65216
  - Scientific Review Center, 65216–65217

Nuclear Regulatory Commission
PROPOSED RULES
- Rulemaking petitions:
  - Union of Concerned Scientists
    - Denied, 65141–65144

NOTICES
- Environmental statements; availability, etc.:
  - Exelon Generation Co., LLC, 65231–65232
  - International Uranium (USA) Corp.; correction, 65232

Office of Federal Housing Enterprise Oversight
See Federal Housing Enterprise Oversight Office

Postal Service
NOTICES
- Reports and guidance documents; availability, etc.:
  - Postal transformation concepts; discussion outline; comment request, 65232–65233

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Railroad Retirement Board
NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65233–65234

Rural Business-Cooperative Service
NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65175

Rural Housing Service
NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65175

Rural Utilities Service
NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65175

Small Business Administration
NOTICES
- Disaster loan areas:
  - Arkansas et al., 65234
- Grants and cooperative agreements; availability, etc.:
  - New Markets Venture Capital Program, 65234
- Meetings:
  - National Small Business Development Center Advisory Board, 65234–65235
- Meetings; district and regional advisory councils:
  - Connecticut, 65235

State Department
NOTICES
- Meetings:
  - Cultural Property Advisory Committee, 65235–65236
  - International Communications and Information Policy Advisory Committee, 65236
- Munitions export licenses; suspension, revocation, etc.:
  - Indonesia, 65235

Substance Abuse and Mental Health Services Administration
NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65217–65218

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration

NOTICES
- Privacy Act:
  - Systems of records, 65236–65237

Treasury Department
See Internal Revenue Service

Separate Parts In This Issue

Part II
Environmental Protection Agency, 65255–65345

Part III
Defense Department; General Services Administration; National Aeronautics and Space Administration, 65347–65374

Part IV
Transportation Department, National Highway Traffic Safety Administration, 65375–65421

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.
To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

VOL 66
ISS 243
DEC 18
2001
UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

10 CFR
430 65091
Proposed Rules:
54 65141

12 CFR
1773 65097
Proposed Rules:
360 65144
1750 65146

14 CFR
39 65102

24 CFR
Proposed Rules:
5 65162
202 65162

29 CFR
Proposed Rules:
470 65163

33 CFR
117 65104
165 65105

40 CFR
9 65256
122 65256
123 65256
124 65256
125 65256
Proposed Rules:
80 65164
89 65164
90 65164
91 65164
1048 65164
1051 65164
1065 65164
1068 65164

44 CFR
65 (2 documents) 65107, 65110
67 (2 documents) 65115, 65120

47 CFR
73 65122
Proposed Rules:
73 65164

48 CFR
Ch. 1 (2 documents) 65346, 65372
2 (3 documents) 65349, 65351, 65353
5 65370
8 65367
11 65351
12 65370
15 (3 documents) 65351, 65368, 65369
19 65370
22 65370
23 (2 documents) 65351, 65370
25 (2 documents) 65349, 65370
32 65353
39 65371
42 65351
44 65367
52 (5 documents) 65349, 65353, 65367, 65370
53 65370

49 CFR
571 65376
Proposed Rules:
573 65165

Rules and Regulations

Federal Register
Vol. 66, No. 243
Tuesday, December 18, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM/TP–99–500]

RIN 1904–AB04

Energy Conservation Program for Consumer Products: Test Procedure for Dishwashers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (We, DOE, or the Department) today amends its test procedure for dishwashers. This amendment revises the number of cycles per year used for calculating the estimated annual operating cost, changes the definitions of compact and standard models, and modifies some of the testing specifications to improve testing repeatability. These amendments to the test procedure do not alter the minimum energy conservation standards currently in effect for dishwashers.

EFFECTIVE DATES: This rule is effective June 17, 2002. The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of June 17, 2002.

ADDRESSES: You can read copies of all materials related to this rulemaking in the Freedom of Information Reading Room (Room 1E–190) at the U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Twigg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–41, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–8714, email: *barbara.twigg@ee.doe.gov;* or Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, GC–72, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9507, email: *eugene.margolis@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This final rule incorporates, by reference, the "American National Standard, Household Electric Dishwashers, ANSI/AHAM DW–1–1992" published by the Association of Home Appliance Manufacturers (AHAM). You may obtain copies of the referenced standard AHAM DW–1 from the Association of Home Appliance Manufacturers, 1111 19th Street, NW., Suite 402, Washington, DC 20036, (202) 872–5955. Information regarding this rulemaking is also available on the Office of Codes and Standards web site at the following address: *http://www.eren.doe.gov/buildings/codes_standards/index.htm.*

- I. Introduction
  - A. Authority
  - B. Background
  - C. Summary of the Test Procedure Revisions
- II. Discussion
  - A. General Discussion
  - B. Changes in Consumer Practices—Representative Average Dishwasher Use
  - C. Improving Testing Repeatability
  - D. New Definitions for Compact and Standard Models
- III. Procedural Requirements
  - A. Review Under the National Environmental Policy Act of 1969
  - B. Review Under Executive Order 12866, "Regulatory Planning and Review"
  - C. Review Under the Regulatory Flexibility Act
  - D. "Takings" Assessment Review
  - E. Review Under Executive Order 13132, "Federalism"
  - F. Review Under the Paperwork Reduction Act
  - G. Review Under Executive Order 12988, "Civil Justice Reform"
  - H. Review Under the Unfunded Mandates Reform Act of 1995
  - I. Review Under the Treasury and General Government Appropriations Act, 1999
  - J. Review Under Executive Order 13211
  - K. Congressional Notification

I. Introduction

A. Authority

Part B of Title III of the Energy Policy and Conservation Act, as amended (EPCA or Act), establishes the Energy Conservation Program for Consumer Products Other Than Automobiles (Program). The products currently subject to this Program ("covered products") include residential dishwashers, the subject of today's final rule.

Under the Act, the Program consists of three parts: testing, labeling, and the Federal energy conservation standards. The Department, in consultation with the National Institute of Standards and Technology (NIST), must amend or establish test procedures as appropriate for each of the covered products. Section 323 of EPCA, 42 U.S.C. 6293. The purpose of the test procedures is to measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use. The test procedure must not be unduly burdensome to conduct. Section 323(b)(3) of EPCA, 42 U.S.C. 6293(b)(3).

If a test procedure is amended, DOE is required to determine to what extent, if any, the new test procedure would alter the measured energy efficiency or measured energy use of any covered product as determined under the existing test procedure. If DOE determines that an amended test procedure would alter the measured efficiency or measured energy use of a covered product, DOE is required to amend the applicable energy conservation standard accordingly. In determining the amended energy conservation standard, DOE is required to measure the energy efficiency or energy use of a representative sample of covered products that minimally comply with the existing standard. The average efficiency of these representative samples, tested using the amended test procedure, constitutes the amended standard. Section 323(e)(1) of EPCA, 42 U.S.C. 6293(e)(1). DOE has determined that today's amended test procedure does not alter the measured efficiency or measured energy use of dishwashers.

Beginning 180 days after a test procedure for a product is prescribed, no manufacturer, distributor, retailer, or private labeler may make representations with respect to the energy use, efficiency, or cost of energy consumed by such products, except as reflected in tests conducted according to the DOE procedure. Section 323(c)(2) of EPCA, 42 U.S.C. 6293(c)(2).

VOL
66
ISS
2
4
3
DE
18
2001
UMI

B. Background

On September 28, 1999, the Department published a Notice of Proposed Rulemaking (proposed rule) (64 FR 52248) that proposed a new test procedure for residential dishwashers. The key technological development that triggered the need for revision was the introduction of adaptive control or soil-sensing models. Industry and government tests indicated that the existing test method using only clean dishes did not produce results that would accurately reflect the energy consumed by these machines in a real use environment. The Association of Home Appliance Manufacturers (AHAM) proposed a new approach for testing the soil-sensing models using a formula to weight and average the energy consumption of the minimum and maximum sensor normal cycles. We adapted that method and presented it for comment in the September 28, 1999, proposed rule, along with several other issues such as the definitions for compact and standard models, a revision in the average number of times dishwashers are used each year, and some new specifications for improving testing repeatability. We held a public workshop on November 2, 1999, to discuss the proposed changes, with particular focus on the new method for testing soil-sensing or adaptive control models.

However, because of the questions raised at the workshop and the need expressed by industry to gather additional data and explore alternatives to the proposed method for testing soil-sensing models, we reopened the comment period and extended the deadline for comments to February 14, 2000. Again, comments raised problems with the proposed method. Stakeholders questioned the data supporting the selection of the percentages used to reflect the relative amount of soil encountered by soil-sensing dishwashers in typical loads. (Natural Resources Defense Council (NRDC), No. 4 at 2, and Schleede, No. 8 at 3). Others cited insufficient knowledge as to how different machines would actually react to varying soil loads, that is, what length cycle would be triggered under different wash conditions. (Oregon Office of Energy (OOE), No. 9 at 1). One manufacturer commented that the original AHAM method did not do an adequate job of reflecting the performance of their machines' pressure-based, soil-sensing technology. (Whirlpool, No. 6 at 6).

AHAM concluded that because of significant changes and variations in soil-sensing technology, it was premature to publish a new test method for those models at this time. AHAM cited the need for additional study by industry before their members could propose a new test procedure which would accurately test the response and performance of machines using a variety of soil-sensing technologies. They suggested that we divide the rulemaking into two parts with the following course of action: first, we should proceed to finalize the proposed modifications to improve testing reliability, revise the definitions for compact and standard models, and update the number of use cycles per year to reflect current consumer use patterns. However, AHAM recommended that we should wait to publish a new, comprehensive method for testing soil-sensing models until industry completed additional testing and proposed a new test procedure. (AHAM No. 12 at 8).

Following these comments, DOE further investigated the variety of soil-sensing technologies in the market. We determined that additional data and research were required before an adequate test procedure for all soil-sensing models could be devised. As a result, we agreed that it was premature to finalize a rulemaking for those models at this time. We also agreed that we should not wait to finalize the other proposed changes—the testing specifications, the definitions for compact and standard models, and the reduction in the average number of use cycles per year. These changes are needed to improve the reliability of the current test procedure, and to update the inputs for calculating the estimated operating cost of all models. Therefore, we are deferring the proposal of a new method for testing soil-sensing machines until NIST, industry, and other stakeholders complete the studies necessary for enacting a definitive test procedure. This final rule substantially retains the original test procedure, but adds new testing specifications, definitions, and a new number for average use cycles per year. We will continue to work with industry after this final rulemaking is enacted to develop a test procedure that accurately reflects the cycle performance of the variety of technologies used by soil-sensing machines. We anticipate that the final rule addressing soil-sensing dishwashers will be completed in 2003.

C. Summary of the Test Procedure Revisions

The following are the major revisions to the dishwasher test procedure included in this final rule:

1. Update the test procedure to reflect changes in consumer practices:
   - Reduce the representative average number of use cycles per year to 264; and
   - Base the definitions of compact and standard dishwashers on place-setting capacity.
2. Improve testing repeatability:
   - Tighten the tolerance for ambient temperature;
   - Add more detail to test chamber installation requirements.; and
   - Add an instruction for manufacturers to run a conditioning cycle prior to the test.

II. Discussion

A. General Discussion

While this final rule retains many of the improvements to the test procedure for measuring the energy use of dishwashers presented in the September 28, 1999, proposed rule, it also includes important changes. Most significantly, we are withdrawing the new method described in the proposed rule for testing adaptive control dishwashers. We are retaining the original method currently in effect for testing conventional and adaptive control dishwashers until we adopt, with the assistance of the dishwasher industry and other stakeholders, a new test method that will accurately test machines using a variety of sensor technologies. Manufacturers of soil-sensing machines will continue to record the energy consumption of those models by measuring the energy used when the dishwasher runs the specified load of clean dishes through the normal cycle.

Although the Department recognizes the importance of determining a test method which will accurately reflect the energy performance of soil-sensing models under real life conditions, it became clear from all comments submitted during the Notice of Proposed Rulemaking process that additional research was necessary. Both industry and environmental advocates shared concerns that there was insufficient understanding of how the machines performed under "typical" soil conditions, and what those "typical" soil conditions actually were. The Natural Resources Defense Council (NRDC), for example, urged the Department not to "make changes in the test procedure unless they are supported by data." (NRDC No. 4 at 1). AHAM stressed that "there have been significant changes in technology with regard to soil-sensing dishwashers and there is still additional information needed on the usage of these units." (AHAM No. 12 at 8).

The Department at first considered adopting an interim strategy for improving, at least partially, the accuracy of the energy factors derived from tests of soil-sensing models using only clean dishes. One proposal was imposing a maximum cap on the energy factor that could be claimed from using the conventional test method. However, the lack of reliable, statistical information in this area was one issue of significant concern during the workshop and comment periods: how to ascertain, with accuracy, the typical soil load, and then understand how a variety of soil-sensing models will function in response to that load. Therefore, rather than focusing time, resources, and research on an interim proposal, we decided to concentrate on the development of a permanent test method. We have underway, for example, a research project to evaluate available information on consumer behavior regarding the soil levels of typical dishwasher loads. This study will assess the validity and adequacy of existing consumer behavior data, and suggest a means of relating the different consumer usage patterns with amounts and characteristics of food soils. This information will point the direction toward translating that average soil load into a repeatable test load for testing dishwashers with adaptive controls and soil sensors. It appears that using a repeatable soil load may be the only solution for accurately testing the energy and water consumption of a variety of adaptive control dishwashers.

Although there are several existing soil tests for dishwashers, both national (such as the AHAM DW–1) and international, none of these currently satisfy our requirements for designing a normal test that is representative of the average soil load introduced by consumers. Since these methods test for both cleaning performance and energy consumption, they feature a very challenging soil load designed to be an extreme test of the dishwasher. However, it may be possible to use a reduced number of soiled dishes from one or a combination of these methods to represent normal soiling, recognizing the importance of test repeatability and the need to minimize test burden. We are exploring this possibility in conjunction with consumer use data and expect to present for comment a new test method for soil-sensing dishwashers in a proposed rule to be issued in 2002.

B. Changes in Consumer Practices—Representative Average Dishwasher Use

In 1983, DOE amended the dishwasher test procedure to reduce the representative average use from 416 cycles per year to 322 cycles per year based on Proctor and Gamble (P&G) surveys of consumer use conducted prior to 1982. For this rulemaking, in looking for more recent data, the Department learned from industry that the Soap and Detergent Association (SDA) was now the source to be contacted for survey data obtained by detergent manufacturers. By averaging the SDA data for available years between 1985 and 1995, as discussed in the proposed rule, we calculated 264 as the average number of dishwasher use cycles per year.

There were some issues raised at the public workshop regarding the SDA data. Energy Market & Policy Analysis (Schleede) asked about the statistical validity of the survey. (Schleede, Transcript at 19). The Oregon Office of Energy asked as to whether the survey considered such issues as family size. (OOE, Transcript at 23). Northwest Power Planning Council (NPPC) asked about household income and sample size of the data. (NPPC, Transcript at 29). At the workshop, NIST provided additional information regarding the detergent manufacturers' survey method, stating, "The data below comes from our study contacting nationally representative panelists from the standpoint of geography, family size, age of homemaker, gender, income, and employment status. The data are obtained through an independent, outside research organization. This survey is run annually and has a base size of 1,500 to 1,800 respondents." AHAM commented that the SDA data should be considered as an unbiased source of information because "the manufacturers of dishwasher detergent have, if you will, a vested interest in making sure that the data is absolutely as accurate as they can do because they use it for inventory tracking, and to them it is extremely important to know exactly how much dishwasher detergent is going to be used." (AHAM, Transcript at 28). The Department believes the SDA data is the best there is regarding dishwasher usage in that it is based on the detergent industry's needs.

AHAM agreed with the Department's decision to use 264 cycles per year as the average figure for dishwasher use. (AHAM, Transcript at 21). Stephens thought the number could be higher because of an upswing in the SDA data for 1995–1996 and believed the data might extrapolate to a Pacific Northwest region 1998–1999 survey which tabulated 281 cycles per year. Stephens recommended that we wait for 1997–1998 detergent manufacturer data. (OOE, No. 9 at 2). Energy Market & Policy Analysis thought the 264 number was too high citing EIA's November 1999 Residential Energy Consumption Survey as a source for consumer use data. (Schleede, No. 10 at 1). He stated that "Data in the recently released EIA report indicates that your (DOE's) estimate of 264 "cycles" is excessive and that the correct number is approximately 220 cycles (or less)." (Schleede, No. 10 at 2).

The Department notes that survey data on the annual usage of dishwashers are likely to vary from year to year. Rather than base its number on any particular one year, the Department prefers to take an average over several years in order to smooth out year to year variations. Regarding the use of the EIA data, NIST reviewed the EIA report which had surveyed 8,000 respondents nationwide and collected data on how often households use automatic dishwashers in an average week. The data, however, do not present a firm, clear figure for the number of dishwasher cycles per year because of the way the information was collected. In the report, the data are provided in bands categorizing dishwasher use per week along with the percentage of responses for each band (less than 4 times per week, 4 to 6 times per week, and at least once per day). In order to use the EIA data, DOE somehow would have to annualize the data or abandon the existing methodology. Neither the EIA data nor the option of abandoning the existing methodology were within the scope of the proposed rule. Rather than reopening the comment period or reproposing the rule for public comment, DOE has decided to continue studying the EIA data with a view toward possibly including it in the forthcoming notice of proposed rulemaking that would cover a test procedure for adaptive control models. In DOE's view, there is ample support in the record for the proposed figure of 264 cycles per year, and the improvement in accuracy that might come from use of the EIA data is not worth the delay in bringing this rulemaking to a conclusion.

C. Improving Testing Repeatability

In the proposed rule, the Department discussed several changes to clarify the existing test procedure and improve its repeatability when multiple tests are conducted. Although the manufacturers agreed that such changes as tightening the tolerances for ambient temperature testing would improve reproducibility, they expressed concern over one item: the new definition for "truncated normal cycle." AHAM stated that changing the word "interrupted" to "preset" would unnecessarily increase test burden by requiring additional test

VOL 66 ISS 243 DE 18 2001 UMI

runs. Many manufacturers were measuring the energy consumption at the end of the wash cycle, before the power dry, and recording that value as the machine energy consumption for the truncated normal cycle. The cycle was not terminated. The machine then was allowed to complete the power dry, and the energy consumption was measured and recorded as the value of the machine energy consumption for the normal cycle. The current test procedure (sections 2.6.1 and 2.6.2) calls for the user to average the water consumption for the normal and truncated normal cycles. However, the proposal in the proposed rule (section 1.10) called for a separate test cycle to be run for the truncated normal cycle in order to measure the amount of energy consumed during the air dry portion of the cycle. In the public hearing discussions the manufacturers claimed that the energy consumed during the air dry sequence was negligible, regardless of whether the action was to open a vent mechanically and let drying occur by natural convection, or whether mechanical drying was used to assist the air dry. After tests by NIST confirmed the claim that the energy consumption during the air dry sequence was indeed negligible, DOE concluded that a separate cycle need not be run. Under this final rule, manufacturers may continue to extract the normal and truncated normal energy consumption from a single test run.

Thus, the original definition will be retained and reads: "Truncated Normal Cycle" means the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse operation.

D. New Definitions for Compact and Standard Models

As discussed in the proposed rule, we are changing the definitions for determining compact and standard models. The new definitions of "compact dishwasher" and "standard dishwasher" use place-setting capacity instead of the measurement of the width of the unit.

III. Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969

In this rule, the Department finalizes amendments to test procedures that may be used to implement future energy conservation standards for dishwashers. The Department has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.* The rule is covered by Categorical Exclusion A5, for rulemakings that interpret or amend an existing rule without changing the environmental effect, as set forth in the Department's NEPA regulations in appendix A to subpart D, 10 CFR part 1021. This final rule will not affect the quality or distribution of energy usage and, therefore, will not result in any environmental impacts. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

B. Review Under Executive Order 12866, "Regulatory Planning and Review"

Today's final rule is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review." 58 FR 51735 (October 4, 1993). Accordingly, today's action is not subject to review under the Executive Order by the Office of Information and Regulatory Affairs.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that an agency prepare an initial regulatory flexibility analysis for any rule, for which a general notice of proposed rulemaking is required, that would have a significant economic effect on small entities unless the agency certifies that the proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605.

Today's rule prescribes test procedures that will be used to test compliance with energy conservation standards. The rule affects dishwasher test procedures and would not have a significant economic impact, but rather would provide common testing methods. Therefore DOE certifies that today's rule would not have a "significant economic impact on a substantial number of small entities," and the preparation of a regulatory flexibility analysis is not warranted.

D. "Takings" Assessment Review

DOE has determined pursuant to Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

E. Review Under Executive Order 13132, "Federalism"

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of Government. If there are substantial direct effects, then this Executive Order requires preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

The rule published today would not regulate or otherwise affect the States. Accordingly, DOE has determined that preparation of a Federalism assessment is unnecessary.

F. Review Under the Paperwork Reduction Act

No new information or record keeping requirements are imposed by this rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

G. Review Under Executive Order 12988, "Civil Justice Reform"

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by sections 3(a) and 3(b) of Executive Order 12988, it specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE reviewed today's final rule under the standards of section 3 of the Executive Order and determined that, to the extent permitted by law, the final regulations meet the relevant standards.

H. Review Under the Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Department prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (i) Identification of the Federal law under which the rule is promulgated; (ii) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to state, local, and tribal governments may be paid with Federal financial assistance; (iii) if feasible, estimates of the future compliance costs and of any disproportionate budgetary effects the mandate has on particular regions, communities, non-Federal units of government, or sectors of the economy; (iv) if feasible, estimates of the effect on the national economy; and (v) a description of the Department's prior consultation with elected representatives of state, local, and tribal governments and a summary and evaluation of the comments and concerns presented.

The Department has determined that the action today does not include a Federal mandate that may result in estimated costs of $100 million or more to State, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Sections 203 and 204 of the Unfunded Mandates Act do not apply to this action.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. No. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to the promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

Today's final rule will not have a significant adverse effect on the supply, distribution, or the use of energy, and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's final rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 801(2).

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances, Incorporation by reference.

Issued in Washington, DC, on December 12, 2001.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended, as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. Section 430.22 is amended in Subpart B by revising paragraph (b)(1) introductory text and adding paragraph (b)(7) to read as follows:

§ 430.22 Reference Sources.

* * * * *

(b) * * * (1) American National Standards Institute (ANSI). The ANSI standards listed in this paragraph may be obtained from the American National Standards Institute, 25 W. 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900.

* * * * *

(7) Association of Home Appliance Manufacturers, 1111 19th Street, NW., Suite 402, Washington, DC 20036, (202) 872–5955, "American National Standard, Household Electric Dishwashers, ANSI/AHAM DW–1–1992."

* * * * *

3. Section 430.23 of subpart B is amended by revising the section heading, and paragraph (c) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(c) *Dishwashers.* (1) The estimated annual operating cost (EAOC) for dishwashers must be rounded to the nearest dollar per year and is defined as follows:

(i) When cold water (50°F) is used,

(A) For dishwashers having a truncated normal cycle as defined in section 1.9 of appendix C to this subpart,

$$EAOC = N \times D_e \times (0.5 \times (M_n + M_t))$$

(B) for dishwashers not having a truncated normal cycle,

$$EAOC = N \times D_e \times M_n$$

where,

N = the representative average dishwasher use of 264 cycles per year,

D_e = the representative average unit cost of electrical energy in dollars per kilowatt-hour as provided by the Secretary,

M_n = the machine electrical energy consumption per-cycle for the normal cycle as defined in section 1.5 of appendix C to this subpart, in kilowatt-hours and determined according to section 5.1 of appendix C to this subpart,

M_t = the machine electrical energy consumption per-cycle for the truncated normal cycle, in kilowatt-hours and determined according to section 5.1 of appendix C to this subpart.

(ii) When electrically-heated water (120°F or 140°F) is used,

(A) For dishwashers having a truncated normal cycle as defined in section 1.9 of appendix C to this subpart,

$EAOC = N \times D_e \times (0.5 \times (E_n+E_t))$

(B) For dishwashers not having a truncated normal cycle,

$EAOC = N \times D_e \times E_n \times$ where,

N and D_e are defined in paragraph (c)(1)(i) of this section,

E_n = the total electrical energy consumption per-cycle for the normal cycle as defined in section 1.5 of appendix C to this subpart, in kilowatt-hours and determined according to section 5.1 of appendix C to this subpart,

E_t = the total electrical energy consumption per-cycle for the truncated normal cycle, in kilowatt-hours and determined according to section 5.1 of appendix C to this subpart.

(iii) When gas-heated or oil-heated water is used,

(A) For dishwashers having a truncated normal cycle as defined in section 1.9 of appendix C to this subpart,

$EAOC = N \times ((D_e \times 0.5(M_n+M_t))+(D_w \times 0.5(W_n+W_t)))$

(B) For dishwashers not having a truncated normal cycle,

$EAOC = N \times ((D_e \times M_n)+(D_w \times W_n))$ where,

N, D_e, M_n and M_t are defined in paragraph (c)(1)(i) of this section,

D_w = the representative average unit cost in dollars per Btu for gas or oil, as appropriate, as provided by the Secretary,

W_n = the total water energy consumption per cycle for the normal cycle as defined in section 1.5 of appendix C to this subpart, in Btus and determined according to section 5.3 of appendix C to this subpart,

W_t = the total water energy consumption per cycle for the truncated normal cycle as defined in section 1.9 of appendix C to this subpart, in Btus and determined according to section 5.3 of appendix C to this subpart.

(2) The energy factor for dishwashers, expressed in cycles per kilowatt-hour is defined as:

(i) For dishwashers not having a truncated normal cycle, as the reciprocal of the total energy consumption per cycle (E_n) for the normal cycle in kilowatt-hours per cycle, determined according to section 5.4 of appendix C to this subpart, and

(ii) For dishwashers having a truncated normal cycle, as the reciprocal of one-half the sum of

(A) The total energy consumption per cycle for the normal cycle (E_n), plus

(B) The total energy consumption per cycle for the truncated normal cycle (E), each in kilowatt-hours per cycle and determined according to section 5.4 of appendix C to this subpart.

(3) Other useful measures of energy consumption for dishwashers are those which the Secretary determines are likely to assist consumers in making purchasing decisions and which are derived from the application of appendix C to this subpart.

4. Appendix C to Subpart B of Part 430 is revised to read as follows:

Appendix C to Subpart B of Part 430–Uniform Test Method for Measuring the Energy Consumption of Dishwashers

1. Definitions

1.1 *AHAM* means the Association of Home Appliance Manufacturers.

1.2 *Compact dishwasher* means a dishwasher that has a capacity less than eight place settings plus six serving pieces as specified in ANSI/AHAM Standard DW–1 (see § 430.22).

1.3 *Cycle* means a sequence of operations of a dishwasher which performs a complete dishwashing function, and may include variations or combinations of washing, rinsing, and drying.

1.4 *Cycle type* means any complete sequence of operations capable of being preset on the dishwasher prior to the initiation of machine operation.

1.5 *Normal cycle* means the cycle type recommended by the manufacturer for completely washing a full load of normally soiled dishes including the power-dry feature.

1.6 *Power-dry feature* means the introduction of electrically generated heat into the washing chamber for the purpose of improving the drying performance of the dishwasher.

1.7 *Preconditioning cycle* means any cycle that includes a fill, circulation, and drain to ensure that the water lines and sump area of the pump are primed.

1.8 *Standard dishwasher* means a dishwasher that has a capacity equal to or greater than eight place settings plus six serving pieces as specified in ANSI/AHAM Standard DW–1 (see § 430.22).

1.9 *Truncated normal cycle* means the normal cycle interrupted to eliminate the power-dry feature after the termination of the last rinse operation.

1.10 *Water-heating dishwasher* means a dishwasher which is designed for heating cold inlet water (nominal 50°F) or a dishwasher for which the manufacturer recommends operation with a nominal inlet water temperature of 120°F, and may operate at either of these inlet water temperatures by providing internal water heating to above 120°F in at least one wash phase of the normal cycle.

2. Testing Conditions

2.1 *Installation Requirements.* Install the dishwasher according to the manufacturer's instructions. A standard or compact under-counter or under-sink dishwasher must be tested in a rectangular enclosure constructed of nominal 0.374 inch (9.5 mm) plywood painted black. The enclosure must consist of a top, a bottom, a back, and two sides. If the dishwasher includes a counter top as part of the appliance, omit the top of the enclosure. Bring the enclosure into the closest contact with the appliance that the configuration of the dishwasher will allow.

2.2 *Electrical energy supply.*

2.2.1 *Dishwashers that operate with an electrical supply of 115 volts.* Maintain the electrical supply to the dishwasher within two percent of 115 volts and within one percent of the nameplate frequency as specified by the manufacturer.

2.2.2 *Dishwashers that operate with an electrical supply of 240 volts.* Maintain the electrical supply to the dishwasher within two percent of 240 volts and within one percent of its nameplate frequency as specified by the manufacturer.

2.3 *Water temperature.* Measure the temperature of the water supplied to the dishwasher using a temperature measuring device as specified in section 3.1 of this Appendix.

2.3.1 *Dishwashers to be tested at a nominal 140°F inlet water temperature.* Maintain the water supply temperature at 140 ± 5°F.

2.3.2 *Dishwashers to be tested at a nominal 120°F inlet water temperature.* Maintain the water supply temperature at 120 ± 2°F.

2.3.3 *Dishwashers to be tested at a nominal 50°F inlet water temperature.* Maintain the water supply temperature at 50 ± 2 °F.

2.4 *Water pressure.* Using a water pressure gauge as specified in section 3.3 of this Appendix, maintain the pressure of the water supply at 35 ± 2.5 pounds per square inch gauge (psig).

2.5 *Ambient and machine temperature.* Using a temperature measuring device as specified in section 3.1 of this Appendix, maintain the room ambient air temperature at 75 ± 5 °F, and ensure that the dishwasher and the test load are at room ambient temperature at the start of each test cycle.

2.6 *Load.*

2.6.1 *Dishwashers to be tested at a nominal inlet temperature of 140 °F.* These units must be tested on the normal cycle without a test load.

2.6.2 *Dishwashers to be tested at a nominal inlet temperature of 50 °F or 120 °F.* These units must be tested on the normal cycle with a test load of eight place settings plus six serving pieces, as specified in AHAM Standard DW–1. If the capacity of the dishwasher, as stated by the manufacturer, is less than eight place settings, then the test load must be the stated capacity.

2.7 *Testing requirements.* Provisions in this appendix pertaining to dishwashers that operate with a nominal inlet temperature of 50 °F or 120 °F apply only to water heating dishwashers.

2.8 *Preconditioning requirements.* Precondition the dishwasher by establishing the testing conditions set forth in sections 2.1 through 2.5 of this Appendix. Set the dishwasher to the preconditioning cycle as defined in section 1.7 of this Appendix, without using a test load, and initiate the cycle.

3. Instrumentation

3.1 *Temperature measuring device.* The device must have an error no greater than ± 1 °F over the range being measured.

3.2 *Water meter.* The water meter must have a resolution of no larger than 0.1 gallons and a maximum error no greater than 1.5 percent for all water flow rates from one to five gallons per minute and for all water temperatures encountered in the test cycle.

3.3 *Water pressure gauge.* The water pressure gauge must have a resolution of one pound per square inch (psi) and must have an error no greater than 5 percent of any measured value over the range of 35 ± 2.5 psig.

3.4 *Watt-hour meter.* The watt-hour meter must have a resolution of no greater than 1 watt-hour and a maximum error of no more than 1 percent of the measured value for any demand greater than 50 watts.

4. Test Cycle and Measurements

4.1 *Test cycle.* Perform a test cycle by establishing the testing conditions set forth in section 2 of this Appendix, setting the dishwasher to the cycle type to be tested, initiating the cycle, and allowing the cycle to proceed to completion.

4.2 *Machine electrical energy consumption.* Measure the electrical energy consumed by the machine during the test cycle, M, expressed in kilowatt-hours per cycle, using a water supply temperature as set forth in section 2.3 of this Appendix and using a watt-hour meter as specified in section 3.4 of this Appendix.

4.3 *Water consumption.* Measure the water consumption, V, specified as the number of gallons delivered to the dishwasher during the entire test cycle, using a water meter as specified in section 3.2 of this Appendix.

4.4 *Report values.* You must report the electrical energy consumption and water consumption values for the machine, as measured.

5. Calculation of derived results from test measurements

5.1 *Machine energy consumption for electric dishwashers.* Use the value recorded in section 4.2 of this Appendix as the per-cycle machine electrical energy consumption. Use the notation M_n for a test of the normal cycle or M_t for a test of the truncated normal cycle and express in kilowatt-hours per cycle.

5.2 *Water energy consumption for dishwashers using electrically heated water.* Determine the water energy consumption according to sections 5.2.1 and 5.2.2 of this Appendix. Use the notation W_n for a test of the normal cycle or W_t for a test of the truncated normal cycle, and express in kilowatt-hours per cycle. Note that electrically heated water was used.

5.2.1 *Dishwashers that operate with a nominal 140 °F inlet water temperature, only.* For each test cycle, calculate the water energy consumption, W, expressed in kilowatt-hours per cycle and defined as:

$$W = V \times T \times K$$

where,

V = reported water consumption in gallons per cycle, as measured in section 4.3 of this Appendix,
T = nominal water heater temperature rise = 90 °F,
K = specific heat of water in kilowatt-hours per gallon per degree Fahrenheit = 0.0024.

5.2.2 *Dishwashers that operate with a nominal inlet water temperature of 120 °F.* For each test cycle, calculate the water energy consumption, W, expressed in kilowatt-hours per cycle and defined as:

$$W = V \times T \times K$$

where,

V = reported water consumption in gallons per cycle, as measured in section 4.3 of this Appendix,
T = nominal water heater temperature rise = 70 °F,
K = specific heat of water in kilowatt-hours per gallon per degree Fahrenheit = 0.0024.

5.3 *Water energy consumption per cycle using gas-heated or oil-heated water.* Determine the water energy consumption for dishwashers according to sections 5.3.1 and 5.3.2 of this Appendix. Use the notation W_n for a test of the normal cycle or W_t for a test of the truncated normal cycle, and express in kilowatt-hours per cycle. Note that gas-heated or oil-heated water was used.

5.3.1 *Dishwashers that operate with a nominal 140 °F inlet water temperature, only.* For each test cycle, calculate the water energy consumption using gas-heated or oil-heated water, W, expressed in kilowatt-hours per cycle and defined as:

$$W = V \times T \times K/e$$

where,

V = reported water consumption in gallons per cycle, as measured in section 4.3 of this Appendix,
T = nominal water heater temperature rise = 90 °F,
K = specific heat of water in kilowatt-hours per gallon per degree Fahrenheit = 0.0024,
e = nominal gas or oil water heater recovery efficiency = 0.75.

5.3.2 *Dishwashers that operate with a nominal inlet water temperature of 120 °F.* For each test cycle, calculate the water energy consumption using gas heated or oil heated water, W, expressed in kilowatt-hours per cycle and defined as:

$$W = V \times T \times C/c$$

where,

V is measured in section 4.3 of this Appendix,
T = nominal water heater temperature rise = 70 °F,
K = specific heat of water in kilowatt-hours per gallon per degree Fahrenheit = 0.0024,
e = nominal gas or oil water heater recovery efficiency = 0.75.

5.4 *Total energy consumption per cycle.* For each test cycle the total per-cycle energy consumption, E, is defined as the sum of the per-cycle machine electrical energy consumption, M, and the per-cycle water energy consumption, W, in kilowatt-hours per cycle. For the cycle type, M is calculated according to section 5.1 of this Appendix and W is calculated according to section 5.2 of this Appendix for electrically heated water, or according to section 5.3 for gas or oil heated water. Use the notation E_n for a test of the normal cycle or E_t for a test of the truncated normal cycle, and express in kilowatt-hours per cycle.

5. Section 430.32 of Subpart C is amended by revising paragraph (f) to read as follows:

§ 430.32 Energy and water conservation standards and effective dates.

* * * * *

(f) *Dishwashers.* The energy factor of dishwashers manufactured on or after May 14, 1994, must not be less than:

Product class	Energy factor (cycles/kWh)
(1) Compact Dishwasher (capacity less than eight place settings plus six serving pieces as specified in ANSI/AHAM Standard DW–1 (see section 430.22))	0.62
(2) Standard Dishwasher (capacity equal to or greater than eight place settings plus six serving pieces as specified in ANSI/AHAM Standard DW–1(see section 430.22))	0.46

* * * * *

[FR Doc. 01–30980 Filed 12–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1773

RIN 2550–AA21

Flood Insurance

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

VOL 66
ISS 243
DE 18 2001
UMI

ACTION: Final Regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a final regulation to clarify and to codify OFHEO's authority and ongoing responsibility to oversee and enforce the statutory requirements affecting the operations of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under the National Flood Insurance Reform Act of 1994.

EFFECTIVE DATE: The effective date of this regulation is December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Luis E. Guzman, Counsel, telephone (202) 414–3832; David A. Felt, Associate General Counsel, telephone (202) 414–3750 (not toll free numbers), Office of General Counsel, Office of Federal Housing Enterprise Oversight, 1700 G Street, NW., Fourth Floor, Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Statutory Framework

Title XIII of the Housing and Community Development Act of 1992, Public Law 102–550, entitled the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992" (the "Act"),[1] established the Office of Federal Housing Enterprise Oversight ("OFHEO") as an independent office within the Department of Housing and Urban Development. OFHEO is the financial safety and soundness regulator of the nation's two largest housing-related Government-sponsored enterprises: the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (collectively, the "Enterprises"). In addition to establishing OFHEO, the Act made amendments to the Enterprises' enabling statutes (collectively, "the Charter Acts")[2] to, among other things, accommodate the restructured regulatory regime under the Act.

The National Flood Insurance Act of 1968 ("NFIA")[3] and the Flood Disaster Protection Act of 1973 ("FDPA"),[4] as amended by the National Flood Insurance Reform Act of 1994 ("NFIRA"),[5] together establish a comprehensive National Flood Insurance Program ("NFIP") that includes various provisions designed to ensure that structures built in flood plains are covered by, at least, specified statutory minimum amounts of flood insurance. NFIRA, among other things, added specific requirements explicitly applicable to the Enterprises;[6] designated OFHEO as the Federal agency responsible for determining compliance of the Enterprises' flood insurance responsibilities; required OFHEO to report to Congress on the Enterprises' compliance in the agency's 1996, 1998 and 2000 annual reports;[7] and authorized OFHEO to issue any regulations necessary to carry out the applicable provisions of NFIRA.[8] NFIRA also explicitly authorized OFHEO to impose civil money penalties upon an Enterprise that fails to implement procedures reasonably designed to ensure that the loans it purchases comply with the mandatory flood insurance purchase requirements.[9]

More specifically, NFIRA requires that the Enterprises each implement procedures reasonably designed to ensure that any mortgage loan that is purchased and is secured by property located in a designated flood hazard area is covered for the term of the loan by flood insurance in an amount at least equal to the lesser of (1) the outstanding principal balance of the loan or (2) the maximum limit of coverage made available for that type of property under the NFIP. OFHEO is authorized under NFIRA to levy a civil money penalty for each violation, not to exceed an aggregate maximum amount per year,[10] against an Enterprise that it finds to have engaged in a pattern or practice of purchasing loans in violation of the procedures established pursuant to NFIRA.[11]

OFHEO published a notice of proposed rulemaking (66 FR 47563, September 12, 2001) for public comment relating to its flood insurance oversight responsibilities. Comments on the proposed regulation were received only from the two Enterprises. Those comments were carefully considered in developing this final regulation. A discussion of those comments and OFHEO's response to them follows.

II. Background

The Enterprises have a key role in the implementation of the National Flood Insurance Program, particularly with regard to lenders that are not subject to direct supervision by a Federal regulatory agency. The Enterprises use their seller/servicer guidelines and other quality control review procedures to ensure that lenders with whom they contract comply with the applicable flood insurance laws. The Enterprises are required to establish procedures designed to prevent their purchase of loans that do not comply with these laws. NFIRA tasks OFHEO with reviewing the adequacy of such procedures as well as the Enterprises' compliance with them.

A primary purpose of the final regulation is to reiterate the relevant statutory provisions specifically applicable to the Enterprises and to OFHEO and to codify them in OFHEO's regulations. The final regulation is intended to provide guidance as to the procedures to be applied if an enforcement action were to be required, to add statutory civil money penalty amounts for infractions of the flood insurance requirements to the schedule of penalties in OFHEO's regulations and to adjust such penalty amounts as contemplated by law for inflation.

The Inflation Adjustment Act

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (the Inflation Adjustment Act),[12] requires Federal agencies with the authority to issue civil money penalties, to adopt regulations to adjust each civil money penalty authorized by law that the agency has jurisdiction to administer. The purpose of these adjustments is to maintain the deterrent effect of civil money penalties and promote compliance with the law. The Inflation Adjustment Act requires agencies to make an initial adjustment of their civil money penalties upon the statute's enactment, and to make additional adjustments on an ongoing basis, at least once every four years following the initial adjustment.

---

[1] 12 U.S.C. 4501 *et seq.*

[2] Federal National Mortgage Association Charter Act (12 U.S.C. 1716–1723i) and Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451–1459).

[3] 42 U.S.C. 4001 *et seq.* and other scattered sections of 42 U.S.C.

[4] 42 U.S.C. 4002 *et seq.* and other scattered sections of 42 U.S.C.

[5] Pub. L. 103–325 (Sept. 23, 1994) (codified, as amended, at 42 U.S.C. 4001–4129).

[6] 42 U.S.C. 4012a(b)(3).

[7] 12 U.S.C. 4521(a)(4).

[8] 42 U.S.C. 4001 note.

[9] 42 U.S.C. 4012a(f)(3).

[10] Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Debt Collection Improvement Act of 1996, adjustments have been made to the civil money penalty amounts. The Inflation Adjustment Act's rounding rules require that each increase be rounded to the nearest multiple as follows: $10 in the case of penalties less than or equal to $100; $100 in the case of penalties greater than $100 but less than or equal to $1,000; $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000; $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000; $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and $25,000 in the case of penalties greater than $200,000.

[11] 42 U.S.C. 4012a(f)(3), (5).

[12] 28 U.S.C. 2461 note.

Under the Inflation Adjustment Act, the inflation adjustment for each applicable civil money penalty is determined by increasing the maximum civil money penalty amount by a cost-of-living adjustment. As is described in detail below, the Inflation Adjustment Act provides that this cost-of-living adjustment is to reflect the percentage increase in the Consumer Price Index since the civil money penalties were last adjusted or established.

NFIRA sets forth the procedures under which the Director of OFHEO could impose civil money penalties against an Enterprise and the amounts of these civil money penalties. In this rulemaking, the amounts of these civil money penalties are being adjusted in accordance with the requirements of the Inflation Adjustment Act. The increases in maximum civil money penalty amounts contained in this final rule do not mandate the amount of any civil money penalty that OFHEO may seek for a particular violation; OFHEO would determine each civil money penalty on a case-by-case basis in light of the circumstances of the case.

The Inflation Adjustment Act directs Federal agencies to calculate each civil money penalty adjustment as the percentage by which the CPI–U for June of the calendar year preceding the adjustment exceeds the CPI–U for June of the calendar year in which the amount of such civil money penalty was last set or adjusted pursuant to law. OFHEO has not previously adjusted these CMP amounts, so the base period is 1995, the year the statutory requirements became applicable to the Enterprises. Because OFHEO is making these adjustments in calendar year 2001, and the statutory requirements became applicable to the Enterprises in 1995, the inflation adjustment amount for each civil money penalty was calculated by comparing the CPI–U for June 1995 (152.5) with the CPI–U for June 2000 (172.4), resulting in an inflation adjustment of 13.05 percent. For each civil money penalty, the product of this inflation adjustment and the previous maximum penalty amount was then rounded in accordance with the specific requirements of the Inflation Adjustment Act,[13] then added to the previous maximum penalty amount to determine the new adjusted maximum penalty amount. However, the Inflation Adjustment Act further specifies that the first adjustment of any civil money penalty pursuant to such Act may not exceed ten percent of the penalty. Accordingly, the original civil money penalty maximum of $350 under NFIRA is increased to $385 for each violation and the civil money penalty maximum of $100,000 is increased to $110,000 for the total assessed penalties against any Enterprise during any calendar year.

Section-By-Section Analysis

Section 1773.1 Authority and Scope

Section 1773.1 sets forth the authority upon which this final regulation is based, namely the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994. The National Flood Insurance Reform Act of 1994 requires OFHEO to examine the Enterprises to ascertain their compliance with these statutes and to report to Congress on their compliance, and provides OFHEO with the authority to issue any regulations necessary to carry out the applicable provisions of NFIRA. OFHEO is authorized to impose civil money penalties on an Enterprise for violation of procedures established pursuant to the National Flood Insurance Act of 1968, as amended, or rules or regulations adopted pursuant thereto.[14]

Section 1773.2 Requirements

Section 1773.2(a) sets forth the requirement that each Enterprise is to implement procedures reasonably designed to ensure that the properties securing particular loans described in paragraph (a) are properly insured in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994. This requirement applies to any loan purchased by an Enterprise that is secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director of the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Program. As explained in this section, the Enterprise is required to ensure that a building or mobile home, and any personal property securing such loan are covered for the term of the loan by flood insurance in an amount at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Program.

Section 1773.2(b) sets forth that the procedures in section 1773.2(a) need apply only to loans made, increased, extended, or renewed after September 22, 1995. It further provides that paragraph (a) does not apply to any loan having an original outstanding principal balance of $5,000 or less and a repayment term of one year or less.

Section 1773.3 Civil Money Penalties

Section 1773.3 sets forth procedures under this final section under which the Director of OFHEO may impose civil money penalties against an Enterprise. Section 1773.3(a) sets forth that the Director of OFHEO may assess a civil money penalty against an Enterprise determined by the Director to have engaged in a pattern or practice of purchasing loans in violation of the procedures established pursuant to § 1773.2.

Section 1773.3(b) sets forth notice and hearing requirements prior to the imposition of civil money penalties under this section. A civil money penalty may be issued only after notice and an opportunity for a hearing on the record has been provided under 12 CFR part 1780.

Section 1773.3(c) sets forth the maximum amount of civil money penalties that may be imposed on an Enterprise under this section. A civil money penalty under this section may not exceed the adjusted statutory amount of $385 for each violation and the total amount of penalties assessed under this section against an Enterprise during any calendar year may not exceed the adjusted statutory cap of $110,000 for such total penalties.

Section 1773.3(d) sets forth procedures for the deposit of civil money penalties. Any civil money penalties collected under this section shall be paid into the National Flood Mitigation Fund in accordance with 42 U.S.C. 4104d.

Section 1773.3(e) provides that any civil money penalty under this section shall be in addition to any civil remedy or criminal penalty otherwise available.

Section 1773.3(f) provides that no penalty may be imposed under this section after the expiration of the four-year period beginning on the date of the occurrence of the violation for which the penalty is authorized.

---

[13] The statute's rounding rules require that each increase be rounded to the nearest multiple as follows: $10 in the case of penalties less than or equal to $100; $100 in the case of penalties greater than $100 but less than or equal to $1,000; $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000; $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000; $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and $25,000 in the case of penalties greater than $200,000.

[14] 42 U.S.C. 4012a(f)(3).

III. Comments on the Proposed Flood Insurance Regulation

Enterprise Compliance

Fannie Mae's first comment concerned proposed new 12 CFR 1773.2(a), which sets forth the requirement that each Enterprise is to implement procedures reasonably designed to ensure that the properties securing particular loans described in paragraph (a) are properly insured in accordance with the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994. Both Enterprises assert that they have implemented procedures consistent with these statutes and have also consistently complied with all statutory requirements for flood insurance. Fannie Mae noted that neither the proposed regulation nor the preamble of the proposal suggest that the proposal, should it be adopted, is intended to require the Enterprises to readdress or revise the procedures they already have developed and implemented that comply with the relevant statutes. Fannie Mae suggested that OFHEO confirm this interpretation in connection with final rulemaking so as to avoid any confusion on this point.

It would not be germaine, however, to the purposes of a rulemaking to issue a pronouncement that an Enterprises has fully developed and implemented adequate procedures that comply with their statutory responsibilities. The Enterprises' obligation to institute statutorily mandated procedures is subject to ongoing oversight by OFHEO as part of its routine examination process. This rulemaking is not intended to imply any deficiency in compliance or inadequacy of existing policies or practices of the Enterprises under the law.

Civil Money Penalties (§ 1773.3(a)), and Other Available Sanctions

Freddie Mac asserted that the general grant of authority to promulgate necessary regulations (granted to various agencies by 42 U.S.C. 4001 note) does not override the National Flood Insurance Reform Act's implicit limitation on OFHEO's authority to impose penalties. In explanation, Freddie Mac asserts that OFHEO's explicit statutory authority to assess civil money penalties relating to flood insurance is limited solely to assessing penalties for patterns or practices of purchasing loans in violation of an Enterprise's procedures established pursuant to the National Flood Insurance Reform Act. Freddie Mac asserts, therefore, that OFHEO's authority to assess penalties does not extend to other violations of the proposed flood insurance regulation or the law. According to Freddie Mac, the proposed flood insurance regulation exceeds statutory limits to the extent that its language could be read to provide for regulatory action against other statutory or regulatory violations, or would permit regulatory sanctions other than civil money penalties.

Fannie Mae expressed similar concerns that the language in proposed new 12 CFR 1773.3(a) is overbroad in suggesting that OFHEO may assess civil money penalties against an Enterprise that engages in a pattern or practice of purchasing loans in violation of procedures established pursuant to the National Flood Insurance Act. Fannie Mae urges OFHEO to substitute the reference to the National Flood Insurance Act for a reference to 42 U.S.C. 4012a(b)(3), inasmuch as the latter is assertedly the specific statutory provision to which OFHEO's civil money penalty authority in 42 U.S.C. 4012a(f)(3) relates.

OFHEO disagrees. The regulatory scheme established under NFIA under which OFHEO is charged to ensure compliance by the Enterprises cannot be reasonably read to allow unlawful conduct to go without sanction or remedy. OFHEO is broadly empowered under its enabling law to ensure the safe and sound operations of the Enterprises, including authority to oversee compliance by the Enterprises with applicable laws. The extraordinary civil money penalty authority granted under NFIA does not explicitly limit or displace the general powers of OFHEO to enforce applicable laws using its general enforcement powers under the 1992 Act.

Authority and Scope (§ 1773.1(a))

Fannie Mae's third comment notes that proposed new 12 CFR 1773.1(a) states that the National Flood Insurance Reform Act of 1994 designates OFHEO as the federal agency responsible for determining the Enterprises' compliance with the National Flood Insurance Reform Act of 1994 and the National Flood Insurance Act of 1968. Fannie Mae asserts that the asserted breadth of the proposed rule is overly broad because the only compliance role Congress explicitly assigned to OFHEO with regard to those Acts is confined to 42 U.S.C. 4012a. Fannie Mae therefore requests that OFHEO redraft this part of the proposed new rule to more narrowly reference only 42 U.S.C. 4012a.

Freddie Mac also argues that the law narrowly charges OFHEO with enforcing the requirements of the National Flood Insurance Reform Act and empowers OFHEO with the authority to assessing civil money penalties. Freddie Mac asserts that to the extent proposed new 12 CFR 1773.1(a) can be read more broadly to encompass more than what the statute contemplated it is invalid. That is, Freddie Mac asserts that the National Flood Insurance Reform Act establishes the only enforcement sanction applicable to the Enterprises to be civil money penalty assessments, and no other administrative action or sanction is available to OFHEO.

Both commenters recommended that OFHEO amend proposed new 12 CFR 1773.1(a) to more narrowly recite that OFHEO is charged solely with enforcing the requirements of 42 U.S.C. 4012a(b)(3) through the assessment of civil money penalties.

Similarly, Fannie Mae asserts that to the extent proposed new 12 CFR 1773.1(a) contemplates that OFHEO may enforce the requirements of the National Flood Insurance with respect to the Enterprises that language is overly broad inasmuch as OFHEO has no statutory basis for instituting an enforcement action against an Enterprise under the National Flood Insurance Reform Act beyond that explicitly set forth in 42 U.S.C. 4012a. Fannie Mae further asserts that OFHEO's organic enforcement authority, found at 12 U.S.C. 4615 et seq., includes no explicit language relating to violations of the National Flood Insurance Reform Act.

OFHEO disagrees. The Enterprises proposal to narrowly confine OFHEO's role under the National Flood Insurance Act would ignore OFHEO's pervasive authority under the 1992 Safety and Soundness Act to use its full array of preventative and remedial tools to ensure the safety and soundness of the Enterprises, including compliance with applicable federal laws and regulations. It is implausible that Congress would suggest a scheme that would allow violative conduct, constituting unsafe and unsound practice, to go without sanction or remedy.

Amount of Flood Insurance Coverage (§ 1773.2)

Freddie Mac's comment notes that, with respect to the amount of required flood insurance, the proposed regulation reiterates the statutory requirement that the amount of flood insurance be at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the NFIP.

Freddie Mac indicated that in implementing the law's requirements under NFIRA it requires flood insurance coverage levels at or above the statutory minimums. That is, Freddie Mac, requires seller/servicers to ensure that borrowers maintain insurance "at least equal to the higher" of: (a) 80% of the replacement cost of the insurable improvements, or (b) the lower of the outstanding loan balance or the full replacement cost of the improvements (provided that the insurance never needs to exceed the maximum amount available under the NFIP). The Enterprise asserts that it requires such higher coverage because borrowers are not fully protected against a partial loss under a NFIP flood insurance policy if the policy covers less than 80% of the replacement cost of the improvements. Freddie Mac asserts that the higher required coverage serves the best interests of Freddie Mac, the borrower and the public purpose of the NFIP.

In order to avoid any doubt as to its authority to require such a higher coverage amount, Freddie Mac recommends that OFHEO add a provision to proposed section 1773.2(a) explicitly stating that nothing in the regulation precludes an Enterprise from requiring a higher level of coverage than is required by the regulation. Freddie Mac asserts that such a provision would assist the Enterprises in the cases in which lenders or borrowers assert that a higher level of coverage may not be allowed under law.

Nothing in this regulation precludes the asserted authority of the Enterprises to require additional flood insurance coverage. This issue of authority encompasses questions of law and policy beyond the immediate parameters of the published proposal and request for comment. OFHEO will, however, refrain at this time from addressing the issue further absent a fuller exploration of the matter. The Enterprise or any other involved parties may nevertheless seek to otherwise clarify the issue through other appropriate means.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

This final rule is not deemed to be a significant rule under Executive Order 12866 because it will not result in (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required and this final rule has not been submitted to the Office of Management and Budget for review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a rule that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of this final rule under the Regulatory Flexibility Act. The General Counsel certifies that this final rule will not have a significant economic impact on a substantial number of small business entities.

Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Unfunded Mandates Reform Act of 1995

This final rule does not require the preparation of an assessment statement in accordance with the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531. Assessment statements are not required for regulations that incorporate requirements specifically set forth in law. As explained in the preamble, this rule implements specific statutory requirements. In addition, this rule does not include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year.

List of Subjects in 12 CFR Part 1773

Administrative practice and procedure, Flood insurance, Penalties, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, OFHEO adds 12 CFR part 1773 to subchapter C of Chapter XVII to read as follows:

PART 1773—FLOOD INSURANCE

Sec.
1773.1 Authority and scope.
1773.2 Requirements.
1773.3 Civil money penalties.

Authority: 12 U.S.C. 4521(a)(4), 4513, 4536(a); 42 U.S.C. 4001 note; 28 U.S.C. 2461 note; 42 U.S.C. 4012a(f)(3), (4), (8), (9), (10).

§ 1773.1 Authority and scope.

(a) *Authority.* The National Flood Insurance Act of 1968, title XII of Public Law 90–448, Aug. 1, 1968, 42 U.S.C. 4002 *et seq.*, and the Flood Disaster Protection Act of 1973, 42 U.S.C. 4002 *et seq.*, as amended by the National Flood Insurance Reform Act of 1994 ("NFIRA"), Public Law 103–325, Sept. 23, 1994, 42 U.S.C. 4001–4129, together create the National Flood Insurance Program ("NFIP") which established specific requirements applicable to the Enterprises. NFIRA designates OFHEO as the Federal agency responsible for determining compliance by the Enterprises with these statutes and with reporting to Congress biannually for six years on the Enterprises' compliance. OFHEO has the authority to issue any regulations necessary to carry out the applicable provisions of NFIRA. OFHEO is also charged with enforcing the requirements of NFIRA as to the Enterprises and provides for the assessment of civil money penalties for violations of the procedures established by the Enterprises pursuant to the law or implementing regulations.

(b) *Scope.* This part sets forth the responsibilities of the Enterprises under NFIRA and the procedures to be used in any proceeding to assess civil money penalties against an Enterprise under NFIRA.

§ 1773.2 Requirements.

(a) *Procedures.* Each Enterprise shall implement procedures reasonably designed to ensure for any loan that is secured by improved real estate or a mobile home located in an area that has been identified, at the time of the origination of the loan or at any time during the term of the loan, by the Director of the Federal Emergency Management Agency as an area having special flood hazards and in which flood insurance is available under the NFIP, and purchased by such entity, the building or mobile home and any personal property securing the loan is covered for the term of the loan by flood insurance in an amount at least equal to the lesser of the outstanding principal balance of the loan or the maximum limit of coverage made available with respect to the particular type of property under the NFIP.

(b) *Applicability.* (1) Paragraph (a) of this section shall apply only with respect to any loan made, increased, extended, or renewed after September 22, 1995.

(2) Paragraph (a) of this section shall not apply to any loan having an original outstanding balance of $5,000 or less and a repayment term of one year or less.

§ 1773.3 Civil money penalties.

(a) *In general.* If an Enterprise is determined by the Director of OFHEO to have engaged in a pattern or practice of purchasing loans in violation of the procedures established pursuant to the NFIA, as amended, or to § 1773.2, the Director may assess civil money penalties against such Enterprise in such amount or amounts as deemed to be appropriate under paragraph (c) of this section.

(b) *Notice and hearing.* A civil money penalty under this section may be assessed only after notice and an opportunity for a hearing on the record has been provided under 12 CFR part 1780.

(c) *Amount.* A civil money penalty under this section may not exceed $385 for each violation. The total amount of penalties assessed under this section against an Enterprise during any calendar year may not exceed $110,000.

(d) *Deposit of penalties.* Any penalties collected under this section shall be paid into the National Flood Mitigation Fund in accordance with 42 U.S.C. 4104d.

(e) *Additional penalties.* Any penalty under this section shall be in addition to, and shall not preclude, any civil remedy or criminal penalty otherwise available.

(f) *Statute of limitations.* No civil money penalty may be imposed under this section after the expiration of the four-year period beginning on the date of the occurrence of the violation for which the penalty is authorized under this section.

Dated: December 13, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–31166 Filed 12–17–01; 8:45 am]

BILLING CODE 4220–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–18–AD; Amendment 39–12561; AD 2001–25–08]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Model S–70A and S–70C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Sikorsky Model S–70A and S–70C helicopters. This action requires certain inspections of each main landing gear drag beam (beam) for a crack and removing any cracked beam before further flight. This action also requires reducing the torque of the jackpad mounting bolt retention nut (nut) of each beam. This amendment is prompted by failure of a beam due to stress corrosion resulting from sustained tensile stress due partly to excessive torque of the nut. The actions specified in this AD are intended to prevent excessive torque of the nut, failure of a beam, and subsequent loss of control of the helicopter during takeoff or landing.

DATES: Effective January 2, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–18–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Terry Fahr, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7155, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for Sikorsky Model S–70A and S–70C helicopters. This action requires certain inspections of each beam for a crack and removing any cracked beam before further flight. This AD also requires reducing the torque of the nut on each beam. This amendment is prompted by the failure of a beam due to stress corrosion resulting from sustained tensile stress due partly to excessive torque on the nut.

The FAA has reviewed Sikorsky Alert Service Bulletin No. 70–03–2, dated July 26, 1999 (ASB). The ASB describes procedures for reducing the torque on each nut to 45–50 ft-lbs to reduce stress to the beam.

We have identified an unsafe condition that is likely to exist or develop on other Sikorsky Model S–70A and S–70C helicopters of the same type designs. Therefore, this AD is being issued to prevent excessive torque on a nut, failure of a beam, and subsequent loss of control of the helicopter during takeoff or landing. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, within 30 hours time-in-service, the following actions are required for the beam, and this AD must be issued immediately:

- Visually inspect each beam for a crack.
- If a crack is found, remove the beam before further flight.
- If a crack is suspected, dye-penetrant inspect the beam, and if a crack is found, remove the beam before further flight.
- If no crack is found, reduce the torque on the nut.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 3 helicopters on the U.S. register will be affected by this AD, that it will take approximately 2 work hours to inspect the beam and to reduce the torque on each nut, and 2 work hours to replace a cracked beam. The average labor rate is $60 per work hour. Required parts will cost approximately $18,600 per beam. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $56,520, assuming one beam has to be replaced on each affected helicopter.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–18–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–25–08 Sikorsky Aircraft Corporation: Amendment 39–12561. Docket No. 2001–SW–18–AD.

Applicability: Model S–70A helicopters, serial numbers 700029, 701129, 701322, 701325, 701327, 701329, 701331, 701333, 701592, 701593,701594, 701595, 701613, 701614, 701825, 701835, 702127, and 702129, and Model S–70C helicopters, serial numbers 70583, 70785, 70788, 70792, 70793, 70794, 70797, 70798, 70799, 70800, 70811, 70812, 70813, 70830, 70831, 70836, 70837, 70848, 70855, 70856, 70867, 70868, 70879, 70884, 70892, 70910, 70918, 70927, 70928, 70929, 70949, 70950, 70951, 70954, 70957, 70958, 70959, 70965, 70966, and 701029, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 30 hours time-in-service, unless accomplished previously.

To prevent excessive torque on a jackpad mounting bolt retention nut (nut), failure of a main landing gear drag beam (beam), and subsequent loss of control of the helicopter during takeoff or landing, accomplish the following:

(a) With jackpad installed, using a 10X or higher magnifying glass, visually inspect each beam, part number (P/N) 70250–32105, for a crack at a 3.0-inch radius around the upper and lower jackpad holes.

(1) If a crack is found, remove the beam.

(2) If a crack is suspected, dye-penetrant inspect the beam, and if a crack is found, remove the beam.

Note 2: Temporary Revision No. 19 of Sikorsky Aircraft Model S–70 Maintenance Manual, dated January 23, 2001, pertains to the subject of this AD.

(b) If a crack is not found while accomplishing the requirements of paragraph (a) of this AD, retorque the nut, part number (P/N) MS21245–L12, on each beam as follows:

(1) Restrain the jackpad and rotate the nut counterclockwise to release the torque on the nut. If movement of the jackpad occurs, remove and replace the sealant from the lower surface of the jackpad/beam interface.

(2) Retorque the nut to 45–50 ft-lbs.

(3) Apply sealant to the nut and the immediate area.

(4) After sealant has dried, touch up the paint as required.

(5) After the paint has dried, apply a slippage mark (of a contrasting color) to the nut as follows:

(i) Wipe the area to be marked with a clean-lint-free cloth.

(ii) Apply F1000 Sentry Seal, or equivalent, with a width of approximately one half the diameter of the nut (to a maximum width of $3/16$ inch) and extending a minimum of $1/2$ inch on the base part (or to the edge of the part, whichever is smaller).

Note 3: Sikorsky Alert Service Bulletin No. 70–03–2, dated July 26, 1999, pertains to the subject of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(e) This amendment becomes effective on January 2, 2002.

Issued in Fort Worth, Texas, on December 11, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31041 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–U

VOL 66 ISS 243 DE 18 2001 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–00–006]

RIN 2115–AE47

Drawbridge Operation Regulations: Longboat Pass and New Pass, Longboat Key, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the regulations governing the operation of the Longboat Pass Bridge across Longboat Pass, Manatee County, Longboat Key, Florida and changing the regulations governing the operation of the New Pass Bridge, Sarasota County, Longboat Key, Florida. These changes will decrease vehicle and vessel traffic congestion. The removal and change are due to the increased vessel traffic at the Longboat Pass Bridge and the decreased vessel traffic at the New Pass Bridge.

DATES: This rule is effective January 17, 2002.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are part of docket [CGD07–00–006] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 SE 1st Avenue, Room 406, Miami, Florida, 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On August 25, 2000 we published a notice of proposed rulemaking entitled Drawbridge Operation Regulations; Longboat Pass and New Pass, Longboat Key, FL, in the **Federal Register** (65 FR 51787). On December 7, 2000 we published a notice of proposed rulemaking reopening the comment period for an additional 60 days, entitled Drawbridge Operation Regulations; Longboat Pass and New Pass, Longboat Key, FL, in the **Federal Register** (65 FR 76956).

Background and Purpose

Based on the increased vessel traffic through Longboat Pass Bridge and the decreased vessel traffic through New Pass Bridge, the Coast Guard is changing the operating regulations for these two Bridges to provide a safer and more efficient transit for vehicles and vessels near Longboat Key. The current regulation governing Longboat Pass Bridge (SR 789), mile 0.0, between Longboat Key and Anna Maria Key, codified in 33 CFR 117.299 states that the draw shall open on signal, except that from 6 p.m. to 6 a.m., the draw will open on signal if at least 3 hours notice is given. This rule removes the operating regulations in 33 CFR 117.299 and requires the draw to open on signal in accordance with the general bridge operation provision in 33 CFR 117.5.

Due to the number of comments from motor vehicle drivers concerning the proposed New Pass Bridge regulation, we are keeping the existing part of the regulation in 33 CFR 117.311 which states that the Bridge shall open on signal except from 7 a.m. to 6 p.m. the draw need open only on the hour, twenty minutes past the hour and forty minutes past the hour. The change to the rule allows the Bridge to open on signal between 6 p.m. and 7 a.m. if at least 3 hours of notice is given to the bridge tender.

Public vessels of the United States, tugs with tows and vessels in a situation where a delay would endanger life or property will, upon proper signal, be passed through both bridges at any time.

Discussion of Comments and Changes

The Coast Guard received seventy-three comment letters addressing the notice of proposed rulemaking. Sixty-one of the letters disagreed with the proposed rule changes. The comments indicated that the proposed changes would create a burden for vehicular traffic. The collected data indicates that the New Pass Bridge currently opens approximately 3 to 4 times per day, due to the extreme hazards involved with transiting through New Pass to the Gulf of Mexico. As a result of these conditions, vessel traffic through New Pass at night is sparse. To alleviate the concerns expressed in these comments, we decided to keep the current regulations in 33 CFR 117.311 governing the New Pass Bridge and add to the regulation a provision that the bridge will open on signal from 6 p.m. to 7 a.m. if at least 3 hours notice is given to the bridge tender.

Eighteen of these comments also requested a new daytime rule on the Longboat Pass Bridge. We forwarded these comments to the Bridge owner/operator, Florida Department of Transportation, to research and address the feasibility of a new daytime rule.

Twelve comments agreed with the rule change. The comment letters, all from the boating public, acknowledged the navigational hazards at New Pass including the difficulties involved in nighttime access into and out of the Gulf of Mexico. The comments indicated the preferred route into and out of the Gulf of Mexico has changed over the years from New Pass to Longboat Pass. The current collected data corroborates these comments by showing a decrease in vessel traffic at New Pass and the increase in vessel traffic at Longboat Pass. We are adopting, without change, the proposal placing the Longboat Pass Bridge on a twenty-four hour, open on signal, operation schedule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because the rule allows the Longboat Pass Bridge to open on signal and will only slightly modify the existing operating schedule for the New Pass Bridge.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit under the Longboat Pass and New Pass Bridges. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because the rule allows the Longboat Pass Bridge to open on signal and will only slightly modify the existing operating schedule for the New Pass Bridge.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this action and has determined under Figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1D, that this rule is categorically excluded from further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.311 is revised to read as follows:

§ 117.311 New Pass

The draw of the State Road 789 bridge, mile 0.05, at Sarasota, need only open on the hour, twenty minutes past the hour, and forty minutes past the hour from 7 a.m. to 6 p.m. From 6 p.m. to 7 a.m., the draw shall open on signal if at least 3 hours notice is given to the bridge tender. Public vessels of the United States, tugs with tows, and vessels in a situation where a delay would endanger life or property shall, upon proper signal, be passed at any time.

§ 117.299 Longboat Pass (Removed)

Remove § 117.299.

Dated: December 1, 2001.

James S. Carmichael,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 01–31174 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–206]

RIN 2115–AA97

Security Zone: Maine Yankee Nuclear Power Plant, Wiscasset, Maine

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the Maine Yankee Power Plant in Wiscasset, Maine, temporarily closing all land and waters surrounding Bailey Point and Foxbird Island. This security zone prohibits entry into or movement within a portion of the Back River and adjacent land areas and is needed to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

DATES: This rule is effective from December 10, 2001 until June15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–01–206 and are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W. W. Gough, Chief, Ports and Waterways Safety Branch, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. On September 11, 2001, terrorist attacks in New York and Washington DC inflicted catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. The Maine Yankee Nuclear Plant is located on a peninsula, surrounded by water, exposing it to possible attack initiated from waters surrounding the power plant. Due to the catastrophic effect an exposure to radiation from the nuclear material stored at the plant would have on the surrounding area, this rulemaking is urgently required to prevent potential future terrorist strikes against the Maine Yankee Nuclear Power Plant. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render people and facilities within and adjacent to the Maine Yankee Nuclear Power Plant property vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553 (d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures implemented in this rule are intended to prevent possible terrorists attacks against the Maine Yankee Nuclear Power Plant, and are needed to protect the facility, persons at the facility, the public and the surrounding communities from potential sabotage or other subversive activity, sabotage and terrorists attacks, either from the water or by access to the facility by utilizing public trust lands between the low and high water tide lines. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest. This zone should have minimal impact on the users of Bailey Point, Foxbird Island and the surrounding waters, as this zone only restricts movement adjacent to the Bailey Point, allowing vessels to pass safely outside the zones. Public notifications will be made to the maritime community via notice to mariners, marine information broadcasts and signs posted informing them of the boundaries of the zones.

Background and Purpose

In light of terrorist attacks on New York City and Washington DC on September 11, 2001 a security zone is being established to safeguard the Maine Yankee Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Maine Yankee Nuclear Plant is located on a peninsula, surrounded by water, making it vulnerable to possible attack initiated from waters surrounding the power plant. The Maine Yankee Nuclear Power Plant presents a possible target of terrorist attack due to the catastrophic impact release of nuclear radiation would have on the surrounding area.

This rulemaking establishes a security zone in all land and waters surrounding Bailey Point and Foxbird Island within a zone beginning at position 43°57′23″ N, 069°41′17″ W then running southeasterly to 43°56′40″ N, 069°41′40″ W then running west to 43°56′40″ N, 069°41′56″ W then running north to 43°57′06″ N, 069°41′56″ W then running north-northeasterly to 43°57′21″ N, 069°41′48″ W then running north-northwesterly to 43°57′39″ N, 069°41′52″ W then south-southeasterly to the point of origin.

This rulemaking is necessary to provide complete protection of the waterfront areas of the Maine Yankee Nuclear Power Plant. This security zone prohibits entry into or movement within the specified areas. This security zone also closes all lands within the zone to prevent access along areas traditionally reserved for public use between the mean low water tide line and the mean high water tide line.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port, Portland, Maine. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port, Portland, Maine. The Captain of the Port, Portland, Maine may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port, Portland, Maine. These regulations are issued under authority contained in 33 U.S.C. 1223, 1225 and 1226.

Regulatory Evaluation

This temporary final rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant for several reasons: there is ample room for vessels to navigate around the zones in the Back River, notifications will be made to the local maritime community and signs will be posted informing the public of the boundaries of the zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Back River. For the reasons enumerated in the Regulatory Evaluation section above, this security zone will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offers to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization is affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) Wade W. Gough, Marine Safety Office Portland, Maine, at (207) 780–3251. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary section, 165.T01–206, to read as follows:

§ 165.T01–206 Security Zone; Maine Yankee Nuclear Power Plant, Wiscasset, Maine.

(a) *Location.* The following area is a security zone: All land and waters surrounding Bailey Point and Foxbird Island within a zone beginning at position 43°57′23″ N, 069°41′17″ W then running southeasterly to 43°56′40″ N, 069°41′40″ W then running west to 43°56′40″ N, 069°41′56″ W then running north to 43°57′06″ N, 069°41′56″ W then running north-northeasterly to 43°57′21″ N, 069°41′48″ W then running north-northwesterly to 43°57′39″ N, 069°41′52″ W then south-southeasterly to the point of origin.

(b) *Effective date.* This section is effective from December 10, 2001 until June 15, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in section 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Portland, Maine or designated on-scene U. S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters within the boundaries of the security zone unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

(d) In addition to 33 U.S.C. 1231 and 49 CFR 1.46, the authority for this section includes 33 U.S.C. 1226.

Dated: December 7, 2001.

M.P. O'Malley,

Commander, U.S. Coast Guard, Captain of the Port, Portland, Maine.

[FR Doc. 01–31172 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7517]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the

VOL 66 ISS 243 DE 18 2001 UMI

base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Acting Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Connecticut: Fairfield	Town of Greenwich	November 15, 2001, November 22, 2001, *Greenwich Times.*	Ms. Lolly H. Prince, First Selectman of the Town of Greenwich, 101 Field Point Road, Greenwich, Connecticut 06830.	Nov. 5, 2001.	090008 D&E
Florida:					
Lee	Unincorporated Areas.	September 27, 2001, October 4, 2001, *News-Press.*	Mr. Doug St. Cerny, Chairman of the Lee County, Board of County Commissioners, P.O. Box 398, Fort Myers, Florida 33902.	Sept. 20, 2001.	125124 E
Leon	City of Tallahassee	September 28, 2001, October 5, 2001, *Tallahassee Democrat.*	The Honorable Scott Maddox, Mayor of the City of Tallahassee, 300 South Adams Street, Tallahassee, Florida 32301–1731.	Jan. 4, 2002.	120144 D
Georgia:					
Bibb and Jones	City of Macon	September 25, 2001, October 4, 2001, *The Macon Telegraph.*	The Honorable Jack Ellis, Mayor of the City of Macon, 700 Poplar Street, Macon, Georgia 31201.	Jan. 1, 2002.	130011 D

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Gwinnett	Unincorporated Areas.	September 27, 2001, October 4, 2001, *Gwinnett Daily Post.*	Mr. Wayne Hill, Chairman of the Gwinnett County Board of Commissioners, Justice and Administration Center, 75 Langley Drive, Lawrenceville, Georgia 30045.	Sept. 20, 2001.	130322 D
Maine:					
York	Town of Alfred	September 27, 2001, October 4, 2001, *The Sanford News.*	Mr. Perley Yeaton, Chairperson of the Board of Selectmen for the Town of Alfred, P.O. Box 667, Alfred, Maine 04001.	Sept. 19, 2001.	230191 C
Knox	Town of St. George	October 18, 2001, October 25, 2001, *Courier-Gazette.*	Mr. John Falla, St. George Town Manager, P.O. Box 131, Tenants Harbor, Maine 04860.	Oct. 12, 2001.	230229 C
Maryland:					
Frederick	Unincorporated Areas.	November 14, 2001, November 21, 2001, *Frederick News Post.*	Mr. Ron Hart, Frederick County Manager, 12 East Church Street, Frederick, Maryland 21701.	Oct. 30, 2001.	240027 B
Frederick	City of Frederick	November 14, 2001, November 21, 2001, *Frederick News Post.*	The Honorable James Grimes, Mayor of the City of Frederick, 101 North Court Street, Frederick, Maryland 21701.	Oct. 30, 2001.	240030 B
Michigan: Wayne	Township of Canton	October 18, 2001, October 25, 2001, *The Observer & Eccentric.*	Mr. Thomas J. Yack, Township of Canton Supervisor, 1150 South Canton Center Road, Canton, Michigan 48188.	Jan. 24, 2002.	260219 B
New Jersey: Cape May.	City of North Wildwood.	October 10, 2001, October 17, 2001, *The Leader.*	The Honorable Aldo A. Palombo, Mayor of the City of North Wildwood, Municipal Building, 901 Atlantic Avenue, North Wildwood, New Jersey 08260.	Sept. 19, 2001.	345308 E
New York: Monroe	Town of Greece	November 29, 2001, December 6, 2001, *Greece Post.*	Mr. John Auberger, Supervisor of the Town of Greece, One Vince Tofany Boulevard, Rochester, New York 14616.	May 2, 2002.	360417 E
Ohio: Warren	City of Mason	September 5, 2001, September 12, 2001, *Pulse-Journal.*	The Honorable John McCurley, Mayor of the City of Mason, 202 West Main Street, Mason, Ohio 45040.	Aug. 30, 2001.	390559 C
Puerto Rico:					
	Commonwealth	October 5, 2001, October 12, 2001, *The San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	Jan. 11, 2002.	720000 D
	Commonwealth	October 12, 2001, October 19, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	Jan. 18, 2002.	720000 B&C
	Commonwealth	October 12, 2001, October 19, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	Jan. 18, 2002.	720000 B&C
South Carolina:					
Florence	City of Lake City	September 5, 2001, September 12, 2001, *The News Journal.*	Mr. George Simmons, Lake City Administrator, 202 Kelly Street, Lake City, South Carolina 29560.	Dec. 12, 2001.	450075 D
Florence	Unincorporated Areas.	September 5, 2001, September 12, 2001, *The News Journal.*	Mr. Joe King, Florence County Administrator, 180 North Irby Street MSC–G, Florence, South Carolina 29501.	Dec. 12, 2001.	450079 D
U.S. Virgin Islands	Island of St. Croix	November 1, 2001, November 8, 2001, *The Daily News.*	The Honorable Charles W. Turnbull, Governor of the U.S. Virgin Islands, Government House, 21–22 Kongens Gade, St. Thomas, Virgin Islands 00802.	Oct. 25, 2001.	78000 D
Virginia:					
Fauquier	Unincorporated Areas.	October 18, 2001, October 25, 2001, *Fauquier Citizen.*	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	Jan. 24, 2002.	510055 A

VOL 66 ISS 243 DE 18 2001 UMI

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Henrico	Unincorporated Areas.	October 26, 2001, November 1, 2001, *The Richmond Times*.	Mr. Richard Glover, Chairman of the Henrico County, Board of Supervisors, P.O. Box 27032, Richmond, Virginia 23273.	Oct. 12, 2001.	510077 B

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31030 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Acting Administrator has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(*f*) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, floodplains, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Autauga (FEMA Docket No. D–7511).	Unincorporated Areas.	April 7, 2001, April 14, 2001, *Prattville Progress.*	Mr. Clyde O. Chambliss, Jr., Chairman of the County Commission, 134 North Court Street Prattville, Alabama 36067.	Mar. 26, 2001	010314 B
Morgan (FEMA Docket No. D–7513).	City of Decatur	May 29, 2001, June 5, 2001, *The Decatur Daily.*	The Honorable Julian Price, Mayor of the City of Decatur, P.O. Box 488, Decatur, Alabama 35602.	Sept. 4, 2001	010176
Autauga, Lowndes, Elmore & Montgomery (FEMA Docket No. D–7509).	City of Montgomery.	March 30, 2001, April 6, 2001,*The Montgomery Advertiser.*	The Honorable Bobby N. Bright, Mayor of the City of Montgomery, City Hall, P.O. Box 1111, Montgomery, Alabama 36101.	Mar. 22, 2001	010174 F
Connecticut: New Haven (FEMA Docket No. D–7513).	Town of Branford	June 11, 2001, June 18, 2001, *New Haven Register.*	Mr. Anthony Daros, Town of Branford First Selectman, Town Hall, P.O. Box 150, Branford, Connecticut 06405.	June 1, 2001	090073 C
Florida:					
Alachua (FEMA Docket No. D–7509).	Unincorporated Areas.	March 9, 2001, March 16, 2001, *The Gainesville Sun.*	Mr. Randall H. Reid, Alachua County Manager, P.O. Box 2877, Gainesville, Florida 32602.	Feb. 26, 2001	120001 A
Charlotte (FEMA Docket No. D–7513).	Unincorporated Areas.	July 2, 2001, July 9, 2001, *Charlotte Sun Herald.*	Mr. Jan Winters, Charlotte County Administrator, 18500 Murdock Circle, Room 536, Port Charlotte, Florida 33948–1094.	June 25, 2001	120061 D
Manatee (FEMA Docket No. D–7511).	Unincorporated Areas.	April 12, 2001, April 19, 2001, *Bradenton Herald.*	Mr. Ernie Padgett, Manatee County Administrator, P.O. Box 1000, Bradenton, Florida 34206.	Apr. 4, 2001	120153 B
Monroe (FEMA Docket No. D–7509).	Unincorporated Areas.	March 13, 2001, March 20, 2001, *The Key-West Citizen.*	Mr. James Roberts, Monroe County Administrator, 5100 College Road, Key West, Florida 33040.	Feb. 27, 2001	125129 G
Pasco (FEMA Docket No. D–7509).	Unincorporated Areas.	February 6, 2001, February 13, 2001, *St. Petersburg Times.*	Mr. John J. Gallagher, Pasco County Administrator, West Pasco Government Center, 7530 Little Road, New Port Richey, Florida 34654.	Jan. 25, 2001	120230 D
Seminole (FEMA Docket No. D–7513).	Unincorporated Areas.	May 30, 2001 June 6, 2001, *Seminole Herald.*	Mr. Kevin Grace, Manager of Seminole County, 1101 East First Street, Sanford, Florida 32771.	May 23, 2001	120289 E
Illinois:					
DuPage and Will (FEMA Docket No. D–7513).	Village of Bolingbrook.	July 6, 2001, July 13, 2001, *The Bolingbrook Sun.*	The Honorable Roger C. Claar, Mayor of the Village of Bolingbrook, 375 West Briarcliff Road, Bolingbrook, Illinois 60440–0951.	June 26, 2001	170812 F
Macon (FEMA Docket No. D–7511).	City of Decatur	March 21, 2001, March 28, 2001, *Decatur Tribune.*	The Honorable Terry Howley, Mayor of the City of Decatur, 1 Gary K. Anderson Plaza, Decatur, Illinois 62523.	June 27, 2001	170429 C
Kendall (FEMA Docket No. D–7511).	Unincorporated Areas.	April 19, 2001, April 26, 2001, *Kendall County Record.*	Mr. John A. Church, Chairman of the Kendall County Board, 111 West Fox Street, Yorkville, Illinois 60560.	July 26, 2001	170341 C
Cook (FEMA Docket No. D–7513).	Village of Northbrook.	June 7, 2001, June 14, 2001, *Northbrook Star.*	Mr. Mark W. Damisch, Village of Northbrook President, 1225 Cedar Lane,Northbrook, Illinois 60062–4582.	June 1, 2001	170132 F
St. Clair (FEMA Docket No. D–7509).	Unincorporated Areas.	February 15, 2001, February 22, 2001, *Bellevue News-Democrat.*	Mr. John Baricevic, Chairman of the St. Clair County Board,St. Clair County Courthouse, 10 Public Square, Bellevue, Illinois 62220–1623.	May 24, 2001	170616 B
Will (FEMA Docket No. D–7513).	Unincorporated Areas.	July 6, 2001, July 13, 2001, *Herald-News.*	Mr. Joseph Mikan, Will County Executive, 302 North Chicago Street,Joliet, Illinois 60432.	Oct. 12, 2001	170695 F

VOL 66 ISS 243 DE 18 2001 UMI

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Noble (FEMA Docket No. D–7511).	Unincorporated Areas.	May 30, 2001, June 6, 2001, *The News-Sun*.	Mr. Mark Pankap, President of the Noble County Board of Commissioners,Noble County Courthouse, 101 North Orange Street, Albion, Indiana 46701.	Sept. 5, 2001	180183 B
Lake (FEMA Docket No. D–7511).	Town of Schererville.	March 20, 2001, March 27, 2001 *The Times*.	Mr. Richard Krame, Manager of the Town of Schererville, 833 West Lincoln highway, Suite B20W, Schererville, Indiana 46375.	June 26, 2001	180142 B
Kentucky:					
Warren (FEMA Docket No. D–7509).	City of Bowling Green.	March 13, 2001, March 20, 2001, *Daily News*.	The Honorable Sandy Jones, Mayor of the City of Bowling Green,P.O. Box 430,Bowling Green, Kentucky 42102–0430.	June 19, 2001	210219 D
Jefferson (FEMA Docket No. D–7511).	Unincorporated Areas.	April 13, 2001, April 20, 2001, *The Courier-Journal*.	Ms. Rebecca JacksonJefferson County Judge Executive,527 West Jefferson Street, Suite 400,Louisville, Kentucky 40202.	July 20, 2001	210120 D
(FEMA Docket No. D–7513).	Lexington-Fayette Urban County Government.	May 30, 2001, June 6, 2001, *Lexington Herald-Leader*.	The Honorable Pam Miller,Mayor of the Lexington-FayetteUrban County Government, 200 East Main Street, 12th Floor,Lexington-Fayette Government Building,Lexington, Kentucky 40507.	May 23, 2001	210067 C
Michigan: Macomb (FEMA Docket No. D–7513).	City of New Baltimore.	June 20, 2001, June 27, 2001, *The Bay Voice*.	The Honorable Joe Grajek, Mayor of the City of New Baltimore, City Hall,36535 Green Street,New Baltimore, Michigan 48047.	June 8, 2001	260125 B
Minnesota:					
Hennepin (FEMA Docket No. D–7511).	City of Crystal	April 18, 2001, April 25, 2001, *Sun Post*.	The Honorable Peter E. Meinstma, Mayor of the City of Crystal,4141 Douglas Drive, Crystal, Minnesota 55422.	July 25, 2001	270156 C
Hennepin (FEMA Docket No. D–7511).	City of Medicine Lake.	April 18, 2001, April 25, 2001 *Sun-Sailor*.	The Honorable Thomas Schrader,Mayor of the City of Medicine Lake,10609 South Shore Drive,Medicine Lake, Minnesota 55441.	July 25, 2001	270690 A
Hennepin (FEMA Docket No. D–7511).	City of Minneapolis	April 18, 2001, April 25, 2001, *Finance and Commerce*.	The Honorable Sharon Sayles Belton, Mayor of the City of Minneapolis, Minneapolis City Hall, 350 South Fifth Street, Room 331, Minneapolis, Minnesota 55415.	July 25, 2001	270172 B
Hennepin (FEMA Docket No. D–7511).	City of Plymouth	April 18, 2001, April 25, 2001, *Sun-Sailor*.	The Honorable Joy Tierney, Mayor of the City of Plymouth, 3400 Plymouth Boulevard, Plymouth, Minnesota 55447.	July 25, 2001	270179 C
Mississippi: Madison (FEMA Docket No. D–7513).	City of Ridgeland	May 17, 2001, May 24, 2001, *Madison County Journal*.	The Honorable Gene F. McGee, Mayor of the City of Ridgeland, P.O. Box 217, Ridgeland, Mississippi 39158.	May 10, 2001	280110 D
New Hampshire:					
Sullivan (FEMA Docket No. D–7513).	City of Claremont	July 23, 2001, July 30, 2001, *Eagle Times*.	Mr. Richard Hodgkinson, City Manager of Claremont, 58 Tremont Square, City Hall, Claremont, New Hampshire 03743.	July 11, 2001	330154 C
Hillsborough (FEMA Docket No. D–7513).	Town of Hollis	June 19, 2001, June 26, 2001, *The Telegraph*.	Mr. Daniel McManus, Chairman of the Board of Selectmen, 7 Monument Square, Hollis, New Hampshire 03049.	Sept. 25, 2001	330091 B
New Jersey:					
Burlington (FEMA Docket No. D–7511).	Township of Evesham.	April 19, 2001, April 26, 2001, *Central Records*.	The Honorable Augustus F. Tamburro, Mayor of the Township of Evesham, Municipal Building, 984 Tuckerton Road, Marlton, New Jersey 08053.	Apr. 5, 2001	340097 C
Burlington (FEMA Docket No. D–7511).	Township of Evesham.	April 19, 2001, April 26, 2001, *Central Records*.	The Honorable Augustus F. Tamburro, Mayor of the Township of Evesham, Municipal Building, 984 Tuckerton Road, Marlton, New Jersey 08053.	Apr. 5, 2001	340097 C
New York:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Schoharie (FEMA Docket No. D–7511).	Village of Cobleskill.	February 21, 2001, February 28, 2001, *Times Journal.*	The Honorable William Gilmore, Mayor of the Village of Cobleskill, Village Offices, P.O. Box 169, Cobleskill, New York 12043.	Aug. 9, 2001	360743 B
Westchester (FEMA Docket No. D–7511).	Village of Larchmont.	May 21, 2001, May 28, 2001, *The Journal News.*	Mr. R. Joseph Morgan, Larchmont Village Engineer, Municipal Building, 120 Larchmont Avenue, Larchmont, New York 10538.	Nov. 7, 2001	360915 B
Oneida (FEMA Docket No. D–7511).	City of Utica	May 18, 2001, May 25, 2001, *The Observer Dispatch.*	The Honorable Timothy J. Julian, Mayor of the City of Utica, 1 Kennedy Plaza, Utica, New York 13502.	Nov. 7, 2001	360558 A
North Carolina:					
Buncombe (FEMA Docket No. D–7511).	City of Asheville	May 10, 2001, May 17, 2001, *The Asheville Citizen-Times.*	The Honorable Leni Sitnick, Mayor of the City of Asheville, 70 Court Plaza P.O. Box 7148, Asheville, North Carolina 28802.	Aug. 16, 2001	370032 C
Brunswick (FEMA Docket No. D–7513).	Unincorporated Areas.	June 28, 2001, July 5, 2001, *Wilmington Morning Star.*	Mr. Marty Lawing, Brunswick County Manager,P.O. Box 249, 45 Courthouse Drive,Bolivia, North Carolina 28422.	Oct. 4, 2001	370295 C
Orange (FEMA Docket No. D–7513).	Town of Carrboro	May 21, 2001, May 28, 2001, *Chapel Hill Herald.*	Mr. Robert W. Morgan, Manager of the Town of Carrboro,301 West Main Street,Carrboro, North Carolina 27510.	Aug. 27, 2001	370275 C
Wake (FEMA Docket No. D–7513).	Town of Garner	July 18, 2001, July 25, 2001, *The News and Observer.*	Ms. Mary Lou Rand, Town Manager, P.O. Box 446, 900 Seventh Avenue,Garner, North Carolina 27529.	July 11, 2001	370240 D
Wake (FEMA Docket No. D–7513).	City of Raleigh	July 18, 2001, July 25, 2001, *The News and Observer.*	The Honorable Paul Y. Coble, Mayor of the City of Raleigh,P.O. Box 590,222 West Hargett Street,Raleigh, North Carolina 27602.	July 11, 2001	370243 D
Wake (FEMA Docket No. D–7513).	Unincorporated Areas.	July 18, 2001, July 25, 2001, *The News and Observer.*	Mr. David Cooke, Wake County Manager, Suite 1100,337 South Salisbury Street,Raleigh, North Carolina 27602.	July 11, 2001	370368 D
Ohio:					
Franklin (FEMA Docket No. D–7513).	Unincorporated Areas.	May 16, 2001, May 23, 2001, *Gahanna News.*	Mr. Dewey Stokes, President of the Franklin County Board of Commissioners,373 South High Street, 26th Floor,Columbus, Ohio 43215–6304.	Aug. 22, 2001	390167 G
Athens (FEMA Docket No. D–7511).	Village of Glouster	March 16, 2001, March 23, 2001, *The Athens Messenger.*	The Honorable David L. Angle, Mayor of the Village of Glouster,16½ Front Street, Glouster, Ohio 45732.	July 20, 2001	390018 B
Guernsey (FEMA Docket No. D–7511).	Unincorporated Areas.	April 20, 2001, April 27, 2001, *The Jeffersonian.*	Mr. Thomas J. Laughlin, President of the Guernsey County,Board of Commissioners, 128 East 8th Street, Suite 101,Cambridge, Ohio 43725.	July 27, 2001	390198 C
Lake (FEMA Docket No. D–7509).	Unincorporated Areas.	February 16, 2001, February 23, 2001, *News-Herald.*	Mr. Daniel Troy, President of the Lake County,Board of Commissioners, 105 Main Street, Painesville, Ohio 44077.	May 25, 2001	390771 C
Lake (FEMA Docket No. D–7511).	Unincorporated Areas.	March 3, 2001, March 10, 2001, *News-Herald.*	Mr. Daniel Troy,President of the Lake County,Board of Commissioners,105 Main Street,Painesville, Ohio 44077.	Aug. 9, 2001	390771 C
Pennsylvania:					
Montgomery (FEMA Docket No. D–7511).	Township of Abington.	March 28, 2001, April 4, 2001, *The Record.*	Ms. Barbara Ferrara, President,Township of Abington, Board of Commissioners,1176 Old York Road, Abington, Pennsylvania 19001.	Mar. 16, 2001	420695 E
Schuylkill (FEMA Docket No. D–7511).	City of Pottsville	April 6, 2001, April 13, 2001 *Pottsville Republican.*	The Honorable John D. W. Reiley, Mayor of the City of Pottsville,P.O. Box 50, Pottsville, Pennsylvania 17901.	Mar. 23, 2001	420785 B
Puerto Rico:					

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
(FEMA Docket No. D–7511).	Commonwealth	March 22, 2001, March 29, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth ofPuerto Rico, P.O. Box 82, La Fortaleza,San Juan, Puerto Rico 00901.	June 11, 2001	720000 E
(FEMA Docket No. D–7511).	Commonwealth	March 22, 2001, March 29, 2001, *San Juan Star.*	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, P.O. Box 82, La Fortaleza, San Juan, Puerto Rico 00901.	June 11, 2001	720000 E
Rhode Island: Providence (FEMA Docket No. D–7509).	City of Cranston ...	March 1, 2001, March 8, 2001, *Cranston Herald.*	The Honorable John O'Leary, Mayor of the City of Cranston, City Hall,869 Park Avenue, Cranston, Rhode Island 02910.	June 7, 2001	445396 B
South Carolina: Anderson (FEMA Docket No. D–7513)	Unincorporated Areas.	June 20, 2001, June 27, 2001, *Anderson Independent.*	Mr. Joey Preston, Anderson County Administrator,100 South Main Street, P.O. Box 8002,Anderson, South Carolina 29622.	Sept. 26, 2001	450013 B
Kershaw (FEMA Docket No. D–7509).	Unincorporated Areas.	March 21, 2001, March 28, 2001, *The Kershaw News-Era.*	Mr. Gordon Hartwig, Kershaw County Administrator,1121 Broad Street,Camden, South Carolina 29020.	June 27, 2001	450115 D
Richland (FEMA Docket No. D–7513).	Unincorporated Areas.	June 28, 2001, July 5, 2001, *The State.*	Mr. T. Cary McSwain, Richland County Administrator, 2020 Hampton Street,P.O. Box 192, Columbia, South Carolina 29202.	June 21, 2001	450170 G
Tennessee:					
Montgomery (FEMA Docket No. D–7509).	City of Clarksville	March 23, 2001, March 30, 2001, *The Leaf-Chronicle.*	The Honorable Johnny Piper,Mayor of the City of Clarksville, 102 Public Square,Clarksville, Tennessee 37040.	June 29, 2001	470137 C
Maury (FEMA Docket No. D–7511).	City of Columbia ..	May 9, 2001, May 16, 2001, *Daily Herald.*	The Honorable Barbara McIntyre, Mayor of the City of Columbia,707 North Main Street, Columbia, Tennessee 38401.	Aug. 15, 2000	475423 D
Williamson (FEMA Docket No. D–7511).	City of Franklin	April 11, 2001, April 18, 2001, *Review Appeal.*	The Honorable Jerry Sharber, Mayor of the City of Franklin,P.O. Box 305, Franklin, Tennessee 37065.	July 18, 2001	470206 D
Wilson (FEMA Docket No. D–7513).	City of Lebanon	June 21, 2001, June 28, 2001, *The Lebanon Democrat.*	The Honorable Don Fox, Mayor of the City of Lebanon, 200 Castle Heights Avenue North, Suite 100 Lebanon, Tennessee 37087–2845.	Sept. 27, 2001	470208 C
Maury (FEMA Docket No. D–7511).	Unincorporated Areas.	May 9, 2001, May 16, 2001, *Daily Herald.*	Mr. Edward Harlam Executive for Maury County, County Courthouse Basement, Public Room 101, Columbia, Tennessee 38401.	Aug. 15, 2001	470123 B
Montgomery (FEMA Docket No. D–7509).	Unincorporated Areas.	March 23, 2001, March 30, 2001, *The Leaf-Chronicle.*	Mr. Douglas Weiland Montgomery County Executive, 126 Main Street, Clarksville, Tennessee 37041.	June 29, 2001	470136 B
Virginia:					
Augusta (FEMA Docket No. D–7511).	Unincorporated Areas.	May 25, 2001, June 1, 2001, *The Daily News Record.*	Mr. Patrick J. Coffield, Augusta County Administrator, P.O. Box 590, Verona, Virginia 24482.	May 11, 2001	510013 B
Fauquier (FEMA Docket No. D–7511).	Unincorporated Areas.	March 29, 2001, April 5, 2001, *Fauquier Citizen.*	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	July 5, 2001	510055 A
Independent City (FEMA Docket No. D–7511).	City of Roanoke ...	March 30, 2001, April 6, 2001, *Roanoke Times.*	The Honorable Ralph Smith, Mayor of the City of Roanoke, 215 Church Avenue, S.W., Room 452 Roanoke, Virginia 24011.	July 6, 2001	510130 D
Prince William (FEMA Docket No. D–7511).	Unincorporated Areas.	April 20, 2001, April 27, 2001, *The Potomac News.*	Mr. Craig S. Gerhart, Prince William County Executive, 1 County Complex Court, Prince William, Virginia 22192.	Apr. 4, 2001	510119 D
Spotsylvania (FEMA Docket No. D–7511).	Unincorporated Areas.	March 30, 2001, April 6, 2001, *Free Lance Star.*	Mr. L. Kimball Payne III, Spotsylvania County Administrator, P.O. Box 99, Spotsylvania, Virginia 22553.	Sept. 21, 2001	510308 C

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Wisconsin: Pierce (FEMA Docket No. D–7511).	Unincorporated Areas.	March 21, 2001, March 28, 2001, *Pierce County Herald*.	Mr. Richard Wilhelm, Chairman of the Pierce County Board, P.O. Box 128, Ellsworth, Wisconsin 54011.	June 27, 2001	555571 C

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31032 Filed 12–17–01; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (E-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
FLORIDA	
Daytona Beach (City), Volusia County (FEMADocket Nos. 7311 and D–7514)	
Atlantic Ocean:	
Approximately 450 feet northeast of the intersection of Harvey Avenue and Ocean Avenue South	*10
Approximately 300 feet east of the intersection of Hartford Avenue and Atlantic Avenue North	*13
Intracoastal Waterway:	
Approximately 500 feet west of the intersection of Glenview Boulevard and Halifax Avenue North	*5

VOL 66 ISS 243 DE 18 2001 UMI

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 700 feet east of the intersection of San Juan Avenue and North Beach Street	*8
BB–19 Canal Tributary No. 7:	
At confluence with B–19 Canal	*30
Approximately 150 feet upstream of Beville Road/State Route 400	*30
B–19 Canal:	
Approximately 1,100 feet upstream of the confluence of B–19 Canal Tributary No. 3 with B–19 Canal	*29
Approximately 100 feet upstream of State Route 400	*30
Tomoka River:	
Approximately 0.8 mile downstream of Eleventh Street	*14
Approximately 400 feet downstream of Interstate 4	*25
Eleventh Street Canal:	
At confluence with Tomoka River	*16
Aproximately 2,810 feet upstream of Clyde Morris Boulevard North	*26
Eleventh Street Canal Tributary No. 2:	
At confluence with Eleventh Street	*26
Approximately 2,800 feet upstream of LPGA Boulevard	*26
Just upstream of Clyde Morris Boulevard North	*26
At confluence of Eleventh Street Canal Tributary No. 2A	26
Eleventh Street Canal Tributary No. 2A:	
At confluence with Eleventh Street Canal Tributary No. 2	*26
Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2	*26
Shooting Range Canal:	
At confluence with Tomoka River	*13
At a point just upstream of Clyde Morris Boulevard North	*26
Maps available for inspection at Daytona Beach Public Works Complex, Engineering Department, 950 Bellevue Avenue, Daytona Beach, Florida	
Daytona Beach Shores (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 400 feet east of the intersection of Ridge Road and Atlantic Avenue South	*10
Approximately 500 feet east of the intersection of VanAvenue and Atlantic Avenue South	*12
Intracoastal Waterway:	
Approximately 400 feet west of the intersection of Richards Lane and Peninsula Drive South	*6
At the intersection of Demott Street and Peninsula Drive South	*6
Maps available for inspection at the City of Daytona Beach Shores City Hall, Building Division, 3050 South Atlantic Avenue, Daytona Beach,Florida.	
Edgewater (City), Volusia County (FEMA Docket No. 7311)	
Indian River North/Intracoastal Waterway:	
Just on the Easterly side of the intersection of Boston Road and Riverside Drive	*7
Approximately 100 feet east of the intersection of Knapp Avenue and Riverside Drive South	*9
Maps available for inspection at the City of Edgewater Planning Department, 104 North Riverside Drive, Edgewater, Florida.	
Edgewater (City), Volusia County (FEMA Docket No. 7311)	
Indian River North/Intracoastal Waterway:	
Just on the Easterly side of the intersection of Boston Road and Riverside Drive	*7
Approximately 100 feet east of the intersection of Knapp Avenue and Riverside Drive South	*9
Maps available for inspection at the City of Edgewater Planning Department, 104 North Riverside Drive, Edgewater, Florida.	
New Smyrna Beach (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 400 feet east of the intersection of 3rd Avenue East and Atlantic Avenue South	*10
Approximately 0.8 mile north of the intersection of Peninsula Avenue North and Ocean Drive	*12
Indian River North/Intracoastal Waterway:	
At the intersection of Ocean Drive and Peninsula Avenue North	*7
Approximately 1,500 feet east of the intersection of Conrad Drive and Redland Drive	*9
Maps available for inspection at the New Smyrna Beach City Hall, 210 Sams Avenue, New Smyrna Beach, Florida.	
Oak Hill (City), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 120 feet east of the intersection of State Route A1A and Volusia County/Oak Hill corporate limits	*11
Approximately 500 feet from the southern Volusia County/Oak Hill corporate limits along State Route A1A north, then approximately 350 feet east	*12
Indian River North/Intracoastal Waterway:	
Approximately 1,500 feet southwest of the intersection of South Street and State Route A1A in Volusia County	*6
Approximately 500 feet east of the intersection of Cheyenne Drive and Golden Bay Boulevard	*8
Maps available for inspection at the Oak Hill City Hall, 234 South U.S. Highway 1, Oak Hill, Florida.	
Ormond Beach (City), Volusia County (FEMA Docket Nos. 7311 and D–7514)	
Atlantic Ocean:	
Approximately 350 feet east of the intersection of Ann Rustin Drive and Ocean Shore Boulevard	*10
Approximately 600 feet east of the intersection of Harvard Drive and Florence Street	*12
Halifax River/Intracoastal Waterway:	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
At the intersection of John Anderson Drive and St. Mark Circle	*4
Approximately 100 feet east of the intersection of Seville Street and Beach Street South	*7
Approximately 200 feet west of intersection of John Anderson Drive and Buckingham Drive	*4
Tomoka River:	
Approximately 1.1 miles downstream of confluence of of Thompson Creek	*5
Approximately 1,500 feet upstream of State Route 40	*10
Misner Branch:	
At confluence with Tomoka River	*8
Approximately 100 feet upstream of Handy Avenue	*15
Little Tomoka River:	
At confluence with Tomoka River	*10
At State Route 40	*28
Groover Branch:	
At confluence with Tomoka River approximately 1,300 feet downstream of Tymber Run Road	*20
Approximately 340 feet upstream of Tymber Creek Road North	*10
Thompson Creek:	
Approximately 470 feet downstream of U.S. Route 1 North	*7
Approximately 0.45 mile upstream of Tomoka Avenue	*8
Eleventh Street Canal Tributary No. 2:	
At confluence with Eleventh Street	*26
Approximately 2,800 feet upstream of LPGA Boulevard	*26
Just upstream of Clyde Morris Boulevard North	26
At confluence of Eleventh Street Canal Tributary No. 2A	26
Eleventh Street Canal Tributary No. 2A:	
At confluence with Eleventh Street Canal Tributary No. 2	*26
Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2	*26
Maps available for inspection at Ormond Beach City Hall, Planning Department, 22 South Beach Street, Room 104, Ormond Beach Florida.	
Ponce Inlet (Town), Volusia County (FEMA Docket No. 7311)	
Atlantic Ocean:	
Approximately 300 feet east of the intersection of Old Carriage Road and Atlantic Avenue South	*10
Approximately 750 feet east of the Beach Street and Atlantic Avenue South intersection	*12
Intracoastal Waterway:	
At the intersection of Maura Court and Peninsula Drive South	*7
Approximately 2,500 feet south of the intersection of Beach and Sailfish Drive	*9
Maps available for inspection at the Ponce Inlet Town Hall, 4680 South Peninsula Drive, Ponce Inlet, Florida.	
Port Orange (City), Volusia County (FEMA Docket No. 7311)	
B–19 Canal:	
Approximately 300 feet upstream of confluence with Spruce Creek	*5
Approximately 150 feet downstream of the confluence of B–19 Canal Tributary No. 5 with B–19 Canal	*29
B–19 Canal Tributary No. 2:	
At the confluence with B–19 Canal	*28
Approximately 1,500 feet upstream of confluence with B–19 Canal	*28
Intracoastal Waterway:	
At the intersection of Riverview Lane and Simpson Avenue	*6
At the intersection of Portobello Drive and Riverside Drive	*9
Maps available for inspection at the Port Orange City Hall, 1000 City Center Circle, Port Orange, Florida.	
South Daytona (City), Volusia County (FEMA Docket No. 7311)	
Intracoastal Waterway:	
At the intersection of Sea Isle Circle and Palmetto Avenue	*6
Approximately 600 feet east of the intersection of Venture Drive and U.S. Route 1 (Ridgewood Avenue South)	*8
Approximately 125 feet southwest of the intersection of Reed Canal Road and Ridgewood Avenue South/U.S. Route 1	*6
Maps available for inspection at the South Daytona City Hall, 1672 Ridgewood Avenue, South Daytona, Florida.	
Volusia County (Unincorporated Areas) (FEMA Docket Nos. 7311 and D–7514)	
Atlantic Ocean:	
Approximately 350 feet east of the intersection of Plaza Drive and Ocean Shore Boulevard	*10
Approximately 300 feet southeast of the intersection of Kingfish Avenue and Atlantic Avenue South	*12
Approximately 500 feet southeast of intersection of Ocean Shore Boulevard and northern county boundary	*12
Halifax River/Intracoastal Waterway:	
Approximately 100 feet southwest of the intersection of John Anderson Drive and Highridge Road	*4
Approximately 2,750 feet west of intersection of Cardinal Boulevard and Major Street	*9
Indian River North/Intracoastal Waterway:	
Approximately 1,000 feet east of intersection of Pelican Place and Riverside Drive	*7
Approximately 50 feet west of the intersection of Trout Avenue and Atlantic Avenue	*6
Groover Branch:	
Approximately 1,250 feet upstream of Tymber Run	*10
Approximately 340 feet upstream of Tymber Creek Road North	*20
Tomoka River:	
Approximately 1.17 miles downstream of confluence of Thompson Creek	*5
Approximately 0.96-mile upstream of U.S. Route 92	*25
Little Tomoka River:	

VOL 66 ISS 243 DE 18 2001 UMI

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Tomoka River, approximately 1,850 feet downstream of Main Trail Road	*10
Approximately 200 feet upstream of State Route 40	*30
B–19 Canal:	
At the confluence of B–19 Canal Tributary No. 2	*28
Approximately 550 feet northeast of the confluence of B–19 Canal Tributary No. 3 with B–19 Canal	*29
Crescent Lake:	
Approximately 6,000 feet northeast of the intersection of Ducan Road and Raulerson Road No. 7	*7
Approximately 2.84 miles northeast of the intersection of Ducan Road and Raulerson Road No. 7	*7
Eleventh Street Canal Tributary No. 2:	
At confluence with Eleventh Street	*26
Approximately 2,800 feet upstream of LPGA Boulevard	*26
Just upstream of Clyde Morris Boulevard North	*26
At confluence of Eleventh Street Canal Tributary No. 2A	*26
Eleventh Street Canal Tributary No. 2A:	
At confluence with Eleventh Street Canal Tributary No. 2	*26
Approximately 2,600 feet upstream of confluence with Eleventh Street Canal Tributary No. 2	*26
Shooting Range Canal:	
At confluence with Tomoka River	*13
At a point just upstream of Clyde Morris Boulevard North	*26
Maps available for inspection at the Volusia County Emergency Operations Center, 49 Keyton Drive, Daytona, Florida.	
GEORGIA	
Morgan County (Unincorporated Areas) (FEMA Docket No. D–7510)	
Apalachee River:	
Approximately 2.98 miles downstream of State Route 186	*574
Just downstream of State Route 186	*623
Maps available for inspection at the Morgan County Building Inspector's Office, 384 Hancock Street, Madison, Georgia.	
MAINE	
Princeton (Town), Washington County (FEMA Docket No. D–7512)	
Grand Falls Flowage:	
Entire shoreline within the Town of Princeton	*204
Lewy Lake:	
Entire shoreline within the Town of Princeton	*204
Long Lake:	
Entire shoreline within the Town of Princeton	*204
Maps available for inspection at the Princeton Town Office, 15 Depot Street, Princeton, Maine.	
NEW HAMPSHIRE	
Strafford (Town), Strafford County (FEMA Docket No. D–7512)	
Bow Lake:	
Entire shoreline in the Town of Strafford	*517
Maps available for inspection at the Town Office, Route 202A, Center Strafford, New Hampshire.	
NEW JERSEY	
Summit (City), Union County (FEMA Docket No. D–7510)	
Passaic River:	
Approximately 200 feet upstream of Old Highway 24/corporate limits	*180
Approximately 0.62 mile (3,250 feet) upstream of Stanley Avenue	*207
Maps available for inspection at the Summit City Hall, 512 Springfield Avenue, Summit, New Jersey.	
NEW YORK	
Kiryas Joel (Village), Orange County (FEMA Docket No. D–7510)	
Coronet Brook:	
At the confluence with Tributary No. 25	*612
Approximately 340 feet upstream of Israel Zupnik Drive	*649
Forest Brook:	
At the confluence with Tributary No. 25	*604
Approximately 0.44 mile upstream of Schunnemunk Road	*760
Highland Brook:	
At the confluence with Tributary No. 25	*609
Approximately 1,470 feet upstream of Bakertown Road	*654
Palm Brook:	
Approximately 980 feet downstream of Koznits Road	*677
Approximately 0.38 mile upstream of an Access Road	*833
Tributary No. 25:	
Approximately 600 feet downstream of the confluence of Forest Brook	*601
Approximately 200 feet upstream of Krolla Drive	*734
Maps available for inspection at the Kiryas Joel Village Hall, 51 Forest Road, Monroe, New York.	
Port Jervis (City), Orange County (FEMA Docket No. D–7512)	
Neversink River:	
Downstream corporate limits	*427
Approximately 0.05 mile downstream of Main Street	*427
Delaware River:	
Downstream corporate limits	*448
Upstream corporate limits	*426
Maps available for inspection at the Port Jervis Municipal Building, 14 Hammond Street, Port Jervis, New York 12771.	
OHIO	
Montezuma (Village), Mercer County (FEMA Docket No. D–7512)	
Grand Lake-St. Marys:	
At intersection of Wyatt Street and Canal Street	*873
Maps available for inspection at the Montezuma Village Hall, 69 West Main Street, Montezuma, Ohio	
Willoughby Hills (City), Lake County (FEMA Docket No. D–7510)	
Euclid Creek North Tributary:	
Approximately 2,800 feet downstream of Bishop Road	*827
Approximately 4,020 feet upstream of Lamplight Lane	*873
Euclid Creek South Tributary:	

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
At confluence with Euclid Creek North Tributary	*832
Approximately 1.1 miles upstream of Bishop Road	*877
Maps available for inspection at the Willoughby Hills City Hall, 35405 Chardon Road, Willoughby Hills, Ohio.	
PENNSYLVANIA	
Langhorne Manor (Borough), Bucks County (FEMA Docket No. D–7512)	
Chubb Run:	
At Comly Avenue	*96
Approximately 90 feet upstream of Gillam Avenue	*197
Maps available for inspection at the Langhorne Borough Building, 618 Hulmeville, Langhorne Manor, Pennsylvania.	
Middletown (Township), Bucks County (FEMA Docket No. D–7512)	
Chubb Run:	
At confluence with Neshaminy Creek	*40
Approximately 90 feet upstream of Gillam Avenue	*197
Maps available for inspection at the Middletown Township Zoning and Planning Office, 2140 Trenton Road, Levittown, Pennsylvania.	
Penndel (Borough), Bucks County (FEMA Docket No. D–7512)	
Chubb Run:	
Approximately 70 feet upstream of Hulmeville Road	*62
Just downstream of CONRAIL	*80
Maps available for inspection at the Penndel Borough Office, 300 Bellevue Avenue, Penndel, Pennsylvania.	
SOUTH CAROLINA	
Cayce (City), Lexington County (FEMA Docket No. 7311)	
Congaree River:	
Approximately 100 feet upstream of the confluence of Congaree Creek	*135
Approximately 75 feet upstream of Blossom Street	*153
Congaree Creek:	
Approximately 125 feet upstream of the confluence with the Congaree River	*135
Approximately 750 feet downstream of the confluence of Six Mile Creek	*141
Maps available for inspection at the City Hall, 1800 12th Street, Cayce, South Carolina.	
Colleton County (Unincorporated Areas) (FEMA Docket No. 7295)	
Ashepoo River:	
Approximately 2.38 miles downstream of CSX Transportation	*8
Approximately 225 feet upstream of Ritter Road	*12
Chessey Creek:	
At confluence with Horseshoe Creek	*8
Approximately 75 feet upstream of Charleston Highway	*10
Edisto River:	
Approximately 2,000 feet downstream of U.S. Route 17	*11
Approximately 400 feet upstream of upstream corporate limits (Bamburg/Colleton)	*92
Great Swamp:	
Approximately 3.84 miles downstream of South Jeffries Boulevard	*21
Approximately 335 feet upstream of I–95 southbound	*38
Horseshoe Creek:	
At confluence with Ashepoo River	*8
Approximately 40 feet upstream of Charleston Highway(State Route 64)	*12
Ireland Creek:	
Approximately 500 feet upstream of South Jeffries Boulevard	*32
Approximately 75 feet upstream of Industrial Boulevard	*50
Wolf Creek:	
At confluence with Jones Swamp Creek	*44
Approximately 180 feet upstream of Quail Drive	*65
Maps available for inspection at the Colleton County Building Inspector's Office, Benson Street, Walterboro, South Carolina.	
Columbia (City), Lexington and Richland Counties (FEMA Docket No. 7311)	
Gills Creek:	
Upstream side of State Route 48 (Bluff Road)	*137
At the Southern Railway Bridge	*138
Saluda River:	
At the confluence with the Broad and Congaree Rivers	*155
Approximately 1,625 feet upstream of USGS Gage No. 2–1690	*172
Rocky Branch:	
Approximately 75 feet downstream of Olympia Avenue	*149
Approximately 475 feet upstream of Olympia Avenue	*151
Congaree River (with levee):	
Approximately 360 feet upstream of the CSX Transportation crossing	*152
At confluence of Broad and Saluda Rivers	*155
Broad River:	
At the confluence with Saluda and Congaree Rivers	*155
Approximately 1,550 feet upstream of the confluence with Saluda and Broad Rivers	*158
Maps available for inspection at the Columbia City Hall, 1225 Laurel Street, Columbia, South Carolina.	
Lexington County (Unincorporated Areas) (FEMA Docket No. 7311)	
Congaree River:	
At the county boundary	*128
At the confluence of Broad and Saluda Rivers	*155
Saluda River:	
At the confluence with the Congaree River	*155
Approximately 0.95 mile upstream of the confluence with the Congaree River	*156
Congaree Creek:	
At the confluence with the Congaree River	*135
Approximately 750 feet downstream of the confluence of Six Mile Creek	*141
Maps available for inspection at the Planning Department, County Administration Building, 212 South Lake Drive, Lexington, South Carolina.	

VOL
66
ISS
243
DE
18
2001
UMI

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Richland County (Unincorporated Areas) (FEMA Docket No. D-7506)	
Gills Creek:	
At the confluence with the Congaree River	*133
At the Southern Railway bridge	*138
Rocky Branch:	
At the confluence with Congaree River	*149
Approximately 475 feet upstream of Olympia Avenue	*151
Tributary G–1:	
At the confluence with Gills Creek	*136
Approximately 810 feet upstream of Bluff Road	*141
Reeder Point Branch:	
At the confluence with Black Lake	*134
Approximately 140 feet upstream side of State Route 48 (Bluff Road)	*135
Congaree River (with levee):	
Approximately 2.66 miles downstream of the confluence with Gills Creek	*128
Approximately 0.5 mile upstream of the CSX Transportation crossing	*152
Congaree River (without levee):	
Approximately 42.2 miles upstream of mouth	*131
Approximately 2.3 miles upstream of the Southeastern Beltway (West Bound)	*140
Spears Creek:	
Downstream side of Jacobs Mill Pond Road	*221
Approximately 0.5 mile upstream Spears Creek Church Road	*311
Lake Murray:	
Entire shoreline within county	*363
Maps available for inspection at the Richland County Planning Department, 2020 Hampton Street, Columbia, South Carolina.	
West Columbia (City), Lexington County (FEMA Docket No. 7311)	
Congaree River:	
Approximately 1,250 feet upstream of Blossom Street	*153
Approximately 220 feet downstream of Jarvis Klapman Boulevard	*154
Saluda River:	
Approximately 0.93 mile upstream of the confluence with the Congaree River	*156
Approximately 900 feet upstream of the confluence of Double Branch	*172
Maps available for inspection at the City Hall, 1053 Center Street, West Columbia, South Carolina.	
TENNESSEE	
Selmer (City), McNairy County (FEMA Docket No. D–7512)	
Cypress Creek:	
Approximately 1,700 feet downstream of South Fourth Street	*433
Approximately 1,855 feet upstream of Purdy Road	*444
Crooked Creek:	
At the confluence with Cypress Creek	*439
Approximately 0.5 mile upstream of Highschool Road	*459
Maps available for inspection at the City Hall, 144 North Second Street, Selmer, Tennessee.	
VERMONT	
Woodstock (Town and Village), Windsor County (FEMA Docket No. D–7510)	
Ottauquechee River:	
Approximately 550 feet upstream U.S. Route 4	*697
At the upstream corporate limits	*812
Maps available for inspection at Town Hall, 31 The Green, Woodstock, Vermont.	
VIRGINIA	
Berryville (Town), Clarke County (FEMA Docket No. D–7510)	
Town Run:	
Approximately 1,220 feet downstream of Springsbury Road (State Route 613)	*553
Approximately 80 feet upstream of Lincoln Avenue	*599
Maps available for inspection at the Town of Berryville Office, 23 East Main Street, Berryville, Virginia.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31034 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (E-mail) *matt.miller@fema.gov*.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Administrator, Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
CALIFORNIA	
Martinez (City), Contra Costa County, (FEMA Docket No. B–7408)	
Arroyo Del Hambra Creek:	
Just upstream of John Muir Parkway	*116
Approximately 2, 000 feet upstream of Alhambra Avenue	*180
Line A. DA–40:	
Approximately 950 feet downstream of Howe Road	*22
Approximately 75 feet downstream of Howe Road	*23
Maps are available for inspection at City of Martinez, City Hall, 525 Henrietta Street, Martinez, California.	
MISSOURI	
Newton County (Unincorporated Areas), (FEMA Docket No. B–7258)	
Culpepper Creek:	
Approximately 1,150 feet downstream of Webert Road	*1,037
Approximately 100 feet downstream of Old County Highway East	*1,050
Approximately 2,800 feet upstream of Main Street	*1,075
Wolf Creek:	
At confluence with Culpepper Creek	*1,044
Approximately 3,050 feet upstream of confluence with	*1,059
Maps are available for inspection at Newton County Courthouse, Emergency Management Office, 101 South Wood Street at Main Street, Neosho, Missouri.	
Grandby (City), Newton County, (FEMA Docket No. B–7270)	
Culpepper Creek:	
Approximately 400 feet upstream of confluence with Shoal Creek	*1,034
Approximately 100 feet downstream of Old County Highway E	*1,050
Approximately 120 feet upstream of Main Street	*1,072
Wolf Creek:	
Approximately 3,450 feet downstream of Vance Street	*1,048
Approximately 1,150 feet upstream of Vance Street	*1,082
Maps are available for inspection at the City of Grandby, City Hall, 302 North Main Street, Grandby, Missouri.	
OREGON	
Gresham (City), Multnomah County, (FEMA Docket No. B7417)	
Kelly Creek:	
Approximately 130 feet downstream of Division Street	*335
Approximately 400 feet upstream of NE Kane Road	*353
Approximately 410 feet downstream of SE El Camino Drive	*355
Approximately 430 feet upstream of Powell Valley Road	*387
Approximately 670 feet downstream of SE Ironwood Way	*416
Approximately 630 feet upstream of 282nd Street	*446
Maps are available for inspection at the Community and Economic Development Department, 1333 NW Eastman Parkway, Gresham, Oregon.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Communities affected
IOWA		
FEMA Docket No. (B–7401)		
Missouri River:		
Approximately 5.3 miles downstream of McCandles Cleghorn outlet	*1,032	Monona County (Uninc. Areas).
Approximately 17.9 miles upstream of Iowa Highway 175(I)	*1,065	Monona County (Uninc. Areas).

VOL 66 ISS 243 DE 18 2001 UMI

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Communities affected
McCandless Cleghorn Drainage Ditch:		
At its confluence with the Missouri River	*1,039	Monona County (Uninc. Areas).
At 235th Street	*1,044	Monona County (Uninc. Areas), City of Onawa.
Approximately 1,000 feet downstream of 220th Street	*1,051	Monona County (Uninc. Areas), City of Onawa.
At intersection of West Street and Walnut Street	*1,058	Monona County (Uninc. Areas), City of Whiting.
Approximately 1,400 feet upstream of County Highway 45	*1,061	Monona County (Uninc. Areas), City of Whiting.
Just downstream of County Highway 45	*1,063	Monona County (Uninc. Areas).

ADDRESSES

Monona County (Unincorporated Areas)

Maps are available for inspection at the Monona County Zoning Office, Chairman, Monona County Board of Supervisors, 610 Iowa Avenue, Onawa, Iowa.

City of Onawa

Maps are available for inspection at the Leon Valley City Hall, 914 Diamond Street, Onawa, Iowa.

City of Whiting

Maps are available for inspection at City Hall, 605 Whittier Street, Whiting, Iowa.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31033 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00–39; FCC 01–330]

Broadcast Services; Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document resolves a number of petitions for reconsideration of the Federal Communications Commissions' Report and Order and Further Notice of Proposed Rule Making (R&O). This document addresses a number of issues related to the conversion of the nation's broadcast television system from analog to digital television (DTV), including when to require election by licensees of their post-transition DTV channel, whether to require replication by DTV licensees of their NTSC Grade B service contours, whether to require DTV licensees to place enhanced service contours over their principal communities, and how to process mutually exclusive applications. The document also modifies the minimum hours of operation of certain DTV stations and establishes guidelines for television stations that may seek an extension of the deadlines for construction of DTV facilities. Our intention in revising some of the decisions reached in the Report and Order is to revise certain requirements that may be having the unintended consequence of hindering, rather than furthering, the DTV transition, and to prioritize those elements most important to the transition. The decisions reached in this document should maximize the number of DTV stations providing service to at least all consumers in their community of license by allowing DTV stations to go on the air initially with lower-powered, and therefore less expensive, facilities.

DATES: The decisions and rules adopted herein shall be effective February 19, 2002, except for FCC Form 337 which contains information collection requirements that have not been approved by OMB. Written comments on this new information collection are due February 19, 2002. The FCC will publish a document announcing the effective date of FCC Form 337 once OMB approval is received. This form appears as an appendix to this document.

ADDRESSES: Federal Communications Commission, Washington, DC, 20554. In addition to filing comments with the Office of the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy and Rules Division, Mass Media Bureau, (202) 418–2130. For additional information concerning the information collections contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order on Reconsideration (MO&O), FCC 01–330, adopted November 8, 2001, released November 15, 2001. The full text of the Commission's MO&O is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12th Street, SW., Washington, DC 20554. The complete text of this MO&O may also be purchased from the Commission's copy contractor, Qualex International, (202) 863–2893, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The text of the MO&O is also available from the FCC's Internet website: *www.fcc.gov*.

Paperwork Reduction Act

This MO&O contains either a new or modified information collection. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other government agencies to comment on the information collection contained in this MO&O as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due February 19, 2002. Comments should address: (a) Whether the new or modified collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.

Title: Application for Extension of Time to Construct a Digital Television Broadcast Station.

Form No.: FCC 337.

Type of Review: New collection.

Respondents: Business or other for-profit; not-for-profit institutions.

Number of Respondents: 600 (400 extensions; 200 requests for special temporary authority).

Estimated Time per Response: 1.5 hours extensions (0.5 hours respondent; 1 hour attorney); 4.0 hours. STA (1 hour respondent; 1 hour attorney; 2 hours consulting engineer).

Total Annual Burden: 400 hours.

Total Annual Costs: $207,000.

Needs and Uses: The MO&O revises the circumstances under which an extension of time to construct a digital television broadcast station can be requested. The Commission has developed the FCC 337 to be used by DTV permittees to apply for an extension of time. Applicants must retain documentation fully detailing and supporting their representations made on this form. In addition, the MO&O adopted a provision for special temporary authority for licensees that have not been granted a construction permit for allotted or maximized DTV facilities to commence digital operations. The request for special temporary authority must specify the technical facilities requested. The data is used by FCC staff to determine, on a case-by-case basis, whether a broadcaster should be afforded additional time to construct its facilities and to ensure that operation will not exceed allotted parameters.

Synopsis of Memorandum Opinion and Order on Reconsideration

I. Introduction

1. In this MO&O, we revise a number of the determinations we made in the R&O, affirm other decisions, and provide clarification of certain rules and policies. We also modify, on our own motion, the minimum hours of operation of certain DTV stations and establish guidelines for television stations that may seek an extension of our deadlines for construction of DTV facilities. We will resolve several major technical issues raised in the R&O, including the issues of receiver performance standards, DTV tuners, revisions to the ATSC transmission standard (including the PSIP standard), and labeling requirements for television receivers, in a separate R&O.

II. Background

2. In the Commission's digital television proceeding (MM Docket No. 87–268), we indicated our intention to hold periodic reviews of the progress of the conversion to digital television and to make any mid-course corrections necessary to ensure the success of that conversion. In the Fifth Report and Order in MM Docket 87–268 (63 FR 135461, May 20, 1998) (Fifth R&O), we stated that we would conduct such a review every two years in order to "ensure that the introduction of digital television and the recovery of spectrum at the end of the transition fully serves the public interest." We commenced this first periodic review with a Notice of Proposed Rule Making in MM Docket 00–39 (65 FR 15600, March 23, 2000) (NPRM), adopted March 6, 2000. In the NPRM, we invited comment on a number of issues that we considered essential to resolve in order to ensure continued progress on the conversion. We also sought comment generally on various aspects of the transition, such as the pace of DTV receiver sales and the availability of financing for digital facilities.

3. Based on the comments we received in response to the NPRM, we made a number of determinations in the R&O that we believed would further progress on the transition. Among other things, we established a December 31, 2003 deadline by which commercial television stations that have both their NTSC and DTV operations on in-core channels must elect which of their two core channels to use for DTV operations after the transition. We gave non-commercial stations that have both their NTSC and DTV operations on in-core channels until the end of 2004 to elect their post-transition DTV channel. We determined that this early channel election would allow us to identify more quickly channels that will be available to accommodate DTV licensees with out-of-core transition channels as well as new entrants. In addition, to provide broadcasters with an incentive to provide full replication of NTSC coverage with DTV service, we determined that, after December 31, 2004, whatever portion of a commercial broadcaster's NTSC Grade B contour is not replicated with its digital television signal will cease to be protected in the DTV Table of Allotments. Noncommercial DTV licensees were given until December 31, 2005 in which to replicate or lose such DTV interference protection. We also imposed a principal community coverage requirement that is stronger than the DTV service contour requirement that we adopted as an initial obligation in the Fifth R&O. This new city-grade service requirement, which becomes effective December 31, 2004 for commercial stations and December 31, 2005 for noncommercial stations, was intended to improve the availability of service in the community of license and to prevent undue migration of stations from their communities of license.

4. In addition, in our R&O we adopted DTV application cut-off procedures and determined how we would resolve any mutually exclusive applications. We also made a number of technical decisions, including our determination that there is no persuasive information to indicate that there is any deficiency in the 8-VSB modulation system of the DTV transmission standard that would warrant adding COFDM to the current standard. Finally, we declined to adopt technical performance standards for DTV receivers, although we indicated we would continue to monitor receiver issues throughout the transition and would take appropriate action on receiver standards if necessary.

5. Upon further consideration, and after careful review of the petitions for reconsideration, we believe that some of the requirements that we adopted in the R&O may be having the unintended consequence of hindering, rather than furthering, the DTV transition. In particular, we believe that the Commission's current channel election and replication requirements and deadlines may be imposing substantial burdens on broadcasters without sufficient countervailing public benefits, and may in fact be contributing to difficulties faced by a substantial number of stations in meeting their DTV construction deadlines.

6. The DTV build-out dates have passed for the top-30-market major network affiliate stations. As of September 2001, thirty-seven of the 40 major network affiliate stations in the top 10 television markets are on the air with DTV service, 36 with licensed

VOL 66 ISS 243 DE 18 2001 UMI

facilities and one with special temporary authority ("STA"). In addition, 71 of the 79 major network affiliate stations in markets 11–30 are providing digital service, 61 with licensed facilities and 10 with STAs. By May 1, 2002, all remaining commercial television stations are required to complete construction and commence DTV operations. Noncommercial stations have until May 1, 2003 to complete construction.

7. The National Association of Broadcasters (NAB) recently conducted a survey of all full-power commercial TV stations to determine how many anticipate they will have a digital signal on the air by May 2002. The results of the survey show that more than two thirds (68.2%) of responding stations reported that they either are operating now in digital format or expect to have a digital signal on the air by May 2002. Stations that anticipate meeting the deadline would provide at least one digital signal by next May in 164 television markets. According to the NAB, these markets include 95.8 % of all television households.

8. While these survey results are encouraging, it nonetheless appears that slightly less than one-third (31.8%) of all stations responding to the NAB survey anticipate that they will not be able to provide a digital signal by the May 2002 deadline. A larger percentage (81.9%) of responding stations in the top 50 markets anticipate that they will meet the deadline, while a smaller percentage (49.1%) of stations in markets 100 and above indicated they will complete construction on time. Three-quarters of those stations that do not anticipate meeting the May 2002 deadline indicated they plan to seek an extension of this deadline from the FCC. Generally, smaller market broadcasters that filed petitions in this proceeding assert that they are unable to obtain financing to construct DTV facilities sufficient to replicate their analog service area. These broadcasters also claim that they will not have sufficient operational experience by December 2004 to determine which core channel is superior for DTV transmission. Broadcasters that are not capable of constructing full replication facilities by the deadline established in the R&O may be postponing construction altogether. Thus, while the Commission's current replication deadline was intended to provide an incentive to stations to construct DTV facilities capable of reaching their entire service area, this deadline may in fact be causing stations to delay construction, thus slowing transition progress.

9. As discussed more fully below, upon reconsideration we have decided to allow stations to construct initial DTV facilities designed to serve at least their communities of license, while still retaining DTV interference protection to provide full replication at a later date. Thus, we will temporarily defer the replication protection and channel election deadlines we established in the R&O. In our next periodic review of the progress of the DTV transition, we intend to establish a firm date by which broadcasters must either replicate their NTSC service areas or lose DTV service protection of the unreplicated areas, and by which broadcasters with two in-core allotments must elect which channel they will eventually use at the end of the transition. These replication protection and channel election deadlines may be earlier than but will in no event be later than the latest of either the end of 2006 or the date by which 85% of the television households in a licensee's market are capable of receiving the signals of digital broadcast stations. During the next periodic review, we intend to develop a record on the progress of the transition and how such progress relates to such issues as band clearing and the goal of the rapid recovery of spectrum for public safety and other wireless services, as well as other issues related to the successful conclusion of the DTV transition. In order to provide parity to analog UHF stations, we will also allow these stations to construct initial facilities that serve their principal communities while retaining for the time being DTV interference protection to their maximized service areas, subject to the interference protection deadline we intend to establish in the next periodic review. We will not alter, however, our decision to require stations to provide a stronger signal to their communities of license than that adopted as an initial requirement in the Fifth R&O. As established in the R&O, this new city-grade service requirement will become effective December 31, 2004 for commercial stations and December 31, 2005 for noncommercial stations.

10. Our intention in making these revisions to the decisions reached in the R&O is to prioritize those elements that are most important to the DTV transition. At this point, we believe our primary goal should be to maximize the number of DTV stations providing service to at least all consumers in their community of license. Relaxing our channel election and replication requirements will allow stations to go on the air with lower-powered, and therefore less expensive, facilities, while also providing broadcasters additional time to consider their post-transition facilities. The reduced build-out requirements we adopt today will allow broadcasters to save both on construction and operating costs, including lower power expenses. Indeed, the ability to transmit at lower power may permit many of these stations to transmit from existing towers, rather than being forced to build new facilities immediately. In addition, we will allow DTV stations that are not yet required to be on the air with a digital signal—*i.e.,* those that are subject to the May 1, 2002 or May 1, 2003 deadlines, including stations subject to those deadlines that are currently on the air early—to operate initially at a reduced schedule by providing, at a minimum, a digital signal during prime time hours, consistent with their simulcast obligations. This is consistent with our recognition that such stations, as an initial matter, may need the flexibility to adopt a more graduated approach to the transition. We believe that this approach may permit more stations to meet the build-out deadlines and help advance the digital transition. This minimum will effectively be increased under the Commission's existing simulcast obligations, which require DTV licensees to simulcast 50% of their analog schedule by April 1, 2003, 75% of their analog schedule by April 2004, and 100% of their analog schedule by April 2005. Stations that were subject to the earlier construction deadlines (top four network affiliates in the top thirty markets) will remain subject to the previous rule—*i.e.,* they must operate their DTV station at any time that the analog station is operating. This distinction is consistent with our prior treatment of these stations. In establishing earlier build-out deadlines for these stations in the Fifth R&O, we noted that "the most viewed stations in the largest television markets can be expected to lead the transition to DTV" and that these stations are "likely to have substantial revenues that may be used to fund the conversion."

11. In the end, we believe that reconsidering these rules will help further the DTV transition while actually promoting the goals of replication and of maximizing the digital service provided to the public. Getting more stations on the air will help drive DTV set penetration. Increasing the number of DTV sets in production and in the hands of consumers will bring prices down and provide an incentive for content producers and advertisers to invest in

DTV. Ultimately, an expanding DTV marketplace will help further the expansion of DTV into unserved areas in the future.

III. Issue Analysis

A. Channel Election

12. After the transition, DTV service will be limited to a "core spectrum" consisting of current television channels 2 through 51. Although some stations received transition channels out of the core, and a few have both their NTSC and DTV channels outside the core, we believe that there will be sufficient spectrum so that at the end of the transition all DTV stations will be operating on core channels. However, as we indicated in the R&O, it now appears that there will be more out of core stations that must be accommodated with a core channel than we initially anticipated because new applicants will be allowed to convert their single NTSC channels to DTV operation and those on NTSC and DTV channels outside the core will be provided a post-transition channel inside the core. Also, the recent establishment of primary Class A television stations may limit availability of core channels in some areas.

13. These factors influenced our decision in the R&O to mandate early election of DTV channels for that category of licensees with both their NTSC and DTV channels within the core. Specifically, we gave commercial television licensees with both their NTSC and DTV operations on in-core channels until December 31, 2003 to decide which of their two in-core channels to use for DTV operations after the transition. We noted that this is more than one and a half years after the last commercial station construction deadline (*i.e.*, May 1, 2002), and stated our belief that this gave stations time in which to decide which of their two in-core channels would be most suitable for use in digital broadcasting. We stated that setting this channel election deadline would enable us to determine at an early date, on a market-by-market basis, what in-core channels would be available for use by stations having two out-of-core channels. We also stated our belief that an early final channel election would help speed the transition by making the final local channel alignments clear. We gave non-commercial stations that have both their NTSC and DTV operations on in-core channels until the end of 2004 to elect their channels, or more than one and a half years after their construction deadline (*i.e.*, May 1, 2003).

14. As we indicated above, upon reconsideration we have determined to temporarily defer the imposition of a channel election deadline until the next periodic review. We intend to monitor closely the progress of the transition and, based on developments between now and the conclusion of the next review, we will establish a channel election deadline that may be earlier than but in no event will be later than the latest of either the end of 2006 or the date by which a market meets the 85% digital penetration target. We believe that this action is consistent with, and necessitated by, our decision today to allow stations to construct initial DTV facilities designed to serve their communities of license, while still preserving DTV interference protection to provide full replication or maximization service at a later date.

15. We expect that a number of stations will choose to meet our May 2002 construction deadline by building less than full facilities initially, or by operating at lower power, and increasing power over time in relation to the demand for digital programming. We are today permitting stations to commence service with facilities that meet the minimum requirements set forth in § 73.625(a)(1) of our rules. By December 31, 2004, commercial stations must meet the increased city-grade signal strength requirements we imposed in the R&O. Noncommercial stations have until December 31, 2005 to meet this city-grade service obligation. At the same time, on our own motion, we will allow television stations subject to the May 1, 2002 and May 1, 2003 DTV construction deadlines to operate digitally at a reduced schedule by providing, at a minimum, a digital signal during prime time as specified in § 79.3(a)(6) of our rules. With respect to these stations, this replaces our current rule that requires that DTV licensees and permittees transmit at least one DTV signal at any time the licensee or permittee transmits an analog signal. This modified rule does not reduce the simulcast obligations of these licensees, described in § 73.624(f) of our rules. Thus, for example, by April 1, 2003, a DTV station that was required to be on the air by May 1, 2002 must provide a digital signal at least 50 percent of the time it transmits an analog signal, and under the requirements of § 73.624(b)(i), a portion of the simulcasting must occur during prime time.

16. We believe that permitting stations to elect a more graduated approach to providing DTV service will foster the early introduction of DTV service to core service areas, and allow stations to grow into their full DTV facilities as the transition progresses. Because we are permitting stations greater flexibility to increase digital power and hours of service over time, we believe stations must be given an opportunity to increase power and gain experience at those higher power levels before they can make an educated choice about which of their two channels will provide optimal DTV service. We believe that this concern outweighs the benefits we discussed in the R&O that would result from an early election date. Accordingly, we will temporarily defer the imposition of an election deadline until the next periodic review.

B. Replication and Maximization

1. Replication

17. We established NTSC service replication as a goal in the creation of the initial DTV Table of Allotments. Each DTV channel allotment was chosen to best allow its DTV service to match the Grade B service contour of the NTSC station with which it was paired. As we stated in the R&O, we continue to believe that this approach provides important benefits to both viewers and broadcasters and "will ensure that broadcasters have the ability to reach the audiences that they now serve and that viewers have access to the stations that they can now receive over-the-air."

18. In the R&O, we stated our expectation that DTV broadcasters would eventually choose to replicate their NTSC service areas to serve their viewers. However, we concluded we would not require replication because we wanted to give broadcasters a measure of flexibility as they build their DTV facilities to collocate their antennas at common sites, thus minimizing potential local difficulties locating towers and eliminating the cost of building new towers. We also recognized, among other things, that, in the absence of a Commission-mandated replication requirement and because we provided licensees a certain amount of transmitter location flexibility, some licensees may have already built their initial DTV facilities in locations that are unsuitable for full replication.

19. While we concluded we would not expressly require full replication of NTSC coverage with DTV service, we determined we would provide an incentive to broadcasters to provide such replication in order to assure that viewers do not lose service and to speed the transition. Specifically, we decided to cease to give DTV interference protection to commercial broadcasters' unreplicated service areas as of December 31, 2004. Thus, under the decision we reached in the R&O,

VOL 66 ISS 243 DE 18 2001 UMI

commercial broadcasters that did not replicate their NTSC Grade B service area as of that date left the unreplicated portions of their DTV service area unprotected in the DTV Table of Allotments against other DTV broadcasters seeking to maximize their own service areas or analog full or low-power broadcasters, including Class A licensees, seeking to expand the service area of their existing stations. We gave noncommercial DTV licensees until December 31, 2005 to replicate or lose interference protection.

20. As we indicated above, upon reconsideration we have decided to temporarily defer until the next periodic review the replication deadlines established in the R&O. We agree with those petitioners who believe that, even as an incentive, a fixed date of 2004 (or 2005 for noncommercial stations) may be too soon to reasonably expect all stations to have constructed full replication facilities. However, during the next periodic review of the progress of the DTV transition, we will establish a new interference protection deadline that, as with the channel election deadline discussed above, may be earlier than but will not be later than the end of 2006 or the date by which a market meets the 85% digital penetration target, whichever is later. Our consideration of the issue of the appropriate interference protection deadline during the next periodic review will be informed by the progress that has occurred on issues such as band-clearing and recovering the spectrum for public safety use and other services.

21. Under the approach we are adopting today, stations will be allowed, without loss of full service area protection, to commence digital operations by constructing and operating facilities that at least provide the required level of digital signal strength to their communities of license. This will allow stations to focus their energies initially on providing digital service to their core communities, while permitting them later to expand their coverage area as the DTV transition progresses. We believe that this approach more closely reflects the marketplace realities, such as DTV receiver penetration, upon which the financial decisions of broadcasters and those who offer them financing are based. Because of the large costs of building and operating digital facilities, we recognize that some broadcasters, and particularly those in smaller markets, may need to take a more graduated approach to implementing digital service. The requirement that broadcasters serve their communities of license will ensure that, for most stations, the majority of their analog service populations will receive initial digital service. Once all broadcast stations have commenced at least the minimal level of service to their communities, we believe that DTV set penetration levels will increase and marketplace forces will work to further speed the transition and provide an incentive to broadcasters to expand to provide service to outlying areas. We are hopeful that this approach will prompt broadcasters to build out to their allotted power in response to consumer demand and competition from other stations. Thus, we will continue to protect the replication service areas in the DTV Table of Allotments until the replication protection deadline we establish in our subsequent periodic review.

2. Maximization

22. We agree with those petitioners that argue that licensees seeking to construct maximized DTV facilities should be treated the same for purposes of interference protection as licensees seeking to construct allotted DTV facilities. Our goal in permitting DTV stations to apply to maximize was to ensure that they could increase their DTV signal coverage and provide DTV service competitively within their respective markets. The Commission was particularly concerned that it not artificially limit the size of DTV service areas for UHF analog licensees as an artifact of UHF analog service constraints. In enacting the Community Broadcasters Protection Act of 1999, Congress recognized the importance of preserving the right of DTV stations to maximize and established specific measures to ensure the protection of maximized service areas against new Class A stations.

23. The construction deadlines for remaining television licensees are May 1, 2002 (commercial) and May 1, 2003 (noncommercial), which are also the respective construction deadlines for outstanding construction permits for maximized facilities granted by the Commission. For the same reasons we temporarily deferred our regulatory replication incentive, we will continue to provide DTV interference protection for the time being to the maximized service area specified in outstanding DTV construction permits for facilities in excess of those specified in the DTV Table of Allotments. We intend in our next periodic review to establish a date by which broadcasters with authorizations for maximized digital facilities must either provide service to the coverage area specified in their maximization authorizations or lose DTV service protection to the uncovered portions of those areas. As with the channel election and replication deadlines for allotted DTV facilities discussed above, this deadline for completion of maximization facilities may be earlier than but will not be later than the latest of either the end of 2006 or the date by which 85% digital penetration is achieved.

24. By the action we take today, we give DTV licensees seeking to maximize facilities the same flexibility to implement graduated construction plans as licensees of facilities specified in the DTV Table of Allotments. Thus, licensees seeking to maximize may choose initially to construct and operate digital facilities that provide service only to their communities of license while retaining assurance that the maximized coverage area will be available in the future, until the deadline established in the next periodic review. We agree that this flexibility is especially important for UHF analog licensees that may face greater financial difficulty in constructing digital facilities than their analog VHF counterparts. We believe that providing flexibility to stations seeking to maximize will help speed the transition by allowing them to implement digital service with less costly facilities initially while still providing service to their core communities. Once these digital stations are on air, we expect that consumer demand for digital sets and signals will increase and that marketplace forces will act to encourage these stations to expand service to their maximized coverage area.

3. DTV STAs

25. Licensees must construct at least the minimum initial facilities required to serve their community of license by May 1, 2002 (commercial) or May 1, 2003 (noncommercial). Licensees with an existing construction permit for a larger facility may elect to commence digital operation with a DTV facility that complies only with these minimum initial build-out requirements and is fully subsumed by the permitted facilities. We will also permit licensees that have not yet been granted a construction permit for allotted or maximized DTV facilities to request an STA to commence digital operation. Licensees choosing to request an STA should file their request with the Commission as early as possible and, in any event, at least 10 days before they plan to commence operation. The STA request must specify the technical facilities requested, including the

station's ERP, HAAT, antenna pattern, if any, geographic coordinates, and tower registration number, if any. The STA request must also include a certification that the facilities are in compliance with the FCC's rules and that the coverage in any direction does not exceed that resulting from the allotted parameters in Appendix B or in an outstanding construction permit. In this regard, we urge licensees to pay special attention to compliance with FAA and FCC tower requirements, the community of license coverage requirement, and the FCC's environmental rules governing radio frequency ("RF") radiation.

26. Once the Commission has granted a DTV STA request, the licensee or permittee will be authorized to commence digital service as specified in the STA. The Commission will make every effort to act on DTV STA requests within 10 days, absent oppositions or unusual circumstances. STAs will be granted for a period up to six months. The Commission delegates authority to the Mass Media Bureau to continue to extend STAs for additional periods not to exceed six months each until such time as the Commission determines otherwise (for example, by requiring that licensees either construct full replication or maximization facilities or relinquish interference protection). Under our rules, STAs are revocable at will.

27. Commercial and noncommercial stations that are operating pursuant to a DTV STA by their respective construction deadlines (May 1, 2002 or May 1, 2003) will be considered to have met this construction deadline, and their outstanding construction permits will be extended automatically until such time as the Commission determines otherwise (for example, by requiring that licensees either construct full replication or maximization facilities or relinquish interference protection). A copy of the STA issued by the FCC must be maintained in the station's local public inspection file. Periodically, the staff will issue public notices identifying the stations authorized to operate on DTV STAs and the parameters under which they are or will be operating. Stations operating pursuant to a DTV STA must comply with the enhanced community coverage requirement by December 2004 (December 2005 for noncommercial stations). Until the Commission determines otherwise, we will continue to provide interference protection to the facilities specified in outstanding DTV construction permits issued to permittees operating pursuant to a DTV STA as of their applicable construction deadlines, in addition to protection to the allotted facilities.

C. City Grade Coverage

28. In the Fifth R&O we allowed DTV licensees to build initial facilities that placed the required DTV service level over their principal community of license. In turn, the required DTV service level was based on the level of service that they would provide at the edge of their authorized service areas (*i.e.*, at the edge of their NTSC Grade B contours) were they operating with full allotted DTV power and antenna height. In the R&O, we imposed a principal community coverage requirement that is stronger than the DTV service contour requirement that we adopted as an initial obligation in the Fifth R&O. We explained that the signal strength increase would improve the availability of service in the city of license and help prevent the migration of licensees from their community of license, thus furthering the purposes of section 307(b) of the Communications Act. The required level of service must be achieved by December 31, 2004 for commercial stations and December 31, 2005 for noncommercial stations. Operating DTV stations must be providing this level of service over their principal communities at that time.

29. We have decided to retain our enhanced principal community signal strength standard. The purpose of our revised requirement is to improve the availability and reliability of DTV service in the community of license and provide an extra measure of protection from interference to DTV service in the community. In addition, by requiring a higher level of service over the community of license, we will limit the extent to which licensees can migrate from their current service contour. These goals are consistent with the fundamental obligation of licensees to serve the needs and interests of their communities of license.

30. The 7dB increment in DTV service contour values that we adopted in the R&O was less than what we proposed in the NPRM. We explained that we chose a lower signal strength increase in order to provide broadcasters with flexibility in locating their transmitters while still improving the reliability of service to the community. While we recognized that some stations' currently authorized DTV facilities might not be able to encompass their principal communities with the increased city-grade signal level, we continue to believe that the less burdensome requirement that we adopted will not force many licensees to increase their power or to move their antenna. Even in cases where licensees have already constructed facilities that do not meet our increased city-grade coverage requirement, we believe that, given the location of most DTV towers, the cost of making the necessary changes to achieve compliance will be minimal in most instances.

D. Construction Deadlines

31. Despite the arguments made by a number of petitioners, we decline to issue a blanket extension of the remaining DTV construction deadlines. As noted above, the NAB survey notes that more than two-thirds of responding commercial stations expect to be on the air in digital format by May 2002. Thus, there is substantial evidence that the conversion is progressing and that television stations are working hard to construct digital facilities. In view of the number of stations that have already made a commitment to complying with our deadlines and that have made a substantial investment in conversion, we do not believe that a blanket extension of the remaining deadlines is appropriate. Further, given the reduced build-out requirements we adopt herein, and the clear additional protection we will afford stations meeting these requirements, we believe that a large number of the stations that did not anticipate meeting the deadline will now be able to do so. One leading manufacturer, for instance, states that it can equip a small market station with minimal DTV facilities (500 watts) for less than $160,000, depending upon the size of the coverage area or other signal propagation characteristics.

32. It is possible, however, that a number of stations will not be in a financial position to provide digital service by next May, even with the reduced initial build-out requirements, and will be forced to request an extension of time to construct. In view of the limited financial resources of many of these stations, we believe that it is appropriate at this time to reconsider our standards for granting DTV extension requests.

33. In the Fifth R&O, we announced our willingness to grant, on a case-by-case basis, an extension of the applicable DTV construction deadline where a broadcaster has been unable to complete construction due to circumstances that are either unforeseeable or beyond the permittee's control, provided the broadcaster has taken all reasonable steps to resolve the problem expeditiously. We indicated that such circumstances include, but are not limited to, the inability to construct and place in operation a facility necessary for transmitting DTV, such as a tower, because of delays in obtaining

VOL 66 ISS 243 DE 18 2001 UMI

zoning or FAA approvals, or similar constraints, or the lack of equipment necessary to transmit a DTV signal. We stated explicitly that we did not anticipate that the circumstances of "lack of equipment" would include the cost of such equipment. However, we also stated that we would take into account problems encountered that are unique to DTV conversion and would modify our existing policies regarding extensions accordingly.

34. As indicated by a number of petitioners and commenters, we recognize that some broadcasters, despite their reasonable good faith efforts, may not be in a financial position to timely complete the construction of their DTV facilities. We also recognize that, particularly for stations in smaller markets, the capital costs of conversion may be very high relative to the station's anticipated revenue. As a result, stations with lower revenues may find it more difficult to cover these costs in time to meet the construction deadline.

35. For many broadcasters, these financial obstacles will be alleviated by the reduced initial build-out requirements we have adopted today. We expect that even smaller market stations generally should be able to afford to finance the minimum DTV facilities required under our rules. Some broadcasters, however, may be unable to complete construction of even these minimum permitted facilities by the applicable deadline. Accordingly, we have determined that we will consider, on a case-by-case basis, in addition to the extension criteria outlined in the Fifth R&O, whether a broadcaster should be afforded additional time to construct its DTV facilities because the cost of meeting the minimum build-out requirements exceeds the station's financial resources. To qualify under this standard, the applicant must provide an itemized estimate of the cost of meeting the minimum build-out requirements and a detailed statement explaining why its financial condition precludes such an expenditure. We caution broadcasters that a brief downturn in the economy or advertising revenues will not be considered a sufficient showing of financial hardship. Rather, the showing must reflect the particular station's financial status over an economically significant period of time. In addition, the applicant must detail its good faith efforts to meet the deadline, including its good faith efforts to obtain the requisite financing, and explain why those efforts were unsuccessful. To the extent that the applicant's description of its financial condition sets forth information that is proprietary and not customarily disclosed to the public, the applicant may request that the Commission treat the information as confidential. Applicants must retain underlying documentation fully detailing and supporting their financial representations as well as any steps taken to overcome the circumstances preventing construction. Applicants will also be required to indicate when they reasonably expect to complete construction.

36. Applicants seeking an extension of time to construct a digital television station must file their extension request with the Commission at least sixty days, but no more than ninety days, prior to the applicable construction deadline. The Mass Media Bureau will issue a standard form (FCC Form 337) to be used to apply for an extension of time to construct a DTV station. As under the current standard, the Commission staff may grant no more than two extensions to any permittee, each for a period not exceeding six months. We direct the Mass Media Bureau to examine closely each extension request under the standards we adopt today, and promptly to notify applicants of any denial of an extension so that the applicant can timely complete construction in order to meet the applicable construction deadline. Subsequent extension requests will be referred to the Commission.

E. Mutually Exclusive Applications

37. In the R&O, we decided to take a bifurcated approach to cut-off protection for DTV area expansion applications. With respect to all currently pending DTV expansion applications, we established cut-off protection as of the date of the adoption of the R&O (January 18, 2001). Thus, all DTV expansion applications pending as of the adoption date of the R&O are cut off and protected against later-filed DTV applications. We explained in the R&O that this approach would provide a measure of fairness to all applicants that filed DTV expansion applications prior to the adoption of the R&O by allowing all of them to be considered as part of one cut-off group. As for future DTV expansion applications filed after the adoption date of the R&O, we determined we would consider such applications cut-off as of the close of business on the day they are filed. We concluded that day-to-day cut-off processing for new DTV expansion applications would help to avoid a larger number of mutually exclusive ("MX") applications and thus expedite processing of these applications and the provision of DTV service to the public. Day-to-day cut-off procedures also encourage potential applicants to file quickly for improved facilities, thereby speeding the introduction of improved DTV service to the public.

38. We find no reason to reverse our decision in this area. Our justification for adopting a single cut-off date rather than to utilize first-come first-serve processing with respect to the hundreds of pending DTV applications has not changed. In the R&O, we found that the main advantage of first-come first-serve processing—the elimination of mutually exclusive (MX) applications—would not be achieved in this case, as a large number of pending DTV applications were filed on certain critical DTV filing dates. Therefore, even if we were to have applied first-come first-serve processing, it would not have resulted in the elimination of numerous MX groups of applications that were filed on these dates. While Paxson and Fox both maintain that only a few of their applications were filed on these key dates, this does not change the fact that numerous other parties did file applications on those dates resulting in a large number of MX groups.

39. We reject Paxson and Fox's argument that adopting a single cut-off date was contrary to customary Commission processing procedures. As Barry Telecommunications, Inc. notes, the Commission has adopted a variety of different processing schemes over the years, each time determining that the particular scheme was appropriate for the service and circumstances in question, including single cut-off date lists, filing windows and first-come first-serve processing. Under the circumstances in this case, our approach to processing pending DTV applications, which balanced the needs of the licensees, the public and our interest in the orderly administration of spectrum, did not diverge from our prior practices.

40. As further justification for our decision, we recognized that there was an extended period of time over the several months leading to the adoption of the R&O during which we permitted DTV applications to be filed without indication that applicants needed to expedite their filings or lose out on an opportunity to expand their DTV allotments. Therefore, we found that first-come first-serve processing would unfairly prejudice those licensees, particularly smaller market and noncommercial educational licensees, that, as permitted, waited until their later deadlines to file their DTV applications. Contrary to the arguments raised by Paxson and Fox, we continue to find that the equities favor processing of the hundreds of DTV applications,

including expansion applications, which were timely filed in reliance on the Commission's processing system. Barry notes that the Commission's DTV processing system included publication of deadlines for the filing of DTV applications that would be considered on an equal footing with prior filings. Noncommercial educational licensees like Barry have invested substantial resources in their proposals and we agree that Paxson's and Fox's proposals are no more entitled to priority consideration than these later-filed applications. As Barry points out, the Commission never provided any applicant assurance of protection beyond that which was provided in the DTV Table of Allotments. Any applicant that is trying to maximize its allocation was never guaranteed success on that filing and has no claim to favorable action based simply on the timing of its application. Having considered and rejected the arguments of the petitioners, we affirm our application of a single cut-off date to the DTV applications pending on January 18, 2001.

41. In the R&O, we gave priority to pending DTV expansion applications over all NTSC applications except NTSC applications that fell into one of three special categories—post-auction applications, applications proposed for grant in pending settlements, and any singleton applications cut-off from further filings. These applications must have been accepted for filing in order to be protected from DTV expansion applications. We stated that, in the future, when an applicant files a DTV expansion application, it must determine whether there are NTSC applications on file in any of the three categories and provide interference protection to them. As for pending DTV expansion applications, when one conflicts with an NTSC application in one of these categories, we stated that we would treat the applications as mutually exclusive ("MX") and follow the procedures adopted in the R&O for MX applications—that is, we will require that the parties resolve their MX within 90 days or we will subsequently dismiss both applications.

42. We revise the procedures announced in the R&O in the following respects. First, we note that, by application of section 309(l) of the Communications Act, pending NTSC application groups on file prior to July 1, 1997, are entitled to compete in an auction that does not include applications filed on or after July 1, 1997. Therefore, pursuant to that statutory directive, we may not find DTV expansion applications (all of which were filed after June 30, 1997) to be mutually exclusive with NTSC application groups on file prior to July 1, 1997, regardless of whether these groups involve locations inside or outside the freeze areas or whether or not the groups have been settled. This is the case also where there is an NTSC application that was cut-off as part of a group of NTSC applications filed before July 1, 1997, but that is now a singleton because the other applications in the group have been dismissed. NTSC applications in these two categories shall be protected against DTV maximization applications. We believe these revisions to the procedure address the concerns of KM and ALF. DTV maximization applicants will be permitted to file minor amendments to resolve conflicts with NTSC applications in these categories. In addition, our decision today does not affect the ability of those DTV broadcasters whose maximization applications may interfere with NTSC applications in these categories from applying to maximize at the close of the transition on their analog allotment.

F. Technical Issues

43. We have adopted a 2 percent de minimis interference standard for changes to DTV stations and allotments. In his petition for reconsideration, Donald G. Everist (Everist) seeks clarification regarding the analysis the Commission uses for determining whether the amount of interference caused by a DTV application to another DTV station is de minimis. Specifically, Everist is concerned with protection to a DTV station that has been authorized facilities that cover more people than the station's underlying DTV allotment (the Appendix B population) (DTV Table of Allotments, Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders, 64 FR 4322, January 28, 1999, at Appendix B). Everist notes that predicted interference is to be determined to any people in the station's increased service area but indicates that the current Commission analysis seems to compare that interference population with the smaller Appendix B population to determine if the interference exceeds the 2% de minimis standard.

44. We clarify that the analysis comparison in this situation is to the station's Appendix B population, as Everist surmised. To the extent he is implying that the analysis should be changed, such a suggestion is beyond the scope of this reconsideration. The analysis was not adopted, altered, or even explained in the R&O. Furthermore, midstream changes to the analysis process raise issues of fair and consistent treatment of applicants and stations. It may be appropriate to consider a new approach at the time that protection of the Appendix B allotment ends. As decided elsewhere in this document, we are not currently establishing a date to end protection of that "replication" facility.

45. Fox also seeks clarification concerning the DTV interference analysis for determining that other DTV stations are protected. Fox urges the Commission to "only protect the stronger of either the allotted facilities or the currently authorized facilities." Fox contends that protecting both makes the computation of protection unnecessarily complex by requiring analysis of all possible combinations of station facilities.

46. As Fox requests, we clarify that protection need not be determined for authorized DTV facilities that are smaller than, and encompassed by, the corresponding DTV allotment facilities. Specifically, applicants need not determine that protection is provided to other DTV station applications or authorizations that meet the technical criteria for "checklist" processing. The technical "checklist" criteria are: (1) proposed transmitter site within 5.0 kilometers of underlying DTV allotment reference coordinates, (2) proposed antenna HAAT not exceeding underlying DTV allotment HAAT by more than 10 meters, and (3) proposed ERP in every azimuthal direction not exceeding underlying DTV allotment ERP for that direction, (with a small ERP adjustment if the proposed HAAT differs from the DTV allotment HAAT). In general, a "checklist" application will produce a DTV service area that is contained within the replication service area of the underlying DTV allotment. In addition to "checklist" applications and authorizations, there are applications and resulting DTV authorizations that are considered "checklist-like." These applications and authorizations do not meet one or more of the technical "checklist" criteria, but produce a DTV service area that is contained with the replication service area of the underlying DTV allotment. As with "checklist" applications and authorizations, "checklist-like" applications and authorization need not be protected by applications from other DTV stations. Protection of the underlying DTV allotment is required.

47. We note that the Fox request also could be interpreted to request a more extensive limitation on the DTV facilities that must be protected, and we do not find such a limitation warranted.

VOL 66 ISS 243 DE 18 2001 UMI

For example, a DTV station might have authorized facilities that are neither "checklist" nor "checklist-like," where such authorization extends the underlying DTV allotment service contour in some directions and contracts the service contour in other directions. Under such a circumstance, the authorized contour would not be entirely contained within the allotment contour and conversely, the allotment contour would not be entirely contained within the authorized contour. One interpretation of the Fox request would be to only protect the authorized service if it reaches more people or area than the allotment. Similarly, that interpretation would only protect the allotment service if it reaches more people or area than the authorized facility. For two reasons, we are not accepting this more limited protection calculation. First, it is inconsistent with our decision in the replication section of the R&O. There we decide to continue to protect DTV allotment service. The Fox proposal would only continue that allotment protection if that service area or population is larger than the authorized (or applied for) service. Second, where a DTV authorization allows a service area to be shifted from the DTV allotment service area, we do not believe it is fair or appropriate to deny protection to that authorized service area if it reaches fewer people or less overall area than the allotment facility would reach.

48. We have established tables and formulas for determining maximum effective radiated power (ERP) limits for various antenna heights, channels and zones. In the R&O, we clarified our process for applying an alternative determination of a DTV station's maximum ERP based on matching the coverage area of the largest station in the market. We indicated that the provision is triggered only where a station in a market is covering a larger area than could be covered with standard maximum power and antenna height. KM seeks additional clarification regarding the reference to standard maximum power and antenna height, asking if it refers to the largest station in the market or to the DTV station proposing to maximize. KM also asks if the standard refers to the DTV Table of Allotment parameters, or some other parameters that may be permitted under the Commission's rules.

49. We clarify that the standard maximum facilities are the power and antenna height limits specified in § 73.622(f)(6)–(8) of our Rules. For example, for UHF DTV stations, the standard maximum ERP is 1000 kilowatts (kW) if the antenna HAAT is 365 meters (m) or less (365 m is approximately 1200 feet). For antennas located at higher HAATs, the standard maximum ERP is reduced, with the standard maximum UHF DTV ERP being 750 kW at an HAAT of 425 m and 316 kW at 610 m. We also clarify that the largest station provision is applied when a DTV application requests an ERP greater than the rule allows for its requested HAAT on its channel. Thus it is the standard maximum ERP of the DTV station proposing to maximize that triggers applicability of the "largest station" provision.

G. DTV Translators and Repeaters

50. As we stated in the R&O, while we recognize the desire to initiate DTV operations on translator and booster facilities, we believe there are fundamental issues surrounding their authorization and protection that must be addressed in a more comprehensive manner than can be accomplished based on the limited record on this issue in this proceeding. Accordingly, we will defer consideration of these issues to a separate rulemaking proceeding on digital LPTV, translator and booster stations. We hope to initiate this proceeding in the near future.

IV. Conclusion

51. In this MO&O, we revise a number of the determinations we made in the R&O to ensure continued progress in the transition to digital broadcasting. By temporarily deferring the channel election and replication deadlines established in the R&O, and by extending interference protection to maximized service areas, our intention is to prioritize those elements that are most important to the DTV transition. Our primary goal is to maximize the number of DTV stations on the air and provide service to most, if not all, consumers. We believe that our actions today will help further the transition and promote the goal of replication by increasing the number of DTV stations on the air and the number of DTV receivers in the hands of consumers. Once set penetration rates increase, we believe that marketplace forces will provide further incentives that will result in the expansion of DTV service in the future.

V. Administrative Matters

52. Regulatory Flexibility Analysis. Pursuant to the Regulatory Flexibility Act of 1980, as amended, the Commission's Supplemental Final Regulatory Flexibility Analysis has been completed and attached.

53. Paperwork Reduction Act Analysis. The actions taken in this MO&O have been analyzed with respect to the Paperwork Reduction Act of 1995 ("Act") and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget ("OMB") as prescribed by the Act.

54. Comments. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collections contained in this MO&O, as required by the Paperwork Reduction Act of 1996. Public and agency comments are due February 19, 2002. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) ways to enhance the quality, utility, and clarity of the information collected; and (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth Street, S.W., Room C–1804, Washington, D.C. 20554, or via the Internet to *jboley@fcc.gov* and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, N.W., Washington, D.C. 20503 or via the Internet to *edward.springer@omb.eop.gov*.

Supplemental Final Regulatory Flexibility Analysis

55. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rule Making (NPRM) and a Final Regulatory Flexibility Analysis (FRFA) was incorporated in the R&O. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were received in response to the IRFA or the FRFA. The present Supplemental Final Regulatory Flexibility Analysis ("Supplemental FRFA") conforms to the RFA.

A. Need for, and Objectives of, the Memorandum Opinion and Order on Reconsideration

56. In January 2001, we released an R&O and Further Notice of Proposed Rule Making in MM Docket 00–39 (66 FR 9973, February 13, 2001) (R&O), addressing a number of issues related to the conversion of the nation's broadcast television system from analog to digital television (DTV). Among the issues addressed in the R&O were: when to require election by licensees of their post-transition DTV channel; whether to require replication by DTV licensees of their NTSC Grade B service contours (thereby providing coverage to those who receive the station's analog signal); whether to require DTV licensees to place enhanced service contours over their principal communities (thereby serving these communities with a stronger signal); and how we should process mutually exclusive applications. We expressed our belief that resolution of these issues would provide licensees with a measure of certainty that would help them plan facilities, order equipment, and arrange for construction of facilities, all of which will speed the transition to digital service.

57. We received a number of petitions for reconsideration of the R&O. In this Memorandum Opinion and Order on Reconsideration (MO&O), we revise a number of the determinations we made in the R&O, affirm other decisions, and provide clarification of certain rules and policies. We also modify, on our own motion, the minimum hours of operation of certain DTV stations and establish guidelines for television stations that may seek an extension of our May 1, 2002 and May 1, 2003 deadlines for construction of DTV facilities. We will resolve several major technical issues raised in the R&O and Further Notice of Proposed Rule Making, including the issues of receiver performance standards, DTV tuners, revisions to certain components of the DTV transmission standard, and labeling requirements for television receivers, in a separate Report and Order.

B. Summary of Significant Issues Raised by Public Comments

58. No comments were received in response to the IRFA, and no petitions or comments were received in response to the FRFA contained in the R&O. However, a number of parties that filed petitions for reconsideration or comments in response to the R&O and Further Notice of Proposed Rule Making raised concerns about the impact of the channel election and replication protection deadlines on broadcasters, and particularly broadcasters in smaller television markets. Generally, smaller market broadcasters assert that they will not be able to obtain the financing to construct DTV facilities sufficient to replicate their analog service area, and that they will not have sufficient operational experience by December 2004 (the channel election deadline for commercial stations) to determine which core channel is superior for DTV transmission.

59. In this MO&O, we respond to these concerns by allowing stations to construct more minimal initial DTV facilities designed to serve their communities of license while still retaining, for the time being, DTV interference protection to the full replication facility. We also temporarily defer the deadline by which broadcasters with two in-core allotments (television channels 2–52) must elect which channel they will eventually use for DTV at the end of the transition. In our next periodic review of the progress of the DTV transition, the Commission intends to establish a firm date by which broadcasters must either replicate their NTSC service areas or lose DTV service protection of the unreplicated areas, and by which broadcasters with two in-core allotments must elect which channel they will use post-transition. These replication protection and channel election deadlines may be earlier than but will in no event be later than the latest of either the end of 2006 or the date by which 85% of the television households in a licensee's market are capable of receiving the signals of digital broadcast stations. In addition, we also allow DTV stations required to complete construction of DTV facilities by May 1, 2002 or May 1, 2003 to operate initially at a reduced schedule by providing, at a minimum, a digital signal during prime time hours, consistent with their simulcast obligations. In order to provide parity to analog UHF stations, we will also allow stations to construct initial DTV facilities that serve their principal communities while retaining DTV interference protection to their maximized service areas for the time being, subject to the interference protection deadline we intend to establish in the next periodic review.

60. We do not alter, however, our decision to require stations to provide a stronger DTV signal to their communities of license than that adopted as an initial requirement in the Fifth R&O in MM Docket 87–268 63 FR 135461, May 29, 1998). As established in the R&O, this new city-grade service requirement will become effective December 31, 2004 for commercial stations and December 31, 2005 for noncommercial stations. The majority of petitioners that addressed this issue did not object to the Commission's increased city grade signal requirement as long as it was implemented in conjunction with a waiver policy that affords broadcasters flexibility in certain circumstances. Some commenters pointed out that broadcasters face many different configurations of terrain and geography, not all of which lend themselves to siting towers that both provide the widest possible service and cast a stronger signal over the principal community. Other commenters noted that some broadcasters have already built DTV facilities that may have to be moved or expensively reconfigured to meet the new principal community coverage requirement.

61. The purpose of the stronger city-grade signal strength requirement is to improve the availability and reliability of DTV service in the community of license and provide an extra measure of protection from interference to DTV service in the community. In addition, by requiring a higher level of service over the community of license, we will limit the extent to which licensees can migrate from their current service contour. These goals are consistent with the fundamental obligation of licensees to serve the needs and interests of their communities of license. The 7dB increment in DTV service contour values that we adopted in the R&O was less than what we proposed in the NPRM. We explained that we chose a lower signal strength increase in order to provide broadcasters with flexibility in locating their transmitters while still improving the reliability of service to the community. While we recognized that some stations' currently authorized DTV facilities might not be able to encompass their principal communities with the increased city-grade signal level, we continue to believe that the less burdensome requirement that we adopted will not force many licensees to increase their power or to move their antenna. Even in cases where licensees have already constructed facilities that do not meet our increased city-grade coverage requirement, we believe that, given the location of most DTV towers, the cost of making the necessary changes to achieve compliance will be minimal in most instances.

62. We also received comments and petitions requesting an extension of the remaining deadlines (May 1, 2002 commercial and May 1, 2003 noncommercial) to complete

construction of DTV facilities. Generally, these parties argue that stations in smaller markets need additional time to plan and construct their DTV facilities given the expense involved in conversion and the lower level of profitability of these stations. Petitioners also argue that it is unreasonable to expect small market broadcasters to commence digital service in the midst of the uncertain market conditions created by, among other things, the issues surrounding the DTV transmission standard and the low rate of DTV receiver penetration. In addition, parties claim that many stations have yet to receive their DTV permits with only a few months left before the construction deadline, which has made it difficult for broadcasters to schedule highly-demanded tower construction crews and to coordinate the purchase of costly equipment. Several petitioners support extending the construction deadline to May 1, 2003 (the same deadline as noncommercial educational stations) for stations in markets 50–100, and to May 1, 2004 for stations in markets above 100. Others propose tying build-out requirements to a market-defined milepost, such as DTV receiver penetration levels.

63. In response to these views, we modify in the MO&O our guidelines for television stations that may seek an extension of our May 1, 2002 and May 1, 2003 deadlines for construction of DTV facilities, making extensions available to broadcasters that can demonstrate that the cost of meeting the minimum build-out requirements exceeds the station's financial resources.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Apply

64. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

65. *Small TV Broadcast Stations.* The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts.

66. The digital television rules we address in the MO&O apply to commercial and noncommercial television stations. There are approximately 1,304 existing commercial television stations and 374 existing noncommercial television stations of all sizes that may be affected by the digital television rules addressed in the MO&O.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

67. The MO&O directs the FCC's Mass Media Bureau to issue a standard form (FCC Form 337) to be used to apply for an extension of time to construct a DTV station. We estimate that it will take applicants 1 hour and 30 minutes to complete the form.

E. Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

68. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

69. We made a number of determinations in the R&O that we believed would further progress on the transition from analog to digital television. Among other things, we established a deadline of December 31, 2003 by which commercial television stations that have both their NTSC and DTV operations on in-core channels must elect which of their two core channels to use for DTV operations after the transition. We gave non-commercial stations that have both their NTSC and DTV operations on in-core channels until the end of 2004 to elect their post-transition DTV channel. We determined that this early channel election would allow us to identify more quickly channels that will be available to accommodate DTV licensees with out-of-core transition channels as well as new entrants. In addition, to provide broadcasters with an incentive to provide full replication of NTSC coverage with DTV service, we determined that, after December 31, 2004, whatever portion of a commercial broadcaster's NTSC Grade B contour is not replicated with its digital television signal will cease to be protected in the DTV Table of Allotments. Noncommercial DTV licensees were given until December 31, 2005 in which to replicate or lose such DTV interference protection.

70. Upon further consideration, we determine in the MO&O that the channel election and replication requirements may be imposing substantial burdens on broadcasters, and especially on smaller stations, without sufficient countervailing public benefits, and may in fact be contributing to difficulties faced by a substantial number of stations, particularly smaller stations, in meeting their DTV construction deadlines. A survey conducted by NAB indicates that slightly less than one-third of all stations responding to the NAB survey anticipate that they will not be able to provide a digital signal by the May 2002 deadline. A larger percentage (81.9%) of responding stations in the top 50 markets (larger market stations) anticipate that they will meet the deadline, while a smaller percentage (49.1%) of stations in markets 100 and above (smaller-market stations) indicated they will complete construction on time. Three-quarters of those stations that do not anticipate meeting the May 2002 deadline indicated they plan to seek an extension of this deadline from the FCC. Generally, smaller market broadcasters that filed petitions in this proceeding assert that they are unable to obtain financing to construct DTV facilities sufficient to replicate their analog service area. These broadcasters also claim that they will not have sufficient operational experience by December 2004 to determine which core channel is superior for DTV transmission. Broadcasters that are not capable of constructing full replication facilities by the deadline established in the R&O may be postponing construction altogether.

71. Upon reconsideration, we decide in the MO&O to allow stations to construct initial DTV facilities designed to serve at least their communities of license, while still retaining DTV interference protection to provide full replication until such deadline as the Commission shall establish in its next periodic review of the progress of the DTV transition. Thus, we temporarily defer both the replication protection and channel election deadlines we established in the R&O. In our next periodic review of the progress of the

DTV transition, the Commission intends to establish a firm date by which broadcasters must either replicate their NTSC service areas or lose DTV service protection of the unreplicated areas, and by which broadcasters with two in-core allotments must elect which channel they will use post-transition. These replication protection and channel election deadlines may be earlier than but will in no event be later than the latest of either the end of 2006 or the date by which 85% of the television households in a licensee's market are capable of receiving the signals of digital broadcast stations. In order to provide parity to analog UHF stations, many of which are smaller stations, we will also allow stations to construct initial facilities that serve their principal communities while retaining DTV interference protection to their maximized service areas until the maximization deadline to be established by the Commission in its next periodic review. This alternative significantly reduces the costs associated with constructing and operating initial DTV facilities as compared to the requirements adopted in the R&O.

72. In contrast, the Commission could have retained its channel election and replication protection deadlines established in the R&O. However, we have determined that those deadlines may be too burdensome, and that the Commission should reexamine what deadlines are appropriate in its next periodic review in light of the record developed in the interim regarding the progress of the DTV transition. The alternative selected herein works to benefit smaller stations by facilitating their compliance with the May 1, 2002 (commercial) and May 1, 2003 (noncommercial) construction deadlines.

73. The MO&O also allows stations required to construct and operate DTV facilities by May 1, 2002 or May 1, 2003 to operate initially in digital format at a reduced schedule by providing, at a minimum, a digital signal during prime time hours, consistent with their simulcast obligations. This alternative also significantly reduces the costs associated with initial operation of DTV facilities for these smaller stations. In contrast, the Commission could have retained the requirement for these stations that they operate in digital format whenever they transmit in analog format, greatly increasing their costs. Although the Commission considered reducing the minimum operating hours for all digital stations, we believe that the prime time obligation adopted in the MO&O for smaller stations appropriately balances our concern to reduce the burden on these broadcasters where possible with our goal of furthering progress in the transition to digital broadcasting.

74. In addition, in the MO&O we modify our guidelines for television stations that may seek an extension of the DTV construction deadlines. In the Fifth R&O, we announced our willingness to grant, on a case-by-case basis, an extension of the applicable DTV construction deadline where a broadcaster has been unable to complete construction due to circumstances that are either unforeseeable or beyond the permittee's control, provided the broadcaster has taken all reasonable steps to resolve the problem expeditiously. We indicated that such circumstances include, but are not limited to, the inability to construct and place in operation a facility necessary for transmitting DTV, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints, or the lack of equipment necessary to transmit a DTV signal. We stated explicitly that we did not anticipate that the circumstances of "lack of equipment" would include the cost of such equipment.

75. As indicated by a number of petitioners and commenters, we recognize that some broadcasters, despite their reasonable good faith efforts, may not be in a financial position to timely complete the construction of their DTV facilities. Many stations are finding it difficult to obtain the substantial sums required to construct digital television facilities. Many stations are also experiencing decreasing revenues in part as a result of the slowdown in the overall economy, which has slowed even further in the wake of the events of September 11, 2001. We also recognize that, particularly for stations in smaller markets, the capital costs of conversion may be very high relative to the station's anticipated revenue. As a result, stations with lower revenues may find it more difficult to cover these costs in time to meet the construction deadline.

76. For some broadcasters, these financial obstacles may be alleviated by the reduced initial build-out requirements adopted in the MO&O. Other broadcasters, however, may be unable, for purely financial reasons, to complete construction of even these minimum permitted facilities by the May 1, 2002 deadline. Accordingly, in the MO&O we determine that we will consider, on a case-by-case basis, in addition to the extension criteria outlined in the Fifth R&O, whether a broadcaster should be afforded additional time to construct its DTV facilities because the cost of meeting the minimum build-out requirements exceeds the station's financial resources. This new waiver standard should be particularly beneficial to smaller market broadcasters and those with fewer resources.

77. This relaxation of our extension standard will benefit small entities by giving additional leeway to stations in smaller markets that need more time to construct because of their lower revenues. By permitting these stations to delay the transition for a brief period of time, they will be able to spread the large investments needed to convert over more years. By delaying the transition for a short period for those stations that face the greatest financial challenges, these stations may also benefit from further progress overall in the transition, including greater consumer demand for digital television signals and greater advertising revenue.

78. We considered but declined in the MO&O to issue a blanket extension of the remaining DTV construction deadlines. It appears that more than two-thirds of commercial stations will be on the air in digital format by May 2002. Thus, there is substantial evidence that the conversion is progressing and that television stations are working hard to construct digital facilities. In view of the number of stations that have already made a commitment to complying with our deadlines and that have made a substantial investment in conversion, we do not believe that a blanket extension of the remaining deadlines is appropriate. Further, given the reduced build-out requirements we adopt herein, and the clear additional protection we will afford stations, including smaller stations, meeting these requirements, we believe that many of the stations that did not anticipate meeting the deadline will now be able and willing to do so.

Report to Congress

79. The Commission will send a copy of the MO&O, including this Supplemental FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the MO&O, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the MO&O and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

VI. Ordering Clauses

80. Pursuant to authority contained in sections 1, 4(i), 303, and 336(f) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303,

VOL 66 ISS 243 DE 18 2001 UMI

and 336(f), Part 73 of the Commission's rules, 47 CFR Part 73, ARE AMENDED as set forth in the Rule Changes below.

81. The amendments set forth in the Rule Changes SHALL BE EFFECTIVE February 19, 2002. FCC Form 337 contains information collection requirements that have not been approved by OMB. Public and agency comments on these information collections are due February 19, 2002. The FCC will publish a document announcing the effective date of FCC Form 337 once OMB approval is received.

82. The petitions for reconsideration or clarification received in response to the R&O *Are Granted* to the extent provided herein and otherwise *Are Denied*.

83. The Commission's Consumer Information Bureau, Reference Information Center, *Shall Send* a copy of this MO&O, including the Supplemental Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

84. This proceeding *Is Terminated*.

List of Subjects in 47 CFR Part 73

Television, broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

2. Section 73.623 is amended by revising paragraph (h) to read as follows:

§ 73.623 DTV applications and changes to DTV allotments.

* * * * *

(h) *DTV Application Processing.* (1) DTV applications for a construction permit or a modified construction permit pending as of January 18, 2001:

(i) Shall be afforded the interference protection set forth in paragraph (c) or (d) of this section, as applicable:

(A) By all NTSC minor change applications;

(B) By NTSC new station applications, except those covered by paragraphs (h)(1)(ii)(G) and (h)(1)(iii)(D) of this section;

(C) By all rulemaking petitions to amend the NTSC TV table of allotments;

(D) By DTV applications filed after January 18, 2001; and

(E) By rulemaking petitions to amend the DTV table of allotments filed after January 18, 2001;

(ii) Must demonstrate the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to:

(A) DTV licensed stations;

(B) DTV construction permits;

(C) Existing DTV allotments;

(D) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the DTV application;

(E) NTSC stations with licenses covering construction permits that were granted before the DTV application was filed;

(F) NTSC construction permits that were granted before the DTV application was filed;

(G) Applications for new NTSC television stations that were in groups of mutually exclusive applications on file prior to July 1, 1997, regardless of whether they are the only applications that remain pending from their group.

(iii) That do not provide the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to the following applications and petitions will be deemed mutually exclusive with those applications and petitions:

(A) Other DTV applications pending as of January 18, 2001;

(B) Rulemaking petitions to amend the DTV table of allotments filed on or before January 18, 2001 for which a Notice of Proposed Rule Making had been released and the comment deadline specified therein had not passed prior to the filing date of the DTV application;

(C) Rulemaking petitions to amend the DTV table of allotments filed on or before January 18, 2001 for which a Notice of Proposed Rule Making had not been released; and

(D) Applications for new NTSC stations that are not covered by paragraph (h)(1)(ii)(G) of this section and were filed and accepted for filing on or before January 18, 2001 that:

(*1*) Were filed by post-auction winners pursuant to § 73.5005.

(*2*) Are part of a settlement agreement on-file with the Commission that would result in the grant of the NTSC application; or

(*3*) Are cut-off singletons.

(2) DTV applications for a construction permit or a modified construction permit filed after January 18, 2001:

(i) Shall be afforded the interference protection set forth in paragraph (c) or (d) of this section, as applicable:

(A) By all NTSC minor change applications;

(B) By NTSC new station applications, except those covered by paragraph (h)(2)(ii)(H) and (I) of this section;

(C) By all rulemaking petitions to amend the NTSC TV table of allotments except those filed by NTSC applicants in those groups defined in (h)(2)(ii)(I) of this section for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the DTV application;

(D) By later-filed DTV applications; and

(E) By later-filed rulemaking petitions to amend the DTV table of allotments;

(ii) Must demonstrate the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to:

(A) DTV licensed stations;

(B) DTV construction permits;

(C) Earlier-filed DTV applications;

(D) Existing DTV allotments;

(E) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing date of the DTV application;

(F) NTSC stations with licenses covering construction permits that were granted before the DTV application was filed;

(G) NTSC construction permits that were granted before the DTV application was filed; and

(H) Earlier-filed and accepted for filing applications for new NTSC stations that are not covered by paragraph (h)(2)(ii)(I) of this section, and that:

(*1*) Were filed by post-auction winners pursuant to § 73.5005.

(*2*) Are part of a settlement agreement on-file with the Commission that would result in the grant of the NTSC application; or

(*3*) Are cut-off singletons;

(I) Applications for new NTSC television stations that were in groups of mutually exclusive applications on file prior to July 1, 1997, regardless of whether they are the only applications that remain pending from their group;

(J) Rulemaking petitions to amend the NTSC table of allotments filed by applicants defined in (h)(2)(ii)(I) of this section for which a Notice of Proposed Rule Making has been released and the comment deadline specified therein has passed prior to the filing of the DTV application.

(iii) That do not provide the requisite interference protection set forth in paragraph (c) or (d) of this section, as applicable, to the following applications and petitions will be deemed mutually exclusive with those applications and petitions:

(A) Other DTV applications filed the same day;

(B) Rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making had been released and the comment deadline specified therein had not passed prior to the filing date of the DTV application; and

(C) Earlier-filed rulemaking petitions to amend the DTV table of allotments for which a Notice of Proposed Rule Making had not been released.

(3) DTV applicants, DTV applicants and NTSC applicants, or DTV applicants and DTV rulemaking petitioners that are mutually exclusive pursuant to this section will be notified by Public Notice and provided with a 90-day period of time to resolve their mutual exclusivity via engineering amendment or settlement. Those applications and petitions that remain mutually exclusive upon conclusion of the 90-day settlement period will be dismissed.

3. Section 73.624 is amended by revising paragraphs (b), (d)(3)(ii), and (d)(3)(iv) to read as follows:

§ 73.624 Digital television broadcast stations.

* * * * *

(b) DTV broadcast station permittees or licensees must transmit at least one over-the-air video program signal at no direct charge to viewers on the DTV channel. Until such time as a DTV station permittee or licensee ceases analog transmissions and returns that spectrum to the Commission, and except as provided in paragraph (i) of this section; at any time that a DTV broadcast station permittee or licensee transmits a video program signal on its analog television channel, it must also transmit at least one over-the-air video program signal on the DTV channel. In addition, the DTV broadcast station permittee or licensee is subject to the simulcasting requirements in paragraph (f) of this section. The DTV service that is provided pursuant to this paragraph must be at least comparable in resolution to the analog television station programming transmitted to viewers on the analog channel.

(1) DTV broadcast station permittees or licensees required to construct and operate a DTV station by May 1, 2002 or May 1, 2003 pursuant to paragraph (d) of this section must, at a minimum, beginning on the date on which the DTV station is required to be constructed, provide a digital video program signal, of the quality described in paragraph (b) above, during prime time hours as defined in § 79.3(a)(6) of this chapter. These licensees and permittees must also comply with the simulcasting requirements in paragraph (f) of this section.

(2) DTV licensees or permittees that choose to commence digital operation before the construction deadline set forth in paragraph (d) of this section are not subject to any minimum schedule for operation on the DTV channel.

* * * * *

(d) * * *

(3) * * *

(ii) Such circumstances shall include, but shall not be limited to:

(A) Inability to construct and place in operation a facility necessary for transmitting digital television, such as a tower, because of delays in obtaining zoning or FAA approvals, or similar constraints;

(B) the lack of equipment necessary to obtain a digital television signal; or

(C) where the cost of meeting the minimum build-out requirements exceeds the station's financial resources.

* * * * *

(iv) Applications for extension of time shall be filed no earlier than 90 and no later than 60 days prior to the relevant construction deadline, absent a showing of sufficient reasons for filing within less than 60 days of the relevant construction deadline.

* * * * *

4. Section 73.625 is amended by revising paragraph (a)(1) to read as follows:

§ 73.625 DTV coverage of principal community and antenna system.

(a) * * *

(1) The DTV transmitter location shall be chosen so that, on the basis of the effective radiated power and antenna height above average terrain employed, the following minimum F(50,90) field strength in dB above one uV/m will be provided over the entire principal community to be served:

Channels 2–6	35 dBu
Channels 7–13	43 dBu
Channels 14–69	48 dBu

Note to paragraph (a)(1): These requirements above do not become effective until December 31, 2004 for commercial television licensees and December 31, 2005 for noncommercial television licensees. Prior to those dates, the following minimum F(50,90) field strength in dB above one uV/m must be provided over the entire principal community to be served:

Channels 2–6	28 dBu
Channels 7–13	36 dBu
Channels 14–69	41 dBu

BILLING CODE 6712-01-P

VOL 66 ISS 243 DE 18 2001 UMI

Appendix—Form 337

Note: This appendix will not appear in the Code of Federal Regulations.

Federal Communications Commission
Washington, D. C. 20554

NOT Approved by OMB
3060-XXXX

APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION

GENERAL INSTRUCTIONS

A. This FCC Form is to be used by all permittees to apply for an extension of time within which to construct a commercial or noncommercial educational digital television (DTV) broadcast station. The DTV construction timetable established by the Commission is set forth in 47 C.F.R. Section 73.624(d)(1). FCC Form 337 should be filed at least 60 days, but no more than 90 days, prior to the applicable construction deadline. See 47 C.F.R. Section 73.624(d)(3).

B. Electronic Filing of Application Forms. The Commission is currently developing electronic versions of various broadcast station application and reporting forms, such as this application form. As each application form and report goes online, the Commission will by Public Notice announce its availability and the procedures to be followed for accessing and filing the application form or report electronically via the Internet. For a six-month period following the issuance of the Public Notice, the subject application form or report can be filed with the Commission either electronically or in a paper format. Electronic filing will become mandatory, on a form-by-form basis, six months after each application form or report becomes available for filing electronically.

C. Applicants that prepare this application in paper form should file an original and two copies of this application and all exhibits. Applicants should follow the procedures set forth in Part 0 (Commission Organization) and Part 73 (Radio Broadcast Services) of the Commission's Rules, which are set forth in Title 47 of the Code of Federal Regulations.

D. Applicants should provide all information requested by this application. If any portions of the application are not applicable, the applicant should so state. **Defective or incomplete applications will be returned without consideration.** Inadvertently accepted applications are also subject to dismissal.

E. In accordance with 47 C.F.R. Section 1.65, applicants have a continuing obligation to advise the Commission, through amendments, of any substantial and material changes in the information furnished in this application. This requirement continues until the FCC action on this application is no longer subject to reconsideration by the Commission or review by any court.

F. A copy of the completed application and all related exhibits shall be made available for inspection by the public in the applicant's public inspection file pursuant to 47 C.F.R. Sections 73.3526 or 73.3527, unless the applicant requests confidentiality consistent with 47 C.F.R. Section 0.459.

G. **The applicant must sign the application.** Depending on the nature of the applicant, the application should be signed as follows: if a sole proprietorship, personally; if a partnership, by a general partner; if a corporation, by an officer; for an unincorporated association, by a member who is an officer; if a governmental entity, by such duly elected or appointed official as is competent under the laws of the particular jurisdiction. Counsel may sign the application for his or her client, but only in cases of the applicant's disability or absence from the United States. If the application is filed electronically, the signature will consist of the electronic equivalent of the typed name of the individual. See Report and Order in MM Docket No. 98-43, 13 FCC Rcd 23056, 23064 (1998), on reconsideration, 14 FCC Rcd 17525 (1999).

QUESTION-BY-QUESTION INSTRUCTIONS

A. **Item 1: Applicant Name.** The legal name of the applicant must be stated exactly in Item 1. If the applicant is a corporation, the applicant should list the exact corporate name; if a partnership, the name under which the partnership does business; if an unincorporated association, the name of an executive officer, his/her office, and the name of the association; and, if an individual applicant, the person's full legal name.

Applicants should use only those state abbreviations approved by the U.S. Postal Service.

FCC Registration Number (FRN). To comply with the Debt Collection Improvement Act of 1996, the applicant must enter its FRN number, a ten-digit unique entity identifier for anyone doing business with the Commission. The FRN can be obtained through the FCC webpage at http://www.fcc.gov or by manually submitting FCC Form 160. FCC Form 160 is available for downloading from **http://www.fcc.gov/formpage.html** or by calling 1-800-418-3676. Questions concerning the FCC Registration Number can be directed to the Commission's Registration System help desk at **http://www.CORES@fcc.gov** or by calling 1-877-480-3201.

Facility ID Number. TV Facility ID Numbers can be obtained at the FCC's Internet Website at www.fcc.gov/mmb. Once at this website, scroll down and select CDBS Public Access. You can also obtain your TV Facility ID Number by calling (202) 418-1600. Further, the Facility ID Number is now included on all TV authorizations and postcards.

B. **Item 2: Contact Representative.** If the applicant is represented by a third party (for example, legal counsel), that person's name, firm or company, mailing address and telephone/electronic mail address may be specified in Item 2.

C. **Item 3. Facility Information.** This question asks the applicant to specify: (1) whether commercial or noncommercial educational DTV operation is proposed; and (2) the community to which the station will be licensed.

D. **Item 4: Purpose of Application.** This question asks whether FCC Form 337 is being filed for additional time within which to construct a new DTV station or to modify the facilities authorized in an outstanding construction permit. It also requires that the applicant identify the permit covered.

E. **Item 5: Reason for Delay in Construction.** In the Fifth Report and Order in MM Docket No. 87-268, 12 FCC Rcd 12809 (1997), on reconsideration, 13 FCC Rcd 6860 (1998), the Commission announced its willingness to grant, on a case-by-case basis, an extension to the applicable DTV construction deadline where a broadcaster has been unable to complete construction due to circumstances that are either unforeseeable or beyond the permittee's control, provided the broadcaster has taken all reasonable steps to resolve the problem expeditiously. The Commission also stated that it would modify its existing policies regarding extensions, taking into account problems encountered that are unique to the DTV conversion.

In responding to this question, the applicant should attest to the nature of the problem(s) preventing the timely completion of construction and provide a detailed explanation of the reason(s) requiring an additional time to construct its station's DTV facilities.

Among the problems found in specific instances to warrant the granting of additional time to construct have been such technical obstacles as equipment delivery delays, unavailability of work or tower crews, and tower safety and other construction delays; and such legal obstacles as delays in obtaining required governmental (e.g., FAA, Canadian and Mexican) clearances, outstanding judicial litigation involving zoning, and the pendency of DTV channel change rulemakings and DTV construction permit applications. See Digital Television Construction Deadline, 16 FCC Rcd 8122 (2001). In addition, such natural disasters as floods, tornadoes, hurricanes, earthquakes and other calamities would be unforeseeable events warranting additional time to construct. Finally, in Memorandum Opinion and Order on Reconsideration (MM Docket No. 00-39), FCC 01-330 (adopted November 8, 2001), the Commission recognized that some broadcasters, despite their reasonable, good faith efforts and the Commission's reduced build-out requirements, may be financially unable to timely complete the construction of their DTV facilities. The Commission will therefore consider, on a case-by-case basis, whether a broadcaster should be afforded additional time to construct its DTV facilities because the cost of meeting the minimum build-out requirements would create an undue financial hardship. In this regard, the applicant should provide an itemized estimate of the cost of meeting the minimum build-out requirements and a detailed statement explaining why its financial condition precludes such an expenditure. The applicant should also describe its good faith efforts to meet the deadline, including its good faith efforts to obtain the requisite financing, and why those efforts were unsuccessful. To the extent that an applicant's description of its financial condition sets forth information that is proprietary and not customarily disclosed to the public, the applicant may request that the Commission treat the information as confidential. See 47 C.F.R. Section 0.459.

NOTE: Underlying documentation need not be filed with FCC Form 337. However, such documentation fully detailing and supporting the representations and descriptions provided in response to question 5 and, if applicable, question 6 below shall be kept at the station for as long as the extension of time is in effect and shall be made available upon request by the Commission. With respect to a station's claimed financial condition, the applicant should have available an audited profit and loss statement for its most recent fiscal year at the time of the filing of FCC Form 337 or similar probative financial documentation.

F. **Item 6: Most Recent Construction Period.** Where the station had previously received an extension of time to construct, the "most recent construction period" is the period between the grant date and the expiration date of the latest extension. This application for extension of time will be evaluated according to the progress and efforts made, or circumstances which occurred, during the most recent construction period. See, Rainbow Broadcasting Company, 11 FCC Rcd 1167 (1995).

G. **Item 7: Construction Completion Date.** In accordance with its station's DTV construction plan, the applicant should set forth the date by which it reasonably expects, under its circumstances, to complete construction. Pursuant to the Commission's rules, the staff may grant no more than two, six-month extensions of time to construct DTV facilities. See 47 C.F.R. 73.624(d)(3). Where the applicant is unable now to project its

VOL 66 ISS 243 DE 18 2001 UMI

anticipated construction completion date, it should describe the reasonable, good faith measures it is and will be taking to expeditiously resolve its incapacity to construct the station's DTV facilities.

H. **Item 8: Anti-Drug Abuse Act Certification.** This question requires the applicant to certify that neither it nor any party to the application is subject to denial of federal benefits pursuant to the Anti-Drug Act of 1988, 21 U.S.C. Section 862.

Section 5301 of the Anti-Drug Abuse Act of 1988 provides federal and state court judges the discretion to deny federal benefits to individuals convicted of offenses consisting of the distribution or possession of controlled substances. Federal benefits within the scope of the statute include FCC authorizations. A "Yes" response to Item 8 constitutes a certification that neither the applicant nor any party to this application has been convicted of such an offense or, if it has, it is not ineligible to receive the authorization sought by this application because of Section 5301.

NOTE: With respect to this question, the term "party to the application" includes if the applicant is an individual, that individual; if the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5 percent or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; all members if a membership association; and if the applicant is a partnership, all general partners and all limited partners, including both insulated and non-insulated limited partners, holding a 5 percent or more interest in the partnership.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

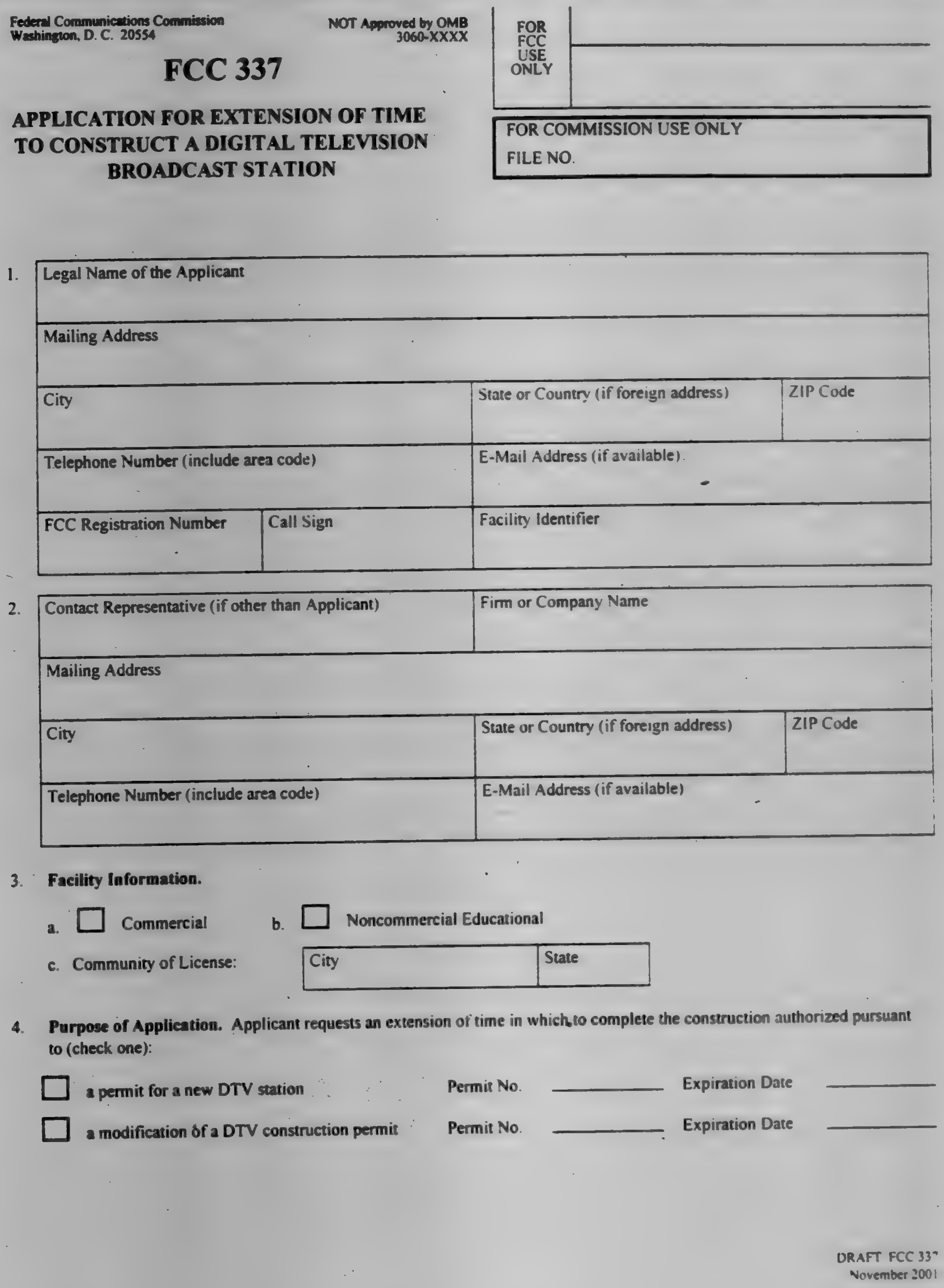
The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information provided in the application to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC or (b) any employee of the FCC; or (c) the United States Government is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection.

If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

If you do not provide the information requested on this form, the application may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authorization.

We have estimated that each response to this collection of information will take 1 hour and 30 minutes. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-XXXX), Washington, DC 20554. We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Please DO NOT SEND COMPLETED APPLICATIONS TO THIS ADDRESS. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number of if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-XXXX.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. Section 3507.



Federal Communications Commission
Washington, D. C. 20554

NOT Approved by OMB
3060-XXXX

FCC 337

APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION

FOR FCC USE ONLY	

FOR COMMISSION USE ONLY
FILE NO.

1.

Legal Name of the Applicant			
Mailing Address			
City		State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)	
FCC Registration Number	Call Sign	Facility Identifier	

2.

Contact Representative (if other than Applicant)	Firm or Company Name	
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	

3. **Facility Information.**

a. ☐ Commercial   b. ☐ Noncommercial Educational

c. Community of License:

City	State

4. **Purpose of Application.** Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one):

☐ a permit for a new DTV station   Permit No. ________   Expiration Date ________

☐ a modification of a DTV construction permit   Permit No. ________   Expiration Date ________

DRAFT FCC 337
November 2001

VOL 66 ISS 243 DE 18 2001 UMI

5. Applicant certifies that construction cannot be completed due to (check all that apply):

☐ technical (e.g., equipment delays)

☐ legal (e.g., litigation)

☐ financial (e.g., inability to finance)

☐ other reasons (e.g., natural disasters)

Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s). Exhibit No. 1

6. Has the construction period for this station been previously extended? ☐ Yes ☐ No

a. If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction. Exhibit No. 2

7. Applicant requests that the time within which to complete construction be extended until: ____________

a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction. Exhibit No. 3

8. **Anti-Drug Abuse Act Certification.** Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862. ☐ Yes ☐ No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing	Typed or Printed Title of Person Signing
Signature	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503)

DRAFT FCC 337 (Page 2)
November 2001

[FR Doc. 01–30433 Filed 12–17–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 66, No. 243
Tuesday, December 18, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 54

[Docket No. PRM 54–1]

Union of Concerned Scientists; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking submitted by the Union of Concerned Scientists (UCS or the petitioner) (PRM 54–1). The petitioner requested that the NRC amend its regulations to address concerns about potential aging degradation of liquid and gaseous radioactive waste management systems. The bases for the denial are that the liquid and gaseous radioactive waste management systems are not involved in design and licensing basis events considered for license renewal and that the existing regulatory process is acceptable for maintaining the performance of the radioactive waste systems throughout the period of extended operation in order to keep exposures to radiation at the current levels below regulatory limits consistent with the conclusions made in the applicable regulations.

ADDRESSES: Copies of the petition for rulemaking, the public comments received, and the NRC's letter of denial to the petitioner are available for public inspection or copying for a fee, at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. These documents are also available at the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen S. Koenick, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1239, e-mail *ssk2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

By letter dated May 3, 2000, UCS submitted a petition for rulemaking (PRM) seeking to revise 10 CFR parts 54 and 51. The petitioner requested that the NRC regulations governing requirements for renewal of operating licenses for nuclear power plants be amended to address concerns about potential aging degradation of liquid and gaseous radioactive waste systems. The petitioner believes the degradation from aging of piping and components of liquid and gaseous radioactive waste systems at nuclear power facilities may result in increased probability of and/or consequences from design and licensing bases events. In addition, the petitioner believes that the conclusions made in Appendix B to 10 CFR part 51, subpart A, that public and occupational exposures to radiation will continue at the current levels below regulatory limits would only be valid if these systems are covered by aging management programs throughout the license renewal term.

A notice of receipt of the petition was published in the **Federal Register** on July 10, 2000 (65 FR 42305). The comment period closed on September 25, 2000. The NRC received letters from 12 commenters. Eleven of the comment letters opposed the petition. Ten of those letters were from nuclear utilities and the 11th was from the Nuclear Energy Institute (NEI). The 12th commenter, a member of the public, supported the petition. A discussion of the comments is provided in this document.

This rulemaking petition was included as part of a petition pursuant to 10 CFR 2.206 in which the petitioner detailed concerns related to the review of the license renewal application submitted by the owner of the Hatch Nuclear Plant. Specifically, the petitioner was concerned that the license renewal application for the Hatch facility did not address deficiencies it believed existed in the aging management of the liquid and gaseous radioactive waste systems. The petitioner concluded that the requirements pertaining to renewal of operating licenses for Hatch and other nuclear power plants do not adequately address degradation from aging of liquid and gaseous radioactive waste systems. The NRC issued an October 18, 2000, letter to UCS, "Director's Decision Under 10 CFR 2.206." The Director's Decision disagreed with the petitioner's contentions and concluded that the Hatch Nuclear Plant was being operated consistent with its design and licensing bases because the material condition of piping, tanks, and other components of the liquid and gaseous radioactive waste management systems was being properly inspected and maintained.

The Petition

UCS requests the NRC revise 10 CFR part 54, and part 51 if appropriate, to specify that the liquid and gaseous radioactive waste management systems must be covered by aging management programs during the license renewal term. With respect to 10 CFR part 54, the petitioner states that potential aging degradation of the liquid and gaseous radioactive waste management systems at the Hatch Nuclear Plant identified in the accompanying 10 CFR 2.206 petition, may result in an increase in the probability of and/or consequences of design and licensing bases events. In addition, the petitioner states that the potential aging degradation may also apply to liquid and gaseous radioactive waste management systems at other plants in the United States. The petitioner cites 10 CFR 54.4 (a)(1)(iii)[1] as the scoping criterion that has been interpreted in previous license renewal applications to exclude the liquid and gaseous radioactive waste management systems from aging management consideration under the rule. The petitioner also requests 10 CFR part 51 be revised, if appropriate, to clarify that the liquid and gaseous radioactive waste management systems must be covered by aging management programs during the license renewal term. The petitioner states that the conclusions made in Appendix B to 10 CFR part 51, subpart A, that radiation exposures to the public and occupational exposures to workers during the license renewal term will continue at current levels below regulatory limits, were predicated on the liquid and gaseous radioactive waste management systems not experiencing greater failure rates throughout the

---

[1] "The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 50.34(a)(1), [§ 50.67(b)(2); sic], or § 100.11 of this chapter, as applicable."

VOL 66 ISS 243 DE 18 2001 UMI

license renewal term. However, aging degradation of the radioactive waste management systems could lead to an increase in component failure rates, thereby, invalidating the conclusions.

Public Comments on the Petition

The NRC received letters from 12 commenters. Eleven of the comment letters opposed the petition. Ten of those letters were from nuclear utilities and the 11th was from NEI. The comments opposed to the petition were similar in nature and will be discussed together. The 12th comment was from a member of the public who supported the petition. Summaries of the comments and NRC's responses follow.

Comments opposed to the petition: The NEI comments were endorsed by each of the utilities providing comments. NEI recommended that the NRC deny the petition on the following basis: "The design and licensing basis of the liquid and gaseous radwaste systems are sufficiently conservative such that the required analyses demonstrate that the assumed catastrophic failure of components in the systems will result in doses substantially below 10 CFR Part 100 guidelines and consistent with 10 CFR part 20 guidelines [emphasis added]. In other words, the radiological inventory in these systems is controlled and limited, and a postulated event or malfunction will not adversely impact public health or safety. Thus, there is no safety benefit to including these systems within the scope of license renewal for either aging management reviews (part 54) or environmental impacts (part 51)."

Response: The NRC agrees in principle with the comments opposing the petition because the liquid and gaseous radioactive waste management systems are conservatively designed to ensure that the consequences of catastrophic failures of components will be well below the scoping threshold for license renewal. However, the commenters provide a limited basis for denying the petition and do not address the petitioner's assertion about the conclusions made in appendix B to 10 CFR part 51, subpart A. However, as set forth below in the "Reasons for Denial," the NRC staff has concluded that the current regulatory process is adequate to manage the performance of these systems without additional aging management consideration, so that radiation exposures to members of the public and occupational exposures will remain at current levels below regulatory limits throughout the license renewal term.

Comment supporting the petition: The commenter generally supported the petition and was also concerned about coatings in general, their application, and their degradation. In addition, the commenter discussed the application of coatings to dry casks for storing spent nuclear fuel and the hydrogen gas ignition event at Point Beach Nuclear Plant on May 28, 1996.

Response: The commenter did not provide any additional information on coatings as they apply to radioactive waste management systems. The commenter's discussion on coatings, in general, and the application to dry casks for storing spent nuclear fuel are not relevant to the issue of radioactive waste management system functionality. Therefore, they do not support the petition. However, for information on use of coatings under nuclear plant operating licenses, the NRC issued Generic Letter 98–04, "Potential for Degradation of the Emergency Core Cooling System and the Containment Spray System After a Loss-of-Coolant-Accident Because of Construction and Protective Coating Deficiencies and Foreign Material in Containment," dated July 14, 1998, and Regulatory Guide 1.54, Revision 1, "Service Level I, II, and III Protective Coatings Applied to Nuclear Plants," dated July 2000. Both of these regulatory documents are relevant to coatings under nuclear plant operating licenses.

With respect to coatings for dry cask storage, specifically, the hydrogen gas ignition event at Point Beach Nuclear Plant related to dry cask storage, the NRC issued NRC Bulletin 96–04, "Chemical, Galvanic, or Other Reactions in Spent Fuel Storage and Transportation Casks," dated July 5, 1996. The information requested in the bulletin and the subsequent safety evaluations of the requested information are relevant to the commenter's concerns.

Reasons for Denial

1. Potential Aging Degradation of the Radioactive Waste Management Systems May Increase the Probability of and/or Consequences of Design and Licensing Bases Events

The petitioner argues that radioactive waste management systems should be covered by aging management because potential aging degradation may increase the probability of and/or consequences from design and licensing bases events.

The NRC does not agree that aging degradation of these systems would increase the probability of and/or consequences of design basis events that would necessitate consideration within the scope of the license renewal. The scope of license renewal was based on the NRC's determination that with the possible exception of certain plant systems, structures, and components, the regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety. Also, the plant-specific licensing basis must be maintained during the renewal term in the same manner and to the same extent as during the original licensing term. Based on this determination, the scope of the rule focuses on systems, structures, and components that are of principal importance to the safety of the plant.[2] As the petitioner concedes, the liquid and gaseous radioactive waste management systems have no intended functions which are considered by the Commission to be of principal importance to the safety of the plant (that is why these systems do not fall within the scope of systems, structures, and components for which aging management must be considered for license renewal). Furthermore, the consequences of any failure of a radioactive waste component were analyzed during the initial license review and are bounded by the 0.5 rem acceptance criterion, which is a small fraction of the 10 CFR part 100 limits used in the scoping criteria of license renewal cited by the petitioner.

In the related 10 CFR 2.206 petition on the Hatch Nuclear Plant, the petitioner did not identify any new failure mechanisms or consequences associated with operations of the liquid or gaseous radioactive waste management systems or any intended functions that prevent or mitigate consequences of design basis accidents that would cause the NRC to reconsider its determination not to specifically include radioactive waste management systems within the scope of license renewal pursuant 10 CFR part 54. In the absence of such new information, the NRC continues to believe that the current regulatory process is acceptable to manage the performance of these systems throughout the license renewal term without the need for additional aging management considerations. Therefore, part 54 adequately maintains public health and safety as issued and does not need to be revised to include radioactive waste management systems.

---

[2] "Statements of Consideration," for 10 CFR part 54 [60 FR 22464; May 8, 1995].

2. Aging Degradation of the Radioactive Waste Management Systems Could Lead to an Increase in Component Failure Rates; thereby, Invalidating the Conclusions Made in Appendix B to 10 CFR Part 51, Subpart A

The petitioner claims that the conclusions made in Appendix B to 10 CFR part 51, subpart A are predicated on the assumption that components of the liquid and gaseous waste management systems do not experience greater failure rates throughout the license renewal term.

In addressing environmental effects in Appendix B to 10 CFR part 51, the Commission determined that the impact of radiological exposures to the pubic and occupational exposures would be "small." In the context of assessing radiological impacts, this "small" significance determination was defined in Footnote 3 of Table B–1 of Appendix B to 10 CFR part 51, Subpart A as impacts that do not exceed permissible levels in the Commission's regulations. The data supporting Appendix B were contained in NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (hereinafter the GEIS).

Contrary to the petitioner's assertion, the conclusions in the GEIS relied on the current regulatory process which manages the performance of the radioactive waste management systems to control radioactivity in effluents to below permissible levels, irrespective of any system degradation. For radiation exposures to the public, the GEIS states, "Radiation doses to members of the public from current operation of nuclear power plants have been examined from a variety of perspectives and the impacts were found to be well within design objectives and regulations in each instance. No effect of aging that would significantly affect the radioactive effluents has been identified." The GEIS concludes, "No mitigation measures beyond those implemented during the current term license would be warranted because current mitigation practices have resulted in declining public radiation doses and are expected to continue to do so." For occupational exposures, the GEIS concludes, "the average dose increase of 5 to 8 percent to the typical plant worker would still maintain doses well below regulatory limits. Therefore, occupational radiation exposure during the term of the renewed license meets the standard of small significance. No mitigation measures beyond those implemented during the current term license would be warranted because the ALARA process continues to be effective in reducing radiation doses [emphasis added]." These GEIS findings were therefore based upon the existence of and successful implementation of radiation control and mitigation practices by licensees to comply with the NRC regulatory requirements with respect to radiation exposures, irrespective of the cause.

For general protection against ionizing radiation, licensees must comply with 10 CFR part 20, "Standards for Protection Against Radiation." The regulations contain requirements for radiation protection programs and specify both occupational and public exposure limits. The underlying requirement governing radiation protection is to maintain occupational doses and doses to members of the public as low as is reasonably achievable (ALARA). In addition to complying with NRC standards, licensees must comply with the Environmental Protection Agency's environmental radiation standards contained in 40 CFR part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations."

Early industry experience demonstrated that licensees generally maintained exposures to radiation and releases of radioactivity in effluents at levels well below 10 CFR part 20 limits. To enhance the regulatory framework for 10 CFR part 20 for assuring that releases of radioactivity in effluents are ALARA, the NRC issued 10 CFR 50.34a, 10 CFR 50.36a,[3] and Appendix I to 10 CFR part 50.[4] To comply with these regulations, licensees must identify design objectives, and the means to be employed, for keeping levels of radioactive material in effluents to unrestricted areas ALARA during normal operations, including expected operational occurrences. The licensees' Technical Specifications require that operating procedures for the control of effluents be established and followed; that equipment installed in the radioactive waste system is maintained and used; and that effluent releases are reported. To implement the Technical Specifications, the licensees are required to establish a surveillance and monitoring program to detect and measure radioactivity levels in effluents. If there is an increase of radioactivity in effluents beyond Technical Specifications, irrespective of the cause, then a licensee must identify the cause, take corrective actions, and return the radioactivity levels in effluents to within Appendix I to 10 CFR part 50 design objectives. Subsequent to the Technical Specifications being exceeded, the licensee must submit a report to the NRC.

For occupational radiation exposures, 10 CFR part 20 contain both occupational exposure limits and the ALARA requirement. To meet these requirements, licensees have radiation protection programs which routinely monitor plant workers for radiation exposure when working in radiation areas, including areas that contain the radioactive gaseous and liquid waste management systems. Operational experience has demonstrated that the licensees have been effective in maintaining occupational doses ALARA. There is nothing to suggest—and the petitioner cites no new information in support of a supposition—that licensees are unable or unwilling to address ALARA taking into account any possible failures of radioactive waste management systems resulting from aging degradation.

Aside from the licensees practices and programs for ALARA and Technical Specifications compliance, the NRC has an inspection program that includes the liquid and gaseous radioactive waste management systems. Although these systems have historically been considered to have a low risk significance because of the nuclear industry's compliance with the ALARA design objectives in appendix I to 10 CFR part 50, routine, periodic inspections are required in order to maintain confidence that the systems are actually maintaining doses from radioactive effluents ALARA. Thus, the liquid and gaseous radioactive waste management systems are explicitly identified in NRC Inspection Procedure 71122, "Public Radiation Safety." The objective of the inspection is to verify that the licensee is providing adequate protection of public health and safety from exposure to radioactive material released into the public domain as a result of the routine operation of nuclear power plants. The inspections focus on both the gaseous and liquid effluent treatment systems and the radiological environmental monitoring programs. There is also a corresponding inspection procedure for occupational radiation safety. The primary objective of NRC Inspection Procedure 71121, "Occupational Radiation Safety," is to

---

[3] 10 CFR 50.34a, "Design Objectives for Equipment to Control Releases of Radioactive Material in Effluents—Nuclear Power Reactors," and § 50.36a, "Technical Specifications on Effluents From Nuclear Power Reactors" [35 FR 18385; December 3, 1970].

[4] Appendix I to 10 CFR Part 50, "Numerical Guides for Design Objectives and Limiting Conditions for Operation To Meet the Criterion "As Low As Is Reasonably Achievable" for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents' [40 FR 19442; May 5, 1975].

VOL 66 ISS 243 DE 18 2001 UMI

gather information to verify that a licensee is meeting the objective of ensuring adequate protection of worker health and safety from exposure to radiation from radioactive material during routine operation.

In addition to performing these inspection procedures, NRC resident inspectors regularly tour the plant, including areas containing radioactive waste management systems. If a degraded condition is identified by the licensee or reported to the licensee by the NRC, the condition is evaluated and corrective action taken as appropriate in accordance with the plant's corrective action program. In addition, condition reports are trended by licensees. Further evaluation is done and appropriate corrective actions are taken if an adverse trend is identified. Periodic inspections of the corrective action program are conducted in accordance with NRC Inspection Procedure 71152, "Identification and Resolution of Problems," to verify that licensees are identifying and correcting plant problems. The regulatory oversight process increases public confidence and complements the performance-based regulations that establish exposure limits and design objectives to not only meet those limits but to keep radiological dose levels ALARA.

In summary, the NRC has regulatory requirements and licensees implement programs and practices that provide reasonable assurance that exposures to radiation will remain within permissible levels consistent with Appendix I to 10 CFR part 50 design objectives for public exposures and within 10 CFR part 20 limits and ALARA for occupational exposures, irrespective of the cause. The Commission has determined that maintaining doses within these design objectives and dose limits represent "small" environmental consequences. The petitioner did not raise any information that would challenge the conclusions of the GEIS that the impacts of radiation doses to the public and occupational exposures will be "small" for the license renewal term.

Conclusion

The NRC staff finds that the information presented in the petition does not support rulemaking to revise 10 CFR parts 51 and 54 to include aging management of the liquid and gaseous radioactive waste management systems during the license renewal term. If new information in the future provides a basis that aging degradation of the liquid and gaseous radioactive waste management systems needs aging management consideration under 10 CFR parts 51 and 54, then the NRC may revisit the need for rulemaking.

For the reasons cited in this document, the NRC denies the petition.

Dated at Rockville, Maryland, this 5th day of December, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–30927 Filed 12–17–01; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 360

RIN 3064–AB92

Payment of Post-Insolvency Interest in Receiverships With Surplus Funds

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation is publishing for notice and comment a proposed rule regarding the payment of post-insolvency interest in insured depository institution receiverships with surplus funds. The purpose of the rule is to establish a single uniform interest rate, calculation method, and payment priority for post-insolvency interest. The proposed rule provides that where funds remain after the satisfaction of the principal amount of all creditor claims, post-insolvency interest will be paid in the order of priority set forth in section 11(d)(11)(A) of the Federal Deposit Insurance Act; paid at the coupon equivalent yield of the average discount rate set on the three-month Treasury bill at the last auction held by the United States Treasury Department during the preceding calendar quarter; adjusted each quarter after the receivership is established; and based on a simple interest method of calculation.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station located at the rear of the 17th Street building on F Street on business days between 7 a.m. and 5 p.m. Comments may also be faxed or emailed (FAX number (202) 898–3838; Internet address: *comments@FDIC.gov*). Comments may be posted on the FDIC internet site at *http://www.fdic.gov/regulations/laws/ Federal/propose.html* and may be inspected and photocopied at the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Thomas Bolt, (202) 736–0168; or Rodney Ray, (202) 898–3556.

SUPPLEMENTARY INFORMATION:

I. Background

For receiverships established after August 10, 1993, payment of receivership claims is governed by section 11(d)(11)(A) of the Federal Deposit Insurance Act, which section is also known as the national depositor preference statute. Because the national depositor preference statute does not specifically mention post-insolvency interest, and in the absence of a regulation regarding its payment, the FDIC's practice in receiverships subject to the national depositor preference statute that have surplus funds has been to follow the common law rule. The common law rule is that post-insolvency interest should be paid pro rata to all creditors regardless of priority. The exception to this approach is the case of an institution subject to a state law that specifically provides for a different distribution priority. (Several states' statutes provide that after the principal amounts of all claims within the same class have been satisfied, interest is to be paid at the same priority as the claim on which it accrues.) With respect to the interest rate for post-insolvency interest, the FDIC, in receiverships subject to the national depositor preference statute, has used the federal judgment rate for federal or "federalized" institutions (state-chartered institutions where the FDIC has exercised its self-appointment authority under section 11(c) of the FDI Act). For state institutions, the FDIC used the applicable rate provided for by state law. Consequently, different distribution priorities and interest rates have been used depending on the type of institution involved and the applicable law.

In December 2000, Congress granted the FDIC express rulemaking authority regarding the payment of post-insolvency interest in receiverships with surplus funds. The American Homeownership and Economic Opportunity Act of 2000 added new subparagraph (C) to section 11(d)(10) of the FDI Act, which reads as follows:

> **(C) Rulemaking Authority of Corporation.** The Corporation may prescribe such rules, including definitions of terms, as it deems appropriate to establish a single uniform

> interest rate for or to make payment of post-insolvency interest to creditors holding proven claims against the receivership estates of insured Federal or State depository institutions following satisfaction by the receiver of the principal amount of all creditor claims.

By virtue of this rulemaking authority, the proposed rule regarding post-insolvency interest would preempt any inconsistent state law by providing a single uniform interest rate and priority of distribution for post-insolvency interest in receiverships established after the rule becomes effective. *See City of New York* v. *FCC,* 486 U.S. 57, 63 (1988) (regulation promulgated by federal agency acting within the scope of its congressionally delegated authority may preempt state law). The proposed rule will apply to receiverships established after the effective date of the rule. Historically, relatively few receiverships have generated sufficient recoveries to enable post-insolvency interest to be paid. Consequently, the proposed rule will probably apply to only a small number of receiverships in the future.

II. The Proposed Rule

New section 11(d)(10)(C) of the FDI Act provides that post-insolvency interest will be paid after satisfaction of the principal amount of all creditor claims. The proposed rule provides that after the satisfaction of the principal amount of all creditor claims, post-insolvency interest will be paid in the order of priority set forth in section 11(d)(11)(A), the national depositor preference statute. This differs from the FDIC's existing practice of following the common law rule that post-insolvency interest should be paid pro rata to all creditors regardless of priority, except in the case of an institution subject to a state law that specifically provides for a different distribution priority. Nevertheless, the approach in the proposed rule appears to be more consistent with Congress's objective, as expressed in the national depositor preference statute, that the deposit liabilities be preferred over other liabilities in the liquidation of an insured depository institution.[1]

The alternative approach would be to follow the common law rule and pay post-insolvency interest on a pro rata basis to all creditors, without regard to the priority of payment of the principal amount of a creditor's claim under section 11(d)(11)(A). Depending on the amount of assets available in a receivership to pay post-insolvency interest, either approach could affect the recoveries of certain classes of creditors.[2]

If post-insolvency interest was paid to receivership creditors based on the priority accorded the principal amount of a creditor's claim under section 11(d)(11)(A), creditors holding deposit claims (including the FDIC's subrogated deposit claim against the receivership) would receive all of their post-insolvency interest payments, before the receivership creditors holding claims in the lower priority classes received any post-insolvency interest payments. This approach, therefore, would result in post-insolvency interest payments being made to the depositors of the failed institution, but it may also result in little or no post-insolvency interest payments being made to creditors holding claims in the lower priority classes. Also, if federal income tax claims have been allowed against the receivership estate, this approach, combined with federal tax laws and tax regulations, may result in the federal income tax claims being paid pro rata with post-insolvency interest payments to the general creditors of the receivership estate.[3]

Alternatively, if post-insolvency interest was paid to all receivership creditors holding allowed claims on a pro rata basis, regardless of the priority accorded the principal amount of the underlying claim under section 11(d)(11)(A), all of the receivership's creditors (except the Internal Revenue Service) would receive a pro rata share of the assets available for post-insolvency interest payments. Again, a combination of this approach with federal tax laws and tax regulations, however, may result in the federal income tax claims against the receivership being paid only after all of the other receivership creditors (including subordinated debt holders) had received post-insolvency interest payments, but before any distributions were made to the equityholders of the failed institution.

Another component of the proposed rule involves the interest rate to be applied for purposes of calculating post-insolvency interest payments. The FDIC believes a publicly available, market-based rate would be preferable to a single numerical interest rate because the market-based rate should be more reflective of the interest rate environment in existence during the life of future receiverships. In addition, as indicated earlier, the FDIC has utilized the federal judgment rate in receiverships of federally chartered institutions and in federalized receiverships of state institutions to calculate post-insolvency interest payments. In the proposed rule, however, the post-insolvency interest rate for all FDIC-administered receiverships would be based on the coupon equivalent yield of the average discount rate set on the three-month Treasury bill, rather than the federal judgment rate. This rate was selected, instead of the federal judgment rate, because the three-month Treasury bill is considered to be widely recognized as a cash management investment performance benchmark and its yield has historically tracked, to some degree, changes in the rate of inflation.

Whether the interest rate should be fixed or "float" is also an issue addressed in the proposed rule. Presently, when a new receivership is established, if assets ultimately become available for post-insolvency interest payments, the rate that exists on the date the receivership is established is fixed for purposes of calculating post-insolvency interest. This approach is consistent with the way the federal judgment rate is applied to judgments entered by the federal courts because the allowance of a claim against a receivership estate has been viewed as the general equivalent of a judgment being entered against the receivership estate. This approach may not be reflective, however, of the economic conditions and interest rate environment in existence during the life of the receivership. Therefore, the proposed rule provides that the post-insolvency interest rate would be adjusted quarterly. This is being proposed to mitigate interest rate risk due to changes in economic conditions during the life of the receivership.

---

[1] According to the legislative history, Congress enacted depositor preference primarily to reduce the FDIC's cost of resolving failed institutions by increasing its recoveries as subrogee of insured deposit claims, thereby benefiting the deposit insurance funds. "Under depositor preference, the FDIC and RTC will have a first claim on the assets of all failed banks and thrifts, thereby increasing the savings to the Federal deposit insurance funds." 139 Con. Rec. H6150 (daily ed. Aug. 5, 1993) (statement of Rep. Gonzalez). Furthermore, Congress was aware that depositor preference would result in diminished recoveries for general creditors. *See* H.R. Rep. No. 111, 103d Cong., 1st Sess. 1993, U.S.C.C.A.N. 378.

[2] The following discussion is provided to illustrate the potential impact that selecting one distribution method over the other could have on different classes of receivership creditors. The FDIC believes, however, that the actual impact of either approach will depend significantly on the particular facts and circumstances surrounding future receiverships, therefore, the following discussion is based on generalized observations of how receivership distributions in future FDIC-administered receiverships might be affected and is not an attempt to describe definitively how any particular class of creditors will be affected by either approach.

[3] The proposed rule would not affect the calculation or accrual of interest on any federal income tax liability pursuant to sections 6601 and 6621 of the Internal Revenue Code.

Finally, the proposed rule provides that post-insolvency interest distributions would be calculated using a simple interest method, rather than a compound interest method. The simple interest method is proposed because it appears to provide a reasonable amount of interest to compensate receivership creditors for the time value of money owed from the time the receivership is established until dividend payments are received.

III. Request for Public Comment

The FDIC hereby solicits comments on all aspects of the proposed rule, and specifically whether post-insolvency interest should be paid according to the order of priority described in the national depositor preference statute or alternatively pro rata to all creditors regardless of priority.

IV. Paperwork Reduction Act

The proposed rule will not involve any collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Consequently, no information has been submitted to the Office of Management and Budget for review.

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the FDIC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The proposed rule will only apply to FDIC-administered receiverships established after the effective date of the rule, and it does not impose new reporting, recordkeeping or other compliance requirements on receivership creditors. The proposed rule continues the FDIC's existing practice of making post-insolvency interest distributions to creditors holding proven claims in surplus receiverships prior to making distributions to equityholders, based on their equity interests, in a failed insured depository institution. In addition, the proposed rule will provide interested parties, including small entities, with greater certainty in future FDIC-administered receiverships by establishing a single uniform interest rate and method for making post-insolvency interest distributions. Accordingly, the Act's requirements relating to an initial regulatory flexibility analysis are not applicable.

VI. The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The FDIC has determined that the proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Public Law 105–277, 112 Stat. 2681).

List of Subjects in 12 CFR Part 360

Banks, banking, Savings associations.

For the reasons set forth in the preamble, the FDIC Board of Directors proposes to amend 12 CFR part 360 as follows:

PART 360—RESOLUTION AND RECEIVERSHIP RULES

1. The authority for part 360 is revised to read as follows:

Authority: 12 U.S.C. 1821(d)(1), 1821(d)(10)(C), 1821(d)(11), 1821(e)(1), 1821(e)(8)(D)(i), 1823(c)(4), 1823(e)(2); Sec. 401(h), Pub. L .101–73, 103 Stat. 357.

2. Section 360.7 is added to part 360 to read as follows:

§ 360.7 Post-insolvency interest.

(a) *Purpose and scope.* This section establishes rules governing the calculation and distribution of post-insolvency interest to creditors with proven claims in all FDIC-administered receiverships established after [effective date of final rule].

(b) *Definitions*—(1) *Equityholder.* The owner of an equity interest in a failed depository institution, whether such ownership is represented by stock, membership in a mutual association, or otherwise.

(2) *Post-insolvency interest.* Interest calculated from the date the receivership is established on proven creditor claims in receiverships with surplus funds.

(3) *Post-insolvency interest rate.* For any calendar quarter, the coupon equivalent yield of the average discount rate set on the three-month Treasury bill at the last auction held by the United States Treasury Department during the preceding calendar quarter, and adjusted each quarter thereafter.

(4) *Principal amount.* The proven claim amount and any interest accrued thereon as of the date the receivership is established.

(5) *Proven claim.* A claim that is allowed by a receiver or upon which a final non-appealable judgment has been entered in favor of a claimant against a receivership by a court with jurisdiction to adjudicate the claim.

(c) *Post-insolvency interest distributions.* (1) Post-insolvency interest shall only be distributed following satisfaction by the receiver of the principal amount of all creditor claims.

(2) The receiver shall distribute post-insolvency interest at the post-insolvency interest rate prior to making any distribution to equityholders. Post-insolvency interest distributions shall be made in the order of priority set forth in section 11(d)(11)(A) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(d)(11)(A).

(3) Post-insolvency interest distributions shall be made at such time as the receiver determines that such distributions are appropriate and only to the extent of funds available in the receivership estate. Post-insolvency interest shall be distributed on the outstanding balance of a proven claim, as reduced from time to time by any interim dividend distributions, from the date the receivership is established until such time as the principal amount of a proven claim has been distributed but not thereafter.

(4) Post-insolvency interest shall be determined using a simple interest method of calculation.

By order of the Board of Directors.

Dated at Washington, DC this 10th day of December, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–31162 Filed 12–17–01; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Federal Housing Enterprise Oversight

12 CFR Part 1750

RIN 2550–AA23

Risk-Based Capital

AGENCY: Office of Federal Housing Enterprise Oversight, HUD.

ACTION: Proposed regulation.

SUMMARY: The Office of Federal Housing Enterprise Oversight (OFHEO) is proposing to amend Appendix A to Subpart B of 12 CFR Part 1750 Risk-Based Capital. The effect of these amendments would be to modify provisions relating to counterparty haircuts, multifamily loans, and refunding and to make several technical

adjustments and corrections. These amendments are intended to refine the stress test model to tie capital more closely to risk.

DATES: Written comments must be received by January 17, 2002.

ADDRESSES: Send written comments concerning the proposal to Alfred Pollard, General Counsel, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. Written comments may also be sent to Mr. Pollard by electronic mail at RegComments@ofheo.gov. OFHEO requests that written comments submitted in hard copy also be accompanied by the electronic version in MS Word or in portable document format (PDF) on 3.5″ disk.

FOR FURTHER INFORMATION CONTACT: Edward J. Szymanoski, Acting Associate Director, Office of Risk Analysis and Model Development, telephone (202) 414–3763 (not a toll-free number), or David Felt, Associate General Counsel, telephone (202) 414–3750 (not a toll-free number), Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

Comments

The Office of Federal Housing Enterprise Oversight (OFHEO) invites comments on the proposed regulation and will take all comments into consideration before issuing the final regulation. Copies of all comments will be posted on the OFHEO internet web site at http://www.ofheo.gov. In addition, copies of all comments received will be available for examination by the public at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

Background

On September 13, 2001, OFHEO published a final regulation setting forth a risk-based capital stress test, (Rule)[1] that is the basis for determining the risk-based capital requirement for the Federally sponsored housing enterprises—Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises). The risk-based capital stress test set forth in the Rule simulates the performance of each Enterprise's assets, liabilities, and off-balance-sheet obligations under severe credit and interest rate stress for a period of ten years (stress period). The stress test projects rates of default and prepayment for the mortgages guaranteed by the Enterprises, as well as cash flows from these and other assets, liabilities, and off-balance-sheet obligations. Using these cash flows, the stress test produces monthly balance sheets for the 120 months of the stress period in order to determine the amount of starting capital that would be necessary to maintain positive capital during the ten-year stress period. Thirty percent of the amount of capital so determined is then added to that amount to protect against management and operations risk.

OFHEO continuously seeks to improve its measurements and formulas to tie capital more closely to risk and works to ensure that the Rule supports the safety and soundness regime created by Congress. In the preamble to the Rule, OFHEO expressed its intention to review, on an ongoing basis, the operation of the stress test and its various components and to evaluate the need for revisions and improvements. Also, OFHEO committed to act expeditiously to remedy any technical and operational issues that arise during the one-year implementation period following promulgation. OFHEO is now proposing to make refinements and technical adjustments and corrections to the Rule to tie capital more closely to risk. Technical changes are included in this proposal rather than issued as a final regulation to provide a comprehensive package of changes.

A. Proposed Changes to Counterparty Haircuts

The Rule gives the Enterprises credit for cash payments that would be received during the stress period from securities and various counterparties, such as mortgage insurance companies and derivative counterparties. However, because Enterprise counterparties are themselves likely to be adversely affected by the economic conditions of the stress period and to default on some or all of their obligations, the stress test discounts the value of cash payments received during the stress period by a specified percentage, based on the public credit rating of the security or counterparty. The amount by which cash payments from a counterparty or security are discounted in each month of the stress period is the haircut. The specified haircut percentages increase as the credit rating declines—the lower that rating, the more severe the haircut. In the Rule, the haircuts are phased in over the first five years of the stress period, except for haircuts for below-investment-grade providers and instruments, which are applied fully in the first month of the stress period.

The Rule applies one set of haircuts for non-derivative counterparties and securities, based on analysis of historical bond default rates, and a different set of haircuts for derivative counterparties, reflecting lower expected loss severities associated with the use of strong collateral agreements. To further refine the Rule's treatment of haircuts, OFHEO proposes to improve consistency between haircuts for derivative counterparties and securities and non-derivative counterparties and securities by specifying default and severity rates separately; to extend the phase-in period from five to ten years; to provide for netting of exposures to the same derivative counterparty; and to provide for an exception to the BBB haircut for certain unrated seller/servicers as described in the proposed rule.

Default Rates. OFHEO proposes to use the Rule's haircut rates for non-derivative counterparties and securities as the cumulative default rates for all counterparties and securities, but to lower slightly the default rate for AA-rated firms. After re-evaluating the historical data on differences in performance of AA-rated and AAA-rated firms, including data that recently has become available to OFHEO, the Rule's default ratio of three to one (based largely on the average exposure over the past 80 years) appears to be more than is warranted for a period of economic stress. Data were recently made available to OFHEO by Moody's Investors Service[2] for the worst annual cohorts of U.S. investment-grade issuers since 1920, the cohorts formed at the beginning of 1929, 1930, and 1931. The average 10-year default rate for AA-rated issuers (12.25 percent) was 2.6 times as large as the average default rate for AAA-rated issuers (4.72 percent), and the ratio for the worst of those years was only 2.2. Furthermore, a study of corporate bond quality by W. Braddock Hickman shows 12-year default rates for the cohort formed at the beginning of 1928 for AA-rated issuers (12.3 percent) to be 1.5 times as large as that for AAA-rated issuers (8.1 percent).[3] More recent data, in relatively favorable economic circumstances, also show greater similarity in the performance of issuers in these two rating categories. However, a partially offsetting factor is that Moody's data for both depression cohorts and averages of all cohorts show that defaults of AAA-rated issuers that occur within 10 years after the cohort is formed occur later in the 10-year period than those of AA-rated issuers.

---

[1] Risk-based Capital, 66 FR 47730 (September 13, 2001).

[2] For purposes of this proposal, Moody's Investors Service provided information on "Letter Cumulative Default Rates (from 01/01/29 to 01/01/31)" on October 16, 2001. Data may be obtained from Moody's Investors Service by contacting Mr. Steve Liebling at Liebling@Moody's.com.

[3] W. Braddock Hickman, "Corporate Bond Quality and Investor Experience," 190 *National Bureau of Economic Research* (1958).

The relationship between AA and AAA defaults is particularly relevant because most Enterprise counterparty and security exposures are either AAA- or AA-rated. An excessive differential between these ratings in the stress test could create inappropriate business incentives for the Enterprises. After weighing the above considerations, OFHEO proposes to lower the cumulative default rate for AA-rated counterparties and securities to 12.5 percent (from 15 percent), which will be 2.5 times the rate for AAA-rated counterparties and securities.

Severity Rates. To further refine risk measurement in the stress test, OFHEO proposes to take explicit account of potential recoveries in the event of default by introducing a loss severity factor. Before issuing the Rule, OFHEO received mixed comments regarding incorporation of recovery projections for non-derivative security and counterparty obligations after default. Such recoveries were not part of the proposed rule, however, and OFHEO decided not to include them at that time, pending further consideration. Historically, corporate bond recoveries have averaged about 40 percent (i.e., a 60 percent loss severity rate) over long periods of time. A study of default and recovery rates by Moody's shows an average recovery rate of 39 percent over the past 20 years.[4] A study of defaulted bond recoveries by Standard and Poor's shows an average recovery rate of 44 percent from 1981 to 1997.[5] The Hickman study shows an average recovery rate of 43 percent for large issues from 1900 to 1943.[6] Recoveries on Enterprise holdings of mortgage and other asset-backed securities and on mortgage insurance claims would likely be substantial also, benefiting from asset values in the former case and premium income in the latter.

Data on recoveries in unusually stressful times are less favorable. Hickman reported an average recovery rate of 34 percent for large issues for defaults in 1930 to 1943.[7] Moody's has reported average recovery rate estimates that are substantially lower during recessions, and fall as low as 20 percent during the 1930s.[8] For 1930 to 1943, Moody's average was 36 percent, despite higher rates during the latter years of that period. A somewhat lower projection for the stress period used in the rule is, therefore, appropriate.

All of the recovery studies show some differences in recovery rates depending on the presence or absence of secured or subordinated status. However, such status is a factor used in determining ratings. Moody's expressly states that securities with different status may have similar probabilities of default, but be rated differently in recognition of the effect of security or subordination on likely recoveries.[9] Thus, a secured instrument may have a somewhat higher probability of default than average for its rating, but also have a somewhat higher expectation of recovery. Accordingly, OFHEO proposes to specify a recovery rate of 30 percent (70 percent loss severity rate) for all non-derivative counterparties and securities with investment-grade ratings.

OFHEO also proposes to maintain, with alteration, special treatment for derivative counterparty exposures. Current exposures are marked to market at least weekly, and high quality collateral is posted against any significant exposures by counterparties with less than a AAA rating. The Enterprises retain the right to require substantial over-collateralization or to transfer the contract to a new counterparty if a counterparty's rating is lowered to low investment-grade levels or worse. Thus, the principal risk is that a relatively highly rated counterparty may fail suddenly and that exposures rise between the time a contract was last collateralized and the time the Enterprise takes action to transfer or replace the contract. This period may be as much as ten business days.

The credit exposures on fixed-floating interest rate swaps and swaptions (the vast majority of Enterprise derivative contracts) are closely tied to changes in market yields of securities with maturities equal to those of the swap or swaptions. When interest rates rise, an Enterprise's exposure rises on swaps for which it receives the floating-rate side of the swap. When interest rates fall, an Enterprises's exposure rises on swaps for which it receives the fixed-rate side.

To develop loss severity rates for defaulted derivative contracts, OFHEO examined changes in Treasury security interest rates over periods of ten business days during the past 25 years. For five-year Treasury securities, increases in yields of more than 7.5 percent and decreases of more than 5.0 percent, respectively, have occurred infrequently-roughly 1 percent and 4 percent, respectively, of the time.[10] Thus, severity rates that reflect losses associated with yield changes of these magnitudes should be reasonably conservative.

For application in the stress test's cash flow model, OFHEO must translate such changes into impacts on net derivative cash flows. During the stress period, net derivative cash flows are related to changes in the ten-year Treasury yield-75 percent in the up-rate scenario and 50 percent in the down-rate scenario. For example, in the up-rate scenario, with its flat yield curve, the pay side of a ten-year pay-fixed/receive-floating swap implemented just before the start of the stress test would remain at its original rate and the receive side would rise to 175 percent of the original pay-side rate. Thus, the swap would have net annual cash flows for the last nine years of the stress test roughly equal to 75 percent of the initial fixed rate used in the swap multiplied by the notional value. This is ten times the 7.5 percent market yield change that may be associated with losses on a derivative counterparty default in the up-rate scenario. Accordingly, OFHEO proposes to set severity rates for derivative exposures at ten percent.[11]

OFHEO recognizes that losses could be greater than ten percent if interest rates move exceptionally after a sudden default, or if an Enterprise failed to replace a contract with a defaulting counterparty and market yields continued to move unfavorably. However, OFHEO also recognizes that yield changes near the time of a default could easily be less unfavorable than the 7.5 percent increase or 5 percent decrease contemplated, and some recoveries beyond the collateral already held might be available. Thus, OFHEO judges that a ten percent severity rate for derivatives is adequate.

---

[4] "Default Recovery Rates of Corporate Bond Issues: 2000," 26 *Moody's Investor's Service* (February 2001).

[5] "Ratings Performance 1997: Stability of Transition," 3 *Standard and Poor's* (August 1998).

[6] Hickman, at 460.

[7] Hickman, at 119.

[8] "Historical Default Rates of Corporate Bond Issuers, 1920–1996," 12 *Moody's Investor Service* (January 1997).

[9] *Moody's (2001), at 24–25.*

[10] These percentages correspond to absolute changes of 61 and 41 basis points, on average, during the period, but would be less than half as much at recent yield levels.

[11] Loss severities of counterparty defaults are typically expressed as percentages of derivative market value at the time of default. However, the stress test model reflects such losses as reductions in net derivative cash flows. For example, in the up-rate stress scenario, after a 75 percent increase in interest rates, a swap with a market value of zero at the start of the stress test (i.e., a fixed-pay rate equal to the then-market rate) will have a significantly increased market value during the stress period. Since short- and long-term rates are the same in the last nine years of the stress period in the up-rate scenario, net derivative cash flows roughly equal the scenario-based change in long-term interest rates multiplied by the notional value, and the market value of the swap is the discounted present value of these cash flows. A ten percent reduction in those cash flows thus reflects the impact on market value of a 7.5 percent change in interest rates.

Haircuts. Under the proposal, haircuts would be determined by multiplying the default rate for each rating category by the severity rate. The resulting haircuts that are proposed are set forth in Table 1 below.

TABLE 1—STRESS TEST HAIRCUT BY RATINGS CLASSIFICATION

Ratings Classification	Derivative Contract Counterparties	Non-Derivative Contract Counterparties or Instruments
Cash	0%	0%
AAA	0.5%	3.5%
AA	1.25%	8.75%
A	2%	14%
BBB	4%	28%
Below BBB and Unrated	100%	100%

Phase-In. Under the Rule, haircuts for investment-grade counterparties and securities are phased-in over the first five years of the stress period, so that haircuts are close to zero in the first month of the stress period and rise to their maximums in the 60th month, where they remain for the last five years. In effect, all defaults occur within the first five years, and later haircuts to cash flows simply reflect the consequences of previous defaults, as defaulted counterparties are unable to meet their obligations. This conservative approach takes into account that the interest rate shocks and house price shocks all occur in the first half of the stress period. Long-term average historical data show more evenly distributed defaults over time, but available data for especially stressful periods (e.g., the 1910s and 1930s) give little indication of timing. The recently obtained unpublished data from Moody's shows that for the worst cohort (starting in the beginning of 1930), only 57 percent of ten-year investment-grade defaults occurred during the first five years. While the principal shocks may occur somewhat earlier in the stress period than they did for issuers in the 1930s, a closer approximation of the historical patterns may better reflect the ability of most highly rated firms to survive severe stresses for many years. Some of those that ultimately fail during the stress period may reasonably be expected to fail during its final years. Accordingly, OFHEO proposes to extend the phase-in period from five years to ten years for investment-grade counterparties and securities. Thus, for credit exposures to firms and securities rated BBB and higher, defaults will occur evenly throughout the stress period.

Netting of derivative counterparty exposures. The Enterprises regularly enter into derivatives contracts, typically swaps, for debt and portfolio risk management purposes. These contracts expose the Enterprises to the risk of failure by a derivative counterparty to perform its obligations as anticipated by the terms of the contract. The Enterprises, consistent with accepted risk management and market practice, attempt to mitigate their derivative counterparty credit exposure through a number of methods, including the use of master netting agreements. Master netting agreements are used by the Enterprises when they engage in multiple swap transactions with the same counterparty. A master netting agreement permits an Enterprise to determine its aggregate total credit exposure to a particular counterparty by netting the gains and losses across all of the contracts with that counterparty. This approach allows the Enterprises to net their exposures at the counterparty level, rather than netting at the individual contract level.

In NPR2, OFHEO proposed a methodology to recognize this practice by modeling the terms of master netting agreements and then applying specified haircuts to the resulting net amount due, if any, from each derivatives counterparty.[12] No comments were received on the proposal, and the Rule, reflecting OFHEO's intent to model master netting agreements, did not specify a change from NPR2. However, due to a technical omission, OFHEO's intent to model master netting agreements was not operationalized in the Rule. Recognition of master netting agreements would result in a more accurate measurement of the Enterprises' exposure to derivative counterparties. Further, recognition of master netting agreements is consistent with OFHEO's intent to model Enterprise contracts according to their respective terms, and such recognition allows OFHEO to tie capital to risk with greater precision. The proposal would amend the Rule to model master netting agreements explicitly, as originally contemplated in NPR2.

OFHEO notes that this technical correction will require an implementation period to allow for development and completion of the software changes that will allow OFHEO to model master netting agreements. Therefore, during the implementation of the technical correction, OFHEO will recognize the risk mitigation effects of such agreements by reducing the haircuts for derivatives contracts. Upon implementation of the technical correction, maximum haircuts for derivative contract counterparties will be readjusted and netting by counterparty will be implemented in the software. The interim treatment will remain effective only for the period

---

[12] NPR2 refers to the Second Notice of Proposed Rulemaking issued by OFHEO before the Rule. 64 FR 18084, 18159 (April 13, 1999).

VOL 66 ISS 243 DE 18 2001 UMI

required to complete the technical software modifications necessary to model master netting agreements. The interim and final haircuts for derivative contract counterparties are as shown in the Table 2 below:

TABLE 2—STRESS TEST HAIRCUTS FOR DERIVATIVE CONTRACT COUNTERPARTIES

Ratings Classification	Haircuts for Derivative Counterparties prior to Implementation of Netting	Haircuts for Derivative Counterparties upon Implementation of Netting	Number of Phase-in Months
Cash	0%	0%	N/A
AAA	0.3%	0.5%	120
AA	0.75%	1.25%	120
A	1.2%	2.0%	120
BBB	2.4%	4.0%	120
Below BBB and Unrated	100%	100%[1]	

Unrated Seller/servicers. The Rule treats unrated seller/servicers as BBB-rated counterparties. OFHEO recognizes that certain unrated seller-servicers to whom underwriting and servicing authority has been delegated enter into loss-sharing agreements with the Enterprises and collateralize these loss-sharing obligations with fully funded reserve accounts pledged to the Enterprise. OFHEO is proposing to amend the Rule to permit a higher rating than BBB for these seller-servicers if the fully funded reserve account is equal to or greater than an amount determined by OFHEO to be adequate to support the risk borne by the seller-servicer under the loss sharing agreement. For example, if the loss-sharing obligation of a seller-servicer participating in Fannie Mae's Delegated Underwriting and Servicing (DUS) Program is collateralized by a fully funded reserve account that is equal to or greater than one percent of the seller-servicer's aggregate unpaid principal balance covered by the loss-sharing agreement at the start of the stress test, the rating of the issuer of the instrument backing the reserve account may be used, in lieu of BBB, as the rating of the unrated seller-servicer, except that in no event will the rating exceed AA. Determinations of the required reserve amount and the rating permitted would be made on a program-by-program and Enterprise-by-Enterprise basis.

B. Proposed Changes to Multifamily Model

OFHEO is proposing a number of changes to the multifamily default model, multifamily loss severity parameters, and multifamily prepayment speeds specified in the Rule. Proposed changes to the default model include (1) a respecification of explanatory variables which has the effects of reducing the model's sensitivity to debt-service coverage ratios (DCRs) falling below one and reducing predicted cumulative default rates on adjustable rate mortgages (ARMs) in the up-rate stress test, and (2) an increase to the initial vacancy rate used to update DCR during the stress test making this rate consistent with the benchmark region's vacancy rate from the month prior to the start of the benchmark period.[13] OFHEO is also proposing changes for the multifamily loss severity parameters that reflect the costs, timing, and recoveries associated with a larger and more broad-based set of Enterprise foreclosures. The Rule reflects a decision not to model the complexities of prepayment premiums that may or may not be received by the Enterprises during stressful periods without further study. The proposed multifamily prepayment speeds are more consistent with that decision than existing pre-payment speeds. Each proposed change is discussed in turn.

Underwater Debt Coverage Ratio flag (UWDCRF). In the Rule, the multifamily default model included an Underwater Debt Coverage Ratio Flag (UWDCRF), intended to cover the additional default risk posed when the projected debt service coverage ratio-net operating income (NOI) divided by mortgage payment-falls below one during the stress test. A debt coverage ratio less than one means that the NOI is insufficient to cover the required mortgage payment, an occurrence that suggests a high probability of default. The stress test projects the DCR in each month of the stress period from the prior month's value by updating NOI, using rent growth rates and rental vacancy rates that reflect the economic conditions of the benchmark region and period, and adjusting mortgage payments monthly according to the note terms and the stress test interest rate scenario. When this method is used to project DCR, the types of loans for which the projected DCR falls below one tend to be fixed rate mortgages (FRMs) that started the stress test with a low DCR and, in the up-rate scenario, most ARM loans, resulting in comparatively high cumulative default rates for these loans in the stress test.

OFHEO has found that the UWDCRF adds value to the multifamily default model by capturing the additional risk of default when NOI is insufficient to cover mortgage payments, but is concerned that the sensitivity of predicted monthly defaults to projected DCR falling below one may be too great, for two reasons. First, the UWDCRF is an indicator that is only turned on when DCR is projected to be below one, and is turned off otherwise. There are no finer gradations for this explanatory variable such as those that might be captured if the projected DCR accounted for individual property dispersion around the mean.[14] In the application of the stress test, many multifamily loan groups will have DCRs projected to fall below one—some only slightly below one, while others fall well below one. The additional risk of default may be overstated for those loan groups with DCRs projected to fall only slightly below one by the abrupt transition of the UWDCRF variable. Second, even when a multifamily property's DCR does fall below one, only a fraction of borrowers default, indicating that those who do not default may carry their properties with funds from other sources for a period of time while they try to remedy the negative cash flow position.

---

[13] The terms "benchmark region and period" refer to the regional credit loss experience identified by OFHEO in compliance with the "Credit Loss" parameters outlined in Title XIII of the Housing and Community Development Act of 1992, Pub. L. No. 102–550, known as the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (1992 Act), as described in additional detail in NPR2.

[14] In the Rule's single-family default and prepayment models, the level of borrower equity in the property (property value less mortgage debt) is analogous to multifamily DCR in that both measures capture economic stress. The circumstance of a single-family mortgage borrower having negative equity is similar to that of a multifamily loan having

For these reasons, OFHEO decided to re-estimate the multifamily default model with a revised definition of the UWDCRF that turns the flag on only when the DCR is projected to be well below one. As a result of that re-estimation, OFHEO proposes to redefine the UWDCRF to be equal to one (that is, to turn the flag on) when projected DCR is less than 0.98 (that is, when NOI is more than two percentage points below the mortgage payment), rather than setting the flag equal to one immediately when the projected DCR falls below one. The re-estimated multifamily default model has a slightly lower coefficient on UWDCR, and the coefficients for the other explanatory variables do not change materially. Simulations using the revised UWDCRF definition result in lower predicted default rates for ARMs in the up-rate scenario and for FRMs with low initial DCR in both scenarios, making the model less sensitive to the UWDCRF than the existing model. The revised definition does not substantially affect the predicted default rates for most FRMs or for ARMs in the down-rate scenario. OFHEO believes the respecified model more accurately captures the added risks associated with loans that have negative cash flow in the stress test.

ARM Flags. OFHEO is concerned that predicted cumulative default rates for ARM loans are excessive in the up-rate scenario. For example, a typical ARM purchased by an Enterprise could have a cumulative default rate of 95 percent in the up-rate scenario. These excessive default rates for ARMs in the up-rate stress test arise from two principal sources. First, the up-rate stress test projects declining DCRs for ARMs, and two explanatory variables in the default model translate declining DCRs into higher default rates: the DCR variable, itself, and the UWDCRF, where applicable. The second source is from the application of an ARM product-type flag—New Book ARM Flag (NAF)—which further raises the predicted ARM default rates. OFHEO included the ARM product flag in the Rule because it observed in the historical data from the Enterprises that ARM defaults appear to be higher than those of otherwise comparable FRMs even after controlling for DCR changes due to interest rate changes.

The stress test projects DCR in each month of the stress period from the prior month's value using rent growth rates and vacancy rates that reflect the economic conditions of the benchmark region and period along with monthly mortgage payment adjustments according to the note terms and the stress test interest rate scenarios. In the up-rate scenario, the mortgage payment adjustments on ARMs cause the projected DCR to fall much more than that of an otherwise comparable FRM. This more rapid decline in DCR causes predicted defaults on ARMs to be higher than those of otherwise comparable FRMs, as one would expect, because mortgage payments on an ARM may grow to exceed net operating income from the property. In addition, the NAF further raises new book ARM defaults relative to comparable new book FRMs to capture performance differences not related to projected changes in DCR.[15]

The theoretical justification for the inclusion of an ARM flag to account for performance differences not related to ARM payment changes is that ARM borrowers may possess higher credit risk qualities than their fixed-rate counterparts. Arguing against the inclusion of an ARM flag is the improvement in the Enterprises' multifamily ARM underwriting in recent years, which means that, over time, differences in risk between loan types due to differences in borrower characteristics will disappear. That is, the choice of ARM versus FRM in the multifamily mortgage market may be becoming a strategic business decision related to professional financial management considerations and may, as a result, have a declining relationship to borrower credit quality.

OFHEO decided that the excessive predicted default rates for ARM loans in the up-rate stress test warranted investigation of the default model's specification of ARM product type flags. OFHEO sought to determine if a respecification of the model could maintain a reasonable relationship to the historical data while producing more reasonable results in the stress test. First, the estimation was performed without either of the two product type flags, the NAF and the New Book Balloon Flag (NBLF). If the only additional risk associated with ARMs relative to FRMs resulted from the impact of rate changes on mortgage payments and DCR, then this specification for the default model might be appropriate. OFHEO found, however, that this model specification caused another explanatory variable, the Ratio Update Flag (RUF) to be no longer statistically significant. Next, OFHEO re-estimated the model without the Ratio Update Flag. The result of the second re-estimation produced, as expected, an averaging effect between New Book ARM and FRM default rates—that is, the size of the coefficient for New Book loans decreased (the coefficient remained negative but had a smaller absolute value), reflecting the fact that the NBF was now averaging the product type differences that are currently separated out by the product type flags in the Rule. This specification also reduced the sensitivity of defaults to the distinction between New Book and Old Book loans, holding other factors constant, because it no longer distinguished between loans for which loan-to-value ratio (LTV) and DCR ratios are updated and those for which they are not.[16]

---

a DCR below one because both are associated with increased likelihood of default. However, in the single-family model, negative equity is captured as a probability and enters the model as categorical variable having eight possible values. These eight gradations for the probability of negative equity improve the single-family model by avoiding abrupt predicted transitions from positive to negative equity. OFHEO is able to calculate the probability of negative equity for single-family loans because projected property value changes are based on OFHEO's House Price Index and its associated dispersion parameters. No similar measures of dispersion are currently available to project multifamily DCR or the probability of DCR falling below one.

[15] The Rule includes a New Book ARM flag (NAF) and a New Book Balloon flag (NBLF) as product-type offsets to the New Book flag (NBF), which is a categorical (or dummy) variable that distinguishes between "Old Book" loans that were made when the Enterprises first entered into the multifamily business (before 1988 for Fannie Mae and before 1993 for Freddie Mac) and "New Book" loans made under their more recent restructured programs. OFHEO's research indicates that New Book loans have shown lower defaults than Old Book loans in general, although the amount of improvement varies significantly among product types. Specifically, New Book fixed-rate balloon loans outperformed Old Book fixed-rate balloon loans to a lesser degree than their fixed-rate fully amortizing counterparts. ARM loan performance differentials were even smaller. These differences are reflected in the Rule in the NBLF and NAF offsets to the NBF.

[16] This effect is captured in the Rule by the Ratio Update Flag (RUF). Specifically, the RUF identifies a subset of New Book loans—those for which the loan-to-value ratio (LTV) and debt-service coverage ratio (DCR) have been calculated or delegated to have been calculated by the Enterprises at loan origination or for which the LTV and DCR have been recalculated or delegated to have been

Continued

VOL 66 ISS 243 DE 18 2001 UMI

OFHEO rejected the above model re-specification, which eliminates the NAF, the NBLF, and the RUF, because it ignored two important factors that OFHEO has observed in Enterprise historical data. First, OFHEO considered the evidence of higher Enterprise ARM default rates, compared with FRM default rates during historical periods when interest rates were flat to declining. Since flat-to-declining interest rates lead to stable or lower ARM payments and therefore stable or higher DCRs, all else equal, OFHEO suspected that factors unrelated to interest-rate-related ARM payment changes (such as borrower credit quality) may still be underlying the higher observed ARM default rates. Second, OFHEO found substantial differences in observed default rates for ratio-updated versus not-ratio-updated loans in Enterprise historical data. Ratio-updated loans appear to perform better than those that are not, holding other factors constant.

Therefore, OFHEO proposes to re-specify its multifamily default model as follows. The proposed model has the same explanatory variables as the model in the Rule, except that NAF, NBLF, and RUF are removed, and a respecified flag is introduced that captures both the distinction between ARMs and FRMs and the distinction between ratio-updated and not-ratio-updated loans. Specifically, the new variable OFHEO is proposing in its respecified default model is a Not-Ratio-updated ARM Flag (NRAF) which takes a value of one (that is, it is turned on) if a loan is both an ARM and not ratio-updated, and zero otherwise. Because nearly all of the ARM loans in Enterprise historical data are not ratio-updated, but nearly all of the FRMs are ratio-updated, OFHEO determined that it is statistically difficult to fully separate these effects as measures of historical performance. The proposed model with the NRAF variable would apply this new variable coefficient during the stress test simulation only to ARM loans that are not ratio-updated, capturing the historical performance differences of these ARMs after controlling for payment changes. ARM loans that have undergone the ratio-update process would not be subject to higher default risk imposed by the NRAF, thereby reducing the differential between ARM and FRM defaults in the up-rate scenario for those loans.

OFHEO believes that a similar distinction between ratio-updated FRMs and not-ratio-updated FRMs should exist even though there are too few not-ratio-updated FRMs in the Enterprises' historical data to confirm the hypothesis. As a result, OFHEO proposes to multiply monthly conditional default rates for not-ratio-updated FRMs by a factor of 1.2 times the rates for otherwise comparable ratio-updated FRMs to reflect the marginally higher risk expected with those loans.

OFHEO believes that, given the Enterprise data, the proposal handles a very complicated issue fairly and with statistical soundness and good judgment. If, in the future, Enterprise data show no differences between ARM and FRM risk other than the adverse effect of rising interest rates on ARM payments and ARM DCR, OFHEO may revisit this issue.

Initial Vacancy Rate. Estimated rent growth for the first month of the stress test is based on the relative change in a rent index from immediately prior to the stress test to month one of the stress test.[17] However, the estimated vacancy rate change in the first month of the stress test does not look back to the value of the vacancy rate immediately prior to the stress test, but rather compares the vacancy rate in month one of the stress test with a long-term national historical average vacancy rate. To be consistent, the change in vacancy rates between the period immediately prior to the stress test and month one of the stress test should be based on the change in the benchmark region vacancy rate from the month prior to the benchmark period to the first month of the benchmark period. OFHEO views this change as a technical correction.

Specifically, the vacancy rate change in the Rule in the initial month of the stress test is from the Census Bureau's long-term national historical average of 6.23 percent to the West South Central (WSC) Census division's estimated January, 1984, rate of 13.6 percent, with changes thereafter based upon changes in rates through 1993 in that region.[18] This specification has the effect of imposing a greater percentage increase in vacancies than appears to have occurred during the benchmark loss experience.

The proposed change is to set the initial vacancy rate at ten percent, which is the estimated WSC Census division vacancy rate in 1983. Thus, the vacancy rate change in the initial month of the stress test would be from ten percent to 13.6 percent.

Loss Severity. Loss severity parameters in the Rule were based upon the experience of 705 Freddie Mac multifamily REO[19] properties from the 1980s. OFHEO has now analyzed data reflecting the costs, timing, and recovery rates associated with additional REO that has been made available from both Enterprises. Based upon that analysis, OFHEO is proposing to modify the multifamily severity parameters to take into consideration the performance of Fannie Mae REO in the 1980s and both Enterprises' more recent multifamily REO. The multifamily loss severity calculations that use the severity parameters in the Rule would not change. Specifically, OFHEO proposes reducing net REO holding costs to seven percent from 13.33 percent and increasing REO sales proceeds from 58.88 percent to 63 percent of the unpaid principal balance as of the default date. Additionally, OFHEO proposes reducing the time from default to foreclosure completion from 18 to 9 months while increasing the time from REO acquisition to REO disposition from 13 to 15 months. Changing these severity parameters yields a 44 percent "baseline" severity rate, as compared to the 55 percent "baseline" produced by the model in the Rule. "Baseline" severity is a simple way to compare one set of severity parameters with another.[20]

Prepayment Penalties. In the Rule, no credit is given for cash flows from prepayment penalties and yield maintenance provisions. Nevertheless, the Rule provides that two percent of loans that are subject to such penalties or provisions prepay each year of the stress test in the down-rate scenario. In the preamble to the Rule, OFHEO explained that the data indicated that a small percentage of loans did prepay while subject to yield maintenance provisions and that OFHEO had no data indicating to what extent prepayment penalties were actually paid by borrowers, as opposed to waived by the Enterprises or added to the balances of refinanced loans. Because it is likely that some prepayment penalties are paid or other compensating consideration is

---

recalculated by the Enterprises at Enterprise acquisition according to current underwriting standards. New Book loans for which origination and/or acquisition LTV and DCR are unknown cannot be considered to be ratio-updated.

[17] Specifically, the twelfth root of month over same month previous year rent indices minus one.

[18] Reporting of vacancy rate data for Metropolitan Statistical Area located in the WSC Census division began in 1986. As a result, 1984 and 1985 rates were estimated based on national rates using the ratio of WSC Census division rates to U.S. rental vacancy rates in 1986, a factor of 2.3. For 1983, a lower factor of 1.8 is assumed because it predates the WSC Census division's recession.

[19] REO is real estate owned as a result of loan default.

[20] The "baseline" consists of a simple adding up of the cost components of the rate, without considering discounting, credit enhancements, or passthrough interest on sold loans.

received by the Enterprises, OFHEO decided to include some prepayments on these loans in the down-rate scenario, but at a lower rate than indicated by the data in order to take prepayment penalties into account.

OFHEO is proposing to modify the Rule to provide for no prepayments in the down-rate scenario inside prepayment penalty or yield maintenance periods. This approach is more consistent with OFHEO's preference to model contractual instruments according to their terms, but recognizes that modeling these penalties according to their terms would be immensely complicated, because those terms vary greatly from loan to loan. The proposed approach is a reasonable simplification because prepayment penalty provisions are actually liquidated damages clauses, which are intended to give the lender the benefit of full performance on the loan.

C. Proposed Changes to Yields on Enterprise Debt

The Rule does not impose a premium upon an Enterprise's cost of funds to reflect the reaction of the debt markets to the financial stress imposed upon the Enterprise. However, the preamble to the Rule suggested that a premium might be appropriate and that this would likely be an area of future change. Upon further study, OFHEO has found that it is appropriate for the stress test to recognize an increased cost of debt of ten basis points for an Enterprise in the stress test vis-a-vis other borrowers in the debt markets.

OFHEO proposed in NPR2 to impose a 50-basis-point premium on new Enterprise debt for the last nine years of the stress period. The analysis that OFHEO performed for NPR2 indicated that debt spreads to Treasury rates have widened in times of financial stress for Government-sponsored enterprises (GSEs). NPR2 did not propose adjustments to reflect unusual stress for any other interest rate series in the stress test.

In the final rule, OFHEO took note of the comments received in response to NPR2, some of which questioned the appropriateness of a premium on new Enterprise debt and the size of that premium. OFHEO conceded that data upon which to base such a premium may be too sparse to determine definitively whether other spreads to Treasuries would widen as much as the Enterprises' spreads or to estimate how much the Enterprises' spreads would widen. The preamble to the final rule also noted that some commenters felt that no premium on new debt should be charged because many of the Enterprises' hedging instruments are based upon rates other than Treasuries (e.g., LIBOR, COFI). The spreads between these rates and Treasuries could be expected to widen during stressful conditions, thus mitigating the Enterprises' risk. In light of these comments, OFHEO postponed imposition of any new debt premium pending later refinements of the Rule. Nevertheless, OFHEO indicated that the implicit assumption in the stress test that the spreads of an Enterprise's debt yields to other interest rates would be unaffected by the deteriorating condition of the Enterprise ignored an area of significant risk.

The risk of wider spreads in a stressful period is important if asset lives, which are unusually long in the up-rate scenario, exceed terms-to-maturity of outstanding debt. In support of this proposal, OFHEO notes that some funding strategies employed by the Enterprises depend significantly on their ability to borrow in the future at relatively favorable interest rates. For example, the Enterprises often fund a portion of their mortgage asset portfolio with short-term debt accompanied by interest rate swaps, in which they pay a fixed rate and receive a floating rate. If the floating rate they pay on their own short-term debt is close to the floating rate they receive on the swap, the net effect is roughly the same as if they had issued long-term fixed-rate debt at the rate they pay on the swap. If, however, their cost of short-term funds rises significantly, relative to the index on which the swap's floating rate is based, their cost will be higher than if they had issued long-term fixed-rate debt. Use of fixed-pay swaptions to hedge against the effect of rising interest rates on expected asset lives creates a similar risk. Although the spreads to Treasury rates of other interests rates may also widen in a stressful economic environment, the stress test is designed to be especially stressful to the Enterprises. The stress test involves factors, such as a decline in housing prices, that might not affect the debt costs in other sectors of the economy as much. OFHEO has chosen to propose a ten-basis-point spread for the final nine years of the stress period, in part to reflect these risks.

A ten-basis-point borrowing premium incorporates these risks in a modest way. Firms in very stressful circumstances frequently face premiums of several hundred basis points, if they are able to borrow at all. GSEs, though, have always been able to borrow, even when they are in very poor financial condition, because of their perceived special status. It is reasonable, therefore, to use a much smaller premium than might be appropriate for a non-GSE in a similar stress test. OFHEO also considers it appropriate to consider that the stresses affecting the Enterprises in the stress test would also be affecting other borrowers in the market place. To assume that they do not, as was the case in NPR2, which proposed a 50-basis-point premium, is inconsistent with the stress implied in the haircuts that the stress test applies to all counterparties of the Enterprises. An ideal stress test might model different spreads for different interest rate series, a complex approach that OFHEO could not implement in the foreseeable future. The ten-basis-point premium, therefore, can be viewed as a simplifying assumption, which gives some effect to the possibility that stress period market conditions could impact an Enterprise more adversely than the rest of the market.

D. Proposed Changes to New Debt Mix

The Rule provides for the funding of all cash deficits by the issuance of new long-or short-term debt, whichever is in shorter supply, until a 50/50 balance of short-to long-term debt is reached in each Enterprise's portfolio. Thereafter, long- and short-term debt are issued in whatever ratio best contributes to maintaining that balance. This approach was chosen because OFHEO did not wish to include an assumption about any particular behavioral preference by the Enterprises during the stress period.

On further consideration, however, OFHEO proposes to change the target balance embodied in this approach. A 50/50 balance is generally unsuitable for funding a portfolio of largely fixed-rate mortgage assets, and it could often result in a substantial change in an Enterprise's funding structure during the stress period. OFHEO proposes to replace the 50/50 target with the actual ratio of Enterprise debt obligations (as adjusted by interest rate swaps) at the start of the stress period. Typically, the Enterprises have a long-term debt to total debt ratio (swap adjusted) of 70 percent to 90 percent. Use of such ratios in the stress test will result in a more realistic debt structure.

E. Miscellaneous Technical Changes

Operating Expenses. In the Rule, one third of an Enterprise's operating expenses at the start of the stress test remain fixed throughout the stress period, while the remainder decline in proportion to the decline in the mortgage portfolio. The total of the fixed and variable components is then reduced by one-third to recognize that a

VOL 66 ISS 243 DE 18 2001 UMI

cessation of new business would have a significant impact upon operating expenses. The variable portion of the operating expenses for a given month is determined by calculating the Enterprise's mortgage portfolio at the end of each month of the stress period as a percentage of the portfolio at the start of the stress test. Starting-position fixed-asset balances are held constant over the ten-year stress period, while related depreciation is included in the base on which operating expenses are calculated for each month of the stress period. The implication of this treatment is that fixed assets are being regularly replaced throughout the period, which appears inconsistent with the decline in financial assets as mortgages amortize and prepay.

To address this inconsistency, OFHEO is proposing to modify the stress test treatment of operating expenses by converting 75 percent of starting-position fixed-asset balances to cash over the ten-year stress period. The proposal would retain 25 percent of the fixed assets on the Enterprise books throughout the stress period to reflect the acquisition of some new fixed assets, such as computer equipment, which is likely even in a "wind-down" scenario. The effect of this change is to reduce the Enterprises' need for debt to carry nonearning fixed assets.

Float Income. The Rule provides for the modeling of float income associated with passthrough payments on securities issued by the Enterprises. Float income can be positive or negative depending on whether the Enterprise holds the funds for a period of time before remitting them to security holders or remits funds to security holders before they are actually received. When an Enterprise owns its own passthrough securities, the timing of payment to itself is not relevant. However, the Rule includes these securities in the calculation of float income, resulting in an overstatement of float income. OFHEO proposes to correct this overstatement by reducing the float income on passthrough securities issued by the reporting Enterprise by the percentage of the Enterprise's ownership interest. However, when an Enterprise receives prepayments and holds the funds for a number of days during which investors accrue interest at the coupon rate of the security, the difference between the yield the Enterprise can earn on invested funds at that time of the stress period and the coupon rate will continue to be reflected for the relevant number of days.

Currency Swaps. As a simplifying assumption in the Rule, OFHEO applied no haircut to foreign currency swaps, but stated its intention to continue to explore appropriate methodologies for applying an appropriate haircut. In furtherance of its commitment to continue to refine the stress test, OFHEO now proposes to eliminate the simplifying assumption and apply haircuts to foreign currency swap counterparties. Because the stress test does not project foreign currency values, the haircut is applied by adjusting the pay (dollar-denominated) side of the swap upward by the amount of the haircut percentage rather than haircutting the foreign-currency receive side of the swap.

American Call Option. As a simplifying assumption in the Rule, an American call option, which allows the issuer to exercise the option at any time, is treated as a Bermudan call option, which allows the issuer to exercise the call only on a coupon date. However, in the preamble to the Rule, OFHEO signaled its intention to consider how American call options might be modeled more precisely. OFHEO is now proposing to modify the stress test to evaluate American calls on the first option date in the exercise schedule and subsequent monthly anniversaries of the instrument's first coupon date.

House Price Growth Factor Clarification. The Rule requires the use of OFHEO's most recent House Price Index as of the reporting date to determine the house price growth factor used to calculate current loan-to-value ratios. The proposal expands the instructions in Section 3.6 to clarify, consistent with Section 3.7, that when a loan was originated since the publication of that report, a cumulative house price growth factor of one is used.

Technical Correction. The proposal adds a Prepayment Penalty Flag as an additional classification variable for multifamily loan groups, to distinguish loans with active prepayment penalties or yield maintenance provisions from those without in the calculation of prepayment penalty duration for loan groups.

Regulatory Impact

Executive Order 12866, Regulatory Planning and Review

The proposed amendment would amend a rule designated as a major rule by the Office of Management and Budget (OMB). The proposed amendment is a refinement of that rule that would tie the capital more closely to risk. Although the impact of that refinement is not economically significant, OMB has reviewed the proposed amendment to determine whether the proposed changes may raise novel policy issues. OFHEO is not required to provide the type of regulatory impact analysis that is required for an economically significant rule. Nevertheless, in accordance with OMB's guidance that all regulatory actions should be consistent with the principles of E.O. 12866, OFHEO has determined, after review by agency economists, financial analysts, and attorneys, that the benefits of the proposed changes to the Rule substantially outweigh any economic costs.

It is impossible to estimate precisely the particular benefits and costs associated with the risk-based capital requirement. While OFHEO believes this group of enhancements and refinements to the stress test will not generally increase or decrease the amount of required capital for an Enterprise to any substantial degree, the effect in any particular quarter depends upon how well that Enterprise is hedged against the risks and conditions specified in the stress test. OFHEO cannot know whether or not hedges in place at an Enterprise at the beginning of any quarter would have been in place in the absence of specific provisions of the risk-based capital rule or were put in place because of the test. Speculating as to what the Enterprises would do in the absence of specific provisions in future quarters is even more difficult. Therefore, a detailed economic cost/benefit analysis is not practical.

Rather than trying to assess the costs and benefits of every change to the stress test, OFHEO looks to whether or not the changes it is proposing make the Rule better reflect the risks faced by the Enterprises. Improving the Rule in this manner should reduce the potential for Enterprise insolvency by protecting better against interest rate, credit, and management and operations risk. By helping to ensure the safety and soundness of the Enterprises, the regulation allows them to continue to carry out their public purposes, which include providing stability in the secondary market for residential mortgages and providing access to mortgage credit in central cities, rural areas, and underserved areas.[21] In addition, the regulation helps ensure that the Enterprises will continue to provide benefits to the primary mortgage market, such as standardizing business practices.[22]

---

[21] 1992 Act, section 1302(2) (12 U.S.C. 4501(2)).

[22] "Managing Risk in Housing Finance Markets: Perspective from the Experience of the United States of America and Mexico," *Mortgage Bankers Association of America* (June 11, 1998).

Adopting the proposed amendment will result in a capital requirement that corresponds more closely to capital levels that the marketplace would demand in the absence of the benefits afforded by the Government sponsorship of the Enterprises, leading to gains in overall economic efficiency. By improving the Rule's ability to reflect actual risks at the Enterprises, the amendment also may enhance investor confidence in the ability of the stress test to forewarn investors and regulators of financial weaknesses. This result would be consistent with a study by Standard & Poor's (S&P) that provided risk-to-the-government credit ratings for the Enterprises.[23] Although S&P had rated Fannie Mae A- and Freddie Mac A+ in 1991, the 1997 report upgraded the ratings of both Enterprises to AA-. S&P cited increased governmental oversight by OFHEO as an important factor in these higher ratings. It further noted that "OFHEO's regulatory oversight [of Freddie Mac] also gives comfort that appropriate interest rate risk mitigation steps would be taken as needed."[24]

OFHEO can identify no significant costs associated with implementing the proposed amendments. No new reports are required, and net effects on required capital likely will be very small. In sum, the benefits to the public, including the Enterprises and other private-sector concerns, of the proposed changes far outweigh the already expended costs of implementing those changes.

Paperwork Reduction Act

This proposed regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). OFHEO has considered the impact of the proposed regulation under the Regulatory Flexibility Act. The General Counsel of OFHEO certifies that the proposed regulation, if adopted, is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to the Enterprises, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1750

Capital classification, Mortgages, Risk-based capital.

Accordingly, for the reasons stated in the preamble, OFHEO proposes to amend 12 CFR part 1750 as follows:

PART 1750—RISK-BASED CAPITAL

1. The authority citation for part 1750 continues to read as follows:

Authority: 12 U.S.C. 4513, 4514, 4611, 4612, 4614, 4618.

2. Amend Appendix A to subpart B of part 1750 as follows:

a. Revise Table 3–1 in paragraph 3.1.1;

b. Revise Table 3–4 in paragraph 3.1.2.1;

c. Revise paragraph 3.3.1 [b];

d. Revise paragraph 3.3.3 [a] 3.c.;

e. Add new paragraph 3.5.3 [a] 2.d.;

f. Revise paragraph 3.5.3 [a] 3. and Table 3–31;

g. In sentence six of paragraph 3.6.1 [e], remove the comma after the words "Credit Losses", add the word "and" in its place, and remove the words "and the Float Income" after the words "Guarantee Fee";

h. Revise paragraph 3.6.3.4.3.1 [a] 2.a.;

i. Revise paragraph 3.6.3.5.1 [b];

j. In paragraph 3.6.3.5.2, revise Table 3–38;

k. Revise paragraph 3.6.3.5.3.1 [a] 2.;

l. In paragraph 3.6.3.5.3.1 [a] 4, remove the first equation: "$UWDCRF_m = 1$ if $DCR_m < 1$ in month m" and add the equation "$UWDCRF_m = 1$ if $DCR_m < 0.98$ in month m" in its place;

m. Revise paragraph 3.6.3.5.3.2 [a] 1. and Table 3–39;

n. Revise paragraph 3.6.3.5.3.2 [a] 2.b.;

o. Revise paragraph 3.6.3.5.3.2 [a] 3.;

p. Revise Table 3–44, in paragraph 3.6.3.6.3.2;

q. In section 3.6.3.6.4.3, revise the four paragraphs: [a] 1., [a] 3.b., [a] 4.b. and [a] 5.;

r. Revise paragraph 3.6.3.7.3 [a] 9.b.;

s. Revise paragraph 3.7.3.1 [g] 1.;

t. In paragraphs 3.7.3.2 [a] 5. and 3.7.3.3 [a] 3., add the words ", as appropriate" at the end of the sentence in each paragraph;

u. In paragraph 3.7.4 [a] remove reference to "Table 3–55" and add "Table 3–61" in its place;

v. Redesignate Tables 3–65 through 3–70 as Tables 3–66 through 3–71;

w. After paragraph 3.8.1 [e], add new paragraph 3.8.1 [f], new footnote 5, and new Table 3–65;

x. In paragraphs 3.8.2 [a] and [b] remove references to "Table 3–65" and add "Table 3–66" in their place;

y. Revise paragraph 3.8.3.1 [a] 3.a.;

z. In paragraph 3.8.3.4 remove reference to "Table 3–66" and add "Table 3–67" in its place;

aa. In paragraphs 3.8.3.6.1 [e] 1. and [e] 2. remove both references to "Table 3–67" and add "Table 3–68" in their place;

bb. In redesignated Table 3–69 in paragraph 3.8.3.9, remove both references to "Table 3–65" and add "Table 3–66" in their place;

cc. Revise paragraphs 3.8.3.10 [a], [b] and [c];

dd. In paragraph 3.9.2 remove reference to "Table 3–69" and add "Table 3–70" in its place;

ee. In paragraph 3.10.2 [a] remove reference to "Table 3–70" and add "Table 3–71" in its place;

ff. Revise paragraphs 3.10.3.1 [b] 2. and [b] 3.;

gg. Revise paragraph 3.10.3.6.2 [a] 5.; and

hh. Revise the definition of *Enterprise Cost of Funds* in paragraph 4.0 Glossary.

The revisions and additions read as follows:

Appendix A to Subpart B of Part 1750—Risk-Based Capital Text Methodology and Specifications

* * * * *

3.1.2.1 * * *

---

[23] *Final Report of Standard & Poor's to OFHEO,* Contract No. HE09602C (February 3, 1997).

[24] Contract No. HE09602C, at 10.

TABLE 3–1-SOURCES OF STRESS TEST INPUT DATA

Section of this Appendix	Table	Data Source(s) R = RBC Report P = Public Data F = Fixed Values			
		R	P	F	Intermediate Outputs
3.1.3, Public Data	3–19, Stress Test Single Family Quarterly House Price Growth Rates			F	
	3–20, Multifamily Monthly Rent Growth and Vacancy Rates			F	
3.2.2., Commitments Inputs	Characteristics of securitized single family loans originated and delivered within 6 months prior to the Start of the Stress Test	R			3.3.4, Interest Rates Outputs
3.2.3., Commitments Procedures	3–25, Monthly Deliveries as a Percentage of Commitments Outstanding (MDP)			F	
3.3.2, Interest Rates Inputs	3–18, Interest Rate and Index Inputs		P		
3.3.3, Interest Rates Procedures	3–26, CMT Ratios to the Ten-Year CMT			F	
3.4.2., Property Valuation Inputs	3–28, Property Valuation Inputs				3.1.3, Public Data 3.3.4, Interest Rates Outputs
3.5.3., Counterparty Defaults Procedures	3–30, Rating Agencies Mappings to OFHEO Ratings Categories		P		
	3–31, Stress Test Maximum Haircut by Ratings Classification			F	
3.6.3.3.2, Mortgage Amortization Schedule Inputs	3–32, Loan Group Inputs for Mortgage Amortization Calculation				3.3.4, Interest Rates Outputs
3.6.3.4.2, Single Family Default and Prepayment Inputs	3–34, Single Family Default and Prepayment Inputs	R		F	3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.4.3.2, Prepayment and Default Rates and Performance Fractions	3–35, Coefficients for Single Family Default and Prepayment Explanatory Variables			F	
3.6.3.5.2, Multifamily Default and Prepayment Inputs	3–38, Loan Group Inputs for Multifamily Default and Prepayment Calculations	R		F	
3.6.3.5.3.2, Default and Prepayment Rates and Performance Fractions	3–39, Explanatory Variable Coefficients for Multifamily Default			F	3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.6.2.2, Single Family Gross Loss Severity Inputs	3–42, Loan Group Inputs for Gross Loss Severity			F	3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs
3.6.3.6.3.2, Multifamily Gross Loss Severity Inputs	3–44, Loan Group Inputs for Multifamily Gross Loss Severity			F	3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs
3.6.3.6.4.2, Mortgage Credit Enhancement Inputs	3–46, CE Inputs for each Loan Group	R			3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs 3.6.3.5.4, Multifamily Default and Prepayment Outputs 3.6.3.6.2.4, Single Family Gross Loss Severity Outputs 3.6.3.6.3.4, Multifamily Gross Loss Severity Outputs
	3–47, Inputs for each Distinct CE Combination (DCC)	R			
3.6.3.7.2, Stress Test Whole Loan Cash Flow Inputs	3–51, Inputs for Final Calculation of Stress Test Whole Loan Cash Flows	R			3.3.4, Interest Rates Outputs 3.6.3.3.4, Mortgage Amortization Schedule Outputs 3.6.3.4.4, Single Family Default and Prepayment Outputs 3.6.3.5.4, Multifamily Default and Prepayment Outputs 3.6.3.6.5.2, Single Family and Multifamily Net Loss Severity Outputs
3.6.3.8.2, Whole Loan Accounting Flows Inputs	3–54, Inputs for Whole Loan Accounting Flows	R			3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs

TABLE 3–1-SOURCES OF STRESS TEST INPUT DATA—Continued

Section of this Appendix	Table	Data Source(s) R = RBC Report P = Public Data F = Fixed Values			
		R	P	F	Intermediate Outputs
3.7.2., Mortgage-Related Securities Inputs	3–56, RBC Report Inputs for Single Class MBS Cash Flows	R			
	3–57, RBC Report Inputs for Multi-Class and Derivative MBS Cash Flows	R			
	3–58, RBC Report Inputs for MRBs and Derivative MBS Cash Flows	R			
3.8.2., Nonmortgage Instrument Inputs	3–66, Input Variables for Nonmortgage Instrument Cash flows	R			
3.9.2., Alternative Modeling Treatments Inputs	3–70, Alternative Modeling Treatment Inputs	R			
3.10.2., Operations, Taxes, and Accounting Inputs	3–71, Operations, Taxes, and Accounting Inputs	R			3.3.4, Interest Rates Outputs 3.6.3.7.4, Stress Test Whole Loan Cash Flow Outputs 3.7.4., Mortgage-Related Securities Outputs 3.8.4., Nonmortgage Instrument Outputs
3.12.2., Risk-Based Capital Requirement Inputs		R			3.3.4, Interest Rates Outputs 3.9.4., Alternative Modeling Treatments Outputs 3.10.4., Operations, Taxes, and Accounting Outputs

* * * * *

3.1.2.1 * * *

TABLE 3–4.—ADDITIONAL MULTIFAMILY LOAN CLASSIFICATION VARIABLES

Variable	Description	Range
Multifamily Product Code	Identifies the mortgage product types for multifamily loans	Fixed Rate Fully Amortizing Adjustable Rate Fully Amortizing 5 Year Fixed Rate Balloon 7 Year Fixed Rate Balloon 10 Year Fixed Rate Balloon 15 Year Fixed Rate Balloon Balloon ARM Other
New Book Flag	"New Book" is applied to Fannie Mae loans acquired beginning in 1988 and Freddie Mac loans acquired beginning in 1993, except for loans that were refinanced to avoid a default on a loan originated or acquired earlier.	New Book Old Book
Ratio Update Flag	Indicates if the LTV and DCR were updated at origination or at Enterprise acquisition	Yes No
Interest Only Flag	Indicates if the loan is currently paying interest only. Loans that started as I/Os and are currently amortizing should be flagged as 'N'.	Yes No
Current DCR	Assigned classes for the Debt Service Coverage Ratio based on the most recent annual operating statement	DCR < 1.00 1.00 <=DCR<1.10 1.10 <=DCR<1.20 1.20 <=DCR<1.30 1.30 <=DCR<1.40 1.40 <=DCR<1.50 1.50 <=DCR<1.60 1.60 <=DCR<1.70 1.70 <=DCR<1.80 1.80 <=DCR<1.90 1.90 <=DCR<2.00 2.00 <=DCR<2.50 2.50 <=DCR<4.00 DCR >= 4.00
Prepayment Penalty Flag	Indicates if prepayment of the loan is subject to active prepayment penalties or yield maintenance provisions	Yes No

* * * * *

3.3.1 * * *

[b] The process for determining interest rates is as follows: first, identify values for the necessary Interest Rates at time zero; second, project the ten-year CMT for each month of the Stress Period as specified in the 1992 Act; third, project the 1-month Treasury yield, the 3-month, 6-month, 1-, 2-, 3-, 5-, 20-

VOL 66 ISS 243 DE 18 2001 UMI

and 30-year CMTs; fourth, project non-Treasury Interest Rates, including the Federal Agency Cost of Funds Index; and fifth, project the Enterprises Cost of Funds Index, which provides borrowing rates for the Enterprises during the Stress Period, by increasing the Agency Cost of Funds Index by 10 basis points for the last 108 months of the Stress Test.

* * * * *

3.3.3 * * *

[a] * * *

3. * * *

c. *Enterprise Borrowing Rates.* In the Stress Test, the Federal Agency Cost of Funds Index is the same as the Enterprise Cost of Funds Index during the Stress Period, except that the Stress Test adds a 10 basis-point credit spread to the Federal Agency Cost of Funds rates to project Enterprise Cost of Funds rates for the last 108 months of the Stress Period.

* * * * *

3.5.3 * * *

[a] * * *

2. * * *

d. The Stress Test will permit a higher rating to be used for an unrated seller-servicer who participates in a delegated underwriting and servicing program that requires a loss-sharing agreement when: (1) The loss sharing agreement is collateralized by a fully funded reserve account pledged to the Enterprise; and (2) the reserve account is in an amount that is equal to or exceeds the amount that OFHEO has determined to be adequate to support the seller-servicer's loss-sharing obligation under the program. Determinations of the reserve requirement and of the rating that will be permitted will be made on a program-by-program and Enterprise-by-Enterprise basis by the Director.

3. *Determine Maximum Haircuts.* The Stress Test specifies the Maximum Haircut (i.e., the maximum reduction applied to cash flows during the Stress Test to reflect the risk of loss due to counterparty (including security) default) by rating category and counterparty type as shown in Table 3–31.

a. The Maximum Haircut for a rating category is the product of its default rate and its loss severity rate. For all counterparties the default rates are 5 percent for AAA, 12.5 percent for AA, 20 percent for A, 40 percent for BBB and 100 percent for Below BBB and Unrated. For non-derivative counterparties, the loss severity rate is 70 percent; for derivative counterparties, it is 10 percent. For all Below BBB and Unrated counterparties, the loss severity rate is 100 percent.

b. For periods prior to the implementation of netting, a separate set of Maximum Haircuts (set forth in Table 3–31) will be applied to derivative contract cash flows to approximate the impact of the net exposures to derivative contract counterparties (see section 3.8.3, Nonmortgage Instrument Procedures). After the implementation of netting, exposures will be netted as described in section 3.8.3 before the haircut is applied.

c. With the exception of haircuts for the Below BBB and Unrated category, haircuts for all counterparty categories are phased-in linearly over the 120 months of the Stress Period. The Maximum Haircut is applied in month 120 of the Stress Period. Haircuts for the Below BBB and Unrated category are applied fully starting in the first month of the Stress Test.

TABLE 3–31.—STRESS TEST MAXIMUM HAIRCUT BY RATINGS CLASSIFICATION

Ratings Classification	Derivative Contract Counterparties prior to Implementation of Netting	Derivative Contract Counterparties after Implementation of Netting	Non-Derivative Contract Counterparties or Instruments	Number of Phase-in Months
Cash	0%	0%	0%	N/A
AAA	0.3%	0.5%	3.5%	120
AA	0.75%	1.25%	8.75%	120
A	1.2%	2%	14%	120
BBB	2.4%	4%	28%	120
Below BBB and Unrated	100%	100%	100%	1

* * * * *

3.6.3.4.3.1 * * *

[a] * * *

2. * * *

a. LTV_q is evaluated for a quarter q as:

$$LTV_{ORIG} \times \frac{\begin{pmatrix}\text{Ratio of current}\\ \text{Loan Group UPB}\\ \text{to Original UPB}\end{pmatrix}}{\begin{pmatrix}\text{Ratio of current property}\\ \text{value (based on HPI in}\\ \text{quarter q) to original}\\ \text{property value (based on}\\ \text{HPI at Origination)}\end{pmatrix}}$$

The HPI at Origination is updated to the beginning of the Stress Test using actual historical experience as measured by the OFHEO HPI; and then updated within the Stress Test using House Price Growth Factors from the Benchmark region and time period:

$$LTV_q = LTV_{ORIG} \times \frac{\left(\dfrac{UPB_{m=3q-3}}{UPB_{ORIG}}\right)}{\left[CHPGF_0^{LG} \times exp\left(\sum_{k=1}^{q} HPGR_k\right)\right]}$$

Where:

$UPB_{m=3q-3}$ = UPB for the month at the end of the quarter prior to quarter q

$CHPGF_oLG$= 1.0 if the loan was originated in the same quarter as or after the most recently available HPI as of the reporting date

* * * * *

3.6.3.5.1

[b] *Explanatory Variables for Default Rates.* Eight explanatory variables are used as specified in the equations section 3.6.3.5.3.1, of this Appendix, to determine Default rates for multifamily loans: Mortgage Age, Mortgage Age Squared, New Book indicator, Not Ratio-updated ARM indicator, current Debt-Service Coverage Ratio, Underwater Current Debt-Service Coverage indicator, Loan-To-Value Ratio at origination/acquisition, and a Balloon Maturity indicator. Regression coefficients (weights) are associated with each variable. All of this information is used to compute conditional annual Default rates throughout the Stress Test. The annualized Default rates are converted to monthly conditional Default rates and are used together with monthly conditional Prepayment rates to calculate Stress Test Whole Loan Cash Flows. (*See* section 3.6.3.7, Stress Test Whole Loan Cash Flows, of this appendix).

* * * * *

3.6.3.5.2

TABLE 3-38—LOAN GROUP INPUTS FOR MULTIFAMILY DEFAULT AND PREPAYMENT CALCULATIONS

Variable	Description	Source
	Mortgage Product Type	RBC Report
A_0	Age immediately prior to start of Stress Test, in months (weighted average for Loan Group)	RBC Report
NBF	New Book Flag	RBC Report
RUF	Ratio Update Flag	RBC Report
LTV_{ORIG}	Loan-to-Value ratio at loan Origination	RBC Report
DCR_0	Debt Service Coverage Ratio at the start of the Stress Test	RBC Report
PMT_0	Amount of the mortgage Payment (principal and interest) prior to the start of the Stress Test, or first Payment for new loans (aggregate for Loan Group)	RBC Report
PPEM	Prepayment Penalty End Month number in the Stress Test (weighted average for Loan Group)	RBC Report
RM	Remaining term to Maturity in months (i.e., number of contractual payments due between the start of the Stress Test and the contractual maturity date of the loan) (weighted average for Loan Group)	RBC Report
RGR_m	Benchmark Rent Growth for months m = 1 120 of the Stress Test	section 3.4.4, Property Valuation Outputs
RVR_m	Benchmark Vacancy Rates for months m = 1 120 of the Stress Test	section 3.4.4, Property Valuation Outputs
PMT_m	Scheduled Payment for months m = 1 RM	3.6.3.3.4, Mortgage Amortization Schedule Outputs
OE	Operating expenses as a share of gross potential rents (0.472)	fixed decimal from Benchmark region and time period
RVR_o	Initial rental vacancy rate	0.10

* * * * *

3.6.3.5.3.1 * * *

(a) * * *

2. Assign product and ratio update flags (NBF, NRAF). *Note*: these values do not change over time for a given Loan Group.

a. New Book Flag (NBF):

NBF = 1 for Fannie Mae loans acquired after 1987 and Freddie Mac loans acquired after 1992, *except* for loans that were refinanced to avoid a Default on a loan originated or acquired earlier.

NBF = 0 otherwise.

b. Not Ratio-updated Arm Flag (NRAF):

NRAF = 1 if both ARMF = 1 and RUF = 0,

NRAF = 0 otherwise.

Where:

ARMF = 1 for ARMs (including Balloon ARMs)

ARMF = 0 otherwise, and

RUF = 1 if the LTV and DCR were calculated or delegated to have been calculated at origination or recalculated or delegated to have been recalculated at Enterprise acquisition according to current Enterprise standards.

RUF = 0 otherwise

* * * * *

3.6.3.5.3.2 * * *

(a) * * *

1. Compute the logits for multifamily Default using inputs from Table 3–38 and coefficients from Table 3–39. For indexing purposes, the Default rate for a period m is the likelihood of missing the mth payment; calculate its corresponding logit ($X\delta_m$) based on Loan Group characteristics as of the period *prior* to m, i.e. *prior* to making the mth payment.

$$
\begin{aligned}
X\delta_m = {} & \delta_{AY}AY_{m-1} + \delta_{AY^2}AY_{m-1}^2 \\
& + \delta_{NBF}NBF + \delta_{NRAF}NRAF \\
& + \delta_{DCR}\,ln(DCR_{m-1}) \\
& + \delta_{UWDCRF}UWDCRF_{m-1} \\
& + \delta_{LTV}\,ln(LTV_{ORIG}) \\
& + \delta_{BMF}BMF_{m-1} + \delta_0
\end{aligned}
$$

TABLE 3–39—EXPLANATORY VARIABLE COEFFICIENTS FOR MULTIFAMILY DEFAULT

Explanatory Variable	Default Weight (δv)
AY	0.5256
AY2	−0.0284
NBF	−1.219
NRAF	0.4193
DCR	−2.368
UWDCRF	1.220
LTV	0.8165
BMF	1.518
Intercept (δ0)	−4.553

* * * * *

2. * * *

b. For the down-rate scenario, $APR_m = 0$ percent during the Prepayment penalty period (i.e., when m ≤ PPEM)

$APR_m = 25$ percent after the Prepayment penalty period (i.e., when m > PPEM)

* * * * *

3. Convert annual Prepayment and Default rates to monthly rates (MPR and MDR) using the following formulas for simultaneous processes:

$$
MPR_m = \frac{APR_m}{ADR_m + APR_m} \times \left[1 - \left(1 - ADR_m - APR_m\right)^{\frac{1}{12}}\right]
$$

If both ARMF = 0 and RUF = 0, then

$$\mathrm{MDR}_m = \frac{\mathrm{ADR}_m}{\mathrm{ADR}_m + \mathrm{APR}_m} \times \left[1-\left(1-\mathrm{ADR}_m-\mathrm{APR}_m\right)^{\frac{1}{12}}\right] \times 1.2$$

otherwise,

$$\mathrm{MDR}_m = \frac{\mathrm{ADR}_m}{\mathrm{ADR}_m + \mathrm{APR}_m} \times \left[1-\left(1-\mathrm{ADR}_m-\mathrm{APR}_m\right)^{\frac{1}{12}}\right]$$

* * * * *

3.6.3.6.3.2 * * *

TABLE 3–44—LOAN GROUP INPUTS FOR MULTIFAMILY GROSS LOSS SEVERITY

Variable	Description	Value or Source
	Government Flag	RBC Report
DR_m	Discount Rate in month m (decimal per annum)	6-month Enterprise Cost of Funds from Section 3.3, Interest Rates
MQ	Time during which delinquent loan interest is passed-through to MBS holders	4 for sold loans 0 otherwise
PTR_m	Pass Through Rate applicable to payment due in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
NYR_m	Net Yield Rate applicable to payment due in month m (decimal per annum)	section 3.6.3.3.4, Mortgage Amortization Schedule Outputs
RHC	Net REO holding costs as a decimal fraction of Defaulted UPB	0.07
MF	Time from Default to completion of foraclosure (REO acquisition)	9 months
MR	Months from REO acquisition to REO disposition	15 months
RP	REO proceeds as a decimal fraction of Defaulted UPB	0.63

* * * * *

3.6.3.6.4.3 * * *

[a] * * *

1. Determine Mortgage Insurance Payment (MI_m) for single family loans in the DCC, or Loss Sharing Payment (LSA_m) for multifamily loans in the DCC, as a percentage of Defaulted UPB, applying appropriate counterparty Haircuts from section 3.5, of this Appendix:

$$\mathrm{MI}_m^{DCC} = \left(1-\mathrm{MIExp}_m^{LG}\right) \times C^{MI,DCC} \times \mathrm{CLM}_m^{MI,LG} \times \left[1-\frac{m'}{120}\times \mathrm{MaxHct}\left(R^{MI,DCC}\right)\right]$$

$$\mathrm{LSA}_m^{DCC} = C^{LSA,DCC} \times \mathrm{CLM}_m^{LSA,LG} \times \left[1-\frac{m'}{120}\times \mathrm{MaxHct}\left(R^{LSA,DCC}\right)\right]$$

Where:

m′ = m, except for counterparties rated below BBB, where m′ = 120

$$\mathrm{MIExp}_m^{LG} = 1 \text{ if } \left(\mathrm{LTV}_{ORIG} \times \frac{\mathrm{UPB}_m^{LG}}{\mathrm{UPB}_{ORIG}^{LG}}\right) < 0.78$$

$$\mathrm{MIExp}_m^{LG} = 0 \text{ otherwise}$$

0.78 (78%) = the LTV at which MI is cancelled if payments are current

* * * * *

3.* * *

b. Determine CE Payment in Dollars after application of Haircuts:

$$\mathrm{PD}_m^{DCC,C1,H} = \mathrm{PD}_m^{DCC,C1} \times \left[1-\frac{m'}{120}\times \mathrm{MaxHct}\left(R^{DCC,C1}\right)\right]$$

Where:

m′ = m, except for counterparties rated below BBB, where m′ = 120

* * * * *

4.* * *

b. Determine CE Payment in Dollars after application of Haircuts:

$$\mathrm{PD}_m^{DCC,C2,H} = \mathrm{PD}_m^{DCC,C2} \times \left[1-\frac{m'}{120}\times \mathrm{MaxHct}\left(R^{DCC,C2}\right)\right]$$

Where:

m′ = m, except for counterparties rated below BBB, where m′ = 120

* * * * *

5. Convert Aggregate Limit First and Second Priority Contract receipts in Dollars for each DCC in month m to a percentage of DCC Defaulted UPB:

$$\mathrm{ALPD}_m^{DCC} = \frac{\left(\mathrm{PD}_m^{DCC,C1,H} \times \mathrm{ELPI}^{DCC,C1}\right)+\left(\mathrm{PD}_m^{DCC,C2,H} \times \mathrm{ELPI}^{DCC,C2}\right)}{\mathrm{DEF}_m \times \mathrm{UPB}_{m-1}^{LG} \times P^{DCC}}$$

Where:

$ELPI^{DCC,C} = 0$ if $ELPF^{DCC,C} = Y$ (Yes, indicating that Contract C is an Enterprise Loss Position)
$ELPI^{DCC,C} = 1$ otherwise

* * * * *

3.6.3.7.3. * * *

[a] * * *

9. * * *

b. Float Income (FI) received in month m

$$FI_m = \left[\left(\left[\left(SPR_m + NIR_m - GF_m\right) \times \frac{FDS}{365}\right] + \left[PPR_m \times \frac{FDP}{365}\right]\right) \times FER_m \times (1 - FREP)\right] - PIS_m$$

Where:

Prepayment Interest Shortfall (PIS) in month m is:

$$PIS_m = UPB_{m-1} \times PRE_m \times \frac{PTR_m}{12} - FREP \times PPR_m \times \frac{FER_m}{12}$$

$$\text{if } FDP \geq 30$$

$$PIS_m = UPB_{m-1} \times PRE_m \times \frac{PTR_m}{24} - FREP \times PPR_m \times \frac{FER_m}{24}$$

$$\text{if } 15 \leq FDP < 30$$

* * * * *

3.7.3.1 * * *

[g] * * *

1. Compute:

$$HctFac_m = \frac{m'}{120} \times MaxHct(R)$$

Where:

m' = m, except for MBS credit rating below BBB where m'=120
R = MBS credit rating

* * * * *

3.8.1 * * *

[f] In a currency swap, the Enterprise receives payments that are denominated in a foreign currency and it makes payments in U.S. dollars. The main difference between currency swaps and the type of swaps discussed above is that in a currency swap principal amounts are actually exchanged between the two counterparties. Currency swaps are divided into two classes, as shown in Table 3–65 below.[5]

TABLE 3–65—CURRENCY SWAP CONTRACT CLASSIFICATION

Classification	Description of Contract
Fixed-for-Fixed Currency Swap	Enterprise receives fixed interest payments denominated in a foreign currency and makes fixed, US$-denominated payments
Fixed-for Floating Currency Swap	Enterprise receives fixed interest payments denominated in a foreign currency and makes payments in US$ based on a floating interest rate

* * * * *

3.8.3.1 * * *

[a] * * *

3. When applying the option exercise rule:
   a. For zero coupon and discount securities, instruments with European options, and zero coupon swaps, evaluate option exercise only on dates listed in the instrument's option exercise schedule. For Bermudan options, evaluate option exercise on the first option date in the instrument's option exercise schedule and subsequent coupon dates (coupon dates on the fixed-rate leg for swaps). For American options, evaluate option exercise on the first option date in the instrument's option exercise schedule and subsequent monthly anniversaries of the instrument's first coupon date.

* * * * *

3.8.3.10 * * *

[a] Finally, the interest and principal cash flows received by the Enterprises for non-mortgage instruments other than swaps and foreign currency-related instruments are Haircut (i.e., reduced) by a percentage to account for the risk of counterparty insolvency, if a counterparty obligation exists. The amount of the Haircut is calculated based on the public rating of the counterparty and time during the stress period in which the cash flow occurs, as specified in section 3.5, Counterparty Defaults, of this Appendix.

[b] An Enterprise may issue debt denominated in, or indexed to, foreign currencies, and eliminate the resulting foreign currency exposure by entering into currency swap agreements. The combination of the debt and the swap creates synthetic debt with principal and interest payments denominated in U.S. dollars. The Haircuts for currency swaps are applied to the pay (dollar-denominated) side of the currency swaps, or to the cash outflows of the synthetic debt instrument. Therefore, the payments made by the Enterprise on a foreign currency contract are increased by the haircut amount. The Haircuts and the Phase-in periods for currency swaps are detailed in Table 3–31, under Derivative Contracts.

[c] Haircuts for swaps that are not foreign currency related are applied to the Monthly Interest Accruals (as calculated in section 3.8.3.8, of this Appendix) on the receive leg minus the Monthly Interest Accruals on the pay leg when this difference is positive. Use the maximum haircut from Table 3–31 for periods before and after the implementation of netting, as appropriate. After the implementation of netting, net the swap proceeds for each counterparty before applying the haircuts. The following example applies to an Enterprise having two swaps with the same counterparty. On the first swap, the Enterprise pays fixed and receives floating and on the second swap it pays floating and receives fixed. If the counterparty is a net payer to the Enterprise, the haircuts will be applied to the sum of the two receive legs net of the sum of the two pay legs.

* * * * *

3.10.3.1 * * *

[b] * * *

2. In any month in which the cash position is negative at the end of the month, the Stress Test issues a mix of new short-term and long-term debt on the 15th day of that month. New short-term debt issued is six-month discount notes with a discount rate at the six-month Enterprise Cost of Funds as specified in section 3.3, Interest Rates, of this Appendix, with interest accruing on a 30/360 basis. New long-term debt issued is five-year bonds not callable for the first year ("five-year-no call-one") with an American call at par after the end of the first year, semiannual coupons on a 30/360 basis with principal paid at maturity or call, and a coupon rate set at the five year Enterprise Cost of Funds as specified in section 3.3, Interest Rates, of this Appendix, plus a 50 basis point premium for the call option. An issuance cost of 2.5 basis points is assessed on new short-term debt at issue and an issuance cost of 20 basis points is assessed on new long-term debt at issue. New long-term debt is issued to target a total debt mix of short to long term debt that is the same as the short to long term debt mix at the beginning of the Stress Test. Issuance fees for new debt are amortized on a straight line basis to the maturity of the appropriate instrument.
3. Given the Net Cash Deficit (NCD_m) in month m, use the following constants and method to calculate the amount of short-term and long-term debt to issue in month m:
   a. Set the Issuance Cost on new short-term debt at issue (ISCOST):
      ISCOST = 0.00025
   b. Set the Issuance Cost on new long-term debt at issue (ILCOST):
      ILCOST = 0.002
   c. Calculate Net Short-term Debt Outstanding ($NSDO_0$) and Total Debt Outstanding (TDO_0) at the start of the

---

[5] Ibid.

VOL 66 ISS 243 DE 18 2001 UMI

Stress Test ($m = 0$) using the following methodology:

(1) For each month m and each debt and swap instrument i (each swap leg is considered a separate instrument), determine the Month of Next Repricing (MNR_m) defined as the first month greater than m in which the instrument matures, an option is exercised, or repricing can occur whether or not the coupon rate actually changes. Set the Principal Balance (PB_m) to be:

(a) the principal (or notional principal) outstanding if the instrument cash flows are paid by the Enterprise,

(b) minus the principal (or notional principal) outstanding if the instrument cash flows are received by the Enterprise.

(2) Calculate $NSDO_m$ by summing $PB_{m,i}$ for all instruments where $MNR_{m,i}$ is less than or equal to m plus 12.

(3) Calculate TDO_m by summing $PB_{m,i}$ for instruments where $MNR_{m,i}$ is greater than m.

d. Set the Maximum Proportion of Total Debt (MPD):

$$MPD = \frac{TDO_0 - NSDO_0}{TDO_0}$$

e. Calculate Discount Rate Factor (DRF_m):

$$DRF_m = \left(1 + \frac{CF_m}{12}\right)^6$$

Where: CF_m = six month Enterprise Cost of Funds for month m

f. Calculate the Adjustment Factor for Short-Term Debt Issuance Fees ($AFSIF_m$):

$$AFSIF_m = \frac{DRF_m}{1 - ISCOST \times DRF_m}$$

g. Calculate the Adjustment Factor for Long-Term Debt Issuance Fees ($AFLIF_m$):

$$AFLIF_m = \frac{1}{1 - ILCOST}$$

h. Calculate the Maximum Long-Term Issuance ($MLTI_m$):

$$MLTI_m = NCD_m \times AFLIF_m$$

i. Calculate Net Short-Term Debt Outstanding ($NSDO_m$) and Total Debt Outstanding (TDO_m) for month m using the methodology described in section 3.c. of this section. *Note:* This calculation must reflect all new issuances, option exercises, and maturities between the beginning of the Stress Test and month m.

j. Calculate Interim Face Amount of Long-Term Debt to be issued this month ($IFALD_m$):

$$IFALD_m = \frac{((MPD - 1) \times TDO_m) + NSDO_m + (MPD \times AFSIF_m \times NCD_m)}{1 - MPD + \left(AFSIF_m \times \frac{MPD}{AFLIF_m}\right)}$$

k. Calculate Face Amount of Long-Term Debt to be issued ($FALD_m$):

$$FALD_m = \mathit{min}\left(MLTI_m, \mathit{max}\left(0, IFALD_m\right)\right)$$

l. Calculate Face Amount of Short-Term Debt to be issued ($FASD_m$):

$$FASD_m = AFSIF_m \times \mathit{max}\left(0, NCD_m - \frac{FALD_m}{AFLIF_m}\right)$$

* * * * *

3.10.3.6.2 * * *

[a] * * *

5. *Fixed Assets.* 25 percent of fixed assets (net of accumulated depreciation) as of the beginning of the Stress Test remain constant over the Stress Test. The remaining 75 percent is converted to cash on a straight line basis over the ten-year Stress Period. Depreciation is included in the base on which operating expenses are calculated for each month during the Stress Period.

* * * * *

4.0 * * *

Enterprise Cost of Funds: Cost of funds used in computing the cost of new debt for the Enterprises during the Stress Test, as specified in section 3.3.3[a]3.c., of this Appendix.

* * * * *

Dated: December 11, 2001.

Armando Falcon, Jr.,

Director, Office of Federal Housing Enterprise Oversight.

[FR Doc. 01–30898 Filed 12–17–01; 8:45 am]

BILLING CODE 4220-01-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5 and 202

[Docket No. FR–4681–C–02]

Uniform Financial Reporting StandardsFor HUD Housing Programs, Additional Entity Filing Requirements; Correction

AGENCY: Office of the General Counsel, HUD.

ACTION: Proposed rule; correction.

SUMMARY: On November 30, 2001, HUD published a proposed rule entitled "Uniform Financial Reporting Standards for HUD Housing Programs, Additional Entity Filing Requirements." The preamble to the rule (although not the rule text) misstates the date by which the financial statements of entities covered by the rule must submit their financial statements electronically. This notice corrects the preamble.

FOR FURTHER INFORMATION CONTACT: For further information about the entities covered by the proposed rule and this correction notice, Lynn Herbert, the Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone 202–708–3976 (this is not a toll-free number). For general information about this notice and the proposed rule, Stacey Kniff, Real Estate Assessment Center, U.S. Department of Housing and Urban Development, 1280 Maryland Avenue, SW., Suite 800, Washington, DC 20024, telephone Technical Assistance Center, 1–888–245–4860 (this is a toll-free number). Persons with hearing or speech impairments may access these telephone numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339. Additional information is available from the REAC Web site at http://www.hud.gov/reac/.

SUPPLEMENTARY INFORMATION: On November 30, 2001, HUD published a proposed rule entitled "Uniform Financial Reporting Standards for HUD Housing Programs, Additional Entity Filing Requirements" at 66 FR 60132. The preamble to the proposed rule, in the third column of that page, immediately above the "Findings and Certifications" section, states:

> This rule when issued as a final rule would be effective for the covered Title I and Title II nonsupervised lenders, nonsupervised mortgagees, and loan correspondents after December 31, 2001. Audited financial statements submitted by the covered entities on or after January 1, 2002 must be submitted electronically. Audited financial statements submitted prior to January 1, 2002, may either be submitted in paper or electronically at the lenders' option.

Due to the time frame of this rulemaking, the effective date has been pushed back to June 1, 2002, which is stated correctly in the regulation at § 5.801(d)(3). In the proposed rule published on November 30, 2001, the second paragraph in the third column on page 60132 as FR Doc 01–29680 quoted above should read:

> This rule when issued as a final rule would be effective for the covered Title I and Title II nonsupervised lenders, nonsupervised mortgagees, and loan correspondents after May 31, 2001. Audited financial statements submitted by the covered entities on or after June 1, 2002 must be submitted electronically. Audited financial statements submitted prior to June 1, 2002, may either be submitted on paper or electronically at the lenders' option.

Dated: December 12, 2001.

Aaron Santa Anna,

Assistant General Counsel, for Regulations.

[FR Doc. 01–31049 Filed 12–17–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 470

RIN 1215–AB33

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Office of Labor-Management Standards, Employment Standards Administration, Labor.

ACTION: Notice of request for duplicate copies of comments affected by mail delivery problems.

SUMMARY: The Office of Labor-Management Standards (OLMS) is seeking information about, and duplicate copies of, public comments that may have been submitted via U.S. mail, but that have not yet been received by OLMS because of mail delivery problems that the U.S. Department of Labor experienced from October through December of 2001. The subject of such comments would have been a Notice of Proposed Rule-Making (NPRM) that was published in the **Federal Register** on October 1, 2001. The NPRM proposed a regulation to implement Executive Order 13201, which was signed by President George W. Bush on February 17, 2001.

DATES: *Submission Period:* Duplicate copies of comments that were originally submitted by U.S. mail before the November 30, 2001, close of the comment period, and that have not yet been received by OLMS, must be submitted and received by January 2, 2002.

ADDRESSES: Duplicate copies of comments originally submitted via U.S. mail during the comment period should be sent to Don Todd, Deputy Assistant Secretary for Labor-Management Programs, Office of Labor-Management-Standards, Employment Standards Administration, U.S. Department of Labor. Because of the special circumstances, described below, that require the issuance of this notice, OLMS prefers that such duplicate copies and accompanying documentation (see below) be transmitted by facsimile (FAX) machine or e-mail. The e-mail address for transmitting these documents is *OLMS-Mail@fenix2.dol-esa.gov*. The telephone number of the FAX receiver is (202) 693–1340. Please note that the NPRM originally limited comments sent via FAX transmittal to five pages or fewer; however, this limitation will not apply to transmission of duplicate copies. As described in detail in the "Supplementary Information" section below, arrangements for hard-copy delivery may also be made by contacting OLMS.

As set forth in the NPRM, comments will be available for public inspection during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kay Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–5605, Washington, DC 20210, (202) 693–1233 (this is not a toll-free number). Individuals with hearing impairments may call 1–800–877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION: On October 1, 2001, OLMS published the above-mentioned NPRM. *See* 66 FR 50010. The NPRM proposed a Rule to implement Executive Order 13201 (66 FR 11221, February 22, 2001). As set forth in detail in the preamble to the NPRM, that Order requires non-exempt Government contractors and subcontractors to post notices informing their employees that under Federal law; those employees have certain rights related to union membership and use of union dues and fees. The Order also provides the text of contractual provisions that Federal Government contracting departments and agencies must include in every Government contract, except for collective bargaining agreements (as defined in 5 U.S.C. 7103(a)(8)) and contracts for purchases under the Simplified Acquisition Threshold (as defined in the Office of Federal Procurement Policy Act, 41 U.S.C. 403). The Rule proposed in the NPRM would provide the text of the required contractual provisions, explain exemptions, and set forth procedures for ensuring compliance with the Order; it also would contain other related requirements. See 66 FR 50010 *et seq.* Both the Executive Order and the Proposed Rule were intended to inform employees of their rights under the decisions of the United States Supreme Court in *Communications Workers of America* v. *Beck*, 487 U.S. 735 (1988), and related cases.

The NPRM invited comments on the Proposed Rule. Comments were to be submitted to Deputy Assistant Secretary Don Todd at the Department of Labor's (the Department's) main building, the Frances Perkins Building (FPB), in Washington, DC. The NPRM established the deadline for receipt of such comments as November 30, 2001.

On October 22, 2001, because postal workers at the U.S. Postal Service's Brentwood mail distribution center in Washington, DC, were found to have been exposed to anthrax bacteria, the Department temporarily closed its mailrooms in the Washington metropolitan area that received mail from Brentwood, including the mailroom in the Frances Perkins Building. As a result, all mail that was addressed to the FPB (including all first-class mail postmarked October 12 or later) was redirected to a Lima, Ohio, facility to be irradiated. This situation was not anticipated when OLMS set the deadline for receipt of comments on the NPRM.

The FPB mailroom reopened on Monday, November 26, 2001. However, because of the large amount of mail that was redirected to Ohio for irradiation, delivery of the redirected mail to its intended recipients has not yet been completed, and may not be completed for some time.

As of December 12, 2001, OLMS has received comments about the NPRM from the following six commenters: the National Legal and Policy Center; the Employment Policy Foundation; the

National Right to Work Legal Defense Foundation, Inc.; the Associated General Contractors of America, Inc.; LPA, Inc.; and a group of Members of Congress who serve on the U.S. House of Representatives Committee on Education and the Workforce. OLMS seeks information about, and duplicate copies of comments from, any other individuals or organizations who submitted comments about the NPRM via U.S. mail during the comment period. Such duplicate copies should be accompanied by documentation establishing that the comments were originally mailed on or before the November 30 deadline.

Duplicate copies of comments and accompanying documentation may be delivered via facsimile or e-mail at the phone number and address listed above. Where necessary, hard copies may also be delivered to the address listed above in the "For Further Information Contact" section, via hand delivery, courier service, or a package delivery service such as United Parcel Service, FedEx, or Airborne Express. OLMS recommends that, where such hard copy delivery is necessary, the commenter contact OLMS by telephone in advance to make appropriate arrangements for delivery.

Signed at Washington, D.C., this 14th day of December, 2001.

D. Cameron Findlay,

Deputy Secretary.

Don Todd,

Deputy Assistant Secretary for Labor-Management Programs.

[FR Doc. 01–31210 Filed 12–17–01; 10:33 am]

BILLING CODE 4510–CP–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7119–1]

RIN 2060–AJ79

Regulation of Fuel and Fuel Additives: Reformulated Gasoline Terminal Receipt Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of December 3, 2001, regarding establishment of a new compliance date for the reformulated gasoline program. This correction clarifies when and where a public hearing would be held if a hearing is requested.

FOR FURTHER INFORMATION CONTACT: For further information about this correction, contact Chris McKenna, Chemical Engineer, Office of Transportation and Air Quality, Transportation and Regional Programs Division, at (202) 564–9037 or mckenna.chris@epa.gov.

Correction

In proposed rule FR Doc. 01–29777, beginning on page 60163 in the issue of December 3, 2001, make the following correction in the DATES section. On page 60163 in the 2nd column, replace the text,

"If a hearing is requested within 20 days of the date of publication of this document in the **Federal Register**, a hearing will be held on December 24, 2001 at the location indicated in the ADDRESSES section below."

with the following text:

"If a hearing is requested no later than December 24, 2001, a hearing will be held at a time and place to be published in the **Federal Register**."

Dated: December 11, 2001.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 01–31179 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 89, 90, 91, 94, 1048, 1051, 1065, and 1068

[AMS–FRL–7119–2]

RIN 2060–AI11

Control of Emissions from Nonroad Large Spark Ignition Engines and Recreational Engines (Marine and Land-Based); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Environmental Protection Agency published in the **Federal Register** of October 5, 2001 a notice of proposed rulemaking proposing new emission standards for large spark-ignition engines, recreational vehicles using spark-ignition engines, and recreational marine diesel engines. This document extends the period for written comments on that notice of proposed rulemaking to January 18, 2002.

DATES: Comments: Send written comments on this proposed rule by January 18, 2002.

ADDRESSES: You may send written comments in paper form to Margaret Borushko, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105. We must receive them by the date indicated under DATES above. You may also submit comments via e-mail to NRANPRM@epa.gov. In your correspondence, refer to Docket A–2000–01.

FOR FURTHER INFORMATION CONTACT: Margaret Borushko, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734) 214–4334; FAX: (734) 214–4816; E-mail: borushko.margaret@epa.gov. EPA hearings and comments hotline: 734–214–4370.

SUPPLEMENTARY INFORMATION: EPA published a notice of proposed rulemaking in the **Federal Register** of October 5, 2001 (66 FR 51098). That document included a deadline for written comments of December 19, 2001. Since that time, we have received requests for an extension of that deadline to allow additional time to review and comment on the proposed emission standards. As a result of such requests, EPA is extending the comment period on the proposed rule to January 18, 2002.

The testimony and transcripts from the public hearings and other materials have been placed in the docket since we published the proposal. Additional information will be placed in the docket as it becomes available. We therefore encourage interested parties to stay abreast of docketed materials to the extent possible.

Dated: December 11, 2001.

Robert D, Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 01–31178 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2736; MM Docket No. 01–323; RM–10337]

Television Broadcasting Services; Vernal and Santaquin, UT; and Ely and Caliente, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rulemaking jointly filed on behalf of petitioners TV 6, L.L.C., permittee of VHF TV Station KBCJ, NTSC Channel 6, Vernal, Utah (BPCT–960919KG), and by Kaleidoscope Foundation, Inc., permittee of VHF TV Station KBNY, NTSC Channel 6, Ely, Nevada (BPET–970331LN). Petitioners request the reallotment of NTSC Channel 6 from Vernal to Santaquin, Utah and reallotment of NTSC Channel 6 from Ely to Caliente, Nevada as the communities' first local television transmission services and modification of the their authorizations accordingly, pursuant to the provisions of section 1.420(i) of the Commission's rules. Coordinates to be used for NTSC Channel 6 at Santaquin are North Latitude 39–43–58 and West Longitude 111–56–34; and those to be used for NTSC Channel 6 at Caliente are North Latitude 37–47–00 and West Longitude 114–30–00. The DTV Table of Allotments contained in section 73.622(b) of the Commission's rules is not affected by the requested reallotments as there is no paired DTV channel for either Vernal or Ely.

DATES: Comments must be filed on or before January 14, 2002, and reply comments on or before January 29, 2002.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows:

Mark N. Lipp, Esq., Shook, Hardy & Bacon, 600 14th Street, N.W., Suite 800, Washington, DC 20005

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, MM Docket No. 01–323, adopted November 14, 2001, and released November 23, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 425 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (202) 863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend part 73 of Title 47 of the Code of Federal Regulations as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Utah, is amended by adding Santaquin, NTSC Channel 6 and removing NTSC Channel 6 at Vernal.

3. Section 73.606(b), the Table of TV Allotments under Nevada, is amended by adding Caliente, NTSC Channel 6+ and removing NTSC Channel 6+ at Ely.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–31187 Filed 12–17–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. NHTSA–2001–10856]

RIN 2127–AI29

Motor Vehicle Safety; Disposition of Recalled Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposes a rule implementing section 7 of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 7 provides that a manufacturer's remedy program for the replacement of defective or noncompliant tires shall include a plan addressing how to prevent, to the extent reasonably within the manufacturer's control, the replaced tires from being resold for installation on a motor vehicle, and also how to limit, to the extent reasonably within the manufacturer's control, the disposal of replaced tires in landfills. Section 7 also requires the manufacturer to include information about the implementation of the plan in quarterly reports to the Secretary about the progress of any notification and remedy campaigns.

DATES: *Comments:* You should submit your comments early enough to ensure that Docket Management receives them not later than February 19, 2002.

ADDRESSES: You should mention the docket number of this document in your comments, and submit your comments in writing to Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. You may also submit your comments electronically by logging onto the Dockets Management System website at *http://dms.dot.gov*. Click on "Help & Information" or "Help/info" to obtain instructions for filing the document electronically.

Regardless of how you submit your comments, you should mention the docket number of this document in your comments.

You may call Docket Management at 202–366–9324. You may visit Docket Management from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, tel. (202) 366–5226. For legal issues, contact Enid Rubenstein, Office of Chief Counsel, tel. (202) 366–5263.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Pub. L. 106–414, was enacted. The statute was, in part, a response to congressional concerns related to the tire recall being conducted by Bridgestone/Firestone, Inc. ("Firestone") during the summer and fall of 2000 with respect to safety-related defects in about 6.5 million Firestone ATX and ATX II size P235/75R15 tires (manufactured at all U.S. Firestone plants) and Firestone Wilderness AT tires of that size manufactured at Firestone's Decatur, Illinois plant.

Under 49 U.S.C. 30118(b), NHTSA may make a final decision that a motor vehicle or replacement equipment (including a tire) contains a defect related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In addition, under 49 U.S.C. 30118(c), a manufacturer of a motor vehicle or replacement equipment (including a tire) is required to notify NHTSA if the manufacturer decides that the vehicle or equipment contains a defect that is related to motor vehicle safety or does not comply with an applicable Federal motor vehicle safety standard. In either instance, in the case of tires, the manufacturer of the defective or noncompliant tires (including original equipment tires that are installed on or sold with new motor vehicles, as well as replacement tires) is required under 49 U.S.C. 30119 to notify tire owners of the defect or noncompliance and is required under 49 U.S.C. 30120(b) to repair or replace the defective or noncompliant tires within 60 days of the notification to owners about the recall or about the availability of replacement tires. (This 60-day period may be extended if replacement tires are not available promptly.)

Also, pre-TREAD Act law, 49 U.S.C. 30120(d), required the manufacturer to file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. But section 30120(d) did not require the manufacturer's program to include a plan for the disposition or disposal of recalled tires that were returned by the tire owners or purchasers.

Section 7 of the TREAD Act expanded 49 U.S.C. 30120(d) to require a manufacturer's remedy program for tires to include a plan for preventing, to the extent reasonably within the manufacturer's control, the resale of replaced tires for use on motor vehicles, as well as a plan for the disposition of replaced tires, particularly through methods such as shredding, crumbling, recycling, recovery, or other "beneficial non-vehicular uses," rather than in landfills. Further, section 7 requires the manufacturer to include information about the implementation of its plan in quarterly reports that it is required to make to the Secretary about the progress of its notification and remedy campaigns.

The TREAD Act authorizes the Secretary of Transportation ("the Secretary") to issue various rules relating to a manufacturer's notification and remedy program, to carry out Chapter 301 of Title 49 of the United States Code, which is commonly referred to as the Safety Act. This rulemaking authority has been delegated to NHTSA's Administrator in 49 CFR 1.50.

In order to implement section 7's new requirements concerning manufacturers' plans to preclude resale and for disposition of replaced tires, we are proposing to amend 49 CFR 573.5 and 573.6. Below are a summary and explanation of the provisions of today's proposed rule.

II. Discussion

A. Introduction and Background

1. Reason for TREAD Requirements

a. Need To Prevent Resale of Recalled Tires

The provision in section 7 of the TREAD Act that requires manufacturers to provide plans to prevent the resale of recalled tires for use on motor vehicles supplements the pre-TREAD Act ban on the sale of new defective or noncompliant motor vehicles or motor vehicle equipment, unless and until (if possible) they have been remedied. 49 U.S.C. 30120(i). It also supplements section 8 of the TREAD Act, which prohibits the sale or lease of any (new or used) defective or noncompliant motor vehicle equipment (including a tire) for installation on a motor vehicle, unless and until (if possible) the defect or noncompliance has been remedied. 49 U.S.C. 30120(j). Finally, it is also related to section 3(c) of the TREAD Act, which requires any person who (1) knowingly and willfully sells or leases for use on a motor vehicle a defective tire or a tire not in compliance with applicable safety standards and (2) has actual knowledge that the manufacturer of such tire has notified its dealers of such defect or noncompliance, to report that sale or lease to NHTSA. 49 U.S.C. 30166(n). NHTSA has already issued regulations implementing section 30166(n); see 49 CFR 573.10.

Most tires that are recalled are unrepairable, and therefore most are replaced rather than repaired. Section 7 of TREAD recognizes the reality that tire recalls may result in the creation of stockpiles of dangerous, unremedied tires and requires manufacturers to develop plans to deal with them.

a. Problems Posed by Scrap Tires

Today's proposed rule would require manufacturers to develop plans addressing how they will prevent, to the extent reasonably within the manufacturers' control, recalled tires from being resold for use on motor vehicles, and that limit the disposal of recalled tires in landfills and provide instead, to the extent reasonably within the manufacturers' control, for disposition by other means, such as shredding, crumbling, recycling, and recovery. The proposed rule also would require manufacturers to include information about implementation of their plans in the quarterly reports that the manufacturers must file with us under our reporting regulations, 49 CFR 573.6.

Defective tires pose a substantial risk to motor vehicle safety. The Firestone tires that have been recalled have been associated with numerous deaths. The recall included both new tires in stock and used tires. Many of the remaining tires had considerable remaining tread and could have been reused if they had not been physically altered to preclude their use on a motor vehicle.

The management and disposition of tires is an ongoing environmental concern that can be aggravated by a safety recall. More than 270 million tires are scrapped annually in the United States. Although the 6.5 million tires involved in last year's Firestone recall would in the aggregate amount to a substantial volume of tires, the recall has been characterized as representing "just a drop in the bucket" compared to the numbers of tires disposed of annually. *See* "Recalled Tires Just a Drop in the Industry Bucket," *Recycling Today*, News (October 2000), *http://recyclbroker.com/info-tires.htm*. A copy of this article has been placed in the docket for this rulemaking.

In addition to being unsightly and large, stockpiled "scrap" tires may present serious health and environmental risks. Tire piles can collect gas, and they provide breeding grounds for rodents and mosquitoes. Whole tires tend to rise in a landfill and come to the surface, which may compromise a landfill cover, and allow water to enter a landfill which would generate leachate. Tire piles also are susceptible to fire from arson, lightning, and even spontaneous combustion. Tire pile fires pollute the air and are difficult to extinguish. Water used to extinguish them becomes polluted with toxic substances and may pollute watercourses.

2. State Regulation of Management and Disposal of Scrap Tires

Because of the environmental risks posed by scrap tires, many states ban the disposal of whole scrap tires in landfills, and 49 of the 50 states have some form of regulations that cover scrap tire management, including in some instances charges for tire disposal and financial incentives for using scrap tires in other products. These state laws and regulations are summarized briefly in a booklet published by the U.S. Environmental Protection Agency ("EPA"), *State Scrap Tire Programs: A Quick Reference Guide: 1999 Update* (EPA–530–99–002) (August 1999). This booklet presents a matrix that summarizes each state's scrap tire programs and regulations, provides information about how to contact state scrap tire program managers, and describes grants and other programs that are intended to improve scrap tire disposal and recycling and reduction. A copy of this booklet has been placed in the docket for this rulemaking action; it is also available at EPA's website: (*http://www.epa.gov*) . This is included in the docket as illustrative background material and not as an official statement or interpretation of applicable legal requirements.

3. Possible Uses for Scrap Tires

Today's steel-belted radial tires are not biodegradable and are difficult to dispose of or recycle, because they are made of a mixture of fabric, steel, carbon black, and several types of natural and synthetic rubbers. According to the U.S. Department of Energy ("DOE"), estimates of the number of "scrap" tires in stockpiles around the United States range from 500 million to three billion. *See* DOE, *Consumer Energy Information: EEC Reference Briefs, http://www.eren.doe.gov/consumerinfo/refbriefs/ee9/html,* which has been placed in the docket for this rulemaking action). Additional environmental information relevant to the subject of this rulemaking is available on the Scrap Tire Management Council Website and on the Website of *Scrap Tire News (http://www.scraptirenews.com/archive.html),* published by the Recycling Research Institute of Suffield. CT.

The need to develop uses for "scrap" tires has been recognized for many years, by government agencies and by the tire industry, which has established a Scrap Tire Management Council, a nonprofit organization that is devoted to expanding the market for scrap tires. (The council's Website address is *http://www.rma.org/scraptires/scraptires.html).* Section 7 of the TREAD Act recognizes this same need.

Another EPA booklet, *Summary of Markets for Scrap Tires* (EPA/530–SW–90–0748 (October 1991)) ("EPA Market Summary"), describes potential market uses for scrap tires. These uses include the manufacture of crumb rubber, which may be incorporated into asphalt pavement, into rubber products such as floor mats, vehicle mud guards and carpet padding, and into plastic products such as floor mats and adhesives, or processed further into reclaimed rubber, which is made by mixing crumb rubber with water, oil and chemicals and heating the mixture under pressure. Crumb rubber also can be used in railroad crossings. Shredded tires can be used as bulking agents in the composting of wastewater treatment sludge. Chipped tires can be used for playground gravel substitutes and lightweight road fill material. Whole or partial scrap tires also can be used for artificial reefs, breakwaters, erosion control, playground equipment, commercial fishing equipment, and highway crash barriers. *See* "EPA Market Summary," pp. 8–9. This booklet has been placed in the docket for this rulemaking action. *See also* A. Moorse, "Recycled rubber goods maker moves into production stage," *Capital District Business Review,* Sept. 2, 2000. A hard copy of this article has been placed in the docket for this rulemaking action; it also is available at *http://albany.bcentral.com/albany/stories/20000/09/04/story3.html.*

Scrap tires can also be used as fuel. They represent a potentially significant energy source, because they have a heat value slightly higher than that of coal (EPA Market Summary, p. 5) and they are comparable to or better than coal in terms of emissions of some pollutants. See L.Chubb, "Firestone recall: Where have all the tires gone?" Environmental News Network ("ENN") , 9/20/2000 (citing statement of John Serumgard of the Scrap Tire Management Council). Power plants, tire manufacturing plants, cement kilns, and pulp and paper mills have used tires as fuel. Usually they burn tires that have been shredded into chunks (also known as tire-derived-fuel, or "tdf"), because they do not have the capability to burn whole tires. Some plants can produce their own tdf in furnaces; others can use tdf prepared by others. According to one source, last year, a total of 110 electricity generating facilities in the U.S. held permits to burn tires. *See* Chubb, "Firestone recall * * *", *supra.* A hard copy of this article has been placed in the docket for this rulemaking action; it also is available from ENN's website (*http://www.enn.com/news/enn-stories/2000/09/09202000/tires—31672.asp?P=2).*

B. Who Would be Required to Comply with the Requirements to file Programs and Reports about Disposition and Disposal of Recalled Tires?

We are proposing that the rule's requirements apply to all manufacturers that conduct tire recalls, including vehicle manufacturers that conduct recalls to correct defects in their vehicles in which the remedy is the replacement of tires.

TREAD section 7's amendment to subsection 30120(d) provides that, for a remedy involving the replacement of tires, the manufacturer shall include a plan addressing how to prevent replaced tires from being resold for use on motor vehicles or disposed of in landfills. In this amendment, Congress added these requirements to the pre-existing 30120(d) requirement that a manufacturer file with the Secretary a copy of the manufacturer's program for remedying a defect or noncompliance. In this context, the use of the term "manufacturer" in section 7 indicates that the term applies to all manufacturers that conduct recalls of tires under the Safety Act to correct safety-related defects or noncompliances with applicable standards.

Tires are motor vehicle equipment. With respect to the recall provisions of the Safety Act, 49 U.S.C. 30118–30121, by regulation tires are considered as replacement equipment, even if they were installed on a motor vehicle at the time of first sale. 49 CFR 579.4(b)(2). Therefore, tire manufacturers have the duty to conduct notification and remedy campaigns to address defective or noncompliant tires, including tires installed on new vehicles. *See* 49 CFR 579.5(b). Tire brand name owners, such as retail chain stores that sell tires under their own "private labels" or "house labels" are also considered manufacturers (49 U.S.C. 30102(b)(1)(E)) and have the same defect and noncompliance reporting requirements as manufacturers under 49 CFR 573.3(d). All of these would be required to file reports required under the proposed rule, if their tires were found to be defective or noncompliant.

In rare circumstances, vehicle manufacturers also may conduct recall campaigns regarding tires installed on their new vehicles. For example, Ford Motor Company (Ford) recently announced a recall to replace tires on MY 2002 Ford Explorer vehicles whose sidewalls had been cut during the vehicle assembly process. Because the tire disposition problem also affects tires that are removed during these recalls, the proposed rule also applies to vehicle manufacturers that initiate tire recalls.

C. What Elements Would the Manufacturers' Plans Address?

1. Summary

We are proposing to require manufacturers to include information about their plans for incapacitating and disposing of recalled tires in their remedy programs, and to require that manufacturers implement these plans. We are proposing that manufacturers' plans address, at a minimum, three

VOL 66 ISS 243 DE 18 2001 UMI

major issues: (1) Ways of assuring that the entities replacing the tires are aware of legal prohibitions on the sale of the defective or noncompliant tires under the Safety Act, (2) methods to impair recalled tires so that they cannot be used on a vehicle, and (3) the disposition of recalled tires, consistent with applicable laws and in ways that minimize their deposit in landfills. NHTSA believes that the extent of the manufacturer's control over recalled tires likely would vary, depending on the nature of the manufacturer's relationship with each of the facilities that replace the recalled tires, which may range from wholly-owned and franchised tire dealers to independent tire dealers, motor vehicle dealers, and service stations. We are proposing that where the manufacturer controls the tire outlet, the manufacturer direct proper disposition of the tire. Where the manufacturer does not have control, we are proposing that the manufacturer provide informational materials to the outlets, including information about the legal prohibitions on the resale of the tires.

We are proposing "exceptions reporting", by manufacturer-controlled tire outlets to manufacturers monthly and by manufacturers to NHTSA in quarterly reports filed pursuant to 49 CFR 573.6. These reports would identify the aggregate number of recalled tires which the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle in accordance with the manufacturer's plan; the aggregate number of recalled tires which the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations; and a description of any such failures of tire outlets to act in accordance with the manufacturer's plan, including an identification of the outlets in question.

2. Legislative Background

As described above, section 7 of the TREAD Act provides for two independent plans for the disposition of recalled tires: (1) Plans for the restriction of the resale of recalled tires and (2) plans for the limitation of the disposal of recalled tires in landfills. Each may be qualified by the degree of the manufacturer's control over the tire replacement process. The first of these provisions was addressed originally in proposed section 6 of the House Bill underlying the TREAD Act, "Sales of Replaced Equipment," which would have amended 49 U.S.C. 30120 by adding a requirement, at subsection (d), for the manufacturer to have a plan addressing how to prevent replaced tires from being sold for installation on motor vehicles, unless they had been remedied, to the extent that the manufacturer could reasonably control such resales. *See* H.R. Report No. 106–954, 106th Cong., 2d Sess., pp. 4, 15. This provision did not address the issue of how to dispose of the unremedied tires, nor did any other part of the original bill.

The first version of the "anti-landfill" portion of section 7 of the TREAD Act, which was intended to preclude disposition of recalled tires in public landfills, was proposed as amendment 1(k) to H.R. 5164, offered by Congressman Pallone on October 5, 2000. This proposed amendment would have provided that "[n]o person may dispose of any [recalled tire] except in a fashion that protects the public health and safety. Disposal of such tires in a public landfill shall not be considered adequate protection of the public's health and safety." Prior to passage of the House bill (H.R. 5164), this amendment was withdrawn. *See* H.R. Rep. No. 106–954, *supra*, at p. 9.

Eventually, section 6 of the H.R. 5164 was expanded to include a restriction on the disposition of recalled tires in landfills. The "reasonable extent of control" language from section 6 was applied to the "anti-landfill" provision as well as to the "no resale without repair" provision; the references to "protection of the public health and safety" and the direct prohibition of use of recalled tires in landfills were dropped from the "anti-landfill" provision. Both provisions, with identical reporting requirements, appear in section 7 of the TREAD Act. The legislative history does not provide further explanation of Congress' action.

3. The August 2000 Firestone Recall

Firestone prepared a Recall Fact Sheet ("Fact Sheet"), dated August 30, 2000, which was intended to provide Federal, State and local authorities with information about the scrap tires collected during the company's August 2000 recall. The Fact Sheet contained a general description of the procedures in place at the 13,000 authorized service centers that were replacing recalled tires to manage the proper disposition of those tires. It outlined the following four elements: (1) To ensure that recalled tires are not reused on vehicles, the tires are to be rendered useless by drilling a hole in or cutting through the sidewall upon removal from the vehicle; (2) the company arranged with its current scrap tire vendors for additional pickups of scrap tires from company-owned stores and arranged with its "normal transportation vendors" to visit Firestone stores and authorized service centers and remove scrap tires; (3) recalled scrap tires are being transported directly to licensed and permitted recycling facilities or to Firestone distribution facilities where they are checked to ensure that they have been rendered useless and then transported to licensed and permitted recycling facilities; and (4) "[t]he majority of the recalled tires are being shredded or beneficially reused as fuel for power plants or cement kilns, or ground into crumb rubber for recycling into a variety of useful products such as playground mats, asphalt, and soaker irrigation hoses." It also stated that "none of the recalled tires are being redistributed or retreaded." This Fact Sheet is available in the docket for this rulemaking.

4. Plan Elements

We are proposing that manufacturers' plans include three elements.

First, the plans would have to address legal requirements established by the Safety Act. In addition to the notifications of the existence of a defect or noncompliance required under 49 U.S.C. 30118–30119, at a minimum manufacturers would be required to notify all entities that are authorized to replace the tires in question, including their owned stores, franchised dealers, and distributors, as well as independent dealers, about the prohibitions and notification requirements in the Safety Act as they apply to recalled tires. This includes the ban on the sale of new defective or noncompliant tires (49 U.S.C. 30120(i), *see generally* 66 FR 38247 *et seq.* (July 23, 2001)); the prohibition on the sale of new and used defective and noncompliant tires (49 U.S.C. 30120(j), *see generally* 66 FR 38247 *et seq.* (July 23, 2001)); and the duty to notify NHTSA of any sale of a new or used recalled tire for use on a motor vehicle (49 U.S.C. 30166(n)), *see generally* 49 CFR 573.10, 66 FR 38159 *et seq.* (July 23, 2001)). The manufacturer would have to provide informational materials on the prohibitions and notification requirements to all authorized replacement outlets. For the tire outlets that are company-owned or otherwise subject to the control of the manufacturer, the manufacturer would also be required to provide written direction to the person in charge of each outlet to comply with the law and to notify all employees involved in replacing, handling, or disposing of recalled tires of the requirements.

Second, manufacturers would be required to set forth their programs to assure, insofar as possible, that the recalled tires are not resold for installation on a motor vehicle. As above, company-owned and other stores controlled by the company would be directed to permanently alter the tires so that they could not be used on vehicles. This could include, for example, drilling substantial (*e.g.* ½ inch) holes in the sidewalls, cutting the tire beads, or sawing the tires in half. To ensure that this alteration is performed, we are also proposing that stores be directed to do it before the end of the business day on which the recalled tire has been removed from the vehicle. We seek comments on whether this time period is sufficient or whether, and why, a different time period should be specified. The manufacturer would have to provide authorized tire outlets that it does not control with guidance on how to permanently alter the tires so that they could not be used on vehicles and request them to do that promptly.

Third, manufacturers would be required to describe their plans aimed at limiting the disposal of recalled tires in landfills and, instead, channeling them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use. The proposed rule would require that the manufacturers' plans provide that company-controlled outlets dispose of all recalled tires in accordance with applicable state and/or local laws and regulations. We are further proposing that manufacturers provide directions to their stores and guidance to independent dealers about disposition of tires in a manner that, to the extent possible, avoids landfilling.

We seek comments on whether to require manufacturers to provide outlets that are authorized to replace tires with information that summarizes the applicable laws and regulations regarding disposal of tires in their jurisdictions and that identifies reputable tire collection and transportation contractors as well as facilities in their areas that would accept unrepairable recalled tires for a beneficial use. We believe that this information would be useful to outlets that replace recalled tires, but we do not know the extent to which they already have it. We assume that some manufacturers already provide such information, but we do not know how many do so or the types of information that are provided. We are interested in comments on whether providing this information has proved useful to manufacturers and their dealers and on the extent of the burden that such a requirement would create.

It is possible that manufacturers could include conditions governing tire disposition in their contracts for supply of replacement tires to independent outlets. If this were done, it would help to assure appropriate disposition of recalled tires by outlets not controlled by the manufacturer. Because we do not know whether manufacturers' past and/or existing contracts contain restrictions or other provisions with respect to the re-use and disposition of recalled tires, the proposed rule does not address this topic. We seek comments on this issue, as well as on whether conditions could be included in the future and what they would be.

In addition, manufacturers would be required to implement their plans for conducting programs to ensure that recalled tires are rendered unsuitable for installation on a motor vehicle for resale and for limiting the disposal of recalled tires in landfills.

We seek comments on the above proposal for plans and, depending on the comments, may modify the plan requirements. If you suggest additional items, please include in your comments information about the associated costs.

5. Quarterly Reporting

Section 7 provides that we must require manufacturers to "include information about the implementation of such plan with each quarterly report to the Secretary regarding the progress of any notification [and] remedy campaigns." The contents of these quarterly reports are currently described in 49 CFR 573.6.

In order to minimize administrative burdens on manufacturers, we do not plan to require that manufacturers include in their quarterly reports the number of recalled tires that have been rendered unsuitable for resale on motor vehicles or the number of recalled tires that have been disposed of by various means. Instead, we propose to require "exceptions reporting" under which manufacturers must advise us of only those instances of which they become aware in which their plans were not followed. The required quarterly reports from manufacturers to us would include the aggregate number of recalled tires which the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle in accordance with the manufacturer's plan and the aggregate number of recalled tires which the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations. The manufacturer would also be required to describe any such failures of tire outlets to act in accordance with the directions in the manufacturer's plan, including an identification of the outlet(s) in question. To permit manufacturers to report this information in a timely fashion, the proposal would require manufacturer-controlled outlets that dispose of tires to report the same categories of information monthly to the manufacturer. We seek comments on effective reporting mechanisms and on the burdens that such reporting would impose on the outlets.

D. What Role Does NHTSA Intend to Play With Respect to the Manufacturers' Plans for the Disposition of Tires?

Under today's proposal, NHTSA's role with respect to reviewing the manufacturers' plans for the disposition of recalled tires would be limited to examining the manufacturers' plans, programs, and reports to see whether they contain the required items of information. We believe that our list of required reporting elements is sufficiently comprehensive and specific to ensure that the plans will effectuate Congressional objectives. Also, the proposed rule would require that the manufacturers' plans demonstrate that they have directed the entities that are replacing recalled tires to dispose of them in accordance with applicable laws. We note that in virtually every state, the disposition of used tires already is subject to regulation under State and/or local statutes and regulations. However, we do not have the resources or the expertise to review the manufacturers' characterizations of applicable requirements under those environmental laws. Of course, the failure of a manufacturer to implement its plan in accordance with its terms would constitute a violation of the Safety Act.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

We have considered the impact of this proposed rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under E.O. 12866, "Regulatory Planning and Review." This rulemaking is not considered "significant" under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision essentially would require only the supplementing of reports that manufacturers already must file with limited information about the disposition of recalled tires.

We estimate that the additional economic impact of this rule upon manufacturers would be small. Manufacturers already assume the costs of the tire recalls that they conduct. They already are required by our regulations to notify dealers of recalls and to file plans and quarterly reports about their recalls with our Office of Defects Investigation (ODI). The additional notification and reporting elements that this rule would add would be very limited and wholly descriptive. They would not impose significant costs on manufacturers.

In general, the radial tires that are in widespread use today are far safer than older technology tires and are subject to few significant recalls. Although the two recalls recently conducted by Bridgestone/Firestone, Inc. of Firestone ATX and Wilderness AT tires were very large, this is unusual. In the 1980s and 1990s, there were relatively few recalls of large numbers of tires. In the past five years, the average number of tire recalls per year was five, the average population of recalled tires per year was 28,389, and the average recall involved 5,678 tires, excluding the aforementioned Bridgestone/Firestone recalls and a Cooper Tire recall (No. 99T–005), which covered only two (2) tires. (This excludes recalls to correct labeling errors.) Therefore, we do not anticipate that there will be large numbers of tire recalls for which manufacturers would be required to file programs and plans under our proposed rule.

Finally, this rule essentially would require manufacturers to take steps to facilitate compliance by entities that replace recalled tires with applicable state and local laws regarding tire disposition. Since it is likely that these entities already comply with applicable requirements for disposal of returned tires, this rule would not add any substantive burdens or compliance costs. Even in the unlikely event of complete disregard of applicable disposal requirements (in which case 100% of the cost of compliance might be viewed as a cost of this rule), the additional costs for recycling 100% of the tires recalled annually would be $141,945 for the tire industry as a whole, or $28,390 per average tire recall (assuming 28,389 tires recalled annually, or 5,678 tires recalled per average tire recall, multiplied by $5.00 (including $2.00 to incapacitate each recalled tire, $1.00 to collect each recalled tire, and $2.00 to recycle each recalled tire)). For these reasons, we believe that the additional economic effect of this rule would be minimal.

B. Regulatory Flexibility Act

We have also considered the impacts of this notice under the Regulatory Flexibility Act. For the reasons discussed above under E.O. 12866 and the DOT Policies and Procedures, I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. The primary impact of this proposed rule would be felt by the major tire manufacturers, which are not small entities. This impact would be minor, since it primarily would involve adding a description of plans for incapacitating and disposing of recalled noncompliant or defective tires to their remedy programs, notifying affected retail outlets of the plans, and providing minimal reporting on the plans in the quarterly reports that manufacturers already must file with NHTSA. We estimate this cost at $1.00 per tire manufacturer per affected retail outlet, but the cost could well be less because manufacturers may already be including such descriptions in their notices to dealers.

Disposal requirements would be governed by applicable State and local laws and regulations. It is likely that manufacturers and entities that replace tires already are complying with applicable requirements for tire disposal. If not, manufacturers, who we understand currently pay for tire recalls, would incur the costs associated with tire disposal, *e.g.* the costs of transporting disabled tires and the costs of recycling the tires. We estimate these costs at approximately $1.00 per tire for transportation and $2.00 per tire for recycling.

This proposed rule could also have an impact on the nation's 3,500 tire dealers, many of which are small entities. If they do not comply with applicable requirements for tire disposal, manufacturer-controlled tire dealers would incur the costs of monthly "exceptions reporting" to manufacturers of any instances in which the dealer did not comply with the manufacturer's plan for disposing of recalled tires. We estimate these reporting costs at $1.00 per affected dealer per recall. Each dealer could also incur a one-time cost for obtaining equipment to incapacitate tires so that the tires cannot be resold to the public. The one time-cost would likely range between $70.00 (to purchase a power drill and a drill bit) and $95.00 (to purchase a cutoff saw and blade(s)) per affected dealer, or a maximum of between $245,000 and $332,500, assuming that each of the 3,500 dealers purchases a new drill and bit or cutoff saw and blade. We believe that many dealers already own such equipment and that therefore the maximum aggregate one-time cost would be far lower. Also, we note that, because not every dealer is involved in a tire recall every year, the aggregate one-time cost would be incurred over a multi-year time period.

C. National Environmental Policy Act

We have reviewed this proposal for the purposed of compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and determined that it would not have a significant impact on the quality of the human environment. The proposed rule would not require manufacturers to conduct any recalls beyond those that they already are required to conduct. The sale of recalled tires is prohibited by other provisions in the Safety Act. Disposal requirements are already governed by other State laws and regulations.

D. Paperwork Reduction Act

This proposed rule would impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. chapter 35). However, those burdens should be minimal. Manufacturers already are required by our regulations to file plans and quarterly reports about tire recalls with our ODI. There would be an incremental burden of adding to their descriptions of their programs. Even this impact would be minor, since it only would involve adding a description of plans for incapacitating and disposing of recalled noncomplying or defective tires to their remedy programs and providing minimal reporting on the plans in the quarterly reports that manufacturers already must file with NHTSA. The additional reporting elements that this proposed rule would require of manufacturers and of manufacturer-controlled outlets that implement recalls, *i.e.* periodic "exceptions reporting" of aggregate numbers of recalled tires that have not been incapacitated for use or that have been disposed of unlawfully, describing any failure to comply with the manufacturer's plan to render tires unsuitable for installation on a motor vehicle for resale and any failure to comply with the disposal requirements of applicable state and local laws and regulations of which the manufacturer becomes aware, would be very limited and primarily descriptive. We believe that compliance with the proposed rule would not impose significant additional costs or burdens either on the manufacturers that conduct the tire recalls or on the manufacturer-controlled outlets that implement them. In furtherance of the recognition in section 7 that the manufacturer's ability to influence the recalls will vary according to the degree to which it controls the outlets that carry out the recalls, we do not propose to require even this limited "exceptions reporting" by manufacturers with respect to outlets that the manufacturer does not control.

Because this proposed rule would impose information collection requirements, albeit minimal, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1329, we plan to submit the proposed requirements to OMB for its approval, as required by the PRA. We seek comments on the information collection burdens associated with this proposed rule.

E. Executive Order 13132 (Federalism)

Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input" by State and local officials in the development of "regulatory policies that have federalism implications." The E.O. defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This proposed rule, which would require that manufacturers include a plan for disposal of recalled tires in their remedy programs under either section 30118(b) or 30118(c) of the Safety Act, will not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in E.O. 13132. This rulemaking does not have those implications because it applies directly only to manufacturers who are required to file a remedy plan under sections 30118(b) or 30118(c), rather than to the States or local governments, and because it directs manufacturers to file plans that conform with applicable state and/or local requirements.

F. Civil Justice Reform

This proposed rule would not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

G. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule would not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

H. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could we improve clarity by adding tables, lists, or diagrams?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this rule.

IV. Submission of Comments.

A. How Can I Influence NHTSA's Thinking on This Rule?

In developing this notice of proposed rulemaking, we tried to address the anticipated concerns of all our stakeholders. Your comments will help us decide what to include in the rule and to improve the proposed rule. We invite you to provide different views on it, new approaches we have not considered, new data, how this rule may affect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

Explain your views and reasoning as clearly as possible.

- Provide solid information to support your views.
- If you estimate potential numbers or reports or costs, explain how you arrived at the estimate.
- Tell us which parts of the rule you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your comments.

B. How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21.) We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at *http://dms.dot.gov.* Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

C. How can I be Sure That my Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

D. How do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel (NCC–30), NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES.** When

VOL 66 ISS 243 DE 18 2001 UMI

you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

E. Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

F. How can I Read the Comments Submitted by Other People and Other Materials Relevant to this Rulemaking?

You may view the materials in the docket for this rulemaking on the Internet. These materials include background information on the use of tires in landfills and written comments submitted by other interested persons. You may read them at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on "search."

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA–2000–1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 573:

Defects, Motor vehicle safety, Noncompliance, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 573 as set forth below.

1. The authority citation for part 573 continues to read as follows:

Authority: 49 U.S.C. 30102–103, 30112, 30117–121, 30166–167; delegation of authority at 49 CFR 1.50.

2. In § 573.5, redesignate paragraphs (c)(9) through (c)(11) as paragraphs (c)(10) through (c)(12) and by add a new paragraph (c)(9) to read as follows:

§ 573.5 Defect and noncompliance information report.

* * * * *

(c) * * *

(9) In the case of a remedy program involving the replacement of tires, the manufacturer's program for remedying the defect or noncompliance shall:

(i) Include a plan for assuring that the entities replacing the tires are aware of the legal requirements related to recalls of tires established by 49 U.S.C. Chapter 301, including regulations thereunder;

(ii) Address how the manufacturer will prevent, to the extent reasonably within its control, the recalled tires from being resold for installation on a motor vehicle; and

(iii) Address how the manufacturer will limit, to the extent reasonably within its control, the disposal of the recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use.

(A) With respect to the requirement in paragraph (c)(9)(i) of this section, at a minimum, the manufacturer shall notify its owned stores, franchised dealers, and/or distributors, as well as all independent outlets that are authorized to replace the tires that are the subject of the recall, about the prohibitions and notification requirements in Chapter 301. This includes notification of the ban on the sale of new defective or noncompliant tires (49 U.S.C. 30120(i)); the prohibition on the sale of new and used defective and noncompliant tires (49 U.S.C. 30120(j)); and the duty to notify NHTSA of any sale of a new or used recalled tire for use on a motor vehicle (49 U.S.C. 30166(n)). For tire outlets that are manufacturer-owned or otherwise subject to the control of the manufacturer, the manufacturer shall also provide directions to comply with these statutory provisions and the regulations thereunder.

(B) With respect to the requirement in paragraph (c)(9)(ii) of this section, the manufacturer's program must, at a minimum, include the following:

(*1*) Written directions to manufacturer-owned and other manufacturer-controlled outlets to alter the recalled tires permanently so that they cannot be used on vehicles, and instructions on how and when to perform such alterations. These shall include instructions on the means to render recalled tires unsuitable for resale for installation on motor vehicles and instructions to perform the incapacitation of each recalled tire by the close of business on the day on which recalled tire has been removed from the vehicle;

(*2*) Written guidance to all other outlets that are authorized to replace the recalled tires on how to alter the recalled tires promptly and permanently so that they cannot be used on vehicles; and

(*3*) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer on a monthly basis the number of recalled tires removed from vehicles by the outlet that have not been rendered unsuitable for resale for installation on a motor vehicle within the specified time frame and describe any such failure to comply with the manufacturer=s plan;

(C) With respect to the requirement in paragraph (c)(9)(iii) of this section, the manufacturer's program must, at a minimum, include the following:

(*1*) Written directions that require manufacturer-owned and other manufacturer-controlled outlets to comply with applicable state and local laws and regulations regarding disposal of tires, and that provide further direction and guidance to manufacturer-owned and other manufacturer-controlled outlets on how to limit the disposal of recalled tires in landfills and, instead, channel them into a category of positive reuse (shredding, crumbling, recycling, and recovery) or another alternative beneficial non-vehicular use;

(*2*) Written guidance to all other outlets that are authorized to replace the recalled tires regarding the duty to comply with applicable state and local laws and regulations regarding disposal of tires; and

(*3*) A requirement that manufacturer-owned and other manufacturer-controlled outlets report to the manufacturer on a monthly basis the number of recalled tires disposed of in violation of applicable laws and regulations. Each such report shall include a description of any such failure of the tire outlet to act in accordance with the directions in the manufacturer's plan.

(D) As used in this paragraph, written directions to a manufacturer-owned or controlled outlet shall be sent to the person in charge of each outlet with further instructions to notify all employees of the outlet who are involved with removal, rendering unsuitable for use, or disposition of recalled tires of the above requirements.

(E) Manufacturers must implement the plans for disposition of recalled tires that they file with NHTSA pursuant to this paragraph. The failure of a manufacturer to implement its plan in accordance with its terms constitutes a violation of the Safety Act.

* * * * *

3. In § 573.6, add paragraph (b)(7) to read as follows:

§ 573.6 Quarterly reports.

* * * * *

(b) * * *

(7) For all recalls that involve the replacement of tires, the manufacturer shall provide

(i) The aggregate number of recalled tires which the manufacturer becomes aware have not been rendered unsuitable for resale for installation on a motor vehicle in accordance with the manufacturer's plan provided to NHTSA pursuant to § 573.5(c)(9) of this part;

(ii) The aggregate number of recalled tires which the manufacturer becomes aware have been disposed of in violation of applicable state and local laws and regulations; and

(iii) A description of any failure of a tire outlet to act in accordance with the directions in the manufacturer's plan, including an identification of the outlets in question.

Issued on: December 11, 2001.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 01–30998 Filed 12–17–01; 8:45 am]

BILLING CODE 4910-59-P

VOL 66 ISS 243 DE 18 2001 UMI

Notices

Federal Register
Vol. 66, No. 243
Tuesday, December 18, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Modoc Resource Advisory Committee, Alturas, California, USDA Forest Service.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Modoc National Forest's Modoc Resource Advisory Committee will meet Saturday, January 12, 2002 and Saturday, February 9, 2002 in Alturas, California for business meetings. The meetings are open to the public.

SUPPLEMENTARY INFORMATION: The business meeting January 12 begins at 9:30 am, at the Modoc National Forest Office, Conference Room, 800 West 12th St., Alturas. Agenda topics will include approval of 11/17/01 minutes, reports from subcommittees are review and selection of projects that will improve the maintenance of existing infrastructure, implement stewardship objectives that enhance forest ecosystems, and restore and improve health and water quality. Opportunity for public discussion will be accepted following each proposal but limited to a set time. Time will also be set aside for public comments at the close of the meeting. The business meeting February 9, begins at 9:30 a.m. at the Modoc National Forest Office, Conference Room, 800 West 12th Street, Alturas. Agenda topics will include approval of the 12/1/01 minutes, reports from subcommittees and selection of projects on the Modoc National Forest that meet the intent of Pub. L. 106–393. Time will be set aside for public comments at the close of the meeting.

FOR FURTHER INFORMATION CONTACT: Dan Chisholm, Forest Supervisor and Designated Federal Officer, at (530) 233–8700; or Public Affairs Officer Nancy Gardner at (530) 233–8713.

Dan Chisholm,
Forest Supervisor.
[FR Doc. 01–31108 Filed 12–17–01; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Library's intent to request approval for new information collection from personnel at schools receiving USDA funds for Child Nutrition Programs.

DATES: Comments on this notice must be received by February 21, 2002, to be assured of consideration.

ADDRESSES: Address all comments concerning this notice to Elizabeth Hill, Nutrition Information Specialist Food and Nutrition Information Center /NAL/ARS/USDA 10301 Baltimore Ave. Rm 105, Beltsville, MD 20705–2351. Submit electronic comments to *lhill@nal.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Elizabeth Hill, 301–504–6415.

SUPPLEMENTARY INFORMATION:

Title: Utilization of Food and Nutrition Information Center (FNIC) Resources by Personnel at Schools Receiving USDA Funds for Child Nutrition Programs.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: Approval for new data collection.

Abstract: The collection of information using a one-time, voluntary customer survey regarding utilization of FNIC resources will provide personnel in schools receiving USDA funds for Child Nutrition Programs an opportunity to comment on their current usage of FNIC resources and the types of resources that are of greatest value to them. This information will assist FNIC staff in continually improving its resources to meet the usage patterns and needs of this target audience.

FNIC does not have a formal means of determining the use of FNIC resources (including the website) by personnel at schools receiving USDA funds for Child Nutrition Programs. To collect this information, FNIC proposes to provide attendees of selected education related conferences with a password to access a one-time, voluntary, electronic FNIC Resources usage survey. The information collected from this survey will be used to evaluate current FNIC resources and assist in planning and managing future projects. The Utilization of FNIC Resources Survey is comprised of seven questions where customers report on their use of FNIC resources. Some examples of survey components include: "Please rate the usefulness of the following FNIC resources" and "How often do you think you will use FNIC resources in the next 12 months?" The survey also asks for customers to report which websites they are currently accessing for nutrition information as well as to provide any additional comments they deem appropriate.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Educators and related personnel involved in child nutrition and child nutrition education. Respondents will be recruited at education related conferences.

Estimated Number of Respondents: 250 per year.

Estimated Total Annual Burden on Respondents: 63 hours total. Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and the assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who respond, including the use of appropriate automated, electronic, mechanical, or other technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: November 14, 2001.

Maria Pisa,

Acting Director, National Agricultural Library.

[FR Doc. 01–31128 Filed 12–17–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agencies' intention to request an extension for a currently approved information collection in support of Form RD 1910–11, "Application Certification, Federal Collection Policies for Consumer or Commercial Debts."

DATES: Comments on this notice must be received by February 19, 2002, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: H. Richard Kelly, Chief, Program Operations Branch, Water Programs Division, Rural Utilities Service, USDA, STOP 1570, 1400 Independence Avenue, SW., Washington, DC 20250–1570, telephone (202) 720–9589.

SUPPLEMENTARY INFORMATION:

Title: Form RD 1910–11, "Application Certification, Federal Collection Policies for Consumer or Commercial Debts."

OMB Number: 0575–0127.

Expiration Date of Approval: March 31, 2002.

Type of Request: Extension of a currently approved information collection.

Abstract: The water and waste loans, community facilities loans, intermediary relending program loans, rural housing site loans, and business and industry direct loans are authorized by various sections of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1921 *et seq.*), as amended. The water and waste program provides loan funds for water and waste projects serving rural communities. Community facilities loans assist rural communities to develop facilities that are essential for their communities. The rural housing site loans provide financing for the purchase and development of housing sites for low- and moderate-income families. The intermediary relending program provides loans to intermediary organizations to establish revolving loan funds that assist with rural economic and community development. The direct business and industry direct loan program provides funds to rural businesses that cannot get adequate financing from other sources.

OMB Circular A–129, "Policies for Federal Credit Programs and Non-Tax Receivables" requires that an agency will inform its loan applicants of the Federal government's debt collection policies and procedures prior to extending credit. The Circular states that further information on the implementation of credit management and debt collection can be found in the Treasury Financial Manual. A supplement to the Treasury Financial Manual requires that the Agency will ask the applicant to sign a debt collection certification statement to certify knowledge of the Government's policies. This certification statement details the consequences of delinquency on Federal loans.

The Agencies will use Form RD 1910–11 to meet the requirements of OMB Circular A–129 and the supplement to the Treasury Financial Manual for the identified programs. This form will uniformly advise applicants of the debt collection methods that will be used in recovering delinquent or defaulted loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: Business or other for profit organizations, not-for-profit institutions, public organizations and local or tribal governments.

Estimated Number of Respondents: 1,625.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Responses: 1,625.

Estimated Total Annual Burden on Respondents: 406 hours.

Copies of this information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250–0742.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 5, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

Dated: December 7, 2001.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

Dated: December 7, 2001.

James. C. Alsop,

Acting Administrator, Rural Housing Service.

[FR Doc. 01–31054 Filed 12–17–01; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Competitive Enhancement Needs Assessment Survey Program

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

VOL 66
ISS 243
DE 18 2001
UMI

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 19, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6881, 14th & Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Defense Production Act of 1950, as amended, and Executive Order 12919, authorizes the Secretary of Commerce to assess the capabilities of the defense industrial base to support the national defense and to develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs. The information collected from voluntary surveys will be used to assist small and medium-sized firms in defense transition and in gaining access to advanced technologies and manufacturing processes available from Federal Laboratories. The goal is to improve regions of the country adversely affected by cutbacks in defense spending and military base closures.

II. Method of Collection

Survey.

III. Data

OMB Number: 0694–0083.

Form Number: None.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 5,000.

Estimated Time Per Response: 30 minutes per response.

Estimated Total Annual Burden Hours: 2,500.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 13, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31129 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

India and Pakistan Sanctions

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 19, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, DOC Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Dawnielle Battle, BXA ICB Liaison, (202) 482–0637, Department of Commerce, Room 6881, 14th & Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

BXA is revising the EAR to implement sanctions against India and Pakistan by setting forth a licensing policy of denial for exports and reexports of items controlled for nuclear nonproliferation and missile technology reasons to India and Pakistan, with limited exceptions.

II. Method of Collection

Submitted, as required, on form BXA–748P.

III. Data

OMB Number: 0694–0111.

Form Number: BXA748–P.

Type of Review: Regular submission for extension of a currently approved collection.

Affected Public: Individuals, businesses or other for-profit and not-for-profit institutions.

Estimated Number of Respondents: 57.

Estimated Time Per Response: 40 to 45 minutes per response.

Estimated Total Annual Burden Hours: 52 hours.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: December 13, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31130 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-337-806]

Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determination in the antidumping duty investigation on individually quick frozen red raspberries from Chile.

EFFECTIVE DATE: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Cole Kyle (202) 482–1503 or Annika O'Hara (202) 482–3798; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations

On June 6, 2001, the Department published the initiation of the antidumping duty investigation of imports of individually quick frozen (IQF) red raspberries from Chile. The notice of initiation stated that we would make our preliminary determination for this antidumping duty investigation no later than 140 days after the date of issuance of the initiation (*i.e.*, November 7, 2001). *See Notice of Initiation of Antidumping Duty Investigations: IQF Red Raspberries from Chile*, 66 FR 34407 (June 28, 2001). At the petitioners'[1] request, the Department postponed the preliminary determination to December 12, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile*, 66 FR 53775 (October 24, 2001).

The Department is further postponing the preliminary determination in this investigation pursuant to section 351.205(b)(2) of the regulations and section 733 (c)(1)(B)(i)(II) of the Act. This further postponement is necessary to provide additional time for the Department to consider novel cost issues involved in this case. Because of this extraordinary complication, we are postponing the preliminary determination until no later than December 20, 2001.

This notice is published pursuant to sections 733(c) and 777(i) of the Act.

Dated: December 12, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31163 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DS–P

---

[1] The petitioners are the IQF Red Raspberries Fair Trade Committee and its members.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

December 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69910, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 19, 2001, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit[1]
237	469,994 dozen.
335	157,989 dozen.
341	3,285,686 dozen
635	513,819 dozen.
847	426,670 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31093 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Man-Made Fiber Textiles Produced or Manufactured in Romania

December 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting a limit.

VOL 66 ISS 243 DE 18 2001 UMI

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 604 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77594, published on December 12, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 19, 2001, you are directed to increase the current limit for Category 604 to 1,945,157 kilograms[1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31095 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

December 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 647/648 is being increased for the undoing of special shift, reducing the limit for Categories 347/348 to account for the amount being returned to Categories 647/648.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69911, published on November 21, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 12, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on December 18, 2001, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Twelve-month restraint limit[1]
Levels in Group I	
347/348	2,412,951 dozen.
647/648	4,468,985 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31094 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Availability of the Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 2002

December 12, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Keith Daly, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION: The Committee for the Implementation of Textile Agreements (CITA) announces that the 2002 Correlation, based on the Harmonized Tariff Schedule of the United States, will be available in January 2002 as part of the Office of Textiles and Apparel (OTEXA) CD-Rom publications.

The CD-Rom may be purchased from the U.S. Department of Commerce,

---

[1] The limit has not been adjusted to account for any imports exported after December 31, 2000.

Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Barbara Anderson, at a cost of $25. Checks or money orders should be made payable to the U.S. Department of Commerce. The 2002 Correlation will also be available on the OTEXA website at http://otexa.ita.doc.gov.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31096 Filed 12–17–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Management Activity; Fiscal Year 2002 Diagnosis Related Group (DRG) Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of DRG revised rates.

SUMMARY: This notice describes the changes made to the TRICARE DRG-based payment system in order to conform to changes made to the Medicare Prospective Payment System (PPS).

It also provides the updated fixed loss cost outlier threshold, cost-to-charge ratios and the Internet address for accessing the updated standardized amounts and DRG relative weights to be used for FY 2002 under the TRICARE DRG-based payment system.

EFFECTIVE DATES: The rates, weights and Medicare PPS changes which affect the TRICARE DRG-based payment system contained in this notice are effective for admissions occurring on or after October 1, 2001.

ADDRESSES: TRICARE Management Activity (TMA), Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, Aurora, CO 80011–9066. For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238. The charge for the **Federal Register** is $10.00 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: Marty Maxey, Medical Benefits and Reimbursement Systems, TMA, telephone (303) 676–3627. To obtain copies of this document, see **ADDRESSES** section above. Questions regarding payment of specific claims under the TRICARE DRG-based payment system should be addressed to the appropriate contractor.

SUPPLEMENTARY INFORMATION: The final rule published on September 1, 1987 (52 FR 32992) set forth the basic procedures used under the CHAMPUS DRG-based payment system. This was subsequently amended by final rules published August 31, 1988 (53 FR 33461), October 21, 1988 (53 FR 41331), December 16, 1988 (53 FR 50515), May 30, 1990 (55 FR 21863), October 22, 1990 (55 FR 42560), and September 10, 1998 (63 FR 48439).

An explicit tenet of these final rules, and one based on the statute authorizing the use of DRGs by TRICARE, is that the TRICARE DRG-based payment system is modeled on the Medicare PPS, and that, whenever practicable, the TRICARE system will follow the same rules that apply to the Medicare PPS. The Centers for Medicare and Medicaid Services (CMS) publishes these changes annually in the **Federal Register** and discusses in detail the impact of the changes.

In addition, this notice updates the rates and weights in accordance with our previous final rules. The actual changes we are making, along with a description of their relationship to the Medicare PPS, are detailed below.

I. Medicare PPS Changes Which Affect the TRICARE DRG-Based Payment System

Following is a discussion of the changes CMS has made to the Medicare PPS that affect the CHAMPUS DRG-based payment system.

A. DRG Classifications

Under both the Medicare PPS and the TRICARE DRG-based payment system, cases are classified into the appropriate DRG by a Grouper program. The Grouper classifies each case into a DRG on the basis of the diagnosis and procedure codes and demographic information (that is, sex, age, and discharge status). The Grouper used the TRICARE DRG-based payment system is the same as the current Medicare Grouper with two modifications. The TRICARE system has replaced Medicare DRG 435 with two age-based DRGs (900 and 901), and has implemented thirty-four (34) neonatal DRGs in place of Medicare DRGs 385 through 390. For admissions occurring on or after October 1, 2001, DRG 435 has been replaced by DRG 523. The TRICARE system has replaced DRG 523 with the two aged-based DRGs (900 and 901). For admissions occurring on or after October 1, 1995, the CHAMPUS grouper hierarchy logic was changed so the age split (age <29 days) and assignments to MDC 15 occur before assignment of the PreMDC DRGs. This resulted in all neonate tracheostomies and organ transplants to be grouped to MDC 15 and not to DRGs 480–483 or 495. For admissions occurring on or after October 1, 1998, the CHAMPUS grouper hierarchy logic was changed to move DRG 103 to the PreMDC DRGs and to assign patients to PreMDC DRGs 480, 103 and 495 before assignment to MDC 15 DRGs and the neonatal DRGs. For admissions occurring on or after October 1, 2001, DRGs 512 and 513 were added to the PreMDC DRGs, between DRGs 480 and 103 in the TRICARE grouper hierarchy logic.

For FY 2002, CMS will implement classification changes, including surgical hierarchy changes. The TRICARE Grouper will incorporate all changes made to the Medicare Grouper.

B. Wage Index and Medicare Geographic Classification Review Board Guidelines

TRICARE will continue to use the same wage index amounts used for the Medicare PPS. In addition, TRICARE will duplicate all changes with regard to the wage index for specific hospitals that are redesignated by the Medicare Geographic Classification Review Board.

C. Hospital Market Basket

TRICARE will update the adjusted standardized amounts according to the final updated hospital market basket used for the Medicare PPS according to CMS's August 1, 2001, final rule.

D. Outlier Payments

Since TRICARE does not include capital payments in our DRG-based payments, we will use the fixed loss cost outlier threshold calculated by CMS for paying cost outliers in the absence of capital prospective payments. For FY 2002, the fixed loss cost outlier threshold is based on the sum of the applicable DRG-based payment rate plus any amounts payable for IDME plus a fixed dollar amount. Thus, for FY 2002, in order for a case to qualify for cost outlier payments, the costs must exceed the TRICARE DRG base payment rate (wage adjusted) for the DRG plus the IDME payment plus $19,226 (wage adjusted). The marginal cost factor for cost outliers continues to be 80 percent.

E. Blood Clotting Factor

For FY 2002, TRICARE will use the same HCPCS codes and payment rates for blood clotting factors used in FY 2001, except for HCPCS code J7190 Factor VIII (antihemophilic factor—human) which has changed from $0.85 per unit to $0.86 per unit. TRICARE uses the same ICD–9–CM diagnosis codes as CMS for add-on payment for blood clotting factors.

F. Indirect Medical Education (IDME) Adjustment

Passage of The Benefits Improvement and Protection Act of 2000, modified the transition for the IDME adjustment that was first established by the Balanced Budget Act of 1997 and revised by the Balanced Budget Refinement Act of 1999. The formula multiplier for the TRICARE IDME adjustment has been revised to 1.21 for FY 2002 and 1.02 for FY 2003 and thereafter.

G. National Operating Standard Cost as a Share of Total Costs

The FY 2002 TRICARE National Operating Standard Cost as a Share of Total Costs used in calculating the cost outlier threshold is 0.918.

II. Cost to Charge Ratio.

For FY 2002, the cost-to-charge ratio used for the TRICARE DRG-based payment system will be 0.5003, which is increased to 0.5073 to account for bad debts. This shall be used to calculate the adjusted standardized amounts and to calculate cost outlier payments, except for children's hospitals. For children's hospital cost outliers the cost-to-charge ratio used is 0.5520.

III. Updated Rates and Weights

The updated rates and weights are accessible through the Internet at *www.tricare.osd.mil* under the sequential headings TRICARE Provider Information, Reimbursement Systems, and DRG Information. Table 1 provides the ASA rates and Table 2 provides the DRG weights to be used under the TRICARE DRG-based payment system during FY 2002 and which is a result of the changes described above. The implementing regulations for the TRICARE/CHAMPUS DRG-based payment system are in 32 CFR part 199.

Dated: December 12, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31091 Filed 12–17–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend Systems of Records.

SUMMARY: The Department of the Army is amending three systems of records notices in its existing inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

Throughout the three notices, 'Department of Defense Computer Institute' and 'DODCI'' are being changed to 'Information Resources Management College' and 'IRMC'.

DATES: This proposed action would be effective without further notice on January 17, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: December 12, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0351a NDU–CI

SYSTEM NAME:

DODCI Student Record System (February 22, 1993, 58 FR 10002).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with A0351a IRMC.

SYSTEM NAME:

Delete entry and replace with 'Information Resources Management College Record System'.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete from entry 'as regular students' and 'other'.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Individual's name, Social Security Number, home address, home telephone number, military rank, civilian grade, branch of service, course ID, activity and consolidated list of students, names, courses and their activities.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; Army Regulation 351–1, Individual Military Education and Training; Army Regulation 351–9, Inter-service Education and Training; and E.O. 9397 (SSN).'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are maintained for a total of 40 years. Current file is maintained until no longer needed, then retired to a records holding area. The records holding area will retire the military records to National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100 when records are ten years old.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete parenthetical phrase.

* * * * *

A0351a IRMC

SYSTEM NAME:

Information Resources Management College Record System.

SYSTEM LOCATION:

Information Resources Management College, Washington Navy Yard, Washington, DC 20374–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Information Resources Management College (IRMC). These are primarily DoD military and civilian personnel; personnel from federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DoD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, home address, home telephone number, military rank, civilian grade, branch of service, course ID, activity and consolidated list of students, names, courses and their activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; Army Regulation 351–1, Individual Military Education and Training; Army Regulation 351–9, Inter-service Education and Training; and E.O. 9397 (SSN).

PURPOSE(S):

Maintained by IRMC Student Operations Section to respond to individuals requesting official verification of attendance to a specific course; to respond to students, agency or activity requesting official record of training completed. Used to compile statistical data of student output, e.g., attendance by course, attendance by branch of service, agency or activity. Statistical data is not compiled by name.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Card file, paper copies forms, and hard disk/magnetic tape.

RETRIEVABILITY:

Name and course ID.

SAFEGUARDS:

Maintained in an administrative office, which is locked after normal working hours, accessible only to authorized office staff and director or delegate on demand.

RETENTION AND DISPOSAL:

Records are maintained for a total of 40 years. Current file is maintained until no longer needed, then retired to a records holding area. The records holding area will retire the military records to National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5100 when records are ten years old.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Student Operations Section Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide full name and course attended.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system of records should address written inquiries to the Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide full name and course attended.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Enrollment and registration request for DoD management education and training program courses, and course listing of students reviewed by course manager and individual students.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351b NDU–CI

SYSTEM NAME:

DODCI Student/Faculty/Senior Staff Biography System (February 22, 1993, 58 FR 10002).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'A0351b IRMC'.

* * * * *

A0351b IRMC

SYSTEM NAME:

IRMC Student/Faculty/Senior Staff Biography System.

SYSTEM LOCATION:

Information Resources Management College, Washington Navy Yard, Washington, DC 20374–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All faculty members, senior staff members, and guest lecturers currently instructing or managing at the Information Resources Management College (IRMC). All students who are attending or who have completed a course of instruction presented by the Information Resources Management College. These are primarily DoD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DoD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic summary forms individually submitted upon request by each IRMC faculty member, senior staff member, guest lecturer, or student. Students record consists of name, rank or rate, civilian grade, organization and division, office phone number, current and previous job titles and positions, number of months with present job title, major duties of present job, formal education completed, course ID, objectives for attending IRMC course, computer-related and other technical training and experience, information on usage of computers in present position, influence and authority student has over design of computer-based systems including security and privacy aspects, extent involved in planning and design of teleprocessing systems.

Faculty/senior staff record consists of name, rank or rate, current and previous job titles and positions, former major duties, formal education completed, computer-related and other technical training experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

The student biographical summaries are used by course managers and functional department heads to evaluate education level, computer related work experience, and general computer background of IRMC students. Establishes student qualifications to attend a requested course and if course objectives have satisfied personal objectives of students attending course. Statistical summarization of information contained in the system provides basis for modification and revision to course

VOL 66 ISS 243 DE 18 2001 UMI

content. Serves as vehicle to place student into appropriate laboratory and seminar group in courses requiring such a breakout.

Information on faculty/senior staff members contained in the biographical summaries is provided to students as an attachment to their student notebooks. Records are used to identify faculty and senior staff members, areas of data processing and information management expertise for consultation purposes and as an expertise preamble to the next scheduled lecturer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD "Blanket Routine Uses" set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer hard disk/magnetic tape.

RETRIEVABILITY:

By name for faculty/senior staff members. Course ID and name for students.

SAFEGUARDS:

Maintained in Student Operations Section which is locked after normal working hours, access controlled by system manager and accessible only to authorized faculty members, director or administration, and director or delegate on demand.

RETENTION AND DISPOSAL:

All completed individual student biographical summaries are retained in a file folder marked by course ID and course date. Individual student biographical summaries are retained by course for two fiscal years preceding the fiscal year in progress. All individual faculty and senior staff biographical summaries are retained in a master file folder until no longer providing services to IRMC. Master file is reviewed periodically to maintain currency.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide course title and year of attendance.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Student biography forms are of IRMC origin and completed by each individual student. Forms are completed either the first day of the course or, in the case of certain specific courses, are mailed to the prospective student requesting return prior to commencement of the course.

Biographies are authorized by each faculty and senior staff member soon after arrival at IRMC. Guest lecturers are requested to voluntarily submit biographies for use in course notebooks. Content is never changed, but in some cases selectively reduced in length so as not to exceed one page. Format and content are generated solely by IRMC member and are subjected only to editorial review.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0351c NDU–CI

SYSTEM NAME:

DODCI Course Evaluation System (February 22, 1993, 58 FR 10002).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with "A0351c IRMC".

* * * * *

A0351c IRMC

SYSTEM NAME:

IRMC Course Evaluation System.

SYSTEM LOCATION:

Information Resources Management College, Washington Navy Yard, Washington, DC 20374–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students who have completed a course of instruction presented by the Information Resources Management College (IRMC). These are primarily DoD military and civilian personnel as regular students; personnel from other federal, state and local government agencies who have attended courses on a space available basis; military and civilian personnel from foreign governments who requested and were granted authority to attend courses; and personnel from private industry who are under direct contract to a DoD activity who sponsor their attendance.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual student evaluation of entire course and random sampling of specific lecture presentations. Includes course ID; objectives for attending course; statement concerning realization of personal objectives, numerical or qualitative rating of overall course, lab sessions and/or specific lectures; list of strengths and weaknesses of course; list of lecture subjects of particular benefit or of little use to student; list of lecture subjects which should be expanded or reduced in coverage; and list of topics not covered in course but should be included. Comments concerning course content, sequence, lecture presentation, teaching techniques, audio visual aids, physical facilities and administrative support are solicited and recorded. Categories are posed as questions with ample space to encourage written response to student opinion in a structured but non-restrictive format. These Course Evaluation Forms also contain hard core factual information, *i.e.*, course ID, course dates, student name, rank/rate/grade, branch of service, duty station or agency, and present job title.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations.

PURPOSE(S):

The system is used to evaluate course, lecture, teaching techniques and individual instructor effectiveness. It provides basis for modification and revision to course content and sequence and lecture content. It provides input to long-range plan for course update, additions and revisions. The evaluation of all attendees to a particular course are reviewed as a composite group by IRMC faculty members to determine problem areas, trends, and provides a continuous evaluation of course effectiveness.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer hard disk/magnetic tape.

RETRIEVABILITY:

Course ID and student name.

SAFEGUARDS:

Maintained in Student Operations Section Office, which is locked after normal working hours, access controlled by system manager and accessible only to authorized faculty members. Director of Administration and Director delegate on demand.

RETENTION AND DISPOSAL:

All completed individual evaluations of students attending a specific course are retained by course ID and course date. Individual student evaluation forms are retained by course for two fiscal years preceding the fiscal year in progress.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide course title and year of attendance.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, Student Operations Section, Information Resources Management College, Building 175, Washington Navy Yard, Washington, DC 20374–5000.

Individual should provide course title and year of attendance.

CONTESTING RECORD PROCEDURES:

The Army rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Student course evaluation forms are of IRMC origin and distributed in class and completed by each individual student.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–31092 Filed 12–17–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 17, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 13, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Student Financial Assistance

Type of Review: Revision.

Title: William D. Ford Federal Direct Loan (Direct Loan) Program Electronic Debit Account Application and Brochure.

Frequency: One time.

Affected Public: Individuals or household; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 210,000.

Burden Hours: 6,993.

Abstract: A Direct Loan borrower uses this application to request and authorize the automatic deduction of monthly student loan payments from his or her checking or savings account.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31118 Filed 12–17–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, January 10, 2002, 6 p.m. to 9:30 p.m.

ADDRESSES: Jefferson County Airport Terminal Building, Mount Evans Room, 11755 Airport Way, Broomfield, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Quarterly update by representative from the Colorado Department of Public Health and Environment
2. Update on safety issues and recent safety incidents at the Rocky Flats site
3. Presentation on review of risk calculations for Radionuclide Soil Action Levels (RSALs)
4. Discussion regarding the Board's RSAL Recommendation (No. 2001–4) and DOE's response to the recommendation
5. Agree on path forward for this year's end-state discussions
6. Other Board business may be conducted as necessary

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy DesignatedFederal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303)420–7855. Hours of operations for the Public Reading Room are 9 a.m. to 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on December 12, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31111 Filed 12–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the**Federal Register**.

DATES: Monday, January 14, 2002, 3 p.m.–9:00 p.m. Tuesday, January 15, 2002, 8:30 a.m.–4 p.m.

ADDRESSES: Hilton Oceanfront Hotel-Palmetto Dunes, 23 Ocean Lane,Hilton Head Island, SC 29928.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802; Phone: (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Monday, January 14, 2002

3 p.m. Executive Committee Meeting
4 p.m.–6:30 p.m. Special Work Plan Session
6:30 p.m. Public Comment Session
7 p.m. Committee meetings
9 p.m Adjourn

Tuesday, January 15, 2002

8:30–9:30 a.m. Approval of Minutes; Agency Updates; Recognition for Outgoing Board Members; Public Comment Session: Facilitator Update
9:30–11 a.m. Waste Management Committee Report
11–12 a.m. Nuclear Materials Committee Report; Public Comments
12 noon Lunch Break
1–2:30 p.m. Strategic & Long-Term Issues Committee
2:30–3 p.m. Environmental Remediation Committee
3–4 p.m. Administrative Committee Report; 2002 Officer, committee Chair and Membership Elections; Chairs Farewell; Public Comments
4 p.m. Adjourn

If needed, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting January 14, 2002.

Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make the oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy DesignatedFederal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided equal time to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. Minutes will also be available by writing to Gerri Fleming, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on December 11, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31112 Filed 12–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Chairs Meeting. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: February 1–2, 2002.

ADDRESSES: Sheraton Augusta Hotel, 2651 Perimeter Parkway, Augusta, GA 30909.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Science Technology & Management Division, Department of Energy Savannah River Operations Office, PO Box A, Aiken, SC 29802, (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Friday, February 1

8–8:30 a.m. Opening remarks
8:30–10 a.m. Presentation by DOE HQ Representative
10–10:15 a.m. Morning break
10:15–11:30 a.m. Panel Discussion—Participants will make a brief presentation and address specific issues on ground water across the DOE complex.
11:30–12 a.m. Site-Specific Information—Participants will view displays, obtain information and discuss site-specific issues.
12–1 p.m. Lunch
1–1:30 p.m. Site-Specific Information
1:30–1:45 p.m. Plenary Session—Participants will meet to finalize core topic areas and receive assignments for breakout sessions.
1:45–3:45 p.m. Core Topic Breakout Discussions—Groups will discuss information from DOE and site-specific presentations and develop statements for consideration from the group.
3:45–4 p.m. Break
4–5 p.m. Plenary Session—Reports from Core Topic Breakout Groups
5 p.m Adjourn

Saturday, February 2

8–8:15 a.m. Plenary Session
8:15–9:15 a.m. Site-Specific Breakout Session—Delegations will discuss statements developed by the core topic breakout groups.
9:15–10:30 a.m. Core Topic Breakout Sessions—Groups will refine their statements.
10:30–10:45 a.m. Break
10:45–11:45 a.m. Final Plenary Discussion of Core Topic Statements—Each group will present its final statements for consideration by the entire group.
11:45–12 a.m. Workshop wrap-up and evaluation
12 noon Adjourn

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Fleming at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The DeputyDesignated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes

Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing or calling Gerri Flemming at the address or telephone number listed above.

Issued at Washington, DC on December 11, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31113 Filed 12–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information collection activities: Submission for emergency OMB review; comment request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency Information Collection Activities: Submission for Emergency OMB Review; Comment Request.

SUMMARY: The EIA has submitted the energy information collection listed at the end of this notice to the Office of Management and Budget (OMB) for emergency processing under section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) (44 U.S.C. 3501 *et seq.*) by January 14, 2002. The reason for this emergency clearance request is that the American Gas Association (AGA) plans to discontinue collecting and releasing weekly underground natural gas storage statistics at the end of April 2002. The Secretary of Energy announced on October 30, 2001, that EIA would begin to survey weekly storage activities when AGA discontinues its data collection. Storage estimates will be provided for three multi-state regions comprising the lower 48 States. These regions were chosen because they are familiar to both respondents and data users. Normal clearance procedures would prevent the timely collection of this storage information by EIA when AGA discontinues its survey.

DATES: Comments must be filed by January 4, 2002.

ADDRESSES: Send comments to Bryon Allen, OMB Desk Officer for DOE, Office of Information and Regulatory Affairs, Office of Management and Budget. To ensure receipt of the comments by the due date, submission by FAX at 202–395–7285 or e-mail to *BAllen@omb.eop.gov* is recommended. The mailing address is 726 Jackson Place NW., Washington, DC 20503. The OMB DOE Desk Officer may be telephoned at (202) 395–7318. (A copy of your comments should also be provided to EIA's Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller. Copies of the materials submitted to OMB may be obtained at *http://www.eia.doe.gov/pub/oil_gas/natural_gas/survey_forms/eia912package.pdf* or by contacting Herbert Miller at (202) 287–1711. To ensure receipt of the comments by the due date, submission by FAX at 202–287–1705 or e-mail to *herbert.miller@eia.doe.gov* is recommended. The mailing address is Statistics and Methods Group (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0670.

SUPPLEMENTARY INFORMATION: This section contains the following information about the energy information collection submitted to OMB for review: (1) The collection number and title; (2) the sponsor (i.e., the Department of Energy component); (3) the current OMB docket number (if applicable); (4) the type of request (i.e, new, revision, extension, or reinstatement); (5) response obligation (i.e., mandatory, voluntary, or required to obtain or retain benefits); (6) a description of the need for and proposed use of the information; (7) a categorical description of the likely respondents; and (8) an estimate of the total annual reporting burden (i.e., the estimated number of likely respondents times the proposed frequency of response per year times the average hours per response).

1. Forms EIA–912, "Weekly Underground Natural Gas Storage Report"

2. Energy Information Administration

3. OMB Number 1905–NEW

4. New (emergency clearance request)

5. Mandatory

6. The EIA–912 will collect data on natural gas inventories held in underground storage facilities in the United States. EIA will release weekly summary information on the EIA web site along with analyses of the data. Respondents will be a sample of 50 natural gas underground storage operators.

7. Businesses or other for-profit

8. 2,600 hours (50 respondents x 52 reports x 1 hour per response)

Statutory Authority: Section 3507(j)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC, December 13, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–31117 Filed 12–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[IC01–566–001 FERC Form 566]

Information Collection Submitted for Review and Request for Comments

December 11, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of submission for review by the Office of Management and Budget (OMB) and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has submitted the energy information collection listed in this notice to the Office of Management and Budget (OMB) for review under provisions of section 3507 of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Any interested person may file comments on the collection of information directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received comments in response to an earlier **Federal Register** notice of May 8, 2001 (66 FR. 23240). The Commission has responded to these comments in its submission to OMB.

DATES: Comments regarding this collection of information are best assured of having their full effect if received within 30 days of this notification.

ADDRESSES: Address comments to Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to Federal Energy Regulatory Commission, Office of the Chief Information Officer, Attention: Mr. Michael Miller, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)208–1415, by fax at (202) 273–0873, and by E-mail: *mike.miller@fer.fed.us.*

SUPPLEMENTARY INFORMATION:

Description

The energy information collection submitted to OMB for review contains:

1. *Collection of Information:* FERC Form 566 "Annual Report of a Utility's Twenty Largest Purchasers"

2. *Sponsor:* Federal Energy Regulatory Commission.

3. *Control No.:* OMB No. 1902–0114. The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. This is a mandatory information collection requirement.

4. *Necessity of Collection of Information:* Submission of the information is necessary to fulfill the requirements of Section 305 of the Federal Power Act (FPA), as amended by Title II, section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). FPA section 305—Officials Dealing in Securities-Interlocking Directorates defines the annual reporting requirements for public utility officers and directors to report office and director positions they hold with, among other entities, a public utility's top twenty customers of electric energy. FPA section 305(c)(2) states "each public utility shall publish a list, pursuant to rules prescribed by the Commission * * * This statutory requirement to publish the customers" list allows the public the opportunity to compare the customers listed with the interlocking directorate information filed in FERC Form 561 (1902–0099), by public utility officers and directors, for identification of positions where the relationship may be employed, for example to the detriment of the utility, or the public interest. The required public utility filers, the necessary filing information, the requirement to publish the information and the filing deadline are all specifically mandated by the FPA. The Commission is not empowered to amend or waive these statutory requirements. Requirements the Commission has the authority to amend, such as the filing format and the number of required copies are found at 18 CFR 46.3.

5. *Respondent Description:* The respondent universe currently comprises on average approximately 175 public utilities.

6. *Estimated Burden:* 1,050 total burden hours, 175 respondents, 1 response annually, 6 hours per response (average).

7. *Estimated Cost Burden to Respondents:* 1,050 hours ÷ 2,080 hours per year × $117,041 per year = $ 59,083, average cost per respondent = $338.

Statutory Authority: Sections 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA) (16 U.S.C. 825d as amended and 16 U.S.C. 2601) and section 305 of the Federal Power Act (16 U.S.C. 825d).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31064 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–347–002]

Canyon Creek Compression Co.; Notice of Compliance Filing

December 11, 2001.

Take notice that on December 5, 2001, Canyon Creek Compression Company (Canyon) tendered for filing to be part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets, to be effective November 1, 2001.

Canyon states that the purpose of this filing is to comply with the Commission's "Second Order on Compliance with Order No. 637," issued in the captioned docket on November 23, 2001.

Canyon states that copies of the filing are being mailed to each person designated on the official service list.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31077 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–40–000]

Cargill-Alliant, LLC Complainant, v. Midwest Independent TransmissionSystem Operator, Inc. Respondent; Notice of Complaint

December 11, 2001.

Take notice that on December 10, 2001, Cargill-Alliant, LLC (Cargill-Alliant), filed a complaint requesting fast track processing against Midwest Independent Transmission System Operator, Inc. (MISO). Cargill-Alliant requests the Commission to order MISO to implement its open access transmission tariff, and develop and implement its related business practices, in a fair, consistent, and non-discriminatory manner.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 31, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 31, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31063 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–32–001]

Columbia Gas Transmission Corp.; Notice of Compliance Filing

December 11, 2001.

Take notice that on December 5, 2001, Columbia Gas Transmission Corporation(Columbia) tendered its filing in compliance with the November 30, 2001 order issued in this proceeding accepting Columbia's Eleventh Revised Sheet No. 44 to be effective December 1, 2001, subject to refund and action in Columbia's Docket No. RP01–262.

Columbia states that copies of its filing has been sent by first-class mail, postage prepaid, by Columbia to each of the parties on the official service list in Docket No. RP01–262.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31069 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–389–037]

Columbia Gulf Transmission Co.; Notice of Negotiated Rate Filing

December 11, 2001.

Take notice that on December 5, 2001, Columbia Gulf Transmission

VOL 66 ISS 243 DE 18 2001 UMI

Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of December 1, 2001:

Second Revised Sheet No. 20
First Revised Sheet No. 20A
First Revised Sheet No. 20B

Columbia Gulf states that it is filing the tariff sheets to comply with the Commission's October 24, 2001 orders approving negotiated rate agreements in Docket Nos. RP96–389–031, and –032.

Columbia Gulf states further that it has served copies of the filing on all parties identified on the official service list in Docket No. RP96–389.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31075 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–13–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

December 11, 2001.

Take notice that on November 30, 2001, Consolidated Edison Company of New York, Inc. filed an application for an order, pursuant to Section 203 of the Federal Power Act for authorization to purchase, acquire or take unsecured evidences of indebtedness of its affiliate Orange and Rockland Utilities, Inc. maturing not more than twelve months after their date of issue up to an amount not in excess of $150 million at any one time outstanding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31065 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–15–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

December 11, 2001.

Take notice that on November 30, 2001, Consolidated Edison Company of New York, Inc. (Con Edison of New York) filed an application for an order, pursuant to Section 204 of the Federal Power Act, authorizing Con Edison of New York during the period from the date of the order through December 31, 2003 to issue and sell unsecured evidences of indebtedness maturing not more than twelve months after their date of issue up to an amount not in excess of $1 billion at any one time outstanding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001 . Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31067 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–119–000]

Dominion Transmission, Inc.; Notice of Proposed Changes in FERC Gas Tariff

December 11, 2001.

Take notice that on December 4, 2001, Dominion Transmission Inc. (DTI), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, with an effective date of December 5, 2001:

Second Revised Sheet No. 1076
First Revised Sheet No. 1077

DTI states that the purpose of this filing is to eliminate the North of Valley Operational Flow Order. DTI requests a waiver of the 30-day notice requirement and an effective date of December 5, 2001.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31082 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–036]

Dominion Transmission, Inc.; Notice of Tariff Filing

December 11, 2001.

Take notice that on December 4, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Second Revised Sheet No. 1406, with an effective date of December 15, 2001.

DTI states that the filing is being made to correct its November 27, 2001, filing in Docket No. RP96–383–035.

In addition, DTI withdrew Sixth Revised Sheet No. 1300, another tariff sheet submitted on November 27, 2001.

The November 27, 2001, filing disclosed a negotiated rate agreement between DTI and Central Hudson Enterprises Corporation (Central Hudson). DTI states that the purpose of the December 4, 2001, filing is to fix a description in one of November 27 tariff sheets that incorrectly suggested that the negotiated rate agreement with Central Hudson constituted a material deviation from the form of service agreement that DTI has on file with the Commission.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers, interested state commissions and on all persons on the official service list compiled by the Secretary of the Commission for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31074 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–35–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

December 11, 2001.

Take notice that on December 4, 2001, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet to comply with the Commission's Letter Order issued on November 28, 2001, in Docket Nos. RP02–35–000 and RP00–15–004:

Substitute First Revised Sheet No. 1070

DTI states that the purpose of this filing is to comply with the condition imposed by the Letter Order. DTI requests an effective date of November 1, 2001, for its proposed tariff sheet.

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers, interested state commissions and on all persons on the official service list compiled by the Secretary of the Commission for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31070 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2064]

Flambeau Hydro, LLC; Notice of Authorization for Continued Project Operation

December 12, 2001.

On November 26, 1999, Flambeau Hydro, LLC (on January 23, 2001, the Commission approved the transfer of the license from North Central Power Co., Inc. to Flambeau Hydro, LLC and substituted Flambeau Hydro, LLC for North Central Power Co., Inc. as the relicense applicant), licensee for the Winter Project No. 2064, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 2064 is located on the East Fork of the Chippewa River in Sawyer County, Wisconsin.

The license for Project No. 2064 was issued for a period ending November 30, 2001. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in Section 15 or

VOL 66 ISS 243 DE 18 2001 UMI

any other applicable section of the FPA. If the project's prior license waived the applicability of Section 15 of the FPA, then, based on Section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to Section 15 of the FPA, notice is hereby given that an annual license for Project No. 2064 is issued to Flambeau Hydro, LLC for a period effective December 1, 2001, through November 30, 2002, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before December 1, 2002, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under Section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to Section 15 of the FPA, notice is hereby given that Flambeau Hydro, LLC is authorized to continue operation of the Winter Project No. 2064 until such time as the Commission acts on its application for subsequent license.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–31122 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–047]

Gulf South Pipeline Company, LP; Notice of Negotiated Rate Filing

December 11, 2001.

Take notice that on November 28, 2001, Gulf South Pipeline Company, LP (Gulf South) filed with the Commission a contract between Gulf South and the following company for disclosure of a recently negotiated rate transaction. As shown on the contract, Gulf South requests an effective date of November 1, 2001.

Special Negotiated Rate Between Gulf South Pipeline Company, LP and Willmut Gas Company

Gulf South states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31073 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–118–000]

High Island Offshore System, L.L.C.; Notice of Tariff Filing

December 11, 2001.

Take notice that on December 4, 2001, High Island Offshore System, L.L.C. (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 4, 2002:

Fourth Revised Sheet No. 2
Fifth Revised Sheet No. 171
Third Revised Sheet No. 172

HIOS states that the tariff sheets are being filed to implement the ability for HIOS to enter into negotiated rate agreements.

HIIOS states that copies of its filing has been mailed to each of HIOS' customers and the affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31081 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commision

[Docket No. ES02–16–000]

Inland Power and Light Company; Notice of Filing

December 11, 2001.

Take notice that on November 28, 2001, Inland Power and Light Company (Inland) filed an application for authorization to issue securities pursuant to Section 204 of the Federal Power Act (FPA), 16 U.S.C. 824c, and part 34 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR part 34. Inlands' filing is available for public inspection at its offices in Spokane, Washington.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31068 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12020–000 Illinois]

Marseilles Hydro Power LLC; Notice of Rejection of Notices of Intent To File Competing Applications and Waiver of Section 4.36

December 11, 2001.

Pursuant to the notice of acceptance of application for the Marseilles Hydroelectric Project, issued August 16, 2001 by the Federal Energy Regulatory Commission (Commission), the following filings have been received: (1) Marseilles Land and Water Company (MLWC) September 18, 2001 filing for waiver of the requirements of § 4.36 of the Commission's regulations establishing deadlines for the filing of applications with an initial preliminary permit application; and (2) the three October 15, 2001 notices of intent to file competing development applications filed by MLWC, Fountainhead Properties LLC, and City of Oglesby, Illinois, respectively.

Background

On May 14, 2001, Marseilles Hydro Power LLC (MHP) filed its application for license for the Marseilles Hydroelectric Project, FERC No. 12020, pursuant to the notice of intent it had filed in response to the Commission's notice of filing of an application for preliminary permit, FERC Project No. 11863, by MLWC. The Commission issued a public notice that MHP's application for license for Project No. 12020 had been accepted for filing on August 16, 2001. The above mentioned subsequent filings were filed with the Commission.

Commission Conclusions

The Commission has previously addressed the situation of when an application for license may be filed in competition with an initial permit application.[1] The Commission has clearly specified that license applications filed in competition with an initial permit application are to be filed in response to the notice of the initial preliminary permit application, not subsequent notices of a competing license application as claimed by MLWC.

Therefore, the Commission rejects the pleadings of (1) MLWC's filing for waiver of the requirements of § 4.36; and (2) the three October 15, 2001 notices of intent to file competing development applications filed by MLWC, Fountainhead Properties LLC, and City of Oglesby, Illinois, respectively.

This notice constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days of the date of this issuance of this notice, pursuant to 18 CFR 385.713.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31089 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–117–000]

Nautilus Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

December 11, 2001.

Take notice that on December 3, 2001, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets to become effective on January 1, 2002:

First Revised Sheet No. 24
First Revised Sheet No. 257

Nautilus states that the purpose of this filing is to provide existing and new shippers an opportunity, under certain specified circumstances, to release all or a part of production from a lease that was previously dedicated to Nautilus.

Nautilus states that a copy of this filing has been served upon its customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31080 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–267–002]

Northern Border Pipeline Co.; Notice of Compliance Filing

December 11, 2001.

Take notice that on November 28, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets effective April 1, 2001:

Second Revised Sheet No. 177
Fourth Revised Sheet No. 250A
Fifth Revised Sheet No. 251
Fifth Revised Sheet No. 253
Fourth Revised Sheet No. 266

Northern Border states that the purpose of this filing is to comply with the Commission's order dated November 8, 2001 in Docket No. RP01–267–001 (97 FERC ¶ 61,162).

---

[1] Order No. 413, FERC Stats. & Regs. Preambles 1982–1985, section 30,632 (March 20, 1985); and *Tropicana*, 65 FERC section 61,904 (1993).

VOL 66 ISS 243 DE 18 2001 UMI

Northern Border states that copies of this filing have been served on all parties on the Commission's service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31078 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–116–000]

Northwest Pipeline Corp.; Notice of Proposed Changes in FERC Gas Tariff

December 11, 2001.

Take notice that on December 3, 2001, Northwest Pipeline Corporation(Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 2002:

Eighth Revised Sheet No. 6
Fifteenth Revised Sheet No. 14
Fifth Revised Sheet No. 15
Second Revised Sheet No. 115
Second Revised Sheet No. 116
Third Revised Sheet No. 117
Second Revised Sheet No. 118
First Revised Sheet No. 119
Eighth Revised Sheet No. 200
Third Revised Sheet No. 215
Eighth Revised Sheet No. 231
Fifth Revised Sheet No. 245
Fourth Revised Sheet No. 303–A
Original Sheet No. 359
Third Revised Sheet No. 360
Second Revised Sheet No. 361
First Revised Sheet No. 362

Northwest states that the purpose of this filing is to add a new rate schedule, Rate Schedule DEX–1, to Northwest's tariff for the deferred exchange of storage gas. This proposed rate schedule provides a mechanism for Northwest to increase the level of its system balancing gas in a particular gas storage facility without using mainline capacity to transport the gas from a storage facility on another part of its system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31079 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG01–44–000]

Oildale Energy LLC; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

December 12, 2001.

Take notice that on December 6, 2001, Oildale Energy LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to part 365 of the Commission's regulations and section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant is a California limited liability company that owns and operates a gas-fired topping-cycle cogeneration facility located in Oildale, Kern County, California (Facility) that operates in simple-cycle mode. The Facility produces steam and utilizes a high temperature fluid that is also supplied to the steam host as a heat transfer medium. The Facility generally produces about 40.6MW (gross) and 40.0 MW (net) of electricity and approximately 70,000 lbs/hr of high pressure steam while producing 30,000 lbs/hr of low pressure steam, and approximately 75 MMBtu/hr of thermal energy. The principal components of the Facility are a steam injected GE LM6000 gas turbine and a waste heat recovery steam generator capable of producing high and low pressure steam as well as heating a high temperature fluid. The Facility as currently configured includes certain transmission interconnection facilities necessary to effect the sale of electric energy at wholesale and interconnect the Facility to the transmission grid. All of the electricity generated by the Facility is sold exclusively at wholesale.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before January 2, 2002. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31120 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–14–000]

Orange and Rockland Utilities, Inc. Notice of Filing

December 11, 2001.

Take notice that on November 30, 2001, Orange and Rockland Utilities, Inc. (O&R) filed an application for an order, pursuant to section 204 of the Federal Power Act, authorizing O&R during the period from the date of the order through December 31, 2003 to issue and sell unsecured evidences of indebtedness maturing not more than twelve months after their date of issue up to an amount not in excess of $150 million at any one time outstanding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31066 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP02–39–000, CP02–40–000, CP02–41–000, and CP02–42–000]

Pacific Gas and Electric Company; Standard Pacific Gas Line Incorporated; GTrans LLC; PG&E Gas Transmission, Northwest Corporation; Notice of Applications

December 11, 2001.

Take notice that on November 30, 2001, Pacific Gas and Electric Company (PG&E), Standard Pacific Gas Line Incorporated (Stanpac), GTrans LLC (GTrans), and PG&E Gas Transmission, Northwest Corporation (GTN), (collectively referred to as Applicants), filed in Docket Nos. CP02–39–000, CP02–40–000, CP02–41–000, and CP02–42–000, pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and parts 157 and 284 of the Federal Energy Regulatory Commission's (Commission) regulations, for a series of authorizations that, taken together, will permit them to extend PG&E's existing intrastate natural gas transmission system to a new market center located in the State of Oregon, near Malin, Oregon, thereby integrating PG&E's transmission and storage systems into the interstate pipeline grid and bringing them under FERC regulation, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Applicants state that currently:

- PG&E is an integrated utility providing retail electric and natural gas service to millions of customers in California. As part of its utility operations, PG&E owns and operates an extensive intrastate natural gas transmission system in northern California which is regulated by the Public Utilities Commission of the State of California (CPUC) pursuant to the Hinshaw exemption to the Natural Gas Act. PG&E recently filed a voluntary petition for bankruptcy on April 6.
- Stanpac owns a Hinshaw pipeline (the Stanpac Assets) in California which is operated by PG&E pursuant to a March 28, 1996 Stanpac System Management and Operating Agreement (Stanpac System Agreement).
- GTN is an interstate pipeline extending from the U.S.-Canada border, through the states of Idaho, Washington and Oregon, to the California-Oregon border where it currently interconnects with PG&E's natural gas transmission system.
- GTrans is a newly created entity formed for the purpose of owning and operating an interstate natural gas pipeline system that will result from the integration of PG&E's gas transmission system with an interstate pipeline segment to be acquired from GTN.

The Applicants seek approval for PG&E's reorganization into an interstate pipeline as part of its plan to emerge from bankruptcy. As such, the Applicants indicate that their requests for Commission action and their acceptance of the requested authorizations are conditioned upon bankruptcy court approval. They further submit that formation of the new interstate pipeline system will, among other things: (i) create a new market center at Malin, Oregon, where GTN, Tuscarora Gas Transmission Company (Tuscarora) and GTrans will interconnect at a single point, (ii) standardize the terms and conditions for transportation of natural gas in northern California with the interstate pipeline grid, and (iii) facilitate future pipeline expansions within and outside the State of California.

Applicants propose a limited transition period during which GTrans will offer service under rates, terms and conditions that are virtually identical to PG&E's existing CPUC-approved rates, terms and conditions, including the rates, terms and conditions for open-access transportation and storage approved by the CPUC in the Gas Accord settlement. Applicants propose that the transition period end on the date that FERC accepts a section 4 filing to be made by GTrans no later than 14 months after GTrans accepts its requested certificate. In that section 4 filing, GTrans will propose to amend its open-access tariff to comply with all Commission regulations and policies applicable to open-access pipelines. Subject to certain priority rights for service to the reorganized PG&E and certain existing customers of PG&E under pre-existing, CPUC-authorized long-term contracts, GTrans proposes to hold an open season to award capacity to be taken under the rates, terms and conditions in the section 4 filing.

Specifically, the Applicants request that the Commission take the following actions:

- Issue a certificate of public convenience and necessity authorizing PG&E to acquire from GTN a segment of existing pipeline approximately three miles in length beginning at the existing interconnection between GTN and PG&E's transmission system, extending

VOL 66 ISS 243 DE 18 2001 UMI

north across the California-Oregon border and ending at the interconnection between GTN and Tuscarora near Malin, Oregon (the Oregon Segment) and to integrate it with PG&E's existing gas transmission system (the result of this combination being the GTrans Assets);

- Issue a certificate of public convenience and necessity authorizing GTrans to acquire the GTrans Assets from PG&E;
- Issue a blanket certificate under part 284, subpart G of the Commission's regulations authorizing GTrans to operate the GTrans Assets and the Stanpac Assets as an integrated interstate pipeline system and to provide open-access interstate transportation and storage services to customers within and outside California, including service to the reorganized PG&E;
- Issue a certificate of public convenience and necessity under Part 157 of the Commission's regulations authorizing GTrans to assume and provide service under pre-existing, CPUC-authorized long-term PG&E transportation contracts with (i) Line 401 expansion shippers, (ii) expedited application docket (EAD) customers, (iii) enhanced oil recovery (EOR) customers; (iv) Crockett Cogeneration; and (v) the Sacramento Municipal Utility District (SMUD);
- Issue a blanket construction certificate to GTrans under 18 CFR part 157, subpart F;
- Issue a certificate of public convenience and necessity under part 157 of the Commission's regulations authorizing Stanpac to provide transportation service to Chevron and GTrans pursuant to the Stanpac System Agreement;
- Adopt and approve the rates, terms and conditions set forth in GTrans' proposed FERC Gas Tariff and the individual rate schedules attached in Exhibit P to the Application as initial rates, terms and conditions for GTrans service under section 7 of the NGA and grant such waivers as are necessary to permit GTrans to offer service under such rates, terms and conditions;
- Authorize GTN to abandon the Oregon Segment by sale to PG&E;
- Authorize PG&E to abandon the GTrans Assets by transfer to GTrans;
- Grant Stanpac a waiver of the filing and reporting obligations and the open-access requirements ordinarily imposed on natural gas companies;
- Grant Stanpac a waiver of the "shipper-must-have-title" rule to permit GTrans to use Stanpac capacity to transport gas owned by GTrans shippers on the Stanpac system under GTrans contracts and tariffs;
- Grant GTrans a limited waiver of the "shipper-must-have-title" rule to permit the reorganized PG&E, during the transition period, to use GTrans transportation capacity to transport customer-owned gas for the reorganized PG&E's noncore transportation customers;
- Rescind PG&E's existing limited-jurisdiction certificate under § 284.224 of the Commission's regulations;
- Rescind the declarations of exemption under the Hinshaw Amendment granted to Stanpac in Docket No. CP86–666–000 and to PG&E in Docket No. G–2489;
- Pregrant the abandonment of services under PG&E's existing Gas Accord transportation and storage contracts at the end of their contract terms and authorize GTrans to provide service under interim contracts for the remainder of the transition period, while reserving the capacity underlying such interim contracts for award in the open season; and
- Waive the requirement that Applicants accept their certificates within thirty days and grant such other waivers and other and further relief as may be proper and appropriate.

Any questions regarding this application may be directed to Donald K. Dankner, attorney for the Applicants, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005, at (202) 371–5700, fax (202) 371–5950, or E-mail: *ddankner@winston.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 29, 2002 file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31062 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1962–038]

Pacific Gas & Electric Company; Notice Rejecting Request for Rehearing

December 12, 2001.

By order issued October 24, 2001, the Commission issued an order approving the settlement agreement and the issuing a new license for Rock Creek-Cresta Hydroelectric Project 1962, located on the North Fork Feather River Watershed in Plumas and Butte Counties, California. 97 FERC ¶ 61,084. On November 27, 2001, the Baiocchi Family filed a request for rehearing of that order.

Under section 313(a) of the Federal Power Act, 16 USC 825l(a), an aggrieved party must file a request for rehearing within thirty days after the issuance of the Commission's order, in this case no later than November 23, 2001. Because the 30-day rehearing deadline is statutorily based, it cannot be extended, and the Baiocchi family's request for rehearing must be rejected as untimely.

This notice constitutes final agency action. Requests for rehearing by the Commission of this rejection notice must be filed within 30 days of the date of issuance of this notice, pursuant to 18 CFR 385.713.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31121 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–513–010]

Questar Pipeline Co.; Notice of Negotiated Rate

December 11, 2001.

Take notice that on December 3, 2001, Questar Pipeline Company's (Questar) filed a tariff filing to implement a negotiated-rate contract as authorized by Commission orders issued October 27, 1999, and December 14, 1999, in Docket Nos. RP99–513, *et al.* The Commission approved Questar's request to implement a negotiated-rate option for Rate Schedules T–1, NNT, T–2, PKS, FSS and ISS shippers. Questar submitted its negotiated-rate filing in accordance with the Commission's Policy Statement in Docket Nos. RM95–6–000 and RM96–7–000 (Policy Statement) issued January 31, 1996.

Questar requested waiver of 18 CFR 154.207 so that Eleventh Revised Sheet No. 7 to First Revised Volume No. 1 of its FERC Gas Tariff may become effective December 1, 2001.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31076 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–065]

Tennessee Gas Pipeline Co.; Notice of Negotiated Rate

December 11, 2001.

Take notice that on December 4, 2001, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a notice of change in the rates for the October 18, 2001 Negotiated Rate Agreement between Tennessee and NJR Energy Services which was accepted by the Commission in *Tennessee Gas Pipeline Company*, 97 FERC ¶ 61,248 (2001). As agreed to in the November 30 Order, Tennessee states that it is providing notice of substitution of a fixed price effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or § 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31072 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–136–017]

Williams Gas Pipelines Central, Inc.; Notice of Refund Report

December 11, 2001.

Take notice that on December 5, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing its interruptible excess refund report for the twelve-month period ended September 2001.

Williams states that it will mail refunds inclusive of interest pursuant to Section 154.501 of the Commission's regulations, within 10 days following a final Commission order accepting the refund report.

Williams states that a copy of its filing was served on all participants listed on the service list maintained by the Commission in the docket referenced above and on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's rules and regulations. All such protests must be filed on or before December 18, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31071 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–43–000, et al.]

UAE Mecklenburg Cogeneration LP, et al.; Electric Rate and Corporate Regulation Filings

December 11, 2001.

Take notice that the following filings have been made with the Commission:

1. UAE Mecklenburg Cogeneration LP

[Docket No. EG02–43–000]

Take notice that on December 4, 2001, UAE Mecklenburg Cogeneration LP (Mecklenburg) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Mecklenburg is a Delaware limited partnership and a wholly-owned subsidiary of United American Energy Corp. Mecklenburg's facility, currently a Qualifying Facility under PURPA, is a 132 MW topping-cycle cogeneration plant consisting of two coal-fired power generation units.

Mecklenburg states that copies of the application were served upon the Securities and Exchange Commission and the Virginia State Corporation Commission.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER01–123–005, ER01–786–001, ER01–966–003, ER99–3144–016 and EC99–80–016]

Take notice that on December 4, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revised pages to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1, which reflect that Schedule 13 (Super-Regional Rate Adjustment Charge) has been suspended, effective December 5, 2001, until such time as the Alliance RTO implements its OATT and the benefits of the non-pancaked Super Regional Rate methodology are available to Transmission Customers. The Midwest ISO submits that the suspension of its Schedule 13 effective date will result in the Midwest ISO charging customers for zonal rates that will only include the rates from Schedules 7, 8, and 9.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2000) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "FERC Filings" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Pacific Gas and Electric Company and ETrans LLC

[Docket No. ER02–455–000]

Take notice that on November 30, 2001, ETrans LLC (ETrans) and Pacific Gas and Electric Company as the reorganized debtor (Reorganized PG&E) (together Applicants) submitted for filing the following unexecuted agreements: (i) A Back-to-back Agreement between ETrans and Reorganized PG&E, (ii) a Transmission Availability Agreement for Offsite Power Supply between ETrans and Electric Generation, LLC (Gen.), (iii) an Interconnection Agreement between ETrans Reorganized PG&E load serving facilities, (iv) an Interconnection Agreement between ETrans and Gen providing for the interconnection between ETrans and Gen's generation facilities, (v) an Interconnection Agreement between ETrans and Reorganized PG&E retained generation facilities, and (vi) an Interconnection Agreement between Reorganized PG&E and Gen providing for the interconnection between Reorganized PG&E distribution facilities and Gen's generation facilities (collectively, the Agreements). Applicants state that the Agreements have been established as part of the plan of reorganization filed by Pacific Gas and Electric Company under Chapter 11 of the United States bankruptcy Code.

ETrans and Reorganized PG&E state that they are serving a copy of their filing on each of the wholesale customers that are currently a party of an existing contract with PG&E, as well as on the California Public Utilities Commission.

Comment date: January 29, 2002, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Louisiana, Inc., Entergy Gulf States, Inc., Entergy Mississippi, Inc.

[Docket No. ER02–457–000]

Take notice that on November 29, 2001, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., Entergy Gulf States, Inc., and Entergy Mississippi, Inc., tendered revised agreements in compliance with the requirements of Order No. 614.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER02–458–000]

Take notice that PacifiCorp on November 30, 2001, tendered for filing in accordance with 18 CFR part 35 of the Commission's rules and regulations, Replacement Service Agreements for Long-term Firm Transmission Service with IDACORP Energy LP (IDACORP) under PacifiCorp's FERC Electric Tariff, Third Revised Volume No. 11 (Tariff).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: December 20, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Duke Energy Corporation

[Docket No.ER02–459–000]

Take notice that on December 3, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Exelon Power Team for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on January 1, 2002. Duke states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER02–460–000]

Take notice that on December 3, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed Revision No. 3 to the Agreement for Network

Integration Transmission Service for Alabama Electric Cooperative, Inc. under Southern Companies Open Access Transmission Tariff to Add Delivery Points. Revision No. 3 provides that transmission service under the referenced service agreement (Service Agreement No. 225 under Southern Companies' Open Access Transmission Tariff (FERC Electric Tariff Original Volume No. 5)) is to be provided at two (2) new delivery points. Additionally, Revision No. 3 specifies the Direct Assignment Facility Charges for these additional delivery points.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Duke Energy Corporation

[Docket No.ER02–461–000]

Take notice that on December 3, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Duke Power for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on January 1, 2002. Duke states that this filing is in accordance with part 35 of the Commission's Regulations, 18 CFR part 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. American Electric Power Service Corporation

[Docket No. ER02–462–000]

Take notice that on December 3, 2001, American Electric Power Service (AEPSC) tendered for filing pursuant to § 35.15 of the Federal Energy Regulatory Commission's regulations, 18 CFR 35.15 (2000), a Notice of Cancellation of Service Agreement No. 302 between AEPSC as agent for Indiana Michigan Power Company and Duke Energy DeSoto, LLC under American Electric Power Operating Companies' Open Access Transmission Tariff (OATT).

AEPSC requests an effective date of February 2, 2002 for the cancellation. AEPSC serviced copies of the filing upon Duke Energy DeSoto, LLC c/o Duke Energy North America, LLC.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER02–463–000]

Take notice that on December 3, 2001 Commonwealth Edison Company (ComEd) submitted for filing an unexecuted Service Agreement for Network Integration Transmission Service (NSA) and a Network Operating Agreement (NOA) between ComEd and Central Illinois Light Company (CILCO). These agreements govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on CILCO.

ComEd requests an effective date of November 4, 2001, and accordingly seeks waiver of the Commission's notice requirements.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Duke Energy Corporation

[Docket No.ER02–464–000]

Take notice that on December 3, 2001, Duke Energy Corporation (Duke) tendered for filing a Service Agreement with Duke Power for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on January 1, 2002. Duke states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR part 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Elwood Marketing, LLC

[Docket No. ER02–465–000]

Take notice that on December 3, 2001, Elwood Marketing, LLC (Elwood) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Notice of Cancellation of its Market-Based Rate Schedule, Rate Schedule FERC No. 1. Elwood requests an effective date of December 4, 2001.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. New England Power Company

[Docket No. ER02–466–000]

Take notice that on December 3, 2001, New England Power Company (NEP) tendered for filing a Third Revised Service Agreement No. 23 between NEP and The Narragansett Electric Company (Narragansett) under NEP's FERC Electric Tariff, Original Volume No. 1. Service Agreement No. 23 has been revised to reflect the fact that, commencing on December 1, 2001, Narragansett will procure all of its requirements for wholesale standard offer service from other suppliers, and NEP will cease its supply of this service under Service Agreement No. 23. Narragansett will continue to take service under Service Agreement No. 23 for other purposes.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. American Transmission Company LLC

[Docket No. ER02–467–000]

Take notice that on December 3, 2001, American Transmission Company (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement between itself and Commonwealth Edison Company. The Interconnection Agreement describes the general terms and conditions of interconnected operation between the parties.

ATCLLC requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Commonwealth Edison Company, the Illinois Commerce Commission, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Louisville Gas and Electric Company/Kentucky Utilities Company

[Docket No. ER02–468–000]

Take notice that on December 3, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing an unexecuted unilateral Service Sales Agreement between Companies and EnergyUSA–TPC Corp. under the Companies' Rate Schedule MBSS.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Power & Light Company

[Docket No. ER02–469–000]

Take notice that on December 4, 2001, Wisconsin Power & Light Company (WPL) tendered for filing with the Federal Energy Regulatory Commission (Commission) new rates to be charged under its wholesale electric tariffs W–3A, PR–1, W–4A and DLM–1 to reflect the current cost of service incurred by WPL and its subsidiary South Beloit Water, Gas and Electric Company.

WPL has asked that the new rates become effective on April 22, 2002. In addition WPL requests cancellation of its bundled wholesale electric tariffs W–1, W–3 and W–4.

A copy of the filing has been served upon the Illinois Commerce Commission, the Public Service Commission of Wisconsin and the WPL wholesale electric customers affected by this filing.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER02–470–000]

Take notice that on December 4, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Shortleaf Energy Associates, LLC.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. PJM Interconnection, L.L.C. and Rockland Electric Company

[Docket No. ER02–471–000]

Take notice that on November 30, 2001, PJM Interconnection, L.L.C. (PJM), and Rockland Electric Company (Rockland) submitted for filing a proposed change to the PJM Open Access Transmission Tariff for the purpose of stating a charge by Rockland for Scheduling, System Control and Dispatch Service under Schedule 1A of the PJM Tariff.

Copies of this filing were served upon all PJM members and each state electric utility regulatory commission in the PJM control area.

Comment date: December 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31058 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2103–002 Washington]

Cominco American Inc.; Notice of Availability of Environmental Assessment

December 11, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for subsequent license for the Cedar Creek Project, located on Cedar Creek in Stevens County, Washington, and has prepared an Environmental Assessment (EA) for the project. 2.058 acres of federal lands, managed by the Department of the Interior's Bureau of Land Management, are affected by this project.

The EA contains the staff's analysis of the potential environmental impacts of issuing a subsequent license for the project and concludes that the issuance of a subsequent license as proposed by Cominco American Inc. would not constitute a major federal action that would significantly affect the quality of the human environment.

The EA is attached to a Commission order issued on December 7, 2001, for the above application. Copies of the EA can be obtained by calling the Commission's Public Reference Room at (202) 208–1371. Copies of the EA can also be obtained through the Commission's homepage at *http://www.ferc.gov.*

For further information, contact Kenneth Hogan at (202) 208–0434.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31083 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.1864–005]

Upper Peninsula Power Company; Notice of Availability of Draft Environmental Impact Statement

December 11, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (FERC or Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects staff has reviewed the applications for new license for the Bond Falls Project, and has prepared a draft Environmental Impact Statement (EIS) for the project. In the draft EIS, the Commission's staff has analyzed the potential environmental impacts of the existing projects and has recommended that approval of the projects, with appropriate environmental protection measures, would be in the public interest.

Copies of the draft EIS are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426.

Any comments should be filed within 60 days from the date of this notice and should be addressed to Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20246. Please affix "Bond Falls Project No. 1864–005," as appropriate, to all comments. For further information, please contact Patrick Murphy at (202) 219–2659.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31086 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–24–000]

PG&E Gas Transmission, Northwest Corp.; Notice of Intent to Prepare an Environmental Assessment for the Proposed 2003 Expansion Pipeline Project and Request for Comments on Environmental Issues

December 11, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the PG&E Gas Transmission, Northwest Corporation's (PG&E Transmission) 2003 Expansion Project in Oregon, Washington, and Idaho.[1] These facilities would consist of about 54 miles of pipeline and 19,500 horsepower (hp) of compression. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner on PG&E Transmission's proposed route and receive this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" was attached to the project notice Western Frontier provided to landowners along and adjacent to the proposed route. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet web site (*www.ferc.gov*).

This notice is being sent to landowners of property crossed by and adjacent to PG&E Transmission's proposed route; Federal, state, and local agencies; elected officials; environmental and public interest groups; and local libraries and newspapers. Additionally, with this notice we are asking those Federal, state, local and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their agencies' responsibilities. Agencies who would like to request cooperating agency status should follow the instructions for filing comments described below.

Summary of the Proposed Project

PG&E Transmission proposes to expand the capacity of its existing mainline system by constructing a total of 53.6 miles of new natural gas pipeline loop[2] (42-inch-diameter) and to upgrade compression at its existing Compressor Station 14. PG&E Transmission requests Commission authorization, to construct, install, own, operate, and maintain the following facilities:

- About 18.4 miles of 42-inch-diameter loop in Boundary County, Idaho, including modifications to Compressor Station 3 and Mainline Valve (MLV) 3–1 (Segment 3);
- About 16.7 miles of 42-inch-diameter loop in Spokane and Whitman Counties, Washington, including modifications to Compressor Station 6 and MLV 6–1 (Segment 6);
- About 12.7 miles of 42-inch-diameter loop in Walla Walla County, Washington, including modifications to Compressor Station 7 and MLV 7–1 (Segment 7);
- About 5.8 miles of 42-inch-diameter loop in Umatilla County, Oregon, include modifications to MLV 8–1 and MLV 8–2;
- One new 19,500 horsepower (hp) gas turbine-driven compressor to be installed at PG&E Transmission's existing Compressor Station 14 in Klamath County, Oregon; and
- Associated pipeline facilities, including four pig launchers, four pig receivers, and 5 mainline block valves.

The general location of PG&E Transmission's proposed project facilities is shown on the map attached as appendix 1.[3]

Land Requirements for Construction

PG&E Transmission would construct a total of about 54 miles of new pipeline loop, of which about 18 miles would be in Idaho, 30 miles would be in Washington, and 6 miles would be in Oregon. Construction of the loop would require about 860 acres of land. Of this total, about 849.4 acres would be temporary right-of-way and about 10.5 acres would be maintained as new permanent right-of-way. PG&E Transmission would also require the use of about 157.9 acres of extra workspace for its ancillary areas, aboveground facility expansions, and access roads.

PG&E Transmission's existing permanent right-of-way for its mainline system on private lands is 100 feet wide, containing the two parallel existing pipelines, Pipelines A and B. The proposed loop (Pipeline C) would generally be constructed 30 feet east of Pipeline B, using the existing 100-foot-wide permanent right-of-way as the construction right-of-way. PG&E Transmission states that no new permanent right-of-way would be acquired for construction of the proposed Pipeline C, except for some properties. After construction, the existing 100-foot-wide permanent right-of-way would be retained, and would typically result in a permanent right-of-way 90 feet west and 10 feet east of the Proposed Pipeline C.

In some site-specific locations, PG&E Transmission would install the new loop 20 feet east of Pipeline B, instead of 30 feet. This decrease in separation between Pipeline C and B would occur in areas with residences or other structures in close proximity to the eastern permanent right-of-way boundary. By moving the proposed pipeline closer to Pipeline B, PG&E Transmission would increase the distance between Pipeline C and the edge of the right-of-way. This alignment would also be installed entirely within PG&E Transmission's 100-foot-wide permanent right-of-way.

On federal lands, PG&E Transmission would obtain another Right-of-way Grant from the U.S. Forest Service (USFS) for an additional overlapping 53.5 -foot easement and would install the new Pipeline C with a nominal 30-foot separation from Pipeline B. For this project, the total width of permanent right-of-way, including the existing and new easements, would be a maximum of 110 feet in width. On federal lands, except for extra workspace for slopes and at road, railroad, stream, and

---

[1] PG&E Gas Transmission, Northwest Corporation's application in Docket No. CP02–24–000 was filed with the Commission under Section 7(c) of the Natural Gas Act.

[2] A loop is a segment of pipeline installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the system.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "RIMS" link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

VOL 66 ISS 243 DE 18 2001 UMI

wetland crossings, no temporary right-of-way would be used as part of the construction right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[4] to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

Our independent analysis of the issues will be published in the EA which will be mailed to Federal, state, and local agencies, public interest groups, affected landowners and other interested individuals, newspapers, libraries, and the Commission's official service list for this proceeding. A 30-day comment period will be allotted for review of and comment on the EA. We will consider all comments on the EA and it will be used by the Commission in its decision-making process to determine whether to approve the project.

Currently Identified Environmental Issues

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. We have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by PG&E Transmission. These issues are listed below. This is a preliminary list of issues and may be changed based on your comments and our analysis.

- Geology and Soils

—Mixing of topsoil and subsoil during construction.
—Compaction of soil by heavy equipment.
—Erosion control and right-of-way restoration.
—Potential geologic hazards, including seismic activity.

- Water Resources and Wetlands

—Potential effects on groundwater resources.
—Effects on private water supply wells.
—Effects on 20 perennial waterbodies, including six crossings of the Moyie River.
—Effects on about 2.6 acres of wetlands.

- Biological Resources

—Short- and long-term effects of right-of-way clearing and maintenance on grasslands, wetlands, riparian areas, and vegetation communities of special concern.
—Effects on wildlife and species of concern, including raptors;
—Effects on fishery habitats, including four federally listed fish species;
—Potential effects on federally listed species, such as the gray wolf, grizzly bear, Sellkirk Mountains Woodland Caribou, Ute ladies' tresses and habitats for the bald eagle, gray wolf and lynx in Idaho; and water howellia and Ute ladie' tresses in Washington.
—Potential impact on USFS sensitive species.
—Potential impact on state-listed sensitive species.

- Cultural Resources

—Effects on historic and prehistoric sites.
—Native American concerns.

- Land Use

—Effects on agricultural lands.
—Potential impacts on residential areas.
—Effects on recreation areas.
—Effects of about 3.9 miles of crossing USFS, Panhandle National Forest lands (Segment 3).
—Potential impacts on future land uses and consistency with local land use plans and zoning.
—Visual/aesthetic effects of constructing the project.

- Air Quality and Noise

—Construction impacts on local air quality and noise environment.
—Impact on local air quality and noise environment as a result of operation of the upgraded compressor stations.

- Pipeline Reliability and Safety

—Assessment of public safety factors associated with natural gas pipelines.

- Alternatives

—Assessment of alternative routes, systems or energy sources to lessen or avoid impacts on the various resource areas.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Linwood A. Watson, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Environmental Gas Branch I, PJ–11.1;
- Reference Docket Nos. CP02–24–000;
- Mail your comments so that they will be received in Washington, DC on or before January 11, 2002.

Federal and state agencies, such as the U.S. Forest Service and the U.S. Army Corps of Engineers, are invited to participate as cooperating agencies in the preparation of the EA. If any agency is interested in participating with the Commission on this basis, please write to the Secretary with this request at the address listed above.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "e-Filing" link and link to the User's Guide. Before you can file comments you will need to create an account which can be created by clicking on "Login to File" and then "New User Account."

Everyone who responds to this notice or comments throughout the EA process will be retained on our mailing list. If you do not want to send comments at this time but still want to remain on our mailing list, please return the Information Request (appendix 3). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor." Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to rule 214 of the Commission's rules of practice and procedure (18 CFR 385.214) (see appendix 2).[5] Only intervenors have the right to seek rehearing of the Commission's decision.

---

[4] "We", "us", "our" refer to the environmental staff of the Office of Energy Projects (OEP).

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Availability of Additional Information

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance).

Similarly, the "CIPS" link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS Menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31061 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission Soliciting Additional Study Requests and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

December 11, 2001.

a. *Type of Application:* New Major License.

b. *Project No.:* P–401–027.

c. *Date Filed:* September 14, 2001.

d. *Applicant:* Indiana Michigan Power Company.

e. *Name of Project:* Mottville Hydroelectric Project.

f. *Location:* On the St. Joseph River, in Mottville Township, St. Joseph County, Michigan. The project does not affect Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* J.F. Norris, Jr., American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, OH 43215, (614) 223–1700, or *jfnorris@aep.com*.

i. *FERC Contact:* Lee Emery (202) 219–2778 or *lee.emery@FERC.fed.us*.

j. *Deadline for filing additional study requests:* January 31, 2002.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Additional study requests may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-filing" link.

The Commission's Rules of Practice require all interveners filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. Description of Project: The existing Mottville Project consists of: (1) Two 17-foot high earth-filled embankments extending towards the center of the river from both riverbanks, (i) a west embankment that is 140 feet long and has a crest width of 15 feet and extends to the powerhouse, (ii) an east embankment that is 365 feet long and has a crest width of 8 feet and extends from the east riverbank to the spillway; (2) a 237-foot long, reinforced concrete spillway with 10 steel Taintor gates along the crest of the spillway, which are separated by 2.5-foot wide piers between Bays 1 and 2 and 3 and 4 and 1.5-foot-wide piers between the remaining Bays, (i) Taintor gates are 22 feet wide and 13 feet high in Bays 1 and 2 and 22 feet wide and 7.5 feet high in Bays 3 through 10; (3) a combined powerhouse-intake structure, made of brick and concrete, that is 118 feet long, 28 feet wide, and 25 feet long; (4) 4 vertical shaft, single runner, propeller type generating units with an installed generating capacity of 420 kW each; (5) a 14.5-foot-long, 28-foot-wide, and 25-foot-long switchboard bay attached to the west end of the powerhouse; (6) a 50 horsepower, 460-volt, 3-phase air bubbler system; (7) a 15-ton overhead traveling crane; (8) a 20-foot-wide stilling basin extending across the length of the spillway; (9) a 12-inch thick, reinforced concrete spillway apron; (10) an inoperable 4-foot-wide by 150-foot-long concrete fishway with a slope of about 25 percent; (11) sets of angled steel intake trashracks that are 3-feet 2-inches wide by 14-feet-high with 3/8-inch steel bars with 4-inch spacing between the bars; (12) a five-mile-long, 378-acre reservoir with a gross storage capacity of 2,900-acre-feet at the normal operating pool surface elevation of 770.4 NGVD; (13) a three phase, 2.4/34.5 kV transformer; and (14) other appurtenant facilities. The applicant estimates that the total average annual generation would be 7,800 MWh. All generated power is sold to Indiana Michigan Power Company's customers.

m. With this notice, we are initiating consultation with the *MICHIGAN STATE HISTORIC PRESERVATION OFFICER (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, C.F.R., at 800.4.

n. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

o. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than the date set in paragraph j of this notice and serve a copy of the request on the applicant.

p. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing
Notice of NEPA Scoping
Notice of application is ready for environmental analysis
Final amendments to the application must be filed with the Commission*

---

[5] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

Notice of the availability of the draft NEPA document
Notice of the availability of the final NEPA document
Order issuing the Commission's decision on the application

* Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31085 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

December 11, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12123–000 .

c. *Date filed:* September 17, 2001.

d. *Applicant:* Quantum Energy Solutions.

e. *Name and Location of Project:* The Columbia River Jetty Project would be located on the Columbia River in Clatsop County, Oregon, near the towns of Astoria, Oregon and Ilwaco, Washington. The proposed project would be located on the Columbia River Jetty which is federally-owned and maintained by the U.S. Army Corps of Engineers.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Tibor Hegedus, 11917 37th Drive SE, Everett, WA 98028, (425) 337–3823, Fax (425) 357–9943.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Please include the project number (P–12123–000) on any comments or motions filed. The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would use the existing Columbia River Jetty and include: (1) Two proposed concrete modules, each containing a wave energy capture chamber and a 0.5 MW turbine-generator, with a total installed capacity of 1.0 MW, (2) a proposed 2.0-mile-long, 75 kv transmission line, and (3) appurtenant facilities. The project would have an average annual generation of 4 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (202–208–222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31087 Filed 12–17–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant-Prepared EA Accepted for Filing, Soliciting Motions To Intervene and Protests, and Soliciting Comments, and Final Terms and Conditions, Recommendations, and Prescriptions

December 11, 2001.

Take notice that the following hydroelectric application and applicant-prepared environmental assessment has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 11659–002.

c. *Date filed:* October 23, 2001.

d. *Applicant:* Gustavus Electric Company (GEC).

e. *Name of Project:* Falls Creek Hydroelectic Project .

f. *Location:* On Falls Creek (also known as the Kahtaheena River), in southeastern Alaska near the town of Gustavus. The project would be located on lands currently located within the boundary of Glacier Bay National Park and administered by the National Park Service. The Glacier Bay National Park Boundary Adjustment Act of 1998 (Act) provides that if a license is issued to Gustavus Electric Company for the project, the minimum amount of Glacier Bay National Park land necessary to construct and operate the hydroelectric project would be transferred, as part of a land exchange, to the State of Alaska. The Act also authorizes the submittal of a license application for this project to the Federal Energy Regulatory Commission.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r) and Glacier Bay National Park Boundary Adjustment Act of 1998 (Pub. L. 105–317, 112 Stat. 3002).

h. *Applicant Contact:* Richard Levitt, Gustavus Electric Company, PO Box 102, Gustavus, Alaska 99826; (907) 697–2299.

i. *FERC Contact:* Bob Easton, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426; (202) 219–2782, e-mail: *robert.easton@ferc.fed.us.*

j. *Deadline for filing motions to intervene and protests, comments, and final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's rules of practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene, protests, comments, terms and conditions, recommendations, and prescriptions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the "e-Filing" link.

k. This application has been accepted for filing.

l. The Falls Creek Hydroelectric Project would consist of: (1) An approximately 70-foot-long and 10-foot-high dam; (2) a 0.5-acre reservoir having no storage capacity at elevation 665 feet mean sea level; (3) a powerhouse containing one generating unit for a total installed capacity of 800 kilowatts; (4) 5 miles of buried transmission line; and (5) appurtenant facilities. The project is estimated to generate an average of 4.8 million kilowatthours annually. The dam and project facilities would be owned by the applicant.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link—select "Docket #" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31088 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

December 12, 2001.

a. *Type of Filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 7321.

c. *Date Filed:* November 20, 2001.

d. *Submitted By:* Erie Boulevard Hydro, L.P.—current licensee.

e. *Name of Project:* Macomb Hydroelectric Project

f. *Location:* On the Salmon River near the town of Malone, in Franklin County, New York. The project does not occupy federal lands.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee Contact:* Jerry L. Sabattis, Erie Boulevard Hydropower, L.P., 225 Greenfield Parkway, Suite 201, Liverpool, NY 13088 (315) 413–2787.

i. *FERC Contact:* Jarry Kosa, jarrad.kosa@ferc.fed.us, (202) 219–2831.

j. *Effective date of current license:* December 1, 1956.

k. *Expiration date of current license:* November 30, 2006.

l. *Description of the Project:* The project consists of the following existing facilities: (1) A 77-foot-long, 32-foot-high concrete dam; (2) two 38-foot-long, 25-foot-high intake structures; (3) two 6-foot-diameter, 60-foot-long steel gated waste tubes; (4) a reservoir (Lamica Lake) having a surface area of 14 acres at a spillway crest elevation of 570.7 feet msl; (5) a 6.5-foot-diameter, 60-foot-long pipeline; (6) a powerhouse containing a generating unit having an installed capacity of 1,000 kW; (7) a tailrace; (8) a 370-foot-long, 34.5-kV transmission line; and (9) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 30, 2004.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31123 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

December 12, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12124–000.

c. *Date filed:* September 17, 2001.

d. *Applicant:* Quantum Energy Solutions.

e. *Name of Project:* Tillamook River Jetty Project.

f. *Location:* On the Pacific Ocean and Tillamook River, in Tillamook County, Orgeon. The project would utilize the existing Tillamook River Jetty administered by U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Tibor Hegedus, Quantum Energy Solutions, 11917 37th Drive SE, Everett, WA 98208, (425) 337–3823.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC. 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm.* Please include the project number (P–12124–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project utilizing the existing U.S Army Corps of Engineer's Tillamook River Jetty and would consist of: (1) A proposed powerhouse containing two wave generating units having a total installed capacity of 1 MW, (2) a proposed 2-mile-long, 75 kV Transmission line, and (3) appurtenant facilities.

The project would have an annual generation of 4 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions ((202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–31124 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

December 12, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12125–000.

c. *Date filed:* September 18, 2001.

d. *Applicant:* Quantum Energy Solutions.

e. *Name of Project:* Grays Harbor Project.

f. *Location:* On the Pacific Ocean and Grays Harbor, in Grays County, Washington. The project would utilize the existing Gray Harbor, Washington Jetty administered by U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Tibor Hegedus, Quantum Energy Solutions, 11917 37th Drive SE, Everett, WA 98208, (425) 337–3823.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm.* Please include the project number (P–12125–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project utilizing the existing U.S. Army Corps of Engineer's Gray Harbor, Washington Jetty and would consist of: (1) a proposed powerhouse containing two wave generating units having a total installed capacity of 1 MW, (2) a proposed 2-mile-long, 75 kV Transmission line, and (3) appurtenant facilities.

The project would have an annual generation of 4 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions ((202) 208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to

VOL 66 ISS 243 DE 18 2001 UMI

submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–31125 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

December 12, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12126–000.

c. *Date filed:* September 18, 2001.

d. *Applicant:* Quantum Energy Solutions.

e. *Name of Project:* Newport, Oregon Jetty Project

f. *Location:* On the Pacific Ocean and Yaquina River, in Lincoln County, Oregon. The project would utilize the existing Newport, Oregon Jetty administered by U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Tibor Hegedus, Quantum Energy Solutions, 11917 37th Drive SE., Everett, WA 98208, (425) 337–3823.

i. *FERC Contact:* Robert Bell, (202) 219–2806.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, motions to intervene, and protests may be electronically filed via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov/efi/doorbell.htm.* Please include the project number (P–12126–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project utilizing the existing U.S. Army Corps of Engineer's Newport, Oregon Jetty and would consist of: (1) A proposed powerhouse containing two wave generating units having a total installed capacity of 1 MW, (2) a proposed 2-mile-long, 75 kV Transmission line, and (3) appurtenant facilities.

The project would have an annual generation of 4 GWh that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" and follow the instructions ((202)208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.
Acting Secretary.

[FR Doc. 01–31126 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD02–6–000]

Conference on Energy Infrastructure; Notice of Conference

December 11, 2001.

The Federal Energy Regulatory Commission (FERC) will hold a conference on energy infrastructure issues in the northeastern states on Thursday, January 31, 2002 at the Helmsley Park Lane Hotel, 36 Central Park South, New York City, New York.

The conference will discuss the adequacy of the electric, gas and hydropower infrastructure in the Northeast, and related matters. The Governors of the northeastern states have been invited to participate. The goal is to identify present infrastructure needs, investment and other barriers to expansion, and environmental and landowner concerns. We look forward to an informative discussion of the issues to clarify how we can facilitate and enhance a comprehensive collaborative approach to energy infrastructure development and reliability for the northeastern states. It is our firm belief that an adequate, well-functioning energy infrastructure is a keystone of workable, competitive energy markets.

The one-day meeting will begin at 9 a.m. and conclude at 4 p.m. All interested parties are invited to attend. Hotel rooms have been blocked at the Helmsley Park Lane under the name of the Federal Energy Regulatory Commission for any attending guests to reserve a one- or two-night stay but will be released by January 9, 2002 (212–371–4000).

We will issue further details on the conference, including the agenda and a list of participants, as plans evolve. For additional information, please contact Carol Connors at 202–208–0870 or *carol.connors@ferc.fed.us.*

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31060 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2634]

Great Northern Paper, Inc.; Notice of Final Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

December 11, 2001.

On September 24, 2001, the Federal Energy Regulatory Commission (Commission) issued a notice for the Storage Project (FERC No. 2634–007) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement (PA) for managing properties included in or eligible for inclusion in the National Register of Historic Places. On November 21, 2001, the Commission issued a notice modifying the restricted service list for the purpose of revising the participates. The Storage project is located in Piscataquis and Somerset Counties in Maine. Great Northern Paper, Inc. is the licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established. The following change to the existing restricted service list is noted.

Add "Donald Soctomah,
Passamaquoddy Tribe, PO Box 301,
Princeton, Maine 04668".

As a result of these changes, the final restricted service list for purposes of commenting on the PA, for Project No. P–2634 is as follows:

Dr. Laura Henley Dean,Advisory
Council on Historic
Preservation,The Old Post Office

---

[1] 18 CFR 385.2010.

Building, Suite 803,1100 Pennsylvania Avenue, NW.,Washington, DC 20004.

Earle G. Shettleworth, Jr.,State Historic Preservation Officer,Maine Historic Preservation Commission, 55 Capitol Street, 65 State House Station, Augusta, Maine 04333.

Brian R. Stetson, Manager of Environmental Affairs, Great Northern Paper, Inc., Engineering and Research Building, 1 Katahdin Ave.,Millinocket, Maine 04462–1373.

Gregory W. Sample, Drummond Woodsum & MacMahon, 245 Commercial Street, PO Box 9781, Portland, Maine 04104–5081.

Land and Water Associates, 9 Union Street,Hallowell, Maine 04347.

M. Kirstin Rohrer, Office of the Solicitor, MS–6456, 1849 C St., NW., Washington, DC 20240.

Judith M. Stolfo, Office of the Regional Solicitor, One Gateway Center, Suite 612, Newton, Massachusetts 02458–02802.

Barry Dana, Chief, Penobscot Indian Nation, River Road; Indian Island, Old Town, Maine 04468.

Franklin Keel, Bureau of Indian Affairs, Eastern Regional Office, 711 Stewarts Ferry Pike, Nashville, Tennessee 37214.

Donald Soctomah, Passamaquoddy Tribe, PO Box 301, Princeton, Maine 04668.

Kevin R. Mendik, National Park Service, Northeast Field Area, 15 State Street, Boston, Massachusetts 02109.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31084 Filed 12–17–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–3]

Office of Environmental Justice Small Grants Program—Application Guidance FY 2002

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: The Environmental Protection Agency published a document in the **Federal Register** of November 5, 2001, concerning application guidance for environmental justice small grants. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Sheila Lewis, Senior Program Analyst, EPA Office of Environmental Justice, (202) 564–0152.

Correction

In the **Federal Register** of November 5, 2001, in FR Doc. 01–27591, beginning on page 55986, make the following corrections:

The date "February 21, 2002" is corrected to read "February 22, 2002 in the following places: page 55986, in the first column, in the second paragraph identified as **DATES**; page 55988, second column, in the last paragraph, in the second sentence and third column, in the first line; and page 55989, second column, third paragraph.

Dated: December 12, 2001.

Sheila Lewis,

Small Grants Program Manager.

[FR Doc. 01–31177 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–4]

Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States: Reference Years 1987 and 1995

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of a final product.

SUMMARY: The National Center for Environmental Assessment within the Office of Research and Development, U. S. Environmental Protection Agency, announces the availability of the final *Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States: Reference Years 1987 and 1995* (EPA/600/C–01/012, March 2001) and *Users Manual* (EPA/600/R–01/012, March 2001). The database is an electronic repository of congener-specific chlorinated dibenzo-p-dioxin and chlorinated dibenzofuran (CDD/CDF) emissions and environmental release data from all known sources in the United States. The database contains information that can be analyzed to track emissions and releases of CDD/CDF over time, compare congener-specific profiles between and among source categories, and develop source-specific emission factors that can then be used to estimate emissions. The information contained in the current version of the database is associated with two reference years: 1995 and 1987.

The structure of the database and the flow of information into and out of the database are described in the Users Manual. The database was created using Microsoft" Excel 97 (hereafter, Excel) in the manner of linked "workbooks." Certain calculations and manipulations of data performed in Excel may be lost if the database is converted to another software; therefore, any recalculations for the data in the database should be performed using Excel. The Excel workbooks should be compatible with the Macintosh" version of Excel. Because the database and Users Manual are stored on a CD–ROM, a CD player is required for use.

ADDRESSES: The database is available electronically through the National Center for Environmental Assessment website at the following URL: *http://www.epa.gov/ncea.* Copies of the database are also available without cost from EPA's National Service Center for Environmental Publications (NSCEP) in Cincinnati, Ohio (telephone: 1–800–490–9198, or 513–489–8190; facsimile 513–489–8695). When requesting a copy of the CD–ROM, please provide your name, mailing address, and the document number (EPA/600/C–01/012). No paper copies will be made available.

FOR FURTHER INFORMATION CONTACT: David Cleverly, National Center for Environmental Assessment-Washington Office (8623D), U.S. Environmental Protection Agency, Washington DC 20460 by email (*cleverly.david@epa.gov*) or telephone(202–564–3238).

SUPPLEMENTARY INFORMATION: CDD/CDF emissions data were extracted from original engineering test reports of the results of sampling the stacks, wastewater discharges, and other emission streams at specific facilities and sources. The database was designed to accommodate facility-based emissions, mobile source emissions, and area source emissions. Test reports from various state agencies, trade associations, EPA program offices, and EPA regulatory dockets were consolidated and assimilated into the database. Most of the emissions data in Version 3.0 of the database concern releases to the air because few data are currently available on releases to other media.

EPA intends to periodically update the Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States: Reference Years 1987 and 1995 to reflect changes in emissions of dioxin-like compounds that may be associated with regulatory activity, advances in pollution control, abatement, and source-specific technologies. The next update to the database is scheduled for the fall of 2002, and will represent emissions of dioxin-like compounds in the United States for reference year

2000. Please consult the database website (above) for status and availability of this update.

Dated: December 5, 2001.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–31175 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7118–9]

Proposed Agreement and Covenant Not To Sue Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986; In Re: Gardner and Hubbardston Superfund Site, Gardner, Massachusetts

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed agreement; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9601, *et seq.*, notice is hereby given of a proposed Agreement and Covenant Not to Sue between the United States, on behalf of the U.S. Environmental Protection Agency ("EPA") and The Gardner Little League, Inc. ("Purchaser"). The Purchaser plans to acquire approximately 10 acres of property that is currently owned by Mr. Ronald Kirwood. The Purchaser intends to use the property to construct a youth baseball facility. Under the Proposed Agreement, the United States grants a Covenant Not to Sue to the Purchaser with respect to existing contamination at the Site in exchange for the Purchaser's agreement to pay EPA $12,000. In addition, the Purchaser agrees to provide an irrevocable right of access to representatives of EPA.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at One Congress Street, Boston, MA 02214.

DATES: Comments must be submitted on or before January 17, 2002.

ADDRESSES: Comments should be addressed to Michelle Lauterback, Enforcement Counsel, U.S. Environmental Protection Agency, Regional I, One Congress Street, Suite 1100, Mail code SES, Boston, Massachusetts 02203, and should refer to: In re: Gardner and Hubbardston Superfund Site, U.S. EPA Docket No. CERCLA–01–2001–0076.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed Agreement and Covenant Not to Sue can be obtained from Sharon Fennelly, Enforcement Coordinator, U.S. Environmental Protection Agency, Region I, One Congress Street, Mailcode HBR, Boston, Massachusetts 02214, (617) 918–1263.

Dated: November 7, 2001.

Robert V. Varney,

Regional Administrator, Region I.

[FR Doc. 01–31180 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–5]

Notice of Final NPDES General Permit; Final NPDES General Permit for New and Existing Sources and New Dischargers in the Offshore Subcategory of the Oil and Gas Extraction Category for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (GMG290000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA Region 6 today issues a modification of the National Pollutant Discharge Elimination System (NPDES) general permit for the Western Portion of the Outer Continental Shelf of the Gulf of Mexico (No. GMG290000) for discharges from new sources, existing sources, and new dischargers in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). The modified permit will become effective February 19, 2002. The existing permit published in the **Federal Register**, at 64 FR 19156 on April 19, 1999, authorizes discharges from exploration, development, and production facilities located in and discharging to Federal waters of the Gulf of Mexico seaward of the outer boundary of the territorial seas offshore of Louisiana and Texas. Today's action adds the authorization to discharge of drill cuttings generated using synthetic and other non-aqueous based drilling fluids and hydrostatic test water form pressure testing of existing pipelines.

A copy of the Region's responses to comments and the final permit may be obtained from the EPA Region 6 internet site: *http://www.epa.gov/earth1r6/6wq/6wq.htm.*

FOR FURTHER INFORMATION CONTACT: Ms. Diane Smith, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665 7191, or via EMAIL to the following address: *smith.diane@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action are those which operate offshore oil and gas extraction facilities located in the Outer Continental Shelf Offshore of Louisiana and Texas.

Category	Examples of regulated entities
Industry	Offshore Oil and Gas Extraction Platforms.

This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your (facility, company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in Part I. Section A.1. of the general permit. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Pursuant to section 402 of the Clean Water Act (CWA), 33 U.S.C. 1342, EPA proposed and solicited comments on NPDES general permit GMG290000 at 63 FR 2238 (January 14, 1998). Notice of this proposed permit modification was also published in the New Orleans Times Picayune and the Lafayette Daily Advisor on June 9, 2001. The comment period closed on August 6, 2001.

Region 6 received comments from the Offshore Operators Committee, M–I LLC, Baroid Drilling Fluids, Petro-Canada, and B.P. Chemicals.

EPA Region 6 has considered all comments received. In response to those comments, protocol were included in the final permit for the new test methods for sediment toxicity and biodegradation. A statistical tool was also included in the final permit to account for variability in those new test methods. Several clarifications were also made in the permit's language.

The permit modification includes limits and monitoring requirements for six new parameters. Monitoring for those parameters and implementation of

VOL 66 ISS 243 DE 18 2001 UMI

the required test methods have not previously been required for offshore oil and gas discharges. Industry is therefore expected to need some time to get the necessary equipment in place and train personnel prior to beginning the monitoring. The effective date of the permit is being delayed by thirty days to accommodate those needs.

EPA also expects that many operators will not be able to comply with several of the permit's new limits on the effective date. Operators may be unable to get new equipment in place to meet the new limits for retention of drilling fluid on drill cuttings. There may be an insufficient stock of synthetic base fluids which comply with the new limits. Also, time will be needed to complete the 275 day biodegradation test and to develop sufficient laboratory capacity and stocks of organisms to conduct the sediment toxicity test. For those reasons administrative compliance orders are being issued requiring those discharges not in compliance with the new limitations to comply within six months.

The industry has requested an additional delay in the compliance requirements for the 4-day sediment toxicity limit until February 1, 2003. There are several complicating factors that will initially make compliance with the limit more difficult than with the stock base fluid sediment toxicity limit. Since the 4-day sediment toxicity test is used to measure toxicity of discharged drilling fluids, not just stock base fluids, components and additives to the drilling fluids will initially make compliance with the limits more difficult. The four day test has been shown to have more inherent variability than the ten day test. Also, demand on laboratories conducting the four day test will be much greater than for the ten day test; thus, there is more of a need to build laboratory capacity and develop an adequate supply of test organisms. The administrative compliance order will therefore require operators to comply with the 4-day sediment toxicity limit by February 1, 2003.

Sam Becker,

Acting Director, Water Quality Protection Division, Region 6.

[FR Doc. 01–31176 Filed 12–17–01; 8:45 am]

BILLING CODE [illegible]–50–P

OFFICE OF NATIONAL DRUG CONTROL POLICY

Meeting of the Drug Control Research, Data, and Evaluation Committee

AGENCY: Office of National Drug Control Policy.

ACTION: Notice of meeting.

SUMMARY: ONDCP will convene a meeting of the Drug Control Research, Data, and Evaluation Advisory Committee on January 17–18, 2002, at the White House Conference Center located at 726 Jackson Place, NW., Washington, DC. The meeting will begin promptly each day at 9 am and adjourn at 4 pm. The agenda will include general discussion and briefs on national drug use indicators and other federal drug control initiatives including, but not limited to the following: (1) Interagency Oxycontin Work Group Progress Report on an Early Warning System for Pharmaceutical Diversion Abuse; (2) a Redesign Proposal for the Drug Abuse Warning Network (DAWN); (3) ONDCP's Anti-Drug Media Campaign Evaluation; (4) 2001 National Household Survey on Drug Abuse State Estimates of Treatment Need and Drug Use Prevalence; (5) The RAMONA Project (Random Access Monitoring of Narcotics Addicts); (6) HHS's Report on Closing the Drug Abuse Treatment Gap: A Report to the President of the U.S.; (7) Updates on Drug Free Communities Grant Program; and (8) Activities related to: prevention, families, schools, and workplaces. There will be an opportunity for public comment from 11:30 am to 12 Noon on Thursday, January 17, 2002.

DATES: January 17–18, 2002, 9 am to 4:00 pm. Opportunity for public comment from 11:30 am to 12:00 noon on Thursday, January 17, 2002.

ADDRESSES: White House Conference Center, 726 Jackson Place, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda V. Priebe, Assistant General Counsel, Office of National Drug Control Policy, Washington, DC (202) 395–6622.

Dated: December 11, 2001.

Linda V. Priebe,

Assistant General Counsel.

[FR Doc. 01–31055 Filed 12–17–01; 8:45 am]

BILLING CODE 3180–02–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 01–2841]

Common Carrier Bureau Seeks Comment on Pine Belt Cellular and Pine Belt PCS Petition for Designation as an Eligible Telecommunications Carrier in Alabama

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on December 7, 2001, the Common Carrier Bureau sought comment on the Pine Belt Cellular and Pine Belt PCS Petition for Designation as an Eligible Telecommunications Carrier in Alabama, including the requested service area.

DATES: Comments are due on or before January 17, 2002. Reply comments are due on or before February 1, 2002.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith or Anita Cheng, Attorney, or Sheryl Todd, Management Analyst, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On November 26, 2001, Pine Belt Cellular and Pine Belt PCS (Pine Belt) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive federal universal service support for service offered in Alabama. Specifically, Pine Belt contends that the Alabama Public Service Commission has provided an affirmative statement that it lacks jurisdiction to consider Pine Belt's petition, Pine Belt meets all the statutory and regulatory prerequisites for ETC designation, and designating Pine Belt as an ETC will serve the public interest. The Common Carrier Bureau seeks comment on the Pine Belt Petition, including the requested service area.

The petitioner must provide copies of its petition to the Alabama Public Service Commission at the time of filing with the Commission. The Commission will also send a copy of this Notice to the Alabama Public Service Commission by overnight express mail to ensure that the Alabama Public Service Commission is notified of the notice and comment period.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comments are due January 17, 2002, and reply comments are due February 1, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24,121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *<http://www.fcc.gov/e-file/ecfs.html>*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth Street SW., Room CY–B402, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Federal Communications Commission.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–31029 Filed 12–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 1:00 p.m. on Thursday, December 20, 2001, to consider the following matters:

Discussion Agenda

Memorandum and resolution re: 2002 FDIC Budget.

Memorandum and resolution re: Revised Policy Statement Regarding Minority-Owned Depository Institutions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 7th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2089 (Voice); (202) 416–2007 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: December 13, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–31197 Filed 12–13–01; 4:35 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1399–DR]

Alabama; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1399–DR), dated December 7, 2001, and related determinations.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal EmergencyManagement Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 7, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

> I have determined that the damage in certain areas of the State of Alabama, resulting from severe storms and tornadoes on November 24–25, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Alabama.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted Federal funds provided would be limited to 75 percent of the total eligible costs.
>
> Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Charles M. Butler of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Alabama to have been affected adversely by this declared major disaster: Autauga, Blount, Butler, Calhoun, Cherokee, Clay, Dale, DeKalb, Etowah, Fayette, Jefferson, Lamar, Lawrence, Madison, Marion, Marshall, St. Clair, Talladega and Winston Counties for Individual Assistance.

All counties within the State of Alabama are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public

VOL 66 ISS 243 DE 18 2001 UMI

Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31037 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1397–DR]

Guam; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Territory of Guam (FEMA–1397–DR), dated December 5, 2001, and related determinations.

EFFECTIVE DATE: December 5, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 5, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

> I have determined that the damage in certain areas of the Territory of Guam, resulting from an earthquake on October 13, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the Territory of Guam.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Public Assistance and Hazard Mitigation in the Territory of Guam, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.
>
> Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Louis Botta of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the Territory of Guam to have been affected adversely by this declared major disaster:

The Territory of Guam for Public Assistance.

The Territory of Guam is eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31035 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1398–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1398–DR), dated December 7, 2001, and related determinations.

EFFECTIVE DATE: December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal EmergencyManagement Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 7, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

> I have determined that the damage in certain areas of the State of Mississippi, resulting from severe storms, tornadoes and flooding on November 24, 2001, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Mississippi.
>
> In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.
>
> You are authorized to provide Individual Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Public Assistance is later warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.
>
> Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gracia Szczech of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster: Bolivar, DeSoto, Hinds, Humphreys, Madison, Panola, Quitman, Sunflower, Tate and Washington Counties for Individual Assistance.

All counties within the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31036 Filed 12–17–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 11, 2002.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *First Charter Corporation*, Charlotte, North Carolina; to acquire 5.32 percent of the voting shares of Catawba Valley Bancshares, Inc., Hickory, North Carolina, and thereby indirectly acquire Catawba Valley Bank, Hickory, North Carolina..

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *TCSB Bancorp, Inc.*, Traverse City, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Traverse City State Bank, Traverse City, Michigan.

Board of Governors of the Federal Reserve System.

Dated: December 12, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-31056 Filed 12-17-01; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10 a.m., Wednesday, December 19, 2001.

The business of the Board requires that this meeting be held with less than one week's advance notice to the public and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda: Because of their routine nature, no discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that the items be moved to the discussion agenda.

1. Proposed 2002 Federal Reserve Bank budgets.
2. Proposed 2002—2003 Federal Reserve Board budget.
3. Proposed 2002—2003 Office of Inspector General's budget.

Note: This meeting will be recorded for the benefit of those unable to attend.

Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $6 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Contact Person for More Information: Michelle A. Smith, Assistant to the Board; 202-452-3204.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement. (The Web site also includes procedural and other information about the open meeting.)

Dated: December 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-31220 Filed 12-14-01; 11:07 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-07-02]

Agency Forms Undergoing Paperwork Reduction Act Review; Correction

A notice announcing a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The State and Local Area Integrated Telephone Survey (SLAITS) was published in the **Federal Register** on November 27, 2001, (66 FR 59254). This notice is corrected as follows:

On page 59254, in the first column, the last paragraph, the OMB number should be changed from 0920-0416 to 0920-0406.

All other information and requirements of the November 27, 2001, notice remain the same.

Dated: December 11, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01-31103 Filed 12-17-01; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 31, 2002, from 8:30 a.m. to 3:30 p.m.

Location: CDER Advisory Committee conference room 1066, 5630 Fishers Lane, Rockville, MD.

Contact: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane,

VOL 66 ISS 243 DE 18 2001 UMI

Rockville, MD 20857, 301–827–7001, e-mail: SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss supplemental new drug application (NDA) 21–386, ZOMETA (zoledronic acid for injection), Novartis Pharmaceuticals Corp., indicated for the treatment of bone metastases in patients with multiple myeloma, breast cancer, prostate cancer and other solid tumors.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 24, 2002. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:45 a.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 24, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation. After the scientific presentations, a 30-minute open public session may be conducted for interested persons who have submitted their request to speak by January 24, 2002, to address issues specific to the topic before the committee.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 10, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–31025 Filed 12–17–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0503]

Draft Compliance Policy Guide: "Filth from Insects, Rodents, and Other Pests in Food;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft compliance policy guide (CPG) currently entitled "Filth from Insects, Rodents, and Other Pests in Food." The purpose of this draft CPG is to revise, clarify, and redefine existing guidance on the interpretation of filth in foods within the context of current science. The draft CPG will provide written guidance to FDA components as well as to the industry.

DATES: Submit written or electronic comments on this draft CPG by February 19, 2002.

ADDRESSES: Submit written requests for single copies of the draft CPG "Filth from Insects, Rodents, and Other Pests in Food" to the Director, Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your request, or FAX your request to 301–827–0482. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the document.

Submit written comments on the draft CPG to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT:

Technical Questions Concerning Filth in Foods: Alan R. Olsen, Microanalytical Branch (HFS–315), Office of Plant, Dairy Foods, and Beverages, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4438, FAX 202–205–4091.

Questions Concerning Regulatory Actions: MaryLynn Datoc, Division of Compliance Policy (HFC–230), Office of Enforcement, Office of Regulatory Affairs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0413, FAX 301–827–0482.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed a draft CPG to revise, clarify, and redefine existing guidance on foods that contain filth from insects, rodents, and other pests to reflect recent advances in science. The purpose of this draft CPG is to provide clear policy to FDA's field and headquarters staff with regard to filth from insects, rodents, and other pests in foods. It also contains information that may be useful to the regulated industry and to the public.

The draft CPG, when finalized, will supersede the current CPG and represents the agency's current thinking on the subject. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such an approach satisfies the requirements of applicable statutes or regulations.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115).

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft CPG entitled "Filth from Insects, Rodents, and Other Pests in Food." Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft CPG and received comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Copies of the draft CPG may also be downloaded to a personal computer with access to the Internet. The Office of Regulatory Affairs home page includes the draft CPG and may be accessed at http://www.fda.gov/ora under "Compliance References."

Dated: December 11, 2001.

Dennis E. Baker,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 01–31024 Filed 12–17–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Neurotrophic Components of the ADNF I Complex

Brenneman et al. (NICHD)
DHHS Reference No. E–209–01/0 filed 12 Sep 2001
Licensing Contact: Jonathan Dixon; 301/496–7056 ext. 270; *dixonj@od.nih.gov*

Neuronal cell death has been associated with a variety of diseases and conditions, including Alzheimer's, AIDS-related dementia, Huntington's disease, and Parkinson's disease to name a few. Neuronal cell death has also been associated with developmental retardation and learning impairments that have lifelong effects on individuals diagnosed with these conditions.

This invention discloses new Activity Dependent Neurotrophic Factor I (ADNF I) complex polypeptides. Previously, Activity Dependent Neurotrophic Factor (ADNF) polypeptides have been shown to prevent neuronal cell death. ADNF polypeptides are secreted by astroglial cells in the presence of vasoactive intestinal peptide (VIP). These new ADNF I complex polypeptides are effective for reducing neuronal cell death, for reducing oxidative stress, for reducing condition(s) associated with fetal alcohol syndrome in a subject, for enhancing learning and memory, both pre- and post-natally, and for other conditions.

With these additional ADNF I complex polypeptides it will be easier to target specific receptors in different cell types and to individually tailor drug treatment regimes to those afflicted with neurodegenerative disorders.

Utilization of FPRL1 as a Functional Receptor by Serum Amyloid A (SAA)

Ji Ming Wang et al. (NCI)
DHHS Reference No. E–167–99/0 filed 22 Sep 1999 (PCT/US99/21770, WO 01/21188)
Licensing Contact: Marlene Shinn; 301/496–7056 ext. 285; *shinnm@od.nih.gov*

This technology identifies a means for modulating the interaction of Serum Amyloid A (SAA) with its functional receptor FPRL1. This modulation may have therapeutic applications in treating diseases such as infections, organ rejection, rheumatoid arthritis, atherosclerosis, neoplasms, and amyloidosis. The SAA, an acute phase protein, is normally present in serum but increases by 1,000 fold in systemic inflammatory conditions and is associated with leukocyte migration in these disease states. This technology identifies various means to modulate the association of SAA and FPRL1 in a SAA–FPRL1 complex or method of identifying agents that associate with the complex. It is available for immediate licensing and research collaborations via a Cooperative Research and Development Agreement (CRADA).

Dated: December 10, 2001.

Jack Spiegel,

Director, Division of Technology, Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–31048 Filed 12–17–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Alternative Medicine Special Emphasis Panel NCCAM SEP ZAT1 K–02.

Date: January 4, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Boulevard, Conference Room 701, Bethesda, MD 20892.

Contact Person: William A. Kachadorian, PhD., Scientific Review Administrator, Office of Scientific Review, National Center for Complementary and Alternative Medicine, 6707 Democracy Blvd, Ste 106, Bethesda, MD 20892–5475, (301) 594–2014, *kachadow@mail.nih.gov.*

Dated: December 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31047 Filed 12–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIDCR Special Grants Review Committee, Review of R03, F32, K02, K08, K22, K23, K24 Grants.

Date: February 21–22, 2002.

Time: 8 AM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Marriott Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Yujing Liu, PHD, MD, Scientific Review Administrator, National Institute of Dental and Craniofacial Res., 45 Center Drive, Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (301) 594–2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: December 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31043 Filed 12–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: January 7, 2002.

Time: 3 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Boulevard, Room 754, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PHD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: January 8, 2002.

Time: 8 PM to 5 PM.

Agenda: To review and evaluate grant applications.

Place: Courtyard By Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.

Contact Person: Neal A. Musto, PHD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798, *muston@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31044 Filed 12–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such a patentable material, and personal information concerning individuals associated with the grant application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 12, 2001.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, (301) 435–1225, *politisacsr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Specific Emphasis Panel.

Date: December 19, 2001.

Time: 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact of Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 19, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review an evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Angela M. Pattatucci-Aragon, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institute of Health, HHS)

Dated: December 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31045 Filed 12–18–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 4, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 7, 2002.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Robert Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, (301) 435–0694.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 9, 2002.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Paul K. Strudler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4100, MSC 7804, Bethesda, MD 20892, (301) 435–1716.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 10, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 14, 2002.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 17–18, 2002.

Time: 8:00 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Daniel McPherson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, (301) 435–1175, *mcphersod@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: January 20–22, 2002.

Time: 7:00 PM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: W. Los Angeles Westwood, 930 Hilgard Avenue, Los Angeles, CA 90024–3033.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31046 Filed 12–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Title: Emergency Response Grants Regulations—42 CFR part 51—(OMB No. 0930–0229, Extension)—This rule implements section 501(m) of the Public Health Service Act (42 U.S.C 290aa), which authorizes the Secretary to make noncompetitive grants, contracts or cooperative agreements to public entities to enable such entities to address emergency substance abuse or mental health needs in local communities. The rule establishes criteria for determining that a substance abuse or mental health emergency exists, the minimum content for an application, and reporting requirements for recipients of such funding.

SAMHSA will use the information in the applications to make a determination that the requisite need exists; that the mental health and/or substance abuse needs are a direct result of the precipitating event; that no other local, State, Tribal or Federal funding sources available to address the need; that there is an adequate plan of services; that the applicant has appropriate organizational capability; and, that the budget provides sufficient justification and is consistent with the documentation of need and the plan of services.

Eligible applicants may apply to the Secretary for either of two types of substance abuse and mental health emergency response grants: Immediate awards and Intermediate awards. The former are designed to be funded up to $50,000, or such greater amount as determined by the Secretary on a case-by-case basis, and are to be used over the initial 90-day period commencing as soon as possible after the precipitating event; the latter awards require more documentation, including a needs assessment, other data and related budgetary detail. The Intermediate awards have no predefined budget limit. Typically, Intermediate awards would be used to meet systemic mental health and/or substance abuse needs during the recovery period following the Immediate award period. Such awards may be used for up to one year, with a possible second year supplement based on submission of additional required information and data.

This program is an approved user of the PHS–5161 application form, approved by OMB under control number 0920–0428. The quarterly

VOL 66 ISS 243 DE 18 2001 UMI

financial status reports in 51d.10(a)(2) and (b)(2) are as permitted by 45 CFR 92.41(b); the final program report, financial status report and final voucher in 51d.10(a)(3) and in 51d.10(b)(3–4) are in accordance with 45 CFR 92.50(b). Information collection requirements of 45 CFR part 92 are approved by OMB under control number 0990–0169. The following table presents annual burden estimates for the information collection requirements of this regulation.

42 CFR citation	Number of respondents	Responses/ respondent	Burden/re-sponse (hrs.)	Total burden (hrs.)
Immediate award application:				
51d.4(a) and 51d.6(a)(2)	3	1	3	* (9)
Intermediate award application:				
51d.4(b) and 51d.6(a)(2)—Intermediate Awards	3	1	10	* (30)
51d.10(a)(1)—Immediate awards—mid-program report if applicable	3	1	2	* (6)
Final report content for both types of award:				
51d.10(c)	6	1	3	18
Total	6			18

* This burden is carried under OMB control number 0920–0428.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: December 11, 2001.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 01–31110 Filed 12–17–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Decision and Availability of Decision Documents on the Issuance of Permits for Incidental Take of Threatened and Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of decision.

SUMMARY: Between February 17, 2001, and November 14, 2001, Region 1 of the Fish and Wildlife Service (Service) approved seven Habitat Conservation Plans (Plans) and issued seven associated permits and transferred three permits for the incidental take of threatened and endangered species pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Service also issued two Safe Harbor Agreement permits pursuant to section 10(a)(1)(A) of the Act. Two applicants also withdrew their permit applications after their Plans had been noticed in the **Federal Register** for public comment. Copies of the permits and associated decision documents are available upon request. Charges for copying (10 cents per page), plus shipping and handling may apply.

ADDRESSES: If you would like copies of any of the above documents, please contact the Fish and Wildlife Reference Service, 5430 Grosvenor Lane, Suite 110, Bethesda, Maryland 20814; telephone (800) 582–3421.

FOR FURTHER INFORMATION CONTACT: Heather Hollis, Fish and Wildlife Biologist, Fish and Wildlife Service, Portland, Oregon; telephone (503) 231–6241.

SUPPLEMENTARY INFORMATION: Section 9 of the Act and Federal regulation prohibit the take of wildlife species listed as endangered or threatened, respectively. Under the Act, the term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed wildlife, or to attempt to engage in any such conduct. The Service may, under limited circumstances, issue permits to authorize take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22.

Between February 17, 2001, and November 14, 2001, Region 1 of the Service issued the following permits for incidental take of threatened and endangered species, pursuant to section 10(a)(1)(B) and section 10(a)(1)(A) of the Act. We issued each permit after making the following determinations: the application had been submitted in good faith; all permit issuance criteria were met, including the requirement that granting the permit will not jeopardize the continued existence of listed species; and the permit was consistent with the Act and applicable regulations, including a thorough review of the environmental effects of the action and alternatives pursuant to the National Environmental Policy Act of 1969.

Copies of these permits, their accompanying Plans, and associated documents are available upon request. Decision documents for each permit include Findings and Recommendations; a Biological Opinion; and either a Finding of No Significant Impact, a Record of Decision, or an Environmental Action Statement. Associated documents may also include an Implementing Agreement, Assumption Agreement, Environmental Assessment, or Environmental Impact Statement, as applicable.

Approved plan/permit	Permit No.	Issuance date
Habitat Conservation Plans:		
John Lang Homes, Cantata—permit transfer	TE835424–0	03/22/01
San Joaquin Valley Multispecies	TE043280–0	05/31/01
Tacoma Water	TE044757–0	07/06/01
El Sobrante Landfill	TE040421–0	07/24/01
Reichel et al. Permit Transfers	TE046730–0 TE046731–0	08/10/01 08/10/01
Keig Wildcat Line	TE040317–0	09/12/01
Boise Cascade Low-effect	TE028219–0	09/13/01

Approved plan/permit	Permit No.	Issuance date
Deer Canyon Park	TE035929–0	09/17/01
City of Highland Roadways Project	TE049462–0	10/29/01
Safe Harbor Agreements:		
Nene Reintroduction, Puu O Hoku Ranch	TE028990–0	08/22/01
Russell Pond, Oregon Chub	TE042953–0	09/24/01

In addition to issuing the above permits, the Service ceased processing two permit applications after the applicants withdrew their permit applications. Both International Paper and Crown Pacific withdrew their permit applications after both had developed draft HCPs that had been available for public review.

Dated: November 20, 2001.

Rowan Gould,

Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

[FR Doc. 01–31104 Filed 12–17–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–1990]

Notice of Intent To Prepare a Supplemental Environmental Impact Statement to Analyze the Proposed Modification to the Pipeline Plan of Operations for the Pipeline/South Pipeline Pit Expansion

AGENCY: Bureau of Land Management.

COOPERATING AGENCY: Nevada Division of Wildlife.

ACTION: Notice of intent to prepare a supplemental environmental impact statement to analyze the proposed modification to the Pipeline Plan of Operations for the Pipeline/South Pipeline Pit Expansion, Lander County, Nevada, and notice of scoping period.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), 40 Code of Federal Regulations 1500–1508 Council on Environmental Quality Regulations, and 43 Code of Federal Regulations 3809, the Bureau of Land Management's Battle Mountain Field Office will be directing the preparation of a Supplemental Environmental Impact Statement (EIS) to analyze a proposed pit expansion. The EIS will be prepared by a third party contractor directed by the BLM. The project will involve public and private lands in Lander County, Nevada.

DATES: Written comments on the scope of the EIS must be post-marked or otherwise delivered by 4:30 p.m. on January 17, 2002.

ADDRESSES: Scoping comments should be sent to the Bureau of Land Management, Battle Mountain Field Office, Attention: Pam Jarnecke, 50 Bastian Road, Battle Mountain, Nevada 89820. Comments, including names and street addresses of respondents, will be available for public review at the Battle Mountain Field Office located in Battle Mountain, Nevada, during regular business hours, and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Pam Jarnecke, Battle Mountain BLM, at (775) 635–4144.

SUPPLEMENTARY INFORMATION: The actions associated with the project would consist of the following:

- Expansion of the South Pipeline pit southwest into the Gap mineralized area.
- Expansion of the South Pipeline ore deposit southeast into the Crossroads mineralized area.
- Deepening of the Pipeline/South Pipeline open pit from the currently approved 4120-foot elevation (above mean sea level—amsl) to at least 3600-foot elevation amsl.
- Increasing the approved height of 250 feet for the Pipeline/South Pipeline waste rock dump to 400 feet.
- Increasing the mining rate from an average 150,000 tons per day (tpd) to an average 250,000 tpd, with a maximum of 400,000 tpd.
- Translocate waste rock as partial fill in the Pipeline/South Pipeline open pit, including portions of the expanded pit.

The life of the project under this modification would increase seven years over the time line outlined in the South Pipeline Final EIS (BLM 2000). No additional surface disturbance is proposed under this modification, and the expansion of the Pipeline/South Pipeline open pit was defined in this EIS as a Reasonably Foreseeable Action.

Gerald M. Smith,

Field Manager, Battle Mountain Field Office.

[FR Doc. 01–31185 Filed 12–17–01; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–288]

Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports

AGENCY: United States International Trade Commission.

ACTION: Notice of Determination.

SUMMARY: Section 7 of the Steel Trade Liberalization Program Implementation Act, as amended (19 U.S.C. 2703 note), which concerns local feedstock requirements for fuel ethyl alcohol imported by the United States from CBI-beneficiary countries, requires the Commission to determine annually the U.S. domestic market for fuel ethyl alcohol during the 12-month period ending on the preceding September 30. The domestic market determination made by the Commission is to be used to establish the "base quantity" of imports that can be imported with a zero percent local feedstock requirement. The base quantity to be used by the U.S. Customs Service in the administration of the law is the greater of 60 million gallons or 7 percent of U.S. consumption as determined by the Commission. Beyond the base quantity of imports, progressively higher local feedstock requirements are placed on imports of fuel ethyl alcohol and mixtures from the CBI-beneficiary countries.

For the 12-month period ending September 30, 2001, the Commission has determined the level of U.S. consumption of fuel ethyl alcohol to be 1.72 billion gallons. Seven percent of this amount is 120.3 million gallons (these figures have been rounded). Therefore, the base quantity for 2002 should be 120.3 million gallons.

VOL 66 ISS 243 DE 18 2001 UMI

FOR FURTHER INFORMATION CONTACT: Devry Boughner (202) 205–3313, *dboughner@usitc.gov*, in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart, *wgearhart@usitc.gov*, of the Commission's Office of the General Counsel at (202) 205–3091.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

Background

For purposes of making determinations of the U.S. market for fuel ethyl alcohol as required by section 7 of the Act, the Commission instituted Investigation No. 332–288, Ethyl Alcohol for Fuel Use: Determination of the Base Quantity of Imports, in March 1990. The Commission uses official statistics of the U.S. Department of Energy to make these determinations as well as the PIERS database of the Journal of Commerce, which is based on U.S. export declarations.

Section 225 of the Customs and Trade Act of 1990 (Pub. L. 101–382, August 20, 1990) amended the original language set forth in the Steel Trade Liberalization Program Implementation Act of 1989. The amendment requires the Commission to make a determination of the U.S. domestic market for fuel ethyl alcohol for each year after 1989.

By order of the Commission.

Issued: December 12, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31057 Filed 12–17–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicted that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,869; Cognis Corp/ Lock Haven, Castanea, PA
TA–W–39,979; Fort Atkinson Industries, Fort Atkinson, WI
TA–W–39,471; Besser Co., Alpena, MI
TA–W–39,880; Tuscarora Yarns, James C. Fry Plant, Kinston, NC
TA–W–39,724; L.E. Smith Glass Co., Mt. Pleasant, PA
TA–W–38,944; Crane Pumps and Systems, Piqua, OH
TA–W–39,882; JSJ Corp., Grand Haven South Plant, Grand Haven, MI
TA–W–39,312; Formtech Enterprises, Orwigsburg, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,579; Newell Window Furnishing, Inc./Kirsch, Waco, TX
TA–W–40,274; A.O. Smith Corp., Electrical Products Co., Owosso, MI
TA–W–39,950; Antec Network Plastics, a/k/a Arris, El Paso, TX
TA–W–40,121; Connelly North America, El Paso, TX
TA–W–40,052 & A; Emsar, Inc., Bridgeport, CT and Stratford, CT
TA–W–39,417; Innovex, Inc., Chandler, AZ
TA–W–39,414; Marshall and Williams Products, Inc., Providence, RI
TA–W–39,778; Coats North America, Thomasville, GA
TA–W–40,048; Three-Five Systems, Inc., Tempe, AZ
TA–W–39,849; Square D, Scheider Electric, Huntington, IN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–39,382; Allied Vaughn, Clinton, TN
TA–W–39,693; Winkel Industries, Inc., Confield, OH

The investigation revealed that criteria (2) and (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,878; Pennzoil/Quaker State Co., Shreveport Refinery, Shreveport, LA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,954 & A; Pulp and Paper of America, Berlin, NH and Gorham, NH: August 21, 2000.
TA–W–40,046; Parker Hannifim Corp., Integrated Hydraulics Div., Lincolnshire, IL: August 31, 2000.
TA–W–39,619; Converse, Inc., Charlotte, NC: June 25, 2000.
TA–W–39,616; United States Ceramic Tile Co., East Sparta, OH: June 24, 2000.
TA–W–39,401; Industrial Seaming Co., Inc., Granite Falls, NC: June 14, 2000.
TA–W–38,974; Randy Industries, Inc., New York, NY: March 26, 2000.
TA–W–39,536; Georgia-Pacific Corp., West, Bellingham, WA: June 15, 2000.
TA–W–39,613; Dutton Manufacturing, Laconia, NH: June 27, 2000.
TA–W–40,264; Winona Knitting Mills, Div. of Hampshire Designers, Inc., Winona, MN: April 15, 2001.
TA–W–39,359; G.E. Marquette Medical, d/b/a Corometrics, Wallingford, CT: May 15, 2001.
TA–W–39,695; PEC of America Corp., Santee, CA: July 11, 2000.
TA–W–39,473; Boston Scientific Corp., Watertown, MA: June 7, 2000.
TA–W–40,092; MICTEC, Inc., Canonsburg, PA: September 7, 2000.
TA–W–39,986; Lexington Fabrics, Inc., Geraldine, AL: August 22, 2000.
TA–W–39,177; Wand Tool Co., Inc., Wheeling, IL: April 5, 2000.
TA–W–39,389; Precision Marshall Steel Co., Washington, PA: May 12, 2000.
TA–W–39,963 & A; Thomasville Furniture Industries, Inc., West

Jefferson Plant, West Jefferson, NC and Sawmills Plant, Hudson, NC: August 15, 2000.

TA–W–39,957 & A, B; Acushnet Rubber Co., Inc., Belleville Facility, New Bedford, MA, Riverside Facility, New Bedford, MA and Warehouse, New Bedford, MA: August 15, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for (NAFTA–TAA) issued during the month of November, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for (NAFTA–TAA) the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number of proportion of the workers in the worker's firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation to the decline in sales or production of such firm or subdivision or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations (NAFTA–TAA)

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–04972; Besser Co., Alpena, MI

NAFTA–TAA–05382; Wilson Sporting Goods Co., Racquet Sports, Fountain Inn, SC

NAFTA–TAA–05445; Graphic Packaging Portland, OR

NAFTA–TAA–05289; JSJ Corp., Grand Haven South Plant, Grand Haven, MI

NAFTA–TAA–04793; Johnstown America Corp., Freight Car Div., Johnstown, PA

NAFTA–TAA–05257; J.T. Fennell Co., Inc., Chillicothe, IL

NAFTA–TAA–05249; Anvil International, Inc., Statesboro, GA

NAFTA–TAA–05210; Elastic Corporation of America, Inc., Hemingway, SC

NAFTA–TAA–05179; Pennzoil/Quaker State Co., Shreveport Refinery, Shreveport, LA

The workers firm does not produce an article as required for certification under section 250(a), Subchapter D, Chapter 2, Title II, of the trade Act of 1974, as amended.

NAFTA–TAA–04985; Winona, Inc., Nashville, IN

NAFTA–TAA–04942; Allied Vaughn, Clinton, TN

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05380; Joplin Manufacturing, Orica USA, Inc., Joplin, MO: September 26, 2000.

NAFTA–TAA–05489; Arvin Meritor, Fayette, AL: October 19, 2000.

NAFTA–TAA–04788; J and L Speciality Steel, Inc., Midland, PA: April 14, 2000.

NAFTA–TAA–05313; Bolivar Tees, Bolivar, MO: September 4, 2000.

NAFTA–TAA–05167; Coats North America, Thomasville, GA: July 18, 2000.

NAFTA–TAA–05356; Eaton Corp., Torque Control Products Div., Marshall, MI: September 18, 2000.

NAFTA–TAA–05012; Jaymar-Ruby, Inc., d/b/a Trans Apparel Group, Michigan City, IN: June 13, 2000.

NAFTA–TAA–05417 & A; FCI USA, Inc., Fremont, CA and Cypress, CA: October 8, 2000.

NAFTA–TAA–05283; W P Textile Processing Corp., Richmond, VA: September 4, 2000.

I hereby certify that the aforementioned determinations were issued during the month of November, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 30, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31147 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,693 AND NAFTA–04514]

Summit Timber Co., Darrington, WA; Notice of Negative Determination on Reconsideration

On September 24, 2001, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The notice as published in the **Federal Register** on October 19, 2001 (66 FR 53253).

The Department initially denied TAA to workers of Summit Timber Company because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. None of the customers increased their import purchases of softwood dismenional lumber, while reducing their purchases from the subject firm.

The Department denied NAFTA–TAA because the "contributed importantly" group eligibility requirement of Section 250 was not met and because there was no shift in production to either Mexico or Canada. None of the customers increased their import purchases of softwood dimensional lumber from Canada or Mexico, while reducing their purchases from the subject firm.

The workers at the subject firm were engaged in employment related to the production of softwood dimensional lumber.

The company supplied an additional list of customers that they believed were importing softwood dimensional lumber.

On reconsideration, the Department conducted a survey of Summit Timber Company's additional customer list regarding their purchases of softwood dimensional lumber during 1999, 2000 and January through September 2001. The survey revealed that there were no meaningful increased customer purchases of imported (including from Canada or Mexico) softwood dimensional lumber, while customers decreased their purchases from the subject plant during the relevant period. Any customer import purchases of softwood lumber were relatively small

VOL 66 ISS 243 DE 18 2001 UMI

in relation to the declines in sales at the subject firm.

Conclusion

After reconsideration, I affirm the original notice of negative determinations regarding eligibility to apply for worker adjustment assistance and NAFTA-Transitional Adjustment Assistance for workers and former workers of Summit Timber Company, Darrington, Washington.

Signed at Washington, DC, this 28th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31149 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,644]

A–1 Manufacturing Inc.; Garment Corporation of America; Brilliant, AL; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on July 16, 2001 in response to a worker petition which was filed on behalf of workers at A–1 Manufacturing, Inc., Brilliant, Alabama.

An active certification covering the petitioning group of workers is already in effect (TA–W–39,204, as amended). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Dated: Signed in Washington, DC this 13th day of August, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31138 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,025]

The Aquaterra Biochemical Corp. of America, Retail Products Group Manufacturing, Retail Products Group, the Bramton Company, Dallas, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 27, 2001, applicable to workers of The Bramton Co., Retail Products Group, Dallas, Texas. The notice was published in the **Federal Register** on October 11, 2001 (66 FR 51973).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New findings show that the Department incorrectly identified the subject firm name. The Department is amending the certification determination to correctly identify the subject firm title name to read The Aquaterra Biochemical Corp. of America, Retail Products Group Manufacturing, Retail Products Group, The Bramton Co.

The amended notice applicable to TA–W–40,025 is hereby issued as follows:

> All workers of The Aquaterra Biochemical Corp. of America, Retail Products Group Manufacturing, Retail Products Group, The Bramton Co., Dallas, Texas, engaged in the production of sewing cloth pet products, who became totally or partially separated from employment on or after August 20, 2000, through September 27, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31152 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,452]

ARA Cutting, LC, Miami, FL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 13, 2001, applicable to workers of ARA Cutting, LC, Miami, Florida. The notice was published in the **Federal Register** on April 5, 2001 (66 FR 18118).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of pants and shorts. New information provided by the State shows that workers separated from employment at ARA Cutting, LC had their wages reported under two separate unemployment insurance (UI) tax accounts; ADP Total Source FL XZII, Inc., Miami, Florida and United Enterprises of Southwest Florida. Inc., d/b/a Fidelity United Miami, Florida.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of ARA Cutting, LC adversely affected by increased imports.

The amended notice applicable to TA–W–38,452 is hereby issued as follows:

> All workers of the`ARA Cutting, LC, Miami, Florida, including those receiving their compensation through ADP Total Source FL XZII, Inc., Miami, Florida and United Enterprises of Southwest Florida, Inc., d/b/a Fidelity United, Miami, Florida, who became totally or partially separated from employment on or after December 6, 1999, through February 13, 2003, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 3rd day of December, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance

[FR Doc. 01–31151 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,224]

Centis, Inc.; Formerly Known as 20th Century Plastics; Brea, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistant on August 20, 2001, applicable to workers of Centis, Inc., Brea, California. The notice was published in the **Federal Register** on September 11, 2001 (66 FR 47243).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of thin sheer transparent plastic page protectors. The subject firm originally named 20th Century Plastics was renamed Centis, Inc. in January 2000. The State agency reports that some workers wages at the subject firm are being reported under the Unemployment Insurance (UI) tax account for Centis, Inc., formerly known as 20th Century Plastics, Brea, California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Centis, Inc. who were adversely affected by imports.

The amended notice applicable to TA–W–39,224 is hereby issued as follows:

> All workers of Centis Inc., formerly known as 20th Century Plastics, Brea, California who became totally or partially seperated from employment on or after April 25, 2000, through August 20, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31141 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,243]

Color-Tex International, North Carolina Finishing Division, Salisbury, North Carolina; Notice of Revised Determination on Reconsideration

On April 16, 2001, the Department issued a notice of affirmative determination regarding application for reconsideration of the denial of trade adjustment assistance for workers of the subject firm. The notice was published in the **Federal Register** on May 3, 2001 (66 FR 22263).

Workers of Color-Tex International, North Carolina Finishing Division, Salisbury, North Carolina, engaged in employment related to dying and finishing fabric, were initially denied TAA because the "contributed importantly" criterion of the Trade Act of 1974, as amended, was not met.

The petitioner provided a listing of additional customers of the subject firm. A survey of the additional customers revealed that they had reduced purchases from North Carolina Finishing and increased imports of dyed and finished fabric during the time period relevant to the investigation.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that increases in imports of articles like or directly competitive with dyed and finished fabric produced at the subject firm contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

> All workers of Color-Tex International, North Carolina Finishing Division, Salibury, North Carolina, who became totally or partially separated from employment on or after October 4, 1999, through two years from the date of this issuance, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 25th day of October 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31146 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,819]

Engineered Sintered Components Troutman, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, and investigation was initiated on August 13, 2001 in response to a worker petition which was filed by a company official on behalf of workers at Engineered Sintered Components, Troutman, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and their investigation has been terminated.

Signed in Washington, DC this 28th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31145 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39, 154]

Jonathan Manufacturing, d/b/a/ Jonathan Engineered Solutions, Fullerton, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 8, 2001, applicable to workers of Jonathan Engineered Solutions, Fullerton, California. The notice was published in the **Federal Register** on May 23, 2001 (66 FR 28554).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the activities related to the production of aluminum slides (assembly and fabrication). The workers are separately identifiable from workers producing steel slides at the subject plant.

New information provided by the State shows that Jonathan Manufacturing is the parent firm of Jonathan Engineered Solutions, Fullerton, California. Information also shows that some of the claimants' wages are reported under the Unemployment Insurance (UI) tax account for Jonathan Manufacturing, d/b/a Jonathan Engineered Solutions, Fullerton, California.

The intent of the Department's certification is to include all workers of Jonathan Engineered Solutions who were adversely affected by imports.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–39,154 is hereby issued as follows:

> All workers of Jonathan Manufacturing, D/B/A Jonathan Engineered Solutions, Fullerton, California, engaged in employment related to the production of aluminum slides (fabrication and assembly) who became totally or partially separated from employment on or after April 6, 2000, through May 8, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 29th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31153 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 28, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 28, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 19th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 11/19/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,356	Littonian Shoe (Co.)	Littlestown, PA	11/13/2001	Children's Shoes.
40,357	Flextronics International (Co.)	Palm Harbor, FL	11/07/2001	Assemble Electronic Boards.
40,358	Precon New Products (Wkrs)	Boise, ID	10/29/2001	Retractable Phone Cards.
40,359	Nocona Athletic Goods (Co.)	Nocona, TX	10/18/2001	Baseball Gloves and Mitts.
40,360	Reptron Manufacturing (Wkrs)	Gaylord, MI	11/08/2001	Electronic Circuit Boards.
40,361	Donaldson Company (Co.)	Bloomington, MN	11/09/2001	Air Cleaning Equipment.
40,362	American Tissue Mills (Wkrs)	Augusta, ME	11/05/2001	Tissue Paper.
40,363	William Carter Co. (The) (Co.)	Barnesville, GA	11/09/2001	Children's Apparel.
40,364	Nutec Tooling Systems (Co.)	Meadville, PA	10/15/2001	Design and Build Jigs and Fixtures.
40,365	Saucony, Inc (Co.)	Bangor, ME	11/09/2001	Athletic Footwear.

OTAA INSTITUTIONS

[Petitions Instituted on 11/19/2001: Contact: Regina Chapman (202) 219–5555]

Subject firm (petitioners)	Location	Contact person	Telephone	TA–W No.	Date of petition
Littonian Shoe (Co.)	Littlestown, PA	Laverne L. Leese	717–359–5194	40,356	11/13/2001
Flextronics International (Co.)	Palm Harbor, FL	John Robinson	727–939–4417	40,357	11/07/2001
Precon New Products (Wkrs)	Boise, ID	John Quapp	208–323–1003	40,358	10/29/2001
Nocona Athletic Goods (Co.)	Nocona, TX	Robert M Storey, Jr.	940–825–3326	40,359	10/18/2001
Reptron Manufacturing (Wkrs)	Gaylord, MI	Lindsey Adams	989–732–6244	40,360	11/08/2001
Donaldson Company (Co.)	Bloomington, MN	Steve Michel	952–887–3555	40,361	11/09/2001
American Tissue Mills (Wkrs)	Augusta, ME	Craig Gray	207–622–9900	40,362	11/05/2001
William Carter Co. (The) (Co.)	Barnesville, GA	Tammie T. Merritt	770–233–2140	40,363	11/09/2001
Nutec Tooling Systems (Co.)	Meadville, PA	Bruce Courtney	814–724–6336	40,364	10/15/2001
Saucony, Inc (Co.)	Bangor, ME	Kerry Smith	978–532–9000	40,365	11/09/2001

[FR Doc. 01–31137 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administrative

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purposes of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 28, 2001.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than December 28, 2001.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C-5311, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 26th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions Instituted On 11/26/2001]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
40,366	Mike Dent Enterprises (Co.)	Burns, OR	10/31/2001	Harvested Lumber.
40,367	B/E Aerospace, SPG (Co.)	Litchfield, CT	11/05/2001	Airline Seats.
40,368	SEH—America (Wkrs)	Vancouver, WA	11/07/2001	Silicon Wafers.
40,369	PSW Industries (Co.)	Michigan City, IN	11/09/2001	Metal Stamping, Tool and Die Making.
40,370	Valley Precision Tool (Co.)	Tower City, PA	11/13/2001	Electronic Connector Assemblies.
40,371	Regal Rugs, Inc. (Co.)	North Vernon, IN	11/01/2001	Bath and Accent Rugs.
40,372	Square D Co. (IBEW)	Middletown, OH	11/15/2001	Switchgear Boxes.
40,373	Siemens Energy and Auto. (Co.)	Osceoloa, IA	11/09/2001	Electrical, Motor Controls and Parts.
40,374	OSAN Manufacturing (UNITE)	Boyertown, PA	11/16/2001	Men's Pants.
40,375	EGS Electrical (Co.)	Lake Geneva, WI	08/30/2001	Industrial Transformers.

[FR Doc. 01–31136 Filed 12–17–01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,565A]

Thomaston Mills, Inc., Finishing Division, Thomaston, GA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on November 15, 2001, applicable to workers of Thomaston Mills, Inc., Finishing Division, Finishing Consumer Department, Thomaston, Georgia engaged in the production of sheets, pillowcases and comforters and related accessories. All workers of Thomaston Mills, Inc., Finishing Division, Finishing Apparel Department, Thomaston, Georgia were denied eligibility to apply for adjustment assistance. The notice was published in the **Federal Register** on November 30, 2001 (66 FR 59817).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Findings show that the Department limited its certification coverage to workers of the subject firms's Finishing Consumer Department in the Finishing Division engaged in the production of sheets, pillowcases and comforters and related accessories. The workers employed in the Finishing Apparel Department were denied eligibility because they did not meet the group eligibility requirements of the Trade Act. The company provides new information indicating that the workers are not separately identifiable within the Finishing Division.

It is the intent of the Department to include "all workers" of Thomaston Mills, Inc., Finishing Division, Thomaston, Georgia adversely affected by increased imports.

Accordingly, the Department is amending this certification determination to include all workers in the Finishing Division.

The amended notice applicable to TA–W–39,565A is hereby issued as follows:

> All workers of Thomaston Mills, Inc., Finishing Division, Thomaston, Georgia who became totally or partially separated from employment on after June 20, 2000, through November 15, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of December, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31134 Filed 12–17–01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04612]

Cemex Kosmos Cement Company, Pittsburgh Plant, Pittsburgh, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 20, 2001 the International Brotherhood of Boiler Makers, Iron Ship Builders, Blacksmiths, Forgers and Helpers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance, applicable to petition number NAFTA 04613. The denial notice was signed on June 26, 2001 and published in the **Federal Register** on July 11, 2001 (66 FR 36329).

The union requested administrative reconsideration based on the belief that Cemex (the acquiring company of the subject plant) replaced the subject plants customer base with imported cement products from Mexico.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

VOL 66 ISS 243 DE 18 2001 UMI

Signed at Washington, DC this 3rd day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31150 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04830]

Centis, Inc.; Formerly Known as 20th Century Plastics; Brea, CA; Amended Certification Regarding Eligibility To Apply for NAFTA–Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on August 16, 2001, applicable to workers of Centis, Inc., Brea, California. The notice was published in the **Federal Register** on August 23, 2001 (66 FR 44380).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of thin sheer transparent plastic page protectors. The subject firm originally named 20th Century Plastics was renamed Centis, Inc. in January 2000. The State agency reports that some workers wages at the subject firm are being reported under the Unemployment Insurance (UI) tax account for Centis, Inc., formerly known as 20th Century Plastics, Brea, California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Centis, Inc., who were adversely affected by a shift in the production of thin sheer transparent plastic page protectors to Mexico.

The amended notice applicable to NAFTA–04830 is hereby issued as follows:

> All workers of Centis, Inc., formerly known as 20th Century Plastics, Brea, California who became totally or partially separated from employment on or after April 24, 2000, through August 16, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of November 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31142 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5247]

Fedders Corporation, Columbia Specialities, Inc., Columbia, Tennessee; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with section 250(a), subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on August 20, 2001, in response to a petition filed on behalf of workers at Fedders Corporation, Columbia Specialities, Inc., Columbia, Tennessee.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 29th day of November 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31144 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04403]

Gynecare, Ethicon, A Johnson and Johnson Co.; Menlo Park, CA; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on March 21, 2001, applicable to workers of Gynecare, Melo Park, California. The notice was published in the **Federal Register** on April 16, 2001 (66 FR 19522).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of medical catheters. New information shows that Ethicon, A Johnson and Johnson Co. is the parent firm of Gynecare, Menlo Park, California.

Information also shows that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Gynecare, Ethicon, A Johnson and Johnson Co. Menlo Park, California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Gynecare, Menlo Park, California who were adversely affected by a shift of production of medical catheters to Mexico.

The amended notice applicable to NAFTA–04403 is hereby issued as follows:

> All workers of Gynecare, Ethicon, A Johnson and Johnson Co., Menlo Park, California who became totally or partially separated from employment on or after December 21, 1999, through March 21, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of November 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31139 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04888]

Imperial Home Decor Group, Plattsburgh, NY; Notice of Negative Determination Regarding Application for Reconsideration

By application dated June 22, 2001, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for North American Free Trade Agreement-eligibility Adjustment Assistance (NAFTA–TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on June 4, 2001, and was published in the **Federal Register** on June 27, 2001 (66 FR 34257).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The denial of NAFTA–TAA for workers providing warehousing, maintenance and security at Imperial Home Decor Group, Plattsburgh, New York, as based on the finding that the workers do not produce an article as required for certification under section 250(a) of the Trade Act of 1974, as amended.

The petitioner claims that the workers engaged in the warehousing, maintenance and security at the subject plant should be certified for eligibility under NAFTA–TAA since the plant was under an existing certification (NAFTA–02904), which expired on March 22, 2001. The petitioner further states that warehouse functions were transferred to Canada.

Review of the investigation shows that no production has been performed at the subject firm since November 1998. They were not in direct support of a certified facility producing a product during the relevant period. All workers terminated during the NAFTA–TAA certification (NAFTA–02904) period are eligible to apply for benefits.

Since no production at the subject firm has been performed after November 1998, the workers terminated after March 22, 2001 cannot be considered engaged in production as required in Section 250(a) of the Trade Act, as amended. The workers are considered for eligibility based on what they did during the relevant period and cannot be connected to the previous certification or previous plant production that was done before the relevant period of the investigation.

Workers of Imperial Home Decor Group, Plattsburgh, New York may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the subject firm by ownership, or a firm related by control. Additionally, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions have not been met for workers at the subject firm.

Further, any shift in warehousing functions to Canada as depicted by the petitioner, does not meet the eligibility requirements for the same reason as discussed above.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decisions. Accordingly, the application is denied.

Signed at Washington, DC this 30th day of November, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31140 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act (Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of subchapter D, chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Governor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of Pub. L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, DC provided such request if filed in writing with the Director of DTAA not later than December 28, 2001.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than December 28, 2001.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 5th day of December, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Indiana Knitwear—Willacy Apparel (Co.)	Lyford, TX	11/13/2001	NAFTA–5,539	Sportswear apparel.
Plaid Clothing (UNITE)	Erlander, KY	10/30/2001	NAFTA–5,540	Men's tailored clothing.
Donaldson Aercology (Co.)	Old Saybrook, CT	11/13/2001	NAFTA–55,541	Air filtration equipment.
Lea Wayne Knitting Mills (Co.)	Morristown, TN	11/10/2001	NAFTA–5,542	Socks and hosiery.
Nokia Networks (Wkrs)	Ft. Worth, TX	11/19/2001	NAFTA–5,543	Prototype and prezero modules.
Powerbrace Corporation (Wkrs)	Kenosha, WI	11/19/2001	NAFTA–5,544	Railcar gates and lock rods.
Daniel Woodhead (Co.)	Northbrook, IL	11/16/2001	NAFTA–5,545	Electrical lighting products.
Storm Copper Components (Co.)	Decatur, TN	11/16/2001	NAFTA–5,546	Wire harnesses.
Marconi (Wkrs)	Milwaukee, WI	11/16/2001	NAFTA–5,547	Telecommunication cabinets.

VOL 66 ISS 243 DE 18 2001 UMI

APPENDIX—Continued

Subject firm	Location	Date received at Governor's office	Petition No.	Articles produced
Clebert's Hosiery Mill (Co.)	Connelly Springs, NC	11/16/2001	NAFTA–5,548	Knit, seam and inspect hosiery.
Western Log Homes (Co.)	Chiloquin, OR	11/05/2001	NAFTA–5,549	Rails, vineyard posts, retaining walls.
DataMark (Wkrs)	El Paso, TX	11/15/2001	NAFTA–5,550	Data entries.
Foredtert Malting (UAW)	Milwaukee, WI	11/15/2001	NAFTA–5,551	Malt for breweries.
Segro Colonial Abrasives (Co.)	Aberdeen, NC	11/14/2001	NAFTA–5,552	Abrasives.
Gulford Mills (UNITE)	Pine Grove, PA	11/13/2001	NAFTA–5,553	Apparel.
PSW Industries—Tempel Steel (Co.)	Michigan City, IN	11/13/2001	NAFTA–5,554	Steel laminations.
Gillette Company (IBT)	Iowa City, IA	11/13/2001	NAFTA–5,555	Toothbrushes etcs.
Alfa Laval—Tri Clover (Wkrs)	Pleasant Prairie, WI	11/19/2001	NAFTA–5,556	Piping systems.
Teleflex Automotive (Wkrs)	Waterbury, CT	11/16/2001	NAFTA–5,557	Automotive cables.
MoCaro Dyeing and Finishing (Co.)	Statesville, NC	11/19/2001	NAFTA–5,558	T-shirts and sweatshirts.
Mike Dent Enterprises (Co.)	Bams, OR	11/09/2001	NAFTA–5,559	Logging.
Fine Tech—Daeduck International (Co.)	Durham, NC	11/20/2001	NAFTA–5,560	Printed circuit boards.
OSAN (UNITE)	Boxertown, PA	11/20/2001	NAFTA–5,561	Men's pants.
Kellogg Crankshaft (Wkrs)	Jackson, MI	11/20/2001	NAFTA–5,562	Crankshafts.
CNB International (Wkrs)	Hastings, MI	11/20/2001	NAFTA–5,563	Precision repair parts.
Como Products (UAW)	Columbus, IN	11/16/2001	NAFTA–5,564	Television cabinets.
R. G. Barry, Texas LP (Co.)	San Angelo, TX	11/21/2001	NAFTA–5,565	House slipper shoe sole.
Lucent Technologies (IBEW)	Columbus, OH	10/15/2001	NAFTA–5,566	Elecom equipment.
Akers National Roll (Co.)	Hyde Park, PA	11/20/2001	NAFTA–5,567	Steel rolls.
Dimension Carbide (Co.)	Guys Mill, PA	11/20/2001	NAFTA–5,568	Grinding of carbide dies and punches.
NACCO Materials Handling (Co.)	Greenville, NC	11/20/2001	NAFTA–5,569	Lower weldments.
Antec Corporation (Co.)	El Paso, TX	11/20/2001	NAFTA–5,570	Plastic molded parts.
Wesley Industries (Co.)	Bloomfield Hills, MI	11/26/2001	NAFTA–5,571	Heads, rotors and bearing caps.
Regal Manufacturing (Wkrs)	Hickory, NC	11/26/2001	NAFTA–5,572	Yarn.
Metalloy (Wkrs)	Hudson, MI	11/26/2001	NAFTA–5,573	Freightliner.
VF Corporation (Wkrs)	Lebanon, MO	11/26/2001	NAFTA–5,574	Jeans.
Saturn Electronics and Engineering (Wkrs).	Auburn Hills, MI	11/20/2001	NAFTA–5,575	Circuit boards.
Von Hoffman Press (Wkrs)	Owensville, MO	11/26/2001	NAFTA–5,576	Textbooks, college and children's books.
ESP—Jocessee Trading (Co.)	Easley, SC	11/20/2001	NAFTA–5,577	Comforters, sheets, pillows etc.
Detroit Tool and Engineering (Wkrs)	Lebanon, MO	11/26/2001	NAFTA–5,578	Household appliances.
A. S. Haight (UNITE)	Cartersville, GA	11/27/2001	NAFTA–5,579	Screen printing cloth.
InterMetro Industries (Co.)	Douglas, GA	11/26/2001	NAFTA–5,580	Wire steel shelving.
Galey and Land (G and L Service) (Wkrs).	Eagle Pass, TX	12/03/2001	NAFTA–5,581	Men's and women's pants.
Kentucky Textiles (Wkrs)	Paris, KY	11/20/2001	NAFTA–5,582	Swimsuits.
Weavexx (Wkrs)	Greenville, TN	11/27/2001	NAFTA–5,583	Paper machinebetting.
Carrier Corporation (Wkrs)	Conway, AR	11/28/2001	NAFTA–5,584	Ice cream and frozen novelty cases.
VF Jeanswear (Wkrs)	Andrew, NC	11/27/2001	NAFTA–5,585	Denim jeans.
Celectica Corporation (Co.)	Milwaukie, OR	11/26/2001	NAFTA–5,586	Design power supplies.
Glenayre Electronics (Wkrs)	Quincy, IL	11/28/2001	NAFTA–5,587	Power amplifiers.
TRW Automotive Breaking Systems (UAW).	Milford, MI	11/28/2001	NAFTA–5,588	Valves.
GDX Automotive—Gencorp (USWA)	Marion, IN	11/28/2001	NAFTA–5,589	Bubber weather seals.
Hoskins Manufacturing (Co.)	Mio, MI	11/28/2001	NAFTA–5,590	Thermal couple, resistance wire etc.
Hoskins Thermal Systems (Co.)	Lewiston, MI	11/26/2001	NAFTA–5,591	Thermal couple and resistance wire etc.
VF Jeanswear (Co.)	Jackson, TN	11/28/2001	NAFTA–5,592	Jeans.
Boeing Defence and Space (Wkrs)	Oak Ridge, TN	11/30/2001	NAFTA–5,593	Boeing airplane parts.
Square D (Wkrs)	Middletown, OH	11/27/2001	NAFTA–5,594	Heavy duty safety switch.
Tenneco Automotive (Co.)	Ligonier, IN	11/29/2001	NAFTA–5,595	Car exhaust systems.
Teva Pharmaceuticals (Co.)	Elmwood Park, NJ	11/18/2001	NAFTA–5,596	Antibiotics.
Spicer Driveshaft (Co.)	Lima, OH	11/30/2001	NAFTA–5,597	Companion flanges.
Kraft Foods (Co.)	Minneapolis, MN	11/21/2001	NAFTA–5,598	Hot cereals.
Artex International (Co.)	Boiling Springs, NC	12/04/2001	NAFTA–5,599	Linen napkins and table skiring.
DK Mold Engineering (Co.)	Wyoming, MI	10/21/2001	NAFTA–5,600	Die for plastic injection molds.

[FR Doc. 01–31135 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04775]

Jonathan Manufacturing d/b/a/ Jonathan Engineered Solutions Fullerton, CA; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 8, 2001, applicable to workers of Jonathan Engineered Solutions, Fullerton, California. The notice was published in the **Federal Register**on May 23, 2001 (66 FR 28554).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the activities related to the production of aluminum slides (assembly and fabrication). The workers are separately identifiable from workers producing steel slides at the subject plant.

New information provided by the State shows that Jonathan Manufacturing is the parent firm of Jonathan Engineered Solutions, Fullerton, California. Information also shows that some of the claimants' wages are reported under the Unemployment Insurance (UI) tax account for Jonathan Manufacturing, d/b/a Jonathan Engineered Solutions, Fullerton California.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Jonathan Engineered Solutions who were adversely affected by a shift in the production of aluminum slides to Mexico.

The amended notice applicable to NAFTA–04775 is hereby issued as follows:

> All workers of Jonathan Manufacturing, D/B/A Jonathan Engineered Solutions, Fullerton, California, engaged in employment related to the production of aluminum slides (fabrication and assembly) who became totally or partially separated from employment on or after March 27, 2000, through May 8, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31132 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,632 & NAFTA–5059, et al.]

JPS Apparel Fabrics Corporation Greenville, SC, et al.; Notice of Determination on Reconsideration

On October 10, 2001, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration for TAA and NAFTA–TAA applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on October 30, 2001 (66 FR 54785).

The initial TAA and NAFTA–TAA petition investigations for workers at JPS Apparel Corporation, Greenville, South Carolina (TA–W–39,632 & NAFTA–5059), South Boston, Virginia (TA–W–39,632A & NAFTA–5059A), New York, New York (TA–W–39,632B & NAFTA–5059B), and Laurens, South Carolina (TA–W–39,632C & NAFTA–5059C) were denied based on the finding that the subject firm and customers of the subject firm did not increase their import (including from Canada and Mexico) purchases of spun filament greige woven apparel fabrics during the relevant period.

The company supplied an additional list of customers that they believed were importing spun filament greige woven apparel fabrics.

On reconsideration, the Department conducted a survey of JPS Apparel Corporation's additional customers (accounting for a meaningful portion of the subject firms customer base) regarding their purchases of spun filament greige woven apparel fabrics during 1999, 2000 and January through July 2001. The survey revealed that some respondents increased their reliance on imported (no meaningful imports from Canada or Mexico) spun filament greige woven apparel fabrics, contributing to the layoffs at the subject firm during the relevant period.

On reconsideration the Department further examined U.S. import data that was not available during the initial investigation. The import data shows that selected fabrics like or directly competitive with what the subject plant produced increased significantly during the relevant period. The industry data also depicts a meaningful increase in the import to shipment ratio of these products during the relevant period. However, aggregate U.S. imports from Canada and/or Mexico of selected fabrics like and directly competitive with what the subject plant produced remained relatively stable during the relevant period. The imports from Canada and/or Mexico are relatively low in relation to total aggregate U.S. imports.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with spun and filament greige woven apparel fabrics, contributed importantly to the decline in sales or production and to the total or partial separation of workers of JPS Apparel Corporation, Greenville, South Carolina (TA–W–39,632), South Boston, Virginia (TA–W–39,632A), New York, New York (TA–W–39,632B), and Laurens, South Carolina (TA–W–39,632C). In accordance with the provisions of the Act, I make the following revised determination:

> All workers of JPS Apparel Corporation, Greenville, South Carolina (TA–W–39,632), South Boston, Virginia (TA–W–39,632A), New York, New York (TA–W–39,632B), and Laurens, South Carolina (TA–W–39,632C) who became totally or partially separated from employment on or after July 16, 2000, through two years from the date of this issuance, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974; and

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974 for workers and former workers of JPS Apparel Corporation, Greenville, South Carolina (NAFTA–5059), South Boston, Virginia (NAFTA–5059A), New York, New York (NAFTA–5059B), and Laurens, South Carolina (NAFTA–5059C).

Signed in Washington, DC this 30th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31148 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

VOL 66 ISS 243 DE 18 2001 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5412]

Laser Tool, Saegertown, PA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–1 concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on October 12, 2001, in response to a petition filed by the company on behalf of workers at Laser Tool, Saegertown, Pennsylvania. Workers produce plastic injection molds and manifolds.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 26th day of November, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31143 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–05014A]

Thomaston Mills, Inc., Finishing Division, Thomaston, GA, Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(A), subchapter D, Chapter 2, Title II, of the Trade Act of 1974 (19 U.S.C. 2273), the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance on October 25, 2001, applicable to workers of Thomaston Mills, Inc., Finishing Division, Finishing Consumer Department, Thomaston, Georgia engaged in the production of sheets, pillowcases and comforters and related accessories. All workers of Thomaston Mills, Inc., Finishing Division, Finishing Apparel Department, Thomaston, Georgia engaged in the production of textiles for home furnishings and piece dyed goods of apparel were denied eligibility to apply for NAFTA Transitional Adjustment Assistance. The notice was published in the **Federal Register** on November 6, 2001 (66 FR 56126).

At the request of the company, the Department reviewed the certification for workers of the subject firm. Findings show that the Department limited its certification coverage to workers of the subject firms' Finishing Consumer Department in the Finishing Division engaged in the production of sheets, pillowcases and comforters and related accessories. The workers employed in the Finishing Apparel Department were denied eligibility because they did not meet the group eligibility requirements of the Trade Act. The company provides new information indicating that the workers are not separately identifiable within the Finishing Division.

It is the intent of the Department to include "all workers" of Thomaston Mills, Inc., Finishing Division, Thomaston, Georgia adversely affected by increased imports from Canada and Mexico.

Accordingly, the Department is amending the certification determination to include all workers in the Finishing Division.

The amended notice applicable to NAFTA–05014A is hereby issued as follows:

> All workers of Thomaston Mills, Inc., Finishing Division, Thomaston, Georgia who became totally or partially separated from employment on or after June 16, 2000, through October 25, 2003, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31133 Filed 12–17–01; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that two meetings of the Leadership Initiatives Advisory Panel to the National Council on the Arts (Folk & Traditional Arts' Infrastructure Initiative and Media Arts' Arts on Radio & Television categories) will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 as follows:

Arts on Radio & Television (ARTV): January 8–10, 2002, Room 716. A portion of this meeting, from 9 a.m. to 10 a.m. on January 10th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6:30 p.m. on January 8th and 9th, and from 10 a.m. to 5:30 p.m. on January 10th, will be closed.

Infrastructure Initiative: January 9–10, 2002, Room 714. A portion of this meeting, from 3 p.m. to 4 p.m. on January 10th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6:30 p.m. on January 9th, and from 9 a.m. to 3 p.m. and 4 p.m. to 5:30 p.m. on January 10th, will be closed.

The closed portions of these meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 22, 2001, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: December 12, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–31050 Filed 12–17–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Partnerships Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Partnerships Advisory Panel (State Partnership Agreements), to the National Council on the Arts will be held on January 17–18, 2002. The panel will meet from 9:00 a.m. to 5:30 p.m on January 17 and from 8:30 a.m. to 5:00 p.m. on January 18 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting will be open to the public on a space available basis. Topics will include review of the State Partnership Agreement and Regional Partnership Agreement applications, review of proposals for Challenge America Partnership funds, and discussion of guidelines and policy issues.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: December 12, 2001.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 01–31051 Filed 12–17–01; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rates

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted final annual fee rates of 0.00% for tier 1 and 0.075% (.00075) for tier 2 for calendar year 2001. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission.

FOR FURTHER INFORMATION CONTACT: Bobby Gordon, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the preliminary annual rate being adopted today are effective for calendar year 2001. Therefore, all gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations and report and pay any fees that are due to the Commission by December 31, 2001.

Montie R. Deer,

Chairman, National Indian Gaming Commission.

[FR Doc. 01–31090 Filed 12–17–01; 8:45 am]

BILLING CODE 7565–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC, Limerick Generating Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix E, Items IV.F.2. b and c, for Facility Operating License Nos. NPF–39 and NPF–85, issued to Exelon Generation Company, LLC (Exelon, the licensee), for operation of the Limerick Generating Station, Units 1 and 2, located in Montgomery County, Pennsylvania. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow a one-time exemption from the requirements of 10 CFR part 50, Appendix E, Items IV.F.2.b and c, regarding conduct of a full-participation exercise of the onsite and offsite emergency plan every 2 years. Under the proposed exemption, the licensee would reschedule the exercise originally scheduled for November 1, 2001, and complete the exercise requirements by December 31, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated October 16, 2001.

The Need for the Proposed Action

Currently under 10 CFR part 50, Appendix E, Items IV.F.2. b and c, each licensee at each site is required to conduct a full-participation exercise of its onsite and offsite emergency plans every 2 years. Federal agencies, such as the Federal Emergency Management Agency, observe these exercises and evaluate the performance of the licensee, State, and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its offsite emergency plan on November 1, 2001, which was within the required 2-year interval. However, due to the ongoing national security threat in the United States, and the response, recovery, and other offsite agency activities associated with the September 11, 2001, terrorist attacks, the licensee has decided to postpone the exercise. The licensee does not plan to conduct the full-participation exercise until after the 2-year interval has expired.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity unrelated to plant operations.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for the Limerick Generating Station, Units 1 and 2, dated April 1984.

Agencies and Persons Consulted

On December 6, 2001, the staff contacted the Pennsylvania State official, Dennis Dyckman of the Pennsylvania Department of Environment and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments. In addition, the licensee notified the Federal Emergency Management Agency and the Pennsylvania Emergency Management Agency, who indicated support for rescheduling the exercise.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action can be found in the licensee's letter dated October 16, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC web site, *http://www.nrc.gov* (the Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 12th day of December 2001.

For the Nuclear Regulatory Commission.

Christopher Gratton,

Sr. Project Manager, Section 2, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31157 Filed 12–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

International Uranium (USA) Corporation; Notice or Consideration of Issuance of Amendments to Facility Operation Licenses, ProposedNo Significant Hazards Consideration Determination, Opportunity for a Hearing; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of issuance; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on December 11, 2001 (66 FR 64064), that considers issuance of notice of opportunity for hearing issued to the International Uranium (USA) Corporation. This action is necessary to correct an erroneous text.

FOR FURTHER INFORMATION CONTACT: Mr. William von Till, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, telephone (301) 415–6251.

SUPPLEMENTARY INFORMATION: On page 64064, in the third column, in the first complete paragraph, the text is changed from "The U.S. Nuclear Regulatory Commission (NRC) proposes to accept the license amendment for the NRC Materials License SUA–1358 to authorize the licensee, International Uranium (USA) Corporation (IUSA), to allow for the and reclamation of the White Mesa uranium mill, located near Blanding, Utah," to read, "The U.S. Nuclear Regulatory Commission (NRC) proposes to accept the license amendment for the NRC Materials License SUA–1358 to authorize the licensee, International Uranium (USA) Corporation (IUSA), to allow for the receipt and processing of alternate feed material, from the Molycorp facility located in Mountain Pass, California, at the White Mesa uranium mill, located near Blanding, Utah." Also, on page 64065 in the second column, in the fifth complete paragraph the text is changed from "The NRC staff has prepared an Environmental Assessment for the proposed reclamation plan for NRC Source Material License SUA–1358," to read, "The NRC staff has prepared an Environmental Assessment to assess the potential environmental impacts of allowing for the receipt and processing of alternate feed material, from the Molycorp facility located in Mountain Pass, California, for NRC Source Material License SUA–1358."

Dated at Rockville, Maryland, this 12th day of December, 2001.

Melvyn N. Leach,

Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–31156 Filed 12–17–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Request for Comments on an Outline for Discussion: Concepts for Postal Transformation

AGENCY: Postal Service.

ACTION: Extension of comment period.

SUMMARY: The Postal Service published a notice with request for public comment in the **Federal Register** (66 FR 51480–51481) on October 9, 2001. The document on which comments are requested is available on the Postal Service's public Web site at *www.usps.com/strategicdirection* or at *www.usps.com* keyword: transformation. Comments were due November 1, 2001. The comment period is hereby extended until January 31, 2002.

DATES: The Postal Service must receive your comments on or before January 31, 2002. No additional extensions on the comment period will be granted.

ADDRESSES: Those responding are encouraged to e-mail their comments to *transformation@email.usps.gov*. Those wishing to send written comments should mail them to Julie S. Moore, Executive Program Director, Office of Transformation, Strategic Planning, Room 4011, United States Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC 20260–1520.

FOR FURTHER INFORMATION CONTACT: Paul Van Coverden (202) 268–8130.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–31167 Filed 12–17–01; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collection, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of information collection: Representative Payee Parental Custody Monitoring.

Under Section 12(a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment of the beneficiary or payment to a representative payee would best serve the beneficary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor the payee to assure that the beneficiary's interests are protected. Triennially, the RRB utilizes Form G–99d, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent. The RRB proposes minor non-burden impacting editorial changes to Form G–99d.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

Form/Nos.	Annual responses	Time (min)	Burden (hrs)
G–99d	1,850	5	154

FOR FURTHER INFORMATION CONTACT: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31106 Filed 12–17–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Employee Non-Covered Service Pension Questionnaire; OMB 3220–0154.

Section 215(a)(7) of the Social Security Act provides for a reduction in social security benefits based on employment not covered under the Social Security Act or the Railroad Retirement Act (RRA). This provision applies a different social security benefit formula to most workers who are first eligible after 1985 to both a pension based in whole or in part on non-covered employment and a social security retirement or disability benefit. There is a guarantee provision that limits the reduction in the social security benefit to one-half of the portion of the pension based on non-covered employment after 1956. Section 8011 of P.L. 100–647 changed the effective date of the onset from the first month of eligibility to the first month of concurrent entitlement to the non-covered service benefit and the RRA benefit.

Section 3(a)(1) of the RRA provides that the Tier I benefit of an employee annuity will be equal to the amount (before any reduction for age or deduction for work) the employee would receive if he or she would have been entitled to a like benefit under the Social Security Act. The reduction for a non-covered service pension also applies to a Tier I portion of employees under the RRA where the annuity or non-covered service pension begins after 1985. Since the amount of a Tier I benefit of a spouse is one-half of the employee's Tier I, the spouse annuity is also affected by the employee's non-covered service pension reduction of his or her Tier I benefit.

The RRB utilizes Form G–209, Employee Non-covered Service Pension Questionnaire, to obtain needed information from railroad retirement employee applicants or annuitants about the receipt of a pension based on employment not covered under the Railroad Retirement Act or the Social Security Act. It is used as both a supplement to the employee annuity application, and as an independent questionnaire to be completed when an individual who is already receiving an employee annuity becomes entitled to a pension. One response is requested of each respondent. Completion is required to obtain or retain benefits. The RRB proposes no changes to Form G–209.

Estimate of Annual Respondent Burden

The estimated annual respondent burden is as follows:

VOL 66 ISS 243 DE 18 2001 UMI

Form Nos.	Annual responses	Time (min)	Burden (hrs)
G–209 (partial questionnaire)	100	1	2
G–209 (full questionnaire)	400	8	53
Total	500		55

FOR FURTHER INFORMATION CONTACT: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31107 Filed 12–17–01; 8:45 am]

BILLING CODE 7905–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3386]

State of Arkansas (And contiguous counties in Mississippi and Tennessee)

Crittenden and Desha Counties and the contiguous counties of Arkansas, Chicot, Cross, Drew, Lee, Lincoln, Mississippi, Phillips, Poinsett and St. Francis Counties in the State of Arkansas; Bolivar, Coahoma, DeSoto and Tunica Counties in the State of Mississippi; and Shelby and Tipton Counties in the State of Tennessee constitute a disaster area as a result of severe storms and flooding that occurred from November 27 through November 30, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 11, 2002 and for economic injury may be filed until the close of business on September 11, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.500
Homeowners without credit available elsewhere	3.250
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The numbers assigned to this disaster for physical damage are 338611 for Arkansas; 338711 for Mississippi; and 338811 for Tennessee. The numbers assigned to this disaster for economic injury are 9N8100 for Arkansas; 9N8200 for Mississippi; and 9N8300 for Tennessee.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: December 11, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–31099 Filed 12–17–01; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

New Markets Venture Capital Companies; Minimum Draw Under SBA's Leverage Commitment

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Notice.

SUMMARY: This Notice provides a minimum dollar amount of $100,000 for draws against SBA leverage commitments to New Markets Venture Capital Companies under the New Markets Venture Capital Program. This Notice will be effective until superceded by another **Federal Register** Notice.

DATES: This notice is effective December 18, 2001.

ADDRESSES: Austin J. Belton, Director, Office of New Markets Venture Capital, Investment Division, U.S. Small Business Administration, 409 Third Street, SW, 6th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Peter C. Gibbs, Deputy Director, Office of New Markets Venture Capital, telephone: (202) 205–7574, or at the e-mail address, peter.gibbs@sba.gov.

SUPPLEMENTARY INFORMATION: SBA's New Markets Venture Capital (NMVC) Program (Program) is authorized by the NMVC Program Act of 2000, 15 U.S.C. 689–689q. Information about the Program is available at http://www.sba/gov/INV. The implementing regulations for this Program were issued on May 23, 2001 (66 FR 28602).

Under these rules, SBA has the authority and discretion to determine a minimum dollar amount for draws against SBA's Leverage commitments. 13 CFR 108.1230(b). Leverage means financial assistance provided to a NMVC Company by SBA through the guaranty of a NMVC Company's Debentures, and any other SBA financial assistance evidenced by a security of the NMVC Company.

Pursuant to 13 CFR 108.1230(b), the amount of a draw that a NMVC Company may take against SBA's leverage commitment must be a multiple of $5,000. Any minimum dollar amount for draws determined in SBA's discretion are published in Notices in the **Federal Register** from time to time. This is the first Notice SBA has issued establishing a minimum dollar amount for draws. Under the authority set forth in this Notice, effective the date of publication of this Notice, and until further notice, the minimum dollar amount of a draw is $100,000. (For example, for each draw, a NMVC Company may request a draw in the amount of $100,000 or $105,000 or $110,000, and so on up to the total amount of Leverage committed to but not yet drawn by that NMVC Company.)

Program Authority: 15 U.S.C. §§ 689–689q.

Dated: December 11, 2001.

Harry Haskins,

Acting Associate Administrator for Investment.

[FR Doc. 01–31100 Filed 12–17–01; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

National Small Business Development Center Advisory Board; Public Meeting

The U.S. Small Business Administration National Small Business DevelopmentCenter Advisory Board will hold a public meeting on Sunday, January 13, 2002, from 11 am to 5 pm CST, in the Executive Board Room at the Doubletree Hotel located in Little Rock, Arkansas. This meeting will be held to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present.

Anyone wishing to make an oral presentation to the Board must contact EllenThrasher, in writing by letter or fax no later than January 2, 2002 in order to be included on the agenda. For further information, please write or call Ellen Thrasher, Designated Federal Officer U.S. Small Business Administration, 409 Third Street, SW., Fourth Floor, Washington, DC 20416. Telephone number (202) 205–6817, FAX (202) 205–7727.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–31098 Filed 12–17–01; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

Connecticut District Advisory Council; Public Meeting

The U.S. Small Business Administration Connecticut District Advisory Council, located in the geographical area of Hartford, Connecticut will hold a public meeting at 8:30 a.m., on Monday, January 14, 2002, Connecticut District Office, 330 Main Street, Hartford, Connecticut 06106, to discuss such matters as may be presented. For further information, write or call Marie Record, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut—(860) 240–4700.

Anyone wishing to attend and make an oral presentation to the Board must contact Marie A. Record, no later than January 9, 2002 via E-mail or fax. Marie A. Record, District Director, U.S. Small Business Administration, Connecticut District Office 330 Main Street, Hartford, CT 06106 (860) 240–4670 phone or (860) 240–4714 fax or E-mail *marie.record@sba.gov.*

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–31097 Filed 12–17–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3854]

Bureau of Political-Military Affairs; Export of Non-lethal Defense Articles to Indonesia

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that requests for export and retransfer of non-lethal defense articles and spare parts to Indonesia pursuant to section 38 of the Arms Export Control Act will be considered on a case-by-case basis.

EFFECTIVE DATE: September 19, 2001.

FOR FURTHER INFORMATION CONTACT: Peter J. Berry, Chief, Arms Licensing Division, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2700.

SUPPLEMENTARY INFORMATION: On October 14, 1999, a **Federal Register** notice was published (64 FR 55805) that suspended all licenses and approvals to export or otherwise transfer defense articles and defense services to Indonesia, except for certain exports related to commercial communication satellites and Y2K compliance activities that were not for the Indonesian military. The October 14, 1999 **Federal Register** notice set forth a policy of denial for new export requests except those that met the exception.

A **Federal Register** notice was published on January 25, 2001 (66 FR 7836) that permitted review, on a case-by-case basis, of requests for the export of C–130 spare parts to Indonesia, including for the Government of Indonesia. On March 22, 2001, a **Federal Register** notice was published (66 FR 16085) that expanded the review, on a case-by-case basis, of defense articles/defense services exported to Indonesia for ultimate end-use by a third-country.

This Notice expands categories of defense articles/defense services eligible for consideration for export/transfer to Indonesia, on a case-by-case basis, to include: (a) Non-lethal defense articles and spare parts; and (b) non-lethal, safety-of-use spare parts for lethal end-items. An example of safety-of-use items would be cartridge actuated devices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of the aircraft crew. For non-lethal defense end-items, no distinction will be made between Indonesia's existing and new inventory.

For the purposes of this policy, "nonlethal defense articles" means an article that is not a weapon, ammunition, or other equipment or material that is designed to inflict serious bodily harm or death (see, e.g. 10 U.S.C. 2557).

Dated: November 30, 2001.

Lincoln P. Bloomfield, Jr.,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 01–31170 Filed 12–17–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3853]

Notice of Meeting of the Cultural Property Advisory Committee

AGENCY: Department of State.

ACTION: Notice.

The Cultural Property Advisory Committee will meet on Wednesday, January 23, 2002, from approximately 9 a.m. to 5 p.m., and on Thursday, January 24, from approximately 9 a.m. to 2 p.m., at the Department of State, Annex 44, Room 800–A, 301 4th St., SW., Washington, DC. During its meeting the Committee will review a request from the Government of the Republic of Honduras to the Government of the United States of America. Concerned that its cultural heritage is in jeopardy from pillage, the Government of the Republic of Honduras made this request under Article 9 of the 1970 UNESCO Convention.

The Committee's responsibilities are carried out in accordance with provisions of the Convention on CulturalProperty Implementation Act (19 U.S.C. 2601 *et seq.*). A copy of the Act, a public summary of this request, a bibliography of documents researched by the Committee that are otherwise available to the public, and related information may be found at: *http://exchanges.state.gov/education/culprop.* During its meeting on January 23, the Committee will hold an open session, 10:30 a.m.–12:30 p.m., to receive oral public comment on the Honduras request. Persons wishing to attend this open session should notify the CulturalProperty office at (202) 619–6612 by Tuesday, January 15,2002, to arrange for admission, as seating is limited. Those who wish to make oral presentations should also request to be scheduled, and submit a written text of the oral comments by January 15 to allow time for distribution of them to Committee members prior to the meeting. Oral comments will be limited to five minutes each to allow time for

VOL 66 ISS 243 DE 18 2001 UMI

questions from members of the Committee and must specifically address the determinations under section 303(a)(1) of the Convention on Cultural PropertyImplementation Act, 19 U.S.C. 2602, for which the Committee must make findings.

Those determinations are: "(A) That the cultural patrimony of the State Party (Honduras) is in jeopardy from pillage of archaeological or ethnological materials; (B) that the State Party has taken measures consistent with the Convention to protect its cultural patrimony; (C) that (i) the application of the import restrictions, if applied in concert with similar restrictions implemented, or to be implemented within a reasonable period of time, by those nations * * * individually having a significant import trade in such material, would be of substantial benefit in deterring a serious situation of pillage, and (ii) remedies less drastic than the application of the restrictions * * * are not available; and (D) that the application of import restrictions. is consistent with the general interest of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes * * *". The Committee also invites written comments and asks that they be submitted by January 15. All written materials, including the written texts of oral statements, should be faxed to (202) 619–5177.

Other portions of the meeting on January 23 and 24 will be closed pursuant to 5 U.S.C. 552b(c)(9)(B) and 19 U.S.C. 2605(h).

Dated: December 11, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 01–31028 Filed 12–17–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3830]

Advisory Committee on International Communications and Information Policy; Meeting Notice

The Department of State is announcing the next meeting of its Advisory Committee on International Communications and Information Policy (ACICIP).

The Committee provides a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communications services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

David Gross, Deputy Assistant Secretary and U.S. Coordinator for International Communications and Information Policy, will attend the meeting together with others from the Office of Communications andInformation Policy at the Department of State. Items on the agenda will include communications policy issues, discussion regarding countries of particular interest to ACICIP, general discussion of the bilateral foreign consultation process, and differences between the US and EU approaches on internet service regulation. Mr. Gross also would like to solicit ideas from ACICIP on methods to improve communications between industry and the Department of State, as well as on specific issues of interest related to upcoming bilateral meetings withArgentina, Brazil, the European Commission, France, and the UnitedKingdom, as well as potential meetings elsewhere.

This meeting will be held on Thursday, January 10, 2002, from 9:30 a.m. to 12 p.m. in Room 1105 of the Main Building of the U.S. Department of State, located at 2201 "C" Street, NW., Washington, DC 20520.

Members of the public may attend these meetings up to the seating capacity of the room. While the meeting is open to the public, admittance to the Department of State building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Pamela M. Bates at <batespm2@state.gov> no later than 5 p.m. on Tuesday, January 8, 2002. All attendees for this meeting must use the 23rd Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. government agency ID. Non-U.S. government attendees must be escorted by Department of State personnel at all times when in the building.

For further information, please contact Pamela M. Bates, Executive Secretary of the Committee, at (202) 647–5820 or*<batespm2@state.gov>*.

Dated: December 10, 2001.

Pamela M. Bates,

Executive Secretary, Advisory Committee on International Communications and Information Policy, Department of State.

[FR Doc. 01–31027 Filed 12–17–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Office of the Secretary, DOT.

ACTION: Notice to amend a system of records.

SUMMARY: DOT intends to amend a system of record under the Privacy Act of 1974.

EFFECTIVE DATE: January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Yvonne L. Coates, Department of Transportation, Office of the Secretary, 400 7th Street, SW., Washington, DC 20590, (202) 366–6964 (telephone), (202) 366–7024 (fax), *Yvonne.Coates@ost.dot.gov* (Internet address).

SUPPLEMENTARY INFORMATION: The Department of Transportation system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, has been published in the **Federal Register** and is available from the above mentioned address.

DOT/ALL 7

SYSTEM NAME:

Departmental Accounting and Financial Information System (DAFIS) and Delphi Accounting System.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

The system is located in Department of Transportation (DOT), DOT Accounting offices and selected application service provider program, policy, and budget offices. These offices are located within the Office of the Secretary, OST; the Research and Special Programs Administration, RSPA; the Federal Aviation Administration, FAA; the United States Coast Guard, USCG; the Federal Highway Administration, FHWA; the National Highway Traffic Safety, NHTSA; the Federal Transit Administration, FTA; the Maritime Administration, MARAD; the Federal Railroad Administration, FRA; the Federal Motor Carrier Safety

Administration, FMCSA; the Bureau of Transportation Statistics, BTS; Transportation Administrative Service Center, TASC, and the Transportation Security Administration, TSA. These offices exercise systems and operational control over applicable records within the system. The system software is centrally maintained by the FAA's Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma. Some centralized reporting functions are performed at Oklahoma City.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM OF RECORDS:

The systems cover: All employees of DOT, and only of DOT, which includes FAA, USCG, NHTSA, FHWA, OST, RSPA, FRA, FTA, MARAD, USCG, FMCSA, BTS, TASC, and TSA. Any other Federal agencies that use the system are responsible for Privacy Act compliance for their own employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories include application service provider records and credit cards of government employees, and payment records for non-payroll related expenses, payment records for payroll made offline, collection records for payroll offsets, and labor cost records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C 301; 49 U.S.C. 322; 31 U.S.C. 3512 (b).

PURPOSE(S):

The purpose for collecting the data in the DAFIS and Delphi System of Records is to control and facilitate the accounting and reporting of financial transactions for DOT.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Accounting office personnel use these records to: Provide employees with off-line paychecks, travel advances, travel reimbursements, travel processing, and other official reimbursements; Facilitate the distribution of labor charges for costing purposes; Track outstanding travel advances, receivables, and other non-payroll amounts paid to employees, etc.; and, Clear advances that were made through the system in the form of off-line paychecks, payments for excess household goods made on behalf of the employee, garnishments, overdue travel advances, etc. See Prefatory Statement of General Routine Uses.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 168a(f)) or the Federal Claims Collection Act of 1982 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, magnetic disk, microforms, and in file folders. Storage of file folders and microforms is at the geographic locations of the servicing accounting office. Magnetic tape and disk records are maintained at the central maintenance site in Oklahoma City.

RETRIEVABILITY:

Records are retrieved by employee name and social security number. Retrieval is accomplished by use of telecommunications.

SAFEGUARDS:

Access to magnetic tape, disk records, and website records is limited to authorized agency personnel through password, encryption, firewalls, and secured operating system. Hard copy files are accessible to authorized personnel and are kept in locked file cabinets during non-duty hours.

RETENTION AND DISPOSAL:

Original payment vouchers and supporting documentation are retained and disposed in compliance with the General Records Schedules. National Archives and Records Administration, Washington, DC 20408. The following schedules apply: General Records Schedule (GRS) 1. Civilian Personnel Records; GRS 2, Payrolling and Pay Administration Records; GRS 3, Procurement, Supply and Grant Records; GRS 4, Property Disposal Records; GRS 5, Budget Preparation, Presentation, and Appointment Records; GRS 6, Accountable Officers' Accounts Records; GRS 7, Expenditure Accounting Records; GRS 8, Stores, Plant and Cost Accounting Records; and, GRS 9, Travel and Transportation Records.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Financial Management (B–30), Office of the Secretary, Office of Financial Management, 400 Seventh Street SW., Washington, DC 20590.

NOTIFICATION PROCEDURE:

Inquiries should be directed to the managers of the accounting office supporting the employee's agency. Agency officials will contact the System Manager listed above if any centralized support is required for responses.

RECORD ACCESS PROCEDURES:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURES:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information is provided by the employee directly or through the DOT Consolidated Uniform Payroll System.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

OMB CONTROL NUMBER:

Not applicable

Dated: December 7, 2001.

Yvonne L. Coates,

Privacy Act Coordinator.

[FR Doc. 01–30837 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2001–11149]

Guidelines for Assessing Merchant Mariners through Demonstrations of Proficiency for Persons in Charge of Medical Care

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency as Persons in Charge of Medical Care. These measures were developed from recommendations and input provided by the Merchant Marine Personnel Advisory Committee (MERPAC).

DATES: Comments related material must reach the Docket Management Facility on or before February 19, 2002.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2001–11149]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

VOL 66 ISS 243 DE 18 2001 UMI

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov*.

In choosing among these means, please give due regard to the recent difficulties with delivery of mail by the U.S. Postal Service to Federal facilities.

The Docket Management Facility maintains the public docket for this notice. Comments and related material received from the public, as well as documents mentioned in this Notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

The measures proposed here are also available from Mr. Mark Gould, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, telephone 202–267–0229, or e-mail address *mgould@comdt.uscg.mil*.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice or on the national performance measures proposed here, e-mail or call Mr. Gould where indicated under **ADDRESSES.** For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

What Action Is the Coast Guard Taking?

Section A–VI/4–2 of the Code accompanying the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for ensuring merchant mariners' attaining the minimum standard of competence through demonstrations of their proficiency as Persons in Charge of Medical Care. The Coast Guard tasked MERPAC with referring to the Section, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has reviewed the measures recommended by MERPAC and has developed a final set that we are proposing here for use as guidelines for assessing that proficiency.

The guidelines are set up as follows: First we set forth the Competency within the STCW a mariner must demonstrate to meet the STCW section. Next we give a series of examples of Performance Conditions, a set of Performance Behaviors for each Performance Condition, and a set of Performance Standards for each Performance Behavior.

For example, if the Competency to demonstrate is: "Provide medical care to the sick and injured while they remain on board," a Performance Condition for that Competency demonstrating knowledge, understanding, and proficiency is: In a graded practical exercise, given a patient simulating a head injury, * * *

A Performance Behavior for that Condition is: * * * the candidate will demonstrate the techniques for conducting a neurological assessment.

A Performance Standard for that Behavior is: The candidate correctly demonstrates the following assessment techniques and states the significance of each finding: (a) Pupillary reaction; (b) Level of consciousness; (c) Verbal communication; and (d) Sensory motor status.

If the mariner properly meets all of the Performance Standards, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Standards, he or she fails it.

Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and incorporated into domestic regulations at 46 CFR parts 10, 12, and 15 in 1997. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as district from the measures proposed here, those measures are available on the Internet at the homepage of MERPAC, *http://www.uscg.mil/hq/g–m/advisory/merpac/merpac.htm*.) These measures are available on the Internet at *http://dms.dot.gov*, under this docket number [USCG 2001–11149]. They are also available from Mr. Gould where indicated under **ADDRESSES.** If you submit written comments please include—

- Your name and address;
- The docket number for this Notice [USCG 2001–11149];
- The specific section of the performance measures to which each comment applies; and
- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES.** Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½-by-11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: December 6, 2001.

Joseph J. Angelo,

Director, of Standards, Marine Safety and Environmental Protection.

Assessment Guidelines for Table A–VI/4–2

Specification for Minimum Standard of Competency

Proficiency for Persons in Charge of Medical Care

Each candidate for an STCW endorsement as Person in Charge of Medical Care must meet the standards of competence set out in STCW Code Table A–VI/4–2. To accomplish this, he or she must:

- Complete approved education and training and meet all the competencies listed in the table;
- Pass a written examination for the portion of the competencies on knowledge and understanding; and
- Successfully accomplish a practical demonstration of skill for selected competencies.

The United States Coast Guard requires each mariner seeking proficiency as Person in Charge of Medical Care aboard ship to attend a course approved by the National Maritime Center. For this reason, these guidelines contain the assessment criteria for both requirements, knowledge (listed in the paragraph below) and skill, Table A–VI/4–2.

Written Assessments

The knowledge-based or understanding-based portion of the following competencies may be assessed through a written multiple-choice examination. The candidate must achieve a minimum passing grade of 70% in each kind of knowledge or understanding within the competency: Signs and symptoms of bleeding; signs and symptoms of burns, scalds and frostbite; types of wounds and their treatment; signs of infection; procedures to manage systemic pain; procedures to manage pain before cleaning; uses of lidocaine with and without epinephrine; suturing a wound and removing sutures; identifying wounds that may be sutured and criteria for removing sutures; signs, symptoms, and emergency treatment for acute abdominal conditions; steps involved in minor surgical procedures; steps for treating an abdominal evisceration; bandaging a sucking chest wound; identifying general principles of nursing care; inserting or simulating inserting a urinary drainage catheter (male and female); inserting a naso-gastric tube; injecting medicine by intramuscular and subcutaneous route; signs, symptoms and treatments for hyperglycemia, anaphylaxis, dehydration, gonorrhea, syphilis, genital herpes, systemic infections, malaria, and hepatitis A and B; signs of alcoholism and drug abuse, signs of and treatment for toothache and other dental problems; sings, symptoms, and treatments for gynecological conditions, pregnancy and childbirth; methods to determine cause of death and how to prepare a body for storage at sea; personal hygiene; preventing disease aboard ship; preventing disease through vaccination; preparing a patient for evacuation; and methods of cooperation with health authorities in port.

Demonstrations of Skill

In addition to passing a written examination, the competency entitled "Provide medical care to the sick and injured while they remain on board" requires a practical demonstration of skill to assess proficiency. These assessment guidelines establish the conditions under which the assessment will occur, the performance or behavior the candidate is to accomplish, and the standards against which to measure the performance. The examiner should use a checklist in conducting assessments of practical demonstrations of skill. Checklists allow a training institution or designated examiner to avoid overlooking critical tasks when evaluating a candidate's practical demonstration. Training institutions and designated examiners should develop their own checklists for use in conducting the assessments in a complete and structured manner.

TABLE A–VI/4–2.—GUIDELINES FOR ASSESSMENT—SPECIFICATION OF MINIMUM STANDARD OF COMPETENCE—PERSONS IN CHARGE OF MEDICAL CARE

STCW competence	Knowledge, understanding and proficiency	Performance condition	Performance behavior	Performance standard
Provide medical care to the sick and injured while they remain on board.	Care of the casualty involving head and spinal injuries*.	In a graded practical exercise, given a patient simulating a head injury.	The candidate will demonstrate the techniques for conducting a neurological assessment.	The candidate correctly demonstrates the following assessment techniques and states the significance of each finding: 1. Pupillary reaction; 2. Level of consciousness; 3. Verbal communication; and 4. Sensory motor status.
	Care of the casualty involving injuries to ear, nose, throat and eye*.	In a graded practical exercise, given a patient simulating a bleed from the ear.	The candidate will use external bandages to control bleeding from the ear.	The candidate correctly: Applies an external bandage to stem bleeding of the ear; and 2. Does not pack the ear.
		In a graded practical exercise, given a patient simulating a nose bleed.	The candidate will demonstrate the proper techniques to stop bleeding from the nose.	The candidate: 1. Positions the patient sitting upright with the head tilted forward; 2. Pinches the bridge of the nose; and 3. places ice on the back of the neck or the forehead.
		In a graded practical exercise, given a patient simulating an object impaled in the eye.	The candidate will demonstrate the proper method of bandaging an eye impaled by a foreign object.	The student: 1. Immobilizes the object impaled in eye; and 2. bandages both the affected and unaffected eye.

VOL 66 ISS 243 DE 18 2001 UMI

TABLE A–VI/4–2.—GUIDELINES FOR ASSESSMENT—SPECIFICATION OF MINIMUM STANDARD OF COMPETENCE—PERSONS IN CHARGE OF MEDICAL CARE—Continued

STCW competence	Knowledge, understanding and proficiency	Performance condition	Performance behavior	Performance standard
		In a graded practical exercise, given a patient simulating a foreign liquid or solid substance in the eye.	The candidate will demonstrate the proper method of treating a foreign liquid or solid substance in the eye.	The candidate flushes the affected eye for at least 20 minutes with copious amount of water (saline, if immediately available) to wash away chemicals or solid particles.
		In a graded practical exercise, given a patient simulating a soft-tissue injury to the throat.	The candidate will demonstrate the proper method of treating a soft-tissue injury to the throat.	The student: 1. Anticipates a compromised airway; and 2. Maintains airway management techniques.
	Care of the casualty involving external and internal bleeding*.	In a graded practical exercise, given a patient simulating bleeding wound.	The candidate will demonstrate application of pressure dressing and location of pressure points.	The candidate correctly demonstrates the: 1. Location of the brachial and femoral pressure points; and 2. Application of a pressure dressing at the would site.
		In a graded practical exercise, given a patient simulating an arterial bleed of an extremity.	The candidate will state when to use a tourniquet.	The candidate correctly states that a tourniquet will only be applied when: 1. All other methods of controlling bleeding have failed; and 2. Continued bleeding is life-threatening.
	Care of the casualty involving fractures, dislocations and muscular injuries*.	In a graded practical exercise, given a patient simulating a fracture of the ankle and a dislocated shoulder, and materials for splinting.	The candidate will demonstrate the splinting of an ankle fracture and immobilization of a dislocated shoulder.	The candidate correctly applies a pillow splint to an ankle fracture, following the following procedures: 1. Manually stabilizes the fractured ankle or leg; 2. Assesses distal neuro-vascular function; 3. Applies pillow to the ankle and lower leg, wrapping it around the ankle and leg and keeping the foot exposed; 4. Secures pillow using cravats or other device to tie ends together; 5. Re-assesses distal neuro-vascular function; and 6. Seeks medical advice by radio. The candidate correctly immobilizes a dislocated shoulder using the following procedures: 1. Assesses distal neuro-vascular; 2. Applies sling using triangular bandage or commercial-type sling (knot of sling should not be pressing on neck); 3. Using a cravat or other binding, applies a swath over sling and around body; and 4. Re-assesses distal neuro-vascular functions.

TABLE A–VI/4–2.—GUIDELINES FOR ASSESSMENT—SPECIFICATION OF MINIMUM STANDARD OF COMPETENCE—PERSONS IN CHARGE OF MEDICAL CARE—Continued

STCW competence	Knowledge, understanding and proficiency	Performance condition	Performance behavior	Performance standard
	Care of the casualty involving techniques of sewing and clamping*.	In a graded practical exercise, given a simulated wound, suturing needle and thread, clamps, and suture-removal scissors.	The candidate will demonstrate a method to suture a would and method to remove sutures.	The candidate correctly demonstrates a standard instrument tie to include the following: 1. Ties all knots to one side of the wound; 2. Begins sutures at center of wound and proceeds outward; and 3. Uses strategic sutures to match up obvious points in irregular wounds. The candidate correctly demonstrates suture removal to include the following: 1. Lifts suture with forceps; 2. Cuts suture near skin surface; and 3. Pulls suture out holding the knotted end of the suture.
		In a graded practical evaluation, given a simulated chest wound, occlusive dressing materials, and tape.	The candidate will bandage a sucking chest wound.	The candidate correctly demonstrates the following: 1. Surveys and determines the entrance (and exit) wound(s); 2. Covers wound(s) with occlusive dressing; 3. Tapes three sides of the dressing over the wound; and 4. Monitors respiratory effort of victim.
	Nursing care*	In a graded practical evaluation, given a real patient or urinary-catheterization simulator, and supplies for urinary-catheter insertion.	The candidate will insert or simulate inserting a urinary-drainage catheter (male and female).	The candidate correctly demonstrates the following: 1. Maintenance of correct sterile techniques; 2. Cleansing of the meatus; 3. Lubrication of the catheter; 4. Insertion of the catheter into urethra until urine drains; and 5. Opening of the roller clamp of the tubing.
		In a graded practical evaluation, given a mannequin and supplies for nasogastric tube insertion.	The candidate will insert a naso-gastric tube.	The candidate correctly demonstrates the following: 1. Utilizes proper precautions for isolating bodily substances; 2. Measures length of tube to insert; 3. Lubricates tube; 4. Positions patient; 5. Inserts tube through nose; 6. Demonstrates one test to confirm placement; and 7. Secures tube to nose with tape.

VOL 66 ISS 243 DE 18 2001 UMI

TABLE A–VI/4–2.—GUIDELINES FOR ASSESSMENT—SPECIFICATION OF MINIMUM STANDARD OF COMPETENCE—PERSONS IN CHARGE OF MEDICAL CARE—Continued

STCW competence	Knowledge, understanding and proficiency	Performance condition	Performance behavior	Performance standard
		In a graded practical evaluation, given a real or simulated patient, and supplies for injections of medicine.	The candidate will administer medication injection by intramuscular route.	The candidate: 1. Confirms the medicine order, calculates proper dosage, identifies correct medicine and confirmed expiration date; 2. Draws up correct dosage from medicine vial using sterile technique, checking medicine to medicine order at least three times and using correct needle and syringe for injection based on location of injection and amount of medicine; 3. Locates the injection site (deltoid, glutens, or vastus lateralis); 4. Cleanses the injection site with alcohol pad using circular motion; 5. Inserts the needle into muscle at 90° angle; and 6. Aspirates the syringe, and, if no blood, injects the medication.
		In a graded practical evaluation, given a real or simulated patient, and supplies for injections of medicine.	The candidate will inject medicine by subcutaneous route.	The candidate: 1. Confirms the medicine order, calculates proper dosage, identifies correct medicine and confirms expiration date; 2. Draws up the correct dosage from medicine vial using sterile technique, checking medicine to medicine order at least three times and using correct needle and syringe for injection based on location of injection and amount of medicine; 3. Locates the injection site; 4. Cleanses the injection site with alcohol pad using circular motion; 5. Inserts the needle into subcutaneous tissue at 45° angle; and 6. Aspirates the syringe, and, if no blood, injects the medicine.

* Indicates a proficiency from Table A–VI/4–2

[FR Doc. 01–31173 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–94]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on December 13, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–9815 (previously Docket No. 29397).

Petitioner: Japan Airlines Company, Ltd.

Section of 14 CFR Affected: 14 CFR 145.47(b).

Description of Relief Sought/Disposition: To permit JAL to use the calibration standards of the Metrology Institute of Japan in lieu of the calibration standards of the U.S. National Institute of Standards and Technology, to test its inspection and test equipment. *Grant, 10/31/2001, Exemption No. 7050A.*

Docket No.: FAA–2001–11025.

Petitioner: Miller Aviation, L.L.C.

Section of 14 CFR Affected: 14 CFR § 135.143(c)(12).

Description of Relief Sought/Disposition: To permit MAL to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 11/21/2001, Exemption No. 7663.*

Docket No.: FAA–2001–10984 (previously Docket No. 28842).

Petitioner: Air Tahoma.

Section of 14 CFR Affected: 14 CFR § 135.143(c)(2).

Description of Relief Sought/Disposition: To permit Air Tahoma to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant, 11/21/2001, Exemption No. 7664.*

Docket No.: FAA–2001–9786 (previously Docket No. 26029).

Petitioner: ABX Air, Inc., dba Airborne Express.

Section of 14 CFR Affected: 14 CFR §§ 121.503(b), 121.505(a), and 121.511(a).

Description of Relief Sought/Disposition: To permit ABX flightcrews consisting of two pilots and one flight engineer to complete certain transcontinental flight schedules before being provided with at least 16 hours of rest. *Grant, 11/23/2001, Exemption No. 5167F.*

Docket No.: FAA–2001–10587.

Petitioner: American Airlines, Inc.

Section of 14 CFR Affected: 14 CFR 121.457(a) and V.A.1. of Appendix I to part 121.

Description of Relief Sought/Disposition: To permit American employees performing safety-sensitive functions for TWA Airlines LLC to perform identical functions for American without being subject to additional preemployment drug testing. *Grant, 11/14/2001, Exemption No. 7661.*

Docket No.: FAA–2001–9942.

Petitioner: McMahon Helicopter Services.

Section of 14 CFR Affected: 14 CFR § 135.152(a).

Description of Relief Sought/Disposition: To permit MHS to operate its three Sikorsky S–58T helicopters (Registration Nos. N58S, N589S, and N598S, and Serial Nos. 1502, 740, and 1196, respectively) without those helicopters being equipped with an approved digital flight data recorder. *Grant, 11/14/2001, Exemption No. 7662.*

[FR Doc. 01–31183 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 196: Night Vision Goggle (NVG) Appliances and Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 196 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 199: Night Vision Goggle (NVG) Appliances and Equipment.

DATES: The meeting will be held January 2, 2002, starting at 1:00 p.m.

ADDRESSES: The meeting will be held at Northrop Grumman Electro-Optical Systems, 12024 Forestgate Drive, Dallas, TX 75243. *This meeting will also take place by telecon. Please RSVP to Lorry Faber (609–485–5461 or Lorry.Faber@faa.gov) or Jim Winkel (972–840–5775 or jwinkel@LITTON–EOS.com) if you intend to participate by telephone. Those parties interested in attending the meeting at the Dallas location need to RSVP NLT December 20th, 2001.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1140 Connecticut Avenue, NW., Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 196 meeting. The agenda will include:

- January 2:
- Opening Session (Welcome and Introductory Remarks, Agenda Overview, Approve Minutes of Previous Meeting).
- Overview of SC–196 Working Group Activities.
- Operational Concept/Requirements.
- Minimum Operational Performance Standard (MOPS)—Night Vision Imaging Systems Equipment.
- Working Group 5 (Training Guidelines/Considerations).
- EUROCAE Working Group 57 Activities.
- Other NVG Regulatory and Advisory Group Activities.
- Advisory Circular 27–IB and Advisory Circular 29–2C Amendment for inclusion of NVG Certification of Normal and Transport Category Rotorcraft.
- Technical Standard Order for Night Vision Goggles.

VOL 66 ISS 243 DE 18 2001 UMI

- Aviation Rulemaking Advisory Committee for Night Vision Goggles Training and Operations.
- Issue Paper, "Human Factors Issues for Civil Aviation Use of Night Vision Goggles".
- Closing Session (NVG Research Requests, Status of SC–196, Other Business, Establish Agenda for Next Meeting, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on December 10, 2001.

Janice L. Peters,

FAA Special Assistance, RTCA Advisory Committee.

[FR Doc. 01–31181 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice to PFC Approvals and Disapprovals. In November 2001, there were 15 applications approved. This notice also includes information on one application, approved in October 2001, inadvertently left off the October 2001 notice. Additionally, seven approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Rhinelander and Oneida County, Rhinelander, Wisconsin.

Application Number: 01–07–C–00–RHI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $34,405.

Earliest Charge Effective Date: January 1, 2004.

Estimated Charge Expiration Date: April 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rhinelander-Oneida County Airport.

Brief Description of Projects Approved for Collection and Use: Communication tower. Repaint runway with beads. Airfield signage. Runway safety area grading. Survey and clear obstructions. PFC application administrative costs.

Decision Date: October 5, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel J. Millenacker, Minneapolis Airports District Office, (612) 713–4350.

Public Agency: Port of Oakland, Oakland, California.

Application Number: 01–10–C–00–OAK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $32,000,000.

Earliest Charge Effective Date: February 1, 2002.

Estimated Charge Expiration Date: October 1, 2003.

Classes of Air Carriers Not Required to Collect PFC's: (1) Non-scheduled/on-demand air carriers filing FAA Form 1800–31; (2) commuters or small certificated air carriers filing Department of Transportation Form 298–C T1 or E1.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Oakland International Airport.

Brief Description of Projects Approved for Collection and Use: Terminal One ticket counter expansion, phase 1. Overlay runway 11/29. Terminals One and Two restroom improvements. Multi-user system equipment in Terminal One.

Brief Description of Withdrawn Projects: Construct remote overnight aircraft parking apron. Terminal One gate improvement.

Determination: These projects were withdrawn by the public agency by letter dated September 24, 2001. Therefore, the FAA did not rule on these projects in this decision.

Decision Date: November 1, 2001.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: Waterloo Airport Commission, Waterloo, Iowa.

Application Number: 01–04–C–00–ALO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $291,800.

Earliest Charge Effective Date: May 1, 2003.

Estimated Charge Expiration Date: July 1, 2004.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Runway 12/30 rejuvenation. Runway 18/36 rejuvenation. Reconstruct taxiway E. Reconstruct and overlay taxiway A.

Brief Description of Project Approved for Use: Terminal building modernization—construction.

Decision Date: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, Central Region Airports Division, (816) 329–2641.

Public Agency: City of Macon Municipal Aviation Department, Macon, Georgia.

Application Number: 01–01–C–00–MCN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $356,842.

Earliest Charge Effective Date: March 1, 2002.

Estimated Charge Expiration Date: April 1, 2005.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Middle Georgia Regional Airport.

Brief Description of Projects Approved for Collection and Use: Rehabilitate runway 5/23. Passenger terminal improvements.

Brief Description of Disapproved Project: Airport entrance road.

Determination: The FAA has determined that this project does not meet the requirements of § 158.25(b)(14)(ii). The public agency did not provide a list of alternative projects to use PFC revenue.

Decision Date: November 8, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel Gaetan, Atlanta Airports District Office, (404) 305–7146.

Public Agency: Kenton County Airport Board, Covington, Kentucky.

Application Number: 01–07–C–00–CVG.

Application Type: Impose and use a PFC.

PFC Levbel: $3.00.

Total PFC Revenue Approved in This Decision: $27,138,000.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: June 1, 2003.

Classes of Air Carriers Not Required to Collect PFC's: (1) Part 121 supplemental operators which operate at the airport without an operating agreement with public agency and enplane less than 1,500 passengers per year; (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined each of the approved classes accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Projects Approved for Collection and Use: Concourse C improvements: south infill expansion; and north infill expansion and entry and canopy renovation. Deicing system enhancements: in stream treatment system engineering/design; and glycol processing and recycling facility. Taxiway M extension and connecting taxiways. Taxiways N extension. Aircraft rescue and firefighting satellite building (phase I). Planning study updates: airport master plan update (2002); and part 150 study update (2003).

Brief Description of Projects Partially Approved for Collection and Use: Runway 27 safety zone improvements: realign taxiway M; and runway 27 runway safety and area improvements.

Determination: The FAA has determined that the threshold relocation should not be constructed as proposed because of safety concerns. Therefor, the project was partially approved.

FOR FURTHER INFORMATION CONTACT: Jerry O. Bowers, Memphis Airports District Office, (901) 544–3495.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 01–09–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $26,005,000.

Earliest Charge Effective Date: October 1, 2002.

Estimated Charge Expiration Date: October 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Part 135 (air taxi).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at the Nashville International Airport.

Brief Description of Projects Approved for Collection and Use: Donelson Pike and Terminal Drive relocation. Inbound baggage carousel security cages. Elevator on A concourse. Airfield pavement rehabilitation. Airfield hold bar modifications. Precision approach path indicator lights on runways 2L and 31. Aircraft rescue and firefighting vehicle. Cargo area infrastructure and utility improvements. Live scan fingerprint equipment.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Memphis Airports District Office, (901) 544–3495.

Public Agency: Telluride Regional Airport Authority, Telluride, Colorado.

Application Number: 01–03–I–00–TEX.

Application Type: Impose a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $430,000.

Earliest Charge Effective Date: April 1, 2002.

Estimated Charge Expiration Date: January 1, 2007.

Class of Air Carriers Not Required to Collect PFC's: Air taxi operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at the Telluride Regional Airport.

Brief Description of Projects Approved for Collection: Land acquisition. Design engineering.

Decision Date: November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: County of Brown, Green Bay, Wisconsin.

Application Numbers: 01–03–C–00–GRB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,023,400.

Earliest Charge Effective Date: March 1, 2002.

Estimated Charge Expiration Date: October 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: Part 135 air taxi/commercial operators.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Austin Straubel International Airport.

Brief Description of Projects Approved for Collection and Use: Parallel taxiways D and M construction. PFC administrative costs.

Decision Date: November 11, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel J. Millenacker, Minneapolis Airports District Office, (612) 713–4350.

Public Agency: Yakima Air Terminal Board, Yakima, Washington.

Application Number: 01–07–I–00–YKM.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $456,000.

Earliest Charge Effective Date: March 1, 2002.

Estimated Charge Expiration Date: March 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Yakima Air Terminal—McAllister Field.

Brief Description of Project Approved for Collection: Runway 27 safety area improvements, phase II.

Decision Date: November 13, 2001.

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: County of Routt, Hayden, Colorado.

Application Number: 01–04–C–00–HDN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $150,833.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: November 1, 2002.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Runway 10/28 distance to go signs. Snow removal equipment. Air carrier apron drainage (glycol containment). Master plan update. Taxiway A rehabilitation and lighting improvements.

Brief Description of Withdrawn Project: Construction of new taxiway.

Determination: This project was withdrawn by the public agency by letter dated August 17, 2001. Therefore, the FAA did not rule on this project in this decision.

Decision Date: November 15, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Wicomico County Airport Commission, Salisbury, Maryland.

Application Number: 01–01–C–00–SBY

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $44,892

Earliest Charge Effective Date: February 1, 2002.

Estimated Charge Expiration Date: October 1, 2004.

Class of Air Carriers Not Required to Collect PFC'S: Both unscheduled Part 135 and Part 121 charter operators for hire to the general public.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Salisbury-Ocean City: Wicomico Regional Airport.

Brief Description of Projects Approved for Collection and Use: Develop PFC program and PFC application. Install airfield guidance signs and electrical vault. Design and construct fillet widening for runway 5/23 with joint reconstruction. Construct taxiway B extension and overlay taxiway B. Rehabilitate taxiway C. Rehabilitate taxiway D. Acquire land. Runway 5 and 23 approaches. Rehabilitate runway 5/23 medium intensity runway lights and runway 5 runway end intensity lights. Conduct environmental assessment. Acquire snow removal equipment. acquire passenger lift equipment.

Decision Date: November 21, 2001.

FOR FURTHER INFORMATION CONTACT: Eleanor Schifflin, Eastern Region Airports Division, (718) 553–3354.

Public Agency: Metropolitan Airport Authority of Rock Island County, Moline, Illinois.

Application Number: 01–04–C–00–MLI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,520,320

Earliest Charge Effective Date: July 1, 2016.

Estimated Charge Expiration Date: July 1, 2017.

Class of Air Carriers Not Required to Collect PFC'S: Part 135 air taxi/commercial operators.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Quad City International Airport.

Brief Description of Projects Approved for Collection and Use: Aircraft rescue and firefighting equipment purchase. Purchase of regional jet boarding bridges.

Decision Date: November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Richard A. Pur, Chicago Airports District Office, (847) 294–7527.

Public Agency: Northwestern Regional Airport Commission, Traverse City, Michigan.

Application Number: 01–02–C–00–TVC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $420,019.

Earliest Charge Effective Date: January 1, 2017.

Estimated Charge Expiration Date: January 1, 2018.

Class of Air Carriers Not Required to Collect PFC'S: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Cherry Capital Airport.

Brief Description of Project Approved for Use: Design and construct new terminal building, ramp for new terminal, and taxiway for new terminal.

Brief Description of Projects Approved for Collection and Use: Pavement sensor system. Terminal expansion. Connector taxiway. High intensity runway lights, runway 10/28. Terminal apron lighting. Snow removal equipment procurement, plow truck. Taxiway D. Tie-down apron and taxi streets. Retention ponds. Expand equipment storage building. Deer control fence. Airfield signs. Taxiway to west hangar area. Bituminous overlay taxiways A, B, and J. Holding apron, runway 28 end. Security fencing and power gates. Screen wall and blast deflectors. Expansion of airline terminal. Snow removal equipment procurement. Rehabilitate southeast general aviation apron and airline apron. Loading bridge. Master plan. Snow removal equipment procurement (snow blower). Friction testing vehicle. Rehabilitate airport access road. Relocate water main. Jet bridge for regional carrier. Restroom addition to airline terminal. Relocate beacon. Security fencing. Conduct phase I of financial and land use plan.

Decision Date: November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Arlene B. Draper, Detroit Airports District Office, (734) 487–7282.

Public Agency: County of Beltrami and City of Bemidji, Bemidji, Minnesota.

Application Number: 01–02–C–00–BJI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $201,952.

Earliest Charge Effective Date: February 1, 2002.

Estimated Charge Expiration Date: August 1, 2003.

Classes of Air Carriers Not Required to Collect PFC's: (1) Non-scheduled/on-demand air carriers filing FAA Form 1800–31; (2) commuters or small certificated air carriers filing Department of Transportation Form 298–C or E1.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Bemidji/Beltrami County Airport.

Brief Description of Projects Approved for Collection and Use: Acquire aircraft rescue and firefighting vehicle. Improve terminal. Replace runway and taxiway lighting cables. Install deer fence (phase I). Expand auto parking lot. Improve boundary fence. Seal coat parking lot. Install terminal security. PFC application. Rehabilitate apron. Update master plan. Replace snow removal equipment.

Decision Date: November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Daniel J. Millenacker, Minneapolis Airports District Office, (612) 713–4350.

Public Agency: Capital Region Airport Authority, Lansing, Michigan.

Application Number: 01–04–C–00–LAN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $8,913,046.

Earliest Charge Effective Date: July 1, 2005.

Estimated Charge Expiration Date: August 1, 2011.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled part 135 and air taxi operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at the Capital City Airport.

Brief Description of Projects Approved for Collection and Use: Replace multi-user flight information display system. Replace security access control system. Overlay taxiway C and end of runway 24. Reconstruct terminal appron. Master plan/part 150 update. Relocate rental car lot. National Pollutant Discharge Elimination System (NPDES) permit—mitigation phase II. NPDES permit—mitigation phase III. PFC consultation fees. Replace baggage claim equipment. Baggage claim expansion.

Brief Description of Projects Approved for Collection: Reconstruct taxiway fillets. Gate expansion. Purchase and install ground level loading bridges.

Decision Date: November 28, 2001.

FOR FURTHER INFORMATION CONTACT: Arlene B. Draper, Detroit Airports District Office, (734) 487–7282.

Public Agency: City of Naples Airport Authority, Naples, Florida.

Application Number: 01–03–I–00–APF.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $850,000.

Earliest Charge Effective Date: February 1, 2002.

Estimated Charge Expiration Date: June 1, 2007.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled air carriers and charter flights using aircraft with less than 10 seats.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at the Naples Municipal Airport.

Brief Description of Project Approved for Collection: Rehabilitate and extend taxiway B.

Decision Date: November 30, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Ganley, Orlando Airports District Office, (407) 812–6331, extension 25.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
95–01–03–SAN, San Diego, CA	08/23/01	$97,705,000	$105,896,731	09/01/00	03/01/01
98–02–C–01–SAN, San Diego, CA	08/23/01	28,089,000	49,972,839	01/01/02	06/01/03
*96–01–1–01–TVC, Traverse City, MI	10/25/01	14,846,381	14,846,381	01/01/17	01/01/17
*96–04–C–02–SMF, Sacramento, CA	10/31/01	78,993,780	78,993,780	04/01/06	02/01/03
93–01–C–01–RNO, Reno, NV	10/31/01	33,896,157	37,973,702	05/01/99	05/01/99
98–07–1–03–PHL, Philadelphia, PA	11/09/01	672,000,000	946,267,790	07/01/07	02/01/11
99–08–U–02–PHL, Philadelphia, PA	11/09/01	NA	NA	07/01/07	02/01/11

Note: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Sacramento, CA and Traverse City, MI, this change is effective on January 1, 2002.

Issued in Washington, DC, on December 12, 2001.

Barry Molar,

Manager, Airports Financial Assistance Division.

[FR Doc. 01–31184 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Palm Beach International Airport, West Palm Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before January 17, 2002.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bruce V. Pelly, Director of Airports of the Palm Beach County Department of Airports at the following address: Palm Beach County Department of Airports, 846 Palm Beach International Airport, West Palm Beach, Florida 33406–1470.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Palm Beach County Department of Airports under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Vernon P. Rupinta, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 24. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Palm Beach International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On December 10, 2001, the FAA determined that the application to use the revenue from a PFC submitted by Palm Beach County Department of Airports was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 27, 2002.

The following is a brief overview of the application.

PFC Application No.: 02–06–U–00–PBI.

Level of the proposed PFC: $3.00

Proposed charge effective date: December 1, 2000.

Proposed charge expiration date: December 1, 2005.

Total estimated net PFC revenue: $6,684,000.

Brief description of proposed project(s): Construct Taxiway "A" and Canal Relocation; Construct Perimeter Road.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Palm Beach County Department of Airports.

Issued in Orlando, Florida on December 10, 2001.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 01–31182 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–01–10911]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 19, 2002.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, SW., Plaza 401, Washington, DC 20590. Docket No. NHTSA–01–10911.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS–31), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected; and

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Buckle Up America Telephone Surveys 2002–2004

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—December 31, 2004.

Summary of the Collection of Information—NHTSA proposes to conduct telephone surveys both immediately before, and after, biannual national mobilizations carried out as part of the Buckle Up America (BUA) Campaign. Participation by respondents would be voluntary. The national mobilizations are conducted each year during May and November. The mobilizations are designed to increase seat belt and child restraint use through education and enforcement of restraint laws. NHTSA would conduct four survey waves per year over a three year period beginning in 2002. During each year, NHTSA would conduct a survey wave: (1) Immediately preceding the May Mobilization; (2) immediately following the May Mobilization; (3) immediately preceding the November Mobilization; and (4) immediately following the November Mobilization. Each survey wave would be composed of a national sample of 1200 respondents, as well as multiple independent State samples of 500 respondents each. An average of 25 independent State samples would be surveyed per survey wave across the three year period, producing an average of 13,700 total interviews per survey wave. Prior to each mobilization, NHTSA would select specific States to be included among the independent State samples based on mobilization activities planned within the States. The surveys would collect information regarding public awareness of the mobilization, public perceptions of enforcement of motor vehicle restraint laws, public attitudes concerning motor vehicle restraint use, and the public's reported use of motor vehicle restraint systems.

In conducting the proposed survey, the interviewers would use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers would be used to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Description of the Need for the Information and Proposed Use of the Information

The National Highway Traffic Safety Administration (NHTSA) was established to reduce the mounting number of deaths, injuries and economic losses resulting from motor vehicle crashes. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Wearing a seat belt is the most effective action a person can take to avert death or injury in the event of a motor vehicle crash. Research has found that lap/shoulder belts reduce the risk of fatal injury to front-seat passenger car occupants by 45 percent and the risk of moderate-to-critical injury by 50 percent. For light truck occupants, seat belts reduce the risk of fatal injury by 60 percent and moderate-to-critical injury by 65 percent.

Buckle Up America (BUA) is a Presidential Initiative for increasing seat belt use and child restraint use nationwide. National goals are to increase seat belt use to 90 percent by 2005, and reduce child (0–4 years) occupant fatalities by 25 percent (from the 1995 number) by 2005. The BUA strategic plan, developed with input from both the public and private sectors, contains four key elements for achieving the goals: (1) Building public-private partnerships; (2) enactment of strong legislation by States; (3) active, high visibility law enforcement; and (4) effective public education. Guided by the strategic plan, the BUA Campaign carries out regularly scheduled national mobilizations that combine high visibility enforcement with education.

The national mobilizations are a major component of the BUA Campaign. As such, there is a need to evaluate their effectiveness. The proposed surveys would provide pre- and post-test measures for each mobilization conducted during the three year period beginning May 2002. The two measures would be compared to assess whether the mobilization activities and messages penetrated public awareness, whether the public found the message of increased enforcement activity credible, and whether the mobilization affected attitudes and (self-reported) behavior concerning restraint use. Many of the comparisons would need to be made at the State level because of substantial differences across States in their mobilization activities (e.g., intensity of enforcement efforts, use of media, publicized support, etc.). NHTSA would select specific States from which to draw independent samples based on their planned mobilization activities.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

Under this proposed effort, a telephone interview averaging ten minutes in length would be administered to randomly selected members of the general public age 16 and older in telephone households. There would be a total of 12 survey waves conducted over a period of three years (four per year). An average of 13,700 persons would be interviewed per survey wave. Each survey wave would be comprised of a national sample, and multiple independent State samples. The national sample would be selected from all 50 States plus the District of Columbia. The independent State samples would be composed of 500 persons per State. There would be an average of 25 independent State samples per survey wave. Together with the national sample, there would be an average of 13,700 interviews per survey wave. Interviews would be conducted with persons at residential phone numbers selected through random digit dialing. Businesses are ineligible for the sample and would not be interviewed. No more than one respondent would be selected per household. Each member of the sample would complete one interview. No respondent would participate in more than one survey wave.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting From the Collection of Information

NHTSA estimates that each respondent in the sample would require an average of 10 minutes to complete the telephone interview. The number of estimated reporting burden hours a year on the general public (13,700 respondents multiplied by one interview multiplied by 10 minutes multiplied by four survey waves) would be 9,133. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Rose A. McMurray,

Associate Administrator, Office of Traffic Safety Programs.

[FR Doc. 01–31109 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2000–6687; Notice 2]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on additional collection of information for an existing collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval. This collection is an additional collection of information for an existing collection.

DATES: Comments must be received on or before February 19, 2002.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Mr. Roger Kurrus, Office of Planning and Consumer Programs, 400 Seventh Street, SW., Washington, DC 20590. Mr. Kurrus' telephone number is (202) 366–2750. His FAX number is (202) 493–2290. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Tires and Rim Labeling and Vehicle Placard Requirements.

OMB Control Number: 2127–0503.

Affected Public: Tire and Rim Manufacturers, Vehicle Manufacturers.

Abstract: Each tire manufacturer and rim manufacturer must label their tire and rim with the applicable safety information. These labeling requirements ensure that tires are mounted on the appropriate rims, that necessary tire recall information is readily available, and that the rims and tires are mounted on the vehicles for which they are intended. Each vehicle manufacturer must provide labels and placards to ensure that proper load limit and tire inflation pressure information is available. This labeling must be in accordance with Federal Motor Vehicle Safety Standards and regulations.

Estimated Annual Burden: 265,702.

Estimated Number of Respondents: 7,608.

Issued on: December 12, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–31115 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–9477; Notice 2]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on additional collection of information for an existing collection.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 19, 2002.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 9 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: For further information, contact Roger Saul, NHTSA, 400 Seventh Street, SW., Room 5320, NPS–11,Washington, DC 20590. Mr. Saul's telephone number is (202) 366–1740. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: Consolidated Vehicle Owner's Manual Requirements for Motor Vehicles and Motor Vehicle Equipment.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2127–0541.

Affected Public: Individuals, Households, Business, other for-profit, Not-for-profit, Farms, Federal Government and State, Local or Tribal Government.

Abstract: 49 U.S.C. 30117 authorizes the Secretary to require that manufacturers provide technical information, as for example information directed for publication in a vehicle owner's manual, related to the performance and safety specified in the Federal motor vehicle safety standards for the purposes of educating the consumer and providing safeguards against improper use. Using this authority, the agency issued the following FMVSS and regulations, specifying that certain safety precautions regarding items of motor vehicle equipment appear in the vehicle owner's manual to aid the agency in achieving many of its safety goals.

FMVSS No. 108—Lamps, Reflective Devices, and Associated Equipment

This standard requires that certain lamps and reflective devices with certain performance levels be installed on motor vehicles to assure that the roadway is properly illuminated, that vehicles can be readily seen, and the signals can be transmitted to other drivers sharing the road, during day, night and inclement weather. Since the specific manner in which headlamp aim is to be performed is not regulated (only the performance of the device is), aiming devices manufactured or installed by different vehicle and headlamp manufacturers may work in significantly different ways. As a consequence, to assure that headlamps can be correctly aimed, instructions for proper use must be part of the vehicle as a label, or optionally, in the vehicle owner's manual.

FMVSS 110—Tire Selection and Rims

This standard specifies requirements for tire selection to prevent tire overloading. The vehicle's normal load and maximum load on the tire shall not be greater than applicable specified limits. The standard requires a permanently affixed vehicle placard specifying vehicle capacity weight, designated seating capacity, manufacturer recommended cold tire inflation pressure, and manufacturer's recommended tire size. The standard further specifies rim construction requirements, load limits of non-pneumatic spare tires, and labeling requirements for non-pneumatic spare tires, including a required placard. Owner's manual information is required for "Use of Spare Tire". Revision of FMVSS 110 will require additional owner's manual information on the revised vehicle placard and tire information label, on revised tire labeling, and on tire safety and load limits and terminology.

FMVSS No. 205—Glazing Materials

This standard specifies requirement for all glazing material used in windshields, windows, and interior partitions of motor vehicles. Its purpose is to reduce the likelihood of lacerations and to minimize the possibility of occupants penetrating the windshield in a crash. More detailed information regarding the care and maintenance of such glazing items, as the glass-plastic windshield is required to be placed in the vehicle owner's manual.

FMVSS No. 208—Occupant Crash Protection

This standard specifies requirements for both active and passive occupant crash protection systems for passenger cars, multipurpose passenger vehicles, trucks and small buses. Certain safety features, such as air bags, or the care and maintenance of air bag systems, are required to be explained to the owner by means of the owner's manual. For example, the owner's manual must describe the vehicle's air bag system and provide precautionary information about the proper positioning of the occupants, including children. The owner's manual must also warn that no objects, such as shotguns carried in police cars, should be placed over or near the air bag covers.

FMVSS No. 210-Seat Belt Assembly Anchorages

This standard specifies requirements for seat belt assembly anchorages to ensure effective occupant restraint and to reduce the likelihood of failure in a crash. The standard requires that manufacturers place the following information in the vehicle owner's manual:

a. an explanation that child restraints are designed to be secured by means of the vehicle's seat belts, and,

b. a statement alerting vehicle owners that children are always safer in the rear seat.

FMVSS No. 213—Child Restraint Systems

This standard specifies requirements for child restraint systems and requires that manufacturers provide consumers with detailed information relating to child safety in air bag-equipped vehicles. The vehicle owner's manual must include information about the operation and do's and don'ts of built-in child seats.

Part 575 Section 103—Camper Loading

This standard requires that manufacturers of slide-in campers designed to fit into the cargo bed of pickup trucks affix a label to each camper that contains information relating to certification, identification and proper loading, and to provide more detailed loading information in the owner's manual of the truck.

Part 575 Section 105—Utility Vehicles

This regulation requires manufacturers of utility vehicles to alert drivers that the particular handling and maneuvering characteristics of utility vehicles require special driving practices when these vehicles are operated on paved roads. For example, the vehicle owner's manual is required to contain a discussion of vehicle design features that cause this type of vehicle to be more likely to roll over, and to include a discussion of driving practices that can reduce the risk of roll over. A statement is provided in the regulation that manufacturers shall include, in its entirety or equivalent form, in the vehicle owner's manual.

Estimated Annual Burden: 1,771 hours.

Number of Respondents: 25.

Issued on: December 12, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–31116 Filed 12–17–01; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on May 1, 2001 [66 FR 21813–21814].

DATES: Comments must be submitted on or before January 17, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Benn at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–20), 202–366–2264. 400 Seventh Street, SW, Room 5320, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Consolidated Justification of Owner's Manual Requirements for Motor Vehicles and Equipment.

OMB Number: 2127–0541.

Type of Request: Extension of a currently approved collection.

Abstract: 49 U.S.C. 30117 authorizes the Secretary to require that manufacturers provide technical information, as for example information directed for publication in a vehicle owner's manual, related to the performance and safety specified in the Federal motor vehicle safety standards for the purposes of educating the consumer and providing safeguards against improper use. Using this authority, the agency issued the following FMVSS and regulations, specifying that certain safety precautions regarding items of motor vehicle equipment appear in the vehicle owner's manual to aid the agency in achieving many of its safety goals.

Affected Public: Individuals, households, business, other-for-profit, not-for-profit, farms, Federal Government and State, Local, or Tribal Government.

Estimated Total Annual Burden: 1371.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on December 3, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–31114 Filed 12–17–01; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1065–B and Schedule K–1

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1065–B, U.S. Return of Income for Electing Large Partnerships, and Schedule K–1, Partner's Share of Income (Loss) From an Electing Large Partnership.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 1065–B, U.S. Return of Income for Electing Large Partnerships, and Schedule K–1, Partner's Share of Income (Loss) From an Electing Large Partnership.

OMB Number: 1545–1626.

Form Number: Form 1065–B and Schedule K–1.

Abstract: Internal Revenue Code Section 6031 and Regulation section 1.6031–1 requires partnerships to file a return. Internal Revenue Code sections 771–777, enacted by the Taxpayer Relief Act of 1997, allow large partnerships to elect to file a simplified return which requires fewer items to be reported to partners. Form 1065–B is used for this purpose.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 456,109.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 13, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31158 Filed 12–17–01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–56

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–56, Demonstration Automobile Use.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Demonstration Automobile Use.

OMB Number: 1545–1756.

Revenue Procedure Number: Revenue Procedure 2001–56.

Abstract: Revenue Procedure 2001–56 provides optional simplified methods for determining the value of the use of demonstration automobiles provided to employees by automobile dealerships.

Current Actions: There are no changes being made to this revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 12, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31159 Filed 12–17–01; 8:45 am]

BILLING CODE 4830–01–P

VOL
66
ISS
2
4
3
DE
18
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Tuesday,
December 18, 2001

Part II

Environmental Protection Agency

40 CFR Parts 9, 122, et al.
National Pollutant Discharge Elimination System: Regulations Addressing Cooling Water Intake Structures for New Facilities; Final Rule

VOL 66 ISS 243 DE 18 2001 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 125

[FRL–7105–4]

RIN 2040–AC34

National Pollutant Discharge Elimination System: Regulations Addressing Cooling Water Intake Structures for New Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's final rule implements section 316(b) of the Clean Water Act (CWA) for new facilities that use water withdrawn from rivers, streams, lakes, reservoirs, estuaries, oceans or other waters of the United States (U.S.) for cooling purposes. The final rule establishes national technology-based performance requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities. The national requirements establish the best technology available, based on a two-track approach, for minimizing adverse environmental impact associated with the use of these structures.

Based on size, Track I establishes national intake capacity and velocity requirements as well as location- and capacity-based requirements to reduce intake flow below certain proportions of certain waterbodies (referred to as "proportional-flow requirements"). It also requires the permit applicant to select and implement design and construction technologies under certain conditions to minimize impingement mortality and entrainment. Track II allows permit applicants to conduct site-specific studies to demonstrate to the Director that alternatives to the Track I requirements will reduce impingement mortality and entrainment for all life stages of fish and shellfish to a level of reduction comparable to the level the facility would achieve at the cooling water intake structure if it met the Track I requirements.

EPA expects that this final regulation will reduce impingement and entrainment at new facilities. Today's final rule establishes requirements that will help preserve aquatic organisms and the ecosystems they inhabit in waters used by cooling water intake structures at new facilities. EPA has considered the potential benefits of the rule; these include a decrease in expected mortality or injury to aquatic organisms that would otherwise be subject to entrainment into cooling water systems or impingement against screens or other devices at the entrance of cooling water intake structures. Benefits may also accrue at population, community, or ecosystem levels of ecological structures. The preamble discusses these benefits to the extent possible in qualitative terms.

DATES: This regulation shall become effective January 17, 2002. For judicial review purposes, this final rule is promulgated as of 1:00 p.m. Eastern Standard Time (EST) on January 2, 2002, as provided in 40 CFR 23.2.

ADDRESSES: The public record for this rule is established under docket number W–00–03. Copies of comments received, EPA responses, and all other supporting documents (except for information claimed as Confidential Business Information (CBI)) are available for review in the EPA Water Docket, East Tower Basement, Room EB–57, 401 M Street, SW., Washington, DC 20460. The record is available for inspection from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding legal holidays. For access to the docket materials, please call (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: For additional technical information contact Deborah G. Nagle at (202) 260–2656. For additional biological information contact Debbi Hart at (202) 260–0905. For additional economic information contact Ghulam Ali at (202) 260–9886. The e-mail address for the above contacts is *rule.316b@epa.gov.*

SUPPLEMENTARY INFORMATION:

What Entities Are Regulated by This Action?

This final rule applies to new greenfield (defined by example in section I. of this preamble) and stand alone facilities that use cooling water intake structures to withdraw water from waters of the U.S. and that have or require a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the CWA. New facilities subject to this regulation include those that have a design intake flow of greater than two (2) million gallons per day (MGD) and that use at least twenty-five (25) percent of water withdrawn for cooling purposes. Generally, facilities that meet these criteria fall into two major groups: new steam electric generating facilities and new manufacturing facilities. If a new facility meets these conditions, it is subject to today's final regulations. If a new facility has or requires an NPDES permit but does not meet the two MGD intake flow threshold or uses less than 25 percent of its water for cooling water purposes, the permit authority will implement section 316(b) on a case-by-case basis, using best professional judgment. This final rule defines the term "cooling water intake structure" to mean the total physical structure and any associated constructed waterways used to withdraw water from a water of the U.S. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to and including the intake pumps. Today's rule does not apply to existing facilities including major modifications to existing facilities that would be "new sources" in 40 CFR 122.29 as that term is used in the effluent guidelines and standards program. Although EPA has not finished examining the costs of technology options at existing facilities, the Agency anticipates that existing facilities would have less flexibility in designing and locating their cooling water intake structures than new facilities and that existing facilities might incur higher compliance costs than new facilities. For example, existing facilities might need to upgrade or modify existing intake structures and cooling water systems to meet requirements of the type contained in today's rule, which might impose greater costs than use of the same technologies at a new facility. Retrofitting technologies at an existing facility might also require shutdown periods during which the facility would lose both production and revenues, and certain retrofits could decrease the thermal efficiency of an electric generating facility. Site limitations, such as lack of undeveloped space, might make certain technologies infeasible at existing facilities. Accordingly, EPA does not intend that today's rule or preamble serve as guidance for developing section 316(b) requirements for existing facilities. Permit writers should continue to apply best professional judgment in making case-by-case section 316(b) determinations for existing facilities, based on existing guidance and other legal authorities. EPA will address existing facilities fully in Phase II and Phase III rulemakings.

The following table lists the types of entities that EPA believes are potentially subject to this final rule. This table is not intended to be exhaustive; rather, it provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria at § 125.81 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Category	Examples of regulated entities	Standard Industrial Classification (SIC) Codes	North American Industry Classification System (NAICS) Codes
Federal, State and Local Government.	Operators of steam electric generating point source dischargers that employ cooling water intake structures.	4911 and 493	221111, 221112, 221113, 221119, 221121, 221122, 221111, 221112, 221113, 221119, 221121, 221122.
Industry	Operators of industrial point source dischargers that employ cooling water intake structures.	See below	See below.
	Steam electric generating	4911 and 493	221111, 221112, 221113, 221119, 221121, 221122, 221111, 221112, 221113, 221119, 221121, 221122.
	Agricultural production	0133	111991, 11193.
	Metal mining	1011	21221.
	Oil and gas extraction (excluding offshore and coastal subcategories).	1311, 1321	211111, 211112.
	Mining and quarrying of nonmetallic minerals.	1474	212391.
	Food and kindred products	2046, 2061, 2062, 2063, 2075, 2085	311221, 311311, 311312, 311313, 311222, 311225, 31214.
	Tobacco products	2141	312229, 31221.
	Textile mill products	2211, 2261	31321.
	Lumber and wood products, except furniture.	2415, 2421, 2436, 2493	321912, 321113, 321918, 321999, 321212, 321219.
	Paper and allied products	2611, 2621, 2631, 2676, 2679	3221, 322121, 32213, 322121, 322122, 32213, 322291.
	Chemical and allied products	28 (except 2822, 2835, 2836, 2842, 2843, 2844, 2861, 2895, 2893, 2851, and 2879).	325 (except 325182, 32591, 32551, 32532).
	Petroleum refining and related industries.	2911, 2999	32411, 324199.
	Rubber and miscellaneous plastics products.	3011, 3069	326211, 31332, 326192, 326299.
	Stone, clay, glass, and concrete products.	3241	32731.
	Primary metal industries	3312, 3313, 3315, 3316, 3317, 3334, 3339, 3353, 3357.	324199, 331111, 331112, 331492, 331222, 332618, 331221, 22121, 331312, 331419, 331315, 331521, 331524, 331525.
	Fabricated metal products, except machinery and transportation equipment.	3421, 3499	332211, 337215, 332117, 332439, 33251, 332919, 339914, 332999.
	Industrial and commercial machinery and computer equipment.	3523, 3531	333111, 332323, 332212, 333922, 22651, 333923, 33312.
	Transportation equipment	3724, 3743, 3764	336412, 333911, 33651, 336416.
	Measuring, analyzing, and controlling instruments; photographic, medical, and optical goods; watches and clocks.	3861	333315, 325992.
	Electric, gas, and sanitary services	4911, 4931, 4939, 4961	221111, 221112, 221113, 221119, 221121, 221122, 22121, 22133.
	Educational services	8221	61131.
	Engineering, Accounting, Research, Management, and Related Services.	8731	54171.

Supporting Documentation

The final regulation is supported by two major documents:

1. *Economic Analysis of the Final Regulations Addressing Cooling Water Intake Structures for New Facilities* (EPA–821–R–01–035), hereafter referred to as the *Economic Analysis*. This document presents the analysis of compliance costs, barrier to entry, and energy supply effects. In addition, the document provides an assessment of potential benefits.

2. *Technical Development Document for the Final Regulations Addressing Cooling Water Intake Structures for New Facilities* (EPA–821–R–01–036), hereafter referred to as the *Technical Development Document*. This document presents detailed information on the methods used to develop unit costs and describes the set of technologies that may be used to meet the rule's requirements.

How To Obtain Supporting Documents

You can obtain the *Economic Analysis* and *Technical Development Document* from the Agency's 316(b) website (http://www.epa.gov/ost/316b). The documents are also available from the National Service Center for Environmental Publications, P.O. Box

42419, Cincinnati, OH 45242–2419; telephone (800) 490–9198 and the Water Resource Center , U.S. EPA, 1200 Pennsylvania Avenue, N.W. (RC 4100), Washington D.C. 20460 (202) 260–2814.

Organization of This Document

I. Scope of This Rulemaking
  A. What Is a New Facility?
  B. What Is a Cooling Water Intake Structure?
  C. What Cooling Water Use and Design Intake Flow Thresholds Result in a New Facility Being Subject to This Final Rule?
  D. Does This Rule Apply to My Facility If It Does Not Have a Point Source Discharge Subject to an NPDES Permit?
  E. What Requirements Must I Meet Under the Final Rule?
II. Legal Authority, Purpose and Background of Today's Regulation
  A. Legal Authority
  B. Purpose of Today's Regulation
  C. Background
III. Environmental Impact Associated With Cooling Water Intake Structures
IV. Summary of the Most Significant Revisions to the Proposed Rule
  A. Data Updates
  B. Regulatory Approach
V. Basis for the Final Regulation
  A. Major Options Considered for the Final Rule
  B. Why EPA Is Establishing EPA's Preferred Two-Track Option as the Best Technology Available for Minimizing Adverse Environmental Impact?
  C. Why EPA Is Not Adopting Dry Cooling as the Best Technology Available for Minimizing Adverse Environmental Impact?
  D. Why EPA Is Not Accepting the Industry Two-Track Approach in Full
VI. Summary of Major Comments on the Proposed Rule and Notice of Data Availability (NODA)
  A. Scope/Applicability
  B. Environmental Impact Associated With Cooling Water Intake Structures
  C. Location
  D. Flow and Volume
  E. Velocity
  F. Dry Cooling
  G. Implementation-Baseline Biological Characterization
  H. Cost
  I. Benefits
  J. Engineering and Economic Analysis Limitations
  K. EPA Authority
  L. Restoration
VII. Implementation
  A. When Does the Rule Become Effective?
  B. What Information Must I Submit to the Director When I Apply for My New or Reissued NPDES Permit?
  C. How Will the Director Determine the Appropriate Cooling Water Intake Structure Requirements?
  D. What Will I Be Required to Monitor?
  E. How Will Compliance Be Determined?
  F. What Are the Respective Federal, State, and Tribal Roles?
  G. Are Permits for New Facilities Subject to Requirements Under Other Federal Statutes?
  H. Alternative Requirements
VIII. Economic Analysis
  A. Electric Generation Sector
  B. Manufacturing Sector
  C. Economic Impacts
  D. Cost and Economic Impacts of Other Alternatives
IX. Potential Benefits Associated With Reducing Impingement and Entrainment
X. Regulatory Requirements
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Unfunded Mandates Reform Act
  D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.
  E. Executive Order 13132: Federalism
  F. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
  G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
  H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  I. Executive Order 13158: Marine Protected Areas
  J. Executive Order 13211 (Energy Effects)
  K. National Technology Transfer and Advancement Act
  L. Plain Language Directive
  M. Congressional Review Act

I. Scope of This Rulemaking

Today's final rule establishes technology-based performance requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities under section 316(b) of the Clean Water Act. The rule establishes the best technology available for minimizing adverse environmental impact associated with the use of these structures. Today's final rule also partially fulfills EPA's obligation to comply with a consent decree entered in the United States District Court, Southern District of New York in *Riverkeeper Inc., et al.* v. *Whitman*, No. 93 Civ. 0314 (AGS). (For a more detailed discussion of the consent decree, see II.C.2).

This final rule applies to new greenfield or stand alone facilities: (1) that use a newly constructed cooling water intake structure, or a modified existing cooling water intake structure whose design capacity is increased that withdraws water from waters of the U.S.; and (2) that has or is required to have a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the CWA. Specifically, the rule applies to you if you are the owner or operator of a facility that meets all of the following criteria:

- Your greenfield or stand alone facility meets the definition of new facility specified in § 125.83 of this rule;
- Your new facility uses a newly constructed or modified existing cooling water intake structure or structures, or your facility obtains cooling water by any sort of contract or arrangement with an independent supplier who has a cooling water intake structure;
- Your new facility's cooling water intake structure(s) withdraw(s) water from waters of the U.S. and at least twenty-five (25) percent of the water withdrawn is used for contact or noncontact cooling purposes;
- Your new facility has a design intake flow of greater than two (2) million gallons per day (MGD); and
- Your new facility has an NPDES permit or is required to obtain one.

If a new facility meets these conditions, it is subject to today's final regulations. If a new facility has or requires an NPDES permit but does not meet the two MGD intake flow threshold or the twenty-five percent cooling water use threshold, it is not subject to permit conditions based on today's rule; rather, it is subject to permit conditions implementing section 316(b) of the CWA set by the permit director on a case-by-case basis, using best professional judgment.

A. What Is a New Facility?

A new facility subject to this regulation is any facility that meets the definition of "new source" or "new discharger" in 40 CFR 122.2 and 122.29(b)(1), (2), and (4); commences construction after January 17, 2002; and uses either a newly constructed cooling water intake structure, or an existing cooling water intake structure whose design capacity is increased; or obtains cooling water by any sort of contract or arrangement with an independent supplier who has a cooling water intake structure. The term "commence construction" is defined in 40 CFR 122.29(b)(4).

As stated above, this rule applies to only "greenfield" and "stand-alone" facilities. A greenfield facility is a facility that is constructed at a site at which no other source is located, or that totally replaces the process or production equipment at an existing facility (see 40 CFR 122.29(b)(1)(i) and (ii)). A stand-alone facility is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site (see 40 CFR 122.29(b)(1)(iii)). An example of

VOL 66 ISS 243 DE 18 2001 UMI

total replacement is as follows: The power plant or manufacturer demolishes the power plant or manufacturing facility and builds a new plant or facility in its place. The pumps of the existing cooling water intake structure are replaced with new pumps that increase design capacity to accommodate additional cooling water needs, but the intake pipe is left in place. In this situation, the facility would be a new facility. Modifications to an existing cooling water intake structure that do not serve the cooling water needs of a greenfield or stand-alone facility in 40 CFR 122.2 and 122.29(b)(1), (2), and (4) (i.e., a facility that meets the definition of new source or new discharger and commences construction after the effective date of the rule) do not constitute a new facility subject to this rule. Thus, the definition of new facility under this rule is narrower than the definition of new source under section 306 of the CWA.

The definition of new facility also requires that the greenfield or stand-alone facility use "a newly constructed cooling water intake structure or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water." This means a facility that would otherwise be a "new facility" would *not* be treated as a new facility under this rule if it withdraws water from an existing cooling water intake structure whose design capacity has not been increased to accommodate the intake of additional cooling water. Routine maintenance and repair, such as replacement of pumps that does not increase the capacity of the structure, cleaning in response to biofouling, and repair or replacement of moving parts at a cooling water intake that is part of a greenfield or stand-alone facility, and that occur simply for operation and maintenance purposes, would not be a modification of that intake structure. One way to distinguish whether replacement of the pipes or the pumps is for maintenance and repair purposes or whether it is to accommodate construction of a new facility is to determine whether the replacement increases the original design capacity. Today's rule specifies that changes to a cooling water intake structure are considered modifications for purposes of this rule only if such changes result in an increase in design capacity. Thus, routine maintenance or repair of the cooling water intake structure, including the pumps, that does not result in an increase in design capacity does not modify a cooling water intake structure. However, if a change is made to the cooling water intake structure, including the pumps, that increases design capacity to any extent, then the cooling water intake structure has been modified; use of this structure by a greenfield or stand-alone facility would make the facility a new facility subject to this rule.

B. What Is a Cooling Water Intake Structure?

For the purposes of this rule a "cooling water intake structure" is defined as the total physical structure and any associated constructed waterways used to withdraw water from waters of the U.S. The cooling water intake structure extends from the point at which water is withdrawn from waters of the U.S. up to and including the intake pumps. EPA has defined "cooling water" as water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The Agency has specified that the intended use of cooling water is to absorb waste heat from production processes or auxiliary operations. In addition, for the final rule EPA has amended the definition of cooling water to ensure that the rule does not discourage the reuse of cooling water as process water. As such, heated cooling water that is subsequently used in a manufacturing process is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes.

C. What Cooling Water Use and Design Intake Flow Thresholds Result in a New Facility Being Subject to This Final Rule?

This rule applies to new facilities that (1) withdraw cooling water from waters of the U.S. and use at least twenty-five (25) percent of the water withdrawn for cooling purposes and (2) have a cooling water intake structure with a design intake capacity of greater than or equal to two (2) million gallons per day (MGD) of source water. See 40 CFR 125.81 of this rule. The percentage of total water withdrawn that is used for cooling purposes is to be measured on an average monthly basis over a period of one year. See 40 CFR 125.81(c) of this rule. A new facility meets the 25 percent cooling water use threshold if, on the basis of the new facility's design when measured over a period of one year, any monthly average percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn. Waters of the U.S. include the broad range of surface waters that meet the regulatory definition at 40 CFR 122.2, which can include lakes, ponds, reservoirs, nontidal rivers or streams, tidal rivers, estuaries, fjords, oceans, bays, and coves.

Some commenters questioned whether the discussion of cooling ponds in the preamble to the proposal (65 FR 49067, col. 2) meant that EPA considers cooling ponds to be "waters of the United States." EPA did not intend that discussion to change the regulatory status of cooling ponds. Cooling ponds are neither categorically included nor categorically excluded from the definition of "waters of the United States" at 40 CFR 122.2. EPA interprets 40 CFR 122.2 to give permit writers discretion to regulate cooling ponds as "waters of the United States" where cooling ponds meet the definition of "waters of the United States." The determination whether a particular cooling pond is or is not "waters of the United States" is to be made by the permit writer on a case-by-case basis, informed by the principles enunciated in *Solid Waste Agency of Northern Cook County* v. *US Army Corps of Engineers*, 531 U.S. 159 (2001).

D. Does This Rule Apply to My Facility If It Does Not Have a Point Source Discharge Subject to an NPDES Permit?

Today's final rule applies only to new facilities as defined in § 125.83 that have an NPDES permit or are required to obtain one because they discharge or might discharge pollutants, including storm water, from a point source to waters of the United States. Requirements for minimizing the adverse environmental impact of cooling water intake structures will continue to be applied through NPDES permits.

E. What Requirements Must I Meet Under the Final Rule?

Today's final rule establishes a two-track approach for regulating cooling water intake structures at new facilities. Track I establishes uniform requirements based on facility cooling water intake capacity. Track II provides dischargers with the opportunity to establish that alternative requirements will achieve comparable performance. The regulated entity has the opportunity to choose which track it will follow. The Track I and Track II requirements are summarized below.

Under Track I, new facilities with a design intake flow equal to or greater than 10 MGD, must meet the following requirements:

(1) Cooling water intake flow must be at a level commensurate with that achievable with a closed-cycle,

recirculating cooling system; (40 CFR 125.84(b)(1))

(2) Through-screen intake velocity must be less than or equal to 0.5 feet per second; (40 CFR 125.84(b)(2))

(3) Location- and capacity-based limits on proportional intake flow must be met (for fresh water rivers or streams, intake flow must be less than or equal to 5 percent of the mean annual flow; for lakes or reservoirs, intake flow may not disrupt natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies); for estuaries or tidal rivers, intake flow must be less than or equal to 1 percent of the tidal excursion volume; for oceans, there are no proportional flow requirements); (40 CFR 125.84(b)(3)) and

(4) Design and construction technologies for minimizing impingement mortality and entrainment must be selected and implemented if certain conditions exist where the cooling water intake structure is located. (40 CFR 125.84(b)(4) and (5))

Under Track I, new facilities with a design intake flow equal to or greater than 2 MGD, but less than 10 MGD, must meet the following requirements:

(1) Through-screen intake velocity must be less than or equal to 0.5 feet per second; (40 CFR 125.84(c)(1))

(2) Location- and capacity-based limits on proportional intake flow must be met (for fresh water rivers or streams, intake flow must be less than or equal to 5 percent of the mean annual flow; for lakes or reservoirs, intake flow may not disrupt natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies); for estuaries or tidal rivers, intake flow must be less than or equal to 1 percent of the tidal excursion volume; for oceans, there are no proportional flow requirements); (40 CFR 125.84(c)(2)) and

(3) Design and construction technologies for minimizing impingement mortality must be selected if certain conditions exist where the cooling water intake structure is located 125.84(c)(3); and design and construction technologies for minimizing entrainment must be selected and implemented. (40 CFR 125.84(c)(4))

Under Track II, new facilities must meet the following requirements:

(1) Employ technologies that will reduce the level of adverse environmental impact to a comparable level to that which would be achieved under the Track I requirements (as demonstrated in a Comprehensive Demonstration Study); (40 CFR 125.84(d)(1))

(2) The same proportional intake flow limitations as in Track I, based on the intake source water, must be met; (40 CFR 125.84(d)(2)).

Section IV.B and V. of this preamble provides a more detailed discussion of the requirements included under this two-track approach. The two-track approach provides new facilities with a well-defined set of requirements that constitute best technology available (BTA) for minimizing adverse environmental impact and can be implemented relatively quickly. This approach also provides flexibility to operators who believe alternative or emerging technologies would be just as effective at reducing impingement and entrainment.

II. Legal Authority, Purpose and Background of Today's Regulation

A. Legal Authority

Today's final rule is issued under the authority of sections 101, 301, 304, 306, 308, 316, 401, 402, 501, and 510 of the Clean Water Act (CWA), 33 U.S.C. 1251, 1311, 1314, 1316, 1318, 1326, 1341, 1342, 1361, and 1370. This rule partially fulfills the obligations of the U.S. Environmental Protection Agency (EPA) under a consent decree in *Riverkeeper Inc., et al.* v. *Whitman*, United States District Court, Southern District of New York, No. 93 Civ. 0314 (AGS).

B. Purpose of Today's Regulation

Section 316(b) of the CWA provides that any standard established pursuant to section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impact. Today's final rule defines a cooling water intake structure as the total physical structure, including the pumps, and any associated constructed waterways used to withdraw water from waters of the U.S. Cooling water absorbs waste heat from processes employed or from auxiliary operations on a facility's premises. Single cooling water intake structures might have multiple intake bays. Today's final rule establishes requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities that withdraw at least two (2) million gallons per day (MGD) and use at least twenty-five (25) percent of the water they withdraw for cooling purposes. Today's final rule establishes best technology available for minimizing adverse environmental impact associated with the intake of water from waters of the U.S. at these structures. See part III for further discussion of the environmental impact associated with cooling water intake structures.

C. Background

1. The Clean Water Act

The Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.*, seeks to "restore and maintain the chemical, physical, and biological integrity of the nation's waters." 33 U.S.C. 1251(a). The CWA establishes a comprehensive regulatory program, key elements of which are (1) a prohibition on the discharge of pollutants from point sources to waters of the U.S., except as authorized by the statute; (2) authority for EPA or authorized States or Tribes to issue National Pollutant Discharge Elimination System (NPDES) permits that regulate the discharge of pollutants; and (3) requirements for EPA to develop effluent limitation guidelines and standards and for States to develop water quality standards that are the basis for the limitations required in NPDES permits.

Today's final rule implements section 316(b) of the CWA as it applies to "new facilities" as defined in this rule. 316(b) addresses the adverse environmental impact caused by the intake of cooling water, not discharges into water. Despite this special focus, the requirements of section 316(b) are closely linked to several of the core elements of the NPDES permit program established under section 402 of the CWA to control discharges of pollutants into navigable waters. For example, section 316(b) applies to facilities that withdraw water from the waters of the United States for cooling through a cooling water intake structure and are point sources subject to an NPDES permit. Conditions implementing section 316(b) are included in NPDES permits and will continue to be included in NPDES permits under this final rule.

Section 301 of the CWA prohibits the discharge of any pollutant by any person, except in compliance with specified statutory requirements. These requirements include compliance with technology-based effluent limitation guidelines and new source performance standards, water quality standards, NPDES permit requirements, and certain other requirements.

Section 402 of the CWA provides authority for EPA or an authorized State or Tribe to issue an NPDES permit to any person discharging any pollutant or combination of pollutants from a point source into waters of the U.S. Forty-four States and one U.S. territory are authorized under section 402(b) to administer the NPDES permitting program. NPDES permits restrict the types and amounts of pollutants, including heat, that may be discharged from various industrial, commercial, and other sources of wastewater. These permits control the discharge of pollutants primarily by requiring dischargers to meet effluent limitations and other permit conditions. Effluent limitations may be based on promulgated federal effluent limitation guidelines, new source performance standards, or the best professional judgment of the permit writer. Limitations based on these guidelines, standards, or best professional judgment are known as technology-based effluent limits. Where technology-based effluent limits are inadequate to ensure compliance with water quality standards applicable to the receiving water, more stringent effluent limits based on applicable water quality standards are required. NPDES permits also routinely include monitoring and reporting requirements, standard conditions, and special conditions.

Sections 301, 304, and 306 of the CWA require that EPA develop technology-based effluent limitation guidelines and new source performance standards that are used as the basis for technology-based minimum discharge requirements in wastewater discharge permits. EPA issues these effluent limitation guidelines and standards for categories of industrial dischargers based on the pollutants of concern discharged by the industry, the degree of control that can be attained using various levels of pollution control technology, consideration of various economic tests appropriate to each level of control, and other factors identified in sections 304 and 306 of the CWA (such as non-water quality environmental impacts including energy impacts). EPA has promulgated regulations setting effluent limitation guidelines and standards under sections 301, 304, and 306 of the CWA for more than 50 industries. See 40 CFR parts 405 through 471. Among these, EPA has established effluent limitation guidelines that apply to most of the industry categories that use cooling water intake structures (e.g., steam electric power generation, iron and steel manufacturing, pulp and paper manufacturing, petroleum refining, chemical manufacturing).

Section 306 of the CWA requires that EPA establish discharge standards for new sources. For purposes of section 306, new sources include any source that commenced construction after the promulgation of applicable new source performance standards, or after proposal of applicable standards of performance if the standards are promulgated in accordance with section 306 within 120 days of proposal. CWA section 306; 40 CFR 122.2. New source performance standards are similar to the technology-based limitations established for existing sources, except that new source performance standards are based on the best available demonstrated technology instead of the best available technology economically achievable. New facilities have the opportunity to install the best and most efficient production processes and wastewater treatment technologies. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-process control and treatment technologies that reduce pollution to the maximum extent feasible. In addition, in establishing new source performance standards, EPA is required to take into consideration the cost of achieving the effluent reduction and any non-water quality environmental impacts and energy requirements. As stated above, a "new source" under CWA section 306 applies to a broader set of facilities than the group of facilities subject to this rule.

2. Consent Decree

Today's final rule partially fulfills EPA's obligation to comply with an amended Consent Decree entered in the United States District Court, Southern District of New York, in *Riverkeeper Inc., et al.* v. *Whitman*, No. 93 Civ 0314 (AGS), a case brought against EPA by a coalition of individuals and environmental groups. The consent decree as entered on October 10, 1995, provided that EPA propose regulations implementing section 316(b) by July 2, 1999, and take final action with respect to those regulation by August 13, 2001. Under subsequent orders and an amended consent decree, EPA has divided the rulemaking into three phases and is working under new deadlines. In addition to taking final action on this rule governing new facilities by November 9, 2001, EPA must propose regulations for, at a minimum, existing power plants that use large volumes of cooling water by February 28, 2002, and take final action 18 months later. EPA must propose regulations for, at a minimum, smaller-flow power plants and factories in four industrial sectors (pulp and paper making, petroleum and coal products manufacturing, chemical and allied manufacturing, and primary metal manufacturing) by June 15, 2003.

3. What Prior EPA Rulemakings Addressed Cooling Water Intake Structures?

In April 1976 EPA published a rule under section 316(b) that addressed cooling water intake structures. 41 *FR* 17387 (April 26, 1976), proposed at 38 *FR* 34410 (December 13, 1973). The rule added a new § 401.14 to 40 CFR Chapter I that reiterated the requirements of CWA section 316(b). It also added a new part 402, which included three sections: (1) § 402.10 (Applicability), (2) § 402.11 (Specialized definitions), and (3) § 402.12 (Best technology available for cooling water intake structures). Section 402.10 stated that the provisions of part 402 applied to "cooling water intake structures for point sources for which effluent limitations are established pursuant to section 301 or standards of performance are established pursuant to section 306 of the Act." Section 402.11 defined the terms "cooling water intake structure," "location," "design," "construction," "capacity," and "Development Document." Section 402.12 included the following language:

> The information contained in the Development Document shall be considered in determining whether the location, design, construction, and capacity of a cooling water intake structure of a point source subject to standards established under section 301 or 306 reflect the best technology available for minimizing adverse environmental impact.

In 1977, fifty-eight electric utility companies challenged these regulations, arguing that EPA had failed to comply with the requirements of the Administrative Procedure Act (APA) in promulgating the rule. Specifically, the utilities argued that EPA had neither published the development document in the **Federal Register** nor properly incorporated the document into the rule by reference. The United States Court of Appeals for the Fourth Circuit agreed and, without reaching the merits of the regulations themselves, remanded the rule. *Appalachian Power Co.* v. *Train*, 566 F.2d 451 (4th Cir. 1977). EPA later withdrew part 402. 44 *FR* 32956 (June 7, 1979). 40 CFR 401.14 remains in effect.

4. How Is Section 316(b) Being Implemented Now?

Since the Fourth Circuit remanded EPA's section 316(b) regulations in 1977, NPDES permit authorities have made decisions implementing section 316(b) on a case-by-case, site-specific basis. EPA published draft guidance addressing section 316(b) implementation in 1977. See *Draft Guidance for Evaluating the Adverse Impact of Cooling Water Intake Structures on the Aquatic Environment: Section 316(b) P.L. 92-500* (U.S. EPA, 1977). This draft guidance describes the studies recommended for evaluating the impact of cooling water intake structures on the aquatic environment and recommends a basis for determining the best technology available for minimizing adverse environmental impact. The 1977 section 316(b) draft guidance states, "The environmental-intake interactions in question are highly site-specific and the decision as to best technology available for intake design, location, construction, and capacity must be made on a case-by-case basis." (Section 316(b) Draft Guidance, U.S. EPA, 1977, p. 4). This case-by-case approach also is consistent with the approach described in the 1976 development document referenced in the remanded regulation.

The 1977 section 316(b) draft guidance suggests the general process for developing information needed to support section 316(b) decisions and presenting that information to the permitting authority. The process involves the development of a site-specific study of the environmental effects associated with each facility that uses one or more cooling water intake structures, as well as consideration of that study by the permitting authority in determining whether the facility must make any changes for minimizing adverse environmental impact. Where adverse environmental impact is present, the 1977 draft guidance suggests a stepwise approach that considers screening systems, size, location, capacity, and other factors.

Although the draft guidance describes the information that should be developed, key factors that should be considered, and a process for supporting section 316(b) determinations, it does not establish national standards based on the best technology available for minimizing adverse environmental impact. Rather, the guidance leaves the decisions on the appropriate location, design, capacity, and construction of each facility to the permitting authority. Under this framework, the Director determines whether appropriate studies have been performed and whether a given facility has minimized adverse environmental impact. The Director's determinations of whether the appropriate studies have been performed or whether a given facility has minimized adverse environmental impact have often been subject to challenges that can take a long time to resolve and may impose significant resource demands on permitting agencies, the public, and the permit applicant.

5. Proposed New Facility Rule

On August 10, 2000, EPA published proposed requirements for cooling water intake structures at new facilities to implement section 316(b) of the Clean Water Act. EPA proposed a tiered approach for reducing adverse environmental impact, with three degrees of stringency based on EPA's view of the relative vulnerability of each category of waterbody. EPA received numerous comments and data submissions concerning the proposal. See 65 *FR* 49060.

6. Notice of Data Availability

On May 25, 2001, EPA published a Proposed Rule Notice of Data Availability (NODA). This notice presented a summary of the data EPA had received or collected since proposal, an assessment of the relevance of the data to EPA's analysis, some modified technology options suggested by commenters, and an alternative regulatory approach suggested by a trade group representing the utility industry as well as EPA's ideas about how it might modify this suggested approach. See 66 *FR* 28853. On July 6, 2001, EPA reopened the comment period for certain documents and issues related to those documents. See 66 *FR* 35572.

7. Public Participation

EPA has worked extensively with stakeholders from the industry, public interest groups, State agencies, and other Federal agencies in the development of this final rule. In addition to comments received during the comment periods of the original proposal, the NODA, and the reopened comment period for certain documents referenced in the NODA, EPA conducted two public meetings: in June 1998, in Arlington, Virginia (63 *FR* 27958) and in September, 1998, in Alexandria, Virginia (63 *FR* 40683). In addition, in September 1998, EPA staff participated in a technical workshop sponsored by the Electric Power Research Institute on issues relating to the definition and assessment of adverse environmental impact. EPA staff have participated in other industry conferences, met upon request on numerous occasions with industry representatives, and met on a number of occasions with representatives of environmental groups. EPA has also met with stakeholders, attended conferences and held workshops concerning topics related to the existing source rulemaking effort.

In the months leading up to publication of the proposed rule, EPA conducted a series of stakeholder meetings to review the draft regulatory framework for the proposed rule and invited stakeholders to provide their recommendations for the Agency's consideration. EPA managers have met with the Utility Water Act Group, Edison Electric Institute, representatives from an individual utility, and with representatives from the petroleum refining, pulp and paper, and iron and steel industries. EPA conducted meetings with environmental groups attended by representatives from between 3 and 15 organizations. EPA also met with the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) and, with the assistance of ASIWPCA, conducted a conference call in which representatives from 17 states or interstate organizations participated. After publication of the proposed rule, EPA continued to meet with stakeholders at their request. These meetings are summarized in the record.

III. Environmental Impact Associated With Cooling Water Intake Structures

The proposed rule provided an overview of the magnitude and type of environmental impacts associated with cooling water intake structures, including several illustrative examples of documented environmental impacts at existing facilities (see 65 *FR* 49071 through 4). The majority of biological impacts associated with intake structures are closely linked to water withdrawals from the various waters in which the intakes are located.

Based on preliminary estimates from a questionnaire sent to more than 1,200 existing power plants and factories, industrial facilities in the United States withdraw more than 279 billion gallons of cooling water a day from waters of the U.S. The withdrawal of such large quantities of cooling water affects vast quantities of aquatic organisms annually, including phytoplankton (tiny, free-floating photosynthetic organisms suspended in the water column), zooplankton (small aquatic animals, including fish eggs and larvae, that consume phytoplankton and other zooplankton), fish, crustaceans, shellfish, and many other forms of aquatic life. Aquatic organisms drawn into cooling water intake structures are either impinged on components of the cooling water intake structure or entrained in the cooling water system itself.

Impingement takes place when organisms are trapped against intake screens by the force of the water passing through the cooling water intake structure. Impingement can result in starvation and exhaustion (organisms are trapped against an intake screen or other barrier at the entrance to the cooling water intake structure), asphyxiation (organisms are pressed against an intake screen or other barrier at the entrance to the cooling water intake structure by velocity forces that prevent proper gill movement, or organisms are removed from the water for prolonged periods of time), and descaling (fish lose scales when removed from an intake screen by a wash system) and other physical harms.

Entrainment occurs when organisms are drawn through the cooling water intake structure into the cooling system. Organisms that become entrained are normally relatively small benthic,[1] planktonic,[2] and nektonic[3] organisms, including early life stages of fish and shellfish. Many of these small organisms serve as prey for larger organisms that are found higher on the food chain. As entrained organisms pass through a plant's cooling system they are subject to mechanical, thermal, and/or toxic stress. Sources of such stress include physical impacts in the pumps and condenser tubing, pressure changes caused by diversion of the cooling water into the plant or by the hydraulic effects of the condensers, sheer stress, thermal shock in the condenser and discharge tunnel, and chemical toxemia induced by antifouling agents such as chlorine. The mortality rate of entrained organisms varies by species and can be high under normal operating conditions.[4] [5] In the case of either impingement or entrainment, a substantial number of aquatic organisms are killed or subjected to significant harm.

In addition to impingement and entrainment losses associated with the operation of the cooling water intake structure, EPA is concerned about the cumulative overall degradation of the aquatic environment as a consequence of (1) multiple intake structures operating in the same watershed or in the same or nearby reaches and (2) intakes located within or adjacent to an impaired waterbody. Historically, impacts related to cooling water intake structures have been evaluated on a facility-by-facility basis. The potential cumulative effects of multiple intakes located within a specific waterbody or along a coastal segment are largely unknown (one relevant example is provided for the Hudson River; see discussion below). There is concern, however, about the effects of multiple intakes on fishery stocks. As an example, the Atlantic States Marine Fisheries Commission has been requested by its member States to investigate the cumulative impacts on commercial fishery stocks, particularly overutilized stocks, attributable to cooling water intakes located in coastal regions of the Atlantic.[6] Specifically, the study will focus on revising existing fishery management models so that they accurately consider and account for fish losses from intake structures.

EPA analyses suggest that over 99 percent of the existing facilities with cooling water withdrawal that EPA surveyed in its section 316(b) survey of existing facilities are located within 2 miles of waters that are identified as impaired and listed by a State or Tribe as needing development of a total maximum daily load (TMDL) to restore the waterbody to its designated use. EPA notes that the top four leading causes of waterbody impairment (siltation, nutrients, bacteria, and metals) affect the aquatic life uses of a waterbody. The Agency believes that cooling water intakes potentially contribute additional stress to waters already showing aquatic life impairment from other sources such as industrial discharges and urban stormwater.

EPA is also concerned about the potential impacts of cooling water intake structures located in or near habitat areas that support threatened, endangered, or other protected species. Although limited information is available on locations of threatened or endangered species that are vulnerable to impingement or entrainment, such impacts do occur. For example, EPA is aware that from 1976 to 1994, approximately 3,200 threatened or endangered sea turtles entered enclosed cooling water intake canals at the St. Lucie Nuclear Generating Plant in Florida.[7] The plant developed a capture-and-release program in response to these events. Most of the entrapped turtles were captured and released alive; however, approximately 160 turtles did not survive. More recently, the number of sea turtles being drawn into the intake canal increased to approximately 600 per year; this increase led to a requirement for barrier nets to minimize entrapment.

Finally, in the proposed rule EPA expressed concern about environmental impacts associated with the construction of new cooling water intake structures. Three main factors contribute to the environmental impacts: displacement of biota and habitat resulting from the physical placement of a new cooling water intake structure in an aquatic environment, increased levels of turbidity in the aquatic environment, and effects on biota and habitat associated with aquatic disposal of materials excavated during construction. Existing programs, such as the CWA section 404 program, National Environmental Policy Act (NEPA) program, and programs under State/Tribal law, include requirements that address many of the environmental impact concerns associated with the construction of new intakes (see Section VII. G for applicable Federal statutes). EPA recognizes that impacts related to construction of cooling water intake structures can occur and defers to the regulatory authority provided within the above-listed programs to evaluate the potential for impacts and minimize their extent.

In the proposed rule and NODA, EPA provided a number of examples of impingement and entrainment impacts that can be associated with existing facilities. It is important to note that these examples were *not* meant to predict effects at new facilities but rather to illustrate that the number of organisms impinged and entrained by a facility can be substantial. EPA also

---

[1] Refers to bottom dwellers that are generally small and sessile (attached) such as mussels and anemones, but can include certain large motile (able to move) species such as crabs and shrimp. These species can be important members of the food chain.

[2] Refers to free-floating microscopic plants and animals, including the egg and larval stages of fish and invertebrates that have limited swimming abilities. Plankton are also an important source of food for other aquatic organisms and an essential component of the food chain in aquatic ecosystems.

[3] Refers to free-swimming organisms (e.g., fish, turtles, marine mammals) that move actively through the water column and against currents.

[4] Mayhew, D.A., L.D. Jensen, D.F. Hanson, and P.H. Muessig. 2000. A comparative review of entrainment survival studies at power plants in estuarine environments. *Environmental Science and Policy* 3:S295–S301.

[5] EPRI. 2000. Review of entrainment survival studies: 1970–2000. Prepared by EA Engineering Science and Technology for the Electric Power Research Institute, Palo Alto, CA.

[6] Personal communication, telephone conversation between D. Hart (EPA) and L. Kline (ASMFC), 2001.

[7] Florida Power and Light Company. 1995. Assessment of the impacts at the St. Lucie Nuclear Generating Plant on sea turtle species found in the inshore waters of Florida.

VOL 66 ISS 243 DE 18 2001 UMI

notes that these are examples of the types of impacts that may occur without controls, that these examples are not representative of all sites whose facilities use cooling water intake structures, and that these examples may not reflect subsequent action that may have been taken to address these impacts on a site-specific basis. With these notes, EPA provides the following examples, illustrating that the impacts attributable to impingement and entrainment at individual facilities may result in appreciable losses of early life stages of fish and shellfish (*e.g.*, three to four billion individuals annually[8]), serious reductions in forage species and recreational and commercial landings (*e.g.*, 23 tons lost per year[9]), and extensive losses over relatively short intervals of time (*e.g.*, one million fish lost during a three-week study period[10]).

Further, some studies estimating the impact of impingement and entrainment on populations of key commercial or recreational fish have predicted substantial declines in population size. This has lead to concerns that some populations may be altered beyond recovery. For example, a modeling effort evaluating the impact of entrainment mortality on a representative fish species in the Cape Fear estuarine system predicted a 15 to 35 percent reduction in the species population.[11]

In addition, studies of entrainment at five Hudson River power plants during the 1980s predicted year-class reductions ranging from six percent to 79 percent, depending on the fish species.[12] An updated analysis of entrainment at three of these power plants predicted year-class reductions of up to 20 percent for striped bass, 25 percent for bay anchovy, and 43 percent for Atlantic tom cod, even without assuming 100 percent mortality of entrained organisms.[13] The New York Department of Environmental Conservation concluded that these reductions in year-class strength were "wholly unacceptable" and that any "compensatory responses to this level of power plant mortality could seriously deplete any resilience or compensatory capacity of the species needed to survive unfavorable environmental conditions."[14]

The following are summaries of other, documented examples of impacts occurring at existing facilities sited on a range of waterbody types. Also, see the discussion of the benefits of today's final rule in Section IX.

Brayton Point Generating Station. The Brayton Point Generating Station is located on Mt. Hope Bay, in Somerset, Massachusetts, within the northeastern reach of Narragansett Bay. Because of problems with electric arcing caused by salt drift and lack of fresh water for the closed-cycle recirculating cooling water system, the company converted Unit 4 from a closed-cycle, recirculating system to a once-through cooling water system in July 1984. The modification of Unit 4 resulted in a 41 percent increase in coolant flow, amounting to an intake flow of approximately 1.3 billion gallons per day and increased thermal discharge to the bay.[15] An analysis of fisheries data by the Rhode Island Division of Fish and Wildlife using a time series-intervention model showed an 87 percent reduction in finfish abundance in Mt. Hope Bay coincident with the Unit 4 modification.[16] The analysis also indicated that, in contrast, species abundance trends have been relatively stable in adjacent coastal areas and portions of Narragansett Bay that are not influenced by the operation of Brayton Point station.

San Onofre Nuclear Generating Station. The San Onofre Nuclear Generating Station (SONGS) is located on the coastline of the Southern California Bight, approximately 2.5 miles southeast of San Clemente, California.[17] The marine portions of Units 2 and 3, which are once-through, open-cycle cooling systems, began commercial operation in August 1983 and April 1984, respectively.[18] Since then, many studies evaluated the impact of the SONGS facility on the marine environment.

In a normal (non-El Niño) year, an estimated 121 tons of midwater fish (primarily northern anchovy, queenfish, and white croaker) are entrained at SONGS, of which at least 57 percent are killed during plant passage.[19] The fish lost include approximately 350,000 juveniles of white croaker, a popular sport fish; this number represents 33,000 adult individuals or 3.5 tons of adult fish. Within 3 kilometers of SONGS, the density of queenfish and white croaker in shallow-water samples decreased by 34 and 36 percent, respectively. Queenfish declined by 50 to 70 percent in deepwater samples.[20] A subsequent EPA review of the SONGS 316(b) demonstration concluded that although the plant incorporated technologies for minimizing adverse environmental impact, operations at SONGS cause adverse impacts to organisms in the cooling water system and to biological populations and communities in the vicinity of the intake and discharge locations for the plant.[21] These effects included mortality of fish, especially losses of millions of eggs and larvae, that are taken into the plant with cooling water and creation of a sometimes turbid plume that affects kelp, fish, and invertebrates in the San Onofre kelp bed.[22]

Pittsburg and Contra Costa Power Plants. The Pittsburg and Contra Costa Power Plants are located in the San Francisco Estuary, California. Because the San Francisco Bay Delta ecosystem has changed dramatically over the past century, several local species (e.g., Delta smelt, Sacramento splittail, chinook salmon, and steelhead) have been listed as threatened or endangered. Facility estimates for one of these species, chinook salmon, indicate that the Pittsburg and Contra Costa intakes have the potential to impinge and entrain up to 36,567 chinook salmon each year.[23] Based on restoration costs, EPA estimates that losses for this species alone can be valued at $25–40 million per year.

---

[8] EPA Region IV. 1979. Brunswick Nuclear Steam Electric Generating Plant of Carolina Power and Light Company, historical summary and review of section 316(b) issues.

[9] EPA Region IV. 1986. Findings and determination under 33 U.S.C. 1326, In the Matter of Florida Power Corporation Crystal River Power Plant Units 1, 2, and 3, NPDES permit no. FL0000159.

[10] Thurber, N.J and D. J. Jude. 1985. Impingement losses at the D.C. Cook Nuclear Power Plant during 1975–1982 with a discussion of factors responsible and possible impact on local populations. Special report no. 115 of the Great Lakes Research Division, Great Lakes and Marine Waters Center, University of Michigan.

[11] EPA Region IV. 1979. Brunswick Nuclear Steam Electric Generating Plant of Carolina Power and Light Company, historical summary and review of section 316(b) issues.

[12] Boreman J. and P. Goodyear. 1988. Estimates of entrainment mortality for striped bass and other fish species inhabiting the Hudson River Estuary. *American Fisheries Society Monograph* 4:152–160.

[13] Consolidated Edison Company of New York. 2000. Draft environmental impact statement for the state pollutant discharge elimination system permits for Bowline Point, Indian Point 2 & 3, and Roseton steam electric generating stations.

[14] New York Department of Environmental Conservation (NYDEC). 2000. Internal memorandum provided to the USEPA on NYDEC's position on SPDES permit renewals for Roseton, Bowline Point 1 & 2, and Indian Point 2 & 3 generating stations.

[15] Metcalf & Eddy. 1992. Brayton Point station monitoring program technical review. Prepared for USEPA.

[16] Gibson, M. 1995 (revised 1996). Comparison of trends in the finfish assemblages of Mt. Hope Bay and Narragansett Bay in relation to operations of the New England Power Brayton Point station. Rhode Island Division of Fish and Wildlife, Marine Fisheries Office.

[17] Southern California Edison. 1988. Report on 1987 data: marine environmental analysis and interpretation, San Onofre Nuclear Generating Station.

[18] Ibid.

[19] Swarbrick, S. and R.F. Ambrose. 1989. Technical report C: entrapment of juvenile and adult fish at SONGS. Prepared for Marine Review Committee.

[20] Kastendiek, J. and K. Parker. 1989. Interim technical report: midwater and benthic fish. Prepared for Marine Review Committee.

[21] SAIC. 1993. Draft review of Southern California Edison, San Onofre Nuclear Generating Station (SONGS) 316(b) demonstration. Prepared for USEPA Region IX.

[22] Ibid.

Power Plants with Flows Less Than 500 MGD. The following information from facility studies documents impingement and entrainment losses for facilities with lower flows than the previous examples:

1. The Pilgrim Nuclear Power Station, located on Cape Cod Bay, Massachusetts, has an intake flow of 446 MGD.[24] The average annual total losses of fish (all life stages) was 26,800 due to impingement and 3.92 billion due to entrainment[25]
2. The Coleman Power Plant, located on the Ohio River in Henderson, Kentucky, has an intake flow of 337 MGD[25] and combined average impingement and entrainment losses of 702,630,800 fish per year (30,800 impinged and 702,600,000 entrained).[26]

Existing and historical studies like those described in this section may provide only a partial picture of the severity of environmental impact associated with cooling water intake structures. Most important, the methods for evaluating adverse environmental impact used in the 1970s and 1980s, when most section 316(b) evaluations were performed, were often inconsistent and incomplete, making detection and consideration of all impacts difficult in some cases, and making cross-facility comparison difficult for developing a national rule. For example, some studies reported only gross fish losses; others reported fish losses on the basis of species and life stage; still others reported percent losses of the associated population or subpopulation (e.g., young-of-year fish). Recent advances in environmental assessment techniques provide new and in some cases better tools for monitoring impingement and entrainment and detecting impacts associated with the operation of cooling water intake structures.[27] [28] EPA acknowledges that these new assessment techniques may in some cases provide additional rather than better tools and perspectives.

IV. Summary of the Most Significant Revisions to the Proposed Rule

A. Data Updates

1. Number and Characteristics of New Facilities

Chapter 5 of the *Economic Analysis* provides a detailed discussion of the data and methodology used to estimate the number of new electric generating facilities and new manufacturing facilities subject to the final section 316(b) new facility rule. This section provides a summary of primary revisions to the analyses since the proposal. The section discusses new combined-cycle facilities, new coal facilities, and new manufacturing facilities separately.

a. New Combined-Cycle Facilities

The general approach for estimating the number of new combined-cycle facilities subject to the final section 316(b) new facility rule has not changed since proposal. However, and as discussed in the notice of data availability (NODA), EPA has used new data, which have become available since the proposal, to update the analysis. As a result, the number of new combined-cycle facilities now projected to be in scope of this rule has increased from 24 in the proposed rule analysis to 69 in the updated analysis for the final rule.

(1) Proposed Rule

For the proposal analysis, EPA used a three-step approach to estimating the number of new combined-cycle facilities: (1) Determination of future combined-cycle capacity additions; (2) estimation of the percentage of all regulated combined-cycle facilities that are in-scope; and (3) estimation of the number of new facilities. EPA used the *Annual Energy Outlook 2000* (AEO2000), prepared and published by the Energy Information Administration (EIA) of the U.S. Department of Energy, as the basis for the projected number of new in-scope combined-cycle facilities. The AEO2000 forecast 131 gigawatts (GW) of new combined-cycle capacity to begin operation between 2001 and 2020. Since the AEO does not have any information on the number of new facilities, their size, or their cooling water characteristics, EPA used the January 2000 version of Resource Data International's NEWGen Database to determine the in-scope percentage of new combined-cycle facilities and their facility and cooling water characteristics.

In the January 2000 NEWGen database, 94 of 466 projects met the following screening criteria: (1) New facility; (2) located in the United States; (3) active project (*i.e.*, not canceled or tabled); (4) anticipated date of initial commercial operation after August 13, 2001; and (5) steam electric prime mover. All 94 facilities were included in the analysis of new combined-cycle facilities. EPA then consulted permitting authorities, other public agencies, and company websites to obtain data on the planned facility cooling water use. EPA obtained sufficient data to assess the in-scope status for 56 of the 94 facilities. Seven of the 56 facilities, or 12.5 percent, were found to be in scope of the proposed rule; 49 were found to be out of scope. To estimate the total number of new in-scope combined-cycle facilities projected to begin operation between 2001 and 2020, EPA applied the average facility size of the seven in-scope NEWGen facilities (723 MW) and the in-scope percentage (12.5 percent) to EIA's forecast of new combined-cycle capacity additions. EPA made the conservative assumption that all new combined-cycle capacity would be built at new facilities rather than at existing facilities. These calculations resulted in an estimate of 24 new in-scope combined-cycle facilities over the 2001–2020 period (see also Exhibit 1 below).

(2) Final Rule

For the final rule analysis and as discussed in the NODA, EPA used the same general methodology but obtained updated information. In particular, EPA used the forecast of capacity additions from the U.S. Department of Energy's *Annual Energy Outlook* (AEO2001) and the February 2001 NEWGen Database. AEO2001's forecast of new combined-cycle capacity additions between 2001 and 2020 was 204 GW, compared with 131 GW in the AEO2000. Similarly, the February 2001 NEWGen Database contains considerably more new energy projects than the version used for the proposed rule analysis: The database contains 941 new projects, of which 361 met the screening criteria discussed above. Of the 361 facilities, 320 are combined-cycle facilities. To increase the number of facilities upon which facility and cooling water use characteristics are based, EPA excluded the anticipated date of initial commercial operation as a screening criterion. The analysis for the final rule therefore includes all facilities that meet the other four screening criteria, even if a facility will already have begun construction when the rule is promulgated and will therefore not be subject to the final rule.

---

[23] Southern Energy. 2000. Habitat conservation plan for the Pittsburg and Contra Costa Power Plants.

[24] Edison Electric Institute. 1994. EEI Power Statistics Database. Prepared by the Utility Data Institute.

[25] Data compiled by EPA from annual reports of impingement and entrainment losses from the Pilgrim Nuclear Power Station for the years 1991–1999.

[26] Hicks, D.B. 1977. Statement of findings for the Coleman Power Plant, Henderson, Kentucky.

[27] Schmitt, R.J. and C.W. Osenberg. 1996. *Detecting Ecological Impacts.* Academic Press, San Diego, CA.

[28] EPRI. 1999. Catalog of assessment methods for evaluating the effects of power plant operations on aquatic communities. TR–112013. EPRI, Palo Alto, CA.

EPA again consulted permitting authorities, other public agencies, and company websites to obtain data on the facilities' planned cooling water use. EPA obtained sufficient data to assess the cooling water characteristics for 199 of the 320 combined-cycle facilities. Of the 199 facilities, 57, or 28.6 percent, were found to be in scope of the final rule; 142 were found to be out of scope. The average size of all 199 facilities with cooling water information was approximately 741 MW. The average size of the 57 in-scope facilities was 747 MW. EPA made one other revision in estimating the total number of new in-scope combined-cycle facilities projected to begin operation between 2001 and 2020: Instead of assuming that all new combined-cycle capacity would be built at new facilities, EPA used information on combined-cycle capacity additions at existing facilities from the NEWGen Database to determine the actual share of capacity that will be built at new facilities. The database showed that 88 percent of new combined-cycle capacity is proposed at new facilities. EPA used the Department of Energy's estimate of new combined-cycle capacity additions (204 GW) and multiplied it by the percentage of capacity that will be built at new facilities (88 percent) to determine that 179 GW of new capacity will be constructed at new facilities. EPA then divided this value by the average facility size (741 MW) to determine that there would be a total of 241 potential new combined-cycle facilities (both in scope and out of scope of today's final rule). Finally, on the basis of EPA's estimate of the percentage of facilities that meet the two (2) MGD flow threshold (28.6 percent), EPA now estimates there will be 69 new in-scope combined-cycle facilities over the 2001–2020 period. Exhibit 1 summarizes the data differences for combined-cycle facilities between the proposal and the final rule analyses.

EXHIBIT 1.—SUMMARY OF COMBINED-CYCLE FACILITY RESEARCH (2001 TO 2020)

Information category	Proposed rule analysis	Final rule analysis
AEO2000 combined-cycle capacity additions	135 GW[a]	
AEO2001 combined-cycle capacity additions		204 GW
Percentage of combined-cycle capacity additions from new facilities	100%	88%
Capacity additions from new facilities	135 GW	179 GW
Average size of all combined-cycle facilities	723 MW	741 MW
Total number of new combined-cycle facilities	187	241
In-scope percentage	12.5%	28.6%
Number of new in-scope combined-cycle facilities	24	69
Average size of in-scope combined-cycle facilities	723 MW	747 MW

[a] Includes 4 GW of new coal capacity additions for 2001–2010.

The final step in the costing analysis for the final rule was to project cooling water characteristics of the 69 new in-scope combined-cycle facilities on the basis of the characteristics of the 57 in-scope NEWGen facilities. EPA developed six model facility types based on three main characteristics: (1) The facility's type of cooling system (once-through or recirculating system); (2) the type of water body from which the intake structure withdraws (freshwater or marine water); and (3) the facility's steam-electric generating capacity. The model facility characteristics were then applied to the 69 projected new combined-cycle facilities. EPA estimated that 64 new in-scope combined-cycle facilities will employ a recirculating system and only five will employ a once-through system. Of the 64 facilities with a recirculating system, 58 will withdraw from a freshwater body and six will withdraw from a marine water body. All five facilities with a once-through system are projected to withdraw from a marine water body.

b. New Coal Facilities

The general approach for estimating the number of new coal facilities subject to this final rule has not changed since proposal. However, as discussed in the NODA, EPA has used new data, which have become available since the proposal, to update the analysis. As a result, the number of new coal facilities projected to be in scope of this rule, decreased slightly, from 16 in the proposed rule analysis to 14 in the final rule analysis. However, most of the new in-scope coal facilities are now expected to begin operation earlier than under the proposal analysis.

(1) Proposed Rule

For the years 2001–2010, the AEO2000 projected limited new coal-fired steam electric generating capacity. In addition, the January 2000 NEWGen Database included no new coal-fired generating facilities. EPA therefore did not project any new coal facilities for 2001–2010. For the years 2011–2020, EPA used EIA's projected new capacity addition from coal-fired facilities, 17 GW, and information from the following sources to estimate the number and cooling water characteristics of new coal-fired power facilities subject to the rule: Form EIA–767 (Steam Electric Plant Operation and Design Report, Energy Information Administration, U.S. Department of Energy, 1994, 1997); Form EIA–860 (Annual Electric Generator Report, Energy Information Administration, U.S. Department of Energy, 1994, 1997); and Power Statistics Database (Utility Data Institute, McGraw-Hill Company, 1994). EPA estimated that 16 new coal facilities of 800 MW each would be subject to the proposed section 316(b) new facility rule and would begin operation between 2011 and 2020. Of these, 12 were projected to operate a recirculating system in the baseline, while four were projected to operate a once-through system.

(2) Final Rule

EPA used a similar methodology for the final rule analysis but obtained updated information and added data from the section 316(b) industry survey of existing facilities (*Industry Screener Questionnaire: Phase I Cooling Water Intake Structures, Detailed Industry Questionnaire: Phase II Cooling Water Intake Structures, and Industry Short Technical Questionnaire: Phase II Cooling Water Intake Structures*). To be consistent with the analysis for combined-cycle facilities, EPA used the forecast of capacity additions from the

AEO2001, which predicts 22 GW of new coal capacity between 2001 and 2020. In contrast to the proposal analysis, EPA considered the entire 2001–2020 period for the final rule analysis. In addition, EPA used information from the section 316(b) industry survey to determine the average size, in-scope percentage, and cooling water characteristics of new coal plants. The three surveys identified 111 unique coal-fired facilities that began commercial operation between 1980 and 1999. The facilities have a combined generating capacity of 53 GW, with an average of 475 MW each. The surveys further showed that 45 of the 111 facilities, or 40.5 percent, would be in scope of today's final rule if they were new facilities. These 45 facilities have an average generating capacity of 763 MW.

Information in the February 2001 version of the NEWGen Database on capacity additions at new and existing facilities showed that approximately 76 percent of new coal capacity will be built at new facilities. Applying this percentage (76 percent), as well as the average facility size (475 MW) and the in-scope percentage (40.5 percent), to EIA's forecast of new coal capacity additions resulted in 14 new in-scope coal facilities, with an average capacity of 763 MW, over the 2001–2020 period. Exhibit 2 summarizes the data differences for coal facilities between the proposal and the final rule analyses.

EXHIBIT 2.—SUMMARY OF COAL FACILITY RESEARCH

	Proposed rule analysis (2011–2020)	Final rule analysis (2001–2020)
AEO2000 coal capacity additions	17 GW	
AEO2001 coal capacity additions		22 GW
Percentage of coal capacity additions from new facilities	82%	76%
Capacity additions from new faciliteis	14 GW	17 GW
Average size of all coal facilities	800 MW	475 MW
Total number of new coal facilities	18	35
In-scope percentage	99.0%	40.5%
Number of new in-scope coal facilities	16	14
Average size of in-scope coal facilities	800 MW	763 MW

EPA projected cooling water characteristics of the 14 new in-scope coal facilities using data for recently-constructed plants from the section 316(b) industry survey. Similar to the combined-cycle facility analysis, EPA developed eight model facility types based on three main characteristics: (1) The facility's type of cooling system (once-though or recirculating system); (2) the type of water body from which the intake structure withdraws (freshwater or marine water); and (3) the facility's steam-electric generating capacity. The model facility characteristics were then applied to the 14 projected new coal facilities. EPA estimated that 10 new in-scope coal facilities will employ a recirculating system and three will employ a once-through system. One coal facility has a recirculating cooling pond and will exhibit characteristics more like a once-through facility. Of the10 facilities with a recirculating system, nine will withdraw from a freshwater body and only one facility will withdraw from a marine water body. All three facilities with a once-through system and the one facility with a cooling pond are projected to withdraw from a freshwater body.

c. Manufacturing Facilities

The general methodology used to estimate the number of new manufacturing facilities subject to the final section 316(b) new facility rule has not changed since proposal. However, on the basis of comments, EPA has altered some estimates and used new data to update the analysis. As a result, the number of new manufacturing facilities projected to be in scope of this rule has decreased from 58 at proposal to 38 in the final rule analysis.

(1) Proposed Rule

In the proposal analysis, EPA used three industry-specific estimates to project the number of new in-scope manufacturing facilities: (1) Industry growth forecasts; (2) the estimated percentage of the projected capacity growth accounted for by new facilities; and (3) data on the cooling water use at existing facilities. EPA used the projected growth of value of shipments in each industry to estimate likely future growth in capacity. A number of sources provided growth forecasts, including the annual U.S. Industry & Trade Outlook, *AEO2001*, and other sources specific to each industry. EPA assumed that the growth in capacity will equal growth in value of shipments, except where industry-specific information supported alternative assumptions. Not all industry growth, however, is expected to occur at new facilities: Some of the projected growth in capacity may result from increased utilization of existing capacity or capacity additions at existing facilities. Where information on the share of growth from new facilities was available, EPA used these data. For example, EIA projected that all increases in petroleum shipments will result from expanded capacity at existing facilities. Where this information was not available, EPA made the conservative estimate that 50 percent of the projected growth in capacity will be attributed to new facilities. Finally, EPA assumed that the cooling water use characteristics of new facilities in each industry, including the in-scope percentage, would be similar to those of existing facilities. Cooling water use data for existing facilities came from the *Industry Screener Questionnaire: Phase I Cooling Water Intake Structures.* To calculate the total number of new in-scope manufacturing facilities, EPA applied the industry-specific growth rate and the percentage of capacity growth from new facilities to the sample-weighted number of in-scope screener facilities in each industry.

(2) Final Rule

For the final rule analysis, EPA updated the projected growth in value of shipments for each industry using the most recent data available. On the basis of comments, three changes were made to the percentage of projected capacity growth that is attributed to new facilities. First, the American Chemistry Council stated that EPA overestimated the number of new in-scope chemical facilities in the proposal analysis because the percentage of growth that comes from new facilities (50 percent) was overstated. The comment did not provide a more accurate estimate. EPA

VOL 66 ISS 243 DE 18 2001 UMI

therefore revised this estimate for the chemical industry to 25 percent, which reduced the number of new chemical facilities by half. (The *Economic Analysis* documents the effect of using an alternative assumption of 37.5 percent, the midpoint between the proposal analysis estimate and the final rule analysis estimate, in analyzing the economic impacts of this rule.) Second, the petroleum industry commented that the assumption of no new petroleum refineries over the next 20 years is invalid. Even though the AEO2001 projects no new refineries in the United States, to be conservative EPA nevertheless revised this estimate and included two new in-scope petroleum refineries in the final rule analysis. Third, the American Forest & Paper Association stated that one or two new greenfield paper mills will be built over the next decade. EPA added two new in scope paper mills over the 20-year analysis period in response to this comment. In addition, EPA updated the water use characteristics of the projected new facilities by using data from the *Detailed Industry Questionnaire: Phase II Cooling Water Intake Structures instead of the Screener Questionnaire*. In the proposal analysis, EPA erroneously used the average daily intake flow rate, instead of the design intake flow rate, to determine whether a facility meets the two MGD flow threshold and is subject to the rule. Since the average intake flow is either lower than or equal to the design intake flow, this error likely underestimated the number of new in-scope manufacturing facilities. For the analysis of the final rule, EPA used the design intake flows reported in the section 316(b) industry survey.

Overall, because of the revisions described above, EPA's estimate of the number of new in-scope manufacturing facilities dropped from 58 at proposal to 38 in the cost analysis for this final rule.

2. Revisions to the Costing Estimates

Chapter 2 of the *Technical Development Document* provides a detailed description of the data and methodology used to develop compliance cost estimates for the final regulation. This section provides a summary of the main revisions in the costing inputs since the proposal.

At the time of the proposal, EPA included cost estimates for plume abatement at 50 percent of the electric generating facilities anticipated to install recirculating wet cooling towers to comply with the rule. This was an error. As described in the NODA (66 FR 28866 and 28867), EPA has since refined its estimates of cooling tower costs on a national basis to reflect plume abatement costs at a significantly lower proportion of facilities. EPA determined, on the basis of further research and information received from vendor manufacturers, that plume abatement measures were installed at only 3 to 4 percent of recent wet cooling tower projects. Therefore, the costing estimates for the final rule reflect this change.

At the time of the proposal, EPA included cost estimates for pumping of recirculating cooling water in the towers based on a flow rate equal to 15 percent of a comparable once-through cooling flow (based on the flow of make-up water). As explained in the NODA (66 FR 28866), this was an error. EPA has since refined its costing estimates to include the entire cooling flow. EPA's cost estimates for both capital and O&M costs for the final rule reflect appropriately sized pumps to recirculate the full design cooling water flow. The in-tower cooling water flow is now based on the level of cooling necessary for the condenser and the plants' cooling needs.

Since proposal, EPA has included costs from additional projects in the calculation of its costing estimates for recirculating wet cooling towers. EPA obtained further "turn-key" vendor project costs that have been incorporated into the specific costing equations used to calculate the capital and operation and maintenance (O&M) costs of the final rule. Turn-key project costs represents all costing elements necessary to estimate engineering costs, such as vendor overhead, equipment, wiring, foundations and contingencies. EPA included these project costs in the calculation of the costing equations in order to increase the number of real-world projects upon which the final cost estimates are based.

EPA has refined its estimates of O&M costs for recirculating wet cooling towers since proposal. At the time of proposal, EPA estimated economy of scale for O&M costs for recirculating, wet cooling towers as their size increases. EPA based this estimate primarily on the economy of scale savings for wastewater treatment systems as wastewater flow increases. The overall effect of this approach showed that for very large cooling towers, a savings of nearly two-thirds was achieved compared with smaller cooling towers. On the basis of comments received and further research, EPA has refined its estimates of O&M costs and economies of scale. The cost estimates presented for the final rule reflect this revision to the analysis.

In the final rule, EPA has included cost estimates for energy penalties due to operating power losses from recirculating cooling tower systems. Further information on this subject can be found in Section IV.A.3 of this preamble, below.

3. Energy Penalty Estimates for Recirculating Wet Cooling and Dry Cooling Towers

Since proposal, as discussed in the NODA (66 FR 28866), EPA has included in its estimates of O&M costs the performance penalties that may result in reductions of energy or capacity produced because of adoption of recirculating cooling tower systems. The cost estimates for the final rule include consideration of these penalties. The final rule cost estimates account for the energy penalty at facilities that are projected to install recirculating wet cooling tower systems in lieu of once-through cooling systems. EPA's cost estimates for dry cooling regulatory alternatives account for the appropriate energy penalty of this technology at each facility projected to install such a system.

For the final rule, EPA's costing methodology for performance penalties is based on the concept of lost operating revenue due to a mean annual performance penalty. EPA estimated the mean annual performance penalty for each tower technology as compared with once-through or recirculating wet cooling systems (where applicable for the dry cooling analysis). EPA then applied this mean annual penalty to the annual revenue estimates for each facility projected to install a recirculating cooling tower technology as a result of the rule or a regulatory option. EPA considers these revenue losses as representative of the cost to the facility for either replacing the power lost via the market or expanding the capacity of the new power plant.

Chapter 3 of the *Technical Development Document* discusses performance penalties in more detail.

4. Significant Changes to the Economic Analysis a. Revisions to Costing Analysis

EPA has made a methodological change for estimating the cost for today's rule. For the proposal, EPA directly estimated the incremental cost of the rule without estimating the baseline cost. This made it difficult to identify the magnitude of changes in relevant components of a system of a facility and their individual costs. For the final rule, EPA separately estimated the baseline costs and the cost after meeting the requirements of the rule.

Thus, the incremental cost attributed to the rule is derived from the difference between the baseline cost and the cost after compliance with the requirements of the rule.

For the proposal, EPA estimated the cost of the rule to be $12 million. This estimate was in part based on the assumption that 90 percent of the coal facilities would be within the scope of the rule. Since the publication of the proposal, EPA has analyzed additional information regarding coal facilities. This information shows that 40.5 percent of the coal facilities would be within the scope of the rule. EPA also revised the baseline characteristics for these facilities. For the final rule, EPA estimates that 71 percent of new in-scope coal facilities would have recirculating cooling towers independent of the rule. For combined-cycle facilities, EPA used the January 2000 version of the NEWGen database at proposal to estimate the proportion of the facilities that would be within the scope of the proposal. In view of the changes in the energy market, EPA is using a more current version (February 2001) of the NEWGen database for the final analysis. Consequently, EPA is revising the in-scope percentage for combined-cycle facilities to 28.6 percent for the final analysis, instead of 12.5 percent used for the proposal.

For the proposal, EPA used the average flow from the section 316(b) industry survey, screener questionnaire for existing manufacturing facilities to estimate the technology and O&M costs for new manufacturing facilities. EPA believes that the average flow would underestimate the costs because costs mostly depend on design of a facility. Therefore, EPA is using the design flow for estimating the cost for manufacturing facilities for the final rule. For the proposal, EPA assumed that 50 percent of the growth in product demand in the chemical industry would be met from new facilities. Commenters pointed out that this assumption leads to an overestimation of the number of new facilities and EPA agrees. Therefore, EPA has revised this assumption to 25 percent for the analysis supporting today's rule.

EPA has also examined the cost of the rule as a percentage of (annual) revenue for purposes of determining whether the options are economically practicable. The worst-case, or upper-limit, cost estimate for the rule is between 3.3 to 5.2 percent of estimated revenues (for three coal facilities), between 1 and 3 percent for an additional six facilities, and less than 1 percent for the rest of the facilities. EPA concludes that those costs are economically practicable and will not pose a barrier to entry for new facilities. The initial compliance cost of the rule (i.e., capital costs and permitting costs) as a percentage of construction cost of an electric generation facility is 3.4 percent for one coal facility, between 1.0 and 3.0 percent for an additional seven facilities, and less than 1.0 percent for the rest of the electric generation facilities. EPA finds that these are relatively low compliance costs. EPA does not consider that the cost of the rule would be a barrier to entry for new facilities and also finds that cost to be economically practicable.

5. Air Emissions Increases as a Result of Certain Regulatory Options

For the final rule, and as discussed in the NODA, EPA includes estimates of annual air emissions increases for certain pollutants from new power plants as a result of certain regulatory options considered. EPA developed estimates for air emissions increases for SO_2, NO_X, CO_2, and Hg for the regulatory options based on near-zero intake (dry cooling) and for those based on uniform national requirements of flow reduction commensurate with closed-cycle recirculating wet cooling systems (wet cooling towers) or with wet-cooling systems in Track I of a two-track rule. EPA anticipates, because of measurable performance penalties associated with cooling tower systems (see Section IV.A.3 of this preamble), that, depending on the regulatory option, air emissions nationally could increase from all or a small subset of new power plants as a result of the installation of cooling tower systems. EPA estimates the marginal air emissions increases by assuming that the energy lost by the facility cannot be replaced through additional fuel consumption at that facility, but rather, the energy will be replaced by the entire grid as a whole. Thus, the replacement energy necessary to compensate for the performance penalty is generated by the mix of fuels present in the entire grid. This is because, in EPA's view and on the basis of comments received, power plants are not always capable of compensating for an energy shortfall due to a performance penalty of a recirculating cooling tower by increasing their fuel consumption. Even though the estimated mean annual performance penalty for recirculating wet cooling towers is small, EPA estimates that facilities designed for once-through cooling would not always be designed with sufficient excess capacity to compensate for the performance penalties caused by recirculating wet cooling tower installations as a result of this rule. Therefore, EPA determines that marginal increases in air emissions due to performance penalties are best represented by estimating that the entire grid will replace the energy loss. EPA's estimates of marginal increases of air emissions are presented in Exhibit 3.

EXHIBIT 3.—ESTIMATES OF MARGINAL INCREASES OF AIR EMISSIONS FOR RECIRCULATING WET COOLING TOWERS[a]

	Capacity (MW)	Annual CO_2 (tons)	Annual SO_2 (tons)	Annual NO_X (tons)	Annual Hg (lbs)
National Emissions from Electricity Generation	828,631	2,575,814,488	13,581,673	6,437,710	86,722
Air Emission Increases If Plants Compensate With Increased Fuel Consumption					
National Electricity Generation Air Emissions Increases for Wet Cooling.		712,886 (.0028%)	1,543 (.0011%)	1,518 (.0024%)	23 (.0026%)
Air Emission Increases If Plants Purchase Replacement Power From Market					
National Electricity Generation Air Emissions Increases for Wet Cooling.		485,860 (.0019%)	2,561 (.0019%)	1,214 (.0019%)	16 (.0019%)

[a] This analysis assumes that annual emissions from energy generation are constant from 1998 to 2020, even though generation is projected to increase steadily over the next twenty years. Therefore, these estimates are slightly overstated.

VOL 66 ISS 243 DE 18 2001 UMI

B. Regulatory Approach

1. Proposed Rule

EPA proposed flow, velocity, and other design and construction technologies requirements based on the type of waterbody in which the intake structure is located and, for certain types of waters, the location of the intake in the water body. EPA proposed to group surface water into four categories: freshwater rivers and streams, lakes and reservoirs, estuaries and tidal rivers, and oceans. For each of these waterbody types, EPA divided the waterbody into sections based on the defined "littoral zone." At proposal, littoral zone was defined as any nearshore area in a freshwater river or stream, lake or reservoir, or estuary or tidal river extending from the level of highest seasonal water to the deepest point at which submerged aquatic vegetation can be sustained (i.e., the photic zone extending from shore to the substrate receiving one (1) percent of incident light); where there is a significant change in slope that results in changes to habitat or community structure; and where there is a significant change in the composition of the substrate (e.g., cobble to sand, sand to mud). In oceans, the littoral zone encompassed the photic zone of the neritic region. The photic zone is that part of the water that receives sufficient sunlight for plants to be able to photosynthesize. The neritic region is the shallow water or nearshore zone over the continental shelf.

In general, the closer the intake structure was to the littoral zone, the more stringent the proposed best-technology-available requirements for minimizing adverse environmental impact became. For example, an intake structure located within the littoral zone would have required the most stringent capacity and velocity controls as well as the use of other design and construction technologies. EPA also proposed the most stringent requirements for best technology available for minimizing adverse environmental impact in all parts of tidal rivers and estuaries because of the potential for high biological productivity in these waters.

2. Notice of Data Availability

In the NODA, EPA sought comment on various versions of a two-track approach resulting from comments received on the proposal. Under this approach, a facility would choose to pursue one of two tracks. In general (based on size), Track I would establish national technology-based performance requirements, whereas Track II would allow the facility to conduct site-specific studies to demonstrate to the permit director that alternative technologies or approaches could reduce impingement and entrainment to the same or a greater degree than the Track I technology-based performance standards. See 66 *FR* 28868 to 28872.

3. Final Rule

In this rule, EPA is establishing a two-track technology-based approach that does not distinguish between waterbody types or the location of the intake structure within the waterbody type. Track I establishes capacity (for facilities with a design intake flow equal to or greater than 10 MGD), velocity, and capacity- and location-based proportional flow requirements to reduce impingement and entrainment of fish, shellfish, eggs, and larvae and requires the applicant to select and implement design and control technologies to minimize impingement and entrainment in certain areas. Track I applicants with intake flow between 2 and 10 MGD do not have to comply with a capacity limitation but then must use technologies to reduce entrainment at all locations. Track II allows a facility to conduct a comprehensive demonstration study to show that alternative controls will achieve comparable performance. The two-track approach balances the goal of providing regulatory certainty and fast permitting for new facilities with the goal of allowing flexibility by including a performance-based alternative. Track I streamlines the permitting process, providing a high degree of certainty that a facility will obtain a National Pollutant Discharge Elimination System (NPDES) permit without delays. In EPA's view, Track II provides an incentive for the development of innovative technologies that will represent best technology available for minimizing impingement and entrainment from cooling water intake structures.

V. Basis for the Final Regulation

A. Major Options Considered for the Final Rule

EPA considered and analyzed several technology-based regulatory options to determine the best technology available for minimizing adverse environmental impact for new facilities. All of these options were analyzed and compared with the current requirements applied to NPDES permits for existing facilities with cooling water intake structures. Although the Agency considered numerous regulatory options during rule development, the primary options considered in development of today's final rule include: (1) Technology-based performance requirements for different types of waters, with intake capacity limits based on closed-cycle recirculating wet cooling systems required only in estuaries, tidal rivers, the Great Lakes, and oceans; (2) national technology-based performance requirements for all waterbodies, with flow reduction commensurate with the level achieved with closed-cycle recirculating wet cooling; (3) national technology-based performance requirements for all waterbodies with a near-zero intake level (based on dry cooling);[29] and (4) a case-by-case, site-specific approached based on the 1977 draft guidance document.[30] In addition to these options, EPA also considered variations on each of the technology-based options using on a two-track permitting approach. The two-track options include one presented by industry for consideration. The two-track approach establishes a specific set of technology-based performance requirements that a permittee can implement that reflect best technology available for minimizing adverse environmental impact; this approach also provides permittees with flexibility to demonstrate that an alternative set of requirements achieves a comparable level of performance.

For all the options except for those based on dry cooling, EPA also considered requiring a design through-screen velocity of 0.5 ft/s, location- and capacity-based flow restrictions proportional to the size of the waterbody (such as a requirement for streams and rivers allowing no more than 5 percent withdrawal of the mean annual flow), and design and construction technologies to minimize impingement mortality and entrainment. In addition, EPA considered requiring post-operational monitoring of impinged and entrained organisms, monitoring of the through-screen velocity, and periodic visual inspections of the intake structures.

1. Technology-Based Performance Requirements for Different Types of Waterbodies

Under this option, EPA would establish requirements for minimizing adverse environmental impact from cooling water intake structures based on the type of waterbody in which the intake structure is located, the location of the intake in the waterbody, the volume of water withdrawn, and the design intake velocity. EPA would also establish additional requirements or measures for location, design, construction, or capacity that might be necessary for minimizing adverse environmental impact. Under this option, the best technology available for minimizing adverse environmental impact would constitute a technology suite that would vary depending on the type of waterbody in which a cooling water intake structure is located and the location of the cooling water intake structure within the waterbody. EPA would set technology-based performance requirements; the Agency would not mandate the use of any specific technology.

---

[29] EPA also examined subcategorization strategies for the dry cooling based option, on the basis of regional distribution of facilities, size of facilities, and type of facility (i.e., steam electric power plants versus manufacturing facilities).

[30] U.S. Environmental Protection Agency. 1977. *Draft guidance for evaluating the adverse impact of cooling water intake structures on the aquatic environment: section 316(b) P.L. 92–500.*

Under this option, EPA considered only requiring intake flow reduction commensurate with the level that can be achieved using a closed-cycle recirculating wet cooling system for intakes located in estuaries, tidal rivers, oceans, and the Great Lakes. For all other waterbody types, the only capacity requirements would be proportional flow reduction requirements. In all waterbodies, velocity limits and a requirement to study, select, and install design and construction technologies would apply. EPA determined that the annual compliance cost to industry for this option would be $36.3 million. EPA found that the regulatory implementation burden would be of an acceptable level but that the delay in permitting of new facilities could be up to 6 months if all new facilities were required to complete a baseline biological characterization study prior to submitting an application for a permit. This study would detail the potential design and construction technologies that would apply to all new facilities and would be required beyond the flow reduction requirements for facilities located in estuaries, tidal rivers, oceans, and the Great Lakes. This option was, in part, rejected due to the potential of delays in permitting. More significantly, this option was rejected because closed-cycle recirculating cooling water systems are available and economically practicable across all waterbody types.

2. National Technology-Based Performance Requirements for All Waterbodies

a. Flow Reduction Commensurate With the Level Achieved by Closed-Cycle Recirculating Wet Cooling Systems

EPA also considered a regulatory option for new facilities based primarily on intake-flow reduction from all cooling water intake structures commensurate with the level that can be achieved using a closed-cycle recirculating cooling water system. This option does not distinguish between facilities on the basis of the waterbody from which they withdraw cooling water. In addition to reducing design intake velocity and complying with capacity- and location-based proportional flow requirements, all facilities need to complete a baseline biological characterization study prior to submitting the application for a permit. This study would detail the design and construction technologies necessary to maximize the survival of impinged adult and juvenile fish and to minimize the entrainment of eggs and larvae. The applicant would also need to comply with any additional requirements established by the Director as reasonably necessary to minimize impingement and entrainment as a result of the effects of multiple cooling water intake structures in the same waterbody, seasonal variations in the aquatic environment affected by the cooling water intake structures controlled by the permit, or the presence of regionally important species. EPA did not determine the annual compliance cost to industry for this option. EPA found that the permit writer's regulatory implementation burden would be of an acceptable level. EPA adopted this option, in part, as Track I of the two-track approach.

b. Intake Capacity Reduction Commensurate with the Level Achieved by Use of a Dry Cooling System

EPA considered a regulatory option for new facilities based primarily on intake flow reduction from all cooling water intake structures commensurate with zero or very low-level intake (dry cooling). This option does not distinguish between facilities on the basis of the waterbody from which they withdraw cooling water. Dry cooling systems use either a natural or a mechanical air draft to transfer heat from condenser tubes to air. EPA determined that the annual compliance cost to industry for this option would be at least $490 million. EPA also found that the permit writer's regulatory implementation burden would be of an acceptable level and there would be no delay in the permitting of new facilities. The option would require no baseline biological characterization study prior to submission of the application for a permit, due to the requirement of near-zero intake.

In addition, EPA analyzed three subcategorization strategies for the final rule based on the dry cooling technology. EPA considered establishing zero or very low-level intake requirements only for steam electric power plants locating in cold northern climates. See Section V.C.1. EPA also separately analyzed a zero or very low-level intake requirement for steam electric power plants of small capacity (those with total capacity less than 500 MW). See Section V.C.1. For both of these subcategorization strategies, all facilities not complying with dry cooling technology-based performance requirements would comply with the national requirement of capacity reduction based on closed-cycle recirculating wet cooling. The dry cooling subcategories would require no baseline biological characterization study prior to submission of the application for permit, because of the requirement of near-zero intake. EPA found that the permit writer's regulatory implementation burden would be of an acceptable level and there could be a delay of up to 6 months in the permitting of new facilities under the dry cooling based subcategories. EPA discusses why it is not adopting the dry cooling approach for subcategories based on size and/or climate in Section V.C. below.

3. Two-Track Options

For each of the regulatory options outlined above that requires reduction of flow commensurate with the level achieved with closed-cycle recirculating cooling systems, EPA also considered a number of two-track options. The two-track options provide flexibility to the permittee in that the facility may choose to comply by meeting the specific technology-based performance requirements defined in the "fast track" (Track I), or by demonstrating that a level of performance would be achieved comparable to the level that would be achieved under the Track I requirements under the "demonstration track" (Track II).

Under one of the two-track options (referred to as the "preferred two-track" option), EPA considered a fast-track based on a commitment by the facility to employ a suite of technologies that would represent best technology available for minimizing adverse environmental impact. The technologies

VOL 66 ISS 243 DE 18 2001 UMI

considered include reduction in capacity commensurate with that achievable by use of a closed-cycle recirculating cooling water system; a velocity limitation of less than or equal to 0.5 ft/s; and location where intake capacity would be no more than five (5) percent of the mean annual flow of a freshwater stream or river, no more than one (1) percent of the tidal excursion volume of a tidal river or estuary or where the intake capacity would not disrupt the natural stratification and turnover patterns of a lake or reservoir. Applicants also would be required to conduct baseline biological characterization monitoring; these data would be used to determine which design and construction technologies are needed on a case-by-case basis. EPA also considered allowing the permit applicant to specify design and construction technologies and to require monitoring so that the performance of these technologies could be evaluated in a subsequent NPDES permit. In order to speed up the issuance of the first permit at the new facility, EPA considered waiving any mandatory baseline biological characterization monitoring under Track I. In this case, the applicant would have the opportunity to rely on and present historical or literature information to support its selection of design and construction technologies. Under this approach, applicants would propose what design and construction requirements are most appropriate to reduce impingement and entrainment or to maximize impingement survival resulting from water withdrawn as make-up water at these facilities. The biological characterization information would support the design and construction technologies that the permittee chose to implement. The Director could revisit these design and construction technologies at the time of permit renewal. (Most design and construction technologies can be implemented without stopping operation at the facility.) As an alternative to the case-by-case designation of design and construction technologies, EPA also considered designating the following two design and construction technologies as part of a fast-track, best technology available suite of technologies: a fine mesh traveling screen with a fish return system, variable speed pumps, and a low pressure spray; or a submerged wedgewire fine mesh screen.

Under Track II, a facility would need to conduct a comprehensive demonstration study that documents that an alternative suite of technologies can be used by the facility to reduce impingement mortality and entrainment for all life stages of fish and shellfish to achieve a level of reduction comparable to the level that would be achieved under Track I. The estimated annual compliance cost to facilities for the preferred two-track option is $47.7 million.

EPA also considered a less stringent variation of the two-track option above, in which Track I would not require cooling water intake structures located in fresh rivers or streams and lakes or reservoirs to reduce capacity to a level commensurate with that achievable by use of a closed-cycle cooling system. EPA did not select this option because other available technologies that are economically practicable achieve greater reduction in impingement and entrainment.

EPA also considered a third two-track option as suggested by industry. Under this option, an applicant choosing Track I would install "highly protective" technologies in return for expedited permitting without the need for pre-operational or operational studies in the source waterbody. According to the commenters, these technologies would "exceed the section 316(b) standards" because they would "avoid adverse environmental impact," defined as proven population or ecosystem impacts. Such fast-track technologies might include technologies that reduce intake flow to a level commensurate with a wet closed-cycle cooling at that site and that achieve an average approach velocity (measured in front of the cooling screens or the opening to the cooling water intake structure) of no more than 0.5 ft/s, or any technologies that achieve a level of protection from impingement and entrainment within the expected range for a closed-cycle cooling (with 0.5 ft/s approach velocity) given the waterbody type where the facility is to be located. This option was intended to allow facilities to use standard or new technologies that have been demonstrated to be effective for the species, type of waterbody, and flow volume of the cooling water intake structure proposed for their use. Examples of candidate technologies include (a) wedgewire screens, where there is constant flow, as in rivers; (b) traveling fine mesh screens with a fish return system designed to minimize impingement and entrainment; and (c) aquatic filter barrier systems, at sites where they would not be rendered ineffective by high flows or fouling. The operator of a proposed new facility would elect which set of technologies to install and validate its performance as necessary. In return, the permitting agency would not require additional section 316(b) protective measures for the life of the facility.

Under the industry approach, Track II would provide an applicant who does not want to commit to any of the above technology options with an opportunity to demonstrate that site-specific characteristics, including the local biology, would justify another cooling water intake structure technology, such as once-through cooling. For these situations, the applicant could demonstrate to the permitting agency, on the basis of site-specific studies, either that the proposed intake would not create an appreciable risk of adverse environmental impact or, if it would create an appreciable risk of adverse environmental impact, that the applicant would install technology to "minimize" adverse environmental impact. Such demonstrations would recognize that some entrainment and impingement mortality can occur without creating "adverse environmental impact," but, where there is an appreciable risk of adverse environmental impact (e.g., population effects), the technology that would "minimize" it would be the technology that maximized net benefits. EPA determined that the annual compliance cost to industry for this option would be $24.9 million. EPA discusses why it is not accepting the industry's two-track approach in full in Section V.D below.

EPA also considered a waterbody-based two track option. Under this option, Track I would require, depending on the waterbody type, screens, fish return systems, or reduction in capacity to a level commensurate with that achievable by use of a closed-cycle cooling system. The delineation of waterbody types would correlate with greater or lesser potential for impingement and entrainment. Under Track II , a permit applicant would be able to demonstrate how alternative technology performance measures would reduce impingement mortality and entrainment for all life stages of fish and shellfish to a level of reduction comparable to the level that would be achieved under Track I.

EPA did consider a two-track option based on dry cooling. EPA did not promulgate this option for reasons discussed at Section V.C. of this preamble for not adopting dry cooling as best technology available for minimizing adverse environmental impact. In addition, there are very limited alternatives for achieving a dry cooling-level reduction in impingement and entrainment in a second track. EPA did not select this option because other available technologies that are economically practicable achieve significant reduction in impingement and entrainment at far lower cost.

B. Why EPA Is Establishing EPA's Preferred Two-Track Option as the Best Technology Available for Minimizing Adverse Environmental Impact?

For new facilities subject to this rule, EPA finds that the preferred two-track option represents the best technology available for minimizing adverse environmental impact. With respect to new facilities, the technologies used as the basis for this option are commercially available and economically practicable for the industries affected as a whole, and have acceptable energy impacts. EPA estimates that only nine electric generators who were planning to install a once-through cooling system will have to install recirculating wet cooling towers as a result of this rule. The energy impacts associated with these nine facilities is estimated to comprise only 0.026 percent of total new electric generating capacity. Similarly, the technologies used as the basis for this option also have acceptable non-aquatic environmental impacts. The non-aquatic environmental impacts associated with increased air emissions (SO_2, NO_2, CO_2, and Hg) is very small. The increased SO_2, NO_X, CO_2, and Hg attributed to the nine facilities that would be required to install recirculating wet cooling towers in lieu of once-through cooling systems is negligible in comparison to the total annual air emissions from new power plants. EPA finds that the requirements contained in the preferred two-track approach meet the requirement of section 316(b) of the CWA that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. The components of the two-track approach are illustrated in Appendix 1 to this preamble.

1. What Are the Performance Requirements for the Location, Design, Construction, and Capacity for Cooling Water Intake Structures?

Under the final rule, EPA has adopted a two-track approach. Under Track I, for facilities with a design intake flow equal to or greater than 10 MGD, the capacity of the cooling water intake structure is restricted, at a minimum, to a level commensurate with that which could be attained by use of a closed-cycle recirculating system. Then for facilities with a design intake flow equal to or greater than 2 MGD, the design through-screen intake velocity is restricted to 0.5 ft/s and the total quantity of intake is restricted to a proportion of the mean annual flow of a freshwater river or stream, or to maintain the natural thermal stratification or turnover patterns (where present) of a lake or reservoir except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies), or to a percentage of the tidal excursions of a tidal river or estuary. In addition, an applicant with intake capacity greater than 10 MGD must select and implement an appropriate design and construction technology for minimizing impingement mortality and entrainment if certain conditions exist. (Applicants with 2–10 MGD flows are not required to reduce capacity but must install technologies for reducing entrainment at all locations.) Under Track II, the applicant has the opportunity to demonstrate that impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to these which you would achieve were you to implement the Track I requirements for capacity and design velocity. See § 125.84(b)(1) and (2). Proportional flow requirements also apply under Track II.

a. Capacity

In Track I, all new facilities with cooling water intake structures having a design intake flow equal to or greater than 10 MGD must:

Reduce the total design intake flow to a level, at a minimum, commensurate with that which can be attained by a closed-cycle recirculating cooling water system using minimized make-up and blowdown flows.

Reducing the cooling water intake structure's capacity is one of the most effective means of reducing entrainment (and impingement). Capacity includes the volume of water that can be withdrawn through a cooling water intake structure over a period of time. Limiting the volume of the water withdrawn from a waterbody typically reduces the number of aquatic organisms in that waterbody that otherwise would be entrained. Under Track I, EPA requires that all new facilities, with intake flows equal to or greater than 10 MGD, limit their flow to a level commensurate with that which could be attained by use of a closed-cycle recirculating cooling water system using minimized make-up and blowdown flows. *See* § 125.84 (b)(1).

Closed-cycle, recirculating cooling water systems are known to reduce the amount of cooling water needed and in turn to directly reduce the number of aquatic organisms entrained in the cooling water intake structure. For the traditional steam electric utility industry, facilities located in freshwater areas that have closed-cycle recirculating cooling water systems can, depending on the quality of the make-up water, reduce water use by 96 to 98 percent from the amount they would use if they had once-through cooling water systems. Steam electric generating facilities that have closed-cycle recirculating cooling water systems using salt water can reduce water usage by 70 to 96 percent when make-up and blowdown flows are minimized.[31]

Manufacturing facilities that reuse and recycle water withdrawn from a water of the U.S. in a manner that reduces intake flow to a level commensurate with that which can be attained by a closed-cycle, recirculating cooling water system that has minimized make-up and blow down flows will be in accordance with the rule. *See* § 125.86(b)(1). For purposes of this regulation, EPA considers reuse and recycling at manufacturing facilities to be equivalent to closed-cycle, recirculating cooling water systems at steam-electric power plants.

Although EPA has not projected that any once-through electric generating facilities with an intake capacity of less than 10 MGD will be built in the next 20 years, EPA acknowledges that projecting the numbers and characteristics of facilities over long timeframes may lead to uncertainties in EPA's analysis. (*See* Sections 5.1.4 and 5.2.4 of the Economic Analysis for a discussion of uncertainties and limitations in EPA's baseline projections of new facilities.) In the event that such facilities might be built in the future (for example, as a stand-alone, combined-cycle, cogeneration facility associated with a manufacturer), EPA has concluded that the application of the intake capacity requirements in the selected option is not economically practicable for facilities with the smallest cooling water intake structures, those that withdraw less than 10 MGD. Based on EPA's estimate, the compliance cost-to-revenue ratio for combined-cycle facilities with these flows is 4.9 to 8.8 percent or higher. Even if these facilities installed a closed-cycle recirculating cooling system to reduce dynamic flow below the regulatory threshold for this rule and avoided all other costs of the rule, their cost-to-revenue ratio still would be from 2 to 3.2 percent or more (and they still might have to bear additional cost to comply with requirements the Director establishes on a case-by-case basis). EPA's analysis shows that the costs for all such facilities generally would be far above the range of impacts for facilities above 10 MGD, which have, compliance cost to-revenue ratios at or below 0.5 percent for more than 70 facilities, between 2 and 3 percent for only six facilities, and above 3 percent for only 3 facilities. EPA believes that the economic impact of complying with the rule would be disproportionate for electric generating facilities with flows below 10 MGD. Thus, the Agency is exercising its discretion under section 316(b) of the CWA to determine what is economically practicable and is creating specific requirements in Track I available to facilities with flows between 2 and 10 MGD. *See* § 125.84(c). These facilities are required to meet the same velocity, proportional flow, and the design and construction technology requirements for impingement that apply in § 125.84(b). *See* § 125.84(c)(1), (2) and (3). However, they are not required to reduce intake flow commensurate with use of a closed-cycle recirculating cooling system. Instead, they are required use design and construction technologies for minimizing entrainment at all locations. *See* 125.84(c)(4). EPA believes that the requirements of § 125.84(c) are an economically practicable way for these facilities to reduce impingement mortality and entrainment. EPA has made similar decisions in establishing technology-based effluent limitations guidelines and standards under 301 and 306, see e.g., Texas Oil & Gas Ass'n v. U.S. EPA, 161 F.3d 923, 940 (5th Cir. 1998) (Court upheld EPA's subcategorization for Cook Inlet based upon disproportionate economic impact).

---

[31] The lower range would be appropriate where State water quality standards limit chloride to a maximum increase of 10 percent over background and therefore require a 1.1 cycle of concentration. The higher range may be attained where cycles of concentration up to 2.0 are used for the design.

b. Design and Construction Technologies

i. Velocity

Intake velocity is one of the key factors that can affect the impingement of fish and other aquatic biota. In the immediate area of the intake structure, the velocity of water entering a cooling water intake structure exerts a direct physical force against which fish and other organisms must act to avoid impingement or entrainment. EPA considers velocity to be an important factor that can be controlled for minimizing adverse environmental impact at cooling water intake structures. Because velocity can be minimized through appropriate design of the intake structure relative to intake flow, it is most easily addressed during the design and construction phase of a cooling water intake structure. Alternatively, the facility can install certain hard technologies (e.g., wedgewire screens and velocity caps) to change the configuration of the structure so that the effects of velocity on aquatic organisms are minimized.

Under Track I, for a facility with a design intake flows equal to or greater than 2 MGD, the final regulation requires that the maximum design through-screen velocity at each cooling water intake structure, be no more than 0.5 ft/s. See § 125.84(b)(2). The design through-screen velocity is defined as the value assigned during the design phase of a cooling water intake structure to the average speed at which intake water passes through the open area of the intake screen (taking fouling into account) or other device against which organisms might be impinged or through which they might be entrained.

To develop an appropriate minimum velocity requirement at cooling water intake structures that will be effective in contributing to the overall reduction in impingement, EPA reviewed available literature, State and Federal guidance, and regulatory requirement. EPA found that an approach velocity of 0.5 ft/s has been used as guidance in at least three Federal documents.[32] [33] [34] The 0.5 ft/s approach velocity threshold recommended in the Federal documents is based on a study of fish swimming speeds and endurance performed by Sonnichsen et al. (1973).[35] This study was based on an unknown number of individuals from about 30 different species of fish and eels, with many of the data for adult fish. The three Federal documents recommending a 0.5 ft/s intake velocity often referred to one another or had no references. The lack of abundant and diverse data led EPA to adopt a safety factor to ensure an appropriate level of protection for aquatic organisms. This study concluded that appropriate velocity thresholds should be based on the fishes' swimming speeds (which are related to the length of the fish) and endurance (which varies seasonally and is related to water quality). The data presented showed that the species and life stages evaluated could endure a velocity of 1.0 ft/s. To develop a threshold that could be applied nationally and is effective at preventing impingement of most species of fish at their different life stages, EPA applied a safety factor of two to the 1.0 ft/s threshold to derive a threshold of 0.5 ft/s. This safety factor, in part, is meant to ensure protection when screens become partly occluded by debris during operation and velocity increases through portions of the screen that remain open. EPA compiled the data from three studies on fish swim speeds (University of Washington study, Turnpenny, and EPRI) into a graph. The data suggest that a 0.5 ft/s velocity would protect 96 percent of the tested fish. EPA recognizes that there may be specific circumstances and species for which the 0.5 ft/s requirement might not be sufficiently effective. When issuing NPDES permits, the permit directors will need to comply with any applicable requirements under the Endangered Species Act (ESA). Both the National Marine Fisheries Service and the California Department of Fish and Game have developed fish screen velocity criteria.[36] [37] [38] Under section 510 of the Clean Water Act (CWA) States may impose additional requirements pursuant to State law. When EPA issues an NPDES permit, States may condition the permit pursuant to their certification authority under section 401 of the CWA.

Two velocities are of importance in the assessment and design of cooling water intake structures: the approach velocity and the through-screen or through-technology velocity. The approach velocity is the velocity measured just in front of the screen face or at the opening of the cooling water intake structure in the surface water source, and is biologically the most important velocity. The design through-screen or through-technology velocity is the velocity measured through the screen face or just as the organisms are passing through the opening into another device (e.g., entering the opening of a velocity cap). The through-screen velocity is always greater than the approach velocity because the net open area is smaller.

---

[32] Boreman, J. 1977. Impacts of power plant intake velocities on fish. Power Plant Team, U.S. Fish and Wildlife Service.

[33] Christianson, A. G., F. H. Rainwater, M.A. Shirazi, and B.A. Tichenor. 1973. Reviewing environmental impact statements: power plant cooling systems, engineering aspects, U.S. Environmental Protection Agency (EPA), Pacific Northwest Environmental Research Laboratory, Corvallis, Oregon, Technical Series Report EPA–660/2–73–016.

[34] King, W. Instructional Memorandum RB–44: Review of NPDES (National Pollutant Discharge Elimination System) permit applications processed by the EPA (Environmental Protection Agency) or by the State with EPA oversight." In: U.S. Fish and Wildlife Service Navigable Waters Handbook.

[35] Sonnichsen, J.C., Bentley, G.F. Bailey, and R.E. Nakatani. 1973. A review of thermal power plant intake structure designs and related environmental considerations. Hanford Engineering Development Laboratory, Richland, Washington, HEDL–TME 73–24, UC–12.

[36] National Marine Fisheries Service Northwest Region. 1995. Juvenile Fish Screen Criteria.

[37] National Marine Fisheries Service, Southwest Region. 1997. Fish Screening Criteria for Anadromous Salmonids. Published on the Internet at *http://swr.ucsd.edu/hcd/fishscrn.htm* (access date).

[38] California Department of Fish and Game. 1997. Fish screening criteria.

For this final rule, EPA uses the design through-screen velocity as a component of best technology for minimizing adverse environmental impact. EPA anticipates that design through-screen velocity will be simpler to calculate, and monitor (via measurement of head loss) and be more accurate than measuring approach velocity. The approach velocity is a point function. When the cross-section of an intake structure is large, the approach velocity will not be the same at all points across all points in a single cross-section. The approach velocity varies depending on where it is measured: how far from the surface, how far in front of the screen, or the location across the screen. Approach velocity also varies with the number of measurements taken; is 1 taken, or 10? Furthermore, it is much easier to design the intake structure to achieve a specific through-screen velocity. EPA notes that design through-screen velocity will be easier to implement because a number of technologies use it as the standard measure for intake design. In conjunction with the design intake velocity requirement, EPA requires new facilities to monitor the head loss across the screens or other technology on a quarterly basis. See § 125.87(b). EPA requires that head loss across the screens (or other appropriate measurements for technologies other than intake screens) be monitored and correlated with intake velocity once the facility is operating.

ii. Other Design and Construction Technologies

The final rule requires facilities withdrawing more than 10 MGD that choose Track I to select and install design and construction technologies for minimizing impingement mortality and/or entrainment if they locate in certain areas where fish or shellfish resources need additional protection. *See* § 125.84(b)(4) and (5). Facilities withdrawing between 2 and 10 MGD may meet a different set of Track I requirements. *See* § 125.84(c). If they choose to do so, the rule specifies that they must meet the same design and construction requirements to reduce impingement as applies to facilities withdrawing greater than 10 MGD. However, to reduce entrainment, instead of requiring a reduction in intake flow commensurate with use of a closed-cycle recirculating cooling water system, the rule requires these facilities to select and install design and construction technologies at all locations. *See* § 125.84(c)(3) and (4).

EPA is requiring these technologies in Track I because they are technically available, economically practicable and they effectively further reduce impingement mortality and entrainment at new facilities that choose to locate in areas where fish and shellfish resources need additional protection. EPA notes that facilities with closed-cycle recirculating cooling systems can still withdraw large volumes of cooling water, particularly if they operate in brackish or other waters where high rates of recirculation cannot be achieved, and may still impinge or entrain large numbers of aquatic organisms. Thus, EPA believes that facilities that choose to locate in areas where fish and shellfish need additional protection should install these technologies to further reduce impingement mortality and entrainment.

In the Track I requirements at § 125.84(c), which apply to facilities with cooling water intakes between 2 and 10 MGD that choose not to meet the capacity reduction requirements in § 125.84(b), the rule requires these facilities to meet the same design and construction requirements for minimizing impingement mortality as are required for facilities withdrawing greater than 10 MGD, *See* § 125.84(c)(3). These impingement requirements apply if the facility locates where fish and shellfish resources need additional protection. Facilities between 2 and 10 MGD that choose not to meet the capacity reduction requirements in § 125.84(b), however, must install design and construction technologies for reducing entrainment at all locations. *See* § 125.84(c)(4). EPA makes this distinction because, for economic practicality reasons, today's rule does not require smaller new facilities to reduce intake flow commensurate with a closed-cycle recirculating cooling system. In this case, EPA believes that use of design and construction technologies is an alternative, economically practicable and technically available means for reducing entrainment.

Today's rule does not require facilities choosing Track II to install design and construction technologies as specified under 125.84(b)(4) and (5) or 125.84(c)(3) and (4). EPA believes that such facilities will use these technologies, at least in part, to meet the Track II comparability requirements at 125.84(c)(1) and thus achieve comparable performance.

As used in these provisions, "minimize" means to reduce to the smallest amount, extent, or degree reasonably possible. *See* § 125.83. Technologies that minimize impingement mortality and entrainment of all life stages of fish and shellfish at a location might include, but are not limited to, intake screens, such as fine mesh screens and aquatic filter barrier systems, that exclude smaller organisms from entering the cooling water intake structure; passive intake systems such as wedgewire screens, perforated pipes, porous dikes, and artificial filter beds; and diversion and/or avoidance systems that guide fish away from the intake before they are impinged or entrained. In some cases, technologies that might be used to achieve the 0.5 ft/s velocity standard at § 125.85(b)(2) and § 125.85(c)(1), such as passive intake systems, might also minimize impingement mortality and entrainment.

Some technologies minimize impingement mortality by maximizing the survival of impinged organisms. These technologies include, but are not limited to, fish-handling systems such as bypass systems, fish buckets, fish baskets, fish troughs, fish elevators, fish pumps, spray wash systems, and fish sills. These technologies either divert organisms away from impingement at the intake structure, or collect impinged organisms and protect them from further damage so that they can be transferred back to the source water at a point removed from the facility intake and discharge points.

Some additional design and construction technologies have feasibility issues limiting their use to certain types of locations. Some have not been used on a widespread basis above certain intake flow rates. The effectiveness of these technologies also may vary depending on factors such as the speed and variability in direction of currents in a waterbody, the degree of debris loading at a location, etc. Because of these issues, EPA has not established a national performance standard for these technologies more specific than to require the applicant to study literature and available physical and biological data on their proposed location, and then to select and install technology(ies) that minimize impingement mortality and entrainment. (As stated above, "minimize" is defined as a reduction "to the smallest amount, extent or degree reasonably possible.")

In Track I of the final rule, EPA does not require an applicant that installs design and construction technology(ies) to seek the approval of the Director regarding which design and

VOL 66 ISS 243 DE 18 2001 UMI

construction technology(ies) it selects, nor does EPA require the applicant to conduct biological monitoring prior to submitting its application. Rather, to avoid permitting delays Track I only requires the applicant to gather and present historical information and/or literature to support its decision on which design and construction technology(ies) to implement at the new facility. *See* § 125.86(b)(4).

Because an applicant does not need the Director's approval of its design and construction technology(ies) prior to the first permit, EPA has included a provision that requires the Director to determine, at each permit reissuance, whether design and construction technologies at the facility are minimizing impingement mortality and/or entrainment. *See* § 125.89(a)(2). This provision is intended to ensure that the applicant selects and installs appropriate technology(ies).

The framework of these provisions balances a number of factors. One is EPA's interest in ensuring that applicants seeking their first permit under Track I can quickly obtain one without delay and, if they wish, without engaging in a dialogue with the Director about whether additional design and construction technologies are needed at their site, or which technologies will reasonably reduce impingement mortality and entrainment at the location. In this case, an applicant may wish to install some of the more highly protective additional design and construction technologies, to minimize any opportunity for disagreement with the Director at permit reissuance about whether the applicant chose technologies that "minimize" impingement mortality and entrainment at their location.

Alternatively, an applicant under § 125.84(b) who is willing to take the time to engage in a dialogue with the Director prior to the first permit under Track I may be able to obtain the Director's concurrence on a finding that the proposed intake will not be located in an area where fish or shellfish resources need additional protection. *See* § 125.84(b)(4) and (5) for a list of such areas. In this case, the applicant may not need to install any additional design and construction technologies. In the event that the location of the intake structure is such that additional technologies are required, an applicant who is willing to take the time to consult with the Director prior to the first permit under Track I may be able to obtain the Director's concurrence that technologies that are less costly than the most highly-protective ones available are sufficient for its location. (EPA again notes that "minimize" is defined as a reduction "to the smallest amount, extent or degree reasonably possible.")

EPA believes the above framework reasonably balances its interest in minimizing permit delays with its interest in ensuring that applicants willing to take more time and engage in a dialogue with the Director may have an opportunity to reduce their costs. As a general matter, EPA strongly encourages permit applicants to consult with the Director prior to selecting and installing design and construction technology(ies). Today's rule, however, requires no such consultation, and, as discussed elsewhere in this preamble, EPA's costing analysis conservatively assumes that permittees will install additional design and construction technologies at all locations.

EPA recognizes that the condition of biological resources at a location may change over time. The requirement for the Director to review the applicant's design and construction technologies at permit reissuance provides an opportunity for any appropriate changes in the design and construction technologies used at the location. *See* § 125.89(a)(2).

c. Location

Although EPA recognizes that the location of a cooling water intake structure can be a factor that affects the environmental impact caused by the intake structure, today's final rule, apart from the proportional flow requirements, does not include specific national requirements for new facilities based on location of the cooling water intake structure. In EPA's view, the optimal design requirement for location is to place the inlet of the cooling water intake structure in an area of the source waterbody where impingement and entrainment of organisms are minimized by locating intakes away from areas with the potential for high productivity (taking into account the location of the shoreline, the depth of the waterbody, and the presence and quantity of aquatic organisms or sensitive habitat). EPA received significant and convincing comments arguing against the specific proposed requirements and feasibility for locations based on waterbody type and location within the waterbody. Among other things, commenters argued that EPA's proposed requirements would be difficult to implement and relied on generalizations about types of waterbodies that were too simplistic. See section VI.C for further discussion of comments and EPA's responses regarding location. This topic is discussed further in Chapter 5 of the *Technical Development Document*.

Although today's rule does not specifically establish location requirements, several components of the two-track approach inherently consider location as a factor. Under Track I, location is a consideration when the applicant selects and implements the design and construction technologies for minimizing impingement and entrainment and maximizing impingement survival. In addition, EPA estimated that in order to meet the proportional flow requirements in Track I and Track II, facilities may need to site in locations that can support their water withdrawals or find other alternatives, such as, obtaining water from ground water, grey water, or a public water supply system. Under Track II, the new facility may choose location as a key component for minimizing impingement and entrainment. Under Track II, an applicant has the opportunity to conduct site-specific studies to demonstrate that alternative technologies or configurations, including the relocation of an intake to areas of less sensitivity, will reduce impingement mortality and entrainment for all life stages of fish and shellfish to a level of reduction comparable to the level that would be achieved were the applicant to implement the technology-based performance requirements in Track I.

In addition, this new facility rule also regulates location as a performance characteristic of new facilities to minimize entrainment and other adverse environmental impacts that are likely to occur as a result of the withdrawal of makeup water even where a facility uses recirculating systems. Historically, some previous CWA section 316(b) studies conducted for permits proceedings have considered potential impacts from facilities whose cooling water intake flow is large in proportion to the source water flow or tidal volume.[39] [40] [41] Under this rule, §§ 125.84(b)(3), 125.84(c)(2), and 125.84(d)(2), EPA establishes proportional flow requirements for new facility cooling water intake structures located in freshwater rivers and streams, lakes and reservoirs, and estuaries and tidal rivers, requiring that the total design intake flow from all cooling water intake structures at a facility withdrawing:

---

[39] Lewis, Randall B. and Greg Seegert. Entrainment and Impingement Studies at two Power Plants on the Wabash River in Indiana. Power Plants & Aquatic Resources: Issues and Assessment. *Environmental Science & Policy.* Volume 3, Supplement 1. September 2000.

[40] Public Service Indiana. 316(b) Demonstration for the Cayuga and Wabash River Generating Stations. Prepared by Dames and Moore, Cincinnati, Ohio. August 30, 1997.

[41] Public Service Company of Indiana. A 316(b) Study and Impact Assessment for the Cayuga Generating Station. Prepared by EA Science and Technology, Northbrook, IL. April 1988.

- From a freshwater river or stream must be no greater than five (5) percent of the source waterbody mean annual flow;
- From a lake or reservoir must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies);
- From estuaries or tidal rivers must be no greater than one (1) percent of the volume of the water column in the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

EPA finds these proportional flow limitations to represent limitations on capacity and location that are technically available and economically practicable for the industry as a whole. EPA examined the performance of existing facilities based on section 308 questionnaire data in terms of proportional flow in order to determine what additional value could be used as a safeguard to protect source waters against entrainment, especially in smaller waterbodies or in waterbodies where the intake is disproportionately large as compared to the source water body. (In practice, EPA expects that these requirements would require a facility to relocate or obtain water from another source, e.g., a public water supply or groundwater, only in smaller waterbodies, because no new facilities in larger waterbodies that use wet recirculating cooling systems would ever run afoul of these requirements.) In order to assess the performance of new facilities in meeting these requirements, EPA examined the performance of existing facilities and determined that 90 percent of existing facilities in freshwater rivers and streams and 92 percent of existing facilities in estuaries or tidal rivers meet these requirements. Based on documents included in the record, EPA also believes that most existing facilities meet the proportional flow requirement for lakes and reservoirs. EPA expects that new facilities would have even more potential to plan ahead to select locations and design intake capacity that meet these requirements. EPA recognizes that these requirements are conservative in order to account for the cumulative impact of multiple facilities' intakes. The 1 percent value for estuaries reflects that the area under influence of the intake will move back and forth near the intake and that withdrawing 1 percent of the volume of water surrounding the intake twice a day over time would diminish the aquatic life surrounding the intake. The 5 percent value for rivers and streams reflects an estimate that this would entrain approximately 5 percent of the river or stream's entrainable organisms and a policy judgment that a greater degree of entrainment reflects an inappropriately located facility. Because they are overwhelmingly achievable for new facilities, EPA believes they are appropriate to this new facility rule.

Proportional flow limitations are one way to provide protection for aquatic life and enhancement of commercial and recreational uses of source waters. Larger proportionate withdrawals of water may result in commensurately greater levels of entrainment. Entrainment impacts of cooling water intake structures are closely linked to the amount of water passing through the intake structure, because the eggs and larvae of some aquatic species are free-floating and may be drawn with the flow of cooling water into an intake structure. Sizable proportional withdrawals from a stream or river might also change the physical character of the affected reach of the river and availability of suitable habitat, potentially affecting the environmental or ecological value to the aquatic organisms. In lakes or reservoirs, the proportional flow requirement limits the total design intake flow to a threshold below which it will not disrupt the natural thermal (and dissolved oxygen) stratification and turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies). See § 125.84(b)(3)(ii). The proportional flow requirement for lakes and reservoirs would primarily protect aquatic organisms in small to medium-sized lakes and reservoirs by limiting the intake flow to a capacity appropriate for the size of the waterbody. In estuaries and tidal rivers, EPA's proportional flow requirement uses a volume that relates specifically to the cooling water intake structure and the area it influences (see § 125.83). Organisms in this area of influence travel back and forth with the tides and so may be exposed to the intake multiple times. The proportional flow requirement for estuaries and tidal rivers will limit the withdrawal of a sizable proportion of the organisms within the area of influence, commensurately reducing the entrainment of aquatic organisms.

d. Additional and Alternative Best Technology Available Requirements

At § 125.84(e), the final rule recognizes that a State may, under sections 401 or 510 of the CWA, ensure the inclusion of any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure at a new facility that are necessary to ensure attainment of water quality standards, including designated uses, criteria, and antidegradation requirements.

EPA interprets the CWA to authorize State and Tribal permit authorities to require more stringent limitations on intake where necessary to protect any provision of State law, including State water quality standards. Commenters have asserted that EPA does not have such authority under CWA section 301(b)(1)(C), arguing that authority is limited to controls on discharges of pollutants. Leaving that question open, there is ample authority under CWA sections 510 and 401, as is consistent with the goals of the CWA articulated in section 101 of the CWA, to provide EPA ample authority for such a provision. Section 510 of the CWA provides, in relevant part:

> Except as provided in this Chapter, nothing in this chapter shall (1) preclude or deny the right of any State or political subdivision therefore * * * to adopt or enforce * * * (B) any requirement respecting control or abatement of pollution * * * except that if an * * * other limitation * * * or standard of performance is in effect under this chapter, such State * * * may not adopt or enforce any * * * other limitation * * * or standard of performance which is less stringent than the * * * other limitation * * * or standard of performance under this chapter.

EPA interprets this to reserve for the States the authority to implement requirements that are more stringent than the Federal requirements under state law. PUD No. I of Jefferson *County* v. *Washington Dep't of Ecology*, 511 U.S. 700, 705 (1994). (As recognized by section 510 of the Clean Water Act, 33 U.S.C. 1370, States may develop water quality standards more stringent than required by this regulation.). Further, section 401(d) of the CWA provides, in relevant part,

> Any certification provided under this section shall set forth any effluent limitations and other limitations, and monitoring requirements necessary to assure that any applicant for a Federal license or permit will comply with any applicable effluent limitations and other limitations, under section 1311 or 1312 of this title, standard of performance under 1316 of this title, or prohibition, effluent standard, or

pretreatment standard under section 1317 of this title, and with any other appropriate requirement of state law set forth in such certification, and shall become a condition on any Federal license or permit subject to the provisions of this section."

In *PUD No. 1 of Jefferson County* v. *Dep't of Ecology*, 511 U.S. 700, 711 (1994), the Supreme Court held that this provision is not "specifically tied to a 'discharge'." ("The text refers to the compliance of the applicant, not the discharge. Section 401(d) thus allows the State to impose 'other limitations' on the project in general to assure compliance with various provisions of the Clean Water Act and with "any other appropriate requirement of State law.") Thus, section 401(d) provides states with ample authority in their 401 certifications to require EPA to include any more stringent limitations in order to meet the requirements of state law. These two sections of the CWA further the objectives of the act to "restore and maintain the chemical, physical, and biological integrity of the nation's waters," the interim goal to protect water quality and are consistent with the CWA policy to "recognize, preserve, and protect the primary responsibility and rights of States to prevent, reduce, and eliminate pollution" and "to plan the development and use * * * of water resources." CWA sections 101(a) and (b).

2. What Technologies Are Available To Meet the Regulatory Requirements

a. Track I: Capacity

The technical availability of the two-track option is demonstrated by information in EPA's record showing that each component of Track I, the "fast-track" option, can be achieved through the use of demonstrated technologies. Intake capacity reduction commensurate with use of a wet closed-cycle recirculating cooling system as required by § 125.84(b)(1) can be achieved using a recirculating wet cooling tower or cooling pond. Such a closed-cycle recirculating cooling system is a commonly practiced technology among the new facilities controlled by this rule. The Technical Development Document shows that 67 percent of new in-scope facilities (10 new coal-fired power plants, 64 new combined-cycle power plants, and 7 manufacturing facilities) would install a closed-cycle recirculating cooling system independently of this rule.

While manufacturers use closed-cycle recirculating cooling systems to a lesser extent than do electric power generators, manufacturers also have opportunities to recycle or reuse their cooling water to reduce their water intake capacity. To examine the extent to which new manufacturing facilities are likely to reuse and recycle cooling water, the Agency reviewed the engineering databases that support the effluent limitations guidelines for several categories of industrial point sources. In general, this review identified extensive use of recycling or reuse of cooling water in documents summarizing industrial practices in the late 1970s and early 1980s, as well as increased recycling and reuse of cooling water in the 1990s. For example, the reuse of cooling water in the manufacturing processes was identified in the pulp and paper and chemicals industries, in some cases as part of the basis for an overall zero discharge requirement (inorganic chemicals). Other facilities reported reuse of a portion of the cooling water that was eventually discharged as process wastewater, with some noncontact cooling water discharged through a separate outfall or after mixing with treated process water.

For manufacturing facilities, flow reduction techniques differ between facilities and industry sectors. Facilities use unheated noncontact cooling water for condensing of excess steam produced via cogeneration; they use unheated contact and noncontact cooling water for in-process needs; and they frequently reuse process waters and wastewaters for contact and noncontact cooling.

The chemical and allied products sector and the petroleum refining sector demonstrate similar cooling water practices. Both sectors utilize cooling water for condensing of excess steam from cogeneration and for critical process needs. Most process cooling water is noncontact cooling water and generally is not reused as process water (though it may be recirculated). Paper and allied products facilities generally reuse cooling water and cogenerated steam throughout their processes (though the level to which this occurs differs among facilities). Primary metals industries utilize cooling water for contact and noncontact cooling and for condensation of steam from onsite electric power generation. Contrary to the other sectors, the primary metals industries have no general purpose for cogenerated steam in their processes.

In general, the cooling requirement for cogeneration in these manufacturing sectors is less than for the same power generated by utility and nonutility power plants. Regardless of this fact, this rule requires that the intake of water used for this purpose (and not reused as process water) must be minimized according to the same technology-based performance requirements as for other steam electric generating facilities. The condensing of excess steam from cogeneration is the same process at manufacturers as at utility and nonutility power plants. Therefore, EPA does not distinguish between requirements for this activity.

For the purposes of this regulation, EPA considers the withdrawal of water for use and reuse as both process and cooling water analogous to the reduction of cooling water intake flows achieved through the use of a recirculating cooling water system. For example, some facilities transfer excess process heat to a water stream and subsequently reuse the heated stream for other process purposes. In this case there is considerable conservation of water and energy by the reuse of cooling water. Alternatively, some facilities often withdraw water first for a process application and subsequently reuse it as cooling water. EPA encourages such practices and, in turn, considers these techniques analogous to flow reduction for the purposes of meeting the capacity reduction requirements of this rule. To meet the intake capacity requirements at § 125.84(b)(1) a new manufacturing facility must, to the maximum extent practicable, reuse and recycle cooling water withdrawn for purposes other than steam electric condensing. Cooling water intake used for the purposes of condensing of exhaust steam from electricity generation must be reduced to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system using minimized make-up and blowdown flows. EPA concludes that for manufacturers the capacity requirement meets the criterion of best technology available commercially at an economically practicable cost.

b. Track I: Velocity

EPA examined the technical feasibility of the required through-screen velocity of 0.5 ft/s. This requirement relies on the appropriate design of the intake structure relative to intake flow to reduce velocity or installation of certain hard technologies (e.g., wedgewire screens and velocity caps) to change the configuration of the structure so that the effects of velocity on aquatic organisms are minimized. EPA's record demonstrates that these designs and technologies are widely used in the industries subject to this rule. Since there are a number of intake technologies currently in use that are designed to meet a 0.5 ft/s through-screen velocity, the technologies that can achieve the Track I velocity technology-based performance requirement meet the criterion of best technology available commercially at an economically practicable cost.

The Agency also reviewed the data from the section 316(b) industry survey with respect to the velocity requirement § 125.84(b)(2). The preliminary results suggest that more than two-thirds of combined cycle and coal-fired electric generating facilities built within the past 15 years would meet the velocity requirement. These currently operating facilities demonstrate that a design intake velocity of 0.5 ft/s is achievable and provides for sufficient cooling water withdrawal.

c. Track I: Other Design and Construction Technologies

EPA also examined the technology availability of the design and construction requirements at § 125.84(b)(4) and (5) in the final rule. While EPA costed this requirement based on the assumption that a facility would install cylindrical wedgewire screen, or fish return systems on traveling screens, EPA's record demonstrates that there are a number of potentially effective design and construction intake technologies available for installation at cooling water intake structures for minimizing adverse environmental impact. The intake technologies that new facilities may consider are in one of four categories that include, but are not limited to,

- Intake screen systems: single-entry, single-exit vertical traveling screens; modified traveling screens (Ristroph screens); single-entry, single-exit inclined traveling screens; single-entry, double-exit vertical traveling screens; double-entry, single-exit vertical traveling screens (dual-flow screens); horizontal traveling screens; fine mesh screens mounted on traveling screens; horizontal drum screens; vertical drum screens; rotating disk screens; and fixed screens.
- Passive intake systems: wedgewire screens, perforated pipes, perforated plates, porous dikes, artificial filter beds, and leaky dams.
- Diversion or avoidance systems: louvers, velocity caps, barrier nets, air bubble barriers, electrical barriers, light barriers, sound barriers, cable and chain barriers, aquatic filter barrier systems, and water jet curtains.
- Fish handling systems: fish pumps, lift baskets, fish bypasses, fish baskets, fish returns, fish troughs, and screen washes.

d. Track II: Alternative Technologies

EPA also notes that certain facilities following Track II may be able to demonstrate reduction of impingement mortality and entrainment for all life stages of fish and shellfish to a level of reduction comparable to the level that would be achieved under Track I using lower-cost alternative technologies. Under 125.84(d), new facilities that choose to comply under Track II must reduce impacts to fish and shellfish, including important forage and predator species, within the watershed to a level comparable to that which would be achieved were they to implement the requirements of § 125.84(b)(1), and (2) under Track I.[42] EPA does not consider this requirement to mandate exactly the same level of reduction in impingement and entrainment as would be achieved under Track I. Rather, given the numerous factors that must be considered to determine the required level of reduction in impingement and entrainment for Track II and the complexity inherent in assessing the level of performance of different control technologies, EPA believes it is appropriate for a new facility following Track II to achieve reductions in impingement and entrainment that are 90 percent or greater of the levels achieved under Track I. EPA believes this approach is reasonable for the several reasons.

New facility determinations regarding flow or impingement and entrainment under Track I or Track II are, by necessity, estimates based on available data as well as certain assumptions. Such estimates have substantial value but cannot reasonably be expected to achieve a high level of precision. This is particularly true where, as here, impingement and entrainment rates must be correlated with reductions in flow (which are themselves estimated), reductions in intake velocity, and other design and construction requirements. It also is important to recognize that the efficacies of different design and construction technologies also are based on estimates that are inexact due to data limitations, variations in ambient conditions, and the presence or absence of different species, among other factors.

Available data suggests that alternative design and construction technologies for cooling water intake structures can achieve the level of reduction in impingement and entrainment required under Track II. For example, technologies such as fine and wide-mesh wedgewire screens, as well as aquatic filter barrier systems, have been shown to reduce mortality from impingement by up to 99 percent or greater compared with conventional once-through systems. In addition, other types of barrier nets may achieve reductions in impingement of 80 to 90 percent, and modified screens and fish return systems, fish diversion systems, and fine mesh traveling screens and fish return systems have achieved reductions in impingement mortality ranging from 60 to 90 percent greater than conventional once-through systems. Similarly, although there is less available full scale performance data regarding entrainment, aquatic filter barrier systems, fine mesh wedgewire screens, and fine mesh traveling screens with fish return systems have in certain places been shown to achieve 80 to 90 percent greater reduction in mortality from entrainment compared with conventional once-through systems. Examples of effective use of technologies that reduce impingement and/or entrainment include:

- Studies from 1996 to 2001 at Lovett Station (New York) show no obvious impingement/contact mortality using aquatic filter barrier systems;
- Fine mesh (0.5 mm) screen performance to reduce entrainment has consistently improved at Big Bend Units 3 and 4 (Florida) with better surveillance and maintenance, including biweekly cleaning of screens to prevent biofouling. The operator's 1988 monitoring data show an efficiency in screening fish eggs (primarily drum and bay anchovy) exceeding 95 percent. For fish larvae (primarily drum, bay anchovies, blennies, and gobies), it was about 86 percent. Latent survival of fish eggs has improved to 65 to 80 percent for drum, and 66 to 93 percent for bay anchovy;
- At the Brunswick Station (North Carolina), 1 mm fine mesh screens have been used on two of four traveling screens (only when temperatures are less than 18 degrees C). Total reduction of fish entrained by the fine mesh versus conventional screens has been found to be 84 percent;
- Wedgewire screens with slot sizes of one, two, and three millimeter were studied by the State of Maryland at the Chalk Point Station. One millimeter screens led to 80 percent exclusion of all species, including larvae. For fish

---

[42] These Track I provisions require that the new facility reduce its intake flow, at a minimum, to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system; desgin and construct each cooling water intake structure to a maximum through-screen design intake velocity of 0.5 ft/s; and select and implement design and construction technologies (e.g., wedgewire screens, fine mesh screens, fish handling and return systems, barriers nets, acquatic filter barrier systems) to minimize impingement and entrainment of all life stages of fish and shellfish and to maximize survival of impinged life stages of fish and shellfish.

with greater than 10 mm length, entrainment was eliminated.[43]

Several additional factors suggest that these performance levels can be improved upon. First, some of the cooling water intake structure technology performance data reviewed is from the 1970's and 1980's and does not reflect recent developments and innovation (e.g., aquatic filter barrier systems, sound barriers). Second, the conventional barrier and return system technologies characterized above have not been optimized on a widespread level to date, as would be encouraged by this rule. Such optimization can be best achieved by new facilities, which can match site conditions to available technologies. Third, EPA believes that many facilities could achieve further reductions (estimated 15–30 percent) in impingement and entrainment by providing for seasonal flow restrictions, variable speed pumps, and other innovative flow reduction alternatives.

e. Track II: Location

New facilities seeking to comply under Track II can use the location of their cooling water intake structures to achieve further reductions in impingement and entrainment. Location of the cooling water intake structure can be addressed during the planning and design phases of new facility construction. At that time, it may be possible to choose a particular waterbody type and a specific location on that waterbody where (considering the proposed capacity of the cooling water intake structure) the potential for impingement and entrainment is relatively low. The optimal design requirement for cooling water intake structure location is to place the inlet in an area of the source waterbody where impingement and entrainment of organisms are minimized, i.e., taking into account: the physical and chemical characteristics of the waterbody; the presence and location of sensitive habitats; and the composition, abundance, and spatial/temporal presence of aquatic organisms. It is well known that there are certain areas within every waterbody with increased biological productivity, and therefore where the potential for impingement and entrainment of organisms is greater (e.g., littoral zone in lakes, shore zone in rivers, nearshore coastal waters in oceans). Examples include the following.

- Near the Fort Calhoun Station on the Missouri River, transect studies in 1974 to 1977 indicated higher densities of fish larvae along the cutting bank of the river adjacent to the Station's intake structure and lower densities at the mid-channel location. While densities of fish larvae changed throughout the three month data collection period, the densities collected from the mid channel remained substantially less than those in the cutting bank location.[44]
- Catches of young striped bass from Suisun Bay near the Pittsburg Power Plant (May to July 1976) ranged from $0.062/m^3$ to $0.496/m^3$ in the center channel, and from $0.082/m^3$ to $0.648/m^3$ along the north shore. Weekly mean densities for striped bass were $0.215/m^3$ in the center channel, and $0.320/m^3$ along the north shore.[45]
- A study of densities in the Connecticut River in 1972 showed that fish tended to be more abundant in the more shallow areas near the east shore. Distributions of fish also changed depending upon the time of day and the depth in the water column.[46]

Biologically productive and/or sensitive areas that should be avoided during the intake siting process are those that serve to promote: the congregation and growth of aquatic organisms; the propagation of the early life stages of aquatic organisms (e.g., planktonic stages); and any life stage of a threatened or endangered species. Examples of these sensitive areas would include (but are not limited to) critical nursery areas, spawning grounds, important migratory pathways, refuge areas, and essential fish habitats. Other factors to consider in the intake siting process include the proximity to: aquatic sanctuaries/refuges; national parks, seashores and monuments; wilderness areas; areas of environmental concern or outstanding natural resource waters; and coral reefs. Conversely, potential examples of less-sensitive areas may include: areas outside of the limnetic zone (i.e., no light penetration); areas of significant oxygen depletion; and areas proven to have low densities of organisms.

f. Track II: Restoration

The purpose of section 316(b) is to minimize adverse environmental impact from cooling water intake structures. Restoration measures that result in the performance comparable to that achieved in Track I further this objective while offering a significant degree of flexibility to both permitting authorities and facilities.

EPA recognizes that restoration measures have been used at existing facilities implementing section 316(b) on a case-by-case, best professional judgment basis as an innovative tool or as a tool to conserve fish or aquatic organisms, compensate for the fish or aquatic organisms killed, or enhance the aquatic habitat harmed or destroyed by the operation of cooling water intake structures. Under Track II, this flexibility will be available to new facilities to the extent that they can demonstrate performance comparable to that achieved in Track I. For example, if a new facility that chooses Track II is on an impaired waterbody, that facility may choose to demonstrate that velocity controls in concert with measures to improve the productivity of the waterbody will result in performance comparable to that achieved in Track I. The additional measures may include such things as reclamation of abandoned mine lands to eliminate or reduce acid mine drainage along a stretch of the waterbody, establishment of riparian buffers or other barriers to reduce runoff of solids and nutrients from agricultural or silvicultural lands, removal of barriers to fish migration, or creation of new habitats to serve as spawning or nursery areas. Another example might be a facility that chooses to demonstrate that flow reductions and less protective velocity controls, in concert with a fish hatchery to restock fish being impinged and entrained with fish that perform a similar function in the community structure, will result in performance comparable to that achieved in Track I.

---

[43] EPA acknowledge that there are a limited number of large facilities where alternative technologies have been used. However, the use of fine mesh screens at Brunswick and big Bend have shown performance levels exceeding 70–80 percent. Similarly, fine mesh wedgewire screens at Logan have used to reduce entrainment by 90 percent. While these sites draw water from tidally influenced rivers, they should be equally transferable to large, fresh water rivers in the midwest. In fact, reliability and likely performance should be better than a site such as Big Bend where the bifouling would be a greats issue. The "actual" examples are supported by laboratory testing showing the viability of fine mesh screens that was performed at Delmara Research, TVA, and the proposed Seminole Plant in Florida. These tests found entrainment reductions using fine mesh screens of greater than 90 percent. the use of an aquatic filter barrier system (i.e. gunderboom) at the Lovett Station in New York is entirely transferable to a large, Midwestern river system. This system is now providing consistently greater than 80 percent reductions in entrainment and has the potential to exceed 90 percent. The areas where aquatic filter barrier systems might not be effective/feasible include ocean locations with high waves, limited access areas, and places where navigation could be effected. Note that feasibility should be similar to other barrier net systems, which have been installed at a number of Great Lake sites, e.g., Ludington.

[44] King, R.G. 1977. Entrainment of Missouri River fish larvae Fort Calhoun Station. In: Jensen, L.D. (Ed.), *Fourth National Workshop on Entrainment and Impringement* EA Communications, Melville, NY, pp.45–56.

[45] Stevens, D.E. and B.J. Finlayson. 1977. Mortality of young striped bass entrained at two power plants in the Sacramento-San Joaquin Delta, California, In: Jensen, L.D. (Ed.), *Fourth National Workshop on Entrainment and Impingement*. EA Communications, Melville, NY, pp. 57–69.

[46] Marcy, B.C. 1974. Vulnerability and survival of young Connecticut River entrained at a nuclear power plant. In: Jensen, L.D. (Ed.), *Entrainment and Intake Screening: Proceedings of the Second Entrainment and Intake Screening Workshop*. Electric Power Research Institute Publication No. 74–049–00–5, Palo Alto, CA, pp. 281–288.

EPA recognizes that it may not always be possible to establish quantitatively that the reduction in impact on fish and shellfish is comparable using the types of measures discussed above as would be achieved in Track I, due to data and modeling limitations. Despite such limitations, EPA believes that there are situations where a qualitative demonstration of comparable performance can reasonably assure substantially similar performance. EPA is thus providing, in § 125.86, that the Track II Comprehensive Demonstration Study should show that either: (1) The Track II technologies would result in reduction in both impingement mortality and entrainment of all life stages of fish and shellfish of 90 percent or greater of the reduction that would be achieved through Track I (quantitative demonstration) or, (2) if consideration of impacts other than impingement mortality and entrainment is included, the Track II technologies will maintain fish and shellfish in the waterbody at a substantially similar level to that which would be achieved under Track I (quantitative or qualitative demonstration).

g. Track I and II: Proportional Flow

Finally, EPA examined the technical feasibility of the proportional flow reduction requirements at §§ 125.84(b)(3), 125.84(c)(2), and 125.84(d)(2) of the rule. EPA based this requirement, in addition to the closed-cycle recirculating cooling water technologies discussed above, on the use of groundwater, municipal sources of water, treated wastewater (grey water), and on locating facilities on waterbodies that can meet the proportional flow requirements.

EPA analyzed the potential siting implications of the proportional flow requirements and determined that within the United States approximately 131,147 river miles have sufficient flow to support the water usage needs of large manufacturing facilities withdrawing up to 18 MGD of water without exceeding the proportional flow limitations in this rule. Approximately 53,964 river miles could support a large non-utility power-producing facility withdrawing 85 MGD, and approximately 14,542 river miles could support a large utility plant requiring 700 MGD without exceeding of the proportional flow limitations in this rule. Under today's final rule, new facilities needing additional cooling water in other areas would need to supplement withdrawals from waters of the U.S. with other sources of cooling water or redesign their cooling systems to use less water.

As another gauge of the siting impacts of the flow requirement for new facilities, the Agency determined, from a 1997 database of the Energy Information Agency and a 1994 Edison Electric Institute database, that 89 percent of existing non-nuclear utility facilities could be sited at their current location under today's final requirements if they also operated in compliance with the capacity reduction requirements at § 125.84(b)(1). (Please note that the Agency does not intend to prejudge or signal in any way whether its final rule for existing facilities will or will not include capacity limitations commensurate with a level that could be attained by a recirculating cooling water system. EPA conducted this analysis to determine whether today's proportional flow requirements would unreasonably limit siting alternatives for new facilities only.)

Finally, to further examine the potential siting implications of today's rule for new facilities, the Agency reviewed data on water use by existing facilities in arid regions of the country. The Agency found that 80 percent of the existing facilities in Arizona, California, Nevada, New Mexico, Oklahoma, and Texas do not use waters of the U.S. in their operations, indicating that new facilities in these areas would similarly use waters other than waters of the U.S. in their operations. Therefore, today's final rule would not affect these facilities if they were being constructed as new facilities subject to the rule.

3. Why Is the Two-Track Option Economically Practicable?

EPA has determined that the two-track option is economically practicable for the industries affected by the rule. For the two-track option that does not distinguish between waterbody types, the cost of compliance to the industry is expected to be no more than $47.7 million annually. Because the Agency cannot predict precisely which track the projected facilities would choose and what the compliance response for Track II facilities would be, EPA estimated the costs based on the assumption that each new facility that does not plan to install a recirculating system in the baseline would choose to conduct the studies required of Track II but then implement the requirements of Track I. This is the most conservative cost estimate because it assumes the highest cost a facility could potentially incur. Presumably, the facilities will choose the most economically favorable track, which would imply that the lowest cost is most representative. For example, at Section VIII.B.3. below, EPA describes how a permit applicant locating a facility with a once-through cooling system in certain waters such as large rivers and reservoirs may be able to demonstrate reduction of impingement mortality and entrainment to a level of reduction comparable to the level that would be achieved if they complied with the Track I requirements. However, the expediency of permitting through Track I may result in reductions in financing costs and market advantages that may outweigh the potential technology cost savings of Track II. The cost estimates above do not incorporate any savings occurring from the increased certainty of Track I faster permitting and reduction in finance costs. As stated above, for new in-scope power plants, EPA's record shows that 64 new combined-cycle facilities and 10 new coal-fired facilities would install a closed-cycle recirculating cooling water system independently of the rule. As discussed in the *Economic Analysis*, for those that would not otherwise install a recirculating cooling system, EPA has determined that the capital costs of such an installation would be economically practicable and would not create a barrier to entry. By barrier to entry, EPA means the requirements would not present costs that would prevent a new facility from being built. For those facilities that would not otherwise install a recirculating cooling system, EPA estimates that the annualized cost of such an installation is $19.1 million for a large coal-fired plant (3,564 MW), $3.8 million for a medium coal-fired plant (515 MW), and $0.7 million for a small coal-fired plant (63 MW). For a large combined-cycle facility (1,031 MW), installation of a recirculating cooling water system would cost approximately $3.2 million annually.

EPA finds that the final rule is economically practicable and achievable nationally for the industries affected because a very small percentage of facilities within the industries are expected to be affected by the regulation and the impact on those that would be affected would be small. For today's final rule, EPA used the compliance cost/revenue test as a basis for determining that the requirements on a national level are economically practicable. EPA used the compliance cost/revenue test to assess economic achievability by comparing the magnitude of annualized compliance

VOL 66 ISS 243 DE 18 2001 UMI

costs with the revenues the facility is expected to generate. Under this test, EPA has determined that on average, the rule will constitute 0.3, 1.2, and 0.14 percent of projected annual revenue for new combined-cycle power plants, coal-fired power plants, and manufacturing facilities, respectively. The cost-to-revenue ratio is estimated to range from 0.7 percent to 5.2 percent of revenues for steam electric generating facilities and less than 0.1 percent to 0.5 percent of annual revenues for manufacturing facilities. None of the 38 projected new manufacturing facilities was estimated to incur annualized compliance costs greater than 1 percent of annual revenues. Based on EPA's analysis, the steam electric generating facilities projected to be in scope of this rule are able to afford these economic impacts. In general, the Agency concludes that economic impacts on the electric generating industry from this final rule would be economically practicable, because the facilities required to comply with the requirements would be able to afford the technologies necessary to meet the regulations.

Finally, since the analysis for new facilities entails some uncertainty because it reflects a projection into the future, EPA is maintaining in the final rule a provision in the regulation authorizing alternative requirements where data specific to the facility indicate that compliance with the requirement at issue would result in costs wholly out of proportion to the costs EPA considered in this analysis. See § 125.85 of this rule.

Considering the economic impacts on the electric generating industry as a whole, today's final rule only applies to those electric generating facilities that generate electricity with a steam prime mover and that meet certain requirements (e.g., have or need to have an NPDES permit, withdraw equal to or greater than 2 MGD from waters of the U.S.). As summarized in Exhibit 1 and Exhibit 2 above, an analysis of the NEWGen database shows that only 69 out of the 241 new combined-cycle facilities (28.6 percent) would be subject to this rule, and only 14 out of 35 new coal-fired facilities (40.5 percent).

For the manufacturer industry sectors with at least one new facility that is subject to this final rule, an analysis of the data collected using the Agency's section 316(b) Industry Detailed Questionnaire for existing facilities indicates that only 472 of the 1,976 nationally estimated existing facilities have an NPDES permit and directly withdraw cooling water from waters of the U.S. Of these 472 facilities, only 406 facilities are estimated to withdraw more than two (2) MGD. Of these 406 facilities, only 296 facilities are estimated to use more than 25 percent of their total intake water for cooling water purposes. Thus, this finding of economic practicability is further supported because only 15 percent of the manufacturing industry sectors will incur costs under this rule. According to EPA's analysis, economic impacts on the manufacturing facilities from this final rule would be economically practicable because the facilities projected to be in scope of this rule would be able to afford the technologies necessary to meet the regulations.

C. Why EPA Is Not Adopting Dry Cooling as the Best Technology Available for Minimizing Adverse Environmental Impact?

In establishing best technology available for minimizing adverse environmental impact the final rule, EPA considered an alternative based on a zero-intake flow (or nearly zero, extremely low flow) requirement commensurate with levels achievable through the use of dry cooling systems. Dry cooling systems (towers) use either a natural or a mechanical air draft to transfer heat from condenser tubes to air. In conventional closed-cycle recirculating wet cooling towers, cooling water that has been used to cool the condensers is pumped to the top of a recirculating cooling tower; as the heated water falls, it cools through an evaporative process and warm, moist air rises out of the tower, often creating a vapor plume. Hybrid wet-dry cooling towers employ both a wet section and dry section and reduce or eliminate the visible plumes associated with wet cooling towers.

In evaluating dry cooling-based regulatory alternatives, EPA analyzed a zero or nearly zero intake flow requirement based on the use of dry cooling systems as the primary regulatory requirement in either (1) all waters of the U.S. or (2) tidal rivers, estuaries, the Great Lakes, and oceans. The Agency also considered subcategorization strategies for the new facility regulation based on size and types of new facilities and location within regions of the country, since these factors may affect the viability of dry cooling technologies.

EPA rejects dry cooling as best technology available for a national requirement and under the subcategorization strategies described above, because the technology of dry cooling carries costs that are sufficient to pose a barrier to entry to the marketplace for some projected new facilities. Dry cooling technology also has some detrimental effect on electricity production by reducing energy efficiency of steam turbines and is not technically feasible for all manufacturing applications. Finally, dry cooling technology may pose unfair competitive disadvantages by region and climate. Further, the two-track option selected is extremely effective at reducing impingement and entrainment, and while the dry cooling option is slightly more effective at reducing impingement and entrainment, it does so at a cost that is more than three times the cost of wet cooling. Therefore, EPA does not find it to represent the "best technology available" for minimizing adverse environmental impact. EPA recognizes that dry cooling technology uses extremely low-level or no cooling water intake, thereby reducing impingement and entrainment of organisms to dramatically low levels. However, EPA interprets the use of the word "minimize" in CWA section 316(b) to give EPA discretion to consider technologies that very effectively reduce, but do not completely eliminate, impingement and entrainment as meeting the requirements of section 316(b) the CWA.

Although EPA has rejected dry cooling technology as a national minimum requirement, EPA does not intend to restrict the use of dry cooling or to dispute that dry cooling may be the appropriate cooling technology for some facilities. This could be the case in areas with limited water available for cooling or waterbodies with extremely sensitive biological resources (e.g., endangered species, specially protected areas). An application of dry cooling will virtually eliminate use of cooling water and impingement and entrainment, in almost all foreseeable circumstances, would reduce a facility's use of cooling water below the levels that make a facility subject to these national minimum requirements.

1. Barrier to Entry

EPA has determined that higher capital and operating costs associated with dry cooling may pose barrier to entry for some new sources in certain circumstances. (In general, barrier to entry means that it is too costly for a new facility to enter into the marketplace). A minimum national requirement based on dry cooling systems would result in annualized compliance cost of greater than 4 percent of revenues for all of 83 projected electric generators within the scope of the rule. For 12 generators, costs would exceed 10% of revenues. EPA's economic analysis demonstrates that a regulatory alternative based on a national minimum dry cooling-based requirement would result in annualized compliance costs to facilities of over $490 million, exceeding the annual costs of a regulation based on recirculating wet cooling towers by more than 900 percent ($443 million annually).

Because the technology can cause inefficiencies in operation under certain high ambient temperature conditions and because of the greater capital and operating costs of the dry cooling system compared with the industry standard of using recirculating closed-cycle wet cooling systems, requiring dry cooling as a minimum national requirement could, in some cases, also result in unfair competitive advantages for some facilities. Thus, while at least one state has required dry cooling, EPA does not believe it is appropriate to mandate this requirement on a national basis. In EPA's view the disparity in costs and operating efficiency of the dry cooling systems compared with wet cooling systems is considerable when viewed on a nationwide or regional basis. For example, under a uniform national requirement based on dry cooling, facilities in the southern regions of the U.S. would be at an unfair competitive disadvantage to those in cooler northern climates, far more than if the rule were not based on such a requirement. Even under the regional subcategorization strategy for facilities in cool climatic regions of the U.S., adoption of a minimum requirement based on dry cooling could impose unfair competitive restrictions for new facilities. This relates primarily to the elevated capital and operating costs associated with dry cooling. Adoption of requirements based on dry cooling for a subcategory of facilities under a particular capacity would pose similar competitive disadvantages for those facilities. Furthermore, EPA is concerned that requiring dry cooling for a subcategory of new facilities would create a disincentive to building a new combined-cycle facility (with associated lower flows) in lieu of modifying existing facilities, which may have greater environmental impacts. Dry cooling systems can cost as much as three times more to install than a comparable wet cooling system. For example, the Astoria Energy LLC Queens application filed with the State of New York indicated that a dry cooling system would cost $32 million more to install than a hybrid wet-dry cooling system for a proposed 1,000-MW plant. Operating costs would be $30 million more for the dry cooling system than the hybrid wet-dry system.[47] The State of New York estimates that use of a dry cooling system at the 1,080-MW Athens Generating Company facility would cost approximately $1.9 million more per year, over 20 years, than a hybrid wet-dry cooling system. The total dry cooled projected cost would be approximately $500 million. Because dry cooling systems are so much larger than wet cooling systems, these systems' operation and maintenance require more parts, labor, etc. Costs of this magnitude, when imposed upon one subcategory of facilities but not another, provide a disparate competitive environment, especially for deregulated energy markets. New facilities are competing against the many combined-cycle and coal-fired facilities already in the marketplace or slated for substantial expansion that use wet, closed-cycle cooling systems or even once-through cooling systems. The potential economic impact should EPA not similarly require dry cooling for some or all existing facilities might cause some firms to, at the least, delay their entry into the marketplace until they better understand the regulatory environmental costs faced by their competitors.

2. Energy Penalty and Other Non-Aquatic Impacts

Given the performance penalty of dry cooling versus wet cooling, the incremental air emissions of dry cooling as compared with wet cooling, provide additional support for why EPA is rejecting dry cooling. Dry cooling technology results in a performance penalty for electricity generation that is likely to be significant under certain climatic conditions. By "performance penalty" EPA means that dry cooling technology requires the power producer to utilize more energy than would be required with recirculating wet cooling to produce the same amount of power. EPA concludes that performance penalties associated with dry cooling tower systems pose a significant feasibility problem in some climates. As discussed in Chapter 3 of the *Technical Development Document*, EPA estimates the mean annual performance penalty of a dry cooling system relative to recirculating wet cooling towers at 1.7 and 6.9 percent for combined-cycle and coal-fired facilities, respectively. Peak-summer energy shortfalls for dry cooling towers as compared to wet towers can exceed 2.7 and 9.3 percent for combined cycle and coal-fired facilities, respectively. These performance penalties could have significant technical feasibility implications. For example, dry cooling facilities have as a design feature turbine back pressure limits that often trigger a plant shut down if the back pressure reaches a certain level. Peak summer effects of inefficiency of dry cooling can and do cause turbine back pressure limits to be exceeded at some demonstrated plants which in turn experience shutdown conditions when the back pressure limits are reached. In addition, these performance penalties could pose potential power supply and reliability issues if dry cooling were required on a nationwide or regional basis. For example, EPA estimates that in hot climates dry cooling equipped power plants experience peak summer energy penalties of 3.4 to 4.3 percent for combined cycle plants and 14.8 to 19.4 percent for coal fired plants, as compared to once-through cooling systems. These peak summer penalties represent significant reductions in production at power plants in periods when demand is greatest. Compared to the selected option which a large majority of new facilities were planning to install independent of this rule, all 83 electric generators would be required to install dry cooling technology. The energy impacts (power losses) associated with these 83 facilities is estimated to comprise 0.51 percent of total new electric generating capacity (i.e., a reduction in new design generating capacity of 1,904 MW). These energy impacts raise the concern that on a large scale, dry cooling technology may affect electricity supply reliability. This significant reduction in electricity production is another reason EPA has not selected dry cooling as the best technology available for minimizing adverse environmental impacts on a nationwide or regional basis.

Because of the performance penalty, power producers using dry cooling produce more air emissions per kilowatt-hour of energy produced. Nationally, EPA estimates that a minimum requirement based on dry cooling would cause significant air emissions increases over wet cooling systems. EPA projects for the dry cooling alternative that CO_2, NO_X, SO_2, and Hg emissions would increase by 8.9 million, 22,300, 47,000, and 300 pounds per year, respectively. See Chapter 3 of the *Technical Development Document* for more information on EPA's air emissions analysis, including a discussion of the coincidence between maximum air emissions and the periods of the most severe air pollution problems. These additional non-aquatic

---

[47] Astoria Energy LLC Queens Facility Application.

VOL 66 ISS 243 DE 18 2001 UMI

environmental impacts (in the form of air emissions) further support EPA's determination that dry cooling does not represent best technology available for minimizing adverse environmental impact on a national or region-specific basis.

3. Cost-Effectiveness

EPA also considered the incremental costs and impingement and entrainment reduction between the selected option and dry cooling. Dry cooling, while very effective in reducing impingement and entrainment, is very expensive to implement. EPA understands that dry cooling can virtually eliminate the need for cooling water and therefore dramatically reduces impingement and entrainment. However, EPA has determined that the costs associated with implementing dry cooling are ten times as expensive as wet cooling. EPA has shown that the selected option, requiring facilities to reduce their intake flows to a level commensurate with that which can be attained by a closed-cycle, recirculating cooling water system, would reduce the amount of water withdrawn for cooling purposes by 70 to 98 percent. In addition, EPA has shown that this would result in corresponding reductions in impingement and entrainment. Further, the record shows that other requirements in the rule, such as velocity and proportional flow limits and the requirement to implement design and construction technologies, would result in additional reductions in impingement and entrainment. Based on the information available in the record, EPA estimates that the selected option may result in reduction of impingement to levels that could possibly exceed 99 percent. Estimated reductions in entrainment could also be substantial on a case-by-case basis (70 to 95 percent). Because EPA's selected option is very effective in reducing impingement and entrainment and is one-tenth the cost, EPA believes that it is reasonable to reject dry cooling as a nationally applicable minimum in all cases.

4. Technical Feasibility of Dry Cooling for Manufacturers

EPA considers that dry cooling technologies for manufacturing cooling water intake structures, as a whole, pose significant engineering feasibility problems. The primary feasibility issue is that dry cooling requires nearly zero water intake and many manufacturers reuse cooling water in their process. This dual use for process and cooling water prevents the application of dry cooling. In addition, many manufacturers require cooling water at an available temperature that is not reliably met by utilizing dry cooling. However, in some specific circumstances, EPA is aware of several demonstrated cases of dry cooling for cogeneration plants that are associated with manufacturers.

D. Why EPA Is Not Accepting the Industry Two-Track Approach in Full

While EPA is adopting the general two-track framework suggested by a trade association representing the electric generating industry, EPA is not accepting all aspects of this approach. The primary differences between the approach that EPA is promulgating and the approach industry suggested are: (1) The final two-track approach defines a different level of environmental performance as "best available technology for minimizing adverse environmental impact" for the "fast track" and (2) the final two-track approach contains a different way of measuring equivalence with the environmental performance of the "fast track" in the second track. In short, EPA prefers a more concrete and objective measure of best technology available for minimizing adverse environmental impact for the new facility rule than does the measure suggested by the industry proposal.

Under EPA's approach, best technology available for minimizing adverse environmental impact for new facilities would be the level of impingement and entrainment reduction achievable by (1) technology that reduces intake capacity in a manner comparable to that of a recirculating wet cooling tower; (2) technologies that reduce design through-screen velocity to reduce impingement, as explained in Section V.B.1.c of this preamble; (3) the applicant's selected design and construction technologies for minimizing impingement and entrainment and maximizing impingement survival; and (4) capacity and location-based technology requirements for limiting flow withdrawal to a certain proportion of a waterbody. By contrast, the industry proposal asserts that "closed cycle cooling and low intake velocity reduces entrainment and impingement to such low levels that adverse environmental impact is avoided, thereby not just meeting, but exceeding, the section 316(b) standard of protection."

Further, the industry proposal states that wedgewire screens, traveling fine mesh screens, and aquatic filter barrier systems, either alone or in combination, are sufficient, at least in certain types of waterbodies, in that they "may provide a level of protection within the same range" and thus should be determined to "in almost every case avoid adverse environmental impact, thereby exceeding the requirements of section 316(b)." While EPA's approach does not preclude the use of these alternative technologies if they demonstrate impingement and entrainment reductions equivalent to those of the suite of technologies it has described as "best technology available for minimizing adverse environmental impact," in EPA's view the record does not show that using just one of the technologies listed above in order to qualify for expedited fast-track permitting is equivalent in reducing impingement and entrainment in a manner that reflects best technology available for minimizing adverse environmental impact. While barrier methods are effective at reducing impingement, EPA's record shows that they are currently not as effective at reducing entrainment as EPA's preferred option. This is because larvae and very small organisms can still pass through the barrier and may be entrained. While industry asserts that entrainment does not lead to mortality, there is conflicting evidence in the record on this topic, some of which indicates that in fact a large percentage of organisms can perish or be severely harmed when entrained. For these reasons, EPA does not find that the record supports the notion that the technologies listed by industry in its two-track proposal as "exceeding the requirements of section 316(b)" are as effective at reducing impingement and entrainment as the suite of technologies EPA has found to be technically available and economically practicable to the industries affected as a whole. For further discussion of entrainment and the performance of a variety of cooling water intake structure technologies, see Section III of this preamble and Chapter 5 of the *Technical Development Document*.

The industry two-track approach is based on industry's argument that the CWA compels EPA to determine section 316(b) limits on a case-by-case basis examining first whether the cooling water intake structure causes population or ecosystem effects before requiring any technology, because, industry asserts, this is the only plausible interpretation of the phrase "adverse environmental impact." EPA does not believe that the language of the statute compels this interpretation. Instead, EPA believes it is reasonable to interpret section 316(b)'s requirement to establish "best technology available for minimizing adverse environmental impact" to authorize EPA to promulgate technology-based performance requirements analogous to those derived for point sources under sections 301 (existing sources) and 306 (new sources) for minimizing a suite of adverse environmental impacts, including impingement and entrainment, diminishment of compensatory reserve, and stresses to populations, communities of organisms, and ecosystems. The controls required today appropriately reflect technologies that for new facilities are available and economically practicable, that do not have unacceptable non-aquatic environmental impacts (including impacts on the energy supply across the United States), and that reduce impingement and entrainment of aquatic organisms in a manner that will help support, maintain, and protect aquatic ecosystems. EPA wants to be very clear that this decision relates only to new facilities. In making the upcoming decisions regarding existing facilities in Phases II and III, EPA will carefully weigh all of the relevant factors, many of which are different for existing facilities than for new facilities.

In addition, while EPA agrees that a two-track approach is an effective way to implement CWA section 316(b) for new facilities, EPA does not believe that a population-based approach for defining both the fast track and equivalent performance in the second track is a workable solution for new facilities.

With respect to the "fast track" suggested by industry, EPA does not have a record indicating that the technologies cited by industry (such as a fish return system alone) are the best technologies available for reducing impingement and entrainment. Moreover, even if population were the only endpoint, the record does not support the assertion that the technology cited by industry would qualify for the fast track because it can be uniformly predicted across the nation not to have population impacts (assuming one can agree upon what are the relevant species of concern) for all new facilities nationally in any location. At the same time, EPA has identified technologies that for new facilities (which, unlike existing facilities, do not have retrofitting costs) that are technically available and economically practicable. Therefore for new facilities, EPA believes it is reasonable to require such technologies on a national basis to reduce impingement and entrainment.

With respect to the second track, EPA does not prefer the population approach for new facilities, because the time and complexity of conducting population studies properly is generally inconsistent with making fast and reliable permitting decisions, an issue of particular importance for permitting new facilities. EPA's record shows that in order to study and demonstrate proper population studies, the permitting approval process would be adversely delayed for some new facilities. Specifically, because of the complexity of biological studies, it is very difficult to assess the cause and effect of cooling water intake structures on ecosystems or on important species within an ecosystem. An overwhelming majority of scientists have stated that biological studies can take multiple years because of the complex nature of biological systems. Moreover, unlike in the laboratory, where conditions are controlled, a multitude of confounding factors make biological studies very difficult to perform and make causation, in particular, difficult to determine. All of these issues take time to assess. EPA estimates that a credible job of studying these issues could take up to 3 years to complete. While some of this study can be conducted prior to start-up of the plant, this could cause delays in many situations. For these reasons, EPA does not believe that a population approach makes sense for new facilities.

VI. Summary of Major Comments on the Proposed Rule and Notice of Data Availability (NODA)

A. Scope/Applicability

Comments on the scope and applicability of the new facility rule address several issues, including the definition of a new facility, the definition of a cooling water intake structure (including the twenty-five (25) percent cooling water use threshold), the proposed threshold for cooling water withdrawals (i.e., 2 MGD), and the requirement for a facility to hold a NPDES permit.

1. New Facility Definition

EPA proposed to define a "new facility" as any building, structure, facility, or installation that meets the definition of a "new source" or "new discharger" in 40 CFR 122.2 and 122.29(b)(1), (2), and (4); commences construction after the effective date of the final rule; and has a new or modified cooling water intake structure. See proposed 40 CFR 125.83; 65 *FR* 49116.

Numerous commenters supported EPA's determination that the new facility rule should apply only to greenfield and stand-alone facilities but questioned whether EPA had clearly and effectively limited applicability of the proposed rule to such facilities. Some commenters indicated that the proposed regulatory definition of new facility, which references the existing NPDES new source and new discharger definitions, is confusing. For example, some commenters asserted that defining the total replacement of an existing process as a new facility is not consistent with application of the rule only to greenfield or stand-alone facilities. Commenters indicated that the regulation should make it very clear that the new facility rule applies only to greenfield and stand-alone facilities. To clarify the definition of new facility, some commenters encouraged EPA to include language or examples from the proposed preamble in the final regulatory language. Several commenters requested that EPA more explicitly clarify that a new cogeneration plant installed to serve an existing facility would not be considered a new facility under this rule.

The Agency believes that most new facilities subject to this rule will be considered new sources as defined in 40 CFR 122.2 and 122.29(b)(1), (2), and (4) and subject to new source performance standards for effluent discharges.[48] Under 122.29(b), a source is a new source if it meets the definition of new source in 122.2 (effectively, it discharges or may discharge pollutants, and its construction commenced after promulgation—or proposal in specified circumstances—of a new source performance standard) and it meets any of three conditions. The first is that the source is constructed at a site at which no other source is located (40 CFR 122.29(b)(1)(i)). The second is that the source totally replaces the process or production equipment that causes a discharge at an existing facility (40 CFR 122.29(b)(1)(ii)). The third is that the new source's processes are substantially independent of any existing source at the same site (40 CFR 122.29(b)(1)(iii)). EPA stated in the proposed rule that the new facility rule applies to greenfield facilities, described as facilities that meet the first and second conditions above, and stand-alone facilities, which are those that meet the third condition, provided these facilities meet other applicable conditions (*i.e.*, commencement of construction after the effective date of the final rule, new or modified CWIS). Thus, the Agency believes the language of the regulation does make it clear that the rule applies to greenfield and stand-alone facilities or those whose processes are substantially independent of an existing facility at the same site. As commenters requested, EPA has added some examples to the regulatory section of the rule to serve as guidance regarding the definition of new facility under this final rule.

---

[48] Although the Agency believes that most new facilities subject to this rule will be considered new sources, EPA has included the reference to the definition of new discharger at 122.2 to address any new facility that may commence construction prior to the promulgation of a new source performance standard. The Agency notes that the definition of new discharger in 122.2 only applies to facilities not defined as a new source.

Several commenters also questioned whether repowering an existing facility would trigger applicability of the new facility requirements. These commenters pointed out that repowering is a common practice that often results in a gain in efficiency (*i.e.*, both increased power output and a reduced need for cooling water withdrawals). Commenters expressed concern that, although repowering an existing facility is distinct from building a greenfield or stand-alone facility, repowering could be interpreted as subject to the new source definition and thereby subject to the new facility rule. Some also asserted that the proposed rule included an arbitrary distinction between completely replacing an existing facility and repowering that facility. By defining the complete replacement of a facility as a new facility but allowing repowering to be defined as an existing facility, these commenters argued, the proposed rule creates an incentive to use less efficient technology for the redevelopment of older sites. Commenters also noted that the proposed rule would regulate a new, greenfield facility and the complete replacement of an existing facility (*i.e.*, a brownfield site) in a similar manner, which creates a disincentive to redevelop or modernize brownfield sites.

The definition of a new facility in the final rule applies to a facility that is repowered only if the existing facility has been demolished and another facility is constructed in its place, and modifies the existing cooling water intake structure to increase the design intake capacity. To the extent commenters assert some inequity of treatment between new facilities and certain existing facilities, EPA will address this comment when it addresses what substantive requirements apply to existing facilities. Further, changes to an existing facility that do not totally replace the process or production equipment that causes a discharge at an existing facility (*e.g.*, partial repowering), and those that do not result in a new separate facility whose processes are substantially independent of any existing source at the same site, do not result in the facility being defined as a new facility, regardless of whether these changes result in the use of a new or modified cooling water intake structure that increases existing design capacity. EPA does not agree that by not addressing most repowering under this rule the Agency is creating an incentive to use less efficient technology. Both the power-generating and manufacturing industries routinely seek greater efficiency when repowering. This is illustrated by the increased use over the past 10 years of combined-cycle technology, which requires significantly less cooling water for a given level of power generation and is a more efficient process than older technologies.

Several commenters supported EPA's definition of new facility as proposed. In contrast to concerns discussed above, some commenters expressed apprehension that the new facility definition would not capture all appropriate facilities. These commenters observed that an existing facility could rebuild its whole facility behind the cooling water intake structure and not be subject to the requirements applicable to a new facility. These commenters asserted that if an operator completely rebuilds an existing facility that facility should be subject to the new facility requirements.

EPA can foresee one instance in which the concern raised by this commenter may be well founded. In this rule EPA has defined a new facility in a manner consistent with existing NPDES regulations, with a limited exception. EPA generally deferred regulation of new sources constructed on a site at which an existing source is located (see 40 CFR 122.29(b)(3)) until the Agency completes analysis of its survey data on existing facilities. However, in addition to meeting the definition of a new source, today's rule requires that a new facility have a new cooling water intake structure or use an existing intake structure that has been modified to increase the design capacity. Thus, it might be possible to completely demolish an existing source, replace it with a smaller-capacity new source, and not be regulated under today's rule as a new facility. This facility would then be an existing facility an as such the requirements applicable to such a facility will be addressed in Phase II and III.

Several commenters requested that EPA define facilities deemed to be substantially independent for purposes of applying the new source criteria under 40 CFR 122.29 as those that could be practicably located at a separate site. Commenters maintained that such an approach is justified because EPA has based the proposed new facility requirements on the assumption that each owner or operator has the option to choose the location of his or her new facility and that such location would be selected to allow the owner or operator to best comply with the intake structure location and operation requirements.

With regard to defining when a facility is substantially independent under 40 CFR 122.29, EPA does not believe it is feasible to project under what circumstances owners and operators are free to select any location they desire for a new facility. For this reason, EPA takes the facility as it is planned for purposes of determining whether it is a new facility. In today's rule EPA does not believe it is appropriate to define the phrase "substantially independent" as used in 122.29(b)(1)(iii) as facilities that could be practicably located at a separate site. Section 122.29(b)(1)(iii) in the existing NPDES regulations already provides that "[i]n determining whether . . . processes are substantially independent, the Director shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source." EPA does not think it is feasible for the permit authority to judge whether the facility could have been elsewhere for the purpose of determining whether the facility is subject to the new facility rules. Commenters also requested that EPA define what actions constitute routine maintenance to an existing cooling water intake, so that the distinction between changes that constitute maintenance and those that constitute a modification to an existing intake is made clearer.

EPA has not defined "routine maintenance" in the final rule because clarifying what constitutes routine maintenance is not vital to the definition of new facility. Under the new facility rule, to be considered a new facility a facility must be a new source or new discharger and use a newly constructed cooling water intake structure or a modified existing cooling water intake structure whose design intake has been increased. Thus, changes to a cooling water intake structure at an existing facility that is not a new source or new discharger are not subject to this rule. In addition, at facilities that are new sources or new dischargers but may use an existing cooling water intake structure, EPA has clarified in the final rule that the facility is subject to this rule only where changes to the intake result in an

VOL 66 ISS 243 DE 18 2001 UMI

increase in design capacity. At facilities that are new sources or new dischargers, changes to an intake structure that do not result in an increase in design capacity do not result in that facility being subject to this rule.

Finally, some commenters expressed concern about the status of facilities that are under construction or have recently been constructed. These commenters suggested that such facilities should not be defined as new facilities. Others asserted that it is unfair to define a facility that has submitted a permit application but has not started construction as a new facility.

The Agency chose the commencement of construction date because it was generally consistent with the term "new source" in the existing NPDES permitting regulations and it should provide adequate notice and time for facilities to implement the technological changes required under the rule. The date a facility commences construction is clarified at 40 CFR 122.29(b)(4). This provision describes certain installation and site preparation activities that are part of a continuous onsite construction program; it includes entering into specified binding contractual obligations. Thus, under today's rule facilities that are constructed or commence construction within the meaning of 40 CFR 122.29(b)(4) prior to or on the effective date of the final rule are not new facilities. Those that commence construction after the effective date of this rule and meet the other regulatory thresholds defined in § 125.81 are subject to the requirements of this rule.

2. Definition of Cooling Water Intake Structure

EPA proposed that the term "cooling water intake structure" means the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the U.S., provided that at least twenty-five (25) percent of the water withdrawn is used for cooling purposes. See, proposed 40 CFR 125.83; 65 *FR* 49116. In the NODA the Agency requested comments on two additional alternatives. See, 66 *FR* 28854.

Most of the comments addressing the definition of cooling water intake structure focused on the 25 percent threshold for cooling water use. These comments are summarized and addressed under Section VI.A.3, below. EPA has placed the 25 percent threshold in the applicability requirements of the final rule to clarify the definition of cooling water intake structure. Intakes below this threshold are not subject to today's national rule; however, permit writers should determine any appropriate section 316(b) requirements for structures withdrawing less than 25% of intake flow for cooling purposes on a case-by-case basis.

Some commenters suggested that cooling water intake structures should not be defined in a way that would include the pumps in the cooling water system. Commenters maintained that pumps are part of the cooling water system, not part of the intake, and they assert that the Agency has authority under section 316(b) only over cooling water intake structures. Commenters noted that changing pumps is part of the normal routine of maintenance and repair performed at facilities that use water for cooling and that such activity should not trigger applicability of the new facility rule.

In the final rule EPA has clarified the definition of cooling water intake structure to explicitly include the first intake pump or series of pumps. The explicit inclusion of the intake pumps in the cooling water intake structure definition reflects the key role pumps play in determining the capacity (i.e., dynamic capacity) of the intake. These pumps, which bring in water, are an essential component of the cooling water intake structure since without them the intake could not work as designed. Section 316(b) authorizes EPA to impose limitations on the volume of the flow of water withdrawn through a cooling water intake structure as a means of addressing "capacity." *In re Brunswick Steam Electric Plant*, Decision of the General Counsel No. 41 (June 1, 1976). Such limitations on the volume of flow are consistent with the dictionary definition of "capacity,"[49] the legislative history of the Clean Water Act,[50] and the 1976 regulations.[51] *Id.* Indeed, as Decision of the General Counsel No. 41 points out, the major environmental impacts of cooling water intake structures are those affecting aquatic organisms living in the volumes of water withdrawn through the intake structure. (Statement of Mr. Buckley, Senate consideration of the Report of the Conference Committee [discusses intake from once-through systems]. A Legislative History of the WPCA Amendments of 1972, 93rd Cong., 1st Sess., Committee Print at 196, 197). Therefore, regulation of the volume of the flow of water withdrawn also advances the objectives of section 316(b).

3. Applicability Criteria: Requirement to Withdraw Water From a Water of the U.S., the Twenty-Five (25) Percent Cooling Water Use Threshold, and the Two (2) MGD Intake Flow Threshold

As was proposed, the final new facility rule applies to any new facility that (1) has or is required to have an NPDES permit; (2) proposes to use a cooling water intake structure to withdraw water from waters of the U.S.; (3) uses at least twenty-five (25) percent of the water withdrawn for cooling purposes; and (4) has a design intake flow of greater than two (2) million gallons per day (MGD). See proposed 40 CFR 125.81 and 125.83; 65 *FR* 49116.

Commenters raised several concerns regarding the proposed 25 percent threshold. A number of commenters asserted that EPA did not provide a rational basis in its record for proposing that use of 25 percent of intake flow for cooling purposes should determine whether an intake structure is a cooling water intake structure. Commenters asserted that it is inappropriate to base the 25 percent cooling water use threshold on the number of cooling water intake structures or amount of cooling water flow this threshold would make subject to this rule. Several commenters observed that no single threshold can be applied to all intakes to accurately distinguish cooling water intakes from other intakes. If EPA is determined to use a single threshold in this definition, numerous commenters favored a threshold of 50 percent cooling water use, which commenters stated is the de facto threshold used under the existing definition of a cooling water intake structure found in 1977 draft guidance. However, some commenters maintained that for an intake to be defined as a cooling water intake structure the vast majority (i.e., 75–100 percent) of water withdrawn must be used for cooling.

As discussed above, in the final rule EPA has placed the 25 percent threshold in the applicability section to clarify the applicability of the rule. Permit writers may determine that an intake structure that withdraws less than 25% of the intake flow for cooling purposes should be subject to section 316(b) requirements, and set appropriate requirements on a case-by-case basis, using Best Professional Judgment. Although cooling water intake structures that fall below the 25% threshold are not subject to today's national rule, today's rule does not inhibit permit writers, including those

---

[49] "Cubic contents; volume; that which can be contained." *Random House Dictionary of the English Language*, cited in Decision of the General Counsel No. 41.

[50] Legislative History of the Water Pollution Control Act Amendments of 1972, 93d Cong., 1st Sess., at 196–7 (1973).

[51] 40 CFR 402.11(c)(definition of "capacity"), 41 *FR* 17390 (April 26, 1976).

VOL 66 ISS 243 DE 18 2001 UMI

at the Federal, State, or Tribal level, from addressing such cooling water intake structures as deemed necessary.

EPA chose 25 percent as a reasonable threshold for the percent of flow used for cooling purposes in conjunction with the two MGD total flow threshold discussed below to ensure that almost all cooling water withdrawn from waters of the U.S. is addressed by the requirements in this rule for minimizing adverse environmental impact. EPA estimates that approximately 68 percent of manufacturing facilities that meet other thresholds for the rule and 93 percent of power-generating facilities that meet other thresholds for the rule use more than 25 percent of intake water for cooling. In contrast, approximately 49 percent of new manufacturing facilities use more than 50 percent of intake water for cooling. EPA does not believe it is reasonable to exclude from regulation nearly half of those manufacturing facilities that use large volumes of cooling water and, as a result, impinge and entrain aquatic organisms. EPA also considered it important to cover as many of the facilities as possible in order to create regulatory certainty for new facilities and for States and Tribes that must permit these new facilities. EPA predicts this will leave four (4) percent of the electric power generating facilities and thirty-two (32) percent of manufacturing facilities to the discretion of the permit writer. EPA believes that new facilities that use less than 25 percent of water withdrawn for cooling are most effectively addressed by States and Tribes on a best professional judgement (BPJ) basis, rather than under a national rule, since BPJ provides a certain degree of flexibility for a permit writer to consider available technologies and unique factors posed by new facilities that are below the threshold.

Several manufacturers commented that the rule as proposed may create a disincentive to manufacturing operations increasing efficiency through reducing process water use, since such reductions increase the percentage of cooling water used. These commenters observed that since process water is reused for cooling and cooling water may be heated and reused as process water, flexibility is needed in the rule so these practices are not discouraged or penalized. They also stated that process water cannot be reused in a manner consistent with closed-loop cooling. Some commenters also stated that the final rule should address situations in which the percentages of water used for cooling and as process water are not constant, or where the withdrawal of cooling water is intermittent.

In the final rule EPA has amended the definition of cooling water intake structure to ensure that the rule does not discourage the reuse of cooling water as process water. EPA has amended the proposed definition of cooling water intake structure to specify that cooling water that is used in a manufacturing process, either before or after it is used for cooling, is considered process water for purposes of calculating the percentage of a new facility's intake flow that is used for cooling and whether that percentage exceeds 25 percent. In addition, EPA also has added guidance to the regulation that clarifies how the 25 percent threshold should be applied to new facilities that do not maintain a constant ratio of cooling water to process water. See § 125.81(c) of this rule. This guidance provides that the threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes is to be measured, on the basis of facility design, on an average monthly basis over a period of 1 year (any 12-month period). It further clarifies that a new facility meets the 25 percent cooling water threshold if any monthly average, over a year, for the percentage of cooling water withdrawn equals or exceeds 25 percent of the total water withdrawn.

Numerous commenters asserted that the two MGD threshold is too low and is not supported by a credible justification. Some commenters stated that the two MGD cutoff is overly conservative given that many facilities determined to be causing no adverse impact have considerably greater flows. For example, these commenters note that the State of Maryland uses a 10 MGD threshold, which commenters state would capture 99.67 percent of all existing cooling water flows if applied on a national basis. Several commenters supported the use of Maryland's approach. Others stated that the proposed rule contained insufficient data to be science-based (i.e., based on the level of withdrawal above which adverse environmental impact occurs). Commenters also observed that many of the environmental impact data EPA presented in the proposed rule focused on major power plants with flows much greater than two MGD, which does not support the proposition that adverse impacts occur at small facilities with lower flows. Rather, the commenters suggest, the threshold appears to be designed merely to capture a certain percentage of flow. If so, commenters assert this threshold is arbitrary and not based on sound science. Some of these commenters asserted that cooling water intake structure impact data support thresholds exceeding 500 MGD. A few commenters maintained that it is not appropriate to apply a single threshold to all waterbody sizes. Several supported the two MGD threshold. Several commenters also supported higher thresholds, including 5, 10, 25, and 100 MGD. Some commenters maintained that section 316(b) requirements should apply to all cooling water intake structures and that therefore no flow threshold is necessary.

EPA chose the two MGD threshold because this threshold addresses the majority of new facilities and therefore provides the States and Tribes with a national rule that can be easily applied to a majority of permitting decisions they face in order to implement the legal requirements of CWA section 316(b). All cooling water intake flow results in the potential for impingement and entrainment. Thus, all facilities must address section 316(b) requirements in the same fashion. Therefore, where EPA's record demonstrates that the requirements are technically available, economically practicable, and not have unacceptable non-water quality environmental impacts, including energy impacts, the Agency believes that it is appropriate for the new facility rule to address the majority of cooling water intake structure facilities. In doing so, EPA resolves for permit writers what the requirements are for new facilities.

On the basis of data for facilities with cooling water intake structures built in the past 10 years, EPA estimates that 58 percent of the manufacturers, 70 percent of the nonutilities, and 100 percent of the utilities will be regulated under the two MGD threshold. At the two MGD threshold, 62 percent of all in-scope facilities using surface water and 99.7 percent of the total flow will be covered. Estimated total flow is approximately 9 billion gallons per day. EPA did not select a significantly higher threshold, such as 15 or 25 MGD, because these thresholds would exclude most utility, nonutility and manufacturing facilities from regulation. At a threshold of 15 MGD, 32 percent of the manufacturers, 29 percent of the nonutilities, and 50 percent of the utilities would be covered, as would 97.3 percent of the total flow. The total flow covered remains relatively high, because the large flows from a small number of utility facilities dominate the total flow. While at a threshold of 25 MGD, 94.9 percent of the total flow would still be covered, many more facilities would not be covered. Only 18 percent of manufacturers, 17 percent of nonutilities, and 50 percent of utilities would be covered. Thus, 72 percent of manufacturers, 83 percent of nonutilities, and 50 percent of utilities, withdrawing up to 25 MGD would need to be addressed on a Best Professional Judgement basis. The Agency is concerned about the regulatory uncertainty for regulated new facilities and the burden on State and tribal permit writers to ensure appropriate requirements for these facilities. EPA also believes that the two MGD threshold reduces the burden on States and Tribes responsible for implementing section 316(b) requirements because, as a national threshold, it reduces the burden associated with site-specific determination of appropriate 316(b) limits. The lower threshold may also reduce delays for permit applicants by providing certain national standards.

EPA did not select a 5 or 10 MGD threshold because of the percentage of projected new nonutility and manufacturing facilities that would be excluded from regulation under these thresholds and concern that future trends in intake flow levels would, under these regulatory options, leave most new facilities using cooling water exempt from national regulation and subject to case-by-case determinations by permit agencies. At a threshold of 5 MGD, only 40 percent of nonutility facilities would be covered under this rule. Under a threshold of 10 MGD, 38 percent of manufacturing and 28 percent of nonutility facilities would be covered. EPA did examine the State of Maryland's 10 MGD standard but did not find information that would support the use of this standard on a national basis. In addition, the trend in power generation is toward, on a per facility/per unit of output basis, a general reduction in cooling water intake flow levels over time. Combined-cycle gas turbines require less water per unit of electricity generated than coal-fired or nuclear facilities. For example, a 750 MW combined-cycle facility with evaporative cooling towers is estimated to require approximately 7 to 8 MGD and under a 10 MGD threshold would not be subject to this national rule. The Agency believes that, given the objective of section 316(b), it is undesirable to exclude such a large plant from this rule. As reductions in cooling water intake flow levels occur, the two MGD threshold also ensures that this rule can serve the State, Tribes, and permit applicants by assuring that permits for new facilities comply with 316(b).

EPA does not agree that the intake flow threshold in the applicability portion of this rule must be based on prior determinations of the degree of environmental impact caused by a specific facility or specific cooling water intake structure. Section 316(b) applies to any facility that uses a cooling water intake structure and is a point source subject to standards imposed under CWA section 301 or 306. EPA has included a flow threshold to provide some reasonable limit on the scope of the national requirements imposed under today's rule. The Agency believes those new facilities with withdrawals that are at or below a two MGD threshold will generally be smaller operations that may face issues of economic affordability and are therefore more appropriately addressed on a case-by-case basis using BPJ. Moreover, as discussed in Section III, EPA does not agree that adverse environmental impact associated with cooling water intake structures is solely a population-based phenomenon. Rather, there can be numerous measures of such impacts, including assessments of fish and aquatic organism population impacts. Given the language of section 316(b) and the issues associated with determining adverse impacts, EPA does not view the examples of cooling water impacts discussed in the proposed rule and NODA as limiting the applicability of this rule to new facilities that have the opportunity to employ widely used, economically practicable measures that will, at a minimum, reduce injury to large numbers of fish and aquatic life and may result in benefits at higher levels of ecological structures.

Finally, commenters stated that large facilities that use closed cooling water systems may still require withdrawals of more than 2 MGD. These commenters asserted that it is unfair to subject these facilities to additional regulation after they have reduced their intake flow by 90 percent or more.

EPA agrees that very large facilities that use closed cooling water systems may still require withdrawals of more than two (2) MGD. As discussed elsewhere in this preamble, EPA determined that reducing intake capacity commensurate with use of a closed-cycle recirculating cooling system is not economically practicable for facilities withdrawing between 2 and 10 MGD. However, EPA does not agree that it is unfair to subject these facilities to further requirements necessary to reduce impingement and entrainment. Section 316(b) requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact. While reductions in total intake flow may represent the single most significant improvement for new facilities with cooling water intake structures, large flows withdrawn for make-up (i.e., to replace evaporative loss and blow down) can still cause significant impingement and entrainment. Additional controls on intake velocity, flow relative to the source waterbody, and design and construction technologies proposed by the facility also represent important aspects of a cooling water intake structure that must, under section 316(b), be addressed. As discussed elsewhere in this preamble and in the *Technical Development Document and Economic Analysis*, these additional measures are both widely employed and affordable. EPA does not believe that a determination of "best technology available for minimizing adverse environmental impact" for new facilities can omit these low-cost, effective technologies. Also see Section VIII of this preamble for a discussion that explains the percentage of new facilities already meeting the final rule requirements and the low cost of these requirements.

4. NPDES Permit

The proposed rule would apply only to new facilities that are or will be subject to an NPDES permit. See, proposed 40 CFR 125.81; 65 *FR* 49116. Comments received on this proposed requirement generally focus on the new facilities that withdraw cooling water from waters of the U.S. but do not hold an NPDES permit.

Some commenters asserted that EPA should not use the 316(b) rulemaking to regulate cooling water intake structures that are not owned by the NPDES-permitted facility. Commenters indicated that such an approach was beyond the authority provided by 316(b) and would make the rule unnecessarily complex.

The final rule applies only to new facilities that hold an NPDES permit or are required to obtain a permit. The Agency continues to believe that most new facilities that will be subject to this rule will control the intake structure that supplies them with cooling water and will discharge some combination of their cooling water, wastewater, and stormwater to a water of the U.S. through a point source regulated by an NPDES permit. Under this scenario, the requirements for the cooling water intake structure will be applied in the facility's NPDES permit.

In the event that a new facility's only NPDES permit is a general permit for storm water, EPA anticipates that the Director will write an individual NPDES permit containing requirements for the facility's cooling water intake structure.

Such 316(b) requirements could also be included in the general permit.

B. Environmental Impact Associated With Cooling Water Intake Structures

The proposed rule requested comment on the scope and nature of environmental impacts associated with cooling water intakes. Many comments were directed generally toward entrainment and impingement impacts, with some discussion of impacts caused by intake construction activities. The majority of comments, however, concentrated on defining adverse environmental impact and the approaches that were most relevant for characterizing adverse environmental impact, including assessments of population modeling and bioassessment approaches.

1. Entrainment, Impingement, and Construction Impacts

In the proposed rule, EPA requested comment on the types of impacts attributable to cooling water intake structures (65 *FR* 49072). Most of the comments focused on discussion of entrainment and impingement impacts and the impacts associated with construction of new cooling water intake structures.

One commenter suggested that the EPA should have scientific analyses to support the statement that entrainment mortality is high. The commenter also stated that, on the basis of recently conducted entrainment studies, through-plant change in temperature was the controlling factor for entrainment mortality and that entrainment impacts could be minimized through use of a cooling water system designed for high volume, low-velocity flow, which would minimize temperature differential. The commenter also noted that high-volume, low-velocity-flow cooling water systems would be specifically eliminated by the proposed 316(b) regulation.

EPA notes that entrainment studies indicate that through-plant mortality rates of young fish are determined by numerous factors. Different species have different tolerance to passage through a cooling system, and mortality rates may differ among life stages of the same species. A summary of mortality data from five Hudson River power plants found that mortality rates could be substantial.[52] The report cited species-specific mortality rates that varied by life stage for bay anchovy (93 to 100 percent), Atlantic tomcod (0 to 64 percent), herrings (57 to 92 percent), white perch (41 to 55 percent), and striped bass (18 to 55 percent). The study emphasized that the reliability of these estimates was questionable and that various sources of potential bias may have caused the estimated rates to be lower than the actual mortality rates. The Electric Power Research Institute (EPRI) sponsored a recent review of 36 entrainment survival studies, the majority of which were conducted in the 1970s.[53] [54] The summarized mortality rates described by EPRI were in substantial agreement with patterns reported in the Hudson River summary, specifically that anchovies and herrings had the highest mortality rates (greater than 75 percent), and that temperature change seemed to be an important determining factor. Thus, EPA believes scientific studies document that entrainment mortality for some species can be quite high.

EPA recognizes that Track I of the final rule precludes the use of high-volume, flow cooling water systems. However, in today's rule, under Track II, an intake with the capacity needed to support a high-volume, once-through cooling system that is shown through studies to reduce impingement mortality and entrainment for all life stages of fish and shellfish to achieve a level of reduction comparable to the level that would be achieved by applying Track I technology-based performance requirements at a site would meet the requirements of the rule.

Another commenter suggested that many of the more significant impingement episodes occur in conjunction with environmental phenomena such as low dissolved oxygen and rapid temperature declines. According to the commenter, these phenomena cause the death of many fish that are then ultimately collected on intake screens. EPA acknowledges that episodes of low dissolved oxygen and rapid temperature declines can result in fish losses, but does not concur that this is consistently documented as a significant or sole cause of fish impingement mortalities.

Another commenter recommended that EPA require antifouling measures at the construction and operational stages to minimize intake attractiveness to local fish, diving birds, and marine mammals. As stated previously, EPA defers controls for minimizing adverse impacts due to construction of new cooling water intake structures to the authority of existing Federal, State, and Tribal programs established for this purpose. EPA believes it is incumbent upon the individual facilities to implement antifouling measures during operations that are appropriate for the specific characteristics of their waterbody. As an example, antifouling measures for freshwater systems will be different from measures used for ocean intakes. (See Section VI.E.3.a. below for more information on fouling controls).

Finally, one commenter suggested that cooling water intake structures affect many components of an ecosystem, not just individual species. Thus, the regulation should consider indirect effects on predators resulting from losses of prey species and overall ecosystem effects when evaluating environmental impacts. EPA has taken primarily a technology-based approach to this national rule. EPA believes that this rule will reduce impacts to predators by dramatically reducing entrainment and impingement of prey species and will therefore protect ecosystems as a whole. In addition, this rule recognizes that States and Tribes can be more stringent as is consistent with section 510 of the CWA.

EPA also received comments on the documented examples of impingement and entrainment impacts discussed in the proposed rule. Several commenters argued that it was inaccurate for EPA to equate the taking of aquatic organisms with environmental impact because there was little evidence that intakes, new or existing, would cause or were causing adverse impacts. In contrast, other commenters asserted that, given the tremendous quantity of water that utilities withdraw and the large number of organisms impinged and entrained by intakes, it was clear that the cooling process had an adverse impact on aquatic ecosystems. EPA believes that the examples of environmental impact provided in the proposed rule are illustrative of the types of effects associated with cooling water intakes.

Several commenters objected to the use of specific facilities as representative examples of environmental impact. They argued that EPA focused on a few high-profile, high-intake facilities and in some cases used outdated information or misinterpreted results. EPA believes it used the best information available for the proposed rule and the final rule. There are few, if any, recent data documenting entrainment or impingement rates at the majority of existing facilities. Many of the available reports are for larger facilities (for which environmental impact concerns were greatest) and contain analyses conducted 20 to 25 years ago. Several of the examples cited in the proposed rule were based on historical data and EPA acknowledges that the data may not reflect current impingement or entrainment rates at the facility, particularly if technologies and other operational measures for reducing entrainment and impingement have been implemented since the original study. However, in most cases updated information was not available. To the extent possible, EPA has supplemented the facility information in the record for this final rule to include smaller facilities and updated information.

---

[52] Boreman, J., L.W. Barnthouse, D.S. Vaughan, C.P. Goodyear, S.W. Christensen, K.D. Kuman, B.L. Kirk, and W. Van Winkle. 1982. the Impact of Entrainment and Impingement on Fish Populations in the Hudson River Estuary: Volume I, Entrainment Impact Estimates for Six Fish Populations Inhabiting the Hudson River Estuary. Prepared for the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research by the Oak Ridge National Laboratory. ORNL/NUREG/TM–385/V1.

[53] EPRI. 2000. Review of entrainment survival studies: 1970–2000. Report No. 1000757. Prepared by EA Engineering Science & Technology.

[54] Some of the studies summarized in EPRI (2000) are the same ones considered by Boreman et al. (1982). See EPRI (2000) for complete citations of 36 original studies.

Finally, several commenters suggested that there was no need to address construction impacts in the 316(b) rule because there were existing Federal, State, and local provisions designed to minimize the impacts caused by construction activities. Another commenter stated that it was likely that the majority of new generation, once-through cooling facilities will be using existing cooling water intake structures and that it was doubtful that a new once-through facility would be constructed in an area where significant habitat could be disrupted. In contrast, another commenter stated that the regulation should address impacts associated with new cooling water intake structure construction, even if impacts were not recurring.

Under today's rule, EPA will minimize construction impacts by requiring appropriate intake design and construction technologies. EPA recognizes that other Agencies have a prominent role in evaluating and minimizing impacts related to construction activities and acknowledges that existing Federal, State, and Tribal programs include requirements that address many of the environmental impact concerns associated with the construction of new intakes. EPA believes that implementation of appropriate design and construction technologies and existing program requirements will minimize the environmental impacts of construction.

2. Adverse Environmental Impact

The proposed rule discussed six potential definitions for adverse environmental impact: (1) A level of impingement and entrainment that is recurring and nontrivial, perhaps defined as the impingement or entrainment of 1 percent or more of the aquatic organisms in the near-field area as determined in a 1-year study; (2) entrainment or impingement damage as a result of the operation of a specific cooling water intake structure, including a determination of the magnitude of any short-term and long-term adverse impacts; (3) any impingement or entrainment of aquatic organisms; (4) a biocriteria approach based on a comparison of the abundance, diversity, and other important characteristics of the aquatic community at the proposed intake site with similar biological metrics at defined reference sites; (5) evaluation of impacts to protected species, socially, recreationally, or commercially important species, and community integrity (including community structure and function); and (6) impacts likely to interfere with the protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife. The proposed rule also invited comment on whether adverse environmental impact should be defined more broadly to include non-aquatic environmental impacts (e.g., air emissions, noise, introductions of non-indigenous species) associated with technology-based requirements (see Section VI.B.2.e. below). In the NODA, EPA presented another population-based approach proposed by industry for defining adverse environmental impact—"Adverse environmental impact is a reduction in one or more representative indicator species that (1) creates an unacceptable risk to the population's ability to sustain itself, to support reasonably anticipated commercial or recreational harvests, or to perform its normal ecological function, and (2) is attributable to the operation of the cooling water intake"—and invited comment on this definition as well as refinements to three of the definitions discussed in the proposed rule. See, 66 *FR* 28859–28863.

Numerous commenters stated that defining adverse environmental impact was critical to the 316(b) regulation because the program is fundamentally based on minimizing environmental impact. Further, commenters suggested that, without a solid definition of adverse environmental impact, the Agency's ability to interpret, implement, and enforce 316(b)-related actions would be seriously hampered.

EPA recognizes that since enactment of 316(b), scientists, environmentalists, lawmakers, and regulators have disagreed on an exact definition for adverse environmental impact. Further, the many studies conducted to date and arguments put forward on this issue have done little to resolve the current lack of consensus among the concerned parties. Given this background, EPA has determined to address adverse environmental impacts as discussed below.

a. What Constitutes Adverse Environmental Impact Under This Final Rule?

EPA acknowledges that there are multiple types of adverse environmental impact including impingement and entrainment; reductions of threatened, endangered, or other protected species; damage to ecologically critical aquatic organisms, including important elements of the food chain; diminishment of a population's potential compensatory reserve; losses to populations, including reductions of indigenous species populations, commercial fishery stocks, and recreational fisheries; and stresses to overall communities or ecosystems as evidenced by reductions in diversity or other changes in system structure or function.

In the preamble to the proposed rule, EPA discussed several other options for interpreting adverse environmental impact. One option would be to look to section 316(a) of the Clean Water Act for guidance. Section 316(a) addresses requirements for thermal discharge and provides that effluent limitations associated with such discharge should generally not be more stringent than necessary to "assure the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife in and on that body of water." The same language is repeated in section 303(d) with reference to total maximum daily load (TMDL) listing requirements for waters impaired by thermal discharge. These statutory provisions indicate that Congress intended this requirement to be used in evaluating the environmental impacts of thermal discharges. Some have suggested that, since thermal discharges are usually paired with cooling water intake, it may be reasonable to interpret the Clean Water Act to apply this requirement in evaluating adverse environmental impact from cooling water intake structures as well.

Commenters have argued that the CWA compels EPA to determine that the objective of section 316(b) must be linked to the 316(a) goal to ensure protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife. EPA does not agree that the CWA compels EPA to interpret adverse environmental impact

VOL 66 ISS 243 DE 18 2001 UMI

as that term is used in section 316(b) in the Act by reference to the phrase "balanced indigenous population" under section 316(a). Because Congress used different terms in section 316(b) than in section 316(a), EPA does not believe the Agency is required to adopt such an interpretation. When Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acted intentionally and purposely in the disparate inclusion or exclusion. *Bates* v. *U.S.*, 522 U.S. 23 (1997). The usual canon of statutory interpretation is that when Congress uses different language in different sections of a statute, it does so intentionally. *Florida Public Telecommunications Ass'n, Inc.* v. *F.C.C.*, 54 F.3d 857 (D.C. Cir. 1995). Instead, EPA believes, consistent with EPA's ecological risk assessment guidelines, that it is reasonable to interpret adverse environmental impact as including impingement and entrainment, diminishment of compensatory reserve, stresses to the population or ecosystem, harm to threatened or endangered species, and impairment of State or authorized Tribal water quality standards. The Agency has long maintained that adverse environmental impact from cooling water intake structures must be minimized to the fullest extent practicable,[55] even in cases where it can be demonstrated that the requirement applicable under section 316(a) is being met.[56][57] Thus, the objective of section 316(b) includes population effects but is not limited to those effects. EPA's interpretation of "adverse environmental impact" is discussed in more detail below.

b. Approach to Defining Adverse Environmental Impact

EPA received numerous comments on its proposed rule asserting that the proper endpoint for assessing adverse environmental impact is at the population level, that some of EPA's proposed alternative definitions of adverse environmental impact would essentially protect "one fish," and that EPA's alternative for defining adverse environmental impact as recurring and nontrivial impingement and entrainment was vague or would lead to excessive and costly efforts to protect a very few fish that would not result in ecologically relevant benefits. EPA's record at proposal demonstrated that cooling water intake structures do not kill, impinge, or entrain just "one fish," or even a few aquatic organisms. The NODA published by EPA provides further examples of cooling water intake structures that kill or injure large numbers of aquatic organisms. For example, EPA provided information on aquatic organism conditional mortality rates for the Hudson and Delaware rivers that demonstrated significant mortality due to cooling water intake structures. EPA considered this information, as well as information in Section III on impingement and entrainment survival and impact, as it deliberated options for the final rule and how adverse environmental impact should be defined. Further, EPA considered documents that discussed potential consequences associated with the loss of large numbers of aquatic organisms. These potential consequences included impacts on the stocks of various species, including any loss of compensatory reserve due to the deaths of these organisms, and the overall health of ecosystems. Given all of these considerations, EPA determined that there are multiple types of undesirable and unacceptable adverse environmental impacts, including entrainment and impingement; reductions of threatened, endangered, or other protected species; damage to critical aquatic organisms, including important elements of the food chain; diminishment of a population's compensatory reserve; losses to populations, including reductions of indigenous species populations, commercial fishery stocks, and recreational fisheries; and stresses to overall communities or ecosystems as evidenced by reductions in diversity or other changes in system structure or function.

EPA also invited commenters to submit for consideration additional studies that documented either significant impacts or lack of significant impacts from cooling water intake structures. Several commenters submitted reports on manufacturing and power plant facilities that purported to demonstrate minimal impact from cooling water intake. One commenter submitted three documents for EPA's review. Another commenter submitted information on the Neal Complex facility located on the Missouri River near Sioux City, Iowa. The commenter described a 10-year (1972–82) study that focused on evaluating the operational impacts of the Neal facility, sited on a heavily channelized segment of the Missouri River. The commenter asserted that study results indicated little if any detrimental impact to the Missouri River ecosystem caused by facility operations. EPA reviewed the information summarized by the commenter and finds fault with several of the statements and conclusions cited in the comment. This is discussed further in EPA's response to comments document.

c. Assessment of Population Modeling Approach

Some commenters asserted that impacts on individual organisms or subpopulations are not ecologically relevant and recommended that EPA define adverse environmental impact as follows: "Adverse environmental impact is a reduction in one or more representative indicator species that (1) creates an unacceptable risk to the population's ability to sustain itself, to support reasonably anticipated commercial or recreational harvests, or to perform its normal ecological function, and (2) is attributable to the operation of the cooling water intake structure." Under this approach, EPA would define unacceptable risk by using a variety of methods that fisheries scientists have developed for estimating (1) the level of mortality that can be imposed on a fish population without threatening its capacity to provide "maximum sustainable yield" (MSY) on a long-term basis, as developed under the Magnuson-Stevens Fishery Conservation and Management Act, and (2) the optimum population size for maintaining maximum sustainable yield.

In evaluating such comments, EPA considered the premises underlying MSY and the models used by National Marine Fisheries Service (NMFS) to derive MSY. Because the concept of MSY is based on harvesting adult fish, EPA generally questions whether this approach is directly relevant to egg, larvae, and juvenile losses associated with intakes. EPA also notes that the models used to estimate MSY do not directly incorporate any additional stressors (such as losses from entrainment and impingement) to managed stocks other than fishing pressure. Further, it is important to note that NMFS does not always manage stocks to their calculated MSY. In many cases, particularly if there is a concern over protecting habitat or critical ecosystems, NMFS regulates fisheries based on their "optimum yield," which is less than the MSY. According to the Magnuson-Stevens Fisheries Conservation and Management Act, "the term 'optimum' with respect to the yield from a fishery, means the amount of fish which * * * is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological function * * *"

---

[55] *In re Brunswick Steam Electric Plant*, Decision of the General Counsel No. 41, June 1, 1976.

[56] *In re Public Service Co. of New Hampshire*, (Seabrook Station Units 1 and 2) (Decision of the Administrator) 10 ERC 1257, 1262 (June 17, 1977).

[57] *In re Central Hudson Gas and Elec. Corp.*, Decision of the General Counsel No. 63, July 29, 1977.

EPA also considered the relative long-term success of ongoing fishery management practices implemented by the National Marine Fisheries Service and others. Despite the availability of state-of-the-art fish population models and considerable experience managing fisheries, NMFS recently classified 34 percent of their managed fishery stocks as over-utilized.[58] EPA agrees with fisheries experts and resource managers that there is unavoidable uncertainty associated with managing fish populations.[59] [60] [61] [62] As a recent NMFS advisory panel expressed it, "Uncertainty and indeterminancy are fundamental characteristics of the dynamics of complex adaptive systems. Predicting the behaviors of these systems cannot be done with absolute certainty, regardless of the amount of scientific effort invested."[63] Consistent with its own Guidelines for Ecological Risk Assessment, EPA agrees with the conclusions of the NMFS panel that "Given the high variability associated with ecosystems, managers should be cognizant of the high likelihood for unanticipated outcomes. Management should acknowledge and account for this uncertainty by developing risk-averse management strategies that are flexible and adaptive." As the panel concluded, "The modus operandi for fisheries management should change from the traditional mode of restricting fishing activity only after it has demonstrated an unacceptable impact, to a future mode of only allowing fishing activity that can be reasonably expected to operate without unacceptable impacts." EPA and other fishery scientist support the concept of a precautionary approach,[64] particularly when dealing with complex systems, as described below.

EPA recognizes that the limitations of existing population models, including models used to manage fisheries, may be related to our overall limited understanding of the complexity of aquatic ecosystems and the long-term effects of anthropogenic activities[65] [66]. As proposed in a recent journal article, many of the adverse impacts identified for coastal ecosystems, such as estuarine eutrophication, loss of kelp beds, coral reef die-offs, and introductions of invasive species, were initiated by historical overfishing.[67] Losses or extinctions of large vertebrate predators and filter-feeding bivalves such as oysters caused by overfishing have, over time, resulted in species replacements and significantly limited or ceased interactions between the overfished populations and other coastal community species. Historical overfishing and ecological extinctions precede both modern ecological investigations and the collapse of several marine ecosystems in recent times, "raising the possibility that many more marine ecosystems may be vulnerable to collapse in the near future."[68] Further, because modern ecological studies do not typically consider the long-term historical record, existing fishery resource baselines may be inaccurate, and "Even seemingly gloomy estimates of the global percentage of fish stocks that are overfished are almost certainly far too low."[69] Thus, EPA is concerned that historical overfishing increased the sensitivity of coastal ecosystems to subsequent disturbance, making them more vulnerable to human impact and potential collapse. Based on the long-term record of anthropogenic impacts to coastal ecosystems, their documented degradation, and their potential sensitivity to additional anthropogenic disturbance, as well as the admitted uncertainty associated with managing coastal fishery populations, EPA firmly believes that protective, risk-averse measures are warranted to prevent further declines or collapses of coastal and other aquatic ecosystems. EPA views impingement and entrainment losses to be one of many potential forms of disturbance that should be minimized to avoid further degradation.

Further, it remains unclear whether it is possible or sufficient to use single species population assessment models to assess impacts on multiple species, as is often necessary in evaluating impingement and entrainment by cooling water intake structures. NMFS now recognizes that improvement in fisheries management will require a comprehensive, ecosystem-based approach and recently convened an advisory panel to develop principles and approaches for ecosystem-based fishery management. In its report to Congress, the advisory panel noted that such an approach will "require managers to consider all interactions that a target fish stock has with predators, competitors and prey species; the effects of weather and climate on fisheries biology and ecology; the complex interactions between fishes and their habitat; and the effects of fishing on fish stocks and their habitat."[70] EPA supports the ecosystem-based approach to fisheries management advanced by NMFS and recognizes that this approach will require an in-depth understanding of species interactions. Because the ecosystem-based approach is currently evolving, EPA believes it is unlikely that most existing single species population models can accurately account for multiple-species interactions.

EPA also considered information addressing the issue of compensation—an increase that may potentially occur in survival, growth, or reproduction of a species triggered by reductions in population size[71] [72]—and its application to the section 316(b) rulemaking. In particular, EPA sought comment on a memorandum discussing compensation and the quantity of data required to calculate compensation factors (DCN #2–020C). This document states that the use of compensation factors is typically limited to cases in which fishery managers have extensive data on a fish population and that specific, numerical compensation values generally are not used in the absence of robust data sets (i.e., a minimum of 15–20 years of data suggested). Moreover, fish stocks for which these robust data sets exist are generally the highly exploited commercial and recreational stocks,[73] and few data exist for most nonharvested species. This memorandum also noted that in the absence of sufficient data various proxies are typically used to avoid quantitatively determining compensation.

---

[58] National Marine Fisheries Service. 1999. Our living oceans. Report on the status of U.S. living marine resources. U.S. Department of Commerce. NOAA tech. memo. NMFS–F/SO–41.

[59] Hilborn, R., and C.J. Walters. 1992. *Quantitative fisheries stock assessment: choice, dynamics, and uncertainty*. Chapman and Hall.

[60] Hilborn, R., E.K. Pikitch, and R.C. Francis. 1993. Current trends in including risk and uncertainty in stock assessment and harvest decisions. *Canadian Journal of Fisheries and Aquatic Sciences* 50:874–880.

[61] Hutchings, J.A., and R.A. Meyers. 1994. What can be learned from the collapse of a renewable resource? Atlantic cod, Gadus morhus, of Newfoundland and Labrador. *Canadian Journal of Fisheries and Aquatic Sciences* 51:2126–2146

[62] National Research Council. 1998. *Improving fish stock assessments*. National Academy Press, Washington, D.C.

[63] National Marine Fisheries Service Ecosystem Principles Advisory Panel. 1998. *Ecosystem-based fishery management. A report to Congress.*

[64] Dayton, P.K. 1998. Reversal of the burden of proof in fisheries management. *Science* 279:821–822.

[65] Fogarty, M.J., A.A. Rosenberg, and M.P. Sissenwine. 1992. Fisheries risk assessment: sources of uncertainty. A case study of Georges Bank haddock. *Environ. Sci. Technol.* 26:440–446.

[66] Ludwig, D., R. Hilborn, and C. Walters. 1993. Uncertainty, resource exploitation, and conservation: lessons from history. *Science* 260:17 and 36.

[67] Jackson, J.B.C., M.X. Kirby, W.H. Berger, K.A. Bjorndal, L.W. Botsford, B.J. Bourque, R.H. Bradbury, R. Cooke, J. Erlandson, J.A. Estes, T.P. Hughes, S. Kidwell, C.B. Lange, H.S. Lenihan, J.M. Pandolfi, C.H. Peterson, R.S. Steneck, M.J. Tegner, and R.R. Warner. 2001. *Science* 293(5530):629–638.

[68] Ibid.

[69] Ibid.

[70] NMFS Ecosystem Principles Advisory Panel. 1998. *Ecosystem-based fishery management. A report to Congress.*

[71] Rose, K.A., J.H. Cowan, Jr., K.O. Winemiller, R.A. Myers, and R. Hilborn 2001. In press. Compensatory density-dependence in fish populations: importance, controversy, understanding, and prognosis. In press. *Fish and Fisheries*.

[72] Goodyear, C.P. 1980. Compensation in fish populations. In *Biological monitoring of fish*, ed C.H. Hocutt and J.R. Stauffer, pp. 253–280. Lexington Books, Lexington, MA.

In general, commenters asserted that compensation is a well-documented property of population regulation and that, despite 30 years of studies, there was no evidence that power plant impacts alone could reduce a population's compensatory reserve. Other comments specific to the memorandum concurred that, in the absence of sufficient data, compensation may be indirectly assessed using spawner-recruit models and that more than 100 marine and estuarine shellfish populations are currently managed by NMFS and other fisheries commissions using these proxies. One commenter provided information pertaining to new scientific studies of compensatory reserve and large databases containing fisheries information that are currently under development. The commenter asserted that use of meta-analysis—defined as the process of combining and assessing findings from several separate research studies that bear upon a common scientific problem—in conjunction with expanded fishery data sets will greatly increase the number of species for which scientists can estimate compensatory reserves. The commenter maintained that more and better estimates of compensatory reserve will be developed by the end of the decade, and requested that EPA take this trend into consideration. In contrast, another commenter asserted that industry abuses compensation theories and density-dependent models to support their contention that killing millions of fish is not ecologically relevant nor does it equate to an adverse environmental impact. The commenter further contended that there was a lack of scientific support for density-dependent models and provided references from peer-reviewed journals that critique and challenge the scientific underpinnings of these models.

EPA believes that a population's potential compensatory ability is affected by all stressors encountered within the population's natural range, including takes attributed to individual or multiple cooling water intake structures. Thus, even if there is little evidence that cooling water intakes *alone* reduce a population's compensatory reserve, EPA is concerned that the multitude of stressors experienced by a species can potentially adversely affect its ability to recover.[74] Moreover, EPA notes that the opposite effect may occur when populations are low, a phenomenon known as "depensation." Depensation refers to decreases in recruitment as stock size declines.[75] Because depensation can lead to further decreases in the abundance of populations that are already seriously depleted, recovery may not be possible even if stressors are removed. In fact, there is some evidence that depensation may be a factor in some recent fisheries collapses.[76] [77] [78] Because EPA's mission includes ensuring the sustainability of communities and ecosystems, EPA must comprehensively evaluate all potential threats to resources, and work towards eliminating or reducing identified threats. EPA believes that cooling water intakes do pose a threat to some fishery stocks and through this rule is seeking to minimize that threat. EPA also acknowledges that spawner-recruit proxies are currently used by several agencies to manage fishery stocks. However, as indicated in the record, these proxies are used in the absence of robust data sets. EPA does not believe that simply because an approach is currently in place, it constitutes the best approach. Given the uncertainty associated with managing fish stocks and the degree of stock overutilization despite long-term management efforts (see earlier discussion in Section VI.B.2.c.), EPA is concerned about the relative accuracy of these proxies and their overall ability to protect fishery stocks. EPA does not discourage development of new data sets, population models, or other scientific investigations that will improve estimates of compensatory reserve or other parameters that are needed to understand fishery dynamics. In fact, it is EPA's belief that these developments are ongoing due to the acknowledgment—direct or otherwise—that existing data and models are inadequate. Under the consent decree schedule, EPA is required to promulgate today's rule based on its interpretation of current science and EPA agrees with all comments discussed above that there are some weaknesses and potential inaccuracies inherent to existing estimations of compensation. EPA strongly supports additional research efforts and the development of expanded fisheries data sets that can be used to fill information gaps and improve our understanding of the complex relationships associated with aquatic ecosystems, fishery populations, and anthropogenic activities and, ultimately, assist NMFS and other agencies in wisely managing fishery resources. Because fishery resources are so precious, EPA further contends that compensation studies and models currently under development—including the data on which they are based—should be subject to peer review and other measures that will ensure their scientific rigor.

EPA also evaluated information submitted by the Utility Water Act Group (UWAG) and the Electric Power Research Institute (EPRI), both in their comments and in studies provided to the Agency after the comment period. In summary, these comments and documents asserted that entrainment of very large numbers of eggs, larvae, and early juvenile-stage fish does not necessarily meaningfully affect populations of the entrained species and that substantial percentages of the organisms of many species may survive entrainment. Further, these comments and documents asserted or were intended to support the assertion that impingement survival was high for many species and that impingement often impacts low-value, forage species when they are naturally prone to seasonal die-off regardless of cooling water intake structures. One of these comments asserted that EPRI and some

---

[73] Myers, R.A., J. Bridson, and N.J. Barrowman. 1995. Summary of worldwide stock and recruitment data. *Canadian Technical Reports in Fisheries and Aquatic Science* 2024:1–327.

[74] Hutchings, J.A. and R.A. Myers. 1994. What can be learned from the collapse of a renewable resource? Atlantic cod, *Gadus morhus*, of New Foundland and Labrador. *Canadian Journal of Fisheries and Aquatic Sciences* 51:2126–2146.

[75] Goodyear, C.P. 1977. Assessing the impact of power plant mortality on the compensatory reserve of fish populations. Pages 186–195 in W. Van Winkle, ed., *Proceedings of the Conference on Assessing the Effects of Power-Plant Induced Mortality on Fish Populations*. Pergamon Press, New York, NY.

[76] Myers, R.A., N.J. Barrowman, J.A. Hutchings, and A.A. Rosenberg. 1995. Populations dynamics of exploited fish stocks at low population levels. *Science* 26:1106–1108.

[77] Hutchings, J.A. and R.A. Myers. 1994. What can be learned from the collapse of a renewable resource? Atlantic cod, *Gadus morhus*, of New Foundland and Labrador. *Canadian Journal of Fisheries and Aquatic Sciences* 51:2126–2146.

[78] Liermann, M. and R. Hilborn. 1997. Depensation in fish stocks: A hierarchic Bayesian meta-analysis. *Can J. Fish. Aquat. Sci.* 54:1976–1985.

VOL 66 ISS 243 DE 18 2001 UMI

of the best fishery scientists in the world have never identified a site where definitive or conclusive aquatic population or community level impacts have occurred from operation of cooling water intake structures as described by EPA in the proposed rule.

In response to comments that entrainment of very large numbers of eggs, larvae, and other life stages of fish do not meaningfully affect populations of entrained species, EPA believes that there is evidence that some fish stocks have been adversely affected by cooling water intakes. For example, Atlantic Coast States have expressed concern over declines in winter flounder populations and have requested that the Atlantic States Marine Fisheries Commission conduct a study of the cumulative effects of cooling water intakes on winter flounder abundance. In addition, NMFS documented in several fishery management plans that cooling water intake structures are one of the threats that may adversely affect fish stocks and their habitats (DCN# 2–024M, 2–024N, and 2–024O). EPA also is concerned that an extensive data set, encompassing 20 or more years of monitoring data, is usually required to adequately assess whether or not populations are being affected by intakes. These long-term data sets are not currently available for many species, and thus it is very difficult to confidently state that entrainment has a negligible impact on *any* fish population. EPA also notes that the potential compensatory reserve of some fishery stocks can be depleted beyond the point of recovery [79] and that the compensatory reserve of many species entrained or impinged by intakes is unknown. For all of these reasons, EPA believes that the potential for entrainment impacts exists, and that additional scientific data are needed to evaluate entrainment impacts on all affected fish and shellfish populations.

In response to assertions that many organisms survive entrainment, EPA maintains that studies show that through-plant mortality rates of young fishes vary depending on numerous factors. [80] Different species have different tolerance to passage through a cooling system, and mortality rates may differ among life stages of the same species. A summary of mortality data from five Hudson River power plants showed that mortality rates could be substantial.[81] The report cited species-specific mortality rates that varied by life stage for bay anchovy (93 to 100 percent), Atlantic tomcod (0 to 64 percent), herrings (57 to 92 percent), white perch (41 to 55 percent), and striped bass (18 to 55 percent). The study further emphasized that the reliability of these estimates was questionable and that various sources of potential bias may have caused the estimated rates to be *lower* than the actual mortality rates. EPRI sponsored a recent review of 36 entrainment survival studies, the majority of which were conducted in the 1970s. [82] [83] The summarized mortality rates described by EPRI were in substantial agreement with patterns reported in the Hudson river summary, namely that anchovies and herrings had the highest mortality rates (greater than 75 percent), and that thermal regimes seemed to be important determining factors.

Similar to entrainment survival, EPA notes that studies show impingement survival is dependent on species characteristics such as and life history stage, swimming ability, etc.[84] Impingement survival is also dependent on the type of technology in place and the operational aspects of the intake. EPA is aware that in some cases, with appropriate technologies in place, impingement survival may be substantial for some species.[85] EPA is also aware that impingement survival studies suggest that impingement survival is low for some species such as small bay anchovy and Atlantic menhaden during summers in Atlantic Coast estuaries.[86] EPA does not believe that loss of such forage species should be viewed as having limited importance simply because they have minimal or no commercial or recreational value. From a more holistic, ecological perspective, forage species can have great importance in their role as prey for higher trophic levels, including many commercially and recreationally important fish species. In today's rule, EPA seeks to minimize impingement losses for *all* affected species.

d. Biological Assessment Approach

Biological assessments and criteria are recognized as important methods for gathering relevant ecological data for addressing attainment of biological integrity and designated aquatic life uses.[87] EPA invited comment on the following discussion and documents that identified potential constraints on using these methods to determine adverse environmental impact from the operation of cooling water intake structures. First, biological assessment and criteria methods are still being developed for large rivers and the Great Lakes, two large waterbody types where many cooling water intake structures are located. Second, although biological assessment and criteria guidance has been published by EPA for small streams and wadeable rivers, lakes and reservoirs, and estuaries and coastal marine waters, many States and authorized Tribes have yet to apply these criteria in large waterbodies where cooling water intake structures will be located. Most work to date by the States to use these methods was applied to small streams and wadeable rivers where relatively few cooling water intake structures are located. In addition, although bioassessments and criteria are valuable for evaluating the biological condition of a waterbody, in complex situations where multiple stressors are present (e.g., point source discharges, non-point source discharges, harvesting, runoff, hydromodifications, habitat loss, cooling water intake structures, etc.), it is not well understood how to identify all the different stressors affecting the biology in a waterbody and how best to apportion the relative contribution to the biological impairment of the stressors from each source within a watershed. Thus, it is the opinion of EPA that the existing guidance for conducting biological assessments (particularly within large river systems and the Great Lakes) and the quantity of biocriteria data compiled at the State/Tribal level are insufficient at this time to apply a biocriteria approach to

---

[79] Hutchings, J.S. and R.A. Myers. 1994. What can be learned from the collapse of a renewable resource? Atlantic cod, *Gadus morhus*, of New Foundland and Labrador. *Canadian Journal of Fisheries and Aquatic Sciences* 51:2126–2146.

[80] EPRI. 2000. Review of entrainment survival studies: 1970–2000. Report No. 1000757. Prepared by EA Engineering Science & Technology.

[81] Boreman, J., L.W. Barnthouse, D.S. Vaughan, C.P. Goodyear, S.W. Christensen, K.D. Kumar, B.L. Kirk, and W. Van Winkle. 1982. The impact of entrainment and impingement on fish populations in the Hudson River Estuary: volume I, Entrainment impact estimates for six fish populations inhabiting the Hudson River Estuary. Prepared for the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research by the Oak Ridge National Laboratory. ORNL/NUREG/TM–385/V1.

[82] Electric Power Research Institute. 2000. *Review of entrainment survival studies: 1970–2000*. No 1000757. Prepared by EA Engineering Science & Technology.

[83] Some of the studies summarized in EPRI (2000) are the same ones considered by Boreman *et al.* (1982). See EPRI (2000) for complete citations of 36 original studies.

[84] EPRI. 2000. Technical evaluation of the utility of intake approach velocity as an indicator of potential adverse environmental impact under Clean Water Act section 316(b). Report No. 100731, EPRI, Palo Alto, CA.

[85] Ibid.

[86] Ibid.

[87] Davis, W.S. and T.P. Simon, eds. 1995. *Biological assessment and criteria: tools for water resource planning & decision making.* Lewis Publishers, Boca Raton, FL.

VOL 66 ISS 243 DEC 18 2001 UMI

evaluation of cooling water intakes nationally.

EPRI also questioned the applicability of bioassessments for 316(b) analyses. Specifically, EPRI developed a document that examined the suitability of multimetric bioassessment for regulating cooling water intake structures under section 316(b) of the CWA.[88] In its conclusion, EPRI stated that biocriteria are well suited for assessing community-level effects, but are not designed as indices for measuring population-level effects without additional analyses; that assumptions about the structure and function of ecosystems embedded in the biocriteria approach appear to conflict with current understanding of ecosystems as dynamic, nonequilibrium systems structured on multiple time and space scales; and that issues such as significant uncertainty related to identification of reference conditions remain unresolved, particularly for large, open systems such as estuaries and coastal marine waters.

e. Non-Aquatic Environmental Impacts

EPA invited comment in the proposal on whether adverse environmental impact should be defined broadly to consider non-aquatic adverse environmental impacts in addition to aquatic impacts (65 *FR* 49075). EPA also discussed the water quality and non-water quality impacts of cooling towers (both wet and dry) in the proposal (see 65 *FR* 49075 and 65 *FR* 49081). In the NODA, EPA outlined its methodology for estimating marginal increases in air emissions from electric generating facilities due to the adoption of wet or dry cooling towers (66 *FR* 28867).

Some commenters asserted that EPA failed to consider potential adverse environmental impacts associated with evaporative cooling towers. One commenter stated that evaporative cooling towers carry some potential for localized impact apart from their extraction of cooling water, because they may discharge bacterial slimes, fungi, and a variety of organisms which colonize the tower but are not otherwise native to the local ecosystem. The commenter added that such organisms can be suppressed by the use of biocides that may be discharged with the effluent. In addition, the commenter claimed that evaporative towers may concentrate nutrients such as phosphates and, when brackish or marine water is used, discharge salt spray drift. Additionally, one commenter stated that although there is no express statutory support in section 316(b) for limiting consideration to aquatic impacts (see 33 U.S.C. 1326(b)) they believe that the analysis of such impacts can be appropriate. Further, the commenter encouraged EPA to consider non-aquatic impacts which relate to cooling towers. Other commenters stated that Congress' mandate for environmental impact is broader than the entrainment and impingement impacts upon which EPA has focused in the proposed regulation. The commenters urged EPA to consider the following effects of the cooling tower technology: (1) Increased air emission due to the "energy penalty" exacted by closed-cycle cooling, or dry cooling; (2) noise; (3) visible plumes that (a) are unaesthetic, and (b) contribute to increased fogging and icing on nearby roadways; and (4) salt drift. The commenters added further that of all the technologies associated with cooling condenser water, once-through cooling is the only technology that is not associated with increased air emissions. According to the comments, the other cooling water technologies either directly emit contaminants into the air and/or indirectly result in an increase of fuel use and air emissions due to the loss of electrical generation capacity by the power used to operate these technologies. The comments stated that, in essence, the proposed regulations pre-determine that air and noise impacts are more acceptable than impacts to aquatic resources and water quality. The comments added that the locations least likely to be able to comply with the requirements, like those in urban areas, are also the most likely to have impaired air quality. One commenter maintained that for recirculated systems, cooling tower blowdown must be stored in evaporation ponds or treated prior to discharge, resulting in potential for groundwater impacts and disturbance of terrestrial habitats. Additional commenters stated that there could be unintended air pollution consequences for manufacturers from the 316(b) rule due to adoption of cooling towers. The forest products industry projects an increase in SO_2, NO_X, PM, and CO_2 emissions due to increased energy demand to run their mills. Other commenters stated that EPA must ensure that new cooling water technologies do not increase fossil fuel use by manufacturers.

Conversely, some commenters stated that the primary environmental concern with intake structures should be those focused on the aquatic environment. They added that while non-aquatic concerns are valid and should be considered secondarily, the main effect of these facilities is to the aquatic communities and the decision-making process should reflect this priority. Further, one commenter recommended that the regulation, (and probably more specifically the guidance), allow States, authorized Tribes, permitting authorities, and facility operators to have sufficient flexibility to consider non-aquatic impacts that may result from activities related to the design, construction, location, and operation of an intake structure and other alternative technologies identified as having a harmful effect on air, lands, and other natural resources when making section 316(b) decisions. One commenter claimed that a large array of environmental laws and regulations already exist to address non-water environmental impacts. Some commenters asserted that the potential for localized impact from wet cooling towers is relatively minor given the substantial improvements in entrainment and impingement and the elimination of thermal impacts associated with wet cooling as compared to once-through cooling.

For the final rule, EPA presented estimates of marginal annual increases in air emissions associated with installing recirculating wet cooling towers in lieu of once-through cooling systems. The Agency compared projected emissions under the rule to projected emissions absent the rule. Because EPA projects that, regardless of the outcome of the rule (that is, absent the regulations) a majority of power plants would have recirculating wet cooling towers and a minority would have once-through or dry cooling systems, the number of in-scope facilities contributing to increased air emissions is small. Regardless, EPA estimates that the following annual air emissions increases will occur as consequence of the rule: 2,560 tons of SO_2, 1,200 tons of NO_X, 485,900 tons of CO_2, and 16 pounds of Hg. These increases represent a change of less than 0.02 percent of annual emissions from power plants in the United States. Air emissions for manufacturing facilities projected within the scope of the rule are projected to not increase. This is due to the fact that EPA projects manufacturers to utilize reuse and recycling of cooling water to meet the flow reduction requirements in lieu of recirculating wet cooling towers. For the other regulatory options analyzed for the final rule, EPA presented annual air emissions estimates in Chapter 3 of the *Technical Development Document*.

---

[88] EPRI. 2000. Evaluation of biocriteria as a concept, approach, and tool for assessing impacts of impingement and entrainment under :§ 316(b) of the Clean Water Act. Report No. TR–114007, EPRI, Palo Alto, CA.

To a large degree, issues brought forth by commenters regarding non-aquatic impacts of cooling towers were highly site-specific. For instance, in the cases where visible plumes from evaporative cooling towers was a significant issue for the public and other stakeholders on the local level, alternative or additional technologies have been adopted in response to stakeholder sentiment. The two-track regulatory framework adopted by EPA in the final rule allows for this local, site-specific decision-making process. In the case where facilities, or public stakeholders, determine that an alternative technology to a traditional flow reducing type (such as recirculating wet cooling towers or cooling ponds) is necessary, the two-track methodology provides the flexibility for an equivalent aquatic environmental impact minimization to occur without producing a non-aquatic impact.

In general, EPA has concluded that at a national level the primary impacts of this rule will be aquatic in nature, and focus on impingement and entrainment affects. Nevertheless, at a local level, it is possible that air quality impacts, non-impingement and entrainment aquatic effects, or energy impacts could be significant and potentially justify a different approach to regulating cooling water intake structures. Moreover, the cost impact of the rule, under certain local conditions, could be wholly disproportionate to costs anticipated by EPA on a national level. EPA believes that it is prudent to make an alternative regulatory mechanism available to the permitting authority to address such situations, and to be used at the permitting authority's discretion. EPA is sensitive to the large resource burden which such flexibility could place on the permitting authority, if this mechanism were abused by permit applicants. Therefore, EPA is placing the burden of demonstration of the need to pursue such alternative regulatory limits entirely on the permit applicant.

In this final rule for new facilities, where EPA is concerned about certainty and speed of permitting, EPA has selected impingement and entrainment as the metric for performance. EPA has considered the non-impingement and entrainment environmental impacts of the new facility rule and has found them to be acceptable on a national level. EPA is currently developing proposed regulations to establish the best technology available for minimizing adverse environmental impact from intake structures associated with existing facilities. The studies EPA has done of non-impingement and entrainment impacts in the case of new facilities would not govern in that context. Accordingly, the standard and procedures EPA develops for assessing adverse environmental impact from intake structures at existing facilities may well be quite different, and nothing in this rulemaking should preclude EPA from coming to the conclusion that a different approach for regulating cooling water intake structures at existing facilities is warranted.

3. Additional Information Indicating that Impingement and Entrainment May Be a Non-Trivial Stress on a Waterbody

In addition to reviewing the merits of a population approach to assessing adverse environmental impact, EPA considered information suggesting that impingement and entrainment, in combination with other factors, may be a nontrivial stress on a waterbody. EPA recognizes that cooling water intake structures are not the only source of human-induced stress on aquatic communities. These stresses include, but are not limited to, nutrient loadings, toxics loadings, low dissolved oxygen content of waters, sediment loadings, stormwater runoff, and habitat loss. While recognizing that a nexus between a particular stressor and adverse environmental impact may be difficult to establish with certainty, the Agency identified methods for evaluating more generally the stresses on aquatic communities from human-induced perturbations other than fishing. Of particular importance is the recognition that stressors that cause or contribute to the loss of aquatic organisms and habitat may incrementally impact the viability of aquatic resources. EPA examined whether waters meet their designated uses, whether fisheries are in stress, and whether waters would have higher water quality or better support their designated uses if EPA established additional requirements for new cooling water intake structures. EPA considered use of this type of information as one approach for evaluating adverse environmental impact.

EPA prepared a memorandum (Dabolt, T. EPA. April 18, 2001, revised July 2001. Memo to file Re: 316(b) analysis-relationship of location to cooling water intake structures to impaired waters) documenting that 99 percent of existing cooling water intake structures at facilities that completed EPA's section 316(b) industry survey are located within two miles of locations within waterbodies identified as impaired and listed by a State as needing development of a total maximum daily load (TMDL) to restore the waterbody to its designated use. All of the leading sources of waterbody impairment—nutrients, siltation, metals, and pathogens—can affect aquatic life. In the 1998 National Water Quality Inventory, inability to support aquatic life uses was one of the most frequently cited water quality concerns.

EPA recognizes, however, that these data do not establish that cooling water intake structures are the cause of adverse environmental impact in any particular case and that there may be other reasons for the presence of impaired waters near cooling water intake structures, such as the frequent location of facilities with cooling water intake structures near other potential sources of impairment (*e.g.*, industrial point sources, urban stormwater). Nonetheless, this analysis suggests that many cooling water intake structures are sited within or adjacent to impaired waters, and that intakes potentially contribute to existing stress on waterbodies and their resident biota.

EPA also summarized information from a number of sources indicating overutilization of about 34 percent of the fishery stocks whose known status is tracked by and under National Oceanic and Atmospheric Administration's (NOAA) purview (54 out of 160 stock groups) and which rely on tidal rivers, estuaries, and oceans for spawning, nursery, or adult habitat. An additional 45 stocks under NOAA purview are of unknown status (about 22 percent of the fisheries managed by NOAA) because of incomplete assessments. In addition, NOAA documents in a number of their fishery management plans that cooling water intake structures, particularly once-through cooling water systems that withdraw large volumes of water, cause adverse environmental impacts due to significant impingement of juveniles and entrainment of eggs and larvae. EPA believes that stress due to overutilization may be relevant to assessing cumulative impacts of multiple stressors, including cooling water intake structures.

C. Location

The proposed rule outlined a framework in which intakes located in certain sections of a waterbody would be subject to varying levels of restrictions. Specifically, intakes located within the broadly defined littoral zone or in especially sensitive waterbodies (estuaries and tidal rivers) would face additional restrictions on intake flows and intake velocity. Intakes located outside these higher priority waters would be subject to decreased levels of regulation. See the proposed rule for a

VOL 66 ISS 243 DE 18 2001 UMI

detailed discussion of the framework set forth. (Section VIII.A.2., pages 49083 to 49085.)

Numerous comments were received on the proposed requirements for location, nearly all of which opposed the proposal. In the most general sense, many commenters agreed with the concept of protecting waters that are more productive. However, most commenters also argued that the proposed approach was scientifically and technically flawed and would be extremely difficult to implement. The comments can be divided into several generic categories: importance of location for an intake, general comments on the use of the littoral zone as a regulatory concept, and specific comments regarding the littoral zone definitions for each waterbody type.

In the NODA, EPA further explored the issue of intake location by soliciting comments on a revised definition of littoral zone and revised requirements for several waterbody types including the Great Lakes, and for waters not designated to support aquatic life use.

Comments on the NODA generally reiterated issues raised in the comments on the proposed rule. Commenters agreed that location is an important factor in assessing the impacts of cooling water intake structure, but that creating a regulatory framework to specifically address locational issues would be extremely difficult.

After reviewing the available data and comments regarding intake location, EPA has elected not to vary requirements for new facilities on the basis of whether a cooling water intake structure is located in one or another broad category of waterbody type or in a broadly defined zone of higher productivity or sensitivity within certain types of waterbody. Instead, EPA has promulgated technology-based performance requirements for new facilities that defines best technology available for minimizing adverse environmental impact in all waterbody types. This prescription for best technology available for minimizing adverse environmental impact recognizes the site-specific nature of biology and other locational factors by allowing the permit applicant in Track I to select and implement certain design and construction technologies after a review of available information on the site. Facilities that choose not to follow the specific technology-based performance requirements in Track I may opt for Track II and, after site-specific study, seek to demonstrate equivalent protection of the aquatic resources in a given waterbody from impingement and entrainment by using alternative technologies or approaches.

While EPA continues to believe that it could have established different requirements based on general information about the productivity of water bodies, EPA decided for the new facility rule that introducing separate requirements for different water bodies was unnecessary in light of the strong record support that the track I requirements are technically available and economically practicable for new facilities and in light of the flexibility provided by Track II where the applicant demonstrates that it can use different technologies to reduce impacts to fish and shellfish to a level comparable to the level that would be achieved if they implemented Track I requirements at their site.

EPA did not vary the performance requirements based on waterbody type because it found problems in defining and implementing a littoral zone approach (as discussed below) and found that reducing impingement mortality and entrainment on fresh water bodies to a comparable level as in estuaries and oceans to be technically feasible and economically practicable.

1. Importance of Intake Location

Several commenters agreed with EPA that location is an important factor in assessing the impact of a cooling water intake structure. One commenter added that location is also critical to the technical feasibility of the facility, because the site characteristics with respect to hydrology, land area available, and other factors can greatly influence the viability of a facility. Other commenters supported the waterbody-specific approach, but in the context that adverse environmental impact is a site-specific or even species-specific phenomenon. Another commenter disagreed with the proposed delineation of waterbody types, stating that adverse impacts can be found at all waterbody types and both in and outside the littoral zone. Therefore, equal protection should be afforded to all waters under the regulation. One commenter opposed the approach involving waterbody types, since defining distinct types is difficult, and noted that a site-specific approach would be more appropriate. Another commenter argued that the effectiveness of intake technologies varies by location, thereby supporting a site-specific approach.

EPA agrees that location is an important factor in addressing cooling water intake structure impacts, and, in Track I, permit applicants must select and implement certain design and construction technologies after considering site-specific conditions. In Track II, permit applicants have complete flexibility to address site-specific conditions, provided they can reduce impacts to fish and shellfish to a level comparable to the level that would be achieved if they implemented Track I requirements at their site.

2. General Comments on the Use of the Littoral Zone Concept

Many commenters made general statements of opposition to the use of the concept of littoral zone as part of the proposed rule, each for a variety of reasons. Most of the comments expressed concern over one or more of the following issues: The proposed definition and approach is too broad and untenable; the conditions used to define the littoral zone can vary greatly on an annual basis; the proposal is poorly supported by the scientific literature; and the proposal is a poor proxy for biological productivity and ignores ecological complexity and site-specific conditions. In general, commenters acknowledged that some areas of a waterbody are more sensitive to cooling water intake structure impacts but disagreed with EPA's approach for defining the concept. For example, the term "area of high impact," proposed in the NODA, represented an improvement over the term "littoral zone," but commenters noted that the proposed term still lacked a clear definition. One commenter further noted that a site-specific approach would allow for a more thorough analysis of a waterbody and account for these sensitive areas. Another commenter argued that the approach was inappropriate, because EPA does not have the authority to establish less restrictive requirements in some waterbodies.

EPA recognizes that most commenters, albeit for a variety of sometimes conflicting reasons, do not support use of a littoral zone or similarly broad concept to specify requirements for best technology available for minimizing adverse environmental impact. EPA instead has adopted a two-track framework in which permit applicants can fully address site-specific factors in proposing what technologies or alternatives they will use to reduce impingement and entrainment to levels readily achievable with use of low-cost, widely used technologies.

3. Specific Comments on the Definition or Applicability of the Littoral Zone

a. Littoral Zone—Oceans

Most commenters opposed the proposed definition and use for oceanic littoral zones. Generally, commenters saw it as too broad, vague, and unsupported by scientific literature, although one commenter did disagree with a reduced level of protection for oceanic waters. Some commenters noted that the entire continental shelf could be interpreted as the littoral zone under the proposed definition. Other commenters disagreed with the usage of salinity as a defining criterion, noting that many environmental factors (e.g., seasonality, tides, weather) can influence the salinity levels and therefore alter the geographic location of the littoral zone. One commenter added that some estuarine waters could possibly be classified as oceanic waters, thus reducing the level of protection required by the regulation. Commenters were also asked to comment on a proposed fixed distance from shore as a definition of the littoral zone. Some commenters did support a fixed distance (from 200 to 500 meters offshore) but most commenters opposed the proposed definition, because of the need to recognize site-specific characteristics, such as biological resources, areas of high productivity, and waterbody size and configuration, at each facility. Many of the same comments opposing the fixed-distance approach are echoed in the general comments about the inadequacy of the littoral zone approach noted above.

For the reasons discussed above, EPA has adopted an alternative regulatory structure and will not in this rule set nationally defined areas within oceans where different requirements apply for best technology available for minimizing adverse environmental impact.

b. Littoral Zone—Freshwater Rivers

Only a few of the comments received addressed freshwater rivers and streams, but those few comments raised concerns over the proposed definition of the littoral zone. One commenter noted that, generally, the flow, turbidity, and seasonality at a site can greatly affect the vegetation and light penetration, thereby affecting the extent of the littoral zone. This commenter also added that riverine intakes are often shoreline intakes and noted that the definition would be difficult to apply to intakes because of hydrologic factors such as meanders and shoreline construction techniques. Another commenter submitted additional data and analysis supporting the concept that freshwater lakes and rivers are less vulnerable to the effects of impingement and entrainment than other types of waterbodies.

Today's final rule adopts a different regulatory framework—a two-track approach—and does not set different requirements for best technology available for minimizing adverse environmental impact for different parts of freshwater rivers. Instead, under Track II, an applicant may conduct site-specific studies and possibly determine that a different cooling water intake structure location within the waterbody would reduce impingement mortality and entrainment to a level of reduction comparable to the level achieved under Track I requirements at a lower cost. If so, the applicant is free to propose an alternative location for its intake in its permit application.

c. Littoral Zone—Lakes and Reservoirs

One commenter noted that site-specific factors must be considered when locating a cooling water intake structure. The commenter argued that it was not necessarily true that intakes located in the littoral zone of lakes or reservoirs impact more species or species having higher economic value compared to intakes sited offshore. The commenter also stated that based on its experience, the dominant species entrained and impinged within lake systems were forage species (e.g., gizzard shad, alewife, smelt) regardless of intake location.

EPA agrees that it is important to consider site-specific factors when identifying the most appropriate location for a cooling water intake structure. As discussed above, under a Track II approach, an applicant may conduct site-specific studies to determine where best to site its intake (inshore or offshore) as long as it can be proven that the chosen location would reduce the level of impingement mortality and entrainment of all stages of fish and shellfish to a level of reduction comparable to the level the facility would achieve under the Track I requirements. However, EPA does not agree that the susceptible life history stages of lake forage species (such as those listed by the commenter) are as likely to be impinged or entrained at an offshore intake as an intake located inshore. Basic life history information for many forage species documents that spawning events and juvenile stages often occur in nearshore lake waters. As an example, young-of-the-year gizzard shad form schools and are usually found close inshore within shallow waters overlying mud bottom (Dames & Moore, 1977). Similarly, although adult alewifes typically inhabit deep, pelagic waters of landlocked lakes, they migrate to harbors and nearshore waters to spawn in spring and early summer.

d. Littoral Zone—Estuaries and Tidal Rivers

Commenters were more divided in their comments on estuaries and tidal rivers. Some commenters generally supported the proposed definition of an estuary and the increased level of protection for these waters. Others noted that the proposed definition greatly oversimplified its ecological function, since not all areas within an estuary are equally productive. Another commenter noted that the proposed rule applied the greatest level of restrictions to the waterbody type with the greatest heterogeneity. Several commenters expressed concern over the use of salinity as a delineation tool, noting the tendency for the 30 ppm gradient to move within the waterbody.

Based on facility size, EPA is setting the same performance-based technology requirements for tidal rivers and estuaries as for all other waterbodies under Track I of the final rule. To the extent that site-specific characteristics of a proposed facility location make the Track I requirements more or less effective at reducing impingement and entrainment, the facility choosing to pursue Track II will have a site-specific goal for evaluating the efficacy of alternative technologies and approaches.

4. Waters Not Designated To Support Aquatic Life Uses

In the NODA, EPA requested comment on the issue of less stringent requirements for facilities located on waterbodies that are not designated to support aquatic life. One commenter supported less stringent requirements than proposed, requesting that facilities located on waters not designated to support aquatic life be exempt from the 316(b) regulations. This commenter also noted that such an exemption would not necessarily be permanent, since States have the authority to reclassify waters to again support aquatic life. Another commenter did not support the proposed approach. A third commenter argued that the CWA does not allow for exemptions from technology-based requirements on the basis of the designated use of the receiving waters. Some commenters submitted specific examples of impaired waterbodies and listed nutrient enrichment as one of the causes of impairment.

Today's final rule does not establish less stringent requirements for waterbodies not designated to support aquatic life use. However, to the extent that the lack of an aquatic life use would result in Track I requirements achieving limited reductions in impingement and entrainment at a site, a permit applicant willing to conduct site-specific studies under Track II might be able to demonstrate that alternative technologies or approaches would reduce the level of impingement mortality and entrainment to a level of reduction comparable to the level the facility would achieve if it met the Track I requirements at that location. EPA addressed use impairment and the stress that cooling water intake structures may add to impaired waterbodies at VI. B. above.

D. Flow and Volume

Under the proposed rule, EPA proposed limitations on intake flow and volume for new facilities that varied depending on the type of waterbody upon which the facility is to be located. Specifically, intake flows at facilities whose cooling water intake structure withdraws from freshwater lakes and rivers would be limited to the lower of five (5) percent of the source water body mean annual flow or twenty-five (25) percent of the 7Q10. Facilities located on lakes and reservoirs would be limited to intake flows that do not disrupt, alter the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies). Intakes in tidal rivers and estuaries would be limited to no more than one (1) percent of the volume of the water column in the area centered about the opening of the intake, with a diameter defined by the distance of one tidal excursion at the mean low water level. The additional requirement of intake flow commensurate with that of a closed-cycle recirculating cooling water system was proposed for intakes located in either estuaries and tidal rivers or the littoral zone of any waterbody.

EPA requested comment on each proposed limitation by waterbody type, unique situations such as the Great Lakes, and the introduction of more stringent flow requirements for intakes in estuaries, tidal rivers, and littoral zones.

In general, commenters opposed the proposed flow and volume limitations. They argued that EPA did not present a link between intake flows and adverse impact, that the limits are based on questionable grounds, and that EPA lacked the authority to enact such limits, and against specific items in each proposed waterbody limitation.

On the basis of the supporting data presented in the proposed rule and the NODA, Track I and Track II of today's final rule maintain the proposed flow limitations with some changes. EPA believes the record contains ample evidence to support the proposition that reducing flow and capacity reduces impingement and entrainment, one measure of adverse environmental impact, and may reduce stress on higher levels of ecological structure including population and communities. (See, #2–029, 2–013L–R15 and 2–013J). EPA also has determined that a capacity- and location-based limit on withdrawals in certain waterbody types is an achievable requirement that will have little or no impact on the location of cooling water intake structures projected to be built over the next 20 years.

1. Relation of Flow and Capacity to Impact

Several commenters disagreed with EPA's contention that a high intake flow volume necessarily corresponds to higher rates of adverse environmental impact. Commenters pointed to several facilities with relatively high intake volumes that reported no significant loss of aquatic life due to entrainment or impingement. The commenters asserted that, collectively, these cooling systems showed no significant impact on the recovery of impaired aquatic species or on the overall health of the aquatic population. By contrast, some commenters faulted EPA's proportional flow requirements for failing to account for cumulative impacts in waterbodies that have been previously designated as sensitive. In their view, such waters would suffer a disproportionate impact from high intake volumes than would less sensitive waters. Relying heavily on a flow-based requirement would ignore this potentially ecologically harmful effect.

Many commenters also disagreed with the notion that flow-induced entrainment automatically equates to adverse impact. Commenters argued that any intake flow would likely result in some entrainment loss but that this does not substantially harm the biological community of the source water. To support this, commenters provided examples that demonstrate healthy sport and commercial fishing populations in close proximity to large power plants. Citing these examples, commenters argued that EPA's proposed best technology available requirements based on entrainment and impingement are overly restrictive and cost prohibitive. Instead, commenters proposed basing the 316(b) requirements more on the overall health and viability of the surrounding aquatic environment than on rates of entrainment and impingement.

On the other hand, some commenters supported EPA's assertion that volume and impact are directly proportional. One commenter provided statistical evidence from several cooling system studies that demonstrated higher rates of entrainment and impingement when intake volumes were increased.

Several commenters questioned EPA's emphasis on reducing intake flow to minimize impact while ignoring other influential factors, such as life history strategy, distribution throughout the water column, and adaptations to external stresses, among others, that can result in high entrainment and impingement mortality rates. The commenters argued that such factors can often be mitigated by structural design or location modifications without incurring the expense associated with a reduction in the overall volume of water withdrawn. Similarly, other commenters noted that EPA failed to address technologies and design modifications that could achieve the desired effect—reduction in entrainment and impingement losses—while still maintaining a high rate of withdrawal.

EPA believes the record contains ample evidence to support the proposition that reducing flow and capacity reduces impingement and entrainment, one measure of adverse environmental impact, and may reduce stress on higher levels of ecological structure including population and communities. (*See* DCN #2–029 in the record for this rule (compilation of swim speed data), which demonstrates the potential vulnerability of many fish species to impingement. The documents DCN #2–013L–R15 and 2–013J support the proposition that flow is related to entrainment.) The widespread use of capacity-reduction technology at almost all proposed new electric generating facilities and by a substantial number of new manufacturers makes capacity reduction an appropriate component of best technology available for minimizing adverse environmental impact at new facilities. EPA disagrees with commenters that other factors influential to impingement and entrainment have been ignored. Both Track I and Track II of the final rule allow for site-specific evaluations in determining the appropriate technologies to be implemented. For example, the Design and Construction Technology Proposal Plan required in Track I and the Evaluation of Potential

Cooling Water Intake Structure Effects in Track II allow for site specific consideration of factors other than flow to minimize impacts from impingement and entrainment. Cumulative impacts are addressed on a case-by-case basis by each permitting authority.

2. Basis for Flow Proportional Limits

Numerous commenters rejected the justification for the flow requirement proposed by EPA as being too vague and untenable. Specifically, commenters questioned the proposed goal of a "99 percent level of protection" for aquatic communities and how it relates to levels of protectiveness in other water quality-based programs. Many commenters believed both "99 percent" and "level of protection" were vague and called on EPA to provide more explicit definitions in the final rule. Other commenters questioned the gain in overall aquatic health that can be achieved by setting the requirement at such a high level. Several commenters cited other federal programs and publications, such as the *Water Quality Standards Handbook*, in support of their claim that EPA has no precedent on which to base its proposed requirement. Other programs have demonstrated that a lower target protection level is still adequately protective of the viability of the total aquatic environment. Commenters noted that a high standard would increase compliance costs significantly while producing no measurable improvement in the overall health of the source waterbody and called on EPA to better justify its support of the proposed requirement.

While EPA believes this final rule will significantly increase protection for aquatic communities, the Agency has determined that the proportional flow requirements represent limitations on capacity and location that are technically available and economically practicable for the industry as a whole. EPA examined the performance of existing facilities based on data from the section 316(b) industry survey in terms of proportional flow to determine what additional value could be used as a safeguard to protect against impingement and entrainment, especially in smaller waterbodies, where multiple intakes are located on the same waterbody, or in waterbodies where the intake is disproportionately large as compared to the source water body. As discussed in Section V.B.1.c. above, EPA found most existing facilities meet these requirements. EPA expects that new facilities would have even more potential to plan ahead and select locations that meet these requirements. EPA recognizes that some measure of judgment was involved in establishing the specific numeric limits in these requirements and that these requirements are conservative in order to account for multiple intakes affecting a waterbody. In particular, the 1 percent value for estuaries reflects that the area under influence of the intake will move back and forth near the intake and withdrawing 1 percent of the volume of water surrounding the intake twice a day over time would diminish the aquatic life surrounding the intake. The 5 percent value mean annual flow reflects an estimate that this would entrain approximately 5 percent of the river or stream's organisms and a policy judgment that such a degree of entrainment reflects an inappropriately located facility. Nevertheless, because they address important operation situations and appear to be highly achievable for new facilities, EPA believes they are appropriate to this rule.

These requirements are expected to have little or no impact on the location of cooling water intake structures projected to be built over the next 20 years as new facilities have the opportunity to choose sites that meet their specific design and cooling water needs before construction begins.

E. Velocity

1. Design Through-Screen Velocity as a Standard Measure

Under the proposed rule, any intake located in a freshwater or tidal river, stream, estuary, or ocean or within or near the littoral zone of a lake or reservoir would have to meet a maximum intake velocity requirement: a design through-screen intake velocity of 0.5 feet per second (ft/s).

EPA requested comment on the appropriateness of design through-screen velocity as a standard measure with 0.5 ft/s as the intake velocity, and the utility and appropriateness of a nationally based velocity requirement for the 316(b) regulations. Comments addressed these topics, as well as a range of other issues: problems with biofouling, issues better addressed through a site-specific approach, applicability to offshore oil and gas facilities, and applicability to existing facilities.

Generally, industry commenters thought the 0.5 ft/s requirement to be overprotective and not supported by the scientific literature. On the other hand, states and public interest groups commenters agreed with this requirement. Commenters also gave examples of several situations in which the velocity requirement would be inappropriate. Comments on the NODA generally reiterated issues raised in the comments on the proposed rule.

Numerous commenters questioned the proposed intake velocity requirement on several grounds. Many of the comments suggested that the proposed requirement is based on limited scientific data and undocumented or unsupported government policies. Commenters generally cited the age of the data used to support the requirement, the small number of scientific studies upon which the requirement is based, and the unclear origins of existing government policies that advocate using the 0.5 ft/s requirement. Other commenters stated that the requirement is very conservative and still may not prevent adverse environmental impact. A number of commenters pointed to other factors that affect impingement and entrainment, such as light, turbidity, temperature, and fish behavior. Other commenters suggested alternative requirements, including 1.0 ft/s, an allowable range of velocity from 0.5 ft/s to 1.0 ft/s, a species-specific velocity requirement dependent on the species composition of nearby waters, and a case-by-case velocity limit. Several other commenters further noted that a number of existing facilities with intake velocities exceeding 0.5 ft/s have been determined to be in compliance with 316(b) or to have minimal impacts to fish populations. Other commenters questioned the record support for determining the safety factor used in deriving the proposed velocity requirement. Some commenters supported the velocity requirement, with one commenter noting that it is well-established as a protective requirement and is consistent with the levels of protection required under other existing regulations.

Several commenters expressed concern over the use of design through-screen velocity as the proposed requirement. Some pointed out that approach velocity has been the accepted standard for measuring velocity and questioned the lack of justification for proposing a different methodology. One commenter noted that a specific measure of velocity may be better suited for the design of a particular intake (e.g., through-screen velocity for a wedgewire screen and sweeping velocity for an angled screen). Another commenter opposed the use of design through-screen velocity, arguing that it is difficult to measure and does not represent the velocity that fish must detect in order to avoid impingement. Others noted that a through-screen velocity of 0.5 ft/s would, by definition,

VOL 66 ISS 243 DE 18 2001 UMI

require an approach velocity of less than 0.5 ft/s. A commenter also questioned the appropriateness of using through-screen velocity, because intake screens can easily become clogged or fouled, having a dramatic effect on velocity and water flows at and through the screen. Other commenters supported the use of design through-screen velocity, noting that it has long been the industry and regulatory standard for measuring intake velocity. Several commenters suggested methods for measuring approach velocity.

Finally, several commenters drew comparisons with existing velocity requirements used by NMFS Northwest Region. Some of these comments requested that the proposed requirement be fully consistent with the existing NMFS requirements. Others noted that the proposed requirements are actually more stringent than the NMFS requirements when compared using a flow vector analysis, contrary to the Agency's statement that the proposed requirements were less stringent than NMFS requirements.

Given the compilation of supporting data presented in the proposed rule and the NODA, Track I of today's final rule maintains the proposed intake velocity requirement of 0.5 ft/s through-screen velocity. The 0.5 ft/s through-screen requirement is well supported by existing literature on fish swim speeds and will also serve as an appropriately protective measure. EPA believes a requirement that protects almost all fish and life stages is particularly appropriate to provide a margin of safety when, as is common, screens become occluded by debris during the operation of a facility and velocity increases through the portions of a screen that remain open. EPA notes that more than 70 percent of the manufacturing facilities and 60 percent of the electricity generating facilities built in the past 15 years have met this requirement and believes the requirement is an appropriate component of best technology available for minimizing adverse environmental impact at new facilities.

As documented by the data collected for the NODA, EPA believes the 0.5 ft/s requirement is scientifically based, technically sound, protective of aquatic resources, and technically available and economically practicable as demonstrated by the fact that it is frequently achieved at recently built facilities. As discussed below, the requirement is well supported by existing literature on fish swim speeds and will also serve as an appropriate protective measure, since the data suggest that a 0.5 ft/s intake velocity would protect 96 percent of the tested fish. EPA notes that if the permit applicant does not want to meet the specific Track I velocity requirement, the applicant can, under Track II, conduct site-specific studies and seek to demonstrate comparable reduction of impingement mortality and entrainment. This may allow facilities to install cooling water intake structures with greater that 0.5 ft/s velocities if they can demonstrate that they would have the same reduction of impingement and entrainment as Track I standards which include the 0.5 ft/s limitation on velocity. Additionally, past permitting decisions were made using the best judgment at the time of the decision. These permitting decisions should not be interpreted to signify best technology available in future decisions.

The NODA presented further data on fish swim speeds. The velocity of water entering a cooling water intake structure exerts a direct physical force against which fish and other organisms must act to avoid impingement and entrainment. An analysis of swim speed data demonstrates that many fish species are potentially unable to escape the intake flow and avoiding being impinged. EPA received or collected data from EPRI (see W–00–03 316(b) Comments 2.11), from a University of Washington study that supports the current National Marine Fisheries Service velocity requirement for intake structures, and from references included in comments from the Riverkeeper (see Turnpenny, 1988, referenced in W–00–03 316(b) Comments 2.06; document found in DCN #2–028B in the record for this rule). These data were compiled into a graph (Swim Speed Data, DCN #2–029 in the record of this rule). The data suggest that a 0.5 ft/s velocity would protect 96 percent of the tested fish.

In developing the intake velocity requirement, EPA assumed a flat screen with the intake flow directly perpendicular to the face of the screen, because this is a typical arrangement for a cooling water intake structure. However, angled screens, such as those described in the NMFS requirements, are used in some intake designs, and EPA does not wish to discourage any intake designs. Under § 125.84(e), the Director may require additional controls (such as the NMFS requirements) to complement the protection afforded by the velocity requirement. EPA also developed the velocity requirement with a highly protective intake velocity in mind, regardless of the intake configuration. As a result, EPA's requirements may be more stringent than existing requirements required by NMFS or other agencies.

EPA recognizes that approach velocity has been a measurement technique for intake velocity in the past. However, many recently constructed facilities have been designed to meet through-screen intake velocity limitations. Additionally, EPA notes that design through-screen velocity will be simpler to measure and therefore be easier to implement on a national level for both regulators and facilities than approach velocity. New facilities can be designed with consideration given to the through-screen velocity requirement, and designs can be altered accordingly. Intake velocity will also be simpler to measure, as facility engineers can simply calculate the intake velocity on the basis of intake flow and the intake screen area, as opposed to the more complex data gathering process involved in measuring approach velocities near an intake screen. EPA also recognizes that the approach velocity will be less than 0.5 ft/s. The intake velocity requirement is intended to be a highly protective requirement. Regardless of the intake structure design or the presence of sufficient detection or avoidance cues, the intake velocity is low enough to protect of a majority of fish species. For these reasons, the final rule maintains the requirement to measure intake velocity on a design through-screen basis.

2. Appropriateness of a National Velocity Requirement

Numerous comments were received regarding the appropriateness of a national-scale requirement for intake velocity. Many commenters expressed concern that a national requirement would be an unnecessary burden on facilities. Specifically, some commenters noted that a site-specific framework for the 316(b) rule and velocity requirement would be preferable, as it would best account for site-specific details, some of which may affect the rates of impingement and entrainment. Other commenters questioned using a national requirement; given the variability in environmental conditions and fish swim speeds, these commenters said making a national approach is inappropriate to suitably cover the range of organisms found in a given water body. Some commenters noted that the velocity requirement might preclude the future use or implementation of some highly effective technologies. One commenter noted that several studies have suggested little or no correlation between flow and impingement or entrainment; the commenter argued that, therefore, a relationship between impingement or entrainment and intake velocity does not exist.

As documented by the data collected for the NODA, the 0.5 ft/s requirement is scientifically based, is protective of aquatic resources with a reasonable margin of safety, and is met by many recently built facilities. EPA believes it is an appropriate component of best technology available for minimizing adverse environmental impact at new facilities. Permit applicants who wish to build a facility using higher intake velocities have the option, under Track II, to conduct site-specific studies and seek to demonstrate that their alternative will reduce impingement mortality and entrainment to a level of reduction comparable to the level the facility would achieved if it met the Track I requirements, including the velocity limit of 0.5 ft/s.

While EPA acknowledges that multiple factors may affect impingement and entrainment at a given intake, EPA believes that there is ample evidence contained in the record to support a correlation between velocity and/or flow and impingement and entrainment. As stated in the preamble to the rule, intake velocity is one of the key factors affecting the impingement of fish and other aquatic biota. The velocity of water entering a cooling water intake structure exerts a direct physical force against which fish and other organisms must act to avoid impingement and entrainment. The compilation of swim speed data (DCN #2–029 in the record of the rule) demonstrates that many fish species are potentially unable to escape the intake flow and avoid being impinged. The record also supports the proposition that flow is related to entrainment.[89]

Finally, EPA chose a national requirement in order to provide a consistent standard for facilitating implementation given the technical availability and economic practicability of the requirement.

3. Other Comments Concerning the Velocity Proposal

a. Biofouling at Intakes

Several commenters submitted that an intake velocity of 0.5 ft/s may lead to increased difficulties with biofouling at facility intakes, especially at offshore oil and gas extraction facilities. Another commenter noted that with an increase in biofouling facilities would need to increase treatment efforts. Frequently, these efforts involve adding chemical treatments to water flows and may have subsequent adverse impacts on water quality. Another management strategy noted by a commenter is to maintain sufficiently high intake velocities to preclude colonization by fouling organisms. One commenter also expressed concern over the implications of biofouling at fine mesh screens and the potential for these protective technologies to become quickly fouled. One commenter supported the velocity requirement, noting that commercially available alloys have been shown to be highly effective in repelling biofouling organisms.

EPA recognizes that maintaining sufficiently high intake velocities is one possible solution for minimizing settlement by biofouling organisms. However, further research by the Agency suggests that this is not the most effective technique. Often, intake velocities are designed to be as low as possible to reduce the impingement and entrainment of aquatic organisms. Additionally, the intake systems of many facilities are unprepared to support such high intake velocities and would possibly require modifications in order to maintain such velocities. An analysis of facility survey data at existing facilities suggested that only 33 (3.4 percent) of 978 surveyed facilities have intake velocities of sufficient magnitude (greater than 5 ft/s) to inhibit biofouling. Fortunately, a variety of viable alternative technologies and management strategies for dealing with biofouling are available. Examples of these options include the use of construction materials that inhibit attachment of organisms, mechancial cleaning, and chemical and/or heat treatments. While no one strategy has been shown to be universally applicable, there are certainly affordable and implementable options. Maintaining a high intake velocity has not been shown to be the most effective way to control biofouling, since other methods have been shown to be more effective at a lower cost, especially in the context of new facilities. A facility that has yet to be constructed can integrate biofouling control technologies into its design and minimize the impacts of biofouling on normal operations.

b. Concerns Better Addressed by a Site-Specific Approach

Several commenters raised other concerns about the proposed velocity requirement, pointing to a variety of issues that they argue could be more easily addressed on a site-specific level. Some commenters noted that intakes located on large or fast-moving waterbodies may have difficulty maintaining the proposed intake velocity. For example, an intake located in a river moving at 3.0 ft/s may be unable to maintain a constant 0.5 ft/s intake velocity because of the ambient flow. As for the biota near the intake, the commenters submitted that these organisms have adapted to a higher-velocity environment and do not necessarily require protection under a velocity requirement. Other commenters noted that the direction of flow near an intake can have a substantial effect on the intake velocity and detection by fish. For example, the intake velocity at an intake subject to tidal movements or a longshore current may be affected. Another commenter expressed concern that the intake velocity is meaningful only if measured where the screen is the first component of the cooling water intake structure encountered by an organism, such as with a wedgewire screen. Intake canals, trash racks, and other cooling water intake structure components pose a threat by potentially entrapping fish that are unable to locate an escape route. One commenter noted that experimental technologies, such as strobe lights, sound, or intake velocities greater than 0.5 ft/s (up to 10 ft/s for some technologies) may not be developed because of the restrictions on intakes. One commenter observed that a reduction in intake velocity may also reduce the amount of cooling water taken in by a facility. The commenter observed that reducing the cooling capacity of the cooling system may adversely affect facility safety and efficiency.

For faster-moving waterbodies and in other situations where a permit applicant may wish to use a higher intake velocity, facilities may opt to follow Track II and seek to demonstrate that reductions in impingement mortality and entrainment would be comparable to the level achieved with the Track I requirements. Given the data EPA has seen on the protective nature of the 0.5 ft/s requirement (see DCN #2–028 in the Docket for the rule), EPA does not foresee a significant issue regarding entrapping fish and will continue in Track I to specify design through-screen velocity as the measure for determining compliance with the velocity requirement. EPA also notes that facilities wishing to employ developmental technologies may follow Track II and demonstrate a comparable level of protection.

For new facilities, EPA does not anticipate that cooling system safety for nuclear-fueled facilities will be an issue

---

[89] The documents DCN# 2–013L–R15 (Goodyear. 1997. Mathematical Methods to Evaluate Entrainment of Aquatic Organisms by Power Plants) and DCN# 2–013J (EPRI. 1999. Catalog of Assessment Methods for Evaluating the Effects of Power Plant Operations on Aquatic Organisms.) in the record of the rule both support this premise.

VOL 66 ISS 243 DE 18 2001 UMI

because any requirements can be addressed through facility design. New facilities have the opportunity to address and mitigate safety and efficiency issues during the design of the facilities. The fact that 79 percent of power generating plants and 46 percent of manufacturing facilities built within the last five years meet the Track I velocity requirement demonstrates that facilities designed in accordance with this requirement can incorporate any necessary features to ensure proper functioning of the cooling system.

F. Dry Cooling

In the proposed rule EPA requested comment on regulatory alternatives based wholly or in part on a zero-intake flow (or nearly zero, extremely low-flow) requirement commensurate with levels achievable through the use of dry cooling systems. See, 65 *FR* 49080–49081. EPA rejected dry cooling as best technology for minimizing adverse environmental impact for the reasons discussed in Section V.C above.

Some commenters, citing several examples, responded that dry cooling systems must be the best technology available for minimizing adverse environmental impact because they reduce intake volume and the killing of aquatic organisms to extremely low levels. These comments claim that dry cooling is an available and demonstrated technology. They focus on several demonstrated cases of dry cooling and discuss its use for a range of fuel sources, ownership categories, climates, and electric generating capacity. The comments claim that dry cooling technology in the United States has been growing rapidly since the early 1980s and represents approximately 27 percent of new capacity since 1985. Additionally, commenters in favor of the dry cooling alternative state, on the basis of recent construction trends, that the best technology available for the New England region is dry cooling systems. The commenters provide examples of 15 steam electric stations currently operating, under construction, or recently approved for construction using dry cooling in New England. These projects range in capacity from 24 MW to 1500 MW, with an average capacity of 480 MW and a total capacity of 7200 MW. Commenters supporting the dry cooling alternative claim that the technology frees the industry user groups from unnecessarily restrictive requirements to site facilities adjacent to or short distances from waterbodies or other sources of cooling water and eliminates discharges (of both thermal pollution and water conditioning chemicals) to these waterbodies. This freedom from water dependency, the comments assert, allows new power plants to locate in close proximity to the end users of electricity, thereby decreasing energy loss due to transmission, and to use alternative sources of water such as treated wastewater effluents, municipal supplies, and groundwater. EPA rejected dry cooling for the reasons discussed at V.C above.

Some commenters asserted that dry cooling systems are not necessary for minimizing adverse environmental impact nor do they qualify as the best technology available. They assert that dry systems are not considered to be a viable, cost-effective design choice unless there are unique circumstances and conditions associated with either the site or the market climate for the project. The comments recommend that adoption of dry cooling systems be left to the permittee's judgment and not be a uniform requirement. The physical space requirements, the commenters assert, severely limit the siting options available to new facilities. They oppose the imposition of dry cooling in southern climates, where, they claim, there is an abundance of high volume surface water available for cooling. Additionally, the commenters claim that dry cooling has not been shown necessary for minimizing adverse environmental impact. They also contest claims made by other commenters on the proposal that dry cooling has been demonstrated for a variety of climates and generating capacities. These commenters counter claims made by other commenters on the proposal that dry cooling is a demonstrated technology for large-size power plants. EPA has rejected dry cooling as best technology available for the reasons discussed at V.C above.

Other commenters discuss dry cooling technologies at manufacturing facilities. The commenters challenge the viability of dry cooling systems in manufacturing facilities that cool process fluids to ambient levels (e.g., below 100 degrees F) or do not condense steam. They claim that the dual use of process and cooling water prevents the application of dry cooling. EPA agrees that dry cooling technologies for manufacturing cooling waters pose engineering feasibility problems. EPA rejects dry cooling as a basis for a national requirement for new manufacturing facilities (as discussed in Section V.C above) but points to several demonstrated cases of dry cooling for cogeneration plants at or adjacent to manufacturing facilities as encouragement for cogenerating plants to consider the technology on a site-specific basis.

The cost of dry cooling systems is discussed in a variety of comments. Generally, all commenters discuss elevated capital and operating and maintenance (O&M) costs in comparison with similar capacity recirculating wet cooling towers. An analysis of modeled new combined-cycle plants in five regions of the United States was submitted with one comment. This analysis estimated that capital and total O&M costs for dry cooling systems exceed those for wet cooling systems by greater than 75 percent, regionally and nationally. Other commenters generically assert that the capital and operating costs of the technology significantly exceed those of recirculating wet cooling towers of comparable capacity. Even commenters in favor of dry cooling as the best technology available acknowledge that the cost of a dry cooling system can be as much as three times that of a comparable wet cooling system. However, these commenters also contest that the cost of the technology is clearly not wholly disproportionate to the environmental benefit gained. These commenters in favor of dry cooling as the best technology available claim that the capital cost and O&M costs of air-cooled structures at combined-cycle electric generating plants represent a small fraction, only 2 to 3 percent (using EPA's proposal cost estimates), of the estimated annual revenues for those facilities. These commenters state that because newer combined-cycle plants need cooling only for the steam portion of their cycle (only about one-third of their total capacity), they can be cooled with a much smaller dry cooling system than a comparably sized, steam-only generating plant. Thus, these commenters claim, the increased cost for dry cooling is considerably smaller than it would have otherwise been for conventional all-steam plants. These commenters add that they believe the costs of installing dry cooling as the best technology available at a fraction of a cent per kilowatt hour, would not be felt or even noticed by consumers. EPA discusses the costs of dry cooling extensively in Chapter 4 of the *Technical Development Document*. EPA agrees with commenters that elevated costs of the technology as compared with other cooling technologies pose a significant implementation problem for new facilities. Specifically, as discussed in Section V.C above, the compliance costs of dry cooling based requirements would result in annualized compliance cost of greater than 4 percent of revenues for all 83 electricity generators, and of greater than 10% of revenue for 12 of the 83 generators.

The performance of dry cooling systems is addressed in many comments. Some comments point to lower performance than wet cooling systems and greater sensitivity to climatic conditions as being crucial for evaluating the efficacy of the technology. These comments claim that depending on climatic conditions, certain locations in the country will have a higher probability of incurring energy penalties. These commenters cite performance drawbacks to dry cooling systems due to operation at elevated turbine backpressures or reductions in energy production in locations with high daily or seasonal dry-bulb temperatures. One commenter provided results from a modeling exercise simulating energy inefficiency impacts at dry cooling facilities in a variety of climatic conditions. The results from the commenter's analysis showed summer peak performance shortfalls (*i.e.*, peak energy penalties) of greater than 30 percent for dry cooling facilities. Additionally, the commenters estimate that the energy penalty would vary considerably throughout the United States because of climactic conditions. Conversely, some commenters claim that the energy penalty from some dry cooling facilities in some areas is equivalent to that calculated by New York State officials for the Athens Generating Company facility, where they estimated a 1.4 to 1.9 percent reduction in overall plant electrical generating capacity as a consequence of using a dry cooling system versus a hybrid wet/dry system.[90] The commenters add that, in their view, energy conservation measures can more than offset any potential minor loss of efficiency from dry cooling. The commenters claim that the building of modern generating facilities provides significant efficiency gains that dwarf any potential loss due to the cooling system design. These commenters claim that transmission losses exceed the energy penalty associated with the dry cooling system; further, they assert that because dry cooling makes it possible to locate away from major bodies of water and closer to energy users, a facility can be more than compensated for the energy penalty. Finally, the commenters state that a 1 to 2 percent loss for the sake of greater protection of water resources is comparable to other efficiency penalties EPA requires of the electric industry for reductions in NO_X and SO_2 emissions. The performance penalties of dry cooling systems play a significant role in EPA's decision to reject dry cooling as the best technology available. See Section V.C above for further discussion.

Hybrid wet and dry cooling systems are addressed in several comments. One commenter contends that the viability of hybrid systems for large-scale cooling operations (e.g., at a power plant with capacity greater than 500 MW) is uncertain. The commenter identifies site-specific performance advantages of hybrid systems over dry cooling, noting that the most common type of hybrid system is designed to eliminate visible plumes from wet cooling towers. These comments additionally claim that hybrid plume abatement systems are not water-conserving systems and that their costs are greater than wet cooling tower systems. EPA considers hybrid cooling systems not to be adequately demonstrated for power plants of the size projected to be within the scope of the rule. As such, EPA has not adopted the technology as a component of the best technology available requirements of today's rule. However, EPA recognizes that there is distinct potential for the use of hybrid cooling systems, especially in cases where plume abatement is concerned.

Some commenters claim that air emissions from electricity generation would increase because of energy penalties from dry cooling systems. These commenters state that an energy penalty creates a need for replacement power, which must be met by even more new generating capacity resulting in an increased potential for environmental impacts (such as increased air emissions). The comments add further that estimating those emissions would project the costs of power production and the mix of generating capacities (e.g., coal-fired, nuclear) available at the time of anticipated demand. Other commenters take the view that increased air emissions due to dry cooling systems are not a concern. EPA is concerned about the degree to which dry cooling-based requirements would increase air emissions associated with electricity generation. In the cases where performance penalties are high (i.e., in hot climates or during hot climatic periods), the increases in air emissions due to the potential adoption of dry cooling-based requirements are of concern to the Agency. This issue is further discussed in Section V.C in the context of EPA's rejection of dry cooling.

For the final rule EPA concludes that dry cooling systems are not the best technology available for minimizing environmental impact. EPA recognizes that dry cooling systems can achieve significant reductions in the impingement and entrainment of aquatic organisms compared with other cooling systems, especially once-through systems. Additionally, EPA acknowledges that the technology has been demonstrated as a viable cooling alternative for certain power plant applications under certain circumstances. EPA notes, however, that few of the plants constructed with the technology have been built with cooling systems of a size comparable to what would be required at several of the planned coal-fired systems EPA projects within the scope of the rule. The dry cooling technology presents flexibility to power plants, especially those of small size, those locating in arid regions, and those with water scarcity issues, or those wishing to avoid NPDES permitting issues. However, the technology presents several clear disadvantages that prohibit its adoption as a minimum national requirement or as a minimum requirement for subcategories of facilities. Although EPA recognizes that the technology—by using extremely low-level or no cooling water intake—reduces impingement and entrainment of organisms to dramatically low levels, EPA interprets the use of the word "minimize" in CWA section 316(b) to give EPA discretion to consider technologies that reduce but do not completely eliminate impingement and entrainment as meeting the requirements of section 316(b) the CWA.

A minimum national requirement based on dry cooling systems would result in annualized compliance cost of greater than 4 percent of revenues for all 83 electricity generators, and of greater than 10% of revenue for 12 of the 83 generators. Because the technology can cause inefficiencies in operation during peak summer periods and in hot climates, adoption as a minimum national requirement would also impose unfair competitive disadvantage for facilities locating in hot climates, more so than a traditional recirculating wet cooling tower or once-through cooling system. For the subcategory of facilities in cool climatic regions of the United States, adoption of a requirement based on dry cooling for these facilities would also impose unfair competitive restrictions. The competitive disadvantages relate primarily to the capital and operating costs of the dry cooling system. Additionally, adoption of requirements based on dry cooling for a subcategory of facilities with a capacity under a particular level or by fuel type would pose similar competitive disadvantages for those facilities. EPA's record demonstrates that dry cooling systems generally cost as much as three times more to install and construct than a comparable wet cooling system. Dry cooling system O&M costs range from less than or comparable to those for wet systems to two or more times higher. In addition, dry systems generally impose an energy penalty as compared with wet cooling systems. EPA estimates the annual average energy penalty to be 3 percent over a recirculating wet cooling tower system.

---

[90] State of New York, Department of Environmental conservation. 1999. Initial post hearing brief, Athens Generating Company, L.P. Case no. 97–F–1563.

Further, EPA considers the degree of energy inefficiency associated with dry cooling to be counter to the performance of the best technology available candidate technology. EPA's record shows an annual average energy penalty for dry cooling of approximately 3 percent relative to recirculating wet cooling towers. This energy penalty represents the typical performance of a dry cooling system in northern climates, extended to the rest of the national climates. However, the peak summer performance is expected to decrease significantly in certain hot climates. EPA estimates that, for a newly constructed and designed facility, the peak summer shortfall could exceed the annual penalty by an additional 3 percent. This value could increase significantly as the facility ages; it hinges on regular and thorough maintenance.

EPA concludes that the air emissions increases from power plants due to adoption of a requirement based on dry cooling would be counter to the performance of a best technology available candidate technology. Changes in energy consumption associated with dry cooling would result in changed fuel consumption and therefore could result in greater air emissions from power plants using dry cooling than would occur if the plants used wet cooling. EPA estimates that the average annual air emissions for the power plants in scope of the final rule with a dry cooling alternative for CO, NO_X, SO_2, and Hg emissions would be greater than if the plants used wet cooling. See Section VI.B.2.e. See Chapter 3 in the *Technical Development Document* for more information on EPA's air emissions analysis.

G. Implementation-Baseline Biological Characterization

In the proposed regulations, the Agency proposed that all facilities perform a source water baseline biological characterization to establish an initial baseline for evaluating potential impact from the cooling water intake structure before the start of operation. The study required that information be collected over a 1-year period. This information was needed to determine the kinds, numbers, life stages, and duration of aquatic organisms in the vicinity of the cooling water intake structure. The Director would use the findings of the study to evaluate the efficacy of the location, flow, and velocity requirements and to define the need for design and construction technologies. The regulations would have also required facilities to conduct impingement monitoring over a 24-hour period once per month and entrainment monitoring over a 24-hour period no less than biweekly during the period of peak reproduction and larval abundance. After two years, the permitting agency would be allowed to reduce the frequency of impingement and entrainment monitoring. EPA's July 2000 information collection request estimated costs for the Source Water Baseline Biological Characterization at an average of $32,000. Monitoring was estimated at approximately $38,000 annually for entrainment and $13,000 annually for impingement. The NODA provided updated costs for both the source water baseline characterization and post operational monitoring.

1. Need for the Source Water Baseline Biological Characterization

Numerous commenters from both the States and the industry agreed that the source water baseline biological characterization was reasonable to determine the condition of the aquatic system. Other commenters questioned the need for a 1-year study that would provide information of limited utility because of the variation that natural populations exhibit from year to year. Some commenters were concerned that the baseline year may not be representative of the average characteristics of the organisms and that comparing subsequent monitoring with the baseline may provide erroneous conclusions.

Some commenters expressed their concern that the requirement to perform the baseline biological characterization would delay issuance of an NPDES permit and that the time required to develop the study in cooperation with and with approval from the permitting authority would increase the development time by 3 to 6 months. They estimated that the time to perform the study would be approximately 18 to 21 months. In particular, the electric utility industry stated that the additional time may result in construction delays that would threaten the availability or price structure of electricity in certain areas.

In addition, some commenters stated that there may be no need for a study if highly protective technology such as closed-cycle cooling is proposed to be used by the permittee, especially if the facility is located on a large waterbody.

Some commenters suggested that the studies be required only if alternative requirements were requested and not if the strict technology-based requirements are adopted. One commenter questioned the need for reevaluating the baseline biological characterization for the next permit term.

In response to these comments, EPA has modified the baseline biological characterization requirements in the rule to allow for the use of existing data, both for the initial permit issuance and reissuance. In today's final rule, Track I specifies highly protective technology-based performance requirements and does not require a permit applicant to conduct monitoring prior to submitting an application. The applicant must gather existing information on the site and select design and construction technologies that will minimize impingement and entrainment and maximize impingement survival. Under Track II, the applicant must conduct a considerably more rigorous study if he or she seeks to demonstrate that alternatives to the Track I requirements will reduce the level of impingement mortality and entrainment to a level of reduction comparable to the level the facility would achieve if it met the Track I requirements at a site.

2. Cost of Source Water Baseline Biological Characterization

Numerous commenters stated not only that the proposed sample collection was time consuming but also that the analysis and identification of the samples of aquatic insects and ichthyoplankton were extremely labor intensive. Some commenters suggested that the studies be required only if alternative requirements were requested and not if the strict technology-based requirements were adopted.

Numerous commenters stated that existing qualitative information is already available on aquatic species at many sites located on major waterbodies. At these sites, little additional information would be provided by an additional year of sampling in the vicinity of a proposed cooling water intake structure. These commenters would like the Agency to prepare additional guidance as to when existing information would be appropriate. Another commenter questioned the acceptability of existing information that is more than 5 years old, because of changes in water quality, species composition, and other variables.

One commenter stated that the study should be tailored to the needs of the site. The commenter stated that some static or controlled environments might require a less rigorous study, while more complex and changing environments might require a more rigorous study to fully characterize the site. Other commenters stated that the requirements in the regulation were ambiguous.

Commenters were concerned that the costs estimated for the proposed rule, at an average of $32,000, were unrealistically low and that a more reasonable estimate might be $100,000. Some commenters stated that the estimate for a proper characterization study would be 10 times the original estimate. One commenter stated that the $32,000 may be low even for a paper study, stating that a simple study with the barest scope of work would cost in excess of $50,000 while impingement and entrainment monitoring would cost approximately $100,000–$150,000 per year.

Some commenters stated that the costs EPA estimated were too low in light of the accuracy that would be needed to determine whether significant adverse environmental impact exists and whether further mitigative measures or technologies must be used and that the characterization will also serve as the benchmark against which future performance is measured. One commenter stated that the accuracy needed would require stratified sampling.

Some commenters stated that the costs presented in the NODA for post-operational monitoring were still too low. They stated that at a minimum multi-species assessments for decisionmaking would cost approximately $50,000.

EPA believes that the post-operational monitoring cost is accurate. This cost was developed to reflect the extent of the monitoring required, which is noticeably less than previous 316(b) monitoring requirements. It is likely that the commenter is referring to these previous monitoring requirements when making comments as to the cost of these efforts. For example, previous studies may have required extensive impingement and entrainment monitoring and detailed taxonomic studies. The post operational monitoring required by this rule is expected to be less burdensome, requiring only monthly surveys for impingement and entrainment and possibly species identification. This level of effort is considerably less than the monitoring conducted under previous section 316(b) studies and is therefore less costly.

3. Impingement and Entrainment Monitoring

Some commenters requested that impingement and entrainment monitoring not be required if the strict technology-based requirements were adopted by a facility. They thought that installing the technology should be adequate to show compliance and to demonstrate that the objectives of section 316(b) had been met. Other commenters suggested that postoperational monitoring be implemented on a site-by-site basis where there is evidence that unanticipated potential impacts could occur or where habitat restoration has restored aquatic populations.

EPA disagrees with commenters who advocate no impingement and entrainment monitoring during the permit for permittees who opt to meet the Track I requirements. The Track I requirements for design through-screen velocity and for selecting and installing design and construction technologies that minimize impingement mortality and entrainment require the permittee to install and operate technologies that require periodic maintenance and operation in a prescribed manner. Periodic monitoring is appropriate. The permit director also must determine for each permit renewal whether additional design and construction technologies are necessary, and impingement and entrainment monitoring will provide information needed for this determination. See 125.89(a)(2).

H. Cost

1. Consideration of Facility Level Costs

EPA received comments on the proposal regarding its facility level cost estimates for the proposed requirements and a number of the regulatory alternatives. The issues addressed by commenters covered a range of topics, which EPA summarizes below.

Some commenters claim that EPA has not considered or addressed all environmental costs and impacts of the regulatory alternatives. The commenters state that EPA has not considered the operating efficiency losses of wet and dry cooling tower systems. They claim that both auxiliary power requirements and performance penalties may result in reductions in capacity and in the quantity of energy to end-users. The commenters state that replacing this power from other higher-cost sources will result in social costs for which EPA has not accounted. As a result of performance penalties, according to the commenters, the quantity of fuel required to generate the same quantity of energy increases. They add that recirculating cooling towers may result in the following additional environmental impacts, for which EPA has not accounted: visibility impacts from recirculating cooling towers, local climate change from wet cooling tower plumes, wildlife losses (e.g., birds colliding with towers), fish losses due to loss of heated aquatic plumes to over-wintering habitats, increased air emissions from sources replacing lost power, and increased impediments to waterway navigation due to icing in northern regions.

EPA initially responded by providing information in the NODA regarding this subject and outlined its intent to account for some additional costs in the final rule (66 *FR* 28866 and 28867). The cost estimates for the final rule include consideration of performance penalties and other environmental issues highlighted by the commenters. The final rule accounts for the "energy penalty" for facilities that are projected to install recirculating wet cooling tower systems in lieu of once-through cooling systems. EPA estimated marginal performance penalties, the costs to replace the lost power due to these penalties, and the increased air emissions of the penalties. Additionally, visibility impacts from cooling towers, local climate change from wet cooling tower plumes, wildlife losses (*e.g.*, birds colliding with towers), fish losses due to loss of heated aquatic plumes to support over-wintering habitats, and increased impediments to waterway navigation due to icing in northern regions are considered local impacts that can be addressed through the use of Track II or, in some cases, through design modifications of the recirculating wet cooling tower. EPA has provided costs for plume abatement (2 percent of the number of cooling towers) to address cooling tower emissions and considers the other impacts to be negligible and best addressed on a site-specific basis.

Some commenters criticize EPA's approach to estimating capital and operating costs of recirculating wet cooling towers. The commenters claim that EPA has significantly underestimated the costs of a recirculating wet cooling tower by considering only the cost of the cooling tower without the additional cost of other necessary cooling system

VOL 66 ISS 243 DE 18 2001 UMI

equipment such as wiring, foundations, noise attenuation treatment, the cost of construction and other equipment. They claim also that EPA's estimates understate makeup water costs for wet cooling towers. The commenters add that EPA's cost multipliers for recirculating wet cooling towers are questionable and not consistent with a number of engineering texts. With respect to O&M costs, they question EPA's estimates for economies of scale. For dry cooling towers, the commenters object to EPA's methodology of making a direct cost comparison between dry cooling systems and wet cooling systems. They claim that EPA's approach for estimating capital and O&M costs for dry cooling towers is flawed because it relies on cooling water flow as the cost basis. In addition, they state that EPA does not provide cost equations or curves for dry cooling systems. One commenter claims that winterization costs of dry cooling systems were not considered by EPA and that EPA therefore has underestimated the system's costs.

EPA fully documented the bases for recirculating wet cooling tower cost estimates in the NODA (66 *FR* 22866 and 22867). EPA disagrees with many of the comments regarding flaws in estimating capital and operating costs for cooling towers. The *Technical Development Document* and comment response document discuss EPA's costing estimates and consideration of the variety of issues asserted by commenters, such as documentation of equipment costs, foundations, noise attenuation, and the cost of construction. EPA has also considered the comments regarding makeup water costs. The estimates of costs for this rule reflect a realistic and accurate basis for makeup water usage in wet cooling towers. These issues are discussed further in Chapter 2 of the *Technical Development Document*. With respect to EPA's estimates of O&M economies of scale, EPA revised its estimates based on comments received and further analysis. EPA conducted a thorough review of its data and the public comments. Although the comments did not persuasively describe errors in EPA's economies of scale estimates, they did prompt EPA to reconsider the concept. EPA's further research revealed that there are economies of scale associated with certain components of O&M, but that use of economies of scale for total O&M costs would not be appropriate. As such, EPA's estimates for operation and maintenance costs for wet cooling towers have been refined to reflect no economies of scale. See Chapter 2 of the *Technical Development Document* for further discussion.

In the NODA, EPA included further documentation to support its estimates of the costs of dry cooling systems (both for capital and O&M components). Despite the comments received expressing concern over the methodology employed by EPA to estimate the costs, EPA continues to view its empirical models as robust, accurate, and well suited for the purposes of the final rule. EPA acknowledges that basing cost curves for dry cooling systems on cooling flow is unconventional. However, the model is based on empirical data and accurately estimates the costs of dry cooling systems. Regarding the subject of winterization, EPA's costs inherently include this technological aspect as it is an incorporated design feature in modern dry cooling systems upon which the empirical models are correlated. See Chapter 4 of the *Technical Development Document* for further information regarding EPA's costing methodology for dry cooling.

One commenter questions EPA's estimates regarding the "design approach value" used in plant cooling systems. The commenter recommends that EPA adopt an approach value of 8°F instead of 10°F. The commenter claims that EPA has understated the size of the cooling towers with its approach value estimate. EPA provided significant documentation in the NODA regarding its estimates of cooling system design approach values. Specifically, data demonstrate that a 10 degree design approach for a wet cooling tower is acceptable industry practice. Chapter 3 of the *Technical Development Document* discusses this subject further and presents EPA's supporting data.

Comments from manufacturers express concern over potential energy losses due to abandoning the use of waste heat for process water heating. They expressed concern that the proposed rule would discourage the practice of process and cooling water reuse. The commenters assert that if these potential energy loss costs were added to the other costs of the proposed rule, that the total cost could be substantially higher, possibly by several million dollars. Thus, the commenters state, the proposed rule could pose a significant and perhaps insurmountable hurdle for construction of new manufacturing facilities. EPA considered these comments and is adopting a definition of cooling water for the final rule (see § 125.83) that addresses these concerns. At § 125.86(b)(1)(ii), EPA also specifies that the amount of water withdrawn for cooling purposes that is reused or recycled in subsequent industrial processes is equivalent to closed-cycle recirculating cooling water for the purposes of meeting the Track I capacity-reduction, requirements at § 125.84(b)(1). However, the amount of cooling water that is not reused or recycled must be minimized. Therefore, the commenters' concerns that costs could be substantially higher, possibly by several million dollars have been addressed in the final rule.

Further, some commenters claim that EPA has not considered the costs of a sufficient number of regulatory alternatives or alternative technologies. EPA included, in Section VIII of this preamble and the *Economic Analysis* (Chapter 10), cost information on the range of regulatory alternatives considered for the final rule.

One commenter on the NODA described the costs associated with potential delays in permit approvals. The commenter stated that should permitting delays extend the construction period, the associated costs would accumulate at a monthly rate associated with the finance costs associated with down-payments on equipment, the lost income from sales of electricity, and the cost of purchasing replacement power. For regulatory alternatives that have projected permitting delay, EPA has incorporated the commenter's suggestion to the extent possible. For the final rule, EPA is basing the regulatory option on a two-track compliance option that, under the "fast track," has no associated delay in permitting. In addition, EPA has not accounted for cost savings of the rule over the current, resource intensive, case-by-case regulatory approach. In that sense, the final rule overestimates compliance costs.

Another commenter to the NODA provided a case-study example for converting the Indian Point Units 2 and 3 to closed-cycle cooling water systems or dry cooling systems. The results show a small cost impact for closed-cycle cooling water systems and a modest cost impact for dry cooling, according to the commenter. In terms of the cost for producing power, the incremental cost for the installation and use of a closed-cycle cooling water system, according to the commenter's analysis is 0.01 to 0.03 cents per kWh. The commenter's analysis shows incremental costs for the installation and use of a hybrid cooling system between 0.14 and 0.19 cents per kWh and 0.21 to 0.27 cents per kWh for dry cooling. EPA evaluated the case-study analysis presented by the commenter for this retrofit situation and finds the costs to be relatively applicable (as the costing analysis was based on EPA's proposal cost estimates, EPA notes that some costing methodology revisions are not reflected in the commenter's analysis). EPA disagrees with several cost-related estimates made in the commenter's analysis, and therefore determines that the cost impacts of dry cooling technologies on the price of electricity is somewhat understated. See response to comment document for further discussion of this case-study analysis and EPA's technical review of the study.

2. Need For More Complete Assessment

A number of industry respondents criticized the economic analysis supporting the rule arguing that it has underestimated the cost of the proposal. Several comments noted that the technology cost, along with the baseline biological characterization, has been underestimated. A few comments asserted that EPA has not considered additional alternatives in selecting the preferred option to comply with requirements of the Executive Order 12866. Industry commenters noted that EPA has not selected the best technology available on a cost-benefit basis. Commenters also noted that the environmental cost of the technologies has not been reflected in the *Economic Analysis.* EPA recognizes that it selected best technology available for minimizing adverse environmental impact on the basis of what it determined to be an economically practicable cost for the industry as a whole. EPA did this by considering the cost of the rule as compared with the revenue of a facility, as well as the cost compared to the overall construction costs for a new facility. This approach is analogous to the economic achievability analyses it conducts for other technology-based rules under sections 301 and 306 of the CWA which use very similar language to section 316(b) and to which section 316(b) refers, and is consistent with the legislative history of section 316(b) of the CWA. At the same time, the record does contain analysis of the costs for a number of the regulatory alternatives considered under the rule.

After reviewing these comments, EPA has revised the *Economic Analysis.* As discussed in the NODA, EPA has gathered additional cost information to verify its cost estimates. It has collected additional information on benefit or the efficacy of the technologies used in the costing exercise. EPA has used more recent forecasts to estimate the number of electric generation facilities. The energy penalty associated with certain technology options, which was not included in the economic analysis for the proposal, has been included in the final economic analysis. EPA considered the costs for a number of alternatives to the requirements in today's final rule.

3. Accuracy of the Estimates

A number of commenters questioned the accuracy of the cost estimates. One commenter (Electric Power Supply Association) stated that EPA's estimates of the cost of the rule are based on several critical and arguable assumptions: (1) The rate of new facility development in the coming years, (2) the proportion of new facilities that would employ cooling water intake structures, (3) the costs of adopting one technology versus another, and (4) the cost of scientific and engineering studies. The combined effect of these assumptions, it is claimed, is that EPA underestimated the cost of the rule by as much as one-hundred-fold. Another commenter claimed that the cost of the rule would be more than five times higher than the EPA's estimates. The Utility Water Act Group (UWAG) estimated the cost of installing a cooling tower alone at $6,366.7 million for recirculating wet cooling towers and $11,245.3 million for dry cooling, assuming 100 percent of the combined-cycle facilities would be required to install towers.

EPA considers these estimates to be unreasonable. After careful review of comments received and additional analyses, EPA estimates the annualized compliance cost of the final rule to be $47.7 million. This cost estimate includes a revised forecast for new electric generation capacity, a revised technology baseline for regulated facilities, a revised estimate of the number of regulated manufacturing facilities, and inclusion of costs for a comprehensive demonstration study in Track II. The example costs presented by UWAG were, as described by the commenter, not directly comparable to EPA's cost estimates. The commenter included a significant equipment cost in its analysis—that of the steam condenser—that clearly is not applicable to the incremental costs of this rule, as all new facilities would install a steam condenser regardless of this rule. In addition, several estimates for design variables differ from those used by EPA and significantly bias the capital and operation and maintenance costs upward. EPA analyzes and discusses the UWAG example for costs in the response to comment document.

4. Energy Supply

Some industry respondents, including the Utility Water Act Group, argued that the section 316(b) proposal would be a significant threat to the national energy supply, would prohibit location of new power plants in most places, and would serve as a barrier to entry in the electric generation market. EPA disagrees with these assertions based on the siting impact analysis discussed at Section V.B.2., the relatively low cost of the rule as a proportion of revenues (as discussed in Section VIII), and the energy impact analysis described in Section X.J.

Some of the commenters stated or implied that the cost of the rule would have a significant impact on meeting growth in energy demand. EPA disagrees with this assertion because the compliance cost of the final rule is an insignificant component of not only new facility revenue but also the construction cost of a new plant. Thus, the cost of the rule is too small to affect the electric generation market. The cost of the final rule is so low primarily because 93 percent of the projected new in-scope combined-cycle facilities, which are responsible for most of the new electric generation capacity, have already planned to install recirculating wet cooling towers in the baseline. Therefore, they will incur, in addition to permit application cost, only a cost associated with selecting and implementing a design and construction technology such as a wedgewire screen or a fish return system on a traveling screen. In addition, estimates show that most new in-scope coal facilities also plan to install cooling towers independently of this rule. Thus, the rule requirements will not have any significant effect on the energy supply. Had EPA chosen dry cooling technology as the best technology available for minimizing adverse environmental impact, the energy impact would have been significant (i.e., upwards of 0.51 percent reduction (1,904 MW) of the projected new generating capacity).

Commenters asserted that the requirements of the rule could adversely affect the reliability of the electric power system, potentially increasing the risk of brownouts or blackouts or a curtailment of load provided to a particular user. EPA disagrees with this assertion. While Track I requirements (for facilities with intake flows equal to or greater than10 MGD) to reduce capacity commensurate with the use of a closed-cycle, recirculating cooling system and to select and install design and construction technologies would result in an additional use of electric

VOL 66 ISS 243 DE 18 2001 UMI

power at a power plant not already planning to use these technologies, the magnitude of the electric use compared with total electric supply at the national level is negligible (approximately 0.03 percent (100 MW) of projected new capacity). Only four coal-fired and five combined-cycle plants are projected to install recirculating wet cooling towers because of the rule. Moreover, the magnitude of electricity required in the operation of design and construction technologies, such as a fish return system, is very small. Finally, future facilities are not necessarily required to install cooling towers; under Track II they have an option to conduct site-specific studies and seek to demonstrate that other technologies will reduce impacts to fish and shellfish to a level comparable to the level that would be achieved at their site with the Track I requirements for intake capacity and velocity. Thus, the efficiency issue associated with the recirculating wet cooling towers, raised in some comments, overemphasizes the effect on the power supply at the national level. Similarly, EPA does not believe that other requirements of the rule, such as the velocity limit and proportional flow requirements, will adversely affect efficiency at power plants. The Track I velocity requirements of the rule can be met by design changes including enlarging the opening of the cooling water intake structure and screens without reducing the flow and hence without influencing the cooling efficiency. The proportional flow limits in the rule would also be largely met by power plants without any discernible impact on their efficiency or net energy supply. As discussed in section V.B.1.c. above, EPA found that most existing facilities meet these requirements. The proportional limitation can be met during design by siting on an alternative waterbody or by choosing alternative technologies, for example. Additionally, see Section V.B.1. for a discussion of proportional flow limits.

Commenters expressed concern that the regulatory requirements would result in delays in the construction of the new power plants, thus affecting the power supply and electricity prices. However, under Track I in the final rule, facilities can build a power plant without any required pre-permit monitoring.

Some industry commenters asserted that the requirements of the rule could be a hindrance to cogeneration. EPA disagrees with this conclusion. Contrary to the assertion, Track I in the final rule provides incentives for cogeneration because it considers reuse of cooling water as process water and vice versa as equivalent to recirculation. Thus, a cogeneration facility can reuse cooling water as process water or vice versa and eliminate the need to install a recirculating wet cooling tower to save costs or reduce the size of any tower needed to meet the Track I intake capacity requirement.

5. Forecast for New Utility and Nonutility Electric Generators

Most comments on the forecast of new utility and nonutility electric generators claimed that EPA underestimated the number of new generators in scope of the proposed section 316(b) new facility rule. Commenters cited several reasons for the alleged underestimate: (1) The use of an incomplete, outdated, or biased database as the basis of the estimate; (2) an underestimation of the number of facilities that will operate a CWIS; (3) an underestimation of the size of new facilities; and (4) the use of new capacity forecasts that are based on conservative assumptions regarding anticipated growth in demand for electricity. Two commenters claimed that the underestimation may be five-fold. Commenters also suggested that EPA underestimated the intake flow of regulated (in scope) facilities and the number of new generators that will use a once-through cooling system. One commenter claimed that the proposed section 316(b) new facility rule would cause additional delays in bringing new electricity supply on line.

EPA used the most current and complete data available at the time to develop the projected number of new electric generators. To address the above comments, EPA updated and expanded its research as new data have become available. In support of the final section 316(b) new facility rule, EPA used the February 2001 version of the NEWGen database. Compared to the January 2000 NEWGen database used for proposal, the newer version contains more than twice the number of new projects (941 compared to 466). EPA researched more than three times as many greenfield combined-cycle facilities (320 compared to 94) and obtained cooling water source information on almost four times the number of facilities (199 compared to 56). While EPA recognizes the fast pace of changes in the electricity generation industry, EPA believes that the substantial increase in the number of greenfield electric generators analyzed will address concerns commenters had voiced. In addition, the much larger number of facilities identified as being in scope of the final section 316(b) new facility rule (57 compared to seven) will provide a more robust and representative basis for estimating the characteristics (including size and cooling system type) and costs of new greenfield generators. Finally, EPA is using the Department of Energy's (DOE) updated Annual Energy Outlook 2001 as the basis for its total new capacity forecast. The 2001 Outlook is based on higher economic growth (in the reference case, 3.0 percent) and electricity demand (in the reference case, 1.8 percent) compared to the Annual Energy Outlook 2000 (2.2 percent and 1.4 percent, respectively). It should be noted that, for both the proposed and the final section 316(b) new facility rule, EPA's projection of new electric generators is based on forecasts made by the DOE's Energy Information Administration (EIA), not forecasts made by EPA.

6. Forecast for New Manufacturers

EPA received few comments on the number of new manufacturers estimated for the proposed rule. One main concern was that the proposed regulations could adversely impact offshore and coastal oil and gas drilling operations. At proposal, EPA had not considered or projected impacts on this industrial category. Among other concerns, these commenters stated that: (1) offshore and coastal oil and gas drilling facilities have much more limited technology options for addressing any adverse environmental impact of cooling water intake than land-based facilities; (2) under current regulations (40 CFR 435.11), existing mobile oil and gas extraction facilities are considered new sources when they operate on new development wells and could be required to perform costly retrofits in order to comply with the 0.5 fps velocity requirement if they become subject to the proposed requirements for cooling water intake structures at new facilities; and (3) higher cooling water intake velocities are necessary in marine waters to control biofouling of cooling water intake structures.

EPA also received comments suggesting that certain industry segments should be exempted from the final section 316(b) new facility rule. One commenter claimed that EPA intended to exclude the wood products segment of the forest products industry from the proposed section 316(b) new facility rule because the proposal analysis did not explicitly analyze this segment. This commenter suggested this segment should be exempted because facilities generally use little water. Another commenter claimed that EPA has overestimated the number of new greenfield chemical facilities. This commenter stated that the actual number of new chemical facilities is very low and that therefore, according to OMB guidelines, regulation of that industry segment is not justified.

In response to these industry comments, EPA will propose and take final action on regulations for new offshore and coastal oil and gas facilities, as defined at 40 CFR 435.10 and 40 CFR 435.40, in the Phase III section 316(b) rule. EPA is deferring regulation of these facilities due to the unique engineering, cost, and economic issues associated with offshore and coastal drilling rigs, ships, and platforms. EPA will not categorically exempt new facilities in those land-based industry segments from the final section 316(b) new facility rule for any of the reasons suggested by commenters. EPA analyzed those industries that are most likely to experience adverse industry-level economic effects, based on their large-volume cooling water use. Any facility that meets the in-scope requirements set forth in § 125.81 will have to comply with the rule, irrespective of the number of in scope facilities in that segment, the industry's general cooling water characteristics, or whether the industry segment was explicitly analyzed in the proposal analysis. Should facilities in these other industrial categories face compliance costs wholly disproportionate to those EPA considered and found to be economically practicable in today's economic analysis, they can seek alternative requirements in accordance with the provisions at § 125.85.

I. Benefits

1. Cooling Water Intake Structure Impact Analysis Component of the Benefits Analysis for the Proposed Section 316(b) New Sources Rule

Comments related to EPA's cooling water intake structure impact analysis in Chapter 11 of the new sources EEA were received from two industry commenters. The comments focused on four main topics: (1) Potential population-level consequences of impingement and entrainment, (2) potential compensatory responses of fish populations to mortality of early life stages, (3) potential impingement and entrainment survival, and (4) species and habitats that may be particularly sensitive to cooling water intake structure impacts.

Both commenters argued that EPA should have evaluated the impingement and entrainment numbers presented in Chapter 11 of the EEA in relation to the total population of affected species, and one commenter commissioned a fisheries scientist to conduct such an analysis. EPA believes that a population-level analysis of the data presented in Chapter 11 is inappropriate for several reasons. First, as stated by EPA in its presentation of the data in Chapter 11, the purpose of the data compilation was to provide information on the relative magnitude of impingement and entrainment, not to evaluate potential secondary effects on the affected populations. Thus, EPA did not attempt to assemble the other types of data that the commenter noted would be required to evaluate potential effects of these losses on the populations of affected species. Such data include survival rates of early life stages, growth rates, reproductive rates, population size at the time of impingement and entrainment, and potential carrying capacity of the population in the surrounding waterbody. EPA notes that in most cases the studies that EPA examined did not provide such data.

EPA also notes that the data uncertainties and potential biases associated with the impingement and entrainment data presented in Chapter 11 of the *Economic Analysis* (discussed by EPA in Section 11.2) should be taken into account in any analysis of the data, including evaluation of potential population-level effects. As EPA noted in Chapter 11, there is insufficient information in many of the source documents to determine how impingement and entrainment estimates may have been influenced by choices of which species to study, differences in collection and analytical methods among studies or across years, or changes in a facility over time. EPA is concerned that the consequences of such data uncertainties and biases are even greater for population-level analyses than they are for an analysis of individuals. As EPA noted, the data are not a statistical sample; therefore, "the data should be viewed only as general indicators of the potential range of impingement and entrainment losses." As one of the commenters acknowledges, "EPA's estimates were used primarily to understand the relative proportion of different species impinged and entrained."

Both commenters argued that analyses involving long-term predictions of fish populations must include estimates of potential density-dependence (compensation). Again, EPA wishes to emphasize that the data presented in Chapter 11 were not intended for a population-level analysis and are not suitable for such an evaluation. Thus, the argument that compensation must be considered is irrelevant in the context of EPA's EEA.

One of commenters argued that the annual impingement and entrainment rates summarized by EPA do not equate to harm or losses of organisms, because many organisms survive impingement and entrainment. While some organisms may survive impingement and entrainment, the reliability of estimated entrainment mortality rates has been questioned because of various measurement uncertainties and sources of potential bias.[91] Even if the results of existing studies are accepted, the data indicate that under normal operating conditions entrainment mortality can be quite high for many species. Depending on temperature conditions within the intake and the life stage involved, studies of Hudson River species found that entrainment mortality ranged from 93 to 100 percent for bay anchovy, 0 to 64 percent for Atlantic tomcod, 57 to 92 percent for herrings, 41 to 55 percent for white perch, and 18 to 55 percent for striped bass.[92] A recent industry-sponsored review of 36 entrainment survival studies found that anchovies and herrings have the highest entrainment mortality, generally in excess of 75 percent.[93]

The two commenters disagreed with EPA's conclusion that the littoral zone is a more sensitive area. EPA is no longer including consideration of the littoral zone in its final rule. See discussion in Section VI.C.

One commenter objected that EPA did not provide the original worksheets used by EPA to compile the impingement and entrainment data provided in Chapter 11 of the EEA, arguing that this would have facilitated an independent analysis by making it easier to "quickly identify the studies used." However, EPA notes that all data sources are provided in footnotes to the tables and full citations are provided in the references section at the end of Chapter 11. The methods used to compile and summarize these data are

---

[91] Boreman, J., L.W. Barnthouse, D.S. Vaughan, C.P. Goodyear, S.W. Christensen, K.D. Kumar, B.L. Kirk, and W. Van Winkle. 1982. The Impact of Entrainment and Impingement on Fish Populations in the Hudson River Estuary: Volume I, Entrainment Impact Estimates for Six Fish Populations Inhabiting the Hudson River Estuary. Prepared for the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research by the Oak Ridge National Laboratory. ORNL/NUREG/TM–385/VI.

[92] Boreman, J., L.W. Barnthouse, D.S. Vaughan, C.P. Goodyear, S.W. Christensen, K.D. Kumar, B.L. Kirk, and W. Van Winkle. 1982. the Impact of Entrainment and Impingement on Fish Populations in the Hudson River Estuary: Volume I, Entrainment Impact Estimates for Six Fish Populations Inhabiting the Hudson River Estuary. Prepared for the U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research by the Oak Ridge National Laboratory. ORNL/NUREG/TM–385/VI.

[93] Electric Power Research Institute. Review of Entrainment Survival Studies: 1970–2000. Prepared by EA Engineering Science & Technology. December 2000.

VOL 66 ISS 243 DE 18 2001 UMI

provided in Section 11.2 of the chapter, along with a discussion of data uncertainties and potential biases.

Another technical issue raised by this commenter concerned the waterbody classification of two of the facilities in EPA's impingement and entrainment tables. For the waterbody classifications, EPA relied on the industry's 1995 Utility Data Institute database because results from EPA's section 316(b) industry survey were not yet available. This database indicated "river" for the waterbody type on which the intakes of Hudson River facilities are located. EPA agrees with the commenter that this is misleading, since the portion of the Hudson River where the intakes are located is a tidal river. For analysis supporting today's final rule, facility categorization for all facilities is based on the plant's response to the question on waterbody type in the Agency's section 316(b) industry survey administered for the existing facility rule. EPA has revised its data tables to place data from studies on Hudson River facilities under the "estuary and tidal river" classification. Similarly, EPA agrees with the commenter that although the intake of the Monroe plant is on the Raisin River, the facility is more appropriately classified as a Great Lakes facility because of the fish species involved. EPA has therefore revised its tables so that impingement and entrainment data for this facility are now included with data for the Great Lakes. However, as noted above, the final rule does not distinguish among waterbody types, so such classifications do not have a direct effect on the final regulations.

2. Responses to Comments on the Economic Valuation Components of the Benefits Analysis for the Proposed Section 316(b) New Sources Rule

The comments on the new sources benefits analysis (economic component) were all fairly generic in their statements and fairly consistent in their arguments. The main thrust throughout most of the relevant comments was to point out that the Agency had not developed a quantitative benefits analysis and, as such, it had failed to conform to its own guidance and the requirements of Executive Order 12866. Some comments noted that the benefits analysis did not generate relevant quantitative information that could be used to facilitate an informative comparison of benefits and costs, and several comments encouraged EPA to complete its benefits analysis. Industry comments have also repeatedly pointed out that the Agency should perform a site-specific benefits analysis. In addition, several of the comments addressed aspects of how a benefits analysis should be performed. Specifically, comments described (1) what the steps of benefits analysis need to be (identify, quantify, and then value benefits), (2) the use of best practices in applying "benefits transfer" techniques for developing plausible monetary values to apply, and (3) the need to properly consider baseline conditions.

As clearly noted and acknowledged in Chapter 11 of the EEA, "EPA was unable to conduct a detailed, quantitative analysis of the proposed rule because much of the information needed to quantify and value potential reductions in impingement and entrainment at new facilities was unavailable" (EEA, p. 11–1). The chapter then proceeds to detail the types of information that would be required to do the analysis for new sources (the chapter also offers some examples using available data to illustrate potential benefits based on site-specific studies of some existing facilities.)

The comments received are accurate in the sense that they point out what the Agency acknowledges at the outset, namely, that a quantitative benefits analysis was not feasible for the proposed rule for new facilities. The comments received, however, do not offer data or methods that would enable the Agency to overcome these constraints. In fact, a main thrust of industry's comments has been that the Agency is required to do a site-specific benefits analysis, given the site-specific nature of a benefits analysis.

Because the gaps still exist in the types of information required to conduct a more comprehensive benefits analysis, the Agency has been unable to appreciably expand upon the economic portions of its benefits analysis for today's final rule. However, EPA is developing a more comprehensive assessment of benefits for its upcoming rulemaking for existing facilities, because some of the key data limitations can be more readily overcome when baseline conditions for the facilities and the impacted aquatic ecosystems can be identified and studied (these perspectives are not available for new sources with unknown locations).

Finally, EPA notes that the Agency's Guidelines for Preparing Economic Analysis are, as the title states, "guidelines" and not strict requirements. Consistent with these guidelines and standard professional best practices, it is the Agency's intent to develop economic analyses that are as complete and reliable as is feasible for its rulemakings. However, it is neither required nor prudent for EPA to develop empirical estimates of benefits where data limitations or other critical constraints preclude doing so in a credible and reliable manner.

3. Comments on the Relevance and Estimation of Nonuse Values

Two comments were received that questioned the applicability of nonuse benefits to the section 316(b) rulemaking and critiqued EPA's discussion of how such nonuse values might be estimated based on existing literature.

These comments point out that the issue of nonuse values (also known in some literature as "passive use" values) has sometimes been controversial, which the Agency recognizes. Further, the comments accurately note that there are limited methods available for measuring nonuse values, and that the accuracy of these methods can be debated because there are no observable market transactions or other ways to infer values by using the revealed preferences of the American people.

EPA recognizes that challenges associated with the estimation of nonuse values have been widely discussed in the economics literature as well as in the context of regulatory analysis and damage case litigation. However, consistent with the broadly accepted view in the economics profession, the Agency believes that nonuse values are likely to exist and apply for many (if not all) of the beneficial ecological outcomes that stem from EPA regulatory actions, including enhancements to aquatic systems as can be anticipated from the proposed section 316(b) rulemaking. There is no convincing evidence to suggest that nonuse values strictly apply to only a small set of environmental resources or only to irreversible changes in the condition of those resources. Further, even if nonuse values were thought to apply only under limited circumstances, the proposed section 316(b) rule is likely to have beneficial impacts on species and resources of concern (*e.g.*, threatened or endangered fish species) and thereby meet even a narrowly defined applicability test.

EPA agrees with the comments in terms of recognizing that there are no clear preference methods available for estimating nonuse values. Nonetheless, there are a number of stated preference methods that can be and have been successfully applied to develop credible estimates of nonuse values. Research using some of the early applications of the contingent valuation method (CVM, which is one type of stated preference method that has been applied by economists for nonuse value estimation) indicated that nonuse estimates derived from inadequately designed CVM survey instruments may not be wholly reliable. Nonetheless, the body of research on stated preferences that has evolved over the past several years provides a broadening array of tools and methodological refinements that overcome many of the limitations inherent in some of the earlier applications of contingent valuation methods. EPA believes that well-designed, fully tested, and properly implemented stated preference approaches can provide useful and credible measures of nonuse values.

EPA would like to engage in a large-scale primary research effort to develop and apply state-of-the-art stated preference methods to the issue of estimating nonuse values for the ecological outcomes anticipated from section 316(b) regulatory options. However, the Agency lacks the budgetary resources, time, and appropriate authorities to pursue such research. Accordingly, the EEA discusses the viable alternative approach. Chapter 11 presents two types of benefits transfer approaches that the Agency has relied upon in past regulatory analyses and describes the findings of studies used in these exercises. While no estimates of nonuse benefits are made in the EEA, the discussion provided by the Agency establishes the appropriate concepts, approaches, and caveats that would be associated with the benefits transfer approach that would need to be used if the Agency were to develop such estimates.

J. Engineering and Economic Analysis Limitations

Some commenters argued that the industry profiles presented in the proposed rule were inaccurate. One commenter noted that, in particular, the pulp and paper industry has changed substantially since the early 1990's, the time period upon which EPA industry profile assumptions are based.

EPA's economic analysis is based on the forecasts for new facilities. To the extent that forecasts are uncertain, the estimates for costs are uncertain. The economic analysis is based on the 20-year forecast, while the life of the facility is assumed to be 30 years for annualizing costs. Facility life spans could differ from the 30-year life span, and as a result the annualized cost to these facilities could also differ. To estimate the number of new facilities for the chemical sector, EPA assumed, on the basis of comments that the estimate of 50 percent used at proposal was too high, that 25 percent of growth in product demand would be met from the new facilities. However, data were not readily available to verify this assumption. As a sensitivity analysis, EPA also calculated costs by assuming that 37.5 percent of the growth in new capacity in the chemicals sectors would occur at new facilities. In addition, for manufacturing facilities, EPA used the growth rates projected for three to five years to forecast growth over the 20-year time period.

In estimating costs, EPA assumed that new manufacturing facilities that would become operational over the 20-year period would be uniformly distributed over time. Actual growth could differ from this predicted pattern. The economic analysis is based on five major industry groups that account for the vast majority of cooling water withdrawal in the U.S. Some facilities in other industries may withdraw cooling water in excess of 2 MGD and may incur some costs to comply with the requirements of the rule. Such costs are not reflected in the economic analysis because of lack of reliable and readily available data. To the extent that facilities in other industries are affected, EPA believes that the costs and economic impacts would be similar to those considered by EPA and found to be economically practicable.

Numerous commenters argued that the cost estimates in the economic analysis are inaccurate, resulting in the underestimation of the total cost of the rule. Commenters disagreed with the cost analysis for many aspects of the rule, including but not limited to monitoring, operations and maintenance, contingency costs, and capital costs.

To the extent possible, EPA used information on the specific characteristics of planned new plants for which information is available to project the baseline characteristics of facilities affected by the rule.

Some commenters questioned the applicability and appropriateness of the economic analysis in relation to new (greenfield) facilities and existing facilities.

The estimates do not cover substantial modification of existing facilities. These facilities are not covered by the rule; hence, estimates for these facilities are not reflected in this analysis.

K. EPA Authority

Numerous commenters raised issues with regard to EPA's authority to implement section 316(b) in the proposed new facility rule. Commenters asserted that EPA's authority is limited to regulating CWISs and that by regulating dynamic flow, EPA is actually placing operational restrictions on the cooling system which in their view, are not part of a CWIS. Further, they argue that Congress did not give EPA authority to decide how much water a facility should withdraw, and thus, EPA may not regulate the gallons per day withdrawn, but must be limited to regulating physical and behavioral barriers located at the interface between the intake structure and the water body and separation and removal processes located between the point of withdrawal and the cooling water pumps. By these definitions, supply pumps and all other elements of the cooling water system are not intake structure technologies. Thus, commenters asserted EPA has no legal authority to require wet cooling or dry cooling.

In response, EPA emphasizes that it is not requiring wet cooling, but that it is establishing performance-based technology requirements on the dynamic flow of the cooling water intake structure that reduce impingement and entrainment at a level that is achieved by using closed-cycle cooling. Section 316(b) authorizes EPA to impose limitations on the location, design, construction and capacity of CWISs. EPA interprets the statute to authorize it to regulate that volume of the flow of water withdrawn through a cooling water intake structure as a means of addressing "capacity." *In re Brunswick Steam Electric Plant*, Decision of the General Counsel No. 41 (June 1, 1976). Such limitations on the volume of flow are consistent with the dictionary definition of "capacity"[94], the legislative history of the Clean Water Act[95], and the 1976 regulations.[96] *Id.* Indeed, as Decision of the General Counsel No. 41 points out, the major environmental impacts of cooling water intake structures are those affecting aquatic organisms living in the volumes of water withdrawn through the intake structure. Therefore, regulation of the volume of the flow of water withdrawn also advances the objectives of section 316(b).

Commenters also stated that EPA's proposed proportional flow withdrawal requirements lack a legal foundation since the references to location and capacity in section 316(b) refer to the CWIS itself, not the whole cooling system, and Congress did not authorize

---

[94] "Cubic contents; volume; that which can be contained." Random House Dictionary of the English Language, cited in Decision of the General Counsel No. 41.

[95] Legislative History of the Water Pollution Control Act Amendments of 1972, 93d Cong., 1st Sess., at 196–7 (1973).

[96] 40 CFR 402.11(c) (definition of "capacity"), 41 *FR* 17390 (April 26, 1976).

EPA to limit the siting of new facilities that use cooling water. To the extent that new facilities comply with this requirement by employing a wet cooling system or by obtaining water from other sources, EPA believes that this is within EPA's authority to regulate capacity, as stated above. Because the major environmental impacts of cooling water intake structures are those affecting aquatic organisms living in the volumes of water withdrawn through the intake structure, in the limited circumstances where the volume of water withdrawn would exceed the proportional flow requirements and the facility would need to locate elsewhere to meet the requirement, EPA believes this regulation of location also advances the objectives of section 316(b).

Some commenters argued that section 316(b) is no more stringent than section 316(a) and thus section 316(b) compels EPA to interpret "adverse environmental impact" as an impact with a demonstrated impact on a "balanced indigenous population." EPA does not agree that the CWA compels EPA to interpret "adverse environmental impact" as that term is used in section 316(b) in the Act by reference to the phrase "balanced indigenous population" under section 316(a). The CWA is silent with respect to what is meant by "adverse environmental impact" under section 316(b), whereas the CWA specifically mentions "balanced indigenous population" as a variance under section 316(a). The main guiding principles for statutory interpretations were articulated in *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 838, 843 (1984). There the court stated, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute. The court need not conclude that the agency construction was the only one it permissibly could have adopted to uphold the construction, or even the reading the court would have reached if the question initially had arisen in a judicial proceeding. Thus, if a statute is ambiguous and an agency's interpretation of the statute is reasonable, a court must defer to the agency. Here, EPA's interpretation of the statute is reasonable and furthers the purposes of the CWA. This interpretation is further supported because Congress used different terms in section 316(b) than it used in section 316(a). Congress did not refer to a "balanced indigenous population" in section 316(b) of the CWA. Where Congress includes particular language in one section of a statute, but omits it in another section of the same act, it is generally presumed that Congress acted intentionally and purposely in the disparate inclusion or exclusion. *Bates v. U.S.*, 522 U.S. 23 (1997). *See also Florida Public Telecommunications Ass'n, Inc.* v. *F.C.C.*, 54 F.3d 857 (D.C. Cir. 1995). Further, section 316(a) and section 316(b) address two different issues. Section 316(a) addresses the discharge of heated water while section 316(b) address the withdrawal of huge volumes of water. Thus, it is reasonable to view the two different sections of the statute as addressing different environmental problems in different ways. *In re Brunswick Steam Electric Plant*, Decision of the General Counsel No. 41 (June 1, 1976). For purposes of implementing section 316(b) in the new facility rule, EPA thinks it is reasonable to interpret the phrase adverse environmental impacts as including a range of impacts, including impingement and entrainment, diminishment of compensatory reserve, stresses to the population or ecosystem, harm to threatened or endangered species, impairment of state water quality standards, see Section V, above.

Some commenters stated that section 316(b), which focuses on intakes, not discharges, does not authorize EPA to establish a rule authorizing States to set additional cooling water intake structure requirements to meet state water quality standards. EPA addresses this issue in Section V.B. above.

L. Restoration

In the proposed rule EPA requested comments on a variety of mandatory, discretionary, and voluntary regulatory approaches involving restoration measures (65 *FR* 49089). Many commenters supported a role for restoration or mitigation. These commenters stated that restoration is a well-accepted concept that should have a voluntary role in section 316(b) determinations and constitutes an appropriate means for sources to reduce the potential for causing adverse environmental impact to below the level of regulatory concern, or reduced regulatory concern. Commenters further stated that restoration should not be mandatory and that EPA lacks authority to require it but should not preclude restoration measures from playing an important role in section 316(b) permitting decisions. These same commenters stated that restoration should not be considered the best technology available for minimizing adverse environmental impact because it is not a technology that addresses the location, design, construction, or capacity of a cooling water intake structure.

Other commenters strongly opposed restoration measures as substitute for direct controls, arguing that they are not the "best technology available for minimizing adverse environmental impact," but the commenters thought restoration measures may have a role in compensating for past harms to the aquatic environment or as an additional consideration above the protections offered by direct controls. Another commenter added that restoration measures, in the context of section 316(b), are generally unworkable and that the only measurable restoration method would be offsetting, in which an applicant would stop use of an older intake facility that does more harm than the proposed one.

Some commenters also stated that restoration should be included in permitting considerations when it is determined that dry cooling is not feasible. In this case, the facility should use a wet closed-cycle recirculating system and restoration should be considered. These commenters also suggested that, if restoration is allowed, there should be consultation with other State and Federal resource agencies to avoid inconsistent approaches. Finally, commenters stated that section 316(b) does not authorize mandatory restoration.

Today's final rule for new facilities includes restoration measures as part of Track II. EPA is not including restoration in Track I because this track is intended to be expeditious and provide certainty for the regulated community and a streamlined review process for the permitting authority. To do this for new facilities, EPA has defined the best technology available for minimizing adverse environmental impact in terms of reduction of impingement and entrainment, an objective measure of environmental performance. By contrast, restoration measures in general require complex and lengthy planning, implementation, and evaluation of the effects of the measures on the populations of aquatic organisms or the ecosystem as a whole.

EPA is including restoration measures in Track II to the extent that the Director determines that the measures taken will maintain the fish and shellfish in the waterbody in a manner that represents performance comparable to that achieved in Track I. Applicants in Track II need not undertake restoration measures, but they may choose to undertake such measures. Thus, to the extent that such measures achieve performance comparable to that achieved in Track I, it is within EPA's authority to authorize the use of such measures in the place of the Track I requirements. This is similar to the compliance alternative approach EPA took in the effluent guidelines program for Pesticide Chemicals: Formulating, Packaging and Repackaging. There EPA established a numeric limitation but also a set of best management practices that would accomplish the same numeric limitations. See 61 FR 57518, 57521 (Nov. 6, 1997). EPA believes that section 316(b) of the Clean Water Act provides EPA with sufficient authority to authorize the use of voluntary restoration measures in lieu of the specific requirements of Track I where the performance is substantially similar under the principles of *Chevron USA* v. *NRDC,* 467 U.S. 837, 844–45 (1984). Here, Congress is silent concerning the role of restoration technologies in the statute and in the legislative history, either by explicitly authorizing or explicitly precluding their use. EPA also believes that appropriate restoration measures or conservation measures that are undertaken on a voluntary basis by a new facility to meet the requirements of the rule fall within EPA's authority to regulate the "design" of cooling water intake structures. *Bailey* v. *U.S.,* 516 U.S. 137 (1995)(In determining meaning of words used in a statute, court considers not only the bare meaning of the word, but also its placement and purpose in the statutory scheme.)

This interpretation of the statute fits well within the purpose of section 316(b) of the CWA. The purpose of section 316(b) is to minimize adverse environmental impact from cooling water intake structures. Restoration measures that result in the performance comparable to that achieved in Track I further this objective while offering a significant degree of flexibility to both permitting authorities and facilities.

EPA recognizes that restoration measures have been used at existing facilities implementing section 316(b) on a case-by-case, best professional judgment basis as an innovative tool or as a tool to conserve fish or aquatic organisms, compensate for the fish or aquatic organisms killed, or enhance the aquatic habitat harmed or destroyed by the operation of cooling water intake structures. Under Track II, this flexibility will be available to new facilities to the extent that they can demonstrate performance comparable to that achieved in Track I. For example, if a new facility that chooses Track II is on an impaired waterbody, that facility may choose to demonstrate that velocity controls in concert with measures to improve the productivity of the waterbody will result in performance comparable to that achieved in Track I. The additional measures may include such things as reclamation of abandoned mine lands to eliminate or reduce acid mine drainage along a stretch of the waterbody, establishment of riparian buffers or other barriers to reduce runoff of solids and nutrients from agricultural or silvicultural lands, removal of barriers to fish migration, or creation of new habitats to serve as spawning or nursery areas. Another example might be a facility that chooses to demonstrate that flow reductions and less protective velocity controls, in concert with a fish hatchery to restock fish being impinged and entrained with fish that perform a similar function in the community structure, will result in performance comparable to that achieved in Track I.

EPA recognizes that it may not always be possible to establish quantitatively that the reduction in impact on fish and shellfish is comparable using the types of measures discussed above as would be achieved in Track I, due to data and modeling limitations. Despite such limitations, EPA believes that there are situations where a qualitative demonstration of comparable performance can reasonably assure substantially similar performance. EPA is thus providing, in § 125.86, that the Track II Comprehensive Demonstration Study should show that either: (1) The Track II technologies would result in reduction in both impingement mortality and entrainment of all life stages of fish and shellfish of 90 percent or greater of the reduction that would be achieved through Track I (quantitative demonstration) or, (2) if consideration of impacts other than impingement mortality and entrainment is included, the Track II technologies will maintain fish and shellfish in the waterbody at a substantially similar level to that which would be achieved under Track I (quantitative or qualitative demonstration).

EPA does not intend the foregoing discussion or today's rule to be authoritative with respect to any ongoing permit proceedings for existing facilities or previously issued existing facility permits, which should continue to be governed by existing legal authorities. EPA will address the issue of restoration further in Phase II and Phase III.

VII. Implementation

Under the final rule, section 316(b) requirements would be implemented through the NPDES permit program. These regulations establish application, monitoring, recordkeeping, and reporting requirements for new facilities. The regulations also require the Director to review application materials submitted by each new facility and include the requirements and monitoring and recordkeeping requirements in the permit.

EPA will develop a model permit and permitting guidance to assist Directors in implementing these requirements. In addition, the Agency will develop implementation guidance for owners and operators that will address how to comply with the application requirements, the sampling and monitoring requirements, technology plans, and the recordkeeping and reporting requirements in these regulations.

A. When Does the Rule Become Effective?

This rule becomes effective thirty (30) days from the date of publication. After the effective date of the regulation, new facilities are required to submit the application data for cooling water intake structures required under these regulations.

B. What Information Must I Submit to the Director When I Apply for My New or Reissued NPDES Permit?

The NPDES application process under 40 CFR 122.21 requires that facilities submit information and data 180 days prior to the commencement of a discharge. If you are the owner or operator of a facility that meets the new facility definition, you will be required to submit the information that is required under 40 CFR 122.21 and § 125.86 of today's final rule with your initial permit application and with subsequent applications for permit reissuance. The Director will review the information you provide and will confirm whether your facility is a new facility and establish the appropriate requirements to be applied to the cooling water intake structure(s).

At 40 CFR 122.21, today's rule requires all owners or operators of new facilities to submit three general categories of information when they apply for an NPDES permit. The general categories of information include (1) physical data to characterize the source water body in the vicinity where the cooling water intake structures are located, (2) data to characterize the design and operation of the cooling water intake structures, and (3) existing data (if they are available) to characterize the baseline biological condition of the source waterbody. All applicants must also submit a statement specifying whether they will comply with either Track I or Track II

VOL 66 ISS 243 DE 18 2001 UMI

(§ 125.86(a)(1)), and source waterbody flow information (§§ 125.86(b)(3) or 125.86(c)(1)). If you are a Track I applicant, you must also submit (1) data to show you will meet the Track I flow and velocity requirements and (2) a design and construction technology plan demonstrating that you have selected design and construction technologies necessary to minimize impingement mortality and/or entrainment if you are located where such technologies are necessary. If you are a Track II applicant, you must also submit a comprehensive demonstration study with detailed information on source waterbody and intake structure characteristics, and a verification monitoring plan. Applicants seeking an alternative requirement under § 125.85 must submit data that demonstrate that their compliance costs would be wholly out of proportion to the costs considered by EPA in establishing the requirements of §§ 125.84(a) through (e) or that compliance with the rule would cause significant adverse impacts on local air quality, local water resources or local energy markets.

The following describes the application requirements for all new facilities and the requirements specific to Tracks I and II in more detail.

1. All New Facilities

a. Source Water Physical Data

All new facilities must provide the source water physical data required at 40 CFR 122.21(r)(2) in their permit applications. These data are needed to characterize the facility and evaluate the type of waterbody and species affected by the cooling water intake structure. This information will also be used by the permit writer to evaluate the appropriateness of the design and construction technologies selected by the applicant for use at their site in subsequent permit proceedings. Specific data items that must be submitted include (1) a narrative description and scale drawings showing the physical configuration of all source waterbodies used by the facility, including areal dimensions, depths, salinity and temperature regimes, and other documentation; (2) an identification and characterization of the source waterbody's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's zone of influence and the results of such studies; and (3) locational maps.

b. Cooling Water Intake Structure Data

All new facilities must submit the cooling water intake structure data required at 40 CFR 122.21(r)(3) to characterize the cooling water intake structure and evaluate the potential for impingement and entrainment of aquatic organisms. Information on the design of the intake structure and its location in the water column will allow the permit writer to evaluate which species or life stages would potentially be subject to impingement and entrainment. A diagram of the facility's water balance would be used to identify the proportion of intake water used for cooling, make-up, and process water. The water balance diagram also provides a picture of the total flow in and out of the facility, allowing the permit writer to evaluate compliance with the Track I flow reduction requirements (if applicable). Specific data on the intake structure include (1) a narrative description of the configuration of each of your cooling water intake structures and where it is located in the waterbody and in the water column; (2) latitude and longitude in degrees, minutes, and seconds for each of your cooling water intake structures; (3) a narrative description of the operation of each of your cooling water intake structures, including design intake flows, daily hours of operation, number of days of the year in operation, and seasonal changes, if applicable; (4) a flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; (5) engineering drawings of the cooling water intake structure.

c. Source Water Baseline Biological Characterization Data

All new facilities must submit the source water baseline biological characterization data required in 40 CFR 122.21(r)(4) with their permit application. This information will characterize the biological community in the vicinity of the cooling water intake structure as well as the operation of the cooling water intake structures. The Director may use this information in subsequent permit renewal proceedings to determine if the applicant's design and construction technology plan should be revised. This supporting information must include existing data (if available), which may be supplemented with new field studies if the applicant so chooses. The applicant must submit the following specific data (1) a list of the data that are not available and efforts made to identify sources of the data; (2) if available, a list of species (or relevant taxa) in the vicinity of the cooling water intake structure, and identification of the species and life stages that would be most susceptible to impingement and entrainment (including both nekton and meroplankton) (Species identified should include the range of species in the system including the forage base); (3) if available, identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak meroplankton abundance for relevant taxa; (4) if available, information sufficient to provide data representative of the seasonal and daily biological activity in the vicinity of the cooling water intake structure; (5) if available, identification of all threatened or endangered species that might be susceptible to impingement and entrainment at your cooling water intake structures; (6) documentation of any public participation or consultation with Federal or State agencies undertaken in collecting the data; (7) if the above data are supplemented with data collected in actual field studies, a description of all methods and quality assurance procedures for data collection, sampling, and analysis, including a description of the study area; identification of the biological assemblages to be sampled or evaluated (both nekton and meroplankton); and data collection, sampling, and analysis methods. The sampling or data analysis methods used must be appropriate for a quantitative survey and based on a consideration of methods used in other biological studies performed within the same source waterbody. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

d. Source Water Flow Data

All facilities must demonstrate compliance with the source water flow requirements in §§ 125.84(b)(3) and (c)(2). Information to show that a new facility is in compliance with these requirements must be submitted to the Director in accordance with §§ 125.86(b)(3) and (c)(1).

If your facility is located on a freshwater river or stream, you must submit data that supports that you are withdrawing less than five (5) percent of the annual mean flow. The documentation might include either publicly available flow data from a nearby U.S. Geological Survey (USGS) gauging station or actual instream flow monitoring data that the facility has collected itself. The waterbody flow should be compared with the total design flow of all cooling water intake structures at the new facility.

If your cooling water intake structure is withdrawing water from an estuary or a tidal river, you need to calculate the tidal excursion and provide the flow data for your facility and the supporting calculations. The tidal excursion distance can be computed using three different methods ranging from simple to complex. The simple method involves using available tidal velocities that can be obtained from the Tidal Current Tables formerly published by the National Ocean Service of the National Oceanic and Atmospheric Administration (NOAA) and currently printed and distributed by private companies (available at bookstores or marine supply stores). The midrange method involves computing the tidal excursion distance using the Tidal Prism Method.[97] The complex method involves the use of a two-dimensional or three-dimensional hydrodynamic model. The simplest method to use is the following:

(1) Locate the facility on either a NOAA nautical chart or a base map created from the USGS 1:100,000 scale Digital Line Graph (DLG) data available on the USGS website. These DLG Data can be imported into a computer-aided design (CAD) program or geographic information system (GIS). If these tools are unavailable, 1:100,000 scale topographic maps (USGS) can be used.

(2) Obtain maximum flood and ebb velocities (in meters per second) for the waterbody in the area of the cooling water intake structure from NOAA Tidal Current Tables.

(3) Calculate average flood and ebb velocities (in meters per second) over the entire flood or ebb cycle by using the maximum flow and ebb velocities from 2 above.

$$\text{Velocity}_{\text{Average Flood}} = \text{Velocity}_{\text{Maximum Flood}} * 2/\pi \qquad \text{(Equation 1)}$$

$$\text{Velocity}_{\text{Average Ebb}} = \text{Velocity}_{\text{Maximum Ebb}} * 2/\pi \qquad \text{(Equation 2)}$$

(4) Calculate the flood and ebb tidal excursion distance using the average flood and ebb velocities from 3 above.

$$\text{Distance}_{\text{Flood Tidal Excursion}} = \text{Velocity}_{\text{Average Flood}} * 6.2103 * 3600\ \text{s}/\text{hr} \qquad \text{(Equation 3)}$$

$$\text{Distance}_{\text{Ebb Tidal Excursion}} = \text{Velocity}_{\text{Average Ebb}} * 6.2103 * 3600\ \text{s}/\text{hr} \qquad \text{(Equation 4)}$$

(5) Using the total of the flood and ebb distances from above, define the diameter of a circle that is centered over the opening of the cooling water intake structure.

(6) Define the area of the waterbody that falls within the area of the circle (see Appendix 2 to Preamble). The area of the waterbody, if smaller than the total area of the circle might be determined either by using a planimeter or by digitizing the area of the waterbody using a CAD program or GIS. For cooling water intake structures located offshore in large waterbodies, the area of the waterbody might equal the entire area of the circle (see D in Appendix 3 to Preamble). For cooling water intake structures located flush with the shoreline, the area might be essentially a semicircle (see C in Appendix 3 to Preamble). For cooling water intake structures located in the upper reaches of a tidal river, the area might be some smaller portion of the area of the circle (see A in Appendix 3 to Preamble).

(7) Calculate the average depth of the waterbody area defined in 6 above. Depths can easily be obtained from bathymetric or nautical charts available from NOAA. In many areas, depths are available in digital form.

(8) Calculate a volume by multiplying the area of the waterbody defined in 6 by the average depth from 7. Alternatively, the actual volume can be calculated directly with a GIS system using digital bathymetric data for the defined area.

If your cooling water is withdrawn from a lake or reservoir, you must submit information such as a narrative description of the waterbody thermal stratification and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the requirement not to alter the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies). Typically, this natural thermal stratification will be defined by the thermocline, which may be affected to a certain extent by the withdrawal of cooler water and the discharge of heated water into the system. This information demonstrates to the permit writer that you are maintaining the thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies) such that it maintains appropriate habitat for the biological makeup of the waterbody.

2. Track I Facilities

a. Flow Reduction Information

New facilities larger than 10 MGD that choose Track I must submit the data on flow reduction required in § 125.86(b)(1) with their permit applications. New facilities between 2 and 10 MGD that choose to comply with the Track I requirements at § 125.84(b) must also submit this data. The information required includes a narrative description of the water balance of the closed-cycle recirculating cooling water system for the facility and an engineering demonstration that the intake flows have been minimized to the maximum extent reasonably possible. You should also consider all feasible methods to re-use blowdown in other plant operations. New facilities between 2 and 10 MGD that choose to comply with the Track I requirements at § 125.84(c) must submit data that shows that the facility's total design water intake flow is less than 10 MGD. *See* § 122.21(r)(3)(iii).

---

[97] Diana, E., A.Y. Kuo, B.J. Neilson, C.F., Cerco, and P.V. Hyer. 1987. *Tidal prism model manual,* Virginia Institute of Marine Science, Gloucester Point, VA.

b. Velocity Information

New facilities that choose Track I must submit the data on velocity required in § 125.86(b)(2) with their permit applications. The information required includes a narrative description of the design, structure, equipment, and operation used to meet the performance requirement and any engineering calculations used to calculate design through-screen velocity.

c. Design and Construction Technology Plan

If you select Track I, § 125.86(b)(4) and (b)(5) require you to include a Construction Technology Plan in your application that demonstrates that your facility has selected and will implement the design and construction technologies necessary to minimize impingement mortality and/or entrainment when certain conditions exist at the site. If you select Track I and choose to comply with the requirements of § 125.84(c) (which are available to facilities between two and ten MGD) you much install technologies to reduce impingement at some locations and you must install technologies to reduce entrainment at all sites. *See* § 125.84(c)(3) and (4). Examples of such technologies that may be appropriate for your site include, but are not be limited to (1) fish-handling and return systems, (2) wedgewire screens, (3) fine mesh screens, (4) barrier nets, and (5) aquatic filter barrier systems. The Agency recognizes that selection of the specific technology or group of technologies for your site will depend on individual facility and waterbody conditions.

In the application, you need to describe the technology(ies) you will implement at your facility to meet the requirements in § 125.84(b)(4) and (5) or § 125.84(c)(3) and (4), the basis for their selection, and the expected level of performance. During subsequent permit terms, the Director may require you to implement additional or different design and construction technologies if the initial technologies you selected and implemented do not meet the requirement of minimizing impingement mortality and entrainment.

3. Track II Facilities

a. Comprehensive Demonstration Study

If you select Track II, § 125.86(c)(2) requires you to perform and submit to the Director the results of a Comprehensive Demonstration Study, including data and detailed analyses to demonstrate that you will reduce the impacts to fish and shellfish to levels comparable to the level you would achieve were you to implement the Track I requirements at § 125.84(b)(1), and (2). To meet the "comparable level" requirement, you must demonstrate that you have reduced both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that would be achieved through Track I, or if your demonstration includes consideration of impacts other than impingement mortality and entrainment, that the measures taken will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved through Track I. Your proposed technologies may specifically include the reuse of spent cooling water as industrial process water and the associated reductions in process water withdrawals from the source waterbody as a means for reducing intake capacity and impingement and entrainment.

The Comprehensive Demonstration Study has four parts:

- A proposal for how information will be collected;
- A Source Water Biological Study;
- An evaluation of potential cooling water intake structure effects; and
- A Verification Monitoring Plan.

These plans and evaluations must be submitted to the Director with the permit application.

Under § 125.86(c)(2)(iii)(B), you may submit data from previous biological studies performed in the vicinity of the proposed or actual intake if the data are no more than 5 years old so that they reasonably represent existing conditions. You must demonstrate that such existing data are fully representative of the current conditions in the vicinity of the intake and provide documentation showing that the data were collected by using established and reliable quality assurance procedures.

Before performing the study you must submit to the Director a plan stating how information will be collected to support the study. This plan must provide (1) a description of the proposed technology(ies) to be evaluated; (2) a list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed study; (3) a summary of any public participation or consultation with Federal or State agencies undertaken in development of the plan; and (4) a sampling plan for data that will be collected in actual field studies in the source waterbody that documents all methods and quality assurance procedures for data collection, sampling, and analysis. The study area for such field studies must include, at a minimum, the area of influence of the cooling water intake structure and at least 100 meters beyond. The area of influence is the portion of water subject to the forces of the intake structure such that a particle within the area is likely to be pulled into the intake structure.

You must submit the results of a Source Water Biological Study in accordance with § 125.86(c)(2)(iv)(A). This characterization must include (1) a taxonomic identification and characterization of aquatic biological resources (nekton and meroplankton) to provide a summary of historic and contemporary aquatic biological resources; a determination and description of the target populations of concern (those species and life stages that would be most susceptible to impingement and entrainment); and a description of the abundance and temporal and spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily biological activity in the vicinity of the cooling water intake structure; (2) an identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the cooling water intake structures; and (3) a description of additional chemical, water quality, and other anthropogenic stresses on the source waterbody. The Director might coordinate a review of your list of threatened or endangered species with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service staff to ensure that potential impacts to threatened or endangered species have been addressed.

The study must evaluate the potential for cooling water intake structure effects in accordance with § 125.86(c)(2)(iv)(A). This evaluation must include (1) a statement of the baseline against which the comparative analyses will be made. The impingement and entrainment baselines must be calculated for the facility by assuming a design of a once-through cooling water system employing a trash rack and traveling screens; (2) an engineering estimate of the efficacy of proposed technologies in reducing impacts to fish and shellfish to a level comparable to the level that would be achieved by meeting the Track I requirements at the site. To demonstrate that the technologies meet the "comparable level" requirement, the demonstration must show that both impingement and entrainment of all life stages of fish and shellfish have been reduced to 90 percent or greater of the reduction that could be achieved through Track I, or, if impacts other than impingement mortality and entrainment are considered, that the measures taken will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved through Track I. The efficacy projection must include a site-specific evaluation of technology suitability for reducing impingement and entrainment based on design, location, and operational specification applied to the characterization and a site-specific evaluation of any additional measures based on the physical, chemical, and biological characteristics of the site; and (3) a characterization of impingement and entrainment survival estimates of the proposed alternative technology based on case studies in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies, and a characterization of fish and shellfish propagation and survival based, for example, on case studies documenting the efficacy of any additional measures performed at similar sites.

To demonstrate that you will reduce impingement mortality and entrainment to a level of reduction comparable to the level that you would achieve if you implemented Track I requirements at your site, you will need to develop a conceptual engineering design of a hypothetical recirculating water system for your facility, including the estimated intake flow. The estimated intake flow should take into account an optimized system in which the volume of intake flow/blowdown is minimized to the maximum extent feasible. The conceptual design should also include proposed design and construction technologies that would be used to minimize impingement mortality and entrainment pursuant to § 125.84(b)(4) and (5). Finally, you should estimate the expected level of impingement and entrainment associated with the hypothetical intake structure for all species found in substantial numbers in source waterbody in the vicinity of the intake structure. In estimating entrainment, 100 percent mortality may be assumed to preclude the need to perform entrainment survival studies.

You must then calculate and document the expected level of performance of the proposed alternative technologies for all species found in significant numbers in the source waterbody in the vicinity of the intake structure. Such documentation may consist of pilot-scale testing at the proposed facility, *representative* performance data from *comparable* facilities, or both. In preparing the documentation you should specifically show that the pilot-scale or comparable facility data address the following factors that may affect technology performance:

- Physical and chemical watershed conditions (temperature, freezing and thawing, tidal conditions, wave action, sediment and debris, flow, etc.);
- Biological watershed conditions (individual species, life stages, predator species, seasonality, etc.);
- Engineering feasibility and long-term reliability, and
- Operation and maintenance issues.

Available data suggests that alternative design and construction technologies for cooling water intake structures can achieve the level of reduction in impingement mortality and entrainment required under Track I. Technologies such as fine and wide-mesh wedgewire screens, as well as aquatic filter barrier systems, have been shown to reduce mortality from impingement by up to 99 percent or greater compared with conventional once-through systems. In addition, other types of barrier nets may achieve reductions of 80 to 90 percent, and modified screens and fish return systems, fish diversion systems, and fine mesh traveling screens and fish return systems have achieved reductions in impingement mortality ranging from 60 to 90 percent greater than conventional once-through systems. Similarly, with regard to entrainment, although there is less available full scale performance data, aquatic filter barrier systems, fine mesh wedgewire screens, and fine mesh traveling screens with fish return systems have been shown to achieve 80 to 90 percent greater reduction in mortality from entrainment compared with conventional once-through systems. Several additional factors suggest that these performance levels can be improved upon. First, some of the cooling water intake structure technology performance data reviewed is from the 1970's and 1980's and does not reflect recent developments and innovation (e.g., aquatic filter barrier systems, sound barriers). Second, these conventional barrier and return system technologies have not been optimized on a widespread level to date, as would be encouraged by this rule. Such optimization can be best achieved by new facilities, which can match site conditions to available technologies. Third, EPA believes that many facilities could achieve further reductions (estimated 15–30 percent) in impingement and entrainment by providing for seasonal flow restrictions, variable speed pumps, and other innovative flow reduction alternatives. Finally, new facilities seeking to comply under Track II can choose the specific location of their cooling water intake structures to further optimize the level of reduction in impingement mortality and entrainment (i.e., locate the cooling water intake structure outside of biologically productive or sensitive areas to the extent this would serve to reduce environmental impact). For additional discussion, *see* Section V.B.2.

Finally, new facilities complying under Track II must submit a Verification Monitoring Plan in accordance with § 125.86(c)(2)(iv)(A). The plan must include information on how the facility will conduct a monitoring study to verify the full-scale performance of the proposed technologies and of any additional measures. The plan must describe the frequency of monitoring and the parameters to be monitored. The Director will use the verification monitoring to verify that you are meeting the level of impingement and entrainment expected and that fish and shellfish are being maintained at the level expected. The Director will then determine whether to approve the use of the suite of alternative technologies in subsequent permit issuance. Verification monitoring must start during the first year that the cooling water intake structure begins operation and continue for a sufficient period of time to demonstrate that the facility is reducing impingement mortality and entrainment to a level of reduction comparable to the level the facility would have been achieved by implementing the flow reduction and design velocity requirements of Track I.

4. Data To Support a Request for Alternative Requirements

If, pursuant to § 125.85(a), you request that an alternative requirement less stringent than those specified in § 125.84 be required in your permit, § 125.85(b) places the burden on you to show that your compliance costs are wholly out of proportion to the costs EPA considered during development of

VOL 66 ISS 243 DE 18 2001 UMI

the requirements at issue, or that compliance with the national standard will result in significant adverse impact to local air quality, local water resources, or local energy markets. Compliance costs that EPA considered were subdivided into one-time costs and recurring costs. Examples of one-time costs include capital and permit application costs. Examples of recurring costs include operation and maintenance costs, permit renewal costs, and monitoring, recordkeeping, and reporting costs.

C. How Will the Director Determine the Appropriate Cooling Water Intake Structure Requirements?

The Director's first step would be to determine whether the facility is covered by this rule If the answer is yes to all the following questions, the facility must comply with the requirements of this final rule.

(1) Is the facility a "new facility" as defined in § 125.83?

(2) Does the new facility withdraw cooling water from waters of the U.S.; *OR* does the facility obtain cooling water by any sort of contract or arrangement with an independent (supplier or multiple suppliers) of cooling water if the supplier(s) withdraw(s) water from waters of the U.S. and is not a public water system?

(3) Is at least 25 percent of the water withdrawn by the facility used for cooling purposes?

(4) Does the new facility have a design intake flow of greater than 2 million gallons per day (MGD)?[98]

(5) Does the new facility discharge pollutants to waters of the U.S., including storm water-only discharges, such that the facility has or is required to have an NPDES permit?

If these final regulations are applicable to the applicant, the second step would be to determine the locational factors associated with the new facility's cooling water intake structure. The Director would first review the information that the new facility provided to validate the source waterbody type in which the cooling water intake structure is located (freshwater stream or river, lake or reservoir, estuary or tidal river, or ocean). (As discussed above, the applicant would need to identify the source waterbody type in the permit application and provide the appropriate documentation to support the waterbody type classification.) The Director would review the supporting material the applicant provided in the permit application. The Director would also review the engineering drawings and the locational maps the applicant provided, documenting the physical placement of the cooling water intake structure.

For Track I facilities, the Director's next step would be to review the design requirements for intake flow and velocity. For a new facility with an intake flow equal to or greater than 10 MGD that is required to reduce its intake flow to a level commensurate with that which could be attained by a closed-cycle recirculating cooling water system, the Director would review the narrative description of the closed-cycle recirculating cooling water system design and any engineering calculations to ensure that the new facility is complying with the requirement and that the make-up and blowdown flows have been minimized. If the flow reduction requirement is met by reusing or recycling water withdrawn for cooling purposes, the Director must review documentation that the amount of cooling water that is not reused or recycled has been minimized.

The velocity requirement is based on the design through-screen or through-technology velocity as defined in § 125.83. For Track I facilities, the maximum design velocity would always be 0.5 ft/s. To determine whether the new facility meets the maximum design velocity requirement, the Director would review the narrative description of the design, structure, equipment, and operation used to meet the velocity requirement. The Director would also review the design calculations that demonstrate that the maximum design velocity would be met. In reissuing permits, the Director would review velocity monitoring data to confirm that the facility is not exceeding the initial design velocity calculated at the start of commercial service.

Under Track I, the Director would then review the applicant's Design and Construction Technology Plan (if the applicant is located in an area where such technologies are required) and the applicant's Source Water Baseline Biological Characterization data. During each permit renewal, the Director would then review monitoring data, application data, and other supporting information to determine whether the applicant needs to implement additional or different design and construction technologies (see discussion of § 125.89(a)(2) below).

Under Track II, the Director would receive and should review the applicant's proposed plan for preparing the Comprehensive Demonstration Study. When the applicant proposes to rely on existing studies, the Director would assess the data quality and the relevance to the proposed facility. When new biological surveys are proposed, the Director would determine whether they fully characterize the waterbody potentially impacted by impingement and entrainment. Where pilot-scale demonstrations are proposed, the Director would evaluate whether they are generally representative of full-scale operations. After the study is completed, the Director would review the applicant's analysis, specifically to determine whether the proposed alternative technology(ies) will reduce impingement mortality and entrainment to a level of reduction comparable to the level that the facility would achieve if it complied with the Track I requirements for reducing intake capacity and design velocity, or if the proposed measures in conjunction with the proposed technologies will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved. The Director would also review the facility's Technology Verification Plan for post-operational monitoring to demonstrate that the technologies are performing as predicted.

The proportional flow requirement applicable to all facilities is based on waterbody type. To determine whether the new facility meets the flow requirement, the Director would first verify the new facility's determination of the waterbody flow for the respective waterbody type (e.g., annual mean flow and low flow for freshwater river or stream). The Director would review the source-water flow data the facility provided in the permit application. The Director should consider using available USGS data (for freshwater rivers and streams) to verify the flow data in the permit application. Then the Director would review any supporting documentation and engineering calculations that demonstrate that the new facility would meet the flow requirements. To verify the flow data the new facility provides for an estuary or a tidal river, the Director would review the facility's calculation of the tidal excursion.

The final regulations at § 125.84(e) require compliance with any more stringent requirements relating to the location, design, construction, or capacity of a cooling water intake structure or monitoring requirements at a new facility that a Director deems necessary to comply with any provision of State law, including state water quality standards, including designated uses, criteria, and antidegradation provisions.

---

[98] If the answer is no to these flow parameters and yes to all the other questions, the Director would use best professional judgment on a case-by-case basis to establish permit conditions that ensure compliance with section 316(b).

D. What Will I Be Required to Monitor?

At § 125.87, today's final rule requires biological monitoring and visual or remote inspections at all facilities. Track I facilities and Track II facilities that rely on specified velocity levels as part of their alternative technology(ies) are also required to monitor screen head loss and velocity.

Both Track I and Track II facilities must conduct biological monitoring for impingement and entrainment to assess the presence, abundance, life stages, and mortality (eggs, larvae, post larvae, juveniles, and adults) of aquatic organisms (fish and shellfish) impinged or entrained during operation of the cooling water intake structure. These data would also be used by the permitting authority in subsequent permit terms to determine whether additional or modified design and construction technologies are reasonably necessary (see discussion of § 125.89(a)(2) in D. below). The facility would be required to conduct impingement and entrainment sampling over a 24-hour period no less than once per month when the cooling water intake structure is in operation and report results to the Director annually. After two years, the Director may approve an applicant's request for less frequent biological monitoring if the facility provides data to support the request showing that less frequent monitoring would still allow for the detection of any seasonal and daily variations in the species and numbers of individuals that are impinged or entrained. The Director should approve a request for reduced frequency in biological monitoring only if the supporting data show that the technologies are consistently performing as projected under all operating and environmental conditions and less frequent monitoring would still allow for the detection of any future performance fluctuations.

Under § 125.87(b), Track I facilities are required to monitor the head loss across the intake screens to obtain a correlation of those values with the design intake velocity (Track I) or other specified velocity (Track II) at minimum ambient source-water surface elevation (according to best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in § 125.84(b)(2) and (c)(1). The data collected by monitoring this parameter would provide the Director with additional information after the design and construction of the cooling water intake structure to demonstrate that the facility is operating and maintaining the cooling water intake structure in a manner such that the velocity requirement continues to be met. The Agency considers this the most appropriate parameter to monitor, because, although the facility might be designed to meet the requirement, proper operation and maintenance is necessary to maintain the open area of the screen and intake structure, ensuring that the design intake velocity is maintained. Head loss can easily be monitored by measuring and comparing the height of the water in front of and behind the screen or other technology. Track I facilities that use devices other than screens would be required to measure the actual velocity at the point of entry through the device. Velocity can be measured with velocity meters placed at the entrance into the device.

Weekly visual or remote inspections are required to provide a mechanism for both the new facility and the Director to ensure that any technologies that have been implemented for minimizing adverse environmental impact are being maintained and operated in a manner that ensures that they function as designed. EPA has promulgated this requirement so that facilities that develop plans and install technologies could not operate them improperly so that adverse environmental impact is not minimized to the extent expected. The Director would determine the actual scope and implementation of the visual inspections based on the types of technologies installed at your facility. For example, inspections could be as simple as observing bypass and other fish handling systems to ensure that debris has not clogged the system and rendered it inoperable.

E. How Will Compliance Be Determined?

This rule will be implemented by the Director placing conditions consistent with this rule in NPDES permits. Compliance with permit conditions implementing this rule require the following data and information:

- Data submitted with the NPDES permit application to show that the facility is in compliance with location, design, construction, and capacity requirements (§ 125.86).
- Compliance monitoring data and records, including those for impingement and entrainment monitoring, to show that impingement and entrainment impacts are being minimized (§ 125.87(a)).
- Through-screen or through-technology velocity monitoring data and records to show that the facility is being operated and maintained as designed to continue to meet the velocity requirement (§ 125.87(b)).
- Records from visual or remote inspections to show that technologies installed are being operated properly and function as they were designed (§ 125.87(c)).

Facilities are required to keep records and report the above information in a yearly status report in § 125.88. In addition, Directors may perform their own compliance inspections as deemed appropriate in accordance with 40 CFR 122.41.

F. What Are the Respective Federal, State, and Tribal Roles?

Section 316(b) requirements are implemented through NPDES permits. As discussed in Section II.A today's final regulations would amend 40 CFR 123.25(a)(36) to add a requirement that authorized State programs have sufficient legal authority to implement today's requirements (40 CFR part 125, subpart I). Therefore, today's final rule potentially affects authorized State and Tribal NPDES permit programs. Under 40 CFR 123.62(e), any existing approved section 402 permitting program must be revised to be consistent with new program requirements within one year from the date of promulgation, unless the NPDES-authorized State or Tribe must amend or enact a statute to make the required revisions. If a State or Tribe must amend or enact a statute to conform with today's final rule, the revision must be made within two years of promulgation. States and Tribes seeking new EPA authorization to implement the NPDES program must comply with the requirements when authorization is requested.

In addition to updating their programs to be consistent with today's rule, States and Tribes authorized to implement the NPDES program would be required to implement the cooling water intake structure requirements following promulgation of the final regulations. The requirements must be implemented upon permit issuance and reissuance. Duties of an authorized State or Tribe under this regulation include

- Verification of a permit applicant's determination of source waterbody classification and the flow or volume of certain waterbodies at the point of the intake;
- Verification that the intake structure maximum flow rate is less than the maximum allowable as a proportion of waterbody flow for certain waterbody types;

VOL 66 ISS 243 DE 18 2001 UMI

- Verification that a Track I permit applicant's design intake velocity calculations meet applicable regulatory requirements;
- Verification that a Track I permit applicant's intake design and reduction in capacity are commensurate with a level that can be attained by a closed-cycle recirculating cooling water system that has minimized make-up and blowdown flows;
- Verification that a Track II permit applicant's Comprehensive Demonstration Study demonstrates that the proposed alternative technologies will reduce the impacts to fish and shellfish to levels comparable to those the facility would achieve if it met the Track I requirements;
- Development of draft and final NPDES permit conditions for the applicant implementing applicable section 316(b) requirements pursuant to this rule; and
- Ensuring compliance with permit conditions based on section 316(b) requirements.

EPA will implement these requirements where States or Tribes are not authorized to implement the NPDES program.

G. Are Permits for New Facilities Subject to Requirements Under Other Federal Statutes?

EPA's NPDES permitting regulations at 40 CFR 122.49 contain a list of Federal laws that might apply to federally issued NPDES permits. These include the Wild and Scenic Rivers Act, 16 U.S.C. 1273 *et seq.*; the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*; the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*; and the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* See 40 CFR 122.49 for a brief description of each of those laws. In addition, the provisions of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, relating to essential fish habitat might be relevant. Nothing in this final rulemaking authorizes activities that are not in compliance with these or other applicable Federal laws.

H. Alternative Requirements

Today's rule establishes national requirements for new facilities. EPA has taken into account all the information that it was able to collect, develop, and solicit regarding the location, design, construction, and capacity of cooling water intake structures at new facilities. EPA concludes that these requirements reflect the best technology available for minimizing adverse environmental impact on a national level. In some cases, however, data that could affect the economic practicability of requirements might not have been available to be considered by EPA during the development of today's rule. Therefore, EPA is including § 125.85 to allow for adjustment of the requirements of § 125.84 in certain limited circumstances.

Section 125.85 would allow the Director, in the permit development process, to set alternative best technology available requirements that are less stringent than the nationally applicable requirements. Under § 125.85(a), any interested person may request that alternative requirements be imposed in the permit. Section 125.85(a) provides that alternative requirements that are less stringent than the requirements of § 125.84 would be approved only if the Administrator determines that compliance with the requirement at issue would result in compliance costs wholly out of proportion to the costs considered during development of the requirement at issue or in significant adverse impacts on local air quality, local water resources or local energy markets; the alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or significant adverse impact; and the alternative requirements will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirements of State law.

Because new facilities have a great degree of flexibility in their siting, in how their cooling water intake structures are otherwise located, and in the design, construction, and sizing of the structure, cost is the primary factor that would justify the imposition of less stringent requirements as part of the alternative requirements approach. This is because other factors affecting the location, design, construction, and capacity of cooling water intake structures at new facilities can be addressed by modifications that may have cost implications. EPA notes that alternate discharge standards are not allowed in the somewhat analogous case of the new source performance standards that EPA establishes under section 306 of the CWA for the discharge of effluent from new sources in particular industrial categories. However, because EPA is acting under a separate authority in this rule, section 316(b) of the CWA, and because section 316(b) of the CWA is silent concerning this issue, EPA believes it is reasonable to interpret section 316(b) to give EPA discretion to establish alternative requirements for new facility cooling water intake structures. EPA takes this position because this final rule would establish requirements for cooling water intake structures at any type of new facility in any industrial category above the flow threshold.[99] Thus, in some instances it might be possible that the costs of complying with today's final requirements would be wholly out of proportion to the costs EPA considered and determined to be economically practicable. As discussed in the *Economic Analysis* Chapter 7, EPA has analyzed the cost of compliance with today's final requirements for all facilities projected to be built in the reasonably foreseeable future, as well as other types of facilities that might be built at later dates (such as large base-load steam electric generating facilities that do not use combined-cycle technology) and concludes that these compliance costs would be economically practicable for all types of facilities the Agency considered. However, should an individual new facility demonstrate that costs of compliance for a new facility would be wholly out of proportion to the costs EPA considered and determined to be economically practicable, the Director would have authority to adjust best technology available requirements accordingly.

Under § 125.85(a), alternative requirements would not be granted based on a particular facility's ability to pay for technologies that would result in compliance with the requirements of § 125.84. Thus, so long as the costs of compliance are not wholly out of proportion to the costs EPA considered and determined to be economically practicable, the ability of an individual facility to pay in order to attain compliance with the rule would not support the imposition of alternative requirements.

EPA has allowed for alternative requirements where the facility demonstrates, to the satisfaction of the Director, that at a local level, the air quality impacts, non-impingement and entrainment aquatic effects, or energy impacts of complying with the requirements of § 125.84 are significant and justify a different approach to regulating cooling water intake structures.

Section 125.85(a) specifies procedures to be used in the establishment of alternative requirements. The burden is on the person requesting the alternative requirement to demonstrate that alternative requirements should be imposed and that the appropriate requirements of § 125.85 (a) have been met. The person requesting the alternative requirements should refer to all relevant information, including the support documents for this rulemaking, all associated data collected for use in developing each requirement, and other relevant information that is kept on public file by EPA.

---

[99] Except for facilities in the offshore and coastal subcategories of the oil and gas extraction point source category as defined under 40 CFR 435.10 and 40 CFR 435.40.

VIII. Economic Analysis

The total estimated annualized compliance costs of today's final rule is $48 million.[100] This estimate includes incremental costs incurred by new facilities that begin operation between 2001 and 2020. Facilities not already meeting section 316(b) requirements incur several types of costs under today's final rule. One-time costs of the rule include capital technology costs and costs for the initial permit application. Recurring costs include operating and maintenance (O&M) costs, permit renewal costs, and costs for monitoring, record keeping, and reporting. EPA's cost estimates are presented in Chapters 6 and 7 of the *Economic Analysis* and in the *Technical Development Document.*

Today's final rule provides for a two-track approach to comply with the rule's requirements. Facilities that already plan to install a closed-cycle cooling system in the baseline are assumed to choose Track I, the "fast track." These facilities will incur only the costs of installing fish baskets and a fish return system if they would not have already elected to install these technologies independent of the rule. EPA records document that the screens were sized to reduce the velocity. Facilities that do not plan to install a closed-cycle cooling system in the baseline are assumed to choose Track II. These facilities will install alternative technologies of their choice that will reduce impingement mortality and entrainment to a level of reduction comparable to the level the facility would achieve if it met the Track I requirements. The alternative technologies considered in the cost analysis are further discussed in Chapter 5 of the Technical Development Document.

Chapter 2 of the *Technical Development Document* outlines EPA's approach to estimating the facility-level costs associated with this rule. EPA estimated costs for a series of model facilities, based on their cooling system type (once-through or recirculating system), the type of water body from which the intake structure withdraws (freshwater or marine water), and a measure of the facility's size (generating capacity for steam-electric generating capacity plants and design intake flow for manufacturers). Model facility characteristics were derived from specific new facilities predicted to be built based on Resource Data International's NEWGen Database, and from existing facilities based on responses to the section 316(b) industry survey of existing facilities (see discussion below) and U.S. Department of Energy information. EPA estimated compliance costs for the 121 new facilities estimated to begin operation between 2001 and 2020, based on model facility characteristics and the requirements of today's final rule. EPA amortized capital cost estimates over 30 years.[101] EPA projected construction of 121 new facilities over the next 20 years after promulgation of the final rule.

A. Electric Generation Sector

For the period 2001 through 2020, EPA estimates that 83 new electric generation facilities will be subject to today's final rule.[102] EPA identified these facilities based on three main data sources: (1) The U.S. Department of Energy's *Annual Energy Outlook 2001* (AEO2001); (2) Resource Data International's NEWGen Database (February 2001 version); and (3) the section 316(b) industry survey of existing facilities. Because the facilities are new facilities that have not yet been built, EPA necessarily had to project certain aspects of the facilities. Hence, the facilities are model facilities. For more information on EPA's facility modeling, see Chapter 5 of the *Economic Analysis.*

EPA estimated facility-level costs for the 83 new electric generation facilities found to be within the scope of this rule by comparing each facility's projected baseline characteristics with the incremental requirements of the rule. If a facility already planned to fulfill any of the applicable requirements independent of the rule, the cost estimates did not include any costs for meeting that requirement. For example, EPA estimates that 74 of the 83 proposed new generating facilities already plan to build a recirculating wet cooling tower, so only 9 facilities are assumed to incur costs for complying with the flow reduction requirement at § 124.84(b)(1) of the final rule.

EPA used annual forecasts of new capacity additions from the AEO2001 to predict how many of the 83 new generating facilities will begin operation in each year between 2001 and 2020. EPA then distributed the new facilities estimated to install a cooling tower evenly over the years with projected new facilities. For example, EPA estimates that three of the 14 new in-scope coal-fired facilities are planning to build a once-through system in the baseline. The cost analysis therefore assumes that the 1st, 6th, and 11th coal-fired facility to begin operation will incur costs of a recirculating wet cooling tower. An additional coal facility which plans to have a cooling pond was treated as having a once-through system in the baseline and was also costed with a cooling tower.[103] This facility was assumed to be the 2nd to begin operation. EPA's assumptions on when new Track I coal facilities will begin operation leads to an overestimate of the total costs of this rule because higher cost facilities are over represented among the coal facilities beginning operation early in the 20-year analysis period. Additionally, EPA estimates that five of the 69 new in-scope combined-cycle facilities would install a recirculating wet cooling tower as a result of the rule. The cost analysis therefore assumes that the 1st, 16th, 30th, 44th, and 58th combined-cycle facility to begin operation will incur costs of a recirculating wet cooling tower.

Total annualized costs for the 83 new facility electric generators are estimated to be $34.7 million (using a 7 percent discount rate). The lowest annualized compliance cost for any electric generator is estimated to be approximately $170,000; the lowest annualized cost per megawatt of generating capacity is estimated to be $153. The highest annualized cost is estimated to be $19.1 million; the highest cost per megawatt of generating capacity is estimated to be $11,640. Sixty-nine facilities are expected to have relatively low annualized compliance costs (below $200,000 per facility), while 8 facilities will have annualized costs exceeding $1 million per facility.[104] The other facilities would have costs between $200,000 and $1 million per facility.

---

[100] The estimated annualized compliance costs are presented as a single cost to represent the highestpotential implementation costs to industry. For example, although such costs are based on estimates of howmany facilities will choose compliance under Track I and Track II, even facilities estimated to follow TrackII have been assumed to ultimately have to install closed-cycle recirculating cooling water systems.

[101] The amortization period was selected to correspond to the estimated useful life of the technologiesrequired for compliance with this rule. EPA conducted a sensitivity analysis using a 15-yearamortization period (see Chapter 7 of the *Economic Analysis*).

[102] See Section IV.A. above or Chapter 5 of the *Economic Analysis* for underlying estimates and methods used for estimating the cost of the rule.

[103] In some states, a cooling pond is considered a water of the U.S. In these states, a plant with such a cooling system would have to comply with the recirculating requirements of the final section 316(b) New Facility Rule. In those states where a cooling pond is not considered a water of the U.S., a plant would not have to comply with the recirculating requirements of this rule. The costing analysis made the conservative assumption that facilities with a cooling pond would have to comply with the recirculating requirements. These recirculating facilities with cooling ponds were therefore costed as if they had a once-through system in the baseline.

B. Manufacturing Sector

For the period 2001 through 2020, EPA projected that 38 new manufacturing facilities will incur costs to comply with today's final rule. All of these facilities are model facilities estimated based on industry growth rates (derived from the U.S. Industry and Trade Outlook 2000 and industry-specific sources, such as Kline's Guide to the Chemical Industry) and responses to the section 316(b) industry survey. Facility-specific operational characteristics of the cooling water intake structures, economic and financial characteristics of the projected new facilities, and waterbody type and other locational information were not available. EPA assumed that the characteristics of new facilities in a given 4-digit SIC code will be similar to the characteristics of existing facilities in that same SIC code. Compliance costs were therefore calculated based on the characteristics of existing facilities by SIC code, source water type, cooling system type, and flow, using data from the section 316(b) industry survey of existing facilities. EPA used the same unit costs and methods as for new electric generators.

Total annualized costs for the 38 new manufacturing facilities are estimated to be $13.0 million. The lowest annualized compliance cost for any facility is approximately $175,000; the highest annualized cost is $1.6 million; the average annualized costs for the remaining 36 manufacturing facilities centers around $494,000 per facility. Five of the manufacturing facilities incur annualized costs less than $200,000 per facility, and one chemicals facility incurs annualized costs exceeding $1 million.

Exhibit 4 provides a summary of the estimated annualized compliance costs for today's final rule.

EXHIBIT 4.—NATIONAL ANNUALIZED COSTS OF COMPLIANCE WITH THE SECTION 316(B) NEW FACILITY REGULATION

[in $2000, millions]

Industry category	Number of projected new in-scope facilities	Capital and permit application costs	Recurring costs	Total annualized compliance costs
Electric Generators:				
Combined-Cycle	69	$3.7	$9.6	$13.3
Coal-Fired	14	4.1	17.3	21.4
Total Generators	83	7.8	26.9	34.7
Manufacturing Facilities:				
SIC 26 Pulp & paper	2	0.2	0.3	0.5
SIC 28 Chemicals	22	2.7	4.1	6.8
SIC 29 Petroleum	2	0.3	0.5	0.8
SIC 331 Iron & steel	10	1.9	2.8	4.6
SIC 333/335 Aluminum	2	0.1	0.1	0.2
Total Manufacturing	38	5.2	7.8	13.0
All Projected New Facilities	121	12.9	34.7	47.7

C. Economic Impacts

The estimated annualized compliance costs would represent a small portion of the estimated revenues for almost all of the new facilities subject to today's rule. Costs as a percentage of baseline revenues would be less than 1 percent for all but nine of the facilities. Of these nine facilities, only 3 would experience costs as a percentage of baseline revenues of 3 percent or more.[105] EPA's discussion of cost impacts is presented in Chapter 7 of the *Economic Analysis.* Impacts at the industry level are expected to be very limited because the projected number and total capacity of the new facilities that are within the scope of today's final rule are generally small compared with the industry as a whole. Because EPA does not expect many facilities to be affected and does not expect the costs of the rule to create a barrier to entry or to create a significant change in productivity, EPA does not expect today's final rule to cause significant changes in industry productivity, competition, prices, output, foreign trade, or employment. The baseline revenues and the modest costs for each facility subject to today's rule are sufficient to preclude any barriers to entry.

EPA therefore expects the final rule to be economically practicable for the industries as a whole. The rule is not expected to result in any significant impact on generation and distribution of electricity, because most of the electric generation facilities are expected to meet most of the rule's requirements in the baseline. Only a small percentage of the total number of facilities in each of the manufacturing sectors will be affected by the final rule. EPA therefore concludes that this rule will not result in a significant impact on industries or the economy.

D. Cost and Economic Impacts of Other Alternatives

In addition to today's final rule, EPA estimated the costs and economic impacts of several alternative regulatory options. The first alternative option that EPA considered would be to apply the Track I requirements of today's final rule only to facilities withdrawing from

---

[104] The higher-cost electric generators are expected to begin operation in the years 2004, 2005 (two facilities), 2007 (two facilities), 2010, 2013, and 2017.

[105] Three coal facilities would have annualized costs between 3.3 percent and 5.2 percent of revenues. Sixelectric generators would have annualized costs greater than 1 but less than 3 percent of revenues.

estuaries, tidal rivers, Great Lakes, and oceans. Under this option, the definition and number of new facilities subject to the rule would not change, but some facilities would incur less stringent compliance requirements. EPA estimates that the total annualized compliance costs for this alternative would be $36.3 million. The second alternative option considered by EPA would impose more stringent compliance requirements on the electric generating segment of the industry. It is based wholly or in part on a zero intake-flow (or nearly zero, extremely low-flow) requirement, commensurate with levels achievable through the use of dry cooling systems. New manufacturing facilities would not be subject to these stricter requirements but would have to comply with the requirements of today's final rule. EPA estimated costs for this alternative by assuming that the dry cooling standard would apply to electric generators on all waters of the U.S. The costs of this option are estimated to be $490.7 million per year.

The first alternative regulatory option considered by EPA would have lower total costs than today's final rule. A regulatory framework based on dry cooling towers for some or all electric generators is the most expensive option. Compared with today's final rule, this option would impose an additional cost of $443 million, or $6,910 per megawatt of generating capacity, on the electric generating sector.

IX. Potential Benefits Associated With Reducing Impingement and Entrainment

To provide an indication of the potential benefits of adopting best technology for cooling water intake structures, this section presents information from existing sources on impingement and entrainment losses associated with cooling water intake structures and the economic benefits associated with reducing these losses. Benefits of the regulation come from preventing situations such as those discussed below. Examples are drawn from existing sources because the information needed to quantify and value potential reductions in losses at new facilities is not available. The reason the information is unavailable is that the exact location of future facilities is unknown. Also unknown are details of cooling water intake structure characteristics, such as the exact configuration of intake, the species present near an intake, the life stages of the species at the time they are present, and the susceptibility of these species to impingement and entrainment. For some facilities listed in the new NEWGen database, there is some general information about facility locations, but details of intake characteristics and the ecology of the surrounding waterbody are unavailable. For facilities projected into the future, there is no locational information at all. Site-specific information is critical in predicting benefits, because studies at existing facilities demonstrate that benefits are highly variable across facilities and locations. Even similar facilities on the same waterbody can have very different benefits depending on the aquatic ecosystem in the vicinity of the facility and intake-specific characteristics such as location, design, construction, and capacity.

In general, the probability of impingement and entrainment at future cooling water intake structure locations depends on intake and species characteristics that influence the intensity, time, and spatial extent of interactions of aquatic organisms with a facility's cooling water intake structure and the physical, chemical, and biological characteristics of the source waterbody. Flows commensurate with closed-cycle cooling systems (which are one part of the basis for best technology available) withdraw water from a natural waterbody, circulate the water through the condensers, and then send it to a cooling tower or cooling pond before recirculating it back through the condensers. Because cooling water is recirculated, closed-cycle systems generally reduce the water flow from 72 percent to 98 percent, thereby using only 2 percent to 28 percent of the water used by once-through systems. It is generally assumed that this would result in a comparable reduction in impingement mortality and entrainment.

Fish species with free-floating, early life stages are highly susceptible to cooling water intake structure impacts. Such planktonic organisms lack the swimming ability to avoid being drawn into intake flows. Species that spawn in nearshore areas, have planktonic eggs and larvae, and are small as adults experience even greater impacts, because both new recruits and reproducing adults are affected (*e.g.*, bay anchovy in estuaries and oceans). In general, higher impingement and entrainment are observed in estuaries and near coastal waters because of the presence of spawning and nursery areas.

The final regulatory framework also recognizes that for any given species and cooling water intake structure location, the proportion of the sourcewater flow supplied to the cooling water intake structure is a major factor affecting the potential for impingement and entrainment. In general, if the quantity of water withdrawn is large relative to the flow of the source waterbody, water withdrawal would tend to concentrate organisms and increase numbers impinged and entrained. Thus, the final flow requirements seek to reduce impingement and entrainment by limiting the proportion of the waterbody flow that can be withdrawn.

The following five examples from studies at existing facilities offer some indication of the relative magnitude of monetary damages associated with cooling water intake structures. These examples exhibit the magnitude of impingement and entrainment, on a per facility basis, that could be significantly reduced in the future for similar steam electric facilities under this final rule. In the following discussion, the potential benefits of lowering intake flows to a level commensurate with those of a closed-cycle recirculating cooling water system (for the projected 90 percent of facilities not already planning to use such systems) is illustrated by comparisons of once-through and closed-cycle cooling systems (*e.g.*, the Brayton Point and Hudson River facilities). The potential benefits of additional requirements defined by regional permit directors are demonstrated by operational changes implemented to reduce impingement and entrainment (*e.g.*, the Pittsburg and Contra Costa facilities). The Ludington example demonstrates how impingement and entrainment losses of forage species can lead to reductions in economically valuable species. Finally, the potential benefits of implementing additional design and construction technologies to increase survival of organisms impinged or entrained is illustrated by the application of modified intake screens and fish return systems (*e.g.*, the Salem Nuclear Generating Station).

The first example of the potential benefits of minimizing intake flow and associated impingement and entrainment is provided by data for the Brayton Point facility, located on Mt. Hope Bay in Massachusetts. In July 1984, the operation of Unit 4 was changed from closed-cycle cooling and piggyback operation to once-through cooling. Although conversion to once-through cooling increased intake flow by about 41 percent, the facility requested the change because of electrical problems associated with salt contamination from Unit 4's closed-cycle cooling canal equipped with spray modules. The lower losses expected under closed-cycle operation can be estimated by comparing losses before

VOL 66 ISS 243 DE 18 2001 UMI

and after this modification. Based on reports providing predicted[106] or actual[107] losses after the Unit 4 modification, EPA estimates that the average annual reduction in entrainment losses of adult equivalents of catchable fish resulting from closed-cycle operation of a single unit at Brayton Point (reducing the flow of that unit from 1,045 MGD to 703 MGD) would range from 207,254 Atlantic menhaden (Brevoortia tyrannus)[1] and 155,139 winter flounder (Pleuronectes americanus)[2] to 20,198 tautog (Tautoga onitis)[2] and 7,250 weakfish (Cynoscion regalis)[2] per year. Assuming a proportional change in harvest, the lower losses associated with a closed-cycle system would be expected to result in an increase of 330,000 to 2 million pounds per year in commercial landings and 42,000 to 128,000 pounds per year in recreational landings.

The second example of the potential benefits of low intake flow is provided by an analysis of impingement and entrainment losses at five Hudson River power plants. Estimated fishery losses under once-through compared with closed-cycle cooling indicate that an average reduction in intake flow of about 95 percent at the three facilities responsible for the greatest impacts would result in a 30 to 80 percent reduction in fish losses, depending on the species involved.[108] An economic analysis estimated monetary damages under once-through cooling based on the assumption that annual percentage reductions in year-classes of fish result in proportional reductions in fish stocks and harvest rates.[109] A low estimate of damages was based on losses at all five facilities, and a high estimate was based on losses at the three facilities that account for most of the impacts. Damage estimates under once-through cooling ranged from about $1.3 million to $6.1 million annually in 1999 dollars. Over the next 20 years, EPA projects that 9 out of 83 new power plants would be built without recirculating systems in the absence of this rule. Most of the costs projected for the final rule are associated with installing recirculating systems as a result of this final rule.

The third example demonstrates how impingement and entrainment losses of forage species can lead to reductions in economically valued species. A random utility model (RUM) was used to estimate fishery impacts of impingement and entrainment by the Ludington Pumped Storage plant on Lake Michigan.[110] [111] This method estimates changes in demand for beneficial use of the waterbody as a function of changes in catch rates. The Ludington facility is responsible for the loss of about 1 to 3 percent of the total Lake Michigan production of alewife, a forage species that supports valuable trout and salmon fisheries. It was estimated that losses of alewife result in a loss of nearly 6 percent of the angler catch of trout and salmon each year. On the basis of RUM analysis, the study estimated that if Ludington operations ceased, catch rates of trout and salmon species would increase by 3.3 to 13.7 percent annually, amounting to an estimated recreational angling benefit of $0.95 million per year (in 1999 dollars) for these species alone.

The fourth example indicates the potential benefits of technologies that have been required in past section 316(b). Two plants in the San Francisco Bay/Delta, Pittsburg, and Contra Costa in California have made changes to their intake operations to reduce impingement and entrainment of striped bass *Morone saxatilis*). These changes include flow reduction through variable speed pumps. These operational changes have also reduced incidental take of several threatened or endangered fish species, including the delta smelt (*Hypomesus transpacificus*) and several runs of chinook salmon (*Oncorhynchus tshawytscha*) and steelhead trout (*Oncorhynchus mykiss*). According to technical reports by the facilities, use of these technologies reduced striped bass losses by 78 to 94 percent, representing an increase in striped bass recreational landings averaging about 100,000 fish each year.[112] [113] [114] [115] [116] A local study estimated that the consumer surplus of an additional striped bass caught by a recreational angler is $8.87 to $13.77.[117] This implies a benefit to the recreational fishery, from reduced impingement and entrainment of striped bass alone, in the range of $887,000 to $1,377,000 annually. The monetary benefit of reduced impingement and entrainment of threatened or endangered species might be substantially greater.

The final example indicates the potential benefits of technologies that can be applied to reduce impingement. In its 1999 permit renewal application, the Salem Nuclear Generating Station in the Delaware Estuary evaluated the potential benefits of dual-flow, fine mesh traveling screens designed to achieve an approach velocity of 0.5 ft/s.[118] Based on the facility's projections of net increases in recreational fisheries that would occur with this technology, EPA estimates that angler consumer surplus would increase by $531,247, to $1,780,104 annually in 1999 dollars. Assuming that nonuse benefits are at least 50 percent of recreational use benefits, nonuse benefits associated with the screens might be expected to amount to up to $890,052 per year.

A more detailed discussion of cooling water intake structure impacts and potential benefits can be found Chapter 11 of the *Economic Analysis* document.

---

[106] Marine Research, Inc. and New England Power Company. 1981. Final Environmental Impact Report and Sections 316(a) and 316(b) Demonstrations Made in Connection with the Proposed conversion of Generating Unit No. 4 from Closed-Cycle to Once-through Cooling.

[107] New England Power Company and Marine Research Inc. 1995. Brayton Point Station Annual Biological and Hydrological Report, January-December 1994.

[108] Boreman, J. And C.P. Goodyear. 1988. Estimates of entrainment mortality for striped bass and other fish species inhabiting the Hudson River Estuary. *American Fisheries Society Monograph* 4:152–160.

[109] Rowe, R.D., C.M. Lang, L.G. Chestnut, D.A. Latimer, D.A. Rae, S.M. Bernow, and D.E. White. 1995. *The New York Electricity Externality Study, Volume 1*. Empire State Electric Energy Research Corporation.

[110] Jones, C.A., and Y.D. Sung. 1993. *Valuation of Environmental Quality at Michigan Recreational Fishing Sites: Methodological Issues and Policy Applications*. Prepared under EPA Contract No. CR–816247 for the U.S. EPA, Washington, DC.

[111] Pumped storage facilities do not use cooling water and are therefore not subject to this final rule. However, the concept of economic valuation of losses in forage species is transferable to other types of stressors, including cooling water intake structures.

[112] Pacific Gas & Electric Company. 1996. Best Technology Available: 1995 Technical Report for the Contra Costa and Pittsburg Power Plants. Prepared for Central Valley and San Francisco Bay Regional Water Quality Control Boards.

[113] Pacific Gas & Electric Company. 1997. Best Technology Available: 1996 Technical Report for the Contra Costa and Pittsburg Power Plants. Prepared for Central Valley and San Francisco Bay Regional Water Quality Control Boards.

[114] Pacific Gas & Electric Company. 1998. Best Technology Available: 1997 Technical Report for the Contra Costa and Pittsburg Power Plants. Prepared for Central Valley and San Francisco Bay Regional Water Quality Control Boards.

[115] Pacific Gas & Electric Company. 1999. Best Technology Available: 1998 Technical Report for the Contra Costa and Pittsburg Power Plants. Prepared for Central Valley and San Francisco Bay Regional Water Quality Control Boards.

[116] South Energy California. 2000. Best Technology Available: 1999 Technical Report for the Contra Costa and Pittsburg Power Plants. Prepared for Central Valley and San Francisco Bay Regional Water Quality Control Board.

[117] Huppert, D.H. 1989. Measuring the value of fish to anglers: application to central California anadromous species. *Marine Resource Economics* 6:89–107.

[118] Public Service Electric and Gas Company. 1999. Appendix F, 1999 Permit Renewal Application, NJPDES Permit No. NJ0005622.

X. Regulatory Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 *FR* 51735, October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this final rule is a "significant regulatory action." As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0241. The information collection requirements relate to new electric generation and manufacturing facilities collecting information for baseline biological characterization, monitoring of impingement and entrainment, preparing comprehensive demonstrations, verifying compliance, and preparing yearly reports.

Since the proposal, EPA used updated sources and revised the number of facilities that will be subject to this rule (See Section IV.A.1 of this preamble). These new data sources resulted in an increase in the number of facilities projected as subject to this rule from 98 in the proposed rule analysis to 121 in the final rule. As a result, the cost and burden estimates for today's final rule have increased somewhat.

In the final rule, EPA has revised the requirements of the source water baseline biological characterization to allow the use of existing information, which lowers the cost incurred by new facilities. However, today's rule includes a Comprehensive Demonstration requirement for those facilities choosing Track II. Cost and burden estimates for today's final rule were revised accordingly.

Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The total burden of the information collection requirements associated with today's rule is estimated at 121,127 hours. The corresponding estimates of cost other than labor (labor and non-labor costs are included in the total cost of the rule discussed in Section VIII of this preamble) is $5.3 million for 18 facilities and 44 States and one Territory for the first three years after promulgation of the rule. Non-labor costs include activities such as capital costs for remote monitoring devices, laboratory services, photocopying, and the purchase of supplies. The burden and costs are for the information collection, reporting, and recordkeeping requirements for the three-year period beginning with the effective date of today's rule. Additional information collection requirements will occur after this initial three-year period as new facilities continue to be permitted and such requirements will be counted in a subsequent information collection request. EPA does not consider the specific data that would be collected under this final rule to be confidential business information. However, if a respondent does consider this information to be confidential, the respondent may request that such information be treated as confidential. All confidential data will be handled in accordance with 40 CFR 122.7, 40 CFR part 2, and EPA's Security Manual Part III, Chapter 9, dated August 9, 1976.

Compliance with the applicable information collection requirements imposed under this final rule (*see* §§ 122.21(r), 125.86, 125.87, 125.88, and 125.89) is mandatory. Before new facilities can begin operation, they would be required first to perform several data-gathering activities as part of the permit application process. Today's rule would require several distinct types of information collection as part of the NPDES application. In general, the information would be used to identify which of the requirements in today's final rule applies to the new facility, how the new facility would meet those requirements, and whether the new facility's cooling water intake structure reflects the best technology available for minimizing environmental impact. Specific data requirements of today's rule follow:

- Intake structure data, consisting of intake structure design and a facility water balance diagram, to evaluate the potential for impingement and entrainment of aquatic organisms; and
- Information on design and construction technologies implemented to ensure compliance with the applicable requirements set forth in today's rule.

In addition to the information requirements of the permit application, NPDES permits normally specify monitoring and reporting requirements to be met by the permitted entity. New facilities that fall within the scope of this rule would be required to perform biological monitoring of impingement and entrainment, monitoring of the screen or through-screen technology velocity, and visual inspections of the cooling water intake structure and any additional technologies. Additional ambient water quality monitoring may also be required of facilities depending on the specifications of their permits. The facility would be expected to analyze the results from its monitoring efforts and provide these results in an annual status report to the permitting authority. Finally, facilities would be required to maintain records of all submitted documents, supporting materials, and monitoring results for at least three years. (Note that the director may require that records be kept for a longer period to coincide with the life of the NPDES permit.)

All impacted facilities would carry out the specific activities necessary to fulfill the general information collection requirements. The estimated burden includes developing a water balance diagram that can be used to identify the proportion of intake water used for cooling, make-up, and process water. Some of the facilities (those choosing Track II) would gather performance data to determine the effectiveness of alternative technologies that reduce impingement and entrainment to levels commensurate with reductions achieved through use of recirculating wet cooling towers and document the basis of their determination in a demonstration study. The burden estimates include sampling, assessing the source waterbody, estimating the magnitude of impingement and entrainment, and reporting results in a comprehensive demonstration for certain facilities. The burden also includes conducting a pilot study to show that alternative technologies to be installed are equivalent in performance to the fast track technologies, if data are not publicly available for assessing the performance of certain technologies. Some of the facilities would need to perform additional activities related to velocity and flow reduction requirements. The burden estimates also incorporate the cost of preparing a narrative description of the design, structure, equipment, and operational features required to meet velocity and flow reductions.

In addition to the activities mentioned above, some facilities would need to prepare and submit a plan describing design characteristics of additional technologies to be installed that will reduce impingement and entrainment and maximize survival of aquatic organisms. The estimates for some facilities also incorporate the cost of sampling, analyzing, and reporting the type and number of impinged and entrained organisms; velocity monitoring; and biweekly inspections of installed technologies.

Exhibit 5 presents a summary of the maximum burden estimates for a facility to prepare a permit application and monitor and report on cooling water intake structure operations as required by this rule.

EXHIBIT 5.—MAXIMUM BURDEN AND COSTS PER FACILITY FOR NPDES PERMIT APPLICATION AND MONITORING AND REPORTING ACTIVITIES

Activities	Burden (hr)	Labor cost	Other direct costs (lump sum) [a]
Start-up activities	43	$1,585	$50
Permit application activities	146	4,598	500
Source waterbody flow information	104	3,010	100
Source water baseline biological characterization data	265	8,975	750
CWIS flow reduction requirements (Track I)	108	3,261	400
CWIS velocity requirements (Track I)	138	4,428	1,000
Design and construction technology plan (Track I)	85	2,840	50
Comprehensive demonstration study plan (Track II) [b]	383	13,563	1,000
Source water baseline biological characterization study (Track II)	5,178	274,845	13,000
Evaluation of potential CWIS effects (Track II)	2,577	135,141	500
Subtotal	9,027	452,246	17,350
Maximum Burden and Costs per Facility for Annual Monitoring and Reporting Activities			
Biological monitoring (impingement)	388	20,240	650
Biological monitoring (entrainment)	776	41,035	4,000
Velocity monitoring	163	4,993	100
Visual inspection of installed technology and remote monitoring equipment [c]	253	8,159	100
Verification monitoring (Track II) [d]	122	5,146	500
Yearly Status report activities	348	13,071	750
Subtotal	2,050	92,644	6,100

[a] Cost of supplies, filing cabinets, photocopying, boat renting, etc.
[b] The Comprehensive Demonstration Study also has contracted service costs associated with it.
[c] Remote monitoring equipment also has capital and O&M costs associated with it
[d] The verification monitoring also has contracted services associated with it.

EPA believes that all 44 States and one territory with NPDES permitting authority will undergo start-up activities in preparation for administering the provisions of the new facility rule. As part of these start-up activities, States and Territories are expected to train junior technical staff to review materials submitted by facilities, and then use these materials to evaluate compliance with the specific conditions of each facility's NPDES permit.

Each State's/Territory's actual burden associated with reviewing submitted materials, writing permits, and tracking compliance depends on the number of new in-scope facilities that will be built in the State/Territory during the ICR approval period. EPA expects that State and Territory technical and clerical staff will spend time gathering, preparing, and submitting the various documents. EPA's burden estimates reflect the general staffing and level of expertise that is typical in States/Territories that administer the NPDES permitting program. EPA considered the time and qualifications necessary to complete various tasks such as reviewing submitted documents and supporting materials, verifying data sources, planning responses, determining specific permit requirements, writing the actual permit, and conferring with facilities and the interested public. Exhibit 6 provides a summary of the burden estimates for States/Territories performing various activities associated with the final rule.

VOL 66 ISS 243 DE 18 2001 UMI

EXHIBIT 6.—ESTIMATING STATE/TERRITORY BURDEN AND COSTS FOR ACTIVITIES

Activities	Burden (hrs)	Labor cost	Other direct cost
Start-up activities (per state/territory)	100	$3,514	$50
State/territory permit issuance activities (per facility)	723	29,128	350
Annual state/territory activities (per facility)	50	1,670	50

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. EPA is amending the table in 40 CFR part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that might result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that might significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant intergovernmental mandates, and informing, educating, and advising small governments on compliance with regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that might result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Total annualized compliance and implementation costs are estimated to be $47.9 million. Of the total costs, the private sector accounts for $43.8 million and the government sector (includes direct compliance costs for facilities owned by government entities) accounts for $4.1 million. EPA calculated annualized costs by estimating initial and annual expenditures of facilities and regulatory authorities over the 30-year period (2001–2030), calculating the present value of that stream of expenditures using a 7 percent discount rate. EPA estimates that the highest undiscounted cost incurred by the private sector in any one year is approximately $71.2 million and the highest cost incurred by government sector in any one year is approximately $19.0 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

EPA has determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's final rule is not subject to the requirements of section 203 of UMRA. A municipality that owns or operates a new electric generation facility is the primary category of small government operations that might be affected by this rule. Existing data indicate that only four government owned facilities will be constructed in the next twenty years. All four are expected to be owned by large governments. Of these, two are expected to be State owned, one is projected to be owned by a municipality and one by a municipality market. In addition, to minimize cost, this final rule excludes facilities that take in less than two (2) million gallons per day. Details and methodologies used for these estimates are included in the *Economic Analysis* document, which is in the docket.

D. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

Today's rule is intended to minimize the adverse environmental impact from cooling water intake structures and regulates new facilities that use cooling water withdrawn directly from waters of the U.S. The primary impact would be on new steam electric generating facilities (SIC 4911); however, a number of new facilities in other industries likely will also be regulated, including, but not limited to, paper and allied products (primary SIC 26), chemical and allied products (primary SIC 28), petroleum and coal products (primary SIC 29), and primary metals (primary SIC 33).

For the purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business according to the Small Business Administration (SBA) size standards; (2) A small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is a not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This rule is expected to regulate only a small number of facilities owned by small entities, representing a very small percentage of all facilities owned by small entities in their respective industries. EPA has estimated that 11 new facilities owned by small entities would be regulated by this final rule. Of the 11 new facilities owned by small entities, 8 are steam electric generating facilities and 3 are manufacturing facilities. This rule will not regulate any small governments or small organizations.

1. Electric Generation Sector

EPA has described the process by which prospective new steam electricity generating facilities subject to today's rule were identified in Section IV.A of this preamble and in Chapter 5 of the *Economic Analysis* document. As described in Chapter 8 of that document, EPA then identified those facilities subject to the rule whose owner would be defined as a small business. The analysis used the definitions of small businesses established by the Small Business Administration (SBA). (The SBA defines small businesses based on Standard Industrial Classification (SIC) codes and size standards expressed by the number of employees, annual receipts, or electric output.) The SBA defines a small steam electric generator as a firm whose facilities generate 4 million megawatt-hours output or less. EPA has determined that 8 facilities owned by small businesses in the steam electric generating industry are likely to be regulated by today's rule.

The estimated annualized compliance costs that facilities owned by small entities would likely incur represent between 0.11 and 0.44 percent of estimated facility annual sales revenue. All but one electric generating facilities owned by a small firm incur costs less than 0.3 percent of revenues. The results of this screening analysis indicated very low impacts at the facility level. Consequently, the costs to the parent small entity would be even lower.

The absolute number of small entities potentially subject to this rule is low. This is not unexpected since the total number of facilities subject to this rule is also low, even though the electric power industry is currently experiencing a rapid expansion and transition due to deregulation and new Clean Air Act requirements for emissions controls, and a large number of generating plants are under construction or planned for the early years of the final rule. First, there is a trend toward construction of combined-cycle technologies using natural gas, which use substantially less cooling water than other technologies. Second, there has been a decline in the use of surface water as the source of cooling water. An analysis of new combined-cycle facilities, identified from the NEWGen database shows a trend toward less use of surface cooling water. The analysis showed that 66 percent of the analyzed facilities use alternative sources of cooling water (*e.g.*, grey water, ground water, municipal water, or dry cooling). EPA believes this reflects the increased competition for water, an heightened awareness of the need for water conservation, and increased local opposition to the use of surface water for power generation. Taken together, the trend toward combined-cycle generating technologies, which have small cooling water requirements per unit of output, and the movement away from the use of surface cooling water result in a low projected number of regulated facilities, despite the expected expansion in new generating capacity.

2. Manufacturing Sector

Chapter 5 of the *Economic Analysis* document shows that 38 new manufacturing facilities are expected to incur compliance costs under today's rule. Since EPA's estimate of new manufacturing facilities is based on industry growth forecasts and not on specific planned facilities, actual parent firm information was not available. EPA, therefore, developed profiles of representative new facilities based on the characteristics of existing facilities identified in EPA's Industry Survey of existing facilities.

Using SBA size standards for the firm's SIC Code, only 3 of the 38 new manufacturing facilities are projected to be owned by a small entity. One of the 3 facilities is in the chemicals sector and two are in the metals sector (in both sectors, a small entity is defined as a firm with fewer than 1,000 employees). EPA compared annualized costs to annual sales revenue to assess impacts for manufacturing firms. The test was applied at the facility rather than the firm level, which provides a conservative estimate of the impacts because the ratio of costs to revenues were relatively lower at the firm level than at the individual facility level. The impact analysis showed a negligible impact on small entities: very low effects on facility sales revenue (ranging from 0.04 to 0.08 percent).

EPA has conducted extensive outreach to industry associations and organizations representing small government jurisdictions to identify small-entity manufacturing facilities. Based on the outreach effort and a review of the relevant industry trade literature, EPA concludes that, although the exact number of facilities owned by small entities that would be subject to the rule is difficult to quantify, it is evident that for the foreseeable future few, if any, small entities would be affected. EPA estimates that only 2.9 percent of future facilities in the next twenty years owned by small entities will use cooling water at levels that would bring them within the scope of this regulation.

The small number of small entities subject to this rule in the manufacturing sector is not surprising because the facilities likely to be subject to the rule are large industrial facilities that are not generally owned by small entities. There are many reasons for the limited projected number of in-scope new facilities owned by small entities. Depending on which industry sector is considered, these include industry downsizing; expansion of capacity at existing facilities as a means of meeting increased demand; mergers and acquisitions that reduce the overall number of firms; and addition of a significant number of facilities in at least one industry sector as part of a recently completed expansion cycle so that additional new facilities are not expected for the foreseeable future. The segments of the industries that are the primary users of cooling water are mostly large, capital intensive enterprises with few, if any, small businesses within their ranks.

A final reason why this rule does not have a significant economic impact on a substantial number of small entities is that EPA has established a two (2) MGD flow as the level below which facilities would not be subject to the requirements of the rule. This minimum flow level exempts many facilities using small amounts of water, including facilities owned by small entities, while covering approximately 99 percent of the total cooling water withdrawn from the waters of the U.S. Therefore, EPA concludes that there will be a negligible increase in the number of small facilities in these manufacturing industries subject to today's final rule. Exhibit 7 summarizes the results of small entity analysis.

EXHIBIT 7.—SUMMARY OF RFA/SBREFA ANALYSIS

Type of facility	Number of facilities owned by small entities	Annual compliance costs/annual sales revenue
Steam electric generating facilities	8	0.11%–0.44%
Manufacturing facilities	3	0.04%–0.08%
Total	11	0.04% to 0.44%

Although this rule will not have a significant economic impact on a substantial number of entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. In particular, EPA does not require that a facility with intake flows equal to or greater than 2 MGD and less than 10 MGD reduce its intake flow to a level commensurate with use of a closed-cycle recirculating cooling system. Instead, these facilities are required to use the less costly design and construction technologies for minimizing entrainment at all locations. See 125.84(c)(4). EPA believes that the requirements of § 125.84(c) are an economically practicable way for these facilities to reduce impingement mortality and entrainment. EPA consulted many times with the Small Business Administration on matters associated with this rule. Upon invitation, EPA met several times with a mix of small businesses interested in this rule.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 *FR* 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Rather, this final rule would result in minimal administrative costs on States that have an authorized NPDES program. The annualized state implementation cost over the 30-year analysis period (2001 to 2030) is approximately $240,000 total for all States per year. Also, based on meetings and subsequent discussions with local government representatives from municipal utilities, EPA believes that the final new facility rule may affect, at most, only two large municipalities that own steam electric generating facilities. The annual impacts on these facilities is not expected to exceed 1,304 burden hours and $36,106 (non-labor costs) per facility.

The national cooling water intake structure requirements would be implemented through permits issued under the NPDES program. Forty-four States and the Virgin Islands are currently authorized pursuant to section 402(b) of the CWA to implement the NPDES program. In States not authorized to implement the NPDES program, EPA issues NPDES permits. Under the CWA, States are not required to become authorized to administer the NPDES program. Rather, such authorization is available to States if they operate their programs in a manner consistent with section 402(b) and applicable regulations. Generally, these provisions require that State NPDES programs include requirements that are as stringent as Federal program requirements. States retain the ability to implement requirements that are broader in scope or more stringent than Federal requirements. (See section 510 of the CWA)

Today's final rule would not have substantial direct effects on States or on local governments because it would not change how EPA and the States and local governments interact or their respective authority or responsibilities for implementing the NPDES program. Today's final rule establishes national requirements for new facilities with cooling water intake structures. NPDES-authorized States that currently do not comply with the final regulations might need to amend their regulations or statutes to ensure that their NPDES programs are consistent with Federal section 316(b) requirements. See 40 CFR 123.62(e). For purposes of this final rule, the relationship and distribution of power and responsibilities between the Federal government and the States and local governments are established under the CWA (e.g., sections 402(b) and 510); nothing in this final rule would alter that. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with State governments and representatives of local governments in developing the rule. During the development of the section 316(b) rule for new facilities, EPA conducted several outreach activities through which State and local officials were informed about the proposed rule and they provided information and comments to the Agency.

EPA also held two public meetings in the summer of 1998 to discuss issues related to the section 316(b) rulemaking effort. Representatives from New York and Maryland attended the meetings and provided input to the Agency. The Agency also contacted Pennsylvania and Virginia to exchange information on this issue. In addition, EPA Regions 1, 3, 4, and 9 served as conduits for transmittal of section 316(b) information between the Agency and several States. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicited comment on the proposed rule from State and local officials. More recently, EPA met with industry, environmental, and State and Federal government representatives, during May, June, and July 2001 to discuss regulatory alternatives for the new facility rule. The States that EPA consulted with or received public comment from, in general, supported the technology-based rule which focused on reducing the impingement mortality and entrainment resulting from cooling water intake structures. In particular, many States endorsed the 2 MGD threshold, capacity reduction, and proportional flow restrictions. A few States wanted more flexibility, whereas others wanted more stringent technology-based performance

VOL 66 ISS 243 DE 18 2001 UMI

standards. EPA believes that it has achieved a balance between these two opposite concerns in establishing the two-track approach.

F. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

Today's final rule would require that the location, design, construction, and capacity of cooling water intake structures at new facilities reflect the best technology available for minimizing adverse environmental impact. For several reasons, EPA does not expect that this final rule would have an exclusionary effect, deny persons the benefits of the NPDES program, or subject persons to discrimination because of their race, color, or national origin. The final rule applies only to new facilities with cooling water intake structures that withdraw waters of the U.S. As discussed previously, EPA anticipates that this final rule would not affect a large number of new facilities; therefore, any impacts of the final rule would be limited. The final rule does include location criteria that would affect siting decisions made by new facilities, these criteria are intended to prevent deterioration of our nation's aquatic resources. EPA expects that this final rule would preserve the health of aquatic ecosystems located in reasonable proximity to new cooling water intake structures and that all populations, including minority and low-income populations, would benefit from such improved environmental conditions. In addition, because the final rule would help prevent decreases in populations of fish and other aquatic species, it is likely to help maintain the welfare of subsistence and other low-income fishermen or minority low-income populations.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 *FR* 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe might have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not an economically significant rule as defined under Executive Order 12866 and does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. Therefore, it is not subject to Executive Order 13045.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Given the available data on new facilities and the applicability thresholds in the final rule, EPA estimates that no new facilities subject to this final rule will be owned by tribal governments. This rule does not affect tribes in any way in the foreseeable future. Accordingly, the requirements of Executive Order 13175 do not apply to this rule.

I. Executive Order 13158: Marine Protected Areas

Executive Order 13158 (65 FR 34909, May 31, 2000) requires EPA to "expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment." EPA may take action to enhance or expand protection of existing marine protected areas and to establish or recommend, as appropriate, new marine protected areas. The purpose of the Executive Order is to protect the significant natural and cultural resources within the marine environment, which means "those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law."

Today's final rule implements section 316(b) of the Clean Water Act (CWA) for new facilities that use water withdrawn from rivers, streams, lakes, reservoirs, estuaries, oceans or other waters of the United States (U.S.) for cooling water purposes. The final rule establishes national technology-based performance requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities. The national requirements establish the best technology available for minimizing adverse environmental impact associated with the use of these structures. It also requires the permit applicant to select and implement design and construction technologies to minimize impingement mortality and entrainment.

EPA expects that this final regulation will reduce impingement and entrainment at new facilities. The rule will afford protection of aquatic organisms at individual, population, community, or ecosystem levels of ecological structures. Therefore, EPA expects today's rule will advance the objective of the Executive Order to protect marine areas.

J. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355; May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

Track I of the final section 316(b) new facility rule requires facilities with an intake flow equal to or greater than 10 MGD to install a recirculating system or other technologies that would reduce the design intake flow to a level commensurate with that of a recirculating system. For the purposes of this Statement of Energy Effects, EPA believes that facilities that do not already plan to install a recirculating system in the baseline will install a recirculating wet cooling tower to achieve compliance with the rule (9 power plants). Installation of a cooling tower imposes an "energy penalty," consisting of two components: (1) A reduction in unit efficiency due to increased turbine back-pressure; and (2) an increase in auxiliary power requirements to operate the recirculating wet cooling tower. EPA estimates that the installation of 9 recirculating wet cooling towers as a result of this rule (that is, those installed at new power plants that would otherwise not utilize recirculating wet cooling in absence of the rule) would reduce available generating capacity by a maximum of 100 megawatts (MW) nationally. EPA also considered the energy requirements of other compliance technologies, such as rotating screens, but found them insignificant and thus excluded them from this analysis.

EPA estimates that 4 new coal-fired power plants and 5 new combined-cycle power plants will install a recirculating wet cooling tower to comply with the final section 316(b) new facility rule. The estimated generating capacity of the four new coal facilities ranges from 63 MW to 3,564 MW. Each of the five combined-cycle facilities has a generating capacity of 1,031 MW. The estimated mean annual energy penalty is 1.65 percent of the generating capacity for coal-fired facilities and 0.40 percent for combined-cycle facilities. As a result, the installation of recirculating wet cooling towers to comply with the final rule is likely to reduce available energy supply by an average of approximately 74 MW per year over the next 20 years (2001 to 2020). The reduction will reach a maximum of 100 MW in 2017, when all 9 facilities are projected to have begun operation (*see* Section IV.A.1 of this preamble for details on the projected number and cooling water characteristics of new electric generators). These reductions are actually an overestimate due to the fact that some facilities may choose to comply with Track II and implement technologies other than recirculating wet cooling towers.

EPA believes that the estimated reduction in available energy supply as a result of the final section 316(b) rule does not constitute a significant energy effect. During the period covered by EPA's new facility projection, 2001 to 2020, the Energy Information Administration (EIA) forecasts total new capacity additions of 370 gigawatts (GW) (1 GW = 1,000 MW) and an average available generating capability of 921 GW. Compared to the EIA forecasts, the estimated energy effect of the final rule is insignificant, comprising only 0.03 percent of total new capacity (100 MW/370 GW) and 0.008 percent of the average available generating capability (74 MW/921 GW) at new facilities. Chapter 9 of the *Economic Analysis* provides more detail about the estimated energy effect of the final section 316(b) new facility rule. Chapter 3 of the *Technical Development Document* further discusses energy penalty estimation.

K. National Technology Transfer and Advancement Act

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Pub L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget (OMB), explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

L. Plain Language Directive

Executive Order 12866 requires each agency to write all rules in plain language. EPA has written this final rule in plain language to make the rule easier to understand. EPA specifically solicited comment on how to make this rule easier to understand. EPA received no comments on the plain language of the proposal or NODA.

M. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not considered a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective January 17, 2002.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 123

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Indian-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous waste, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 125

Environmental protection, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: November 9, 2001.

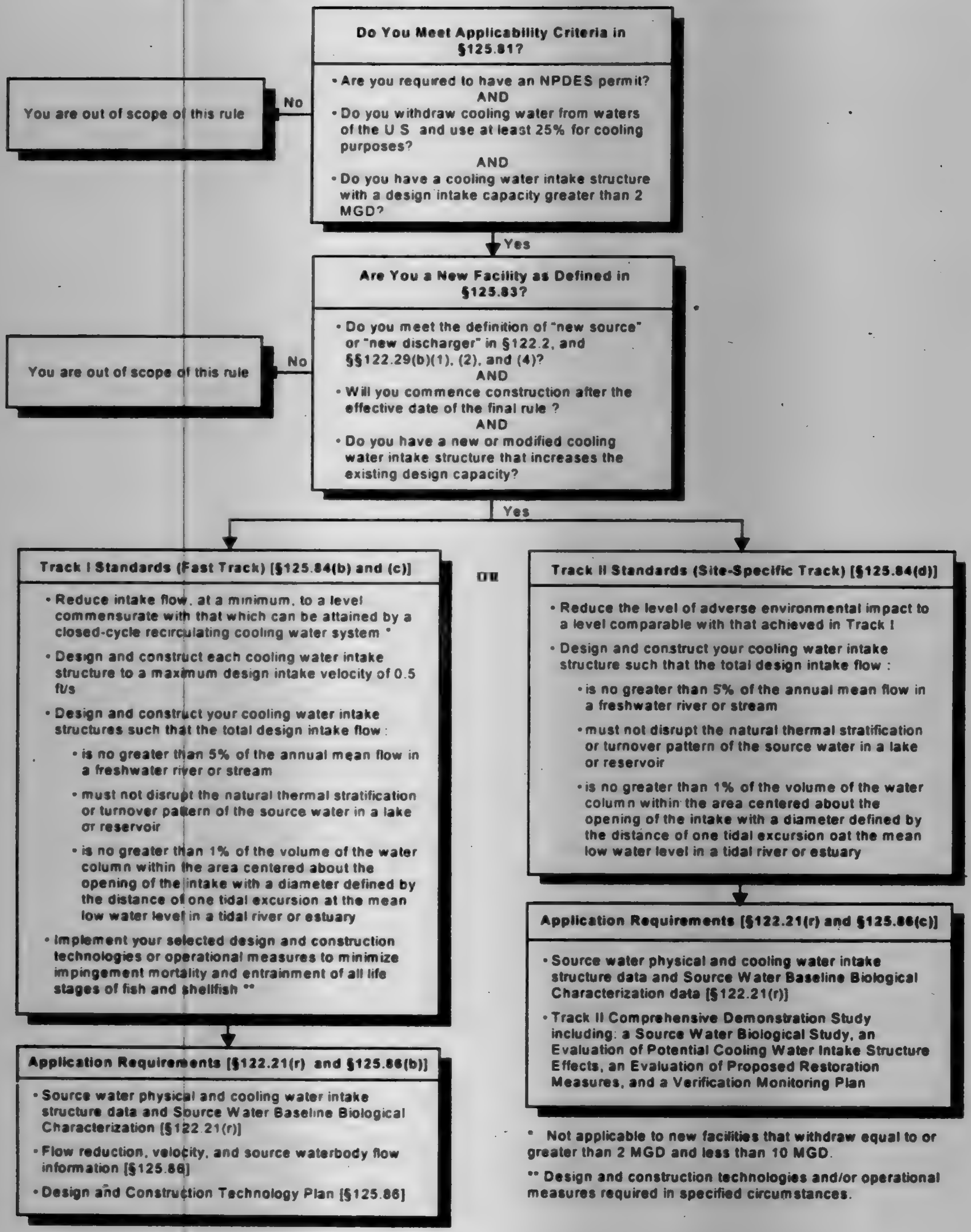
Christine Todd Whitman,

Administrator.

BILLING CODE 6560–50–P

VOL 66 ISS 243 DE 18 2001 UMI

Appendix 1 to The Preamble—Section 316(b) New Facility Rule Framework



Do You Meet Applicability Criteria in §125.81?

- Are you required to have an NPDES permit?
AND
- Do you withdraw cooling water from waters of the U.S. and use at least 25% for cooling purposes?
AND
- Do you have a cooling water intake structure with a design intake capacity greater than 2 MGD?

No: You are out of scope of this rule

Yes

Are You a New Facility as Defined in §125.83?

- Do you meet the definition of "new source" or "new discharger" in §122.2, and §§122.29(b)(1), (2), and (4)?
AND
- Will you commence construction after the effective date of the final rule?
AND
- Do you have a new or modified cooling water intake structure that increases the existing design capacity?

No: You are out of scope of this rule

Yes

Track I Standards (Fast Track) [§125.84(b) and (c)]

- Reduce intake flow, at a minimum, to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system *
- Design and construct each cooling water intake structure to a maximum design intake velocity of 0.5 ft/s
- Design and construct your cooling water intake structures such that the total design intake flow:
  - is no greater than 5% of the annual mean flow in a freshwater river or stream
  - must not disrupt the natural thermal stratification or turnover pattern of the source water in a lake or reservoir
  - is no greater than 1% of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level in a tidal river or estuary
- Implement your selected design and construction technologies or operational measures to minimize impingement mortality and entrainment of all life stages of fish and shellfish **

Application Requirements [§122.21(r) and §125.86(b)]

- Source water physical and cooling water intake structure data and Source Water Baseline Biological Characterization [§122.21(r)]
- Flow reduction, velocity, and source waterbody flow information [§125.86]
- Design and Construction Technology Plan [§125.86]

or

Track II Standards (Site-Specific Track) [§125.84(d)]

- Reduce the level of adverse environmental impact to a level comparable with that achieved in Track I
- Design and construct your cooling water intake structure such that the total design intake flow:
  - is no greater than 5% of the annual mean flow in a freshwater river or stream
  - must not disrupt the natural thermal stratification or turnover pattern of the source water in a lake or reservoir
  - is no greater than 1% of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion oat the mean low water level in a tidal river or estuary

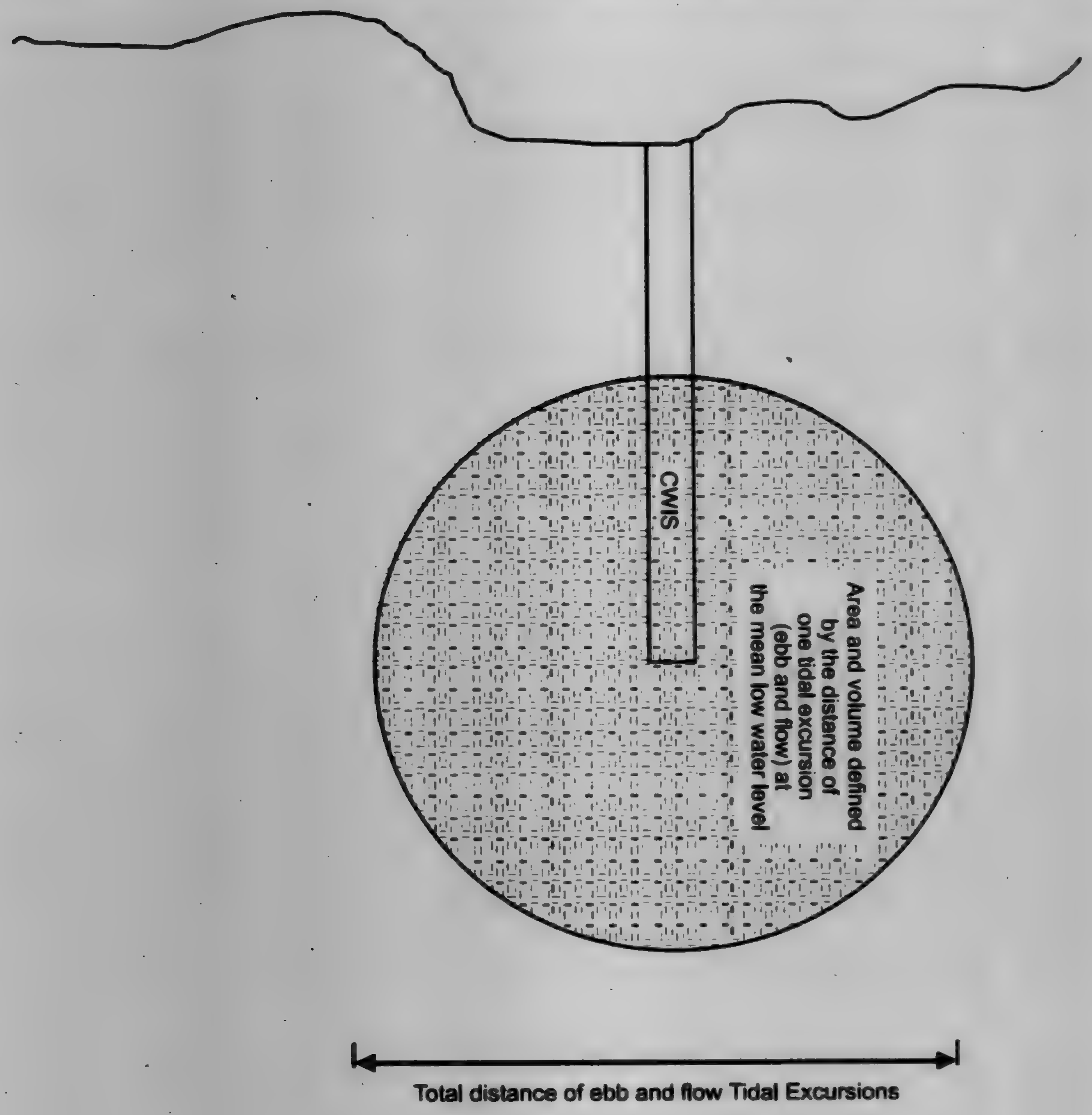
Application Requirements [§122.21(r) and §125.86(c)]

- Source water physical and cooling water intake structure data and Source Water Baseline Biological Characterization data [§122.21(r)]
- Track II Comprehensive Demonstration Study including: a Source Water Biological Study, an Evaluation of Potential Cooling Water Intake Structure Effects, an Evaluation of Proposed Restoration Measures, and a Verification Monitoring Plan

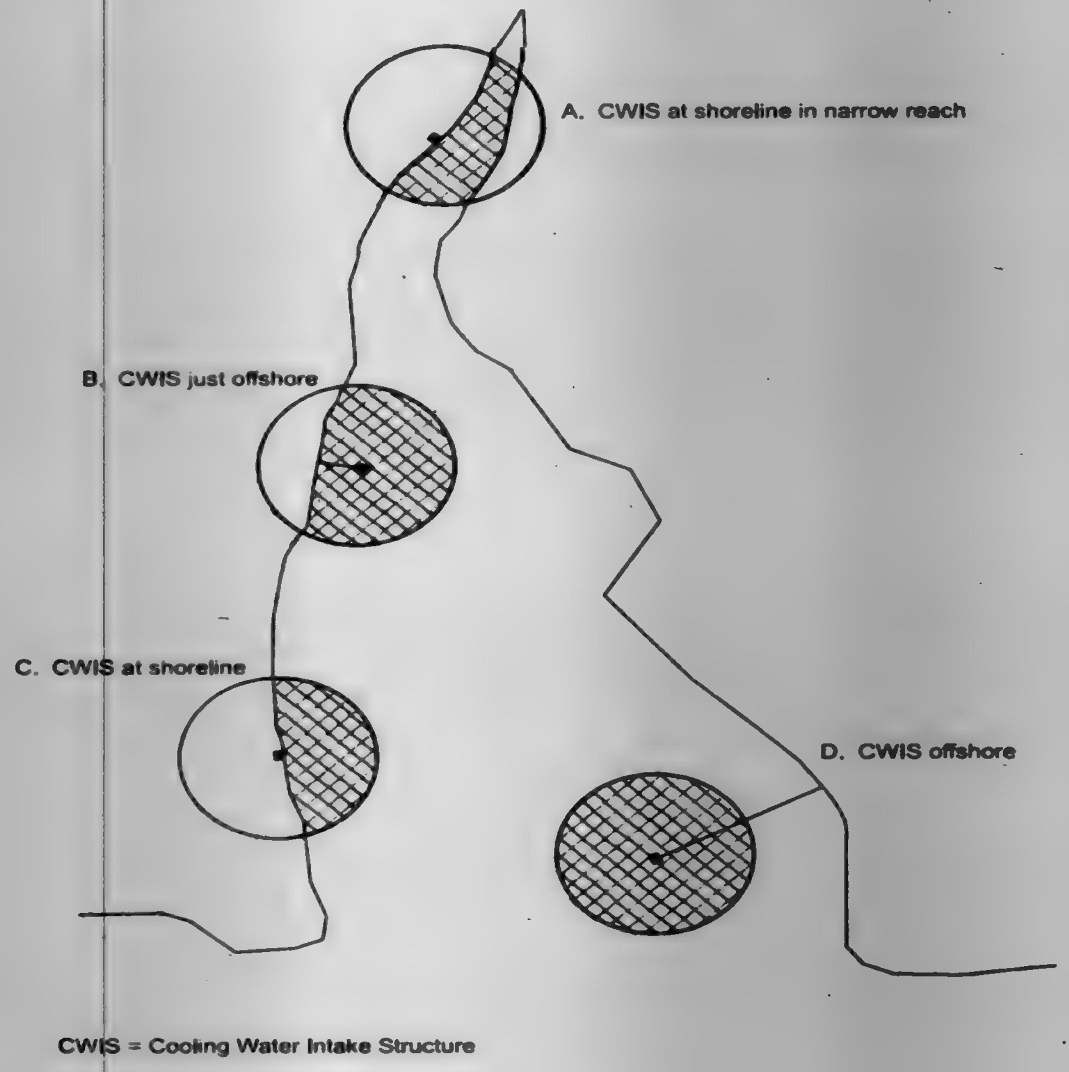
* Not applicable to new facilities that withdraw equal to or greater than 2 MGD and less than 10 MGD.

** Design and construction technologies and/or operational measures required in specified circumstances.

Appendix 2 to The Preamble—Illustration of Flow Requirement for Estuaries and Tidal Rivers


CWIS
Area and volume defined by the distance of one tidal excursion (ebb and flow) at the mean low water level
Total distance of ebb and flow Tidal Excursions

Appendix 3 to The Preamble—Examples of Areas and Volumes Defined in Estuaries or Tidal Rivers By The Tidal Excursion Distance


A. CWIS at shoreline in narrow reach
B. CWIS just offshore
C. CWIS at shoreline
D. CWIS offshore
CWIS = Cooling Water Intake Structure

BILLING CODE 6560-50-C

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671, 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding entries in numerical order under the indicated heading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB Control No.
* * * * *	
EPA Administered Permit Programs: The National Pollutant Discharge Elimination System	
* * * * *	
122.21(r)	2040–0241
* * * * *	
Criteria and Standards for the National Pollutant Discharge Elimination System	
* * * * *	
125.86	2040–0241
125.87	2040–0241
125.88	2040–0241
125.89	2040–0241
* * * * *	

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.21 is amended by adding a new paragraph (r) to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25)

* * * * *

(r) *Applications for facilities with cooling water intake structures*—(1) *New facilities with new or modified cooling water intake structures.* New facilities with cooling water intake structures as defined in part 125, subpart I, of this chapter must report the information required under paragraphs (r)(2), (3), and (4) of this section and § 125.86 of this chapter. Requests for alternative requirements under § 125.85 of this chapter must be submitted with your permit application.

(2) *Source water physical data.* These include:

(i) A narrative description and scaled drawings showing the physical configuration of all source water bodies used by your facility, including areal dimensions, depths, salinity and temperature regimes, and other documentation that supports your determination of the water body type where each cooling water intake structure is located;

(ii) Identification and characterization of the source waterbody's hydrological and geomorphological features, as well as the methods you used to conduct any physical studies to determine your intake's area of influence within the waterbody and the results of such studies; and

(iii) Locational maps.

(3) *Cooling water intake structure data.* These include:

(i) A narrative description of the configuration of each of your cooling water intake structures and where it is located in the water body and in the water column;

(ii) Latitude and longitude in degrees, minutes, and seconds for each of your cooling water intake structures;

(iii) A narrative description of the operation of each of your cooling water intake structures, including design intake flows, daily hours of operation, number of days of the year in operation and seasonal changes, if applicable;

(iv) A flow distribution and water balance diagram that includes all sources of water to the facility, recirculating flows, and discharges; and

(v) Engineering drawings of the cooling water intake structure.

(4) *Source water baseline biological characterization data.* This information is required to characterize the biological community in the vicinity of the cooling water intake structure and to characterize the operation of the cooling water intake structures. The Director may also use this information in subsequent permit renewal proceedings to determine if your Design and Construction Technology Plan as required in § 125.86(b)(4) of this chapter should be revised. This supporting information must include existing data (if they are available). However, you may supplement the data using newly conducted field studies if you choose to do so. The information you submit must include:

(i) A list of the data in paragraphs (r)(4)(ii) through (vi) of this section that are not available and efforts made to identify sources of the data;

(ii) A list of species (or relevant taxa) for all life stages and their relative abundance in the vicinity of the cooling water intake structure;

(iii) Identification of the species and life stages that would be most susceptible to impingement and entrainment. Species evaluated should include the forage base as well as those most important in terms of significance to commercial and recreational fisheries;

(iv) Identification and evaluation of the primary period of reproduction, larval recruitment, and period of peak abundance for relevant taxa;

(v) Data representative of the seasonal and daily activities (e.g., feeding and water column migration) of biological organisms in the vicinity of the cooling water intake structure;

(vi) Identification of all threatened, endangered, and other protected species that might be susceptible to impingement and entrainment at your cooling water intake structures;

(vii) Documentation of any public participation or consultation with Federal or State agencies undertaken in development of the plan; and

(viii) If you supplement the information requested in paragraph (r)(4)(i) of this section with data collected using field studies, supporting documentation for the Source Water Baseline Biological Characterization must include a description of all methods and quality assurance procedures for sampling, and data analysis including a description of the study area; taxonomic identification of sampled and evaluated biological assemblages (including all life stages of fish and shellfish); and sampling and data analysis methods. The sampling and/or data analysis methods you use must be appropriate for a quantitative survey and based on consideration of methods used in other biological studies performed within the same source water body. The study area should include, at a minimum, the area of influence of the cooling water intake structure.

3. Section 122.44 is amended by adding paragraph (b)(3) to read as follows:

VOL 66 ISS 243 DE 18 2001 UMI

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(b) * * *

(3) Requirements applicable to cooling water intake structures at new facilities under section 316(b) of the CWA, in accordance with part 125, subpart I, of this chapter.

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for part 123 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.25 is amended by revising paragraph (a)(36) to read as follows:

§ 123.25 Requirements for permitting.

(a) * * *

(36) Subparts A, B, D, H, and I of part 125 of this chapter;

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

1. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 7401 *et seq.*

2. Section 124.10 is amended by redesignating paragraph (d)(1)(ix) as paragraph (d)(1)(x) and adding a new paragraph (d)(1)(ix) to read as follows:

§ 124.10 Public notice of permit actions and public comment period.

* * * * *

(d) * * *

(1) * * *

(ix) Requirements applicable to cooling water intake structures at new facilities under section 316(b) of the CWA, in accordance with part 125, subpart I, of this chapter.

* * * * *

PART 125—CRITERIA AND STANDARDS FOR THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for part 125 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*, unless otherwise noted.

2. Remove the existing heading for subpart I and add new subpart I to part 125 to read as follows:

Subpart I—Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Act

Sec.

125.80 What are the purpose and scope of this subpart?
125.81 Who is subject to this subpart?
125.82 When must I comply with this subpart?
125.83 What special definitions apply to this subpart?
125.84 As an owner or operator of a new facility, what must I do to comply with this subpart?
125.85 May alternative requirements be authorized?
125.86 As an owner or operator of a new facility, what must I collect and submit when I apply for my new or reissued NPDES permit?
125.87 As an owner or operator of a new facility, must I perform monitoring?
125.88 As an owner or operator of a new facility, must I keep records and report?
125.89 As the Director, what must I do to comply with the requirements of this subpart?

Subpart I—Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Act

§ 125.80 What are the purpose and scope of this subpart?

(a) This subpart establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at new facilities. The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures. These requirements are implemented through National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Clean Water Act (CWA).

(b) This subpart implements section 316(b) of the CWA for new facilities. Section 316(b) of the CWA provides that any standard established pursuant to sections 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) New facilities that do not meet the threshold requirements regarding amount of water withdrawn or percentage of water withdrawn for cooling water purposes in § 125.81(a) must meet requirements determined on a case-by-case, best professional judgement (BPJ) basis.

(d) Nothing in this subpart shall be construed to preclude or deny the right of any State or political subdivision of a State or any interstate agency under section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is more stringent than those required by Federal law.

§ 125.81 Who is subject to this subpart?

(a) This subpart applies to a new facility if it:

(1) Is a point source that uses or proposes to use a cooling water intake structure;

(2) Has at least one cooling water intake structure that uses at least 25 percent of the water it withdraws for cooling purposes as specified in paragraph (c) of this section; and

(3) Has a design intake flow greater than two (2) million gallons per day (MGD).

(b) Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with an independent supplier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw(s) water from waters of the United States. Use of cooling water does not include obtaining cooling water from a public water system or the use of treated effluent that otherwise would be discharged to a water of the U.S. This provision is intended to prevent circumvention of these requirements by creating arrangements to receive cooling water from an entity that is not itself a point source.

(c) The threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes must be measured on an average monthly basis. A new facility meets the 25 percent cooling water threshold if, based on the new facility's design, any monthly average over a year for the percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn.

(d) This subpart does not apply to facilities that employ cooling water intake structures in the offshore and coastal subcategories of the oil and gas extraction point source category as defined under 40 CFR 435.10 and 40 CFR 435.40.

§ 125.82 When must I comply with this subpart?

You must comply with this subpart when an NPDES permit containing requirements consistent with this subpart is issued to you.

§ 125.83 What special definitions apply to this subpart?

The following special definitions apply to this subpart:

Annual mean flow means the average of daily flows over a calendar year.

Historical data (up to 10 years) must be used where available.

Closed-cycle recirculating system means a system designed, using minimized makeup and blowdown flows, to withdraw water from a natural or other water source to support contact and/or noncontact cooling uses within a facility. The water is usually sent to a cooling canal or channel, lake, pond, or tower to allow waste heat to be dissipated to the atmosphere and then is returned to the system. (Some facilities divert the waste heat to other process operations.) New source water (make-up water) is added to the system to replenish losses that have occurred due to blowdown, drift, and evaporation.

Cooling water means water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in a manufacturing process either before or after it is used for cooling is considered process water for the purposes of calculating the percentage of a new facility's intake flow that is used for cooling purposes in § 125.81(c).

Cooling water intake structure means the total physical structure and any associated constructed waterways used to withdraw cooling water from waters of the U.S. The cooling water intake structure extends from the point at which water is withdrawn from the surface water source up to, and including, the intake pumps.

Design intake flow means the value assigned (during the facility's design) to the total volume of water withdrawn from a source water body over a specific time period.

Design intake velocity means the value assigned (during the design of a cooling water intake structure) to the average speed at which intake water passes through the open area of the intake screen (or other device) against which organisms might be impinged or through which they might be entrained.

Entrainment means the incorporation of all life stages of fish and shellfish with intake water flow entering and passing through a cooling water intake structure and into a cooling water system.

Estuary means a semi-enclosed body of water that has a free connection with open seas and within which the seawater is measurably diluted with fresh water derived from land drainage. The salinity of an estuary exceeds 0.5 parts per thousand (by mass) but is typically less than 30 parts per thousand (by mass).

Existing facility means any facility that is not a new facility.

Freshwater river or stream means a lotic (free-flowing) system that does not receive significant inflows of water from oceans or bays due to tidal action. For the purposes of this rule, a flow-through reservoir with a retention time of 7 days or less will be considered a freshwater river or stream.

Hydraulic zone of influence means that portion of the source waterbody hydraulically affected by the cooling water intake structure withdrawal of water.

Impingement means the entrapment of all life stages of fish and shellfish on the outer part of an intake structure or against a screening device during periods of intake water withdrawal.

Lake or *reservoir* means any inland body of open water with some minimum surface area free of rooted vegetation and with an average hydraulic retention time of more than 7 days. Lakes or reservoirs might be natural water bodies or impounded streams, usually fresh, surrounded by land or by land and a man-made retainer (e.g., a dam). Lakes or reservoirs might be fed by rivers, streams, springs, and/or local precipitation. Flow-through reservoirs with an average hydraulic retention time of 7 days or less should be considered a freshwater river or stream.

Maximize means to increase to the greatest amount, extent, or degree reasonably possible.

Minimum ambient source water surface elevation means the elevation of the 7Q10 flow for freshwater streams or rivers; the conservation pool level for lakes or reservoirs; or the mean low tidal water level for estuaries or oceans. The 7Q10 flow is the lowest average 7 consecutive day low flow with an average frequency of one in 10 years determined hydrologically. The conservation pool is the minimum depth of water needed in a reservoir to ensure proper performance of the system relying upon the reservoir. The mean low tidal water level is the average height of the low water over at least 19 years.

Minimize means to reduce to the smallest amount, extent, or degree reasonably possible.

Natural thermal stratification means the naturally-occurring division of a waterbody into horizontal layers of differing densities as a result of variations in temperature at different depths.

New facility means any building, structure, facility, or installation that meets the definition of a "new source" or "new discharger" in 40 CFR 122.2 and 122.29(b)(1), (2), and (4) and is a greenfield or stand-alone facility; commences construction after January 17, 2002; and uses either a newly constructed cooling water intake structure, or an existing cooling water intake structure whose design capacity is increased to accommodate the intake of additional cooling water. New facilities include only "greenfield" and "stand-alone" facilities. A greenfield facility is a facility that is constructed at a site at which no other source is located, or that totally replaces the process or production equipment at an existing facility (*see* 40 CFR 122.29(b)(1)(i) and (ii)). A stand-alone facility is a new, separate facility that is constructed on property where an existing facility is located and whose processes are substantially independent of the existing facility at the same site (*see* 40 CFR 122.29(b)(1)(iii)). New facility does not include new units that are added to a facility for purposes of the same general industrial operation (for example, a new peaking unit at an electrical generating station).

(1) Examples of "new facilities" include, but are not limited to: the following scenarios:

(i) A new facility is constructed on a site that has never been used for industrial or commercial activity. It has a new cooling water intake structure for its own use.

(ii) A facility is demolished and another facility is constructed in its place. The newly-constructed facility uses the original facility's cooling water intake structure, but modifies it to increase the design capacity to accommodate the intake of additional cooling water.

(iii) A facility is constructed on the same property as an existing facility, but is a separate and independent industrial operation. The cooling water intake structure used by the original facility is modified by constructing a new intake bay for the use of the newly constructed facility or is otherwise modified to increase the intake capacity for the new facility.

(2) Examples of facilities that would not be considered a "new facility" include, but are not limited to, the following scenarios:

(i) A facility in commercial or industrial operation is modified and either continues to use its original cooling water intake structure or uses a new or modified cooling water intake structure.

(ii) A facility has an existing intake structure. Another facility (a separate and independent industrial operation),

VOL 66 ISS 243 DE 18 2001 UMI

is constructed on the same property and connects to the facility's cooling water intake structure behind the intake pumps, and the design capacity of the cooling water intake structure has not been increased. This facility would not be considered a “new facility” even if routine maintenance or repairs that do not increase the design capacity were performed on the intake structure.

Ocean means marine open coastal waters with a salinity greater than or equal to 30 parts per thousand (by mass).

Source water means the water body (waters of the U.S.) from which the cooling water is withdrawn.

Thermocline means the middle layer of a thermally stratified lake or reservoir. In this layer, there is a rapid decrease in temperatures.

Tidal excursion means the horizontal distance along the estuary or tidal river that a particle moves during one tidal cycle of ebb and flow.

Tidal river means the most seaward reach of a river or stream where the salinity is typically less than or equal to 0.5 parts per thousand (by mass) at a time of annual low flow and whose surface elevation responds to the effects of coastal lunar tides.

§ 125.84 As an owner or operator of a new facility, what must I do to comply with this subpart?

(a)(1) The owner or operator of a new facility must comply with either:

(i) Track I in paragraph (b) or (c) of this section; or

(ii) Track II in paragraph (d) of this section.

(2) In addition to meeting the requirements in paragraph (b), (c), or (d) of this section, the owner or operator of a new facility may be required to comply with paragraph (e) of this section.

(b) *Track I requirements for new facilities that withdraw equal to or greater than 10 MGD.* You must comply with all of the following requirements:

(1) You must reduce your intake flow, at a minimum, to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system;

(2) You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s;

(3) You must design and construct your cooling water intake structure such that the total design intake flow from all cooling water intake structures at your facility meets the following requirements:

(i) For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than five (5) percent of the source water annual mean flow;

(ii) For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies);

(iii) For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

(4) You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

(i) There are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

(ii) There are migratory and/or sport or commercial species of impingement concern to the Director or any fishery management agency(ies), which pass through the hydraulic zone of influence of the cooling water intake structure; or

(iii) It is determined by the Director or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in paragraphs (b)(1), (2), and (3) of this section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern;

(5) You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish if:

(i) There are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

(ii) There are or would be undesirable cumulative stressors affecting entrainable life stages of species of concern to the Director or any fishery management agency(ies), and it is determined by the Director or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in paragraphs (b)(1), (2), and (3) of this section, would contribute unacceptable stress to these species of concern;

(6) You must submit the application information required in 40 CFR 122.21(r) and § 125.86(b);

(7) You must implement the monitoring requirements specified in § 125.87;

(8) You must implement the record-keeping requirements specified in § 125.88.

(c) *Track I requirements for new facilities that withdraw equal to or greater than 2 MGD and less than 10 MGD and that choose not to comply with paragraph (b) of this section.* You must comply with all the following requirements:

(1) You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s;

(2) You must design and construct your cooling water intake structure such that the total design intake flow from all cooling water intake structures at your facility meets the following requirements:

(i) For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than five (5) percent of the source water annual mean flow;

(ii) For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies);

(iii) For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level;

(3) You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if:

(i) There are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

(ii) There are migratory and/or sport or commercial species of impingement concern to the Director or any fishery management agency(ies), which pass through the hydraulic zone of influence of the cooling water intake structure; or

(iii) It is determined by the Director or any fishery management agency(ies) that the proposed facility, after meeting the technology-based performance requirements in paragraphs (c)(1) and (2) of this section, would still contribute unacceptable stress to the protected species, critical habitat of those species, or species of concern;

(4) You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish;

(5) You must submit the application information required in 40 CFR 122.21(r) and § 125.86(b)(2), (3), and (4);

(6) You must implement the monitoring requirements specified in § 125.87;

(7) You must implement the recordkeeping requirements specified in § 125.88.

(d) *Track II.* The owner or operator of a new facility that chooses to comply under Track II must comply with the following requirements:

(1) You must demonstrate to the Director that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the requirements of paragraphs (b)(1) and (2) of this section.

(i) Except as specified in paragraph (d)(1)(ii) of this section, this demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, within the watershed will be comparable to those which would result if you were to implement the requirements of paragraphs (b)(1) and (2) of this section. This showing may include consideration of impacts other than impingement mortality and entrainment, including measures that will result in increases in fish and shellfish, but it must demonstrate comparable performance for species that the Director, in consultation with national, state or tribal fishery management agencies with responsibility for fisheries potentially affected by your cooling water intake structure, identifies as species of concern.

(ii) In cases where air emissions and/or energy impacts that would result from meeting the requirements of paragraphs (b)(1) and (2) of this section would result in significant adverse impacts on local air quality, significant adverse impact on local water resources not addressed under paragraph (d)(1)(i) of this section, or significant adverse impact on local energy markets, you may request alternative requirements under § 125.85.

(2) You must design and construct your cooling water intake structure such that the total design intake flow from all cooling water intake structures at your facility meet the following requirements:

(i) For cooling water intake structures located in a freshwater river or stream, the total design intake flow must be no greater than five (5) percent of the source water annual mean flow;

(ii) For cooling water intake structures located in a lake or reservoir, the total design intake flow must not disrupt the natural thermal stratification or turnover pattern (where present) of the source water except in cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish by any fishery management agency(ies);

(iii) For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than one (1) percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

(3) You must submit the application information required in 40 CFR 122.21(r) and § 125.86(c).

(4) You must implement the monitoring requirements specified in § 125.87.

(5) You must implement the recordkeeping requirements specified in § 125.88.

(e) You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new facility that the Director deems are reasonably necessary to comply with any provision of state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

§ 125.85 May alternative requirements be authorized?

(a) Any interested person may request that alternative requirements less stringent than those specified in § 125.84(a) through (e) be imposed in the permit. The Director may establish alternative requirements less stringent than the requirements of § 125.84(a) through (e) only if:

(1) There is an applicable requirement under § 125.84(a) through (e);

(2) The Director determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to those EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local air quality, significant adverse impacts on local water resources not addressed under § 125.84(d)(1)(i), or significant adverse impacts on local energy markets;

(3) The alternative requirement requested is no less stringent than justified by the wholly out of proportion cost or the significant adverse impacts on local air quality, significant adverse impacts on local water resources not addressed under § 125.84(d)(1)(i), or significant adverse impacts on local energy markets; and

(4) The alternative requirement will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirement of state law.

(b) The burden is on the person requesting the alternative requirement to demonstrate that alternative requirements should be authorized.

§ 125.86 As an owner or operator of a new facility, what must I collect and submit when I apply for my new or reissued NPDES permit?

(a)(1) As an owner or operator of a new facility, you must submit to the Director a statement that you intend to comply with either:

(i) The Track I requirements for new facilities that withdraw equal to or greater than 10 MGD in § 125.84(b);

(ii) The Track I requirements for new facilities that withdraw equal to or greater than 2 MGD and less than 10 MGD in § 125.84(c);

(iii) The requirements for Track II in § 125.84 (d).

(2) You must also submit the application information required by 40 CFR 122.21(r) and the information required in either paragraph (b) of this section for Track I or paragraph (c) of this section for Track II when you apply for a new or reissued NPDES permit in accordance with 40 CFR 122.21.

(b) *Track I application requirements.* To demonstrate compliance with Track I requirements in § 125.84(b) or (c), you must collect and submit to the Director the information in paragraphs (b)(1) through (4) of this section.

(1) *Flow reduction information.* If you must comply with the flow reduction requirements in § 125.84(b)(1), you must submit the following information to the

Director to demonstrate that you have reduced your flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system:

(i) A narrative description of your system that has been designed to reduce your intake flow to a level commensurate with that which can be attained by a closed-cycle recirculating cooling water system and any engineering calculations, including documentation demonstrating that your make-up and blowdown flows have been minimized; and

(ii) If the flow reduction requirement is met entirely, or in part, by reusing or recycling water withdrawn for cooling purposes in subsequent industrial processes, you must provide documentation that the amount of cooling water that is not reused or recycled has been minimized.

(2) *Velocity information.* You must submit the following information to the Director to demonstrate that you are complying with the requirement to meet a maximum through-screen design intake velocity of no more than 0.5 ft/s at each cooling water intake structure as required in § 125.84(b)(2) and (c)(1):

(i) A narrative description of the design, structure, equipment, and operation used to meet the velocity requirement; and

(ii) Design calculations showing that the velocity requirement will be met at minimum ambient source water surface elevations (based on best professional judgement using available hydrological data) and maximum head loss across the screens or other device.

(3) *Source waterbody flow information.* You must submit to the Director the following information to demonstrate that your cooling water intake structure meets the flow requirements in § 125.84(b)(3) and (c)(2):

(i) If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements;

(ii) If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements; and

(iii) If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification, and any supporting documentation and engineering calculations to show that the natural thermal stratification and turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

(4) *Design and Construction Technology Plan.* To comply with § 125.84(b)(4) and (5), or (c)(3) and (c)(4), you must submit to the Director the following information in a Design and Construction Technology Plan:

(i) Information to demonstrate whether or not you meet the criteria in § 125.84(b)(4) and (b)(5), or (c)(3) and (c)(4);

(ii) Delineation of the hydraulic zone of influence for your cooling water intake structure;

(iii) New facilities required to install design and construction technologies and/or operational measures must develop a plan explaining the technologies and measures you have selected based on information collected for the Source Water Biological Baseline Characterization required by 40 CFR 122.21(r)(3). (Examples of appropriate technologies include, but are not limited to, wedgewire screens, fine mesh screens, fish handling and return systems, barrier nets, aquatic filter barrier systems, etc. Examples of appropriate operational measures include, but are not limited to, seasonal shutdowns or reductions in flow, continuous operations of screens, etc.) The plan must contain the following information:

(A) A narrative description of the design and operation of the design and construction technologies, including fish-handling and return systems, that you will use to maximize the survival of those species expected to be most susceptible to impingement. Provide species-specific information that demonstrates the efficacy of the technology;

(B) A narrative description of the design and operation of the design and construction technologies that you will use to minimize entrainment of those species expected to be the most susceptible to entrainment. Provide species-specific information that demonstrates the efficacy of the technology; and

(C) Design calculations, drawings, and estimates to support the descriptions provided in paragraphs (b)(4)(iii)(A) and (B) of this section.

(c) *Application requirements for Track II.* If you have chosen to comply with the requirements of Track II in § 125.84(d) you must collect and submit the following information:

(1) *Source waterbody flow information.* You must submit to the Director the following information to demonstrate that your cooling water intake structure meets the source water body requirements in § 125.84(d)(2):

(i) If your cooling water intake structure is located in a freshwater river or stream, you must provide the annual mean flow and any supporting documentation and engineering calculations to show that your cooling water intake structure meets the flow requirements;

(ii) If your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements; and

(iii) If your cooling water intake structure is located in a lake or reservoir, you must provide a narrative description of the water body thermal stratification, and any supporting documentation and engineering calculations to show that the natural thermal stratification and thermal or turnover pattern will not be disrupted by the total design intake flow. In cases where the disruption is determined to be beneficial to the management of fisheries for fish and shellfish you must provide supporting documentation and include a written concurrence from any fisheries management agency(ies) with responsibility for fisheries potentially affected by your cooling water intake structure(s).

(2) *Track II Comprehensive Demonstration Study.* You must perform and submit the results of a Comprehensive Demonstration Study (Study). This information is required to characterize the source water baseline in the vicinity of the cooling water intake structure(s), characterize operation of the cooling water intake(s), and to confirm that the technology(ies) proposed and/or implemented at your cooling water intake structure reduce the impacts to fish and shellfish to levels comparable to those you would achieve were you to implement the requirements in § 125.84(b)(1)and (2) of Track I. To meet the "comparable level"

requirement, you must demonstrate that:

(i) You have reduced both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that would be achieved through § 125.84(b)(1) and (2); or

(ii) If your demonstration includes consideration of impacts other than impingement mortality and entrainment, that the measures taken will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved through § 125.84(b)(1) and (2); and

(iii) You must develop and submit a plan to the Director containing a proposal for how information will be collected to support the study. The plan must include:

(A) A description of the proposed and/or implemented technology(ies) to be evaluated in the Study;

(B) A list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed Study. If you propose to rely on existing source water body data, it must be no more than 5 years old, you must demonstrate that the existing data are sufficient to develop a scientifically valid estimate of potential impingement and entrainment impacts, and provide documentation showing that the data were collected using appropriate quality assurance/quality control procedures;

(C) Any public participation or consultation with Federal or State agencies undertaken in developing the plan; and

(D) A sampling plan for data that will be collected using actual field studies in the source water body. The sampling plan must document all methods and quality assurance procedures for sampling, and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and based on consideration of methods used in other studies performed in the source water body. The sampling plan must include a description of the study area (including the area of influence of the cooling water intake structure and at least 100 meters beyond); taxonomic identification of the sampled or evaluated biological assemblages (including all life stages of fish and shellfish); and sampling and data analysis methods; and

(iv) You must submit documentation of the results of the Study to the Director. Documentation of the results of the Study must include:

(A) *Source Water Biological Study.* The Source Water Biological Study must include:

(*1*) A taxonomic identification and characterization of aquatic biological resources including: a summary of historical and contemporary aquatic biological resources; determination and description of the target populations of concern (those species of fish and shellfish and all life stages that are most susceptible to impingement and entrainment); and a description of the abundance and temporal/spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily activities (e.g., spawning, feeding and water column migration) of all life stages of fish and shellfish found in the vicinity of the cooling water intake structure;

(*2*) An identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the proposed cooling water intake structure(s); and

(*3*) A description of additional chemical, water quality, and other anthropogenic stresses on the source waterbody.

(B) *Evaluation of potential cooling water intake structure effects.* This evaluation will include:

(*1*) Calculations of the reduction in impingement mortality and entrainment of all life stages of fish and shellfish that would need to be achieved by the technologies you have selected to implement to meet requirements under Track II. To do this, you must determine the reduction in impingement mortality and entrainment that would be achieved by implementing the requirements of § 125.84(b)(1) and (2) of Track I at your site.

(*2*) An engineering estimate of efficacy for the proposed and/or implemented technologies used to minimize impingement mortality and entrainment of all life stages of fish and shellfish and maximize survival of impinged life stages of fish and shellfish. You must demonstrate that the technologies reduce impingement mortality and entrainment of all life stages of fish and shellfish to a comparable level to that which you would achieve were you to implement the requirements in § 125.84(b)(1) and (2) of Track I. The efficacy projection must include a site-specific evaluation of technology(ies) suitability for reducing impingement mortality and entrainment based on the results of the Source Water Biological Study in paragraph (c)(2)(iv)(A) of this section. Efficacy estimates may be determined based on case studies that have been conducted in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies.

(C) *Evaluation of proposed restoration measures.* If you propose to use restoration measures to maintain the fish and shellfish as allowed in § 125.84(d)(1)(i), you must provide the following information to the Director:

(*1*) Information and data to show that you have coordinated with the appropriate fishery management agency(ies); and

(*2*) A plan that provides a list of the measures you plan to implement and how you will demonstrate and continue to ensure that your restoration measures will maintain the fish and shellfish in the waterbody to a substantially similar level to that which would be achieved through § 125.84(b)(1) and (2).

(D) *Verification monitoring plan.* You must include in the Study the following:

(*1*) A plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or implemented technologies, operational measures. The verification study must begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the facility is reducing the level of impingement and entrainment to the level documented in paragraph (c)(2)(iv)(B) of this section. The plan must describe the frequency of monitoring and the parameters to be monitored. The Director will use the verification monitoring to confirm that you are meeting the level of impingement mortality and entrainment reduction required in § 125.84(d), and that the operation of the technology has been optimized.

(*2*) A plan to conduct monitoring to verify that the restoration measures will maintain the fish and shellfish in the waterbody to a substantially similar level as that which would be achieved through § 125.84(b)(1) and (2).

§ 125.87 As an owner or operator of a new facility, must I perform monitoring?

As an owner or operator of a new facility, you will be required to perform monitoring to demonstrate your compliance with the requirements specified in § 125.84.

(a) *Biological monitoring.* You must monitor both impingement and entrainment of the commercial, recreational, and forage base fish and shellfish species identified in either the Source Water Baseline Biological Characterization data required by 40 CFR 122.21(r)(3) or the Comprehensive Demonstration Study required by § 125.86(c)(2), depending on whether

VOL 66 ISS 243 DE 18 2001 UMI

you chose to comply with Track I or Track II. The monitoring methods used must be consistent with those used for the Source Water Baseline Biological Characterization data required in 40 CFR 122.21(r)(3) or the Comprehensive Demonstration Study required by § 125.86(c)(2). You must follow the monitoring frequencies identified below for at least two (2) years after the initial permit issuance. After that time, the Director may approve a request for less frequent sampling in the remaining years of the permit term and when the permit is reissued, if supporting data show that less frequent monitoring would still allow for the detection of any seasonal and daily variations in the species and numbers of individuals that are impinged or entrained.

(1) *Impingement sampling*. You must collect samples to monitor impingement rates (simple enumeration) for each species over a 24-hour period and no less than once per month when the cooling water intake structure is in operation.

(2) *Entrainment sampling*. You must collect samples to monitor entrainment rates (simple enumeration) for each species over a 24-hour period and no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance identified during the Source Water Baseline Biological Characterization required by 40 CFR 122.21(r)(3) or the Comprehensive Demonstration Study required in § 125.86(c)(2). You must collect samples only when the cooling water intake structure is in operation.

(b) *Velocity monitoring*. If your facility uses surface intake screen systems, you must monitor head loss across the screens and correlate the measured value with the design intake velocity. The head loss across the intake screen must be measured at the minimum ambient source water surface elevation (best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in § 125.84(b)(2) or (c)(1). If your facility uses devices other than surface intake screens, you must monitor velocity at the point of entry through the device. You must monitor head loss or velocity during initial facility startup, and thereafter, at the frequency specified in your NPDES permit, but no less than once per quarter.

(c) *Visual or remote inspections*. You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct visual inspections at least weekly to ensure that any design and construction technologies required in § 125.84(b)(4) and (5), or (c)(3) and (4) are maintained and operated to ensure that they will continue to function as designed. Alternatively, you must inspect via remote monitoring devices to ensure that the impingement and entrainment technologies are functioning as designed.

§ 125.88 As an owner or operator of a new facility, must I keep records and report?

As an owner or operator of a new facility you are required to keep records and report information and data to the Director as follows:

(a) You must keep records of all the data used to complete the permit application and show compliance with the requirements, any supplemental information developed under § 125.86, and any compliance monitoring data submitted under § 125.87, for a period of at least three (3) years from the date of permit issuance. The Director may require that these records be kept for a longer period.

(b) You must provide the following to the Director in a yearly status report:

(1) Biological monitoring records for each cooling water intake structure as required by § 125.87(a);

(2) Velocity and head loss monitoring records for each cooling water intake structure as required by § 125.87(b); and

(3) Records of visual or remote inspections as required in § 125.87(c).

§ 125.89 As the Director, what must I do to comply with the requirements of this subpart?

(a) *Permit application*. As the Director, you must review materials submitted by the applicant under 40 CFR 122.21(r)(3) and § 125.86 at the time of the initial permit application and before each permit renewal or reissuance.

(1) After receiving the initial permit application from the owner or operator of a new facility, the Director must determine applicable standards in § 125.84 to apply to the new facility. In addition, the Director must review materials to determine compliance with the applicable standards.

(2) For each subsequent permit renewal, the Director must review the application materials and monitoring data to determine whether requirements, or additional requirements, for design and construction technologies or operational measures should be included in the permit.

(3) For Track II facilities, the Director may review the information collection proposal plan required by § 125.86(c)(2)(iii). The facility may initiate sampling and data collection activities prior to receiving comment from the Director.

(b) *Permitting requirements*. Section 316(b) requirements are implemented for a facility through an NPDES permit. As the Director, you must determine, based on the information submitted by the new facility in its permit application, the appropriate requirements and conditions to include in the permit based on the track (Track I or Track II) the new facility has chosen to comply with. The following requirements must be included in each permit:

(1) *Cooling water intake structure requirements*. At a minimum, the permit conditions must include the performance standards that implement the requirements of § 125.84(b)(1), (2), (3), (4) and (5); § 125.84(c)(1), (2), (3) and (4); or § 125.84(d)(1) and (2). In determining compliance with proportional flow requirement in §§ 125.84(b)(3)(ii); (c)(2)(ii); and (d)(2)(ii), the director must consider anthropogenic factors (those not considered "natural") unrelated to the new facility's cooling water intake structure that can influence the occurrence and location of a thermocline. These include source water inflows, other water withdrawals, managed water uses, wastewater discharges, and flow/level management practices (e.g., some reservoirs release water from below the surface, close to the deepest areas).

(i) For a facility that chooses Track I, you must review the Design and Construction Technology Plan required in § 125.86(b)(4) to evaluate the suitability and feasibility of the technology proposed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In the first permit issued, you must put a condition requiring the facility to reduce impingement mortality and entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the Director must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed to minimize impingement mortality and entrainment of all life stages of fish and shellfish. In addition, you must consider whether more stringent conditions are reasonably necessary in accordance with § 125.84(e).

(ii) For a facility that chooses Track II, you must review the information submitted with the Comprehensive

Demonstration Study information required in § 125.86(c)(2), evaluate the suitability of the proposed design and construction technologies and operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. If you determine that restoration measures are appropriate at the new facility for consideration of impacts other than impingement mortality and entrainment, you must review the Evaluation of Proposed Restoration Measures and evaluate whether the proposed measures will maintain the fish and shellfish in the waterbody at a substantially similar level to that which would be achieved through § 125.84(b)(1) and (2). In addition, you must review the Verification Monitoring Plan in § 125.86(c)(2)(iv)(D) and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies, operational measures and restoration measures meet the requirements in § 125.84(d)(1). Under subsequent permits, the Director must review the performance of the additional and /or different technologies or measures used and determine that they reduce the level of adverse environmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of § 125.84(b)(1) and (2).

(2) *Monitoring conditions.* At a minimum, the permit must require the permittee to perform the monitoring required in § 125.87. You may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The Director may require continued monitoring based on the results of the Verification Monitoring Plan in § 125.86(c)(2)(iv)(D).

(3) *Record keeping and reporting.* At a minimum, the permit must require the permittee to report and keep records as required by § 125.88.

[FR Doc. 01–28968 Filed 12–17–01; 8:45 am]

BILLING CODE 6560–50–P

VOL
66
ISS
2
4
3
DE
18
2001
UMI

Federal Register

Tuesday,
December 18, 2001

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

---

48 CFR Chapter 1 et al.

Federal Acquisition Circular 2001-02; Introduction and Federal Acquisition Regulation; Energy-Efficiency of Supplies and Services and Prompt Payment and the Recovery of Overpayment, et al.; Final Rules

VOL 66 ISS 243 DE 18 2001 UMI

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 2001–02; Introduction

AGENCIES: Department of Defense (DoD), General ServicesAdministration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2001–02. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.arnet.gov/far*.

DATES: For effective dates and comment dates, see separate documents that follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules.

For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 2001–02 and specific FAR case number(s). Interested parties may also visit our web site at *http://www.arnet.gov/far*.

Item	Subject	FAR case	Analyst
I	Definitions of "Component" and "End Product"	2000–015	Davis
II	Energy Efficiency of Supplies and Services	1999–011	Smith
III	Prompt Payment and the Recovery of Overpayment	1999–023	Olson
IV	Javits-Wagner-O'Day Act Subcontract Preference Under Service Contracts	1999–017	Nelson
V	Discussion Requirements	1999–022	DeStefano
VI	Definition of Subcontract in FAR Subpart 15.4	2000–017	Olson
VII	North American Industry Classification System	2000–604	Cundiff
VIII	Iceland—Newly Designated Country under Trade Agreements Act	2001–025	Davis
IX	Contractor Personnel in the Procurement of Information Technology Services	2000–609	Nelson

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries. FAC 2001–02 amends the FAR as specified below:

Item I—Definitions of "Component" and "End Product" (FAR Case 2000–015)

This final rule amends the FAR to restore the unique Part 25 definitions of "component" and "end product" for acquisition of supplies. In addition, the Councils have made minor revisions to the definitions of "component" and "cost of components" for acquisition of construction. These definitions are used by offerors to determine whether offered end products or construction material meet the requirements of the Buy American Act and Balance of Payments Program or trade agreements.

Item II—Energy Efficiency of Supplies and Services (FAR Case 1999–011)

This final rule amends the FAR to implement Executive Order 13123, Greening the Government through Efficient Energy Management. The rule—

- Requires contracting officers, when acquiring energy-using products, to buy energy-efficient products if life-cycle cost-effective and available;
- Directs contracting officers to Internet sources for more detailed information on ENERGY STAR and other energy-efficient products; and
- Provides guidance on energy-savings performance contracts (ESPCs), including—
- An explanation of what they are and when they should be used; and
- Procedures for the solicitation and award of ESPCs, and the evaluation of unsolicited proposals for ESPCs.

The rule will only affect contracting officers that—

- Acquire energy-using products or services;
- Contract for design, construction, renovation, or maintenance of a public building that will include energy-using products; or
- Use an energy-savings performance contract to reduce energy use and cost in an agency's facilities or operations.

Item III—Prompt Payment and the Recovery of Overpayment (FAR Case 1999–023)

This final rule revises prompt payment policies at FAR part 32, Contract Financing, and related contract provisions at FAR part 52. The rule is applicable to—

- Government payment offices and contractors since it revises the information that must be on an invoice for the document to be considered a proper invoice with respect to the prompt payment provisions of the FAR;
- Contracting officers and contractors since it establishes the requirement in the prompt payment clauses for contractors to notify the contracting officer if the contractor becomes aware of an overpayment of an invoice; and
- All Government contracts (including contracts at or below the simplified acquisition threshold) except contracts with payment terms and late payment penalties established by other governmental authority (*e.g.*, tariffs).

Item IV—Javits-Wagner-O'Day Act Subcontract Preference under Service Contracts (FAR Case 1999–017)

This final rule amends the FAR to add a new preference for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48)). The final rule applies to all service contracts. The rule—

- Requires that contractors that provide services for the Government's use and subcontract for those services must give preference in awarding subcontracts to nonprofit workshops, if the services are on the Committee for Purchase From People Who Are Blind or Severely Disabled procurement list;
- Requires that contracting officers must consider the preference for subcontracting with nonprofit workshops when reviewing a subcontract for services that is subject to the procedures at FAR Subpart 44.2, Consent to Subcontracts; and
- Amends the clause at FAR 52.208–9, Contractor Use of Mandatory Sources of Supply, to inform offerors and contractors that certain services to be

provided for use by the Government are required by law to be obtained from the Committee for Purchase From People Who Are Blind or Severely Disabled.

Item V—Discussion Requirements (FAR Case 1999–022)

The rule amends FAR 15.306(d) to clarify that, although the contracting officer must discuss deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond and is encouraged to discuss other aspects of the offeror's proposal, the contracting officer is not required to discuss every area where the proposal could be improved. This clarifies the existing policy that any discussions beyond the minimum elements stated in the FAR are a matter of contracting officer judgment.

Item VI—Definition of Subcontract in FAR Subpart 15.4 (FAR Case 2000–017)

This final rule amends FAR 15.401 to exclude section 15.407–2, Make-or-buy programs, from application of the expanded definition of "subcontract" at FAR 15.401. This rule is a clarification and does not change any policy in Subpart 15.4, Contract Pricing.

Item VII—North American Industry Classification System (FAR Case 2000–604)

This rule finalizes, with minor changes, the interim rule which amended the FAR to convert size standards and other programs in the FAR that were based on the Standard Industrial Classification (SIC) system to the North American Industry Classification System (NAICS). NAICS is a new system that classifies establishments according to how they conduct their economic activity. It is a significant improvement over the SIC system because it more accurately identifies industries. Since October 1, 2000, NAICS is to be used to establish the size standards for acquisitions. In addition, the designated industry groups in FAR 19.1005 have been converted to NAICS and contract actions will be reported using the NAICS code rather than the SIC code.

Item VIII—Iceland Newly Designated Country under Trade Agreements Act (FAR Case 2001–025)

This final rule amends the definition of "Designated country" at FAR 25.003, and the clause at 52.225–5, Trade Agreements, and the clause at 52.225–11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, to add Iceland to the list of designated countries under the Trade Agreements Act (TAA). Contracting officers may now consider offers of end products or construction materials from Iceland in acquisitions subject to the TAA. The current TAA threshold for acquisition of supplies is $177,000 and for acquisition of construction is $6,806,000.

In addition, if the TAA applies, Executive Order 13126 of June 12, 1999, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, does not apply to contracts for the acquisition of products from foreign countries that are party to the Agreement on Government Procurement. Therefore, this final rule also adds Iceland to the list of excepted countries of origin at 22.1503(b)(4) and the associated clause at 52.222–19, Child Labor—Cooperation with Authorities and Remedies.

Item IX—Contractor Personnel in the Procurement of Information Technology Services (FAR Case 2000–509)

This final rule converts the interim rule published in FAC 97–25, in the **Federal Register** at 66 FR 22084, May 2, 2001, to a final rule without change. The rule added a new section to subpart 39.1 to implement section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). Section 813 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of information technology services, unless (1) the contracting officer first determines that the needs of the agency cannot be met without such requirement; or (2) the needs of the agency require the use of a type of contract other than a performance-based contract.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–02 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–02 is effective February 19, 2002, except for Items VII through IX, which are effective December 18, 2001.

Dated: December 5, 2001.

Carolyn M. Balven,

Deputy Director, Defense Procurement.

Patricia A. Brooks,

Acting Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Tom Luedtke,

Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 01–30537 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 25, and 52

[FAC 2001–02; FAR Case 2000–015; Item I]

RIN 9000–AJ24

Federal Acquisition Regulation; Definitions of "Component" and "End Product"

AGENCIES: Department of Defense (DoD), General ServicesAdministration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to restore the unique (Part 25) definitions of "component" and "end product" for acquisition of supplies. In addition, the Councils have made minor revisions to the definitions of "component" and "cost of components" for acquisition of construction.

DATES: Effective Date: February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–02, FAR case 2000–015.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule restores unique definitions of "component" and "end

VOL 66 ISS 243 DE 18 2001 UMI

product" at FAR 25.003, and amends the definitions at FAR 2.101 and associated clauses 52.225–1, Buy American Act—Balance of Payments Program—Supplies; 52.225–3, Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program; and 52.225–5, Trade Agreements, to comply with these definitions. The final rule under FAR case 97–024, Foreign Acquisition (Part 25 Rewrite), published in the **Federal Register** at 64 FR 72416, December 27, 1999, removed the unique Part 25 definitions of "component" and "end product," applying standard definitions in Part 2 to Part 25 and associated clauses (other than clauses for construction). The Councils did not intend to make any substantive change to the FAR by these amendments. Because the Councils received comments addressing potential unintended substantive changes to the FAR that might result from these amendments, the Councils are reverting to the original definitions, with minor editorial corrections.

In addition, this rule revises the definition of "components" in FAR clauses 52.225–9, Buy American Act—Balance of Payments Program—Construction Materials, and 52.225–11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, to a definition of the singular term "component" and revises the definition of "cost of components" in these clauses to address components of construction material, rather than components of an end product (which is not applicable to construction).

This is not a significant regulatory action, and therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comments is not required. However, the Councils will consider comments from small entities concerning the affected FAR parts 2, 25, and 52 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–02, FAR case 2000–015), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 25, and 52

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by revising the definitions "Component" and "End product" to read as follows:

2.101 Definitions.

* * * * *

Component means any item supplied to the Government as part of an end item or of another component, except that for use in—

(1) Part 25, see the definition in 25.003;

(2) 52.225–1 and 52.225–3, see the definition in 52.225–1(a) and 52.225–3(a); and

(3) 52.225–9 and 52.225–11, see the definition in 52.225–9(a) and 52.225–11(a).

* * * * *

End product means supplies delivered under a line item of a Government contract, except for use in part 25 and the associated clauses at 52.225–1, 52.225–3, and 52.225–5, see the definitions in 25.003, 52.225–1(a), 52.225–3(a), and 52.225–5(a).

* * * * *

PART 25—FOREIGN ACQUISITION

3. In section 25.003 add, in alphabetical order, the definitions "Component" and "End product"; and amend paragraph (1) of the definition "Cost of components" by removing "product" and adding "product or construction material" in its place. The added text reads as follows:

25.003 Definitions.

* * * * *

Component means an article, material, or supply incorporated directly into an end product or construction material.

* * * * *

End product means those articles, materials, and supplies to be acquired for public use.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Amend section 52.225–1 by revising the date of the clause and the definitions "Component" and "End product" to read as follows:

52.225–1 Buy American Act—Balance of Payments Program—Supplies.

* * * * *

Buy American Act—Balance of Payments Program—Supplies (Feb 2002)

(a) * * *

Component means an article, material, or supply incorporated directly into an end product.

* * * * *

End product means those articles, materials, and supplies to be acquired under the contract for public use.

* * * * *

5. Amend section 52.225–3 by revising the date of the clause and the definitions "Component" and "End product" to read as follows:

52.225–3 Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program.

* * * * *

Buy American Act—North American Free Trade Agreement—Israeli Trade Act—Balance of Payments Program (Feb 2002)

(a) * * *

Component means an article, material, or supply incorporated directly into an end product.

* * * * *

End product means those articles, materials, and supplies to be acquired under the contract for public use.

* * * * *

6. Amend section 52.225–5 by revising the date of the clause and the definition "End product" to read as follows:

52.225–5 Trade Agreements.

* * * * *

Trade Agreements (Feb 2002)

(a) * * *

End product means those articles, materials, and supplies to be acquired under the contract for public use.

* * * * *

7. Amend section 52.225–9 by revising the date of the clause and the definition "Component"; and by

amending the definition "Cost of components" in paragraph (1) by removing "end product" and adding "construction material" in its place. The revised text reads as follows:

52.225–9 Buy American Act—Balance of Payments Program—Construction Materials.

* * * * *

Buy American Act—Balance of Payments Program—Construction Materials (Feb 2002)

(a) * * *

Component means an article, material, or supply incorporated directly into a construction material.

* * * * *

8. Amend section 52.225–11 by revising the date of the clause and the definition "Component"; and by amending the definition "Cost of components" in paragraph (1) by removing "end product" and adding "construction material" in its place. The revised text reads as follows:

52.225–11 Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements.

* * * * *

Buy American Act—Balance of Payments Program—Construction Materials Under Trade Agreements (Feb 2002)

(a) * * *

Component means an article, material, or supply incorporated directly into a construction material.

* * * * *

[FR Doc. 01–30538 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 11, 15, 23, and 42

[FAC 2001–02; FAR Case 1999–011; Item II]

RIN 9000–AI71

Federal Acquisition Regulation; Energy-Efficiency of Supplies and Services

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

DATES: *Effective Date:* February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Laura Smith, Procurement Analyst, at (202) 208–7279. Please cite FAC 2001–02, FAR case 1999–011.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 30310, May 10, 2000. The proposed rule—

1. Defined in Subpart 2.1, Definitions—
   a. "Energy-efficient product" (relocated and revised from FAR 23.704);
   b. "Energy-savings performance contract" (ESPC); and
   c. "Renewable energy" and "renewable energy technology";
2. Revised the policies and sources of authority in Part 11;
3. Revised Part 15 to alert agencies to the special procedures at 10 CFR 436.33(b) that agencies must use when evaluating unsolicited proposals for ESPCs;
4. Revised and relocated guidance on energy-efficient products and services from Subpart 23.7 to Subpart 23.2 so that Subpart 23.7 would focus on environmentally preferably products and services;
5. Revised Subpart 23.2 by—
   a. Renaming the subpart "Energy and Water Efficiency and Renewable Energy" to reflect its expanded subject area;
   b. Deleting outdated definitions and guidance;
   c. Adding guidance on energy- and water-efficient products (*e.g.*, ENERGY STAR®) and services, and ESPCs; and
   d. Directing contracting officers to sources for more detailed guidance and information; and
6. Made a number of editorial changes. Seven respondents submitted public comments on the proposed rule. The Councils considered all comments when developing this final rule. The major changes between the final rule and the proposed rule are that the final rule—
   a. Provides additional emphasis on water conservation at FAR 11.002(d)(2), 23.000(d), and 23.703;
   b. Deletes E.O. 12902 of March 8, 1994, Energy Efficiency and Water Conservation at Federal Facilities, at FAR 23.702(e) since this E.O. was revoked by Section 604 of E.O. 13123; and
   c. Revises 42.302(a)(68) to better reflect the current practices of the contract administration office.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule simply provides additional guidance to Government contracting and technical personnel with respect to the Government's preference, currently set forth in FAR Subpart 23.7, for buying environmentally preferable and energy-efficient products and services. This rule requires a contracting officer, when acquiring an energy-using product, to purchase an energy-efficient product (where life-cycle cost-effective and available), *i.e.*, a product that is in the upper 25 percent of energy efficiency as designated by the Department of Energy's (DOE's) Federal Energy Management Program or that meets DOE and Environmental Protection Agency (EPA) criteria for use of the "ENERGY STAR®" trademark label. The 25 percent benchmark for determining energy efficiency is currently addressed at FAR 23.704. Small entities that offer products to the Government may use the ENERGY STAR® label, if the product meets DOE and EPA criteria. The rule also provides guidance to contracting officers on the use of energy-savings performance contracts as alternatives to the traditional method of financing energy efficiency improvements.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management

VOL 66 ISS 243 DE 18 2001 UMI

and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 2, 11, 15, 23, and 42

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 11, 15, 23, and 42 as set forth below:

1. The authority citation for 48 CFR parts 2, 11, 15, 23, and 42 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. In section 2.101, revise the definition "Energy-efficient product," and add, in alphabetical order, the definitions, "Energy-savings performance contract," "Renewable energy," and "Renewable energy technology" to read as follows:

2.101 Definitions.

* * * * *

Energy-efficient product means a product that—

(1) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(2) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

Energy-savings performance contract means a contract that requires the contractor to—

(1) Perform services for the design, acquisition, financing, installation, testing, operation, and where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations;

(2) Incur the costs of implementing the energy savings measures, including at least the cost (if any) incurred in making energy audits, acquiring and installing equipment, and training personnel in exchange for a predetermined share of the value of the energy savings directly resulting from implementation of such measures during the term of the contract; and

(3) Guarantee future energy and cost savings to the Government.

* * * * *

Renewable energy means energy produced by solar, wind, geothermal, and biomass power.

Renewable energy technology means—

(1) Technologies that use renewable energy to provide light, heat, cooling, or mechanical or electrical energy for use in facilities or other activities; or

(2) The use of integrated whole-building designs that rely upon renewable energy resources, including passive solar design.

* * * * *

PART 11—DESCRIBING AGENCY NEEDS

3. In section 11.002, revise paragraph (d) to read as follows:

11.002 Policy.

* * * * *

(d)(1) The Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*), Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, and Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management, establish requirements for acquiring

(i) Products containing recovered materials;

(ii) Environmentally preferable products and services;

(iii) Energy-efficient products and services; and

(iv) Products and services that utilize renewable energy technologies.

(2) Executive agencies must consider use of recovered materials, energy- and water-efficient products and services, environmentally preferable purchasing criteria developed by the EPA, and environmental objectives (see subparts 23.2 and 23.4 and 23.703(b)) when

(i) Developing, reviewing, or revising Federal and military specifications, product descriptions (including commercial item descriptions) and standards;

(ii) Describing Government requirements for supplies and services; and

(iii) Developing source-selection factors.

* * * * *

4. In section 11.101, revise paragraph (b) to read as follows:

11.101 Order of precedence for requirements documents.

* * * * *

(b) Agencies must prepare requirements documents to achieve maximum practicable—

(1) Energy efficiency, including using renewable energy technologies; and

(2) Use of recovered material, other materials that are environmentally preferable, energy- and water-efficient products, and renewable energy technologies (see subparts 23.2, 23.4, and 23.7).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

5. In section 15.603, add paragraph (e) to read as follows:

15.603 General.

* * * * *

(e) Agencies must evaluate unsolicited proposals for energy-savings performance contracts in accordance with the procedures in 10 CFR 436.33(b).

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLEENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREEWORKPLACE

6. Revise the heading of Part 23 to read as set forth above.

7. Revise the heading and text of section 23.000 to read as follows:

23.000 Scope.

This part prescribes acquisition policies and procedures supporting the Government's program for ensuring a drug-free workplace and for protecting and improving the quality of the environment by

(a) Controlling pollution;

(b) Managing energy and water use in Government facilities efficiently;

(c) Using renewable energy and renewable energy technologies;

(d) Acquiring energy- and water-efficient products and services, environmentally preferable products, and products that use recovered materials; and

(e) Requiring contractors to identify hazardous materials.

8. Revise the heading and text of Subpart 23.2 to read as follows:

Subpart 23.2—Energy and Water Efficiency and Renewable Energy

Sec.
23.200 Scope.
23.201 Authorities.
23.202 Policy.
23.203 Energy-efficient products.
23.204 Energy-savings performance contracts.

23.200 Scope.

(a) This subpart prescribes policies and procedures for—

(1) Acquiring energy- and water-efficient products and services, and products that use renewable energy technology; and

(2) Using an energy-savings performance contract to obtain energy-efficient technologies at Government facilities without Government capital expense.

(b) This subpart applies to acquisitions in the UnitedStates, its possessions and territories, Puerto Rico, and the Northern Mariana Islands. Agencies conducting acquisitions outside of these areas must use their best efforts to comply with this subpart.

23.201 Authorities.

(a) Energy Policy and Conservation Act (42 U.S.C.

6361(a)(1)) and Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*).

(b) National Energy Conservation Policy Act (42 U.S.C. 8253, 8262g, and 8287).

(c) Executive Order 11912 of April 13, 1976, Delegations of Authority under the Energy Policy and Conservation Act.

(d) Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

23.202 Policy.

The Government's policy is to acquire supplies and services that promote energy and water efficiency, advance the use of renewable energy products, and help foster markets for emerging technologies. This policy extends to all acquisitions, including those below the simplified acquisition threshold.

23.203 Energy-efficient products.

(a) If life-cycle cost-effective and available—

(1) When acquiring energy-using products, contracting officers must purchase ENERGY STAR® or other energy-efficient products designated by the Department of Energy'sFederal Energy Management Program (FEMP); or

(2) When contracting for services that will include the provision of energy-using products, including contracts for design, construction, renovation, or maintenance of a public building, the specifications must require that the contractor provide ENERGY STAR or other energy-efficient products.

(b) Information is available via the Internet on—

(1) ENERGY STAR® at *http://www.energystar.gov/*; and

(2) FEMP at *http://www.eren.doe.gov/femp/procurement.*

23.204 Energy-savings performance contracts.

(a) Section 403 of Executive Order 13123 of June 3, 1999, Greening the Government through Efficient EnergyManagement, requires an agency to make maximum use of the authority provided in the National Energy Conservation Policy Act (42 U.S.C. 8287) to use an energy-savings performance contract (ESPC), when life-cycle cost-effective, to reduce energy use and cost in the agency's facilities and operations.

(b)(1) Under an ESPC, an agency can contract with an energy service company for a period not to exceed 25 years to improve energy efficiency in one or more agency facilities at no direct capital cost to the United States Treasury. The energy service company finances the capital costs of implementing energy conservation measures and receives, in return, a contractually determined share of the cost savings that result.

(2) Except as provided in 10 CFR 436.34, ESPC's are subject to subpart 17.1.

(c) To solicit and award an ESPC, the contracting officer—

(1) Must use the procedures, selection method, and terms and conditions provided in 10 CFR part 436, subpart B; at *http://www.eren.doe.gov/femp/resources/legislation.html;* and

(2) May use the "Qualified List" of energy service companies established by the Department of Energy and other agencies.

Subpart 23.7—Contracting for Environmentally Preferable Products and Services

9. Revise the heading of subpart 23.7 to read as set forth above.

10. Revise section 23.700 to read as follows:

23.700 Scope.

This subpart prescribes policies for acquiring environmentally preferable products and services.

11. Amend section 23.702 by removing paragraph (e), redesignating (f) as (e), and adding a new paragraph (f) to read as follows:

23.702 Authorities.

* * * * *

(f) Executive Order 13123 of June 3, 1999, Greening the Government through Efficient Energy Management.

12. Amend section 23.703 by revising paragraphs (a) and (b)(2) to read as follows:

23.703 Policy

* * * * *

(a) Implement cost-effective contracting preference programs promoting energy-efficiency, water conservation, and the acquisition of environmentally preferable products and services; and

(b) * * *

(2) Promote energy-efficiency and water conservation.

* * * * *

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

13. In section 42.302, revise paragraph (a)(68) to read as follows:

42.302 Contract administration functions.

(a) * * *

(68) Monitor the contractor's environmental practices for adverse impact on contract performance or contract cost, and for compliance with environmental requirements specified in the contract. ACO responsibilities include—

(i) Requesting environmental technical assistance, if needed;

(ii) Monitoring contractor compliance with specifications requiring the use of environmentally preferable products, energy-efficient products, and materials or delivery of end products with specified recovered material content. This must occur as part of the quality assurance procedures set forth in Part 46; and

(iii) As required in the contract, ensuring that the contractor complies with the reporting requirements relating to recovered material content utilized in contract performance (see subpart 23.4).

* * * * *

[FR Doc. 01–30539 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 32, and 52

[FAC 2001–02; FAR Case 1999–023; Item III]

RIN 9000–AI69

Federal Acquisition Regulation; Prompt Payment and the Recovery of Overpayment

AGENCIES: Department of Defense (DoD), General ServicesAdministration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule

VOL 66 ISS 243 DE 18 2001 UMI

amending the Federal Acquisition Regulation (FAR) to reflect changes to the Office of Management and Budget (OMB) prompt payment requirements, to simplify and clarify the prompt payment coverage currently in the FAR, to require the contractor to notify the contracting officer if the contractor becomes aware of an overpayment, and to write all new and revised text using plain language.

DATES: *Effective Date:* February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson at (202) 501–3221. Please cite FAC 2001–02, FAR case 1999–023.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 52244 on August 28, 2000. The proposed rule—

- *Conformed the prompt payment coverage to OMB regulations.* The rule revises the FAR to conform the prompt payment coverage with an OMB final rule published in the **Federal Register** at 65 FR 52580 on September 29, 1999.
- *Implemented a General Accounting Office (GAO) recommendation.* In July 1999, the GAO published a report (GAO/NSIAD–99–131) entitled Greater Attention Needed to Identify and Recover Overpayments. After examining the process for identifying and collecting overpayments, GAO concluded in their report that "Under current law, there is no requirement for contractors who have been overpaid to notify the Government of overpayments or to return overpayments prior to the Government issuing a demand letter" (*i.e.*, formal notification to the contractor to pay money owed to the Government). One of the recommendations of the report was that DoD require contractors to promptly notify the Government of overpayments made to them. Accordingly, the FAR rule adds a paragraph to the prompt payment clauses that requires the contractor to notify the contracting officer if the contractor becomes aware of an overpayment.
- Wrote all new and revised text using plain language.

Eleven respondents submitted public comments to the proposed rule. One of the respondents recommended that the requirement to notify the contracting officer of a duplicate payment or overpayment not be limited to just invoice payments, and expand the coverage to include financing payments (*e.g.*, progress payments based on cost). The Councils agree with this comment and have opened a new FAR case (reference FAR case 2001–005), to consider adding the requirement to notify the contracting officer of a duplicate payment or overpayment to the financing payment clauses (*e.g.*, FAR 52.216–7, Allowable Cost and Payment; 52.216–13, Allowable Cost and Payment-Facilities; 52.232–7, Payments under Time-and-Material and Labor-Hour Contracts; and 52.232–16, Progress Payments).

The Councils considered all comments when developing the final rule, which differs from the proposed rule by—

- Requiring that the contractor include an invoice number on the invoice, to be consistent with the OMB regulations at 5 CFR 1316.9(b);
- Clarifying that, when a proper invoice is rejected in error, the payment office will use the original date the invoice was received for the purposes of computing any interest penalties that may be due the contractor; and
- Making several editorial changes.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* since the changes are primarily editorial in nature. For example, FAR 32.905(b) adds the stipulation that a proper invoice must include the taxpayer identification number (TIN) and electronic funds transfer (EFT) banking information, if required by agency procedures. This is not new policy as the current FAR authorizes agencies to collect TIN (FAR 4.203) and EFT banking information (FAR 32.1109) in any manner they choose, such as requiring it to be provided on each invoice.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because this final rule contains information collection requirements. The final rule requires contractors to notify the contracting officer if the contractor becomes aware that the Government has overpaid on an invoice payment. The FAR Secretariat submitted a request for approval of a revised information collection, and the collection was approved by the Office of Management and Budget under OMB Control Number 9000–0070.

List of Subjects in 48 CFR Parts 2, 32, and 52

Government procurement.

Dated: December 15, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 32, and 52 as set forth below:

1. The authority citation for 48 CFR parts 2, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by revising the definition "Proper invoice"; and adding, in alphabetical order, the definition "Receiving report" to read as follows:

2.101 Definitions.

* * * * *

Proper invoice means an invoice that meets the minimum standards specified in 32.905(b).

* * * * *

Receiving report means written evidence that indicates Government acceptance of supplies delivered or services performed (see subpart 46.6). Receiving reports must meet the requirements of 32.905(c).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

15.407 [AMENDED]

3. Amend 15.407–1(b)(7)(i) by removing "32.902" and adding "32.001" in its place.

PART 32—CONTRACT FINANCING

4. Amend section 32.001 by adding, in alphabetical order, the definitions "Contract financing payment", "Designated billing office", "Designated payment office", and "Invoice payment" to read as follows:

32.001 Definitions.

* * * * *

Contract financing payment means an authorized Government disbursement of monies to a contractor prior to acceptance of supplies or services by the Government.

(1) Contract financing payments include—

(i) Advance payments;

(ii) Performance-based payments;

(iii) Commercial advance and interim payments;

(iv) Progress payments based on cost under the clause at 52.232–16, Progress Payments;

(v) Progress payments based on a percentage or stage of completion (see 32.102(e)), except those made under the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts; and

(vi) Interim payments under a cost reimbursement contract, except for a cost reimbursement contract for services when Alternate I of the clause at 52.232–25, Prompt Payment, is used.

(2) Contract financing payments do not include—

(i) Invoice payments;

(ii) Payments for partial deliveries; or

(iii) Lease and rental payments.

* * * * *

Designated billing office means the office or person (governmental or nongovernmental) designated in the contract where the contractor first submits invoices and contract financing requests. The contract might designate different offices to receive invoices and contract financing requests. The designated billing office might be—

(1) The Government disbursing office;

(2) The contract administration office;

(3) The office accepting the supplies delivered or services performed by the contractor;

(4) The contract audit office; or

(5) A nongovernmental agent.

Designated payment office means the office designated in the contract to make invoice payments or contract financing payments. Normally, this will be the Government disbursing office.

* * * * *

Invoice payment means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government.

(1) Invoice payments include—

(i) Payments for partial deliveries that have been accepted by the Government;

(ii) Final cost or fee payments where amounts owed have been settled between the Government and the contractor;

(iii) For purposes of subpart 32.9 only, all payments made under the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, and the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts; and

(iv) Interim payments under a cost-reimbursement contract for services when Alternate I of the clause at 52.232–25, Prompt Payment, is used.

(2) Invoice payments do not include contract financing payments.

* * * * *

5. Add section 32.007 to read as follows:

32.007 Contract financing payments.

(a)(1) Unless otherwise prescribed in agency policies and procedures or otherwise specified in paragraph (b) of this section, the due date for making contract financing payments by the designated payment office is the 30th day after the designated billing office receives a proper contract financing request.

(2) If an audit or other review of a specific financing request is required to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(3) Agency heads may prescribe shorter periods for payment based on contract pricing or administrative considerations. For example, a shorter period may be justified by an agency if the nature and extent of contract financing arrangements are integrated with agency contract pricing policies.

(4) Agency heads must not prescribe a period shorter than 7 days or longer than 30 days.

(b) For advance payments, loans, or other arrangements that do not involve recurrent submission of contract financing requests, the designated payment office will make payment in accordance with the applicable contract financing terms or as directed by the contracting officer.

(c) A proper contract financing request must comply with the terms and conditions specified by the contract. The contractor must correct any defects in requests submitted in the manner specified in the contract or as directed by the contracting officer.

(d) The designated billing office and designated payment office must annotate each contract financing request with the date their respective offices received the request.

(e) The Government will not pay an interest penalty to the contractor as a result of delayed contract financing payments.

6. Amend section 32.102 by revising paragraph (d) to read as follows:

32.102 Description of contract financing methods.

* * * * *

(d) Payments for accepted supplies and services that are only a part of the contract requirements (*i.e.*, partial deliveries) are authorized under 41 U.S.C. 255 and 10 U.S.C. 2307. In accordance with 5 CFR 1315.4(k), agencies must pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract. Although payments for partial deliveries generally are treated as a method of payment and not as a method of contract financing, using partial delivery payments can assist contractors to participate in contracts without, or with minimal, contract financing. When appropriate, contract statements of work and pricing arrangements must permit acceptance and payment for discrete portions of the work, as soon as accepted (see 32.906(c)).

* * * * *

7. Amend Subpart 32.9 by—

a. Revising sections 32.900, 32.901, and 32.902;

b. Removing section 32.903;

c. Redesignating sections 32.904, 32.905, and 32.906 as sections 32.903, 32.904, and 32.905, respectively, and revising;

d. Adding section 32.906;

e. Revising sections 32.907, 32.908, and 32.909; and

f. Removing sections 32.907–1 and 32.907–2.

The revised and added text reads as follows:

Sec.

Subpart 32.9—Prompt Payment

32.900 Scope of subpart.
32.901 Applicability.
32.902 Definitions.
32.903 Responsibilities.
32.904 Determining payment due dates.
32.905 Payment documentation and process.
32.906 Making payments.
32.907 Interest penalties.
32.908 Contract clauses.
32.909 Contractor inquiries.

32.900 Scope of subpart.

This subpart prescribes policies, procedures, and clauses for implementing Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

32.901 Applicability.

(a) This subpart applies to invoice payments on all contracts, except contracts with payment terms and late payment penalties established by other governmental authority (*e.g.*, tariffs).

VOL 66 ISS 243 DE 18 2001 UMI

(b) This subpart does not apply to contract financing payments (see definition at 32.001).

32.902 Definitions.

As used in this subpart—

Discount for prompt payment means an invoice payment reduction offered by the contractor for payment prior to the due date.

Mixed invoice means an invoice that contains items with different payment due dates.

Payment date means the date on which a check for payment is dated or, for an electronic funds transfer (EFT), the settlement date.

Settlement date, as it applies to electronic funds transfer, means the date on which an electronic funds transfer payment is credited to the contractor's financial institution.

32.903 Responsibilities.

(a) Agency heads—

(1) Must establish the policies and procedures necessary to implement this subpart;

(2) May prescribe additional standards for establishing invoice payment due dates (see 32.904) necessary to support agency programs and foster prompt payment to contractors;

(3) May adopt different payment procedures in order to accommodate unique circumstances, provided that such procedures are consistent with the policies in this subpart;

(4) Must inform contractors of points of contact within their cognizant payment offices to enable contractors to obtain status of invoices; and

(5) May authorize the use of the accelerated payment methods specified at 5 CFR 1315.5.

(b) When drafting solicitations and contracts, contracting officers must identify for each contract line item number, subline item number, or exhibit line item number—

(1) The applicable Prompt Payment clauses that apply to each item when the solicitation or contract contains items that will be subject to different payment terms; and

(2) The applicable Prompt Payment food category (*e.g.*, which item numbers are meat or meat food products, which are perishable agricultural commodities), when the solicitation or contract contains multiple payment terms for various classes of foods and edible products.

32.904 Determining payment due dates.

(a) *General.* Agency procedures must ensure that, when specifying due dates, contracting officers give full consideration to the time reasonably required by Government officials to fulfill their administrative responsibilities under the contract.

(b) *Payment due dates.* Except as prescribed in paragraphs (c) through (f) of this section, or as authorized in 32.908(a)(2) or (c)(2), the due date for making an invoice payment is as follows:

(1) The later of the following two events:

(i) The 30th day after the designated billing office receives a proper invoice from the contractor (except as provided in paragraph (b)(3) of this section).

(ii) The 30th day after Government acceptance of supplies delivered or services performed.

(A) For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(B) For the sole purpose of computing an interest penalty that might be due the contractor—

(*1*) Government acceptance is deemed to occur constructively on the 7th day after the contractor delivers supplies or performs services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract requirement;

(*2*) If actual acceptance occurs within the constructive acceptance period, the Government must base the determination of an interest penalty on the actual date of acceptance;

(*3*) The constructive acceptance requirement does not compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities; and

(*4*) Except for a contract for the purchase of a commercial item, including a brand-name commercial item for authorized resale (*e.g.*, commissary items), the contracting officer may specify a longer period for constructive acceptance in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed. The contracting officer must document in the contract file the justification for extending the constructive acceptance period beyond 7 days. Extended acceptance periods must not be a routine agency practice and must be used only when necessary to permit proper Government inspection and testing of the supplies delivered or services performed.

(2) If the contract does not require submission of an invoice for payment (*e.g.*, periodic lease payments), the contracting officer must specify the due date in the contract.

(3) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(c) *Architect-engineer contracts.* (1) The due date for making payments on contracts that contain the clause at 52.232–10, Payments Under Fixed-Price Architect-EngineerContracts, is as follows:

(i) The due date for work or services completed by the contractor is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the contractor.

(B) The 30th day after Government acceptance of the work or services completed by the contractor.

(*1*) For a final invoice, when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the settlement.

(*2*) For the sole purpose of computing an interest penalty that might be due the contractor, Government acceptance is deemed to occur constructively on the 7th day after the contractor completes the work or services in accordance with the terms and conditions of the contract (see also paragraph (c)(2) of this section). If actual acceptance occurs within the constructive acceptance period, the Government must base the determination of an interest penalty on the actual date of acceptance.

(ii) The due date for progress payments is the 30th day after Government approval of contractor estimates of work or services accomplished. For the sole purpose of computing an interest penalty that might be due the contractor—

(A) Government approval is deemed to occur constructively on the 7th day after the designated billing office receives the contractor estimates (see also paragraph (c)(2) of this section).

(B) If actual approval occurs within the constructive approval period, the Government must base the determination of an interest penalty on the actual date of approval.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date is the 30th day after the date of the contractor's invoice or payment request, provided the designated billing office receives a proper invoice or payment request and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(2) The constructive acceptance and constructive approval requirements described in paragraphs (c)(1)(i) and (ii) of this section are conditioned upon receipt of a proper payment request and no disagreement over quantity, quality, contractor compliance with contract requirements, or the requested progress payment amount. These requirements do not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities. The contracting officer may specify a longer period for constructive acceptance or constructive approval, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed. The contracting officer must document in the contract file the justification for extending the constructive acceptance or approval period beyond 7 days.

(d) *Construction contracts.* (1) The due date for making payments on construction contracts is as follows:

(i) The due date for making progress payments based on contracting officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project, is 14 days after the designated billing office receives a proper payment request.

(A) If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(B) The contracting officer may specify a longer period in the solicitation and resulting contract if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract. The contracting officer must document in the contract file the justification for extending the due date beyond 14 days.

(C) The contracting officer must not approve progress payment requests unless the certification and substantiation of amounts requested are provided as required by the clause at 52.232–5, Payments Under Fixed-PriceConstruction Contracts.

(ii) The due date for payment of any amounts retained by the contracting officer in accordance with the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, will be as specified in the contract or, if not specified, 30 days after approval by the contracting officer for release to the contractor. The contracting officer must base the release of retained amounts on the contracting officer's determination that satisfactory progress has been made.

(iii) The due date for final payments based on completion and acceptance of all work (including any retained amounts), and payments for partial deliveries that have been accepted by the Government (*e.g.*, each separate building, public work, or other division of the contract for which the price is stated separately in the contract) is as follows:

(A) The later of the following two events:

(*1*) The 30th day after the designated billing office receives a proper invoice from the contractor.

(*2*) The 30th day after Government acceptance of the work or services completed by the contractor. For a final invoice, when the payment amount is subject to contract settlement actions (*e.g.*, release of contractor claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or contractor compliance with contract requirements.

(2) For the sole purpose of computing an interest penalty that might be due the contractor for payments described in paragraph (d)(1)(iii) of this section—

(i) Government acceptance or approval is deemed to occur constructively on the 7th day after the contractor completes the work or services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, contractor compliance with a contract requirement, or the requested amount;

(ii) If actual acceptance occurs within the constructive acceptance period, the Government must base the determination of an interest penalty on the actual date of acceptance;

(iii) The constructive acceptance requirement does not compel Government officials to accept work or services, approve contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities; and

(iv) The contracting officer may specify a longer period for constructive acceptance or constructive approval in the solicitation and resulting contract, if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract. The contracting officer must document in the contract file the justification for extending the constructive acceptance or approval beyond 7 days.

(3) Construction contracts contain special provisions concerning contractor payments to subcontractors, along with special contractor certification requirements. The Office of Management and Budget has determined that these certifications must not be construed as final acceptance of the subcontractor's performance. The certification in 52.232–5(c) implements this determination; however, certificates are still acceptable if the contractor deletes paragraph (c)(4) of 52.232–5 from the certificate.

(4)(i) Paragraph (d) of the clause at 52.232–5, Payments under Fixed-Price Construction Contracts, and paragraph (e)(6) of the clause at 52.232–27, Prompt Payment for Construction Contracts, provide for the contractor to pay interest on unearned amounts in certain circumstances. The Government must recover this interest from subsequent payments to the contractor. Therefore, contracting officers normally must make no demand for payment. Contracting officers must—

(A) Compute the amount in accordance with the clause;

(B) Provide the contractor with a final decision; and

(C) Notify the payment office of the amount to be withheld.

(ii) The payment office is responsible for making the deduction of interest. Amounts collected in accordance with these provisions revert to the United States Treasury.

(e) *Cost-reimbursement contracts for services.* For purposes of computing late payment interest penalties that may apply, the due date for making interim payments on cost-reimbursement contracts for services is 30 days after the date of receipt of a proper invoice.

(f) *Food and specified items.*

VOL 66 ISS 243 DE 18 2001 UMI

If the items delivered are:	Payment must be made as close as possible to, but not later than:
(1) *Meat or meat food products.* As defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Public Law 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product.	7th day after product delivery.
(2) *Fresh or frozen fish.* As defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)).	7th day after product delivery.
(3) *Perishable agricultural commodities.* As defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)).	10th day after product delivery, unless another date is specified in the contract.
(4) *Dairy products.* As defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products fall within this classification. Nothing in the Act limits this classification to refrigerated products. If questions arise regarding the proper classification of a specific product, the contracting officer must follow prevailing industry practices in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the contractor making the representation.	10th day after a proper invoice has been received.

(g) *Multiple payment due dates.* Contracting officers may encourage, but not require, contractors to submit separate invoices for products with different payment due dates under the same contract or order. When an invoice contains items with different payment due dates (*i.e.*, a mixed invoice), the payment office will, subject to agency policy—

(1) Pay the entire invoice on the earliest due date; or

(2) Split invoice payments, making payments by the applicable due dates.

32.905 Payment documentation and process.

(a) *General.* Payment will be based on receipt of a proper invoice and satisfactory contract performance.

(b) *Content of invoices.* (1) A proper invoice must include the following items (except for interim payments on cost reimbursement contracts for services):

(i) Name and address of the contractor.

(ii) Invoice date and invoice number. (Contractors should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (*e.g.*, shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The contractor must include its TIN on the invoice only if required by agency procedures. (See 4.9 TIN requirements.)

(ix) Electronic funds transfer (EFT) banking information.

(A) The contractor must include EFT banking information on the invoice only if required by agency procedures.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the contractor must have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232–38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (*e.g.*, evidence of shipment).

(2) An interim payment request under a cost-reimbursement contract for services constitutes a proper invoice for purposes of this subsection if it includes all of the information required by the contract.

(3) If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt (3 days on contracts for meat, meat food products, or fish; 5 days on contracts for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. If such notice is not timely, then the designated billing office must adjust the due date for the purpose of determining an interest penalty, if any.

(c) *Authorization to pay.* All invoice payments, with the exception of interim payments on cost-reimbursement contracts for services, must be supported by a receiving report or other Government documentation authorizing payment (*e.g.*, Government certified voucher). The agency receiving official should forward the receiving report or other Government documentation to the designated payment office by the 5th working day after Government acceptance or approval, unless other arrangements have been made. This period of time does not extend the due dates prescribed in this section. Acceptance should be completed as expeditiously as possible. The receiving report or other Government documentation authorizing payment must, as a minimum, include the following:

(1) Contract number or other authorization for supplies delivered or services performed.

(2) Description of supplies delivered or services performed.

(3) Quantities of supplies received and accepted or services performed, if applicable.

(4) Date supplies delivered or services performed.

(5) Date that the designated Government official—

(i) Accepted the supplies or services; or

(ii) Approved the progress payment request, if the request is being made under the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, or the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts.

(6) Signature, printed name, title, mailing address, and telephone number of the designated Government official responsible for acceptance or approval functions.

(d) *Billing office.* The designated billing office must immediately annotate each invoice with the actual date it receives the invoice.

(e) *Payment office.* The designated payment office will annotate each invoice and receiving report with the actual date it receives the invoice.

32.906 Making payments.

(a) *General.* The Government will not make invoice payments earlier than 7 days prior to the due dates specified in the contract unless the agency head determines—

(1) To make earlier payment on a case-by-case basis; or

(2) That the use of accelerated payment methods are necessary (see 32.903(a)(5)).

(b) *Payment office.* The designated payment office—

(1) Will mail checks on the same day they are dated;

(2) For payments made by EFT, will specify a date on or before the established due date for settlement of the payment at a Federal Reserve Bank;

(3) When the due date falls on a Saturday, Sunday, or legal holiday when Government offices are closed, may make payment on the following working day without incurring a late payment interest penalty.

(4) When it is determined that the designated billing office erroneously rejected a proper invoice and upon resubmission of the invoice, will enter in the payment system the original date the invoice was received by the designated billing office for the purpose of calculating the correct payment due date and any interest penalties that may be due.

(c) *Partial deliveries.* (1) Contracting officers must, where the nature of the work permits, write contract statements of work and pricing arrangements that allow contractors to deliver and receive invoice payments for discrete portions of the work as soon as completed and found acceptable by the Government (see 32.102(d)).

(2) Unless specifically prohibited by the contract, the clause at 52.232–1, Payments, provides that the contractor is entitled to payment for accepted partial deliveries of supplies or partial performance of services that comply with all applicable contract requirements and for which prices can be calculated from the contract terms.

(d) *Contractor identifier.* Each payment or remittance advice will use the contractor invoice number in addition to any Government or contract information in describing any payment made.

(e) *Discounts.* When a discount for prompt payment is taken, the designated payment office will make payment to the contractor as close as possible to, but not later than, the end of the discount period. The discount period is specified by the contractor and is calculated from the date of the contractor's proper invoice. If the contractor has not placed a date on the invoice, the due date is calculated from the date the designated billing office receives a proper invoice, provided the agency annotates such invoice with the date of receipt at the time of receipt. When the discount date falls on a Saturday, Sunday, or legal holiday when Government offices are closed, the designated payment office may make payment on the following working day and take a discount. Payment terms are specified in the clause at 52.232–8, Discounts for Prompt Payment.

32.907 Interest penalties.

(a) *Late payment.* The designated payment office will pay an interest penalty automatically, without request from the contractor, when all of the following conditions, if applicable, have been met:

(1) The designated billing office received a proper invoice.

(2) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or contractor compliance with any contract requirement.

(3) In the case of a final invoice, the payment amount is not subject to further contract settlement actions between the Government and the contractor.

(4) The designated payment office paid the contractor after the due date.

(5) In the case of interim payments on cost-reimbursement contracts for services, when payment is made more than 30 days after the designated billing office receives a proper invoice.

(b) *Improperly taken discount.* The designated payment office will pay an interest penalty automatically, without request from the contractor, if the Government takes a discount for prompt payment improperly. The interest penalty is calculated on the amount of discount taken for the period beginning with the first day after the end of the discount period through the date when the contractor is paid.

(c) *Failure to pay interest.* (1) The designated payment office will pay a penalty amount, in addition to the interest penalty amount, only if—

(i) The Government owes an interest penalty of $1 or more;

(ii) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(iii) The contractor makes a written demand to the designated payment office for additional penalty payment in accordance with paragraph (c)(2) of this section, postmarked not later than 40 days after the date the invoice amount is paid.

(2)(i) Contractors must support written demands for additional penalty payments with the following data. The Government must not request additional data. Contractors must—

(A) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(B) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(C) State that payment of the principal has been received, including the date of receipt.

(ii) If there is no postmark or the postmark is illegible—

(A) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(B) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the contractor has placed on the demand; provided such date is no later than the 40th day after payment was made.

(d) *Disagreements.* (1) The payment office will not pay interest penalties if payment delays are due to disagreement between the Government and contractor concerning—

(i) The payment amount;

(ii) Contract compliance; or

(iii) Amounts temporarily withheld or retained in accordance with the terms of the contract.

(2) The Government and the contractor must resolve claims involving disputes, and any interest that may be payable in accordance with the Disputes clause.

(e) *Computation of interest penalties.* The Government will compute interest penalties in accordance with OMB prompt payment regulations at 5 CFR part 1315. These regulations are available via the Internet at *http://www.fms.treas.gov/prompt/.*

VOL 66
ISS 243
DE 18 2001
UMI

(f) *Unavailability of funds.* The temporary unavailability of funds to make a timely payment does not relieve an agency from the obligation to pay interest penalties.

32.908 Contract clauses.

(a) Insert the clause at 52.232–26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, in solicitations and contracts that contain the clause at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts.

(1) As authorized in 32.904(c)(2), the contracting officer may modify the date in paragraph (a)(4)(i) of the clause to specify a period longer than 7 days for constructive acceptance or constructive approval, if required to afford the Government a practicable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(2) As provided in 32.903, agency policies and procedures may authorize amendment of paragraphs (a)(1)(i) and (ii) of the clause to insert a period shorter than 30 days (but not less than 7 days) for making contract invoice payments.

(b) Insert the clause at 52.232–27, Prompt Payment for Construction Contracts, in all solicitations and contracts for construction (see part 36).

(1) As authorized in 32.904(d)(1)(i)(B), the contracting officer may modify the date in paragraph (a)(1)(i)(A) of the clause to specify a period longer than 14 days if required to afford the Government a reasonable opportunity to adequately inspect the work and to determine the adequacy of the Contractor's performance under the contract.

(2) As authorized in 32.904(d)(2)(iv), the contracting officer may modify the date in paragraph (a)(4)(i) of the clause to specify a period longer than 7 days for constructive acceptance or constructive approval if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or evaluate the services performed.

(c) Insert the clause at 52.232–25, Prompt Payment, in all other solicitations and contracts, except when the clause at 52.212–4, Contract Terms and Conditions—Commercial Items, applies, or when payment terms and late payment penalties are established by other governmental authority (*e.g.*, tariffs).

(1) As authorized in 32.904(b)(1)(ii)(B)(*4*), the contracting officer may modify the date in paragraph (a)(5)(i) of the clause to specify a period longer than 7 days for constructive acceptance, if required to afford the Government a reasonable opportunity to inspect and test the supplies furnished or to evaluate the services performed, except in the case of a contract for the purchase of a commercial item, including a brand-name commercial item for authorized resale (*e.g.*, commissary items).

(2) As provided in 32.903, agency policies and procedures may authorize amendment of paragraphs (a)(1)(i) and (ii) of the clause to insert a period shorter than 30 days (but not less than 7 days) for making contract invoice payments.

(3) If the contract is a cost-reimbursement contract for services, use the clause with its Alternate I.

32.909 Contractor inquiries.

(a) Direct questions involving—

(1) Delinquent payments to the designated billing office or designated payment office; and

(2) Disagreements in payment amount or timing to the contracting officer for resolution. The contracting officer must coordinate within appropriate contracting channels and seek the advice of other offices as necessary to resolve disagreements.

(b) Small business concerns may contact the agency's local small business specialist or representative from the Office of Small and Disadvantaged Business Utilization to obtain additional assistance related to payment issues, late payment interest penalties, and information on the Prompt Payment Act.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Amend section 52.212–4 by—

a. Revising the date of the clause;

b. Revising paragraph (g) (and removing the undesignated paragraph that follows) of the clause; and

c. Revising the second sentence of paragraph (i) of the clause to read as follows:

52.212–4 Contract terms and conditions—commercial items.

* * * * *

Contract Terms and Conditions—Commercial Items (Feb 2002)

* * * * *

(g) *Invoice.* (1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR part 1315.

* * * * *

(i) *Payment.* * * * The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and OMB prompt payment regulations at 5 CFR part 1315. * * *

* * * * *

(End of clause)

52.213–4 [Amended]

9. In section 52.213–4, amend the clause heading by removing "(May 2001)" and adding "(Feb 2002)" in its place; and in paragraph (a)(2)(ii) by removing "(May 1997)" and in paragraph (a)(2)(iv) by removing "(June 1997)" and adding "(FEB 2002)" in their places, respectively.

10. Amend section 52.216–7 by revising the date of the clause and paragraph (a) to read as follows:

52.216–7 Allowable Cost and Payment.

* * * * *

Allowable Cost and Payment (Feb 2002)

(a) *Invoicing.* (1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232–25.

(3) The designated payment office will make interim payments for contract financing on the _______ [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after the designated billing office receives a proper payment request.

In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

* * * * *

(End of clause)

11. Amend section 52.216–13 by revising the date of the clause and paragraph (b) to read as follows:

52.216–13 Allowable Cost and Payment—Facilities.

* * * * *

Allowable Cost and Payment—Facilities (Feb 2002)

* * * * *

(b) *Invoicing*. (1) The Government will make payments to the Contractor when requested once each month. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for the performance of this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232–25.

(3) The designated payment office will make interim payments for contract financing on the _______ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"*] day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

* * * * *

(End of clause)

12. Amend section 52.232–7 by revising the date of the clause; by adding paragraph (h); and by revising Alternate II to read as follows:

52.232–7 Payments under time-and-materials and labor-hour contracts.

* * * * *

Payments Under Time-and-Materials and Labor-Hour Contracts (Feb 2002)

* * * * *

(h) *Interim payments*. (1) Interim payments made prior to the final payment under the contract are contract financing payments. Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act.

(2) The designated payment office will make interim payments for contract financing on the _______ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"*] day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(End of clause)

* * * * *

Alternate II (Feb 2002). If a labor-hour contract is contemplated, and if no specific reimbursement for materials furnished is intended, the Contracting Officer may add the following paragraph (i) to the basic clause:

(i) The terms of this clause that govern reimbursement for materials furnished are considered to have been deleted.

13. Amend section 52.232–8 by revising the date of the clause and the last sentence of paragraph (a) to read as follows:

52.232–8 Discounts for prompt payment.

* * * * *

Discounts for Prompt Payment (Feb 2002)

(a) * * * As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

* * * * *

14. Amend section 52.232–16 by revising the date of the clause; by adding paragraph (l) to the end of the clause; by revising Alternate II; and by revising the introductory text of Alternate III and redesignating Alternate III paragraph (l) as (m). The added and revised text reads as follows:

52.232–16 Progress payments.

* * * * *

Progress Payments (Feb 2002)

* * * * *

(l) *Due date*. The designated payment office will make progress payments on the _______ [*Contracting Officer insert date as prescribed by agency head; if not prescribed, insert "30th"*] day after the designated billing office receives a proper progress payment request. In the event that the Government requires an audit or other review of a specific progress payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date. Progress payments are considered contract financing and are not subject to the interest penalty provisions of the Prompt Payment Act.

(End of clause)

* * * * *

Alternate II (Feb 2002). If the contract is a letter contract, add paragraphs (m) and (n). The amount specified in paragraph (n) must not exceed 80 percent applied to the maximum liability of the Government under the letter contract. Separate limits may be specified for separate parts of the work.

(m) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b) of this clause, be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government will allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and will liquidate each portion under the relevant procedure in paragraphs (m)(1) and (m)(2) of this clause.

(4) If the method of liquidating progress payments provided in this clause does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(n) The amount of unliquidated progress payments shall not exceed _______ [*Contracting Officer specify dollar amount*].

Alternate III (Feb 2002). As prescribed in 35.502–4(d), add the following paragraph (m) to the basic clause. If Alternate II is also being used, redesignate the following paragraph as paragraph (o):

15. Revise sections 52.232–25, 52.232–26, and 52.232–27 to read as follows:

VOL 66 ISS 243 DE 18 2001 UMI

52.232-25 Prompt payment.

As prescribed in 32.908(c), insert the following clause:

Prompt Payment (Feb 2002)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Due date.* (i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Certain food products and other payments.* (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are—

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98–181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (*e.g.*, periodic lease payments), the due date will be as specified in the contract.

(3) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (*e.g.*, shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232–38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (*e.g.*, evidence of shipment).

(4) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) *Computing penalty amount.* The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233–1, Disputes.

(6) *Discounts for prompt payment.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) *Additional interest penalty.* (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if—

(A) The Government owes an interest penalty of $1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible—

(*1*) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(*2*) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (*e.g.*, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payment.* If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Fast payment procedure due dates.* If this contract contains the clause at 52.213–1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) *Overpayments.* If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

Alternate I (Feb 2002). As prescribed in 32.908(c)(3), add the following paragraph (e) to the basic clause:

(e) *Invoices for interim payments.* For interim payments under this cost-reimbursement contract for services—

(1) Paragraphs (a)(2), (a)(3), (a)(4)(ii), (a)(4)(iii), and (a)(5)(i) do not apply;

(2) For purposes of computing late payment interest penalties that may apply, the due date for payment is the 30th day after the designated billing office receives a proper invoice; and

(3) The contractor shall submit invoices for interim payments in accordance with paragraph (a) of FAR 52.216–7, Allowable Cost and Payment. If the invoice does not comply with contract requirements, it will be returned within 7 days after the date the designated billing office received the invoice.

52.232–26 Prompt payment for fixed-price architect-engineer contracts.

As prescribed in 32.908(a), insert the following clause:

Prompt Payment for Fixed-Price Architect-Engineer Contracts (FEB 2002)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Due date.* The due date for making invoice payments is—

(i) For work or services completed by the Contractor, the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(iii) of this clause).

(B) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice, when the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance is deemed to occur on the effective date of the settlement.

(ii) The due date for progress payments is the 30th day after Government approval of Contractor estimates of work or services accomplished.

(iii) If the designated billing office fails to annotate the invoice or payment request with the actual date of receipt at the time of receipt, the payment due date is the 30th day after the date of the Contractor's invoice or payment request, provided the designated billing office receives a proper invoice or payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Contractor's invoice.* The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (*e.g.*, discount for prompt payment terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232–38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract.

(3) *Interest penalty.* The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount*. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance or approval is deemed to occur constructively as shown in paragraphs (a)(4)(i)(A) and (B) of this clause. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, Contractor compliance with a contract provision, or requested progress payment amounts. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(A) For work or services completed by the Contractor, Government acceptance is deemed to occur constructively on the 7th day after the Contractor completes the work or services in accordance with the terms and conditions of the contract.

(B) For progress payments, Government approval is deemed to occur on the 7th day after the designated billing office receives the Contractor estimates.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233–1, Disputes.

(5) *Discounts for prompt payment*. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with 5 CFR part 1315.

(6) *Additional interest penalty*. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315, in addition to the interest penalty amount only if—

(A) The Government owes an interest penalty of $1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible—

(*1*) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(*2*) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (*e.g.*, payments under utility contracts subject to tariffs and regulation).

(b) *Contract financing payments*. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Overpayments*. If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

52.232–27 Prompt payment for construction contracts.

As prescribed in 32.908(b), insert the following clause:

Prompt Payment for Construction Contracts (Feb 2002)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer.Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) *Invoice payments*—(1) *Types of invoice payments*. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (*e.g.*, each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(*1*) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(*2*) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (*e.g.*, release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) *Contractor's invoice*. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the

Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (*e.g.*, discount for prompt payment terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232–5, Payments Under Fixed-Price Construction Contracts.

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (*e.g.*, 52.232–38, Submission of Electronic Funds Transfer Information with Offer), contract clause (*e.g.*, 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, or 52.232–34, Payment by Electronic Funds Transfer—Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(xi) Any other information or documentation required by the contract.

(3) *Interest penalty*. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) *Computing penalty amount*. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233–1, Disputes.

(5) *Discounts for prompt payment*. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(6) *Additional interest penalty*. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if—

(A) The Government owes an interest penalty of $1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall—

(*1*) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(*2*) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(*3*) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible—

(1) The designated payment office that receives the demand will annotate it with the date of receipt provided the demand is received on or before the 40th day after payment was made; or

(*2*) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(b) *Contract financing payments*. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) *Subcontract clause requirements*. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) *Prompt payment for subcontractors*. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) *Interest for subcontractors*. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause—

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) *Subcontractor clause flowdown*. A clause requiring each subcontractor tou

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) *Subcontract clause interpretation*. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that—

(1) *Retainage permitted.* Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) *Withholding permitted.* Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) *Withholding requirements.* Permit such withholding without incurring any obligation to pay a late payment penalty if—

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) *Subcontractor withholding procedures.* If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall—

(1) *Subcontractor notice.* Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) *Contracting Officer notice.* Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) *Subcontractor progress payment reduction.* Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) *Subsequent subcontractor payment.* Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

(i) Make such payment within—

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) *Notice to Contracting Officer.* Notify the Contracting Officer upon—

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying—

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) *Interest to Government.* Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until—

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) *Third-party deficiency reports*—(1) *Withholding from subcontractor.* If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a "second-tier subcontractor") a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b, Miller Act), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause—

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) *Subsequent payment or interest charge.* As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall—

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the **Federal Register**, for interest payments under section 12 of the Contracts DisputesAct of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) *Written notice of subcontractor withholding.* The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying—

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) *Subcontractor payment entitlement.* The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) *Prime-subcontractor disputes.* A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) *Preservation of prime-subcontractor rights.* Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) *Non-recourse for prime contractor interest penalty.* The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) *Overpayments.* If the Contractor becomes aware of a duplicate payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall immediately notify the Contracting Officer and request instructions for disposition of the overpayment.

(End of clause)

16. Amend section 52.232–29 by revising the date of the clause; by redesignating paragraph (g) as paragraph (h); by adding a new paragraph (g); and by revising the newly designated paragraph (h) to read as follows:

52.232–29 Terms for financing of purchases of commercial items.

* * * * *

Terms for Financing of Purchases of Commercial Items (Feb 2002)

* * * * *

(g) *Dates for payment.* A payment under this clause is a contract financing payment and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved payment requests within 30 days of submittal of a proper request for payment.

(h) *Conflict between terms of offeror and clause.* In the event of any conflict between the terms proposed by the offeror in response to an invitation to propose financing terms (52.232–31) and the terms in this clause, the terms of this clause shall govern.

(End of clause)

17. Amend section 52.232–32 by revising the date of the clause and paragraph (c)(2) to read as follows:

52.232–32 Performance-based payments.

* * * * *

Performance-Based Payments (Feb 2002)

* * * * *

(c) * * *

(2) A payment under this performance-based payment clause is a contract financing payment under the Prompt Payment clause of this contract and not subject to the interest penalty provisions of the Prompt Payment Act. The designated payment office will pay approved requests on the ______ [*Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"*] day after receipt of the request for performance-based payment. However, the designated payment office is not required to provide payment if the Contracting Officer requires substantiation as provided in paragraph (c)(1) of this clause, or inquires into the status of an event or performance criterion, or into any of the conditions listed in paragraph (e) of this clause, or into the Contractor certification. The payment period will not begin until the Contracting Officer approves the request.

* * * * *

[FR Doc. 01–30540 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 8, 44, and 52

[FAC 2001–02; FAR Case 1999–017; Item IV]

RIN 9000–AI82

Federal Acquisition Regulation; Javits-Wagner-O'Day Act Subcontract Preference Under Service Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation to implement changes in 41 CFR 51–5.2(e) relating to preferences for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48)).

DATES: Effective Date: February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–02, FAR case 1999–017.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 41266 on July 3, 2000. This final rule amends FAR Part 8 to extend the priority for award of service contracts that will satisfy agency requirements that are available from the Committee for Purchase From People Who Are Blind or Severely Disabled to subcontracts when contractors purchase the services for Government use. The rule also amends FAR Part 44 to add purchase from nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled to the list of items a contracting officer must consider when reviewing a subcontract that is subject to the procedures at FAR Subpart 44.2, Consent to Subcontracts. The rule also amends the clause at FAR 52.208–9, Contractor Use of Mandatory Sources of Supply, to inform offerors and contractors that certain services to be provided for use by the Government are required by law to be obtained from the Committee for Purchase From People Who Are Blind or Severely Disabled. We received comments from three respondents in response to publication of the proposed rule. All comments were considered in the development of the final rule.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA), and it is summarized as follows:

> The rule implements 41 CFR 51–5.2(e) relating to preferences for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48)). The rule will apply to all large and small entities that seek award of a subcontract under Government services contract. Although awards of subcontracts to certain small entities may decrease as a result of the rule, the decrease will be offset by an increase in awards to nonprofit workshops. Nonprofit workshops meet the size standards for most acquisitions. Therefore, we do not expect the total number of subcontract awards to small entities to change as a result of this rule.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 8, 44, and 52

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 8, 44, and 52 as set forth below:

1. The authority citation for 48 CFR parts 8, 44, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and42 U.S.C. 2473(c).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

2. Amend section 8.001 by revising paragraph (c) to read as follows:

8.001 Priorities for use of Government supply sources.

* * * * *

(c) The statutory obligation for Government agencies to satisfy their requirements for supplies or services available from the Committee for

Purchase From People Who Are Blind or Severely Disabled also applies when contractors purchase the supplies or services for Government use.

3. Revise section 8.003 to read as follows:

8.003 Contract clause.

Insert the clause at 52.208–9, Contractor Use of Mandatory Sources of Supply and Services, in solicitations and contracts that require a contractor to provide supplies or services for Government use that are available from the Committee for Purchase From People Who Are Blind or Severely Disabled. The contracting officer must identify in the contract schedule the supplies or services that must be purchased from a mandatory source and the specific source.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

4. Amend section 44.202–2 by removing from the introductory text of paragraph (a) "shall" and adding "must" in its place; and by revising paragraph (a)(4) to read as follows:

44.202–2 Considerations.

(a) * * *

(4) Has the contractor complied with the prime contract requirements regarding—

(i) Small business subcontracting, including, if applicable, its plan for subcontracting with small, veteran-owned, service-disabled veteran-owned, HUBZone, small disadvantaged and women-owned small business concerns (seepart 19); and

(ii) Purchase from nonprofit agencies designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48))(see part 8)?

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. In section 52.208–9, revise the section and clause headings, paragraphs (a) and (b), and the second sentence in paragraph (c) to read as follows:

52.208–9 Contractor Use of Mandatory Sources of Supply or Services.

* * * * *

Contractor Use of Mandatory Sources of Supply or Services (Feb 2002)

(a) Certain supplies or services to be provided under this contract for use by the Government are required by law to be obtained from the Committee for Purchase From People Who Are Blind or Severely Disabled (the Committee) under the Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48). Additionally, certain of these supplies are available from the Defense Logistics Agency (DLA), the General Services Administration (GSA), or the Department of Veterans Affairs (VA). The Contractor shall obtain mandatory supplies or services to be provided for Government use under this contract from the specific sources indicated in the contract schedule.

(b) The Contractor shall immediately notify the Contracting Officer if a mandatory source is unable to provide the supplies or services by the time required, or if the quality of supplies or services provided by the mandatory source is unsatisfactory. The Contractor shall not purchase the supplies or services from other sources until the Contracting Officer has notified the Contractor that the Committee or a JWOD central nonprofit agency has authorized purchase from other sources.

(c) * * * For mandatory supplies or services that are not available from DLA/GSA/VA, price and delivery information is available from the appropriate central nonprofit agency. * * *

* * * * *

(End of clause)

[FR Doc. 01–30541 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 2001–02; FAR Case 1999–022; Item V]

RIN 9000–AI68

Federal Acquisition Regulation; Discussion Requirements

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to amend the Federal Acquisition Regulation (FAR) to clarify the scope of discussions in competitive negotiated acquisitions.

DATES: *Effective Date:* February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph DeStefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 2001–02, FAR case 1999–022.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 15.306(d) to clarify that the contracting officer is not required to discuss every area where the proposal could be improved. The rule explains that discussions of offerors' proposals beyond deficiencies and significant weaknesses are a matter of contracting officer judgment. GAO has already interpreted the previous FAR language consistently with this clarification in MRC Federal, Inc. (B–280969, December 14, 1998), and Du & Associates (B–280283.3, December 22, 1998). The rule encourages the contracting officer to discuss other aspects of an offerors' proposal that have the potential, if changed, to materially increase the value of the proposal to the Government (B–280283.3). However, the rule makes clear that whether these discussions would be worthwhile is within the contracting officer's discretion.

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 65 FR 17582, April 3, 2000. Five respondents submitted comments on the proposed rule. The Councils considered all comments in the development of the final rule.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only clarifies existing policy that the scope and extent of discussions beyond the stated minimums are a matter of contracting officer judgment. We did not receive any comments regarding this determination as a result of publication of the proposed rule in the **Federal Register** at 65 FR 17582, April 3, 2000.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 15.306 in paragraph (d)(1) by removing "shall" and inserting "must" in its place; by revising paragraph (d)(3); and by redesignating paragraph (d)(4) as (d)(5) and adding a new (d)(4) to read as follows:

15.306 Exchanges with offerors after receipt of proposals.

* * * * *

(d) * * *

(3) At a minimum, the contracting officer must, subject to paragraphs (d)(5) and (e) of this section and 15.307(a), indicate to, or discuss with, each offeror still being considered for award, deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond. The contracting officer also is encouraged to discuss other aspects of the offeror's proposal that could, in the opinion of the contracting officer, be altered or explained to enhance materially the proposal's potential for award. However, the contracting officer is not required to discuss every area where the proposal could be improved. The scope and extent of discussions are a matter of contracting officer judgment.

(4) In discussing other aspects of the proposal, the Government may, in situations where the solicitation stated that evaluation credit would be given for technical solutions exceeding any mandatory minimums, negotiate with offerors for increased performance beyond any mandatory minimums, and the Government may suggest to offerors that have exceeded any mandatory minimums (in ways that are not integral to the design), that their proposals would be more competitive if the excesses were removed and the offered price decreased.

* * * * *

[FR Doc. 01–30542 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 2001–02; FAR Case 2000–017; Item VI]

RIN 9000–AJ25

Federal Acquisition Regulation; Definition of Subcontract in FAR Subpart 15.4

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to exclude section 15.407–2 from application of the expanded definition of "subcontract" at FAR 15.401.

DATES: *Effective Date:* February 19, 2002.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jeremy Olson, at (202) 501–3221. Please cite FAC 2001–02, FAR case 2000–017.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule excludes section 15.407–2 from application of the expanded definition of "subcontract" at FAR 15.401. This definition of "subcontract" is derived from the Truth in Negotiations Act (10 U.S.C. 2306a(h)(2) and 41 U.S.C. 254b(h)(2)). Prior to the rewrite of Part 15, this definition applied only to Subpart 15.8, Price Negotiation, and did not apply to Subpart 15.7, Make-or-Buy Programs, or Subpart 15.9, Profit. The rewrite combined these three subparts into the new Subpart 15.4, Contract Pricing. However, application of the expanded definition creates a conflict with the definitions of "buy item" and "make item" in section 15.407–2, Make-or-buy programs. As defined in section 15.407–2, "buy item" means an item or work effort to be produced or performed by a subcontractor. "Make item" means an item or work effort to be produced or performed by the prime contractor or its affiliates, subsidiaries, or divisions. In this context, a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor is not considered to be a "subcontract." This is not a significant regulatory action and, therefore, was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required.

However, the Councils will consider comments from small entities concerning the affected FAR part 15 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–02, FAR case 2000–017), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Federal Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR part 15 as set forth below:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

15.401 [Amended]

2. Amend section 15.401 in the definition of "Subcontract" by adding the parenthetical "(except as used in

15.407–2)” following the word “Subcontract”.

[FR Doc. 01–30543 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 5, 12, 19, 23, 52, and 53

[FAC 2001–02; FAR Case 2000–604; Item VII]

RIN 9000–AI75

Federal Acquisition Regulation; North American Industry Classification System

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are finalizing, with minor changes, the interim rule concerning the North American Industry Classification System (NAICS), that was published in the **Federal Register** at 65 FR 46055, July 26, 2000. The rule converts size standards and other programs in the Federal Acquisition Regulation (FAR) based on the Standard Industrial Classification (SIC) system to NAICS.

DATES: *Effective Date:* December 18, 2001.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Rhonda Cundiff, Procurement Analyst, at (202) 501–0044. Please cite FAC 2001–02, FAR case 2000–604.

SUPPLEMENTARY INFORMATION:

A. Background

NAICS is a new system that classifies establishments according to how they conduct their economic activity. It is a significant improvement over the SIC. On May 15, 2000, the Small Business Administration (SBA) published a final rule basing small business size standards on NAICS rather than SIC codes effective the start of the Federal Government's fiscal year 2001.

In addition, this rule includes two technical amendments. FAR 19.102(h) updates the Internet address for the industry size standards published by the Small Business Administration. FAR 19.1005(a) reinstates language omitted inadvertently.

An interim rule was published in FAC 97–19 in the **Federal Register** at 65 FR 46055, July 26, 2000, to conform the FAR to the changes issued by SBA to the size standards and convert other programs in the FAR currently based on SIC codes to NAICS. Two comments were received in response to the interim rule. Those comments were considered in formulation of the final rule.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the coding changes are primarily internal to the Federal Government. External uses of the codes under the small business subcontracting program and small disadvantaged business participation programs are primarily limited to large businesses and involve only use of NAICS rather than SIC tables.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 5, 12, 19, 23, 52, and 53

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Interim Rule Adopted as Final With Minor Changes

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR parts 5, 12, 19, 23, 52, and 53, which was published in the **Federal Register** at 65 FR 46055, July 26, 2000, as a final rule with the following changes:

PART 19—SMALL BUSINESS PROGRAMS

1. The authority citation for 48 CFR part 19 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and42 U.S.C. 2473(c).

2. In section 19.102, revise paragraph (h) to read as follows:

19.102 Size standards.

* * * * *

(h) The industry size standards are published by the Small Business Administration and are available via the Internet at *http://www.sba.gov/size.*

19.1005 [Amended]

3. Amend section 19.1005 in the heading of the table in paragraph (a) by removing “Construction” and adding “Construction (except dredging)” in its place.

[FR Doc. 01–30544 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2001–02; FAR Case 2001–025; Item VIII]

RIN 9000–AJ26

Federal Acquisition Regulation; Iceland—Newly Designated Country Under the Trade Agreements Act

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to implement the accession of Iceland to the Agreement on Government Procurement, by adding Iceland as a designated country under the Trade Agreements Act.

DATES: *Effective Date:* December 18, 2001.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219–0202. Please cite FAC 2001–02, FAR case 2001–025.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends FAR 25.003, the clause at FAR 52.225–5, Trade Agreements, and the clause at 52.225–11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, to add Iceland to the list of designated countries under the Trade Agreements Act (TAA).

In addition, if the TAA applies, Executive Order 13126 of June 12, 1999, Prohibition of Acquisition of ProductsProduced by Forced or Indentured Child Labor, does not apply to contracts for the acquisition of products from foreign countries that are party to the Agreement on Government Procurement. Therefore, this final rule also adds Iceland to the list of excepted countries of origin at 22.1503(b)(4) and the associated clause at 52.222–19, Child Labor—Cooperation with Authorities and Remedies.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Public Law 98–577, and publication for public comment is not required. However, the Councils will consider comments from small entities concerning the affected FAR part 25 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–02, FAR case 2001–025), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

2. In section 22.1503, amend paragraph (b)(4) by adding "Iceland," after "Hong Kong,".

PART 25—FOREIGN ACQUISITION

25.003 [Amended]

3. In section 25.003, amend the definition "Designated country" by adding, in alphabetical order, the word "Iceland".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.222–19 [Amended]

4. In section 52.222–19, revise the date of the clause by removing "(FEB 2001)" and adding "(DEC 2001)" in its place; and in paragraph (a)(4) remove "Hong Kong," and add "Hong Kong, Iceland," in its place.

52.225–5 [Amended]

5. In section 52.225–5, revise the date of the clause by removing "(APR 2000)" and adding "(DEC 2001)" in its place; and in paragraph (a) in the definition "Designated country" add, in alphabetical order, the word "Iceland".

52.225–11 [Amended]

6. In section 52.225–11, revise the date of the clause by removing "(FEB 2000)" and adding "(DEC 2001)" in its place; and in paragraph (a) in the definition "Designated country," add, in alphabetical order, the word "Iceland".

[FR Doc. 01–30545 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 39

[FAC 2001–02; FAR Case 2000–609; Item IX]

RIN 9000–AJ11

Federal Acquisition Regulation; Contractor Personnel in the Procurement of Information Technology Services

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed to adopt as final, without change, the interim rule published as Item II of Federal Acquisition Circular 97–25 published in the **Federal Register** on May 2, 2001. The rule amends the Federal Acquisition Regulation (FAR) to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). The Act requires that the FAR be amended to address the use, in the procurement of information technology services, of requirements regarding the experience and education of contractor personnel.

DATES: Effective Date: December 18, 2001.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Linda Nelson, Procurement Analyst, at (202) 501–1900. Please cite FAC 2001–02, FAR case 2000–609.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 66 FR 22084, May 2, 2001, adding a new subsection to Subpart 39.1 to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). Section 813 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of

VOL 66 ISS 243 DE 18 2001 UMI

information technology services, unless—

1. The contracting officer first determines that the needs of the agency cannot be met without such requirement; or

2. The needs of the agency require the use of a type of contract other than a performance-based contract.

Public comments were received from two sources. The comments were considered in developing the final rule. The interim rule is converted to a final rule without change.

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, applies to this final rule. The Councils prepared a Final Regulatory Flexibility Analysis (FRFA) and it is summarized as follows

> This rule amends Part 39 of the Federal Acquisition Regulation to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). The objective of this rule is to revise the FAR to address the use of requirements regarding the experience and education of contractor personnel when acquiring information technology services. The rule prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of information technology services, unless the contracting officer first determines the needs of the agency cannot be met without that requirement; or the needs of the agency require the use of a type of contract other than a performance-based contract.
>
> The rule will apply to all large and small entities that seek award of Federal information service contracts. In fiscal year 2000, we estimated that Federal agencies awarded approximately 14,578 contracts totaling approximately $3.4 billion to small entities for information technology services. The rule should have a positive economic impact on small businesses because it will make it easier for them to hire employees to work on information technology service contracts, as well as increase their business opportunities in obtaining Federal contracts.

Interested parties may obtain a copy of the FRFA from the FAR Secretariat. The FAR Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 39

Government procurement.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

Interim Rule Adopted as Final Without Change

Accordingly, DoD, GSA, and NASA adopt the interim rule amending 48 CFR part 39, which was published in the **Federal Register** on May 2, 2001 (66 FR 22084), as a final rule without change.

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and42 U.S.C. 2473(c).

[FR Doc. 01–30546 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001–02 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 2001–02 which precedes this document. These documents are also available via the Internet at *http://www.arnet.gov/far.*

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2001–02

Item	Subject	FAR case	Analyst
I	Definitions of "Component" and "End Product"	2000–015	Davis.
II	Energy Efficiency of Supplies and Services	1999–011	Smith.
III	Prompt Payment and the Recovery of Overpayment	1999–023	Olson.
IV *	Javits-Wagner-O'Day Act Subcontract Preference Under Service Contracts.	1999–017	Nelson.
V	Discussion Requirements	1999–022	DeStefano.
VI	Definition of Subcontract in FAR Subpart 15.4	2000–017	Olson.
VII	North American Industry Classification System	2000–604	Cundiff.
VIII	Iceland—Newly Designated Country under Trade Agreements Act	2001–025	Davis.
IX *	Contractor Personnel in the Procurement of Information Technology Services.	2000–609	Nelson.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

Federal Acquisition Circular 2001–02 amends the FAR as specified below:

Item I—Definitions of "Component" and "End Product" (FAR Case 2000–015)

This final rule amends the FAR to restore the unique Part 25 definitions of "component" and "end product" for acquisition of supplies. In addition, the Councils have made minor revisions to the definitions of "component" and "cost of components" for acquisition of construction. These definitions are used by offerors to determine whether offered end products or construction material meet the requirements of the Buy American Act and Balance of Payments Program or trade agreements.

Item II—Energy Efficiency of Supplies and Services (FAR Case 1999–011)

This final rule amends the FAR to implement Executive Order 13123, Greening the Government through Efficient Energy Management. The rule—

- Requires contracting officers, when acquiring energy-using products, to buy energy-efficient products if life-cycle cost-effective and available;
- Directs contracting officers to Internet sources for more detailed information on ENERGY STAR and other energy-efficient products; and
- Provides guidance on energy-savings performance contracts (ESPCs), including—
- An explanation of what they are and when they should be used; and
- Procedures for the solicitation and award of ESPCs, and the evaluation of unsolicited proposals for ESPCs.

The rule will only affect contracting officers that—

- Acquire energy-using products or services;—Contract for design, construction, renovation, or maintenance of a public building that will include energy-using products; or
- Use an energy-savings performance contract to reduce energy use and cost in an agency's facilities or operations.

Item III—Prompt Payment and the Recovery of Overpayment (FAR Case 1999–023)

This final rule revises prompt payment policies at FAR Part 32, Contract Financing, and related contract provisions at FAR Part 52. The rule is applicable to—

- Government payment offices and contractors since it revises the information that must be on an invoice for the document to be considered a proper invoice with respect to the prompt payment provisions of the FAR;
- Contracting officers and contractors since it establishes the requirement in the prompt payment clauses for contractors to notify the contracting officer if the contractor becomes aware of an overpayment of an invoice; and
- All Government contracts (including contracts at or below the simplified acquisition threshold) except contracts with payment terms and late payment penalties established by other governmental authority (*e.g.*, tariffs).

Item IV—Javits-Wagner-O'Day Act Subcontract Preference Under Service Contracts (FAR Case 1999–017)

This final rule amends the FAR to add a new preference for award of subcontracts under service contracts to nonprofit workshops designated by the Committee for Purchase From People Who Are Blind or Severely Disabled (Javits-Wagner-O'Day Act (JWOD) (41 U.S.C. 48)). The final rule applies to all service contracts. The rule—

- Requires that contractors that provide services for the Government's use and subcontract for those services must give preference in awarding subcontracts to nonprofit workshops, if the services are on the Committee for Purchase From People Who Are Blind or Severely Disabled procurement list;
- Requires that contracting officers must consider the preference for subcontracting with nonprofit workshops when reviewing a subcontract for services that is subject to the procedures at FAR Subpart 44.2, Consent to Subcontracts; and
- Amends the clause at FAR 52.208–9, ContractorUse of Mandatory Sources of Supply, to inform offerors and contractors that certain services to be provided for use by the Government are required by law to be obtained from the Committee for Purchase From People Who Are Blind or Severely Disabled.

Item V—Discussion Requirements (FAR Case 1999–022)

The rule amends FAR 15.306(d) to clarify that, although the contracting officer must discuss deficiencies, significant weaknesses, and adverse past performance information to which the offeror has not yet had an opportunity to respond and is encouraged to discuss other aspects of the offeror's proposal, the contracting officer is not required to discuss every area where the proposal could be improved. This clarifies the existing policy that any discussions beyond the minimum elements stated in the FAR are a matter of contracting officer judgment.

Item VI—Definition of Subcontract in FAR Subpart 15.4 (FAR Case 2000–017)

This final rule amends FAR 15.401 to exclude section 15.407–2, Make-or-buy programs, from application of the expanded definition of "subcontract" at FAR 15.401. This rule is a clarification and does not change any policy in Subpart 15.4, Contract Pricing.

Item VII—North American Industry Classification System (FAR Case 2000–604)

This rule finalizes, with minor changes, the interim rule which amended the FAR to convert size standards and other programs in the FAR that were based on the Standard Industrial Classification (SIC) system to the North AmericanIndustry Classification System (NAICS). NAICS is a new system that classifies establishments according to how they conduct their economic activity. It is a significant improvement over the SIC system because it more accurately identifies industries. Since October 1, 2000, NAICS is to be used to establish the size standards for acquisitions. In addition, the designated industry groups in FAR 19.1005 have been converted to NAICS and contract actions will be reported using the NAICS code rather than the SIC code.

Item VIII—Iceland—Newly Designated Country Under Trade Agreements Act (FAR Case 2001–025)

This final rule amends the definition of "Designated country" at FAR 25.003, and the clause at 52.225–5, Trade Agreements, and the clause at 52.225–11, Buy American Act—Balance of Payments Program—Construction Materials under Trade Agreements, to add Iceland to the list of designated countries under the Trade Agreements Act (TAA). Contracting officers may now consider offers of end products or construction materials from Iceland in acquisitions subject to the TAA. The current TAA threshold for acquisition of supplies is $177,000 and for acquisition of construction is$6,806,000.

In addition, if the TAA applies, Executive Order 13126 of June 12, 1999, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, does not apply to contracts for the acquisition of products from foreign countries that are party to the Agreement on Government Procurement. Therefore, this final rule also adds Iceland to the list of excepted countries of origin at 22.1503(b)(4) and

VOL 66 ISS 243 DE 18 2001 UMI

the associated clause at 52.222–19, Child Labor—Cooperation with Authorities and Remedies.

Item IX—Contractor Personnel in the Procurement of Information Technology Services (FAR Case 2000–610)

This final rule converts the interim rule published in FAC 97–25, in the **Federal Register** at 66 FR 22084, May 2, 2001, to a final rule without change. The rule added a new section to Subpart 39.1 to implement Section 813 of the Floyd D. Spence National Defense Authorization Act for fiscal year 2001 (Pub. L. 106–398). Section 813 prohibits the use of minimum experience or education requirements for contractor personnel in solicitations for the acquisition of information technology services, unless (1) the contracting officer first determines that the needs of the agency cannot be met without such requirement; or (2) the needs of the agency require the use of a type of contract other than a performance-based contract.

Dated: December 5, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–30547 Filed 12–17–01; 8:45 am]

BILLING CODE 6820–EP–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Tuesday,
December 18, 2001

Part IV

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571
Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Final Rule

VOL 66 ISS 243 DE 18 2001 UMI

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 01–11110; Notice 1]

RIN 2127–AI10

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration of the new, advanced air bag final rule; interim final rule that we published in May 2000. This document grants portions of the petitions and denies other portions of the petitions.

The May 2000 final rule amended our occupant crash protection standard to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries, particularly for small women and young children; and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology. The issuance of that rule completed the implementation of our 1996 comprehensive plan for reducing air bag risks. It was also required by the Transportation Equity Act for the 21st Century, which was enacted in 1998.

DATES: *Effective Date:* The amendments made in this rule are effective January 17, 2002.

Petitions: Petitions for reconsideration must be received by February 1, 2002.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Dr. Roger A. Saul, Director, Office of Crashworthiness Standards, NPS–10. Telephone: (202) 366–1740. Fax: (202) 493–2739. E-mail: Roger.Saul@NHTSA.dot.gov.

For legal issues, you may contact Edward Glancy or Rebecca MacPherson, Office of Chief Counsel, NCC–20. Telephone: (202) 366–2992. Fax: (202) 366–3820.

You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background: The Advanced Air Bag Final Rule
II. Petitions for Reconsideration
III. Summary of Response to Petitions
IV. Issues Related to Improving the Protection of Occupants in Serious Crashes
  A. Maximum Test Speed for Unbelted Barrier Test
  B. Minimum Test Speed for Unbelted Barrier Test
  C. Additional Tests
    1. The Consumer Groups' Requests
    2. Agency Response to Consumer Groups' Requests
  D. Positioning Procedure for the 5th Percentile Adult Female Test Dummy (Barrier Test)
V. Issues Related to Minimizing the Risk of Injuries and Deaths Caused By Air Bags
  A. Automatic Suppression Requirements
    1. Child Restraints
    2. Dummy Positioning
    3. Use of Humans for Testing Automatic Suppression Systems
  B. Low-Risk Deployment Options
    1. 300 ms Test Duration
    2. Seat Positioning
    3. Tests to Determine Which Stage of Deployment Will be Used in the Low-Risk Deployment Tests
    4. Test Procedures for the Passenger-Side Air Bag
      a. Chest-on-Instrument Panel Test Procedure
      b. Head-on-Instrument Panel Test Procedure
      c. Definition of Points, Planes and Materials
    5. Driver Side Air Bags
VI. Issues Related to Injury Criteria
  A. Head Injury Criteria (HIC)
  B. Chest Injury Measurements
  C. Neck Injury Criteria
VII. Issues Related to Labels, Telltales, and Owner's Manual Information
  A. Warning Labels
  B. Telltales
  C. Owner's Manual Information
VIII. Issues Related to Phase-in Requirements for Small Volume Manufacturers
IX. Other Issues
  A. Dummy Containment
  B. Partial Compliance
  C. Cross-Reference for Test Duration
  D. Combination of Standard No. 208 Oblique Barrier Test and Standard No. 301 Oblique Barrier Test
  E. Effective Date for New Data Filtering Technique
  F. Use of Human Child to Detect the Presence of an Infant
X. Rulemaking Analyses and Notices

I. Background: The Advanced Air Bag Final Rule

On May 12, 2000, we published in the **Federal Register** (65 FR 30680) a final rule; interim final rule to require advanced air bags. (Docket No. NHTSA 00–7013; Notice 1.) The rule amended Standard No. 208, *Occupant Crash Protection*, to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries, particularly for small women and young children; and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology.

To achieve these goals, the rule added a wide variety of new requirements, test procedures, and injury criteria, based on the use of an assortment of new dummies. Among other things, it replaced the current sled test with a rigid barrier crash test for assessing the protection of unbelted occupants.

The issuance of the rule completed the implementation of our 1996 comprehensive plan for reducing air bag risks. It was also required by the Transportation Equity Act for the 21st Century (TEA 21), which was enacted in 1998. That Act required us to issue a rule amending Standard No. 208:

> to *improve occupant protection* for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, *while minimizing the risk* to infants, children, and other occupants from injuries and deaths caused by air bags, *by means that include advanced air bags.*
> (Emphasis added.)

The rule will improve protection and minimize risk by requiring new tests and injury criteria and specifying the use of an entire family of test dummies: the existing dummy representing 50th percentile adult males, and new dummies representing 5th percentile adult females, 6-year-old children, 3-year-old children, and 1-year-old infants. With the addition of those dummies, Standard No. 208 will more fully reflect the range in sizes of vehicle occupants.

The rule will be phased in during two stages. The first stage phase-in will require vehicles to be certified as passing the unbelted test requirements[1] for both the 5th percentile adult female and 50th percentile adult male dummies in a 32–40 km/h (20–25 mph) rigid barrier crash, and belted test requirements[2] for the same two dummies in a rigid barrier crash with a maximum test speed of 48 km/h (30 mph). In addition, the first stage will require vehicles to include technologies that will minimize the risk of air bag-induced injuries for young children and small adults.

---

[1] "Unbelted test requirements" are requirements that specify the use of unbelted dummies in testing vehicles.

[2] "Belted test requirements" are requirements that specify the use of belted dummies in testing vehicles.

The second stage phase-in will require vehicles to be certified as passing the belted test requirements for the 50th percentile adult male dummy up to 56 km/h (35 mph). This requirement will provide improved protection for belted occupants.

First Stage Phase-in—Risk Minimization Provisions

During the first stage phase-in, from September 1, 2003 to August 31, 2006, increasing percentages of motor vehicles will be required to meet requirements for minimizing air bag risks, primarily by either automatically turning off the air bag when young children are present or deploying the air bag in a manner more benignly so that it is much less likely to cause serious or fatal injury to out-of-position occupants.[3] If they so wish, manufacturers may choose to use a combination of those approaches.

Manufacturers that decide to turn off the passenger air bag will use weight sensors and/or other means of detecting the presence of young children. To test the ability of those means to detect the presence of children, the rule specifies that child dummies be placed in child seats that are, in turn, placed on the passenger seat in both proper and (to simulate misuse) improper ways. It also specifies tests that are conducted with unrestrained child dummies sitting, kneeling, standing, or lying on the passenger seat.

The ability of air bags to deploy in a low-risk manner will be tested using child dummies on the passenger side and the small adult female dummy on the driver side. For manufacturers that decide to design their passenger air bags to deploy in a low risk manner, the rule specifies that unbelted child dummies be placed against the instrument panel in two different positions. The air bag is then deployed. This placement was specified because pre-crash braking can cause unrestrained children to move forward into or near the instrument panel before the air bag deploys. The ability of driver air bags to deploy in a low risk manner will be tested by placing the 5th percentile adult female dummy against the steering wheel in two different positions and then deploying the air bag.

First Stage Phase-in—Protection Improvement Provisions

In addition, the vehicle manufacturers will be required to meet a rigid barrier crash test with both unbelted 5th percentile adult female dummies and unbelted 50th percentile adult male dummies. The unbelted rigid barrier test replicates what happens to motor vehicles and their occupants in real world crashes better than the current sled test does. The maximum test speed for unbelted dummy testing will be 40 km/h (25 mph).

Our decision to set the maximum test speed for unbelted dummy testing at 40 km/h (25 mph) was issued as an interim final rule. We concluded that was the appropriate test speed for at least the TEA 21 implementation period (MY 2004–2007). We explained that that speed will provide vehicle manufacturers with the flexibility they need during that period to meet the technological challenges involved in simultaneously improving protection and minimizing risk. To achieve those twin goals, the manufacturers will have to comply with the wide variety of new requirements using an array of new dummies during this near-term time frame.

However, we did not draw any final conclusion about the appropriateness of that test speed in the longer run. We explained that, at this time, we cannot assess whether the uncertainty about the manufacturers' ability to improve protection further and minimize risk simultaneously will persist beyond the TEA 21 implementation period. We stated that, in addition, while we believed that it was unlikely that the selection of a 40 km/h (25 mph) maximum test speed (instead of a 48 km/h (30 mph) maximum test speed) would lead to a reduction in high speed protection during that period and the years beyond, we could not rule out that possibility. We noted that if manufacturers were to engage in significant depowering, it could result in lesser crash performance for teenage and adult occupants.

We stated that, to help resolve these issues and concerns, we were planning a multi-year effort to obtain additional data. We stated that, based on the results of those information gathering and analysis efforts, we would make a final decision regarding the maximum test speed for unbelted dummy testing in the long run, after providing opportunity for informed public comment.

The final rule made still other additions to Standard No. 208. To ensure that vehicle manufacturers upgrade their crash sensing and software systems as necessary to prevent late air bag deployments in crashes with soft pulses, they will be required to design their vehicles to meet an up-to-40 km/h (25 mph) offset deformable barrier test using belted 5th percentile adult female dummies. A late air bag deployment would allow enough time for even a belted occupant to move forward into the steering wheel or instrument panel during a crash before the air bag deploys. Thus, the occupant would be in contact with or very close to the air bag module when the air bag deploys, creating an increased risk of severe or fatal injury. In addition, the 5th percentile female dummy is added to the 48 km/h (30 mph) belted rigid barrier test that currently uses only the 50th percentile adult male dummy.

Second Stage Phase-in—Protection Improvement Provision

During the second stage phase-in, from September 1, 2007 to August 31, 2010, the maximum test speed for the belted rigid barrier test will increase from 48 km/h (30 mph) to 56 km/h (35 mph) in tests with the 50th percentile adult male dummy only. As in the case of the first-stage requirements, this second-stage requirement will be phased in for increasing percentages of motor vehicles. We explained that we did not include the 5th percentile adult female dummy in this requirement at this time because we have sparse information on the practicability of such a requirement. We stated that we would initiate testing to examine this issue and anticipated proposing increasing the test speed for belted tests using the 5th percentile adult female dummy to 56 km/h (35 mph), beginning at the same time that the belted test must be met at that speed using the 50th percentile adult male. That testing has already begun.

Preceding Rulemaking Proposals

The rule was preceded by a notice of proposed rulemaking (NPRM), which we published in the **Federal Register** (63 FR 49958) (Docket No. NHTSA–98–4405) on September 18, 1998, and a supplemental notice of proposed rulemaking (SNPRM), which we published in the **Federal Register** (64 FR 60556) (Docket No. NHTSA–99–6407) on November 5, 1999.

II. Petitions for Reconsideration

Eight petitions for reconsideration were submitted to the agency (see Docket No. 7013). Four of the petitions were from manufacturers of vehicles or air bags. Petitions were also filed by three industry associations representing vehicle manufacturers, and by a coalition of four consumer groups. In addition, Isuzu and TRW submitted requests for clarification before the period of time for filing petitions had

---

[3] The rule also establishes very general performance requirements for dynamic automatic suppression systems (DASS) and a special expedited petitioning and rulemaking process for considering procedures for testing advanced air bag systems incorporating a DASS.

VOL 66 ISS 243 DE 18 2001 UMI

run. Honda, Autoliv, and Ferrari filed comments that would be considered petitions for reconsideration had they been timely filed. These comments are addressed in today's document.

The coalition of consumer groups which filed a petition included the Center for Auto Safety, the Consumer Federation of America, Parents for Safer Air Bags, and Public Citizen. (We will refer to this coalition of consumer groups as the "Consumer Groups.") The Consumer Groups requested several changes to the final rule. First, they requested we amend the unbelted rigid barrier test requirements in the final rule to require a higher test speed for passenger cars (48 km/h (30 mph)) than for light trucks, vans and SUVs (40 km/h (25 mph)). Second, they requested that we require that the 40 km/h (25 mph) offset deformable barrier test be conducted with unbelted instead of belted dummies and that the vehicle impact the barrier on both the driver and passenger sides. Third, they asked that we require manufacturers to meet a 56 km/h (35 mph) belted barrier test with the 5th percentile adult female dummy as well as the 50th percentile adult male dummy. Fourth, they asked that we require vehicles to satisfy all rigid barrier test requirements in both the perpendicular and oblique modes.

The Coalition of Small Volume Automobile Manufacturers (COSVAM) petitioned us to expand the scope of a special provision we included in the final rule to accommodate the needs of small volume manufacturers (SVMs). The provision at issue permits manufacturers that produce fewer than 5,000 vehicles per year worldwide to wait until the end of the phase-in to meet the new requirements. COSVAM petitioned us to apply this provision to manufacturers that produce up to 10,000 vehicles per year. Alternatively, it petitioned that the 5,000 vehicle cap be limited to vehicles sold in the United States per year or that the 5,000 vehicle cap be averaged over the phase-in period. Under the averaged approach, if a manufacturer produced more than 5,000 vehicles in a single year, it could still take advantage of the exclusion as long as its average of production during the phase-in was not more than 5,000 vehicles per year.

The petitions from manufacturers and their associations requested numerous changes in other aspects of the final rule.

DaimlerChrysler and Toyota requested that the unbelted rigid barrier test be conducted at only 40 km/h (25 mph), with the possibility of a small tolerance, instead of the specified range of 32 to 40 km/h (20 to 25 mph). They claimed that meeting the requirements of the unbelted barrier tests at speeds below 40 km/h (25 mph) may prevent them from certifying compliance on the passenger side using the low risk deployment option. They also claimed they would have difficulty meeting the low risk deployment requirements on the driver side. Several petitioners also expressed concern over the seating position for the 5th percentile adult female test dummy in the barrier tests.

Several requests were made concerning the automatic suppression option, most of which concerned the level of seat belt cinch down force for the belted test procedures and the selection of child restraints. Toyota, the Alliance, DaimlerChrysler and Takata all stated that they believed the 134 N (30 pounds) cinch-down force specified in the final rule was unreasonable. Petitioners urged NHTSA to adopt a cinch down force of 67N (15 pounds), which is currently specified in Standard No. 213.

Toyota also raised several issues in its petition related to the use of current anthropomorphic test dummies and humans in automatic suppression tests. It urged the agency to work with industry in developing better test dummies because of the recognition problems many automatic suppression systems have with the current test dummies. Mitsubishi echoed this request.

We received several requests regarding the test procedures for both the driver and passenger low-risk deployment tests, as well as the 300 ms test duration specified in the final rule for those tests. Additionally, several issues regarding the low-risk deployment test procedures were raised at a December 2000 technical workshop that the agency conducted to explore issues related to test procedures. Several petitioners, including Toyota, the Alliance, TRW, and DaimlerChrysler argued against the extension of the 300 ms test data acquisition requirement for measuring injury criteria in the static low risk deployment tests. The petitioners argued that data should only be counted for the period prior to recoil of the head, neck and torso away from the air bag into the seat back, head restraint, B-pillar or other interior components. DaimlerChrysler petitioned the agency to change the test procedure for determining which stage or stages of the air bag to fire in the low risk deployment tests. It argued in favor of allowing the use of the dummies for which the low-risk deployment technology is designed to be used in the initial test. Thus, if a manufacturer certifies to the low-risk deployment requirement for the 6-year-old child dummy, the barrier test would be conducted using that dummy.

While the petitions regarding the low risk deployment tests for the passenger air bag addressed both the dummy head-on-instrument panel position and dummy chest-on-instrument panel test position, the greatest criticism was leveled against the chest-on-instrument panel position procedure. While other petitioners expressed general concerns about the test procedure in their petitions, the most comprehensive analysis was provided by TRW. TRW noted that when both the 3-year-old and the 6-year-old test dummies were initially positioned as specified and then moved forward, dummy contact with the windshield or instrument panel could result in the dummy being positioned at a considerable distance from the air bag unless the dummy were moved after contact was made.

Several petitioners, including TRW, DaimlerChrysler, and Toyota, sought clarification of what was meant by the "geometric center of the right air bag tear seam," the point used to align the dummies in the static low risk deployment tests of passenger air bags. They noted that many passenger systems do not have a true tear seam. Instead, they may have a cover that opens as part of the instrument panel, or the instrument panel may be a solid structure with no visible tear seam. In both of these instances, the "geometric center of the right air bag tear seam" is difficult to determine and could vary depending on who is conducting the test.

Petitions concerning the positioning procedure for the low risk deployment test on the driver side focused on the procedure for the dummy chin-on-steering wheel rim test. Toyota stated in its petition that the final rule did not adequately ensure that the dummy's chin would not catch on the rim of the steering wheel, leading to artificially high neck extension bending moments. Honda raised similar concerns. Toyota also stated that using the seat to move the dummy forward results in pre-loading the dummy. Mitsubishi and TRW queried whether forward head movement was to cease if the dummy chest or torso impacted the steering wheel before the head contacted the windshield.

The Alliance, DaimlerChrysler, and Toyota petitioned for changes in the final rule's new injury criteria. The Alliance and DaimlerChrysler petitioned the agency to set the Head Injury Criterion (HIC) maxima for the 5th percentile adult female dummy and the 6-year-old child dummy at a maximum HIC of 779 and 723, respectively. The Alliance, Toyota and DaimlerChrysler petitioned the agency to adopt the Alliance's scaled chest acceleration maximum of 73 g for the 5th percentile adult female dummy. They expressed particular concern over the effect that the 60 g limit would have in the belted barrier test for the 50th percentile adult male dummy. In their petitions for reconsideration, both Toyota and DaimlerChrysler reiterated their concerns with the Hybrid III dummy neck design and with the adoption of Neck Injury Criterion (Nij) an injury criterion. Toyota asked that the introduction of Nij be delayed until certain bending moment issues are resolved. DaimlerChrysler asked the agency to measure only axial force rather than using Nij due to problems it believes the current Hybrid III neck has in measuring bending moments.

We also received petitions for reconsideration for and comments on both the changed label and on the issue of whether to allow additional information other than that required by the warning label. Toyota urged us to keep the existing warning label, except for the addition of the statement "even with advanced air bags," arguing that the advanced air bag technology is not yet developed enough to justify a weaker label. DaimlerChrysler, Toyota, GM, the Alliance and Ford have all requested that NHTSA limit any information beyond that in the required label to the owner's manual. Parents for Safer Air Bags asked for clarification of the agency's position regarding the extent of information to be provided on the labels.

The Alliance, DaimlerChrysler, and Mitsubishi petitioned the agency to revise the current requirement that the telltale indicating the passenger air bag has been suppressed be visible to occupants of all ages, and urged us instead to adopt the requirements of Standard No. 101, Controls and Displays. DaimlerChrysler also requested the regulatory text be clarified to assure that the telltale would be visible to all occupants seated in a forward-facing position, and that it not be obstructed by a rear-facing child restraint. The Alliance requested that they be allowed to use the abbreviation "pass" in lieu of "passenger" in the message text. DaimlerChrysler requested that manufacturers be allowed to use a universal symbol representing the status of the air bag rather than a specified text.

Technical Workshop

Petitioners raised a large number of concerns about the various test procedures in their written submissions. The agency decided to hold a technical workshop so that it could better understand the specific concerns and to determine if the test procedures needed refinement. The workshop was held at NHTSA's Vehicle Research and Test Center in East Liberty, Ohio on December 6, 2000. Representatives of 18 vehicle manufacturers and 13 seat, sensor, and dummy manufacturers attended the workshop. Five different vehicles were used as test vehicles. Some of the five had been provided by the manufacturer because it was experiencing particular problems with the existing test procedures in these vehicles. The workshop focused on the cinch-down procedure for the child seats, and the positioning procedures for the low-risk deployment tests. There was some discussion about the positioning procedure for the 5th percentile adult female test dummy for the rigid barrier tests. After we had finished trying out the test procedures on the various test vehicles, we allowed parties to make presentations. TRW, DaimlerChrysler, Toyota, and others provided slide presentations highlighting their specific concerns. Copies of these presentations have been placed in the docket (NHTSA–00–7013–51).

III. Summary of Response to Petitions

We are making several changes to the final rule in response to the petitions. These changes include a number of refinements to the positioning procedures for the low risk deployment tests and, to a lesser degree, for the automatic suppression tests. We are also changing the test duration for the low risk deployment tests. Also, the test used for determining the stage(s) of the air bag to be used for the passenger side low risk tests is modified. We are also modifying the definition of small volume manufacturer for the purpose of the rule's phase-in schedule. We have also added an option to use human children instead of the newborn or 12-month-old dummies to test a vehicle's occupant recognition system.

We have decided against making any changes to the rigid and offset deformable barrier tests other than the seating procedure for the 5th percentile adult female test dummy. Nor are we making any changes to the required injury criteria. We are addressing petitions for reconsideration of the offset deformable barrier design in a separate rulemaking.

IV. Improving the Protection of Occupants in Serious Crashes

A. Maximum Test Speed for Unbelted Barrier Test

In their petition for reconsideration, the Consumer Groups requested that we amend the final rule to require passenger cars to meet a 48 km/h (30 mph) unbelted barrier test, while applying the 40 km/h (25 mph) maximum speed only to LTVs (light trucks, vans and SUVs).

These petitioners stated that, in their view, the primary reason why the agency lowered the standard's unbelted test speed to 40 km/h (25 mph) for all vehicles, including passenger cars, was because of the greater difficulties that SUVs and light trucks would have in complying with a 48 km/h (30 mph) unbelted test, due to their stiffer frames. In support of this assertion, the Consumer Groups cited a statement by the agency in the final rule preamble that "a 40 km/h (25 mph) maximum test speed gives vehicle manufacturers more flexibility to address the greater compliance problems associated with vehicles, e.g., SUVs, with particularly stiff pulses."

The Consumer Groups argued further that passenger cars can meet the new injury criteria in a 48 km/h (30 mph) unbelted test. In support of this argument, they alleged that test results show some passenger cars already meet the unbelted 48 km/h (30 mph) test requirements for both 50th percentile male and 5th percentile female dummies.

The Consumer Groups stated that since, in their view, manufacturers already build some cars that meet the 48 km/h (30 mph) unbelted test, NHTSA should have required cars to meet the 48 km/h (30 mph) unbelted test, while allowing LTVs to meet a 40 km/h (25 mph) test. They argued that this would provide manufacturers with additional time and necessary design flexibility to develop engineering solutions to meet 48 km/h (30 mph) test for LTVs at some future time. They also argued that a separate phase-in would take account of the need to improve occupant protection in light of the increased number of LTVs. The Consumer Groups stated that, with LTVs accounting for over half of new vehicle sales, the need for a high level of occupant protection for passenger car occupants is especially acute since car occupants are four times more likely to be killed in collisions with LTVs than their LTV counterparts. The petitioners noted that the agency has in the past adopted different phase-ins for different types of vehicles, with passenger cars being required to meet more stringent safety standards sooner than light trucks.

The Consumer Groups argued that the decision to apply the 40 km/h (25 mph) test speed to passenger cars as well as LTVs has serious consequences because in frontal crashes between light trucks/SUVs and cars, the lighter car experiences a higher crash severity than the heavier truck. The Consumer Groups argued that cars that need more protection received less protection under the final rule. The petitioners also argued that since a 48 km/h (30 mph) test speed represents median speed of all fatal frontal crashes, NHTSA is sacrificing passenger car occupants by not requiring 48 km/h (30 mph) protection at least for passenger cars.

After carefully considering the arguments that the Consumer Groups made in support of their request that we adopt a 48 km/h (30 mph) maximum test speed for passenger cars during the TEA 21 phase-in, we have decided to deny that request. The reasons for our denial are discussed below.

The Consumer Groups' argued that the agency's primary justification for adopting a 40 km/h (25 mph) maximum unbelted test speed for all light vehicles, including passenger cars was the greater difficulties that vehicles with particularly stiff crash pulses, e.g., SUVs, would have in meeting a 48 km/h (30 mph) unbelted test. They contrasted those difficulties with the fact that they believe some passenger cars already meet the unbelted 48 km/h (30 mph) barrier test for both the 50th percentile adult male dummy and the 5th percentile adult female dummy. They concluded that the agency should, therefore, have adopted a 48 km/h (30 mph) maximum speed for passenger cars.

We believe that the petitioners may have misunderstood the agency's reasoning. Contrary to the petitioners' assertion, the greater challenges posed by vehicles with stiffer crash pulses, including typical SUVs, was only one of many considerations, and not the paramount one, that led the agency to conclude that 40 km/h (25 mph) should be chosen as the maximum speed for the unbelted test in the near term. In the summary of our May 2000 final rule, NHTSA said that the maximum test speed for the unbelted test "reflect the uncertainty of simultaneously achieving the twin goals of TEA 21," to provide improved frontal crash protection for all occupants and to minimize the risks of serious air bag-induced injuries.

NHTSA set forth six reasons for why it was in the best overall interest of safety to choose 40 km/h (25 mph) as the unbelted test speed. See 65 FR 30680, at 30687–30690. These reasons (presented in a condensed fashion) were as follows:

1. It is very important that advanced air bags be properly designed from the very beginning. Because of the potential for death and injury, we want to be cautious in how far and how fast vehicle manufacturers are required to advance the state of advanced air bag technologies in their vehicles. We are particularly concerned about the difficulties of trying to meet the unbelted rigid barrier test at 48 km/h (30 mph) with both adult dummies while simultaneously trying to reduce the risks of air bag-induced injuries and deaths. Since a significant percentage of current vehicles can already satisfy the new unbelted barrier crash test at 40 km/h (25 mph) with both the 5th percentile adult female dummy and the 50th percentile adult male dummy, we conclude that setting the maximum speed at that level will help vehicle manufacturers to focus their resources and compliance efforts during the first stage on meeting the risk reduction requirements. While advanced air bag technologies will facilitate simultaneously achieving the goals of improving protection and minimizing risk, we cannot forecast the pace of development of those technologies.

We noted that while the manufacturers' resources for dealing with air bags, as well as all the other engineering issues associated with future motor vehicles, are extensive, there are limits to how much can be done at any one time. We explained that we needed to consider the variety and complexity of changes in air bag testing and technology that will be required by the rule. We noted that the array of new requirements that the manufacturers will have to meet in the first stage is challenging. The May 2000 final rule specified the use of a new test dummy (the 5th percentile adult female) in high speed tests, added a new test (offset belted), adds new neck injury criteria, and made existing injury criteria more stringent (chest deflection). The rule also added an entire new series of risk minimization tests, which require manufacturers to install air bag suppression systems or low-risk deployment systems, or both.

Of particular concern here was that air bags must be tuned to inflate quickly enough to protect the unbelted mid-sized male dummy without posing risks to the unbelted small female dummy that will be positioned much closer to the air bag. At the same time, manufacturers are required to develop and tune suppression technologies, low-risk deployment technologies, or a combination of both of these technologies to meet the risk minimization requirements. Even now, more than one year later the issuance of the May 2000 final rule, NHTSA cannot forecast how long it will take to complete the process of simultaneously developing and incorporating all of these technologies into all vehicles lines. NHTSA decided that we would increase the risks of advanced air bags not being able to meet all of the new requirements if we adopted the more difficult 48 km/h (30 mph) unbelted test. Those were not, and are not, risks that the agency is willing to take with the available information.

Differences in crash pulse are but one of the many technological challenges that must be overcome to provide improved protection for all occupants as well as to reduce the risks of air bag-induced injuries. The need to develop and apply technology that works reliably is a challenge for both passenger cars and light trucks.

2. There are unresolved issues that make it difficult for vehicles to provide protection for both small females and mid-sized males in a 48 km/h (30 mph) unbelted test without compromising efforts to minimize the risks of serious air bag-induced injuries. A good example is the issue of the best strategy for using the two inflation levels of a dual-stage air bag to meet that test. The choice among competing strategies is complicated by the existence of "gray" or transition zones, i.e., ranges of conditions in which the air bag changes from one level of performance to another.

To date, the vehicle manufacturers have been required to certify compliance of their air bags based on only a single size of dummy at only a single seat adjustment position. Tuning an air bag to perform in that single combination of test conditions is a relatively simple task. No regulatory requirements preclude manufacturers from optimizing performance for that combination of test conditions while placing secondary importance on other sizes of occupants in other seat adjustment positions.

In the May 2000 final rule, NHTSA for the first time required manufacturers to balance the performance of their air bag systems for different sized occupants. In addition to protecting mid-size male dummies with the seat in the mid-track position, air bags will be required to protect small size female dummies with the seat all the way forward. This is a far more challenging task for air bag system designers. We expect that the new, more demanding requirements will encourage the use of dual-stage inflator technology. Although the challenge of this task may be compounded somewhat by a relatively stiff crash pulse, the task is formidable for all vehicles, regardless of crash pulse.

3. The vehicle manufacturers need design flexibility to address issues regarding performance in real world crash conditions not directly replicated by Standard No. 208's tests. One of the greatest limitations of early generation air bags is that they typically deploy in the same manner regardless of such factors as crash severity or occupant size, weight or position. Successful implementation of air bags designed to vary their performance in response to sensed differences in crash severity or other conditions presents a challenge to the manufacturers in that these air bags have "gray" or transition zones, i.e., ranges of conditions in which the air bag changes from one level of performance to another. We believe it is appropriate for the manufacturers initially to introduce relatively simple advanced systems. While we believe that more complex systems offer promise of even greater benefits, there are significant uncertainties regarding the feasibility and thus availability of such systems.

Standard No. 208 currently tests for a full frontal crash. While such a crash occurs less frequently, compared to offset crashes, in the real world, we have chosen the full frontal crash mode because it is very repeatable and provides a more demanding evaluation of restraint systems. However, NHTSA expects vehicle and air bag manufacturers will take into account other frontal crash modes, such as offset crashes and crashes into poles. To the extent that we make our full frontal crash test more stringent, we limit the ability of the manufacturers to take account of these other crash modes. This is because the most stringent test is the primary determinant of the design of air bag and vehicle performance. After the performance attributes of the air bag system are optimized for the most stringent test (in this case, the unbelted full frontal barrier crash), the manufacturers will typically run a check on performance in other relevant test conditions to ensure acceptable performance in those conditions as well. However, the ability to adjust performance to improve performance in these other test conditions is limited by the stringency of the most severe test. Choosing 48 km/h (30 mph), instead of 40 km/h (25 mph), as the maximum test speed for the unbelted full frontal crash would allow the manufacturers less flexibility to enhance performance in other test conditions. Again, while the need for design flexibility may be compounded somewhat by a relatively stiff crash pulse, that need is substantial for all vehicles, regardless of crash pulse.

4. A 40 km/h (25 mph) maximum test speed gives vehicle manufacturers more flexibility to address the greater compliance problems associated with vehicles, e.g., SUVs, with particularly stiff crash pulses. Since unbelted occupants moving forward in frontal crashes of these vehicles will have to be engaged more quickly than in vehicles with softer crash pulses, the task of designing air bag systems in stiff pulse vehicles is significantly more challenging.

This reason is based on the greater compliance difficulties for vehicles with relatively stiff crash pulses. As a generality, SUVs and other vehicles with frame rail construction have stiff crash pulses, while cars and other vehicles with uni-body construction have softer crash pulses. In a crash, the occupants travel forward more quickly toward the steering wheel and dashboard in a vehicle with a stiff crash pulse than they would in a vehicle with a softer crash pulse. Accordingly, air bags typically need to come out sooner and/or quicker in a vehicle with a similarly stiff crash pulse than they would in a vehicle with a softer pulse. To the extent that air bags must come out quicker in vehicles with stiff crash pulses makes it more difficult to minimize air bag risks in those vehicles because the methods for getting air bags out quicker, e.g., having a fast inflation rise rate, tend to make air bags more aggressive to out-of-position occupants. It is for this reason that the technological challenges faced by the vehicle manufacturers in simultaneously improving protection and minimizing risk can be somewhat greater for vehicles with stiff crash pulses than for other vehicles.

However, the above generalization about the relative crash pulses of cars and other light vehicles has important limitations. Some newer, more "car-like" SUVs, i.e., cross-over or hybrid SUVs, such as the Ford Escape and the Honda CRV, are not built with frame rail construction and do not have particularly stiff crash pulses. On the other hand, many small cars, despite their uni-body construction, have relatively stiff crash pulses, because the small space limits the energy absorption by the front of the vehicle. Further, the uncertainties associated with the task of simultaneously improving protection, while also minimizing risk, are formidable for all light vehicles, regardless of crash pulse.

5. It is unlikely that vehicle manufacturers will significantly depower their air bags and minimally comply with the 40 km/h (25 mph) test. Thus, NHTSA believes that it is not risking a substantial loss of benefits by establishing an unbelted barrier test of 40 km/h (25 mph).

We explained our view that the air bags most likely to be produced under a 40 km/h (25 mph) standard would offer at least as much overall high speed protection as the current redesigned air bags, i.e., those certified to the sled test option adopted in 1997. We noted that while manufacturers might make some adjustments in providing high speed protection for different size occupants, we believed it was unlikely that they would reduce the overall level of protection, much less switch to some kind of new, hypothetical air bag design that might minimally pass the 40 km/h (25 mph) test, but provide little or no protection to unbelted occupants in higher severity crashes.

We cited several reasons for this belief. We noted that most vehicle manufacturers did not respond to the flexibility provided by the sled test by providing air bags that only minimally complied with the sled test. They did not depower their air bags as much as they could have. We also noted that the vehicle manufacturers had specifically committed to not reducing high speed protection of air bag systems through significant and widespread depowering.

For these reasons, and the others discussed in the final rule preamble, we continue to believe that it is unlikely that there will be any significant reduction in safety benefits as a result of our adoption of the 40 km/h (25 mph) maximum test speed as an interim final rule. Put another way, we continue to believe that we are not risking a substantial loss of benefits by establishing a maximum unbelted barrier test speed of 40 km/h (25 mph). We observe that the Consumer Groups did not provide any data or analysis contradicting our arguments in this area.

Finally, we note that this fifth reason applies equally to all vehicles, regardless of whether they have a stiff or soft crash pulse.

6. Replacing the 48 km/h (30 mph) generic sled test with the 40 km/h (25 mph) unbelted rigid barrier test requires a significantly higher level of safety.

This reason applies equally to all vehicles, regardless of whether they have a stiff or soft crash pulse.

From this review of our six reasons for selecting a maximum test speed of 40 km/h (25 mph), it is apparent that the

VOL 66 ISS 243 DE 18 2001 UMI

differences in crash pulses were not a paramount consideration in our assessment of the challenges presented by the advanced air bag rule. Given the uncertainties associated with overcoming those challenges, and a statutory requirement to issue a final rule in early 2000, NHTSA chose an approach that assures improved air bag protection for occupants of all sizes, without compromising efforts to reduce the risks of air bar-induced injuries to vulnerable occupants. As we said in the preamble to the May 2000 final rule:

> Such an approach is one that involves the least uncertainty for the occupants who have been most at risk. In other words, as long as the manufacturers improve the already substantial overall level of air bag protection provided by current redesigned air bags, the uncertainty involved in meeting the challenge to improve high-speed protection and minimize risk simultaneously *is best resolved at this point in favor of minimizing risk. This is especially true in the early stages of the introduction of advanced air bag technologies.*

65 FR 30680, at 30688 (Emphasis added).

We selected that test speed on a interim final basis in recognition of the possibility that those uncertainties may be resolved in the foreseeable future. To expedite the resolution of those uncertainties, we committed to a multi-year effort to obtain additional data to help resolve the issues and concerns relating to the unbelted test speed in the barrier crash test. See 65 FR 30692. To carry out that commitment, we published for public comment our plan for monitoring the performance of advanced air bags and gathering the information needed to make a final decision on the appropriate test speed for the unbelted test in the long run. See 66 FR 33657; June 25, 2001 (Docket No. NHTSA 2001–8953).

In the final analysis, the consumer groups provided no new data or analyses regarding our decision to select a maximum test speed of 40 km/h (25 mph). Further, they isolated and focused on a limited portion of all the considerations leading to that decision in arguing that that limited portion should overwhelm the big picture. Their petition simply highlights their judgment that they would have mandated a higher speed for the unbelted test, given the information that was available to us when we made our decision. We respect their judgment, but reached different conclusions after considering all of the risks and uncertainties in this area. It may be that we will ultimately propose coming to the same conclusion that the Consumer Groups are advocating—after we have gathered the additional information necessary to resolve the uncertainties. Until we have that information, however, our judgment remains that the most appropriate maximum speed for the unbelted test is 40 km/h (25 mph).

B. Minimum Test Speed for Unbelted Barrier Test

Under the May 2000 final rule; interim final rule, vehicle manufacturers are required to meet the rigid barrier crash test with unbelted 5th percentile adult female dummies and unbelted 50th percentile adult male dummies at all speeds from 32 km/h through 40 km/h (20 mph and through 25 mph).

In their petitions for reconsideration, DaimlerChrysler and Toyota requested that the unbelted rigid barrier test be conducted only at 40 km/h (25 mph) (or at 40 km/h (25 mph) with a small tolerance) instead of over a range of test speeds. They claimed that the need to meet the unbelted rigid barrier test with 50th percentile adult male dummies over the range of speeds between 32 km/h and 40 km/h (20 mph and 25 mph) creates a conflict with meeting the low risk requirements using 3-year-old and 6-year-old child dummies on the passenger side and using the 5th percentile adult female dummy on the driver side.

In addressing these petitions, we begin by noting that we addressed this issue in the final rule preamble, and made changes from the SNPRM to the final rule in light of this concern.

In the SNPRM, we proposed that manufacturers would need to meet the unbelted rigid barrier test at any speed between 29 km/h (18 mph) to the maximum speed (as discussed earlier, we were considering a range between 40 to 48 km/h (25 to 30 mph) for the maximum speed). This range represented a change from the belted barrier test and previous unbelted barrier tests, which required injury criteria to be met at any speed up to 48 km/h (30 mph).

In commenting on the SNPRM, GM and Ford supported the proposed lower test parameter 29 km/h (18 mph). AAM, DaimlerChrysler and Toyota supported a higher minimum test speed. VW and Honda supported a lower minimum test speed. Delphi urged the agency to return to its traditional "any speed between zero and" the maximum test speed, arguing that the minimum test speed will result in an unacceptable safety trade-off for individuals who could be aided by a deploying air bag in lower speed crashes.

In the final rule preamble, we explained that the concerns of the vehicle manufacturers opposed to the 29 km/h (18 mph) lower limit revolved around their ability to meet both the low risk deployment tests for whatever stages of the air bag would deploy in speeds up to 29 km/h (18 mph) and the unbelted high speed tests at any speed between 29 km/h (18 mph) and 40 to 48 km/h (25 to 30 mph). These manufacturers argued that while individual manufacturer's strategies will differ, the basic premise for dual-stage inflation systems is that the first stage can be tailored to reduce risk for children while offering protection for 5th percentile adult females while the second stage protects the 50th percentile adult male occupant. According to the manufacturers, in many cases a first stage air bag that would not harm children would not be sufficient to satisfy the injury criteria performance limits for the 50th percentile adult male dummy in a test at 40 km/h (25 mph) and may be insufficient to certify compliance in a 29 km/h (18 mph) test. In order to assure compliance with both the unbelted crash test requirement and a low risk deployment option utilizing a dual-stage air bag system, a manufacturer arguably would either have to drop the threshold for the second stage air bag close to 29 km/h (18 mph) to ensure compliance for the 50th percentile adult male or provide a higher-energy first stage inflator. The commenters asserted that if NHTSA were to impose the proposed speed range for the unbelted tests, we would create a situation that would make compliance with a low risk deployment option impossible, since it would not be possible to assure that only the first stage air bag deploys at 29 km/h (18 mph) for the out-of-position test.

For the final rule, we decided to raise the minimum test speed for the unbelted test from 29 km/h (18 mph) to 32 km/h (20 mph) while decreasing the maximum threshold for the various out-of-position tests from 29 km/h (18 mph) to 26 km/h (16 mph). We stated that we believed that this difference in speed between the two tests would be sufficient to resolve manufacturers' concerns in this area. We noted that the requirement we adopted built in a 6 km/h (4 mph) "grey zone" that would allow manufacturers to assure the deployment of both inflator stages, if needed, in all high speed tests, while preserving their ability to deploy only the first stage (or allow for deployment of a combination of benign stages) of the air bag in the low risk deployment tests.

In the final rule preamble, we stated that we were rejecting DaimlerChrysler's and Toyota's request that we test unbelted dummies only at 40 km/h (25 mph) because we continued to believe a range of speeds is necessary to adequately protect drivers and adult passengers.

In petitioning for reconsideration, DaimlerChrysler again requested testing only at 40 km/h (25 mph). That manufacturer argued that the requirement for protecting an unbelted 50th percentile adult male occupant during a rigid barrier test at speeds as low as 32 km/h (20 mph) and the requirement for static out-of-position tests to be conducted with whichever air bag stage is deployed during a 26 km/h (16 mph) rigid barrier test are in conflict and inconsistent with the reality of crash sensing and air bag inflator technology.

Toyota similarly argued that the agency's decision to reduce the test speed range from 29–40 km/h (18–25 mph) to 32–40 km/h (20–25 mph), although directionally correct, does not adequately address the concerns it outlined in its comment on the SNPRM. That company argued that conflicts exist between offering sufficient compliance margin for the 50th percentile male dummy in the upper speed ranges and the desire to minimize risk to out-of-position children and small adults. Toyota stated that it believes that given the limitations of current seat suppression technology, regardless of its performance in certification tests under controlled conditions, automakers must be allowed the design flexibility to offer seemingly redundant technologies to protect out-of-position children in the real world.

On reconsideration, after carefully considering DaimlerChrysler's and Toyota's requests that we specify testing of unbelted dummies only at 40 km/h (25 mph) instead of a range between 32–40 km/h (20–25 mph), we have decided to deny those requests. As discussed below, we again conclude that the 32–40 km/h (20–25 mph) range of speeds helps ensure adequate protection of drivers and adult passengers. Moreover, we believe that the change requested by these petitioners is unnecessary, particularly in light of another change we are making in response to the petitions for reconsideration.

In addressing the requests of DaimlerChrysler and Toyota, it is appropriate to begin by citing again the requirements of TEA 21, that the agency issue a final rule meeting two different, equally important goals:

> To *improve occupant protection* for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, *while minimizing the risk* to infants, children, and other occupants from injuries and deaths caused *by air bags, by means that include advanced air bags.*

(Emphasis added.)

There is obviously a tension between improving occupant protection for occupants of different sizes, belted and unbelted, while also minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags. This tension exists because the deployment process of the air bag that is needed to provide protection can also create risks for persons who are extremely close to the air bag before that deployment. It was because of this tension that Congress included the reference to "advanced air bags"; it recognized the need for vehicle manufacturers to incorporate advanced technologies in their air bags in order for these two goals to be met simultaneously.

However, while we recognize that there is a tension between these goals, there is no conflict between requiring vehicles to meet the rigid barrier crash test with unbelted 5th percentile adult female dummies and unbelted 50th percentile adult male dummies at all speeds between 32 km/h and 40 km/h (20 mph and 25 mph) while also meeting risk minimization requirements. We will discuss this issue separately for the driver and passenger sides.

To address the risks posed by driver air bags, the rule requires vehicles to either (1) have a driver air bag that deploys in a low-risk manner to out-of-position occupants or (2) to have a feature that suppresses the air bag when a driver is out-of-position (including in dynamic events). We believe that all manufacturers are focusing on the first of these two options. The ability of air bags to deploy in a low-risk manner is tested in static, out-of-position tests, using unbelted 5th percentile adult female dummies placed against the steering wheel, and deploying the air bag with any stage(s) that may deploy during a 26 km/h (16 mph) rigid barrier test.

We believe the arguments raised by DaimlerChrysler and Toyota are primarily relevant to passenger side air bags and not to driver air bags. The information we have indicates that available technology enables vehicle manufacturers to meet the low risk and unbelted high speed protection requirements for driver air bags.

We recognize that passenger air bags pose a greater design challenge than driver air bags with respect to simultaneously meeting both low risk and unbelted high speed protection requirements. The challenge is greater for two reasons. First, passenger air bags typically need to be considerably larger than driver air bags to provide protection. Larger air bags typically create greater risk to out-of-position occupants than smaller air bags. Second, young children are more susceptible to risk than adults.

To address the risks posed by passenger air bags, the rule requires vehicles to either (1) have a passenger air bag that deploys in a low-risk manner to out-of-position occupants, (2) to have a feature that suppresses the air bag when a young child is present in a variety of positions, or (3) to have a feature that suppresses the air bag when a passenger is out-of-position (including in dynamic events). The risk minimization requirements must be met separately for 1-year-old, 3-year-old and 6-year-old children, and manufacturers may choose different options for these three classes of occupants. We developed the risk minimization requirements for passenger air bags in light of these classes of occupants because, on the passenger side, the vast majority of deaths and serious injuries from air bags have been to young children.

We believe that all manufacturers are focusing on suppressing the air bag for 1-year-old children. Thus, the requirements for those children are not relevant to the issues raised by DaimlerChrysler and Toyota.[4]

Manufacturers are generally focusing on the first two options for 3-year-old children and 6-year-old children; i.e., the low risk deployment requirements and/or suppressing the air bag in the presence of young children.

The ability of an air bag to deploy in a low risk manner is tested in static out-of-position tests, using unbelted 3-year-old and 6-year-old child dummies placed against the instrument panel in two positions, and deploying the air bag with any stages that may deploy during a 26 km/h (16 mph) rigid barrier test. Specified injury criteria performance limits must be met to pass the low risk test.

Manufacturers that decide to suppress the passenger air bag in the presence of young children will use weight sensors, pattern recognition sensors and/or other means of detecting their presence. To test the ability of those means to detect the presence of children, the rule

---

[4] We note that the risk minimization requirements using infant dummies differ in certain respects from those using 3-year-child dummies and 6-year-old child dummies. The third option cited above, for a feature that suppresses the air bag when a passenger is out-of-position, is not available for infant dummies because infants in rear facing child seats would always be extremely close to the air bag. Different requirements also apply with respect to determining which stages of an air bag are deployed in low risk deployment tests.

VOL 66 ISS 243 DE 18 2001 UMI

specifies that 3-year-old and 6-year-old child dummies are placed in child seats that are, in turn, placed on the passenger seat. It also specifies tests that are conducted with unrestrained child dummies sitting, kneeling, standing, or lying on the passenger seat. At the option of the manufacturer, the ability of a suppression system to detect the presence of a child may be demonstrated using human beings instead of test dummies.

While manufacturers are required to meet at least one of the options specified by the risk minimization requirements, they are free to meet more than one of those options. For example, they can suppress the air bag in the presence of young children and also provide air bags that deploy in a low risk manner.

We recognize that the combination of suppression and low risk deployment may best achieve the goal of minimizing air bag risks. For example, low risk deployment air bags may provide benefits that would not be provided by systems that simply suppress the air bag in the presence of young children. It was in light of this recognition, as well as to avoid unnecessary design restrictions, that we were willing to make some adjustments between the SNPRM and the final rule to facilitate use of low risk systems. In particular, we were willing to raise the minimum test speed for the unbelted test from 29 km/h (18 mph) to 32 km/h (20 mph) while decreasing the test speed threshold for determining the stages to deploy in the low risk deployment tests from 29 km/h (18 mph) to 26 km/h (16 mph).

However, we believe that granting DaimlerChrysler's and Toyota's request to raise further the minimum test speed for the unbelted test from 32 km/h (20 mph) to 40 km/h (25 mph) (the same speed as the maximum test speed) would have significant adverse safety consequences.

Unbelted occupants are at significant risk of serious injury and fatality in crashes with a delta V between 32 km/h and 40 km/h (20 mph and 25 mph). Indeed, the agency's Final Economic Assessment for the advanced air bag final rule estimated that air bags designed for an unbelted rigid barrier test with a maximum test speed of 40 km/h (25 mph) would save 472 lives in crashes within the 32 to 40 km/h (20 to 25 mph) range. Of these 472 lives saved, 372 would be on the driver side and 98 would be on the passenger side.

We also believe that the change requested by these petitioners is unnecessary. As noted earlier, available technology enables vehicle manufacturers to meet the low risk and unbelted high speed protection requirements for *driver* air bags, even without using dual stage air bags.

As for passenger air bags, we note that the advanced air bag final rule does not require manufacturers to meet low risk requirements for passenger air bags. They can alternatively choose to meet the standard's risk minimization requirements for passenger air bags by suppressing the air bag in the presence of 3-year-old and 6-year-old children. A number of vehicle manufacturers appear to be pursuing this option.

Also, as discussed later in this document, we are making another change in the final rule that should resolve any concerns as to whether the need to meet the standard's high speed protection requirements for unbelted 50th percentile adult male dummies prevents manufacturers from providing low risk deployment for small children. In particular, we have decided to use 5th percentile adult female dummies, instead of 50th percentile adult male dummies, in the 26 km/h (16 mph) rigid barrier test that is used for determining the stage(s) of the air bag to be used for the passenger side low risk tests.

Thus, if a vehicle manufacturer faces a situation where deployment of both stages of a dual stage air bag is necessary to meet the unbelted barrier test requirements for 50th percentile adult male dummies in a 32 km/h (20 mph) crash test, and, because of grey zone issues, it is possible that both stages may fire in a 26 km/h (16 mph) crash, the manufacturer can design its air bag system, using occupant recognition technology, so that only the first stage will fire in the presence of 5th percentile adult female dummies in crash tests at these severity levels. Since only the first stage of the air bag would fire when 5th percentile adult female dummies are used in a 26 km/h (16 mph) rigid barrier test, only the first stage would be fired when conducting the low risk tests using child dummies.

C. Additional Tests

In addition to their request concerning the maximum test speed for the unbelted barrier test, the Consumer Groups requested that we make a number of other changes to address what they consider to be shortcomings of the final rule. They argued that the final rule fails to follow the Congressional mandate of providing advanced air bag protection for all occupants, male and female, large and small, belted and unbelted. The Consumer Groups requested that we amend the final rule to add a number of tests. They also asked that we change one test from a belted test to an unbelted test. These requests of the Consumer Groups are addressed below.

1. The Consumer Groups' Requests

Protection for unbelted occupants in crashes with soft pulses. The Consumer Groups argued that the final rule does not require protection for unbelted occupants in crashes with soft pulses. They stated that although NHTSA recognizes that many air bag fatalities occur in low speed, soft pulse crashes, where the air bag deploys late and strikes an out-of-position occupant who has moved forward in the crash before the air bag deploys, the agency failed to require any test to protect against this in the final rule. The Consumer Groups argued that the agency instead adopted only a belted offset deformable barrier test and an automatic suppression test. They argued that neither of these tests requires protection for unbelted occupants in crashes with soft pulses.

The Consumer Groups argued that conducting the offset test with belted dummies ignores the fact that unbelted occupants are at greater risk from air bags than belted occupants. They also argued that manufacturers might respond to the up-to-40 km/h (25 mph) belted offset test by suppressing deployment, whereas specifying the use of unbelted dummies would more likely require deployment and the use of multi-stage inflators. The Consumer Groups apparently believed (erroneously) that the offset test is conducted with a dummy only on the driver's side and argued that this omits requiring protection for passengers.

The Consumer Groups also expressed concern that the agency dropped the proposed dynamic out-of-position test requirements. They stated that the final rule contains only a series of static tests that are far simpler to meet than a dynamic test. They stated that weight-based static sensors can be fooled into false readings. They argued that the agency compounded this problem by deleting "rough road" testing.

The Consumer Groups requested that we require that the up-to-40 km/h (25 mph) offset deformable barrier test be conducted with unbelted rather than belted dummies and on both the driver and passenger sides.

High speed crash protection for 5th percentile adult females. The Consumer Groups also argued that the final rule does not ensure high speed crash protection for 5th percentile adult females. They objected to the agency's adopting a 56 km/h (35 mph) belted test using 50th percentile adult male dummies while deferring the decision whether to propose using 5th percentile adult female dummies until additional testing is completed. They argued that the agency's explanation that there is sparse information on the practicability of such a requirement is inconsistent with actions taken by the agency with respect to other requirements in this rulemaking.

The Consumer Groups requested that we require manufacturers to meet a 56 km/h (35 mph) belted barrier test with the 5th percentile adult female dummy as well as the 50th percentile adult male dummy.

Protection for unbelted 5th percentile adult females in oblique crashes. The Consumer Groups also objected to the fact that the final rule does not specify that the rigid barrier tests using 5th percentile adult females are conducted at angles but are instead only conducted in the perpendicular mode. They argued that in specifying oblique testing only using 50th percentile adult male dummies, the agency assumes that if the male is protected, so will the female. The Consumer Groups argued that this logic has led to many small women being killed by air bags. These petitioners stated that an oblique test of the 1997 Dodge Caravan conducted by NHTSA shows that interaction of the air bag with the anatomy of small women can lead to fatal air bag injuries.

The Consumer Groups requested that we specify that vehicles must satisfy the requirements of all barrier tests in both the perpendicular and oblique modes.

2. Agency Response to Consumer Groups' Requests

As we address the Consumer Groups' requests for additional tests, we begin by noting that no matter how many tests we include in Standard No. 208, it would always be possible to identify additional tests that represent potential real world situations. However, as we explained in the final rule preamble, it is necessary to strike a balance between ensuring that there are sufficient tests to meet the need for safety, and avoiding unwarranted compliance burdens.

We note that some of the additional tests requested by the Consumer Groups are ones that we dropped during the course of the advanced air bag rulemaking. After considering the comments on our original September 1998 NPRM, we tentatively concluded that we could reduce the number of originally proposed tests without significantly affecting the benefits of the rule. We were persuaded by the commenters that reducing the amount of testing was important, given resource limitations and the costs to manufacturers associated with certifying vehicles to such a large number of new test requirements. At the same time, we wanted to be sure that the advanced air bag rule included sufficient tests to ensure that air bags are redesigned to meet the goals mandated by TEA 21. Considering both of these factors, we included a reduced number of tests in our November 1999 SNPRM and in our May 2000 final rule.

While the final rule for advanced air bags includes fewer tests than our original proposal, it nonetheless specifies an unprecedented number of new tests, and mandates a much more comprehensive assessment of air bag protection than the earlier version of Standard No. 208. In the past, the standard assessed air bag protection solely by means of rigid barrier crash tests (or a temporary sled test) using a single size of test dummy positioned well back from the air bag. The final rule adds an entirely new series of tests to assess low speed risk to occupants of many different sizes. For the first time in the history of Standard No. 208, the agency will use dummies representing a 12-month-old infant, a 3-year-old child, a 6-year-old child, and a 5th percentile adult female. All of these new dummies will be used in assessing risk of air bags. For the belted and unbelted tests assessing high speed protection, performance will be evaluated using both the mid-sized male dummy positioned well back from the air bag *and* the new 5th percentile female dummy positioned as far forward as the seat and/or vehicle interior allows. Also, a new belted offset test using the 5th percentile female dummy will help ensure that vehicle manufacturers upgrade their crash sensing and software systems, as necessary, to better address soft crash pulses.

With this background in mind, we will address the specific requests of the Consumer Groups.

Protection for unbelted occupants in crashes with soft pulses. As discussed earlier, the Consumer Groups argued that the final rule does not require protection for unbelted occupants in crashes with soft pulses, where the air bag may deploy late and strike an out-of-position occupant who has moved forward in the crash before the air bag deploys. They asked that we require that the 0–40 km/h (0–25 mph) offset deformable barrier test be conducted with unbelted rather than belted dummies. In considering the Consumer Groups' petition, we have considered both the possibility of changing the test from a belted test to an unbelted test, and of adding an unbelted test in addition to the belted test.

In developing the advanced air bag rule, we focused a great deal of attention on identifying a sensible, effective array of requirements for increasing protection and minimizing risk. A considerable portion of the new rule is designed to help ensure the safety of unbelted occupants in crashes where occupants may be out-of-position and very close to the air bag. Occupants may move forward toward the air bag in crashes with soft pulses and/or as a result of pre-crash braking before the air bag deploys.

On the passenger side, the vast majority of deaths and serious injuries from air bags have been to young children. The rule requires vehicles to meet requirements for minimizing these risks, primarily by either automatically turning off the air bag in the presence of young children or deploying the air bag in a manner much less likely to cause serious or fatal injury to out-of-position occupants. If they so wish, manufacturers may choose to use a combination of those two approaches. There is also an option for a feature that suppresses the air bag when a child is out-of-position (including in dynamic events).

Manufacturers that decide to turn off the passenger air bag in the presence of young children will use weight sensors and/or other means of detecting their presence. To test the ability of those means to detect the presence of children, the rule specifies that child dummies be placed in child seats that are, in turn, placed on the passenger seat. It also specifies tests that are conducted with unrestrained child dummies sitting, kneeling, standing, or lying on the passenger seat.

The ability of air bags to deploy in a low risk manner is tested using unbelted child dummies placed against the instrument panel. The air bag is then deployed, and specified injury criteria performance limits must be met.

To address the risks air bags pose to out-of-position drivers, the rule requires vehicles to either have a driver air bag that is deployed in a manner much less likely to cause serious or fatal injury to out-of-position occupants or to have a feature that suppresses the air bag when a driver is out-of-position (including in dynamic events). The ability of air bags to deploy in a low risk manner is tested using unbelted 5th percentile adult female dummies placed against the steering wheel.

The Consumer Groups did not present any analysis to support their contention that these requirements are inadequate, or to support their assertion that suppression devices are likely to be Afooled" into false readings. Moreover, we disagree with their characterization of the final rule as containing "only a series of static-based tests that are far simpler to meet than a dynamic test." The ease or difficulty in meeting a particular test requirement does not depend on whether the test is static or dynamic, but instead on the overall nature of the test requirement. Moreover, in some situations, static tests can offer advantages over dynamic tests. For example, by using static tests to evaluate the ability of a suppression system to detect the presence of children, we are able to test many more potential real world conditions relating to how children might be positioned than if we specified dynamic tests.

As to the petitioners' concerns about dropping the proposed dynamic out-of-position test option and the rough road tests, we explained in the November 1999 SNPRM that both proposed tests had proven to be unworkable in their existing forms, and that both tests were unnecessary for safety. As to the option for a full scale dynamic out-of-position test, we explained in the final rule preamble that other options included in the final rule would accommodate the various advanced air bag technologies under development. With respect to the rough road tests, we explained:

> While rough road performance is certainly important, we do not believe there is any evidence that this is likely to be a real world problem. It would also be difficult to develop a test procedure that would assure that a dummy responded like a human to the forces imparted by a rough road. Indeed, the procedure we had proposed in the NPRM turned out to be impractical and did not accomplish its objective. Given our limited resources, we do not believe there is a need at this time to develop test procedures in this area.

The Consumer Groups were incorrect with respect to their apparent belief that the offset test is conducted with a dummy only on the driver's side. Dummies are positioned at both the driver and right front passenger positions.

These petitioners may, however, have meant to refer to the fact that the test is conducted only with the left side of the vehicle engaged with the barrier. (The left side of the vehicle is nearly always the driver side, although the driver sits on the right in a few vehicles.[5]) As we discussed in the final rule preamble, we believe that testing with the left side of the vehicle engaged with the barrier will be sufficient to help ensure that vehicle manufacturers improve their sensing systems. We stated, however, that we will monitor future air bag system designs and will consider changing this decision if we find that manufacturers are implementing sensor systems that optimize performance only for impacts into the left side of the vehicle.

The Consumer Groups also did not even attempt to demonstrate that requiring that the 0–40 km/h (0–25 mph) offset deformable barrier test to be conducted with unbelted rather than belted dummies (or with both belted and unbelted dummies) would result in any additional safety benefits, given the overall array of tests included in the advanced air bag rule to improve protection and minimize risk.

We added this particular test to encourage vehicle manufacturers to upgrade their crash sensing and software systems, as necessary, to better address soft crash pulses. As we noted in the final rule preamble, the improved sensing systems required by this test will benefit both belted and unbelted occupants. We also pointed out in the final rule that the belted offset test may represent the worst case scenario since the belt allows the dummy's head and neck to rotate into the path of the deploying air bag. This condition may better test for potential neck injuries than an unbelted test.

We also note that the unbelted rigid barrier test using 5th percentile adult female dummies, conducted at speeds between 32 and 40 km/h (20 and 25 mph), and the belted rigid barrier test using 5th percentile adult female dummies, conducted at speeds up to 48 km/h (30 mph), also help ensure protection of occupants who are close to the air bag, since the 5th percentile adult female dummies are positioned with the seats in the full forward position.

We conclude that it would be inappropriate to change the offset deformable barrier test from a belted test to an unbelted test. As discussed in previous rulemaking notices, this test was developed by Transport Canada. That agency found in its research that one of the causes of adverse effects of air bags is late deployment of some air bags in crashes with a "soft crash pulse." In order to reproduce the softer, longer duration crash pulse, it selected the 40 percent offset barrier. Transport Canada found that in 40 km/h (25 mph) offset deformable barrier crash tests, the air bag typically deployed and was sometimes so late that the *belted* test dummy would be right on the steering wheel at that time, a "worst case" condition.

The test configuration represents a real world situation where small women who are wearing their seat belts may nonetheless be at risk from the air bag, since they are seated close to the air bag. This is a particularly common situation on the driver side, since small women typically need to sit close to the steering wheel in order to drive the vehicle.

By specifying that the belted 5th percentile adult female dummies are in the full forward position in this test, we can effectively test whether the air bag deploys late. Having the dummy unbelted would not improve the test. In addition, as noted earlier, the belted offset test may represent a worst case scenario as compared to the unbelted test. For all of these reasons, we believe it appropriate to maintain a belted 0–40 km/h (0–25 mph) offset deformable barrier test.

We have also considered the possibility of adding an unbelted 0–40 km/h (0–25 mph) offset deformable barrier test. Given the wide array of tests already included in the advanced air bag rule, and noting the fact that the Consumer Groups did not provide any evidence, we do not believe that there would be any significant benefits from adding this particular test.

After carefully considering the Consumer Groups' request that the 0–40 km/h (0–25 mph) offset deformable barrier test be conducted with unbelted rather than belted dummies, we decline to make that change.

High speed crash protection for 5th percentile adult females. The Consumer Groups also argued that the final rule does not ensure high speed crash protection for 5th percentile adult females, since the agency adopted a 56 km/h (35 mph) belted test using 50th percentile adult male dummies but deferred the decision whether to propose also using 5th percentile adult female dummies in that test until additional testing is completed. They requested that we require vehicles to meet a 56 km/h (35 mph) belted barrier test with the 5th percentile adult female dummy as well as the 50th percentile adult male dummy.

The Consumer Groups are incorrect in asserting that "the final rule requires no high speed crash protection for the 5th% female." We note that while Standard No. 208 has long included high speed crash test requirements using 50th percentile adult male dummies, the advanced air bag rule establishes, for the first time, high speed crash test requirements using 5th percentile adult female dummies. For belted dummies, vehicles must meet injury criteria performance limits at speeds up to 48 km/h (30 mph), the same speed that has long been used for 50th percentile adult male dummies. For unbelted 5th percentile adult female dummies, vehicles must meet injury criteria performance limits at speeds from 32 km/h (20 mph) to 40 km/h (25 mph), the same speed range as will apply to unbelted tests with 50th percentile adult male dummies.

---

[5] DaimlerChrysler petitioned the agency to impact only the driver-side of the vehicle rather than the left-side. It noted that in some vehicles the driver sits on the right. We are not making the suggested change. Occupants on both the left and right side of the vehicle should be protected in an offset crash. However, one portion of the regulatory text, S18.1, references the driver side of the vehicle rather than the left side. That reference has been corrected.

The final rule does increase the speed for the belted test using the 50th percentile adult male dummy from 48 km/h to 56 km/h (30 mph to 35 mph). This increase in test speed will be phased-in after the phase-in of the other requirements for advanced air bags is complete, beginning in the 2008 model year.

As we discussed in the advanced air bag final rule preamble, we did not include the 5th percentile adult female dummy in this requirement because we had sparse information on the practicability of such a requirement. We stated that we would initiate testing to examine this issue and anticipated proposing to increase the test speed for belted tests using the 5th percentile adult female dummy to 56 km/h (35 mph), beginning at the same time that the 50th percentile adult male is required to be used in belted testing at that speed. We note that Congress gave us money in our FY 2001 budget to do research to gather information in this area.

We disagree with the Consumer Groups' assertion that it is "arbitrary and capricious" for the agency to conduct testing that will help us determine whether a 56 km/h (35 mph) belted rigid barrier test requirement using 5th percentile adult female dummies is practicable, prior to proposing and adopting such a requirement. We believe that testing before imposing a requirement represents a rational approach to establishing safety performance requirements. We also disagree with the Consumer Groups' suggestions that we are being inconsistent as compared to our actions with some of the other requirements for advanced air bags, such as the out-of-position requirements for 5th percentile adult female drivers and children. The amount of testing and analysis that may be needed to establish the practicability of a particular requirement varies with the requirement at issue. We note, however, that we did conduct significant testing and analysis concerning the out-of-position requirements for 5th percentile adult female drivers and children.

After considering the Consumer Groups' request that we establish a requirement now for vehicles to meet a 0–56 km/h (0–35 mph) belted barrier test with the 5th percentile adult female dummy, we decline to take that action. However, depending on the results of our testing, we continue to anticipate proposing to increase the maximum test speed for belted tests using the 5th percentile adult female dummy to 56 km/h (35 mph), beginning at the same time that the 50th percentile adult male is required to be used in belted testing at that speed.

Protection for unbelted 5th percentile adult females in oblique crashes. The Consumer Groups also objected to the fact that the final rule does not specify that the rigid barrier tests using 5th percentile adult female dummies include oblique tests. They requested that we specify that vehicles must satisfy the requirements of all barrier tests in both the perpendicular and oblique modes.

We note that the oblique tests using the 5th percentile adult female dummy, as well as the oblique tests using the belted 50th percentile adult male dummy, were among the ones we dropped during the course of the advanced air bag rulemaking. We were persuaded by the commenters that reducing the amount of testing was important, given resource limitations and the costs to manufacturers associated with certifying vehicles to such a large number of new test requirements. Moreover, looking at the whole array of test requirements included in the advanced air bag rule, we believed that these tests were unnecessary.

As we have explained before, the primary purpose of oblique tests is to ensure that air bags are sufficiently wide to provide protection if an oblique crash results in the occupant moving forward at an angle. The test that presents the greatest challenge with respect to the width of the air bag is the unbelted test using the 50th percentile adult male dummy.

As we explained in the final rule preamble, we dropped the requirement for conducting oblique angle tests on vehicles using 5th percentile adult female dummies because we believed that if a vehicle can pass the perpendicular test with 5th percentile adult female dummies and the oblique tests with unbelted 50th percentile adult male dummies, it would also likely pass the oblique test using 5th percentile adult female dummies. We explained further that we dropped the belted oblique angled tests for the 50th percentile adult male dummy because, given the unbelted oblique tests using that dummy, we believed that the belted oblique angled tests are unnecessary. We noted that the unbelted oblique tests are more stringent than the belted oblique tests in this respect, since the belts limit occupant movement, and that the unbelted oblique tests, which are being retained, will ensure that air bags are sufficiently wide to provide protection when occupants move forward at an angle in oblique crashes.

Upon reconsideration, we continue to believe that the current array of tests strikes a reasonable balance between ensuring that there are sufficient tests to meet the need for safety, and avoiding unwarranted compliance burdens. Given the entire array of tests that both ensure protection and minimize risk, and in light of the reasons discussed above, we do not believe that adding additional oblique crash test requirements would produce significant safety benefits.

We disagree with the Consumer Groups' assertion that in specifying oblique testing only using 50th percentile adult male dummies, the agency "assumes that, if the male is protected, so will the female." Our decision reflects careful analysis of the practical effects of the various requirements on air bag design, and the contribution each requirement makes to ensuring protection and reducing risks.

4. Positioning Procedure for the 5th Percentile Adult Female Test Dummy (Barrier Test)

The final rule established a new positioning procedure for the 5th percentile adult female test dummy in the dynamic crash tests. This procedure used the dummy legs' relationship with the front of the seat to determine where the dummy's H-point would be set. The seat would then be moved forward until the seat reached its full-forward position or until a dummy leg contacted the vehicle interior. Under the final rule, the legs are moved into position; e.g., the driver's leg is adjusted to place the foot on the pedal, only after the seat has been moved forward.

We received several comments and petitions regarding various aspects of the 5th percentile adult female dummy positioning procedure. Mitsubishi and DaimlerChrysler raised questions about the relationship between the seat cushion angle and the seat position. Honda commented that not specifying a seat position before the dummy is placed in the vehicle could lead to repeatability problems. As with the low-risk test conditions, Mitsubishi queried whether the centerline of the seat was the geometric center of the entire seat or only of the designated seating area. Honda, Mitsubishi, DaimlerChrysler, and the Alliance all had concerns about positioning the legs and feet. These concerns were focused on placement of the left foot on the foot rest, early interference of the dummy legs with the steering wheel or column, and the distance between the dummy's knees when initially positioning the dummy.

At the December, 2000 technical workshop, VW asked what seat position would be required for vehicles with seat cushions that could be lengthened or shortened. Honda noted that in some of its vehicles it could not position the seat in a full forward position using the existing procedure. A more general discussion followed exploring possible solutions to the problem raised by Honda.

We have reviewed the petitions and the seating procedure specified in the final rule. After experimenting with the test procedure in several vehicles, we have determined that the seating procedure specified in the final rule should be modified to better address potential problems in production vehicles. The primary problem with the existing seating procedure is that early dummy contact with the steering wheel, steering column, or knee bolsters can preclude placing the seat in the full forward seating position. As we noted in both the NPRM and the SNPRM, we believe it is critical to test with the seat in the most forward designated seating position because this represents the worst case position. A procedure where the final seat position is closer to mid-track than full forward circumvents the intent of the final rule. Since the existing procedure led to this result in some vehicles, we have determined the procedure and the regulatory text should be changed to address early contact with interior components.

Rather than requiring the knees be at a 90 degree angle when placing the dummy in the seat and moving the seat forward, we are now specifying that the knees be placed at a 120 degree angle at the beginning of the seating procedure. By changing the initial knee angle, it is now possible in most vehicles to move the seat into the full forward seat position and to have the right foot reach the accelerator. In some cases, the steering wheel or steering column will still prohibit moving the seat into a full-forward position. In those instances, we are now specifying that the steering wheel be adjusted upwards to facilitate dummy placement and that the legs then be splayed if needed. The steering wheel height will be returned to the mid-position prior to running the barrier tests. We note that we are making these changes not because we believe that people actually engage in such acts each time they enter their vehicle, but because the dummies are much more difficult to place in a vehicle given their relatively stiff structure.

There may be instances where, even with the new procedure, it is impossible to place the dummy in a full-forward seating position. In such instances, we will use the new procedure and move the seat forward until there is no more than a 5 mm (0.2 in) clearance between the dummy and the vehicle interior. Given the variety of vehicle interior designs, we do not believe it is possible to develop a test procedure that allows dummy placement in a full-forward position in every vehicle. However, we have determined that this is not a significant problem. Using the new procedure, we were able to place the dummy in a full-forward position most of the time. We did find that in the Dodge Grand Caravan we were only able to get the seat within one quarter inch of the full-forward position. In the Dodge Durango, we were only able to get the seat within one-and-one-quarter inch of the full-forward position. In both cases, the seat was much closer to the full-forward position than to the mid-track position. We do not expect manufacturers to introduce excessive molding and contouring into the vehicle interior to prevent the dummy from reaching the full forward position since that approach would invariably have a negative effect on vehicle sales. People will not buy cars that they cannot drive. To the extent manufacturers rely on such molding and contouring to keep the occupant away from the air bag, they will also have to provide some countermeasure to ensure that individuals can reach the accelerator and brake. If we find that manufacturers mold the steering column or knee bolsters primarily to prevent the dummy from being placed in a full-forward position, we may amend the regulation.

Other minor changes have been made in the seating procedure to ease placement of the dummy in the full-forward seat position and to address the specific issues raised by the commenters. First, the new seating procedure provides specific information on seat location and configuration prior to placing the dummy on the seat; this accounts for vehicle seat cushions that can be adjusted without changing the seat track. Second, the legs are positioned equidistant from the center of the steering wheel rim to improve repeatability. Third, the left foot is now positioned on the toe board unless it is impossible to maintain that position. In that case, the left foot is placed on the floor pan.

5. Issues Related to Minimizing the Risk of Injuries and Deaths Caused by Air Bags

The advanced air bag final rule implemented numerous measures designed to minimize the risk of serious injury or death caused by deploying air bags. On the passenger side, these measures were directed primarily towards small children, while on the driver side, the measures were directed toward individuals, primarily small women but also other out-of-position occupants, who are close to the air bag at the time of deployment. Because we wished to avoid being unnecessarily design-restrictive, the agency provided manufacturers with multiple compliance options to reduce these risks. On the passenger side, we allowed both automatic suppression and dynamic suppression systems, as well as systems that utilize low-risk deploying air bags. For the driver side, we allowed a dynamic suppression system or low-risk deployment systems.

While we are aware of some long-range development work in the area of dynamic suppression systems, we do not know of any manufacturers who currently plan on using such systems as a method of certifying compliance with the requirements of the final rule. We received no petitions for reconsideration on that option. We have received numerous petitions for reconsideration on various aspects of the automatic suppression and low-risk deployment options.

A. Automatic Suppression Requirements

Several petitions were filed concerning the automatic suppression option, most of which addressed the level of seat belt cinch-down force for the belted test procedures and the selection of child restraints. Additionally, Toyota stated that given the wide variation in "cushion hardness" and "cover tightness" in production seats, it did not believe it could certify compliance for the 6-year-old child using automatic suppression. It also raised concerns about the use of current test dummies for testing automatic suppression systems.

1. Child Restraints

The primary concern raised by petitioners regarding automatic suppression systems regarded the belt cinch-down requirement for rear-facing child restraints systems (RFCRS) and convertible child restraint systems. The final rule specifies that the car bed, the RFCRSs and the convertible child seats specified in Appendix A to the final rule all need to pass certain compliance tests with the child restraints in both a belted and unbelted condition. In the belted tests, the seat belt is to be cinched down at 134 N (30 lbf) as measured at the outboard section of the lap belt.

Toyota, the Alliance, DaimlerChrysler and Takata all commented that they believed the 134 N (30 lbf) cinch-down force was unreasonable. They argued that this force was impossible to achieve and often placed the child seat in an unrealistic position. They also argued that one would not expect to see a child seat installed with this level of force in the real world. Petitioners urged NHTSA to adopt a cinch-down force of 67N (15 lbf), which is currently specified in Standard No. 213. Toyota posited that perhaps NHTSA was measuring the seat belt force differently than manufacturers and suggested a detailed test procedure be provided to assure that the 134 N (30 lbf) force could be achieved.

Additional concerns were raised at the technical workshop held in December, 2000. Ford observed that a system it is evaluating, which uses a load cell built into the seat belt system, had difficulty differentiating between a child seat installed at 134 N (30 lbf) and a large adult occupant that was straining against the seat belt. Delphi noted that when RFCRSs were installed without a base at the required force level, the restraint flipped up against the back of the passenger seat unless towels or blankets were placed under the restraint. Isuzu remarked that on one of its vehicles, the load cell could not be placed in the position required by the final rule because of a sheath that encases the belt on the outboard side. Testing on the Isuzu vehicle provided for the workshop verified that the load cell being used at the workshop did not fit in the specified location. Finally, our own testing in preparation for the workshop indicated that the 134 N (30 lbf) force level was impossible to achieve with the car bed specified for testing because that car bed does not use a rigid structure for feeding the seat belt through the restraint. Indeed, we noted that the greater the force placed on the seat belt, the less realistic the test became, because the car bed was tipped up off the seat and toward the seat back.

Several commenters also noted that some of the child restraints listed in the appendix to the final rule were already obsolete. Toyota and the Alliance urged us to reconsider developing a standardized test device that could provide a common "footprint" for seat-based suppression systems. At the December workshop, DaimlerChrysler requested we clarify the time frame that child seats on the list would be used as potential test devices in the agency's compliance tests. DaimlerChrysler also urged the agency to establish a point in time, such as the date of certification, at which the list of child restraints becomes final for the purpose of compliance tests. It was concerned that it could be responsible for the recognition of child restraints for which the suppression system had not been designed.

Finally, DaimlerChrysler introduced in its petition some clarifying language regarding the use of Standard No. 225 restraint attachments in vehicles that are equipped with such attachments in the front seat. DaimlerChrysler also suggested that the automatic suppression tests be conducted with and without tethers, arguing that tethers can place additional weight on the seat and could reflect a "worst case" scenario.

We have decided to retain the 134 N (30 lbf) cinch-down requirement specified in the final rule for all child seats except the car bed. The car bed will be installed in accordance with the restraint manufacturer's installation instructions, and a cinch-down force will not be measured.

We believe the primary problem related to belt cinch-down is the level of variability in the load cell measurement. Indeed, we found at the December 2000 technical workshop that the load cell we used provided widely variable readings. Subsequent to the workshop we obtained a smaller load cell that is specifically designed for use on a seat belt. The smaller load cell is designed to measure loads only up to 447 N (100 lbf), which significantly decreases the amount of variability in measurement. With this load cell, we found that consistent results could be obtained for at least five minutes, establishing that the load cell was measuring force in a repeatable manner. These readings were above 134 N (30 lbf). Additionally, the child restraints were positioned in a stable and realistic manner. We were able to achieve the load levels using the test procedure laid out in the final rule, although in some instances the plastic button that some manufacturers place on belts to keep the buckle from sliding down on the unsecured belt had to be removed. Thus, we do not believe there is any need to change or refine the existing test procedure. While we are not adding a provision to the regulatory text, we do intend to remove the plastic button if it prevents us from reaching a 134 N (30 lbf) force. This button is not required under any Federal motor vehicle safety standards.

We note that it will likely be impossible to maintain a cinch-down force in excess of 134 N (30 lbf) once the test dummy or child is placed in the child restraint. The test procedure does not require that the cinch-down force remain stable once the restraint is occupied. This is because the intent behind the 134 N (30 lbf) cinchdown requirement is to replicate the installation of a child restraint by individuals who have been trained in such installation. Given our ability to consistently achieve a 134 N (30 lbf) force, we continue to believe some installers will install child restraints at this level. However, once a child is seated in that restraint, the amount of force applied to the seat belt will ease up.

We reject Toyota's suggestion that we adopt a maximum cinch-down force of 67 N (15 lbf). As noted by Toyota, this is the maximum force required by Standard No. 213. That standard specifies a cinch-down force between 53.2 N and 67 N (11.9–15 lbf). The purpose of measuring cinch-down force is different in Standard No. 213 than in Standard No. 208. In Standard No. 213, the intent is to replicate the circumstances under which most child restraints are installed and then to test how well the restraint protects an occupant when so installed. As such, 67 N (15 lbf) cinchdown force does not represent a "worst case" scenario for testing the child restraint. In Standard No. 208, we want to be sure that the air bag suppression systems in vehicles perform properly under a worst case scenario; i.e., when a properly installed seat that is cinched down in a manner that might fool an inadequate suppression system into believing the seat is occupied by someone other than a small child.

We recognize the difficulties Ford is currently experiencing with the load cells that it was planning to use in its vehicles. However, we believe manufacturers will be able to improve this type of technology, and note that even with this technology, the presence of pressure on the safety belt is only one of the factors considered by the suppression system to determine whether to suppress.

As for Isuzu's problems in getting a load cell to fit on the seat belt, we note that it may need to shorten the sheath on the belt to conduct compliance testing. As a larger matter, we hope Isuzu would do this anyway because we are concerned that its sheath may make routine installation of some child restraints unduly difficult. We recommend all vehicle manufacturers consult SAE recommended practice J1819, Securing Child Restraint System in Motor Vehicles (Rev 11/94) when designing their seat belts to assure a good fit between the vehicle and the child restraint.

We have decided against changing our test procedure to allow the use of rolled up blankets or towels when installing the child restraint. As noted in the final rule, we expect manufacturers to design their suppression systems to recognize the presence of a towel or blanket. However, we do not believe we should add a requirement that child restraints be tested with such objects since that would significantly add to the manufacturer's compliance burden. We recognize that in some instances testing facilities will need to exercise care in applying the cinch load so that the child restraint does not shift from the proper position.

We have updated the list of child restraints contained in Appendix A to Standard No. 208, removing those restraints that are no longer in production. These models have been removed from Appendix A, and replacement restraints have been added. We are not adopting Toyota and the Alliance's suggestion that a common "footprint" test device be developed for testing automatic suppression systems. As stated in the final rule, passing a compliance test using a test device that is not representative of near-term production child restraints provides no assurances that the automatic suppression systems will actually work in the real world. The only way to relieve this concern would be to require all child restraint manufacturers to incorporate that footprint into their restraints. We decided in the final rule that there was no need to be so design restrictive, and petitioners have offered no new arguments that would lead us to change our position on this matter.

We believe DaimlerChrysler's concern over how a manufacturer can assure a given vehicle will be tested using the restraints on a specific list is valid. Manufacturers are not responsible, as a matter of certification, for child restraints that are not included in the appendix on the date of vehicle certification. We believe the text of Appendix A is clear in that regard. However, problems may arise when the appendix is updated with insufficient leadtime to reasonably permit manufacturers to assure compliance of vehicles with the updated list. Other than the updated appendix that is part of this rule, which is effective in 30 days, we will specify in the text of any updated appendix that its effective date shall be at least one year from the date of publication. All vehicles certified on or after that effective date will need to comply with the standard using the restraints on the updated list. We believe this one-year leadtime will provide manufacturers with sufficient time to ensure that their vehicles comply. Providing an effective date in the text of the appendix will also avoid any confusion as to which set of restraints are to be used to test a given vehicle.

We note that some vehicle manufacturers may wish to certify compliance with the updated appendix prior to the effective date of the appendix. We will allow this type of "early compliance" as long as the manufacturer notifies us that it is irrevocably exercising this option.

We believe DaimlerChrysler's suggestion for clarifying language regarding the use of Standard No. 225 vehicle restraint attachments improves the clarity of the regulatory text. Accordingly, we have adopted those changes. However, we decline to accept DaimlerCrysler's suggestion that we test child restraints with any tethers attached. We believe attaching the tethers would represent the worst case scenario in only one instance; i.e., if the automatic suppression system used only the force of tension against the belt to determine whether to suppress. In this instance, the suppression system could determine that a heavier occupant was in the seat. However, as noted earlier, we do not believe a suppression technology could depend solely on the force measured against a seat belt and meet all of the test requirements for suppression systems.

2. Dummy Positioning

The final rule did not specify extremely detailed positioning procedures for dummies used in the testing of automatic suppression systems. Toyota petitioned that the positioning procedure be specified in greater detail, particularly the spacing between the knees (S22.2.2.6) and the feet (S22.2.2.5). It also petitioned to change the test procedure that tests for a child lying on the seat. Likewise, Mitsubishi raised questions about how to find the geometric center of the seat for determining the location of Plane B and questioned whether the seat height was in the mid-position. Toyota requested that Plane B be defined in relation to the H-point rather than the entire seat.

At the technical workshop, TRW presented data indicating that the knee angle established in the 5th percentile female seating procedure had the effect of shifting too much weight to the floor pan, making the weight on the seat resemble the weight of the 6-year-old test dummy.

DaimlerChrysler opined that the requirement to make sure any threads used to hold a dummy in position do not interfere with the air bag was overly stringent. It argued that the location of the thread in relationship to the air bag was irrelevant since the air bag is not deployed in any of the automatic suppression tests. Isuzu noted an apparent typographical error in the position that tests for a child leaning against the door (S24.2.3). It stated that the regulatory text should allow a maximum distance of 5 mm (0.2 in) between the dummy and the vehicle interior rather than a minimum distance of 5 mm (0.2 in).

For the most part, we have decided against adopting positioning procedures more detailed than those in the final rule. We want the positioning procedures to be broad to ensure that the automatic suppression systems will work in the myriad of occupant positions that occur in the real world. More precision in test positions would permit manufacturers to certify suppression systems that work when occupants are in the specified position but may not work if the occupant were positioned slightly out of this position. Accordingly, although the procedures set forth in the final rule may not be precisely repeatable, this is consistent with the purposes of the rule and helps to assure the proper performance of the suppression systems in the real world.

We have refined the seating procedure for the child-lying-on-seat position. As Isuzu noted in its petition, the final rule does not specify a longitudinal position. We agree that the position described in the final rule may be ambiguous with regard to the placement of the dummy against the vehicle's seat back. Accordingly, we have added language to the regulatory text specifying that the dummy is to be positioned as far back in the seat as possible.

We have also made some changes to the positioning procedure for the test that represents a child kneeling on the seat, facing forward (S22.2.2.6). Upon review of the regulatory text, the agency believes it makes more sense to state where the dummy should be positioned on the seat before placing the dummy on the seat, rather than having the dummy placed on the seat and then only later specifying how it was to be placed. Additionally, the requisite 90 degree angle at the knee has proven unworkable in vehicles with sloped seat cushions. This is because keeping the spine vertical and the knees at 90 degrees could mean that the legs do not fully contact the seat cushion. Accordingly, the reference to a specific leg angle has been removed and the legs are to follow the contour of the seat cushion while maintaining a vertical spine.

Plane B is used to place the child dummies roughly in the center of the seat. In defining Plane B in the final rule, we specified that the plane would be aligned along the geometric center of the seat parallel to the longitudinal centerline of the vehicle. We believe it may be clearer to specify that Plane B is aligned along the longitudinal centerline of the seat rather than the geometric center. We acknowledge that in vehicles where the outside seat bolster is larger than the inboard seat bolster, the center of the designated seating position may be slightly different than the center of the actual seat. We do not believe this difference will be significant. Accordingly, we have decided against adopting Toyota's recommendation to use the H-point. We believe it is appropriate to establish Plane B as a plane that can be practically and repeatedly defined. In keeping with our desire to have automatic suppression positioning procedures that are not overly specific, we have decided against adopting a plane that is defined by the H-point rather than the overall measurements of the seat.

As discussed above, the seating procedure for the 5th percentile adult female has been changed in various respects. One of those changes involves changing the initial knee angle from 90 degrees to 120 degrees. We believe this change will largely resolve the problem addressed by TRW's presentation at the technical workshop. We also note that using humans rather than test dummies may resolve any lingering problems in this regard.

DaimlerChrysler is correct that there is no need to specify that the placement of threads used to hold the dummy in position not interfere with the air bag. The automatic suppression tests do not involve deployment of the air bag. Accordingly, it is irrelevant where these threads are located relative to the air bag. This requirement has been removed.

Isuzu is correct that the intent of the leaning against the door test procedure is to have the dummy contact the door, not to avoid contact. Thus, the requirement for a minimum distance from the vehicle interior has been changed to specify a maximum allowable distance from the vehicle interior.

3. Use of Humans for Testing Automatic Suppression Systems

Toyota raised several issues in its petition related to the use of current anthropomorphic test dummies and humans in automatic suppression tests. Initially, it urged the agency to work with industry in developing better test dummies because of the recognition problems many automatic suppression systems have with the current test dummies. Mitsubishi echoed this request. Not only are the current dummies not physiologically accurate enough to mimic the human form or characteristics, but according to Toyota, these dummies shift up the suppression threshold when compared to humans of the same weight. Thus, as many as 50 percent of the tests conducted by or on behalf of Toyota with the 5th percentile adult female test dummy did not detect the presence of that dummy at the weight needed to turn off the suppression system; i.e., to assure that the air bag would deploy in a crash.

Toyota was dissatisfied with the option that they certify their systems using humans within specified height and weight ranges because it believes those parameters allow for too much variation in physiology to make humans practical test objects.

Finally, Toyota maintained that NHTSA should specify as part of the regulatory text that it will conduct its compliance tests using the test device used by the vehicle manufacturer when it certified its system. Thus, if certification was based on tests with human test objects, NHTSA would conduct its compliance tests using humans. Likewise, if the manufacturer used a test dummy to certify compliance, the agency would use test dummies in running its compliance tests.

At the December 2000 workshop, TRW presented data indicating that the seated weight distribution of the 5th percentile adult female test dummy is sufficiently different from the seated weight distribution of a seated human who is in the weight and height range specified in the final rule.

We recognize there may be some variations in using humans instead of a test dummy. As discussed in both the SNPRM and the final rule, the fact remains that no physiologically accurate dummy currently exists. This is why we decided to allow manufacturers to certify compliance with the automatic suppression requirements using either the existing test dummies or human beings. Thus, while we note Toyota's concerns, we see no alternative beyond what is already in the final rule. If Toyota finds that its automatic suppression systems cannot adequately distinguish between the 6-year-old child dummy and the 5th percentile adult female test dummy, then it may certify compliance using humans.

As noted in the final rule, certifying compliance using humans for recognition purposes constitutes exercising a specific compliance option. Thus, NHTSA must be told whether certification to the automatic suppression option was based on recognition of dummies or of humans. We will conduct our compliance tests using the type of occupant used by the manufacturer. We note that manufacturers will not be able to come back to the agency, in the event of a noncompliance, and argue that the system would meet the requirements if another type of occupant were used. Likewise, manufacturers cannot use humans for some portion of the automatic suppression test for a given size child/dummy and test dummies for other portions related to that size child/dummy.

We do not believe it is useful to further restrict the size and weight ranges of the humans that may be used for conducting compliance tests. As an initial matter, further restrictions will make it more difficult to find surrogates for use in the tests. More importantly, adopting narrower parameters has the potential of reducing the effectiveness of automatic suppression systems in the real world. As explained above in our discussion of the positioning procedures for child-size occupants, we believe automatic suppression systems need to be very robust. This is why we have refused to adopt more stringent positioning procedures in many of the automatic suppression tests. The same rationale applies here.

B. Low-Risk Deployment Options

In the final rule, the agency adopted the low-risk deployment tests that were proposed in the SNPRM with two modifications. First, we decreased the speed in the crash test that determines the low-risk stage of deployment from 29 km/h (18 mph) to 26 km/h (16 mph). We have already addressed the comments and petitions for reconsideration that deal with this change. Second, we reduced the number of steps involved in placing the dummies in a final position because we were concerned that small variations in the procedure, as well as specific vehicle configurations, could lead to significant variations in final placement of the dummy. Since the only position we are interested in is the final one, it seemed reasonable to specify that

VOL 66 ISS 243 DE 18 2001 UMI

position and not address how it was reached. However, we retained, with slight modifications, the step-by-step procedure proposed in the SNPRM for the head-on-instrument-panel test position because we believed it was impossible to specify a final position for that test with sufficient clarity. We also set the test duration at 300 ms, as measured by the point where the air bag is signaled to deploy, taking into account DaimlerChrysler's observation that peak injury readings could occur after the 100 ms time frame proposed in the SNPRM.

We received several petitions regarding the test procedures for both the driver and passenger low-risk deployment tests, as well as the 300 ms time frame specified in the final rule for those tests. Additionally, several issues regarding the low-risk deployment test procedures were raised at the December 2000 technical workshop. More detailed discussions are given below that directly address the petitioners' specific concerns.

1. 300 ms Test Duration

In the final rule, we extended the period of time for which we would collect data from the proposed 100 ms to 300 ms, relying in large part on DaimlerChrysler's comments to the SNPRM that the proposed 100 ms timeframe was too short to allow clearance of the dummy from the air bag in some systems.

Several petitioners, including Toyota, the Alliance, TRW, and DaimlerChrysler have argued against the extension of the 300 ms data acquisition requirement for measuring injury criteria in the low risk deployment tests. Toyota, Takata, and the Alliance argued that data should only be counted prior to impact of the head, neck and torso with interior components other than the air bag. Toyota indicated that its dynamic tests showed that interaction with these other interior components were not significant. However, in its static tests, the peak injury values were the result of dummy interaction with these components. Arguing that the dynamic tests better represent actual crash events, Toyota stated that the data produced as a result of interaction with interior components other than the air bag were of little consequence and should not be counted. Toyota, Honda and VW noted that their primary problem with the 300 ms time frame was that the lack of requirements regarding seat track, height, and seat back angle made it impossible for them to determine whether a dummy could meet all applicable injury criteria for that period of time since they could not determine how the dummy would respond in all the possible seat positions. The Alliance suggested the test last until the dummy was no longer in contact with the air bag or 300 ms, whichever occurs first.

DaimlerChrysler argued that since the 300 ms range was not included in either the NPRM or the SNPRM, commenters did not have sufficient opportunity to comment on it.

We adopted the 300 ms time duration after DaimlerChrysler commented that the 100 ms time duration proposed in the NPRM was insufficient for some air bag systems. Contrary to DaimlerChrysler's assertion, the issue of time duration for low risk deployment tests was raised in the SNPRM and the 300 ms requirement was adopted in light of the comments to that document. Because of the concerns originally raised by DaimlerChrysler, we continue to believe a time duration less than 100 ms would be too short.

We adopted a specific period of time for measuring injury criteria because we do not want manufacturers to claim that a test is over for compliance purposes even though air bag-related injuries are possible. In order to address the petitioners' concerns, NHTSA reviewed its out-of-position tests to determine if there is a need to further truncate the data. We reviewed twelve tests conducted at VRTC. Seven of the twelve tests were conducted with a 5th percentile adult female dummy in the driver position, and five were conducted using the 6-year-old child dummy on the passenger side. In the seven driver tests the sole failure mode was Nij, with the latest failure occurring at approximately 40 ms. The earliest moment of contact with the vehicle interior was at 62 ms, and the earliest point at which the dummy was clearly no longer in contact with the air bag was at 58 ms. In the five passenger tests there were HIC, chest deflection, Nij, neck tension, and neck compression failures. The earliest contact with the vehicle and the earliest clear indication that the dummy was no longer engaged with the air bag were both at approximately 50 ms. Two of the five tests had peak neck injury readings after 50 ms, with the latest peak measurement recorded at 104 ms.

We are not adopting the recommendation made by the Alliance that injury criteria be measured for 300 ms or until the dummy is no longer in contact with the air bag, whichever occurs first. We believe this proposal to subjectively determine when the dummy is no longer in contact with the air bag is inherently nonobjective, and would be unmanageable from a compliance perspective. Measuring injury criteria for a specific period of time is the most objective way to assure that the requisite injury criteria are met for the duration of the test.

As noted in the preamble to the final rule, we do not believe that all dummy contact with the vehicle interior would necessarily be the result of dummy interaction with an overly aggressive air bag. Nevertheless, we are concerned that peak injury measurements that are recorded early in the crash event could be the result of an air bag propelling the dummy backward with excessive force. Likewise, we are concerned that with a multiple-stage air bag, those stages that are deployed later in the crash event could be sufficiently aggressive to cause injury. The test duration for low risk deployment tests should accurately reflect the propensity of the deploying air bag to harm an occupant while it is deploying. Thus, we are adopting a time duration for the low risk deployment test of 125 ms from the initiation of deployment of the final stage air bag that will fire in a 26 km/h (16 mph) crash. We believe this time frame will adequately measure air bag-related injuries without penalizing manufacturers for injuries sustained by vehicle contact that is unrelated to the air bag deployment. However, we intend to monitor our test data to determine whether all air bag-related injuries are in fact being included within the specified time period. If they are not, we may consider increasing the period of time for measuring injury criteria in the compliance tests.

We believe that currently manufacturers would not deploy the last stage of an air bag more than 100 ms after first initiating an air bag deployment. Thus, the injury criteria would likely only be measured up to 225 ms, and often for an even smaller period of time. Vehicle manufacturers will be required to provide NHTSA with the time interval between the initial signal to deploy the air bag and the initiation of the final stage of deployment so that we will know when to stop counting the injury measurements. We note that the 300 ms time duration remains in full effect for all barrier tests.

2. Seat Positioning

Toyota requested that all the low risk test procedures incorporate specific seat positions. They argued that more specificity was needed to achieve repeatable results. At the public workshop, other participants echoed this request, stating that the lack of seat position requirements, when coupled with a 300 ms test duration, prevented them from controlling injury measurements after the dummy's head and chest had cleared the air bag. They said they would need to test in all possible seat positions to ensure that a dummy rebound would not cause unacceptably high injury measurements.

We believe we have largely resolved the petitioners' concerns regarding the location of the seat by reducing the duration of the low risk deployment tests. However, because we are rejecting a test duration that is defined by when the dummy clears the air bag, we believe there may still be value in specifying the seat position. Accordingly, seat track, seat height, head restraint, and seat back angle are now all specified in the positioning procedures for each of the low risk deployment tests.

3. Tests to Determine Which Stage of Deployment Will Be Used in the Low Risk Deployment Tests

The final rule requires all vehicles certified to the advanced air bag requirements pass a static low risk deployment test or dynamic suppression test on the driver side and a low risk deployment, automatic suppression test, or dynamic suppression test on the passenger side. These requirements are consistent with TEA 21's mandate to reduce the risk of air bag injury to all front-seat occupants in low speed crashes, particularly small women and children.

The low risk deployment test actually consists of two different types of tests, a dynamic crash test and a static low risk deployment test. Each type of test serves a specific purpose.

Prior to conducting the various static low risk deployment tests, the manufacturer must first determine which stage or stages of the air bag to deploy in the static low risk test. This is determined by running a dynamic, frontal barrier crash test at 26 km/h (16 mph) (except for the 12-month-old child dummy, where the dynamic test is run at 64 km/h (40 mph)). Under the May 2000 final rule, all of these dynamic tests, except for the one involving low risk deployment technology for infants, are run using an unbelted 50th percentile male dummy in the mid-track seat position.[6] The use of the 50th percentile male dummy in the dynamic crash test effectively makes crash speed the sole determinant of which stage or stages of the air bag fires in the static low risk deployment test. Injury measurements are not recorded.

Once the appropriate level of deployment has been determined, the specified static low risk deployment test is run for each of the dummies for which the manufacturer has certified to the low risk deployment option, and injury criteria are measured. The static low risk deployment tests are conducted with a 5th percentile adult female at the two specified positions on the driver side and either a 6-year-old child, or 3-year-old child dummy at the two specified positions on the passenger side (the manufacturer may use a combination of automatic suppression and low risk deployment systems).

The purpose of determining compliance with the injury criteria using the 5th percentile adult female dummy on the driver side and with the 6-year-old and/or 3-year-old dummies on the passenger side is to ensure that the low risk deployment is sufficiently benign to prevent air bag-related serious injuries or fatalities to the entire population of individuals who are exposed to a low risk deployment in a low-speed crash. Compliance with the injury criteria is determined using only the dummies that represents historically the most-at-risk individuals within the greater population because requiring tests using all the dummies represented by the greater population would be overly expensive. In issuing the final rule, we assumed that heavier individuals would not be seriously injured by an air bag that meets the injury criteria for the smaller dummy.

DaimlerChrysler petitioned us to have the dynamic tests run with the dummies which will be used in the static low risk deployment tests rather than with a 50th percentile adult male dummy. DaimlerChrysler's petition for reconsideration made four arguments: the sole purpose of the dynamic test is to determine what stage air bag to deploy in the static low risk deployment test; using the 50th percentile adult male test dummy is inconsistent with the use of the 12-month-old dummy in the dynamic portion of the infant low risk deployment test; the agency failed to consider the impact of using the 50th percentile adult male in the dynamic portion of the non-infant low risk deployment tests; and reducing the size of the dummies used in the dynamic portion of the low risk deployment tests will resolve many of its concerns regarding the size of the gray zone between the low risk deployment tests and the barrier tests since it will be able to design low risk deployment systems based on occupant recognition rather than on crash speed alone.

In a recent meeting with the agency, DaimlerChrysler changed its position and suggested that the dynamic portion of the test could be run with the 5th percentile adult female dummy on the passenger-side and the 50th percentile adult male dummy on the driver-side. While DaimlerChrysler did not provide a basis for its change in position, Volkswagen and BMW reiterated this potential approach in subsequent meetings and provided a basis for making the change. All three manufacturers expressed concern with the ability of current automatic suppression technology to reliably differentiate between a 6-year-old child and a small adult in real world conditions. Volkswagen and BMW indicated that the occupant recognition technology that they had studied can reliably differentiate between a small adult and a mid-size adult male. They expressed confidence that they could employ a low-risk deployment strategy that would assure all children and small adults would receive the benefit of a benignly deploying air bag at low speeds, while larger occupants could be provided with an air bag that deployed with more force. This design strategy would allow the manufacturer to provide protection to the larger occupant, while minimizing the risk of injury to smaller occupants. All three manufacturers stated that they would suppress the air bag in the presence of an infant.

Accordingly, we have decided to specify that the dynamic portion of the low risk test be run with the 5th percentile adult female on the passenger-side. Because we do not want manufacturers to rely on a seat-track based system to assure a low risk deployment at speeds up to 26 km/h (16 mph), we are further specifying that the test may be run with the passenger seat in any seat track position.

Low risk deployment options on the driver side remain the same as in the final rule. This is because there are not the same practicability concerns as there are on the passenger side and because no one needs the full-powered deployment of a driver air bag in low speed crashes.

4. Test Procedures for the Passenger Air Bag

As discussed briefly above, the positioning procedure for the chest-on-instrument-panel test was revised significantly in the final rule. The procedure for the head-on-instrument-panel test was largely adopted as proposed in the SNPRM. The Alliance stated in its petition that neither test position assured that the dummy's head

---

[6] In the infant test, the test is conducted with the 12-month-old child dummy in a belted rear-facing child restraint, since this is the only risk group the requirement attempts to protect.

VOL 66 ISS 243 DEC 18 2001 UMI

or chest would actually be positioned against the instrument panel, contradicting the intent of the original ISO positions on which they were based.

a. Chest-on-Instrument Panel Test Procedure

While the petitions addressed both the head-on-instrument panel and chest-on-instrument panel test positions, the greatest criticism was leveled against the chest-on-instrument panel position. While Toyota and the Alliance expressed general concerns about the test procedure in their petitions, the most comprehensive analysis was provided by TRW. TRW noted that when both the 3-year-old and the 6-year-old test dummies are initially positioned as required and then moved forward, it soon becomes impossible to keep Point 1 in Planes C (a horizontal plane) and D (a vertical plane) as specified by the regulatory text because of contact with the windshield. The problem is more acute with the 6-year-old dummy than with the 3-year-old dummy, although it can occur with either dummy depending on vehicle design. While the regulatory text then specifies that the dummy may be lowered until there is a 5 mm (0.2 in) clearance from the windshield, TRW noted that the text does not then say whether to continue to move the dummy forward along a diagonal plane until there is contact with the instrument panel, or to leave the dummy in that position. Leaving the dummy in that position may result in the chest being a considerable distance from the instrument panel. Moving the dummy along a diagonal plane until there is contact with the instrument panel may mean that Point 1 is significantly lower than Plane C, the horizontal plane located at the center of the air bag tear seam. TRW noted that this is particularly problematic in vehicles with top-mounted air bags because Plane C is on or near the top of the instrument panel. It is also a problem in vehicles with deeply sloped windshields because contact with the windshield occurs relatively quickly. These concerns were echoed by Honda and Autoliv in their late submissions and by other manufacturers at the December 2000 technical workshop.

At that workshop, VW inquired as to whether a handgrip mounted on the front of the instrument panel would be considered as part of the instrument panel for the purpose of these tests. VW also queried whether it could place the legs of the 6-year-old dummy back on the dummy after the final position had been reached in vehicles where it was possible to do so. This request was similar to the one made by DaimlerChrysler in its petition that the legs of the 6-year-old dummy only be removed when necessary, as the removal of the legs could affect the dummy kinematics in a manner that may not be representative of a 6-year-old child.

Several petitioners and commenters asked for seat position requirements for the chest-on-instrument panel test procedure. We did not specify seat requirements for this test because the seat is not used in positioning the test dummy. The primary concern on the part of petitioners is that the lack of a specified seating position may lead to excessive test variability that is unrelated to air bag design, particularly if injury criteria are to be measured for 300 ms. Our resolution of this issue was discussed earlier.

We believe the primary problem with the seating procedure specified in the final rule is that it starts with the dummy in an elevated position and then moves the dummy forward along a horizontal plane. The SNPRM had proposed a test procedure where the dummy was positioned against the instrument panel and then moved up. We have reevaluated both positioning procedures and believe that the procedure proposed in the SNPRM largely resolves the problems experienced by petitioners. The regulatory text has also been simplified to make the positioning procedure clearer. In response to VW's question, the instrument panel would include any handgrips that are within Plane D.

Under the new test procedure, there may be some instances where the center of the chest, as indicated by Point 1, will not be in the same horizontal plane as the center of the air bag, as indicated by Plane C. This will be more likely in vehicles with top-mounted air bags. In that instance, we believe it is more important to place the chest against the instrument panel, than to establish Point 1 in Plane C. The only way to assure that Point 1 remains in Plane C and that the chest maintains contact with the instrument panel in all vehicles would be to remove the windshield for vehicles with top-mounted air bags. We believe this is an inappropriate test condition.

It is possible that even with the new positioning procedures, there may be instances where the deployment of the air bag will be closer to the dummy's head than Point 1. We believe that two vehicle designs could lead to such a scenario. First, if the windshield were severely sloped at a position rearward of the instrument panel, the dummy could strike the windshield before the chest is positioned near Plane C. Second, if the air bag were a top-mounted air bag, such an air bag could establish Plane C substantially higher than it would be in a mid-mounted air bag. In these instances, the chest-on-instrument panel test may test the effect of the air bag on the head and neck twice. The dummy would be positioned further away from the air bag than in the head-on-instrument panel test, so it is likely that the chest-on-instrument panel would produce lower injury measurements than the head-on-instrument panel test. However, it is possible that the particular kinematics may result in a greater stress on the neck. Accordingly, we will be paying particular attention to the test results from this chest-on-instrument panel test, particularly in vehicles with top-mounted air bags.

We have decided against allowing manufacturers to leave the legs on the 6-year-old dummy in vehicles that will accommodate the entire dummy in this position. Having the legs attached in some but not all compliance tests could lead to different injury measurements, because of the different dummy kinematics. We believe it is critical that all vehicles should be tested using the same test procedure.

b. Head-on-Instrument-Panel Test Procedure

The final rule specifies placement of the 3-year-old and 6-year-old test dummies such that the head is located on the instrument panel. This test procedure was challenged by several petitioners and commenters. Honda commented that it believed differences in the dummy's leg position could affect the kinematics of the crash and the injury measurements. It noted that it believes that this is particularly troublesome with top-mounted air bags. Honda maintained that the positioning procedure for the head-on-instrument panel test calls for rotating the dummy thighs and legs in a manner that does not sufficiently control the positioning of the legs. It offered no suggestions, however, on how to resolve its concerns. Toyota and TRW raised questions regarding dummy movement after contact has been made with the instrument panel. They noted that if the dummy were not moved once contact was made, the dummy could be a considerable distance from the instrument panel. This is because the knees could strike the instrument panel early in the positioning process, and the chest or head would still be some distance from the instrument panel. Toyota and TRW urged us to change the regulatory text to accommodate an early knee contact. At the public workshop, some participants, primarily Honda and Toyota, urged us to specify that the dummy be pushed forward once initial contact was made while others, primarily DaimlerChrysler and VW, urged that movement of the dummy stop once initial contact was made. The primary difference in opinion was due to concerns on the part of some participants that moving the dummy forward could change the leg angle, which they believe could lead to wide variations in the final placement of the dummy on the instrument panel. Those supporting the continued movement of the dummy argued that it was more important to get the dummy against the instrument panel than to maintain a level leg position.

Honda failed to provide any data indicating that more specific leg positioning procedures are needed. We acknowledge that the angle of the femur, as measured against the spine, could have some effect on the abdomen. However, we do not believe that slightly different angles would lead to inconsistent HIC or Nij measurements, the most critical injury criteria for this test. Thus, we have decided against adopting more specified leg positioning procedures. Likewise, we have decided against adopting the recommendation of VW and DaimlerChrysler that the leg remain parallel to the floorpan, when maintaining that position would result in the head not being placed on the instrument panel. We believe it is critical that the head be in contact with the instrument panel, even if the legs must be rotated out of a horizontal plane to achieve contact. Thus, under the new test procedure, early leg contact does not prevent placement of the dummy head on the instrument panel. Instead, the dummy is rotated forward until contact is achieved. While in some instances, this rotation could result in a relatively severe leg angle, as measured against the pelvis, we believe it is more critical that the head contact the instrument panel than that this angle remain constant.

c. Definition of Points, Planes and Materials

The positioning procedures for the low risk deployment tests specify two planes and one point. “Plane C” is defined as the horizontal plane through the geometric center of the right air bag tear seam. “Plane D” is defined as the vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the right air bag tear seam. “Point 1” is defined as the center point of the dummy's chest/rib plate (the vertical mid-point of the frontal chest plate of the dummy on the midsagittal plane).

Questions were raised at the workshop about referencing Point 1 from a rigid structure on the dummy, such as the shoulder joints, rather than a point on the chest jacket. Several petitioners, including TRW, DaimlerChrysler, and Toyota sought clarification of what the agency meant by the term “geometric center of the right air bag tear seam”. They noted that many passenger systems do not have a true tear seam. Rather, they may have a cover that opens as part of the instrument panel. The air bag may not be centered under the cover. Likewise, the instrument panel may be a solid surface with no visible tear seam. In both of these instances, the “geometric center of the right air bag tear seam” is difficult to determine and could vary depending on who is conducting the test. Finally, at the technical workshop, DaimlerChrysler requested that Plane D be established relative to the geometric center of the seat rather the geometric center of the air bag. This would allow them to take advantage of various countermeasures, such as a slight offset, that they use to reduce the aggressivity of the passenger air bag.

We have redefined the location of Point 1 to place it in a location relative to the upper edge of the chest jacket rather than the center of the chest/rib plate. The chest jacket, while relatively snug, still moves about the dummy's ribcage. Thus, the center of the chest/rib plate may be different relative to the internal hardware from one test to another. The upper edge of the chest jacket, however, remains largely the same, making it a preferable point of reference. We decided against measuring Point 1 relative to fixed hardware because we do not believe that degree of specificity is required and because there is very little exposed fixed hardware. Point 1 is now located on the front of the dummy chest jacket on the midsagittal plane by measuring a certain distance along the surface of the chest skin from the top of the skin at the neckline.

We agree that the final rule is not as clear as it could be in specifying the location of the planes. “Air bag tear seam” has no technical definition. Accordingly, the center of the tear seam could be subject to different interpretations. More importantly, the apparent air bag opening may be considerably different from the opening from which the air bag initially emerges. This is because the air bag covers may be designed in a manner that best accommodates the overall shape of the dashboard, with only a nominal relationship to the actual location of the air bag opening beneath the dashboard. Additionally, many dashboards have no discernable air bag cover, and the air bag enters the occupant compartment through a tear in the dashboard. At the technical workshop, the agency attempted to garner some consensus among industry on a better definition that would establish the vertical and horizontal planes along a point that was centered on where the air bag deployed. No one was able to come up with a location that was readily understandable and that was easily measured.

We do, however, believe that it would be more appropriate to specify that the planes be established using the geometric center of the opening through which the air bag deploys into the occupant compartment. This would not necessarily be the same as the geometric center of the air bag cover. Rather, it would be the geometric center of whatever frame or casing is used to allow the air bag to deploy in a controlled manner. Since this frame or casing cannot be seen without dismantling the dashboard, we intend to ask vehicle manufacturers to give us the location of the air bag opening as part of our pre-compliance test information requests.

The final rule specifies that the dummies be held in place using thread. Toyota requested specific definitions related to the material properties of the thread. TRW asked that the specification for thread be removed, arguing that other materials, such as tape, could work just as well. We agree with TRW. The material properties of the binding is irrelevant as long as it holds the dummy in place for the duration of the low speed deployment tests. Thread was merely specified because that is the material the agency has traditionally used. The regulatory text has been changed to remove the specification for thread.

We have chosen not to use the geometric center of the seat as a reference for Plane D. We have changed the definition to “* * * vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the opening through which the right front air bag deploys into the occupant compartment.” We believe this is more practical for compliance tests and removes the problem of defining the tear seam.

5. Driver Side Air Bags

As with the low risk deployment tests for the passenger air bag, the agency did not provide final seat positions for the test dummy in tests for the driver air bag in the final rule. Toyota has petitioned that detailed seat positions be specified. For the reasons discussed in the section of this document addressing the passenger low risk deployment tests, we are adopting specific seat track, head rest, seat cushion angles, and seat back positions. Beyond Toyota's general request, all other petitions related to the driver air bag low risk deployment test procedure addressed concerns with the chin-on-rim procedure.

The purpose of the chin-on-rim test is to determine the risk of injury when a person's chest is directly in the path of the deploying air bag. The test is conducted with a 5th percentile adult female test dummy. The test procedure requires the dummy be moved up off the seat and positioned with spacer blocks.

Toyota stated in its petition that the procedure for the chin-on-rim test specified in the final rule did not adequately ensure that the dummy's chin would not catch on the rim of the steering wheel, leading to artificially high neck extension bending moments. Honda raised similar concerns. Toyota noted that the regulatory text specifies that the chin not be hooked over the rim, but noted that it believed a more detailed test procedure was needed to prevent the potential problem. It suggested that a point on the chin 40 mm below the mouth be placed at the uppermost edge of the rim. Toyota also stated that using the seat to move the dummy forward results in pre-loading the dummy, which it maintains moves the torso roughly 20 mm closer to the steering wheel than if only the dummy is moved forward. Toyota presented no data analyzing the effect of such pre-loading. Mitsubishi queried whether forward head movement was to cease if the dummy chest or torso impacted the steering wheel before the head contacted the windshield. TRW wanted to know if the dummy is further moved, and in what direction, if the head hits the windshield. It also asked whether the dummy's thorax instrument cavity rear face angle needs to be maintained during the positioning procedures. Honda noted at the technical workshop that the dummy could contact the windshield or the header long before the dummy's chin contacted the steering wheel. Honda questioned whether the dummy should be moved down so that contact with the steering wheel is made, even though this would lower the chest.

Toyota is correct that the agency intended to provide a procedure that prevents the chin from hooking over the steering wheel when it published the final rule. We also agree that Toyota's suggestion to define a point on the chin that contacts the steering wheel is a more objective means of ensuring that the chin does not hook over the rim. Accordingly, we have adopted that change in test procedure.

As to its concern with potential pre-loading, we note that Toyota failed to provide any data addressing the effect of potential pre-loading in its petition. We would agree that, in general, pre-loading is not desirable. However, we believe it is very important that the chin actually makes contact with the steering wheel. Additionally, we believe that placing the center of the chin directly on the steering wheel will reduce the likelihood of any pre-loading. Accordingly, we are not changing the procedure to address the possibility of pre-loading.

The thorax instrument cavity rear face angle is an initial position. We expect in many instances that this angle will need to be changed to address specific vehicle designs. This is because we believe it is very important to position the dummy parallel to the steering wheel before deploying the air bag. Keeping the dummy parallel serves multiple purposes. First, it should largely resolve Honda's concern that the dummy head will impact the windshield or header before the dummy's chin contacts the steering rim, as well as Mitsubishi's question on whether to stop moving the dummy if steering wheel contact is made before the head strikes the windshield. Second, it tests for a worst case scenario; i.e., a direct impact by the deploying air bag. Finally, we believe it provides the most repeatable test procedure.

VI. Issues Related to Injury Criteria

A. Head Injury Criteria (HIC)

In the final rule, we adopted a new Head Injury Criteria applicable to vehicles meeting the new, advanced air bag requirements. For the 50th percentile adult male dummy, Standard No. 208 has required manufacturers to certify that the dummy HIC measurement does not exceed 1000 when calculated over a period of 36 ms. Under the new criteria, that measurement is now limited to 700, but is calculated over a much shorter 15 ms period. The HIC for the new 5th percentile adult female dummy is also 700 when calculated over 15 ms, as is the HIC for the 6-year-old child dummy. Lower maximum HIC were established for the 3-year-old and 12-month-old dummies.

The Alliance and DaimlerChrysler petitioned the agency to scale the HIC measurements for the 5th percentile adult female dummy and the 6-year-old child dummy at a maximum HIC of 779 and 723, respectively. The Alliance argued that these proposed limits were derived from the new maximum HIC for the 50th percentile adult male dummy using a scaling relationship that considered the size differences of the heads of the three dummies. It further argued that we did not consistently apply these scaling relationships when establishing a maximum HIC of 700 for all three dummies.

Petitioners have not provided biomechanical data to support their contention that a higher maximum HIC for the 5th percentile adult female dummy or the 6-year-old child dummy is appropriate. Rather, petitioners appear to base their scaling technique on the premise that the experimental population was the representative size of the 50th percentile adult male head or that the analysis that produces HIC somehow explicitly accounted for head size and the HIC relationship now represents only the 50th percentile male. While it is true that the mean head size of the experimental population is approximately equal to that of the 50th percentile adult male, the head size of the experimental population also spans that of the entire adult population. In particular, the experimental population correlates with the size of a 5th percentile adult female in about 30% of the cases, with a 50th percentile adult male in about 33% of the cases and with a 95th percentile adult male in about 37% of the cases. Furthermore, there is insufficient data to develop a statistically significant relationship of how head size modifies HIC threshold levels, i.e., that the smaller size of the 5th percentile adult female head results in a higher HIC threshold than a 50th percentile adult male head. Consequently, we believe that there is no need or justification to provide different maximum HIC levels for any sub-group of the adult population, and we continue to support a maximum HIC value of 700 for both adult dummy sizes.

As previously discussed in the biomechanical technical report released with the final rule, we have no biomechanics data on the skull fracture and brain injury tolerances for children. Thus, we scaled the HIC for the 6-year-old child dummy, the 3-year-old child dummy, and the 12-month-old child dummy based on geometric size and material strength. Since exact scaling is inappropriate for the reasons given above, judgement was used to determine whether the scaled limits were reasonable. The scaled measurement for the 6-year-old child dummy was 723, a limit slightly higher than that for the adult population. However, since the scaling is an inexact science and much of this rule is designed to reduce the risk of death or serious injury to small children, we believe that raising the maximum HIC for the 6-year-old child would be inappropriate.

Agency low risk deployment tests of seven 1999 model year vehicles indicates that a maximum HIC of 700 for the 6-year-old child test dummy is practicable. One hundred percent of the vehicles tested in position 1 (chest-on-instrument panel) and in position 2 (head-on-instrument panel) measured a maximum HIC of less than 700. These injury levels were obtained in vehicles that have not been designed to the low risk deployment requirements of the final rule. We see no reason to raise the maximum HIC for this dummy.

B. Chest Injury Measurements

In the SNPRM, the agency had proposed a maximum chest acceleration for the 5th percentile adult female dummy of 60 g. The Alliance recommended a maximum allowable chest acceleration rate of 73 g. Instead of adopting the Alliance's proposal, we decided to adopt the 60 g limit. This is the same acceleration limit that has been in place for the 50th percentile adult male dummy for some time. The Alliance's recommended chest acceleration limit was obtained using scaling procedures that only considered the effects of the geometric differences between 50th percentile adult males and 5th percentile adult females. We determined that considering these factors alone insufficiently accounted for the risk to out-of-position occupants and to elderly women, who have been disproportionately injured by deploying air bags. Accordingly, we adopted a maximum chest g of 60 for the 5th percentile adult female test dummy.

The Alliance, Toyota[7] and DaimlerChrysler petitioned the agency to adopt the Alliance's scaled chest acceleration measurement of 73 g. They expressed particular concern over the effect the 60 g limit would have in the belted barrier test for the 50th percentile adult male dummy. According to the petitioners, the agency's measurement is far too conservative. They argued that the more conservative limit could cause difficulties in meeting the belted 48 km/h (30 mph) test and thus could lead manufacturers to lower the output of the seat belt load limiters, which would then require air bags to be repowered in order to achieve acceptable injury measurements in the 50th percentile adult male test dummy in the 56 km/h (35 mph) belted crash tests. DaimlerChrysler also argued that while existing seat belt designs can meet the 60 g limit, the levels so closely approach that level that manufacturers cannot certify compliance to the belted tests with a reasonable margin of compliance.

As noted above, the Alliance's recommended chest acceleration limit of 73 g for the 5th percentile adult female dummy was obtained using scaling procedures that consider only the geometric differences between the 50th percentile adult male and the 5th percentile adult female. This scaling method discounts any possible decrease in bone strength experienced by an older driver. Yet we know that older drivers are at increased risk from a deploying air bag. When one allows for the decreased bone mass, the scaled measurement is 61.6 g, only nominally more than the level specified in the final rule. Additionally, as noted above, any scaling method will be inexact, and some degree of judgement is required to determine how injury criteria should be scaled for different populations. The tests with the 5th percentile adult female dummies are intended to minimize to the greatest extent possible the likelihood that an individual would be severely injured or killed by a deploying air bag. Discounting the effect of decreased bone density would lead to the anomalous event where the most at-risk population would not receive the full benefits of the advanced air bag systems.

Petitioners have presented no data to substantiate their claim that a higher chest acceleration limit for the 5th percentile adult female dummy is necessary to avoid repowering air bags. However, NHTSA and Transport Canada have co-sponsored vehicle crash tests conducted at Transport Canada to determine whether the petitioners' claim has merit. Transport Canada conducted belted barrier tests at 48 km/h (30 mph) with both the 5th percentile adult female test dummy and with the 50th percentile adult male test dummy. We also looked at NCAP test results for vehicles of the same make, model, and production year to determine whether either the 50th percentile adult male dummy were measuring chest g's in excess of 60 g in 56 km/h (35 mph) belted tests.[8]

Twenty-six vehicles were tested at Transport Canada with the 5th percentile adult female dummy in both the driver and passenger position. The seats were positioned full forward. All dummies in the driver position and 25 dummies in the passenger position passed the 60 g chest acceleration limit, establishing 60 g as a practicable injury measurement. Only five of the dummies on the driver side recorded acceleration rates greater than 50 g. Three of these dummies contacted the steering rim, and we have determined that the higher chest g measurement was probably a result of that interaction. In the two cases where there was no steering wheel contact, we believe the higher injury measurements were likely the result of very stiff shoulder belts.

These observations were borne out by the results of the NCAP tests with the 50th percentile adult male dummy. In cases where the higher chest acceleration was probably the result of contact with the steering wheel, the male dummy experienced low chest accelerations at a comparable speed because it did not strike the steering wheel. In the two cases where NHTSA attributed the higher measurements to a stiff shoulder belt, the male dummy also measured high chest acceleration measurements in the 56 km/h (35 mph) NCAP tests. There were a number of vehicles tested in which the chest acceleration for the 5th percentile adult female was well below 60 g, and where the injury measurements of the 50th percentile adult male in the NCAP tests earned the vehicle a four- or five-star rating. Accordingly, we cannot accept Toyota's argument that a 60 g chest acceleration will require repowered air bags to provide protection to the 50th percentile male in a 56 km/h (35 mph) belted crash test.

We have reviewed three vehicle crash tests in which the lower thorax/abdomen of the 5th percentile adult female dummy contacted the steering rim, producing high chest g measurements and low chest deflection measurements. In these cases, the close proximity of the dummy's lower thorax/

---

[7] Toyota also recommended the agency adopt sternal deflection rate (SDR) as the appropriate chest measurement rather than acceleration. The agency had initially proposed adopting SDR, but dropped its proposal in the SNPRM because the biomechanics community argued persuasively that SDR was insufficiently developed to be used in compliance testing. We refer the reader to our discussion of SDR in the SNPRM.

[8] Although Toyota limited its argument that repowered air bags would be needed because of the 56 km/h (35 mph) belted barrier test using a 50th percentile adult male dummy, we reviewed the NCAP test results of vehicles tested with a 5th percentile adult female dummy to see if the chest acceleration indicate an overly stiff seat belt that was not designed for smaller occupants. The 5th percentile adult female dummy registered chest g readings that were slightly higher than those registered by the 50th percentile adult male dummy, but the readings were still significantly lower than 60 g.

VOL 66 ISS 243 DE 18 2001 UMI

abdomen to the steering wheel rim prevented the lower portion of the air bag from fully inflating. As a result, the lower thorax/abdomen was not offered protection and impacted the steering wheel rim. We believe that the injury criteria selected for the advanced air bag rule should be sensitive to the injurious loading mode of steering wheel rim contact. Chest deflection, measured only at the central upper thorax, and chest acceleration with a performance limit of 73 g would not identify these cases of steering wheel rim contact as injurious, whereas a performance limit of 60 g for chest acceleration would correctly identify this as injurious occupant interaction with the vehicles. Consequently, we continue to support a performance limit of 60 g for the 5th percentile adult female.

C. Neck Injury Criteria

As part of the final rule, we adopted a new neck injury criterion (Nij). Nij measures both neck axial force (tension and compression) and neck bending moments (flexion and extension). Prior to the issuance of the rule, neck injuries were not directly accounted for in barrier tests, although the 36 ms HIC duration did indirectly address concerns with neck injuries in real world crashes. We rejected DaimlerChrysler and Toyota's arguments in favor of not adopting Nij as part of the final rule. Our rationale was largely based on concerns the two manufacturers had regarding the suitability of the Hybrid III dummy neck for measuring extension.

In their petitions for reconsideration, both Toyota and DaimlerChrysler have reiterated their concerns with the Hybrid III neck design and with the adoption of Nij as an injury criterion. As in its response on the SNPRM, Toyota states that it believes the 5th percentile adult female Hybrid III neck is reading artificially high neck moments in crash tests that are not found in tests using the 50th percentile adult male test dummy. It also believes that the location of the load cell at the top of the neck does not address the likelihood of injury in the low- to mid-portion of the neck, the location where it believes most neck injuries actually occur. Finally, Toyota noted that a relaxed human neck can accommodate 15 degrees of rotation between the neck and the head, which the Hybrid III neck cannot. Due to the combination of these concerns, Toyota petitioned that the introduction of Nij be delayed until the bending moment issues are resolved. DaimlerChrysler petitioned the agency to measure only axial force rather than using Nij due to problems it believes the current Hybrid III neck has in measuring bending moments. It also averred that using Nij with the Hybrid III neck would require manufacturers to place rapidly deploying air bags in vehicles.

We have decided against either altering or eliminating Nij as an injury measurement. A full discussion of petitioners' arguments and our response to those arguments is provided in the technical paper "Supplement: Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems" (Docket No. NHTSA–00–7013–3).

We believe that the dummies do not generate artificially high neck moments in crash tests. Toyota indicated that a review of crash films did not point to likely neck injury, even though high injury measurements were recorded. We do not believe a review of crash films is a useful means of determining strain on the neck. This is because when there is a high loading rate and the cervical musculature is partially activated, the human neck can experience large extension moments even though the rotation of the head is small.[9] Testing at VRTC indicated that the moments experienced by human volunteers prior to noticeable head rotation were similar to the moments registered by the Hybrid III test dummy. The moments experienced by humans in a crash would be higher because the informal tests were static tests and because the neck was not pushed to the point of pain. Thus, we believe that the moments produced by the dummy neck when there is little head-to-torso rotation are a reasonable representation of what the human neck would experience in a similar crash environment.

Likewise, we do not believe that the neck on the 5th percentile adult female dummy produces neck injury measurements that are not representative of injury risk in real world crashes. Toyota stated that the risk of neck injury was roughly the same among all adult occupants, but that the 5th percentile adult dummy could not meet the required injury criteria, while the 50th percentile adult male dummy could. The neck of the 5th percentile adult female dummy was based on a scaled down version of the 50th percentile adult male dummy. Thus, there should be no test artifact that manifests in one dummy but not the other.

We agree with Toyota that most flexion injuries in the real world that are the result of inertial loading (i.e., loading of the neck due to restraints of the torso by seat belts) occur in the middle or lower cervical spine. However, research indicates that flexion and extension bending moments calculated at the occipital condyle are a good predictor of overall neck injury even though the site of injury was located below the occipital condyles in the middle cervical spine (C3–C4).[10] Additionally, for air bag loading, the upper cervical spine has been the predominant injury site for both children and adults. While real world data seems to indicate that tension and/or extension are the predominant injury mechanism in air-bag induced upper cervical spine injuries, research has shown that flexion can also produce similar upper cervical spine injuries.[11] Consequently, we believe it is appropriate to monitor the loads at occipital condyles using the upper load cell instrumentation, including tension, compression, flexion, and extension, to improve safety in both inertial and air bag loading situations.

Likewise, we disagree with DaimlerChrysler's contention that only axial forces should be measured because the axial force best determines real world risk of injury and a Nij requirement would require smaller or more aggressive air bags to counteract problems with the Hybrid III neck. We believe there is a good kinematic and dynamic correlation between the Hybrid III neck and the human neck. The Hybrid III neck is effective at measuring the risk of neck injury in the real world. High moment readings are consistent with injuries resulting from exposure to aggressive air bags. DaimlerChrysler suggested that the Thor dummy neck may be more biofidelic, but we note that Thor is still under development. If we determine that it is an adequate instrument for compliance testing and is a better predictor of occupant injury, we may incorporate it into Standard No. 208. Nevertheless, the possibility that an enhanced dummy neck will be available in the future is not a persuasive reason to delay action until that neck is available. While axial force may be an accurate indicator of injury in a single loading mode, the neck is subject to many loading modes in a crash, including flexion, extension, fore/aft shear, lateral bending, and torsion. These other loading modes also cause neck injury in the real world. This is why the agency adopted the Nij formula, which incorporates the relevant measurements for evaluating neck injury during frontal impact. We note much of the automotive industry has accepted Nij as a valid injury measurement.[12]

---

[9] See "Human Tolerance to Impact Conditions as Related to Motor Vehicle Design" SAE document J885, July 1986, which states "* * * the neck can be injured without exceeding its static angular range of motion * * * Measures of the neck may be a better indicator of injury potential [than angular rotation].

[10] Mertz H J and Patrick L M, Strength and Response of the Human Neck, Proceedings of the Fifteenth Stapp Car Crash Conference, SAE Paper No. 710855, (1971). Mertz H J and Partick L M, Investigation of the Kinematics and Kinetics of Whiplash during Vehicle Rear-end Collisions, Proceedings of the Eleventh Stapp Car Crash Conference, SAE Paper No. 670919, (1967).

[11] Nightingale R W, Winkelstein B A, Van Ee C A, Myers B S, Injury Mechanisms in the Pediatric Cervical Spine During Out-of-position Airbag Deployments, 42nd Annual Proceedings of the Association for the Advancement of Automotive Medicine, (1998).

VII. Issues Related to Labels, Telltales, and Owner's Manual Information

A. Warning Labels

In the final rule we added a new warning label that must be used in vehicles with advanced air bags. We also discussed in the preamble that we would not prohibit additional labels on the sun visor that provided design-specific information on how to use a vehicle's advanced air bag technology. The regulatory text, however, did not remove the prohibition against adding additional information on the sun visor.

We received petitions for reconsideration for and comments on both the changed label and on the issue of whether to allow additional information other than that required by the warning label. Toyota urged us to keep the existing warning label, except for the addition of the statement "even with advanced air bags", arguing that the advanced air bag technology is not yet developed enough to justify a weaker label. DaimlerChrysler, GM, the Alliance and Ford have all requested that we limit any information beyond that in the required label to the owner's manual and that no additional information be allowed in the vehicle interior. Parents for Safer Air Bags asked for clarification of the agency's position.

As noted above, S4.5.1(b)(3) prohibits any information other than an air bag maintenance label or a SUV rollover warning label from appearing on the same side of the sun visor as the air bag warning label, and prohibits any additional information about air bags or the need to wear seat belts on either side of the sun visor. However, this was not our intent. Rather, as stated in the preamble to the final rule, we intended to allow additional, design-specific information on the sun visor and near the new air bag warning label. We did not believe such information should be automatically relegated to the owner's manual because we believed that people are more likely to read a highly visible warning label than an owner's manual.

In response to the NPRM, DaimlerChrysler, GM, and the Alliance had all supported the position expressed in the preamble to the final rule. Indeed, the agency's decision to allow additional information was based on comments from these entities, as well as comments from the NTSB and the Center for Automotive Safety. GM, DaimlerChrysler, and the Alliance have now all changed their original position and now urge the agency not only to prohibit any additional information on the sun visor, but to limit such information to the owner's manual. The basis of the various petitions is that sun visor labels that carry different information may be confusing and may result in information overload. The petitioners also stated that allowing additional information would be inconsistent with our previous position that warning labels should be uniform to maximize the effectiveness of the message.

We have decided to allow additional labels on the sun visor that provide design-specific information about a particular advanced air bag system. We note that advanced air bag systems are different from traditional air bag systems in that those systems may have unique design characteristics. Thus, a manufacturer could determine that additional labels may provide crucial information that the vehicle owner should be aware of.

Some systems, particularly those that rely on automatic suppression technology, may allow the vehicle occupant to change the status of the air bag. For example, in the case of a vehicle certified to the automatic suppression requirement, the required telltale will not be illuminated in most instances. Under the regulation, the telltale must remain off if an occupant as large as the 5th percentile adult female is seated in the passenger seat. Additionally, the regulation allows manufacturers to have the telltale turned off if the passenger seat is empty, even though the air bag may be suppressed. Thus, an adult may not even be aware of the presence or purpose of the telltale until a child is placed in the passenger seat and the telltale illuminates. We are confident that our automatic suppression procedures are broad enough to ensure that the telltale will illuminate in most instances. However, those procedures are not representative of all possible seating positions or all child restraints. Thus, it is possible that a particular restraint would not be detected by an automatic suppression system, or that an unrestrained child could be in a position that was not detected by the automatic suppression system.

If the driver of the vehicle or another occupant was aware that the telltale should be illuminated whenever the air bag is suppressed, then they could move the child to the back seat. If for some reason that were not possible, the driver would be aware of the need to either resecure the child restraint, replace the restraint if necessary, or place the child in the seat such that the air bag system is suppressed.

While a detailed description of how the air bag system works would be contained in the owner's manual, we are concerned that people may not consult their owner's manual sufficiently to recognize that the absence of an illuminated telltale means the air bag is not suppressed. However, a vehicle manufacturer could place specific information about the air bag system next to the air bag label, where it may be more likely to be read. Alternatively, the manufacturer could determine that an additional label placed elsewhere in the vehicle, either permanently or as a temporary label, best informs vehicle occupants about the vehicle's air bag system. A manufacturer could also determine that no additional labels are needed.

Accordingly, we have amended the regulatory text to clarify that such a label could be placed, at the manufacturer's option, on the sun visor alongside the air bag warning label. No change has been made to the regulatory text regarding the permissibility of labels elsewhere in the vehicle because we have never prohibited labels that convey specific, accurate information about air bags or seat belts in locations other than the sun visor. However, any additional labels, regardless of where they are placed in the vehicle, cannot be confusing or misleading when read in conjunction with other labels required by this or other standards. The regulatory text has accordingly been amended at S 4.5.1 (g).

As discussed in the final rule, we have decided against allowing the existing labels in vehicles certified to the advanced air bag requirements. The new label uses a different pictogram and removed two of the warnings that are required on labels not certified to the advanced air bag requirements. The new label does not say that children should never be placed in front of an air bag, because the advanced air bag requirements are intended to specifically address that risk. We also removed the statement that one should

---

[12] See "Recommended Procedures for Evaluating Occupant Injury Risk from Deploying Side Air Bags" (August 8, 2000). (NHTSA–99–5098–31)

VOL 66 ISS 243 DE 18 2001 UMI

sit as far away from the air bag as possible because while this information is helpful, we did not believe it addressed a serious enough safety risk to merit overcrowding the label. We added an instruction to read the vehicle owner's manual to familiarize oneself with the advanced air bag system in the vehicle. Thus, we do not believe the new label is any weaker than the existing label, particularly since the vehicle manufacturer may provide more vehicle-specific information in the form of a label on the sun visor or elsewhere in the vehicle.

Additionally, the agency has discovered that when S4.5.1(b) was amended to remove the requirements for warning labels in vehicles manufactured before February 25, 1997, the cross-reference in S4.5.1(c)(2) was not changed. Previously S4.5.1(b) set forth the requirements for air bag warning labels in vehicles manufactured before February 25, 1997. S4.5.1(c)(1) set forth the requirements for the air bag alert label in those same vehicles and cross-referenced S4.5.1(b)(1). S4.5.1(b)(2) set forth the requirements for air bag warning labels in vehicles manufactured on or after February 25, 1997. S4.5.1(c)(2) set forth the requirements for the air bag alert label in those vehicles, and cross-referenced S4.5.1(b)(2). In the final rule S4.5.1(b) was amended to drop the requirements for a label in the older vehicles because there was no longer any need to retain the requirement. S4.5.1(b)(2) was redesignated S4.5.1(b)(1) and the new label required for vehicles certified to the advanced air bag requirements was designated as S4.5.1(b)(2). Because there were no changes to the air bag alert requirements, S4.5.1(c) was not amended.

Under the current regulatory text, S4.5.2(c)(2) could be interpreted as being limited to vehicles certified to the advanced air bag requirements, even though the title to that section refers to all vehicles manufactured on or after February 25, 1997. S4.5.1(c)(1) should have been removed since the original cross-reference was removed. We are amending S4.5.1(c) to remove the reference to vehicles manufactured before February 25, 1997 and to clarify that an air bag alert is needed in any vehicle manufactured on or after that date whenever the required air bag label is not visible when the sun visor is in the stowed position.

B. Telltales

The final rule requires a telltale for vehicles with automatic suppression systems. The telltale has a specified text and must be positioned in a location forward of and above the H-point of the driver's and passenger's seat in their forwardmost position. The final rule allowed for multiple levels of illumination as long as the telltale remains visible at all times to front-seat occupants of all ages. The telltale need not illuminate when the passenger seat is empty.

The Alliance, DaimlerChrysler, and Mitsubishi petitioned the agency to revise the current requirement that the telltale be visible to occupants of all ages, and urged us instead to adopt the requirements of Standard No. 101, *Controls and Displays*. DaimlerChrysler also requested the regulatory text be clarified to assure that the telltale would be visible to all occupants seated in a forward-facing position, and that it not be obstructed by a rear-facing child restraint. The Alliance requested that they be allowed to use the abbreviation "pass" in lieu of "passenger" in the message text, and DaimlerChrysler requested that manufacturers be allowed to use a universal symbol representing the status of the air bag rather than a specified text. Additionally, DaimlerChrysler requested the regulatory text be changed to clarify that a telltale is only required in vehicles with automatic suppression systems.

We have removed the requirement that the telltale be visible to occupants of all ages, since such a requirement is nonobjective. We have, however, kept the requirement that it be visible to occupants whose eyes have adjusted to ambient light conditions. Otherwise, the regulatory text has been changed to be more consistent with Standard No. 101.

While we do not believe it would be reasonable to expect an occupant who was not sitting in a forward-facing position to see a telltale that is forward of the H-point with the seat in its full-forward position, we see no reason to adopt DaimlerChrysler's suggestion that the telltale only be visible to forward-facing occupants. We believe that implicit in the requirement is the recognition that a rear-facing individual would not be able to see the telltale. Since the vast majority of occupants who are not in the forward facing position are infants, who would not be able to interpret the message, we see no need to further specify that the telltale only be visible to forward facing occupants. We do agree, however, that there is a benefit to affirmatively stating that the telltale cannot be obscured by a rear facing child restraint. Accordingly, the regulatory text has been amended to prohibit the placement of a telltale in a location where such a restraint could prevent a properly-seated driver from seeing the telltale.

We note that the portions of the regulatory text dealing with automatic suppression systems already specify that a telltale be installed in the vehicle. Neither the low risk deployment option nor the dynamic suppression option have such a requirement. Nevertheless, we believe it is worthwhile to clarify in the portion of the regulatory text dealing with telltale requirements that a telltale is only required in vehicles with automatic suppression systems.

We have decided to allow manufacturers to abbreviate "passenger" to "pass," since we do not believe the abbreviation will be confusing when combined with the rest of the required text. Allowing "pass" will also allow manufacturers to meet both the U.S. and Canadian requirements. However, we have decided against allowing manufacturers to use a universal symbol indicating that the passenger air bag is off in lieu of the written warning, because we believe such an action would be premature. We note that the agency has been working on harmonizing Standard No. 101, and that a universal "air bag off" symbol is being considered as part of this harmonization activity. It is possible that when Standard No. 101 is amended, the agency may decide to allow manufacturers to use a symbol rather than written text.

C. Owner's Manual Information

The final rule requires certain information be placed in the owner's manual of vehicles with advanced air bag systems. DaimlerChrysler requested the regulatory text specify that some of the required information need only be included in the owner's manual of vehicles with automatic suppression systems. We believe DaimlerChrysler has raised a valid point and have amended the regulatory text accordingly.

VIII. Issues Related to Phase-in Requirements for Small Volume Manufacturers

The final rule gave small volume manufacturers, as well as manufacturers of vehicles built in two or more stages, the maximum time allowable to certify to the new advanced air bag requirements. TEA 21 requires us to specify that all vehicles manufactured after August 31, 2006 must meet the new, advanced air bag requirements promulgated by the final rule. The rule defined a small vehicle manufacturer for purposes of this exclusion from the phase-in requirements as manufacturers that produce no more than 5,000 vehicles per year worldwide.

The Coalition of Small Volume Automobile Manufacturers (COSVAM) petitioned us to expand that definition to manufacturers of no more than 10,000 vehicles per year. Alternatively, it petitioned that the 5,000 vehicle cap be limited to vehicles sold in the United States per year or that the 5,000 vehicle cap be averaged over the phase-in period. Under the averaged proposal, if a manufacturer produced more than 5,000 vehicles in a single year, it could still take advantage of the exclusion as long as the average of production during the phase-in was not more than 5,000 vehicles per year.

We previously rejected COSVAM's position that the appropriate vehicle cap for small manufacturers be 10,000. COSVAM has offered no new arguments that would lead us to change our position on this. However, we recognize that currently only the United States requires advanced air bag technology under any timeframe. It is highly unlikely that the advanced air bag requirements will be required in another country sooner than in the U.S. Thus, we believe it is reasonable to limit the vehicle cap to not more than 5,000 vehicles produced or assembled by the original vehicle manufacturer for the U.S. market per year. This provision does not apply to registered importers because they are not original vehicle manufacturers. Likewise it would not apply to vehicles produced or assembled by the original vehicle manufacturer in one production year and then imported to the U.S. in the following production year.

We are rejecting the alternative that manufacturers be allowed to average vehicle production because we believe this alternative is more unwieldy than the one we have adopted, and because a dramatic increase in production over a short period of time could average out to 5,000 vehicles and still constitute a production volume for a single year of substantially more than 5,000 vehicles. We note, however, that the new criteria would be easier to meet than this option for any small volume manufacturer that sold vehicles anywhere other than in the United States.

IX. Other Issues

A. Dummy Containment

In the final rule, the agency defined the parameters for the dummy containment requirement that has long been part of Standard No. 208. Until the May 2000 final rule, the requirement read, "all portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment throughout the test." The regulation did not define what was meant by "throughout the test." In order to clarify the agency's longstanding position on this requirement, we amended this language in the final rule. The regulatory text now requires that the dummy be contained within the outer surfaces of the vehicle passenger compartment until both the dummies and the vehicle have stopped moving.

DaimlerChrysler argued in its petition that this clarification constitutes a new test requirement that was not subject to notice and comment. It also stated that the change has no demonstrable benefit or safety need and could have unforeseen consequences.

We disagree that the agency's characterization of when the test is over for the purpose of dummy containment was not subject to notice and comment. In the SNPRM, we noted that the requirement for dummy containment would remain in effect until the technician physically removed the dummy from the vehicle. We received no comments on this proposal. The requirement in the final rule that the dummy remain contained within the vehicle until both the dummies and the vehicle have stopped moving is actually less restrictive than the criteria presented in the SNPRM, although we believe the practical effect is the same. Additionally, we do not believe that specifying what "throughout the test" means imposes any additional burden on vehicle manufacturers. Rather, it merely clarifies the agency's longstanding position that the dummy remain fully contained within the vehicle until the test is definitively over. Since this is not a new requirement, there are neither any additional benefits nor any chance of unforseen consequences. However, we do believe that providing a specific frame of reference as to when the test is over helps manufacturers since there cannot be any doubt about what the agency means by requiring the dummy to remain inside the vehicle A"throughout the test."

B. Partial Compliance

In its petition, Toyota asked the agency to confirm its understanding that it could certify vehicles without advanced air bag technologies to the 32–40 km/h (20–25 mph) unbelted barrier test in lieu of the sled test. Toyota's understanding of the partial compliance option is correct.

The final rule allows manufacturers to certify compliance with the unbelted performance requirements for the 50th percentile adult male dummy using the barrier at test speeds between 32 and 40 km/h (20–25 mph) as long as the dummies satisfy the new injury criteria as maximum injury values even if the vehicles are not certified to the other advanced air bag requirements. Alternatively, manufacturers may continue to certify compliance using the sled test, with its existing injury criteria, or the up-to-48 km/h (30 mph) unbelted barrier test, using its existing injury criteria. For vehicles certified to the new, advanced air bag requirements, only the first test option will be allowed. We note that, as with all the other compliance options, the vehicle manufacturer must advise us of which option it has used to certify compliance, and that election will be irrevocable.

C. Cross Reference for Test Duration

DaimlerChrysler noted that the regulatory text incorrectly references S4.10 as a cross reference for test duration for measuring injury criteria. DaimlerChrysler is correct that the proper cross-reference is S4.11. The regulatory text has accordingly been changed.

D. Combination of Standard No. 208's Oblique Barrier Test and Standard No. 301's Oblique Barrier TestFerrari requested the test speed for the oblique barrier test in Standard No. 301 be reduced to 40 km/h (25 mph). It stated that prior to the final rule, these two test requirements could be combined because the test configuration and test speed were the same. Ferrari believes that the adoption of a 40 km/h (25 mph) test speed for one, but not both tests, now requires additional tests. If it does not conduct separate tests, Ferrari claims it will be forced to design its vehicles to meet the Standard No. 208 test at 48 km/h (30 mph).

We recognize that vehicle manufacturers often "piggyback" dynamic compliance tests. They may run a single dynamic test that can be used to certify compliance to more than one safety standard. Nevertheless, we do not agree with Ferrari's contention that manufacturers will need to run additional tests or certify to the 48 km/h (30 mph) unbelted barrier test. The 48 km/h (30 mph) belted barrier test will remain in Standard No. 208 for all vehicles until September 1, 2007, when a higher belted barrier test speed of 56 km/h will be phased in for the 50th percentile adult male.[13] Since the Standard No. 301 barrier test does not measure injury criteria, there is no reason that a manufacturer could not continue to combine its Standard No.

---

[13] We hope to propose using the higher test speed for the 5th percentile adult female as well, beginning September 1, 2007.

301 test and Standard No. 208 belted barrier test until that time.

E. Effective Date for New Data Filtering Technique

The final rule specified that injury criteria be calculated using a phaseless digital filter. In its comments to the SNPRM, DaimlerChrysler had argued for using phaseless filters to measure Nij and had suggested the regulatory text specify the filters conform with SAE recommended practice J211. The final rule expanded on this request and, for the sake of consistency, specified the use of phaseless filters for measuring all injury criteria. Since no time frame was placed on the use of phaseless filters, the requirement became effective on June 12, 2000, the effective date of the final rule.

In its petition for reconsideration DaimlerChrysler urged that the effective date be changed to September 1, 2001. It argued that the June 12, 2000 effective date could negatively affect a manufacturer's ability to certify compliance with vehicles that were under production as of that date. It also requested we change the formulation of V in the existing sled test (S13.1).

The purpose of establishing an early effective date was two-fold. First, the early effective date allows manufacturers to earn credits for vehicles that meet the requirements of the advanced air bag final rule before the beginning of the phase-in. Second, the early effective date ensures that the final rule is published in the Code of Federal Regulations in a timely manner. However, the early effective date also imposed a new filtering requirement on all vehicles subject to Standard No. 208 on or after June 12, 2000.

We decided to specify the use of phaseless filters in response to DaimlerChrysler's comment to the SNPRM that phaseless filters should be used for measuring neck injury. We believe it is worthwhile to be consistent in requiring phaseless filters for all injury measurements. Accordingly, the final rule did not distinguish between neck injury measurements and other injury measurements in specifying phaseless filters. We believe that there is only a negligible difference in calculated injury criteria between data collected with phaseless filters and data collected without phaseless filters (less than 1.0 percent). Thus, we do not believe there should be any problem certifying compliance with the standard, even if the data was not collected using phaseless filters.

While we do not believe the new requirement will have any effect on a manufacturer's ability to certify compliance with the standard, we accept that the data collection for 2001 model year vehicles may have been done without such filters. Accordingly, we are changing the effective date for that portion of the final rule to September 1, 2001.

6. Use of human child to detect the presence of an infant

In the SNPRM to the May 2000 final rule, we proposed to allow manufacturers to certify compliance with the automatic suppression requirements using children and small adults because the existing test dummies are insufficiently biofidelic for all pattern recognition systems to recognize. We did not propose to allow manufacturers to use infants instead of the newborn or 12-month-old child dummies because all tests involving these dummies have the dummy placed in a child restraint. We received no comments on whether to use infants rather than test dummies, and we adopted the final rule without including infants in S29. Subsequent to the issuance of the final rule, we have become aware of occupant recognition technology that relies on the existence of a human to work. We believe this type of technology may be, in some respects, as good as or superior to technologies that rely solely on weight or the pattern of an object on the seat to determine whether to suppress the air bag. Since the absence of a provision allowing the use of a human infant would preclude this technology, and since our only reason for not including such a provision was because we were unaware of any emerging technology that required the use of a human infant, we have decided to amend S29 to allow the automatic suppression tests using a car bed and tests using a RFCRS or convertible child restraint be conducted with a child between 8.2 and 9.1 kg (18–20 lb) and between 61 and 66 cm (24–26 in).

10. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document has been reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined to be significant under the Department's regulatory policies and procedures. The agency concludes that the impacts of today's amendments are so minimal that a regulatory evaluation is not required. Rather, readers who are interested in the costs and benefits of advanced air bags are referred to the agency's Final Economic Assessment for the May 2000 final rule. NHTSA has determined that the costs and benefits analysis provided in that document remain unchanged in response to today's rule.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This action will not have a significant economic impact on a substantial number of small businesses because it does not significantly change the requirements of the May 2000 final rule. Small organizations and small governmental units will not be significantly affected since the potential cost impacts associated with this rule should only slightly affect the price of new motor vehicles.

C. National Environmental Policy Act

NHTSA has analyzed this proposed amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

The final rule is not intended to preempt state tort civil actions, except that the required labels must contain the required text, and no additional text, and any additional labels cannot misleading or confusing, as specified in the regulatory text.

E. Unfunded Mandate Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). While the May 2000 final rule is likely to result in over $100 million of annual expenditures by the private sector, today's final rule makes only small adjustments to the May 2000 rule. Accordingly, there will not be a significant increase in cost to the private sector.

F. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule does not propose any new information collection requirements.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Standard No. 208 is extremely difficult to read as it contains multiple cross-references and has retained all of the requirements applicable to vehicle of different classes at different times. Because portions of today's rule amend existing text, much of that complexity remains. Additionally, the availability of multiple compliance options, differing injury criteria and a dual phase-in have added to the complexity of the regulation, particularly as the various requirements and options are accommodated throughout the initial phase-in. Once the initial phase-in is complete, much of the complexity will disappear. At that time, it would be appropriate to completely revise Standard No. 208 to remove any options, requirements, and differentiations as to vehicle class that are no longer applicable.

J. Executive Order 13045

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rulemaking directly involves decisions based on health risks that disproportionately affect children, namely, the risk of deploying air bags to children. However, this rulemaking serves to reduce, rather than increase, that risk.

K. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards [14] in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

The agency is not aware of any new voluntary consensus standards addressing the changes made to the May 2000 final rule as a result of this final rule.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended as follows:

A. By amending S4.5.1 by revising the heading, peaagraphs (b)(1), (b)(2) and (b)(3), (c), (f) and by adding paragraph (g).

B. By revising S4.11(a), S4.13, S6.6, S14.1(d), S14.3, S15.3.6 through S16.3.5.4, S18 and S18.1, S19 through S26.4, and S29 through S29.3.

C. By revising Appendix A.

The revisions and addition to § 571.208 read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.5.1 *Labeling and owner's manual information.*

* * * * *

(b) * * *

(1) Except as provided in S4.5.1(b)(2), each vehicle shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in either Figure 6a or 6b of this standard, as appropriate, and shall comply with the requirements of S4.5.1(b)(1)(i) through S4.5.1(b)(1)(iv).

(i) The heading area shall be yellow with the word "WARNING" and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm^2 (4.7 in^2).

(iii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 30 mm (1.2 in) in diameter.

(iv) If the vehicle does not have a back seat, the label shown in Figure 6a or 6b

---

[14] Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material.".

VOL 66 ISS 243 DE 18 2001 UMI

may be modified by omitting the statement: "The BACK SEAT is the SAFEST place for children."

(2) Vehicles certified to meet the requirements specified in S19, S21, or S23, by means of an automatic suppression system, shall have a label permanently affixed to either side of the sun visor, at the manufacturer's option, at each front outboard seating position that is equipped with an inflatable restraint. The label shall conform in content to the label shown in Figure 8 of this standard and shall comply with the requirements of S4.5.1(b)(2)(i) through S4.5.1(b)(2)(iv).

(i) The heading area shall be yellow with the word "WARNING" and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 cm^2 (4.7 in^2).

(iii) The pictogram shall be black on a white background. The pictogram shall be no less than 30 mm (1.2 in) in length.

(iv) If the vehicle does not have a back seat, the label shown in the figure may be modified by omitting the statement: "The BACK SEAT is the SAFEST place for CHILDREN."

(3) The vehicle manufacturer may, at its option, affix an additional label adjacent to the label shown in Figure 8 that provides specific information about the vehicle's advanced air bag system as long as the information is not confusing or misleading when read in conjunction with Figure 8.

(c) *Air bag alert label.* If the label required by S4.5.1(b) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed to that visor so that the label is visible when the visor is in that position. The label shall conform in content to the sun visor label shown in figure 6(c) of this standard, and shall comply with the requirements of S4.5.1(c)(1) through S4.5.1(c)(3).

(1) The message area shall be black with yellow text. The message area shall be no less than 20 square cm.

(2) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 20 mm in diameter.

(3) If a vehicle does not have an inflatable restraint at any front seating position other than that for the driver, the pictogram may be omitted from the label shown in figure 6c.

* * * * *

(f) *Information to appear in owner's manual.*

(1) The owner's manual for any vehicle equipped with an inflatable restraint system shall include an accurate description of the vehicle's air bag system in an easily understandable format. The owner's manual shall include a statement to the effect that the vehicle is equipped with an air bag and lap/shoulder belt at both front outboard seating positions, and that the air bag is a supplemental restraint at those seating positions. The information shall emphasize that all occupants, including the driver, should always wear their seat belts whether or not an air bag is also provided at their seating position to minimize the risk of severe injury or death in the event of a crash. The owner's manual shall also provide any necessary precautions regarding the proper positioning of occupants, including children, at seating positions equipped with air bags to ensure maximum safety protection for those occupants. The owner's manual shall also explain that no objects should be placed over or near the air bag on the instrument panel, because any such objects could cause harm if the vehicle is in a crash severe enough to cause the air bag to inflate.

(2) For any vehicle certified to meet the requirements specified in S14.5, S15, S17, S19, S21, S23, and S25, the manufacturer shall also include in the vehicle owner's manual a discussion of the advanced passenger air bag system installed in the vehicle. The discussion shall explain the proper functioning of the advanced air bag system and shall provide a summary of the actions that may affect the proper functioning of the system. The discussion shall include, at a minimum, accurate information on the following topics:

(i) A presentation and explanation of the main components of the advanced passenger air bag system.

(ii) An explanation of how the components function together as part of the advanced passenger air bag system.

(iii) The basic requirements for proper operation, including an explanation of the actions that may affect the proper functioning of the system.

(iv) For vehicles certified to meet the requirements of S19.2, S21.2 or S23.2, a complete description of the passenger air bag suppression system installed in the vehicle, including a discussion of any suppression zone.

(v) An explanation of the interaction of the advanced passenger air bag system with other vehicle components, such as seat belts, seats or other components.

(vi) A summary of the expected outcomes when child restraint systems, children and small teenagers or adults are both properly and improperly positioned in the passenger seat, including cautionary advice against improper placement of child restraint systems.

(vii) For vehicles certified to meet the requirements of S19.2, S21.2 or S23.2, a discussion of the telltale light, specifying its location in the vehicle and explaining when the light is illuminated.

(viii) Information on how to contact the vehicle manufacturer concerning modifications for persons with disabilities that may affect the advanced air bag system.

(g) *Additional labels placed elsewhere in the vehicle interior.* The language on additional air bag warning labels placed elsewhere in the vehicle interior shall not cause confusion or contradiction of any of the statements required in the air bag sun visor label, and shall be expressed in symbols, words and abbreviations required by this standard.

* * * * *

S4.11 *Test duration for purpose of measuring injury criteria.*

(a) For all barrier crashes, the injury criteria specified in this standard shall be met when calculated based on data recorded for 300 milliseconds after the vehicle strikes the barrier. For low risk deployment tests, the injury criteria shall be met when calculated based on data recorded for 125 milliseconds after the initiation of the final stage of air bag deployment designed to deploy in a barrier crash up to 26 km/h (16 mph).

* * * * *

S4.13 *Data channels.* For vehicles manufactured on or after September 1, 2001, all data channels used in injury criteria calculations shall be filtered using a phaseless digital filter, such as the Butterworth four-pole phaseless digital filter specified in Appendix C of SAE J211/1, rev. Mar 95, incorporated by reference in S4.7.

* * * * *

S6.6 *Neck injury.* When measuring neck injury, each of the following injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar 95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S6.6(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 6806 N (1530 lbf) when Fz is in tension
(ii) Fzc = 6160 N (1385 lbf) when Fz is in compression
(iii) Myc = 310 Nm (229 lbf-ft) when a flexion moment exists at the occipital condyle
(iv) Myc = 135 Nm (100 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

Nij = (Fz/Fzc) + (Mocy/Myc)

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 4170 N (937 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 4000 N (899 lbf) at any time.

* * * * *

S14.1 *Vehicles manufactured on or after September 1, 2003, and before September 1, 2006.*

* * * * *

(d) Vehicles that are manufactured by an original vehicle manufacturer that produces or assembles fewer than 5,000 vehicles annually for sale in the United States are not subject to the requirements of S14.1.

* * * * *

S14.3 *Vehicles manufactured on or after September 1, 2007, and before September 1, 2010.*

(a) For vehicles manufactured for sale in the United States on or before September 1, 2007, and before September 1, 2010, a percentage of the manufacturer's production, as specified in S14.3.1, shall meet the requirements specified in S14.5.1(b) (in addition to the other requirements of this standard).

(b) Manufacturers that sell two or fewer carlines, as that term is defined at 49 CFR 583.4, in the United States may, at the option of the manufacturer, meet the requirements of this paragraph instead of paragraph (a) of this section. Each vehicle manufactured on or after September 1, 2008, and before September 1, 2010, shall meet the requirements specified in S14.5.1(b) (in addition to the other requirements specified in this standard).

(c) Vehicles that are manufactured in two or more stages or that are altered (within the meaning of 49 CFR 567.7) after having been previously certified in accordance with Part 567 of this chapter are not subject to the requirements of S14.3.

(d) Vehicles that are manufactured by an original vehicle manufacturer that produces or assembles fewer than 5,000 vehicles annually for sale in the United States are not subject to the requirements of S14.3.

* * * * *

S15.3.6 *Neck injury.* When measuring neck injury, each of the following injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar 95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: Tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S15.3.6(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 4287 N (964 lbf) when Fz is in tension
(ii) Fzc = 3880 N (872 lbf) when Fz is in compression
(iii) Myc = 155 Nm (114 lbf-ft) when a flexion moment exists at the occipital condyle
(iv) Myc = 67 Nm (49 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

Nij = (Fz/Fzc) + (Mocy/Myc)

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 2620 N (589 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 2520 N (566 lbf) at any time.

S15.3.7 Unless otherwise indicated, instrumentation for data acquisition, data channel frequency class, and moment calculations are the same as given for the 49 CFR Part 572, Subpart O Hybrid III 5th percentile female test dummy.

S16. *Test procedures for rigid barrier test requirements using 5th percentile adult female dummies.*

S16.1 *General provisions.* Crash testing to determine compliance with the requirements of S15 of this standard is conducted as specified in the following paragraphs (a) and (b).

(a) *Belted test.* Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 48 km/h (30 mph), into a fixed rigid barrier that is perpendicular within a tolerance of ± 5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

(b) *Unbelted test.* Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard, except S16.3.5. Impact the vehicle traveling longitudinally forward at any speed, from 32 km/h (20 mph) to 40 km/h (25 mph), inclusive, into a fixed rigid barrier that is perpendicular within a tolerance of ± 5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

S16.2 *Test conditions.*

S16.2.1 The vehicle, including test devices and instrumentation, is loaded as in S8.1.1.

S16.2.2 Movable vehicle windows and vents are placed in the fully closed position, unless the vehicle manufacturer chooses to specify a different adjustment position prior to the time the vehicle is certified.

S16.2.3 Convertibles and open-body type vehicles have the top, if any, in place in the closed passenger compartment configuration.

S16.2.4 Doors are fully closed and latched but not locked.

S16.2.5 The dummy is clothed in form fitting cotton stretch garments with short sleeves and above the knee length pants. A size 7 1/2W shoe which meets the configuration and size specifications of MIL–S–21711E (see S4.7) or its equivalent is placed on each foot of the test dummy.

VOL 66 ISS 243 DE 18 2001 UMI

S16.2.6 Limb joints are set at one g, barely restraining the weight of the limb when extended horizontally. Leg joints are adjusted with the torso in the supine position.

S16.2.7 Instrumentation shall not affect the motion of dummies during impact.

S16.2.8 The stabilized temperature of the dummy is at any level between 20.6° C and 22.2° C (69° F to 72° F).

S16.2.9 *Steering wheel adjustment.*

S16.2.9.1 Adjust a tiltable steering wheel, if possible, so that the steering wheel hub is at the geometric center of its full range of driving positions.

S16.2.9.2 If there is no setting detent at the mid-position, lower the steering wheel to the detent just below the mid-position.

S16.2.9.3 If the steering column is telescoping, place the steering column in the mid-position. If there is no mid-position, move the steering wheel rearward one position from the mid-position.

S16.2.10 *Driver and passenger seat set-up.*

S16.2.10.1 *Lumbar support adjustment.* Position adjustable lumbar supports so that the lumbar support is in its lowest, retracted or deflated adjustment position.

S16.2.10.2 *Other seat adjustments.* Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position.

S16.2.10.3 *Seat position adjustment.* If the passenger seat does not adjust independently of the driver seat, the driver seat shall control the final position of the passenger seat.

S16.2.10.3.1 If the seat is adjustable in the fore and aft and/or vertical directions, move the seat to the rearmost position at the full down height adjustment. If the seat cushion adjusts fore and aft, independent of the seat back, set this adjustment to the full rearward position. If the seat cushion contains a height adjustment, independent of the seat back, set this adjustment to the full down position. Record a seat cushion reference angle.

S16.2.10.3.2 Using only controls which move the seat fore and aft, move the seat to the full forward position. If seat adjustments other than fore-aft are present and the seat cushion reference angle changes from that measured in S16.2.10.3.1, use those adjustments to maintain as closely as possible the angle recorded in S16.2.10.3.1.

S16.2.10.3.3 If the seat height is adjustable, determine the maximum and minimum heights at this position, while maintaining, as closely as possible, the angle recorded in S16.2.10.3.1. Set the seat at the midpoint height with the seat cushion reference angle set as closely as possible to the angle recorded in S16.2.10.3.1. Mark location of the seat for future reference.

S16.3 *Dummy seating positioning procedures.* The 49 CFR Part 572 Subpart O 5th percentile adult female test dummy is positioned as follows:

S16.3.1 *General provisions and definitions.*

S16.3.1.1 All angles are measured with respect to the horizontal plane unless otherwise stated.

S16.3.1.2 The dummy's neck bracket is adjusted to align the zero degree index marks.

S16.3.1.3 The term "midsagittal plane" refers to the vertical plane that separates the dummy into equal left and right halves.

S16.3.1.4 The term "vertical longitudinal plane" refers to a vertical plane parallel to the vehicle's longitudinal centerline.

S16.3.1.5 The term "vertical plane" refers to a vertical plane, not necessarily parallel to the vehicle's longitudinal centerline.

S16.3.1.6 The term "transverse instrumentation platform" refers to the transverse instrumentation surface inside the dummy's skull casting to which the neck load cell mounts. This surface is perpendicular to the skull cap's machined inferior-superior mounting surface.

S16.3.1.7 The term "thigh" refers to the femur between, but not including, the knee and the pelvis.

S16.3.1.8 The term "leg" refers to the lower part of the entire leg including the knee.

S16.3.1.9 The term "foot" refers to the foot including the ankle.

S16.3.1.10 The longitudinal centerline of a bucket seat cushion is determined at the widest part of the seat cushion. Measure perpendicular to the longitudinal centerline of the vehicle.

S16.3.1.11 For leg and thigh angles use the following references:

S16.3.1.11.1 *Thigh*—a straight line on the thigh skin between the center of the ½–13 UNC–2B tapped hole in the upper leg femur clamp (see drawings 880105–504 (left thigh) and 880105–505 (right thigh), upper leg femur clamp) and the knee pivot shoulder bolt (part 880105–527 in drawing 880105–528R & 528L, sliding knee assy. w/o pot).

S16.3.1.11.2 *Leg*—a straight line on the leg skin between the center of the ankle shell (parts 880105–609 & 633 in drawing 880105–660, ankle assembly) and the knee pivot shoulder bolt (part 880105–527 in drawing 880105–528R & 528L, sliding knee assy. w/o pot).

S16.3.2 *Driver dummy positioning.*

S16.3.2.1 *Driver torso/head/seat back angle positioning.*

S16.3.2.1.1 With the seat in the position determined in S16.2.10, use only the controls which move the seat fore and aft to place the seat in the rearmost position, without adjusting independent height controls. If the seat cushion reference angle automatically changes as the seat is moved from the full forward position, maintain, as closely as possible, the seat cushion reference angle in S16.2.10.3.1, for the final forward position when measuring the pelvic angle as specified in S16.3.2.1.11.

S16.3.2.1.2. Fully recline the seat back, if adjustable. Install the dummy into the driver's seat, such that when the legs are positioned 120 degrees to the thighs, the calves of the legs are not touching the seat cushion.

S16.3.2.1.3 *Bucket seats.* Center the dummy on the seat cushion so that its midsagittal plane is vertical and coincides with the vertical longitudinal plane through the center of the seat cushion.

S16.3.2.1.4 *Bench seats.* Position the midsagittal plane of the dummy vertical and parallel to the vehicle's longitudinal centerline and aligned with the center of the steering wheel rim.

S16.3.2.1.5 Hold the dummy's thighs down and push rearward on the upper torso to maximize the dummy's pelvic angle.

S16.3.2.1.6 Place the legs at 120 degrees to the thighs. Set the initial transverse distance between the longitudinal centerlines at the front of the dummy's knees at 160 to 170 mm (6.3 to 6.7 in), with the thighs and legs of the dummy in vertical planes. Push rearward on the dummy's knees to force the pelvis into the seat so there is no gap between the pelvis and the seat back or until contact occurs between the back of the dummy's calves and the front of the seat cushion.

S16.3.2.1.7 Gently rock the upper torso relative to the lower torso laterally in a side to side motion three times through a ±5 degree arc (approximately 51 mm (2 in) side to side) to reduce friction between the dummy and the seat.

S16.3.2.1.8 If needed, extend the legs slightly so that the feet are not in contact with the floor pan. Let the thighs rest on the seat cushion to the extent permitted by the foot movement. Keeping the leg and the thigh in a vertical plane, place the foot in the vertical longitudinal plane that passes through the centerline of the accelerator pedal. Rotate the left thigh outboard about the hip until the center of the knee is the same distance from the midsagittal plane of the dummy as the right knee ±5 mm (±0.2 in). Using only controls which move the seat fore and aft, attempt to return the seat to the full forward position. If either of the dummy's legs first contacts the steering wheel, then adjust the steering wheel, if adjustable, upward until contact with the steering wheel is avoided. If the steering wheel is not adjustable, separate the knees enough to avoid steering wheel contact. Proceed with moving the seat forward until either the leg contacts the vehicle interior or the seat reaches the full forward position. (The right foot may contact and depress the accelerator and/or change the angle of the foot with respect to the leg during seat movement.) If necessary to avoid contact with the vehicles brake or clutch pedal, rotate the test dummy's left foot about the leg. If there is still interference, rotate the left thigh outboard about the hip the minimum distance necessary to avoid pedal interference. If a dummy leg contacts the vehicle interior before the full forward position is attained, position the seat at the next detent where there is no contact. If the seat is a power seat, move the seat fore and aft to avoid contact while assuring that there is a maximum of 5 mm (0.2 in) distance between the vehicle interior and the point on the dummy that would first contact the vehicle interior. If the steering wheel was moved, return it to the position described in S16.2.9. If the steering wheel contacts the dummy's leg(s) prior to attaining this position, adjust it to the next higher detent, or if infinitely adjustable, until there is 5 mm (0.2 in) clearance between the wheel and the dummy's leg(s).

S16.3.2.1.9 For vehicles without adjustable seat backs, adjust the lower neck bracket to level the head as much as possible. For vehicles with adjustable seat backs, while holding the thighs in place, rotate the seat back forward until the transverse instrumentation platform of the head is level to within ±0.5 degree, making sure that the pelvis does not interfere with the seat bight. Inspect the abdomen to ensure that it is properly installed. If the torso contacts the steering wheel, adjust the steering wheel in the following order until there is no contact: telescoping adjustment, lowering adjustment, raising adjustment. If the vehicle has no adjustments or contact with the steering wheel cannot be eliminated by adjustment, position the seat at the next detent where there is no contact with the steering wheel as adjusted in S16.2.9. If the seat is a power seat, position the seat to avoid contact while assuring that there is a maximum of 5 mm (0.2 in) distance between the steering wheel as adjusted in S16.2.9 and the point of contact on the dummy.

S16.3.2.1.10 If it is not possible to achieve the head level within ±0.5 degrees, minimize the angle.

S16.3.2.1.11 Measure and set the dummy's pelvic angle using the pelvic angle gage (drawing TE–2504, incorporated by reference in 49 CFR Part 572, Subpart O, of this chapter). The angle shall be set to 20.0 degrees ±2.5 degrees. If this is not possible, adjust the pelvic angle as close to 20.0 degrees as possible while keeping the transverse instrumentation platform of the head as level as possible by adjustments specified in S16.3.2.1.9 and S16.3.2.1.10.

S16.3.2.1.12 If the dummy is contacting the vehicle interior after these adjustments, move the seat rearward until there is a maximum of 5 mm (0.2 in) between the contact point of the dummy and the interior of the vehicle or if it has a manual seat adjustment, to the next rearward detent position. If after these adjustments, the dummy contact point is more than 5 mm (0.2 in) from the vehicle interior and the seat is still not in its forwardmost position, move the seat forward until the contact point is 5 mm (0.2 in) or less from the vehicle interior, or if it has a manual seat adjustment, move the seat to the closest detent position without making contact, or until the seat reaches its forwardmost position, whichever occurs first.

S16.3.2.2 *Driver foot positioning.*

S16.3.2.2.1 If the vehicle has an adjustable accelerator pedal, adjust it to the full forward position. Rest the right foot of the test dummy on the undepressed accelerator pedal with the rearmost point of the heel on the floor pan in the plane of the pedal. If the foot cannot be placed on the accelerator pedal, set it initially perpendicular to the leg and then place it as far forward as possible in the direction of the pedal centerline with the rearmost point of the heel resting on the floor pan. If the vehicle has an adjustable accelerator pedal and the right foot is not touching the accelerator pedal when positioned as above, move the pedal rearward until it touches the right foot. If the accelerator pedal in the full rearward position still does not touch the foot, leave the pedal in that position.

S16.3.2.2.2 If the ball of the foot does not contact the pedal, change the angle of the foot relative to the leg such that the toe of the foot contacts the undepressed accelerator pedal.

S16.3.2.2.3 Place the left foot on the toe-board with the rearmost point of the heel resting on the floor pan as close as possible to the point of intersection of the planes described by the toe-board and floor pan, and not on the wheel-well projection or foot rest.

S16.3.2.2.4 If the left foot cannot be positioned on the toe board, place the foot perpendicular to the lower leg centerline as far forward as possible with the heel resting on the floor pan.

S16.3.2.2.5 If necessary to avoid contact with the vehicle's brake or clutch pedal, rotate the test dummy's left foot about the lower leg. If there is still pedal interference, rotate the left leg outboard about the hip the minimum distance necessary to avoid the pedal interference. If the left foot does not contact the floor pan, place the foot parallel to the floor and place the leg as perpendicular to the thigh as possible.

S16.3.2.3 *Driver arm/hand positioning.*

S16.3.2.3.1 Place the dummy's upper arms adjacent to the torso with the arm centerlines as close to a vertical longitudinal plane as possible.

S16.3.2.3.2 Place the palms of the dummy in contact with the outer part of the steering wheel rim at its horizontal centerline with the thumbs over the steering wheel rim.

S16.3.2.3.3 If it is not possible to position the thumbs inside the steering wheel rim at its horizontal centerline, then position them above and as close to the horizontal centerline of the steering wheel rim as possible.

S16.3.2.3.4 Lightly tape the hands to the steering wheel rim so that if the hand of the test dummy is pushed upward by a force of not less than 9 N (2 lb) and not more than 22 N (5 lb), the tape releases the hand from the steering wheel rim.

S16.3.3 *Passenger dummy positioning.*

S16.3.3.1 *Passenger torso/head/seat back angle positioning.*

S16.3.3.1.1 With the seat in the position determined in S16.2.10, use only the controls which move the seat fore and aft to place the seat in the rearmost position, without adjusting independent height controls. If the seat cushion reference angle automatically changes as the seat is moved from the full forward position, maintain as closely as possible the seat cushion reference angle in S16.2.10.3.1, for the final forward position when measuring the pelvic angle as specified in S16.3.3.1.11.

S16.3.3.1.2 Fully recline the seat back, if adjustable. Install the dummy into the passenger's seat, such that when the legs are 120 degrees to the thighs, the calves of the legs are not touching the seat cushion.

S16.3.3.1.3 *Bucket seats.* Center the dummy on the seat cushion so that its midsagittal plane is vertical and coincides with the vertical longitudinal plane through the center of the seat cushion.

S16.3.3.1.4 *Bench seats.* Position the midsagittal plane of the dummy vertical and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the midsagittal plane of the driver dummy.

S16.3.3.1.5 Hold the dummy's thighs down and push rearward on the upper torso to maximize the dummy's pelvic angle.

S16.3.3.1.6 Place the legs at 120 degrees to the thighs. Set the initial transverse distance between the longitudinal centerlines at the front of the dummy's knees at 160 to 170 mm (6.3 to 6.7 in), with the thighs and legs of the dummy in vertical planes. Push rearward on the dummy's knees to force the pelvis into the seat so there is no gap between the pelvis and the seat back or until contact occurs between the back of the dummy's calves and the front of the seat cushion.

S16.3.3.1.7 Gently rock the upper torso relative to the lower torso laterally side to side three times through a ±5 degree arc (approximately 51 mm (2 in) side to side).

S16.3.3.1.8 If needed, extend the legs slightly so that the feet are not in contact with the floor pan. Let the thighs rest on the seat cushion to the extent permitted by the foot movement. With the feet perpendicular to the legs, place the heels on the floor pan. If a heel will not contact the floor pan, place it as close to the floor pan as possible. Using only controls which move the seat fore and aft, attempt to return the seat to the full forward position. If a dummy leg contacts the vehicle interior before the full forward position is attained, position the seat at the next detent where there is no contact. If the seats are power seats, position the seat to avoid contact while assuring that there is a maximum of 5 mm (0.2 in) distance between the vehicle interior and the point on the dummy that would first contact the vehicle interior.

S16.3.3.1.9 For vehicles without adjustable seat backs, adjust the lower neck bracket to level the head as much as possible. For vehicles with adjustable seat backs, while holding the thighs in place, rotate the seat back forward until the transverse instrumentation platform of the head is level to within ±0.5 degrees, making sure that the pelvis does not interfere with the seat bight. Inspect the abdomen to insure that it is properly installed.

S16.3.3.1.10 If it is not possible to orient the head level within ±0.5 degrees, minimize the angle.

S16.3.3.1.11 Measure and set the dummy's pelvic angle using the pelvic angle gage (drawing TE–2504, incorporated by reference in 49 CFR Part 572, Subpart O, of this chapter). The angle shall be set to 20.0 degrees ±2.5 degrees. If this is not possible, adjust the pelvic angle as close to 20.0 degrees as possible while keeping the transverse instrumentation platform of the head as level as possible as specified in S16.3.3.1.9 and S16.3.3.1.10.

S16.3.3.1.12 If the dummy is contacting the vehicle interior after these adjustments, move the seat rearward until there is a maximum of 5 mm (0.2 in) between the contact point of the dummy and the interior of the vehicle or if it has a manual seat adjustment, to the next rearward detent position. If after these adjustments the dummy contact point is more than 5 mm (0.2 in) from the vehicle interior and the seat is still not in its forward most position, move the seat forward until the contact point is 5 mm (0.2 in) or less from the vehicle interior, or if it has a manual seat adjustment, move the seat to the closest detent position without making contact, or until the seat reaches its forward most position, whichever occurs first.

S16.3.3.2 *Passenger foot positioning.*

S16.3.3.2.1 Place the passenger's feet flat on the toe board.

S16.3.3.2.2 If the feet cannot be placed flat on the toe board, set them perpendicular to the leg center lines and place them as far forward as possible with the heels resting on the floor pan.

S16.3.3.3 *Passenger arm/hand positioning.*

S16.3.3.3.1 Place the dummy's upper arms in contact with the seat back and the torso.

S16.3.3.3.2 Place the palms of the dummy in contact with the outside of the thighs.

S16.3.3.3.3 Place the little fingers in contact with the seat cushion.

S16.3.4 *Driver and passenger adjustable head restraints.*

S16.3.4.1. If the head restraint has an automatic adjustment, leave it where the system positions the restraint after the dummy is placed in the seat.

S16.3.4.2 Adjust each head restraint to its lowest position.

S16.3.4.3 Measure the vertical distance from the top most point of the head restraint to the bottom most point. Locate a horizontal plane through the midpoint of this distance. Adjust each head restraint vertically so that this horizontal plane is aligned with the center of gravity (CG) of the dummy head.

S16.3.4.3 If the above position is not attainable, move the vertical center of the head restraint to the closest detent below the center of the head CG.

S16.3.4.4 If the head restraint has a fore and aft adjustment, place the restraint in the forwardmost position or until contact with the head is made, whichever occurs first.

S16.3.5 *Driver and passenger manual belt adjustment (for tests conducted with a belted dummy)*

S16.3.5.1 If an adjustable seat belt D-ring anchorage exists, place it in the manufacturer's design position for a 5th percentile adult female with the seat in the position specified in S16.2.10.3.

S16.3.5.2 Place the Type 2 manual belt around the test dummy and fasten the latch.

S16.3.5.3 Ensure that the dummy's head remains as level as possible, as specified in S16.3.2.1.9 and S16.3.2.1.10 and S16.3.3.1.9 and S16.3.3.1.10.

S16.3.5.4 Remove all slack from the lap belt. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this operation four times. Apply a 9 N (2 lbf) to 18 N (4 lbf) tension load to the lap belt. If the belt system is equipped with a tension-relieving device, introduce the maximum amount of slack into the upper torso belt that is recommended by the manufacturer. If the belt system is not equipped with a tension-relieving device, allow the excess webbing in the shoulder belt to be retracted by the retractive force of the retractor.

* * * * *

S18 *Test procedure for offset frontal deformable barrier requirements using 5th percentile adult female dummies.*

S18.1 *General provisions.* Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 40 km/h (25 mph), into a fixed offset deformable barrier under the conditions and procedures specified in S18.2 of this standard, impacting only the left side of the vehicle.

* * * * *

S19 *Requirements to provide protection for infants in rear facing and convertible child restraints and car beds.*

S19.1 Each vehicle certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S19.2 or S19.3, under the test procedures specified in S20.

S19.2 *Option 1—Automatic suppression feature.* Each vehicle shall meet the requirements specified in S19.2.1 through S19.2.3.

S19.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger air bag which results in deactivation of the air bag during each of the static tests specified in S20.2 (using the 49 CFR Part 572 Subpart R 12-month-old CRABI child dummy in any of the child restraints identified in sections B and C of appendix A of this standard and the 49 CFR part 572 subpart K Newborn Infant dummy in any of the car beds identified in section A of appendix A, as appropriate), and activation of the air bag system during each of the static tests specified in S20.3 (using the 49 CFR Part 572 Subpart O 5th percentile adult female dummy).

S19.2.2 The vehicle shall be equipped with at least one telltale which emits light whenever the passenger air bag system is deactivated and does not emit light whenever the passenger air bag system is activated, except that the telltale(s) need not illuminate when the passenger seat is unoccupied. Each telltale:

(a) Shall emit yellow light;

(b) Shall have the identifying words "PASSENGER AIR BAG OFF" or "PASS AIR BAG OFF" on the telltale or within 25 mm (1.0 in) of the telltale; and

(c) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

(d) Shall be located within the interior of the vehicle and forward of and above the design H-point of both the driver's and the right front passenger's seat in their forwardmost seating positions and shall not be located on or adjacent to a surface that can be used for temporary or permanent storage where use of the storage space could obscure the telltale from either the driver's or right front passenger's view, or where the telltale would be obscured from the driver's view if a rear facing child restraint is installed in the right front passenger's seat.

(e) Shall be visible and recognizable to a driver and right front passenger during night and day when the occupants have adapted to the ambient light roadway conditions.

(f) Telltales need not be visible or recognizable when not activated.

(g) Means shall be provided for making telltales and their identification visible and recognizable to the driver and right front passenger under all driving conditions. The means for providing the required visibility may be adjustable manually or automatically, except that the telltales and their identifications may not be adjustable under any driving conditions to a level that they become invisible or not recognizable to the driver and right front passenger.

(h) The telltale must not emit light except when the passenger air bag is urned off or during a bulb check upon vehicle starting.

S19.2.3 The vehicle shall be equipped with a mechanism that indicates whether the air bag system is suppressed, regardless of whether the passenger seat is occupied. The mechanism need not be located in the occupant compartment unless it is the telltale described in S19.2.2.

S19.3 *Option 2—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S19.4 of this standard when the passenger air bag is deployed in accordance with the procedures specified in S20.4.

S19.4 *Injury criteria for the 49 CFR Part 572, Subpart R 12-month-old CRABI test dummy.*

S19.4.1 All portions of the test dummy and child restraint shall be contained within the outer surfaces of the vehicle passenger compartment.

S19.4.2 Head injury criteria.

(a) For any two points in time, t_1 and t_2, during the event which are separated by not more than a 15 millisecond time interval and where t_1 is less than t_2, the head injury criterion (HIC_{15}) shall be determined using the resultant head acceleration at the center of gravity of the dummy head, a_r, expressed as a multiple of g (the acceleration of gravity) and shall be calculated using the expression:

$$\left[\frac{1}{(t_2 t_1)}\int_{t_1}^{t_2} a_r dt\right]^{2.5} (t_2 t_1)$$

(b) The maximum calculated HIC_{15} value shall not exceed 390.

S19.4.3 The resultant acceleration calculated from the output of the thoracic instrumentation shall not exceed 50 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S19.4.4 *Neck injury.* When measuring neck injury, each of the following injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S19.4.4(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 1460 N (328 lbf) when Fz is in tension

(ii) Fzc = 1460 N (328 lbf) when Fz is in compression

(iii) Myc = 43 Nm (32 lbf-ft) when a flexion moment exists at the occipital condyle

(iv) Myc = 17 Nm (13 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

Nij ' (Fz / Fzc) + (Mocy / Myc)

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 780 N (175 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 960 N (216 lbf) at any time.

S19.4.5 Unless otherwise indicated, instrumentation for data acquisition, data channel frequency class, and moment calculations are the same as given for the 49 CFR Part 572 Subpart R 12-month-old CRABI test dummy.

S20 *Test procedure for S19.*

S20.1 *General provisions.*

S20.1.1 Tests specifying the use of a car bed, a rear facing child restraint, or a convertible child restraint may be conducted using any such restraint listed in sections A, B, and C of Appendix A of this standard respectively. The car bed, rear facing child restraint, or convertible child restraint may be unused or have been previously used only for automatic suppression tests. If it has been used, there shall not be any visible damage prior to the test.

S20.1.2 Each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position, if adjustable fore and aft, at full rearward, middle, and full forward positions. If the child restraint or dummy contacts the vehicle interior, move the seat rearward to the next detent that provides clearance. If the seat is a power seat, move the seat rearward while assuring that there is a maximum of 5 mm (0.2 in) clearance.

S20.1.3 If the car bed, rear facing child restraint, or convertible child restraint is equipped with a handle, the vehicle shall comply in tests conducted with the handle at both the child restraint manufacturer's recommended position for use in vehicles and in the upright position.

S20.1.4 If the car bed, rear facing child restraint, or convertible child restraint is equipped with a sunshield, the vehicle shall comply in tests conducted with the sunshield both fully open and fully closed.

S20.1.5 The vehicle shall comply in tests with the car bed, rear facing child restraint, or convertible child restraint uncovered and in tests with a towel or blanket weighing up to 1.0 kg (2.2 lb) placed on or over the restraint in any of the following positions:

(a) with the blanket covering the top and sides of the restraint, and

(b) with the blanket placed from the top of the vehicle's seat back to the forwardmost edge of the restraint.

S20.1.6 Except as otherwise specified, if the car bed, rear facing child restraint, or convertible child restraint has an anchorage system as specified in S5.9 of FMVSS No. 213 and is tested in a vehicle with a right front outboard vehicle seat that has an anchorage system as specified in FMVSS No. 225, the vehicle shall comply with the belted test conditions with the restraint anchorage system attached to the vehicle seat anchorage system and the vehicle seat belt unattached. It shall also comply with the belted test conditions with the restraint anchorage system unattached to the vehicle seat anchorage system and the vehicle seat belt attached. The vehicle shall comply with the unbelted test conditions with the restraint anchorage system unattached to the vehicle seat anchorage system.

S20.1.7 If the car bed, rear facing child restraint, or convertible child restraint comes equipped with a detachable base, the vehicle shall comply in tests conducted with the detachable base attached to the child restraint and with the detachable base unattached to the child restraint.

S20.1.8 Do not attach any tethers.

S20.1.9 *Seat set-up.* Unless otherwise stated,

S20.1.9.1 *Lumbar support adjustment.* Position adjustable lumbar supports so that the lumbar support is in its lowest, retracted or deflated adjustment position.

S20.1.9.2 *Other seat adjustments.* Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position.

S20.1.9.3 If the seat cushion adjusts fore and aft, independent of the seat back, set this adjustment to the full rearward position.

S20.1.9.4 If the seat height is adjustable, determine the maximum and minimum heights at the full rearward, middle, and full forward positions. Set the seat at the mid-point height for each of the three fore-aft test positions.

S20.1.9.5 The seat back angle, if adjustable, is set at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3.

S20.1.9.6 If adjustable, set the head restraint at the full down and full forward position.

S20.1.10 The longitudinal centerline of a bucket seat cushion is determined at the widest part of the seat cushion. Measure perpendicular to the longitudinal centerline of the vehicle.

S20.2 *Static tests of automatic suppression feature which shall result in deactivation of the passenger air bag.* Each vehicle that is certified as complying with S19.2 shall meet the following test requirements.

S20.2.1 *Belted rear facing and convertible child restraints.*

S20.2.1.1 The vehicle shall comply in tests using any child restraint specified in section B and section C of Appendix A of this standard.

S20.2.1.2 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as "Plane".

S20.2.1.3 For bucket seats, "Plane B" refers to a vertical plane parallel to the vehicle longitudinal centerline through the longitudinal centerline of the right front outboard vehicle seat cushion. For bench seats, "Plane B" refers to a vertical plane through the right front outboard vehicle seat parallel to the vehicle longitudinal centerline the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

S20.2.1.4 *Facing rear.*

(a) The vehicle shall comply in both of the following positions, if applicable:

(1) Without attaching the child restraint anchorage system as specified in S5.9 of FMVSS No. 213 to a vehicle seat anchorage system specified in FMVSS No. 225, align the child restraint system facing rearward such that Plane A is aligned with Plane B.

(2) If the child restraint is certified to S5.9 of FMVSS No. 213, and the vehicle seat has an anchorage system as specified in FMVSS No. 225, attach the child restraint to the vehicle seat anchorage instead of aligning the planes. Do not attach the vehicle safety belt.

(b) While maintaining the child restraint positions achieved in S20.2.1.4(a), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the rear facing mode.

(c) Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. Cinch the vehicle belts to any tension from zero up to 134 N (30 lb) to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

(d) Position the 49 CFR Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(e) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.1.5 *Facing forward (convertible restraints only).*

(a) The vehicle shall comply in both of the following positions, if applicable:

(1) Without attaching the child restraint anchorage system as specified in S5.9 of FMVSS No. 213 to a vehicle seat anchorage system specified in FMVSS No. 225, align the child restraint system facing forward such that Plane A is aligned with Plane B.

(2) If the child restraint is certified to S5.9 of FMVSS No. 213, and the vehicle seat has an anchorage system as specified in FMVSS No. 225, attach the child restraint to the vehicle seat anchorage instead of aligning the planes. Do not attach the vehicle safety belt.

(b) While maintaining the child restraint positions achieved in S20.2.1.5(a), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the forward facing mode.

(c) Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. Cinch the vehicle belts to any tension from zero up to 134 N (30 lb) to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

(d) Position the 49 CFR Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(e) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.2 *Unbelted rear facing and convertible child restraints.*

S20.2.2.1 The vehicle shall comply in tests using any child restraint specified in section B and section C of appendix A of this standard.

S20.2.2.2 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as "Plane A".

S20.2.2.3 For bucket seats, "Plane B" refers to a vertical plane parallel to the vehicle longitudinal centerline through the longitudinal centerline of the right front outboard vehicle seat cushion. For bench seats, "Plane B" refers to a vertical plane through the right front outboard seat parallel to the vehicle longitudinal centerline the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

S20.2.2.4 *Facing rear.*

(a) Align the child restraint system facing rearward such that Plane A is aligned with Plane B and the child restraint is in contact with the seat back.

(b) Position the 49 CFR Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(c) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.2.5 *Facing forward.*

(a) Align the child restraint system facing forward such that Plane A is aligned with Plane B and the child restraint is in contact with the seat back.

(b) Position the 49 CFR Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(c) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.3 *Tests with a belted car bed.*

S20.2.3.1 The vehicle shall comply in tests using any car bed specified in section A of Appendix A of this standard.

S20.2.3.2 (a) Install the car bed by following, to the extent possible, the car bed manufacturer's directions regarding proper installation of the car bed.

(b) Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. Cinch the vehicle belts to secure the car bed.

(c) Position the 49 CFR Part 572 Subpart K Newborn Infant dummy in the car bed by following, to the extent possible, the car bed manufacturer's instructions provided with the car bed for positioning infants.

(d) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.3 *Static tests of automatic suppression feature which shall result in activation of the passenger air bag system.*

S20.3.1 Each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position, if adjustable fore and aft, at the full rearward, middle, and, subject to S16.3.3.1.8, full forward positions. All tests are conducted with the seat height, if adjustable, in the mid-height position.

S20.3.2 Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at the right front outboard seating position of the vehicle, in accordance with procedures specified in S16.3.3 of this standard, except as specified in S20.3.1, subject to the fore-aft seat positions in S20.3.1. Do not fasten the seat belt.

S20.3.3 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

S20.3.4 Wait 10 seconds, then check whether the air bag system is activated.

S20.4 *Low risk deployment test.* Each vehicle that is certified as complying with S19.3 shall meet the following test requirements.

S20.4.1 Position the right front outboard vehicle seat in the full forward seat track position, adjust the seat height (if adjustable) to the mid-height position, and adjust the seat back (if adjustable) to the nominal design position for a 50th percentile adult male as specified in S8.1.3. Position adjustable lumbar supports so that the lumbar support is in its lowest, retracted or deflated adjustment position. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. If the seat cushion adjusts fore and aft, independent of the seat back, set this adjustment to the full rearward position. If adjustable, set the head restraint at the full down position. If the child restraint or dummy contacts the vehicle interior, move the seat rearward to the next detent that provides clearance. If the seat is a power seat, move the seat rearward while assuring that there is a maximum of 5 mm (0.2 in) clearance.

S20.4.2 The vehicle shall comply in tests using any child restraint specified in section B and section C of appendix A to this standard.

S20.4.3 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as "Plane A".

S20.4.4 For bucket seats, "Plane B" refers to a vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the right front outboard seat cushion. For bench seats, "Plane B" refers to a vertical plane through the right front outboard seat parallel to the vehicle longitudinal centerline that is the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

S20.4.5 Align the child restraint system facing rearward such that Plane A is aligned with Plane B.

S20.4.6 If the child restraint is certified to S5.9 of FMVSS No. 213, and the vehicle seat has an anchorage system as specified in FMVSS No. 225, attach the child restraint to the vehicle seat anchorage instead of aligning the planes. Do not attach the vehicle safety belt.

S20.4.7 While maintaining the child restraint position achieved in S20.4.5, secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint in the rear facing mode. Place any adjustable seat belt anchorages at the manufacturer's nominal design position for a 50th percentile adult male occupant. Cinch the vehicle belts to any tension from zero up to 134 N (30 lb) to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

S20.4.8 Position the 49 CFR Part 572 Subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

S20.4.9 Deploy the right front outboard frontal air bag system. If the air bag system contains a multistage inflator, the vehicle shall be able to comply at any stage or combination of stages or time delay between successive stages that could occur in the presence of an infant in a rear facing child restraint and a 49 CFR Part 572, Subpart R 12-month-old CRABI dummy positioned according to S20.4 in a rigid barrier crash test at speeds up to 64 km/h (40 mph).

S21 *Requirements using 3-year-old child dummies.*

S21.1 Each vehicle that is certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S21.2, S21.3, S21.4 or S21.5, under the test procedures specified in S22 or S28, as applicable.

S21.2 *Option 1—Automatic suppression feature.* Each vehicle shall meet the requirements specified in S21.2.1 through S21.2.3.

S21.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger air bag which results in deactivation of the air bag during each of the static tests specified in S22.2 (using a 49 CFR Part 572 Subpart P 3-year-old child dummy and, as applicable, any child restraint specified in section C and section D of appendix A to this standard), and activation of the air bag system during each of the static tests specified in S22.3 (using a 49 CFR Part 572 Subpart O 5th percentile adult female dummy).

S21.2.2 The vehicle shall be equipped with a telltale light meeting the requirements specified in S19.2.2.

S21.2.3 The vehicle shall be equipped with a mechanism that indicates whether the air bag is suppressed, regardless of whether the passenger seat is occupied. The mechanism need not be located in the occupant compartment unless it is the telltale described in S21.2.2.

S21.3 *Option 2—Dynamic automatic suppression system that suppresses the air bag when an occupant is out of position.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the passenger air bag system which meets the requirements specified in S27.

S21.4 *Option 3—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S21.5 of this standard when the passenger air bag is deployed in accordance with both of the low risk deployment test procedures specified in S22.4.

S21.5 *Injury criteria for the 49 CFR Part 572, Subpart P 3-year-old child test dummy.*

S21.5.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.

S21.5.2 *Head injury criteria.*

(a) For any two points in time, t_1 and t_2, during the event which are separated by not more than a 15 millisecond time interval and where t_1 is less than t_2, the head injury criterion (HIC_{15}) shall be determined using the resultant head acceleration at the center of gravity of the dummy head, a_r, expressed as a multiple of g (the acceleration of gravity) and shall be calculated using the expression:

$$\left[\frac{1}{(t_2t_1)}\int_{t_1}^{t_2} a_r dt\right]^{2.5}(t_2t_1)$$

(b) The maximum calculated HIC_{15} value shall not exceed 570.

S21.5.3 The resultant acceleration calculated from the output of the thoracic instrumentation shall not exceed 55 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S21.5.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation, shall not exceed 34 millimeters (1.3 in).

S21.5.5 *Neck injury.* When measuring neck injury, each of the following injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: Tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S21.5.5(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 2120 N (477 lbf) when Fz is in tension

(ii) Fzc = 2120 N (477 lbf) when Fz is in compression

(iii) Myc = 68 Nm (50 lbf-ft) when a flexion moment exists at the occipital condyle

(iv) Myc = 27 Nm (20 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

Nij = (Fz / Fzc) + (Mocy / Myc)

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 1130 N (254 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 1380 N (310 lbf) at any time.

S21.5.6 Unless otherwise indicated, instrumentation for data acquisition, data channel frequency class, and moment calculations are the same as given in 49 CFR Part 572 Subpart P 3-year-old child test dummy.

S22 *Test procedure for S21.*

S22.1 *General provisions and definitions.*

S22.1.1 Tests specifying the use of a forward facing child restraint, including a booster seat where applicable, may be conducted using any such restraint listed in section C and section D of Appendix A of this standard, respectively. The child restraint may be unused or have been previously used only for automatic suppression tests. If it has been used, there shall not be any visible damage prior to the test. Booster seats are to be used in the manner appropriate for a 3-year-old child of the same height and weight as the 3-year-old child dummy.

S22.1.2 Unless otherwise specified, each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position at the full rearward, middle, and the full forward positions. If the dummy contacts the vehicle interior, move the seat rearward to the next detent that provides clearance. If the seat is a power seat, move the seat rearward while assuring that there is a maximum of 5 mm (0.2 in) clearance.

S22.1.3 Except as otherwise specified, if the child restraint has an anchorage system as specified in S5.9 of FMVSS No. 213 and is tested in a vehicle with a right front outboard vehicle seat that has an anchorage system as specified in FMVSS No. 225, the vehicle shall comply with the belted test conditions with the restraint anchorage system attached to the vehicle seat anchorage system and the vehicle seat belt unattached. It shall also comply with the belted test conditions with the restraint anchorage system unattached to the vehicle seat anchorage system and the vehicle seat belt attached.

S22.1.4 Do not attach any tethers.

S22.1.5 The definitions provided in S16.3.1 through S16.3.10 apply to the tests specified in S22.

S22.1.6 For leg and thigh angles use the following references:

(a) *Thigh*—a straight line on the thigh skin between the center of the $\frac{5}{16} \times \frac{1}{2}$ in. screw (part 9001024, item 10 in drawing 210–0000 sheet 2 of 7, complete assembly (HYB III 3 YR OLD)) and the knee bolt (part 210–5301 in drawing 210–5000–1 & –1, leg assembly).

(b) *Leg*—a straight line on the leg skin between the center of the ankle bolt (part 210–5701 in drawing 210–5000–1 & –2, leg assembly) and the knee bolt (part 210–5301 in drawing 210–5000–1 & –2, leg assembly).

S22.1.7 *Seat set-up.* Unless otherwise stated,

S22.1.7.1 *Lumbar support adjustment.* Position adjustable lumbar supports so that the lumbar support is in its lowest, retracted or deflated adjustment position.

S22.1.7.2 *Other seat adjustments.* Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position.

S22.1.7.3 If the seat cushion adjusts fore and aft, independent of the seat back, set this adjustment to the full rearward position.

S22.1.7.4 If the seat height is adjustable, determine the maximum and minimum heights at the full rearward seat track position, the middle seat track position, and the full forward seat track position. Set the seat at the mid-point height for each of the three fore-aft test positions.

S22.1.7.5 The seat back angle, if adjustable, is set at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3.

S22.1.7.6 If adjustable, set the head restraint at the full down and full forward position.

S22.2 *Static tests of automatic suppression feature which shall result in deactivation of the passenger air bag.* Each vehicle that is certified as complying with S21.2 shall meet the following test requirements:

S22.2.1 *Belted test with forward facing child restraints or booster seats.*

S22.2.1.1 Install the restraint in the right front outboard seat in accordance, to the extent possible, with the child restraint manufacturer's instructions provided with the seat for use by children with the same height and weight as the 3-year-old child dummy.

S22.2.1.2 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as "Plane A".

S22.2.1.3 For bucket seats, "Plane B" refers to a vertical longitudinal plane through the longitudinal centerline of the seat cushion of the right front outboard vehicle seat. For bench seats, "Plane B" refers to a vertical plane through the right front outboard vehicle seat parallel to the vehicle longitudinal centerline the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

22.2.1.4 The vehicle shall comply in both of the following positions, if applicable:

(a) Without attaching the child restraint anchorage system as specified in S5.9 of FMVSS No. 213 to a vehicle seat anchorage system specified in FMVSS No. 225 and without attaching any tethers, align the child restraint system facing forward such that Plane A is aligned with Plane B.

(b) If the child restraint is certified to S5.9 of FMVSS No. 213, and the vehicle seat has an anchorage system as specified in FMVSS No. 225, attach the child restraint to the vehicle seat anchorage instead of aligning the planes. Do not attach the vehicle safety belt.

S22.2.1.5 *Forward facing child restraint*

S22.2.1.5.1 Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. Cinch the vehicle belts to any tension from zero up to 134 N (30 lb) to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

S22.2.1.5.2 Position the 49 CFR Part 572 Subpart P 3-year-old child dummy in the child restraint such that the dummy's lower torso is centered on the child restraint and the dummy's spine is against the seat back of the child restraint. Place the arms at the dummy's sides.

S22.2.1.5.3 Attach all belts that come with the child restraint that are appropriate for a child of the same height and weight as the 3-year-old child dummy, if any, by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating children.

S22.2.1.6 *Booster seat*

S22.2.1.6.1 Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant. For booster seats designed to be secured to the vehicle seat even when empty, cinch the vehicle belts to any tension from zero up to 134 N (30 lb) to secure the booster seat. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

S22.2.1.6.2 Position the 49 CFR Part 572 Subpart P 3-year-old child dummy in the booster seat such that the dummy's lower torso is centered on the booster seat cushion and the dummy's back is parallel to and in contact with the booster seat back or, if there is no booster seat back, the vehicle seat back. Place the arms at the dummy's sides.

S22.2.1.6.3 If applicable, attach all belts that come with the child restraint that are appropriate for a child of the same height and weight as the 3-year-old child dummy, if any, by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating children.

S22.2.1.6.4 If applicable, place the Type 2 manual belt around the test dummy and fasten the latch. Remove all slack from the lap belt portion. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this four times. Apply a 9 to 18 N (2 to 4 lb) tension load to the lap belt. Allow the excess webbing in the upper torso belt to be retracted by the retractive force of the retractor.

S22.2.1.7 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

S22.2.1.8 Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2 *Unbelted tests with dummies.* Place the 49 CFR Part 572 Subpart P 3-year-old child dummy on the right front outboard seat in any of the following positions (without using a child restraint or booster seat or the vehicle's seat belts):

S22.2.2.1 *Sitting on seat with back against seat back*

VOL 66 ISS 243 DE 18 2001 UMI

(a) Position the dummy in the seated position and place it on the right front outboard seat.

(b) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion. Position the torso of the dummy against the seat back. Position the dummy's thighs against the seat cushion.

(c) Allow the legs of the dummy to extend off the surface of the seat.

(d) Rotate the dummy's upper arms down until they contact the seat back.

(e) Rotate the dummy's lower arms until the dummy's hands contact the seat cushion.

(f) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(g) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.2 *Sitting on seat with back against reclined seat back.* Repeat the test sequence in S22.2.2.1 with the seat back angle 25 degrees rearward of the manufacturer's nominal design position for the 50th percentile adult male. If the seat will not recline 25 degrees rearward of the nominal design position, use the closest position that does not exceed 25 degrees.

S22.2.2.3 *Sitting on seat with back not against seat back.*

(a) Position the dummy in the seated position and place it on the right front outboard seat.

(b) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion. Position the dummy with the spine vertical so that the horizontal distance from the dummy's back to the seat back is no less than 25 mm (1.0 in) and no more than 150 mm (6.0 in), as measured along the dummy's midsagittal plane at the mid-sternum level. To keep the dummy in position, a material with a maximum breaking strength of 311 N (70 lb) may be used to hold the dummy.

(c) Position the dummy's thighs against the seat cushion.

(d) Allow the legs of the dummy to extend off the surface of the seat.

(e) Position the upper arms parallel to the spine and rotate the dummy's lower arms until the dummy's hands contact the seat cushion.

(f) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(g) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.4 *Sitting on seat edge, spine vertical, hands by the dummy's sides.*

(a) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion.

(b) Position the dummy in the seated position forward in the seat such that the legs are vertical and the back of the legs rest against the front of the seat with the spine vertical. If the dummy's feet contact the floor pan, rotate the legs forward until the dummy is resting on the seat with the feet positioned flat on the floor pan and the dummy spine vertical. To keep the dummy in position, a material with a maximum breaking strength of 311 N (70 lb) may be used to hold the dummy.

(c) Place the upper arms parallel to the spine.

(d) Lower the dummy's lower arms such that they contact the seat cushion.

(e) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(f) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.5 *Standing on seat, facing forward.*

(a) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel rim. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion. Position the dummy in a standing position on the right front outboard seat cushion facing the front of the vehicle while placing the heels of the dummy's feet in contact with the seat back.

(b) Rest the dummy against the seat back, with the arms parallel to the spine.

(c) If the head contacts the vehicle roof, recline the seat so that the head is no longer in contact with the vehicle roof, but allow no more than 5 mm (0.2 in) distance between the head and the roof. If the seat does not sufficiently recline to allow clearance, omit the test.

(d) If necessary use a material with a maximum breaking strength of 311 N (70 lb) or spacer blocks to keep the dummy in position.

(e) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(f) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.6 *Kneeling on seat, facing forward.*

(a) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion.

(b) Position the dummy in a kneeling position in the right front outboard seat with the dummy facing the front of the vehicle with its toes at the intersection of the seat back and seat cushion. Position the dummy so that the spine is vertical. Push down on the legs so that they contact the seat as much as possible and then release. Place the arms parallel to the spine.

(c) If necessary use a material with a maximum breaking strength of 311 N (70 lb) or spacer blocks to keep the dummy in position.

(d) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(e) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.7 *Kneeling on seat, facing rearward.*

(a) In the case of vehicles equipped with bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the center of the steering wheel. In the case of vehicles equipped with bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal centerline of the seat cushion.

(b) Position the dummy in a kneeling position in the right front outboard seat with the dummy facing the rear of the vehicle. Position the dummy such that the dummy's head and torso are in contact with the seat back. Push down on the legs so that they contact the seat as much as possible and then release. Place the arms parallel to the spine.

(c) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(d) Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.2.8 *Lying on seat.* This test is performed only in vehicles with 3 designated front seating positions.

(a) Lay the dummy on the right front outboard seat such that the following criteria are met:

(1) The midsagittal plane of the dummy is horizontal,

(2) The dummy's spine is perpendicular to the vehicle's longitudinal axis,

(3) The dummy's arms are parallel to its spine,

(4) A plane passing through the two shoulder joints of the dummy is vertical,

(5) The anterior of the dummy is facing the vehicle front,

(6) The head of the dummy is positioned towards the passenger door, and

(7) The horizontal distance from the topmost point of the dummy's head to the vehicle door is 50 to 100 mm (2–4 in).

(8) The dummy is as far back in the seat as possible.

(b) Rotate the thighs as much as possible toward the chest of the dummy and rotate the legs as much as possible against the thighs.

(c) Move the dummy's upper left arm parallel to the vehicle's transverse plane and the lower left arm 90 degrees to the upper arm. Rotate the lower left arm about the elbow joint and toward the dummy's head until movement is obstructed.

(d) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

(e) Wait 10 seconds, then check whether the air bag is deactivated.

S22.3 *Static tests of automatic suppression feature which shall result in activation of the passenger air bag system.*

S22.3.1 Each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position at the full rearward, middle, and, subject to S16.3.3.1.8, full forward positions. All tests are conducted with the seat height, if adjustable, in the mid-height position.

S22.3.2 Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at the right front outboard seating position of the vehicle, in accordance with procedures specified in S16.3.3 of this standard, except as specified in S22.3.1. Do not fasten the seat belt.

S22.3.3 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

S22.3.4 Wait 10 seconds, then check whether the air bag system is activated.

S22.4 *Low risk deployment tests.*

S22.4.1 Each vehicle that is certified as complying with S21.4 shall meet the following test requirements with the 49 CFR Part 572, Subpart P 3-year-old child dummy in both of the following positions: Position 1 (S22.4.2) and Position 2 (S22.4.3).

S22.4.1.1 Locate and mark a point on the front of the dummy's chest jacket on the midsaggital plane which is 114 mm (4.5 in) ± 3 mm (± 0.1 in) along the surface of the skin from the top of the skin at the neck line. This is referred to as "Point 1."

S22.4.1.2 Locate the vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the opening through which the right front air bag deploys into the occupant compartment. This is referred to as "Plane D."

S22.4.1.3 Locate the horizontal plane through the geometric center of the opening through which the right front air bag deploys into the occupant compartment. This is referred to as "Plane C."

S22.4.2 *Position 1 (chest on instrument panel).*

S22.4.2.1 If a seat is adjustable in the fore and aft and/or vertical directions, move the seat to the rear-most seating position and full-down height adjustment. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full-rearward position. If the seat back is adjustable, place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. If adjustable, set the head restraint in the lowest position.

S22.4.2.2 Place the dummy in the front passenger seat such that:

S22.4.2.2.1 The midsagittal plane is coincident with Plane D.

S22.4.2.2.2 The legs are initially vertical to the floor pan. The legs and thighs shall be adjusted to the extent necessary for the head/torso to contact the instrument panel as specified in S22.4.2.3.

S22.4.2.2.3 The upper arms are parallel to the torso and the hands are in contact with the thighs.

S22.4.2.3 Without changing the seat position and with the dummy's thorax instrument cavity rear face vertical, move the dummy forward until the dummy head/torso contacts the instrument panel. If the dummy loses contact with the seat cushion because of the forward movement, maintain the height of the dummy and the angle of the thigh with respect to the torso. Once contact is made, raise the dummy vertically until Point 1 lies in Plane C. If the dummy's head contacts the windshield and keeps Point 1 from reaching Plane C, lower the dummy until there is no more than 5 mm (0.2 in) clearance between the head and the windshield. (The dummy shall remain in contact with the instrument panel while being raised or lowered, which may change the dummy's fore-aft position.)

S22.4.2. If possible, position the legs of the dummy so that the legs are vertical and the feet rest flat on the floor pan of the vehicle. If the positioning against the instrument panel does not allow the feet to be on the floor pan, the feet shall be parallel to the floor pan.

S22.4.2.5 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. The material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S22.4.3 *Position 2 (head on instrument panel).*

S22.4.3.1 Place the passenger seat in the full rearward seating position. Place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. If adjustable in the vertical direction, place the seat in the mid-height position. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full rearward position. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. If adjustable, set the head restraint in the lowest position.

S22.4.3.2 Place the dummy in the front passenger seat such that:

S22.4.3.2.1 The midsagittal plane is coincident with Plane D.

S22.4.3.2.2 The legs are vertical to the floor pan, the back of the legs are in contact with the seat cushion, and the dummy's thorax instrument cavity rear face is vertical. If it is not possible to position the dummy with the legs in the prescribed position, rotate the legs forward until the dummy is resting on the seat with the feet positioned flat on the floor pan, and the back of the legs are in contact with the front of the seat cushion. Set the transverse distance between the longitudinal centerlines at the front of the dummy's knees at 86 to 91 mm (3.4 to 3.6 in), with the thighs and the legs of the dummy in vertical planes.

S22.4.3.2.3 The upper arms are parallel to the torso and the hands are in contact with the thighs.

S22.4.3.3 Move the seat forward, while maintaining the thorax instrument cavity rear face orientation until any part of the dummy contacts the vehicle's instrument panel.

S22.4.3.4 If dummy contact has not been made with the vehicle's instrument panel at the full forward seating position of the seat, slide the dummy forward until contact is made. Maintain the thorax instrument cavity rear face vertical orientation, the height of the dummy, and the angle of the thigh with respect to the horizontal.

S22.4.3.5 If head/torso contact with the instrument panel has not been made, maintain the angle of the thighs with respect to the horizontal while applying a force towards the front of the vehicle on the spine of the dummy between the shoulder joints until the head or torso comes into contact with the vehicle's instrument panel.

S22.4.3.6 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. The material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S22.4.4 Deploy the right front outboard frontal air bag system. If the frontal air bag system contains a multistage inflator, the vehicle shall be able to comply with the injury criteria at any stage or combination of stages or time delay between successive stages that could occur in a rigid barrier crash test at or below 26 km/h (16 mph), under the test procedure specified in S22.5.

S22.5 *Test procedure for determining stages of air bag systems subject to low risk deployment (low speed crashes) test requirement.*

S22.5.1 The test described in S22.5.2 shall be conducted with an unbelted 50th percentile adult male test dummy in the driver seating position according to S8 as it applies to that seating position and an unbelted 5th percentile adult female test dummy either in the right front seating position according to S16 as it applies to that seating position or at any fore-aft seat position on the passenger side.

S22.5.2 Impact the vehicle traveling longitudinally forward at any speed, up to and including 26 km/h (16 mph) into a fixed rigid barrier that is perpendicular ± 5 degrees to the line of travel of the vehicle under the applicable conditions of S8, S10, and S16 excluding S10.7, S10.8, S10.9, and S16.3.5.

S22.5.3 Determine which inflation stage or combination of stages are fired and determine the time delay between successive stages. That stage or combination of stages, with time delay between successive stages, shall be used in deploying the air bag when conducting the low risk deployment tests described in S22.4, S24.4, and S26.

S22.5.4 If the air bag does not deploy in the impact described in S22.5.2, the low risk deployment tests described in S22.4, S24.4, and S26 shall be conducted with all stages using the maximum time delay between stages.

S23 *Requirements using 6-year-old child dummies.*

S23.1 Each vehicle that is certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S23.2, S23.3, or S23.4, under the test procedures specified in S24 or S28, as applicable.

S23.2 *Option 1—Automatic suppression feature.* Each vehicle shall meet the requirements specified in S23.2.1 through S23.2.3.

S23.2.1 The vehicle shall be equipped with an automatic suppression feature for the passenger frontal air bag system which results in deactivation of the air bag during each of the static tests specified in S24.2 (using a 49 CFR Part 572 Subpart N 6-year-old child dummy in any of the child restraints specified in section D of Appendix A of this standard), and activation of the air bag system during each of the static tests specified in S24.3 (using a 49 CFR Part 572 Subpart O 5th percentile adult female dummy).

S23.2.2 The vehicle shall be equipped with a telltale light meeting the requirements specified in S19.2.2.

S23.2.3 The vehicle shall be equipped with a mechanism that indicates whether the air bag is suppressed, regardless of whether the passenger seat is occupied. The mechanism need not be located in the occupant compartment unless it is the telltale described in S23.2.2.

S23.3 *Option 2—Dynamic automatic suppression system that suppresses the air bag when an occupant is out of position.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the passenger frontal air bag system which meets the requirements specified in S27.

S23.4 *Option 3—Low risk deployment.* Each vehicle shall meet the injury criteria specified in S23.5 of this standard when the passenger air bag is statically deployed in accordance with both of the low risk deployment test procedures specified in S24.4.

S23.5 *Injury criteria for the 49 CFR Part 572 Subpart N 6-year-old child dummy.*

S23.5.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment.

S23.5.2 *Head injury criteria.*

(a) For any two points in time, t_1 and t_2, during the event which are separated by not more than a 15 millisecond time interval and where t_1 is less than t_2, the head injury criterion (HIC_{15}) shall be determined using the resultant head acceleration at the center of gravity of the dummy head, a_r, expressed as a multiple of g (the acceleration of gravity) and shall be calculated using the expression:

$$\left[\frac{1}{(t_2t_1)}\int_{t_1}^{t_2} a_r dt\right]^{2.5}(t_2t_1)$$

(b) The maximum calculated HIC_{15} value shall not exceed 700.

S23.5.3 The resultant acceleration calculated from the output of the thoracic instrumentation shall not exceed 60 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S23.5.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation, shall not exceed 40 mm (1.6 in).

S23.5.5 *Neck injury.* When measuring neck injury, each of the following injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash

event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S23.5.5(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 2800 N (629 lbf) when Fz is in tension

(ii) Fzc = 2800 N (629 lbf) when Fz is in compression

(iii) Myc = 93 Nm (69 lbf-ft) when a flexion moment exists at the occipital condyle

(iv) Myc = 37 Nm (27 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

$Nij = (Fz / Fzc) + (Mocy / Myc)$

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 1490 N (335 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 1820 N (409 lbf) at any time.

S23.5.6 Unless otherwise indicated, instrumentation for data acquisition, data channel frequency class, and moment calculations are the same as given for the 49 CFR Part 572 Subpart N 6-year-old child test dummy.

S24 *Test procedure for S23.*

S24.1 *General provisions and definitions.*

S24.1.1 Tests specifying the use of a booster seat may be conducted using any such restraint listed in section D of Appendix A of this standard. The booster seat may be unused or have been previously used only for automatic suppression. If it has been used, there shall not be any visible damage prior to the test. Booster seats are to be used in the manner appropriate for a 6-year-old child of the same height and weight as the 6-year-old child dummy.

S24.1.2 Unless otherwise specified, each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position at the full rearward seat track position, the middle seat track position, and the full forward seat track position. If the dummy contacts the vehicle interior, move the seat rearward to the next detent that provides clearance. If the seat is a power seat, move the seat rearward while assuring that there is a maximum of 5 mm (0.2 in) distance between the vehicle interior and the point on the dummy that would first contact the vehicle interior. All tests are conducted with the seat height, if adjustable, in the mid-height position, and with the seat back angle, if adjustable, at the manufacturer=s nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3.

S24.1.3 Except as otherwise specified, if the booster seat has an anchorage system as specified in S5.9 of FMVSS No. 213 and is tested in a vehicle with a right front outboard vehicle seat that has an anchorage system as specified in FMVSS No. 225, the vehicle shall comply with the belted test conditions with the restraint anchorage system attached to the vehicle seat anchorage system and the vehicle seat belt unattached. It shall also comply with the belted test conditions with the restraint anchorage system unattached to the vehicle seat anchorage system and the vehicle seat belt attached. The vehicle shall comply with the unbelted test conditions with the restraint anchorage system unattached to the vehicle seat anchorage system.

S24.1.4 Do not attach any tethers.

S24.1.5 The definitions provided in S16.3.1 through S16.3.10 apply to the tests specified in S24.

S24.1.6 For leg and thigh angles, use the following references:

S24.1.6.1 *Thigh*—a straight line on the thigh skin between the center of the 5/16–18 UNC–2B threaded access hole in the upper leg clamp (drawing 127–4004, 6 YR H3—upper leg clamp) and the knee screw (part 9000248 in drawing 127–4000–1 & –2, leg assembly).

S24.1.6.2 *Leg*—a straight line on the leg skin between the center of the lower leg screw (part 9001170 in drawing 127–4000–1 & –2, leg assembly) and the knee screw (part 9000248 in drawing 127–4000–1 & –2, leg assembly).

S24.2 *Static tests of automatic suppression feature which shall result in deactivation of the passenger air bag.* Each vehicle that is certified as complying with S23.2 shall meet the following test requirements.

S24.2.1 Except as provided in S24.2.2, conduct all tests as specified in S22.2, except that the 49 CFR Part 572 Subpart N 6-year-old child dummy shall be used.

S24.2.2 *Exceptions.* The tests specified in the following paragraphs of S22.2 need not be conducted: S22.2.1.5, S22.2.2.3, S22.2.2.5, S22.2.2.6, S22.2.2.7, and S22.2.2.8.

S24.2.3 *Sitting back in the seat and leaning on the right front passenger door*

(a) Position the dummy in the seated position and place the dummy in the right front outboard seat. For bucket seats, position the midsagittal plane of the dummy vertically such that it coincides with the longitudinal center line of the seat cushion. For bench seats, position the midsagittal plane of the dummy vertically and parallel to the vehicle=s longitudinal centerline and the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

(b) Place the dummy's back against the seat back and rest the dummy's thighs on the seat cushion.

(c) Allow the legs and feet of the dummy to extend off the surface of the seat. If this positioning of the dummy's legs is prevented by contact with the instrument panel, move the seat rearward to the next detent that provides clearance. If the seat is a power seat, move the seat rearward, while assuring that there is a maximum of 5 mm (0.2 in) distance between the vehicle interior and the part of the dummy that was in contact with the vehicle interior.

(d) Rotate the dummy's upper arms toward the seat back until they make contact.

(e) Rotate the dummy's lower arms down until they contact the seat.

(f) Close the vehicle's passenger-side door and then start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system.

(g) Push against the dummy's left shoulder to lean the dummy against the door; close all remaining doors.

(h) Wait 10 seconds, then check whether the air bag is deactivated.

S24.3 *Static tests of automatic suppression feature which shall result in activation of the passenger air bag system.*

S24.3.1 Each vehicle certified to this option shall comply in tests conducted with the right front outboard seating position at the full rearward seat track position, the middle seat track position, and, subject to S16.3.3.1.8, the full forward seat track position. All tests are conducted with the seat height, if adjustable, in the mid-height position.

VOL 66 ISS 243 DE 18 2001 UMI

S24.3.2 Place a 49 CFR Part 572 Subpart O 5th percentile adult female test dummy at the right front outboard seating position of the vehicle, in accordance with procedures specified in S16.3.3 of this standard, except as specified in S24.3.1. Do not fasten the seat belt.

S24.3.3 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors.

S24.3.4 Wait 10 seconds, then check whether the air bag system is activated.

S24.4 *Low risk deployment tests.*

S24.4.1 Each vehicle that is certified as complying with S23.4 shall meet the following test requirements with the 49 CFR Part 572 Subpart N 6-year-old child dummy in both of the following positions: Position 1 (S24.4.2) or Position 2 (S24.4.3).

S24.4.1.1 Locate and mark a point on the front of the dummy's chest jacket on the midsagittal plane which is 139 mm (5.5 in) ± 3 mm (± 0.1 in) along the surface of the skin from the top of the skin at the neckline. This is referred to as "Point 1."

S24.4.1.2 Locate the vertical plane parallel to the vehicle longitudinal centerline through the geometric center of the opening through which the right front air bag deploys into the occupant compartment. This is referred to as "Plane D."

S24.4.1.3 Locate the horizontal plane through the geometric center of the opening through which the right front air bag deploys into the occupant compartment. This is referred to as "Plane C."

S24.4.2 *Position 1 (chest on instrument panel).*

S24.4.2.1 If a seat is adjustable in the fore and aft and/or vertical directions, move the seat to the rearmost seating position and full down height adjustment. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full rearward position. If the seat back is adjustable, place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. Position an adjustable head restraint in the lowest position.

S24.4.2.2 Remove the legs of the dummy at the pelvic interface.

S24.4.2.3 Place the dummy in the front passenger seat such that:

(a) The midsagittal plane is coincident with Plane D.

(b) The upper arms are parallel to the torso and the hands are next to where the thighs would be.

(c) Without changing the seat position and with the dummy's thorax instrument cavity rear face 6 degrees forward of the vertical, move the dummy forward until the dummy head/torso contacts the instrument panel. If the dummy loses contact with the seat cushion because of the forward movement, maintain the height of the dummy while moving the dummy forward. If the head contacts the windshield before head/torso contact with the instrument panel, maintain the thorax instrument cavity angle and move the dummy forward such that the head is following the angle of the windshield until there is head/torso contact with the instrument panel. Once contact is made, raise or lower the dummy vertically until Point 1 lies in Plane C. If the dummy's head contacts the windshield and keeps Point 1 from reaching Plane C, lower the dummy until there is no more than 5 mm (0.2 in) clearance between the head and the windshield. (The dummy shall remain in contact with the instrument panel while being raised or lowered which may change the dummy's fore-aft position.)

S24.4.2.4 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. The material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S24.4.3 *Position 2 (head on instrument panel).*

S24.4.3.1 Place the passenger seat in the full rearward seating position. Place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. If adjustable in the vertical direction, place the seat in the mid-height position. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full rearward position. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. Position an adjustable head restraint in the lowest position.

S24.4.3.2 Place the dummy in the front passenger seat such that:

(a) The midsagittal plane is coincident with Plane D.

(b) The legs are perpendicular to the floor pan, the back of the legs are in contact with the seat cushion, and the dummy's thorax instrument cavity rear face is 6 degrees forward of vertical. If it is not possible to position the dummy with the legs in the prescribed position, rotate the legs forward until the dummy is resting on the seat with the feet positioned flat on the floor pan and the back of the legs are in contact with the front of the seat cushion. Set the transverse distance between the longitudinal centerlines at the front of the dummy's knees at 112 to 117 mm (4.4. to 4.6 in), with the thighs and the legs of the dummy in vertical planes.

(c) The upper arms are parallel to the torso and the hands are in contact with the thighs.

S24.4.3.3 Move the seat forward, while maintaining the thorax instrument cavity rear face orientation until any part of the dummy contacts the vehicle's instrument panel.

S24.4.3.4 If dummy contact has not been made with the vehicle's instrument panel at the full forward seating position of the seat, slide the dummy forward on the seat until contact is made. Maintain the thorax instrument cavity rear face orientation, the height of the dummy, and the angle of the thigh with respect to the horizontal.

S24.4.3.5 If head/torso contact has not been made with the instrument panel, maintain the angle of the thighs with respect to the horizontal while applying a force towards the front of the vehicle on the spine of the dummy between the shoulder joints until the head/torso comes into contact with the vehicle's instrument panel.

S24.4.3.6 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. Material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S24.4.4 Deploy the right front outboard frontal air bag system. If the frontal air bag system contains a multistage inflator, the vehicle shall be able to comply with the injury criteria at any stage or combination of stages and at any time delay between successive stages that could occur in a rigid barrier crash at speeds up to 26 km/h (16 mph) under the test procedure specified in S22.5.

S25 *Requirements using an out-of-position 5th percentile adult female dummy at the driver position.*

S25.1 Each vehicle certified as complying with S14 shall, at the option of the manufacturer, meet the requirements specified in S25.2 or S25.3 under the test procedures specified in S26 or S28, as appropriate.

S25.2 *Option 1—Dynamic automatic suppression system that suppresses the air bag when the driver is out of position.* (This option is available under the conditions set forth in S27.1.) The vehicle shall be equipped with a dynamic automatic suppression system for the driver air bag which meets the requirements specified in S27.

S25.3 *Option 2—Low risk deployment.* Each vehicle shall meet the injury criteria specified by S15.3 of this standard, except as modified in S25.4, when the driver air bag is statically deployed in accordance with both of the low risk deployment test procedures specified in S26.

S25.4 *Neck injury criteria driver low risk deployment tests.* When measuring neck injury in low risk deployment tests for the driver position, each of the following neck injury criteria shall be met.

(a) *Nij.*

(1) The shear force (Fx), axial force (Fz), and bending moment (My) shall be measured by the dummy upper neck load cell for the duration of the crash event as specified in S4.11. Shear force, axial force, and bending moment shall be filtered for Nij purposes at SAE J211/1 rev. Mar 95 Channel Frequency Class 600 (see S4.7).

(2) During the event, the axial force (Fz) can be either in tension or compression while the occipital condyle bending moment (Mocy) can be in either flexion or extension. This results in four possible loading conditions for Nij: tension-extension (Nte), tension-flexion (Ntf), compression-extension (Nce), or compression-flexion (Ncf).

(3) When calculating Nij using equation S25.4(a)(4), the critical values, Fzc and Myc, are:

(i) Fzc = 3880 N (872 lbf) when Fz is in tension

(ii) Fzc = 3880 N (872 lbf) when Fz is in compression

(iii) Myc = 155 Nm (114 lbf-ft) when a flexion moment exists at the occipital condyle

(iv) Myc = 61 Nm (45 lbf-ft) when an extension moment exists at the occipital condyle.

(4) At each point in time, only one of the four loading conditions occurs and the Nij value corresponding to that loading condition is computed and the three remaining loading modes shall be considered a value of zero. The expression for calculating each Nij loading condition is given by:

Nij = (Fz / Fzc) + (Mocy / Myc)

(5) None of the four Nij values shall exceed 1.0 at any time during the event.

(b) *Peak tension.* Tension force (Fz), measured at the upper neck load cell, shall not exceed 2070 N (465 lbf) at any time.

(c) *Peak compression.* Compression force (Fz), measured at the upper neck load cell, shall not exceed 2520 N (566 lbf) at any time.

(d) Unless otherwise indicated, instrumentation for data acquisition, data channel frequency class, and moment calculations are the same as given in 49 CFR Part 572 Subpart O 5th percentile female test dummy.

S26 *Procedure for low risk deployment tests of driver air bag.*

S26.1 Each vehicle that is certified as complying with S25.3 shall meet the requirements of S25.3 and S25.4 with the 49 CFR Part 572 Subpart O 5th percentile adult female dummy in both of the following positions: Driver position 1 (S26.2) and Driver position 2 (S26.3).

S26.2 *Driver position 1 (chin on module).*

S26.2.1 Adjust the steering controls so that the steering wheel hub is at the geometric center of the locus it describes when it is moved through its full range of driving positions. If there is no setting at the geometric center, position it one setting lower than the geometric center. Set the rotation of the steering wheel so that the vehicle wheels are pointed straight ahead.

S26.2.2 Locate the vertical plane parallel to the vehicle longitudinal axis which passes through the geometric center of the opening through which the driver air bag deploys into the occupant compartment. This is referred to as "Plane E."

S26.2.3 Place the seat in the full rearward seating position. If adjustable in the vertical direction, place the seat in the mid-height position. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full rearward position. If the seat back is adjustable, place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. If the seat cushion contains an independent seat cushion angle adjustment mechanism, adjust the seat cushion angle to the middle of the range of seat cushion angles. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment position. Position an adjustable head restrain in the lowest position.

S26.2.4 Place the dummy in the driver's seat such that:

S26.2.4.1 The midsagittal plane is coincident with Plane E.

S26.2.4.2 The legs are perpendicular to the floor pan and the back of the legs are in contact with the seat cushion. The legs may be adjusted if necessary to achieve the final head position.

S26.2.4.3 The dummy's thorax instrument cavity rear face is 6 degrees forward (toward the front of the vehicle) of the steering wheel angle (i.e., if the steering wheel angle is 25 degrees from vertical, the thorax instrument cavity rear face angle is 31 degrees).

S26.2.4.4 The initial transverse distance between the longitudinal centerlines at the front of the dummy's knees is 160 to 170 mm (6.3 to 6.7 in), with the thighs and legs of the dummy in vertical planes.

S26.2.4.5 The upper arms are parallel to the torso and the hands are in contact with the thighs.

S26.2.5 Maintaining the spine angle, slide the dummy forward until the head/torso contacts the steering wheel.

S26.2.6 While maintaining the spine angle, adjust the height of the dummy so that a point on the chin 40 mm below the center of the mouth (chin point) is in the same horizontal plane as the geometric center of the opening through which the air bag deploys into the occupant compartment. If the seat prevents the chin point from being in the same horizontal plane, adjust the dummy height to as close to the prescribed position as possible.

S26.2.7 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. The material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S26.3 *Driver position 2 (chin on rim).*

S26.3.1 Place the seat in the full rearward seating position. If adjustable in the vertical direction, place the seat in the mid-height position. If the seat cushion adjusts fore and aft, independent of the entire seat, adjust the seat cushion to the full rearward position. If the seatback is adjustable, place the seat back at the manufacturer's nominal design seat back angle for a 50th percentile adult male as specified in S8.1.3. If the seat cushion contains an independent seat cushion angle adjustment mechanism, adjust the seat cushion angle to the middle of the range of seat cushion angles. Position any adjustable parts of the seat that provide additional support so that they are in the lowest or most open adjustment

VOL 66 ISS 243 DE 18 2001 UMI

position. Position an adjustable head restraint in the lowest position.

S26.3.2 Adjust the steering controls so that the steering wheel hub is at the geometric center of the locus it describes when it is moved through its full range of driving positions. If there is no setting at the geometric center, position it one setting lower than the geometric center. Set the rotation of the steering wheel so that the vehicle wheels are pointed straight ahead.

S26.3.3 Locate the vertical plane parallel to the vehicle longitudinal axis which passes through the geometric center of the opening through which the driver air bag deploys into the occupant compartment. This is referred to as "Plane E."

S26.3.4 Place the dummy in the driver's seat position such that:

S26.3.4.1 The midsagittal plane is coincident with Plane E.

S26.3.4.2 The legs are perpendicular to the floor pan and the back of the legs are in contact with the seat cushion. The legs may be adjusted if necessary to achieve the final head position.

S26.3.4.3 The dummy's thorax instrument cavity rear face is 6 degrees forward (toward the front of the vehicle) of the steering wheel angle (i.e., if the steering wheel angle is 25 degrees from vertical, the thorax instrument cavity rear face angle is 31 degrees).

S26.3.4.4 The initial transverse distance between the longitudinal centerlines at the front of the dummy's knees is 160 to 170 mm (6.3 to 6.7 in), with the thighs and legs of the dummy in vertical planes.

S26.3.4.5 The upper arms are parallel to the torso and the hands are in contact with the thighs.

S26.3.5 Maintaining the spine angle, slide the dummy forward until the head/torso contacts the steering wheel.

S26.3.6 While maintaining the spine angle, position the dummy so that a point on the chin 40 mm below the center of the mouth (chin point) is in contact with the rim of the uppermost portion of the steering wheel. If the dummy's head contacts the vehicle windshield or upper interior before the prescribed position can be obtained, lower the dummy until there is no more than 5 mm (0.2 in) clearance between the vehicle's windshield or upper interior, as applicable.

S26.3.7 If the steering wheel can be adjusted so that the chin point can be in contact with the rim of the uppermost portion of the steering wheel, adjust the steering wheel to that position and readjust the spine angle to coincide with the steering wheel angle. Position the dummy so that the chin point is in contact with the rim of the uppermost portion of the steering wheel.

S26.3.8 If necessary, material with a maximum breaking strength of 311 N (70 lb) and spacer blocks may be used to support the dummy in position. The material should support the torso rather than the head. Support the dummy so that there is minimum interference with the full rotational and translational freedom for the upper torso of the dummy and the material does not interfere with the air bag.

S26.4 Deploy the left front outboard frontal air bag system. If the air bag system contains a multistage inflator, the vehicle shall be able to comply with the injury criteria at any stage or combination of stages or time delay between successive stages that could occur in a rigid barrier crash at speeds up to 26 km/h (16 mph) under the test procedure specified in S22.5.

* * * * *

S29 *Manufacturer option to certify vehicles to certain static suppression test requirements using human beings rather than test dummies.*

S29.1 At the option of the manufacturer, instead of using test dummies in conducting the tests for the following automatic suppression and occupant recognition parts of the low risk deployment test requirements, human beings may be used as specified. If human beings are used, they shall assume, to the extent possible, the final physical position specified for the corresponding dummies for each test.

(a) If a manufacturer decides to certify a vehicle using a human being for a test of the passenger automatic suppression, it shall use humans for the entire series of tests, e.g., 3-year-old children for each test of the system involving 3-year-old test dummies. If a manufacturer decides to certify a vehicle using a test dummy for a test of the system, it shall use test dummies for the entire series of tests, e.g., a Hybrid III 3-year-old child dummy for each test of the system involving 3-year-old child test dummies.

(b) For S19.2, instead of using the 49 CFR Part 572 Subpart R 12-month-old child dummy, a human child who weighs between 8.2 and 9.1 kg (18 and 20 lb), and who is between 61 and 66 cm (24 and 26 in) tall may be used.

(c) For S19.2, instead of using the 49 CFR Part 572 Subpart K newborn infant dummy, a human child who weighs between 8.2 and 9.1 kg (18 and 20 lb), and who is between 61 and 66 cm (24 and 26 in) tall may be used.

(d) For S21.2 and S21.5.1, instead of using the 49 CFR Part 572 Subpart P 3-year-old child dummy, a human child who weighs between 13.4 and 18 kg (29.5 and 39.5 lb), and who is between 89 and 99 cm (35 and 39 in) tall may be used.

(e) For S23.2 and S23.5.1, instead of using the 49 CFR Part 572 Subpart N 6-year-old child dummy, a human child who weighs between 21 and 25.6 kg (46.5 and 56.5 lb), and who is between 114 and 124.5 cm (45 and 49 in) tall may be used.

(f) For S19.2, S21.2, and S23.2, instead of using the 49 CFR Part 572 Subpart O 5th percentile adult female test dummy, a female who weighs between 46.7 and 51.25 kg (103 and 113 lb), and who is between 139.7 and 150 cm (55 and 59 in) tall may be used.

S29.2 Human beings shall be dressed in a cotton T-shirt, full length cotton trousers, and sneakers. Specified weights and heights include clothing.

S29.3 A manufacturer exercising this option shall upon request:

(a) Provide NHTSA with a method to deactivate the air bag during compliance testing under S20.2, S20.3, S22.2, S22.3, S24.2, and S24.3, and identify any parts or equipment necessary for deactivation; such assurance may be made by removing the air bag; and

(b) Provide NHTSA with a method to assure that the same test results would be obtained if the air bag were not deactivated.

* * * * *

Appendix A to § 571.208—Selection of Child Restraint Systems

A. The following car bed, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR 571.208 S19:

Cosco Dream Ride 02–719

B. Any of the following rear facing child restraint systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR 571.208 S19. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

Britax Handle with Care 191
Century Assura 4553
Century Avanta SE 41530
Century Smart Fit 4543
Cosco Arriva 02727
Cosco Opus 35 02603
Evenflo Discovery Adjust Right 212
Evenflo First Choice 204
Evenflo On My Way Position Right V 282
Graco Infant 8457

C. Any of the following forward-facing convertible child restraint systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR 571.208 S19, or S21:

Britax Roundabout 161
Century Encore 4612
Century STE 1000 4416
Cosco Olympian 02803
Cosco Touriva 02519
Evenflo Horizon V 425
Evenflo Medallion 254

D. Any of the following forward-facing toddler/belt positioning booster systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR 571.208 S21 or S23:

Britax Roadster 9004
Century Next Step 4920
Cosco High Back Booster 02–442
Evenflo Right Fit 245

Issued on December 6, 2001.

Jeffery W. Runge,
Administrator.

[FR Doc. 01–30754 Filed 12–17–01; 8:45 am]

BILLING CODE 4910–59–P

Reader Aids

Federal Register

Vol. 66, No. 243

Tuesday, December 18, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7507 62907
7508 62909
7509 62911
7510 63149
7511 63899
7512 64497
7513 64095
7514 65089

Executive Orders:
11582 (See EO 13238) 63903
12958 (See Order of December 10, 2001) 64347
13238 63903
13239 64907

Orders:
Order of December 10, 2001 64347

Administrative Orders:

Presidential Determinations:
No. 02–07 of November 21, 2001 63487

Memorandums:
December 7, 2001 64735

5 CFR

302 63905
317 63905
330 63905
333 63905
335 63905
534 63906
591 63906
930 63906
6001 60139

Proposed Rules:
890 64160

7 CFR

301 63151

Proposed Rules:
81 64918
352 63005
1410 63339

9 CFR

70 63588
78 63910
88 63588
94 ....62913, 63910, 63911

Proposed Rules:
94 63633

10 CFR

20 64737
30 64737
32 64737
34 64737
40 64737
50 64737
51 64737
430 65091

Proposed Rules:
54 65141
72 63964

12 CFR

5 62914
1773 65097

Proposed Rules:
Ch. IX 63008
226 64381
360 65144
584 63517
1750 65146

13 CFR

120 64739

14 CFR

25 64349
39 ....60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102
71 ....63489, 63623, 64909, 64910
73 63433
91 63888
93 63294
97 ....64139, 64141
107 63474
108 63474

Proposed Rules:
39 ....63009, 63010, 63341, 64925, 64928, 64931
71 ....60162, 63517
93 64778

15 CFR

801 ....63916, 63918

16 CFR

3 64142
4 64142
305 63749

17 CFR

Proposed Rules:
15 64383

18 CFR

381 63162

19 CFR

12 63490

20 CFR

655 63298

Proposed Rules:

404 63634

21 CFR

510 .... 63163, 63164, 63499
520 .... 63165, 63166
524 63164
556 62916
558 .... 62916, 63499, 63500

Proposed Rules:

500 63519
1310 64173

24 CFR

30 63436

Proposed Rules:

5 65162
202 65162

26 CFR

1 63920
301 .... 64351, 64740, 64911
602 .... 64076, 64351

Proposed Rules:

1 .... 63203, 64385, 64904
301 64386
602 64386

28 CFR

Proposed Rules:

97 64934

29 CFR

578 63501
579 63501
580 63501
4022 64744
4044 64744

Proposed Rules:

470 65163
1910 64946
1915 64946
1926 64946
1928 64946

30 CFR

256 60147
918 64746
944 62917

Proposed Rules:

936 63968

31 CFR

211 63623

33 CFR

100 63624
117 .... 62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104
165 .... 60151, 62940, 64144, 64912, 65105

Proposed Rules:

1 63640
147 63642
165 64778
175 63645
181 63650

34 CFR

Proposed Rules:

Ch. VI 63203

37 CFR

201 .... 62942, 63920

Proposed Rules:

255 64783

38 CFR

17 .... 63446, 63449, 64904
20 60152

Proposed Rules:

3 64174

39 CFR

20 64353

40 CFR

8 63454
9 65256
52 .... 63311, 63921, 64146, 64148, 64750, 64751
62 .... 63311, 63938, 64151, 64152
63 .... 63313, 65072
70 .... 62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81 64751
122 65256
123 65256
124 65256
125 65256
152 64759
156 64759
180 .... 63192, 64768
261 .... 60153, 62973
271 63331
300 64357
721 63941

Proposed Rules:

52 .... 63204, 63343, 63972, 63982, 64176, 64783
60 64176
62 .... 63985, 64207, 64208
63 65079
80 .... 60153, 65164
89 65164
90 65164
91 65164
300 64387
1048 65164
1051 65164
1065 65164
1068 65164

42 CFR

411 60154
1001 .... 62980, 63749

43 CFR

3600 63334
3610 63334
3620 63334
3800 63334

44 CFR

64 63627
65 .... 65107, 65110
67 .... 65115, 65120

Proposed Rules:

61 60176

46 CFR

Proposed Rules:

67 64784

47 CFR

1 62992
25 63512
54 64775
73 .... 60156, 60157, 63199, 63629, 64776, 64777, 65122
76 62992
101 63512

Proposed Rules:

1 64785
2 64785
51 .... 63651, 64946
73 .... 63209, 63653, 63654, 63986, 63997, 64792, 65164
87 64785

48 CFR

Ch. 1 .... 65346, 65372
2 .... 65349, 65351, 65353
5 65370
8 65367
11 65351
12 65370
15 .... 65351, 65368, 65369
19 65370
22 65370
23 .... 65351, 65370
25 .... 65349, 65370
32 65353
39 65371
42 65351
44 65367
52 .... 65349, 65353, 65367, 65370
53 65370
202 63334
212 63335
215 63334
217 63336
237 63335
242 63334

Proposed Rules:

235 63348
1823 64391
1836 64391
1852 64391

49 CFR

241 63942
571 .... 60157, 64154, 64358, 65376
572 64368

Proposed Rules:

107 63096
171 63096
172 63096
173 63096
177 63096
178 63096
180 63096
219 64000
573 .... 64078, 64087, 65165
577 .... 64078, 64087

50 CFR

17 .... 62993, 63752
230 64378
600 63199
622 60161
635 .... 63003, 64378
648 63003
660 .... 63199, 63630
679 .... 64380, 64915

Proposed Rules:

17 .... 63349, 63654
20 63665
21 .... 63349, 63665
222 64793
223 64793
224 64793
648 .... 63013, 63666, 64392
679 65028

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 18, 2001

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
  Contractor personnel; information technology services procurement; published 12-18-01
  Iceland; newly designated country under Trade Agreements Act; published 12-18-01
  North American Industry Classification System; published 12-18-01

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
  Contractor personnel; information technology services procurement; published 12-18-01
  Iceland; newly designated country under Trade Agreements Act; published 12-18-01
  North American Industry Classification System; published 12-18-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
  Contractor personnel; information technology services procurement; published 12-18-01
  Iceland; newly designated country under Trade Agreements Act; published 12-18-01
  North American Industry Classification System; published 12-18-01

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
  McDonnell Douglas; published 11-13-01
  Rolls-Royce, plc; published 11-13-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Plant-related quarantine, domestic:
  Citrus canker; comments due by 12-27-01; published 11-27-01 [FR 01-29473]

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
  Northeastern United States fisheries—
    Summer flounder, scup, and black sea bass; comments due by 12-28-01; published 12-13-01 [FR 01-30828]

ENVIRONMENTAL PROTECTION AGENCY
Air quality implementation plans; approval and promulgation; various States:
  West Virginia; comments due by 12-27-01; published 11-27-01 [FR 01-29471]

ENVIRONMENTAL PROTECTION AGENCY
Hazardous waste program authorizations:
  Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28852]

ENVIRONMENTAL PROTECTION AGENCY
Hazardous waste program authorizations:
  Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28851]
Radioactive waste disposal:
  Transuranic radioactive waste characterization program documents for disposal at Waste Isolation Pilot Plant—
    Hanford Site, WA; comments due by 12-27-01; published 11-27-01 [FR 01-29454]
    Savannah River Site, SC; comments due by 12-27-01; published 11-27-01 [FR 01-29455]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
  National oil and hazardous substances contingency plan—
    National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29469]

ENVIRONMENTAL PROTECTION AGENCY
Superfund program:
  National oil and hazardous substances contingency plan—
    National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29470]

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
  North Carolina and South Carolina; comments due by 12-26-01; published 11-20-00 [FR 00-29626]
Television broadcasting:
  Cable television systems—
    Horizontal and vertical ownership limits and broadcast and MDS attribution rules; comments due by 12-26-01; published 10-11-01 [FR 01-25479]

FEDERAL RESERVE SYSTEM
Risk-based capital:
  Supplementary capital elements (tier 2 capital); deferred tax assets (Regulations H and Y); comments due by 12-27-01; published 11-27-01 [FR 01-29331]

HEALTH AND HUMAN SERVICES DEPARTMENT
Centers for Medicare & Medicaid Services
Medicare and Medicaid:
  Fire safety standards for certain health care facilities; comments due by 12-26-01; published 10-26-01 [FR 01-25422]
Medicare:
  Supplementary medical insurance premium surcharge agreements; comments due by 12-26-01; published 10-26-01 [FR 01-27120]

INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
  Illinois; comments due by 12-27-01; published 11-27-01 [FR 01-29452]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Grant and Cooperative Agreement Handbook; cooperative agreements with cooperative firms; policy clarification, process improvements, etc.; comments due by 12-28-01; published 10-29-01 [FR 01-26622]

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
  Leyse, Robert H.; comments due by 12-26-01; published 10-12-01 [FR 01-25672]
  Nuclear Energy Institute; comments due by 12-26-01; published 10-11-01 [FR 01-25565]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
  Bell; comments due by 12-28-01; published 10-29-01 [FR 01-26966]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
  Dassault; comments due by 12-26-01; published 11-26-01 [FR 01-29342]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
  Enstrom Helicopter Corp.; comments due by 12-28-01; published 10-29-01 [FR 01-26965]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
  Honeywell; comments due by 12-28-01; published 10-29-01 [FR 01-26968]
Applications, hearings, determinations, etc.:
  BAE Systems (Operations) Ltd.; comments due by 12-28-01; published 11-28-01 [FR 01-29599]

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Engineering and traffic operations:
  Highway bridge replacement and rehabilitation program; comments due by 12-26-01; published 9-26-01 [FR 01-24091]
  National bridge inspection standards; comments due

VOL 66 ISS 243 DEC 18 2001 UMI

by 12-26-01; published 9-26-01 [FR 01-24092]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 2291/P.L. 107–82
To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes. (Dec. 14, 2001; 115 Stat. 814)

H.J. Res. 78/P.L. 107–83
Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 15, 2001; 115 Stat. 822)

Last List December 14, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

VOL
66
ISS
2
4
3
DE
18
2001
UMI

Printed on recycled paper

VOL
66

ISS
2
4
4

DE
19

2001

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–19–01
Vol. 66 No. 244

Wednesday
Dec. 19, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
4
DE
19
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
LITTERA SCRIPTA MANET
1985

Federal Register

12–19–01
Vol. 66 No. 244
Pages 65423–65596

Wednesday
Dec. 19, 2001

VOL
66
ISS
2
4
4
DE
19
2001
UMI

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Printed on recycled paper.

Contents

Federal Register

Vol. 66, No. 244

Wednesday, December 19, 2001

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65504–65505

Agricultural Marketing Service
RULES
Raisins produced from grapes grown in—
  California, 65423–65426
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65462

Agriculture Department
See Agricultural Marketing Service
See Forest Service

Air Force Department
NOTICES
Meetings:
  U.S. Nuclear Command and Control System End-to-End Review Federal Advisory Committee, 65473

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
  Birth defects; surveillance, research, and prevention, 65505–65506
Meetings:
  Childhood Lead Poisoning Prevention Advisory Committee, 65506

Centers for Medicare & Medicaid Services
NOTICES
Medicaid:
  State plan amendments, reconsideration; hearings—
    Missouri, 65506–65508

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Air Force Department

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
  Elementary and secondary education and vocational and adult education—
    Smaller Learning Communities Program, 65569–65576
Meetings:
  President's Commission on Excellence in Special Education, 65473

Employment Standards Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65512–65514

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Kansas, 65448–65450
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  Sethoxydim
    Correction, 65450–65452
PROPOSED RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Kansas, 65460
NOTICES
Meetings:
  Science Advisory Board, 65480–65481
Pesticide, food, and feed additive petitions:
  Growth Products Ltd., 65482–65485
Pesticide registration, cancellation, etc.:
  Makhteshim-Agan of North America, Inc., 65481–65482
Pesticides; experimental use permits, etc.:
  Animal and Plant Health Inspection Service, 65485–65487
  Growth Products Ltd., 65487–65488
Reports and guidance documents; availability, etc.:
  Boutique fuels and issues relating to transition from winter to summer gasoline; study, 65488
  Experimental use permits for conventional pesticides; expedited review; comment request, 65488–65490
Superfund; response and remedial actions, proposed settlements, etc.:
  Lorentz Barrel & Drum Site, CA, 65490–65491
  Whitehouse Waste Oil Pits Site, FL, 65491
Toxic and hazardous substances control:
  New chemicals—
    Test marketing exemption approvals, 65491–65493
Water pollution control; discharge of pollutants (NPDES):
  Alaska—
    Small suction dredging; general permit, 65493

Export-Import Bank
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65493–65501

Federal Aviation Administration
RULES
Airworthiness directives:
  Honeywell, 65426–65427
  Rolls-Royce Corp., 65427–65429

Federal Communications Commission
NOTICES
Common carrier services:
  Federal-State Joint Board on Universal Service—
    IT&E Overseas, Inc.; eligibility designation petition to receive support for service offered in Guam; comment request, 65502

VOL 66 ISS 244 DE 19 2001 UMI

Federal Energy Regulatory Commission

NOTICES
- Electric rate and corporate regulation filings:
  - Pacific Gas & Electric Co. et al., 65476–65478
- Hydroelectric applications, 65478–65480
- National Register of Historic Places:
  - Programmatic agreement for managing properties; restricted service list—
    - Wisconsin Power & Light Co., 65480
- *Applications, hearings, determinations, etc.:*
  - Central Vermont Public Service Corp., 65473–65474
  - Duke Power, 65474
  - Nevada Power Co., 65474–65475
  - Pleasants Energy, LLC, 65475
  - Williston Basin Interstate Pipeline Co., 65475

Federal Highway Administration

NOTICES
- Environmental statements; notice of intent:
  - Utah and Wasatch Counties, UT, 65528

Federal Maritime Commission

NOTICES
- Agreements filed, etc., 65502
- Investigations, hearings, petitions, etc.:
  - Commonwealth Shipping Ltd. et al., 65502–65503
- Ocean transportation intermediary licenses:
  - Barsan International, Inc., et al., 65503
  - Direct Shipping Corp.; correction, 65503
- Senior Executive Service:
  - Performance Review Board; membership, 65503–65504

Federal Reserve System

NOTICES
- Banks and bank holding companies:
  - Formations, acquisitions, and mergers, 65504

Fish and Wildlife Service

NOTICES
- Endangered and threatened species permit applications, 65508–65510
- Environmental statements; availability, etc.:
  - Double-crested cormorant management, 65510–65511

Food and Drug Administration

RULES
- General enforcement regulations:
  - Exports; notification and recordkeeping requirements, 65429–65448

Forest Service

NOTICES
- Meetings:
  - Sierra County, CA, Resource Advisory Committee, 65462–65463
- Reports and guidance documents; availability, etc.:
  - Southwestern Region; Regional Guide withdrawn, 65463–65470

Health and Human Services Department

See Aging Administration
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Inspector General Office, Health and Human Services Department

Health Care Financing Administration

See Inspector General Office, Health and Human Services Department

Inspector General Office, Health and Human Services Department

PROPOSED RULES
- Medicare and State health care programs:
  - Safe harbor provisions and special fraud alerts; intent to develop regulations, 65460–65461

Interior Department

See Fish and Wildlife Service

International Trade Administration

NOTICES
- Antidumping:
  - Extruded rubber thread from—
    - Malaysia, 65471–65472
- Antidumping and countervailing duties:
  - Administrative review requests, 65470–65471
- *Applications, hearings, determinations, etc.:*
  - University of —
    - Connecticut et al.; correction, 65472

International Trade Commission

NOTICES
- Import investigations:
  - Garage door operators, including components, 65511
  - Set-top boxes and components, 65511–65512

Labor Department

See Employment Standards Administration
See Occupational Safety and Health Administration
See Pension and Welfare Benefits Administration

National Highway Traffic Safety Administration

PROPOSED RULES
- Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; implementation:
  - Tire safety information, 65535–65567

National Oceanic and Atmospheric Administration

RULES
- Fishery conservation and management:
  - Northeastern United States fisheries—
    - Northeast Multispecies Fishing Capacity Reduction Program, 65454–65459

NOTICES
- Environmental statements; notice of intent:
  - Bowhead whales; International Whaling Commission subsistence quota to Alaska Eskimo Whaling Commission (2003-2007), 65472–65473

Nuclear Regulatory Commission

NOTICES
- Environmental statements; availability, etc.:
  - AmerGen Energy Co., LLC, 65520
  - Florida Power & Light Co., 65521–65522
- Meetings:
  - Nuclear Waste Advisory Committee, 65522–65523
  - Reactor Safeguards Advisory Committee, 65523
- Privacy Act:
  - Systems of records, 65523–65524
- *Applications, hearings, determinations, etc.:*
  - Nuclear Management Co., LLC, 65516–65520

Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65514–65516
Meetings:
  Occupational Safety and Health Maritime Advisory Committee, 65516

Pension and Welfare Benefits Administration
NOTICES
Reports and guidance documents; availability, etc.:
  Multiple employer welfare arrangements and certain entities claiming exception; annual report (Year 2001 Form M-1); publication, 65577–65595

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
  Cincinnati Stock Exchange, Inc., 65524–65525
  National Association of Securities Dealers, Inc.; correction, 65533
  Philadelphia Stock Exchange, Inc., 65525–65526

Small Business Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65526–65527

State Department
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65527
Meetings:
  Overseas Schools Advisory Council, 65527–65528

Surface Transportation Board
NOTICES
Railroad services abandonment:
  Norfolk Southern Railway Co., 65528–65530

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65530–65531

Veterans Affairs Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65531
  Submission for OMB review; comment request, 65531–65532

Veterans Employment and Training Service
RULES
Annual report from Federal contractors, 65452–65454

Separate Parts In This Issue

Part II
Transportation Department, National Highway Traffic Safety Administration, 65535–65567

Part III
Education Department, 65569–65576

Part IV
Labor Department, Pension and Welfare Benefits Administration, 65577–65595

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
989....................................65423

14 CFR
39 (2 documents) 65426, 65427

21 CFR
1...65429

40 CFR
62.......................................65448
180.....................................65450

Proposed Rules:
62.......................................65460

41 CFR
61–250...............................65452

42 CFR

Proposed Rules:
1001...................................65460

49 CFR

Proposed Rules:
567.....................................65536
571.....................................65536
574.....................................65536
575.....................................65536

50 CFR
648.....................................65454

Rules and Regulations

Federal Register
Vol. 66, No. 244
Wednesday, December 19, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV02–989–3 IFR]

Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule extends the deadline by which raisin handlers must redeem diversion certificates issued under the 2001 raisin diversion program (RDP). The deadline is specified under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (RAC). This action gives producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP.

DATES: Effective December 20, 2001. Comments received by January 3, 2002, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–5698, or e-mail: *moab.docketclerk@usda.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html*.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Senior Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–5698, or e-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule extends the deadline by which handlers may redeem diversion certificates issued under the 2001 RDP for Natural (sun-dried) Seedless (NS) raisins. The deadline is extended from December 17, 2001, to January 18, 2002, and applies only to certificates unsold by producers to handlers as of December 18, 2001. This rule will not preempt any State or local laws, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule extends the deadline by which handlers may redeem diversion certificates issued under the 2001 NS RDP. The deadline is extended from December 17, 2001, to January 18, 2002, and applies only to certificates unsold by producers as of December 18, 2001. This action gives producers additional time to sell their certificates to handlers and thus be compensated for diverting their 2001 production, which is the intent of the RDP. This action was recommended by the RAC at a meeting on December 11, 2001, by a near unanimous vote of 36 in favor, 2 opposed (believed the RAC should adhere to the current deadline), and 1 abstained.

Volume Regulation Provisions

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the RAC. Reserve raisins are disposed of through various programs authorized under the order. For example, reserve raisins may be sold by the RAC to handlers for free use or to replace part of the free tonnage they exported; carried over as a hedge against a short crop the following year; or may be disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds

VOL 66
ISS 244
DE 19 2001
UMI

from sales of reserve raisins are ultimately distributed to producers.

Raisin Diversion Program

The RDP is another program concerning reserve raisins authorized under the order and may be used as a means for controlling overproduction. Authority for the program is provided in § 989.56 of the order. Paragraph (e) of that section provides authority for the RAC to establish, with the approval of USDA, such rules and regulations as may be necessary for the implementation and operation of an RDP. Accordingly, additional procedures and deadlines are specified in § 989.156.

Pursuant to these sections, the RAC must meet by November 30 each crop year to review raisin data, including information on production, supplies, market demand, and inventories. If the RAC determines that the available supply of raisins, including those in the reserve pool, exceeds projected market needs, it can decide to implement a diversion program, and announce the amount of tonnage eligible for diversion during the subsequent crop year. Producers who wish to participate in the RDP must submit an application to the RAC prior to December 20. The RAC conducts a lottery if the tonnage applied for exceeds what has been allotted. RAC staff then notifies producers whether they have been accepted into the program.

Approved producers curtail their production by vine removal or some other means established by the RAC. Such producers receive a certificate the following fall from the RAC which represents the quantity of raisins diverted. Producers sell these certificates to handlers who pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. Handlers redeem the certificates by presenting them to the RAC by December 15 (Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday) and paying an amount equal to the established harvest cost plus payment for receiving, storing, fumigating, handling, and inspecting the tonnage represented on the certificate. The RAC then gives the handler raisins from the prior year's reserve pool in an amount equal to the tonnage represented on the diversion certificate. The new crop year's volume regulation percentages are applied to the diversion tonnage acquired by the handler (as if the handler had bought raisins directly from a producer).

2001 NS Diversion Program

The 2000–01 California NS raisin crop was the largest on record with final deliveries of raisins from producers to handlers totaling 432,616 tons. This compares to the 10-year average of 344,303 tons. With this large crop, 203,330 tons of NS raisins were set aside in a reserve pool. Of that reserve tonnage, 89,076 tons were ultimately allocated to a diversion program. As of December 1, 2001, 70,529 tons of diversion certificates had been acquired by handlers. It was reported at the December 11, 2001, RAC meeting, by RAC staff that the status of about 2,000 tons of 2001 diversion certificates are unknown.

RAC Recommendation

The RAC met on December 11, 2001, and addressed a concern expressed by some producers with the 2001 RDP. Some producers have had trouble selling their 2001 diversion certificates to handlers. There was concern that some certificates may remain unsold and unredeemed by the December 15 deadline (or Monday, December 17, 2001, for the 2001 RDP since December 15 fell on a Saturday). Several reasons were mentioned as to why this was occurring. The California raisin industry as a whole is experiencing a severe economic downturn. Two short crops in 1998 and 1999 along with other factors caused producer prices to drop drastically for the 2000 crop, marking the first time in about 13 years that prices had fallen. The value of handler inventories has likewise fallen which has contributed to handler difficulties in securing financing to purchase diversion certificates from producers. In addition, some handlers do not need any more raisins to meet their market needs. In some instances, producers have tried to negotiate a premium price for their certificates with handlers.

After deliberating various options (discussed in the following section of this rule regarding the Regulatory Flexibility Analysis), the RAC recommended extending the deadline for handlers to redeem 2001 diversion certificates from December 17, 2001, to January 18, 2002. The extension applies only to 2001 certificates unsold by producers as of December 18, 2001. Producers still holding certificates must have the certificates verified and stamped appropriately by the RAC by December 21, 2001, to indicate that such certificates will be valid until January 18, 2002. Handlers may then purchase these certificates from producers and redeem them for 2000–01 crop reserve raisins following prescribed procedures in § 989.156(k). This action will give producers still holding certificates additional time to sell their certificates to handlers, and give handlers additional time to secure financing to purchase the certificates from producers and redeem them with the RAC. Thus, producers will likely be compensated for diverting their 2001 production, which is the intent of the RDP. Section 989.156(k) is changed accordingly for the 2001 RDP only.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less that $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule revises § 989.156(k) of the order's rules and regulations regarding the RDP. Under an RDP, producers receive certificates from the RAC for curtailing their production to reduce burdensome supplies. The certificates represent diverted tonnage. Producers sell the certificates to handlers who, in turn, redeem the certificates with the RAC for raisins from the prior year's reserve pool. This rule extends the date whereby handlers may redeem 2001 diversion certificates with the RAC from December 17, 2001, to January 18, 2002, and applies only to certificates unsold by producers to handlers as of December

18, 2001. Authority for this action is provided in § 989.56(e) of the order.

Regarding the impact of this action on affected entities, producers who curtailed 2001 production and have had trouble selling their diversion certificates to handlers will have additional time to sell their certificates to handlers. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the established harvest cost for the diverted tonnage. For the 2001 RDP, the industry average free tonnage price applied to diversion certificates was $854 per ton, and applicable harvest costs as established by the RAC were $340 per ton. Preliminary volume regulation percentages for the 2001–02 crop were announced by the RAC at 56 percent free and 44 percent reserve. Thus, using these figures, if a producer was issued a certificate for 100 tons of raisins, he/she would be paid $138.24 per ton by the handler, or a total of $13,824 (($854 per ton × 100 tons × .56) minus (100 tons × $340 per ton harvest cost)). Extending the deadline allows producers additional time to sell their certificate and earn some income for not producing a 2001 crop.

Regarding the impact of this action on handlers, handlers experiencing financial difficulty would have additional time to arrange for financing through likely extending lines of credit with financial institutions. Handlers pay producers for the free tonnage applicable to the diversion certificate minus the $340 per ton harvest cost. Handlers redeem the certificates for 2000–01 crop NS reserve raisins and pay the RAC the $340 per ton harvest cost, plus payment for bins ($20 per ton) and for receiving, storing, fumigating, handling (currently totaling $46 per ton) and inspecting (currently $9.00 per ton) the tonnage represented on the certificate (or a total of $415 per ton). In the above example, the handler would redeem the 100-ton certificate with the RAC, pay the RAC $41,500 ($415 per ton × 100 tons), and receive 44 tons (.44 × 100 tons) of raisins from the 2000–01 reserve pool.

In addition, the $41,500 in the above example paid by the handler to the RAC would be allocated to the 2000–01 reserve pool and be used to pay remaining pool expenses or be distributed to 2000–01 reserve pool equity holders (producers). Thus, all such equity holders could potentially benefit from this action.

Several alternatives to the recommended action were considered by the RAC and/or by the RAC's Administrative Issues' Subcommittee. It was proposed that the RAC purchase unsold diversion certificates from producers. However, the order currently provides no authority for this. In addition, there are concerns as to how this would impact future raisin diversion programs, in particular, whether the integrity of the RDP could be maintained.

It was also proposed that a late fee be added to handlers' costs for redeeming diversion certificates after December 17, 2001. However, the order provides no authority for such a late charge. Another option considered was to take no action and adhere to the current deadline. Some industry members believe that there is no guarantee that producers can sell their harvested crop each season, and there should likewise be no "guarantee" that producers can sell their diversion certificates.

There was also consideration of other extension dates besides January 18, 2002. However, after much deliberation, the majority of RAC members believe that extending the deadline to January 18, 2001, was the best solution to this situation. This date will allow the RAC sufficient time before it recommends final volume regulation percentages to ensure that all redeemed diversion certificates are properly reported as 2001 acquisitions by handlers and included in the 2001–02 crop estimate.

This rule imposes no additional reporting or recordkeeping requirements on either small or large raisin handlers. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirement referred to in this rule (i.e., the application) has been approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the RAC's meeting on December 11, 2001, and the RAC's Administrative Issues Subcommittee meeting on December 5, 2001, where this action was deliberated were all public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, all interested persons are invited to submit information on the regulatory and information impact of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this rule. Fifteen days is deemed appropriate because the deadline is extended until January 18, 2002, and comments should be received by USDA prior to that date.

After consideration of all relevant material presented, including the information and recommendation submitted by the RAC and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule needs to be in effect as soon as possible to extend the December 17, 2001, deadline; (2) this rule is a relaxation of the existing regulations because it extends a deadline; (3) producers are aware of this action which was recommended by the RAC at a public meeting; and (4) this interim final rule provides a 15-day comment period for written comments and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 989.156, paragraph (k) is revised to read as follows:

§ 989.156 Raisin diversion program.

* * * * *

(k) *Redemption of certificates.* Any handler holding diversion certificates may redeem such certificates for reserve pool raisins from the Committee. To

VOL 66 ISS 244 DE 19 2001 UMI

redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting raisins as specified in § 989.401 for the entire tonnage shown on the certificate. Handlers who acquire diversion certificates from producers shall report acquisitions of such certificates and submit them for redemption in a manner and for the reporting periods provided in § 989.173(b) for the acquisition of raisins acquired from producers. The Committee shall issue a reserve release entitling the handler to an amount of reserve pool raisins equal to the entire tonnage shown on the certificate. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored if presented to the Committee for redemption on or before December 15 of the crop year for which they were issued: *Provided*, That for the 2001 diversion program for Natural (sun-dried) Seedless raisins, producers who have not sold certificates to handlers on or before December 17, 2001, may present them to the Committee on or before December 21, 2001. The Committee shall verify and stamp such certificates to indicate that the certificate is valid until January 18, 2002. Handlers may redeem such certificates with the RAC on or before January 18, 2002, in the same manner as described elsewhere in this paragraph (k).

* * * * *

Dated: December 14, 2001.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–31321 Filed 12–17–01; 10:22 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NE–17–AD; Amendment 39–12557; AD 2001–25–04]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Models LTS101–600A–2 and LTS101–600A–3 Turboshaft Engines; and LTP101–600A–1A and LTP101–700A–1A Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Textron Lycoming) Models LTS101–600A–2 and LTS101–600A–3 turboshaft engines; and LTP101–600A–1A and LTP101–700A–1A turboprop engines. This amendment requires replacing certain fuel controls that have beryllium-copper bellows with improved fuel controls that incorporate Inconel 718 stainless steel welded bellows. This amendment is prompted by a report of an uncommanded power loss on a Textron Lycoming LTS101 engine due to a corrosion damaged fuel control bellows. The actions specified by this AD are intended to prevent the engine from reducing the fuel flow to minimum flow resulting in an uncommanded power loss.

DATES: Effective date January 23, 2002.

ADDRESSES: The information in this AD may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone (562) 627–5245, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Textron Lycoming) Models LTS101–600A–2 and LTS101–600A–3 turboshaft engines; and LTP101–600A–1A and LTP101–700A–1A turboprop engines was published in the **Federal Register** on March 12, 2001 (66 FR 14345). That action proposed to require replacement of fuel controls with the following part numbers with an improved design fuel control that incorporates an Inconel 718 stainless steel welded bellows.

4–301–098–01
4–301–098–04
4–301–098–10
4–301–098–15
4–301–288–01
4–301–288–04
4–303–023–01
4–303–023–02
4–303–023–03
4–303–023–04
4–303–033–01
4–303–033–02
4–303–033–04

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

The FAA estimates that 40 engines installed on aircraft of U.S. registry would be affected by this proposed AD and that it would take approximately 3 work hours per engine to accomplish the proposed actions. The average labor rate is $60 per work hour. There are no required parts costs. Based on these figures, the total cost effect of the proposed AD on U.S. operators is estimated to be $7,200.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic effect, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001-25-04 Honeywell International Inc.: Amendment 39-12557. Docket No. 99-NE-17-AD.

Applicability

This airworthiness directive (AD) is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Textron Lycoming) Models LTS101-6000A-2 and LTS101-600A-3 turboshaft engines; and LTP101-600A-1A and LTP101-700A-1A turboprop engines with fuel controls with the following part numbers (P/N's) installed:

TABLE 1.—FUEL CONTROL P/N'S

Engine Model No.	Fuel Control P/N
LTS101-600A-2	4-301-098-01, 4-301-098-04, 4-301-098-10, 4-301-098-15.
LTS101-600A-3	4-301-288-01, 4-301-288-04.
LTP101-600A-1A	4-303-023-01, 4-303-023-02, 4-303-023-03, 4-303-023-04.
LTP101-700A-1A	4-303-033-01, 4-303-033-02, 4-303-033-04.

These engines are used on, but not limited to, Aerospatiale AS350 helicopters and Air Tractor AT-302, Page Thrush, Piaggio P.166-DL3, and Riley International R421 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required at the next replacement of the fuel control or within 12 calendar months after the effective date of this AD, whichever occurs first.

To prevent the engine from reducing the fuel flow to minimum flow resulting in an uncommanded power loss:

(a) Remove any fuel control that has one of the P/N's listed in Table 1 of this AD, and replace with a fuel control that does not have one of the part numbers listed in Table 1 of this AD.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angles Aircraft Certification Office (LAACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, LAACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the LAACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Effective Date

(d) This amendment becomes effective on January 23, 2002.

Issued in Burlington, Massachusetts, on December 7, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01-30951 Filed 12-18-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-NE-46-AD; Amendment 39-12558; AD 2001-25-05]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007 series turbofan engines. That AD currently requires removal of certain compressor cone shafts from service before exceeding new cyclic life limits and replacement with serviceable parts. This amendment requires increasing the cyclic life limit for certain serial numbers of new compressor cone shafts, part number (P/N) 23070729, that are used on AE3007A1/3 and AE3007A1P engines. This amendment is prompted by recent approved changes in engineering and manufacturing processes for new compressor cone shafts P/N 23070729. The actions specified by this AD are intended to prevent low-cycle fatigue (LCF) failure of cone shafts, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective date January 23, 2002.

ADDRESSES: The information in this AD may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Michael Downs, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294-7870, fax: (847) 294-7834.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000-09-05, Amendment 39-11714 (65 FR 26121, May 5, 2000), which is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007 series turbofan engines was published

VOL 66 ISS 244 DE 19 2001 UMI

in the **Federal Register** on May 25, 2001 (66 FR 28850). That action proposed to require increasing the cyclic life limit for certain serial numbers of new compressor cone shafts, part number (P/N) 23070729, that are used on AE3007A1/3 and AE3007A1P engines.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

There are approximately 598 Rolls-Royce Corporation (formerly Allison Engine Company) AE 3007 series turbofan engines of the affected design in the worldwide fleet. The FAA estimates that 364 engines installed on airplanes of U.S. registry will be affected by this AD, that it will take approximately 150 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $3,921 per engine. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,703,244.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11714 (65 FR 26121, May 5, 2000) and by adding a new airworthiness directive, Amendment 39–12558, to read as follows:

2001–25–05 Rolls-Royce Corporation: Amendment 39–12558. Docket No. 99–NE–46–AD. Supersedes AD 2000–09–05, Amendment 39–11714.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce Corporation (formerly Allison Engine Company) models AE 3007A, AE 3007A1, AE 3007A1/1, AE 3007A1/2, AE 3007A1/3, AE 3007A1P, and AE 3007C turbofan engines, with compressor cone shafts, part numbers (P/N's) 23050728 and 23070729, installed. These engines are installed on but not limited to EMBRAER EMB–135 and EMB–145 series and Cessna 750 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent low-cycle fatigue (LCF) failure of cone shafts, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) For Rolls-Royce Corporation model AE 3007A engines, remove cone shafts from service prior to accumulating 9,500 cycles-since-new (CSN) and replace with serviceable parts.

(b) For Rolls-Royce Corporation model AE 3007C engines, remove cone shafts from service prior to accumulating 14,500 CSN and replace with serviceable parts.

(c) For Roll-Royce Corporation models AE 3007A1, AE 3007A1/1, and AE 3007A1/2 engines, remove cone shafts from service prior to accumulating 7,500 CSN and replace with serviceable parts.

(d) For Rolls-Royce Corporation model AE 3007A1/3 engines:

(1) With compressor cone shafts P/N 23070729, serial number (SN) MM78599, MM78615, MM78632, MM78650, MM78651, MM78652, MM78653, MM78654, MM78655, MM78656, MM78657, MM78658, MM78659, MM78660, MM78661, MM78662, MM78663, MM78665 or higher, remove cone shafts from service prior to accumulating 9,300 CSN and replace with serviceable parts.

(2) With compressor cone shafts P/N 23050728, or P/N 23070729 having other than the S/N's listed in paragraph (d)(1) of this AD, remove cone shafts from service prior to accumulating 3,500 CSN and replace with serviceable parts.

(e) For Rolls-Royce Corporation AE 3007A1P engines:

(1) With compressor cone shafts P/N 23070729, SN MM78599, MM78615, MM78632, MM78650, MM78651, MM78652, MM78653, MM78654, MM78655, MM78656, MM78657, MM78658, MM78659, MM78660, MM78661, MM78662, MM78663, MM78665 or higher, remove cone shafts from service prior to accumulating 7,300 CSN and replace with serviceable parts.

(2) With compressor cone shafts P/N 23050728, or P/N 23070729 having other than the SN's listed in paragraph (e)(1) of this AD, remove cone shafts from service prior to accumulating 2,400 CSN and replace with serviceable parts.

New Life Limits

(f) Paragraphs (a), (b), (c), (d) and (e) of this AD establish new, lower life limits for cone shafts, P/N's 23050728 and 23070729.

(g) Except for the provisions of paragraph (h) of this AD, no cone shafts, P/Ns 23050728 and 23070729, may remain in service exceeding the life limits established in paragraphs (a), (b), (c), (d) and (e) of this AD.

Alternative Methods of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Chicago Aircraft Certification Office. Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Chicago Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Chicago Aircraft Certification Office.

Special Flight Permits

(i) Special flight permits may be issued in accordance §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Effective Date

(j) This amendment becomes effective on January 23, 2002.

Issued in Burlington, Massachusetts, on December 7, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–30952 Filed 12–18–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket No. 98N–0583]

Exports: Notification and Recordkeeping Requirements

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that establishes the notification and recordkeeping requirements for persons exporting human drugs, biological products, devices, animal drugs, food, and cosmetics that may not be marketed or sold in the United States. These regulations implement recent changes in the statutory requirements applicable to certain exports, and also codify recordkeeping requirements for exports of products that cannot be marketed or sold in the United States generally.

DATES: This rule is effective March 19, 2002.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of April 2, 1999 (64 FR 15994), FDA published a proposed rule to establish notification and recordkeeping requirements for products exported under section 801 or 802 of the Federal Food, Drug, or Cosmetic Act (the act) (21 U.S.C. 381 or 382, respectively) or section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262), as amended by the FDA Export Reform and Enhancement Act (Public Law 104–134, as amended by Public Law 104–180).

The FDA Export Reform and Enhancement Act significantly changed and simplified the export requirements for unapproved human drugs, biological products, devices, and animal drugs. For example, before the law was enacted, most exports of unapproved new drugs could only be made to the 21 countries then identified in section 802 of the act, and these exports were subject to numerous restrictions. The FDA Export Reform and Enhancement Act amended section 802 of the act to allow, among other things, the export of unapproved new human drugs to any country in the world if the drug complies with the laws of the importing country and has valid marketing authorization from any of the following countries: Australia, Canada, Israel, Japan, New Zealand, Switzerland, South Africa, and the countries in the European Union (EU) and the European Economic Area (EEA) and certain other requirements are met (see section 802(b)(1)(A) of the act). Currently, the EU countries are Austria, Belgium, Denmark, Germany, Greece, Finland, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the United Kingdom. The EEA countries are the EU countries, Iceland, Liechtenstein, and Norway. (The list of countries will expand automatically if any country accedes to the EU or becomes a member of the EEA.) This provision of section 802 of the act also applies to the export of certain devices that cannot be sold or marketed in the United States.

The FDA Export Reform and Enhancement Act also established recordkeeping and notification requirements. Section 802(g) of the act requires an exporter of a drug or device under section 802(b)(1)(A) of the act to provide a "simple notification" to the agency "identifying the drug or device when the exporter first begins to export such drug or device" to any of the 25 countries identified in section 802(b)(1)(A) of the act. For exports to other, nonlisted countries, section 802(g) of the act requires the exporter to provide a simple notification "identifying the drug or device and the country to which such drug or device is being exported." This section also requires persons exporting drugs or devices under any provision of section 802 of the act to "maintain records of all drugs or devices exported and the countries to which they were exported."

Certain aspects of the proposed rule raised numerous issues. As a result, in the **Federal Register** of June 17, 1999 (64 FR 32442), FDA extended the comment period from June 16, 1999, to July 16, 1999.

FDA received 18 comments on the proposed rule. In addition, the agency received several comments on the export notification and recordkeeping discussions in its draft export guidance document which was published in the **Federal Register** on June 12, 1998 (63 FR 32219, FDA docket number 98D–0307). Drug manufacturers, device manufacturers, device exporters, and food, drug, and device trade associations submitted comments. An animal drug trade association and a biological product company also submitted comments. Because FDA wrote both the proposed rule and the guidance document contemporaneously, the agency considered comments submitted on the proposed rule and related comments submitted on the draft export guidance document when it prepared this final rule.

II. Comments on the Proposed Rule, Including Related Comments Submitted to the Draft Guidance Document

Most comments focused on specific provisions in the proposed rule. However, others made general comments about FDA's export authority or the need for any regulations or addressed other export issues that were not directly related to the proposed rule. A description of the comments, and FDA's responses, follows.

A. General Comments

(Comment 1) Several comments claimed that the proposal was contrary to the letter or intent of the FDA Export Reform and Enhancement Act because it would create "unnecessary," "cumbersome," or "burdensome" requirements that would make it more difficult or time-consuming to export products from the United States, place U.S. firms at a competitive disadvantage in global markets, force firms to relocate overseas, or result in lost profits. Some comments said FDA must withdraw the proposal, although others said the agency should significantly revise the proposal to reduce its requirements.

FDA recognizes that the FDA Export Reform and Enhancement Act was designed to facilitate exports of unapproved products from the United States and, through the draft guidance document, proposed rules, and other contacts with individual firms, the agency worked to reduce or eliminate export requirements and facilitate exports. FDA drafted the proposed rule to implement the notification and recordkeeping requirements in section 802 of the act and to establish a single, consistent agency position regarding the types of records it would examine to determine compliance with section

801(e)(1) of the act. In general, FDA sought to establish recordkeeping requirements to inform firms about the types of records that would demonstrate a firm's compliance with the act and to ensure that the records could be linked to a specific export. For example, an export record stating only that "product X was exported" would be almost useless if multiple versions of the product exist (because neither FDA nor the exporter would be able to tell what specific version of the product was exported) or if the product was exported to multiple countries (because neither FDA nor the exporter would be able to alert foreign government officials if a problem developed or such communications became necessary).

FDA disagrees, therefore, with those comments asserting that the proposed rule was "burdensome" or "unnecessary." The agency's interest is to implement sections 801(e)(1) and 802 of the act and section 351(h) of the PHS Act in a consistent, uniform manner that will generate notifications and records that will be useful in determining compliance with the act and will have some value both to the exporter and the agency. Furthermore, as discussed later in this document, FDA has, in response to other comments, revised or eliminated various requirements. These changes to the final rule should make it easier for exporters to comply with the act.

(Comment 2) Several comments argued that FDA lacks authority to issue any regulations pertaining to exports. One comment conceded that the act imposes substantive requirements and that FDA can exercise its enforcement authority if a manufacturer violates the export requirements, but argued that FDA does not have "carte blanche" to require exporters to retain records to defend against a possible FDA enforcement action before the agency alleges that a violation has occurred. The comment added that FDA cannot require records as a substantive requirement so that failure to maintain records would be the basis for regulatory action. Another comment asserted that FDA had failed to show that Congress expected FDA to impose new recordkeeping and reporting requirements on industry or how the requirements would be important in fulfilling FDA's statutory obligations.

Another comment simply stated that the act does not require regulations or the recordkeeping described in the proposed rule.

Other comments cited remarks by one legislator to emphasize that no export restrictions would be preferable.

FDA's authority to issue regulations stems from section 701(a) and (b) of the act (21 U.S.C. 371(a) and (b)). Section 701(a) of the act gives the agency authority to issue regulations for the efficient enforcement of the act unless an exception exists, and section 701(b) of the act specifically authorizes the Departments of Health and Human Services (DHHS) and the Treasury to jointly prescribe and for the DHHS to promulgate regulations for the efficient enforcement of section 801 of the act. Given these provisions of the act, FDA clearly has the authority to promulgate regulations concerning exports and to issue regulations for the efficient enforcement of sections 801 and 802 of the act.

Additional discussion of FDA's authority to issue regulations for the efficient enforcement of section 351(h) of the PHS Act is included in the responses to the comments to § 1.101(c) (21 CFR 1.101(c)) (see section II. D below).

Records enable a person to show, and for FDA to verify, that the person has complied with its legal obligations. The FDA Export Reform and Enhancement Act, with very few exceptions, eliminated any need for prior FDA approval of an export, so determining whether a person has complied with the act must depend on an examination of records. If no records can be required, a firm cannot demonstrate that it met all applicable export requirements, and FDA would be unable to verify such compliance.

Further, section 802(g) of the act clearly states, in part, that, "Any exporter of a drug or device *shall maintain records* of all drugs or devices exported and the countries to which they were exported" (emphasis added). The most straightforward interpretation of this provision is that persons exporting drugs or devices under section 802 of the act must keep records on the exported product and the foreign countries receiving the product. As a result, the final rule, at § 1.101(e), describes the types of information that would demonstrate compliance with section 802(g) of the act. Failure to keep the records required by section 802(g) of the act would be a violation of section 802 of the act. As a result, the product would no longer have section 802 of the act's exemption from the applicable misbranding, adulteration, approval, and prohibited act provisions of the act. The product and/or the person responsible could be subject to enforcement action under the act.

FDA acknowledges that one legislator, in his remarks accompanying the passage of the FDA Export Reform and Enhancement Act, indicated a desire to have no export requirements at all. Nevertheless, the FDA Export Reform and Enhancement Act did contain requirements for exports, and one cannot reasonably argue that Congress, in enacting those requirements, intended them to be ignored, rendered meaningless, or made unenforceable. When interpreting legislation, it is a well-settled principle that, "Absent clear congressional intent to the contrary, we will assume the legislature did not intend to pass vain or meaningless legislation" (*Coyne & Delany* v. *Blue Cross & Blue Shield of Virginia*, 102 F.3d 712, 715 (4th Cir. 1996); see also *Halverson* v. *Slater*, 129 F.3d 180, 185 (D.C. Cir. 1997) (Congress cannot be presumed to do a futile thing)).

(Comment 3) Two comments argued that the proposal was deficient or had to be withdrawn because FDA had not shown how the proposal protects the public health of U.S. citizens or foreign citizens or benefits consumers.

FDA disagrees with the comments. The rule is intended to implement sections 801(e) and 802(g) of the act and section 351(h) of the PHS Act by describing the types of records that should be kept in order to demonstrate that the export complied with the act and by describing the contents of the simple notification, which must be sent to FDA for certain exports under section 802 of the act. None of these provisions requires a demonstration of the public health benefits for United States or foreign citizens as a prerequisite to rulemaking. Thus, a preamble discussion concerning public health benefits to U.S. citizens or foreign citizens or possible congressional expectations for a regulation is unnecessary.

Nevertheless, the act and, by extension, the final rule indirectly benefits the public health in the United States and in foreign countries. For example, sections 801(e) and 802 of the act permit exports of products that are not approved for use in the United States. (If the products were approved for use and otherwise in compliance with the act's requirements for marketing and sale in the United States, they would not be subject to the export provisions of the act.) Consequently, to the extent that records can show that a product not approved for use in the United States. was, in fact, exported, there would be no U.S. public health concern that a product whose safety or effectiveness has not been established had entered domestic commerce.

As another example, section 351(h) of the PHS Act states, in part, that exports of a partially processed biological product must conform with current good manufacturing practice (CGMP) requirements. CGMP requirements are, in part, intended to ensure that the product complies with certain adulteration and misbranding provisions. Obviously, consumers benefit by not receiving products that do not comply with these requirements. The final rule, at § 1.101(c)(2), reflects the CGMP requirement adopted by Congress by requiring records demonstrating that the partially processed biological product was manufactured in conformity with CGMPs. If FDA could not require exporting firms to keep CGMP records, there would be no way to demonstrate or to verify that the partially processed biological product met CGMPs, was not contaminated, was correctly labeled and stored, and was otherwise in compliance with section 351(h) of the PHS Act and entitled to the provision's exemption from the requirements of the PHS Act and the act. This demonstration clearly benefits the public health.

(Comment 4) One comment said that the present system is "working well" so new regulations are unnecessary. Other comments said the statute was sufficiently clear so no regulations are needed. Another comment asked that foods be excluded from the rule; the comment said, in part, that FDA did not understand the global food market or recognize congressional intent in adopting the FDA Export Reform and Enhancement Act. (The comment also made specific statements against individual provisions in the proposed rule and other claims; FDA addresses those comments elsewhere in this preamble.)

FDA disagrees with the comments. The FDA Export Reform and Enhancement Act affected regulated industries differently. For example, for foods, no significant changes in the export authority occurred, whereas for drugs and devices, the new export provisions offered new authorities for exporting investigational products, products approved by certain foreign countries, and products intended to "fill the pipeline" while awaiting approval in a foreign country.

As another example, before the enactment of the FDA Export Reform and Enhancement Act, unapproved new animal drugs were subject to the export requirements in section 802 of the act, and then-section 801(e) of the act did not permit the exportation of animal drugs that were "unsafe" within the meaning of section 512 of the act (21 U.S.C. 360b). After the enactment of the FDA Export Reform and Enhancement Act, animal drugs are excluded from section 802 of the act and, except for "banned" animal drugs which cannot be exported, now can be exported if they comply with the export requirements in section 801(e)(1) of the act.

Yet, while the new export provisions affected regulated industries differently, certain statutory requirements (such as compliance with section 801(e)(1) of the act) are common to all exports. Other statutory requirements, particularly those in section 802 of the act, are common to drugs and devices, or to drugs, biological products, and devices. In cases where a particular statutory requirement applied to more than one type of product, the agency decided that its interpretation and implementation of that statutory requirement should also be the same, regardless of the product involved. In other words, the rule implementing section 802(g) of the act should be the same for drug exporters as it is for device exporters because both are subject to section 802(g) of the act. Similarly, the requirements in section 801(e)(1) of the act are incorporated by referring to section 802(f) of the act and section 351(h) of the PHS Act, and continue to operate as a freestanding export provision for foods, cosmetics, certain drugs, and devices. The interpretation of section 801(e)(1) of the act should be consistent regardless of the product involved.

So, while the agency's implementation of the export provisions might have been sufficiently clear to some individuals and "working well" for certain industries in certain cases, the absence of a single, consistent interpretation of those statutory provisions created the possibility that different FDA centers would implement the same provisions of the act differently. The agency, therefore, formed a multi-center and multi-office group to develop FDA's policies and interpretations for the FDA Export Reform and Enhancement Act. The draft guidance document (which appeared in the **Federal Register** of June 12, 1998 (63 FR 32219)), the proposed "import for export" rule (which appeared in the **Federal Register** on November 24, 1998 (63 FR 64930)), and this rule represent the consensus positions and interpretations of the agency's centers and offices.

In short, a rule will help ensure that the export requirements "work well" for all, rather than some, regulated industries and that they work the same way for all regulated industries.

As for the comment requesting that FDA exclude food products from the rule, FDA declines to adopt the comment's suggestion. Section 801(e)(1) of the act clearly and unequivocally applies to food exports, so, absent a compelling reason that would warrant separate or different export regulations for food, FDA declines to exclude food products from the final rule.

(Comment 5) One comment said that the proposed rule contained the "same objectionable provisions" that were in the draft guidance document on exports.

While the agency disagrees with the comment's characterization of the rule, the proposed rule and guidance document contain the same concepts because FDA prepared the draft guidance document and its export-related proposed rules simultaneously. However, the administrative clearance and publication procedures and statutory requirements that apply to guidance documents are much simpler than those that apply to proposed rules. Consequently, the proposed rules appeared several months after FDA had published the draft guidance document in the **Federal Register**. In preparing this final rule, FDA reviewed both the comments submitted to the proposed rule and relevant comments submitted to the draft guidance document.

(Comment 6) One comment accused the agency of engaging in "regulatory imperialism" that is "neither desired nor needed by other countries" and that the rule reflected what it called "FDA's continued belief that the agency is not simply the public-health agency for the United States, but for the entire world."

FDA disagrees with the comment. The rule implements parts of sections 801(e)(1) and 802 of the act and section 351(h) of the PHS Act. These provisions do not require, or expect, FDA to be a public health agency "for the entire world," but the act and section 351(h) of the PHS Act do establish requirements on exports of products that cannot be legally marketed or sold under the act in the United States, and FDA is charged with enforcing the act and section 351 of the PHS Act. The final rule, as stated earlier, creates a single, uniform interpretation for certain export requirements by describing the types of records the agency would examine in order to determine whether a person complied with the law and by describing the content of the notification, if required by the act, to be sent to FDA.

(Comment 7) Two comments involved investigational products. One comment said the proposal would make it more difficult for U.S. firms to conduct foreign clinical trials for drug and biological products. The other comment said the proposal fails to recognize that food samples are often exported for testing or for product research and development. This comment said these food products are tested on site under controlled conditions or used for demonstration purposes and are never intended for human consumption in foreign countries. The comment added that these food products are never "approved" by foreign governments because they are not intended for retail markets, and said that the proposal overlooked the need for global market development.

For clinical investigations involving human drugs and biological products, the FDA Export Reform and Enhancement Act created several avenues for exporting such products. First, if the drug or biological product has been approved for marketing in any of the countries identified in section 802(b)(1) of the act (the so-called "listed countries"), the product may be shipped to any country for any purpose; this would include investigational use, and the export would be subject to the rule's notification and recordkeeping requirements.

Second, if the drug or biological product is exported for investigational use in any listed country and is not approved in any listed country, section 802(c) of the act authorizes its export. These exports are not subject to the notification requirement in section 802(g) of the act, but are subject to section 801(e)(1) of the act and to certain other requirements in section 802 of the act. Most drugs and biological products exported for investigational use would probably be subject to this provision of the act and § 1.101(b) and (g).

Third, the clinical investigation could be conducted under an investigational new drug application (IND). In these cases, only the IND requirements at part 312 (21 CFR part 312) would apply.

Fourth, the person could seek permission to export the drug or biological product, without obtaining an IND, under § 312.110. This program, known as the "312 program," pre-dates the FDA Export Reform and Enhancement Act and allows exports for investigational use.

FDA is preparing a proposed rule that would address exports of drugs and biological products for investigational use and also streamline the requirements for the "312 program." Additionally, FDA has revised § 1.101(b)(2) and other parts of this rule to simplify the requirements for demonstrating compliance with section 801(e)(1) of the act. These revisions significantly change the records required for demonstrating compliance with section 801(e)(1) of the act and are discussed later in this document.

As for foods exported for investigational or research uses, the act does not contain any special provisions for such products. There is no apparent legal basis to distinguish them from other food exports.

However, section 801(e)(1)(B) of the act only requires that the product intended for export be "not in conflict" with the foreign country's laws. This is considerably different—and far less restrictive than requiring that the exported product be "approved" in the foreign country. Market authorization is relevant only for drugs and devices exported under section 802(b)(1) of the act, because that provision of the act allows exports of unapproved drugs or devices if they have received valid marketing authorization from any listed country, and comply with the other applicable requirements of section 802 of the act. Thus, in the food testing and research and development example cited by the comment, the export would comply with section 801(e)(1)(B) of the act if such activities do not conflict with the laws of the importing country. Additionally, as stated earlier, revised § 1.101(b)(2) greatly simplifies the types of records needed to show that the product is not in conflict with the foreign country's laws.

(Comment 8) One comment objected to notifying FDA at all if a device is International Organization for Standardization (ISO)–9001 certified or has received approval from a notified body so that it may be commercially marketed in the EU. The comment said the Conformite European (CE) mark should exempt the device from notification and said that small countries will find it in their best interests to accept the CE mark as their acceptance standard.

FDA declines to exempt CE-marked or ISO–9001 certified devices from the notification requirement. The act requires notification for drugs and devices exported under section 802(b) of the act. The act does not exempt devices that bear a CE mark or meet ISO–9001 standards from the act's export requirements. The agency notes that such devices may qualify for export under section 801(e)(1) of the act. In such instances, no notification would be required as long as the export complies with section 801(e)(1) of the act.

As for the comment's assertion that small countries should accept the CE mark, such matters are outside the scope of this rule. FDA cannot require other countries to accept a CE mark.

(Comment 9) The preamble to the proposed rule described the requirements in section 802(f) of the act. It noted that the act prohibits exports of a drug or device if the product is the subject of a determination by FDA or by the U.S. Department of Agriculture (USDA) that the probability of reimportation of the exported drug or device would present an imminent hazard to the public health and safety of the United States. The preamble to the proposed rule noted that veterinary biological products are subject to USDA jurisdiction (64 FR 15944, col. 3). One comment requested that FDA remove the reference to veterinary biological products.

The statement in the preamble to the proposed rule accurately described the USDA's jurisdiction. However, the reference to veterinary biological products was inappropriate because sections 801(e)(1) and 802 of the act apply only to FDA-regulated products. No changes to the final rule are necessary, though, because the reference to veterinary biological products appeared only in the preamble to the proposed rule.

(Comment 10) Two comments said the rule failed to address or to distinguish between items that are imported as components or ingredients that are used in products destined for export and products that are manufactured solely for export purposes.

In the **Federal Register** of November 24, 1998 (63 FR 64930), FDA published a proposed rule regarding "import for export" under section 801(d) of the act. The proposal described the reporting and recordkeeping requirements for articles that are imported into the United States and are later further processed or incorporated into items for export.

The import for export proposal, however, focused on requirements pertaining to the imported article, whereas this final rule pertains to the notification and recordkeeping requirements for exported products. In other words, the import for export provision in section 801(d) of the act does not relieve "import for export" products from satisfying the export requirements in sections 801(e) and 802 of the act or section 351(h) of the PHS Act. Thus, one should read this final rule in conjunction with the import for export proposal. FDA intends to finalize the import for export proposal in the near future.

B. Scope (Section 1.101(a))

Section 1.101(a) would describe the provision's scope as covering notifications and records required for human drug, biological product, device, animal drug, food, and cosmetic exports under sections 801 or 802 of the act or section 351 of the PHS Act.

(Comment 11) One comment asked if a product meeting all applicable marketing requirements in the United States, but labeled in a foreign language and intended for the same uses as those approved by FDA, would be exempt from the rule.

FDA considers a product which is labeled solely in a foreign language and whose foreign-language labeling has not been approved by FDA (where such FDA approval of labeling is required) to be an unapproved product and subject to the act's approval requirements. FDA approval, in general, includes approval of a product's labeling (see, e.g., sections 505(b)(1)(F), (d)(5), and (d)(7); 512(a)(1)(B), (a)(2)(C), and (b)(1)(F); and 515(c)(1)(F), and (d)(2) of the act (21 U.S.C. 355(b)(1)(F), (d)(5), and (d)(7); 360b(a)(1)(B), (a)(2)(C), and (b)(1)(F); and 360e(c)(1)(F), and (d)(2))). Thus, if FDA has not reviewed or approved the foreign-language label, the product is unapproved and would not be exempt from this rule, even if an identical, FDA-approved product with approved labeling exists.

For information regarding the exportation of products legally marketed in the United States that are accompanied by FDA-approved labeling, please see comment 28.

(Comment 12) One comment objected to the rule's scope, saying that it would cover products that foreign countries might regulate differently from FDA. The comment gave an example of patient [disposal] washcloths, which would be medical devices in the United States, but would be cosmetics in Brazil. The comment said FDA should concern itself with compliance with FDA requirements for domestic shipments.

FDA disagrees with the comment. The most logical interpretation of the act is to have FDA regulate products, and determine whether products are exempt from requirements applicable to products marketed, distributed, or sold in the United States because they qualify for export under sections 801(e) or 802 of the act or section 351(h) of the PHS Act, according to their classification or type in the United States. Thus, a product that would be considered a device in the United States remains a device under the export provisions even though a foreign country might regulate it differently or might not regulate it at all. It would be both inefficient and resource-intensive for exporters and FDA to apply the export requirements based on the product category in which a particular foreign country regulates the product. Moreover, such an approach is inconsistent with the structure of the act's export provisions. The export provisions are a means by which an exporter can ship products that would otherwise be subject to the act's domestic provisions. The purposes underlying the export provisions would be undermined if a product could qualify for export under the rules applicable to the product category of the importing country rather than based on how the product is regulated in the United States.

(Comment 13) One comment said the proposal failed to address specific categories of food products. The comment said that food additives and dietary supplements are "foods" and subject to section 801(e)(1) of the act, but said color additives are not foods, drugs, or any other product mentioned in proposed § 1.101(a). The comment asked if color additives are exempt from the rule.

The act's definitions of "food," "drug," and "cosmetic" include components of such products (see section 201(f)(3), (g)(1)(D), and (i)(2) of the act (21 U.S.C. 321(f)(3), (g)(1)(D), and (i)(2)). Section 201(t)(1)(B) of the act, in general, defines a "color additive" as a material that, when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable of imparting color. Most color additives would be components of a food, drug, or cosmetic and, as a result, be subject to the act's export requirements for foods, drugs, or cosmetics. Only those color additives that are not classified as a food, drug, or cosmetic "component" fall outside sections 801(e) and 802 of the act. In such circumstances, if the color additive cannot be legally marketed, distributed, or sold in the United States because it does not comply with the act's requirements for color additives, it may not be exported.

(Comment 14) FDA, on its own initiative, has replaced the word "biologic" or "biologics" with "biological product" or "biological products" throughout the rule. This change has no substantive effect and is intended only to use the term used in the PHS Act for these products.

C. Recordkeeping Requirements for Human Drugs, Biological Products, Devices, Animal Drugs, Foods, and Cosmetics Exported Under or Subject to Section 801(e)(1) of the Act (Section 1.101(b))

1. General Remarks

Section 1.101(b) would establish the recordkeeping requirements for human drugs, biological products, devices, animal drugs, foods, and cosmetics exported under or subject to section 801(e)(1) of the act.

(Comment 15) Several comments challenged FDA's authority to issue any recordkeeping regulations for section 801(e)(1) of the act. Two comments claimed that the act only requires records under section 802(g) of the act, so FDA cannot issue recordkeeping requirements for section 801(e)(1) of the act. One comment added that the proposed recordkeeping requirements went "far beyond" the "simple recordkeeping" requirements specified in the act. Two comments argued that the act did not require records or prescribe what records are to be kept, although one comment acknowledged that companies should keep records to demonstrate compliance with the act. According to these comments, companies have the discretion to keep any records they wish to demonstrate compliance with section 801(e)(1) of the act.

FDA has ample legal authority to require records. Section 701(b) of the act provides the principal legal basis for the recordkeeping requirements in § 1.101(b). Section 1.101(b) reflects the basic export requirements in section 801(e)(1) of the act that apply to all exports under sections 801(e) and 802 of the act, regardless of whether the product is a food, human or animal drug, biological product, device, or cosmetic. The agency drafted this provision to provide a single, consistent interpretation of requirements in section 801(e)(1) of the act to both industry and to the agency's own components. This should result in less confusion and fewer disagreements as to whether a particular document adequately demonstrates compliance with section 801(e)(1) of the act (which would occur if no regulation existed and firms had total discretion over what records to keep). FDA has, however, significantly revised § 1.101(b) in response to the comments (by shortening the recordkeeping period and by clarifying the types of records needed to show that the export meets the foreign purchaser's specifications or does not conflict with foreign laws), and discusses those changes later in this document.

For the records required in § 1.101(e), section 701(a) of the act provides rulemaking authority for the efficient enforcement of the act, and this authority is independent of the recordkeeping requirement in section 802(g) of the act. FDA further notes that, contrary to one comment's claim, section 802(g) of the act does not refer to "simple recordkeeping." Instead,

VOL 66 ISS 244 DE 19 2001 UMI

section 802(g) of the act refers to a "simple notification" that is to be sent to FDA, and requires drug and device exporters to "maintain records of all drugs or devices exported and the countries to which they were exported."

(Comment 16) One comment argued that the proposal contains requirements and recommendations that are irrelevant or inappropriate to specific products, such as bulk agricultural commodities. The comment asked FDA to exclude foods from the rule.

FDA declines to exclude foods from the rule. Section 801(e)(1) of the act specifically includes foods, so it is more practical and appropriate to include foods as part of this rule so that the rule applies equally to all products subject to section 801(e)(1) of the act.

Section 801(e)(1) of the act also does not distinguish between types of food, so it would be inappropriate to create exemptions or exceptions for specific food products. FDA has, however, revised some requirements in § 1.101(b) to make it easier to demonstrate compliance with section 801(e)(1) of the act. FDA is unable to respond further to the comment because it did not identify which requirements were supposedly irrelevant or inappropriate or explain why they were irrelevant or inappropriate.

(Comment 17) Proposed § 1.101(b)(1) would require records to be kept at least 5 years after the date of exportation and made available to FDA for review and copying.

Several comments protested that the 5-year period was excessive. One comment claimed that food manufacturers do not even keep records regarding foreign regulatory requirements and that it would be unrealistic and unacceptable to expect them to do so. Two comments suggested that the retention period be 2 years, while another comment suggested that, for drugs, the period be 1 year after the product's expiration date.

The agency has revised the rule to make the record retention period coincide with the CGMP or quality systems (QS) regulations applicable to the product. So, for example, the CGMP record retention period would apply to drug exports, and the QS regulation record retention period would apply to device exports. FDA decided to use CGMP and QS regulation record retention periods because most records described in § 1.101 would be contained in a company's CGMP or QS regulation records. As a result, firms should find it easier to maintain their export records in the same manner and for the same period of time as their CGMP or QS regulation records.

For food and cosmetic exports, the food CGMP regulations do not contain a recordkeeping requirement, and there is no CGMP regulation for cosmetics. Therefore, because the food CGMP and cosmetic regulations do not require records, FDA has revised § 1.101(b)(1) to require records for food and cosmetic exports to be kept for 3 years after the date of exportation. The 3-year period is consistent with the CGMP record retention period for drugs (see 21 CFR 211.180(a)).

As for the comment claiming that food manufacturers do not keep records of foreign regulatory requirements, neither the proposed nor final rules required them to do so. Section 1.101(b)(2) requires records demonstrating that the product does not conflict with the laws of the importing country. The final rule states that such records can consist of either: (1) A letter from an appropriate foreign government agency, department, or body stating that the product has marketing approval from the foreign government or does not conflict with the foreign government's laws; or (2) a notarized certification by a responsible company official in the United States that the product does not conflict with the importing country's laws and includes a statement acknowledging that he or she is subject to 18 U.S.C. 1001. Thus, showing that the export does not conflict with the foreign country's laws does not require a person to keep records regarding foreign regulatory requirements.

(Comment 18) One comment argued that the recordkeeping obligations do not operate until a firm begins to export a product.

FDA disagrees with the comment. Although the rule does not specify when a firm should begin keeping export records, FDA expects firms to begin creating and keeping records before they export a product under sections 801(e) or 802 of the act or section 351(h) of the PHS Act. For example, to show whether the export meets the foreign purchaser's specifications (as required by section 801(e)(1)(A) of the act), an exporter would keep a copy of the incoming purchase order showing which items the foreign purchaser wanted. It would be illogical for the exporter to ask the foreign purchaser to provide a purchase order when the exporter ships or after the exporter has shipped the products to the foreign purchaser or to start keeping such records after he or she has exported the product.

In other words, a prudent firm should know whether exports are permitted or whether the export meets various obligations under the act or the PHS Act before the firm actually exports the product. Yet, even in the absence of this requirement, most firms would have the foreign purchaser's specifications before they export the product because they would want to ensure that they are manufacturing and exporting the correct item and to reassure the foreign purchaser that the exported item meets the purchaser's needs or expectations. Moreover, for purposes of the act, if a product does not comply with the applicable requirements for domestic marketing, distribution, and sale, and the manufacturer lacks evidence that the product is intended for export and meets the requirements of an applicable export exemption (i.e., sections 801 or 802 of the act or section 351(h) of the PHS Act), the product would be subject to enforcement action for violating the act.

2. Foreign Purchaser's Specifications (Section 1.101(b)(1))

To demonstrate that the exported product meets the foreign purchaser's specifications, § 1.101(b)(1) would require records describing or listing the product specifications requested by the foreign purchaser. The proposal indicated such records could include details about the product (e.g., dosage strength, dosage form, purity, quality, operating parameters, composition) and any manufacturing specifications requested by the foreign purchaser (e.g., type of sterilization process to be used, compliance with a particular manufacturing standard).

(Comment 19) Most comments submitted in response to proposed § 1.101(b)(1) interpreted the provision as requiring extremely detailed product specifications and protested the level of detail that they believed the rule required. For example, some comments said that in vitro diagnostic devices are not manufactured to unique specifications and are instead sold to the general laboratory or scientific community. These comments said package inserts describing product specifications, product labeling, or some indication that the in vitro diagnostic device met design criteria should be acceptable.

Other comments said that, for food products or medical devices, contracts or purchase orders between exporters and foreign purchasers should suffice. One comment added that for devices FDA should not require specifications to be in English; the comment said requiring foreign purchasers to draft original specifications in English would be cumbersome and that product labeling is used worldwide as the basis for product performance characteristics.

One comment from a trade association for human drug manufacturers said CGMP records should suffice, but also claimed that the act does not authorize FDA to require any records. In contrast, another comment said that some foreign purchasers have limited requirements and may not require detailed product specifications.

One comment said that recipes, manufacturing specifications, and processes are proprietary information protected under "international agreements" and should not be available to FDA for review and copying. The comment accused FDA of trying to obtain proprietary information with the intent to share such information with foreign entities.

Only one comment stated that the records described in proposed § 1.101(b)(1) would not present any problem. The comment explained that a manufacturer would require a detailed specification for the custom manufacture of any product that is not regularly manufactured or sold in the United States.

FDA believes that many comments misinterpreted the rule. FDA's principal interest is to link a record to a particular export to verify that the exported product met the foreign purchaser's specifications. For example, if the foreign purchaser sought 5,000 bottles of drug X tablets, with each tablet at a 50 milligram (mg) dose, FDA would look for records to show that a particular shipment of drug X to the foreign purchaser consisted of 5,000 bottles of 50 mg of drug X tablets. Records stating only that drug X was shipped to the foreign purchaser would not be satisfactory because they would provide no information regarding the foreign purchaser's specifications or how the export shipment met those specifications.

The final rule does not prescribe any particular degree of detail in the foreign purchaser's specifications. The agency has revised § 1.101(b)(1) to clarify that the records need only contain sufficient detail to match the foreign purchaser's specifications to a particular export. If CGMP records contain information on the foreign purchaser's specifications, they may be sufficient under § 1.101(b)(1).

As for translations, the specifications should be translated, if necessary, to facilitate a determination as to whether the exported product meets the foreign purchaser's specifications. The agency has no preference whether the foreign purchaser or the U.S. manufacturer or exporter does the translation. However, the U.S. manufacturer or exporter should know whether the exported product meets the foreign purchaser's specifications, so it is reasonable to expect that the U.S. manufacturer or exporter would understand the foreign purchaser's specifications and be able to communicate those specifications in English.

FDA disagrees with the comment that claimed that FDA wants to obtain proprietary information in order to transmit that information to foreign entities. Such claims are totally unfounded. FDA is very conscious of its legal obligations to protect trade secrets and confidential commercial information (see section 301(j) of the act (21 U.S.C. 331(j)), 21 CFR part 20) and has regulations governing communications with foreign governments (see 21 CFR 20.89). Those regulations contain several safeguards, such as sponsor consent, to protect any exchanges of confidential commercial information with foreign governments.

(Comment 20) One comment asked how often foreign purchasers must provide product specifications. The comment explained that specifications are only as detailed as necessary to meet the purchaser's needs, so that if the foreign purchaser changes or amends its specifications, the foreign purchaser should be expected to provide an amendment to the U.S. manufacturer. The comment suggested that FDA interpret the rule to require foreign purchasers to provide complete specifications only with the initial order. If the foreign purchaser subsequently changed the specifications, the foreign purchaser would only provide the changes to the manufacturer (rather than a complete set of specifications). The comment added that batch records would be kept in accordance with existing recordkeeping requirements and would be made available during an inspection.

FDA does not expect complete specifications to accompany every order of the same product. For example, if an exporter signs a contract to ship the same item to a foreign purchaser on a monthly basis, the agency would not expect the exporter to obtain complete specifications for each monthly shipment, but would expect the exporter to have specifications that applied to the initial shipment and records showing that subsequent shipments correspond to the same initial specifications. The agency's principal interest is to link records to specific export shipments to verify that a particular exported product met the foreign purchaser's specifications. The level of detail in the specifications may vary between orders, but the agency expects manufacturers to be able to demonstrate that the exported product met the foreign purchaser's specifications.

3. Not in Conflict With the Foreign Country's Laws (Section 1.101(b)(2))

Proposed § 1.101(b)(2) would require the exporter to maintain documentation that demonstrates that the exported product does not conflict with the importing country's laws. The proposal stated that this would normally consist of a letter from the appropriate foreign government agency, department, or other authorized body stating that the product has marketing approval from the foreign government or does not conflict with that country's laws. The proposal would not consider letters or other documents from nongovernmental bodies or persons, such as company officials or attorneys in the foreign country, to be satisfactory for this purpose.

(Comment 21) Many comments objected strongly to proposed § 1.101(b)(2). In general, most comments said it would be difficult, time-consuming, burdensome, or impossible to obtain a letter from a foreign government. Other comments argued that foreign governments might not regulate the exported product so one could not demonstrate that the product was not in conflict with foreign laws or that foreign governments might not be willing to provide a letter due to disinterest, lack of staff, or a desire to protect domestic industry. A few comments suggested that manufacturers should not be responsible for determining whether a product does not conflict with foreign laws, arguing that importers, purchasers, or distributors in the foreign country should bear that responsibility.

Many comments advocated alternative approaches that would eliminate any need for a letter from the foreign government. Most comments favored a certification, declaration, letter, or memo by a company official in the foreign country, a distributor in the foreign country, by a foreign subsidiary, an attorney (either in the United States or in the foreign country), a notified body (if the export were to Europe or Japan), or a foreign government official, or some combination of these firms or persons. These comments often explained that firms are responsible for meeting local requirements and supported the use of certifications or letters from company officials.

One comment suggested using only contractual documents between the exporter and importer. The comment said previous FDA guidance to the grain handling industry used this approach.

VOL 66 ISS 244 DE 19 2001 UMI

Another comment said a copy of a valid import license should be sufficient because these licenses usually require inspection by the foreign government. The comment explained that a manufacturer will not ship a product if its export costs are significant, and it will not ship a product that does not comply with local requirements because the cost of returning the product would be too great.

One comment said a label stating "For export only" should suffice to show that the product does not conflict with the foreign country's laws.

Section 1.101(b)(2) was intended to provide the most reliable indicator that the exported product did not conflict with the foreign country's laws. However, in light of the comments, FDA has revised § 1.101(b)(2) to accept, as an alternative to a letter from the foreign government, a notarized certification from a responsible company official in the United States that the product is not in conflict with the foreign country's laws. The certification must include a statement acknowledging that the responsible company official making the certification is subject to the provisions of 18 U.S.C. 1001. This statutory provision makes it a criminal offense to knowingly and willfully make a false or fraudulent statement, or make or use a false document, in any matter within the jurisdiction of a department or agency of the United States. This statutory provision also makes it a criminal offense to knowingly and willfully falsify, conceal, or cover up by any trick, scheme, or device a material fact in any matter within the jurisdiction of a department or agency of the United States. This revision should address the concerns expressed in most comments and eliminate any potential delays or obstacles in demonstrating compliance with section 801(e)(1)(B) of the act. FDA reserves the authority to request additional documentation demonstrating that the export is not in conflict with the foreign country's laws if questions arise regarding a certification.

FDA declines to amend the rule to accept contracts as evidence that an export is not in conflict with a foreign country's laws. While parties entering contracts usually intend to execute legally binding obligations, they do not necessarily take into account whether the export complies with foreign laws.

(Comment 22) A few comments disputed FDA's authority to require a letter from a foreign government. They noted that a particular legislator considered such a requirement to be objectionable or simply declared that FDA exceeded its legal authority.

As stated earlier, FDA has revised § 1.101(b)(2) to accept certifications from company officials as an alternative to a letter from a foreign government agency.

Additionally, as discussed earlier, FDA has ample legal authority under section 701 of the act to issue regulations for the efficient enforcement of the act.

(Comment 23) One comment interpreted § 1.101(b)(2) as being satisfied if the foreign country had issued an approval letter or published some document indicating that the product was approved.

Copies of approval letters or other government-issued documents indicating government approval are acceptable to show that the product is not in conflict with the foreign country's laws, but, as stated earlier, the final rule also allows firms to provide a certification from a responsible company official that the product is not in conflict with the foreign country's laws. FDA reiterates that section 801(e)(1)(B) of the act does not require the foreign government to "approve" the exported product for commercial marketing; it only requires that the export "not be in conflict" with the foreign country's laws.

Market authorization from a foreign government is relevant under section 802(b)(1) of the act, which authorizes the export of drugs and devices that have received marketing authorization from a listed country. However, the final rule does not contain any detailed provisions pertaining to the market authorization aspect of section 802(b)(1) of the act.

(Comment 24) Proposed § 1.101(b)(2) also would require the letter from the foreign government to be in English or for the person exporting the article to have an English-language translation. One comment objected to the English-language translation requirement. The comment said World Trade Organization (WTO) notification processes do not require translations and that, for exported food products, English-language translations are not always available or necessary.

Section 1.101(b)(2) accepts certifications from company officials in the United States to show that the export does not conflict with the importing country's laws, and the final rule requires the certification to be in English or for an English-language translation to be available. This should not be objectionable because a U.S. exporter is likely to have a responsible official capable of writing a certification in English.

FDA is not persuaded that WTO notification processes are relevant to the rule because this rule concerns compliance with U.S. law by U.S. companies. Section 801(e)(1)(B) of the act requires the exported food, drug, device, or cosmetic to not be in conflict with the laws of the country to which it is intended for export, and § 1.101(b)(2) describes how a U.S. firm demonstrates compliance with section 801(e)(1)(B) of the act.

(Comment 25) One comment said proposed § 1.101(b)(2) would adversely affect clinical trials conducted outside the United States by affecting the supplies of exported drugs for investigational use.

Because FDA has revised § 1.101(b)(2) to accept certifications as an alternative to a letter from a foreign government, the agency does not anticipate any significant problems or delays in executing the certifications, so there should be no adverse impact on exporting drugs for investigational use. Additionally, FDA intends to issue a proposed rule concerning exports of investigational new drugs. The proposal would describe some new regulatory approaches for exporting investigational new drugs and would streamline existing requirements for such exports.

4. "For Export Only" Label (Section 1.101(b)(3))

Proposed § 1.101(b)(3) would require the records to include copies of any labels or labeling statements, placed on the shipping packages, that show that the packages are intended for export. The proposal indicated that statements such as "For export only" may be sufficient for this purpose.

(Comment 26) Two comments said that raw or processed agricultural commodities cannot be labeled. The comments said that FDA should accept a statement on the bill of lading, export declaration, or other shipping document. One comment suggested that the label, alone, should be sufficient and that FDA should not require firms to show that the export does not conflict with the foreign country's laws.

FDA agrees and has revised the rule to permit the statement to be attached to a bill of lading, export declaration, or other document accompanying the exported product if the product, as it is ordinarily shipped, cannot be labeled.

As for the comment's statement that FDA should not require firms to show that an export does not conflict with a foreign country's laws, FDA points out that section 801(e)(1)(B) of the act expressly requires that a food, drug, device, or cosmetic intended for export to be "not in conflict with the laws of the country to which it is intended for export." If a product intended for export fails to comply with section 801(e)(1)(B) of the act, the product may be considered to be adulterated or misbranded, and section 301(a) of the act prohibits the introduction or delivery for introduction into interstate commerce of any adulterated or misbranded food, drug, device, or cosmetic.

5. "Not Sold or Offered for Sale in the United States" (Section 1.101(b)(4))

Proposed § 1.101(b)(4) would require records showing that the product is not sold or offered for sale in the United States. The preamble to the proposal said that these records could pertain to the product, its labeling, and similar products sold in the United States. The idea was to show that the exported product, when compared to those sold in the United States, was different from products sold domestically.

(Comment 27) Several comments objected to the proposed requirement, arguing that the act does not require any records or labeling to show that the exported product is not sold or offered for sale in the United States.

In contrast, other comments stated that it is difficult to assemble records to "prove a negative," namely that a particular product is not sold or offered for sale in the United States, particularly when a company does not sell a similar product in the United States or only exports products. Some comments suggested that FDA accept copies of shipping records, product labeling, price lists or catalogs, product listings submitted to FDA, or certifications from the exporter. Most comments recommended that the labeling statement in § 1.101(b)(3)—that the product is "For export only"—be acceptable, although some would add a product label stating, "Not for sale in the United States." Two comments said records relating to the production, destruction, and export of products or showing how exported products are segregated from those sold in the United States should be acceptable.

After further consideration, FDA agrees that it would be difficult and impractical to require records of products sold domestically, product labels, or similar information in order to demonstrate that a particular export is "not sold" in the United States. The agency has revised the rule to state that production and shipping records relating to the exported product will be sufficient and that promotional material will be helpful in determining whether a product is "offered for sale" in the United States. The agency notes that information concerning products sold or offered for sale in the United States that are similar to an exported product may be used by the agency in determining compliance with section 801(e)(1) of the act. The final rule does not require an exporter to retain records concerning similar products sold or offered for sale in the United States, but other provisions in the act may require such records to be retained.

(Comment 28) FDA interpreted section 801(e)(1)(D) of the act as requiring exported products to be different from products sold in the United States. One comment questioned FDA's interpretation. The comment said that section 801(e)(1)(D) of the act is only intended to prevent diversion of products into domestic commerce. The comment argued that preventing the sale of foreign-market versions of products sold in the United States "perversely" establishes a more restrictive regime for products sold in the United States than products not sold or offered for sale in the United States.

Two comments disagreed with FDA's position as it pertains to multiple batches of the same product. (In the draft guidance document, FDA indicated that section 801(e)(1)(D) of the act would not be met if a manufacturer made five batches of the same drug and sought to sell some batches in the United States and to export the others; the draft guidance document indicated that the U.S. sales would show that the product is, in fact, sold in the United States contrary to section 801(e)(1)(D) of the act.) The comments argued that section 801(e)(1)(D) of the act should be interpreted as applying only to specific products that are or were sold or offered for sale in the United States, so products that are intended for export may, in fact, be exported even though the same product or different batches of the product are sold in the United States.

After considering the comment, FDA is clarifying its interpretation of section 801(e)(1)(D) of the act. If the product is legally sold in the United States, and the same product is intended for export for the same approved use and is accompanied by the FDA-approved labeling, FDA may consider the product to be sold or offered for sale in the United States. In most circumstances, the product would not have to meet the requirements of section 801(e)(1) of the act because the product to be exported is the same product that can be legally sold in the United States and does not need to qualify for an exemption from the act's requirements. By stating that the product is "accompanied" by the FDA-approved label, FDA does not require the FDA-approved label to be affixed to each exported product, but the agency does expect the FDA-approved label to be included in the export shipment. The agency recognizes that no interest would be served by requiring firms to attach FDA-approved labels to exported products if those labels would have to be removed or altered for the product to be sold in a foreign country.

In contrast, if the product to be exported involves a use that is not approved in the United States, or is labeled solely in a foreign language and whose foreign language labeling has not been approved by FDA, then the product is "unapproved" and falls within the act's export provisions. In these cases (as we stated in our response to comment 11 earlier), the product must comply with section 801(e)(1)(D) of the act, and FDA would not consider the product to be sold or offered for sale in the United States within the meaning of section 801(e)(1)(D) of the act.

As for batches of the same product, FDA is clarifying its position to state that batches of a product that are segregated from products intended for domestic commerce or produced on manufacturing lines that are dedicated to export markets, may meet the requirement in section 801(e)(1)(D) of the act as long as the batch intended for export differs from the domestic product. (For example, the product intended for export is not made under the same CGMPs that apply to the product marketed in the United States.)

FDA will revise its guidance document on the FDA Export Reform and Enhancement Act to reflect these positions.

D. Additional Recordkeeping Requirements for Partially Processed Biological Products Exported Under Section 351(h) of the Public Health Service Act (Section 1.101(c))

Proposed § 1.101(c) would establish recordkeeping requirements, in addition to those required under § 1.101(b), for partially processed biological products exported under section 351(h) of the PHS Act.

(Comment 29) One comment would delete all recordkeeping requirements for partially processed biological products. The comment said that proposed § 1.101(b)'s recordkeeping requirements are based on section 802(g) of the act, but that provision is inapplicable to partially processed biological products.

FDA disagrees with the comment. FDA licenses biological products under the authority of section 351 of the PHS Act. The PHS Act requires that biological products be licensed and be

VOL 66 ISS 244 DEC 19 2001 UMI

safe, pure, potent, and manufactured in facilities designed to ensure that the product continues to be safe, pure, and potent. Biological products are approved for marketing under the provisions of the PHS Act. However, because most biological products also meet the definitions of "drugs" or "devices" under the act, they are also subject to regulation under the act. As part of the FDA Export Reform and Enhancement Act, Congress substantially revised section 351(h) of the PHS Act, the provision that allows exports of partially processed biological products not otherwise in compliance with section 351 of the PHS Act and the act. Prior to the amendments, exports of partially processed biological products required FDA approval and were limited to those countries listed in the previous version of section 802 of the act. As amended, section 351(h) of the PHS Act exempts exported partially processed biological products from the requirements of the chapter of the PHS Act and the requirements of the act if certain requirements are met. Section 351(h) of the PHS Act states that a partially processed biological product which:

> (1) is not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;
>
> (2) is not intended for sale in the United States; and
>
> (3) is intended for further manufacture into final dosage form outside the United States, shall be subject to no restriction on the export of the product under this chapter or the Federal Food, Drug, and Cosmetic Act * * * if the product is manufactured, processed, packaged, and held in conformity with current good manufacturing practice requirements or meets international manufacturing standards as certified by an international standards organization recognized by the Secretary and meets the requirements of section 801(e)(1) of the Federal Food, Drug, and Cosmetic Act * * *.

The records in § 1.101(b) will show whether a product complies with section 801(e)(1) of the act, and section 351(h) of the PHS Act clearly requires exports of partially processed biological products to comply with section 801(e)(1) of the act. If FDA could not require such records, an exporter could not show, and FDA could not verify, that an exported, partially processed biological product complies with section 801(e)(1) of the act.

Furthermore, it would be both unfair and illogical to interpret section 801(e)(1) of the act in a manner that would impose more requirements on persons who export foods, drugs, devices, and cosmetics, and comparatively fewer (if any) requirements on persons who export partially processed biological products.

The act and the PHS Act authorize additional recordkeeping requirements to demonstrate compliance with the other requirements for the export of partially processed biological products under section 351(h) of the PHS Act. Partially processed biological products are drugs under the act, and section 351(h) of the PHS Act allows such products to be exempt from both the PHS Act and from the act if certain requirements are met. The rule's recordkeeping requirements for exports under section 351(h) of the PHS Act will allow FDA to determine efficiently whether the terms of the exemption have been met and whether any violations of the act exist, which would be the case if the export does not comply with the exemption in section 351(h) of the PHS Act. The issuance of these regulations, therefore, is authorized under section 701(a) of the act, which gives FDA the authority to issue regulations for the efficient enforcement of the act.

Recordkeeping requirements to implement section 351(h) of the PHS Act are also authorized by section 361 of the PHS Act (42 U.S.C. 264). Under that section, FDA may make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases between the States. Because of their nature, partially processed biological products pose a potential risk of transmitting diseases because they may not have been treated to inactivate infectious agents or other harmful agents. FDA has determined that it may appropriately and effectively regulate partially processed biological products intended for export, and the risks associated with their movement in interstate commerce, by imposing recordkeeping requirements specific to exports under section 351(h) of the PHS Act.

FDA has, however, rewritten § 1.101(c)(2) through (c)(4) to adopt parallel sentence structure. These changes are intended to make the rule easier to read and have no substantive impact on the rule.

(Comment 30) Proposed § 1.101(c)(1) would require persons exporting a partially processed biological product under section 351(h) of the PHS Act to maintain records demonstrating that the product for export is a partially processed biological product, that is, "not in a form applicable to the prevention, treatment, or cure of disease or injuries of man."

One comment said it would be impractical to create records to show that a product is a partially processed biological product. The comment said that a partially processed biological product "is just that, a partially processed biologic."

FDA disagrees with the comment. Before Congress enacted the FDA Export Reform and Enhancement Act, FDA interpreted the term "partially processed biologic" in section 351(h) of the PHS Act as including products that require purification, inactivation, fractionation, or significant chemical modification before the partially processed biological product can be used in making a final product. To demonstrate that a product was a partially processed biological product, a firm provided either an explanation or documentation explaining the need to purify, inactivate, fractionate, or chemically modify the partially processed biological product before it could be used in a final product.

While the FDA Export Reform and Enhancement Act eliminated the need to submit an export application to FDA, it did not alter the term "partially processed biologic" or suggest any changes to FDA's interpretation of the term. Consequently, FDA expects firms to have records demonstrating that the product intended for export is, indeed, a partially processed biological product that is eligible for export under section 351(h) of the PHS Act. Those records may consist of an explanation or documentation explaining the need to purify, inactivate, fractionate, or chemically modify the partially processed biological product before it could be used in a final product.

(Comment 31) Proposed § 1.101(c)(4) would require a firm to maintain copies of all labeling that accompanies the partially processed biological product for export, such as a container label with the statement, "Caution: For Further Manufacturing Use Only," and any package insert and to make such copies and package inserts available to FDA during an inspection.

One comment said the proposed requirement was unauthorized under the act and the PHS Act. The comment said that manufacturers should not have to keep copies of all labeling that accompanies an exported product.

FDA disagrees with the comment. The requirement to maintain copies of all product labeling is consistent with CGMP requirements. For example, as part of the batch product and control record requirements for drugs, 21 CFR 211.188(b)(8) requires retention of complete labeling control records, including specimens or copies of all labeling used in batch products. Section 351(h) of the PHS Act expressly requires that exported partially processed biological products be in conformity with CGMP requirements. The recordkeeping requirement adopted for exports in this rule is, therefore, consistent with existing CGMP requirements that apply to partially processed biological products exported under section 351(h) of the PHS Act. As discussed in greater detail in the response to comment 42 (below), the final rule does not require exporters to maintain duplicate sets of records for export and CGMP purposes. Records required under this rule may be part of the exporter's CGMP or QS regulation records.

The requirement to maintain copies of all product labeling is also consistent with the requirement in section 351(h)(2) of the PHS Act that a partially processed biological product intended for export not be "intended for sale in the United States" and the requirement in section 351(h)(3) of the PHS Act that the exported product be "intended for further manufacture into final dosage form outside the United States." Without copies of all labeling, FDA would be unable to determine that the product is labeled in a manner consistent with these requirements. Section 1.101(c)(4) provides a practical approach for implementing sections 351(h)(2) and (h)(3) of the PHS Act because the labeling will help show that the product is not intended for sale in the United States, while the suggested cautionary statement will help demonstrate that the product is intended for further manufacture outside the United States. This cautionary statement is consistent with the statement required on other products intended for further manufacture, such as source plasma (see 21 CFR 640.70(a)(2)), and is also consistent with FDA's authority under section 361(h) of the PHS Act to make and enforce regulations to prevent the introduction, transmission, or spread of communicable disease.

Although FDA suggests the inclusion of the statement, "Caution: For Further Manufacturing Use Only," on the label of exported partially processed biological products, the proposed rule did not mandate the use of that particular statement. The agency included a cautionary statement to give exporters specific information on label statements that may be sufficient to show that the product is intended for further manufacturing into a final dosage form outside the United States, as required by section 351(h)(3) of the PHS Act. The final rule, at § 1.101(c)(4), clarifies that exporters may use other records demonstrating that the exported partially processed biological product is intended for further manufacturing into a final dosage form outside the United States.

(Comment 32) One comment interpreted this provision as requiring valid marketing authorization for the partially processed biological product and stated that the act does not require valid marketing authorization for such products. The comment said that firms might export partially processed biological products for research purposes, for use in clinical evaluations, or for product evaluation before marketing. The comment suggested that an attestation by a company official in the foreign country suffice in place of valid marketing authorization.

The comment misinterprets the rule. Section 1.101(b)(2) and section 801(e)(1)(B) of the act only require that the product not be in conflict with the foreign country's laws. FDA does not interpret this to mean that the exported product must have valid marketing authorization in the foreign country to which it is being exported. FDA recognizes that some countries lack affirmative approval mechanisms for certain products and that some countries do not "approve" certain products, particularly products used for research or investigational purposes.

For biological products that may be regulated as devices (and devices generally), the Center for Devices and Radiological Health (CDRH) has information on countries that are nonresponsive to inquiries seeking permission either to market or to conduct clinical tests on devices. Because regulatory conditions pertaining to devices are rapidly changing in many countries, FDA recommends that firms first attempt to obtain authorization from an appropriate government official. If a firm is unsuccessful in establishing communications with a government official and/or obtaining any type of written authorization, or denial of authorization, from a foreign government, it may contact the Division of Program Operations, CDRH, for guidance.

FDA also reiterates that the final rule, as revised, accepts a certification from a responsible company official in the United States that the product does not conflict with the importing foreign country's laws.

E. Notification Requirements for Drugs, Biological Products, and Devices Exported Under Section 802 of the Federal Food, Drug, and Cosmetic Act (Section 1.101(d))

Proposed § 1.101(d) would establish the notification requirements for drugs, biological products, and devices exported under section 802 of the act. In brief, proposed § 1.101(d)(1) would require exporters to provide written notification to the agency that identifies the article's name, identifies its generic name if the article is a drug or the article's type if the product is a device, describes the product's strength and dosage form (if the product is a drug or biological product) or the product's model number (if the product is a device), and identifies the country that is to receive the exported article.

The proposed rule acknowledged that, for exports to listed countries under section 802(b)(1) of the act, section 802(g) of the act requires the notification to identify only the drug, biological product, or device being exported, and does not expressly require the notification to identify the country to which the drug, biological product, or device is being exported. (In contrast, for drugs, biological products, or devices exported to nonlisted countries under section 802 of the act, section 802(g) of the act requires both identification of the exported product and the country to which the product is being exported.) Nevertheless, proposed § 1.101(d) would require that all export notifications under section 802(g) of the act identify the product and the importing country. FDA explained that it took this action because section 802(a)(2) of the act requires FDA to notify the "appropriate public health official" in the foreign country receiving an exported drug, biological product, or device if FDA disapproves a marketing application for the drug, biological product, or device, and section 802(f) of the act requires FDA to consult with the "appropriate public health official in the affected country" in the event that an exported drug, biological product, or device presents an imminent hazard to the public health. FDA further noted that similar consultation obligations exist if the product's labeling is not in accordance with the requirements and conditions for use in the country in which the drug, biological product, or device has valid marketing authorization and the country to which the drug, biological product, or device is being exported or if the drug, biological product, or device is not promoted in accordance with the labeling requirements of section 802(f) of the act. Thus, to facilitate these notifications and consultations with foreign officials (particularly in the event that FDA disapproves a drug, biological product, or device that has been exported, or the exported product presents an imminent hazard to the public health of the

VOL 66 ISS 244 DE 19 2001 UMI

receiving country), proposed § 1.101(d)(1)(iv) would require all notifications to identify the country or countries that are to receive the exported product.

(Comment 33) Many comments strongly objected to identifying a listed country. Most stated that the act did not require the notification to identify listed countries. Some comments dismissed FDA's rationale regarding its statutory obligation to consult foreign government officials as unlikely to occur or dismissed it without explanation. One comment described the proposed requirement to require notifications to identify the listed country as "casting a wide net to catch a few guppies at tremendous cost to the other fish," and said FDA could conduct an inspection of the firm to obtain the information on the listed countries receiving an exported product. Another comment said that identifying a listed country would mean that FDA is questioning the foreign country's judgment. Others implied that identifying a listed country would be burdensome or would complicate export notifications.

A few comments said firms could voluntarily disclose the identity of the listed country in the notification, but could not be required to do so. One comment suggested that the notification state that the foreign country has provided valid marketing authorization, without identifying the listed country. Only one comment agreed with FDA's rationale to have the notifications identify all countries, including listed countries.

FDA agrees that, if it had to consult a foreign government as required by the act, it could inspect a firm's export records to determine whether listed countries received a particular export. This approach, however, would be much more time-consuming and costly both for the industry and the agency because FDA would have to schedule the inspection, the firm would have to locate and assemble export records, and FDA would have to examine those records before it learned the listed country's identity. Consultation with the listed country, as required by the act, would be delayed, and this could present public health concerns if the agency's obligation to consult the foreign government was due to an imminent hazard finding or if FDA disapproved the product because it was not safe or effective.

The agency also notes that export declarations required by the Bureau of the Census for certain exports and submitted to the U.S. Customs Service identify the ultimate consignee, by name and address, and, depending on the form used, the foreign port of unloading or intermediate consignees (see 15 CFR 30.7 ("Information Required on Shipper's Export Declarations")). Assuming that firms use these export declarations, it would seem that identifying a listed country would be less burdensome or less problematic than identifying consignees by name and address. It is also difficult to see how requesting identification of a listed country in a notification sent to FDA, when the export declaration given to the U.S. Customs Service identifies the consignee and foreign port, can be characterized as "questioning" the judgment of a foreign country.

Nevertheless, given the distinction drawn in the statute and objections to this provision, FDA has revised § 1.101(d) to require identification of unlisted countries only. Firms may voluntarily identify a listed country in a notification, but are not required to do so. If a firm chooses to withhold the identification of a listed country, FDA suggests, but does not require, the firm to state in its notification that the export went to a listed country. (This will enable FDA to determine quickly that the firm did not neglect to identify an unlisted country.) If the statutory obligation to consult with a country receiving an exported product is triggered, FDA will conduct an inspection of the exporting firm to identify which listed countries it must contact.

(Comment 34) One comment said that approved products that are exported should not be the subject of an export notification, even if the product is exported for an unapproved use. The comment said that requiring notifications for these products would be inconsistent with Congressional intent to relieve manufacturers of export obligations and would be beyond FDA's jurisdiction. The comment said that foreign health authorities are "fully empowered to approve labeling and/or indications that they deem appropriate."

The comment is only partially correct. Approved products that are exported for their approved indications and are otherwise in compliance with the act's requirements for marketing, distribution, and sale in the United States are not subject to the export requirements in section 802 of the act. For these exports, no notification is necessary.

However, exports of an "approved" product for an unapproved use are subject to section 802 of the act. For example, section 802 of the act applies to drugs that require approval under section 505 of the act (21 U.S.C. 355) "before such drug * * * may be introduced or delivered for introduction into interstate commerce." The act defines "interstate commerce," in part, as "commerce between any State or Territory and any place outside thereof." Exports fall within the definition of "interstate commerce" because the shipment originates in a State and is destined to a "place outside." Additionally, contrary to the comment's suggestion, the exported drug is not "approved" by FDA because the intended use in the foreign country was not the subject of a FDA-approved application. To phrase this another way, FDA's approval processes includes approval of the drug's indications for use, so the fact that the agency may have approved the drug for other uses does not relieve the manufacturer from compliance with section 505 of the act when unapproved uses are concerned.

The agency notes that, as an alternative to section 802 of the act, such exports may be permitted under section 801(f) of the act. Exports under section 801(f) of the act must comply with the requirements in section 801(e)(1) and (f) of the act, but do not require notification to FDA. If a product can be exported under either section 802 or 801(f) of the act, the exporter has the option of determining which export authority to use.

(Comment 35) The proposed rule would require persons exporting a product in anticipation of market authorization in a listed country under section 802(d) of the act to comply with the notification requirements in proposed § 1.101(d)(1). The preamble to the proposed rule explained that this requirement would be consistent with an interpretation of section 802(g) of the act that considers the nexus between section 802(b)(1) and (d) of the act. Section 802(g) of the act requires exporters of drugs, biological products, and devices to provide a simple notification to the agency when they export a product to a listed country or to an unlisted country under section 802(b)(1) of the act. Section 802(b)(1) of the act permits exports when the drug, biological product, or device has valid marketing authorization in a listed country, whereas section 802(d) of the act permits exports to a listed country in anticipation of market authorization. FDA stated that a literal interpretation of section 802(g) of the act would not require an exporter to notify FDA when it shipped a product to a listed country in anticipation of market authorization, but would instead require the exporter to notify FDA when the exporter shipped the same product to the same country once it has marketing authorization. The preamble to the proposed rule stated that it would be more simple and efficient, both for exporters and FDA, if exporters notify FDA when they export a product in anticipation of market authorization under section 802(d) of the act rather than wait for marketing authorization in the listed country and then notify FDA when the product is exported under section 802(b)(1) of the act. FDA's intent was to allow firms to submit the notification when they first exported a product in anticipation of market authorization and to eliminate any need for them to submit a notification later when they received marketing authorization.

Many comments objected to requiring a notification for exports under section 802(d) of the act, stating that the act did not authorize such notifications. Some said that FDA could not justify requiring such notification on the grounds that it would be more efficient or simpler. One comment viewed the proposed notification requirement as a prohibition on exports that would delay the availability of products. Another comment interpreted the rule as requiring two notifications—one for exports in anticipation of market authorization, and a second when the product received marketing authorization.

Only one comment agreed with the proposal, but reiterated that a subsequent notification once the product received marketing authorization should not be required.

FDA has revised the final rule to limit notifications to products exported under section 802(b) of the act. In other words, no notification is required if the export is made in anticipation of market authorization under section 802(d) of the act. A person who exports a product in anticipation of market authorization, and later receives marketing authorization, would only submit the notification to FDA when the first export occurs to a particular foreign country following marketing authorization in that country.

(Comment 36) One comment said that section 802(d) of the act permits anyone to export a product in anticipation of market authorization, regardless of who applied for market authorization.

Section 802(d) of the act is commonly referred to as allowing firms to "fill the pipeline" so that a product will be available immediately upon market authorization by a foreign country. If the comment's interpretation of section 802(d) of the act were correct, any firm could export the product so long as one firm was seeking market authorization. In other words, under the comment's interpretation, if firm A were seeking market authorization to sell a drug called X, firms B, C, and D could export drug X to the same foreign country under the guise of "anticipating" market authorization. The comment's interpretation of section 802(d) of the act also would place little weight on the term "anticipation" of market authorization. Arguably, if a firm has not applied for market authorization, it cannot be characterized as "anticipating" market authorization. The inclusion of the word "anticipation" in section 802(d) of the act suggests that the firm exporting the drug or device is, in fact, the entity that is seeking market authorization or would be capable of distributing that drug or device upon marketing authorization.

Consequently, FDA interprets section 802(d) of the act as follows. If the foreign country's product approval process is specific to an application (i.e., to have marketing authorization, a firm must submit an application, and the application must be approved), then a firm seeking to invoke section 802(d) of the act to export a drug or device to a foreign country must be seeking market authorization in that foreign country.

If, however, the foreign country's product approval process would allow multiple products on the market upon market authorization (i.e., once marketing authorization occurs, any person can market a drug or device that meets the conditions of that marketing authorization), then a firm seeking to invoke section 802(d) of the act to export a drug or device to such a foreign country does not have to be the firm that sought marketing authorization in that foreign country.

This interpretation of section 802(d) of the act acknowledges both the marketing authorization process in a foreign country and gives appropriate weight to the words "in anticipation of market authorization."

(Comment 37) Proposed § 1.101(d)(1) would require a notification to identify the exported product by name. If the exported product were a drug or biological product, the proposal would require the notification to provide a generic name and a description of the product's strength and dosage form. If the exported drug were a device, the proposal would require the notification to identify the type of device and to provide its model number.

One comment stated that, because FDA is generally not able to examine sales and marketing information, it would be appropriate for the notification to contain information on the product, classification, lot code or unique identifying number, country of exportation, and whether or not the product was accepted.

FDA declines to revise the rule as suggested by the comment. The product-specific information described in § 1.101(d)(1) should be sufficient to identify a particular export. Firms are free to provide information on a lot code or a unique identifying number, but the final rule does not require this. Furthermore, because the act presumes that the United States is the country from which the product is exported and because section 801(e)(1)(B) of the act requires the exported product to be "not in conflict" with the foreign country's laws, FDA declines to require firms to identify the country of exportation or to state whether the product was "accepted."

(Comment 38) FDA, on its own initiative, has revised § 1.101(d)(1)(ii) to replace "generic name" with "abbreviated or proper name." In proposing to require the export notification to contain the product's "name" and its "generic name," FDA intended to require persons exporting a human drug to identify the product by its trade name and its abbreviated chemical name and to require persons exporting a biological product to identify the product by its trade name and its proper name. However, the term "generic name" created some confusion within FDA as to whether FDA was specifically interested in generic drug products. Consequently, FDA has revised § 1.101(d)(1)(i) to require the notification to identify the product's trade name while § 1.101(d)(1)(ii) now requires the notification to contain the exported product's "abbreviated or proper name." The agency has made a similar change to § 1.101(e)(1)(i) and (e)(1)(ii).

The agency has also inserted language referring to biological products in § 1.101(d)(1) to clarify that investigational biological products may be exported under section 802(c) of the act and that biological products may be exported in anticipation of marketing authorization under section 802(d) of the act.

(Comment 39) A few comments addressed the frequency of export notifications. Two comments said notifications should be required only for the first export of a product. The comments stated that subsequent exports should not result in notifications, although the comments were unclear whether the subsequent export could be to a different country than the initial export.

Section 802(g) of the act requires an exporter of a drug or device to provide

VOL 66 ISS 244 DEC 19 2001 UMI

a simple notification to FDA under two different scenarios. In one scenario, the exporter must provide the simple notification when it first begins to export the drug or device to any listed country. This means that subsequent exports of the same drug or device to the same listed country or to any other listed country do not result in a simple notification to FDA. To illustrate how this works, assume that company X, under section 802(b) of the act, wants to export a drug to listed country A. Company X must provide a simple notification to FDA identifying the drug to be exported. If company X later wants to export the same drug to listed country B under section 802(b) of the act, the company does not have to send a simple notification to FDA because company X already provided a simple notification when it exported the drug to listed country A and because country B is a listed country.

In the other scenario, when the export is to an unlisted country, section 802(g) of the act requires the exporter to provide the simple notification when it first begins to export the drug or device to that unlisted country, and the notification must identify the unlisted country. The act, therefore, requires a simple notification whenever the exporter first ships a drug or device to an unlisted country. Thus, to use the same illustration, if company X, under section 802(b) of the act, wants to export a drug to unlisted country D, company X must provide a simple notification that identifies the drug being exported and must also identify unlisted country D. Subsequent exports of the same drug to unlisted country D would not require company X to send a simple notification to FDA. However, if company X later wants to export the same drug to unlisted country E under section 802(b) of the act, company X must provide another simple notification to FDA, and the simple notification must identify the drug being exported and unlisted country E.

(Comment 40) In the preamble to the proposed rule, FDA invited comment on possible alternatives to this notification requirement that would satisfy the consultation, notification, and recordkeeping obligations and requirements in section 802 of the act. The agency was especially interested in alternatives that would reduce the paperwork burden, such as electronic submissions and recordkeeping or periodic notifications (e.g., monthly, quarterly), and the details of such alternatives.

One comment suggested that FDA accept export notifications that covered more than one country. Another comment suggested that FDA accept notifications on an annual basis, or no more often than a biannual basis, that the notifications be submitted in tabular form and submitted directly, if not electronically, to FDA. One comment suggested that FDA develop an interactive website so exporters could "fill in the blanks." Another comment suggested using Operational and Administrative System for Import Support (OASIS) system entries as notifications under section 802(g) of the act and would have annual reports submitted by exporters serve as confirmation of the export; the comment said that the notifications described in the proposed rule would add significant costs to manufacturers.

FDA appreciates the comments' suggestions. The agency does not object if a simple notification covers more than one country; nothing in the act or these regulations prevents firms from identifying more than one country in a simple notification. Furthermore, if the foreign purchaser's specifications change after the first shipment, and the new specifications result in a drug or device that is not significantly different from the first exported drug or device, an exporter may, but is not required to, provide a new notification. For example, assume that company X is exporting an electronic device to listed country A. Later, the foreign purchaser revises its product specifications to change the voltage requirements for the device. The revised product specifications call for an electronic device that is substantially similar to the original electronic device, so FDA would not require another notification.

In contrast, if company X is exporting a combination drug to listed country A, and the foreign purchaser revises its product specifications to substitute a different active ingredient, the drug to be exported has changed significantly, and FDA would expect the exporter to provide a new simple notification to cover the changed drug product when the exporter "first begins" to export the changed drug product.

As for electronic submissions and other technology, FDA intends to explore options for facilitating notification to FDA, but is unable to create an interactive, web-based system at this time. The agency is also unable to adapt the OASIS system to cover notifications because the OASIS system focuses on imports, not exports, and is operationally separate from FDA's administrative oversight of exports.

As for annual or semiannual submissions, the agency considered these options, but section 802(g) of the act appears to contemplate more timely notifications. The act requires notifications when the exporter "first begins" to export the drug or device under section 802(b)(1) of the act, so the most logical interpretation of the phrase "first begins" would mean that exporters must provide the notification to FDA when they actually export the drug or device.

(Comment 41) FDA, on its own initiative, has revised the address for export notifications involving biological products and devices regulated by the Center for Biologics Evaluation and Research. The final rule replaces "Office of Compliance" with "Office of Compliance and Biologics Quality." This change reflects the current office name.

F. Recordkeeping Requirements for Products Subject to Section 802(g) of the Act (Section 1.101(e))

Proposed 1.101(e) would establish additional recordkeeping requirements for exported drugs, biological products, and devices subject to section 802(g) of the act. These records would include, but not be limited to: (1) Records concerning the product's name, (2) the product's generic name if the product is a drug or a biological product or the type of device if the product is a device, (3) a description of its strength and dosage form and the product's lot or control number (if the product is a drug or biological product) or the product's model number (if the product is a device), (4) the consignee's name and address, and (5) the date on which the product was exported and the quantity of product exported.

(Comment 42) Several comments objected to most or all of the proposed recordkeeping requirements. Some comments argued that manufacturers already keep CGMP records and that none of the information sought in proposed § 1.101(e) is required or even authorized by law. Another comment said the proposed recordkeeping requirement was "excessive" because it required too many documents be kept. Another comment said FDA should only require companies to keep records of exports to countries where they directly export drugs; if the drugs were subsequently exported elsewhere by the importing company, the importing company would be responsible for records of shipments to third countries.

One comment sought clarification, asking if the records required by § 1.101(e) are distinct from the quality system regulation records required for devices under 21 CFR part 820.

Section 802(g) of the act clearly states that, "Any exporter of a drug or device shall maintain records of all drugs or devices exported and the countries to which they were exported." The most straightforward interpretation of this provision is that export records must be kept for drugs and devices exported under section 802 of the act and that those records must also contain information regarding the countries receiving the exported product. Thus, FDA disagrees with those comments claiming that the records sought in § 1.101(e) are not required or authorized by the act.

Moreover, persons exporting drugs or devices, particularly persons who manufacture the exported drug or device, should already possess the information sought in § 1.101(e). For example, § 1.101(e)(1)(i) requires records containing the product's name. Most prudent exporters know the names of the products being exported. Section 1.101(e)(1)(ii) and (e)(1)(iii) requires records to contain more specific information about the drug or device, such as the drug's strength and dosage form or the type of device and its model number. A manufacturer who is exporting products should know the product's abbreviated name or proper name, strength, dosage form, and lot or control number (if the product is a drug or biological product) or the type of device and model number (if the product is a device), because this information is related to CGMPs for the product (see, e.g., 21 CFR 211.100 (written procedures for production and process control), 211.110 (sampling and testing of in-process materials and drug products), 820.70 (production and process controls for devices), and 820.160 (requiring device manufacturers to maintain distribution records which include or refer to the location of the consignee's name and address, the identification and quantity of devices shipped, the date shipped, and control numbers used). Additionally, section 802(f)(1) of the act prohibits exportation of a drug or device, under section 802 of the act, if the drug or device is not manufactured, processed, packaged, and held in substantial conformity with CGMP requirements. Thus, an exporter who is in substantial conformity with CGMPs should already possess the information described in § 1.101(e)(1)(ii) and (e)(1)(iii). Finally, § 1.101(e)(1)(iv) and (e)(1)(v) require the records to include the consignee's name and address, the date on which the product was exported, and the quantity of product exported. Presumably, an exporter knows where it is sending a product, when it ships the product, and how much was shipped.

FDA emphasizes that § 1.101(e) does not require exporters to keep duplicate sets of records—one for export purposes and another for CGMP purposes—nor does it require exporters to create new records if the exporter keeps the information described in § 1.101(e) elsewhere. The records sought by § 1.101(e) may be part of the exporter's CGMP or QS regulation records.

Furthermore, to give exporters additional flexibility in meeting this requirement, FDA has amended § 1.101(e)(2) to state that the records may be kept at the site from which the products were exported "or manufactured." This change will accommodate firms who manufacture products for export and are responsible for the product's exportation, but who send the product to another location for packaging or other operations before exportation occurs.

(Comment 43) Two comments asked FDA to clarify what it wanted regarding a consignee's name and address. The comments explained that devices are often exported to distribution centers, and so the comment suggested that distribution centers should be acceptable as consignees. Other comments said FDA cannot require any records identifying a consignee. The comments asserted that the act does not require or even authorize FDA to require such information.

FDA does not object if a distribution center in a foreign country is listed as a "consignee" under this rule. Identification of the consignee's name and address is intended to help FDA in the event that it has to consult foreign government officials regarding an exported product. The consignee's name and address will inform government agencies where the exported drug or device was first sent and will help speed efforts to recover or to prevent the distribution of potentially hazardous products.

As for those comments objecting to identifying a consignee, FDA's general rulemaking authority in section 701(a) of the act provides sufficient statutory authority to require these records. FDA also believes that exporters would retain records identifying the consignee, by name and address, as part of their normal business practices because, presumably, the consignee ordered the drugs or devices and must pay for and receive the exported product. FDA further notes that export declarations submitted to the U.S. Customs Service must identify ultimate consignees by name and address, and, depending on the form used, may even identify intermediate consignees. Thus, exporters should have information regarding a consignee's name and address.

(Comment 44) Proposed § 1.101(e)(2) would require exporters to keep records at the site from which the products were exported and to maintain those records for at least 5 years after the date of exportation.

Several comments objected to the 5-year period. Two comments advocated a 2-year period in order to be consistent with the QS regulation requirements. One comment suggested retaining records for 3 years after the product's expiration date. Another comment criticized the agency for not providing a rationale for the 5-year period; this comment said that 5-year period might be too long in some situations, but not long enough in others, and said the time period was inappropriate without some rationale and a link to the act.

The records required in § 1.101(e) are similar, if not identical to, some records that are kept for CGMP or QS regulation purposes. To make recordkeeping easier for firms, FDA has revised the rule to state that these records must be retained in accordance with the record retention period for CGMP or QS regulation records. FDA reiterates that firms may use their CGMP or QS regulation records for dual purposes (i.e., to demonstrate compliance with CGMP or QS regulation requirements and to demonstrate compliance with the export regulations in § 1.101) and do not have to keep dual sets of records.

(Comment 45) One comment said that proposed § 1.101(e) did not apply to investigational new drugs exported under section 802(c) of the act, but said that companies maintain records on such exports due to other obligations, such as CGMP requirements.

FDA disagrees with the comment's interpretation. The relevant portion of section 802(g) of the act states that "any exporter of a drug or device" shall maintain records; this differs from the other sentences in section 802(g) of the act which refer to exporters of drugs or devices exported under section 802(b)(1)(A) of the act. As a result, § 1.101(e) does apply to exports of investigational drugs under section 802(c) of the act.

G. Miscellaneous Comments

Several comments addressed issues concerning implementation of the rule or other export matters.

(Comment 46) One comment asked how the rule relates to other export documents issued by FDA. Another comment said interpreting sections 801 and 802 of the act is complicated by the lack of clear implementing regulations; the comment said it is difficult to determine which requirements apply to a given product and asked FDA to

VOL 66 ISS 244 DE 19 2001 UMI

develop a rule to implement the export act.

FDA prepared four agency wide documents to implement the FDA Export Reform and Enhancement Act. The agency developed a draft guidance document describing its interpretation of the export provisions; the guidance document is not binding on regulated industries or on FDA. For binding requirements, FDA prepared three regulations: (1) A rule to implement the "import for export" requirements in section 801(d) of the act, (2) a rule pertaining to export notifications and recordkeeping (which is presented here), and (3) a rule pertaining to exports of investigational new drugs (which FDA intends to publish in the **Federal Register** in the future). In general, the regulations would describe the types of records that should be kept or the contents of submissions that are sent to FDA. The agency published a draft guidance document in the **Federal Register** of June 12, 1998 (63 FR 32219). FDA published a proposed import for export regulation in the **Federal Register** on November 24, 1998 (63 FR 64930), and intends to publish a proposed rule on investigational new drug exports in the immediate future.

Other export-related documents issued by FDA include a rule on investigational device exports (now codified at § 812.18(b) (21 CFR 812.18(b))) and a Compliance Policy Guide, CPG 7150.01, "Certification for Exports," on export certificates.

FDA agrees that implementing sections 801 and 802 of the act is difficult because the statutory requirements apply to different products in different ways. For example, most human drugs are subject to the export requirements in sections 802 and 801(e)(1) of the act, but insulin and antibiotics for human use and animal drugs are only exported under section 801(e) of the act. Most devices can be exported under section 801(e) or section 802 of the act, and either choice carries its own set of requirements. FDA prepared the guidance document in an effort to sort out the various requirements for each product and drafted the regulations to create binding requirements where such requirements were necessary. The agency decided against drafting a single rule because there was little overlap or commonality between subjects. For example, the import for export requirements are not relevant for exports of investigational new drugs, so a single rule would have been inappropriate and confusing.

(Comment 47) One comment asked FDA to phase-in the rule to minimize its impact on commerce.

The final rule is effective March 19, 2002. This should give firms sufficient time to comply with the rule.

(Comment 48) One comment said FDA should conduct educational seminars or programs, in conjunction with the U.S. Customs Service and with the support of various trade associations, or do a televised program whose agenda is developed by industry and Federal agencies.

FDA has, in the past, participated in conferences and educational programs that have discussed export matters, and individual centers have prepared guidance documents and other materials on selected topics. For example, CDRH has prepared a videotape on export issues. The agency intends to continue its participation in educational conferences and programs to the extent that its resources permit.

(Comment 49) One comment would revise § 1.101 to require only a simple notification for drugs and devices exported for investigational use. The comment said that drugs and biological products that are exported for investigational use and are the subject of an IND are regulated more strictly than drugs and biological products that are exported for investigational use without an IND. The comment said that FDA authorization is needed under § 312.110, but drugs that are exported without an IND only require a simple notification to FDA. Consequently, the comment would revise the export provisions in both parts 312 and 812 (21 CFR part 812) to require only simple notifications for drugs and devices exported for investigational use.

The agency declines to revise § 1.101 as suggested by the comment. Section 802(g) of the act only requires simple notifications for exports under section 802(b)(1) of the act. FDA expects most exports of drugs or devices for investigational use in a listed country will fall under section 802(c) of the act; this means that exports of investigational drugs or devices to a listed country do not require a person to provide a simple notification to FDA. If, however, a firm exports a drug or device for investigational use under section 802(b)(1) of the act, the firm will have to provide a simple notification to FDA.

Additionally, as stated earlier, FDA intends to publish a proposed rule in the **Federal Register** to revise § 312.110 to describe various approaches for exporting investigational new drugs. FDA has already revised § 812.18(b) to state that exports of investigational devices are subject to either sections 801 or 802 of the act, so no further changes to § 1.101 are necessary.

(Comment 50) The draft guidance document discussed FDA's position on transshipment of investigational drugs and devices (the shipment of an export from one country to a second country, followed by the shipment of the same product from the second country to a third country) (see 63 FR 62219 at 32228). The draft guidance document interpreted section 802(c) of the act as not allowing transshipment from a listed country to an unlisted country because the act does not suggest that the listed countries are mere transfer points or conduits for investigational drugs and devices destined for unlisted countries and because allowing transshipment from listed to unlisted countries would undermine the statutory limitation on investigational drug and device exports to listed countries. The proposed rule on export notifications and recordkeeping was silent on this issue.

Nevertheless, two comments submitted to the proposed rule (instead of the draft guidance document) objected to FDA's position on transshipment. The comments argued that shipments between listed and unlisted countries are matters covered by foreign law and that FDA's interpretation would restrict a firm's ability to conduct clinical trials outside the United States or otherwise defeat congressional intent and deprive foreign governments of the "right" to determine whether subsequent exports should be made.

The issue of transshipment of investigational drugs and devices is not relevant to the final rule. Nevertheless, the unrestricted transshipment of investigational drugs and devices from listed to unlisted countries would undermine the express limitation in section 802(c) of the act. Section 802(c) of the act allows exports of drugs and devices "intended for investigational use in any [listed] country * * * in accordance with the laws of that country." The key statutory phrase is that the drug or device must be intended for investigational use in a listed country. In a transshipment scenario, the drug or device is intended for investigational use in an unlisted country, and this would be contrary to section 802(c) of the act.

However, if the investigation in the unlisted country is subject to the laws and regulations of the listed country—in other words, if persons in the listed country remain responsible for the conduct of the clinical trial and the investigation complies with the listed country's laws—shipment to an unlisted country is not contrary to the act. To illustrate how this works, assume that an investigational new drug is exported to a listed country, i.e., "country LC." If the investigational new drug is then shipped to an unlisted country ("country X"), but the investigation is conducted in accordance with country LC's laws and regulations, shipment to country X is permitted under section 802(c) of the act. FDA reaches this interpretation because the investigation is intended for use in the listed country, albeit in a broad sense, and remains subject to the listed country's laws.

If, however, the investigational drug is simply shipped to a warehouse in country LC and then shipped to country X, without anyone in country LC being responsible for the investigation or having the investigation remain subject to country LC's laws, then the export would not comply with section 802(c) of the act. The statutory requirements in section 802(c) of the act would not be met because the investigational use was never intended to be in the listed country and is not subject to country LC's laws.

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

The proposed rule estimated the costs associated with submitting notifications to FDA and maintaining records. FDA based its estimates on the number of notifications received by FDA in 1996 or 1997 (depending on the last year for which complete figures were available at the time of the proposed rule) and consultations with industry sources (64 FR 15944 at 15946). The Office of Management and Budget (OMB), in reviewing FDA's Paperwork Reduction Act documents, neither approved nor rejected FDA's request for approval of a new information collection. Instead, OMB stated that it had concerns regarding the burden and utility of the collection which shall be assessed in light of public comments received. FDA received several comments on the agency's estimates.

(Comment 51) For the recordkeeping requirements for human drugs, biological products, animal drugs, devices, foods, and cosmetics exported under or subject to section 801(e)(1) of the act, FDA estimated that there would be an average of 318 recordkeepers per year, at a annual frequency of 2.8 records per respondent, at 1 hour per record. One comment said that FDA "grossly underestimated" the recordkeeping burden because the rule presents significant burdens on food manufacturers and creates "an entirely new recordkeeping bureaucracy for exporters of food products." The comment stated that translating letters alone will take more than 1 hour per product.

FDA disagrees with the comment. Section 801(e)(1) of the act is not a new statutory requirement, particularly when applied to food exports, so it does not present a new or significant burden on food manufacturers or create "an entirely new recordkeeping bureaucracy." Additionally, the final rule reduces any burden on exporters by revising certain requirements; for example, the final rule clarifies that the foreign purchaser's specifications should provide sufficient detail to be linked to a particular export and that a responsible company official may certify that the export does not conflict with the importing country's laws.

While FDA concedes that § 1.101(b) does, in one instance, seek English-language translations of foreign documents, presumably a prudent U.S. company would translate foreign-language documents as part of its ordinary business practice, if only to ensure that the foreign-language document is what it purports to be or that the U.S. company truly understands the contents of the foreign-language document or that the U.S. company would be able to translate the foreign-language document into English.

As for the burden hour estimate for § 1.101(b), FDA, as explained below, has increased the burden hour estimate to 24 hours per record.

(Comment 52) The preamble to the proposed rule estimated the total information collection burden to be 2,659 hours and that no capital costs or operating and maintenance costs would result.

Several comments said FDA underestimated the total and that firms would incur new costs. Two trade associations, representing device manufacturers and drug manufacturers, indicated that the estimated information collection burden and costs for a single firm would be significant. For example, one device firm was said to market its products in 90 countries and in approximately 600 different packaging and labeling configurations. According to the comment, to meet the proposed recordkeeping requirements, the firm would need new records for at least 500 configurations, at $30 per hour and 4 hours per record (for a total update cost of $60,000) and recordkeeping costs would be $100 per hour for 500 records, or an additional $50,000. For new products, estimated record preparation costs would be $30 per hour x 4 hours x 84 products (or $10,080) and recordkeeping costs of $8,400. As another example, a trade association representing the drug industry interpreted the rule as requiring detailed records on product specifications and translations. The comment said that one drug company estimated that it spends 160 employee hours of "regulatory time" and 80 person hours of "legal time" alone to obtain documentation necessary to export to a single multicenter trial in Latin America and Eastern Europe. (The comment did not explain what "regulatory time" or "legal time" are.) The comment did not provide an estimate of the information collection burden because it said that FDA's requirements were open-ended; instead, it declared FDA's estimates to be "unrealistic." Two comments also said that drug companies would need to spend $50,000 to $100,000 in capital costs alone to upgrade their computers to comply with the proposed requirements.

FDA reiterates that its estimates were based on the number of export notifications FDA has received and on information provided by industry sources. Those industry sources varied in terms of the amount of time required to maintain a record or to submit a notification, and none indicated that computer upgrades would be necessary. The averages must be compared against the estimates provided in the comments, which are based on information from a single company.

The agency also disagrees, in part, with the estimates provided by a single device firm. In general, devices may be exported under section 801(e) or 802 of the act. The agency reiterates that, for devices, the requirements in section 801(e)(1) of the act are not new; consequently, if the devices are exported under section 801(e) of the act, the comment's claim that hundreds of "new" records would be required cannot be accurate unless the firm has not been retaining any documents to show its compliance with section 801(e)(1) of the act. In contrast, if the firm is exporting devices under section 802(b) of the act, section 802(g) of the act would require the firm to submit a notification to FDA. Yet FDA's export notification records do not reveal a significant number of device exports or a significant number attributable to one firm. The average number of export notifications received was 244 per year. This average covers both drug and device firms and is far lower than the

VOL 66 ISS 244 DE 19 2001 UMI

500 export configurations claimed by the single device firm in the comment.

Nevertheless, FDA has increased the recordkeeping burden hour estimate for § 1.101(b) from 2 hours to 24 hours. This estimate exceeds the 4-hour estimate submitted by the device firm and is consistent with a comment (described below in comment 53) from a drug company.

FDA declines to adopt the 240-hour figure provided by a drug company for exports of a drug for investigational use because FDA cannot determine what activities are covered by the comment's estimate or whether the comment's estimate even involves activities that are covered by the rule. For example, the comment stated that it devoted considerable time assembling documents to export drugs to a single multicenter trial in Latin America and Eastern Europe. The comment's reference to Latin America and Eastern Europe suggests that the firm is not exporting the drugs under section 802(c) of the act because section 802(c) of the act pertains solely to exports of investigational new drugs and devices to listed countries, and Latin American and Eastern European countries are not listed countries. So, to export a drug for investigational use, the firm must be exporting the investigational new drugs under an IND or under § 312.110, or the exported drugs have marketing authorization from a listed country. (It is possible that the firm could export an investigational new drug under section 802(b)(1) of the act if the drug received market authorization from a listed country, but the comment did not indicate that the investigational new drug has such market authorization.) Yet this final rule does not address exports under an IND or § 312.110, and therefore, if the firm's comment is relevant to this rule, the firm would have to be exporting drugs that have marketing authorization from a listed country and using those drugs for investigational use in Latin America and Eastern Europe. Assuming this to be the case, the changes in the final rule, such as accepting a certification from a responsible company official in place of a letter from a foreign government and clarifying FDA's expectations regarding a foreign purchaser's specifications, should reduce the firm's information collection burden.

(Comment 53) One comment said that FDA underestimated the rule's financial impact. The comment explained that, for a single firm, "notifications" for section 801(e) of the act (which FDA presumes to be "records" because section 801(e)(1) of the act does not require notification) will result in five files and five records per year and require 24 to 32 hours for each export file. For notifications under section 802(g) of the act, there will be 10 files and 7 records per year, at 0.75 hours per export notification and 16 hours per export file. For partially processed biological products, the comment claimed its averages as 18 files and 5 records per year, at 16 hours per export file.

FDA has increased the burden hour estimate for records under § 1.101(b) to 24 hours per record. The agency declines to use the higher estimate of 32 hours because the final rule simplifies the types of records that are required to show compliance with section 801(e)(1) of the act. For example, the final rule accepts a company official's notarized certification that the exported product is not in conflict with the foreign country's laws, whereas the proposed rule would have required a letter from a foreign government official.

FDA did not revise the estimates for § 1.101(d). Although the comment suggests that the average number of notifications is greater than 2.4 per respondent, the comment's claimed average of five notifications per year may be accurate for that particular firm and may not be applicable to all firms exporting products. FDA based its estimate on the total number of notifications received and the total number of firms submitting notifications. FDA further notes that its estimate of 1 burden hour per notification is actually greater than the comment's estimate of 0.75 burden hours per notification. The comment's average time may reflect that firm's efficiency in processing notices, and FDA will not assume that all firms are as efficient.

As for partially processed biological products, although the comment suggests that the average number of notifications is greater than 2.4 per respondent, the comment's claimed average of five notifications per year may be accurate for that particular firm and may not be applicable to all firms exporting products. FDA based its estimate on the total number of notifications received and the total number of firms submitting notifications. The agency is, however, increasing the burden hour estimate for § 1.101(e) from 2 to 16 hours as suggested by the comment.

This final rule contains information collection requirements which are subject to review by OMB under the Paperwork Reduction Act of 1995. The title, description, and respondent description of the information collection requirements are shown below, with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Exports: Notification and Recordkeeping Requirements.

Description: The final rule establishes the notification and recordkeeping requirements for persons exporting a human drug, biological product, device, animal drug, food, or cosmetic under section 801(e) or 802 of the act or section 351(h) of the PHS Act.

Description of Respondents: Businesses.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1.101(b)	316	2.8	885	24	21,240
1.101(c)	8	2	16	2	32
Subtotal—Regulatory					21,272
1.101(d)	244	2.4	586	1	586
1.101(e)	175	3.3	578	16	9,248
Subtotal—Statutory					9,834
Total					31,106

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates are based on the number of notifications received by the relevant FDA centers in 1996 or 1997 (depending on the last year for which figures were available) as well as consultations with and comments from industry sources.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, FDA has submitted a copy of this rule to OMB for its review of these previously approved information collection requirements.

V. Analysis of Impacts

FDA has examined the impacts of this rule under Executive Order 12866 and the Regulatory Flexibility Act (Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize new benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes this rule is consistent with the regulatory philosophy and the principles identified in the Executive order. In addition, OMB has decided that the rule is a significant regulatory action as defined in the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The rule establishes the notification and recordkeeping requirements for persons exporting various FDA-regulated products under sections 801(e) and 802 of the act and section 351(h) of the PHS Act. The notification and recordkeeping requirements are minimal and involve information that should already be in an exporter's possession (such as the name of the product being exported, a description of the product being exported, and the date of exportation). Thus, FDA certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*) requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year (adjusted annually for inflation).

The agency has determined that the final rule is not a significant action as defined in the Unfunded Mandates Reform Act, and will not have an effect on the economy that exceeds $100 million in any one year.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the order and, consequently, a federalism summary impact statement is not required.

List of Subjects in 21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 1 is amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

1. The authority citation for 21 CFR part 1 is revised to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 343, 352, 355, 360b, 362, 371, 374, 381, 382, 393; 42 U.S.C. 216, 241, 243, 262, 264.

2. Section 1.101 is added to subpart E to read as follows:

§ 1.101 Notification and recordkeeping.

(a) *Scope.* This section pertains to notifications and records required for human drug, biological product, device, animal drug, food, and cosmetic exports under sections 801 or 802 of the Federal Food, Drug, and Cosmetic Act (the act) or (21 U.S.C. 381 and 382) or section 351 of the Public Health Service Act (42 U.S.C. 262).

(b) *Recordkeeping requirements for human drugs, biological products, devices, animal drugs, foods, and cosmetics exported under or subject to section 801(e)(1) of the act.* Persons exporting an article under section 801(e)(1) of the act or an article otherwise subject to section 801(e)(1) of the act shall maintain records as enumerated in paragraphs (b)(1) through (b)(4) of this section demonstrating that the product meets the requirements of section 801(e)(1) of the act. Such records shall be maintained for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product, except that records pertaining to the export of foods and cosmetics under section 801(e)(1) of the act shall be kept for 3 years after the date of exportation. The records shall be made available to the Food and Drug Administration (FDA), upon request, during an inspection for review and copying by FDA.

(1) Records demonstrating that the product meets the foreign purchaser's specifications: The records must contain sufficient information to match the foreign purchaser's specifications to a particular export;

(2) Records demonstrating that the product does not conflict with the laws of the importing country: This may consist of either a letter from an appropriate foreign government agency, department, or other authorized body stating that the product has marketing approval from the foreign government or does not conflict with that country's laws, or a notarized certification by a responsible company official in the United States that the product does not conflict with the laws of the importing country and that includes a statement acknowledging that he or she is subject to the provisions of 18 U.S.C. 1001;

(3) Records demonstrating that the product is labeled on the outside of the shipping package that it is intended for export: This may consist of copies of any labels or labeling statements, such as "For export only," that are placed on

the shipping packages or, if the exported product does not have a shipping package or container, on shipping invoices or other documents accompanying the exported product; and

(4) Records demonstrating that the product is not sold or offered for sale in the United States: This may consist of production and shipping records for the exported product and promotional materials.

(c) *Additional recordkeeping requirements for partially processed biological products exported under section 351(h) of the Public Health Service Act.* In addition to the requirements in paragraph (b) of this section, persons exporting a partially processed biological product under section 351(h) of the Public Health Service Act shall maintain, for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product, and make available to FDA, upon request, during an inspection for review and copying by FDA, the following records:

(1) Records demonstrating that the product for export is a partially processed biological product and not in a form applicable to the prevention, treatment, or cure of diseases or injuries of man;

(2) Records demonstrating that the partially processed biological product was manufactured in conformity with current good manufacturing practice requirements;

(3) Records demonstrating the distribution of the exported partially processed biological products; and

(4) Copies of all labeling that accompanies the exported partially processed biological product and other records demonstrating that the exported partially processed biological product is intended for further manufacture into a final dosage form outside the United States; this may include a container label with the statement, "Caution: For Further Manufacturing Use Only" and any package insert.

(d) *Notification requirements for drugs, biological products, and devices exported under section 802 of the act.* (1) Persons exporting a human drug, biological product, or device under section 802 of the act, other than a drug, biological product, or device for investigational use exported under section 802(c) of the act, or a drug, biological product, or device exported in anticipation of marketing authorization under section 802(d) of the act, shall provide written notification to FDA. The notification shall identify:

(i) The product's trade name;

(ii) If the product is a drug or biological product, the product's abbreviated or proper name or, if the product is a device, the type of device;

(iii) If the product is a drug or biological product, a description of the product's strength and dosage form or, if the product is a device, the product's model number; and

(iv) If the export is to a country not listed in section 802(b)(1) of the act, the country that is to receive the exported article. The notification may, but is not required to, identify countries listed in section 802(b)(1) of the act or state that the export is intended for a listed country without identifying the listed country.

(2) The notification shall be sent to the following addresses:

(i) For biological products and devices regulated by the Center for Biologics Evaluation and Research—Division of Case Management (HFM–610), Office of Compliance and Biologics Quality, Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, rm. 200N, Rockville, MD 20852–1448;

(ii) For human drug products—Division of Labeling and Nonprescription Drug Compliance (HFD–310), Center for Drug Evaluation and Research, Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855–2737;

(iii) For devices—Division of Program Operations (HFZ–305), Center for Devices and Radiological Health, Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850.

(e) *Recordkeeping requirements for products subject to section 802(g) of the act.* (1) Any person exporting a product under any provision of section 802 of the act shall maintain records of all drugs, biological products, and devices exported and the countries to which the products were exported. In addition to the requirements in paragraph (b) of this section, such records include, but are not limited to, the following:

(i) The product's trade name;

(ii) If the product is a drug or biological product, the product's abbreviated or proper name or, if the product is a device, the type of device;

(iii) If the product is a drug or biological product, a description of its strength and dosage form and the product's lot or control number or, if the product is a device, the product's model number;

(iv) The consignee's name and address; and

(v) The date on which the product was exported and the quantity of product exported.

(2) These records shall be kept at the site from which the products were exported or manufactured, and be maintained for the same period of time as required for records subject to good manufacturing practice or quality systems regulations applicable to the product. The records shall be made available to FDA, upon request, during an inspection for review and copying by FDA.

Dated: March 1, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

Dated: April 10, 2001.[1]

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–31026 Filed 12–18–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KS 0145–1145a; FRL–7120–2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the state of Kansas' section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators. The state revised its existing plan to establish increments of progress and a new compliance date for two HMIWI sources. Approval of the revised state plan will ensure that these requirements are Federally enforceable.

DATES: This direct final rule will be effective February 19, 2002. unless EPA receives adverse comments by January 18, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

---

[1] **Editorial Note:** This document was received at the Office of the Federal Register on December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

Information regarding this action is presented in the following order:

What is a 111(d) plan?
What are the regulatory requirements for HMIWIs?
What changes did the state make to its 111(d) plan?
What action are we taking in this action?

What Is a 111(d) Plan?

Section 111(d) of the Clean Air Act (CAA) requires states to submit plans to control certain pollutants (designated pollutants) at existing facilities (designated facilities) whenever standards of performance have been established under section 111(b) for new sources of the same type, and EPA has established emission guidelines (EG) for such existing sources. A designated pollutant is any pollutant for which no air quality criteria have been issued, and which is not included on a list published under section 108(a) or section 112(b)(1)(A) of the CAA, but emissions of which are subject to a standard of performance for new stationary sources.

What Are the Regulatory Requirements for HMIWIs?

Standards and guidelines for new and existing HMIWIs were promulgated under the authority of sections 111 and 129 of the CAA on September 15, 1997 (62 FR 48374). These standards are 40 CFR part 60, subpart Ec for new sources, and 40 CFR part 60, subpart Ce for existing sources.

The subpart Ce EG is not a direct Federal regulation but is a "guideline" for states to use in regulating existing HMIWIs. The EG requires states to submit for EPA approval a section 111(d) state plan containing air emission regulations and compliance schedules for existing HMIWIs.

What Changes Did the State Make to Its 111(d) Plan?

We originally approved the state's HMIWI 111(d) plan on July 14, 2000 (65 FR 43702), and it became effective on September 12, 2000. Sources were required to be in compliance within one year of the effective date of EPA approval of the state plan, i.e., September 12, 2001, or in any case no later than September 15, 2002. Sources may petition the state for a compliance date extension beyond September 12, 2001, if they are planning to install air pollution control equipment and if they commit to an increment of progress schedule. The final compliance date cannot extend beyond September 15, 2002, however.

Two HMIWIs in Kansas, one each located in Johnson and Wyandotte Counties, requested that they be granted until September 15, 2002, or an additional year, to come into compliance. Both sources justified the need for additional time in order to install air pollution control equipment and related operating and monitoring equipment. The state has approved these requests.

The state has included increments of progress dates in the sources' compliance schedules. Dates have been established for: award of contracts, commence on-site construction, complete initial startup, calibration and adjustment, conduct required performance testing, and demonstrate final compliance. The final compliance date is September 15, 2002.

These compliance extensions constitute a revision to the compliance date that was contained in the approved 111(d) plan. Thus, the state has submitted the new compliance schedules for these two sources to us for approval as an amendment to its 111(d) plan.

This action will ensure consistency between the state plan and the approved Federal plan, and ensure Federal enforceability of the approved state plan.

What Action Are We Taking in This Action?

We are approving these revisions to the state's HMIWI 111(d) plan. We are processing this action as a final action because the revisions make routine changes to the existing plan which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves a state action as meeting Federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves a state action and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state action relating to a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state plan submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in

VOL 66 ISS 244 DE 19 2001 UMI

accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 19, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 62

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 7, 2001.

James B. Gulliford,

Region Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart R—Kansas

2. Section 62.4179 is amended by adding paragraph (d) to read as follows:

§ 62.4179 Identification of plan.

* * * * *

(d) Amended plan for the control of air emissions from hospital/medical/infectious waste incinerators submitted by the Kansas Department of Health and Environment on October 25, 2001. This plan revision establishes a final compliance date of September 15, 2002, for two incinerators in Johnson and Wyandotte Counties, Kansas. The effective date of the amended plan is February 19, 2002.

[FR Doc. 01–31238 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301179A; FRL–6814–4]

RIN 2070–AB78

Sethoxydim; Pesticide Tolerance Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of October 10, 2001, establishing time-limited tolerances for combined residues of sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide). Inadvertently the regulatory text showed the maximum permissible level for residues of sethoxydim in or on "Sheep, mbyp" at "0.5 ppm". This document makes a technical correction to the regulatory text of the tolerance regulation in 40 CFR 180.412(b) to correctly show the maximum permissible level for residues of sethoxydim in or on "Sheep, mbyp" at "1.0 ppm".

DATES: This regulation is effective December 19, 2001. Objections and request for hearings, identified by docket control number OPP–301179A, must be received by EPA on or before February 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method provided in Adverse comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301179A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://

www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301179A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. What Does this Technical Correction Do?

A final rule to establish time-limited tolerances for combined residues of sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) on various commodities was published in the **Federal Register** on October 10, 2001 (66 FR 51587) (FRL–6802–3). The preamble correctly stated that sethoxydim and its metabolites was to be established for "Sheep, mbyp" at "1.0 ppm". Inadvertently in the regulatory text it was listed at "0.5 ppm". This correction is being published to establish a time-limited tolerance for "Sheep, mbyp" at "1.0 ppm" in 40 CFR 180.412(b).

IV. Do Any of the Regulatory Assessment Requirements Apply to this Action?

This final rule implements a technical correction to the CFR, and it does not otherwise impose or amend any requirements. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 29, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a, 371.

2. In § 180.412, the table in paragraph (b) the entry for "sheep, mbyp" is corrected to read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *		
Sheep, mbyp	1.0	12/31/03

* * * * *

[FR Doc. 01–30917 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF LABOR

Veterans' Employment and Training Service

41 CFR Part 61–250

RIN 1293–AA07

Annual Report From Federal Contractors

AGENCY: Veterans' Employment and Training Service, Department of Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: The Veterans' Employment and Training Service (VETS) is amending its regulations implementing the VETS–100 reporting requirement. This amendment revises the final rule that was published on October 11, 2001 (66 FR 51998), and that went into effect on November 13, 2001, to withdraw from the rule the specification for how Federal contractors filing the report were to calculate the maximum and minimum number of employees. The basic requirement to report the maximum and minimum number of employees remains.

DATES: *Effective Date:* This regulation is effective December 19, 2001.

Comment Period: Comments must be received on or before January 18, 2002.

ADDRESSES: Comments should be sent to Norman Lance, Chief, Investigations and Compliance Division, VETS, by regular mail at the U.S. Department of Labor, Veterans' Employment and Training Service, Federal Contractor Program FRN-Comments—Interim Final Rule, Federal Contractor Program Office, 6101 Stevenson Avenue, Alexandria, VA 22304, or by e-mail at *Lance-Norman@dol.gov.* Written comments limited to 10 pages or fewer also may be transmitted by facsimile (FAX) at (202) 693–4755. Receipt of submissions, whether by U.S. mail, e-mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning VETS at (202) 693–4731(VOICE)

FOR FURTHER INFORMATION CONTACT: Norm Lance, Chief, Investigations and Compliance Division, VETS, at (202) 693–4731 or by e-mail at *Lance-Norman@dol.gov.* Individuals with hearing impairments may call (800) 670–7008 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Background

The Veterans Employment Opportunities Act (VEOA) was signed into law in October 1998. The statute extended the affirmative action and reporting responsibilities of Federal contractors and subcontractors. Among other changes, the VEOA added the requirement that contractors and subcontractors report the maximum number and the minimum number of persons they employed during the reporting period to the Secretary of Labor.

On October 5, 2000, VETS published a Notice of Proposed Rulemaking (65 FR 59684) to implement the provisions of the VEOA, including the requirement for reporting the minimum and maximum number of employees. The Notice of Proposed Rulemaking did not contain guidance on how covered contractors were to determine the minimum and maximum number of employees. One commenter asked for clarification about how to determine the minimum and maximum number of employees. The commenter asserted that there could be continuous changes in employment levels at a company and that it was unclear exactly when the minimum and maximum number of employees had to be determined. To respond to the concerns of the commenter, VETS clarified the regulation language by adding the following language to the final rule:

> The minimum and maximum number of employees reportable at each hiring location during the period covered by the report must be determined as follows: Contractors must review payroll records for each of the pay periods included in the report. The minimum number of employees is the total number of employees paid in the payroll period in which the contractor had the fewest number of employees. The maximum number of employees is the total number of employees paid in the payroll period in which the contractor had the greatest number of employees.

This new language was inserted in section 61–250.10(a)(3), and also in section 61–250.11 under the paragraph entitled "Maximum and minimum number of employees." (66 FR 52004–52005, October 11, 2001).

It has been brought to the attention of VETS that the revised language might have inadvertently increased the record keeping burden on some contractors. VETS has learned that it might be difficult to match up payroll periods, employees, and physical VETS–100 reporting locations in the way contemplated by the final rule. For example, some companies use separate payrolls and pay dates for nonexempt and exempt employees within a single establishment. Other companies maintain separate payrolls and pay dates for bargaining unit employees and nonbargaining unit employees. Some companies temporarily remove employees who are on short-term leaves of absence from their payrolls. These absent employees, however, still may be considered "active" employees for purposes of the VETS–100 report.

To permit contractors flexibility in how they determine the maximum and minimum number of employees, VETS is making two amendments to part 61–250. In each place in which the instructions quoted above were placed in the rule, the instructions now are being withdrawn. Accordingly, contractors will be required to report the maximum and minimum number of

VOL 66 ISS 244 DE 19 2001 UMI

employees, but the method by which the count must be conducted will not be mandated.

However, VETS expressly requests comments on the methods contractors intend to use to calculate the minimum and maximum number of employees. VETS plans on publishing this information, either in regulatory format or as guidance to contractors, for future reporting cycles.

II. Revised Sections

Section 250.10 What Reporting Requirements Apply to Federal Contractors and Subcontractors, and What Specific Wording Must the Reporting Requirements Contract Clause Contain?

Section 61–250.10(a)(3). The language quoted above that specified how contractors were to determine the maximum number and minimum number of employees is withdrawn. Contractors are still obligated to provide a count of the maximum and minimum number of employees. However, contractors may use any reasonable method for calculating and determining the maximum number and minimum number of employees during the reporting period.

Section 61–250.11 On What Form Must the Data Required by This Part Be Submitted?

The language quoted above, which appears as a paragraph entitled "Maximum and minimum number of employees" under section 250.11, is withdrawn. All other instructions in this section on how to prepare the VETS–100 report remain intact.

III. Regulatory Procedures

Executive Order 12866

The Department of Labor has determined that this Interim Final Rule is not economically significant as defined in the Regulatory Flexibility Act. However, this rule has been reviewed by the Office of Management and Budget under Executive Order 12866. This rule will not: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency, or otherwise interfere, with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, a regulatory impact analysis is unnecessary.

Congressional Review Act

This Interim Final Rule is not a major rule for purposes of the Congressional Review Act.

Unfunded Mandates

Executive Order 12875—This Interim Final Rule does not create an unfunded Federal Mandate upon any State, local, or tribal government.

Unfunded Mandate Reform Act of 1995—This Interim Final Rule does not include any Federal mandate that may result in increased expenditures by State, local and tribal governments in the aggregate of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Executive Order 13132

These regulations have been reviewed in accordance with Executive Order 13132 regarding Federalism. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

Regulatory Flexibility Act

This Interim Final Rule does not substantially change the existing obligations of Federal contractors or subcontractors. The Department of Labor certifies that the rule will not have a significant economic impact on a substantial number of small business entities. Therefore, no regulatory flexibility analysis is required.

Paperwork Reduction Act

The inclusion of guidelines in the October 11, 2001, final rule on how to determine the minimum and maximum number of employees may have inadvertently resulted in greater burden than that reflected in the rule. By removing the portion of the rule that specified how the minimum and maximum number of employees was to be computed, this Interim Final Rule restores the burden to that reflected in the final rule.

Absence of Notice of Proposed Rulemaking/Effective Date of This Interim Rule

The Department of Labor has determined that it is unnecessary and contrary to the public interest to publish a Notice of Proposed Rulemaking (NPRM) regarding this amendment. This Interim Final Rule will prevent covered contractors from having to comply with a possibly significant and inadvertent increase in their recordkeeping burdens. The portion of the October 11 rule that is being removed simply provided information on how the maximum and minimum number of employees was to be computed; removing that information nevertheless retains unchanged the fundamental statutory requirement that contractors report their maximum and minimum employment.

For the above-listed reasons, the Department of Labor finds that publishing an NPRM, and providing a period for notice and comment, before implementing this Interim Final Rule is unnecessary and contrary to the public interest, and therefore pursuant to 5 U.S.C. 553(b)(B) good cause exists for publishing these regulations as an Interim Final Rule. Furthermore, the Department finds that the above-listed reasons also constitute good cause under 5 U.S.C. 553(d)(3) for waiving the customary requirement to delay the effective date of a regulation for 30 days following its publication. Therefore, this Interim Final Rule is effective immediately upon publication.

List of Subjects in 41 CFR Part 61–250

Government contracts, Reporting and recordkeeping requirements, Veterans.

Signed at Washington, DC, this 13th day of December 2001.

Frederico Juarbe, Jr.,

Assistant Secretary of Labor for Veterans' Employment and Training Service.

For the reasons set forth in the preamble, 41 CFR part 61–250 is amended as set forth below:

PART 61-250—ANNUAL REPORT FROM FEDERAL CONTRACTORS

1. The authority citation for part 61–250 continues to read as follows:

Authority: 38 U.S.C. 4212(d).

§ 250.10 [Amended]

2. Section 250.10 is amended in the contract clause by removing all of paragraph (a)(3) except for the first sentence.

§ 250.11 [Amended]

3. Section 250.11 is amended in the contract clause by removing the paragraph entitled "*Maximum and minimum number of employees:*" which appears under the heading entitled

VOL 66 ISS 244 DE 19 2001 UMI

"Information on Employees (Veterans and non-veterans)."

[FR Doc. 01–31188 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–79–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 950616159–1292–06; I.D. 022601D]

RIN 0648–ZA16

Northeast Multispecies Fishery; Fishing Capacity Reduction Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule; announcement of a fishing capacity reduction program and solicitation for bids from participants.

SUMMARY: NMFS issues this interim final rule to establish a voluntary fishing capacity reduction program (FCRP) for the Northeast multispecies fishery that permanently removes multispecies limited access fishing permits. Permit holders who would like to participate may submit bids, which will be ranked based on the amount of the bid and an estimate of the fishing capacity represented by the permit. The intent of this program is to obtain the maximum sustained reduction in fishing capacity at the least cost. As this is a limited access fishery, the capacity removed by the program cannot be replaced. It is being implemented by an interim final rule to allow public comments, in particular on its related Environmental Assessment and on the determination under the Regulatory Flexibility Act that this action will not have a significant economic impact on a substantial number of small entities.

DATES: Effective January 18, 2002. NMFS will accept bids through February 19, 2002. Comments must be received on or before January 18, 2002.

ADDRESSES: Written comments should be sent to National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930, Attn: Jack Terrill. Comments involving the reporting burden estimates or any other aspects of the collection-of-information requirements contained in this interim final rule should be sent to both Jack Terrill and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer). Copies of the Environmental Assessment may be obtained from Jack Terrill, Fishery Administrator, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Jack Terrill, Fishery Administrator, (Jack.Terrill@noaa.gov) 978–281–9136 or Daniel Morris, Special Projects Officer, (Daniel.Morris@noaa.gov) 978–281–9237. This **Federal Register** document is also accessible via the Internet at the Office of the Federal Register website at *http://www.access.gpo.gov/su—docs/aces/aces140.tml.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 13, 2000, the President signed the Military Construction Appropriations Act for FY 2001 (Act) (Pub.L. 106–246), which authorized a $10 million emergency supplemental appropriation for disaster assistance for the Northeast multispecies fishery. The funds are intended to compensate industry permittees who choose to participate in a program aimed at reducing the permitted fishing capacity in the multispecies fishery. NMFS published a notice of the proposed program, solicited comments on the proposal, and announced nine public meetings throughout New England at 66 FR 17668, April 3, 2001. NMFS received 21 written comments, one of which was signed by 88 people. The nine public meetings were attended by approximately 130 people; NMFS responds to the comments below. Further background for this program is provided in the April 3, 2001, **Federal Register** notice and is not repeated here.

II. Summary of Comments and Responses

In general, commenters expressed support for the proposed program, which would compensate holders of limited access multispecies permits for the voluntary surrender of their permits. Separate from this FCRP, capacity reduction in the multispecies fishery is under consideration by the New England Fishery Management Council (Council) and is closely related to many other initiatives, including gear and time/area restrictions, aimed at promoting the recovery of depressed groundfish stocks. During the public meetings related to the FCRP, NMFS received many comments regarding measures under consideration by the Council. These comments have been shared with Council staff. Except where the comments are relevant to this FCRP, issues related to the Council's activities are not addressed in the following paragraphs.

Relation of the FCRP to Amendment 13. Among its many goals, Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), which has been under development by the Council for about 2 years, aims to address issues related to over-capacity in the fishery. The Council developed an ad hoc Capacity Committee to develop management alternatives to reduce the number of excess days-at-sea (DAS) allocated in the fishery. Many commenters expressed concern about the timing of the FCRP with respect to Amendment 13. Some suggested that the FCRP should come after the Council's actions. They argued that Amendment 13 could devalue and/or invalidate latent permits, and if so, then the FCRP could remove even more of the permits or, as others suggested, the FCRP would be irrelevant. Some commenters insisted that the FCRP should come before the implementation of Amendment 13, suggesting that the Council's capacity reduction proposals could be inappropriate or even rendered moot, if the FCRP is very successful. In either case, the uncertainty of the ultimate proposed measures of Amendment 13 and the timing of those measures are confounding factors for fishers who must decide whether or not to participate in the FCRP.

The statutory language establishing the FCRP requires that NMFS implement the program in a timely manner, and NMFS has attempted to do that. NMFS acknowledges that the uncertainty regarding the capacity reduction measures in Amendment 13 and the timing thereof may make it difficult for some permittees to determine whether or not to participate in the FCRP and at what level to set their bids.

Tax implications. Several commenters asked about the tax implications of participating in the program, suggested that the funds should be tax exempt, or recommended that the payout be spread across several years to reduce the tax burden in any 1 year. Others claimed that taxes could be deferred if the funds are put in the Fishing Vessel Capital Construction Fund (CCF)(46 U.S.C. 1177).

Funds received through participation in the FCRP may be considered taxable income. The type of income and the tax rate would be determined by the participant's tax situation, and it would be the responsibility of the program participant to seek appropriate tax advice and to comply with local, state, and Federal tax regulations. NMFS cannot accommodate requests to disburse funds under the FCRP over 2 tax years. To expedite the payments and provide consistent service to all applicants whose bids are accepted, many of whom may not desire staged disbursal, NMFS will only distribute funds to FCRP participants through a single payment. The CCF is available for the deferral of taxes on capital gains realized only through the sale of fishing vessels, and not permits. The funds received through the FCRP would not qualify and could not be placed in the CCF.

Re-entry of participants. Many commenters addressed the issue of FCRP participants possibly re-entering the multispecies fishery. Some noted that vessel buyout programs have been criticized for allowing program participants to use the proceeds of the boat/permit sale to buy new boats, gain new permits and re-enter the fishery. Some claim that this practice is unscrupulous and that it undercuts the perceived benefits of the FCRP. Commenters recommended prohibitions on re-entry from several years, to 10 years, to a term based on the rebuilding of fish stocks. Others recommended disincentives to dissuade FCRP participants from re-entering the fishery, such as reducing their DAS by 50 percent on subsequent permits or otherwise severely limiting the fishing effort that could be exerted under the new permit.

The purpose of the program is not to remove individuals or corporations from the fishery; it is to remove excess capacity as it is represented by limited-access multispecies permits. Unlike vessel buyout programs in the past, the FCRP established by this rule will compensate fishers for surrendering only their limited access Northeast multispecies permits. NMFS does not intend to restrict FCRP participants from working in the multispecies fishery or any other fishery in the future. Besides, restrictions on future fishing by FCRP participants would be extremely difficult to detect and enforce. The variations are many and would be very difficult to track. It is clear, however, that the multispecies fishing histories associated with the permits surrendered under this FCRP are prohibited from being used or referenced for qualification in any future multispecies permitting program. Though at this time no such programs are foreseen, NMFS will maintain records of FCRP participants to enforce this stipulation of the program. Whether or not the FCRP participant resumes working in the fishery, a permit and the capacity it represents will have been removed from the finite pool of capacity forever; thus meeting the goal of the FCRP.

Some commenters stated that Charter/Party vessels should be excluded from the program. Because there is an open access category for Charter/Party vessels, these vessels could surrender a limited access permit, and then acquire an open access permit and remain in the fishery. Thus, the surrender of the permit, they claimed, would have no net effect on capacity.

The FCRP aims to reduce commercial fishing capacity in the multispecies fishery. A vessel owner may currently hold both a multispecies limited access permit and an open access Charter/Party permit, and surrender of the former would be consistent with the goals of this program. Open access Charter/Party vessels are restricted by gear (two hooks per angler) and passenger capacity and are prohibited from selling any catch. While new fishing effort under the Charter/Party permit category may slightly confound the benefits of the FCRP, the restrictions on the Charter/Party category should minimize the net effect of effort re-entry. NMFS does not intend to restrict vessels with Charter/Party permits from participation in the FCRP, nor does NMFS intend to change the access status of the Charter/Party permit category.

Restrictions on the use of the awarded funds. Several commenters were concerned that the funds awarded under the FCRP might be used to upgrade fishing vessels and would lead to the more effective prosecution of the multispecies fishery or other fisheries. Some suggested that the funds be required to go into an Individual Retirement Account or into some other similarly restricted fund. Other commenters stated that the funds should come with no restrictions on future use. FCRP participants, they said, may want to buy a safer boat, pay crew, or otherwise enhance their businesses.

NMFS concurs that the funds, once awarded, should not be restricted in how they are subsequently used. Vessel upgrades are limited by existing regulations.

Effort displacement. Comments were received from the Mid-Atlantic Fishery Management Council, a state marine fisheries commissioner, and others expressing concern over the possibility that the FCRP will displace effort into other fisheries. The Council suggested that the FCRP give highest priority to "purchasing permits from vessels possessing groundfish permits only or those willing to give up their suite of permits." Another commenter worried that the FCRP would result in vessel abandonment and that communities would be left with derelict vessels to dispose of.

Though participation in the FCRP is open to any limited-access multispecies permit holder, the most likely participants are those for whom the permit represents little opportunity to land regulated groundfish. The permits of fishers who are working in other fisheries or who have moved out of the industry altogether are likely to represent the least utility and are more likely to be surrendered under the FCRP. Because most FCRP participants have already moved out of the multispecies fishery and into other activities, the program is not likely to result in a measurable shift of fishing effort. In the long term, the surrender of the Federal multispecies permit limits the FCRP participant's future fishing options, should the permittee someday wish to alter or diversify his/her fishing activity. Effort that might have returned to the multispecies fishery will be applied in another activity. The likelihood and timing of such an occurrence is impossible to predict.

Finally, because the program allows participants to retain all state and Federal permits other than the one surrendered, it is likely vessels will continue to be used. It remains the responsibility of the vessel owners to dispose of unused property in accordance with local, state, and Federal regulations; if a vessel has fallen into disuse, it is conceivable that some of the proceeds from the FCRP may actually help a boat owner comply with disposal regulations.

Concerns about the impacts on small communities. A few commenters asked that NMFS consider the potential impacts the FCRP is likely to have on communities that support mostly small fishing boats. Many small fishing businesses rely on a diversity of fishing activities over the course of a year and/or over a career to exploit changing resource and market conditions and many other factors. The surrender of a Federal multispecies permit limits the fisher's options and may create a dependence on one fishery. Commenters suggested that the FCRP should not result in disproportionate acquisition of permits from certain geographical regions.

Participation in the FCRP is strictly voluntary. A community that wants to maintain Federal multispecies permits among its local fleet should consider coordinating its members' participation (or non-participation) in the program. At present, Federal multispecies permits in no way restrict the port or geographic region within the United States from which a permitted vessel may work. Private sales or exchanges of permitted vessels may be made across the region and between ports. NMFS cannot control where the permits accumulate or decrease through private exchanges and will not limit participation in the FCRP to a certain percentage of permittees per community or area.

Value with respect to recency of use. NMFS received many comments regarding the value and removal priority that should be given to permits as a function of their recency of use. Some claimed that permits in a confirmation of permit history (CPH) status (a permit history held by a person who owned a vessel with a fishing history that qualified for a limited access permit, but whose vessel has been sunk, destroyed, or transferred (without permits) to another person, and who has applied and received a CPH) should be given the highest priority for removal, as they represented an unknown quantity; others countered that the CPH permits are the least likely to be activated and should thus be given the lowest priority. Some commenters called for mandatory revocation of permits for which no landings have been recorded; others countered that recency of use should have no bearing on the value of permits and that fishers who have moved out of the groundfish fishery at the encouragement of NMFS and the Council while the resources have been at historically low levels should not be penalized.

NMFS has considered alternatives to the final FCRP that would take into account recency of use in the multispecies fishery or other fisheries. NMFS considered bid-ranking processes and bid-capping equations that gave greater credit or value to permits that have logged landings since 1994. However, recency of use as it relates to ease or likelihood of reactivation is a variable that NMFS cannot quantify with confidence and consistency sufficiently enough to effectively inform program priorities. This FCRP takes a very long view of the fishery and assumes that over time all the permits will have a roughly equal probability of being reactivated, and the value of permits should not be weighted with respect to recency of use.

Furthermore, NMFS believes that the FCRP should be implemented without any suggestion that fishers must either use their permits, surrender them, or have them withdrawn for non-use. Any reliance by NMFS on recency of use as a factor for valuing permits may be perceived as contrary to this principle and may even prompt permit holders to reenter the fishery. Participation in the FCRP is voluntary.

Remove DAS or otherwise reduce portions of permits. Several comments were received calling on NMFS to use the FCRP funds to compensate fishers for surrendering a percentage of their authorized DAS, rather than forfeiting the permit entirely. A few commenters suggested that the funds be used to compensate fishers who would stay out of the fishery for some period, 10 years, for example, but would be reauthorized to work in the fishery thereafter.

The statutory language that established the FCRP requires that NMFS compensate fishers for the permanent revocation of their limited access multispecies fishing permits.

Establishing a fixed rate, bidding, ranking bids. NMFS proposed that the FCRP be implemented by soliciting bids from permittees for the amount of compensation they would like to receive for voluntary surrender of their limited-access multispecies permits. NMFS suggested that the bids be ranked by dividing the bid amount by a factor representing some measure of the fishing capacity authorized under the permit. Most commenters were supportive of this process in general and recognized it as a means of ensuring that the most capacity is removed from the fishery for the least amount of money. (The ranking factors are addressed under another sub-section of this notice.) Some commenters, however, recommended that NMFS set a fixed rate for permits and make an offer to all permit holders. They suggested that, should the number of flat-rate acceptances equate to an amount greater than the authorized program ($10 million), then NMFS should use vessel capacity to rank the permits and prioritize payments.

NMFS has considered this idea, but has declined to implement it for several reasons. The baselines and DAS associated with the permits range rather widely and affect the value of the permits accordingly. A fixed rate, set by NMFS, would be an appropriate value for only a small subset of the permits, and either would be too small to interest one segment of the fishery or would overpay the other. Permit holders are more likely than NMFS to have a good idea of what their permit is worth to them, and the reverse bid process as exercised in the vessel buyout programs of the past has been considered successful.

Monkfish permits and the FCRP.. Several commenters noted that, to qualify for two of the limited access monkfish permit categories, applicants were required to hold a valid limited access multispecies or scallop permit and have records of monkfish landings. Commenters asked whether, if the permit holder were to surrender a multispecies permit under the FCRP, the limited access monkfish permit would be invalidated.

It is correct that to qualify for a Category C or D limited access monkfish permit vessel owners were required to have a multispecies or scallop limited access permit and certain levels of monkfish landings. If a fisher (who does not also hold a scallop permit) surrenders the qualifying multispecies permit under the FCRP, the monkfish permit would not be invalidated, but would be moved into a different limited access category (C to A, and D to B), and would be subject to the regulations of the new category. Holders of monkfish permits should be familiar with these requirements when deciding whether to participate in the FCRP.

III. Ranking Bids

The goal of the FCRP is to remove the greatest amount of fishing capacity from the Northeast multispecies fishery in the most cost effective manner. In support of this goal, and assuming that the bids submitted to the FCRP will exceed the funds that are available, NMFS must rank the bids with respect to relative vessel capacity. In other words, NMFS must rank and accept bids based on the least cost per unit of capacity.

NMFS considered two methods for ranking bids under the proposed FCRP, using capacity estimates derived through data envelopment analysis (DEA) or a simplified relative capacity indicator based upon linear calculation of permit baseline characteristics. Each is described in detail in the April 3, 2001, **Federal Register** notice. An important element of the FRCP public meetings was to solicit public input on the two ranking methods. Specifically, NMFS sought input from the public regarding the weighting factors (relative importance) for each of the baseline characteristics for use in the simplified method.

NMFS received many comments regarding the proposed bid ranking methods. In general, the public preferred the idea of the simplified method, as it seemed more direct and easier to understand than the DEA method. However, commenters failed to give consistent guidance about weighting factors for the simplified method and the relative importance of the various baseline characteristics. Vessel designs and fishing strategies vary widely throughout the region and no simple equation could be developed that would give consistent relative capacity rankings. For example, while horsepower may be a prime factor in the capacity of large trawlers, gillnetters may be less dependent on horsepower and limited only by the volume of their holds (as suggested by net tonnage), and some small hook fishing boats may have the least actual capacity, but may have excess horsepower to accommodate faster runs to the fishing grounds. Thus, application of the simplified method would not be simple.

For the FCRP, NMFS has elected to employ the DEA model. Using DEA, NMFS will prepare an estimate of all potential bidders' vessel capacity to harvest multispecies. This estimate of daily fishing capacity (EFC) would be an inference, based on capacity estimates for similarly configured vessels that are actively working in the fishery. This is the method that is gaining national and international acceptance as the best estimate of fishing capacity and is used by NMFS in reports on fishing capacity to Congress.

Applications to participate in the FCRP will be scored by dividing the bid by the product of the vessel's daily estimated capacity and its allocated DAS [Score = bid ÷ (EFC x DAS)]. The lowest score would represent the least cost per unit capacity and would be ranked highest. Scores would then be listed and selected in ascending order.

Most of the limited access multispecies permits are under a fleet DAS management scheme and are presently authorized 88 DAS. Less than 10 percent of the permits are in an Individual DAS category and may be authorized more than 88 DAS per year. Multiplying the EFC by the allocated DAS will reflect the additional fishing opportunity represented by these permits. Permits in limited access Category C, Small Boat Exemptions, are associated with vessels 30 ft (9.1 m) or less in length overall (LOA) and have unlimited DAS. To weight these bids appropriately, NMFS will use the category's fleet average number of DAS per year. If bids are received from holders of permits in this category, NMFS will analyze vessel trip reports to determine the 3 consecutive years with the highest used DAS per year per vessel, and from these 3 years will determine the average DAS per year for Category C permits.

From the July of 1998 through June 1999, NMFS initiated the Baseline Audit Program for multispecies and scallop limited access permit categories. NMFS contacted permittees who had not undergone a vessel replacement and asked them to verify and/or correct the permit baseline information in NMFS' records. For the purpose of the FCRP, NMFS considers information on file to be the final numbers used for vessel baseline. The audit program did not include all CPH status permits. Some CPH baselines have been verified, but some have not. If owners of CPH status permits without verified baselines want to participate in the FCRP, NMFS will work with the applicant to establish or verify the vessel baseline in a manner consistent with the baseline audit program. For all other FCRP participants, NMFS intends to use the baseline information on file on the date of publication for the FCRP.

IV. Setting Limits on Bids

This FCRP allows permit holders to set their bids at any dollar amount, and a competitive bid ranking process will be used to determine which bids represent the better value for the Government and thus will be accepted first. The competitive nature of the process is the first incentive for permit holders to make reasonable bids. If bids are received for permits from two similarly configured vessels with equal DAS allocation, the lower bid will be the higher ranked of the two and will have a greater chance of being accepted. Therefore, permit holders should submit bids that are reasonable.

Some participants at the public meetings asked if NMFS intends to set a maximum limit on bids and asked if NMFS will award funds to permit holders as long as funds are available, even if the bids are unreasonably high. Commenters noted that NMFS may receive bids that greatly exceed accepted values of permits and, if funds remain available, NMFS may need to justify acceptance or non-acceptance of such bids.

The setting of bids should depend on the value and risks the permit holder associates with the business opportunity represented by the permit. As one suggestion of the reasonableness of bids, NMFS has examined the classified advertisements in industry magazines and newspapers. While permits, technically, are not transferable, in the private sector Federal fishing permits are commonly exchanged for money through paper transactions for vessel transfers. Over the last year, classified listings in national and regional publications reflected values for suites of Federal permits including the limited access Northeast multispecies permits from $10,000 to $65,000. The amount advertised varied with respect to the vessel's baseline and the number of additional permits included in the sale. While by no means a complete survey of the value of limited access permits, the examples from the industry publications may assist permit holders in the development of their bids and may indicate to NMFS the reasonableness of bids.

NMFS also has developed a method to set a quantitative limit on the bid:capacity ratio. While this method will not set a maximum dollar amount on bids, it should encourage FCRP participants to set reasonable bids and should help identify and disqualify those bids that do not represent a good value for the Government. As noted above, applications will be ranked by dividing the bid amount by the product of EFC and the allocated (or average, for Category C) DAS. The resulting scores will be listed in ascending order. The median value, 50th percentile of the scores, will be multiplied by a capping factor of 1.5 to establish the maximum score value that NMFS will accept. Because this quantitative limit is a relative value determined by bids received and the distribution of the bid:capacity ratios, it cannot be determined beforehand. The use of this quantitative cap should further influence FCRP participants to set bids that are not unreasonably high.

The use of this relative cap has its limits, and NMFS may use the aforementioned qualitative measures of reasonableness (private sector purchase prices) to validate the results of the capping method. As noted, for the quantitative limit calculation, NMFS intends to use the 50th percentile of the scores and a capping factor of 1.5. These values were developed through an analysis of the results of the two Northeast multispecies vessel buyout programs during the late 1990's. If the distribution of scores in this FCRP is significantly different from the distribution of the vessel buyout ranking factors, or if all the bids received are exceptionally high, the quantitative method will not be an appropriate measure of reasonableness. NMFS maintains the discretion to accept or reject bids based on the combination of these measures of reasonableness, as well as the professional judgement of NMFS' staff and advisors.

V. How to Apply

A. Notification

This interim final rule serves as notification of the program to all holders of Northeast multispecies limited access fishing permits. In addition to this official notification, NMFS will send letters to all holders of current limited access multispecies permits and CPH status announcing the program and soliciting bids. The letter will include

VOL 66 ISS 244 DE 19 2001 UMI

materials to be used for developing and submitting bids and an EFC for the permit as determined through the DEA. Permit holders who do not receive a letter may contact NMFS for their EFC and FCRP bid submission details.

B. Eligibility

1. NMFS intends to consider applications to the FCRP only from holders of Federal multispecies permits in a limited access category or CPH status. Valid multispecies limited access permits are those limited access permits held by vessels meeting the eligibility requirements and maintained by annual renewal per 50 CFR 648.4(a)(1)(i). To be valid for the purposes of the FCRP, a permit must be free of all permit sanctions, pending or otherwise, at the time that the bid is submitted, and at the time of closing.

2. A permit holder must be an individual who is a citizen or national of the United States; or a corporation, partnership, association (non-profit or otherwise), trust, or other nongovernmental entity; if such an entity is a citizen of the United States within the meaning of section 802 of the Shipping Act, 1916, as amended (46 U.S.C. App. 802).

a. Federal Government employees, including full-time, part-time, and intermittent personnel, and Fishery Management Council employees and members (or corporations owned by members) are not eligible to participate in the program.

b. Holders of permits that are the subject of outstanding and/or pending investigations, charges, and penalties are not eligible to participate in the program.

c. Vessel owners whose permitted vessel exceeds the permit baseline and authorized upgrades, per 50 CFR 648.4 (a)(i)(F), are not eligible to participate in the program.

3. When two or more parties share interest in the permit, the bidder must affirm in writing that he/she represents the other parties.

C. Submission of Bids

1. Permit holders are limited to one bid per permit. Permit holders who intend to participate in the FCRP must submit their bids using the materials provided by NMFS. Bids must be postmarked before February 19, 2002. NMFS will not accept bids received late, or by fax or e-mail.

2. Bidders must ensure that all written matter is legible. Bid amounts must be written out numerically and in longhand (as one would do on a bank check).

3. Bidders must verify their Northeast multispecies permits, and the histories associated with the permits.

4. Bidders electing to offer permits in addition to the Northeast multispecies permit should identify the additional permit in the space provided on the bid submission form. Offering of additional limited access permits will not affect a bid's ranking or the amount of the compensation to be paid, but may be used by NMFS as a tiebreaker.

VI. Bid Review and Scoring

After the bidding period closes, NMFS will rank the bids, as follows:

Step A. Identify Bid

The bid is the dollar amount submitted by the applicant on the application materials.

Step B. Calculate the Bid Ranking Score

Each bid received will be divided by the product of its respective EFC and allocated DAS to get the bid ranking score. For Category C permits, NMFS will use an average DAS determined as detailed in section III above. The lowest score will represent the least cost to the Government per unit of fishing capacity. NMFS will accept bids by beginning with the permit represented by the lowest score and will proceed in ascending order until all the funds are committed or until the cap for FCRP efficiency or other reasonableness measures are met. See also Section IV.

In the event that the scoring results in a tie, NMFS will give preference to the permit that represents the greatest fishing capacity. If the tie is between two permits representing equal capacity, NMFS will give preference to the participant offering to surrender additional limited access permits.

Step C. Disbursing Funds and Revoking Permits

1. NMFS, Northeast Region, will contact permit holders as soon as possible with the results of the bid ranking and will arrange for disbursal of the funds. The method of payment used will depend on the amount of the awards.

2. Permits and associated permit history will be considered invalid upon the permit holder's receipt of notification that the bid has been accepted in the FCRP. Such history will be invalidated from use to qualify for any future permitting programs in this fishery.

3. Applicants whose bids are accepted must complete and submit the following forms, which will be provided by NMFS, prior to disbursal of funds:

a. SF-3881, "ACH Vendor/Miscellaneous Payment Enrollment Form"

b. W-9, "Request for Taxpayer Identification Number and Certification"

c. CD-511, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters: Drug-Free Workplace Requirements and Lobbying"

VII. Administrative Requirements

The Department of Commerce ("Department") Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917) are applicable to this solicitation. Some key requirements are set forth below.

A. Federal Policies and Procedures. Applicants whose bids are accepted are subject to all Federal laws and Federal and Department policies, regulations and procedures applicable to financial assistance awards or procurement of goods and services.

B. False Statements. A false statement on any application materials is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

C. Delinquent Federal Debts. No award of Federal funds shall be made to an applicant who has an outstanding Federal debt or fine until either:

1. The delinquent account is paid in full;

2. A negotiated repayment schedule is established and at least one payment is received; or

3. Other arrangements satisfactory to the Department are made.

D. Pre-award Activities. If applicants incur any costs prior to an award being made, they do so solely at their own risk. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of the Department to cover pre-award costs.

E. Least Cost Provision. Through this program, NMFS has been tasked "to obtain the maximum sustained reduction in fishing capacity at the least cost." If participation in this FCRP is insufficient to use up all the allocated funds, or if NMFS determines the bids are too high to satisfy the letter and intent of this "least cost" provision, then NMFS retains the discretion to reject bids, to close the FCRP, and to restructure it using the remaining funds to meet the statutory goals.

F. Additional Funds. If, before the end of the bid closing date, additional funds are appropriated by Congress for NMFS to disburse under the same terms and conditions as for this FCRP, then NMFS will expend the additional funds in accordance with this program as established.

G. Release of Public Information. Information on the removed permits, accepted bids, and associated vessel may be released publicly after awards are made.

Classification

The Assistant Administrator for Fisheries (AA), NMFS, has determined that this interim final rule is consistent with the Military Construction Appropriations Act for FY 2001 (Pub.L. 106–246) and the Interjurisdictional Fisheries Act of 1986.

This interim final rule has been determined to be not significant for purposes of E.O. 12866.

Applications under this program are subject to E.O. 12372, "Intergovernmental Review of Federal Programs".

NMFS prepared an environmental assessment (EA) for this action and the AA concluded that there will be no significant impact on the human environment as a result of this interim final rule. A copy of the EA is available from NMFS (see **ADDRESSES**).

This interim final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by OMB under control number 0648-0376. Public reporting burden for preparation of the grant application is estimated to be one hour per response including the time for reviewing instructions, gathering and maintaining records, and completing and reviewing the collection of information. An additional two hour reporting burden is estimated for those applicants who are accepted by NMFS including time for submission of invalidated permits. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS (See **ADDRESSES**) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this interim final rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA). Although the economic impacts on small entities are not immediately quantifiable, as the mix of accepted bids can only be determined after bidding is complete, NMFS does not expect that this action would have a significant economic impact on a substantial number of small entities. As participation in the FCRP is voluntary, it is unlikely that entities would participate unless they accrued some benefit. Moreover, the retirement of permits, active and latent, is expected to benefit those fishermen remaining in the fishery, though the extent of that benefit is unclear at this time. As a result, a regulatory flexibility analysis was not prepared.

Authority: 16 U.S.C. 4107.

Dated: December 14, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31262 Filed 12–18–01; 8:45 am]

BILLING CODE 3510-22-S

VOL 66 ISS 244 DEC 19 2001 UMI

Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[KS 0145–1145; FRL–7120–3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Emissions From Hospital/Medical/Infectious Waste Incinerators; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the state of Kansas' section 111(d) plan for controlling emissions from existing hospital/medical/infectious waste incinerators.

In the final rules section of the **Federal Register**, EPA is approving the state's submittal as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by January 18, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: December 7, 2001.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 01–31239 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act of 1996, this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the anti-kickback statute (section 1128B(b) of the Social Security Act), as well as developing new OIG Special Fraud Alerts.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 19, 2002.

ADDRESSES: Please mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–61–N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–61–N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:00 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. The OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration in order to induce or reward business reimbursable under the Federal health care programs. The offense is classified as a felony and is punishable by fines of up to $25,000 and imprisonment for up to 5 years. The OIG may also propose the imposition of civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a–7a), or exclusions from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a–7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100–93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, specifying various payment and business practices which, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. The OIG safe harbor provisions have been developed "to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements" (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices are not subject to any enforcement action under the anti-kickback statute or related administrative authorities.

B. OIG Special Fraud Alerts

The OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices the OIG finds potentially fraudulent or abusive. The Special Fraud Alerts encourage industry compliance by giving providers guidance that can be applied to their own businesses. The OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as those charged with administering the Federal health care programs.

C. Section 205 of Public Law 104–191

Section 205 of Public Law 104–191 requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts.

In developing safe harbors for a criminal statute, the OIG is required to engage in a thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover potential opportunities for fraud and abuse. Only then can the OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of Public Law 104–191, the OIG last published a **Federal Register** solicitation notice for developing new safe harbors and Special Fraud Alerts on December 14, 2000 (65 FR 78124). As required under section 205, a status report of the public comments received in response to that notice is set forth in Appendix F to the OIG's Semiannual Report covering the period April 1, 2001 through September, 30, 2001.[1] The OIG is not seeking additional public comment on the proposals listed in Appendix F at this time. Rather, this notice seeks additional recommendations regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in Appendix F to the OIG Semiannual Report referenced above.

Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with section 205, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would effect an increase or decrease in—

- Access to health care services;
- The quality of care services;
- Patient freedom of choice among health care providers;
- Competition among health care providers;
- The cost to Federal health care programs;
- The potential overutilization of the health care services; and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

In addition, we will also take into consideration other factors, including, for example, the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may vary based on their decisions whether to (1) order a health care item or service, or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, the practices that would be identified in a new Special Fraud Alert may result in any of the consequences set forth above, as well as the volume and frequency of the conduct that would be identified in the Special Fraud Alerts.

A detailed explanation of justifications for, or empirical data supporting, a suggestion for a safe harbor or Special Fraud Alert would be helpful and should, if possible, be included in any response to this solicitation.

Dated: December 4, 2001.

Janet Rehnquist,

Inspector General.

[FR Doc. 01–31207 Filed 12–18–01; 8:45 am]

BILLING CODE 4152–01–P

---

[1] The OIG Semiannual Report can be accessed through the OIG Web site at *http://www.dhhs.gov/oig/semann/index.htm.*

Notices

Federal Register
Vol. 66, No. 244
Wednesday, December 19, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. PY–02–001]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the intention of the Agricultural Marketing Service (AMS) to request an extension for and revision to a currently approved information collection in support of the Regulations Governing the Voluntary Grading of Shell Eggs.

DATES: Comments on this notice must be received by February 19, 2002.

ADDITIONAL INFORMATION: Contact Shields Jones, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 0259, Washington, DC 20050–0259, (202) 720–3506.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing the Voluntary Grading of Shell Eggs—7 CFR part 56.

OMB Number: 0581–0128.

Expiration Date of Approval: June 30, 2002.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Agricultural Marketing Act of 1946 (60 Stat. 1087–1091, as amended; 7 U.S.C. 1621–1627) (AMA) directs and authorizes the Department of Agriculture (USDA) to develop standards of quality, grades, grading programs, and services which facilitate trading of agricultural products and assure consumers of quality products which are graded and identified under USDA programs.

To provide programs and services, section 203(h) of the AMA directs and authorizes USDA to inspect; certify and identify; and identify the grade, class, quality, quantity, and condition of agricultural products under such rules and regulations as prescribed, including assessment and collection of fees for the cost of the service.

The regulations in 7 CFR part 56 provide a voluntary program for grading shell eggs on the basis of U.S. standards, grades, and weight classes. In addition, the shell egg industry and users of the products have requested that other types of voluntary services be developed and provided under these regulations; e.g., contract and specification acceptance services and certification of quantity. This voluntary grading service is available on a resident basis or on an as-needed basis. A fee for service is paid by the user.

Since this is a voluntary program, respondents need to request or apply for the specific service they wish, and in doing so, they provide information. Since the AMA requires that the cost of service be assessed and collected, information is collected to establish the Agency's cost.

The information collection requirements in this request are essential to carry out the intent of the AMA, to provide the respondents the type of service they request, and to administer the program.

The information collected is used only by authorized representatives of USDA (AMS, Poultry Programs' national staff; regional directors and their staffs; Federal-State supervisors and their staffs; and resident Federal-State graders, which includes State agencies). The information is used to administer and to conduct and carry out the grading services requested by the respondents. The Agency is the primary user of the information. Information is also used by each authorized State agency which has a cooperative agreement with AMS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.242 hours per response.

Respondents: State or local governments, businesses or other for-profits, Federal agencies or employees, small businesses or organizations.

Estimated Number of Respondents: 625.

Estimated Number of Responses per Respondent: 36.32.

Estimated Total Annual Burden on Respondents: 5,520.98 hours.

Copies of this information collection can be obtained from Shields Jones, Standardization Branch, on (202) 720–3506.

Send comments regarding, but not limited to, the following: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, to: David Bowden, Jr., Chief, Standardization Branch, Poultry Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 0259, Washington, DC 20250–0259. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for the Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: December 13, 2001.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–31251 Filed 12–18–01; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of past meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) met for the first time on November 26, 2001, in Downieville, California. The purpose of the meeting was to discuss issues relating to implementing the *Secure Rural Schools and Community Self-Determination Act of 2000* (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting was held November 26, 2001 from 3:15 p.m. to 6:15 p.m.

ADDRESSES: The meeting was held at the Downieville Community Hall, Downieville, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA, 95959, (530) 478–6205, E-mail: *awestling@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Agenda items covered included: (1) An Overview of Payments to States Act, Pub. L. 106–393 was provided; (2) Organizational guidelines for the Sierra County RAC were developed by group; (3) Planning processes for projects in Sierra County were discussed; (4) Preliminary project ideas were presented; (7) Public comment was not taken as no members of the public were still in attendance toward the end of the meeting. The meeting was open to the public.

Dated: December 11, 2001.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 01–31202 Filed 12–18–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra County, CA, Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Sierra County Resource Advisory Committee (RAC) will meet on January 14, 2002, in Sierraville, California. The purpose of the meeting is to discuss issues relating to implementing the *Secure Rural Schools and Community Self-Determination Act of 2000* (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-Toiyabe, Plumas and Tahoe National Forests in Sierra County.

DATES: The meeting will be held January 4, 2002 from 1:30 p.m. to 4:30 p.m. If a storm or other difficulty presents itself, a backup meeting date is scheduled for January 28, 2001, at the same time and location.

ADDRESSES: The meeting will be held at the Sierraville Ranger Station conference room, 317 S. Lincoln (Hwy 89), Sierraville, CA.

FOR FURTHER INFORMATION CONTACT: Ann Westling, Committee Coordinator, USDA, Tahoe National Forest, 631 Coyote St, Nevada City, CA, 95959, (530) 478–6205, e-mail: *awestling@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Welcome and introductions; (2) Review of previous meeting, meeting minutes, and Pub. L. 106–393; (3) Presentation on National Fire Plan and other funding sources; (4) Discussion and decision on criteria for Sierra County RAC projects; (5) Presentation of project ideas; and (6) Preliminary ranking of project ideas. The meeting is open to the public. Public input opportunity will be provided during each agenda item and individuals will have the opportunity to address the Committee at that time.

Dated: December 11, 2001.

Steven T. Eubanks,

Forest Supervisor.

[FR Doc. 01–31203 Filed 12–18–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Withdrawal of the Regional Guide for the Southwestern Region

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The intended effect of this action is to comply with 36 CFR part 219 section 219.35(e) which directs that within 1 year of November 9, 2000, the Regional Forester must withdraw the Regional Guide. When a Regional Guide is withdrawn, the Regional Forester must identify any decisions in the Regional Guide that are to be transferred to a regional supplement of the Forest Service directive system (36 CFR 200.4) or to one or more plans and give notice in the **Federal Register** of these actions.

DATES: This action will be effective November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Arthur Briggs, Director of Planning; Southwestern Region; 333 Broadway SE, Albuquerque, NM. Phone: (505) 842–3292.

SUPPLEMENTARY INFORMATION: This action accomplishes the withdrawal of the Regional Guide for the Southwestern Region. An analysis of the direction contained in the Regional Guide shows that all its applicable direction is either: (1) Already incorporated into Forest Plans, Forest Service directives, statutes or regulations; or (2) contains guidance that does not need to be brought forward as direction to facilitate forest planning. No further action is needed to complete the withdrawal of the Regional Guide for the Southwestern Region.

Dated: December 10, 2001.

James T. Gladen,

Deputy Regional Forester, For Natural Resources.

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION

Standards/Guidelines From Regional Guide	Addressed in
Watershed Management	
1. Use the watershed condition index to rate ecosystems and watersheds as being in optimum, satisfactory, or unsatisfactory condition.	Forest Plans. Direction is obsolete, and will be updated in revised Forest Plans. Replaced by FSM 2510.42 and 2510.43 (R3 Suppl). Also see FSM 1922.15(20).
2. Manage terrestrial ecosystem and watersheds to maintain satisfactory conditions for the productivity and protection of watersheds. Improve those watersheds where conditions are unsatisfactory.	Forest Plans, and FSM 2522.11.

VOL 66 ISS 244 DE 19 2001 UMI

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
3. Design and maintain all water developments that are needed to provide water for National Forest System uses for water use efficiency. When selecting the preferred means of developing or redeveloping a water source for National Forest System use, consider water use efficiency as an analysis criterion. Encourage all users to use water efficiently. Design and maintain National Forest System water developments to minimize water losses. Because of their relative inefficiency, use stockponds only when no other economic means of providing water for livestock and wildlife is available.	Forest Plans, and FSM 2541.04.
4. During the Forest planning process, recognize potential water resource development sites, including sites that are inventoried by State and Federal water resource management agencies.	Forest Plans, and FSM 2535.03 (R3 Suppl).
5. Manage and use the range resource in a manner that maintains or improves watershed to a satisfactory or optimum condition. (Definitions of satisfactory and optimum watershed conditions are in the Glossary of the EIS.)	Forest Plans, and FSM 2211.1 (R3 Suppl).
6. In the Forest planning process, apply the following prescriptions for each watershed condition class: (a) Optimum—maintain these conditions. (b) Satisfactory—improve where cost effective. (c) Unsatisfactory—emphasize improvement.	Forest Plans. Direction is obsolete, and will be updated in revised Forest Plans. Replaced by FSM 2510.42 and 2510.43 (R3 Suppl).
7. Assign no forage capacity to areas in unsatisfactory watershed condition where reforestation measures are not cost effective. Through management, restrict livestock use in these areas.	FSM 2211.1 (R3 Suppl).
8. Improve all terrestrial ecosystems and watersheds to satisfactory or better condition by 2020.	FSM 2522.02 (R3 Suppl).
9. Complete watershed restoration action plans by 1990 to improve all unsatisfactory terrestrial ecosystems and watersheds. (These action plans cover all activities and uses and are supplemental to the Forest Plans).	FSM 2510.43 (R3 Suppl), and FSM 2532.4 (R3 Suppl).
10. Integrate soil and water conservation measures with management activities to ensure maintenance and improvement of watershed conditions. Temporary variances for apparent unsatisfactory watershed condition ratings will be given if soil and water conservation measures are successfully implemented.	Forest Plans, using Best Mgt Practices, in FSH 2509.22 (R3 Suppl), and FSM 2530.44 (R3 Suppl) and FSM 2532.03 (R3 Suppl).
11. After the second growing season following a wildfire, evaluate changes in watershed condition.	Forest Plans.
12. Maintain viable populations of all existing native and desired nonnative vertebrate species in the planning area. Provide a diversity of plant and animal communities to meet multiple-use objectives.	Forest Plans, and 36 CFR 219.19 and 219.27(g), FSM 2634, FSM 2670.12.
13. When compatible with multiple-use objectives and when cost effective, schedule water yield improvement projects in State-identified basins where recoverable increases exceed 0.5 inch per year. Consider water yield designs in all management prescriptions. Emphasize water yield increases in multiple-use prescriptions for chaparral.	FSM 2522.12 (R3 Suppl).
Fuelwood Management	
1. Permits will be required for all fuelwood on all Forests by July 1, 1983.	36 CFR 223.5–223.13, and some Forest Plans.
2. Free fuelwood will be available only under the following circumstances: (a) Dead and down timber—when supply exceeds demand, access is limited or difficult, or special environmental, or economic considerations preclude effective management under the charge permit system (b) Live timber—when sufficient amounts of dead and down material are not available and there is a need to meet multiple-use objectives, such as harvesting green trees to improve the growth rate of residual trees or for insect and disease control	36 CFR 223.5–223.13, and some Forest Plans.
3. Stumpage charges will be assessed in all circumstances not covered in 2 above. A minimum charge of $10.00 per permit will be collected. The rates per unit will be based on a Regional minimum price, standard rates, developed by Forests, and appraised rates (in the case of offered sales), or joint policies established with the Bureau of Land Management. (The above direction does not apply to the use of small quantities of fuelwood used onsite according to 36 CFR 223.1(e)(3), such as when camping on the Forest.)	FSM 2431.
4. Coordinate uniform sales policies among the Forest Service, States, other Federal agencies, and private landowners to increase the availability and supply of fuelwood.	Forest Plans. Also, in 36 219.7, 219.14, 219.16, & 221.3, and FSM 2460, and FSH 2409.13(42).
5. Manage unsuitable lands to emphasize resource variety based on potential natural vegetation. Modify pinyon-juniper overstory to meet multiple-use objectives for the site consistent with Forest Plans.	
6. Previously cleared land areas will be managed to achieve multiple-use objectives, including increased fuelwood supplies.	
7. Emphasize fuelwood as a resource in the management of unsuitable lands. Initiate periodic fuelwood inventories on both suitable and unsuitable lands to determine potential source and availability. Estimate sustained harvest levels, track inventory reduction, and establish control procedures to maintain a sustained yield.	
8. Where the potential natural vegetation is pinyon-juniper, management priority will be fuelwood production and wildlife habitat. Snag policy (FSM 5151.13, R–3 Supplement 123–7/77) applies in the woodland type. The purpose is to provide adequate habitat to maintain self-sustaining populations of snag-dependent wildlife species on forested lands, including the woodland type. In areas where demand for fuelwood is light and is expected to continue to be so, modification of pinyon-juniper overstory may be justified. Personal or commercial harvest of fuelwood will be considered in all overstory modification projects.	Forest Plans—management area direction for woodland areas. Snag policy in Forest Plans and FSH 2409.

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
Transportation Systems and Travel Management	
1. Accomplish transportation planning, management, development, and maintenance to meet targets and user needs, while minimizing environmental degradation and road densities. Transportation management and planning includes all modes of access.	FSH 7709.55, FSM 1920.15(17).
2. Recognize and evaluate the tangible and intangible benefits and costs of each project to ensure that the objectives of management are fulfilled with minimum adverse effects on the human environment, and in the most cost-effective manner.	Forest Plans and FSM 7731.02, 7731.03.
3. Coordinate transportation facilities according to the following guidelines: (a) Develop and evaluate transportation facility construction and maintenance alternatives and select an alternative that meets management objectives with the least adverse effect on the human environment, and at the least cost. (b) Apply all resource coordination for the protection of National Forest System lands, resources, and ecosystems to the planning, development, and operation of transportation facilities by private parties under permit or easement, or Federal, State and local governments under Memorandums of Understanding. (c) Provide access in a manner consistent with management objectives and environmental policies and standards. (d) Protect threatened and endangered species in planning, development, and operation of transportation facilities (FSM 2601.1). (e) Apply standards for transportation network analysis, as described in Regional supplements 2, 8, and 10 to Chapter 7709.11 of the Forest Service Handbook, to Forest Plans. Forests will integrate transportation planning with land management planning. (f) Protect archaeological sites in planning, development, and operation of transportation facilities. (g) Provide reasonable user safety through design, maintenance, and operation. All new and reconstructed facilities will conform to the Highway Safety Act.	Forest Plan—Transportation Plans, + Forest Plan goals, + FSH 7709.55, and 36 CFR 212.4, also addressed by: Item (b) FSM 2732.6; Item (c) 36 CFR 212.6; FSH 7731.02; Item (d) FSM 2601.1; Item (e) FSH 7709.11; Item (f) Forest Plan standards, 36 CFR 219.24; Item (g) FSH 7709.58, 7709.59, and Highway Safety Act.
4. Emphasize long-run needs and demands.	Forest Plans, 36 CFR 212, and FSH 7709.
5. Allow motorized travel on all National Forest System roads and trails, except where specifically closed or regulated by order. All roads or trails open to motorized travel shall be identified by a route number or assurance arrow. New road construction will be minimized. Certain system roads may be closed during periods of planned activity to reduce maintenance liabilities, minimize conflicts of use, and contribute toward user safety. Local system roads, where needed to accommodate fuelwood gathering, will remain open as long as this purpose can be served.	Forest Plan—Transportation Plans, FSM 2353.04 (R3 Suppl), FSH 7709.59 (25), 36 CFR 212.5, and some Forest Plan standards.
6. Forest Plans shall, by applying planning criteria in FSM 2355, delineate management areas that are open, restricted, and closed to cross-country motorized travel.	Forest Plan Transportation Plans and maps, FSM 2353.04 (R3 Suppl), 36 CFR 212.5 and 219.21(g), FSH 7709.55 (34), and some Forest Plan standards.
7. Motorized travel may not depart from Forest roads and trails and proceed cross-country in those management areas closed or restricted to such use, except as authorized by special permit.	
8. Post closed or restricted areas at entrances to these areas, and visibly mark open system roads and trails within the area with a route number of assurance arrow.	FSH 7709.59 (25), 7731.04b, FSM 2353.04 (R3 Suppl).
9. Permit unrestricted cross-country travel in management areas that the Forest Plan shows as open.	Forest Plan Transportation Plans and maps, FSH 7709.55 (34).
10. Regardless of the signing technique chosen, favor humanistic, positive signing techniques over regulatory, negative directions. Emphasis will be placed on giving users information about where their particular activity may be pursued instead of where they are restricted or prohibited.	FSH 7709.55 (30).
11. Eliminate an estimated 10,000 miles of existing unneeded primitive roads by the year 2030.	Forest Plans.
12. Protect wetland and floodplain values and identify hazards in accordance with Executive Orders 11990 and 11988 (see also FSM 2527 and FSM 2528). Avoid the development of transportation facilities or protect existing facilities in wetlands or areas subject to inundation by 100-year floods (1 percent chance of occurring in any year). Remove existing facilities from riparian areas where impacts are unacceptable.	Forest Plans, FSM and Exec Orders., and 36 CFR 219.27(a)(4).
Riparian Area Management	
1. Manage riparian areas in accordance with legal requirements regarding floodplains, wetlands, wild and scenic rivers, and cultural and other resources. Recognize the importance and distinct values of riparian areas in Forest Plans.	Forest Plans, + numerous statutes & regulations.
2. Manage riparian areas to protect the productivity and diversity of riparian-dependent resources by requiring actions within or affecting riparian areas to protect and, where applicable, improve dependent resources (FSM 2526). Emphasize protection of soil, water, vegetation, and wildlife and fish resources prior to implementing projects (FSM 2526).	Forest Plans, FSM 2526, and 36 CFR 219.27e; FSM 2526.
3. Give preferential consideration to resources dependent on riparian areas over other resources. Other resources uses and activities may occur to the extent that they support or do not adversely affect riparian-dependent resources.	In some Forest Plans, and FSM 2526.
4. By 1990, complete classifications and inventories of all riparian areas, and complete action plans to improve all unsatisfactory riparian areas. Improve all riparian areas to satisfactory or better condition by 2030. Such satisfactory conditions are specified below, expressed as percentage of "natural" conditions (that is, what each site can produce if not further disturbed by man). Twenty-five percent of all riparian areas must be in satisfactory condition by 2000.	FSM 2526.05, 2526.1, and 2605 (R3 Suppl). Also in some Forest Plans. Items (a) and (b) are obsolete, and will be updated in Forest Plan revisions.

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
(a) Aquatic resource: (1) Maintain at least 80 percent of natural shade over water surfaces. (2) Maintain at least 80 percent of natural bank protection. (3) Maintain the composition of sand, silt, and clay within 20 percent of natural levels. (b) Vegetation resource (where the site is capable of supporting woody plants): (1) Maintain at least 60 percent of the woody plant composition in three or more riparian species. (2) Maintain at least three age classes of riparian woody plants, with at least 10 percent of the woody plant cover in sprouts, seedlings, and saplings of riparian species. (3) Maintain at least 60 percent of natural shrub and tree crown cover. (c) Wildlife resources: Maintain at least 60 percent of natural shade over land surfaces.	
5. On a site-specific basis, identify riparian-dependent resources and develop action plans and programs to bring about conditions essential to supporting those dependent resources.	FSM 2526.05, 2526.1, and 2605 (R3 Suppl).
Research Natural Areas	
1. Identify, study, and designate sufficient areas to meet the representation requirements for terrestrial ecosystems in the Southwest by 1985. (See Table 3–1). Strengthen the representation of New Mexico ecosystems in the research natural area system.	Forest Plans, and FSM 4063.
2. The size of a research natural area will normally not be less than 300 acres and not be greater than 1,200 acres. Establish smaller areas to protect special ecosystems and smaller or larger areas to ensure logical boundaries.	FSM 4063.1.
3. Establish areas on National Forest System lands that include appropriate opportunities in wilderness. Emphasize establishment of areas where resources use is restricted by other designations, such as municipal watersheds and the Langmuir Research Area. Review new land acquisitions and lands released from other Federal agencies for research natural area designation. Examples are the Los Alamos Restricted Area and the Manzano Base Security Area in New Mexico.	Forest Plans (mgt area designations), and 36 CFR 219.18, 219.25.
4. Research natural areas on National Forest System lands of the Southwestern Region will be recognized, screened, and established in the following order of priority (listed in descending order). (a) Priority will be given to candidate research natural areas where ecosystem representations: (1) Include typical, extensive, and important flora or fauna. (2) Exhibit modal (typical representative) features of biota, soils, climate commonly found on National Forest System lands. (3) Include biotic populations of special interest or concern. (4) Exist in mosaics that represent more than one ecological component of a research natural area. (5) Have an apparent level of scientific interest or management importance use of even-aged management where perpetuation of this species is desired. (6) Have a low degree of potential conflict with other uses, and are located where protection and access can be readily provided.	Forest Plans—RNAs, FSM 4063.2, and 36 CFR 219.25.
Table 3–1 Representation Needs for Research Natural Areas in the Southwestern Region (includes Biotic Community Classification, Forest Cover Types and/or Potential Natural Vegetation, Terrestrial Ecosystem Classification, Comments and Possible Sites).	Table is no longer needed. Representation needs for R3 were met. RNAs may be changed through Forest Plan amendment or revision.
Harvest Cutting Methods by Forest Type	
Harvest cutting methods are defined in the NFMA regulations and described in Appendix D of the EIS. Both even-aged and uneven-aged harvest cutting methods are appropriate for use in the Southwestern Region. Even-aged management, with its many variations of cutting methods, is the most appropriate for managing the suitable lands where timber production is a primary objective. Uneven-aged management is most appropriate for use in certain special management areas where timber production is subordinate to other resource management objectives. In all cases, the harvest cutting method applied will be selected to best fit the particular abiotic, biotic, economic, and management objectives that apply to that stand. These objectives, as well as the areas where there systems will be used, will be identified in Forest Plans.	FSH 2409.17—Silv Practices Handbook, Cutting Methods Guide for R3 (currently being updated). Direction is outdated. Some Forest Plans include harvest method guidelines; will be updated in revisions. Also see FSM 1922.15(3).
Table 3–2 displays the appropriate silvicultural system and cutting methods to be used for each forest type. (See also Appendix D of the EIS.) However, these guidelines do not preclude the modification of silvicultural systems when applied to special areas or situations. Modifications may be determined on a case-by-case basis in Forest Plans according to the following criteria: 1. The system must develop conditions required to meet resource management objectives. 2. The system must permit control of competing vegetation sufficient to allow establishment of desirable reproduction. 3. The system must promote stand structures, composition, and conditions that minimize damage from pest organisms, animals, wind, and fire. 4. The system must be compatible with acceptable logging methods so that future stands can be cultured and harvested.	FSH 2409.17, which is currently being revised.
Table 3–2 Silvicultural Systems and Cutting Methods by Forest Type, and "principal cutting methods" (even-age harvest methods) recommended for aspen, mixed conifer, ponderosa pine, and spruce-fir; mix of even- and uneven age methods recommended for woodlands.	Outdated. Will be replaced in revised FSH 2409.17, and revised Forest Plans.

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
Maximum Size, Dispersal, Size Variation, and Duration of Created Openings	
A natural opening is an area with less than 10 percent crown cover that has never supported a higher tree density—for example, a meadow, rock slide, or swamp. A created opening is a contiguous area greater than two acres in size that was created by vegetative manipulation and that does not meet tree height and stocking requirements. When an opening results from a natural occurrence, such as wildfire or windstorm, the opening will be treated as a created opening. 1. A created opening will no longer be considered an opening when the conditions in Table 3–3 are met.	Referenced in Forest Plans and FSH 2409.17—Silvicultural Practices Handbook. Outdated, and is currently being revised. Will also be addressed in Forest Plan revisions.
2. Clearcuts may not be larger than 40 acres without Regional Forester approval. The standards shown in Table 3–4 also apply, except in the following situations: (a) In the harvest of salvageable wood in areas subjected to catastrophic conditions, such as fire, insect and disease attack, or windstorm. (b) In the harvest of dwarf-mistletoe-infested overstory trees that threaten the established regeneration. A biological evaluation of Regional forest pest management experts is required.	Referenced in Forest Plans and FSH 2409.17—Silvicultural Practices Handbook. Outdated, currently being revised. Will also be addressed in Forest Plan revisions.
3. For nontimber species, such as the pinyon-juniper and chaparral types, standards and guidelines are established for the maximum size, dispersal, and duration of created openings. These standards and guidelines are designed to address concerns for wildlife and plant species. (a) In the woodland type, created openings in areas that have been identified as historic big-game winter range will be designed so that an animal will be no more than 600 feet from hiding cover at any location within the opening (25). (b) Limitations in Tables 3–3 and 3–4 apply to newly created openings in the pinyon-juniper type. Improve the interspersion of vegetated areas in existing openings. (c) Limitations in Tables 3–3 and 3–4 apply to permanent openings in the chaparral type. A permanent opening is an area that is maintained with no more than 50 percent of the potential natural crown cover. Fuelbreaks are excepted because they are less than 330 feet wide. (d) An area is no longer considered an opening in the pinyon-juniper type if one of the following conditions is met: (1) There are at least 35 trees per acre that are 10 feet or taller. (2) There are at least 80 trees per acre that are 6 feet or taller. (e) The minimum distance between openings is 660 feet.	Referenced in Forest Plans and FSH 2409.17—Silvicultural Practices Handbook. Outdated, currently being revised. Will be addressed in Forest plan revisions.
Table 3–3 When an Area Would No Longer Be Classified as an Opening. Table 3–4 Limitations on Created Openings (based on forest type and slope).	Referenced in Forest Plans and FSH 2409.17—Silvicultural Practices Handbook. Outdated, currently being revised. Will be addressed in Forest Plan revisions. Also in 36 CFR 219.27(d).
Management Intensity and Utilization Standards	
Intensity: Intensity may vary depending on the management objectives, the tree species involved, site productivity, market supply or demand, and available funding. The following timber management practices may be used in the Region and will have an influence on both the total number of stand entries, frequency of stand entries, and the culmination of mean annual increment of growth: 1. Site preparation—chemical, mechanical, or burning. 2. Genetic improvement of tree stock (genetics). 3. Reforestation by planting, seeding, or natural means. 4. Protection of growing stock from animals, insects, diseases, and wildlife. 5. Release by the use of chemicals or mechanical methods. 6. Precommercial thinning. 7. Commercial thinning. 8. Salvage. 9. Regeneration harvest. The number of entries into a stand depends on the species type and site quality, as well as on the volume needed to make an entry economically feasible.	FSH 2409.17, chapters 6 and 8, and 36 CFR 219.15.
Utilization: Utilization standards shown in Table 3–5 will be used in determining harvest levels. Table 3–5 Utilization Standards for the Determination of Harvest Levels.	FSH 2409.12, chap. 10 (R3 Suppl); also in some Forest Plans.
Corridors	
1. All corridors will provide for joint use (FSM 2778, FLPMA). Corridors include all linear rights-of-way, except those highways covered under the National Forest Roads and Trails Act of October 1964.	FSM 2778, and FLPMA. Also see FSM 1920.15(19).
2. Corridor designation will be addressed in Forest Plans. Joint use of corridors will be determined on a case-by-case basis contingent upon individual use and these compatibility guidelines. Requests for corridors not in the Regional Guide or in Forest Plans will be evaluated using the environmental analysis process.	Forest Plans—Utility Corridor Plans and maps; FSH 7709.55(11.3); and FSH 1909.15.

VOL 66 ISS 244 DE 19 2001 UMI

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
3. The following alternatives will be evaluated prior to designation of new corridors: (a) Use existing rights-of-way (retaining currently authorized width), but upgrade capacity. For example, upgrade 230 kV transmission line to 345 kV or replace a 10-inch pipeline with a 12-inch pipeline. (b) Expand the existing rights-of-way limits to include additional facilities where compatible. For example, authorized a pipeline right-of-way adjacent to an existing highway or railroad right-of-way.	Forest Plans—Utility Corridor Plans and maps; FSH 7709.55(11.3).
4. Guidelines for Joint Use of Corridors will be developed at a later date. Summarized guidance may be adopted from a study done by the Aerospace Corporation for the Bureau of Land Management. (a) Table 3–6, entitled "System Interactions in Joint Use of Rights-of-Way," contains factors that influence the joint use of corridors and is offered as a guide that should be considered when evaluating such proposals. (b) The standard right-of-way width requirements listed in Table 3–7 are average widths that may apply nationwide. In actual practice, rights-of-way must be tailored to allow for flexibility and reliability as dictated by the topography. The feasibility of joint use of corridors will be dictated frequently by the physical environment through which the right-of-way passes. (c) The following evaluation criteria will be used to determine if right-of-way proposals can be accommodated through the joint use of designated corridors. (1) Technical compatibility with other utility or transportation uses already existing in a corridor (2) System reliability, considering safety, natural disasters or catastrophic events, national security. (3) Economics, including alternative routes, mitigation costs. (4) Physical capability of the land, such as width of a mountain pass; (5) Compatibility with adjacent land uses, such as prime or unique farmlands, recreation areas, classified wilderness, mineral development or exploration areas, prime timber-producing lands, or known geothermal resources areas. (6) Landownership, including impact on other landowners. (7) State and local land-use plans and policies. (8) Environmental sensitivity.	Direction in FSH 7709.55 (11.3) that guide utility corridor planning, along with Forest Plan direction, is an adequate substitute for this Reg. Guide direction. Also, FSH 1909.15 (NEPA) will cover evaluation criteria regarding ROW proposals (item c, 1–8). Also see FSM 2730—special uses roads and easements; and FSM 2732.42—MOUs for State Hwys on NFS lands.
5. New corridor designation will be pursued only after critical windows and avoidance areas are identified. A window is a confined area of land through which a right-of-way could pass. Windows will be identified on proposed corridors when: (a) Users express a need for rights-of-way in a constrained area. (b) A systems analysis indicates a proposed location is needed through a constrained (restricted) area. A window will be considered to be present where: (a) Constraints on Federal lands occur near proposed rights-of-way. (b) Land uses and values adjacent to proposed rights-of-way prevent the establishment of the right-of-way. (c) Any blocks or tracts of public land are proposed corridors between source and market. (d) Blocks or tracts of Federal lands are in alignment with other windows, avoidance areas, or existing corridors.	Forest Plans identified critical windows and avoidance areas. New corridor designations will be guided by FSH 7709.55, 1909.15, and 1920.
Table 3–6 Systems Interactions in Joint Use of Rights-of-Way (Source: USDI Bureau of Land Management. 1975. The Need for a National System of Transportation and Utility Corridors. Page IV–22)	This table is unnecessary. FSH 2709.12 provides adequate direction for forest planning purposes.
Table 3–7 Right-of-Way Width Requirements (Feet). Source—Aerospace Corporation, 1975.	This table is unnecessary. FSH 2709.12 provides adequate direction for forest planning purposes.
Technical Compatibility Factors for Joint-Use of Rights-of-Way. Federal Railroad Right-of-Way Act of 1875 set right-of-way width at 200 feet. Industry practice is normally to retain entire construction right-of-way width on non-Federal lands.	
Avoidance areas—land areas that have particular land uses or environmental characteristics that would be difficult or impossible to mitigate—include the following: (a) Areas where establishment and use of corridors will conflict with land-use/land management objectives. Examples: Specially managed areas, environmentally sensitive areas, archaeological and historical sites, visually sensitive areas, active coal mining units, high site timber lands when low site lands are available. (b) Areas that through the NEPA scoping process have been identified by Federal agencies or by local governmental bodies (within their areas of jurisdiction) as not suitable for the placement of linear facilities. Identification of such areas will influence the location of corridor entry and exit points on National Forest System lands. Examples: Urban-suburban residential areas, parks and recreation areas, prime forest or agricultural areas.	Forest Plans classified avoidance areas. Future planning for corridors will follow guidance in FSH 7709.55, 1909.15 and 1920.
6. A transportation-utility corridor can be designated in the following ways: (a) Pending approval of a Forest Plan, delineation in a special-use permit. Designation by this means will be incorporated into the Forest Plan as required by section 6(i) of NFMA. (b) Approval of a Forest Plan, or revision or amendment thereof, that assigns lands to a linear corridor, including designation of windows and existing corridors.	FSH 7709.55 (11) and FSM 2731.42 (R3 Suppl)

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
(c) Approval, without further review, of any existing corridor that includes or is capable of accommodating additional compatible rights-of-way. This form of designation will occur only in extraordinary circumstances. Normally, designations will be made as in 6(b), above.	
Public notice of a corridor designation made in the Forest Plan (item 6(b), above) will be given through publication and circulation of the Forest Plan, its Environmental Impact Statement, and the associated Record of Decision. Public notice of designations made as in items 6(a) and 6(c), above, will be given through publication in local newspapers or the circulation of a Decision Notice on an Environmental Assessment.	Completed in development of Forest Plans. Future planning for corridors will follow guidance in FSH 7709.55, 1909.15 and 1920.
Air-Quality Management	
1. Forest Plans will provide direction for the planning and management of air-pollution-generating activities on National Forest System lands so that air quality will be equal to or better than that required by the applicable Federal, State, and local standards or regulations.	Forest Plans, FSM 2580, 2580.43, and FSM 5130 and 5150 (smoke)
2. Forest Plans will identify air-quality-related values, including visibility, for all National Forest System Class I areas, as defined by the Clean Air Act. Forest Plans will not identify integral vistas, but will identify existing visibility impairment in National Forest System Class I areas.	Forest Plans (and FEISs), and FSM 2580.3, 2580.5 Exhibit 01–AQRVs in R3 Class I wilderness, and 2580.5 Exhibit 02–R3 Airsheds
3. Forest Plans will document baseline quantities of total suspended particulates from wildfires and prescribed fires on National Forest System land. Estimates of quantities that will result from Forest Plan alternatives will be calculated.	This data is not yet available. Air quality monitors are currently being established. Direction in FSM 2580 is adequate to guide planning in meeting applicable air quality laws and regulations.
4. The Regional Office Director of Aviation and Fire Management is the primary Forest Service contact with the State air-quality control agencies to provide interagency coordination.	Not applicable; not a standard or guideline. Covered in FSM 2580.43 (R3 Suppl).
Minerals	
Locatable Minerals: Forest Service regulations (36 CFR 228) apply to locatable mineral operations conducted under the authority of the General Mining Law. These regulations seek to minimize surface resource disturbance without infringing on rights granted by law. A plan of operation is required from anyone proposing operations that might cause significant surface resource disturbance. The operating plan must contain information about the type of operation, how it is to be conducted, the route and means of access, measures for environmental protection, and reclamation. The plan of operation is required to comply with applicable Federal and State provisions for maintenance of air quality, water quality, and solid waste disposal. Scenic values, fisheries, and wildlife habitat are to be given such protection as is practicable. Road construction and maintenance are designed to minimize and prevent, if practicable, damage to soil, water, and other values.	36 CFR 228, subpart A, including 228.4 and .5-plan of operations requirements. Also covered in FSM 2810 and 2802, 2803.
Approval of the plan is required before operations commence. A bond to ensure reclamation may be required as a condition of approval. In analysis of the plan, economics of the operation are considered in determining the reasonableness of the provisions for surface resource protection. Approval indicates that the operation, conducted according to the plan, will minimize surface resource disturbance. Approval may be withheld or delayed only for limited reasons specified in the regulations. A plan that describes an operation conducted in a reasonable and necessary manner is entitled to approval, even through surface resource damage may result. Approval of a plan does not signify consent to operate. Consent is granted by law.	36 CFR 228, subpart A, including 228.4 and .5-plan of operations requirements, and 228.13-bond reqts. Also covered in FSM 2810, and 2802, 2803.
The Forest Service regulations (36 CFR 228) also apply to wilderness. Although prospecting and mining are authorized in these areas, they must be conducted as compatibly with the preservation of wilderness character as is practicable. The regulations are applied more strictly in wilderness than on other lands.	36 CFR 228.15.
Salable Minerals: When need for salable mineral materials is indicated by government and/or private application, an environmental analysis will be conducted. If it is determined from this analysis that the site should be operated, appropriate conditions of operation are specified. Mineral materials are free for Federal, State, and local government units for use in road building. Competitive or negotiated sale is appropriate for personal and commercial use. The Wilderness Act of 1964 does not prohibit mineral material sales, but policy, expressed in regulations (36 CFR 293.14(c)), does.	36 CFR 228, Subpart C, and FSM 2850, and FSH 1909.15 and 1920.
Leasable Minerals: National Forest System land is available for mineral exploration, development, and production unless withdrawn from operation of the leasing laws, or unless withdrawal can be demonstrated as appropriate. Proposals for leases under the various leasing laws are considered in a speedy, simple process that does not sacrifice protection of surface resources. The process emphasizes the use of existing controls, minimizes special stipulations, and standardizes the wording of those special stipulations commonly needed. It also recognizes that a lease does not authorize surface-disturbing activity, but that operations are subject to an additional permit, issuance of which is preceded by an environmental analysis.	Forest Plans, +36 CFR 228, Subpart B, and Subpart E on oil and gas leasing. FSM 2820. Also see 36 CFR 219.22.

VOL 66 ISS 244 DE 19 2001 UMI

MANAGEMENT DIRECTION FROM THE REGIONAL GUIDE FOR THE SOUTHWESTERN REGION—Continued

Standards/Guidelines From Regional Guide	Addressed in
1. During the Forest planning process, land will be categorized for consideration of proposals for prospecting permits or leases under the various mineral leasing laws. Where applicable, management prescriptions will identify the following mineral leasing categories of an area for leasing and the operating constraints necessary to manage and protect surface resources: (1) Unavailable, (2) standard, (3) special, and (4) reserved. (See Appendix A for definitions of categories.) In a programmatic environmental analysis completed March 18, 1981, it was shown that little or no effect normally would result from a lease issued in areas in the standard category and all subcategories of the special category, except wilderness, wilderness study areas designated by Congress, and Administration-endorsed wilderness proposals, which are a special group within the limited surface use subcategory.	Forest Plans. 36 CFR 219.22, and 36 CFR 228.
2. For oil and gas leasing, the following special stipulation forms will be used in appropriate circumstances as supplements to the Bureau of Land Management Form 3109–3 (Stipulation for Lands Under the Jurisdiction of the Department of Agriculture): Endangered Species, Cultural and Paleontological Resources; Limited Surface Use; Further Planning; Wild and Scenic River Study; and Painting (See Appendix A).	FSM 2822.41, and 36 CFR 228 Subpart E.
3. For geothermal leasing, fewer and different special stipulations are needed than for oil and gas because the base lease, regulations, and Operational Orders give more comprehensive protection. Standard special stipulations are being developed for geothermal leases that will be used nationwide.	FSM 2170 (energy mgt).
4. Approval of the Regional Forester and Bureau of Land Management is required for inclusion of additional oil and gas or geothermal stipulations.	FSM 2822 and 2170; 36 FR 228.101, 102.
5. Prospecting for and production of other (solid) leasable minerals involves highly varied operations, and in recognition of this, conditions in base leases and regulations are less specific than those for oil and gas or for geothermal leases. There are no operating instructions. The special stipulations applicable to oil and gas will be used in appropriate circumstances; any needed additional ones require Regional Forester and Bureau of Land Management approval.	36 CFR 228, Subparts B and E. FSM 2820. Also see 36 CFR 219.22, and 36 CFR 228.108—surface use requirements.
6. Changes in base lease, regulations, and operating instructions, and development of nationwide special stipulations may require accommodating changes in wording and use of those herein.	This is a statement, not a standard.
7. Wilderness areas, wilderness study areas designated by Congress, and RARE II wilderness recommendations are in a subcategory of the special category, for which an environmental assessment or environmental impact statement is mandated. The report to the Bureau of Land Management is derived from this document. In circumstances defined by the Chief of the Forest Service, the contingent right stipulation may be used in addressing leasing proposals as an alternative to the above. (See Appendix A.)	36 CFR 228.15—operations in Wilderness; and FSH 1909.15.
Goals for the Southwestern Region	
1. Provide for the preservation of scenic beauty and the opportunity to enjoy it. 2. Provide a moderate increase in water yield, while maintaining water quality. 3. Provide high-quality wilderness in the Southwestern ecosystems and the opportunity to enjoy them. 4. Provide recreation opportunities in a natural setting. 5. Provide productive habitat for a diverse population of wildlife and fish species. 6. Provide for the sustained moderate production of timber and forage. 7. Recognize local traditional values and take opportunities to emphasize community stability and job opportunities through management programs, especially in areas where local people rely on the land for a social and economic base. 8. Provide opportunities for mineral development with emphasis on energy-related resources. 9. Encourage the protection and management of non-Federal range, forest, and watershed lands by providing assistance and research information to landowners through State agencies. 10. Strive for optimally effective public and employee health and safety programs. 11. Seek viewpoints and assistance in developing these health and safety programs and keep the public informed about Forest Service activities. 12. Provide an opportunity for human resource development through employment programs. 13. Stimulate, cooperate in, and implement relevant research. 14. Develop, motivate, and maintain an effective organization to support and accomplish all Regional programs, while providing equal employment opportunities, challenging career ladders, and the full use of all available employee skills.	These goals are already contained in Forest Plans, along with statutes, regulations and Forest Service directives.

[FR Doc. 01–31200 Filed 12–18–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2001), for administrative reviews of various antidumping and countervailing duty orders and findings with November anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than November 30, 2002.

	Period to be Reviewed
Antidumping Duty Proceedings	
Republic of Korea: Circular Welded Non-Alloy Steel Pipe, A–580–809	11/1/00—10/31/01
Shinho Steel Co.	
Mexico: Circular Welded Non-alloy Steel Pipe, A–201–805	11/1/00—10/31/01
Hysla, S.A. de C.V.	
The People's Republic of China: Fresh Garlic,* A–570–831	11/1/00—10/31/01
Asia Pacific Express Company, Ltd.	
CIF Transportation (HK) Company, Ltd.	
Clipper Manufacturing Ltd.	
Fook Huat Tong Kee Pte., Ltd./Taian Fook Huat Tong Kee Foods Co.	
Foshan Foodstuffs Import & Export Company	
Jinan Import & Export Corporation	
Jinxiang Foreign Trade Corporation	
Jinxiang Hong Chong Fruits & Vegetable Products Company, Ltd.	
Qingdao Rui Sheng Food Company, Ltd.	
Rich Shipping Company, Ltd.	
Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd.	
Shandong Commercial Group Corporation	
Top Pearl Ltd.	
Wo Hing (H.K.) Trading Co.	
Zen Continental Company, Inc.	
Zhejiang Materials Industry International Co., Ltd.	
Golden Light Trading Company, Ltd.	
Good Fate International	
Phil-Sino International Trading Inc.	
United Shipping Agency Company, Ltd.	
*If one of the above named companies does not qualify for a separate rate, all other exporters of fresh garlic from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
Ukraine: Certain Cut-to-Length Carbon Steel Plate, A–823–808	11/1/00—10/31/01

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: December 13, 2001.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 01–31257 Filed 12–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia: Notice of Extension of Time Limits for Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is extending the time limits of the final results of the antidumping duty administrative review on extruded rubber thread from Malaysia. The review covers three producers/exporters of the subject merchandise to the United

States. The period of review is October 1, 1999, through September 30, 2000.

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–0656 or (202) 482–3874, respectively.

Postponement of Final Results of Administrative Review: The Department published the preliminary results of the 1999–2000 administrative review of the antidumping duty order on extruded rubber thread from Malaysia on November 6, 2001 (66 FR 56057). The current deadline for the final results in this review is March 6, 2002. We must conduct sales and cost verifications of the information provided by the respondents. Due to scheduling problems with one of the companies participating in this review, we are unable to complete verification before March 2002. Because we need additional time for verification, we have extended the deadline until May 6, 2002.

This extension is in accordance with section 751(a)(3)(A) of Tariff Act of 1930, as amended by the Uruguay Round Agreements Act, and 19 CFR 351.213(h)(2).

Dated: December 12, 2001.

Louis Apple,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 01–31256 Filed 12–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Connecticut, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes: *Correction*

In notice document 01–30170, appearing on page 63218 in the issue of Wednesday, December 5, 2001, make the following correction:

On page 63218, in the third column, first full paragraph, "Order Date: December 8, 2001." should read "Order Date: December 8, 2000."

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–31258 Filed 12–18–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110701B]

Marine Mammals; Notice of Intent to Prepare an Environmental Assessment for Issuing a Bowhead Whale Subsistence Quota to the Alaska Eskimo Whaling Commission (AEWC) for the years 2003 through 2007

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare an Environmental Assessment (EA); request for written comments.

SUMMARY: NMFS announces its intention to prepare an EA, in accordance with the National Environmental Policy Act, to assess the impacts of issuing a subsistence quota for bowhead whales to the AEWC for the years 2003 through 2007. NMFS solicits comments and information to facilitate this analysis.

DATES: Comments and information must be postmarked by January 31, 2002.

ADDRESSES: Written comments should be sent to Chief, Marine Mammal Division (F/PR2), Office of Protected Resources, National Marine Fisheries Service, 13th Floor, 1315 East-West Hwy, Silver Spring, MD 20910. Please mark the outside of the envelope with "Comments on Bowhead Whale Analysis." Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Emily Hanson Menashes, NMFS Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION: At its 1997 annual meeting, the International Whaling Commission (IWC) approved a 5-year quota for the aboriginal take of the Western arctic stock of bowhead whales. The quota allows for a combined total of up to 280 whales to be landed in the years 1998 through 2002 by Alaskan and Russian natives. For each of these years, the number of bowhead whales struck shall not exceed 67, except that any unused portion of a strike quota from any year shall be carried forward and added to the strike quota of any subsequent year, provided that no more than 15 strikes shall be added to the strike quota for any one year.

The basis for the quota was a joint request by the Russian Federation and the United States, showing that the needs of both countries' Native groups could be met with an annual average of 56 landed bowhead whales (or a total of 255 for the Alaska Eskimos and 25 for the Chukotka people over the 5-year period). The annual strike limits and quotas for whales are determined at the beginning of each year after consultation with the Russian government.

At the 52nd annual meeting of the IWC, held in June and July of 2000, the IWC Scientific Committee proposed a structure for block quotas for the bowhead whale aboriginal subsistence hunt to be used as part of the Scientific Committee's proposed revisions to the Aboriginal Whaling Management Plan. This structure calls for five-year blocks with an inter-annual carry-over allowance of up to 50 percent of unused strikes, including strikes from the previous quota block (IWC/52/AS7). The Commission agreed with the proposal from the Scientific Committee in the context of trials.

At the 53rd IWC annual meeting, held in July of 2001, the Commission agreed with the Scientific Committee's recommendations with respect to carry-over. The Scientific Committee also noted that if, under a recommended Strike Limit Algorithm, current aboriginal subsistence need is met, then a revised Schedule paragraph might specify a block strike limit quota with an annual cap on strikes. The Scientific Committee also reiterated its 1999 advice for the Bering-Chukchi-Beaufort Seas stock of bowhead whales, i.e., that it is very likely that a catch limit of 102 whales or less would be consistent with the requirements of the Schedule (IWC/53/4, Report of the Scientific Committee).

Alaska Eskimos have been taking bowhead whales for at least 2,000 years. Alaska Native subsistence hunters take less than one percent of the population of bowhead whales per year. Since 1977, the number of takes has ranged between 14 and 77 per year, depending in part on changes in management strategy and in part on higher estimates of bowhead whale abundance in recent years (NMFS Alaska Marine Mammal Stock Assessments, 2000).

The IWC's 54th annual meeting is scheduled for May of 2002. NMFS is preparing an EA on issuing a quota to the AEWC for a subsistence hunt on bowhead whales for the years 2003 through 2007 in the event that the IWC renews a 5-year aboriginal subsistence quota for bowhead whales. NMFS will evaluate the following four alternatives:

Alternative 1—Grant the AEWC a quota that meets the documented need of Alaskan Eskimos for 255 landed whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where no unused strikes are added to the strike quota for any one year.

Alternative 2—Grant the AEWC a quota that meets the documented need of Alaskan Eskimos for 255 landed whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where no more than 15 unused strikes are added to the strike quota for any one year.

Alternative 3—Grant the AEWC a quota that meets the documented need of Alaskan Eskimos for 255 landed whales over 5 years (2003 through 2007), with an annual strike quota of 67 bowhead whales per year, where, for unused strikes, up to 50 percent of the annual strike limit is added to the strike quota for any one year.

Alternative 4 (No Action)—Do not grant the AEWC a quota.

Information Solicited

To ensure that the review is comprehensive and based on the best available information, NMFS is soliciting information and comments from any interested party concerning issuing a bowhead whale quota to the AEWC of 255 landed whales over 5 years (2003 through 2007). NMFS is particularly interested in information on the affected environment or environmental consequences of issuing a quota. It is requested that data, information, and comments be accompanied by (1) supporting documentation, and (2) the name, address, and affiliation of person submitting data. Following publication of the draft EA, NMFS will solicit additional public input.

Dated: December 14, 2001.

Rebecca J. Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 01–31263 Filed 12–18–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System

AGENCY: Department of the Air Force, DoD.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of forthcoming meetings of the Federal Advisory Committee for the End-to-End Review of the U.S. Nuclear Command and Control System (NCCS). The purpose of these meetings is to conduct a comprehensive and independent review of the NCCS positive measures to assure authorized use of nuclear weapons when directed by the President while assuring against unauthorized or inadvertent use. This meeting will be closed to the public.

DATES: January 29, 2002.

ADDRESSES: NSS, Skyline 3, Suite 500, 5201 Leesburg Pike, Falls Church, VA 22041.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Jones, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041, (703) 681–8681.

Janet A. Long,

Air Force Federal Register Liaison Officer

[FR Doc. 01–31198 Filed 12–18–01; 8:45 am]

BILLING CODE 5001–05–U

DEPARTMENT OF EDUCATION

President's Commission on Excellence in Special Education

AGENCY: President's Commission on Excellence in Special Education, Department of Education.

ACTION: Notice of a public meeting.

SUMMARY: This meeting describes the schedule and agenda of a forthcoming meeting of the President's Commission on Excellence in Special Education (Commission). Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act in order to notify the public of their opportunity to attend. The Commission's meeting notice is subject to the final appropriation of the Labor, HHS, and Education 2002 budget and may change if this budget is not enacted prior to January 15, 2002.

DATES AND TIMES: Tuesday, January 15, 2002, from 8:30 a.m.–7 p.m.

ADDRESSES: The Commission meeting will be held in Washington, DC. Exact location of hearing is not yet determined because of delays in finalizing meeting logistics.

FOR FURTHER INFORMATION CONTACT: C. Todd Jones, Executive Director, at 202–208–1312 (telephone) or Troy R. Justesen, Deputy Executive Director, at 202–219–0704 (telephone), (202) 208–1953 (fax), *troy.justesen@ed.gov* (e-mail) or mail: President's Commission on Excellence in Special Education, 80 F Street, NW., Suite 408; Washington, DC 20208.

SUPPLEMENTARY INFORMATION: The Commission is established under Executive Order 13227 (October 2, 2001) to collect information and study issues related to Federal, State, and local special education programs with the goal of recommending policies for improving the educational performance of students with disabilities. In furtherance of its duties, the Commission shall invite experts and members of the public to provide information and guidance. The Commission shall prepare and submit a report to the President outlining its findings and recommendations.

The Commission will discuss current and future activities. Specifically, the Commission will focus on planning future Commission meetings and hearings to be held in location across the nation.

Individuals requiring accommodations such as interpreting services, assistive listening devices, materials in alternative formats should notify Troy R. Justesen, at (202) 219–704, no later than January 8, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site will be accessible to individuals with mobility impairments, including those who use wheelchairs.

Records of all Commission proceedings are available for public inspection at the President's Commission on Excellence in Special Education, 80 F Street, NW., Suite 408; Washington, DC 20208 from 9 a.m. to 5 p.m. (EST).

Dated: December 14, 2001.

C. Todd Jones,

Delegated functions of Assistant Secretary for Office for Civil Rights.

[FR Doc. 01–31259 Filed 12–18–01; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–496–000]

Central Vermont Public Service Corporation; Notice of Filing

December 13, 2001.

Take notice that on November 30, 2001, Central Vermont Public Service Corporation (CVPS) tendered for filing a letter stating that CVPS will not file a Forecast 2002 Cost Report for FERC Electric Tariff, Original Volume No. 4, since there are no customers expected to take such service.

VOL 66 ISS 244 DE 19 2001 UMI

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31233 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–497–000]

Central Vermont Public Service Corporation; Notice of Filing

December 13, 2001.

Take notice that on November 30, 2001, Central Vermont Public Service Corporation (CVPS) tendered for filing a letter stating that CVPS will not file a Forecast 2002 Cost Report for FERC Electric Tariff, Original Volume No. 3. No customers will take Tariff No. 3 transmission service during 2002 because such service was terminated effective December 31, 1999. CVPS provides transmission service under its FERC Electric Tariff, First Revised Volume No. 7.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 21, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31234 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–491–000]

Duke Power, a Division of Duke Energy Corporation; Notice of Filing

December 13, 2001.

Take notice that on December 6, 2001, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement under Duke's Wholesale Market-Based Rate Tariff Providing for Sales of Capacity, Energy, or Ancillary Services and Resale of Transmission Rights between Duke and Williams Energy Marketing and Trading Company. Duke requests that the proposed Service Agreement be permitted to become effective on November 12, 2001. Duke states that this filing is in accordance with part 35 of the Commission's Regulations, and that a copy has been served on the North Carolina Utilities Commission.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before December 27, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31232 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–39–000]

Nevada Power Company, Complainant, v. Allegheny Energy Supply Company, LLC, Respondent; Notice of Complaint

December 13, 2001.

Take notice that on December 7, 2001, Nevada Power Company (NPC) filed with the Federal Energy Regulatory Commission (Commission) a complaint requesting that the Commission mitigate unjust and unreasonable prices in sales contracts between NPC and Allegheny Energy Supply Company, LLC (Allegheny) entered into in the last half of 2000 and the first half of 2002 for delivery after January 1, 2002.

NPC requests that the Commission set a refund effective date of 60 days from the date of filing of its complaint.

Copies of NPC's filing were served on Allegheny and the Public Utilities Commission of Nevada.

NPC has requested privileged treatment of certain information in the complaint and has filed privileged and public copies of the complaint, a request for privileged treatment, and a protective agreement.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before December 27, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before December 27, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31230 Filed 12-18-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02-26-000 and ER02-271-000]

Pleasants Energy, LLC; Notice of Issuance of Order

December 13, 2001.

Pleasants Energy, LLC (Pleasants Energy), an indirect wholly-owned subsidiary of Dominion Energy, Inc. filed with the Commission, in the above-docketed proceeding, a proposed market-based rate tariff under which Pleasants Energy will engage in the sales of capacity, energy, and/or ancillary services and the resale of transmission rights. Pleasants Energy also requested certain waivers and authorizations. In particular, Pleasants Energy requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Pleasants Energy. On December 6, 2001, the Commission issued an order that accepted the tariff for sales of capacity and energy at market-based rates (Order), in the above-docketed proceeding.

The Commission's December 6, 2001 Order granted Pleasants Energy's request for blanket approval under Part 34, subject to the conditions found in Appendix A in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Pleasants Energy should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure, 18 CFR 385.211 and 385.214.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, Pleasants Energy is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Pleasants Energy, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Pleasants Energy's issuances of securities or assumptions of liabilities.

* * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is January 7, 2002.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31231 Filed 12-18-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-36-000]

Williston Basin Interstate Pipeline Company; Notice of Application

December 13, 2001.

Take notice that on November 30, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), P.O. Box 5601, Bismarck, North Dakota 58506-5601, filed in Docket No. CP02-36-000 an Abbreviated Application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Sections 157.7 and 157.18 of the Commission's Regulations for an order authorizing Williston Basin to abandon the transportation of natural gas volumes for Shell Western E&P, Inc. (Shell) pursuant to Rate Schedule T-5 and authorizing Williston Basin to abandon Rate Schedule T-5 of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), in its entirety, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208-2222 for assistance.

Williston Basin states that the Rate Schedule T-5 Service Agreement with Shell expires by the terms of the agreement on December 1, 2001 and no service has been provided to Shell pursuant to this Service Agreement since March 1998. Williston Basin also states that pursuant to Docket No. CP85-534-000, Rate Schedule T-5 was available only to six specific producers. Williston Basin has previously filed for and received authorization, pursuant to Section 7(b) of the NGA, to abandon service to the other five specific producers. With the termination of the Service Agreement with Shell on December 1, 2001, service under Rate Schedule T-5 will no longer be available to any party and Williston Basin has no further need for Rate Schedule T-5.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All such motions to intervene or protests should be filed on or before January 3, 2002. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31229 Filed 12-18-01; 8:45 am]

BILLING CODE 6717-01-P

VOL 66 ISS 244 DEC 19 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–31–000, *et al.*]

Pacific Gas and Electric Company, *et al.*; Electric Rate and Corporate Regulation Filings

December 12, 2001.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company, PG&E Corporation on Behalf of Its Subsidiaries Electric Generation LLC, ETrans LLC and GTrans LLC

[Docket Nos. EC02–31–000, EL02–36–000, and CP02–38–000]

Take notice that on November 30, 2001, Pacific Gas and Electric Company (PG&E) and PG&E Corporation (Parent) on behalf of its subsidiaries, Electric Generation LLC, ETrans LLC and GTrans LLC (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act (FPA) and related declaratory orders under sections 201 and 305 of the FPA and section 12 of the Natural Gas Act for authorization of a disposition of jurisdictional facilities. PG&E is a debtor pursuant to Title 11 of the U.S. Code. In accordance with the plan of reorganization pending before the bankruptcy court, Applicants request approval for various transactions required for a reorganization of PG&E that will result in the corporate unbundling of certain of PG&E's operations and spin-off of PG&E (as a retail gas and electric distribution company) from Parent. The application includes a request for privileged treatment of confidential information. A copy of the related filings will be posted on PG&E's Web site at *http://apps.pge.com/regulation*.

Comment date: January 30, 2002, in accordance with Standard Paragraph E at the end of this notice.

2. Mirant Americas Energy Marketing, LP

[Docket No. ER97–4166–009]

Take notice that on December 5, 2001, Mirant Americas Energy Marketing, LP (MAEM) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised triennial market power analysis in compliance with the November 20, 2001, Commission Order. AEP Power Marketing, Inc. 97 FERC 61,219 (2001).

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01–3142–004]

Take notice that on December 6, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) revisions to its Open Access Transmission tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1. The proposed revisions to the Midwest ISO OATT are intended to correct inconsistencies and to clarify certain provisions.

The Midwest ISO seeks an effective date of the later of December 19, 2001 or the date the Midwest ISO begins providing service under its OATT.

The Midwest ISO also seeks waiver of the Commission's regulations 18 CFR 385.2010 (2001) with respect to service on all parties on the official service list in this proceeding. Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. NorthWestern Energy Marketing, LLC

[Docket No. ER02–41–001]

On December 7, 2001, NorthWestern Energy Marketing, LLC, a limited liability corporation organized under the laws of the State of Delaware, filed its response to the December 3, 2001 request of Michael A. Coleman, Director of the Division of Tariffs and Rates-West at the Federal Energy Regulatory Commission (Commission) for the following in the above-referenced proceeding: (1) Confirmation and clarification that NEM requests authorization to make sales of ancillary services utilizing an Internet-based OASIS like site and (2) inclusion in NEM's proposed FERC Electric Rate Schedule No. 1 a provision for refunds in certain circumstances.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Southwestern Public Service Company

[Docket No. ER02–213–001]

Take notice that on December 7, 2001, Southwestern Public Service Company (Southwestern) tendered for filing a First Revised Rate Schedule for Central Valley Electric Cooperative, Inc. (Central Valley) to comply with Order 614 and amend the Exhibit A delivery point listing for service to Central Valley to add a new delivery point.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket No. ER02–250–001]

Take notice that on December 7, 2001, the California Independent System Operator Corporation (ISO) tendered for filing an errata to its 2002 Grid Management Charge filed on November 2, 2001. The purpose of the errata is to allow for the Quarterly Adjustment to the ISO's 2002 revenue requirement to reflect anticipated cost savings, or to reflect unanticipated collections of fines and penalties. This provision was intended to be submitted with the November 2, 2001 filing but was omitted due to an oversight. The ISO is requesting that the errata be treated the same as if it was submitted on November 2, 2001 and be made effective January 1, 2002.

The ISO states that this filing has been served on the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, and upon all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Southwest Power Pool, Inc.

[Docket No. ER02–472–000]

Take notice that on December 4, 2001, Southwest Power Pool, Inc. (SPP) submitted for filing two executed service agreements for Firm Point-to-Point Transmission Service with Southwestern Power Administration (Transmission Customer).

SPP requests an effective date of June 1, 2002 for these service agreements. A copy of this filing was served on the Transmission Customer.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. PPL Montana, LLC

[Docket No. ER02–474–000]

Take notice that on December 4, 2001, PPL Montana, LLC (PPL Montana) filed with the Commission an executed service agreement under PPL Montana's FERC Electric Tariff, Original Volume No. 3 between PPL Montana and Enron Power Marketing, Inc. (EPMI).

PPL Montana requests that the Commission grant a waiver so as to permit the service agreement to become effective on September 1, 2001. PPL Montana states that it has served a copy of this filing on EPMI.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Holt Company of Ohio

[Docket No. ER02–475–000]

Take notice that on December 4, 2001, the Holt Company of Ohio (Holt) submitted for filing with the Federal Energy Regulatory Commission (Commission) an Umbrella Service Agreement for Short-Term Sales between Holt and American Municipal Power-Ohio (AMP-Ohio). The Umbrella Service Agreement between Holt and AMP-Ohio sets out the general commercial terms and conditions pursuant to which Holt makes sales of electric energy and capacity to AMP-Ohio.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Troup Electric Membership Corporation

[Docket No. ER02–476–000]

Take notice that on December 4, 2001, Troup Electric Membership Corporation (Troup), a non-profit electric distribution cooperative filed a petition for authority to sell power at market-based rates, acceptance of its proposed rate schedule and certain waivers.

Troup requests an effective date for its proposed rate schedule that would be 60 days from the date of the filing of its petition or the date of the order accepting Troup's rate schedule for filing.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Company LLC

[Docket No. ER02–477–000]

Take notice that on December 5, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and City of Kaukauna.

ATCLLC requests an effective date of June 25, 2001.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Company Services, Inc.

[Docket No. ER02–478–000]

Take notice that on December 5, 2001, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed a Notice of Cancellation of three (3) transmission service agreements under the Open Access Transmission Tariff of Southern Companies (Tariff) (FERC Electric Tariff, Fourth Revised Volume No. 5). These three cancellations include: (1) A non-firm point-to-point transmission service agreement under the Tariff between SCS, as agent for Southern Companies, and Avista Energy, Inc.; (2) a firm point-to-point service agreement under the Tariff between SCS, as agent for Southern Companies, and Avista Energy, Inc.; and (3) a conditional and experimental firm point-to-point transmission service agreement under the Tariff between SCS, as agent for Southern Companies, and Coral Power, LLC.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Pacific Gas and Electric Company

[Docket No. ER02–479–000]

Take notice that on December 5, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a new Grid Management Charge Pass-Through Tariff (GMC P–TT) This filing seeks to recover the costs proposed in the California Independent System Operator Corporation's (ISO) GMC filing in Docket No. ER02–250–000 on November 1, 2001.

PG&E requests an effective date of January 1, 2002 or the date the Commission makes effective the ISO's filing in Docket No. ER02–250–000.

Copies of this filing have been served upon the California Public Utilities Commission, all affected customers and the ISO.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. PPL EnergyPlus, LLC

[Docket No. ER02–480–000]

Take notice that on December 5, 2001, PPL EnergyPlus, LLC (PPL EnergyPlus) filed with the Federal Energy Regulatory Commission (Commission) revisions to its Rate Schedule FERC No. 9, a long-term power sales agreement between PPL EnergyPlus and PPL Electric Utilities Corporation (PPL Electric).

PPL EnergyPlus requests that the Commission grant a waiver so as to permit the revised agreement to become effective on January 1, 2002. PPL EnergyPlus states that it has served a copy of this filing upon PPL Electric.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. PPL EnergyPlus, LLC

[Docket No. ER02–481–000]

Take notice that on December 5, 2001, PPL EnergyPlus, LLC (PPL EnergyPlus) filed with the Federal Energy Regulatory Commission (Commission) revisions to its First Revised Rate Schedule FERC No. 4, a long-term power sales agreement between PPL EnergyPlus and PPL Electric Utilities Corporation (PPL Electric).

PPL EnergyPlus requests that the Commission grant a waiver so as to permit the revised agreement to become effective on January 1, 2002. PPL EnergyPlus states that it has served a copy of this filing upon PPL Electric.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. PPL Montana, LLC

[Docket No. ER02–482–000]

Take notice that on December 5, 2001, PPL Montana, LLC (PPL Montana) filed a notice of cancellation of a transaction confirmation between PPL Montana and Enron Power Marketing, Inc. (EPMI).

Notice of the cancellation has been served upon EPMI.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31190 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of Licenses and Substitution of Relicense Applicant, Soliciting Comments, Motions to Intervene, and Protests

December 13, 2001.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Application Types and Project Nos:* (1) Transfer of 26 Hydroelectric Licenses for Project Nos. 77–116, 96–031, 137–031, 175–018, 178–015, 233–082, 606–020, 619–095, 803–055, 1061–056, 1121–058, 1333–037, 1354–029, 1403–042, 1962–039, 1988–030, 2105–087, 2106–039, 2107–012, 2130–030, 2155–022, 2310–120, 2467–016, 2661–016, 2687–022, and 2735–071; (2) Request for Substitution of Applicant for New License in Project Nos. 233–081, 1354–005, 2107–010, 2661–012, and 2687–014; and (3) Transfer of Transmission-Line-Only Licenses for Project Nos. 2118–006, 2281–005, 2479–003, 2678–001, 2781–004, 2784–001, 4851–004, 5536–001, 5828–003, 7009–004, and 10821–002.

b. *Date Filed:* November 30, 2001.

c. *Applicants:* Pacific Gas and Electric Company (PG&E), subsidiaries of Electric Generation LLC, and ETrans LLC. The City of Santa Clara, CA, is now and will remain co-licensee for Project No. 619.[1]

d. *Project Names, Federal land use, and Locations:* All of these projects are in California.

Hydroelectric Projects: The Potter Valley Project is in Mendocino National Forest (NF) on the Eel and East Fork Russian Rivers in Lake and Mendocino Counties. The Kerchoff 1 and 2 Project uses Bureau of Land Management (BLM) and Bureau of Reclamation (BOR) land and is in Sierra NF on the San Joaquin River in Fresno and Madera Counties. The Mokelumne Project uses BLM land and is in Stanislaus NF and El Dorado NF on the Mokelumne River, its tributaries, and the Bear River in Alpine, Amador, and Calaveras Counties. The Balch 1 and 2 Project is in Sierra NF and Sequoia NF on the North Fork Kings River in Fresno County. The Kern Canyon Project is in Sequoia NF on the Kern River in Kern County. The Pit 3, 4, and 5 Project is in Shasta NF on the Pit River in Shasta County. The Kilarc-Cow Project uses BLM land on Old Cow and South Cow Creeks in Shasta County. The Bucks Creek Project is in Plumas NF and Lasses NF on Bucks and Grizzly Creeks in Plumas County. The Desabla-Centerville Project uses BLM land and is in Lassen NF on the West Branch Feather River and Butte Creek in Butte County. The Phoenix Project uses BLM land and is in Stanislaus NF on the South Fork of the Stanislaus River in Tuolumne County. The Battle Creek Project is in Lassen NF on Battle Creek in Shasta and Tehama Counties. The Tule River Project is in Sequoia NF on the North Fork of the Middle Fork Tule River in Tulare County. The Crane Valley Project is in Sierra NF on various creeks within the San Joaquin River Basin in Fresno and Madera Counties. The Narrows Project uses U.S. Army Corps of Engineers (COE) land on the Yuba River in Nevada County. The Rock Creek-Cresta Project is in Plumas NF on the North Fork Feather River in Butte and Plumas Counties. The Hass-Kings Project uses COE and BLM land and is in Sierra NF and Sequoia NF on the North Fork Kings River in Fresno County. The Upper North Fork Feather River Project is in Plumas NF and Lassen NF on the North Fork Feather River in Plumas County. The McCloud-Pit Project uses BLM land and is in Shasta-Trinity NF on the McCloud and lower Pit Rivers in Shasta County. The Poe Project is in Plumas NF on the North Fork Feather River in Butte County. The Spring Gap-Stanislaus Project is in Stanislaus NF on the Stanislaus River and tributaries in Calaveras and Tuolumne Counties. The Chili Bar Project uses BLM land and is in El Dorado NF on the South Fork of the American River in El Dorado County. The Drum-Spaulding Project uses BLM land and is in Tahoe NF on the South Yuba and Bear Rivers in Nevada and Placer Counties. The Merced Falls Project uses BLM land on the Merced River in Merced and Mariposa Counties. The Hat Creek 1 and 2 Project is on Hat Creek in Shasta County. The Pit 1 Project is on the Tule, Little Tule, Fall, and Pit Rivers in Shasta County. The Helms Project uses BOR land and is in Sierra NF on Helms Creek and the North Fork Kings River in Fresno County.

Transmission-Line-Only Projects: The Donnells-Standard City Project uses BOR land and is in Stanislaus NF in Tuolumne County. The Woodleaf-Palermo Project is in Plumas NF in Butte County. The French Meadows Project is in El Dorado NF and Tahoe NF in San Francisco County. The Narrows No. 2—Smartville Project uses COE land in Yuba and Nevada Counties. The New Melones Project uses COE and BLM land in Calaveras County. The Rollins Project is in Nevada and Placer Counties. The Sly Creek Project is in Plumas NF in Butte County. The Pardee Tap No. 2 and Camanche Project is in Calaveras, Amador, and San Joaquine Counties. The Monticello Project uses BOR land in Solano and Napa Counties. The Friant Project uses BOR land in Fresno County. The Camp Far West Project is in Placer and Yuba Counties.

e. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

f. *Applicant Contacts:* Ms. Annette Faraglia, Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, CA 94120–7442, (415) 973–7145 and Mr. John A. Whittaker, IV, Winston & Strawn, 1400 L Street NW, Washington, DC 20005, (202) 371–5700.

g. *FERC Contact:* James Hunter, (202) 219–2839.

h. *Deadline for filing motions to intervene, protests, and comments:* 60 days from the issue date of this notice.

i. All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. Please include the noted project numbers on any comments or motions filed.

j. *Description of Proposal:* PG&E requests approval to transfer PG&E's 26 hydroelectric licenses and 11 transmission-line-only licenses to other entities. The purpose of these applications is to implement one part of a comprehensive Plan of Reorganization (Plan) for PG&E under the U.S.

---

[1] The application requests waiver of any requirement for making Santa Clara a co-applicant. It also states that PG&E is hopeful that it can obtain Santa Clara's support for the application. Failure to make Santa Clara a co-applicant may delay the processing of the application for Project No. 619.

VOL 66 ISS 244 DE 19 2001 UMI

Bankruptcy Code. Under the Plan, PG&E will separate and restructure its businesses and divide its operations and assets among different operating companies. As to PG&E's FPA Part I jurisdictional facilities, the Plan proposes that PG&E's 26 licensed hydroelectric projects and related licenses be transferred to 26 separate California limited liability company subsidiaries (LLC Subs) of a new generation company (Electric Generation LLC), which will operate and maintain the projects for the LLC Subs under leases with them, and that PG&E's 11 transmission-line-only projects and related licenses be transferred to a new transmission company (ETrans LLC). The names of the LLC Subs mirror the name of the project of which they are to become the new licensee. For example, for the Potter Valley Project No. 77, the name of the LLC Sub that will become the new licensee of the project is Potter Valley Project LLC. After the consummation of the Plan, PG&E, as a reorganized company, will operate as a stand alone local electric and gas distribution business. PG&E intends to retain property rights in certain project facilities that involve energy distribution functions in Project Nos. 77, 96, 137, 175, 233, 619, 803, 1333, 1354, 1403, 2130, 2310, and 2467.

The transfer applications were filed within five years of the expiration of the licenses for Project Nos. 233, 1354, 2107, 2661, and 2687, which are subject of pending relicense applications. In Hydroelectric Relicensing Regulations Under the Federal Power Act (54 F.R. 23,756; FERC Stats. and Regs., Regs. Preambles 1986–1990 30,854 at p. 31,437), the Commission declined to forbid all license transfers during the last five years of an existing license, and instead indicated that it would scrutinize all such transfer requests to determine if the transfer's primary purpose was to give the transferee an advantage in relicensing (id. at p. 31,438 n. 318).

Several of the transfer applications also contain separate requests for approval of the substitution of the transferee for the transferor as the applicant in the pending relicensing applications filed by PG&E in Project Nos. 233–081, 1354–005, 2107–010, 2661–012, and 2687–014.

k. Copies of these filings are on file with the Commission and are available for public inspection. The filings may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call (202) 208–2222 for assistance). Copies are also available for inspection and reproduction at the addresses in item f above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31235 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

December 13, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12135–000.

c. *Date filed:* November 1, 2001.

d. *Applicants:* South Fork Irrigation District and Hot Springs Valley Irrigation District.

e. *Name of Project:* West Valley Pumped Storage Hydroelectric Project.

f. *Location:* The project would utilize the Bureau of Land Management's existing Moon Lake, also known as Tule Lake, on Cedar Creek, and lands within Modoc National Forest in Lassen and Modoc Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Don R. Pope, 9709 W. Fairview Avenue, Littleton, CO 80127–3955, (303) 973–9610.

i. *FERC Contact:* Mr. James Hunter, (202) 219–2839.

j. *Deadline for filing motions to intervene, protests, and comments:* 60 days from the issue date of this notice.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the "e-Filing" link. Please include the project number (P–12135–000) on any comments or motions filed.

k. *Description of Project:* The proposed pumped storage project would utilize the existing Moon Lake Dam and Reservoir, which are proposed to serve as the upper reservoir, and would consist of: (1) A proposed 90-foot-high, 650-foot-long concrete dam, (2) a proposed reservoir having a surface area of 184 acres at normal water surface elevation 4,950 feet msl, the proposed lower reservoir, (3) a proposed 16,000-foot-long tunnel connecting the reservoirs, (4) a proposed underground powerhouse, containing four generating units with a total installed capacity of 264 megawatts, (5) a proposed 5-mile-long, 230-kilovolt transmission line, and (6) appurtenant facilities. The project would have an annual generation of 542.9 gigawatthours that would be sold to a local utility.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the

VOL 66 ISS 244 DE 19 2001 UMI

instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

m. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. *Notice of intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

r. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

s. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31237 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11162–002]

Wisconsin Power and Light Company; Notice of Modifying a Restricted Service List for Comments on a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

December 13, 2001.

On September 24, 2001, the Federal Energy Regulatory Commission (Commission) issued a notice for the Prairie du Sac Project (FERC No. 11162–002) proposing to establish a restricted service list for the purpose of developing and executing a Programmatic Agreement (PA) for managing properties included in or eligible for inclusion in the National Register of Historic Places. The Prairie du Sac Project is located in Sauk and Columbia Counties in central Wisconsin. Wisconsin Power and Light Company is the prospective licensee.

Rule 2010 of the Commission's Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established. The following changes to the existing restricted service list are noted.

Add "Larry Garvin, Executive Director of Heritage Preservation, Ho-Chunk Nation of Wisconsin, P.O. Box 667, Black River Falls, WI 54615".

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31236 Filed 12–18–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–8]

EPA Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Executive Committee (EC) of the US EPA Science Advisory Board (SAB) will conduct a public teleconference meeting on Friday, January 11, 2002 from 11 am to 1:30 pm Eastern Daylight Time. The meeting will be coordinated through a conference call connection in Room 6013 in the USEPA, Ariel Rios Building, 1200 Pennsylvania Ave, NW, Washington, DC 20004. The public is encouraged to attend the meeting in the conference room noted above. However, the public may also attend through a telephonic link, to the extent that lines are available. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Diana Pozun (202–564–4544) or e-mail at *pozun.diana@epa.gov*. The meeting is open to the public, however, seating is limited and available on a first come basis.

---

[1] 18 CFR 385.2010.

Purpose of the Meeting: (a) The Executive Committee plans to review a draft outline for a manual to guide formation of SAB panels. This draft outline was prepared by the SAB's Policy and Procedures Subcommittee (PPS).

(b) Although not confirmed at the time this FR Notice was prepared, the EC may also review a draft Commentary from the SAB's Environmental Economics Advisory Committee (EEAC) on the topic: *Importance of Maintaining the Annual Pollution Abatement and Control Expenditures (PACE) Survey.* This Commentary was prepared from discussions at the EEAC meeting on November 30, 2001 (please see 66 FR 54243, dated October 26, 2001 for details of that meeting). Please see the SAB Web site (see below) to determine if this draft Commentary will be on the agenda for the meeting, and to obtain a copy.

Please check with Diana Pozun (see contact information below) prior to the meeting to determine if any other reports will be on the agenda as last minute changes can take place.

Availability of Review Materials: Drafts of both review documents (items "a" and "b" above) will be available to the public on the SAB Website (*http://www.epa.gov/sab*) approximately two weeks prior to the meeting. A draft meeting agenda will be posted on the same website approximately a week prior to the meeting.

For Further Information—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (3 minutes or less) must contact Dr. Donald Barnes, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4533; FAX (202) 501–0323; or via e-mail at *barnes.don@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax, or mail) and received by Dr. Barnes no later than noon Eastern Daylight Time on January 4, 2002. Information on availability of review materials and the draft meeting agenda can be obtained from Ms. Diana Pozun, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (Telephone (202) 564–4544, FAX (202) 501–0323; or via e-mail at: *pozun.diana@epa.gov.*

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Web site (*http://www.epa.gov/sab*) and in *The FY2000 Annual Report of the Staff Director* which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our Web site.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Barnes at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: December 13, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–31243 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30510A; FRL–6810–9]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Makhteshim-Agan of North America, Inc., 551 Fifth Avenue, Suite 1100, New York, NY 10176, to conditionally register the pesticide products Rimon Technical and Rimon 10 EC containing Novaluron a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Suku Oonnithan, Insecticide-Rodenticide Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 605–0368; and e-mail address: oonnithan.suku@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing

VOL 66 ISS 244 DE 19 2001 UMI

Categories	NAICS Codes	Examples of Potentially Affected Entities
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/, and select "fact sheet."

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30510A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, Arlington, VA (703) 305–5805. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of novaluron, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of novaluron during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditionally Approved Registrations

EPA issued a notice, published in the **Federal Register** of April 4, 2001 (66 FR 17882-83) (FRL 6771-8), which announced that Makhteshim-Agan of North America, Inc., 551 Fifth Ave. Suite 1100, New York, NY 10176, had submited an application to register the pesticide products, Rimon Technical and Rimon 10 EC.

Rimon Technical, EPA registration number 11678-57, is used for the manufacturing of end-use product formulations. Rimon 10 EC, EPA registration number 66222-35, is used for the control of insect pests on container grown ornamentals in greenhouses. Both products were approved on September 25, 2001.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31245 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1037; FRL–6795–9]

Notice of Filing a Pesticide Petition to Establish a Tolerance fora Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain

pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1037, must be received on or before January 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1037 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8717; e-mail address: ball.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1037. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1037 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1037. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the

VOL 66 ISS 244 DE 19 2001 UMI

name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Biopesticides, Feed additives, Food additives, Pesticides and pests, Pollution prevention, Reporting and recordkeeping requirements.

Dated: December 11, 2001.

Kathleen F. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Growth Products Ltd.

PP 1G6307

EPA has received a pesticide petition [1G6307] from Growth Products Ltd. , PO Box 1259, White Plains, NY 10602, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a temporary tolerance for the microbial pesticide *Bacillus subtilis* GB03.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Growth Products Ltd. has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Growth Products Ltd. and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product name and Proposed Use Practices

Companion Liquid Biological Fungicide 00.03% *Bacillus subtilis* GB03 is to be used on ≤200 acres in five states to obtain efficacy and phytotoxicity data, evaluate application rates and evaluate timing to establish disease control over a large geographical area on many important specialty crops. Disease severity and intensity will be observed, as well as measurements of root growth in both length and mass, leaf color, and tissue analysis of nutrient levels, all of which are indicators of healthy plants. Food crops to be treated include apples, broccoli, celery, citrus, cotton, grapes (raisin, table and wine), lettuce (iceberg and leaf), melons, onions, potatoes, herbs and spices, strawberries, sunflower, tobacco and tomatoes. The proposed time period for the permit is 2 years.

B. Product Identity/Chemistry

1. *Identity of the pesticide.* The active ingredient is *Bacillus subtilis* GB03 which is the biological pesticide Kodiak™ Concentrate Biological Fungicide which has the EPA Reg. No. 7501-144 maintained by the company Gustafson LLC for use as a seed treatment of agricultural commodities. The company has established a tolerance exemption specific to that use (40 CFR 180.1111). In storage the product is stable for at least 1 year when stored in original packaging according to label directions. The mode of action of *Bacillus subtilis* GB03 results from its colonization of the developing root system of plants, thereby suppressing and controlling root diseases by competition. The organism has been shown to increase root mass and plant health on various agricultural commodities.

2. *Analytical method.* An analytical method for residues is not applicable. Residues of *Bacillus subtilis* GB03 are not expected on agricultural commodities.

C. Mammalian Toxicological Profile

Toxicological data on the active ingredient had been previously accepted to support the current exemption from the requirement of a tolerance for residues for seed treatment of agricultural commodities See 40 CFR 180.1111). These studies include an acute oral toxicity/pathogenicity study in the rat, an acute dermal toxicity study in the rabbit, an acute pulmonary toxicity/pathogenicity study in the rat, an acute intravenous toxicity/pathogenicity study in the rat and a primary eye irritation study in the rabbit. EPA found from a review of these studies that the active ingredient was not toxic to test animals when administered via the oral, dermal, intravenous, or pulmonary routes of exposure. The active ingredient was not infective or pathogenic to test animals when administered via the oral, pulmonary, and intravenous routes. No reports of hypersensitivity had been reported from personnel working with this organism.

Toxicological data on the end-use product Companion Liquid Biological Fungicide had been previously accepted to support a registration for non-food greenhouse use. An acute oral toxicity study showed no toxicity at a dose of 5,000 milligrams/kilograms (mg/kg) in rats (Toxicity category IV), a primary eye irritation study showed mild irritation at a dose of 0.1 milliliters (mL) in rabbits (Toxicity Category IV), and a primary dermal irritation study showed moderate dermal irritation at a dose of 0.5 mL in rabbits (Toxicity Category III). The results of the above studies indicate that there are no significant human health risks associated with the active ingredient or end use product.

D. Aggregate Exposure

1. *Dietary exposure*—i. *Food.* Dietary exposure from use of *Bacillus subtilis* GB03 is expected to be minimal. Its use involves low levels of the active ingredient applied to growing plants prior to harvest. Residues if *Bacillus subtilis* GB03 are not expected to be on agricultural commodities. However should any residues occur they would not be of any toxicological concern.

ii. *Drinking water.* Exposure to humans from residues of *Bacillus subtilis* GB03 in consumed drinking water would be unlikely. *Bacillus subtilis* GB03 is a naturally occurring soil micro-organism and it is not known to thrive in aquatic environments. Potential exposure to surface water would be negligible and exposure to drinking water (well or ground water) would be impossible to measure.

2. *Non-dietary exposure.* The potential for non-dietary exposure to the general population, including infants and children, is unlikely as the proposed use sites are agricultural settings. However, non-dietary exposures would not be expected to

pose any quantifiable risk due to a lack of residues of toxicological concern.

Personal protective equipment (PPE) mitigates the possibility of exposure for applicators and handlers of the proposed products, when used in agricultural settings.

E. Cumulative Exposure

It is not expected that, when used as proposed, products containing *Bacillus subtilis* GB03 would result in residues that would remain in human food items. The organism is not pathogenic or infective to mammals. There have been no reports of toxins or secondary metabolites associated with this organism, and acute toxicity studies have shown that *Bacillus subtilis* GB03 is non-toxic and non-pathogenic.

F. Safety Determination

1. *U.S. population*. Acute toxicity studies have shown that *Bacillus subtilis* GB03 is not toxic. Residues of this organism are not expected to be on agricultural commodities; however, should residues occur they would not be of toxicological concern. There is a reasonable certainty of no harm to the general U.S. population from exposure to this active ingredient.

2. *Infants and children*. As mentioned above, residues of *Bacillus subtilis* GB03 are not expected to be on agricultural commodities. There is a reasonable certainty of no harm for infants and children from exposure to *Bacillus subtilis* GB03 from the proposed uses.

G. Effects on the Immune and Endocrine Systems

To date there is no evidence to suggest that *Bacillus subtilis* GB03 functions in a manner similar to any known hormone, or that it acts as an endocrine disrupter.

H. Existing Tolerances

There is an existing EPA tolerance in 40 CFR 180.1111: *Bacillus subtilis* GB03; exemption from the requirement of a tolerance. The biofungicide *Bacillus subtilis* GB03 is exempted from the requirement of a tolerance in or on all raw agricultural commodities when applied as a seed treatment for growing agricultural crops in accordance with good agricultural practices (established June 30, 1992).

I. International Tolerances

A codex Alimentarium Commission Maximum Residue Level (MRL) is not required for *Bacillus subtilis* GB03.

[FR Doc. 01–31249 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50891; FRL–6815–3]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 56228–EUP–O from the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (USDA/APHIS) requesting an experimental use permit (EUP) for the use of sodium cyanide in M–44 Cyanide Capsules in M–44 spring-loaded ejectors to control coyotes (*Canis latrans*), red fox (*Vulpes vulpes*), gray fox (*Urocyon cinereoargenteus*) and wild dogs in Idaho and Utah in nesting areas of sage grouse (*Centrocercus urophasianus and C. minimus*). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50891, must be received on or before January 18, 2002.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50891 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: William W. Jacobs, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6406; and e-mail address: jacobs.bill@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those interested in programs for protecting native wildlife species of declining numbers before they are imperiled to such an extent that they are listed as threatened or endangered species. All predacidal uses of sodium cyanide were canceled in 1972. Since that time, use of the compound in M–44 capsules has been reinstated for controlling canids that prey on livestock, that prey on threatened or endangered species, or that are vectors of comminicable diseases. Use of M–44s to protect wildlife that are not yet listed as threatened or endangered has not been directly authorized. The proposed research program is intended to explore the feasibility of use of M–44s to protect sage grouse and Gunnison sage grouse and to obtain new evidence regarding the units' utility and safety when used in that capacity. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–50891. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

VOL 66 ISS 244 DE 19 2001 UMI

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50891 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50891. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

In cooperation with State wildlife agencies in Idaho, Utah, and Colorado, USDA/APHIS "intends to determine whether integrated predation management including the use of M–44s is more effective for sage grouse (*Centrocercus urophasianus, Centrocercus minimus*) protection than predation management that does not include the use of M–44s."

The proposed research originally was to take place in sage grouse habitat in Wayne and Garfield Counties, Utah, and in Owyhee County, Butte County, and Oneida County, Idaho. The Gunnison sage grouse reportedly occurs in the proposed study site in San Juan County, Utah. According to the application, the Gunnison (*C. minimus*) sage grouse only recently has been recognized as a distinct species and has been proposed for listing as threatened or endangered. Timely listing is said to have been precluded due to a shortage of relevant funding within the U.S. Fish and Wildlife Service. In submissions of July 16, 2001 and July 24, 2001, USDA/APHIS has stated that, for logistical and/or legal reasons, the study locations mentioned here may be replaced by other sites.

Predator management using M–44s and non-pesticidal methods is to be effected in an area of Gunnison sage grouse habitat in San Juan County, Utah. Control operations are to be conducted and monitored by USDA/APHIS personnel. Recruitment of Gunnison sage grouse is to be monitored in the managed areas by the Utah Division of Wildlife Resources. The Colorado Division of Wildlife is to monitor recruitment of Gunnison sage grouse in a neighboring area of Colorado where there is to be "no formal predator control program."

Recruitment of sage grouse also is proposed to be monitored in areas subject to predator control in Wayne and Garfield Counties, Utah, and in Owyhee, Oneida, and Butte Counties, Idaho. At the Wayne, Garfield, Owyhee, and Oneida sites, two sage grouse breeding areas are to be protected by predator control methods other than M–44s while two other areas are to be protected by those same methods plus M–44s. At the Butte site, only non-chemical methods are to be used. At all sites, numbers of target and nontarget species taken by each method are to be recorded along with "the amount of time spent in the application of each management method." Artificial nests consisting of three brown chicken eggs placed under a sage bush are to be monitored at some sites. At two Idaho sites, fates of some sage grouse are to be monitored using radio telemetry.

III. What Action is the Agency Taking?

Following the review of the USDA/APHIS application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

Under 40 CFR 172.11(a), EPA is required to publish in the **Federal Register** a notice of receipt of an EUP application if it determines that the permit "may be of regional or national significance." The history, cancellation, and partial reinstatement of predacidal uses of sodium cyanide makes any proposed expansion of current uses potentially "of regional or national significance" as does the possible benefit of developing a pesticidal tool to assist in halting declines in populations of certain types of wildlife, thereby precluding their future listing as threatened or endangered species and perhaps keeping habitats occupied by them open for multiple use.

List of Subjects

Environmental protection, Experimental use permits.

Dated: December 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31246 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50887; FRL–6793–7]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 71065–EUP–E from Growth Products Limited requesting an experimental use permit (EUP) for the fungicide *Bacillus subtilis* GB03. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments, identified by docket control number OPP–50887, must be received on or before January 18, 2002.

ADDRESSES: Comments and data may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50887 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8717; e-mail address: ball.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of microbial substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–50887. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–50887 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–50887. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

VOL 66 ISS 244 DE 19 2001 UMI

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the notice.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

Growth Products Ltd., P.O. Box 1259, White Plains, NY 10602 has requested an EUP for the microbial pesticide Companion™, based on the active ingredient *Bacillus subtilis* Strain GB03. The proposed duration of the proposed program is 2 years. The EUP is being requested to obtain efficacy and phytotoxicity data, evaluate application rates, and evaluate timing to establish disease control. The target pests include root diseases such as *Rhizoctonia, Pythium, Erwinia, Fusarium, Phytopthora, Verticillium, Sclerotinia, Botyris, Anthracnose,* fire blight, wilt, crown rot, root rot, downy mildew, and damping off.

The proposed experimental program is to cover a total of 200 acres in 5 states, as follows: California, Florida, New York, North Dakota, and Washington. The rate of application of the pesticide is to be: for field crops, 32 oz. per acre in sufficient water to ensure full coverage; for soil drench application, 16 oz. in 100 gallons of water for cell/plug production; and 1 oz. per 30 gallons of water for closed systems (ebb and flow) and hydroponics.

Proposed crop treatment sites include apples, broccoli, celery, citrus, cotton, grapes (raisin, table and wine), herbs and spices, lettuce (iceberg and leaf), melons, onions, potatoes, strawberries, sunflower, tobacco, and tomatoes. Disease severity and intensity will be observed, as well as measurements of root growth in both length and mass, leaf color, and tissue analysis of nutrient levels, all of which are indicators of healthy plants.

Ground methods of application are proposed, including soil drench application by injection into irrigation systems, and closed systems (ebb and flow) and hydroponics by incorporation into closed continuous recirculation systems.

III. What Action is the Agency Taking?

Following the review of the Growth Products Limited application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under 40 CFR part 172, subpart A.

List of Subjects

Environmental protection, Experimental use permits.

December 11, 2001.

Kathleen F. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–31247 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–6]

Extension of Public Comment Period for EPA Staff White Paper That Explores a Number of Options for Addressing Boutique Fuels in the Longer Term

AGENCY: Environmental Protection Agency.

ACTION: Extension of public comment period for EPA Staff White Paper that explores a number of options for addressing boutique fuels in the longer term.

In the November 14, 2001 **Federal Register**, (66 FR 57099) EPA published a notice of availability and requested public review and comment on the Staff White Paper entitled: "Study of Unique Gasoline Fuel Blends ("Boutique Fuels"), Effects on Fuel Supply and Distribution and Potential Improvements." This notice extends the end of the public comment period to January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Julia Macallister, Office of Air Quality and Transportation, (734) 214–4131, or by E-mail at *macallister.julia@epa.gov.*

Dated: December 12, 2001.

Robert Brenner,

Acting Assistant Administrator, Office of Air and Radiation, U.S. Environmental Protection Agency.

[FR Doc. 01–31244 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00755; FRL–6814–8]

Pesticides; Expedited Review of Experimental Use Permits (EUPs) for Conventional Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Agency seeks public comment on a draft Pesticide Registration (PR) Notice titled "Guidelines for Expedited Review of Experimental Use Permits (EUPs) for Conventional Pesticides." This draft Notice provides criteria that, if met, can result in a greater number of food use EUPs being issued on an expedited basis for conventional pesticides. EUP applications submitted that meet all of the criteria identified in the Notice will be expedited through the Agency's review process and registrants will not need to utilize their priority slots. The Notice applies to all applicants for EUPs for non-antimicrobial, conventional pesticides. The Notice does not apply to biological pesticides because these pesticides present different risk factors and because the Agency has not heard that the lack of biological pesticide EUPs is an issue.

DATES: Comments, identified by docket control number OPP–00755, must be received on or before February 19, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00755 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Rachel Holloman, Registration Division (7505C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–7193; fax number: (703) 305–6920; e-mail address: holloman.rachel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to those persons who apply for EUPs for conventional pesticides or are required to submit data to EPA to register pesticides or to establish tolerances for pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as well as to growers and grower groups. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this Notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document and the PR Notice from the Office of Pesticide Programs' Home Page at http://www.epa.gov/pesticides/. You can also go directly to the listings from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," " Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax-on-demand*. You may request a faxed copy of the draft Pesticide Registration (PR) Notice titled "Guidelines for Expedited Review of Experimental Use Permits (EUPs) for Conventional Pesticides," by using a faxphone to call (202) 401–0527 and selecting item [6119]. You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP–00755. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00755 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by E-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00755. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Guidance Does This PR Notice Provide?

The purpose of the proposed PR Notice is to provide criteria that, if met, can result in a greater number of food use EUPs being issued on an expedited basis for conventional pesticides.

Before issuing a new EUP, the Agency must review a subset of the toxicity and exposure data that would otherwise be required for full registration under FIFRA and make several statutory findings. When food is to be treated and allowed to enter domestic commerce under the EUP, EPA must determine (under FFDCA) that "there is a reasonable certainty of no harm" from aggregate exposures to the pesticide, including exposures resulting from use under the EUP. Prior to the passage of

VOL 66 ISS 244 DE 19 2001 UMI

the Food Quality Protection Act (FQPA), EPA issued approximately 20 EUPs and established corresponding tolerances each year. Since passage of FQPA, however, the Agency has issued only approximately three EUPs for food uses each year. Information gathered under EUPs can be extremely useful and allow growers and others to gain a better understanding of new and emerging pesticide technologies prior to full market introduction, providing opportunity to refine the product's use. The Agency gains valuable information as well on pesticide alternatives for higher-risk pesticides. This information can be used to support both registration and reregistration decisions EPA must make. In response to requests from interested parties, the Agency undertook an effort to ascertain what conditions and criteria could be developed that would allow for more EUPs, while maintaining EPA's ability to meet the applicable safety findings under FIFRA and FFDCA, resulting in the proposed PR Notice.

B. What Questions/Issues Should You Consider and Provide Specific Comments On and/or Data/Information to Explain Why the Agency Should Make Changes?

1. The Agency is proposing certain acreage limitations based upon a determination that crops treated on these limited acreages would have a marginal impact on both acute and chronic dietary risk. The criteria have been developed in such a way that, if the criteria are satisfied, the Agency can easily determine, based upon existing Agency assessments, that the requisite FIFRA and FFDCA safety findings can be met. How might the Agency expand these limitations, while utilizing existing risk assessments, to ensure that the statutory findings are satisfied? Should the Agency consider a sliding scale of acres per total acres planted of a minor crop? If so, what should that scale be to cover all of the diverse micro-climates, soils, growing seasons and cropping practices for the various commodities across the United States?

2. The Agency is proposing no more than 100 acres per watershed using the U.S. Geological Survey's (USGS) watershed definition as one of the "risk criteria" in this proposal. What might EPA consider as other options, to ensure that this criteria is not too confusing and/or too limiting for certain commodity grower industries and/or in certain states so as not to eliminate the possibility of conducting larger scale EUPs under this program?

3. The Agency has proposed several active ingredient criteria for this program, choosing to initially limit the program to those active ingredients which need evaluation prior to registration to ensure growers that the products are effective alternatives to already registered products they know. Along with those criteria, the Agency has proposed other criteria for this program that, if met, could result in a greater number of food use EUPs being issued on an expedited basis. What other criteria might the Agency consider (i.e., "minor crop priorities" being added to the active ingredient criteria), and why?

4. What else, if anything, might the Agency consider incorporating into the proposed program to ensure that the field efficacy and crop tolerance data for minor crops, needed by registrants to add minor crop uses to their labels after tolerances are granted, are provided?

5. What other conventional chemicals might the Agency consider adding to the proposed "eligible pesticides" listing up front (besides those that will be considered, if submitted, on a case-by-case basis)?

C. PR Notices are Guidance Documents

The PR Notice discussed in this notice is intended to provide guidance to EPA personnel and decision-makers and to pesticide registrants. This notice is not binding on either EPA or pesticide registrants, and EPA may depart from the guidance where circumstances warrant and without prior notice. Likewise, pesticide registrants may assert that the guidance is not appropriate generally or not applicable to a specific pesticide or situation.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: December 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31250 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–1]

Lorentz Barrel & Drum Superfund Site Notice of Proposed Administrative Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9600 *et seq.*, notice is hereby given that a proposed Agreement and Covenant Not to Sue (Prospective Purchaser Agreement) associated with the Lorentz Barrel & Drum National Priorities List Superfund Site was executed by the United States Environmental Protection Agency (EPA) on November 20, 2001. The proposed Prospective Purchaser Agreement would resolve certain potential claims of the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a) against 10th Street Land Management, a California corporation, (the Purchaser). The Purchaser plans to acquire the 5-acre parcel constituting the Superfund Site, located at the intersection of S. 10th Street and Alma Avenue, San Jose, California, and operate it as a parking and storage facility for commercial trucks, other vehicles and equipment.

In exchange for the settlement, 10th Street Land Management has agreed to pay EPA $408,000 in cash that will be placed in a special account for use at the Site. In addition, 10th Street Land Management has agreed to maintain the asphalt cap.

For thirty (30) calendar days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement. If requested prior to the expiration of this public comment period, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before January 18, 2002.

ADDRESSES: The proposed Prospective Purchaser Agreement and additional background documents relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105. Comments should reference "10th Street Land Management PPA, Lorentz Barrel &

Drum Superfund Site" and "Docket No. 2002–04" and should be addressed to William Keener at the above address.

FOR FURTHER INFORMATION CONTACT: William Keener, Assistant Regional Counsel (ORC–1), Office of Regional Counsel, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; phone: (415) 972–3940; fax: (415) 947–3570; e-mail: *keener.bill@epa.gov.*

Dated: December 12, 2001.

Jane Diamond,

Acting Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. 01–31241 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–9]

Whitehouse Waste Oil Pits Superfund Site Notice of Proposed De Minimis Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed *de minimis* settlement.

SUMMARY: Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has offered a *de minimis* settlement under an Administrative Order on Consent (AOC) to settle claims for past and future response costs at the Whitehouse Waste Oil Pits Superfund Site (Site) located in Whitehouse, Duval County, Florida. Forty-two (42) parties have returned signature pages accepting EPA's settlement offer. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Mr. Ray Strickland at the above address within 30 days of the date of publication.

Dated: November 28, 2001.

Franklin E. Hill,

Chief, CERCLA Program Services Branch, Waste Management Division.

[FR Doc. 01–31242 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59380; FRL–6816–9]

Approval of Test Marketing Exemption for Certain New Chemicals; With Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME–02–01, TME–02–02, and TME–02–03. The test marketing conditions are described in the TME applications and in this notice.

DATES: Approval of these TMEs are effective December 12, 2001. Written comments will be received until January 3, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–59380 and the TME numbers TME–02–01, TME–02–02, and TME–02–03 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Miriam Wiggins-Lewis, New Chemicals Prenotice Branch, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–9373; e-mail address: Wigginslewis.Miriam@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TMEs to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

A. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. *In person*. The Agency has established an official record for this action under docket control number OPPTS–59380. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. How and to Whom Do I Submit Comments?

The notice of receipt was published late in the 45–day review period; however, an opportunity to submit comments is being offered at this time.

VOL 66 ISS 244 DE 19 2001 UMI

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–59380 in the subject line on the first page of your response. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center at the address in Unit II.B. between noon and 4 p.m., Monday through Friday, excluding holidays. EPA may modify or revoke the test marketing exemptions if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

A. *By mail*. Submit your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

B. *In person or by courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building, Room 6428, 1201 Constitution Avenue, NW., Washington, DC 20004. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

C. *Electronically*. You may submit your comments electronically by e-mail to: oppt.ncic@epa.gov or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–59380. Electronic comments may also be filed online at many Federal Depository Libraries.

IV. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified under **FOR FURTHER INFORMATION CONTACT**.

V. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

VI. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements (under TSCA section 5(a)(1)(A) and 40 CFR Part 720) and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

VII. What Action is the Agency Taking?

EPA has approved the above-referenced TMEs. EPA has determined that test marketing the new chemical substances, under the conditions set out in the TME applications and in this notice, will not present any unreasonable risk of injury to health or the environment.

VIII. What Restrictions Apply to these TMEs?

The test market time period, production volume, number of customers, and use must not exceed specifications in the applications and this notice. All other conditions and restrictions described in the applications and in this notice must also be met.

TME–02–01, TME–02–02, AND TME–02–03

Date of Receipt: October 12, 2001.

Notice of Receipt: December 7, 2001 (66 FR 63537), (FRL–6815–6).

Applicant: Westvaco.

Chemical: TME–02–01: Butyl acylate, polymer with styrene and methylamino chloride compounds, acetic acid salt.

TME–02–02: Butyl acylate, polymer with styrene and methylamino chloride compounds, lactic acid salt.

TME–02–03: Butyl acylate, polymer with styrene and methylamino chloride compounds, nitric acid salt.

Use: Binding agent in paper coatings.

Production Volume: Confidential.

Number of Customers: Eight.

Test Marketing Period: 365 days, commencing on first day of commercial manufacture of any of these three TMEs.

The following additional restrictions apply to these TMEs. A bill of lading accompanying each shipment must state that the use of these substances are restricted to that approved in the TMEs. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of each TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substances.

IX. What was EPA's Risk Assessment for these TMEs?

EPA identified concerns for potential lung toxicity to workers and environmental toxicity to aquatic organisms. However, these concerns were adequately mitigated because of expected low exposures to workers, lack of releases to surface water, and reduction of aquatic toxicity in the presence of total organic carbon. Therefore, EPA has determined that these test marketing activities will not present an unreasonable risk of injury to human health or the environment.

X. Can EPA Change Its Decision on these TMEs in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: December 12, 2001.

Rebecca S. Cool,

Chief, New Chemicals Prenotice Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 01–31248 Filed 12–18–01;8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7119–7]

Proposed Reissuance of General NPDES Permit (GP) for Alaskan Small Suction Dredging (Permit Number AKG–37–5000)

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed reissuance of a general permit.

SUMMARY: This general permit was originally effective on April 7, 1997, and expires on April 9, 2002. EPA proposes to reissue this general permit with minor changes based on updated information relating to the impact of such mining activity on the environment. EPA is proposing to automatically extend coverage under this general permit, when final, to those facilities covered by the previous permit which submit a Notice of Intent (NOI) prior to April 9, 2002.

DATES: Interested persons may submit comments on the proposed reissuance of the GP to EPA, Region 10 at the address below. Comments must be received by February 4, 2002.

ADDRESSES: Comments on the proposed General Permit should be sent to Director, Office of Water; USEPA Region 10; 1200 Sixth Avenue, OW–135; Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Copies of the Proposed General Permit and Fact Sheet are available upon request. Requests may be made to Audrey Washington at (206) 553–0523 or to Cindi Godsey at (907) 271–6561 or electronically mailed to: *washington.audrey@epa.gov* or *godsey.cindi@epa.gov.* These documents may be found on the Region 10 Web site at *www.epa.gov/r10earth/water.htm.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866: The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Regulatory Flexibility Act: EPA has concluded that General NPDES permits are permits under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, and thus not subject to APA rulemaking requirements or the Regulatory Flexibility Act.

Dated: December 5, 2001.

Randall F. Smith,

Director, Office of Water, Region 10, Environmental Protection Agency.

[FR Doc. 01–31240 Filed 12–18–01; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 48]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1945, the Export-Import Bank of the United States is submitting to the Office of Management and Budget (OMB) a request to review and approve a revised exporter and banker survey. The purpose of the survey is to fulfill a statutory mandate (the Export-Import Bank Act of 1945, as amended, 12 U.S.C. 635) which directs Ex-Im Bank to report annually to the U.S. Congress any action taken toward providing export credit programs that are competitive with those offered by official foreign export credit agencies. The Act further stipulates that the annual report on competitiveness should include the results of a survey of U.S. exporters and U.S. commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with U.S. exporters.

Accordingly, Ex-Im Bank is requesting that the proposed survey (EIB No. 00–02) be sent to approximately 50 respondents, split equally between bankers and exporters. The revised survey is similar to the previous survey, as it asks bankers and exporters to evaluate the competitiveness of Ex-Im Bank's programs vis-á-vis foreign export credit agencies. However, it has been modified in order to account for newer policies and to capture enough information to provide a better analysis of our competitiveness. In addition,the survey will be administered electronically via email, with recipients encouraged to respond electronically as well.

DATES: Written comments should be received on or before January 18, 2002.

ADDRESSES: Direct all written comments or requests for additional information to David Rostker, Office of Management and Budget, Information and Regulatory Affairs, Room 10102, New Executive Office Building, Washington, D.C. 20503, (202) 395–3897.

FOR FURTHER INFORMATION CONTACT: Carlista D. Robinson, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571 (202) 565–3351.

SUPPLEMENTARY INFORMATION: With respect to the proposed collection of information, Ex-Im Bank invites comments as to:

—Whether the proposed collection of information is necessary for the proper performance of the functions of Ex-Im Bank, including whether the information will have a practical use;

—The accuracy of Ex-Im Bank's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Ways to enhance the quality, usefulness, and clarity of the information to be collected, and

—Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

Title & Form Number: Annual Competitiveness Report Survey of Exporters and Bankers, EIB Form 00–02.

OMB Number: 3048–0004.

Type of Review: Revision of a currently approved collection.

Annual Number of Respondents: 50.

Annual Burden Hours: 50.

Frequency of Reporting or Use: Annual survey.

Dated: December 14, 2001.

Carlista D. Robinson,

Agency Clearance Officer.

BILLING CODE [illegible]–01–M

OMB # 3048-0004

ANNUAL COMPETITIVENESS REPORT SURVEY OF EXPORTERS AND BANKERS 2001

PART 1 – EXPORTER/BANKER COMPANY PROFILE

BASIC INFORMATION

Please enter answers in the white boxes.

Company name:	
Person completing survey:	
Title:	
Address:	
Phone number:	
Fax number:	
Email address:	

EXPERIENCE

Please enter answers in the white boxes.

	1 – 3 Years	4 – 10 Years	11 – 20 Years	20+ Years
Years in business:				
Years in exporting/ trade finance:				

Exporters	< $10MM	$10 – 100MM	$100MM - $1Bn	> $1Bn
2001 Total sales volume:				
2001 Total U.S. exports sales volume:				

	< $10MM	$10 – 100MM	$100MM - $1Bn	> $1Bn
2001 Total export finance credit extended:				
2001 Total Ex-Im Bank supported export finance credit extended:				

Compared to 2000, the volume of your 2001 exports/trade finance were:

Higher	Same	Lower

Public Burden Statement: Public burden reporting for this collection of information is estimated to average 60 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Office of Management and Budget, Paperwork Reduction Project (#3048-0004) Washington, D.C. 20503. OMB #3048-0004. EIB Form 00-02.

PART 2 – EXPERIENCE WITH FOREIGN ECAs

Please indicate your experience in the past 12-18 months in **using, receiving support from or working with** other ECAs. Please select the appropriate white boxes below.

Export Credit Agency	Frequent	Rare	None
Canada (EDC)			
France (Coface)			
Italy (SACE)			
Germany (Hermes)			
UK (ECGD)			
Japan (JBIC)			
Japan (NEXI)			
Other (please identify below)			

Please indicate your experience in the past 12-18 months in **facing competitors that receive support** from foreign export credit agencies. Please select the appropriate white boxes below.

Export Credit Agency	Frequent	Rare	None
Canada (EDC)			
France (Coface)			
Italy (SACE)			
Germany (Hermes)			
UK (ECGD)			
Japan (JBIC)			
Japan (NEXI)			
Other (please identify below)			

Please provide comments or views on the general competitive environment, trends of specific competitors, etc.

PART 2 – EXPERIENCE WITH FOREIGN ECAs (cont.)

Why do you approach Ex-Im Bank for support? In the white boxes below, please indicate the approximate frequency with which each of the following challenges or needs arise, as well as a typical region or situation that presents such a challenge/need.

Challenge/Need	Frequency (%)	Typical region or situation
Meet official ECA competition		
Lack of market financing		
U.S. government involvement/ leverage		
Other (please identify below)		

PART 3 – COMPETITIVENESS OF EX-IM BANK POLICIES & PROGRAMS

Cost of Ex-Im Bank Financing: Please compare the cost of Ex-Im Bank support against that of the other major ECAs, focusing on the following cost aspects.
Please enter answers in the white boxes. If you do not have experience in the particular area, do not feel obliged to answer.

COST	COMPETITIVENESS					
Exposure Fees						
Medium- and long-term fees for *sovereign* borrowers (as compared to fees charged by other ECAs):	**More?**		**Less?**		**Neutral?**	
	Please provide examples/context for your response:					
Medium- and long-term fees for *non-sovereign* borrowers (as compared to fees charged by other ECAs):	**More?**		**Less?**		**Neutral?**	
	Please provide examples/context for your response:					
Interest Rates						
CIRR support (Ex-Im direct lending support vs. other ECAs' direct lending or interest make-up support):	**More?**		**Less?**		**Neutral?**	
	Please provide examples/context for your response:					
Interest rates offered by commercial banks under Ex-Im Bank *insurance* coverage (as compared to rates offered by banks under other ECAs' cover):	**More?**		**Less?**		**Neutral?**	
	Please provide examples/context for your response:					
Interest rates offered by commercial banks under Ex-Im Bank *guarantee* coverage (as compared to rates offered by banks under other ECAs' cover):	**More?**		**Less?**		**Neutral?**	
	Please provide examples/context for your response:					

VOL 66 ISS 244 DEC 19 2001 UMI

PART 3 – COMPETITIVENESS OF EX-IM BANK POLICIES & PROGRAMS (cont.)

Do you have any further comments on cost or structural aspects that affect the competitiveness of Ex-Im Bank programs (e.g., all-in cost, interface with capital markets, interest make-up)?

Non-cost policies: How do the following policies affect Ex-Im Bank's competitiveness? Please rank Ex-Im Bank as more (+), equally (=) or less (-) competitive than other countries' ECAs.
Please enter answers in the white boxes. If you do not have experience in the particular area, do not feel obliged to answer.

	Competitiveness (Ex-Im Bank is +/=/- vis-à-vis others)					
Policy	**Canada**	**France**	**Germany**	**Italy**	**Japan**	**U.K.**
Environment						
Comments/Context:						
U.S. content requirements						
Comments/Context:						
Co-financing						
Comments/Context:						
Local costs support						
Comments/Context:						
Cover policy (e.g., number of markets covered, impact of openness in a given market, sanctions)						
Comments/Context:						
Tied aid policy (e.g., availability of tied aid support, effectiveness of matching, etc.)						
Comments/Context:						

PART 3 – COMPETITIVENESS OF EX-IM BANK POLICIES & PROGRAMS (cont.)

Of the above non-cost policies, which, if changed, would have the greatest impact on Ex-Im Bank competitiveness vis-à-vis its foreign competitors? *Comments/context welcome.*

Please comment on the policy and procedural changes approved in January 2001 for co-financing, foreign content and local costs policies. How have these changes affected your competitiveness? *Context welcome.*

To your knowledge, have you seen competition supported by market window financing? How did this affect the competitiveness of Ex-Im Bank support? *Comments/context welcome.*

How do Ex-Im Bank's products compare with the products offered by other ECAs? Is there a product that Ex-Im Bank does not offer that would be useful to you (e.g., long-term insurance, 95% guarantee, etc.)? *Comments/context welcome.*

VOL 66 ISS 244 DE 19 2001 UMI

OMB # 3048-0004

PART 4 – ADDITIONAL COMMENTS AND SUGGESTIONS

Please use the following space to make additional comments on any aspect of Ex-Im Bank programs, including aspects not specifically addressed in the above questions.

Public Burden Statement: Public burden reporting for this collection of information is estimated to average 60 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Office of Management and Budget, Paperwork Reduction Project (#3048-0004) Washington, D.C. 20503. OMB #3048-0004. EIB Form 00-02.

PART 5 – EXAMPLES OF COMPETITION

Please provide information regarding the type of competition you faced as a result of Ex-Im Bank costs/policies/programs.

	Cost/Policy/ Program	**ECA**	**Market**	**Project Description**	**Describe the competition you faced and the effect that it had on your business (eg forced to change sourcing; lost jobs; lower exports).** ***If possible, please quantify.***
Example	**Cover**	**EDC**	**Iran**	**Power Plant**	**As a result of Ex-Im Bank's lack of cover for Iran, we were forced to source from outside the United States. This resulted in a loss of over $100 million in U.S. export sales.**
1					
2					
3					
4					
5					
6					

[FR Doc. 01–31224 Filed 12–18–01; 8:45 am]

BILLING CODE 6690–01–C

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 96–45; DA 01–2869]

IT&E Overseas, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Territory of Guam

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on December 11, 2001, the Common Carrier Bureau sought comment on the IT&E Overseas, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the territory of Guam.

DATES: Comments are due on or before January 18, 2002. Reply comments are due on or before February 4, 2002.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith or Anita Cheng, Attorney, or Sheryl Todd, Management Analyst, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On December 6, 2001, IT&E Overseas, Inc. (IT&E) filed with the Commission a petition under section 214(e)(6) seeking designation as an eligible telecommunications carrier (ETC) to receive Federal universal service support for service offered in Guam. Specifically, IT&E contends that the Public Utilities Commission of Guam (Guam Commission) has provided an affirmative statement that it does not regulate commercial mobile radio service (CMRS) carriers, IT&E meets all the statutory and regulatory prerequisites for ETC designation, and designating IT&E as an ETC will serve the public interest. The Common Carrier Bureau seeks comment on the IT&E petition, including the requested service area.

The petitioner must provide copies of its petition to the Guam Commission at the time of filing with the Commission. The Commission will also send a copy of this Notice to the Guam Commission by overnight express mail to ensure that the Guam Commission is notified of the notice and comment period.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: Comments are due January 18, 2002 and reply comments are due February 4, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

Parties also must send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW., Room 5–B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Dated: December 13, 2001.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–31226 Filed 12–18–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011453–001.

Title: Southern Africa/Oceania Agreement.

Parties: Safmarine Container Lines N.V.; Mediterranean Shipping Co. S.A.; A.P. Moller-Maersk Sealand.

Synopsis: The proposed amendment changes one party to reflect a corporate change, increases the maximum dry and reefer container capacity under the agreement, and extends the earliest date for notice of withdrawal.

Agreement No.: 011783.

Title: Lykes/Italia di Navigazione SpA Space Charter and Sailing Agreement.

Parties: Lykes Lines Limited, LLC; Italia di Navigazione SpA.

Synopsis: The proposed agreement authorizes Italia to charter space from Lykes in the trade between ports in the Dominican Republic, Mexico, Costa Rica, Panama, and the Caribbean coasts of Colombia and Venezuela and the U.S. Gulf coast.

By Order of the Federal Maritime Commission.

Dated: December 14, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–31268 Filed 12–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 01–12]

Commonwealth Shipping Ltd., Cargo Carriers Ltd., Martyn C. Merritt and Mary Anne Merritt—Submission of Materially False or Misleading Statements to the Federal Maritime Commission and False Representation of Common Carrier Vessel Operations; Notice of Show Cause Proceeding

Notice is given that the Commission, on December 11, 2001, served an Order to Show Cause ("Order") on Cargo Carriers Ltd., Commonwealth Shipping Ltd., Martyn C. Merritt and Mary Anne Merritt.

Cargo Carriers Ltd. is a licensed ocean transportation intermediary ("OTI") that operates as a non-vessel-operating common carrier and ocean freight forwarder (FMC Organization No. 13507). It appears that Cargo Carriers Ltd.'s 1999 OTI license application contains false information concerning its qualifying individual and the sharing of office space with a company controlled by Mary Anne Merritt.

Commonwealth Shipping Ltd. holds itself out to the public as an ocean common carrier in its tariff and FMC–1 form (FMC Organization No. 9587). Martyn and Mary Anne Merritt have been identified as corporate directors of this company, which is located at the same address as Cargo Carriers Ltd. For a common carrier to be considered an ocean common carrier under the Shipping Act of 1984, it must operate a vessel on the high seas between a port in the United States and a foreign port. Commonwealth Shipping Ltd. does not appear to operate any vessels on the high seas between a port in the United States and a foreign port. Therefore, it appears that Commonwealth Shipping Ltd.'s tariff in which it is identified as a vessel-operating common carrier contains false information.

The Order directs Cargo Carriers Ltd. to show cause why the Commission should not order the revocation of its ocean transportation intermediary license for providing materially false or misleading statements to the Commission; and to show cause why the Commission should not order the cancellation of its non-vessel-operating common carrier tariff if its license is revoked. The Order also directs Commonwealth Shipping Ltd. show cause why the Commission should not order the cancellation of its tariff holding itself out to the public as an ocean common carrier because it does not operate as an ocean common carrier. The Order further directs Cargo Carriers Ltd., Commonwealth Shipping Ltd., Martyn C. Merritt and Mary Anne Merritt show cause why the Commission should not order Cargo Carriers Ltd., Commonwealth Shipping Ltd., Martyn C. Merritt and Mary Anne Merritt to cease and desist from future violations of the Shipping Act of 1984.

The full text of the Order may be viewed on the Commission's homepage at *www.fmc.gov*, or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC.

Any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene no later than December 31, 2001 in accordance with 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–31269 Filed 12–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 4656N.

Name: Barsan International, Inc.

Address: 50 Cragwood Road, Third Floor, South Plainfield, NY 07080.

Date Revoked: October 24, 2001.

Reason: Failed to maintain a valid bond.

License Number: 7913N.

Name: Conterm Consolidation Services (USA), Inc.

Address: 555 East Ocean Blvd., Suite 700, Long Beach, CA 90802.

Date Revoked: October 24, 2001.

Reason: Failed to maintain a valid bond.

License Number: 4148F.

Name: Fleura Meler dba US Western Forwarders.

Address: 19528 Ventura Blvd., Suite 380, Tarzana, CA 91356.

Date Revoked: October 24, 2001.

Reason: Failed to maintain a valid bond.

License Number: 3261N.

Name: Geologistics Services, Inc. dba Matrix Container Lines.

Address: 205 South Whiting Street, Suite 500, Alexandria, VA 22304.

Date Revoked: October 24, 2001.

Reason: Failed to maintain a valid bond.

License Number: 15765N.

Name: Rush Interamerican Cargo Services, Inc.

Address: 10862 NW 27th Street, Miami, FL 33172.

Date Revoked: November 1, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16999N.

Name: Sonic Container Line, Inc.

Address: 870 Sivert Drive, Wood Dale, IL 60191.

Date Revoked: November 1, 2001.

Reason: Failed to maintain a valid bond.

License Number: 16470N.

Name: South Beach Maritime Company.

Address: 8626 NW 55th Place, Coral Springs, FL 33067.

Date Revoked: November 6, 2001.

Reason: Surrendered license voluntarily.

License Number: 16838N.

Name: Webtrans Logistics, Inc. dba ANC International.

Address: 21136 S. Wilmington Avenue, #110, Carson, CA 90810.

Date Revoked: October 27, 2001.

Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 01–31266 Filed 12–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transporation Intermediary License; Correction

In the **Federal Register** Notice listing applicants for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary published October 24, 2001 (66 FR 53795) the reference to Direct Shipping Line is corrected to read: "Direct Shipping Corp."

Dated: December 14, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–31267 Filed 12–18–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Harriette H. Charbonneau, Director of Human Resources, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Harold J. Creel, Jr.,

Chairman.

The Members of the Performance Review Board Are:

1. Joseph E. Brennan, Commissioner
1. Antony M. Merck, Commissioner
3. John A. Moran, Commissioner
4. Delmond J.H. Won, Commissioner
5. Norman D. Kline, Chief Administrative Law Judge

VOL 66 ISS 244 DE 19 2001 UMI

6. Frederick M. Dolan, Jr., Administrative Law Judge
7. Paul B. Lang, Administrative Law Judge
8. Bryant L. VanBrakle, Secretary
9. Bruce A. Dombrowski, Executive Director
10. Vern W. Hill, Director, Bureau of Enforcement
11. Sandra L. Kusumoto, Director, Bureau of Consumer Complaints and Licensing
12. Florence A. Carr, Director, Bureau of Trade Analysis
13. Austin L. Schmitt, Deputy Executive Director

[FR Doc. 01-31270 Filed 12-18-01; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 11, 2002.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. *Bancorp IV, Inc.*, Olathe, Kansas, to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Montgomery County, Wellsville, Missouri.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Andrews Holding Company*, Andrews, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial State Bank, Andrews, Texas.

Board of Governors of the Federal Reserve System, December 13, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-31192 Filed 12-18-01; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, in compliance with the Paperwork Reduction Act (Pub. L. 96-511), is submitting to the Office of Management and Budget for clearance and approval an information collection instrument, entitled Program Evaluation Data Collection Protocols and Tools for the Alzheimer's Disease Demonstration Grants to States Program.

Type of Request: New. The Health Resources and Services Administration previously administered this program.

Use: Consistent with section 398 of the Public Health Service Act, as amended, the AoA requires grantees to collect and report basic client data as part of an overall program evaluation effort. The data collected is used, in aggregate, by AoA to analyze the success and accomplishments of the program, better target resources, and make informed programmatic and policy decisions. Analysis of this data also serves as the basis for the statutorily required report to Congress.

Frequency: Quarterly to Annual, depending on data type, for duration of grant.

Respondents: 25 Alzheimer's Disease Demonstration Grants to States Program grantees.

Estimated number of respondents: The 25 program grantees will obtain data from approximately 125 local service agencies.

Estimated burden hours: 1,713 per year (68.5/ state/ year).

Additional Information: The data collection protocol consists of a client intake (conducted only once for each person served), quarterly service utilization reports, and an annual agency profile report. Most data elements in this collection are basic and essential elements of existing functional and service assessments that will be conducted by grantees as part of normal service provision. Only states that have voluntarily applied for and been awarded a grant under the Alzheimer's Demonstration Program are required to provide these data. A copy of the data collection instrument may be obtained from: Melanie K. Starns, Administration on Aging, Office of Program Development, Cohen Building, Room 4270, 330 Independence Avenue, SW, Washington, DC 20201.

OMB Comment: A comment is best assured of having its full effect if OMB receives it as soon as possible after its publication. Written comments and recommendations for the proposed information collection should be sent to the following address within 30 days of the publication of this notice: Office of Information and Regulatory Affairs, Attention: Allison Herron Eydt, OMB Desk Officer, Room 10325, Office of Management and Budget, Washington, DC 20503.

Dated: November 27, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01-31205 Filed 12-18-01; 8:45 am]

BILLING CODE 4151-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, in compliance with the Paperwork Reduction Act (Public Law 96-511), is submitting to the Office of Management and Budget for clearance and approval an information collection instrument, entitled Performance (Progress) Reports for Alzheimer's Disease Demonstration Grants to States Program Grantees.

Type of Request: New. The Health Resources and Services Administration previously administered this program.

Use: Consistent with 45 CFR part 74, subpart J, the AoA requires grantees funded under Alzheimer's Disease Demonstration Grants to States Program (ADDGS) to report on the performance of their projects. The report is used by the AoA to review and monitor the grantee's progress in achieving project objectives, to provide advice and assistance, and to take corrective action as necessary.

Frequency: Semiannual.

Respondent: Alzheimer's Disease Demonstration Grants to States Program grantees.

Estimated number of respondents: 25.

Estimated burden hours: 1,000 per year (20 hours for each semiannual report).

Additional Information: Each progress report, typically no more than 10 pages in length, is expected to cover the following subjects: recent major activities and accomplishments, obstacles encountered and solutions, significant findings and events, dissemination activities, and activities planned for the next 6 months. Only states who have voluntarily applied for and been awarded a grant under the Alzheimer's Demonstration Program are required to submit these reports.

OMB Comment: A comment is best assured of having its full effect if OMB receives it as soon as possible after its publication. Written comments and recommendations for the proposed information collection should be sent to the following address within 30 days of the publication of this notice: Office of Information and Regulatory Affairs, Attention: Allison Herron Eydt, AoA Desk Officer, Office of Management and Budget, Washington, DC 20503.

Dated: November 27, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–31206 Filed 12–18–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02019]

Cooperative Agreement for the Surveillance, Research, and Prevention of Birth Defects; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for a cooperative agreement program for the surveillance, research, and prevention of birth defects. The purpose of this program is to aid in the surveillance, research, and prevention of birth defects.

B. Eligible Applicants

Assistance will be provided only to the International Centre for Birth Defects (ICBD). No other applications are solicited.

Located in Rome, Italy, ICBD was established in 1989 as an organization devoted to the prevention of birth defects through surveillance, training, and epidemiologic research. ICBD accomplishes this by serving as the headquarters for the International Clearinghouse for Birth Defects Monitoring Programs. The Clearinghouse is a non-governmental organization comprised of 32 member programs representing 34 countries in Europe, the Americas, Japan, China, South Africa, and Australia. The Clearinghouse's mission is to prevent birth defects through the exchange of information, enabling collaborative research, and consultation and assistance. Specifically, the Clearinghouse:

1. Responds to possible or suspected clusters of congenital malformations with information, monitoring systems, and personnel so that member countries are alerted and preventive action may be taken. This is the primary and most enduring goal of the Clearinghouse;
2. Enables collaborative epidemiological research based on birth defect surveillance data obtained from the member programs. Joint studies with the member programs have attempted to provide an understanding of endemic occurrence as well as temporal and/or geographical clusters of malformations; and
3. Provides expert consultation and assistance.

Note: Title 2 of the United States Code, section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

Approximately $150,000 is available in FY 2002 to fund this award. It is expected that the award will begin on or about April 1, 2002, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may be utilized only for the purpose and for the activities described and approved in the final award.

1. All requests for funds contained in the budget shall be stated in U.S. dollars. Once an award is made, CDC will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

a. Funds may be spent for reasonable program purposes, including personnel, travel, supplies, and services. Equipment may be purchased if deemed necessary to accomplish program objectives, however, prior approval by CDC officials must be requested in writing.

b. The costs that are generally allowable in grants to domestic organizations are allowable to foreign institutions and international organizations, with the following exception: Indirect costs will not be paid (either directly or through sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

c. The applicant may contract with other organizations under this program. However, the applicant must perform a substantial portion of the activities including program management and operations, and delivery of prevention services for which funds are required.

D. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address *http://www.cdc.gov.* Click on "Funding" then "Grants and Cooperative Agreements."

To obtain business management technical assistance, contact: Angelia D. Hill, Grants Management Specialist, International Grants and Contracts Branch, Procurement and Grants Office, Centers for Disease Control and

Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2785, E-mail address: *aph8@cdc.gov*.

Program technical assistance may be obtained from: J. David Erickson, National Center on Birth Defects and Developmental Disabilities, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE., Atlanta, GA 30341–3724, Telephone: (770) 488–7161, E-mail address: *jde1@cdc.gov*.

Dated: December 12, 2001.

Rebecca B. O'Kelley,

Chief, International Grants and Contracts Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–31222 Filed 12–18–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Childhood Lead Poisoning Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee on Childhood Lead Poisoning Prevention.

Times and Dates:

8:30 a.m.–5:45 p.m., January 15, 2002,
8:30 a.m.–12:15 p.m., January 16, 2002.

Place: Hilton Crystal City Hotel, 2399 Jefferson Davis Highway, Arlington, VA 22202, telephone 703/418–6800.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 90 people.

Purpose: The Committee shall provide advice and guidance to the Secretary; the Assistant Secretary for Health; and the Director, CDC, regarding new scientific knowledge and technological developments and their practical implications for childhood lead poisoning prevention efforts. The Committee shall also review and report regularly on childhood lead poisoning prevention practices and recommend improvements in national childhood lead poisoning prevention efforts.

Matters to be Discussed: Agenda items include: Updates on Primary Prevention issues, Medicaid Targeted Screening issues, Case Management issues, MMWR Publication Process, Presentations on Milwaukee's Community-Based Environmental Intervention Strategies, National Survey of Lead and Allergens in Housing, and Discussion of Charge for Workgroup Reviewing Evidence of Adverse Effects of Lead. Agenda items are subject to change as priorities dictate.

Opportunities will be provided during the meeting for oral comments. Depending on the time available and the number of requests, it may be necessary to limit the time of each presenter.

Contact Person for More Information: Becky Wright, Program Analyst, Lead Poisoning Prevention Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, NE, M/S E–25, Atlanta, Georgia 30333, telephone 404/498–1449, fax 404/498–1444.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 10, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31221 Filed 12–18–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Missouri State Plan Amendment (SPA) 92–33

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to reconsider the decision to disapprove Missouri SPA 92–33 on January 23, 2002, at 10 a.m., Richard Bolling Federal Building; Plaza Room 664; 601 East Twelfth Street; Kansas City, Missouri 64106–2808.

CLOSING DATES: Requests to participate in the hearing as a party must be received by the presiding officer by January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Office of Hearings, Centers for Medicare & Medicaid Services, Suite L 2520 Lord Baltimore Drive, Baltimore, Maryland 21244–2670, Telephone: (410) 786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Missouri SPA 92–33.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish HHS procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid Services (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice. Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The issue is whether the provisions of section 1923(f)(1)(A) of the Act and regulations at 42 CFR 447.296(b)(6) would permit the State to increase disproportionate share hospital (DSH) payments under this State plan amendment submitted after September 30, 1991. Missouri submitted SPA 92–33 on November 18, 1991, as part of SPA 91–50. This amendment would provide for an additional payment to 10 DSH hospitals that have the highest Medicaid utilization in the State and had a high volume of nursery and neonatal care days.

Under the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 (Pub. L. 102–234), which added section 1923(f)(l)(A) of the Act and the Federal regulation at 42 CFR 447.296(b)(6), the State cannot increase DSH payments to hospitals based on amendments submitted after September 30, 1991, for payments made during the period January 1, 1992, through September 30, 1992, except in very limited circumstances. The reason for this moratorium on DSH payments was so CMS could determine a state's base DSH allotments for an annual period beginning in Federal fiscal year 1993.

The additional DSH payment included in this amendment is not within the statutory exception for payments under certain SPAs submitted to the Secretary between September 30, 1991, and November 26, 1991. This exception applies only to an amendment that designates only DSHs with a Medicaid or low-income utilization percentage at or above the statewide arithmetic mean. In regulations at 42 CFR 447.296(b), the Secretary has interpreted this exception to apply only when the amendment is intended to limit the state's overall definition of DSH to those specified hospitals.

While the additional DSH payment meets the timing criteria for this exception (it was submitted on November 18, 1991, as part of SPA 91–50), it was not intended to limit the State's overall definition of DSHs to those with a Medicaid or low-income utilization percentage at or below the statewide arithmetic mean. This provision did not concern the designation of DSHs at all, but only concerned the payment rate for some already designated hospitals. It provided for a 10-percent additional payment to certain hospitals otherwise designated and receiving DSH payments. Therefore, CMS found this exception not to apply, and disapproved Missouri SPA 92–33.

The notice to Missouri announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Dana Katherine Martin, Director,
Department of Social Services, Broadway State Office Building, P.O. Box 1527, Jefferson City, Missouri 65102

Dear Ms. Martin:

I am responding to your request for reconsideration of the decision to disapprove Missouri State Plan Amendment (SPA) 92–33.

The issue is whether the provisions of section 1923(f)(1)(A) of the Social Security Act (the Act) and regulations at 42 CFR 447.296(b)(6) would permit the State to increase disproportionate share hospital (DSH) payments under this State plan amendment submitted after September 30, 1991. Missouri submitted SPA 92–33 on November 18, 1991, as part of SPA 91–50. This amendment would provide for an additional payment to 10 DSH hospitals that have the highest Medicaid utilization in the State and had a high volume of nursery and neonatal care days.

Under the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 (Pub. L. 102–234), which added section 1923 (f)(l)(A) of the Act and the Federal regulation at 42 CFR 447.296(b)(6), the State cannot increase DSH payments to hospitals based on amendments submitted after September 30, 1991, for payments made during the period January 1, 1992, through September 30, 1992, except in very limited circumstances. The reason for this moratorium on DSH payments was so CMS could determine a state's base DSH allotments for an annual period beginning in Federal fiscal year 1993.

The additional DSH payment included in this amendment is not within the statutory exception for payments under certain SPAs submitted to the Secretary between September 30, 1991, and November 26, 1991. This exception applies only to an amendment that designates only DSHs with a Medicaid or low-income utilization percentage at or above the statewide arithmetic mean. In regulations at 42 CFR 447.296(b), the Secretary has interpreted this exception to apply only when the amendment is intended to limit the state's overall definition of DSH to those specified hospitals.

While the proposed amendment meets the timing criteria for this exception (it was submitted on November 18, 1991, as part of SPA 91–50), it does not meet the substantive criteria for this exception. The proposed amendment does not limit the State's overall definition of DSHs to those with a Medicaid or low-income utilization percentage at or below the statewide arithmetic mean. This provision did not concern the designation of DSHs at all, but only concerned the payment rate for some already designated hospitals. It provided for a 10-percent additional payment to certain hospitals otherwise designated and receiving DSH payments. Therefore, CMS found this exception not to apply, and disapproved Missouri SPA 92–33.

I am scheduling a hearing on your request for reconsideration to be held on January 23, 2002, at 10:00 a.m.; Richard Bolling Federal Building; Plaza Room 664; 601 East Twelfth Street; Kansas City, Missouri 64106–2808.

If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, Part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,
Thomas A. Scully.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18).

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: December 10, 2001.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–31260 Filed 12–18–01; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Missouri State Plan Amendment 91–50

AGENCY: Centers for Medicare & Medicaid Services (CMS), (HHS).

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to reconsider the decision to disapprove Missouri State Plan Amendment 91–50, on January 23, 2002, at 10:00 a.m., at the Richard Bolling Federal Building; Plaza Room 664; 601 East Twelfth Street; Kansas City, Missouri 64106–2808.

CLOSING DATES: Requests to participate in the hearing as a party must be received by the presiding officer by January 3, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Office of Hearings, CMS, Suite L, 2520 Lord Baltimore Drive, Baltimore, Maryland 21244–2670, Telephone: (410)–786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the decision to disapprove Missouri State Plan Amendment (SPA) 91–50.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Centers for Medicare & Medicaid (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The issue is whether this amendment proposed a retroactive effective date that is not consistent with law for an additional disproportionate share hospital (DSH) payment to the 10 highest Medicaid utilization hospitals in the State that had a high volume of nursery and neonatal care days. This SPA was submitted on November 18, 1991, with a proposed effective date of October 21, 1991.

Under the Medicaid Voluntary Contribution and Provider Specific Tax

VOL 66 ISS 244 DE 19 2001 UMI

Amendments of 1991 (Pub. L. 102–234), which added section 1923(f)(1)(A) of the Act and the Federal regulation at 42 CFR 447.296(b)(6), the State cannot increase DSH payments to hospitals based on amendments submitted after September 30, 1991, for payments made during the period January 1, 1992, through September 30, 1992, except in very limited circumstances. The reason for this moratorium on DSH payments was so CMS could determine a state's base DSH allotments for an annual period beginning in Federal fiscal year 1993.

This proposed amendment is not within the statutory exception for payments under certain SPAs submitted to the Secretary between September 30, 1991, and November 26, 1991. This exception applies only to an amendment that designates only DSHs with a Medicaid or low-income utilization percentage at or above the statewide arithmetic mean. In regulations at 42 CFR 447.296(b), the Secretary has interpreted this exception to apply only when the amendment is intended to limit the state's overall definition of DSH to those specified hospitals.

While this proposed amendment meets the timing criteria for this exception, as it was submitted on November 18, 1991, it does not meet the substantive criteria for this exception. The proposed amendment does not limit the State's overall definition of DSH to those with a Medicaid or low-income utilization percentage at or below the statewide arithmetic mean. This proposed amendment did not concern the designation of DSHs, but only concerned the payment rate for some already designated hospitals. This proposed amendment provided for a 10-percent additional payment to certain hospitals otherwise designated and receiving DSH payments. Therefore, CMS found that this exception did not apply and disapproved Missouri SPA 91–50.

The notice to Missouri announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Ms. Dana Katherine Martin,
Director, Department of Social Services,
Broadway State Office Building,
P.O. Box 1527,
Jefferson City, Missouri 65102.

Dear Ms. Martin:

I am responding to your request for reconsideration of the decision to disapprove Missouri State Plan Amendment (SPA) 91–50, which was submitted on November 18, 1991.

The issue is whether this amendment proposed a retroactive effective date that is not consistent with law for an additional disproportionate share hospital (DSH) payment to the 10 highest Medicaid utilization hospitals in the State that had a high volume of nursery and neonatal care days. The proposed effective date of the SPA is October 21, 1991.

Under the Medicaid Voluntary Contribution and Provider Specific Tax Amendments of 1991 (Public Law 102–234), which added section 1923(f)(1)(A) of the Social Security Act (the Act) and the Federal regulation at 42 CFR 447.296(b)(6), the State cannot increase DSH payments to hospitals based on amendments submitted after September 30, 1991, for payments made during the period January 1, 1992, through September 30, 1992, except in very limited circumstances. The reason for this moratorium on DSH payments was so the Centers for Medicare & Medicaid Services (CMS), could determine a state's base DSH allotments for an annual period beginning in Federal fiscal year 1993.

This proposed amendment is not within the statutory exception for payments under certain SPAs submitted to the Secretary between September 30, 1991, and November 26, 1991. This exception applies only to an amendment that designates only DSHs with a Medicaid or low-income utilization percentage at or above the statewide arithmetic mean. In regulations at 42 CFR 447.296(b), the Secretary has interpreted this exception to apply only when the amendment is intended to limit the state's overall definition of DSH to those specified hospitals.

While this proposed amendment meets the timing criteria for this exception, as it was submitted on November 18, 1991, it does not meet the substantive criteria for this exception. The proposed amendment does not limit the State's overall definition of DSH to those with a Medicaid or low-income utilization percentage at or below the statewide arithmetic mean. This proposed amendment did not concern the designation of DSHs, but only concerned the payment rate for some already designated hospitals. This proposed amendment provided for a 10-percent additional payment to certain hospitals otherwise designated and receiving DSH payments. Therefore, CMS found that this exception did not apply and disapproved Missouri SPA 91–50.

I am scheduling a hearing on your request for reconsideration to be held on January 23, 2002, at 10:00 a.m.; Richard Bolling Federal Building; Plaza Room 664; 601 East Twelfth Street; Kansas City, Missouri 64106–2808. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, Part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,
Thomas A. Scully.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: December 10, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–31261 Filed 12–18–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Issuance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of emergency exemption issuance.

SUMMARY: The following applicant has been issued a scientific research permit to conduct certain activities with an endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

FOR FURTHER INFORMATION CONTACT: Linda Belluomini, Permits Biologist at 503–231–2063.

SUPPLEMENTARY INFORMATION: The Washington Department of Fish and Wildlife has been authorized via permit number TE–050644, by the U.S. Fish and Wildlife Service's Pacific Region to capture individuals from the Columbia Basin distinct population segment (DPS) of the pygmy rabbit (Brachylagus idahoensis) for a captive propagation program. We issued this permit for the purpose of enhancing the propagation and survival of the Columbia Basin pygmy rabbit. The 30-day public comment period required by the Endangered Species Act (Act) was waived in accordance with section 10(c) of the Act upon a determination that an emergency affecting the health and life of specimens of Columbia Basin pygmy rabbits exists, and that no reasonable alternative is available to the applicant.

The Columbia Basin pygmy rabbit DPS has undergone dramatic annual declines since 1998, and the entire wild portion of this population now consists of fewer than 50 individuals from just 1 known colony on State land in Douglas County, Washington. As part of a captive breeding program, initiated by the Washington Department of Fish and Wildlife (WDFW) during the spring of 2001, an additional 14 individuals from this population are being held in captivity, including 5 offspring born at the holding facility. The WDFW has scheduled additional capture operations over the next 30 days in order to secure more animals for the captive breeding program. The intent is to capture additional animals from the wild that will complement the genetic profiles and potential breeding scenarios of those already in captivity. Any pygmy rabbits that are not considered essential to the captive breeding program will be left in the wild, and ongoing management to protect this portion of the population will continue.

Delay in the WDFW's planned activities due to the 30-day public comment period could jeopardize the success of the captive breeding program and, ultimately, the long-term security of the Columbia Basin pygmy rabbit. Individuals within the wild portion of this population may experience significant mortality due to increased susceptibility to predation and inclement weather with the onset of winter, and additional animals may not be available for capture later in the season. Even if this population does not undergo further decline this winter, any wild individuals will likely have weakened body conditions and be more susceptible to capture-related stress and mortality if captured later in the season. Capture operations in midwinter may also be compromised by seasonal precipitation and/or low temperatures. Finally, capturing any additional animals later in the season will give them less time to acclimate to the holding facilities, and they may be unavailable for breeding efforts planned for early spring 2002.

Dated: December 6, 2001.

Rowan W. Gould,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 01–31193 Filed 12–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–697830

Applicant: Assistant Regional Director, Ecological Services, Region 3, U.S. Fish and Wildlife Service, Fort Snelling, Minnesota.

The applicant requests an amendment to his permit for scientific take activities of listed species in Region 3 to add the following species for scientific purposes and the enhancement of propagation or survival of the species in the wild, in accordance with listing, recovery outlines, recovery plans and/or other Service work for the species: Canada lynx (*Lynx canadensis*), Whooping crane (*Grus americana*), Lake Erie water snake (*Nerodia sipedon insularum*), Tumbling Creek cavesnail (*Antrobia culveri*), Scaleshell (*Leptodea leptodon*), Cave crayfish (*Cambarus aculabrum*), Short's bladderpod (*Lesquerella globosa*), Short's goldenrod (*Solidago shortii*), and Virginia sneezeweed (*Helenium virginicum*).

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: Mr. Peter Fasbender, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612) 713–5343; Fax: (612) 713–5292; E-mail: *peter—fasbender@fws.gov*.

Dated: December 7, 2001.

Lynn M. Lewis,

Acting Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–31194 Filed 12–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit amendment to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE 049738

Applicant: Third Rock Consultants, LLC., Lexington, Kentucky

The applicant requests a permit to take (collect) the following species: Indiana bat (*Myotis sodalis*), gray bat (*M. grisescens*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), Ozark big-eared bat (*C. t. ingens*), copperbelly water snake (*Nerodia erythrogaster neglecta*), blackside dace (*Phoxinus cumberlandensis*), duskytail darter (*Etheostoma percnurum*), relict darter (*E. chienense*), palezone shiner (*Notropis albizonatus*), pygmy madtom (*Noturus stanauli*), yellowfin madtom (*N. flavipinnis*), slender chub (*Erimystax cahni*), spotfin chub (*Cyprinella monacha*), Cumberland elktoe (*Alasmidonta atropurpurea*), fanshell (*Cyprogenia stegaria*), Cumberlandian combshell (*Epioblasma brevidens*), oyster mussel (*E. capsaeformis*), catspaw (*E. obliquata obliquata*), northern riffleshell (*E. torulosa rangiana*), pink mucket (*Lampsilis abrupta*), slabside pearlymussel (*Lexingtonia dolabelloides*), ring pink (*Obovaria retusa*), little-wing pearlymussel (*Pegias fabula*), orangefoot pimpleback (*Plethobasus cooperianus*), clubshell (*Pleurobema clava*), Cumberland pigtoe (*P. gibberum*), rough pigtoe (*P. plenum*), fat pocketbook (*Potamilus capax*), fluted kidneyshell (*Ptychobranchus subtentum*), Cumberland monkeyface (*Quadrula intermedia*), and Cumberland bean (*Villosa trabalis*). Activities are proposed for studies to identify populations of listed species and to develop methods to minimize or avoid project related impacts to those populations. The scientific research is aimed at enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with this application are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612) 713–5343; Fax: (612) 713–5292.

Dated: November 29, 2001.

Charles M. Wooley,

Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 01–31195 Filed 12–18–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Migratory Bird Permits; Draft Environmental Impact Statement on Double-crested Cormorant Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings; extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) invites public participation in public meetings associated with the comment period for a Draft Environmental Impact Statement (DEIS) on double-crested cormorant management. The DEIS has been prepared under the authority of the National Environmental Policy Act and the Migratory Bird Treaty Act and analyzes the potential environmental impacts of several management alternatives to address conflicts associated with double-crested cormorants. This notice describes the proposed action and the other five management alternatives analyzed in the DEIS; identifies the locations, dates, and times of public meetings; and identifies the Service official to whom comments may be directed.

DATES: Written comments regarding the DEIS should be submitted by February 28, 2002, to the address below. Dates and times for ten public meetings are listed in the table under **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Requests for copies of the DEIS should be mailed to Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Dr., Room 634, Arlington, VA 22203. Written comments on the DEIS can be sent by the following two methods:

(1) By mail to the above address; or

(2) By email to: *cormorant_eis@fws.gov*.

Please include your name and mailing address in all comments submitted; anonymous comments will not be considered. The public meetings will be held at the locations listed in the table under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jon Andrew, Division of Migratory Bird Management, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On November 8, 1999, we published a notice of intent in the **Federal Register** (64 FR 60826) to prepare an EIS and national management plan for double-crested cormorants in the contiguous United States. This notice began the public scoping period, during which we received over 1,400 written comments and held scoping meetings attended by over 700 individuals. On December 3, 2001, we notified the public of the availability of the DEIS in the **Federal Register** (66 FR 60218). In this notice, we indicated that the comment period would end on January 15, 2002. However, due to the timing of public meetings and requests from the public, we are extending the comment period to February 28, 2002. In preparation of the Final Environmental Impact Statement, we will consider all public comments received on or before this date.

All comments received, including names and addresses, will become part of the public record. The public may inspect comments during normal business hours in Room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Such requests will be handled in accordance with the Freedom of Information Act and the Council on Environmental Quality's National Environmental Policy Act regulations (40 CFR 1506.6(f)). Individual respondents may request that we withhold their name and/or home address from the record, which we will honor to the extent allowable by law. If a respondent wishes us to withhold his/her name and/or address, this must be stated prominently at the beginning of the document.

Alternatives

The DEIS describes and evaluates six alternatives for the purposes of reducing conflicts associated with cormorants, enhancing the flexibility of natural resource agencies to deal with cormorant conflicts, and ensuring the health and viability of cormorant populations. Alternatives, including the proposed action, were analyzed with regard to their potential impacts on cormorant populations, fish, other birds, vegetation, federally listed threatened and endangered species, water quality and human health, economic impacts (including aquaculture and sport fishing-related economies), fish hatcheries and environmental justice, property losses, and existence and aesthetic values. We analyzed the anticipated environmental effects of the following management alternatives: (1) Continue current cormorant management practices (No Action); (2) implement only non-lethal management techniques; (3) expand current cormorant damage management practices; (4) establish a new Depredation Order to address public resource conflicts (PROPOSED ACTION); (5) reduce regional cormorant populations; and (6) establish frameworks for a cormorant hunting season.

The proposed action would establish a Public Resource Depredation Order that allows State, Federal, and Tribal land management agencies to manage cormorants that are injurious to public resources such as fisheries, vegetation, and other wildlife species. Thus, control actions could take place without a federal permit on the agency's lands and waters or nearby private lands and waters (with appropriate landowner permission). Agencies that conduct control activities under the Public Resource Depredation Order would be subject to reporting and monitoring requirements, overseen by the Service. Additionally, under the proposed action, the current Aquaculture Depredation Order would be expanded to allow control of cormorants by wildlife damage professionals at winter roost sites; and Director's Order 27, restricting the use of depredation permits at public fish cultural facilities, would be revoked.

Public Meetings

Ten public meetings will be held at the locations and times listed below:

Date	City	Location	Time
January 7, 2002	Green Bay, Wisconsin	Ramada Plaza Hotel, 2750 Ramada Way	7:00 PM
January 8, 2002	Mackinaw City, Michigan	Hamilton Inn Select, 701 S. Huron Avenue	7:00 PM
January 16, 2002	Washington, DC	Main Interior Building Auditorium, 1849 C Street, NW	10:00 AM
January 28, 2002	Jackson, Mississippi	Ramada Inn Southwest, 1525 Ellis Avenue	7:00 PM
January 29, 2002	Little Rock, Arkansas	University of Arkansas, Division of Agriculture, Cooperative Extension Service, 2301 S. University Avenue.	7:00 PM

VOL 66 ISS 244 DE 19 2001 UMI

Date	City	Location	Time
February 4, 2002	Athens, Texas	Texas Freshwater Fisheries Center, 5550 Flat Creek Road (Farm Road 2495).	7:00 PM
February 11, 2001	South Burlington, Vermont	Clarion Hotel, 1117 Williston Road	7:00 PM
February 12, 2002	Watertown, New York	Dulles State Office Building, 317 Washington Street	7:00 PM
February 13, 2002	Syracuse, New York	Sheraton University Hotel, 801 University Avenue	7:00 PM
February 19, 2002	Portland, Oregon	Doubletree Hotel-Lloyd Center, 1000 NE Multnomah	7:00 PM

Dated: December 13, 2001.

Marshall Jones,

Acting Director, U.S. Fish & Wildlife Service.

[FR Doc. 01–31272 Filed 12–18–01; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–459]

In the Matter of Certain Garage Door Operators Including Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Granting Complainant's Motion To Add a Respondent

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") issued by the presiding administrative law judge (ALJ) in the above-captioned investigation granting a motion to add Martec Access Products, Inc. as a respondent.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3115. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 16, 2001, based on a complaint filed by The Chamberlain Group, Inc. against six entities: Linear Corporation, Napoleon Spring Works, Inc., Lynx Industries, Inc., Innovative Home Products, Inc., Wayne-Dalton Corporation, and Guardian Access Corporation. 66 FR 37704 (2001). Computime Limited was later added as a respondent. The complaint alleges violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain garage door operators by reason of infringement of certain claims of complainant's U.S. Letters Patents Nos. Re. 35,364 and Re. 36,703.

On September 21, 2001, complainant filed a motion for leave to amend the complaint and notice of investigation to add Martec Access Products, Inc. as a respondent. On October 2, 2001, the Commission investigative attorney filed a response in support of complainant's motion to amend. On October 15, 2001, respondent Wayne-Dalton Corporation ("Wayne-Dalton") filed a motion to strike complainant's motion to amend. On October 25, 2001, complainant filed a response to Wayne-Dalton's motion to strike complainant's motion to amend. On October 31, 2001, Wayne-Dalton filed a motion for leave to reply to complainant's response to Wayne-Dalton's motion.

On November 26, 2001, the ALJ granted complainant's motion to amend in the subject ID. On the same day the ALJ denied respondent's motion to strike.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in § 210.42 of the Commission's rules of practice and procedure (19 CFR 210.42).

Issued: December 13, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31254 Filed 12–18–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–454]

In the Matter of Certain Set-Top Boxes and Components Thereof: Notice of a Commission Determination Not To Review an Initial Determination Allowing an Amendment to the Complaint

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a motion to amend the complaint in the above-captioned investigation to add license agreements and licensees.

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Jones, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3106. Copies of the subject ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 16, 2001, based on a complaint by Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, alleging violations of section 337 of the Tariff Act of 1930 in the importation into the

VOL 66 ISS 244 DE 19 2001 UMI

United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes and components thereof by reason of infringement of claims 18–24, 26–28, 31–33, 36, 42–43, 48–51, 54, 57–61, and 66 of U.S. Letters Patent 5,253,066; claims 1, 3, 8, and 10 of U.S. Letters Patent 5,479,268; and claims 14–17, 19, and 31–35 of U.S. Letters Patent 5,809,204.

On August 7, 2001, complainants Gemstar-TV Guide International, Inc. and StarSight Telecast, Inc. moved to amend the complaint to add license agreements and licensees. No party opposed the motion to amend.

On August 23, 2001, the presiding ALJ issued an ID (Order No. 24) granting the motion. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: December 14, 2001.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 01–31253 Filed 12–18–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the following information collections: (1) Pre-Hearing Statement (LS–18); (2) Overpayment Recovery Questionnaire (OWCP–20); (3) Claim for Continuance of Compensation (CA–12).

DATES: Written comments must be submitted to the office listed in the addressee section below by February 19, 2002.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451, E-mail: *pforkel@fenix2.dol-esa.gov.*

SUPPLEMENTARY INFORMATION:

Pre-Hearing Statement (LS–18)

I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Title 20, CFR 702.217 provides for the referral of claims under the Longshore Act for formal hearings. This section provides that, before a case is transferred to the Office of Administrative Law Judges, the district director shall furnish each of the parties or their representatives with a copy of a pre-hearing statement form. Each party shall, within 21 days of receipt, complete it and return it to the district director. Upon receipt, the district director shall transmit the form to the Office of the Chief Administrative Law Judge.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to prepare cases for formal hearings under the Act.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Pre-Hearing Statement.

OMB Number: 1215–0085.

Agency Number: LS–18.

Affected Public: Individuals or households; Businesses or other for-profit.

Frequency: On occasion.

Total Annual Respondents/Responses: 6,800.

Time Per Response: 10 minutes.

Estimated Total Burden Hours: 1,088.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,595.50.

Overpayment Recovery Questionnaire (OWCP–20)

Background

Both the Federal Coal Mine Health and Safety Act (30 U.S.C. 923(b) and 20 CFR 725.544(c) and the Federal Employees' Compensation Act (5 U.S.C. 8129(b) and 20 CFR 10.320–10.324) provide for the recovery, waiver, compromise, or termination of overpayment of benefits to beneficiaries. The OWCP–20 collects information used to ascertain the financial condition of the beneficiary who has been overpaid to determine if the concealment or improper transfer of assets, and to identify and consider present and potential income and current assets for enforced collection proceedings. The form also provides a means for the beneficiary to explain why he/she is not at fault for the overpayment.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the extension of approval for this information collection in order to carry out its responsibility under the law to resolve overpayments under the Acts.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Overpayment Recovery Questionnaire.

OMB Number: 1215–0144.

Agency Number: OWCP–20.

Affected Public: Individuals or households.

Frequency: On occasion.

Total Annual Respondents/Responses: 4,500.

Time Per Response: 45–75 minutes, average 1 hour.

Estimated Total Burden Hours: 4,500.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $1,665.

Claim for Continuance of Compensation (CA–12)

I. Background

Under 5 U.S.C. 8133, Federal Employees' Compensation Act, and 20 CFR 10.410, eligible dependents of deceased Federal employees receive compensation benefits on account of the employee's death. The OWCP monitors death benefits for criteria which qualify the beneficiary as the employee's dependent under law. The CA–12 is designated for this purpose.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Claim for Continuance of Compensation.

OMB Number: 1215–0154.

Affected Public: Individuals or households.

Frequency: Annually.

Total Annual Respondents/Responses: 5,900.

Time Per Response: 5 minutes.

Estimated Total Burden Hours: 492.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,006.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 7, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31211 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the following information collection: OFCCP Reporting and Recordkeeping Requirements: Supply and Service.

DATES: Written comments must be submitted to the office listed in the addressee section below by December 19, 2001.

ADDRESSES: Please submit comments to Ms. Patricia A. Forkel, U. S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 fax (202) 693–1451, EMail pforkel@fenix2.dol-esa.gov. For questions concerning this information collection request, please contact Mr. James Melvin, U. S. Department of Labor, Office of Federal Contract Compliance Programs, telephone (202) 693–0102.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Federal Contract Compliance is responsible for the administration of equal opportunity programs prohibiting employment discrimination and requiring affirmative action and applies to Federal contractors and subcontractors. OFCCP administers three programs: Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended; and the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, (VEVRAA), 38 USC 4212. This information collection contains all recordkeeping and reporting requirements which are derived from the implementing regulations found at Title 41 of the Code of Federal Regulations, chapter 60.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

VOL 66 ISS 244 DE 19 2001 UMI

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Actions

The Department of Labor (DOL) is seeking an extension of this information collection in order to substantiate compliance with nondiscrimination and affirmative action requirements monitored by OFCCP.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: OFCCP Recordkeeping and Reporting Requirements: Supply and Service.

OMB Number: 1215–0072.

Affected Public: Business or other for-profit; not-for-profit institutions; State, Local or Tribal Government.

Total Annual Respondents/Responses: 95,311.

Requirements	Average hours per response	Frequency	Number of responses
Recordkeeping:			
Initial Development of AAP	112.65	Once	953
Update of AAP	51.14	Annually	95,054
Maintenance of AAP	51.14	Annually	94,358
Uniform Guidelines on Employee Selection Procedures	2.18	Annually	5,750
Reporting:			
Standard Form 100	3.8	Annually	36,741
Scheduling Letter	4.5	On occasion	2,595
Compliance Check Letter	.4	On occasion	2,000

Estimated Total Burden Hours: 9,967,675.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $23,096.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 7, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31212 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–CM–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0130(2002)]

Electrical Standards for Construction (29 CFR part 1926, subpart K); Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comment concerning its proposal to increase the existing burden-hour estimates for, and to extend OMB approval of, the information-collection requirements of the Electrical Standards for Construction (29 CFR part 1926, subpart K).[1] These standards specify: Written descriptions of, and testing records for, the assured-equipment grounding-conductor program; warning labels and marks to alert employees to hazardous electrical conditions; and tags to warn against energizing circuits and equipment on which employees are working. Accordingly, these standards prevent deaths and severe injuries among construction employees caused by high-voltage electrical hazards.

DATES: Submit written comments on or before February 19, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0130(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202)693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3621, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693–2444. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the Electrical Standards for Construction is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202)693–2044 or Todd Owen at (202)693–2444. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov*, then select "Information Collection Requests."

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The Electrical Standards for Construction contain a number of paperwork requirements. The following sections describe these requirements in detail.

Section 1926.404(b)(1)(iii) ("Wiring design and protection"). This paragraph requires construction employers who elect not to use ground-fault-circuit interrupters at a job site to establish and implement an assured-equipment grounding-conductor (AEGC) program. This program must cover cord sets, receptacles (that are not part of the building or structure), and equipment connected by cord and plug that employees use, or is available for their use, at construction sites. An employer must ensure that the AEGC program has a written description of the program, including the specific procedures adopted by the employer, available at the job site for review and copying by OSHA compliance officers and any affected employee, and has at least one competent person, designated by employer, to implement the program. Prior to use, the employer also must visually inspect, for external defects (*e.g.*, missing or deformed pins, insulation damage) and possible internal damage, each cord set, attachment cap, plug and receptacle of cord sets, and any equipment connected by cord and plug (except fixed cord sets and receptacles not exposed to damage); the employer must repair any damaged or defective equipment prior to use by an employee.

---

[1] Based on its assessment of the paperwork requirements contained in these standards, the Agency estimates that the total burden hours increased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to increase the burden hours imposed by the existing paperwork requirements.

Under the AEGC program, the employer must test all cord sets, receptacles that are not part of the permanent wiring of the building or structure, and cord- and plug-connected equipment that require grounding. Accordingly, employers must test each equipment-grounding connector for continuity and ensure that it is electrically continuous, and test each receptacle and attachment cap or plug for correct attachment of the equipment-grounding conductor, and ensure that the conductor connects to the proper terminal. Employers are to perform these tests before: First using the equipment; returning the equipment to service following repair; and using equipment after any incident that the employer reasonably suspects damaged equipment. In addition, an employer must conduct testing at least every three months, except for fixed cord sets and receptacles not exposed to damage, which employees must test at least every six months. Employers must also record the tests, including the identity of each receptacle, cord set, and cord- and plug-connected equipment that passed the test, and the previous testing date or the interval covered by the last test. The employer is to maintain these records using logs, color coding, or other effective means until replaced by the next record, and make them available at the job site for inspection by OSHA compliance officers and affected employees.

The purpose of the AEGC program is to detect and correct faults in grounding conductors before a high-voltage accident occurs. Grounding conductors often fail because of the rough use they receive at construction sites, and such failure results in improperly grounded equipment; employees who then use the improperly grounded equipment are at risk for death or injury caused by high-voltage electrical shock. The written program identifies the equipment that the competent person must inspect and test, and delineates the procedures they are to use while inspecting and testing the equipment for grounding faults. Making the written program available for review and copying by OSHA compliance officers and affected employees ensures that the program covers the required equipment currently used at the work site, and that the competent person is following appropriate procedures during inspection and testing. Recording the tests results informs OSHA compliance officers and affected employees that the competent person tested the required equipment, and whether or not this equipment is safe to use.

Sections 1926.403(i)(2)(ii) ("General requirements [for installation safety requirements]"); 404(d)(2)(ii) ("Wiring design and protection"); 405(h) ("Wiring methods components, and equipment for general use"); 408(a)(2)(iii) and (a)(3)(i) ("Special systems"); and .416(a)(3) ("General requirements [for safety-related work practices]"). These provisions require employers to warn employees of hazardous electrical conditions, including:

- Section 1926.403(i)(2)(iii). Mark the entrances to rooms and other guarded locations containing exposed live parts with conspicuous warning signs that forbid unqualified employees from entering.
- Section 1926.403(i)(2)(iii). Post warning signs if unauthorized employees may come in contact with live parts.
- Section 1926.405(h). Mark termination enclosures for portable cables over 600 volts (nominal) with a high-voltage hazard warning.
- Section 1926.408(a)(2)(iii). Provide a means to completely isolate equipment for inspection and repairs. Accordingly, employers must ensure that means of isolation not designed to interrupt the load current of the circuit either are capable of interlocking with a circuit interrupter or they must post a sign warning against opening the means under load.
- Section 1926.408(a)(3)(i). Provide a metallic structure on mobile or portable equipment for enclosing the terminals of the power cables, and mark the structure with a sign warning that the structure contains energized parts.
- Section 1926.416(a)(3). Before starting work, determine whether or not an employee, tool, or machine may come into physical or electrical contact with an energized electric power circuit, whether exposed or concealed. If so, the employer must post and maintain proper warning signs where such circuits exist, and advise employees of the location of such circuits, the hazards involved, and the protective measures they are to take.

These warning signs and marks alert unqualified and unauthorized employees to the presence of electrical hazards, and notify electricians of the need to exercise caution and to take other measures to protect themselves when they are near electrical hazards. Therefore, these paperwork requirements prevent death and serious injury among these employees that may result from inadvertent contact with high-voltage electrical hazards.

Section 1926.417(a), (b), and (c) ("Lockout and tagging of circuits"). These paragraphs require that employers tag deactivated controls to energized or deenergized circuits and equipment while employees are working on them. In addition, employers are to render deenergized equipment and circuits inoperative, and attach tags at points that control the release of energy to the deenergized circuits and equipment; these tags must plainly identify these circuits and equipment.

The required tags warn others not to reenergize, or activate the controls to, circuits and equipment on which an employee is working. Accordingly, the tags prevent death and serious injury to these employees caused by high-voltage electrical shock, or by operation of the equipment.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is proposing to increase the existing burden-hour estimate for, and to extend OMB's approval of, the paperwork requirements specified by the Electrical Standards for Construction. The Agency is proposing to increase the total burden-hour estimate from 53,001 hours to 84,803 hours, an increase of 31,802 hours. This

VOL 66 ISS 244 DE 19 2001 UMI

increase in burden hours results in large part from accounting for developing, maintaining, and disclosing AEGC test records, and basing the number of tags required under § 1926.417(a), (b), and (c) ("Lockout and tagging of circuits") on the number of jobsites instead of the number of employees. In addition, capital costs rose from $0 to $933,333 because OSHA is accounting for the cost of purchasing new, and replacing worn or damaged, warning signs and tags. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Electrical Standards for Construction (29 CFR part 1926, subpart K).

OMB Number: 1218–0130.

Affected Public: Business or other for-profit; Federal government; State, local, or tribal governments.

Number of Respondents: 70,000.

Frequency of Recordkeeping: On occasion; quarterly; semi-annually; or (initially).

Average Time per Response: Varies from one minute to tag an electrical circuit or piece of equipment, to one hour to develop a written AEGC program.

Total Annual Hours Requested: 84,803.

Total Annual Costs (O&M): $933.333.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (62 FR 50017).

Signed at Washington, DC, on December 14, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–31271 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health: Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health: Notice of meeting.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health (MACOSH), established under section 7 of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on issues relating to occupational safety and health programs, policies, and standards for the maritime industries in the United States, will meet in Baltimore, Maryland.

DATES: MACOSH will meet on February 20 and 21, 2002, from 8:30 a.m. until approximately 5 p.m.

ADDRESSES: The Committee will meet at the Baltimore Marriott Waterfront Hotel, 800 Aliceanna Street, Baltimore, Maryland. Mail comments, views, or statements in response to this notice to Joseph V. Daddura, Acting Director, Office of Maritime Safety Standards, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2086; fax: (202) 693–1663.

FOR FURTHER INFORMATION CONTACT: Joseph V. Daddura, Acting Director, Office of Maritime Safety Standards, OSHA: Telephone (202) 693–2086.

SUPPLEMENTARY INFORMATION: All interested persons are invited to attend the public meetings of MACOSH at the time and place indicated above. Individuals with disabilities wishing to attend should contact Theda Kenney at (202) 693–2222 no later than February 1, 2002, to obtain appropriate accommodations.

Meeting Agenda

This meeting will include discussion of the following subjects: MACOSH input on OSHA priorities, vertical tandem lifts in the longshoring industry, an update on the NIOSH diesel exhaust epidemiology study, an NFPA update on the changes to NFPA 306 "Control of Gas hazards on Vessels," discussion of common issues with OSHA Advisory Committee on Construction Safety and Health, and MACOSH work group reports.

Public Participation

Written data, views, or comments for consideration by MACOSH on the various agenda items listed above may be submitted, preferably with copies, to Joseph V. Daddura at the address listed above. Submissions received by February 1, 2002, will be provided to the members of the committee and will be included in the record of the meeting.

Requests to make oral presentations to the Committee may be granted if time permits. Anyone wishing to make an oral presentation to the Committee on any of the agenda items noted above should notify Joseph V. Daddura by February 1, 2002. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Authority: This notice issued under the authority of sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR part 1912.

Signed at Washington, DC this 12th day of December 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–31189 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Nuclear Management Company, LLC; Palisades Plant Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–20, held by Nuclear Management Company, LLC (NMC or the licensee), for operation of the Palisades Plant, located in Van Buren County, Michigan, and the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would change the limiting conditions for operation (LCOs), surveillance requirements (SRs), and design features in the Technical Specifications (TSs) to provide more flexible fuel loading constraints for the Palisades fuel storage racks and accommodate future core designs. The changes affect TS Sections 3.7.15, "Spent Fuel Pool (SFP) Boron Concentration," 3.7.16, "Spent Fuel Assembly Storage," and 4.3, "Design Features—Fuel Storage." Allowed uranium enrichments for storage would be increased. Enrichment limits for storage racks for unirradiated fuel (currently limited to fuel assemblies having a maximum average planar uranium-235 (U–235) enrichment of 4.20 weight percent) would be increased to allow storage of 24 unirradiated fuel assemblies having a maximum planar average U–235 enrichment of 4.95 weight percent, subject to proposed loading pattern constraints (e.g., the center row being empty if stored fuel exceeds 4.05 percent U–235 enrichments). Similarly, the storage racks for unirradiated fuel could contain 36 unirradiated fuel assemblies having a maximum planar average U–235 enrichment of 4.05 weight percent, subject to similar proposed loading pattern constraints not necessarily requiring the center row to be empty. Region I storage racks (currently limited to a maximum enrichment of 4.40 weight percent) would be changed to allow storage of unirradiated or irradiated fuel up to 4.95 weight percent enrichment on the basis of revised criticality analyses that assume no credit for soluble boron in the pool under normal conditions, but which take credit for 1350 ppm of soluble boron under accident conditions. Enrichment requirements for Region II fuel storage racks (currently limited to 3.27 weight percent) would be changed to allow storage of unirradiated fuel up to 1.14 weight percent and irradiated fuel of equivalent reactivity up to 4.6 weight percent initial enrichment on the basis of criticality analyses that take credit for 850 ppm of soluble boron in the pool under normal conditions and 1350 ppm of soluble boron under accident conditions. The TSs (*e.g.*, proposed Table 3.7.16–1) for allowable enrichments for fuel storage in Region II of the SFP or the north tilt pit would continue to be based upon a combination of initial enrichment and burnup, but the proposed change would also add decay time to this combination. The existing limitations that Region I racks may contain only "new or partially spent" fuel assemblies, and that Region II spent fuel racks may contain only "partially spent" fuel assemblies, would be changed to "new or irradiated fuel assemblies which meet the initial enrichment, burnup, and decay time requirements of [the proposed revision to] Table 3.7.16–1." The existing requirements that fuel assemblies in new or Region I fuel storage racks must contain "216 rods which are either UO_2, $Gd_2O_3UO_2$, or solid metal" would be deleted. TS 3.7.15 would continue to require that the SFP boron concentration be equal to or greater than 1720 ppm whenever fuel is stored in the spent fuel pool, and be verified weekly. However, the optional Action Statement A.2.2 to immediately initiate action to perform a SFP verification when the concentration is not within limits would be deleted (as would a related portion of the applicability statement regarding verification). The licensee also included changes to the associated TS Bases.

The proposed action is in accordance with the application dated March 2, 2001, as supplemented by letters dated March 29 and September 14, 2001. Although the initial application for a license amendment was tendered by Consumers Energy Company (CEC), CEC has subsequently been succeeded by NMC as the licensed operator of Palisades. By letter dated May 17, 2001, NMC requested that the Commission continue to process and disposition licensing actions previously docketed and requested by CEC.

The Need for the Proposed Action

The proposed action to change the fuel enrichment and burnup combinations acceptable for storage in Region II racks is needed to allow flexibility in fuel placement within the pool. This flexibility is needed because recent fuel assembly enrichments at Palisades have been above the current 3.27 weight percent enrichment limit for Region II racks specified in TS 4.3.1.2. Thus, currently, these assemblies can only be stored in Region I racks that have limited unused storage capacity. This proposed action is also needed to eliminate reliance upon programs (periodic "blackness" testing) designed to detect degradation and ensure the integrity of fixed Boroflex poison material in the Region II fuel racks for reactivity control. Since the licensee's criticality calculations for this proposed change do not credit the Boroflex material, periodic blackness testing can be discontinued.

The proposed action to increase fuel storage enrichment limits allows the licensee the flexibility to pursue increased reload fuel enrichments needed to optimize fuel cycle costs.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the potential radiological consequences for both normal and accident conditions associated with the proposed allowed storage of fuel with increased enrichment and SFP criticality calculations supporting the proposed changes. Radiological consequences are only indirectly affected by increasing fuel enrichment. The radiological consequences are primarily a function of operating power and burnup. By increasing fuel enrichment, the same power level can be produced for a longer period of time before refueling. Therefore, the proposed allowed storage of fuel with increased enrichment in the SFP would have no effect on authorized operating power levels, but would result in increasing the burnup levels that can be practically achieved. The proposed license amendment to change the TSs would not affect the allowed maximum burnup for Palisades. The licensee determines this limit using approved fuel assembly and core design methodology stated in the Palisades Final Safety Analysis Report (FSAR), as periodically updated. The evaluation of the radiological consequences resulting from fuel handling accidents (and other accident and transient conditions) would not change since the maximum allowed fuel burnup remains unchanged. The licensee will continue to evaluate reload core designs on a cycle-by-cycle basis as part of its reload safety evaluation process to confirm that the cycle core design adheres to the limits that exist in the accident analyses and TSs and, thus, ensure that each reactor operating cycle will be acceptable.

A. TS Changes Associated with the Fuel Pool in General

The applicability of TS LCO 3.7.15 would be changed from "When fuel assemblies are stored in the SFP and a verification of the stored assemblies has not been performed" to "When fuel assemblies are stored in the Spent Fuel Pool." The NRC staff finds this to be a more restrictive change with no environmental impact.

Required Action A.2.2 for LCO 3.7.15 would be deleted because verification alone would not restore the plant to analyzed conditions. Required Action A.2.1 would be renumbered as "A.2."

The intent of the existing LCO 3.7.15 is to protect against criticality during a fuel handling accident or misloading event. The licensee's criticality analyses supporting the proposed action credit boron for normal storage as well as for accident scenarios. Therefore, the applicability of LCO 3.7.15 would be extended to all times when fuel assemblies are stored in the Palisades fuel pool and Action A.2.2 would be eliminated.

The change in applicability effectively increases the minimum SRs for spent fuel boron since samples now must be taken even if loading has been verified. Since administrative procedures at Palisades currently require these samples at least weekly, this change would have no effect upon plant operations and would not result in a change to individual or cumulative occupational radiation exposure limits. Similarly, the changed surveillance would not result in a change to radiological or nonradiological effluent releases during normal or accident scenarios.

B. TS Changes Associated with the Storage Racks for Unirradiated Fuel

The enrichment allowed in TS 4.3.1.3.a would be changed from "Fuel assemblies having a maximum average planar U_{235} enrichment of 4.20 weight percent" to "Twenty-four unirradiated fuel assemblies having a maximum planar average U–235 enrichment of 4.95 weight percent, and stored in accordance with the pattern shown in Figure 4.3.-1; or Thirty-six unirradiated fuel assemblies having a maximum planar average U–235 enrichment of 4.05 weight percent, and stored in accordance with the pattern shown in Figure. 4.3.–1." Existing TS 4.3.1.3.c would be deleted and existing TS 4.3.1.3d would be renumbered as 4.3.1.3c.

Since the storage racks for new (unirradiated) fuel are not used to store irradiated fuel, radiological consequences associated with changes in storage limitations are largely limited by the prevention of inadvertent criticality. The licensee's criticality analyses supporting this license amendment request show that the k_{eff} based on a 95-percent probability at a 95-percent confidence level (i.e., the 95/95 k_{eff}) for the new fuel storage rack is less than 0.95 assuming enrichment up to 4.05 weight percent U–235 when fully loaded with 36 unirradiated assemblies. The analyses also show the 95/95 k_{eff} for the new fuel storage rack is less than 0.95 when loaded with only 24 unirradiated assemblies with enrichment up to 4.95 weight percent U–235. The center row of the rack is left empty under this configuration. The licensee provided a graphical description of both loading patterns in Figure 3 of its engineering analysis, EA–SFP–99–03 (Enclosure 2 to the March 2, 2001, supplemental letter), which shows ½ of the new fuel storage rack—the loading pattern continues through the other half of the rack. The design-basis assembly is a 216-pin Palisades assembly. The licensee found earlier assembly types with fewer than 216 pins and guide tubes to be bounded since their enrichment is less than or equal to 3.27 weight percent. The licensee also notes that all assemblies with fewer than 216 pins have been irradiated and, therefore, cannot be stored in the storage racks for new fuel. Any new designs other than those assumed in the licensee's calculation, including but not limited to different numbers of fueled pins, different pellet diameters, and different pellet densities, would first be evaluated by the licensee against the design-basis calculation and in accordance with 10 CFR 50.59, "Changes, Tests and Experiments," before being stored in the racks. Therefore, the NRC staff finds that the proposed TS changes associated with the racks for storage of unirradiated fuel will not have a significant adverse radiological impact.

Storage of higher enriched fresh fuel assemblies in the storage racks for unirradiated fuel, under specific loading patterns, has no effect on nonradiological effluent releases.

C. TS Changes Associated with Region I Fuel Pool Storage

The enrichment allowed in TS 4.3.1.1.a for fuel assemblies in Region I fuel storage racks would be changed from "having a maximum enrichment of 4.40 weight percent" to "having a maximum planar average U–235 enrichment of 4.95 weight percent." In TS 4.3.1.1.d, the existing requirement that the Region I fuel storage racks be designed and maintained with:

"New or partially spent fuel assemblies. Assemblies with enrichments above 3.27 weight percent U_{235} must contain 216 rods which are either UO_2, $Gd_2O_3UO_2$, or solid metal."

would be changed to

"New or irradiated fuel assemblies."

The licensee's criticality analyses supporting this license amendment request show that the 95/95 k_{eff} for the Region I fuel storage racks is less than 0.95 assuming the enrichment of an assembly is less than or equal to 4.95 weight percent U–235. The design-basis assembly is a 216-pin Palisades assembly. Earlier assembly types with less than 216 pins and guide tubes are bounded since their maximum enrichment is less than or equal to 3.27 weight percent. The licensee states that the calculation bounds all assemblies currently stored at Palisades and those the licensee foresees in the future. Any new designs other than those assumed in the licensee's calculation, including but not limited to different numbers of fueled pins, different pellet diameters, and different pellet densities, will first be evaluated by the licensee against the design-basis calculation before being stored in the racks. In addition, before being used in the Palisades core, any new fuel design is first evaluated as part of the licensee's reload safety evaluation to ensure the cycle core design adheres to the limits that exist in the accident analyses and TSs. The licensee performs such analyses using approved methodologies as defined in TS 5.6.5, "Core Operating Limits Report (COLR)," and in accordance with 10 CFR 50.59.

In itself, increasing the enrichment level allowed for storage in the Region I fuel pool racks has no effect on possible radiological or nonradiological effluent releases. Since the licensee's criticality design calculations show that K_{eff} remains below 0.95 in all normal storage and accident scenarios, there is no significant increased threat of radiation exposure due to accidental criticality in the fuel pool. If the licensee should decide to pursue reload enrichments higher than the current storage limit (i.e., greater than 4.40 weight percent), the result would not adversely impact the environmental effects since radiological impacts are only indirectly affected by increasing fuel enrichment. The radiological impacts are primarily a function of operating power and burnup. The purpose of increased fuel enrichment is the ability to produce the same power level for a longer period of time before refueling. Therefore, the proposed allowed storage of fuel with increased enrichment in the SFP would have no effect on authorized operating power levels, but would result in increasing the burnup levels that can be practically achieved. Again, licensees evaluate the use of fuel (at any enrichment and burnup) on a cycle-by-cycle basis to ensure that parameters such as assembly discharge burnups are within limits specified in the FSAR.

Therefore, the proposed TS changes associated with Region I fuel pool storage have no significant adverse radiological impact. These changes also have no adverse nonradiological impact.

D. TS Changes Associated with Region II Fuel Pool Storage

The licensee proposes the following TS changes regarding the storage of fuel assemblies in Region II of the fuel pool:

LCO 3.7.16 currently requires that "The combination of initial enrichment and burnup of each fuel assembly stored in Region II shall be within the requirements of Table 3.7.16–1." This would be changed to require that "The combination of initial enrichment, burnup, and decay time of each irradiated fuel assembly stored in Region II shall be within the requirements of Table 3.7.16–1." Thus, this change would add the decay time of each assembly as an additional requirement for storage in Region II. Similarly, the associated SR (SR 3.7.16.1) to "Verify by administrative means that the initial enrichment and burnup of each spent fuel assembly stored in Region II is in accordance with Table 3.7.16–1" would be changed to

"Verify by administrative means that the combination of initial enrichment, burnup, and decay time of each irradiated fuel assembly stored in Region II is in accordance with Table 3.7.16–1." Existing TS Table 3.7.16–1 would be replaced by Table 4 from the licensee's engineering analysis, EA–SFP–99–03, which specifies Region II burnup requirements after various periods of decay. The existing requirement of TS 4.3.1.2.a that the Region II fuel storage racks are designed and shall be maintained with fuel assemblies "having a maximum enrichment of 3.27 weight percent" would be changed to "having a maximum planar average U-235 enrichment of 4.60 weight percent." A new TS 4.3.1.2.b would be added to require that the Region II fuel storage racks be designed and maintained with "K_{eff} [less than] 1.0 if fully flooded with unborated water, which includes allowances for uncertainties as described in Section 9.11 of the FSAR." Existing TS 4.3.1.2.b would be renumbered as 4.3.1.2.c and revised to require that Region II fuel storage racks be designed and maintained with K_{eff} less than or equal to 0.95 "if fully flooded with water borated to 850 ppm," rather than "if fully flooded with unborated water." Existing TSs 4.3.1.2.c and 4.3.1.2.d would be renumbered 4.3.1.2.d and 4.3.1.2.e, respectively. TS 4.3.1.2.e (former 4.3.1.2.d) would also be changed to require that Region II fuel storage racks be designed and maintained with "[p]artially spent fuel assemblies which meet the initial enrichment and burnup requirements of Table 3.7.16–1," to "[n]ew or irradiated fuel assemblies which meet the initial enrichment, burnup, and decay time requirements of Table 3.7.16–1." A new figure based upon Figure 3 of the licensee's engineering analysis, EA–SFP–99–03, and showing storage rack loading patterns for new fuel would be added as TS Figure 4.3–1.

The licensee's criticality analyses, which are the basis for this license amendment request, show that the 95/95 K_{eff} for the Region II fuel storage racks is less than 0.95 assuming the enrichment of an assembly is less than or equal to 4.60 weight percent U–235 and assuming 850 ppm boron in the pool water. The analyses also ensure that K_{eff} is less than 1.0 assuming no boron. The proposed revision to Table 3.7.16–1 contains the burnup, enrichment, and decay time combinations shown to be acceptable in the licensee's engineering analysis, EA–SFP–99–03.

Boron is already present in the Palisades SFP. Likewise, the fuel stored in the pool is burned to levels dictated by core design constraints. Fuel assemblies experience radioactive decay while they are stored. These characteristics of the fuel would not be changed by the proposed amendment. Therefore, crediting the reactivity effects associated with boron, burnup, and decay in the design-basis criticality calculations has no effect upon possible radiological or nonradiological effluent releases. Since the criticality design calculations show that K_{eff} remains below 0.95 in all normal storage and accident scenarios, there is no increased threat of radiation exposure due to accidental criticality in the fuel pool.

In general, the proposed burnup and enrichment combinations that are acceptable for storage in the Region II racks require higher burnups for a given enrichment than those present in the current TS Table 3.7.16–1. This increase in allowed minimum burnup does not affect radiological consequences since the actual fuel burnup is dictated by core design constraints and may be significantly higher than that required for storage in Region II fuel storage racks (up to 58,900 MWD/MTU assembly average for recent Palisades reload fuel, as discussed in FSAR Section 3.2.3, Nuclear Limits). In general, higher burnup has a limited effect on the short-lived isotope inventory in the fuel due to the development of an equilibrium condition between production and decay. Instead, extended burnups increase the fraction of the short-lived isotopes that migrate into the fuel-clad gap region (see, for example, NUREG/CR–5009, "Assessment of the Use of Extended Burnup Fuel in Light Water Power Reactors," prepared for the U.S. Nuclear Regulatory Commission by Pacific Northwest). With increasing burnup, there is no decrease in fuel rod integrity or the probability of fuel failures during normal operations, as long as actual burnup does not exceed the vendor-approved values. However, with the increased short-lived activity in the clad-gap region, increased burnup could result in increased activity being released into the reactor coolant under normal operation if fuel failures were to occur. Maximum fuel burnup limits are not being changed by this proposed amendment.

E. Conclusions

On the basis of the above assessment, the NRC staff concludes that the proposed TS changes regarding the storage of new and irradiated fuel, including fuel with increased allowed enrichment (up to 4.95 weight percent), will not have a significant adverse environmental effect.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for Palisades dated June 1972, as supplemented.

Agencies and Persons Consulted

On December 12, 2001, the NRC staff consulted with the Michigan State official, Mary Ann Elzerman, regarding the environmental impact of the proposed action. The State official agreed with the NRC staff's proposed issuance of this Environmental Assessment and Finding of No Significant Impact.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action may be found in the licensee's application dated March 2, 2001, as supplemented by letters dated March 29 and September 14, 2001.

VOL 66 ISS 244 DEC 19 2001 UMI

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 12th day of December, 2001.

Darl S. Hood,

Senior Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31218 Filed 12–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

AmerGen Energy Company, LLC; Oyster Creek Nuclear Generating Station Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16, issued to AmerGen Energy Company, LLC (AmerGen or the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed action is a one-time exemption from the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix E, Items IV.F.2.b and c regarding conduct of a full participation exercise of the onsite and offsite emergency plans every 2 years. The proposed action is in accordance with the licensee's application for an exemption dated October 8, 2001. Under the proposed exemption, AmerGen would reschedule the exercise originally scheduled for October 16, 2001, and complete the exercise requirements in calendar year 2002. However, the next full participation exercise will continue to be scheduled biennially from 2001. The licensee requested relief from section IV.F.2.c of Appendix E to 10 CFR part 50. Although the intent of the request is clear, i.e., the need to postpone the biennial exercise, the citation of regulations to accomplish that intent may not be complete. Section IV.F.2.b of Appendix E to 10 CFR part 50 may also be cited for completeness. The analysis in the Commission's Safety Evaluation encompassed the technical issues necessary to grant a schedular exemption from sections IV.F.2.b and c for the conduct of the biennial exercise.

The Need for the Proposed Action

10 CFR part 50, Appendix E, Items IV.F.2.b and c require each licensee at each site to conduct an exercise of its onsite and offsite emergency plan every 2 years. Federal agencies (the Nuclear Regulatory Commission for the onsite exercise portion and the Federal Emergency Management Agency for the offsite exercise portion) observe these exercises and evaluate the performance of the licensee and State and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its onsite and offsite emergency plan on October 16, 2001, within the required 2-year interval. However, AmerGen has decided to postpone the exercise as a result of the ongoing national security threat in the United States, and the response, recovery, and other continuing offsite agency activities associated with the September 11, 2001, attacks on the World Trade Center.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity (a scheduler change in conducting an exercise) unrelated to plant operations.

The proposed action will not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement dated December 1974 for the Oyster Creek Nuclear Generating Station.

Agencies and Persons Consulted

In accordance with its stated policy, on November 8, 2001, the staff consulted with the New Jersey State official, Rich Pinney of the New Jersey Department of Environment and Natural Resources, regarding the environmental impact of the proposed action. The State official had no comments. In addition, by letter dated September 27, 2001, the Federal Emergency Management Agency indicated support for rescheduling the exercise.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 8, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 13th day of December, 2001.

For the Nuclear Regulatory Commission.

Helen N. Pastis,

Senior Project Manager, Section 1, Project Directorate 1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31215 Filed 12–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250 and 50–251]

Florida Power and Light Company Turkey Point Plant, Units 3 and 4; Exemption

1.0 Background

The Florida Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR–31 and DPR–41, which authorize operation of the Turkey Point Plant, Units 3 and 4. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors located in Miami-Dade County in Florida.

2.0 Request/Action

By letter dated October 23, 2000, Florida Power and Light, the licensee for Turkey Point Plant, requested, among other things, an exemption from certain requirements of 10 CFR 50.44; 10 CFR part 50, Appendix A, General Design Criterion 41, 42, and 43; and 10 CFR part 50, Appendix E, section VI; related to the hydrogen control system (i.e., recombiners, hydrogen monitors, and post-accident containment vent system). The proposed exemption would remove the above requirements from the Turkey Point Plant design basis. The staff has reviewed the information provided and concludes that the requested exemption for the hydrogen recombiners and the post-accident containment vent system are justified. The staff will act on the exemption request for the containment hydrogen monitors, the requested modification to the revised Confirmatory Order issued on October 5, 2000, and the revision to the Technical Specifications related to the post-accident containment vent system and the hydrogen monitors by separate correspondence.

The post-accident containment vent system is provided to facilitate controlled venting through adding air (Service Air backed by Instrument Air) to the reactor containment and venting air from the containment to effectively maintain hydrogen concentration below 4.0 volume percent. Regulatory requirements for the hydrogen control system are specified in 10 CFR 50.44 and 10 CFR part 50, Appendix A, (General Design Criteria 41, 42, and 43). Additional staff guidance is provided in Regulatory Guide (RG) 1.7. Staff review and acceptance criteria are specified in Section 6.2.5 of the Standard Review Plan.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50, when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present.

For this exemption, these special circumstances include consideration that the quantity of hydrogen prescribed by 10 CFR 50.44(d) and RG 1.7 which necessitated the need for hydrogen recombiners and the post-accident containment vent system would be bounded by the hydrogen generated during a severe accident. As shown in the attached safety evaluation, the staff has found that the relative importance of hydrogen combustion for large, dry containments with respect to containment failure is quite low. This finding supports the argument that the hydrogen recombiners are not risk significant from a containment integrity perspective and that the risk associated with hydrogen combustion is not from design basis accidents but from severe accidents. Studies have shown that the majority of risk to the public is from accident sequences that lead to containment failure or bypass, and that the contribution to risk from accident sequences involving hydrogen combustion is actually quite small for large, dry containments such as Turkey Point's. This is true despite the fact that the hydrogen produced in these events is substantially larger than the hydrogen production postulated by 10 CFR 50.44(d) and RG 1.7. Hydrogen combustion sequences that could lead to early containment failure typically involve up to 75 percent core metal-water reaction. Hydrogen combustion sequences that could lead to late containment failure involve additional sources of hydrogen due to the interaction of corium and the concrete basemat after vessel breach. Although the recombiners and the post-accident containment vent system are effective in maintaining the RG 1.7 hydrogen concentration below the lower flammability limit of 4.0 volume percent (for a design basis loss-of-coolant accident (LOCA)), they are overwhelmed by the larger quantities of hydrogen associated with severe accidents that would typically be released over a much shorter time period (e.g., 2 hours). However, NUREG/CR–4551 states that hydrogen combustion in the period before containment failure is considered to present no threat to large, dry containments. Table A.4–5 of NUREG/CR–4551 shows that the contribution of hydrogen combustion to late containment failure is also very small. Therefore, the relative importance of hydrogen combustion for large, dry containments with respect to containment failure has been shown to be quite low.

The recombiners can, however, prevent a subsequent hydrogen burn, if needed, due to radiolytic decomposition of water and corrosion in the long term. Analysis performed in accordance with the methodology of RG 1.7 shows that the hydrogen concentration will not reach 4.0 volume percent for 15 days after initiation of a design basis LOCA. Additionally, as described in the attached safety evaluation, hydrogen concentrations on the order of 6.0 volume percent or less are bounded by hydrogen generated during a severe accident and would not be a threat to containment integrity since there is ample time between burns to reduce elevated containment temperatures using the installed containment heat removal systems. The Turkey Point Individual Plant Examination (IPE) concluded that containment survival is almost certain following hydrogen combustion when the Reactor Building Cooling Units and the Reactor Building Spray System are operating.

The underlying purpose of 10 CFR 50.44 is to show that, following a LOCA, an uncontrolled hydrogen-oxygen recombination would not take place, or that the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function. Based on the analysis, which includes the staff's evaluation of the risk from hydrogen combustion, resolution of Generic Issue 121, "Hydrogen Control for PWR [pressurized-water reactor] Dry Containments," and the Turkey Point IPE, the plant could withstand the consequences of uncontrolled hydrogen-oxygen recombination without loss of safety function and without credit for the hydrogen recombiners for not only the design basis case, but the more limiting severe accident with up to 100 percent metal-water reaction. Therefore, the requirements for hydrogen recombiners as part of the Turkey Point design basis are unnecessary and their removal from the design basis is justified. Additionally, elimination of the hydrogen recombiners from the Emergency Operating Procedures (EOPs)

VOL 66 ISS 244 DE 19 2001 UMI

would simplify operator actions in the event of an accident and, therefore, would be a safety benefit.

The staff examined the licensee's rationale that supports the exemption request and concluded that the exemption requested for the recombiners and the post-accident containment vent system is justified as stated in the supporting safety evaluation. Additionally, elimination of the hydrogen recombiners and the post-accident containment vent system from the EOPs would be a simplification and a safety benefit. Consequently, pursuant to 10 CFR 50.12(a)(2)(ii), application of the regulation is not necessary to achieve the underlying purpose of the rule.

The safety evaluation may be examined, and/or copied for a fee at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Public Reading Room).

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption pertaining to the recombiners and the post-accident containment vent system is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, pursuant to 10 CFR 50.12(a)(2)(ii), special circumstances are present. Therefore, the Commission hereby grants Florida Power and Light Company an exemption from the requirements for the recombiners and the post-accident containment vent system as stated in 10 CFR 50.44 and 10 CFR part 50, Appendix A, General Design Criteria 41, 42 and 43 for the Turkey Point Plant, Units 3 and 4.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 59266).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 12th day of December, 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulations.

[FR Doc. 01–31216 Filed 12–18–01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 131st meeting on January 8–10, 2002, at 11545 Rockville Pike, Rockville, Maryland, Room T–2B3.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, January 8, 2002

A. *8:30–10:15 A.M.: Opening Statement/Planning and Procedures* (Open)—The Chairman will open the meeting with brief opening remarks. The Committee will then review items under consideration at this meeting and consider topics proposed for future ACNW meetings.

B. *10:30–11:30 A.M.: Proposed Rule on Probability of an Unlikely Event* (Open)—The staff will provide an information briefing on the proposed rule: 10 CFR Part 63, "Specification of a Probability for Unlikely Features, Events and Processes".

C. *1–3 P.M.: Preparation of ACNW Reports* (Open)—The Committee will discuss proposed reports on the following topics:

- ACRS/ACNW November 14, 2001 Joint Subcommittee Meeting on Risk-Informed Regulation in NMSS
- Annual Research Report to the Commission
- Proposed Rule on Probability of an Unlikely Event

D. *3:15–6 p.m.: Discussion of Topics for Meeting with the NRC Commissioners* (Open)—The Committee will discuss topics scheduled for its January 9, 2002 meeting with the Commission.

Wednesday, January 9, 2002

E. *8:30–8:35 A.M.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

F. *8:35–9:30 A.M.: Final Preparation for Committee Meeting with the NRC Commissioners* (Open)—The Committee will finalize preparations for meeting with the NRC Commission.

G. *9:40–11:30 A.M.: Meeting with the NRC Commissioners* (Open)—The Committee will meet with the NRC Commissioners in the Commissioners' Conference Room, One White Flint North, to discuss: Issue Resolution and Sufficiency Review, Total Systems Performance Assessment for Site Recommendation, High-Level Waste Chemistry Issues, Research Program in Radioactive Waste, and related matters.

H. *1–2 P.M.: ACNW Planning Retreat* (Open)—The Committee will finalize plans for its February 27–28—March 1, 2002 retreat.

Thursday, January 10, 2002

I. *8:30–8:35 A.M.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

J. *8:35–11:30 A.M.: Preparation of ACNW Reports* (Open)—The Committee will continue its discussion of proposed ACNW reports.

K. *12:30–1:30 P.M.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 3, 2001 (66 FR 50461). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 8 A.M. and 4 P.M. EST, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or viewing on the internet at *http://www.nrc.gov/ACRSACNW.*

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301/415–8066), between 7:30 a.m. and 3:45 p.m. EST at least 10 days before the meeting to ensure the availability of this service.

Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

The ACNW meeting dates for Calendar Year 2002 are provided below:

ACNW Meeting No. and Meeting Date:
131st (Rockville, MD)—January 8–10 2002
132nd (Rockville, MD)—February 7, 2002
133rd (Rockville, MD)—March 19–21, 2002
134th (Rockville, MD)—April 16–18, 2002
135th (Las Vegas, NV—tentative)—May 21–23, 2002
136th (Rockville, MD)—June 18–20, 2002
137th (Rockville, MD)—July 23–25, 2002
August 2002—No Meeting
138th (Rockville, MD)—September 24–26, 2002
139th (Rockville, MD)—October 22–24, 2002
140th (Rockville, MD)—November 19–21, 2002
December 2002—No meeting

Dated: December 13, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–31213 Filed 12–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Materials and Metallurgy; Notice of Meeting

The ACRS Subcommittee on Materials and Metallurgy will hold a meeting on January 15–16, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, January 15, 2002—8:30 a.m. until the conclusion of business
Wednesday, January 16, 2002—8:30 a.m. until 12:00 Noon

The Subcommittee will review the preliminary results of the Fracture Analysis of Vessels: Oak Ridge (FAVOR) code calculation associated with the Reevaluation of the Technical Basis for the Pressurized Thermal Shock Rule Screening Criterion Project. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7 a.m. and 3:45 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: December 12, 2001.

Sher Bahadur,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 01–31214 Filed 12–18–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; New System of Records

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of New System of Records.

SUMMARY: The Nuclear Regulatory Commission (NRC) is providing notice of the establishment of a new system of records, NRC–12, Child Care Tuition Assistance Program Records.

EFFECTIVE DATE: The new system of records will become effective without further notice on January 28, 2002 unless comments received on or before that date cause a contrary decision.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications staff. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at either the NRC Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or the NRC's Agencywide Documents Access and Management System (ADAMS). Comments are also available at the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* This site also enables you to submit comments. Comments may be uploaded as files (any format), if your Web browser supports that function. For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher, 301–415–5905; e-mail: cag@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Sandra S. Northern, Privacy Program Officer, FOIA/Privacy Act Team, Web, Publishing, and Distribution Services Division, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6879; e-mail: *ssn@nrc.gov.*

SUPPLEMENTARY INFORMATION: The establishment of this new system of records, NRC–12, Child Care Tuition Assistance Program Records, will allow the NRC to collect and maintain family income data from NRC employees for the purpose of determining their eligibility for child care subsidies, and the amounts of the subsidies. It will also maintain information from the employee's child care provider(s) for verification purposes, e.g., that the provider is licensed. Data will be

VOL 66 ISS 244 DE 19 2001 UMI

collected from the tuition assistance application forms submitted by employees.

A report on the proposed new system of records is being sent to the Office of Management and Budget (OMB), the Committee on Governmental Affairs of the U.S. Senate, and the Committee on Government Reform of the U.S. House of Representatives as required by the Privacy Act and OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals."

According, the NRC proposes to add NRC–12 to read as follows:

NRC–12

SYSTEM NAME:

Child Care Tuition Assistance Program Records

SYSTEM LOCATION:

Office of Human Resources, NRC, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NRC employees who voluntarily apply for child care tuition assistance.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include application forms for child care tuition assistance containing personal information, including employee (parent) name, social security number, grade, home and work telephone numbers, home and work addresses, total family income, names of children on whose behalf the parent is applying for tuition assistance, child's date of birth; information on child care providers used, including name, address, provider license number and State where issued, tuition cost, and provider tax identification number; and copies of IRS Form 1040 and 1040A for verification purposes.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 107–67, section 630 and Executive Order 9397.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to the disclosures permitted under subsection (b) of the Privacy Act, the NRC may disclose information contained in this system of records without the consent of the subject individual if the disclosure is compatible with the purpose for which the record was collected under the following routine uses:

a. To the Office of Personnel Management to provide statistical reports;

b. For any of the routine uses specified in the Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSITION OF RECORDS IN THE SYSTEM:

STORAGE:

Information may be collected on paper or electronically and may be stored as paper forms or on computers.

RETRIEVABILITY:

Information may be retrieved by employee name or social security number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable file cabinets and computer records are protected by the use of passwords.

RETENTION AND DISPOSAL:

The records in this system are currently unscheduled and must be retained until the National Archives and Records Administration (NARA) approves a records disposition schedule for this material.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Human Resources, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves should write to the Freedom of Information Act and Privacy Act (FOIA/PA) Officer, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and comply with the procedures contained in NRC's Privacy Act regulations, 10 CFR part 9.

RECORD ACCESS PROCEDURE:

Same as "Notification procedure."

CONTESTING RECORD PROCEDURE:

Same as "Notification procedure."

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from NRC employees who apply for child care tuition assistance. Furnishing of the information is voluntary.

Dated at Rockville, MD, this 13th day of December, 2001.

For the Nuclear Regulatory Commission.

Stuart Reiter,

Chief Information Officer.

[FR Doc. 01–31219 Filed 12–18–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45148; File No. SR–CSE–2001–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Establishing a Fee Schedule for Nasdaq/National Market Securities Transactions and Establishing a Revenue Sharing Program for Trading in Nasdaq/National Market Securities

December 11, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 29, 2001, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by CSE.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's rules to establish a fee schedule for transactions in Nasdaq/National Market securities ("Nasdaq/NM Securities") and to establish a revenue sharing program to reflect recent developments in competitive business strategy. The text of the proposed rule change is available at the principal offices of the CSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of, and the basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The CSE confirmed that the filing received by the Commission on November 29, 2001, file number SR–CSE–2001–05, replaced in its entirety the filing received by the Commission on November 20, 2001, also with the file number SR–CSE–2001–05. Telephone discussion between Jeffrey T. Brown, Vice President, Regulation and General Counsel, CSE, and Christopher B. Stone, Attorney Advisor, Division of Market Regulation, Commission (Dec. 10, 2001).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing two amendments to the Exchange Rules governing transaction fees and market data revenue credits in keeping with recent trends in the securities industry.

The first amendment adds subsection (2) to CSE Rule 11.10(A)(e), ("Crosses and Meets"). Proposed subsection (2) establishes a fee schedule for transactions in Nasdaq/NM Securities.

The second amendment creates in incentive for CSE members to trade Nasdaq/NM Securities on the Exchange and will be codified as CSE Rule 11.10(A)(l) ("Tape 'C' Transaction Credit"). The Exchange believes the credit is a logical next step in its efforts to provide competitive exchange services to CSE members trading Nasdaq/NM Securities. Under the Nasdaq program,[4] CSE member firms will receive a 75 percent (75%) pro rata transaction credit on all Nasdaq Tape C market data revenue generated by CSE member trading of Nasdaq/NM Securities.

2. Statutory Basis

The proposed rule change is generally consistent with section 6(b) of the Act.[5] The proposed rule change also furthers the objectives of section 6(b)(5) of the Act,[6] particularly, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposal also is consistent with section 6(b)(4) of the Act[7] in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by crediting CSE members on a pro rata basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(2) thereunder,[9] as establishing or changing a due, fee, or other charge paid solely by members of the CSE. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate, in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[10]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–2001–05 and should be submitted by January 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31196 Filed 12–18–01; 8:45 am]

BILLING CODE 8010–01–M

---

[4] Nasdaq/NM Securities will be traded on CSE pursuant to section 12(f) of the Act as well as the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities traded on Exchanges on an Unlisted Trading Privileges Basis ("Nasdaq-UTP Plan").

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] *See* section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45150; File No. SR–Phlx–2001–110]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Permitting Inactive Nominees To Become Effective Members on December 5, 2001

December 12, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 4, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposed to allow Inactive Nominees,[3] upon request, to act as effective members of the Phlx on Wednesday, December 5, 2001 on the Phlx Equity Trading Floor. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Inactive Nominees are designated by Phlx member organizations to serve as such. They have been approved by the Phlx for membership in accordance with the Phlx Rules, but will not have the rights and privileges of membership until made effective by the Exchange. *See* Phlx By-law Article XII, Section 12–10 and Phlx Rule 21.

VOL 66 ISS 244 DE 19 2001 UMI

the places specified in Item IV below. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to allow Inactive Nominees, upon request, to act as effective members of the Phlx on Wednesday, December 5, 2001 on the Phlx Equity Trading Floor. Wednesday, December 5, 2001 is the 6th Annual McNamara Trading Day benefiting St. Jude Children's Research Hospital. McNamara Trading Company, the largest floor brokerage member organization on the Equity Floor, donates all commissions from the day's trading to the St. Jude Children's Research Hospital. The Equity Floor typically experiences a very large increase in volume that day. The Exchange believes that making Inactive Nominees effective members upon their request on that day should better enable the Exchange and its members to maintain fair and orderly markets in securities due to the expected increased volume.[4]

The Phlx has authority to make Inactive Nominees effective members. Phlx By-law Article XII, Sections 12–10(a) and (b) state that an Inactive Nominee is "an individual * * * approved for membership" in the Exchange, but "shall have no rights or privileges of membership unless and until said Inactive Nominee becomes an effective member." One way that an Inactive Nominee becomes an effective member is by assuming, pursuant to Phlx Rule 21, legal title to a membership through an intra-firm transfer. This allows an Inactive Nominee to become an effective member of the Exchange through the transfer of a membership from another member, associated with the Inactive Nominee's firm, to the Inactive Nominee. Consequently, the member leaving the membership goes on Inactive Nominee status.

The Exchange now proposes to permit an Inactive Nominee to become an effective member on December 5, 2001 without receiving transfer of membership from the Inactive Nominee's associated member.[5] To become an effective member on that date, an Inactive Nominee need only request to be made an effective member to the Exchange's Membership Services Department.[6] In order to address the anticipated high volume of trading on December 5, 2001, both the Inactive Nominee and the associated member of the Inactive Nominee's firm would be permitted to trade as Exchange members on the Phlx equity trading floor on that date.[7]

(2) Statutory Basis

The Exchange believes that the current proposal should allow the Exchange to continue to maintain fair and orderly markets on the Phlx Equity Floor on Wednesday, December 5, 2001 in light of the expected increase in trading activity that day. As such, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it should promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[10] and subparagraph (f)(1) of Rule 19b–4[11] thereunder because it constitutes a stated policy, practice, or interpretation with respect to the administration of Phlx By-law Article XII, Section 12–10(b); namely that Inactive Nominees could, upon request, be made effective members for trading on the Phlx Equity Floor on Wednesday, December 5, 2001. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furthance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2001–110 and should be submitted by January 9, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31225 Filed 12–18–01; 8:45 am]

BILLING CODE 8010–01–M

---

[4] For example, trading volume on November 11, 1999, the 1999 McNamara Trading Day, was over 18.1 million shares, triple Phlx's then average daily volume.

[5] Telephone conversation between John Dayton, Assistant Secretary & Counsel, Phlx, and Steven Johnston, Special Counsel, Division of Market Regulation, Commission, on December 10, 2001 (clarifying effect of proposal on transfer of membership).

[6] Such Inactive Nominees will return to Inactive Nominee status at the close of business on Wednesday, December 5, 2001. In addition, Inactive Nominees may choose to become an effective member pursuant to Phlx Rule 21.

[7] Telephone conversation between John Dayton, Assistant Secretary & Counsel, Phlx, and Steven Johnston, Special Counsel, Division of Market Regulation, Commission, on December 10, 2001 (clarifying combined participation of members and associated Inactive Nominees in trading, as well as purpose of combined participation).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(f)(1).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before January 18, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Loan Application.

No: 1244.

Frequency: On Occasion.

Description of Respondents: Certified Development Companies regulated by SBA.

Responses: 5,200.

Annual Burden: 11,700.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–31204 Filed 12–18–01; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 3855]

Office of Visa Services; Notice of Information Collection Under Emergency Review: Form DS–157, Supplemental Nonimmigrant Visa Application

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: Emergency Review.

Originating Office: Bureau of Consular Affairs, Department of State (CA/VO).

Title of Information Collection: Supplemental Nonimmigrant Visa Application.

Frequency: Once per respondent.

Form Number: DS–157.

Respondents: All nonimmigrant visa applicants.

Estimated Number of Respondents: 9,600,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 9,600,000 hours.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by December 20, 2001. If granted, the emergency approval is valid only for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until 60 days from the date that this notice is published in the **Federal Register**. The agency requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Eric Cohan of the Office of Visa Services, U.S. Department of State, 2401 E St. NW., Rm L–703, Washington, DC 20520, who may be reached on 202–663–1164.

Dated: December 12, 2001.

Catherine Barry,

Acting Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 01–31356 Filed 12–18–01; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice Number 3831]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Executive Committee Meeting on Thursday, January 31, 2002, at 9:30 a.m. in Conference Room 1105, Department of State Building, 2201 C Street, NW, Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas, which are assisted by the Department of State and which are attended by dependents of U.S. Government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools. The agenda includes a review of the recent activities of American-sponsored overseas schools and the overseas schools regional associations, a presentation on the status of education in the United States and its impact on American-sponsored overseas schools, and selection of projects for the 2002 program.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for all attendees. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, Room H328, SA–1, Washington, DC 20522–0132, telephone 202–261–8200, prior to January 21, 2002. Each visitor will be asked to provide a date of birth and Social Security number at the time of registration and attendance and must carry a valid photo ID to the meeting. All attendees must use the C Street entrance to the building.

VOL 66 ISS 244 DE 19 2001 UMI

Dated: December 11, 2001.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council, Department of State.

[FR Doc. 01–31265 Filed 12–18–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Utah and Wasatch Counties, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amended Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an additional component, a recreational trail, will be added and the termini changed for the supplement to a final environmental impact statement being prepared for a proposed highway project in Utah and Wasatch Counties, Utah.

FOR FURTHER INFORMATION CONTACT: William R. Gedris, Environmental Coordinator, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 963–0078 ext, 243; or Brent Schvaneveldt; Utah Department of Transportation, Region 3, 658 North 1500 West, Orem, Utah 84057, Telephone: (801) 222–3406.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation (UDOT), previously issued a Notice of Intent in the **Federal Register** (February 24, 2000: Volume 65, Number 371, Page 9305) to prepare a supplement to the final environmental impact statement (EIS) for a portion of a U.S. Highway 189 from the I–15 Interchange in Orem on the west to Heber City on the east. A recreational trail known as the Provo/Jordan River Parkway, which is a recognized priority in the current Statewide Comprehensive Outdoor Recreational Plan, will now be included in the analysis for the project. Since portions of the highway have been completed and to avoid confusion with another ongoing project in Orem, the highway termini will be changed from the previous designation on the west to the Utah/Wasatch County line (approximately the intersection of U.S. Highway 189 with State Road 92 at Wildwood) and the intersection of U.S. Highway 189 with U.S. Highway 40 approximately 0.8 km (0.5 mile) south of Heber City on the east. The trail termini will extend from Vivian Park on the west (1.9 km [1.2 miles] west of Wildwood) to the Deer Creek Dam (approximately 8 km [5 miles] east of Wildwood) on the east. The purpose of the project is to improve the safety and traffic carrying capacity of the highway by correcting substandard geometrics and other unsafe conditions and to provide a safe, aesthetically appealing extension of the high priority recreational trail with minimal environmental impact.

The trail will extend from its present termini at Vivian Park through the U.S. Highway 189 /Provo River corridor to the vicinity of the Deer Creek Dam utilizing appropriate combinations of abandoned highway, Heber Creeper Railroad right of way, existing local roads and bridges, water aqueduct right of way, and new alignment. Future extension of the trail is planned for the west side of Deer Creek Reservoir to the Soldier Hollow Olympic Venue in Wasatch Mountain State Park and will be addressed in a new environmental document at a later date.

Comments are being solicited from appropriate Federal, State, and local agencies and from private organizations and citizens who have previously expressed or are known to have interest in this proposal. A public scoping and information meeting and a public hearing will be held during the course of the analysis. Public notice will be given of the time and place of the meetings and hearing. The draft SEIS will be available for public and agency review prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and/or questions concerning this proposed action and the EIS should be directed to the FHWA or UDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Issued on: December 13, 2001.

William R. Gedris,

Structural/Environmental Engineer, Salt Lake City, Utah.

[FR Doc. 01–31223 Filed 12–18–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 233X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.61-mile line of railroad between milepost LA–0.0 at Leckie Junction and milepost LA–1.61 at Aflex, in Pike County, KY. The line traverses United States Postal Service Zip Code 41501.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 18, 2002, unless stayed pending reconsideration.[1] Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 8, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

---

[1] While the applicant initially indicated a proposed consummation date of January 17, 2002, because the verified notice was filed on November 29, 2001, consummation may not take place prior to January 18, 2002. Applicant's representative has subsequently confirmed that the correct consummation date is on or after January 18, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 19, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: December 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30918 Filed 12–18–01; 8:45 am]

BILLING CODE 4915–00–P

---

request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 234X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Mingo County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 2.3-mile line of railroad between milepost TR–0.0 at Thacker and milepost TR–2.3 at Colonel, in Mingo County, WV. The line traverses United States Postal Service Zip Code 25694.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 18, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 8, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NSR's filing of a notice of consummation by December 19, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 11, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30992 Filed 12–18–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

VOL 66 ISS 244 DE 19 2001 UMI

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub-No. 231X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Fayette County, WV

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 1.75-mile line of railroad between milepost WL–0.0, at Oak Hill Jct., and milepost WL–1.75, at Oak Hill, in Fayette County, WV (line). The line traverses United States Postal Service Zip Code 25901.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 18, 2002,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 8, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 19, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our web site at *www.stb.dot.gov.*

Decided: December 11, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31164 Filed 12–18–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] NSR, in its verified notice filed on November 29, 2001, indicated a proposed consummation date of January 16, 2002. However, the earliest possible consummation date, based on the November 29, 2001 filing date, is January 18, 2002. Applicant's representative has confirmed that the correct consummation date is January 18, 2002.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 12, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 18, 2002 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1628.

Regulation Project Number: REG–118620–97 Final.

Type of Review: Extension.

Title: Communications Excise Tax; Prepaid Telephone Cards.

Description: Carriers must keep certain information documenting their sales of prepaid telephone cards to other carriers to avoid responsibility for collecting tax. The regulations provide rules for the application of the communications excise tax to prepaid telephone cards.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 104.

Estimated Burden Hours Per Respondent/Recordkeeper: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 34 hours.

OMB Number: 1545–1637.

Regulation Project Number: REG–106177–98 Final.

Type of Review: Extension.

Title: Adequate Disclosure of Gifts.

Description: The information requested in regulation section 301.6501(c)–1(f)(2) that must be provided on a gift tax return is necessary to give the IRS a complete and accurate description of the transfer in order to begin the running of the statute of limitations on the gift. Prior to the expiration of the statute of limitations, a gift tax may be assessed and the value may be adjusted in order to determine the value of prior taxable gifts for estate and gift tax purposes.

Respondents: Individuals or households.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1642.

Regulation Project Number: REG–104072–97 Final.

Type of Review: Extension.

Title: Recharacterizing Financing Arrangements Involving Fast-Pay Stock.

Description: Section 1.7701(l)–3 recharacterizes fast-pay arrangements. Certain participants in such arrangements must file a statement that includes the name of the corporation that issued the fast-pay stock, and (to the extent the filing taxpayer knows or has reason to know) the terms of the fast-pay stock, the date on which it was issued, and the names and taxpayer identification numbers of any shareholders of any class of stock that is not traded on an established securities market.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 50 hours.

Clearance Officer: George Freeland, Internal Revenue Service, Room 5577, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,
Departmental Reports, Management Officer.

[FR Doc. 01–31191 Filed 12–18–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0320]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to allow veterans to gain occupancy of property when specified exterior onsite improvements must be postponed because of bad weather.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before February 19, 2002.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to “OMB Control No. 2900–0320” in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

OMB Control Number: 2900–0320.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1849 is provided as a service to veterans, builders/sellers, and escrow agents to be used in situations involving escrows. A VA loan amount cannot exceed the reasonable value of the property as determined by the Secretary of Veterans Affairs. The reasonable value is predicated on the completion of all improvements. In certain circumstances, such as adverse weather or other specified unavoidable conditions, the completion of some improvements may have to be postponed. For these situations, VA has developed escrow procedures whereby a builder/seller deposits at least one and one-half times the cost of completing the improvements into an escrow account held by a third party. The funds can only be used for the purpose of finishing the postponed improvements and are released when the improvements have been completed. These escrow procedures provide incentive to builder/sellers to complete all postponed improvements and are standard practices in both the real estate and mortgage lending fields.

Affected Public: Individuals or households and business or other for-profit.

Estimated Annual Burden: 1 hour.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 10,000.

Dated: December 4, 2001.

By direction of the Secretary.

Donald L. Neilson,
Director, Information Management Service.

[FR Doc. 01–31227 Filed 12–18–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0394]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 18, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0394."

SUPPLEMENTARY INFORMATION:

Title: Certification of School Attendance—REPS, VA Form 21–8926.

OMB Control Number: 2900–0394.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–8926, Certification of School Attendance—REPS is used to verify that an individual who is receiving restored entitlement program for survivors (REPS) benefits based on schoolchild status is in fact enrolled full-time in an approved school and is otherwise eligible for continued benefits. The program pays VA benefits to certain surviving spouses and children of veterans who died in service prior to August 13, 1981, or who died as a result of a service-connected disability incurred or aggravated prior to August 13, 1981.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 14, 2001, at page 57156.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Send comments and recommendations concerning any aspect of the information collection to VA's Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0394" in any correspondence.

Dated: December 6, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31228 Filed 12–18–01; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 66, No. 244
Wednesday, December 19, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45134; File No. SR-NASD-2001-34]

Self-Regulatory Organizations: Order Approving Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to the Restated Certificate of Incorporation of The Nasdaq Stock Market, Inc.

December 5, 2001.

Correction

In notice document 01-30650 beginning on page 64327 in the issue of Wednesday, December 12, 2001, make the following correction:

On page 64327, in the first column, the Release No. should be as set forth above.

[FR Doc. C1-30650 Filed 12-18-01; 8:45 am]

BILLING CODE 1505-01-D

VOL
66
ISS
2
4
4
DE
19
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
LITTERA SCRIPTA MANET
1985

Federal Register

Wednesday,
December 19, 2001

Part II

Department of Transportation

National Highway Traffic Safety Administration
49 CFR Parts 567, 571, 574, and 575
Tire Safety Information; Proposed Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 567, 571, 574 and 575

[Docket No. NHTSA-01-11157]

RIN 2127-AI32

Tire Safety Information

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In response to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000, this document proposes to establish a new Federal Motor Vehicle Safety Standard that contains provisions to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a safety recall. It also contains proposals for providing other consumer information to increase public awareness of the importance and methods of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle. The proposals would apply to all new and retreaded tires for use on vehicles with a gross vehicle weight rating of 10,000 pounds or less and to all vehicles with a gross vehicle weight rating of 10,000 pounds or less, except for motorcycles and low speed vehicles. NHTSA will also be proposing upgraded safety performance requirements for tires in a forthcoming proposal, which would also be included in this new standard.

DATES: Written comments may be submitted to this agency and must be received by February 19, 2002.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System website at http://dms.dot.gov. Click on "Help & Information" or "Help/Info" to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT: For technical and policy issues: Mr. Roger Kurrus, Office of Planning and Consumer Programs. Telephone: (202) 366–2750. Fax: (202) 493–2290. Mr. Joseph Scott, Office of Crash Avoidance Standards, Telephone: (202) 366–2720. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–20. Telephone: (202) 366–2992. Fax: (202) 366–3820.

All of these persons may be reached at the following address: National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
II. Background
III. Existing Labeling Requirements
  A. Generally
  B. Tire Identification Number (TIN)
  C. Other Labeling
IV. Current Safety Problem—Inadequacy of Existing Labeling Requirements
  A. Difficulty Locating the TIN
  B. Lack of Consumer Knowledge of Correct Tire Inflation Pressure
  C. Safety Problems Associated with Tires
V. Agency Response to Safety Problem
  A. Prior Agency Rulemaking Efforts
  B. December 2000 Advanced Notice of Proposed Rulemaking (ANPRM)
  C. Summary of Public Comments on the ANPRM
  1. General Consumer Knowledge and Behavior/Availability of Information to Consumers
  2. TIN Information a. Location b. Content and Readability
  3. Other Tire Labeling Information
  a. Load Ratings
  b. Plies and Cord Material
  c. Tread Wear Indicator
  d. Uniform Tire Quality Grading System (UTQGS)
  e. Speed Rating
  f. Run-Flat and Extended Mobility Tires
  g. Retreaded Tires
  h. Tire Inflation Pressure
  i. Dissemination of Tire Safety Information
  j. Motorcycles and Trailers k. Font Height for Labeling Information
  4. Harmonization Issues
  5. Other Comments
  D. Focus groups
VI. Agency Proposal
  A. Summary of Proposal
  B. Applicability
  C. Proposed Labeling Requirements
  1. Tire Markings
  2. TIN
  3. Placard Content and Format
  4. Placard Location
  5. Owner's Manual
  D. Other Issues
  1. Modification to FMVSS Nos. 110 and 120
  2. Rim Size and Type Designation for Light Trucks and Multipurpose Passenger Vehicles
  3. Maximum Inflation Pressure
  4. UTQGS
  5. Consumer Information Campaign
  6. Point-of-Sale Information
  7. Vehicle Certification Labels
  8. International Harmonization
  9. Organization of Tire Labeling Information
VII. Request for Comments on Particular Issues
VIII. Benefits
IX. Costs
X. Effective Date
XI. Rulemaking Analyses and Notices
  A. Executive Order 12866 and DOT Regulatory Policies and Procedures
  B. Regulatory Flexibility Act
  C. National Environmental Policy Act
  D. Executive Order 13132 (Federalism)
  E. Unfunded Mandates Act
  F. Civil Justice Reform
  G. Paperwork Reduction Act
  H. Plain Language
XII. Submission of Comments
XIII. Proposed Regulatory Text

I. Executive Summary

The agency is proposing to establish a new standard that would contain revisions to the agency's existing tire labeling requirements, as well as contain revisions to its current regulations to improve tire information for light vehicles and light vehicle tires and its availability and understandability to consumers. As used in this document, "light vehicles" are vehicles (except motorcycles and low speed vehicles (LSVs)) with a gross vehicle weight rating (GVWR) of 10,000 pounds or less. The new standard will also contain requirements and test procedures addressing various aspects of tire performance. The agency will be issuing a separate NPRM that proposes these performance requirements and procedures. Today's NPRM concerns the labeling and other informational requirements.

Today's proposed amendments address the following aspects of tire and vehicle labeling: Tire markings, the Tire Identification Number (TIN), vehicle placard content and format, placard location, and owner's manual information. The proposal would extend all passenger car labeling requirements, including those requiring the labeling of combined occupant and cargo weight capacity and designated seating positions, to light trucks and multipurpose passenger vehicles (MPVs) with a GVWR or 10,000 pounds or less. The proposal is substantially based on NHTSA's activities undertaken in response to the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000, including publication of an ANPRM, consideration of comments in response to the ANPRM, data gathering and analysis, and NHTSA sponsored focus groups.

NHTSA proposes that the TIN, size designation, maximum permissible inflation pressure, and maximum load rating be placed on both sides of light vehicle tires. The Firestone tire recalls last year highlighted the difficulty that consumers have in determining whether a tire is subject to a recall when the tire is mounted so that the sidewall bearing the TIN and size designation faces inward, i.e., underneath the vehicle. Requiring the TIN and size designation to be on both sides would ensure that that information would be on the sidewall facing outward, regardless of how the tire is mounted. Requiring that the other items of information be on both sidewalls would aid consumers in maintaining their tires and loading their vehicles.

NHTSA is proposing two changes to the TIN. First, the agency proposes to require a re-ordering of information in the TIN so that the first six characters would contain the information required for determining whether a particular tire is subject to a recall. The first two characters would reflect the plant code, and the next four characters would reflect the date code. Second, the agency proposes to require that each character be 6 mm (¼″) high. The agency believes that a requirement for a uniform TIN font size would significantly improve the readability of the TIN.

The agency proposes four sets of revisions for the presentation of tire inflation pressure and load limit information on the vehicle placard currently required for passenger cars by S4.3 of § 571.110 and to be required for all light vehicles with a GVWR of 10,000 pounds or less under this proposal.[1] This placard, permanently affixed to the glove compartment door or an equally accessible location, currently displays the vehicle capacity weight, the designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location), the vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, and the manufacturer's recommended tire size designation.

First, the agency proposes that tire inflation pressure information would be visually separated by a red colored border on the vehicle placard or, alternatively, be placed on a separate tire inflation pressure label. The vehicle placard would contain only the information required by the proposed information specified in the proposed version of S4.3 (paragraphs (a)–(e)).[2] This information would not be combined with other labeling or certification requirements. The vehicle placard would also meet the proposed color and content requirements as discussed below.

Second, the agency also proposes that the tire inflation pressure label and vehicle placard meet the following three requirements: (1) The tire inflation pressure information on the placards would be in color—red, yellow, and black on a white background, (2) contain a black and white tire symbol icon in the upper left corner of the placards, 13 millimeters (.51 inches) wide and 14 millimeters (.55 inches), and (3) the placard and label would both include the phrases "Tire Information" and "See Owner's Manual For Additional Information" in yellow text on a black background.

Third, the agency proposes to replace the vehicle capacity weight statement on the vehicle placard with the following sentence: "[t]he combined weight of occupants and cargo should never exceed XXX pounds." The "XXX" amount would equal the "vehicle capacity weight" of the vehicle as defined in FMVSS No. 110. The information is the same as that currently required to be placed on the vehicle placard by manufacturers. However, the agency believes that the statement "the combined weight of occupants and cargo should never exceed * * *" is easier for consumers to comprehend than a technical phrase such as "vehicle capacity weight." "Vehicle capacity weight" is not intuitive to consumers and it requires a vehicle operator to look to the owner's manual or standard to understand which factors are included in the calculation of the sum/amount on the placard.

Fourth, the agency proposes to replace the vehicle's recommended tire size designation with the tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer. While in most instances these two numbers would be identical, this minor revision insures that the consumer is provided with the correct tire inflation pressure information for the tire size actually installed on his vehicle as original equipment by the manufacturer.

We are proposing these placard changes in response to survey data which indicate that consumers need assistance in locating recommended tire pressures for their vehicle's tires and understanding load limits. The use of colors and a visual cue, such as a tire symbol icon, would aid drivers in noticing and locating this imperative information. By expressing the vehicle's load limit in easily recognizable terms such as "passenger and cargo weight", as opposed to "vehicle capacity weight" the proposed placard revisions would also aid consumers in understanding and adhering to load limit guidelines.

The agency proposes that the placard and/or label containing tire inflation pressure by tire size and other required information specified in S4.3 of FMVSS No. 110 be located on the driver's side B-pillar. If a vehicle does not have a B-pillar, then the placard and/or label would be placed on the edge of the driver's door. Currently, S4.3 of 571.110 specifies that the vehicle placard be affixed to the glove compartment door or an equally accessible location. A standardized location for tire information placards and labels would contribute to consumer awareness of recommended tire inflation pressures and load limits.

The agency proposes that owner's manuals for light vehicles contain discussion of the following five subject areas: (1) Tire labeling, (2) recommended tire inflation pressure, (3) glossary of tire terminology, (4) tire care, and (5) vehicle load limits. A single, reliable source containing the proposed required information for the tires and tire safety information listed above would aid consumers by providing to them, in one centralized location, the information that they need to properly maintain their tires and adhere to recommended load limits.

Finally, the agency proposes revising FMVSS Nos. 110, Tire selection and rims, for passenger cars, 49 CFR 571.110, and 120 Tire selection and rims for motor vehicles other than passenger cars, 49 CFR 571.120, to reflect the applicability of the proposed light vehicle tire standard to vehicles with a GVWR of 10,000 pounds or less, and revising FMVSS Nos. 117, Retreaded pneumatic tires, 49 CFR 571.117, and 129, New non-pneumatic tires for passenger cars, 49 CFR 571.129, to replace the labeling requirements contained therein with those specified in the proposed new light vehicle tire standard.

---

[1] FMVSS No. 120 currently requires that each motor vehicle other than a passenger car show, on the label required by § 567.4, or on a tire information label (S5.3.2(b)), the recommended tire size designation appropriate for the GAWR, the tire size and type designation of rims appropriate for those tires, and the recommended cold inflation pressure for those tires such that the sum of the load ratings on the tires on each axle (when the tire's load carrying capacity at the specified pressure is reduced by dividing 1.10, in the case of a tire subject to FMVSS No. 109, i.e., a passenger car tire) is appropriate for the GAWR.

[2] (a) Vehicle capacity weight expressed as "THE COMBINED WEIGHT OF OCCUPANTS AND CARGO SHOULD NEVER EXCEED XXX POUNDS";

(b) Designated seating capacity (expressed in terms of total number of occupants and in terms of occupant for each seat location);

(c) Vehicle manufacturer's recommended cold tire inflation pressure;

(d) Tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer; and

(e) "SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION".

VOL 66 ISS 244 DE 19 2001 UMI

NHTSA believes that this proposal would result in minimal costs for tire and manufacturers. NHTSA estimates that the added cost for labeling tires under this proposal would equal $0.01 per tire or less. Vehicle labeling, including vehicle placards for passenger cars and owner's manual information for light vehicles, is already required. Therefore the cost of labeling the tire, printing new or revised placards and/or tire inflation labels, the owner's manual pages and installation of the placard and/or tire inflation pressure label should be minimal. The only costs would be one-time costs to change production for the new vehicle placard and/or tire inflation pressure label, the application of the vehicle placard and/or tire inflation pressure label to all light vehicles, not only passenger cars, and the new owner's manual pages. NHTSA estimates that, adding the total tire and vehicle manufacturing costs together, the total annual costs equal approximately $5.5 million.

NHTSA believes that this proposal would be effective in increasing public awareness of tire safety, particularly the understanding and maintenance of proper tire inflation and load limits. This proposal will also enable consumers to more easily identify the TIN and other tire information for recalls and other notifications. The proposal will standardize the location and content of important information relating to proper inflation and load limits and other tire safety concerns. These measures, by increasing consumer knowledge and awareness, should result in reduced tire failures and tire related crashes, and therefore fewer deaths and injuries.

II. Background

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000, Pub. L. 106–414, requires the agency to address numerous matters through rulemaking. One of these matters, set forth in section 11 of the Act, is the improvement of the labeling of tires required by section 30123 of title 49, United States Code, to assist consumers in identifying tires that may be the subject of a recall. Section 11 provides that the agency must initiate a rulemaking proceeding for that purpose within 30 days after the enactment of the Act and must complete it not later than June 1, 2002.

Additionally, that section provides that the agency may take whatever additional action it deems appropriate to ensure that the public is aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle. Section 11 states that such additional action may, for example, include a requirement that the manufacturer of motor vehicles provide the purchasers of the motor vehicles information on appropriate tire inflation levels and load limits if the agency determines that requiring such manufacturers to provide that information is the most appropriate way that information can be provided.

On December 1, 2000, this agency published an Advance Notice of Proposed Rulemaking (ANPRM) (65 FR 75222), as required by the TREAD Act, announcing our plans to (1) improve the labeling of tires, (2) assist consumers in identifying tires that may be the subject of a recall, and (3) ensure that the public is aware of the importance of observing motor vehicle tire load limits and maintaining proper tire inflation levels for the safe operation of a motor vehicle. Specifically, we discussed tire label requirements and prior rulemakings, as well as presented a number of questions for public comment on issues such as general consumer knowledge and behavior, availability of information to consumers, and Tire Identification Number (TIN) information and location.

III. Existing Labeling Requirements

A. Generally

NHTSA's existing labeling requirements for new passenger car tires are set forth in Federal Motor Vehicle Safety Standard (FMVSS) No. 109, New Pneumatic Tires—Passenger Cars (49 CFR 571.109). Specifically, section S4.3 of FMVSS No. 109 sets forth information labeling requirements for tires, including requirements regarding the positioning of the information on the sidewall to ensure that it is readily visible and to minimize the possibility that it will be scuffed off if the sidewall hits a curb or similar object. It provides that the information listed in paragraphs S4.3 (a) through (e) (e.g., number of plies and maximum permissible inflation pressure) must appear, on at least one sidewall, in an area between the maximum section width and the bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires for which the maximum section width falls in that area, all required labeling must be located between the bead and a point one-half the distance from the bead to the shoulder of the tire.[3] Section S4.3.1 and S4.3.2 provide more extensive location requirements for other information (e.g., the DOT certification and the name of the manufacturer or brand name and number assigned to the manufacturer) to be placed on car tires. They provide that the labeling must be done in the manner specified in Part 574.5.

NHTSA's labeling requirement for retreaded passenger car tires is set forth in FMVSS No. 117, Pneumatic Retreaded Tires (49 CFR 571.117). FMVSS No. 117 requires that each newly retreaded passenger car tire have molded into its sidewalls information similar to that required in FMVSS No.109, plus the words bias, or bias belted, or radial, as applicable. FMVSS No. 117 does not, though, require that the name of the manufacturer or brand name and number assigned to the manufacturer be placed on retreaded tires as is required on new passenger vehicle tires by FMVSS No. 109.

NHTSA's labeling requirements for new tires for vehicles other than passenger cars are set forth in FMVSS No. 119, New Pneumatic Tires for Vehicles other than Passenger Cars (49 CFR § 571.119). Paragraph S6.5 of FMVSS No. 119 specifies that all tires for vehicles other than passenger cars must have certain markings on the sidewalls. Among other things, these tires must show the actual number of plies in the tire, the composition of the ply cord material (S6.5(f)), and a letter designating the load range (S6.5(j)). S6.5 also provides that the designated information must appear, on at least one sidewall, in an area between the maximum section width and bead of the tire, unless the maximum section width of the tire falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires for which the maximum section width falls in that area, all required labeling must be located between the bead and a point one-half the distance from the bead to the shoulder of the tire. Additionally, section S6.5(b) requires that each tire be marked with the tire identification required by part 574 of this chapter and that this number may be marked on only one sidewall.

---

[3] The agency initially addressed the problem of labeling tires whose maximum section width is close to the bead in a 1985 rulemaking regarding tires for vehicles other than passenger cars. (49 FR 37816; September 26, 1984 and 50 FR 10773; March 18, 1985). That rulemaking amended part 574; Tire Identification and Recordkeeping (49 CFR 574.4) and FMVSS No. 119, New Pneumatic Tires for Motor Vehicles Other Than Passenger Cars (49 CFR 571.119) to permit placing markings at a different location in order to permit the introduction of a new tire concept for vehicles other than cars where the tire's maximum section width is at the bead. In particular, Figure 1 of part 574 was amended to specify the requirements for the label's position if a tire's maximum section width falls within one-fourth of the distance from the bead to the tire shoulder. In that case, a marking must appear between the bead and a point one half the distance from the bead to the shoulder of the tire. Amending part 574 had the practical effect of applying the new requirement to section S4.3.1 and S4.3.2 of FMVSS No. 109, given that these provisions state that the tires must be labeled "in the manner specified in part 574." However, the 1985 final rule did not amend the labeling requirements for car tires in section S4.3 of FMVSS No. 109. Nevertheless, the notice did expressly amend section S6.5 of FMVSS No. 119. A subsequent rulemaking (55 FR 41190; October 10, 1990) amended FMVSS No. 109 to facilitate the use of this new tire technology.

NHTSA's labeling requirements for new temporary spare non-pneumatic tires for passenger cars are set forth in FMVSS No. 129, New non-pneumatic tires for passenger cars (49 CFR 571.129). The FMVSS No. 129 labeling requirements are similar to those set forth in section S4.3 in FMVSS No. 109 for size designation, load, rating, rim size and type designation, manufacturer or brand name, certification, and tire identification number. The standard also includes temporary use and maximum speed labeling requirements (which provide an extra margin of safety relating to the handling and braking of these tires) and allows methods of permanent marking other than "molding" in anticipation of the difficulty of molding required information on non-pneumatic tire designs. Paragraph S.4 of FMVSS No. 129 specifies that each non-pneumatic tire must have certain markings on the sidewalls including the non-pneumatic tire identification code (NPTIC), the load rating, and the tire identification number required in Part 574. These labeling requirements also specify that the labeling information must appear on both sides of the tire, except, in the case of a tire that has a particular side that must always face outward where the information must appear on the outward facing side.

B. Tire Identification Number (TIN)

Section 574.5 of Title 49, CFR, Tire Identification Requirements, sets forth the methods by which new tire manufacturers and new tire brand name owners must identify tires for use on motor vehicles.[4] The section also sets forth the methods by which tire retreaders and retreaded tire brand name owners must identify tires for use on motor vehicles. The purpose of these requirements is to facilitate efforts by tire manufacturers to notify purchasers of defective or nonconforming tires and by such purchasers to identify those tires so that purchasers can take appropriate action in the interest of motor vehicle safety.[5]

Specifically, 574.5 requires each new tire manufacturer and each tire retreader to mold a TIN into or onto the sidewall of each tire produced, in the manner and location specified in the section and as depicted in Figures 1 and 2 of that section. The TIN is composed of four groups:

1. The first group represents the manufacturer's identification mark assigned to such manufacturer by this agency in accordance with § 574.6;
2. The second group represents the tire size for new tires; for retreaded tires, the second group represents the retread matrix in which the tire was processed or, if no matrix was used, a tire size code;
3. The third group may, at the option of the manufacturer, be used as a descriptive code for identifying significant characteristics of the tire. If the tire is produced for a brand name owner, the third grouping must identify such brand name owner; and
4. The fourth group identifies the week and year of manufacture. The first two figures identify the week, starting with "01" to represent the first full week of the calendar year; the second two figures represent the year. For example, "2198" represents the 21st week of 1998.[6]

C. Other Labeling

Labeling requirements are also contained in 49 CFR part 567, Certification, 49 CFR part 575, Consumer Information Regulations, FMVSS No. 110, Tire Selection and Rims, applicable to passenger cars and to non-pneumatic spare tire assemblies for use on passenger cars, and FMVSS No. 120, Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.

Section 567.4 requires vehicle manufacturers to affix to each vehicle a label bearing, among other things, the Gross Vehicle Weight Rating (GVWR), which must not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicles rated seating capacity; and the Gross Axle Weight Rating (GAWR), which is the value specified by the manufacturer as the load carrying capacity of a single axle system.

---

[4] NHTSA originally proposed these requirements in response to the May 22, 1970 amendments to the National Traffic and Motor Vehicle Safety Act of 1966, Pub. L. 89–563, originally 15 U.S.C. 1581 *et seq.* (Codified in 1995 and now found at 49 U.S.C. 30101 *et seq.*). Those amendments, among other things, required manufacturers and brand name owners of new and retreaded motor vehicle tires to maintain records of the names and addresses of the first purchasers of tires (other than dealers or distributors) in order to facilitate notification of such purchasers in the event tires were found to be defective or not to comply with applicable Federal motor vehicle safety standards.

[5] The agency believed that an effective method of tire identification was essential to an effective defect or noncompliance notification system for tire owners. Accordingly, on July 23, 1970, NHTSA published a Notice of Proposed Rulemaking (NPRM) (35 FR 11800) proposing to establish a tire identification system to provide a means to identify the manufacturer of the tire, the date of manufacture, the tire size, and, at the option of the manufacturer, additional information to further describe the type or other significant characteristics of the tire. The agency proposed a TIN composed of four groups of figures: the first group would contain the manufacturer's identification mark which would be assigned by NHTSA; the second group would identify the tire size; the third group would identify the date of manufacture of the tire; and the fourth group would be the manufacturer's optional description of the tire. The figures would be a minimum of ¼ inch high and would appear on both sidewalls of the tire.

In a final rule published on November 10, 1970 (35 FR 17257), the agency revised the requirements proposed in the NPRM in response to the suggestions of various commenters. Specifically, NHTSA reversed the order of the manufacturer's optional information and the date of manufacture, so that the latter would appear in the fourth grouping and the manufacturer's optional information would appear in the third grouping. NHTSA also stated that the tire identification number need only appear on one sidewall in response to concerns relating to worker safety, and that the figures need only be 5/32 inch high on tires with a bead diameter of less than 13 inches. Many commenters requested that the date code be expressed in alpha-numeric form in order to reduce the date figures to two digits. NHTSA declined to adopt the alpha-numeric system because it could be confusing to the public and because retreaders may not be able to easily determine the age of the casing to be retreaded. In order to shorten the stencil plate, however, NHTSA dropped one of the two digits representing the decade of manufacture, thereby reducing the date of manufacture group from four digits to three. The date of manufacture grouping was later expanded to four digits. (64 FR 36807; July 8, 1999)

[6] In response to petitions for a rulemaking, the agency amended NHTSA's tire identification and recordkeeping regulation in 1999 to require the date of manufacture to be expressed in four digits, instead of the previously required three, so that consumers would be able to determine the decade of manufacture of their tires. (64 FR 36807; July 8, 1999) This rule also reduced the minimum size of the digits from the then currently required minimum of 6 millimeters (mm) (¼ inch) to 4 mm (5/32 inch) to relieve the manufacturers and retreaders of the burden they might otherwise have incurred by having to redesign their tire molds to accommodate the additional digit.

In that rulemaking, all commenters supported adding a fourth digit to the date code. Two of the commenters, though, opposed reducing the size of the numbers in the TIN on the basis that such reduction would make it more difficult for consumers to see, especially those with visual pathologies. These commenters did not, however, provide any data showing that drivers cannot read 4 mm figures. NHTSA said that its experience to date with 4 mm figures on tires suggest that figures of that size do not present a problem. (It should be noted that many tire manufacturers actually use figures larger than 4 mm for the date code. As discussed in the final rule, 4 mm is approximately the equivalent of font size 16 in Windows 95, which is approximately double the font size used in the **Federal Register** and also approximately double the size of the largest letters found on the U.S. quarters being minted then. Additionally, this agency pointed out that the size of the UTQGS tire grades marked on tire sidewalls has always been 4 mm (5/32 inch) and the agency had not received any complaints that those letters or numbers were too small to read. Finally, Part 574 permits tires of less than 13 inches in diameter or those that have less than a 6-inch cross section width to have a letter/number size of 4 mm. Again, the agency had not received any complaints about the size of those letters/numbers.

Section 30123(e) of Title 49, U.S. Code, requires the Secretary of Transportation to prescribe a uniform quality grading system for motor vehicle tires to help consumers make an informed choice when purchasing tires. NHTSA implemented this statutory mandate by issuing the Uniform Tire Quality Grading System (UTQGS) at 49 CFR 575.104, applicable to new passenger car tires. The UTQGS require passenger car and tire manufacturers and tire brand name owners to provide consumers with information with respect to the treadwear,[7] traction,[8] and temperature resistance[9] performance of their tires. UTQGS information is required to be provided on two locations on the tire: a paper label affixed to the tread, and molded into the sidewalls. Excluded from the UTQGS are deep-tread, winter-type snow tires, space-saver or temporary-use spare tires, tires with nominal rim diameters of 12 inches or less and limited production tires as described in 49 CFR 575.104(c)(2).

Section 575.6(a) of Title 49, CFR, requires that when a motor vehicle is delivered to the first purchaser for purposes other than resale, the vehicle manufacturer must provide, in writing and in the English language, the information specified in Section 575.103 applicable to that vehicle, and in the owner's manual, the information specified in Section 575.104.[10] Section 575.104(d)(1)(iii) requires vehicle manufacturers to list all possible grades for traction and temperature resistance and restate verbatim the explanation of each of the three graded aspects of performance. The information must also contain a statement referring the reader to the tire sidewall for the specific graded performance of the tires with which the vehicle is equipped. Section 575.6(c) requires that each vehicle manufacturer, brand name owner of tires, and manufacturer of tires for which there is no brand name owner to provide the information specified in subpart B of Part 575 to prospective purchasers at each location at which its vehicles or tires are offered for sale.

Paragraph S4.3 of FMVSS No. 110 requires manufacturers to affix a placard to each passenger car's glove compartment door or an equally accessible location showing the vehicle's capacity weight, designated seating capacity, the manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, the manufacturer's recommended tire size designation, and, for a vehicle equipped with a non-pneumatic spare tire assembly, the non-pneumatic identification code required by FMVSS No. 129, New Non-Pneumatic Tires for Passenger Cars. The required information is intended to promote the vehicle's safe performance by preventing overloading of the tires or the vehicle itself.[11]

FMVSS No. 120 requires that each vehicle show, on the label required by 567.4, or on a tire information label (S5.3.2(b)), the recommended tire size designation appropriate for the GAWR, the size and type designation of rims appropriate for those tires, and the recommended cold inflation pressure for those tires such that the sum of the load ratings of the tires on each axle (when the tires load carrying capacity at the specified pressure is reduced by dividing 1.10, in the case of a tire subject to FMVSS No. 109, i.e., a passenger car tire) is appropriate for the GAWR.[12]

IV. Current Safety Problem—Inadequacy of Existing Labeling Requirements

A. Difficulty Locating the TIN

The continued use of tires determined to be unsafe poses a safety risk not only for the occupants of the vehicles equipped with those tires, but also for other highway users near those vehicles.

One effect of the combination of the prevalence of long-life radial tires is that tires have significantly longer service life now than 20 years ago. Another effect of radials is that there are large numbers of persons who purchase a used car with used radial tires. Unlike the case of first purchasers, there is no procedure for providing tire manufacturers with the names and addresses of subsequent purchasers. Thus there is no way for the tire manufacturers to directly contact subsequent purchasers in the event of a recall. The only way that either of these groups could determine that their tires have been recalled would be to find the identification numbers on their tires and compare them with the series of identification numbers contained in general public announcements about the recall.

---

[7] The treadwear grade is a comparative rating based on the wear rate of the tire when tested under controlled conditions. For example, a tire graded 200 should have its useful tread last twice as long as a tire graded 100.

[8] Traction grades represent the tire's ability to stop on wet pavement as measured under controlled conditions on asphalt and concrete test surfaces. The traction grades from highest to lowest, are "AA", "A", "B" and "C". A tire graded "AA" may have relatively better traction performance than a tire graded "A", "B" or "C", based on straight ahead braking tests. The grades do not reflect the cornering or turning traction performance of the tires.

[9] Temperature grades represent the tire's resistance to heat and its ability to dissipate heat when tested under controlled laboratory conditions. Sustained high temperature can cause the tire to degenerate and reduce tire life, and excessive temperature can lead to sudden tire failure. The temperature grades from highest to lowest are "A", "B" and "C". The grade "C" corresponds to the minimum performance required by FMVSS No. 109. The temperature grade is for a tire that is inflated properly and not overloaded.

[10] Prior to May 24, 1999 (64 FR 27921), passenger car manufacturers were required to directly provide general UTQGS information and the information specified in Section 575.104 in writing and the English language to purchasers and potential purchasers at the point of sale of new vehicles. The agency eliminated this requirement, instead requiring that the information be contained within the owner's manual, because it believed that the elimination of the point-of-sale requirement would relieve a significant burden on vehicle manufacturers and dealers and yet would have little effect on consumers. (64 FR 27921; May 24, 1999).

[11] Herzlich Consulting (Herzlich) petitioned the agency on March 12, 1992, to amend FMVSS Nos. 110 and 120 to include a requirement that the manufacturers of the vehicles subject to those standards place a warning in the glove compartment or some other accessible/visible location which would state, in high visibility letters: "Warning: Underinflation, Overloading, or Damage can Cause any Tire to Fail Suddenly." In support of the petition, Herzlich argued that although the Federal and state governments and the tire industry continuously communicate tire safety information, such efforts are "rather unsuccessful." Herzlich also argued that tire failure due to road hazard damage, underinflation, or overload continues to be a problem. He stated that tires are the most important safety component on the vehicle and, perhaps because of their high degree of reliability, they are often taken for granted by consumers. Herzlich also referred to unspecified surveys purporting to show that a "significant number of vehicles are running on underinflated, overloaded, worn-out or damaged tires," which, he contended, indicates that people get careless and need to be reminded over and over again to inspect and properly maintain their tires.

After a full and careful review of the petition, NHTSA decided to deny it based on several factors (57 FR 45759; October 5, 1992). First, there already existed a vast amount of information on proper tire maintenance. Additionally, the agency stated that there was no reason to believe that requiring the same information be made available in another place would increase consumer's responsiveness to such information. Finally, the petitioner presented no data, and this agency was aware of none, that would support petitioner's assertion that improper maintenance causes the vast majority of tire failures or that a significant number of vehicles are running on underinflated, overloaded, worn out or damaged tires.

In summary, NHTSA believed at that time that the wealth of safety materials already available to the public through industry, government, and consumer sources adequately addressed the issue of proper tire inflation and maintenance; that existing labeling requirements provided sufficient information to enable consumers to maintain tires properly and safely; and that the petitioner had not shown that the amendments he proposed would significantly change the behavior of the public in that respect.

[12] In a final rule published on March 11, 1993 (58 FR 13424), the agency amended FMVSS No. 120 to clarify the requirement about tire information labels on multipurpose passenger vehicles, trucks, buses, and trailers. Specifically, this amendment required the label to specify a recommended tire inflation pressure when such vehicles are equipped with passenger car tires.

As a result of the difficulty and inconvenience of checking the TINs, the percentage of people who respond to a tire recall campaign is reduced and motorists unknowingly continue to drive their vehicles with potentially unsafe tires.

The side of a tire bearing the TIN is often mounted so that it faces inward. In the case of whitewall tires, this occurs because the TIN is almost always molded on the blackwall (i.e., inside sidewall) of the tire. Whitewall tires account for a small and declining percentage (currently about 5 percent or less) of original equipment tire sales in this country, but about 40 percent of replacement tires. There are about three times as many replacement tires as original equipment tires sold each year. Blackwall tires, which have the TIN on one sidewall, are as likely to be mounted with the number side facing in as out. Based on this information, we estimate that approximately 65 percent of all tires are mounted with their TINs not readily visible.

When the TINs appear on the inside sidewalls of the tires mounted on vehicles, motorists have three inconvenient ways of finding and recording the TINs. They must either: (1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; (2) remove each tire, find and record the TIN, and then replace the tire; or (3) enlist the aid of a garage or service station which can perform option 1 or place the vehicle on a vehicle lift so that the TINs can be found and recorded.

B. Lack of Consumer Knowledge Concerning Correct Tire inflation Pressure

Maintaining proper inflation pressure in motor vehicle tires is important to the safe and efficient use of motor vehicles.

The recommended inflation pressure is labeled on the vehicle on a placard or the vehicle certification label by the vehicle manufacturer to provide the cold tire inflation pressure for the maximum loaded vehicle weight based upon vehicle specification and operation as determined by the vehicle manufacturer. The recommended inflation pressure is often confused with the maximum inflation pressure which is labeled on the tire by the tire manufacturer to provide the maximum cold inflation pressure to which a tire may be inflated based upon the maximum load rating for that tire.

Maintaining tires at their proper inflation pressure, instead of allowing them to become underinflated, reduces heat build up, minimizes tire wear, contributes to good vehicle handling and improves fuel economy through decreasing the rolling resistance of the tires. In light of the trend toward self-service gas stations, the motorist's responsibility for maintaining proper inflation pressure is more significant. Unfortunately, surveys indicate that a significant number of vehicles are being operated with underinflated, overloaded and/or damaged tires and that the public needs to be reminded to inspect and properly maintain their tires.

The 2000 Bureau of Transportation Statistics (BTS) Omnibus Survey, conducted in September 2000, contained four questions on the public's knowledge of tire pressure issues. This survey, which contained 1,017 household interviews, indicated that, among other things, at least 54.7 percent of the respondents do not know how to determine the proper pressure for their tires.

The AAA Tire Safety Survey, based on an omnibus nationwide telephone survey of 1070 adult Americans (539 males and 531 females) who drive a car, motorcycle, or other motor vehicle at least once a week, queried participants on how to identify the correct tire pressure.[13] The survey indicated that, despite a consciousness about checking tire pressure (82% surveyed said they checked their tire pressure at least every three months and 48% said they checked their tire pressure at least once a month), American drivers lack sufficient knowledge about how to determine optimum tire pressure. About half (48%) consult the tire sidewall, and fewer check more reliable methods such as the owner's manual (27%) or the vehicle placard (18%).

The Rubber Manufacturers Association (RMA) survey, based on four hundred 11-minute telephone interviews conducted between October 12 and 19, 2000, with consumers who own or lease a vehicle they drive at least once a week and are responsible for making decisions about the routine maintenance of their vehicle, explored the extent to which consumers are aware of and knowledgeable about tire safety.[14] To assess tire maintenance knowledge, drivers were asked 16 questions related to properly maintaining automotive tires. Of these questions pertaining to tire labeling, drivers were asked to name the best sources for the recommended tire pressure. In response, forty-five percent of drivers responded correctly to this question by saying the owner's manual or decals on the inside of the vehicle's door or glove box. Twenty-seven percent responded incorrectly by reporting that the best source for the recommended tire pressure was on the sidewall of the tire, 7% volunteered "tire manufacturer information" in general, and 12% said something else. Only 10% said they "did not know."

In Spring 2001, the National Center for Statistics and Analysis (NCSA) conducted the 2001 National Automotive Sampling System (NASS) Tire Pressure Special Study (NASS Study) in response to the TREAD Act.[15] *The Preliminary Analysis of Findings, 2001 NASS Tire Pressure Special Study,* dated May 4, 2001, has been placed in the NHTSA Docket No. NHTSA–2000–8572. The NASS Study was designed to assess, among other factors, the extent to which passenger vehicle operators are aware of the recommended air pressure for their tires.

During a total of 336 visits to gas stations, a NASS team collected survey data from drivers from each of the following vehicle categories: passenger cars; sport utility vehicles; vans; and pickup trucks. A total of 11,350 vehicle drivers were surveyed about their knowledge of the vehicle manufacturers recommended tire pressure.[16] Survey data were analyzed for the following three categories of vehicles: (1) Passenger cars with metric P-type tires; (2) Trucks, sport utility vehicles (SUVs), and Vans with metric P-type tires, and (3) Trucks, SUVs, and Vans with either metric LT-type or high flotation tires. The drivers, asked how they determine at what pressure to set their tires, answered as follows:

---

[13] Tire Safety Survey, prepared for AAA Foundation for Traffic Safety, by Roper Starch Worldwide, Inc., March 22, 1999. Interviews were conducted between March 10, 1999 and 14, 1999.

[14] Consumer Tire Maintenance and Safety Awareness Research, A Report to Rubber Manufacturers Association, by Fleishman-Hillard Research, October 2000.

[15] Data was collected through the infrastructure of the National Accident Sampling System—Crashworthiness Data System (NASS–CDS). The NASS–CDS consists of 24 Primary Sampling Units (PSUs) located across the country. Within each PSU, a random selection of zip codes was obtained from a list of eligible zip codes. Within each zip code, a random selection of two gas stations was obtained.

[16] This total was comprised of 5,442 passenger cars, 1,874 SUVs, 1,376 vans, and 1,838 pickup trucks.

VOL 66 ISS 244 DE 19 2001 UMI

How drivers determine at what pressure to set their tires	Percent		
	Passenger car P-metric tires	Trucks, SUVs and Vans	
		P-metric tires	LT or high flotation tires
Owner's Manual	17.84	14.8	21.9
Vehicle Placard	8.39	7.06	10.84
Tire Labeling	21.56	31.47	44.35
Visually	10.68	8.23	6.83
Other	9.75	9.56	9.89
Does not Know	6.87	4.31	2.02
Other person maintains	23.8	23.07	4.11
Unknown	1.1	1.51	0.06

This data indicates that only about 26 (17.84 + 8.39) percent of drivers of passenger cars, 22 (14.8 + 7.06) percent of drivers of pick-up trucks, SUVS, and vans with P-metric tires, and 32 (21.9 + 10.84) percent of drivers of pick-up trucks, SUVs, and vans with either LT or flotation tires know how to consult either the vehicle placard or the owner's manual to determine the correct inflation pressure for their vehicles' tires.

C. Safety Problems Associated With Tires

Tire under-inflation, high ambient temperatures, and vehicle overloading are among the factors being considered in the ongoing evaluation of the radial tire failures that have occurred in recent years which have been associated with rollover and other crashes. For example, when a tire is used while significantly under-inflated, its sidewalls flex more and the air temperature inside it increases, making the tire more prone to failure. In addition, a significantly under-inflated tire loses lateral traction, making handling more difficult. The agency also has received data from Goodyear indicating that significantly under-inflated tires increase a vehicle's stopping distance on wet surfaces.

NHTSA's crash files do not contain any direct evidence that points to low tire pressure as the cause of any particular crash. However, this lack of data does not imply that low tire pressure does not cause or contribute to any crashes. It simply reflects the fact that measurements of tire pressure are not among the vehicle information included in the crash reports received by the agency and placed in its crash data bases.[17]

The only tire-related data element in the agency's data bases is "flat tire or blowout." Even in crashes for which a flat tire or blowout is reported, crash investigators cannot tell whether low tire pressure contributed to the tire failure.

Under-inflated tires can contribute to other types of crashes than those resulting from blow outs or tire failure, including crashes which result from: an increase in stopping distance; skidding and/or a loss of control of the vehicle in a curve or in a lane change maneuver; or hydroplaning on a wet surface. However, the agency does not have any data on how often under-inflated tires cause crashes or contribute to their occurrence.

Additionally, under-inflation contributes to tire overload. Tire overload describes a condition in which the vehicle is carrying more weight than the tire is rated to carry at a specified inflation pressure. For instance, for every 1-psi reduction in inflation pressure, a vehicle's tires suffer a 1.6% reduction in vehicle capacity weight (passenger plus cargo capacity). Overloading can result in handling or steering problems, brake failure, and tire failure.

Several crash files contain information on "general" tire related problems that precipitate crashes. The more recent of these files are The National Automotive Sampling System—Crashworthiness Data System (NASS–CDS)[18] and the Fatality Analysis Reporting System (FARS).[19]

NASS–CDS data for 1995 through 1998 indicate that there are an estimated 23,464 tow-away crashes caused per year by blowouts or flat tires.

ESTIMATED ANNUAL AVERAGE NUMBER (1995–98 NASS) AND RATES OF BLOWOUTS OR FLAT TIRES CAUSING TOW-AWAY CRASHES

	Tire related cases	Percent tire related
Passenger Cars Total	10,169	0.31
Rollover	1,837 (18%)	1.87
Non-rollover	8,332 (82%)	0.26
*Light Trucks Total**	13,294	0.99
Rollover	9,577 (72%)	6.88

---

[17] These crash databases are the National Automotive Sampling System—Crashworthiness Data System (NASS–CDS) and the Fatality Analysis Reporting System (FARS).

[18] For the NASS–CDS system, trained investigators collect data on a sample of tow-away crashes around the country. These data can be "weighted up" to national estimates. A NASS–CDS General Vehicle Form contains the following information: a critical pre-crash event, such as vehicle loss of control due to a blowout or flat tire. This category includes only part of the tire-related problems which cause crashes. This coding would only be used when the tire went flat or there was a blowout that caused a loss of control of the vehicle, resulting in a crash. The value is not used for cases in which one or more of a vehicle's tires was under-inflated, preventing the vehicle from performing as well as it could have in an emergency situation.

[19] In FARS, tire problems are noted after the crash, if they are noted at all. The FARS file does not indicate whether the tire problem caused the crash, influenced the severity of the crash, or just occurred during the crash. For example, some crashes may have been caused by a tire blowout, while in others the vehicle may have slid sideways and struck a curb, causing a flat tire which may or may not have influenced whether the vehicle experienced rollover. Thus, while an indication of a tire problem in the FARS file give some indication as to the potential magnitude of the tire problem in fatal crashes, it can neither be considered the lowest possible number because the tire might not have caused the crash, nor the highest number of cases because not all crashes with tire problems might have been coded by the police.

ESTIMATED ANNUAL AVERAGE NUMBER (1995–98 NASS) AND RATES OF BLOWOUTS OR FLAT TIRES CAUSING TOW-AWAY CRASHES—Continued

	Tire related cases	Percent tire related
Non-rollover	3,717 (28%)	0.31
Light Vehicles Total	23,463	0.51
Rollover	11,414 (49%)	4.81
Non-rollover	12,049 (51%)	0.28

[a] Light trucks, as used here, means pickup trucks, vans (all sizes), and SUVs.

Therefore, about one half of one percent of all crashes are caused by these tire problems. The rate of blowout-caused crashes for light trucks (0.99 percent) is more than three times the rate of those crashes for passenger cars (0.31 percent). Blowouts cause a much higher proportion of rollover crashes (4.81) than non-rollover crashes (0.28); and again more than three times the rate in light trucks (6.88 percent) than in passenger cars (1.87 percent).

FARS data for 1995 through 1998 show that 1.10 percent of all light vehicles in fatal crashes were coded with tire problems. Light trucks had slightly higher rates of tire problems (1.20 percent) than passenger cars (1.04 percent). The annual average number of vehicles with tire problems in FARS was 535 (313 passenger cars and 222 light trucks).

IV. Agency Response to Safety Problem

A. Prior Agency Rulemaking Efforts

As stated above, the TIN originated with the May 22, 1970 amendments to the National Traffic and Motor Vehicle Safety Act of 1966. Prior to that time, there were no tire labeling requirements in effect. Tire manufacturers simply followed standard industry practices.

In the early 1980's, NHTSA granted a petition for rulemaking filed by the Center for Auto Safety (the Center) requesting that 49 CFR part 574, Tire Identification and Recordkeeping, be amended to require that the TIN be placed on the outside sidewall (i.e., the sidewall visible when a tire is mounted on a vehicle) of whitewall tires and on both sides of blackwall tires. The Center stated that the current tire industry practice of placing the TIN on the inside sidewall of whitewall tires and on only one side of blackwall tires made it very difficult for most motorists to find and read the TINs on their tires once they are mounted on vehicles.

Prior to publishing an NPRM (45 FR 82293; December 15, 1980), the agency sent special orders to nine tire manufacturers who together represented 84 percent of world tire production and 90 percent of domestic production of tires for use in this country to gather information on the feasibility and costs of implementing the proposed requirements. Among the questions in the special orders were ones asking whether the tire presses were operated 24 hours a day seven days a week and, if so, what measures could be taken to ensure that workers could safely change the identification number plates in the presses. (A tire press generally works like a clam shell. The lower half of the press remains in a fixed horizontal position, while the upper half is movable. The tire mold, which also has upper and lower halves, fits inside the press.) None of the respondents suggested that changing the number plates would present insurmountable safety problems.[20] Further, based on its evaluation of these responses, NHTSA determined that such a requirement would impose costs of between $4.25 million and $5.9 million.

On April 9, 1981, the agency published a notice of intent listing 17 actions that the agency said it intended to take to reduce unnecessary regulatory burdens upon the motor vehicle and related manufacturing industries (46 FR 21203). Among them was terminating rulemaking on the location of the TIN.

Subsequently, the agency terminated the rulemaking (48 FR 19761; May 2, 1983). The agency stated that it was taking that action because it was unable to determine that the adoption of the proposal would significantly contribute to motor vehicle safety and because the compliance costs would be $4.25 to $5.9 million. Although the agency anticipated that the adoption of the amendment would increase the response to tire recall campaigns and that ultimately the action would reduce the chance of potentially unsafe tires being used on public roads, it was not able to provide a quantified estimate of the benefits to be gained from the proposed amendment. The data relied upon by the agency in issuing the proposal consisted solely of anecdotal comments by 13 consumers on difficulties they experienced in locating tire identification numbers. These 13 comments were among about 9,500 responses received by the agency in response to a survey in which it sent questionnaires to approximately 100,000 consumers. Thus, only 0.013 percent of the questionnaire recipients and 0.14 percent of the respondents reported this type of difficulty. Prior to issuing the proposal, the agency did not have any data or perform any analysis regarding the extent to which the proposed requirement would increase the number of people who find the identification number on their tires, the number of those people who respond to a recall, or the number of potentially defective or noncomplying tires that would be removed from service. No additional data regarding benefits were obtained by the agency as a result of the comment process.

B. December 2000 Advanced Notice of Proposed Rulemaking

On December 1, 2000, NHTSA published an advanced notice of proposed rulemaking pursuant to the TREAD Act and in recognition of the importance of obtaining public input before making decision regarding activities under the provisions arising under the TREAD Act. (65 FR 75222, December 1, 2000).

The ANPRM discussed NHTSA's existing tire information labeling and marking requirements, tire identification number requirements, and other labeling requirements such as those contained within its Consumer

---

[20] From the responses to the orders, the agency learned that of the 52 tire plants operated by the respondents in this country, 46 of them operated only five or six days a week. The remaining six plants operated all week. In the case of those 46 plants, workers could safely and easily change the number plates during one of the days when the molds were non-operational and at room temperature. The practice of the manufacturers was to change the number plates on these molds during their non-operational day. On that day, workers could easily change the number plates on the upper mold as on the lower mold. Additionally, the manufacturers operating seven days a week indicated that workers could safely change the number plates on operating upper molds in any of several ways. One way would be to place insulated blankets over the bottom molds. Another way would be to mold the whitewall side of whitewall tires on the lower mold so that the number plates could be placed on the more readily accessible upper molds.

VOL 66 ISS 244 DE 19 2001 UMI

Information Regulations, *e.g.*, UTQGS. Also discussed in the ANPRM were prior rulemaking actions and petitions pertinent to the tire labeling issues addressed by the TREAD Act, particularly those relevant to the location of the TIN, and underinflation and overloading concerns.

In addition, NHTSA solicited comments in areas such as general consumer knowledge and behavior, availability of information to consumers, TIN information, and other tire labeling information. The agency asked an extensive number of specific questions related to such matters such as tire identification number content, readability and location, loading, plies and cord material, tread wear indicators, UTQGS, speed rating, run-flat and extended mobility tires, tire inflation pressure, and the dissemination of tire safety information.

C. Summary of Public Comments on ANPRM

NHTSA received 21 comments on the December 1, 2000 ANPRM. The 21 comments were submitted by: 4 manufacturers (1 tire manufacturer and 3 vehicle manufacturers), 9 associations, and 6 other entities (2 consumer advocacy organizations and 4 individuals). The comments are summarized below.

1. General Consumer Knowledge and Behavior/Availability of Information to Consumers

- Commenters, as a group, stated that consumers are generally provided with the information that they need to properly maintain their tires, determine safe loads, and identify recalled tires. However, they also stated that this information must be presented in a simple, accurate, and comprehensive manner that would be understood by the average consumer who is not well educated about tires and tire maintenance.
- Commenters, as a group, also said that drivers are often unaware of tire safety and maintenance information or are confused by the information and need to be educated about the interaction between the information provided. While a small percentage of motorists understand and respond to load and speed rating, tread indicators, ply and cord materials, the vast majority remains unaware of this information. RMA reports that only 45% of drivers in its survey responded correctly to the question as to the source of information for recommended tire pressure and survey generally revealed that consumers do not know how to use tire information currently available. Consumers Union (CU) recommended that additional wording of uniform size and standard location appear on both sidewalls stating "cold operating pressure: consult vehicle information."
- According to a tire safety survey prepared for the American Automobile Association (AAA) Foundation for Traffic Safety, 50% of American drivers who check their own tire pressure incorrectly consulted the sidewall, 27% consulted the owners manual and only 18% correctly consulted the vehicle (placard) to determine the correct tire pressure. Ford reported that the owner's guide was most popular source for obtaining tire pressure information, followed by the tire pressure information on the tire itself and the certification label on the vehicle.
- Ford suggested that NHTSA conduct a focus group to better understand consumer behavior. Prior to tire recalls, consumers simply wanted clear tire pressure information, but Ford's recent experience indicated that they also want to be able to easily read their TIN numbers and to identify recalled tires and suggested ways to improve tire safety.

2. TIN Information

a. Location

- Commenters, as a group, generally believed that the TIN would be easier to find for consumers if it were located on the outward facing sidewall of tires or on both sidewalls and was of sufficient size as to be easily found and read.
- Several tire manufacturer association commenters objected to requiring a tire manufacturer to mark the TIN on both tire sidewalls because they believe that this continues to present tire manufacturing workers with a serious potential safety hazard. One of these commenters stated that, when marking a TIN on both sidewalls, an operator is exposed to danger such as a fatal accident due to mis-operation of curing machine, or burns, bone fracture or blow on head, arm, leg, the back and so on because the operator is forced to work looking up inside of a curing machine to put a stencil plate of the TIN on the upper mold. RMA suggested that the agency should require that the TIN be placed on the intended outward facing sidewall of the tire to minimize risks to workers.
- Tire manufacturing association commenters stated that, besides adverse safety consequences, cost and time due to changes in the manufacturing process are issues of concern and they recommend a suitable phase-in period. RMA, for example, states that manufacturers would face substantial costs if they must change existing molds and that total costs to the economy (costs for changing existing molds, including cost of lost production during the initial change over plus the additional ongoing weekly manufacturing costs to make the additional changes) could exceed $100 million annually. RMA states that, based on the number of recalls made over the past 30 years, the requirement to place the TIN on both sides of the sidewall is unnecessary given the cost of implementation and lack of added benefit and proposes placement of the TIN on the intended outboard side of the tire as a reasonable alternative solution.
- According to tire manufacturing association commenters, to place the TIN on both sidewalls, existing tire molds would have to be changed and because tire production occurs 24 hours a day, seven days a week, there would be substantial lost production costs to make the changes, plus on-going costs, to make changes to both sides of molds.
- Commenters generally agreed that the TIN should be placed where there will be a minimum possibility of scuffing. Commenters stated that the TIN should be placed as closely to the wheel's mounting bead or rim flange as possible, as is current practice, to avoid contact with curbs. One of these commenters stated that while it believes that the TIN would be easier for consumers if it were located on the outboard sidewall of the tires, it would be less vulnerable to abrasion as a result of contact with curbs and other hard objects if it were on the inboard sidewall of the tire as compared with the outboard sidewall. Two association commenters stated that the TIN should remain in its current location.

b. Content and Readability

- No commenter suggested that additional information be added to the TIN. Most commenters suggested that no change be made to contents of the TIN. Ford recommended that NHTSA should require a standardized format and font height on the outward facing sidewall of a tire and General Motors recommended that the size code in the TIN is redundant information that can only be understood by reference to Section 574 and could be eliminated from the TIN. Consumer's Union recommended standardizing placement of the TIN and date of production information and including the lettering "Manuf. ID" and "Prod. Date. ww/yy" above these codes.
- Most commenters stated that optional information in the TIN should not be removed because, for example,

the tire type may prove beneficial for consumers seeking to replace their tires with a similar type and because the optional symbols better enable the identification of the tire construction of the tire and because this information could be important in distinguishing recalled tires from similar tires of the same brand and tire size.

- Consumer group commenters stated that the TIN should be standardized by NHTSA in terms of font, font size, space, raised letters, and placement and location on the sidewall.
- Tire manufacturer association commenters stated that the symbol height of the TIN should not be changed because it will complicate the limited sidewall space available and because placing the TIN on the intended outboard sidewall will eliminate any perceived problem. Consumers Union commented that 5/32 inch (4 mm) is not an adequate font size for the TIN digits to provide optimum visibility, particularly for vision-impaired individuals.

3. Other Tire Labeling Information

a. Load Ratings

- Generally, commenters, as a group, asserted that either the maximum load rating or a load index value should continue to be shown on tires. Although the commenters disagree on which form of information makes load information more accessible to the consumer, most acknowledged that it is generally difficult for a consumer to know the actual load on an individual tire. Several commenters suggested improvements in consumer education concerning the importance of load and its relationship to proper tire inflation. RMA suggested that the maximum load rating be removed from the tire so that consumers will seek out the appropriate vehicle loading on the certification label or vehicle tire placard.
- RMA commented that the most effective way to communicate the relationship between a tire's load carrying capacity and vehicle load at a given wheel position and to ensure the purchase of correct replacement tires is through the use of load index values. If a load index value were required on the tire and the vehicle tire placard, the consumer would then simply match a two or three digit number on the tires and vehicle tire placard to assure proper tire load capacity for their vehicle.
- Tire manufacturer and dealer associations commenters stated that most customers rely on dealers for most information on tire safety and maintenance. One tire dealer association commenter said that approximately half of the tire dealers provide information to all customers and approximately half supply information upon request. The same commenter stated that most dealers do not routinely check to see that the tires purchased are correct for the GVWR and GAWR, although most do reference GVWR or GAWR as necessary.
- Commenters, as a group, agreed that few motorists use or understand the load rating information found on sidewall tires. Advocates suggested that the load rating information remain on the tire and that NHTSA needs to provide specific consumer information about the consequences of under- and of overinflation of tires and their interdependent relationship with vehicle loads and potential instability. Tire manufacturer association commenters suggested that the load ratings be removed from the tires so that drivers will have to consult the vehicle placard for load limit information. Vehicle manufacturers generally support leaving load rating information on the tire sidewalls.
- Commenters generally stated that motorists rarely know the weight of their vehicles, empty or loaded, because this would require weighing of the vehicle. A tire manufacturer association stated that some motorists load to the capacity of the dimensions of the vehicle or they conduct an eyeball inspection.
- Commenters indicated that overloading frequently occurs, to varying degrees, on pick-up trucks, particularly full-size pick up-trucks. Data provided by a vehicle manufacturer indicate that almost all respondents surveyed in a study underestimated load, with the average respondent underestimating load for his or her vehicle by 36%. Tire manufacturer association commenters asserted that consumer knowledge, or lack thereof, instead of current allowances in tire load ratings, is to blame for overloading.

b. Plies and Cord Materials

- Commenters, as a group, generally agreed that while ply and cord information is generally of no value to consumers except when replacing tires or in the event of a recall, it should remain on the tire for these purposes. Commenters agreed that "mileage warranty" information is of no safety value to consumers and should be communicated at point of sale instead of on tires. One tire retread association commenter noted that ply and cord material is important for tire retread, repair, and recycling.

c. Tread Wear Indicator

- Vehicle manufacturer and tire manufacturer association commenters stated the treadwear indicator information should not be required to be labeled on the vehicle or tire because the information is more effectively and comprehensively provided in owner's manuals. RMA recommends that NHTSA regulations for inspection of vehicles in use (49 CFR 570.9 & 570.62) be changed to indicate that the presence of a treadwear indicator in any major groove be used as an indication of wear out rather than the current requirement of the presence of treadwear indicators in two adjacent major grooves (at three locations spaced approximately equally around the tire.) One consumer commenter stated that consumers could benefit from clearer sidewall identification and that consumers would benefit if the following words appeared elsewhere on the sidewall, "replace tire when worn to indicator."

d. Uniform Tire Quality Grading System (UTQGS)

- One consumer commenter stated that the UTQGS information is possibly the most important item of consumer information regarding tire performance and should be required to be marked on tire sidewalls for all light vehicles weighing 10,000 GVWR or less. A consumer commenter also stated that this information should be provided in large block letters in contrasting colors. Further, consumers should be provided with a plain language explanation of the safety considerations underlying the UTQGS ratings. The commenter also said it is preferable that an explanation of UTQGS be provided at the point of sale. A vehicle manufacturer added that more consumer education concerning the effect of inflation and loading conditions on UTQGS ratings is necessary. One tire manufacturer association commenter argued that UTQGS only serves to confuse consumers, is generally ignored, and should be discontinued. Another commenter asserts that the treadwear rating should be changed to a statement concerning the expected miles of treadwear.
- Tire manufacturer association commenters did not support labeling additional categories of tires with UTQGS information and suggested that UTQGS information either be eliminated or be replaced by a service description (load index and speed rating) and that treadwear and traction should be made available to consumers at point of sale. Consumer commenters, on the other hand, stated that UTQGS

VOL 66 ISS 244 DE 19 2001 UMI

should apply to all tires for use on cars, SUVs, pickups, and on winter tires, particularly because UTQG traction grades are probably the most meaningful of the UTQG grades for the consumer and should also be applicable to mud and snow tires.

e. Speed Rating

- Generally, commenters, as a group, believed that a tire's speed rating is important, although not necessarily intuitive, to consumers and should be required to be indicated on the tire. Commenters agreed that consumers should be helped to understand, through consumer education, that they should purchase replacement tires of an equal or greater speed rating to those issued as original equipment. One consumer group commenter suggested that maximum speed limitations should be noted on the sidewall as "speed capacity" rather than "maximum speed" and that UTQG temperature grades could be eliminated since they are redundant with the "speed capacity" information.

f. Run-Flat and Extended Mobility Tires

- Tire association commenters and Harley Davidson stated that run-flat and extended mobility tire capability should be labeled on the tire sidewall as well as on the vehicle placard. General Motors (GM) commented that this labeling would not add any additional value because low inflation pressure warning systems accompany these tires and the capability is noted in the owner's manual.

g. Retreaded Tires

- A tire retread association commenter stated that the current labeling requirements for retreated tires are sufficient because those tires comprise a very small market share, are used primarily for commercial applications, and are serviced by well-trained service personnel.

h. Tire Inflation Pressure

- Commenters suggested that the following items be added to the vehicle placard: payload information (including an explanation of payload), tire service description (load index and speed symbol), high speed inflation pressure information, and speed rating. Commenters suggested the following locations for the tire placard: Door edge pillar, fuel door, visor, dashboard, glove box, door jamb. Commenters also suggested that the placard be in a standardized format and location in the vehicle. One vehicle manufacturer stated that the tire size, speed rating, cold inflation pressure and load capacity should be on the certification label.
- While General Motors and the International Tire and Rubber Association (ITRA) supported retaining the maximum inflation pressure label because it provides a "point of reference" inflation pressure, most commenters argued that the maximum inflation pressure should be removed from the sidewall of tires because consumers confuse it with the recommended inflation pressure found on vehicles and because inflating a tire to maximum inflation pressure may cause uneven wear and other failures. Further, one tire manufacturer association commenter suggested that consumers will look at the certification label or vehicle placard for pressure information if pressure information is not contained on the tire. One tire manufacturer association commenter asserted that removing the maximum inflation pressure would improve safety if the correct inflation pressure is clearly and conveniently communicated to consumers and if consumers act on this information. One vehicle manufacturer commenter remarked that there should be a marking requirement for tires that would direct operators to use the information contained on the vehicle tire placard.

i. Dissemination of Tire Safety Information

- Commenters neither supported nor opposed a tire inflation warning label. Most, however, suggested that consumer awareness of correct tire pressure, size, and the relationship of load and tire pressure is appropriately addressed through consumer education.
- Commenters, as a group, said that messages about tire inflation, vehicle loads and handling, and other safety effects need to be communicated repeatedly and through the use of different media such as agency brochures, manufacturer labels, owner's manual entries, and point-of-sale literature provided by tire manufacturers. Also, a hierarchical system of providing safety information to consumers in varying forms and details based on the essential nature of the performance and safety information should be employed. The placard should be mounted consistently in the same place on all vehicles and be both easily found and readable.

j. Motorcycles and Trailers

- One vehicle manufacturer opposed including applying amendments to the tire information labeling requirements to motorcycle tires. Two tire manufacturer associations stated that trailer and motorcycle tires should be required to have the same information as other highway tire categories molded into the sidewall.

k. Font height for labeling information

- Two tire manufacturer association commenters stated that there is no need to change the current font height specified and indicated that this issue needs to be considered as a part of a broader evaluation of tire marking and consumer awareness. Consumer group commenters, however, argued that the current font height is inadequate and needs to be increased and made uniform for the different labeling requirements. Commenters generally expressed the view that using contrasting colors for labeling is not feasible due to manufacturing process concerns and consumer preference.

4. Harmonization Issues

- RMA suggested that ECE regulations 30 and 54 address issues similar to those raised in the ANPRM. Additionally, RMA called attention to the work being done under WP.29's ongoing process for developing a global technical regulation for tires and the industry's GTS–2000 proposal.
- Manufacturers and association commenters pointed to both the WP.29 process and to the GTS–2000 proposal as means to best accomplish harmonization of this standard with foreign standards and to reduce redundancy in the current situation. These commenters suggested that decreased costs and increased information consistency would be benefits of minimizing regulatory divergence.

5. Other Comments

- Some comments included suggestions for improving the organization and coherency of the tire information that currently appears in more than six different standards and sections on tire information.
- Commenters also suggested requiring improved availability of safety related service information, including an in-vehicle safety information booklet which, in addition to owner's manual, would provide explanations concerning the operation and use of safety related systems and equipment such as tires.

D. Focus Groups

In March 2001, NHTSA conducted a series of eight focus groups to (1) explore consumer perceptions of motor vehicle tire labeling, (2) identify aspects of motor vehicle tire labels that are potentially confusing, and (3) identify means for optimizing the likelihood that motor vehicle safety labels will be easily read and comprehended. *The Focus Group Report,* dated March 20, 2001, has been placed in the docket for this rulemaking. Four focus groups were conducted in Richmond, Virginia, and four in Phoenix, Arizona. Each focus group was comprised of approximately nine persons 18 to 75 years old who fulfilled the following criteria: (1) possess a current driver's license, (2) primarily responsibility for taking care of personal vehicle, (3) owners/users of passenger cars, SUVs, van or minivan, motorcycle or pick-up truck, (4) no current employment relating to marketing or public relations, motor vehicles or motor vehicle parts, or government employment relating to the regulation of the motor vehicles. The composition of the groups represented a mix of income, educational attainment, household income and race.

The moderator for the focus groups conducted three exercises for each group of participants. In the first exercise, the moderator discussed with participants their current use of tire information. In the second exercise, the moderator solicited responses to a tire information presentation using a brand new tire and a diagram provided by NHTSA to demonstrate the variety and nature of NHTSA-mandated information on tires. In the third exercise, the moderator presented four variations on standard tire placards (called Concepts A through D in the Report) and solicited comments from the participants. The four formats included 2 black-and-white and 2 color versions. The color and black-and-white versions each included a small version that focused on air pressure and a longer version that included tire and other vehicle information, e.g., load, seating designation, etc. Conclusions from the first two exercises were:

- Tire information is ignored except when consumers are responding to conspicuously low tire pressure or buying new tires;
- Participants only had knowledge of one or two of the following aspects of tire information: tire size, brand name, price, weight load;
- At point of sale, tire information and documentation other than price receipt and warranty is not provided;
- Retailers should be required to provide tire information, e.g., adhesive tire information labels or brochure, at point of sale;
- Consumers are unaware that there is a tire placard in their personal vehicle;
- Owner's manuals are used on a limited basis for tire information;
- Consumers have little knowledge of the information available on the tire sidewall, besides tire pressure, type and brand name. Most were perplexed by the array of alpha and numeric codes appearing on the demonstration tire;
- Metric numbers are not understood by consumers;
- Too much information on a tire is preferable to too little information;
- Tire information sheets, similar to those provided with prescription drugs, should be readily available to vehicle and tire purchasers;
- Consumers want to learn more about the meaning of the information that appears on tires, e.g., tire codes and ratings;
- The following information should be displayed on the tire: date of manufacture and recommended replacement interval;
- Tire information should be presented in "plain language";
- Tire information should be presented in a larger typeface;
- Tire information should appear on both sides of the tire;
- Tire safety information is too important and too tire-specific to be relegated to the owner's manual or tire placard—it should be provided at the point of new vehicle or replacement tire purchase in paper form, e.g., brochure;
- Owner's manuals, while a good location for general tire safety and education information, is not an appropriate location for tire-specific information; and
- The term "cold tire pressure" is not readily understood or is often misunderstood as relating to the outside temperature/weather conditions.

With regard to the actual content, placement and design of the Tire Safety Information Placards discussed in the third exercise, the following recommendations were made:

- Add/use color formats for the tire placard instead of only black-and-white;
- Use small placard formats rather than large placard formats;
- Use a tire icon, as a visual cue, on the placard (an icon makes the purpose and subject matter of the placard more easily identifiable and facilitates use of the placard information by drivers with marginal literacy skills); and
- Standardize the placement of tire placards on the B-pillar.

VI. Agency Proposal

A. Summary of Proposal

The agency is proposing a single standard for light vehicle tires, FMVSS No. 139, *New Pneumatic Tires for Light Vehicles,* which would contain revised versions of the existing labeling requirements that address the following aspects of tire and vehicle labeling: Tire markings, the Tire Identification Number (TIN), vehicle placard content and format, placard location, and owner's manual information. The standard would require tires for passenger cars, multipurpose passenger vehicles, trucks, buses and trailers with a gross vehicle weight rating (GVWR) of 4,536 (10,000 pounds) or less, manufactured on or after November 1, 2003, to comply with the labeling requirements.[21] The proposed requirements are summarized below.

NHTSA proposes that the TIN, size designation, maximum permissible inflation pressure, and maximum load rating be placed on both sides of light vehicle tires. Requiring the TIN and size designation to be on both sides would ensure that that information would be on the sidewall facing outward, regardless of how the tire is mounted. Requiring that the other items of information be on both sidewalls would aid consumers in properly maintaining their tires and loading their vehicles.

NHTSA is proposing two changes to the TIN. First, the agency proposes to require a reordering of information in the TIN so that the first six characters would contain the information required for determining whether a particular tire is subject to a recall. The first two characters would reflect the plant code, and the next four characters would reflect the date code. Second, the agency proposes to require that each character be 6 mm (¼") high. The agency believes that a requirement for a uniform TIN font size would significantly improve the readability of the TIN.

The agency proposes four sets of revisions for the presentation of tire inflation pressure and load limit information on the vehicle placard required for passenger cars by S4.3 of § 571.110 and to be required for all light vehicles with a GVWR of 10,000 pounds or less under this proposal.[22] This placard, permanently affixed to the glove compartment door or an equally accessible location, currently displays the vehicle capacity weight, the

---

[21] Therefore, this proposal is applicable to LT tires up to load range E. This load range is typically used on large SUVs, vans, and trucks.

[22] FMVSS No. 120 currently requires that each motor vehicle other than a passenger car show, on the label required by § 567.4, or on a tire information label (S5.3.2(b)), the recommended tire size designation appropriate for the GAWR, the tire size and type designation of rims appropriate for those tires, and the recommended cold inflation pressure for those tires such that the sum of the load ratings on the tires on each axle (when the tire's load carrying capacity at the specified pressure is reduced by dividing 1.10, in the case of a tire subject to FMVSS No. 109, i.e., a passenger car tire) is appropriate for the GAWR.

VOL 66 ISS 244 DE 19 2001 UMI

designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location), the vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, and the manufacturer's recommended tire size designation.

First, the agency proposes that tire inflation pressure information would be visually separated by a red colored border on the existing vehicle placard or, alternatively, be placed on a separate tire inflation pressure label. The vehicle placard would contain only the information specified in the proposed version of S4.3 (paragraphs (a)–(e)).[23] This information could not be combined with other labeling or certification requirements. The vehicle placard would also have to meet the proposed color and content requirements as discussed below.

Second, the agency also proposes that the tire inflation pressure label and vehicle placard meet the following three requirements: (1) The tire inflation pressure information would be in color—red, yellow, and black on a white background, (2) contain a black and white tire symbol icon in the upper left corner, 13 millimeters (.51 inches) wide and 14 millimeters (.55 inches) tall/high, and 3) include the phrases "Tire Information" and "See Owner's Manual For Additional Information" in yellow text on a black background.

Third, the agency proposes to replace the vehicle capacity weight statement on the vehicle placard with the following sentence: "[t]he combined weight of occupants and cargo should never exceed XXX pounds." The "XXX" amount would equal the "vehicle capacity weight" of the vehicle as defined in FMVSS No. 110. The information is the same as that currently required to be placed on the vehicle placard by manufacturers. However, the agency believes that the statement "the combined weight of occupants and cargo should never exceed * * *" is easier for consumers to comprehend than a technical phrase such as "vehicle capacity weight." "Vehicle capacity weight" is not intuitive to consumers and it requires a vehicle operator to look to the owner's manual or standard to understand which factors are included in the calculation of the sum on the placard.

Fourth, the agency proposes to replace the vehicle's recommended tire size designation with the tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer. While in most instances these two numbers would be identical, this minor revision insures that the consumer is provided with the correct tire inflation pressure information for the tire size actually installed on his vehicle as original equipment by the vehicle manufacturer.

We are proposing these placard changes in response to survey data which indicate that consumers need assistance in locating recommended tire pressures for their vehicle's tires and understanding load limits. The use of colors and a visual cue, such as a tire symbol icon, would aid drivers in noticing and locating this imperative information. By expressing the vehicle's load limit in easily recognizable terms such as "passenger and cargo weight", as opposed to "vehicle capacity weight" the proposed placard revisions would also aid consumers in understanding and adhering to load limit guidelines.

The agency proposes that the placard and/or label containing tire inflation pressure be located on the driver's side B-pillar. If a vehicle does not have a B-pillar, then the placard and/or label would be placed on the edge of the driver's door. Currently, S4.3 of § 571.110 specifies that the vehicle placard be affixed to the glove compartment door or an equally accessible location. A standardized location for tire information placards and labels would contribute to consumer awareness of recommended tire inflation pressures and load limits.

The agency proposes that owner's manuals for light vehicles contain discussion of the following five subject areas: (1) Tire labeling, (2) recommended tire inflation pressure, (3) glossary of tire terminology, (4) tire care, and (5) vehicle load limits. A single, reliable source containing the proposed required information for the tires and tire safety information listed above would aid consumers by providing the information that they need to properly maintain their tires and adhere to recommended load limits.

B. Applicability

The proposed FMVSS No. 139 and its labeling revisions would apply, except where noted, to new pneumatic tires for use on motor vehicles with a GVWR of 10,000 pounds or less, manufactured after 1975, except for motorcycles and LSVs, and for new motor vehicles with a GVWR or 10,000 pounds or less manufactured after September 1, 2003.[24]

Given the increasing consumer preference for light truck use for passenger purposes, the agency is proposing that the safety requirements for passenger car tires also be made applicable to LT tires (load C, D, E) used on light trucks. Further, LT tires are increasingly used in the same type of on-road service as P-metric tires on light vehicles. Recent sales data for heavier trucks indicate that the use of these tires on passenger vehicles will continue to increase in the near future.

NHTSA is not proposing to require that FMVSS No. 139 apply to motorcycle tires because motorcycle tires are of a design and construction unlike the types of vehicle tires that would be subject to the proposed standard. Further, the agency is currently not aware of any consumer information concerns or problems associated with motorcycle tires. For similar reasons, NHTSA is also not proposing to require that the new standard be applicable to tires beyond load range E, which are typically used on medium (10,000–26,000 lbs. GVWR) and heavy vehicles (greater than 26,001 lbs. GVWR), and temporary spare tires.

To maintain consistent labeling requirements for all tires for use on light vehicles, the proposed labeling requirements would also be applicable to retreaded pneumatic passenger car tires and new non-pneumatic tires for passenger cars. More specifically, FMVSS No. 117, which specifies requirements for retreaded pneumatic passenger tires and FMVSS No. 129, which specifies performance requirements for new non-pneumatic tires for passenger cars would be revised to include the proposed labeling requirements.

C. Proposed Labeling Requirements

1. Tire Markings

NHTSA proposes that all labeling information specified under S4.3 of FMVSS No. 109, including the TIN, be placed on both sides of light vehicle tires except for that information cited in paragraphs (d), (e), (f) and (g) of S4.3. The required information in these paragraphs (generic name of cord material, actual number of plies, "tubeless" or "tube type" designation, and the word "radial" if applicable) must be present on one of the sidewalls. Requiring that ply, cord, and tube and tire type information only be present on one sidewall would reduce the stringency of FMVSS No. 119 which currently requires that light truck and MPV tires display the information on both sidewalls.

---

[23] (a) Vehicle capacity weight expressed as "THE COMBINED WEIGHT OF OCCUPANTS AND CARGO SHOULD NEVER EXCEED XXX POUNDS";

(b) Designated seating capacity (expressed in terms of total number of occupants and in terms of occupant for each seat location);

(c) Vehicle manufacturer's recommended cold tire inflation pressure;

(d) Tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer; and

(e) "SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION".

[24] The agency anticipates that the proposed requirements of FMVSS No. 139, including the labeling revisions discussed here and the performance requirements and testing procedures to be proposed in a forthcoming rulemaking, if adopted, would supersede the requirements of FMVSS No. 109. The deletion of FMVSS No. 109 will be discussed further in the forthcoming proposal.

Comments to the docket in response to the ANPRM questions concerning placement of the TIN expressed a range of different viewpoints. Most commenters stated that placing the TIN on the outside wall of the tire was a desirable requirement. Further, many respondents also supported putting the TIN on both sides of the tire to ensure that it would be visible on the outboard tire wall, as well as the inside tire wall where there is a lesser chance of it being scuffed off of the tire. However, several tire industry respondents did not support putting the TIN on both sides of the tire because of manufacturing costs and safety issues.

The recent Firestone recall highlighted the difficulty that consumers have in identifying recalled tires when tires are mounted so that the TIN is located on the sidewall facing inwards. Improved access to the TIN would greatly enhance the consumers' ability to determine if their tires have been recalled.

Consumer commenters and focus group participants also said that other tire labeling information, such as size, speed rating, load rating and maximum pressure, should also be required on both sides of the tire to ensure that it is readily visible to consumers.

With regard to the number of plies and generic name of cord material used in the plies, most respondents believed that information to be of limited safety value to consumers and suggested its removal from the sidewall. The ITRA expressed the view that the cord and ply material is very important to the tire retread, repair and recycling industries because this information enables consumers and industry professionals to determine the level of risk when inflating, repairing, retreading or servicing a specific tire. NHTSA believes that it is sufficient to require that this information appear on one sidewall. There is no known advantage that would arise from requiring this information on both sides of the tire.

Several tire manufacturer association commenters objected to requiring a tire manufacturer to mark the TIN on both tire sidewalls because they believe that this continues to present workers with a serious potential safety hazard. As discussed above, the agency learned during prior rulemaking efforts (45 FR 82293, December 15, 1980) that changing the TIN number plates in the tire molds would not present insurmountable safety problems. NHTSA believes that advances in tire manufacturing technology, such as removable stencil plates, have allowed for a significant reduction in the safety hazards associated with the manufacturing process by enabling workers to change labeling information on the molds outside of the tire press (A tire press generally works like a clam shell). Further, the costs associated with changing molds to implement this requirement are not considered to be onerous as discussed in the Costs section of this document. Additionally, the tire manufacturers' suggestion that the TIN be placed on the intended facing sidewall of the tire is not practicable because the vast majority of tires produced are reversible, not asymmetrical.

Requiring that the tire information specified above be placed on both sides of light vehicle tires would provide consumers with readily accessible recall information, without creating significant additional costs to tire manufacturers, and would ensure that the retread, repair and service industries continue to be provided with necessary recall information. Reducing the amount of information required to be placed on both sides of light truck tires would also result in cost savings to manufacturers that would offset some of the increased costs resulting to changes to the TIN and the labeling of passenger car tires.

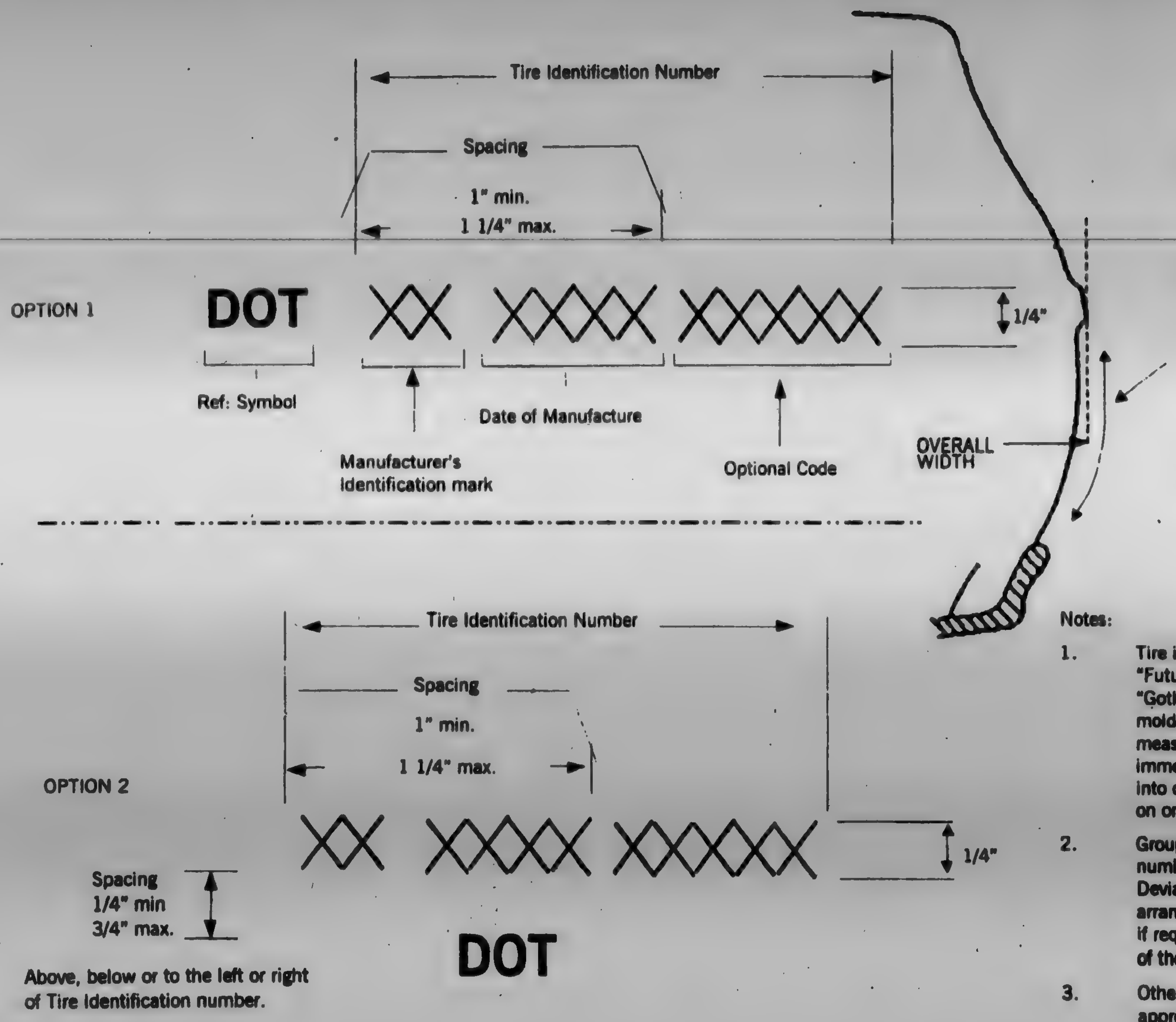
Several commenters suggested adding additional information to the tire sidewall, e.g., load index values, specifying what the digits of the TIN represent, a marking requirement directing the vehicle operator to use the information contained on the vehicle placard, a marking requirement for run-flat and extended mobility tire capability, and a warning stating: "replace tire when worn to indicator." NHTSA believes that these suggestions are not feasible. As run-flat tires and high performance low-profile tires are developed and become more common, tire diameters will increase with consequent decrease in sidewall heights. That means that reserving the ever-decreasing space on tire sidewalls for displaying necessary and required information will become even more important in the future. Other suggested tire labeling, such as load index values, are not intuitive to consumers and would require the vehicle operator to seek out reference materials and/or would require the agency to require more information to be added to the already crowded vehicle placard. NHTSA believes the items, explanations, and warnings suggested by the commenters would be better and more effectively addressed through consumer information campaigns rather than through requirements for additional in-vehicle and on-vehicle information.

2. TIN

The agency proposes two revisions to the TIN: (1) Require that the first six characters of the TIN to contain the following information: The first two characters would reflect the plant code, and the next four characters would reflect the date code, and (2) require 6 mm (¼") as a uniform height font size (see Figures 1 & 2).

BILLING CODE 4910-59-P

VOL 66 ISS 244 DE 19 2001 UMI

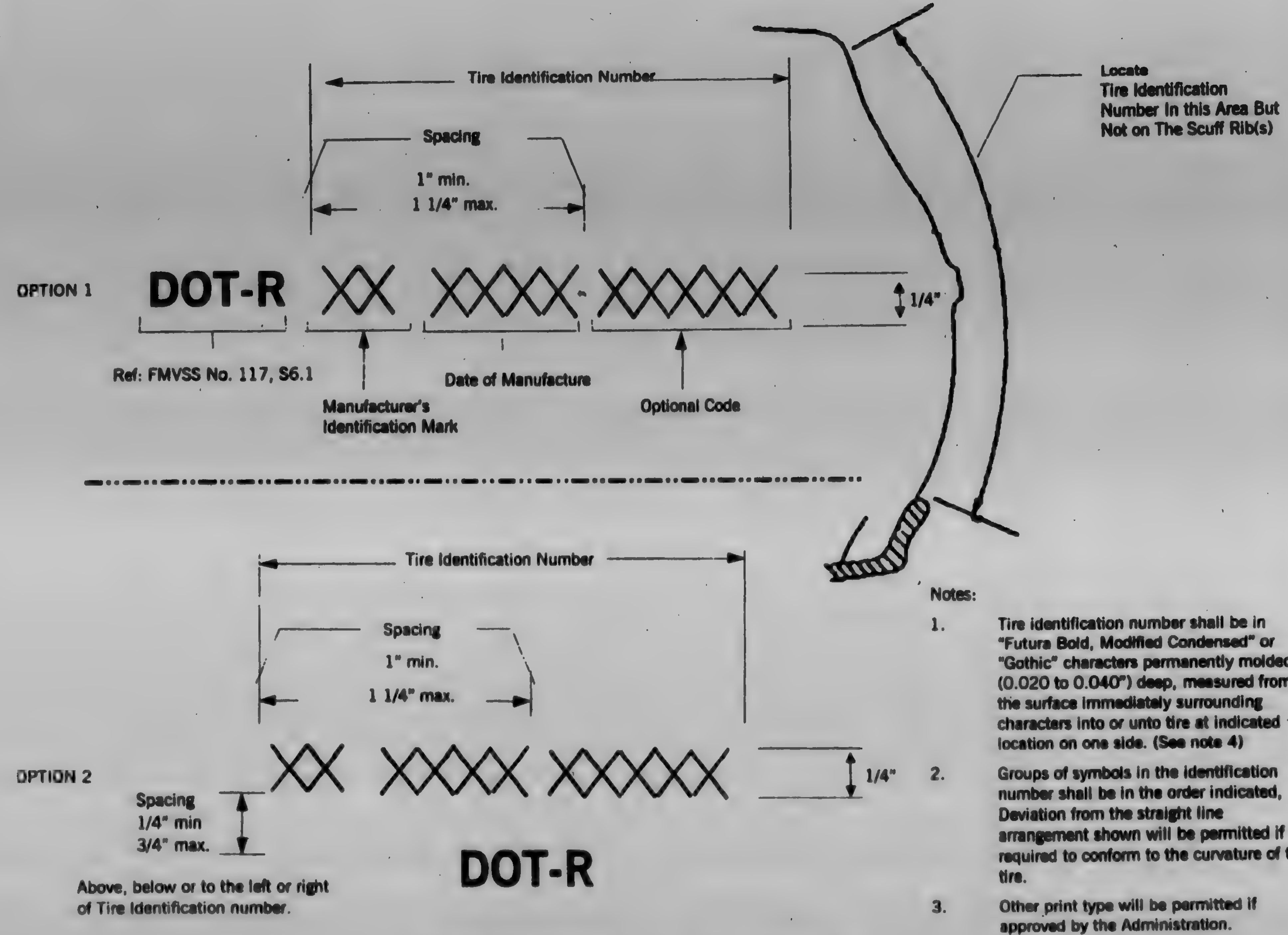

Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 1
DOT
XX XXXX XXXXX
1/4"
Ref: Symbol
Manufacturer's Identification mark
Date of Manufacture
Optional Code
OVERALL WIDTH
Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 2
XX XXXX XXXXX
1/4"
Spacing
1/4" min
3/4" max.
Above, below or to the left or right of Tire Identification number.
DOT

Locate all required labeling in lower segment of one sidewall between maximum section width and bead so that data will not be obstructed by rim flange, unless maximum section width falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires where the maximum section width falls in that area, locate all required labeling between the bead and the one-half the distance from the bead to the shoulder so that the data will not be obstructed by the rim flange.

Notes:

1. Tire identification number shall be in "Futura Bold, Modified Condensed" or "Gothic" characters permanently molded (0.020 to 0.040") deep, measured from the surface immediately surrounding characters into or unto tire at indicated location on one side. (See note 4)
2. Groups of symbols in the identification number shall be in the order indicated, Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.
3. Other print type will be permitted if approved by the Administration.

FIGURE 1: IDENTIFICATION NUMBER FOR NEW TIRES


Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 1
DOT-R
XX
XXXX
XXXXX
1/4"
Ref: FMVSS No. 117, S6.1
Manufacturer's Identification Mark
Date of Manufacture
Optional Code
Locate Tire Identification Number In this Area But Not on The Scuff Rib(s)
Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 2
XX
XXXX
XXXXX
1/4"
Spacing
1/4" min
3/4" max.
Above, below or to the left or right of Tire Identification number.
DOT-R

Notes:

1. Tire identification number shall be in "Futura Bold, Modified Condensed" or "Gothic" characters permanently molded (0.020 to 0.040") deep, measured from the surface immediately surrounding characters into or unto tire at indicated location on one side. (See note 4)
2. Groups of symbols in the identification number shall be in the order indicated, Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.
3. Other print type will be permitted if approved by the Administration.

FIGURE 2. IDENTIFICATION NUMBER FOR RETREADED TIRES

BILLING CODE 4910-59-C

Currently, the plant code resides in the first two digits of the TIN and the date of manufacture resides in the ninth through twelfth digits of the TIN. These two required sets of information are separated by optional and tire size information that reside in the third through eighth digits in the TIN. The optional information is only useful to the tire manufacturer and the tire size information is already labeled elsewhere on the tire.

The commenters on the ANPRM and the focus groups expressed consistent support for making the TIN more user-friendly and readable. To that end, the first proposed revision to the TIN reorders the sequence of the TIN characters to require that the first six numbers be those that are necessary for identifying recalled tires (i.e., the plant code and the date code). Since the tire size is required to be labeled elsewhere on the tire under another provision, the requirement for including the tire size code in TIN would be deleted. The proposed revisions to the sequence of information in the TIN would make the TIN easier for consumers to read and understand for recall and other purposes.

The second proposal, which would require a 6 mm (¼") uniform height font size, would enhance the readability of the of the TIN. Currently, 574.5 requires the characters in the TIN, except for those in the fourth grouping, to be a minimum height of ¼". The characters in the fourth grouping are presently required to have a minimum height of 5/32".

In previous rulemakings and comments to the ANPRM, consumer group commenters have suggested that 4 mm was not a sufficient font size for the TIN, particularly for individuals with visual impairment. Comments on the ANPRM and from the focus groups concerning the readability of the TIN did not specify a particular font size.

The agency believes that a uniform 6 mm TIN font height is a more appropriate size for information that is critical in the event of a recall. The larger size will make the TIN easier to read, without imposing a significant burden on tire manufacturers. 6 mm is approximately the equivalent of Times New Roman font size 20 in Windows 2000. While 6 mm would be the minimum required font size, there is no restriction that would prevent tire manufacturers from using a larger font size for the TIN characters. The agency requests comments on the readability of a 6 mm font size for the TIN characters. Please be specific in your response and provide a basis for your answer.

3. Vehicle Placard Content and Format

The agency proposes four sets of revisions for the presentation of tire inflation pressure and vehicle placard information. This placard, permanently affixed to the glove compartment door or an equally accessible location on passenger cars and to be required for all light vehicles with a GVWR of 10,000 pounds or less under this proposal,[25] currently displays the vehicle capacity weight, the designated seating capacity (expressed in terms of total number of occupants and in terms of occupants for each seat location), the vehicle manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, and the manufacturer's recommended tire size designation.

First, the agency proposes that tire inflation pressure information would be visually separated from the other information by a red colored border on the existing vehicle placard 13 required by S4.3 of § 571.110 or, alternatively, be placed on a separate tire inflation pressure label. The vehicle placard would contain only the information required by S4.3 of 571.110, could not be combined with information or statements required by other labeling or certification requirements, and would meet the proposed color and content requirements as described below.

Second, the agency also proposes that if a vehicle manufacturer uses the separate tire inflation pressure label, that label must meet the following three requirements: (1) the tire inflation pressure information on the placard would be in color—red, yellow, and black on a white background—as illustrated in Figures 3 & 4 below, (2) contain a black and white tire symbol icon that is in the upper left corner of the placard, and is 13 millimeters (.51 inches) wide and 14 millimeters (.55 inches) (see Figures 3 & 4 below), and (3) the label and placard would both include the phrases "Tire Information" and "See Owner's Manual For Additional Information," in yellow text on a black background as illustrated in Figures 3 and 4 below. If, alternatively, the manufacturer uses the separate tire inflation pressure label, that label must meet those three requirements.

Third, the "vehicle capacity weight" statement on the vehicle placard would be replaced by the following statement: "[t]he combined weight of occupants and cargo should never exceed XXX pounds." The "XXX" amount would equal the vehicle capacity weight of the vehicle as defined in FMVSS No. 110. The information is the same as that currently required to be placed on the vehicle placard by manufacturers. However, the agency believes that the statement "the combined weight of occupants and cargo should never exceed * * *" is easier for consumers to comprehend than a technical phrase such as "vehicle capacity weight," which is not intuitive to consumers. To understand the term "vehicle capacity weight", a driver must look through the owner's manual for an explanation of how that weight is calculated and what significance that weight has for the safe operation of his or her vehicle.

Fourth, the agency proposes to replace the vehicle's recommended tire size designation with the tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer. While in most instances these two numbers would be identical, this minor revision insures that the consumer is provided with the correct tire inflation pressure information for the tire size actually installed on his vehicle as original equipment by the vehicle manufacturer. The agency considered adding a requirement for the vehicle manufacturer to label all recommended optional tire size designations on the vehicle placard and/or tire inflation pressure label. While this consideration would provide recommended tire inflation pressure information for consumers who opt to replace factory installed tire sizes with optional tire sizes, we have tentatively concluded that this is not a feasible requirement for three reasons. First, most light vehicles are equipped with original equipment and replacement tires having the same tire size designation as those tires installed by the vehicle manufacturer. Second, consumers are typically not familiar with or cognizant of the size of the tires on their vehicles. A listing of more than one tire size designation and recommended tire inflation pressure would require the vehicle operator to seek out the tire size designation on the vehicle's tires. Third, listing more than one tire size designation and recommended inflation pressure would require more information to be added to the already crowded vehicle placard. The agency believes that requiring a vehicle operator to take an extra step to properly inflate his tire and potentially overcrowding the vehicle placard and/or tire inflation pressure label with information would discourage use of tire inflation pressure information on the placard and/or the label.

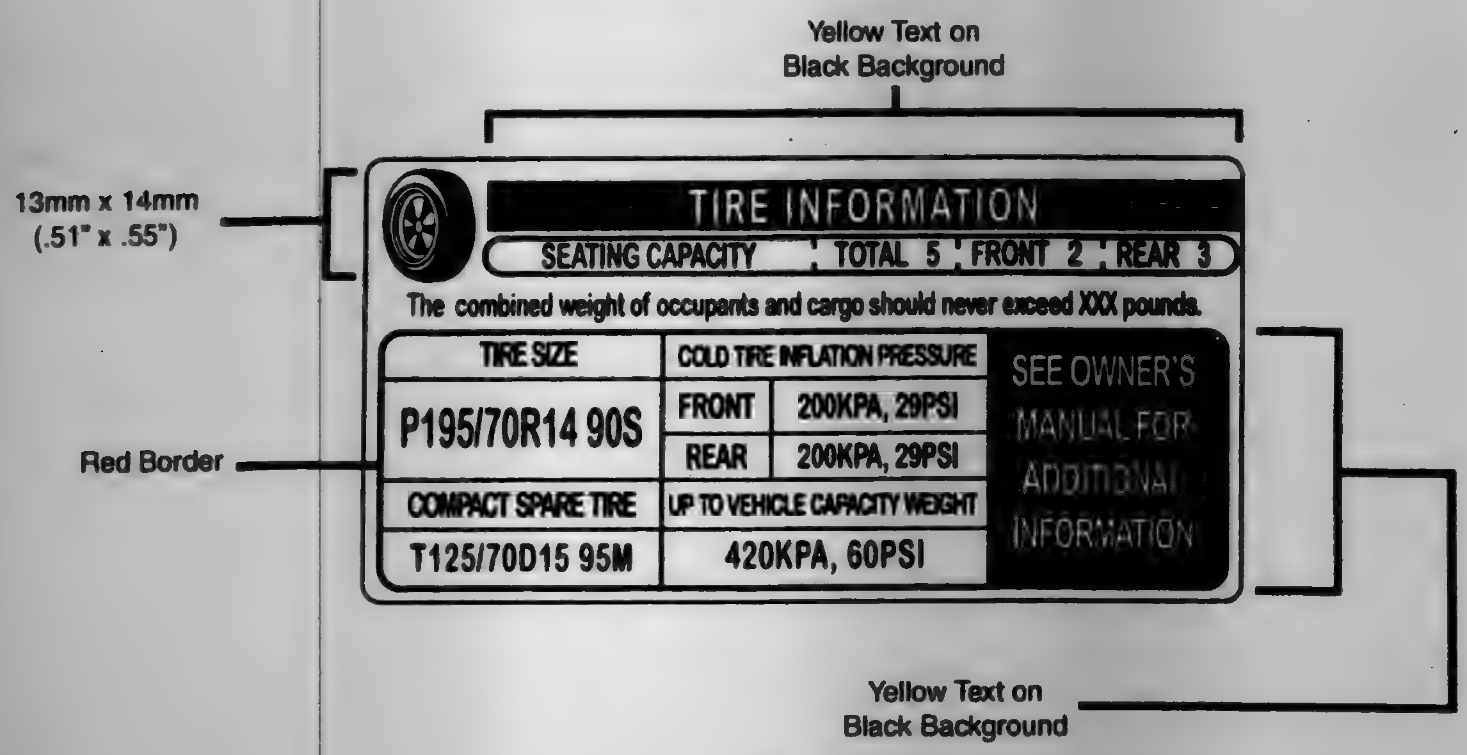
---

[25] FMVSS No. 120 currently requires that each motor vehicle other than a passenger car show, on the label required by § 567.4, or on a tire information label (S5.3.2(b)), the recommended tire size designation appropriate for the GAWR, the tire size and type designation of rims appropriate for those tires, and the recommended cold inflation pressure for those tires such that the sum of the load ratings on the tires on each axle (when the tire's load carrying capacity at the specified pressure is reduced by dividing 1.10, in the case of a tire subject to FMVSS No. 109, i.e., a passenger car tire) is appropriate for the GAWR.

The following are samples of the proposed vehicle placard and tire inflation pressure label:

BILLING CODE 4910-59-P

Vehicle Placard


Yellow Text on Black Background
13mm x 14mm (.51" x .55")
Red Border
Yellow Text on Black Background

TIRE INFORMATION

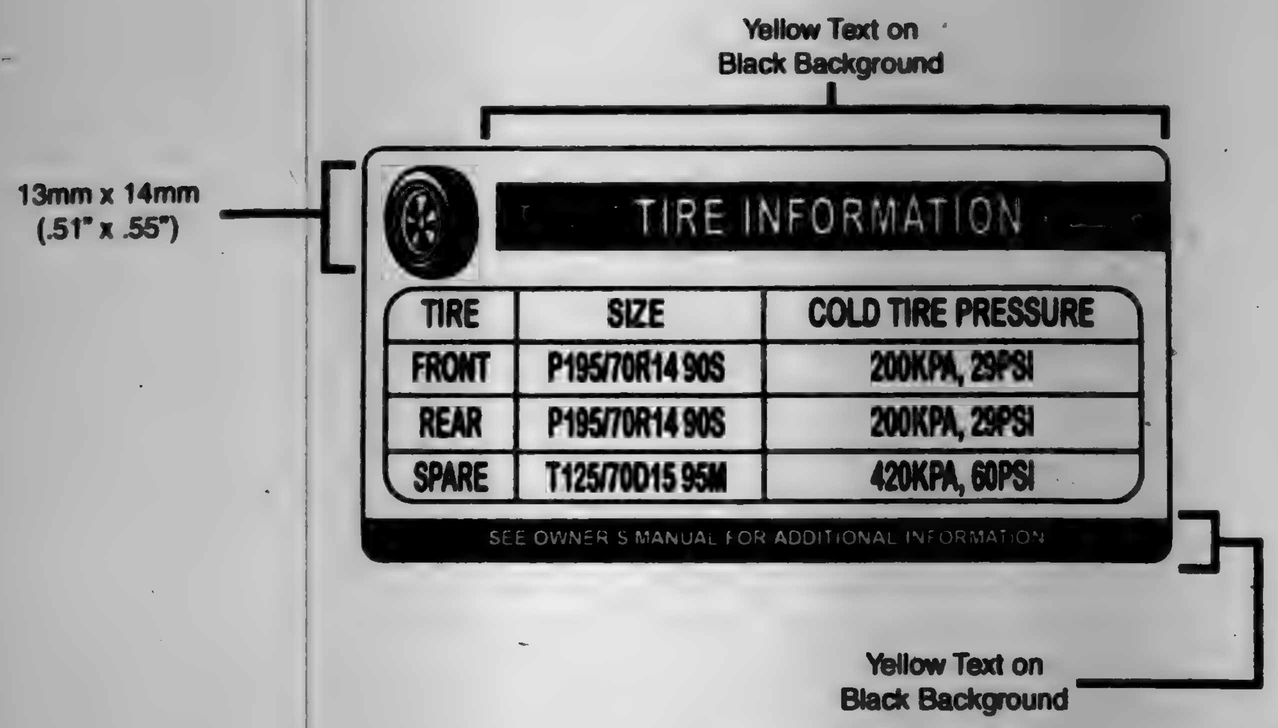
SEATING CAPACITY | TOTAL 5 | FRONT 2 | REAR 3

The combined weight of occupants and cargo should never exceed XXX pounds.

TIRE SIZE	COLD TIRE INFLATION PRESSURE		SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION
P195/70R14 90S	FRONT	200KPA, 29PSI	
	REAR	200KPA, 29PSI	
COMPACT SPARE TIRE	UP TO VEHICLE CAPACITY WEIGHT		
T125/70D15 95M	420KPA, 60PSI		

Figure 3

Tire Inflation Pressure Label


Yellow Text on Black Background
13mm x 14mm (.51" x .55")
Yellow Text on Black Background

TIRE INFORMATION

TIRE	SIZE	COLD TIRE PRESSURE
FRONT	P195/70R14 90S	200KPA, 29PSI
REAR	P195/70R14 90S	200KPA, 29PSI
SPARE	T125/70D15 95M	420KPA, 60PSI

SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION

Figure 4

As discussed above, survey data indicate that most individuals are unaware of the existence and/or location of the tire inflation pressure and load limit information placards. Surveys also confirm that maximum tire pressure is often confused with recommended inflation pressure. Surveys have not addressed load limit issues, but the results from NHTSA's focus groups and comments received in response to the ANPRM indicate that consumers are unaware of that these limits exist, where they are located, and how to use them.

NHTSA's focus groups tested different versions of existing and proposed tire placards to help determine the most effective way of attracting the attention of consumers to this information and making it more understandable to them. In response to the testing, focus group participants overwhelmingly preferred color formats with contrasting colors, e.g., yellow on black, instead of black and white formats because the color attracted their attention and aided in their comprehension of the material. Participants also strongly believed that a visual cue, such as a tire symbol icon, would aid drivers in identifying and locating this imperative information.

Based on the comments to the ANPRM and the focus group results, NHTSA also recognizes that consumers need assistance in understanding load limits and how inflation pressure affects the load carrying capacity for their vehicle and in determining the total load limit in pounds for their vehicle. For instance, by replacing the technical term "vehicle capacity weight" on the placard with a sentence containing easily understandable terms such as "passenger weight" and "cargo weight", the proposed placard revisions should also aid consumers in locating and adhering to recommended load limit guidelines as well as recommended inflation pressures.

4. Placard Location

The agency proposes that the vehicle placard and tire inflation pressure label be located on the driver's side B-pillar. If a vehicle does not have a B-pillar, then the placard and label would be placed on the edge of the driver's door. The tire inflation pressure label would be placed proximate to the vehicle placard. There would be no prohibition on placing additional tire inflation pressure labels on the vehicle in locations other than the B-pillar, except as precluded by other safety standards.

Currently, S4.3 of 571.110 specifies that the vehicle placard be affixed to the glove compartment door or an equally accessible location. NHTSA's focus group results indicate that many consumers are unaware of the existence of and or location of tire inflation pressure and load limit information. Participants in the focus groups noted a strong preference for one standardized location for the placard. Both the focus group participants and commenters on the ANPRM cited the B-pillar, followed by the driver's door edge, as the most preferable locations for the placard. A standardized location for tire information placards would contribute to consumer awareness of recommended tire inflation pressure and load limits by providing a consistent and predictable place for this information.

5. Owner's Manual

The agency proposes that owner's manuals for light vehicles contain discussion of the following five subject areas:

1. Tire labeling, including a description and explanation of

(a) each marking on the tire,

(b) locating information that will aid consumers in identifying tires subject to a recall campaign, and

(c) the TIN;

2. Recommended tire inflation pressure, including a description and explanation of

(a) recommended cold tire inflation pressure,

(b) the vehicle placard and tire inflation pressure label required in Federal Motor Vehicle Safety Standard No. 110 and their location in the vehicle,

(c) the adverse safety consequences of underinflation (including tire failure), and

(d) measuring and adjusting air pressure to achieve proper inflation;

3. Glossary of tire terminology, including "cold tire pressure," "maximum inflation pressure," and "recommended inflation pressure," and all non-technical terms defined in S3 of FMVSS Nos. 110 & 139;

4. Tire care, including maintenance and safety practices; and

5. Vehicle load limits, including a description and explanation of

(a) locating and understanding load limit information, total load capacity, seating capacity, towing capacity, and cargo capacity,

(b) calculating total and cargo load capacities with varying seating configurations including quantitative examples showing/illustrating how the vehicle's cargo and luggage capacity decreases as the combined number and/or size of occupants increases,

(c) determining compatibility of tire and load capabilities,

(d) the adverse safety consequences of overloading on handling and stopping and on tires, and

(e) when to use either the recommended inflation pressure or a higher pressure (up to the maximum inflation pressure) based on the amount of load being carried by the tires. This inflation pressure and load limit information could, for example, be provided on an insert in the following format:

Figure 5.—Locating and Understanding Load Limit Information

Steps for Determining Correct Load Limit

(1) Locate the statement "The combined weight of occupants and cargo should never exceed XXX pounds" on your vehicle's placard.

(2) Determine the combined weight of the passengers that will be riding in your vehicle.

(3) Subtract the combined weight of the passengers from XXX pounds.

(4) The resulting figure equals the available amount of cargo and luggage load capacity. For example, if the "XXX" amount equals 1500 lbs. and there will be 5–150 lb passengers in your vehicle, the amount of available cargo and luggage load capacity is 750 lbs. (1500 − 750 (5 × 150) = 750 lbs.)

(5) Determine the combined weight of luggage and cargo being loaded on the vehicle. That weight may not safely exceed the available cargo and luggage load capacity calculated in Step 4.

(6) If your vehicle will be towing a trailer, load from your trailer will be transferred to your vehicle. Consult this manual to determine how this may reduce the available cargo and luggage load capacity of your vehicle.

(7) A higher inflation pressure (up to the maximum inflation pressure) may be necessary to carry safely the combined weight of the passengers, cargo and luggage being carried in your vehicle. Consult this manual to determine whether a higher inflation pressure is necessary.

The agency requests comments on whether the statements in Figure 5 should be required to be included verbatim in owner's manual and on how to make those statements as vehicle owner friendly as possible.

Some commenters on the ANPRM indicated that a majority of consumers rarely consult the owner's manual or have knowledge of the information that it contains. Commenters and focus group participants, however, agreed that the owner's manual should be a primary source of information for vehicle owners and, in particular, is a good location for general tire safety information. As discussed earlier in this document, survey research indicates that a significant minority of participants, up to 45 percent in some surveys, cites the owner's manual as the best source of information concerning proper tire inflation pressure.

The agency's review of a limited number of owner's manuals revealed that the amount and type of information provided in these documents varies widely. Based on this observation, as well as the ANPRM comments and focus group results, the agency believes that a single, reliable source containing the proposed required information for the tires and tire safety information listed above would aid consumers in properly maintaining their tires and adhering to load limits.

C. Other Issues

1. FMVSS Nos. 110 and 120

The purpose of FMVSS Nos. 110 and 120 is to provide safe operational performance by ensuring that vehicles to which they apply are equipped with tires of adequate load rating and rims of appropriate size and type designation. FMVSS No. 110 currently applies to passenger cars and FMVSS No. 120 currently applies to vehicles other than passenger cars including motorcycles and trailers.

The agency proposes that FMVSS Nos. 110 and 120 be revised to correspond with the applicability of the new light vehicle tire standard. FMVSS No. 110 would include passenger cars and other light vehicles with a GVWR of 10,000 pounds or less. Therefore, most SUVs, vans, trailers, and pickup trucks would be required to comply with the same tire selection and rim requirements as passenger cars. FMVSS No. 120 will continue to apply to vehicles over 10,000 pounds GVWR and motorcycles.

Most current requirements of FMVSS No. 110 would be retained, including S4.2.2, which establishes a linkage between the vehicle normal load[26] and the load specified for the high-speed test in FMVSS No. 109.[27] S4.2.2 will be extended to cover SUVs, vans, trailers, and pickup trucks for the first time, which means that P-metric and LT tires used on these vehicles will have a load reserve similar to P-metric tires used on passenger cars.

The proposal also would extend S4.4.1(b) of FMVSS No. 110, which requires that each rim shall retain a deflated tire in the event of a rapid loss of inflation pressure from a vehicle speed of 97 km/h until the vehicle is stopped with a controlled braking operation, to light trucks and vans for the first time.

2. Rim Size and Type Designation for Light Trucks and Multipurpose Passenger Vehicles

Currently, the rim size and type designation label information requirements for light trucks and multipurpose passenger vehicles (MPVs) (which include SUVs) are specified in S5.3.2 of FMVSS No. 120. Light trucks and MPVs, unlike passenger cars, may be outfitted with different sized rims which would require different size tires and recommended inflation pressures for those tires. Under this proposal, the rim size and designation label requirement on the certification label would be added to FMVSS No. 110 for all light vehicles to which FMVSS No. 120 is presently applicable. Rim information would not, however, appear on the proposed vehicle placard or tire inflation pressure label.

3. Maximum Permissible Inflation Pressure

The agency is not proposing to remove or to revise the requirement for the maximum permissible inflation pressure marking on the tire, except to extend this requirement to tires for use on all light vehicles with a GVWR of 10,000 pounds or less, except LSVs and motorcycles.[28]

Commenters on the ANPRM and survey data noted that misunderstanding as to the meaning of maximum permissible inflation pressure does exist among consumers. Consumers often confuse the maximum permissible inflation pressure labeled on the tire for the recommended inflation pressure labeled on the vehicle placard. Nevertheless, most commenters did not recommend deleting this labeling requirement. Several commenters to the docket suggested adding information to the tire to distinguish the maximum permissible inflation pressure from the recommended inflation pressure. However, most expressed the view that improved consumer information would be the most effective means to correct the misunderstanding. The agency believes that it would be less effective to require tire manufacturers to add additional language to the sidewall to clarify the distinction between maximum inflation pressure and recommended inflation pressure. Sidewalls are becoming progressively smaller with the advent of low profile tires and requiring additional information in this already crowded space could cause greater consumer confusion.

Several commenters and focus group participants also noted that the maximum inflation pressure provides a failsafe guideline for tire inflation. The agency concurs that the greatest likelihood of tire failure results from underinflation. Additionally, the inflating of tires to the maximum inflation pressure while "warm" (i.e., after being driven for any amount of time) will most likely result in the tires being inflated to an amount below the maximum inflation pressure because the warm tire will register a higher inflation pressure than when the tire is measured when "cold" (not driven for at least three hours).

The agency also anticipates that improvements in the tire placard, standardizing the placard location, and an expanded consumer information program would reduce the number of consumers who mistake the maximum inflation pressure for the recommended inflation pressure.

4. UTQGS

Several commenters on the ANPRM questioned the utility of the UTQGS ratings to consumers and suggested that they be repealed. Other commenters recommended extending the applicability of UTQGS to additional categories of tires, e.g., mud and snow. One commenter suggested that temperature grades could be eliminated since they are redundant with speed rating information.[29] Since the TREAD Act imposed an 18-month deadline on this rulemaking, the agency does not have sufficient time to study and analyze the issues involved with proposing revisions to the UTQGS. Additionally, the UTQGS is statutorily mandated (see 49 U.S.C. 30123(b). The agency, in a future rulemaking, may propose to revise some or all of the grading requirements in Part 575.104, Uniform Tire Quality Grading Standards.

5. Consumer Information Campaign

In conjunction with the proposals discussed above and in response to the TREAD Act, the agency is also launching a consumer information campaign addressing tire safety and maintenance. Consumer information campaigns are an institutionalized part of NHTSA's statutory mandate and operating practices. Quantifiable data confirming the crash reduction effectiveness of these programs is minimal, as funding does not exist to perform the evaluations necessary to establish this level of effectiveness. However, the successes of increased seat belt use, greater air bag knowledge, reduced drunk driving, knowledge of star ratings, vastly increased NCAP web site use, knowledge of rollover dangers, greater knowledge of child safety issues, and increased dissemination of the brochures "Buying A Safer Car" and "Buying a Safer Car For Child Passengers" demonstrate that the agency's consumer information programs are effective in increasing public awareness of safety issues and, consequently, reducing deaths and injuries.

---

[26] Vehicle normal load on the tire means that load on an individual tire that is determined by distributing to each axle its share of the curb weight, accessory weight, and normal occupant weight and dividing by 2.

[27] This, under the proposed high speed test, would ensure at least a 15 percent load reserve (high speed test load proposed is 85 percent) when the vehicle is operated at normal load.

[28] FMVSS No. 119 does not contain a requirement that the maximum permissible inflation pressure be labeled on new pneumatic tires for vehicles other than passenger cars.

[29] The speed rating of a tire is generally indicated on the tire although not required by either FMVSS Nos. 109 and 119.

6. Point-of-Sale Information

The agency, as part of this rulemaking, does not propose to require dealers to provide point-of-sale tire information. The agency does not possess evidence that point-of-sale information would prove more successful than consumer information campaigns at educating the consumer concerning tire safety. Therefore, it cannot presently justify the additional costs to manufacturers and dealers of such a requirement. If the agency's consumer information campaign proves unsuccessful at increasing the public awareness of tire safety, the agency could reexamine this issue in a future rulemaking.

7. Vehicle Certification Labels

Vehicle certification label requirements, contained in part 567, would not be revised by this proposal except to reference the proposed FMVSS No. 110, as well as FMVSS No. 120, in § 567.4 concerning tire-rim combinations for light trucks and MPVs, and to require that the label contain the tire-rim combination installed as original equipment on the vehicle by the vehicle manufacturer.

8. International Harmonization

NHTSA generally supports international harmonization in cases where such harmonization is consistent with its statutory mandate to ensure motor vehicle safety. The tire industry has become global in manufacturing, marketing, and sales. In 1999, domestic tire manufacturers exported 22.3 million passenger car tires and 3.8 million light truck tires to foreign markets. In the same year, the U.S. imported 45 million passenger car tires and 5.4 million light truck tires from foreign sources. It is apparent, therefore, that maximum harmonization of tire requirements would benefit both U.S. and foreign vehicle and tire manufacturers.

At this time, however, the overall need for safety precludes, in NHTSA's view, the adoption of foreign or international labeling provisions. The labeling requirements contained in GTS–2000 and ECE 30 and 54 do not contain counterparts for some of the provisions in our current requirements, e.g., labeling of maximum permissible inflation pressure on the tire, and in our proposed requirements, e.g., labeling of passenger and cargo weight on the vehicle. Additionally, Canada's tire labeling provisions mirror our current requirements but do not contain the novel labeling requirements proposed in this document.

Furthermore, we believe the two labeling requirements contained in GTS–2000 and ECE 30 and 54, speed-category symbol and load index [30], have not been shown to communicate information effectively to the U.S. public.

The following chart illustrates the rated speed in km/h for each speed symbol. "ZR" is an open-ended speed category for tires with a maximum speed capability above 240 km/h, but is also used specifically for tires having a maximum speed capability above 300 km/h.

Speed symbol	Rated speed—km/h	Speed symbol	Rated speed—km/h
F	80	R	170
G	90	S	180
J	100	T	190
K	110	U	200
L	120	H	210
M	130	V	240
N	140	W	270
P	150	Y	300
Q	160	ZR	>300

The load index requirement in GTS–2000 and ECE Regulation Nos. 30 and 54, in contrast to our current requirement to provide the maximum load rating on the sidewall of the tire, provides a value which is not intuitive to consumers and would require a vehicle operator to look to the owner's manual or standard to determine the actual tire maximum load.

9. Organization of Tire Labeling Information

Some comments on the ANPRM suggested improving the organization and coherency of the tire information that currently appears in more than six different standards and sections on tire information. The agency will try to develop a simple brochure that explains to the public what the tire information requirements are and what they mean.

VII. Request for Comments on Particular Issues

(1) 49 U.S.C. 30123 states: "(c) Maximum load standards. The Secretary shall require a motor vehicle to be equipped with tires that meet maximum load standards when the vehicle is loaded with a reasonable amount of luggage and the total number of passengers the vehicle is designed to carry." Should NHTSA define or specify what a "reasonable amount of luggage" is for a vehicle with an occupant in every designated seating position? The agency requests comments on this question. Please be specific in your response and provide a basis for your answer.

(2) Tire manufacturer commenters pointed to GTS–2000 and ECE Regulations 30 and 54 to address issues raised in the ANPRM. These commenters generally cited decreased costs and increased information consistency as a benefit of minimized regulatory divergence. These commenters, however, did not cite specific labeling requirements in these international and foreign standards and did not discuss the safety impacts from the adoption of these standards. NHTSA requests comments on which, if any, labeling requirements in any foreign or international standard should be considered by NHTSA and why. Please be specific in your response and provide a basis for your answer.

(3) Most commenters agree that adding additional required information to the tire sidewall is unwarranted or challenging due to space and readability concerns. Additionally, some commenters have indicated that certain information added at the option of the manufacturer, e.g., warranty information, is not useful to consumers. Based on these sentiments, should the agency consider prohibiting some or all non-required information from being labeled on the tire sidewalls? Please be specific in your response and provide a basis for your answer.

VIII. Benefits

NHTSA believes that this proposal would be effective in increasing public

---

[30] Under these regulations, the speed-category symbol and the load index are to be placed together near the size designation. For example, the sidewall would contain the size designation "PS15/65R15 89H" where "H" is the speed-category symbol and "89" is the load index.

VOL 66 ISS 244 DE 19 2001 UMI

awareness of tire safety, particularly the understanding and maintenance of proper tire inflation and load limits. This proposal will also enable consumers to more easily identify the TIN and other tire information for recalls and other notifications. The proposal will standardize the location and content of important information relating to proper inflation and load limits and other tire safety concerns. These measures, by increasing consumer knowledge and awareness, should result in reduced tire failures and tire related crashes, and therefore fewer deaths and injuries.

IX. Costs

NHTSA believes that this proposal would result in minimal costs for tire manufacturers. Tire labeling information is already required for tires for light vehicles. Therefore, the cost of molding this information should be the same, even if the information is changed. NHTSA estimates that the added cost for labeling tires under this proposal would equal $0.01 per tire or less. Since 300 million tires are produced per year the total annual cost for the proposed tire labeling requirements would equal $3 million ($0.01 × 300 million).

NHTSA also believes that this proposal would result in minimal costs for vehicle manufacturers and consumers. Vehicle placard information is already required for passenger cars and owner's manual information is already required for light vehicles. Therefore, the costs of printing a new or revised vehicle placard and/or tire inflation pressure label, the owner's manual pages, and installation of the placard and/or label should be minimal. The only cost would be a one time cost to change production for the new vehicle placard and/or tire inflation pressure label, the application of the vehicle placard and/or tire inflation pressure label to all light vehicles, not only passenger cars, and the new owner's manual pages.

NHTSA estimates that the cost of a new vehicle placard or tire inflation pressure label would be $0.01 or less per vehicle for producing the new placard or label and $0.04 for the application of the new placard or label. NHTSA estimates that with approximately 100% of light trucks, MPVs, and trailers (9 million annually) utilizing both the placard and label and 30% of passenger cars (.30 × 8 million = 2.4 million) utilizing both the placard and label, the total costs for the vehicle placard and tire inflation pressure label proposals would equal $626,000.

For the owner's manual information, NHTSA estimates that one time writing and editing costs would equal $12,000 ((8 hours labor × $30.00 per hour) x (50 owner's manuals (25 manufacturers, 2 manuals each (one for passenger cars and one for light trucks, MPVs, or trailers)))). The print and layout costs per manual are estimated at $0.10 per manual. Since 17 million light vehicles are produced annually, the total print and layout costs for the manuals equal $1,870,000 with an overprint margin of 10 percent, and the total owner's manual costs equal $1,882,000.

Adding the total tire and vehicle manufacturing costs together results in approximately $5.5 million in annual costs. The agency requests comment on this estimate. Please be specific in your response and provide a basis for your answer.

X. Lead Time

Section 11 of the TREAD Act requires the agency to issue a final rule on this tire labeling proposal by June 1, 2002. Congress did not set a date by which all covered tires and vehicles would have to meet the improved tire information requirements. The agency proposes to phase-in compliance for tires according to the following schedule: All P-metric tires manufactured on or after September 1, 2003, and all LT tires manufactured on or after September 1, 2004. Additionally, all light vehicles manufactured on or after September 1, 2003 would have to comply with the final rule. This proposed lead time would be consistent with the lead time proposed for the tire performance upgrade.

XI. Rulemaking Notices and Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. The proposal is likely to result in expenditure by tire and automobile manufacturers of approximately $5.5 million in annual costs. As explained above, NHTSA believes that this proposal would result in minimal cost for manufacturers and consumers. As this is a proposal to change existing requirements, the only cost would be a one-time cost to change production to the new tire, vehicle placard and/or tire inflation pressure label, or vehicle owner's manual pages and a minimal costs for installation of the vehicle placard and/or tire inflation pressure label to all light vehicles.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their proposed and final rules on small business, small organizations and small governmental jurisdictions. I hereby certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities.

The proposed rule would affect motor vehicle manufacturers and tire manufacturers. The agency does not believe that any of the tire manufacturers are small businesses. However, there are about 1,000 retread manufacturers in the United States, of which about 750 deal with light vehicle tires that will in some small way be impacted by this rule. Most of these retreaders are small businesses.

NHTSA estimates that there are only about four small passenger car and light truck vehicle manufacturers in the United States. These manufacturers serve a niche market. The agency believes that small manufacturers manufacture less than 0.1 percent of total U.S. passenger car and light truck production per year.

The agency requests comments concerning the economic impact of the proposed rule on retreaders and small vehicle manufacturers.

C. National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2000 results in $109 million (106.99/98.11 = 1.09). The assessment may be included in conjunction with other assessments, as it is here.

This proposal is likely to result in expenditure by tire and automobile manufacturers of approximately $5.5 million in annual costs.

F. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. Paperwork Reduction Act

This proposal contains the following "collections of information," as that term is defined in 5 CFR Part 1320 Controlling Paperwork Burdens on the Public:

Tire and Vehicle Placard Labeling Requirements—The Department of Transportation is submitting the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: Tires and Rims Labeling, and Vehicle Placard Requirements.

Type of Request: Additional collection of information for an existing collection.

OMB Clearance Number: 2127–0503.

Affected Public: The tire-labeling respondents are manufacturers and retreaders of tires. The agency estimates that there are about 8 such new tire manufacturers and 1200 retread manufacturers. The placard labeling respondents are manufacturers of MPVs covered by FMVSS 571.120. The agency estimates that there are 935 vehicle manufacturers affected by this collection.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information: NHTSA estimates that the total annual hour burden is 111,539 hours for tire labeling and 25,184 for vehicle placard requirements.

Estimated Costs: NHTSA estimates the total cost annual burden for tire labeling to be $3,000,000. The estimated total cost annual burden for vehicle placards is $626,000. No additional resources would be expended by manufacturers to gather additional information because they already compile this data for their own uses.

Summary of the Collection of Information: The provisions of the proposed amendments herein requiring manufacturers to provide certain information on both sidewalls of tires, e.g., the TIN, and certain information on a placard or label for vehicles other than passenger cars, e.g., vehicle capacity weight, seating capacity, for the benefit of consumers are considered to be third-party information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

Description of the Need for the Information and Proposed Use of the Information: The provisions of the proposed amendments herein requiring manufacturers to provide certain information on both sidewalls of tires, e.g., the TIN, and certain information on a placard or label for vehicles other than passenger cars, e.g., vehicle capacity weight, seating capacity, are for the benefit of consumers. NHTSA requests comments on the agency's estimates of the total annual hour and cost burdens resulting from this collection of information. These comments must be received on or before February 19, 2002.

Vehicle Owner's Manual Requirements—The Department of Transportation is submitting the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: Consolidated Vehicle Owner's Manual Requirements of Motor Vehicles and Motor Vehicle Equipment.

Type of Request: Additional collection of information for an existing collection.

OMB Clearance Number: 2127–0541.

Affected Public: The respondents are manufacturers of motor vehicles with a gross vehicle weight rating of 10,000 pounds or less, except for motorcycles and LSVs. The agency estimates that there are 50 model lines for which there are owner's manuals. It is estimated that about 25 vehicle manufacturers are affected by this collection.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information: NHTSA estimates that the total annual hour burden is 400 hours for this information collection.

Estimated Costs: NHTSA estimates the total cost annual burden for revising the owner's manuals to be $1,882,000.

Summary of the Collection of Information: The provisions of the proposed amendments herein requiring manufacturers to provide information in owners' manuals explaining tire and vehicle load limit information for the benefit of consumers are considered to be third-party information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR part 1320.

Description of the Need for the Information and Proposed Use of the Information: The provisions of the proposed amendments herein requiring manufacturers to provide information in owners' manuals explaining tire and vehicle load limit information are for the benefit of consumers. NHTSA requests comments on the agency's estimates of the total annual hour and cost burdens resulting from this collection of information. These comments must be received on or before February 19, 2002.

H. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?

- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

XII. Submission of Comments

How Can I Influence NHTSA's Thinking on This Proposed Rule?

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide views on options we propose, to suggest new approaches we have not considered, provide new data, indicate how this proposed rule may affect you, or provide other relevant information. We welcome your views on all aspects of this proposed rule, but request comments on specific issues throughout this document. We grouped these specific requests near the end of the sections in which we discuss the relevant issues. Your comments will be most effective if you follow the suggestions below:

- Explain your views and reasoning as clearly as possible.
- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at the estimate.
- Tell us which parts of the proposal you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the proposal, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your comments.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under ADDRESSES.

Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at *http://dms.dot.gov*. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under ADDRESSES. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under ADDRESSES. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

(2) On that page, click on "search."

(3) On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA–1998–1234," you would type "1234." After typing the docket number, click on "search."

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

XII. Proposed Regulatory Text

List of Subjects in 49 CFR Parts 567, 571, 574, and 575

Certification, Consumer information, Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, we propose to amend 49 CFR parts 567, 571, 574 and 575 as follows:

PART 567—CERTIFICATION

1. The authority citation for part 567 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166, 32502, 32504, 33101–33104, 33108, and 33109; delegation of authority at 49 CFR 1.50.

2. Part 567 would be amended by revising § 567.4(h)(2) as follows:

§ 567.4 Requirements for manufacturers of motor vehicles.

* * * * *

(h) * * *

(2) (For multipurpose passenger vehicles, trucks, buses, trailers, and motorcycles.) The manufacturer may, at its option, list more than one GVWR-GAWR-tire-rim combination on the label as long as the listing contains the tire-rim combination installed as original equipment on the vehicle by the vehicle manufacturer and conforms in content and format to the requirements for the Tire-rim-inflation information set

forth in § 571.120, § 571.129 and § 571.139 of this chapter.

* * * * *

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

3. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 2011, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

4. Section 571.110 would be amended by revising its heading and S2, S4.3 and S4.3.1, by adding S4.3.2, and by adding Figure 1 and Figure 2 at the end of Section 571.110, to read as follows:

§ 571.110 Standard No. 110—Tire selection and rims for motor vehicles with a GVWR of 10,000 pounds or less.

* * * * *

S2. Application. This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less, except for motorcycles, and to non-pneumatic spare tire assemblies for use on those vehicles.

S4. * * *

S4.3 Placard. Each vehicle shall show the information specified in S4.3 (a) through (f) on a placard permanently affixed to the B-pillar, or, if the vehicle does not contain a B-pillar, the drivers side door edge. This information shall be in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and conform in size, color, and format as set forth in Figure 1 in S4.3. At the manufacturer's option, the information specified in S4.3(c) and (d) may be shown, alternatively, on a tire inflation pressure label, and conform in size, color, and format as set forth in Figure 2 in S4.3, permanently affixed and proximate to the placard required by this paragraph. The information specified in S4.3(e) shall be shown on both the vehicle placard and on any existing tire inflation pressure label in the format and color scheme set forth in Figures 1 and 2.

(a) Vehicle capacity weight expressed as "THE COMBINED WEIGHT OF OCCUPANTS AND CARGO SHOULD NEVER EXCEED XXX POUNDS";

(b) Designated seated capacity (expressed in terms of total number of occupants and number of occupants for each seat location);

(c) Vehicle manufacturer's recommended cold tire inflation pressure, subject to the limitations of 4.3.2;

(d) Tire size designation for the tire installed as original equipment on the vehicle by the vehicle manufacturer;

(e) "TIRE INFORMATION";

(f) "SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION"; and

(g) For a vehicle equipped with a non-pneumatic assembly, the tire identification code with which that assembly is labeled pursuant to the requirements of S4.3(a) of § 571.129, New Non-Pneumatic Tires for Passenger Cars.

S4.3.1 Additional labeling information for vehicles other than passenger cars. Each vehicle shall show the size designation and, if applicable, the type designation of rims (not necessarily those on the vehicle) appropriate for the tire appropriate for use on that vehicle, including the tire installed as original equipment on the vehicle by the vehicle manufacturer, after each GAWR listed on the certification label required by § 567.4 or § 567.5 of this chapter. This information shall be in the English language, lettered in block capitals and numerals not less than 2.4 millimeters high and in the following format:

Truck Example—Suitable Tire-Rim Choice
GVWR: 2,441 kilograms (5381 pounds)
GAWR: Front—1,299 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.0 rims at 240 kPa (36 psi) cold single.
GAWR: Rear—1,142 kilograms (2,864 pounds) with P265/70R16 tires, 16 x 8.00 rims, at 245 kPa (36 psi) cold single.

S4.3.2 No inflation pressure other than the maximum permissible inflation pressure may be shown unless—

(a) It is less than the maximum permissible inflation pressure;

(b) It is appropriate for the load limits as calculated in accordance with S4.2; and

(c) The tire load rating specified in a submission by an individual manufacturer, pursuant to S4.1.1(a) of § 571.139 or contained in one of the publications described in S4.1.1.(b) of § 571.139, for the tire size at that inflation pressure is not less than the vehicle maximum load and the vehicle normal load.

* * * * *

BILLING CODE 4910–59–P

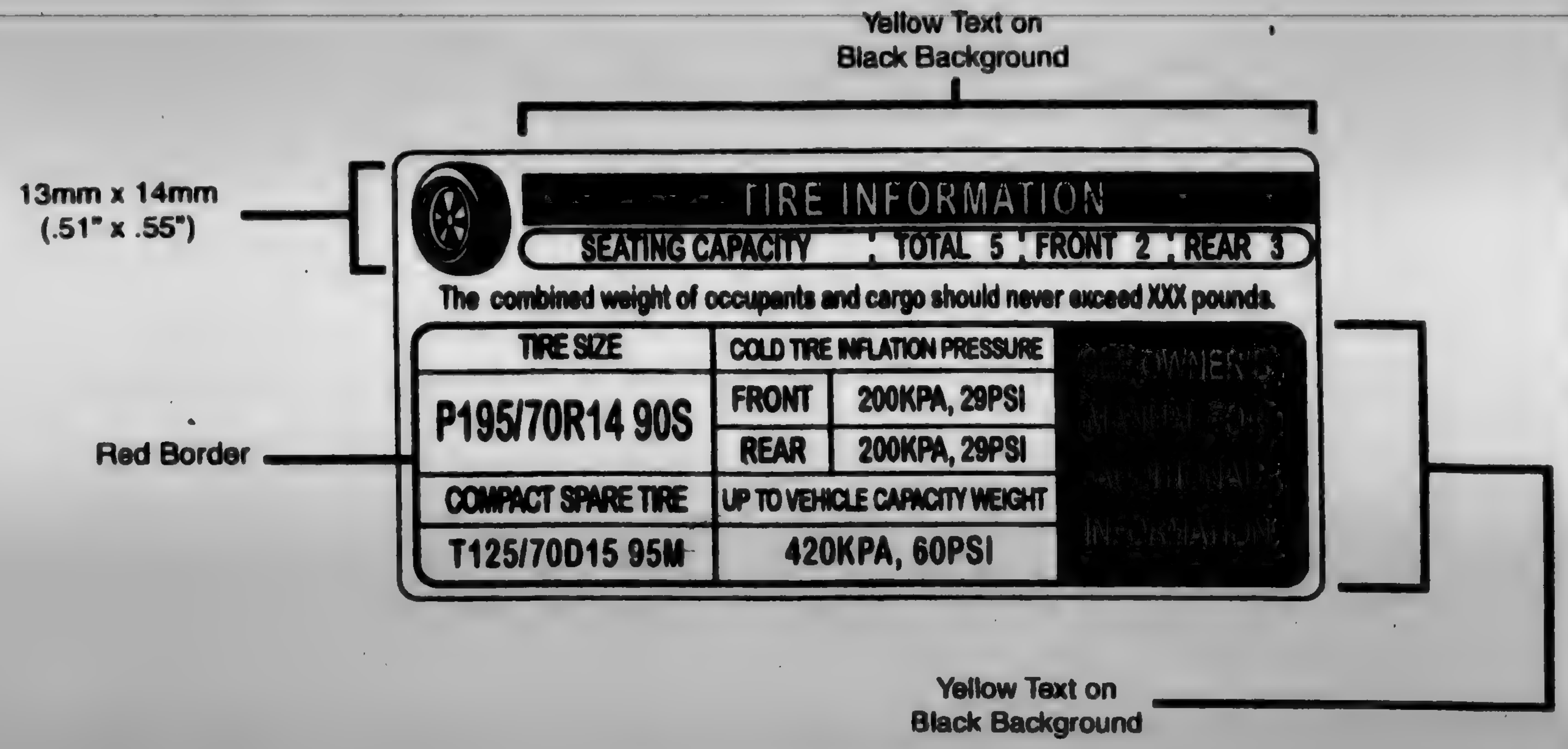

Yellow Text on Black Background
13mm x 14mm (.51" x .55")
TIRE INFORMATION
SEATING CAPACITY : TOTAL 5 : FRONT 2 : REAR 3
The combined weight of occupants and cargo should never exceed XXX pounds.
TIRE SIZE
COLD TIRE INFLATION PRESSURE
P195/70R14 90S
FRONT
200KPA, 29PSI
REAR
200KPA, 29PSI
COMPACT SPARE TIRE
UP TO VEHICLE CAPACITY WEIGHT
T125/70D15 95M
420KPA, 60PSI
SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION
Red Border
Yellow Text on Black Background

Figure 1: Vehicle Placard

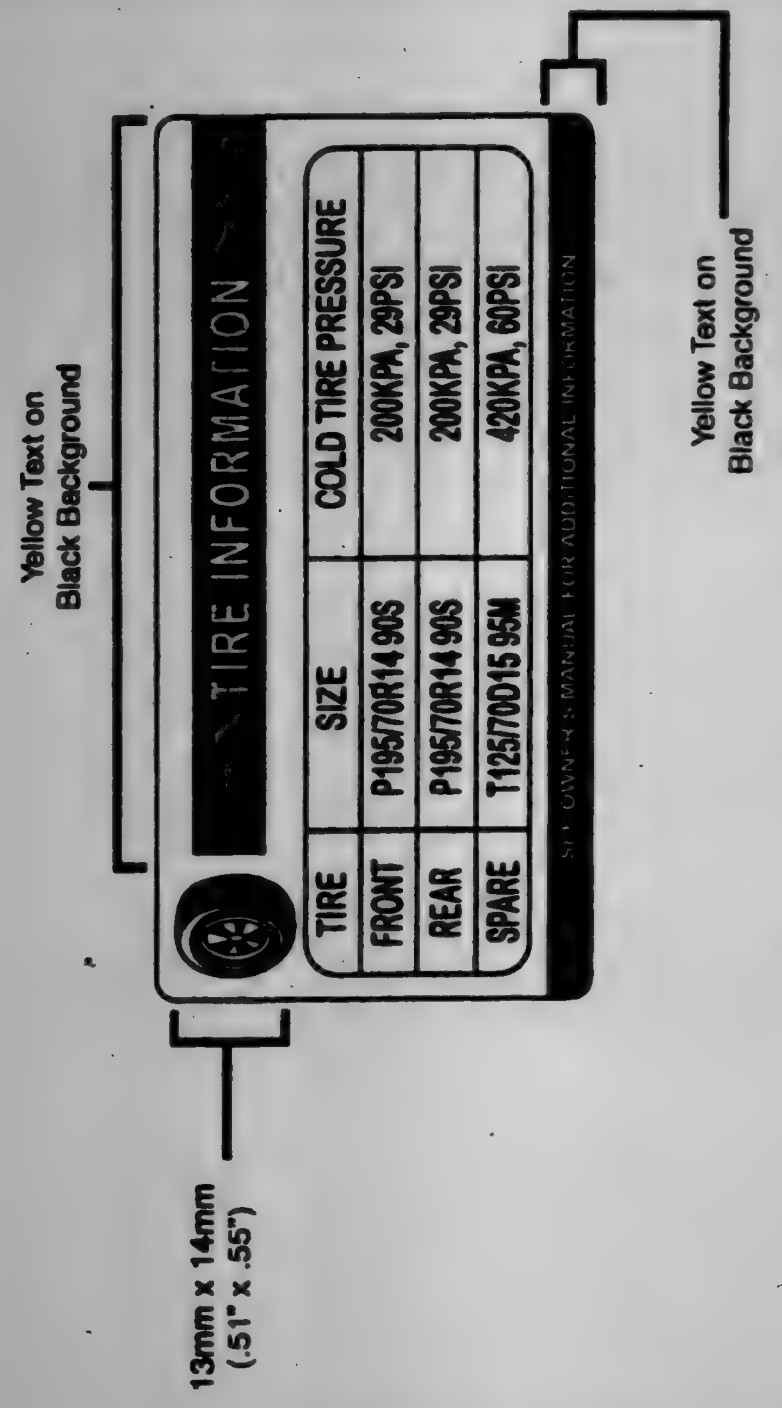

Yellow Text on Black Background
TIRE INFORMATION
TIRE
SIZE
COLD TIRE PRESSURE
FRONT
P195/70R14 90S
200KPA, 29PSI
REAR
P195/70R14 90S
200KPA, 29PSI
SPARE
T125/70D15 95M
420KPA, 60PSI
SEE OWNER'S MANUAL FOR ADDITIONAL INFORMATION
Yellow Text on Black Background
13mm x 14mm
(.51" x .55")

Figure 2: Tire Inflation Pressure Label

BILLING CODE 4910-59-C

5. Section 571.117 would be amended by revising S6.3 (including removing Table 1 and the undesignated paragraph following S6.3(h)), to read as follows:

§ 571.117 Standard No. 117; Retreaded pneumatic tires.

* * * * *

S6. * * *

S6.3. Labeling. Each retreaded tire shall comply with the requirements of S5.5. of § 571.139.

* * * * *

6. Section 571.120 would be amended by revising its heading, and S3 to read as follows:

§ 571.120 Standard No. 120; Tire selection and rims for motor vehicles with a GVWR of more than 10,000 pounds.

* * * * *

S3. Application. This standard applies to motor vehicles with a gross vehicle weight rating (GVWR) of more than 10,000 pounds and motorcycles, to rims for use on those vehicles, and to non-pneumatic spare tire assemblies for use on those vehicles.

* * * * *

7. Section 571.129 would be amended by revising S4.3 to read as follows:

§ 571.129 Standard No. 129; New non-pneumatic tires for passenger cars.

* * * * *

S4. * * *

S4.3. Labeling Requirements. Each new non-pneumatic tire shall comply with the requirements of S5.5 of § 571.139.

* * * * *

8. Section 571.139 would be added to read as follows:

§ 571.139 Standard No. 139; New pneumatic tires for motor vehicles with a GVWR of 10,000 pounds or less.

S1. Scope and purpose. This standard specified tire dimensions, test requirements, labeling requirements, and defines tire load ratings.

S2. Application. This standard applies to new pneumatic tires for use on motor vehicles (other than motorcycles) that have a gross vehicle weight rating (GVWR) of 10,000 pounds or less and that were manufactured after 1975.

S3. Definitions. [Reserved]

VOL 66 ISS 244 DE 19 2001 UMI

S4. Tire and rim matching information.

S4.1. Each manufacturer of tires shall ensure that a listing of the rims that may be used with each tire that it produces is provided to the public in accordance with S4.1.1 and S4.1.2.

S4.1.1 Each rim listing for a tire shall include dimensional specifications and a diagram of the rim and shall be in one of the following forms:

(a) Listed by manufacturer name or brand name in a document furnished to dealers of the manufacturer's tires, to any person upon request, and in duplicate to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590; or

(b) Contained in publications, current at the date of manufacture of the tire or any later date, of at least one of the following organizations:

(1) The Tire and Rim Association.

(2) The European Tyre and Rim Technical Organization.

(3) Japan Automobile Tire Manufacturers' Association, Inc.

(4) Tyre & Rim Association of Australia.

(5) Associacao Latino Americana de Pneus e Aros (Brazil).

(6) South African Bureau of Standards.

S4.1.2 A listing compiled in accordance with paragraph (a) of S4.1.1 need not include dimensional specifications or a diagram of a rim whose dimensional specifications and diagram are contained in a listing published in accordance with paragraph (b) of S4.1.1.

S4.2. Information contained in a publication specified in S4.1(b) that lists general categories of tires and rims by size designation, type of construction, and/or intended use, shall be considered to be manufacturer's information pursuant to S4.1 for the listed tires, unless the publication itself or specific information provided according to S4.1(a) indicates otherwise.

S5. General requirements. [Reserved]

S5.5 Tire Markings. Except as specified in paragraphs (a) through (i) of this S5.5, each tire shall be marked on each sidewall with the information specified in S5.5 (a) through (e) and on one sidewall with the information specified in S5.5 (f) through (i). The markings shall be placed between the maximum section width and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, those markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall. The markings shall be in letters and numerals not less than 0.078 inch high and raised above or sunk below the tire surface not less than 0.015 inch. The tire identification and DOT symbol labeling shall comply with part 574 of this chapter.

(a) The symbol DOT, which shall constitute a certification that the tire conforms to applicable Federal motor vehicle safety standards;

(b) The tire identification number required by part 574 of this chapter;

(c) The tire size designation as listed in the documents and publications specified in S4.1.1;

(d) The maximum permissible inflation pressure;

(e) The maximum load rating;

(f) The generic name of each cord material used in the plies (both sidewall and tread area) of the tire;

(g) The actual number of plies in the sidewall, and the actual number of plies in the tread area if different;

(h) The words "tubeless" or "tube type" as applicable; and

(i) The word "radial" if the tire is a radial ply tire.

S5.5.1 Each tire shall be labeled with the name of the manufacturer, or brand name and number assigned to the manufacturer in the manner specified in part 574.

S5.5.2 [Reserved]

S5.5.3 If the maximum inflation pressure of a tire is 240, 280, 290, 300, 330, 340, 350 or 390 kPa, then:

(a) Each marking of that inflation pressure pursuant to S5.5(d) shall be followed in parenthesis by the equivalent psi, rounded to the next higher whole number; and

(b) Each marking of the tire's maximum load rating pursuant to S5.5(e) in kilograms shall be followed in parenthesis by the equivalent load rating in pounds, rounded to the nearest whole number.

S5.5.4 If the maximum inflation pressure of a tire is 420 kPa (60 psi), the tire shall have permanently molded into or onto both sidewalls, in letters and numerals not less than ½ inch high, the words "Inflate to 60 psi" or "Inflate to 420 kPa (60 psi)." On both sidewalls, the words shall be positioned in an area between the tire shoulder and the bead of the tire. However, in no case shall the words be positioned on the tire so that they are obstructed by the flange of any rim designated for use with that tire in this standard or in Standard No. 110 (§ 571.110 of this part).

S6. Test procedures, conditions and performance requirements. [Reserved]

S7. [Reserved]

PART 574—TIRE IDENTIFICATION AND RECORD KEEPING

9. The authority citation for part 574 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, 1411–1420, 1421; delegation of authority at CFR 1.50.

10. Section 574.5 would be amended by revising paragraphs (b) and (d), and Figures 1 and 2 to read as follows:

§ 574.5 Tire identification requirements.

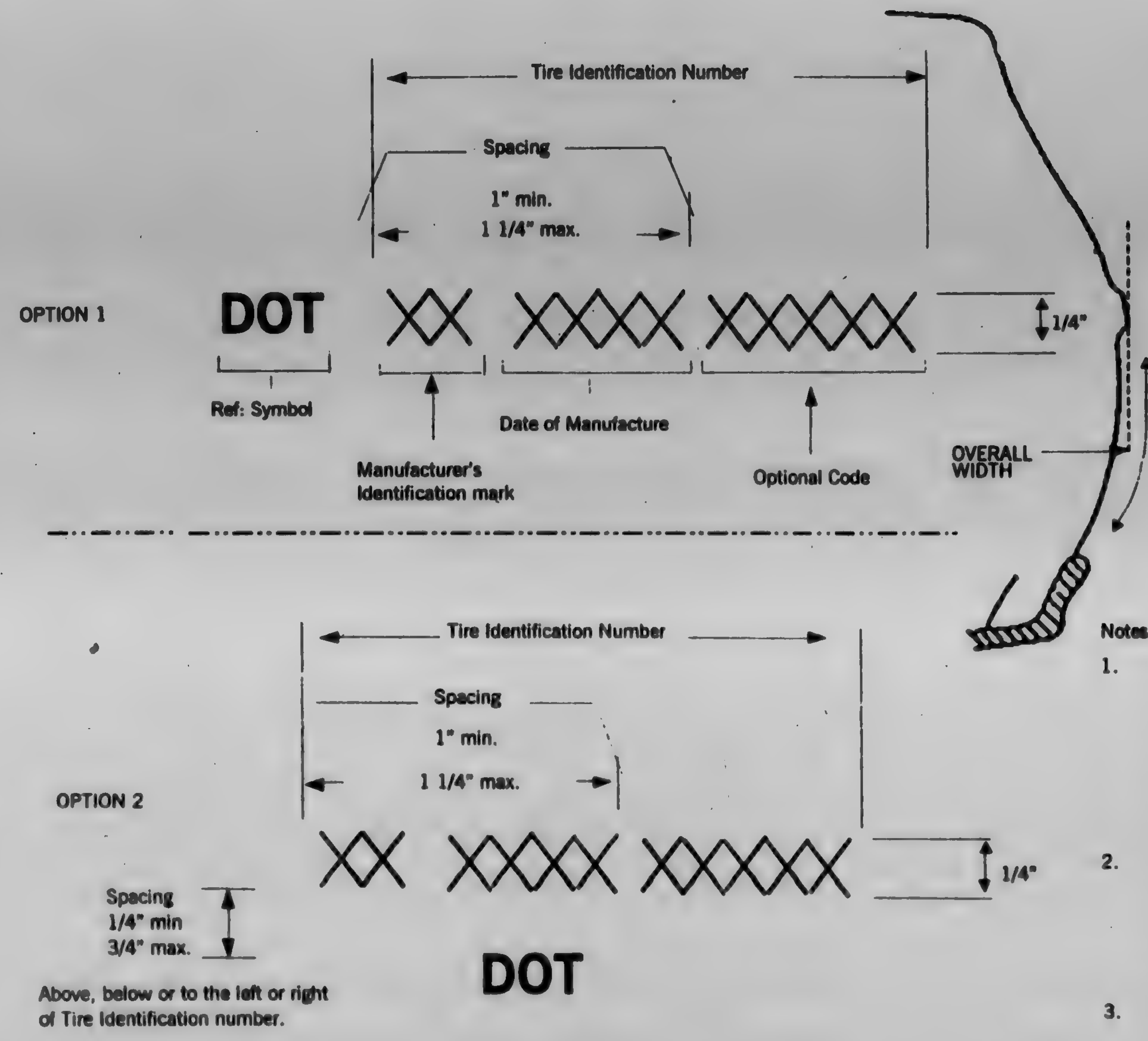
* * * * *

(b) *Second grouping.* For tires produced or retreaded on and after September 1, 2003, the second grouping, consisting of four numerical symbols, must identify the week and year of manufacture. The first two symbols must identify the week of the year by using "01" for the first full calendar week in each year, "02" for the second full calendar week, and so on. The calendar week runs from Sunday through the following Saturday. The final week of each year may include not more than 6 days of the following year. The third and fourth symbols must identify the year. Example: 0101 means the 1st week of 2001, or the week beginning Sunday, January 7, 2001, and ending Saturday, January 13, 2001.

* * * * *

(d) *Fourth grouping.* For new tires, the fourth group, consisting of no more than 2 symbols, may be used at the option of the manufacturer, to identify the tire size. For a new non-pneumatic tire or a non-pneumatic tire assembly, the fourth group, of not more than two symbols, shall be used to identify the non-pneumatic tire identification code. For retreaded tires, the fourth group, of no more than two symbols, shall identify the retread matrix in which the tire was processed or a tire size code if a matrix was not used to process the retreaded tire. Each new tire manufacturer and retreader shall maintain a record of each symbol used, with the corresponding matrix or tire size, and shall provide such record to the NHTSA upon written request.

BILLING CODE 4910-59-P

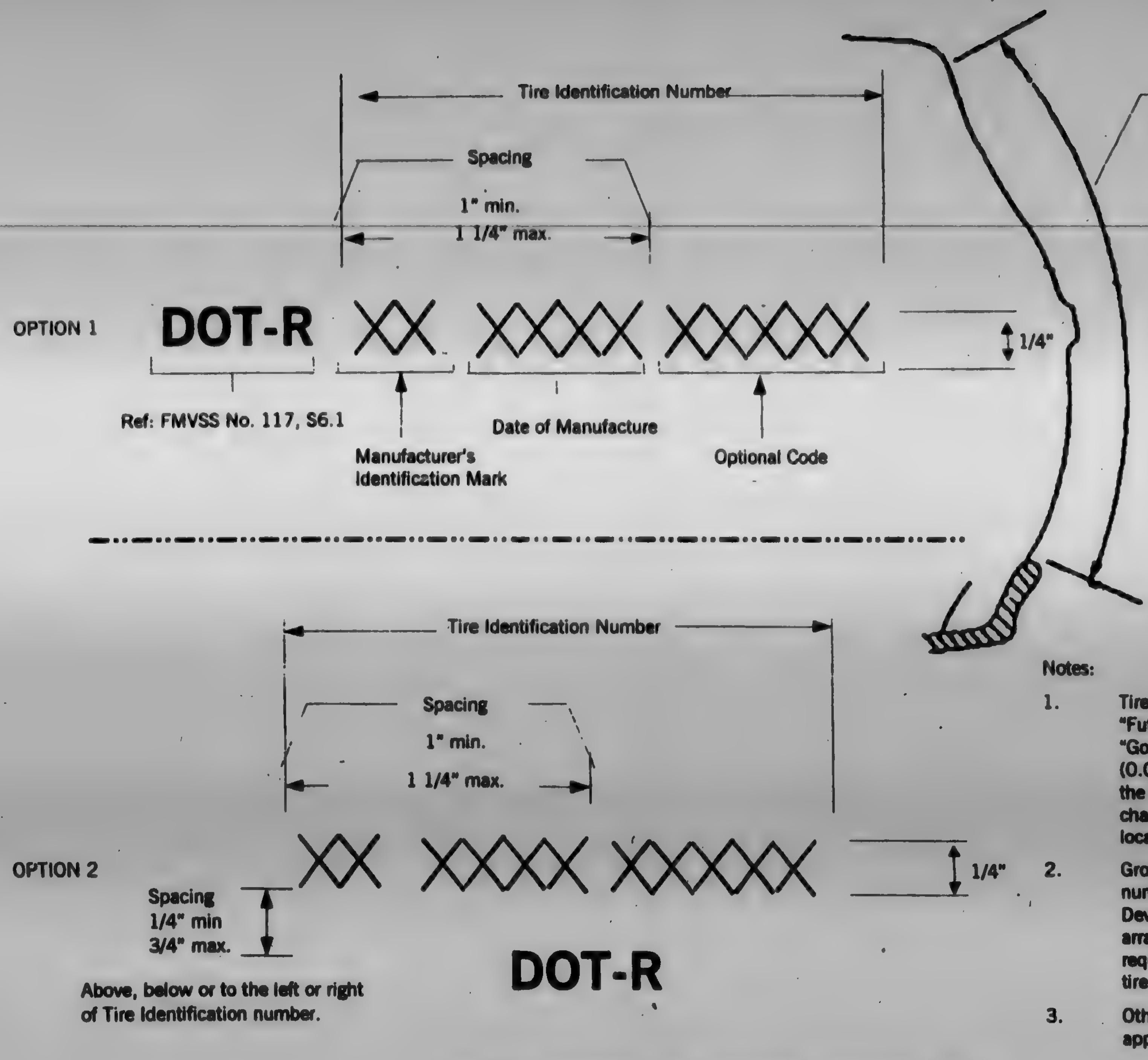

OPTION 1
Tire Identification Number
Spacing
1" min.
1 1/4" max.
DOT
XX XXXX XXXXX
1/4"
Ref: Symbol
Manufacturer's Identification mark
Date of Manufacture
Optional Code
OVERALL WIDTH
OPTION 2
Tire Identification Number
Spacing
1" min.
1 1/4" max.
XX XXXX XXXXX
1/4"
Spacing
1/4" min
3/4" max.
DOT
Above, below or to the left or right of Tire Identification number.

Locate all required labeling in lower segment of one sidewall between maximum section width and bead so that data will not be obstructed by rim flange, unless maximum section width falls between the bead and one-fourth of the distance from the bead to the shoulder of the tire. For tires where the maximum section width falls in that area, locate all required labeling between the bead and the one-half the distance from the bead to the shoulder so that the data will not be obstructed by the rim flange.

Notes:

1. Tire identification number shall be in "Futura Bold, Modified Condensed" or "Gothic" characters permanently molded (0.020 to 0.040") deep, measured from the surface immediately surrounding characters into or unto tire at indicated location on one side. (See note 4)
2. Groups of symbols in the identification number shall be in the order indicated, Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.
3. Other print type will be permitted if approved by the Administration.

FIGURE 1: IDENTIFICATION NUMBER FOR NEW TIRES


Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 1
DOT-R
XX
XXXX
XXXXX
1/4"
Ref: FMVSS No. 117, S6.1
Manufacturer's Identification Mark
Date of Manufacture
Optional Code
Locate Tire Identification Number in this Area But Not on The Scuff Rib(s)
Tire Identification Number
Spacing
1" min.
1 1/4" max.
OPTION 2
XX
XXXX
XXXXX
1/4"
Spacing
1/4" min
3/4" max.
Above, below or to the left or right of Tire Identification number.
DOT-R

Notes:

1. Tire identification number shall be in "Futura Bold, Modified Condensed" or "Gothic" characters permanently molded (0.020 to 0.040") deep, measured from the surface immediately surrounding characters into or unto tire at indicated location on one side. (See note 4)

2. Groups of symbols in the identification number shall be in the order indicated, Deviation from the straight line arrangement shown will be permitted if required to conform to the curvature of the tire.

3. Other print type will be permitted if approved by the Administration.

FIGURE 2. IDENTIFICATION NUMBER FOR RETREADED TIRES

BILLING CODE 4910-59-C

* * * * *

PART 575—CONSUMER INFORMATION REGULATIONS

11. The authority citation for part 575 would continue to read as follows:

Authority: 15 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at CFR 1.50.

12. Section 575.6 would be amended by adding paragraph (a)(4) to read as follows:

§ 575.6 Requirements

* * * * *

(a)(4) At the time that a motor vehicle with a GVWR of 10,000 pounds or less, except a motorcycle or low speed vehicle, manufactured on or after September 1, 2003 is delivered to the first purchaser for purposes other than resale, the manufacturer shall provide to the purchaser, in writing in the English language and not less than 10 point type, a discussion of the items specified in paragraphs (a)(4) (i) through (v) of this section in the owner's manual, or, if there is no owner's manual, in a document.

(i) Tire labeling, including a description and explanation of each marking on the tires provided with the vehicle, including locating the Tire Identification Number (TIN);

(ii) Recommended tire inflation pressure, including a description and explanation of

(A) Recommended cold tire inflation pressure,

(B) The vehicle placard and tire inflation pressure label specified in Federal Motor Vehicle Safety Standard No. 110 and their location in the vehicle,

(C) Adverse safety consequences of underinflation (including tire failure), and

(D) Measuring and adjusting air pressure to achieve proper inflation;

(iii) Glossary of tire terminology, including "cold tire pressure," "maximum inflation pressure," and "recommended inflation pressure," and all non-technical terms defined in S3 of FMVSS Nos. 110 & 139;

(iv) Tire care, including maintenance and safety practices;

(v) Vehicle load limits, including a description and explanation of

(A) Locating and understanding load limit information, total load capacity, seating capacity, towing capacity, and cargo capacity,

(B) Calculating total and cargo load capacities with varying seating configurations including quantitative examples showing/illustrating how the vehicle's cargo and luggage capacity decreases as the combined number and size of occupants increases,

(C) Determining compatibility of tire and load capabilities,

(D) Adverse safety consequences of overloading on handling and stopping and on tires, and

(E) When to use either the recommended inflation pressure or a higher inflation pressure (up to the maximum inflation pressure) based on the amount of load being carried by the tires. This information, for example, could be provided on an insert in the following format:

Steps for Determining Correct Load Limit

(*1*) Locate the statement "The combined weight of occupants and cargo should never exceed XXX pounds" on your vehicle's placard.

(*2*) Determine the combined weight of the passengers that will be riding in your vehicle.

(*3*) Subtract the combined weight of the passengers from XXX pounds.

(*4*) The resulting figure equals the available amount of cargo and luggage load capacity. For example, if the "XXX" amount equals 1500 lbs. and there will be 5–150 lb passengers in your vehicle, the amount of available cargo and luggage load capacity is 750 lbs. (1500 − 750 (5 × 150) = 750 lbs.)

(*5*) Determine the combined weight of luggage and cargo being loaded on the vehicle. That weight may not safely exceed the available cargo and luggage load capacity calculated in Step 4.

(*6*) If your vehicle will be towing a trailer, load from your trailer will be transferred to your vehicle. Consult this manual to determine how this reduces the available cargo and luggage load capacity of your vehicle.

(*7*) Under certain loading or driving conditions, a higher inflation pressure may be required. Consult your owner's manual for further information.

* * * * *

Issued: December 12, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–30989 Filed 12–13–01; 10:40 am]

BILLING CODE 4910-59-P

VOL
66
ISS
2
4
4
DE
19
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Wednesday,
December 19, 2001

Part III

Department of Education

Office of Elementary and Secondary Education and the Office of Vocational and Adult Education; Smaller Learning Communities Program; Notices

VOL 66 ISS 244 DE 19 2001 UMI

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education and the Office of Vocational and Adult Education; Smaller Learning Communities Program

AGENCY: Department of Education.

ACTION: Notice of final priorities, application requirements, and selection criteria for Fiscal Year (FY) 2001.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education and the Assistant Secretary for Vocational and Adult Education announce final priorities, application requirements, and selection criteria for the Smaller Learning Communities (SLC) program for fiscal year (FY) 2001.

EFFECTIVE DATE: These priorities, application requirements and selection criteria are effective January 18, 2002.

FOR FURTHER INFORMATION CONTACT: For information on the program and to download an application, you may access the SLC program web site at *www.ed.gov/offices/OESE/SLCP/*. If you have questions pertaining to the application, you may send an e-mail to *smallerlearningcommunities@ed.gov*. If you need further assistance and need to speak with someone in the SLC program, you may contact Andrew Abrams, (202) 260–7430, 330 C Street, SW., MES Bldg., Room 5512, Washington, DC 20202. You may also contact Diane Austin (202) 260–1280, 400 Maryland Ave., SW., Room 5C149, Washington, DC 20202–6200. Requests for applications may also be sent by fax to (202) 260–8969.

Individuals who use the telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact persons listed above.

Note: This notice of final priorities, application requirements, and selection criteria does not solicit applications. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**. The notice inviting applications will specify the deadline date by which applications for an award must be mailed or hand-delivered to the Department.

Background

Research suggests that the positive outcomes associated with smaller schools stem from the schools' ability to create close, personal environments in which teachers can work collaboratively, with each other and with a small set of students, to challenge students and support learning. A variety of structures and complementary strategies are thought to provide important supports for smaller learning environments; some data suggest these approaches offer substantial advantages to both teachers and students (Ziegler 1993; Caroll 1994).

The Smaller Learning Communities program is authorized under section 10105 of part A of title X of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. 8005). Title X, Part A authorizes the Secretary to support nationally significant programs and projects to: (1) Improve the quality of education; (2) assist all students in meeting challenging State content standards; and (3) contribute to achieving National Education Goals.

The purpose of the Smaller Learning Communities program is to support the planning, implementation, or expansion of small, safe, and successful learning environments in large public high schools through competitive grants to local educational agencies (LEAs). LEAs may apply on behalf of large high schools including large high schools funded by the Bureau of Indian Affairs (BIA schools). For the purposes of this program, a large high school is defined as a school that includes grades 11 and 12 and enrolls at least 1,000 students in grades 9 and above.

Methods for recasting large schools as a set of smaller learning communities are included in the Conference Report for the Consolidated Appropriations Act, 2000 [Pub. L. 106–113, H.R. Conference Report No. 106–479, at 1240 (1999)]. Such restructuring methods include establishing small learning clusters, "houses," career academies, magnet programs, or schools-within-a-school. Strategies that complement a restructured large high school include block scheduling, freshman transition activities, advisory or adult advocate systems, academic teaming, multi-year groupings, and other innovations designed to create a more personalized high school experience for students and thus, improve student achievement.

In FY 2000, Congress appropriated $45 million, of which the Department awarded $42.3 million in support of 149 grants to local educational agencies. The Secretary awarded 84 one-year planning grants and 65 three-year implementation grants. A total of 349 schools, serving over 450,000 students, benefited during the first year of the program. The Secretary reserved the remaining $2,250,000 to fund national leadership activities.

Congress appropriated $125 million for this program in FY 2001. The Administration is not requesting funds for the Smaller Learning Communities program in FY 2002. Rather, the Administration is proposing a new Choice and Innovation State Grants program under which States and LEAs would have greater flexibility in using funds for activities, such as the creation of smaller learning communities, that will support educational reform and improvement.

Prospective applicants are encouraged to review the Program Web site for non-regulatory guidance, information about current grantees, and to review successful applications at: *www.ed.gov/offices/OESE/SLCP*. Written questions may be submitted through the Internet at: *smallerlearningcommunities@ed.gov*.

Public Comments: The Department published a notice of proposed priorities, application requirements, and selection criteria for this competition in the **Federal Register** on July 19, 2001, (66 FR 37871–37876).

In response to the Assistant Secretaries' invitation to comment, five parties submitted comments on the proposed priorities, application requirements, and selection criteria. An analysis of the comments and of the changes in the priorities, application requirements, and selection criteria since publication of the July 19, 2001, notice follows.

We discuss substantive issues under the priority, requirement, or criterion to which they pertain. Generally, we do not address technical changes, minor changes, and suggested changes the law does not authorize the Assistant Secretaries to make under the applicable statutory authority.

Analysis of Comments and Changes

Competitive Priorities

Comment: A commenter suggested that giving competitive preference to existing Smaller Learning Communities planning grantees is unfair to schools that have had to progress through the planning process on their own, without additional federal funds to do so.

Discussion: We agree that current Smaller Learning Communities planning grantees should not receive a competitive priority when they apply for implementation grants, based solely on their status as a current planning grantee.

Changes: This notice of final priorities, application requirements, and selection criteria does not include the proposed competitive priority for current planning grantees.

Comment: A commenter proposed that schools already in the process of institutionalizing reform strategies aimed toward the creation of smaller learning communities should receive priority points.

Discussion: The Program is designed to help schools plan, implement, or expand smaller learning communities. Schools that are already in the implementation stage should be in a position to submit a strong application for an implementation grant. The Department does not believe a priority for these schools is necessary.

Changes: None.

Comment: A commenter suggested that we expand the proposed priority for low-performing schools to include schools that may have groups of low-performing students with respect to gaps among diverse groups of students.

Discussion: The intent of this program is to improve student achievement for all students; therefore, the Assistant Secretaries believe that the competitive priority, as written, provides the appropriate level of targeting for low-performing schools under this program.

Changes: None.

Comment: A commenter recommended that we give competitive priority points to schools based on the size of their student body over 1,000 students.

Discussion: At this time there is not sufficient research evidence to support priority points for high schools that exceed a specific size.

Changes: None.

Application Requirements

Comment: A commenter disagreed with eliminating planning grants from the SLC competition stating that smaller learning communities are a new concept for many schools and local educational agencies (LEAs), and that LEAs need time to research best practices and plan before implementing.

Discussion: We are in agreement that planning grants should remain a part of the Smaller Learning Communities program. LEAs and their cooperating schools need time to decide on the best strategies to use at their sites, to develop support for those strategies among all stakeholders, and to plan for the implementation of those strategies.

Changes: The Department will invite applications for planning grants as well as for implementation grants in the FY 2001 competition.

Comment: A commenter suggested that the Department allow consortia of LEAs with ten or more districts to apply under a single grant application.

Discussion: The Department proposed that LEAs may include a maximum of ten schools within one application submitted by an LEA or consortium of LEAs. This proposal was based on a maximum award per application of $250,000 for planning grants and $2,500,000 for implementation grants. LEAs or consortia of LEAs may submit multiple applications requesting funds for up to ten schools within each application. We believe that an LEA or consortium applying for a single grant on behalf of more than ten schools will not have sufficient funds to carry out their proposed tasks, based on the funding scale.

Changes: None.

Selection Criteria

Comment: A commenter suggested that the program recognize efforts that support nationally recognized issues such as the disparity in performance for minority students, teacher shortages, and varying levels of teacher preparedness.

Discussion: The Smaller Learning Communities program statute focuses on increasing student academic achievement through the creation of smaller learning environments, as a strategy in and of itself. Many schools, particularly low-performing schools, are likely to exhibit the problems identified by the commenter, and individual applicants are encouraged to address these problems in their applications for funding.

Changes: None.

General Comments

Comment: A commenter proposed that applicants be required to address State content and performance standards as well as the role of the district in implementing the Smaller Learning Communities program.

Discussion: In accordance with section 10105(a)7 of the Program statute, the Department requires that applicants describe how the goals and objectives of the activities for which they are requesting funding are geared to meeting high State content standards and performance standards. Also, under section 10105(10), the application must include a description of the administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities.

Changes: None.

Comment: A commenter suggested that the Department encourage adult education and career education as a resource for low-performing schools as well as partnerships between secondary and adult programs.

Discussion: While we agree that grantees should have a variety of strategies from which to choose, the focus of this program is to provide resources for LEAs that have large high schools. Schools have the flexibility to focus on career-specific curricula if that is what they choose to do.

Changes: None.

Comment: A commenter proposed that reducing school violence be an explicit program goal.

Discussion: We agree that creating smaller high schools holds great potential for improving school safety, and encourage applicants to include reducing school violence as a goal of their grant. In the selection criteria for implementation grants, incidents of violence and disciplinary actions are included among the factors peer reviewers will consider under the criterion of need for the project, and designing an effective method for describing progress toward the implementation of safe and successful smaller learning communities is included among the factors under the criterion for quality of the project evaluation.

Changes: None.

Competitive Priority

Under 34 CFR 75.105(c)(2), the Secretary gives a competitive priority to applications that request funding to support smaller learning communities in low-performing high schools that meet all other eligibility requirements for the competition. Applicants will receive up to five additional points based on the proportion of participating schools included in the application that are identified as low-performing. These points are in addition to any points the applicant earns under the selection criteria of the program. Low-performing schools can be identified by local and State educational agencies using the criteria in Title I, Part A, section 1116(c) of the Elementary and Secondary Education Act, which identifies for improvement any Title I school that has not made continuous and sustained progress over two years. In addition, for the purposes of this program, States and LEAs that have their own established criteria for identifying low-performing schools may use those criteria to provide evidence for the competitive priority. Applicants must specify the method used to identify schools as low-performing.

Application Requirements

The Secretary announces the following application requirements for the Smaller Learning Communities program. These are in addition to the

VOL 66 ISS 244 DEC 19 2001 UMI

content that all Smaller Learning Communities grant applicants must include in their applications as required by the program statute under section 10105(a) of the Elementary and Secondary Education Act. A discussion of each requirement follows:

A. Proof of Eligibility

To be considered for funding, LEAs must include the name(s) of the eligible school(s) and the number of students enrolled in each school. Enrollment must be based upon data from the current school year or data from the most recently completed school year. LEAs applying on behalf of schools that are being constructed and do not have an active student enrollment at the time of application are not eligible under this program.

B. Types and Ranges of Awards

The Secretary will award both planning and implementation grants under this year's competition. Applicants pursuing planning grants must not yet have developed a viable plan for creating smaller learning communities. To apply for implementation funds, applicants must be prepared either to implement a new smaller learning community program within each targeted high school, or to expand an existing smaller learning community program.

For a one-year planning grant, LEAs may receive, on behalf of a single school, $25,000 to $50,000 per project. LEAs applying on behalf of a group of eligible schools may receive up to $250,000 per planning grant. As this program is designed to finance direct student services and local redesign and improvement efforts, districts should stay within the minimum and maximum school allocations when determining their group award request. Therefore, in order to ensure sufficient planning funds at the local level, LEAs may not request funds for more than 10 schools under a single application.

The chart below provides eligible ranges for awards under the planning grant:

Number of schools in LEA application	Award ranges
One School	$25,000–$50,000
Two Schools	$50,000–$100,000
Three Schools	$75,000–$150,000
Four Schools	$100,000–$200,000
Five Schools	$125,000–$250,000
Six Schools	$150,000–$250,000
Seven Schools	$175,000–$250,000
Eight Schools	$200,000–$250,000
Nine Schools	$225,000–$250,000
Ten Schools	$250,000

To ensure maximum flexibility and competitiveness, LEAs may submit multiple applications targeting distinct schools within each funding category. However, LEAs may not apply on behalf of a single high school in more than one application. Schools that received support through planning grants in the 2000 competition are not eligible to receive additional planning grants under the 2001 competition.

For a three-year implementation grant, LEAs may receive, on behalf of a single school, $250,000 to $500,000 per project. LEAs applying on behalf of a group of eligible schools may request up to $2,500,000 per implementation grant. As this program is designed to finance direct student services and local redesign and improvement efforts, districts should stay within the minimum and maximum school allocations when determining their group award request. Therefore, in order to ensure sufficient implementation funds at the local level, LEAs may not request funds for more than 10 schools under a single application.

The chart below provides eligible ranges for awards under the implementation grant:

Number of schools in LEA application	Award ranges
One School	$250,000–$500,000
Two Schools	$500,000–$1,000,000
Three Schools	$750,000–$1,500,000
Four Schools	$1,000,000–$2,000,000
Five Schools	$1,250,000–$2,500,000
Six Schools	$1,500,000–$2,500,000
Seven Schools	$1,750,000–$2,500,000
Eight Schools	$2,000,000–$2,500,000
Nine Schools	$2,250,000–$2,500,000
Ten Schools	$2,500,000

To ensure maximum flexibility and competitiveness, LEAs may submit multiple applications targeting distinct schools within each application. However, LEAs may not apply on behalf of a single high school in more than one application. Schools that benefited from FY 2000 implementation awards are not eligible to receive additional support under this competition. The total amount an LEA may receive, in any fiscal year under this program, may not exceed $5 million.

C. Project Period

Planning grants will fund activities up to 12 months. Implementation grants will fund activities up to 36 months.

Note: Applicants for multi-year awards must provide detailed, yearly budget information for the total grant period requested. Understanding the unique complexities of implementing a program that affects a school's organization, physical design, curriculum, instruction, and preparation of teachers, the Secretary anticipates awarding the entire grant amount for implementation projects at the time of the initial award. This will provide the applicant with the capacity to effectively carry out the comprehensive long-term activities involved in model development, documentation, evaluation, and dissemination of products and practices developed through the federal grant. Uninterrupted access to funds will depend upon a grantee's close adherence to its yearly budget projections as well as submission of an annual performance report, showing adequate progress, during the three-year period of the grant.

D. Page Limits

Applicants should limit the application narrative to no more than 25 double-spaced pages using the following standards:

(1) A page is 8.5" x 11", on one side only;

(2) The page limit includes all narrative, titles, headings, footnotes, quotations, references, and captions, as well as charts, tables, figures, and graphs. Charts, tables, figures, and graphs may be single-spaced;

(3) The font should be 11-point or larger;

(4) The page limit does not apply to the Application for Federal Education Assistance Form (424); the SLC cover page; the Budget Information Form (ED 524) and attached itemization of costs; any other required or supplementary application forms and attachments to those forms; the assurances and certifications; the table of contents; the one-page abstract (which should precede the narrative section and provide enrollment data for each eligible high school and a short description of the project); documentation of the extent to which the applicant meets the competitive priority for the competition; or appendices. Appendices used should relate directly to the selection criteria and project activities. Pages should be numbered.

E. Reporting Requirements and Expected Outcomes

For both planning and implementation grants, applicants must describe their:

(a) Project objectives;

(b) Measures of student outcomes and performance; and

(c) Indicators to gauge progress toward meeting project objectives.

In addition, the Secretary requires implementation grantees to collect data that address the performance indicators for this program in order to produce annual performance reports. These reports will document the grantees' yearly progress toward expected project objectives. The Secretary will use these reports to measure the success of each grantee's project, as well as the effects of the Department of Education's Smaller Learning Communities program nationwide. A copy of the Smaller Learning Communities Annual Performance Report for implementation grantees is included in the application package. Planning grantees will be required to submit a performance report, including their implementation plan, at the end of their project.

Applicants must submit initial baseline data for each student outcome measure described below. Baseline data should come from either the current or previous school year. Applicants *must* report this data as an appendix. Upon notification of award, grantees will be required to submit student outcome data for three years preceding the baseline year.

Required student outcome measures include:

I. Student Achievement

(a) The number of students scoring at each proficiency level for each subject measured by a State assessment (district assessments may substitute where State assessments do not yet exist) in grades 9–12;

(b) The number of students taking the SAT and ACT, and their average scores;

II. Academic Rigor and Student Retention

(a) The number of students who take courses for which they receive both high school and college credit;

(b) The number of students completing high school;

(c) The overall reported average daily attendance for October.

III. School Climate

(a) The number of incidents of student violence, alcohol and drug use;

(b) The number of expulsions, suspensions, or other serious disciplinary actions; and

(c) The number of students involved in extracurricular activities.

Note: Percentages may be used in place of number of students where appropriate.

F. Definitions

(a) Definitions in EDGAR—Definitions defined in 34 CFR 77.1 are applicable to this program.

(b) Other definitions—The following definitions also apply to this program:

BIA school is a school operated or supported by the Bureau of Indian Affairs.

A group of schools is two or more schools that each meet the definition of a large high school.

A *large high school* is an entity that includes grades 11 and 12 and has an enrollment of 1,000 or more students in grades 9 and above.

A *low-performing school* is a school identified by local and State educational agencies under section 1116(c) of the Elementary and Secondary Education Act. Under current law, any Title I school that has not made "adequate yearly progress" over two years is identified by its LEA for improvement. In addition, for the purpose of this program, States and LEAs that have established criteria for identifying such schools may use their criteria to meet the competitive priority preference.

Selection Criteria

Under the Smaller Learning Communities program competition, a peer review panel will make a careful evaluation of applications. Each panelist will evaluate the applications against the criteria listed below. The panel results are advisory in nature and not binding on the Secretary. The Secretary will use the following selection criteria and associated point values in evaluating applications for planning and implementation grants:

(a) The maximum score for all of these criteria is 100 points. Applicants that meet the competitive priority eligibility requirements may receive up to 105 points.

(b) The maximum score for each criterion is indicated in parentheses. Within each criterion, the Secretary evaluates each factor equally.

The Secretary will base final funding decisions on the panel review ranking of applications. Geographic balance is no longer a consideration in funding decisions.

Planning Grants

(a) *Need for the project.* (25 points) In determining the need for the proposed project, the Secretary considers the following factors:

(1) The description and documentation of the targeted schools' need for the services provided and the need for the activities carried out by the proposed project consistent with the educational problems generally associated with the impersonal nature of large high schools. Need may consider factors such as: enrollment; attendance and drop-out rates; incidents of violence, drug and alcohol use, and disciplinary actions; percentage of students who pass graduation exams or State assessments (local assessments may be substituted in states that do not yet administer State assessments), enroll in advanced level courses, register for college entrance exams, and matriculate into postsecondary institutions or training; percentage of students who have limited English proficiency, who are migrant youth, who come from low-income families, or are otherwise disadvantaged; the applicant's fiscal capacity to fund programs described here without Federal assistance; or other local need factors as described by the applicant.

(2) The extent to which specific gaps or weaknesses [including the nature and magnitude of those gaps and weaknesses] in services, infrastructure, or opportunities have been identified by the applicant and will be addressed by the proposed project.

(b) *Foundation for planning.* (20 points) In determining the merit of the proposed process for developing a viable implementation plan, the Secretary considers the extent to which the application:

(1) Involves and documents the support of stakeholders both within the school community (e.g. administrators, staff, students, and parents) and within the greater community (e.g. representatives of institutions of higher education, employers, workforce investment boards, youth councils, and community-based organizations).

(2) Provides clear evidence of teacher involvement and support, particularly of those teachers who will be directly affected by the implementation plan.

(3) Indicates the collection and use of data that describe school needs.

(4) Documents the use of research-based findings in the proposed restructuring of the learning environment.

(c) *Feasibility and soundness of the planning process.* (45 points) In determining the feasibility and soundness of the planning process as a means of producing a viable implementation plan, the Secretary considers the extent to which the planned activities:

(1) Are based on a commitment to meeting the needs of all students and ensuring the successful completion of their education or career goals.

(2) Will lead to the establishment of smaller learning communities having clear goals and objectives connected to a mission statement and to student needs.

(3) Follow a timeline appropriate to the goals and objectives to be achieved.

(4) Involve key personnel who are qualified to undertake project activities.

(d) *Commitment of resources to the planning effort.* (10 points) In determining the commitment of resources to the planning effort the Secretary considers the extent to which:

VOL 66 ISS 244 DE 19 2001 UMI

(1) The requested budget adequately supports the proposed activities.

(2) State, local, and other Federal funds will be used to support the development of the plan.

(3) The administrative and managerial relationship between the LEA, the school(s), and the smaller learning community(ies) demonstrates a commitment to the concept of a smaller learning community and the planning process.

Implementation Grants

(a) *Need for the project.* (25 points) In determining the need for the proposed project, the Secretary considers the following factors:

(1) The description and documentation of the targeted schools' need for the services provided and the need for the activities carried out by the proposed project consistent with the educational problems generally associated with the impersonal nature of large high schools. Need may consider factors such as: enrollment; attendance and drop-out rates; incidents of violence, drug and alcohol use, and disciplinary actions; percentage of students who pass graduation exams or State assessments (local assessments may be substituted in states that do not yet administer State assessments), enroll in advanced level courses, register for college entrance exams, and matriculate into postsecondary institutions or training; percentage of students who have limited English proficiency, who are migrant youth, who come from low-income families, or are otherwise disadvantaged; the applicant's fiscal capacity to fund programs described here without Federal assistance; or other local need factors as described by the applicant.

(2) The extent to which specific gaps or weaknesses (including the nature and magnitude of those gaps and weaknesses) in services, infrastructure, or opportunities have been identified by the applicant and will be addressed by the proposed project.

(b) *Foundation for implementation.* (15 points) In determining the quality of the implementation plan, the Secretary considers the extent to which the application:

(1) Documents the involvement and support of stakeholders both within the school community (e.g., administrators, staff, students, and parents) and within the greater community (e.g. representatives of institutions of higher education, employers, workforce investment boards, youth councils, and community-based organizations).

(2) Provides clear evidence of teacher involvement and support, particularly of those teachers who will be directly affected by the implementation plan.

(3) Uses research-based findings and outside technical assistance in the proposed restructuring and in determining appropriate strategy(ies) to be implemented.

(c) *Feasibility and soundness of the plan.* (35 points) In determining the quality of the proposed project, the Secretary considers the extent to which:

(1) The goals and objectives of the smaller learning communities correspond to identified needs and are written in terms of student outcomes, including academic achievement.

(2) The curriculum and instructional practices within each smaller learning community are aligned with its goals, theme, and emphases, where they exist.

(3) The proposed smaller learning communities intervention(s) will benefit all students in the school and enable them to reach challenging State content standards and performance standards, ensuring their successful completion of high school and preparation for postsecondary education or a career.

(4) Professional development activities offered to teachers, non-instructional school staff, and others are aligned with smaller learning community goals.

(5) The applicant provides a rationale for—

- Identifying grade levels and ages of students to be served by the smaller learning community(ies); and
- The methods and timetable for placing students in the smaller learning community(ies). Note: Students are not to be placed according to ability, performance, or any other measure of merit. The Department expects that all students will benefit from the SLC intervention.

(6) The management plan appears capable of achieving the objectives of the proposed project on time and within budget, including:

- The past experience, training, and clearly defined responsibilities of personnel who have key roles in carrying out the project; and
- The timelines and milestones for accomplishing project tasks.

(d) *Quality of the project evaluation.* (15 points) In determining the quality of the evaluation, the Secretary considers whether the applicant has designed an effective method for:

(1) Collecting student performance data, including:

- Required data for annual performance reports,
- Baseline data (to be included as an Appendix; refer to "Reporting Requirements and Expected Outcomes"), and data for three years preceding the baseline (the latter due upon award); and
- A process for monitoring and understanding changes in student outcomes for continuous improvement.

(2) Describing, on an annual basis, the progress towards implementing smaller learning communities and implementing related program changes undertaken to make the smaller learning communities safe and successful. This information will be reported in the Annual Performance Report.

(3) Disseminating best practices and products designed under this grant.

(e) *Adequacy of resources.* (10 points) In determining the adequacy of resources for the proposed project, the Secretary considers the extent to which:

(1) State, local, foundation, and other Federal funds will be used to support the implementation of the plan.

(2) The applicant will limit equipment, administrative costs, and other purchases in order to maximize the amount spent on delivery of services to students.

(3) The applicant demonstrates a commitment to sustain the project beyond the period covered by the Federal grant.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedures established in each State under the Executive Order.

If you want to know the name and address of any State Single Point of Contact (SPOC), see the latest list official SPOC list on the OMB Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants.*

In States that have not established a process or chosen a program for review, State, area-wide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, area-wide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372–CFDA #84.215L, U.S. Department of Education, Room 7E200, 400 Maryland Avenue, SW., Washington, DC 20202–0125.

We will determine proof of mailing on the same basis as we determine proof of mailing for applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice. Please Note That the Above Address Is Not the Same Address as the One to Which the Applicant Submits Its Completed Application. Do not Send Applications to the Above Address.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://access.gpo.gov/nara/index.html*

(Catalogue of Federal Assistance Number: 84.215L Smaller Learning Communities program)

Dated: December 14, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Carol D'Amico,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 01–31273 Filed 12–18–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.215L]

Smaller Learning Communities Program

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

Purpose of Program: The Smaller Learning Communities program will support the planning, implementation or expansion of small, safe, and successful learning environments in large public high schools to help ensure that all students graduate with the knowledge and skills necessary to make successful transitions to college and careers. These grants are authorized by title X, part A, section 10105 of the Elementary and Secondary Education Act of 1965 (ESEA)(20 U.S.C. 8005).

Eligible Applicants: Local educational agencies (LEAs), applying on behalf of large high schools, or schools funded by the Bureau of Indian Affairs (BIA schools), are eligible to apply. For purposes of this program, a large high school is defined as a school that includes grades 11 and 12 and enrolls at least 1,000 students in grades 9 and above.

Applications Available: December 19, 2001.

Deadline for Transmittal of Applications: February 19, 2002.

Deadline for Intergovernmental Review: April 18, 2002.

Estimated Available Funds: $96,700,000.

Types and Ranges of Awards: The Secretary will award both planning grants and implementation grants under this notice. LEAs may apply on behalf of one or more eligible schools. For a one-year planning grant, an LEA may receive, on behalf of a single school, $25,000 to $50,000 per project. LEAs applying on behalf of a group of eligible schools may receive funds up to $250,000 per planning grant. For a three-year implementation grant, an LEA may receive, on behalf of a single school, $250,000 to $500,000 per project. LEAs applying on behalf of a group of eligible schools may receive funds up to $2,500,000 per implementation grant. LEAs may submit multiple applications targeting up to ten distinct schools under a single application. However, an LEA may not apply on behalf of an eligible high school in more than one application.

Schools that benefited from FY 2000 implementation awards are not eligible to receive additional implementation support under this competition. Schools that benefited from FY 2000 planning awards are not eligible to receive additional planning support under this competition, but may apply for an implementation grant. The total amount an LEA may receive through any combination of awards, in any fiscal year of this program, may not exceed $5 million.

Note: The size of awards will be based on a number of factors. These factors include the scope, quality, and comprehensiveness of the proposed program; the size of the population to be served; and the recommended range of awards indicated in the application.

Estimated Number of Awards: The Secretary anticipates making approximately 190 new planning grant awards and approximately 90 new implementation awards under this competition.

Note: The Department of Education is not bound by any estimates in this notice.

Project Period: Planning grants will fund activities up to 12 months. Implementation grants will fund activities up to 36 months.

Note: Applicants for multi-year awards must provide detailed, yearly budget information for the total grant period requested. Understanding the unique complexities of implementing a program that affects a school's organization, physical design, curriculum, instruction, and preparation of teachers, the Secretary anticipates awarding the entire grant amount for implementation projects at the time of the initial award. This will provide the applicant with the capacity to effectively carry out the comprehensive long-term activities involved in model development, documentation, evaluation, and dissemination of products and practices developed through the federal grant. Uninterrupted access to funds will depend upon a grantee's close adherence to its yearly budget projections as well as submission of an annual performance report, showing adequate progress, during the three-year period of the grant.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99; and (b) the regulations in the notice of final priorities, application requirements, and selection criteria for FY 2001 as published elsewhere in this issue of the **Federal Register**.

Competitive Priority—Low-Performing Schools

This competition gives a competitive priority to projects that meet the priority in the Notice of the Final Priorities for this program, which is published elsewhere in this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For information on the program and to download an application, you may access the SLC program web site at *www.ed.gov/offices/OESE/SLCP/*. If you have questions pertaining to the application, you may send an email to *smallerlearningcommunities@ed.gov*. If you need further assistance and need to speak with someone in the SLC program, you may contact Andrew Abrams, (202) 260–7430, 330 C Street, SW, MES Bldg., Room 5512, Washington, DC 20202. You may also contact Diane Austin (202) 260–1280, 400 Maryland Ave., SW, Room 5C149, Washington, DC 20202–6200. Requests for applications may also be sent by fax to (202) 260–8969.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have any questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 8005.

Dated: December 14, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

Carol D'Amico,

Assistant Secretary for Vocational and Adult Education.

[FR Doc. 01–31274 Filed 12–18–01; 8:45 am]

BILLING CODE 4000–01–U

VOL 66 ISS 244 DE 19 2001 UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Wednesday,
December 19, 2001

Part IV

Department of Labor

Pension and Welfare Benefits Administration

Publication of Year 2001 Form M–1; Notice

VOL 66 ISS 244 DE 19 2001 UMI

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Publication of Year 2001 Form M–1

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice on the availability of the Year 2001 Form M–1.

SUMMARY: This document announces the availability of the Year 2001 Form M–1, Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception. A copy of this new form is attached.

FOR FURTHER INFORMATION CONTACT: Amy J. Turner, Pension and Welfare Benefits Administration, Department of Labor, at (202) 693–8335.

SUPPLEMENTARY INFORMATION:

I. Background

The Form M–1 is required to be filed under section 101(g) and section 734 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and 29 CFR 2520.101–2.

II. The Year 2001 Form M–1

This document announces the availability of the Year 2001 Form M–1, Annual Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs). A copy of the new form is attached.

This year's Form M–1 is substantively identical to the Year 2000 Form M–1. In addition, the filing deadlines for the Year 2001 Form M–1 parallel those for last year's form. Specifically, the Year 2001 Form M–1 is generally due March 1, 2002, with an extension until May 1, 2002 available. These Year 2001 deadlines were also previously published; they are included in the Department of Labor's regulations implementing the Form M–1 filing requirement and they were set forth in last year's Form M–1.

PWBA is committed to working together with administrators to help them comply with this filing requirement. Additional copies of the Form M–1 are available on the Internet at: *http://www.dol.gov/dol/pwba*. In addition, after printing, copies will be available by calling the PWBA toll-free publication hotline at 1–800–998–7542. Questions on completing the form are being directed to the PWBA help desk at (202) 693–8360.

Statutory Authority: Sec. 29 U.S.C. 1024, 1027, 1059, 1132(c)(5), 1135, 1181–1183, 1185, 1185a, 1185b, 1191, 1191a, 1191b, 1191c; Sec. 101, Pub. L. 104–191, 101 Stat. 1936 (29 U.S.C. 1181); Secretary of Labor's Order No. 1–87, 52 FR 13139, April 21, 1987.

Signed at Washington, DC, this 13th day of December, 2001.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

BILLING CODE 4510–29–P

2001 Form M-1

MEWA/ECE Form

This Form is Open to Public Inspection

Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)

This report is required to be filed under section 101(g)(h) of the Employee Retirement Income Security Act of 1974 (as amended) and 29 CFR 2520.101-2.

➤ See separate instructions before completing this form.

OMB No. 1210-0116

Department of Labor
Pension and Welfare Benefits Administration

PART I REPORT IDENTIFICATION INFORMATION

Complete either Item A or Item B, as applicable.

A If this is an annual report, specify whether it is for:

(*1*) ☐ The 2001 calendar year; or
(*2*) ☐ The fiscal year beginning ______________, ________ and ending ______________, ________.

B If this is a special filing, specify whether it is:

(*1*) ☐ A 90-day origination report;
(*2*) ☐ An amended report; or
(*3*) ☐ A request for an extension.

PART II MEWA OR ECE IDENTIFICATION INFORMATION

1a Name and address of the MEWA or ECE

1b Telephone number of the MEWA or ECE

1c Employer Identification Number (EIN)

1d Plan Number (PN)

2a Name and address of the administrator of the MEWA or ECE

2b Telephone number of the administrator

2c Employer Identification Number (EIN)

3a Name and address of the entity sponsoring the MEWA or ECE

3b Telephone number of the sponsor

3c Employer Identification Number (EIN)

PART III REGISTRATION INFORMATION

4 Specify the most recent date the MEWA or ECE was originated .... ➤ ______________

5 Complete the following chart. (See Instructions for **Item 5**)

5a	5b	5c	5d	5e	5f	5g
Enter all States where the entity provides coverage.	Is the entity a licensed health insurance issuer in this State?	If you answer "yes" to 5b, list any NAIC number.	If you answer "no" to 5b, is the entity fully-insured?	If you answer "yes" to 5d, enter the name of the insurer and its NAIC number.	Does the entity purchase stop-loss coverage?	If you answer "yes" to 5f, enter the name of the stop-loss insurer and its NAIC number.
	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	
	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	
	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	
	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	
	☐ Yes ☐ No		☐ Yes ☐ No		☐ Yes ☐ No	

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Form M-1

VOL 66 ISS 244 DE 19 2001 UMI

6 Of the States identified in **Item 5a**, list those States in which the MEWA or ECE conducted 20 percent or more of its business (based on the number of participants receiving coverage for medical care under the MEWA or ECE).

7 Total number of participants covered under the MEWA or ECE .... ➤ ____________

PART IV INFORMATION FOR COMPLIANCE WITH PART 7 OF ERISA

8a Has the MEWA or ECE been involved in any litigation or enforcement proceeding in which noncompliance with any provision of Part 7 of Subtitle B of Title I (Part 7) of ERISA was alleged? Answer for the year to which this filing applies and any time since then up to the date of completing this form. Answer "Yes" for any State or federal litigation or enforcement proceeding (including any administrative proceeding), whether the allegation concerns a provision under Part 7 of ERISA, a corresponding provision under the Internal Revenue Code or Public Health Service Act, a breach of any duty under Title I of ERISA if the underlying violation relates to a requirement under Part 7 of ERISA, or a breach of a contractual obligation if the contract provision relates to a requirement under Part 7 of ERISA. (The instructions to this form contain additional information that may be helpful in answering this question.) .... ➤ ☐ Yes ☐ No

8b If you answered "Yes" to **Item 8a**, identify each litigation or enforcement proceeding. With respect to each, include (if applicable): (1) the case number, (2) the date, (3) the nature of the proceedings, (4) the court, (5) all parties (for example, plaintiffs and defendants or petitioners and respondents), and (6) the disposition. You may answer this question by attaching a copy of the complaint with the name of the MEWA or ECE, the disposition of the case, and the phrase "Item 8b Attachment," noted in the upper right corner.

9 Complete the following. (Note: The instructions to this form contain four detailed worksheets which may be helpful in completing this item. Please read the instructions carefully before answering the following questions.)

9a	Is the coverage provided by the MEWA or ECE in compliance with the portability provisions of the Health Insurance Portability and Accountability Act of 1996 and the Department's regulations issued thereunder? (See Worksheet A) .... ➤ ☐ Yes ☐ No ☐ N/A
9b	Is the coverage provided by the MEWA or ECE in compliance with the Mental Health Parity Act of 1996 and the Department's regulations issued thereunder? (See Worksheet B) .... ➤ ☐ Yes ☐ No ☐ N/A
9c	Is the coverage provided by the MEWA or ECE in compliance with the Newborns' and Mothers' Health Protection Act of 1996 and the Department's regulations issued thereunder? (See Worksheet C) .... ➤ ☐ Yes ☐ No ☐ N/A
9d	Is the coverage provided by the MEWA or ECE in compliance with the Women's Health and Cancer Rights Act of 1998? (See Worksheet D) .... ➤ ☐ Yes ☐ No ☐ N/A

IF MORE SPACE IS REQUIRED FOR ANY ITEM, YOU MAY ATTACH ADDITIONAL PAGES.
(SEE INSTRUCTIONS SECTION 2.4)

Caution: *Penalties may apply in the case of a late or incomplete filing of this report.*

Under penalty of perjury and other penalties set forth in the instructions, I declare that I have examined this report, including any accompanying attachments, and to the best of my knowledge and belief, it is true and correct. Under penalty of perjury and other penalties set forth in the instructions, I also declare that, unless this is an extension request, this report is complete.

Signature of administrator ➤ ________________________ Date ➤ ____________

Type or print name of administrator ➤ ________________________

Department of Labor
Pension and Welfare Benefits Administration

Year 2001
Instructions for Form M-1

Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)

ERISA refers to the Employee Retirement Income Security Act of 1974, as amended

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the law as specified in ERISA. You are required to give us the information. We need it to determine whether the MEWA or ECE is operating according to law. You are not required to respond to this collection of information unless it displays a current, valid OMB control number.

The average time needed to complete and file the form is estimated below. These times will vary depending on individual circumstances.

Learning about the law or the form	Preparing the form
2 hrs.	50 min. - 1 hr. and 35 min.

Contents

The instructions are divided into three main sections.

Section 1 **Page**
1.1 Definitions 1
1.2 Who Must File 3
1.3 When to File 3
1.4 Where to File 4
1.5 Penalties 4

Section 2
2.1 Year to be Reported 4
2.2 90-Day Origination Report 4
2.3 Signature and Date 4
2.4 Attaching Additional Pages 4
2.5 Amended Report 4

Section 3
3.1 Line-By-Line Instructions 4
3.2 Voluntary Worksheets 6

Notes on the 2001 Form M-1

- This year's Form M-1 is substantively identical to the 2000 Form M-1.
- The Year 2001 Form M-1 is generally due March 1, 2002, with an extension until May 1, 2002 available.

Introduction

This form is required to be filed under section 101(g) and section 734 of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and 29 CFR 2520.101-2.

The Department of Labor, Pension and Welfare Benefits Administration (PWBA) is committed to working together with administrators to help them comply with this filing requirement. Additional copies of the Form M-1 are available by calling the PWBA toll-free publication hotline at 1-800-998-7542 and on the Internet at: http://www.dol.gov/dol/pwba. If you have any questions (such as whether you are required to file this report) or if you need any assistance in completing this report, please call the **PWBA help desk at (202) 693-8360**.

All Form M-1 reports are subject to a computerized review. It is, therefore, in the filer's best interest that the responses accurately reflect the circumstances they were designed to report.

SECTION 1

1.1 Definitions

"Administrator"
For purposes of this report, the "administrator" is the person specifically designated by the terms of the MEWA or ECE. However, if the MEWA or ECE is a group health plan and the administrator is not so designated, the "plan sponsor" is the administrator. ("Plan sponsor" is defined in ERISA section 3(16)(B) as (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.) Moreover, in the case of a MEWA or ECE for which an administrator is not designated and a plan sponsor cannot be identified, the administrator is the person or persons actually responsible (whether or not so designated under the terms of the MEWA or ECE) for the control, disposition, or management of the cash or property received by or contributed to the MEWA or ECE, irrespective of whether such control, disposition, or management is exercised directly by such person or persons or indirectly through an agent or trustee designated by such person or persons.

"Employer Identification Number" or "EIN"
An EIN is a nine-digit employer identification number. For example, 00-1234567. Entities who do not have an EIN can apply for one on Form SS-4, Application for Employer Identification Number. This form can be obtained at most IRS or Social Security Administration offices. PWBA does NOT issue EINs.

"Entity Claiming Exception" or "ECE"
For purposes of this report, the term "entity claiming exception" or "ECE" means any plan or other arrangement that is established or maintained for the purpose of offering or providing medical benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, and that claims it is not a MEWA because the plan or other arrangement claims the exception relating to plans established or maintained pursuant to one or more collective bargaining agreements (contained in section 3(40)(A)(i) of ERISA).

The administrator of an ECE must file this report each year for the first three years after the ECE is "originated." (Warning: An ECE may be "originated" more than once. Each time an ECE is "originated," more filings are triggered.)

"Employee Welfare Benefit Plan"
In general, an employee welfare benefit plan means any plan, fund, or program established or maintained by an employer or by an employee organization, or by both, to the extent such plan, fund, or program provides its participants or beneficiaries the benefits listed in section 3(1) of ERISA (including benefits for medical care).

"Excepted benefits"
Part 7 of Subtitle B of Title I (Part 7) of ERISA does not apply to any group health plan or group health insurance issuer in relation to its provision of excepted benefits.

Certain benefits that are generally not health coverage are excepted in all circumstances. These benefits are: coverage only for accident (including accidental death and dismemberment), disability income

VOL 66 ISS 244 DE 19 2001 UMI

insurance, liability insurance (including general liability insurance and automobile liability insurance), coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, automobile medical payment insurance, credit-only insurance (for example, mortgage insurance), and coverage for on-site medical clinics.

Other benefits that generally are health coverage are excepted if certain conditions are met. Specifically, limited scope dental benefits, limited scope vision benefits, and long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of the group health plan. For more information on these limited excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.732(b)(3).

In addition, noncoordinated benefits may be excepted benefits. The term "noncoordinated benefits" refers to coverage for a specified disease or illness (such as cancer-only coverage) or hospital indemnity or other fixed dollar indemnity insurance (such as insurance that pays $100/day for a hospital stay as its only insurance benefit), if three conditions are met. First, the benefits must be provided under a separate policy, certificate, or contract of insurance. Second, there can be no coordination between the provision of these benefits and another exclusion of benefits under a group health plan maintained by the same plan sponsor. Third, benefits must be paid without regard to whether benefits are provided with respect to the same event under a group health plan maintained by the same plan sponsor. For more information on these noncoordinated excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.701.732(b)(4).

Finally, supplemental benefits may be excepted benefits if certain conditions are met. Specifically, the benefits are excepted only if they are provided under a separate policy, certificate or contract of insurance, and the benefits are medicare supplemental (commonly known as "Medigap" or "MedSupp") policies, CHAMPUS supplements, or supplements to certain employer group health plans. Such supplemental coverage cannot duplicate primary coverage and must be specifically designed to fill gaps in primary coverage, coinsurance, or deductibles. Note that retiree coverage under a group health plan that coordinates with Medicare may serve a supplemental function similar to that of a Medigap policy. However, such employer-provided retiree "wrap around" benefits are not excepted benefits (because they are expressly excluded from the definition of a Medicare supplemental policy in section 1882(g)(1) of the Social Security Act). For more information on supplemental excepted benefits, see the Department of Labor's regulations at 29 CFR 2590.732(b)(5).

"Group Health Plan"

In general, a group health plan means an employee welfare benefit plan to the extent that the plan provides benefits for medical care to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise. See ERISA section 733(a).

"Health Insurance Issuer" or "Issuer"

The term "health insurance issuer" or "issuer" is defined, in pertinent part, in § 2590.701-2 of the Department's regulations as "an insurance company, insurance service, or insurance organization (including an HMO) that is required to be licensed to engage in the business of insurance in a State and that is subject to State law which regulates insurance . . . . Such term does not include a group health plan."

"Multiple Employer Welfare Arrangement" or "MEWA"

In general, a multiple employer welfare arrangement (MEWA) is an employee welfare benefit plan or other arrangement that is established or maintained for the purpose of offering or providing medical benefits to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that the term does not include any such plan or other arrangement that is established or maintained under or pursuant to one or more agreements that the Secretary finds to be collective bargaining agreements, by a rural electric cooperative, or by a rural telephone cooperative association. See ERISA section 3(40).

(Note: Many States regulate entities as MEWAs using their own, State definition of the term. Whether or not an entity meets a State's definition of a MEWA for purposes of regulation under State law is a matter of State law.)

For more information on MEWAs, visit the Pension and Welfare Benefits Administration's (PWBA's) website at www.dol.gov/dol/pwba or call the PWBA toll free publications hotline at 1-800-998-7542 and ask for the booklet entitled, "MEWAs: Multiple Employer Welfare Arrangements Under the Employee Retirement Income Security Act: A Guide to Federal and State Regulation."

For information on State MEWA regulation, contact your State Insurance Commissioner's Office.

"Originated"

For purposes of this report, a MEWA or ECE is "originated" each time any of the following events occur:

(1) The MEWA or ECE first begins offering or providing coverage for medical care to the employees of two or more employers (including one or more self-employed individuals);

(2) The MEWA or ECE begins offering or providing such coverage after any merger of MEWAs or ECEs (unless all MEWAs or ECEs involved in the merger were last originated at least three years prior to the merger); or

(3) The number of employees to which the MEWA or ECE offers or provides coverage for medical care is at least 50 percent greater than the number of such employees on the last day of the previous calendar year (unless such increase is due to a merger with another MEWA or ECE under which all MEWAs and ECEs that participate in the merger were last originated at least three years prior to the merger).

Therefore, a MEWA or ECE may be originated more than once.

"Plan Number" or "PN"

A PN is a three-digit number assigned to a plan or other entity by an employer or plan administrator. For plans or other entities providing welfare benefits, the first plan number should be number 501 and additional plans should be numbered consecutively.

"Sponsor"

For purposes of this report, the "sponsor" means:

(1) If the MEWA or ECE is a group health plan, the sponsor is the "plan sponsor," which is defined in ERISA section 3(16)(B) as (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan; or (2) If the MEWA or ECE is not a group health plan, the sponsor is the entity that establishes or maintains the MEWA or ECE.

1.2 Who Must File

General Rules

The administrator of a multiple employer welfare arrangement (MEWA) generally must file this report for every calendar year, or portion thereof, that the MEWA offers or provides benefits for medical care to the employees of two or more employers (including one or more self-employed individuals). The administrator of an entity claiming exception (ECE) must file the report if the ECE was last originated at any time within three years before the annual filing due date. (See the definition of "originated" in Section 1.1 and the discussion of when to file in Section 1.3.) (**Caution:** An ECE may be "originated" more than once. Each time an ECE is "originated," more filings are triggered.)

Exception

Irrespective of the general rules (described above), in no event is reporting required by the administrator of a MEWA or ECE if the MEWA or ECE is licensed or authorized to operate as a health insurance issuer in every State in which it offers or provides coverage for medical care to employees (or to their beneficiaries).

Additional Guidance

(1) In response to comments, and consistent with the question-and-answer guidance published in April and June of 2000, no penalties will be assessed against the administrator of a MEWA or ECE if the MEWA or ECE meets any of the following conditions –

(i) It provides coverage that consists solely of excepted benefits (defined above), which are not subject to Part 7 of ERISA. (However, if the MEWA or ECE provides coverage that consists both of excepted benefits and other benefits for medical care that are not excepted benefits, the administrator of the MEWA or ECE is required to file the Form M-1.)

(ii) It is an employee welfare benefit plan that is not subject to ERISA, including a governmental plan, church plan, or plan maintained only for the purpose of complying with workers' compensation laws, within the meaning of sections 4(b)(1), 4(b)(2), or 4(b)(3) of ERISA, respectively.

(iii) It provides coverage only through employee welfare benefit plans that are not covered by ERISA, including governmental plans, church plans, and plans maintained only for the purpose of complying with workers' compensation laws, within the meaning of sections 4(b)(1), 4(b)(2), and 4(b)(3) of ERISA, respectively.

(2) In addition, in response to comments, and consistent with the question-and-answer guidance published in April and June of 2000, no penalties will be assessed against the administrator of an entity that would not constitute a MEWA or ECE but for the following circumstances:

(i) It provides coverage to the employees of two or more trades or businesses that share a common control interest of at least 25 percent at any time during the plan year, applying principles similar to the principles applied under section 414 of the Internal Revenue Code.

(ii) It is created by a change in control of businesses (such as a merger or acquisition) that is for a bona fide business purpose (that is, for a purpose other than avoiding Form M-1 filing) and is temporary in nature (that is, it does not extend beyond the end of the plan year following the year in which the change in control occurs).

(iii) It is a group health plan that covers a very small number of participants who are not employees (or former employees) of the plan sponsor, such as non-employee members of the board of directors or independent contractors. The number of non-employee participants covered by the plan is very small if it does not exceed one percent of the total number of participants, determined as of the last day of the year to be reported (or, in the case of a 90-day origination report, determined as of the 60th day following the origination date).

Good Faith Determinations Regarding Whether an Entity is an ECE

Accordingly, subject to the exceptions described above, the administrator of a MEWA is required to file annually. By contrast, the administrator of an ECE is required to file for three years following an origination.

Whether or not an entity is a MEWA or ECE is determined by the administrator acting in good faith. Therefore, if an administrator makes a good faith determination at the time of the filing that the entity is maintained pursuant to one or more collective bargaining agreements, then the entity is an ECE. Moreover, if the administrator makes a further good faith determination at the time of the filing that the ECE is not required to file because its most recent origination was more than three years ago, then a filing is not required. Even if the entity is later determined to be a MEWA, filings are not required prior to the determination that the entity is a MEWA if at the time the filings were due, the administrator made a good faith determination that the entity was an ECE. However, filings are required for years after the determination that the entity is a MEWA.

In contrast, while an administrator's good faith determination that an entity is an ECE may eliminate the requirement that the administrator of the entity file under this section for more than three years after the entity's origination date, the administrator's determination does not affect the applicability of State law to the entity. Accordingly, incorrectly claiming the exception may eliminate the need to file under this section, if the claiming of the exception is done in good faith. However, the claiming of the exception for ECEs under this filing requirement does not prevent the application of State law to an entity that is later determined to be a MEWA. This is because the filing, or the failure to file, under this section does not in any way affect the application of State law to a MEWA.

1.3 When to File

General Rule

The administrator of a MEWA or ECE that is required to file must file the Form M-1 no later than March 1 following any calendar year for which a filing is required (unless March 1 is a Saturday, Sunday, or federal holiday, in which case the form must be filed no later than the following business day).

90-Day Origination Report

In general, an expedited filing is also required after a MEWA or ECE is originated. To satisfy this requirement, the administrator must complete and file the Form M-1 within 90 days of the date the MEWA or ECE is originated (unless the last day of the 90-day period is a Saturday, Sunday, or federal holiday, in which case the form must be filed no later than the following business day).

Exception to the 90-Day Origination Report Requirement

No 90-Day Origination Report is required if the entity was originated in October, November, or December.

Extensions

A one-time extension of time to file will automatically be granted if the administrator of the MEWA or ECE requests an extension. To request an extension, the administrator must: (1) complete Parts I and II of the Form M-1 (and check Box B(3) in Part I); (2) sign, date, and type the administrator's name at the end of the form; and (3) file this request for extension no later than the normal due date for the report. In such a case, the administrator will have an additional 60 days to file a completed Form M-1. A copy of this request for extension must be attached to the completed Form M-1 when filed.

VOL 66 ISS 244 DE 19 2001 UMI

1.4 Where to File

Completed copies of the Form M-1 should be sent to:

Public Documents Room, Pension and
Welfare Benefits Administration
Room N-1513, U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

1.5 Penalties

ERISA provides for the assessment or imposition of a penalty for failure to file a report, failure to file a completed report, and late filings. In the event of no filing, an incomplete filing, or a late filing, a penalty may apply of up to $1,000 a day for each day that the administrator of the MEWA or ECE fails or refuses to file a complete report. In addition, certain other penalties may apply.

SECTION 2

2.1 Year to be Reported

General Rule

The administrator of a MEWA or ECE that is required to file should complete the form using the previous calendar year's information. (Thus, for example, for a filing that is due by March 1, 2002, calendar year 2001 information should be used.)

Fiscal Year Exception

The administrator of a MEWA or ECE that is required to file may report using fiscal year information if the administrator of the MEWA or ECE has at least six continuous months of fiscal year information to report. (Thus, for example, for a filing that is due by March 1, 2002, fiscal year 2001 information may be used if the administrator has at least six continuous months of fiscal year 2001 information to report.) In this case, the administrator should check Box A(2) in Part I and specify the fiscal year.

2.2 The 90-Day Origination Report

When a MEWA or ECE is originated, a 90-Day Origination Report is generally required. (See Section 1.3 on When to File). When filing a 90-Day Origination Report, the administrator is required to complete the Form M-1 using information based on at least 60 continuous days of operation by the MEWA or ECE.

Remember, there is an exception to the 90-Day Origination Report requirement. No 90-Day Origination Report is required if the entity was originated in October, November, or December.

2.3 Signature and Date

The administrator must sign and date the report. The signature must be original. The name of the individual who signed as the administrator must be typed or printed clearly on the line under the signature line.

2.4 Attaching Additional Pages

If more space is needed to complete any item on the Form M-1, additional pages may be attached. Additional pages must be the same size as this form (8 ½" x 11") and should include the name of the MEWA or ECE, the Item number, and the word "Attachment" in the upper right corner. In addition, the attachment for any item should be in a format similar to that item on the form.

2.5 Amended Report

To correct errors and/or omissions on a previously filed Form M-1, submit a completed Form M-1 with Part I, Box B(2) checked and an original signature. When filing an amended report, answer all questions and circle the amended line numbers.

SECTION 3

Important: "Yes/No" questions must be marked "Yes" or "No," but not both. "N/A" is not an acceptable response unless expressly permitted in the instructions to that line.

3.1 Line-By-Line Instructions

Part I - Report Identification Information

Complete either Item A or Item B, as applicable.

Annual Reports: If this is an annual report, check either box A(1) or box A(2).

Box A(1): Check this box if calendar year information is being used to complete this report. (See Section 2.1 on Year to be Reported.)

Box A(2): Check this box if fiscal year information is being used to complete this report. Also specify the fiscal year. (For example, if fiscal year 2001 information is being used instead of calendar year 2001 information, specify the date the fiscal year begins and ends.) (See Section 2.1 on Year to be Reported.)

Special Filings: If this is a special filing, check either box B(1), box B(2), or box B(3).

Box B(1): Check this box if this filing is a 90-Day Origination Report. (See Section 1.2 on Who Must File, Section 1.3 on When to File, and Section 2.2 on 90-Day Origination Reports.)

Box B(2): Check this box if this filing is an Amended Report. (See Section 2.5 on Amended Reports.)

Box B(3): Check this box if the administrator of the MEWA or ECE is requesting an extension. (See Section 1.3 on When to File.)

Part II - MEWA or ECE Identification Information

Items 1a through 1d: Enter the name and address of the MEWA or ECE, the telephone number of the MEWA or ECE, and any employer identification number (EIN) and plan number (PN) used by the MEWA or ECE in reporting to the Department of Labor or the Internal Revenue Service. If the MEWA or ECE does not have any EINs associated with it, leave Item 1c blank. If the MEWA or ECE does not have any PNs associated with it, leave Item 1d blank. In answering these questions, list only EINs and PNs used by the MEWA or ECE itself and not those used by group health plans or employers that purchase coverage through the MEWA or ECE. For more information on EINs or PNs, see Section 1.1 on Definitions.

Items 2a through 2c: Enter the name and address of the administrator of the MEWA or ECE, the telephone number of the administrator, and the EIN used by the administrator in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the administrator as a separate entity. Do not use any EIN associated with the MEWA or ECE itself. For more information on the definition of "administrator," and on EINs or PNs, see Section 1.1 on Definitions.

Items 3a through 3c: Enter the name and address of the entity sponsoring the MEWA or ECE, the telephone number of the sponsor, and any EIN used by the sponsor in reporting to the Department of Labor or the Internal Revenue Service. For this purpose, use only an EIN associated with the sponsor. Do not use any EIN associated with the MEWA or ECE itself. For more information on the definition of "sponsor," and on EINs or PNs, see Section 1.1 on Definitions. If there is no such entity, leave Item 3 blank and skip to Item 4.

Part III - Registration Information

Item 4: Enter the date the MEWA or ECE was most recently "originated." For this purpose, see the definition of "originated" in Section 1.1.

Item 5: Complete the chart. If the report is a 90-Day Origination Report, complete this item with information that is current as of the 60th day following the origination date. Otherwise, complete this item with information that is current as of the last day of the year to be reported. (See Section 2.1 on Year to be Reported.) When completing the chart, complete Item 5a first. Then for each row, complete Item 5b through Item 5g as it applies to the State listed in Item 5a.

Item 5a. Enter all States in which the MEWA or ECE provides benefits for medical coverage. For this purpose, list the State(s) where the employers (of the employees receiving coverage) are domiciled. In answering this question, a "State" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, and the Northern Mariana Islands. Enter one State per row.

Item 5b. For each State listed in Item 5a, specify whether the MEWA or ECE is licensed or otherwise authorized to operate as a health insurance issuer in the State listed in that row. (For a definition of the term "health insurance issuer," see Section 1.1.) For more information on whether an entity that is a licensed or registered MEWA in a State meets the definition of a health insurance issuer in that State, contact the State Insurance Commissioner's Office.

Item 5c. For each "yes" answer in Item 5b, enter the National Association of Insurance Commissioners (NAIC) number.

Item 5d. For each "no" answer in Item 5b, specify whether the MEWA or ECE is fully-insured through one or more health insurance issuers in each State.

Item 5e. For each "yes" answer in Item 5d, enter the name of the insurer, and its NAIC number (if available). If there is more than one insurer, enter all insurers, and their NAIC numbers (if applicable).

Item 5f. In each State listed in Item 5a, specify whether the MEWA or ECE has purchased any stop-loss coverage. For this purpose, stop-loss coverage includes any coverage defined by the State as stop-loss coverage. For this purpose, stop-loss coverage also includes any financial reimbursement instrument that is related to liability for the payment of health claims by the MEWA or ECE, including reinsurance and excess loss insurance.

Item 5g. For each "yes" answer in Item 5f, enter the name of the stop-loss insurer, and its NAIC number (if available). If there is more than one stop-loss insurer, enter all stop-loss insurers, and their NAIC numbers (if applicable).

Item 6: Of the States identified in Item 5a, identify all States in which the MEWA or ECE conducted 20 percent or more of its business (based on the number of participants receiving coverage for medical care under the MEWA or ECE).

For example, consider a MEWA that offers or provides coverage to the employees of six employers. Two employers are located in State X and 70 participants in the MEWA receive coverage through these two employers. Three employers are located in State Y and 30 participants in the MEWA receive coverage through these three employers. Finally, one employer is located in State Z and 200 participants in the MEWA receive coverage through this employer. In this example, the administrator of the MEWA should specify State X and State Z under Item 6 because the MEWA conducts 23⅓% of its business in State X (70÷300 = 23⅓%) and 66⅔% of its business in State Z (200÷300 = 66⅔%). However, the administrator should not specify State Y because the MEWA conducts only 10% of its business in State Y (30÷300 = 10%).

If the report is a 90-Day Origination Report, complete this item with information that is current as of the 60th day following the origination date. Otherwise, complete this item with information that is current as of the last day of the year to be reported. (See Section 2.1 on Year to be Reported.)

Item 7: Identify the total number of participants covered under the MEWA or ECE. For more information on determining the number of participants, see the Department of Labor's regulations at 29 CFR 2510.3-3(d).

If the report is a 90-Day Origination Report, complete this item with information that is current as of the 60th day following the origination date. Otherwise, complete this item with information that is current as of the last day of the year to be reported. (See Section 2.1 on Year to be Reported.)

Part IV - Information for Compliance with Part 7 of ERISA

Background Information on Part 7 of ERISA: On August 21, 1996, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) was enacted. On September 26, 1996, both the Mental Health Parity Act of 1996 (MHPA) and the Newborns' and Mothers' Health Protection Act of 1996 (Newborns' Act) were enacted. On October 21, 1998, the Women's Health and Cancer Rights Act of 1998 (WHCRA) was enacted. All of the foregoing laws amended Part 7 of Subtitle B of Title I (Part 7) of ERISA with new requirements for group health plans. With respect to most of these requirements, corresponding provisions are contained in Chapter 100 of Subtitle K of the Internal Revenue Code (Code) and Title XXVII of the Public Health Service Act (PHS Act). These provisions generally are substantively identical.

The Departments of Labor, the Treasury, and Health and Human Services first issued interim final regulations implementing HIPAA's portability, access, and renewability provisions on April 1, 1997 (published in the Federal Register on April 8, 1997, 62 FR 16893). Two clarifications of the HIPAA regulations were published in the Federal Register on December 29, 1997 at 62 FR 67687. Regulations implementing the MHPA provisions were published in the Federal Register on December 22, 1997 at 62 FR 66931. Also, regulations implementing the substantive provisions of the Newborns' Act were published in the Federal Register on September 9, 1998 at 63 FR 48372 and on October 27, 1998 at 63 FR 57545. Moreover, the notice requirements with respect to group health plans that provide coverage for maternity or newborn infant coverage are described in the Department's summary plan description content regulations at § 2520.102-3(u), 63 FR 48372 (September 9, 1998). Finally, the Department of Labor has published two sets of informal, question-and-answer guidance on WHCRA. These sets of question-and-answer guidance are available on the Department's website at www.dol.gov/dol/pwba and from the Pension and Welfare Benefits Administration's toll-free publications hotline at 1-800-998-7542.

General Information Regarding the Applicability of Part 7: In general, the foregoing provisions apply to group health plans and health insurance issuers in connection with a group health plan.

Many MEWAs and ECEs are group health plans or health insurance issuers. However, even if a MEWA or ECE is neither a group health plan nor a health insurance issuer, if the MEWA or ECE offers or provides benefits for medical care through one or more group health plans, the coverage is required to comply with Part 7 of ERISA and the MEWA or ECE is required to complete Item 8a through Item 9d.

Relation to Other Laws: States may, under certain circumstances, impose stricter laws with respect to health insurance issuers. Generally, questions concerning State laws should be directed to the State Insurance Commissioner's Office.

For More Information: To obtain copies of the Department of Labor's booklet, "Questions and Answers: Recent Changes in Health Care Law," which includes information on HIPAA, MHPA, the Newborns' Act, and WHCRA, you may call the Pension and Welfare Benefits Administration's (PWBA's) toll-free publication hotline at 1-800-998-7542. This booklet is also available on the Internet at: www.dol.gov/dol/pwba. If you have any additional questions concerning Part 7 of ERISA, you may call the PWBA office nearest you or the PWBA technical assistance hotline at 202-219-8776.

Items 8a and 8b: With respect to Item 8a, check "yes" or "no" as applicable. For this purpose, do not include any audit that does not result in required corrective action. If you answer "yes" under Item 8a, identify, in Item 8b, any such litigation or enforcement proceeding.

Item 9a: The portability requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) added sections 701, 702, and 703 of ERISA.

General Applicability. In general, you should answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if either of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

Worksheet. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Worksheet A may be helpful.

Item 9b: The Mental Health Parity Act of 1996 (MHPA) added section 712 of ERISA. It includes a "sunset" provision providing that the law will cease to apply to benefits for services furnished on or after September 30, 2001. This sunset provision may be eliminated or changed by future legislation.

General Applicability. In general, you should answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small group health plan (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

(3) The MEWA or ECE does not provide both medical/surgical benefits and mental health benefits.

(4) The MEWA or ECE offers or provides coverage only to small employers (as described in the small employer exemption contained in section 712(c)(1) of ERISA and § 2590.712(e) of the Department's regulations).

(5) The coverage has satisfied the requirements for the increased cost exemption (described in section 712(c)(2) of ERISA and § 2590.712(f) of the Department's regulations).

Worksheet. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Worksheet B may be helpful.

Item 9c: The Newborns' and Mothers' Health Protection Act of 1996 (Newborns' Act) added section 711 of ERISA.

General Applicability. In general, you should answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if either of the following paragraphs apply:

(1) The MEWA or ECE does not provide benefits for hospital lengths of stay in connection with childbirth.

(2) The MEWA or ECE is subject to State law regulating such coverage, instead of the federal Newborns' Act requirements, in all States identified in Item 5a, in accordance with section 711(f) of ERISA and § 2590.711(e) of the Department's regulations.

Worksheet. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Worksheet C may be helpful.

Item 9d: The Women's Health and Cancer Rights Act of 1998 (WHCRA) added section 713 of ERISA.

General Applicability. In general, you should answer "yes" or "no" to this question if you are the administrator of a MEWA or ECE that is a group health plan or if you are providing benefits for medical care to employees through one or more group health plans.

Exceptions. You may answer "N/A" if any of the following paragraphs apply:

(1) The MEWA or ECE is a small health plan (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

(2) The MEWA or ECE offers coverage only to small group health plans (as described in section 732(a) of ERISA and § 2590.732(a) of the Department's regulations).

(3) The MEWA or ECE does not provide medical/surgical benefits with respect to a mastectomy.

Worksheet. For purposes of determining if a MEWA or ECE is in compliance with these provisions, Worksheet D may be helpful.

3.2 Voluntary Worksheets

Voluntary worksheets, which may be used to help assess an entity's compliance with Part 7 of ERISA, are included on the following pages of these instructions. These worksheets may also be helpful in answering Items 9a through 9d of the Form M-1.

Worksheet A (Form M-1)	Determining Compliance with the HIPAA Provisions in Part 7 of Subtitle B of Title I of ERISA Do NOT file this worksheet.	Department of Labor Pension and Welfare Benefits Administration

This worksheet may be used to help assess an entity's compliance with the HIPAA provisions of Part 7 of Subtitle B of Title I (Part 7) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). However, it is not a complete description of all the provisions and is not a substitute for a comprehensive compliance review. Use of this worksheet is voluntary, and it should not be filed with your Form M-1.

If you answer "No" to any of the questions below, you should review your entity's operations because the entity may not be in full compliance with the HIPAA provisions in Part 7 of ERISA. If you need help answering these questions or want additional guidance, you should contact the U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) office in your region or consult with legal counsel or a professional employee benefits adviser.

---

(1) Does the coverage provided by the MEWA or ECE issue complete certificates of creditable coverage automatically to individuals who lose coverage under the MEWA or ECE and to individuals upon request? .... ➤ ☐ Yes ☐ No

- Section 701(e) of ERISA and § 2590.701-5 of the Department's regulations require group health plans and group health insurance issuers to issue, free of charge, certificates of creditable coverage automatically to individuals who lose coverage and to any individual upon request.
- To be complete, the certificate must include: the date, the name of the plan, the participant and/or beneficiary's name and identification information, the plan administrator's contact information (name, address, and telephone number, a telephone number to call for further information (if different than the plan administrator's number)), and the individual's creditable coverage information, as described below. (**TIP: Don't forget dependent information.)
- With respect to an individual's creditable coverage information, the certificate must reflect either – (1) that an individual has at least 18 months of creditable coverage; or (2) the date any waiting period (or affiliation period) began and the date creditable coverage began. In addition, the certificate must reflect either – (1) the date creditable coverage ended; or (2) that coverage is continuing. (**TIP: Don't forget waiting period information.)
- For a certificate issued automatically upon loss of coverage, the certificate should reflect the last continuous period of coverage. For a certificate issued upon request, the certificate should reflect each period of continuous coverage that the individual had in the 24 months prior to the date of request (up to 18 months of creditable coverage).
- Most health coverage is creditable coverage. However, coverage consisting solely of excepted benefits is not creditable coverage. Examples of benefits that may be excepted benefits include limited-scope dental benefits, limited-scope vision benefits, hospital indemnity benefits, and Medicare supplemental benefits.
- If you have a question about whether health coverage offered by a MEWA or ECE is creditable coverage or is coverage consisting solely of excepted benefits, contact the PWBA office nearest you or call the PWBA Division of Technical Assistance and Inquiries at 202-219-8776. This is not a toll-free number.

---

(2) Does the coverage provided by the MEWA or ECE make available a procedure for individuals to request and receive certificates? .... ➤ ☐ Yes ☐ No

- Section 2590.701-5(a)(4)(ii) of the Department's regulations requires group health plans and group health insurance issuers to establish a procedure for individuals to request and receive certificates.

---

(3) If the coverage provided by the MEWA or ECE imposes a preexisting condition exclusion period, are notices provided informing individuals of the exclusion, the terms of the exclusion, and the right of individuals to demonstrate creditable coverage to reduce the period of the exclusion? .... ➤ ☐ Yes ☐ No ☐ N/A

- Section 2590.701-3(c) of the Department's regulations requires that a group health plan, and a group health insurance issuer, may not impose a preexisting condition exclusion with respect to a participant or a dependent of the participant before notifying the participant, in writing, of the existence and terms of any preexisting condition exclusion under the plan and of the rights of individuals to demonstrate creditable coverage.

Question # 3 is continued on the next page.

VOL
66
ISS
2
4
4
DE
19
2001
UMI

- **TIP: Check for "hidden" preexisting condition exclusion periods. Coverage or exclusion provisions that limit benefits based on the fact that a condition was present before an individual's effective date of coverage are preexisting condition exclusions and must either be eliminated, or must comply with HIPAA's limitations on preexisting condition exclusion periods, including this general notice provision, the individual notice provision described in Question #4, and HIPAA's other limits on preexisting condition exclusion periods, described in Question #5.

- The description of the rights of individuals to demonstrate creditable coverage includes a description of the right of the individual to request a certificate from a prior plan or issuer, if necessary, and a statement that the current plan or issuer will assist in obtaining a certificate from any prior plan or issuer, if necessary.

---

(4) If the coverage provided by the MEWA or ECE imposes a preexisting condition exclusion period, are letters of determination and notification of creditable coverage provided within a reasonable time after the receipt of individuals' creditable coverage information? .... ➤ ☐ Yes ☐ No ☐ N/A

- Section 2590.701-5(d) of the Department's regulations states that, within a reasonable time following receipt of evidence of creditable coverage, a plan or issuer seeking to impose a preexisting condition exclusion with respect to an individual is required to disclose to the individual, in writing, its determination of any preexisting condition exclusion period that applies to the individual, and the basis for such determination, including the source and substance of any information on which the plan or issuer relied.

- In addition, the plan or issuer is required to provide the individual with a written explanation of any appeal procedures established by the plan or issuer, and with a reasonable opportunity to submit additional evidence of creditable coverage.

---

(5) If the coverage provided by the MEWA or ECE imposes a preexisting condition exclusion, does it comport with HIPAA's other limitations on preexisting condition exclusions? .... ➤ ☐ Yes ☐ No ☐ N/A

- **TIP: Again, check for "hidden" preexisting condition exclusion periods. Coverage or exclusion provisions that limit benefits based on the fact that a condition was present before an individual's effective date of coverage are preexisting condition exclusions and must either be eliminated, or must comply with HIPAA's limitations on preexisting condition exclusion periods.

- Section 701(a)(1) of ERISA and § 2590.701-3(a)(1)(i) of the Department's regulations provide that a plan or issuer may impose a preexisting condition exclusion period only if it relates to a condition for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the individual's enrollment date in the plan or coverage. (Therefore, genetic information is not treated as a preexisting condition in the absence of a diagnosis of the condition related to such information.) (In addition, for health insurance issuers, State law may prescribe a shorter period than the 6-month period that generally applies.)

- The enrollment date, for purposes of the HIPAA limitations on preexisting condition exclusion periods, is the first day of coverage or, if there is a waiting period, the first day of the waiting period. (**TIP: If the MEWA or ECE imposes a waiting period, ensure that the 6-month look-back period ends on the first day of the waiting period, not the first day of coverage.)

- Section 701(a)(2) of ERISA and section § 2590.701-3(a)(1)(ii) of the Department's regulations provide that any preexisting condition exclusion period is limited to 12 months (18 months for late enrollees) after an individual's enrollment date in the plan or coverage. (For health insurance issuers, State law may prescribe a shorter period.) (**TIP: If the MEWA or ECE imposes a waiting period, ensure that the 12-month (or 18-month for late enrollees) maximum preexisting condition exclusion period begins on the first day of the waiting period, not the first day of coverage.)

- Section 701(a)(3) of ERISA and § 2590.701-3(a)(1)(iii) of the Department's regulations provide that any preexisting condition exclusion period is reduced by the number of days of an individual's creditable coverage prior to his or her enrollment date.

- When determining the number of days of creditable coverage, the plan or issuer is not required to take into account any days that occur prior to a significant break in coverage. The federal law defines a significant break in coverage as a break of 63 days or more. However, State law applicable to health insurance coverage offered or provided by health insurance issuers may provide for a longer period.

- In any case, section 701(d) of ERISA and § 2590.701-3(b) provide that a group health plan, and a group health insurance issuer, may not impose any preexisting condition exclusion period with regard to a child who enrolls in a group heath plan within 30 days of birth, adoption, or placement for adoption and who does not incur a subsequent significant break in coverage. In addition, a group health plan, and a group health insurance issuer, may not impose a preexisting condition exclusion relating to pregnancy. (For health insurance issuers, State law may further restrict the extent to which a preexisting condition exclusion may be imposed.)

---

(6) Does the coverage provided by the MEWA or ECE provide notices of special enrollment rights to employees who are eligible to enroll in the plan or coverage? .... ➤ ☐ Yes ☐ No

- Section 2590.701-6(c) of the Department's regulations requires that, on or before the time an employee is offered the opportunity to enroll in a group health plan or coverage, the plan or issuer provide the employee with a description of the plan's special enrollment rules.

- For this purpose, the plan may use the following model description of special enrollment rules:

> If you are declining enrollment for yourself or your dependents (including your spouse) because of other health insurance coverage, you may in the future be able to enroll yourself or your dependents in this plan, provided that you request enrollment within 30 days after your other coverage ends. In addition, if you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your dependents, provided that you request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.

---

(7) Does the coverage provided by the MEWA or ECE provide special enrollment rights to individuals who lose other coverage and to individuals who acquire a new dependent, if they request enrollment within 30 days of the loss of coverage, marriage, birth, adoption, or placement for adoption? .... ➤ ☐ Yes ☐ No

- Section 701(f) of ERISA and § 2590.701-6 of the Department's regulations require group health plans, and group health insurance issuers, if certain conditions are met, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the individual either – (1) has a new dependent through marriage, birth, adoption, or placement for adoption; or (2) loses eligibility for other group health plan or health insurance coverage or employer contributions towards the other coverage terminate.

- **TIP: Ensure that the MEWA or ECE provides special enrollment to all individuals who qualify. Among others, this includes individuals who lose eligibility for individual market coverage, individuals who voluntarily terminate employment and lose group health plan coverage (even if they are eligible for COBRA continuation coverage), individuals who exhaust COBRA, children who "age out" of eligibility under another parent's group health plan, individuals who move out of a group health plan's HMO service area, and individuals whose employers cease contributing towards their group health plan coverage (even if coverage does not cease).

- For individuals who special enroll after marriage or loss of other coverage, coverage must be made effective no later than on the first day of the first calendar month following the date the completed request for enrollment is received. For individuals who special enroll after birth, adoption, or placement for adoption, coverage must be made effective no later than the date of such birth, adoption, or placement for adoption. (**TIP: Ensure that effective dates of coverage for special enrollees are correct.)

- For State laws applicable to health insurance issuers that may provide individuals with additional special enrollment rights, check with an attorney or the Insurance Commissioner's Office in your State.

---

(8) Does the coverage provided by the MEWA or ECE provide rules for eligibility (including continued eligibility) that comply with the nondiscrimination requirements that prohibit discrimination against any individual or a dependent based on any health factor? .... ➤ ☐ Yes ☐ No

- Section 702(a) of ERISA and § 2590.702(a) of the Department's regulations provide that a group health plan, and a group health insurance issuer, may not establish rules for eligibility (including continued eligibility, rules defining any applicable waiting periods, and rules relating to late and special enrollment) of any individual to enroll under the terms of the plan based on a health factor.

- The health factors are: health status, medical condition (including both physical and mental illnesses), claims experience, receipt of health care, medical history, genetic information, evidence of insurability (including conditions arising out of acts of domestic violence), and disability.

- However, nothing requires a plan or issuer to provide particular benefits other than those provided under the terms of the plan or coverage. In addition, nothing prevents a plan or issuer from establishing limitations or restrictions on the amount, level, extent, or nature of benefits or coverage for similarly situated individuals enrolled in the plan or coverage.

- **TIP: Ensure that the plan does not require individuals to present evidence of insurability in order to enroll in the plan, even at late enrollment.

Question # 8 is continued on the next page.

VOL 66 ISS 244 DE 19 2001 UMI

- ****TIP**: On January 8, 2001, the Department published interim final regulations, which provide more comprehensive guidance on these nondiscrimination provisions. New guidance in these regulations is generally applicable for plan years beginning on or after July 1, 2001. Because of the delayed applicability date, the new guidance is not addressed in this worksheet. However, Frequently Asked Questions and Answers are available on the Internet at: http://www.dol.gov/dol/pwba or by calling the PWBA toll-free publication hotline at 1-800-998-7542.

---

(9) Does the coverage provided by the MEWA or ECE comply with the nondiscrimination requirements that prohibit requiring any individual (as a condition of enrollment or continued enrollment) to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health factor? .... ➤ ☐ Yes ☐ No

- Section 702(b) of ERISA and § 2590.702(b) of the Department's regulations provide that a group health plan, and a group health insurance issuer, may not require any individual (as a condition of enrollment or continued enrollment under the plan) to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health factor (defined above).

- However, nothing restricts the amount that an employer may be charged for coverage under a group health plan and nothing prevents a plan or issuer from establishing premium discounts or rebates or modifying applicable copayments or deductibles in return for adherence to bona fide wellness programs.

- ****TIP**: On January 8, 2001, the Department published interim final regulations, which provide more comprehensive guidance on these nondiscrimination provisions. New guidance in these regulations is generally applicable for plan years beginning on or after July 1, 2001. Because of the delayed applicability date, the new guidance is not addressed in this worksheet. However, Frequently Asked Questions and Answers are available on the Internet at: http://www.dol.gov/dol/pwba or by calling the PWBA toll-free publication hotline at 1-800-998-7542.

---

(10) If the entity is a group health plan which is a multiemployer plan or a MEWA, does it comply with the guaranteed renewability requirements, which generally prohibit it from denying an employer whose employees are covered under a group health plan continued access to the same or different coverage under the terms of the plan? .... ➤ ☐ Yes ☐ No ☐ N/A

- Section 703 of ERISA provides that a group health plan that is a multiemployer plan or a MEWA may not deny an employer whose employees are covered under the plan continued access to the same or different coverage under the terms of the plan, other than: for nonpayment of contributions; for fraud or other intentional misrepresentation of material fact by the employer; for noncompliance with material plan provisions; because the plan is ceasing to offer any coverage in a geographic area; in the case of a plan that offers benefits through a network plan, because there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan acts without regard to the claims experience of the employer or any health factor in relation to those individuals or their dependents; and for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

- For other laws applicable to health insurance issuers that may provide additional guaranteed renewability requirements, check with an attorney or the Insurance Commissioner's Office in your State.

Worksheet B (Form M-1)	Determining Compliance with the Mental Health Parity Act (MHPA) Provisions in Part 7 of Subtitle B of Title I of ERISA Do NOT file this worksheet.	Department of Labor Pension and Welfare Benefits Administration

This worksheet may be used to help assess an entity's compliance with the MHPA provisions of Part 7 of Subtitle B of Title I (Part 7) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). However, it is not a complete description of all the provisions and is not a substitute for a comprehensive compliance review. Use of this worksheet is voluntary, and it should not be filed with your Form M-1.

If you answer "No" to the question below, you should review your entity's operations because the entity may not be in full compliance with the MHPA provisions in Part 7 of ERISA. If you need help answering this question or want additional guidance, you should contact the U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) office in your region or consult with legal counsel or a professional employee benefits adviser.

** Note: Under MHPA, there is a "sunset" provision providing that the law will cease to apply to benefits for services furnished on or after September 30, 2001. This provision may be eliminated or changed by future legislation.

Q. If the MEWA or ECE offers or provides coverage for both mental health benefits and medical/surgical benefits, does the coverage comply with the requirements of the MHPA provisions, which are contained in section 712 of ERISA? .... ➤ ☐ Yes ☐ No ☐ N/A

- Section 712 of ERISA and § 2590.712 of the Department's regulations generally provide for parity in the application of aggregate lifetime dollar limits and in the application of annual dollar limits between benefits for medical and surgical care and benefits for mental health coverage.
- These provisions do not require a group health plan or group health insurance coverage to provide any mental health coverage. Further, MHPA does not apply to benefits for treatment of substance abuse or chemical dependency.
- There are also exemptions for small employers and certain plans or coverage with increased costs.
- Finally, MHPA does not apply to benefits for services furnished on or after September 30, 2001.
- To find out more about these provisions, you can call the PWBA toll-free publication hotline at 1-800-998-7542 and request a copy of "Recent Changes in Health Care Law." This information can also be downloaded from the PWBA website at: www.dol.gov/dol/pwba. If you have questions, you can call the PWBA office nearest you or call the PWBA Division of Technical Assistance and Inquiries at 202-219-8776.

VOL 66 ISS 244 DE 19 2001 UMI

Worksheet C **(Form M-1)**	**Determining Compliance with the Newborns' and Mothers' Health Protection Act (Newborns' Act) Provisions in Part 7 of Subtitle B of Title I of ERISA** Do NOT file this worksheet.	Department of Labor Pension and Welfare Benefits Administration

This worksheet may be used to help assess an entity's compliance with the Newborns' Act provisions of Part 7 of Subtitle B of Title I (Part 7) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). However, it is not a complete description of all the provisions and is not a substitute for a comprehensive compliance review. Use of this worksheet is voluntary, and it should not be filed with your Form M-1.

If you answer "No" to either of the questions below, you should review your entity's operations because the entity may not be in full compliance with the Newborns' Act provisions in Part 7 of ERISA. If you need help answering these questions or want additional guidance, you should contact the U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) office in your region or consult with legal counsel or a professional employee benefits adviser.

(1) If the MEWA or ECE offers or provides benefits for hospital stays in connection with childbirth and is subject to the Newborns' Act, does the coverage comply with the Newborns' Act's substantive requirements, which are contained in section 711 of ERISA? .... ➤ ☐ Yes ☐ No ☐ N/A

- Section 711 of ERISA and § 2590.711 of the Department's regulations generally provide that a group health plan, and a group health insurance issuer, that offers benefits for hospital lengths of stay in connection with childbirth may not restrict benefits for any hospital length of stay in connection with childbirth for the mother or her newborn child, following a vaginal delivery to less than 48 hours, and following a cesarean section to less than 96 hours, unless the attending provider, in consultation with the mother, decides to discharge earlier.

- In addition, such a plan or issuer may not require that the provider obtain authorization from the plan or issuer for prescribing any length of hospital stay up to 48 hours following a vaginal delivery and up to 96 hours following a cesarean section. Nor may such a plan or issuer penalize an attending provider for providing care in a manner consistent with this law or provide incentives to an attending provider to provide care in a manner that is inconsistent with this law. Nor may such a plan or issuer deny the mother or newborn eligibility or continued eligibility, or provide incentives to mothers to encourage them to accept less than the minimum length of stay required. Nor may such a plan or issuer restrict benefits for any portion of a period within a hospital length of stay required by this law in a manner that is less favorable than the benefits provided for any preceding portion of the stay.

- **TIP: Check whether the federal Newborns' Act's requirements in section 711 of ERISA apply, or whether the coverage is instead subject to State law regulating such coverage. For this purpose, the following information is helpful:

  (A) Self-insured coverage: The federal Newborns' Act's requirements in section 711 of ERISA apply to self-insured benefits offered in connection with childbirth.

  (B) Insured coverage: On the other hand, State law (rather than federal law) applies to health insurance coverage offered in connection with childbirth if the State law meets certain criteria specified in ERISA section 711(f). Based on a preliminary review of State laws as of January 1, 2001, State law rather than federal law applies to health insurance coverage offered in connection with childbirth in all States and other U.S. jurisdictions except:

  Wisconsin, Puerto Rico, the Virgin Islands, American Samoa, Wake Island, and the Northern Mariana Islands.

  Therefore, the federal Newborns' Act provisions appear to apply to health insurance coverage in these States and jurisdictions.

---

(2) If the MEWA or ECE offers or provides benefits in connection with childbirth, are the disclosure requirements under the Newborns' Act satisfied? . . . . ➤ ☐ Yes ☐ No ☐ N/A

- Section 2520.102-3(u) of the Departments regulations requires all group health plans providing maternity benefits to include a statement in their summary plan descriptions advising individuals of the Newborns' Act's requirements. (Note: Parallel disclosure requirements are contained in section 711(d) of ERISA, if applicable (see discussion of federal Newborns' Act applicability above under Question 1).)

- For this purpose, a MEWA or ECE that is subject to the Newborns' Act's disclosure requirements through ERISA may use the following sample language:

  > Group health plans and health insurance issuers generally may not, under Federal law, restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, Federal law generally does not prohibit the mother's or newborn's attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 hours (or 96 hours as applicable). In any case, plans and issuers may not, under Federal law, require that a provider obtain authorization from the plan or the issuer for prescribing a length of stay not in excess of 48 hours (or 96 hours).

- A similar disclosure requirement applies to nonfederal governmental plans. For mandated language required to be used with respect to such plans, see 45 CFR § 146.130(d)(2) (published in the **Federal Register** at 63 FR 57561 on October 27, 1998).

VOL 66 ISS 244 DE 19 2001 UMI

Worksheet D **(Form M-1)**	**Determining Compliance with the Women's Health and Cancer Rights Act (WHCRA) Provisions in Part 7 of Subtitle B of Title I of ERISA** Do NOT file this worksheet.	Department of Labor Pension and Welfare Benefits Administration

This worksheet may be used to help assess an entity's compliance with the WHCRA provisions of Part 7 of Subtitle B of Title I (Part 7) of the Employee Retirement Income Security Act of 1974, as amended (ERISA). However, it is not a complete description of all the provisions and is not a substitute for a comprehensive compliance review. Use of this worksheet is voluntary, and it should not be filed with your Form M-1.

If you answer "No" to either of the questions below, you should review your entity's operations because the entity may not be in full compliance with the WHCRA provisions in Part 7 of ERISA. If you need help answering these questions or want additional guidance, you should contact the U.S. Department of Labor's Pension and Welfare Benefits Administration (PWBA) office in your region or consult with legal counsel or a professional employee benefits adviser.

---

(1) If the MEWA or ECE offers or provides mastectomy coverage, does the coverage comply with WHCRA's substantive requirements, which are contained in section 713 of ERISA? ➤ ☐ Yes ☐ No ☐ N/A

- Section 713 of ERISA generally provides that a group health plan, and a group health insurance issuer, that offers mastectomy coverage must also provide coverage for reconstructive surgery in a manner determined in consultation with the attending physician and the patient. Coverage includes all stages of reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance, and prostheses and treatment of physical complications of the mastectomy, including lymphedemas.
- In addition, a plan or issuer may not deny a patient eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of WHCRA. Nor may a plan or issuer penalize or otherwise reduce or limit the reimbursement of an attending provider, or provide incentives (monetary or otherwise) to an attending provider, to induce such provider to furnish care to an individual participant or beneficiary in a manner inconsistent with WHCRA.
- Plans and issuers may impose deductibles or coinsurance requirements for reconstructive surgery, prostheses, and treatment of physical complications in connection with a mastectomy, but only if the deductibles and coinsurance are consistent with those established for other benefits under the plan or coverage.
- State law protections may apply to certain health insurance coverage if the State law was in effect on October 21, 1998 (the date of enactment of WHCRA) and the State law requires at least the coverage for reconstructive breast surgery that is required by WHCRA.

---

(2) If the MEWA or ECE offers or provides mastectomy coverage, are the disclosure requirements under WHCRA satisfied? ➤ ☐ Yes ☐ No ☐ N/A

- Section 713(b) of ERISA establishes a one-time notice requirement under which group health plans, and their health insurance issuers, must furnish a written description of the benefits that WHCRA requires. This notice is required to be furnished as part of the first general mailing made after October 21, 1998 by group health plans, and their health insurance issuers, or in any yearly information packet sent out regarding the plan, but, in any event, the one-time notice is required to be furnished not later than January 1, 1999.
- Section 713(a) of ERISA establishes a disclosure requirement under which group health plans, and their health insurance issuers, must again describe the benefits required under WHCRA, but the notice is to be provided to participants upon enrollment in the plan and annually thereafter.
- The enrollment notice must describe the benefits that WHCRA requires the group health plan, and its insurance companies or HMOs, to cover. If the following information is provided, then the group health plan is in compliance with this requirement. The enrollment notice indicates that, in the case of a participant or beneficiary who is receiving benefits in connection with a mastectomy, coverage will be provided in a manner determined in consultation with the attending physician and the patient, for all stages of reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other breast to produce a symmetrical appearance, and prostheses and treatment of physical complications of the mastectomy, including lymphedema. Additionally, the enrollment notice describes any deductibles and coinsurance limitations applicable to such coverage. Under WHCRA, coverage of breast reconstruction benefits may be subject only to deductibles and coinsurance limitations consistent with those established for other benefits under the plan or coverage.

Question #2 is continued on the next page.

- WHCRA's annual notice must include: (1) information on the availability of benefits for the treatment of mastectomy-related services, including reconstructive surgery, prosthesis, and lymphedema under the plan; and (2) information (telephone number, web address, etc.) on how to obtain a detailed description of the mastectomy-related benefits available under the plan. The following examples illustrate how the annual notice requirement may be satisfied:

  (A) An entity distributes the enrollment notice to participants on an annual basis.

  (B) An entity annually distributes the following model notice informing participants: "Did you know that your plan, as required by the Women's Health and Cancer Rights Act of 1998, provides benefits for mastectomy-related services including reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy (including lymphedema)? Call your Plan Administrator [insert phone number] for more information."

  (C) In October of every year, an entity delivers to each participant (including those on COBRA) an issue of a periodical benefits newsletter with the following statement in a prominent place on the front page: "IMPORTANT NOTICE ABOUT YOUR RIGHTS UNDER YOUR GROUP HEALTH PLAN: October is National Breast Cancer Awareness Month. Your plan, [*or identify plan by name*], provides benefits for mastectomy-related services including reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy (including lymphedema). Keep this notice for your records and call your Plan Administrator for more information."

[FR Doc. 01–31252 Filed 12–18–01; 8:45 am]

BILLING CODE 4510–29–C

Reader Aids

Federal Register

Vol. 66, No. 244

Wednesday, December 19, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7507 62907
7508 62909
7509 62911
7510 63149
7511 63899
7512 64497
7513 64095
7514 65089

Executive Orders:

11582 (See EO 13238) 63903
12958 (See Order of December 10, 2001) 64347
13238 63903
13239 64907

Orders:

Order of December 10, 2001 64347

Administrative Orders:

Presidential Determinations:

No. 02–07 of November 21, 2001 63487

Memorandums:

December 7, 2001 64735

5 CFR

302 63905
317 63905
330 63905
333 63905
335 63905
534 63906
591 63906
930 63906
6001 60139

Proposed Rules:

890 64160

7 CFR

301 63151
989 65423

Proposed Rules:

81 64918
352 63005
1410 63339

9 CFR

70 63588
78 63910
88 63588
94 ..... 62913, 63910, 63911

Proposed Rules:

94 63633

10 CFR

20 64737
30 64737
32 64737
34 64737
40 64737
50 64737
51 64737
430 65091

Proposed Rules:

54 65141
72 63964

12 CFR

5 62914
1773 65097

Proposed Rules:

Ch. IX 63008
226 64381
360 65144
584 63517
1750 65146

13 CFR

120 64739

14 CFR

25 64349
39 ..... 60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427
71 ..... 63489, 63623, 64909, 64910
73 63433
91 63888
93 63294
97 ..... 64139, 64141
107 63474
108 63474

Proposed Rules:

39 ..... 63009, 63010, 63341, 64925, 64928, 64931
71 ..... 60162, 63517
93 64778

15 CFR

801 ..... 63916, 63918

16 CFR

3 64142
4 64142
305 63749

17 CFR

Proposed Rules:

15 64383

18 CFR

381 63162

19 CFR

12......63490

20 CFR

655......63298

Proposed Rules:

404......63634

21 CFR

1......65429
510......63163, 63164, 63499
520......63165, 63166
524......63164
556......62916
558......62916, 63499, 63500

Proposed Rules:

500......63519
1310......64173

24 CFR

30......63436

Proposed Rules:

5......65162
202......65162

26 CFR

1......63920
301......64351, 64740, 64911
602......64076, 64351

Proposed Rules:

1......63203, 64385, 64904
301......64386
602......64386

28 CFR

Proposed Rules:

97......64934

29 CFR

578......63501
579......63501
580......63501
4022......64744
4044......64744

Proposed Rules:

470......65163
1910......64946
1915......64946
1926......64946
1928......64946

30 CFR

256......60147
918......64746
944......62917

Proposed Rules:

936......63968

31 CFR

211......63623

33 CFR

100......63624
117......62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104
165......60151, 62940, 64144, 64912, 65105

Proposed Rules:

1......63640
147......63642
165......64778
175......63645
181......63650

34 CFR

Proposed Rules:

Ch. VI......63203

37 CFR

201......62942, 63920

Proposed Rules:

255......64783

38 CFR

17......63446, 63449, 64904
20......60152

Proposed Rules:

3......64174

39 CFR

20......64353

40 CFR

8......63454
9......65256
52......63311, 63921, 64146, 64148, 64750, 64751
62......63311, 63938, 64151, 64152, 65448
63......63313, 65072
70......62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81......64751
122......65256
123......65256
124......65256
125......65256
152......64759
156......64759
180......63192, 64768, 65450
261......60153, 62973
271......63331
300......64357
721......63941

Proposed Rules:

52......63204, 63343, 63972, 63982, 64176, 64783
60......64176
62......63985, 64207, 64208, 65460
63......65079
80......60153, 65164
89......65164
90......65164
91......65164
300......64387
1048......65164
1051......65164
1065......65164
1068......65164

41 CFR

61–250......65452

42 CFR

411......60154
1001......62980, 63749

Proposed Rules:

1001......65460

43 CFR

3600......63334
3610......63334
3620......63334
3800......63334

44 CFR

64......63627
65......65107, 65110
67......65115, 65120

Proposed Rules:

61......60176

46 CFR

Proposed Rules:

67......64784

47 CFR

1......62992
25......63512
54......64775
73......60156, 60157, 63199, 63629, 64776, 64777, 65122
76......62992
101......63512

Proposed Rules:

1......64785
2......64785
51......63651, 64946
73......63209, 63653, 63654, 63986, 63997, 64792, 65164
87......64785

48 CFR

Ch. 1......65346, 65372
2......65349, 65351, 65353
5......65370
8......65367
11......65351
12......65370
15......65351, 65368, 65369
19......65370
22......65370
23......65351, 65370
25......65349, 65370
32......65353
39......65371
42......65351
44......65367
52......65349, 65353, 65367, 65370
53......65370
202......63334
212......63335
215......63334
217......63336
237......63335
242......63334

Proposed Rules:

235......63348
1823......64391
1836......64391
1852......64391

49 CFR

241......63942
571......60157, 64154, 64358, 65376
572......64368

Proposed Rules:

107......63096
171......63096
172......63096
173......63096
177......63096
178......63096
180......63096
219......64000
567......65536
571......65536
573......64078, 64087, 65165
574......65536
575......65536
577......64078, 64087

50 CFR

17......62993, 63752
230......64378
600......63199
622......60161
635......63003, 64378
648......63003, 65454
660......63199, 63630
679......64380, 64915

Proposed Rules:

17......63349, 63654
20......63665
21......63349, 63665
222......64793
223......64793
224......64793
648......63013, 63666, 64392
679......65028

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 19, 2001

AGRICULTURE DEPARTMENT

Agricultural Research Service

- Freedom of Information Act; implementation; published 11-19-01

AGRICULTURE DEPARTMENT

Cooperative State Research, Education, and Extension Service

- Freedom of Information Act; implementation; published 11-19-01

AGRICULTURE DEPARTMENT

Economic Research Service

- Freedom of Information Act; implementation; published 11-19-01

AGRICULTURE DEPARTMENT

National Agricultural Statistics Service

- Freedom of Information Act; implementation; published 11-19-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Magnuson-Stevens Act provisions—
    - Fishery management council operations; published 11-19-01

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

- Consumer products; energy conservation program:
  - Energy conservation standards—
    - Electric refrigerators; published 11-19-01

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Montana; correction; published 11-19-01
- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Sethoxydim
    - Correction; published 12-19-01

TRANSPORTATION DEPARTMENT

Coast Guard

- Regattas and marine parades:
  - Patapsco River, Baltimore, MD; fireworks display; published 11-19-01
  - Virginia Beach, VA; fireworks display; published 11-19-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Aerospatiale; published 4-16-01
  - Boeing; published 11-14-01
  - Rolls-Royce Corp.; published 12-4-01

VETERANS EMPLOYMENT AND TRAINING SERVICE

- Annual report from Federal contractors; published 12-19-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Voluntary Federal seed testing and certification services and preliminary test reports; fees; comments due by 12-24-01; published 10-23-01 [FR 01-26592]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:
  - Citrus canker; comments due by 12-27-01; published 11-27-01 [FR 01-29473]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Atlantic highly migratory species—
    - Quotas and trade monitoring; comments due by 12-24-01; published 11-15-01 [FR 01-28646]
  - Northeastern United States fisheries—
    - Summer flounder, scup, and black sea bass; comments due by 12-28-01; published 12-13-01 [FR 01-30828]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - West Virginia; comments due by 12-27-01; published 11-27-01 [FR 01-29471]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28852]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28851]
- Radioactive waste disposal:
  - Transuranic radioactive waste characterization program documents for disposal at Waste Isolation Pilot Plant—
    - Hanford Site, WA; comments due by 12-27-01; published 11-27-01 [FR 01-29454]
    - Savannah River Site, SC; comments due by 12-27-01; published 11-27-01 [FR 01-29455]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29469]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29470]

FEDERAL COMMUNICATIONS COMMISSION

- Radio stations; table of assignments:
  - Kentucky and Virginia; comments due by 12-24-01; published 11-21-01 [FR 01-29087]
  - North Carolina and South Carolina; comments due by 12-26-01; published 11-20-00 [FR 00-29626]
- Television broadcasting:
  - Cable television systems—
    - Horizontal and vertical ownership limits and broadcast and MDS attribution rules; comments due by 12-26-01; published 10-11-01 [FR 01-25479]

FEDERAL RESERVE SYSTEM

- Risk-based capital:
  - Supplementary capital elements (tier 2 capital); deferred tax assets (Regulations H and Y); comments due by 12-27-01; published 11-27-01 [FR 01-29331]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

- Medicare and Medicaid:
  - Fire safety standards for certain health care facilities; comments due by 12-26-01; published 10-26-01 [FR 01-25422]
- Medicare:
  - Medicaid upper payment limit for non-State government-owned or operated hospitals; modification; comments due by 12-24-01; published 11-23-01 [FR 01-29327]
  - Supplementary medical insurance premium surcharge agreements; comments due by 12-26-01; published 10-26-01 [FR 01-27120]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

- Mortgage and loan insurance programs:
  - Single family mortgage insurance—
    - Section 203(k) consultant placement and removal procedures; comments due by 12-24-01; published 10-24-01 [FR 01-26709]

INTERIOR DEPARTMENT

Fish and Wildlife Service

- Endangered and threatened species:
  - Critical habitat designations—
    - Kneeland Prairie penny-cress; comments due by 12-24-01; published 10-24-01 [FR 01-26711]
    - Southwestern Washington/Columbia River coastal

VOL 66 ISS 244 DE 19 2001 UMI

cutthroat trout; comments due by 12-24-01; published 11-23-01 [FR 01-29218]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Illinois; comments due by 12-27-01; published 11-27-01 [FR 01-29452]

JUSTICE DEPARTMENT

Drug Enforcement Administration

Records, reports, and exports of listed chemicals:

Gamma-butyrolactone; threshold establishment; comments due by 12-24-01; published 10-24-01 [FR 01-26741]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Grant and Cooperative Agreement Handbook; cooperative agreements with cooperative firms; policy clarification, process improvements, etc.; comments due by 12-28-01; published 10-29-01 [FR 01-26622]

INTERIOR DEPARTMENT

National Indian Gaming Commission

Indian Gaming Regulatory Act:

Environment, public health, and safety; comments due by 12-29-01; published 11-9-01 [FR 01-28154]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:

Leyse, Robert H.; comments due by 12-26-01; published 10-12-01 [FR 01-25672]

Nuclear Energy Institute; comments due by 12-26-01; published 10-11-01 [FR 01-25565]

TRANSPORTATION DEPARTMENT

Coast Guard

Offshore supply vessels:

Alternative compliance program; incorporation; comments due by 12-24-01; published 10-23-01 [FR 01-26563]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 12-24-01; published 11-23-01 [FR 01-29194]

BAE Systems (Operations) Ltd.; comments due by 12-24-01; published 11-23-01 [FR 01-29196]

Bell; comments due by 12-28-01; published 10-29-01 [FR 01-26966]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Dassault; comments due by 12-26-01; published 11-26-01 [FR 01-29342]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Enstrom Helicopter Corp.; comments due by 12-28-01; published 10-29-01 [FR 01-26965]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Honeywell; comments due by 12-28-01; published 10-29-01 [FR 01-26968]

Short Brothers; comments due by 12-24-01; published 11-23-01 [FR 01-29195]

Airworthiness standards:

Special conditions—

Boeing 747-200/-300 series airplanes; comments due by 12-24-01; published 11-7-01 [FR 01-27986]

Applications, hearings, determinations, etc.:

BAE Systems (Operations) Ltd.; comments due by 12-28-01; published 11-28-01 [FR 01-29599]

Class E airspace; comments due by 12-24-01; published 11-7-01 [FR 01-27990]

Jet routes; comments due by 12-24-01; published 11-7-01 [FR 01-28001]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:

Highway bridge replacement and rehabilitation program; comments due by 12-26-01; published 9-26-01 [FR 01-24091]

National bridge inspection standards; comments due by 12-26-01; published 9-26-01 [FR 01-24092]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Universal adjudication rules applicable to benefit claims; decisions finality; comments due by 12-24-01; published 10-23-01 [FR 01-26558]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 2291/P.L. 107–82

To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes. (Dec. 14, 2001; 115 Stat. 814)

H.J. Res. 78/P.L. 107–83

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 15, 2001; 115 Stat. 822)

Last List December 14, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

VOL
66
ISS
2
4
4
DE
19
2001
UMI

Printed on recycled paper

VOL
66

ISS
2
4
5

DE
20

2001

UMI

Unit
Gov
Print
SUPER
OF DO
Washi
OFFIC
Penalty

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–20–01
Vol. 66 No. 245

Thursday
Dec. 20, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL

66

ISS

2

4

5

DE

20

2001

UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–20–01
Vol. 66 No. 245
Pages 65597–65810

Thursday
Dec. 20, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 66, No. 245

Thursday, December 20, 2001

Agriculture Department

See Animal and Plant Health Inspection Service
See Food and Nutrition Service
See Forest Service
NOTICES
Emergency declarations:
  Maine; Atlantic salmon; infectious salmon anemia, 65679–65680

Animal and Plant Health Inspection Service

RULES
Interstate transportation of animals and animal products (quarantine):
  Swine; interstate movement within production system, 65598–65604

Army Department

See Engineers Corps
RULES
Procurement:
  DOD freight motor carriers, exempt surface freight forwarders, shippers agents, and freight brokers qualifying program; CFR part removed, 65651–65652

Children and Families Administration

NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65717
Grants and cooperative agreements; availability, etc.:
  Family Violence Prevention and Services Program; correction, 65717–65722

Coast Guard

NOTICES
Committees; establishment, renewal, termination, etc.:
  Lower Mississippi River Waterways Safety Advisory Committee, 65775
Meetings:
  Houston/Galveston Navigation Safety Advisory Committee, 65775–65776

Commerce Department

See Export Administration Bureau
See National Oceanic and Atmospheric Administration
RULES
Freedom of Information Act and Privacy Act; implementation, 65631–65651

Community Development Financial Institutions Fund

NOTICES
Reports and guidance documents; availability, etc.:
  New Markets Tax Credit Program
    Community development entities certification, 65805–65810

Customs Service

NOTICES
Customhouse broker license cancellation, suspension, etc.:
  Behring International, Inc., et al., 65777
  Hoskins, Harry I., et al., 65777–65778
  Maritime Co. for Navigation, 65778
  McKenzie, B.A., et al., 65778

Defense Department

See Army Department
See Engineers Corps
PROPOSED RULES
Acquisition regulations:
  Research and development streamlined contracting procedures
    Correction, 65676
Federal Acquisition Regulation (FAR):
  Architect-engineer contractors; new consolidated form for selection, 65791–65792

Drug Enforcement Administration

NOTICES
Applications, hearings, determinations, etc.:
  Cedarburg Pharmaceuticals, LLC, 65744
  Cerilliant Corp., 65744–65746
  Isotec Inc., 65746–65747

Education Department

NOTICES
Grants and cooperative agreements; availability, etc.:
  Elementary and secondary education—
    National Assessment of Educational Progress—Secondary Analysis Program, 65793–65794

Energy Department

See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  Basic Energy Sciences Program et al., 65682–65685
Meetings:
  Environmental Management Site-Specific Advisory Board—
    Fernald Site, OH, 65685–65686
    Nevada Test Site, NV, 65685

Energy Efficiency and Renewable Energy Office

NOTICES
Financial assistance rules:
  Objective merit review of discretionary financial assistance applications, 65686–65687

Engineers Corps

NOTICES
Environmental statements; notice of intent:
  Benny's Bay, Mississippi River Delta, LA: ecosystem restoration analysis, 65681–65682

Environmental Protection Agency

NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65706
  Submission for OMB review; comment request, 65706–65708

Executive Office of the President

See Trade Representative, Office of United States

VOL 66
ISS 245
DE 20 2001
UMI

Export Administration Bureau
PROPOSED RULES
Export administration regulations:
  Missile technology-controlled items destined to Canada; export and reexport licensing exemption removal, 65666–65667

Federal Aviation Administration
RULES
Airworthiness directives:
  Sikorsky, 65629–65631
PROPOSED RULES
Airworthiness directives:
  Cessna; withdrawn, 65666
  Fairchild, 65663–65666

Federal Election Commission
NOTICES
Computerized voting systems; voluntary standards; comment request, 65708–65710

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
  Various States, 65668–65676
NOTICES
Disaster and emergency areas:
  Alabama, 65710
  Puerto Rico, 65710

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
  American Electric Power Service Corp. et al.; 65690–65693
  New England Power Co. et al., 65693–65696
Environmental statements; availability, etc.:
  Iroquois Gas Transmission System, L.P., 65696–65697
Environmental statements; notice of intent:
  Iroquois Gas Transmission System, L.P., 65697–65698
Hydroelectric applications, 65698–65699
Applications, hearings, determinations, etc.:
  Consumers Energy Co., 65687–65688
  High Island Offshore System, L.L.C., 65688
  Hill-Lake Gas Storage, L.P., 65688
  PG&E Gas Transmission, Northwest Corp., 65688–65689
  Wyoming Interstate Co., Ltd., 65689–65690

Federal Maritime Commission
NOTICES
Ocean transportation intermediary licenses:
  LOA Int' l (USA) Transport Co., Inc., et al., 65710

Federal Reserve System
RULES
Truth in lending (Regulation Z):
  Home-equity lending market—
    Abusive lending practices; additional disclosure requirements and substantive limitations for certain loans; implementation; and predatory lending practices, 65604–65622

Federal Trade Commission
NOTICES
Prohibited trade practices:
  Koninklijke Ahold N.V. and Bruno's Supermarkets, Inc., 65711–65713
  Nestle Holdings, Inc. and Ralston Purina Co., 65713–65716

Food and Drug Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65723
Reports and guidance documents; availability, etc.:
  Medical devices—
    Reprocessed single use devices; labeling; comment request, 65723–65724

Food and Nutrition Service
RULES
Child nutrition programs:
  Child and adult care food program—
    Infant meal patterns; and meal pattern tables for suppers and supplemental foods; corrections, 65597–65598

Forest Service
NOTICES
Meetings:
  Hood/Willamette Resource Advisory Committee, 65680
  Madera County and Fresno County Resource Advisory Committees, 65680
Reports and guidance documents; availability, etc.:
  Forest Transportation System analysis; roadless area protection, 65795–65804

General Services Administration
PROPOSED RULES
Federal Acquisition Regulation (FAR):
  Architect-engineer contractors; new consolidated form for selection, 65791–65792

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
NOTICES
Meetings:
  Secretary's Regulatory Reform Advisory Committee, 65716–65717

Indian Affairs Bureau
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65724
Indian Child Welfare Act:
  Designated Tribal Agents; annual list, 65725–65740
Tribal-State Compacts approval; Class III (casino) gambling:
  Pueblo of Taos, NM, 65740

Interior Department
See Indian Affairs Bureau

International Trade Commission
NOTICES
Import investigations:
  Film and television productions from—
    Canada, 65740
  Gray portland cement and cement clinker from—
    Mexico, 65740–65742
Meetings:
  Documents; electronic filing and maintenance issues; forum, 65742–65743

Judicial Conference of the United States

NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Bankruptcy Procedure Rules and Criminal Procedure Rules; hearings cancelled, 65743

Justice Department

See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
New York City, NY, et al., 65743–65744

National Aeronautics and Space Administration

PROPOSED RULES
Federal Acquisition Regulation (FAR):
Architect-engineer contractors; new consolidated form for selection, 65791–65792

National Archives and Records Administration

RULES
Privacy Act; implementation, 65652–65658
NOTICES
Reports and guidance documents; availability, etc.:
Federal Government; current recordkeeping practices, 65747

National Credit Union Administration

RULES
Credit unions:
Definitions and technical corrections, 65622–65624
Organization and operations—
Chartering and field of membership policy, 65625–65628
Compensation; definition amended, 65628–65629
PROPOSED RULES
Credit unions:
Organization and operations—
Reasonable retirement benefits for employees and officers, 65662–65663
NOTICES
Credit unions:
Community Development Revolving Loan Program; application period, 65747

National Oceanic and Atmospheric Administration

RULES
Endangered and threatened species:
Sea turtle conservation—
Shrimp trawling requirements; Atlantic Ocean and Gulf of Mexico; turtle excluder devices, 65658–65660
Fishery conservation and management:
Northeastern United States fisheries—
Summer flounder, 65660
PROPOSED RULES
Endangered and threatened species:
Findings on petitions, etc.—
Atlantic white marlin, 65676–65678
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65680–65681

National Science Foundation

NOTICES
Agency information collection activities:
Proposed collection; comment request, 65748–65749

Nuclear Regulatory Commission

PROPOSED RULES
Production and utilization facilities; domestic licensing:
Light water reactor electric generating plants; fire protection, 65661–65662
NOTICES
Environmental statements; availability, etc.:
Exelon Generation Co., LLC, 65752–65766
Meetings:
Reactor Safeguards Advisory Committee, 65766–65767
Applications, hearings, determinations, etc.:
AmerGen Energy Co., LLC, 65749–65751
Mallinckrodt, Inc., 65751–65752

Ocean Policy Commission

NOTICES
Meetings, 65767

Office of United States Trade Representative

See Trade Representative, Office of United States

Postal Service

RULES
International Mail Manual:
Global Express Guaranteed; discounted rates for online customers, 65779–65790
PROPOSED RULES
Domestic Mail Manual:
Bedloaded bundles of periodicals, 65668

Public Health Service

See Food and Drug Administration

Securities and Exchange Commission

NOTICES
Self-regulatory organizations; proposed rule changes:
Emerging Markets Clearing Corp., 65767–65768
Government Securities Clearing Corp., 65768–65769
MBS Clearing Corp., 65769–65770
Options Clearing Corp., 65770–65773

Small Business Administration

NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65773

Surface Transportation Board

NOTICES
Railroad operation, acquisition, construction, etc.:
RailAmerica, Inc., 65776–65777
Railroad services abandonment:
Norfolk Southern Railway Co., 65777

Trade Representative, Office of United States

NOTICES
African Growth and Opportunity Act; implementation:
Zambia; benefits eligibility determination, 65773–65774

Transportation Department

See Coast Guard
See Federal Aviation Administration
See Surface Transportation Board
NOTICES
Aviation proceedings:
Agreements filed; weekly receipts, 65774
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 65774–65775

Treasury Department

See Community Development Financial Institutions Fund
See Customs Service

Veterans Affairs Department

NOTICES

Agency information collection activities:
  Submission for OMB review; comment request, 65778

Western Area Power Administration

NOTICES

Environmental statements; availability, etc.:
  Los Banos-Gates Transmission Project, CA; construction to relieve California blackouts, 65699–65702
Floodplain and wetlands protection; environmental review; notice of intent:
  Havre-Rainbow Transmission Line Rebuild Project, MT, 65702
Power rate adjustments:
  Western Area Colorado-Missouri control area; Energy Imbalance Service, 65703–65706

Separate Parts In This Issue

Part II

Postal Service, 65779–65790

Part III

Defense Department; General Services Administration; National Aeronautics and Space Administration, 65791–65792

Part IV

Education Department, 65793–65794

Part V

Agriculture Department, Forest Service, 65795–65804

Part VI

Treasury Department, Community Development Financial Institutions Fund, 65805–65810

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR	
210	65597
226	65597
9 CFR	
71	65598
85	65598
10 CFR	
Proposed Rules:	
50	65661
12 CFR	
226	65604
700	65622
701 (3 documents)	65622, 65625, 65628
712	65622
715	65622
723	65622
725	65622
790	65622
Proposed Rules:	
701	65662
14 CFR	
39	65629
Proposed Rules:	
39 (2 documents)	65663, 65666
15 CFR	
4	65631
4a	65631
4b	65631
Proposed Rules:	
738	65666
742	65666
32 CFR	
619	65651
36 CFR	
1202	65652
39 CFR	
20	65780
Proposed Rules:	
111	65668
44 CFR	
Proposed Rules:	
67 (2 documents)	65668, 65671
48 CFR	
Proposed Rules:	
1	65792
36	65792
53	65792
235	65676
50 CFR	
222	65658
223	65658
648	65660
Proposed Rules:	
223	65676
224	65676

Rules and Regulations

Federal Register
Vol. 66, No. 245
Thursday, December 20, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 226

RIN 0584–AB81

Child and Adult Care Food Program and Infant Meal Patterns; Correction

AGENCY: Food and Nutrition Service, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains a correction to the infant meal pattern tables that appear in the current edition of the Code of Federal Regulations that appear under 7 CFR parts 210 and 226. This error first appeared in an interim rule published in the **Federal Register** on November 15, 1999 (64 FR 61770). This document also contains corrections to the meal pattern tables for suppers and supplemental foods that appear in 7 CFR part 226. The errors first appeared in a final rule published in the **Federal Register** on March 9, 2000 (65 FR 12429).

EFFECTIVE DATE: December 20, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rothstein, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302; or (703) 305–2590; or *CNDINTERNET@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

The regulatory text in §§ 210.10(o)(2)(iii)(B) and 226.20(b)(4) indicates that servings of cottage cheese, cheese food, and cheese spread in the lunch pattern for infants are measured in ounces. In an interim rule published in the **Federal Register** on November 15, 1999 (64 FR 61770), the infant meal pattern tables that appear in §§ 210.10(o)(2) and 226.20(b)(4) incorrectly refer to tablespoons instead of ounces. This document corrects the tables to indicate that a serving of cottage cheese, cheese food, or cheese spread is to be measured in ounces.

In a final rule published in the **Federal Register** on March 9, 2000 (65 FR 12429), the meal pattern table in § 226.20(c)(3) contained incorrect information for the fluid milk requirement for adult participants receiving suppers under the Child and Adult Care Food Program. The meal pattern table in § 226.20(c)(4) contained incorrect amounts of meat and meat alternates that may be offered as part of a reimbursable snack. This document corrects these errors.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 226

Accounting, Aged, Day care, Food assistance programs, Grant programs, Grant programs-health, Indians, Individuals with disabilities, Infants and children, Intergovernmental relations, Loan programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 210 and 226 are corrected by the following amendments:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.10, amend the Lunch Pattern for Infants table in paragraph (o)(2) by removing the word "tablespoons" before the words "of cottage cheese" in column 4 and adding the word "ounces" in its place.

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for 7 CFR part 226 continues to read as follows:

Authority: Sections 9, 11, 14, 16 and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.20:

a. Amend the Child Care Infant Meal Pattern table in paragraph (b)(4) by removing the word "Tbsp." before the words "Cottage cheese" in column 4 and adding the word "ounces" in its place;

b. Amend the table in paragraph (c)(3) by removing the words "1 cup." from the first line of column 5 and adding the word "None." in its place;

c. Amend the table in paragraph (c)(4) by revising the entries for "Lean meat or poultry or fish[6] or", "Alternate protein products[7] or", and "Cheese or" under the "Meat and Meat Alternates" heading to read as follows:

§ 226.20 Requirements for meals.

* * * * *

(c) * * *

(4) * * *

VOL 66 ISS 245 DE 20 2001 UMI

Food components[1]	Age 1 and 2	Age 3 through 5	Age 6 through 12[2]	Adult participants
* * *	*	*	*	*
Meat and Meat Alternates:				
Lean meat or poultry or fish[6] or	½ ounce	½ ounce	1 ounce	1 ounce
Alternate protein products[7] or	½ ounce	½ ounce	1 ounce	1 ounce
Cheese or	½ ounce	½ ounce	1 ounce	1 ounce
* * *	*	*	*	*

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

[2] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.

* * * * *

[6] Edible portions must be served.

[7] Must meet the requirements in Appendix A of this part.

* * * * *

Dated: December 7, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–31161 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 71 and 85

[Docket No. 98–023–2]

RIN 0579–AB28

Interstate Movement of Swine Within a Production System

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to establish an alternative to the current requirements for moving swine interstate. Under this alternative, persons may move swine interstate without meeting individual swine identification and certain other requirements if they move the swine within a single swine production system, and if each swine production system signs an agreement with the Animal and Plant Health Inspection Service and involved State governments to monitor the health of animals moving within the swine production system and to facilitate traceback of these animals if necessary. This action will facilitate the interstate movement of swine while continuing to provide protection against the interstate spread of swine diseases. This action will affect persons engaged in swine production who regularly move swine interstate in their business operations.

EFFECTIVE DATE: January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Taft, Senior Staff Veterinarian, National Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–4916.

SUPPLEMENTARY INFORMATION:

Background

The regulations in subchapter C of chapter I, title 9, Code of Federal Regulations, govern the interstate movement of animals to prevent the dissemination of livestock and poultry diseases in the United States. Parts 71 and 85 (referred to below as the regulations) are included in subchapter C. Part 71 relates to the interstate movement of animals, poultry, and animal products, and includes animal identification requirements for swine moving interstate. Part 85 imposes requirements to control the spread of pseudorabies and includes certificate and other requirements for the interstate movement of swine.

On September 21, 2000, we published in the **Federal Register** (65 FR 57106–57113, Docket No. 98–023–1) a proposal to amend the regulations by establishing an alternative to the current requirements for moving swine interstate.

With some exceptions, parts 71 and 85 require swine moving interstate to be individually identified. As we explained in our September 2000 proposed rule, these regulations were written when swine (other than valued breeding stock) were generally moved interstate only when a change in ownership occurred, usually when they were shipped to slaughter. However, today swine move interstate while they are raised for slaughter or breeding under a swine production system, and while they remain under the control of a single owner or group of contractually related owners.

In order to better accommodate this new model of swine production, we proposed alternative requirements. As proposed, producers could move swine interstate under our alternative procedures if they meet the following requirements:

- The producers have a written swine production health plan (SPHP) signed by the producer(s), the accredited veterinarian(s) for the premises, the Animal and Plant Health Inspection Service (APHIS), and the States in which the producers in the swine production system have premises.
- One or more accredited veterinarians identified in the SPHP will regularly visit each premises in the swine production system to inspect and test swine and will continually monitor the health of the swine in the swine production system. Swine may only be moved interstate if they have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian(s).
- The SPHP describes a records system maintained by the producers to document the health status of the swine.
- Prior to each interstate movement of swine between premises within a swine production system, an interstate swine movement report must be sent to APHIS, the accredited veterinarian for the premises, and the sending and receiving States. That report must document the number, type, and health status of the swine being moved. Each of these requirements was discussed in detail in our proposal.

We solicited comments concerning our proposal for 60 days ending November 20, 2000. We received nine comments by that date. They were from representatives of State governments, veterinarians, and pork producers and pork producer organizations. They are discussed below by topic.

Contractual Versus Ownership Relationships in Swine Production Systems

One commenter addressed proposed § 71.19(h)(1), which states that "swine may be moved interstate only to another premises owned and operated by the same swine production system." This commenter stated that this language should be broad enough to allow movements where one producer does not necessarily own and operate both sites, but there is a contractual relationship between two producers, which could include a change in ownership of the animals.

We agree, and have changed the language in § 71.19(h)(1) to read "swine may be moved interstate only to another premises identified in a valid swine production health plan for the swine production system." This language is also more consistent with the definition of *swine production system*, which reads "A swine production enterprise that consists of multiple sites of production, *e.g.*, sow herds, nursery herds, and growing or finishing herds, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners."

Certificates

One commenter noted that the preamble of the proposed rule referred to a "health certificate," and stated that "a more accurate term is 'certificate of veterinary inspection' because the Federal or accredited veterinarian is not certifying the health status of the animals, but instead is certifying that animals were inspected and found to comply with the statements contained in the certificate."

We are not making any change to the regulatory text of the rule in response to this comment, although we have changed the preamble of this final rule so that it no longer refers to "health certificates." We agree that the preamble of the proposed rule incorrectly referred to certificates as "health certificates," a term that is not used anywhere in the regulations we are amending. Part 85 defines the term "certificate," and we believe this definition is consistent with the concerns of the commenter. We are not changing the defined term from "certificate" to "certificate of veterinary inspection" because that could cause even more confusion. Statements in certificates are not limited to facts that could be disclosed directly by veterinary inspection, but also include such items as the identities of the consignor and consignee, the purpose of the movement, and the points of origin and destination.

APHIS Participation

Several commenters stated that APHIS need not sign SPHP's or be notified if an SPHP is cancelled, and should not be empowered to cancel an SPHP. We are not making any changes based on these comments.

APHIS is ultimately responsible for ensuring that swine diseases are not spread interstate. We need to ensure that individual SPHP's meet our requirements. We also need to be aware of possible and actual interstate movements. With this information, we can monitor the effectiveness of the program and be prepared to take action if it appears there is a disease risk. Requiring that we sign each SPHP and be notified if an SPHP is cancelled is minimally burdensome and effectively and unobtrusively keeps us informed.

We also believe it is necessary that we have the authority to cancel an SPHP to respond to changing circumstances. For example, as explained in our proposal, we would cancel an SPHP if participants persistently violated the terms of the agreement or our regulations.

Who Must Sign an SPHP and Be Inspected?

Some commenters stated that not all participants in a swine production system are involved in sending or receiving swine interstate, yet the proposed rule would require all participants to sign the SPHP. In addition, the proposed rule would require all participating premises and swine to be inspected by an accredited veterinarian. They suggested that only participants who are actually involved in moving swine interstate be required to sign the SPHP, and that only premises and swine that participate in interstate movement should be subject to veterinary inspection under the SPHP. We agree and have made those changes in this final rule. Specifically, the definition of *swine production health plan* in § 71.1 would now state that the SPHP must be signed by "an official of each swine production system identified in the plan," and that the plan must provide for inspection of "all premises that are part of the swine production system and that receive or send swine in interstate commerce." Note that while these changes narrow the coverage of the SPHP, they do not reduce our overall authority to inspect any swine moving in interstate commerce at any time, or to take enforcement action against any person who moves swine interstate in violation of our regulations, whether or not that person is a signatory to an SPHP.

Regular and Routine Shipments

Some commenters suggested that we change the proposed definition of *swine production system* to add a requirement that this term include only businesses that regularly and routinely move swine between their premises. We are not making any changes based on this comment for several reasons. First, the commenters did not indicate what they meant by "regularly and routinely." Second, although we understand that producers might not want to take advantage of our proposed alternative identification system if they participate in few or infrequent interstate swine shipments, we believe that is a decision best made by producers. The number and regularity of shipments is irrelevant to the purpose of our proposed program, which is to offer producers an alternative identification system that is less burdensome.

Recordkeeping and Access to Records

Several commenters addressed our proposed recordkeeping requirements or requirements concerning access to records.

Some commenters objected to our proposed requirement in the definition of *swine production health plan* in § 71.1 that the SPHP "describe the recordkeeping system of the swine production system." We are not making any changes based on this comment. We believe this is a reasonable requirement. If a description is included in the SPHP, we can tell at the time we review the SPHP whether the recordkeeping system is adequate to allow us to trace the movements of animals.

Commenters also objected to our proposed requirement in § 71.19(h)(6) that participants maintain records adequate to "trace any animal on the premises back to its earlier premises and its herd of origin." We agree that such extensive records are unnecessary and are removing the phrase "and its herd of origin" from § 71.19(h)(6). Records that identify the earlier premises are adequate, because if we need to trace an animal farther back, we can use records maintained by previous owners.

Commenters also stated that APHIS and State representatives should have access to records only "for cause." "For cause" implies that there has been a violation of the regulations.

However, in most cases, we need to examine records simply to ensure that the program is working properly. Under § 71.19(h)(7), participants must allow access to records "upon request." In

VOL 66 ISS 245 DE 20 2001 UMI

most cases this means participants will receive advance notice. We believe this is fair to participants, while giving APHIS and State officials adequate access.

Preemption

In accordance with Executive Order 12988, we included a statement in our proposed rule giving notice that any State and local laws and regulations in conflict with the proposed provisions would be preempted if the proposal is adopted. A number of commenters stated that including such a statement in the rulemaking was harmful to State-Federal cooperative efforts. Other commenters expressed concern that the statement meant that a State could not require any conditions for movement of animals into the State over and above the Federal requirements. Two comments from States specifically questioned whether Federal preemption would preclude States from requiring that persons moving swine into their States must first obtain an "import permit" from the State, authorizing movement of the animals and documenting that Federal and State movement requirements are met prior to movement of the animals.

Under Executive Order 12988, a Federal agency that proposes a regulation is required, among other things, to specify in clear language the preemptive effect it believes will be given to its regulations. The presence or absence of the statement does not change the legal effect of the regulation, and, therefore, should not be harmful to State-Federal cooperation. The actual effect of the regulation on the specific questions presented would have to be determined in an appropriate legal proceeding.

In the case of State-issued "import permits," commenters stated that they are needed for several reasons:

- To assign a permit number that is associated with each movement of animals and that can be tracked in State records systems;
- To document that movements comply with State as well as Federal requirements;
- To give States a means to respond quickly to new or reemerging animal health concerns by denying a permit to stop movement of problematic animals; and
- To ensure that receiving States have timely notice of animals moving into their State.

We believe that the procedures in this rule, especially use of the swine production health plan, allow States to retain all these capabilities without issuing separate permits for each movement of animals. It is already common State practice to issue long-term permits for swine movements within a State, and to allow multiple groups of animals to move at different times under the same permit. In this regard, the SPHP serves the same function for interstates movements as such a State permit.

States currently can respond to animal health concerns by denying or canceling a permit to stop intrastate movements of animals. Under this rule, States may achieve the same effect by withdrawing from a SPHP. However, animals already in transit are a special problem even under systems where States issue individual permits.

With regard to ensuring that States have timely notice of animal movements, we do not believe that the individual permit system accomplishes this any better than the interstate swine movement report employed by this rule.

Interstate Swine Movement Report (ISMR)

Commenters raised two issues concerning the proposed ISMR. One was whether the form and transmissions could be electronic; the other was whether the forms could be transmitted less frequently than proposed. In § 71.19(h)(4), our proposal stated that both we and State authorities must be notified prior to each interstate movement of swine.

We have no objections to SPHP participants using electronic forms and transmitting them electronically. In fact, we encourage this. If SPHP participants want to communicate electronically, they should provide for that in their agreement. This will ensure that all participants are prepared to send and receive ISMR's electronically. We have amended the definition of *interstate swine movement report* in § 71.1 in this final rule to clarify that electronic forms and transmission are acceptable for notification prior to each interstate movement of swine.

As noted above, our proposal stated that APHIS must receive an ISMR prior to each interstate movement of swine. Commenters are correct that this could result in many notices on a daily basis for large production systems. We agree that this many notices is unnecessary, especially as many States routinely forward this information to us. Therefore, in this final rule we have removed the requirement for an ISMR prior to each interstate movement from § 71.19(h)(4). However, it is necessary for us to be generally informed of the number and locations of animals moving interstate. We need this information so we can monitor the success of the program and compliance with our regulations. Therefore, we have added to § 71.19(h)(8) of this final rule a requirement that swine production systems send us a written, monthly summary of interstate swine movements under the SPHP.

Pseudorabies Status of Swine

Commenters suggested that it is unnecessary that each ISMR specifically include the pseudorabies status of swine moving interstate under an SPHP because pseudorabies will be eradicated from the U.S. swine population in the next few months. Commenters suggested that the ISMR instead include the health status of the swine for diseases of regulatory importance. These diseases, which would include pseudorabies until that disease is eradicated, would have to be specified in the SPHP. We agree with this suggestion and have made this change in the definition of *interstate swine movement report* in § 71.1 of this final rule.

Inspections

The definition of *swine production health plan* in § 71.1 of our proposal provided that swine premises be inspected by an accredited veterinarian at least once every 30 days. Some commenters requested that we reduce the frequency. We are not making any change based on these comments. Reducing the frequency would put accredited veterinarians in violation of our accreditation standards in 9 CFR 161.3(a). Under these standards, accredited veterinarians must complete certificates of inspection based on veterinary inspection. An accredited veterinarian may not issue any certificate or other document "which reflects the results of any inspection, test, [etc.]" unless he or she has personally inspected the animal not more than 10 days prior to issuing the certificate or other document. Following the initial and subsequent inspections of a herd or flock that is in a regular health maintenance program, an accredited veterinarian may issue any certificate or other document if not more than 30 days have passed since he or she personally inspected the animal.

Commingling Swine

Commenters objected to the proposed requirement in § 71.19 that "receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine." The commenters interpreted this to mean that we proposed to prohibit all commingling.

This is incorrect. We are only prohibiting commingling if it is done in a way that makes it impossible for us to identify the source of individual swine. We believe the proposed regulations are clear, and we are not making any changes based on this comment.

Size of Participating Swine Production Systems

One commenter noted that while the proposal provided that swine producers of any size could use the proposed alternative procedures, the bulk of the proposal's discussion emphasized benefits for the largest producers. This commenter stated that it is important to point out that the usefulness of the proposed system for identification and movement is not related to the size of the operation, rather it is related to the producer's production scheme. We agree, and have revised the economic analysis in this proposed rule to point out that the new procedures can benefit any producer who uses a multi-State approach to swine production.

Complexity of the Proposed System

One commenter stated that the proposed system has grown too complex, and involves more persons in swine movement than is necessary.

We have made no change based on this comment. The changes are all based on the need to ensure that the system operates effectively and contains sufficient safeguards to prevent the spread of communicable diseases. We believe that the detailed requirements for agreements and recordkeeping will enhance enforcement and monitoring of the system.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the changes discussed in this document.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. The economic analysis prepared for this rule is set out below. It includes both a cost-benefit analysis as required by Executive Order 12866 and an analysis of the economic effects on small entities as required by the Regulatory Flexibility Act.

This rule will offer an alternative to the current requirements for moving certain swine interstate.[1] Under the rule, producers within a single production system (e.g., owners of sow farms, nurseries, and growing or finishing operations) could move swine interstate without meeting the current identification and certification requirements if an official of the swine production system signs a swine health production plan with APHIS and the sending and receiving States, and if each premises: (1) Has an accredited veterinarian visit the individual premises at least once every 30 days to assess and document the general health of the animals; (2) maintains a recordkeeping system adequate to enable APHIS or State inspectors to trace an animal back to its earlier premises; and (3) notifies the accredited veterinarian and State regulatory officials in the States of origin and destination when swine are ready to be moved interstate. The rule will not mandate a specific type of recordkeeping system; those in the production system will be free to choose their own system of records, as long as APHIS determines that the system meets the requirements of § 71.19(h)(6) and effectively documents animal health and allows for animal traceback. The formal written agreement will have to be approved and signed by the producers moving swine interstate under the system, APHIS, and the relevant States.

The primary economic benefits to producers will be that they avoid the costs of individually identifying animals and obtaining a certificate for each shipment. Recordkeeping costs under the current requirements and under this alternative should be comparable, although some different records (copies of SPHP's and ISMR's) would be maintained under this final rule.

The rule will benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used by most of the largest producers, although many medium and small producers also employ multi-State production. Producers who already move their animals interstate during production will be able to realize the benefits of this rule with little or no additional cost, since many have most of the major elements of the new recordkeeping system (i.e., records indicating the source and disposition of swine and identifying which swine are grouped together) already in place.

As an example of the potential cost savings for producers from not having to individually identify animals, we estimate that the material cost for each identification eartag is about 5 cents and that it takes 1 person 1 hour to attach about 250 eartags. For a large producer who moves 1 million swine interstate each year with an eartag, the annual savings if the producer no longer uses eartags would be about $50,000 in materials and about $40,000 in labor (assuming a labor rate of $10/hr.). Certificates are typically issued on a per-shipment basis, with one certificate issued for all swine in a truckload. For a producer who moves 1 million swine interstate each year, the annual cost of obtaining certificates is about $140,000 (assuming 250 swine per shipment and a veterinarian fee of $35 per shipment).[2] Under the rule, individual identification and certificates will be replaced by the records kept in accordance with the regulations and the ISMR's issued for interstate movements attesting that the swine were found healthy by an accredited veterinarian within the 30 days preceding the interstate movement.

The requirement in the regulations that an accredited veterinarian must visit the premises at least once every 30 days to assess the general health of the animals should not constitute an additional burden for producers, since most are already visited by a veterinarian on that basis as part of a regular health maintenance program.

As indicated above, this rule will eliminate the need for producers to obtain certificates from accredited veterinarians on an individual shipment basis. This is not expected to have a negative impact on the accredited veterinarian's income because most accredited veterinarians generate little or no income from issuing certificates, charging either a nominal fee or no fee at all, especially when they are dealing with producers for whom they provide services on a regular, routine basis. This change should allow them to make more productive use of their time by allowing them to schedule regular health maintenance visits to a facility, rather than visiting when called, possibly at inconvenient times, to issue certificates just prior to movement. This change should also give producers more

---

[1] The rule will not apply to swine moving in slaughter channels; those animals will have to continue to meet the current requirements for individual identification and certification, as applicable.

[2] Producers, especially the larger ones, typically obtain certificates from accredited veterinarians who are unaffiliated with APHIS or the State agricultural agencies. The veterinarian fee of $35 is an estimate based on telephone consultation with several accredited veterinarians; such fees can vary depending on individual circumstances. In some cases, veterinarians charge no fee for issuing a certificate, especially when they are dealing with producers for whom they provide services on a regular, routine basis.

VOL 66 ISS 245 DE 20 2001 UMI

flexibility in scheduling movements of swine.

Effects on Small Entities

The rule will primarily benefit U.S. swine producers who move their animals interstate within a single production system. Currently, such systems are used primarily by the producers who do not appear to be small in size by U.S. Small Business Administration (SBA) criteria. The SBA considers a hog farm or feedlot small if its annual receipts are $0.5 million or less. We estimate that, of the 114,380 hog and pig operations in the United States, no more than about 4 percent (or 4,575) currently participate in multi-State production systems and, of those that do participate, most rank among the industry's largest producers.[3] Census data from the National Agricultural Statistics Service (NASS) indicate that, in 1997, the per-farm average value of pigs and hogs sold for the top 4 percent of U.S. farms was in excess of $0.5 million.[4] NASS' data suggest, therefore, that many of the producers that currently participate in interstate production systems are not small by SBA standards.

The rule may encourage more small producer participation in the future, since it will provide them with an economic incentive to network together into one production system. For some small producers, especially those operating on thin profit margins, this opportunity to reduce costs via production networks could make the difference between economic viability and insolvency. At this time, however, there is no basis to conclude that the number of small producers who might form networks in the future will be substantial.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Executive Order 13132

Executive Order 13132, "Federalism," requires that Agencies assess the federalism implications of their policies that have federalism implications, i.e., agency statements and actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This final rule does not have substantial direct effects in these areas, and therefore does not require assessment of federalism implications under Executive Order 13132.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0161.

In this final rule we have reduced the information collection and recordkeeping requirements contained in the proposed rule. We have added provisions to allow participants to maintain and submit Interstate Swine Movement Reports electronically, rather than by paper copy. We have also removed the requirement that producers submit an ISMR prior to each interstate movement, and have substituted a less burdensome requirement that swine production systems send us a written, monthly summary of interstate swine movements under the SPHP.

List of Subjects

9 CFR Part 71

Animal diseases, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

9 CFR Part 85

Animal diseases, Livestock, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 9 CFR parts 71 and 85 as follows:

PART 71—GENERAL PROVISIONS

1. The authority citation for part 71 continues to read as follows:

Authority: 21 U.S.C. 111–113, 114a, 114a–1, 115–117, 120–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

2. In § 71.1, definitions of *interstate swine movement report, swine production health plan, swine production system, swine production system accredited veterinarian* are added in alphabetical order to read as follows:

§ 71.1 Definitions.

* * * * *

Interstate swine movement report. A paper or electronic document signed by a producer moving swine giving notice that a group of animals is being moved across State lines in a swine production system. This document must contain the name of the swine production system; the name, location, and premises identification number of the premises from which the swine are to be moved; the name, location, and premises identification number of the premises to which the swine are to be moved; the date of movement; and the number, age, and type of swine to be moved. This document must also contain a description of any individual or group identification associated with the swine, the name of the swine production system accredited veterinarian(s), the health status of the herd from which the swine are to be moved, including any disease of regulatory concern to APHIS or to the States involved, and an accurate statement that swine on the premises from which the swine are to be moved have been inspected by the swine production system accredited veterinarian(s) within 30 days prior to the interstate movement and consistent with the dates specified by the premises' swine production health plan and found free from signs of communicable disease.

* * * * *

Swine production health plan. A written agreement developed for a swine production system designed to maintain the health of the swine and detect signs of communicable disease. The plan must identify all premises that are part of the swine production system and that receive or send swine in interstate commerce and must provide for regular inspections of all identified premises and swine on the premises, at intervals no greater than 30 days, by the swine production system accredited veterinarian(s). The plan must also describe the recordkeeping system of the swine production system.

---

[3] Source: *Agricultural Statistics*, 1999. The hog and pig operation count is as of December 1, 1998.

[4] See *1997 Census of Agriculture*, vol. 1, Part 51., United States. As used here, the word "top" refers to those farms with the highest number of animals sold.

The plan will not be valid unless it is signed by an official of each swine production system identified in the plan, the swine production system accredited veterinarian(s), an APHIS representative, and the State animal health official from each State in which the swine production system has premises. In the plan, the swine production system must acknowledge that it has been informed of and has notified the managers of all its premises listed in the plan that any failure of the participants in the swine production system to abide by the provisions of the plan and the applicable provisions of this part and part 85 of this chapter constitutes a basis for the cancellation of the swine production health plan, as well as other administrative or criminal sanctions, as appropriate.

Swine production system. A swine production enterprise that consists of multiple sites of production; i.e., sow herds, nursery herds, and growing or finishing herds, but not including slaughter plants or livestock markets, that are connected by ownership or contractual relationships, between which swine move while remaining under the control of a single owner or a group of contractually connected owners.

Swine production system accredited veterinarian. An accredited veterinarian who is named in a swine production health plan for a premises within a swine production system and who performs inspection of such premises and animals and other duties related to the movement of swine in a swine production system.

* * * * *

3. Section 71.19 is amended as follows:

a. In paragraph (a)(1), introductory text, by removing the words "paragraph (c)" and adding in their place the words "paragraphs (c) and (h)".

b. By adding new paragraphs (h) and (i).

§ 71.19 Identification of swine in interstate commerce.

* * * * *

(h) *Swine moving interstate within a swine production system.* Swine moving within a swine production system to other than slaughter or a livestock market are not required to be individually identified when moved in interstate commerce under the following conditions:

(1) The swine may be moved interstate only to another premises identified in a valid swine production health plan for that swine production system.

(2) The swine production system must operate under a valid swine production health plan, in which both the sending and receiving States have agreed to allow the movement.

(3) The swine must have been found free from signs of any communicable disease during the most recent inspection of the premises by the swine production system accredited veterinarian(s) within 30 days prior to movement.

(4) Prior to the movement of any swine, the producer(s) moving swine must deliver the required interstate swine movement report to the following individuals identified in the swine production health plan:

(i) The swine production system accredited veterinarian for the premises from which the swine are to be moved, and

(ii) The State animal health officials for the sending and receiving States, and any other State employees designated by the State animal health officials.

(5) The receiving premises must not commingle swine received from different premises in a manner that prevents identification of the premises that sent the swine or groups of swine. This may be achieved by use of permanent premises or individual identification marks on animals, by keeping groups of animals received from one premises physically separate from animals received from other premises, or by any other effective means.

(6) Each premises must maintain, for 3 years after their date of creation, records that will allow an APHIS representative or State animal health official to trace any animal on the premises back to its previous premises, and must maintain copies of each swine production health plan signed by the producer, all interstate swine movement reports issued by the producer, and all reports the swine production system accredited veterinarian(s) issue documenting the health status of the swine on the premises.

(7) Each premises must allow APHIS representatives and State animal health officials access to the premises upon request to inspect animals and review records.

(8) Once a month, each swine production system must send APHIS a written summary based on the interstate swine movement report data that shows how many animals were moved in the past month, the premises from which they were moved, and the premises to which they were moved.

(i) *Cancellation of and withdrawal from a swine production health plan.* The following procedures apply to cancellation of, or withdrawal from, a swine production health plan:

(1) A State animal health official may cancel his or her State's participation in a swine production health plan by giving written notice to all swine producers, APHIS representatives, accredited veterinarians, and other State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the State animal health official in the notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice. Upon withdrawal of a State, the swine production health plan may continue to operate among the other States and parties signatory to the plan.

(2) A swine production system may withdraw one or more of its premises from participation in the plan upon giving written notice to the Administrator, the accredited veterinarian(s), all swine producers listed in the plan, and State animal health officials listed in the plan. Withdrawal shall be effective upon the date specified by the swine production system in the written notice, but for shipments in transit, withdrawal shall become effective 7 days after the date of such notice.

(3) The Administrator may cancel a swine production health plan by giving written notice to all swine producers, accredited veterinarians, and State animal health officials listed in the plan. The Administrator shall cancel a swine production health plan after determining that swine movements within the swine production system have occurred that were not in compliance with the swine production health plan or with other requirements of this chapter. Before a swine health production plan is canceled, an APHIS representative will inform a representative of the swine production system of the reasons for the proposed cancellation. The swine production system may appeal the proposed cancellation in writing to the Administrator within 10 days after being informed of the reasons for the proposed cancellation. The appeal must include all of the facts and reasons upon which the swine production system relies to show that the reasons for the proposed cancellation are incorrect or do not support the cancellation. The Administrator will grant or deny the appeal in writing as promptly as circumstances permit, stating the reason for his or her decision. If there is a conflict as to any material fact, a hearing will be held to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator. However, cancellation of the disputed

swine production health plan shall become effective pending final determination in the proceeding if the Administrator determines that such action is necessary to protect the public's health, interest, or safety. Such cancellation shall become effective upon oral or written notification, whichever is earlier, to the swine production system representative. In the event of oral notification, written confirmation shall be given as promptly as circumstances allow. This cancellation shall continue in effect pending the completion of the proceeding, and any judicial review thereof, unless otherwise ordered by the Administrator.

PART 85—PSEUDORABIES

4. The authority citation for part 85 continues to read as follows:

Authority: 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.4.

§ 85.7 [Amended]

5. Section 85.7 is amended as follows:

a. In paragraph (b)(3)(i), by removing the phrase "The swine" and adding in its place the phrase "Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine".

b. In paragraph (b)(3)(ii), by removing the phrase "The swine are accompanied by a certificate" and adding in its place the phrase "Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate".

c. In paragraph (c)(1), by removing the phrase "The swine are accompanied by a certificate" and adding in its place the phrase "Unless the swine are moving interstate in a swine production system in compliance with § 71.19(h) of this chapter, the swine are accompanied by a certificate".

6. Section 85.8 is amended by removing the period at the end of paragraph (a)(3) and adding in its place "; or"; and by adding a new paragraph (a)(4) to read as follows:

§ 85.8 Interstate movement of swine from a qualified negative gene-altered vaccinated herd.

(a) * * *

(4) The swine are moved interstate in a swine production system in compliance with § 71.19(h) of this chapter.

* * * * *

Done in Washington, DC, this 14th day of December 2001.

Bill Hawks,

Under Secretary for Marketing and Regulatory Programs.

[FR Doc. 01–31355 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–34–U

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–1090]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to the provisions of Regulation Z (Truth in Lending) that implement the Home Ownership and Equity Protection Act (HOEPA). HOEPA was enacted in 1994, in response to evidence of abusive lending practices in the home-equity lending market. HOEPA imposes additional disclosure requirements and substantive limitations (for example, restricting short-term balloon notes) on home-equity loans bearing rates or fees above a certain percentage or amount. The Board's amendments to Regulation Z broaden the scope of mortgage loans subject to HOEPA by adjusting the price triggers used to determine coverage under the act. The rate-based trigger is lowered by two percentage points for first-lien mortgage loans, with no change for subordinate-lien loans. The fee-based trigger is revised to include the cost of optional credit insurance and similar debt protection products paid at closing. The amendments restrict certain acts and practices in connection with home-secured loans. For example, creditors may not engage in repeated refinancings of their HOEPA loans over a short time period when the transactions are not in the borrower's interest. The amendments also strengthen HOEPA's prohibition against extending credit without regard to consumers' repayment ability, and enhance disclosures received by consumers before closing for HOEPA-covered loans.

DATES: The rule is effective December 20, 2001; compliance is mandatory as of October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Minh-Duc T. Le, Attorney, Daniel G. Lonergan, Counsel, or Jane E. Ahrens, Senior Counsel, Division of Consumer and Community Affairs, at (202) 452–3667 or 452–2412; for users of Telecommunications Device for the Deaf ("TDD") only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

Since the mid-1990s, the subprime mortgage market has grown substantially, providing access to credit to borrowers with less-than-perfect credit histories and to other borrowers who are not served by prime lenders. With this increase in subprime lending there has also been an increase in reports of "predatory lending." The term "predatory lending" encompasses a variety of practices. In general, the term is used to refer to abusive lending practices involving fraud, deception, or unfairness. Some abusive practices are clearly unlawful, but others involve loan terms that are legitimate in many instances and abusive in others, and thus are difficult to regulate. Loan terms that may benefit some borrowers, such as balloon payments, may harm other borrowers, particularly if they are not fully aware of the consequences. The reports of predatory lending have generally included one or more of the following: (1) Making unaffordable loans based on the borrower's home equity without regard to the borrower's ability to repay the obligation; (2) inducing a borrower to refinance a loan repeatedly, even though the refinancing may not be in the borrower's interest, and charging high points and fees each time the loan is refinanced, which decreases the consumer's equity in the home; and (3) engaging in fraud or deception to conceal the true nature of the loan obligation from an unsuspecting or unsophisticated borrower—for example, "packing" loans with credit insurance without a consumer's consent.

A. The Home Ownership and Equity Protection Act

In response to anecdotal evidence about abusive practices involving home-secured loans with high rates or high fees, in 1994 the Congress enacted the Home Ownership and Equity Protection Act (HOEPA), Pub. L. 103–325, 108 Stat. 2160, as an amendment to the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq*. TILA is intended to promote the informed use of consumer credit by requiring disclosures about its terms and cost. TILA requires creditors to disclose the cost of credit as a dollar amount (the "finance charge") and as an annual percentage rate (the "APR"). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. TILA is implemented by the Board's Regulation Z, 12 CFR part 226.

HOEPA identifies a class of high-cost mortgage loans through rate and fee triggers, and it provides consumers entering into these transactions with special protections. HOEPA applies to closed-end home-equity loans (excluding home-purchase loans) bearing rates or fees above a specified percentage or amount. A loan is covered by HOEPA if (1) the APR exceeds the rate for Treasury securities with a comparable maturity by more than 10 percentage points, or (2) the points and fees paid by the consumer exceed the greater of 8 percent of the loan amount or $400. The $400 figure set in 1994 is adjusted annually based on the Consumer Price Index. The dollar figure for 2001 is $465 and for 2002 is $480. 66 FR 57849, November 19, 2001.

HOEPA is implemented in § 226.32 of the Board's Regulation Z. HOEPA also amended TILA to require additional disclosures for reverse mortgages that are contained in § 226.33 of Regulation Z. For purposes of this notice of rulemaking, however, the term "HOEPA-covered loan" or "HOEPA loan" refers only to mortgages covered by § 226.32 that meet HOEPA's rate or fee-based triggers.

Creditors offering HOEPA-covered loans must give consumers an abbreviated disclosure statement at least three business days before the loan is closed, in addition to the disclosures generally required by TILA before or at closing. The HOEPA disclosure informs consumers that they are not obligated to complete the transaction and could lose their home if they take the loan and fail to make payments. It includes a few key items of cost information, including the APR. In loans where consumers have three business days after closing to rescind the loan, the HOEPA disclosure thus affords consumers a minimum of six business days to consider accepting key loan terms before receiving the loan proceeds.

HOEPA restricts certain loan terms for high-cost loans because they are associated with abusive lending practices. These terms include short-term balloon notes, prepayment penalties, non-amortizing payment schedules, and higher interest rates upon default. Creditors are prohibited from engaging in a pattern or practice of making HOEPA loans based on the homeowner's equity without regard to the borrower's ability to repay the loan. Under HOEPA, assignees are generally subject to all claims and defenses with respect to a HOEPA loan that a consumer could assert against the creditor. HOEPA also authorizes the Board to prohibit acts or practices in connection with mortgage lending under defined criteria.

B. Continued Concerns About Predatory Lending Practices

Since the enactment of HOEPA in 1994, the volume of home-equity lending has increased significantly in the subprime mortgage market. Based on data reported under the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, the number of nonpurchase-money loans made by lenders that are identified as engaging in subprime lending increased about five-fold—from 138,000 in 1994 to roughly 658,000 in 2000. While such lending benefits consumers by making credit available, it also raises concerns that the increase in the number of subprime loans brings a corresponding increase in the number of predatory loans.

In the past two years, various initiatives to address predatory lending have been undertaken. The Senate Banking Committee held hearings in July 2001 at which consumers and representatives of industry and consumer groups testified; the House Banking Committee held hearings in May 2000 at which the banking regulators and others testified; and bills have been introduced to address predatory lending. Several states and municipalities have enacted or are considering legislation or regulations. The Department of Housing and Urban Development and the Department of Treasury held a number of public forums on predatory lending and issued a report in June 2000. The report makes recommendations to the Congress regarding legislative action and to the Board urging the use of its regulatory authority to address predatory lending practices. Fannie Mae and Freddie Mac published guidelines last year to avoid purchasing loans that are potentially predatory; they are also making efforts to develop consumers' awareness of their credit options.

The Board has conferred with its Consumer Advisory Council and Board staff have met with other industry representatives and consumer advocates on the issue of predatory lending. In 2000, the Board held hearings in Charlotte, Boston, Chicago, and San Francisco, to consider approaches the Board might take in exercising its regulatory authority under HOEPA. The Board's hearings focused on expanding the scope of mortgage loans covered by HOEPA, prohibiting specific acts or practices, improving consumer disclosures, and educating consumers. Transcripts of the hearings can be accessed on the Board's Internet web site at *http://www.federalreserve.gov/community.htm.* In the notices announcing the hearings, the Board also solicited written comment on possible revisions to Regulation Z's HOEPA rules. 65 FR 45547, July 24, 2000. The Board received approximately 450 comment letters in response to the notices, two-thirds of which were from consumers generally encouraging Board action to curb predatory lending.

C. The Board's Proposed Rule to Amend Regulation Z

The Board published a proposed rule to amend Regulation Z in December 2000. 65 FR 81438, December 26, 2000. The Board proposed to broaden the scope of mortgage loans subject to HOEPA by adjusting the price triggers used to determine coverage under the act; to prohibit certain acts and practices in connection with home-secured loans covered by HOEPA; to require increased scrutiny on creditors' practices to document and verify income; and to enhance disclosures received by consumers before closing for HOEPA-covered loans.

The Board received approximately 200 letters that specifically addressed the proposed revisions and represented the views of the mortgage lending industry, credit insurance industry, consumer and community development groups, and government agencies. In addition, the Board received approximately 1,100 identical e-mail comment letters from consumers generally encouraging the Board to curb predatory lending.

Most of the creditors and other commenters involved in mortgage lending opposed making more loans subject to HOEPA. They believe that the coverage of more loans would reduce competition and the availability of credit in the range of rates affected because some lenders, as a matter of policy, will not make HOEPA loans. With regard to the new rules that would apply to HOEPA loans, creditors wanted more flexibility and compliance guidance. Consumer representatives and community development organizations generally supported the proposal as a step forward in addressing the problem of predatory lending but believed additional steps are needed to ensure consumers are protected.

II. Summary of Final Rule

With some exceptions, the Board is adopting the revisions substantially as proposed to address predatory lending and unfair practices in the home-equity market. The revisions are adopted

VOL 66 ISS 245 DE 20 2001 UMI

pursuant to the Board's authority to adjust the APR trigger and add additional charges to the points and fees trigger. *See* 15 U.S.C. 1602(aa). Revisions are also issued pursuant to the Board's authority under HOEPA to prohibit certain acts or practices (1) affecting mortgage loans if the Board finds the act or practice to be unfair, deceptive, or designed to evade HOEPA, or (2) affecting refinancings if the Board finds the act or practice to be associated with abusive lending or otherwise not in the interest of the borrower. 15 U.S.C. 1639(l)(2). Revisions are also adopted pursuant to section 105(a) of TILA to effectuate the purposes of TILA, to prevent circumvention or evasion, or to facilitate compliance. 15 U.S.C. 1604(a).

The amendments (1) extend the scope of mortgage loans subject to HOEPA's protections, (2) restrict certain acts or practices, (3) strengthen HOEPA's prohibition on loans based on homeowners' equity without regard to repayment ability, and (4) enhance HOEPA disclosures received by consumers before closing, as follows.

The final rule adjusts the APR trigger for first-lien mortgage loans, from 10 percentage points to 8 percentage points above the rate for Treasury securities having a comparable maturity, the maximum amount that the Board may lower the trigger. The APR trigger for subordinate-lien loans remains at 10 percentage points. The fee-based trigger is adjusted to include amounts paid at closing for optional credit life, accident, health, or loss-of-income insurance, and other debt-protection products written in connection with the credit transaction.

The final rule also addresses some "loan flipping" within the first year of a HOEPA loan. Except in limited circumstances, a creditor that has made a HOEPA loan to a borrower is generally prohibited for twelve months from refinancing any HOEPA loan made to that borrower into another HOEPA loan. Assignees holding or servicing a HOEPA loan are subject to similar restrictions.

To prevent the evasion of HOEPA, which only covers closed-end loans, the final rule prohibits a creditor from wrongfully documenting such loans as open-end credit. For example, a high-cost mortgage may not be structured as a home-secured line of credit if there is no reasonable expectation that repeat transactions will occur under a reusable line of credit. To ensure that lenders do not accelerate the payment of HOEPA loans without cause, the final rule prohibits a creditor from exercising "due-on-demand" or call provisions in a HOEPA loan, unless the clause is exercised in connection with a consumer's default. A similar rule applies to home-secured lines of credit under Regulation Z.

The final rule seeks to strengthen HOEPA's prohibition on making loans based on homeowners' equity without regard to repayment ability. It creates a presumption that a creditor has violated the statutory prohibition on engaging in a pattern or practice of making HOEPA loans without regard to repayment ability if the creditor generally does not verify and document consumers' repayment ability.

The final rule revises the HOEPA disclosures (given three days before loan closing) for refinancings, to alert consumers to the total amount borrowed, which may be substantially higher than the loan amount requested due to the financing of credit insurance, points, and fees. To enhance consumer awareness, and deter insurance packing, the HOEPA disclosure must specify whether the total amount borrowed includes the cost of optional insurance.

The staff commentary to Regulation Z has also been revised to provide guidance on the new rules and to clarify existing requirements. Revisions to the regulation and the staff commentary are discussed in detail below in the section-by-section analysis.

III. Section-by-Section Analysis of Final Rule

Subpart A—General

Section 226.1—Authority, Purpose, Coverage, Organization, Enforcement and Liability

Section 226.1(b) on the purpose of the regulation is revised as proposed to reflect the addition of prohibited acts and practices in connection with credit secured by a consumer's dwelling. Section 226.1(d) on the organization of the regulation is revised to reflect the restructuring of Subpart E (rules for certain home mortgage transactions).

Subpart C—Closed-end Credit

Section 226.23—Right of Rescission

23(a) Consumer's Right to Rescind

The proposed amendment to footnote 48 to § 226.23(a)(3) is unnecessary given the organization of the final rule, and thus has not been adopted.

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.31—General Rules

31(c) Timing of Disclosure

31(c)(1)(i) Change in Terms

Section 226.31(c)(1) requires a three-day waiting period between the time the consumer is furnished with disclosures required under § 226.32 and the time the consumer becomes obligated under the loan. If the creditor changes any terms that make the disclosures inaccurate, new disclosures must be given and another three-day waiting period is triggered.

Comment § 226.31(c)(1)(i)–2 is added, as proposed, to clarify redisclosure requirements when, after a consumer receives a HOEPA disclosure and before consummation, loan terms change that make the disclosure inaccurate. The Board's 2000 hearings revealed that some creditors offer credit insurance and other optional products at loan closing. If the consumer finances the purchase of such products and as a result the monthly payment differs from what was previously disclosed under § 226.32, the terms of the extension of credit have changed; redisclosure is required and a new three-day waiting period applies. *See* discussion below concerning § 226.32(c)(3) on when optional items may be included in the regular payment disclosure.

Section 226.32—Requirements for Certain Closed-end Home Mortgages

32(a) Coverage

HOEPA disclosures and restrictions cover home-equity loans that meet one of the act s two high-cost triggers a rate trigger and a points and fees trigger. Under the final rule, both triggers are revised to cover more loans.

APR trigger—Currently, a loan is covered by HOEPA if the APR exceeds by more than 10 percentage points the rate for Treasury securities with a comparable maturity. Section 103(aa) of TILA authorizes the Board to adjust the APR trigger by 2 percentage points from the current standard of 10 percentage points upon a determination that the increase or decrease is consistent with the consumer protections against abusive lending contained in HOEPA and is warranted by the need for credit.

The Board had proposed to reduce the rate trigger from 10 to 8 percentage points above the rate for Treasury securities with a comparable term for all loans, the maximum adjustment that the Board can make. With this change, based on recent rates for Treasury securities, home-equity loans with a term of 10 years would be subject to HOEPA if they have an APR of approximately 13 percent or higher.

The Board solicited comment on an alternative approach that would differentiate between first- and subordinate-lien loans in the application of the APR trigger. Under the two-tiered alternative, the APR trigger for first-lien mortgages would be reduced to 8 percentage points; the APR trigger for subordinate-lien loans would remain at 10 percentage points. The final rule adopts the two-tiered alternative approach.

HOEPA provides that the Board may adjust the APR trigger after consulting with representatives of consumers and lenders and determining that the increase or decrease is consistent with the purpose of consumer protection in HOEPA and is warranted by the need for credit. (The Board may not adjust the trigger more frequently than once every two years.) Consistent with this mandate, the Board has held public hearings, considered the testimony at other hearings held by government agencies and the Congress, analyzed comment letters, held discussions with community groups and lenders, consulted its Consumer Advisory Council, and reviewed data from various studies and reports on the home-equity lending market.

Most of the information the Board received about predatory lending is anecdotal, as it was when Congress passed HOEPA in 1994. The reports of actual cases (including additional Congressional testimony by consumers) are, however, widespread enough to indicate that the problem warrants addressing. Homeowners in certain communities—frequently the elderly, minorities, and women—continue to be targeted with offers of high-cost, home-secured credit with onerous loan terms. The loans, which are typically offered by nondepository institutions, carry high up-front fees and may be based solely on the equity in the consumers' homes without regard to their ability to make the scheduled payments. When homeowners have trouble repaying the debt, they are often pressured into refinancing their loans into new unaffordable, high-fee loans that rarely provide economic benefit to the consumers. These refinancings may occur frequently. The loan balances increase primarily due to fees that are financed resulting in reductions in the consumers' equity in their homes and, in some cases, foreclosure may occur. The loan transactions also may involve fraud and other deceptive practices.

Creditors have expressed concern that lowering the HOEPA rate trigger would adversely affect credit availability for loans in the range of rates that would be covered by the lowered trigger. Many creditors, ranging from community banks to national lenders, have stated that they do not offer HOEPA loans due to their concerns about compliance burdens, potential liability, reputational risk, and difficulty in selling these loans to the secondary market. Some creditors believe there are insufficient data about the incidence of predatory lending occurring in loans immediately below the existing HOEPA triggers to support lowering the trigger.

Anecdotal evidence suggests that subprime borrowers with rates below the current HOEPA triggers also have been subject to abusive lending practices. There are no precise data, however, on the number of subprime loans in the market as a whole that would be affected by lowering the HOEPA rate trigger. The precise effect that lowering the APR trigger will have on creditors' business strategies is difficult to predict. It seems likely that lenders that already make HOEPA loans and have compliance systems in place would continue making them under a revised APR trigger. Some creditors that choose not to make HOEPA loans may refrain from making loans in the range of rates that would be covered by the lowered threshold. But other creditors may fill any void left by creditors that do not make HOEPA loans, either because they already make HOEPA loans or because they are willing to do so in the future. And others may have the flexibility to avoid HOEPA's coverage by lowering rates or fees for some loans at the margins, consistent with the risk involved. Data submitted by a trade association representing nondepository institution lenders suggest that there is an active market for HOEPA loans under the current APR trigger. There is no evidence that the impact on credit availability will be significant if the trigger is lowered. Accordingly, the Board believes that lowering the APR trigger to expand HOEPA's protections to more loans is consistent with consumers' need for credit, and therefore, warranted.

Moreover, lowering the rate trigger seeks to ensure that the need for credit by subprime borrowers will be fulfilled more often by loans that are subject to HOEPA's protections. Borrowers who have less-than-perfect credit histories and those who might not be served by prime lenders have benefited from the substantial growth in the subprime market. But a borrower does not benefit from expanded access to credit if the credit is offered on unfair terms, the repayment costs are unaffordable, or the loan involves predatory practices. Because consumers who obtain subprime mortgage loans have, or perceive they have, fewer options than other borrowers, they may be more vulnerable to unscrupulous lenders or brokers.

The Board has also determined that lowering the rate trigger is consistent with the consumer protections against abusive lending provided by HOEPA. The Act's purpose is to protect the most vulnerable consumers, based on the cost of the loans, from abusive lending practices. As noted above, anecdotal evidence suggests that subprime borrowers with loans priced below HOEPA's current APR trigger have been subject to predatory practices, such as unaffordable lending, loan flipping and insurance packing. These are the very types of abuses that HOEPA was intended to prevent. With a lowered trigger, more consumers with high-cost loans will receive cost disclosures three days before closing (instead of at closing) and will be protected by HOEPA's prohibitions against onerous loan terms, such as non-amortizing payment schedules, balloon payments on short-term loans, or interest rates that increase upon default. A wider range of high-cost loans will also be subject to HOEPA's rule against unaffordable lending, and to HOEPA's restrictions on prepayment penalties. The rules being adopted by the Board to address loan flipping will also apply to more loans. Lastly, more high-cost loans will be subject to the HOEPA rule that holds loan purchasers and other assignees liable for any violation of law by the original creditor with respect to the mortgage.

Two-tiered approach—Of the 200 commenters on the proposal, about 40 discussed the two-tiered trigger approach and were about evenly divided. Creditors and some consumer groups favored the two-tiered trigger approach. Those opposed included community groups, some creditors, and others that generally believe that there should be no distinction drawn between first-lien and subordinate-lien loans. Community groups believe that the maximum number of subprime mortgage loans should be subject to HOEPA's protections. Many suggested that the two-tiered approach could be helpful if both triggers were substantially lower than what the Board is authorized to adopt. Some creditors that opposed the tiered-approach believe that the Board should not issue a rule that might encourage the making of loans that would place creditors in a subordinate lien position. One institution noted that a subordinate-lien loan may not be more favorable to a consumer if it results in a combined monthly payment on the first and second mortgages that is higher than the monthly payment on a consolidated first-lien mortgage loan. Some commenters believe that borrowers with subordinate-lien loans face similar risks of abusive practices as with first-lien

VOL 66 ISS 245 DE 20 2001 UMI

loans. A few stated that the tiered approach would add unnecessary complexity to both compliance and enforcement efforts.

Data are not available on the number of home-equity loans currently subject to HOEPA, or the number of loans that would be covered if the APR trigger were lowered. At the time of the proposal, data from the Mortgage Information Corporation (MIC) compiled by the Office of Thrift Supervision suggested that lowering the APR trigger by 2 percentage points could expand HOEPA's coverage from approximately 1 percent to 5 percent of subprime mortgage loans. Further analysis of additional MIC data suggests that these percentages of coverage may be typical of longer-term, first-lien mortgages, and that the coverage percentages are higher for shorter-term and subordinate-lien loans.

In response to the Board's request in the proposal, a few commenters provided data on the number of loans they offered in recent years that would have been affected by a rate trigger of 8 percentage points above a comparable Treasury security. The most extensive data were submitted by a trade association representing nondepository institution lenders. The association collected data from the subprime lending divisions of nine member institutions. The number of loans surveyed is about 36 percent of the number of loans of subprime lenders recorded under HMDA during the survey period (mid-year 1995 through mid-year 2000). The dollar volume for the loans surveyed is about 20 percent of the dollar volume of loans reported by subprime lenders under HMDA. Overall, the trade association data show that for these loans, HOEPA's existing APR trigger would have covered about 9 percent of the first-lien loans, and that lowering the APR trigger by 2 percentage points would have resulted in coverage of nearly 26 percent of the first-lien loans surveyed. For subordinate-lien loans, about 47 percent of the surveyed loans would have been covered by HOEPA's APR trigger, and the data suggest that lowering the APR trigger by 2 percentage points would have resulted in coverage of about 75 percent of the subordinate-lien loans.

Most of the evidence of predatory lending brought to the Board's attention to date has involved abuses in connection with first-lien mortgage loans. When a consumer seeks a loan to consolidate debts or finance home repairs, some creditors require consumers to borrow additional funds to pay off the existing first mortgage as a condition of providing the loan, even though the existing first mortgage may have been at a lower rate. This ensures that the creditor will be the senior lienholder, but it also results in an increase, perhaps significant, in the points and fees paid for the new loan (since the latter are calculated on a much larger loan amount).

The Board's final rule lowers the APR trigger for first lien-mortgages only. Subordinate-lien loans are already covered more frequently by HOEPA because the rates on these loans are higher than first-lien loans. The data suggests that coverage under the current triggers could be significant for subordinate-lien loans. Moreover, the evidence of abusive practices has pertained primarily to first lien mortgages. Based on these factors, the Board is adjusting the APR trigger only for first-lien loans, but retains the ability to lower the trigger for subordinate-lien loans at a future date.

32(b) Definition

Points and fees trigger—Currently, home-equity loans are subject to HOEPA if the points and fees payable by the consumer at or before loan closing exceed the greater of 8 percent of the total loan amount or $465. (The dollar trigger is $480 for 2002; 66 FR 57849, November 19, 2001.) "Points and fees" include all finance charges except for interest. The trigger also includes some fees that are not finance charges, such as closing costs paid to the lender or an affiliated third party. HOEPA authorizes the Board to add "such other charges" to the points and fees trigger as the Board deems appropriate.

The comment letters and testimony at the hearings raised a number of concerns about single-premium credit insurance, such as excessive costs, high-pressure sales tactics, consumers' confusion as to the voluntariness of the product, and "insurance packing." The term "packing" in this case refers to the practice of automatically including *optional* insurance in the loan amount without the consumer's request; as a result, some consumers may perceive that the insurance is a required part of the loan, and others may not be aware that insurance has been included.

In response to the reported abuses, the Board proposed to include in the fee trigger premiums paid at closing for optional credit life, accident, health, or loss-of-income insurance and other debt-protection products; such premiums are typically financed. Premiums paid for *required* credit insurance policies are considered finance charges and are already included in the points and fees trigger.

Many commenters expressed views on this issue. The views were sharply divided. In general, consumer representatives, some federal agencies, state law enforcement officials, and some others supported the inclusion of optional credit insurance premiums in HOEPA's points and fees trigger, although they would have preferred an outright ban on the purchase or financing of single-premium products. Consumer representatives were generally concerned about the cost of the insurance, its voluntariness, and its contribution to equity stripping. They believe that borrowers are often unaware that insurance has been included in their loan balance or that borrowers perceive that the insurance is required. They also note that these problems exist notwithstanding the fact that TILA currently requires creditors to disclose before consummation that the insurance is optional in order to exclude it from the HOEPA fee trigger. (If creditors fail to disclose that the insurance is optional, TILA requires that the cost be treated as a finance charge, and all finance charges other than interest are in the current HOEPA fee trigger.) They state that excessively high premiums contribute to the problem of equity stripping. They also note that consumers pay interest on the financed premium for the entire loan term even though insurance coverage typically expires much earlier.

Most creditors and commenters representing the credit insurance industry strongly opposed the inclusion of optional insurance premiums paid at closing in the points and fees trigger. Some creditors questioned the Board's use of its authority under HOEPA to mandate inclusion; they pointed to legislative history that discusses the potential inclusion of credit insurance premiums if there is evidence that credit insurance premiums are being used to evade HOEPA. These commenters believe that a finding of evasion is a prerequisite to inclusion; they do not believe the standard has been met because the proposal merely noted that the change might prevent such evasions in the future. They also cited an exchange in the Congressional Record between two Senators, when the Congress was considering HOEPA legislation, about credit insurance being treated consistently with other provisions of TILA. Because premiums for optional credit insurance are not automatically included in the calculation of TILA's finance charge and APR, these commenters believe such premiums should not be included in HOEPA's points and fees calculation.

The commenters' suggestion that credit insurance premiums can only be included in the HOEPA trigger if the Board finds that creditors are using the premiums to evade HOEPA is directly contradicted by the express language of the statute, which states that the Board need only make a finding that this action is "appropriate." In construing a statute, the plain meaning of the statutory text generally governs. When the plain meaning of the statutory language is clear, there is no reason to resort to legislative history. In this case, if the Congress had intended to make "evasions" the sole standard of "appropriateness" for including additional charges in the fee trigger, it would have done so expressly. For example, such language was used in section 129(l)(2)(A), which authorizes the Board to prohibit acts and practices that the Board finds to be "unfair, deceptive, or *designed to evade*" the provisions of HOEPA.

In light of the unambiguous statutory text, the Board believes that the legislative history cited by the commenters is not dispositive, and that evasion is merely one example of when the Board might find that inclusion of additional charges is "appropriate." The Senate floor colloquy, which refers to HOEPA as being consistent with TILA's treatment of insurance premiums, should not be construed as guidance on how the Board might, in the future, adjust HOEPA's points and fees trigger. It merely clarified that optional credit insurance premiums were not automatically included in the statutory points and fees trigger, as would have been the case under an earlier version of the legislation.

Industry commenters opposed including optional credit insurance premiums in HOEPA's points and fees trigger when, for purposes of TILA disclosures generally, the premiums are not included in the cost of the credit. The Board believes that HOEPA's points and fees trigger is not intended to be the equivalent of the "cost of credit," as measured by TILA's finance charge and APR. Indeed, HOEPA expressly includes certain charges in the points and fees trigger that are not included in the finance charge, and authorizes the Board to include others. The HOEPA points and fees trigger is intended to be used to identify transactions with high costs where consumers may be vulnerable and thus need the benefit of HOEPA's special protections.

Creditors also asserted that, based on typical premium rates, most mortgage loans that include single-premium credit insurance would be considered high-cost and thus would be covered under HOEPA's fee-based trigger. As a result, they caution that lenders choosing not to make HOEPA loans would be foreclosed from offering single-premium credit insurance products to their loan customers. They asserted that the financing of single-premium insurance provides protection to cash-poor consumers who are underinsured, and in some cases offers less costly coverage compared with other forms of insurance. In short, these commenters generally support the current rule that does not include insurance premiums for optional credit insurance in the points and fees trigger. Alternatively, they recommend a rule that allows the insurance premiums to be excluded based on the consumers' ability to cancel the coverage and obtain a full refund, where consumers are also provided with adequate information about their rights to do so after the loan closing.

The Board believes that it is appropriate and consistent with the purposes of HOEPA to include premiums paid by consumers at or before closing for credit insurance (and other debt-protection products) in HOEPA's points and fees trigger. The coverage is purchased by the consumer in connection with the mortgage transaction, and the creditor or the credit account is the beneficiary. In addition, creditors receive commissions which may be significant for selling credit insurance (and retain the fee assessed for debt-cancellation coverage). This oftentimes represents a significant addition to the cost of the transaction to the borrower and an increase in benefit to the creditor. Moreover, when financed in connection with a subprime mortgage loan, as is typically the case, these charges can represent a significant addition to the loan balance, and thus, to the cost of the transaction and the size of the lien on the borrower's home. For example, according to insurance industry commenters, the typical cost of single-premium credit life insurance for an individual borrower could amount to the equivalent of several points. The total cost of credit insurance in a particular mortgage transaction, however, also depends on the number of borrowers covered, and the types of coverage purchased. HOEPA is specifically designed to help borrowers in high-cost mortgage transactions to understand the costs of the transaction and the risk that they may lose their homes if they do not meet the full amount of their obligation under the loan.

Importantly, anecdotal evidence has revealed that there are sometimes abuses associated with the sale and financing of single-premium credit insurance, which typically occurs in subprime loans. Some consumers are not aware that they are purchasing the insurance, some may believe the insurance is required, and some may not understand that the term of insurance coverage may be shorter than the term of the loan. These abuses and misunderstandings can be addressed somewhat by applying HOEPA's protections and remedies, to the extent that including insurance in the points and fees test brings these loans under HOEPA. Moreover, including credit insurance premiums in HOEPA's fee-based trigger prevents unscrupulous creditors from evading HOEPA by packing a loan with such products in lieu of charging other fees that already are included under the current HOEPA trigger.

One likely effect of this adjustment to the trigger is that significantly more of the loans that include single-premium insurance will be covered by HOEPA's protections. Data from a trade association of nondepository lenders indicate that lowering the APR trigger for first-lien loans by 2 percentage points and including optional credit insurance premiums in the points and fees tests would increase the percentage of first-lien mortgage loans covered by HOEPA, from 26 to 38 percent, for the firms surveyed. With a lowered APR trigger, coverage of subordinate-lien mortgage loans would increase from 47 to 61 percent for the firms surveyed.

When there are abuses such as coercive or deceptive sales practices, borrowers will benefit from HOEPA's rule requiring disclosures three days before closing. With the enhanced HOEPA disclosure of the amount borrowed, these consumers will receive advance notice about the additional amount they must borrow beyond their original loan request if they purchase the insurance. As part of that new disclosure, under the final rule, creditors must specify whether the amount borrowed includes the cost of optional insurance. Moreover, creditors and assignees will be subject to HOEPA's strict liability and remedies when there are violations of law concerning the mortgage. See § 226.32(c)(5).

As commenters noted, some creditors choose not to make loans covered by HOEPA, and if these creditors have been offering single-premium insurance, they may decide to cease doing so in order to remain outside of HOEPA's coverage. To the extent that some creditors choose not to offer single-premium policies, they can make credit insurance available through other vehicles such as policies that assess and bill monthly premiums on the outstanding loan balance.

Industry commenters assert that single-premium policies are less costly than monthly premium insurance and provide greater continuity of coverage because a borrower's missed payments on the monthly-pay product might result in cancellation of insurance. Single-premium and monthly-premium policies have relative advantages and disadvantages. For example, a five-year policy with a financed single-premium may result in smaller monthly payments because the cost is spread over the full loan term, which may be ten or twenty years. But the consumer will also pay "points" (and interest over the life of the loan) on the additional amount financed for the coverage. Premiums assessed monthly, based on the outstanding loan balance, may result in a higher monthly expense, but they are not financed and would only be payable during the five years that coverage was in force, so the overall cost to the consumer could be lower. Regardless of the relative merits, under the final rule creditors will continue to have the ability to decide what types of insurance products they will make available to borrowers.

The final rule also provides guidance in calculating the HOEPA fees trigger. A mortgage loan is covered by HOEPA if the "points and fees" exceed 8 percent of the "total loan amount." The total loan amount is based on the "amount financed" as provided in § 226.18(b). Comment 32(a)(1)(ii)–1 of the staff commentary to Regulation Z discusses the calculation of the total loan amount. The comment is revised, as proposed, to illustrate that premiums or other charges for credit life, accident, health, loss-of-income, or debt-cancellation coverage that are financed by the creditor must be deducted from the amount financed in calculating the total loan amount.

Disclosure alternatives—The Board solicited comment on whether optional credit insurance premiums should be excluded from the trigger when consumers have a right to cancel the policy and when disclosures about that right are provided after closing. Consumer representatives were opposed to the approach, expressing doubt that disclosures would be effective. Industry commenters supported the exclusion as a reasonable approach to address concerns about insurance packing. Upon further analysis, the Board believes that post-closing disclosures would be less effective than the HOEPA disclosures and remedies in deterring abusive sales practices in connection with insurance. Moreover, reliance on the consumer's exercise of their right to cancel the insurance would not prevent abuses but would unfairly require borrowers to take the initiative in remedying them.

32(c) Disclosures

Section 129(a) of TILA requires creditors offering HOEPA loans to provide abbreviated disclosures to consumers at least three days before the loan is closed, in addition to the disclosures generally required by TILA at or before closing. The HOEPA disclosures inform consumers that they are not obligated to complete the transaction and could lose their home if they take the loan and fail to make payments. The HOEPA disclosures also include a few key cost disclosures, such as the APR and the monthly payment (including the maximum payment for variable-rate loans and any balloon payment). Under the final rule these disclosures have been enhanced somewhat to further benefit borrowers. Section 226.32(c) is revised to provide, in accordance with TILA section 129(a), that the disclosures must be in a conspicuous type size.

32(c)(3) Regular Payment; Balloon Payment

Section 226.32(c)(3) requires creditors to disclose to consumers the amount of the regular monthly (or other periodic) payment, including any balloon payment. The regulation is revised to move the disclosure requirement for the amount of the balloon payment from the commentary to the regulation, to aid in compliance. Model Sample H–16, which illustrates the disclosures required under § 226.32(c), is revised to include a model clause on balloon payments.

Under comment 32(c)(3)–1 of the staff commentary, creditors are allowed to include voluntary items in the regular payment disclosed under § 226.32 only if the consumer has previously agreed to such items. The comment is revised for clarity as proposed.

Testimony at the Board's 2000 public hearings and other comments received suggest that some HOEPA disclosures provided in advance of closing include insurance premiums in the monthly payment, even though consumers may not agree to purchase optional insurance until closing. Consequently, the Board solicited comment on whether consumers should be required to request or affirmatively agree to purchase optional items in writing, to aid in enforcing the rule.

Some commenters supported having a rule where consumers would separately agree to purchase optional products. These commenters thought the rule would be useful in preventing "packing." Other commenters, representing both consumer and industry interests, opposed such an approach. The consumer representatives preferred creditors to have the duty to ensure "voluntariness." Industry representatives expressed a variety of concerns. Some believed that such a rule would be burdensome to creditors and borrowers alike, necessitating additional visits to sign the document at least three days before closing. They believed a separate affirmation to be duplicative and unnecessary. Others believed the rule would have the unintended effect of making consumers feel obligated, and ultimately less likely to reverse an earlier decision prior to or at closing.

Having carefully considered commenters' concerns regarding burden, and the effectiveness of a separate written agreement to purchase optional products to reduce "packing," the Board is not taking further action to require a separate written agreement at this time. To address insurance "packing," pursuant to its authority under section 129(l)(2)(B) of TILA, the Board has instead enhanced the final rule to require that the disclosure of the amount borrowed in mortgage refinancings expressly state whether optional credit insurance or debt-cancellation coverage is included in the amount financed, as discussed below.

The final rule for disclosing the "amount borrowed" includes a $100 tolerance for minor errors. As discussed below, if the amount borrowed is inaccurate by any amount, the regular payment disclosure will be inaccurate also. To be meaningful to creditors, any tolerance for the amount borrowed must "pass through" to the regular payment. Such an approach is consistent with TILA's rule in closed-end transactions secured by real property or a dwelling, where the finance charge as well as other disclosures affected by the finance charge are considered accurate within prescribed limits. Pursuant to its authority under section 129(l)(2)(B) of TILA, the Board is providing a tolerance to the regular payment disclosure required under § 226.32(c)(3), if the payment disclosed is based on an amount borrowed that is deemed accurate and disclosed under § 226.32(c)(5).

32(c)(5) Amount Borrowed

Section 226.32(c)(5) is added to require disclosure of the total amount the consumer will borrow, as reflected by the face amount of the note, pursuant

VOL 66 ISS 245 DE 20 2001 UMI

to the Board's authority under Section 129(l)(2)(B) of TILA. This disclosure responds to concerns by consumers and consumer representatives that consumers sometimes seek a modest loan amount such as for medical or home improvement costs, only to discover at closing (or after) that the note amount is substantially higher due to fees and insurance premiums that are financed along with the requested loan amount. The amount borrowed disclosure is enhanced in the final rule: when the loan amount includes premiums or other charges for optional credit insurance or debt-cancellation coverage, the disclosure must so specify, to address insurance "packing" where consumers may not be aware that insurance coverage has been added to the loan balance. Comment 32(c)(5)–1 to the staff commentary provides guidance regarding terminology for debt-cancellation coverage.

Consumer representatives and some industry representatives supported the proposal as aiding consumers' understanding that additional fees might be financed. Other industry representatives opposed the proposal. Some of these commenters believed consumers would be confused by an "amount borrowed" in addition to TILA's "amount financed," which does not include amounts borrowed to cover loan fees.

Creditors must provide updated HOEPA disclosures if, after giving the disclosures required by § 226.32(c) to the consumer and before consummation, the creditor changes any terms that make the disclosure inaccurate. § 226.31(c)(1). The Board requested comment on whether it would be appropriate to provide for a tolerance for insignificant changes to the amount borrowed, and if so, what would be a suitable margin.

Commenters had mixed views on the desirability for a tolerance. Consumer groups supported either no tolerance or a very small tolerance such as $100, consistent with the existing tolerance for understated finance charges in closed-end transactions secured by real property or a dwelling. § 226.18(d)(1). Industry commenters wanted a much larger tolerance such as 1 percent of the loan amount or 10 percent of the regular payment.

Pursuant to its authority under section 129(l)(2)(B) of TILA, the Board is providing a tolerance for the disclosure of the amount borrowed. Under the final rule, the amount borrowed is accurate if it is not more than $100 above or below the amount required to be disclosed.

Counseling

The Board requested comment on whether a generic disclosure advising consumers to seek independent advice might encourage borrowers to seek credit counseling. Consistent with views expressed in connection with the Board's 2000 hearings, both consumer and creditor commenters acknowledged the benefits of pre-loan counseling as a means to counteract predatory lending. There was uniform concern, however, about requiring a referral to counseling for HOEPA loans because the actual availability of local counselors may be uncertain. Based on the comments received and further analysis, the Board is not adopting a generic counseling disclosure at this time.

32(d) Limitations

32(d)(8) Due-on-demand Clause

As proposed, § 226.32(d)(8) is added to restrict the use of "due-on-demand" clauses or "call" provisions for HOEPA loans, unless the clause is exercised in connection with a consumer's default. The limitation on the use of these provisions in HOEPA loans is added pursuant to the Board's authority under section 129(l)(2)(A) to prohibit acts that are unfair or are designed to evade HOEPA. The staff commentary to § 226.32(d)(8) provides guidance concerning the exercise of "due-on-demand" clauses when a consumer fails to meet repayment terms or impairs the creditor's security for the loan.

Commenters generally supported the proposal. A few commenters suggested that the rule was not needed because they believe that due-on-demand clauses were generally not being used by mortgage lenders. Some industry commenters asked the Board to limit the rule's applicability to the first five years of a HOEPA loan, to coincide with HOEPA's ban on balloon payments. One commenter sought clarification that the rule limiting "due-on demand" clauses would not affect "due-on-sale" clauses.

The final rule is adopted as proposed. To prevent creditors from forcing consumers to pay additional points and fees to refinance their loans or face possible foreclosure, section 129(e) of TILA prohibits the use of balloon payments for HOEPA loans with terms of less than five years. Although "due-on-demand" and "call" provisions currently do not appear to be widely used in HOEPA loans, a creditor could potentially force the consumer to refinance by exercising the right to call the loan and demanding payment of the entire outstanding balance. Restricting call provisions in HOEPA loans is intended to ensure that lenders do not accelerate the payment of these loans, without cause, at any time during the loan term, in order to force consumers to refinance. When a creditor can unilaterally terminate the loan without cause, the consumer may be subject to unnecessary refinancings, excessive loan fees, higher interest rates, or possible foreclosure. Consequently, this rule prevents creditors from using call provisions in a manner that would cause substantial harm to HOEPA borrowers.

Loans covered by HOEPA are more likely to involve borrowers who have less-than-perfect credit histories, or who might not be served by prime lenders. As noted earlier, because these consumers either have or perceive they have fewer options than other borrowers, they may be more vulnerable to unscrupulous lenders or brokers. Accordingly, HOEPA includes limitations on certain loan provisions to protect these borrowers from onerous loan terms. The Board finds that it is also appropriate to protect HOEPA borrowers from the potentially harsh effects of allowing a creditor to exercise a "due-on-demand" clause at any time, unless there is legitimate cause.

The hearing testimony and comments received by the Board failed to identify any benefits to using "due-on-demand" clauses in HOEPA loans, other than in the legitimate cases that are permitted under the Board's rule. The rule allows creditors to exercise such clauses when the creditor is faced with borrower misrepresentations or fraud, the borrower fails to meet repayment terms, or a borrower's action (or failure to act) affects the creditor's security for the loan. The rule does not affect creditors' use of "due-on-sale" clauses.

The limitations on "due-on-demand" clauses adopted by the Board for HOEPA loans are similar to TILA's existing limits on the use of such clauses for home-equity lines of credit (HELOCs). See TILA, Section 127A; 12 CFR § 226.5b(f)(2). The rule for HELOCs is contained in the Home Equity Loan Consumer Protection Act of 1988 (Pub. Law No. 100–709, 102 Stat. 4725). The 1988 act recognized that allowing creditors to unilaterally terminate a home-equity line (or significantly change loan terms) is fundamentally unfair when the consumer's home is at stake. Allowing creditors' unlimited discretion to call the loan and require immediate repayment is similarly unfair with HOEPA loans.

VOL 66 ISS 245 DE 20 2001 UMI

Section 226.34—Prohibited Acts or Practices in Connection with Credit Secured by a Consumer's Dwelling

Section 129(l) of TILA authorizes the Board to prohibit acts or practices to curb abusive lending practices. The act provides that the Board shall prohibit practices: (1) In connection with *all mortgage loans* if the Board finds the practice to be unfair, deceptive, or designed to evade HOEPA; and (2) in connection with *refinancings of mortgage loans* if the Board finds that the practice is associated with abusive lending practices or otherwise not in the interest of the borrower. The Board is exercising this authority to prohibit certain acts or practices, as discussed below. The final rule is intended to curb unfair or abusive lending practices without unduly interfering with the flow of credit, creating unnecessary creditor burden, or narrowing consumers' options in legitimate transactions. The rule prohibiting "loan flipping" has been modified to expand its scope. The rule protecting low-rate loans has not been adopted due to concerns about the compliance burden on the home-equity lending market generally. Other provisions have been adopted as proposed.

The final rule creates a new § 226.34, which contains prohibitions against certain acts or practices in connection with credit secured by a consumer's dwelling. This section includes the rules currently contained in § 226.32(e).

34(a) Prohibited Acts or Practices for Loans Subject to § 226.32

34(a)(1) Home Improvement Contracts

Section 226.32(e)(2) regarding home-improvement contracts is renumbered as § 226.34(a)(1) without substantive change. Comment 32(e)(2)(i)–1 of the staff commentary is now comment 34(a)(1)(i)–1.

34(a)(2) Notice to Assignee

Section 226.32 (e)(3) regarding assignee liability for claims and defenses that consumers may have in connection with HOEPA loans is renumbered as § 226.34(a)(2) without substantive change. Comments 32(e)(3)–1 and –2 are now comments 34(a)(2)–1 and –2 respectively.

Comment 34(a)(2)–3 is added to clarify the statutory provision on the liability of purchasers or other assignees of HOEPA loans, as proposed. Section 131 of TILA provides that, with limited exceptions, purchasers or other assignees of HOEPA loans are subject to all claims and defenses with respect to a mortgage that the consumer could assert against the creditor. The comment clarifies that the phrase "all claims and defenses" is not limited to violations of TILA as amended by HOEPA. This interpretation is based on the statutory text and is supported by the legislative history. *See* Conference Report, Joint Statement of Conference Committee, H. Rep. No. 103–652, at 22 (Aug. 2, 1994).

34(a)(3) Refinancings Within One-year Period

"Loan flipping" generally refers to the practice by brokers and creditors of frequently refinancing home-secured loans to generate additional fee income even though the refinancing is not in the borrower's interest. Loan flipping is among the more flagrant of lending abuses. Victims tend to be borrowers who are having difficulty repaying a high-cost loan; they are targeted with promises to refinance the loan on more affordable terms. The refinancing typically provides little benefit to the borrower, as the loan amount increases mostly to cover fees. Often, there is minimal or no reduction in the interest rate. The monthly payment may increase, making the loan even more unaffordable. Sometimes the loan is amortized so that the monthly payment is reduced, but the loan may still be unaffordable. As long as there is sufficient equity to support the financing of additional fees, the consumer may be targeted repeatedly, resulting in equity stripping.

The proposed rule prohibited an originating creditor (or assignee) holding a HOEPA loan from refinancing that loan into another HOEPA loan within the first twelve months following origination, unless the new loan was "in the borrower's interest." Pursuant to its authority under Section 129(l)(2)(A) of TILA, the Board is adopting a final rule to address "loan flipping," as discussed below.

Consumer representatives generally supported the proposal, but they believed the rule was too narrow and that all creditors and brokers should be covered. Federal agencies, community groups, and consumers and their representatives believe that the prohibition should be lengthened; suggestions ranged from 18 months to as long as four years.

Creditors' comments mainly focused on the "interest of the borrower" test. oth creditors and consumer representatives sought additional guidance in this area. Consumer representatives viewed the standard as too lenient, while creditors believed that the standard's lack of certainty would subject them to litigation risk. Creditors also expressed concerns about the proposal's coverage of affiliates and sought clarification about whether an assignee merely servicing HOEPA loans is covered by the rule.

The Board is adopting a final rule that broadens the proposal's coverage somewhat. Under the final rule, within the first twelve months of originating a HOEPA loan to a borrower, the creditor is prohibited from refinancing that loan (whether or not the creditor still holds the loan) or another HOEPA loan held by that borrower.

The proposal was narrowly tailored to curb the more egregious cases of loan flipping: repeated refinancing by creditors that hold HOEPA loans in portfolio. Once a creditor assigned the loan, the assignee would have been covered, but the originating creditor could then have refinanced the HOEPA loan. Thus, the proposed rule did not cover loan originators that close loans in their own name and immediately assign them to a funding party or sell them in the secondary market. The hearing testimony and comments suggest that some of these originators are the source of unaffordable loans because they do not have a vested interest in the borrower's ability to repay the loan. Once they are no longer holding a loan, they can target the same borrower with an offer to refinance the loan. The final rule has been expanded to cover creditors (including brokers) that originate HOEPA loans, whether or not they continue to hold the loan. The loan flipping rule may deter some unaffordable lending if the parties making, holding, or servicing the loan are not permitted to refinance the loan within the first year.

Assignees are covered by the rule because in some instances they are the "true creditor" funding the loan. Even when they are not acting as the true creditors, assignees of HOEPA loans are subject to the refinancing restrictions to ensure that loans are not transferred for the purpose of evading the prohibition and that borrowers are not pressured into frequent refinancings by the party holding or servicing their loans. Thus, the rule has been revised to clarify that it applies to assignees that are servicing a HOEPA loan, whether or not they own the obligation. Assignees will be under the same restrictions as the original creditor while holding or servicing the loan. Comment 34(a)(3)–2 of the staff commentary is added to provide examples of how the rule is applied in specific cases.

Under the proposal, the regulatory prohibition applicable to creditors would have applied to their affiliates in all cases. Industry commenters were concerned about the compliance burden—particularly for creditors with broad geographic and corporate structures. The final rule has been narrowed and would not apply in routine cases where consumers seek a refinancing from an affiliate. Under the final rule, loans made by an affiliate are prohibited only if the creditor engages in a pattern or practice of arranging loans with an affiliate to evade the flipping prohibition, or engages in other acts or practices designed to evade the rule. The final rule also prohibits creditors from arranging refinancings of their own loans with unaffiliated creditors to evade the flipping prohibition.

As noted above, some commenters believe that the prohibition should be lengthened. Although a longer period might further limit the opportunity for loan flipping, one year provides an appropriate balance between the need to address the clearest cases of abusive refinancings and the need not to restrict the free flow of credit in legitimate transactions. Thus, the final rule retains the one-year limitation, as proposed.

Borrower's interest—Under the proposal, creditors are permitted to refinance a HOEPA loan within the one-year period when "in the borrower's interest." The determination of whether or not a benefit exists would be based on the totality of the circumstances. Consumer representatives viewed the standard as too lenient. They asserted that the lack of specificity or examples under the proposal would lead creditors to liberally construe the "borrower's interest" standard to permit any borrower predicament or any arguable "improvement" in term, payment, or rate, as sufficient justification for refinancing within the first year. Creditors, conversely, believed that the standard's lack of certainty would lead to litigation, inconsistent application, and borrower and judicial second-guessing of creditors. This, creditors argued, could ultimately result in a hesitancy by creditors to extend refinance credit at all in the first year of origination of a HOEPA loan.

Commenters offered many suggestions for more specific guidance, asking the Board to provide that lowering the interest rate or the monthly payment, or eliminating a balloon payment or variable rate feature, was per se, "in the borrower's interest." Although a list of acceptable loan purposes would provide more certainty, it is difficult to identify circumstances that would be unequivocally in the borrower's interest in all or even most cases. A good reason in one context may be abusive in other circumstances. For example, a homeowner's equity could still be stripped through repeated refinancings that carry high up-front fees even if they result in incrementally lower APRs.

The Board believes that precisely defining circumstances that are "in the borrower's interest" is not necessary, given the nature of the loan flipping prohibition. The prohibition applies for a relatively short period, and is intended as a strong deterrent for the more egregious cases. The "borrower's interest" exception must be narrowly construed to preserve the effectiveness of the overall prohibition. Moreover, the probability that a legitimate creditor would refinance its own HOEPA loans within twelve months is typically low.

The Board recognizes that this approach places the primary burden on the creditor, in light of the totality of the circumstances, to weigh whether the loan is in the borrower's interest. The standard is intended to give legitimate creditors some flexibility for extenuating circumstances, while creditors that rely on the exception routinely to "flip" HOEPA loans bear the risk that a court will find that they violated HOEPA.

Comment 34(a)(3)–1 of the staff commentary has been expanded to provide additional guidance on lenders' ability to make loans that are in the borrower's interest notwithstanding the loan-flipping prohibition. A mere statement by the borrower that "this loan is in my interest" would not meet the standard. In connection with a refinancing that provides additional funds to the borrower, in determining whether a refinancing is in the borrower's interest, consideration should be given to whether the loan fees and charges are commensurate with the amount of new funds advanced, and whether the real estate-related charges are bona fide and reasonable in amount (see generally § 226.4(c)(7)). A refinancing would be in the borrower's interest if needed for a "bona fide personal financial emergency"; this is the current standard for certain consumer waivers under TILA. TILA authorizes the Board to permit consumers to waive the three-day rescission period for certain home equity loans or the three-day waiting period before closing a HOEPA loan, if necessary for homeowners to meet a bona fide personal financial emergency. See § 226.23(e) and § 226.31(c)(1)(iii). Comment 31(c)(1)(iii)–1 of the staff commentary provides that the imminent sale of the consumer's home at foreclosure during the three-day HOEPA waiting period is an example of a bona fide personal financial emergency.

Limitations on refinancing low-rate loans—The December proposal addressed abuses involving the refinancing of low-rate loans originated through mortgage assistance programs designed to give low-or moderate-income borrowers the opportunity for homeownership. Some of these homeowners who have unsecured debts have been targeted by unscrupulous lenders who consolidate the debts and replace the low-cost, first-lien mortgage with a substantially higher cost loan. The replacement loans are often unaffordable, many involve "loan flipping," and as a result, homeowners have lost their homes. In some cases, the low-rate loan is replaced even though the first-lien holder may be willing to subordinate its security interest.

Under the proposal creditors would have been prohibited, in the first five years of a zero interest rate or other low-rate loan, from replacing that loan with any higher-rate loan unless the refinancing was in the interest of the borrower. Based on the comments received and after consultation with the Consumer Advisory Council and further analysis, the Board is withdrawing the proposed provision addressing low-rate loans.

Unlike the prohibition against loan flipping, which applies only to HOEPA creditors, the prohibition against refinancing low-rate loans, as proposed, would have applied to all mortgage refinancing transactions. While borrowers with low-rate mortgage loans could benefit from the rule, the benefits appear to be far outweighed by the potential compliance burden for all home-equity lenders. Therefore, the proposed rule is being withdrawn at this time for reconsideration. The Board will consider other approaches that appropriately protect borrowers with low-rate loans in order to deter harmful refinancings and provide adequate remedies where they occur without imposing unnecessary documentation requirements on the market as a whole.

34(a)(4) Repayment Ability

Under section 129(h) of TILA, a creditor may not engage in a pattern or practice of making HOEPA loans based on the equity in the borrower's home without regard to the consumer's repayment ability, taking into account the consumer's current and expected income, current obligations, and employment status. As proposed, the final rule, formerly in § 226.32(e)(1), has been moved to § 226.34(a)(4) and revised to parallel the statutory language. The revision is a clarification of existing law and is not a new rule.

Currently, compliance with the prohibition against unaffordable lending is difficult to enforce because creditors are not required to document that they considered the consumer's ability to repay. In addition, there have been reports of creditors relying on inaccurate information provided by unscrupulous loan brokers. To aid in solving these problems, the Board proposed under § 226.34(a)(4)(ii) to require that creditors generally verify and document consumers' current or expected income, current obligations, and employment to the extent applicable. If a creditor engages in a pattern or practice of making loans without verifying and documenting consumers' repayment ability, there would be a presumption that the creditor has violated the rule. The Board adopts the rule as § 226.34(a)(4) with minor modifications.

Determining repayment ability—Comment 34(a)(4)–1 of the staff commentary, formerly comment 32(e)(1)–1, has been modified in light of the new verification and documentation requirements discussed below. The comment has also been modified to more closely track the statute.

The reference to § 226.32(d)(7) has been deleted as unnecessary; the sources of information listed in § 226.32(d)(7) with one exception are listed in comment 34(a)(4)–2 on verifying and documenting repayment ability.

Verification and documentation—The verification and documentation rule requires creditors to use independent sources to ascertain borrowers' ability to repay loans that are secured by their homes, and to memorialize and retain this information. Proposed comment 34(a)(4)(ii)–1 provided examples of ways to verify and document the income and obligations of consumers who are employed, including those who are self-employed. The final comment, renumbered 34(a)(4)–4, adopts the proposed comment with modifications to accommodate creditworthy borrowers not employed or without traditional financial documents.

Most of the commenters supported the rule and comment. Some commenters from industry pointed out that verification and documentation is basic to the underwriting process and already required for safety and soundness purposes. Government entities at both the federal and state levels noted that verification and documentation is necessary for enforcement of the prohibition against unaffordable mortgage lending. A few commenters were concerned that the rule was not sufficiently flexible in allowing creditors to make loans to creditworthy borrowers whose repayment ability may not be based on regular employment wages. The final comment clarifies that creditors can rely on any reliable source that provides a reasonable basis for believing there are sufficient funds to support repayment of the loan.

Pattern or practice—Section 129(h) of TILA does not define "pattern or practice," nor does the legislative history provide guidance as to how the phrase should be applied. The Board proposed interpretive guidance on the "pattern or practice" requirement. The proposed comment provided that determining whether a pattern or practice exists depends on the totality of the circumstances. The proposal referenced statutes relevant to a pattern or practice determination, specifically, the Truth in Lending Act, the Equal Credit Opportunity Act, the Fair Housing Act, and Title VII of the Civil Rights Act of 1964 (equal employment opportunity).

Those that commented on this aspect of the proposal generally requested more guidance on what would constitute a "pattern or practice." Several requested that the Board set a specific standard. Industry commenters generally preferred a narrow standard, while representatives of consumer and community groups sought a broader standard that would be less onerous for consumers. Comment 34(a)(1)–2 as adopted provides additional guidance on the "pattern or practice" requirement, but retains the totality of the circumstances test. The comment provides that while a "pattern or practice" of violations is not established by isolated, random, or accidental acts, it can be established without the use of a statistical process. The comment also notes that a creditor might act under a lending policy (whether written or unwritten) and that action alone could establish that there is a pattern or practice of violating the prohibition against unaffordable lending.

Discounted introductory rates—Concern was raised about creditors determining a consumer's repayment ability based on low introductory rates offered under some programs. Proposed comment 34(a)(4)(i)–3 provided that in considering consumers repayment ability in transactions where the creditor sets a temporary introductory interest rate and the rate is later adjusted (whether fixed or later determined by an index or formula) the creditor must consider increases in the consumer's payments assuming the maximum possible increases in rates in the shortest possible time frame. The comment was not intended to impose a standard for evaluating a borrower's repayment ability that is more stringent than current industry practice. While creditors typically do not evaluate a borrower's ability to repay a loan based on a temporary discounted rate, they also do not evaluate repayment ability based on the maximum interest rate that may be charged as a result of rate adjustments on the loan. Based on the comments and further analysis, the final comment treats all discounted and variable-rate loans the same. Comment 34(a)(4)–3, as adopted, requires creditors to consider the consumer's ability to repay the loan assuming the non-discounted rate for fixed-rate loans, or the fully-indexed rate for variable rate loans, is in effect at consummation.

34(b) Prohibited Acts or Practices for Dwelling-Secured Loans; Open-end Credit

HOEPA covers only closed-end mortgage loans. In the December notice, the Board proposed a prohibition against structuring a home-secured loan as a line of credit to evade HOEPA's requirements, if the credit does not meet the definition of open-end credit in § 226.2(a)(20).

Although consumer representatives supported the Board's proposal, they generally believe that HOEPA should cover open-end credit carrying rates or fees above HOEPA's price triggers. Industry commenters believe there is little evidence that creditors are using open-end credit to evade HOEPA. Moreover, they oppose the rule as unnecessary because it is already a violation of TILA to provide disclosures for an open-end credit plan if the legal obligation does not meet the criteria for open-end credit.

Pursuant to the Board's authority under section 129(l)(2)(A), as proposed, § 226.34(b) explicitly prohibits structuring a mortgage loan as an open-end credit line to evade HOEPA's requirements, if the loan does not meet the TILA definition of open-end credit. This prohibition responds to cases reported by consumer advocates at the Board's hearings and to enforcement actions brought by the Federal Trade Commission, where creditors have documented loans as open-end "revolving" credit, even if there was no real expectation of repeat transactions under a reusable line of credit. Although the practice would currently violate TILA, the new rule will subject creditors and assignees to HOEPA's stricter liability rule and remedies if the credit carries rates and fees that exceed HOEPA's price triggers for closed-end loans.

Where a loan is documented as open-end credit but the features and terms or other circumstances demonstrate that it does not meet the definition of open-end credit, the loan is subject to the rules for closed-end credit, including HOEPA if the rate or fee trigger is met. In response to comments, comment 34(b)–1 provides guidance on how to apply HOEPA s triggers to transactions structured as open-end credit in violation of § 226.34(b).

Appendix H to Part 226—Closed-End Model Forms and Clauses

Model Form H–16—Mortgage Sample illustrates the disclosures required by § 226.32(c), which must be provided to consumers at least three days before becoming obligated on a mortgage transaction subject to § 226.32. Model Form H–16 is amended to illustrate the additional disclosures required for refinancings under § 226.32(c)(5). A new comment App. H–20 clarifies that although the additional disclosures are required for refinancings that are subject to § 226.32, creditors may, at their option, include these disclosures for any loan subject to that section. The Sample also includes an illustration for loans with balloon payments. Former comments H–20 through H–23 have been renumbered H–21 through H–24, respectively.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires federal agencies either to provide a Final Regulatory Flexibility Analysis with a final rule or to certify that the final rule will not have a significant economic impact on a substantial number of small entities. Based on available data, the Board is unable to determine at this time whether the final rule would have a significant impact on a substantial number of small entities. For this reason, the Board has prepared the following Final Regulatory Flexibility Analysis.

(1) *Statement of the need for and objectives of the final rule*—The final rule is adopted to address predatory lending and unfair practices in home-equity lending. As stated more fully above, the existing regulations are amended to broaden the scope of mortgage loans subject to HOEPA by adjusting the price triggers used to determine coverage under the act (both the interest rate trigger and points and fees trigger). Certain acts and practices in connection with home-secured loans are restricted. For example, creditors may not engage in repeated refinancings of HOEPA loans over a short time period when the transactions are not in the borrower's interest. HOEPA's prohibition against extending credit without regard to consumers' repayment ability is strengthened, and disclosures received by consumers before closing for HOEPA-covered loans are also enhanced.

(2) *Summary of public comment and statement of changes*—Significant issues raised by the public comments in response to the Board s proposal and Initial Regulatory Flexibility Analysis are described more fully in the supplementary material provided above.

Section 103(f) of TILA provides that a person becomes a creditor under TILA if, during any twelve-month period, the person originates more than one HOEPA-covered loan, or one or more HOEPA-covered loans through a mortgage broker. In providing protections to consumers whose principal dwellings secure high-cost mortgage loans, HOEPA did not create different rules for large and small creditors. Moreover, HOEPA sets forth specific limitations on the Board's authority to exempt mortgage products or categories of products from certain of HOEPA's requirements. *See* Section 129(l)(1) of TILA. Nevertheless, the Board has analyzed comments and has sought to minimize compliance burden for all creditors by making modifications to the proposal in the following ways.

- *Tiered APR trigger*—The final rule retains the current APR trigger for subordinate-lien loans at 10 percentage points above the rate for Treasury securities having a comparable maturity. The proposed across-the-board reduction of the APR trigger to 8 percentage points for all loans encompassed subordinate-lien loans that fall between the 8 and 10 percentage point triggers. The final revision to the APR trigger reduces the impact of the rule on creditors that choose not to extend HOEPA-covered credit generally, and on those that make small, short-term home-equity loans in particular, where fixed origination costs may significantly impact the APR.
- *Safe-harbor for refinancings in the "borrower's interest"*—The final rule provides additional guidance on creditors ability to refinance a HOEPA loan into another HOEPA loan that is in the borrower's interest notwithstanding the one-year general prohibition on such refinancings. Creditors expressed concern that the proposed determination for meeting the standard—the totality of the circumstances—was too subjective, and that as a result creditors would refrain from making refinancings during the one-year period to avoid litigation risk. In addition to providing additional guidance on refinancings that would be in the borrower s interest, the final rule permits creditors to make an additional subordinate-lien HOEPA loan that is not a refinancing to the same borrower.
- *Low-cost loan refinancing*—The proposed prohibition against refinancing certain low-cost loans is withdrawn. The relatively low number of borrowers with low-cost mortgage loans that would benefit from the rule appeared to be far outweighed by the compliance burden for all home-equity lenders.
- *Tolerance for amount borrowed*—The final rule, as proposed, requires creditors making HOEPA-covered refinancings to include the face amount of the note ("amount borrowed") in the HOEPA disclosures provided at least three days before closing. If any term is changed between the time the early HOEPA disclosure is provided to the consumer and consummation, and the change makes the disclosure inaccurate, new disclosures must be provided and another three-day waiting period begins. The final rule contains a small tolerance for changes in the amount actually borrowed of $100 above or below the amount disclosed, and to the disclosed regular payment as it is affected by the disclosed amount borrowed. This reduces redisclosure duties for creditors making insignificant errors and mitigates the economic impact of the rule's overall compliance burdens and costs.

(3) *Description of the small entities to which the final rule would apply*—The number of lenders, large or small, likely to be affected by the proposal is unknown. In the June 2001 Call Report, 4,547 small banks (assets less than $100 million) had first-lien mortgage credit outstanding, and 3,477 small banks had junior-lien mortgage loans outstanding. At the same time there were 228 small thrifts that report to the Office of Thrift Supervision which had closed-end first mortgage credit and/or junior-lien loans outstanding. The number of banks or thrifts active in subprime lending or HOEPA loans cannot be determined from information in the Call Report.

There is no comprehensive listing of consumer finance companies, but informal industry contacts indicate that there may be about 2,000 such institutions nationwide. Most of these companies are small entities, but apparently many, perhaps most, of the small institutions do not engage in mortgage lending, preferring to concentrate on unsecured lending and sales finance. An unknown number of small institutions do engage in mortgage lending, but there is no comprehensive listing of these institutions or estimate of their number.

There also is no comprehensive listing of mortgage banks or mortgage

VOL 66 ISS 245 DE 20 2001 UMI

brokers, but informal discussions with industry sources indicate that there are more than 1,200 mortgage banking firms with annual mortgage originations of less than $100 million that are members of a national trade association. Some of these companies are primarily mortgage servicing companies and generate few or no new mortgages, but there is also an unknown number of other mortgage banks that do not belong to the association.

The effect of expanding HOEPA coverage on small entities is unknown. The precise effect that adjusting the triggers will have on creditors' business strategies is difficult to predict. As discussed in the supplementary information provided above, there is an active market for HOEPA loans under the current triggers. Some creditors that choose not to make HOEPA loans may withdraw from making loans in the range of rates that would be covered by the lowered threshold. Others creditors may fill any void left by creditors that choose not to make HOEPA loans. And others may have the flexibility to avoid HOEPA s coverage by lowering rates or fees for some loans at the margins, consistent with the risk involved.

(4) *Reporting, recordkeeping, and compliance requirements*—The final amendments: (1) Extend the protections of HOEPA to more loans; (2) strengthen HOEPA's prohibition on loans based on homeowners' equity without regard to repayment ability; (3) improve disclosures received by consumers before closing; and (4) prohibit certain acts or practices, to address some "loan flipping" within the first twelve months of a HOEPA loan by prohibiting a refinancing into another HOEPA loan to the same borrower unless the refinancing is in the borrower's interest. HOEPA applies to creditors that make more than one HOEPA loan in a twelve-month period. For firms engaged in subprime lending, HOEPA's existing scope of coverage, its prohibition on loans made without regard to consumers' repayment ability, and its mandatory pre-closing disclosures already require the professional skills needed to comply with HOEPA. For some creditors (or holders or servicers of HOEPA loans) that seek to refinance a HOEPA loan with the same borrower into another HOEPA loan during a one-year period after origination, some recordkeeping adjustments may be necessary. However, the Board believes the burden will not be significant, since each of these parties has records that associate the borrower and the loan date for purposes of the one-year prohibition. Also, while the final rule imposes a new requirement to document and verify consumers' repayment ability for HOEPA loans, the Board believes that creditors' existing consideration of safety and soundness issues and risk assessment will result in little additional burden to comply with the new requirements.

Institutions that originate subprime mortgages, including small entities, will have to become aware of new definitions that expand HOEPA coverage, and as needed, will have to comply with the additional disclosures and other consumer protection provisions that apply to HOEPA loans. To comply with the final rule, then, creditors will need, among other things, to prepare disclosure forms, make various operational changes, and train staff. Professional skills needed to comply with the final rule may include clerical, computer systems, personnel training, as well as legal advice, which will require internal review and other actions by programmers and systems specialists, employee trainers, attorneys, and senior managers. Significantly, however, these skills are currently required to comply with HOEPA's existing rules and are not new to creditors both large and small. Creditors can reasonably be expected to be able to rely on current personnel for these specialized skills and thus not experience undue compliance burden.

(5) *Significant alternatives to the final rule*—As explained above, the final rule is adopted substantially as proposed to address predatory lending and unfair practices in the home-equity market, and contains several revisions to reflect suggestions or alternatives recommended by commenters. Specifically, the adoption of a "tiered" APR trigger, the inclusion of a tolerance for insignificant errors in disclosing the amount borrowed, the additional guidance for meeting the "borrower's interest" standard under the refinancing restriction, and the withdrawal of the "low-cost loan" refinancing prohibition, all reflect an effort to incorporate practical measures to reduce compliance burdens for creditors. The supplementary information provided above discusses other alternatives suggested by commenters. The rule's amendments are issued pursuant to the Board's authority under TILA to adjust the scope of mortgage loans covered by HOEPA, to prohibit certain acts or practices affecting mortgage loans or refinancings, to effectuate the purposes of TILA, to prevent circumvention or evasion, or to facilitate compliance. The amendments are intended to target unfair or abusive lending practices without unduly interfering with the flow of credit, creating unnecessary credit burden, or narrowing consumers' options in legitimate credit transactions. The final rule contains specific modifications to the proposed rule that reduce regulatory burden.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. The Federal Reserve may not conduct or sponsor, and an organization is not required to respond to, this information collection unless it displays a currently valid OMB control number. The OMB control number is 7100–0199.

The collection of information that is revised by this rulemaking is found in 12 CFR part 226 and in Appendices F, G, H, J, K, and L. This information is mandatory (15 U.S.C. 1601 *et seq.*) to evidence compliance with the requirements of Regulation Z and the Truth in Lending Act (TILA). The respondents/recordkeepers are all types of creditors, among which are small businesses. Under the Paperwork Reduction Act, the Federal Reserve accounts for the paperwork burden associated with Regulation Z only for state member banks, their subsidiaries, and subsidiaries of bank holding companies (not otherwise regulated). Other agencies account for the paperwork burden on their respective constituencies under this regulation. Institutions are required to retain records for twenty-four months.

The final rule broadens HOEPA's coverage (by lowering the APR trigger for first-lien loans by 2 percentage points and adding certain costs to the fee-based trigger) and revises a disclosure currently required by § 226.32 of Regulation Z. The revised disclosure covers refinancings subject to HOEPA and states the total amount of the borrower's obligation and whether optional credit insurance or debt-cancellation coverage is included in the amount borrowed (§ 226.32(c)(5)). Model Form H–16 illustrates this revised disclosure. The burden of revising the disclosure should be minimal because most institutions use software that automatically generates model forms such as Model Form H–16. The changes to the triggers also should impose minimal burden because the changes generally will require only a one-time reprogramming of systems.

With respect to state member banks, it is estimated that there are 976 respondent/recordkeepers and an average frequency of 136,294 responses per respondent each year for Regulation

Z. Therefore, the total annual burden under the regulation for all state member banks is estimated to be 1,841,118 hours. In the Federal Reserve's April 2001 Paperwork Reduction Act submission to OMB addressing the electronic disclosures interim rule, the Federal Reserve stated its belief that state member banks do not typically offer the type of loans that would require HOEPA disclosures and that these disclosures had a negligible effect on the paperwork burden for state member banks. Lowering the APR trigger by 2 percentage points could, however, result in higher burden for the few state member banks that choose to make these loans. Because little information is available about the actual number of loans that will be affected by the coverage change the Federal Reserve is not changing its current burden estimates cited above. The Federal Reserve will, however, solicit more burden comments and re-estimate the burden associated with the HOEPA requirements in Regulation Z in the next triennial PRA review (during the fourth quarter 2002). The Federal Reserve also estimates the one-time cost burden for programming systems with the revised disclosures and updating systems with the new triggers to be $135,000 per bank, on average.

Because the records are maintained at state member banks and the notices are not provided to the Federal Reserve, no issue of confidentiality under the Freedom of Information Act arises; however, any information obtained by the Federal Reserve may be protected from disclosure under exemptions (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 522 (b)(4), (6) and (8)). The disclosures and information about error allegations are confidential between creditors and the customer.

The Federal Reserve has a continuing interest in the public's opinions of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction.

List of Subjects in 12 CFR Part 226

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

PART 226—TRUTH IN LENDING (REGULATION Z)

1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

Subpart A—General

2. Section 226.1 is amended by:
a. Revising paragraph (b); and
b. Revising paragraph (d)(5).

§ 226.1 Authority, purpose, coverage, organization, enforcement and liability.

* * * * *

(b) *Purpose.* The purpose of this regulation is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit. The regulation requires a maximum interest rate to be stated in variable-rate contracts secured by the consumer's dwelling. It also imposes limitations on home equity plans that are subject to the requirements of § 226.5b and mortgages that are subject to the requirements of § 226.32. The regulation prohibits certain acts or practices in connection with credit secured by a consumer's principal dwelling.

* * * * *

(d) *Organization.* * * *

(5) Subpart E contains special rules for mortgage transactions. Section 226.32 requires certain disclosures and provides limitations for loans that have rates and fees above specified amounts. Section 226.33 requires disclosures, including the total annual loan cost rate, for reverse mortgage transactions. Section 226.34 prohibits specific acts and practices in connection with mortgage transactions.

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

3. Section 226.32 is amended by:
a. Republishing paragraph (a)(1) introductory text and revising paragraph (a)(1)(i);
b. Republishing paragraph (b) introductory text and revising paragraph (b)(1);
c. Revising paragraph (c) introductory text, revising paragraph (c)(3), and adding paragraph (c)(5);
d. Revising paragraph (d) introductory text and adding paragraph (d)(8); and
e. Removing paragraph (e).

§ 226.32 Requirements for certain closed-end home mortgages.

(a) *Coverage.* (1) Except as provided in paragraph (a)(2) of this section, the requirements of this section apply to a consumer credit transaction that is secured by the consumer's principal dwelling, and in which either:

(i) The annual percentage rate at consummation will exceed by more than 8 percentage points for first-lien loans, or by more than 10 percentage points for subordinate-lien loans, the yield on Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the extension of credit is received by the creditor; or

* * * * *

(b) *Definitions.* For purposes of this subpart, the following definitions apply:

(1) For purposes of paragraph (a)(1)(ii) of this section, *points and fees* means:

(i) All items required to be disclosed under § 226.4(a) and 226.4(b), except interest or the time-price differential;

(ii) All compensation paid to mortgage brokers;

(iii) All items listed in § 226.4(c)(7) (other than amounts held for future payment of taxes) unless the charge is reasonable, the creditor receives no direct or indirect compensation in connection with the charge, and the charge is not paid to an affiliate of the creditor; and

(iv) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage (whether or not the debt-cancellation coverage is insurance under applicable law) that provides for cancellation of all or part of the consumer's liability in the event of the loss of life, health, or income or in the case of accident, written in connection with the credit transaction.

* * * * *

(c) *Disclosures.* In addition to other disclosures required by this part, in a mortgage subject to this section, the creditor shall disclose the following in conspicuous type size:

* * * * *

(3) *Regular payment; balloon payment.* The amount of the regular monthly (or other periodic) payment and the amount of any balloon payment. The regular payment disclosed under this paragraph shall be treated as accurate if it is based on an amount borrowed that is deemed accurate and is

VOL 66 ISS 245 DE 20 2001 UMI

disclosed under paragraph (c)(5) of this section.

* * * * *

(5) *Amount borrowed.* For a mortgage refinancing, the total amount the consumer will borrow, as reflected by the face amount of the note; and where the amount borrowed includes premiums or other charges for optional credit insurance or debt-cancellation coverage, that fact shall be stated, grouped together with the disclosure of the amount borrowed. The disclosure of the amount borrowed shall be treated as accurate if it is not more than $100 above or below the amount required to be disclosed.

(d) *Limitations.* A mortgage transaction subject to this section shall not include the following terms:

* * * * *

(8) *Due-on-demand clause.* A demand feature that permits the creditor to terminate the loan in advance of the original maturity date and to demand repayment of the entire outstanding balance, except in the following circumstances:

(i) There is fraud or material misrepresentation by the consumer in connection with the loan;

(ii) The consumer fails to meet the repayment terms of the agreement for any outstanding balance; or

(iii) There is any action or inaction by the consumer that adversely affects the creditor's security for the loan, or any right of the creditor in such security.

* * * * *

4. A new § 226.34 is added to subpart E to read as follows:

§ 226.34 Prohibited acts or practices in connection with credit secured by a consumer's dwelling.

(a) *Prohibited acts or practices for loans subject to § 226.32.* A creditor extending mortgage credit subject to § 226.32 shall not—

(1) *Home improvement contracts.* Pay a contractor under a home improvement contract from the proceeds of a mortgage covered by § 226.32, other than:

(i) By an instrument payable to the consumer or jointly to the consumer and the contractor; or

(ii) At the election of the consumer, through a third-party escrow agent in accordance with terms established in a written agreement signed by the consumer, the creditor, and the contractor prior to the disbursement.

(2) *Notice to assignee.* Sell or otherwise assign a mortgage subject to § 226.32 without furnishing the following statement to the purchaser or assignee: "Notice: This is a mortgage subject to special rules under the federal Truth in Lending Act. Purchasers or assignees of this mortgage could be liable for all claims and defenses with respect to the mortgage that the borrower could assert against the creditor."

(3) *Refinancings within one-year period.* Within one year of having extended credit subject to § 226.32, refinance any loan subject to § 226.32 to the same borrower into another loan subject to § 226.32, unless the refinancing is in the borrower's interest. An assignee holding or servicing an extension of mortgage credit subject to § 226.32, shall not, for the remainder of the one-year period following the date of origination of the credit, refinance any loan subject to § 226.32 to the same borrower into another loan subject to § 226.32, unless the refinancing is in the borrower's interest. A creditor (or assignee) is prohibited from engaging in acts or practices to evade this provision, including a pattern or practice of arranging for the refinancing of its own loans by affiliated or unaffiliated creditors, or modifying a loan agreement (whether or not the existing loan is satisfied and replaced by the new loan) and charging a fee.

(4) *Repayment ability.* Engage in a pattern or practice of extending credit subject to § 226.32 to a consumer based on the consumer's collateral without regard to the consumer's repayment ability, including the consumer's current and expected income, current obligations, and employment. There is a presumption that a creditor has violated this paragraph (a)(4) if the creditor engages in a pattern or practice of making loans subject to § 226.32 without verifying and documenting consumers' repayment ability.

(b) *Prohibited acts or practices for dwelling-secured loans; open-end credit.* In connection with credit secured by the consumer's dwelling that does not meet the definition in § 226.2(a)(20), a creditor shall not structure a home-secured loan as an open-end plan to evade the requirements of § 226.32.

5. Appendix H to Part 226 is amended by revising Model Form H–16 to read as follows:

Appendix H to Part 226X—Closed-End Model Forms and Clauses

* * * * *

BILLING CODE 6210-01-P

H-16—Mortgage Sample

You are not required to complete this agreement merely because you have received these disclosures or have signed a loan application.

If you obtain this loan, the lender will have a mortgage on your home.

YOU COULD LOSE YOUR HOME, AND ANY MONEY YOU HAVE PUT INTO IT, IF YOU DO NOT MEET YOUR OBLIGATIONS UNDER THE LOAN.

You are borrowing $______ (optional credit insurance is ☐ is not ☐ included in this amount).

The annual percentage rate on your loan will be: ______%.

Your regular _[frequency]_ payment will be: $______.
[At the end of your loan, you will still owe us: $ [balloon amount].]

[Your interest rate may increase. Increases in the interest rate could increase your payment. The highest amount your payment could increase is to $_______.]

BILLING CODE 6210-01-C

6. In Supplement I to Part 226, the following amendments are made:

a. Under *Section 226.31—General Rules*, under *Paragraph 31(c)(1)(i)*, paragraph 2. is added;

b. Under *Section 226.32—Requirements for Certain Closed-End Home Mortgages*, under *Paragraph 32(a)(1)(ii)*, paragraph 1. introductory text is revised and 1.iv. is added;

c. Under *Section 226.32—Requirements for Certain Closed-End Home Mortgages*, a new heading *Paragraph 32(b)(1)(iv)* is added and a new paragraph 1. is added;

d. Under *Section 226.32—Requirements for Certain Closed-End Home Mortgages*, under *Paragraph 32(c)(3)*, the heading is revised, paragraph 1. is revised and paragraph 2. is removed; and a new heading *Paragraph 32(c)(5)* is added and a new paragraph 1. is added.

e. Under *Section 226.32—Requirements for Certain Closed-End Home Mortgages*, a new heading *Paragraph 32(d)(8)* is added; a new heading *Paragraph 32(d)(8)(ii)* is added and a new paragraph 1. is added; and a new heading *Paragraph 32(d)(8)(iii)* is added and new paragraphs 1. and 2. are added.

f. Under *Section 226.32—Requirements for Certain Closed-End Home Mortgages, 32(e) Prohibited Acts and Practices* is removed;

g. Under subpart E, a new *Section 226.34—Prohibited Acts or Practices in Connection with Credit Secured by a Consumer's Dwelling; Open-end Credit* is added; and

h. Under *Appendix H—Closed-End Model Forms and Clauses*, paragraphs 20. through 23. are redesignated as paragraphs 21. through 24., and new paragraph 20. is added.

The additions and revisions read as follows:

Supplement I to Part 226 Official Staff Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 226.31—General Rules

* * * * *

31(c) Timing of disclosure.

* * * * *

Paragraph 31(c)(1)(i) Change in terms.

* * * * *

2. *Sale of optional products at consummation.* If the consumer finances the purchase of optional products such as credit insurance and as a result the monthly payment differs from what was previously disclosed under § 226.32, redisclosure is required and a new three-day waiting period applies. (See comment 32(c)(3)–1 on when optional items may be included in the regular payment disclosure.)

* * * * *

Section 226.32—Requirements for Certain Closed-End Home Mortgages

32(a) Coverage.

* * * * *

Paragraph 32(a)(1)(ii).

1. *Total loan amount.* For purposes of the "points and fees" test, the total loan amount is calculated by taking the amount financed, as determined according to § 226.18(b), and deducting any cost listed in § 226.32(b)(1)(iii) and § 226.32(b)(1)(iv) that is both included as points and fees under § 226.32(b)(1) and financed by the creditor. Some examples follow, each using a $10,000 amount borrowed, a $300 appraisal fee, and $400 in points. A $500 premium for optional credit life insurance is used in one example.

* * * * *

iv. If the consumer finances a $300 fee for a creditor-conducted appraisal and a $500 single premium for optional credit life insurance, and pays $400 in points at closing, the amount financed under § 226.18(b) is $10,400 ($10,000, plus the $300 appraisal fee that is paid to and financed by the creditor, plus the $500 insurance premium that is financed by the creditor, less $400 in prepaid finance charges). The $300 appraisal fee paid to the creditor is added to other points and fees under § 226.32(b)(1)(iii), and the $500 insurance premium is added under 226.32(b)(1)(iv). The $300 and $500 costs are deducted from the amount financed ($10,400) to derive a total loan amount of $9,600.

* * * * *

32(b) Definitions.

* * * * *

Paragraph 32(b)(1)(iv).

1. *Premium amount.* In determining "points and fees" for purposes of this section, premiums paid at or before closing for credit insurance are included whether they are paid in cash or financed, and whether the amount represents the entire premium for the coverage or an initial payment.

* * * * *

32(c) Disclosures.

* * * * *

Paragraph 32(c)(3) Regular payment; balloon payment.

1. *General.* The regular payment is the amount due from the borrower at regular intervals, such as monthly, bimonthly, quarterly, or annually. There must be at least two payments, and the payments must be in an amount and at such intervals that they fully amortize the amount owed. In disclosing the regular payment, creditors may rely on the rules set forth in § 226.18(g); however, the amounts for voluntary items, such as credit life insurance, may be included in the regular payment disclosure only if the consumer has previously agreed to the amounts.

* * * * *

Paragraph 32(c)(5) Amount borrowed.

1. *Optional insurance; debt-cancellation coverage.* This disclosure is required when the amount borrowed in a refinancing includes premiums or other charges for credit life, accident, health, or loss-of-income insurance, or debt-cancellation coverage (whether or not the debt-cancellation coverage is insurance under applicable law) that provides for cancellation of all or part of the consumer's liability in the event of the loss of life, health, or income or in the case of accident. See comment 4(d)(3)–2 and comment app. G and H–2 regarding terminology for debt-cancellation coverage.

32(d) Limitations.

* * * * *

32(d)(8) Due-on-demand clause.

Paragraph 32(d)(8)(ii).

1. *Failure to meet repayment terms.* A creditor may terminate a loan and accelerate the balance when the consumer fails to meet the repayment terms provided for in the agreement; a creditor may do so, however, only if the consumer actually fails to make payments. For example, a creditor may not terminate and accelerate if the consumer, in error, sends a payment to the wrong location, such as a branch rather than the main office of the creditor. If a consumer files for or is placed in bankruptcy, the creditor may terminate and accelerate under this provision if the consumer fails to meet the repayment terms of the agreement. Section 226.32(d)(8)(ii) does not override any state or other law that requires a creditor to notify a borrower of a right to cure, or otherwise places a duty on the creditor before it can terminate a loan and accelerate the balance.

Paragraph 32(d)(8)(iii).

1. *Impairment of security.* A creditor may terminate a loan and accelerate the balance if the consumer's action or inaction adversely affects the creditor's security for the loan, or any right of the creditor in that security. Action or inaction by third parties does not, in itself, permit the creditor to terminate and accelerate.

2. *Examples.* i. A creditor may terminate and accelerate, for example, if:

A. The consumer transfers title to the property or sells the property without the permission of the creditor.

B. The consumer fails to maintain required insurance on the dwelling.

C. The consumer fails to pay taxes on the property.

D. The consumer permits the filing of a lien senior to that held by the creditor.

E. The sole consumer obligated on the credit dies.

F. The property is taken through eminent domain.

G. A prior lienholder forecloses.

ii. By contrast, the filing of a judgment against the consumer would permit termination and acceleration only if the amount of the judgment and collateral subject to the judgment is such that the creditor's security is adversely affected. If the consumer commits waste or otherwise destructively uses or fails to maintain the property such that the action adversely affects the security, the loan may be terminated and the balance accelerated. Illegal use of the property by the consumer would permit termination and acceleration if it subjects the property to seizure. If one of two consumers obligated on a loan dies, the creditor may terminate the loan and accelerate the balance if the security is adversely affected. If the consumer moves out of the dwelling that secures the loan and that action adversely affects the security, the creditor may terminate a loan and accelerate the balance.

* * * * *

Section 226.34—Prohibited Acts or Practices in Connection with Credit Secured by a Consumer s Dwelling; Open-end Credit

34(a) Prohibited acts or practices for loans subject to § 226.32.

Paragraph 34(a)(1) Home-improvement contracts.

Paragraph 34(a)(1)(i).

1. *Joint payees.* If a creditor pays a contractor with an instrument jointly payable to the contractor and the consumer, the instrument must name as payee each consumer who is primarily obligated on the note.

Paragraph 34(a)(2) Notice to Assignee.

1. *Subsequent sellers or assignors.* Any person, whether or not the original creditor, that sells or assigns a mortgage subject to § 226.32 must furnish the notice of potential liability to the purchaser or assignee.

2. *Format.* While the notice of potential liability need not be in any particular format, the notice must be prominent. Placing it on the face of the note, such as with a stamp, is one means of satisfying the prominence requirement.

3. *Assignee liability.* Pursuant to section 131(d) of the act, the act's general holder-in-due course protections do not apply to purchasers and assignees of loans covered by § 226.32. For such loans, a purchaser's or other assignee's liability for all claims and defenses that the consumer could assert against the creditor is not limited to violations of the act.

Paragraph 34(a)(3) Refinancings within one-year period.

1. *In the borrower's interest.* The determination of whether or not a refinancing covered by § 226.34(a)(3) is in the borrower's interest is based on the totality of the circumstances, at the time the credit is extended. A written statement by the borrower that "this loan is in my interest" alone does not meet this standard.

i. A refinancing would be in the borrower's interest if needed to meet the borrower's "bona fide personal financial emergency" (see generally § 226.23(e) and § 226.31(c)(1)(iii)).

ii. In connection with a refinancing that provides additional funds to the borrower, in determining whether a loan is in the borrower's interest consideration should be given to whether the loan fees and charges are commensurate with the amount of new funds advanced, and whether the real estate-related charges are bona fide and reasonable in amount (see generally § 226.4(c)(7)).

2. *Application of the one-year refinancing prohibition to creditors and assignees.* The prohibition in § 226.34(a)(3) applies where an extension of credit subject to § 226.32 is refinanced into another loan subject to § 226.32. The prohibition is illustrated by the following examples. Assume that Creditor A makes a loan subject to § 226.32 on January 15, 2003, secured by a first lien; this loan is assigned to Creditor B on February 15, 2003:

i. Creditor A is prohibited from refinancing the January 2003 loan (or any other loan subject to § 226.32 to the same borrower) into a loan subject to § 226.32, until January 15, 2004. Creditor B is restricted until January 15, 2004, or such date prior to January 15, 2004 that Creditor B ceases to hold or service the loan. During the prohibition period, Creditors A and B may make a subordinate lien loan that does not refinance a loan subject to § 226.32. Assume that on April 1, 2003, Creditor A makes but does not assign a second-lien loan subject to § 226.32. In that case, Creditor A would be prohibited from refinancing either the first-lien or second-lien loans (or any other loans to that borrower subject to § 226.32) into another loan subject to § 226.32 until April 1, 2004.

ii. The loan made by Creditor A on January 15, 2003 (and assigned to Creditor B) may be refinanced by Creditor C at any time. If Creditor C refinances this loan on March 1, 2003 into a new loan subject to § 226.32, Creditor A is prohibited from refinancing the loan made by Creditor C (or any other loan subject to § 226.32 to the same borrower) into another loan subject to § 226.32 until January 15, 2004. Creditor C is similarly prohibited from refinancing any loan subject to § 226.32 to that borrower into another until March 1, 2004. (The limitations of § 226.34(a)(3) no longer apply to Creditor B after Creditor C refinanced the January 2003 loan and Creditor B ceased to hold or service the loan.)

Paragraph 34(a)(4) Repayment ability.

1. *Income.* Any expected income can be considered by the creditor, except equity income that would be realized from collateral. For example, a creditor may use information about income other than regular salary or wages such as gifts, expected retirement payments, or income from self-employment, such as housecleaning or childcare.

2. *Pattern or practice of extending credit—repayment ability.* Whether a creditor is engaging or has engaged in a pattern or practice of violations of this section depends on the totality of the circumstances in the particular case. While a pattern or practice is not established by isolated, random, or accidental acts, it can be established without the use of a statistical process. In addition, a creditor might act under a lending policy (whether written or unwritten) and that action alone could establish a pattern or practice of making loans in violation of this section.

3. *Discounted introductory rates.* In transactions where the creditor sets an initial interest rate to be adjusted later (whether fixed or to be determined by an index or formula), in determining repayment ability the creditor must consider the consumer's ability to make loan payments based on the non-discounted or fully-indexed rate at the time of consummation.

4. *Verifying and documenting income and obligations.* Creditors may verify and document a consumer's repayment ability in various ways. A creditor may verify and document a consumer's income and current obligations through any reliable source that provides the creditor with a reasonable basis for believing that there are sufficient funds to support the loan. Reliable sources include, but are not limited to, a credit report, tax returns, pension statements,

VOL 66 ISS 245 DE 20 2001 UMI

and payment records for employment income.

Paragraph 34(b) Prohibited acts or practices for dwelling-secured loans; open-end credit.

1. *Amount of credit extended.* Where a loan is documented as open-end credit but the features and terms or other circumstances demonstrate that it does not meet the definition of open-end credit, the loan is subject to the rules for closed-end credit, including § 226.32 if the rate or fee trigger is met. In applying the triggers under § 226.32, the "amount financed," including the "principal loan amount" must be determined. In making the determination, the amount of credit that would have been extended if the loan had been documented as a closed-end loan is a factual determination to be made in each case. Factors to be considered include the amount of money the consumer originally requested, the amount of the first advance or the highest outstanding balance, or the amount of the credit line. The full amount of the credit line is considered only to the extent that it is reasonable to expect that the consumer might use the full amount of credit.

* * * * *

Appendix H—Closed-End Model Forms and Clauses

* * * * *

20. *Sample H–16.* This sample illustrates the disclosures required under § 226.32(c). The sample illustrates the amount borrowed and the disclosures about optional insurance that are required for mortgage refinancings under § 226.32(c)(5). Creditors may, at their option, include these disclosures for all loans subject to § 226.32. The sample also includes disclosures required under § 226.32(c)(3) when the legal obligation includes a balloon payment.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 14, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31264 Filed 12–19–01; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, 712, 715, 723, 725, and 790

Definitions; Organization and Operation of Federal Credit Unions; Credit Union Service Corporations; Supervisory Committee Audits and Verifications; Member Business Loans; Central Liquidity Facility; Description of NCUA

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is issuing a final rule to amend various rules to make technical corrections and add and revise certain definitions. The Board is adding a scope section and definitions of "paid-in and unimpaired capital and surplus" and "unimpaired capital and surplus" to its rule containing definitions. The Board also is removing obsolete references from this rule and updating the rule concerning changes in officials of newly chartered or troubled credit unions. The Board is correcting a citation in the supervisory committee rule and making clarifications to the credit union service organization (CUSO) rule and the member business loan rule. In addition, the Board is updating and clarifying the definition for "paid-in and unimpaired capital and surplus" in the Central Liquidity Facility (CLF) rule. Finally, the Board is changing a reference in Part 790 from the "Office of Community Development Credit Unions" to the "Office of Credit Union Development."

DATES: This rule is effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Regina Metz, Staff Attorney, Division of Operations, Office of General Counsel, at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or telephone: (703) 518–6561; or Herbert S. Yolles, Deputy Director, Office of Examination and Insurance, at the same address or telephone: (703) 518–6360.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 2001, NCUA issued a proposed rule on definitions and technical corrections. 66 FR 33211, June 21, 2001. The proposed rule resulted from NCUA's policy of continually reviewing its regulations to "update, clarify and simplify existing regulations and eliminate redundant and unnecessary provisions." Interpretive Rulings and Policy Statement (IRPS) 87–2, Developing and Reviewing Government Regulations. The NCUA Board is issuing the final rule unchanged from the proposed rule.

The proposed rule replaced obsolete references in two parts of NCUA's regulations related with new references to prompt corrective action, section 216 of the Federal Credit Union Act. 12 CFR 700.1, 701.14. In the definitions part of the regulations, the proposed rule added a scope section and definitions for "paid-in and unimpaired capital and surplus" and "unimpaired capital and surplus." 12 CFR part 700. The proposed rule conformed definitions of paid-in and unimpaired capital and surplus in the CUSO and CLF rules to the proposed definitions in the definitions part. 12 CFR 712.2(d); 12 CFR 725.2(o). The proposed rule also corrected a citation in the supervisory committee audit rule and clarified the member business loan rule by changing a reference from "federally insured credit unions" to "federally insured state-chartered credit unions." 12 CFR 715.2(l), 723.4. The proposed rule also updated NCUA's regulations by changing a reference in Part 790 from the "Office of Community Development Credit Unions" to the office's new name, the "Office of Credit Union Development." The NCUA Board is adopting all the proposed changes in the final rule.

Summary of Comments

The NCUA Board requested comment on all aspects of the proposed rule and received three comment letters: One, from a national trade association, one from a state trade association, and one from a federal credit union (FCU). The two trade associations supported the proposal without qualification. The FCU offered a substantive comment regarding the definition of "paid-in and unimpaired capital and surplus," discussed below. NCUA received no comment on the other provisions in the proposed rule. This preamble does not repeat discussions from the proposal for those provisions and the NCUA Board has adopted them as proposed.

"Paid-in and Unimpaired Capital and Surplus" and "Unimpaired Capital and Surplus"

To improve the clarity of NCUA's regulations, the Board proposed to include definitions for "paid-in and unimpaired capital and surplus" and "unimpaired capital and surplus" in the general definitions part of the regulations. The proposed rule defined "unimpaired capital and surplus" as meaning the same as "paid-in and unimpaired capital and surplus" and cross-referenced its definition. The proposed definition for "paid-in and unimpaired capital and surplus" was a refined statement of the definitions currently in the FCU Bylaws, but did not change the meaning of those definitions or the agency's long-standing interpretation.

The proposed definition for paid-in and unimpaired capital and surplus was shares plus post-closing, undivided earnings. The preamble to the proposed rule stated that the term "post-closing" was simpler terminology that a credit union person, an examiner, and an accounting professional would understand to encompass the closing of the books and posting of all relevant and required period losses to undivided earnings. Post-closing undivided earnings incorporates and means the same as the language in the Bylaw provisions that define surplus ("after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom") and define unimpaired capital ("less any losses that may have been incurred for which there is no reserve or which have not been charged against undivided earnings"). The proposed definition further clarified the meaning of paid-in and unimpaired capital and surplus by including the statement that: "This does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer."

Amendment to Definition of "Paid-in and Unimpaired Capital and Surplus" in the CLF Rule

As stated in the proposed rule, the CLF is a mixed-ownership government corporation created to improve the general financial stability of credit unions by meeting their liquidity needs. 12 CFR 725.1. Both state-chartered and federally-chartered credit unions may become members. 12 CFR 725.3. The Board proposed to revise the current definition in the CLF rule for paid-in and unimpaired capital and surplus. The current CLF rule combines the definition for paid-in and unimpaired capital in the FCU Bylaws with the definition of surplus in the FCU Bylaws and is substantively identical to those provisions. 12 CFR 725.2(o). The current definition includes deposits because some state-chartered credit unions are authorized to accept deposits.

The proposed rule defined paid-in and unimpaired capital and surplus in the CLF rule as shares and deposits plus post-closing, undivided earnings. The proposed definition further stated that the term does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer.

Comments on the Definitions of "Paid-in and Unimpaired Capital and Surplus"

One commenter expressed the view that the NCUA should simplify the general definition of "paid-in and unimpaired capital and surplus" to "shares and deposits plus unappropriated earnings," in order to include the concept of "unrealized gains or losses on investments" as part of "unappropriated earnings." The Board disagrees. The Board's view is that "unappropriated earnings" are equivalent to "undivided earnings," and neither term includes unrealized gains or losses on investments, since these amounts are not yet earned or realized. Thus, the final rule uses the term "undivided earnings."

Regarding the commenter's suggestion that the general definition include deposits, for the reasons stated in the proposed rule, only the CLF definition of "paid-in and unimpaired capital and surplus" includes deposits. The general definition does not include them in the final rule.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under one million dollars in assets). The final rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the final rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget concurred with NCUA's opinion that the final rule does not constitute a major rule, for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. NCUA requested comments on whether its proposed rule was understandable and minimally intrusive, but received no comments in response to this request.

List of Subjects

12 CFR Part 700

Credit unions, Definitions.

12 CFR Part 701

Credit unions.

12 CFR Part 712

Credit unions, Credit union service organizations.

12 CFR Part 715

Audits, Credit unions, Supervisory committees.

12 CFR Part 723

Credit, Credit unions.

12 CFR Part 725

Credit unions, Liquidity.

12 CFR Part 790

Credit unions.

VOL 66 ISS 245 DE 20 2001 UMI

By the National Credit Union Administration Board on December 13, 2001.

Becky Baker,

Secretary of the Board.

Accordingly, the NCUA amends 12 CFR parts 700, 701, 715, 723, 725, and 790 as follows:

PART 700—DEFINITIONS

1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752, 1757(6), 1766.

2. Redesignate current § 700.1 as § 700.2 and add a new § 700.1 to read as follows:

§ 700.1 Scope.

The definitions in § 700.2 apply to terms used in this chapter. Many additional definitions appear in the parts where the terms are used.

3. In newly redesignated § 700.2:

A. Remove paragraphs (h) and (j);

B. Redesignate paragraphs (e), (f), (g), and (i), as paragraphs (g), (h), (i), and (e) respectively; and

C. Add new paragraphs (f) and (j), to read as follows:

§ 700.2 Definitions.

* * * * *

(f) *Paid-in and unimpaired capital and surplus* means shares plus post-closing, undivided earnings. This does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer. "Paid-in and unimpaired capital and surplus" for purposes of the Central Liquidity Facility is defined in § 725.2(o) of this chapter.

* * * * *

(j) *Unimpaired capital and surplus* means the same as "paid-in and unimpaired capital and surplus," as defined in paragraph (f) of this section.

* * * * *

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

4. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

5. In § 701.14, revise paragraphs (b)(3)(ii) and (b)(4)(ii) to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b) * * *

(3) * * *

(ii) Has been granted assistance as outlined under sections 208 or 216 of the Federal Credit Union Act.

(4) * * *

(ii) Has been granted assistance as outlined under sections 208 or 216 of the Federal Credit Union Act.

* * * * *

PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)

6. The authority citation for part 712 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(d) and (7)(I), 1766, 1782, 1784, 1785, and 1786.

7. Amend § 712.2 by revising paragraph (d) to read as follows:

§ 712.2 How much can an FCU invest in or loan to CUSOs, and what parties may participate?

* * * * *

(d) *Measurement for calculating regulatory limitation.* For purposes of paragraphs (a) and (b) of this section:

(1) *Paid-in and unimpaired capital and surplus* means shares plus post-closing, undivided earnings (this does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer); and

(2) Total investments in and total loans to CUSOs will be measured consistent with GAAP.

* * * * *

PART 715—SUPERVISORY COMMITTEE AUDITS AND VERIFICATIONS

8. Revise the authority citation for part 715 to read as follows:

Authority: 12 U.S.C. 1761(b), 1761d, 1782(a)(6).

9. Amend § 715.2(l) by revising the first sentence to read as follows:

§ 715.2 Definitions used in this part.

* * * * *

(l) *Supervisory committee* refers to a supervisory committee as defined in Section 111(b) of the Federal Credit Union Act, 12 U.S.C. 1761(b). * * *

* * * * *

PART 723—MEMBER BUSINESS LOANS

10. The authority citation for part 723 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1757A, 1766, 1785, 1789.

11. Amend § 723.4 by revising the second sentence to read as follows:

§ 723.4 What are the other applicable regulations?

* * * Except as required by part 741 of this chapter, federally insured state-chartered credit unions are not required to comply with the provisions of § 701.21(a) through (g) of this chapter.

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

12. The authority citation for part 725 continues to read as follows:

Authority: 12 U.S.C. 1795–1795f.

13. Amend § 725.2 by revising paragraph (o) to read as follows:

§ 725.2 Definitions.

* * * * *

(o) *Paid-in and unimpaired capital and surplus* means shares and deposits plus post-closing, undivided earnings. This does not include regular reserves or special reserves required by law, regulation or special agreement between the credit union and its regulator or share insurer.

* * * * *

PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

14. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f.

15. Amend § 790.2(b)(13) by revising the heading to read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(13) Office of Credit Union Development. * * *

* * * * *

[FR Doc. 01–31286 Filed 12–19–01; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: The NCUA Board is amending its chartering and field of membership manual to make two changes to ease regulatory burden on community charters and to update the requirements for a credit union to add an underserved area to its charter. First, an existing community charter need not document in writing how it plans on serving the entire community. Second, the Board is updating the definition of an investment area because of the release of new census data and updated Community Development Financial Institution Fund standards. These amendments will help reduce the costs for community charters and make it easier for credit unions to serve underserved areas.

DATES: *Effective Date:* This rule is effective December 20, 2001. *Comment Date:* Comments must be received on for before February 19, 2002.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Or, you may fax comments to (703) 518–6319, or e-mail comments to *regcomments@ncua.gov. Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Chairman, Field of Membership Task Force, at the above address or telephone: (703) 518–6320 or Michael J. McKenna, Senior Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

NCUA's chartering and field of membership policy is set out in Interpretive Ruling and Policy Statement 99–1, Chartering and Field of Membership Policy (IRPS 99–1), as amended by IRPS 00–01 and IRPS 01–01. The policy is incorporated by reference in NCUA's regulations at 12 CFR 701.1. It is also published as NCUA's Chartering and Field of Membership Manual (Chartering Manual), which is the document most interested parties use and to which references in the following discussion are made.

Community Charters

Last year, the NCUA Board required an existing community charter to address, in either its marketing or business plan or other appropriate separate documentation, how it plans on serving the entire community, including how the credit union will market to the community and what products and services the credit union will offer to assist underserved members in the community. Some in the credit union community refer to this as the community action plan requirement or as CAP, though the final rule does not use that term. The NCUA Board stated in the preamble to the final rule that "existing credit unions will have until December 31, 2001 to have a plan in place addressing how the credit union will serve the entire community." 65 FR 64512, 64518 (October 27, 2000). The Board implemented this rule even while recognizing that there was no tangible evidence that credit unions were not planning on serving their entire community. In fact, the NCUA Board stated that, based "on the comments of community credit unions and the submissions some of them provided, many community credit unions already have adopted plans and offer products and services designed to serve the entire community." 65 FR 64512, 64517 (October 27, 2000).

The NCUA Board notes that, while it certainly has the legal authority to impose this regulatory requirement, it has continued to review the necessity of imposing it on a specific type of federal credit union charter. The NCUA Board, after discussing this issue further with agency staff and the credit union community, has decided to repeal this regulatory requirement. This Board has determined that requiring only certain credit unions to adopt specific written policies addressing service to the entire community, where there is no evidence credit unions are not attempting to serve their entire communities, is not a reasonable regulatory practice, particularly when this regulatory requirement raises little, if any, safety and soundness concerns.

This Board believes that a regulation that does not address a substantiated concern or a potential problem is unnecessary. In this case, absent evidence that community charters are not marketing their services to their entire communities, removing the regulatory requirement is prudent.

Underserved Areas

The addition of underserved areas, as defined in Chapter 3 of the Chartering Manual, to the field of membership of operating credit unions is a continuing priority of the NCUA Board. Three criteria must be met before an underserved area can be added to any federal credit union's field of membership. First, the area must be a local community. Second, the area must also be classified as an investment area as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. 4703(16). Third, the credit union adding the underserved area must establish and maintain an office or facility in the local community.

Last year, the NCUA Board made it less burdensome for federal credit unions to add underserved areas. 65 FR 64512 (October 27, 2000). The NCUA Board modified its policy by stating that a credit union would not have to demonstrate common interests or interaction for a local community if the underserved area to be served is (1) in a recognized political jurisdiction, i.e., a county or its political equivalent or any contiguous political subdivisions contained therein, and if the population of the requested well-defined area does not exceed 300,000, or (2) in multiple contiguous political jurisdictions, i.e., a county or its political equivalent or any political subdivisions contained therein and if the population of the requested well-defined area does not exceed 200,000. The NCUA Board also stated that it presumed that an underserved area for purposes of the investment area criteria would have significant unmet needs for loans or equity investment if the area met the poverty, median family income, unemployment, distressed housing, or population loss criteria set forth in the Community Development Banking and Financial Institutions Act of 1994. Because of these changes and greater interest by the credit union community, the number of underserved areas added to federal credit union's field of membership increased from 50 in 2000 to 231 as of November 30, 2001.

The NCUA Board is continuing to update this section of the Chartering Manual to encourage further development of credit unions in underserved areas and thereby improve financial services to those most in need. The primary reason for this update is the release of the 2000 census.

The Chartering Manual provides examples of what an investment area is for the purpose of adding an underserved area. The Federal Credit Union Act defines an underserved area as a local community, neighborhood, or rural district that is an "investment area" as defined in section 103(16) of the Community Development Banking and Financial Institutions Act of 1994. The 1994 law permits the Community Development Financial Institutions Fund of the United States Department of the Treasury (CDFI Fund) to further define investment areas. With the release of the 2000 census as well as further expansion of an investment area by CDFI, the Board is updating the definition of an investment area in Chapter 3 of the Chartering Manual. These changes will make the Chartering Manual consistent with the data in the 2000 census as well as the modifications promulgated by the CDFI Fund. These amendments will ultimately make it easier for credit unions to add underserved areas and thus serve more members of modest means.

Interim Final Rule

Since issuance of the community service plan requirement, the credit union community has continued to debate its necessity and benefits. The Board notes that previous comment was overwhelmingly against this type of provision and wishes to consider further comment. The NCUA Board is issuing this amendment to its chartering regulation as an interim final rule because it removes a burdensome regulation and merely updates the agencies definition of an investment area for the purpose of adding underserved areas. The Board believes that both these actions are necessary and in the public interest because of the recent and sudden increase in credit union asset growth and the current uncertainty in the national economy. Furthermore, the Board believes the amendments further the public interest in removing a potentially costly and unnecessary regulatory burden and promotes the efficient use of agency resources and staff. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rule shall be effective immediately and without 30 days advance notice of publication. Although the rule is being issued as an interim final rule and is effective immediately, the NCUA Board encourages interested parties to submit comment on whether the community service plan requirement should be deleted from the Chartering Manual and the definition of investment area for the purpose of adding underserved areas should be finalized in the Chartering Manual.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small credit unions (primarily those under $1 million in assets). The amendments will not have a significant economic impact on a substantial number of small credit unions and, therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The NCUA Board has determined that this interim final rule does not increase, and will in fact reduce, paperwork requirements under the Paperwork Reduction Act and regulations of the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The rule has been submitted to the Office of Management and Budget for its determination of whether this is a major rule.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This final rule only applies to federal credit unions. It will not have substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

Agency Regulatory Goal

NCUA's goal is clear, understandable regulations that impose a minimal regulatory burden. We request your comments on whether the proposed amendments are understandable and minimally intrusive if implemented as proposed.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 13, 2001.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789.

Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 12 U.S.C. 4311–4312.

2. Section 701.1 is revised to read as follows:

§ 701.1 Federal credit union chartering, field of membership modifications, and conversions.

National Credit Union Administration policies concerning chartering, field of membership modifications, and conversions are set forth in Interpretive Ruling and Policy Statement 99–1, Chartering and Field of Membership Policy (IRPS 99–1), as amended by IRPS 00–1, IRPS 01–1 and IRPS 01–3. Copies may be obtained by contacting NCUA at the address found in § 792.2(g)(1) of this chapter. The combined IRPS are incorporated into this section.

(Approved by the Office of Management and Budget under control number 3133-0015.)

Note: The text of the Interpretive Ruling and Policy Statement (IRPS 99–1) does not, and the following amendments will not, appear in the Code of Federal Regulations.

3. In IRPS 99–1, Chapter 2, Section V.A.2 is revised to read as follows:

In addition to the documentation requirements set forth in Chapter 1 to charter a credit union, a community credit union applicant must provide additional documentation addressing the proposed area to be served and community service policies.

A community credit union is unique in that it must meet the statutory requirements that the proposed community area is (1) well-defined, and (2) a local community, neighborhood, or rural district.

"Well-defined" means the proposed area has specific geographic boundaries.

Geographic boundaries may include a city, township, county (or its political equivalent), or clearly identifiable neighborhood. Although congressional districts or other political boundaries which are subject to occasional change, and state boundaries are well-defined areas, they do not meet the second requirement that the proposed area be a local community, neighborhood, or rural district.

The meaning of local community, neighborhood, or rural district includes a variety of factors. Most prominent is the requirement that the residents of the proposed community area interact or have common interests. In determining interaction and/or common interests, a number of factors become relevant. For example, the existence of a single major trade area, shared governmental or civic facilities, or area newspaper is significant evidence of community interaction and/or common interests. Conversely, numerous trade areas, multiple taxing authorities, and multiple political jurisdictions, tend to diminish the characteristics of a local area.

Population and geographic size are also significant factors in determining whether the area is local in nature. A large population in a small geographic area or a small population in a large geographic area may meet NCUA community chartering requirements. For example, an ethnic neighborhood, a rural area, a city, and a county with 300,000 or less residents will generally have sufficient interaction and/or common interests to meet community charter requirements. While this may most often be true, it does not preclude community charters consisting of multiple counties or local areas with populations of any size from meeting community charter requirements.

Conversely; a larger population in a large geographic area may not meet NCUA community chartering requirements. It is more difficult for a major metropolitan city, a densely populated county, or an area covering multiple counties with significant population to have sufficient interaction and/or common interests, and to therefore demonstrate that these areas meet the requirement of being "local." In such cases, documentation supporting the interaction and/or common interests will be greater than the evidence necessary for a smaller and less densely populated area.

In most cases, the "well-defined local community, neighborhood, or rural district" requirement will be met if (1) the area to be served is in a recognized single political jurisdiction, i.e., a county or its political equivalent or any contiguous political subdivisions contained therein, and if the population of the requested well-defined area does not exceed 300,000, or (2) the area to be served is in multiple contiguous political jurisdictions, i.e. a county or its political equivalent or any political subdivisions contained therein and if the population of the requested well-defined area does not exceed 200,000. If the proposed area meets either of these criteria, the credit union must only submit a letter describing how the area meets the standards for community interaction or common interests.

If NCUA does not find sufficient evidence of community interaction or common interests, more detailed documentation will be necessary to support that the proposed area is a well-defined community. The credit union must also provide evidence of the political jurisdiction(s) and population. Evidence of the political jurisdiction(s) should include maps designating the area to be served. One map must be a regional or state map with the proposed community outlined. The other map must outline the proposed community and the identifying geographic characteristics of the surrounding areas.

If the area to be served does not meet the political jurisdiction(s) and population requirements of the preceding paragraph, or if required by NCUA, the application must include documentation to support that it is a well-defined local community, neighborhood, or rural district. It is the applicant's responsibility to demonstrate the relevance of the documentation provided in support of the application. This must be provided in a narrative summary. The narrative summary must explain how the documentation demonstrates interaction or common interests. For example, simply listing newspapers and organizations in the area is not sufficient to demonstrate that the area is a local community, neighborhood, or rural district.

Examples of acceptable documentation may include:

- The defined political jurisdictions;
- Major trade areas (shopping patterns and traffic flows);
- Shared/common facilities (for example, educational, medical, police and fire protection, school district, water, etc.);
- Organizations and clubs within the community area;
- Newspapers or other periodicals published for and about the area;
- Maps designating the area to be served. One map must be a regional or state map with the proposed community outlined. The other map must outline the proposed community and the identifying geographic characteristics of the surrounding areas;
- Other documentation that demonstrates that the area is a community where individuals have common interests or interact.

An applicant need not submit a narrative summary or documentation to support a proposed community charter, amendment or conversion as a well-defined local community, neighborhood, or rural district if the NCUA has previously determined that the same exact geographic area meets that requirement in connection with consideration of a prior application. Applicants may contact the appropriate regional office to find out if the area they are interested in has already been determined to meet the community requirements. If the area is the same as a previously approved area, an applicant need only include a statement to that effect in the application. Applicants may be required to submit their own summary and documentation regarding the community requirements if NCUA has reason to believe that prior submissions are not sufficient or are no longer accurate.

A community credit union is frequently more susceptible to competition from other local financial institutions and generally does not have substantial support from any single sponsoring company or association. As a result, a community credit union will often encounter financial and operational factors that differ from an occupational or associational charter. Its diverse membership may require special marketing programs targeted to different segments of the community. For example, the lack of payroll deduction creates special challenges in the development of savings promotional programs and in the collection of loans.

Accordingly, it is essential for the proposed community credit union to develop a detailed and practical business and marketing plan to serve the entire community for at least the first two years of operation. The proposed credit union must not only address the documentation requirements set forth in Chapter 1, but also focus on the accomplishment of the unique financial and operational factors of a community charter.

Community credit unions will be expected to regularly review and to follow, to the fullest extent economically possible, the marketing and business plan submitted with their application.

4. In IRPS 99–1, Chapter 3, Section III is revised to read as follows:

All federal credit unions may include in their fields of membership, without regard to location, communities satisfying the definition for serving underserved areas in the Federal Credit Union Act. More than one federal credit union can serve the same underserved area. The Federal Credit Union Act defines an underserved area as a local community, neighborhood, or rural district that is an "investment area" as defined in Section 103(16) of the Community Development Banking and Financial Institutions Act of 1994.

The "well-defined local community, neighborhood, or rural district" requirement will be met if (1) the area to be served is in a recognized single political jurisdiction, i.e., a county or its political equivalent or any contiguous political subdivisions contained therein, and if the population of the requested well-defined area does not exceed 300,000 or (2) the area to be served is in multiple contiguous political jurisdictions, i.e., a county or its political equivalent or any political subdivisions contained therein and if the population of the requested well-defined area does not exceed 200,000. If the proposed area meets either of these criteria and meets the definition of an investment area that is underserved, then it is presumed to be a local community, neighborhood, or rural district.

An investment area includes any of the following (as reported in the most recently completed decennial census):

- An area encompassed or located in an Empowerment Zone or Enterprise Community designated under section 1391 or the Internal Revenue Code of 1996 (26 U.S.C. 1391);
- An area where the percentage of the population living in poverty is at least 20 percent;
- An area in a Metropolitan Area where the median family income is at or below 80

percent of the Metropolitan Area median family income or the national Metropolitan Area median family income, whichever is greater;

- An area outside of a Metropolitan Area, where the median family income is at or below 80 percent of the statewide non-Metropolitan Area median family income or the national non-Metropolitan Area median family income, whichever is greater;
- An area where the unemployment rate is at least 1.5 times the national average;
- An area where the percentage of occupied distressed housing (as indicated by lack of complete plumbing and occupancy of more than one person per room) is at least 20 percent;
- An area located outside of a Metropolitan Area with a county population loss between the most recent decennial census and the previous decennial census of at least 10 percent;
- An area located outside of a Metropolitan Area with a county net migration loss (out-migration minus in-migration) over the five-year period preceding the most recent decennial census of at least 5 percent;
- An area meeting the criteria for economic distress that may be established by the Community Development Financial Institutions Fund (CDFI) of the United States Department of the Treasury.

In addition, the local community, neighborhood, or rural district must be underserved, based on data considered by the NCUA Board and the Federal banking agencies.

Once an underserved area has been added to a federal credit union's field of membership, the credit union must establish and maintain an office or facility in the community within two years. A service facility is defined as a place where shares are accepted for members' accounts, loan applications are accepted and loans are disbursed. This definition includes a credit union owned branch, a shared branch, a mobile branch, an office operated on a regularly scheduled weekly basis, or a credit union owned electronic facility that meets, at a minimum, these requirements. This definition does not include an ATM.

If a credit union has a preexisting office within close proximity to the underserved area, then it will not be required to maintain an office or facility within the underserved area. Close proximity will be determined on a case-by-case basis, but the office must be readily accessible to the residents and the distance from the underserved area will not be an impediment to a majority of the residents to transact credit union business.

The federal credit union adding the underserved community must document that the community meets the definition for serving underserved areas in the Federal Credit Union Act. The charter type of a federal credit union adding such a community will not change and therefore the credit union will not be able to receive the benefits afforded to low-income designated credit unions, such as expanded use of non member deposits and access to the Community Development Revolving Loan Program for Credit Unions.

A federal credit union that desires to include an underserved community in its field of membership must first develop a business plan specifying how it will serve the community. The business plan, at a minimum, must identify the credit and depository needs of the community and detail how the credit union plans to serve those needs. The credit union will be expected to regularly review the business plan, to determine if the community is being adequately served. The regional director may require periodic service status reports from a credit union about the underserved area to ensure that the needs of the underserved area are being met as well as requiring such reports before NCUA allows a federal credit union to add an additional underserved area.

[FR Doc. 01–31290 Filed 12–19–01; 8:45 am]

BILLING CODE 7535–01–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operation of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board is amending its rule limiting compensation to officials. The amendment changes the definition of the term "compensation" to exclude the reimbursement or payment of business-related travel costs for an official to be accompanied by a guest.

EFFECTIVE DATE: This rule is effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Dianne M. Salva, Staff Attorney, Division of Operations, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

NCUA published a proposal to amend its regulation covering travel reimbursements for guests accompanying Federal Credit Union (FCU) officials on business. 66 FR 40641, August 3, 2001. During the sixty-day comment period, NCUA received thirty-seven comment letters. After carefully considering the comments, NCUA is publishing this final rule, which is identical to the proposal.

The Federal Credit Union Act (the FCU Act) and NCUA regulations provide that only one board officer of an FCU may be compensated as such and that no other official may receive compensation for serving as a board or committee member. 12 U.S.C. 1761(c), 1761a; 12 CFR 701.33. NCUA has defined compensation to exclude reasonable and proper expense reimbursement for costs incurred by FCU officials in carrying out the responsibilities of the positions to which they were appointed or elected.

Section 701.33 currently permits reimbursement of a board official and one immediate family member for travel expenses incurred in performing board duties if the payment is necessary and appropriate as determined by the FCU board and is made in accordance with written board policies and procedures. 12 CFR 701.33(b)(2)(i).

To give FCUs additional flexibility regarding the reimbursement of reasonable and proper expenses, NCUA has determined to amend § 701.33(b)(2)(i) to use the term "guest" rather than "immediate family member." All other provisions of the regulation remain unchanged. Travel and reimbursement policies must still provide for payment of only those costs that are reasonable in relation to the FCUs resources and financial condition. NCUA cautions FCUs that this proposal has no effect on Internal Revenue Service (IRS) regulations regarding the reporting and taxing of any payments or reimbursements. FCUs should consult their tax advisors or attorneys concerning IRS requirements related to their travel reimbursement policies.

Comments

NCUA received thirty-seven comment letters. Seventeen letters were from natural person credit unions and two were from corporate credit unions. Two were from credit union trade associations. Eight were from state credit union leagues and eight were from credit union officials or other individuals.

Twenty-seven of the commenters strongly support the proposal and applaud the agency efforts to minimize government intrusion and maximize flexibility.

Four commenters opposed it, pointing to possible increases in costs to members and concerns of its effect on family unity. The NCUA Board expects that any increase in costs to members will be minor and will support the business of the credit union. Furthermore, any FCU that adopts a new policy must still limit its travel expenditures to amounts that are reasonable in relation to its resources and financial condition. Of course, the amended rule does not require FCUs to change their current travel expense reimbursement or payment policies. The NCUA Board determined to amend the regulation to allow FCUs greater flexibility to accommodate the needs of officials whose duties include business-related travel. Under the current regulation, FCUs may not pay or reimburse the cost of travel for an official's grandson to accompany her to an FCU-sponsored program, or for an official whose mobility is impaired to be accompanied by an aide, even if the FCU thought it necessary or appropriate. With this amendment, the FCU will have the discretion to adopt policies that provide for the reimbursement or payment of such travel costs. Again, the amendment does not require FCUs to do so.

Five commenters, while generally supportive, suggested that the proposal did not go far enough in expanding credit union authority. These commenters believe that it is unnecessary for NCUA to have a regulation concerning such reimbursements or payments. They suggest that NCUA rescind the regulation so that FCUs can establish reimbursement policies that fit their individual needs. They argue that such policies would be subject to scrutiny in the examination process and would therefore pose no risk to safety and soundness. Two commenters also stated that NCUA should not have a regulation on travel reimbursement, but should rely on the examination process to ensure that FCUs have reasonable and appropriate policies. The NCUA Board believes that it is appropriate for the agency to maintain a regulation in this area. There is a tension between the need of FCUs to attract competent and dedicated officials and the prohibition in the FCU Act against compensating all but one of them. FCUs regularly question NCUA about the permissibility of new types of reimbursements. These new ideas for reimbursements to officials frequently fall beyond the limits of the FCU Act. This regulation provides FCUs with NCUA's interpretation of the FCU Act by clearly stating what types of travel reimbursements NCUA has found to be consistent with the law.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small entities (primarily those under one million dollars in assets). This rule will not have a significant economic impact on a substantial number of small credit unions, and therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that this regulation does not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their regulatory actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule will apply only to all federal credit unions. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that the rule does not constitute a policy that has federalism implications for purposes of the executive order.

Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget (OMB) has determined that this is not a major rule for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements, Travel and transportation expenses, Travel restrictions.

By the National Credit Union Administration Board on December 13, 2001.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, the National Credit Union Administration amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, and 1789.

Section 701.6 is also authorized by 31 U.S.C. 3717.

Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*, 42 U.S.C. 1861 and 42 U.S.C. 3601–3610.

Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Revise the last sentence of paragraph (b)(2)(i) of § 701.33 to read as follows:

§ 701.33 Reimbursement, insurance, and indemnification of officials and employees.

* * * * *

(b) * * *

(2) * * *

(i) * * * Such payments may include the payment of travel costs for officials and one guest per official;

* * * * *

[FR Doc. 01–31288 Filed 12–19–01; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–51–AD; Amendment 39–12559; AD 2001–25–06]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S–76B and S–76C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for Sikorsky Aircraft Corporation (Sikorsky) Model S–76B and S–76C helicopters. This action requires modifying the electrical power distribution system to change the source of the 28 volts supplied to Nos. 1 and 2 attitude and heading reference (AHRS) WARN circuits. This amendment is prompted by a ground test simulating loss of the essential bus by pulling both bus tie circuit breakers and switching off both batteries. As a result of this action, both autopilots went off-line. The actions specified in this AD are intended to prevent an AHRS fail signal to both autopilots due to a failure of the essential bus, loss of autopilot functions, and subsequent loss of control of the helicopter.

DATES: Effective January 4, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 4, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–51–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The service information referenced in this AD may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Solomon Hecht, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7159, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: This amendment adopts a new AD for Sikorsky Model S–76B and S–76C helicopters. This action requires modifying the electrical power distribution system by changing the source of the 28 volts electrical power supplied to Nos. 1 and 2 AHRS WARN circuits. This amendment is prompted by ground testing of a Sikorsky Model S–76B helicopter which simulated loss of the essential bus by pulling both bus tie circuit breakers and switching off both batteries. As a result of this action, both autopilots went off-line. This condition, if not corrected, could result in an unintended AHRS fail signal to both autopilots due to failure of the essential bus, loss of autopilot functions, and subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky Alert Service Bulletin No. 76–34–7A (320A), Revision A, dated September 17, 2001 (ASB). The ASB describes procedures for modifying the electrical power distribution system to prevent an AHRS fail signal to the autopilots by changing the source of the 28 volts supplied to Nos. 1 and 2 AHRS WARN circuits. The essential bus currently supplies both Nos. 1 and 2 AHRS WARN circuits. If this essential bus failed, the AHRS WARN circuits would generate an AHRS fail signal which would cause both autopilots to go off-line. The modification specified in the ASB changes the 28 volt electrical power source to the AHRS WARN circuits so that one of the two autopilots will remain on-line after an essential bus failure.

We have identified an unsafe condition that is likely to exist or develop on other Sikorsky Model S76–B and S–76C helicopters of this same type design. Therefore, this AD is being issued to prevent an AHRS fail signal to both autopilots, loss of autopilot functions, and subsequent loss of control of the helicopter. This AD requires modifying the AHRS WARN circuits so that one of the two autopilots will remain on-line should the essential bus fail. The actions must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability of the helicopter. Therefore, modifying the AHRS is required within 30 days and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

The FAA estimates that 20 of the helicopters affected by this AD are on the U.S. register, that it will take approximately 5 work hours to install the modification kit, and that the average labor rate is $60 per work hour. The manufacturer states in the ASB that the required modification kit will be provided at no cost. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $6000.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–51–AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2001–25–06 Sikorsky Aircraft Corporation: Amendment 39–12559. Docket No. 2001–SW–51–AD.

Applicability: Model S–76B helicopters, serial numbers (S/N) 760430, 760441 through 760445, 760448 through 760452, 760454, 760455, 760458, 760462, and 760465, and Model S–76C helicopters, S/N 760420, 760436, 760438, 760440, 760453, 760456, 760457, 760459, 760460, 760461 760463, 760464, 760466 through 760487, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 30 days after the effective date of this AD, unless accomplished previously.

To prevent an attitude and heading reference (AHRS) fail signal to both autopilots due to a failure of the essential bus, loss of both autopilot functions, and subsequent loss of control of the helicopter, accomplish the following:

(a) Modify Nos. 1 and 2 AHRS WARN circuits in accordance with the Accomplishment Instructions, paragraphs 3.A. through 3.D, of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–34–7A (320A), Revision A, dated September 17, 2001.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with the Accomplishment Instructions, paragraphs 3.A. through 3.D., of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–34–7A (320A), Revision A, dated September 17, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on January 4, 2002.

Issued in Fort Worth, Texas, on November 29, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31039 Filed 12–19–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Parts 4, 4a and 4b

[Docket No. 990723201–1208–02]

RIN: 0605–AA14

Public Information, Freedom of Information and Privacy

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This document sets forth revisions of Department of Commerce (Department) regulations regarding the Freedom of Information Act (FOIA), Privacy Act (PA),[1] and declassification and public availability of national security information. The revisions implement the Electronic Freedom of Information Act (EFOIA) Amendments of 1996 and Executive Order 12958, include an updated duplication fee, and streamline, clarify, and update the regulations.

DATES: Effective December 20, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew W. McCready, 202–482–8044.

SUPPLEMENTARY INFORMATION: On May 31, 2000, the Department published a proposed rule (65 FR 34606) to revise its existing FOIA and PA regulations, and to add new provisions to implement the Electronic Freedom of Information Act (EFOIA) Amendments of 1996 (Pub. L. 104–231). Interested persons were invited to submit written comments on the proposed rule. The Department received one set of comments. After due consideration of the comments, the Department has adopted several of the modifications the commenter recommended, and has made numerous other minor revisions to its proposed rule for clarity. The Department is also increasing the duplication charge from the $.15 announced in the proposed rule (the current charge is $.07) to $.16 per page, to reflect an increase in copying costs since the issuance of the proposed rule.

Discussion of Comments

The comments received were submitted by Public Citizen and the Freedom of Information Clearinghouse, and are addressed below.

(1) The commenter recommended deleting from § 4.2(b)[2] the highlighted phrase in the statement: "Components shall also make public inspection facility records created by the Department on or after November 1, 1996 available electronically through the Department's 'FOIA Home Page' link found at the Department's World Wide Web site." The recommended change is more consistent with the FOIA than is the proposed language above, and thus the Department has deleted the highlighted phrase.

(2) The commenter recommended changing the cut-off date in § 4.5(a) for determining records responsive to a request from the date the request is received to the date that processing of the request begins. Many of the requests the Department receives require a search to be conducted in more than one of its components. Implementing the commenter's recommendation could create confusion about such requests involving multiple components, because each component could begin processing the request on a different date, and thus have a different cut-off date. Further, the Department's cut-off date is consistent with the Supreme Court's requirement that for records to be "agency records" subject to the FOIA, the agency must be in control of them at the time the FOIA request is made. *Department of Justice* v. *Tax Analysts*, 492 U.S. 136, 145 (1989). Implementing the commenter's recommendation could also create uncertainty with regard to determining what records are responsive to the request, and preventing their inadvertent disposition between the time the request is received and processing begins. That is, components could be placed in a situation in which

---

[1] The Department intends to comprehensively update its Privacy Act systems of records, and related provisions in its PA regulations, in a future Notice of Proposed Rulemaking.

[2] Section 4.2(b) in the proposed rule is § 4.2(c) in the final rule set forth below.

VOL 66 ISS 245 DE 20 2001 UMI

they would not be authorized to determine what records are responsive to a request until processing, including search, begins, even though records in the component's control when the request is received would still be potentially subject to the request.

(3) The commenter recommended that in § 4.5(b) the Department clarify the meaning of "primary interest," and state that records will be referred only when referral is necessary because the originating agency has a substantial interest in the record, and the referral is not likely to substantially delay the release or otherwise place unreasonable burdens on the requester.

The Department has decided not to modify the definition of "primary interest," but will clarify its meaning by moving the sentence "Ordinarily, the agency that originated a record will be presumed to have the primary interest in it." from the end of § 4.5(b) to immediately after the first sentence in § 4.5(b), where the phrase "primary interest" first appears. Defining "primary interest" more specifically to cover possible future rare instances when the agency that originated a document would not have the primary interest in it would require lengthy explanations of limited usefulness.

The Department also will not amend its regulations to state that records will be referred only when referral is necessary because the originating agency has a substantial interest in the record, and when the referral is not likely to substantially delay the release or otherwise place unreasonable burdens on the requester. In the vast majority of cases, the agency that originated a record has the primary, or principal, interest in it, and is in the best position to determine whether to release it. In those rare instances when the originating agency does not have the primary interest in it, the Department's regulations would not require referral to that agency. Revising the Department's regulations, as the commenter suggests, to require Department officials to make case-by-case determinations on whether a referral would be likely to substantially delay a release or otherwise place unreasonable burdens on the requester, would require those officials to make difficult and inherently subjective decisions, and thus is administratively unworkable.

(4) The commenter objected to a sentence in § 4.6(c)(3) that refusal to reasonably modify the scope of a request or arrange an alternate time frame may affect a requester's ability to obtain judicial review. The sentence is misleading and the Department has deleted it.

(5) The commenter objected to the scope of the grounds upon which § 4.9(b) would require business submitters to assert any objections to disclosure by the Department of records submitted by them. The Department had proposed that "the statement [from the business submitter] must specify all grounds for withholding any portion of the information under any exemption of the FOIA." The commenter recommended that the regulation require submitters to specify only the grounds for withholding their records under exemptions (b)(4) and (b)(6), which protect the individual interests of the submitter, but not to require them to assert exemptions intended to protect Government interests. The Department agrees in part with the comment, and has deleted the requirement that the statement specify all grounds for withholding information under any FOIA exemption. The Department has, however, decided to require submitters to specify only grounds for withholding under exemption (b)(4), and not also under exemption (b)(6), because the Department does not routinely notify persons about whom the Department possesses information potentially subject to exemption (b)(6). Thus, requiring business submitters to object to disclosure of potential (b)(6) information without requiring other persons about whom the Department possesses similar (b)(6) information to do so would be unfair.

Other Considerations

It has been determined that this rule is significant under Executive Order 12866.

This rule does not contain a "collection of information" as defined by the Paperwork Reduction Act.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chief Counsel for Regulation has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processed for requesters. Thus, the fees the Department assesses are ordinarily nominal. Further, the number of "small entities" that make FOIA requests is relatively small compared to the number of individuals who make such requests.

List of Subjects

15 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy, Public information.

15 CFR Part 4a

Administrative practice and procedure, Classified information.

15 CFR Part 4b

Privacy.

For the reasons stated in the preamble, the Department of Commerce amends 15 CFR as set forth below:

1. Revise Part 4 to read as follows:

PART 4—DISCLOSURE OF GOVERNMENT INFORMATION

Subpart A—Freedom of Information Act

Sec.

4.1 General.
4.2 Public reference facilities.
4.3 Records under the FOIA.
4.4 Requirements for making requests.
4.5 Responsibility for responding to requests.
4.6 Time limits and expedited processing.
4.7 Responses to requests.
4.8 Classified information.
4.9 Business Information.
4.10 Appeals from initial determinations or untimely delays.
4.11 Fees.

Subpart B—Privacy Act

4.21 Purpose and scope.
4.22 Definitions.
4.23 Procedures for making inquiries.
4.24 Procedures for making requests for records.
4.25 Disclosure of requested records to individuals.
4.26 Special procedures: Medical records.
4.27 Procedures for making requests for correction or amendment.
4.28 Agency review of requests for correction or amendment.
4.29 Appeal of initial adverse agency determination on correction or amendment.
4.30 Disclosure of record to person other than the individual to whom it pertains.
4.31 Fees.
4.32 Penalties.
4.33 General exemptions.
4.34 Specific exemptions.
Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction or Amendment Under the Privacy Act.
Appendix B to Part 4—Officials Authorized to Deny Requests for Records Under the Freedom of Information Act, and Requests for Records and Requests for Correction or Amendment Under the Privacy Act.
Appendix C to Part 4—Systems of Records Noticed by Other Federal Agencies and Applicable to Records of the Department, and Applicability of this Part Thereto.

Authority: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 5 U.S.C. 553; 31 U.S.C. 3717; 44 U.S.C. 3101; Reorganization Plan No. 5 of 1950.

Subpart A—Freedom of Information Act

§ 4.1 General.

(a) The information in this part is furnished for the guidance of the public and in compliance with the requirements of the Freedom of Information Act (FOIA), as amended (5 U.S.C. 552). This part sets forth the procedures the Department of Commerce (Department) and its components follow to make publicly available the materials and indices specified in 5 U.S.C. 552(a)(2) and records requested under 5 U.S.C. 552(a)(3). Information routinely provided to the public as part of a regular Department activity (for example, press releases issued by the Office of Public Affairs) may be provided to the public without following this part.

(b) As used in this subpart, *component* means any office, division, bureau or other unit of the Department listed in Appendix A to this part (except that a regional office of a larger office or other unit does not constitute a separate component).

§ 4.2 Public reference facilities.

(a) The Department maintains public reference facilities (listed in Appendix A to this part) that contain the records the FOIA requires to be made regularly available for public inspection and copying; furnishes information; receives and processes requests for records under the FOIA; and otherwise assists the public concerning Department operations under the FOIA.

(b) Each component of the Department shall determine which of its records are required to be made available for public inspection and copying, and make those records available either in its own public reference facility or in the Department's Central Reference and Records Inspection Facility. Each component shall maintain and make available for public inspection and copying a current subject-matter index of its public inspection facility records. Each index shall be updated regularly, at least quarterly, with respect to newly included records. In accordance with 5 U.S.C. 552(a)(2), the Department has determined that it is unnecessary and impracticable to publish quarterly or more frequently and distribute copies of the index and supplements thereto.

(c) Each component shall make public inspection facility records created on or after November 1, 1996 available electronically through the Department's "FOIA Home Page" link found at the Department's World Wide Web site (*http://www.doc.gov*). Information available at the site shall include:

(1) Each component's index of its public inspection facility records, which indicates which records are available electronically; and

(2) The general index referred to in paragraph (d)(3) of this section.

(d) The Department shall maintain and make available for public inspection and copying:

(1) A current index providing identifying information for the public as to any matter that is issued, adopted, or promulgated after July 4, 1997, and that is retained as a record and is required to be made available or published. Copies of the index are available upon request after payment of the direct cost of duplication;

(2) Copies of records that have been released and that the component that maintains them determines, because of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same records;

(3) A general index of the records described in paragraph (d)(2) of this section;

(4) Final opinions and orders, including concurring and dissenting opinions made in the adjudication of cases;

(5) Those statements of policy and interpretations that have been adopted by a component and are not published in the **Federal Register**; and

(6) Administrative staff manuals and instructions to staff that affect a member of the public.

§ 4.3 Records under the FOIA.

(a) Records under the FOIA include all Government records, regardless of format, medium or physical characteristics, and include electronic records and information, audiotapes, videotapes, and photographs.

(b) Under the FOIA, the Department has no obligation to create, compile, or obtain from outside the Department a record to satisfy a request. In complying with a request for electronic data, whether the Department creates or compiles records (as by undertaking significant programming work) or merely extracts them from an existing database may be unclear. The Department shall in any case undertake reasonable efforts to search for the information in electronic format.

(c) Department officials may, upon request, create and provide new records pursuant to user fee statutes, such as the first paragraph of 15 U.S.C. 1525, or in accordance with authority otherwise provided by law. Such creation and provision of records is outside the scope of the FOIA.

(d) Components shall preserve all correspondence pertaining to the requests they receive under this subpart, as well as copies of all requested records, until disposition or destruction is authorized by Title 44 of the United States Code or the National Archives and Records Administration's General Records Schedule 14. Components shall not dispose of records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 4.4 Requirements for making requests.

(a) A request for records of the Department which are not customarily made available to the public as part of the Department's regular informational services must be in writing (and may be sent by mail, facsimile, or E-mail), and shall be processed under the FOIA, regardless whether the FOIA is mentioned in the request. Requests should be mailed to the Department component identified in Appendix A to this part that maintains those records, or may be sent by facsimile or E-mail to the numbers or addresses, respectively, listed at the Department's "FOIA Home Page" link found at the Department's World Wide Web site (*http://www.doc.gov*).[1] If the proper component cannot be determined, the request should be sent to the central facility identified in Appendix A to this part. The central facility will forward the request to the component(s) it believes most likely to have the requested records. For the quickest handling, the request (and envelope, if the request is mailed) should be marked "Freedom of Information Act Request."

(b) For requests for records about oneself, § 4.24 contains additional requirements. For requests for records about another individual, either a written authorization signed by the individual permitting disclosure of his or her records to the requester or proof that the individual is deceased (for example, a copy of a death certificate or an obituary) facilitates processing the request.

(c) The records requested must be described in enough detail to enable Department personnel to locate them with a reasonable amount of effort. If possible, a request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter of the record, and the name and location of the office where the record is located. Also, if records about a court case are sought, the title of the case, the court in which the case was filed, and the nature of the case should be included. If known, any file designations or descriptions of the requested records should be included. In general, the more specifically the request describes the records sought, the greater the likelihood that the Department will be able to locate those records. If a component determines that a request does not reasonably describe records, it shall inform the requester what additional information is needed or how the request is otherwise insufficient, to enable the requester to modify the request to meet the requirements of this section.

---

[1] The United States Patent and Trademark Office (USPTO), which is established as an agency of the United States within the Department of Commerce, operates under its own FOIA regulations at 37 CFR part 102, subpart A. Accordingly, requests for USPTO records should be sent directly to the USPTO.

§ 4.5 Responsibility for responding to requests.

(a) *In general.* Except as stated in paragraph (b) of this section, the proper component of the Department to respond to a request for records is the component that first receives the request and has responsive records, or the component to which the Departmental Freedom of Information Officer assigns lead responsibility for responding to the request. Records responsive to a request shall include only those records within the Department's possession and control as of the date the proper component receives the request.

(b) *Consultations and referrals.* If a component receives a request for a record in its possession in which another Federal agency subject to the FOIA has the primary interest, the component shall refer the record to that agency for direct response to the requester. Ordinarily, the agency that originated a record will be presumed to have the primary interest in it. A component shall consult with another Federal agency before responding to a requester if the component receives a request for a record in which another Federal agency subject to the FOIA has a significant interest, but not the primary interest; or another Federal agency not subject to the FOIA has the primary interest or a significant interest (see § 4.8 for additional information about referrals of classified information).

(c) *Notice of referral.* Whenever a component refers a document to another Federal agency for direct response to the requester, it ordinarily shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the document was referred.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled in chronological order, based on when the FOIA request was received by the first Federal agency.

(e) *Agreements regarding consultations and referrals.* Components may make agreements with other Federal agencies to eliminate the need for consultations or referrals for particular types of records.

§ 4.6 Time limits and expedited processing.

(a) *In general.* Components ordinarily shall respond to requests according to their order of receipt.

(b) *Initial response and appeal.* Subject to paragraph (c)(1) of this section, an initial response shall be made within 20 working days (i.e., excluding Saturdays, Sundays, and legal public holidays) of the receipt of a request for a record under this part by the proper component identified in accordance with § 4.5(a), and an appeal shall be decided within 20 working days of its receipt by the Office of the General Counsel.

(c) *Unusual circumstances.* (1) In unusual circumstances as specified in paragraph (c)(2) of this section, an official listed in Appendix B to this part may extend the time limits in paragraph (b) of this section by notifying the requester in writing as soon as practicable of the unusual circumstances and of the date by which processing of the request is expected to be completed. If the extension is for more than ten working days, the component shall provide the requester an opportunity either to modify the request so that it may be processed within the applicable time limit, or to arrange an alternative time frame for processing the request or a modified request.

(2) As used in this section, *unusual circumstances* means, but only to the extent reasonably necessary to properly process the particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are the subject of a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another component or Federal agency having a substantial interest in the determination of the request.

(3) If a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the requests involve clearly related matters, the component may aggregate them. Multiple requests involving unrelated matters will not be aggregated.

(d) *Multitrack processing.* (1) A component may use two or more processing tracks by distinguishing between simple and more complex requests based on the number of pages involved, or some other measure of the amount of work and/or time needed to process the request, and whether the request qualifies for expedited processing as described in paragraph (e) of this section.

(2) A component using multitrack processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. A component doing so shall contact the requester by telephone, E-mail, or letter, whichever is most efficient in each case.

(e) *Expedited processing.* (1) Requests and appeals shall be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) The loss of substantial due process rights;

(iii) A matter of widespread and exceptional media interest involving questions about the Government's integrity which affect public confidence; or

(iv) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing should be sent to the component listed in Appendix A to this part that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category

described in paragraph (e)(1)(iv) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category described in paragraph (e)(1)(iv) of this section must also establish a particular urgency to inform the public about the Government activity involved in the request, beyond the public's right to know about Government activity generally.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component shall decide whether to grant it and shall notify the requester of the decision. Solely for purposes of calculating the foregoing time limit, any request for expedited processing shall always be considered received on the actual date of receipt by the proper component. If a request for expedited processing is granted, the request shall be given priority and processed as soon as practicable, subject to § 4.11(i). If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously.

§ 4.7 Responses to requests.

(a) *Grants of requests.* If a component makes a determination to grant a request in whole or in part, it shall notify the requester in writing. The component shall inform the requester in the notice of any fee to be charged under § 4.11 and disclose records to the requester promptly upon payment of any applicable fee. Records disclosed in part shall be marked or annotated to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible.

(b) *Adverse determinations of requests.* If a component makes an adverse determination regarding a request, it shall notify the requester of that determination in writing. An adverse determination is a denial of a request in any respect, namely: a determination to withhold any requested record in whole or in part; a determination that a requested record does not exist or cannot be located; a determination that a record is not readily reproducible in the form or format sought by the requester; a determination that what has been requested is not a record subject to the FOIA (except that a determination under § 4.11(j) that records are to be made available under a fee statute other than the FOIA is not an adverse determination); a determination against the requester on any disputed fee matter, including a denial of a request for a reduction or waiver of fees; or a denial of a request for expedited processing. Each denial letter shall be signed by an official listed in Appendix B to this part, and shall include:

(1) The name and title or position of the denying official;

(2) A brief statement of the reason(s) for the denial, including applicable FOIA exemption(s);

(3) An estimate of the volume of records or information withheld, in number of pages or some other reasonable form of estimation. This estimate need not be provided if the volume is otherwise indicated through deletions on records disclosed in part, or if providing an estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the denial may be appealed, and a list of the requirements for filing an appeal under § 4.10(b).

§ 4.8 Classified information.

In processing a request for information classified under Executive Order 12958 or any other executive order concerning the classification of records, the information shall be reviewed to determine whether it should remain classified. Ordinarily the component or other Federal agency that classified the information should conduct the review, except that if a record contains information that has been derivatively classified by a component because it contains information classified by another component or agency, the component shall refer the responsibility for responding to the request to the component or agency that classified the underlying information. Information determined to no longer require classification shall not be withheld on the basis of FOIA exemption (b)(1) (5 U.S.C. 552(b)(1)), but should be reviewed to assess whether any other FOIA exemptions should be invoked. Appeals involving classified information shall be processed in accordance with § 4.10(c).

§ 4.9 Business information.

(a) *In general.* Business information obtained by the Department from a submitter will be disclosed under the FOIA only under this section.

(b) *Definitions.* For the purposes of this section:

(1) *Business information* means commercial or financial information, obtained by the Department from a submitter, which may be protected from disclosure under FOIA exemption (b)(4) (5 U.S.C. 552(b)(4)).

(2) *Submitter* means any person or entity outside the Federal Government from which the Department obtains business information, directly or indirectly. The term includes corporations; state, local and tribal governments; and foreign governments.

(c) *Designation of business information.* A submitter of business information should designate by appropriate markings, either at the time of submission or at a reasonable time thereafter, any portions of its submission that it considers protected from disclosure under FOIA exemption (b)(4). These designations will expire ten years after the date of the submission unless the submitter requests, and provides justification for, a longer period.

(d) *Notice to submitters.* A component shall provide a submitter with prompt written notice of a FOIA request or administrative appeal that seeks its business information whenever required under paragraph (e) of this section, except as provided in paragraph (h) of this section, in order to give the submitter an opportunity under paragraph (f) of this section to object to disclosure of any specified portion of that information. Such written notice shall be sent via certified mail, return receipt requested, or similar means. The notice shall either describe the business information requested or include copies of the requested records containing the information. If notification of a large number of submitters is required, notification may be made by posting or publishing the notice in a place reasonably likely to accomplish notification.

(e) *When notice is required.* Notice shall be given to the submitter whenever:

(1) The submitter has designated the information in good faith as protected from disclosure under FOIA exemption (b)(4); or

(2) The component has reason to believe that the information may be protected from disclosure under FOIA exemption (b)(4).

(f) *Opportunity to object to disclosure.* A component shall allow a submitter seven working days (i.e., excluding Saturdays, Sundays, and legal public holidays) from the date of receipt of the written notice described in paragraph (d) of this section to provide the component with a statement of any objection to disclosure. The statement must identify any portions of the information the submitter requests to be withheld under FOIA exemption (b)(4), and describe how each qualifies for

VOL 66 ISS 245 DE 20 2001 UMI

protection under the exemption: that is, why the information is a trade secret, or commercial or financial information that is privileged or confidential. If a submitter fails to respond to the notice within the time specified, the submitter will be considered to have no objection to disclosure of the information. Information a submitter provides under this paragraph may itself be subject to disclosure under the FOIA.

(g) *Notice of intent to disclose.* A component shall consider a submitter's objections and specific grounds under the FOIA for nondisclosure in deciding whether to disclose business information. If a component decides to disclose business information over a submitter's objection, the component shall give the submitter written notice via certified mail, return receipt requested, or similar means, which shall include:

(1) A statement of reason(s) why the submitter's objections to disclosure were not sustained;

(2) A description of the business information to be disclosed; and

(3) A statement that the component intends to disclose the information seven working days from the date the submitter receives the notice.

(h) *Exceptions to notice requirements.* The notice requirements of paragraphs (d) and (g) of this section shall not apply if:

(1) The component determines that the information should not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by statute (other than the FOIA) or by a regulation issued in accordance with Executive Order 12600; or

(4) The designation made by the submitter under paragraph (c) of this section appears obviously frivolous, in which case the component shall provide the submitter written notice of any final decision to disclose the information seven working days from the date the submitter receives the notice.

(i) *Notice to submitter of FOIA lawsuit.* Whenever a requester files a lawsuit seeking to compel the disclosure of business information, the component shall promptly notify the submitter.

(j) *Corresponding notice to requester.* Whenever a component provides a submitter with notice and an opportunity to object to disclosure under paragraph (d) of this section, the component shall also notify the requester. Whenever a submitter files a lawsuit seeking to prevent the disclosure of business information, the component shall notify the requester.

§ 4.10 Appeals from initial determinations or untimely delays.

(a) If a request for records is initially denied in whole or in part, or has not been timely determined, or if a requester receives an adverse initial determination regarding any other matter under this subpart (as described in § 4.7(b)), the requester may file a written appeal, which must be received by the Office of General Counsel within thirty calendar days of the date of the written denial or, if there has been no determination, may be submitted anytime after the due date, including the last extension under § 4.6(c), of the determination.

(b) Appeals shall be decided by the Assistant General Counsel for Administration (AGC–Admin), except that appeals from requests initially denied by the AGC–Admin shall be decided by the General Counsel. Appeals should be addressed to the AGC–Admin, or the General Counsel if the records were initially denied by the AGC–Admin. The address of both is: U.S. Department of Commerce, Office of General Counsel, Room 5875, 14th Street and Constitution Avenue NW, Washington, DC 20230. Both the letter and the appeal envelope should be clearly marked "Freedom of Information Appeal". The appeal must include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No opportunity for personal appearance, oral argument or hearing on appeal is provided.

(c) Upon receipt of an appeal involving records initially denied on the basis of FOIA exemption (b)(1), the records shall be forwarded to the Deputy Assistant Secretary for Security (DAS) for a declassification review. The DAS may overrule previous classification determinations in whole or in part if continued protection in the interest of national security is no longer required, or no longer required at the same level. The DAS shall advise the AGC–Admin, or the General Counsel, as appropriate, of his or her decision.

(d) If an appeal is granted, the person who filed the appeal shall be immediately notified and copies of the releasable documents shall be made available promptly thereafter upon receipt of appropriate fees determined in accordance with § 4.11.

(e) If no determination on an appeal has been sent to the requester within the twenty working day period specified in § 4.6(b) or the last extension thereof, the requester is deemed to have exhausted all administrative remedies with respect to the request, giving rise to a right of judicial review under 5 U.S.C. 552(a)(6)(C). If the requester initiates a court action against the Department based on the provision in this paragraph, the administrative appeal process may continue.

(f) The determination on an appeal shall be in writing and, when it denies records in whole or in part, the letter to the requester shall include:

(1) A brief explanation of the basis for the denial, including a list of the applicable FOIA exemptions and a description of how they apply;

(2) A statement that the decision is final for the Department;

(3) Notification that judicial review of the denial is available in the district court of the United States in the district in which the requester resides, or has his or her principal place of business, or in which the agency records are located, or in the District of Columbia; and

(4) The name and title or position of the official responsible for denying the appeal.

§ 4.11 Fees.

(a) *In general.* Components shall charge for processing requests under the FOIA in accordance with paragraph (c) of this section, except when fees are limited under paragraph (d) of this section or when a waiver or reduction of fees is granted under paragraph (k) of this section. A component shall collect all applicable fees before sending copies of requested records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(b) *Definitions.* For purposes of this section:

(1) *Commercial use request* means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation. Components shall determine, whenever reasonably possible, the use to which a requester will put the requested records. If it appears that the requester will put the records to a commercial use, or if a component has reasonable cause to doubt a requester's asserted non-commercial use, the component shall provide the requester a reasonable opportunity to submit further clarification.

(2) *Direct costs* means those expenses a component incurs in providing a particular service. Such expenses would include, for example, the labor costs of the employee performing the service (the basic rate of pay for the employee, plus 16 percent of that rate to cover

benefits). Not included in direct costs are overhead expenses such as the costs of space, heating, or lighting of the facility in which the service is performed.

(3) *Duplication* means the making of a copy of a record, or of the information contained in it, necessary to respond to a FOIA request. Copies may take the form of paper, microform, audiovisual materials, or electronic records (for example, magnetic tape or disk), among others. A component shall honor a requester's specified preference of form or format of disclosure if the component can reproduce the record in the requested form or format with reasonable effort.

(4) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, or an institution of vocational education, that operates a program of scholarly research. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution, and that the records are sought to further scholarly research rather than for a commercial use.

(5) *Noncommercial scientific institution* means an institution that is not operated on a "commercial" basis, as that term is defined in paragraph (b)(1) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. To be in this category, a requester must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research rather than for a commercial use.

(6) *Representative of the news media, or news media requester* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large and publishers of periodicals (but only if they can qualify as disseminators of "news") that make their products available for purchase or subscription by the general public. For "freelance" journalists to be regarded as working for a news organization, they must demonstrate a solid basis for expecting publication through that organization. A publication contract would be the clearest proof, but components shall also look to the past publication record of a requester in making this determination. To be in this category, a requester must not be seeking the requested records for a commercial use. However, a request for records supporting the news-dissemination function of the requester shall not be considered to be for a commercial use.

(7) *Review* means the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. It also includes processing any record for disclosure, for example, redacting it and marking any applicable exemptions. Review costs are recoverable even if a record ultimately is not disclosed. Review time does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(8) *Search* means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. Components shall ensure that searches are done in the most efficient and least expensive manner reasonably possible.

(c) *Fees.* In responding to FOIA requests, components shall charge the fees summarized in chart form in paragraphs (c)(1) and (c)(2) of this section and explained in paragraphs (c)(3) through (c)(5) of this section, unless a waiver or reduction of fees has been granted under paragraph (k) of this section.

(1) The four categories and chargeable fees are:

Category	Chargeable fees
(i) Commercial Use Requesters	Search, Review, and Duplication.
(ii) Educational and Non-commercial Scientific Institution Requesters	Duplication (excluding the cost of the first 100 pages).
(iii) Representatives of the News Media	Duplication (excluding the cost of the first 100 pages).
(iv) All Other Requesters	Search and Duplication (excluding the cost of the first 2 hours of search and 100 pages).

(2) Uniform fee schedule.

Service	Rate
(i) Manual search	Actual salary rate of employee involved, plus 16 percent of salary rate.
(ii) Computerized search	Actual direct cost, including operator time.
(iii) Duplication of records:	
(A) Paper copy reproduction	$.16 per page
(B) Other reproduction (e.g., computer disk or printout, microfilm, microfiche, or microform).	Actual direct cost, including operator time.
(iv) Review of records (including redaction)	Actual salary rate of employee conducting review, plus 16 percent of salary rate.

(3) *Search.* (i) Search fees shall be charged for all requests—other than requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media—subject to the limitations of paragraph (d) of this section. Components shall charge for time spent searching even if they do not locate any responsive records or if they withhold any records located as entirely exempt from disclosure. Search fees shall be the direct costs of conducting the search by the involved employees.

(ii) For computer searches of records, requesters will be charged the direct costs of conducting the search, although certain requesters (as provided in paragraph (d)(1) of this section) will be charged no search fee and certain other requesters (as provided in paragraph (d)(3) of this section) are entitled to the cost equivalent of two hours of manual search time without charge.

(4) *Duplication.* Duplication fees shall be charged to all requesters, subject to the limitations of paragraph (d) of this section. For a paper photocopy of a record (no more than one copy of which need be supplied), the fee shall be $.16 cents per page. For copies produced by computer, such as tapes or printouts, components shall charge the direct costs, including operator time, of producing the copy. For other forms of duplication, components shall charge the direct costs of that duplication.

(5) *Review.* Review fees shall be charged to requesters who make a commercial use request. Review fees shall be charged only for the initial record review, in which a component determines whether an exemption applies to a particular record at the initial request level. No charge shall be imposed for review at the administrative appeal level for an exemption already applied. However, records withheld under an exemption that is subsequently determined not to apply may be reviewed again to determine whether any other exemption not previously considered applies, and the costs of that review are chargeable. Review fees shall be the direct costs of conducting the review by the involved employees.

(d) *Limitations on charging fees.* (1) No search fee shall be charged for requests from educational institutions, noncommercial scientific institutions, or representatives of the news media.

(2) No search fee or review fee shall be charged for a quarter-hour period unless more than half of that period is required for search or review.

(3) Except for requesters seeking records for a commercial use, components shall provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent); and

(ii) The first two hours of search (or the cost equivalent).

(4) If a total fee calculated under paragraph (c) of this section is $20.00 or less for any request, no fee shall be charged. If such total fee is more than $20.00, the full amount of such fee shall be charged.

(5) The provisions of paragraphs (d)(3) and (4) of this section work together. This means that for requesters other than those seeking records for a commercial use, no fee shall be charged unless the cost of search in excess of two hours plus the cost of duplication in excess of 100 pages totals more than $20.00.

(e) *Notice of anticipated fees over $20.00.* If a component determines or estimates that the total fee to be charged under this section will be more than $20.00, the component shall notify the requester of the actual or estimated fee, unless the requester has stated in writing a willingness to pay a fee as high as that anticipated. If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee. If the component has notified a requester that the actual or estimated fee is more than $20.00, the component shall not consider the request received for purposes of calculating the time limit in § 4.6(b) to respond to a request, or process it further, until the requester agrees to pay the anticipated total fee. Any agreement to pay should be memorialized in writing. A notice under this paragraph shall offer the requester an opportunity to contact Departmental personnel to discuss modifying the request to meet the requester's needs at a lower cost.

(f) *Charges for other services.* Apart from the other provisions of this section, if a component decides, as a matter of administrative discretion, to comply with a request for special services, the component shall charge the direct cost of providing them. Such services could include certifying that records are true copies or sending records by other than ordinary mail.

(g) *Charging interest.* Components shall charge interest on any unpaid bill starting on the 31st calendar day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and accrue from the date of the billing until the component receives payment. Components shall take all steps authorized by the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996, to effect payment, including offset, disclosure to consumer reporting agencies, and use of collection agencies.

(h) *Aggregating requests.* If a component reasonably believes that a requester or a group of requesters acting together is attempting to divide a request into a series of requests for the purpose of avoiding fees, the component may aggregate those requests and charge accordingly. Among the factors a component shall consider in deciding whether to aggregate are the closeness in time between the component's receipt of the requests, and the relatedness of the matters about which the requests are made. A component may generally presume that multiple requests that involve related matters made by the same requester or a closely related group of requesters within a 30 calendar day period have been made in order to avoid fees. If requests are separated by a longer period, a component shall aggregate them only if a solid basis exists for determining that aggregation is warranted under all the circumstances involved. Multiple requests involving unrelated matters shall not be aggregated.

(i) *Advance payments.* (1) For requests other than those described in paragraphs (i)(2) and (3) of this section, a component shall not require the requester to make an advance payment: a payment made before work is begun or continued on a request. Payment owed for work already completed (i.e., a payment before copies are sent to a requester) is not an advance payment.

(2) If a component determines or estimates that a total fee to be charged under this section will be more than $250.00, the component shall not consider the request received for purposes of calculating the time limit in § 4.6(b) to respond to a request, or process it further, until it receives payment from the requester of the entire anticipated fee.

(3) If a requester has previously failed to pay a properly charged FOIA fee to any component or other Federal agency within 30 calendar days of the date of billing, a component shall require the requester to pay the full amount due, plus any applicable interest, and to make an advance payment of the full amount of any anticipated fee, before the component begins to process a new request or continues to process a pending request from that requester. For purposes of calculating the time limit in § 4.6(b) to respond to a request, the component shall not consider the request received until it receives full payment of all applicable fees and interest in this paragraph.

(4) Upon the completion of processing of a request, if a specific fee is determined to be payable and appropriate notice has been given to the requester, a component shall make records available to the requester only upon receipt of full payment of the fee.

(j) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute (except for the FOIA) that specifically requires an agency to set and collect fees for particular types of records. If records responsive to requests are maintained for distribution by agencies operating such statutorily based fee schedule programs, components shall inform requesters how to obtain records from those sources. Provision of such records is not handled under the FOIA.

(k) *Requirements for waiver or reduction of fees.* (1) Records responsive to a request will be furnished without charge, or at a charge reduced below that established under paragraph (c) of this section, if the requester asks for such a waiver in writing and the responsible component determines, after consideration of information provided by the requester, that the requester has demonstrated that:

(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(ii) Disclosure of the information is not primarily in the commercial interest of the requester.

(2) To determine whether the first fee waiver requirement is met, components shall consider the following factors:

(i) *The subject of the request:* whether the subject of the requested records concerns the operations or activities of the Government. The subject of the requested records must concern identifiable operations or activities of the Federal Government, with a connection that is direct and clear, not remote or attenuated.

(ii) *The informative value of the information to be disclosed:* whether the disclosure is "likely to contribute" to an understanding of Government operations or activities. The disclosable portions of the requested records must be meaningfully informative about Government operations or activities in order to be "likely to contribute" to an increased public understanding of those operations or activities. The disclosure of information that already is in the public domain, in either a duplicative or a substantially identical form, would not be likely to contribute to such understanding.

(iii) *The contribution to an understanding of the subject by the public likely to result from disclosure:* whether disclosure of the requested information will contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area and ability and intention to effectively convey information to the public shall be considered. It shall be presumed that a representative of the news media satisfies this consideration. Merely providing information to media sources is insufficient to satisfy this consideration.

(iv) *The significance of the contribution to public understanding:* whether the disclosure is likely to contribute "significantly" to public understanding of Government operations or activities. The public's understanding of the subject in question prior to the disclosure must be significantly enhanced by the disclosure.

(3) To determine whether the second fee waiver requirement (i.e., that disclosure is not primarily in the commercial interest of the requester) is met, components shall consider the following factors:

(i) *The existence and magnitude of a commercial interest:* whether the requester has a commercial interest that would be furthered by the requested disclosure. Components shall consider any commercial interest of the requester (with reference to the definition of "commercial use request" in paragraph (b)(1) of this section), or of any person on whose behalf the requester may be acting, that would be furthered by the requested disclosure. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(ii) *The primary interest in disclosure:* whether any identified commercial interest of the requester is sufficiently great, in comparison with the public interest in disclosure, that disclosure is "primarily in the commercial interest of the requester." A fee waiver or reduction is justified if the public interest standard (paragraph (k)(1)(i) of this section) is satisfied and the public interest is greater than any identified commercial interest in disclosure. Components ordinarily shall presume that if a news media requester has satisfied the public interest standard, the public interest is the primary interest served by disclosure to that requester. Disclosure to data brokers or others who merely compile and market Government information for direct economic return shall not be presumed to primarily serve the public interest.

(4) If only some of the records to be released satisfy the requirements for a fee waiver, a waiver shall be granted for those records.

(5) Requests for the waiver or reduction of fees should address the factors listed in paragraphs (k)(2) and (3) of this section, insofar as they apply to each request.

Subpart B—Privacy Act

§ 4.21 Purpose and scope.

(a) This subpart establishes policies and procedures for implementing the Privacy Act of 1974, as amended (5 U.S.C. 552a). The main objectives of the subpart are to facilitate full exercise of rights conferred on individuals under the Act, and to protect the privacy of individuals on whom the Department maintains records in systems of records under the Act.

(b) The Department shall act promptly and in accordance with the Act upon receipt of any inquiry, request or appeal from a citizen of the United States or an alien lawfully admitted for permanent residence into the United States, regardless of the individual's age. Further, the Department shall maintain only such information on individuals as is relevant and necessary to the performance of its lawful functions; maintain that information with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness in determinations made by the Department about the individual; obtain information from the individual to the extent practicable; and take every reasonable step to protect that information from unwarranted disclosure. The Department shall maintain no record describing how an individual exercises rights guaranteed by the First Amendment unless expressly authorized to do so by statute or by the individual about whom the record is maintained, or unless to do so is pertinent to and within the scope of an authorized law enforcement activity. An individual's name and address shall not be sold or rented by the Department unless such action is specifically authorized by law.

(c) This subpart applies to all components of the Department. Components may promulgate supplementary orders and rules not inconsistent with this subpart.

(d) The Assistant Secretary for Administration is delegated responsibility for maintaining this subpart, for issuing such orders and directives internal to the Department as are necessary for full compliance with the Act, and for publishing all required notices concerning systems of records.

(e) Matters outside the scope of this subpart include:

(1) Requests for records that do not pertain to the requester, or to the individual about whom the request is made if the requester is the parent or guardian of the individual;

(2) Requests involving information pertaining to an individual that is in a record or file but not within the scope of a system of records notice published in the **Federal Register**;

(3) Requests to correct a record if a grievance procedure is available to the individual either by regulation or through a provision in a collective

bargaining agreement with the Department or a component of the Department, and the individual has initiated, or expressed in writing the intention of initiating, such a grievance procedure; and

(4) Requests for employee-employer services and counseling that were routinely granted prior to enactment of the Act, including, but not limited to, test calculations of retirement benefits, explanations of health and life insurance programs, and explanations of tax withholding options.

(f) Any request for records that pertains to the requester, or to the individual about whom the request is made if the requester is the parent or guardian of the individual, shall be processed under the Act and this subpart and under the Freedom of Information Act and the Department's implementing regulations at subpart A of this part, regardless whether the Act or the Freedom of Information Act is mentioned in the request.

§ 4.22 Definitions.

(a) All terms used in this subpart which are defined in 5 U.S.C. 552a shall have the same meaning herein.

(b) As used in this subpart:

(1) *Act* means the "Privacy Act of 1974, as amended (5 U.S.C. 552a)".

(2) *Appeal* means a request by an individual to review and reverse an initial denial of a request from that individual for correction or amendment.

(3) *Component* means any office, division, bureau or other unit of the Department listed in Appendix A to this part (except that a regional office of a larger office or other unit does not constitute a separate component).

(4) *Department* means the Department of Commerce.

(5) *Inquiry* means either a request for general information regarding the Act and this subpart or a request from an individual (or that individual's parent or guardian) that the Department determine whether it has any record in a system of records that pertains to that individual.

(6) *Person* means any human being and also shall include, but is not limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(7) *Privacy Officer* means those officials, identified in Appendix B to this part, who are authorized to receive and act upon inquiries, requests for access, and requests for correction or amendment.

(8) *Request for access* means a request from an individual or an individual's parent or guardian to see a record pertaining to that individual in a particular system of records.

(9) *Request for correction or amendment* means a request from an individual or an individual's parent or guardian that the Department change (by correction, amendment, addition or deletion) a particular record pertaining to that individual in a system of records.

§ 4.23 Procedures for making inquiries.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit an inquiry to the Department. The inquiry should be made either in person or by mail addressed to the appropriate component identified in Appendix A to this part or to the official identified in the notification procedures paragraph of the systems of records notice published in the **Federal Register**.[2] If an individual believes the Department maintains a record pertaining to him or her but does not know which system of records might contain such a record and/or which component of the Department maintains the system of records, assistance in person or by mail will be provided at the first address listed in Appendix A to this part.

(b) Inquiries submitted by mail should include the words "PRIVACY ACT INQUIRY" in capital letters at the top of the letter and on the face of the envelope. If the inquiry is for general information regarding the Act and this subpart, no particular information is required. The Department reserves the right to require compliance with the identification procedures appearing at § 4.24(d). If the inquiry is a request that the Department determine whether it has a record pertaining to the individual, the following information should be submitted:

(1) Name of individual whose record is sought;

(2) Statement that individual whose record is sought is either a U.S. citizen or an alien lawfully admitted for permanent residence;

(3) Identifying data that will help locate the record (for example, maiden name, occupational license number, period or place of employment, etc.);

(4) Record sought, by description and by record system name, if known;

(5) Action requested (that is, sending information on how to exercise rights under the Act; determining whether requested record exists; gaining access to requested record; or obtaining copy of requested record);

(6) Copy of court guardianship order or minor's birth certificate, as provided in § 4.24(d)(3), but only if requester is guardian or parent of individual whose record is sought;

(7) Requester's name (printed), signature, address, and (optional) telephone number;

(8) Date; and,

(9) Certification of request by notary or other official, but only if

(i) Request is for notification that requested record exists, for access to requested record, or for copy of requested record;

(ii) Record is not available to any person under 5 U.S.C. 552; and

(iii) Requester does not appear before an employee of the Department for verification of identity.

(c) Any inquiry which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in paragraph (b) of this section will be so addressed and marked by Department personnel and forwarded immediately to the responsible Privacy Officer. An inquiry which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when an inquiry so forwarded is received, the Privacy Officer shall notify the individual that his or her inquiry was improperly addressed and the date the inquiry was received at the proper address.

(d)(1) Each inquiry received shall be acted upon promptly by the responsible Privacy Officer. Every effort will be made to respond within ten working days (i.e., excluding Saturdays, Sundays and legal public holidays) of the date of receipt at the proper address. If a response cannot be made within ten working days, the Privacy Officer shall send an acknowledgment during that period providing information on the status of the inquiry and asking for such further information as may be necessary to process the inquiry. The first correspondence sent by the Privacy Officer to the requester shall contain the Department's control number assigned to the request, as well as a statement that the requester should use that number in all future contacts with the Department. The Department shall use that control number in all subsequent correspondence.

(2) If the Privacy Officer fails to send an acknowledgment within ten working days, as provided in paragraph (d)(1) of

---

[2] The United States Patent and Trademark Office (USPTO), which is established as an agency of the United States within the Department of Commerce, operates under its own PA regulations at 37 CFR part 102, subpart B. Accordingly, requests concerning records maintained by the USPTO should be sent directly to the USPTO.

this section, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(e) An individual shall not be required to state a reason for or otherwise justify his or her inquiry.

(f) Special note should be taken that certain agencies are responsible for publishing notices of systems of records having Government-wide application to other agencies, including the Department. The agencies known to be publishing these general notices and the types of records covered therein appear in Appendix C to this part. These general notices do not identify the Privacy Officers in the Department to whom inquiries should be presented or mailed. The provisions of this section, and particularly paragraph (a) of this section, should be followed in making inquiries with respect to such records. Such records in the Department are subject to the provisions of this part to the extent indicated in Appendix C to this part. The exemptions, if any, determined by the agency publishing a general notice shall be invoked and applied by the Department after consultation, as necessary, with that other agency.

§ 4.24 Procedures for making requests for records.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request to the Department for access to records. The request should be made either in person or by mail addressed to the appropriate office listed in Appendix A to this part.

(b) Requests submitted by mail should include the words "PRIVACY ACT REQUEST" in capital letters at the top of the letter and on the face of the envelope. Any request which is not addressed as specified in paragraph (a) of this section or which is not marked as specified in this paragraph will be so addressed and marked by Department personnel and forwarded immediately to the responsible Privacy Officer. A request which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring time periods for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date the request was received at the proper address.

(c) If the request follows an inquiry under § 4.23 in connection with which the individual's identity was established by the Department, the individual need only indicate the record to which access is sought, provide the Department control number assigned to the request, and sign and date the request. If the request is not preceded by an inquiry under § 4.23, the procedures of this section should be followed.

(d) The requirements for identification of individuals seeking access to records are:

(1) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. The means of proof, in the order of preference and priority, are:

(i) A document bearing the individual's photograph (for example, driver's license, passport or military or civilian identification card);

(ii) A document, preferably issued for participation in a Federally-sponsored program, bearing the individual's signature (for example, unemployment insurance book, employer's identification card, national credit card, and professional, craft or union membership card); and,

(iii) A document bearing neither the photograph nor the signature of the individual, preferably issued for participation in a Federally-sponsored program (for example, Medicaid card). If the individual can provide no suitable documentation of identity, the Department will require a signed statement asserting the individual's identity and stipulating that the individual understands the penalty provision of 5 U.S.C. 552a(i)(3) recited in § 4.32(a). In order to avoid any unwarranted disclosure of an individual's records, the Department reserves the right to determine the adequacy of proof of identity offered by any individual, particularly if the request involves a sensitive record.

(2) *Not in person.* If the individual making a request does not appear in person before a Privacy Officer or other employee authorized to determine identity, a certification of a notary public or equivalent officer empowered to administer oaths must accompany the request under the circumstances prescribed in § 4.23(b)(9). The certification in or attached to the letter must be substantially in accordance with the following text:

City of _______ County of ________.ss (Name of individual), who affixed (his) (her) signature below in my presence, came before me, a (title), in and for the aforesaid County and State, this ____ day of ______, 20__, and established (his) (her) identity to my satisfaction.

My commission expires ________.

(Signature)

(3) *Parents of minors and legal guardians.* An individual acting as the parent of a minor or the legal guardian of the individual to whom a record pertains shall establish his or her personal identity in the same manner prescribed in either paragraph (d)(1) or (d)(2) of this section. In addition, such other individual shall establish his or her identity in the representative capacity of parent or legal guardian. In the case of the parent of a minor, the proof of identity shall be a certified or authenticated copy of the minor's birth certificate. In the case of a legal guardian of an individual who has been declared incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, the proof of identity shall be a certified or authenticated copy of the court's order. For purposes of the Act, a parent or legal guardian may represent only a living individual, not a decedent. A parent or legal guardian may be accompanied during personal access to a record by another individual, provided the provisions of § 4.25(f) are satisfied.

(e) If the provisions of this subpart are alleged to impede an individual in exercising his or her right to access, the Department will consider, from an individual making a request, alternative suggestions regarding proof of identity and access to records.

(f) An individual shall not be required to state a reason for or otherwise justify his or her request for access to a record.

§ 4.25 Disclosure of requested records to individuals.

(a)(1) The responsible Privacy Officer shall act promptly upon each request. Every effort will be made to respond within ten working days (i.e., excluding Saturdays, Sundays and legal public holidays) of the date of receipt. If a response cannot be made within ten working days due to unusual circumstances, the Privacy Officer shall send an acknowledgment during that period providing information on the status of the request and asking for any further information that may be necessary to process the request. "Unusual circumstances" shall include circumstances in which:

(i) A search for and collection of requested records from inactive storage, field facilities or other establishments is required;

(ii) A voluminous amount of data is involved;

(iii) Information on other individuals must be separated or expunged from the particular record; or

(iv) Consultations with other agencies having a substantial interest in the determination of the request are necessary.

(2) If the Privacy Officer fails to send an acknowledgment within ten working days, as provided in paragraph (a)(1) of this section, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(b) Grant of access: (1) *Notification.* An individual shall be granted access to a record pertaining to him or her, unless the provisions of paragraph (g)(1) of this section apply. The Privacy Officer shall notify the individual of a determination to grant access, and provide the following information:

(i) The methods of access, as set forth in paragraph (b)(2) of this section;

(ii) The place at which the record may be inspected;

(iii) The earliest date on which the record may be inspected and the period of time that the records will remain available for inspection. In no event shall the earliest date be later than thirty calendar days from the date of notification;

(iv) The estimated date by which a copy of the record will be mailed and the fee estimate pursuant to § 4.31. In no event shall the estimated date be later than thirty calendar days from the date of notification;

(v) The fact that the individual, if he or she wishes, may be accompanied by another individual during personal access, subject to the procedures set forth in paragraph (f) of this section; and,

(vi) Any additional prerequisites for granting access to a specific record.

(2) *Methods of access.* The following methods of access to records by an individual may be available depending on the circumstances of a given situation:

(i) Inspection in person may be had in the office specified by the Privacy Officer granting access, during the hours indicated in Appendix A to this part;

(ii) Transfer of records to a Federal facility more convenient to the individual may be arranged, but only if the Privacy Officer determines that a suitable facility is available, that the individual's access can be properly supervised at that facility, and that transmittal of the records to that facility will not unduly interfere with operations of the Department or involve unreasonable costs, in terms of both money and manpower; and,

(iii) Copies may be mailed at the request of the individual, subject to payment of the fees prescribed in § 4.31. The Department, at its own initiative, may elect to provide a copy by mail, in which case no fee will be charged the individual.

(c) Access to medical records is governed by the provisions of § 4.26.

(d) The Department shall supply such other information and assistance at the time of access as to make the record intelligible to the individual.

(e) The Department reserves the right to limit access to copies and abstracts of original records, rather than the original records. This election would be appropriate, for example, when the record is in an automated data medium such as tape or disc, when the record contains information on other individuals, and when deletion of information is permissible under exemptions (for example, 5 U.S.C. 552a(k)(2)). In no event shall original records of the Department be made available to the individual except under the immediate supervision of the Privacy Officer or his or her designee.

(f) Any individual who requests access to a record pertaining to that individual may be accompanied by another individual of his or her choice. "Accompanied" includes discussing the record in the presence of the other individual. The individual to whom the record pertains shall authorize the presence of the other individual in writing. The authorization shall include the name of the other individual, a specific description of the record to which access is sought, the Department control number assigned to the request, the date, and the signature of the individual to whom the record pertains. The other individual shall sign the authorization in the presence of the Privacy Officer. An individual shall not be required to state a reason or otherwise justify his or her decision to be accompanied by another individual during personal access to a record.

(g) Initial denial of access: (1) *Grounds.* Access by an individual to a record that pertains to that individual will be denied only upon a determination by the Privacy Officer that:

(i) The record is exempt under § 4.33 or 4.34, or exempt by determination of another agency publishing notice of the system of records, as described in § 4.23(f);

(ii) The record is information compiled in reasonable anticipation of a civil action or proceeding;

(iii) The provisions of § 4.26 pertaining to medical records temporarily have been invoked; or,

(iv) The individual unreasonably has failed to comply with the procedural requirements of this part.

(2) *Notification.* The Privacy Officer shall give notice of denial of access to records to the individual in writing, and the notice shall include the following information:

(i) The Privacy Officer's name and title or position;

(ii) The date of the denial;

(iii) The reasons for the denial, including citation to the appropriate section of the Act and this part;

(iv) The individual's opportunities, if any, for further administrative consideration, including the identity and address of the responsible official. If no further administrative consideration within the Department is available, the notice shall state that the denial is administratively final; and,

(v) If stated to be administratively final within the Department, the individual's right to judicial review provided under 5 U.S.C.552a(g)(1), as limited by 5 U.S.C. 552a(g)(5).

(3) *Administrative review.* If a Privacy Officer issues an initial denial of a request, the individual's opportunities for further consideration shall be as follows:

(i) As to denial under paragraph (g)(1)(i) of this section, two opportunities for further consideration are available in the alternative:

(A) If the individual contests the application of an exemption to the records, the review procedures in § 4.25(g)(3)(ii) shall apply; or,

(B) If the individual challenges the validity of the exemption itself, the individual must file a petition for the issuance, amendment, or repeal of a rule under 5 U.S.C. 553(e). If the exemption was determined by the Department, such petition shall be filed with the Assistant Secretary for Administration. If the exemption was determined by another agency (as described in § 4.23(f)), the Department will provide the individual with the name and address of the other agency and any relief sought by the individual shall be that provided by the regulations of the other agency. Within the Department, no such denial is administratively final until such a petition has been filed by the individual and disposed of on the merits by the Assistant Secretary for Administration.

(ii) As to denial under paragraphs (g)(1)(ii) of this section, (g)(1)(iv) of this section or (to the limited extent provided in paragraph (g)(3)(i)(A) of this section) paragraph (g)(1)(i) of this section, the individual may file for review with the Assistant General Counsel for Administration, as indicated in the Privacy Officer's initial denial notification. The individual and the Department shall follow the procedures in § 4.28 to the maximum extent practicable.

(iii) As to denial under paragraph (g)(1)(iii) of this section, no further administrative consideration within the Department is available because the denial is not administratively final until expiration of the time period indicated in § 4.26(a).

(h) If a request is partially granted and partially denied, the Privacy Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 4.26 Special procedures: Medical records.

(a) No response to any request for access to medical records from an individual will be issued by the Privacy Officer for a period of seven working days (i.e., excluding Saturdays, Sundays and legal public holidays) from the date of receipt.

(b) For every request from an individual for access to medical records, the Privacy Officer shall:

(1) Inform the individual of the waiting period prescribed in paragraph (a) of this section;

(2) Seek from the individual the name and address of the individual's physician and/or psychologist;

(3) Seek from the individual written consent for the Department to consult the individual's physician and/or psychologist, if the Department believes such consultation is advisable;

(4) Seek written consent from the individual for the Department to provide the medical records to the individual's physician or psychologist, if the Department believes access to the record by the individual is best effected under the guidance of the individual's physician or psychologist; and,

(5) Forward the individual's medical record to the Department's medical officer for review and a determination on whether consultation with or transmittal of the medical records to the individual's physician or psychologist is warranted. If consultation with or transmittal of such records to the individual's physician or psychologist is determined to be warranted, the Department's medical officer shall so consult or transmit. Whether or not such a consultation or transmittal occurs, the Department's medical officer shall provide instruction to the Privacy Officer regarding the conditions of access by the individual to his or her medical records.

(c) If an individual refuses in writing to give the names and consents set forth in paragraphs (c)(2) through (c)(4) of this section, the Department shall give the individual access to said records by means of a copy, provided without cost to the requester, sent registered mail, return receipt requested.

§ 4.27 Procedures for making requests for correction or amendment.

(a) Any individual, regardless of age, who is a citizen of the United States or an alien lawfully admitted for permanent residence into the United States may submit a request for correction or amendment to the Department. The request should be made either in person or by mail addressed to the Privacy Officer who processed the individual's request for access to the record, and to whom is delegated authority to make initial determinations on requests for correction or amendment. The offices of Privacy Officers are open to the public between the hours of 9 a.m. and 4 p.m. Monday through Friday (excluding Saturdays, Sundays, and legal public holidays).

(b) Requests submitted by mail should include the words "PRIVACY ACT REQUEST" in capital letters at the top of the letter and on the face of the envelope. Any request that is not addressed as specified in paragraph (a) of this section or that is not marked as specified in this paragraph will be so addressed and marked by Department personnel and forwarded immediately to the responsible Privacy Officer. A request that is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time period for response until actual receipt by the Privacy Officer. In each instance when a request so forwarded is received, the Privacy Officer shall notify the individual that his or her request was improperly addressed and the date the request was received at the proper address.

(c) Since the request, in all cases, will follow a request for access under § 4.25, the individual's identity will be established by his or her signature on the request and use of the Department control number assigned to the request.

(d) A request for correction or amendment should include the following:

(1) Specific identification of the record sought to be corrected or amended (for example, description, title, date, paragraph, sentence, line and words);

(2) The specific wording to be deleted, if any;

(3) The specific wording to be inserted or added, if any, and the exact place at which it is to be inserted or added; and,

(4) A statement of the basis for the requested correction or amendment, with all available supporting documents and materials that substantiate the statement. The statement should identify the criterion of the Act being invoked, that is, whether the information in the record is unnecessary, inaccurate, irrelevant, untimely or incomplete.

§ 4.28 Agency review of requests for correction or amendment.

(a)(1)(i) Not later than ten working days (i.e., excluding Saturdays, Sundays and legal public holidays) after receipt of a request to correct or amend a record, the Privacy Officer shall send an acknowledgment providing an estimate of time within which action will be taken on the request and asking for such further information as may be necessary to process the request. The estimate of time may take into account unusual circumstances as described in § 4.25(a). No acknowledgment will be sent if the request can be reviewed, processed and the individual notified of the results of review (either compliance or denial) within the ten working days. Requests filed in person will be acknowledged in writing at the time submitted.

(ii) If the Privacy Officer fails to send the acknowledgment within ten working days, as provided in paragraph (a)(1)(i) of this section, the requester may ask the Assistant General Counsel for Administration to take corrective action. No failure of a Privacy Officer to send an acknowledgment shall confer administrative finality for purposes of judicial review.

(2) Promptly after acknowledging receipt of a request, or after receiving such further information as might have been requested, or after arriving at a decision within the ten working days, the Privacy Officer shall either:

(i) Make the requested correction or amendment and advise the individual in writing of such action, providing either a copy of the corrected or amended record or, in cases in which a copy cannot be provided (for example, erasure of information from a record maintained only in magnetically-recorded computer files), a statement as to the means by which the correction or amendment was effected; or,

(ii) Inform the individual in writing that his or her request is denied and provide the following information:

(A) The Privacy Officer's name and title or position;

(B) The date of the denial;

VOL 66 ISS 245 DE 20 2001 UMI

(C) The reasons for the denial, including citation to the appropriate sections of the Act and this subpart; and,

(D) The procedures for appeal of the denial as set forth in § 4.29, including the address of the Assistant General Counsel for Administration.

(3) The term *promptly* in this section means within thirty working days (i.e., excluding Saturdays, Sundays and legal public holidays). If the Privacy Officer cannot make the determination within thirty working days, the individual will be advised in writing of the reason for the delay and of the estimated date by which the determination will be made.

(b) Whenever an individual's record is corrected or amended pursuant to a request from that individual, the Privacy Officer shall notify all persons and agencies to which the corrected or amended portion of the record had been disclosed prior to its correction or amendment, if an accounting of such disclosure required by the Act was made. The notification shall require a recipient agency maintaining the record to acknowledge receipt of the notification, to correct or amend the record, and to apprise any agency or person to which it had disclosed the record of the substance of the correction or amendment.

(c) The following criteria will be considered by the Privacy Officer in reviewing a request for correction or amendment:

(1) The sufficiency of the evidence submitted by the individual;

(2) The factual accuracy of the information to be corrected or amended;

(3) The relevance and necessity of the information in terms of the purpose for which it was collected;

(4) The timeliness and currency of the information in light of the purpose for which it was collected;

(5) The completeness of the information in terms of the purpose for which it was collected;

(6) The degree of risk that denial of the request could unfairly result in determinations adverse to the individual;

(7) The character of the record sought to be corrected or amended; and,

(8) The propriety and feasibility of complying with the specific means of correction or amendment requested by the individual.

(d) The Department will not undertake to gather evidence for the individual, but does reserve the right to verify the evidence the individual submits.

(e) Correction or amendment of a record requested by an individual will be denied only upon a determination by the Privacy Officer that:

(1) The individual has failed to establish, by a preponderance of the evidence, the propriety of the correction or amendment in light of the criteria set forth in paragraph (c) of this section;

(2) The record sought to be corrected or amended is part of the official record in a terminated judicial, quasi-judicial or quasi-legislative proceeding to which the individual was a party or participant;

(3) The information in the record sought to be corrected or amended, or the record sought to be corrected or amended, is the subject of a pending judicial, quasi-judicial or quasi-legislative proceeding to which the individual is a party or participant;

(4) The correction or amendment would violate a duly enacted statute or promulgated regulation; or,

(5) The individual unreasonably has failed to comply with the procedural requirements of this part.

(f) If a request is partially granted and partially denied, the Privacy Officer shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

§ 4.29 Appeal of initial adverse agency determination on correction or amendment.

(a) If a request for correction or amendment is denied initially under § 4.28, the individual may submit a written appeal within thirty working days (i.e., excluding Saturdays, Sundays and legal public holidays) of the date of the initial denial. If an appeal is submitted by mail, the postmark is conclusive as to timeliness.

(b) An appeal should be addressed to the Assistant General Counsel for Administration, U.S. Department of Commerce, Room 5875, 14th and Constitution Avenue, NW., Washington, DC 20230. An appeal should include the words "PRIVACY APPEAL" in capital letters at the top of the letter and on the face of the envelope. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the Assistant General Counsel for Administration. An appeal which is not properly addressed by the individual will not be deemed to have been "received" for purposes of measuring the time periods in this section until actual receipt by the Assistant General Counsel for Administration. In each instance when an appeal so forwarded is received, the Assistant General Counsel for Administration shall notify the individual that his or her appeal was improperly addressed and the date on which the appeal was received at the proper address.

(c) The individual's appeal shall be signed by the individual, and shall include a statement of the reasons why the initial denial is believed to be in error, and the Department's control number assigned to the request. The Privacy Officer who issued the initial denial shall furnish to the Assistant General Counsel for Administration the record the individual requests to be corrected or amended, and all correspondence between the Privacy Officer and the requester. Although the foregoing normally will comprise the entire record on appeal, the Assistant General Counsel for Administration may seek any additional information necessary to ensure that the final determination is fair and equitable and, in such instances, disclose the additional information to the individual to the greatest extent possible, and provide an opportunity for comment thereon.

(d) No personal appearance or hearing on appeal will be allowed.

(e) The Assistant General Counsel for Administration shall act upon the appeal and issue a final determination in writing not later than thirty working days (i.e., excluding Saturdays, Sundays and legal public holidays) from the date on which the appeal is received, except that the Assistant General Counsel for Administration may extend the thirty days upon deciding that a fair and equitable review cannot be made within that period, but only if the individual is advised in writing of the reason for the extension and the estimated date by which a final determination will issue. The estimated date should not be later than the sixtieth working day after receipt of the appeal unless unusual circumstances, as described in § 4.25(a), are met.

(f) If the appeal is determined in favor of the individual, the final determination shall include the specific corrections or amendments to be made and a copy thereof shall be transmitted promptly to the individual and to the Privacy Officer who issued the initial denial. Upon receipt of such final determination, the Privacy Officer shall promptly take the actions set forth in § 4.28(a)(2)(i) and (b).

(g) If the appeal is denied, the final determination shall be transmitted promptly to the individual and state the reasons for the denial. The notice of final determination also shall inform the individual that:

(1) The individual has a right under the Act to file with the Assistant General Counsel for Administration a

concise statement of reasons for disagreeing with the final determination. The statement ordinarily should not exceed one page and the Department reserves the right to reject an excessively lengthy statement. It should provide the Department control number assigned to the request, indicate the date of the final determination and be signed by the individual. The Assistant General Counsel for Administration shall acknowledge receipt of such statement and inform the individual of the date on which it was received;

(2) Any such disagreement statement submitted by the individual would be noted in the disputed record, and filed with it;

(3) The purposes and uses to which the statement would be put are those applicable to the record in which it is noted, and that a copy of the statement would be provided to persons and agencies to which the record is disclosed subsequent to the date of receipt of such statement;

(4) The Department would append to any such disagreement statement a copy of the final determination or summary thereof, which also would be provided to persons and agencies to which the disagreement statement is disclosed; and

(5) The individual has a right to judicial review of the final determination under 5 U.S.C. 552a(g)(1)(A), as limited by 5 U.S.C. 552a(g)(5).

(h) In making the final determination, the Assistant General Counsel for Administration shall employ the criteria set forth in § 4.28(c) and shall deny an appeal only on the grounds set forth in § 4.28(e).

(i) If an appeal is partially granted and partially denied, the Assistant General Counsel for Administration shall follow the appropriate procedures of this section as to the records within the grant and the records within the denial.

(j) Although a copy of the final determination or a summary thereof will be treated as part of the individual's record for purposes of disclosure in instances where the individual has filed a disagreement statement, it will not be subject to correction or amendment by the individual.

(k) The provisions of paragraphs (g)(1) through (g)(3) of this section satisfy the requirements of 5 U.S.C. 552a(e)(3).

§ 4.30 Disclosure of record to person other than the individual to whom it pertains.

(a) The Department may disclose a record pertaining to an individual to a person other than the individual to whom it pertains only in the following instances:

(1) Upon written request by the individual, including authorization under § 4.25(f);

(2) With the prior written consent of the individual;

(3) To a parent or legal guardian under 5 U.S.C. 552a(h);

(4) When required by the Act and not covered explicitly by the provisions of 5 U.S.C. 552a(b); and

(5) When permitted under 5 U.S.C. 552a(b)(1) through (12), as follows:[3]

(i) To those officers and employees of the agency that maintains the record who have a need for the record in the performance of their duties;

(ii) Required under 5 U.S.C. 552;

(iii) For a routine use as defined in 5 U.S.C. 552a(a)(7);

(iv) To the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of Title 13 of the U.S. Code;

(v) To a requester who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(vi) To the National Archives and Records Administration as a record that has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Archivist of the United States, or the designee of the Archivist, to determine whether the record has such value;

(vii) To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record, specifying the particular portion desired and the law enforcement activity for which the record is sought;

(viii) To a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(ix) To either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(x) To the Comptroller General, or any of his or her authorized representatives, in the course of the performance of the duties of the General Accounting Office;

(xi) Pursuant to the order of a court of competent jurisdiction; or

(xii) To a consumer reporting agency in accordance with 31 U.S.C. 3711(e).

(b) The situations referred to in paragraph (a)(4) of this section include the following:

(1) 5 U.S.C. 552a(c)(4) requires dissemination of a corrected or amended record or notation of a disagreement statement by the Department in certain circumstances;

(2) 5 U.S.C. 552a(d) requires disclosure of records to the individual to whom they pertain, upon request; and

(3) 5 U.S.C. 552a(g) authorizes civil action by an individual and requires disclosure by the Department to the court.

(c) The Privacy Officer shall make an accounting of each disclosure by him of any record contained in a system of records in accordance with 5 U.S.C. 552a(c)(1) and (2). Except for a disclosure made under 5 U.S.C. 552a(b)(7), the Privacy Officer shall make such accounting available to any individual, insofar as it pertains to that individual, upon any request submitted in accordance with § 4.24. The Privacy Officer shall make reasonable efforts to notify any individual when any record in a system of records is disclosed to any person under compulsory legal process, promptly upon being informed that such process has become a matter of public record.

§ 4.31 Fees.

(a) The only fee to be charged to an individual under this part is for duplication of records at the request of the individual. Components shall charge a fee for duplication of records under the Act in the same way in which they charge a duplication fee under § 4.11, except as provided in this section. Accordingly, no fee shall be charged or collected for: search, retrieval, or review of records; copying at the initiative of the Department without a request from the individual; transportation of records; or first-class postage.

(b) The Department shall provide an individual one copy of each record corrected or amended pursuant to the individual's request without charge as evidence of the correction or amendment.

(c) As required by the United States Office of Personnel Management in its published regulations implementing the Act, the Department shall charge no fee for a single copy of a personnel record

---

[3] 5 U.S.C. 552b(b)(4) has no application within the Department.

VOL 66 ISS 245 DE 20 2001 UMI

covered by that agency's Government-wide published notice of systems of records.

§ 4.32 Penalties.

(a) The Act provides, in pertinent part:

> Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000. (5 U.S.C. 552a(i)(3)).

(b) A person who falsely or fraudulently attempts to obtain records under the Act also may be subject to prosecution under such other criminal statutes as 18 U.S.C. 494, 495 and 1001.

§ 4.33 General exemptions.

(a) Individuals may not have access to records maintained by the Department but which were provided by another agency which has determined by regulation that such information is subject to general exemption under 5 U.S.C. 552a(j). If such exempt records are within a request for access, the Department will advise the individual of their existence and of the name and address of the source agency. For any further information concerning the record and the exemption, the individual must contact that source agency.

(b) The general exemptions determined to be necessary and proper with respect to systems of records maintained by the Department, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for the exemption, are as follows:

(1) *Individuals identified in Export Transactions*—COMMERCE/ITA–1. Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a(b), (c)(1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to ensure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to maintain the integrity of the law enforcement process, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to prevent interference with law enforcement proceedings, to avoid disclosure of investigative techniques, and to avoid endangering law enforcement personnel. Section 12(c) of the Export Administration Act of 1979, as amended, also protects this information from disclosure.

(2) *Fisheries Law Enforcement Case Files—COMMERCE/NOAA–5.* Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e) (4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to ensure the proper functioning of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with law enforcement proceedings, to avoid the disclosure of investigative techniques, to avoid the endangering of law enforcement personnel, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process.

(3) *Investigative and Inspection Records—COMMERCE/DEPT–12.* Pursuant to 5 U.S.C. 552a(j)(2), these records are hereby determined to be exempt from all provisions of the Act, except 5 U.S.C. 552a (b), (c) (1) and (2), (e)(4) (A) through (F), (e) (6), (7), (9), (10), and (11), and (i). These exemptions are necessary to ensure the proper operation of the law enforcement activity, to protect confidential sources of information, to fulfill promises of confidentiality, to prevent interference with law enforcement proceedings, to avoid the disclosure of investigative techniques, to avoid the endangering of law enforcement personnel, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, and to maintain the integrity of the law enforcement process.

§ 4.34 Specific exemptions.

(a)(1) Certain systems of records under the Act that are maintained by the Department may occasionally contain material subject to 5 U.S.C. 552a(k)(1), relating to national defense and foreign policy materials. The systems of records published in the **Federal Register** by the Department that are within this exemption are:

COMMERCE/ITA–1, COMMERCE/ITA–2, COMMERCE/ITA–3, COMMERCE/NOAA–11, COMMERCE/PAT–TM–4, COMMERCE/DEPT–12, COMMERCE/DEPT–13, and COMMERCE/DEPT–14.

(2) The Department hereby asserts a claim to exemption of such materials wherever they might appear in such systems of records, or any systems of records, at present or in the future. The materials would be exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f), because the materials are required by Executive order to be kept secret in the interest of the national defense and foreign policy.

(b) The specific exemptions determined to be necessary and proper with respect to systems of records maintained by the Department, including the parts of each system to be exempted, the provisions of the Act from which they are exempted, and the justification for the exemption, are as follows:

(1) Exempt under 5 U.S.C. 552a(k)(1). The systems of records exempt hereunder appear in paragraph (a) of this section. The claims for exemption of COMMERCE/DEPT–12, COMMERCE/ITA–1, and COMMERCE/NOAA–11 under this paragraph are subject to the condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid.

(2)(i) Exempt under 5 U.S.C. 552a(k)(2). The systems of records exempt (some only conditionally), the sections of the Act from which exempted, and the reasons therefor are as follows:

(A) Individuals identified in Export Administration compliance proceedings or investigations—COMMERCE/ITA–1, but only on condition that the general exemption claimed in § 4.33(b)(1) is held to be invalid;

(B) Individuals involved in export transactions—COMMERCE/ITA–2;

(C) Fisheries Law Enforcement Case Files—COMMERCE/NOAA–11, but only on condition that the general exemption claimed in § 4.33(b)(2) is held to be invalid;

(D) Investigative and Inspection Records—COMMERCE/DEPT–12, but only on condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid;

(E) Investigative Records—Persons Within the Investigative Jurisdiction of the Department—COMMERCE/DEPT–13;

(F) Litigation, Claims and Administrative Proceeding Records—COMMERCE/DEPT–14; and

(ii) The foregoing are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). The reasons for asserting the exemption are to prevent subjects of investigation from frustrating the investigatory process; to ensure the proper functioning and integrity of law enforcement activities; to prevent disclosure of investigative techniques; to maintain the ability to obtain necessary information; to fulfill commitments made to sources to protect their identities and the confidentiality of information; and to avoid endangering these sources and law enforcement personnel. Special note is taken that the proviso clause in this exemption imports due process and procedural protections for the individual. The existence and general character of the information exempted shall be made known to the individual to whom it pertains.

(3)(i) Exempt under 5 U.S.C. 552a(k)(4). The systems of records exempt, the sections of the Act from which exempted, and the reasons therefor are as follows:

(A) Agriculture Census Records for 1974 and 1978—COMMERCE/CENSUS–1;

(B) Individual and Household Statistical Surveys and Special Census Studies Records— COMMERCE/CENSUS–3;

(C) Minority-Owned Business Enterprises Survey Records—COMMERCE/CENSUS–4;

(D) Population and Housing Census Records of the 1960 and Subsequent Censuses—COMMERCE/ CENSUS–5;

(E) Population Census Personal Service Records for 1900 and All Subsequent Decennial Censuses—COMMERCE/CENSUS–6; and

(F) Special Censuses of Population Conducted for State and Local Government—COMMERCE/CENSUS–7.

(G) Statistical Administrative Records System—COMMERCE/CENSUS–8.

(ii) The foregoing are exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G)(H), and (I), and (f). The reasons for asserting the exemption are to comply with the prescription of Title 13 of the United States Code, especially sections 8 and 9 relating to prohibitions against disclosure, and to avoid needless consideration of these records whose sole statistical use comports fully with a basic purpose of the Act, namely, that no adverse determinations are made from these records as to any identifiable individual.

(4)(i) Exempt under 5 U.S.C. 552a(k)(5). The systems of records exempt (some only conditionally), the sections of the Act from which exempted, and the reasons therefor are as follows:

(A) Applications to U.S. Merchant Marine Academy (USMMA)—COMMERCE/MA–1;

(B) USMMA Midshipman Medical Files—COMMERCE/MA–17;

(C) USMMA Midshipman Personnel Files—COMMERCE/MA–18;

(D) USMMA Non-Appropriated fund Employees—COMMERCE/MA–19;

(E) Applicants for the NOAA Corps—COMMERCE/NOAA–4;

(F) Commissioned Officer Official Personnel Folders—COMMERCE/NOAA–7;

(G) Conflict of Interest Records, Appointed Officials—COMMERCE/DEPT–3;

(H) Investigative and Inspection Records—COMMERCE/DEPT–12, but only on condition that the general exemption claimed in § 4.33(b)(3) is held to be invalid;

(I) Investigative Records—Persons Within the Investigative Jurisdiction of the Department—COMMERCE/DEPT–13; and

(J) Litigation, Claims, and Administrative Proceeding Records—COMMERCE/DEPT–14.

(ii) The foregoing are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). The reasons for asserting the exemption are to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, ultimately, to facilitate proper selection or continuance of the best applicants or persons for a given position or contract. Special note is made of the limitation on the extent to which this exemption may be asserted. The existence and general character of the information exempted will be made known to the individual to whom it pertains.

(c) At the present time, the Department claims no exemption under 5 U.S.C. 552a(k) (3), (6) and (7).

Appendix A to Part 4—Freedom of Information Public Inspection Facilities, and Addresses for Requests for Records Under the Freedom of Information Act and Privacy Act, and Requests for Correction or Amendment Under the Privacy Act

Each address listed below is the respective component's mailing address for receipt and processing of requests for records under the Freedom of Information Act and Privacy Act, for requests for correction or amendment under the Privacy Act and, unless otherwise noted, its public inspection facility for records available to the public under the Freedom of Information Act. Requests should be addressed to the component the requester knows or has reason to believe has possession of, control over, or primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility. The telephone number for each component is included after its address. Public inspection facilities are open to the public Monday through Friday (excluding Saturdays, Sundays, and legal public holidays) between 9 a.m. and 4 p.m. local time of the facility at issue. Certain public inspection facility records of components are also available electronically through the Department's "FOIA Home Page" link found at the Department's World Wide Web site (*http://www.doc.gov*)), as described in § 4.2(b). The Departmental Freedom of Information Officer is authorized to revise this appendix to reflect changes in the information contained in it. Any such revisions shall be posted at the Department's "FOIA Home Page" link found at the Department's World Wide Web site (*http://www.doc.gov*).

(1) Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, U.S. Department of Commerce, Room 6022, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–4115. This facility serves the Office of the Secretary, all other components of the Department not identified below, and those components identified below that do not have separate public inspection facilities.

(2) Bureau of the Census, Policy Office, U.S. Department of Commerce, Federal Building 3, Room 2430, Suitland, Maryland 20233; (301) 457–2520. This agency maintains a separate public inspection facility in Room 2455, Federal Building 3, Suitland, Maryland 20233.

(3) Bureau of Economic Analysis/Economics and Statistics Administration, Office of the Under Secretary for Economic Affairs, Department of Commerce, Room 4836, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–3308. This component does not maintain a separate public inspection facility.

(4) Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0500. This component does not maintain a separate public inspection facility.

(5) Economic Development Administration, Office of the Chief Gounsel, U.S. Department of Commerce, Room 7005, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–4687. Regional EDA offices (none of the following regional EDA offices maintains a separate public inspection facility):

(i) Philadelphia Regional Office, EDA, U.S. Department of Commerce, Curtis Center, Suite 140 South, Independence Square West, Philadelphia, Pennsylvania 19106; (215) 597–7896.

(ii) Atlanta Regional Office, EDA, U.S. Department of Commerce, 401 West Peachtree Street, NW, Suite 1820, Atlanta, GA 30308; (404) 730–3006.

(iii) Denver Regional Office, EDA, U.S. Department of Commerce, Room 670, 1244 Speer Boulevard, Denver, Colorado 80204; (303) 844–4716.

(iv) Chicago Regional Office, EDA, U.S. Department of Commerce, 111 North Canal Street, Suite 855, Chicago, IL 60606; (312) 353–8580.

(v) Seattle Regional Office, EDA, U.S. Department of Commerce, Jackson Federal Building, Room 1856, 915 Second Avenue, Seattle WA 98174; (206) 220–7701.

(vi) Austin Regional Office, EDA, U.S. Department of Commerce, 327 Congress Avenue, Suite 200, Austin, Texas 78701; (512) 381–8169.

(6) International Trade Administration, Office of Organization and Management Support, U.S. Department of Commerce, Room 4001, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–3032.

VOL 66 ISS 245 DE 20 2001 UMI

(7) Minority Business Development Agency, Data Resources Division, U.S. Department of Commerce, Room 5084, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–2025. This agency does not maintain a separate public inspection facility.

(8) National Institute of Standards and Technology, Management and Organization Division, Administration Building, Room A525, 100 Bureau Drive, Gaithersburg, Maryland 20899; (301) 975–4054. This agency maintains a separate public inspection facility in Room E–106, Administration Building, Gaithersburg, Maryland.

(9) National Oceanic and Atmospheric Administration, Public Reference Facility (OFAx2) 1315 East West Highway (SSMC3), Room 10730, Silver Spring, Maryland 20910; (301) 713–3540.

(10) National Technical Information Service, Office of Administration, 5285 Port Royal Road, Springfield, Virginia 22161; (703) 605–6449. This agency does not maintain a separate public inspection facility.

(11) National Telecommunications and Information Administration, Office of the Chief Counsel, U.S. Department of Commerce, Room 4713, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–1816. This component does not maintain a separate public inspection facility.

(12) Office of Inspector General, Counsel to the Inspector General, U.S. Department of Commerce, Room 7892, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–5992. This component does not maintain a separate public inspection facility.

(13) Technology Administration, Office of the Under Secretary, U.S. Department of Commerce, Room 4835, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–1984. This component does not maintain a separate public inspection facility.

Appendix B to Part 4—Officials Authorized to Deny Requests for Records Under the Freedom of Information Act, and Requests for Records and Requests for Correction or Amendment Under the Privacy Act

The officials of the Department listed below and their superiors have authority, with respect to the records for which each is responsible, to deny requests for records under the FOIA,[1] and requests for records and requests for correction or amendment under the PA. In addition, the Departmental Freedom of Information Officer and the Freedom of Information Officer for the Office of the Secretary have the foregoing FOIA and PA denial authority for all records of the Department, and the Departmental Freedom of Information officer is authorized to assign that authority, on a case-by-case basis only, to any of the officials listed below, if the records responsive to a request include records for which more than one official listed below is responsible. The Departmental Freedom of Information Officer is authorized to revise this appendix to reflect changes in designation of denial officials. Any such revisions shall be posted at the Department's "FOIA Home Page" link found at the Department's World Wide Web site *(http://www.doc.gov)*.

Office of the Secretary

Office of the Secretary: Executive Secretary; Freedom of Information Officer
Office of Business Liaison: Director
Office of Public Affairs: Director; Deputy Director; Press Secretary; Deputy Press Secretary
Assistant Secretary for Legislative and Intergovernmental Affairs; Deputy Assistant Secretary for Legislative and Intergovernmental Affairs
Office of the Inspector General: Counsel to the Inspector General; Deputy Counsel to the Inspector General
Office of the General Counsel: Deputy General Counsel; Assistant General Counsel for Administration
Office of Executive Support: Director

Assistant Secretary for Administration

Office of Civil Rights: Director
Office of Budget: Director
Office of Management and Organization: Director
Office of Chief Information Officer: Director
Office of Executive Budgeting and Assistance Management: Director
Office of Executive Assistance Management: Director; Grants Officer
Departmental Freedom of Information Officer.
Office of Financial Management: Director
Office of Human Resources Management:
Director; Deputy Director.
Office of Administrative Services: Director
Office of Security: Director, Deputy Director
Office of Acquisition Management: Director
Office of Acquisition Services: Director
Office of Small and Disadvantaged Business Utilization: Director

Bureau of Export Administration

Under Secretary
Deputy Under Secretary
Director, Office of Administration
Director, Office of Planning, Evaluation and Management
Assistant Secretary for Export Administration
Deputy Assistant Secretary for Export Administration
Director, Office of Strategic Industries and Economic Security
Director, Office of Nonproliferation Controls and Treaty Compliance
Director, Office of Strategic Trade and Foreign Policy Controls
Director, Office of Exporter Services
Assistant Secretary for Export Enforcement
Deputy Assistant Secretary for Export Enforcement
Director, Office of Export Enforcement
Director, Office of Enforcement Analysis
Director, Office of Antiboycott Compliance

Economics and Statistics Administration

Office of Administration: Director
Bureau of Economic Analysis: Director
Bureau of the Census: Chief, Policy Office

Economic Development Administration

Freedom of Information Officer

International Trade Administration

Under Secretary for International Trade
Deputy Under Secretary for International Trade
Counselor to the Department
Director, Trade Promotion Coordinating Committee Secretariat
Director, Office of Public Affairs
Director, Office of Legislative and Intergovernmental Affairs

Administration

Chief Financial Officer and Director of Administration
Director, Office of Organization and Management Support
Director, Office of Human Resources Management
Director, Office of Information Resources Management
ITA Freedom of Information Officer

Import Administration

Assistant Secretary for Import Administration
Deputy Assistant Secretary for Antidumping and Countervailing Duty Enforcement I
Deputy Assistant Secretary for Antidumping and Countervailing Duty Enforcement II
Deputy Assistant Secretary for Antidumping and Countervailing Duty Enforcement III
Director for Policy and Analysis
Director, Office of Policy
Director, Office of Accounting
Director, Central Records Unit
Director, Foreign Trade Zones Staff
Director, Statutory Import Programs Staff
Director, Office of Antidumping Countervailing Duty Enforcement I
Director, Office of Antidumping Countervailing Duty Enforcement II
Director, Office of Antidumping Countervailing Duty Enforcement III
Director, Office of Antidumping Countervailing Duty Enforcement IV
Director, Office of Antidumping Countervailing Duty Enforcement V
Director, Office of Antidumping Countervailing Duty Enforcement VI
Director, Office of Antidumping Countervailing Duty Enforcement VII
Director, Office of Antidumping Countervailing Duty Enforcement VIII
Director, Office of Antidumping Countervailing Duty Enforcement IX

Market Access and Compliance

Assistant Secretary for Market Access and Compliance
Deputy Assistant Secretary for Agreements Compliance
Deputy Assistant Secretary for the Middle East and North Africa
Deputy Assistant Secretary for Europe
Deputy Assistant Secretary for the Western Hemisphere

---

[1] The foregoing officials have sole authority under § 4.7(b) to deny requests for records in any respect, including, for example, denying requests for reduction or waiver of fees.

Deputy Assistant Secretary for Asia and the Pacific
Deputy Assistant Secretary for Africa
Director, Office of Policy Coordination
Director, Office of Multilateral Affairs
Director, Trade Compliance Center
Director, Office of the Middle East and North Africa
Director, Office of European Union and Regional Affairs
Director, Office of Eastern Europe, Russia and Independent States
Director, Office of Latin America and the Caribbean
Director, Office of NAFTA and Inter-American Affairs
Director, Office of China Economic Area
Director, Office of the Pacific Basin
Director, Office of South Asia and Oceania
Director, Office of Japan
Director, Office of Africa

Trade Development

Assistant Secretary for Trade Development
Deputy Assistant Secretary for Transportation and Technology Industries
Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries
Deputy Assistant Secretary for Service Industries and Finance
Deputy Assistant Secretary for Basic Industries
Deputy Assistant Secretary for Information Technology Industries
Deputy Assistant Secretary for Environmental Technologies Industries
Deputy Assistant Secretary for Tourism Industries
Director, Office of Export Promotion Coordination
Director, Trade Information Center
Director, Office of Trade and Economic Analysis
Director, Advocacy Center
Director, Office of Planning, Coordination and Resource Management
Director, Office of Aerospace
Director, Office of Automotive Affairs
Director, Office of Microelectronics, Medical Equipment and Instrumentation
Director, Office of Textiles and Apparel
Director, Office of Consumer Goods
Director, Office of Environmental Technologies
Director, Office of Export Trading Company Affairs
Director, Office of Finance
Director, Office of Service Industries
Director, Office of Metals, Materials and Chemicals
Director, Office of Energy, Infrastructure and Machinery
Director, Office of Electronic Commerce
Director, Office of Information Technologies
Director, Office of Telecommunications Technologies

U.S. and Foreign Commercial Service

Assistant Secretary and Director General
Deputy Director General
Deputy Assistant Secretary for International Operations
Deputy Assistant Secretary for Export Promotion Services
Deputy Assistant Secretary for Domestic Operations
Director, Office of Information Systems
Director, Office of Planning
Director, Office of Foreign Service Human Resources
Director for Europe
Director for Western Hemisphere
Director for East Asia and the Pacific
Director, Multilateral Development Bank Operations
Director, Office of Public/Private Initiatives
Director, Office of Export Information and Marketing Services
Director, Office of Operations

Minority Business Development Administration

Freedom of Information Officer

National Oceanic and Atmospheric Administration

Under Secretary
Assistant Secretary
Director, Office of Public and Constituent Affairs
Director, Office of Marine and Aviation Operations
General Counsel
Assistant Administrator for Ocean Services and Coastal Zone Management
Assistant Administrator for Fisheries
Assistant Administrator for Weather Services
Assistant Administrator for Satellite and Information Services
Assistant Administrator for Oceanic and Atmospheric Research
Office of Finance and Administration: Chief Financial Officer/Chief Administrative Officer
Director, Acquisition and Grants Office
Director, Systems Acquisition Office
Director, Human Resources Management Office
Director, Office of Finance
Director, Budget Office
Director, Facilities Office
Director, Information Systems Management Office
Director, Eastern Administrative Support Center
Director, Central Administrative Support Center
Director, Mountain Administrative Support Center
Director, Western Administrative Support Center
Freedom of Information Officer

National Telecommunications and Information Administration

Deputy Assistant Secretary
Chief Counsel
Deputy Chief Counsel

Technology Administration

Under Secretary for Technology
Deputy Under Secretary for Technology
Assistant Secretary for Technology Policy
Chief Counsel
Deputy Chief Counsel
Senior Counsel for Internet Technology
National Institute of Standards and Technology: Director for Administration and Chief Financial Officer; Chief, Management and Organization Division; NIST Counsel.
National Technical Information Service: Director; Deputy Director; Chief Financial Officer/Associate Director for Finance and Administration.

Appendix C to Part 4—Systems of Records Noticed by Other Federal Agencies and Applicable to Records of the Department and Applicability of this Part Thereto

Category of records	Other Federal Agency
Federal Personnel Records	Office of Personnel Management.[1]
Federal Employee Compensation Act Program Program	Department of Labor.[2]
Equal Employment Opportunity Appeal Complaints	Equal Employment Opportunity Commission.[3]
Formal Complaints/Appeals of Adverse Personnel Actions	Merit Systems Protection Board.[4]

[1] The provisions of this part do not apply to these records covered by notices of systems of records published by the Office of Personnel Management for all agencies. The regulations of OPM alone apply.

[2] The provisions of this part apply only initially to these records covered by notices of systems of records published by the U.S. Department of Labor for all agencies. The regulations of that Department attach at the point of any denial for access or for correction or amendment.

[3] The provisions of this part do not apply to these records covered by notices of systems of records published by the Equal Employment Opportunity Commission for all agencies. The regulations of the Commission alone apply.

[4] The provisions of this part do not apply to these records covered by notices of systems of records published by the Merit Systems Protection Board for all agencies. The regulations of the Board alone apply.

VOL 66 ISS 245 DE 20 2001 UMI

2. Part 2 is revised to read as follows:

PART 4a—CLASSIFICATION, DECLASSIFICATION, AND PUBLIC AVAILABILITY OF NATIONAL SECURITY INFORMATION

Sec.

4a.1 General.
4a.2 Deputy Assistant Secretary for Security.
4a.3 Classification levels.
4a.4 Classification authority.
4a.5 Duration of classification.
4a.6 General.
4a.7 Mandatory review for declassification.
4a.8 Access to classified information by individuals outside the Government.

Authority: E.O. 12958; 47 FR 14874, April 6, 1982; 47 FR 15557, April 12, 1982.

§ 4a.1 General.

Executive Order 12958 provides the only basis for classifying information within the Department of Commerce (Department), except as provided in the Atomic Energy Act of 1954, as amended. The Department's policy is to make information concerning its activities available to the public, consistent with the need to protect the national defense and foreign relations of the United States. Accordingly, security classification shall be applied only to protect the national security.

§ 4a.2 Deputy Assistant Secretary for Security.

The Deputy Assistant Secretary for Security (DAS) is responsible for implementing E.O. 12958 and this part.

§ 4a.3 Classification levels.

Information may be classified as national security information by a designated original classifier of the Department if it is determined that the information concerns one or more of the categories described in § 1.5 of E.O. 12958. The levels established by E.O. 12958 (Top Secret, Secret, and Confidential) are the only terms that may be applied to national security information. Except as provided by statute, no other terms shall be used within the Department for the three classification levels.

§ 4a.4 Classification authority.

Authority to originally classify information as Secret or Confidential may be exercised only by the Secretary of Commerce and by officials to whom such authority is specifically delegated. No official of the Department is authorized to originally classify information as Top Secret.

§ 4a.5 Duration of classification.

(a) Information shall remain classified no longer than ten years from the date of its original classification, except as provided in § 1.6(d) of E.O. 12958. Under E.O. 12958, information may be exempted from declassification within ten years if the unauthorized disclosure of such information could reasonably be expected to cause damage to the national security for more than ten years and meets one of the eight criteria listed in § 1.6 (d).

(b) Department of Commerce originally classified information marked for an indefinite duration of classification under predecessor orders to E.O. 12958 shall be declassified after twenty years. Classified information contained in archive records determined to have permanent historical value under Title 44 of the United States Code shall be automatically declassified no longer than 25 years from the date of its original classification, except as provided in § 3.4(d) of E.O. 12958.

§ 4a.6 General.

National security information over which the Department exercises final classification jurisdiction shall be declassified or downgraded as soon as national security considerations permit. If information is declassified, it may continue to be exempt from public disclosure by the Freedom of Information Act (5 U.S.C. 552) or other applicable law.

§ 4a.7 Mandatory review for declassification.

(a) *Requests.* Classified information under the jurisdiction of the Department is subject to review for declassification upon receipt of a written request that describes the information with sufficient specificity to locate it with a reasonable amount of effort. Requests must be submitted to the Deputy Assistant Secretary for Security, U.S. Department of Commerce, Room 1069, 14th and Constitution Avenue, NW., Washington, DC 20230.

(b) *Exemptions.* The following are exempt from mandatory review for declassification:

(1) Information that has been reviewed for declassification within the past two years;

(2) Information that is the subject of pending litigation;

(3) Information originated by the incumbent President, the incumbent President's White House Staff, committees, commissions, or boards appointed by the incumbent President, or other entities within the Executive Office of the President that solely advise and assist the incumbent President; and

(4) Information specifically exempt from such review by law.

(c) *Processing requirements.* (1) The DAS shall acknowledge receipt of the request directly to the requester. If a request does not adequately describe the information sought in accordance with paragraph (a) of this section, the requester shall be notified that unless additional information is provided, no further action will be taken. The request shall be forwarded to the component that originated the information or that has primary interest in the subject matter. The component assigned action shall review the information in accordance with § 4a.7(c)(2) through (4) within twenty working days.

(2) The component assigned action shall determine whether, under the declassification provisions of the U.S. Department of Commerce Security Manual, the entire document or portions thereof may be declassified. Declassification of the information shall be accomplished by a designated declassification authority. Upon declassification the information shall be remarked. If the information is not partially or entirely declassified, the reviewing official shall provide the reasons for denial by citing the applicable provisions of E.O. 12958. If the classification is a derivative decision based on classified source material of another Federal agency, the component shall provide the information to the originator for review.

(3) If information is declassified, the component shall also determine whether it is releasable under the Freedom of Information Act. If the information is not releasable, the component shall advise the DAS that the information has been declassified but that it is exempt from disclosure, citing the appropriate exemption of the Freedom of Information Act.

(4) If the request for declassification is denied in whole or in part, the requester shall be notified of the right to appeal the determination within sixty calendar days and of the procedures for such an appeal. If declassified information remains exempt from disclosure under the Freedom of Information Act, the requester shall be advised of the appellate procedures under that law.

(d) *Fees.* If the request requires services for which fees are chargeable, the component assigned action shall calculate the anticipated fees to be charged, and may be required to ascertain the requester's willingness to pay the allowable charges as a precondition to taking further action on the request, in accordance with § 4.11 of the Department of Commerce Freedom of Information Act rules and § 4.31 of the Department's Privacy Act rules.

(e) *Right of appeal.* (1) A requester may appeal to the DAS when information requested under this section is not completely declassified and released after expiration of the applicable time limits. Within thirty working days (i.e., excluding Saturdays, Sundays, and legal public holidays) of receipt of a written appeal:

(i) The DAS shall determine whether continued classification of the requested information is required in whole or in part;

(ii) If information is declassified, determine whether it is releasable under the Freedom of Information Act; and

(iii) Notify the requester of his or her determination, making available any information determined to be releasable. If continued classification is required under the provisions of the Department of Commerce National Security Manual, the DAS shall notify the requester of his or her determination, including the reasons for denial based on applicable provisions of E.O. 12958, and of the right of final appeal to the Interagency Security Classification Appeals Panel.

(2) During the declassification review of information under appeal the DAS may overrule previous determinations in whole or in part if continued protection in the interest of national security is no longer required. If the DAS determines that the information no longer requires classification, it shall be declassified and, unless it is otherwise exempt from disclosure under the Freedom of Information Act, released to the requester. The DAS shall advise the original reviewing component of his or her decision.

§ 4a.8 Access to classified information by individuals outside the Government.

(a) *Industrial, Educational, and Commercial Entities.* Certain bidders, contractors, grantees, educational, scientific, or industrial organizations may receive classified information under the procedures prescribed by the National Industrial Security Program Operating Manual.

(b) *Access by historical researchers and former Presidential appointees.* An individual engaged in historical research projects or who has previously occupied a policy-making position to which he or she was appointed by the President may be authorized access to classified information for a limited period, provided that the head of the component with jurisdiction over the information:

(1) Determines in writing that:

(i) Access is consistent with national security;

(ii) The individual has a compelling need for access; and

(iii) The Department's best interest is served by providing access;

(2) Obtains in writing from the individual:

(i) Consent to a review by the Department of any resultant notes and manuscripts for the purpose of determining that no classified information is contained in them; and

(ii) Agreement to safeguard classified information in accordance with applicable requirements; and

(iii) A detailed description of the individual's research;

(3) Ensures that custody of classified information is maintained at a Department facility;

(4) Limits access granted to former Presidential appointees to items that the individual originated, reviewed, signed, or received while serving as a Presidential appointee; and

(5) Receives from the DAS:

(i) A determination that the individual is trustworthy; and

(ii) Approval to grant access to the individual.

(c) An individual seeking access should describe the information with sufficient specificity to locate and compile it with a reasonable amount of effort. If the access requested by a historical researcher or former Presidential appointee requires services for which fees are chargeable, the responsible component shall notify the individual in advance.

(d) This section applies only to classified information originated by the Department, or to information in the sole custody of the Department. Otherwise, the individual shall be referred to the classifying agency.

PART 4b—[REMOVED]

3. Remove Part 4b.

Dated: December 6, 2001.

Robert F. Kugelman,

Director, Office of Executive Budgeting and Assistance Management.

[FR Doc. 01–31131 Filed 12–19–01; 8:45 am]

BILLING CODE 3510-BW-P

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 619

Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers

AGENCY: Headquarters Military Traffic Management Command (MTMC), DoD.

ACTION: Final rule.

SUMMARY: This action removes 32 CFR Part 619 published in the **Federal Register** Aug 20, 1993 (58 FR 44405, amended at 61 FR 49060, Sept. 18, 1996). The rule is being removed to allow for publication in MTMC rules publication. This rule is now obsolete and no longer applies to or governs the qualifications of carriers to do business with MTMC or with the Department of Defense.

DATES: Effective December 20, 2001.

ADDRESSES: Headquarters Military Traffic Management Command, ATTN: MTOP–MRM (Mr. Rick Wirtz, TMS) 200 Stovall Street, Alexandria, VA 22332.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Wirtz, (703) 428–2382

SUPPLEMENTARY INFORMATION: The Commander, MTMC, is the proponent of this rule and, acting with the advice of his acquisition, operations and legal staffs, had concluded that it is obsolete. Due to changes in the laws governing interstate commerce, including a transition of much of our procurement from nonFAR to FAR contract procedures, there is no longer any necessity for this rule. Under FAR contracting the contracting Officer has the responsibility for making determinations as to whether a carrier bidder is a responsible bidder who is qualified to do business with the DoD under the contract in issue.

This rule has been replaced with a simpler program, which meets the requirements of the current Interstate Commerce Act and the requirements of our current transportation needs. The current procedures for carriers to follow in order to qualify for doing business with MTMC are published on the MTMC Home Page. The carrier industry has been properly notified of this change and is currently following the new procedures to the satisfaction of all parties. The new program for qualifying carriers is not a "Rule", as that term is used in rulemaking proceedings under the Administrative Procedures Act and thus does not require publication in the Code of Federal Regulations or in the **Federal Register**. We understand that the volume of the CFR that contains 49 CFR Part 619 is due to be reprinted soon. Therefore, it would be helpful in avoiding confusion with the public if 32 CFR Part 619 is removed.

List of Subjects in 32 CFR Part 619

Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers.

VOL 66 ISS 245 DE 20 2001 UMI

PART 619—[REMOVED]

Accordingly, for reasons stated in the preamble, under the authority: 49 U.S.C. 5101–5127, 31132, 31136, and 31142, 32 CFR Part 619, *Program for Qualifying DOD Freight Motor Carriers, Exempt Surface Freight Forwarders, Shippers Agents, and Freight Brokers*, is removed in its entirety.

Ms. Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–31357 Filed 12–19–01; 8:45 am]

BILLING CODE 3710–08–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1202

RIN 3095–AA99

Privacy Act; Implementation

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is rewriting our Privacy Act regulations to update the procedures for making a Privacy Act request, and to reflect the President's memorandum of June 1, 1998, Plain Language in Government Writing. This rule will affect individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records and subject individuals covered by a NARA Privacy Act system.

EFFECTIVE DATE: January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION:

NARA published a notice of proposed rulemaking in the June 5, 2001 **Federal Register** (66 FR 30134) for a 60-day comment period. No comments were received. However, we have determined that one of the Privacy Act systems cited in §§ 1202.92 and 1202.94, General Law Files, should not be exempt under 5 U.S.C. 552a(k)(2) and (k)(5) of the Privacy Act. We have therefore removed references to this system of records. In addition, minor editorial corrections to legal citations have been made.

This final rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities because it only affects individuals and entities seeking access or disclosure of information contained in NARA Privacy Act systems of records. This rule does not have any federalism implications. This rule is not a major rule.

List of Subjects in 36 CFR Part 1202

Privacy.

For the reason set forth in the preamble, part 1202 of title 36, Code of Federal Regulations, is revised to read as follows:

PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

Subpart A—General Information About the Privacy Act

Sec.

1202.1 What does this part cover?
1202.2 What this part does not cover.
1202.4 Definitions.
1202.6 Whom should I contact for Privacy Act matters at NARA?
1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?
1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

Subpart B—Collecting Information

1202.18 How does NARA collect information about individuals?
1202.20 What advisory information does NARA provide before collecting information from me?
1202.22 Will NARA need my Social Security Number?
1202.24 Will NARA ever request information about me from someone else?
1202.26 Who will make sure that my record is accurate?
1202.28 What rules do NARA employees follow in managing personal information?
1202.30 How does NARA safeguard its systems of records?

Subpart C—Individual Access to Records

1202.40 How can I gain access to NARA records about myself?
1202.42 How are requests for access to medical records handled?
1202.44 How long will it take for NARA to process my request?
1202.46 In what ways will NARA provide access?
1202.48 Will I have to pay for copies of records?
1202.50 Does NARA require prepayment of fees?
1202.52 How do I pay?
1202.54 On what grounds can NARA deny my Privacy Act request?
1202.56 How do I appeal a denial of my Privacy Act request?
1202.58 How are appeals processed?

Subpart D—Disclosure of Records

1202.60 When does NARA disclose a record in a Privacy Act system of records?
1202.62 What are the procedures for disclosure of records to a third party?
1202.64 How do I appeal a denial of disclosure?
1202.66 How does NARA keep account of disclosures?

Subpart E—Request to Amend Records

1202.70 Whom should I contact at NARA to amend records about myself?
1202.72 How does NARA handle requests to amend records?
1202.74 How will I know if NARA approved my amendment request?
1202.76 Can NARA deny my request for amendment?
1202.78 How do I accept an alternative amendment?
1202.80 How do I appeal the denial of a request to amend a record?
1202.82 How do I file a Statement of Disagreement?
1202.84 Can I seek judicial review?

Subpart F—Exemptions

1202.90 What NARA systems of records are exempt from release under the National Security Exemption of the Privacy Act?
1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?
1202.94 What NARA systems of records are exempt from release under the Investigatory Information Material Exemption of the Privacy Act?

Authority: 5 U.S.C. 552a; 44 U.S.C. 2104(a).

Subpart A—General Information About the Privacy Act

§ 1202.1 What does this part cover?

(a) This part covers requests under the Privacy Act (5 U.S.C. 552a) for NARA operational records and records of defunct agencies stored in NARA record centers.

(b) This part explains how NARA collects, uses and maintains records about you that are filed by your name or other personal identifiers and which are contained in a "system of records" as defined by 5 U.S.C. 552a(a)(5).

(c) This part describes the procedures to gain access to and contest the contents of your records, and the conditions under which NARA discloses such records to others.

§ 1202.2 What this part does not cover.

This part does not cover:

(a) Records that have been transferred into the National Archives of the United States for permanent preservation. Archival records that are contained in systems of records that become part of the National Archives of the United States are exempt from most provisions of the Privacy Act (see 5 U.S.C.

552a(l)(2) and (l)(3)). See subchapter C of this chapter for rules governing access to these type records.

(b) Records of other agencies that are stored in NARA record centers on behalf of that agency are governed by the Privacy Act rules of the transferring agency. Send your request for those records directly to those agencies.

(c) Personnel and medical records held by the National Personnel Records Center (NPRC) on behalf of the Department of Defense and the Office of Personnel Management. Privacy Act requests for these records should come to the NPRC.

§ 1202.4 Definitions.

For the purposes of this part, the term:

(a) *Access* means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

(b) *Agency* means any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(c) *Defunct agency* means an agency that has ceased to exist, and has no successor in function.

(d) *Defunct agency* records means the records in a Privacy Act system of a defunct agency that are stored in a NARA records center.

(e) *Disclosure* means a transfer by any means of a record, a copy of a record, or the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

(f) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence.

(g) *Maintain* includes maintain, collect, use, or disseminate.

(h) *NARA Privacy Act Appeal Official* means the Deputy Archivist of the United States for appeals of denials of access to or amendment of records maintained in a system of records, except where the system manager is the Inspector General; then the term means the Archivist of the United States.

(i) *Record* means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history and criminal or employment history, and that contains his or her name or an identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph. For purposes of this part, "record" does not mean archival records that have been transferred to the National Archives of the United States.

(j) *Routine use* means, with respect to the disclosure of a record, the use of that record for a purpose which is compatible with the purpose for which it was collected.

(k) *Solicitation* means a request by a NARA employee or contractor that an individual provide information about himself or herself.

(l) *Statistical record* means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

(m) *Subject individual* means the individual named or discussed in a record or the individual to whom a record otherwise pertains.

(n) *System manager* means the NARA employee who is responsible for the maintenance of a system of records and for the collection, use, and dissemination of information in that system of records.

(o) *System of records* means a group of records from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifier assigned to that individual.

§ 1202.6 Whom should I contact for Privacy Act matters at NARA?

Contact the NARA Privacy Act Officer, National Archives and Records Administration (NGC), Room 3110, 8601 Adelphi Road, College Park, MD 20740–6001, for guidance in making a Privacy Act request, or if you need assistance with an existing request. The Privacy Act Officer will refer you to the responsible system manager. Details about what to include in your Privacy Act request are discussed in Subpart C of this part.

§ 1202.8 How does NARA handle records that are in Government-wide Privacy Act systems?

Records in the custody of NARA in a Government-wide Privacy Act system are the primary responsibility of another agency, e.g., the Office of Personnel Management (OPM) or the Office of Government Ethics (OGE). These records are governed by the regulations established by that agency pursuant to the Privacy Act. NARA provides access using that agency's regulations.

§ 1202.10 Does NARA handle access to and disclosure of records of defunct agencies in the custody of NARA?

Yes, records of defunct agencies in the custody of NARA at a NARA record center are covered by the provisions of this part.

Subpart B—Collecting Information

§ 1202.18 How does NARA collect information about individuals?

Any information that is used in making a determination about your rights, benefits, or privileges under NARA programs is collected directly from you—the subject individual— to the greatest extent possible.

§ 1202.20 What advisory information does NARA provide before collecting information from me?

(a) Before collecting information from you, NARA will advise you of:

(1) The authority for collecting the information and whether providing the information is mandatory or voluntary;

(2) The purpose for which the information will be used;

(3) The routine uses of the information; and

(4) The effect on you, if any, of not providing the information.

(b) NARA ensures that forms used to record the information that you provide are in compliance with the Privacy Act and this part.

§ 1202.22 Will NARA need my Social Security Number?

(a) Before a NARA employee or NARA contractor asks you to provide your social security number (SSN), he or she will ensure that the disclosure is required by Federal law or under a Federal law or regulation adopted before January 1, 1975.

(b) If you are asked to provide your SSN, the NARA employee or contractor must first inform you:

(1) Whether the disclosure is mandatory or voluntary;

(2) The statute or authority under which your SSN is solicited; and

(3) How your SSN will be used.

§ 1202.24 Will NARA ever request information about me from someone else?

NARA will make every effort to gather information from you directly. When NARA solicits information about you from someone else, NARA will explain to that person the purpose for which the information will be used.

§ 1202.26 Who will make sure that my record is accurate?

The system manager ensures that all records used by NARA to make a determination about any individual are maintained with such accuracy,

VOL 66 ISS 245 DE 20 2001 UMI

relevancy, timeliness, and completeness as is reasonably possible to ensure fairness to you.

§ 1202.28 What rules do NARA employees follow in managing personal information?

All NARA employees and contractors involved in the design, development, operation or maintenance of any system of records must review the provisions of the Privacy Act and the regulations in this part. NARA employees and contractors must conduct themselves in accordance with the rules of conduct concerning the protection of nonpublic information in the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635.703.

§ 1202.30 How does NARA safeguard its systems of records?

(a) The system manager ensures that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records. In order to protect against any threats or hazards to their security or loss of integrity, paper records are maintained in areas accessible only to authorized NARA personnel. Electronic records are protected in accordance with the Computer Security Act, OMB Circular A–11 requiring privacy analysis in reporting to OMB, and are accessed via passwords from terminals located in attended offices. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

(b) The system manager, at his/her discretion, may designate additional safeguards similar to or greater than those described in paragraph (a) of this section for unusually sensitive records.

(c) The system manager only permits access to and use of automated or manual personnel records to persons whose official duties require such access, or to you or to a representative designated by you.

Subpart C—Individual Access to Records

§ 1202.40 How can I gain access to NARA records about myself?

(a) If you wish to request access to information about yourself contained in a NARA Privacy Act system of records, you must notify the NARA Privacy Act Officer, National Archives and Records Administration, Rm. 3110, 8601 Adelphi Rd., College Park, MD 20740–6001. If you wish to allow another person to review or obtain a copy of your record, you must provide authorization for that person to obtain access as part of your request.

(b) Your request must be in writing and the letter and the envelope must be marked "Privacy Act Request." Your request letter must contain:

(1) The complete name and identifying number of the NARA system as published in the **Federal Register**;

(2) A brief description of the nature, time, place, and circumstances of your association with NARA;

(3) Any other information which you believe, would help NARA to determine whether the information about you is included in the system of records;

(4) If you are authorizing another individual to have access to your records, the name of that person; and

(5) A Privacy Act certification of identity. When you make a request for access to records about yourself, you must verify your identity. You must sign your request and your signature must either be notarized or submitted by you under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain a Certification of Identity form for this purpose from the NARA Privacy Act Officer. The following information is required:

(i) Your full name;

(ii) An acknowledgment that you understand the criminal penalty in the Privacy Act for requesting or obtaining access to records under false pretenses (5 U.S.C. 552a(i)(3)); and

(iii) A declaration that your statement is true and correct under penalty of perjury (18 U.S.C. 1001).

(c) The procedure for accessing an accounting of disclosure is identical to the procedure for access to a record as set forth in this section.

§ 1202.42 How are requests for access to medical records handled?

When NARA receives a request for access to medical records, if NARA believes that disclosure of medical and/or psychological information directly to you could have an adverse effect on you, you may be asked to designate in writing a physician or mental health professional to whom you would like the records to be disclosed, and disclosure that otherwise would be made to you will instead be made to the designated physician or mental health professional.

§ 1202.44 How long will it take for NARA to process my request?

(a) NARA will acknowledge your request within 10 workdays of its receipt by NARA and if possible, will make the records available to you at that time. If NARA cannot make the records immediately available, the acknowledgment will indicate when the system manager will make the records available.

(b) If NARA anticipates more than a 10 workday delay in making a record you requested available, NARA also will explain in the acknowledgment specific reasons for the delay.

(c) If your request for access does not contain sufficient information to permit the system manager to locate the records, NARA will request additional information from you. NARA will have 10 workdays following receipt of the additional information in which to make the records available or to acknowledge receipt of the request and to indicate when the records will be available.

§ 1202.46 In what ways will NARA provide access?

(a) At your request, NARA will provide you, or a person authorized by you, a copy of the records by mail or by making the records available in person during normal business hours at the NARA facility where the records are located. If you are seeking access in person, the system manager will permit you to examine the original record, will provide you with a copy of the records, or both.

(b) When obtaining access to the records in person at a NARA facility, you must provide proof of identification either by producing at least one piece of identification bearing a name or signature and either a photograph or physical description (e.g., a driver's license or employee identification card) or by signing the Certification of Identity form described in § 1204.40 (b)(5). NARA reserves the right to ask you to produce additional pieces of identification to assure NARA of your identity. You will also be asked to sign an acknowledgement that you have been given access.

§ 1202.48 Will I have to pay for copies of records?

Yes. However NARA will waive fees for the first 100 pages copied or when the cost to collect the fee will exceed the amount collected. When a fee is charged, the charge per copy is $0.20 per page if NARA makes the copy or $0.15 per page if you make the copy on a NARA self-service copier. Fees for other reproduction processes are computed upon request.

§ 1202.50 Does NARA require prepayment of fees?

If the system manager determines that the estimated total fee is likely to exceed $250, NARA will notify you that the estimated fee must be prepaid before you can have copies of the records. If the final fee is less than the amount you prepaid, NARA will refund the difference.

§ 1202.52 How do I pay?

You must pay by check or money order. Make your check or money order payable to the National Archives and Records Administration and send it to the NARA Privacy Act Officer, Room 3110, 8601 Adelphi Road, College Park, MD 20740–6001.

§ 1202.54 On what grounds can NARA deny my Privacy Act request?

(a) NARA can deny your Privacy Act request for records if the records are maintained in an exempt systems of records are described in subpart F of this part.

(b) A system manager may deny your request for access to your records only if:

(1) NARA has published rules in the **Federal Register** exempting the pertinent system of records from the access requirement; and

(2) The record is exempt from disclosure under the Freedom of Information Act (FOIA).

(c) Upon receipt of a request for access to a record which is contained within an exempt system of records, NARA will:

(1) Review the record to determine whether all or part of the record must be released to you in accordance with § 1202.40, notwithstanding the inclusion of the record within an exempt system of records; and

(2) Provide access to the record (or part of the record, if it is not fully releasable) in accordance with § 1202.46 or notify you that the request has been denied in whole or in part.

(d) If your request is denied in whole or in part, NARA's notice will include a statement specifying the applicable Privacy Act and FOIA exemptions and advising you of the right to appeal the decision as explained in § 1202.56.

§ 1202.56 How do I appeal a denial of my Privacy Act request?

(a) If you are denied access in whole or in part to records pertaining to yourself, you may file with NARA an appeal of that denial. Your appeal letter must be post marked no later than 35 calendar days after the date of the denial letter from NARA.

(1) Address appeals involving denial of access to Office of Inspector General records to NARA Privacy Act Appeal Official (N), National Archives and Records Administration, Room 4200, 8601 Adelphi Road, College Park, MD 20740–6001.

(2) Address all other appeals to the NARA Privacy Act Appeal Official (ND), National Archives and Records Administration, Room 4200, 8601 Adelphi Road, College Park, MD 20740–6001.

(b) All appeals of denial of access to the NARA Privacy Act Appeal Official must be in writing. Mark both the envelope and the appeal "Privacy Act " Access Appeal."

§ 1202.58 How are appeals processed?

(a) Upon receipt of your appeal, the NARA Privacy Act Appeal Official will consult with the system manager, legal counsel, and such other officials as may be appropriate. If the NARA Privacy Act Appeal Official determines that the records you requested are not exempt from release, NARA grants you access and so notifies you.

(b) If the NARA Privacy Act Appeal Official determines that your appeal must be rejected, NARA will immediately notify you in writing of that determination. This decision is final and cannot be appealed further within NARA. NARA's notification to you will include:

(1) The reason for the rejection of the appeal; and

(2) Notice of your right to seek judicial review of NARA's final determination, as described in 36 CFR 1202.84.

(c) NARA will make its final determination no later than 30 workdays from the date on which NARA receives your appeal. NARA may extend this time limit by notifying you in writing before the expiration of the 30 workdays. This notification will include an explanation of the reasons for the time extension.

Subpart D—Disclosure of Records

§ 1202.60 When does NARA disclose a record in a Privacy Act system of records?

NARA will not disclose any records in a Privacy Act system of records to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To NARA employees who have a need for the information in the official performance of their duties;

(b) Required by the provisions of the Freedom of Information Act, as amended;

(c) For a routine use that has been published in a notice in the **Federal Register**;

(d) To the Bureau of Census for purposes of planning or carrying out a census or survey or related activity pursuant to title 13 U.S.C.;

(e) To a person who has provided NARA with advance adequate written assurance as specified in § 1202.62(a) that the record will be used solely as a statistical research or reporting record. (Personal identifying information is deleted from the record released for statistical purposes. The system manager ensures that the identity of the individual cannot reasonably be deduced by combining various statistical records.)

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government or for evaluation by the Archivist or the designee of the Archivist to determine whether the record has such value;

(g) To another agency or any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or his or her other designated representative has made a written request to NARA specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health or safety of an individual, and not necessarily the individual to whom the record pertains. A disclosure of this nature is followed by a notification to the last known address of the subject individual;

(i) To either House of Congress or to a committee or subcommittee (joint or of either House), in the course of the performance of official legislative activities;

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(k) Pursuant to the order of a court of competent jurisdiction; or

(l) To a consumer reporting agency in accordance with 31 U.S.C. 3711(e).

§ 1202.62 What are the procedures for disclosure of records to a third party?

(a) To obtain access to records about a person other than yourself, address the request to the NARA Privacy Act Officer, National Archives and Records Administration, Room 3110, 8601 Adelphi Rd., College Park, MD 20740–6001. If you are requesting access for statistical research as described in § 1202.60(e), you must submit a written statement that includes as a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes.

(b) NARA will acknowledge your request within 10 workdays and will make a decision within 30 workdays, unless NARA notifies you that the time limit must be extended for good cause.

(c) Upon receipt of your request, NARA will verify your right to obtain access to documents pursuant to § 1202.60. Upon verification, the system manager will make the requested records available to you.

(d) If NARA determines that the disclosure is not permitted under § 1202.60, the system manager will deny your request in writing. NARA will inform you of the right to submit a request for review of the denial and a final determination to the appropriate NARA Privacy Act Appeal Officer.

§ 1202.64 How do I appeal a denial of disclosure?

(a) Your request for a review of the denial of disclosure to records maintained by the Office of the Inspector General must be addressed to the NARA Privacy Act Appeal Officer (N), National Archives and Records Administration, Room 4200, 8601 Adelphi Rd., College Park, MD 20740–6001.

(b) Requests for a review of a denial of disclosure to all other NARA records must be addressed to the NARA Privacy Act Appeal Officer (ND), National Archives and Records Administration, Room 4200, 8601 Adelphi Rd., College Park, MD 20740–6001.

§ 1202.66 How does NARA keep account of disclosures?

(a) Except for disclosures made to NARA employees in the course of the performance of their duties or when required by the Freedom of Information Act (see § 1202.60(a) and (b)), NARA keeps an accurate accounting of each disclosure and retains it for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting includes the:

(1) Date of disclosure;

(2) Nature, and purpose of each disclosure; and

(3) Name and address of the person or agency to which the disclosure is made.

(b) The system manager also maintains with the accounting of disclosures:

(1) A full statement of the justification for the disclosures;

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent by the subject individual to a disclosure, if applicable.

(c) Except for the accounting of disclosures made for a law enforcement activity (see § 1202.60(g)) or of disclosures made from exempt systems (see subpart F of this part), the accounting of disclosures will be made available to the subject individual upon request. Procedures for requesting access to the accounting of disclosures are in subpart C.

Subpart E—Request To Amend Records

§ 1202.70 Whom should I contact at NARA to amend records about myself?

If you believe that a record that NARA maintains about you is not accurate, timely, relevant or complete, you may request that the record be amended. Write to the NARA Privacy Act Officer, Room 3110, 8601 Adelphi Rd, College Park, MD 20470–6001. Employees of NARA who desire to amend their personnel records should write to the Director, Human Resources Services Division. You should include as much information, documentation, or other evidence as needed to support your request to amend the pertinent record. Mark both the envelop and the letter with the phrase "Privacy Act—Request To Amend Record."

§ 1202.72 How does NARA handle requests to amend records?

(a) NARA will acknowledge receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment will include the system manager's determination either to amend the record or to deny your request to amend as provided in § 1202.76.

(b) When reviewing a record in response to your request to amend, the system manager will assess the accuracy, relevance, timeliness, and completeness of the existing record in light of your proposed amendment to determine if your request to amend is justified. If you request the deletion of information, the system manager also will review your request and the existing record to determine whether the information is relevant and necessary to accomplish NARA's purpose, as required by law or Executive order.

§ 1202.74 How will I know if NARA approved my amendment request?

If NARA approves your amendment request, the system manager will promptly make the necessary amendment to the record and will send a copy of the amended record to you. NARA will also advise all previous recipients of the record, using the accounting of disclosures, that an amendment has been made and give the substance of the amendment. Where practicable, NARA will also send a copy of the amended record to previous recipients.

§ 1202.76 Can NARA deny my request for amendment?

If the system manager denies your request to amend or determines that the record should be amended in a manner other than that requested by you, NARA will advise you in writing of the decision. The denial letter will state:

(a) The reasons for the denial of your amendment request;

(b) Proposed alternative amendments, if appropriate;

(c) Your right to appeal the denial; and

(d) The procedures for appealing the denial.

§ 1202.78 How do I accept an alternative amendment?

If your request to amend a record is denied and NARA suggested alternative amendments, and you agree to those alternative amendments, you must notify the Privacy Act Officer who will then make the necessary amendments in accordance with § 1202.74.

§ 1202.80 How do I appeal the denial of a request to amend a record?

(a) If you disagree with a denial of your request to amend a record, you can file an appeal of that denial.

(1) Address your appeal of the denial to amend records signed by a system manager other than the Inspector General, to the NARA Privacy Act Appeal Official (ND), Room 3110, 8601 Adelphi Road, College Park, MD, 20740–6001.

(2) Address the appeal of the denial to amend records signed by the Inspector General to the NARA Privacy Act Appeal Official (N), Room 3110, 8601 Adelphi Road, College Park, MD, 20740–6001.

(3) For current NARA employees if the denial to amend concerns a record maintained in the employee's Official Personnel Folder or in another Government-wide system maintained by NARA on behalf of another agency, NARA will provide the employee with name and address of the appropriate appeal official in that agency.

(b) Appeals to NARA must be in writing and must be postmarked no later than 35 calendar days from the date of the NARA denial of a request to amend. Your appeal letter and envelope must be marked "Privacy Act—Appeal".

(c) Upon receipt of an appeal, the NARA Privacy Act Appeal Official will consult with the system manager, legal counsel, and such other officials as may be appropriate. If the appeal official determines that the record should be amended, he or she will instruct the system manager to amend the record in accordance with § 1202.74 and will notify you of that action.

(d) If, after consulting with officials specified in paragraph (c) of this section, the NARA Privacy Act Appeal Official determines that your appeal should be rejected, the NARA Privacy Act Appeal Official will notify you in writing of that determination. This notice serves as NARA's final determination on your request to amend a record. The letter to you will include:

(1) The reason for the rejection of your appeal;

(2) Proposed alternative amendments, if appropriate, which you may accept (see 36 CFR 1202.78 for the procedure);

(3) Notice of your right to file a Statement of Disagreement for distribution in accordance with § 1202.82; and

(4) Notice of your right to seek judicial review of the NARA final determination, as provided in § 1202.84.

(e) The NARA final determination will be made no later than 30 workdays from the date on which the appeal is received by the NARA Privacy Act Appeal Official. In extraordinary circumstances, the NARA Privacy Act Appeal Official may extend this time limit by notifying you in writing before the expiration of the 30 workdays. The notification will include a justification for the extension of time.

§ 1202.82 How do I file a Statement of Disagreement?

If you receive a NARA final determination denying your request to amend a record, you may file a Statement of Disagreement with the appropriate system manager. The Statement of Disagreement must include an explanation of why you believe the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager will maintain your Statement of Disagreement in conjunction with the pertinent record. The System Manager will send a copy of the Statement of Disagreement to any person or agency to whom the record has been disclosed, only if the disclosure was subject to the accounting requirements of § 1202.60.

§ 1202.84 Can I seek judicial review?

Yes, within 2 years of receipt of a NARA final determination as provided in § 1202.54 or § 1202.80, you may seek judicial review of that determination. You may file a civil action in the Federal District Court:

(a) In which you reside or have a principal place of business;

(b) In which the NARA records are located; or

(c) In the District of Columbia.

Subpart F—Exemptions

§ 1202.90 What NARA systems of records are exempt from release under the National Security Exemption of the Privacy Act?

(a) The Investigative Case Files of the Inspector General (NARA–23) and the Personnel Security Case Files (NARA–24) systems of records are eligible for exemption under 5 U.S.C. 552a(k)(1) because the records in these systems:

(1) Contain information specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and

(2) Are in fact properly classified pursuant to such Executive Order.

(b) The systems described in paragraph (a) are exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1), and (e)(4)(G) and (H). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because accounting for each disclosure could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(2) From the access and amendment provisions of subsection (d) because access to the records in these systems of records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy. Amendment of either of these series of records would interfere with ongoing investigations and law enforcement or national security activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(3) From subsection (e)(1) because verification of the accuracy of all information to the records could result in the release of properly classified information which would compromise the national defense or disrupt foreign policy.

(4) From subsection (e)(4)(G) and (H) because these systems are exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(1) of the Privacy Act.

§ 1202.92 What NARA systems of records are exempt from release under the Law Enforcement Exemption of the Privacy Act?

(a) The Investigative Files of the Inspector General (NARA–23) system of records is eligible for exemption under 5 U.S.C. 552a(k)(2) because this record system contains investigatory material of actual, potential or alleged criminal, civil or administrative violations, compiled for law enforcement purposes other than within the scope of subsection (j)(2) of 5 USC 552a. If you are denied any right, privilege or benefit that you would otherwise be entitled by Federal law, or for which you would otherwise be eligible, as a result of the record, NARA will make the record available to you, except for any information in the record that would disclose the identity of a confidential source as described in 5 U.S.C. 552a(k)(2).

(b) The system described in paragraph (a) of this section is exempt from 5 U.S.C. 552a (c)(3), (d), (e)(1) and (e)(4) (G) and (H), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because release of disclosure accounting could alert the subject of an investigation about the alleged violations, to the existence of the investigation and to the fact that they are being investigated by the Office of Inspector General (OIG) or another agency. Release of such information could provide significant information concerning the nature of the investigation, resulting in the tampering or destruction of evidence, influencing of witnesses, danger to individuals involved, and other activities that could impede or compromise the investigation.

(2) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or administrative violation, of the existence of that investigation; of the nature and scope of the information and evidence obtained as to his/her activities; of the identity of confidential sources, witnesses, and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. These factors would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation, endanger the physical safety of confidential sources, witnesses, and law enforcement personnel, and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to such information could disclose security-sensitive or confidential business information or information that would constitute an unwarranted invasion of the personal privacy of third parties. The amendment of these records could allow the subject to avoid detection or apprehension and interfere with ongoing investigations and law enforcement activities.

(3) From subsection (e)(1) because the application of this provision could impair investigations and interfere with the law enforcement responsibilities of the OIG or another agency for the following reasons:

(i) It is not possible to detect relevance or need for specific information in the early stages of an investigation, case or matter. After the information is evaluated, relevance and necessity may be established.

(ii) During an investigation, the OIG may obtain information about other actual or potential criminal, civil or administrative violations, including those outside the scope of its jurisdiction. The OIG should retain this information, as it may aid in establishing patterns of inappropriate activity, and can provide valuable leads for Federal and other law enforcement agencies.

(iii) In interviewing individuals or obtaining other forms of evidence during an investigation, information may be supplied to an investigator, which relates to matters incidental to the primary purpose of the investigation but which may relate also to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

(iv) From subsection (e)(4)(G) and (H) because this system is exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(2) of the Privacy Act.

(v) From subsection (f) because this system is exempt from the access and amendment provisions of subsection (d), pursuant to subsection (k)(2) of the Privacy Act.

§ 1202.94 What NARA systems of records are exempt from release under the Investigatory Information Material exemption of the Privacy Act?

(a) The Personnel Security Case Files (NARA–24) system of records is eligible for exemption under 5 U.S.C. 552a(k)(5) because it contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal employment or access to classified information. The only information exempt under this provision is that which would disclose the identity of a confidential source described in 5 U.S.C. 552a(k)(2).

(b) The system of records described in paragraph (a) of this section is exempt from 5 U.S.C. 552a(d)(1). Exemption from the particular subsection is justified as access to records in the system would reveal the identity(ies) of the source(s) of information collected in the course of a background investigation.

Dated: December 14, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–31340 Filed 12–19–01; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 011214299—1299—01; I.D.121001B]

RIN 0648-AP75

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, an additional restriction on shrimp trawlers that are required to have a turtle excluder device (TED) installed in each net rigged for fishing, and that are operating in Atlantic offshore waters out to 10 nautical miles (nm)(18.3 km) from the coast of Florida between 28°N. latitude and the Georgia-Florida border. During this 30-day period shrimp vessels operating in this area must use a TED with an escape opening large enough to exclude leatherback turtles, as specified in the regulations. The use of such TEDs by shrimp trawlers has previously been required under similar circumstances. This action is necessary to prevent mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls, and is prompted by recent strandings of such turtles.

DATES: This action is effective from December 14, 2001 through January 14, 2002. Comments on this action are requested, and must be received by January 14, 2002.

ADDRESSES: Comments on this action should be addressed to Phil Williams, Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 727–570–5312, or Barbara A. Schroeder, 301–713–1401. For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone 228–762–4591 or by fax 228–769–8699.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of sea turtles as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the ESA and its implementing regulations, taking sea turtles is prohibited, subject to exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round.

The regulations provide a mechanism to implement further restrictions of fishing activities, if necessary, to avoid takings of sea turtles that would (1) likely jeopardize the continued existence of listed species or (2) that would violate the terms and conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are likely to trigger either scenario, additional restrictions may be imposed to conserve listed species and to avoid such takings. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 223.206(d)(4)).

Leatherback Sea Turtles

Leatherback sea turtles are the largest species of sea turtle. They weigh between 600 and 1,300 pounds (272 and 590 kg) and have carapaces 5 to 6 ft (1.5 to 1.8 m) in length. Leatherbacks are widely distributed and can range from the tropics to extreme northern and southern latitudes during their feeding and reproductive migrations. They nest in small but significant numbers on U.S. beaches and are primarily seen in coastal waters of the southeast U.S. during their northern springtime migration, especially when high abundances of jellyfish occur nearshore. However, they can be found in U.S. waters throughout the year.

Because of their size, leatherbacks are not likely to escape from trawls, even when the trawls are equipped with approved TEDs, unless the size of the opening is sufficient to allow escape. The sea turtle conservation regulations specify a minimum TED opening size in the Atlantic of 35 inches (89 cm) horizontally and 12 inches (30.5 cm) vertically. When the regulations requiring TEDs in shrimp trawls year-round were adopted (57 FR 57348, December 4, 1992), NMFS recognized that the then-existing TEDs would not protect leatherbacks, and the biological opinion (BO) on the regulations concluded that leatherback mortality would remain a problem that must be addressed to avoid jeopardizing the recovery of this species. Consequently, the August 19, 1992, BO's incidental take statement required that the episodic take of leatherback turtles by shrimp trawlers during periods of high jellyfish abundance must be eliminated. This could be accomplished by temporary area closures, by requiring an increase in the size of TED openings to allow leatherbacks to escape at times when their abundance is high, by limiting tow times, or by implementing some other protective measure. To address this problem, the 1992 sea turtle conservation regulations included the provisions of 50 CFR 223.206(d)(4), to provide "a mechanism to prevent sea turtle mortalities...when existing restrictions on the shrimp fishery are found to be ineffective (57 FR 18453)."

Recent Events

NMFS has been notified by the Florida Fish and Wildlife Conservation Commission (FWCC) that extraordinarily high numbers of endangered leatherback sea turtles stranded along northeast Florida beaches in November and early December 2001. From November 4 to December 10, 2001, a total of 15 leatherback turtles and 2 turtles reported as leatherbacks, but not yet verified by FWCC, washed ashore between St. Johns and Brevard counties in shrimp zones 28 and 29. During aerial surveys conducted for right whales, up to 10 leatherback turtles per flight were seen during two flights; one of these turtles was dead. By comparison, the total annual number of leatherback strandings statewide has averaged 24 over the past 10 years, and has averaged only 14 per year in zones 28–30. Considering the rarity of leatherbacks—an average of only 45–50 females nest in Florida each year—and the fact that strandings are only a minimum estimate of actual mortality, these strandings represent a serious impact to the recovery and survival of the local population.

The late fall and early winter is traditionally a major shrimping season along northeast Florida. During this period, shrimp leave the estuaries to the north and migrate southward along the coast as waters cool. Shrimp fishing along the coast is currently active. Trawlers have been reported in the same areas as the leatherback strandings. The minimum size for TED openings specified in the sea turtle conservation regulations is not large enough to release leatherback turtles. Shrimp trawling with TEDs with openings that are not large enough to release leatherbacks is likely to lead to additional takes that would violate the terms and conditions of the incidental take permit. NMFS and state personnel will continue to investigate factors other than shrimping that may contribute to leatherback sea turtle mortality in Florida, including other fisheries and environmental factors.

Restrictions on Fishing by Shrimp Trawlers

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an incidental take statement (ITS) or incidental take permit, or if the taking would jeopardize the continued existence of a species listed under the ESA. The August 19, 1992, biological opinion includes a condition under the ITS that specifies that NMFS must eliminate the episodic take of leatherback turtles by shrimp trawlers through area closures, requirements for large TED opening sizes, limitations on tow times, or some other protective measure. Failure by NMFS to take action to address the mortality seen in northeast Florida over the past month would likely violate the ITS. As a result, NMFS is requiring that fishing by shrimp trawlers in all Atlantic offshore waters within 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded on the south by 28°N. lat. and on the north by 30°42′45.6″N. lat. (the Georgia-Florida border), must be done with a net that is rigged for fishing with a TED installed that has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(*1*) and (*2*) or 223.207(c)(1)(iv)(B). These regulations specify modifications that can be made to either single-grid hard TEDs or Parker soft TEDs to allow leatherbacks to escape. This restriction is effective from December 14, 2001 through 11:59 p.m. (local time) January 14, 2002.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media.

Additional Conservation Measures

The AA may withdraw or modify a determination concerning unauthorized takings or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day action, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for endangered leatherback sea turtles pursuant to the ESA and other applicable law.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be impracticable and contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect identified large congregations of endangered leatherback sea turtles that are currently present in areas where substantial fishing effort is occurring. Furthermore, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this temporary rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect endangered leatherback sea turtles for the same reason. Accordingly, the AA is making the rule effective December 14, 2001 through January 14, 2002. Also as stated, this restriction has been announced on the NOAA weather channel, in newspapers, and other media.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule (57

FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notifications such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: December 14, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31275 Filed 12–14–01; 4:34 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001121328–1066–03; I.D. 121401B]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Rhode Island

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure; commercial quota harvested for Rhode Island.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of Rhode Island has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in Rhode Island for the remainder of calendar year 2001, unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of Rhode Island that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in Rhode Island.

DATES: Effective from 0001 hours, December 20, 2001 through 2400 hours, December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281–9273.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned on a percentage basis among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.100.

The initial total commercial quota for summer flounder for the 2001 calendar year was set equal to 10,747,535 lb (4,875,000 kg)(66 FR 16151, March 23, 2001). The percent allocated to vessels landing summer flounder in Rhode Island is 15.68298 percent, or 1,685,534 lb (764,545 kg). This allocation was adjusted due to an underage in 2000, as provided in § 648.100 (e)(4), for a final allocation of 1,733,817 lb (786,446 kg).

Section 648.101 (b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor state commercial quotas and to determine when a state's commercial quota is harvested. NMFS then publishes notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional Administrator has determined, based upon dealer reports and other available information, that the State of Rhode Island has attained its quota for 2001.

The regulations at § 648.4 (b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours, December 20, 2001, further landings of summer flounder in Rhode Island by vessels holding summer flounder commercial Federal fisheries permits are prohibited for the remainder of the 2001 calendar year, unless additional quota becomes available through a transfer and is announced in the Federal Register. Effective 0001 hours, December 20, 2001, federally permitted dealers are also notified that they may not purchase summer flounder from federally permitted vessels that land in Rhode Island for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 14, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31383 Filed 12–17–01; 2:44 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 245
Thursday, December 20, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Fire Protection

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Availability of draft rule wording.

SUMMARY: The Nuclear Regulatory Commission (NRC) is making available the draft wording of a possible amendment to its regulations. The NRC has initiated this rulemaking to amend Title 10 of the Code of Federal Regulations (10 CFR) part 50.48, "Fire protection," to endorse the National Fire Protection Association (NFPA) Standard 805, "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants 2001 Edition," with exceptions, as a voluntary alternative fire protection requirement for holders of operating nuclear power plant licenses. In support of this rulemaking effort, the NRC is seeking public comment on the draft rule language.

DATES: Comments should be submitted within 45 days from the date of this notice. Any comments received after this date may not be considered during drafting of the proposed rule. Because of scheduling considerations in preparing a proposed rule, the NRC staff requests that stakeholders provide their comments at their earliest convenience before the end of the comment period, if practicable.

ADDRESSES: Submit written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, Mail Stop O–16C1 or deliver written comments to One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking Web site through the NRC's home page at *http://ruleforum.llnl.gov*. This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher at (301) 415–5905 or by e-mail to *cag@nrc.gov*. Copies of any comments received and certain documents related to this rulemaking may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Leon E. Whitney, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001, telephone (301) 415–3081, e-mail: *lew1@nrc.gov*.

SUPPLEMENTARY INFORMATION: The NRC's existing fire protection requirements are derived from General Design Criterion 3, "Fire protection," of Appendix A to 10 CFR part 50, 10 CFR 50.48, "Fire protection," and for plants operating before January 1, 1979, certain provisions of Appendix R to 10 CFR part 50, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979." Exemptions approved by the staff may apply for individual licensees.

The current (10 CFR 50.48) fire protection requirements were developed before the staff or industry had the benefit of probabilistic risk assessments (PRAs) for fires and before there was a significant body of operating experience. These deterministic fire protection requirements have been described by industry representatives and some members of the public as "prescriptive" and an "unnecessary regulatory burden." In the late 1990s, the Commission provided the NRC staff with guidelines to identify and assess performance-based approaches to regulation (see SECY–00–0191, and a Commission White Paper, "Risk-Informed and Performance-Based Regulation," issued as a Staff Requirements Memorandum (SRM) to SECY–98–144). This guidance was in addition to the risk-related guidance in the NRC's Probabilistic Risk Assessment Policy Statement and Regulatory Guide 1.174, "An Approach for Using PRA in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis."

On January 13, 2001, the National Fire Protection Association Standards Council issued NFPA 805, 2001 Edition, as a performance-based American National Standard for light water nuclear power plants. As stated in Section 1.1 of the standard, "This standard specifies the minimum fire protection requirements for existing light water nuclear power plants during all phases of plant operation, including shutdown, degraded conditions, and decommissioning." The U.S. Nuclear Regulatory Commission staff cooperatively participated in the development of NFPA 805. In the opinion of the NRC staff, with certain exceptions noted in Sections (c)(2) of the proposed rule revision, NFPA 805 could serve as a risk-informed, performance-based, voluntary alternative to the fire protection requirements of 10 CFR 50.48(b) and (f). Therefore, the staff requested (in SECY–00–009) and received Commission approval for proceeding with a rulemaking to permit reactor licensees to adopt NFPA 805, as excepted, as a voluntary alternative fire protection licensing basis for the requirements of 10 CFR 50.48(b) and (f). However, licensees which choose not to change their fire protection licensing basis would continue to be subject to the requirements of 10 CFR 50.48(b) and (f) as before.

ALTERNATIVE CONSENSUS STANDARDS: This draft rule revision is consistent with the requirements of the National Technology Advancement and Transfer Act of 1995, as the rule revision would endorse an industry consensus standard, NFPA 805, with exceptions. The NRC is seeking public comment on the proposed rule revision language. The NRC is also seeking public comment regarding whether there are consensus standards other than NFPA 805 that could be considered as voluntary alternatives to current fire protection regulations.

This draft rule language is preliminary and may be incomplete in one or more respects. This draft rule language has been released to inform stakeholders of the current status of the contemplated 10 CFR 50.48 rule change and to provide stakeholders with an opportunity to comment on a draft version. Comments received prior to publishing the proposed rule revision will be considered in the development of the proposed rule revision. As appropriate, the Statements of Consideration for the proposed rule will briefly discuss substantive changes made to the rule language as a result of comments received. Comments may be provided through the rulemaking Web site at *http://ruleforum.llnl.gov* or by mail as indicated under the **ADDRESSES** heading. The NRC may post updates periodically on the rulemaking web site that may be of interest to stakeholders.

Dated at Rockville, Maryland, this 12th day of December 2001.

For the Nuclear Regulatory Commission.

John N. Hannon,

Chief, Plant Systems Branch, Division of Systems Safety and Analysis, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31217 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Organization and Operations of Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule with request for comments.

SUMMARY: NCUA proposes to amend its rule that permits a federal credit union to provide reasonable retirement benefits to its employees and officers. The amendments clarify the scope of the rule.

DATES: Comments must be received on or before February 19, 2002.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You are encouraged to fax comments to (703) 518–6319 or e-mail comments to *regcomments@ncua.gov* instead of mailing or hand-delivering them. Whatever method you choose, *please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Frank Kressman, Staff Attorney, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION: Section 701.19(a) states that a federal credit union (FCU) may provide reasonable retirement benefits for it employees and officers. 12 CFR 701.19(a). NCUA wishes to clarify that the scope of § 701.19(a) is not limited only to retirement benefits, but is more broadly applicable to other employee benefit plans.

As competition to attract and retain highly qualified employees has increased and the employee benefits marketplace has become more sophisticated, FCUs are increasingly providing more diverse and less traditional forms of employee benefits including, for example, deferred compensation plans and stock option plans. As a result, FCUs need flexibility to use safe, reasonable and efficient methods to fund their employee benefit obligations. In addition to providing this flexibility, the proposed rule updates the regulatory language to reflect current employee benefits terminology including renaming the rule "Benefits for Employees of Federal Credit Unions."

An FCU investing on its own behalf is subject to the investment provisions of the Federal Credit Union Act (Act) and NCUA regulations. 12 U.S.C. 1757(7), (8), (15); 12 CFR part 703. In legal opinion letters, the NCUA's Office of General Counsel has stated that these investment provisions do not apply when an FCU is acting under its authority to provide and fund retirement or other employee benefits. 12 U.S.C. 1761b(12); 12 CFR 701.19. NCUA's long-standing position is that an FCU may purchase an otherwise impermissible investment to fund an employee benefit obligation as long as there is a direct connection between the investment and the employee benefit obligation it serves to fund. In that context, NCUA has also stated that once the obligation ceases to exist, the FCU must divest itself of the impermissible investment.

For example, an FCU is generally not permitted to purchase equity investments when investing for its own account. An FCU that is obligated under an employee benefit plan to provide an employee with 100 shares of XYZ Corporation stock on a specific date, however, may purchase and hold 100 shares of that stock for that purpose. It may not, however, purchase 100 shares of *ABC Corporation* stock. In that instance, there would not be a sufficient connection between the investment and the obligation to be funded.

NCUA is aware that it is not uncommon for for-profit corporations to provide employee benefits that contain investment options the employee may exercise after he or she has separated or retired from the employer. For example, an employer may grant an employee the option to purchase a fixed number of shares in a mutual fund for a fixed price on a specific date after the employee separates or retires from the employer.

These post-separation or post-retirement options would require a prudent FCU to buy and hold shares in that mutual fund to fund the potential obligation it faces after its employee has separated or retired. In legal opinion letters, the NCUA's Office of General Counsel has also taken the position that an FCU may hold an impermissible investment to fund an ongoing employee benefit obligation after the employee separates or retires provided the investment option period is reasonable. Upon the exercise or expiration of the option, the FCU must divest itself of the impermissible investment. The proposed regulation incorporates the positions taken by the Office of General Counsel in these legal opinion letters.

An FCU must comply with safety and soundness standards by ensuring that the kind and value of employee benefits it offers are reasonable given its size and financial condition. Furthermore, an FCU's authority to offer and fund an employee benefit plan does not guarantee the permissibility of the plan under other laws, such as the Employee Retirement Income Security Act (ERISA) or the Internal Revenue Code. 29 U.S.C. 1001; 26 U.S.C. 1.

Additionally, FCUs with assets over $10 million are reminded that they are required to account for their employee benefit plans in accordance with generally accepted accounting principles (GAAP). FCUs with assets under $10 million are not required to follow GAAP, but are encouraged to do so in this context. All FCUs are encouraged to seek the advice of an independent accountant if they have questions regarding the proper accounting for these benefit plans.

Finally, § 701.19(b) provides that an FCU acting as a fiduciary, as defined in ERISA, must obtain appropriate liability coverage as provided in 410(b) of ERISA. NCUA wishes to clarify that 410(b) of ERISA describes certain kinds of insurance coverage and permits certain parties to purchase that insurance, but does not require any party to purchase insurance. 29 U.S.C. 1110.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (those under one million dollars in assets). The proposed rule only clarifies that credit unions have additional options and flexibility to manage their employee benefit obligations without imposing any regulatory burden. The proposed rule would not have a significant economic impact on a substantial number of small credit unions, and therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that the proposed rule would not increase paperwork requirements under the Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. The proposed rule would not have substantial direct effects on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule would not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681 (1998).

Agency Regulatory Goal

NCUA's goal is to promulgate clear and understandable regulations that impose minimal regulatory burden. We request your comments on whether the proposed rule is understandable and minimally intrusive.

List of Subjects in 12 CFR Part 701

Credit unions.

By the National Credit Union Administration Board on December 13, 2001.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

2. Revise § 701.19 to read as follows:

§ 701.19 Benefits for employees of Federal credit unions.

(a) *General authority.* A federal credit union may provide employee benefits, including retirement benefits, to its employees and officers who are compensated in conformance with the Act and the bylaws, individually or collectively with other credit unions. The kind and value of these benefits must be reasonable given the federal credit union's size and financial condition. Where a federal credit union is the benefit plan trustee or custodian, the plan must be authorized and maintained in accordance with the provisions of part 724 of this chapter. Where the benefit plan trustee or custodian is a party other than a federal credit union, the benefit plan must be maintained in accordance with applicable laws governing employee benefit plans, including any applicable rules and regulations issued by the Secretary of Labor, the Secretary of the Treasury, or any other federal or state authority exercising jurisdiction over the plan.

(b) *Investments.* A federal credit union investing to fund an employee benefit plan obligation is not subject to the investment provisions of the Act and part 703 of this chapter and may purchase an investment that would otherwise be impermissible if:

(1) The investment is directly related to the federal credit union's obligation or potential obligation under the employee benefit plan; and

(2) The federal credit union holds the investment only for as long as it has an actual or potential obligation under the employee benefit plan.

(c) *Liability insurance.* No federal credit union may occupy the position of a fiduciary, as defined in the Employee Retirement Income Security Act of 1974 and the rules and regulations issued by the Secretary of Labor, unless it has obtained appropriate liability insurance as described and permitted by section 410(b) of the Employee Retirement Income Security Act of 1974.

[FR Doc. 01–31287 Filed 12–19–01; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–17–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft Incorporated SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document proposes to revise an earlier proposed airworthiness directive (AD) that would apply to certain Fairchild Aircraft Incorporated (Fairchild Aircraft) SA226 and SA227 series airplanes equipped with Skidmore-Wilheim Manufacturing Co. (Skidmore-Wilheim) (formerly Hydromotive) Model V1–15–1000 brake master cylinders. The earlier NPRM would have required you replace these brake master cylinders with new or overhauled units of the same design. The earlier NPRM resulted from reports of dragging brakes during taxi operations. Additional airplane models have been identified on which the unsafe condition exists or could develop. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these additional actions.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 22, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–17–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from

VOL 66 ISS 245 DE 20 2001 UMI

Fairchild Aircraft Incorporated, P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

How Do I Comment on This Proposed AD?

The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are There any Specific Portions of This Proposed AD I Should Pay Attention to?

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the proposed rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How Can I Be Sure FAA Receives My Comment?

If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–17–AD." We will date stamp and mail the postcard back to you.

Discussion

What Events Have Caused This Proposed AD?

The FAA received several reports of dragging brakes on Fairchild SA226 series airplanes when the brake pedals were operated during taxi operations. After troubleshooting by maintenance personnel, the problem was traced to the master brake cylinder. Disassembly of the malfunctioning master cylinders revealed broken check valve spring washers that, together with the action of the shuttle valve, prevented the release of brake pressure when the brake pedal was released after a brake application. Based on observed failures, FAA has determined that the brake master cylinders should be replaced at intervals of 15,000 hours time-in-service.

What Are the Consequences if the Condition is Not Corrected?

This condition, if not detected or corrected, could cause dragging brakes, which can result in overheated brakes and cause an in-flight wheelwell fire if the dragging takes place during takeoff and the gear is later retracted.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA226 series airplanes equipped with Skidmore-Wilheim Model V1–15–1000 brake master cylinders. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 21, 2001 (66 FR 43814). The NPRM proposed to require you to replace these brake master cylinders with new or overhauled units of the same design.

You would have to accomplish the proposed actions in accordance with the applicable maintenance manual or service bulletin.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: Expand the applicability.

What Is the Commenter's Concern?

The NPRM indicates that only series SA226 aircraft are affected by this AD. However, the commenter indicates that some SA 227 series airplanes are also affected and the unsafe condition referenced in the NPRM exists or could also develop on those SA227 series airplanes.

What Is FAA's Response to the Concern?

The commenter correctly identified additional applicable SA227 aircraft models. The FAA will include the additional applicable models in the proposed rule. Because this change increases the burden upon the public, we are reopening the comment period for this action.

Comment Issue No. 2: Change the manufacturer's reference.

What Is the Commenter's Concern?

The commenter requests that all references in the NPRM to Fairchild Aircraft, Inc. be changed to Fairchild Aircraft Incorporated.

What Is FAA's Response to the Concern?

The company name Fairchild Aircraft Incorporated is correct on the type certificates. The name Fairchild Aircraft Incorporated will be used in the NPRM.

The FAA's Determination

What Has FAA Decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other Fairchild SA226 and SA227 series airplanes of the same type design equipped with Skidmore-Wilheim Model V1–15–1000 brake master cylinders;

—The NPRM should be expanded to include these actions; and

—AD action should be taken in order to correct this unsafe condition.

The Supplemental NPRM

How Will the Changes to the NPRM Impact the Public?

Proposing that the NPRM apply to certain Fairchild Aircraft SA226 and SA227 series airplanes equipped with Skidmore-Wilheim Model V1–15–1000 brake master cylinders presents actions that go beyond the scope of what was already proposed. Therefore, we are issuing a supplemental NPRM and reopening the comment period to allow the public additional time to comment on the proposed AD.

What Are the Provisions of the Supplemental NPRM?

The proposed AD would require you to replace or overhaul the brake master cylinders. Procedures are in the applicable Fairchild service bulletin.

Cost Impact

How Many Airplanes Would This Proposed AD Impact?

We estimate that this proposed AD affects 140 airplanes in the U.S. registry.

What Would be the Cost Impact of This Proposed AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to do any necessary replacements:

Labor cost	New or overhauled parts cost (4 parts for each aircraft required	Total cost per airplane	Total cost on U.S. operators
8 hours × $60 for each hour = $480	4 parts × $200 = $800.00	$1,280	140 airplanes × $1,280 = $179,200.

Regulatory Impact

Would This Proposed AD Impact Various Entities?

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would This Proposed AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Fairchild Aircraft Incorporated: Docket No. 2001–CE–17–AD

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial Nos.
SA226–AT	All.
SA226–T	All.
SA226–T(B)	All.
SA226–TC	All.
SA227–AC, SA227–AT, and SA227–TT.	420 through 583.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct and prevent future malfunctioning brake master cylinders. Malfunctioning brake master cylinders could cause dragging brakes, which can result in overheated brakes and a wheelwell fire if the dragging takes place during takeoff and the gear is later retracted.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must do the following, unless already done:

Actions	Compliance	Procedures
Replace the Skidmore-Wilheim Manufacturing Co. Model V1–15–1000 brake master cylinders with new or overhauled Model V1–15–1000 brake master cylinders or FAA-approved equivalent part numbers.	Upon the accumulation of 200 hours time in service (TIS) after the effective date of this AD or 15,000 hours total TIS on the affected brake master cylinders, whichever occurs later. Later replacement intervals shall be at 15,000 hours TIS	For SA226 series airplanes, do this action following the procedures in the applicable maintenance manual. Overhaul the brake master cylinders following the procedures in Fairchild Service Bulletin SB 226–32–069, issued October 24, 2001. For SA227 series airplanes, do this action following the procedures in the applicable maintenance manual. Overhaul the brake master cylinders following the procedures in Fairchild Service Bulletin SB 227–32–045, issued October 24, 2001.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Send your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Fairchild Aircraft Incorporated, P.O. Box 790490, San Antonio, Texas 78279–0490. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on December 11, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-31298 Filed 12-19-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98-CE-57-AD]

RIN 2120-AA64

Airworthiness Directives; Cessna Aircraft Company 150, 172, 175, 180, 182, 185, 206, 210, and 336 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; Withdrawal.

SUMMARY: This document withdraws a notice of proposed rulemaking (NPRM) that would have applied to certain Cessna Aircraft Company (Cessna) 150, 172, 175, 180, 182, 185, 206, 210, and 336 series airplanes. The proposed AD would have affected those airplanes equipped with 0513166 series plastic control wheels. The proposed AD would have required you to repetitively inspect these wheels for cracks, conduct a pull test on these wheels, and replace any control wheels that are cracked or that do not pass the pull test. Replacement of the control wheels would have been with ones that were FAA-approved and were not 0513166 series plastic control wheels. After evaluating all the comments received on the proposal, we have determined that the cracking or failure of the control wheel is not a safety hazard and that a special airworthiness information bulletin would be more appropriate. There have been only four service difficulty reports made in the FAA database; however, there were neither associated accidents nor incidents. Most of the affected airplanes have dual control wheels with each wheel having two handles for redundancy, which would provide an alternative means to control the airplane should actual failure occur. For these reasons, we are withdrawing the NPRM.

ADDRESSES: You may look at information related to this action at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98-CE-57-AD, 901 Locust, Room 506, Kansas City, Missouri 64106, between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Eual Conditt, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4102; facsimile: (316) 946-4407.

SUPPLEMENTARY INFORMATION:

Discussion

What Action Has FAA Taken to Date?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would have applied to certain Cessna Aircraft Company (Cessna) 150, 172, 175, 180, 182, 185, 206, 210, and 336 series airplanes. The proposal was published in the **Federal Register** as an NPRM on December 29, 2000 (65 FR 82954). The comment period was extended from February 2, 2001, to April 4, 2001 on January 22, 2001 (66 FR 6499). The proposed rule would have required you to:

- Repetitively inspect and pull test the 0513166 series control wheels; and
- Replace any control wheels that fail the inspection or pull test.

Was the Public Invited to Comment?

The FAA invited interested persons to participate in the making of this amendment. The comments, in most part, reflect the public's desire to have FAA withdraw the proposal and instead issue a special airworthiness information bulletin or general aviation alert. The reason for this is because there are only four service difficulty reports of control wheel cracks in the FAA database and most of the affected airplanes have dual control wheels with each wheel having two handles for redundancy, which would provide an alternative means to control the airplane should actual failure occur.

The FAA's Determination

What Is FAA's Final Determination on This Issue?

After re-evaluating all information related to this subject, we have determined that:

- The unsafe condition is appropriately addressed through a special airworthiness bulletin (No. CE-01-41);
- Because there are only four service difficulty reports of control wheel cracks in the FAA database regarding this subject on the affected airplanes, there is no need for the NPRM, Docket No. 98-CE-57-AD; and
- We should withdraw the NPRM.

Withdrawal of this action does not prevent us from taking or commit us to any future action.

Regulatory Impact

Does This Proposed AD Withdrawal Involve a Significant Rule or Regulatory Action?

Since this action only withdraws a proposed AD, it is not an AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act,or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, FAA withdraws the notice of proposed rulemaking, Docket No. 98-CE-57-AD, published in the **Federal Register** on December 29, 2000 (65 FR 82954) with the comment period extended from February 2, 2001, to April 4, 2001 on January 22, 2001 (66 FR 6499).

Issued in Kansas City, Missouri, on December 11, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-31299 Filed 12-19-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 738 and 742

[Docket No. 011019257-1257-01]

RIN 0694-AC48

Removal of Licensing Exemption for Exports and Reexports of Missile Technology-Controlled Items Destined to Canada

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Export Administration (BXA) is reviewing the existing license exemption contained within the Export Administration Regulations (EAR) for the export of missile technology (MT)-controlled items to Canada, because of the recommendations contained in the Government Accounting Office Report entitled: "Export Controls: Regulatory

Change Needed to Comply with Missile Technology Licensing Requirements" (GA–01–530). BXA is seeking comments on how removing the existing licensing exemption for MT-controlled exports to Canada would affect industry and more specifically the exporting community.

DATES: Comments must be received by February 19, 2002.

ADDRESSES: Written comments (three copies) should be sent to Sharron Cook, Regulatory Policy Division, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, 14th and Pennsylvania Avenue, NW, PO Box 273, Room 2705, Washington, DC 20230; E-Mailed to: *scook@bxa.doc.gov*; or faxed to 202–482–3355.

FOR FURTHER INFORMATION CONTACT: Steven Goldman, Director, Office of Nonproliferation Controls and Treaty Compliance, Bureau of Export Administration, Telephone: (202) 482–4188. Copies of the referenced GAO Report are available at the GAO website: *http://www.gao.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Government Accounting Office (GAO) Report entitled: "Export Controls: Regulatory Change Needed to Comply with Missile Technology Licensing Requirements" (GA–01–530), recommended that the Department of Commerce amend the Export Administration Regulations (EAR) to require a license for the export of dual-use items controlled pursuant to the Missile Technology Control Regime (MTCR) to Canada. The GAO based its recommendation on a provision in the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1991, which amended the Export Administration Act (EAA) of 1979 to require a license for any export of dual-use Missile Technology Control Regime (MTCR) controlled goods or technology to any country. In 1991, the Department of Commerce implemented the NDAA requirements in EAR by controlling MTCR Annex items on the Commerce Control List (CCL) under a new designated reason for control, "missile technology (MT)" and generally requiring a license for the export or reexport of these items and technologies. Many of these items were already on the CCL and controlled under foreign policy or national security reasons. However, the Department of Commerce did not revise the EAR's existing license exemption for exports to Canada to require licenses for MT-controlled items to Canada. The license exemption for Canada existed in the EAR many years prior to the enactment of the MT provisions of the EAA. Since the Hyde Park Declaration of 1941, the United States has authorized nearly all dual-use goods intended for consumption in Canada to be exported without a license, although any reexport of U.S.-origin items controlled for MT concerns from Canada would require a license from the U.S. Government. The Department of Commerce is interested in evaluating the impact on U.S. exporters of removing the existing licensing exemption for MT-controlled exports to Canada.

The current missile technology (MT) controls maintained by the Bureau of Export Administration (BXA) are set forth in the Export Administration Regulations (EAR), parts 742 (CCL Based Controls) and 744 (End-User and End-Use Based Controls). A regulatory implementation would entail adding an "X" in the row for Canada under the column from "MT 1" in the "Missile Tech" column of Supplement No. 1 to part 738, Commerce Country Chart. In addition, section 742.5 of the EAR would be revised to remove the phrase "except Canada" in the third sentence of paragraph (a)(1).

To ensure maximum public participation in the review process, comments are solicited for the next 60 days on the removal of the existing licensing exemption for the export of MT-controlled goods and technologies to Canada. BXA is particularly interested in the experience of individual exporters with the licensing exemption for MT-controlled exports to Canada, with emphasis on economic impact and specific business circumstances. BXA is also interested in industry information relating to the following:

1. Information on the effect of a licensing requirement for the export of MT-controlled items (commodities, software, and technology) to Canada on sales of U.S. products and market-share.
2. Information on joint-ventures or U.S. industry owned facilities in Canada that would be affected by the removal of a licensing exemption for the export of MT-controlled items to Canada.
3. Information on controls maintained by U.S. trade partners (i.e., to what extent do other MTCR Partners have similar exemptions for the export of MT-controlled goods and technology to other countries)?
4. Additional suggestions for revisions to the Canadian licensing exemption policy.
5. Data or other information as to the effect of a Canadian licensing requirement on overall trade, either for individual firms or for individual industrial sectors.

Parties submitting comments are asked to be as specific as possible. Accordingly, the Department encourages interested persons who wish to comment to do it at the earliest possible time.

The period for submission of comments will close February 19, 2002. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the persons submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. The Department requires comments be submitted in written form, which will be a matter of public record and will be available for public review and copying.

The public record concerning these comments will be maintained in the Bureau of Export Administration, Office of Administration, U.S. Department of Commerce, Room 6883, 14th and Constitution Avenue, NW, Washington, DC 20230; (202) 482–0637. This component does not maintain a separate public inspection facility. Requesters should first view BXA's FOIA website (which can be reached through *http://www.bxa.doc.gov/foia*). If the records sought cannot be located at this site, or if the requester does not have access to a computer, please call the phone number above for assistance.

List of Subjects in 15 CFR Parts 738 and 742

Exports, Foreign trade.

Dated: December 14, 2001.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–31322 Filed 12–19–01; 8:45 am]

BILLING CODE 3510–33–P

VOL 66 ISS 245 DE 20 2001 UMI

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes for Bedloaded Bundles of Periodicals

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is seeking comments on a proposal to delete the standards in the Domestic Mail Manual (DMM) that allow bundles (more than one package strapped together) of Periodicals flat-size mail to be bedloaded instead of placed in a sack or on a pallet.

DATES: Comments must be received on or before January 22, 2002.

ADDRESSES: Send written comments to the Manager, Mail Preparation and Standards, U.S. Postal Service, 1735 North Lynn Street, Room 3025, Arlington VA 22209–6038. Written comments may be submitted via fax to (703) 292–4058 or via email to aemmerth@email.usps.gov (please use "Fed Reg Bedloaded Bundles" as the subject line of the message). Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Anne Emmerth at (703) 292–3641.

SUPPLEMENTARY INFORMATION: Current DMM M210.5.0 and M220.5.0 allow authorized mailers to place packages of Presorted rate and carrier route rate Periodicals flats directly into a truck or trailer if the packages are secured together into bundles containing a minimum of 20 pounds of mail (instead of sacking or palletizing those packages). Such preparation requires Postal Service authorization from Business Mailer Support (BMS). It should be noted that DMM M820 does not include any provisions for bedloading bundles of automation rate flats. The records of the Postal Service indicate that there are no mailers who are preparing bedloaded bundles in this manner. Because of this, and because bedloaded bundles are generally not cost-efficient for the Postal Service to handle and process, the Postal Service is proposing to delete the options to prepare Periodicals flats as bedloaded bundles.

If this proposal is adopted, then all Periodicals flats must be prepared in sacks or on pallets.

This change does not apply to mailers who transport packages of Periodicals to destination delivery units under exceptional dispatch.

Although exempt from the notice and comment requirements of the Administrative Procedures Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions to the DMM, incorporated by reference into the Code of Federal Regulations (see 39 CFR part 111).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Amend the following sections of the Domestic Mail Manual (DMM) as set forth below:

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 Terms and Conditions

* * * * *

1.3 Preparation Instructions

[Delete item z, which defines a "bundle." Renumber items aa through ac as items z through ab, respectively.]

* * * * *

M013 Optional Endorsement Lines

1.0 Use

1.1 Basic Standards

[Revise 1.1 by deleting the entry for SCF.]

* * * * *

M200 Periodicals (Nonautomation)

M210 Presorted Rates

* * * * *

[Delete section 5.0, Bedloaded Bundles (Flat-Size Pieces). Renumber section 6.0 as 5.0.]

* * * * *

M220 Carrier Route Rates

* * * * *

[Delete section 5.0, Bedloaded Bundles (Flat-Size Pieces). Renumber section 6.0 as 5.0.]

* * * * *

An appropriate amendment to 39 CFR 111 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,
Chief Counsel, Legislative.

[FR Doc. 01–31386 Filed 12–19–01; 8:45 am]

BILLING CODE 7710–12–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7518]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		Communities affected
		Existing	Modified	
OHIO Gallia County (Unincorporated Areas)				
Ohio River ..	Approximately 1.7 miles upstream of county boundary.	*561	*560	Unincorporated Areas of Gallia County, Village of Crown City.
	Approximately 3.2 miles downstream of county boundary.	*573	*572	City of Gallipolis, Village of Cheshire.
City of Gallipolis Maps available for inspection at the Gallipolis City Building, 518 Second Avenue, Gallipolis, Ohio. Send comments to Mr. E. V. Clark, Jr., Gallipolis City Manager, 518 2nd Avenue, Gallipolis, Ohio 45631.				
Village of Crown City Maps available for inspection at the Crown City Village Hall, 156 Charles Street, Crown City, Ohio. Send comments to The Honorable Sam Johnson, Mayor of the Village of Crown City, P.O. Box 316, Crown City, Ohio 45623.				
Village of Cheshire Maps available for inspection at the Cheshire Village Office, 1828 Eastern Avenue, Gallipolis, Ohio. Send comments to The Honorable H. Thomas Reese, Mayor of the Village of Cheshire, P.O. Box 276, Cheshire, Ohio 45620.				
Gallia County (Unincorporated Areas) Maps available for inspection at the Gallia County Offices, 18 Locust Street, Gallipolis, Ohio. Send comments to Mr. Skip Meadows, President of the Gallia County Board of Commissioners, 18 Locust Street, Gallipolis, Ohio 45631.				
Meigs County (Unincorporated Areas)				
Ohio River ..	Approximately 2 miles upstream of the downstream county boundary.	*575	*576	Village of Middleport, Village of Pomeroy, Village of Racine.
	At the upstream county boundary	*603	*602	Village of Syracuse, and unincorporated areas of Meigs County.
Little Leading Creek.	Approximately 0.8 mile upstream of the Village of Rutland corporate limits.	None	*578	Unincorporated areas of Meigs County.
	Approximately 0.9 mile upstream of the Village of Rutland corporate limits.	None	*578	
Kerr Run	Just upstream of the Village of Pomeroy corporate limits.	None	*579	Unincorporated areas of Meigs County.
	Approximately 250 feet upstream of the Village of Pomeroy corporate limits.	None	*579	
Unnamed Tributary to Kerr Run.	Just upstream of the Village of Pomeroy corporate limits.	None	*579	Unincorporated areas of Meigs County.
	Approximately 50 feet upstream of the Village of Pomeroy corporate limits.	None	*579	

VOL 66 ISS 245 DE 20 2001 UMI

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)		Communities affected
		Existing	Modified	
Unnamed Tributary to Wolf Run.	Approximately 750 feet of the confluence with Wolf Run.	None	*582	Unincorporated areas of Meigs County.
	Approximately 950 feet upstream of the confluence with Wolf Run.	None	*582	
Rose Creek	Approximately 0.8 mile upstream of the confluence with Ohio River.	None	*580	Unincorporated areas of Meigs County.
	Approximately 1.1 miles upstream of confluence with the Ohio River.	None	*580	
Johns Run	Approximately 200 feet downstream of State Route 338.	None	*587	Unincorporated areas of Meigs County.
	Approximately 0.7 mile upstream of State Route 338.	None	*587	
Groundhog Creek.	Just upstream of State Route 338	None None	*593	Unincorporated areas of Meigs County.
	Approximately 1.7 miles upstream of State Route 338.	None	*593	
Sugarcamp Run.	Just upstream of State Route 124	None	*601	Unincorporated areas of Meigs County.
	Approximately 0.8 mile upstream of State Route 124.	None	*601	
Indian Run	Just upstream of State Route 124	None	*602	Unincorporated areas of Meigs County.
	Approximately 0.9 mile upstream of State Route 124.	None	*602	

Meigs County (Unincorporated Areas)

Maps available for inspection at the Meigs County Courthouse, 100 East Second Street, Pomeroy, Ohio.

Send comments to Mr. Jeff Thorton, President of the Meigs County Board of Commissioners, Meigs County Courthouse, 100 East Second Street, Pomeroy, Ohio 45769.

Village of Middleport

Maps available for inspection at the Middleport Village Hall, 237 Race Street, Middleport, Ohio.

Send comments to The Honorable Sandy Iannarelli, Mayor of the Village of Middleport, 237 Race Street, Middleport, Ohio 45760.

Village of Pomeroy

Maps available for inspection at the Pomeroy Village Hall, 320 East Main Street, Pomeroy, Ohio.

Send comments to The Honorable John Blaettnar, Mayor of the Village of Pomeroy, 320 East Main Street, Pomeroy, Ohio 45769.

Village of Racine

Maps available for inspection at the Racine Village Hall, 405 Main Street, Racine, Ohio.

Send comments to The Honorable J. Scott Hill, Mayor of the Village of Racine, P.O. Box 375, Racine, Ohio 45771.

Village of Syracuse

Maps available for inspection at the Syracuse Village Hall, 2581 Third Street, Syracuse, Ohio.

Send comments to The Honorable Larry Lavender, Mayor of the Village of Syracuse, 2581 Third Street, P.O. Box 266, Syracuse, Ohio 45779.

VIRGINIA

Southampton County (Unincorporated Areas)

Blackwater River.	At the confluence with Chowan River	*11	*14	Southampton County (Unincorporated Areas).
	Approximately 6,700 feet upstream of State Route 620 (Broadwater Road).	None	*36	
Nottoway River.	At the confluence with Chowan River	*11	*14	Southampton County (Unincorporated Areas); Courtland (Town).
	Approximately 2,400 feet upstream of Norfolk Franklin & Danville Railroad.	*26	*27	

Southampton County (Unincorporated Areas)

Maps available for inspection at the Southampton County Administrator's Office, 26022 Administration Center Drive, Courtland, Virginia.

Send comments to Mr. Michael W. Johnson, Southampton County Administrator, 26022 Administration Center Drive, Courtland, Virginia 23837.

Town of Courtland

Maps available for inspection at the Courtland Town Office, 22219 Meherrin Road, Courtland, Virginia.

Send comments to The Honorable Lewis H. Davis, Sr., Mayor of the Town of Courtland, P.O. Box 39, Courtland, Virginia 23837.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31372 Filed 12–19–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7516]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *matt.miller@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Acting Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification. This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Florida	Franklin County (Unincorporated Areas).	Apalachicola Bay	Approximately 2.6 miles southeast of West Pass.	*7	*8
			Approximately 4.1 miles southwest of Government Cut in St. George Island.	*7	*10
		St. George Sound	Just east of St. George Island Bridge	*9	*10
			Shoreline of St. George Island at (and include) Marsh Island.	*15	*12
		Gulf of Mexico	Approximately 2.6 miles southeast of West Pass.	*7	*8
			Approximately 1.5 miles southeast of the confluence of Big Claires Creek with Ochlockonee Bay.	*21	*23
		Alligator Harbor	Approximately 1,000 feet north of the intersection of State Route 370 and West Harbor Road.	*15	*16

VOL 66 ISS 245 DE 20 2001 UMI

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 900 feet east of Peninsula Point.	*18	*17

Maps available for inspection at the Planning and Engineering Department, 33 Commerce Street, Apalachicola, Florida.

Send comments to Mr. Tim Turner, Director of the Franklin County Emergency Management Agency, 33 Commerce Street, Apalachicola, Florida 32320.

Florida	Minneola (City), Lake County.	Plum Lake	Entire shoreline within county	*84	*87
		Ponding Area 535–1		None	*100
		Ponding Area 535–2		None	*99
		Little Grassy Lake	Approximately 0.55 mile northeast of the intersection of Perl Street and Galena Avenue.	None	*90
		Grassy Lake	Entire shoreline within county	None	*85

Maps available for inspection at the Minneola City Hall, 302 West Pearl Street, Minneola, Florida.

Send comments to The Honorable Glenn A. Irby, Mayor of the City of Minneola, P.O. Box 678, Minneola, Florida 34755.

Illinois	Elburn (Village), Kane County.	Blackberry Creek	At the confluence of Blackberry Creek Tributary D.	None	*741
			Approximately 1,050 feet upstream of Hughes Road.	None	*747
		Blackberry Creek Tributary D.	Approximately 600 feet upstream of confluence with Blackberry Creek.	None	*742
			Approximately 2,550 feet downstream of Keslinger Road.	None	*799

Maps available for inspection at the Elburn Village Hall, 301 East North Street, Elburn, Illinois.

Send comments to Mr. James Willey, President of the Village of Elburn Board of Trustees, 301 East North Street, Elburn, Illinois 60119.

Illinois	Elgin (City), Kane County.	Sandy Creek	At Randall Road	*821	*826
			Approximately 325 feet upstream of Randall Road.	None	*826
		Tyler Creek	Approximately 500 feet upstream of confluence with Fox River.	*716	*715
			Approximately 120 feet downstream of Soo Line Railroad.	None	*839

Maps available for inspection at City of Elgin Public Works Department, Engineering Division, 150 Dexter Court, Elgin, Illinois.

Send comments to Ms. Joyce Parker, Elgin City Manager, 150 Dexter Court, Elgin, Illinois 60120.

Illinois	Gilberts (Village), Kane County.	Tyler Creek	Just upstream of Big Timber Road	None	*867
			Approximately 200 feet downstream of McCornack Road.	None	*885

Maps available for inspection at the Gilberts Village Hall, 86 Railroad Street, Gilberts, Illinois.

Send comments to Mr. Mike Isitoro, Gilberts Village President, 86 Railroad Street, Gilberts, Illinois 60136.

Illinois	Kane County (Unincorporated Areas).	Blackberry Creek Tributary F.	Approximately 0.6 mile upstream of confluence with Blackberry Creek Tributary B.	*704	*703
			Approximately 250 feet downstream of Bliss Road.	*728	*727
		Main Street Ditch	At confluence with Blackberry Creek Tributary F.	None	*707
			Approximately 130 feet upstream of Main Street.	None	*709
		Tyler Creek	Approximately 375 feet downstream of Eagle Road East.	*791	*793
			Approximately 200 feet upstream of Illinois Route 72.	None	*896
		Pingree Creek	At confluence with Tyler Creek	None	*893
			Approximately 325 feet upstream of U.S. Route 20.	None	*906
		Mastadon Lake	Approximately 300 feet southeast of the intersection of Parker Avenue and Hinman Street.	None	*662
		Sandy Creek	Approximately 130 feet downstream of Randall Road.	*820	*821
			Just downstream of U.S. Route 20	None	*889

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Indian Creek	Approximately 0.41 mile upstream of Wood Street.	None	*676
			At downstream side of East-West Tollway	None	*717
		Indian Creek Tributary B	Approximately 0.61 mile upstream of confluence with Indian Creek.	None	*716
			Approximately 0.86 mile upstream of confluence with Indian Creek.	None	*716
		South Tributary	At confluence with Indian Creek	None	*684
			Approximately 680 feet upstream of confluence with Indian Creek.	None	*688
		Welch Creek	Approximately 1,110 feet downstream of Fay's Lane.	None	*680
			Just upstream of Burlington Northern Railroad.	None	*692
		Welch Creek Tributary 1	Just upstream of Aurora Municipal Airport	None	*693
			Approximately 2,600 feet upstream of Aurora Municipal Airport.	None	*694
		Blackberry Creek Tributary H.	Approximately 750 feet southwest of Lake View Court and Lake View Drive intersection.	None	*670
		Selmarten Creek	At confluence with Indian Creek	*715	*716
			At county boundary	*718	*720

Maps available for inspection at the Kane County Water Resources Department, Kane County Government Center Building "A," 719 Batavia Avenue, Geneva, Illinois.

Send comments to Mr. Michael W. McCoy, Chairman of the Kane County Board of Commissioners, 719 Batavia Avenue, Geneva, Illinois 60134.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Lily Lake (Village), Kane County.	Ferson Creek	Approximately 100 feet downstream of Great Western Trail Railroad.	None	*862
			Just downstream of Route 64	None	*872

Maps available for inspection at the Lily Lake Village Hall, 43W680 Empire Road, St. Charles, Illinois.

Send comments to Mr. Glenn Bork, Lily Lake Village President, 44W508 I.C. Trail, Lily Lake, Illinois 60151.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Montgomery (Village), Kane County.	Blackberry Creek Tributary G.	Approximately 2,050 feet downstream of Aucutt Road.	None	*661
			Approximately 550 feet downstream of Jericho Road.	None	*666
		Blackberry Creek	Approximately 0.4 mile downstream of Jericho Road.	None	*664
			At Jericho Road	None	*666

Maps available for inspection at the Montgomery Village Clerk's Office, 1300 South Broadway, Montgomery, Illinois.

Send comments to Ms. Marilyn Michelini, Montgomery Village President, 1300 South Broadway, Montgomery, Illinois 60538.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Pingree Grove (Village), Kane County.	Pingree Creek	Approximately 1,000 feet upstream of Highland Avenue.	None	*901
			Approximately 800 feet upstream of Soo Line Railroad.	None	*902

Maps available for inspection at the Pingree Grove Village Hall, 14N042 Reinking Road, Hampshire, Illinois.

Send comments to Mr. Vern Wester, President of the Village of Pingree Grove Board, 14N042 Reinking Road, Hampshire, Illinois 60140.

State	City/town/county	Source of flooding	Location	Existing	Modified
Illinois	Sugar Grove (Village), Kane County.	Blackberry Creek	Approximately 1,050 feet upstream of Densmore Road.	None	*678
			Approximately 1,800 feet upstream of Bliss Road.	None	*690
		Blackberry Creek Tributary E.	At confluence with Blackberry Creek	None	*680
			At Mankes Road	None	*680

Maps available for inspection at the Sugar Grove Village Office, 10 Municipal Drive, Sugar Grove, Illinois.

Send comments to Mr. P. Sean Michels, Sugar Grove Village President, 10 Municipal Drive, Sugar Grove, Illinois 60554.

State	City/town/county	Source of flooding	Location	Existing	Modified
Massachusetts	Malden (City), Middlesex County.	Town Line Brook	Approximately 1,000 feet downstream of corporate limits.	None	*9
			Approximately 500 feet upstream of Lynn Street	*8	*9

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	#Depth in feet above ground. *Elevation in feet (NGVD) Modified
		Linden Brook	Approximately 250 feet downstream of corporate limits.	None	*9
			On downstream side of Beach Street	None	*9
Maps available for inspection at the Malden Engineering Office, Malden City Hall, 200 Pleasant Street, Malden, Massachusetts.					
Send comments to The Honorable Richard C. Howard, Mayor of the City of Malden, Malden City Hall, 200 Pleasant Street, Malden, Massachusetts 02148.					
Massachusetts	Revere (City), Suffolk County.	Town Line Brook	Approximately 100 feet east of intersection of Washington Avenue and Squire Road.	None	*9
		Linden Brook	Approximately 180 feet south of the intersection of Lynn Street and Adamski Memorial Highway.	None	*9
Maps available for inspection at the Revere Planning Office, 281 Broadway, Revere, Massachusetts.					
Send comments to The Honorable Thomas Ambrosino, Mayor of the City of Revere, City Hall, 281 Broadway, Revere, Massachusetts 02151.					
New Hampshire	Errol (Town), Coos County.	Akers Pond	Entire shoreline within community	None	*1,231
Maps available for inspection at the Errol Town Office Building, 33 Main Street, Errol, New Hampshire.					
Send comments to Mr. Larry S. Enman, Chairman of the Town of Errol Board of Selectmen, P.O. Box 100, Errol, New Hampshire 03579.					
New Hampshire	Nashua (City), Hillsborough County.	Nashua River	At the downstream side of B&M Railroad bridge.	*115	*114
			Approximately 0.75 mile upstream of State Route 111.	*177	*176
		Bartemus Brook	At confluence with Nashua River	*167	*165
			At upstream corporate limits	*168	*166
		Lyle Reed Brook	At confluence with Nashua River	*169	*167
			Approximately 0.75 mile upstream of State Route 11.	*169	*167
Maps available for inspection at the Nashua City Hall, 229 Main Street, Nashua, New Hampshire.					
Send comments to The Honorable Bernard A. Streeter, Mayor of the City of Nashua, City Hall, 229 Main Street, Nashua, New Hampshire 03061–2019.					
New York	Corning (City), Steuben County.	Post Creek	Approximately 0.52 mile upstream of the confluence with Chemung River.	*923	*924
			Approximately 1.55 miles upstream of the confluence with Chemung River.	None	*958
Maps available for inspection at Corning Code Enforcement Office, 7 Nasser Civic Center, Corning, New York.					
Send comments to The Honorable Alan Lewis, Sr., Mayor of the City of Corning, 7 Nasser Civic Center, Corning, New York 14830.					
New York	Hamilton (Village), Madison County.	Canal Tributary	At confluence with Payne Brook Tributary	None	*1,110
			At the upstream corporate limits	None	*1,116
		Payne Brook	Approximately 1,360 feet downstream of College Street.	None	*1,101
			At upstream corporate limits	None	*1,125
		Payne Brook Tributary	At the confluence with Payne Brook	None	*1,104
			Approximately 80 feet upstream of Eaton Street.	None	*1,119
Maps available for inspection at the Hamilton Village Hall, 3 Broad Street, Hamilton, New York.					
Send comments to The Honorable Charlie Getchonis, Mayor of the Village of Hamilton, 3 Broad Street, Hamilton, New York 13346–0119.					
New York	Lisle (Town), Broome County.	Dudley Creek	Approximately 650 feet downstream of Owen Hill Road.	None	*1,044
			At Popple Hill Road	None	*1,097
		Culver Creek	At the confluence with Dudley Creek	None	*1,075
			At Hunts Corners Road	None	*1,106
		Tioughnioga River	Approximately 3.12 miles downstream of Main Street.	None	*979
			A point approximately 1.19 miles upstream of Main Street.	None	*1,003
Maps available for inspection at the Lisle Town Office, 9234 NYS Route 79, Lisle, New York.					
Send comments to Mr. James C. Dunham, Lisle Town Supervisor, P.O. Box 98, Lisle, New York 13797.					
New York	Lockport (Town), Niagara County.	Eighteen Mile Creek	At downstream corporate limits	None	*356

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
			Approximately 130 feet upstream of Stone Road.	None	365
		East Tributary to Eighteen Mile Creek.	At downstream corporate limits	None	*360
			Approximately 1 mile upstream of State Route 104.	None	*363
		West Tributary to Eighteen Mile Creek.	At confluence with Eighteen Mile Creek	None	*359
			At Lockport town line	None	*384
		East Branch to Eighteen Mile Creek.	At downstream corporate limits	None	*357
			Approximately 1,500 feet upstream of upstream corporate limits.	None	*375
		Gulf Branch	At Niagara Street	None	*472
			Just downstream of Upper Mountain Road.	None	*584
		Gulf Tributary	At confluence with Gulf Branch	None	*497
			Approximately 2,250 feet upstream of confluence with Gulf Branch.	None	*514
		Tonawanda Creek	Approximately 1 mile upstream of Rapids Road.	*590	*591
			At upstream corporate limits	*590	*591
		Donner Creek	At the downstream corporate limits	*605	*606
			Approximately 1,660 feet upsteam of Hamm Road.	*617	*618

Maps available for inspection at the Lockport Town Hall, 6560 Dysing Road, Lockport, New York.

Send comments to Mr. John Austin, Lockport Town Supervisor, Town Hall, 6560 Dysinger Road, Lockport, New York 14094.

Ohio	Portsmouth (City), Scioto County.	Scioto River	From approximately 0.80 mile upstream of U.S. Route 52.	*536	*535
		Ohio River	At the downstream corporate limit	*537	*538
			Approximately 1.0 mile downstream of CSX Transportation.	*537	*538

Maps available for inspection at the Portsmouth Municipal Building, 728 2nd Street, Portsmouth, Ohio.

Send comments to The Honorable Gregory A. Bauer, Mayor of the City of Portsmouth, 728 2nd Street, Portsmouth, Ohio 45662.

Ohio	Rarden (Village), Scioto County.	Rarden Creek	At Norfolk Southern Railway	None	*615
			At the upstream corporate limits	None	*615

Maps available for inspection at the Rarden City Hall, 1400 Main Street, Rarden, Ohio.

Send comments to The Honorable Anna J. Gardner, Mayor of the Village of Rarden, P.O. Box 8, Rarden, Ohio 45671.

Ohio	Scioto County (Unicorporated Areas).	Ohio River	Approximately 1,270 feet downstream of the confluence of Spencer Creek.	*530	*531
			Approximately 4.2 miles downstream of CSX Transportation.	*536	*537

Maps available for inspection at the Scioto County Courthouse, 602 7th Street, Room 1, Portsmouth, Ohio.

Send comments to Mr. Vern Riffe III, Chairman of the Scioto County Board of Commissioners, 602 7th Street, Room 1, Portsmouth, Ohio 45662.

Vermont	Hardwick (Town/Village); Caledonia County.	Lamoille River Divergence	Approximately 460 feet upstream of the confluence with Lamoille River.	*793	*794
			At the divergence from Lamoille River	*805	*804

Maps available for inspection at the Hardwick Town Hall, 20 Church Street, Hardwick, Vermont.

Send comments to Mr. Daniel P. Hill, Hardwick Town/Village Manager, P.O. Box 523, 20 Church Street, Hardwick, Vermont 05843.

Wisconsin	Bay City (Village), Pierce County.	Mississippi River (Lake Pepin).	Entire shoreline within community	*681	*682
		Bay City Creek	Approximately 520 feet downstream of CSX Transportation.	*682	*683
			Approximately 900 feet upstream of Great River Road.	*691	*690

VOL 66 ISS 245 DE 20 2001 UMI

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at Bay City Village Hall, W6371 Main Street, Bay City, Wisconsin.					
Send comments to Mr. James Turvaville, Bay City Village President, P.O. Box 9, Bay City, Wisconsin 54723.					
Wisconsin	Chippewa Falls (City), Chippawa County.	Duncan Creek	Upstream side of Bridge Street	*828	*827
			Approximately 0.72 mile upstream of Glen Loch Dam.	*899	*898
Maps available for inspection at the Chippewa Falls City Hall, 30 West Central Street, Chippewa Falls, Wisconsin.					
Send comments to The Honorable Virginia O. Smith, Mayor of the City of Chippewa Falls, 30 West Central Street, Chippewa Falls, Wisconsin 54729.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: December 11, 2001.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31371 Filed 12–19–01; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 2001–D002]

Defense Federal Acquisition Regulation Supplement; Research and Development Streamlined Contracting Procedures; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction.

SUMMARY: DoD is issuing a correction to the preamble to the proposed rule published at 66 FR 63348–63349, December 6, 2001, pertaining to streamlined research and development contracting.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena Moy, Defense Acquisition Regulations Council, OUSD (AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–1302; facsimile (703) 602–0350.

Correction

In the issue of Thursday, December 6, 2001, on page 63349, in the first column, the second sentence of the **Background** section is corrected to read as follows: "The standard format is available on the research and development streamlined solicitation (RDSS) website at *http://www.rdss.osd.mil.*"

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–31354 Filed 12–19–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223 and 224

[Docket No. 011212298–1298–01; I.D. No. 113001A;]

Listing Endangered and Threatened Wildlife and Plants and Designating Critical Habitat; 90-Day Finding for a Petition to List Atlantic White marlin (*Tetrapturus albidus*)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of petition finding; request for information and comments.

SUMMARY: NMFS announces the 90–day finding for a petition to list Atlantic white marlin (*Tetrapturus albidus*) as threatened or endangered throughout its known range and to designate critical habitat under the Endangered Species Act (ESA). NMFS finds that the petition presents substantial scientific information indicating that the petitioned action may be warranted. NMFS will conduct a status review of Atlantic white marlin to determine if the petitioned action is warranted. To ensure that the review is comprehensive, NMFS is soliciting information and comments pertaining to this species and potential critical habitat from any interested party. NMFS also seeks suggestions from the public for peer reviewers to take part in the peer review process for the Atlantic white marlin status review.

DATES: Comments and information related to this petition finding must be received by February 19, 2002.

ADDRESSES: Requests for copies of the petition, and information and comments on this finding should be submitted to Georgia Cranmore, Assistant Regional Administrator for Protected Resources, National Marine Fisheries Service, Southeast Regional Office, 9721 Executive Center Drive North, St. Peterburg, FL 33702–2432. The petition, finding and supporting data are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jennifer Lee, NMFS Southeast Region, (727) 570–5312; or David O'Brien, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4 (b)(3)(A) of the ESA (16 U.S.C. 1531 *et seq.*) requires that NMFS make a finding as to whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. NMFS' ESA implementing regulations (50 CFR 424.14) define "substantial information" as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. In determining whether substantial information exists for a petition to list a species, NMFS takes into account several factors, including information submitted with, and referenced in, the petition and all other information readily available in NMFS' files. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register**. If NMFS finds that a petition presents substantial information indicating that the requested action may be warranted, section 4 (b)(3)(A) of the ESA requires the Secretary of Commerce (Secretary) to conduct a status review of the species. Section 4 (b)(3)(B) requires the Secretary to make a finding as to whether or not the petitioned action is warranted within 1 year of the receipt of the petition.

Analysis of Petition

On September 4, 2001, NMFS received a petition from the Biodiversity Legal Foundation and James R. Chambers requesting NMFS to list the Atlantic white marlin (Tetrapturus albidus) as threatened or endangered throughout its range, and to designate critical habitat under the ESA. The petition contained a detailed description of the species, including the present legal status; taxonomy and physical appearance; ecological and fisheries importance; distribution; physical and biological characteristics of its habitat and ecosystem relationships; population status and trends; and factors contributing to the population's decline. Potential threats identified in the petition include: (1) overutilization for commercial purposes; (2) inadequacy of existing regulatory mechanisms; (3) predation; and (4) other natural or man-made factors affecting the species' continued existence. The petitioners also included information regarding how the species would benefit from being listed under the ESA, cited references and provided appendices in support of the petition.

Under the ESA, a listing determination can address a species, subspecies, or a distinct population segment (DPS) of a species (16 U.S.C. 1532 (16)). The petitioners requested that NMFS list Atlantic white marlin throughout its entire range. They are found in warm waters throughout tropical and temperate portions of the Atlantic Ocean and its adjacent seas (Caribbean, Mediterranean and Gulf of Mexico). A highly migratory pelagic species, they are found predominantly in the open ocean over deep water, near the surface in the vicinity of major ocean currents where their prey is concentrated. Their food resources include small fishes and invertebrates such as squid that can be swallowed whole.

The petitioners provided a detailed narrative justification for their petitioned action, describing past and present numbers and distribution of Atlantic white marlin. Information regarding its status was provided for the entire range of the species. The petition was accompanied by appropriate supporting documentation, including the most recent stock assessment for this species (SCRS/00/23).

In 1997, the Atlantic white marlin was listed as overfished under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). In April 1999, NMFS published Amendment 1 to the Atlantic Billfish Fishery Management Plan, which included rebuilding programs and measures to reduce bycatch and bycatch mortality for Atlantic billfish, including white marlin. The International Commission for the Conservation of Atlantic Tunas (ICCAT), responsible for management of tunas and tuna-like fishes of the Atlantic Ocean also considers the Atlantic white marlin to be overfished. Several binding recommendations have been adopted by ICCAT over the last few years to reduce landings and improve data and monitoring. The most recent recommendation in November 2000 included a two-phase rebuilding plan involving further landing reductions and the development of more rebuilding measures after the next stock assessments in 2002.

The petitioners assert that existing protection for Atlantic white marlin at both the national and international level is inadequate to conserve the species or prevent its slide to extinction. The population's decline has been documented thoroughly by ICCAT's scientific advisors, the Standing Committee for Research and Statistics (SCRS). According to the petitioners, the primary cause of the Atlantic white marlin decline is due to bycatch in the international swordfish and tuna fisheries. The most recent stock assessment conducted in July of 2000 (SCRS/00/23) indicates that by the end of 1999: (1) the total Atlantic stock biomass had declined to less than 15 percent of its maximum sustainable yield level; (2) fishing mortality was estimated to be at least seven times higher than the sustainable level; (3) overfishing has taken place for over three decades; and (4) the stock is less productive than previously estimated, with a maximum sustainable yield smaller than 1,300 metric tons. The population's abundance was last at its long-term sustainable level in 1980. Reduction in prey species availability may also be a threat to the species, with two of its important prey species, Atlantic bluefish and squid, listed as overfished under the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*).

Petition Finding

Based on the above information and the criteria specified in 50 CFR 424.14 (b)(2), NMFS finds that the petitioner presents substantial scientific and commercial information indicating that a listing of Atlantic white marlin may be warranted. Under section 4 (b)(3)(A) of the ESA, this finding requires that NMFS commence a status review on Atlantic white marlin. NMFS is now initiating this review. Within one year of the receipt of the petition (by September 3, 2002), a finding will be made as to whether listing the Atlantic population of the white marlin as threatened or endangered is warranted, as required by section 4 (b)(3)(B) of the ESA. If warranted, NMFS will publish a proposed rule and take public comment before developing and publishing a final rule.

Listing Factors and Basis for Determination

Under section 4 (a)(1) of the ESA, a species can be determined to be threatened or endangered for any one of the following reasons: (1) Present or threatened destruction, modification, or curtailment of habitat or range; (2) over-utilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Listing determinations are made solely on the basis of the best scientific and commercial data available, after conducting a review of the status of the species and taking into account efforts made by any state or foreign nation to protect such species.

Information Solicited

To ensure that the status review is completed in a timely manner and based on the best available scientific and commercial data, NMFS is soliciting information and comments on whether the Atlantic white marlin is endangered or threatened based on the above listing criteria. Specifically, NMFS is soliciting information in the following areas: (1) Historical and current abundance of Atlantic white marlin; (2) current spatial distribution; (3) population status and trends; (4) information on any current or planned activities that may adversely impact Atlantic white marlin, especially related to the five listing factors identified above; and (4) ongoing efforts to protect Atlantic white marlin and their habitat. NMFS requests that all data, information, and comments be accompanied by: (1) supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (2) the submitter's name, address, and any association, institution, or business that the person represents.

Critical Habitat

NMFS is also requesting information on areas that may qualify as critical habitat for the Atlantic white marlin. Areas that include the physical and biological features essential to the recovery of the species should be identified. Areas outside the present range should also be identified if such areas are essential to the recovery of the species. Essential features include, but are not limited to: (1) space for individual growth and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for reproduction and development of offspring; and (5) habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of the species (50 CFR 424.12 (b)).

For areas potentially qualifying as critical habitat, NMFS requests information describing (1) the activities that affect the area or that could be affected by the designation, and (2) the economic costs and benefits of management measures likely to result from the designation. NMFS is required to consider the probable economic and other impacts on proposed or ongoing activities in making a final critical habitat designation(50 CFR 424.19).

Peer Review

On July 1, 1994, NMFS, jointly with the U.S. Fish and Wildlife Service, published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270). The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. NMFS is soliciting the names of recognized experts in the field that could take part in the peer review process for this status review. Independent peer reviewers will be selected from the academic and scientific community, tribal and other Native American groups, Federal and state agencies, the private sector, and public interest groups.

References Cited

SCRS. 2000. Report of the ICCAT Billfish Workshop (Miami, FL, USA, July 18–28,2000) – Billfish Detailed Report

Authority: 16 U.S.C. 1531 *et seq.*

Dated: December 14, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31285 Filed 12–19–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 66, No. 245
Thursday, December 20, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 01–082–1]

Declaration of Emergency Because of Infectious Salmon Anemia

Infectious salmon anemia (ISA) is a foreign animal disease of Atlantic salmon caused by an orthomyxovirus. While this virus appears to only cause disease in Atlantic salmon, both wild and farmed, sea run brown trout, rainbow trout, and other wild fish such as herring may act as carriers or reservoirs of the virus. Since its first isolation in Norway in 1984, it has also been found in Canada and Scotland. ISA may also be called hemorrhagic kidney syndrome (HKS) in Atlantic salmon. The first case of ISA in the United States was confirmed on February 15, 2001. As of June 25, 2001, eight cases have been confirmed in Maine.

Clinical signs of ISA generally appear within 2 to 4 weeks after infection and include lethargy, swelling and hemorrhaging of the kidneys and other organs, protruding eyes, pale gills, darkening of the posterior gut, and swelling of the spleen. Mortality is highly variable and can range from 3 percent to over 50 percent over one production cycle, depending on a number of factors.

Transmission occurs by direct contact, through parts from infected fish (mucus, blood, viscera, trimmings, feces), contact with equipment contaminated with parts from infected fish, people who handled infected fish, and sea lice. Salmon pens within 3 miles of infected farms or processing plants handling infected fish without adequate waste treatment have up to 13 times greater risk of becoming infected with ISA.

The State of Maine has taken steps to prevent further spread of ISA; however, the State lacks sufficient funding and personnel to effectively control this disease, which poses a potentially serious threat to animal health and the U.S. economy. Therefore, State officials have asked the United States Department of Agriculture (USDA) to assist with epidemiology, surveillance, and indemnification programs. Our goal is to control and contain the disease through rapid detection and depopulation of salmon that have been infected with or exposed to ISA.

We believe the virus can be controlled and contained within high-risk zones through surveillance, vaccination, and best management practices. Control of ISA requires depopulation of all pens holding infected fish, but the risk of loss of stock without indemnification makes it less likely that farmers will report outbreaks, and currently, farmers are under no obligation to report the occurrence of fish disease to the Animal and Plant Health Inspection Service (APHIS) of the USDA. Indemnification is necessary to provide an incentive for farmers to report diseased fish and to continue testing.

Vaccination appears to be a potentially effective means of controlling ISA. If vaccines now being tested prove to be efficacious, restocking affected zones with vaccinated smolts could reduce the incidence and spread of ISA. APHIS could be instrumental in vaccine development and providing permits for vaccine distribution.

Successful control of ISA also requires extensive surveillance. Current surveillance in the high-risk zones of Maine's Cobscook and Passamaquoddy Bays has been limited to once per month because of that State's budgetary and personnel considerations. Elsewhere, surveillance has been limited to a quarterly basis. To control ISA, it is vital that all sites, both high- and low-risk, undergo monthly surveillance.

Canada has been seriously affected by ISA. Fish farmers in that country have lost $70 million (in U.S. dollars) as a result of the virus, and Canada's Federal and Provincial governments have contributed over $29.5 million (in U.S. dollars) to compensate salmon farmers. As a result of a comprehensive ISA program that includes indemnification, Canada has reduced the incidence of ISA from 18 infected sites in 1998 to 4 infected sites in 2001.

In addition to posing a significant worldwide risk to the economic viability and sustainability of salmon aquaculture, ISA poses a specific threat to the United States. Salmon production in Maine exceeds 36.2 million pounds annually, with a value of $101 million. Outbreaks of ISA in Maine have already cost that State's salmonid industry approximately $11 million due to the depopulation of infected or exposed salmon. This loss is greater when capital expenditures such as labor costs and equipment are considered.

These lost revenues have more significant effects. Resulting budgetary effects have compromised efforts by the State of Maine and by the salmonid industry to control ISA. Additionally, the devastating effects of the virus reach the economies of other States and have serious ramifications for international trade. For example, when ISA emerged in Maine, Chile and the European Union prohibited the importation of trout and salmon eggs from the States of Washington, Maine, and Idaho. The resulting trade loss is estimated at $2 million for 2001.

Therefore, in order to address the ISA threat to the U.S. salmonid industry, APHIS has determined that additional funds are needed for an ISA control program. In addition to the payment of indemnity, these funds will be used for program activities such as depopulation and disposal, clean-up and disinfection, establishment of surveillance programs, epidemiology and diagnostic support, and training for producers and veterinarians. These activities will reduce the spread of ISA and should save the Federal Government and salmonid industry from having to deal with a more costly and widespread problem in the future.

Therefore, in accordance with the provisions of the Act of September 25, 1981, as amended (7 U.S.C. 147b), I declare that there is an emergency that threatens the livestock industry of this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the agencies or corporations of the United States Department of Agriculture to establish an ISA control program in the United States.

EFFECTIVE DATE: This declaration of emergency shall become effective December 13, 2001.

Ann M. Veneman,

Secretary of Agriculture.

[FR Doc. 01–31365 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Hood/Willamette Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Meeting.

SUMMARY: The Hood/Willamette Resource Advisory Committee (RAC) will meet on Thursday and Friday, January 24–25, 2001. The meeting is scheduled to begin at 9:30 a.m. on Thursday and 8 a.m. on Friday, and will conclude at approximately 5 p.m. on Thursday and 12 p.m. on Friday. The meeting will be held at the Linn County Fair and Expo Center; 3700 Knox Butte Road; Albany, Oregon; (541) 926–4314. The tentative agenda includes: (1) Training on Federal Advisory Committee Act regulations; (2) Orientation on operation, roles, and responsibilities of the RAC; (3) Project submission and approval process; (4) Public Forum; (5) Training on collaboration; (6) Election of RAC chairperson.

The Public Forum is tentatively scheduled to begin at 3:30 p.m. on Thursday. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the January 24th meeting by sending them to Designated Federal Official Donna Short at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Donna Short; Sweet Home Ranger District; 3225 Highway 20; Sweet Home, Oregon 97386; (541) 367–5220.

Dated: December 14, 2001.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 01–31324 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Madera and Fresno County Resource Advisory Committees; Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Resource Advisory Committee meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act of 1972 (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Sierra National Forest's Resource Advisory Committees (RAC) for Madera and Fresno Counties will meet on January 12, 2002. The Madera Resource Advisory Committee will meet at the Mariposa/Minarets Ranger Station in North Fork, CA. The Fresno County Resource Advisory Committee will meet at the Pineridge/Kings River Ranger Station in Prather, CA. The purpose of the meetings is to provide an overview of Resource Advisory Committee roles and responsibilities and to determine how the RAC will conduct business for future meetings.

DATES: Both the Madera and the Fresno meetings will be held on January 12, 2002. The meetings will be held from 8 a.m. To 4 p.m.

ADDRESSES: The Madera County RAC meeting will be held at the Mariposa/Minarets Ranger Station, 57003 Road 225, North Fork CA. The Fresno County RAC meeting will be held at the Pineridge/Kings River Ranger Station, 29688 Auberry Road, Prather CA.

FOR FURTHER INFORMATION CONTACT: Sue Exline, USDA, Sierra National Forest, 1600 Tollhouse Road, Clovis, CA 93611 (559) 297–0706 ext. 4804 e-MAIL *skexline@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Roles and responsibility of Advisory Committee; (2) Flow of work; (3) Project process, submission forms and deadlines; (4) Election of RAC chairperson; (5) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 14, 2001.

James L. Boynton,

Forest Supervisor.

[FR Doc. 01–31323 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121401D]

Proposed Information Collection; Comment Request; Alaska Region Logbook Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA)

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before February 19, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patsy A. Bearden, F/AKR2, P.O. Box 21668, Juneau, AK 99802–1668 (telephone 907–586–7008).

SUPPLEMENTARY INFORMATION:

I. Abstract

NMFS manages the U.S. groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). The North Pacific Fishery Management Council prepared the FMPs pursuant to the Magnuson-Stevens Act. Regulations implementing the FMPs are at 50 CFR part 679.

The recordkeeping and reporting requirements at 50 CFR part 679.5 form the basis for this collection of information. The National Marine Fisheries Service (NMFS) Alaska Region requests information from participating groundfish fishermen which, upon receipt, results in an increasingly more efficient and accurate database. The collection is necessary for the management and monitoring of the groundfish fisheries of the EEZ off

Alaska for purposes of conservation of the fisheries.

II. Method of Collection

Daily logbooks and paper forms are required from participants, and methods of submittal include paper logbooks, facsimile transmission of paper forms, and electronic reporting. The specific types of reporting required are identified below in the section for "Estimated Time Per Response."

III. Data

OMB Number: 0648–0213.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 1,033.

Estimated Time Per Response: 35 minutes for Weekly Cumulative Mothership ADF&G Fish Tickets; 14 minutes for U.S. Vessel Activity Report; 18 minutes for Catcher Vessel trawl gear daily fishing logbook (DFL); 28 minutes for Catcher Vessel longline and pot gear DFL; 30 minutes for Catcher/processor trawl gear daily cumulative production logbook (DCPL); 41 minutes for Catcher/processor longline and pot gear DCPL; 31 minutes for Shoreside processor DCPL; 31 minutes for Mothership DCPL; 8 minutes for Shoreside Processor Check-in/Check-out Report; 7 minutes for Mothership or Catcher/processor Check-in/Check-out Report; 11 minutes for Product transfer report; 17 minutes for Weekly Production Report; 11 minutes for Daily Production Report; estimated time to electronically submit the weekly production report (5 min./report); 5 minutes to electronically submit the check-in/check-out report; 23 minutes for buying station report.

Estimated Total Annual Burden Hours: 45,086.

Estimated Total Annual Cost to Public: $215,786.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 13, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–31396 Filed 12–19–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Mississippi River Diversion Near Benny's Bay, Ecosystem Restoration Analysis, Mississippi River Delta, LA

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Estimates show that approximately 30 square miles of coastal wetlands convert to open water in Louisiana each year. The causes of the wetland loss are varied and complex, depending upon wetland location and type. Wetland loss has been attributed to the loss of freshwater, nutrient, and sediment input from the Mississippi River due the construction of flood protection levees, salt water intrusion, oil and gas access canals, navigation channels, subsidence, and sea level rise. The loss of wetlands has serious negative impacts to fish and wildlife populations, hurricane protection, and the economy of Louisiana and the nation. Many believe that reestablishment of freshwater, nutrient, and sediment flows from the Mississippi River into degraded wetlands would restore and sustain coastal wetland ecosystem structure and function that have been lost.

FOR FURTHER INFORMATION CONTACT: Questions concerning the EIS should be addressed to Mr. Michael Salyer at (504) 862–2037. Mr. Salyer may also be reached at fax number (504) 862–2572 or by e-mail at *michael.r.salyer@mvn02.usace.army.mil*. Mr. Salyer's address is U.S. Army Corps of Engineers, PM–RS, P.O. Box 60267, New Orleans, Louisiana 70160–0267.

SUPPLEMENTARY INFORMATION:

1. *Authority*. The U.S. Army Corps of Engineers, New Orleans District, at the direction of the Louisiana Coastal Wetlands Conservation and Restoration Task Force, is initiating this study under the authority of the Coastal Wetlands Planning, Protection and Restoration Act, Pub. L. 101–646. This act includes funds for the planning of measures for the creation, restoration, protection and enhancement of coastal wetlands.

2. *Proposed Action*. The proposed action would restore, enhance, and sustain the coastal wetlands ecosystem east of the Mississippi River in Mississippi River Delta, Louisiana. This ecosystem is located in Region 2, Mississippi River Delta, Plaquemines Parish. The diversion inlet would be located on the east bank of the Mississippi River at Mile 7.5 above Head of Passes. This action would likely utilize the nutrients, freshwater, and sediment of the Mississippi River for this restoration. This proposed action is intended to reestablish ecosystem functions. This proposed action would restore the wetland acreage and biodiversity of the Mississippi River Delta. Environmental analysis would be used to determine the most practical plan, which would provide for the greatest overall public benefit. The recommended plan would restore degraded wetlands with the least adverse impacts to stakeholder interests.

3. *Alternatives*. Alternatives recommended for consideration presently include the construction of a river diversion structure in the vicinity of Benny's Bay, dedicated dredging to construct wetlands, the construction of outfall management structures, and combinations of the above. Various capacities for the diversion structure would be investigated. Various increments of dedicated dredging and increments of long-term diversion amounts would also be investigated.

4. *Scoping*. Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the EIS. For this analysis, a letter will be sent to all parties believed to have an interest in the analysis, requesting their input on alternatives and issues to be evaluated. The letter will also notify interested parties of public scoping meetings that will be held in the local area. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

A public scoping meeting will be held in the early part of 2002. The meeting will be held in Plaquemines parish, Louisiana. Additional meetings could be held, depending upon interest and if it is determined that further public coordination is warranted.

5. *Significant Issues.* The tentative list of resources and issues to be evaluated in the EIS includes tidal wetlands (marshes and swamps), aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items to be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

6. *Environmental Consultation and Review.* The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife Coordination Act consultation procedures. The USFWS will also provide a Fish and Wildlife Coordination Act report. Consultation will also be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted on the effects of this proposed action on Essential Fish Habitat. The draft EIS or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

7. *Estimated Date of Availability.* Funding levels will dictate the date when the draft EIS is available. The earliest that the draft EIS is expected to be available is summer of 2002.

Dated: December 11, 2001.

Michael R. Burt,

Lieutenant Colonel, U.S. Army, Acting District Engineer.

[FR Doc. 01–31358 Filed 12–19–01; 8:45 am]

BILLING CODE 3710–04–P

DEPARTMENT OF ENERGY

Office of Science; Continuation of Solicitation for the Office of Science Financial Assistance Program—Notice 02–01

AGENCY: U.S. Department of Energy.

ACTION: Annual notice of continuation of availability of grants and cooperative agreements.

SUMMARY: The Office of Science of the Department of Energy hereby announces its continuing interest in receiving grant applications for support of work in the following program areas: Basic Energy Sciences, High Energy Physics, Nuclear Physics, Advanced Scientific Computing, Fusion Energy Sciences, Biological and Environmental Research, and Energy Research Analyses. On September 3, 1992, (57 FR 40582), DOE published in the **Federal Register** the Office of Energy Research Financial Assistance Program (now called the Office of Science Financial Assistance Program), 10 CFR part 605, Final Rule, which contained a solicitation for this program. Information about submission of applications, eligibility, limitations, evaluation and selection processes and other policies and procedures are specified in 10 CFR part 605.

DATES: Applications may be submitted at any time in response to this Notice of Availability.

ADDRESSES: Applications must be sent to: Director, Grants and Contracts Division, Office of Science, SC–64, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290. When preparing applications, applicants should use the Office of Science Financial Assistance Program Application Guide and Forms located on the World Wide Web at *http://www.science.doe.gov/production/grants/grants.html*. Applicants without Internet access may call 301–903–5212 for information.

SUPPLEMENTARY INFORMATION: This notice is published annually and remains in effect until it is succeeded by another issuance by the Office of Science, usually published after the beginning of the fiscal year. This annual Notice 02–01 succeeds Notice 01–01, which was published December 7, 2000.

It is anticipated that approximately $400 million will be available for grant and cooperative agreement awards in FY 2002. The DOE is under no obligation to pay for any costs associated with the preparation or submission of an application. DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this Notice.

The following program descriptions are offered to provide more in-depth information on scientific and technical areas of interest to the Office of Science:

1. Basic Energy Sciences

The Basic Energy Sciences (BES) program supports fundamental research in the natural sciences and engineering leading to new and improved energy technologies and to understanding and mitigating the environmental impacts of energy technologies. The science areas and their objectives are as follows:

(a) Materials Sciences

The objective of this program is to increase the understanding of phenomena and properties important to materials behavior that will contribute to meeting the needs of present and future energy technologies. It is comprised of the subfields metallurgy, ceramics, condensed matter physics, materials chemistry, and related disciplines where the emphasis is on the science of materials.

Program Contact: (301) 903–3427.

(b) Chemical Sciences

The objective of this program is to expand, through support of basic research, knowledge of various areas of chemistry, chemical engineering and atomic molecular and optical physics with a goal of contributing to new or improved processes for developing and using domestic energy resources in an efficient and environmentally sound manner. Disciplinary areas where research is supported include atomic molecular and optical physics; physical, inorganic and organic chemistry; chemical physics; photochemistry; radiation chemistry; analytical chemistry; separations science; actinide chemistry; and chemical engineering sciences. Program Contact: (301) 903–5804.

(c) Engineering Research

This program's objectives are: (1) To extend the body of knowledge underlying current engineering practice in order to open new ways for enhancing energy savings and production, prolonging useful equipment life, and reducing costs while maintaining output performance, and environmental quality; and (2) to broaden the technical and conceptual base for solving future engineering problems in the energy technologies. Program Contact: (301) 903–3427.

(d) Geosciences

The goal of this program is to develop a quantitative and predictive understanding of geologic processes related to energy and environmental quality. The program emphasizes cross-cutting basic research that will improve understanding of reactive geochemical transport and other subsurface processes and properties and how to image them using techniques ranging from electrons, x-rays or neutrons to electromagnetic and seismic waves. Applications of this fundamental understanding might include transport of contaminant fluids, hydrocarbons, sequestered CO2 or

VOL 66 ISS 245 DE 20 2001 UMI

performance prediction for repository sites. The emphasis is on the disciplinary areas of geochemistry, geophysics, geomechanics, and hydrogeology with a focus on the upper levels of the earth's crust. Particular emphasis is on processes taking place at the atomic and molecular scale. Specific topical areas receiving emphasis include: high resolution geophysical imaging; rock physics, physics of fluid transport, and fundamental properties and interactions of rocks, minerals, and fluids.

Program Contact: (301) 903–4061.

(e) Energy Biosciences

The primary objective of this program is to generate an understanding of fundamental biological mechanisms in plants and microorganisms that will support future technological developments related to DOE's mission. The research serves to provide the basic information foundation for environmentally responsible production and conversion of renewable resources for fuels, chemicals, and the conservation of energy. This program has special requirements for the submission of preapplications, when to submit, and the length of the applications. Applicants are encouraged to contact the program regarding these requirements.

Program Contact: (301)–903–2873.

2. High Energy and Nuclear Physics

This program supports about 90% of the U.S. efforts in high energy and nuclear physics. The objectives of these programs are indicated below:

(a) High Energy Physics

The primary objectives of this program are to understand the ultimate structure of matter in terms of the properties and interrelations of its basic constituents, and to understand the nature and relationships among the fundamental forces of nature. The research falls into three broad categories: Experimental research, theoretical research, and technology R&D in support of the high energy physics program.

Program Contact: (301)–903–3624.

(b) Nuclear Physics (Including Nuclear Data Program)

The primary objectives of this program are an understanding of the interactions and structures of atomic nuclei and nuclear matter at the most elementary level possible, and an understanding of the fundamental forces of nature as manifested in nuclear matter.

Program Contact: (301)–903–3613.

3. Advanced Scientific Computing Research

This program fosters and supports fundamental research in advanced computing research (applied mathematics, computer science and networking), and operates supercomputer, networking, and related facilities to enable the analysis, modeling, simulation, and prediction of complex phenomena important to the Department of Energy.

Mathematical, Information, and Computational Sciences

This subprogram supports a spectrum of fundamental research in applied mathematical sciences, computer science, and networking from basic through prototype development. Results of these efforts are used to form partnerships with users in scientific disciplines to validate the usefulness of the ideas and to develop them into tools. Testbeds on important applications for DOE are supported by this subprogram. Areas of particular focus are:

Applied Mathematics: Research on the underlying mathematical understanding and numerical algorithms to enable effective description and prediction of physical systems such as fluids, magnetized plasmas, or protein molecules. This includes, for example, methods for solving large systems of partial differential equations on parallel computers, techniques for choosing optimal values for parameters in large systems with hundreds to hundreds of thousands of parameters, improving our understanding of fluid turbulence, and developing techniques for reliably estimating the errors in simulations of complex physical phenomena.

Computer Science: Research in computer science to enable large scientific applications through advances in massively parallel computing such as very lightweight operating systems for parallel computers, distributed computing such as development of the Parallel Virtual Machine (PVM) software package which has become an industry standard, and large scale data management and visualization. The development of new computer and computational science techniques will allow scientists to use the most advanced computers without being overwhelmed by the complexity of rewriting their codes every 18 months.

Networking: Research in high performance networks and information surety required to support high performance applications—protocols for high performance networks, methods for measuring the performance of high performance networks, and software to enable high speed connections between high performance computers and networks. The development of high speed communications and collaboration technologies will allow scientists to view, compare, and integrate data from multiple sources remotely.

Program Contact: (301)–903–5800.

4. Fusion Energy Sciences

The mission of the Fusion Energy Sciences program is to advance plasma science, fusion science, and fusion technology—the knowledge base needed for an economically and environmentally attractive fusion energy source. The Office of Fusion Energy Sciences (OFES) supports basic and applied research, encourages technical connectivity with the broader U.S. science community, and uses international collaboration to accomplish this mission.

(a) Research Division

This Division seeks to develop the physics knowledge base needed to advance the Fusion Energy Sciences program toward its goals. Research into physics issues associated with medium to large-scale confinement devices is essential to studying conditions relevant to the production of fusion energy. Experiments on this scale of devices are used to explore the limits of specific confinement concepts, as well as study associated physical phenomena. Specific areas of interest include: (1) Reducing plasma energy and particle transport at high densities and temperatures, (2) understanding the physical laws governing confinement of high pressure plasmas, (3) investigating plasma wave interactions, and (4) studying and controlling impurity particle transport and exhaust in plasmas.

Research is also carried out in the following areas: (1) Basic plasma science research directed at furthering the understanding of fundamental processes in plasmas; (2) theoretical research to provide the understanding of fusion plasmas necessary for interpreting results from present experiments, planning future experiments, and designing future confinement devices; (3) critical data on plasma properties, atomic physics and new diagnostic techniques for support of confinement experiments; (4) supporting research on innovative confinement concepts; and (5) research on issues that support the development of Inertial Fusion Energy, for which target development is carried out by the

VOL 66 ISS 245 DE 20 2001 UMI

Office of Defense Programs in the Department of Energy's National Nuclear Security Agency.

Program Contact: (301) 903–4095.

(b) Facilities and Enabling Technologies Division

This Division is responsible for overseeing the facility operations and enabling research and development activity budgets within the OFES. Grant program opportunities are in the enabling research and development activity. (Grants for scientific use of the facilities operated/maintained by this Division should be addressed to the Research Division.) The enabling technologies program supports the advancement of fusion science in the nearer-term by carrying out research on technological topics that: (1) Enable domestic experiments to achieve their full performance potential and scientific research goals; (2) permit scientific exploitation of the performance gains being sought from physics concept improvements; (3) allow the U.S. to enter into international collaborations gaining access to experimental conditions not available domestically; and (4) explore the science underlying these technological advances.

The enabling technologies program supports pursuit of fusion energy science for the longer-term by conducting research aimed at innovative technologies, designs and materials to point toward an attractive fusion energy vision and affordable pathways for optimized fusion development.

Program Contact: (301) 903–3068.

5. Biological and Environmental Research Program

For over 50 years the Biological and Environmental Research (BER) Program has been investing to advance environmental and biomedical knowledge connected to energy. The BER program provides fundamental science to underpin the business thrusts of the Department's strategic plan. Through its support of peer-reviewed research at national laboratories, universities, and private institutions, the program develops the knowledge needed (1) To identify, understand, and anticipate the long-term health and environmental consequences of energy production, development, and use, and (2) to develop biology based solutions that address DOE and National needs.

(a) Life Sciences Research

Research is focused on using DOE's unique resources and facilities to develop fundamental biological information and advanced technologies to understand and mitigate potential health effects of energy development, energy use, and waste cleanup, and that will underpin biotechnology based solutions to energy challenges. The objectives are: (1) To create and apply new technologies and resources in DNA sequencing, comparative genomics, and bioinformatics to characterize the human genome; (2) to develop and support DOE national user facilities for use in fundamental structural biology; (3) to use model organisms to understand human genome organization, human gene function and control, and the functional relationships between human genes and proteins; (4) to characterize and exploit the genomes and diversity of microbes with potential relevance for energy, bioremediation, or global climate; (5) to understand and characterize the risks to human health from exposures to low levels of radiation; and (6) to anticipate and address ethical, legal, and social implications arising from genome research.

Program Contact: (301) 903–5468.

(b) Medical Applications and Measurement Science

The research is designed to develop beneficial applications of nuclear and other energy-related technologies for medical diagnosis and treatment. The research is directed at discovering new applications of radiotracer agents for medical research as well as for clinical diagnosis and therapy. A major emphasis is placed on application of the latest concepts and developments in genomics, structural biology, computational biology, and instrumentation. Much of the research seeks breakthroughs in noninvasive imaging technologies such as positron emission tomography.

The measurement science activities focus on research in the basic science of chemistry, physics and engineering as applied to bioengineering.

Program Contact: (301) 903–3213.

(c) Environmental Remediation

The research is primarily focused on the fundamental biological, chemical, geological, and physical processes that must be understood for the development and advancement of new, effective, and efficient processes for the remediation and restoration of the Nation's nuclear weapons production sites. Priorities of this research are bioremediation and operation of the William R. Wiley Environmental Molecular Sciences Laboratory (EMSL). Bioremediation activities are centered on the Natural and Accelerated Bioremediation Research (NABIR) program, which provides the fundamental science to serve as the basis for development of cost-effective bioremediation and long-term stewardship of radionuclides and metals in the subsurface at DOE sites.

Program Contact: (301) 903–3281.

(d) Environmental Processes

The program seeks to understand the basic physical, chemical, and biological processes of the Earth's atmosphere, land, and oceans and how these processes may be affected by energy production and use. The research is designed to provide data that will enable an objective assessment of the potential for and the consequences of human-induced climate change at global and regional scales. It also provides data to enable assessments of mitigation options to prevent such a change. The program is comprehensive with an emphasis on understanding and simulating the radiation balance from the surface of the Earth to the top of the atmosphere (including the effect of clouds, water vapor, trace gases, and aerosols), on enhancing the quantitative models necessary to predict possible climate change at global and regional scales, and on understanding ecological effects of climate change.

The Climate Change Technology (CCT) research seeks the understanding necessary to exploit the biosphere's natural carbon cycling processes to enhance the sequestration of carbon dioxide in terrestrial systems and the ocean, and to understand its potential environmental implications. The CCT includes research that can lead to the development of approaches to reduce or overcome the environmental and biological factors or processes that limit the sequestration of carbon in these systems to enhance the net sequestration of carbon. The research includes studies on terrestrial and ocean carbon sequestration and disposal, including research to modify the carbon sequestration capacity and rate by marine and terrestrial organisms and to understand the potential environmental implications of designed enhancements of carbon sequestration by terrestrial systems, and impacts of purposeful CO_2 injection in oceans.

Program Contact: (301) 903–3281.

6. Energy Research Analyses

This program supports energy research analyses of the Department's basic and applied research activities. Specific objectives include assessments to identify any duplication or gaps in scientific research activities, and impartial and independent evaluations of scientific and technical research efforts. Consistent with these overall objectives, this program conducts numerous research studies to assess directions in science and to identify and assess new and improved approaches to science management.

Program Contact: (202) 586–9942.

7. Experimental Program to Stimulate Competitive Research (EPSCoR)

The objective of the EPSCoR program is to enhance the capabilities of EPSCoR states to conduct nationally competitive energy-related research and to develop science and engineering manpower to meet current and future needs in energy-related fields. This program addresses basic research needs across all of the Department of Energy research interests. Research supported by the EPSCoR program is concerned with the same broad research areas addressed by the Office of Science programs that are described in this notice. The EPSCoR program is restricted to applications, which originate in twenty-one states (Alabama, Alaska, Arkansas, Hawaii, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming) and the commonwealth of Puerto Rico. It is anticipated that only a limited number of new competitive research grants will be awarded under this program subject to the availability of funds.

Program Contact: (301) 903–3427.

Issued in Washington, DC on: December 10, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–31351 Filed 12–19–01; 8:45 am]

BILLING CODE 6450–02–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, January 9, 2002, 6:00 p.m.–9:00 p.m.

ADDRESSES: Grant Sawyer State Office Building, 555 East Washington Avenue, Room 4401, Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197, fax: 702–295–5300.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: 1. Focus on the results of the recent peer review conducted on the Nevada Test Site Underground Test Area project strategy. Members of the Peer Review Team will be at the meeting to discuss their approach to the review and will be available to address question related to the technical report.

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC, on December 17, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31348 Filed 12–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Fernald; Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Saturday, January 12, 2002, 8:30 a.m.–12:00 p.m.

ADDRESSES: Public Environmental Information Center 10995 Hamilton-Cleves Highway, Harrison, OH.

FOR FURTHER INFORMATION CONTACT: Doug Sarno, Phoenix Environmental, 6186 Old Franconia Road, Alexandria, VA 22310, at (703) 971–0030 or (513) 648–6478, or e-mail: djsarno@theperspectivesgroup.com.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

8:30 a.m., Call to Order
8:30–8:45 a.m., Chair's Remarks and Ex Officio Announcements
8:45–9:45 a.m., Current Remediation Issues, Silos, Efficiency Efforts
9:45–10:00 a.m., Break
10:00–11:15 a.m., Budget and Priority Issues for FY 2006 Planning
11:15–11:45 a.m., Update and Planning for Public Records Feasibility Study
11:45–12:00 p.m., Public Comments
12:00 p.m., Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed below. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Office, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC, 20585 between 9:00 a.m. and 4:00 p.m., Monday–Friday, except Federal holidays.

VOL 66 ISS 245 DE 20 2001 UMI

Minutes will also be available by writing to the Fernald Citizens' Advisory Board, % Phoenix Environmental Corporation, MS–76, Post Office Box 538704, Cincinnati, OH 43253–8704, or by calling the Advisory Board at (513) 648–6478.

Issued at Washington, DC, on December 14, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31349 Filed 12–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Objective Merit Review of Discretionary Financial Assistance Applications

AGENCY: Department of Energy.

ACTION: Notice of objective merit review procedure.

SUMMARY: This Notice establishes the procedure followed by program and regional support offices under the purview of the Assistant Secretary for Energy Efficiency and Renewable Energy in conducting the objective merit review of discretionary financial assistance applications.

DATES: Effective date: December 20, 2001.

FOR FURTHER INFORMATION CONTACT: LaTonya Poole, Office of Energy Efficiency and Renewable Energy, EE–3.2, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–3835.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Applicability of Notice
III. Distinction between Solicited and Unsolicited Proposals
IV. Objective Merit Review Procedure
V. Deviations
VI. EERE Selection Process

I. Introduction

The Department of Energy (DOE) today gives notice of the procedure for the objective merit review of discretionary financial assistance in the Office of Energy Efficiency and Renewable Energy (EERE). Financial assistance is provided, in the form of a grant or cooperative agreement, when the principal purpose of the transaction is the transfer of money or property to accomplish a public purpose of support or stimulation as authorized by Federal statute. Discretionary financial assistance is financial assistance provided under a Federal statute which authorizes DOE to select the recipient and the project to be supported and to determine the amount to be awarded. This differs from a procurement, which refers to instruments used when the principal purpose of the transaction is the acquisition of supplies or services for the direct benefit of the Government. The procedure implements the objective merit review provisions of the DOE Financial Assistance Rules in (10 Code of Federal Regulations (CFR) 600.13).

II. Applicability of Notice

The procedure covers the evaluation of all discretionary financial assistance applications within the programs of the DOE Office of Energy Efficiency and Renewable Energy and applies to both solicited and unsolicited applications.

III. Distinction Between Solicited and Unsolicited Proposals

Solicited proposals are direct responses by interested organizations or individuals to published requests issued by DOE for the submission of applications for discretionary financial assistance awards. Solicited proposals are awarded on a competitive basis using the criteria set forth in 10 CFR 600.8. When a proposal is submitted solely on the proposer's initiative and the idea, method or approach which would not be eligible for assistance under a recent, current, or planned solicitation, and if, as determined by DOE, a competitive solicitation would not be appropriate, the proposal is considered an unsolicited proposal. Unsolicited proposals are awarded on a noncompetitive basis using the criteria set forth in 10 CFR 600.6 (c). The two types of proposals are treated differently, as described in paragraph IV. (c), below.

IV. Objective Merit Review Procedure

(a) *Definition and Purpose.* Merit review is the process of evaluating applications for discretionary financial assistance using established criteria. The review is thorough, consistent and independent and is completed by individuals knowledgeable in the field of endeavor for which support is requested. The purpose of the review is to provide advice on the technical and cost-related merits of applications to the Selection Official with decision-making authority over the award of discretionary financial assistance.

(b) *Basic Review Standards.* (1) *Initial Review.* All discretionary financial assistance applications received by EERE will be assigned to the respective EERE program official who will initially review the document(s) for conformance with the technical and administrative requirements stated in the program rule, notice or solicitation. Applicants not meeting the technical and administrative requirements of the program rule, notice or solicitation will be considered non-responsive. Non-responsive applications will not receive further consideration for financial assistance. Non-responsive applicants will be notified in writing. (2) *Evaluation.* Solicited applications which pass the initial review will be evaluated in accordance with stated evaluation criteria set forth in the program rule, notice or solicitation. Those applications not meeting the evaluation criteria of the program rule, notice or solicitation may be returned to the sender to be corrected, modified or supplemented by the sender. Those applications judged to be so inadequate that an evaluation is not warranted will not receive further consideration for financial assistance and may be returned to the sender. Unsolicited proposals will be reviewed to determine whether program policy factors would encourage further review of the proposal.

(c) *Criteria for Merit Review.* Applications which pass the initial review and meet the evaluation criteria set forth in the program rule, notice or solicitation are subjected to an objective merit review for discretionary financial assistance. The criteria used for the evaluation of solicited applications must be clearly stated in the solicitation along with the relative importance given to each criterion. The criteria, and other mandatory information specified in 10 CFR 600.8, must be in the solicitation. If an unsolicited proposal is initially favorably evaluated against program policy factors, it should be considered for an objective merit review for discretionary financial assistance. Eligibility requirements for the award of unsolicited proposals are set forth in 10 CFR 600.6 (c).

(d) *The Merit Review Committee.* (1) The Assistant Secretary for Energy Efficiency and Renewable Energy (ASEE) has the ultimate responsibility for appointments to a merit review committee (the Committee). The ASEE may delegate the appointment authority and decision-making authority (Selection Official function) to Deputy Assistant Secretaries (DAS), Office Directors and Regional Support Office Directors.

(2) The Committee, whether a standing committee or other review committee, will consist of three or more professionally and technically qualified

persons. The committee members may be a mixture of Federal and Non-federal experts. Non-federal members will be selected on the basis of their professional qualifications and expertise.

(3) Members of the merit review committee should exclude anyone who, on behalf of the Federal Government, performs any of the following functions:

(i) Providing substantial technical assistance to the applicant;

(ii) Approving/disapproving or having any decision-making role regarding the application;

(iii) Serving as the Contracting Officer (CO) or performing business management functions for the project;

(iv) Auditing the recipient for the project;

(v) Exercising line authority over anyone ineligible to serve as a reviewer because of the above limitations.

(4) The Selection Official must appoint one member of the merit review committee to serve as chairperson. The chairperson is responsible for:

(i) Obtaining signed certificates of confidentiality from all committee members;

(ii) Preparing the written summary of the evaluation and recommendations for the Selection Official for the applicant's file; and

(iii) Performing the merit review duties of a regular committee member.

(5) The nature of EERE's program solicitations will dictate the feasibility of using standing or ad hoc committees. When solicitations are generally being issued to meet specific program objectives with time or subject limitations, EERE program offices will use ad hoc committees. Ad hoc committees are also appropriate under the following circumstances:

(i) For small numbers of applications received intermittently;

(ii) For programs of short duration, usually under one year;

(iii) To supplement review by standing committees when the volume of applications is usually large, and for applications with special review requirements.

(6) The regular use of ad hoc committees does not preclude the use of standing committees under the following circumstances:

(i) When required by legislation,

(ii) When a sufficient number of applications on a specific topic are received regularly and there is a sufficient number of qualified experts willing to serve on the committee for a prolonged tenure; and

(iii) When the legislative authority for the particular program involved extends for more than one year.

(7) Field readers may be used as an adjunct to a review committee. Field readers must be fully briefed by the designated Contract Officer's Representative so as to understand the process, including the review criteria, the weight given each criterion, and the fact that any criteria not specified in the solicitation are not to be used to evaluate the applications. Field readers must sign a certificate of confidentiality, as provided in 10 CFR 600.13(d). Field readers should follow, as closely as possible, the procedures that would have been used by a standing committee.

(e) *Conflict of Interest.* Members of the review committee must act in a manner consistent with 10 CFR 1010.101. Reviewers who do not meet these requirements shall not review, discuss, or make recommendations concerning the application. Review committee members with a conflict of interest shall also absent themselves from all meetings in which the application in question is discussed.

(f) *Authorized Uses of Information.* The review committee must act in a manner consistent with 10 CFR 600.15 when dealing with applications containing trade secrets, privileged, confidential commercial, and/or financial information, unless the information is unrestricted information available from other sources.

(g) *Authority Beyond Evaluation.* The Selection Official may decide not to accept a proposal that receives a favorable recommendation from the merit review committee due to policy program factors. The explanation for the decision not to accept a recommendation from the merit review committee must be documented in writing for the applicant's file and must be prepared and signed by the ASEE or his/her designee.

(h) *Written Evaluation Summary.* Upon request, applicants are to be furnished a written summary of the evaluation of their application.

V. Deviations

If an EERE program office wants to deviate from these procedures for merit review of an application or a class of applications, but will still follow the rules of 10 CFR 600.13, that office must obtain written permission from the ASEE. Permission to use procedures which deviate from 10 CFR 600 must be requested in writing to the responsible DOE Contracting Officer in accordance with 10 CFR 600.4. The Head of Contracting Activity has the authority to approve such procedures for a single case deviation, while the DAS for Procurement and Assistance Management has the authority to approve a class deviation. A deviation may be authorized only upon written determination that the deviation is necessary for any of the reasons set forth in 10 CFR 600.4(b).

VI. EERE Selection Process

Selection of applications for discretionary financial assistance will be based on the Selection Officials' acceptance of the merit review committees' recommendations and the findings of a separate programmatic review of program policy factors relevant to EERE's mission.

Issued in Washington, DC.

David K. Garman,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 01–31350 Filed 12–19–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02–9–000]

Consumers Energy Company; Notice of Petition for Rate Approval

December 14, 2001.

Take notice that on November 30, 2001, Consumers Energy Company (Consumers) filed, pursuant to Section 284.123(b)(2) of the Commission's Regulations, a petition for rate approval requesting that the Commission approve an initial interruptible transportation service rate on Consumers system of $0.01065 per Dth, and an interruptible transportation service rate of $0.01357 per Dth following Commission approval in Docket No. CP02–22–000 of the roll-in of the facilities of Michigan Gas Storage Company to Consumers' facilities. These rates will be applicable to the transportation of natural gas under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA).

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion

VOL 66 ISS 245 DE 20 2001 UMI

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 31, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31313 Filed 12-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00-407-002 and RP00-619-003]

High Island Offshore System, L.L.C., Notice Compliance Filing

December 14, 2001.

Take notice that December 7, 2001, High Island Offshore System (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of January 7, 2002.

HIOS states that the filing is being made in compliance with the Commission's November 8, 2001, Order in the above-referenced proceeding, which relates to compliance with the Commission's Order No. 637.

HIOS states that copies of the filing has been mailed to each of the parties who have intervened in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31316 Filed 12-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR02-8-000]

Hill-Lake Gas Storage, L.P.; Notice of Petition for Rate Approval

December 14, 2001.

Take notice that on November 30, 2001, Hill-Lake Gas Storage, L.P. (Hill-Lake) tendered for filing pursuant to Section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve as fair and equitable, market-based rates for firm and interruptible storage services performed under Section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA). The rates for the individual storage services will be negotiated between Hill-Lake and various shippers. Hill-Lake does not propose to have established any maximum or minimum rate for any generic service.

Hill-Lake states that it operates as an intrastate natural gas pipeline company within the meaning of Section 2(16) of the NGPA in the State of Texas. Hill-Lake owns storage facilities in the State of Texas, which are the subject of this petition and which are located in Eastland County, Texas (Storage Facility). Hill-Lake indicates that it will provide the proposed storage services using the excess natural gas storage capacity of its Storage Facility.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All motions must be filed with the Secretary of the Commission on or before December 31, 2001. This petition for rate approval is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31312 Filed 12-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-518-024]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rate

December 14, 2001.

Take notice that on December 3, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, Seventeenth Revised Sheet No. 7, Eighth Revised Sheet No. 7A, Third Revised Sheet No. 7B, and Fifth Revised Sheet No. 7C, with an effective date of December 1, 2001.

GTN states that these sheets are being filed to reflect the implementation of two negotiated rate agreements and to remove negotiated rate agreements that have expired. GTN notes that the capacity sold under these negotiated rates contracts was posted as available on GTN's website, and that the shippers executing the negotiated rate contracts have affirmatively acknowledged that they had the option to acquire the capacity at GTN's maximum recourse rate. GTN further indicates that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31315 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–99–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

December 14, 2001.

Take notice that on November 30, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Thirty-fifth Revised Sheet No. 4, Nineteenth Revised Sheet No. 4A and Fourteenth Revised Sheet No. 6C, with an effective date of January 1, 2002.

GTN states that these tariff sheets establish GTN's Gas Research Institute (GRI) surcharge for calendar year 2002.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 01–31317 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–100–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

December 14, 2001.

Take notice that on November 30, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing workpapers supporting the restatement of its fuel and line loss surcharge.

GTN asserts that the purpose of this filing is to comply with Paragraph 37 of the General Terms and Conditions of its FERC Gas Tariff, "Adjustment for Fuel, Line Loss and Other Unaccounted For Gas Percentages." These workpapers reflect that GTN's fuel and line loss surcharge percentage will remain at 0.0000% per Dth per pipeline-mile for the six-month period beginning January 1, 2002. Also included, as required by Paragraph 37, are workpapers showing the derivation of the current fuel and line loss percentage in effect for each month of the six-month period from May, 2001 through October, 2001.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before December 19, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31318 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–28–008]

Wyoming Interstate Company, Ltd; Notice of Negotiated Rate

December 14, 2001.

Take notice that on December 10, 2001, Wyoming Interstate Company, Ltd (WIC) tendered for filing to its FERC Gas Tariff Second, Revised Volume No. 2, the following tariff sheet, to become effective January 9, 2002:

Third Revised Sheet No. 1

WIC states that the tendered tariff sheet and related transportation service agreements are being filed to implement negotiated rate transactions related to the Medicine Bow facilities and for acceptance as non-conforming agreements, if applicable. The transportation service agreements are proposed to become effective December 1, 2001.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission,

VOL 66 ISS 245 DE 20 2001 UMI

888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31314 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1328–001, et al.]

American Electric Power Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

December 13, 2001.

Take notice that the following filings have been made with the Commission:

1. American Electric Power Service Corporation

[Docket No. ER01–1328–001]

Take notice that on December 6, 2001, American Electric Power Service Corporation (AEPSC), on behalf of AEP operating companies, submitted with the Federal Energy Regulatory Commission (Commission) a non-redacted, confidential copy and a redacted, non-confidential copy of a long-term power purchase agreement with Public Utility District No. 1 of Snohomish County.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Electric Generation LLC

[Docket No. ER02–456–000]

Take notice that on November 30, 2001, Electric Generation LLC (Applicant) submitted for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 205 of the Federal Power Act, and part 35 of the Commission's regulations, an application for acceptance of a power sales agreement and interim code of conduct and grant of various waivers. The application is being submitted in connection with the reorganization of Pacific Gas and Electric Company.

A copy of the application was served upon the California Public Utilities Commission.

Comment date: January 30, 2002, in accordance with Standard Paragraph E at the end of this notice.

3. American Transmission Company LLC

[Docket No. ER02–483–000]

Take notice that on December 5, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Badger Power Marketing Authority. ATCLLC requests an effective date of June 25, 2001.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–484–000]

Take notice that on December 3, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the Midwest ISO Transmission Owners jointly submitted for filing revisions to the Midwest ISO Open Access Transmission Tariff (OATT) to implement a Regional Through and Out Rate surcharge (RTOR Adder) and revisions to the Midwest ISO Agreement to implement the revenue distribution for the RTOR Adder revenues and revenues from the Super-Regional Rate Adjustment (SRA). The Midwest ISO and the Midwest ISO Transmission Owners propose that the RTOR Adder and RTOR Adder revenue distribution become effective on February 1, 2002, the beginning of the billing month at least 60 days after the filing. The Midwest ISO and Midwest ISO Transmission Owners propose that the SRA revenue distribution take effect on the date the SRA charges take effect.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001), with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–485–000]

Take notice that on December 3, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and the participating Midwest ISO Transmission Owners jointly submitted for filing revisions to the Midwest ISO Open Access Transmission Tariff (OATT) requesting a higher rate of return on common equity and amending Attachment N (Recovery of Costs Associated with New Facilities) to implement specific return on equity and accelerated depreciation incentives. The Midwest ISO and the participating Midwest ISO Transmission Owners propose that the filing become effective on February 1, 2001, 60 days from the date of filing.

The Midwest ISO seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2001), with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

[Docket No. ER02–486–000]

Take notice that on December 4, 2001, New England Power Company (NEP) tendered for filing with the Federal Energy Regulatory Commission (Commission) Second Revised Service Agreement No. 17 for Network Integration Service under NEP's Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 9 between NEP and Rowley Municipal Light Plant (Service Agreement). This Service Agreement is a fully executed version of the First Revised Service Agreement No. 17 that was filed unexecuted on August 8, 2001 in Docket No. ER01–28702–000. No other changes have been made to the Service Agreement and the terms remain the same as filed on August 8, 2001.

NEP states that this filing has been served upon Rowley Municipal Light Plant and the Department of Telecommunications and Energy of the Commonwealth of Massachusetts.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER02–487–000]

Take notice that on December 5, 2001, Arizona Public Service Company (APS) tendered for filing a revised Network Agreement with Pinnacle West Capital Corporation Marketing and Trading '(Pinnacle) under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Pinnacle and the Arizona Corporation Commission.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Midwest Independent Transmission System

[Docket No. ER02–488–000]

Take notice that on December 5, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) Operating Protocols for Existing Generators (Operating Protocols), which establish the obligations of the Midwest ISO and of owners or operators of existing generators (Generators). The Midwest ISO submits that the Operating protocols are necessary for the reliable operation of the facilities under the control of the Midwest ISO and that the Operating Protocols describe the direction that the Midwest ISO may provide Generators.

Midwest ISO also seeks waiver of the Commission's regulations (18 CFR 385.2010) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, we well as all state commissions with the region. In addition, the filing has been electronically posted on the Midwest ISO's website at *www.midwestiso.org* under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide paper copies to any interested parties upon requests.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–489–000]

Take notice that on December 5, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) revised pages to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, Original Volume No. 1, which implement a cost recovery mechanism for review and preparation of alternative credit support documentation.

The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2000) with respect to service on all parties on the official service list in this proceeding. The Midwest ISO has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Website at *www.midwestiso.org* under the heading "FERC Filings" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: December 26, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Company

[Docket No. ER02–490–000]

Take notice that on December 6, 2001, Arizona Public Service Company (APS) tendered for filing a revised Service Agreement to provide Firm Point-to-Point Transmission Service to Ak Chin Electric Utility Authority (AkChin) under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Ak Chin and the Arizona Corporation Commission.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER02–492–000]

Take notice that on December 7, 2001, Florida Power Corporation (FPC) tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Calpine Energy Services, L.P. Service to this Eligible Customer will be in accordance with the terms and conditions of the Open Access Transmission Tariff filed on behalf of FPC.

FPC is requesting an effective date of August 1, 2001 for the Service Agreements.

A copy of the filing was served upon the Florida Public Service Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Arizona Public Service Company

[Docket No. ER02–493–000]

Take notice that on December 7, 2001, Arizona Public Service Company tendered for filing a Service Agreement under the Western Systems Power Pool Agreement for service to the Department of Energy, Bonneville Power Administration.

A copy of this filing has been served on Department of Energy, Bonneville Power Administration and the Arizona Corporation Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER02–494–000]

Take notice that on December 7, 2001, Arizona Public Service Company (APS) tendered for filing an Interconnection and Operating Agreement with Pinnacle West Energy under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Pinnacle West Energy and the Arizona Corporation Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

VOL 66 ISS 245 DE 20 2001 UMI

14. Alliant Energy Corporate Services Inc.

[Docket No. ER02–495–000]

Take notice that on December 7, 2001, Alliant Energy Corporate Services Inc. (ALTM) tendered for filing a signed Service Agreement under ALTM's Market Based Wholesale Power Sales Tariff (MR–1) between itself and The City of Springfield, Illinois, City Water, Light and Power.

ALTM respectfully requests an effective date of December 6, 2001.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Arizona Public Service Company

[Docket No. ER02–499–000]

Take notice that on December 6, 2001, Arizona Public Service Company (APS) effective January 31, 2002, Service Agreement No. 198 under FERC Electric Tariff, Tenth Revised Volume No. 2, effective date October 9, 2001 and filed with the Federal Energy Regulatory Commission (Commission) by Arizona Public Service Company is to be canceled.

Notice of the proposed cancellation has been served upon Ak Chin Electric Utility Authority and the Arizona Corporation Commission.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Deseret Generation & Transmission Co-operative

[Docket No. ER02–500–000]

Take notice that on December 6, 2001, Deseret Generation & Transmission Co-operative tendered for filing with the Federal Energy Regulatory Commission (Commission) a Wholesale Power Agreement For Large Industrial Loads (Implementing Deseret Rate Schedule ML–COG1) between Deseret Generation & Transmission Co-operative and Moon Lake Electric Association, Inc. The proposed change would result in a rate decrease and is being made by agreement of the parties and pursuant to the provisions of First Revised Service Agreement No. 5 under FERC Electric Tariff, Original Volume 1, which is already on file with the Commission.

Copies of this filing have been served upon Deseret's member cooperatives.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Great Northern Paper, Inc.

[Docket No. ER02–501–000]

On December 6, 2001, Great Northern Paper, Inc. located at filed with the Federal Energy Regulatory Commission (Commission) an application for market-based rate authorization to sell energy, capacity and specified ancillary services, waivers and exemptions and a request for an effective date of January 15, 2002 for its market-based rate authorization.

Great Norther Paper, Inc. is a Delaware corporation that owns and operates two thermo electric plants located at or near Millinocket, Maine, with a total nameplate capacity of approximately 150 megawatts, and is seeking market-based rate authorization, waivers and exemptions, and a request for an effective date of January 15, 2002 for its market-based rate authorization in order to sell the output of the facilities to wholesale purchasers.

Comment date: December 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. Michigan Electric Transmission Company

[Docket No. ER02–502–000]

Take notice that on December 7, 2001, Michigan Electric Transmission Company (METC) tendered for filing a revised Service Agreement with Wolverine Power Supply Cooperative, Inc. (Customer) for Network Integration Transmission Service (designated First Revised Service Agreement No. 8 under METC FERC Electric Tariff No. 1). The Revised Service Agreement reflects the terms of Amendment No. 1 to the original Service Agreement which deals with the addition of direct assignment facilities and the resulting adjustment in the Facilities Usage Fee from $733 to $888 per month.

METC requests a November 1, 1998 effective date.

Copies of the filing were served upon the Customer and the Michigan Public Service Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Nine Mile Point Nuclear Station, LLC

[Docket No. ER02–503–000]

Take notice that on December 7, 2001, Nine Mile Point Nuclear Station, LLC (Nine Mile LLC) submitted for filing five revised service agreements under Nine Mile LLC's market-based rate tariff (Service Agreement Nos. 1 through 5 under FERC Electric Tariff, Original Volume No. 1) reflecting the assignment of such service agreements by Constellation Nuclear, LLC to its subsidiary, Nine Mile LLC.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. The Dayton Power and Light Company

[Docket No. ER02–504–000]

Take notice that on December 7, 2001, The Dayton Power and Light Company (Dayton) submitted service agreements establishing The Dayton Power & Light Company (Energy Services) as customers under the terms of Dayton's Open Access Transmission Tariff.

Copies of this filing were served upon The Dayton Power & Light Company (Energy Services) and the Public Utilities Commission of Ohio.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Bluegrass Generation Company, L.L.C.

[Docket No. ER02–506–000]

Take notice that on December 7, 2001, Bluegrass Generation Company, L.L.C. (Bluegrass) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1.

Bluegrass intends to sell electric power at wholesale rates, terms, and conditions to be mutually agreed to with the purchasing party. The Bluegrass tariff provides for the sale of electric energy and capacity at agreed prices.

Bluegrass seeks an effective date of December 8, 2001 for its tariff.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company

[Docket No. ER02–505–000]

Take notice that on December 7, 2001, Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, and Western Massachusetts Electric Company (the Sponsors) submitted notice of cancellations, effective February 28, 2002, for power contracts between the Sponsors and Boylston Municipal Light Department, Braintree Electric Light Department, City of Chicopee Municipal Lighting Plant, Danvers Electric Division, Georgetown Municipal Light Department, Hingham Municipal Light Plant, City of Holyoke

Gas & Electric Department, Hudson Light and Power Department, Hull Municipal Lighting Plant, Ipswich Municipal Light Department, Marblehead Municipal Light Department, Middleborough Gas and Electric Department, Middleton Municipal Light Department, North Attleborough Electric Department, Paxton Municipal Light Department, Peabody Municipal Light Plant, Shrewsbury's Electric Light Plant, Sterling Municipal Light Department, Taunton Municipal Lighting Plant, Wakefield Municipal Light Department, West Boylston Municipal Lighting Plant, Westfield Gas & Electric Light Department, and the Connecticut Municipal Electric Energy Cooperative. The contracts to be canceled are Cambridge Electric Light Company, Rate Schedule FERC No.22; Central Maine Power Company, Rate Schedule FERC No. 46, The Connecticut Light and Power Company, Rate Schedule FERC No. 72, New England Power Company, Rate Schedule FERC No. 237, Public Service Company of New Hampshire, Rate Schedule FERC No. 63, and Montaup Electric Company, Rate Schedule FERC No. 25.

Notices of the proposed cancellations have been served on the appropriate state regulatory agencies and all affected customers.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. TPS McAdams, LLC

[Docket No. ER02-507-000]

Take notice that on December 7, 2001, TPS McAdams, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

A copy of this filing has been served on the Florida Public Service Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

24. Tampa Electric Company

[Docket No. ER02-508-000]

Take notice that on December 7, 2001, Tampa Electric Company (TEC) tendered for filing pursuant to Section 205 of the Federal Power Act an executed Interconnection and Operating Agreement between TEC and CPV Pierce, Ltd. as a service agreement under TEC's open access transmission tariff.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

25. Entergy Services, Inc.

[Docket No. ER02-509-000]

Take notice that on December 7, 2001, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing a unilaterally executed Interconnection and Operating Agreement with Shell Chemical LP, acting as agent for Shell Oil Company (Shell), and a Generator Imbalance Agreement with Shell.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

26. TPS Dell, LLC

[Docket No. ER02-510-000]

Take notice that on December 7, 2001, TPS Dell, LLC tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

A copy of this filing has been served on the Florida Public Service Commission.

Comment date: December 28, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31307 Filed 12-19-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00-73-002, et al.]

New England Power Company, et al.; Electric Rate and Corporate Regulation Filings

December 14, 2001.

Take notice that the following filings have been made with the Commission:

1. New England Power Company

[Docket No. EL00-73-002]

Take notice that on December 7, 2001, New England Power Company (NEP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Refund Report along with supporting documents. The refunds were made in compliance with a November 7, 2001 Commission order issued in the above-referenced proceeding.

NEP states that copies of the Refund Report have been served on the persons listed on the official service list for this proceeding and the Massachusetts Department of Telecommunications and Energy.

Comment date: January 8, 2002, in accordance with Standard Paragraph E at the end of this notice.

2. NRG Power Marketing Inc.

[Docket No. ER97-4281-012]

Take notice that on December 11, 2001, NRG Power Marketing Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission) an updated market power study in compliance with the Commission's Order in NRG Power Marketing, Inc. Docket No. ER97-4281-001.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

3. Arizona Public Service Company

[Docket No. ER01-463-006]

Take notice that on December 10, 2001, Arizona Public Service Company (APS) tendered for filing with the Federal Energy Regulatory Commission (Commission) its Compliance to Commission's Order on Compliance Filing in Docket No. ER01-463-005.

VOL 66 ISS 245 DE 20 2001 UMI

A copy of this filing has been served on all parties on the official service list.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Energy South Bay, LLC

[Docket No. ER02–239–002]

Take notice that on December 11, 2001, Duke Energy South Bay, L.L.C. (DESB) tendered for filing with the Federal Energy Regulatory Commission (Commission) Substitute Third Revised Sheet No. 8 to DESB's FERC Electric Rate Schedule No. 2. DESB States that this Substitute sheet is being filed to correct omissions from their November 1, 2001 filing in this proceeding. Specifically these corrections are to Schedule A, sections 12 and 13 of its Reliability Must Run Service Agreement (RMR Agreement) with the California Independent System Operator (CAISO).

DESB requests an effective date of January 1, 2002, for these revisions.

Copies of the filing have been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Energy Oakland, LLC

[Docket No. ER02–240–001]

Take notice that on December 11, 2001, Duke Energy Oakland, L.L.C. (DEO) tendered for filing with the Federal Energy Regulatory Commission (Commission) First Revised Sheet No. 136 and Substitute Fifth Revised Sheet No. 140 to DEO's FERC Electric Rate Schedule No. 2. DEO States that these sheets are being filed to correct omissions from their November 1, 2001 filing in this proceeding. Specifically these corrections are to Schedule A, Section 13 and Schedule B, Table B–2 of its Reliability Must Run Service Agreement (RMR Agreement) with the California Independent System Operator (CAISO).

DEO requests an effective date of January 1, 2002, for these revisions.

Copies of the filing have been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

6. Western Resources, Inc.

[Docket No. ER02–379–001]

Take notice that on December 10, 2001, Western Resources, Inc., (WR) amended its filing to cancel Market Based Rate Tariff Agreement with the Allegheny Energy Service Corporation, American Electric Power Service Corp., Arizona Public Service Company, Coral Power, L.L.C., Engage Energy US, L.P., Otter Tail Power Company, Rainbow Energy Marketing Corporation, and The Board of Municipal Utilities of Sikeston, Missouri.

WR requests an effective date of December 10, 2001.

Notice of the proposed termination has been served upon the above mentioned corporations and utilities and the Kansas Corporation Commission.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER02–454–001]

Take notice that on December 10, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Service Agreement Nos. 364–367 under Allegheny Power's Open Access Transmission Service Tariff which has been accepted for filing by the Federal Energy Regulatory Commission in Docket No. ER96–58–000. Service Agreement Nos. 364–367 are designated to comply with Order 614. The proposed effective date for the Service Agreements is December 1, 2001.

Copies of the filing have been provided to the customer.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Virginia Electric and Power Company

[Docket No. ER02–511–000]

Take notice that on December 10, 2001, Virginia Electric and Power Company (Dominion Virginia Power) tendered for filing an executed Generator Interconnection and Operating Agreement (Interconnection Agreement) with Southeastern Public Service Authority of Virginia (SPSA). The Interconnection Agreement sets forth the terms and conditions governing the interconnection between SPSA's generating facility (Generating Facility) and Dominion Virginia Power's transmission system. Copies of the filing were served upon SPSA and the Virginia State Corporation Commission.

Dominion Virginia Power requests that the Commission waive its notice of filing requirements and accept this filing to make the Interconnection Agreement effective on December 11, 2001, the day after the date of filing.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. American Transmission Systems, Incorporated

[Docket No. ER02–512–000]

Take notice that on December 10, 2001, American Transmission Systems, Incorporated filed an Agreement for construction of a new 34.5 kV delivery point with The Village of Woodville. The Agreement provides for the addition of a new 34.5 kV distribution delivery point. This filing is made pursuant to Section 205 of the Federal Power Act. Copies of this filing have been served on Woodville, American Municipal Power-Ohio, Inc., and the Public Utility Commission of Ohio.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. American Transmission Systems, Inc.

[Docket No. ER02–513–000]

Take notice that on December 10, 2001, American Transmission Systems, Inc. filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for Dominion Nuclear Marketing II, Inc., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is December 6, 2001 for the above mentioned Service Agreement in this filing.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. American Transmission Systems, Inc.

[Docket No. ER02–514–000]

Take notice that on December 10, 2001, American Transmission Systems, Inc. filed a Service Agreement to provide Firm Point-to-Point Transmission Service for Dominion Nuclear Marketing II, Inc., the Transmission Customer. Services are being provided under the American Transmission Systems, Inc. Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER99–2647–000. The proposed effective date under the Service Agreement is December 6, 2001 for the above mentioned Service Agreement in this filing.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Western Resources, Inc.

[Docket No. ER02–515–000]

Take notice that on December 10, 2001, Western Resources, Inc. (WR) tendered for filing a Service Agreement between WR and Calpine Energy Services, L.P. (Calpine). WR states that the purpose of this agreement is to permit Calpine to take service under WR's Market Based Power Sales Tariff on file with the Commission. This agreement is proposed to be effective November 15, 2001.

Copies of the filing were served upon Calpine and the Kansas Corporation Commission.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER02–516–000]

Take notice that on December 10, 2001, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed Schedule 13, Retail Transmission Service—Virginia to its Pro Forma Open Access Transmission Tariff (OATT). Updated customer lists and miscellaneous changes to the OATT were also filed. Allegheny Power has requested an effective date for Schedule 13 and the other changes proposed in the filing of January 1, 2002.

Copies of the filing have been provided to Allegheny Power's jurisdictional customers, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission.

Comment date: December 31, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Central Vermont Public Service Corporation

[Docket No. ER02–518–000]

Take notice that on December 11, 2001, Central Vermont Public Service Corporation (Central Vermont), tendered for filing executed Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service with H.Q. Energy Services (U.S.) Inc. under Central Vermont's FERC Electric Tariff, First Revised Volume No. 7. Copies of the filing were served upon the above-mentioned company and the Vermont Public Service Board.

Central Vermont requests that the Service Agreements become effective on December 7, 2001, the date service commenced.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

15. Commonwealth Edison Company

[Docket No. ER02–519–000]

Take notice that on December 11, 2001 Commonwealth Edison Company (ComEd) submitted for filing a Service Agreement for Network Integration Transmission Service (NSA) between ComEd and Nicor Energy, L.L.C. (Nicor). This agreement govern ComEd's provision of network service to serve retail load under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of December 1, 2001, and accordingly seeks waiver of the Commission's notice requirements.

Copies of this filing were served on Nicor.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

16. Southwest Power Pool, Inc.

[Docket No. ER02–521–000]

Take notice that on December 11, 2001, Southwest Power pool, Inc. (SPP) submitted for filing one executed service agreement for Firm Point-to-Point Transmission Service with Western Resources Generation Services (WRGS).

SPP requests an effective date of January 1, 2002 for this service agreement. A copy of this filing was served on WRGS.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

17. Commonwealth Edison Company

[Docket No. ER02–522–000]

Take notice that on December 11, 2001 Commonwealth Edison Company (ComEd) submitted for filing an amended Form of Service Agreement for Firm Point-to-Point Transmission Service (Amended Service Agreement) with Split Rock Energy, LLC (Split Rock) and a Form of Service Agreement for Firm Point-to-Point Transmission Service (Service Agreement) with NRG Power Marketing Inc. (NRG) under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on Split Rock and NRG.

ComEd requests an effective date of November 12, 2001, for the Amended Service Agreement with Split Rock and an effective date of November 12, 2001 for the Service Agreement with NRG, and accordingly seeks waiver of the Commission's notice requirements.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

18. Illinois Power Company

[Docket No. ER02–523–000]

Take notice that on December 11, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) nine (9) Firm Long-Term Point-To-Point Transmission Service Agreements entered into with Dynegy Power Marketing, Inc. (DPM), an affiliate of Illinois Power.

Illinois Power requests an effective date of January 1, 2002 for the agreements and seeks a waiver of the Commission's notice requirement. Illinois Power states that a copy of this filing has been sent to DPM.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

19. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER02–524–000]

Take notice that on December 11, 2001, Carolina Power & Light Company (CP&L) tendered for filing an executed Service Agreement between CP&L and the following eligible buyer, Western Resources, Inc. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5.

CP&L requests an effective date of December 1, 2001 for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: January 2, 2002, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

VOL 66 ISS 245 DE 20 2001 UMI

20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01-31308 Filed 12-19-01; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP00-232-000 and CP00-232-001]

Iroquois Gas Transmission System, L.P.; Notice of Availability of the Final Environmental Impact Statement for the Proposed Eastchester Project

December 14, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Final Environmental Impact Statement (FEIS) on the natural gas pipeline facilities proposed by Iroquois Gas Transmission System, L.P. (Iroquois) in the above referenced docket.

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act (NEPA). The staff concludes that approval of the proposed project, with the mitigation measures recommended in the DEIS, would have limited adverse environmental impact.

The FEIS addresses the potential environmental effects of the project proposed by Iroquois to convey natural gas from Northport, Long Island, to the Bronx, New York and evaluates alternatives to the proposed project. The pipeline would be constructed across Long Island Sound and be comprised of the following facilities:

32.8 miles of 24-inch diameter pipe;

Pipeline maintenance facilities constructed in Northport and the Bronx;

Gas meter, regulator, heater, and mainline valve at the terminus in the Bronx;

Two new compressor stations along the existing Iroquois pipeline;

Additions and modifications to three existing compressor stations; and

Work space and access roads to construct, operate, and maintain the above facilities.

The purpose of the proposed facilities would be to provide natural gas for electric generation and to serve residential, industrial, and commercial customers in New York City. The proposed project would serve:

Consolidated Edison Energy, Inc. (Dth/day)—30,000 dekatherms per day

Keyspan Ravenswood, Inc.—60,000 Dth/day

Orion Power Holdings, Inc.—60,000 Dth/day

Miriant New York Management, Inc—60,000 Dth/day

Virginia Power Energy Marketing, Inc.—20,000 Dth/day.

Consultation

The draft environmental impact statement (DEIS) was issued on August 2, 2001 and distributed to the U.S. Fish and Wildlife Service (USFWS) and to the National Marine Fisheries Service (NMFS) as our biological assessment under the Endangered Species Act (ESA). Written concurrence that the project, with the recommendations proposed by staff, would not likely affect listed species or critical habitat are anticipated from both FWS and NMFS.

Pursuant to section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act, federal agencies are required to consult with the NMFS on any action that may result in adverse effects to essential fish habitat (EFH). Our DEIS, containing an EFH assessment, was provided to NMFS. No Conservation Recommendations have been received from NMFS.

Availability

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE, Room 2A, Washington, DC 20426, (202) 208-1371.

Copies of the FEIS have been mailed to federal, state and local agencies, public interest groups, individuals who have requested the FEIS, newspapers, and parties to this proceeding. It has also been distributed to the commentors and libraries listed in Appendix A of the FEIS. Those individuals who filed form letters were sent copies of this cover letter and the executive summary.

On October 11, 2001, the Commission issued a policy statement in Docket No. PL02-1, regarding previously public documents. The Commission advised the public that documents that were previously available through the Public Reference Room, the Internet, and RIMS were no longer to be considered public, and that anyone wishing to obtain these documents were to file a request under the Freedom of Information Act (FOIA). Several figures in the FEIS are subject to the new Commission policy including: Figures 2.13.1, 2.13.2, and B-3 through B-12. Accordingly, these figures are not included in the public version of the FEIS. Anyone wishing to obtain these documents should file a request under the Freedom of Information Act (FOIA) and the Commission's regulations at 18 CFR 388.108. Further guidance may be obtained at the FERC Internet website (*www.ferc.gov*).

In accordance with Council on Environmental Quality (CEQ) regulations implementing NEPA, no agency decision on a proposed action may be made until 30 days after the Environmental Protection Agency publishes a notice of availability of an FEIS. However, the CEQ regulations provide an exception to this rule when an agency decision is subject to a formal internal appeal process that allows agencies or the public to make their views known. In such cases, the agency decision may be made at the same time the notice of the FEIS is published, allowing both periods to run concurrently. The Commission decision for this proposed action is subject to a 30-day rehearing period.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208-1088 or on the FERC Internet website (*www.ferc.gov*) using the "RIMS" link, select "Docket #" from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208-2222.

Similarly, the "CIPS" link on the FERC Internet website provides access to the text of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the "CIPS" link, select "Docket #" from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson Jr.,
Acting Secretary.
[FR Doc. 01–31309 Filed 12–19–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–31–000]

Iroquois Gas Transmission System, L.P.; Notice of Intent To Prepare an Environmental Assessment and Request for Comments

December 14, 2001.

On November 20, 2001, Iroquois Gas Transmission System, L.P., (Iroquois) filed an application to construct and to operate a new compressor station at Brookfield, Connecticut. Iroquois' application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations. The application was noticed on November 29, 2001. On December 5, 2001, Commission staff conducted a site visit and met with numerous Brookfield property owners. Based on review of the application, the site visit, and comments received during the site visit, we have decided to prepare an environmental assessment (EA) to evaluate the environmental impacts of the proposed project. Comments received in response to this notice will be used in a scoping process to identify the issues to be evaluated in the EA. The Commission will consider the EA prior to taking any final action on the application.

Summary of the Proposed Project

Iroquois requests authorization to construct and to operate a compressor station near an existing meter station on High Meadow Road, in the county of Fairfield, in Brookfield , Connecticut. Iroquois has an option to purchase a 65 acre parcel bounded by High Meadow Road, an existing meter station, residential property, Whisconier Middle School, railroad tracks, and a pond. On that parcel, Iroquois would install or construct:

- a new 10,000 horsepower compressor;
- a turbo-compressor building and 3 additional control/monitoring/maintenance buildings;
- a 500-foot long access road;
- security fence;
- water well; and septic system.

All proposed construction would occur either on the 65-acre parcel described above or on the existing 3.3 acre meter station, owned by Iroquois.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires Commission staff to discover and address concerns the public may have about proposals. This is called "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues to be addressed in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and to encourage them to comment on their areas of concern.

We have already identified several issues that we think deserve attention based on our preliminary review. This list may change based on receipt of additional information and comments.

- Any potential threat of operation of the compressor station to life, health, and property at Whisconier Middle School and adjoining properties.
- Noise from compressor operation and system blow downs.
- Visual compatibility of existing and proposed structures with local architecture and visual setting.
- Visual screening of existing and proposed facilities.
- Degradation of local air quality and the potential for formation of a steam plume from the cooling vents.
- Design constraints that limit the potential location of alternative sites.
- Impacts of construction and operation to property values in the adjoining community.

By this notice, Iroquois is encouraged to provide any additional information regarding the above issues to supplement its application by the close of the comment period described in the public participation section.

The EA will also evaluate possible alternatives to the proposed project and make recommendations on how to lessen or avoid impacts. An independent analysis of issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local agencies, public groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the section that follows.

Public Participation

Your comments are requested. To ensure that your comments are addressed in the EA, we request that you file your environmental comments with the Commission as directed below:

- Send an original and two copies of your letter to Linwood Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Room 1A Washington, DC 20426.
- Label one copy for the attention of GHG.
- Reference Docket No. CP02–31–000 in the cover letter.
- Mail your comments so that they are received on or before January 18, 2002.

Comments may also be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov* under the "efiling" link and the link to the User's Guide.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become a party to the proceeding known as an "intervenor". Intervenors have the right to receive copies of material filed with the Commission and any case-related issuances by the Commission. Further, an intervenor also has the right to request rehearing on the Commission's decision. An intervenor has certain responsibilities including, providing 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to the applicant and all other parties that intervened in the proceeding (Commission's service list). If you want to become an intervenor, you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practices and Procedure (18 CFR 385.214). Requests to intervene may also be filed electronically.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need to be an intervenor to have

VOL 66 ISS 245 DE 20 2001 UMI

your environmental comments considered.

Additional Information

Additional information about the proposed project may be available from the Commission's Office of External Affairs at (202) 208–1088. Copies of the application and any case-specific filings or issuances are available on the FERC website (*www.ferc.gov*) at the RIMS [1] or CIPS [2] links, using Docket No. CP02–31.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31310 Filed 12–19–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Exemption and Soliciting Comments, Motions To Intervene, and Protests

December 14, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of Exemption.

b. *Project No.:* 7662–016.

c. *Date Filed:* April 6, 2001.

d. *Applicant:* Reading Area Water Authority (RAWA or Authority).

e. *Name and Description of Project:* The existing Ontelaunee Hydroelectric Project consists of: (1) a 550-foot-long and 56-foot-high concrete gravity ogee spillway, Ontelaunee Dam, and adjoining 3,200-foot-long earth embankment; (2) 1,350-acre Ontelaunee Lake with a normal water elevation of 304 feet (City of Reading Datum) and a storage capacity of 11,600 acre-feet; (3) a 110-foot-long and 4-foot-diameter steel penstock , a 90-foot-long and 6-foot-diameter penstock, and a 7,920-foot-long and 6.75-foot-diameter concrete tunnel; (4) a reinforced concrete powerhouse, located at the spillway toe adjacent to the right abutment, with no installed capacity; (5) a 300-foot-long tailrace channel; (6) a generating unit with an installed capacity of 37 kW located within the exemptee's Maidencreek filter plant; and (7) other appurtenances.

The Commission's Division of Dam Safety and Inspections (D2SI) has determined that there are no outstanding dam safety issues or any outstanding compliance issues involving dam safety matters pending before the Commission at the subject project. Consequently, D2SI concludes that it does not have any dam safety related requirements. After the issuance of any Commission order approving the proposed surrender, the State of Pennsylvania Department of Environmental Protection, Bureau of Waterways Engineering, Division of Dam Safety would be responsible for regulating the project.

RAWA proposes: (1) to decommission the 40-kilowatt unit within its Maidencreek Filter Plant; (2) to avoid entrainment of fish into the municipal water system by continuing to maintain and inspect annually the existing fish net at the intake; (3) to provide recreational opportunities by continuing to maintain the Authority's two existing picnic areas, which provide, in total, parking for approximately 75 vehicles, 15 large tables, and 12 cooking grills; and (4) to maintain the project's current conservation releases (minimum flows) from Ontelaunee Dam to Maiden Creek. These releases are provided as follows: 51 cubic feet per second (cfs) if the level of the reservoir is greater than 302 feet; 36 cfs if the reservoir level is between 300 and 302 feet; and 27 cfs if the level of the reservoir is under 300 feet. To ensure proper maintenance of these conservation releases, the Authority intends to install accurate measuring and recording devices.

f. *Location:* The project is located on Lake Ontelaunee and Maiden Creek in Berks County, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant's Contact:* Mr. Anthony J. Consentino, Executive Director, Reading Area Water Authority, 815 Washington Street, Reading, PA 19601; Telephone (610) 655–6253.

i. *FERC Contact:* James Haimes at (202) 219–2780; or e-mail at james.haimes@ferc.fed.us j. Deadline for filing comments and or motions: 30 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervener also must serve a copy of the document on that resource agency.

All documents (original and eight copies) should be filed with: Linwood A. Watson, Jr., Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Please include the project number (P–7662–016) on any comments or motions filed.

k. *Description of Proposed Action:* RAWA proposes to decommission its entire exempted project, and to cease power production at its Maidencreek Filter Plant, located 1.5 miles downstream from Lake Ontelaunee.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Dockett" and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h, above.

m. Individuals desiring to be included on the Commission's mailing list for the Ontelaunee Hydroelectric Project, No. 7662, should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the subject application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the project name and number, "Ontelaunee Hydroelectric Project Surrender of Exemption, No. 7662–016". Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

---

[1] For assistance call (202) 208–2222.

[2] For assistance call (202) 208–2474.

A copy of any motion to intervene must also be served upon the representative of the RAWA specified in item h, above.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the subject application for surrender of exemption. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representative listed in item h, above.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31311 Filed 12–19–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Los Banos-Gates Transmission Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Record of decision.

SUMMARY: The Department of Energy (DOE), Western Area Power Administration (Western), has decided to construct the Los Banos-Gates Transmission Project (Project) through a public/private partnership. Electric power transmission constraints along this path have contributed to blackouts in California. The Project will relieve these constraints.

This Record of Decision (ROD) is based on the information, analysis, and public comment received on the Final Environmental Impact Statement (EIS) for the California-Oregon Transmission Project (DOE/EIS–0128, 1988) (Final EIS), its associated Draft EIS, and the Supplement Analysis (SA) for the Project (DOE/EIS–0128–SA–01, August 24, 2001). Based on the findings on the SA, Western has determined that further National Environmental Policy Act (NEPA) documentation is not required.

The Project, also known as Path 15, consists of approximately 84 miles of new 500-kilovolt (kV) transmission line in California's western San Joaquin Valley, starting at the existing Los Banos Substation near Los Banos in Merced County and extending generally south southeastward to the existing Gates Substation near Coalinga in Fresno County. The Project will also require modifications to some existing high-voltage transmission equipment.

Copies of the pertinent volumes of the Draft EIS (DOE/EIS–0128, 1986) and the SA can be reviewed on Western's Web site *http://www.wapa.gov/SN/path15links* or obtained by calling toll free (866) 290–9686. A Mitigation Action Plan (MAP) will be developed and when completed, will be available on the Web site or by calling the same toll free number.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas R. Boyko, The Project Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630, telephone (866) 290–9686, E-mail *Path15@wapa.gov.* For information about the Department of Energy NEPA process, contact Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH–42, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Title III of the Energy and Water Development Appropriations Act for Fiscal Year 1985 (Pub. L 98–380) authorized the Secretary of Energy (Secretary), through Western, to construct or participate in the construction of additional facilities as the Secretary deems necessary to allow mutually beneficial power sales between the Pacific Northwest and California. In 1985, a group of California public and private utilities and Western developed a Memorandum of Understanding (MOU) that provided a framework for the proposed development of the California-Oregon Transmission Project (COTP) and the Los Banos-Gates Transmission Project. The Final EIS for the California-Oregon Transmission Project and the Los Banos-Gates Transmission Project (DOE/EIS–0128, 1988) (Final EIS) was issued in 1988. A ROD for construction of the COTP was issued in 1988 (53 FR 17749, May 18, 1988), and the COTP was built and placed into service in 1993. The Project was not built at that time because, as stated in the COTP ROD, Pacific Gas and Electric Company (PG&E) could meet its obligations in the MOU without construction of the Project. Now, due to the need for additional operational flexibility and capacity between Northern and Southern California, and with increasing energy demands in Northern California, the Project has been reconsidered.

In May 2001, Secretary of Energy Spencer Abraham directed Western to take the first steps, including the preparation of environmental studies, toward developing the Project. This directive was issued based on a recommendation in the National Energy Policy, issued on May 17, 2001 (*http://www.whitehouse.gov/energy*). Western issued a Request for Statements of Interest in the **Federal Register** on June 13, 2001, to solicit interest from parties to help finance, construct, and co-own the system additions. Thirteen statements of interest were received by the deadline established in the **Federal Register** notice and evaluated. The Secretary announced on October 18, 2001, that Western would enter into a MOU with qualified private and public parties to finance, construct, and co-own the system additions. These companies are Kinder Morgan Power Company, PG&E, PG&E National Energy Group, Inc., Transmission Agency of Northern California, Trans-Elect, Western's Sierra Nevada Region Marketing function, and the Williams Energy Marketing and Trading Company.

Western and PG&E have been exploring the construction of the Project under separate processes. At the request of the California Public Utilities Commission (CPUC), PG&E submitted a conditional Certificate of Public Convenience and Necessity (CPCN) application to construct the Project on April 13, 2001. The CPCN process examines the environmental impacts of the the Project under the California Environmental Quality Act and will determine if it is economically feasible for PG&E ratepayers to pay for the construction, operation, and maintenance of the Project. The Draft Supplemental Environmental Impact Report (SEIR) was released on October 5, 2001. A final decision is expected by the CPUC in March 2002.

Since the Final EIS was prepared back in 1988, Western chose to prepare an SA for the Project (DOE/EIS–0128–SA–01, August 24, 2001) to determine whether a supplemental EIS was required. The purpose of the SA was to determine if there are any substantial changes in the proposed action that are relevant to environmental concerns or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts (10 CFR 1021.314(c) and 40 CFR 1502.9 (c)(1)(i) and (ii)). The SA was based on a review of the Draft and Final EIS environmental analysis and supporting documents, and an update of the information using current data available for the Project, the Project area, and its resources.

The SA did not identify any significant new circumstances or information relevant to environmental concerns identified in the Final EIS. Based on the findings of the SA, Western has determined that further NEPA documentation is not required before making a decision on the Project. Full implementation of this ROD is contingent upon: (1) Completion of

VOL 66 ISS 245 DE 20 2001 UMI

Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service, (2) completion of National Historic Preservation Act Section 106 consultation with the California Historic Preservation Office, and (3) consultation with Native American tribes.

Completion of these processes may result in additional conditions or restrictions on the Project, and/or additional binding mitigation measures. Once the Section 106 and Section 7 processes and Native American consultations are completed, Western will issue an amended ROD if it changes its selected alternative or makes additional mitigation commitments as a result of the above processes. This ROD has been prepared under the Council on Environmental Quality regulations for Implementing NEPA (40 CFR parts 1500–1508) and DOE Procedures for Implementing NEPA (10 CFR part 1021).

Western has adopted the mitigation measures for the Project identified in the Final EIS and the SA, and will prepare a MAP that will ensure that the measures are integrated into the Project. The MAP will also include additional mitigation required after the completion of consultations with Federal, State, and local agencies and will be made available to the public when issued. It may also include specific mitigation measures as agreed upon with landowners. In addition, Western will coordinate with the appropriate Federal, State, and local land management and resource agencies on any unforeseen site-specific mitigation requirements identified during the Project construction phase.

Selected and Environmentally Preferred Alternative

The EIS analyzed two alternative corridors for the Project, the East and the West. The West corridor was identified as being environmentally preferred. The Supplement Analysis reconfirmed that the West corridor is still environmentally preferred. Western selected the West corridor as its preferred alternative, and a detailed description of the Project follows.

Los Banos-Gates 500-kV Transmission Line (new)

Construct approximately 84 miles of single-circuit, overhead 500-kV transmission line from Los Banos Substation, near Los Banos and three miles south of Santa Nella Village in Merced County generally south southeastward to Gates Substation, 12 miles east of Coalinga in Fresno County. The West corridor lies between Interstate 5 and the foothills of the Coastal Mountains in the western San Joaquin Valley. The corridor can be generally described as non-cultivated and non-irrigated hilly land used primarily for livestock grazing. Only a small amount of agricultural land (approximately 15 percent) is crossed by the corridor. Vegetation within the corridor is nearly all grassland or shrub. Other than the Los Banos Reservoir and intermittent streams, no surface water is crossed. The corridor, which comes near oil fields, will cross California Highway 198 about 10 miles northeast of Coalinga and Interstate 5 about 8 miles east of Coalinga. The corridor roughly parallels two existing PG&E 500-kV transmission lines that are a portion of the Pacific Northwest-Pacific Southwest Intertie. The transmission line will be installed on self-supporting square or rectangular lattice steel structures that will vary in height from approximately 100 to 160 feet. An average of only five structures per mile will be necessary, supporting bundled or triple conductors.

Contracts for the new right-of-way (ROW) within the corridor will be negotiated with individual landowners. A new 200-foot ROW or easement will be needed for construction, operation, and maintenance of the new 84-mile transmission line. New 15–30 foot-wide access road easements will also be needed for construction and permanent access to the transmission line structures for maintenance purposes. Additional temporary construction easements will be needed for construction sites such as staging areas and conductor pulling sites.

Connected Actions

The Final EIS discussed additional system modifications that will be needed to incorporate the Project into the integrated power system. As these system components belong to others, Western will not be making decisions about conducting this work, but these actions will have to be closely coordinated with the construction of the Los Banos-Gates Transmission Line. This additional work is not related to the selection of a corridor for the Los Banos-Gates Transmission Line. These connected actions include the following:

Los Banos Substation

Modify the existing PG&E Los Banos 500-kV Substation by adding a new bay, two new circuit breakers, shunt capacitors, miscellaneous electrical equipment, and possibly a new capacitor bank. Construction will be within the existing boundaries of the substation.

Gates Substation

Modify the existing PG&E Gates 500-kV Substation by adding a new bay, two new circuit breakers, new series capacitor bank, shunt capacitors, and miscellaneous electrical equipment. Construction will be within the existing boundaries of the substation.

Midway Substation

Modify the existing PG&E Midway 500-kV Substation, located in Kern County, by adding new shunt capacitors, and miscellaneous electrical equipment. Construction will be within the existing boundaries of the substation.

Los Banos-Midway No. 2 500-kV Transmission Line

Realign the existing PG&E Los Banos-Midway 500-kV No. 2 Transmission Line to loop into the Gates Substation. This realignment of 7,000 feet of existing line will result in the removal of seven towers and the construction of six towers adjacent to the existing Los Banos-Midway 500-kV No. 1 Transmission Line. The realignment will be done within PG&E's existing right-of-way.

Gates-Arco-Midway 230-kV Transmission Line

Reconductor/reconfigure 24.4 miles of the existing PG&E 70-mile transmission lines between Gates Substation and Midway Substation, which presently consists of one 230-kV and one 115-kV transmission line. The 115-kV transmission line could be reconfigured to a 230-kV line to establish two 230-kV circuits between these substations. The reconductoring will be done by bucket truck within PG&E's existing right-of-way on existing access roads.

Mitigation

The mitigation measures adopted are listed in the Draft EIS issued in 1986 and the SA. They are too extensive to be listed here in their entirety, but can be reviewed on the web site provided above, or obtained from the contact given above. In general, many mitigation measures take the form of avoidance through careful siting of the Project centerline and individual structures and access roads. Some mitigation measures identify specific potential impacts and provide strategies for minimizing or eliminating the potential for impact. Others commit to coordination with resource agencies or landowners to site structures and access roads away from sensitive resources. Construction activities will be excluded from some sensitive resource locations to prevent any disturbance.

Another set of specific mitigation measures address construction practices designed to minimize potential impacts. These measures detail culvert installation, wetting of disturbed areas for dust abatement, re-seeding, soil compaction, debris removal, and similar topics. A final set of measures addresses potential long-term impacts like closing access roads and correcting any radio or television interference problems.

These mitigation measures will be incorporated into the Project through a MAP that Western will develop prior to construction. Western will prepare the MAP during the project design phase so as to include engineering designs and construction plans. It will be developed through additional consultation with Federal, State, Tribal, and local agencies. Western will utilize best construction practices and applicable industry standards.

Implementation of the MAP will be assured through several measures. First, Western will ensure that the applicable mitigation measures are included in all construction contracts. The construction inspectors will verify that mitigation measures are implemented and inspectors will have the authority to enforce the measures by redirecting activities of the construction contractor to the extent necessary to meet the mitigation requirements included in the construction specifications. Second, Western will monitor the implementation of the mitigation measures. Third, cooperating and responsible Federal, State, Tribal, and local agencies may also monitor the implementation of the mitigation measures under their jurisdiction. Details of the coordination and reporting mechanisms for this monitoring will be included in the MAP. When completed, the MAP will be available on Western's web site or by calling the toll free number provided above.

Alternatives Considered But Not Selected

1. No Action

Selection of the no-action alternative would mean that the Project would not be constructed. The no-action alternative would have fewer environmental impacts than the selected alternative in the short term. By not constructing the Project, the short-term impacts would be continued congestion on Path 15, which could lead to additional blackouts in Northern California. The State of California has licensed several peaking generation plants that would operate to help meet the electrical demands in Northern California. Longer-term impacts of not constructing the Project include primarily air quality impacts from operating these peaking plants once built, and direct impacts to other resources such as vegetation, wildlife, visual, or archaeological due to the construction of these plants. Selecting the no-action alternative would mean that 1,500 MW of generation resources and associated transmission facilities would need to be constructed in Northern California to meet electrical load, resulting in negative environmental impacts.

The no-action alternative was not selected because it does not meet the recommendations in the National Energy Policy and the directive from the Secretary to relieve the transmission bottleneck on Path 15 and may impact California's ability to meet growing electrical demands in Northern California.

2. Transmission Alternatives

Selection of the West corridor for the Project was part of a systematic siting process that began in 1985. The process reduced a large geographic study area to alternative transmission corridors (2 to 5 miles wide) to alternative routes within these corridors (approximately 1,500 feet wide) to a preferred route made up of selected route segments. Because the SA focused on verifying and updating existing information at the project level, this ROD discusses corridors, but it is important to note that the original work to develop the overall impact levels for the two corridors involved collecting data at a much finer detail. The process included public workshops, agency coordination, and field studies over a 12-month period. The primary objective in refining the alternatives was to avoid, to the extent possible, environmental and land use impacts and constraints during the planning phases of the Project.

The Final EIS considered East and West corridors for the Project. The West corridor runs to the west of Interstate 5 and is primarily in grazing lands, with about 15 percent of the corridor crossing irrigated cropland or orchards. While approximately 3 percent of the West corridor has been converted to agriculture and crops since 1988, the predominant land uses remain the same as when the Final EIS was issued.

The East corridor runs to the east of Interstate 5 and parallel to PG&E's existing 230-kV transmission line for 68 miles. The Final EIS identifies greater than 84 percent of the East corridor as crossing irrigated cropland, which is of high economic value to the region. This intensively managed cropland is less valuable as wildlife habitat since it supports far less natural vegetation than is found further west.

The West corridor was selected over the East corridor because crossing undeveloped grazing lands would have less impact than crossing agricultural lands. The potential impact on the farming community is reduced by minimizing the disruption to existing agricultural practices, including loss of productive land, aerial seeding and spraying, field irrigation, and soil cultivation and preparation. Additionally, there are reduced visual impacts to residents and travelers on Interstate 5 as compared with the more populated East corridor. The CPUC examined the same corridors, and identified the West corridor as the environmentally superior alternative in their SEIR.

None of the alternatives are expected to result in substantial impacts to earth resources, water resources and fisheries, socioeconomics, or corona, electric field, and safety considerations.

Western examined environmental justice concerns and found that impacts are not disproportional to any minority or low-income populations.

Economic impacts would be greatest where the most agriculture is affected. Locating the Project in the East corridor would lead to loss of productive farmland, restricted agricultural development in the ROW, and interference with agricultural practices. In the West corridor, development may also be somewhat restricted in the areas between the transmission line and the existing Intertie lines. There is significantly less agricultural land located in the West corridor.

Surveys have found threatened and endangered vegetation and wildlife in the study area. Because there is less development in the West corridor, more of these species are expected in the West corridor than in the East corridor. The West corridor has, in general, a more diverse collection of vegetation. However, the Final EIS and the SA have found that most impacts can be avoided with careful placement of structures and access roads, and further reduced by mitigation measures. Up to 153 acres of vegetation are subject to disruption in building the Project in either corridor. Wildlife may be temporarily displaced during active construction, but will return to the corridor area once construction activities cease. An average of only five structures per mile helps to minimize long-term impacts.

Cultural resources have been identified in both corridors; however, field inventories have not been conducted to identify specific cultural resources that could potentially be impacted by construction of the Project. These intensive surveys are undertaken once the initial centerline location is determined, and can lead to adjustments in the centerline to avoid potential impacts. More cultural sites have been identified in the West corridor because of its more varied topography and undeveloped nature. Western's Programmatic Agreement is under review with the California Office of Historic Preservation and other affected parties. The Agreement will address inventory strategies, consultation, eligibility and effect, and treatment plans, and will be referenced in the MAP.

Transmission structures located in either the East and West corridors would be visible from Interstate 5; however, they would be more visible in the East corridor. Structures in the West corridor would be more visible from recreation areas in the foothills and at reservoirs.

Transmission line construction in either corridor could affect roadways during construction by causing congested traffic or by damaging road surfaces.

Construction of the Project in either corridor would require similar commitments of conductor wire, structure steel, concrete, and energy resources. Locating the transmission line at least 2,000 feet away from PG&E's two 500-kV Intertie lines is preferred since it increases power system reliability by reducing the possibility of a single event loss of all three lines (fire, aircraft crash, earthquake, etc.). This separation of these important large transmission lines is consistent with standard utility industry practice and Western Systems Coordinating Council and North American Electric Reliability Council criteria and guidelines.

Public Comment Summary

Western issued newsletters in June and August 2001 and conducted two public workshops on the Project on August 27 and 28, 2001. The landowners attending the public workshops voiced concerns over land values, future land use restrictions, and agricultural impacts to operations and productivity. Written comments were received from several landowners and the CPUC during the public review period.

In their written comments, landowners expressed concerns about locating the transmission line on their property and their desire to reduce impacts to their land and farming operations. Other concerns included potential impacts on the economic development of a proposed housing development near the Los Banos Substation, San Joaquin kit fox habitat and mitigation areas being evaluated within the Western corridor, established habitat areas, and electromagnetic fields. Western will work with landowners to address their concerns during the transmission line siting and land acquisition processes.

Comments from the CPUC centered on including additional information from its environmental analysis. The CPUC's major comments included impacts to air quality, endangered species, water quality, increases in agricultural and other land uses, visual resources, seismic activity, socioeconomics, cultural resources, and mitigation measures. Western will also work with the CPUC, PG&E, and other Federal, State, and local agencies to assure that potential impacts are minimized.

Comments received and Western's specific responses are available on Western's web site or by calling the toll free number.

Dated: December 7, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01-31346 Filed 12-19-01; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Havre-Rainbow Transmission Line Rebuild Project

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of floodplain/wetlands involvement.

SUMMARY: The Western Area Power Administration (Western) intends to rebuild the Havre-Rainbow 161 kilovolt (kV) Transmission Line in central Montana. This will initially require replacement of structures. Eventually, conductors will be replaced and overhead groundwires and fiber optic cable may be added. The line lies north and west of the Missouri River and crosses the Marias and Teton Rivers near Loma, Montana, and the Big Sandy Creek near Big Sandy, Montana.

In accordance with the U.S. Department of Energy (DOE) Floodplain/Wetland Review Requirements (10 CFR part 1022), Western will prepare a floodplain assessment and will perform the proposed actions in a manner so as to avoid or minimize potential harm to or within the affected floodplain. The floodplain assessment will be included in the Environmental Assessment being prepared by Western, in accordance with the provisions of the DOE National Environmental Policy Act Implementing Procedures (10 CFR part 1021).

DATES: Comments on the proposed floodplain action are due to the address below no later than January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Comments should be addressed to Mr. Theodore Anderson, Environmental Specialist, Upper Great Plains Customer Service Region, Western Area Power Administration, P.O. Box 35800, Billings, Montana 59107-5800, e-mail *tanderso@wapa.gov*. For further information on DOE Floodplain/Wetlands Environmental Review Requirements, contact Ms. Carol M. Borgstrom, Director, NEPA Policy and Compliance, EH-42, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, telephone (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION: The existing Havre-Rainbow Transmission Line is approximately 103 miles long and approximately 60 years old. The action will entail the removal of the existing structures and reinstalling the new structures. At some time in the future Western may reconductor the line to 230-kV and install overhead groundwires and fiber optic cable. Most ground disturbances will take place where the structures are replaced, at the splice points, and at pulling sites of the possible future installation of conductor, overhead groundwire, and fiber optic cable. Access roads for the line exist and may need to be improved. There may also be a need for additional access trails or roads to individual structure locations. The work will take place over a 10-year period by an in-house workforce.

The line crosses the Marias and Teton Rivers, at their confluence with the Missouri River near Loma, Montana, and Big Sandy Creek near Big Sandy, Montana. The line will affect lands mostly in private ownership (grazing and cultivated lands), but will also cross Indian allotted lands on the Rocky Boys Indian Reservation. There may also be lands managed by the Bureau of Land Management and lands belonging to the State of Montana along the route.

Issued: December 12, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01-31352 Filed 12-19-01; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Western Area Power Administration

Energy Imbalance Service

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rate.

SUMMARY: The Western Area Power Administration (Western) is proposing a revision to the current rate schedule for Energy Imbalance Service for the Western Area Colorado Missouri control area (WACM).

The Department of Energy (DOE) Deputy Secretary approved rates for Transmission and Ancillary Services, including Energy Imbalance Service, on March 23, 1998 (Rate Order No. WAPA–80, published in the **Federal Register** on April 6, 1998). The Federal Energy Regulatory Commission (FERC) confirmed and approved the rate schedule on July 21, 1998, under FERC Docket No. EF98–5181–000. Rate Schedule L–AS4, the rate schedule for Energy Imbalance Service, was contained within Rate Order No. WAPA–80 and became effective on April 1, 1998, for the period ending March 31, 2003.

The proposed rate is a revision to L–AS4 and provides sufficient revenue to pay annual costs incurred in WACM's management of control area resources and obligations. The proposed rate is scheduled to go into effect on April 1, 2002, and will remain in effect through March 31, 2003. This **Federal Register** notice begins the formal process for the proposed rate.

DATES: The consultation and comment period begins with the publication of this notice and ends on January 31, 2002. An informal public information meeting will be held on January 15, 2002. No public comment forum will be held.

ADDRESSES: If you wish to submit comments, please do so in writing and address them to: Mr. Joel K. Bladow, Regional Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986. Western must receive written comments by January 31, 2002, to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel T. Payton, Rates Manager, Rocky Mountain Customer Service Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538–8986, telephone (970) 461–7442, e-mail *dpayton@wapa.gov*.

SUPPLEMENTARY INFORMATION: The proposed rate is needed to adequately recover the cost of energy purchased when entities conducting business within WACM are unable to match their resources and obligations accurately.

The current rate schedule L–AS4 provides for the ability to charge 100 mills per kilowatt-hour for under deliveries occurring more than five times per month outside of a bandwidth of ±1.5%. Within the bandwidth, the customer returns energy to Western. For over deliveries, the current rate schedule provides for the Transmission Customer to be credited up to 50 percent of the regional average monthly price for non-firm purchases.

WACM has experienced a great deal of price volatility over the last year, with prices ranging from a high of $575 per megawatt (MW) on-peak to a low of $22 per MW on-peak. WACM, as a control area operator, has final responsibility for balancing resources against obligations. As such, in times of deficit energy, WACM is required to purchase energy to keep the control area in balance. The existing 100-mill charge is inadequate to repay the costs of balancing energy in a high-cost market. At other times, it may be excessive. This proposed pass-through cost methodology will result in an equitable recovery of expenses.

Any change to Energy Imbalance Service will be as set forth in a revision to this schedule pursuant to applicable Federal laws, regulations, and policies and made part of the applicable service agreement.

Formula Rate

Western provides Energy Imbalance Service when there is a difference between a customer's resources and obligations. Energy Imbalance is calculated as resources minus obligations (adjusted for losses) for any combination of scheduled transfers/transactions located within WACM over each hour. Resources are defined as the quantity of actual generation plus scheduled resources, imports, or receipts. Obligations are defined as the quantity of actual deliveries plus scheduled obligations, exports or deliveries plus losses not accounted for separately. Some deviation from zero is expected, and a bandwidth is established to accommodate reasonable variations from an exact match of obligations and resources. Deviation beyond that bandwidth is not considered to be prudent utility practice.

WACM will establish a bandwidth of ±4 percent (8 percent bandwidth), with a minimum deviation of 2 megawatts (MW) to be applied hourly to any energy imbalance that occurs as a result of a difference in the customers' resources and obligations. WACM has proposed this increase in the bandwidth because the original rate schedule's bandwidth of ±1.5 percent was not reasonable with regard to current industry instrumentation accuracy, which is approximately 1 percent. WACM proposes to increase the bandwidth to ±4 percent to accommodate a wider range of customers' imbalances in a non-punitive manner, while still recovering WACM's expenses to balance energy. Four percent was determined to be the maximum capacity risk that WACM was willing to consider. With an estimated average control area load of 2,900 MW, the selection of a 4 percent bandwidth creates a capacity risk of 116 MW for WACM. The 2 MW minimum deviation accommodates a situation where entities with smaller loads are not harmed by the industry standard of scheduling in whole megawatts.

All Energy Imbalance Service provided, both inside and outside the bandwidth, will be handled through financial settlement, accounted for hourly, at the end of each month.

Within the established bandwidth, charges for under deliveries or compensation for over deliveries will be aggregated and distributed to customers on a pass-through cost basis. The intent is to keep the control area whole within this range. Prices inside the bandwidth will be based on WACM's weighted average of nonfirm purchases and sales.

Outside the bandwidth, WACM will provide disincentives for those exceeding the established limits. These disincentives will be in the form of higher charges for under deliveries and lower compensation for over deliveries. Prices outside the bandwidth will be based on WACM's marginal nonfirm purchases or sales.

Within the Bandwidth

Within the bandwidth, the gross energy imbalance for each applicable entity within WACM shall be totaled and netted to determine an aggregate energy imbalance for WACM. The sign of the net amount will determine which of the following pricing mechanisms will apply:

For excursions by individual customers during hours of WACM *net over-delivery*, WACM will provide the customer with a financial charge for under deliveries or credit for over deliveries, as applicable, equal to 100 percent of the weighted average of nonfirm Loveland Area Projects (LAP) energy sale prices for that hour made by Western's Energy Management and

VOL 66 ISS 245 DE 20 2001 UMI

Marketing Office (EMMO) in Montrose. If during the hour in question, there are no LAP sales by EMMO, WACM will use the daily on-or off-peak weighted average nonfirm energy LAP sale prices. If there were no LAP sales made by EMMO during the day in question, then the Palo Verde nonfirm index will be used for on- and off-peak hours.

For excursions by individual customers during hours of *WACM net under-delivery*, for each hour, WACM will provide the customer with a financial charge for under deliveries or credit for over deliveries, as applicable, equal to 100 percent of the weighted average of nonfirm energy LAP purchase prices for that hour made by EMMO. If during the hour in question, there are no LAP purchases by EMMO, WACM will use the daily on-or off-peak weighted average of nonfirm LAP purchase prices. If there were no LAP purchases made by EMMO during the day in question, then the Palo Verde nonfirm index will be used for on- and off-peak hours.

Transmission expenses incurred in the sale or purchase of balancing energy will be factored in the sale and purchase prices.

Outside the Bandwidth

Outside the bandwidth, aggregated WACM energy imbalance will not be taken into account. Each entity within WACM will be charged or credited independently for energy imbalance service taken.

For *positive* excursions (over deliveries) outside the bandwidth, WACM will credit the customer for 90 percent of the weighted average of the lowest marginal nonfirm energy LAP sale prices for that hour made by EMMO. If during the hour in question, there are no LAP sales, WACM will use 90 percent of the weighted average of the lowest marginal nonfirm energy LAP sale prices for the day. If there were no LAP sales made by EMMO during the day in question, WACM will use 90 percent of the Palo Verde nonfirm index for on- and off-peak hours.

For *negative* excursions (under deliveries) outside the bandwidth, WACM will charge the customer 110 percent of the weighted average of the highest marginal nonfirm energy LAP purchase prices for that hour made by EMMO. If during the hour in question, there are no LAP purchases, WACM will use 110 percent of the weighted average of the highest marginal nonfirm LAP purchase prices for the day. If there were no LAP purchases made by EMMO during the day in question, WACM will use 110 percent of the Palo Verde nonfirm index for on- and off-peak hours.

Transmission expenses incurred in the sale or purchase of balancing energy will be factored in the sale and purchase prices.

WACM reserves the right to offer no financial credit during periods when control area operations are compromised by over-delivery; *e.g.*, during periods of high water or other operating constraints.

WACM will keep hourly records of Energy Imbalance Service amounts by customer and will produce a monthly report showing such amounts.

In the case of a generator imbalance where the generator is jointly owned, the charges/credits for Energy Imbalance Service will be assigned to the operating agent of the generator, unless WACM has been provided with a signed agreement from the generator owners designating a specific methodology used to allocate among owners and entitlees, the amount of aggregate energy imbalance due to the generator(s). Western reserves the right to refuse a designation that does not provide for the full and accurate recovery of all energy imbalance existing among owners/entitlees.

Physical Resource Loss

Western recognizes that the loss of a physical resource/generator, by virtue of an uncontrollable event (forced outage), can represent a significant percentage of an entity's resource, and may result in an out-of-bandwidth condition. Western proposes to lessen the impact of such instances by widening the bandwidth an additional amount to accommodate the amount of time required for an emergency response. This would be equivalent to the entity's resource loss in MW, divided by 8. The divisor of 8 is justified by the 15-minute response requirement, divided in half. The period immediately preceding the resource loss should have production on-schedule and the period after the loss should have the group response on-schedule.

The 15-minute period immediately following the trip would begin with an out-of-balance condition in the amount of the entity's schedule/allocation from the off-line unit and end with a balanced condition due to the group response. Thus, the amount of imbalance in the 15-minute period would be one-half of the energy in that period, for a total of one-eighth of the schedule from the tripped unit for that hour. The standard bandwidth would be extended by that one-eighth amount for either the hour of the trip or the hour of the trip and the next hour, depending on whether or not the 15-minute period rested entirely within an hour or overlapped into the following hour.

Western would also apply this expanded bandwidth to those cases where there is the loss of a resource (either internal to or scheduled into WACM) by virtue of an uncontrollable event, which is replaced for 1 or 2 hours by a coordinated response from a Western-recognized reserve-sharing group.

Western would provide a similarly expanded bandwidth of 1 to 2 hours for those members of a bona fide reserve-sharing group whose calculation of energy imbalance is pushed out of balance by virtue of a response to another member's loss of a unit during a reserve group activation. In this case, the expanded bandwidth would be the supplying members' response level for the trip, divided by 8. Again, the divisor of 8 is justified by the 15-minute response requirement, divided in half.

Sample Calculations

Within the Bandwidth

Within the bandwidth, credits and charges will be based on the weighted average of all nonfirm energy sales or purchases made within the hour or day, as depicted in Table 1:

TABLE 1

Credits for Over Deliveries: Weighted Average Nonfirm *Sale Price* (WANSP)	Charges for Under Deliveries: Weighted Average Nonfirm *Purchase Price (WANPP)*
Scenario: Aggregate over delivery	Scenario: Aggregate under delivery
Sale #1 25 MW @ $200 ($5,000)	Purchase #1 100 MW @ $200 ($20,000)
Sale #2 25 MW @ $100 ($2,500)	Purchase #2 50 MW @ $100 ($5,000)
Sale #3 25 MW @ $ 43 ($1,075)	Purchase #3 100 MW @ $ 65 ($6,500)
Sale #4 25 MW @ $ 25 ($ 625)	Purchase #4 50 MW @ $ 35 ($1,750)
Calculation:	Calculation:
($5,000+$2,500+$1,075+$625) = $9,200	($20,000+$5,000+$6,500+$1,750) = $33,250

TABLE 1—Continued

Credits for Over Deliveries: Weighted Average Nonfirm *Sale Price (WANSP)*	Charges for Under Deliveries: Weighted Average Nonfirm *Purchase Price (WANPP)*
$9,200/100 MW = $92 WANSP: $92/MW Or Palo Verde posted rate, if no sales (Applicable transmission cost deducted)	$33,250/300 MW = $110.83 WANPP: $110.83/MW Or Palo Verde posted rate, if no purchases (Applicable transmission cost added)

Outside the Bandwidth

Reference is made above to the weighted average of the lowest and highest marginal nonfirm sale and purchase price(s) for the hour or day that a sale or purchase is made by EMMO. These prices will apply only to imbalances outside the bandwidth. The weighted average of the lowest and highest marginal nonfirm energy sale and purchase prices will be derived as depicted in Table 2:

TABLE 2

Credits for Over Deliveries: Weighted Average Lowest Marginal Nonfirm Sale Price (WALMNSP)	Charges for Under Deliveries: Weighted Average Highest Marginal Nonfirm Purchase Price (WAHMNPP)
Scenario: Customer surplus 35 MW Sale #1 25 MW @ $25 ($625) Sale #2 25 MW @ $43 ($1,075) Sale #3 25 MW @ $100 ($2,500) Sale #4 25 MW @ $200 ($5,000) Calculation keys off of surplus of 35 MW: ($625)+(10 MW × $43) = $1,055 $1,055 / 35 MW = $30.14 WALMNSP: $30.14/MW × 90 percent = $27.13/MW Or Palo Verde posted rate, if no sales (Applicable transmission cost deducted)	Scenario: Customer deficit 175 MW Purchase #1 100 MW @ $200 ($20,000) Purchase #2 50 MW @ $100 ($5,000) Purchase #3 100 MW @ $65 ($6,500) Purchase #4 50 MW @ $35 ($1,750) Calculation keys off deficit of 175 MW: ($20,000)+($5,000)+(25 MW × $65) = $26,625 $26,625 / 175 MW = $152.14 WAHMNPP: $152.14/MW × 110 percent = $167.36/MW Or Palo Verde posted rate, if no purchases (Applicable transmission cost added)

Procedural Requirements

The proposed rate will result in a minor rate adjustment as defined at 10 CFR 903.2. A minor rate adjustment is one that will not increase annual revenue of the power system by more than 1 percent. The proposed rate will accomplish a pass-through of costs incurred to purchase energy to balance the control area, resulting in only incidental changes in net revenue. An informal public information meeting will be held on January 15, 2002, at the Rocky Mountain Customer Service Region Office. No public comment forum will be held. The comment period will end on January 31, 2002. All comments must be sent to the address listed in the Addresses section. Western will review written comments received during the comment period and will recommend that the proposed rate or a revised proposed rate be approved on an interim basis by the DOE Deputy Secretary.

The proposed rate for Energy Imbalance Service is being established pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43, U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of DOE delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR part 903.

Availability of Information

Comments, letters, memorandums, or other documents made or kept by Western in developing the proposed rate will be made available for inspection and copying at the Rocky Mountain Customer Service Region, located at 5555 East Crossroads Boulevard, Loveland, CO 80538–8986.

Regulatory Procedural Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from Congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: December 5, 2001.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 01–31347 Filed 12–19–01; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; Servicing of Motor Vehicle Air Conditioners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following renewal of the Information Collection Request (ICR) to the Office of Management and Budget (OMB): Servicing of Motor Vehicle Air Conditioners, OMB Control Number 2060–0247, EPA Number 1617.04, which will expire on May 31, 2002. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 19, 2002.

ADDRESSES: Global Programs Division, (6205–J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. To obtain a copy of the ICR, free of charge, you may contact the Stratospheric Ozone Hotline at 1/800–296–1996.

FOR FURTHER INFORMATION CONTACT: Nancy Smagin 202–564–9126 202–564–2156 *smagin.nancy.epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those that service motor vehicle air conditioners. Entities that service motor vehicle air conditioners must send a one-time recovery/recycle equipment certification to EPA. New technical colleges seeking EPA authorization to certify technicians to service motor vehicle air conditioners. Additional laboratories, although highly unlikely, seeking to become EPA certified to test refrigerant, which has been reclaimed to the industry standard.

Title: "Servicing of Motor Vehicle Air Conditioners"

OMB Control No.: 2060–0247; EPA ICR No. 1617.04, expiring on May 31, 2002.

Abstract: Section 609(d)(3)–(4) of the Act requires that all entities that service motor vehicle air conditioners acquire approved refrigerant recycling equipment. Proposed automotive technician certification programs are required to be approved by EPA in section 609(b)(4). Under section 609(b)(2)(A), independent laboratories must seek EPA approval to assure that they meet an industry accepted standard of quality. Owners may show that they possess substantially identical equipment as addressed in section 609(b)(2)(B), and obtain certification from EPA. The recordkeeping requirements for motor vehicle recycling programs are derived from section 114 of the Act. Responses collected or recorded are required to ensure that EPA standards are met, and are consistent with the least stringent of the Society of Automotive Engineers (SAE) J standards.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The estimated annual burden associated with recordkeeping is 5,320 hours, and the total annual costs are estimated at $266,000. The estimated annual reporting burden is estimated at 3,562 hours, and the total annual costs are estimated at $178,100. The total annual public burden of capital/start-up and total burden hours is 8,882, and the summary total of all capital/start-up costs and total annual costs is $444,100.

Dated: December 12, 2001.

Paul Stolpman,

Director, Office of Atmospheric Programs.

[FR Doc. 01–31345 Filed 12–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–7]

Agency Information Collection Activities: Submission for OMB Review; Renewal; Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (Subpart FFF)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994 (subpart FFF), ICR Number, 1847.02, OMB Control Number, 2060–0390, expiration date, December 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 2002.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-mail at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1847.20.For technical questions about the ICR contact Carolyn Young, 202–564–7062, Office of Compliance, *young.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

Title: Federal Plan Recordkeeping and Reporting Requirements for Large Municipal Waste Combustors Constructed on or before September 20, 1994 (subpart FFF); OMB Control Number 2060–0390, EPA ICR Number 1847.02, expiration date December 31, 2001. This is a renewal notice.

Abstract: This information collection is required as a result of a Federal plan to implement and enforce the Clean Air Act (CAA) emission guidelines (40 CFR part 60, subpart Cb) for large municipal waste combustors (MWC's) that were promulgated under the authority of CAA sections 111 and 129. The emission guidelines are not federally enforceable. Under the CAA section 129(b)(2), States were required to submit State plans to the Environmental Protection Agency (EPA) for approval by December 19, 1996 that implement and enforce the guidelines. Section 129(b)(3) requires EPA to promulgate a Federal plan to implement and enforce the guidelines in those States that have not submitted an approvable plan to EPA by December 19, 1997. Reporting and recordkeeping requirements would apply to MWC units with capacities to combust greater than 250 tons per day (tpd) (large MWC's). The EPA Regional Offices will collect the required information (after promulgation of the MWC Federal plan) to ensure that the subpart FFF Federal plan is being implemented and enforced for affected facilities in States that have not submitted an approvable State plan by December 19, 1997.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. Respondents are owners or operators of municipal waste combustors with a capacity to combust greater than 250 tons per day located in States that do not have EPA-approved State plans. All respondents must submit notification of five increments of progress and emission rates. The information will be used to ensure that the MWC Federal plan requirements are being achieved on a continuous basis. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on August 17, 2001. A comment was received from Mark Strohfus, Great River Energy, 17845 E. Hwy 10, PO Box 800 Elk River, MN 55330–0800.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3,218 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners/Operators Municipal Waste Combustors (MWC).

Estimated Number of Respondents: 56.

Frequency of Response: one-time, quarterly, semi-annual and annual.

Estimated Total Annual Hour Burden: 58,915 hours.

Estimated Total Annualized Capital and Operating & Maintenance Cost Burden: $3,218.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1847.02 and OMB Control No. 2060–0390 in any correspondence.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1847.02 and OMB Control No. 2060–0390 in any correspondence.

Dated: December 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–31343 Filed 12–19–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Application for Reference and Equivalent Method Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Application for Reference and Equivalent Method Determination, OMB Control Number 2080–0005, expiration date December 31, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 0559.07 and OMB Control No. 2080–0005, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, contact Susan Auby at EPA by phone at (202) 260–4901, by e-mail at *auby.susan@epamail.epa.gov*, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 0559.07. For technical questions about the ICR, contact Elizabeth T. Hunike on 919–541–3737; facsimile number: 919–541–1153; e-mail: *Hunike.Elizabeth@epa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Application for Reference and Equivalent Method Determination, OMB Control Number 2080–0005, EPA ICR No. 0559.07, expiring December 31, 2001. This is a request for extension of a currently approved collection.

Abstract: State air monitoring agencies are required to use EPA-designated reference or equivalent methods in their air monitoring networks to determine compliance with the national ambient air quality

VOL 66 ISS 245 DE 20 2001 UMI

standards (NAAQS). A manufacturer or seller of an air monitoring method (more specifically, an air monitoring sampler or analyzer that is the basis of the method) which seeks EPA designation of the method must carry out prescribed tests of the method. The test results along with other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information to determine whether the particular method should be designated as either a reference or equivalent method. After designation of a method, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. Following designation of a method for $PM_{2.5}$, the applicant must also maintain its manufacturing facility as a ISO 0991-registered facility and annually submit a checklist signed by an ISO-certified auditor to verify adherence to specific quality assurance requirements in the manufacture of the samplers or analyzers sold as part of a designated method.

Responses to the collection of information are voluntary but are required to obtain the benefit of EPA-designation of a method or product as a reference or equivalent method (40 CFR part 53). Submission of information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as such will be protected in full accordance with 40 CFR 53.15 and all applicable provisions of 40 CFR part 2.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 25, 2001 (66 FR 33681); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 860 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Business or other for-profit, Federal Government, or State, Local or Tribal Government.

Estimated Number of Respondents: 5.

Frequency of Response: As needed.

Estimated Total Annual Hour Burden: 4,718.

Estimated Total Annualized Capital, O&M and Cost Burden: $89,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 0559.07 and OMB Control No. 2080–0005 in any correspondence.

Dated: December 12, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–31344 Filed 12–19–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

[Notice 2001–19]

Voluntary Standards for Computerized Voting Systems

AGENCY: Federal Election Commission.

ACTION: Notice with request for comments.

SUMMARY: The Federal Election Commission (the "FEC") requests comments on the second draft of the revisions to the 1990 national voluntary performance standards for computerized voting systems and the first draft of the revisions to the 1990 national test standards. Please note that these drafts do not represent a final decision by the Commission. The FEC will publish a **Federal Register** notice when both volumes of the final revised standards are issued. Note also that the text of the final documents will not become part of the Code of Federal Regulations because they are intended only as guidelines for states and voting system vendors. States may mandate the specifications and procedures through their own statutes, regulations, or administrative rules. Voting system vendors may voluntarily adhere to the standards to ensure the reliability, accuracy, and integrity of their products. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

DATES: Comments must be received on or before February 1, 2002.

ADDRESSES: Copies of the draft revised performance and test standards may be found on the Federal Election Commission's Web site at *www.fec.gov/elections.html,* or may be requested by contacting the Office of Election Administration, Federal Election Commission, 999 E. Street, NW., Washington, DC 20463. They may also be requested in person at the Office of Election Administration, 800 N. Capital St., NW., Washington, DC, Suite 600.

All comments should be addressed to Ms. Penelope Bonsall, Director, Office of Election Administration, and must be submitted in either written or electronic form. Because no anonymous submissions will be considered, all submissions must include the commenter's full name, postal mail address, and electronic mail address if submitted by e-mail. Written comments should be sent to the Office of Election Administration, Federal Election Commission, 999 E. Street, NW., Washington, DC 20463. Faxed comments should be sent to (202) 219–8500, although it is advisable to send a printed copy to ensure legibility. Comments can be submitted electronically to *vss@fec.gov.* It is suggested that electronic comments that are submitted as attachments use Microsoft Word and that all comments avoid the use of special characters or encryption. Comments can be submitted through the close of business on February 1, 2002

FOR FURTHER INFORMATION CONTACT: Ms. Penelope Bonsall, Director, Office of Election Administration, 999 E. Street, NW., Washington, DC 20463; Telephone: (202) 694–1095; Toll free (800) 424–9530, extension 1095.

SUPPLEMENTARY INFORMATION: In 1990, the FEC and its Office of Election Administration promulgated standards for computerized election equipment pursuant to its responsibilities under 2 U.S.C 438(a)(10), which requires the FEC to "serve as a national clearinghouse for the compilation and review of procedures with respect to the administration of Federal elections." The resulting product is the Voting System Standards (the "Standards").

Although voluntary, the Standards have been adopted in 38 states in whole or in part and are used to design systems and procure equipment to meet the needs of diverse jurisdictions serving a wide variety of voting populations and election formats.

The Standards are designed to provide technical specifications and documentation requirements to vendors that intend to sell systems in the states that require compliance with the Standards. In order to show compliance, a vendor must submit its system for qualification testing. The qualification testing is done through an Independent Testing Authority ("ITA") that has been certified by the National Association of State Election Directors ("NASED"). Once a system has completed the ITA process, it receives a NASED Qualified identification number. In order to maintain its status as a NASED qualified system, the hardware and software must be identical to the hardware and software tested by the ITA.

The Standards are designed to guide development of computerized voting systems. To this extent, the only voting systems that are addressed in the Standards are electronic DRE systems and paper-based systems that utilize electronic technology to count ballots. The Standards do not address lever machines systems, as there are currently no manufacturers that design systems using such machines.

Periodic revisions to the Standards are necessary to reflect the development of emerging technology in voting systems and design innovations. Increasingly, voting system vendors are designing systems that use electronic and telecommunications components not addressed in the original standards. As a result, proposed revisions have been developed by the FEC that reflect the technologies contemplated by the voting system industry. Also, the Standards acknowledge the impact of the Americans with Disabilities Act and provide specifications so that voting system vendors can design systems that allow a voter with a disability to exercise his or her democratically protected right to vote.

Additionally, the revised Standards incorporate a broadened understanding of what constitutes a voting system by including not just the machine used by voters to cast ballots, but also certain components of the Election Management System (EMS), the telecommunications system (where applicable), and the ballot counting system. The revised Standards augment the requirements for the EMS, addressing preparation of the ballot, election-specific coding of software, and vote consolidation and reporting processes. The Standards do not provide guidance to computerized election database systems that are not part of the voting system itself. Such systems include voter registration databases and other consolidated databases used by election officials. The FEC's Office of Election Administration has produced other documents, available upon request, that can assist election officials and other interested parties in developing and maintaining such systems.

The FEC recognizes that human interface considerations are an integral part of developing an accurate, reliable voting system. The FEC has allocated funds to investigate human factors issues and is developing specifications that can be used in conjunction with both the Standards and other FEC operational and management guidelines to ensure that human factors considerations are given an important place in the development and procurement of voting systems.

The 1990 Standards were released as a single volume. However, the new Standards are divided into two volumes, both included in this release. Volume I provides functional and technical requirements for a number of system types and configurations. Volume II provides testing specifications for the requirements of Volume I.

On July 10, 2001, the Commission published a **Federal Register** notice requesting comments on the first draft of Volume I of the revised Standards. 66 FR 35978. Public comment was significant in both volume and content. Over 350 comments from over 40 commentators provided ideas and approaches to the Standards that greatly enhance their use by vendors, election officials, and voters. Because of this feedback, substantive changes were made to Volume I and a second draft of this document is being released for additional public comment. Although many of the comments on Volume I were helpful in devising the content of Volume II, this will be the first opportunity for the public to comment on its specific content.

The documents released with this notice include an Overview document, Volume I of the Standards (containing nine sections and three appendices), and Volume II of the Standards (containing seven sections and four appendices). The overview document explains in detail the history of the Standards project, provides a description of how the Standards fit into the election vending process, and gives an explanation of the reasoning behind the inclusions and exclusions of various systems, requirements, and test methods. Volume I of the Standards contains functional requirements (Section 2) that outline system benchmarks. The Standards also anticipate an increased demand for equipment that meets the needs of people with disabilities. In order to address these needs, the FEC consulted with the Access Board, the federal agency that developed access guidelines for federal information technology, to produce specific requirements to help guide vendors in the development of systems that increase accessibility to voters with disabilities (Section 2.6).

The Standards provide specific requirements for system software (Section 3) and hardware (Section 4). Additionally, the Standards anticipate that voting systems will move increasingly towards the use of telecommunications to cast ballots, consolidate vote data, and report results. As such, two sections of Volume I of the Standards outline requirements to guide selection of proper telecommunications equipment (Section 5) and ensure that the introduction of telecommunications equipment does not compromise the security and secrecy demanded by the election process (Section 6). Section 6 also addresses security and secrecy requirements for a voting system's software, hardware, and administrative procedures (as specified by the vendor).

Volume I of the Standards also provides information on quality assurance (Section 7) and configuration management issues (Section 8). These sections are tailored towards the unique needs of the election system industry, and are designed to provide guidance in sound management practices without posing an undue burden on small companies that have traditionally formed the backbone of the election system industry.

Section 9 of Volume I of the Standards provides an introduction and overview to the testing process necessary for a system to be qualified. The testing processes and specifications themselves are found in the body of Volume II.

Ultimately, the Standards are only a component of the necessary steps to ensure reliable, accurate, and secure elections. A qualified system has passed certain benchmarks for accuracy and reliability, but this is not sufficient to ensure overall system reliability unless jurisdictions who purchase the system use sound procurement and management practices to ensure that the system's security, accuracy, and reliability are protected during the election cycle itself. Because such practices are related to the actions of

VOL 66 ISS 245 DE 20 2001 UMI

voting officials rather than vendors, they are clearly outside the scope of the Standards. However, the Standards mandate a significant amount of disclosure from vendors in order to provide a clear understanding to election officials of how the system can be optimally operated.

The FEC invites all interested parties to submit comments. It is requested that each commenter indicate if he or she is willing to appear before the Commission. The FEC asks that, where appropriate, submitted comments reference the specific sections of the Standards that are germane to the submitted comment. Additionally, the FEC requests that comments regarding specific content be accompanied by specific suggestions for alterations to language or technical specifications, so that the Commission may consider changes that best reflect the intent of the commenter. Comments suggesting the use of alternate industry standards should provide the standard industry reference.

Dated: December 14, 2001.

Karl Sandstrom,

Commissioner, Federal Election Commission.

[FR Doc. 01–31293 Filed 12–19–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1399–DR]

Alabama; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama, (FEMA–1399–DR), dated December 7, 2001, and related determinations.

EFFECTIVE DATE: December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *madge.dale@fema.gov*.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Alabama is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 7, 2001:

Blount, Butler, Cherokee, Dale, Etowah, Fayette, Lamar, St. Clair, and Winston Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31374 Filed 12–19–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1396–DR]

Puerto Rico; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Puerto Rico, (FEMA–1396–DR), dated November 28, 2001, and related determinations.

EFFECTIVE DATE: December 12, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery and Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or madge.dale@fema.gov.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Puerto Rico is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 28, 2001:

Aguas Buenas, Orocovis, and Vega Alta Municipalities for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–31373 Filed 12–19–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have been filed with the Federal Maritime Commission an application for license as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicant:

LOA Int'l (USA) Transport Co., Inc., dba LOA Container Line, 721 Brea Canyon Road, Suite 3, Walnut, CA 91789, Officer: Charster Lou, President (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Orion Logistics Inc., 9688 Fontainebleau Blvd., ı509, Miami, FL 33172, Officer: Jose Alejandro Carbonell, President (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant:

Sunjin Shipping (U.S.A.), Inc., 145–63 226th Street, Springfield Gardens, NY 11413, Officers: Key Y. Chung, President (Qualifying Individual), Soon Kim, Secretary.

Dated: December 14, 2001.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–31291 Filed 12–19–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL TRADE COMMISSION

[File No. 011 0247]

Koninklijke Ahold N.V. and Bruno's Supermarkets, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 7, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Susan Huber, Bureau of Competition, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326–3331.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR § 12.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 7, 2001), on the World Wide Web, at "http://www.ftc.gov/os/2001/12/index.htm." A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW, Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of the Draft Complaint and Proposed Decision Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission) has accepted for public comment from Koninklijke Ahold NV, ("Ahold"), and Bruno's Supermarkets Inc., ("Bruno's") (collectively "the Proposed Respondents") an Agreement Containing Consent Orders ("the proposed consent order"). The Proposed Respondents have also reviewed a draft complaint contemplated by the Commission. The proposed consent order is designed to remedy likely anticompetitive effects arising from Ahold's proposed acquisition of all of the outstanding voting stock of Bruno's.

II. Description of the Parties and the Proposed Acquisition

Ahold is a global food service and food retailer headquartered in the Netherlands. The company operates or services approximately 8,500 stores in the United States, Europe, Latin America and Asia and had sales of over $49 billion in 2000. In the United States, Ahold, through its U.S. subsidiary Ahold U.S.A., Inc., operates over 1,300 retail food stores, including supermarkets under the Giant, Stop & Shop, Tops and BI–LO trade names. In the southeastern United States, Ahold owns and operates 294 BI–LO supermarkets as well as a number of Golden Gallon convenience stores.

Bruno's, headquartered in Birmingham, is the largest supermarket chain in the state of Alabama. With annual sales in 2000 of over $1.5 billion, Bruno's operates 169 supermarkets in Alabama (123), Georgia (25), Florida (16) and Mississippi (2) as well as 13 liquor stores and two gas stations. Bruno's operates supermarkets under the trade names Bruno's Fine Foods, Food World, FoodMax, Food Fair and Fresh Value.

On September 4, 2001, Ahold and Bruno's signed an agreement whereby Ahold will purchase all of the outstanding voting securities of Bruno's through the merger of New Bronco Acquisition Corp., an indirect wholly-owned subsidiary of Ahold, with and into Bruno's Supermarkets. Bruno's Supermarkets will continue as the surviving corporation. The value of the transaction is approximately $500 million.

III. The Draft Complaint

The draft complaint alleges that the relevant line of commerce (i.e., the product market) is the retail sale of food and grocery items in supermarkets. Supermarkets provide a distinct set of products and services for consumers who desire one-stop shopping for food and grocery products. Supermarkets carry a full line and wide selection of both food and nonfood products (typically more than 10,000 different stock-keeping units ("SKUs")), as well as an extensive inventory of those SKUs in a variety of brand names and sizes. In order to accommodate the large number of nonfood products necessary for one-stop shopping, supermarkets are large stores that typically have at least 10,000 square feet of selling space.

Supermarkets compete primarily with other supermarkets that provide one-stop shopping for food and grocery products. Supermarkets base their food and grocery prices primarily on the prices of food and grocery products sold at nearby supermarkets. Most consumers shopping for food and grocery products at supermarkets are not likely to shop elsewhere in response to a small price increase by supermarkets.

Retail stores other than supermarkets that sell food and grocery products, such as neighborhood "mom & pop" grocery stores, limited assortment stores, convenience stores, specialty food stores (*e.g.*, seafood markets, bakeries, etc.), club stores, military commissaries, and mass merchants, do not effectively constrain prices at supermarkets. The retail format and variety of items sold at these other stores are significantly different from that of supermarkets. None of these other retailers offer a sufficient quantity and variety of products to enable consumers to one-stop shop for food and grocery products.

The draft complaint alleges that the relevant sections of the country (*i.e.*, the geographic markets) in which to analyze the acquisition are the areas in or near the towns of Milledgeville and Sandersville, Georgia. Ahold and Bruno's are direct competitors in both of the relevant markets. The draft complaint alleges that the post-merger markets would each be highly concentrated, whether measured by the Herfindahl-Hirschman Index (commonly referred to as "HHI") or four-firm concentration ratios. The acquisition would substantially increase concentration in each market. The post-acquisition HHI in each of the geographic markets would be above 5400.

The draft complaint further alleges that entry would not be timely, likely, or sufficient to prevent anticompetitive effects in the relevant geographic markets.

The draft complaint also alleges that Ahold's acquisition of all of the outstanding voting securities of Bruno's, if consummated, may substantially lessen competition in the relevant line of commerce in the relevant markets in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by eliminating direct competition between supermarkets owned or controlled by Ahold and supermarkets owned and controlled by Bruno's; by increasing the likelihood that Ahold will unilaterally exercise market power; and by increasing the likelihood of, or facilitating, collusion or coordinated interaction among the remaining supermarket firms. Each of these effects increases the likelihood that the prices of food, groceries or services will increase, and that the quality and selection of food, groceries or services will decrease, in the geographic markets alleged in the complaint.

IV. The Terms of the Agreement Containing Consent Orders

The Agreement Containing Consent Orders ("proposed consent order") will remedy the Commission's competitive concerns about the proposed acquisition. Under the terms of the proposed consent order, Ahold must divest two BI–LO supermarkets, one in Milledgeville and one in Sandersville, Georgia. In each community, Ahold owns only one supermarket. Both of the divestitures are to experienced up-front buyers who would be new entrants in the relevant geographic markets and who the Commission has pre-evaluated for competitive and financial viability. The Commission's evaluation process consisted of analyzing the financial condition of the proposed acquirers and the locations of their current supermarkets to ensure that divestitures to them would not increase concentration or decrease competition in the relevant markets and to determine that these purchasers are well qualified to operate the divested stores.

In Milledgeville, Ahold will sell its BI-LO to The Kroger Co. ("Kroger"), which is headquartered in Cincinnati, Ohio. Kroger operates supermarkets in southeastern Georgia and throughout the United States. Ahold will sell its BI–LO in Sandersville to Winn-Dixie Stores, Inc. ("Winn-Dixie"), headquartered in Jacksonville, Florida. Winn-Dixie also operates supermarkets in southeastern Georgia and throughout the U.S.

Paragraph II.A. of the proposed consent order requires that the divestitures must occur no later than 10 business days after the merger is consummated. However, if Ahold consummates the divestitures to Kroger and Winn-Dixie during the public comment period, and if, at the time the Commission decides to make the order final, the Commission notifies Ahold that Kroger or Winn-Dixie is not an acceptable acquirer or that the asset purchase agreement with Kroger or Winn-Dixie is not an acceptable manner of divestiture, then Ahold must immediately rescind the transaction in question and divest those assets to another buyer within three months of the date the order becomes final. At that time, Ahold must divest those assets only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. In the event that any Commission-approved buyer is unable to take or keep possession of any of the supermarkets identified for divestiture the Commission may appoint a trustee with the power to divest any assets that have not been divested to satisfy the requirements of the proposed consent order.

The proposed consent order also enables the Commission to appoint a trustee to divest any supermarkets or sites identified in the order that Ahold has not divested to satisfy the requirements of the proposed consent order. In addition, the proposed order enables the Commission to seek civil penalties against Ahold for non-compliance with the proposed consent order.

The proposed consent also requires Proposed Respondents to maintain the viability, marketability and competitiveness of the supermarkets identified for divestitures. Among other requirements related to maintaining operations at these supermarkets, the proposed consent order also specifically requires the Proposed Respondents to: (1) Maintain the viability, competitiveness and marketability of the assets to be divested; (2) not cause the wasting or deterioration of the assets to be divested; (3) not sell, transfer, encumber, or otherwise impair their marketability or viability; (4) maintain the supermarkets consistent with past practices; (5) use best efforts to preserve existing relationships with suppliers, customers, and employees; and (6) keep the supermarkets open for business and maintain the inventory at levels consistent with past practices.

The proposed consent order also prohibits Ahold from acquiring, without providing the Commission with prior notice, any supermarkets, or any interest in any supermarkets, located in the counties that include Milledgeville and Sandersville, Georgia for ten years. These are the areas from which the supermarkets to be divested draw customers. The provisions regarding prior notice are consistent with the terms used in prior Orders. The proposed consent order does not, however, restrict the Proposed Respondents from constructing new supermarkets in the above areas; nor does it restrict the Proposed Respondents from leasing facilities not operated as supermarkets within the previous six months.

The proposed consent also prohibits Ahold, for a period of ten years, from entering into or enforcing any agreement that restricts the ability of any person acquiring any location used as a supermarket, or interest in any location used as a supermarket on or after January 1, 2001, to operate a supermarket at that site if that site was formerly owned or operated by Ahold or Bruno's in any of the above areas. In addition, the Proposed Respondents are prohibited from removing fixtures or equipment from a store or property owned or leased by Ahold or Bruno's in Sandersville or Milledgeville, Georgia, that is no longer operated as a supermarket, except (1) prior to a sale, sublease, assignment, or change in occupancy or (2) to relocate such fixtures or equipment in the ordinary course of business to any other supermarket owned or operated by the Proposed Respondents.

The Proposed Respondents are required to file compliance reports with the Commission, the first of which is due within thirty days of the date on which Proposed Respondents signed the proposed consent, and every thirty days thereafter until the divestitures are completed, and annually for ten years.

V. Opportunity for Public Comment

The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed consent order and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, including the proposed sale of supermarkets to Kroger and Winn-Dixie, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order nor is it intended to modify the terms of the proposed consent order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–31338 Filed 12–19–01; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

[File No. 011 0083]

Nestle Holdings, Inc. and Ralston Purina Co.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 11, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Phillip L. Broyles, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2805.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 11, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/12/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission") has issued a complaint ("Complaint") alleging that the proposed merger of Nestle Holdings, Inc. ("Nestle"), and Ralston Purina Company ("Ralston") (collectively "Proposed Respondents") would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders ("Agreement Containing Consent Orders") pursuant to which Respondents agree to be bound by a proposed consent order that requires divestiture of certain assets ("Proposed Consent Order") and an order that requires Proposed Respondents to maintain certain assets pending divestiture ("Asset Maintenance Order"). The Proposed Order remedies the likely anticompetitive effects arising from Proposed Respondents' proposed merger, as alleged in the Complaint. The Asset Maintenance Order preserves competition pending divestiture.

II. Description of the Parties and the Transaction

Nestle Holdings, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware. This subsidiary of Nestle S.A. is the U.S. corporation that will be purchasing all of the outstanding Ralston shares. Nestle SA, the largest food corporation in the world, manufactures, distributes, and sells dairy products, soluble coffee, roast and ground coffee, mineral water, beverages, breakfast cereals, coffee creamers, infant foods and dietetic products, culinary products (seasonings, canned foods, pasta, sauces, etc.), frozen foods, ice cream, refrigerated products (*e.g.,* yogurt, desserts, pasta, sauces), chocolate, food services, ophthalmological products, cosmetics, and pet foods. Nestle sells its pet food products in the U.S. through its Friskies division, including Alpo, Come "N Get It, Mighty Dog, Friskies, Fancy Feast, Jim Dandy, and Chef's Blend. Nestle had worldwide sales of approximately 81.4 billion Swiss francs and United States sales of approximately $7.8 billion for all products in 2000.

Ralston is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Missouri. Ralston is the world's leading producer of dry dog and dry and soft-moist cat foods. The brands that Ralston manufacturers, distributes, and sells include Dog Chow, Puppy Chow, Cat Chow, Kitten Chow, Purina Special Care, Meow Mix, Purina O.N.E., Purina Pro Plan, Fit & Trim, Clinical Nutrition Management, Alley Cat, Deli-Cat, Thrive, Tender Vittles, Happy Cat, Chuck Wagon Stampede, and Main Stay. Ralston had worldwide sales of approximately $3 billion and United States sales of approximately $2.36 billion for all products for fiscal year 2000.

Pursuant to a merger agreement dated January 15, 2001, Nestle agreed to purchase all of Ralston's outstanding shares of common stock in a transaction valued at $ 10.3 billion. Nestle intends

VOL 66 ISS 245 DE 20 2001 UMI

to call the merged entity Nestle Purina Pet Care.

III. The Complaint

The complaint alleges that the market in which to analyze the competitive effects of the proposed transaction is the sale of dry cat food in the United States. Wet and dry cat foods constitute separate product markets. Wet cat food differs from dry cat food in production, ingredients, appearance, packaging, aroma, price, and convenience. Ralston's share of the dry cat food market across all channels of distribution is approximately 34%. Nestle has a market share of approximately 11% of the dry cat food market across all channels of distribution. The dry cat food market in the United States is moderately concentrated. The merger of Nestle and Ralston would substantially increase concentration in this market, raising the HHI level to more than 2400, an increase of more than 750 points. Entry would not be timely, likely, or sufficient to prevent anti-competitive effects in the relevant market.

The Complaint alleges that the merger of Nestle and Ralston would substantially lessen competition in the dry cat food market in violation of section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the following ways, among others: (a) By eliminating direct competition in the sale of dry cat food between Nestle and Ralston; and (b) by increasing the likelihood that the combination of Nestle and Ralston will unilaterally exercise market power; each of which increases the likelihood that prices will be higher with the acquisition than they would be absent the acquisition.

The Proposed Consent Order requires Proposed Respondents to divest the Meow Mix and Alley Cat brands of dry cat food to an up-front buyer, J.W. Childs Equity Partners II, L.P. ("Childs"), no later than 20 days after the Commission accepts the Proposed Consent Agreement for public comment or January 31, 2002, whichever is later, to remedy the Commission's concerns. Childs is a Boston-based investment firm founded in 1995. Structured as a limited partnership, Childs has total committed capital of $982 million. The Commission is satisfied that Childs' acquisition of the divested assets will restore the competition lost as a result of the proposed merger of Nestle and Ralston. Childs has a past history of successfully developing the business of consumer products companies. The designated CEO of the businesses that will produce and sell the brands to be divested has expertise in manufacturing dry pet foods. Childs also owns the Hartz Mountain Corporation ("Hartz"), a leading manufacturer and distributor of pet supplies in the United States. Hartz sells its pet supplies and treats in the same retail outlets as the brands to be divested.

IV. Terms of the Proposed Order

The Proposed Order resolves the Commission's antitrust concerns with the merger as discussed below.

A. Divestiture Provisions

Paragraph II.A. of the Proposed Order requires Proposed Respondents to divest to Childs all of Proposed Respondents' rights, titles, and interests in and to all assets relating to the Meow Mix and Alley Cat brands. The Meow Mix brand includes the original Meow Mix product and Meow Mix Seafood Middles. Specifically, Proposed Respondents must divest all interests in the research, development, manufacture, distribution, marketing, and sales of the Meow Mix and Alley Cat brands of dry cat food products anywhere in the United States and Canada. Proposed Respondents also must divest any and all trademarks, service marks, trademark and service mark registrations, and pending trademark and service mark registrations that relate exclusively to the Meow Mix or Alley Cat brand of dry cat food products outside of the United States and Canada. Proposed Respondents must further divest all inventories and supplies held by, or under their control; all intellectual property owned by or licensed to Proposed Respondents; copies of all customer lists and supplier lists; all rights of Proposed Respondents under any contract; all governmental approvals, consents, licenses, permits, waivers, or other authorizations held by Proposed Respondents, to the extent transferable; all rights of Proposed Respondents under any warranty and guarantee, express or implied; and copies of all relevant portions of books, records, and files held by, or under the control of, Proposed Respondents.

Paragraph II.C. further provides that if the Commission determines that Childs is not an acceptable purchaser of the assets to be divested, Proposed Respondents shall immediately terminate or rescind the sale of the assets to be divested to Childs and divest these assets at no minimum price to another purchaser that receives the prior approval of the Commission no later than 180 days from the date that this Proposed Order becomes final.

Paragraph II.D. of the Proposed Order requires that Proposed Respondents grant a patent license to Childs for the coating applied to Meow Mix products. The license covers current Meow Mix products as well as any pet product Childs chooses to manufacture in the future. Paragraph II.F. of the Proposed Order requires Proposed Respondents to provide Childs with a supply of Meow Mix and Alley Cat products for a period of up to two years from the date of the divestiture. Paragraph II.G. requires Proposed Respondents to provide technical assistance to Childs, as needed, for a period of up to two years from the date of divestiture, which includes expert advice, assistance, and training relating to the manufacture of the Meow Mix and Alley Cat brands.

Paragraph VI of the Proposed Order requires Childs, for a period of 5 years, to obtain the Commission's approval before selling all or substantially all of the United States assets acquired in the divestiture. The Commission does not routinely require acquirers of divested assets to obtain approval before subsequent sales. In cases, however, where the proposed acquirer's current plans indicate that there is a high probability that the assets will be resold, possibly within two-five years, it is appropriate for the Commission to include such a provision. *C.f., e.g.*, the Commission's final order in *Albertson's, Inc.*, Docket No. C–3986.

B. Monitor Trustee Provisions

Paragraph IV of the Proposed Order appoints a Monitor Trustee to monitor compliance with the terms of the Order. The Proposed Consent Order provides the Monitor Trustee with the power and authority to monitor the Proposed Respondents' compliance with the terms of the Proposed Consent Order, and full and complete access to personnel, books, records, documents, and facilities of the Proposed Respondents to fulfill that responsibility. In addition, the Monitor Trustee may request any other relevant information that relates to the Proposed Respondents' obligations under the Proposed Consent Order. The Proposed Consent Order precludes Proposed Respondents from taking any action to interfere with or impede the Monitor Trustee's ability to perform his or her responsibilities or to monitor compliance with the Proposed Consent Order.

The Monitor Trustee may hire such consultants, accountants, attorneys, and other assistants as are reasonably necessary to carry out the Monitor Trustee's duties and responsibilities. The Proposed Consent Order requires the Proposed Respondents to bear the cost and expense of hiring these assistants.

C. Other Terms

Paragraphs V and VII–X of the Proposed Consent Order detail certain general provisions. Paragraph V authorizes the Commission appoint a divestiture trustee in the event Nestle fails to divest the assets as required by the Proposed Consent Order. Paragraph VII requires Respondents to provide a copy of the Proposed Consent Order to each of their officers, employees, and agents with managerial responsibilities for any obligation under the Proposed Order. Paragraph VIII requires Proposed Respondents to provide the Commission with periodic reports of compliance with the Proposed Consent Order. Paragraph IX provides for notification to the Commission in the event of any changes in the corporate Proposed Respondents. Paragraph X requires Proposed Respondents to grant access to any authorized Commission representative for the purpose of determining or securing compliance with the Proposed Consent Order. Paragraph XI terminates the Proposed Consent Order after ten years from the date the Proposed Consent Order becomes final.

V. Opportunity for Public Comment

The Proposed Consent Order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission has also issued its Complaint in this matter as well as the Asset Maintenance Order. Comments received during this thirty day comment period will become part of the public record. After thirty days, the Commission will again review the Proposed Consent Order and the comments received and will decide whether it should withdraw from the Proposed Consent Order or make final the agreement's Proposed Consent Order.

By accepting the Proposed Consent Order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Consent Agreement, to aid the Commission in its determination of whether it should make final the Proposed Order contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission, Chairman Muris recused.

Donald S. Clark,
Secretary.

Statement of Commissioner Sheila F. Anthony

Yesterday, the Commission accepted for public comment a proposed consent agreement in this case. The evidence developed during the Commission's investigation unequivocally demonstrates that, absent the proposed relief, the acquisition by Nestle of Ralston would violate the antitrust laws and likely would result in harm to consumers of dry cat food. The parties have agreed to divest Ralston's Meow Mix and Alley Cat brands to J.W. Childs, a private equity investment firm. While I have concurred in the Commission's decision, I write separately to express my concerns about some aspects of the divestiture proposal.

The assets to be divested consist of two proven cat food brands and little else. Standing alone, these brands do not constitute a complete, ongoing business. Rather, J.W. Childs will have to create a new competitor largely from whole cloth. In order to turn the divested assets into a viable business entity, J.W. Childs will need to develop, among other things, its own research and development program, manufacturing facilities, distribution system, and sales and marketing operations. Such a prospect is daunting even when the purchaser is a participant in the same or a closely related business—which is why divestitures of stand-alone businesses present the most successful formula for restoring competition.[1]

The risk to consumers is further heightened where, as here, the proposed purchaser is a financial buyer. When compared to dedicated industry participants, investment firms may have quite different incentives and goals in operating a business. For example, a financial buyer's business plan often involves selling the acquired business within a relatively short period of time.

In the end, I am convinced that this is a rather unique situation and that consumers will be adequately protected by the proposed relief. Manufacturing and distribution in this industry segment is routinely and economically contracted out through "co-packing" arrangements. Moreover, this particular financial buyer, J.W. Childs, is financially strong, has a proven track record of good management and growth of acquired firms, and has some experience in the pet industry with its Hartz Mountain line of pet care products. These factors have led me to conclude that J.W. Childs is very likely to restore lost competition and preserve choices for dry cat food consumers.

I wish to make it clear, however, that I remain skeptical of divestiture plans that require a purchaser to take brands alone, then build a competitive company from scratch. In addition, I will closely examine divestiture proposals where the buyer is a financial company. In most cases, I would prefer to see divested assets go to a company with a stronger likelihood of operating the business for the long term.

Concurring Statement of Commissioner Mozelle W. Thompson

The Commission today has voted to accept a Consent Order that remedies competitive concerns in the dry cat food market stemming from Nestle S.A.'s ("Nestle") proposed acquisition of Ralston Purina Co. ("Ralston"). Pursuant to the proposed Consent Agreement and Order, Ralston would divest its top-selling Meow Mix brand and its Alley Cat brand to investment firm J.W. Childs Equity Partners II, L.P. ("Childs"), owners of the Hartz Mountain line of specialty pet care products. For me, this decision was difficult because the continued competitiveness of these brands is so important to consumers.

As always, the key issue facing the Commission in its analysis of the proposed remedy is whether or not the remedy will restore competition that would be lost as a result of the proposed merger. This is at its essence a factual inquiry, involving consideration of a multitude of factors, including the extent of the prospective buyer's industry know-how, its financial viability, its future marketing plans, and its capacity to research, develop, and make innovations to the relevant products.

Our analysis here was made all the more difficult in that we were presented with a buyer that does not have a record of experience in the market in question, therefore, historical indicia of market competitiveness were not available for the Commission's review. As such, the Commission undertook an extraordinarily rigorous analysis of Childs and its ability to be competitive with the assets in question. Ultimately, my primary reservation was not about Childs' ability to be competitive in the dry cat food marketplace, but rather that Childs, as a financial buyer, might in the near term re-sell the assets in question to a buyer who will operate the business poorly or not at all, thus defeating the purpose of the Commission's Order.

---

[1] See, e.g., Federal Trade Commission Bureau of Competition Staff, A Study of the Commission's Divestiture Process (1999).

These concerns are addressed in Section VI of the proposed Order, which provides that Childs' will not sell the acquired assets within five years of the date of the Order without prior approval of the Commission. While generally I am cautious about including lengthy oversight provisions in such orders, it is appropriate in this case because these provisions ensure that in the event of a resale by Childs, the Commission will be able to assure that the prospective buyer is committed to enhancing the assets in question, thus maintaining the integrity of the Commission's Order.

Concurring Statement of Commissioner Orson Swindle

The Commission has accepted for public comment a consent agreement to resolve complaint allegations that the effect of Nestle S.A.'s ("Nestle") acquisition of Ralston Purina Co. ("Ralston") may be to substantially lessen competition in the market for the sale of dry cat food in the United States. To remedy these competitive concerns, the merging parties have entered into a consent agreement under which Ralston would divest its Meow Mix and Alley Cat brands to J.W. Childs Equity Partners II, L.P. ("J.W. Childs"), an investment firm that owns the Hartz line of pet care products. Because the divestiture to J.W. Childs is likely to replace the competition in the market for dry cat food that otherwise would have been lost due to the Nestle/Ralston merger, I have voted to accept the consent agreement for public comment.

One provision in the proposed consent agreement is unusual and may raise concerns, however. Paragraph VI of the Proposed Consent Order requires J.W. Childs, for a period of five years, to obtain Commission approval before selling all or substantially all of the assets acquired in the divestiture. The Analysis to Aid Public Comment explains that the Commission does not routinely impose such prior approval requirements, but it is appropriate to do so "where the proposed acquirer's current plans indicate that there is a high probability that the assets will be resold, possibly within 2–5 years." The purpose of the prior approval requirement is to make certain that whoever buys the resold assets from J.W. Childs would be a sufficient competitor to remedy the lessening of competition from the Nestle/Ralston transaction alleged in the complaint. See Paragraph VI.F. of the Proposed Consent Order.

I agree that J.W. Childs warranted a hard look as a prospective buyer because it might resell the divested assets in the near future. It is possible that this close scrutiny would go for naught if J.W. Childs were promptly to resell the assets to a less qualified buyer. On the other hand, this risk is always present—even had the assets remained in Ralston's hands. I think that our approval of J.W. Childs as the buyer means that we have determined that, in spite of any possible resale plans, the company will develop and employ the assets as vigorously as Ralston would have done. Once we have made this determination, I question the need for imposing a prior approval requirement on J.W. Childs that we would not have imposed on a buyer that was less likely to resell the assets.

I also think that the prior approval requirement may require that the Commission make a difficult determination. For example, assume that J.W. Childs seeks prior approval to resell the assets four years after the Nestle/Ralston merger has been consummated. The Commission presumably will have to determine whether the prospective buyer of the resold assets will compete as effectively as Ralston would have competed in the absence of the Nestle/Ralston merger. Given the passage of four years since the merger and the dynamic nature of markets, it may be difficult for the Commission to make this determination with a high degree of confidence.

I welcome public comments on the prior approval provision included in Paragraph VI of the Proposed Consent Order, including any suggestions for distinguishing between situations where the additional relief may be justified and those where it is not.

[FR Doc. 01–31339 Filed 12–19–01; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation

Secretary's Advisory Committee on Regulatory Reform; Notice of Meeting

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a meeting by the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with section 10(a)(2), the Secretary's Advisory Committee on Regulatory Reform is seeking guidance for the Department's efforts to streamline regulatory requirements. The Advisory Committee will advise and make recommendations for changes that would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products.

All meetings and hearings of the Committee are open to the general public. During each meeting, invited witnesses will address how regulations affect health-related issues. Meeting agendas will also allow time for public comment. Additional information on each meeting's agenda and list of participating witnesses will be posted on the Committee's Web site prior to the meetings *(http://www.regreform.hhs.gov).*

DATES: The first meeting of the Secretary's Advisory Committee on Regulatory Reform will be held on Monday, January 7, 2002, from 9 a.m. to 5:30 p.m. and on Tuesday, January 8, 2002, from 8 a.m. to 1 p.m.

ADDRESSES: The Secretary's Advisory Committee on Regulatory Reform will meet on Monday, January 7, in the Ross Auditorium at Providence Hospital, 1150 Varnum Street NE., Washington, DC 20017. On Tuesday, January 8, the Committee will meet in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Christy Schmidt, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 801, Washington, DC 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: Providence Hospital and the Hubert H. Humphrey Building are in compliance with the Americans with Disabilities Act. Anyone planning to attend the meeting who requires special disability-related arrangements such as sign-language interpretation should provide notice of their need by Friday, December 31, 2001. Please make any request to Michael Starkweather " phone: 301–628–3141; fax: 301–628–3101; email: *mstarkweather@s-3.com.*

On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. As part of this initiative, the Department is establishing the Secretary's Advisory Committee on

Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: December 13, 2001.

Dr. William F. Raub,

Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 01–31319 Filed 12–19–01; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Tribal Plan (Form ACF–118–A).

OMB No.: 0970–0198.

Description: The Child Care and Development fund (CCDF) Tribal Plan serves as the agreement between the applicant (Indian Tribes, tribal consortia and tribal organizations) and the Federal government that describes how tribal applicants will operate CCDF Block Grant programs. The Tribal Plan provides assurances that the CCDF funds will be administered in conformance with legislative requirements, federal regulations at 45 CFR parts 98 and 99 and other applicable instructions or guidelines issued by the Administration for Children and Families (ACF). Tribes must submit a new CCDF Tribal plan every two years in accordance with 45 CFR 98.17.

Respondents: Tribal CCDF Programs (262 in total).

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDF Tribal Plan	262	1	17.5	4,585
CCDF Tribal Plan Amendments	262	1	1.5	393

Estimated Total Annual Burden Hours: 4,978.

Note: CCDF Tribal Plans are submitted biannually. This collection burden has been calculated to reflect an annual burden.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: December 14, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–31376 Filed 12–19–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 02–03]

Fiscal Year 2002 Family Violence Prevention and Services Discretionary Funds Program, Availability of Funds and Request for Applications

AGENCY: Office of Community Services (OCS), ACF, DHHS.

ACTION: Notice; correction.

SUMMARY: This notice corrects the announcement of Family Violence Prevention and Service Program, Availability of Funds and Request for Applications published on December 13, 2001 (66 FR 64437).

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families, Office of Community Services, Division of State Assistance, 370 L'Enfant Promenade, SW., Washington DC 20447. Telephone William Riley, (202) 401–5529, James Gray, (202) 401–5705, Sunni Knight, (202) 401–5319 or Shena Williams, (202) 205–5932.

Correction

In the **Federal Register** issued December 13, 2001 (66 FR 64437), make the following correction. On page 64444, in the second column, under Lists of Attachments, please add the following language:

"Attachment F–1–SF 424 Application for Federal Assistance"

"Attachment F–2–SF 424 Budget Information—Non-Construction Programs"

Also, please add the attachments.

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: December 13, 2001.

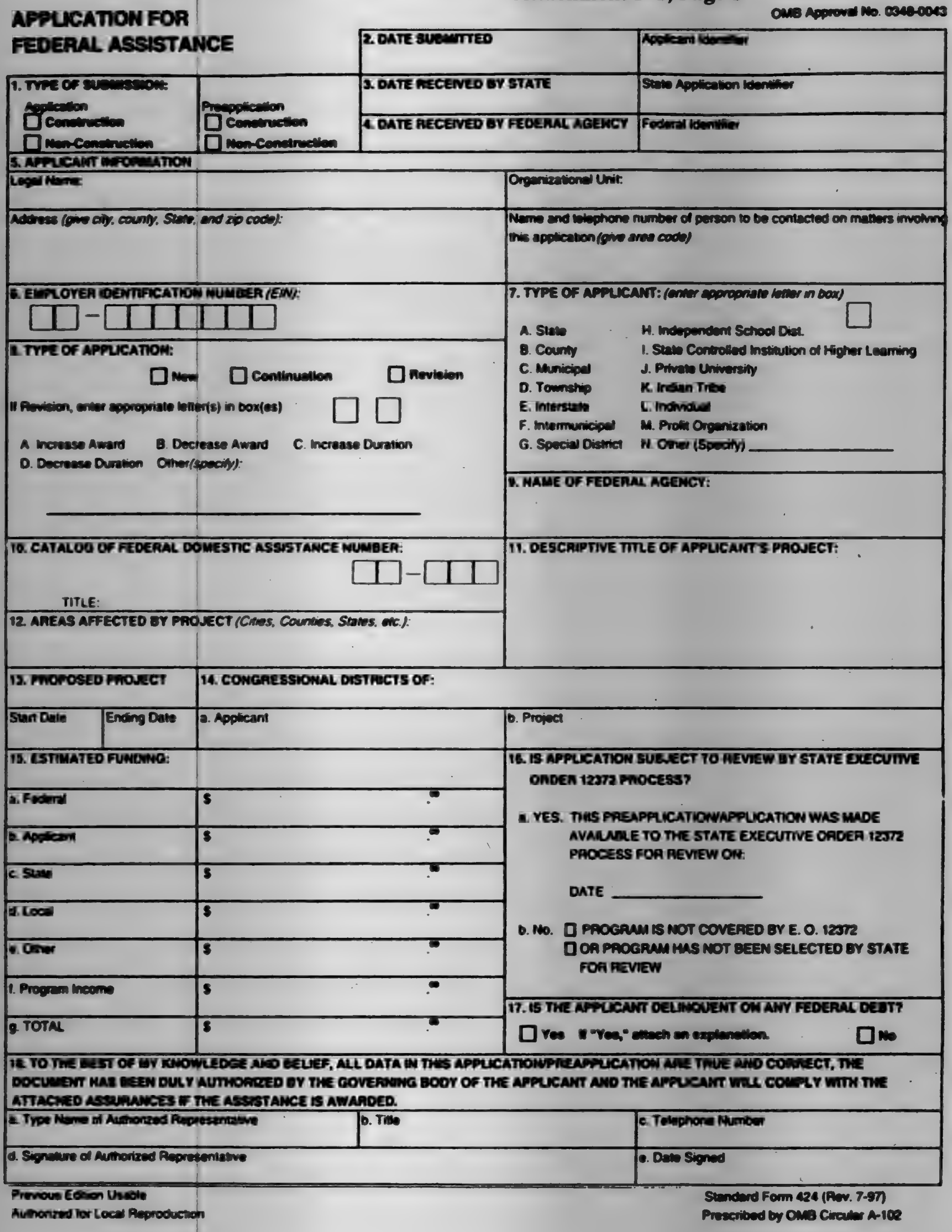
Robert Mott,

Deputy Director.

BILLING CODE 4184–01–M

VOL 66 ISS 245 DEC 20 2001 UMI

Attachment F-1, Page 1



OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED

Applicant Identifier

1. TYPE OF SUBMISSION:

Application
☐ Construction
☐ Non-Construction

Preapplication
☐ Construction
☐ Non-Construction

3. DATE RECEIVED BY STATE

State Application Identifier

4. DATE RECEIVED BY FEDERAL AGENCY

Federal Identifier

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code)*:

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*:

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) ____________

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT

Start Date

Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant

b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE ____________

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative

b. Title

c. Telephone Number

d. Signature of Authorized Representative

e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

Attachment F–1, Page 2

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation or contingent liability form an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the programs under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Attachment F-2, Page 1

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Previous Edition Usable

Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

Attachment F-2, Page 2

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

Authorized for Local Reproduction

Standard Form 424A (Rev. 7-97) Page

BILLING CODE 4184–01–C

Attachment F–2, Page 3

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe now and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–j—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total amounts on lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11 Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter total of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(3). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisions, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

[FR Doc. 01–31375 Filed 12–19–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0301]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Customer/Partner Service Surveys

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by January 22, 2002.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Stuart Shapiro, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Customer/Partner Service Surveys (OMB Control No. 0910–0360)—Extension

Under section 903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393), FDA is authorized to conduct research and public information programs about regulated products and responsibilities of the agency. Executive Order 12862, entitled "Setting Customer Service Standards," directs Federal agencies that "provide significant services directly to the public" to "survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services." FDA is seeking OMB clearance to conduct a series of surveys to implement Executive Order 12862. Participation in the surveys is voluntary. This request covers customer/partner service surveys of regulated entities, such as: Food processors; cosmetic, drug, biologic and medical device manufacturers; consumers; and health professionals. The request also covers "partner" (State and local governments) customer service surveys. FDA will use the information from these surveys to identify strengths and weaknesses in service to customers/partners and to make improvements. The surveys will measure timeliness, appropriateness and accuracy of information, courtesy, and problem resolution in the context of individual programs. FDA projects 25 customer/partner service surveys per year, with a sample of between 50 and 6,000 customers each, requiring an average of 18 minutes for review/completion per survey. Some of these surveys will be repeats of earlier surveys, for purposes of monitoring customer/ partner service and developing long-term data.

In the **Federal Register** of July 25, 2001 (66 FR 38711), FDA published a 60-day notice requesting public comment on the information collection provisions. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Type of Survey	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Mail/telephone/fax/web-based	20,000	1	20,000	.30	6,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 13, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31335 Filed 12–19–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0514]

Medical Devices; Guidance on Labeling of Reprocessed Single Use Devices; Request for Comments and Information

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing an opportunity for interested persons to submit comments and suggestions on the contents of a guidance document that FDA is considering drafting on the labeling of reprocessed single use devices (SUDs) with respect to the name of the original equipment manufacturer (OEM) and the remanufacturer (i.e., reprocessor). FDA is publishing this notice in order to gather informed comment before drafting the guidance.

DATES: Submit written or electronic comments or suggestions by March 20, 2002.

ADDRESSES: Submit written comments and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Larry Spears, Center for Devices and Radiological Health (HFZ–300), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4692.

SUPPLEMENTARY INFORMATION:

I. Background

In a citizen petition, dated March 22, 2001, the Association of Disposable Device Manufacturers (ADDM) requested that FDA: (1) Require reprocessors of SUDs (hereinafter referred to as reprocessed devices) to remove the OEM trademark from the devices and any references to the OEM in the label of devices; (2) take actions to identify and enforce this requirement; and (3) refuse to approve premarket submissions unless the applicant represents that the device will meet this requirement.

On September 17, 2001, FDA issued a response to this petition. FDA denied the petition because FDA believed that misleading implications from representations concerning the OEM may be remedied by the disclosure of additional facts about the remanufacturer. Specifically, FDA stated:

> FDA, however, does believe that representations concerning the OEM may be misleading unless the reprocessor of a single use device provides additional information that would indicate that the reprocessor is the manufacturer responsible for product problems. As you note in your petition, hospitals and other user facilities must alert FDA or the manufacturer whenever there is information that "reasonably suggests that a device has or may have caused or contributed to the death ... [or] serious injury to a patient ..." 21 CFR 803.30(a). Moreover, the user or FDA may need to know the identity of the manufacturer, not only for the purposes of reporting adverse events to FDA, but to assure that the responsible manufacturer or FDA can investigate the problem to determine if additional steps should be taken, including distribution of safety information to the users, or product recalls. Accordingly, FDA believes that when a reprocessed product's labeling makes representations that suggest the OEM should be notified of product problems, additional information that provides the correct identity of the reprocessor as the remanufacturer who is responsible for adverse event reporting, recalls, or other corrective actions, is "material" information within the meaning of section 201(n) of the Act because such information is necessary to enable FDA's postmarket reporting procedures under section 519 of the Act to function effectively.

In the response to the petition, FDA also said that it would publish a guidance document that will recommend more specific language and direction to regulated industry on this matter. Before it develops this guidance document, FDA is inviting interested persons to submit comments and suggestions on the contents of such a guidance.

The ADDM petition and FDA's response are available from the Dockets Management Branch (address above). Please reference Docket No. 01P–0148.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments or suggestions regarding this issue by March 20, 2002. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 28, 2001.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 01–31334 Filed 12–19–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of renewal of a current approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Bureau of Indian Affairs is submitting an information collection request to the Office of Management and Budget for clearance and extension. The information collection request for the Indian Child Welfare Act Annual Report is cleared under OMB Control Number 1076–0131 through December 31, 2001.

DATES: Submit comments on or before January 22, 2002.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of Interior, Room 10102, 725 17th Street NW, Washington, DC 20503.

Send a copy of your comments to Larry Blair, Bureau of Indian Affairs, Branch of Tribal Government, Division of Social Services, 1849 C Street NW (MS–4660–MIB), Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Interested persons may obtain copies of the information collection requests without charge by contacting Mr. Larry Blair, (202) 208–2479 (this is not a toll free number). Facsimile number (202) 208–2648.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Department has issued regulations prescribing procedures by which an Indian tribe may receive funding to provide ICWA services. Funding is authorized by the Indian Child Welfare Act, Public Law 95–608, 92 Stat. 3069, 25 U.S.C. 1918.

A **Federal Register** notice soliciting comments from interested parties to renew this information collection was published on October 2, 2001 (66 FR 50201). No comments were received. Upon review of ICWA program information previously collected, we realized that a change was needed to more accurately reflect the public burden. Therefore, we are submitting this information collection for revision and renewal. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

II. Request for Comments

The Department invites comments on:

(1) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility;

(2) The accuracy of the Bureau's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and,

(4) Ways to minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other collection techniques or forms of information technology.

III. Data

Title of the Information Collection: ICWA of 1978.

OMB: 1076–0131; Expiration date: December 31, 2001.

Type of Review: Revision and renewal of a current approved information collection.

Summary of Collection of Information: The collection of information will ensure that the provisions of Public Law 95–608 are met.

Affected Entities: Federally recognized tribes who receive grant funding to provide ICWA services.

Frequency of Response: Quarterly.

Estimated Number of Annual Responses: One annual and four quarterly reports (the fourth quarter report is also the annual report).

Estimated Time Per Response: One-half hour for each of 4 reports from 536 grantees.

Estimated Total Annual Burden Hours: 1,072 hours.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–31336 Filed 12–19–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Child Welfare Act; Receipt of Designated Tribal Agents for Service of Notice

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Indian Affairs is publishing the current list of Designated Tribal Agents for service of notice, including the listings of designated tribal agents received by the Secretary of the Interior prior to the date of this publication.

The regulations implementing the Indian Child Welfare Act provide that Indian tribes may designate an agent other than the tribal chairman for service of notice proceedings under the Act, 25 CFR 23.12. The Secretary of the Interior shall publish in the **Federal Register** on an annual basis the names and addresses of the designated agents.

FOR FURTHER INFORMATION CONTACT: Chet Eagleman, Indian Child Welfare Specialist, Bureau of Indian Affairs, Division of Social Services, 1849 C Street, NW., MS–4660-MIB, Washington, DC 20240; Phone: (202) 208–7776.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

Indian Child Welfare Designated Agents

Alaska Region

Niles Cesar, Regional Director, Alaska Regional Office, P.O. Box 25520, 709 W. 9th, 3rd Floor, Federal Building, Juneau, AK 99802–5520; Phone: (800) 645–8397; Fax: (907) 586–7252.

Gloria Kate Gorman, M.S.W., Social Services Director, P.O. Box 25520, 709 W. 9th, 3rd Floor, Federal Building, Juneau, AK 99802–5520; Phone: (800) 645–8397 Ext. 2; Fax: (907) 586–7057; Email: *gloriagorman@bia.gov.*

A

Native Village of Afognak, Sharon Olson, P.O. Box 968, Kodiak, AK 99615; Phone: (907) 486–6357; Fax: (907) 486–6529.

Agdaagux Tribe of King Cove, Grace Smith, Aleutian/Pribilof Islands Assoc., 201 E. 3rd Ave., Anchorage, AK 99501; Phone: (907) 222–4237/2700; Fax: (907) 279–4351.

Native Village of Akhiok, Melissa Borton, Kodiak Area Native Association, 3449 E. Rezanof Drive, Kodiak, AK 99615; Phone: (907) 486–9800; Fax: (907) 486–9886.

Native Community of Akiachak, Fritz George, P.O. Box 51070, Akiachak, AK 99551–0070; Phone: (907) 825–4626; Fax: (907) 825–4029.

Akiak Native Community, Debra M. Jackson or Ivan M. Ivan, P.O. Box 52127, Akiak, AK 99552; Phone: (907) 765–7118; Fax: (907) 765–7120.

Native Village of Akutan, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Ave., Anchorage, AK 99501; Phone: (907) 222–4237/2700; Fax: (907) 279–4351.

Native Village of Alakanuk, Agnes Phillip, P.O. Box 149, Alakanuk AK, 99554–0103; Phone: (907) 238–3704; Fax: (907) 238–3429 also Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Alatna Village, Harding Sam, Chief, P.O. Box 70, Allakaket, AK 99720; Phone: (907) 968–2304; Fax: (907) 968–2305 and Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Aleknagik, Tribal President, P.O. Box 115, Aleknagik, AK 99555, Phone: (907) 842–2080; Fax: (907) 842–2081 and Lou Johnson, Social Services Director, Bristol Bay Native Association, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Algaaciq (St. Mary's), Esther Tyson, P.O. Box 48, St. Mary's, AK 99658–0048; Phone: (907) 438–2335; Fax: (907) 438–2227 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Allakaket Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Ambler, ICWA Coordinator, Box 47, Ambler, AK 99786–0047; Phone: (907) 445–2180; Fax: (907) 445–2181.

Village of Anaktuvuk Pass, Sharon Thompson, Arctic Slope Native Assoc., Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

Yupiit of Andreafski, Elizabeth M. Joe, P.O. Box 88, St. Mary's, AK 99658–0088; Phone: (907) 438–2572; Fax: (907) 438–2512.

Angoon Community Association, Marlene Zuboff, P.O. Box 190, Angoon, AK 99820; Phone: (907) 788–3411; Fax: (907) 788–3412.

Native Village of Aniak, Ruth Birky, Box 349, Aniak, AK 99557; Phone: (907) 675–4349; Fax (907) 675–4513.

Native Village of Anvik, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Arctic Village, (See Native Village of Venetie Tribal Government).

Asa'Carsarmiut Tribe (formerly Mt. Village), Mel Lawrence, P.O. Box 32249, Mountain Village, AK 99632–2249; Phone: (907) 591–2814; Fax: (907) 591–2811.

Native Village of Atka, Grace Smith, Aleutian/Pribilof Islands Assoc., 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Atmautluak Traditional Council, Josephine Frye, P.O. Box 6568, Atmautluak, AK 99559; Phone: (907) 553–5610; Fax: (907) 553–5216.

Native Village of Atqasuk Village, Sharon Thompson, Arctic Slope Native Assoc., Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

B

Native Village of Barrow, ICWA Program, P.O. Box 1130, Barrow, AK 99723; Phone: (907) 852–8906/4411; Fax: (907) 852–8844.

Native Village of Beaver Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone (907) 452–8251; Fax: (907) 452–3883/3851.

Native Village of Belkosfski, Grace Smith, Aleutian/Pribilof Islands Assoc., 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Bethel Village, (See Orutsararmuit).

Village of Bill Moore's Slough, Nancy Andrews, P.O. Box 20288, Kotlik, AK 99620; Phone: (907) 899–4236; Fax: (907) 899–4461.

Village of Birch Creek, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Brevig Mission, Dick Kugzruk, President, P.O. Box 85039, Brevig Mission, AK 99785; Phone: (907) 642–4301; Fax: (907) 642–2099.

Native Village of Buckland, Flora Dorcas Swan, ICWA Coordinator, P.O.

VOL 66 ISS 245 DE 20 2001 UMI

Box 67, Buckland, AK 99727–0067; Phone: (907) 494–2169; Fax: (907) 494–2217.

C

Native Village of Cantwell, Angel Craig, Copper River Native Assoc., P.O. Box H, Copper Center, AK 99573; Phone: (907) 822–5241 x 243; Fax: (907) 822–8801.

Chalkyitsik Village Council, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Chefornak Traditional Council, Edward Kinegak, P.O. Box 110, Chefornak, AK 99561–0110; (907) 867–8808; Fax: (907) 867–8711 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Chenega, Michael Vigil, P.O. Box 8079, Chenega Bay, AK 99574; Phone: (907) 573–5132 and Paula Pinder, Chugachmiut, Inc., 4201 Tudor Centre Drive, Suite 210, Anchorage, AK 99508; Phone: (907) 562–4155; Fax: (907) 563–2891.

Native Village of Chevak (AKA Kashunamiut Tribe), Esther Friday, ICWA Worker, P.O. Box 140, Chevak, AK 99563–0140; Phone: (907) 858–7252; Fax: (907) 858–7812.

Native Village of Chickaloon, Delia R. Commander, P.O. Box 1105, Chickaloon, AK 99674–1105; Phone: (907) 745–0707; Fax: (907) 745–7154.

Native Village of Chignik, Tribal President, P.O. Box 11, Chignik Bay, AK 99564; Phone: (07) 749–2245; Fax: (907) 749–2423 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Chignik Lagoon, Tribal President, P.O. Box 57, Chignik Lagoon, AK 99565, Phone: (907) 840–2281; Fax: (907) 840–2217 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Chignik Lake Village, Tribal President, P.O. Box 33, Chignik Lake, AK 99548; Phone: (907) 845–2212; Fax: (907) 845–2217 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Chilkat Indian Village (Klukwan), Denise Kahklen or Anna Stevens, P.O. Box 210, Haines, AK 99827–0210; Phone: (907) 767–5517; Fax: (907) 767–5408.

Chilkoot Indian Association (Haines), Jan Hill, P.O. Box 490, Haines AK 99827; Phone: (907) 776–2323; Fax: (907) 776–2365.

Chinik Eskimo Community (Golovin), Sherri Lewis-Amaktoolik, Tribal Family Coordinator, P.O. Box 62020, Golovin, AK 99762; Phone: (907) 779–2214/2238; Fax: (907) 779–2829.

Native Village of Chistochina, Lotha Wolf, P.O. Box 241, Gakona, AK 99586–0241; Phone: (907) 822–3503; Fax: (907) 822–5179.

Native Village of Chitina, Arleen Leonard, Social Services, P.O. Box 31, Chitina, AK 99566–0031; Phone: (907) 823–2215; Fax: (907) 823–2233.

Native Village of Chuathbaluk, Sophie B. Alexie, ICWA Coordinator, P.O. Box CHU, Chuathbaluk, AK 99557; Phone: (907) 467–4323; Fax: (907) 467–4113.

Native Village of Chuloonawick, Stan Jimmy, Box 126, Emmonak, AK 99581; Phone: (907) 949–1345; Fax: (907) 949–1346.

Circle Native Community, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/459–3851.

Village of Clarks Point, Betty Gardiner Wassily, P.O. Box 70, Clarks Point, AK 99569; Phone: (907) 236–1286; Fax: (907) 236–1449 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Council, President, P.O. Box 2050, Nome, AK 99762; Phone: (907) 443–7649; Fax: (907) 443–5965.

Craig Community Association, Family Caseworker, P.O. Box 828, Craig AK 99921; Phone: (907) 826–3948; Fax: (907) 826–5526.

Village of Crooked Creek, Bedusha Thomas, P.O. Box 69, Crooked Creek, AK 99575; Phone: (907) 432–2261; Fax: (907) 432–2247 and Joan Dewey, ICWA Social Worker, Association of Village Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Curyung Tribal Council (formerly, Native Village of Dillingham), Anna Mae Miller or Chris Itumulria, Tribal Children Service Worker, P.O. Box 216, Dillingham, AK 99576; Phone: (907) 842–2384/4508; Fax: (907) 842–4510 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

D

Native Village of Deering, Roberta Moto, ICWA Coordinator, P.O. 89, Deering, AK 99736–0089; Phone: (907) 363–2138; Fax: (907) 363–2195.

Dillingham, (See Curyung).

Native Village of Diomede, Charles Menadelook, P.O. Box 7079, Diomede, AK 99762; Phone: (907) 686–2202; Fax: (907) 686–2255.

Village of Dot Lake, William Miller, P.O. Box 2279, Dot Lake, AK 99737–2275; Phone: (907) 882–2695; Fax: (907) 882–5558.

Douglas Indian Association, Jocelyn K. Marks, Human Services Director, P.O. Box 240541, Douglas, AK 99824; Phone: (907) 364–2916; Fax: (907) 364–2917.

E

Native Village of Eagle, Joann Beck, P.O. Box 159, Eagle, AK 99738; Phone: (907) 547–2281; Fax: (907) 547–2318.

Native Village of Eek, Maryann Hawk, P.O. Box 63, Eek, AK 99578–0063; Phone: (907) 536–5572; Fax: (907) 536–5711 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Egegik Village, Tribal President, P.O. Box 29, Egegik, AK 99579; Phone: (907) 233–2211; Fax: (907) 233–2312 and Lou Johnson, Bristol Bay Native Assoc., Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Eklutna, Mary Paniyak, 26339 Eklutna Village Rd., Chugiak, AK 99567; Phone: (907) 688–6020; Fax: (907) 688–6021.

Native Village of Ekuk, Tribal President, 300 Main St. Dillingham, AK 99576; Phone: (907) 842–3842; Fax: (907) 842–3843 and Lou Johnson, Bristol Bay Native Assoc., Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Ekwok Village, Tribal President, P.O. Box 70, Ekwok, AK 99580; Phone: (907) 464–3336; Fax: (907) 464–3378 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Elim, Frederick Murray, P.O. Box 39070, Elim, AK 99739; Phone: (907) 890–3737; Fax: (907) 890–3738.

Emmonak Village, Priscilla Kameroff, ICWA Coordinator, P.O. Box 126, Emmonak, AK 99581–0126; Phone: (907) 949–1820; Fax: (907) 949–1384.

Evansville Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Eyak (Cordova), Wendi Smith, P.O. Box 1388, Cordova, AK 99574; Phone: (907) 424–7738; Fax: (907) 424–7739.

F

Native Village of False Pass, Grace Smith, Aleutian/Pribilof Islands, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Native Village of Fort Yukon, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 452–3883/3851.

G

Native Village of Gakona, Angel Craig, Social Services, Copper River Native Assoc., P.O. Box H, Copper Center, AK 99573; (907) 822–5241 x243; Fax: (907) 822–8801.

Galena Village (Louden), Ragine Ahla, Tribal Administrator, P.O. Box 244, Galena, AK 99741; Phone: (907) 656–1711; Fax: (907) 656–1716.

Native Village of Gambell, Charlene Apangalook, ICWA Coordinator, P.O. Box 90, Gambell, AK 99742; Phone: (907) 985–5346: Fax: (907) 985–5014.

Native Village of Georgetown, Glenn Fredericks, President, 1400 Virginia Ct., Anchorage, AK 99501; Phone: (907) 274–2195; Fax: (907) 274–2196.

Native Village of Goodnews Bay, Karen Martin, P.O. Box 138, Goodnews Bay, AK 99589–0050; Phone: (907) 967–8050; Fax: (907) 967–8051 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Organized Village of Grayling, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Gulkana Village, LaMonica Claw, P.O. Box 254, Gakona, AK 99586–0254; Phone: (907) 822–3746; Fax: (907) 822–3976.

H

Native Village of Hamilton, Henrietta Teeluk, P.O. Box 20248, Kotlik, AK 99620; Phone: (907) 899–4252; Fax: (907) 899–4202 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367 Fax: (907) 543–7319.

Healy Lake Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Holy Cross Village, Debbie Turner, P.O. Box 191, Holy Cross, AK 99602; Phone: (907) 476–7169; Fax: (907) 476–7169/7132 and Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Hoonah Indian Association, Leona Santiago, Director, Human Services, P.O. Box 602, Hoonah, AK 99829–0602; Phone: (907) 945–3545; Fax: (907) 945–3703.

Native Village of Hooper Bay, Ruth Pingayak, P.O. Box 62, Hooper Bay, AK 99620 Phone: (907) 758–7918; Fax: (907) 758–4606 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Hughes Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Huslia Village, Jack Wholecheese, First Chief, P.O. Box 70, Huslia, AK 99746; Phone: (907) 829–2202; Fax: (907) 829–2214 and Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Hydaburg Cooperative Association, Human Services Director, P.O. Box 206, Hydaburg AK 99922–0305; Phone: (907) 285–3666; Fax: (907) 285–3470.

I

Igiugig Village, Bernadette Andrew, P.O. Box 4008, Igiugig, AK 99613; Phone: (907) 533–3211; Fax: (907) 533–3217.

Village of Iliamna, Gerald Anelon, Tribal Administrator or Martha Anelon, Social Services P.O. Box 286, Iliamna, AK 99606–0286; Phone: (907) 571–1246; Fax: (907) 571–1256.

Inupiat Community of Arctic Slope, Tribal President, P.O. Box 1232, Barrow, AK 99723–1232; Phone: (907) 852–4227; Fax: (907) 852–4246.

Iqurmuit Traditional Council (Russian Mission), Darcy Kameroff, P.O. Box 09, Russian Mission, AK 99657–0009; Phone: (907) 584–5511; Fax: (907) 584–5593.

Ivanoff Bay Village, Tribal President, P.O. Box KIB, Ivanof Bay AK, 99695; Phone: (907) 669–2200; Fax: (907) 669–2207 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

K

Kaguyak Village, ICWA Coordinator, 1400 West Benson Blvd, Suite 350, Anchorage, AK 99503; Phone: (907) 561–0604; Fax: (907) 561–0608.

Organized Village of Kake, Anne Jackson or Carrie Davis, P.O. Box 316, Kake, AK 99830–0316; Phone: (907) 785–6471; Fax: (907) 785–4902.

Kaktovik Village, Sharon Thompson, Arctic Slope Native Association, Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

Native Village of Kalskag, (AKA Upper Kalskag), Bernice Hetherington, P.O. Box 50, Upper Kalskag, AK 99607; Phone: (907) 471–2418; Fax: (907) 471–2207.

Native Village of Lower Kalskag, Flora Howard, P.O. Box 27, Lower Kalskag, AK 99626; Phone: (907) 471–2412; Fax: (907) 471–2378 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Kaltag, Abigail Ambrose, P.O. Box 129, Kaltag, AK 99748; Phone: (907) 534–2224; Fax: (907) 534–2299.

Native Village of Kanatak, Tribal President, P.O. Box 875910, Wasilla, AK 99687; Phone: (907) 376–7271; Fax: (907) 376–7203 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Karluk, Alicia Lyn Reft, P.O. Box 22, Karluk, AK 99603–0000; Phone: (907) 241–2218; Fax: (907) 421–2208.

Organized Village of Kasaan, Richard Peterson, President, P.O. Box KXA-Kasaan, Ketchikan, AK 99950–0340; Phone: (907) 542–2230; Fax: (907) 542–3006.

Kashunamiut Tribe, (See Chevak).

Native Village of Kasigluk, Olinka Nicholas, ICWA Program, P.O. Box 19, Kasigluk, AK 99609; Phone: (907) 477–6405; Fax: (907) 477–6212.

Kenaitze Indian Tribe, Rita Smagge, Executive Director, and Linda Perry, ICWA Program Director, P.O. Box 988, Kenai, AK 99611–0988; Phone: (907) 283–3633/6423; Fax: (907) 283–3052/7088.

Ketchikan Indian Corporation, Debbie Fredericksen, M.S.W., 2960 Tongass Avenue, 5th Floor, Ketchikan, AK 99901; Phone: (907) 225–4061; Fax: (907) 247–4061.

Native Village of Kiana, Charles Curtis, President, P.O. Box 69, Kiana, AK 99749–0069; Phone: (907) 475–2109; Fax: (907) 475–2180.

King Cove, (See Agdaagux).

King Island Native Community, Renee L. Carlisle, ICWA Coordinator, P.O. Box 992, Nome, AK 99762; Phone: (907) 443–5494; Fax: (907) 443–3620.

VOL 66 ISS 245 DE 20 2001 UMI

King Salmon, Tribal President, P.O. Box 68, King Salmon, AK 99613; Phone: (907) 246–3553; Fax: (907) 246–3449 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310 Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Kipnuk Traditional Council, Dendra Martin, ICWA Coordinator, P.O. Box 57, Kipnuk, AK 99614–0057; Phone: (907) 896–5515; Fax: (907) 896–5240.

Kivalina IRA Council, Colleen Swan-Koenig, P.O. Box 50051, Kivalina, AK 99750–5005; Phone: (907) 645–2153; Fax: (907) 645–2193/2250.

Klawock Cooperative Association, Family Caseworker, Box 173, Klawock, AK 99925; Phone: (907) 755–2326; Fax: (907) 755–2647.

Native Village of Kluti-Kaah (Copper Center), Carl Pete, President, P.O. Box 68, Copper Center, AK 99573–0068; Phone: (907) 822–5541; Fax: (907) 822–5130.

Knik Tribe, Carol M. Theodore, P.O. Box 871565, Wasilla, AK 99687–1565; Phone: (907) 373–7991; Fax: (907) 373–2161.

Kobuk Traditional Council, Shayne Schaeffer, P.O. Box 51039, Kobuk, AK 99751–0039; Phone: (907) 948–2255; Fax: (907) 948–2123.

Kodiak Tribal Council, (See Shoonaq Tribe of Kodiak).

Kokhanok Tribe, Roy Andrews, President, P.O. Box 1007, Kokhanok, AK 99606; Phone: (907) 282–2203; Fax: (907) 282–2264 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99559; Phone: (907) 842–4139; Fax: (907) 842–4106.

New Koliganek Village Council, Tribal President, P.O. Box 5057, Koliganek AK 99576; Phone: (907) 596–3434; Fax: (907) 596–3462 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99559; Phone: (907) 842–4139; Fax: (907) 842–4106.

Native Village of Kongiganak, Marjorie Strauss, ICWA Program, P.O. Box 5092, Kongiganak, AK 99559–5092; Phone: (907) 557–5311; Fax: (907) 557–5348 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Village of Kotlik, Martina Jack, P.O. Box 20268, Kotlik, AK 99620; Phone: (907) 899–4459; Fax: (907) 899–4459/4790 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Kotzebue IRA, Ruth Nanouk, P.O. Box 296, Kotzebue, AK 99752–0296; Phone: (907) 442–3467; Fax: (907) 442–2162.

Native Village of Koyuk, Leo M. Charles Sr., Tribal Family Coordinator, P.O. Box 53030, Koyuk, AK 99753; Phone: (907) 963–2215; Fax: (907) 963–2353.

Koyukuk Native Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Organized Village of Kwethluk, Chariton A. Epchook, P.O. Box 97, Kwethluk, AK 99621–0097; Phone: (907) 757–6023/6043/6053; Fax: (907) 757–6073.

Native Village of Kwigillingok, Andrew Beaver, P.O. Box 54, Kwigillingok, AK 99622–0049; Phone: (907) 588–8705; Fax: (907) 588–8228.

Native Village of Kwinhagak, (A.K.A. Quinkagak), President, P.O. Box 149, Quinhagak, AK 99655–0149; Phone: (907) 556–8165; Fax: (907) 556–8166.

L

Native Village of Larsen Bay, Valen Norell, P.O. Box 35, Larsen Bay, AK 99624–0125; Phone: (907) 847–2276; Fax: (907) 847–2307.

Lesnoi Village (A.K.A, Woody Island), Andy Teuber Jr., P.O. Box 9009, Kodiak, AK 99615; Phone: (907) 486–2821; Fax: (907) 486–2738.

Levelock Village, Tribal President, P.O. Box 70, Levelock, AK 99625; Phone: (907) 287–3030; Fax: (907) 287–3032 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Lime Village, Lisa Gusty, ICWA Program, P.O. Box LVD, McGrath, AK 99627; Phone: (907) 526–5237; Fax: (907) 526–5235.

Louden, (See Galena).

M

Manley Hot Springs Village, Elizabeth M. Woods, P.O. Box 105, Manley Hot Springs, AK 99756; Phone: (907) 672–3177; Fax: (907) 672–3200.

Manokotak Village, Tribal President, P.O. Box 169 Manokotak, AK 99628; Phone: (907) 289–2067; Fax: (907) 289–1235 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Marshall Traditional Council, Family Services Director, Box 110, Marshall, AK 99585; Phone: (907) 679–6302/6128; Fax: (907) 679–6187.

Native Village of Mary's Igloo, Dolly Kugzruk, P.O. Box 630, Teller, AK 99778; Phone: (907) 642–2185; Fax: (907) 642–3000.

McGrath Native Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 452–3883/3851.

Mekoryuk IRA Council, Lillian Shavings, ICWA Director, P.O. Box 66, Mekoryuk, AK 99630; Phone: (907) 827–8827; Fax: (907) 827–8133.

Mentasta Tribal Council, Lotha Wolf or Kathryn Martin, P.O. Box 6019, Mentasta, AK 99780; Phone: (907) 291–2328; Fax: (907) 291–2305.

Metlakatla Indian Community, Karen D. Thompson, Social Services Director, P.O. Box 8, Metlakatla, AK 99926; Phone: (907) 886–6914; Fax: (907) 886–6913.

Native Village of Minto, Tanana Chiefs Conference, Inc., Director Human Services, 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Mountain Village, (See Asa'Carsarmiut Tribe).

N

Naknek Native Village, Wendy Hansen or Tanya Hansen, Box 106, Naknek, AK 99633; Phone: (907) 246–4210; Fax: (907) 246–3563.

Native Village of Nanwalek, Priscilla Evans, ICWA Program, P.O. Box 8028, Nanwalek, AK 99603–6628; Phone: (907) 281–2327; Fax: (907) 281–2252.

Native Village of Napaimute, Mark Leary, Box 1301, Bethel, AK 99559; Phone: (907) 543–2887; Fax: (907) 543–2892 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Napakiak, Freda Andrew, P.O. Box 34013, Napakiak, AK 99634; Phone: (907) 589–2815; Fax: (907) 589–2815/2136 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Napaskiak, Ina Evan, P.O. Box 6009, Napaskiak, AK 99559; Phone: (907) 737–7821; Fax: (907) 737–7845 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Nelson Lagoon, Justine Gundersen or Nanette Johnson, P.O. Box 13, Nelson Lagoon, AK 99571; Phone: (907) 989–2204; Fax: (907) 989–2233.

Nenana Native Village, Laurel Moses, ICWA Program, P.O. Box 356, Nenana, AK 99760; Phone: (907) 832–5461; Fax: (907) 832–1077.

New Stuyahok Village, Wassillie Andrew, Village Administrator, P.O. Box 49, New Stuyahok, AK 99636; Phone: (907) 693–3173; Fax: (907) 693–3179.

Newhalen Village, Gladys Askoak, Social Services, P.O. Box 207, Newhalen, AK 99606–0207; Phone: (907) 571–1410; Fax: (907) 571–1537.

Newtok Village, Molly Kassauili, P.O. Box 5545, Newtok, AK 99559–5545; Phone: (907) 237–2314; Fax: (907) 237–2428.

Native Village of Nightmute, Janet Lawrence, P.O. Box 90021, Nightmute, AK 99690; Phone: (907) 647–6386; Fax: (907) 647–6387.

Native Village of Nikolai, (Edenzo), Peter A. Tony, P.O. Box 9105, Nikolai, AK 99691; Phone: (907) 293–2310; Fax: (907) 293–2481.

Native Village of Nikolski, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Ninilchik Traditional Council, Susan Welsh-Smith or Jeffrey Smith, ICWA/Social Service Coordinator, P.O. Box 39070, Ninilchik, AK 99639; Phone: (907) 567–3313; Fax: (907) 567–3308.

Native Village of Noatak, Sarah R. Penn, ICWA Program, P.O. Box 89, Noatak, AK 99761–0089; Phone: (907) 485–2176/2173; Fax: (907) 485–2137.

Nome Eskimo Community, Denise Barengo or Lorlie Shield, P.O. Box 1090, Nome, AK 99762–1090; Phone: (907) 443–2246; Fax: (907) 443–3539.

Nondalton Village, Susan Bobby or Brenda Trefon, Social Services, P.O. Box 49, Nondalton, AK 99640–0049; Phone: (907) 294–2220; Fax: (907) 294–2234.

Noorvik Native Community, Nellie Ballot, ICWA Coordinator, P.O. Box 131, Noorvik, AK 99763; Phone: (907) 636–2258/2144; Fax: (907) 636–2268.

Northway Village, Daisy Northway or Crystalena Sam, P.O. Box 516, Northway, AK 99764; Phone: (907) 778–2311; Fax: (907) 778–2220.

Native Village of Nuiqsut, Sharon Thompson, Arctic Slope Native Association, Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

Nulato Village, Kathleen Sam, P.O. Box 65049, Nulato, AK 99765; Phone: (907) 898–2329; Fax: (907) 898–2207.

Nunakauyarmiut Tribe (formerly, Toksook Bay), Pauline Asuluk, P.O. Box 37048; Toksook Bay, AK 99637–0108; Phone: (907) 427–7914; Fax: (907) 427–7206.

Nunam Iqua, (See Sheldon Point).

Native Village of Nunapitchuk, Moses Tobeluk, P.O. Box 104, Nunapitchuk, AK 99641–0130; Phone: (907) 527–5731/5705; Fax: (907) 527–5711 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

O

Village of Ohogamiut, Nick Isaac, P.O. Box 49, Marshall, AK 99585, Phone: (907) 679–6517; Fax: (907) 679–6516.

Old Harbor Tribal Council, Lisa Ann Christiansen, P.O. Box 62, Old Harbor, AK 99643–0062; Phone: (907) 286–2215; Fax: (907) 286–2277.

Native Village of Orutsararmuit, (A.K.A. Bethel), ICWA, Program, P.O. Box 927, Bethel, AK 99559–0927; Phone: (907) 543–2608; Fax: (907) 543–2639.

Oscarville Traditional Village, Jimmy Larsen, Jr., ICWA Program, P.O. Box 6129, Oscarville, AK 99559; Phone: (907) 737–7099; Fax: (907) 737–7428 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Ouzinkie Tribal Council, Sharon Boskofsky, ICWA Program, P.O. Box 130, Ouzinkie, AK 99644–0130; Phone: (907) 680–2259/2359; Fax: (907) 680–2214.

P

Native Village of Paimiut, Rebecca Napoleon, P.O. Box 209, Hooper Bay, AK 99604; Phone: (907) 758–4002; Fax: (907) 758–4024 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Pauloff Harbor Village, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Pedro Bay Village, Kevin Jensen, P.O. Box 47020, Pedro Bay, AK 99647–7020; Phone: (907) 850–2225; Fax: (907) 850–2221.

Native Village of Perryville, Bernice O'Domin, ICWA Program, P.O. Box 101, Perryville, AK 99648–0101; Phone: (907) 853–2242; Fax: (907) 853–2229 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Petersburg Indian Association, Family Caseworker, Box 1418, Petersburg, AK 99833; Phone: (907) 772–4080; Fax: (907) 772–3637.

Native Village of Pilot Point, Tribal President, P.O. Box 449, Pilot Point, AK 99659; Phone: (907) 797–2208; Fax: (907) 797–2258 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Pilot Station Traditional Village, Magdalene Myers, ICWA Program, P.O. Box 5119, Pilot Station, AK 99650–5119; Phone: (907) 549–3550; Fax (907) 549–3551 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Pitka's Point, Carol Alstrom, P.O. Box 127, St. Mary's, AK 99658; Phone: (907) 438–2551; Fax: (907) 438–2569 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Platinum Traditional Village, Helen Kilbuck, P.O. Box 8, Platinum, AK 99651; Phone: (907) 979–8610; Fax: (907) 979–8178.

Native Village of Point Hope, Mae R. Hank, P.O. Box 109, Point Hope, AK 99766; Phone: (907) 368–2330; Fax: (907) 368–2332.

Native Village of Point Lay, Amos Agnasayga, Box 59031, Pt. Lay, AK 99757; Phone: (907) 833–2575; and Sharon Thompson, Arctic Slope Native Association, Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

Port Graham Village Council, Elenore McMullen, Chief or Mary Malchoff, Tribal ICWA Worker, P.O. Box 5510, Port Graham, AK 99603; Phone: (907) 284–2227; Fax: (907) 284–2222.

Native Village of Port Heiden, Toni Lind, Tribal Children Service Worker, P.O. Box 49007, Port Heiden, AK 99549; Phone: (907) 837–2296; Fax: (907) 837–2297.

Native Village of Port Lions, Tribal Council, P.O. Box 69, Port Lions, AK 99550–0069; Phone: (907) 454–2234; Fax: (907) 454–2434.

Portage Creek Village, Tribal President, P.O. Box PCA Portage Creek, AK.99576; Phone: (907) 842–2564; Fax: (907) 842–2564 and Lou Johnson, Bristol Bay Native Association, Social Services P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Q

Qagan Tayagungin Tribe of Sand Point Village, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd. Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Qawalangin Tribe of Unalaska, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Quinhagak, (See Kwinhagak).

R

Rampart Village, Tanana Chiefs Conference, Inc., Director Human Services, 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251 Ext. 3229; Fax: (907) 459–3851.

Red Devil Traditional Council, Theodore E. Gordon, Sr., Tribal Administrator, P.O. Box 91, Red Devil, AK 99656; Phone: (907) 447–3223; Fax: (907) 447–3224 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Ruby Tribal Council, Director of Social Services, Tanana Chiefs Conference Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Russian Mission, (See Iqurmuit).

S

Native Village of Salamatoff, Rita Smagge, Kenaitze Indian Tribe, P.O. Box 988, Kenai, AK 99611; Phone: (907) 283–3633; Fax: (907) 283–3052.

Native Village of Savoonga, Fritz Waghiyi, President or Sandra Gologergen, ICWA Worker, P.O. Box 34, Savoonga, AK 99769; Phone: (907) 984–6211; Fax: (907) 984–6027.

Organized Village of Saxman, Family Caseworker, Route 2, Box 2, Ketchikan, AK 99901; Phone: (907) 225–2518; Fax: (907) 247–2912.

Native Village of Scammon Bay, Thelma Kaganak, P.O. Box 54, Scammon Bay, AK 99662–0126; Phone: (907) 558–5078; Fax: (907) 558–5352 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Selawik, Roger Clark, General Manager, P.O. Box 59, Selawik, AK 99770–0059; Phone: (907) 484–2165; Fax: (907) 484–2226 or 2110.

Seldovia Village Tribe, Lillian Elvsaas, P.O. Drawer L, Seldovia, AK 99663; Phone: (907) 234–7898; Fax: (907) 234–7637.

Shageluk Native Village, Director of Social Services, Tanana Chiefs Conference, Inc.,122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Shaktoolik, Priscilla Savetilik, P.O. Box 100, Shaktoolik, AK 99771; Phone: (907) 955–2444; Fax: (907) 955–2443.

Native Village of Sheldon Point, (AKA Nunam Iqua), James O'Malley or Zita Chikigak, P.O. Box 27, Sheldon Point, AK 99666; Phone: (907) 498–4184/4186; Fax: (907) 498–4185 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Shishmaref, Karla Nayokpuk, P.O. Box 72110, Shishmaref, AK 99772; Phone: (907) 649–3078; Fax: (907) 649–2278.

Shoonaq Tribe of Kodiak, Leonard Heitman and/or Leona Haakanson-Crow, 713 East Rezanof Drive, # B, Kodiak AK 99615; Phone: (907) 486–4449; Fax: (907) 486–3361.

Native Village of Shungnak, Lizzie Cleveland, P.O. Box 64, Shungnak, AK 99773; Phone: (907) 437–2163; Fax: (907) 437–2183.

Sitka Tribe of Alaska, Pat Alexander, 456 Katlian St, Sitka, AK 99835; Phone: (907) 747–2669; Fax: (907) 747–3918.

Skagua (Skagway) Village, Indian Child Welfare Coordinator, Central Council and Tlingit and Haida Indian Tribes of Alaska, 320 W. Willoughby, Suite 300, Juneau, AK 99801; Phone: (907) 463–7163; Fax: (907) 463–7343.

Village of Sleetmute, Sophie Gregory, P.O. Box 34, Sleetmute, AK 99668; Phone: (907) 449–4205; Fax: (907) 449–4203 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Village of Solomon, Wally Johnson, ICWA Coordinator, P.O. Box 2053, Nome, AK 99762, Phone: (907) 443–4985; Fax: (907) 443–5189.

South Naknek Village, Robert Hodgdon Jr., ICWA Program, P.O. Box 70029, South Naknek, AK 99670; Phone: (907) 246–8614; Fax: (907) 246–8613 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310 Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

St. George Island, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

St. Mary's, (See Algaaciq).

Native Village of St. Michael, IRA Village Council President, P.O. Box 58, St. Michael, AK 99659; Phone: (907) 923–2546; Fax: (907) 923–2474.

St. Paul Island, Grace Smith, Aleutian/Pribilof Islands Association, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Stebbins Community Association, Sarah Steve, ICWA Coordinator, P.O. Box 2, Stebbins, AK 99671; Phone: (907) 934–3561; Fax: (907) 934–3560.

Native Village of Stevens, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Village of Stony River, Mary Macar, ICWA Program, P.O. Box SRV, Stony River, AK 99557; Phone: (907) 537–3235; Fax: (907) 537–3236; and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

T

Takotna Village, Jan Newton, Tribal Administrator, General Delivery, Takotna, AK 99675; Phone: (907) 298–2212; Fax: (907) 298–2314.

Native Village of Tanacross, Jerry Isaac, P.O. Box 76009, Tanacross, AK 99776; Phone: (907) 883–5024; Fax: (907) 883–4497.

Native Village of Tanana, Carla K. Bonney, P.O. Box 130, Tanana, AK 99777; Phone: (907) 366–7154/7170; Fax: (907) 366–7229.

Native Village of Tatitlek, Tribal President, P.O. Box 171, Tatitlek, AK 99677; Phone: (907) 325–2311; Fax: (907) 325–2298.

Native Village of Tazlina, Angel Craig, Social Services, Copper River Native Assoc., P.O. Box H, Copper Center, AK 99573; Phone: (907) 822–5241 x 243; Fax: (907) 822–8801.

Telida Village, Director of Social Services, Tanana Chiefs Conference, Inc., 122 First Avenue, Suite 600, Fairbanks, AK 99701; Phone: (907) 452–8251; Fax: (907) 459–3883/3851.

Native Village of Teller, Dolly Kugzruk, Family Services, P.O. Box 630, Teller, AK 99778–0567; Phone: (907) 642–2185; Fax: (907) 642–3000.

Native Village of Tetlin, Nettie J. Warbelow, Box 93 Tok, AK 99780; Phone: (907) 883–3676; Fax: (907) 883–3034.

Central Council Tlingit & Haida Indian Tribes of Alaska, Indian Child Welfare Coordinator, 320 W. Willoughby Avenue, Suite 300, Juneau AK 99801; Phone: (907) 463–7163; Fax: (907) 463–7313.

Traditional Village of Togiak, Tribal President, P.O. Box 310, Togiak, AK 99678; Phone: (907) 493–5503; Fax: (907) 493–5005 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Toksook Bay, (See Nunakauyarmiut Tribe).

Tuluksak Native Community, Lorena Napoka, P.O. Box 95, Tuluksak, AK 99679–0095; Phone: (907) 695–6902; Fax: (907) 695–6932.

Native Village of Tununak, Felix Albert, Chairman, P.O. Box 77, Tununak, AK 99681–0077; Phone: (907) 652–6527; Fax: (907) 652–6011.

Tuntutuliak Traditional Council, Henry Lupie, P.O. Box WTL, Tuntutuliak, AK 99680; Phone: (907) 256–2128; Fax: (907) 256–2080 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Twin Hills Village Council, Tribal President, P.O. Box TWA, Twin Hills, AK 99576; Phone: (907) 525–4821; Fax: (907) 525–4822 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310, Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

The Native Village of Tyonek, ICWA Program, P.O. Box 82069, Tyonek, AK 99682–0009; Phone: (907) 583–2203; Fax: (907) 583–2442/2203.

U

Ugashik Village, Roy S. Matsuno and Jorene Volkheimer, 206 E. Fireweed, #204, Anchorage, AK 99503; Phone: (907) 338–7611; Fax: (907) 338–7659 and Lou Johnson, Bristol Bay Native Association, Social Services, P.O. Box 310 Dillingham, AK 99576; Phone: (907) 842–4139; Fax: (907) 842–4106.

Umkumiut Native Village, John George, P.O. Box 90062, Nightmute, AK 99690 and Joan Dewey, ICWA Social Worker, Association of Village Council Presidents, P.O. Box 219, Bethel, AK 99559; Phone: (907) 543–7367; Fax: (907) 543–7319.

Native Village of Unalakleet, Alice Fuerstenau, P.O. Box 357, Unalakleet, AK 99684; Phone: 907–624–3526; Fax: (907) 624–5104.

Unalaska, (See Qawalangin Tribe of Unalaska).

Native Village of Unga, Grace Smith, Aleutian/Pribilof Islands Association, Social Services, 201 E. 3rd Avenue, Anchorage, AK 99501; Phone: (907) 222–4237; Fax: (907) 279–4351.

Native Village of Upper Kalskag, (See Kalskag).

V

Native Village of Venetie Tribal Government, Donna M. Erick, Tribal Administrator, P.O. Box 81080, Venetie AK 99781–0119; Phone: (907) 849–8165/8378; Fax: (907) 849–8097.

W

Village of Wainwright, Sharon Thompson, Arctic Slope Native Association, Social Services, P.O. Box 1232, Barrow, AK 99723; Phone: (907) 852–2762; Fax: (907) 852–2105.

Native Village of Wales, Joanne Keyes, P.O. Box 549, Wales, AK 99783; Phone: (907) 664–2185; Fax: (907) 664–3062.

Native Village of White Mountain, Joleen M. Fagundes, ICWA Coordinator, P.O. Box 84082, White Mountain, AK 99784; Phone: (907) 638–3651; Fax: (907) 638–3652.

Wrangell Cooperative Association, Elizabeth Newman, Family Counselor, Box 1198, Wrangell, AK 99929; Phone: (907) 874–3482; Fax: (907) 874–2982.

Y

Yakutat Tlingit Tribe, Ramona Anderstrom, Family Service Director, P.O. Box 418, Yakutat, AK 99689; Phone: (907) 784–3375; Fax: (907) 784–3664.

Eastern Oklahoma Region

Regional Director (Vacant), 101 North 5th Street, Muskogee, OK 74401; Phone: (918) 687–2507; Fax: (918) 687–2321.

Lafonda Mathews, Regional Social Worker, Federal Courthouse Bldg., 101 North 5th Street, Muskogee, OK 74401; Phone: (918) 687–2507; Fax: (918) 687–2321.

A

Alabama—Quassarte Tribal Town, Tarpie Yargee, Chief, P.O. Box 187, Wetumka, OK 74883; Phone: (405) 452–3957.

C

Cherokee Nation of Oklahoma, Chadwick Smith, Principal Chief, P.O. Box 948, Tahlequah, OK 74465; Phone: (918) 456–0671.

The Chickasaw Nation, Bill Anoatubby, Governor, Department of Family Advocacy, P.O. Box 1548, Ada, OK 74821; Phone: (580) 436–2603.

Choctaw Nation of Oklahoma, Gregory E. Pyle, Chief, P.O. Drawer 1210, Durant, OK 74702–1210; Phone: (580) 924–8280.

D

Delaware Tribe of Indians, 220 NW Virginia Ave., Bartlesville, OK 74003; Phone: (918) 336–5272.

E

Eastern Shawnee Tribe of Oklahoma, Charles D. Enyart, Chief, P.O. Box 350, Seneca, MO 64865; Phone: (918) 666–2435.

K

Kialegee Tribal Town, Lowell Wesley, Town King, P.O. Box 332, Wetumka, OK 74883; Phone: (918) 452–3262.

M

Miami Tribe of Oklahoma, Floyd Leonard, Chief, P.O. Box 1326, Miami, OK 74355; Phone: (918) 542–1445.

Modoc Tribe of Oklahoma, Bill Gene Follis, Chief, 515 G Southeast, Miami, OK 74354; Phone: (918) 542–1190.

The Muscogee (Creek) Nation, R. Perry Beaver, Principal Chief, P.O. Box 580, Okmulgee, OK 74447; Phone: (918) 756–8700.

O

Osage Tribe, Charles O. Tillman, Jr. Principal Chief, P.O. Box 779, Pawhuska, OK 74056; Phone: (918) 287–1085.

Ottawa Tribe of Oklahoma, Charles Todd, Chief, P.O. Box 110, Miami, OK 74335; Phone: (918) 540–1536.

P

Peoria Tribe of Oklahoma, John P. Froman, Chief, P.O. Box 1527, Miami, OK 74355; Phone: (918) 540–2535.

Q

Quapaw Tribe of Oklahoma, Tamara Summerfield, Chairperson, P.O. Box 765, Quapaw, OK 74363; Phone: (918) 542–1853.

S

Seminole Nation of Oklahoma, Principal Chief, P.O. Box 1498, Wewoka, OK 74884; Phone: (405) 257–6287.

Seneca-Cayuga Tribe of Oklahoma, Principal Chief, P.O. Box 1498, Miami, OK 74355; Phone: (918) 542–6609.

T

Thlopthlocco Tribal Town, Grace Bunner, Town King, Indian Child Welfare Program, P.O. Box 188, Okemah, OK 74859; Phone: (918) 623–2620.

U

United Keetoowah Band of Cherokee Indians, Dallas Proctor, Chief, P.O. Box 189, Parkhill, OK 74451; Phone: (918) 431–1818.

W

Wyandotte Tribe of Oklahoma, Leaford Bearskin, Chief, P.O. Box 250, Wyandotte, OK 74370; Phone: (918) 678–2297/2298.

Eastern Region

Franklin Keel, Regional Director, 711 Stewarts Ferry Pike, Nashville, TN 37214–2634; Phone: (615) 467–1700; Fax: (615) 467–1701.

Marge Eagleman, Regional Social Worker, 711 Stewarts Ferry Pike, Nashville, TN 37214–2634; Phone: (615) 467–1578; Fax: (615) 467–1579.

A

Aroostook Band of Micmac Indians, President, 7 Northern Road, Presque

VOL 66 ISS 245 DE 20 2001 UMI

Isle, Maine 04769; Phone: (207) 764–1972; Fax: (207) 764–7667.

C

Catawba Indian Nation of South Carolina, Social Worker, P.O. Box 188, Catawba, South Carolina 29704; Phone: (803) 366–4792; Fax: (803) 366–9150.

Cayuga Nation of New York, Child Welfare Worker, P.O. Box 11, Versailles, New York 14168; Phone: (716) 532–4847; Fax: (716) 532–5417.

Chitimacha Tribe of Louisiana, Human Services Director, P.O. Box 661, Charenton, Louisiana 70523; Phone: (337) 923–7215; Fax: (337) 923–7001.

Coushatta Tribe of Louisiana, Social Services Director, P.O. Box 790, Elton, Louisiana 70532; Phone: (337) 584–1435; Fax: (377) 584–1474.

E

Eastern Band of Cherokee Indians, Family Support Services, Qualla Road, P.O. Box 507, Cherokee, North Carolina 28719; Phone: (828) 497–9101; Fax: (828) 497–3140.

H

Houlton Band of Maliseet Indians, Tribal Chief, Route 3, Box 450, Houlton, Maine 04730; Phone: (207) 532–4273; Fax: (201) 532–4273.

M

Mashantucket Pequot Tribal Nation, Chairman, P.O. Box 3060, Mashantucket, Connecticut 06339; Phone: (860) 396–6500; Fax: (860) 396–3191.

Miccosukee Tribe, Chairman, P.O. Box 440021, Tamiami Station, Miami, Florida 33144; Phone: (305) 223–8380; Fax: (305) 223–1811.

Mississippi Band of Choctaw Indians, Social Services Director, P.O. Box 6010—Choctaw Brand Philadelphia, Mississippi 39350; Phone: (601) 650–1741; Fax: (601) 656–8817.

N

Narragansett Indian Tribe, Chief Sachem, P.O. Box 268, Charlestown, Rhode Island 02813; Phone: (401) 364–1100, Fax: (401) 364–1104.

O

Oneida Indian Nation, Member Affairs Office, P.O. Box 1, Vernon, New York 13476; Phone: (315) 829–3090; Fax: (315) 829–3141.

Onondaga Nation of New York, Council of Chiefs, P.O. Box 85, Nedrow, New York 13120; Phone: (315) 469–1875; Fax: (315) 492–4822.

P

Passamaquoddy Tribe of Maine, Governor, Indian Township Reservation, P.O. Box 301, Princeton, Maine 04668; Phone: (207) 796–2301; Fax: (207) 796–5256.

Passamaquoddy Tribe of Maine, Governor, Pleasant Point Reservation, P.O. Box 343, Perry, Maine 04667; Phone: (207) 853–2600; Fax: (207) 853–6039.

Penobscot Indian Nation of Maine, Human Service Director, 6 River Road, Indian Island, Maine 04468; Phone: (207) 827–7776, Ext. 7492; Fax: (207) 827–2937.

Poarch Band of Creek Indians, Social Services Department, 5811 Jack Springs Road, Atmore, Alabama 36502; Phone: (334) 368–9136; Fax: (334) 368–0820.

S

Saint Regis Band of Mohawk Indians, ICWA Program Coordinator, 412 State, Route 37, Hogansburg, New York 13655; Phone: (518) 358–4516; Fax: (518) 358–9258.

Seminole Tribe of Florida Family Services Program, 3006 Josie Billie Avenue, Hollywood, Florida 33024; Phone: (954) 964–6338; Fax (954) 964–6338.

Seneca Nation of New York, Clerk, Genevieve Plummer Building, Box 231, Salamenca, New York 14779; Phone: (716) 945–1790; Fax: (716) 954–1565.

T

Tonawanda Band of Senecas, Chief, 7027 Meadville Road, Basom, New York 14013; Phone: (716) 542–4244; Fax: (716) 524–4244.

Tunica-Biloxi Indian Tribe of Louisiana, Social Service Director, P.O. Box 1589, Marksville, Louisiana 71351; Phone: (318) 253–5100; Fax: (318) 253–9791.

Tuscarora Nation of New York, Chief, 2006 Mount Hope Road, Lewistown, New York 14092; Phone: (716) 297–0598, Ext. 2602; Fax: (716) 297–1562.

W

Wampanoag Indians, Human Services Program Coordinator, Gay Head 20 Black Brook Road, Aquinnah, Maine 02535; Phone: (508) 645–9265; Fax: (508) 645–2755.

Great Plains Region

Cora L. Jones, Regional Director, 115 4th Avenue, S.E., Aberdeen, SD 57401; Phone: (605) 226–7351; Fax: (605) 226–7627.

Peggy Davis, Social Worker, 115 4th Avenue, S.E., Aberdeen, SD 57401; Phone: (605) 226–7351; Fax: (605) 226–7627.

C

Cheyenne River Sioux Tribe, Richard Pritzkau, ICWA Director, Cheyenne River Sioux Tribe, P.O. Box 747, Eagle Butte, SD 57625; Phone: (605) 964–6460; Fax: (605) 964–6463.

Crow Creek Sioux Tribe, Pattie Ross, ICWA Director, Crow Creek Sioux Tribe, P.O. Box 50, Fort Thompson, SD 57339; Phone: (605) 245–2322; Fax: (605) 245–2844.

F

Flandreau Santee Sioux Tribe, Jack Thompson, ICWA Administrator, Flandreau Santee Sioux Tribal Social Services, P.O. Box 283, Flandreau, SD 57028; Phone: (605) 997–5055; Fax: (605) 997–5426.

L

Lower Brule Sioux Tribe, Greg Miller, ICWA Director, Lower Brule Sioux Tribe, P.O. Box 244, Lower Brule, SD 57548; Phone: (605) 473–5584; Fax: (605) 473–9268.

O

Oglala Sioux Tribe, Floyd White Eye, ICWA Administrator, Oglala Sioux Tribe-ONTRAC, P.O. Box 148, Pine Ridge, SD 57770; Phone: (605) 856–5270; Fax: (605) 856–5168.

Omaha Tribe of Nebraska, Loretta Marr, ICWA Director, Omaha Tribe of Nebraska, Child Protection Services, P.O. Box 429, Macy, NE 68039; Phone: (402) 837–5261; Fax: (402) 837–5262.

P

Ponca Tribe of Nebraska, Alpha Marie Goombi, ICWA Specialist, ICWA Program, Ponca Tribe of Nebraska, 1001 Avenue H, Carter Lake, IA 51510; Phone: (712) 347–6781; Fax: (712) 347–6792; ICWA Cell: (402) 841–9716; Email: ptonicwa@yahoo.com.

R

Rosebud Sioux Tribe, Carol Buchanan, ICWA Specialist, BIA-Rosebud Agency, P.O. Box 500, Rosebud, SD 57570; Phone: (605) 856–2375; Fax: (605) 856–5192.

S

Santee Sioux Tribe of Nebraska, Martha Thomas, ICWA Specialist, Santee Sioux Tribe of Nebraska, Dakota Tiwahe Social Services Program, Route 2, Box 5191, Niobara, NE 68760; Phone: (402) 857–2342; Fax: (402) 857–2361.

Sisseton-Wahpeton Sioux Tribe, Evelyn Pilcher, ICWA Director, P.O. Box 509, Agency Village, SD 67262; Phone: (605) 698–3992; Fax: (605) 698–3999.

Spirit Lake (formerly Devils Lake) Sioux Tribe, Frank Myrick, ICWA Director, Spirit Lake Tribal Social Services, P.O. Box 356, Fort Totten, ND 58335; Phone: (701) 766–4855; Fax: (701) 766–4273.

Standing Rock Sioux Tribe, Tara Weber, ICWA Specialist, Standing Rock Sioux Tribe, Child Welfare/Social Services, P.O. Box 640, Fort Yates, ND 58538; Phone: (701) 854–3431; Fax: (701) 854–2119.

T

Three Affiliated Tribes, Jolyn Foote, ICWA Specialist, Three Affiliated Tribes, 404 Frontage Drive, New Town, ND 58763; Phone: (701) 627–4781; Fax: (701) 627–4225.

Turtle Mountain Band of Chippewa Indians, Marilyn Poitra, ICWA Coordinator, Turtle Mt. Band of Chippewa Indians, Child Welfare and Family Services, P.O. Box 900, Belcourt, ND 58316; Phone: (701) 477–5688; Fax: (701) 477–5797.

W

Winnebago Tribe of Nebraska, Celeste Honomichl, ICWA Specialist, Winnebago Tribe of Nebraska, Child and Family Services, P.O. Box 723, Winnebago, NE 68071; Phone: (402) 878–2379; Fax: (402) 878–2228.

Y

Yankton Sioux Tribe, Molette Chalmers, ICWA Specialist, BIA-Yankton Agency, P.O. Box 557, Wagner, SD 57380; Phone: (605) 384–3651; Fax: (605) 384–3876.

Southwest Region

Rob Baracker, Regional Director, P.O. Box 26567 (87125), 615 First Street, NW, Albuquerque, NM 87102; Phone: (505) 346–7105; Fax: (505) 346–7530.

Joseph Naranjo, Regional Social Worker, P.O. Box 26567 (87125), 615 First Street, NW, Albuquerque, NM 87102; Phone: (505) 346–7105; Fax: (505) 346–7530.

A

Pueblo of Acoma, Cindy Sanchez, ICWA Program, Pueblo of Acoma, P.O. Box 436, Acoma, NM 87034; Phone: (505) 552–5154/5155; Fax: (505) 552–9463.

C

Pueblo of Cochiti, Melissa Bowanie, ICWA Outreach Worker, Pueblo of Cochiti, P.O. Box 70, Cochiti, NM 87072; or Richard Pecos, Lt. Governor/Tribal Administrator; Phone: (505) 465–2244; Fax: (550) 465–1135.

I

Pueblo of Isleta, Evelyn Ankerpont, ICWA Program, Pueblo of Isleta, P.O. Box 1270, Isleta, NM 87022; Phone: (505) 869–0422; Fax: (505) 869–4236.

J

Pueblo of Jemez, Henrietta Gachupin, Social Services Program, P.O. Box 100, Jemez Pueblo, NM 87024; Phone: (505) 834–7117; Fax: (505) 834–7103.

Jicarilla Apache Nation, Patricia (Pat) Serna, Director of Mental Health & Social Services Program or Steven Stone, Child Protection Services, Jicarilla Apache Nation, P.O. Box 546, Dulce, NM 87528; Phone: (505) 759–3162; Fax: (505) 759–3588.

L

Pueblo of Laguna, Social Services Director, P.O. Box 194, Laguna, NM 87026; Phone: (505) 552–9712/9713; Fax: (505) 552–6484.

M

Mescalero Apache Tribe, Tribal Census Clerk, Mescalero Apache Tribe, P.O. Box 227, Mescalero, NM 88340; Phone: (505) 464–4494 Ext. 209; Fax: (505) 464–9191.

N

Pueblo of Nambe, Naomi Talachy, ICWA Coordinator, Pueblo of Nambe, Route 1, Box 117–BB, Nambe Pueblo, NM 87501; Phone: (505) 455–2036; Fax: (505) 455–2038.

P

Pueblo of Picuris, Debra Shemayme, ICWA Coordinator, Pueblo of Picuris, P.O. Box 127, Penasco, NM 87553; Phone: (505) 587–1003/2519; Fax: (505) 587–1071.

Pueblo of Pojoaque, Carmen Chavez-Lujan, ICWA Coordinator, Pueblo of Pojoaque, Route 11, Box 71, Santa Fe, NM 87501; Phone: (505) 455–0935/1014; Fax: (505) 455–3363.

R

Ramah Navajo School Board, Inc, Betty Nez, Director of Social Services, P.O. Box 250, Pine Hill, NM 87357; Phone: (505) 775–3221; Fax: (505) 775–3520.

S

Pueblo of San Felipe, Jeanette Trancosa, Social Services Program, Pueblo of San Felipe, P.O. Box 4339, San Felipe Pueblo, NM 87004; Phone: (505) 867–9740; Fax: (505) 867–6166.

Pueblo of San Ildefonso, Pauline Cata, ICWA Coordinator, Pueblo of San Ildefonso, Route 5, Box 315–A, Santa Fe, NM 87501; Phone: (505) 455–2273; Fax: (505) 455–7351.

Pueblo of San Juan, Jackie Calabaza, ICWA Coordinator, Pueblo of San Juan, P.O. Box 1099, San Juan Pueblo, NM 87566; Phone: (505) 852–4400; Fax: (505) 852–4820.

Pueblo of Sandia, Marianna Kennedy; Pueblo of Sandia, P.O. Box 6008 Bernalillo, NM 87004; Phone: (505) 771–5133; Fax: (505) 867–4997.

Pueblo of Santa Ana, Virginia Ross, ICWA Program, Pueblo of Santa Ana, 2 Dove Road, Bernalillo, NM 87004; Phone: (505) 867–3301; Fax: (505) 867–3395.

Pueblo of Santa Clara, Fidel Naranjo, Social Services Program, Pueblo of Santa Clara, P.O. Box 580, Espanola, NM 87532; Phone: (505) 753–0419/0313; Fax: (505) 753–0420.

Pueblo of Santo Domingo, Doris Bailon, Director of Social Services, P.O. Box 99, Santo Domingo Pueblo, NM 87052; Phone: (505) 465–0630; Fax: (505) 465–2688.

Southern Ute Indian Tribe, Dedra Millich, Director of Social Services, P.O. Box 737, Ignacio, CO 81137; Phone: (970) 563–0209; Fax: (970) 563–0334.

T

Pueblo of Taos, Carter King, Social Services Director, or Linda Lavorgna, ICWA Coordinator, Pueblo of Taos, P.O. Box 1846, Taos, NM 87571; Phone: (505) 758–7824; Fax: (505) 758–3346.

Pueblo of Tesuque, Rita Jojola-Dorame, ICWA Coordinator, Pueblo of Tesuque, Route 5, Box 360–T, Santa Fe, NM 87501; Phone: (505) 983–2667; Fax: (505) 982–2331.

U

Ute Mountain Ute Tribe (Colorado & Utah), Social Services Director, P.O. Box 309, Towaoc, CO 81334; Phone: (970) 564–5307/5310; Fax: (970) 564–5300.

Y

Ysleta del Sur Pueblo, Ignacio Rios Jr., Social Services Administrator, P.O. Box 17579-Ysleta Station, El Paso, TX 79917; Phone: (915) 859–7913 Ext. 151; Fax: (915) 859–4252.

Z

Pueblo of Zia, Gail Salas, ICWA Program, Pueblo of Zia, 135 Capital Square Drive, Zia Pueblo, NM 8703; Phone (505) 867–3304; Fax (505) 867–3308.

Pueblo of Zuni, Rebecca Quam, Social Services Program, P.O. Box 339, Zuni, NM 87327; Phone: (505) 782–2171; Fax: (505) 782–5077.

Southern Plains Region

Dan Deerinwater, Regional Director, 11/2 mile North Highway 281, P.O. Box 368, Anadarko, OK 73005; Phone: (405) 247–6673 Ext. 314; Fax: (405) 247–5611.

WCD Office Complex, Retha Murdock, Regional Social Worker, P.O. Box 368, Anadarko, Oklahoma 73005; Phone: (405) 247–6673 Ext. 257; Fax: (405) 247–2895.

VOL 66 ISS 245 DE 20 2001 UMI

A

Absentee-Shawnee Tribe of Oklahoma Indians, Governor, 2025 S. Gordon Cooper Drive, Shawnee, Oklahoma 74801; Phone: (405) 275–4030.

Alabama-Coushatta Tribe of Texas, Chairperson, Route 3, Box 640, Livingston, Texas 77351; Phone: (409) 563–4391.

Apache Tribe of Oklahoma, Chairperson, P.O. Box 1220, Anadarko, Oklahoma 73005; Phone: (405) 247–9493.

C

Caddo Indian Tribe of Oklahoma, Chairperson, P.O. Box 487, Binger, Oklahoma 73009; Phone: (405) 656–2344.

Cheyenne-Arapaho Tribes of Oklahoma, Chairperson, P.O. Box 38, Concho, Oklahoma 73022; Phone: (405) 262–0345.

Citizen Potawatomi Nation, Chairperson, 1901 S. Gordon Cooper Drive, Shawnee, Oklahoma 74801; Phone: (405) 275–3121.

Comanche Indian Tribe of Oklahoma, Chairperson, HC 32, Box 1720, Lawton, Oklahoma 73502; Phone: (580) 492–4988.

D

Delaware Tribe of Western Oklahoma, President, P.O. Box 825, Anadarko, Oklahoma 73005; Phone: (405) 247–2448.

F

Fort Sill Apache Tribe of Oklahoma, Chairperson, Route 2, Box 121, Apache, Oklahoma 73006; Phone: (580) 588–2298.

I

Iowa Tribe of Kansas, Chairperson, 2340 330th Street, White Cloud, Kansas 66094; Phone: (785) 595–3258.

Iowa Tribe of Oklahoma, Chairperson, Route 1, Box 721, Perkins, Oklahoma 74059; Phone: (405) 547–2402.

K

Kaw Nation, Chairperson, Drawer 50, Kaw City, Oklahoma 74641; Phone: (580) 269–2552.

Kickapoo Traditional Tribe of Texas, Chairperson, HC 1, Box 9700, Eagle Pass, Texas 78852; Phone: (830) 773–2105.

Kickapoo Tribe of Indians of The Kickapoo Reservation in Kansas, Chairperson, P.O. Box 271, Horton, Kansas 66439; Phone: (785) 486–2131.

Kickapoo Tribe of Oklahoma, Chairperson, P.O. Box 70, McLoud, Oklahoma 74851; Phone: (405) 964–2075.

Kiowa Indian Tribe of Oklahoma, Chairperson, P.O. Box 369, Carnegie, Oklahoma 73015; Phone: (580) 654–2300.

O

Otoe-Missouria Tribe of Oklahoma, Chairperson, 8151 Highway 177, Red Rock, Oklahoma 74651; Phone: (580) 723–4466.

P

Pawnee Indian Tribe of Oklahoma, President, P.O. Box 470, Pawnee, Oklahoma 74058; Phone: (918) 762–3621.

Ponca Tribe of Indians of Oklahoma, Chairperson, 20 White Eagle Drive, Ponca City, Oklahoma 74601; Phone: (580) 762–8104.

Prairie Band of Potawatomi Indians of Kansas, Chairperson, 16281 Q. Road, Mayetta, Kansas 66509; Phone: (785) 966–2255.

S

Sac and Fox of Missouri in Kansas, Chairman, 305 N. Main Reserve, Kansas 66434; Phone: (785) 742–7471.

Sac and Fox Nation of Oklahoma, Principal Chief, Route 2, Box 246, Stroud, Oklahoma 74079; Phone: (918) 968–3526.

Tonkawa Tribe of Oklahoma, President, P.O. Box 70, Tonkawa, Oklahoma 74653; Phone: (580) 628–2561.

Wichita and Affiliated Tribes of Oklahoma, Indian Child Welfare, Coordinator, P.O. Box 729, Anadarko, Oklahoma, 73005; Phone: (405) 247–2425.

Rocky Mountain Region

Keith Beartusk, Regional Director, 316 North 26th Street, Billings, Montana 59101; Phone: (406) 247–7943; Fax: (406) 247–7976.

Louise Reyes, Regional Social Worker, 316 North 26th Street, Billings, Montana 59101; Phone: (406) 247–7943; Fax: (406) 247–7976.

A

Assiniboine and Sioux Tribes of the Fort Peck Reservation of Montana, Chairman, P.O. Box, 1027, Poplar, Montana 59255; (406) 768–5155; Fax: (406) 768–5478.

B

Blackfeet Tribe of Montana, Indian Child Welfare Act (ICWA) Coordinator, P.O. Box 588, Browning, Montana 59417; Phone: (406) 338–7806; Fax: (406) 338–7726.

C

Chippewa Cree Tribe of the Rocky Boys Reservation of Montana, Tribal Chairman, Rural Route 1, P.O. Box 544, Box Elder, Montana 59521; Phone: (406) 395–4478; Fax: (406) 395–4497.

Crow Tribe of the Crow Reservation of Montana, Director of Tribal Social Services, P.O. Box 159, Crow Agency, Montana 59022; Phone: (406) 638–3932/5; Fax: (406) 638–3957.

E

Eastern Shoshone Tribe of the Wind River Reservation, Chairman, P.O. Box 217, Fort Washakie, Wyoming 82514; Phone: (307) 332–3040; Fax: (307) 332–4557.

G

Gros Ventre and Assiniboine Tribe of Fort Belknap Community Council, President, Rural Route 1, Box 66, Harlem, Montana 59526; Phone: (406) 353–2205; Fax: (406) 353–2797.

N

Northern Arapaho Tribe of the Wind River Reservation, Chairman, P.O. Box 217, Fort Washakie, Wyoming 82514; Phone: (406) 332–6120; Fax: (307) 332–3055.

Northern Cheyenne Tribe of the Northern Cheyenne Reservation, Director, Tribal Social Services, P.O. Box 128, Lame Deer, Montana 59043; Phone: (406) 477–8321; Fax: (406) 477-8333.

Midwest Region

Larry Morrin, Regional Director, One Federal Drive, Room 550, Fort Snelling, MN 55111–4007; Phone: (612) 713–4400; Fax (612) 713–4439.

Rosalie Clark, Regional Social Worker, One Federal Drive, Room 550, Fort Snelling, MN 55111–4007; Phone: (612) 713–4400, extension 1071; Fax (612) 713–4439.

B

Bad River Band of Lake Superior Chippewa Indians of Wisconsin, Catherine Blanchard, ICWA Coordinator, P.O. Box 39, Odanah, WI 54861; Phone: (715) 682–7111.

Bay Mills Indian Community of Michigan, Cheryl Baragwanath, ICWA Worker, Route 1, Box 313, Brimley, MI 49715; Phone: (906) 248–3241.

Boise Fort Reservation Business Committee, Yvonne King, ICWA Director, P.O. Box 16, Nett Lake, MN 55772; Phone: (218) 757–3295.

F

Fond du Lac Reservation Business Committee, Julia Jaakola, Social Services Coordinator, 105 University Road, Cloquet, MN 55720; Phone: (218) 879–4953.

Forest County Potawatomi Community of Wisconsin, Karen Ackley, ICWA Coordinator, P.O. Box 340, Crandon, WI 54520; Phone: (715) 478–2903.

G

Grand Portage Reservation Business Committee, Jan Gwuett, P.O. Box 428, Grand Portage, MN 55605; Phone: (218) 475–2277 or 2279.

Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, Derek Baily, Deputy Manager, 2605 NW Bayshore Drive, Suttons Bay, MI 49682; Phone: (231) 272–3538.

H

Hannahville Indian Community of Michigan, Faye Mroczkowski, ICWA Worker, N14911 Hannahville B1 Road, Wilson, MI 49896–9728; Phone: (906) 466–2932.

Ho-Chunk Nation, ICWA Coordinator, P.O. Box 667, Black River Falls, WI 54615; Phone: (715) 284–9343.

Huron Potawatomi, Inc., Laura Spurr, Chairperson, 2221—12 Mile Road, Fulton, MI 49052; Phone: (616) 729–5151.

K

Keweenaw Bay Indian Community of The L'' Anse Reservation of Michigan, Kimberly Fish, TSS Director, 107 Beartown Road, Baraga, MI 49908; Phone: (906) 353–6660.

L

Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, Linda Hollen, Tribal Social Services Director, Route 2, Box 2700, Hayward, WI 54843; Phone: (715) 634–8934.

Lac du Flambeau Band of Lake Superior Chippewa Indians of Wisconsin, Lauren Kohen, ICWA Director, P.O. Box 67, Lac du Flambeau, WI 54538; Phone: (715) 588–3303.

Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan, Robert White, ICWA Coordinator, P.O. Box 249—Choate Road, Watersmeet, MI 49969; Phone: (906) 358–4940.

Leech Lake Reservation Business Committee, Lillian Reese, TSS Director, Route 3, Box 100, Cass Lake, MN 56633; Phone: (218) 335–8200.

Little River Band of Ottawa Indians, Inc., Delsey Teado, ICWA Specialist, 310 Ninth Streeth, Manistee, MI 49660; Phone: (213) 398–6609.

Little Traverse Bay Band of Odawa Indians, Inc., Catherine Backus TSS Director, P.O. Box 246, 1345 US 31 N., Petoskey, MI 49770; Phone: (231) 439–3809.

Lower Sioux Indian Community of Minnesota, Angie Okeefe, TSS Director, Rural Route 1, Box 308, Morton, MN 56270; Phone: (507) 697–9108.

M

Match-E-B-Nash-She-Wish Band of Potawatomi Indians of Michigan, ICWA Coordinator, P.O. Box 218, Dorr, MI 49323; Phone: (616) 681–8830.

Menominee Indian Tribe of Wisconsin, Mary Husby, Social Services Director, P.O. Box 910, Keshena, WI 54135–0910; Phone: (715) 799–5100.

Mille Lacs Reservation Business Committee, ICWA Coordinator, HCR 67, Box 194, Onamia, MN 56350; Phone: (320) 532–4181.

Minnesota Chippewa Tribe of Minnesota, Adrienne Adkins, Human Services Director, P.O. Box 217, Cass Lake, MN 56633; Phone: (218) 335–8581.

O

Oneida Tribe of Indians of Wisconsin, ICWA Program, P.O. Box 365, Oneida, WI 54155; Phone: (920) 869–2214.

P

Pokagon Band of Potawatomi Indians of Michigan, Bill Holmes, TSS Director, 714 North Front Street, Dowagiac, MI 49047; Phone: (616) 782–8998.

Prairie Island Indian Community of Minnesota, Audrey Kohnen, President, 1158 Island Boulevard, Welch, MN 55089–9540; Phone: (612) 385–2554.

R

Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin, Kim Gordon, TSS Director, P.O. Box 529, Bayfield, WI 54814; Phone: (715) 779–3700.

S

Sac & Fox Tribe of the Mississippi in Iowa, Sandra Morrison, ICWA Director, 3137 F Avenue Tama, IA 52339; Phone: (515) 484–4678.

Saginaw Chippewa Indians of MI, Kim Kequom, TSS Director, 7070 East Broadway Road, Mt. Pleasant, MI 48858; Phone: (517) 772–5700.

Sault Ste. Marie Tribe of Chippewa Indians of Michigan, ICWA Coordinator, 523 Ashmun Street, Sault Ste. Marie, MI 49783; Phone: (906) 632–5210.

Shakopee Mdewakanton Sioux Community of Minnesota, Kim Goetzinger, Social Services Director, 2330 Sioux Trail NW, Prior Lake, MN 55372; Phone: (612) 445–8900.

Sokaogon Chippewa (Mole Lake) Community of Wisconsin, Angie Bocek, ICWA Coordinator, Route 1, Box 625, Crandon, WI 54520; Phone: (715) 478–2604.

St. Croix Chippewa Indians of Wisconsin, LuAnn Kolumbus, ICWA Director, P.O. Box 287, Hertel, WI 54845; Phone: (715) 349–2195.

Stockbridge-Munsee Community of Wisconsin, ICWA Coordinator, N8476 Mo He Con Nuck Road, Bowler, WI 54416; Phone: (715) 793–4111.

U

Upper Sioux Community of Minnesota, Carrie Ross, ICWA Director, P.O. Box 418, Granite Falls, MN 56241; Phone: (612) 564–2360.

W

White Earth Reservation Business Committee, Jeri Jasken, ICWA Coordinator, P.O. Box 418, White Earth, MN 56591; Phone: (218) 983–3285.

Navajo Region

Vivian Yazza, Regional Director, 301 West Hill Street, Gallup, New Mexico 87301; Phone: (505) 863–8215; Fax: (505) 863–8342.

Marie Eastman, Grant Officer's Representative (GOR), P.O. Box 1060, Gallup, New Mexico 87305; Phone: (505) 863–8213; Fax: (505) 863–8292.

Navajo Nation, Navajo Children & Family Services, Selena Curley, Acting Director, P.O. Box 1926, Window Rock, Arizona 86515; Phone: (520) 871–6832; Fax: (520) 871–7667.

Western Region

Wayne Nordwall, Regional Director, 400 North 5th Street (85004), P.O. Box 10, Phoenix, AZ 85001; Phone: (602) 379–6600.

Evelyn S. Roanhorse, Regional Social Worker, 400 North 5th Street (85004), P.O. Box 10, Phoenix, AZ 85001; Phone: (602) 379–6785.

A

Ak Chin Indian Community Council, Chairperson, 42507 West Peters & Nall, Maricopa, Arizona 85239; Phone: (520) 568–2227.

B

Battle Mountain Band Council, Chairman, 37 Mountain View Drive, #C, Battle Mountain, Nevada 89820; Phone: (775) 635–2004.

C

Chemehuevi Indian Tribe of California, Chairperson, P.O. Box 1976, Havasu Lake, California 92363; Phone: (760) 858–4301.

Cocopah Tribe of Arizona, Chairperson, County 15th Avenue G, Somerton, Arizona 85350; Phone: (928) 627–2102.

Colorado River Tribal Council, Chairman, Route 1, Box 23-B, Parker, Arizona 85344; Phone: (928) 669–9211.

Goshute Business Council (Nevada and Utah), Chairman, P.O. Box 6104,

VOL 66 ISS 245 DE 20 2001 UMI

Ibapah, Utah 84034; Phone: (435) 234–1138.

D

Duckwater Shoshone Tribal Council, Chairman, P.O. Box 140068 Duckwater, Nevada 89314; Phone: (775) 863–0227.

E

Elko Band Council, Chairperson, 511 Sunset Street, Elko, Nevada 89801; Phone: (775) 738–8889.

Ely Shoshone Tribal Council, Chairman, 16 Shoshone Circle, Ely, Nevada 89301; Phone: (775) 289–3013.

F

Fort Mojave Tribe, Attention: Social Services Director, 500 Merriman Avenue, Needles, California 92363; Phone: (760) 629–3745.

Fort McDermitt Tribal Council, Chairman, P.O. Box 457, McDermitt, Nevada 89421; Phone: (775) 532–8259.

Fort McDowell Yavapai Tribe, Attention: ICWA Coordinator, P.O. Box 17779, Fountain Hills, Arizona 85268; Phone: (480) 837–5076.

G

Gila River Pima-Maricopa Indian Community, Attention: Drake Lewis, Tribal Social Service Director, P.O. Box 97, Sacaton, Arizona 85247; Phone: (520) 562–3711, Ext. 233.

H

Havasupai Tribe of Arizona, Attention: ICWA Director, P.O. Box 10, Supai, Arizona 86435; Phone: (928) 448–2731.

Hopi Tribe of Arizona, Attention: Director of Social Services, P.O. Box 68. Second Mesa, Arizona 86043; Phone: (928) 737–2667.

Hualapai Tribe of Arizona, Attention: Director, Department of Health, P.O. Box 179, 960 Rodeo Way, Peach Springs, Arizona 86434; Phone: (928) 769–2207.

K

Kaibab Band of Paiute Indians, Attention: Director, Social Services Program, HC65 Box 2, Pipe Springs, Arizona 86022; Phone: (928) 643–6010.

L

Las Vegas Tribal Council, Chairperson, One Paiute Drive, Las Vegas, Nevada 89106; Phone: (702) 386–3926.

Lovelock Tribal Council, Chairman, P.O. Box 878, Lovelock, Nevada 89419; Phone: (775) 273–7861.

M

Moapa Band of the Paiute Indians, Moapa Business Council, Chairman, P.O. Box 340, Moapa, Nevada 89025–0340; Phone: (702) 865–2787.

P

Paiute Indian Tribe of Utah, Chairperson, 400 North Paiute Drive, Cedar City, Utah 84720–2613; Phone: (435) 586–1112.

Fallon Business Council, Chairperson, 8955 Mission Road, Fallon, Nevada 89406; Phone: (775) 423–6075.

Pascua Yaqui Tribe of Arizona, Chairman, 7474 S. Camino De Oeste, Tucson, Arizona 85746; Phone: (520) 883–5000.

Pyramid Lake Paiute Tribal Council, Chairman, P.O. Box 256, Nixon, Nevada 89424; Phone: (775) 574–1000.

Q

Quechan Tribal Council, President, P.O. Box 1899, Yuma, Arizona 85366; Phone: (760) 522–0213.

R

Reno-Sparks Indian Colony, Attention: Director of Social Services, 98 Colony Road, Reno, Nevada 89502; Phone: (775) 329–5071.

S

Salt River Pima-Maricopa Indian Community, Attention: Social Services or Juvenile Tribal Court, 10005 East Osborn Road, Scottsdale, Arizona 85256; Phone: (480) 850–8470.

San Juan Southern Paiute Tribe, Attention: Social Services Program, P.O. Box 2656, Tuba City, Arizona 86045; Phone: (928) 283–5303.

San Carlos Apache Tribe, Attention: Terry Ross, Director of Tribal Social Services, P.O. Box 0, San Carlos, Arizona 85550; Phone: (928) 475–2313/2314.

Shoshone-Paiute Tribes of the Duck Valley Reservation (Nevada), Chairman, P.O. Box 219, Owyhee, Nevada 89832; Phone: (208) 759–3100.

Skull Valley Band of Goshute Indians, Attention: ICWA Program Office, Metropolitan Plaza, Suite 110, 2480 S. Main Street, Salt Lake City, Utah 84115; Phone: (801) 474–0535.

South Fork Band Council, Chairman, HC 30, P.O. Box B–13—Lee, Spring Creek, Nevada 89815; Phone: (775) 744–4273.

Summit Lake Paiute Tribe, Chairperson, 655 Anderson Street, Winnemucca, Nevada 89445; Phone: (775) 623–5151.

T

Te-Moak Tribe of Western Shoshone Indians, Chairman, 525 Sunset Street, Elko, Nevada 89801; Phone: (775) 738–9251.

Tohono O'odham Nation, Attorney General, P.O. Box 1202, Sells, Arizona 85634; Phone: (520) 383–2221 Ext. 472–475.

Tonto Apache Tribe, Attention: ICWA Director, Tonto Reservation #30, Payson, Arizona 85541; Phone: (928) 474–5000.

U

Ute Indian Tribe of the Uintah & Ouray Reservation (Utah), Attention: ICWA Worker, P.O. Box 190, Fort Duchesne, UT 84026; Phone: (475) 722–3689.

W

Walker River Paiute Tribe, Chairman, P.O. Box 220, Schurz, Nevada 89427; Phone: (775) 773–2306.

Washoe Tribe of Nevada and California (Carson Colony, Dresslerville, Woodfords, Stewart, and Washoe Community Councils), Chairman, 919 Hwy. 395 South, Gardnerville, Nevada 89410; Phone: (775) 883–1446.

Wells Indian Colony Band Council, Chairman, P.O. Box 809, Wells, Nevada 89835; Phone: (775) 752–3045.

White Mountain Apache Tribe, Attention: Cynthia B. Ethelbah, Child Welfare Director, P.O. Box 1870, Whiteriver, Arizona 85941; Phone: (928) 338–4164.

Winnemucca Indian Colony of Nevada, Chairman, P.O. Box 1370, Winnemucca, Nevada 89446; Phone: (775) 623–1888.

Y

Yavapai-Apache Community Council, Chairman, P.O. Box 1188, Camp Verde, Arizona 86322; Phone: (928) 567–3649.

Yavapai-Prescott Tribe, Attention: Social Services Director, 530 East Merritt Street, Prescott, Arizona 86301–2038; Phone: (928) 445–0867.

Yerington Paiute Tribal Council, Attention: ICWA Director, 171 Campbell Lane, Yerington, Nevada 89447; Phone: (775) 463–5929.

Yomba Shoshone Tribe, Chairman, HC 61, Box 6275, Austin, Nevada 89310; Phone: (775) 964–2463.

Northwest Region

Stanley Speaks, Regional Director, 911 NE 11th Avenue, Portland, OR 97232; Phone: (503) 231–6702; Fax: (503) 231–2201.

Stella Charles, Regional Social Worker, 911 NE 11th Avenue, Portland, OR 97232; Phone: (503) 231–6785; Fax: (503) 231–6731.

B

Burns Paiute Tribe, Lucinda George and Phyllis Harrington, H.C. 71, 100 Pasigo Street, Burns, OR 97720; (541) 573–7312, Ext. 221.

C

Chehalis Business Council, Margert Tebo, ICWA, P.O. Box 536, Oakville, WA 98568–9616; Phone: (360) 273–5911; Fax: (360) 273–5914.

H

Hoh Tribal Business Committee, Ruth King, 2464 Lower Hoh Road, Forks, WA 98331; Phone: (360) 374–6582; Fax: (360) 374–6549.

J

Jamestown Skallam Tribal Council, Liz Mueller, 1033 Old Blyn Hwy, Sequim, WA 98382; Phone: (360) 683–1109; Fax: (360) 681–4649.

K

Kalispel Tribe of Indians, Deana Nomee, ICWA, P.O. Box 39, USK, WA 99180; Phone: (509) 445–1147; Fax: (509) 445–1705.

L

Lower Elwha Tribal Community Council, Jan Lopez, 2851 Lower Elwha Road, Port Angeles, WA 98363–9518; Phone: (360) 452–8471; Fax: (360) 452–3428.

Lummi Tribe of the Lummi Reservation, Kim Goes Behind, ICWA, 1790 Bayon Road, Bellingham, WA 98225; Phone: (360) 738–3959; Fax: (360) 671–3840.

M

Muckleshoot Indian Tribe, Donna Starr, ICWA; 39015 172nd Avenue, SE, Auburn, WA 98092; Phone: (253) 939–3311; Fax: (253) 939–5311.

N

Nez Perce Tribe, Shirley Bisbee, ICWA, P.O. Box 365, Lapwai, ID 83540; Phone: (208) 843–2463; Fax: (202) 843–7137.

Nisqually Indian Community, Jim Phonias, ICWA4820 She-Nah-Num Drive, SE, Olympia, WA 98513; Phone: (360) 456–5221; Fax: (360) 407–0318.

Nooksack Indian Tribe of Washington, Bobbie Hillaire, ICWA, P.O. Box 648, Everson, WA 98247; Phone: (360) 592–5176; Fax: (360) 996–2304.

P

Port Gamble Indian Community, Vickie Doyle, ICWA, 31912 Little Boston Road, NE, Kingston, WA 98346; Phone: (360) 297–7623; Fax: (360) 297–4452.

Puyallup Tribe, Sandy Reyes, ICWA, 2002 East 28th Street, Tacoma, WA 98404; Phone: (253) 573–7827; Fax: (253) 272–9514.

Q

Quileute Tribal Council, Margret Ward, P.O. Box 279, LaPush, WA 98350–0279; Phone: (360) 374–4325; Fax: (360) 374–6311.

Quinault Indian Nation Business Committee, Clara Hall, P.O. Box 189, Taholah, WA 98587–0189; Phone: (360) 273–8211 Ext 240; Fax (360) 267–6778.

S

Samish Indian Tribe of Washington, Chairman, P.O. Box 217, Anacortes, WA 98221; Phone: (360) 293–6404; Fax: (360) 299–0790.

Sauk-Suiattle Indian Tribe of Washington, Dana Trailor, ICWA, 5318 Chief Brown Lane, Darrington, WA 98241; Phone: (360) 436–1900; Fax: (360) 436–0242.

Shoalwater Bay Tribal Council, Lorrain Anderson (Liwac), P.O. Box 130, Tokeland, WA 98590–0130; Phone: (360) 267–6766; Fax: (360) 267–6778.

Shoshone Bannock Tribes, ICWA, Ft. Hall Business Council, C/O Tribal Attorney, P.O. Box 306, Ft. Hall, ID 83203.

Skokomish Tribal Council, Stacy Miller, N. 80 Tribal Center Road, Shelton, WA 98584–9748; Phone: (360) 426–7788; Fax: (360) 877–6585.

Spokane Tribe of Indians, Pauline Ford, ICWA, P.O. Box 540, Wellpinit, WA 99040; Phone: (509) 258–7502; Fax: (509) 258–7029.

Squaxin Island Tribal Council, Linda Charette, SE 70 Squaxin Lane, Shelton, WA 98584–9200; Phone: (360) 427–9006; Fax: (360) 427–1957.

Stillaguamish Tribe of Washington, Gary Ramey, ICWA, P.O. Box 277, Arlington, WA 98223–0277; Phone: (360) 652–7362; Fax: (360) 435–7689.

Suquamish Indian Tribe of the Port Madison Reservation, Ed Barnhart, ICWA, P.O. Box 498 Suquamish, WA 98392; Phone: (360) 598–3311; (Fax): 598–4414.

Swinomish Indians, Tracy Parker, ICWA, P.O. Box 817, LaConner, WA 98256; Phone: (360) 466–3163.

T

Tulalip Tribe, Inda Jones, ICWA, 6700 Totem Beach Road, Marysville, WA 98271; Phone: (360) 651–3284; Fax: (360) 651–3290.

U

Upper Skagit Indian Tribe of Washington, Michelle Anderson-Kamato, ICWA, 2284 Community Plaza Way, Sedro Woolley, WA 98284; Phone: (360) 856–4200; Fax: (360) 856–3537.

W

Warm Springs Tribal Court, Warm Springs Reservation, Chief Judge Lola Sohappy, P.O. Box 850, Warm Springs, OR 97761; Phone: (541) 553–3454.

Pacific Region

Ronald Jaeger, Regional Director, BIA, Federal Building, 2800 Cottage Way, Sacramento, CA 95825; Phone: (916) 978–6000; Fax: (916) 978–6055.

Kevin Sanders, Regional Social Worker, BIA-Federal Building, 2800 Cottage Way, Sacramento, CA 95825; Phone: (916) 978–6048; Fax: (916) 978–6055.

A

Agua Caliente Band of Cahuilla Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, CA 92390; Phone: (909) 676–8832.

Alturas Rancheria, Chairperson, P.O. Box 340, Alturas, CA 96101; Phone: (530) 233–5571.

Auburn Rancheria, President, United Auburn Indian Community, 661 Newcastle Road, Suite 1, Newcastle, CA 95658; Phone: (916) 663–3720.

Augustine Band of Mission Indians, Chairperson, P.O. Box 846, Coachella, CA 92236; Phone: (760) 369–7171.

B

Barona Band of Mission Indians, Program Director, Indian Child Social Services Department, Southern Indian Health Council, Inc., P.O. Box 2128, Alpine, CA 91903; Phone: (619) 445–1188.

Bear River Band of Rohnerville Rancheria, Chairperson, 32 Bear River Drive, Loleta, CA 95551; Phone: (707) 773–1900; Fax (707) 733–1972.

Benton Paiute Reservation, Margaret Romero, Family Services Coordinator, Toiyabe Indian Health Project, 52 Tusu Lane, Bishop, CA 93514; Phone: (760) 873–6394.

Berry Creek Rancheria, Ben Jimenez, ICWA Director, 5 Tyme Way, Oroville, CA 95966; Phone: (530) 534–3859.

Big Lagoon Rancheria, Pamela Kostos, Director, Two Feathers Native American Family Services, 2355 Central Avenue Suite C, McKinleyville, CA 95519; Phone: (707) 839–1933; Fax: (707) 839–1726.

Big Pine Reservation, Margaret Romero, Family Services Coordinator, Toiyabe Health Project, 52 Tusu Lane, Bishop, CA 93514; Phone: (760) 873–6394; Fax: (760) 873–3254.

Big Sandy Rancheria, Wylena Jeff, ICWA Coordinator, P.O. Box 337, Auberry, CA 93602; Phone: (559) 855–4003; Fax: (559) 855–4129.

Big Valley Rancheria, Chairperson, 2726 Mission Rancheria Road, Lakeport, CA 95453; Phone: (707) 263–3924; Fax: (707) 263–3977.

Bishop Reservation, Margaret Romero, Family Services Coordinator, Toiyabe

VOL 66 ISS 245 DE 20 2001 UMI

Health Project, 52 Tu Su Lane, Bishop, CA 93514; Phone: (760) 873–6394.

Blue Lake Rancheria, Chairperson, P.O. Box 428, Blue Lake, CA 95525; Phone: (707) 668–5101.

Bridgeport Indian Colony, Margaret Romero, Family Services Coordinator, Toiyabe Health Project, 52 Tu Su Lane, Bishop, CA 93514; Phone: (760) 873–6394.

Buena Vista Rancheria, Donnamarie Potts, Chairperson, 4650 Coalmine Road, Ione, CA 95640; Phone: (209) 274–6512.

C

Cabazon Band of Mission Indians, Christina Lambert, ICWA Rep., 84–245 Indio Springs Drive, Indio, CA 92201; Phone: (760) 342–2593.

California Valley Miwok Tribe aka Sheep Ranch Rancheria, Chairperson, 1055 Winter Court, Tracy, CA 95376; Phone: (209) 834–0197.

Cahuilla Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, CA 92590; Phone: (909) 676–8832.

Campo Band of Mission Indians, Chairperson, 36190 Church Road, Suite 1, Campo, CA 91906; Phone: (619) 478–9046.

Cedarville Rancheria, Chairperson, ICWA Director, 200 S. Howard Street, Alturas, CA 96101; Phone: (530) 233–3969; Fax: (530) 233–4776.

Chicken Ranch Rancheria, Chairperson, P.O. Box 1159, Jamestown, CA 95327; Phone: (209) 984–4806; Fax: (209) 984–5606.

Cloverdale Rancheria, Marcellena Becerra, ICWA Advocate, 555 S. Cloverdale Blvd. Suite 1, Cloverdale, CA 95425; Phone: (707) 894–5775; Fax: (707) 894–5727.

Cold Springs Rancheria, Chairperson, P.O. Box 209, Tollhouse, CA 93667; Phone: (559) 855–5043; Fax: (559) 855–4445.

Colusa Rancheria, Michele Mitchum, ICWA Coordinator, 50 Wintun Road, Suite D, Colusa, CA 95932; Phone: (530) 458–8231.

Cortina Rancheria, Chairperson, P.O. Box 1630, Williams, CA 95987; Phone: (530) 473–3274.

Coyote Valley Reservation, Lorraine Laiwa, ICWA Coordinator, Indian Child Preservation Program, 684 S. Orchard Ave., Ukiah, CA 95482; Phone: (707) 463–2644.

Cuyapaipe Band of Mission Indians, Tribal Administrator, P.O. Box 2250, Alpine, CA 91903–2250; Phone: (619) 445–6315.

D

Dry Creek Rancheria, Liz DeRouen, Chairperson, 498 Moore Lane Suite B, Healdsburg, CA 95448; Phone: (707) 431–2388.

E

Elem Indian Colony, Chairperson, P.O. Box 1003, Clearlake Oaks, CA 95423; Phone: (707) 998–1570.

Elk Valley Rancheria, Chairperson, P.O. Box 1042, Crescent City, CA 95531; Phone: (707) 464–4680.

Enterprise Rancheria, Harvey Angle, Chairperson, 1940 Feather River Blvd. Suite B, Oroville, CA 95965; Phone: (530) 532–9214; Fax: (530) 532–1768.

F

Fort Bidwell Reservation, Chairperson, P.O. Box 129, Fort Bidwell, CA 96112; Phone: (530) 279–6310; Fax: (530) 279–2621.

Fort Independence Reservation, Margaret Romero, Family Services Coordinator, Toiyabe Health Project, 52 Tu Su Lane, Bishop, CA 93514; Phone: (760) 873–6394.

G

Graton Rancheria, Chairperson, P.O. Box 481, Novato, CA 94948; Phone: (707) 763–6143.

Greenville Rancheria, Dr. Marshall Gouze, Executive Director, Greenville Health Clinic, P.O. Box 279, Greenville, CA 95947; Phone: (530) 284–7990; Fax: (530) 284–6612.

Grindstone Rancheria, Gretchen Murray, Tribal Administrator, P.O. Box 63, Elk Creek, CA 95939; Phone: (530) 968–5365.

Guidiville Rancheria, Chairperson, P.O. Box 339, Talmage, CA 95481; Phone: (707) 462–3682; Fax: (707) 462–9183

H

Hoopa Valley Tribe, Director, Social Services, ICWA Program, P.O. Box 1267, Hoopa, CA 95546; Phone: (530) 625–4236.

Hopland Reservation, Lorraine Laiwa, ICWA Coordinator, Indian Child Preservation Program, 684 S. Orchard Ave., Ukiah, CA 95482; Phone: (707) 463–2644.

I

Inaja & Cosmit Band of Mission Indians, ICWA Coordinator, Human Service Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Ione Band of Miwok Indians, Chairperson, P.O. Box 1190, Ione, CA 95640; Phone: (209) 274–6753; Fax: (209) 274–6636.

J

Jackson Rancheria, ICWA Manager, Tuolumne Indian Child & Family Services, P.O. Box 615, Tuolumne, CA 95379; Phone: (209) 223–1935; Fax: (209) 223–5366.

Jamul Indian Village, Program Director, Indian Child Social Service Department, Southern Indian Health Council, P.O. Box 2128, Alpine, CA 91903; Phone: (619) 445–1188.

K

Karuk Tribe of California, Director, Social Services, ICWA Social Worker, 1519 S. Oregon Street, Yreka, CA 96097; Phone: (530) 493–5305 or (530) 842–9228.

L

La Jolla Band of Luiseno Indians, ICWA Coordinator, Human Service Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

La Posta Band of Mission Indians, Program Director, Indian Child Social Services Department, Southern Indian Health Council, P.O. Box 2128, Alpine, CA 91903–2128; Phone: (619) 445–1188.

Laytonville Rancheria, Deborah Sanders, ICWA Director, P.O. Box 1239, Laytonville, CA 95454; Phone: (707) 984–6197.

Lone Pine Reservation, Margaret Romero, Family Services Coordinator, Toiyabe Indian Health Project, 52 Tu Su Lane, Bishop, CA 93514; Phone: (760) 873–6394.

Lower Lake Rancheria, Chairperson, 1083 Vine Street #137, Healdsburg, CA 95448; Phone: (707) 431–1908.

Los Coyotes Band of Mission Indians, ICWA Coordinator, Human Services Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Lytton Rancheria, Margie Mejia, Chairperson, 1250 Coddingtown Center, Suite 1, Santa Rosa, CA 95401–3515; Phone: (707) 575–5917; Fax: (707) 575–6974.

M

Manchester-Point Arena Rancheria, Lorraine Laiwa, ICWA Coordinator, Indian Child Preservation Program, 684 S. Orchard Avenue, Ukiah, CA 95482; Phone: (707) 463–2644.

Manzanita Band of Mission Indians, Chairperson, P.O. Box 1302, Boulevard, CA 91905; Phone: (619) 766–4930.

Mechoopda Indian Tribe of the Chico Rancheria, Cindy Phillips, Tribal Administrator, 1907–F Mangrove Avenue, Chico, CA 95926; Phone: (530) 899–8922; Fax: (530) 899–8517.

Mesa Grande Band of Mission Indians, ICWA Coordinator, Human Services Department, Indian Health Council, Inc., P.O. Box 460, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Middletown Rancheria, Chairperson, P.O. Box 1035, Middletown, CA 95461; Phone: (707) 987–3670.

Mooretown Rancheria, Francine Mckinley, ICWA Coordinator, 1 Alverda Drive, Oroville, CA 95966; Phone: (530) 533–3625; Fax: (530) 533–3680.

Morongo Band of Mission Indians, ICWA Representative, 11581 Potrero Road, Banning, CA 92220; Phone: (909) 849–4697.

N

North Fork Rancheria, Delores Roberts, Chairperson, P.O. Box 929, North Fork, CA 93643; Phone: (559) 877–2461; Fax: (559) 877–2467.

P

Pala Band of Mission Indians, Robert Smith, Chairperson, P.O. Box 50, Pala, CA 92059; Phone: (760) 742–3784.

Paskenta Band of Nomlaki Indians, Everett Freeman, Chair, P.O. Box 398, Orland, CA 95963; Phone: (530) 865–3119; Fax: (530) 865–2345.

Pauma & Yuima Band of Mission Indians, ICWA Coordinator, Human Services Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Pechanga Band of Mission Indians, Mark Macarro, Spokesman, P.O. Box 1477, Temecula, CA 92593; Phone: (909) 676–2768.

Picayune Rancheria of Chukchansi Indians, Chairperson, 46575 Road 417, Coarsegold, CA 93614; Phone: (559) 683–6633.

Pinoleville Reservation, Chairperson, 367 North State Street, Suite 204, Ukiah, CA 95482; Phone: (707) 463–1454.

Pit River Reservation, ICWA Director, 37014 Main Street, Burney, CA 96013; Phone: (530) 335–5421 or 866–335–5530; Fax: (530) 335–3966.

Potter Valley Rancheria, Chairperson, Tribal Council, 417 D Talmage Road, Ukiah, CA 95482; Phone: (707) 468–7494.

Q

Quartz Valley Indian Reservation, ICWA Director, P.O. Box 24, Fort Jones, CA 96032; Phone: (530) 468–5937; Fax: (530) 468–2491.

R

Ramona Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, CA 92590; Phone: (909) 676–8832.

Redding Rancheria, Robin Bailey-Boyle, Director, Social Services, 2000 Rancheria Road, Redding, CA 96001–5528; Phone: (530) 225–8979.

Redwood Valley Reservation, Mary Navarez, ICWA Coordinator, 3250 Road 1, Redwood Valley, CA 95470; Phone: (707) 485–0361; Fax: (707) 485–5726.

Resighini Rancheria, Chairperson, P.O. Box 529, Klamath, CA 95548; Phone: (707) 482–2431; Fax: (707) 482–3425.

Rincon Band of Mission Indians, ICWA Coordinator, Human Services Department, Indian Health Council, P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Robinson Rancheria, Chairperson, 1545 E. Highway 20, Nice, CA 95464; Phone: (707) 275–0527.

Round Valley Reservation, Chairperson, P.O. Box 448, Covelo, CA 95428; Phone: (707) 983–6126; Fax: (707) 983–6128.

Rumsey Rancheria, Paula Lorenzo, Chairperson, P.O. Box 18, Brooks, CA 95606; Phone: (530) 796–3400.

S

San Manuel Band of Mission Indians, Chairperson, P.O. Box 266, Patton, CA 92369; Phone: (909) 864–8933.

San Pasqual Band of Diegueno Indians, ICWA Coordinator, Human Services Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Santa Rosa Band of Mission Indians, ICWA Representative, P.O. Box 390611, Anza, CA 92539; Phone: (909) 763–5140.

Santa Rosa Rancheria, Susan Weese, ICWA Coordinator, P.O. Box 8, Lemoore, CA 93245–0008; Phone: (209) 924–1278.

Santa Ynez Band of Mission Indians, ICWA Coordinator, P.O. Box 909, Santa Ynez, CA 93460; Phone: (805) 688–7070.

Santa Ysabel Band of Mission Indians, ICWA Coordinator, Human Services Department, Indian Health Council, Inc., P.O. Box 406, Pauma Valley, CA 92061; Phone: (760) 749–1410.

Scotts Valley Rancheria, Chairperson, 149 N Main Street, Suite 200, Lakeport, CA 95453; (707) 263–4771; Fax: (707) 263–4773.

Sherwood Valley Rancheria, Chairperson, 190 Sherwood Hill Drive, Willits, CA 95490; Phone: (707) 459–9690; Fax: (707) 459–6936.

Shingle Springs Rancheria, Chairperson, P.O. Box 1340, Shingle Springs, CA 95682; Phone: (530) 676–8010.

Smith River Rancheria, Elvira Rodriquez, ICWA Director, 250 N Indian Road, Smith River, CA 95567–9525; Phone: (707) 487–9255; Fax: (707) 487–0930.

Soboba Band of Luiseno Indians, Project Manager, P.O. Box 487, San Jacinto, CA 92581; Phone: (909) 654–2765.

Stewarts Point Rancheria, Liz DeRouen, Indian Child and Family Preservation Program, 1420 C. Guernville Road, Suite 4, Santa Rosa, CA 95401; Phone: (707) 591–0580 Ext. 203; Fax: (707) 591–0583.

Susanville Indian Rancheria, Chairperson, ICWA Director, P.O. Drawer U, Susanville, CA 96130; Phone: (530) 251–5205.

Sycuan Band of Mission Indians, Program Director, Indian Child Social Services Department, Southern Indian Health Council, P.O. Box 2128, Alpine, CA 91903–2128; Phone: (619) 445–1188.

T

Table Bluff Reservation, Elsie McLaughlin-Feliz, Director, Social Services, 1000 Wiyot Drive, Loleta, CA 95551; Phone: (707) 733–5055; Fax: (707) 733–5601.

Table Mountain Rancheria, Chairperson, P.O. Box 410, Friant, CA 93626–0410; Phone: (559) 822–2587; Fax: (559) 822–2693.

Timbi-sha Shoshone Tribe, Margaret Romero, Family Services Coordinator, Toiyabe Indian Health Project, 52 Tu Su Lane, Bishop, CA 93514; Phone: (760) 786–2374.

Torres-Martinez Desert Cahuilla Indians, ICWA Representative, P.O. Box 1160, Thermal, CA 92274; Phone: (760) 397–0300.

Trinidad Rancheria, Chairperson, P.O. Box 630, Trinidad, CA 95570; Phone: (707) 677–0211; Fax: (707) 677–3921.

Tule River Reservation, Louise Cornell, ICWA Director, P.O. Box 589, Porterville, CA 93258; Phone: (559) 781–4271.

Tuolumne Rancheria, Chairperson, P.O. Box 699, Tuolumne, CA 95379; Phone: (209) 928–3475.

Twenty-Nine Palms Band of Mission Indians, Executive Director, Indian Child & Family Services, P.O. Box 2269, Temecula, CA 92590; Phone: (909) 676–8832.

U

Upper Lake Rancheria, Chairperson, P.O. Box 516, Upper Lake, CA 95485; Phone: (707) 275–0737.

V

Viejas (Baron Long) Band of Mission Indians, Program Director, Indian Child Social Services Department, Southern Indian Health Council, P.O. Box 2128, Alpine, CA 91903–2128; Phone: (619) 445–1188.

Y

Yurok Tribe, Director, Social Services, ICWA Coordinator, 1034 Sixth Street, Eureka, CA 95501; Phone: (707) 444–0433; Fax: (707) 444–0437.

[FR Doc. 01–31337 Filed 12–19–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Notice

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact between the Pueblo of Taos and the State of New Mexico, which was executed on October 22, 2001.

DATES: This action is effective upon date of publication.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–31292 Filed 12–19–01; 8:45 am]

BILLING CODE 4310–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 701–TA–427 (Preliminary)]

Film and Television Productions From Canada

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

SUPPLEMENTARY INFORMATION: On December 4, 2001, the Commission established a schedule for the conduct of the preliminary phase of the subject investigation (**Federal Register** 66 FR 64057, December 11, 2001). Subsequently, the Department of Commerce extended the date for its initiation in the investigation to January 14, 2002 (December 14, 2001, Commerce memorandum). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission not later than seven days after publication of this notice in the **Federal Register**; parties wishing to participate in the conference should contact Diane Mazur (202–205–3184) not later than January 14, 2002, to arrange for their appearance; the conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on January 18, 2002; and the deadline for filing postconference briefs is January 24, 2002.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: December 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31384 Filed 12–19–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Gray Portland Cement and Cement Clinker From Mexico; Dismissal of Request for Institution of a Section 751(b) Review Investigation

AGENCY: United States International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) investigation concerning the Commission's affirmative determination in investigation No. 731–TA–451 (Final): Gray Portland Cement and Cement Clinker from Mexico.

SUMMARY: The Commission determines,[1] pursuant to section 751(b) of the Tariff Act of 1930 (the Act)[2] and Commission rule 207.45,[3] that the subject request does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determination in investigation No. 731–TA–451 (Final): Gray Portland Cement and Cement Clinker from Mexico. Gray portland cement is classifiable under subheading 2523.29.00 of the Harmonized Tariff Schedule of the United States (HTS) and cement clinker is classifiable under HTS subheading 2523.10.00.[4] Pursuant to Commission rule 201.4(b), the Commission determined that there was good cause to extend the deadline for this determination as set forth in Commission rule 207.45(c).

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180) or Robert Carpenter (202–205–3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this matter may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

---

[1] Commissioner Bragg did not participate in the deliberations in this request.

[2] 19 U.S.C. 1675(b).

[3] 19 CFR 207.45.

[4] Gray portland cement has also been entered under HTS subheading 2523.90.00 as "other hydraulic cements."

Background Information

On September 19, 2001, the Commission received a request to review its affirmative determination concerning gray portland cement and cement clinker from Mexico (the request), in light of changed circumstances pursuant to section 751(b) of the Act.[5] The request was filed by counsel on behalf of CEMEX, S.A. de C.V. (CEMEX), a manufacturer of cement in Mexico. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material produced when manufacturing cement, has no use other than that of being ground into finished cement.

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure,[6] the Commission published a notice in the **Federal Register** on October 10, 2001,[7] requesting comments as to whether the alleged changed circumstances warranted the institution of a review investigation. The Commission received comments in support of the request from (1) counsel on behalf of Cementos Apasco, S.A. de C.V. and (2) counsel on behalf of GCC Cemento, S.A. de C.V. and its U.S. affiliate, Rio Grande Portland Cement Corp., which both imported cement from Mexico during the original investigation and produce cement in Mexico. Additional comments in support of a changed circumstances review were also received from a number of community officials and cement customers, including: (1) Kenneth A. Mayfield, Dallas County Commissioner, Dallas, TX; (2) Elizabeth G. Flores, Mayor, City of Laredo, TX; (3) Robert J. Schlegel, Pavestone Co.; (4) The Honorable Robert Eckles, County Judge, Harris County, TX; (5) Robert Cutter, CEMEX USA; (6) Richard D. Steinke, Port of Long Beach, CA; (7) Cameron Klein, Oldcastle APG West; (8) David A. Schwab, Schwab Ready Mix, Inc.; and (9) Gerald M. Howard, National Association of Home Builders. In addition, Senator John McCain forwarded a letter to the Commission from Robert Cutter, CEMEX, who supports the initiation of a changed circumstances review. Letters in support of the initiation of a changed circumstances review were also received from a number of members of Congress. Comments received in opposition to the request were filed by counsel on behalf of the Committee for Fairly Traded Mexican Cement (Committee); the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers; the Paper, Allied-Industrial, Chemical & Energy Workers International Union; and the International Union of Operating Engineers (collectively, the domestic industry). The 22 members of the Committee have 28 cement plants located in the Southern Tier region; the 3 labor unions identified above represent workers at 17 plants operated by 13 companies in the Southern Tier.

Analysis

In considering whether to institute a review investigation under section 751(b), the Commission will not institute such an investigation unless it is persuaded there is sufficient information demonstrating:

(1) That there have been significant changed circumstances from those in existence at the time of the original investigation;

(2) That those changed circumstances are not the natural and direct result of the imposition of the antidumping and/or countervailing duty order, and

(3) That the changed circumstances, allegedly indicating that revocation of the order would not be likely to lead to continuation or recurrence of material injury to the domestic industry, warrant full investigation.[8]

After consideration of the request for review and the response to the notice inviting comments, the Commission has determined, pursuant to section 751(b) of the Act and Commission rule 207.45, that the information available to the Commission does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determination in investigation No. 731–TA–451 (Final): Gray Portland Cement and Cement Clinker from Mexico.

The alleged changed circumstance consists of CEMEX's acquisition of U.S. cement producer, Southdown, Inc. CEMEX alleges that the acquisition, which was finalized on November 16, 2000, "eliminates any perceived incentive for CEMEX to import cement from Mexico into the Southern Tier in quantities or at prices that would cause material injury to all or almost all Southern Tier cement producers in the reasonably foreseeable future."

The information available, including the request and the comments received in response to the notice, does not persuade us that an investigation is warranted. In particular:

The decision to undertake a review is "a threshold question, * * *, [which] may be made only when it reasonably appears that positive evidence adduced by the petitioner together with other evidence gathered by the Commission leads the ITC to believe that there are changed circumstances sufficient to warrant review."[9] CEMEX's allegation that the acquisition is a sufficient change focuses on the amount invested in the acquisition and the argument that "their economic self-interest precludes them from harming the Southern Tier industry and markets." CEMEX, however, has not provided evidence that the acquisition has changed the effect of the subject imports on the Southern Tier regional industry.[10] The increase in regional market share resulting from CEMEX's acquisition alone does not demonstrate a change without evidence of an actual change in imports or ability to supply imports, prices, or competitive conditions in the industry.[11] CEMEX has not presented adequate and specific facts, such as the volume and value of imports from Mexico since the acquisition, that would provide support for its claims and allegations that the acquisition prevents it from engaging "in import practices that undermine the pricing structure of its Southern Tier (and U.S.) markets."

CEMEX has not met its burden of persuading the Commission that the acquisition has affected the quantity of Mexican imports. Moreover, the information available to the Commission is clearly inconsistent with CEMEX's claims. U.S. imports of cement from Mexico have not fallen or even remained steady, but have instead increased since CEMEX's acquisition of Southdown in November 2000. The volume of imports of Mexican cement was 29.2 percent higher for the January-September 2001 period compared with the same period in 2000. Moreover, the unit values of imports of cement from Mexico have declined since the acquisition. Neither the increases in volume nor declines in value of imports

---

[5] 19 U.S.C. 1675(b).

[6] 19 CFR 207.45(b).

[7] 66 FR 51685.

[8] *See Heavy Forged Handtools from the People's Republic of China*, 62 FR 36305 (July 7, 1997); *Certain Cold-Rolled Carbon Steel Plate Products from Germany and the Netherlands*, 61 FR 17319 (April 19, 1996); see generally, A. Hirsh, Inc. v. United States, 737 F. Supp. 1186 (CIT 1990); Avesta AB v. United States, 724 F. Supp. 974 (CIT 1989), aff'd 914 F.2d 233 (Fed. Cir. 1990); and Avesta AB v. United States, 689 F. Supp. 1173 (CIT 1988).

[9] Avesta, 689 F. Supp. at 1181 (CIT 1988); *A Hirsh, Inc. v. United States*, 729 F. Supp. 1360, 1363 (CIT 1990), aff'd following remand, 737 F. Supp. at 1188 (CIT 1990).

[10] CEMEX made similar arguments in the five-year review completed in October 2000 regarding its single domestic operation and the Commission rejected it on the basis that it was not supported by the evidence. USITC Pub. 3361 at 39, n.234, and 41.

[11] *See Avesta*, 689 F. Supp. at 1181–1183; Avesta, 724 F. Supp. at 978–980.

VOL 66 ISS 245 DE 20 2001 UMI

of Mexican cement provide evidence of a change in importing strategy by CEMEX resulting from the acquisition that would warrant a full review to consider the issue of revocation. In not presenting adequate facts to demonstrate a sufficient change in circumstances, CEMEX has not met its burden at the initial stage.[12]

Finally, CEMEX raises a number of arguments that address the merits of whether the order should be revoked and are "of little consequence as an isolated fact in terms of whether the review is warranted."[13]

In order to obtain a review, a requester "must present facts which when weighed against the other facts presented, would convince a reasonable decision-maker that a full investigation is necessary to establish whether or not changed circumstances have obviated the need for the order in its present form."[14] CEMEX has made various allegations but provided virtually no evidence, and certainly not adequate facts, to support its claim that the acquisition of Southdown is a changed circumstance sufficient to warrant review of the order. Moreover, the available Commerce import data provide clear and convincing contrary evidence that imports of cement from Mexico have increased, and their value has declined, since the acquisition. Finally, CEMEX has not made it clear why the Commission should not find that a shift of production to the U.S. market would be anything other than the natural consequence of the outstanding antidumping duty order.

In light of the above analysis, the Commission determines that institution of a review investigation under section 751(b) of the Act concerning the Commission's affirmative determination in investigation No. 731–TA–451 (Final): Gray Portland Cement and Cement Clinker from Mexico, is not warranted.

Issued: December 17, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31385 Filed 12–19–01; 8:45 am]

BILLING CODE 7020–02–P

---

[12] *See Hirsh*, 737 F. Supp. at 1188.

[13] *Hirsh*, 737 F. Supp. at 1188 ("improved health of the domestic industry and avoidance of an injured condition is the hoped-for outcome of an unfair trade order * * * [and] is of little consequence as an isolated fact in terms of whether review is warranted.").

[14] Hirsh, 729 F. Supp. at 1363 (CIT 1990), citing, Avesta, 689 F. Supp. at 1181 (CIT 1988).

INTERNATIONAL TRADE COMMISSION

Forum on Issues Relating to Electronic Filing and Maintenance of Documents

AGENCY: United States International Trade Commission.

ACTION: Notice to assess public interest in the agency's holding a forum.

SUMMARY: The United States International Trade Commission wishes to ascertain the extent to which members of the public would be interested in attending and making statements at a forum on issues relating to electronic filing and maintenance of documents. If such a forum were to be held, it would provide members of the public with the opportunity to provide input that the Commission can use to develop effective processes for electronic document filing and maintenance. The Commission anticipates that any such forum, if held, likely would be held in January 2002.

ADDRESSES: A person wishing to appear at the forum and make a statement should file a request to do so directed to the Secretary to the Commission. A request to appear should indicate the following information: (1) The name of the person desiring to make a statement; (2) the organization or organizations represented by that person, if any; (3) contact information (address, telephone, and e-mail); and (4) information on the specific focus or interest of the person (or his or her organization) and any questions or issues the person would like to raise. A request may be sent by e-mail to *"dockets@usitc.gov,"* or by mail or hand delivery to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The deadline for receipt of requests is Friday, December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq. (202–205–3102), Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (at URL *http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: The Commission is contemplating holding a forum on issues relating to electronic filing and maintenance of documents, and wishes to ascertain the extent of public interest in appearing at such a forum.

In 1996, the Commission established the Electronic Document Imaging System (EDIS), which stores and provides access to docket records in agency investigations. The Commission now is contemplating replacing EDIS with a new document management system that would provide better functionality. In particular, the Commission is seeking as part of the new system the capability to accept documents electronically.

The Commission's Rules of Practice and Procedure currently provide for the filing of documents with the agency in paper form. Consistent with the Government Paperwork Elimination Act (GPEA) (Div. C, Title XVII, Public Law 105–277), the Commission is considering permitting parties and other persons to file some documents with the agency electronically. The Commission contemplates obtaining the capability to, inter alia: (1) Permit a person to make a filing by uploading it electronically to a Commission Web site; (2) provide security to protect confidential business and business proprietary information from unauthorized disclosure; (3) verify the identity of the submitter through a password, electronic signature, or other security system; (4) acknowledge receipt of the submission by an electronic message to establish when filing occurred; and (5) alert in-house users of new submissions. A new Commission document management system might also permit faster searches for and retrieval of documents in the Commission's docket files than currently permitted by EDIS.

The Commission held a public forum on June 20, 2001, to solicit public views on (1) what features of an electronic system might be helpful to users, (2) what technical difficulties might arise in connection with such a system, and (3) how the agency might implement such a system. The agency has taken into account the views expressed at the forum, as well as those expressed in written comments, in its planning for the new system.

Now that the Commission has done further work on defining how the agency may implement such a system, the agency is considering holding another forum to solicit further input from the public on issues relating to electronic document filing and maintenance. Before scheduling such a forum, the Commission wishes to gauge the level of public interest in attending such an event.

Any person may attend the forum and make a statement concerning the issues listed above. A person wishing to do so must file a request with the Secretary. Once all requests have been received, the Commission will decide on whether to hold the forum. The Commission will inform each person whose request to appear has been granted of the date, time, location, and agenda of the forum.

By order of the Commission.

Issued: December 17, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31449 Filed 12–19–01; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committees on Rules of Bankruptcy and Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committees on Rules of Bankruptcy and Criminal Procedure.

ACTION: Notice of cancellation of open hearings.

SUMMARY: The following public hearings have been canceled:

- Bankruptcy Rules in Washington, DC on January 4, 2002; and
- Criminal Rules in Atlanta, Georgia on January 7, 2002.

(Original notice of hearings appeared in the **Federal Register** of August 29, 2001 (66 FR 45693)).

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: December 13, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–31277 Filed 12–19–01; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Supplement to the Consent Decree Pursuant to the Safe Drinking Water Act

In accordance with 28 CFR 50.7, notice is hereby given that a proposed Supplement to the Consent Decree in *United States and State of New York, et al.* v. *City of New York, et al.*, Civil Action No. CV 97–2154 (Gershon J.) (Gold, M.J.), was lodged with the United States District Court for the Eastern District of New York on December 12, 2001. In this action, the United States and the State of New York sought to court order requiring the City of New York to come into compliance with the Safe Drinking Water Act, 42 U.S.C. 300f, et seq., and the Surface Water Treatment Rule, a National Primary Drinking Water Regulation, by installing filtration treatment for its Croton water supply system.

On November 24, 1998, the Court entered a Consent Decree in this action which required the City, among other obligations, to select a site for, design, and contruct the filtration plant. The City selected a site for the plant at the Mosholu Golf Course in Van Cortlandt Park in the Bronx. However, on February 8, 2001, the New York State Court of Appeals held that the City could not construct the plant at the Mosholu Golf Course Site without first obtaining approve from the New York State Legislature. The City has sought, but to date has not obtained, legislative approve to construct the plant at the Mosholu Golf Course Site, though the City represents that it is continuing to seek such approval.

In view of the lack of legislative approval for the Mosholu Golf Course Site, the Parties negotiated a Supplement to the Consent Decree, which, among other things, requires the City to select a new site and modifies the deadlines for construction of the filtration plant. The City has identified two alternative sites for construction of the filtration plant, a site in the Town of Mount Pleasant in Westchester Country, denominated the Eastview Site, and a site adjacent to the Harlem River in Bronx County, denominated the Harlem River Site. However, the City wishes to conduct additional study regarding these sites prior to selecting a preferred site for the plant. Accordingly, the Supplement tot he Consent Decree provides that the City will conduct some initial study and design work relating to the Eastview Site and the Harlem River Site and will identify its preferred Site in a draft environmental impact statement to be submitted on April 30, 2003. The City is to select one of these two sites or, if legislative approval for the Mosholu Golf Course Site is obtained by April 15, 2003 and other requirements are met, the City may instead reselect the Mosholu Golf Course Site.

The Supplement to the Consent Decree provides that, if the Eastview Site is selected, the City is to complete construction of the plant by March 31, 2010, with full operation to commence no later than September 30, 2010, and, if the Harlem River Site is selected, the City is to complete construction of the plant by April 30, 2011, with full operation to commence by October 31, 2011. The Supplement also provides that, if the United States, State, or the City determines during the course of implementation of the Supplement that the City cannot complete the plant at the selected site within the schedule set forth in the Supplement or within a reasonable time period agreed to by the parties, the City shall construct the plant at the alternate site.

The Supplement to the Consent Decree also provides for a supplemental Interim Measure. This Interim Measure requires the City to implement a project to improve, enhance and/or secure the Croton Water Supply System and/or the Croton Watershed. The City is to submit a proposal to the United States and the State for such a project by September 30, 2002, and to implement the approved project between May 31, 2003 and May 31, 2006, at a cost of $2,000,000.

The Department of Justice will receive comments relating to the proposed Supplement to the Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, c/o Deborah B. Zwany, Assistant U.S. Attorney, Eastern District of New York, One Pierrepont Plaza, 14th Floor, Brooklyn, New York 11201, and should refer to *United States and State of New York* v. *City of New York*, D.J. Ref. 90–5–1–1–4429. A copy of the comments should also be sent to Chief, Environmental Enforcement Section, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044.

The proposed Supplement to the Consent Decree may be examined at the office of the United States Attorney for the Eastern District of New York, One Pierrepont Plaza, 14th Floor, Brooklyn, New York 11201, and at the Region II office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007. A copy of the proposed Supplement to the Consent Decree may also be obtained by faxing a request to Tonia Fleetwood, Department of Justice Consent Decree Library, fax no. (202) 353–0296. There is a charge for the copy (25 cent per page reproduction cost). When requesting a copy, please mail a check payable to the "Consent Decree Library", in the amount of $15.00, to: Consent Decree Library, U.S.

Department of Justice, P.O. Box 7611, Washington, DC 20044.

Karen S. Dworkin,

Assistant Chief, Environmental Enforcement Section, Environmental & Natural Resources Division.

[FR Doc. 01–31278 Filed 12–19–01; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 4, 2001, Cedarburg Pharmaceuticals, LLC, 870 Badger Circle, Grafton, Wisconsin 53024, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Oxycodone	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II

The firm will manufacture these controlled substances for another firm.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: November 26, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 01–31279 Filed 12–19–01; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 20, 2001, and published in the **Federal Register** on August 28, 2001, (66 FR 45340), Cedarburg Pharmaceuticals LLC, 870 Badger Circle, Grafton, Wisconsin 53024, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm will manufacture tetrahydrocannabinols for another firm.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Cedarburg Pharmaceuticals, LLC to manufacture tetrahydrocannabinols is consistent with the public interest at this time. DEA has investigated the company to ensure that the company's registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: November 20, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31282 Filed 12–19–01; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 17, 2001, Cerilliant Corporation, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78708–0189, made application by renewal to the Drug Enforcement Administration (DEA) for registration as bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N, N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590)	I
Gamma hydroxybutyric acid (2010)	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
3, 4, 5-Trimethoxyamphetamine (7390)	I
4-Bromo-2, 5-dimethoxyaphetamine (7391)	I
4-Bromo-2, 5-dimethoxphenethylamine (7392)	I
4-Methyl-2, 5-dimethoxyamphetamine (7395)	I
2, 5-Dimethoxyamphetamine (7396)	I
2, 5-Dimethoxy-4-ethylamphetamie (7399)	I
3, 4-Methylenedioxyamphetamine (7400)	I
5-Methoxy-3, 4-methylenedioxyamphetamine (7401)	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402)	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404)	I
3, 4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I

Drug	Schedule
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Acetyldihydrocodeine (9051)	I
Benzylmorphine (9052)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Methyldihydromorphine (9304)	I
Morphone-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allyprodine (9602)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betacetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Hydromorphinol (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Phenomorphan (9647)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815)	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831)	I
Alpha-Methylthiofentianyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	II
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9220)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9200)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Racemethorphane (9732)	II

VOL 66 ISS 245 DE 20 2001 UMI

Drug	Schedule
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make deuterated and non-deuterated drug reference standards which will be distributed to analytical and forensic laboratories for drug testing programs.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: November 16, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31280 Filed 12–19–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated March 29, 2001, and published in the **Federal Register** on April 6, 2001, (66 FR 18310), Isotec Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxymethamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603)	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbonitrile (8603)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-Alphacetylmethadol (9648)	II

Drug	Schedule
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to produce standards for analytical laboratories.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, section 823(a) and determined that the registration of Isotec, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated the company on a regular basis to ensure that its continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: November 15, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31281 Filed 12–19–01; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Report on Current Recordkeeping Practices in the Federal Government; Request for Comment

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of report; request for comment.

SUMMARY: NARA is seeking public comment on the Report on Current Recordkeeping Practices within the Federal Government. The report is an analysis of two significant data collections that were conducted by NARA and SRA International, Inc. (SRA) to assess the state of recordkeeping and records use in the Federal Government. This is an important step in NARA's efforts to review and, if necessary, revise records management policies and guidance to fit the changing office environment.

The report is available electronically at *http://www.nara.gov/records/rmi.html*. For a paper copy of the report, contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

DATES: Comments must be received by January 31, 2002.

ADDRESSES: Please send comments to *comments@nara.gov*, or fax them to 301–713–7270, or mail them to NARA (NPOL), 8601 Adelphi Rd. Rm. 4100, College Park, MD 20740–6001

FOR FURTHER INFORMATION CONTACT: Susan Cummings at 301–713–7360 x238.

SUPPLEMENTARY INFORMATION: NARA has undertaken three initiatives to document the current recordkeeping and records use environment in Federal agencies, to use that information to analyze NARA's records management policies, and to redesign, if necessary, the scheduling and appraisal process. This report is the result of the first initiative.

SRA used individual interviews, focus groups, and an Internet survey to find out how agency officials and staff viewed records management and what they perceived its role to be in today's modern office. More than 40 Federal agencies participated in the interviews and focus groups, and more than 475 individuals replied to the Internet survey. Additionally, using a process called Records Systems Analyses, or RSAs, NARA teams examined selected business processes in Federal agencies to determine how records are actually being created and managed. The report identifies patterns in records management, suggests situational models to explain those patterns, and identifies points where NARA could effectively intervene to improve records management.

Dated: December 14, 2001.

Nancy Allard,

Federal Register Liaison.

[FR Doc. 01–31341 Filed 12–19–01; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Community Development Revolving Loan Program for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Notice of application period.

SUMMARY: The National Credit Union Administration (NCUA) will accept applications for participation in the Community Development Revolving Loan Fund's Loan Program throughout calendar year 2002, subject to availability of funds. Application procedures for qualified low-income credit unions are in NCUA Rules and Regulations.

ADDRESSES: Applications for participation may be obtained from and should be submitted to: NCUA, Office of Credit Union Development, 1775 Duke Street, Alexandria, VA 22314–3428.

DATES: Applications may be submitted throughout calendar year 2002.

FOR FURTHER INFORMATION CONTACT: The Office of Credit Union Development at the above address or telephone (703) 518–6610.

SUPPLEMENTARY INFORMATION: Part 705 of the NCUA rules and regulations implements the Community Development Revolving Loan Program for Credit Unions. The purpose of the Program is to assist officially designated "low-income" credit unions in providing basic financial services to residents in their communities that result in increased income, ownership and employment. The Program makes available low interest loans in amounts up to $300,000 in the aggregate to qualified participating "low-income" credit unions. Program participation is limited to existing credit unions with an official "low-income" designation. Student credit unions are not eligible to participate in this program.

This notice is published pursuant to section 705.9 of the NCUA rules and regulations that states NCUA will provide notice in the **Federal Register** when funds in the program are available.

By the National Credit Union Administration Board on December 13, 2001.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–31289 Filed 12–19–01; 8:45 am]

BILLING CODE 7535–01–P

VOL 66 ISS 245 DE 20 2001 UMI

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this section. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by February 19, 2002, to be assured of consideration. Comments received after that date would be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov*.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: The Evaluation of the Preparing Future Faculty (PFF) Program.

OMB Control No.: 3145–0183.

Expiration Date of Approval: May 31, 2002.

Abstract: This document has been prepared to support the clearance of data collection instruments to be used in the evaluation of the Preparing Future Faculty (PFF) Program, funded since 1993 by The PEW Charitable Trust, the National Science Foundation, and an anonymous donor. PFF is designed to change the culture of graduate education in order to produce faculty for colleges and universities who are fully prepared for teaching and service responsibilities as well as the research role.

Data will be collected using Web-based surveys and conducting institutional site visits for six selected case studies. Titles of the survey instruments and interview protocol for the PFF Evaluation are as follows:

- PFF Partner Faculty Survey
- PFF Graduate Faculty Survey
- PFF Participant Survey (Graduate Students)
- PFF Site Visit Protocol (for case studies)

NSF will use this collection to evaluate the impact and effectiveness of the Preparing Future Faculty Program on graduate education and the development of future professors.

Expected Respondents: The expected respondents are project directors, deans, and graduate student participants at PFF grantee institutions as well as faculty associated directly with the PFF program at both graduate institutions and partner institutions.

Burden on the Public: The remaining elements for this collection represent 734 burden hours for a maximum of 3840 participants over two years, assuming an 80–100% response rate. The burden on the public is negligible; the study is limited to project participants that have directly received funding from or otherwise have benefited from participation in the PFF program.

Dated: December 14, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–31283 Filed 12–19–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting OMB clearance of this collection for no longer than 3 years.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be received by February 19, 2002, to be assured of consideration. Comments received after that date would be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov.

FOR FURTHER INFORMATION CONTACT: Suzanne Plimpton on (703) 292–7556 or send e-mail to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Title of Collection: The Evaluation of the Preparing Future Faculty (PFF) Program.

OMB Control No.: 3145–0183.

Expiration Date of Approval: May 31, 2002.

Abstract: This document has been prepared to support the clearance of data collection instruments to be used in the evaluation of the Preparing Future Faculty (PFF) Program, funded since 1993 by The PEW Charitable Trust, the National Science Foundation, and an anonymous donor. PFF is designed to change the culture of graduate education in order to produce faculty for colleges and universities who are fully prepared for teaching and

service responsibilities as well as the research role.

Data will be collected using Web-based surveys and conducting institutional site visits for six selected case studies. Titles of the survey instruments and interview protocol for the PFF Evaluation are as follows:

- PFF Partner Faculty Survey.
- PFF Graduate Faculty Survey.
- PFF Participant Survey (Graduate Students)
- PFF Site Visit Protocol (for case studies).

NSF will use this collection to evaluate the impact and effectiveness of the Preparing Future Faculty Program on graduate education and the development of future professors.

Expected Respondents: The expected respondents are project directors, deans, and graduate student participants at PFF grantee institutions as well as faculty associated directly with the PFF program at both graduate institutions and partner institutions.

Burden on the Public: The remaining elements for this collection represent 734 burden hours for a maximum of 3840 participants over two years, assuming an 80–100% response rate. The burden on the public is neligible; the study is limited to project participants that have directly received funding from or otherwise have benefited from participation in the PFF program.

Dated: December 14, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–31284 Filed 12–19–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

Amergen Energy Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16 issued to AmerGen Energy Company, LLC (the licensee) for operation of the Oyster Creek Nuclear Generating Station located in Ocean County, New Jersey.

The proposed license amendment request is to revise Technical Specification (TS) 3.5.A.5.b to change the number of allowed inoperable suppression chamber to drywell vacuum breakers from two to five. This change decreases the required number of operable vacuum breakers for opening from twelve to nine.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> 1. Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> The proposed change reduces the number of vacuum breakers required to be operable from twelve to nine, allows continued operation for 72 hours with one required vacuum breaker inoperable, and allows a vacuum breaker to remain operable with one position alarm circuit inoperable. The proposed change does not increase the probability of an accident. The number of vacuum breakers required to be operable is not assumed to be an accident initator of any analyzed event.
>
> [...] The change does not allow continuous operation with only eight vacuum breakers operable. Therefore, the consequences of an accident are not increased. This change does not alter assumptions relative to the mitigation of an accident or transient event. The position alarm circuits only provide indication of valve position prior to an event and do not perform any accident mitigation functions. Additional surveillance of an operable vacuum breaker with an inoperable position alarm circuit will provide adequate assurance of vacuum breaker status and operability of the remaining redundant position alarm circuit.
>
> Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> 2. Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> The proposed change reduces the number of vacuum breakers required to be operable from twelve to nine, allows continued operation for 72 hours with one required vacuum breaker inoperable, and allows a vacuum breaker to remain operable with one position alarm circuit inoperable. This change will not physically alter the plant since [because] no new or different type of equipment will be installed. The change in analytical methods used to establish the proposed Technical Specification limits for normal plant operation preserves the current safety analysis assumptions and acceptable criteria. The proposed 72 hour allowed outage time for a required operable vacuum breaker is consistent with NRC Standard Technical Specifications, NUREG–1433, and is considered acceptable due to the low probability of an event in which the remaining vacuum breaker capability would not be adequate assuming a single failure to open. Additional surveillance of an operable vacuum breaker with an inoperable position alarm circuit will provide adequate assurance of vacuum breaker status and operability of the remaining redundant position alarm circuit.
>
> Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.
>
> 3. Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.
>
> This proposed change reduces the number of vacuum breakers required to be operable from twelve to nine, allows continued operation for 72 hours with one required vacuum breaker inoperable, and allows a vacuum breaker to remain operable with one position alarm circuit inoperable. Reducing the number of required vacuum breakers from twelve to nine is consistent with the analysis that shows eight vacuum breakers are sufficient to maintain containment differential pressures and downcomer water column height below acceptable limits. Therefore, the margin of safety is not affected. The safety analysis assumptions and acceptance criteria are maintained. In addition, with one required vacuum breaker inoperable for 72 hours, the margin of safety is not significantly reduced considering the remaining vacuum breakers are still available and sufficient to mitigate an event, and the low probability of an accident occurring during this time period requiring vacuum breaker operation. Additional surveillance of an operable vacuum breaker with an inoperable position alarm circuit will provide adequate assurance of vacuum breaker status and operability of the remaining redundant position alarm circuit.
>
> Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 22, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to pdr@nrc.gov. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Kevin P. Gallen, Morgan, Lewis & Bockius, LLP, 1800 M Street, NW., Washington, DC 20036–5869, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Further details with respect to this action, see the application for amendment dated September 19, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 13th day of December 2001.

For the Nuclear Regulatory Commission.

Helen N. Pastis,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31333 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 03000001]

Mallinckrodt, Inc.; Notice of Consideration of Request for Temporary Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of consideration of request for temporary exemption.

SUMMARY: The Nuclear Regulatory Commission (Commission) is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness (EP) exercise every 2 years for Mallinckrodt, Inc. The request for temporary exemption is necessary because the licensee had to postpone the required scheduled EP exercise due to the terrorist attacks on the United States, lack of availability of State and local agencies, and the current heightened alert status of the plant. Mallinckrodt expects to conduct the EP exercise by July 30, 2002. The NRC has prepared an environmental assessment with a finding of no significant impact on the request.

FOR FURTHER INFORMATION CONTACT: Kevin G. Null, Senior Health Physicist, Nuclear Materials Licensing Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, Lisle, Illinois. Telephone: (630) 829–9854, e-mail kgn@nrc.gov.

SUPPLEMENTARY INFORMATION: The Commission is considering the issuance of a temporary exemption from the requirement to perform an emergency preparedness exercise every 2 years, pursuant to 10 CFR part 30, for Mallinckrodt, Inc., located in Maryland Heights, Missouri. The facility is authorized to use byproduct material for research and development, manufacturing, processing, and packaging of radiopharmaceuticals and/or radiochemicals.

Mallinckrodt was scheduled to conduct an EP exercise on September 11, 2001. This exercise was postponed because of the terrorist attacks on the United States that occurred on September 11. Because of the ongoing high alert status of the plant and the need to coordinate with several offsite agencies and groups, the exercise will not be performed this calendar year. Mallinckrodt expects to conduct the exercise no later than July 30, 2002.

The last EP exercise conducted at the Mallinckrodt facility was held on September 9, 1999. Mallinckrodt's Emergency Plan, in accordance with 10 CFR 30.32(i)(3)(xii), requires that plant personnel plan and conduct biennial EP exercises. Because the next exercise will not be conducted during calendar year 2001, the licensee has requested a temporary exemption from the requirement to conduct biennial EP exercises. The NRC staff has prepared an environmental assessment of the proposed action and reached a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant temporary relief from the requirement pursuant to 10 CFR 30.32(i)(3)(xii) to perform a biennial EP exercise during calendar year 2001. The proposed action would allow Mallinckrodt to conduct their 2001 biennial exercise as late as July 30, 2002. The proposed action is in accordance with Mallinckrodt's request for exemption dated November 26, 2001.

Need for the Proposed Action

Due to the heightened state of security alert that the plant is under and the unavailability of State and local agencies to participate, Mallinckrodt has determined that it would not be prudent to hold the 2001 biennial EP exercise during calendar year 2001. Allowing the delay would avoid overlap with the current state of high alert and allow fuller participation by other agencies and groups.

Environmental Impacts of the Proposed Action

The proposed action would not materially affect the emergency response capabilities of the Mallinckrodt facility. The last exercise was conducted on September 9, 1999. Direct observation of the exercise by NRC inspectors noted deficiencies that did not require immediate corrective action. On November 17, 1999, Mallinckrodt identified an inadvertent release of xenon-133, declared an alert and implemented their Emergency Plan (EP). NRC conducted a special inspection to review the circumstances of the event and the effectiveness of Malinckrodt's implementation of their EP. With the exception of 1 violation that was identified, NRC review of real time activation of the EP indicated that Mallinckrodt has addressed the issues identified during the September 9, 1999 exercise. In addition, NRC license reviews and inspections conducted since November 17, 1999, have not identified a decline in the effectiveness of Mallinckrodt's emergency response capability. The postponement should have no impact on the effectiveness of Mallinckrodt's emergency response capability. The proposed action will not increase the probability or consequences of accidents; no changes are being made in the amounts or types of any effluents that could be released offsite, and there is no increase in individual or cumulative radiation exposure. Accordingly, the Commission concludes that there are no significant radiological impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no discernible environmental impact associated with the proposed action, any alternatives with equal or lesser impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the proposed action would result in no change in environmental impacts but would result in hardship to Mallinckrodt, and perhaps other participants. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The proposed action does not involve the use of any resources beyond those already necessary to conduct the EP exercise during 2001, and would merely delay the exercise.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with the following officials regarding the environmental impact of the proposed action: William Brandes, Chair, Local Emergency Planning Committee, St. Louis, Missouri; Nick Granani, Deputy Director, Office of Emergency Management, Chesterfield, Missouri; Keith Henke, State Emergency Management Agency, Jefferson City, Missouri; Charles Hooper, Missouri Department of Health, Jefferson City, Missouri; and Tom Lange, Sr. Planner, Office of the Director, Missouri Department of Natural Resources. No objections were received.

Finding of No Significant Impact

Based on the environmental assessment, the Commission concludes that the proposed action will not have a significant affect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

List of Preparers

This document was prepared by Kevin G. Null, Senior Health Physicist, Nuclear Materials Licensing Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, Lisle, Illinois. Mr. Null is the Licensing Project Manager for the Nuclear Materials License issued to Mallinckrodt, Inc.

For further details with respect to the proposed action, see the Mallinckrodt letter dated November 26, 2001, available for public inspection at the Commission's Public Document Room at One White Flint North, 11555 Rockville Pike, Rockville, MD, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web Site *(http://www.nrc.gov).*

Dated at Rockville, Maryland this 13th day of December, 2001.

For the Nuclear Regulatory Commission.

John W. Hickey,

Chief, Materials Safety and Inspection Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–31332 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Exelon Generation Company, LLC, Dresden Nuclear Power Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment to Increase the Maximum Thermal Power Level

The U. S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–19 and DPR–25, issued to Exelon for the operation of the Dresden Nuclear Power Station, Units 2 and 3 (DNPS), located on the Illinois River in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Exelon, the operator of DNPS, to increase its electrical generating capacity at DNPS by raising the maximum reactor core power level from 2527 MWt to 2957 MWt. This change is approximately 17 percent above the current licensed maximum power level for DNPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. DNPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with the licensee's application for amendments dated December 27, 2000, and supplemental information dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), November 2, 16, and 30, and December 10, 2001. The original amendment request was submitted by Commonwealth Edison Company (ComEd), the former licensee. ComEd subsequently transferred the licenses to Exelon Generation Company, LLC (Exelon, the licensee). By letter dated February 7, 2001, Exelon informed the NRC that it assumed responsibility for all pending NRC actions that were requested by ComEd.

The Need for the Proposed Action

Exelon evaluated its resource needs for the period 2000–2014 and forecast a 28-percent increase in electrical demand by 2014 within its Illinois service area. The proposed EPU would provide approximately 0.66 percent additional generating capacity per unit at DNPS. Exelon stated that in order to stay competitive, it must be able to fulfill not only customer power demands, but it also must sell power to other providers. In Illinois, approximately 40 gas turbine plants of various sizes are proposed to be built. The proposed additional generating capacity at DNPS would eliminate the need to build approximately two 100-MWe gas turbines.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating licenses for DNPS, the NRC staff noted that any activity authorized by the licenses would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of DNPS, which was issued in November 1973. The original operating licenses for DNPS allowed a maximum reactor power level of 2527 MWt. On December 27, 2000, Exelon submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at DNPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, no changes to any State permit limits would be necessary. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at DNPS.

Non-Radiological Impacts at DNPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts of the proposed EPU on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at DNPS.

Land Use Impacts

The proposed EPU at DNPS would result in some modifications to current land use at DNPS, due to the proposed addition of 6–8 new cooling tower cells. The proposed addition of new mechanical draft cooling tower cells to the existing 48 cells would handle the additional heat load resulting from the EPU. The additional cooling tower cells would require approximately 0.5 acres of land for siting. Access roads and pipe bridge installations, necessary to support the proposed cooling tower cells, might cause additional land disturbances; however, the new cells would be in an area that has been previously disturbed. The construction impacts would be temporary. Due to the small area (0.5 acres) disturbed, and the fact that the area has been previously disturbed, impacts to terrestrial biota will be minimal. Based on a previous archeological and history survey, the licensee has determined that the proposed cooling tower cells would not disturb lands with historic or archaeological significance. There would be minor changes to visual and aesthetic resources; however, the proposed cooling tower cells would not be visible from any major highway or block the view of any historic site or picture scape. The cooling tower cells would be built in accordance with the appropriate safety standards and any deviation from the standards would be evaluated in the staff's safety evaluation report.

Apart from the proposed change detailed above, the licensee indicated that it has no plans to construct new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, or onsite transmission and distribution equipment, including power line rights-of-way, in conjunction with the uprate or operation after uprate. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under the ground. Therefore, the staff's conclusions in the FES on land use would remain valid under the proposed EPU conditions.

Water Use Impacts

The steam produced by the DNPS turbines is condensed in the condensers, demineralized, and pumped back to the reactor vessel. Cooling water used in the condensers is pumped from the Kankakee and Des Plaines Rivers and does not come in contact with the steam from the turbines. The original design called for a once-through cooling water system in which all the heated water used in the condensers was returned to the Illinois River downstream of the intake. A number of configuration changes have been made in the cooling system at DNPS since the original design. These include the construction of a cooling pond and associated cooling canals, installation of spray modules in the cooling canals, installation of temporary mechanical draft cooling towers, and the construction of mechanical draft cooling towers.

DNPS operates in the indirect open-cycle mode from June 15 through September 30. In this operating mode, a maximum of 940,000 gallons per minute (gpm) may be withdrawn from the Kankakee and Des Plaines Rivers for condenser cooling water. After the water circulates through the condensers, the water is discharged into a 2-mile-long cooling canal, called the hot canal. As water travels through the hot canal, it may be withdrawn and circulated through a bank of 36 mechanical draft cooling tower cells and then discharged back into the hot canal at a lower temperature. The cooling towers operate, as needed, to maintain water temperatures within the National Pollutant Discharge Elimination System (NPDES) permit limits and have a maximum water withdrawal capacity of 630,000 gpm. From the hot canal, a lift station pumps the water into a 1275-acre cooling pond. The cooling pond consists of 5 areas through which the water is circulated for approximately 2.5 days. After circulating through the cooling pond, the water is discharged via a spillway into another 2-mile-long canal, called the cold canal. The water may then be circulated through a bank of 12 mechanical draft cooling tower cells at a maximum rate of approximately 213,000 gpm, as needed, to maintain water temperature within the NPDES permit limits. The water is returned to the cold canal at a lower temperature and is then discharged into the Illinois River.

DNPS normally operates in the closed-cycle mode from October 1 to June 14. Typically, the mechanical draft cooling tower cells are utilized during this period. Water is drawn into the intake structure, circulated through the condensers for Units 2 and 3, passed through the hot canal, the cooling pond, the cold canal, and is then routed back to the intake structure via the flow regulating station gates. A small amount of condenser cooling water (70,000 gpm) is withdrawn from the Kankakee and Des Plaines Rivers to make up evaporative and seepage losses in the cooling pond. Additionally, approximately 50,000 gpm of the cooling water is permitted to be discharged into the Illinois River to prevent an increase in the dissolved solids concentrations in the cooling pond.

DNPS has approval from the Grundy County Emergency Management Agency to operate a de-icing project on the Kankakee River using heated water from the DNPS cooling pond. Heated water from the cooling pond is transported through a permanent pipe by siphon to the Kankakee River, where it is used to prevent river ice from damaging docks and other structures.

The staff evaluated surface water use and groundwater use as environmental impacts of water usage at DNPS. The licensee stated that the surface water intake amounts would not be changed by the proposed EPU. The licensee also stated that it would not seek to change permit requirements for thermal or flow limits or conditions for the proposed EPU. Therefore, the staff's conclusions in the FES on water use would remain valid under the proposed EPU conditions.

Groundwater is withdrawn from two wells at DNPS and is used for domestic and industrial purposes. Groundwater is not used for condenser cooling. The proposed EPU would not affect the groundwater use at DNPS; therefore, the staff's conclusions in the FES on groundwater would remain valid under the proposed EPU conditions.

Discharge Impacts

The staff evaluated environmental impacts such as cooling tower emissions, drift, icing, fog, noise, chemical and wastewater discharge, cold shock to an aquatic biota, and air emissions.

Cooling Tower Emission, Drift, Icing, Fog, and Noise

Environmental impacts such as air quality, fogging, icing, cooling tower drift, and noise could result from the increased heat load on the cooling towers under the EPU conditions. The FES did not include a discussion of cooling towers, but did discuss 98 spray modules, which are no longer operated, in the cooling canal. The staff

VOL 66 ISS 245 DE 20 2001 UMI

concluded in the FES that the operation of the DNPS cooling system was not harmful to the surrounding environment. No substantial changes from the conditions reported in the FES are anticipated.

The cooling tower cells are regulated by the Illinois Environmental Protection Agency (IEPA) through a Federally Enforceable State Operating Permit (FESOP). The cooling towers emit particulate matter with a diameter of 10 microns or less (PM_{10}) in the form of drift with river water sediment entrained in the droplets. The existing 48 cooling tower cells have a potential to emit 67.2 tons of PM_{10} per year. Eight additional cooling tower cells could potentially emit an additional 11.2 tons of PM_{10} per year, resulting in a total discharge of 78.4 tons of PM_{10} per year. DNPS is in an attainment area for PM_{10} in which the major source threshold is 100 tons per year. The total emissions from DNPS under the EPU conditions would be below the major threshold for PM_{10}. Emissions from all other sources governed by the FESOP are expected to remain the same.

The licensee stated that removal of the 98 spray modules mitigated some icing effects and that the cooling tower cells currently in operation at DNPS were sited in their present locations to reduce potential fogging impacts on local roads. The cooling towers minimize drift and maximize efficiency by limiting the loss of water droplets from the cells to not more than 0.008 percent of the circulating water flow, corresponding to a drift factor of 0.00008. Fog typically forms in the cold season when the cooling tower cells are not likely to be in operation. The proposed EPU would increase the temperature of the water in the hot canal by approximately 4.2 degrees Fahrenheit (°F). The proposed temperature increase would not cause an observable increase in the intensity of fog, but because the EPU increases the temperature differential between the cooling water and ambient air, fog may form at slightly higher ambient air temperatures. However, the impacts from fogging, icing, and cooling tower drift from the proposed EPU would be bounded by the conclusions of the FES.

As stated previously, the cooling system discussed in the FES did not have cooling towers cells, but the FES did include an analysis of elevated noise levels from the presently inactive 98 spray modules. Operation of the new cooling tower cells under the proposed EPU conditions and the potential extended operation of the existing cooling towers would result in intermittent increases in noise levels during periods of high ambient air temperatures. The licensee stated that noise from the cooling tower operations would be in compliance with the applicable noise requirements. The EPU would not be expected to significantly raise the noise levels above the levels assumed in the FES; therefore, the staff's conclusions in the FES on noise impacts would remain valid under the EPU conditions.

Surface Water and Wastewater Discharge

Surface water and wastewater discharge is regulated by the State of Illinois. The NPDES permit for DNPS covers the following discharges:

1. Unit 1 housing service water (inactive)
2. Unit 1 intake screen backwash (inactive)
3. Cooling pond blowdown
4. Unit 2 and 3 intake screen backwash
5. Wastewater treatment system effluent
6. Radiological waste treatment system effluent
7. Demineralizer regenerant waste
8. Northwest material access runoff
9. Sewage treatment plant effluent
10. Cooling pond discharge
11. Southeast area runoff
12. Northeast area runoff

All of the discharges are into the Illinois River except for the sewage treatment plant effluent, cooling pond discharge, Southeast area runoff, and Northeast area runoff, which discharge to the Kankakee River. As stated previously, DNPS must operate in closed-cycle mode from October 1 to June 15 and may operate in indirect open-cycle mode from June 15 through September 30. During the indirect open-cycle operation, the NPDES permit limits the temperature of the discharges not to exceed 90 °F more than 10 percent of the time and is not permitted to exceed 93 °F. DNPS may also operate in accordance with the DNPS Variable Blowdown Plan, as governed by the original July 6, 1977, Thermal Compliance Plan calculations, from June 1 to June 15, as deemed necessary by management. Under the DNPS Variable Blowdown Plan, cooling water from the condenser must be circulated through the cooling system before being discharged into the Illinois River. DNPS is allowed to discharge augmented blowdown at rates between 111 cubic feet per second (cfs) and 1115 cfs. Discharge flow rates are varied to prevent power deratings, which can be caused by heated cooling water recirculating to the condensers. Operation of the cooling towers is implicitly covered by the thermal requirements of Special Condition 4 of the NPDES permit.

Special Condition 7 of the NPDES permit states that DNPS has complied with 35 Illinois Administrative Code, Subpart B, "General Use Water Quality Standards," Section 302.211(f), "Temperature," and Section 316(a) of the Clean Water Act in demonstrating that the thermal discharge from the station has not caused, cannot cause, and cannot be reasonably expected to cause, significant ecological damage to the receiving water. The special condition further states that no additional monitoring or modification is required for re-issuance of the NPDES permit.

DNPS monitors wastewater streams, as required by the NPDES permit, and only uses approved chemicals for conditioning water to prevent scaling, corrosion, and biofouling. The current NPDES permit limits discharge of chlorine to the receiving waters. The licensee may also use a dispersant to limit fouling of the cooling tower fill. Exelon is not seeking to change the NPDES permit requirements for thermal or flow conditions, flow rates, water sources, or for chemical or thermal discharges, and would be subject to existing NPDES requirements. Instead, additional cooling tower cells would be installed to assure compliance with current thermal limits without derating the units during the summer. The use of chemicals and their subsequent discharge to the environment would not be expected to change significantly as a result of the proposed EPU. Furthermore, discharges into receiving waters from plant operation will be in compliance with NPDES permit requirements.

Cold Shock

Cold shock to aquatic biota occurs when the warm water discharge from a plant abruptly stops because of an unplanned shutdown, resulting in a temperature drop of the river water and a possible adverse impact on aquatic biota. The probability of an unplanned shutdown is independent of the EPU. The FES stated that cold kill (cold shock) of fish is not expected from the shutdown of DNPS during the winter because of the large heat sink in the cooling lake. Additionally, the licensee is not proposing to change permit levels to river water. Therefore, the risk of an aquatic biota being killed by cold shock would be bounded by the conclusions in the FES.

Terrestrial Biota Impacts

A study performed during the first years of indirect open-cycle operation found no adverse impacts on waterfowl or wildlife. The FES stated that the DNPS cooling pond provides additional foraging and resting area for waterfowl and provides nesting grounds in an area of the State where natural lakes are less abundant. Implementation of the proposed EPU would not alter these conditions.

The licensee stated that no known threatened or endangered species live within the construction area of the proposed cooling tower cells. The species, Mead's milkweed (Asciepias meadii), lakeside daisy (Hymenopsis herbacea), leafy prairie clover (Dalea foliosa), eastern prairie fringed orchid (Platanthaera leucophaea), Hines emerald dragonfly (Somatochlora hineana), bald eagle (Haliaeetus leucocephalus), and Indiana bat (Myotis sodalis) are Federally-listed as threatened or endangered species and have been identified in Grundy and Will counties. The operation of the current 48 mechanical draft cooling towers have had no observed detrimental impact on the terrestrial community. The licensee stated that the additional 6–8 cooling tower cells would not be expected to impact this resource.

Therefore, the staff's conclusions in the FES on terrestrial ecology, including endangered and threatened plant or animal species, remain valid under the proposed EPU conditions.

Aquatic Biota Impacts

The ecology of the area surrounding the DNPS cooling pond and the intake and discharge structures has been studied extensively since the late 1960s. Studies of the lower trophic levels (phytoplankton, zooplankton, periphyton, and benthic invertebrates), and the fish community, indicated that operation of the DNPS has not had a measurable detrimental impact on the ecology of the Illinois River system. Surveys of the fish community in the vicinity of the DNPS have been conducted annually since 1971. These studies have monitored the fish population near the confluence of the Kankakee and Des Plaines Rivers and in the waters directly behind the Dresden Island Lock and Dam, called the Dresden Island Pool. The Dresden Island Pool area includes sampling stations near the intake and discharge areas of DNPS. These studies have concluded that the fish community in the area of DNPS has improved since the study began. The number of species collected by the various collection methods increased from the 1970s through the early to mid-1980s and leveled off in the early 1990s. The increase in species numbers that occurred during the 1980s was primarily the result of improvements in water quality due to the implementation of the Clean Water Act, most notably, the removal of sewage discharge from the city of Chicago.

The licensee conducted impingement sampling at the traveling intake screens at DNPS from 1977 to 1987. The study concluded that the number of fish impinged at DNPS was low and that the fish in the adjacent river system were not being adversely impacted by DNPS operations. In April 1987, the Illinois Department of Conservation agreed to eliminate impingement sampling from the DNPS Aquatic Monitoring Program. No Federally-listed fish or aquatic plant species has been collected in the vicinity of DNPS. However, three Illinois endangered or threatened listed species, the pallid shiner (*Notropis amnis*), the greater redhorse (*Moxostoma valenciennesi*), and the river redhorse (*Moxostoma carinatum*), have been collected near DNPS. The pallid shiner has only been collected downstream of Dresden Island Lock and Dam and both redhorse species prefer a more complex channel substrate than is found near DNPS.

The licensee submitted information on the DNPS intake structure to the IEPA pursuant to section 316(b) of the Clean Water Act. IEPA determined that additional monitoring was not required, but further monitoring might be necessary at the time of any modification or re-issuance of the NPDES permit. Impacts on an aquatic biota from the proposed EPU conditions are not expected to change because implementation of the EPU would not alter the intake structure or significantly change intake flows at DNPS. Therefore, the staff's conclusions in the FES about impingement and entrapment, along with aquatic threatened and endangered species, would remain bounding.

Transmission Facility Impacts

Environmental impacts, such as the installation of transmission line equipment, or exposure to electromagnetic fields and shock, could result from a major modification to transmission line facilities. The licensee stated that there would be no change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way to support the proposed EPU conditions. No new equipment or modification would be necessary for the offsite power system to maintain grid stability. However, an increase in onsite power would be required to support the 6–8 new cooling tower cells and other new equipment associated with the EPU. Power to service these additional energy needs would come from DNPS's existing power supplies. Therefore, no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES would remain valid.

The electromagnetic field (EMF) created by transmission of electricity would increase linearly as a function of power; however, exposure to EMFs from the offsite transmission system would not be expected to increase significantly and any such increase would not be expected to change the staff's conclusion in the FES that there are no significant biological effects attributable to EMFs from high-voltage transmission lines.

No changes in transmission facilities would be needed for the EPU. DNPS transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code. Therefore, the expected slight increase in current, attributable to the proposed EPU, is not expected to change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts on the DNPS workforce and the local economy. DNPS employs more than 800 people and is a major contributor to the local tax base. DNPS personnel also contribute to the tax base by paying sales and property taxes. The proposed EPU would not significantly affect the size of the DNPS workforce and would have no material effect upon the labor force required for future outages. Plant modifications needed to implement the EPU would cost approximately $26 million. Local taxing authorities would collect more property taxes and local and national businesses would receive additional revenue from EPU-related activities. The increased direct revenue from the EPU would be a one-time benefit. The increase would not be sustained once the modifications are completed. It is expected that improving the economic performance of DNPS through lower total bus bar costs per kilowatt-hour would enhance the value of DNPS as a generating asset and reduce the likelihood of early plant retirement. Early plant retirement could have a possible negative impact upon the local economy and surrounding communities by reducing public services, employment, income, business revenues, and property values. These

VOL 66 ISS 245 DE 20 2001 UMI

reductions could be mitigated by decommissioning activities in the short term. The staff expects that the conclusions in the FES regarding social and economic impacts are expected to remain valid under the EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The construction of the 6–8 cooling tower cells may temporarily produce dust, vibration, noise, and vehicle exhaust. However, the licensee stated that construction traffic will not be routed through residential areas and no blasting will occur. In the year 2000, 36 cooling tower cells were constructed in the same general area in which the 6–8 new cooling tower cells are proposed to be located. The licensee stated that residents did not express concerns about construction noise. The distance between the proposed location of the 6–8 new cooling tower cells and the nearest residence is at least 1000 feet. Other than the construction of the proposed 6–8 cooling tower cells, the EPU would involve only limited changes in station operation and a few modifications to the station facility. These limited modifications would be accomplished without physical changes to transmission corridors, or other offsite facilities, and without significant changes to access roads or additional project-related transportation of goods or materials. Therefore, no significant construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are anticipated, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU at DNPS would not result in a significant change in non-radiological impacts on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or social and economic factors, and would not have other non-radiological environmental impacts from those evaluated in the FES. Table 1 summarizes the non-radiological environmental effects of the EPU at DNPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT DNPS

Impacts	Impacts of the EPU at DNPS
Land Use Impacts	Construction of 6–8 additional cooling tower cells on 0.5 acre on previously disturbed land. Minor aesthetic changes. No changes to lands with historic or archeological significance.
Water Use Impacts	No changes to the intake of surface water or groundwater use.
Waste Discharge Impacts	No significant increase in fog formation; however, fog may form at higher air temperatures. Air emission of PM_{10} would increase, but would remain within the regulatory limits. No significant change to icing or cooling tower drift. Noise levels may increase due to operation of the 6–8 new cooling tower cells, but would be within regulatory limits. No changes to the hydrodynamics of the condenser cooling water system intake or discharge amounts. No changes to permit requirements for thermal or flow limits or conditions. No changes to flow rates, water sources, and thermal discharges. The risk of cold shock to aquatic biota would not increase.
Terrestrial Biota Impacts	Small numbers of wildlife would be displaced by the construction of the cooling tower cells. No federally-listed threatened or endangered species are known to exist within the area of construction.
Aquatic Biota Impacts	No change to intake or outfall structures or flows; therefore, no change in aquatic impact biota would be expected. No federally-listed threatened or endangered species have been collected in the area of surface water intake or discharge.
Transmission Facilities Impacts	No change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way. Slight increase in onsite power to support the 6–8 cooling tower cells would come from existing power supplies. EMF would increase linearly with the EPU; however, no change in exposure rate would be expected.
Social and Economic Impacts	No significant change in size of DNPS workforce. The construction of the 6–8 cooling tower cells may temporarily produce dust, vibration, noise, and vehicle exhaust; however, it is not expected to be significant. No shock from blasting is expected.

Radiological Impacts at DNPS

The staff evaluated radiological environmental impacts on waste streams, dose, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment streams at DNPS and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

DNPS uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR part 20 and Appendix I to part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated specific effects of the proposed EPU on changes in the gaseous, liquid, and solid waste streams as a radiological environmental impact of the proposed EPU.

Gaseous Radioactive Waste

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small quantities of activated gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix I to part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The major sources of gaseous radioactive wastes at DNPS are the condenser air ejector effluent and the steam packing exhaust system effluent. Based on the conservative assumption of a non-negligible amount of fuel leakage due to defects, the licensee stated that radioactive release volume would increase proportionally with the 17 percent EPU conditions. The current and expected fuel defect rate is extremely small and the expected radionuclide gaseous effluents under the EPU conditions would be within Appendix I limits. Therefore, the conclusions in the FES will continue to apply under the EPU conditions.

The licensee does not expect increases in gaseous waste from new fuel designs. The licensee stated that its contract with General Electric contains a warranty section that requires General Electric to meet a specified level of fuel performance. This level is at least as stringent as that imposed on current fuel designs.

Liquid Radioactive Waste

The liquid radwaste system is designed to process, and recycle, to the extent practicable, the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. Liquid radioactive wastes at DNPS include liquids from the reactor process systems and liquids that have become contaminated with process system liquids. Increases in flow rate through the condensate demineralizer and increases of fission products and activated corrosion products are expected under the EPU conditions. This would result in additional backwashes of condensate demineralizers and reactor water cleanup filter demineralizers. These additional backwashes would be processed through the liquid radioactive waste treatment system and are expected to be suitable for reuse. Therefore, liquid effluent release volumes are not expected to increase significantly as a result of the EPU. No changes in the liquid radioactive waste treatment system are proposed. Average treatment efficiency would not change; however, radioactivity levels of liquid effluent releases may increase linearly with the 17 percent EPU. These liquid effluents from DNPS would be within the regulatory limits of 10 CFR part 50, Appendix I.

Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under the EPU conditions.

Solid Radioactive Waste

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gases, and solids used in the reactor process system operation. The largest volume of solid radioactive waste at DNPS is low-level radioactive waste (LLRW). Sources of LLRW at DNPS include resins, filter sludge, dry active waste, metals, and oils. The annual burial volume of LLRW generated in 1998 was 208.40 cubic meters. In 1999, the burial volume decreased to 98.44 cubic meters, and the projected burial volume of LLRW for 2000 is approximately 144 cubic meters. A one-time increase in the burial volume of LLRW would be associated with the EPU. The volume of resin is expected to increase by as much as 17 percent under the EPU conditions because of the increased amount of iron removed by the condensate system from the increased feedwater flow. Adding the 17 percent increase in resin volume to the projected year 2000 LLRW burial volume rate results in a 156-cubic-meter post-EPU LLRW burial volume per year (an increase of approximately 8 percent), which would be bounded by the FES.

The number of fuel assemblies would increase in any given core load with the proposed EPU, reducing the storage space in the spent fuel pool. At current off-load rates, four dry storage casks would be filled during each refueling outage and a fifth dry storage cask would be partially filled. DNPS plans to fill the fifth cask using the inventory of assemblies from the spent fuel pool. At the EPU conditions, each refueling outage would also fill four casks and partially fill a fifth. Fewer assemblies from the spent fuel pool would be needed to complete the fifth dry storage cask. The net effect of the EPU would be to increase the number of dry storage casks needed by three to four every 5 years.

In summary, the solid radioactive waste burial volume is estimated to increase by approximately 8 percent, the volume of radioactive liquid release would not be expected to increase, and the volume of gaseous radioactive effluent releases would be expected to increase up to 17 percent as a result of the proposed EPU. The level of radioactivity of the liquid effluent releases would also be expected to increase up to 17 percent. The proposed EPU is not expected to have a significant impact on the volume or activity of radioactive solid wastes at DNPS.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-Plant Radiation

Radiation levels and associated doses are controlled by the as low as reasonably achievable (ALARA) program, as required by 10 CFR part 20. The DNPS ALARA program manages exposure by minimizing the time personnel spend in radiation areas, maximizing the distance between personnel and radiation areas, and maximizing shielding to minimize radiation levels in routinely occupied plant areas and in the vicinity of plant equipment requiring attention. Exelon has determined that the current shielding designs are adequate for any dose increase that may occur due to the proposed EPU. Normal operation radiation levels would increase by no more than the percentage increase of the EPU. Many aspects of the plant were originally designed for higher-than-expected radiation sources. The increase in radiation level would not affect radiation zoning or shielding in the various areas of the plant because it is offset by conservatism in the original design, source term assumptions, and analytical techniques. The licensee states that no new dose reduction programs would be implemented and the ALARA program would continue in its current form.

A potential source of increased occupational radiation is the projected increase in moisture carryover from the reactor vessel steam dryer/separator to the main steam lines. To reduce moisture content under the EPU conditions, modifications to the steam dryer/separator would be required. The modifications are expected to result in a negligible increase in occupational exposure.

On the basis of the above information, the staff concludes that the expected in-plant radiation dose at DNPS following the proposed EPU would be bounded by the dose estimates in the FES.

Offsite Dose

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. Offsite dose from radioactive effluents are reported in the Annual Radiological Environmental Operating Reports. For the period from 1995 to 1999, the average annual whole body dose was 4.25E–3 millirem and the average annual dose to the critical organ was 6.16E–3 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from liquid releases to an adult for the 5 year period occurred in 1999

VOL 66 ISS 245 DE 20 2001 UMI

and was 0.07 percent of the critical organ dose limit. For the period from 1995 to 1999, the average dose was 0.02 percent of the 10 CFR part 50, Appendix I, regulatory limits. No significant change in the volume of water treated and released is expected. The offsite dose from liquid effluents is projected to increase proportionally with the EPU due to an increase in the concentration of fission products and activation products in the reactor coolant. The licensee states that offsite dose would remain below the 10 CFR 50, Appendix I, regulatory limits.

Dose to individuals from gaseous releases are also reported in the Annual Radiological Environmental Report. The average annual total body dose during the period from 1995 to 1999 was 2.9E–3 millirem and the average annual dose to the critical organ was 2.23E–2 millirem. The highest percentage of 10 CFR part 50, appendix I, regulatory limits for maximum dose resulting from airborne releases to an adult during the period from 1995 to 1999 occurred in 1995 and was 0.14 percent of the critical organ dose limit. For the period from 1995 to 1999, the average dose was 0.09 percent of the 10 CFR part 50, Appendix I regulatory limits. Conservatively assuming a non-negligible amount of fuel leakage due to defects, gaseous effluents will increase proportionally to the 17 percent EPU; however, offsite dose will remain well below 10 CFR part 50, appendix I, regulatory limits.

The calculated offsite dose resulting from direct radiation due to radiation levels in plant components, such as sky shine, will increase up to 17 percent because the Offsite Dose Calculation Manual conservatively adjusts offsite dose to power generation level. Because sky shine is the dominant contributor to total offsite dose, the calculated total offsite dose, based on calculations from the Offsite Dose Calculation Manual, will increase up to 17 percent. Actual offsite dose from sky shine is not expected to increase significantly because the decreased transit time is expected to result in a minimal change in concentration through reduced decay time and because expected activity concentration in the steam will remain constant due to the dilution effect of a 19 percent increase in steaming rate. The expected dose at the EPU conditions will remain below the limits of 10 CFR part 50, appendix I, 10 CFR part 20, and 40 CFR part 190 standards.

The EPU would not create new or different sources of offsite dose from DNPS operation, and radiation levels under the proposed EPU conditions would be within the regulatory limits. The staff concludes that the estimated offsite doses under the EPU conditions would meet the design objectives specified by 10 CFR part 50, Appendix I, and be within the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the assumptions, inputs, and methods used by Exelon to assess the radiological impacts of the proposed EPU at DNPS. In doing this review, the staff relied upon information placed on the docket by Exelon, staff experience in doing similar reviews, and the staff-accepted ELTR1 and ELTR2 topical reports. The staff finds that Exelon used analysis methods and assumptions consistent with the conservative guidance of ELTR1 and ELTR2. The staff compared the doses estimated by Exelon to the applicable criteria. The staff finds, with reasonable assurance, that the licensee's estimates of the EAB, LPZ, and control room doses will continue to comply with 10 CFR part 100 and 10 CFR part 50, Appendix A, GDC–19, as clarified in NUREG–0800 Sections 6.4 and 15. Therefore, DNPS operation at the proposed EPU rated thermal power is acceptable with regard to the radiological consequences of postulated design basis accidents.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the staff for a 1000 MWe reference reactor and is described by Table S–3 of 10 CFR 51.51. The DNPS reactors are 912 MWe and Table S–3 reasonably bounds the environmental impacts of the uranium fuel cycle for each DNPS reactor. The radiological effects presented in Table S–3 are small and would not be expected to change due to the implementation of the EPU.

The environmental impacts of the transportation of nuclear fuel and wastes are described in Table S–4 of 10 CFR 51.52. The table lists heat and weight per irradiated fuel cask in transit, traffic density, and individual and cumulative dose to workers and the general population under normal circumstances. The regulations require that environmental reports contain either (a) a statement that the reactor meets specified criteria, in which case its environmental effects would be bounded by Table S–4; or (b) further analysis of the environmental effects of transportation of fuel and waste to and from the reactor site.

The NRC published an environmental assessment and finding of no significant impact (65 FR 56604) regarding an increase in fuel enrichment at DNPS from 4 to 5 weight percent uranium-235 and an increase in burnup to 60,000 megawatt-days per metric ton of uranium. The staff concluded that the extended burnup would slightly change the mix of radionuclides that might be released in the event of an accident; however, no significant adverse environmental impacts were expected. An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there would be no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burnups less than 60,000 megawatt-days per metric ton of uranium (MWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight percent uranium-235 and the rod average discharge exposure would not exceed 60,000 MWd/MTU, the environmental impacts of the proposed EPU at DNPS would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the EPU at DNPS.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT DNPS

Impacts	Impacts of the EPU at DNPS
Radiological Waste Stream Impacts	The gaseous radioactive release volume would increase proportionally with the power increase. The liquid radioactive release volume is not expected to increase; however, activity levels would increase proportionally with the power increase. Solid radioactive waste will increase approximately 8 percent. Releases would be within regulatory limits.
Dose Impacts	In-plant radiation levels would increase by 17 percent and dose would be maintained ALARA. Offsite dose from liquid and gaseous effluents may increase up to 17 percent. Calculated dose from sky shine will increase up to 17 percent. In-plant and offsite dose would remain within the regulatory limits.
Accident Analysis Impacts	No significant increase in probability or consequences of accident.
Fuel Cycle and Transportation Impacts	No significant increase. Impacts would remain within the conclusions of Table S–3 and S–4 of 10 CFR Part 51.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., "the no-action" alternative). Denial of the application would result in no change in current environmental impacts; however, in the DNPS vicinity other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing DNPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, DNPS does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any different resources than those not previously considered in the DNPS FES, dated 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on November 9, 2001, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated December 27, 2000, as supplemented by letters dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), November 2, 16, and 30, and December 10, 2001. Documents may be examined and/or copied for a fee, at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 17th day of December 2001.

For the Nuclear Regulatory Commission

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31330 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC, Quad Cities Nuclear Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Thermal Power Level

The NRC is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–29 and DPR–30, issued to Exelon for the operation of QCNPS, Units 1 and 2, located on the Mississippi River in Rock Island County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Exelon, the operator of QCNPS, to increase its electrical generating capacity at QCNPS by raising the maximum reactor core power level from 2511 MWt to 2957 MWt. This change is approximately 17.8 percent above the current maximum licensed power level for QCNPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. QCNPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with the licensee's application for amendments dated December 27, 2000, and supplemental information dated

VOL 66 ISS 245 DE 20 2001 UMI

February 12, March 20, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5, 19, 25, and 27 (two letters), October 17, November 2 (two letters), 16, and 30, and December 10, 2001. The original amendment request was submitted by Commonwealth Edison Company (ComEd), the former licensee. ComEd subsequently transferred the licenses to Exelon. By letter dated February 7, 2001, Exelon informed the NRC that it assumed responsibility for all pending NRC actions that were requested by ComEd.

The Need for the Proposed Action

Exelon evaluated its resource needs for the period 2000–2014 and forecast a 28-percent increase in electrical demand by 2014 within its Illinois service area. The proposed EPU would provide approximately 0.76 percent additional generating capacity per unit at QCNPS. Exelon stated that in order to stay competitive, it must be able to fulfill not only customer power demands, but it also must sell power to other providers. In Illinois, approximately 40 gas turbine plants of various sizes are proposed to be built. The proposed additional generating capacity at QCNPS would eliminate the need to build approximately two 100 MWe gas turbines.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating licenses for QCNPS, the NRC staff noted that any activity authorized by the licenses would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of QCNPS, which was issued in September 1972. The original operating licenses for QCNPS allowed a maximum reactor power level of 2511MWt. On December 27, 2000, Exelon submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at QCNPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at QCNPS.

Non-Radiological Impacts at QCNPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts on land use, water use, waste discharge, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at QCNPS.

Land Use Impacts

The licensee has no plans to construct any new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, or onsite transmission and distribution equipment, including power line rights-of-way, in conjunction with the uprate or operation after the EPU. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under ground. Therefore, the FES conclusions on the impacts on land use would be valid under the EPU conditions.

Water Use Impacts

The steam produced by the QCNPS turbines is condensed in the condensers, demineralized, and pumped back to the reactor vessel. Approximately 2094 cubic feet per second (cfs) of cooling water used in the condensers is pumped from the Mississippi River and does not come in contact with the steam from the turbines. The original design called for a once-through cooling water system in which the heated water used in the condensers was combined with other water discharges and returned to the river downstream of the intake. Under this system, the FES stated that full power operation of both generating units at a total of 5022 MWt will cause a 23 °F temperature rise in 2270 cfs (2100 cfs through the condensers and 170 cfs through the service water) of Mississippi River water, the maximum flow through QCNPS. The cooling system has had several configurations due to concerns over thermal effects on the river biota. The original design called for open-cycle discharge of heated effluent along a straight wing dam into the deeper, higher velocity portion of the river. This system was replaced with a diffuser system consisting of 2 diffuser pipes laid across the bottom of the main river channel with regularly spaced jets that directed heated water into the river. A closed-cycle condenser cooling system was installed next, which included a spray canal with blow-down directed into a third diffuser pipe in the river. The spray canal was less efficient than anticipated and partial open-cycle operation of the condenser cooling system was implemented next. Finally, an extensive study concluded that QCNPS could operate at full load in the open-cycle mode while meeting National Pollutant Discharge Elimination System (NPDES) permit limits under most river flow conditions. QCNPS presently operates in this open-cycle mode.

Cooling water is withdrawn from the Mississippi River through a canal that is perpendicular to the river flow. The canal is 235 feet long, 180 feet wide, and 12 feet deep. Intake velocity at the mouth of the canal is about one foot per second. A floating boom extending to a depth of 33 inches covers the mouth of the canal to deflect floating material.

Beyond the boom is a series of vertical metal bars spaced 2.5 inches apart (trash racks) that screen large pieces of debris from the intake. Travel screens with a 3/8 inch mesh further protect the circulating water pumps.

The staff evaluated surface water use and groundwater use as environmental impacts of water usage at QCNPS. Current flow conditions, based on equipment capacity constraints and operating history, is 2192 cfs. The licensee stated that the EPU would not change the hydrodynamics of the condenser cooling and that surface water withdrawal rates or the maximum flow of river water through QCNPS would not be affected by the proposed EPU. Therefore, the conclusions in the FES regarding surface water use are expected to remain valid.

Groundwater is drawn from five wells at QCNPS and is used for domestic purposes, for raising fish in the former spray canals, and for a variety of other industrial applications. Groundwater is not used for condenser cooling. The licensee stated that the proposed EPU would not involve an increase in the consumptive use of groundwater. The EPU would not impact the well water system flow path and does not require any additional cooling capacity from the groundwater in order to shed heat loads. Therefore, the staff's conclusions in the FES relative to groundwater use would remain valid for the proposed EPU.

Waste Discharge Impacts

The staff considered chemical discharges to surface water and sanitary sewer systems, cold shock to an aquatic biota, and air emission, as waste discharge impacts.

Surface Water and Sanitary Sewer System Discharges:

QCNPS operates under a NPDES permit issued by the State of Illinois which covers discharges to the open-cycle diffusers, wastewater treatment system, sanitary waste treatment plant, and radwaste treatment system blowdown. Special Condition 6 of the NPDES permit gives thermal limitations at the downstream boundary of the mixing zone, including a maximum temperature rise above natural temperature of 5 °F and maximum temperature limits for each month of the year. The permit also requires that the mixing zone not exceed 26 acres of the Mississippi River. To demonstrate compliance at low river flow conditions while operating under the open-cycle mode (the present mode of operation), a temperature monitoring curve was developed that allows calculations of permissible plant load as a function of river water. The temperature monitoring curve was modified in 1990, based on measurements taken during the drought years of 1988 and 1989. Based on this temperature monitoring curve, Special Condition 6 of the NPDES permit states that compliance is demonstrated when river flows are greater than 16,000 cfs and ambient river temperature is 5 °F or more below the maximum monthly limit. For river flows between 11,000 cfs and 16,000 cfs, compliance is demonstrated by either adjusting plant load based on the correlation in the temperature monitoring curve, or by actual monitoring of river temperatures at the downstream boundary of the mixing zone. At river flows less than 11, 000 cfs, the permit requires temperature monitoring at the downstream boundary of the mixing zone. The licensee proposes to modify the temperature monitoring curve to account for the increase in temperature of the discharged river water resulting from the EPU condition. Under EPU conditions, the maximum condenser-water temperature rise will be 28 °F; 5 °F higher than the current total maximum (condenser and service water) temperature rise of 23 °F. The revised temperature monitoring curve would raise the minimum river flows required for demonstrating compliance using river temperature monitoring at the downstream boundary of the mixing zone or adjusting plant load in accordance with the temperature monitoring curve correlation. The flow at which the actual river temperature monitoring must be performed or plant load adjustment must be made increases from 16,000 cfs to 21,100 cfs under the proposed revised temperature monitoring curve. The licensee discussed the proposed monitoring curve change on July 28, 2000, with the Illinois Environmental Protection Agency (IEPA). A second meeting was held on December 15, 2000. The licensee made a formal request to revise the NPDES permit by letter dated March 14, 2001. Subsequent discussions between the licensee and the staff occurred on March 29, 2001, and October 17, 2001. The licensee stated that the IEPA would consult with and obtain the Iowa Department of Natural Resources (IDNR) concurrence before issuing a permit revision, in accordance with 40 CFR 123.10, "Public notice of permit actions and public comment period." The licensee stated that the IEPA issued the draft NPDES permit revision on October 15, 2001, for a 30-day public comment period. Full implementation of the EPU will not be accomplished until the IEPA and IDNR have given their concurrence to change the monitoring curve. Contingent on the concurrence of the IEPA and IDNR, it is the staff's conclusion that the FES would remain bounding under the EPU conditions.

QCNPS monitors wastewater streams as required by the NPDES permit, and only uses approved chemicals for conditioning water to prevent scaling, corrosion, and biofouling. Because an increase in the design capacity to withdraw water from the Mississippi River is not proposed for the EPU, the licensee stated that the current practices would not be altered.

Cold Shock

Cold shock to aquatic biota results when the warm water discharge from a plant abruptly stops due to an unplanned shutdown, resulting in a river water temperature drop and the death of aquatic biota. The increased temperature of the QCNPS discharge is not expected to create cold shock to aquatic biota because of the extended period of time required to remove heat from the reactor and the rapid heat dissipation in the mixing zone from the diffuser's outfall. The probability of an unplanned shutdown is independent of power uprate. Therefore, the risk of fish being killed by cold shock would continue to be bounded by the FES.

Air Emissions

Other waste sources at QCNPS include emissions from the plant heating boiler and diesel generators. Effluents from these pathways are controlled as required by the Clean Air Act. The EPU does not have a significant impact on the quality or quantity of effluents from these sources, and operation under power uprate conditions would not reduce the margin to the limits established by the regulations. Therefore, the conclusions in the FES would remain valid.

Terrestrial Biota Impacts

A relatively small number of threatened and endangered terrestrial species have been recorded in Rock Island County, Illinois, and across the river in Muscatine and Scott counties, Iowa. The western prairie fringed orchid (*Platanthera praceclara*), eastern prairie fringed orchid (*Platanthaera leucophaea*), Indiana bat (*Myotis sodalis*), and bald eagle (*Haliaeetus leucocephalus*) are Federally-listed threatened or endangered terrestrial species and were identified in 1999 in either Rock Island, Muscatine, or Scott counties. The proposed EPU would not disturb the habitat of these species and would not affect their distribution. The FES stated that the operation of QCNPS is not expected to have any further adverse effect on the terrestrial flora or fauna, except to the extent that traffic on access roads and human activities related to station operation may force some wildlife away from the heavily used areas. Implementation of the EPU would not alter these conditions.

Therefore, the conclusions reached by the staff in the FES relative to impact on terrestrial ecology, including endangered and threatened plant and animal species, remain valid for the proposed EPU.

Aquatic Biota Impacts

The staff evaluated the impingement, entrapment, and the rise in water discharge temperature on aquatic biota. The Mississippi River is a large and productive ecosystem. Effects on river biota, such as the phytoplankton, zooplankton, periphyton, benthic invertebrate, gizzard shad, freshwater drum, emerald shiner, river shiner, carp, bluegill, fish eggs, and larvae, from QCNPS have been investigated by the licensee. Local effects on lower trophic levels were apparent from these studies, but overall population levels in the vicinity of the QCNPS were not adversely affected. Effects on the abundance of fish eggs and larvae by QCNPS operation have been minimal. No verifiable effects on the fish biota from QCNPS operation have been found. Exelon, along with Southern Illinois University, carries out a stocking program. Fish, such as walleye and hybrid striped bass, are raised in QCNPS's inactive cooling canal and then released to the Mississippi River. Increases in the populations of these species have been found in the vicinity

VOL 66 ISS 245 DE 20 2001 UMI

of QCNPS due to the river stocking program. Additionally, freshwater drum, channel catfish, flathead catfish, and white bass have also increased in abundance, while white and black crappie (backwater fish) have decreased in abundance as sedimentation associated with maintenance of the navigation channel has degraded backwater area and sloughs.

The EPU would cause temperature in the condenser cooling system to be higher than those associated with previous studies of thermal effects. The EPU would raise river water temperature in the condenser cooling system to a maximum of 28 °F above ambient, rather than the current maximum of 23 °F. The higher temperature is expected to cause a higher mortality rate for organisms entrained in the system. The entrainment of fish eggs and larvae may affect more species, with the possible exception of fish that spawn early in the year. The fish egg and larva entrainment rate, which historically is 0.5 to 1 percent of the total drifting by QCNPS, would not change because water withdrawals would remain the same. The overall effect of an increase in entrained plankton mortality would not be significant for the local populations involved.

Higher effluent temperatures at the EPU conditions may also have an increased effect on non-motile biota in the discharge mixing zone. Drifting fish eggs and larvae mortality may increase in the mixing zone because fish eggs and larvae are more likely to succumb to upper lethal temperatures as opposed to a particular temperature increase. This is only expected to affect species that spawn late, after the peak period of larval drift, when ambient river temperatures are high and river flow may be lower. Fish eggs and larvae losses at low river flows are expected to be fairly small in total, and based on an approximate low river flow return frequency of once in 10 years, it is expected that these losses would not negatively affect recruitment to the fish community of Pool 14, which is the body of water directly behind Lock 14 on the Mississippi River.

A preliminary study of Federally-listed aquatic threatened and endangered species in the vicinity of QCNPS (within 32 kilometers) performed in 1996 by the Pacific Northwest National Laboratory listed the fanshell (*cyprogenia stegaria*), Higgin's eye pearly mussel (*lampsilis higginsi*), and fat pocketbook (*potamilus capax*). The Federally-endangered clams are not expected to be exposed to the high temperatures associated with the uprate because its preferred habitat does not include the main channel of the Mississippi River at this location. Some alteration in the timing of life cycles stages of other mussel species could occur. Adult and juvenile fish would be expected to avoid the increased temperature in the mixing zone and not be harmed. The FES notes the existence of the paddlefish (*polyodon spathula*); however, the paddlefish has not been collected near QCNPS recently.

Eight fish species listed by the States of Illinois and Iowa have been collected in the general vicinity of the diffusers. Of these, the grass pickerel (*Esox americanus*) and the western sand darter (*Ammocrypta clara*) are the most frequently collected. Grass pickerel is the only Illinois State-listed species in Pool 14 that may have a sustainable population. Individuals collected from other species appear only as transient in Pool 14. The grass pickerel is mainly taken in littoral and backwater areas and it is not expected to be in the main channel where elevated temperatures would occur. The western sand darter is occasionally collected in the main channel (10 specimens over a 25 year period) and could be exposed to high temperatures in the mixing zone area. Other than the pearly mussel and the fish mentioned above, no rare species are expected to occur in the vicinity of QCNPS.

Fish may become impinged on the intake structures protecting the condenser cooling water pumps because of water velocities leading into the structures and the diminished physical condition of the fish. Impingement has not had a deleterious effect on fish populations in the vicinity of QCNPS because sampling indicated that impingement affects mostly dead and moribund fish. There is no change in cooling water flow proposed for the EPU. Therefore, no differences in impingement rates are expected.

Based on the above, the staff expects that the conclusions in the FES about aquatic biota, including impingement and entrainment, and threatened and endangered species, would remain bounding under the proposed EPU conditions.

Transmission Facility Impacts

Environmental impacts, such as the installation of transmission line equipment, or exposure to electromagnetic fields and shock, could result from a major modification to transmission line facilities. The licensee stated that there would be no change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way to support the proposed EPU conditions. No new equipment or modification would be necessary for the offsite power system to maintain grid stability. However, an increase in onsite power would be required to support new equipment associated with the EPU. Power to service these additional energy needs would come from QCNPS'' existing power supplies. Therefore, no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES would remain valid.

The electromagnetic field (EMF) created by the transmission of electricity would increase linearly as a function of power. However, exposure to EMFs from the offsite transmission system would not be expected to increase significantly and any such increase would not be expected to change the staff's conclusions in the FES that there are no significant biological effects attributable to EMFs from high-voltage transmission lines.

No changes in transmission facilities would be needed for the EPU. QCNPS transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code. Therefore, the expected slight increase in current, attributable to the proposed EPU, is not expected to change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff has reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts to the QCNPS workforce and local economy. QCNPS employs more than 800 people and is a major contributor to the local tax base. QCNPS personnel also contribute to the tax base by payment of sales and property tax. The proposed EPU would not significantly affect the size of the QCNPS workforce and would have no material effect upon the labor force required for future outages. Because the plant modifications needed to implement the EPU would be minor, any increase in sales tax and additional revenues to local and national business would be negligible relative to the large tax revenues generated by QCNPS. It is expected that improving the economic performance of QCNPS through lower total bus bar costs per kilowatt-hour would enhance the value of QCNPS as a generating asset and reduce the likelihood of early plant retirement. Early plant retirement could have a possible negative impact upon the local economy and the surrounding communities by reducing public services, employment, income, business revenues, and property values. These reductions could be mitigated by decommissioning activities in the short term. The staff expects that the conclusions in the FES regarding social and economic impacts are expected to remain valid under the EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The proposed EPU would be accomplished primarily by changes in station operation and a few modifications to the station facility. These limited modifications can be accomplished without physical changes to transmission corridors, access roads, other offsite facilities, or additional projects related to the transportation of goods or materials. Therefore, no significant additional construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are expected, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU at QCNPS would not result in a significant change in non-radiological impacts, on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or socioeconomic factors, and would not have other non-radiological environmental impacts from those evaluated in the FES. Table 1 summarizes the non-radiological environmental impacts of the EPU at QCNPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS

Impacts	Impacts of the EPU at QCNPS
Land Use Impacts	No significant changes to land use or construction of any new facilities that would impact land use are needed.
Water Use Impacts	No changes are required to the rate of intake of surface water or groundwater to accomplish the EPU.
Waste Discharge Impacts	Temperature monitoring curve would be adjusted to reflect higher river flow conditions where physical measurement or load management occurs. Change to the hydrodynamics of the cooling system would not be significant. Equipment modifications or changes in operation in air emissions are insignificant and would not reduce the margin to the limits established in the regulations. The risk of cold shock to aquatic biota would not increase.
Terrestrial Biota Impacts	Federally-listed threatened or endangered species are known to exist within the land area, but no land area disturbance is needed.
Aquatic Biota Impacts	No changes to intake or outfall structures or flows; no significant impingement or entrainment impacts on aquatic biota would be expected. Rise in river water temperature could affect fish larvae and eggs, but impacts would be insignificant. No Federally-listed threatened or endangered species would be significantly affected.
Transmission Facilities Impacts	No change in operating transmission voltages, onsite transmission equipment or power line rights-of-way. Slight increase in onsite power would be required to support the additional EPU equipment which would come from existing power supplies. EMF would increase linearly with the EPU; however, no significant change in exposure rate would be expected.
Social and Economic Impacts	No significant change in size of QCNPS workforce. No significant disturbances from noise, odor, vehicle exhaust, dust, vibration, or shock would be anticipated.

Radiological Impacts at QCNPS

The staff evaluated radiological environmental impacts on waste streams, dose, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment streams at QCNPS and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

QCNPS uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR Part 20 and Appendix I to Part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated specific effects of the proposed EPU on changes in the gaseous, liquid, and solid waste streams as a radiological environmental impact to the proposed EPU.

Gaseous Radioactive Waste

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small quantities of activation gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix I to Part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The major sources of gaseous radioactive wastes at QCNPS are the condenser air ejector effluent and the steam packing exhaust system effluent. Based on the conservative assumption of a non-negligible amount of fuel leakage due to defects, the licensee stated that radioactive release volumes would increase proportionally with the EPU conditions. The current and expected fuel defect rate is extremely small and the expected radioactive gaseous effluents under the EPU conditions would be within the Appendix I limits. Therefore, the conclusions in the FES will continue to apply under the EPU conditions.

The licensee does not expect increases in gaseous waste from new fuel designs. The licensee's contract with General Electric contains a warranty section that requires General Electric to meet a specified level of fuel performance. This level is at least as stringent as that imposed on current fuel designs.

Liquid Radioactive Waste

The liquid radwaste system is designed to process and recycle, to the extent practicable, the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10

VOL 66 ISS 245 DE 20 2001 UMI

CFR part 50, Appendix I. Liquid radioactive wastes at QCNPS include liquids from the reactor process systems and liquids that have become contaminated with process system liquids. Increases in flow rate through the condensate demineralizer and increase of fission products and activated corrosion products are expected under the EPU conditions. This would result in additional backwashes of condensate demineralizers and reactor water cleanup filter demineralizers. These additional backwashes would be processed through the liquid radioactive waste treatment system and are expected to be suitable for reuse. Therefore, liquid effluent release volumes are not expected to increase significantly as a result of the EPU. No changes in the liquid radioactive waste treatment system are proposed. Average treatment efficiency would not change; however radioactivity level of liquid effluent releases may increase with the EPU. These liquid effluents from QCNPS would be within the regulatory limits of 10 CFR part 50, Appendix I.

Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under the EPU conditions.

Solid Radioactive Waste Impacts

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gases, and solids used in the reactor process system operation. The largest volume of solid radioactive waste at QCNPS is low-level radioactive waste (LLRW). Sources of LLRW at QCNPS include resins, filter sludge, dry active waste, metals, and oils. The annual burial volume of LLRW generated in 1998 was 228.61 cubic meters. In 1999, the burial volume decreased to 82.93 cubic meters, and the projected burial volume of LLRW for 2000 is approximately 140 cubic meters. A one-time increase in the burial volume of LLRW would be associated with the EPU. The volume of resin is expected to increase by as much as 18 percent under the EPU conditions, because of the increased amount in iron removed by the condensate system from the increased feedwater flow. Adding the 18 percent increase in the resin volume to the projected year 2000 LLRW burial volume results in a 154-cubic-meter EPU LLRW burial volume per year (an increase in approximately 10 percent), which would be bounded by the FES.

The number of fuel assemblies would increase in any given core load with the proposed EPU, reducing the storage space in the spent fuel pool. At current off-load rates, four dry storage casks would be filled during each refueling outage and a fifth dry storage cask would be partially filled. QCNPS plans to fill the fifth cask using the inventory of assemblies from the spent fuel pool. At the EPU conditions, each refueling outage would also fill four casks and partially fill a fifth. Fewer assemblies from the spent fuel pool would be needed to fill the fifth dry storage cask. The net effect of the EPU would be to increase the number of dry storage casks needed by three to four every 5 years.

Summary

In summary, the solid radioactive waste burial volume is estimated to increase by approximately 10 percent, the volume of liquid radioactive releases would not be expected to increase, and the volume of gaseous radioactive effluents would be expected to increase up to 18 percent as a result of the proposed EPU. The level of radioactivity of the liquid effluent releases would also increase up to 18-percent. The proposed EPU is not expected to have a significant impact on the volume or activity of radioactive solid wastes at QCNPS.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-Plant Radiation

Radiation levels and associated doses are controlled by the as low as reasonably achievable (ALARA) program, as required by 10 CFR Part 20. The QCNPS ALARA program manages exposure by minimizing the time personnel spend in radiation areas, maximizing the distance between personnel and radiation areas, and maximizing shielding to minimize radiation levels in routinely occupied plant areas and in the vicinity of plant equipment requiring attention. Exelon has determined that the current shielding designs are adequate for any dose increase that may occur due to the proposed EPU. Normal operation radiation levels would increase by no more than the percentage increase of the EPU. Many aspects of the plant were originally designed for higher-than-expected radiation sources. The increase in radiation level does not affect radiation zoning or shielding in the various areas of the plant because it is offset by conservatism in the original design, source terms assumptions, and analytical techniques. The licensee states that no new dose reduction programs would be implemented and the ALARA program would continue in its current form.

A potential source of increased occupational radiation is the projected increase in moisture carryover from the reactor vessel steam dryer/separator to the main steam lines. To reduce moisture content under the EPU conditions, modifications to the steam dryer/separator would be required. The modifications are expected to result in a negligible increase in occupational exposure.

On the basis of the above information, the staff concludes that the occupational (in-plant) dose for QCNPS following the proposed EPU would be bounded by the dose estimates in the FES.

Offsite Dose

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. Offsite dose from radioactive effluents are reported in the Annual Radiological Environmental Operating Reports. For the period from 1995 to 1999, the average annual whole body dose was 5.23E–4 millirem and the average annual dose to the critical organ was 8.17E–4 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from liquid releases to an adult for the 5 year period occurred in 1998 and was 0.005 percent of the critical organ dose limit. For the 1995–1999 period, the average dose was 0.003 percent of the 10 CFR part 50, Appendix I, regulatory limits. No significant change in the volume of water treated and released is expected. The offsite dose from liquid effluents is projected to increase proportionally with the EPU due to an increase in the concentration of fission products and activation products in the reactor coolant. The licensee states that offsite dose would remain below the 10 CFR 50, Appendix I, regulatory limits.

Dose to individuals from gaseous releases are also reported in the Annual Radiological Environmental Report. The average annual total body dose during the period of 1995 to 1999 was 7.08E–4 millirem and the average annual dose to the critical organ was 3.9E–2 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from airborne releases to an adult during the period of 1995 to 1999 occurred in 1997 and was 0.23 percent of the critical organ dose limit. From the period of 1995 to 1999, the average dose was 0.16 percent of the Appendix I regulatory limits. Conservatively assuming a non-negligible amount of fuel leakage due to defects, gaseous effluents will increase proportionally to the EPU. However, offsite dose will remain well below 10 CFR part 50, Appendix I, regulatory limits.

The calculated offsite dose resulting from direct radiation due to radiation levels in plant components, such as sky shine, will increase up to 18 percent because the Offsite Dose Calculation Manual conservatively adjusts offsite dose to power generation level. Because sky shine is the dominant contributor to total offsite dose, the calculated total offsite dose, based on calculations from the Offsite Dose Calculation Manual, will increase up to 18 percent. Actual offsite dose from sky shine is not expected to increase significantly because the decreased transit time is expected to result in a minimal change in concentration through reduced decay time and because expected activity concentration in the steam will remain constant due to the dilution effect of a 19 percent increase in steaming rate. The expected dose at the EPU conditions would remain below the limits of 10 CFR part 50, Appendix I, 10 CFR part 20, and 40 CFR part 190 standards.

The EPU would not create new or different sources of an offsite dose from QCNPS operation, and radiation levels under the proposed EPU conditions would be within the regulatory limits. The staff concludes that the estimated offsite doses under the EPU conditions would meet the design objectives specified by 10 CFR part 50, Appendix I, and be within the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the assumptions, inputs, and methods used by Exelon to assess the radiological impacts of the proposed EPU at QCNPS. In doing this review, the staff relied upon information placed on the docket by Exelon, staff experience in doing similar reviews, and the staff-accepted licensing topical reports NEDC–32424P-A (Proprietary), "Generic Guidelines for General Electric Boiling Water Reactor (BWR) Extended EPU," February 1999 (known as ELTR1), and NEDC–32523P-A (Proprietary), "Generic Evaluation of General Electric Boiling Water Reactor Extended EPU," February 2000 (known as ELTR2). The staff finds that Exelon used analysis methods and assumptions consistent with the conservative guidance of ELTR1 and ELTR2. The staff compared the doses estimated by Exelon to the applicable criteria. The staff finds, with reasonable assurance, that the licensee's estimates of the exclusion area boundary (EAB), low-population zone (LPZ), and control room doses will continue to comply with 10 CFR part 100 and 10 CFR part 50, Appendix A, GDC–19, as clarified in NUREG–0800, Sections 6.4 and 15. Therefore, QCNPS operation at the proposed EPU rated thermal power is acceptable with regard to the radiological consequences of postulated design basis accidents.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the staff for a 1000 MWe reference reactor and is described in Table S–3 of 10 CFR 51.51. The QCNPS reactors are proposed to operate at 912 MWe after the implementation of the EPU and Table S–3 reasonably bounds the environmental impacts of the uranium fuel cycle for each QCNPS reactor. The radiological effects presented in Table S–3 are small and would not be expected to change due to the implementation of the EPU.

The environmental impacts of the transportation of nuclear fuel and wastes are described by Table S–4 of 10 CFR 51.52. The table lists heat and weight per irradiated fuel cask in transit, traffic density, and individual and cumulative dose to workers and the general population under normal circumstances. The regulations require that environmental reports contain either (a) a statement that the reactor meets specified criteria, in which case its environmental effects would be bounded by Table S–4; or (b) further analysis of the environmental effects of transportation of fuel and waste to and from the reactor site.

An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there would be no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burnups less than 60,000 megawatt-day per metric ton of uranium (MWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight percent uranium-235 and the rod average discharge exposure would not exceed 60,000 MWd/MTU, the environmental impacts of the proposed EPU at QCNPS would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the EPU at QCNPS.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS

Impacts	Impacts of the EPU at QCNPS
Radiological Waste Stream Impacts	The gaseous radioactive release volume would increase proportionally with the power increase. The liquid radioactive release volume is not expected to increase; however, activity levels would increase proportionally with the power increase. Solid radioactive waste will increase approximately 8 percent. Releases would be within regulatory limits.
Dose Impacts	In-plant radiation levels would increase by 18 percent and dose would be maintained ALARA. Offsite dose from liquid and gaseous effluents may increase up to 18 percent. Calculated dose from sky shine will increase up to 18 percent. In-plant and offsite dose would remain within the regulatory limits.
Accident Analysis Impacts	No significant increase in probability or consequences of accident.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS—Continued

Impacts	Impacts of the EPU at QCNPS
Fuel Cycle and Transportation Impacts	No significant increase. Impacts would remain with the conclusions of Table S–3 and S–4 of 10 CFR Part 51.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., "the no-action" alternative). Denial of the application would result in no change in current environmental impacts in the QCNPS vicinity; however, other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing QCNPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, QCNPS does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the QCNPS FES, dated 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on November 9, 2001, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated December 27, 2000, as supplemented by letters dated February 12, March 20, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5, 19, 25, and 27 (two letters), October 17, November 2 (two letters), 16, and 30, and December 10, 2001. Documents may be examined and/or copied for a fee, at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 17th day of December 2001.

For the Nuclear Regulatory Commission

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31331 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on January 16–18, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Portions of the meeting may be closed to public attendance to discuss GE Nuclear Energy and Framatome ANP Richland proprietary information per 5 U.S.C. 552b(c)(4).

The agenda for the subject meeting shall be as follows:

Wednesday, January 16, 2002—1 p.m. until the conclusion of business

Thursday and Friday, January 17–18, 2002—8:30 a.m. until the conclusion of business

The Subcommittee will begin review of: (1) The GE Nuclear Energy Licensing Topical Report NEDC–33004P, "Constant Pressure Power Uprate", Revision 2, and (2) the Framatome ANP Richland S–RELAP5 realistic thermal-hydraulic code version and its application to large-break LOCA analyses. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of GE Nuclear Energy, Framatome ANP Richland, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301–415–8065) between 7:30 a.m. and 5:00 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: December 14, 2001.

Sher Bahadur,

Associate Director for Technical Support.

[FR Doc. 01–31329 Filed 12–19–01; 8:45 am]

BILLING CODE 7590–01–P

U.S. COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its first regional meeting, the Commission's third public meeting, to hear and discuss issues of concern to the Southeastern Region of the United States, covering the coastal area from Delaware to Georgia.

DATES: Meetings will be held Tuesday and Wednesday, January 15 and 16, 2002 from 9 a.m. to 5 p.m., both days.

ADDRESSES: The meeting location is the Physician's Auditorium, College of Charleston, 66 George Street, Charleston, SC, 29424.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW, Washington, DC, 20036, 202–418–3442, *tschaff@nsf.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Public Law 106–256, section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by January 10, 2002 to the meeting Point of Contact. Additional meeting information, including a draft agenda, will be posted as available on the Commission's web site at *http://www.oceancommission.gov.*

Dated: December 14, 2001.

Admiral James D. Watkins USN (ret.)

Chairman, U.S. Commission on Ocean Policy.

[FR Doc. 01–31325 Filed 12–19–01; 8:45 am]

BILLING CODE 6820–WM–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45154; File No. SR–EMCC–2001–04]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Liability of Affiliated Entities

December 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on October 29, 2001, the Emerging Markets Clearing Corporation ("EMCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by EMCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

EMCC proposes to amend its rules in order to limit its liability with respect to affiliated entities. Specifically, EMCC proposes to add a section to its rules that states that, except as otherwise provided by written agreement between EMCC and such other entity, (1) EMCC shall not be liable for any obligations of such other entity and its clearing fund and other assets shall not be available to such other entity and (2) such other entity shall not be liable for any obligations of EMCC and any assets of such other entity shall not be available to EMCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the statements may be examined at the places specified in Item IV below. EMCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change addresses liability issues that may arise after the completion of the integration of EMCC,[3] the Government Securities Clearing Corporation ("GSCC"), and the MBS Clearing Corporation ("MBSCC")[4] with The Depository Trust and Clearing Corporation ("DTCC"). For purposes of this notice, DTCC, GSCC, MBSCC, EMCC, The Depository Trust Company ("DTC"), and National Securities Clearing Corporation ("NSCC") are collectively referred to as the "Synergy Companies."[5]

An important aspect of the integration plan is to insulate EMCC, its members, and its clearing fund from the risks and obligations that may arise from the activities of the other Synergy Companies.[6] The proposed rule change will specifically add a new EMCC Rule 9 Section 1 rules that states that EMCC will not be liable for the obligations of any other entity or member of any other entity and that such other entity or member of such other entity shall not be liable for any obligations of EMCC.

EMCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[7] and the rules and regulations thereunder applicable to EMCC because is promotes the safeguarding of securities and funds in EMCC's custody or control or for which it is responsible.

---

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by EMCC.

[3] Pursuant to a separate plan for the integration of EMCC with DTCC, it is contemplated that EMCC will become an operating subsidiary of DTCC at the same time that GSCC and MBSCC become operating subsidiaries of DTCC. However, the transaction involving GSCC and MBSCC is not contingent on the transaction involving EMCC and vice versa. Securities Exchange Act Release No. 44987 (Oct. 25, 2001), 66 FR 55218 (Nov. 1, 2001). NSCC and DTC are currently wholly-owned subsidiaries of DTCC.

[4] Because of the current functional integration of operations of GSCC and MBSCC, the integration of GSCC with DTCC is contingent upon the successful integration of MBSCC with DTCC and vice versa. Securities Exchange Act Release Nos. 44989 (Oct. 25, 2001), 66 FR 55220 (Nov. 1, 2001) and 44988 (Oct. 25, 2001), 66 FR 55222 (Nov. 1, 2001).

[5] After the completion of the integration, EMCC, MBSCC, and GSCC shall each be subsidiaries of DTCC, and a single group of individuals shall serve as directors of each of the Synergy Companies. Following the integration, EMCC will continue to exist as a separate registered clearing agency. EMCC's retained earnings existing at the time of (or as of the end of the last full calendar month preceding) the integration of EMCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of EMCC. EMCC will be managed and operated so as to be appropriately capitalized for its activities as a clearing agency.

[6] Similarly, the integration plan attempts to insulate GSSC and MBSCC from the risks of EMCC's business. Securities Exchange Act Release Nos. 45155 (Dec. 14, 2001) (SR–GSCC–2001–14); 45153 (Dec. 14, 2001) (SR–MBSCC–2001–04). *See also* Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999) (SR–DTC–99–11) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (SR–NSCC–99–07) (DTC an NSCC have adopted rules similar to this proposed rule as part of their 1999 integration with DTCC.)

B. Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statement with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule the age between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at EMCC's principal office. All submissions should refer to File No. SR–EMCC–2001–04 and should be submitted by January 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31361 Filed 12–19–01; 8:45 am]

BILLING CODE 8010–01–M

---

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 200.30–3(a)(12)

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45155; File No. SR–GSCC–2001–14]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Liability of Affiliated Entities

December 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on October 11, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC proposes to amend its rules in order to limit its liability with respect to affiliated entities. Specifically, GSCC proposes to add a section to its rules that states that, except as otherwise provided by written agreement between GSCC and such other entity, (1) GSCC shall not be liable for any obligations of such other entity and its clearing fund and other assets shall not be available to such other entity and (2) such other entity shall not be liable for any obligations of GSCC and any assets of such other entity shall not be available to GSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change addresses liability issues that may arise after the completion of the integration of GSCC, MBS Clearing Corporation ("MBSCC"),[3] and Emerging Markets Clearing Corporation ("EMCC")[4] with The Depository Trust and Clearing Corporation ("DTCC"). For purposes of this notice, DTCC, GSCC, MBSCC, EMCC, The Depository Trust Company ("DTC"), and National Securities Clearing Corporation ("NSCC")[5] are collectively referred to as the "Synergy Companies."[6]

An important aspect of the integration plan is to insulate GSCC, its members, and its clearing fund from the risks and obligations that may arise from the activities of the other Synergy Companies.[7] The proposed rule change will specifically add a section 2 to Rule

---

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by GSCC.

[3] Because of the current functional integration of operations of GSCC and MBSCC, the integration of GSCC with DTCC is contingent upon the successful integration of MBSCC with DTCC and vice versa. Securities Exchange Act Release Nos. 44989 (Oct. 25, 2001), 66 FR 55220 (Nov. 1, 2001) and 44988 (Oct. 25, 2001), 66 FR 55222 (Nov. 1, 2001).

[4] Pursuant to a separate plan for the integration of EMCC with DTCC, it is contemplated that EMCC will become an operating subsidiary of DTCC at the same time that GSCC and MBSCC become operating subsidiaries of DTCC. However, the transaction involving GSCC and MBSCC is not contingent on the transaction involving EMCC and vice versa.

[5] DTC and NSCC are wholly-owned subsidiaries of DTCC.

[6] After the completion of the integration, GSCC, MBSCC, and EMCC shall each be a wholly-owned subsidiary of DTCC, and a single group of individuals shall serve as directors of each of the Synergy Companies. Following the integration, GSCC will continue to exist as a separate registered clearing agency. The retained earnings of GSCC existing at the time of (or as of the end of the last full calendar month preceding) the integration of GSCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of GSCC. GSCC will be managed and operated so as to be appropriately capitalized for its activities as a clearing agency.

[7] Similarly, the integration plan attempts to insulate MBSCC and EMCC from the risks of GSCC's business. Securities Exchange Act Release Nos. 45153 (Dec. 14, 2001) (SR–MBSCC–2001–04); 45154 (Dec. 14, 2001) (SR–EMCC–2001–04). *See also* Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999) (SR–DTC–99–11) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (SR–NSCC–99–07) (DTC and NSCC have adopted rules similar to this proposed rule as part of their 1999 integration with DTCC.)

39 that states that GSCC will not be liable for the obligations of any other entity or member of any other entity and that such other entity or member of such other entity shall not be liable for any obligations of GSCC.

GSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[8] and the rules and regulations thereunder applicable to GSCC because is promotes the safeguarding of securities and funds in GSCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within the thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at GSCC's principal office. All submissions should refer to File No. SR–GSCC–2001–14 and should be submitted by January 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31359 Filed 12–19–01; 8:45 am]

BILLING CODE 8010-01-P

---

[8] 15 U.S.C. 78q–1.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45153; File No. SR–MBSCC–2001–04]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Liability of Affiliated Entities

December 14, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on October 11, 2001, the MBS Securities Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by MBSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MBSCC proposes to amend its rules in order to limit its liability with respect to affiliated entities. Specifically, MBSCC proposes to add a section to its rules that states that, except as otherwise provided by written agreement between MBSCC and such other entities, (1) MBSCC shall not be liable for any obligations of such other entity and its clearing fund and other assets shall not be available to such other entity and (2) such other entity shall not be liable for any obligations of MBSCC and any assets of such other entity shall not be available to MBSCC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the statements may be examined at the places specified in Item IV below. MBSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change addresses liability issues that may arise after the completion of the integration of MBSCC, the Government Securities Clearing Corporation ("GSCC"),[3] and the Emerging Markets Clearing Corporation ("EMCC")[4] with The Depository Trust and Clearing Corporation ("DTCC"). For purposes of this notice, DTCC, GSCC, MBSCC, EMCC, The Depository Trust Company ("DTC"), and National Securities Clearing Corporation ("NSCC")[5] are collectively referred to as the "Synergy Companies."[6]

---

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by MBSCC.

[3] Because of the current functional integration of operations of GSCC and MBSCC, the integration of GSCC with DTCC is contingent upon the successful integration of MBSCC with DTCC and vice versa. Securities Exchange Act Release Nos. 44989 (Oct. 25, 2001), 66 FR 55220 (Nov. 1, 2001); and 44988 (Oct. 25, 2001), 66 FR 55222 (Nov. 1, 2001).

[4] Pursuant to a separate plan for the integration of EMCC with DTCC, it is contemplated that EMCC will become an operating subsidiary of DTCDC at the same time that GSCC and MBSCC become operating subsidiaries of DTCC. However, the transaction involving GSCC and MBSCC is not contingent on the transaction involving EMCC and vice versa.

[5] DTC and NSCC are wholly-owned subsidiaries of DTCC.

[6] After the completion of the integration, GSCC, MBSCC, and EMCC shall each be a wholly-owned subsidiary of DTCC, and a single group of individuals shall serve as directors of each of the Synergy Companies. Following the integration, MBSCC will continue to exist as a separate registered clearing agency. The retained earnings of MBSCC existing at the time of (or as of the end of the last full calendar month preceding) the integration of MBSCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of MBSCC. MBSCC will be managed and operated so as to be appropriately capitalized for its activities as a clearing agency.

An important aspect of the integration plan is to insulate MBSCC, its participants, its limited purpose participants, its Electronic Profile Network users, and its participants fund from the risks and obligations that may arise from the activities of the other Synergy Companies.[7] The proposed rule change will specifically add a new Rule 15 to Section V of MBSCC's rules that states that MBSCC will not be liable for the obligations of any other entity or member of any other entity and that such other entity or member of such other entity shall not be liable for any obligations of MBSCC.

MBSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[8] and the rules and regulations thereunder applicable to MBSCC because it promotes the safeguarding of securities and funds in MBSCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

MBSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.,

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at MBSCC's principal office. All submissions should refer to File No. SR-MBSCC-2001-04 and should be submitted by January 4, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Jonathan G. Katz,

Secretary.

[FR Doc. 01-31360 Filed 12-19-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45152; File No. SR-OCC-2001-16]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Clearing Certain Commodity Futures and Options Thereon

December 12, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 24, 2001, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends OCC's by-laws and rules to provide for the clearance and settlement of transactions in commodity futures on broad-based stock indexes and options on such futures, both of which are subject to the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Introduction

The proposed rules would provide for the clearance and settlement of futures on broad-based stock indexes and options on such futures under the same basic rules and procedures currently applicable to the clearance and settlement of other OCC-cleared contracts, including options and security futures. Because such contracts are within the exclusive jurisdiction of the CFTC, OCC submitted to the CFTC on October 9, 2001, an application for registration as a derivatives clearing organization ("DCO") under section 5b(c) of the Commodity Exchange Act ("CEA") and part 39 of the CFTC's regulations. The CFTC granted OCC's application for registration on December 10, 2001.

Commodity futures would be cleared pursuant to the same basic OCC rules and procedures recently approved by the Commission for the clearance of security futures.[3] There is not significant difference between the mechanics of the clearance and settlement of a future on a narrow-based stock index (a security future) and a future on a broad-based stock index. Accordingly, many of the changes proposed in this filing merely expand the provisions applicable to security futures to include commodity futures. Likewise, futures options are substantially similar in most respects to other options cleared by OCC. Thus, for example, procedures governing premium payments and exercise are the same. Accordingly, OCC is proposing to permit futures options to be governed by many of the same by-laws and rules applicable to other options. Where special provisions for futures options are needed, they are contained primarily in Article XII of the by-laws and Chapter XIII of the Rules, which would be amended to apply to commodity futures and futures options as well as security futures.

---

[7] Similarly, the integration plan attempts to insulate GSSC and EMCC from the risks of MBSCC's business. Securities Exchange Act Release Nos. 45155 (Dec. 14, 2001) (SR-GSCC-2001-14); 45154 (Dec. 14, 2001) (SR-EMCC-2001-04). *See also* Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999)(SR-DTC-99-11) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (SR-NSCC-99-07) (DTC and NSCC have adopted rules similar to this proposed rule as part of their 1999 integration with DTCC.)

[8] 15 U.S.C. 78q-1.

[9] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

2. New and Amended Definitions

OCC proposes to define several additional terms applicable to commodity futures and futures options and to include those terms in Article I of the by-laws because they are used throughout the by-laws and rules. New futures terms would be adopted and defined to correspond as closely as possible to the terminology used in the existing futures markets while also being consistent with terminology in OCC's rules. Various existing security futures definitions are proposed to be amended to apply to commodity futures as well as security futures. The new definitions are mostly self-explanatory, but the following are a few terms that are of particular significance.

The term "commodity future" would be added to distinguish these produces from security futures and would be defined as a futures contract within the exclusive jurisdiction of the CFTC and traded on a futures market. The term "future" would be added to encompass both security futures and commodity futures where, as is most often the case, no distinction is needed. A "futures market" would be defined to mean a contract market registered as such under the CEA. OCC does not currently propose to clear commodity futures products traded on markets other than registered contract markets. The definition of an "option" would be amended to include a "futures option" which would be defined as an option traded on a futures market to buy or sell a commodity futures contract. The term "cleared contract" would be added to embrace all contracts cleared by OCC including securities options, security futures, and other cleared securities subject to the jurisdiction of the Commission as well as commodity futures and futures options that are not securities.[4] Proposed changes of the definitions of "commencement time" and "series marker" are discussed below.

3. Clearing Member Qualifications

Section 1 of Article V of OCC's by-laws is proposed to be amended to permit futures commission merchants ("FCMs") that are not notice-registered as broker-dealers under section 15(b)(11)(A) of the Act to become clearing members. Interpretation and Policy .06 under section 1 was added in SR–OCC–2001–07 to provide that OCC may give expedited review and may waive certain non-financial criteria where appropriate in order to admit affiliates of existing clearing members for the purpose of clearing security futures.[5] OCC proposes in this rule change to extend the same consideration to such affiliates that become clearing members for the purpose of clearing commodity futures and futures options. As stated in SR–OCC–2001–07, OCC believes that it is appropriate to give special consideration to such affiliates to the extent that their affiliation with an existing clearing member provides access to competent and experienced personnel able to assist the affiliate, if necessary, in meeting OCC's operational requirements.

OCC's financial requirements would remain substantially the same for all clearing members whether regulated primarily or exclusively as broker-dealers or as FCMs. In the case of a clearing member regulated primarily or exclusively as an FCM, OCC would permit such FCM to compute its net capital in accordance with the CFTC's regulations. OCC Rules 301(c), 303(c), and 307 are proposed to be modified to provide appropriate references to CFTC regulations governing FCM financial requirements in order, as nearly as practicable, to provide requirements that are parallel to those applicable to clearing members regulated primarily as broker-dealers.

4. Accounts

Article VI, section 3 is proposed to be amended to clarify that commodity futures and futures options positions of futures customers may not be carried in the firm account. Additionally, Interpretation and Policy .01 would be added to require a clearing member carrying a customer account pursuant to Article VI, section 3(e) (*i.e.*, an account holding positions of securities customers) to be fully registered as a broker-dealer and to require a clearing member carrying a segregated futures account under Article VI, section 3(f) (*i.e.*, an account holding positions of futures customers) to be fully registered as an FCM. Whether a person is a futures customer or a securities customer would be determined by (i) agreement between the intermediary carrying the customer's account and the customer, subject to the provisions of the Act, the CEA, and regulations under either or both of those statutes as applicable to the particular intermediary (broker-dealer, FCM, or dual registrant), (ii) the types of cleared contracts involved (securities, security futures, or commodity futures products), and (iii) the identity of the person whose account is carried (including the nature of any affiliation such person has with the intermediary). Article VI, Section 3(a) would be modified to provide that positions in commodity futures and futures options of persons who are not futures customers (and whose accounts are therefore proprietary within the meaning of CFTC Regulation 1.3(y)) may be carried in the firm account regardless of that person's status under the Commission's hypothecation rules or Rule 15c3–3.

5. Amendments to Article XII of the By-Laws

Article XII sets out the basic provisions for security futures, including both physically-settled and cash-settled security futures. The article is proposed to be amended to apply to commodity futures and futures options as well. The major change would be the addition of subparagraph (b) to section 2, which would provide for the settlement of exercised futures options. When a futures option is exercised, OCC would (i) in the case of a call, open in the account from which the call was exercised the number of long futures contracts equal to the unit of trading for the option and (ii) in the case of a put, open in the account from which the put was exercised the number of short futures contracts and open in the account to which the exercise was assigned the number of long futures contracts equal to the unit of trading for the contract. Futures contracts that are opened in settlement of the exercise of a futures option contract would be deemed to have been opened on the day of exercise, and the exercise price for the futures option would be the contract price for the futures contract. After the futures contract is opened, the buyer and seller would have the same rights and obligations as the holders of other futures contracts.

---

[3] See Securities Exchange Act Release Nos. 44434, (June 15, 2001), 66 FR 33283 (File No. SR–OCC–2001–05) and 44727, (August 20, 2001), 66 FR 45351 (File No. SR–OCC–2001–07).

[4] Although the present rule filing provides only for the clearing of futures on broad-based indexes and options thereon, the terms commodity future and futures option are defined more broadly to facilitate the clearance by OCC of transactions in commodity futures and futures options on other underlying interests in the event that OCC undertakes to clear additional CFTC-regulated products in the future. Of course, OCC would need to further amend its rules to set forth the particular terms of any such additional products and would need to file a proposed rule change pursuant to Section 19(b) to do so.

[5] Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351 (File No. SR–OCC–2001–07).

6. Adjustments

As with security futures, OCC will determine adjustments to commodity futures that are required to reflect certain events affecting the underlying index. Futures on broad-based stock indexes would be subject to the same adjustment provisions in Article XII, sections 3 and 4 of the by-laws that are applicable to narrow-based stock index futures. These adjustment provisions are patterned after similar provisions in section 3 of Article XVII applicable to index options. Paragraph (b) of Article XII, section 3 would be modified in this filing, and a new paragraph (c) would be added to update the provisions to conform to changes in the adjustment provisions applicable to index options that were approved by the Commission earlier this year.[6] New paragraph (d) of Article XII, section 3 would be added in order to provide for appropriate adjustments to outstanding futures options when the underlying index future is adjusted. In that case, the futures option would be adjusted to provide for delivery of the adjusted future. Where appropriate, the exercise prices and the number of outstanding options might be adjusted. Section 6 of Article XII, which provides that the final settlement price for any security futures contract at maturity is determined by a method approved by the market listing the future would be made applicable to both security futures and commodity futures. Interpretation and Policy .01 would be added to make clear that any such method of determining final settlement prices must be consisted with applicable regulations. This interpretation is proposed in light of the rules proposed by the Commission and the CFTC,[7] which propose to requires that final settlement prices for security futures ordinarily must be based on opening prices and imposes other limits not specifically set forth in Article XII, section 6 of OCC's by-laws as approved by the Commission in SR–OCC–2001–07.

7. Trade Reporting and Matching

Trade reporting and matching would occur for commodity futures in the same manner as for security futures and for futures options in generally the same manner as for other options. As in the case of security futures, however, OCC would not require transactions in commodity futures and futures options to be identified as opening or closing. If a market elected to submit trade information without identification as to whether the transaction is opening or closing, OCC would treat all transactions as opening transactions. Each clearing member would then submit gross position adjustment information at the end of the day to reduce its positions to reflect the actual open interest in accounts carried by the clearing member. These procedures are consistent with current practice on many futures exchanges. As in the case of security futures, commodity futures and futures options might include, if a futures market so elected, a series marker to prevent contracts traded on that market from being treated as fungible with otherwise identical futures contracts traded on other markets cleared by OCC. The definition of a series marker in Article I of the by-laws would be amended to make clear that a series marker can be shared by mutual consent among more than one exchange or market. As a result, contracts might be fungible when traded on any market within the group but not fungible with contracts traded on markets outside the group. This is intended as a clarification of, rather than a change in, the existing rule.

Rule 401 would also be amended to provide that block trades and other non-competitively executed transactions, in addition to exchange-for-physicals, would be identified in the matched trade report. These provisions would apply to futures options as well as commodity futures and security futures. As defined in Article I, section 1, the commencement time for such trades would not occur until OCC has received the premium or initial variation payment on the transaction. This provision would allow OCC to reject the trade if the clearing member fails to make such payment. These trades are proposed to be treated differently from other trades because when a transaction is effected at a price other than the current market price, OCC's loss may be greater in the event of a clearing member default. In addition, the regulations of the CFTC require the identification of non-competitive trades.[8]

8. Margins

OCC Rule 602, which is applicable to narrow-based index futures, index options, and other non-equity options, would be amended to include commodity futures and futures options in the calculation of the margin required for each account of a clearing member. Margin would be calculated for these new products in exactly the same way as for other futures and options subject to OCC rule 602.

9. Clearing Fund Contributions

Broad-based index futures and futures options thereon would be covered by the same clearing fund that stands behind all options and security futures cleared by OCC. Clearing activity in commodity futures and futures options would be taken into consideration in calculating the amount of a clearing member's contribution in the same way that activity in other contracts is considered. OCC rule 1001 would provide that affiliates of existing clearing members that become clearing members of OCC solely for the purpose of clearing transactions in broad-based index futures of futures options need not put up an additional $150,000 minimum clearing fund contribution. This would merely expand the existing provision applicable to clearing member affiliates that become clearing members for purposes of clearing security futures.

10. Discipline

OCC rule 1202, regarding appeal from OCC-imposed discipline, would be amended to provide that if an OCC disciplinary proceeding relates solely to the clearing member's activities as an FCM, OCC must notify the clearing member in writing that it may have a right to appeal under section 8c of the CEA. The intent of this proposed rule change would be to subject clearing member disciplinary proceedings that relate to violations of customer segregated funds rules and other violations of the CEA or regulations thereunder to CFTC review.

---

[6] See Securities Exchange Act Release No. 44184, (April 16, 2001), 66 FR 20342 (File No. SR–OCC–99–12), approving changes filed in SR–OCC–99–12.

[7] Securities Exchange Act Release No. 44743, (August 24, 2001), 66 FR 45904 (File No. S7–15–01).

[8] 17 CFR 1.38(b).

11. Amendments to Chapter XIII

OCC proposed and the Commission approved a new Chapter XIII of its rules to govern security futures.[9] With the current filing, OCC is simply proposing to amend Chapter XIII to apply to commodity futures and futures options as well.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protects investors and the public interest. By clearing commodity futures and futures options under the same basic rules applicable to SEC-regulated products, OCC believes that its commodity clearing activities will be consistent with the prompt and accurate settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR–OCC–2001–16 and should be submitted by January 4, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31294 Filed 12–19–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before January 22, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Settlement sheet.

No: 1050.

Frequency: On occasion.

Description of Respondents: SBA Borrower's to complete loan authorizations.

Responses: 39,988.

Annual Burden: 29,991.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–31362 Filed 12–19–01; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Zambia has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Zambia qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Director for African Affairs, Office of the United States Trade Representative, (202) 395–9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan

---

[9] Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351 (File No. SR–OCC–2001–07).

[10] 17 CFR 200.30–3(a)(12).

African countries. The textile and apparel trade benefits under the AGOA are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 (Oct. 2, 2000), the President designated Zambia as a "beneficiary sub-Saharan African country," Proclamation 7350 delegated to the United States Trade Representative (USTR) the authority to determine whether designated countries have met the two requirements described above. The President directed the USTR to announce any such determination in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS). Based on actions that Zambia has taken, I have determined that Zambia has satisfied these two requirements.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, U.S. note 7(a) to subchapter II of chapter 98 of the HTS and U.S. note 1 subchapter XIX of chapter 98 of the HTS are each modified by inserting "Zambia" in alphabetical sequence in the list of countries. The foregoing modifications to the HTS are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this notice. Importers claiming preferential tariff treatment under the AGOA for entries for textile and apparel articles should ensure that those entries meet the applicable visa requirements. *See Visa Requirements Under the African Growth and Opportunity Act*, 66 FR 7837 (2001).

Robert B. Zoellick,

United States Trade Representative.

[FR Doc. 01–31370 Filed 12–19–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending November 30, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–11046

Date Filed: November 26, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR–SWP 0057 dated 16 November 2001

Europe-South West Pacific Expedited Resolution 002c r-1

PTC23 EUR–SWP 0058 dated 23 November 2001

Europe-South West Pacific Expedited Resolutions r2-r7

Intended effective dates: 15 December 2001, 1 January 2002

Docket Number: OST–2001–11047

Date Filed: November 26, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC23 ME–TC3 0129 dated 27 November 2001

Mail Vote 183—Resolution 010o

TC23 Middle East-South East Asia Special Passenger

Amending Resolution

Intended effective date: 1 December 2001

Docket Number: OST–2001–11053

Date Filed: November 27, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR–SWP 0059 dated 23 November 2001

TC23/TC123 Europe-South West Pacific Resolutions r1-r21

MINUTES—PTC23 EUR–SWP 0060 dated 23 November 2001

TABLES—PTC23 EUR–SWP FARES 0030 dated 27 November 2001

Intended effective date: 1 April 2002

Docket Number: OST–2001–11062

Date Filed: November 28, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC2 EUR 0446 dated 23 November 2001

TC2 Within Europe Resolutions r1-r34

PTC2 EUR 0451 dated 27 November 2001

Technical Correction to PTC2 EUR 0446 dated 23 November 2001

PTC2 EUR 0448 dated 27 November 2001

TC2 Within Europe Resolutions r35-r37

PTC2 EUR 0449 dated 27 November 2001

TC2 Within Europe Resolution 002kk r38

PTC2 Europe-Description of Agreements

Effective 1 March, 1 April, 1 May 2002

MINUTES—PTC2 EUR 0445 dated 16 November 2001

TABLES—PTC2 EUR FARES 0060 dated 27 November 2001

Intended effective dates: 1 March, 1 April, 1 May 2002

Docket Number: OST–2001–11078

Date Filed: November 30, 2001

Parties: Members of the International Air Transport Association

Subject:

PTC23 EUR–JK 0074 dated 9 November 2001

Europe-Japan/Korea Resolutions r1-r37

MINUTES—PTC23 EUR–JK 0075 dated 30 November 2001

TABLES—PTC23 EUR–JK FARES 0034 dated 9 November 2001

Intended effective date: 1 April 2002

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01–31395 Filed 12–19–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending November 30, 2001

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–11058.

Date Filed: November 27, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 18, 2001.

Description:

Application of Challenge Air Luftverkehrs GmbH, pursuant to 49 U.S.C. section 41302, subpart B, and part 211, requesting a foreign air carrier permit to provide charter foreign air transportation of passengers (and their accompanying baggage) and cargo, as follows: (1) Between any point or points in Germany and any point or points in the United States; (2) between any point or points in the United States and any point or points in a Third country or countries, provided that, except with respect to cargo charters, such service constitutes a part of a continuous operation, with or without a change of aircraft, that includes service to Germany for the purpose of carrying local traffic between Germany and the United States; and, (3) on other charter flights between points in the United States and points in third countries in accordance with the provisions of part 212.

Docket Number: OST–2001–11079.
Date Filed: November 30, 2001.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 21, 2001.
Description:

Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. sections 41108 and 41102 and subpart B, requesting issuance of a Certificate of Public Convenience and Necessity to engage in scheduled foreign air transportation of persons, property and mail between a point or points in the United States via intermediate points to a point or points in Portugal and beyond.

Dorothy Y. Beard,
Federal Register Liaison.
[FR Doc. 01–31394 Filed 12–19–01; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–01–047]

Lower Mississippi River Waterways Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). LMRWSAC advises and makes recommendations to the Coast Guard on matters relating to the transit of vessels and products to and from ports on the Lower Mississippi River.

DATES: Application forms should be received by the Coast Guard on or before February 1, 2002.

ADDRESSES: You may request an application form by writing to U.S. Coast Guard, Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA 70112–2711, ATTN: Waterways Management; by calling 504–589–4222; or by faxing 504–589–4241. Send your application in written form to the above street address. This notice and the application form are also available via the internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: LT Ricardo Alonso, Committee Administrator of LMRWSAC, telephone (504) 589–4252, fax (504) 589–4241.

SUPPLEMENTARY INFORMATION: The Lower Mississippi River Waterways Safety Advisory Committee (LMRWSAC) is a Federal advisory committee under 5 U.S.C. App. 2. This committee provides local expertise on communication, surveillance, traffic control, anchorages, aids to navigation and other related topics dealing with navigational safety on the Lower Mississippi River. The committee normally meets twice a year at the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, Louisiana.

The committee consists of 24 members who have particular expertise, knowledge, and experience regarding transportation, equipment, and techniques that are used to ship cargo and navigate vessels on the Lower Mississippi River and its connecting navigable waterways, including the Gulf of Mexico.

Each member serves a term of two years. Occasionally, some members may serve consecutive terms. All members serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

Applications are sought for the following:

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the Head of Passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.
(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.
(3) Two members representing organizations that operate harbor tugs or barge fleets in the geographical area covered by the Committee.
(4) Two members representing companies that transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.
(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.
(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.
(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.
(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.
(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.
(10) One member representing an environmental organization.
(11) One member representing the general public.

In support of the policy of the Department of Transportation on gender and ethnic diversity, we encourage qualified women and members of minority groups to apply.

If you are selected as a member who represents the general public, we will require you to complete a Confidential Financial Disclosure Report (OGE Form 450). We may not release the report or the information in it to the public, except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a).

Dated: December 10, 2001.

Roy J. Casto,
Rear Admiral, U.S. Coast Guard, Commander, Eight Coast Guard District.
[FR Doc. 01–31392 Filed 12–19–01; 8:45 am]
BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–01–046]

Houston/Galveston Navigation Safety Advisory Committee Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee

VOL 66 ISS 245 DE 20 2001 UMI

(HOGANSAC) and its working groups will meet to discuss waterway improvements, aids to navigation, area projects impacting safety on the Houston Ship Channel, and various other navigation safety matters in the Galveston Bay area. All meetings will be open to the public.

DATES: The next meeting of HOGANSAC will be held on Thursday, February 7, 2002 from 9 a.m. to approximately 12 noon. The meeting of the Committee's working groups will be held on Thursday, January 10, 2002 at 9 a.m. to approximately 11 a.m. The meetings may adjourn early if all business is finished. Members of the public may present written or oral statements at either meeting.

ADDRESSES: The full Committee meeting will be held at the Port of Houston Authority Building, 111 East Loop North, Houston, Texas (713–670–2400). The working groups' meeting will be held at the offices of the Galveston-Texas City Pilots, Pelican Island, Galveston, Texas (409–740–3690).

FOR FURTHER INFORMATION CONTACT: Captain Kevin Cook, Executive Director of HOGANSAC, telephone (713) 671–5199; Commander Peter Simons, Executive Secretary of HOGANSAC, telephone (713) 671–5164; or Lieutenant Junior Grade Kelly Tobey, assistant to the Executive Secretary of HOGANSAC, telephone (713) 671–5103, e-mail *katobey@vtshouston.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of the Meetings

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC)

The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Casto) (or the Committee Sponsor's representative), Executive Director (CAPT Cook) and Chairman (Tim Leitzell).
(2) Approval of the October 17, 2001 minutes.
(3) Old Business.
(a) Dredging projects.
(b) Electronic navigation.
(c) AtoN Knockdown Working Group.
(d) Mooring subcommittee report.
(e) 2002 Harbor Safety Conference plans.
(f) Texas City Container Terminal update.
(g) Bolivar Roads anchorage areas.
(h) Recreational boating education initiative.
(4) New Business.
(a) State of the Waterway.
(b) Bayport Terminal project.
(c) Swimmers near Lynchburg.
(d) Corps of Engineers survey data reporting.

Working Groups Meeting.

The tentative agenda for the working committee meeting includes the following:

(1) Presentation by each working group of its accomplishments and plans for the future.

(2) Review and discuss the work completed by each working group.

Working groups have been formed to examine the following issues: Dredging and related issues, electronic navigation systems, AtoN knockdowns, impact of passing vessels on moored ships, recreational boater education issues, and the 2002 Harbor Safety Conference. All working groups may not necessarily report out at this session, however, working group discussions not reported out at this February meeting will be addressed at a future HOGANSAC meeting. Further, all working group reports may not necessarily include discussions on all issues within the particular working group's area of responsibility. All meetings are open to the public. Please note that the meetings may adjourn early if all business is finished. Members of the public may make presentations, oral or written, at either meeting.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meetings, contact the Executive Director, Executive Secretary, or assistant to the Executive Secretary.

Dated: December 10, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eight Coast Guard District.

[FR Doc. 01–31393 Filed 12–19–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34100]

RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.

RailAmerica, Inc. (RailAmerica), a noncarrier holding company, has filed a verified notice of exemption to acquire control of ParkSierra Corp. (ParkSierra), a Class II railroad, and to continue in control of ParkSierra Acquisition Corp. (Acquisition), a noncarrier, upon Acquisition's purchase of ParkSierra's stock. Acquisition, a wholly owned subsidiary of RailAmerica, will acquire 100% of the outstanding stock of ParkSierra.

The transaction is scheduled to be consummated on or after January 2, 2002.

On September 18, 2001, as amended on October 3, 2001, RailAmerica also filed a motion for protective order under CFR 1104.14, and a protective order was granted.[1]

RailAmerica states that, as of its filing of the notice of exemption, it controls one Class II and 23 Class III rail common carriers operating in 23 states.

RailAmerica also states that: (i) These railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves two Class II rail carriers, the transaction will be made subject to the labor protection conditions described in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34100, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on (1) Gary A. Laakso, Esq., 5300 Broken Sound Blvd. NW, Second Floor, Boca Raton, FL 33487, and (2) Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

---

[1] See *RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Oct. 1, 2001, and Oct. 15, 2001).

UMI

Decided: December 13, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31366 Filed 12–19–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 228X)]

Norfolk Southern Railway Company—Abandonment Exemption—In Mingo County, WV and Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments* to abandon a 0.95-mile line of railroad between milepost MN–0.0 at McCarr, in Mingo County, WV, and milepost MN–0.95 at Nampa, in Pike County, WV. The line traverses United States Postal Service Zip Codes 25676 and 41501.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 19, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 9, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 21, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NSR's filing of a notice of consummation by December 20, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our web site at *"WWW.STB.DOT.GOV."*

Decided: December 14 , 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31367 Filed 12–19–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–93]

Revocation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Customs broker license revocations.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations (19 CFR 111), the following Customs broker licenses are revoked. Please be aware that some of these entities may continue to provide broker services under another valid brokerage license.

Name	License	Port
Behring International, Inc.	06434	Seattle.
Consolidated Freightways Export-Import Services, Inc.	07687	Seattle.
Ingham International, Inc	05252	Seattle.
Ted L. Rauch, Inc	06656	Seattle.
Steeb Marine Services, Inc.	05768	Seattle.
Carmichael International Services.	09143	Seattle.
Emery Customs Brokers	05614	Seattle.
Kuehne & Nagel, Inc	06558	Seattle.
David K. Lindemuth Co., Inc.	07601	Seattle.
Radix Group International.	07500	Seattle.

Dated: December 17, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31387 Filed 12–19–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–92]

Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Customs Broker License Cancellations.

VOL 66 ISS 245 DE 20 2001 UMI

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 USC 1641) and the Customs Regulations (19 CFR 111, Subpart D), the following Customs broker licenses are cancelled. Because previous publication of these records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

Name	License	Port
Harry I. Hoskins	00193	Seattle.
John P. Hausman	00194	Seattle.
Victor D. Harlow	00200	Seattle.

Dated: December 17, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31388 Filed 12–19–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–90]

Revocation of Customs Broker License

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Customs broker license revocation.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations [19 CFR 111.45(a)], the following Customs broker license is revoked by operation of law.

Name: The Maritime Company for Navigation.
License: 20115.
Port: Charlotte.

Dated: December 8, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31390 Filed 12–19–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–91]

Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Cancellation of licenses.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.53(g), the following individual Customs broker licenses have been cancelled due to death of the broker. Because previous publication of these records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

Name	License	Port Name
B.A. McKenzie	00182	Seattle.
Alfred J. Stanoch	03407	Seattle.
Eugene C. Cameron	03518	Seattle.
James A. Bronson	04116	Seattle.

Dated: December 17, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31389 Filed 12–19–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0091]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 22, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0091."

SUPPLEMENTARY INFORMATION:

Title: Application for Medical Benefits, VA Form 10–10EZ.

OMB Control Number: 2900–0091.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to establish a system of records on veterans applying and/or enrolling for VA medical care benefits. The information collected is used to establish basic eligibility for VA benefits; enroll veterans into the VA health care enrollment system; determine a veteran's marital status, next-of-kin and emergency contacts for care management and consent purposes; establish eligibility for cost free health care, mileage reimbursement and prescription co-payment exemption for certain veterans; identify those veterans who have third party health insurance for billing purposes to recover the cost of medical care furnished to veterans for treatment of nonservice-connected conditions; and establish an individual's eligibility for other health services, including but not limited to nursing home, dental and domiciliary care.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 6,2001, at pages 46683–46684.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,613,750 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 3,485,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to "OMB Control No. 2900–0091" in any correspondence.

Dated: December 6, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31295 Filed 12–19–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
December 20, 2001

Part II

Postal Service

39 CFR Part 20
Global Express Guaranteed: Discounted Rates for Online Customers; Final Rule

POSTAL SERVICE

39 CFR Part 20

Global Express Guaranteed: Discounted Rates for Online Customers

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is offering discounted rates for online customers who purchase Global Express Guaranteed™ service. The discounted rates are based on minimum shipping volumes which average 5 pieces per week, 12 pieces per week, and 20 pieces or more per week. The Postal Service is also offering a standard Web discount for all Global Express Guaranteed customers who prepare and pay for their shipments online but do not qualify for the volume-based discounts. Interim implementing regulations were published in the **Federal Register** on August 10, 2001, 66 FR 42112.

DATES: Effective August 9, 2001.

ADDRESSES: Services Office, U.S. Postal Service, 200 E Mansell CT, Suite 300, Roswell, GA 30076–4850.

FOR FURTHER INFORMATION CONTACT: Malcolm E. Hunt (770) 360–1104.

SUPPLEMENTARY INFORMATION: Global Express Guaranteed service is the U.S. Postal Service's premium international shipping service. It is an expedited delivery service that is offered as a result of an alliance between the U.S. Postal Service and DHL Worldwide Express. It provides date-certain delivery service from designated U.S. ZIP Code areas to locations in over 200 destination countries and territories. Global Express Guaranteed consists of two mail classifications: Global Express Guaranteed Document Service and Global Express Guaranteed Non-Document Service. Regulations for Global Express Guaranteed service are set forth in part 210 of the *International Mail Manual* (IMM) and the *Global Express Guaranteed Service Guide.*

The Postal Service is offering two types of discounted rates to customers who prepare and pay for their Global Express Guaranteed shipments online: a standard discount and a volume-based discount for customers who ship minimum volumes on a weekly basis. This discount rate structure is comparable to that offered by other shippers in the international shipping marketplace.

The discounts are limited to Global Express Guaranteed shipments prepared and paid for online because the Global Express Guaranteed online application can perform the necessary activity of automatically tracking customer activity and volume for use in calculating rates. This capability is not currently available at the retail terminals in Post Offices. There is also a cost savings for the Postal Service when customers prepare and pay for shipments online. Thus, these discounts will not apply to Global Express Guaranteed shipments that are paid for at retail acceptance Post Offices.

The standard and volume-based online discount rates will be applied automatically via the Global Express Guaranteed Web application. The volume-based discounts will be calculated at three volume levels: 5, 12, or 20 or more pieces per week, and will vary depending on shipment destination. For those online customers shipping fewer than 5 pieces per week, a standard discount of 5 percent off the non-discounted rate that would otherwise apply to the shipment will be offered. These rates are reflected in the four rate schedules in IMM 216.36.

The volume discounts are calculated as follows:

Week one: All shipments receive the standard Web discount of 5 percent off the published price.

Week two: The discount is based on how much volume was mailed in the first week.

Week three: The discount is based on the average volume of the first two weeks.

Week four: The discount is based on the average volume of the first three weeks.

This continues through a 12-week cycle. After a 12-week customer history is established, the discount is based on the average volume of the preceding 12 weeks. Comments were due on or before September 10, 2001. The Postal Service received no comments.

The Postal Service adopts the following discounted rates and amends the *International Mail Manual* (IMM), which is incorporated by reference into the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign Relations.

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 2 of the *International Mail Manual* is amended as follows to provide for the discounted rates:

2 Conditions for Mailing

210 Global Express Guaranteed

* * * * *

216 Postage

* * * * *

216.3 Discounted Rates

216.31 General

Discounted rates apply to Global Express Guaranteed customers who prepare and pay for Global Express Guaranteed shipments online using the Web application located at *http://www.usps.com/gxg.* The Global Express Guaranteed online application provides the necessary systems for tracking usage and volume, as well as verifying and protecting revenue. These discounts do not apply to Global Express Guaranteed shipments that are paid for at participating Post Offices because the necessary volume tracking capabilities are not available at retail locations.

216.32 Eligibility for Online Discounts

To be eligible for discounts for purchasing Global Express Guaranteed online, customers must register via the Global Express Guaranteed Web site, *http://www.usps.com/gxg.* Registration is accomplished by selecting the designated icon on the Global Express Guaranteed home page and following the accompanying instructions. This one-time registration will establish a shipping record and a customer history for purposes of calculating the appropriate discounts. To be eligible for online discounts, customers must prepare their shipping labels and pay for their shipments online using a credit card.

216.33 Online Discounts

216.331 General

Two types of online discounts are offered: standard discounts and volume-based discounts. The discount applies only to the postage portion of the Global Express Guaranteed rates. It does not apply to any other service charges or additional insurance coverage fees. The discounted postage rates applicable to Global Express Guaranteed are set forth in 216.36 and are separate and distinct from the postage rates set forth in 216.1 and 216.2.

216.332 Standard Web Discount

A standard discount schedule will apply to all Global Express Guaranteed items prepared and paid for on the Web that do not qualify for the volume discount schedule. The discount is automatically applied to each shipment.

216.333 Volume Discounts

If previous volume minimums are met, volume discounts will apply to registered customers who prepare and pay for shipments online. Volume is calculated on a weekly basis, with a week defined as Monday through Sunday. The Web application automatically tracks the customer's daily shipping activity and applies the appropriate discount based on delivery destination.

216.334 Determination of Volume Discounts

There are three different rate schedules for Global Express Guaranteed volume discounts. Each rate schedule reflects different rates based on previous usage averaging 5 shipments or more per week, 12 shipments or more per week, and 20 shipments or more per week.

The first week of shipping, all shipments get the standard online discount of 5 percent off the applicable non-discounted rate. The second week, the discount is based on the volume shipped the first week. The third week, the discount is based on the average volume of the first 2 weeks. The fourth week, the discount is based on the average volume of the first 3 weeks. This continues through a 12-week cycle. After a 12-week history is established, the discount is always based on the average volume of the preceding 12 weeks.

216.34 Online Postage Payment

216.341 Credit Card Payment

Customers must pay postage online using a credit card. The following credit cards are accepted for payment online: American Express, Diner's Club, Discover, MasterCard, and Visa.

216.342 Deposit Within 24 Hours

Customers paying postage online must deposit their shipment via any of the methods outlined in 216.35 within 24 hours of the time when the label is printed or the transaction will be voided.

216.343 Postage Adjustments

Use of the online service is subject to subsequent verification of the shipment upon acceptance by the U.S. Postal Service to verify that the payment, weight, and time of entry are accurate. Registration for online service constitutes an authorization to the U.S. Postal Service to make adjustments to the initial credit charge for any postage deficiencies discovered upon acceptance. Adjustments for items paid online will be made to the customer's credit card account.

216.344 Notification

An e-mail notification will be provided to each customer showing the exact postage amount applicable for the online shipment, as well as the acceptance time and date.

216.35 Shipment Preparation and Deposit

216.351 Preparation

Customers must prepare shipments following the shipping preparation instructions on the Global Express Guaranteed Web site.

216.352 Deposit

The following choices are available for depositing Global Express Guaranteed shipments prepared online:

a. On-Call and scheduled pickup services are available for an added charge of $10.25 for each pickup stop, regardless of the number of pieces picked up. Only one pickup fee will be charged if domestic Express Mail, International Express Mail, domestic Priority Mail, International Parcel Post, and/or domestic Parcel Post is picked up at the same time. No pickup fee will be charged when Global Express Guaranteed is picked up during a delivery stop or during a scheduled stop made to collect other mail not subject to a pickup fee. Pickup service is provided in accordance with DMM D010. A complete listing of participating Global Express Guaranteed Post Offices is available on the Web site at *http://www.usps.com/gxg*.

b. Customers may present their online shipments at the retail counter of any participating Global Express Guaranteed Post Office.

c. Customers using the online postage payment option may drop shipments in collection boxes served by a participating Global Express Guaranteed Post Office.

216.353 Acceptance of Online Shipments

For purposes of tracking and computing the delivery guarantee, postal acceptance of a Global Express Guaranteed item prepared online occurs when the shipment is received and scanned at a participating Global Express Guaranteed Post Office. Collection box deposit and carrier pickup do not constitute Postal Service acceptance of a Global Express Guaranteed shipment. Acceptance occurs when the shipment is brought back to the Post Office and the acceptance office performs a retail system scan to verify the weight and dimensions of the shipment. The customer will receive an e-mail verification of the acceptance date, time, and weight, as well as a verification of the amount of postage applicable for the shipment.

216.36 Discounted Rates

216.361 Document Rates With Standard Web Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5	22.80	23.75	30.40	30.40	42.75	31.35	32.30	61.75
1	31.35	32.30	37.05	42.75	49.40	44.65	43.70	71.25
2	36.10	38.00	43.70	49.40	61.75	52.25	49.40	84.55
3	38.00	43.70	50.35	56.05	75.05	58.90	57.00	95.95
4	40.85	47.50	57.00	62.70	88.35	64.60	64.60	106.40
5	43.70	52.25	63.65	69.35	100.70	71.25	71.25	117.80
6	45.60	55.10	68.40	76.00	113.05	76.00	77.90	129.20
7	48.45	57.95	72.20	81.70	124.45	81.70	84.55	140.60
8	50.35	61.75	76.00	88.35	135.85	86.45	91.20	152.00
9	52.25	64.60	80.75	95.00	148.20	91.20	97.85	163.40
10	55.10	66.50	84.55	98.80	156.75	96.90	104.50	171.00
11	57.00	69.35	87.40	103.55	166.25	99.75	110.20	181.45
12	58.90	72.20	91.20	109.25	175.75	103.55	115.90	192.85
13	61.75	75.05	94.05	114.00	185.25	107.35	120.65	204.25
14	63.65	76.95	97.85	118.75	194.75	111.15	125.40	214.70

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
15	65.55	79.80	100.70	123.50	203.30	114.95	130.15	226.10
16	68.40	82.65	103.55	129.20	211.85	118.75	134.90	236.55
17	70.30	84.55	107.35	133.95	219.45	122.55	139.65	247.00
18	72.20	87.40	110.20	138.70	226.10	126.35	145.35	257.45
19	75.05	90.25	114.00	143.45	233.70	130.15	151.05	267.90
20	76.95	92.15	116.85	148.20	240.35	133.95	156.75	278.35
21	78.85	95.00	119.70	152.95	247.00	136.80	162.45	286.90
22	80.75	96.90	123.50	157.70	254.60	140.60	167.20	295.45
23	82.65	99.75	126.35	162.45	261.25	144.40	171.95	302.10
24	85.50	102.60	130.15	167.20	268.85	148.20	176.70	308.75
25	87.40	104.50	133.00	171.95	275.50	152.00	181.45	316.35
26	89.30	107.35	135.85	176.70	283.10	155.80	186.20	323.00
27	91.20	109.25	139.65	180.50	289.75	159.60	190.95	329.65
28	93.10	112.10	142.50	185.25	297.35	163.40	195.70	337.25
29	95.00	114.00	145.35	190.00	304.00	167.20	200.45	343.90
30	97.85	117.80	150.10	196.65	314.45	172.90	205.20	354.35
31	99.75	120.65	153.90	201.40	321.10	176.70	209.95	361.95
32	101.65	122.55	156.75	206.15	328.70	180.50	214.70	368.60
33	103.55	124.45	160.55	210.90	335.35	184.30	219.45	376.20
34	106.40	125.40	163.40	215.65	342.95	188.10	224.20	382.85
35	108.30	127.30	166.25	220.40	350.55	191.90	228.95	390.45
36	110.20	129.20	170.05	224.20	357.20	195.70	233.70	397.10
37	112.10	131.10	172.90	228.95	364.80	199.50	238.45	404.70
38	114.00	133.00	176.70	233.70	371.45	203.30	243.20	411.35
39	115.90	134.90	179.55	238.45	378.10	207.10	247.95	418.00
40	117.80	136.80	182.40	243.20	383.80	210.90	252.70	425.60
41	119.70	138.70	186.20	247.95	390.45	214.70	257.45	432.25
42	123.50	140.60	189.05	252.70	397.10	218.50	262.20	439.85
43	125.40	142.50	192.85	257.45	403.75	222.30	266.95	446.50
44	127.30	143.45	195.70	262.20	410.40	226.10	271.70	454.10
45	130.15	145.35	199.50	266.00	417.05	229.90	276.45	460.75
46	132.05	147.25	202.35	270.75	423.70	233.70	281.20	467.40
47	133.95	148.20	205.20	275.50	429.40	237.50	285.95	475.00
48	135.85	150.10	209.00	280.25	436.05	241.30	290.70	481.65
49	138.70	152.00	211.85	285.00	442.70	245.10	295.45	489.25
50	140.60	154.85	217.55	292.60	454.10	250.80	300.20	501.60
51	144.40	156.75	220.40	297.35	460.75	250.80	304.95	515.85
52	146.30	158.65	224.20	302.10	467.40	258.40	309.70	515.85
53	148.20	160.55	227.05	306.85	474.05	262.20	314.45	531.05
54	151.05	161.50	230.85	311.60	480.70	266.00	319.20	531.05
55	152.00	163.40	233.70	316.35	487.35	268.85	323.95	543.40
56	153.90	164.35	237.50	321.10	494.00	273.60	328.70	543.40
57	154.85	166.25	240.35	325.85	500.65	276.45	333.45	554.80
58	155.80	167.20	243.20	330.60	506.35	281.20	338.20	554.80
59	157.70	169.10	247.00	335.35	513.00	284.05	342.95	567.15
60	158.65	171.00	249.85	340.10	519.65	288.80	347.70	567.15
61	160.55	171.95	253.65	344.85	526.30	291.65	352.45	581.40
62	161.50	172.90	256.50	348.65	532.00	297.35	357.20	581.40
63	162.45	174.80	260.30	353.40	539.60	299.25	361.95	595.65
64	163.40	175.75	263.15	358.15	542.45	304.95	366.70	595.65
65	164.35	177.65	266.95	362.90	552.90	306.85	371.45	609.90
66	165.30	178.60	269.80	367.65	552.90	312.55	376.20	609.90
67	166.25	180.50	272.65	372.40	563.35	314.45	380.95	624.15
68	167.20	182.40	276.45	377.15	565.25	320.15	385.70	624.15
69	168.15	183.35	279.30	381.90	573.80	322.05	390.45	638.40
70	169.10	184.30	283.10	386.65	573.80	327.75	395.20	638.40

216.362 Non-Document Rates With Standard Web Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5								
1	34.20	36.10	41.80	45.60	56.05	49.40	52.25	77.90
2	38.95	42.75	48.45	52.25	68.40	57.00	55.10	91.20
3	41.80	48.45	55.10	60.80	81.70	63.65	59.85	103.55
4	44.65	52.25	61.75	67.45	95.00	69.35	66.50	114.00
5	47.50	57.00	68.40	74.10	107.35	76.00	73.15	127.30
6	49.40	59.85	73.15	80.75	119.70	80.75	79.80	138.70
7	52.25	62.70	76.95	86.45	131.10	86.45	86.45	150.10
8	54.15	67.45	81.70	93.10	142.50	91.20	93.10	161.50
9	56.05	70.30	86.45	99.75	154.85	95.95	99.75	172.90
10	58.90	73.15	90.25	105.45	168.15	101.65	106.40	180.50

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
11	60.80	76.00	95.00	110.20	177.65	106.40	112.10	195.70
12	62.70	78.85	98.80	115.90	187.15	110.20	116.85	207.10
13	65.55	81.70	101.65	120.65	196.65	114.00	122.55	218.50
14	67.45	83.60	105.45	125.40	206.15	117.80	127.30	228.95
15	69.35	86.45	108.30	130.15	217.55	124.45	132.05	240.35
16	72.20	89.30	111.15	135.85	226.10	128.25	136.60	250.80
17	74.10	92.15	114.95	140.60	233.70	132.05	141.55	261.25
18	76.00	95.00	117.80	145.35	240.35	135.85	147.25	271.70
19	78.85	97.85	121.60	150.10	247.95	139.65	152.95	282.15
20	82.65	101.65	124.45	156.75	254.60	143.45	158.65	292.60
21	84.55	104.50	127.30	161.50	261.25	146.30	164.35	301.15
22	86.45	106.40	131.10	166.25	268.85	150.10	169.10	309.70
23	88.35	109.25	133.95	171.00	275.50	153.90	173.85	316.35
24	91.20	112.10	137.75	175.75	283.10	157.70	178.60	323.00
25	93.10	114.00	140.60	180.50	289.75	161.50	183.35	330.60
26	95.00	115.90	145.35	185.25	297.35	165.30	188.10	337.25
27	96.90	116.85	149.15	189.05	304.00	169.10	192.85	343.90
28	98.80	119.70	152.00	193.80	311.60	172.90	197.60	351.50
29	100.70	121.60	154.85	198.55	318.25	176.70	202.35	358.15
30	103.55	125.40	159.60	205.20	328.70	182.40	207.10	368.60
31	105.45	128.25	163.40	209.95	335.35	186.20	211.85	376.20
32	107.35	130.15	166.25	214.70	342.95	190.00	216.60	382.85
33	109.25	132.05	170.05	219.45	349.60	193.80	221.35	390.45
34	112.10	133.95	172.90	224.20	357.20	197.60	226.10	397.10
35	114.00	135.85	175.75	228.95	364.80	201.40	230.85	409.45
36	115.90	137.75	179.55	232.75	371.45	205.20	235.60	416.10
37	117.80	139.65	182.40	237.50	379.05	209.00	240.35	423.70
38	119.70	141.55	186.20	242.25	385.70	212.80	245.10	430.35
39	121.60	143.45	189.05	247.00	392.35	216.60	249.85	437.00
40	123.50	145.35	191.90	254.60	398.05	220.40	254.60	444.60
41	125.40	147.25	195.70	259.35	404.70	224.20	259.35	451.25
42	129.20	149.15	198.55	264.10	411.35	228.00	264.10	458.85
43	131.10	151.05	202.35	268.85	418.00	231.80	268.85	465.50
44	133.00	152.00	205.20	273.60	424.65	235.60	273.60	473.10
45	135.85	153.90	209.00	280.25	431.30	239.40	278.35	479.75
46	137.75	155.60	211.85	285.00	437.95	243.20	283.10	481.65
47	139.65	156.75	214.70	289.75	443.65	247.00	287.85	489.25
48	141.55	158.65	218.50	294.50	450.30	250.80	292.60	495.90
49	143.45	160.55	221.35	299.25	456.95	254.60	297.35	503.50
50	144.40	163.40	227.05	304.00	468.35	260.30	302.10	515.85
51	148.20	165.30	229.90	306.75	473.10	262.20	306.85	530.10
52	150.10	167.20	233.70	313.50	479.75	267.90	311.60	530.10
53	152.00	169.10	236.55	318.25	486.40	271.70	316.35	545.30
54	154.85	170.05	240.35	323.00	493.05	275.50	321.10	545.30
55	155.80	171.95	243.20	327.75	499.70	278.35	325.85	557.65
56	157.70	172.90	247.00	332.50	506.35	283.10	330.60	557.65
57	158.65	174.80	249.85	337.25	513.00	285.95	335.35	569.05
58	159.60	175.75	252.70	342.00	518.70	290.70	340.10	569.05
59	161.50	177.65	256.50	346.75	525.35	293.55	344.85	581.40
60	161.50	179.55	259.35	351.50	532.00	298.30	349.60	581.40
61	163.40	183.35	263.15	356.25	538.65	301.15	354.35	595.65
62	164.35	184.30	266.00	360.05	544.35	306.85	359.10	595.65
63	165.30	186.20	269.80	364.80	551.95	308.75	363.85	609.90
64	166.25	187.15	272.65	369.55	554.80	314.45	368.60	609.90
65	167.20	189.05	276.45	374.30	565.25	316.35	373.35	624.15
66	168.15	190.00	279.30	379.05	565.25	322.05	378.10	624.15
67	169.10	191.90	282.15	383.80	575.70	323.95	382.85	638.40
68	170.05	193.80	285.95	388.55	577.60	329.65	387.60	638.40
69	171.00	194.75	288.80	393.30	586.15	331.55	392.35	652.65
70	171.95	195.70	292.60	398.05	586.15	337.25	397.10	652.65

216.363 Document Rates With 5-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5	20.48	20.50	23.08	23.40	31.50	27.10	30.50	45.50
1	25.41	24.80	27.91	31.50	36.40	32.90	34.50	52.50
2	29.26	28.00	31.74	36.40	45.50	38.50	39.00	62.30
3	30.80	32.20	36.57	41.30	55.30	43.40	45.00	70.70
4	33.11	35.00	41.40	46.20	65.10	47.60	51.00	78.40
5	35.42	38.50	46.23	51.10	74.20	52.50	56.25	86.80
6	36.96	40.60	49.68	56.00	83.30	56.00	61.50	95.20

VOL 66 ISS 245 DE 20 2001 UMI

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
7	39.27	42.70	52.44	60.20	91.70	60.20	66.75	103.60
8	40.81	45.50	55.20	65.10	100.10	63.70	72.00	112.00
9	42.35	47.60	58.65	70.00	109.20	67.20	77.25	120.40
10	44.66	49.00	61.41	72.80	115.50	71.40	82.50	126.00
11	46.20	51.10	63.48	76.30	122.50	73.50	87.00	133.70
12	47.74	53.20	66.24	80.50	129.50	76.30	91.50	142.10
13	50.05	55.30	68.31	84.00	136.50	79.10	95.25	150.50
14	51.59	56.70	71.07	87.50	143.50	81.90	99.00	158.20
15	53.13	58.80	73.14	91.00	149.80	84.70	102.75	166.60
16	55.44	60.90	75.21	95.20	156.10	87.50	106.50	174.30
17	56.98	62.30	77.97	98.70	161.70	90.30	110.25	182.00
18	58.52	64.40	80.04	102.20	166.60	93.10	114.75	189.70
19	61.83	67.50	82.80	105.70	172.20	95.90	119.25	197.40
20	63.37	68.90	85.87	109.20	177.10	98.70	123.75	205.10
21	64.91	71.00	87.94	112.70	182.00	100.80	128.25	211.40
22	66.45	72.40	90.70	116.20	187.60	103.60	132.00	217.70
23	67.99	74.50	92.77	119.70	192.50	106.40	135.75	222.60
24	70.30	76.60	95.53	123.20	198.10	109.20	139.50	227.50
25	72.84	79.00	98.60	126.70	203.00	112.00	143.25	233.10
26	74.38	81.10	100.67	130.20	208.60	114.80	147.00	238.00
27	76.92	83.50	103.43	133.00	213.50	117.60	150.75	242.90
28	78.46	85.60	105.50	136.50	219.10	120.40	154.50	248.50
29	80.00	87.00	107.57	140.00	224.00	123.20	158.25	253.40
30	82.31	89.80	111.02	144.90	231.70	127.40	162.00	261.10
31	84.85	92.90	114.78	148.40	236.60	130.20	165.75	266.70
32	86.39	94.30	116.85	151.90	242.20	133.00	169.50	271.60
33	88.93	96.70	119.61	155.40	247.10	135.80	173.25	277.20
34	91.24	97.40	121.68	158.90	252.70	138.60	177.00	282.10
35	93.78	99.80	123.75	162.40	258.30	141.40	180.75	287.70
36	95.32	101.20	127.51	165.20	263.20	144.20	184.50	292.60
37	97.86	103.60	129.58	168.70	268.80	147.00	188.25	298.20
38	99.40	105.00	132.34	172.20	273.70	149.80	192.00	303.10
39	101.94	107.40	134.41	175.70	278.60	152.60	195.75	308.00
40	103.48	108.80	136.48	179.20	282.80	155.40	199.50	313.60
41	106.02	111.20	140.24	182.70	287.70	158.20	203.25	318.50
42	109.10	112.60	142.31	186.20	292.60	161.00	207.00	324.10
43	110.64	114.00	145.07	189.70	297.50	163.80	210.75	329.00
44	112.18	114.70	148.14	193.20	302.40	166.60	214.50	334.60
45	115.49	117.10	151.90	196.00	307.30	169.40	218.25	339.50
46	117.03	118.50	154.97	199.50	312.20	172.20	222.00	344.40
47	118.57	119.20	158.04	203.00	316.40	175.00	225.75	350.00
48	121.11	121.60	161.80	206.50	321.30	177.80	229.50	354.90
49	123.42	123.00	163.87	210.00	326.20	180.60	233.25	360.50
50	125.96	126.10	168.01	215.60	334.60	184.80	237.00	369.80
51	129.04	127.50	170.08	219.10	339.50	184.80	240.75	380.10
52	130.58	129.90	172.84	222.60	344.40	190.40	244.50	380.10
53	132.12	132.30	174.91	226.10	349.30	193.20	248.25	391.30
54	134.43	134.00	177.67	229.60	354.20	196.00	252.00	391.30
55	136.20	136.40	179.74	233.10	359.10	198.10	255.75	400.40
56	137.74	138.10	182.50	236.60	364.00	201.60	259.50	400.40
57	140.51	140.50	185.57	240.10	368.90	203.70	263.25	408.80
58	142.28	142.20	188.64	243.60	373.10	207.20	267.00	408.80
59	144.82	144.60	191.40	247.10	378.00	209.30	270.75	417.90
60	146.59	147.00	194.47	250.60	382.90	212.80	274.50	417.90
61	149.13	148.70	197.23	254.10	387.80	214.90	278.25	428.40
62	150.90	150.40	199.30	256.90	392.00	219.10	282.00	428.40
63	152.67	152.60	202.06	260.40	397.60	220.50	285.75	438.90
64	154.44	154.50	206.13	263.90	399.70	224.70	289.50	438.90
65	156.21	156.90	208.89	267.40	407.40	226.10	293.25	449.40
66	157.98	158.60	210.96	270.90	407.40	230.30	297.00	449.40
67	159.75	161.00	215.03	274.40	415.10	231.70	300.75	459.90
68	161.52	163.40	217.79	277.90	416.50	235.90	304.50	459.90
69	164.29	165.10	219.86	281.40	422.80	237.30	308.25	470.40
70	166.06	166.80	222.62	284.90	422.80	241.50	312.00	470.40

216.364 Non-Document Rates With 5-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5	....	....	....	....	....	....	....	....
1	27.72	28.60	34.04	36.60	46.30	40.40	49.25	59.04
2	31.57	31.50	36.66	39.50	52.40	43.00	51.50	69.12

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
3	33.88	35.70	39.28	44.80	60.20	46.90	55.25	78.48
4	36.19	38.50	42.90	49.70	70.00	51.10	59.50	86.40
5	38.50	42.00	47.52	54.60	79.10	56.00	62.75	96.48
6	40.04	44.10	50.82	59.50	88.20	59.50	68.00	105.12
7	42.35	46.20	53.46	63.70	96.60	63.70	71.25	113.76
8	43.89	49.70	56.76	68.60	105.00	67.20	75.50	122.40
9	45.43	51.80	60.06	73.50	114.10	70.70	78.75	131.04
10	47.74	53.90	62.70	77.70	123.90	74.90	84.00	136.80
11	49.28	56.00	66.00	81.20	130.90	78.40	88.50	148.32
12	50.82	58.10	68.64	85.40	137.90	81.20	92.25	156.96
13	53.13	60.20	70.62	88.90	144.90	84.00	96.75	165.60
14	54.67	61.60	73.26	92.40	151.90	86.80	100.50	173.52
15	56.21	63.70	75.24	95.90	160.30	91.70	104.25	182.16
16	58.52	65.80	77.22	100.10	166.60	94.50	108.00	190.08
17	60.06	67.90	79.86	103.60	172.20	97.30	111.75	198.00
18	61.60	70.00	81.84	107.10	177.10	100.10	116.25	205.92
19	65.91	74.10	84.48	110.60	182.70	102.90	120.75	213.84
20	68.99	76.90	88.46	115.50	187.60	105.70	125.25	221.76
21	70.53	79.00	90.44	119.00	192.50	107.80	129.75	228.24
22	74.07	82.40	95.08	122.50	198.10	110.60	133.50	234.72
23	75.61	84.50	97.06	126.00	203.00	113.40	137.25	239.76
24	78.92	87.60	100.70	129.50	208.60	116.20	141.00	244.80
25	80.46	89.00	102.68	133.00	213.50	119.00	144.75	250.56
26	83.00	91.40	106.98	136.50	219.10	121.80	148.50	255.60
27	84.54	92.10	109.62	139.30	224.00	124.60	152.25	260.64
28	87.08	95.20	112.60	142.80	229.60	127.40	156.00	266.40
29	88.62	96.60	114.58	146.30	234.50	130.20	159.75	271.44
30	90.93	99.40	117.88	151.20	242.20	134.40	163.50	279.36
31	92.47	101.50	120.52	154.70	247.10	137.20	167.25	285.12
32	94.01	102.90	122.50	158.20	252.70	140.00	171.00	290.16
33	97.55	106.30	127.14	161.70	257.60	142.80	174.75	295.92
34	99.86	107.70	129.12	165.20	263.20	145.60	178.50	300.96
35	101.40	109.10	131.10	168.70	268.80	148.40	182.25	310.32
36	102.94	110.50	133.74	171.50	273.70	151.20	186.00	315.36
37	104.48	111.90	135.72	175.00	279.30	154.00	189.75	321.12
38	106.02	113.30	138.36	178.50	284.20	156.80	193.50	326.16
39	107.56	114.70	140.34	182.00	289.10	159.60	197.25	331.20
40	112.10	119.10	145.32	187.60	293.30	162.40	201.00	336.96
41	113.64	120.50	147.96	191.10	298.20	165.20	204.75	342.00
42	118.72	123.90	151.94	194.60	303.10	168.00	208.50	347.76
43	120.26	125.30	154.58	198.10	308.00	170.80	212.25	352.80
44	121.80	126.00	156.56	201.60	312.90	173.60	216.00	358.56
45	124.11	127.40	159.20	206.50	317.80	176.40	219.75	363.60
46	126.65	129.80	162.18	210.00	322.70	179.20	223.50	365.04
47	128.19	130.50	164.16	213.50	326.90	182.00	227.25	370.80
48	131.73	133.90	168.80	217.00	331.80	184.80	231.00	375.84
49	133.27	135.30	170.78	220.50	336.70	187.60	234.75	381.60
50	134.04	137.40	174.74	224.00	345.10	191.80	238.50	390.96
51	137.12	138.80	176.72	227.50	348.60	193.20	242.25	401.76
52	138.66	140.20	179.36	231.00	353.50	197.40	246.00	401.76
53	142.20	143.60	183.34	234.50	358.40	200.20	249.75	413.28
54	144.51	144.30	185.98	238.00	363.30	203.00	253.50	413.28
55	145.28	145.70	187.96	241.50	368.20	205.10	257.25	422.64
56	146.82	146.40	190.60	245.00	373.10	208.60	261.00	422.64
57	148.59	148.80	193.58	248.50	378.00	210.70	264.75	431.28
58	.149.36	149.50	195.56	252.00	382.20	214.20	268.50	431.28
59	150.90	150.90	198.20	255.50	387.10	216.30	272.25	440.64
60	150.90	152.30	200.18	259.00	392.00	219.80	276.00	440.64
61	154.44	157.10	204.82	262.50	396.90	221.90	279.75	451.44
62	155.21	157.80	206.80	265.30	401.10	226.10	283.50	451.44
63	155.98	159.20	209.44	268.80	406.70	227.50	287.25	462.24
64	158.75	161.90	213.42	272.30	408.80	231.70	291.00	462.24
65	159.52	163.30	216.06	275.80	416.50	233.10	294.75	473.04
66	160.29	164.00	218.04	279.30	416.50	237.30	298.50	473.04
67	161.06	165.40	220.02	282.80	424.20	238.70	302.25	483.84
68	162.83	167.80	223.66	286.30	425.60	242.90	306.00	483.84
69	163.60	168.50	225.64	289.80	431.90	244.30	309.75	494.64
70	164.37	169.20	228.28	293.30	431.90	248.50	313.50	494.64

216.365 Document Rates With 12-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5	20.00	20.00	22.44	22.76	30.60	26.44	29.48	44.20
1	24.75	24.12	27.13	30.60	35.36	31.96	33.12	51.00
2	28.50	27.20	30.82	35.36	44.20	37.40	37.44	60.52
3	30.00	31.28	35.51	40.12	53.72	42.16	43.20	68.68
4	32.25	34.00	40.20	44.88	63.24	46.24	48.96	76.16
5	34.50	37.40	44.89	49.64	72.08	51.00	54.00	84.32
6	36.00	39.44	48.24	54.40	80.92	54.40	59.04	92.48
7	38.25	41.48	50.92	58.48	89.08	58.48	64.08	100.64
8	39.75	44.20	53.60	63.24	97.24	61.88	69.12	108.80
9	41.25	46.24	56.95	68.00	106.08	65.28	74.16	116.96
10	43.50	47.60	59.63	70.72	112.20	69.36	79.20	122.40
11	45.00	49.64	61.64	74.12	119.00	71.40	83.52	129.88
12	46.50	51.68	64.32	78.20	125.80	74.12	87.84	138.04
13	48.75	53.72	66.33	81.60	132.60	76.84	91.44	146.20
14	50.25	55.08	69.01	85.00	139.40	79.56	95.04	153.68
15	51.75	57.12	71.02	88.40	145.52	82.28	98.64	161.84
16	54.00	59.16	73.03	92.48	151.64	85.00	102.24	169.32
17	55.50	60.52	75.71	95.88	157.08	87.72	105.84	176.80
18	57.00	62.56	77.72	99.28	161.84	90.44	110.16	184.28
19	60.25	65.60	80.40	102.68	167.28	93.16	114.48	191.76
20	61.75	66.96	83.41	106.08	172.04	95.88	118.80	199.24
21	63.25	69.00	85.42	109.48	176.80	97.92	123.12	205.36
22	64.75	70.36	88.10	112.88	182.24	100.64	126.72	211.48
23	66.25	72.40	90.11	116.28	187.00	103.36	130.32	216.24
24	68.50	74.44	92.79	119.68	192.44	106.08	133.92	221.00
25	71.00	76.80	95.80	123.08	197.20	108.80	137.52	226.44
26	72.50	78.84	97.81	126.48	202.64	111.52	141.12	231.20
27	75.00	81.20	100.49	129.20	207.40	114.24	144.72	235.96
28	76.50	83.24	102.50	132.60	212.84	116.96	148.32	241.40
29	78.00	84.60	104.51	136.00	217.60	119.68	151.92	246.16
30	80.25	87.32	107.86	140.76	225.08	123.76	155.52	253.64
31	82.75	90.36	111.54	144.16	229.84	126.48	159.12	259.08
32	84.25	91.72	113.55	147.56	235.28	129.20	162.72	263.84
33	86.75	94.08	116.23	150.96	240.04	131.92	166.32	269.28
34	89.00	94.76	118.24	154.36	245.48	134.64	169.92	274.04
35	91.50	97.12	120.25	157.76	250.92	137.36	173.52	279.48
36	93.00	98.48	123.93	160.48	255.68	140.08	177.12	284.24
37	95.50	100.84	125.94	163.88	261.12	142.80	180.72	289.68
38	97.00	102.20	128.62	167.28	265.88	145.52	184.32	294.44
39	99.50	104.56	130.63	170.68	270.64	148.24	187.92	299.20
40	101.00	105.92	132.64	174.08	274.72	150.96	191.52	304.64
41	103.50	108.28	136.32	177.48	279.48	153.68	195.12	309.40
42	106.50	109.64	138.33	180.88	284.24	156.40	198.72	314.84
43	108.00	111.00	141.01	184.28	289.00	159.12	202.32	319.60
44	109.50	111.68	144.02	187.68	293.76	161.84	205.92	325.04
45	112.75	114.04	147.70	190.40	298.52	164.56	209.52	329.80
46	114.25	115.40	150.71	193.80	303.28	167.28	213.12	334.56
47	115.75	116.08	153.72	197.20	307.36	170.00	216.72	340.00
48	118.25	118.44	157.40	200.60	312.12	172.72	220.32	344.76
49	120.50	119.80	159.41	204.00	316.88	175.44	223.92	350.20
50	123.00	122.84	163.43	209.44	325.04	179.52	227.52	359.04
51	126.00	124.20	165.44	212.84	329.80	179.52	231.12	369.24
52	127.50	126.56	168.12	216.24	334.56	184.96	234.72	369.24
53	129.00	128.92	170.13	219.64	339.32	187.68	238.32	380.12
54	131.25	130.60	172.81	223.04	344.08	190.40	241.92	380.12
55	133.00	132.96	174.82	226.44	348.84	192.44	245.52	388.96
56	134.50	134.64	177.50	229.84	353.60	195.84	249.12	388.96
57	137.25	137.00	180.51	233.24	358.36	197.88	252.72	397.12
58	139.00	138.68	183.52	236.64	362.44	201.28	256.32	397.12
59	141.50	141.04	186.20	240.04	367.20	203.32	259.92	405.96
60	143.25	143.40	189.21	243.44	371.96	206.72	263.52	405.96
61	145.75	145.08	191.89	246.84	376.72	208.76	267.12	416.16
62	147.50	146.76	193.90	249.56	380.80	212.84	270.72	416.16
63	149.25	149.12	196.58	252.96	386.24	214.20	274.32	426.36
64	151.00	150.80	200.59	256.36	388.28	218.28	277.92	426.36
65	152.75	153.16	203.27	259.76	395.76	219.64	281.52	436.56
66	154.50	154.84	205.28	263.16	395.76	223.72	285.12	436.56
67	156.25	157.20	209.29	266.56	403.24	225.08	288.72	446.76
68	158.00	159.56	211.97	269.96	404.60	229.16	292.32	446.76
69	160.75	161.24	213.98	273.36	410.72	230.52	295.92	456.96
70	162.50	162.92	216.66	276.76	410.72	234.60	299.52	456.96

216.366 Non-Document Rates With 12-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5								
1	27.00	27.46	33.16	34.20	43.35	37.28	45.40	55.76
2	30.75	30.15	35.64	36.75	48.80	39.40	47.44	65.28
3	33.00	34.17	38.12	41.60	55.90	42.88	50.84	74.12
4	35.25	36.85	41.60	46.15	65.00	46.72	54.60	81.60
5	37.50	40.20	46.08	50.70	73.45	51.20	57.36	91.12
6	39.00	42.21	49.28	55.25	81.90	54.40	62.12	99.28
7	41.25	44.22	51.84	59.15	89.70	58.24	64.88	107.44
8	42.75	47.57	55.04	63.70	97.50	61.44	68.64	115.60
9	44.25	49.58	58.24	68.25	105.95	64.64	71.40	123.76
10	46.50	51.59	60.80	72.15	115.05	68.48	76.16	129.20
11	48.00	53.60	64.00	75.40	121.55	71.68	80.24	140.08
12	49.50	55.61	66.56	79.30	128.05	74.24	83.64	148.24
13	51.75	57.62	68.48	82.55	134.55	76.80	87.72	156.40
14	53.25	58.96	71.04	85.80	141.05	79.36	91.12	163.88
15	54.75	60.97	72.96	89.05	148.85	83.84	94.52	172.04
16	57.00	62.98	74.88	92.95	154.70	86.40	97.92	179.52
17	58.50	64.99	77.44	96.20	159.90	88.96	101.32	187.00
18	60.00	67.00	79.36	99.45	164.45	91.52	105.40	194.48
19	64.25	71.01	81.92	102.70	169.65	94.08	109.48	201.96
20	67.25	73.69	85.84	107.25	174.20	96.64	113.56	209.44
21	68.75	75.70	87.76	110.50	178.75	98.56	117.64	215.56
22	72.25	79.04	92.32	113.75	183.95	101.12	121.04	221.68
23	73.75	81.05	94.24	117.00	188.50	103.68	124.44	226.44
24	77.00	84.06	97.80	120.25	193.70	106.24	127.84	231.20
25	78.50	85.40	99.72	123.50	198.25	108.80	131.24	236.64
26	81.00	87.74	103.92	126.75	203.45	111.36	134.64	241.40
27	82.50	88.41	106.48	129.35	208.00	113.92	138.04	246.16
28	85.00	91.42	109.40	132.60	213.20	116.48	141.44	251.60
29	86.50	92.76	111.32	135.85	217.75	119.04	144.84	256.36
30	88.75	95.44	114.52	140.40	224.90	122.68	148.24	263.84
31	90.25	97.45	117.08	143.65	229.45	125.44	151.64	269.28
32	91.75	98.79	119.00	146.90	234.65	128.00	155.04	274.04
33	95.25	102.13	123.56	150.15	239.20	130.56	158.44	279.48
34	97.50	103.47	125.48	153.40	244.40	133.12	161.84	284.24
35	99.00	104.81	127.40	156.65	249.60	135.68	165.24	293.08
36	100.50	106.15	129.96	159.25	254.15	138.24	168.64	297.84
37	102.00	107.49	131.88	162.50	259.35	140.80	172.04	303.28
38	103.50	108.83	134.44	165.75	263.90	143.36	175.44	308.04
39	105.00	110.17	136.36	169.00	268.45	145.92	178.84	312.80
40	109.50	114.51	141.28	174.20	272.35	148.48	182.24	318.24
41	111.00	115.85	143.84	177.45	276.90	151.04	185.64	323.00
42	116.00	119.19	147.76	180.70	281.45	153.60	189.04	328.44
43	117.50	120.53	150.32	183.95	286.00	156.16	192.44	333.20
44	119.00	121.20	152.24	187.20	290.55	158.72	195.84	338.64
45	121.25	122.54	154.80	191.75	295.10	161.28	199.24	343.40
46	123.75	124.88	157.72	195.00	299.65	163.84	202.64	344.76
47	125.25	125.55	159.64	198.25	303.55	166.40	206.04	350.20
48	126.75	128.89	164.20	201.50	308.10	168.96	209.44	354.96
49	130.25	130.23	166.12	204.75	312.65	171.52	212.84	360.40
50	131.00	132.24	169.96	208.00	320.45	175.36	216.24	369.24
51	134.00	133.58	171.88	211.25	323.70	176.64	219.64	379.44
52	135.50	134.92	174.44	214.50	328.25	180.48	223.04	379.44
53	139.00	138.26	178.36	217.75	332.80	183.04	226.44	390.32
54	141.25	138.93	180.92	221.00	337.35	185.60	229.84	390.32
55	142.00	140.27	182.84	224.25	341.90	187.52	233.24	399.16
56	143.50	140.94	185.40	227.50	346.45	190.72	236.64	399.16
57	145.25	143.28	188.32	230.75	351.00	192.64	240.04	407.32
58	146.00	143.95	190.24	234.00	354.90	195.84	243.44	407.32
59	147.50	145.29	192.80	237.25	359.45	197.76	246.84	416.16
60	147.50	146.63	194.72	240.50	364.00	200.96	250.24	416.16
61	151.00	151.31	199.28	243.75	368.55	202.88	253.64	426.36
62	151.75	151.98	201.20	246.35	372.45	206.72	257.04	426.36
63	152.50	153.32	203.76	249.60	377.65	208.00	260.44	436.56
64	155.25	155.99	207.68	252.85	379.60	211.84	263.84	436.56
65	156.00	157.33	210.24	256.10	386.75	213.12	267.24	446.76
66	156.75	158.00	212.16	259.35	386.75	216.96	270.64	446.76
67	157.50	159.34	214.08	262.60	393.90	218.24	274.04	456.96
68	159.25	161.68	217.64	265.85	395.20	222.08	277.44	456.96
69	160.00	162.35	219.56	269.10	401.05	223.36	280.84	467.16
70	160.75	163.02	222.12	272.35	401.05	227.20	284.24	467.16

216.367 Document Rates With 20-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5	19.52	19.25	21.80	21.80	29.25	25.45	28.80	42.25
1	24.09	23.10	26.35	29.25	33.80	30.55	32.20	48.75
2	27.74	26.00	29.90	33.80	42.25	35.75	36.40	57.85
3	29.20	29.90	34.45	38.35	51.35	40.30	42.00	65.65
4	31.39	32.50	39.00	42.90	60.45	44.20	47.60	72.80
5	33.58	35.75	43.55	47.45	68.90	48.75	52.50	80.60
6	35.04	37.70	46.80	52.00	77.35	52.00	57.40	88.40
7	37.23	39.65	49.40	55.90	85.15	55.90	62.30	96.20
8	38.69	42.25	52.00	60.45	92.95	59.15	67.20	104.00
9	40.15	44.20	55.25	65.00	101.40	62.40	72.10	111.80
10	42.34	45.50	57.85	67.60	107.25	66.30	77.00	117.00
11	43.80	47.45	59.80	70.85	113.75	68.25	81.20	124.15
12	45.26	49.40	62.40	74.75	120.25	70.85	85.40	131.95
13	47.45	51.35	64.35	78.00	126.75	73.45	88.90	139.75
14	48.91	52.65	66.95	81.25	133.25	76.05	92.40	146.90
15	50.37	54.60	68.90	84.50	139.10	78.65	95.90	154.70
16	52.56	56.55	70.85	88.40	144.95	81.25	99.40	161.85
17	54.02	57.85	73.45	91.65	150.15	83.85	102.90	169.00
18	55.48	59.80	75.40	94.90	154.70	86.45	107.10	176.15
19	58.67	62.75	78.00	98.15	159.90	89.05	111.30	183.30
20	60.13	64.05	80.95	101.40	164.45	91.65	115.50	190.45
21	61.59	66.00	82.90	104.65	169.00	93.60	119.70	196.30
22	63.05	67.30	85.50	107.90	174.20	96.20	123.20	202.15
23	64.51	69.25	87.45	111.15	178.75	98.80	126.70	206.70
24	66.70	71.20	90.05	114.40	183.95	101.40	130.20	211.25
25	69.16	73.50	93.00	117.65	188.50	104.00	133.70	216.45
26	70.62	75.45	94.95	120.90	193.70	106.60	137.20	221.00
27	73.08	77.75	97.55	123.50	198.25	109.20	140.70	225.55
28	74.54	79.70	99.50	126.75	203.45	111.80	144.20	230.75
29	76.00	81.00	101.45	130.00	208.00	114.40	147.70	235.30
30	78.19	83.60	104.70	134.55	215.15	118.30	151.20	242.45
31	80.65	86.55	108.30	137.80	219.70	120.90	154.70	247.65
32	82.11	87.85	110.25	141.05	224.90	123.50	158.20	252.20
33	84.57	90.15	112.85	144.30	229.45	126.10	161.70	257.40
34	86.76	90.80	114.80	147.55	234.65	128.70	165.20	261.95
35	89.22	93.10	116.75	150.80	239.85	131.30	168.70	267.15
36	90.68	94.40	120.35	153.40	244.40	133.90	172.20	271.70
37	93.14	96.70	122.30	156.65	249.60	136.50	175.70	276.90
38	94.60	98.00	124.90	159.90	254.15	139.10	179.20	281.45
39	97.06	100.30	126.85	163.15	258.70	141.70	182.70	286.00
40	98.52	101.60	128.80	166.40	262.60	144.30	186.20	291.20
41	100.98	103.90	132.40	169.65	267.15	146.90	189.70	295.75
42	103.90	105.20	134.35	172.90	271.70	149.50	193.20	300.95
43	105.36	106.50	136.95	176.15	276.25	152.10	196.70	305.50
44	106.82	107.15	139.90	179.40	280.80	154.70	200.20	310.70
45	110.01	109.45	143.50	182.00	285.35	157.30	203.70	315.25
46	111.47	110.75	146.45	185.25	289.90	159.90	207.20	319.80
47	112.93	111.40	149.40	188.50	293.80	162.50	210.70	325.00
48	115.39	113.70	153.00	191.75	298.35	165.10	214.20	329.55
49	117.58	115.00	154.95	195.00	302.90	167.70	217.70	334.75
50	120.04	117.95	158.85	200.20	310.70	171.60	221.20	343.20
51	122.96	119.25	160.80	203.45	315.25	171.60	224.70	352.95
52	124.42	121.55	163.40	206.70	319.80	176.80	228.20	352.95
53	125.88	123.85	165.35	209.95	324.35	179.40	231.70	363.35
54	128.07	125.50	167.95	213.20	328.90	182.00	235.20	363.35
55	129.80	127.80	169.90	216.45	333.45	183.95	238.70	371.80
56	131.26	129.45	172.50	219.70	338.00	187.20	242.20	371.80
57	133.99	131.75	175.45	222.95	342.55	189.15	245.70	379.60
58	135.72	133.40	178.40	226.20	346.45	192.40	249.20	379.60
59	138.18	135.70	181.00	229.45	351.00	194.35	252.70	388.05
60	139.91	138.00	183.95	232.70	355.55	197.60	256.20	388.05
61	142.37	139.65	186.55	235.95	360.10	199.55	259.70	397.80
62	144.10	141.30	188.50	238.55	364.00	203.45	263.20	397.80
63	145.83	143.60	191.10	241.80	369.20	204.75	266.70	407.55
64	147.56	145.25	195.05	245.05	371.15	208.65	270.20	407.55
65	149.29	147.55	197.65	248.30	378.30	209.95	273.70	417.30
66	151.02	149.20	199.60	251.55	378.30	213.85	277.20	417.30
67	152.75	151.50	203.55	254.80	385.45	215.15	280.70	427.05
68	154.48	153.80	206.15	258.05	386.75	219.05	284.20	427.05
69	157.21	155.45	208.10	261.30	392.60	220.35	287.70	436.80
70	158.94	157.10	210.70	264.55	392.60	224.25	291.20	436.80

216.368 Non-Document Rates With 20-Piece Discount

Weight not over (lbs.)	Rate group 1	Rate group 2	Rate group 3	Rate group 4	Rate group 5	Rate group 6	Rate group 7	Rate group 8
0.5								
1	26.28	26.70	32.28	33.76	41.58	36.24	43.75	53.30
2	29.93	29.25	34.62	34.10	44.64	38.20	45.70	62.40
3	32.12	33.15	37.96	39.68	53.32	41.54	48.95	70.85
4	34.31	35.75	40.30	44.02	62.00	45.26	52.50	78.00
5	36.50	39.00	44.64	48.36	70.06	49.60	55.05	87.10
6	37.96	40.95	47.74	52.70	78.12	52.70	59.60	94.90
7	40.15	42.90	50.22	56.42	85.56	56.42	62.15	102.70
8	41.61	46.15	53.32	60.76	93.00	59.52	65.70	110.50
9	43.07	48.10	56.42	65.10	101.06	62.62	68.25	118.30
10	45.26	50.05	58.90	68.82	109.74	66.34	72.80	123.50
11	46.72	52.00	62.00	71.92	115.94	69.44	76.70	133.90
12	48.18	53.95	64.48	75.64	122.14	71.92	79.95	141.70
13	50.37	55.90	66.34	78.74	128.34	74.40	83.85	149.50
14	51.83	57.20	68.82	81.84	134.54	76.88	87.10	156.65
15	53.29	59.15	70.68	84.94	141.98	81.22	90.35	164.45
16	55.48	61.10	72.54	88.66	147.56	83.70	93.60	171.60
17	56.94	63.05	75.02	91.76	152.52	86.18	96.85	178.75
18	58.40	65.00	76.88	94.86	156.86	88.66	100.75	185.90
19	62.59	68.95	79.36	97.96	161.82	91.14	104.65	193.05
20	65.51	71.55	83.22	102.30	166.16	93.62	108.55	200.20
21	66.97	73.50	85.08	105.40	170.50	95.48	112.45	206.05
22	70.43	76.80	89.56	108.50	175.46	97.96	115.70	211.90
23	71.89	78.75	91.42	111.60	179.80	100.44	118.95	216.45
24	75.08	81.70	94.90	114.70	184.76	102.92	122.20	221.00
25	76.54	83.00	96.76	117.80	189.10	105.40	125.45	226.20
26	79.00	85.30	100.86	120.90	194.06	107.88	128.70	230.75
27	80.46	85.95	103.34	123.38	198.40	110.36	131.95	235.30
28	82.92	88.90	106.20	126.48	203.36	112.84	135.20	240.50
29	84.38	90.20	108.06	129.58	207.70	115.32	138.45	245.05
30	86.57	92.80	111.16	133.92	214.52	119.04	141.70	252.20
31	88.03	94.75	113.64	137.02	218.86	121.52	144.95	257.40
32	89.49	96.05	115.50	140.12	223.82	124.00	148.20	261.95
33	92.95	99.35	119.98	143.22	228.16	126.48	151.45	267.15
34	95.14	100.65	121.84	146.32	233.12	128.96	154.70	271.70
35	96.60	101.95	123.70	149.42	238.08	131.44	157.95	280.15
36	98.06	103.25	126.18	151.90	242.42	133.92	161.20	284.70
37	99.52	104.55	128.04	155.00	247.38	136.40	164.45	289.90
38	100.98	105.85	130.52	158.10	251.72	138.88	167.70	294.45
39	102.44	107.15	132.38	161.20	256.06	141.36	170.95	299.00
40	106.90	111.45	137.24	166.16	259.78	143.84	174.20	304.20
41	108.36	112.75	139.72	169.26	264.12	146.32	177.45	308.75
42	113.28	116.05	143.58	172.36	268.46	148.80	180.70	313.95
43	114.74	117.35	146.06	175.46	272.80	151.28	183.95	318.50
44	116.20	118.00	147.92	178.56	277.14	153.76	187.20	323.70
45	118.39	119.30	150.40	182.90	281.48	156.24	190.45	328.25
46	120.85	121.60	153.26	186.00	285.82	158.72	193.70	329.55
47	122.31	122.25	155.12	189.10	289.54	161.20	196.95	334.75
48	125.77	125.55	159.60	192.20	293.88	163.68	200.20	339.30
49	127.23	126.85	161.46	195.30	298.22	166.16	203.45	344.50
50	127.96	128.80	165.18	198.40	305.66	169.88	206.70	352.95
51	130.88	130.10	167.04	201.50	308.76	171.12	209.95	362.70
52	132.34	131.40	169.52	204.60	313.10	174.84	213.20	362.70
53	135.80	134.70	173.38	207.70	317.44	177.32	216.45	373.10
54	137.99	135.35	175.86	210.80	321.78	179.80	219.70	373.10
55	138.72	136.65	177.72	213.90	326.12	181.66	222.95	381.55
56	140.18	137.30	180.20	217.00	330.46	184.76	226.20	381.55
57	141.91	139.60	183.06	220.10	334.80	186.62	229.45	389.35
58	142.64	140.25	184.92	223.20	338.52	189.72	232.70	389.35
59	144.10	141.55	187.40	226.30	342.86	191.58	235.95	397.80
60	144.10	142.85	189.26	229.40	347.20	194.68	239.20	397.80
61	147.56	147.45	193.74	232.50	351.54	196.54	242.45	407.55
62	148.29	148.10	195.60	234.98	355.26	200.26	245.70	407.55
63	149.02	149.40	198.06	238.08	360.22	201.50	248.95	417.30
64	151.75	152.05	201.94	241.18	362.08	205.22	252.20	417.30
65	152.48	153.35	204.42	244.28	368.90	206.46	255.45	427.05
66	153.21	154.00	206.28	247.38	368.90	210.18	258.70	427.05
67	153.94	155.30	208.14	250.48	375.72	211.42	261.95	436.80
68	155.67	157.60	211.62	253.58	376.96	215.14	265.20	436.80
69	156.40	158.25	213.48	256.68	382.54	216.38	268.45	446.55
70	157.13	158.90	215.96	259.78	382.54	220.10	271.70	446.55

* * * * *

Stanley F. Mires,
Chief Counsel, Legislative.
[FR Doc. 01–31168 Filed 12–19–01; 8:45 am]
BILLING CODE 7710–12–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Thursday,
December 20, 2001

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

---

48 CFR Parts 1, 36, and 53
Federal Acquisition Regulation; New Consolidated Form for Selection of Architect-Engineer Contractors; Proposed Rule

VOL 66 ISS 245 DE 20 2001 UMI

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 36, and 53

[FAR Case 2000–608 (Extension of Comment Period)]

RIN 9000–AJ15

Fedral Acquisition Regulation; New Consolidated Form for Selection of Architect-Engineer Contractors

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice; extension of comment period.

SUMMARY: On October 19, 2001 66 FR 53314, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) proposed to amend the Federal Acquisition Regulation (FAR) to replace SF 254, Architect-Engineer and Related Services Questionnaire, and SF 255, Architect-Engineer and Related Services Questionnaire for Specific Projects, with SF 330, Architect-Engineer Qualifications. This notice extends the comment period for the proposed rule to January 8, 2002.

DATES: Interested parties should submit comments in writing on or before January 8, 2002 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: *farcase.2000–608@gsa/gov*

Please submit comments only and cite FAR case 2000–608 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contract Ms. Cecelia L. Davis, Procurement Analyst, at (202) 219–0202. Please cite FAR case 2000–608.

Dated: December 14, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–31304 Filed 12–19–01; 8:45 am]

BILLING CODE 6820–EP–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
LITTERA SCRIPTA MANET
1985

Federal Register

Thursday,
December 20, 2001

Part IV

Department of Education

National Assessment of Educational Progress (NAEP), Secondary Analysis Program; Notice

VOL 66 ISS 245 DE 20 2001 UMI

DEPARTMENT OF EDUCATION

[CFDA No. 84.902B]

National Assessment of Educational Progress (NAEP), Secondary Analysis Program

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Program: To encourage the preparation of reports that would not otherwise be available and that apply new approaches to the analysis and reporting of the NAEP and NAEP High School Transcript Studies data. Analyses and reports prepared under this program should potentially be useful to the general public, parents, educators, educational researchers, or policy makers.

For FY 2002, the competition for new awards focuses on projects designed to meet the priorities we describe in the PRIORITIES section of this application notice.

Eligible Applicants: Public or private organizations and consortia of organizations.

Applications Available: December 21, 2001.

The application package for this competition is also available on line at: *http://ed.gov/GrantApps/*

Deadline for Transmittal of Applications: March 8, 2002.

Estimated Available Funds: $700,000. The estimated amount of funds available for new awards is based on the Administration's request for NAEP for FY 2002. The actual level of funding for the secondary analysis program, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $15,000—$100,000.

Estimated Average Size of Awards: $85,000.

Maximum Award: We will reject any application that proposes a budget exceeding $100,000 for a single budget period of 18 months.

Estimated Number of Awards: 6–8.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 60 pages, using the following standards:

- A page is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except for those provisions of part 75 noted in 34 CFR 700.5(a)), 77, 80, 81, 82, 85, 86, 97, 98, and 99. (b) The regulations in 34 CFR part 700.

Priorities

Invitational Priorities

We are particularly interested in applications that meet one or more of the invitational priorities listed in this section of this notice. Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of the priorities a competitive or absolute preference over other applications.

Invitational Priority 1—Projects that use NAEP achievement data alone or in combination with other data sets to assist policy makers and educators who make decisions about curriculum and instruction.

Invitational Priority 2—Projects designed to assist States in analyzing, interpreting and reporting their State-level NAEP results.

Invitational Priority 3—Projects that include the development of analytic procedures that improve precision with which NAEP estimates group and subgroup performance.

Invitational Priority 4—Projects that develop improved sampling procedures for national or State-level NAEP.

Invitational Priority 5—Projects to analyze and report data using statistical software developed by the project to permit more advanced analytic techniques to be readily applied to NAEP data.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Alex Sedlacek, U.S. Department of Education, 1990 K Street, NW., room 8007, Washington, DC 20006. Telephone: (202) 502–7446 or via Internet: *Alex.Sedlacek@ed.gov*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT**.

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the program person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.** However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 9010.

Dated: December 17, 2001.

Grover J. Whitehurst,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 01–31363 Filed 12–19–01; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Thursday,
December 20, 2001

Part V

Department of Agriculture

Forest Service

Forest Transportation System Analysis; Roadless Area Protection; Notice

VOL 66 ISS 245 DE 20 2001 UMI

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AB90

Forest Transportation System Analysis; Roadless Area Protection

AGENCY: Forest Service, USDA.

ACTION: Notice of interim administrative directives, request for comment.

SUMMARY: On January 12, 2001, corollary with revisions to the Forest Transportation System rules at 36 CFR part 212, the Forest Service adopted a revised administrative policy to guide transportation planning, analysis, and management, especially road management in the National Forest System. One element of that policy authorized road construction and reconstruction in inventoried roadless areas and contiguous unroaded areas only if the Regional Forester determined that the project met a compelling need, a roads analysis was conducted, and an EIS prepared. The interim requirements were to remain in effect until each unit completed a forest-scale roads analysis and forest plan review, amendment, or revision. Following extensive roads analysis implementation training and field review of the entire road management policy, new Interim Directives (ID's) to Forest Service Manual Chapters 1920 and 7710 have been issued. These ID's streamline, clarify, and consolidate, with related planning direction, the inventoried roadless area interim requirements. The new ID to FSM 7710 also clarifies the flexibility of line officers in determining the application of the roads analysis process. The intended effect is to improve the agency's ability to implement these policies consistently and to stabilize roadless area management. Comments are invited and will be considered in adoption of final revised directives.

DATES: Interim Directive Nos. 1920–2001–1 and 7710–2001–3 were effective December 14, 2001. Comments must be submitted in writing on or before February 19, 2002.

ADDRESSES: Written comments concerning these Interim Directives should be sent to USFS CAT, Attention: Road Policy, P.O. Box 221150, Salt Lake City, UT, 84122; via e-mail to *roads_id@fs.fed.us;* or via facsimile to USFS CAT, Attention: Road Policy, at 801–517–1021.

FOR FURTHER INFORMATION CONTACT: Questions about this action should be addressed to Mike Ash, Deputy Director of Engineering, 703–605–4646, or Heidi Valetkevitch, Office of Communications, 202–205–0914.

SUPPLEMENTARY INFORMATION:

Contents

- Background
- Revisions to Road Management Directives
- Regulatory Certifications
- Conclusion
- Revisions to Forest Service Road Mangement Directives
- Inventoried Roadless Areas

Background

The Forest Service Road Management Strategy adopted January 12, 2001, (66 FR 3219) consisted of revisions to the rules governing the Forest Transportation System at 36 CFR part 212 and revisions of the agency's administrative directives on the transportation system in Forest Service Manual (FSM) Chapter 7700 Zero Code and Chapter 7710, transportation atlas, records, and analysis. The rule directs the Responsible Official of each National Forest, Grassland, or other unit of the National Forest System to perform a comprehensive analysis of the road system within the unit and to document the overall forest transportation system in a transportation atlas.

Issued concurrently with the final rule, the Forest Service administrative directives to FSM Chapter 7710 established standards for creation of the road atlas and for determining the scope and scale of roads analyses needed to inform road management decisions; that is, road construction, reconstruction, or decommissioning. Additionally, the revision of Forest Service Manual Chapter 7710 included interim requirements that, rather than addressing the transportation atlas, record, or analysis, imposed a significant restriction on road construction or reconstruction in inventoried roadless areas and contiguous unroaded areas until a forest-scale roads analysis was completed and incorporated into the Forest plan.

Upon adoption of the road management rule and directives in January 2001, the Forest Service began extensive implementation training on application of the science-based roads analysis process mandated by FSM 7712.1; on creating the road atlas; and on complying with the other elements of the road management directives. Since the training began, many Forest Service transportation managers have informed the Chief's office that the deadlines for compliance are unworkable, considering the level of detail and the variety of information required and the amount of training necessary before the analysis can begin. Moreover, conducting the newly required roads analysis has, in some cases, conflicted with seasonal workload demands, especially in light of the need for restoration work after last year's devastating fire season. Additionally, pursuant to a late January memorandum from the President's Chief of Staff to cabinet members, the Secretary of Agriculture began a review of the roadless area rule, also adopted on January 12, 2001, and the Chief of the Forest Service undertook a review of the road management policy. These reviews have led the agency to initiate several Interim Directives (ID's).

The first Interim Directive (ID No. 7710–2001–1, issued May 31, 2001) reflected the Chief's goal of encouraging and relying on local expertise and authority over forest-level issues as much as possible. As adopted January 12, 2001, Forest Service Manual section 7712.15, paragraph 2a, (FSM 7712.15, para. 2a,) required, with some exceptions, all units to complete a forest-scale roads analysis by January 13, 2003. Further, under paragraph 2b, of this section, only the Chief could approve an extension. Recognizing that Regional Foresters are better informed of particular management challenges facing individual national forests and grasslands and their annual programs of work, ID No. 7710–2001–1 (May 31, 2001) delegated the authority to extend the deadline for completing the forest-scale roads analysis to Regional Foresters. Secondly, in response to field concerns about the impending July 12 deadline by which all road management decisions must be informed by a roads analysis, ID No. 7710–2001–1 extended the deadline to January 12, 2002. Notice of the May 31 ID was published in the **Federal Register** on August 24, 2001 (66 FR 44590), with a request for comment.

The Chief announced in a June 7, 2001, letter the importance of managing and protecting inventoried roadless areas as an important component of the National Forest System and that he would reserve the authority to make decisions, except in specific circumstances, regarding road management activities and timber harvesting in those areas. Two Interim Directives, ID No. 7710–2001–2 and ID No. 2400–2001–3, were issued on July 27, 2001, to implement the Chief's announcement.

In a letter to Regional Foresters dated June 12, 2001, the Deputy Chief for National Forest Systems, noting the Chief's June 7, announcement, asked Regional Foresters and Forest Supervisors to review the road management policy to identify any provisions that they believe should be revised.

Responses from field units to the Deputy Chief's June 12 letter included the following recommendations:

1. Retain the rule revisions at 36 CFR part 212 without change, as there are no burdensome or confusing provisions in the rule and FSM Chapter 7700 Zero Code or this directive;
2. Allow for decisions to be made as close to the ground as practicable;
3. Clarify the local manager's flexibility and discretion to conduct roads analysis for proposed actions (FSM Chapter 7710); and
4. Limit the scope of the interim requirements (FSM 7712.16) to inventoried roadless areas, because of the ambiguities of identifying and mapping contiguous unroaded areas as described in FSM 7712.16 and because some of the maps of inventoried roadless areas cover some contiguous unroaded lands.

In addition to these recommendations, the Forest Service recognized that the incremental issuance of directives on road management and roadless areas had caused confusion for some employees and the public alike and, therefore, that the agency needed to consolidate earlier directives in a way that clarified intent.

Revisions to Road Management Directives

The review of the road management policy has resulted in the issuance of two new Interim Directives—one to FSM Chapter 7710—Transportation Atlas, Records, and Analysis, and another to FSM Chapter 1920—Land and Resource Management Planning. The changes related to the interim requirements are explained first, followed by identification of other changes to Chapter 7710.

- *Interim Requirements (FSM 7712.16–7712.16d).* When Chapter 7710 was adopted in January 2001, it included a new section 7712.16 entitled "Interim Requirements for Road Construction/Reconstruction in Inventoried Roadless and Contiguous Unroaded Areas." This section was based on a similar section, entitled "Transition Procedures," in the proposed policy published March 3, 2000, in Part III of the **Federal Register** (65 FR 11676–11693). This section of the proposed policy was controversial and was substantially revised in the final directive, both to strengthen restrictions on entering these areas and to clarify the agency's intent.

As adopted, January 12, 2001, the interim requirements set out in FSM 7712.16–7712.16d provided the following:

1. Road construction or reconstruction in inventoried roadless areas and contiguous unroaded areas could not be authorized unless there was a *compelling need* for the activity; an Environmental Impact Statement was prepared; a science-based roads analysis was conducted on the proposal; and the Regional Forester served as the Responsible Official.
2. Examples of compelling needs for roads were provided. Additionally, the Regional Forester for the Alaska Region was given authority to determine that meeting market demand for timber from the Tongass National Forest constitutes a compelling need.
3. Environmental mitigation or restoration activities on unclassified roads were appropriate but not reconstruction and maintenance of unclassified roads.
4. Certain road management actions were exempted from the interim requirements:
   a. Roads needed for public health and safety in cases of imminent threat of catastrophic events threatening loss of life or property;
   b. Roads needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural resource restoration under CERCLA, the Clean Water Act, or Oil Pollution Act; and
   c. Road construction needed in conjunction with the continuation, extension, or renewal of an existing mineral lease or issuance of a new lease upon expiration of an existing lease.

Based on the internal review of the road management direction (FSM 7712.16–7712.16d), the agency has made several modifications to the interim requirements.

1. *Contiguous Unroaded Areas.* Given the difficulty of identifying contiguous unroaded areas, the agency has concluded that the interim requirements of FSM 7712.16b could be interpreted as preventing the agency from undertaking *any* road management activity within proximity of an inventoried roadless area. This ambiguity would lead to confusion and inconsistencies across the agency. Moreover, the protection of unroaded values should not be determined solely on the basis of acreage, which is the approach adopted in the January directive. Instead, the boundaries of unroaded areas should be based on conditions and characteristics of the landscape and identified within the context of land and resource management planning. The agency already has a regulatory requirement to review inventoried roadless areas during the forest plan revision process. At that time, the Responsible Official determines the need to add contiguous land or to subtract from previously identified inventoried roadless areas and establishes their management direction. For all these reasons, the agency has removed "contiguous unroaded areas" from the interim requirements.

2. *EIS Requirement.* The agency also has dropped the requirement for an Environmental Impact Statement (EIS) for road management activities proposed in inventoried roadless areas. The National Environmental Planning Act (NEPA) rules and procedures established by the Council on Environmental Quality (CEQ) govern the level of analysis required when the agency considers proposed actions. Briefly, under the Act and CEQ regulations, it is the nature of a proposed action that determines the environmental analysis and documentation required. A blanket requirement for an EIS would result in needless expenditures of public resources in those cases where only minor surface disturbance would occur. In fact, in the course of the agency's review of the interim requirements, a number of forests reported situations where a new road or road reconstruction would traverse a quarter mile or less of roadless areas and, therefore, require preparation of an EIS, even though the effects would be so minimal as to be sufficiently disclosed in an Environmental Assessment. Several of these situations were reported to be impeding access to oil and gas leasing or other mining operations.

Removal of the EIS requirement does not reduce the agency's environmental analysis and disclosure obligation. The Forest Service has a directive provision that requires preparation of an EIS whenever any activity would substantially alter the character of an inventoried roadless area (FSH 1909.15, sec. 20.6). All projects remain subject to NEPA requirements. Involvement by the public, States, Tribes, and other interested parties will continue to help identify the issues to be addressed related to inventoried roadless areas, and issues associated with roadless values will continue to be addressed through roads analysis and compliance with regulations and procedures of NEPA, 40 CFR part 1500–1508, and Forest Service Handbook 1909.15.

3. *Relocation of Interim Requirements.* In addition to the preceding modifications, the agency has concluded that the interim requirements should be removed from Chapter 7710 because the primary focus of Chapter

7710 is on transportation records and analysis, not protection of special areas. Consequently, the modified interim requirements have been moved to a new section 1925 in the planning chapter of the Forest Service Manual (FSM Chapter 1920) to provide guidance for addressing road management activities until land management plans are amended or revised. With this change, Chapter 7710 now focuses appropriately on transportation analysis needed to make better decisions about the scope and funding of the transportation network on each National Forest, Grassland, and Prairie. This relocation of the interim requirements to Chapter 1920 remains consistent with the agency's intent in adopting the final road management directive in January 2001. As explained in the January **Federal Register** notice, the agency retained the transition procedures of the proposed policy (renamed "interim requirements" in the final directive) to ensure that the "values associated with inventoried roadless and contiguous unroaded areas are fully considered within the context of forest planning" (66 FR 3226, Col. 3).

Therefore, simultaneously with issuance of the latest ID No. 7710–2001–3, the agency has issued Interim Directive No. 1920–2001–1 to consolidate the direction on inventoried roadless areas. This ID establishes a policy of protecting the values of these areas and restricts entry for road management activities or timber harvest until a forest scale roads analysis is incorporated into the forest plan. ID No. 1920–2001–1 also incorporates the protections for roadless areas announced by the Chief on June 7, 2001, which were issued in ID Nos. 7710–2001–2 and 2400–2001–3. These previous ID's reserved to the Chief the authority to approve certain road management activities and timber harvest in inventoried roadless areas.

- *Scope and Scale of Roads Analysis.* The other substantive revision of the road management policy in FSM Chapter 7710 is to clarify the local Responsible Official's discretion and flexibility to conduct roads analysis. While the January 2001 directive provided for discretion, many employees did not interpret the directive as allowing much flexibility. Therefore, FSM 7712.13 has been revised to make clearer the use of roads analysis at each of the various scales and the actions that are subject to roads analysis. Also, in response to field employee queries, examples of circumstances where roads analysis may not be necessary have been added to FSM 7712.13c. These include temporary roads for short-term access or a minor extension of a road into a forest campground. Additionally, Exhibit 01 of FSM 7712.13 has been modified to reflect the removal of the interim requirements from FSM Chapter 7710.

Regulatory Certifications

Regulatory Impact

This notice has been reviewed under USDA procedures and Executive Order 12866 on Regulatory Planning and Review. The Office of Management and Budget (OMB) has reviewed this notice and has determined it constitutes a significant action as defined by Executive Order 12866. ID No. 7710–2001–3 provides Service-wide direction to forest and regional personnel about analyzing, planning for, and managing the forest transportation system. ID No. 1920–2001–1 relocates interim requirements regarding inventoried roadless areas from FSM 7712 and FSM 2400 to Chapter 1920.

The costs and benefits of these Interim Directives are necessarily speculative. These directives revise a strategy that provides guidance for transportation planning, but does not dictate land management decisions. Therefore, the agency has chosen to perform a qualitative analysis. As with the effects identified in the Environmental Assessment, the costs and benefits associated with the revisions made by the Interim Directives fall within the range of the Cost-Benefit Analysis (Appendix E) prepared for the January 2001 policy. With the changes made by the Interim Directives, FS estimates that these Interim Directives will have an overall positive economic benefit compared to the January 2001 final policy. In the Environmental Assessment, the Cost-Benefit Analysis (Appendix E) cited a reduction in direct and total jobs as well as timber receipts as a result of the decrease in timber harvest and mineral exploration and extraction in inventoried roadless areas and contiguous unroaded areas as negative effects of the January 2001 policy. The costs of the January 2001 road management policy were based on estimates of miles of road to be constructed or reconstructed and loss of jobs associated with reduced timber harvest in inventoried roadless areas and contiguous unroaded areas. The Forest Service estimated that the eventual implementation of the preferred alternative/final road management strategy on all National Forests could result in an annual decrease in timber harvesting by as much as 170 million board feet, a decrease of 5 percent from current levels if no roads were constructed in any inventoried roadless or contiguous unroaded areas for the purpose of serving timber harvests. This represents a value of 1,039 direct jobs and 1,850 total jobs nationwide. However, in the January EA, it was pointed out that this level of impact was highly unlikely. Since the modified road management policy removes contiguous unroaded areas from the interim requirements, it will be even more unlikely that these levels of impacts would be reached. Additionally, dropping the mandatory requirement to prepare an Environmental Impact Statement (EIS) for all road management activities proposed in inventoried roadless areas and contiguous unroaded areas will eliminate needless expenditures of public resources in those cases where an EIS would not be appropriate.

Under the new Interim Directives, the values and characteristics of these contiguous unroaded areas will still be considered through the roads analysis process, NEPA analysis, and forest planning procedures. Consequently, the agency believes that these areas will not necessarily be at greater risk of road construction/reconstruction, or resource development than was the case when they were subject to the interim requirements of the January 2001 policy. Implementation of the final road management strategy as modified by these Interim Directives would still result in additional protection of watersheds and air resources; wildlife; fish; and threatened, endangered, and sensitive species. It would also still reduce access to some forest resources and the economic and social values associated with those resources. Thus, the impacts of these Directives would fall between the impacts described in the January 2001 Environmental Assessment and accompanying Cost-Benefit Analysis. However, while necessarily speculative, the Forest Service estimates the economic impacts under these Interim Directives will likely be less severe than the estimated impacts associated with the January 2001 policy.

These Interim Directives also have been considered in light of the Regulatory Flexibility Act (5 USC 601 *et seq.*). No direct or indirect financial impact on small businesses or other entities has been identified. Therefore, it is hereby certified that this action will not have a significant economic impact on a substantial number of small entities as defined by the Act.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 USC

1531–1538), the Department has assessed the effects of these Interim Directives on State, local, and Tribal governments, and on the private sector. These directives do not compel the expenditure of $100 million or more by any State, local, or Tribal government, or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

Federalism

The agency has considered these Interim Directives under the requirements of Executive Order 13132, Federalism, and Executive Order 12875, Government Partnerships. The agency has made a preliminary assessment that the Directives conform with the federalism principles set out in these Executive Orders; would not impose any compliance costs on the States; and would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Moreover, these directives address transportation and land management planning processes on National Forests, Grasslands or other units of the National Forest System, which do not directly affect the States. Based on comments received on these directives, the agency will consider if any additional consultation will be needed with State and local governments prior to adopting final directives.

Consultation and Coordination With Indian Tribal Governments

These Interim Directives do not have Tribal implications as defined in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and, therefore, advance consultation with Tribes is not required.

Environmental Impact

Section 31.1(b) of Forest Service Handbook 1909.15 (57 FR 43180, September 18, 1992) excludes from documentation in an environmental impact statement "rules, regulations, or policies to establish service-wide administrative procedures, program processes, or instructions." The Forest Service's assessment is that these new Interim Directives to the Forest Service Manual fall within this category of exclusion. However, the Forest Service elected to prepare an Environmental Assessment (EA) in association with development of the January 12, 2001, administrative policy. In that EA (issued January 2001), the Forest Service examined the potential environmental impacts associated with road policy in effect prior to January 12, 2001, (the "no action" alternative), the road management strategy as originally proposed in March 2000, and the final road management strategy ultimately adopted January 12, 2001. These impacts arose, for the most part, from the interim requirements associated with inventoried roadless areas and contiguous unroaded areas. They included both potential adverse and beneficial impacts to access and public safety; fire, insect, and disease management; timber harvesting and mineral resource development; recreational and non-recreational land uses; fish and wildlife; wilderness values; watershed and air; and social and economic effects.

Overall, the Forest Service expected that, under the final road management strategy analyzed in the EA, more miles of roads would be decommissioned and reconstructed than under the "no-action" alternative, and fewer miles of roads would be constructed than under the "no-action" alternative. Under the latest Interim Directives to FSM Chapters 1920 and 7710, more miles of roads could be constructed or reconstructed in unroaded areas contiguous to inventoried roadless areas than expected under the final road management strategy adopted in January 12, 2001, but there will still be less than the miles of roads than would be constructed or reconstructed under the "no action" alternative.

However, given the difficulty of identifying contiguous unroaded areas, the number of miles of road cannot be quantified. As a consequence of using the science-based roads analysis process, implementation of the final road management strategy as modified by these Interim Directives would still result in additional protection of watersheds and air resources; wildlife; fish; and threatened, endangered, and sensitive species. It would also reduce access to some forest resources and the economic and social values associated with those resources. Thus, the impacts of these new Interim Directives would fall between the impacts described in the January EA for the "no-action" alternative and those described for the final road management strategy.

Because the impacts would fall within the impacts described in the January Road Management Strategy EA, there is no need to modify or reissue the EA prior to issuing these Interim Directives. A new Finding of No Significant Impact (FONSI) has been prepared and is available on the Internet at *www.fs.fed.us/news/roads,* or by writing to the Director of Engineering at the address shown earlier in this notice.

Civil Justice Reform Act

The Interim Directives were reviewed under Executive Order 12988, Civil Justice Reform. The Interim Directives direct the work of Forest Service employees and are not intended to preempt any State and local laws and regulations that might be in conflict or that would impede full implementation of these Directives. The ID's would not retroactively affect existing permits, contracts, or other instruments authorizing the occupancy and use of National Forest System lands and would not require the institution of administrative proceedings before parties may file suit in court challenging these provisions.

Controlling Paperwork Burdens on the Public

The Interim Directive does not contain any record keeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, impose no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 USC 3501, *et seq.*) and implementing regulations at 5 CFR part 1320 do not apply.

Energy Effects

The effects on energy supply and distribution resulting from these Interim Directives were reviewed under Executive Order 13211 of May 18. It was determined that removing the mandatory EIS requirement provisions in FSM 7712.16 will expedite access to oil and gas leases and other energy related projects in a few cases. Otherwise, no other effects were identified. Because these Directives do not significantly affect energy supply, distribution, or use, a Statement of Energy Effects is not required. Additionally, these Interim Directives are also consistent with the intent of the Executive Order 13212 of May 18, 2001, Actions to Expedite Energy Related Projects.

Conclusion

Following the issuance of the road management policy and the roadless area conservation rule on January 12, 2001, the Department and the agency have reviewed those documents to determine if there are impediments to implementation. ID No. 7710–2001–3 represents the culmination of the agency's internal reviews of these practices. With this action, interim requirements related to road construction and reconstruction in inventoried roadless areas are separated from the roads analysis direction and,

VOL 66 ISS 245 DE 20 2001 UMI

instead, revised and relocated to a new section 1925 in FSM Chapter 1920—Land and Resource Management Planning. Additionally, ID No. 1920–2001–1 reflects the decision to remove "contiguous unroaded areas" from the scope of the interim requirements. In ID No. 7710–2001–3, FSM 7710.13 is revised to clarify the line officer's discretion and flexibility to determine the scope and scale of roads analysis needed to inform road management decisions. The May 31 Interim Directive also is incorporated into this new Interim Directive.

These ID's remove implementation impediments associated with the road management strategy and roadless area conservation. As a consequence, the agency can fulfill its commitment to improve decisionmaking associated with road construction, reconstruction, and decommissioning and its commitment to protect and conserve roadless areas.

Normally, when the agency determines that public notice and opportunity to comment are necessary on a Forest Service Manual revision, the agency publishes a proposed revision with a minimum 60-day comment period. The agency then considers the comments, makes any changes, drafts and publishes a final **Federal Register** notice explaining the final directive and the rationale for any changes. At a minimum, this process takes 6 months and usually takes 9–12 months. Such a delay in revising the road management policy would perpetuate uncertainty and confusion when undertaking decisions that involve road management activities. The agency could also incur environmental analysis costs that would be disproportionate to the potential effects in inventoried roadless areas and delay access to oil and gas leases, or other mining operations.

Consequently, the agency has elected to issue Interim Directives and to make them immediately effective. An Interim Directive expires 18 months from issuance and may be reissued only once for a total duration of 36 months. Thereafter, the direction must be incorporated into an amendment or allowed to expire.

In the meantime, public comment is invited and will be considered in adopting a final policy. The agency will consider all comments received in determining a final policy. Respondents should note that greater weight is given to original substantive comments than to post cards, forms, questionnaires, or duplicated letters or messages. Only the sections of FSM 7710 that are being revised are set out at the end of this notice along with the text of the roadless area Interim Directive No. 1920–2001–1. The full text of Chapter 7710 and 1920–2001–1 is available on the World Wide Web at *http://www.fs.fed.us.directives.* Single paper copies are available upon request from the address and phone numbers listed earlier in this notice as well as from the nearest National Forest Office or Regional Office, the location of which are also available on the headquarters homepage on the World Wide Web at *http://www.fs.fed.us.*

The agency recognizes that the issuance of five Interim Directives on roadless areas and road management may be confusing to the public. Had the agency been able to undertake and complete the overview of the road management policy before issuing the roadless area Interim Directives, the sequence of revision to agency policy would have flowed in a more understandable manner. However, roadless litigation on the roadless area conservation rule required the agency and the Department to address roadless areas first.

Charts are provided at the end of this notice to assist readers in tracking the various actions and modifications of the roadless area rule and the road management policy since January 12, 2001. The first chart is organized by policy or rule; the second, by date, in chronological order.

Comments received in response to **Federal Register** notices of earlier Interim Directives (ID No. 7700–2001–1, ID No. 7700–2001–2, 2400–2001–3) will be considered along with comments received on the Interim Directives that are the subject of this notice.

Dated: October 9, 2001.

Sally D. Collins,

Associate Chief.

Revisions to Forest Service Road Management Directives

Note: The Forest Service organizes its directive system by alphanumeric codes and subject headings. Only those sections of the Forest Service Manual that are the subject of this notice are set forth here. Those who wish to see the entire document in which the changes are being incorporated may do so at *www.fs.fed.us/news/roads.* In the directives that follow, Forest Service employees charged with decisionmaking responsibilities concerning the National Forest Transportation System are referred to as Responsible Officials and are the intended audience of these administrative directives.

FSM TITLE 7700—TRANSPORTATION SYSTEM

Chapter 7710—Transportation Atlas, Records, and Analysis

Interim Directive No. 7710–2001–3.

Effective Date: December 14, 2001.

Duration: 18 months from effective date.

Approved: SALLY D. COLLINS, Associate Chief.

7710.42 Regional Forester

It is the responsibility of the Regional Forester to:

1. Ensure that roads analysis is a component of sub-basin, multi-Forest, and sub-regional scale assessments.
2. Develop multi-year regional schedules of proposed transportation facility projects (FSM 1920).
3. Establish policy for traffic surveillance and classification to be used in transportation analysis (FSM 7731.5).
4. Coordinate State and Federal transportation involvement in land and resource management planning to ensure that their plans are included in land management policy development and that their policy development has the benefit of Forest plans.
5. To determine, on a case-by-case basis, whether or not to approve a Forest Supervisor request for additional time to complete a forest-scale roads analysis.
6. Oversee and evaluate the use of roads analysis process within the Region (FSM 7712.1).

* * * * *

7712.13 Scope and Scale of Roads Analysis

There are multiple scales at which roads analysis may be conducted to inform road management decisions. Generally, road management decisions should be informed by roads analysis at a broad scale. Accordingly, all units of the National Forest System must conduct a forest-scale roads analysis (FSM 7712.13b and FSM 7712.15).

The Responsible Official has the discretion and duty to determine whether or not a roads analysis below the forest-scale is needed and the degree of detail that is appropriate and practicable. Guidance on selecting the appropriate scale and those proposed actions which may trigger a need for a roads analysis is set forth in FSM 7712.13, paragraphs a–c.

* * * * *

7712.13c Roads Analysis at the Watershed and Project Scale

Roads analysis at the forest-scale will generally provide the context for informing road management decisions and activities at the watershed, area, and project level. Where a forest-scale roads analysis has been conducted, the Responsible Official must consider the decision(s) to be made and determine how to apply the results of the forest-scale roads analysis to best inform management decisions. However, it is generally expected that road inventories and road condition assessments as identified in FSM 7712.14 would be completed at the watershed or project scale, not the forest-scale.

When higher scale analyses are not available to inform a project decision, the Responsible Official must consider the decisions to be made (FSM 7712.13) and the potential environmental and access effects and determine whether or not additional analysis is needed at the watershed or project scale. Roads analysis below the forest-scale is not automatically required, but may be undertaken at the discretion of the Responsible Official. When the Responsible Official determines that additional analysis is not needed for a project, the Responsible Official must document the basis for that conclusion. Examples where roads analysis may not be necessary include: temporary roads for short-term access; or a minor extension of a campground road.

When proposed road management activities (road construction, reconstruction, and decommissioning) would result in changes in access, such as changes in current use, traffic patterns, and road standards, or where there may be adverse effects on soil and water resources, ecological processes, or biological communities, those decisions must be informed by roads analysis (FSM 7712.1). Site-specific projects may be informed by a watershed roads analysis, if the Responsible Official determines that the scope and scale of issues under consideration warrants such use. FSM 7712.13, exhibit 01, provides a snapshot of the scope and scale of roads analysis and its integration into planning and decisionmaking.

When needed, the outcomes of roads analysis at the watershed and area-scale would result, at a minimum, in the following:

1. Identification of needed and unneeded roads.
2. Identification of road associated environmental and public safety risks.
3. Identification of site-specific priorities and opportunities for road improvements and decommissioning.
4. Identification of areas of special sensitivity, unique resource values, or both.
5. Any other specific information that may be needed to support project-level decisions.

* * * * *

7712.15 Deadlines for Completing Roads Analyses

1. *Analysis Needed to Inform Road Management Decisions.* Section 7712.13 identifies proposed road management decisions other than forest plan revisions or amendments that require roads analysis and provides guidance on the scope and scale of various levels of analysis that might inform those decisions. The following deadlines govern the application of roads analysis to the proposed road management decisions identified in sections 7712.13 through 7712.13c:

a. Decisions made before January 12, 2002, do not require a roads analysis.

b. Decisions made after January 12, 2002, must be informed by a roads analysis, except as provided in FSM 7712.13c.

2. *Forest-Scale Roads Analyses.* Every National Forest System administrative unit must have a forest-scale roads analysis completed by January 13, 2003, except as follows:

a. Those units that will complete a forest plan revision or amendment by January 12, 2002, do not need to complete a forest-scale roads analysis (FSM 7712.1) prior to adopting the plan revision or amendment. However, these units are still required to complete a forest-scale roads analysis by January 13, 2003.

b. Those units that have begun revision or amendment of their forest plans but will not adopt a final revision or final amendment by January 12, 2002, must complete a roads analysis prior to adoption of the final plan revision or amendment.

c. Where additional time is needed for completion of forest-scale roads analysis, a Forest Supervisor may request approval from the Regional Forester for an extension. In making such a request, the Forest Supervisor must provide a statement of the reason(s) the extension is needed.

Inventoried Roadless Areas

FSM TITLE 1900—PLANNING

Chapter 1920—Land and Resource Management Planning

Interim Directive No. 1920–2001–1.
Effective Date: December 14, 2001.
Duration: 18 months from effective date.
Approved: SALLY D. COLLINS, Associate Chief.

FSM 1925—Management of Inventoried Roadless Areas

1925.03 Policy

Inventoried roadless areas contain important environmental values that warrant protection. Accordingly, until a forest-scale roads analysis (FSM 7712.13b) is completed and incorporated into a forest plan, inventoried roadless areas shall, as a general rule, be managed to preserve their roadless characteristics. However, where a line officer determines that an exception may be warranted, the decision to approve a road management activity or timber harvest in these areas is reserved to the Chief or the Regional Forester as provided in FSM 1925.04a and 1925.04b.

1925.04 Responsibility

1925.04a Chief

The Chief reserves the following:

1. The authority to approve or disapprove road construction or reconstruction in inventoried roadless areas (FSM 1925.05) except those decisions delegated to the Regional Foresters at FSM 1925.04b, paragraph 1.

This reservation remains in effect until a forest-scale roads analysis is completed and incorporated into each forest plan (FSM 7712.13b). When an inventoried roadless area road construction, road reconstruction, or timber harvest decision falls under the Chief's authority, the Chief, for purposes of administrative efficiency and timeliness, may designate, on a case-by-case basis by official memorandum, the Associate Chief, a Deputy Chief, or an Associate Deputy Chief to serve as the Responsible Official.

2. The authority to approve or disapprove proposed timber harvest in inventoried roadless areas, except for the following:

a. The timber is generally small-diameter material and the removal of timber is needed for one of the following purposes:

(1) To improve habitat for listed or proposed threatened and endangered species, or for sensitive species (FSM 2670), or

(2) To maintain or restore the desirable characteristics of ecosystem composition and structure, for example, to reduce the risk of uncharacteristic wildfire effects.

b. The cutting, sale, or removal of timber is incidental to the implementation of a management activity and not otherwise prohibited under the land and resource management plan.

c. The cutting, sale, or removal of timber is needed and appropriate for personal or administrative use as provided for in part 223 of Title 36 of the Code of Federal Regulations (36 CFR Part 223).

d. The harvest is in a portion of an inventoried roadless area where construction of a classified road and subsequent timber harvest have previously taken place, and the roadless area characteristics have been substantially altered by those activities.

VOL
66
ISS
2
4
5
DE
20
2001
UMI

This reservation applies until revision of a land and resource management plan or adoption of a plan amendment that has considered the protection and management of inventoried roadless areas (FSM 1923). If a Record of Decision for a Forest Plan revision has been issued as of July 27, 2001, the requirement for the Chief's review does not apply. By official memorandum, the Chief may designate, on a case-by-case basis, the Associate Chief, a Deputy Chief, or an Associate Deputy Chief to serve as the Responsible Official.

The delegation of authority to approve or disapprove the timber harvest projects described in preceding paragraphs a through d; remain unchanged by this Interim Directive (FSM 2404.2).

1925.04b Regional Forester

It is the responsibility of the Regional Forester to:

1. Serve as the Responsible Official for any of the following decisions on a road construction or reconstruction project in an inventoried roadless area:

a. A road is needed to protect public health and safety in cases of an imminent threat of flood, fire, or other catastrophic event, that without intervention would cause the loss of life or property.

b. A road is needed to conduct a response action under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or to conduct a natural restoration action under CERCLA, section 311 of the Clean Water Act, or Oil Pollution Act.

c. Road construction is needed in conjunction with the continuation, extension, or renewal of a mineral lease on lands that are under lease by the Secretary of the Interior as of January 12, 2001.

d. Road access is needed pursuant to reserved or outstanding rights or as provided by statute or treaty.

e. A road is needed for critical resource restoration and protection.

f. Road realignment is needed to prevent resource damage by an existing road that is deemed essential for public or private access, management, or public health or safety, and where such damage cannot be corrected by maintenance.

g. A road is needed to restore wildlife habitat.

2. Review and determine whether to recommend to the Chief a decision for any road construction or reconstruction project in an inventoried roadless area within the Chief's decision authority (sec. 1925.04a, para. 1).

3. For road construction, reconstruction, and timber management projects in inventoried roadless areas where it has been determined that an environmental impact statement EIS is required, review and agree to the purpose and need statements for the notice of intent to prepare an (EIS).

4. Review and determine whether to recommend to the Chief a decision for any timber harvest project in inventoried roadless areas within the Chief's decision authority (sec. 1925.04a, para. 2).

1925.05 Definitions

Inventoried Roadless Areas. Those areas identified in a set of inventoried roadless area maps, contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000, which are held at the National headquarters of the Forest Service, or any update, correction, or revision of those maps.

BILLING CODE 3410-11-P

FOREST SERVICE ROADLESS AND ROAD MANAGEMENT POLICY REVISION -- QUICK REFERENCE CHART

Policy Initiative	Associated Documents	Content and Purpose	Status and Date
1. Roadless Area Conservation Rule 36 CFR Part 294 FSM 7710 FSM 2400	1.1 Final Rule: Special Areas; Roadless Area Conservation	Established prohibitions on road construction and reconstruction and timber harvest in inventoried roadless areas.	Published in Federal Register 1/12/01 @ 66 FR 3244.
	1.2 Delay of effective date	Delayed effective date of roadless area conservation rule for 60 days, from March 13, 2001 until May 12, 2001.	Published un the Federal Register 2/5/01 @ 66 FR 8899.
	1.3 Advanced notice of proposed rulemaking (ANPR); request for public comment	Advised public of potential revision of January 12, 2001, Roadless Area Conservation rule & requested comment on key questions.	Published in Federal Register 7/10/01 @ 66 FR 35918. Comment period ended 09/10/01.
	1.2 Interim Directives No. 7710-2001-2 and No. 2400-2001-3	Implemented the Chief's letter of June 7, 2001. ID to FSM 7710 – delegated authority to the Chief to approve certain road construction or reconstruction in roadless areas. ID to FSM 2400 – delegated authority to the Chief to approve certain timber harvest projects in roadless areas.	Issued through the Directive System Effective: 7/27/01.
	1.3 FR notice of Interim Directives to 2400 and 7710	Informed the public of Interim Directives No. 7710-2001-2 and 2400-2001-3; requested comment.	Published in Federal Register 8/22/01 @ 66 FR 44112. Comment period ends 10/22/01.
	1.4 New Interim Directive No. 1920-2001-X	Consolidated ID's No. 7710-2001-2 & 2400-2001-3 (see 1.2 above) into FSM 1920. Necessitated by decision to remove interim requirements from Road Management Policy. Redesignation to FSM 1920 doesn't change scope or effect from that of July 27 ID's. Public notice will be part of Federal Register notice on Road Management policy revision.	Approach agreed to in meeting with road policy team 8/30/01. Revised draft received 8/31, will be processed at same time as new road management ID 7710-2001-3.
2. Road Management Policy 36 CFR Parts 212, 261, & 295 FSM 7700 Zero Code and Chapter 7710	2.1 Final Rule/Final Policy: Administration of the Forest Development Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads	Revised regulations and FSM Chapters 7700 and 7710 concerning the management, use, and maintenance of the National Forest Transportation System.	Published in Federal Register 1/12/01 @ 66 FR 3206; Effective 1/12/01
	2.2 Interim Directive No. 7710-2001-1	Extended the deadline by which all decisions must be informed by a roads analysis. Redelegated authority to approve exceptions to forest-scale roads analysis from the Chief to Regional Foresters.	Issued through the Directive System - Effective: 5/30/01.
	2.3 FR notice of Interim Directive; request for comment	Informed the public of Interim Directive No. 7710-2001-1 (5/30/01) and requested comment on it.	Published in Federal Register 8/24/01 @ 66 FR 44590. Public comment period ends 10/23/01.
	2.4 New Interim Directive No. 7710-2001-3	Revises Chapter 7710 to streamline and remove interim requirements for entering inventoried roadless areas & clarifies local decisionmakers' discretion for roads analysis. Also incorporated recently issued ID #7710-2001-1 (see 2.1 above).	Issued on 12/14/01; Effective Date 12/14/01.

VOL 66 ISS 245 DE 20 2001 UMI

FOREST SERVICE ROADLESS AREA CONSERVATION AND ROAD MANAGEMENT POLICY REVISION – SEQUENTIAL REFERENCE CHART

Date	Document	Action
1/12/01	Special Areas: Roadless Area Conservation; Final Rule (66 FR 3244)	Published in Federal Register and Effective Date
1/12/01	Forest Service Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads; Final Rule (66 FR 3206)	Published in Federal Register
1/12/01	Forest Service Transportation System; Final Administrative Policy; Directives Nos. 7700 and 7710; Notice	Published in Federal Register and Effective Date
2/5/01	Special Areas: Roadless Area Conservation; Final Rule (66 FR 3244) 60-Day delay of effective date; from March 13, 2001 until May 12, 2001. (66 FR 8899)	Published in Federal Register
3/13/01	Forest Service Transportation System; Prohibitions; Use of Motor Vehicles Off Forest Service Roads; Final Rule (66 FR 3206)	Original Effective Date (delayed by 60 days, 66 FR 3244)
5/30/01	Forest Service Transportation System Interim Directive No. 7710-2001-1	Effective Date
7/10/01	Roadless Area Conservation Advanced Notice of Proposed Rulemaking (ANPR) and request for public comment (66 FR 35918)	Published in Federal Register
7/27/01	Roadless Area Conservation Interim Directives No. 7710-2001-2 and 2400-2001-3	Effective Date
8/22/01	Roadless Area Conservation Notice of Interim Directives No. 7710-2001-2 and 2400-2001-3 and request for comment	Published in Federal Register
8/24/01	Forest Service Transportation System Notice of Interim Directive No. 7710-2001-1 and request for comment (66 FR 44590)	Published in Federal Register
9/10/01	Roadless Area Conservation Advanced notice of proposed rulemaking (ANPR); request for public comment (66 FR 35918)	End of Comment Period
10/22/01	Roadless Area Conservation Interim Directives No. 7710-2001-2 and 2400-2001-3 request for comment	End of Comment Period
10/23/01	Forest Service Transportation System Road Management Policy Interim Directive No. 7710-2001-1 request for comment (66 FR 44590)	End of Comment Period

[FR Doc. 01–31276 Filed 12–19–01; 8:45 am]

BILLING CODE 3410–11–C

Federal Register

Thursday,
December 20, 2001

Part VI

Department of the Treasury

Community Development Financial Institutions Fund

Guidance for Certification of Community Development Entities, New Markets Tax Credit Program; Notice

VOL
66
ISS
245
DE
20
2001
UMI

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Guidance for Certification of Community Development Entities, New Markets Tax Credit Program

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Guidance for Certification of Community Development Entities, New Markets Tax Credit Program.

SUMMARY: Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001 (Public Law 106–554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC section 45D, New Markets Tax Credit. Section 45D requires the Secretary of the Treasury (Treasury) to establish a program that will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate investment in new private capital that, in turn, will facilitate economic and community development in distressed communities. Section 121(f) of the Act, among other things, requires the Secretary to issue guidance on how entities may apply to receive allocations of New Markets Tax Credits (NMTCs), the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. The Secretary delegated such authority to the Under Secretary (Domestic Finance), who in turn delegated such authority to the Director of the Community Development Financial Institutions Fund (the Fund).

On April 20, 2001, the Fund issued guidance (which was published in the **Federal Register** on May 1, 2001 at 66 FR 21846) (the General Guidance) that provided general information on how an entity may apply to become certified as a "qualified community development entity" (CDE), how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. In addition, through the General Guidance, the Fund sought written comments from the public as to certain application and allocation issues.

This document (i) summarizes written public comments submitted to the Fund pursuant to the General Guidance, specifically with respect to the Fund's certification of entities as CDEs, and (ii) provides, in accordance with IRC section 45D(c)(1)(C), specific guidance on how an entity may apply to become certified as a CDE. Effective immediately, this Guidance encourages entities to apply for CDE certification. This Guidance does not solicit applications for allocations of NMTCs.

As provided by IRC section 45D(i), Treasury is authorized to prescribe regulations relating to the NMTC Program. Treasury and the Internal Revenue Service (IRS) will promulgate regulations related to tax aspects of the NMTC Program. Following the promulgation of said IRS regulations, the Fund will publish a Notice of Allocation Availability (NOAA) that will provide additional, specific guidance on how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. As part of the NOAA, the Fund also will summarize written comments submitted by the public with respect to application and allocation issues presented in the General Guidance. The Fund anticipates that, pursuant to the NOAA, it will allocate to CDEs in calendar year 2002 the authority to issue to their investors up to the aggregate amount of $2.5 billion in equity as to which NMTCs may be claimed (the authority will include the aggregated amounts of $1 billion for calendar year 2001 and $1.5 billion for calendar year 2002, as permitted under IRC sections 45D(f)(1) and 45D(f)(3)).

DATES: Effective immediately, the Fund will accept applications from entities seeking to be certified as CDEs. There is no deadline for the submission of CDE Certification Applications. The Fund will review CDE Certification Applications on an ongoing basis. However, for an Applicant CDE that also expects to submit a NMTC allocation application, please refer below to Part IV, CDE Certification, Section A, for further information.

ADDRESSES: CDE Certification Applications should be sent by mail or courier to: CDFI Fund Awards Manager, Bureau of Public Debt—Franchising, 200 Third Street, Room 211, Parkersburg, WV 26101. Applications will not be accepted at the Fund's offices. CDE Certification Applications and other NMTC Program information may be downloaded from the Fund's web site at *http://www.cdfifund.gov.* If you would like CDE Certification Application materials to be sent to you, contact the Fund by telephone at (202) 622–8662; by e-mail to *cdfihelp@cdfi.treas.gov;* or by facsimile at (202) 622–8244. These are not toll free numbers.

FOR FURTHER INFORMATION: Information regarding the Fund and its programs may be downloaded from the Fund's web site at *http://www.cdfifund.gov.*

I. Definitions

(a) *Affiliate:* means any legal entity that Controls, is Controlled by, or is under common Control with the Applicant CDE.

(b) *Applicant CDE:* means any legal entity that is applying to the Fund to be certified as a CDE, either for itself or on behalf of its Subsidiaries.

(c) *CDE Certification Application:* means the application form, issued by the Fund, to be completed and submitted by an Applicant CDE in order to be certified as a CDE.

(d) *Community Development Entity* or *CDE:* see Qualified Community Development Entity, below.

(e) *Community Development Financial Institution* or *CDFI:* means an entity that has been certified by the Fund as meeting the criteria set forth in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702). For further details, refer to the CDFI Program regulations set forth at 12 CFR 1805.201.

(f) *Control*: means (i) Ownership, control, or power to vote more than 50 percent of the outstanding shares of any class of voting securities of any entity, directly or indirectly or acting through one or more other persons; (ii) control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any other entity; or (iii) the power to exercise, directly or indirectly, a controlling influence over the management policies or investment decisions of another entity, as determined by the Fund.

(g) *Low-Income Community:* means, under IRC section 45D(e)(1), any population census tract if (A) the poverty rate for such tract is at least 20 percent, or (B)(i) in the case of a tract not located within a Metropolitan Area (as hereinafter defined), the median family income for such tract does not exceed 80 percent of statewide median family income, or (ii) in the case of a tract located within a Metropolitan Area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the Metropolitan Area median family income. With respect to IRC section 45D(e)(1)(B), possession-wide median family income shall be used (in lieu of statewide income) in assessing the status of census tracts located within a possession of the United States. Upon application by an entity for certification as a CDE, the Fund may designate under IRC section 45D(e)(2) an area within a census tract as a Low-Income Community if (A) the boundary of the area is continuous; (B) the area would otherwise meet the definition of a Low-Income Community under IRC section 45D(e)(1) if it were a census tract; and (C) there is inadequate access to investment capital in the area (as demonstrated by studies, surveys, or other analyses provided by the applicant). Under IRC section 45D(e)(3), in the case of an area that is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of determining poverty areas) shall be used for purposes of defining poverty rates and median family incomes.

(h) *Low-Income Persons:* means individuals having an income, adjusted for family size, of not more than (A) for non-Metropolitan Areas, 80 percent of the statewide median family income; and (B)(i) for Metropolitan Areas, the greater of (A) 80 percent of the statewide median family income or (ii) 80 percent of the Metropolitan Area median family income.

(i) *Metropolitan Area:* means an area designated as such by the Office of Management and Budget pursuant to 44 U.S.C. 3504(e) and 31 U.S.C. 1104(d) and Executive Order 10253 (3 CFR 1949–1953 Comp., p. 758), as amended.

(j) *Qualified Community Development Entity or CDE:* means, under IRC section 45D(c)(1), any domestic corporation or partnership if (A) the primary mission of the entity is serving, or providing investment capital for, Low-Income Communities or Low-Income Persons; (B) the entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity; and (C) the entity is certified by the Fund as a CDE. SSBICs, as hereinafter defined, and CDFIs will be deemed to be CDEs in the manner hereinafter set forth.

(k) *Qualified Equity Investment:* means, under IRC section 45D(b)(1), any equity investment in a CDE if (A) such investment is acquired by the investor at its original issue (directly or through an underwriter) solely in exchange for cash; (B) substantially all of such cash is used by the CDE to make Qualified Low-Income Community Investments; and (C) the investment is designated by the CDE as a Qualified Equity Investment. Qualified Equity Investment also includes an equity investment purchased from a prior holder, to the extent provided in IRC section 45D(b)(4). Qualified Equity Investment does not include any equity investment issued by a CDE more than five years after the date the CDE receives a NMTC allocation. Under IRC section 45D(b)(6), "equity investment" means (A) any stock (other than nonqualified preferred stock as defined in IRC section 351(g)(2)) in a corporation and (B) any capital interest in a partnership.

(l) *Qualified Low-Income Community Investment:* means, under IRC section 45D(d)(1), (A) any capital or equity investment in, or loan to, any qualified active low-income community business (as defined in IRC section 45D(d)(2)); (B) the purchase from a CDE of any loan made by such entity that is a Qualified Low-Income Community Investment; (C) financial counseling and other services to businesses located in, and residents of, Low-Income Communities; and (D) any equity investment in, or loan to, any CDE.

(m) *Specialized Small Business Investment Company* or *SSBIC:* is defined in IRC section 1044(c)(3).

(n) *Subsidiary:* means a legal entity that is owned or Controlled directly or indirectly by the Applicant CDE.

II. The NMTC Program: Background

By providing an incentive in the form of a tax credit over seven years, NMTCs are intended to stimulate the investment of $15 billion in new private capital in CDEs that, in turn, will make investments in eligible businesses in distressed urban, rural, Native American and Native Hawaiian communities, thus facilitating economic and community development.

Through the NMTC Program, an entity may apply to the Fund to be certified as a CDE. Nonprofit entities and for-profit entities may be certified as CDEs by the Fund. Only CDEs that are for-profit entities are eligible to issue Qualified Equity Investments with respect to which investors will be entitled to claim NMTCs. A taxpayer (including, for example, individuals, corporations, partnerships, and investment funds) that makes a Qualified Equity Investment in a CDE that has received a NMTC allocation from the Fund may claim a five percent tax credit on the investment amount for each of the first three years after the date of the investment and a six percent tax credit for each of the next four years.

In the NOAA, the Fund will address specifically how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

III. Comments Submitted by the Public on the General Guidance

On April 20, 2001, the Fund issued the General Guidance, which described, in general terms, certain aspects of the NMTC Program. The Fund has received numerous comments from organizations and individuals. The following is a discussion of the significant and most frequently commented upon issues related to CDE certification. In the NOAA or in guidance to be issued at a later date, the Fund will summarize written and electronic comments submitted by the public with respect to other application and allocation issues presented in the General Guidance.

A. *General CDE Eligibility Issues:* IRC section 45D(c)(1) defines a CDE as any domestic corporation or partnership if: (A) the primary mission of the entity is serving, or providing investment capital for, Low-Income Communities or Low-Income Persons (Primary Mission Test); (B) the entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity (Accountability Test); and (C) the entity is certified by the Secretary as a CDE.

(1) One commenter suggested that the Fund clarify that an entity may apply for CDE certification even if the entity does not intend to apply for a NMTC allocation. IRC sections 45D(d)(1)(B) and 45D(d)(1)(D) permit CDEs receiving NMTC allocations to make Qualified Low-Income Community Investments by purchasing a qualifying loan from another CDE or by investing in another CDE. Therefore, an entity may apply for CDE certification regardless of whether such entity intends to apply for a NMTC allocation.

(2) Another commenter recommended that an organization certified as a CDE be allowed to transfer its CDE certification to its Subsidiary or Subsidiaries. IRC section 45D(c)(1) requires that, in order to be certified as a CDE, an entity must meet two tests: the Primary Mission Test and the Accountability Test. Each entity that applies for certification as a CDE must meet both tests regardless of its affiliation with other organizations. In order to make the CDE certification process as efficient as possible, the

Fund will permit an Applicant CDE to submit a single CDE Certification Application for itself and on behalf of its Subsidiaries. Each of the entities must satisfy the Primary Mission Test and the Accountability Test. The CDE Certification Application contains the specific requirements for such consolidated submissions.

(3) Another commenter suggested that the Fund should not require entities to be duly organized prior to submission of a CDE Certification Application. While the Fund recognizes that Applicant CDEs will have to expend resources in order to form a legal entity that is eligible to apply for CDE certification, the Fund is requiring that a CDE be a duly organized entity. Therefore, the Fund will not confer CDE certification to an entity that has not yet been legally established.

(4) One commenter stated that community development banks should receive automatic CDE certification. The Fund recognizes the important role that community development banks play in providing access to credit for Low-Income Persons and Low-Income Communities. However, IRC section 45D(c)(2) only allows for the automatic certification of SSBICs certified by the Small Business Administration, and CDFIs certified by the Fund. A community development bank applying for certification as a CDE will be required to meet the CDE certification criteria set forth in IRC section 45D, this Guidance, and the CDE Certification Application. A community development bank that is certified as a CDFI, however, will be deemed to meet the requirements for CDE certification.

(5) Two commenters requested clarification as to whether an entity organized as a business trust would be eligible for certification as a CDE if such an entity is taxable as a partnership. An entity may apply for certification as a CDE if it is treated either as a domestic corporation or a partnership for Federal income tax purposes.

(6) Several commenters suggested that an applicant whose business structure consists of an entity with a series of funds be deemed eligible for CDE certification as a single entity. The Fund has considered these comments, and has determined that, if an Applicant CDE represents that it is properly classified for Federal income tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If the Applicant CDE represents that it is properly classified for Federal income tax purposes as multiple partnerships or corporations, it may submit a single application on behalf of the entire series of funds, and each fund must meet the Primary Mission Test and the Accountability Test.

(7) Two commenters requested that the Fund permit organizations that are governmentally controlled entities to qualify for CDE certification. Since the Act does not exclude governmentally controlled entities from being eligible for CDE certification, the Fund will permit governmentally controlled entities that are properly classified as domestic corporations or partnerships for Federal income tax purposes to apply for CDE certification.

B. *Primary Mission Test:* Pursuant to IRC section 45D(c)(1)(A), a CDE must have a primary mission of serving, or providing investment capital for, Low-Income Communities or Low-Income Persons.

(1) Several commenters suggested that Applicant CDEs be allowed to meet the Primary Mission Test by either indirectly or directly serving, or providing investment capital for, Low-Income Communities or Low-Income Persons. The Fund recognizes the merits of these comments and will permit Applicant CDEs to meet the Primary Mission Test either by directly serving Low-Income Communities or Low-Income Persons (e.g., by providing loans to Low-Income Persons or to individuals or businesses located in Low-Income Communities), or by indirectly serving Low-Income Communities or Low-Income Persons (e.g., by providing loans to or investments in other entities that will in turn provide assistance in Low-Income Communities or assistance to Low-Income Persons).

(2) One commenter requested that the Fund deem an Applicant CDE to have met the Primary Mission Test if the Applicant CDE is a nonprofit organization exempt from federal income tax under IRC § 501(c) or any other IRC provision, and the exempt purpose relates to serving Low-Income Communities or Low-Income Persons. However, the exempt purpose test required for tax-exempt status under the IRC is based on different underlying policies than the Primary Mission Test set forth in IRC section 45D(c)(1)(A). Therefore, all Applicant CDEs will be required to provide the documentation required to meet the Primary Mission Test.

(3) One commenter expressed concern about the basis for the Fund's requirement that an Applicant CDE demonstrate that at least 60 percent of its activities are dedicated to serving, or providing investment capital for, Low-Income Communities or Low-Income Persons. The Fund has determined that the 60 percent threshold is an appropriate standard: it is the standard currently used by the Fund in certifying CDFIs and it provides the Fund with evidence that a significant portion of the Applicant CDE's activities are targeted to Low-Income Communities or Low-Income Persons.

C. *Accountability Test:* Pursuant to IRC section 45D(c)(1)(B), a CDE must maintain accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity.

(1) One commenter recommended that the definition of Low-Income Community be expanded to include census tracts in which the median family income does not exceed 80 percent of the national median family income. Because IRC section 45D(e) clearly defines Low-Income Community, the Fund will adhere to such definition, without modification.

(2) Several commenters recommended that the Fund permit Applicant CDEs greater flexibility to meet the Accountability Test. Specifically, the commenters suggested that an Applicant CDE be allowed to meet the Accountability Test by demonstrating that it maintains accountability to residents of Low-Income Communities or Low-Income Persons through the residents' representation not only on governing boards or advisory boards, but alternatively in focus groups and community meetings. The Fund has not accepted this comment because IRC section 45D(c)(1)(B) clearly requires CDEs to maintain "accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity."

(3) One commenter suggested that when evaluating a CDE Certification Application, the Fund should assess the extent to which representatives of Low-Income Communities exert meaningful influence over the policies and procedures of the Applicant CDE. The Fund is mindful of the need to create a mechanism for meaningful and substantive participation and influence in CDEs by representatives of Low-Income Communities and has developed evaluation criteria that will provide the Fund with information on the level of participation and influence held by representatives of Low-Income Communities who serve on advisory or governing boards of a CDE. This criterion is further described in the CDE Certification Application.

(4) Several commenters suggested that the Fund allow Applicant CDEs to demonstrate accountability to Low-Income Communities by representatives other than residents of such Low-

Income Communities (*e.g.*, a clergy member, a small business owner, or a director of a community development corporation). The Fund recognizes that a person may be representative of a Low-Income Community because of the type of work that he or she performs in the Low-Income Community. The Fund provides specific guidance in the CDE Certification Application on the various ways in which an Applicant CDE can meet the Accountability Test through persons who are residents of Low-Income Communities or whose work or community development activities makes them accountable to such residents. However, the Fund seeks to encourage, as much as possible, Applicant CDEs to appoint some Low-Income Persons from Low-Income Communities to advisory and/or governing boards.

(5) Several commenters recommended that a CDE be permitted to meet the Accountability Test if it demonstrates that a majority of its governing or advisory board is accountable to residents of Low-Income Communities. The Fund has considered these comments and has determined that, for a CDE wishing to meet the Accountability Test through its governing board, the Fund will require that a minimum of 20 percent of the members of the governing board be representative of the Low-Income Community. For a CDE wishing to meet the Accountability Test through an advisory board or boards, a minimum of 20 percent of the members of each advisory board must be representative of a Low-Income Community.

(6) One commenter proposed that the Fund allow a CDE that serves multiple geographic areas to satisfy the Accountability Test by establishing local advisory boards that are representative of Low-Income Communities. As proposed, these advisory boards would in turn report to a CDE with a regional or national service area. The Fund agrees with this comment, and provides specific guidance in the CDE Certification Application with respect to establishing multiple advisory boards.

D. *Consolidated Applications for Related Entities:* Several commenters suggested that the Fund allow a CDE that receives a NMTC allocation to transfer its allocation to its Affiliates or Subsidiaries. One commenter also suggested that the Fund develop a consolidated CDE Certification Application for multiple legal entities that are commonly controlled (i.e., parent and affiliated entities or entities under common control). The Fund has considered these comments and will permit an entity and its Subsidiaries to apply for CDE certification in a single CDE Certification Application. A for-profit CDE that receives a NMTC allocation may transfer such NMTC allocation to its for-profit Subsidiary or Subsidiaries, provided that said transferees have been certified as CDEs and such transfer is pre-approved in writing by the Fund, in its sole discretion. A nonprofit CDE may apply for and receive a NMTC allocation but must transfer such NMTC allocation to its for-profit Subsidiary or Subsidiaries; said transferees must be certified as CDEs and such a transfer must be pre-approved in writing by the Fund, in its sole discretion.

IV. CDE Certification

A. Applications

As stated above, the Fund is currently accepting applications from entities wishing to be certified as CDEs. CDE Certification Applications will be reviewed on a rolling basis. However, any Applicant CDE interested in applying for a NMTC allocation must submit a CDE Certification Application prior to the deadline for the submission of an application for a NMTC allocation. The Fund anticipates that this deadline for submitting CDE Certification Applications will be 30 days prior to the deadline for submission of applications for NMTC allocations. Both deadlines will be published in the NOAA.

An Applicant CDE may be a for-profit or a nonprofit entity. An Applicant CDE may apply for certification for itself, or it may apply for itself and on behalf of one or more Subsidiaries under a single CDE Certification Application. The CDE Certification Application requires that the Applicant CDE provide, among other items, specific information relating to how it (and, if appropriate, each of its Subsidiaries) meets the Primary Mission Test and the Accountability Test. These requirements are discussed under Section B, Eligibility, below, and in the CDE Certification Application.

Entities that have been certified by the Fund as CDFIs and entities that have been designated by the SBA as SSBICs are deemed to meet the requirements for CDE certification and do not need to complete the CDE Certification Application. Each CDFI and SSBIC desiring CDE certification must indicate to the Fund its desire either (i) by registering on-line with the Fund through the Fund's website at *http://www.cdfifund.gov*, or (ii) by contacting the Fund (see ADDRESSES, above) to have registration documents sent to it.

Notwithstanding the preceding paragraph, Subsidiaries and Affiliates of CDFIs and SSBICs will not be deemed to meet the requirements of CDE certification without completing a CDE Certification Application. A CDFI or SSBIC wishing to apply for certification on behalf of one or more of its Subsidiaries must complete a CDE Certification Application for itself and all Subsidiaries it would like certified, and each Subsidiary must meet the Primary Mission Test and the Accountability Test.

B. Eligibility

(1) *Legal Entity Requirements:* IRC section 45D(c)(1) specifies the eligibility requirements that each entity must meet in order to be certified by the Fund as a CDE. The Fund will not confer CDE certification to an Applicant CDE unless the entity is a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established. As described above, a CDE is any entity treated as a domestic corporation or partnership, for federal income tax purposes, if: (A) The primary mission of the entity is serving, or providing investment capital for, Low-Income Communities or Low-Income Persons; (B) the entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity; and (C) the entity is certified by the Fund as a CDE. CDFIs certified by the Fund and SSBICs certified by the SBA will be deemed to be CDEs. An applicant whose business structure consists of an entity with a series of funds may apply for CDE certification as a single entity, or as multiple entities, in accordance with this paragraph. If such an applicant represents that it is properly classified for Federal income tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If the applicant represents that it is properly classified for Federal income tax purposes as multiple partnerships or corporations, then (1) it may submit a single application on behalf of the entire series of funds, and each fund must meet the Primary Mission Test and the Accountability Test; and (2) it may transfer any NMTC allocation it receives to one or more of its funds if the transfer is pre-approved by the Fund. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that the applicant and its related funds are properly classified as a single entity

VOL 66 ISS 245 DE 20 2001 UMI

or as multiple entities for Federal income tax purposes.

(2) *Primary Mission Test:* To comply with the Primary Mission Test, an entity (a) must provide organizational documents that, in the opinion of the Fund, clearly evidence a mission of serving or providing investment capital for Low-Income Communities or Low-Income Persons; and (b) must be able to demonstrate that at least 60 percent of its activities are dedicated to serving Low-Income Communities or Low-Income Persons. An Applicant CDE may meet the Primary Mission Test either by directly serving Low-Income Communities or Low-Income Persons (*e.g.*, by providing loans to Low-Income Persons or to individuals or businesses located in Low-Income Communities), or by indirectly serving Low-Income Communities or Low-Income Persons (*e.g.*, by providing loans or investments to other entities that will in turn provide assistance in Low-Income Communities or assistance to Low-Income Persons). The Fund reserves the right to modify or revise the requirements of the Primary Mission Test if it determines, in its sole discretion, that an Applicant CDE has demonstrated that it meets the Primary Mission Test in a manner other than set forth herein, but that meets the intent and purpose of IRC section 45D(c)(1)(A).

(3) *Accountability Test:* To comply with the Accountability Test, an entity must demonstrate that it maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity. The Fund seeks to encourage, as much as possible, Applicant CDEs to appoint some Low-Income Persons from Low-Income Communities to advisory and/or governing boards. In the case of a limited partnership, the Accountability Test may be met if residents of Low-Income Communities are represented on the governing or advisory board of the entity's managing general partner or other controlling entity (such as a nonprofit CDFI). For an entity wishing to meet the Accountability Test through its governing board, a minimum of 20 percent of the members of the governing board must be representative of the Low-Income Community. For an entity wishing to meet the Accountability Test through an advisory board or boards, a minimum of 20 percent of the members of each advisory board must be representative of the Low-Income Community. A CDE is not limited in the number of Low-Income Communities that it may serve or propose to serve. A CDE that serves multiple geographic areas will need to demonstrate that it is accountable to the various geographic areas that it serves. The Fund reserves the right to modify or revise the requirements of the Accountability Test if it determines, in its sole discretion, that an Applicant CDE has demonstrated that it meets the Accountability Test in a manner other than set forth herein, but that meets the intent and purpose of IRC section 45D(c)(1)(B).

V. Evaluation of CDE Certification Applications

The Fund will evaluate each CDE Certification Application to determine whether the Applicant CDE (and, if appropriate, each of its Subsidiaries) meets the eligibility requirements outlined above. Those entities that, in the sole determination of the Fund, satisfy the certification requirements shall be certified by the Fund as CDEs.

VI. Certification Monitoring

A CDE certification will continue until it is revoked or terminated by the Fund. To maintain its CDE certification, a CDE must attest annually (or so often as the Fund may deem necessary) that the CDE (and, if appropriate, each of its Subsidiaries) continues to meet the Primary Mission Test and the Accountability Test. The Fund reserves the right to review and verify said attestation and will revoke or terminate the CDE certification if the Fund, in its sole discretion, determines that the entity no longer meets CDE certification requirements. The Fund may revoke or terminate the CDE certification of any entity that receives designation as a CDE based on its status as a CDFI or SSBIC if it ceases to be designated as a CDFI or SSBIC.

A CDE that is awarded a NMTC allocation and/or is a recipient of a Qualified Low-Income Community Investment from another CDE that has been awarded a NMTC allocation will also be required to demonstrate, on an annual basis (or so often as the Fund may deem necessary), that at least 60 percent of its activities are directed to Low-Income Communities or Low-Income Persons. This is in addition to any other reporting requirements imposed by the IRS or the Fund. Such other reporting requirements will be described more fully in IRS regulations and/or in the NOAA or subsequent guidance to be issued by the Fund.

Authority: Consolidated Appropriations Act of 2001, Pub. L. 106–554; 31 U.S.C. 321.

Dated: December 17, 2001.

Tony T. Brown,

Director, Community Development Financial Institutions Fund.

[FR Doc. 01–31391 Filed 12–19–01; 8:45 am]

BILLING CODE 4810–70–P

Reader Aids

Federal Register

Vol. 66, No. 245

Thursday, December 20, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7507 62907
7508 62909
7509 62911
7510 63149
7511 63899
7512 64497
7513 64095
7514 65089

Executive Orders:

11582 (See EO 13238) 63903
12958 (See Order of December 10, 2001) 64347
13238 63903
13239 64907

Orders:

Order of December 10, 2001 64347

Administrative Orders:

Presidential Determinations:

No. 02–07 of November 21, 2001 63487

Memorandums:

December 7, 2001 64735

5 CFR

302 63905
317 63905
330 63905
333 63905
335 63905
534 63906
591 63906
930 63906
6001 60139

Proposed Rules:

890 64160

7 CFR

210 65597
226 65597
301 63151
989 65423

Proposed Rules:

81 64918
352 63005
1410 63339

9 CFR

70 63588
71 65598
78 63910
85 65596
88 63588
94 ..... 62913, 63910, 63911

Proposed Rules:

94 63633

10 CFR

20 64737
30 64737
32 64737
34 64737
40 64737
50 64737
51 64737
430 65091

Proposed Rules:

50 65661
54 65141
72 63964

12 CFR

5 62914
226 65604
700 65622
701 ..... 65622, 65625, 65628
712 65622
715 65622
723 65622
725 65622
790 65622
1773 65097

Proposed Rules:

Ch. IX 63008
226 64381
360 65144
584 63517
701 65662
1750 65146

13 CFR

120 64739

14 CFR

25 64349
39 ..... 60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629
71 ..... 63489, 63623, 64909, 64910
73 63433
91 63888
93 63294
97 ..... 64139, 64141
107 63474
108 63474

Proposed Rules:

39 ..... 63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666
71 ..... 60162, 63517

93 ... 64778

15 CFR

4 ... 65631
4a ... 65631
4b ... 65631
801 ... 63916, 63918

Proposed Rules:

738 ... 65666
742 ... 65666

16 CFR

3 ... 64142
4 ... 64142
305 ... 63749

17 CFR

Proposed Rules:

15 ... 64383

18 CFR

381 ... 63162

19 CFR

12 ... 63490

20 CFR

655 ... 63298

Proposed Rules:

404 ... 63634

21 CFR

1 ... 65429
510 ... 63163, 63164, 63499
520 ... 63165, 63166
524 ... 63164
556 ... 62916
558 ... 62916, 63499, 63500

Proposed Rules:

500 ... 63519
1310 ... 64173

24 CFR

30 ... 63436

Proposed Rules:

5 ... 65162
202 ... 65162

26 CFR

1 ... 63920
301 ... 64351, 64740, 64911
602 ... 64076, 64351

Proposed Rules:

1 ... 63203, 64385, 64904
301 ... 64386
602 ... 64386

28 CFR

Proposed Rules:

97 ... 64934

29 CFR

578 ... 63501
579 ... 63501
580 ... 63501
4022 ... 64744
4044 ... 64744

Proposed Rules:

470 ... 65163
1910 ... 64946
1915 ... 64946
1926 ... 64946
1928 ... 64946

30 CFR

256 ... 60147
918 ... 64746
944 ... 62917

Proposed Rules:

936 ... 63968

31 CFR

211 ... 63623

32 CFR

619 ... 65651

33 CFR

100 ... 63624
117 ... 62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104
165 ... 60151, 62940, 64144, 64912, 65105

Proposed Rules:

1 ... 63640
147 ... 63642
165 ... 64778
175 ... 63645
181 ... 63650

34 CFR

Proposed Rules:

Ch. VI ... 63203

36 CFR

1202 ... 65652

37 CFR

201 ... 62942, 63920

Proposed Rules:

255 ... 64783

38 CFR

17 ... 63446, 63449, 64904
20 ... 60152

Proposed Rules:

3 ... 64174

39 CFR

20 ... 64353, 65780

Proposed Rules:

111 ... 65668

40 CFR

8 ... 63454
9 ... 65256
52 ... 63311, 63921, 64146, 64148, 64750, 64751
62 ... 63311, 63938, 64151, 64152, 65448
63 ... 63313, 65072
70 ... 62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81 ... 64751
122 ... 65256
123 ... 65256
124 ... 65256
125 ... 65256
152 ... 64759
156 ... 64759
180 ... 63192, 64768, 65450
261 ... 60153, 62973
271 ... 63331
300 ... 64357
721 ... 63941

Proposed Rules:

52 ... 63204, 63343, 63972, 63982, 64176, 64783
60 ... 64176
62 ... 63985, 64207, 64208, 65460
63 ... 65079
80 ... 60153, 65164
89 ... 65164
90 ... 65164
91 ... 65164
300 ... 64387
1048 ... 65164
1051 ... 65164
1065 ... 65164
1068 ... 65164

41 CFR

61–250 ... 65452

42 CFR

411 ... 60154
1001 ... 62980, 63749

Proposed Rules:

1001 ... 65460

43 CFR

3600 ... 63334
3610 ... 63334
3620 ... 63334
3800 ... 63334

44 CFR

64 ... 63627
65 ... 65107, 65110
67 ... 65115, 65120

Proposed Rules:

61 ... 60176
67 ... 65668, 65671

46 CFR

Proposed Rules:

67 ... 64784

47 CFR

1 ... 62992
25 ... 63512
54 ... 64775
73 ... 60156, 60157, 63199, 63629, 64776, 64777, 65122
76 ... 62992
101 ... 63512

Proposed Rules:

1 ... 64785
2 ... 64785
51 ... 63651, 64946
73 ... 63209, 63653, 63654, 63986, 63997, 64792, 65164
87 ... 64785

48 CFR

Ch. 1 ... 65346, 65372
2 ... 65349, 65351, 65353
5 ... 65370
8 ... 65367
11 ... 65351
12 ... 65370
15 ... 65351, 65368, 65369
19 ... 65370
22 ... 65370
23 ... 65351, 65370
25 ... 65349, 65370
32 ... 65353
39 ... 65371
42 ... 65351
44 ... 65367
52 ... 65349, 65353, 65367, 65370
53 ... 65370
202 ... 63334
212 ... 63335
215 ... 63334
217 ... 63336
237 ... 63335
242 ... 63334

Proposed Rules:

1 ... 65792
36 ... 65792
53 ... 65792
235 ... 63348, 65676
1823 ... 64391
1836 ... 64391
1852 ... 64391

49 CFR

241 ... 63942
571 ... 60157, 64154, 64358, 65376
572 ... 64368

Proposed Rules:

107 ... 63096
171 ... 63096
172 ... 63096
173 ... 63096
177 ... 63096
178 ... 63096
180 ... 63096
219 ... 64000
567 ... 65536
571 ... 65536
573 ... 64078, 64087, 65165
574 ... 65536
575 ... 65536
577 ... 64078, 64087

50 CFR

17 ... 62993, 63752
222 ... 65658
223 ... 65658
230 ... 64378
600 ... 63199
622 ... 60161
635 ... 63003, 64378
648 ... 63003, 65454, 65660
660 ... 63199, 63630
679 ... 64380, 64915

Proposed Rules:

17 ... 63349, 63654
20 ... 63665
21 ... 63349, 63665
222 ... 64793
223 ... 64793, 65676
224 ... 64793, 65676
648 ... 63013, 63666, 64392
679 ... 65028

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 20, 2001

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Cotton research and promotion order:
  - Cotton Board Rules and Regulations; amendment; published 11-20-01

AGRICULTURE DEPARTMENT

Food and Nutrition Service

- Child nutrition programs:
  - Child and adult care food program—
    - Infant meal patterns; and meal pattern tables for suppers and supplemental foods; corrections; published 12-20-01

COMMERCE DEPARTMENT

- Freedom of Information Act and Privacy Act; implementation; published 12-20-01

DEFENSE DEPARTMENT

Army Department

- Procurement:
  - DOD freight motor carriers, exempt surface freight forwarders, shippers agents, and freight brokers qualifying program; CFR part removed; published 12-20-01

FEDERAL RESERVE SYSTEM

- Truth in lending (Regulation Z):
  - Home-equity lending market—
    - Abusive lending practices; additional disclosure requirements and substantive limitations for certain loans; implementation; and predatory lending practices; published 12-20-01

NATIONAL CREDIT UNION ADMINISTRATION

- Credit unions:
  - Organization and operations—
    - Chartering and field of membership policy; published 12-20-01

TRANSPORTATION DEPARTMENT

Coast Guard

- Ports and waterway safety:
  - Mandatory ship reporting systems; published 11-20-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Fokker; published 12-5-01
  - McDonnell Douglas; published 12-5-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Voluntary Federal seed testing and certification services and preliminary test reports; fees; comments due by 12-24-01; published 10-23-01 [FR 01-26592]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:
  - Citrus canker; comments due by 12-27-01; published 11-27-01 [FR 01-29473]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Atlantic highly migratory species—
    - Quotas and trade monitoring; comments due by 12-24-01; published 11-15-01 [FR 01-28646]
  - Northeastern United States fisheries—
    - Summer flounder, scup, and black sea bass; comments due by 12-28-01; published 12-13-01 [FR 01-30828]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - West Virginia; comments due by 12-27-01; published 11-27-01 [FR 01-29471]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28852]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28851]
- Radioactive waste disposal:
  - Transuranic radioactive waste characterization program documents for disposal at Waste Isolation Pilot Plant—
    - Hanford Site, WA; comments due by 12-27-01; published 11-27-01 [FR 01-29454]
    - Savannah River Site, SC; comments due by 12-27-01; published 11-27-01 [FR 01-29455]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29469]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29470]

FEDERAL COMMUNICATIONS COMMISSION

- Radio stations; table of assignments:
  - Kentucky and Virginia; comments due by 12-24-01; published 11-21-01 [FR 01-29087]
  - North Carolina and South Carolina; comments due by 12-26-01; published 11-20-00 [FR 00-29626]
- Television broadcasting:
  - Cable television systems—
    - Horizontal and vertical ownership limits and broadcast and MDS attribution rules; comments due by 12-26-01; published 10-11-01 [FR 01-25479]

FEDERAL RESERVE SYSTEM

- Risk-based capital:
  - Supplementary capital elements (tier 2 capital); deferred tax assets (Regulations H and Y); comments due by 12-27-01; published 11-27-01 [FR 01-29331]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

- Medicare and Medicaid:
  - Fire safety standards for certain health care facilities; comments due by 12-26-01; published 10-26-01 [FR 01-25422]
- Medicare:
  - Medicaid upper payment limit for non-State government-owned or operated hospitals; modification; comments due by 12-24-01; published 11-23-01 [FR 01-29327]
  - Supplementary medical insurance premium surcharge agreements; comments due by 12-26-01; published 10-26-01 [FR 01-27120]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

- Mortgage and loan insurance programs:
  - Single family mortgage insurance—
    - Section 203(k) consultant placement and removal procedures; comments due by 12-24-01; published 10-24-01 [FR 01-26709]

INTERIOR DEPARTMENT

Fish and Wildlife Service

- Endangered and threatened species:
  - Critical habitat designations—
    - Kneeland Prairie penny-cress; comments due by 12-24-01; published 10-24-01 [FR 01-26711]
  - Southwestern Washington/Columbia River coastal cutthroat trout; comments due by 12-24-01; published 11-23-01 [FR 01-29218]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land

VOL 66 ISS 245 DE 20 2001 UMI

reclamation plan submissions:
Illinois; comments due by 12-27-01; published 11-27-01 [FR 01-29452]

JUSTICE DEPARTMENT
Drug Enforcement Administration
Records, reports, and exports of listed chemicals:
Gamma-butyrolactone; threshold establishment; comments due by 12-24-01; published 10-24-01 [FR 01-26741]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Grant and Cooperative Agreement Handbook; cooperative agreements with cooperative firms; policy clarification, process improvements, etc.; comments due by 12-28-01; published 10-29-01 [FR 01-26622]

INTERIOR DEPARTMENT
National Indian Gaming Commission
Indian Gaming Regulatory Act:
Environment, public health, and safety; comments due by 12-29-01; published 11-9-01 [FR 01-28154]

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
Leyse, Robert H.; comments due by 12-26-01; published 10-12-01 [FR 01-25672]
Nuclear Energy Institute; comments due by 12-26-01; published 10-11-01 [FR 01-25565]

TRANSPORTATION DEPARTMENT
Coast Guard
Offshore supply vessels:
Alternative compliance program; incorporation; comments due by 12-24-01; published 10-23-01 [FR 01-26563]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 12-24-01; published 11-23-01 [FR 01-29194]
BAE Systems (Operations) Ltd.; comments due by 12-24-01; published 11-23-01 [FR 01-29196]
Bell; comments due by 12-28-01; published 10-29-01 [FR 01-26966]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Dassault; comments due by 12-26-01; published 11-26-01 [FR 01-29342]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Enstrom Helicopter Corp.; comments due by 12-28-01; published 10-29-01 [FR 01-26965]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Honeywell; comments due by 12-28-01; published 10-29-01 [FR 01-26968]
Short Brothers; comments due by 12-24-01; published 11-23-01 [FR 01-29195]
Airworthiness standards:
Special conditions—
Boeing 747-200/-300 series airplanes; comments due by 12-24-01; published 11-7-01 [FR 01-27986]
Applications, hearings, determinations, etc.:
BAE Systems (Operations) Ltd.; comments due by 12-28-01; published 11-28-01 [FR 01-29599]
Class E airspace; comments due by 12-24-01; published 11-7-01 [FR 01-27990]
Jet routes; comments due by 12-24-01; published 11-7-01 [FR 01-28001]

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Engineering and traffic operations:
Highway bridge replacement and rehabilitation program; comments due by 12-26-01; published 9-26-01 [FR 01-24091]
National bridge inspection standards; comments due by 12-26-01; published 9-26-01 [FR 01-24092]

VETERANS AFFAIRS DEPARTMENT
Adjudication; pensions, compensation, dependency, etc.:
Universal adjudication rules applicable to benefit claims; decisions finality; comments due by 12-24-01; published 10-23-01 [FR 01-26558]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 2291/P.L. 107–82

To extend the authorization of the Drug-Free Communities Support Program for an additional 5 years, to authorize a National Community Antidrug Coalition Institute, and for other purposes. (Dec. 14, 2001; 115 Stat. 814)

H.J. Res. 78/P.L. 107–83

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 15, 2001; 115 Stat. 822)

Last List December 14, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Herbert Hoover
Harry Truman
Dwight D. Eisenhower
John F. Kennedy
Lyndon B. Johnson
Richard Nixon
Gerald R. Ford
Jimmy Carter
Ronald Reagan
George Bush
William J. Clinton

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	**$51.00**
1993 (Book II)	**$51.00**
1994 (Book I)	**$56.00**
1994 (Book II)	**$52.00**
1995 (Book I)	**$60.00**
1995 (Book II)	**$65.00**
1996 (Book I)	**$66.00**
1996 (Book II)	**$72.00**
1997 (Book I)	**$69.00**
1997 (Book II)	**$78.00**
1998 (Book I)	**$74.00**
1998 (Book II)	**$75.00**
1999 (Book I)	**$71.00**
1999 (Book II)	**$75.00**
2000–2001 (Book I)	**$68.50**

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA

(Rev. 12/01)

VOL 66
ISS 245
DE 20
2001
UMI

Now Available Online

through

GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

Keeping America Informed

. . .electronically!

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

Order Now!

The United States Government Manual 2001/2002

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

The
UNITED STATES
GOVERNMENT MANUAL
2001 2002

$41 per copy

Superintendent of Documents **Publications** Order Form

United States Government
INFORMATION
PUBLICATIONS ♦ PERIODICALS ♦ ELECTRONIC PRODUCTS

Order Processing Code:
*7917

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please send me ——— copies of **The United States Government Manual** 2001/2002,
S/N 069–000–00134–3 at $41 ($51.25 foreign) each.

Total cost of my order is $ ————. **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/01

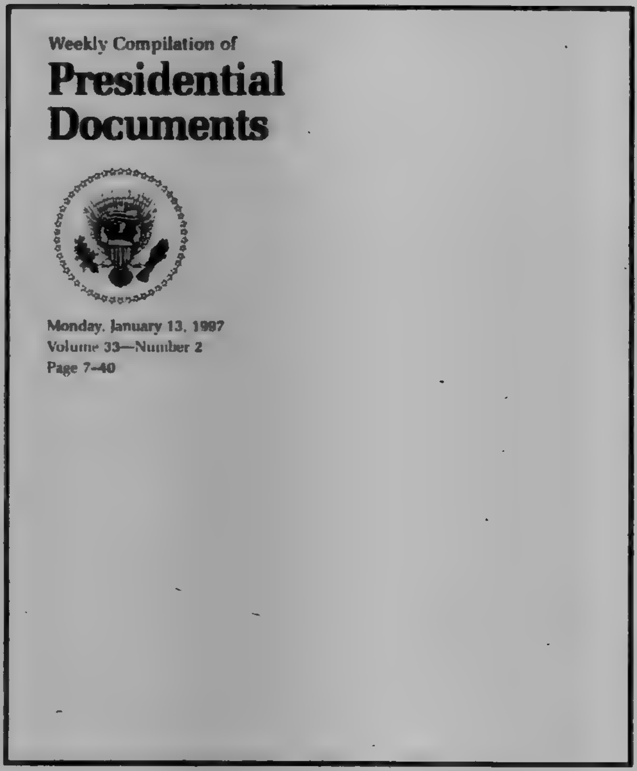
Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66 ISS 245 DE 20 2001 UMI

The authentic text behind the news . . .

The Weekly Compilation of

Presidential Documents



Weekly Compilation of
Presidential Documents
Monday, January 13, 1997
Volume 33—Number 2
Page 7–40

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
* 5420

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $151.00 First Class Mail ☐ $92.00 Regular Mail

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

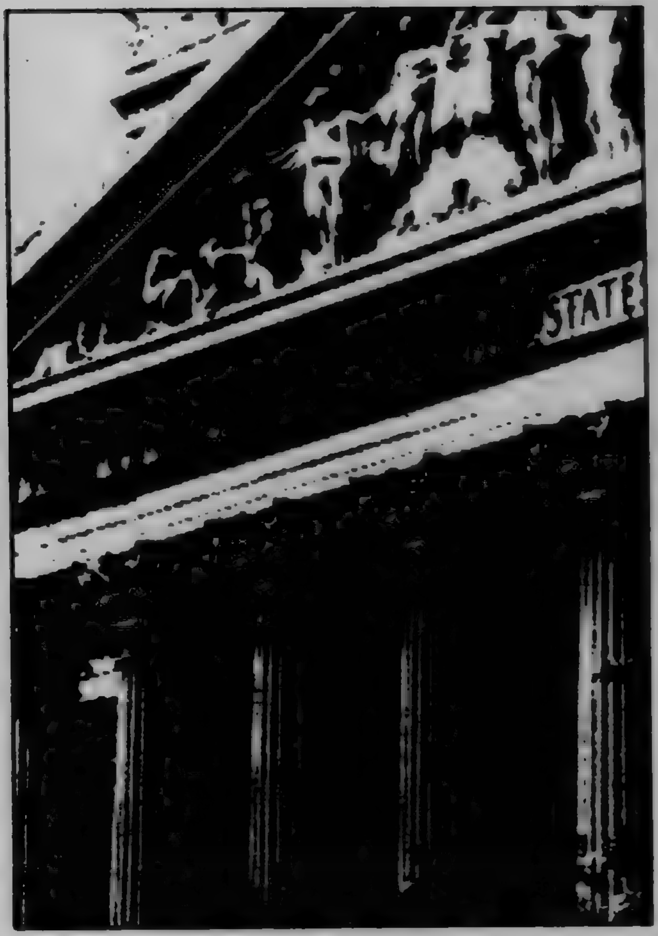
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $35 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $30 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscriptions for one year:

_____ **LSA (List of CFR Sections Affected)**, (LCS) for $35 per year.

_____ **Federal Register Index** (FRUS) $30 per year.

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date) *Thank you for your order!*

Authorizing Signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
2
4
5
DE
20
2001
UMI

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                          DEC97 R 1
AFR SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
                          DEC97 R 1
AFRDO SMITH212J
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $764 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $699 each per year.

The total cost of my order is $_________. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)
May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 7/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
2
4
5
DE
20
2001
UMI

Printed on recycled paper

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–21–01
Vol. 66 No. 246

Friday
Dec. 21, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

*****************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

UMI

VOL
66

ISS
2
4
6

DE
21

2001

UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–21–01
Vol. 66 No. 246
Pages 65811–66292

Friday
Dec. 21, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 66, No. 246

Friday, December 21, 2001

Administration on Aging
See Aging Administration

Agency for Toxic Substances and Disease Registry
NOTICES
Meetings:
  Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 65971–65972

Aging Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65972–65973

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
  3D Systems Corp. et al., 65992
  Premdor Inc. et al., 65992

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 65973–65974
Meetings:
  Advisory Committee to Director, 65974
  Radiation and Worker Health Advisory Board, 65974

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  Child Development Associate Credentialing Program, 65975–65976

Coast Guard
RULES
Ports and waterways safety:
  Tampa Bay, FL; security zones, 65838–65839

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 65876

Consumer Product Safety Commission
RULES
Poison-preventing packaging:
  Child-resistant packaging requirements—
    Over-the-counter drug products; correction, 65836–65838

Customs Service
NOTICES
General program test:
  Quota-class apparel merchandise; electronic processing; expansion, 66018–66020

Defense Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65936–65937
  Submission for OMB review; comment request, 65937–65938

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
  American Radiolabeled Chemical, Inc., 65992
  Genesis 1:29 Corp., 65992–65993
  Research Triangle Institute, 65993

Education Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65938–65940
Grants and cooperative agreements; availability, etc.:
  Educational research and improvement—
    Cognitive and Student Learning Research Program, 66249–66253

Employment and Training Administration
NOTICES
Environmental statements; availability, etc.:
  Cleveland, OH; Cleveland Job Corps Center, 65994–65996

Employment Standards Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65996
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 65996–65998

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
  Ocean Carbon Sequestration Research Program, 65940–65942
Meetings:
  Environmental Management Site-Specific Advisory Board—
    Los Alamos National Laboratory, NM, 65942
  High Energy Physics Advisory Panel, 65942–65943

Environmental Protection Agency
RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  Fluthiacet-methyl, 65839–65850
  Sodium thiosulfate, 65850–65856

UMI
VOL 66
ISS 246
DE 21
2001
UMI

NOTICES
- Air pollution control:
  - State operating permits programs—
    - District of Columbia, 65947–65948
- Environmental statements; availability, etc.:
  - Agency statements—
    - Comment availability, 65949
    - Weekly receipts, 65948–65949
- Pesticide registration, cancellation, etc.:
  - Interregional Research Project (No. 4), 65950–65954
  - ISK Biosciences, 65954–65955
- Water pollution control:
  - Clean Water Act—
    - Class II administrative penalty assessments, 65955–65956
  - Sewage sludge; use or disposal standards, 66227–66235
- Water pollution control; discharge of pollutants (NPDES):
  - Wisconsin—
    - Storm water discharges from construction activities in Indian country, 65957–65961

Executive Office of the President
- *See* Presidential Documents
- *See* Trade Representative, Office of United States

Export Administration Bureau

RULES
- Export administration regulations:
  - Entity list; revisions and additions—
    - Russia, 65836

Federal Aviation Administration

RULES
- Airworthiness directives:
  - CFE Co., 65832–65834
  - Eurocopter France, 65827–65828
  - Pilatus Aircraft Ltd., 65829–65832
- Class E airspace, 65834–65835

PROPOSED RULES
- Airports, on-airport parking lots, and vendors of on-airfield direct services to air carriers for security mandates; reimbursement procedures, 66237–66247

Federal Communications Commission

RULES
- Common carrier services:
  - Federal-State Joint Board on Universal Service—
    - Rural high-cost universal service; Multi-Association Group plan; correction, 65856
    - United States Telecom Association; reconsideration petition denied, 65856–65857

PROPOSED RULES
- Digital television stations; table of assignment:
  - Indiana, 65872
- Practice and procedure:
  - Quiet zones; application procedures review, 65866–65872
- Television stations; table of assignments:
  - Colorado, 65873

NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65961
  - Submission for OMB review; comment request, 65962–65963
- Common carrier services:
  - Price cap carriers; interstate access support mechanism; $650 million support amount remand; comment request, 65963–65964
- Television broadcasting:
  - Limited low power television/ television translator/Class A television auction filing window; mutually exclusive proposals, 65964

Federal Deposit Insurance Corporation

NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65964

Federal Energy Regulatory Commission

PROPOSED RULES
- Electric utilities (Federal Power Act):
  - Standard generator interconnection agreements and procedures, 65858

NOTICES
- Electric rate and corporate regulation filings:
  - Kinder Morgan Power Co. et al., 65946–65947
- *Applications, hearings, determinations, etc.:*
  - Cambridge Electric Light Co. et al., 65943
  - Coluumbia Gulf Transmission Co., 65943
  - Dominion Transmission, Inc., 65943–65944
  - Granite State Gas Transmission, 65944
  - Iroquois Gas Transmission System, L.P., 65944
  - Texas Eastern Transmission, LP, 65944–65945
  - Williams Gas Pipelines Central, Inc., 65945–65946

Federal Highway Administration

NOTICES
- Meetings:
  - Intelligent Transportation Society of America, 66006–66007

Federal Railroad Administration

NOTICES
- Traffic control systems; discontinuance or modification:
  - Montana Rail Link, Inc., 66007

Federal Reserve System

RULES
- Extensions of credit by Federal Reserve banks (Regulation A)
  - Discount rate change, 65816–65817

NOTICES
- Agency information collection activities:
  - Proposed collection; comment request, 65964–65970
- Banks and bank holding companies:
  - Change in bank control, 65970
  - Formations, acquisitions, and mergers, 65970–65971
  - Permissible nonbanking activities, 65971
- Meetings; Sunshine Act, 65971

Federal Transit Administration

NOTICES
- Environmental statements; notice of intent:
  - Salt Lake City, UT—
    - 2100 South Light Rail Station to West Valley City and Taylorsville; transit connection, 66009–66011
    - 6400 West Light Rail Station to South Jordan; transit connection, 66007–66009

Fish and Wildlife Service

NOTICES
- Endangered and threatened species permit applications, 65980–65981
- Environmental statements; availability, etc.:
  - Incidental take permits—
    - Bastrop County, TX; Houston toad, 65981–65983

Food and Drug Administration
NOTICES
Meetings:
FDA food labeling and allergen declaration; public workshop, 65976–65977
Reports and guidance documents; availability, etc.:
Abbreviated new drug applications; major, minor, and telephone amendments, 65977–65978
Food labeling—
Juice; warning label requirement exemptions; 5-log reduction recommendations, 65978–65979

General Services Administration
NOTICES
Acquisition regulations:
Household Goods Tender of Service; comment request, 66023–66187

Health and Human Services Department
See Agency for Toxic Substances and Disease Registry
See Aging Administration
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 65979–65980

Immigration and Naturalization Service
RULES
Immigration:
Immigration Examinations Fee Account; adjustment, 65811–65816
NOTICES
Agency information collection activities:
Proposed collection; comment request, 65993–65994

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66020–66021

International Trade Administration
NOTICES
Antidumping:
Low enriched uranium from—
France, 65877–65886
Various countries, 65886–65889
Pasta from—
Italy, 65889
Polyethylene terephthalate film, sheet, and strip from—
India, 65893–65899
Taiwan, 65889–65893
Stainless steel butt-weld pipe fittings from—
Taiwan, 65899–65901
Countervailing duties:
Low enriched uranium from—
France, 65901–65902
Various countries, 65903–65905
Export trade certificates of review, 65905–65923

Justice Department
See Antitrust Division
See Drug Enforcement Administration
See Immigration and Naturalization Service
See Juvenile Justice and Delinquency Prevention Office
RULES
September 11th Victim Compensation Fund of 2001, 66273–66291
NOTICES
Privacy Act:
Systems of records, 65991–65992

Juvenile Justice and Delinquency Prevention Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Comprehensive program plan; program activities (2002 FY), 65994

Labor Department
See Employment and Training Administration
See Employment Standards Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65994

Land Management Bureau
NOTICES
Coal leases, exploration licenses, etc.:
North Dakota, 65983–65984
Environmental statements; notice of intent:
Green River/Hamms Fork Coal Production Region, WY; Federal coal tract, 65984–65985
Oil and gas leases:
Mississippi, 65985–65986
Montana, 65986
Wyoming, 65986
Opening of public lands:
Montana, 65986
Withdrawal and reservation of lands:
Nevada, 65987

Maritime Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66011

Minerals Management Service
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 65987–65989

National Council on Disability
NOTICES
Meetings:
International Watch Advisory Committee, 65998

National Highway Traffic Safety Administration
PROPOSED RULES
Practice and procedure:
Defects; retention of records, early warning reporting requirements, 66189–66226
NOTICES
Insurer reporting requirements:
Annual report on motor vehicle theft (1996), 66011–66012

VOL 66 ISS 246 DE 21 2001 UMI

Motor vehicle safety standards:
  Nonconforming vehicles—
    Importation eligibility; determinations, 66012–66013

National Labor Relations Board
NOTICES
Organization, functions, and authority delegations:
  General Counsel, 65998–65999

National Oceanic and Atmospheric Administration
PROPOSED RULES
Permits:
  Endangered and threatened species:, 65873–65875
NOTICES
Marine mammals:
  Incidental taking; authorization letters, etc.—
    BP Exploration (Alaska); Beaufort Sea, AK; offshore oil and gas facilities, 65923–65935
Meetings:
  Gulf of Mexico Fishery Management Council, 65935–65936
  New England Fishery Management Council, 65936

National Park Service
NOTICES
Environmental statements; availability, etc.:
  Mount Rainier National Park, WA; general management plan, 65989
Environmental statements; notice of intent:
  Biscayne National Park, FL; Stiltsville management plan, 65989–65990

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
  Alaron Corp., Wampum, PA; installation of wet waste processing system to dry high-solids wet wastes and aqueous liquid wastes, 65999–66000
  Southern California Edison Co., 66000–66001

Office of United States Trade Representative
See Trade Representative, Office of United States

Postal Service
NOTICES
Meetings; Sunshine Act, 66001

Presidential Documents
EXECUTIVE ORDERS
Government agencies and employees:
  Agriculture, Department of; designation of order of succession (EO 13241), 66258–66259
  Commerce, Department of; designation of order of succession (EO 13242), 66260–66261
  Housing and Urban Development, Department of; designation of order of succession (EO 13243), 66262–66263
  Interior, Department of the; designation of order of succession (EO 13244), 66265–66267
  Labor, Department of; designation of order of succession (EO 13245), 66268–66269
  Treasury, Department of the; designation of order of succession (EO 13246), 66270
  Veterans Affairs, Department of; designation of order of succession (EO 13247), 66271–66272
Group of States Against Corruption; designation as a public international organization (EO 13240), 66255–66257

Public Health Service
See Agency for Toxic Substances and Disease Registry
See Centers for Disease Control and Prevention
See Food and Drug Administration

Railroad Retirement Board
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 66001–66003
  Submission for OMB review; comment request; correction, 66022 66022

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
  Exemption applications—
    HSBC Holdings plc et al., 66003–66005

Social Security Administration
NOTICES
Organization, functions, and authority delegations:
  Inspector General Office, Audit Office, 66005

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
  Oklahoma, 65858–65861
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 65990–65991

Surface Transportation Board
NOTICES
Rail carriers:
  Cost of capital—
    Rairoad industry's 2001 decision, 66013
Railroad services abandonment:
  CSX Transportation, Inc., 66013–66014
  Illinois Central Railroad Co., 66014
  New York Cross Harbor Railroad, Inc., 66014–66015
  Norfolk Southern Railway Co., 66015–66017

Thrift Supervision Office
RULES
Lending and investment:
  Savings associations; greater flexibility in changing marketplace, 65822–65827
Technical amendments, 65817–65822

Toxic Substances and Disease Registry Agency
See Agency for Toxic Substances and Disease Registry

Trade Representative, Office of United States
NOTICES
Unfair trade practices, petitions, etc.:
  Canada government and Canadian Wheat Board; wheat trading practices, 66005–66006

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration
See Federal Transit Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board

Treasury Department
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 66017–66018

Veterans Affairs Department
PROPOSED RULES
Board of Veterans Appeals:
  Appeals regulations and rules of practice—
    Death benefits claim by survivor, 65861–65865

Separate Parts In This Issue

Part II
General Services Administration, 66023–66187

Part III
Transportation Department, National Highway Traffic Safety Administration, 66189–66226

Part IV
Environmental Protection Agency, 66227–66235

Part V
Transportation Department, Federal Aviation Administration, 66237–66247

Part VI
Education Department, 66249–66253

Part VII
Executive Office of the President, Presidential Documents, 66255–66263

Part VIII
Executive Office of the President, Presidential Documents, 66265–66272

Part IX
Justice Department, 66273–66291

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws. To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
10513 (Revoked by EO 13245)....66268
11274 (Revoked by EO 13243)....66262
11487 (Revoked by EO 13244)....66267
11822 (Revoked by EO 13246)....66270
11880 (Revoked by EO 13242)....66260
11957 (Revoked by EO 13241)....66258
12608 (Revoked in part by EO 13242)....66260
12998 (Revoked by EO 13242)....66260
13240....66257
13241....66258
13242....66260
13243....66262
13244....66267
13245....66268
13246....66270
13247....66271
5 CFR
103....65811
12 CFR
201....65816
500....65817
505....65817
506....65817
516....65817
517....65817
541....65817
543....65817
544....65817
545....65817
546....65817
552....65817
556....65817
559....65822
560 (2 documents)....65817, 65822
561....65817
563....65817
563d....65817
563g....65817
565....65817
568....65817
570....65817
573....65817
583....65817
590....65817
14 CFR
39 (3 documents)....65827, 65829, 65832
71....65834
Proposed Rules:
154....66238
15 CFR
744....65836
16 CFR
1700....65836
18 CFR
Proposed Rules:
35....65858
28 CFR
28....66274
30 CFR
Proposed Rules:
936....65858
33 CFR
165....65838
38 CFR
Proposed Rules:
20....65861
40 CFR
180 (2 documents)....65839, 65850
47 CFR
36....65856
54....65856
Proposed Rules:
1....65866
73 (2 documents)....65872, 65873
49 CFR
Proposed Rules:
574....66190
576....66190
579....66190
50 CFR
Proposed Rules:
222....65873

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

INS No. 2072–00; AG Order No. 2540–2001

RIN 1115–AF61

Adjustment of Certain Fees of the Immigration Examinations Fee Account

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adjusts the fee schedule of the Immigration Examinations Fee Account (IEFA) for certain immigration and naturalization applications and petitions, as well as the fee for the fingerprinting of applicants who apply for certain immigration and naturalization benefits. Fees collected from persons filing these applications and petitions are deposited into the IEFA and used to fund the full cost of processing immigration and naturalization applications and petitions and associated support benefits; the full cost of providing similar benefits to asylum and refugee applicants; and the full cost of similar benefits provided to other immigrants, as specified in the regulation, at no charge. This rule ensures that the fees will allow the Immigration and Naturalization Service (Service) to process applications and petitions that it expects to receive in fiscal year (FY) 2002 and FY 2003 and to provide funding to other programs that receive IEFA funds.

DATES: This final rule is effective February 19, 2002. Applications or petitions mailed, postmarked, or otherwise filed, on or after this date require the new fee.

FOR FURTHER INFORMATION CONTACT: Paul Schlesinger, Chief, Immigration Services Branch, Office of Budget, Immigration and Naturalization Service, 425 I Street NW., Room 5307, Washington, DC 20536, telephone (202) 314–3410.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Service published a proposed rule in the **Federal Register** on August 8, 2001, at 66 FR 41456, to adjust certain fees of the IEFA. The fee adjustments are necessary to comply with specific federal immigration laws and the federal user fee statute and corresponding regulations and guidance, which require federal agencies to charge a fee for services when such services provide special benefits to recipients that do not accrue to the public at large. The revised fees are calculated to recover the full costs of providing these special benefits. The proposed rule was published with a 60-day comment period, which closed on October 9, 2001. The Service received 467 comments pertaining to the increases to the fees of the IEFA. The final rule implements the fee structure as outlined in the proposed rule, without change. Any applications or petitions mailed, postmarked, or otherwise filed, on or after February 19, 2002 will require the new fee.

Comments were received from a broad spectrum of individuals and organizations, including 5 refugee and immigrant service organizations, 17 public policy and advocacy groups, 5 attorney organizations, 129 past and present adopting parents, and 311 concerned citizens or prospective citizens. All of the comments were carefully considered before preparing this final rule. The following is a discussion of these comments and the Service's response.

II. Summary of Comments

A. Form I–600/600A, Petition To Classify an Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petitions

One hundred and thirty comments were received expressing dissatisfaction with the fee increases associated with Forms I–600 and I–600A, Petition to Classify an Orphan as an Immediate Relative, and the Application for Advance Processing of Orphan Petition, respectively. All 130 comments received were similar in nature. The commenters indicated that these fees discriminated against United States citizens who wished to adopt abandoned children living in orphanages around the world.

For the Service, adjudication of the I–600 and I–600A "orphan petitions" has been a priority. This commitment is established in the regulations at 8 CFR 204.3(a)(2). Specifically, orphan petitions are filed at District Offices and adjudicated by senior District Adjudication Officers. This is due to both the complexity of the international adoption process in general and the process of adjudication required by law and regulation. In addition, because of the sensitivity of international adoptions, handling these cases in District Offices by experienced officers allows for personalized customer service.

The Service may be in constant contact with the petitioner throughout the process of a U.S. citizen's effort to adopt a child from abroad. The earliest contact may be a request for information and forms, followed by the filing of the I–600A and the home study. The adjudication of the I–600A petition requires knowledge of state law requirements regarding adoptions, including pre-adoption requirements in certain states, such as counseling. Each petition must be accompanied by a home study, for which there are state requirements as well as federal requirements. Since there is no single national standard, it makes sense to handle these in District Offices that are better able to stay on top of ever-changing state requirements and establish effective local liaisons.

The home study process is complex and often the adjudicator needs to request that additional information be provided in the home study. When the child to be adopted is identified, further information and contact may ensue. Documentation is usually added to the petition as the adoption process progresses. It is not unusual for a case to be with the Service for many months, demanding an intense and protracted level of customer service. There is a great deal of communication in person, telephonically, and in writing, between the Service, adoption agencies, social workers, prospective adoptive parents, and, often, congressional offices on these cases.

The home study review makes this petition particularly labor-intensive.

The adjudicator is tasked with the careful review of the home study, perhaps 10–20 pages long, addressing a number of issues including, any history of abuse and history of arrests. This information is carefully compared against Federal Bureau of Investigation (FBI) fingerprint checks. If necessary, the officer must request and review the arrest dispositions of petitioners with criminal records. When there are discrepancies, the home study must be revised or supplemented to include the new information and consider the impact it has on the placement.

The I–600 petition establishes eligibility of a child as an orphan. Adjudication of these petitions requires the Service to determine if the child meets the regulatory definition of an orphan. Accordingly, the adjudicator must develop and maintain a level of expertise in the laws and processes governing adoption in countries from which children are adopted. This assessment may require working with the Department of State or Service offices to verify the validity of documents and interpretation of laws regarding international adoptions in countries other than the United States.

Finally, the I–600 adjudication also includes an I–604 investigation. The I–604, Request for and Report on Overseas Orphan Investigation, is used to document the investigations that must be completed in every orphan case before the I–600 can be approved. This includes: the child's birth name, and date/place of birth; where the child lives, and if the child lives at an orphanage or with someone other than the biological parent(s), how and why that placement occurred; the child's physical and mental condition, and information about any known physical or mental illnesses (e.g. is the child a special needs child); if the child has siblings and, if so, if the child lives with the brothers or sisters; information concerning the child's biological parents and the determination that the child is an orphan because he/she has a "remaining parent", "sole parent" or "surviving parent" (as defined in the regulations); and any other pertinent facts that the investigation uncovers. The purpose of the investigation is to verify that the child is an orphan, address specific concerns articulated by the adjudicating officer or consular officer that can only be resolved by an investigation, and resolve significant differences between the facts presented in the advanced processing application (Form I–600A or an I–600 approved by an INS office in the United States). The investigation is conducted at the overseas visa-issuing post by INS, or by the Department of State if there is no INS office at that U.S. Embassy or Consulate. An I–604 investigation often entails travel to a remote location to establish whether or not a child is actually an orphan. In many countries, a field investigation may require 2 or 3 days away from the office. Not every case requires a field investigation, however, a certain percentage of cases must have one, if only as an auditing tool.

Since the Service relies on fees to recover the full cost of processing immigration and naturalization benefits, the increase in fees for the I–600 and I–600A to $460 is necessary to recover the full costs associated with processing orphan petitions. Accordingly, the Service will charge a fee of $460 for processing Forms I–600 and I–600A.

B. How Will INS Improve Service?

One hundred and twenty-three comments were received opposing the increase in the fees given the current level of services provided by the Service. Many people noted the lengthy waiting times to process their benefit applications as well as the need to improve overall customer service.

Although the Service has made significant progress in improving productivity in the areas of naturalization and adjustment of status applications over the last few years, the Service continues to work toward improving efficiencies in all aspects of its service. At his confirmation hearing before the Senate Judiciary Committee, Commissioner James W. Ziglar clearly stated his commitment to improving customer service:

> If I am confirmed for this position, my primary goal will be to insure that every person who comes into contact with the Immigration and Naturalization Service (INS), regardless of their citizenship, the circumstances of their birth or any other distinguishing characteristic, and regardless of the circumstances under which they find themselves within the ambit of the INS, will be treated with respect and dignity, and without any hint of bias or discrimination. The first impression is a lasting impression and we have only one opportunity to make a first impression—the first impression of America should be that of a compassionate, caring, and open nation of opportunity.

The Service is committed to building and maintaining an immigration services system that provides immigration information and benefits in a timely, accurate, consistent, courteous, and professional manner. To support this commitment, the Service has developed a plan to eliminate backlogs and obtain a 6-month processing time standard for all applications and petitions. The plan outlines an aggressive 5-year strategy to reduce the backlogs. By the end of FY 2003, the Service expects to reach a national average processing time of 6 months or less for all applications and petitions. By the end of FY 2004, the Service intends to reduce the processing times to 6 months or less at every Service office. The Service will use the remaining 2 years to continue improving the infrastructure to ensure that backlogs do not recur in the future. The Service is committed to improve the current information technology and business processes to eliminate all backlogs.

To achieve these results, the Service will: (1) Set backlog reduction milestones by application for every office, (2) assign staffing resources to offices based on a comprehensive workload analysis, (3) monitor office accomplishments of the backlog reduction milestones, and (4) establish performance incentives for individual offices to meet and exceed the backlog reduction milestones.

The Service is applying a $5 surcharge to each application and petition to recover information technology and quality assurance costs associated with application processing. These costs were not included previously. The Service believes that this approach will ensure the resources necessary to support streamlined business processes, including on-line filing and case status inquiry via telephone or on-line; and expand quality assurance efforts to ensure the accurate and consistent adjudication of benefits.

It is also important to note that restructuring of the Service will result in improved services by clearly separating its conflicting missions of service and enforcement, clarifying its priorities, and ensuring adequate resources to carry out its mission.

C. Why INS Believes the Fee Increases Are Reasonable

One hundred and forty-nine comments stated that the fee increase was either too high or too burdensome on those applying for immigration and naturalization benefits. Many commenters noted that the Service only recently increased the majority of fees.

The Service is increasing fees by an average of $20 per application/petition, or 17 percent. The current fees, which were most recently increased in 1998, were based on a fee review that began in 1996 and was completed in 1997. Those fee levels reflected costs in 1997.

Other than the $5 per application surcharge for quality assurance and information technology, the fee schedule is based solely on the recovery of costs for general cost-of-living increases since 1997, not from the period in which the fees were implemented. Bearing this in mind, the increase in fees on an annual basis equates to a less than 4 percent average increase. In this context, the Service believes the fee increases are reasonable.

With regard to the fingerprint fee, this is the first time the fee was ever reviewed for the purpose of full cost recovery. As stated in the proposed rule, Congress directed the Service to implement changes to its fingerprint process in a short timeframe. To the extent that the revised fee may be viewed by some as a significant increase over the current fee, such an increase is both necessary and justified in an effort to recover the full cost of providing the service in accordance with applicable fee setting laws, regulations, and guidance.

The Service does have the ability to waive fees on a case-by-case basis. Any applicant or petitioner who has an inability to pay the fees may request a fee waiver from either a District or Service Center Director depending on where the petition/application is to be filed. Service regulations at 8 CFR 103.7(c) concerning the granting of fee waivers is posted on the Service Web site at www.ins.usdoj.gov.

D. Why INS Is Raising the Fees Instead of Seeking Additional Sources of Funding

Thirty-eight of the commenters encouraged the Service to seek additional sources of funding from Congress instead of relying solely on fees. From FY 1989 to FY 1998, the fees collected and deposited into the IEFA have been the sole source of funding for immigration and naturalization benefits. In creating the IEFA, Congress intended that the activities supported by this account be self-sustaining, and not be funded by tax dollars (P.L. 100–459). The Service has been managing this account consistent with federal law and congressional direction. In the past, however, fees did not recover the full costs of processing applications and petitions. In an effort to eliminate the backlog this created, Congress provided additional appropriated resources. With this support, the Service dramatically improved productivity for naturalization and adjustment of status benefit applications.

The President included $100 million in the FY 2002 budget request as the first installment of a multi-year effort to support elimination of backlogs and overall improvements in service. The funding sources for the $100 million installment are $20 million from the Premium Processing fee and $80 million in appropriations. In contrast to the new fees that will recover the full costs of processing newly filed immigration benefit applications, the $100 million budget request will provide funding for reduction and elimination of the current backlog of immigration benefit applications. The Service will use this supplemental funding for the backlog elimination plan primarily to finance the costs of term staffing increases. Without this additional staff, the Service cannot process enough immigration benefit applications to meet the processing time goals and backlog reduction milestones. The Service will also use this supplemental funding to recover the costs to develop a performance incentives program for all Service offices.

E. How Will INS Provide Consistent Service?

Five of the commenters opposed increasing fees when service varies so greatly from office to office. The Service recognizes the need for a consistent level of service among offices. As previously stated, the Service's backlog elimination plan includes a two-step effort to achieve processing time goals for all immigration benefit applications. In the first step, the Service will reduce national average processing times to 6 months or less by the end of FY 2003. In the second step, the Service will achieve the processing time goals of 6 months or less in every Service office by the end of FY 2004. This fee schedule will begin to bring consistency of processing at all field offices, as well as ensure that backlogs do not recur in the future.

F. Why INS Believes the Fee Methodology Captures Full Costs

Two of the commenters objected to the methodology used to calculate the proposed fees. Some of the commenters felt that the activity-based costing methodology calculated fees based upon inefficient practices.

The fee review adhered to the guidance contained in the Office of Management and Budget (OMB) Circular A–25, User Charges, which requires that user charges imposed recover the full cost to the Government for providing a special benefit. In addition, the Federal Accounting Standards Advisory Board (FASAB) provides additional guidance on the meaning of full-cost recovery. In FASAB Statement No. 4, full cost is defined as:

> The total amount of resources used to produce the output. This includes direct and indirect costs that contribute to the output regardless of funding sources. It also includes costs of supporting services provided by other responsibility segments or entities.

The fees reflect the full cost of processing immigration and naturalization benefits. The review was conducted consistent with the requirements of subsection 205(a)(8) of the Chief Financial Officers Act of 1990, Pub. L. 101–576, 104 Stat. 2838 (1990) (31 U.S.C. 902(a)(8)), which requires a biennial review of user fees to ensure that full costs are being recovered.

G. Why Do the Fees Pay for Unrelated Expenses?

Two of the commenters opposed the use of the applicant fees to pay for expenses that they perceived to be for unrelated services, such as the running of the asylum, refugee, parole, and the Cuban-Haitian Entrant programs. In the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, Pub. L. 101–515, 104 Stat. 2101 (1990), Congress authorized the Service to provide certain immigration and naturalization services at no cost to the applicants. Subsection 210(d)(2) of Public Law 101–515 states that "fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additional costs associated with the administration of the fees collected." (8 U.S.C. 1356(m)). As a result of this legislation, Congress no longer provided the Service with an appropriation to cover the costs of asylum and refugee services, and directed the Service to fund these costs with revenue from the IEFA.

In FY 1996, Congress also authorized the Service to pay for the cost of the Cuban-Haitian Entrant Resettlement Program from the IEFA. *See* H.R. Conf. Rep. No. 104–378, at 83 (1995). In FY 1997, Congress transferred the cost of other asylum and refugee services that had been paid from the Violent Crime Trust Fund to the IEFA. *See* Pub. L. 104–208, 110 Stat. 3009 (1996). Through explicit legislative language and subsequent appropriation action, Congress has signaled its desire that certain asylum and refugee services should be provided at no charge to the recipient. The revenue to pay for these costs must be recovered from the fees charged to other applicants for immigration and naturalization benefits. All expenses being included for cost

UMI
VOL 66
ISS 246
DE 21 2001
UMI

recovery are consistent with federal law and federal accounting standards.

Many of these commenters also opposed the Service paying for costs that are unusual or atypical when compared to the usual costs in a normal processing year. They claimed that the type of organizational activities that the Service is currently engaged in, such as infrastructure building, should not be funded by current applications and must not be included in the fee calculation. Proper accounting treatment requires inclusion of unusual or atypical costs, such as improvement of automation activities or upgrading of records management. These types of costs were assigned a useful life, and the cost of these projects amortized or depreciated over the assigned useful life. Therefore, a portion of the unusual or atypical cost has been included in the fee calculation framework for the current year and treated like any other cost based on the useful life assigned to that asset.

H. Fee Increases Are Necessary

Seventeen comments were received in favor of the fee increases. Commenters noted several reasons for this:

(1) Current fees are too low given the benefit received;

(2) taxpayers should not pay for the increasing costs of providing immigration and naturalization benefits; (3) fee increases are justified given the increasing demand for immigration and naturalization benefits over the last several years; and (4) fee increases are necessary in order to increase the current level of services.

I. Separate Versus Blended Fee Schedule

In the proposed rule, the Service requested comments on whether it should set separate fee schedules for FY 2002 and FY 2003 versus the proposed single, blended schedule effective for both years. The Service also noted that commenters might want to consider whether changing fee schedules would unduly confuse applicants and petitioners.

The Service received one comment on this subject. The commenter was in favor of a separate year fee schedule. The commenter noted that a separate, single year fee schedule will allow applicants to follow fee increases in relation to yearly inflation figures, making it easier to understand why fees increased more in one year versus another. The Service respectfully disagrees. Upon consideration of the issue, the Service has decided that changing fees every year will create unnecessary confusion with applicants and practitioners. Therefore, the Service will proceed with the single, blended fee schedule.

J. Review of the Fee for LIFE Act Adjustment of Status Applications (I–485)

In the proposed rule, the Service questioned whether it should change the established $330 fee for filing legalization applications under section 1104 of the Legal Immigration Family Equity Act, Pub. L. 106–553, 114 Stat. 2762 (2000) (LIFE Act). In establishing the fee, on an interim final basis on June 1, 2001, the Service first identified the adjustment of status application (Form I–485) process as most similar to the new legalization application process. 66 FR 29661, 29667 (June 1, 2001). The Service then referred to the 1999 fee review, which identified an estimated full cost of the Form I–485 to be $330. *Id.* at 29,668.

The Service questioned the methodology and limited nature of the 1999 fee review and proposed that the Form I–485 fee be $255. *Id.* The Service then said it would review the $330 fee established for filing legalization applications. *Id.*

Although no comments were received on this subject, the Service has reviewed the Form I–485 fee for legalization applications and has deemed it fair and reasonable to reduce the fee from $330 to $255, and refund the difference to those who have already paid the $330 fee. The Service will undertake a separate rulemaking to notify the public of the timing for this action.

III. Fee Adjustments

The fee adjustments, as adopted in this rule, are shown as follows:

IMMIGRATION EXAMINATIONS FEE ACCOUNT/FEE SCHEDULE

Form No.	Description	Fee
I–17	Petition for Approval of School for Attendance by Non-Immigrant Students	$230
I–90	Application to Replace Alien Registration Card	130
I–102	Application for Replacement/Initial Nonimmigrant Arrival/Departure Document	100
I–129	Petitions for Nonimmigrant Worker	130
I–129F	Petition to Classify Nonimmigrant as Fiancé	110
I–130	Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa	130
I–131	Application for Travel Document	110
I–140	Immigrant Petition for Alien Worker	135
I–191	Application for Advance Permission to Return to Unrelinquished Domicile	195
I–192	Application for Advance Permission to Enter as a Nonimmigrant	195
I–193	Application for Waiver of Passport and/or Visa	195
I–212	Application to Reapply for Admission into the U.S. After Deportation	195
I–360	Petition for Amerasian, Widow(er), or Special Immigrant	130
I–485	Application to Register Permanent Residence or Adjust Status	255
I–506	Application for Change of Nonimmigrant Classification	85
I–526	Immigrant Petition by Alien Entrepreneur	400
I–539	Application to Extend/Change Nonimmigrant Status	140
I–600/600A	Petition to Classify Orphan as an Immediate Relative/Application for Advance Processing of Orphan Petition.	460
I–601	Application for Waiver on Grounds of Excludability	195
I–612	Application for Waiver of the Foreign Residence Requirement	195
I–751	Petition to Remove the Conditions on Residence	145
I–765	Application for Employment Authorization	120
I–817	Application for Voluntary Departure under the Family Unity Program	140
I–824	Application for Action on an Approved Application	140
I–829	Petition by Entrepreneur to Remove Conditions	395
N–300	Application to File Declaration of Intention	80
N–336	Request for Hearing on a Decision in Naturalization Procedures	195

IMMIGRATION EXAMINATIONS FEE ACCOUNT/FEE SCHEDULE—Continued

Form No.	Description	Fee
N–400	Application for Naturalization	260
N–470	Application to Preserve Residence for	95
N–565	Application for Replacement of Naturalization/Citizenship Document	155
N–600	Application for Certification of Citizenship	185
N–643	Application for Certification of Citizenship in Behalf of an Adopted Child	145
	For Fingerprinting by the Service	50

Regulatory Flexibility Act

The Attorney General, in accordance with 5 U.S.C. 605(b), has reviewed this regulation and by approving it has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The majority of applications and petitions are submitted by individuals and not small entities as that term is defined in 5 U.S.C. 601(6). The Service acknowledges, however, that a number of small entities, particularly those filing business-related applications and petitions, such as Forms I–140, Immigrant Petition for Alien Worker; I–526, Immigrant Petition by Alien Entrepreneur; and I–829, Petition by Entrepreneur to Remove Conditions may be affected by this rule. For FY 2001, the Service projects approximately 130,000 Forms I–140, 400 Forms I–526, and 400 Forms I–829 will be filed. However, this volume represents petitions filed by a variety of businesses, ranging from large multi-national corporations to small domestic businesses. The Service does not collect data on the size of the businesses filing petitions, and therefore does not know the number of small businesses that may be affected by this rule. Even if all of the employers applying for benefits met the definition of small businesses, the resulting degree of economic impact would not require a Regulatory Flexibility Analysis to be performed.

Unfunded Mandates Reform Act of 1995

This rule will not impose a mandate of enforceable duty on State, local, and tribal governments in the aggregate, or on the private sector, and it will not significantly or uniquely affect small governments. Accordingly, no further actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is a major rule as defined by the Small Business Regulatory Enforcement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996). Based on the data included in the proposed rule, this rule will result in an annual effect on the economy of $169 million, in order to generate the revenue necessary to fund the increased expenses of processing the Service's immigration and naturalization applications and petitions. The increased fees will be paid by persons who file applications or petitions to obtain immigration benefits.

Executive Order 12866

This rule is considered by the Department of Justice to be an economically "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, because it will have an annual effect on the economy of over $100 million. Without the fee adjustments, the Service estimates that it will collect approximately $815 million in fees for immigration and naturalization benefits in FY 2002. If the fee adjustments become effective on January 1, 2002, the Service anticipates collecting approximately $942 million in FY 2002—$127 million in additional revenue.

The projected increase in revenues may overstate the actual receipt of applications and petitions since fewer applications and petitions may be filed due to the implementation of the higher fees. The decrease in volume due to the higher fees has a real economic effect in that there may be fewer people applying for and receiving benefits paid for by the Service's user fees.

This increase in revenue will be used to fund the processing of immigration and naturalization applications and petitions. The revenue increase is based on the Service's costs and workload volumes. The volume of applications and petitions filed is projected based on a regression analysis of a 5-year history of actual applications and petitions received by the Service. The regression analysis is adjusted for any anticipated or actual changes in laws, policies, or procedures that may affect future filing patterns. The proposed fees will be paid by an estimated 6.6 million individuals and businesses filing immigration and naturalization applications and petitions. Accordingly, this regulation has been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (1995), all Departments are required to submit to OMB, for review and approval, any reporting or recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

However, it should be noted that the Service solicited public comments on the change of fees in the proposed rule which was published in the **Federal Register** on August 8, 2001. It should also be noted that the changes to the fees will require changes to the application/petition forms to reflect the new fees. As a result of the changes to the forms, the Service will be submitting the forms to OMB for its approval.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entry "For fingerprinting by the Service" and by revising the entries for the following forms. The revisions read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

For fingerprinting by the Service. A service fee of $50 will be charged by the Service for any individual who is required to be fingerprinted in connection with an application or petition for certain immigration and naturalization benefits (other than asylum), and whose residence is in the United States as defined in section 101(a)(38) of the Act.

* * * * *

Form I–17. For filing an application for school approval, except in the case of a school or school system owned or operated as a public educational institution or system by the United States or a state or political subdivision thereof—$230.00.

* * * * *

Form I–90. For filing an application for a Permanent Resident Card (Form I–551) in lieu of an obsolete card or in lieu of one lost, mutilated, or destroyed, or for a change in name—$130.00.

* * * * *

Form I–102. For filing a petition for an application (Form I–102) for Arrival/Departure Record (Form I–94) or Crewman's Landing (Form I–95), in lieu of one lost, mutilated, or destroyed—$100.00.

Form I–129. For filing a petition for a nonimmigrant worker, a base fee of $130. For filing an H–1B petition, a base fee of $130 plus an additional $1,000 fee in a single remittance of $1,130. The remittance may be in the form of one or two checks (one in the amount of $1,000 and the other in the amount of $130). Payment of this additional $1,000 fee is not waivable under § 103.7(c)(1). Payment of this additional $1,000 fee is not required if an organization is exempt under § 214.2(h)(19)(iii) of this chapter, and this additional $1,000 fee also does not apply to certain filings by any employer as provided in § 214.2(h)(19)(v) of this chapter.

Form I–129F. For filing a petition to classify nonimmigrant as fiancée or fiancé under section 214(d) of the Act—$110.00.

Form I–130. For filing a petition to classify status of alien relative for issuance of immigrant visa under section 204(a) of the Act—$130.00.

Form I–131. For filing an application for travel documents—$110.00.

Form I–140. For filing a petition to classify preference status of an alien on the basis of profession or occupation under section 204(a) of the Act—$135.00.

* * * * *

Form I–191. For filing applications for discretionary relief under section 212(c) of the Act—$195.00.

Form I–192. For filing an application for discretionary relief under section 212(d)(3) of the Act, except in an emergency case, or where the approval of the application is in the interest of the United States Government—$195.00.

Form I–193. For filing an application for waiver of passport and/or visa—$195.00.

Form I–212. For filing an application for permission to reapply for an excluded, deported or removed alien, an alien who has fallen into distress, an alien who has been removed as an alien enemy, or an alien who has been removed at Government expense in lieu of deportation—$195.00.

* * * * *

Form I–360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—$130.00, except there is no fee for a petition seeking classification as an Amerasian.

Form I–485. For filing an application for permanent resident status or creation of a record of lawful permanent residence—$255.00 for an applicant 14 years of age or older; $160.00 for an applicant under the age of 14 years; no fee for an applicant filing as a refugee under section 209(a) of the Act.

* * * * *

Form I–506. For filing an application for change of nonimmigrant classification under section 248 of the Act—$85.00.

Form I–526. For filing a petition for an alien entrepreneur—$400.00.

* * * * *

Form I–539. For filing an application to extend or change nonimmigrant status—$140.00.

* * * * *

Form I–600. For filing a petition to classify orphan as an immediate relative for issuance of immigrant visa under section 204(a) of the Act. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$460.00.

Form I–600A. For filing an application for advance processing of orphan petition. (When more than one petition is submitted by the same petitioner on behalf of orphans who are brothers or sisters, only one fee will be required.)—$460.00.

Form I–601. For filing an application for waiver of ground of inadmissibility under section 212(h) or (i) of the Act. (Only a single application and fee shall be required when the alien is applying simultaneously for a waiver under both those subsections.)—$195.00.

Form I–612. For filing an application for waiver of the foreign-residence requirement under section 212(e) of the Act—$195.00.

* * * * *

Form I–751. For filing a petition to remove the conditions on residence, based on marriage—$145.00.

Form I–765. For filing an application for employment authorization pursuant to 8 CFR 274a.13—$120.00.

* * * * *

Form I–817. For filing an application for voluntary departure under the Family Unity Program—$140.00.

* * * * *

Form I–824. For filing for action on an approved application or petition—$140.00.

Form I–829. For filing a petition by entrepreneur to remove conditions—$395.00.

* * * * *

Form N–300. For filing an application for declaration of intention—$60.00.

Form N–336. For filing a request for hearing on a decision in naturalization proceedings under section 366 of the Act—$195.00.

Form N–400. For filing an application for naturalization—$260.00.

* * * * *

Form N–470. For filing an application for section 316(b) or 317 of the Act benefits—$95.00.

Form N–565. For filing an application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated, or destroyed; for a certificate of citizenship in a changed name under section 343(c) of the Act; or for a special certificate of naturalization to obtain recognition as a citizen of the United States by a foreign state under section 343(b) of the Act—$155.00.

Form N–600. For filing an application for a certificate of citizenship under section 309(c) or section 341 of the Act—$185.00.

Form N–643. For filing an application for a certificate of citizenship on behalf of an adopted child—$145.00.

* * * * *

Dated: December 17, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01–31452 Filed 12–18–01; 12:09 pm]

BILLING CODE 4410–10–F

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal

Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective December 11, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202)452-3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The "basic discount rate" is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 1.5 percent to 1.25 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 25-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that economic activity remains soft, with underlying inflation likely to edge lower from relatively modest levels. To be sure, weakness in demand shows signs of abating, but those signs are preliminary and tentative. The Committee continues to believe that, against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks are weighted mainly toward conditions that may generate economic weakness in the foreseeable future. Although the necessary reallocation of resources to enhance security may restrain advances in productivity for a time, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the unusual forces restraining demand abate.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth. The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201 —EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 C.F.R. part 201 continues to read as follows:

Authority: Authority: 12 U.S.C. 343 et seq., 347a, 347b, 347c, 347d, 348 et seq., 357, 374,374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	1.25	December 11, 2001
New York	1.25	December 11, 2001
Philadelphia ..	1.25	December 11, 2001
Cleveland	1.25	December 13, 2001
Richmond	1.25	December 13, 2001
Atlanta	1.25	December 13, 2001
Chicago	1.25	December 11, 2001
St. Louis	1.25	December 12, 2001
Minneapolis ...	1.25	December 13, 2001
Kansas City ..	1.25	December 13, 2001
Dallas	1.25	December 13, 2001
San Francisco	1.25	December 11, 2001

By order of the Board of Governors of the Federal Reserve System.

December 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31433 Filed 12–20–01; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 500, 505, 506, 516, 517, 541, 543, 544, 545, 546, 552, 556, 560, 561, 563, 563d, 563g, 565, 568, 570, 573, 583, and 590

[No. 2001–84]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. They include clarifications, updated statutory and other references, and corrections of typographical errors.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn K. Burton, Senior Paralegal (Regulations), (202) 906–6467, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. These changes are outlined below.

OTS is changing the headings for several parts to more accurately reflect the contents. The following chart illustrates the changes made by this rule:

UMI VOL 66 ISS 246 DE 21 2001 UMI

Part	Old title	New title
500	Organization and Channeling of Functions	Agency Organization and Functions
516	Application Processing Guidelines and Procedures	Application Procedures Processing
517	The Minority, Women, and Individuals with Disabilities Outreach Program: Contracting for Goods and Services.	Contracting Outreach Programs
541	Definitions	Definitions for Regulations Affecting Federal Savings Associations
543	Incorporation, Organization, and Conversion of Federal Mutual Associations.	Federal Mutual Associations Savings—Incorporation, Organization, and Conversion
544	Charter and Bylaws	Federal Mutual Savings Associations—Charter and Bylaws
545	Operations	Federal Savings Associations—Operations
546	Merger, Dissolution, Reorganization, and Conversion	Federal Mutual Savings Associations—Merger, Dissolution, Reorganization, and Conversion
552	Incorporation, Organization, and Conversion of Federal Stock Associations.	Federal Stock Associations—Incorporation, Organization, and Conversion
561	Definitions	Definitions for Regulations Affecting All Savings Associations
563	Operations	Savings Associations—Operations
568	Security Procedures	Security Procedures under the Bank Protection Act
570	Submission and Review of Safety and Soundness Compliance Plans and Issuance of Orders to Correct Safety and Soundness Deficiencies.	Safety and Soundness Guidelines and Compliance Procedures
583	Definitions	Definitions for Regulations Affecting Savings and Loan Holding Companies

In addition, OTS makes the following miscellaneous changes:

- *Part 505—Freedom of Information Act (FOIA).* The final rule revises §§ 505.1 to 505.4, which describe the availability of materials under FOIA and the procedures for requests for records and administrative appeals. The final rule indicates that materials are available through the Dissemination Branch, General Law Division and the Public Reading Room, and that the Public Reading Room is available only by appointment. The final rule also provides that requests for records and administrative appeals of initial determinations to deny records must be submitted to the Dissemination Branch, General Law Division.
- *Part 506—Information Collection Requirements under the Paperwork Reduction Act (PRA).* The final rule updates the table displaying the OMB control numbers assigned to various OTS regulations under the PRA by inserting additional references to the control numbers and by correcting minor typographical errors. *See* 12 CFR 506.1(b).
- *Part 516—Application Processing Guidelines and Procedures.* The final rule updates § 516.40 to include current addresses for OTS Regional Offices.
- *Part 556—Statements of Policy.* This final rule moves the statement of policy on branching at 12 CFR 556.5 to 12 CFR 545.93. This provision will now directly follow OTS rules on branch offices and branch office applications at 12 CFR 545.92. The only remaining provision in part 556 is the policy statement on receipt of interest expressed as a percentage of other income. *See* 12 CFR 556.13. This policy statement has limited applicability and is adequately addressed in various OTS legal opinions. *See* Op. Chief Counsel (May 3, 1996). OTS has concluded that it is unnecessary to continue to include this policy statement in its rules. Accordingly, this final rule deletes part 556.
- *Part 560—Lending and Investment.* The final rule corrects the indentation in the supervisory loan-to-value limits chart in the Appendix to § 560.101.
- *Part 563d—Securities of Savings Associations and Part 563g—Securities Offerings.* The final rule updates the filing requirements at §§ 563d.1, 563d.2, 563g.5, and 563g.18.
- *Part 565—Prompt Corrective Action.* The final rule corrects a statutory citation in § 565.4(b)(1)(iv).
- *Part 568—Security Procedures.* The final rule corrects the authority citation for this part.
- *Part 573—Privacy of Consumer Financial Information.* The final rule adds a phrase that was inadvertently omitted from § 573.15(a)(7)(ii). This change conforms this section to the text of the rule published on 65 FR 35162 (June 1, 2000).
- *Part 590—Preemption of State Usury Laws.* OTS is correcting a grammatical error in § 590.3(c).

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

OTS finds that there is good cause to dispense with prior notice and comment on this final rule and with the 30-day delay of effective date mandated by the Administrative Procedure Act.[1] OTS believes that these procedures are unnecessary and contrary to public interest because the rule merely corrects and clarifies existing provisions. Because the amendments in the rule are not substantive, these changes will not detrimentally affect savings associations.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 provides that regulations that impose additional reporting, disclosure, or other new requirements may not take effect before the first day of the quarter following publication.[2] This section does not apply because this final rule imposes no additional requirements and makes only technical changes to existing regulations.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,[3] the OTS Director certifies that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a "significant regulatory action" for purposes of Executive Order 12866.

---

[1] 5 U.S.C. 553.

[2] Pub. L. 103–325, 12 U.S.C. 4802.

[3] Pub. L. 96–354, 5 U.S.C. 601.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

List of Subjects

12 CFR Part 500

Organization and functions (Government agencies).

12 CFR Part 505

Freedom of information.

12 CFR Part 506

Reporting and recordkeeping requirements.

12 CFR Part 516

Administrative practice and procedure, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 517

Government contracts, Individuals with disabilities, Minority businesses, Women.

12 CFR Parts 541, 556, and 561

Savings associations.

12 CFR Parts 543, 544, and 546

Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 545

Accounting, Consumer protection, Credit, Electronic funds transfers, Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Parts 552 and 563g

Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 563d

Authority delegations (Government agencies), Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 565

Administrative practice and procedure, Capital, Savings associations.

12 CFR Part 568

Reporting and recordkeeping requirements, Savings associations, Security measures.

12 CFR Part 570

Accounting, Administrative practice and procedure, Bank deposit insurance, Holding companies, Reporting and recordkeeping requirements, Savings associations, Safety and soundness.

12 CFR Part 573

Consumer protection, Privacy, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 583

Holding Companies, Savings associations.

12 CFR Part 590

Banks, banking, Loan programs—housing and community development, Manufactured homes, Mortgages, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations, as set forth below.

PART 500—AGENCY ORGANIZATION AND FUNCTIONS

1. Revise the part heading for part 500 to read as shown above.

2. The authority citation for part 500 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 505—FREEDOM OF INFORMATION ACT

3. The authority citation for part 505 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1462a, 1463, 1464.

4. Revise the third sentence of § 505.1(b) to read as follows:

§ 505.1 Basis and Scope.

* * * * *

(b) * * * Procedures for requests for records are set forth in § 505.3 of this part. * * *

5. Revise § 505.2 to read as follows:

§ 505.2 Public Reading Room.

OTS will make materials available for review on an ad hoc basis when necessary. Contact the Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or you may visit the Public Reading Room at 1700 G Street, NW., by appointment only. To make an appointment for access, call (202) 906–5922, send an E-mail to *publicinfo@ots.treas.gov*, or send a facsimile transmission to (202) 906–7755. (Please identify the materials you would like to inspect, to assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive your request.

6. Revise the first two sentences of § 505.3 to read as follows:

§ 505.3 Requests for records.

The Manager, Dissemination Branch or a designated official will make the initial determination under 31 CFR 1.5(g) whether to grant a request for OTS records. Requests may be mailed to: Freedom of Information Act Request, Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or marked "FOIA" and delivered in person to the Public Reading Room, Dissemination Branch, General Law Division, 1700 G Street, NW., Washington, DC 20552. * * *

7. Revise the first and third sentences of § 505.4 to read as follows:

§ 505.4 Administrative appeal of initial determination to deny records.

The Deputy Chief Counsel for General Law or a designated official will make appellate determinations under 31 CFR 1.5(h) with respect to OTS records. * * * Appeals may be delivered personally to the Dissemination Branch, General Law Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552. * * *

PART 506—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

8. The authority citation for part 506 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

9. Amend § 506.1(b) by revising the entry for part 516, removing the entry for § 516.1(c), adding new entries for §§ 533.4, 533.6 and 533.7 in numerical order, and revising the entry for § 545.92 to read as follows:

§ 506.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

UMI
VOL 66 ISS 246 DE 21 2001
UMI

12 CFR part or section where identified and described	Current OMB control No.
* * *	* *
Part 516	1550–0056
* * *	* *
533.4	1550–0105
533.6	1550–0105
533.7	1550–0105
* * *	* *
545.92	1550–0004 and 1550–0006
* * *	* *

PART 516—APPLICATION PROCESSING PROCEDURES

10. Revise the part heading for part 516 to read as shown above.

11. The authority citation for part 516 continues to read as follows:

Authority: 5 U.S.C. 552, 559; 12 U.S.C. 1462a, 1463, 1464, 2901 *et seq.*

12. Revise § 516.40(a)(2) to read as follows:

§ 516.1 Where do I file my application?

(a) * * *

(2) The addresses of each Regional Office and the states covered by each office are:

Region	Office address	States served
Northeast	Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey, 07302.	Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.
Southeast	Office of Thrift Supervision, 1475 Peachtree Street, NE., Atlanta, Georgia 30309. Mail to: PO Box 105217, Atlanta, Georgia 30348–5217.	Alabama, District of Columbia, Florida, Georgia, Maryland, North Carolina, Puerto Rico, South Carolina, Virginia, the Virgin Islands
Central	Office of Thrift Supervision, One South Wacker Drive, Suite 2000, Chicago, Illinois 60606.	Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, Wisconsin
Midwest	Office of Thrift Supervision, 225 E. John Carpenter Freeway, Suite 500, Irving, Texas 75062–2326. Mail to: PO Box 619027, Dallas/Ft. Worth, Texas 75261–9027.	Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas
West	Office of Thrift Supervision, Pacific Plaza, 2001 Junipero Serra Boulevard, Suite 650, Daly City, California, 94014–1976. Mail to: PO Box 7165, San Francisco, California 94120–7165.	Alaska, Arizona, California, Guam, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon, Utah, Washington, Wyoming

* * * * *

PART 517—CONTRACTING OUTREACH PROGRAMS

13. Revise the part heading for part 517 to read as shown above.

14. The authority citation for part 517 continues to read as follows:

Authority: 12 U.S.C. 1833(e); 42 U.S.C. 12101 *et seq.*

PART 541—DEFINITIONS FOR REGULATIONS AFFECTING FEDERAL SAVINGS ASSOCIATIONS

15. Revise the part heading for part 541 to read as shown above.

16. The authority citation for part 541 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

PART 543—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

17. Revise the part heading for part 543 to read as shown above.

18. The authority citation for part 543 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 544—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—CHARTER AND BYLAWS

19. Revise the part heading for part 544 to read as shown above.

20. The authority citation for part 544 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 545—FEDERAL SAVINGS ASSOCIATIONS—OPERATIONS

21. Revise the part heading for part 545 to read as shown above.

22. The authority citation for part 545 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828.

23. Revise § 545.92(d)(2) to read as follows:

§ 545.92 Branch offices.

* * * * *

(d) * * *

(2) *Submission of application or notice.* A Federal savings association must comply with § 545.93 of this part and must file its application or notice within the time frame in § 516.60 of this chapter.

* * * * *

PART 546—FEDERAL MUTUAL SAVINGS ASSOCIATIONS—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

24. Revise the part heading for part 546 to read as shown above.

25. The authority citation for part 546 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 2901 *et seq.*

PART 552—FEDERAL STOCK ASSOCIATIONS—INCORPORATION, ORGANIZATION, AND CONVERSION

26. Revise the part heading for part 552 to read as shown above.

27. The authority citation for part 552 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 556—STATEMENTS OF POLICY [REMOVED]

§ 556.5 [Redesignated as § 545.93]

28. Redesignate § 556.5 as § 545.93.

Part 556 [Removed]

28a. Remove part 556.

PART 560—LENDING AND INVESTMENT

29. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

30. Amend the Appendix to § 560.101 by revising the Supervisory Loan-to-Value Limits table to read as follows:

§ 560.101 Real estate lending standards.

* * * * *

Appendix to § 560.101—Interagency Guidelines for Real Estate Lending Policies

* * * * *

Supervisory Loan-to-Value Limits

* * * * *

Loan category	Loan-to-value limit (percent)
Raw land	65
Land development	75
Construction:	
Commercial, multifamily,[1] and other nonresidential	80
1- to 4-family residential	85
Improved property	85
Owner-occupied 1- to 4-family and home equity	(2)

[1] Multifamily construction includes condominiums and cooperatives.

[2] A loan-to-value limit has not been established for permanent mortgage or home equity loans on owner-occupied, 1- to 4-family residential property. However, for any such loan with a loan-to-value ratio that equals or exceeds 90 percent at origination, an institution should require appropriate credit enhancement in the form of either mortgage insurance or readily marketable collateral.

* * * * *

PART 561—DEFINITIONS FOR REGULATIONS AFFECTING ALL SAVINGS ASSOCIATIONS

31. Revise the part heading for part 561 to read as shown above.

32. The authority citation for part 561 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

PART 563—SAVINGS ASSOCIATIONS—OPERATIONS

33. Revise the part heading for part 563 to read as shown above.

34. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831o, 3806; 42 U.S.C. 4106.

PART 563d—SECURITIES OF SAVINGS ASSOCIATIONS

35. The authority citation for part 563d continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78w, 78d–1.

36. Revise the fourth sentence of § 563d.1 to read as follows:

§ 563d.1 Requirements under certain sections of the Securities Exchange Act of 1934.

* * * All filings with respect to securities issued by savings associations required by those rules and regulations to be made with the Commission shall be made with the Business Transactions Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by submitting such filings to the Securities Filing Desk at the above address, except as noted in § 563d.2 of this part. * * *

37. Revise the third sentence of § 563d.2 to read as follows:

§ 563d.2 Mailing requirements for securities filings.

* * * The originally-signed copy and all remaining copies of each filing shall be sent to the Business Transactions Division by submitting such filings to the Securities Filing Desk at the address specified in § 563d.1 of this part. * * *

PART 563g—SECURITIES OFFERINGS

38. The authority citation for part 563g continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464; 15 U.S.C. 78c(b), 78l, 78m, 78n, 78p, 78w.

39. Revise § 563g.5(b)(1) introductory text, (b)(1)(i), and (b)(2) to read as follows:

§ 563g.5 Filing and signature requirements.

* * * * *

(b) * * * (1) Unless otherwise required, any filing under this part shall include nine copies of the document to be filed with the Business Transactions Division, Chief Counsel's Office, as follows:

(i) Seven copies, which shall include one manually signed copy with exhibits, three conformed copies with exhibits, and three conformed copies without exhibits, to the Securities Filing Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; and

* * * * *

(2) Within five days after the effective date of an offering circular or the commencement of a public offering after the effective date, whichever occurs later, nine copies of the offering circular used shall be filed with OTS, as follows: seven copies to the Securities Filing Desk, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and two copies to the Regional Director.

* * * * *

40. Revise the last sentence of § 563g.18(a) to read as follows:

§ 563g.18 Current and periodic reports.

(a) * * * The duty to file under this section shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such offering circular became effective, if, at the beginning of such fiscal year, the securities of each class to which the offering circular relates are held of record by less than three hundred persons and upon the filing of a Form 15.

* * * * *

PART 565—PROMPT CORRECTIVE ACTION

41. The authority citation for part 565 continues to read as follows:

Authority: 12 U.S.C. 1831o.

42. Revise § 565.4(b)(1)(iv) is revised to read as set forth:

§ 565.4 Capital measures and capital category definitions.

* * * * *

(b) * * *

(1) * * *

(iv) Is not subject to any written agreement, order, capital directive, or prompt corrective action directive issued by OTS under section 8 of the FDI Act, the International Lending Supervision Act of 1983 (12 U.S.C. 3907), the Home Owners' Loan Act (12 U.S.C. 1464(t)(6)(A)(ii)), or section 38 of the FDI Act, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure.

* * * * *

PART 568—SECURITY PROCEDURES UNDER THE BANK PROTECTION ACT

43. Revise the part heading for part 568 to read as shown above.

44. Revise the authority citation for part 568 to read as follows:

Authority: Secs. 2–5, 82 Stat. 294–295 (12 U.S.C. 1881–1884).

PART 570—SAFETY AND SOUNDNESS GUIDELINES AND COMPLIANCE PROCEDURES

45. Revise the part heading for part 570 to read as shown above.

46. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p–1.

UMI
VOL 66 ISS 246 DE 21 2001
UMI

PART 573—PRIVACY OF CONSUMER FINANCIAL INFORMATION

47. The authority citation for part 573 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464, 1828; 15 U.S.C. 6801 *et seq.*

48. Revise § 573.15 (a)(7)(ii) to read as follows:

§ 573.15 Other exceptions to notice and opt out requirements.

(a) * * *

(7) * * *

(ii) To comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by Federal, State, or local authorities; or

* * * * *

PART 583—DEFINITIONS FOR REGULATIONS AFFECTING SAVINGS AND LOAN HOLDING COMPANIES

49. Revise the part heading for part 583 to read as shown above.

50. The authority citation for part 583 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468.

PART 590—PREEMPTION OF STATE USURY LAWS

51. The authority citation for part 590 continues to read as follows:

Authority: 12 U.S.C. 1735f–7a.

52. Revise 590.3(c) to read as follows:

§ 590.3 Operation.

* * * * *

(c) Nothing in this section preempts limitations in state laws on prepayment charges, attorneys' fees, late charges or other provisions designed to protect borrowers.

Dated: December 11, 2001.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 01–31053 Filed 12–20–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 559 and 560

[No. 2001–82]

RIN 1550–AB37

Lending and Investment

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision ("OTS") is revising and clarifying its lending and investment regulations to give savings associations greater flexibility in a changing marketplace. Today's regulatory amendments are intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act ("HOLA"), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly.

EFFECTIVE DATE: This rule is effective on January 1, 2002.

FOR FURTHER INFORMATION CONTACT: William J. Magrini, Senior Project Manager, Supervision Policy, (202) 906–5744; Karen Osterloh, Assistant Chief Counsel, Regulations and Legislation Division, (202) 906–6639, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

OTS periodically reviews its lending and investment regulations to ensure that they enhance safe and sound lending, implement statutory requirements, protect consumers, minimize regulatory burden, and are clearly written. OTS lending and investment regulations have been considerably modified over time as savings associations, their markets, their competition, and the economy have changed. For the most part, OTS has taken a contract and market-based approach to provide flexibility for thrifts and their customers and to encourage innovations in lending to help make credit more available.

OTS last substantively revised its lending regulations and subordinate organizations regulations in 1996.[1] Since that time, the markets in which thrifts operate have changed substantially. In the primary market, savings associations now compete with other mortgage lenders to offer potential borrowers a wide variety of options besides the traditional 30-year fixed-rate purchase money mortgage. The secondary market continues to narrow the interest-rate spread on high quality mortgages.

As the residential mortgage market has evolved, thrifts have increasingly begun to explore offering other types of credit needed in their communities, including consumer lending and small business lending. A variety of community-related investment opportunities offer thrifts new ways to serve and to participate in the economic development of their communities. Thrifts have asked whether and how such loans and investments may be made by either the thrift itself or through an operating subsidiary or service corporation.

This evolving environment made it appropriate for OTS to again re-examine and update its lending and investment and subordinate organizations regulations. Accordingly, on November 1, 2001, OTS published a proposed rule intended to help thrifts take better advantage of the flexibility available under the Home Owners' Loan Act ("HOLA"), to provide low-cost credit to their customers, and to invest in their communities while still operating safely and soundly. 66 FR 55131 (Nov. 1, 2001).

II. Analysis of Comments

OTS received eight public comments from three Federal savings associations, three trade associations, a community group, and an individual. Seven commenters supported the rule, but recommended modifications. The commenter opposing the rule incorrectly believed that the rule applied to institutions with a common bond (*i.e.*, credit unions), rather than thrifts. The remaining comments are summarized below.

Small Business Loans

Existing § 560.3 provides two alternatives for determining whether a particular loan qualifies as a small business loan.[2] First, a loan of any size qualifies if the loan is made to a business that meets the size standards established by the Small Business Administration. Second, a loan qualifies if a savings association makes a loan to a business and the amount of the loan is less than $1 million, or makes a loan to a farm and the amount of the loan is less than $500,000. OTS proposed to raise this safe harbor amount to $2 million for both small business and farm loans.

Most commenters supported the increase. One commenter, however, noted that the existing definition is more consistent with an emphasis on serving the smallest businesses and farms and with the Community Reinvestment Act (CRA) definition of small business and farm loan. This commenter feared that the proposed increase could cause thrifts to neglect the smallest businesses.

---

[1] *See* Lending and Investment Final Rule, 61 FR 50951 (Sept. 30, 1996); Subsidiaries and Equity Investments, 61 FR 66561 (Dec. 18, 1996).

[2] Sections 5(c)(2)(A) and 10(m)(4)(E) specifically authorize the Director to define the terms "small business loans" and "small business" for purposes of HOLA investment limits and the Qualified Thrift Lender test, respectively.

The proposed changes were designed to define the scope of a Federal savings association's lending and investment powers, rather than to assess the adequacy of its CRA performance. OTS believes that the additional flexibility afforded by the proposed modification will enable more savings associations to provide a broader range of small business customers with credit products tailored to their needs, particularly in higher price geographic areas. OTS will continue to assess an institution's record of meeting the credit needs of the local communities, including small business lending, under the CRA and CRA implementing regulations at 12 CFR part 563e.[3]

To satisfy the safe harbor under the current and proposed rules, a savings association must make the loan to "a business or farm." Several commenters noted that commercial loans are often made to individuals who use the proceeds for their own small businesses. To accommodate this lending, commenters suggested that OTS should apply the $2 million safe harbor if loan proceeds are used for business or commercial purposes. OTS has always believed that such loans fall within the definition, but has modified the safe harbor in the final rule to make clear that it applies to loans that are for "commercial, corporate, business, or agricultural purposes." *See* 12 U.S.C. 1464(c)(2)(A).

De Minimis Investments

Existing § 560.36 permits a Federal savings association to invest the greater of one-fourth of one percent of its total capital or $100,000 in community development investments of the type permitted under 12 CFR part 24. OTS proposed to increase these limits to the greater of one percent of an association's total capital or $250,000. One commenter urged OTS to increase this limit to the national bank limit (five percent of capital stock paid in and five percent of unimpaired surplus). *See* 12 U.S.C. 24 (Eleventh) and 12 CFR part 24.

The proposed increase to the community development investment limits attempts to give thrifts authority as comparable to that of banks as possible, given the different statutory authority.[4] Because Federal thrifts have other community development investment options that are not available to national banks, OTS is not inclined to increase the *de minimis* authority beyond the proposed amount at this time.

In addition to the *de minimis* authority, Federal savings associations are permitted to invest in certain community development and charitable activities through service corporations.[5] One commenter requested clarification that the authority to invest in public welfare investments under the *de minimis* authority in § 560.36 is not contingent on the balance of public welfare investments made under the service corporation authority. OTS has consistently stated that if a loan or investment is authorized under more than investment authority, a Federal savings association may designate the section under which the loan or investment is made. *See* 12 CFR 560.31.[6] Section 559.3(i) also specifically provides that investments made at the service corporation level are not aggregated with those made at the thrift level when calculating HOLA investment limitations. *Compare* § 559.3(i)(1) (operating subsidiaries) *with* § 559.3(i)(2) (service corporations). Thus, the amount a savings association may invest directly in public welfare investments under § 560.36 is not contingent on the balance of public welfare investments made through a service corporation.

Commercial Paper and Corporate Debt Securities

Existing § 560.40 reiterates HOLA's grant of statutory authority to Federal thrifts to invest in commercial paper and corporate debt securities and sets out limitations on that authority.[7] Recently, some Federal savings associations have purchased complex investment securities with nonstandard ratings, ratings that only apply to the principal amount rather than both the principal and interest, or payment features such as residuals. These investments tend to be speculative in nature, and their likelihood of producing a particular rate of return is difficult to assess even where they may be partially guaranteed or rated investment grade. These investments are clearly not intended to hedge interest rate risk or credit risk. Rather, their potential purchase creates risks that highlight the need for savings associations to perform thorough underwriting analyses. To address issues raised by these types of investments, OTS proposed changes to § 560.40 to codify the agency's existing expectations about the circumstances under which these investments may be made.

Among other requirements, OTS proposed that a Federal savings association must determine whether an investment security is safe and sound and suitable for the association before committing to acquire the security. The proposed rule indicated that a Federal savings association must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity. One commenter supported this provision, but requested confirmation that an investment need not be reasonable under each separate criterion. The risks of each investment should be evaluated on an overall basis. Individual risk factors may impact the overall safety and soundness of a particular investment so significantly that they may not be offset by other strengths of the investment. On the other hand, a slight deviation in one area may not have such an impact on the overall safety and soundness of an investment. These determinations are inherently case-by-case. As a result, OTS cannot provide the requested confirmation.

The preamble to the proposed rule indicated that a savings association has an ongoing responsibility to monitor its investments in commercial paper and debt securities. One commenter observed that the rule text does not incorporate a review requirement or indicate what factors should be addressed in this analysis. OTS believes that the ongoing review responsibilities should be left to each institution based on the level and complexity of its investment activity. OTS has issued guidance concerning appropriate initial and continuing underwriting criteria.[8]

---

[3] Another commenter asked OTS to conform the definitions of "small business loan" set out in the CRA regulations and in the Thrift Financial Report (TFR) to include the $2 million safe harbor threshold. Revisions to the CRA regulations are beyond the scope of this rulemaking. However, OTS is working on an interagency basis to update and amend the CRA regulations. *See* Advance Notice of Proposed Regulations published July 19, 2001 (66 FR 37602). The agencies may consider revisions to the CRA definition of "small business loan" in that rulemaking. In addition, OTS continually reevaluates the TFR and the instructions to the TFR to ensure that the terms used appropriately reflect OTS regulations, and will review these documents in light of the changes made in today's final rule.

[4] The HOLA does not contain a provision paralleling the authority of 12 U.S.C. 24 (Eleventh). However, OTS has long recognized that a Federal savings association may make community development related investments to raise its profile in its market as a form of advertising.

[5] In the proposed rule, OTS revised the service corporation regulation at § 559.4(h) to clarify that these service corporation investments include those that "designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs.)" This modification clarified that Federal savings association service corporations have the same authority as national banks and state member banks to make investments to promote the public welfare (*see* 12 U.S.C. 24 (Eleventh) and 12 U.S.C. 338a, respectively). One commenter noted that the amount that national banks may invest in public welfare investments is limited to five percent of capital stock paid in plus five percent of unimpaired surplus. The commenter asked OTS to clarify whether these national bank limits also restrict the amount of the service corporation public welfare investment. The proposed modification to § 559.4 was intended to define the scope of permissible investments, not the limits on the amount of the investment. OTS existing regulations define the limits on the amount of a thrift's investment in service corporations at 12 CFR 559.5. This regulation does not incorporate the national bank limitation on public welfare investments.

[6] *See generally* Thrift Bulletin 78 "Classifying Commercial and Other Loans under the Home Owners' Loan Act" (October 5, 2001).

[7] 12 U.S.C. 1464(c)(2)(D).

The commenter also noted that the rule does not address the actions required of an institution if an investment fails to meet the original assumptions or suitability requirements subsequent to its acquisition. Depending on the circumstances of each case, OTS may, as a part of its ongoing supervision and oversight, criticize an institution's investments, its investment activities, or its investment policies, and will require appropriate remedial action as necessary.

Loan Purchases

One commenter asked OTS to add a new provision requiring savings associations to screen loan purchases for abusive and predatory features. This request addresses important issues beyond the scope of the proposal and is not an area OTS believes appropriate to address in this final rule without further public input and analysis. Nonetheless, a Federal savings association must determine the safety, soundness, and suitability of any investment or purchase, and should consider the reputation of the seller and the quality and underwriting standards of the loans it purchases.

III. Effective Date

In the proposed rule, OTS stated that it intended to publish a final rule that will be effective on January 1, 2002. *See* 66 FR 55131, at 55135 (Nov. 1, 2001). Section 553 of the Administrative Procedure Act (APA), however, provides that a final rule must not be made effective before 30 days after its publication, 5 U.S.C. 553(b)(B), unless the rule grants or recognizes an exemption or relieves a restriction.

Today's final rule relieves restrictions by enhancing savings associations' flexibility to offer a greater range of products, to invest in activities that support their local communities, and to compete more effectively with other financial institutions. It also relieves restrictions by permitting savings associations to make a greater amount of community development investments. Finally, the final rule rewrites certain provisions using plain language drafting techniques, which will make it easier for all savings associations to comply with OTS regulations. Accordingly, OTS has concluded that the final rule relieves restrictions and that the APA does not require OTS to delay its effective date for 30 days.

This rule is effective on January 1, 2002. This date is consistent with section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), which requires final rules to take effect on the first day of a calendar quarter that begins on or after the date of publication of the rule. 12 U.S.C. 4802.

IV. Executive Order 12866

The Director of OTS has determined that this final rule does not constitute a "significant regulatory action" for purposes of Executive Order 12866.

V. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 ("Unfunded Mandates Act"), requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. OTS has determined that the final rule will not result in expenditures by state, local, or tribal governments or by the private sector of $100 million or more. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Act of 1995.

VI. Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act, OTS certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule makes certain changes that reduce burden on all savings associations, including small institutions. The final rule reduces burden on all savings associations by enhancing thrifts' flexibility to offer a greater range of products, to invest in activities that support their local communities, and to compete more effectively with other financial institutions. The final rule allows small savings associations to make a greater amount of community development investments. Finally, the final rule revises § 560.42 into plain language, which will make it easier for all savings associations to comply with the regulation. Accordingly, OTS concludes that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 559

Reporting and recordkeeping requirements, Savings associations, Subsidiaries.

12 CFR Part 560

Consumer protection, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings associations, Securities.

Accordingly, the Office of Thrift Supervision amends 12 CFR chapter V, as follows.

PART 559—SUBORDINATE ORGANIZATIONS

1. The authority citation for part 559 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828.

2. Section 559.4 introductory text, and paragraphs (g)(3), (h)(2) and (3), and (i) are revised; and § 559.4(j) is added to read as follows:

§ 559.4 What activities are preapproved for service corporations?

This section sets forth the activities that have been preapproved for service corporations. Section 559.3(e)(2) of this part sets forth the procedures for engaging in a broader scope of activities on a case-by-case basis. You should read these two sections together to determine whether you must file a notice with OTS under § 559.11 of this part, or whether you must file an application under part 516 of this chapter and receive prior written OTS approval for your service corporation to engage in a particular activity. To the extent permitted by § 559.3(e)(2) of this part, a service corporation may engage in the following activities:

* * * * *

(g) * * *

---

[8] *E.g.*, Memorandum for Chief Executives 130 dated October 23, 2000. This memorandum indicates that management has an ongoing responsibility to monitor the investment, including cash flows, collateral quality, and the performance of the underlying assets of the security at least quarterly to determine the effect of any changes on the association's investment. Thrift Bulletin 13a also provides guidance on the fundamental underwriting standards thrifts should use in this area.

(3) Small business investment companies and new markets venture capital companies licensed by the U.S. Small Business Administration; and

* * * * *

(h) * * *

(2) Investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as providing housing, services, or jobs);

(3) Investments in low-income housing tax credit and new markets tax credit projects and entities authorized by statute (e.g., community development financial institutions) to promote community, inner city, and community development purposes; and

* * * * *

(i) Activities conducted on behalf of a customer on an other than "as principal" basis.

(j) Activities reasonably incident to those listed in paragraphs (a) through (i) of this section if the service corporation engages in those activities.

PART 560—LENDING AND INVESTMENT

3. The authority citation for part 560 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1701j-3, 1828, 3803, 3806; 42 U.S.C. 4106.

4. Section 560.3 is amended by revising the first sentence in the definition of "*Real estate loan*" and by revising the definition of "*Small business loans and loans to small businesses*" as follows:

§ 560.3 Definitions.

* * * * *

Real estate loan, for purposes of this part, is a loan for which the savings association substantially relies upon a security interest in real estate given by the borrower as a condition of making the loan. * * *

* * * * *

Small business loans and *loans to small businesses* include any loan to a small business as defined in this section; or a loan that does not exceed $2 million (including a group of loans to one borrower) and is for commercial, corporate, business, or agricultural purposes.

5. Section 560.30 is revised to read as follows:

§ 560.30 General lending and investment powers of Federal savings associations.

Pursuant to section 5(c) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. 1464(c), a Federal savings association may make, invest in, purchase, sell, participate in, or otherwise deal in (including brokerage or warehousing) all loans and investments allowed under section 5(c) of the HOLA including, without limitation, the following loans, extensions of credit, and investments, subject to the limitations indicated and any such terms, conditions, or limitations as may be prescribed from time to time by OTS by policy directive, order, or regulation:

LENDING AND INVESTMENT POWERS CHART

Category	Statutory authorization [1]	Statutory investment limitations (Endnotes contain applicable regulatory limitations)
Bankers' bank stock	5(c)(4)(E)	Same terms as applicable to national banks.
Business development credit corporations	5(c)(4)(A)	The lesser of .5% of total outstanding loans or $250,000.
Commercial loans	5(c)(2)(A)	20% of total assets, provided that amounts in excess of 10% of total assets may be used only for small business loans.
Commercial paper and corporate debt securities	5(c)(2)(D)	Up to 35% of total assets.[2] [3]
Community development loans and equity equity investments.	5(c)(3)(A)	5% of total assets, provided equity investments do not exceed 2% of total assets.[4]
Construction loans without security	5(c)(3)(C)	In the aggregate, the greater of total capital or 5% of total assets.
Consumer loans	5(c)(2)(D)	Up to 35% of total assets.[2] [5]
Credit card loans or loans made through credit card accounts.	5(c)(1)(T)	None.[6]
Deposits in insured depository institutions	5(c)(1)(G)	None.[6]
Education loans	5(c)(1)(U)	None.[6]
Federal government and government-sponsored enterprise securities and instruments.	5(c)(1)(C), 5(c)(1)(D), 5(c)(1)(E), 5(c)(1)(F).	None.[6]
Finance leasing	5(c)(1)(B), 5(c)(2)(A), 5(c)(2)(B), 5(c)(2)(D).	Based on purpose and property financed.[7]
Foreign assistance investments	5(c)(4)(C)	1% of total assets.[8]
General leasing	5(c)(2)(C)	10% of assets.[7]
Home improvement loans	5(c)(1)(J)	None.[6]
Home (residential) loans[9]	5(c)(1)(B)	None.[6] [10]
HUD-insured or guaranteed investments	5(c)(1)(O)	None.[6]
Insured loans	5(c)(1)(I), 5(c)(1)(K)	None[6]
Liquidity investments	5(c)(1)(M)	None.[6]
Loans secured by deposit accounts	5(c)(1)(A)	None.[6] [11]
Loans to financial institutions, brokers, and dealers	5(c)(1)(L)	None.[6] [12]
Manufactured home loans	5(c)(1)(J)	None.[6] [13]
Mortgage-backed securities	5(c)(1)(R)	None.[6]
National Housing Partnership Corporation and related partnerships and joint ventures.	5(c)(1)(N)	None.[6]
New markets venture capital companies	5(c)(4)(F)	5% of total capital.
Nonconforming loans	5(c)(3)(B)	5% of total assets.
Nonresidential real property loans	5(c)(2)(B)	400% of total capital.[14]
Open-end management investment companies[15]	5(c)(1)(Q)	None.[6]
Service corporations	5(c)(4)(B)	3% of total assets, as long as any amounts in excess of 2% of total assets further community, inner city, or community development purposes.[16]
Small business investment companies	15 U.S.C. 682(b)(2)	5% of total capital.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

LENDING AND INVESTMENT POWERS CHART—Continued

Category	Statutory authorization [1]	Statutory investment limitations (Endnotes contain applicable regulatory limitations)
Small-business-related securities	5(c)(1)(S)	None.[6]
State and local government obligations	5(c)(1)(H)	None for general obligations. Per issuer limitation of 10% of capital for other obligations.[6] [17]
State housing corporations	5(c)(1)(P)	None.[6] [18]
Transaction account loans, including overdrafts	5(c)(1)(A)	None.[6] [19]

Endnotes

1. All references are to section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) unless otherwise indicated.

2. For purposes of determining a Federal savings association's percentage of assets limitation, investment in commercial paper and corporate debt securities must be aggregated with the Federal savings association's investment in consumer loans.

3. A Federal savings association may invest in commercial paper and corporate debt securities, which includes corporate debt securities convertible into stock, subject to the provisions of § 560.40 of this part. Amounts in excess of 30% of assets, in the aggregate, may be invested only in obligations purchased by the association directly from the original obligor and for which no finder's or referral fees have been paid.

4. The 2% of assets limitation is a sublimit for investments within the overall 5% of assets limitation on community development loans and investments. The qualitative standards for such loans and investments are set forth in HOLA section 5(c)(3)(A) (formerly 5(c)(3)(B), as explained in an opinion of the OTS Chief Counsel dated May 10, 1995 (available at *www.ots.treas.gov*)).

5. Amounts in excess of 30% of assets, in the aggregate, may be invested only in loans made by the association directly to the original obligor and for which no finder's or referral fees have been paid. A Federal savings association may include loans to dealers in consumer goods to finance inventory and floor planning in the total investment made under this section.

6. While there is no statutory limit on certain categories of loans and investments, including credit card loans, home improvement loans, education loans, and deposit account loans, OTS may establish an individual limit on such loans or investments if the association's concentration in such loans or investments presents a safety and soundness concern.

7. A Federal savings association may engage in leasing activities subject to the provisions of § 560.41 of this part.

8. This 1% of assets limitation applies to the aggregate outstanding investments made under the Foreign Assistance Act and in the capital of the Inter-American Savings and Loan Bank. Such investments may be made subject to the provisions of § 560.43 of this part.

9. A home (or residential) loan includes loans secured by one-to-four family dwellings, multi-family residential property, and loans secured by a unit or units of a condominium or housing cooperative.

10. A Federal savings association may make home loans subject to the provisions of §§ 560.33, 560.34, and 560.35 of this part.

11. Loans secured by savings accounts and other time deposits may be made without limitation, provided the Federal savings association obtains a lien on, or a pledge of, such accounts. Such loans may not exceed the withdrawable amount of the account.

12. A Federal savings association may only invest in these loans if they are secured by obligations of, or by obligations fully guaranteed as to principal and interest by, the United States or any of its agencies or instrumentalities, the borrower is a financial institution insured by the Federal Deposit Insurance Corporation or is a broker or dealer registered with the Securities and Exchange Commission, and the market value of the securities for each loan at least equals the amount of the loan at the time it is made.

13. If the wheels and axles of the manufactured home have been removed and it is permanently affixed to a foundation, a loan secured by a combination of a manufactured home and developed residential lot on which it sits may be treated as a home loan.

14. Without regard to any limitations of this part, a Federal savings association may make or invest in the fully insured or guaranteed portion of nonresidential real estate loans insured or guaranteed by the Economic Development Administration, the Farmers Home Administration, or the Small Business Administration. Unguaranteed portions of guaranteed loans must be aggregated with uninsured loans when determining an association's compliance with the 400% of capital limitation for other real estate loans.

15. This authority is limited to investments in open-end management investment companies that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940. The portfolio of the investment company must be restricted by the company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in. Separate and apart from this authority, a Federal savings association may make pass-through investments to the extent authorized by § 560.32 of this part.

16. A Federal savings association may invest in service corporations subject to the provisions of part 559 of this chapter.

17. This category includes obligations issued by any state, territory, or possession of the United States or political subdivision thereof (including any agency, corporation, or instrumentality of a state or political subdivision), subject to § 560.42 of this part.

18. A Federal savings association may invest in state housing corporations subject to the provisions of § 560.121 of this part.

19. Payments on accounts in excess of the account balance (overdrafts) on commercial deposit or transaction accounts shall be considered commercial loans for purposes of determining the association's percentage of assets limitation.

6. Revise 560.36 to read as follows:

§ 560.36 De minimis investments.

A Federal savings association may invest in the aggregate up to the greater of 1% of its total capital or $250,000 in community development investments of the type permitted for a national bank under 12 CFR part 24.

7. Amend § 560.40 by adding the words "as to the portion of the security in which the association is investing" after "categories" in § 560.40(a)(2)(ii) and by adding § 560.40(c) to read as follows:

§ 560.40 Commercial paper and corporate debt securities.

* * * * *

(c) *Underwriting.* Before committing to acquire any investment security, a Federal savings association must determine whether the investment is safe and sound and suitable for the association. The Federal savings association must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity. The Federal savings association must also determine that the issuer has adequate resources and the willingness to provide for all required payments on its obligations in a timely manner.

8. Revise 560.42 to read as follows:

§ 560.42 State and local government obligations.

(a) *What limitations apply?* Pursuant to HOLA section 5(c)(1)(H), a Federal savings association ("you") may invest in obligations issued by any state, territory, possession, or political subdivision thereof ("governmental entity"), subject to appropriate underwriting and the following conditions:

	Aggregate limitation	Per-issuer limitation
(1) General obligations	None	None.
(2) Other obligations of a governmental entity (*e.g.*, revenue bonds) that hold one of the four highest investment grade ratings by a nationally recognized rating agency or that are nonrated but of investment quality.	None	10% of total capital.
(3) Obligations of a governmental entity that do not qualify under any other paragraph but are approved by your Regional Director.	As approved by your Regional Director	10% of total capital.

(b) *What is a political subdivision? Political subdivision* means a county, city, town, or other municipal corporation, a public authority, or a publicly-owned entity that is an instrumentality of a state or a municipal corporation.

(c) *What is a general obligation of a state or political subdivision?* A *general obligation* is an obligation that is guaranteed by the full faith and credit of a state or political subdivision that has the power to tax. Indirect payments, such as through a special fund, may qualify as general obligations if a state or political subdivision with taxing authority has unconditionally agreed to provide funds to cover payments.

(d) *What is appropriate underwriting for this type of investment?* In the case of a security rated in one of the four highest investment grades by a nationally recognized rating agency, your assessment of the obligor's credit quality may be based, in part, on reliable rating agency estimates of the obligor's performance. For all other securities, you must perform your own detailed analysis of credit quality. In doing so, you must consider, as appropriate, the interest rate, credit, liquidity, price, transaction, and other risks associated with the investment activity and determine that such investment is appropriate for your institution. You must also determine that the obligor has adequate resources and willingness to provide for all required payments on its obligations in a timely manner.

Dated: December 11, 2001.

By the Office of Thrift Supervision.

James E. Gilleran,

Director.

[FR Doc. 01–31052 Filed 12–20–01; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–78–AD; Amendment 39–12560; AD 2001–25–07]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS 332C, L, L1, and L2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that applies to Eurocopter France Model AS 332C, L, L1, and L2 helicopters. That AD requires conducting a filter clogging warning test, and, if necessary, replacing a jammed valve with an airworthy valve. This amendment requires the same actions as the existing AD but references a revision to the previously referenced service information; adds fuel filter part numbers to the applicability; and clarifies other provisions throughout the AD. This amendment is prompted by jammed fuel filter by-pass valves. The actions specified by this AD are intended to prevent power loss due to fuel starvation, engine flameouts, and a subsequent forced landing.

DATES: Effective January 25, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 25, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Madej, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5125, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by superseding AD 99–13–02, Amendment 39–11195 (64 FR 32399, June 17, 1999), which applies to Eurocopter France Model AS 332C, L, L1, and L2 helicopters, was published in the **Federal Register** on April 14, 2000 (65 FR 20104). That action proposed to require the same actions as AD 99–13–02 but would have added another fuel filter part number to the applicability.

After issuing that notice of proposed rulemaking (NPRM), Eurocopter France issued Alert Service Bulletin No. 01.00.56, dated January 16, 2001 (ASB), which changed the compliance and operational procedures and added a part number to the affected fuel filters. The Direction Generale De L'Aviation Civile, which is the airworthiness authority for France, classified that ASB as mandatory and issued AD Nos. 1998–318–071(A)R6 and 1998–319–012(A)R6, both dated April 18, 2001, to ensure the continued airworthiness of these helicopters in France. The FAA determined that the actions and all the fuel filter part numbers specified in the SB should be included in the proposal. Because the changes expanded the scope of the originally proposed rule, the FAA determined that it was necessary to reopen the comment period to provide additional opportunity for public comment and issued a supplemental NPRM on August 17, 2001 (66 FR 45651, August 29, 2001).

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for a minor editorial change in Note 2 of the AD. The word "bulletin" is inserted to reference the applicable service information. This change neither increases the economic burden on any operator nor increases the scope of the AD.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

The FAA estimates that one helicopter of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $180, assuming no valve needs to be replaced.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11195 (64 FR 32399, June 17, 1999), and by adding a new airworthiness directive (AD), Amendment 39–12560, to read as follows:

2001–25–07 Eurocopter France: Amendment 39–12560. Docket No. 99–SW–78–AD. Supersedes AD 99–13–02, Amendment 39–11195, Docket No. 99–SW–17–AD.

Applicability: Eurocopter France Model AS 332C, L, L1, and L2 helicopters, with any of the following part-numbered fuel filters installed, certificated in any category:

Vendor part no.	Eurocopter France part no.
–4020P25	(704A44620031)
–4020P25–1	(704A44620034)
–4020P25–2	(704A44620035)
–4020P25–3	(704A44620036)
–4020P25–4	(704A44620044)
–4020P25–11	(704A44620037)

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Note 2: This AD does not apply to aircraft modified per Eurocopter MOD 0726087 or in compliance with Eurocopter AS 332 Service Bulletin No. 28.00.38, dated March 15, 2001.

Compliance: Required as indicated, unless accomplished previously.

To prevent power loss due to fuel starvation, an engine flameout, and a subsequent forced landing, accomplish the following:

(a) Within 25 hours time-in-service (TIS), after any subsequent flight during which either fuel filter pre-clogging caution light illuminates, and after each installation of a new fuel filter assembly or filter element:

(1) Verify that the fuel filter by-pass valve (valve) correctly closes for each engine fuel filter in accordance with the Accomplishment Instructions, paragraph 2.B.1. of Eurocopter France Alert Service Bulletin Number 01.00.56, Revision 1, dated March 15, 2001 (ASB).

(2) Conduct a filter pre-clogging warning test in accordance with paragraph 2.B.2. of the ASB.

(3) If a blocked fuel filter element (open or closed) is detected during the pre-clogging warning test, clean the filter assembly in accordance with paragraph 2.B.4. of the ASB. After cleaning the filter assembly, repeat the requirements of paragraph (a)(2) of this AD.

(4) When the pre-clogging warning test result is satisfactory, repeat the requirements of paragraph (a)(1) of this AD.

(b) Within 25 hours TIS, insert a copy of this AD into the Rotorcraft Flight Manual (RFM), or make the following pen and ink addition to the RFM Emergency Procedure for fuel filter clogged caution light illumination: "If both fuel filter clogged caution lights illuminate, land as soon as possible."

(c) If both filter clogged caution lights illuminate in flight, after landing, either:

(1) Accomplish the requirements of paragraphs (a)(1) through (a)(4) of this AD before further flight, or,

(2) Replace both fuel filter elements with airworthy fuel filter elements and conduct a one-time direct flight to a location where the requirements of paragraphs (a)(1) through (a)(4) of this AD can be accomplished before further flight.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Regulations Group.

(e) Special flight permits will not be issued.

(f) The inspections, tests, and cleaning shall be done in accordance with the Accomplishment Instructions, paragraphs 2.B.1., 2.B.2., and 2.B.4., of Eurocopter France Alert Service Bulletin Number 01.00.56 Revision 1, dated March 15, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on January 25, 2002.

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD's 1998–318–071(A)R6 and 1998–319–012(A)R6, both dated April 18, 2001.

Issued in Fort Worth, Texas, on December 11, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31040 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–77–AD; Amendment 39–12563; AD 2001–25–10]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that supersedes Airworthiness Directive (AD) 99–19–32, which applies to certain Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes. AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary. Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight. This AD requires you to modify the flap control wiring and install a flap power drive-unit field control panel. The actions specified by this AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

DATES: This AD becomes effective on January 25, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 25, 2002.

ADDRESSES: You may get the service information referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–77–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Reports of excessive backlash in the flap actuators of the internal gear system on certain Pilatus Models PC–12 and PC–12/45 airplanes caused FAA to issue AD 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999).

AD 99–19–32 currently requires you to inspect the flap actuator internal gear system for correct end-play and backlash measurements and accomplish any corrective adjustments, as necessary.

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA of the need to change AD 99–19–32. The FOCA reports that Pilatus has identified modifications for the flap system and designed and manufactured a new flap control and warning unit (FCWU) that permits the flap power drive-unit circuit breaker to close during flight.

The previous FCWU does not allow the pilot to close the flap power drive-unit circuit breaker during flight and the FCWU cannot sense when a single actuator becomes worn. This could result in flap panel distortion. The incorporation of these modifications to the flap system and the installation of the new design FCWU, Pilatus part number FCWU 99–3, make the current end-play and backlash measurement procedures incorrect.

Pilatus has also identified quality deficiencies with serial numbers less than 100,001 of Pilatus part number FCWU 99–3.

In addition, the FOCA reports that electrical surges in the flap system can decrease the electrical life of the flap power drive-unit motor contactor. At the 40-degree flaps position, the flaps-down limit switch (S035) operates before the flap control warning unit can stop the extend command, which causes the flap power drive-unit's Up/Down relay (K32) to change from the extend to the retract position. The current in the field winding then goes in the opposite direction while a current still flows to the motor. Electrical current to the flap power drive-unit motor and field windings remains when the circuit breaker (CB034) closes and the motor contactor (K31 or K670) stays closed.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus PC–12 and PC–12/45 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 20, 2001 (66 FR 48381). The NPRM proposed to supersede AD 99–19–32 and proposed to require you to accomplish the following:

—Repetitively inspect the flap actuator internal gear system for correct end-play and backlash measurements with any necessary corrective adjustments;

—Incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher, or FAA-approved equivalent part number; and

—Modify the flap control wiring and install a flap power drive-unit field control panel.

Accomplishment of these proposed actions as specified in the NPRM would be required in accordance with the following:

—Pilatus PC–12 Service Bulletin No. 27–008, which incorporates the following pages:

Effective pages	Revision level	Date
1, 2, and 11	2	September 13, 2000.
3 through 10 and 12 through 114	1	June 26, 2000

UMI

VOL 66 ISS 246 DE 21 2001

UMI

—Pilatus PC–12 Service Bulletin No. 27–012, dated September 13, 2000;
—Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–13, dated April 30, 2000; and
—Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.

Note: We added to the final rule Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, and Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

What Is the Potential Impact if FAA Took No Action?

These conditions, if not corrected, could cause the flap power drive-unit circuit breaker to not close during flight and cause current surges in the flap control system. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comments received on the proposal and FAA's response to each comment:

Comment Issue No. 1: The AD Is not Necessary

What is the commenter's concern? Several commenters state that the AD is not necessary and the actions that are currently required by AD 99–19–32 are sufficient. The commenters request that FAA withdraw the NPRM.

What is FAA's response to the concern? We do not concur that this AD is not necessary. As previously discussed, the unsafe conditions specified in this document, if not corrected, could cause the flap power drive-unit circuit breaker to not close during flight and cause current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

We are not changing the final rule as a result of these comments.

Comment Issue No. 2: Change the Compliance Time

What is the commenter's concern? One commenter suggests that FAA change the repetitive inspection interval for the actuator backlash from 100 hours time-in-service (TIS) to 600 hours TIS. This would coincide with Pilatus PC–12 Service Bulletin No. 27–008 and Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

What is FAA's response to the concern? We concur with this comment. Our intent was to make the repeat inspections at 600-hour TIS intervals once the improved design actuators were installed.

We are changing the final rule to reflect:

—The change in repeat inspections from 100-hour TIS to 600-hour TIS intervals; and
—Reference to Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000.

FAA's Determination

What Is FAA's Final Determination on This Issue?

We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial questions. We have determined that these changes and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and
—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 135 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the initial inspection of the flap actuator internal gear system for end-play and backlash measurements. We have no way of determining the number of corrective adjustments each owner/operator of the affected airplanes would need to accomplish, the nature of such adjustments, or the number of repetitive inspections each owner/operator would incur. Therefore, the cost estimate only takes into account the cost of the proposed initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
6 workhours × $60 per hour = $360	Not Applicable	$360	$48,600

We estimate the following costs to incorporate certain modifications to the flap system and install a new design FCWU with a serial number of 100,001 or higher:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
70 workhours × $60 per hour = $4,200	Pilatus will provide parts at no cost to the owner/operator.	$4,200	$567,000

We estimate the following costs to modify the flap control wiring and install a flap power drive-unit field control panel:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
5 workhours × $60 per hour = $300	Pilatus will provide parts at no cost to the owner/operator.	$300	$40,500

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 99–19–32, Amendment 39–11319 (64 FR 50439, September 17, 1999), and adding a new AD to read as follows:

2001–25–10 Pilatus Aircraft Ltd.: Amendment 39–12563; Docket No. 2000–CE–77–AD. Supersedes AD 99–19–32, Amendment 39–11319.

(a) *What airplanes are affected by this AD?* This AD affects Models PC–12 and PC–12/45 airplanes, all serial numbers, that are certificated in any category. Carefully check paragraphs (d)(1) through (d)(6) of this AD for the specific actions that apply to each airplane. All airplanes will be affected by multiple actions specified in these paragraphs.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by the AD are intended to allow the flap power drive-unit circuit breaker to close during flight and prevent current surges in the flap control system. If the pilot cannot close the circuit breaker during flight, the flight control and warning unit (FCWU) would not sense a worn actuator. Current surges in the flap control system could decrease the electrical life of the flap power drive-unit motor contactor. Both conditions have the potential for flap system failure with consequent reduced or loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) For airplanes that incorporate a manufacturer serial number (MSN) in the range of 101 through 320, accomplish the following:. (i) Do the modifications and installations to the flap system, as specified in the service information. (ii) Install a new design flap control and warning unit (FCWU) (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number.	Within the next 50 hours time-in-service (TIS) after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(2) If you accomplished the modifications required by paragraph (d)(1) of this AD in accordance with Pilatus PC–12 Service Bulletin 27–008, all pages at the Revision 1 level, dated June 26, 2000, you only have to install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Actions	Compliance	Procedures
(3) For airplanes that incorporate an MSN in the range of 321 through 331, 333, 335, 336, 338 through 341, 343, or 345, install a new design FCWU (Pilatus part number FCWU 99–3) with a serial number of 100,001 or higher, or FAA-approved equivalent part number..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD), unless already accomplished.	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000; and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000. Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000, also relates to this subject.
(4) For airplanes that incorporate an MSN in the range of 101 through 400, modify the flap control wiring and install a flap power drive-unit field control panel..	Within the next 50 hours TIS after January 25, 2002 (the effective date of this AD).	In accordance with the Accomplishment Instructions section of Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001.
(5) For all MSN airplanes, inspect the flap actuator internal gear system for correct end-play and backlash measurements and make any necessary corrective adjustments..	Inspect initially within the next 50 hours TIS after January 25, 2002 (the effective date of this AD) and thereafter at intervals not to exceed 600 hours TIS. Accomplish corrective adjustments prior to further flight after the inspection where deficiencies are detected.	In accordance with the instructions in Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000, or Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000, as applicable.
(6) For all MSN airplanes, do not install any Pilatus part number FCWU 99–3 that has a serial number of 100,000 or less..	As of January 25, 2002 (the effective date of this AD).	Not Applicable.

Note 1: The FAA recommends that you incorporate the most up-to-date Pilatus reports and revisions pertaining to this subject into the Pilatus PC–12 Pilot's Operating Handbook. The most up-to-date documents as of the issue date of this AD are Temporary Revision No. 15, Report No. 01973–001, Issued: April 3, 2000, Sections 3 and 7; and Temporary Revision No. 32, Report No. 01973–001, Issued: January 8, 2001, Sections 2 and 3.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Pilatus PC–12 Service Bulletin No. 27–008, pages 1, 2, and 11 at the Revision 2 level, dated September 13, 2000, and pages 3 through 10 and 12 through 114 at the Revision 1 level, dated June 26, 2000; Pilatus PC–12 Service Bulletin 27–012, dated September 13, 2000; Pilatus PC–12 Service Bulletin No. 27–011, Revision No. 1, dated January 26, 2001; Pilatus PC–12 Maintenance Manual Temporary Revision No. 27–14 (which superseded Temporary Revision No. 27–13), dated December 4, 2000; and Pilatus PC–12 Aircraft Maintenance Manual 27–50–03, pages 601 through 608, dated April 30, 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 63 19; facsimile: +41 41 619 6224; or from Pilatus Business Aircraft Ltd., Product Support Department, 11755 Airport Way, Broomfield, Colorado 80021; telephone: (303) 465–9099; facsimile: (303) 465–6040. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on January 25, 2002.

Issued in Kansas City, Missouri, on December 11, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31102 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–28–AD; Amendment 39–12570; AD 2001–26–06]

RIN 2120–AA64

Airworthiness Directives; CFE Company Model CFE738–1–1B Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFE Company model CFE738–1–1B turbofan engines. This action requires the removal of certain fan rotor disks from service. This amendment is prompted by a report from a forging manufacturer, of a metallurgical inclusion (contaminant) found in a forging made from a certain

ingot of titanium. Fan rotor disks for model CFE738–1–1B engines have been manufactured from this same ingot and are suspect for metallurgical inclusions. The actions specified in this AD are intended to remove from service affected fan rotor disks, which if not removed, could result in uncontained engine failure and damage to the airplane.

DATES: Effective January 7, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 19, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–28–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from CFE Company, Data Distribution, MS 64–03/2101–201, P.O. Box 52170, Phoenix, AZ 85972–2170; telephone (602) 365–2493, fax (602) 365–5577.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA was recently notified of a report from a forging manufacturer of a metallurgical inclusion (contaminant) found by ultrasonic inspection in a certain forged part. This part was made from a certain ingot of titanium. The engine manufacturer also reports that CFE738 fan rotor disks were manufactured from this same ingot and are, therefore, suspected of containing these metallurgical inclusions. Metallurgical inclusions are known to be crack initiation sites in highly stressed engines parts. Cracks that have initiated from inclusions in disk material have caused uncontained disk failures. The FAA has therefore determined that these suspect fan rotor disks could fail as a result of having metallurgical inclusions. This condition, if not corrected, could result in uncontained engine failure and damage to the airplane.

Requirements of This AD

Since an unsafe condition has been identified that is likely to exist or develop on other CFE Company model CFE738–1–1B turbofan engines of the same type design, this AD is being issued to remove from service affected fan rotor disks, which if not removed, could result in uncontained engine failure and damage to the airplane. This AD requires the removal from service of certain fan rotor disks, either before further flight or by an engine cycle schedule, based on fan rotor disk serial number.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NE-28-AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–06 CFE Company: Amendment 39–12570. Docket 2001–NE–28–AD.

Applicability: This airworthiness directive (AD) is applicable to CFE Company model CFE738–1–1B turbofan engines that contain fan rotor disks part number (P/N) 3050745–2, serial numbers (SN's) 000322903511 through 000322903536, and 000322903538 through 000322903541. These engines are

UMI
VOL 66
ISS 246
DE 21 2001
UMI

installed on, but not limited to Dassault Aviation Falcon 2000 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To remove from service affected fan disks, which if not removed, could result in uncontained engine failure and damage to the airplane, do the following:

(a) Remove from service before further flight, the following serial number (SN) fan rotor disks listed in Table 1:

TABLE 1. SN'S OF FAN ROTOR DISKS REQUIRING REMOVAL BEFORE FURTHER FLIGHT

000322903512	000322903520	000322903528	000322903535
000322903513	000322903521	000322903529	000322903536
000322903516	000322903523	000322903530	000322903538
000322903517	000322903524	000322903531	000322903539
000322903518	000322903525	000322903533	000322903540
000322903519	000322903527	000322903534	000322903541

(b) Remove from service within 10 engine cycles-in-service after the effective date of this AD, fan rotor disks SN's 000322903511, 000322903515, and 000322903526.

(c) Remove from service within 70 engine cycles-since-new (CSN), fan rotor disk SN 000322903514.

(d) Remove from service within 140 engine CSN, fan rotor disks SN 000322903522 and 000322903532.

(e) The manufacturer's records indicate that fan rotor disks identified in paragraphs (a) through (d) of this AD were installed in, and may still be installed in the engines listed by SN in the following Table 2. This AD, however, applies to any engine with the fan rotor disks installed, identified in paragraphs (a) through (d) of this AD. Table 2 is provided for informational purposes only to assist in locating engines that may be affected. For information on replacing the affected fan rotor disks in this AD, see CFE Company Alert Service Bulletin CFE738-A72–8053, dated July 24, 2001.

105430	105446	105455	105467
105432	105447	105456	105469
105434	105448	105457	105471
105438	105450	105459	105472
105441	105451	105461	105474
105443	105452	105462	105475
105444	105453	105463	
105445	105454	105466	

(f) After the effective date of this AD, do not install any fan rotor disks P/N 3050745–2, SN's 000322903511 through 000322903536, and 000322903538 through 000322903541 onto any engine.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Effective Date

(i) This amendment becomes effective on January 7, 2002.

Issued in Burlington, Massachusetts, on December 14, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–31326 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–27]

Establishment of a Class E Enroute Domestic Airspace Area, Iron Mountain, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule, requests for comments.

SUMMARY: This action establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of Iron Mountain, CA, to replace existing Class G uncontrolled airspace.

DATES: *Effective Date:* 0901 UTC February 21, 2002. *Comment Date:* Comments for inclusion in the Rules Docket must be received on or before January 22, 2002.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–27, Air Traffic Division, P.O. Box 92007, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Air Traffic Division, Airspace Specialist, AWP–520, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (301) 725–6613.

SUPPLEMENTARY INFORMATION: This action will establish a Class E enroute domestic airspace area with a base altitude of 1,200 feet AGL in the vicinity of Iron Mountain, CA. A review of the airspace in southern California revealed large areas of uncontrolled (Class G) airspace immediately adjacent to numerous federal airways. Because this airspace is Class G (uncontrolled) below 14,500 feet mean sea level (MSL), the Los Angeles Air Route Traffic Control Center (ARTCC) cannot initiate instrument flight rules (IFR) air traffic services within Class G airspace. IFR services may be provided to aircraft operating in Class G airspace only when the pilot requests such service. This procedure effectively limits the flexibility of Los Angeles ARTCC in providing off route vectors and direct routing to aircraft in these areas. En route domestic airspace areas are intended to create controlled airspace in those areas where there is a requirement, or need, to provide Instrument Flight Rules (IFR) en route air traffic control services but the Federal airway segment is inadequate. The intended effect of this action is to establish Class E controlled airspace within the boundaries of the above-mentioned area, thereby replacing the existing uncontrolled airspace.

Class E enroute domestic airspace areas are published in Paragraph 6006 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 01–AWP–27." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) Is not a "signification regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 1001, and effective September 16, 2001, is amended as follows:

* * * * *

Paragraph 6006 Enroute Domestic Airspace Areas

* * * * *

Iron Mountain, CA [NEW]

That airspace extending upward from 1200 feet above the surface bounded on the north and east by V135, bounded on the south by V16–372, bounded on the west by V208–514 and V514–538, excluding that airspace within the Needles, Blythe, Parker, and Twentynine Palms Class E airspace areas, and that airspace designated for federal airways.

Issued in Los Angeles, California, on October 29, 2001.

Dawna J. Vicars,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 01–31518 Filed 12–20–01; 8:45 am]

BILLING CODE 4910-13-M

UMI VOL 66 ISS 246 DE 21 2001 UMI

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 010220046–1046–01]

RIN 0694–AC40

Entity List: Removal of Two Russian Entities

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes two Russian entities from the Entity List: INOR Scientific Center, Moscow, Russia; and Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow. The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contain a list of such entities called the Entity List.

EFFECTIVE DATE: This rule is effective December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

Consistent with Section 6 of Executive Order 12938 of November 14, 1994, as amended, this action removes the following Russian entities, their sub-units and successors from the Entity List found in Supplement No 4. to Part 744 of the EAR: INOR Scientific Center, Moscow, Russia; and, Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow.

BXA maintains an Entity List to provide notice to the public of export license requirements for such entities. These two Russian entities were added to BXA's Entity List on July 29, 1998 (63 FR 40363), due to an investigation then underway by the Russian government of these entities for suspected activities involving weapons of mass destruction and missile technology. However, the State Department determined on November 17, 2000, that it is in the foreign policy and national security interests of the United States to remove nonproliferation measures on these two entities. These entities have taken action on the issues that caused the U.S. to impose these measures in 1998. Removing these additional license requirements and restoring the previous license review policy for these entities in light of the action taken by them will support U.S. nonproliferation policy.

Although the Export Administration Act expired on August 20, 2001, Executive Order 13222 of August 17, 2001 (66 FR 44025, August 22, 2001) continues the Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088, "Multi-Purpose Application," which carries a burden hour estimate of 45 minutes for a manual submission and 40 minutes for an electronic submission.

3. This rule does not contain policies with Federalism implications as this term is defined under Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this interim rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044, or scook@bxa.doc.gov.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, August 22, 2001; Notice of November 9, 2000, 65 FR 68063, 3 CFR, 2000 Comp., p. 408.

2. Supplement No. 4 to part 744 is amended removing the entities "INOR Scientific Center, Moscow, Russia"; and "Polyus Scientific Production Association, 3 Ulitsa Vvedenskogo, 117342, Moscow" listed under "Russia" in the table.

Dated: December 17, 2001.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 01–31508 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–33–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Child-Resistant Packaging for Certain Over-the-Counter Drug Products; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) corrects the rule published in the **Federal Register** of August 2, 2001 that requires child-resistant (CR) packaging of certain previously prescription-only oral drug products approved by the Food and Drug Administration (FDA) for over-the-counter (OTC) sale. Drug products that are the subject of the August 2 rule are members of the category known as "OTC switched drug products."

The Commission intended that the August 2 rule apply to an oral drug product that is granted OTC status as

the result of an application to switch the product from prescription to OTC status (an OTC switch application) submitted to the FDA on or after the January 29, 2002 effective date of the CPSC rule, except in the following circumstances. The rule was not intended to cover a drug product that contains only active ingredients covered by prior OTC switch applications submitted by the same or any other applicant before the effective date of the CPSC rule. Since publication of the August 2 rule, the Commission has become aware that a correction is necessary to avoid confusion over this point and is thus issuing a clarifying amendment.

DATES: Effective on January 29, 2002.

FOR FURTHER INFORMATION CONTACT: Suzanne Barone, Ph.D., Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301)504–0477 ext. 1196 or Geri Smith, Office of Compliance, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301)504–0608 ext. 1160.

SUPPLEMENTARY INFORMATION:

A. The Technical Correction

The Commission published, in the **Federal Register** of August 2, 2001, a regulation to require CR packaging of oral drug products approved by the FDA for OTC sale that contain active ingredients previously available only by prescription. 66 FR 40111. The regulation as proposed and as issued in final form was intended to apply only to an OTC drug product containing one or more previously prescription-only active ingredients first granted OTC status as a result of applications submitted to the FDA on or after the January 29, 2002 effective date of the final OTC-switch rule.

Nevertheless, the August 2, 2001 rule can be read to require CR packaging of a drug product approved for the switch to OTC status after the rule becomes effective on January 29, 2002, even if that drug product contains only an active ingredient or ingredients for which application(s) for OTC switch were submitted to the FDA by any manufacturer(s) prior to the effective date. The CR packaging requirement of the rule could also be interpreted to be triggered by non-prescription active ingredients in previously prescription-only drug products. This was not the intent of the rule.

The following examples are intended to clarify the scope of the rule as corrected today:

Example 1: Manufacturer A submitted an application to the FDA in December 2001 for OTC switch of an oral drug product containing only prescription-only active ingredient X. Manufacturer A's application is approved by the FDA after the January 29, 2002 effective date of this rule. Manufacturer B submits an application to the FDA in February 2002 for OTC switch of another oral drug product containing only the same active ingredient X.

Neither drug product is subject to this rule. Manufacturer A's drug product is not subject to this rule because the OTC switch application was submitted before the January 29, 2002 effective date. Manufacturer B's drug product is not subject to this rule because it contains only formerly prescription-only active ingredients for which an OTC switch application was submitted to the FDA by some manufacturer before the effective date of the rule.[1]

Example 2: Manufacturer A submits an application to the FDA in February 2002 for OTC switch of an oral drug product containing prescription-only oral active ingredient X. Active ingredient X is not the subject of an OTC switch application submitted by any manufacturer prior to the January 29, 2002 effective date of this rule.

Manufacturer A's drug product must be in CR packaging under this rule because no application for OTC switch of prescription-only active ingredient X was submitted to the FDA by any manufacturer prior to the January 29, 2002 effective date of the rule.

Example 3: Manufacturer A obtained FDA approval in December 2001 for OTC switch of an oral drug product containing formerly prescription-only active ingredient X. Manufacturer B submits an application to the FDA in February 2002 for OTC switch of an oral drug product containing active ingredient X and prescription-only active ingredient Y. Active ingredient Y is not the subject of any OTC switch application submitted by any manufacturer prior to the effective date of this rule.

Manufacturer A's drug product is not subject to this rule. Manufacturer B's drug product must be in CR packaging under this rule because no OTC switch application for prescription-only active ingredient Y was submitted to the FDA by any manufacturer prior to the January 29, 2002 effective date of the rule.

Each of these examples pertains only to the scope of this rule. Any other special packaging requirements of 16 CRF 1700.14 otherwise applicable to a drug product remain in full force and effect.

B. The Administrative Procedure Act (APA)

Section 553(b)(3)(B) of the APA authorizes an agency to dispense with certain notice procedures for a rule when it finds "good cause" to do so. 5 U.S.C. 553(b)(3)(B). Specifically, under section 553(b)(3)(B), the requirement for notice and an opportunity to comment does not apply when the agency, for good cause, finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." This amendment does not alter the intended scope of the August 2, 2001 rule or otherwise widen its applicability. Accordingly, the Commission hereby finds that notice of, and public comment on, this technical amendment are unnecessary.

C. Other Rulemaking Requirements

Because this amendment makes no change in the intended scope or applicability of the August 2, 2001 rule, the Commission hereby incorporates by reference the findings made with respect to it concerning the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., the National Environmental Policy Act, 42 U.S.C.4321, et seq., and Executive Order No. 12988. See 66 FR 40114–5 (August 2, 2001).

For the foregoing reasons, the Commission corrects rule FR Doc. 01–19225 published in the **Federal Register** on August 2, 2001, (66 FR 40111) by making the following correcting amendment. On page 40115, in the third column, revise paragraph (a)(30)(i) in § 1700.14 to read as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

* * * * *

(30) *Over-the-Counter Drug Products.* (i) Any over-the-counter (OTC) drug product in a dosage form intended for oral administration that contains any active ingredient that was previously available for oral administration only by prescription, and thus was required by paragraph (a)(10) of this section to be in special packaging, shall be packaged in accordance with the provisions of § 1700.15(a),(b), and (c). This requirement applies whether or not the amount of that active ingredient in the OTC drug product is different from the amount of that active ingredient in the prescription drug product. This requirement does not apply if the OTC drug product contains only active ingredients of any oral drug product or products approved for OTC marketing based on an application for OTC marketing submitted to the Food and Drug Administration (FDA) by any entity before January 29, 2002. Notwithstanding the foregoing, any special packaging requirement under this § 1700.14 otherwise applicable to an OTC drug product remains in effect.

* * * * *

---

[1] Of course the situation where the OTC switch application has been submitted to the FDA and also approved prior to the effective date of the CPSC rule is covered by this example.

VOL 66 ISS 246 DE 21 2001 UMI

Dated: December 17, 2001.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 01–31400 Filed 12–20–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–01–139]

RIN 2115–AA97

Security Zones; Tampa Bay, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zones in all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay. These security zones are needed for national security reasons to protect the bridge and passing marine traffic from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective at 6 p.m. EST on December 7, 2001 and will remain in effect until 6 p.m. EDT on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket number COTP Tampa 01–139 and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT David G. McClellan, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 102.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. As appropriate the Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Sunshine Skyway Bridge in Tampa Bay, located at approximate position 27° 37′12″ N Latitude, 82° 39′20″ W Longitude. These security zones will encompass all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because this will only affect a small group of recreational fisherman that occasionally fish next to the bridge supports and they may be allowed to enter these zones with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter these zones on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–139 is added to read as follows:

§ 165.T07–139 Security Zone; Tampa Bay, Florida.

(a) *Regulated area.* The Coast Guard is establishing temporary fixed security zones in all waters extending 100 feet around all bridge supports and rocky outcroppings at the base of the supports for the Sunshine Skyway Bridge in Tampa Bay, located at approximate position 27° 37′12″ N Latitude, 82°39′20″ W Longitude.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 6 p.m. (EST) on December 7, 2001 and will remain in effect until 6 p.m. (EDT) on June 15, 2002.

(d) *Authority.* The authority for this section is 33 U.S.C. 1226; 49 CFR 1.46.

Dated: December 4, 2001.

A. L. Thompson, Jr.,

Captain, U. S. Coast Guard, Captain of the Port.

[FR Doc. 01–31524 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301184; FRL–6806–7]

RIN 2070–AB78

Fluthiacet-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluthiacet-methyl in or on field corn grain, field corn forage, field corn stover, pop corn grain, pop corn stover, sweet corn, kernels plus cob husk removed (K+CWHR), sweet corn forage, and sweet corn stover. K-I Chemical, U.S.A. Inc., 11 Martine Avenue, 9th Floor, White Plains, New York 10606 requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective December 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301184, must be received by EPA on or before February 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301184 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–6224; and e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply

UMI
VOL 66
ISS 246
DE 21 2001
UMI

to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301184. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of April 14, 1997 (62 FR 18116) (FRL–5599–7), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the of FQPA 1996 (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by K-I Chemical U.S.A., Inc., 11 Martine Avenue, 9th Floor, White Plains, NY 10606. This notice included a summary of the petition prepared by K-I Chemical U.S.A. Inc., the registrant. There were no comments received in response to the notice of filing. In the **Federal Register** of October 6, 1998 (63 FR 53656) (FRL–6033–8), EPA issued a notice pursuant to the same Acts, announcing an amendment to the petition. There were no comments received in response to the notice of filing. Addition tolerances for residues of fluthiacet-methyl per se in or on cottonseed and cotton gin by products were requested; however, a revised Section F to the petition was submitted in which these tolerances were not requested.

The petition requested that 40 CFR 180.551 be amended by establishing a tolerance for residues of the herbicide, fluthiacet-methyl, acetic acid, [2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo[3,4-α]pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester), in or on corn, field, grain at 0.010 part per million (ppm); corn, field, forage at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; corn, sweet, K + CWHR at 0.010 ppm; and corn, sweet, stover at 0.050 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue".

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961) (FRL–5754–7) November 26, 1997.

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of fluthacet-methyl on corn, field, grain at 0.010 ppm; corn, field, forage at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; corn, sweet, K + CWHR at 0.010 ppm; and corn, sweet, stover at 0.050 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by fluthiacet-methyl are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.3100	90–day oral Toxicity, rats and mice	Rats: NOAEL = 6.19 milligrams/kilograms day (mg/kg/day) in males 6.80 mg/kg/day in females LOAEL = 216 mg/kg/day in males 249 mg/kg/day in females Mice: NOAEL = 1.3 mg/kg/day in males 1.6 mg/kg/day in females LOAEL = 66 mg/kg/day in males 83 mg/kg/day in females Based on decreased body weight gains as well as effects on hematology, clinical chemistry, urinalysis parameters, liver weights and microscopic pathology in rats; and on effects on the erythropoietic system and liver in mice.
870.3150	6–week oral toxicity in dogs	NOAEL = 236 mg/kg/day in males 77.7 mg/kg/day in females LOAEL = 709 mg/kg/day in males 232 mg/kg/day in females based on decreased body weight gain.
870.3200	28–day dermal toxicity in rats	NOAEL = 1,000 mg/kg/day, the highest dose tested (HDT).
870.3700	Prenatal developmental in rats and rabbits	Maternal in rats: NOAEL = 1,000 mg/kg/day, HDT Maternal in rabbits: NOAEL = 1,000 mg/kg/day, HDT Developmental in rabbits: NOAEL = 300 mg/kg/day Developmental in rabbits: LOAEL of 1,000 mg/kg/day based on slight non-significant increased incidence of irregularly shaped sternebrae attributed to a delay in fetal development. (See section D., 2.)
870.3800	2-generation Reproduction and fertility effects	Parental/systemic NOAEL = 1.59 mg/kg/day in males LOAEL = 31.8 mg/kg/day in males NOAEL = 1.73 mg/kg/day in females LOAEL = 35.2 mg/kg/day in females based on reduction in male body weights/gains and hepatic pathology Reproductive in males: NOAEL = 31.8 mg/kg/day LOAEL =313 mg/kg/day Reproductive in females: NOAEL = 37.1 mg/kg/day LOAEL = 388 mg/kg/day based on decreases in mean litter body weights.
870.4100	Chronic toxicity dogs	NOAEL in males = 57.6 mg/kg/day LOAEL in males = 582 mg/kg/day NOAEL in females = 30.3 mg/kg/day LOAEL in females = 145 mg/kg/day The LOAELs were based on effects observed in the erythropoietic system and liver.
870.4200	Carcinogenicity rats	NOAEL in males = 2.1 mg/kg/day LOAEL in males = 130 mg/kg/day NOAEL in females = 2.5 mg/kg/day LOAEL in females = 154 mg/kg/dayIn males there were decreased body weight, liver toxicity, pancreatic toxicity and microcytic anemia. In females there were liver toxicity, uterine toxicity and slight microcytic anemia. In males only at 130 and 219 mg/kg/day there was respectively, an increase in the trend toward pancreatic exocrine adenomas and pancreatic islet cell adenomas.

VOL 66 ISS 246 DE 21 2001 UMI

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.4300	Carcinogenicity mice	NOAEL in males and females = 0.1 mg/kg/day LOAEL in males and females = 0.1 and 1.2 mg/kg/day, respectively, based on non-neoplastic liver findings. In males, and possibly females, at 10 mg/kg/day for males and 12 mg/kg/day for females; and at 32 gm/kg/day for males and 37 mg/kg/day for females, there was an increase in the number of mice with hepatocellular adenomas, carcinomos and or adenomas/carcinomas.
870.1000	Gene mutation	Flutiacet-methyl was negative for mutagenic/genotoxic effects in bacterial or cultured mammalian cells and did not cause DNA damage in bacterial or primary rat hepatocytes.
870.5375	Cytogenetics	*In vitro* cytogenetic assays performed with two different mammalian cell lines demonstrated that fluthiacet-methyl is clastogenic both in the presence and absence of S9 activation.
870	Other effects	Flutiacet-methyl was negative for micronuclei induction in mouse bone marrow, a significant increase in micronuclei was seen in stimulated rat liver cells following *in vivo* exposure.
870.6200	Acute neurotoxicity screening battery in rats	NOAEL = 2,000 mg/kg/day, with no effects at HDT
870.6200	Subchronic neurotoxicity screening battery in rats	NOAEL in males = 0.576 mg/kg/day (systemic) LOAEL in males = 556 mg/kg/day based on decreased body weight and food consumption NOAEL in females = 1,345 mg/kg/day (HDT) (systemic) NOAEL in males = 1,128 mg/kg/day (neurotoxicity) NOAEL in females = 1,345 mg/kg/day (neurotoxicity)
870.7485	Metabolism and pharmaco-kinetics in rats	Fluthiacet-methyl was absorbed rapidly at both low and high dosages in both male and female rats. Repeated oral dosing had no effect on extent of absorption. Tissue levels of radio active fluthiacet-methyl in single and repeated low dose groups did not exceed 0.018 ppm in any tissue. At the single high dose, female rats showed higher levels of radioactivity in tissues than males except for muscle, brain, fat and plasma. Excretion in males was predominantly in feces for all dose groups, with between 67 to 87% of administered radioactivity excreted by this route. In females, the percentage of administered radioactivity in urine across all dose groups 40 to 48% was approximately equivalent to the percent excreted in feces, 39 to 52%. The greater fecal excretion in males was based on a greater percentage excretion in bile for males, 37% vs. females 19%.
870.7600	Dermal penetration	No dermal penetration studies were submitted.
	Special studies	There were no required special studies

B. Toxicological Endpoints

The dose at which the NOAEL from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the LOAEL of concern are identified, the LOAEL is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose, (acute RfD or chronic RfD), where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for fluthiacet-methyl used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUTHIACET-METHYL FOR USE IN HUMAN RISK ASSESSMENT.

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Acute Dietary	None	No appropriate endpoint attributable to a single dose (exposure) was identified in oral toxicity studies. Therefore, an acute reference dose (RfD) was not established. Thus, an acute exposure/risk assessment was not conducted.	None
		NOT REQUIRED	
Chronic Dietary General population	NOAEL = 0.1 mg/kg/day	Non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation).	18-month carcinogenicity in the mouse
	UF = 100 FQPA SF = 1	Chronic RfD = 0.001 mg/kg/day Chronic PAD = 0.001 mg/kg/day	
Short-term and intermediate-term (dermal)	None	No dermal or systemic toxicity was seen at the limit-dose following repeated dermal applications to rats.	28–day dermal in the rat
Long-term (dermal) see footnote 1 below table	NOAEL = 0.1 mg/kg/day	Non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation).	18–month carcinogenicity in the mouse
Inhalation (Any time period)	None	The LC^{50} for males and females was >5,048 ± 225 mg/m^3 (>5.0 mg/L). Based on the low acute toxicity (Toxicity Category 4), the composition of the end-use product (5.36%) and the application rate (0.0089 lb ai/acre/season or 4.0 g ai/acre/season), an inhalation exposure/risk assessment was not conducted.	None

UMI
VOL 66
ISS 246
DE 21
2001
UMI

TABLE 2. —SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR FLUTHIACET-METHYL FOR USE IN HUMAN RISK ASSESSMENT.—Continued

Exposure Scenario	Dose (mg/kg/day)	Endpoint	Study
Cancer (Chronic)	$Q_1^* = 2.07E^{-1}$ $(mg/kg/day)^{-1}$ (In human equivalents)	The HED, CARC (HED Cancer Assessment Review Committee) recommended a linear low-dose approach (Q_1^*) for human risk characterization and determined that extrapolation should be based on the combined hepatocellular tumors (adenomas and carcinomas) in male mice.	78–week carcinogenicity in the mouse

[1]= *Long-term dermal* Since an oral study was selected and there is no dermal absorption study, a 100% dermal absorption factor (default value) was used.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.551) for the residues of fluthiacet-methyl, in or on a variety of raw agricultural commodities. There are presently no tolerances established for meat, milk, poultry and eggs. Based upon the results of a ruminant feeding study and a goat metabolism study, this Agency concluded that there is no reasonable expectation of finite residues in ruminant tissues and milk. Based upon the results of a poultry metabolism study, fluthiacet-methyl and its metabolite (CGA–300403) are unlikely to occur in poultry or eggs. Risk assessments were conducted by EPA to assess dietary exposures from fluthiacet-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. There were no toxicological effects that could be attributed to a single oral exposure (dose) in an appropriate toxicological study. Thus, an acute exposure/risk assessment was not conducted for fluthiacet-methyl.

ii. *Chronic exposure.* Percent crop treated (PCT), anticipated market share percentages and tolerance level residues were used.

A chronic reference dose (RfD) (0.001 mg/kg/day) was identified for fluthiacet-methyl, based on non-neoplastic liver findings (increase in absolute and relative liver weights, fatty changes, chronic inflammation, karyomegaly, single cell necrosis and ceroid/lipofuscin pigmentation). The chronic PAD is the same as the chronic RfD since the FQPA factor was reduced to 1X. The chronic PAD was used to assess chronic risk.

EPA's Office of Pesticide Programs (OPP) Health Effects Division used Dietary Exposure Evaluation Model (DEEM™), version 7.075) software for conducting a chronic dietary (food) exposure analysis. DEEM ™ is a dietary exposure analysis system developed by Novigen Sciences, Inc. that is used to estimate exposure to pesticide residues in foods comprising the diets of the U.S. population, including population subgroups. DEEM™ contains food consumption data as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989–1992.

A Tier 2 chronic DEEM™ analysis was performed. The assumptions of this Tier 2 analysis were tolerance level residues and estimates of PCT for soybeans and projected market-share for corn commodities. The following tolerance levels were used in the analysis: soybeans at 0.01 ppm, sweet corn at 0.01 parts per million (ppm), pop corn at 0.01 ppm, and corn grain (field corn) at 0.01 ppm. These values were also used for corresponding processed commodities since processing studies for soybeans and field corn showed no concentration of residues into processed commodities. Thus, default concentration factors for corn grain, bran; corn grain, endosperm; corn grain, oil; soybean, other; soybeans, sprouted seeds; soybeans, flour (defatted, low fat, and full fat); soybean, oil; and soybean, protein isolate were set to 1X. DEEM™ default processing factors for corn grain/sugar/hfcs (1.5X), and corn grain/sugar-molasses (1.5X) were retained as processing data for these commodities are not available. A PCT value of 1% was used for soybeans and a projected market share value of 1% was used for all types of corn. These estimates of PCT/projected market share were derived based on Agency analysis of information on weed-pests for the use sites.

The chronic dietary exposure (food only) to fluthiacet-methyl for some population subgroups are presented in Table 3. The resulting dietary food exposures occupy <1% of the Chronic PAD for all population subgroups included in the analysis. The results of this dietary exposure analysis should be viewed as partially refined. Refinements such as use of anticipated residue values may yield even lower estimates of chronic dietary exposure.

TABLE 3.—SUMMARY: CHRONIC DIETARY EXPOSURE ANALYSIS BY DEEM (TIER 2)

Population Subgroup[1]	Exposure (mg/kg/day)	% of Chronic PAD[2]
U.S. population (total)	<0.000001	<1.0
All Infants (<1 year)	0.000001	<1.0
Children (1–6 years)	<0.000001	<1.0
Children (7–12 years)	<0.000001	<1.0
Males (20+ years)	<0.000001	<1.0
Females (13–50 years)	<0.000001	<1.0

[1]The subgroups listed are: (1) The U.S. population (total); (2) those for infants and children; and, (3) the most highly exposed of the adult females and males subgroups (in this case, females, 13 to 50 years and males 20+ years).

[2] Percent chronic PAD = (exposure ÷ chronic PAD) x 100%.

Note: There are no other subgroup(s) (other than All Infants) for which the percentage of the Chronic PAD occupied is greater than that occupied by the subgroup U. S. population (total).

iii. *Cancer*. Fluthiacet-methyl has been classified as "likely to be a human carcinogen" by EPA. The Office of Pesticide Programs, Heath Effects Division, Cancer Assessment Review Committee recommended a linear low-dose approach (Q_1^*) for human risk assessment. The Q_1^* is 0.207 (mg/kg/day)–1 in human equivalents and is based upon the combined hepatocellular tumors (adenomas and carcinomas) in male mice.

EPA conducted a cancer assessment analysis (food) using DEEM software and Tier 2 chronic dietary exposure assumptions. The assumptions of this Tier 2 chronic dietary analysis are as specified above.

The cancer risk estimate (food only) for the U.S. population (total) is 3.93×10^{-8}. This risk estimate translates to a dietary exposure of 1.90×10^{-7} mg/kg/day. This dietary exposure value was back-calculated based upon the cancer risk estimate and the Q_1^*. As cancer risk = Exposure x Q_1^* Thus, Exposure = cancer risk estimate/ Q_1^* or Exposure = $3.93 \times 10^{-8}/0.207$.

iv. *Anticipated residue and PCT information*. Anticipated residues estimates were not used in the exposure analysis. Tolerance levels were used and a projected market share estimate was used as described in the chronic exposure section above.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: Percent projected market share: Corn, 1% and soybeans, 1%. Currently the largest market share for a pesticide for control of velvetleaf in corn or cotton is less than 20%. While the Agency does not expect the PCT to exceed 1% for corn or soybeans, it would be highly unlikely that the PCT approach the 20% share. EPA has determined that if PCT was to reach 20% there is still a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluthiacet-methyl residues.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. EPA believes the PCT used in this analysis is reasonable based on factors used in the analysis; in particular, the number of acres of corn and soybeans currently treated for the control of the weed pest, velvetleaf, the primary target weed pest for which fluthiacet-methyl will be used. This analysis also included competing currently registered herbicides for this market. EPA estimates that currently about 25 million acres of soybeans and 50 million acres of corn are treated for control of velvetleaf. Corn acres are treated with 41 different herbicidal active ingredients (a.i.), and soybeans acres are treated with 34 different herbicidal a.i.. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which fluthiacet-methyl may be applied in a particular area.

1. *Dietary exposure from drinking water*. The Agency currently lacks sufficient water-related exposure data from monitoring to complete a quantitative drinking water exposure analysis and risk assessment for fluthiacet-methyl. Therefore, the Agency is presently relying on computer-generated estimated environmental concentrations (EECs). The PRZM/EXAMS Index Reservoir (IR) model was used to generate EECs for surface water and the SCI-GROW2 (an empirical model based upon actual monitoring data collected for a number of pesticides that serve as benchmarks) was used to predict EECs in ground water. These models take into account the use patterns and the environmental profile of a pesticide, but do not include consideration of the impact that processing raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for determining that pesticides residues (and its metabolites) in water are not of concern.

For any given pesticide, the SCI-GROW2 model generates a single EEC value of pesticide concentration in ground water. That EEC is used in assessments of both acute and chronic dietary risk. It is not unusual for the ground water EEC to be significantly lower than the surface water EECs. The PRZM/EXAMS IR model generates several time-based EECs of pesticide concentration in surface water for acute exposure (upper 10th percentile of peak values), non-cancer chronic exposure (upper 10th percentile of 90–day values), and cancer exposure (mean annual value).

A drinking water level of comparison (DWLOC) is the concentration of a pesticide in drinking water that would be acceptable as a theoretical upper limit in light of total aggregate exposure to that pesticide from food, water, and residential uses. HED uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for a pesticide, the DWLOC is used as a point of comparison against the conservative EECs provided by computer modeling.

UMI VOL 66 ISS 246 DE 21 2001 UMI

EPA, OPP, HED back-calculates DWLOCs by a two-step process: exposure [food + residential (if applicable)] is subtracted from the PAD to obtain the maximum acceptable exposure allowed in drinking water; DWLOCs are then calculated using that value and HED default body weight and drinking water consumption figures. In assessing human health risk, DWLOCs are compared to EECs. When EECs are less than DWLOCs, HED considers the aggregate risk from [food + water + residential (if applicable) exposures] to be acceptable.

2. *Environmental profile.* In soil, fluthiacet-methyl and its metabolites are considered to be mobile and persistent (effective or combined aerobic soil half-life of 305 days). The uncertainty of this half-life is large as indicated by a 95% confidence range of roughly 200 to 1,100 days. Due to the large uncertainty a soil half-life of 915 days was used in the models. Fluthiacet-methyl is expected to be a ground and surface water contaminant.

EPA, HED, Metabolism Assessment Review Committee (MARC) determined that the residues of concern for risk assessment purposes in water are residues that comprised greater than or equal to 10% of the total radioactive residues in the environmental fate studies. These residues include, but are not limited to, CGA–300402, CGA–300404, CGA–330057, component E, CGA–300403, CGA–327066, CGA–327067, CGA–330059, A-CFPSA, and ACA-CFPSA.

3. *Estimated environmental concentrations (EECs).* The modeling results below are based on the combined concentrations of six chemicals. These chemicals are the parent compound and metabolites CGA–300402, CGA–300403, CGA–327066, CGA–327067, and A-CFPSA. The modeling was conducted based on the environmental profile and two applications at the rate of 0.0045 lbs ai/A (or a seasonal rate of 0.009 lbs ai/A).

The EECs are shown in Table 4.

TABLE 4.—EFED ESTIMATED ENVIRONMENTAL CONCENTRATIONS (EECS)

SCI-GROW2 (µg/L)[1]	PRZM/EXAMS IR Model (µg/L)
0.08 (acute and chronic)	0.8 (for acute exposure) 0.5 (for chronic (non-cancer) exposure) 0.06 (for cancer exposure)

1 µg/L = parts per billion or ppb.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for fluthiacet-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of fluthiacet-methyl.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The SCI-GROW model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop (PC) area factor as an adjustment to account for the maximum PC coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

As the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead DWLOCs are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Because DWLOCs address total aggregate exposure to fluthiacet-methyl they are further discussed in the aggregate risk sections below.

Based on the PRZM/EXAMS and SCI-GROW 2 models the estimated environmental concentrations (EECs) of fluthiacet-methyl for acute exposures are estimated to be 0.8 ppb for surface water and 0.08 ppb for ground water. The EECs for chronic exposures (non-cancer) are estimated to be 0.5 ppb for surface water and 0.08 ppb for ground water. The EEC for chronic (cancer) exposures are estimated to be 0.08 ppb for ground water and 0.06 ppb for surface water.

4. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure.

5. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether fluthiacet-methyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, fluthiacet-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that fluthiacet-methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for

Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There was no indication of quantitative or qualitative increased susceptibility of rats or rabbits to *in utero* and/or prenatal/postnatal exposure to fluthiacet-mthyl. In rabbits, *in utero* exposure did not result in maternal toxicity at 1,000 mg/kg/day. Developmental toxicity, however, was seen at this dose characterized as an increase in irregular sternebrae (a variation which is reversible). The occurrence of developmental toxicity at which no maternal toxicity was noted indicates an apparent increase in susceptibility. The Office of Pesticide Program's Hazard Identification Assessment Review Committee (HIARC), however, determined that the apparent susceptibility is not convincing because of the equivocal nature of the effect based on: (1) The increased incidence of irregular sternebrae was not statistically significant when compared to concurrent controls; (2) the increase occurred at the Limit-Dose (1,000 mg/kg/day; (3) it was the only anomaly seen (i.e., a single variation); (4) the dose response was not strong because there was only a small increase in the litter incidence between the low- (5 mg/kg/day) and the high-dose (1,000 mg/kg/day), with the mid- and high-dose groups having 8 litters with this variation;, and (5) this endpoint is appropriate to establish a LOAEL and not appropriate for risk assessments. Based on these factors, the HIARC concluded that there is no increased susceptibility in the rabbit study. Therefore, the 10X FQPA safety factor to ensure the protection of infants and children was not applied in the risk assessments.

3. *Conclusion.* There is a complete toxicity data base for fluthiacet-methyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. The 10X FQPA safety factor to protect infants and children was removed based on the lack of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to this chemical.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* An acute dietary endpoint for fluthiacet-methyl has not been identified; therefore, fluthiacet-methyl is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to fluthiacet-methyl from food will utilize <1% of the cPAD for the U.S. population, <1% of the cPAD for all infants <1 year and <1% of the cPAD for all children. There are no residential uses for fluthiacet-methyl that result in chronic residential exposure to fluthiacet-methyl. Based the use pattern, chronic residential exposure to residues of fluthiacet-methyl is not expected. In addition, there is potential for chronic dietary exposure to fluthiacet-methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUTHIACET-METHYL

Population Subgroup	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	<1.0	0.5	0.08	35
All infant	<1.0	0.5	0.08	1.0
Females (13–20 years)	<1.0	0.5	0.08	30

UMI
VOL 66
ISS 246
DE 21
2001
UMI

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO FLUTHIACET-METHYL—Continued

Population Subgroup	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
Males (20 + years)	<1.0	0.5	0.08	35

Chronic PAD (cPAD) in mg/kg/day is 0.001 for all population subgroups.

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Fluthiacet-methyl is not registered for use on any sites that would result in residential exposure. Therefore, the aggregate risk is the sum of the risk from food and water, which do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population*. Fluthiacet-methyl has been classified as "likely to be a human carcinogen" based upon the combined hepatocellular tumors (adenomas and carcinomas in male mice.

6. *Cancer aggregate risk conclusions*. As summarized previously, the cancer risk estimate (food only) for the U.S. population (total) is 3.93×10^{-8}. This risk estimate translates to an exposure of 1.90×10^{-7} mg/kg/day. The results of this dietary exposure analysis should be viewed as partially refined (health protective). Refinements such as use of anticipated residue values may yield even lower estimates of cancer exposure.

The EECs provided by EFED for assessing cancer risk are 0.08 µg/L (for ground water, based on SCI-GROW2) and 0.06 µg/L (for surface water, based on PRZM/EXAMS IR modeling). The back-calculated DWLOC for assessing cancer aggregate dietary risk is 0.17 µg/L for the U.S. population (total).

The SCI-GROW2 and PRZM/EXAMS cancer EECs are less than the Agency's level of comparison for fluthiacet-methyl residues in drinking water as a contribution to chronic (cancer) aggregate exposure. HED thus concludes with reasonable certainty that residues of fluthiacet-methyl in drinking water will not contribute significantly to the aggregate cancer human health risk and that the chronic (cancer) aggregate exposure from fluthiacet-methyl residues in food and drinking water will not exceed the Agency's level of concern ($1X 10^{6}$) for the U.S. population. EPA generally has no concern for exposures below which result in cancer risks in the range of 1×10^{-6}, because it is a level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to the health and safety of any population subgroup. This risk assessment is considered high confidence, very conservative, and protective of human health.

7. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to fluthiacet-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Method AG–603B, MRID No. 442345–02), gas-liquid chromotography with a nitrogen/phosphorus detector, is available to enforce the tolerances for fluthiacet-methyl in or on corn and soybean commodities. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Codex Alimentarius Commission (Codex), Canadian, or Mexican Maximum Residue Levels (MRLs) for fluthiacet-methyl at this time.

C. Conditions

Conditions for registration under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) will include Agency monitoring for PCT as addressed within this Final Rule.

V. Conclusion

Tolerances are established for residues of fluthiacet-methyl in or on corn. field, grain at 0.010 ppm; corn, field, forage, at 0.050 ppm; corn, field, stover at 0.050 ppm; corn, pop, grain at 0.010 ppm; corn, pop, stover at 0.050 ppm; corn, sweet, stover at 0.050 ppm; corn, sweet, forage at 0.050 ppm; and corn, sweet, K + CWHR at 0.010 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301184 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 19, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by

marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301184, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified in Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have " substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: December 8, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.551 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.551 Fluthiacet-methyl; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Corn, field, forage	0.050
Corn, field, grain	0.010
Corn, field, stover	0.050
Corn, pop, grain	0.010
Corn, pop, stover	0.050
Corn, sweet, forage	0.050
Corn, sweet, (K + CWHR)	0.010
Corn, sweet, stover	0.050

* * * * *

* * * * *

[FR Doc. 01–31497 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301196; FRL–6811–6]

RIN 2070–AB78

Sodium thiosulfate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of sodium thiosulfate when used as an inert ingredient (dechlorinator) in or on growing crops, or when applied to raw agricultural commodities after harvest. Eden Bioscience submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sodium thiosulfate.

DATES: This regulation is effective December 21, 2001. Objections and requests for hearings, identified by docket control number OPP–301196, must be received by EPA on or before February 19, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301196 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Kathryn Boyle, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; and e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR

part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301196. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of September 6, 2000 (65 FR 54015) (FRL–6738–4), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 0E6177) by Eden Bioscience, 11816 Creek Parkway North, Bothell, Washington, 98011–8205. This notice included a summary prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of sodium thiosulfate penthydrate (CAS Reg. No. 10102–17–7). The petition requested only the use of sodium thiosulfate pentahydrate; however, sodium thiosulfate is also available in an anhydrous form. The two chemical substances differ only in the attachment of the water molecules. The petition specified that sodium thiosulfate should be used at a concentration of 1 to 6% of the formulated product.

The sodium thiosulfate will be used as a pretreatment for the water in tank mixes to remove chlorine or other reactant species, thus functioning as a dechlorinator or reducing agent. When mixed with chlorine-containing water, sodium thiosulfate reacts with the chlorine according to the equation $Na_2S_2O_3 + 4Cl_2 + 5H_2O \rightarrow 2NaHSO_4 + 8HCl$. Sodium thiosulfate also reacts with hydrochloric acid (produced in the previous reaction) to form breakdown products such as sulfur, salt and water: $Na_2S_2O_3 + 2HCl \rightarrow 2NaCl + H_2O + S + SO_2$.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by sodium thiosulfate are discussed in this unit. The information submitted in support of this petition included portions of the Food and Drug Administration (FDA) generally recognized as safe (GRAS) determination ("Evaluation of the Health Aspects of Sodium Thiosulfate as a Food Ingredient"), articles from open literature, and an acute oral toxicity study.

A. Medical Uses

There are medical uses of sodium thiosulfate. It has been used as an antidote for acute cyanide poisoning (intravenous injection), and is an ingredient in various dermally-applied lotion formulations used to treat acne and ringworm.

B. GRAS Determination

Sodium thiosulfate pentahydrate has been classified as GRAS by the FDA when used as a formulation aid or reducing agent in alcoholic beverages (not to exceed 0.00005%) and table salt (not to exceed 0.1%). A GRAS determination means general recognition of safety by experts qualified by scientific training and experience to evaluate the safety of the substance for the specified use pattern. As noted by the limitations stated above, sodium thiosulfate has a very limited use pattern. EPA will use the information evaluated as part of the FDA GRAS determination to inform the Agency's decision.

In its 1975 Evaluation, FDA reported the following information on the sodium thiosulfate absorption and metabolism: Sodium thiosulfate is a normal constituent of human body fluids and is excreted in the urine of man and higher animals. Quantitative studies have demonstrated the consistent presence of 2 to 17 milligrams (mg) of thiosulfate sulfur in 24-hour urine specimens of healthy young adults. Variations in excretion of thiosulfate are related to the extent of protein metabolism, activity of the intestinal flora, and the sulfur-amino

UMI
VOL 66
ISS 246
DE 21
2001
UMI

acid content of the diet. The sulfur-containing amino acids of dietary protein are the source of the endogenous thiosulfate pool. Orally administered thiosulfate that is absorbed from the gastrointestinal tract is excreted in the urine unchanged or after oxidation to sulfate. From 5 to 70% of an oral dose of sodium thiosulfate is considered to be absorbed from the gastrointestinal tract of man and the remainder to be excreted in the feces.

According to the Evaluation, sodium thiosulfate was found to cause no mutagenic effects.

The Evaluation also included a summary of the results of developmental studies on rats, mice, and hamsters. It was determined there was no effect on nidation, maternal or fetal survival, or fetal development.

C. Open Literature Articles

Three of the articles from open literature were reviewed to determine if the articles could supply information to the Agency on the genotoxicity of sodium thiosulfate. There is no indication of any mutagenic activity associated with exposure to sodium thiosulfate.

D. Acute Oral Toxicity Study

An acute oral toxicity study in the rat performed with sodium thiosulfate pentahydrate was submitted. The study was classified as acceptable, toxicity category IV. The LD_{50} is greater than 5,050 milligrams/kilograms (mg/kg) (males and females combined).

E. Developmental Toxicity

As part of the information submitted in support of the petition, the petitioner submitted the final reports for the rat, mouse, and hamster developmental studies that were discussed in the FDA Evaluation (dated 1972), as well as the final report for a rabbit developmental toxicity study (dated 1974). These studies were performed using the anhydrous form of sodium thiosulfate. Due to the passage of almost 30 years, as well as the changes in laboratory techniques that have occurred during this time, the data tables in the reports were reviewed to determine if any additional information were contained in the tables.

1.*Mouse.* Animals were tested at the following dose levels: Negative control, positive control, 5.5, 25.5, 118 or 550 mg/kg/day over a 10–day period from day 6 through day 15 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 1.08, 0.93, 0.74, 0.90, 0.88, or 0.68. The ratios at the lowest and highest dose levels are lower than the other ratios.

2. *Rat.* Animals were tested at the following dose levels: Negative control, positive control, 4.0, 19.0, 86.0, or 400 mg/kg/day over a 10–day period from day 6 through day 15 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 0.84, 0.78, 0.84, 0.98, 0.92, or 0.73. There is an indication of skewing (a lowering) in these ratios at the highest dose level and in the positive control.

3.*Hamster.* Animals were tested at the following dose levels: negative control, positive control, 4.0, 19.0, 86.0, or 400 mg/kg/day over a 5–day period from day 6 through day 10 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities. The male/female ratio of the fetuses were calculated to be, respectively, 0.52, 0.54, 0.59, 0.47, 0.40, or 0.53. These ratios (including those from the controls) are very unusual.

4. *Rabbit.* The results of the rabbit developmental study were not considered in the FDA Evaluation. Animals were tested over a 13–day period from day 6 through day 18 of gestation. There was no indication of any effect on maternal or fetal survival, or in incidences of visceral or skeletal abnormalities at the highest dose level of 580 mg/kg/day. There was no indication of any effect on the male/female ratio of the fetuses since the ratio ranged from 1.13 to 1.26.

F. Information from the Internet

To ascertain whether additional information on sodium thiosulfate were available, the Agency also searched the Tox Net website at the National Library of Medicine (http://www.toxnet.nlm.nih.gov). This website contained only information on sodium thiosulfate anhydrous (CAS. Reg. No. 7772–98–7). The Tox Net website classified sodium thiosulfate as moderately toxic, and generally supported the information presented in the petition. The excerpts and summaries indicated that sodium thiosulfate is not mutagenic.No internet information indicated concerns for carcinogenicity or developmental/reproductive toxicity. One study which investigated the ability of sodium thiosulfate to cross the placenta in sheep, concluded that maternally-administered sodium thiosulfate (50 mg/kg) does not increase fetal plasma thiosulfate concentrations. No information on sodium thiosulfate was available on the National Toxicology Program website, the Agency for Toxic Substances and Disease Registry website, or the Agency's Integrated Risk Information System website. The TSCATs database (http://esc.syrres.com/efdb/TSCATS.htm) did not contain any summaries of any developmental or reproductive studies conducted with sodium thiosulfate.

G. Toxicity of Sodium Thiosulfate

Overall, sodium thiosulfate presents as a chemical with slight to moderate toxicity. It is Category IV for acute oral toxicity (the lowest classification), and there are no indications of mutagenicity. The available developmental data indicates no effect on maternal or fetal survival or increase in incidences of visceral or skeletal abnormalities. The sex ratios (the male/female ratio of the fetuses) should cluster close to 1, indicating equal numbers of males and females. This is evident in the range of ratios in the rabbit study. However, the Agency's re-evaluation of the summary data for the rat and mouse developmental data (two out of four species) suggest the possibility that various doses of sodium thiosulfate may be associated with an apparent skewing (a lowering) of the sex ratio. However, it was also most unusual that this skewing occurred not only for certain dose levels, but also for a positive control. The sex ratios for the hamster are very unusual. Therefore, there is an uncertainty as to what these ratios mean. But, there is the possibility of technician error in sex identification. In the three studies included in the FDA Evaluation (rat, mice, and hamster), the description of the studies included the following: All fetuses were examined grossly for the presence of external congenital abnormalities. One-third of the fetuses of each litter underwent detailed visceral examinations employing 10X magnification. "The remaining two-thirds were cleared and examined for skeletal defects." Thus, there was no chance to correct any mis-sexing. The rabbit study, in which there was no effect on the male/female ratio of the fetuses, was performed in a different manner: "All fetuses underwent a detailed gross examination for the presence of external congenital abnormalities." All were examined for visceral abnormalities. "All fetuses were then cleared and examined for skeletal defects." Thus, the examination of all fetuses apparently allowed for greater accuracy in sexing.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

EPA establishes exemptions from the requirement of a tolerance only in those cases where the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

A. Dietary Exposure

For the purposes of assessing potential exposure under this exemption, EPA considered that sodium thiosulfate could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible.

1. *Food.* Protein, which is composed of various amino acids, is required for human survival. Sodium thiosulfate is produced in the human body during the metabolism of sulfur-containing amino acids. There is an effective self-regulating mechanism to rid the body of excess sodium thiosulfate through excretion in the urine. As previously stated, sodium thiosulfate is considered to be GRAS for a very specific use pattern. In the 1975 Evaluation, it was estimated that the per capita consumption of sodium thiosulfate was 12 micrograms (μg) per day. Considering the use of sodium thiosulfate in pesticide products, as a dechlorinator when mixed with certain proteins such as harpin protein, and given the reactive nature (as a reducing agent) of sodium thiosulfate, this use pattern should not significantly increase the amount of sodium thiosulfate in the food supply above those amounts permitted by FDA.

2. *Drinking water exposure.* Thiosulfate can be produced naturally by the reaction of elemental sulfur with sulfite ion in boiling water. Therefore, thiosulfate occurs naturally in such environments as hot springs, geysers, and marine hydrothermal vents. It can also occur in nature as the result of the biological or chemical oxidation of sulfide, and thus can be found in freshwater and marine sediments, and salt marshes.

Considering that thiosulfate can be metabolized by sulfate-reducing bacteria, and given its ability to react with chlorine (to act as a reducing agent), sodium thiosulfate is unlikely to occur in drinking water.

B. Other Non-Occupational Exposure

The medicinal uses of sodium thiosulfate are also regulated by FDA. There are other industrial uses of sodium thiosulfate which include use as a photographic fixing agent. Sodium thiosulfate is also used to remove chlorine from water used in aquariums.

C. Exposure Estimates

As previously stated, it was estimated that the per capita consumption of sodium thiosulfate was 12 μg per day. This was based on the amount of sodium thiosulfate used by the food industry and assuming a population of 210 million. (The Agency acknowledges that this exposure estimate is almost 30 years old.) If this were converted to mg/kg/day using a 60 kg (female) body weight, then the exposure could be estimated as 0.0002 mg/kg/day. The highest dose levels in each of the developmental toxicity studies (mouse, rat, hamster, and rabbit) were respectively 550, 400, 400, and 580 mg/kg/day. No effects were noted at these levels. The Agency has not attempted to use a safety factor analysis for sodium thiosulfate; however, the 0.0002 mg/kg/day is orders of magnitude lower than the highest dose levels from any of the developmental toxicity studies. Thus, the reported uses of sodium thiosulfate, its use as a GRAS substance and its use as an inert ingredient (a dechlorinator) should result in human exposure far below any dose level that could possibly produce an adverse effect.

VI. Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance or tolerance exemption, the Agency consider "available information" concerning the cumulative effects of a particular chemical's residues and "other substances that have a common mechanism of toxicity." Sodium thiosulfate is produced in the human body during the metabolism of sulfur-containing amino acids. There is an effective self-regulating mechanism (excretion) to rid the body of excess sodium thiosulfate, so cumulative effects are unlikely as a result of exposure to sodium thiosulfate and a substance sharing a common mechanism of toxicity, assuming such a substance exists. The Agency has not made any conclusions as to whether or not sodium thiosulfate shares a common mechanism of toxicity with any other chemicals, since cumulative effects for sodium thiosulfate and other substances are unlikely.

VII. Determination of Safety for U.S. Population

Based on the low-moderate toxicity of sodium thiosulfate and the low potential for exposure from the EPA regulated uses of sodium thiosulfate, as well as the FDA GRAS uses, the Agency has determined that aggregate exposure to sodium thiosulfate under reasonably foreseeable circumstances will pose no appreciable risks to human health. Accordingly, EPA concludes that there is a reasonable certainty of no harm to the U.S. population from aggregate exposure to residues of sodium thiosulfate and that a tolerance is not necessary.

VIII. Determination of Safety for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of sodium thiosulfate, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary. The Agency has determined that there is a reasonable certainty of no harm to infants and children from aggregate exposure to residues of sodium thiosulfate and that a tolerance is not necessary.

IX. Other Considerations

A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), "may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect." EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing sodium thiosulfate for endocrine effects may be required.

B. Analytical Method(s)

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There are no existing exemptions for sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

X. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate. Accordingly, EPA finds that exempting sodium thiosulfate anhydrous or sodium thiosulfate pentahydrate from the requirement of a tolerance will be safe.

XI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301196 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 19, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301196, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

XII. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled*Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 6, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In § 180.1001, the table in paragraph (c) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * * *	
Sodium thiosulfate anhydrous (CAS Reg. No.7772–98–7 or sodium thiosulfate pentahydrate,CAS Reg. No. 10102–17–7)	Not to exceed 6% of theformulated product	Dechlorinator, reducing agent
* * *	* * * *	

UMI
VOL 66
ISS 246
DE 21 2001
UMI

* * * * *

[FR Doc. 01–31496 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final regulations in the *Fourteenth Report and Order,* which were published in the **Federal Register** of Tuesday, June 5, 2001, 66 FR 30080. Specifically, this correction revises the language in section 36.605(c)(3)(ii) to make it clear.

DATES: Effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Greg Guice, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–0095.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Twenty-Third Order on Reconsideration* in CC Docket No. 96–45 released on July 11, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this document, the Commission makes a correction to section 36.605(c)(3)(ii) of its rules adopted in the *Fourteenth Report and Order,* 66 FR 30080, June 5, 2001. The correction concerns the calculation of safety net additive support in the years following qualification for such support and is necessary to make the rule consistent with the text of the underlying order. Specifically, this correction revises the language in section 36.605(c)(3)(ii) to make it clear that rural telephone companies receive the lesser of either: (1) the sum of capped support and the safety net additive support in each year or (2) uncapped support in each year when the cap is not triggered.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 36

Communications common carriers, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Accordingly, 47 CFR part 36 is corrected by making the following correcting amendment:

PART 36—JURISDICTIONAL SEPARATIONS

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. §§ 151–154, 201–205, 218–220, 254, 303(r), 403, 405, and 410.

2. Section 36.605(c)(3)(ii) is revised to read as follows:

§ 36.605 Calculation of safety net additive.

* * * * *

(c) * * *

(3) * * *

(ii) Continue to pay safety net additive support in any of the four succeeding years in which the total carrier loop expense adjustment is limited by the provisions of § 36.603. Safety net additive support in the succeeding four years shall be the lesser of:

(A) The sum of capped support and the safety net additive support received in the qualifying year;

or

(B) The rural telephone company's uncapped support.

* * * * *

[FR Doc. 01–31364 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–321]

Federal-State Joint Board on Universal Service; Petition for Reconsideration Filed by the United States Telecom Association

AGENCY: Federal Communications Commission.

ACTION: Final rule, denial.

SUMMARY: In this document, the Commission denies the request of the United States Telecom Association to reconsider portions of the *Contribution Interval Order* modifying the methodology used to assess contributions that carriers make to the federal universal service support mechanisms.

FOR FURTHER INFORMATION CONTACT: Richard D. Smith, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration in CC Docket No. 96–45 released on November 6, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

I. Introduction

1. In this Order on Reconsideration, we deny the request of the United States Telecom Association (USTA) to reconsider portions of the *Contribution Interval Order,* 66 FR 16145, March 23, 2001, modifying the methodology used to assess contributions that carriers make to the federal universal service support mechanisms. Specifically, we deny USTA's request to reconsider the imposition of additional filing requirements and the method of calculating contributions from carriers that either under-report or over-report quarterly revenue. In so doing, we affirm our prior conclusion that the provision of sufficient and competitively neutral funding for the universal service support mechanisms depends on the timely submission of accurate revenue information from contributors.

II. Discussion

2. We deny the request of USTA to reconsider portions of the *Contribution Interval Order.* We find that USTA has raised no new issues or facts to persuade us to reconsider the decisions made in the *Contribution Interval Order.* Specifically, we conclude that the accurate submission of quarterly revenue data is essential to ensure that sufficient contributions are made to the federal universal service support mechanisms on a competitively neutral basis. The Commission carefully considered the implications of imposing additional reporting requirements on carriers in the *Contribution Interval Order* and concluded that such requirements were necessary. In addition, we conclude that the method adopted by the Commission of calculating contributions from carriers that under-report or over-report revenues provides an appropriate incentive for carriers to accurately report quarterly revenues to USAC.

3. *Reporting Requirements.* We deny USTA's request to reconsider the Commission's decision to increase carriers' reporting requirements. USTA's petition raises no new arguments that would convince us to reconsider the conclusion that the benefits of substantially reducing the contribution interval outweigh any increased

administrative burden on carriers. Although the Commission acknowledged that the prior contribution methodology was competitively neutral and satisfied the requirements of the Act, as discussed, the Commission concluded that revisions were necessary to ensure that the contribution methodology remains competitively neutral in light of recent changes in the telecommunications marketplace, such as the entry of new carriers into the interexchange market and the declining revenue bases faced by some existing carriers. The submission of quarterly revenue data allows us to reduce the interval, from 12 months to six months, between the accrual and assessment of revenues for contribution to the universal service fund. The shortened interval between the accrual and assessment of revenues therefore reduces the possibility that certain carriers will be placed at a competitive disadvantage as they lose market share. As a result, the revised methodology furthers the Commission's goal of maintaining competitive neutrality.

4. *Under and Over-Reporting of Revenues.* We find no basis to reconsider the method adopted by the Commission to calculate refunds from carriers that over-report revenue or the collection of additional contributions from carriers that under-report revenue. Contrary to USTA's contention, we do not find the method of calculating such adjustments to be punitive. A true-up mechanism merely ensures that carriers' contributions to the universal service mechanisms are based on accurate revenue data over the course of the year. Moreover, the Commission allows carriers up to three months after each filing to correct errors that appear on the Form 499–Q. Thus, we find unpersuasive USTA's contention that carriers will be penalized as a result of insufficient time to ensure the complete accuracy of the information submitted. Only if such errors are not corrected in a timely fashion will USAC apply the refund and additional collection rules. Based on the record before us, we have no reason to overturn the prior conclusion that three months should be sufficient time for carriers to compute, and correct if necessary, revenue information.

5. We affirm our conclusion that the methodology adopted in the *Contribution Interval Order* encourages carriers to provide accurate data and discourages "gaming." For example, the methodology will deter carriers that otherwise might be tempted to under-report revenue to reduce their current contributions and free up capital for other uses. A carrier that did so would be forced to contribute additional funds following the annual true-up based on the average of the two highest quarterly contribution factors for the year. We are convinced that assessment of contributions based on this higher contribution rate will reduce the incentive for such conduct while giving carriers ample time to correct honest mistakes.

6. We are not persuaded by USTA's contention that it is sufficient to rely on existing federal law prohibiting willful false statements to protect against abuse of our rules. The methodology set forth in the *Contribution Interval Order* also provides incentives to carriers to avoid negligent or careless errors in reporting revenues to USAC. In order to maintain sufficient and competitively neutral support mechanisms, it is essential that carriers provide accurate revenue information to USAC in a timely manner. For similar reasons, we also decline to adopt USTA's alternative proposal to exclude from this calculation methodology those carriers whose reported quarterly revenues fall within 10 percent of their reported annual revenues. This proposed 10 percent margin of acceptable error may translate into significant contributions for some carriers, who would be able to avoid payment by intentionally under-reporting their revenues by 10 percent or less. Thus, USTA's proposal may provide carriers with a substantial incentive to under-report their revenues. In light of the opportunity provided each quarter to correct such errors, we believe that adopting this proposal would also be contrary to our goal of encouraging carriers to report accurate information.

III. Ordering Clause

1. It is ordered, pursuant to sections 1, 4(i) and 254 of the Communications Act of 1934, as amended, and § 1.429 of the Commission's rules, that the Petition for Reconsideration filed April 23, 2001 by USTA is denied.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31460 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

UMI VOL 66 ISS 246 DE 21 2001 UMI

Proposed Rules

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM02–1–000]

Standardizing Generator Interconnection Agreements and Procedures; Notice of Extension of Time

December 14, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of extension of time.

SUMMARY: On October 25, 2001, the Federal Energy Regulatory Commission issued an Advance Notice of Proposed Rulemaking (ANOPR) seeking comments on a standard generator interconnection agreement and procedures that would be applicable to all public utilities that own, operate or control transmission facilities under the Federal Power Act, 66 FR 55140 (November 1, 2001). The date for filing comments is being extended at the request of various interested parties.

DATES: Comments on the filing of a single consensus document are extended to and including January 11, 2002. Comments on issues posed by the ANOPR shall be filed on or before January 25, 2002.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Linwood A. Watson, Jr., Acting Secretary 888 First Street, NE., Washington, DC 20426 (202) 208–0400.

On December 14, 2001, the Generator Interconnection Coalition [1] (Coalition), on behalf of its members, filed its Status Report on its Consensus Process and (1) an interim draft standard connection agreement and (2) an interim draft standard interconnection procedures document on which Coalition Members have made substantial progress (Status Report), in response to the Commission's Advance Notice of Proposed Rulemaking (ANOPR) issued October 25, 2001, in the above-docketed proceeding. With the Status Report, the Coalition also requested an extension of time to complete the consensus process and to respond fully to the issues raised by the Commission in its ANOPR. In its motion, the Coalition states that finalizing consensus documents will require the continued significant investment of time and resources on the part of the Coalition Members and that an extension would allow Coalition Members to integrate and finalize consensus documents that are consistent with the Commission's mandate in the ANOPR. The motion also states that an extension will allow all stakeholders in the ANOPR process to have the opportunity to seek clarification and comment orally on the draft documents during the plenary meetings.

Upon consideration, notice is hereby given that an extension of time to file a single consensus document is granted to and including January 11, 2002. Comments on issues posed by the ANOPR shall be filed on or before January 25, 2002.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31442 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

---

[1] The Coalition includes representatives from: generators, marketers, transmission owners, industrial power producers, transmission dependent utilities, regional transmission organizations, independent system operators, distributed resources and state commissions. A list of the Coalition Members is included in Attachment 1 of the Coalition's Status Report.

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[OK–029–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program (the Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Oklahoma Department of Mines (Department or Oklahoma) proposes revisions to and additions of rules about areas designated by act of Congress as unsuitable for mining and coal exploration operations. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Oklahoma program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.s.t., January 22, 2002. If requested, we will hold a public hearing on the amendment on January 17, 2002. We will accept requests to speak at a hearing until 4 p.m., c.s.t. on January 7, 2002.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Oklahoma program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430, Internet: *mwolfrom@osmre.gov*

Mary Ann Pritchard, Director, Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859, Internet: *maryann@guinan.osmre.gov*

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma's program and program amendments at 30 CFR 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated November 20, 2001 (Administrative Record No. OK–988.02), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment in response to an August 23, 2000, letter (Administrative Record No. OK–988) that we sent to Oklahoma in accordance with 30 CFR 732.17(c). Oklahoma proposes to amend the Oklahoma Administrative Code (OAC) at Subchapter 7 (Areas Designated by Act of Congress as Unsuitable for Mining) and Subchapter 13 (General Requirements for Coal Exploration Operations). Below is a summary of the changes proposed by Oklahoma. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

A. OAC 460:20–7–2 Authority

Oklahoma proposes to revise its authority provision to read as follows:

> The Department is authorized by Act to prohibit or limit surface coal mining operations on or near private, Federal, and other public lands, except for those operations which existed on August 3, 1977 or were subject to valid existing rights at the time the land came under the protection of 45 O.S. Section 783 and Section 460:20–7–4.

B. OAC 460:20–7–3 Definitions

Oklahoma proposes to remove its definition of "surface coal mining operations which exist on the date of enactment." Oklahoma also proposes to revise its definition of "valid existing rights."

C. OAC 460:20–7–4 Areas Where Surface Coal Mining Operations Are Prohibited or Limited

Oklahoma proposes to revise the introductory paragraph of OAC 460:20–7–4 to read as follows:

> No surface coal mining operations shall be conducted on the following lands unless those operations either have valid existing rights, as determined under Section 460:20–7–5, or qualify for the exception for existing operations under Section 460:20–7–4.1.

Oklahoma also proposes minor wording, editorial, and punctuation changes to OAC 460:20–7–4(2) through (5).

D. OAC 460:20–7–4.1 Exception for Existing Operations

Oklahoma proposes to add this new section to describe those surface coal mining operations for which the provisions of OAC 460:20–7–4 do not apply.

E. OAC 460:20–7–5 Procedures

Oklahoma proposes to revise this section to describe the procedures applicants for surface coal mining operation permits must follow when requesting a valid existing rights determination. This section also describes the evaluation procedures and decision-making criteria the regulatory authority will follow when making a valid existing rights determination.

F. OAC 460:20–13–5 Permit Requirements for Exploration Removing More Than 250 Tons of Coal

1. At OAC 460:20–13–5(b)(14), Oklahoma proposes to require applicants for coal exploration permits to include the following information in their applications:

> For any lands listed in Section 460:20–7–4 of this Chapter, a demonstration that, to the extent technologically and economically feasible, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. The application must include documentation of consultation with the owner of the feature causing the land to come under the protection of Section 460:20–7–4 of this Chapter, and, when applicable, with the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of Section 460:20–7–4 of this Chapter.

2. At OAC 460:20–13–5(d)(2)(D), Oklahoma proposes to add the following new requirement that it will use when making decisions on applications for coal exploration permits:

> With respect to exploration activities on any lands protected under Section 460:20–7–4 of this Chapter, minimize interference, to the extent technologically and economically feasible, with the values for which those lands were designated as unsuitable for surface coal mining operations. Before making this finding, the Department must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of Section 460:20–7–4 of this Chapter, and when applicable, to the agency with primary jurisdiction over the feature with respect to the values that caused the land to come under the protection of Section 460:20–7–4 of this Chapter, to comment on whether the finding is appropriate.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Tulsa Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: [OK–029–FOR]" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on January 7, 2002. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 30, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–31536 Filed 12–20–01; 8:45 am]

BILLING CODE 4310-05-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AL11

Board of Veterans' Appeals Rules of Practice: Claim for Death Benefits by Survivor

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs' (VA) Rules of Practice at the Board of Veterans' Appeals (Board) to clarify that the general rule that the Board is not bound by prior dispositions during the veteran's lifetime of issues involved in the survivor's claim does not include claims for "enhanced" Dependency and Indemnity Compensation (DIC). This amendment is necessary to eliminate confusion between the Board's current rule and another rule relating to DIC for survivors of certain veterans rated totally disabled at the time of death.

DATES: Comments must be received on or before January 22, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to "RIN 2900–AL11." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits.

The purpose of this document is to comply with the order of the U.S. Court of Appeals for the Federal Circuit in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs,* Nos. 00–7095, 00–7096, 00–7098 (Fed. Cir. Aug. 16, 2001) ("*NOVA*"). That case was a petition challenging VA's January 2000 final rule which amended 38 CFR 3.22, relating to dependency and indemnity compensation (DIC) benefits for survivors of certain veterans rated totally disabled at the time of death. *See* 65 FR 3388 (Jan. 21, 2000).

While the *NOVA* court explicitly declined to invalidate the rule, *NOVA,* slip op. at 42, it did note that there was an apparent conflict between the new rule and 38 CFR 20.1106. The court concluded that those two rules stated conflicting interpretations of two virtually identical statutes. The statutes, 38 U.S.C. 1311(a)(2) and 1318, both provide benefits to the survivor of a veteran who was at the time of death "in receipt of or entitled to receive" compensation for a service-connected disability that was continuously rated totally disabling for a specified number of years prior to death. The regulation in 38 CFR 3.22 interprets the phrase "entitled to receive" in 38 U.S.C. 1318 to mean that the VA had awarded the veteran a total disability rating for the specified period during his or her lifetime, but for some reason the veteran did not receive payment based on that rating, or that the veteran would have had a total disability rating for that period if not for a clear and unmistakable error by VA during the veteran's lifetime. The *NOVA* court concluded that 38 CFR 20.1106 interprets the same language in 38 U.S.C. 1311(a)(2) to require a posthumous determination of the veteran's "entitlement" to compensation without regard to whether VA rating decisions during the veteran's lifetime established such entitlement. Having concluded that VA established conflicting interpretations of the identical language in these two statutes, the *NOVA* court ordered VA to conduct an expedited rulemaking to either explain the basis for the differing interpretations or to revise one of its regulations to remove any inconsistency. *NOVA,* slip op. at 43.

As explained in this notice, VA has not interpreted 38 U.S.C. 1318, and 38 U.S.C. 1311 in inconsistent ways. Nevertheless, to eliminate the potential ambiguity identified in the *NOVA* decision, we are amending 38 CFR 20.1106 to clarify that, as with decisions under 38 U.S.C. 1318, decisions under 38 U.S.C. 1311(a)(2) will be decided taking into consideration prior dispositions made during the veteran's lifetime of issues involved in the survivor's claim. The effect of this change is to make VA's position clear that entitlement to benefits under either 38 U.S.C. 1318 or 38 U.S.C. 1311 must be based on the determinations made during the veteran's lifetime, or challenges to such decisions on the basis of clear and unmistakable error, rather than on de novo posthumous determinations as to whether the veteran hypothetically could have been entitled to certain benefits if he or she had applied for them during his or her lifetime.

Background on Dependency and Indemnity Compensation

Since 1957, survivors of a veteran who died in service or as a result of a service-connected disability have been entitled to a monthly benefit called "Dependency and Indemnity Compensation" (DIC). 38 U.S.C. 1310(a), 1311.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

DIC and Survivors of Veterans Who Die Other Than as a Result of Service

Until 1978, DIC was payable only if the veteran died in service or as a result of service. In 1978, Pub. L. No. 95–479, 92 Stat. 1564 (1978), amended title 38, United States Code to pay the same benefit as if the veteran had died of a service-connected disability to survivors of a veteran (1) whose death was not caused by service-connected disability, but (2) who, at the time of death, "was in receipt of (or but for the receipt of retired or retirement pay was entitled to receive)" compensation for a service-connected disability rated 100 percent disabling for 10 years immediately preceding death, or for a period of at least 5 years extending from date of discharge from service until date of death. That provision was codified in 38 U.S.C. 410(b)(1). In 1979, VA issued 38 CFR 3.22 to implement the statute. 44 FR 22716–22718 (Apr. 17, 1979).

In a 1981 opinion, VA's General Counsel concluded that 38 U.S.C. 410(b)(1) did not permit a DIC award to the survivors of a veteran who was not actually in receipt of compensation for a total disability for a full 10 years prior to death, but who would have been in receipt of such benefits if not for error by VA in a decision rendered during the veteran's lifetime. Op. G.C. 2–81 (Mar. 24, 1981).

In response to that opinion, Congress enacted Public Law 97–306, 96 Stat. 1429 (1982), which revised 38 U.S.C. 410(b)(1), to amend the phrase "was in receipt of" to "was in receipt of *or entitled to receive* * * *" (emphasis added). The legislative history states that the purpose of this amendment was "to provide that the requirement that the veteran have been in receipt of compensation for a service-connected disability rated as total for a period of 10 years prior to death (or for 5 years continuously from the date of discharge) is met if the veteran would have been in receipt of such compensation for such period but for a clear and unmistakable error regarding the award of a total disability rating." Explanatory Statement of Compromise Agreement, 128 Cong. Rec. H7777 (1982), reprinted in 1982 U.S.C.C.A.N. 3012, 3013. Accordingly, the amended statute, now codified at 38 U.S.C. 1318(b), authorizes payment of DIC in cases where the veteran "was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive)" compensation for a service-connected disability rated totally disabling for 10 years immediately preceding death or a period of 5 years from the date of discharge.

In 1983, VA revised 38 CFR 3.22 to state that DIC would be payable under 38 U.S.C. 410(b)(1) (now 38 U.S.C. 1318(b)) when the veteran "was in receipt of or for any reason (including receipt of military retired or retirement pay or correction of a rating after the veteran's death based on clear and unmistakable error) was not in receipt of but would have been entitled to receive compensation at the time of death" for service-connected disability rated totally disabling for 10 years prior to death or 5 years continuously from date of discharge to date of death. 48 FR 41160, 41161 (Sep. 14, 1983).

Payment Under DIC; "Enhanced Benefit"

DIC provides a monthly cash benefit to survivors. Until 1993, surviving spouses received a monthly benefit based on the veteran's pay grade while on active duty.

In the "Dependency and Indemnity Compensation Reform Act of 1992," Pub. L. No. 102–568, Title I, § 102 (Oct. 29, 1992), 106 Stat. 4321, 4322, Congress made substantial changes to the DIC program. The primary change was to the payment system. For deaths occurring subsequent to January 1, 1993, all surviving spouses are paid at the same rate. In addition, the Act provided an "enhancement" to the benefits paid to some surviving spouses: If the veteran was in receipt of or was entitled to receive compensation for a service-connected disability rated totally disabling for a continuous period of at least eight years immediately preceding death, the surviving spouse receives an additional monthly benefit, currently $197 per month. 38 U.S.C. 1311(a)(2); 66 FR 28598 (May 23, 2001) (adjusted rate).

In 1993, VA issued a regulation at 38 CFR 3.5(e) to implement 38 U.S.C. 1311(a)(2). That regulation states that the additional DIC amount will be paid "in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling for a continuous period of at least eight years immediately preceding death."

Background on 38 CFR 20.1106

38 CFR 20.1106—"Rule 1106"—is a Rule of Practice at the Board of Veterans' Appeals. Essentially, it sets forth the rule that, in most cases, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. Specifically, it provides as follows:

> § 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.
>
> Except with respect to benefits under the provisions of 38 U.S.C. 1318 and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

This particular version of the rule became effective in February 1992, 9 months prior to enactment of Pub. L. No. 102–568.

Rule 1106 was originally proposed in 1989. It was part of a large package of revisions to the Board's rules in the wake of enactment of the Veterans' Judicial Review Act of 1988, Pub. L. No. 100–687, Div. A, 102 Stat. 4105 (1988).

The predecessor to Rule 1106 was Rule 96 (38 CFR 19.196 (1991)). That rule provided as follows:

> Issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

When the Board proposed rule 96 in 1980, it explained that the purpose was to "[a]llow the Board to review "de novo" service connection cause of death cases notwithstanding the fact that a final appellate decision had been rendered during the veteran's lifetime." 45 FR 56093 (1980). As indicated, the rule was intended to apply in cases where a DIC claim is dependent on a finding that the cause of death was service connected, the most common type of DIC claim. It was not intended to preclude consideration of decisions during the veteran's lifetime in cases where a DIC claim was dependent upon a showing that the veteran was entitled to receive compensation during his or her lifetime for a service-connected disability rated totally disabling for a specified pre-death period. However, it became apparent that the language of Rule 96 could be construed as covering such cases. Accordingly, in 1989, VA proposed to amend Rule 96 with current Rule 1106, explaining:

> The old rule was inconsistent with 38 CFR 3.22(a)(2) which, in effect, requires that it be shown that there was clear and unmistakable error in prior rating decisions which failed to give a veteran a total rating for the required period of time in order to qualify for "410(b)" benefits. (Former 38 U.S.C. 410(b) is now 38 U.S.C. 418, see Section 1403 of Public Law 100–687.) 38 U.S.C. 3504(c) forbids the payment of benefits to any person after

September 1, 1959, based on the service of an individual before the date of a treasonous act if that individual's Department of Veterans Affairs benefits have been forfeited for treason. There is a similar prohibition in 38 U.S.C. 3505(a) pertaining to cases involving forfeiture for subversive activities. These provisions are now recognized. 54 FR 34334, 34338 (Aug. 18, 1989)

In February 1992, having received no comments on the proposed rule, VA published Rule 1106 as a final rule (57 FR 4088, 4103 (Feb 3, 1992)).

VA's Interpretation of 38 U.S.C. 1318

In *Wingo* v. *West*, 11 Vet. App. 307 (1998), the United States Court of Appeals for Veterans Claims (CAVC) interpreted 38 CFR 3.22(a) to permit a DIC award in a case where the veteran had never established entitlement to VA compensation for a service-connected total disability and had never filed a claim for such benefits which could have resulted in entitlement to compensation for the required period. The CAVC concluded that the language of § 3.22(a) would permit a DIC award where it is determined that the veteran "hypothetically" would have been entitled to a total disability rating for the required period if he or she had applied for compensation during his or her lifetime. 11 Vet. App. at 311.

The CAVC's interpretation of § 3.22(a) did not accurately reflect VA's intent in issuing that regulation. Section 1318 of the statute authorizes DIC where the veteran was "in receipt of or entitled to receive" compensation for total service-connected disability for a specified period preceding death. The statute does not authorize VA to award DIC benefits in cases where the veteran merely had hypothetical, as opposed to actual, entitlement to compensation. VA does not have authority to provide by regulation for payment of DIC in a manner not authorized by 38 U.S.C. 1318. Section 3.22(a) is an interpretive rule that was intended to explain the requirements of 38 U.S.C. 1318, and not to establish any substantive rights beyond those authorized by section 1318. However, since the language of § 3.22(a) apparently caused confusion regarding VA's interpretation of 38 U.S.C. 1318, VA revised § 3.22(a) to ensure that it clearly expresses VA's interpretation of section 1318. *See* 65 FR 3388 (Jan. 21, 2000).

Section 1318 authorizes payment of DIC in cases where the veteran was, at the time of death, "in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive)" compensation for service-connected disability that "was continuously rated totally disabling for a period of 10 or more years immediately preceding death" or was so rated for 5 years continuously from date of discharge to date of death. The phrase "in receipt of * * * compensation" unambiguously refers to cases where the veteran was, at the time of death, actually receiving compensation for service-connected disability rated totally disabling for the required period. VA concluded that the phrase "entitled to receive * * * compensation" is most reasonably interpreted as referring to cases where the veteran had established a legal right to receive compensation for the required period under the laws and regulations governing such entitlement, but was not actually receiving the compensation.

Under 38 U.S.C. 5101, "a specific claim in the form prescribed by the Secretary * * * must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary." No person can have a right to receive compensation from VA in the absence of a properly filed claim. *Jones* v. *West*, 136 F.3d 1296, 1299–1300 (Fed. Cir.), *cert. denied*, 119 S. Ct. 90 (1998). Section 5110(a) of title 38, United States Code, provides that an award of compensation may not be made effective earlier than the date of the claimant's application, unless specifically provided otherwise by statute. Accordingly, a person cannot have a right to receive compensation from VA for any period prior to the date of an application for benefits except as expressly authorized by specific statutory provision.

Moreover, as set forth above, the legislative history of Public Law 97–306—which added the phrase "or entitled to receive" to what is now 38 U.S.C. 1318—clearly shows that Congress made the amendment to provide that DIC may be paid in cases where the veteran would have been in receipt of compensation for a total service-connected disability for the specified period prior to death if not for a clear and unmistakable error (CUE) by VA. A "clear and unmistakable error" is an error in a prior final VA decision which materially affected the outcome of the decision. *See, e.g., Disabled American Veterans* v. *Gober*, 234 F.3d 682, 695–97 (Fed. Cir. 2000), *cert. denied sub nom. Nat'l Org. of Veterans' Advocates* v. *Principi*, 121 S. Ct. 1605 (2001); *Bustos* v. *West*, 179 F.3d 1378, 1381 (Fed. Cir.), *cert. denied* 120 S. Ct. 405 (1999). Pursuant to law and regulation, a decision containing CUE may be revised retroactively, and entitlement to benefits may be established retroactively as if the error had not occurred. 38 U.S.C. 5109A, 7111; 38 CFR 3.105(a), 38 CFR 20.1406(a).

A retroactive award predicated on a finding of CUE is, like all awards of VA benefits, subject to the requirement that the veteran have filed a claim for benefits under 38 U.S.C. 5101(a). Further, the period of the veteran's retroactive entitlement is governed by the effective-date provisions of 38 U.S.C. 5110, and generally may not be earlier than the date of the veteran's claim which resulted in the erroneous decision. In using the phrase "entitled to receive" to refer to the specific class of cases where the veteran's entitlement was established by correction of CUE, Congress plainly contemplated that determinations concerning the existence and duration of the veteran's entitlement to benefits would continue to be governed by the requirements of 38 U.S.C. 5101(a) and 5110.

The legislative history also suggests that final decisions concerning a veteran's disability rating and effective date would be binding for purposes of determinations under 38 U.S.C. 1318(b) unless there was CUE in such decisions. Sections 7104(b) and 7105(c) of title 38, United States Code provide that determinations of the Board of Veterans' Appeals and VA regional offices, respectively, are final unless a timely appeal is filed. Such final decisions may be revised only on the basis of CUE. By clearly stating its intent that DIC benefits may be awarded if there was CUE in a prior final decision which prevented the veteran from receiving total disability compensation for the specified period, Congress plainly contemplated that the prior final decision would continue to be binding in the absence of CUE. The extensive discussion of CUE in the legislative history would have been unnecessary and illogical if Congress had intended VA to ignore any final VA decisions during the veteran's lifetime. Accordingly, if a regional office or the Board had rendered a final decision that the veteran was not entitled to a total rating for at least 10 years immediately preceding death (or at least 5 years from date of discharge to date of death), such decision would preclude VA from reaching a contrary conclusion in adjudicating a claim for DIC under 38 U.S.C. 1318(b).

In view of Congress' clear intent, VA has concluded that determinations concerning the existence and duration of the veteran's entitlement to compensation for a service-connected disability rated totally disabling are governed by the generally-applicable provisions of 38 U.S.C. 5101(a), 5110,

UMI VOL 66 ISS 246 DE 21 2001 UMI

7104(b), and 7105(c), governing claim-filing requirements, effective dates of entitlement, and the finality of regional-office and Board decisions. Congress' stated purpose to authorize DIC in cases where clear and unmistakable error was the only obstacle to the veteran's receipt of total disability compensation for the required period fits logically within this well-established statutory scheme.

In contrast, interpreting 38 U.S.C. 1318(b) to permit DIC awards where the veteran "hypothetically" could have been entitled to benefits would create a substantially broader rule which would be inconsistent with the general statutory requirements governing a veteran's entitlement to compensation. VA has found no indication in section 1318(b) or its legislative history that Congress intended VA to ignore those established statutory requirements in making determinations regarding the veteran's entitlement to compensation for purposes of section 1318(b). To the contrary, Congress indicated that the purpose of the phrase "or entitled to receive" was to authorize DIC awards in a specific class of cases where the veteran's entitlement is established under those generally-applicable statutory requirements.

The language of 38 U.S.C. 1318(b) is consistent with Congress' stated purpose. Section 1318(b) authorizes payment of DIC in cases where the veteran was entitled to receive compensation for a service-connected disability that "was continuously rated totally disabling for a period of 10 or more years immediately preceding death." The requirement that the disability have been "continuously rated" totally disabling for the specified period is most reasonably construed as referring to ratings which had actually been assigned by VA for the duration of that period in accordance with the established statutory requirements governing claims, ratings, and effective dates. A contrary interpretation would render the term "rated" wholly unnecessary, for Congress could simply have provided that DIC would be payable based on a posthumous determination that the veteran had a service-connected disability that "was continuously * * * totally disabling for a period of 10 or more years immediately preceding death." In cases where a rating is assigned retroactively through correction of CUE, the statutory requirements for a continuous rating and entitlement at death are satisfied, as a matter of law, because Congress has mandated that decisions correcting CUE shall have the same effect as if they had been issued on the date of the erroneous decision.

For the foregoing reasons, we conclude that the meaning of section 1318 is clear from its language, history, and context. Accordingly, given the absence of ambiguity in the statute and in view of Congress' clear intent, there is no "interpretive doubt * * * to be resolved in the veteran's favor." *Brown* v. *Gardner*, 513 U.S. 115, 118 (1994).

This interpretation of 38 U.S.C. 1318(b) is consistent with VA's prior interpretation of that provision. In a 1990 precedent opinion which is binding on all VA officials and employees, the VA General Counsel examined the language and history of section 1318(b) (previously section 410(b)), and concluded that the legislative history clearly indicated that Congress intended to authorize DIC in cases where the veteran had a total service-connected disability rating for the specified period, or would have had such a rating but for clear and unmistakable error by VA. The General Counsel concluded further that VA could not award DIC in cases where the veteran did not have a total service-connected rating for the specified period and there was no clear and unmistakable error which could have provided a basis for retroactively assigning such a rating. VAOPGCPREC 68–90, 55 FR 43255 (Oct. 26, 1990).

Definition of "Entitled to Receive"

In order to clarify the requirements of 38 U.S.C. 1318, VA revised 38 CFR 3.22 to expressly define the statutory term "entitled to receive." VA defined that term to refer to each specific circumstance where a veteran could have had a service-connected disability rated totally disabling by VA but may not have been receiving VA compensation for such disability at the time of death. The revised regulation provides seven circumstances:

(1) VA was paying the compensation to the veteran's dependents;

(2) VA was withholding the compensation under authority of 38 U.S.C. 5314 to offset an indebtedness of the veteran;

(3) The veteran had applied for compensation but had not received total disability compensation due solely to clear and unmistakable error in a VA decision concerning the issue of service connection, disability evaluation, or effective date;

(4) The veteran had not waived retired or retirement pay in order to receive compensation;

(5) VA was withholding payments under the provisions of 10 U.S.C. 1174(h)(2);

(6) VA was withholding payments because the veteran's whereabouts was unknown, but the veteran was otherwise entitled to continued payments based on a total service-connected disability rating; or

(7) VA was withholding payments under 38 U.S.C. 5308 but determines that benefits were payable under 38 U.S.C. 5309. 38 CFR 3.22(b) (2000).

VA's Interpretation of 38 U.S.C. 1311(a)(2)

Section 1311(a)(2) was enacted in 1992. In view of the nearly identical language in 38 U.S.C. 1311(a)(2) and the earlier-enacted 38 U.S.C. 1318, and the similar purpose of the two statutes, VA believes those statutes should be interpreted in the same manner. The *NOVA* court reached the same conclusion, noting that the well-established rule that identical words used in different parts of a statute are intended to have the same meaning "applies with equal force where, as here, the words at issue are used in two different sections of a complex statutory scheme and those two sections serve the same purpose, namely, the award of DIC benefits to survivors." Slip op. at 23–24.

The legislative history of section 1311(a)(2) makes clear it was modeled on section 1318 and intended to have the same meaning. H.R. Rep. 753, 102d Cong. 17 (1992) (discussing application of sections 1311(a)(2) and 1318).

The legislative history further supports the conclusion that section 1311(a)(2), like section 1318, was intended to require that the veteran's entitlement to total disability ratings be based on ratings during the veteran's lifetime, rather than posthumous determinations regarding the veteran's "hypothetical" entitlement to benefits. The joint explanatory statement on the compromise agreement resulting in section 1311(a)(2) explained that it was intended to provide an additional amount of compensation for survivors of veterans who were "rated totally disabled while married to the surviving spouse." 138 Cong. Rec. 17376 (1992).

In 1993, VA issued a regulation to implement 38 U.S.C. 1311(a)(2). That regulation, codified at 38 CFR 3.5(e), states that the additional DIC amount will be paid "in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was evaluated as totally disabling for a continuous period of at least eight years immediately preceding death."

For the reasons stated above with respect to 38 U.S.C. 1318, VA has consistently construed 38 U.S.C.

1311(a)(2) and 38 CFR 3.5(e) as requiring that the veteran's entitlement to total disability compensation be established by ratings during the veteran's lifetime or by CUE challenge to a decision or decisions rendered during the veteran's lifetime. Because this construction comports with the language, legislative history, and principles of construction discussed above, VA will continue to interpret both 38 U.S.C. 1311(a)(2) and 38 U.S.C. 1318 in this manner.

The NOVA Case: Revision of Rule 1106

The *NOVA* court concluded that VA has interpreted 38 U.S.C. 1318 and 38 U.S.C. 1311(a)(2) differently because the rule in 38 CFR 20.1106 concerning disregard of decisions during the veteran's lifetime contains an exception for section 1318 but not for section 1311(a)(2). As explained above, VA has consistently interpreted 38 U.S.C. 1311(a)(2) and 1318 in the same manner. The cited inconsistency between 38 CFR 3.22(a) and Rule 1106 is a function of time, not of VA's interpretation of the two statutes at issue in the *NOVA* case.

Despite the court's characterization of Rule 1106 as the "implementing" regulation for 38 U.S.C. 1311, *NOVA*, slip op. at 9–10; 37, the fact is that Rule 1106 was proposed three and one-half years before, and published as final 9 months before, the amendments to 38 U.S.C. 1311 were enacted. Simply put, Rule 1106 was not, and could not have been, drafted with the enhanced DIC benefits of 38 U.S.C. 1311(a)(2) in mind. VA implemented 38 U.S.C. 1311(a)(2) in a different regulation, 38 CFR 3.5(e), published in April 1993, *after* enactment of Pub. L. No. 102–568. 58 FR 25561 (Apr. 27, 1993).

Rule 1106 was intended to apply to claims for DIC where the veteran's death is service connected. It was never intended to preclude consideration of decisions during the veteran's lifetime in cases where the veteran's death is not service connected and, therefore, a survivor's entitlement to DIC is dependent upon a showing that the veteran was entitled to receive compensation during his or her lifetime for a service-connected disability rated totally disabling for a specified pre-death period. In view of the purpose of Rule 1106 and the clear requirements of 38 U.S.C. 1311(a)(2) and 38 CFR 3.5(e), VA has not interpreted Rule 1106 to preclude reliance on decisions during the veteran's lifetime in determining entitlement to enhanced DIC benefits.

VA has interpreted 38 CFR 3.22 and 38 CFR 20.1106 to preclude "hypothetical" determinations of eligibility for nonservice-connected DIC under 38 U.S.C. 1318, an explicit exclusion in Rule 1106 recognized by the Federal Circuit in *Hix*, 225 F.2d at 1380. In the same way, under Rule 1106, we interpreted the exact same language—"in receipt of or entitled to receive"—in 38 U.S.C. 1311(a)(2) to preclude hypothetical determinations of eligibility for the enhanced DIC benefit. In *Hix*, the court declined to defer to VA's interpretation because Rule 1106 mentions 38 U.S.C. 1318, but does not mention 38 U.S.C. 1311(a)(2). As indicated above, the reason for this omission is that Rule 1106 became final 9 months before the current 38 U.S.C. 1311(a)(2) was enacted. There is, frankly, no basis for concluding that VA meant to exclude a statute that did not yet exist. Although we recognize that further revision of Rule 1106 to include express reference to 38 U.S.C. 1311(a)(2) will help clarify VA's position, this revision does not reflect any change in VA's interpretation of the governing statutes.

Nevertheless, because of the apparent confusion, and in accordance with the court's order in *NOVA*, we propose to amend 38 CFR 20.1106 to add a specific exception for 38 U.S.C. 1311(a)(2). In our view, the statutory language does not support paying either DIC or enhanced DIC benefits where the veteran never made a claim for total disability benefits in his or her lifetime, or where a survivor cannot show clear and unmistakable error in decisions made during the veteran's lifetime.

Comment Period

We are providing a comment period of 30 days for this proposed rule. In its August 16, 2001, order in the *NOVA* case, the Federal Circuit directed VA to issue its final rules on this matter within 120 days after the date of issuance of the court's mandate in that case. The Federal Circuit further ordered VA to stay all proceedings on claims for DIC under 38 U.S.C. 1318 until such final rules are issued. Although the Federal Circuit indicated that VA may request an extension of time, if necessary, we believe that the Court intended that VA would make every effort to issue final rules within the specified 120-day period. A shortened comment period of 30 days is necessary to help us meet the objective of the Court. Further, we believe that prompt completion of the rulemaking process is necessary to ensure that the court-ordered stay of proceedings does not result in prolonged delays in pending claims that may be affected by this rule.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, inasmuch as this rule applies to individual claimants for veterans' benefits and does not affect such entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for this proposed rule.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: November 26, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, VA proposes amending 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 20.1106 is revised to read as follows:

§ 20.1106 Rule 1106. Claim for death benefits by survivor-prior unfavorable decisions during veteran's lifetime.

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2), 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime.

Authority: 38 U.S.C. 7104(b).

[FR Doc. 01–31479 Filed 12–20–01; 8:45 am]

BILLING CODE 8320–01–P

UMI
VOL 66 ISS 246 DE 21 2001
UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 01–319; FCC 01–333]

Review of Quiet Zones Application Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission, pursuant to staff recommendations of the 2000 Biennial Review Report, reviews the application procedures for Quiet Zones to determine whether they can be made more efficient while continuing to ensure that such zones are fully protected from interference. In this document, the Commission seeks comment on whether to certain microwave applicants to initiate conditional operation even if the proposed site is located within a defined distance from a quiet zone. The Commission also seeks comment on whether to expedite application processing where there are Quiet Zone implications; whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application, and seeks comment on any possible modification of the rule prescribing the procedures for coordination with quiet zones and any specific service rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

DATES: Comments are due on or before January 22, 2002; Reply comments are due on or before February 6, 2002.

ADDRESSES: Parties who choose to file comments by paper should send comments to Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW; TW–A325; Washington, D.C. 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.*

FOR FURTHER INFORMATION CONTACT: Katherine M. Harris at (202) 418–0609 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the Notice of Proposed Rulemaking ("NPRM") in WT Docket No. 01–319, FCC 01–333, adopted November 9, 2001 and released November 21, 2001. The complete text is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12 Street, SW, Washington, DC and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, CY–B402, Washington, DC 20554. The document is also available via the Internet at *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/fcc01333.pdf.*

Paperwork Reduction Act

1. The NPRM contains no proposed information collection.

Synopsis of Notice of Proposed Rulemaking

2. This Notice of Proposed Rulemaking (NPRM) is a part of the Commission's biennial regulatory review, pursuant to section 11 of the Communications Act. In particular, this NPRM seeks comments on procedures for streamlining the Commission's rules for the processing of applications potentially affecting areas know as Quiet Zones.

I. Discussion

3. This NPRM seeks comments on procedures for streamlining the Commission's rules for the processing of applications potentially affecting areas known as Quiet Zones, currently set forth in 47 CFR 1.924 of our rules. Quiet Zones are defined as those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. In seeking comments on these rules, the Commission is responding to concerns that the rules may be burdensome and unnecessarily delay the provision of service to the public. The Commission's purpose is to determine whether the required procedures can be streamlined to reduce the effect on wireless licenses while adequately protecting the operations of Quiet Zones.

4. The Commission seeks comments on whether to allow part 101 applicants to initiate conditional operation under § 101.31(b), notwithstanding the limitation contained in § 101.31(b)(1)(v), if they submit to the Commission written consent from the affected Quiet Zone entity and otherwise are eligible to initiate conditional operations over the proposed facility; whether to expedite application processing where there are Quiet Zone implications if the applicant provides written consent from the Quiet Zone entity; whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application with the Commission, including the appropriate period of time to prescribe for such advance notification and coordination; and possible modification of 47 CFR 1.924, 90.655, 95.45, 101.1009, and 101.1329 and any other rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

II. Filing Procedures

5. Pursuant to 47 CFR 1.415 and 1.419, interested parties may file comments on or before January 22, 2001, and reply comments on or before February 6, 2002. Comments may be filed by using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents Rulemaking Proceeding, at 63 FR 24121 May 1, 1998.

6. Comments filed through ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

7. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW–A325, Washington, DC 20554.

8. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, Qualex International, 445 12th Street, SW, CY–B402, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC 20554. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.49, and all

other applicable sections of the Commission's rules. The Commission also directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of length of their submission.

III. Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act,[1] (RFA) has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the NPRM, and they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.[2] In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.[3]

A. Need for, and Objectives of, the Rules

10. In the *Quiet Zones NPRM*, the Commission seeks comment on a number of proposals to further its ongoing efforts under the Telecommunications Act of 1996[4] to foster competition in local communications markets. Specifically, the Commission seeks comments on: (1) whether to allow part 101 applicants to initiate conditional operation under 47 CFR 101.31(b), notwithstanding the limitation contained in 101.31(b)(1)(v), if they submit to the Commission written consent from the affected Quiet Zone entity and otherwise are eligible to initiate conditional operations over the proposed facility; (2) whether to expedite application processing where there are Quiet Zone implications if the applicant provides written consent from the Quiet Zone entity; (3) whether to allow parties to provide notification to and begin coordination with Quiet Zone entities in advance of filing an application with the Commission, and the appropriate period of time to prescribe for such advance notification and coordination; and (4) any possible modification of 47 CFR 1.924, 90.655, 95.45, 101.1009, and 101.1329 and any other rules that implement the Commission's goals regarding protection of Quiet Zones from unwarranted and unacceptable interference.

B. Legal Basis

11. The potential actions on which comment is sought in this Quiet Zones NPRM would be authorized under sections 1, 4(i), 11,303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(g), and 303(r).

Description and Estimate of the Number of Small Entities to which the Rules Will Apply

12. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[5] The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[6] In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act.[7] A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.[8] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[9] Nationwide, as of 1992, there were approximately 275,801 small organizations.[10] "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."[11] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[12] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[13] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,6000 (96 percent) are small entities.

13. In the following paragraphs, we further describe and estimate the number of small entity licensees that may be affected by any streamlining changes in the proposed rules, if adopted. Since this rulemaking proceeding applies to multiple services, we will analyze the number of small entities affected on a service-by-service basis. The number of small entities identified below substantially overestimates the number of small entities that might be affected by any rule change in this docket, since only entities proposing or planning facilities in proximity to any of the Quiet Zones would be affected by any changes in the requirements.

14. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[14] According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[15] Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Telecommunications Industry Revenue* data, 808 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service, which are

---

[1] 5 U.S.C. 603.

[2] 5 U.S.C. 603(a).

[3] See id.

[4] Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 codified at 47 U.S.C. 151 et seq. (1996 Act). The 1996 Act amended the Communications Act of 1934 (the "Communications Act" or the "Act").

[5] 5 U.S.C. 603(b)(3).

[6] U.S.C. 601(6).

[7] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities for the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

[8] 15 U.S.C. 632.

[9] 5 U.S.C. 601(4).

[10] 1992 Economic Census, U.S. Bureau of Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[11] 5 U.S.C. 601(5).

[12] U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

[13] *Id.*

[14] 13 CFR 121.201, Standard Industrial Code (SIC) code 4812.

[15] *1992 Census, Series UC92-S-1* at Table 5, SIC code 4812.

UMI VOL 66 ISS 246 DE 21 2001 UMI

placed together in the data.[16] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are no more than 808 small cellular service carriers that may be affected by any proposed rules that may be adopted.

15. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to radiotelephone communications companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.[17] According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[18] Therefore, if this general ratio continues, in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

16. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order* in PR Docket No. 89–552, GN Docket No. 93–252, PP Docket No. 93–253, 62 FR 16004, April 3, 1997, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions.[19] Two auctions of Phase II licenses have been conducted. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won one of the nationwide licenses, 67 percent of the regional licenses, and 54 percent of the EA licenses. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

17. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order* in CC Docket No. 99–168, 65 FR 17594, April 4, 2000, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned at that time, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction began on February 13, 2001, and ended on February 21, 2001. A total of eight licenses were sold to three bidders. One of these bidders was a small business that won a total of two of these licenses.

18. *Paging.* In the *Paging Second Report and Order and Further Notice of Proposed Rulemaking* in WT Docket No. 96–18; PP Docket No. 93–253 at 62 FR 11616, March 12, 1997 and at 64 FR 33762, June 24, 1999, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than $15 million. A very small business is defined as an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than $3 million. The SBA has approved these definitions.[20] An auction of MEA licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won licenses. In addition, at present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 172 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data.[21] We are unable at this time to estimate with precision the number of paging carriers that would qualify as small business concerns, particularly among the pre-existing licensees. Consequently, we estimate that there are fewer than, but up to, 172 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

19. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years in a *Report and Order* in WT Docket No. 96–59; GN Docket No. 90–314, 61 FR 33859, July 1, 1996. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining "small entity" in

---

[16] *See Telecommunications Industry Revenues:* 1999, Industry Analysis Division, Common Carrier Bureau (Sept. 2000).

[17] 13 CFR 121.201, WIC code 4812.

[18] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92–*S*–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

[19] *See* Letter to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Jan. 6, 1998).

[20] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, at 3–4 (Dec. 2, 1998).

[21] *Trends in Telephone Service,* Table 19.3 (Feb. 19, 1999).

the context of broadband PCS auctions have been approved by the SBA.[22] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.[23] On March 23, 1999, the Commission reauctioned 347 C, D, E, and F block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F block broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as small or very small businesses.

20. *Narrowband PCS.* To date, three auctions of narrowband PCS licenses have been conducted. Through these auctions, the Commission has awarded a total of 41 licenses, 11 of which were obtained by small businesses. For purposes of the first two auctions that have already been held, small businesses were defined as entities with average gross revenues for the prior three calendar years of $40 million or less in the *Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in PP Docket No. 93–253, 59 FR 44109, August 26, 1994. Four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined under the then existing rules. To ensure meaningful participation of small business entities in subsequent auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order and Second Further Notice of Proposed Rulemaking* in GN Docket No. 90–314, ET Docket No. 92–100, PP Docket No. 93–253, at 65 FR 35843 and 65 FR 35875, June 6, 2000. A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA.[24] The third auction closed on October 16, 2001, and involved eight nationwide and 357 Metropolitan Trading Area (MTA) licenses. Five bidders won 317 licenses (309 MTA licenses and the eight nationwide licenses). Three of the five winning bidders were small businesses. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. The Commission assumes, for purposes of this IRFA, that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

21. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[25] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[26] We will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[27] There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA definition.

22. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[28] Accordingly, we will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.[29] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

23. *Specialized Mobile Radio (SMR).* The Commission has defined "small business" for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band, as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years.[30] The SBA has approved this small business size standard for the 800 MHz and 900 MHz auctions.[31] Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small businesses under the $15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz band qualified as small businesses under the $15 million size standard. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders for licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 EA licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed small business status. In addition, there are numerous incumbent site-by-site SMR licensees in the 800 and 900 MHz bands.

24. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

---

[22] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, at 3 (Dec 2, 1998).

[23] *FCC News, Broadband PCS, D,. E and F Block Auction Closes,* No. 71744 (rel. Jan 14, 1997).

[24] *See* Letter to Amy J. Zoslov, Chief (Acting), Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communication Commission, from Aida Alvarez, Administrator, Small Business Administration (Dec. 2, 1998).

[25] The service is defined in § 22.99 of the Commission's rules, 47 CFR 22.99.

[26] BETRS is defined in §§ 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757 and 22.759.

[27] 13 CFR 121.201, SIC code 4812.

[28] The service is defined in § 22.99 of the Commission's rules, 47 CFR 22.99.

[29] 13 CFR 121.201, SIC code 4812.

[30] 47 CFR 90.814(b)(1).

[31] *See* Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Aug. 10, 1999) (800 MHz SMR); Letter to Michele C. Farquhar, Acting Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Philip Lader, Administrator, Small Business Administration (July 24, 1996) (900 MHz SMR).

25. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

26. The Commission is unable at this time to estimate the number of small businesses that could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMR [32] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

27. *Amateur Radio Service.* All Amateur Radio Service licenses are presumed to be individuals. Accordingly, no small business definition applies for this service.

28. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter. The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications.[33]

29. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this IRFA, we estimate that there may be at least 712,000 potential licensees that are individuals or small entities, as that term is defined by the SBA.

30. *Fixed Microwave Services.* Microwave services include common carrier,[34] private-operational fixed,[35] and broadcast auxiliary radio services.[36] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—i.e., an entity with no more than 1,500 persons.[37] We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

31. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[38] There are a total of approximately 127,540 licensees within these services. Governmental entities [39] as well as private businesses comprise the licensees for these services. As indicated supra in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.[40]

32. *Personal Radio Services.* Personal radio services provide short-range, low-power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).[41] Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition.

33. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.[42] At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

34. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years in a *Report and Order* in GN Docket No. 96–228, 62 FR 9636, March 3, 1997. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

---

[32] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994*, at 116.

[33] 13 CFR 121.201, SIC code 4812.

[34] 47 CFR part 101.

[35] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[36] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. *See* 47 CFR 74.501 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV prickups, which relay signals from a remote location back to the studio.

[37] 13 CFR 121.201, SIC 4812.

[38] With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules, 47 CFR 90.15–90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile *printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service is currently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service, which is comprised of licensees from state departments of conservation and private forest organizations that set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS)

[39] 47 CFR 1.1162.

[40] 5 U.S.C. 601(5).

[41] Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of part 95 of the Commission's rules. 47 CFR 95.401–95.428; 95.1–95.181; 95.201–95.225; 95.191–95,194.

[42] This service is governed by subpart I of part 22 of the Commission's rules. *See* 47 CFR 22.1001–22.1037.

35. *Local Multipoint Distribution Service.* The Commission held two auctions for licenses in the Local Multipoint Distribution Services (LMDS) (Auction No. 17 and Auction No. 23). For both of these auctions, the Commission defined a small business as an entity, together with its affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $40 million in a *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking* in CC Docket No. 92–297, 62 FR 23148, April 29, 1997. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million in a *Second Order on Reconsideration* in CC Docket No. 92–297, 62 FR 48787, September 17, 1997. Of the 144 winning bidders in Auction Nos. 17 and 23, 125 bidders (87 percent) were small or very small businesses.

36. *24 GHz—Incumbent 24 GHz Licensees.* The rules that we may later adopt could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission did not develop a definition of small entities applicable to existing licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for the radiotelephone industry, providing that a small entity is a radiotelephone company employing fewer than 1,500 persons.[43] The 1992 Census of Transportation, Communications and Utilities, conducted by the Bureau of the Census, which is the most recent information available, shows that only 12 radiotelephone firms out of a total of 1,178 such firms that operated during 1992 had 1,000 or more employees.[44] This information notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent[45] and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

37. *Future 24 GHz Licensees.* With respect to new applicants in the 24 GHz band, we have defined "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. "Very small business" in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years in a *Report and Order* in WT Docket No. 99–327, 66 FR 11113, February 22, 2001.[46] The SBA has approved these definitions.[47] The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held. Even after that, the Commission will not know how many licensees will partition their license areas or disaggregate their spectrum blocks, if partitioning and disaggregation are allowed.

38. *39 GHz.* The Commission held an auction (Auction No. 30) for fixed point-to-point microwave licenses in the 38.6 to 40.0 GHz band (39 GHz Band).[48] For this auction, the Commission defined a small business as an entity, together with affiliates and controlling interests, having average gross revenues for the three preceding years of not more than $40 million in a *Report and Order* in ET Docket No. 95–183; PP Docket No. 93–253, 63 FR 6079, February 6, 1998 and also in the *Second Notice of Proposed Rulemaking* at 63 FR 3075, January 21, 1998. A very small business was defined as an entity, together with affiliates and controlling principals, having average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these definitions.[49] Of the 29 winning bidders in Auction No. 30, 18 bidders (62 percent) were small business participants.

39. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 595 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth, and after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years in the *Fourth Report and Order* in PP Docket No. 93–253, 59 FR 25825, May 18, 1994. In the *218–219 MHz Report and Order and Memorandum Opinion and Order* at 64 FR 59656, November 3, 1999, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years WT Docket No. 98–169. A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. These definitions have been approved by the SBA.[50] We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small business in the subscription television services and message communications industries, we assume for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

40. The *Quiet Zones NPRM* proposes no additional reporting, recordkeeping or other compliance measures.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

41. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of different compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rules for small entities; (3) the

---

[43] *See* 13 CFR 121.201, SIC code 4812.

[44] *1992 Census at Firm Size* 1–123.

[45] Teligent acquired the DEMS licenses of FirstMark, the only licensee other than TRW in the 24 GHz band whose license has been modified to require relocation to the 24 GHz band.

[46] In the Matter of Amendments to Parts 1, 2, 87 and 101 of the Commission's Rules To License Fixed Services at 24 GHz, *Report and Order,* 15 FCC Rcd at 16967; *see also* 47 CFR 101.538(a)(1).

[47] *See* Letter to Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Gary M. Jackson, Assistant Administrator, Small Business Administration (July 28, 2000).

[48] *See* 39 GHz Band Auction Closes; Winning Bidders of 2,173 Licenses Announced, *Public Notice,* DA 00–1035 (May 10, 2000).

[49] *See* Letter to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commssion, from Aida Alvarez, Administrator, Small Business Administration (Feb. 4, 1998).

[50] *See* Letter to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration (Jan. 6,1998).

UMI
VOL 66
ISS 246
DE 21
2001
UMI

use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

42. The purpose of this rulemaking is to seek comment on possible procedures for streamlining the regulatory obligations associated with wireless applications and facilities that may implicate the Commission's defined Quiet Zones, while still adequately and fully protecting the various operations located in the Quiet Zones. One alternative considered, as suggested by a commenter,[51] is to remove rules and provisions that restrict or limit activities of all entities, including small businesses, in the Quiet Zones. While evaluating this alternative, the Commission has carefully considered the overlying public policy and safety needs that necessitated maintaining the Quiet Zones provisions. Therefore, while the Commission does not intend to alter the basic protection given to Quiet Zones, it is willing to examine and give careful consideration to any proposals that would reduce or alleviate the burdens on small entities, as well as other affected parties.

43. More specifically, the Commission is considering as an alternative resuming processing of an application with Quiet Zone implications if written consent from the affected Quiet Zone entity is provided.[52] This alternative could greatly reduce the processing time for an application submitted by all entities, including small entities. Parties, including small entities, are encouraged to provide additional alternatives for consideration.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

III. Ordering Clause

44. Pursuant to the authority of sections 1, 4(i), 11, 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, 303(g), and 303(r), that this Notice of Proposed Rulemaking is ADOPTED.

45. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

46. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Sections 603(a) and 604(b) of the Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164, 5 U.S.C.A. 603(a) and 604(b).

List of Subjects 47 CFR Part 1

Telecommunications.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–31411 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2812, MM Docket No. 01–302, RM–10333]

Digital Television Broadcast Service; Fort Wayne, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Indiana Broadcasting, LLC, licensee of station WANE–TV, NTSC channel 15, Fort Wayne, Indiana, proposing the substitution of DTV channel 31 for station WANE–TV's assigned DTV channel 4. DTV Channel 31 can be allotted to Fort Wayne, Indiana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (41–05–38 N. and 85–10–48 W.). However, since the community of Fort Wayne is 400 kilometers within the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment. As requested, we propose to allot DTV Channel 31 to Fort Wayne with a power of 82 and a height above average terrain (HAAT) of 253 meters.

DATES: Comments must be filed on or before January 28, 2002, and reply comments on or before February 12, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William H. Fitz, Covington & Burling, 1201 Pennsylvania Avenue, NW., Washington, DC 20004 (Counsel for Indiana Broadcasting, LLC).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–302, adopted December 4, 2001, and released December 6, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Indiana is amended by removing DTV Channel 4 and adding DTV Channel 31 at Fort Wayne.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31458 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

---

[51] *See Notice of Proposed Rulemaking*, paragraphs 4–11.

[52] *See id.*, paragraph 9.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2856, MM Docket No. 01–332, RM–10334]

Television Broadcast Service; Pueblo, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Zavaletta Broadcasting of Pueblo, an applicant for a construction permit for a new television station to operate on channel 26+ at Pueblo, Colorado, requesting the substitution of channel 48 for channel 26+ at Pueblo. Channel 48 can be allotted to Pueblo, Colorado, with zero offset consistent with the criteria set forth in the Commission's Public Notice, released on November 22, 1999, DA 99–2605. The coordinates for channel 48 are North Latitude 38–21–30 and West Longitude 104–33–24. Pursuant to the Commission's Public Notice, we will not accept competing expressions of interest in the use of television channel 48 at Pueblo.

DATES: Comments must be filed on or before February 4, 2002, and reply comments on or before February 14, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Linda G. Coffin, Skadden, Arps, Slate, Meagher & Flom LLP, 1440 New York Avenue, NW, Washington, DC 20005 (Counsel for Zavaletta Broadcasting of Pueblo).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–332, adopted December 10, 2001, and released December 13, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Colorado is amended by removing TV Channel 26+ and adding TV Channel 48 at Pueblo.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31457 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 222

[Docket No. 011130280–1288–01; I.D. 092101C]

RIN 0648–AP64

Endangered and Threatened Species; Transfer of Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for public comments.

SUMMARY: NMFS proposes a rule that would allow the transfer of certain permits issued by NMFS under the Endangered Species Act (ESA) of 1973, as amended. This proposed rule would allow the transfer of permits associated with Habitat Conservation Plans, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances. Currently, if a permit holder wants to sell property to a new owner, the new owner would need to apply for a separate permit. If regulations are put in place to allow transfers, time and money will be saved for NMFS and the new landowner with no adverse impact on the environment.

DATES: Written comments on the proposed rule must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Eastern Standard Time on February 4, 2002.

ADDRESSES: Comments on this proposed rule should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via fax to (301) 713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz or Lamont Jackson at (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

NMFS is responsible for implementing the ESA, 16 U.S.C. 1531 *et seq.*, with respect to most threatened and endangered marine species.

NMFS' regulation at 50 CFR 222.305 prohibits the transfer of all permits issued under section 10(a) of the ESA. While the restrictions imposed on permit succession and transferability are well justified for most situations (e.g., scientific research permits), they are unnecessary and inappropriate for enhancement and incidental take permits associated with Habitat Conservation Plans, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances. These permits involve substantial long-term conservation commitments, and NMFS negotiates these permits recognizing that there may be succession or transfer in ownership during the term of the permit. The U.S. Fish and Wildlife Service (FWS) which also implements the ESA, issued final regulations on June 17, 1999 (64 FR 32706), allowing the transfer of these enhancement and incidental take permits, provided certain conditions are met. On January 22, 2001 (66 FR 6483),

UMI
VOL 66
ISS 246
DE 21
2001
UMI

FWS reconfirmed its decision to allow the transfer of these specific permits.

NMFS believes that a blanket prohibition on transferability of incidental take permits under ESA section 10(a)(1)(B) and enhancement permits issued for Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances under section 10(a)(1)(A) is too constraining, given the context and purpose of these plans and agreements. This proposed rule (revising 50 CFR 222.305) would remove the prohibition on transferability of incidental take and enhancement permits with respect to these named agreements. However, this proposed rule would require NMFS to determine that the transferee has given adequate written assurance to NMFS that it can and will fulfill the obligations of the permit.

Description of Permits

Safe Harbor Agreements with Assurances: Under the Safe Harbor policy, non-Federal property owners with an approved agreement will receive assurances that additional land, water, and/or natural resource use restrictions will not be imposed in exchange for their voluntary conservation actions to benefit listed species covered in the agreement. If the Agreement provides a net conservation benefit to the covered species and the property owner meets all the terms of the Agreement, NMFS will authorize the taking of the covered species to enable the property owner to ultimately return the enrolled property back to agreed upon conditions. These assurances will be provided in the property owner's Safe Harbor Agreement and in an associated Enhancement of Survival permit issued under section 10(a)(1)(A) of the ESA.

Candidate Conservation Agreement with Assurances: Under this policy, non-Federal property owners who commit, through a Candidate Conservation Agreement with Assurances, to implement conservation measures for a candidate or proposed species, or a species likely to become a candidate or proposed in the near future, will receive assurances that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed should the species become listed in the future. These assurances will be provided in the property owner's Candidate Conservation Agreement with Assurances and in an associated Enhancement of Survival permit issued under section 10(a)(1)(A) of the ESA.

Habitat Conservation Plans: The development of a conservation plan (sometimes referred to as a Habitat Conservation Plan (HCP)) is a required element of an application for an incidental take permit, and involves long-term conservation commitments that may "run with the land," or obligate a landowner for the life of the permit. In negotiating such commitments, it is recognized that a succession of owners may purchase or sell the affected property during the term of the permit. Species covered by the conversation measures should not be affected by the change in ownership if the successive owners agree to be bound by the terms of the permit. Property owners are willing to undertake these commitments if they know they can transfer their incidental take authorization (and HCP obligations) to the purchaser. Absent the ability to transfer the permit and thereby obtain long-term assurances of certainty, some landowners may be unwilling to enter into long-term commitments. For many HCPs, both FWS and NMFS issue an incidental take permit. It is confusing and inconsistent if FWS' permits are transferable and NMFS' permits are not.

This proposed rule would alleviate the constraints on permit transferability to allow those who have permits associated with HCPs, Safe Harbor Agreements with Assurances and Candidate Conservation Agreements with Assurances the flexibility to transfer permits to qualified purchasers, and eliminates inconsistency between the regulations of the two agencies administering the ESA.

The proposed rule would allow transfer of these permits only so long as the successor or transferee owners meet the general qualifications for holding the permits and agree to the terms of the HCP, Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances.

Description/Overview of the Revisions to Permit Regulations

Section 222.305(a) would be revised to allow transferability of permits issued under 50 CFR parts 222, 223, and 224 where NMFS determines the transferee has given adequate written assurance (signing of a contract) that they can and will fulfill the obligations of the permit.

This proposed rule does not apply to scientific research permits issued under ESA section 10(a)(1)(A). It applies only to incidental take permits, and enhancement permits issued under section 10(a)(1)(A) in association with a Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances. Further, any permits issued by NMFS for scientific research and enhancement for ESA-listed species, including marine mammals (50 CFR 222.308 (b),(c), 216.41) are not transferable (50 CFR 216.35), and this proposed rule will not affect this restriction or the regulations at 50 CFR 216.41 and 222.308(b)(c). These permits are not transferable because they are part of scientific research permits issued under section 10(a)(1)(A), and require that the holder/principal investigator be qualified to conduct the research and enhancement activities described in the original application and permit.

Public Comments Solicited

NMFS requests comments on any aspect of this proposed rule. NMFS particularly would like to hear from individuals who have experience with FWS' rule for transferring incidental take permits.

Classification

NMFS has determined that this proposed rule is consistent with the ESA and with other applicable laws.

National Environmental Policy Act

Since the changes in this proposed rule do not individually or cumulatively have a significant impact on the quality of the human environment, this proposed rule has been determined to be categorically excluded under the National Environmental Policy Act.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

Regulatory Flexibility Act

This proposed rule will establish the process for transfers of incidental take permits when a new party acquires land subject to an existing, ongoing HCP, Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances. It will reduce the costs to both the transferees and the agency. Currently, the transfer of an incidental take permit or an enhancement permit to a new landowner can be accomplished only by the new landowner submitting an application for its own permit (using the pre-existing conservation plan or agreement developed by the prior landowner). That permit would then be processed by NMFS and new documents prepared to issue a new permit would be accompanied by a simultaneous surrender of the permit held by the prior landowner. Under this system, the time required for processing a new permit will always result in a lapse in coverage between the date of the acquisition of the land by the new owner and the issuance of the new permit. Under this proposed rule, the transfer process would be streamlined and paperwork reduced. As long as the new landowner is appropriately qualified, the permit can be transferred by a simple assignment and assumption agreement between NMFS and the new landowner. NMFS would save time and document preparation and processing expenses, as would the landowner involved. This proposed rule would decrease the costs of permit transfers on both large and small businesses alike. Thus, the economic effects of the proposed rule will be positive.

Pursuant to the Regulatory Flexibility Act, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, since the rule would reduce cost associated with land transfers.

Paperwork Reduction Act

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. This requirement has been submitted to OMB for approval. Public reporting burden for a permit transfer is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES** above), and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Executive Order 13132—Federalism

Executive Order 13132 requires that agencies take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law or impose substantial direct compliance cost on state and local governments (unless required by statute). Neither of these circumstances is applicable to this proposed rule.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: December 14, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 222 is proposed to be amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et. seq.*; 16 U.S.C. 742a *et. seq.*; 31 U.S.C. 9701. Section 222.403 also issued under 16 U.S.C. 1361 *et. seq.*

2. In § 222.305, paragraph (a)(1) is revised and paragraph (a)(3) is added to read as follows:

§ 222.305 Rights of succession and transfer of permits.

(a)(1) Except as otherwise provided in this section, permits issued pursuant to parts 222, 223, and 224 of this chapter are not transferable or assignable. In the event that a permit authorizes certain business activities in connection with a business or commercial enterprise, which is then subject to any subsequent lease, sale or transfer, the successor to that enterprise must obtain a permit prior to continuing the permitted activity, with the exceptions provided in paragraphs (a)(2) and (a)(3) of this section.

* * * * *

(3) Permits issued under § 222.307 or for an enhancement permit issued under § 222.308, as part of a Safe Harbor Agreement with Assurances or Candidate Conservation Agreement with Assurances, may be transferred in whole or in part through a joint submission by the permittee and the proposed transferee, or in the case of a deceased permittee, the deceased permittee's legal representative and the proposed transferee, provided NMFS determines that:

(i) The proposed transferee meets all of the qualifications under parts 222, 223, or 224 (as applicable) for holding a permit;

(ii) The proposed transferee has provided adequate written assurances that it will provide sufficient funding for the conservation plan or other agreement or plan associated with the permit and will implement the relevant terms and conditions of the permit, including any outstanding minimization and mitigation requirements; and

(iii) The proposed transferee has provided such other information as NMFS determines is relevant to process the transfer.

* * * * *

[FR Doc. 01–31544 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Notices

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 21, 2002.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, the entities of the Federal Government identified in this Notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Administrative Services

US Attorney's Office-Atlanta, DOJ, 1800 US Courthouse, 75 Spring St, Atlanta, Georgia.
NPA: Bobby Dodd Industries, Inc., Atlanta, Georgia.
Government Agency: U.S. Department of Justice.

Base Supply Center, 950 Otis St, Bldg 666, Peterson Air Force Base, Colorado.
NPA: Envision, Inc., Wichita, Kansas.
Government Agency: Department of the Air Force, Peterson Air Force Base, Colorado.

Janitorial/Custodial

Headquarters Complex, Buildings 1, 1470, 1471, 1840, 1844, Peterson Air Force Base, Colorado.
NPA: Professional Contract Services, Inc., Austin, Texas.
Government Agency: Department of the Air Force, Peterson Air Force Base, Colorado.

Janitorial/Grounds Maintenance/Parking Management

Department of Housing and Urban Development, Washington, DC.
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland.
Government Agency: Department of Housing and Urban Development.

Mail and Messenger Service

Department of Housing and Urban Development, Washington, DC.
NPA: Didlake, Inc., Manassas, Virginia.
Government Agency: Department of Housing and Urban Development.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities proposed for deletion from the Procurement List.

The following commodities are proposed for deletion from the Procurement List:

Commodities

Executive/Personal Time Management System
7530–01–458–3146
7530–01–458–3143
7530–01–458–3145
7530–01–458–3130
7530–01–458–3136
7530–01–458–3152
7530–01–458–3159
7530–01–458–3154
7530–01–458–3142
7530–01–458–3161
7530–01–458–3164
7530–01–458–3135
7530–01–458–3139
7530–01–458–3131
7510–01–458–3137
7510–01–458–3141
7510–01–458–3132
7510–01–458–3133
7510–01–458–3147
7510–01–458–3150
7510–01–458–3138

Calendar Pad
7510–01–450–5452

Refill, Appointment Book
7530–01–450–5406

G. John Heyer,
General Counsel.

[FR Doc. 01–31480 Filed 12–20–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-818]

Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determinations of sales at less than fair value.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Victoria Schepker or Edward Easton, at (202) 482–1756 or (202) 482–3003, respectively; AD/CVD Enforcement, Office 5, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Final Determination

We determine that low enriched uranium (LEU) from France is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Continuation of Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on July 13, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Low Enriched Uranium from France*, 66 FR 36743 (July 13, 2001) (*Preliminary Determination*). The petitioners [1] and the respondent, Eurodif, S.A. (Eurodif), the sole producer of the subject merchandise, and its owner, Compagnie Generale des Matieres Nucleaires (Cogema) (collectively, Cogema/Eurodif or the respondent), filed case briefs on antidumping methodological issues on September 28, 2001, and rebuttal briefs on October 9, 2001. A rebuttal brief was also filed by the Ad Hoc Utilities Group (Ad Hoc Utilities Group or AHUG).[2] A public hearing on the antidumping methodological issues was held on October 23, 2001.

On October 22 and 23, 2001, the petitioners, respondent, and the Ad Hoc Utilities Group filed briefs on common scope issues in the antidumping and countervailing duty investigations of low enriched uranium from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. In response to a September 28, 2001 submission by the European Commission to Mr. Grant Aldonas, Under Secretary for International Trade, regarding the antidumping duty (AD) and countervailing duty (CVD) investigations of LEU from France, Germany, the Netherlands, and the United Kingdom, and Mr. Aldonas' November 7, 2001 reply to this letter and the November 22, 2001 submission from the European Commission, the petitioners, respondent and the Ad Hoc Utilities Group filed briefs that addressed the content of this correspondence.

This final determination was originally scheduled to be issued on November 26, 2001. On November 6, 2001, the Department tolled the final determination deadlines, until December 13, 2001, to accommodate a delayed verification and briefing and hearing schedule in the companion countervailing duty investigation, due to the events of September 11, 2001.

Amended Scope of Investigation

For purposes of this investigation, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this investigation.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this proceeding is dispositive.

Scope Clarification

For further details, *see* Comment 2 of the "*Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from France*" (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary

---

[1] The petitioners in this investigation are USEC, Inc., and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC); and the Paper Allied-Industrial, Chemical and Energy Workers International Union, AFL-CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] The members of the Ad Hoc Utilities Group are: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp.

VOL 66 ISS 246 DE 21 2001 UMI

for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Applicability of AD/CVD Law

The Preliminary Determination

In the preliminary determinations in the LEU investigations, we determined that all LEU entering the United States from Germany, the Netherlands, the United Kingdom, and France is subject to the AD and CVD investigations on LEU regardless of the way in which the sales for such merchandise were structured. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Low Enriched Uranium from Germany and the Netherlands; and Postponement of Final Determinations,* 66 FR 36748, 36750 (July 13, 2001). We based our preliminary determinations on several factors. First, we found, and no party disputed, that LEU entering the United States constitutes a good, the tangible yield of a manufacturing operation. Moreover, under the U.S. Customs regulations, we recognized that any item within a tariff category for the Harmonized Tariff System constitutes merchandise for customs purposes. *See* 19 CFR 141.4 (2000). In this case, LEU is normally classified under HTSUS 2844.20.0020, but also satisfies three other HTSUS classifications described as enriched uranium compounds, enriched uranium, and radioactive elements, isotopes, and compounds.

Second, in our preliminary determinations we found it to be a well-established fact that the enrichment process is a major manufacturing operation for the production of LEU, and that enrichment is a required operation in order to produce LEU. We found that no party disputes that the enrichment process constitutes substantial transformation of the uranium feedstock. We, therefore, preliminarily concluded that the LEU enriched and exported from Germany, the Netherlands, the United Kingdom and France are products of those respective countries, and are subject to these investigations.

Third, we found that there are significant volumes of LEU sold pursuant to contracts that expressly provide separate prices for SWU and feedstock (*i.e.*, contracts for enriched uranium product (EUP)), and that no party disputes that such sales constitute sales of subject merchandise. Rather, it is only those transactions in which utility companies obtain LEU through separate purchases of SWU and feedstock from separate entities that the Ad Hoc Utilities Group (AHUG) contends cannot be subject to the antidumping law. We preliminarily determined that there was little substantive commercial difference between the two types of transactions. We found that, simply because an unaffiliated customer purchases subject merchandise through two transactions, instead of a single transaction, does not mean that the merchandise entering the United States is not subject to the antidumping law.

Fourth, we preliminarily determined that, contrary to respondents' arguments, the tolling regulation does not provide a basis to exclude merchandise from the scope of an investigation. Rather, we found that the purpose of the tolling regulation is to identify the seller of the subject merchandise for purposes of establishing export price, constructed export price, and normal value. Thus, under the tolling regulation, the issue is not whether the LEU in question is subject to the antidumping law, but rather who is the seller of the subject merchandise for determining U.S. price and normal value or, more specifically, what is the appropriate way in which to value subject merchandise and foreign like product. To the extent that sales of subject merchandise are structured as two transactions, we stated that we would combine such transactions to obtain the relevant price of the subject merchandise.

Fifth, we preliminarily determined that enrichers are the sellers of LEU in both types of transactions—either as an exchange of SWU and uranium feedstock for cash, or as an exchange of SWU for cash and a swap of uranium feedstock. We preliminarily determined that regardless of whether the utility company pays in cash or in kind for the natural uranium content, the LEU is delivered under essentially the same contract terms, including warranties and guarantees pertaining to the complete LEU product. Second, enrichers do not use the uranium feedstock provided by the utility companies. Instead, the natural uranium is typically delivered shortly before, or even after, delivery of the LEU, making the delivery of such uranium a payment in kind for the natural uranium component of the LEU. Third, the utility company does not have control over the process used to produce the LEU that the utility company receives. Rather, the enricher controls the manufacture of LEU, as demonstrated by the fact that the product assay under the contract (transactional assay) differs from the product assay produced and delivered by the enricher (operational assay). The enricher makes the decision of the particular product based upon its own operational requirements and inputs costs. We preliminarily determined that, taken together, these facts indicate that enrichers are in effect selling LEU under both types of contractual arrangements.

Discussion

For these final determinations, we have concluded that all LEU from the investigated countries entering the United States for consumption is subject to the AD and CVD laws. We have carefully considered all comments received on this issue in response to our preliminary determinations and, for the reasons stated below, do not find persuasive the arguments that the LEU at issue is exempt from the AD and CVD laws.

For these final determinations, respondents and AHUG are joined by the EC in raising again the issue of whether the AD and CVD laws can be applied to goods sold pursuant to contracts for the provision of enrichment. Respondents and AHUG contend that, under such contracts, LEU is not sold to, or in, the importing country. Respondents contend that, for these transactions, enrichment companies sell enrichment services, which is a component of LEU. Accordingly, for those entries of LEU, sold pursuant to SWU contracts, these parties assert that the AD and CVD laws are not applicable because respondents are not selling subject merchandise and because there is no sale of subject merchandise in the United States.

In our view, respondents and AHUG have confused fundamental concepts concerning the application of the unfair trade laws. The AD and CVD laws were enacted to address trade in goods. Thus, respondents and AHUG have confused what is being sold in a particular transaction with what is being introduced into the commerce of the United States. The Department finds that the issue of whether merchandise entering the United States is subject to the AD and CVD laws depends upon whether the merchandise produced in, and exported from, a foreign country is introduced into the commerce of the United States.

In particular, the language of section 735(a)(1) of the Act states that "the administering authority shall make a final determination of whether the subject merchandise is being, or is likely to be, sold in the United States at less than fair value." *See also* section 731(1) of the Act. We have consistently interpreted these provisions to pertain to merchandise from the investigated country, and not to companies. *See Jia Farn Mfg. Co.* v. *United States*, 817 F. Supp. 969, 973 (CIT 1993) ("LTFV determinations and antidumping duty orders are rendered upon the subject merchandise from a certain country under the investigation."). In other words, AD and CVD cases proceed *in rem* (*i.e.*, against the good as entered), rather than *in personam* (*i.e.*, against the parties to the import transaction).

Similarly, in conducting countervailing duty investigations, section 701(a)(1) of the Act requires the Department to impose duties if, *inter alia*, "the administering authority determines that the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy with respect to the manufacture, production, or export of a class or kind of merchandise imported, or sold (or likely to be sold) for importation, in the United States." We believe the statute is clear that, where merchandise from an investigated country enters the commerce of the United States, the law is applicable to such imports.

In these investigations, no party disputes that the LEU entering the United States constitutes merchandise. As the product yield of a manufacturing operation, the Department continues to find that LEU is a tangible product. Second, it is well established, and no party disputes, that the enrichment process is a major manufacturing operation for the production of LEU, and that enrichment is a required operation in order to produce LEU. Thus, we find that the enrichment process constitutes substantial transformation of the uranium feedstock. We continue to find, therefore, that the LEU enriched in and exported from Germany, the Netherlands, the United Kingdom and France is a product of those respective countries.

Finally, we find, and no party disputes, that the LEU at issue enters into the commerce of the United States. Thus, the question of whether enrichers sell enrichment processing, as compared to LEU, is not relevant to the issue of whether the AD and CVD law is applicable. Rather, it is only relevant in these investigations for purposes of determining how to calculate the dumping margin and how to determine who is the producer/seller of subject merchandise.

In seeking to equate what is being sold with a service that is beyond the scope of the AD and CVD laws, respondents and AHUG assert that the enrichment of uranium is akin to the cleaning of a suit.[3] They contend that a person who takes a suit to a cleaner and picks up a clean suit is merely paying for the service of cleaning. In the case of enrichment, they assert, a person provides natural uranium to an enricher who returns enriched uranium and is paid for the services.

We agree that a cleaner merely provides a service for which one is paid. However, we disagree with the appropriateness of the analogy used for purposes of understanding what is occurring in these cases. In the case of cleaning services, the cleaner merely returns to its customer a cleaned suit; no substantial transformation takes place, and no merchandise is being produced. Enrichment of uranium, however, is a critical step in the production of nuclear fuel. The production of uranium in the nuclear fuel cycle consists of five stages: mining, milling, conversion, enrichment, and fabrication. A distinct product is produced at each stage. Milled uranium is converted into uranium hexafluoride. Uranium hexafluoride is used to produce enriched uranium. Enriched uranium is used to produce fuel rods. And fuel rods are used in nuclear-generating facilities to produce electricity. In the case of enrichment, it is uncontested that enrichment results in the production of two separate products: low enriched uranium and uranium tails (or depleted uranium which can be re-enriched to produce enriched uranium).

Respondents' and AHUG's reference to the term "services" in their arguments mischaracterizes the nature of the enrichment operations, and attempts to place a major manufacturing operation which produces merchandise squarely outside the realm of trade in goods, based solely upon the way in which particular sales of such merchandise are structured. We find, however, that regardless of whether the sale is structured as one of enrichment processing or LEU, in all cases the trade in LEU is a trade in goods, as the transactions in question result in the introduction of LEU into the commerce of the United States. Accordingly, the Department determines that all LEU produced in the investigated countries and entering the United States for consumption is subject to these investigations.

AHUG and respondents insist that the AD and CVD laws can only be applied where the sale of LEU occurs in a specific way (*i.e.*, where the merchandise is sold in a single transaction). AHUG further insists that the law is inapplicable because the utility companies cannot be considered the sellers of subject merchandise since they do not sell LEU, but instead sell electricity to U.S. consumers. Accordingly, AHUG and respondents conclude that the law cannot apply because no entity sells the subject merchandise.

We disagree. It does not matter whether the producer/exporter sold subject merchandise as subject merchandise, or whether the producer/exporter sold some input or manufacturing process that produced subject merchandise, as long as the result of the producer/exporter's activities is subject merchandise entering the commerce of the United States. The first, and threshold, question we must ask is whether the merchandise entering the United States is subject merchandise. All else flows from this. The second question is what transaction does the Department look at to determine export price.

Further, we believe Congress intended the law to be applicable where the subject merchandise enters the commerce of the United States, even where the transaction for such merchandise does not take the form of a simple, single chain of commerce involving a solitary manufacturer/exporter, a single sales price, and a single unaffiliated purchaser in the United States. Congress enacted specific provisions that demonstrate a clear intent to make merchandise entering the United States subject to the law even though the sale by the exporter to the first unaffiliated purchaser is not a sale of subject merchandise. In constructed export price transactions involving further manufacturing, for example, subject merchandise enters the United States, but through a process of further manufacturing, is often sold to the first unaffiliated purchaser in the form of non-subject merchandise. The form of the sale, however, does not prohibit the application of the law. To the contrary, to address those situations Congress enacted special provisions that require the Department to determine whether there are dumping margins and to apply duties, as appropriate, to such merchandise. *See* section 772(b) of Act. Even where the first sale to an unaffiliated purchaser is far removed from the subject merchandise that enters the commerce of the United States, such merchandise is covered under the law, and Congress enacted a specific provision establishing a basis for calculating export price. For example, where rollerchain constitutes the subject merchandise and enters the United States, but the first sale to an

---

[3] *See* Respondents' Joint Case Brief, at 38, 39; *see also* Petitioners' Rebuttal Brief at 26.

UMI
VOL 66 ISS 246 DE 21 2001
UMI

unaffiliated purchaser is the sale of a motorcycle that contains the rollerchain, the law is applicable to such entries of rollerchain. *See* section 772(e). *See also* SAA at 825.

While there is no specific statutory provision that dictates how the Department is to calculate the value of subject merchandise and the export price in the circumstances in these LEU investigations, the absence of such a provision does not render the law inapplicable where the facts demonstrate that the product in question enters into the commerce of the United States, as in this case.

Use of the Term "Enrichment Services" in Other Legal Contexts

In seeking to demonstrate that for the transactions at issue the enrichment companies provide enrichment services, perform a value-added service, and do not sell the subject merchandise, respondents contend that the U.S. government has advocated on behalf of USEC before U.S. domestic courts that enrichment contracts are contracts for services, and accordingly, that the Uniform Commercial Code (UCC), which only pertains to goods, does not apply to such contracts. Moreover, the parties contend that U.S. courts have ruled in USEC's favor, finding that the UCC did not apply to such transactions because they were sales contracts for services, not for goods. The parties conclude, therefore, that because the U.S. government has recognized that the sales in question are sales of services, to be consistent, the Department cannot apply the AD or CVD law to these transactions.

We do not view those determinations as relevant to the issue of whether LEU that enters the commerce of the United States is subject to the AD and CVD laws. The respondents and AHUG are mixing two entirely different statutory regimes, which play different roles and have different purposes. Other legal or regulatory regimes are not determinative of how the Department is to treat such transactions under the AD and CVD laws. For example, the court's finding in *Florida Power & Light Co.* v. *United States* that the transfer of title of uranium feedstock "does not rise to the level of 'procurement' or 'disposal' of property" was made in the specific context of determining the applicability of the Contract Disputes Act to government contracts and is not relevant, much less binding, for purposes of the application of the AD and CVD laws.[4] In *Barseback Kraft AB and Empress Nacional Del Urnaio, S.A.* v. *United States*, the court ruled that the UCC did not apply to the contracts at issue because the UCC does not apply to government contracts.[5] Moreover, the UCC addresses the rights and obligations of the parties to a specific contract, and is therefore not determinative of whether the overall trade is one involving goods or services. As a general principle, different terms can have different meanings under different statutes, and parties are entitled to make their claims pursuant to the case law and precedent of the particular relevant statute, even where those claims appear to be at odds with other claims made pursuant to the case law and precedent of another statute that has an entirely different purpose.

Tolling

Respondents and AHUG also seek to obtain an exemption under the law for the LEU at issue through the application of the Department's tolling regulation, set forth at 19 CFR 351.401(h).

We disagree with respondents'suggested interpretation for several reasons. First, we do not interpret section 351.401(h) of the Department's regulations to be relevant or applicable in determining whether merchandise entering the United States is subject to the AD and/or CVD laws. Instead, section 351.401, including subsection (h) on tolling, was intended to "establish certain general rules that apply to the calculation of export price, constructed export price and normal value," and not for purposes of determining whether the AD and/or CVD laws are applicable. *See* 19 CFR 351.401(a) (2000). Our interpretation that the tolling regulation is intended solely for purposes of calculating dumping margins is further supported by the absence of any parallel provision on tolling in the CVD regulations.

Furthermore, in practice, we have never applied, nor relied upon, section 351.401(h) to exempt merchandise from AD proceedings, nor have we ever applied the provision in CVD proceedings. Moreover, our application of the tolling regulation in *SRAMs from Taiwan* does not support AHUG's or respondents' claim for exemption from the AD and CVD laws.[6] In that case, we applied the tolling regulation, seeking to determine which party made the relevant sale of subject merchandise. We found that the U.S. design house made sales of subject merchandise to unaffiliated purchasers in the United States, and therefore based our determination of U.S. price and normal value upon the transactions made by the U.S. design house. In that case, we applied AD duties to all entries of *SRAMs from Taiwan*, regardless of whether the U.S. design house or the Taiwan exporter made the sale of subject merchandise. Therefore, our decision in *SRAMs from Taiwan* establishes no basis for excluding the LEU in question from these investigations. Further analysis of the tolling regulation in these antidumping investigations for purposes of determining EP, CEP and NV is provided below.

Temporary Import Bonds, Foreign Trade Zones, and American Goods Returned

Respondents also cite the Department's treatment of subject merchandise entering the United States under Temporary Import Bonds (TIBs), into Foreign Trade Zones (FTZs), and as American Goods Returned, as examples of where subject merchandise enters the United States without being subject to duties, and to support their claim that the Department is not authorized to impose duties on subject merchandise unless there is a sale of such merchandise. However, these provisions cited by respondents are not instances in which the merchandise enters the United States for consumption without the imposition of AD and countervailing duties. By operation of law, goods entered under TIBs are prohibited from entering the United States for consumption. For FTZs, where the merchandise enters the United States for consumption, antidumping and countervailing duties are imposed. *See* 15 CFR 400.33(b)(2)(2000). The Department's treatment of goods entering FTZs or under TIBs is, therefore, consistent with the practice that the AD and CVD laws apply to goods that enter the commerce of the United States.

With respect to American Goods Returned (AGR), this provision is only applicable to merchandise that has not been substantially transformed in another country. AGR only applies to U.S. merchandise that is further manufactured in minor respects in another country, such that the product that is returned to the United States is not substantially transformed. As discussed below, this provision is not applicable in this case.

---

[4] 49 Fed. Cl. 656 (2001) (No. 96–644C).

[5] 36 Fed. Cl. 691 (1996), *aff'd* 121 F.3d 1475 (Fed. Cir. 1997).

[6] *Static Random Access Memory Semiconductors From Taiwan: Redetermination on Remand*, (May 2, 2000). The text of this determination can be found on the Department's Internet site at http://ia.ita.doc.gov/remands/00–48.htm.

Substantial Transformation and Country of Origin

Respondents also argue that the Department's country-of-origin rationale in this case is contrary to federal and international regulation of transactions involving uranium and enrichment services. Respondents state that the enrichment process does not wipe away the country of origin of the uranium; rather it remains the same for materials tracking purposes after enrichment as it was before enrichment. Respondents conclude that it is irrelevant that enrichment is a major manufacturing process and that the enrichment process constitutes substantial transformation of the uranium feedstock. Accordingly, respondents contend that the Department's conclusion as to the country of origin of the enrichment cannot be used to establish the country of origin of the unitary LEU, because LEU itself has two countries of origin, namely the country of origin of the uranium and that of the separative work unit.

We disagree. The Department's country-of-origin determinations are made pursuant to the agency's authority to determine the scope of its investigations and AD/CVD orders. In contrast, the federal and international regulation of transactions in uranium referred to by respondents reflect requirements adopted for purposes of non-proliferation. Thus, the Nuclear Regulatory Commission (NRC) tracks the origin of natural feedstock for the purpose of tracing the worldwide movement and ultimate disposition of the feedstock, while the U.S. Customs Service and the Department determine the country of origin for the merchandise entering the United States for purposes of tracking international commercial transactions and assessing duties. The NRC has no role in determining the country of origin for customs duty purposes. Moreover, the Department and the Customs Service make country-of-origin determinations for the product entering the United States, which in this case is LEU, not feedstock and SWU, as respondents suggest. Indeed, the Department has in the past determined in other proceedings covering uranium that the process of enrichment constitutes substantial transformation of the uranium, and therefore, that enrichment confers country of origin upon the product entering the United States for AD purposes.

In the current case, petitioners have indicated, and no party has disputed, that the enrichment of uranium accounts for approximately 60 percent of the value of the LEU entering the United States. We find that enrichment processing adds substantial value to the natural uranium and creates a new and different article of commerce and therefore confers a different country of origin upon the product for purposes of the AD and CVD law.

As a final matter, the unfair trade laws must be applicable to merchandise produced through contract manufacturing, just as they are applicable to merchandise manufactured by a single entity. To do otherwise would contravene the intent of Congress by undermining the effectiveness of the AD and CVD laws, which are designed to address practices of unfair trade in goods, as well as have profound implications for the international trading system as a whole. To the extent that contract manufacturing can be used to convert trade in goods into trade in so-called "manufacturing services," the fundamental distinctions between goods and services would be eliminated, thereby exposing industries to injury by unfair trade practices without the remedy of the AD and CVD laws.

While the term "enrichment services" is common in the industry, the enrichment of uranium feedstock is no more a "service," as that term is normally understood in the international trading community, than a production process that results in the manufacture of textiles, semiconductors, or corrosion-resistant steel. An importer of textiles who provides yarn to a textile manufacturer may view the transaction as nothing more than the purchase of "weaving services." An importer of semiconductors who provides a patented design mask to a foundry to be pressed into a wafer for purposes of making a microchip may view such a transaction as nothing more than the purchase of "pressing services." Similarly, an importer of corrosion-resistant steel who provides hot-rolled steel to a rolling mill may view the transaction as nothing more than the purchase of "rolling and coating services."

Yet, no matter what the purchaser chooses to call the transaction, and no matter what terms may be common in the industry, nothing can change the fundamental facts associated with all of these transactions. In each of these three cases, the purchaser has contracted out for a major production process that adds significant value to the input and that results in the substantial transformation of the input product into an entirely different manufactured product. We simply do not consider a major manufacturing process to be a "service" in the same sense that activities such as accounting, banking, insurance, transportation and legal counsel are considered by the international trading community to be services. Instead, we have always considered the output from manufacturing operations that result in subject merchandise being introduced into the commerce of the United States to be a good. The only questions we have grappled with in all these instances is who is the appropriate producer/seller of the merchandise and how to calculate export price and constructed export price.

While respondents and AHUG note that the practice in the uranium industry with respect to the transactions at issue was established long before the Department initiated these investigations, in the Department's view, the issue we are addressing is unfair trade practices. In the Department's view, nothing in the statute in any way indicates that Congress did not intend the AD and CVD laws to be applicable to merchandise based upon the way in which parties structure their transactions for such goods entering the commerce of the United States.

In sum, the application of the AD and CVD laws does not depend upon whether a producer/exporter sells an input to the subject merchandise, or the subject merchandise itself, but rather whether the activities of the producer/exporter result in the subject merchandise being introduced into the commerce of the United States.

Calculating Export Price, Constructed Export Price and Normal Value Comments of the Parties

Respondents and AHUG contend that the Department must base its evaluation of dumping upon sales of the subject merchandise, which should reflect all elements of the merchandise's value. In terms of EP and CEP, these parties contend that the statute refers to the price at which the merchandise is sold by the producer or exporter. In addition, AHUG and respondents cite to the agency's decision in *SRAMs from Taiwan*, where the Department determined that the relevant sale under the tolling regulation must be the sale of subject merchandise reflecting the full value of such merchandise.

AHUG and respondents contend that the principles for determining which sales are relevant, as embodied in the tolling regulation and applied in the *SRAMs* case, are directly pertinent to deciding whether the sale of enrichment services by the respondents, and sales of services in general, can be treated as relevant for purposes of the AD law.

These parties assert that the Department should determine that: (1) The enrichment companies do not produce or take title to the uranium feedstock; rather it is supplied to them in bailment; (2) the sale of enrichment does not constitute the relevant sale for purposes of determining EP and CEP because the sales in question do not reflect the full value of the subject merchandise; and (3) the respondents are not in a position to set the price of the product because such companies have no control over the full cost of LEU for the transactions at issue.

Petitioners respond that the respondents and AHUG place heavy emphasis on the Department's "relevant sale" discussion in the *SRAMs* case, which petitioners contend was not intended to provide the guiding precedent in a case where the U.S. customer obtains the raw materials in one transaction and exchanges them for finished goods in another transaction, as in these investigations. The petitioners state that the respondents' and AHUG's position is erroneous in claiming that the Department's redetermination in *SRAMs* compels the conclusion that the enricher does not make the "relevant sale" because its price does not include all of the cost components of the finished product. Moreover, they add, even if SWU transactions were tolling transactions, the Department's tolling precedent does not establish that tolling transactions are outside the scope of the AD law.

Petitioners further contend that the fact that enrichers have control over the production process used to produce LEU under SWU contracts is relevant to the Department's determination with respect to the relevant sale, and contrary to the arguments raised by respondents and AHUG. Petitioners add that the issue of who controls the production of the finished product is a key factor in determining whether a party is a producer or toller.

With respect to the sales contracts, in their case brief, petitioners argued that the enrichers are actually sellers of LEU under both SWU and EUP contracts because in both arrangements the LEU is produced at an operating tails assay determined by the enricher, and therefore the enricher determines the amount of feed used, the amount of SWU actually applied, and the assay of the tails that will be produced. Petitioners further noted that, although a customer may designate a transactional tails assay in a SWU contract, but not in an EUP contract, there is not a significant difference. To illustrate this point, petitioners note that, by designating a transactional tails assay in a SWU contract, the customer determines only the amount of uranium feedstock it must provide to the enricher, and the amount per SWU the customer will pay. However, the customer's designation of the transactional tails assay does not determine the amount of uranium feedstock used by the enricher or the amount of SWU actually used by the enricher. Petitioners maintain that this is determined by the operational tails assay used by the enricher in the production of LEU. Petitioners assert that enrichers operate in essentially the same manner when they produce LEU under contracts where the customers supply the uranium feedstock as they do when they produce LEU from their own uranium feedstock.

Respondents reject petitioners' assertion that enrichers are actually sellers of LEU based upon the utility's delivery of uranium feed material as a payment-in-kind of uranium for the natural uranium component of the LEU. Respondents contend that enrichment services contracts contain detailed payment terms, and establish a price for the enrichment services sold, but do not contain any provisions for a payment of uranium in any form. Respondents add that it is virtually impossible for a payment-in-kind to occur because title does not pass to the enricher while the uranium is being enriched. Moreover, they explain that if a payment of uranium were occurring, the enricher would have to recognize it as a payment in its financial statements, which they assert does not occur, as the Department verified. Finally, respondents note that, by adopting the payment-in-kind theory, the Department would create a contractual arrangement between parties that completely differs from the contract itself.

Respondents further dispute the petitioners' conclusion that the enricher's return of different uranium rather than the exact material provided by the customer turns the transaction into a payment-in-kind. Respondents argue that, in determining whether a service is being performed, one must look at the essence of the transaction, and what the customer contracted to purchase, not what material is given back to the utility company. Furthermore, they state, because uranium is fungible, it makes no sense to require firms to identify each atom of uranium transported or processed. They note that, in a previous submission by the petitioners, USEC explicitly stated that uranium is a fungible commodity and that a fabricator may use its own inventory of enriched uranium or have enriched uranium delivered by other utility companies.

In addition, respondents contend that the Department did not base its dumping margin calculations upon the number of SWUs or the price per SWU, but instead treated the sale as if it were a sale of LEU. Respondents note that the Department's price calculation is based upon the quantity of uranium and the quantity of SWUs involved, which has no correlation with the agreed upon price per SWU. Respondents contend that in doing so the Department is changing the material terms fixed on the date of sale into one in which the terms are not fixed until a later date, and then unilaterally, by notification from the customer. Respondents contend that this violates the statutory requirement that the Department base its calculation on the actual costs reflected in the respondent's books and records, ignores the long-standing practice of making AD comparisons on a production or process-neutral basis, and uses a methodology that is completely contrary to the date of sale methodology applied by the Department in the same cases.

Respondents also note that the Department assigned a value to the natural uranium in the Preliminary Determinations where no price was provided, notwithstanding that the uranium provided by the utility company was not a cost to the enricher, and was not charged to the customer at all. Respondents contend that the surrogate uranium cost that the Department used violated the statutory requirement that it base its calculation on the actual costs incurred. They reiterate that the cost of the uranium to the enricher is zero. The respondents add that, although the uranium is processed, it is never paid for by the enricher, nor is it considered revenue, nor does it appear in the enricher's books. Therefore, they contend, uranium may not be treated as a cost when calculating constructed value.

AHUG also contends that the SWU contracts are unequivocally contracts for services, arguing that the enrichers hold the LEU as bailees for their utility customers, and if a particular delivery of LEU does not contain the exact same physical feed as that delivered by the utility, it contains feed delivered to the enricher by another utility. Therefore, AHUG asserts, the fungibility of the feed does not alter the actual commercial terms of the contracts or the nature of the transaction.

AHUG also disagrees with the Department's preliminary determination that there is little commercial difference between EUP and enrichment contracts. AHUG contends that enrichment contracts require payment for enrichment services, and therefore, the contract does not reflect all elements of the value of the LEU delivered, as do the EUP contracts. Furthermore, AHUG contends that LEU production is usually arranged through three, not two transactions: the purchase of U3O8, a contract for conversion services, and a contract for enrichment services. In addition, AHUG argues that the Department proposes that U.S. utility contracts for the purchase of each of these components can be cumulated to derive an unfair price even in the absence of a sale of that LEU in the U.S. market that reflects all elements of its value. AHUG argues that this theory seems to state that when utility companies arrange for the production of LEU through these separate contracts, they are selling LEU to themselves. AHUG asserts that the Department is simultaneously attempting to attribute the utilities' transactions with the mining companies and the conversion service providers to the enrichers, even though the enrichers are not parties to those other transactions, have no control over the process, and receive none of the revenue from such sales. AHUG claims this theory cannot be supported.

Petitioners respond that, contrary to respondents' and AHUG's contentions, the contractual obligation of a customer in a SWU transaction to supply converted uranium is properly viewed as part of the *quid pro quo* that the customer must provide in order to obtain LEU from the enricher. Petitioners add that there can be no question that provision of the natural uranium is like the payment of the cash price for the SWU, a contractual obligation that must be met by a utility purchaser under a SWU contract in order to acquire a wholly new product, *i.e*, LEU from the enricher.

Petitioners note that, in the preliminary determinations, the Department identified three factors that petitioners had cited in support of its position. First, with respect to warranties and guarantees, LEU and EUP are delivered under essentially the same type contract. Second, the enrichers do not use the specific feedstock supplied by a particular customer to produce LEU for that customer. Third, the enrichers, not the utility companies, control the process used to produce the LEU under either type of contract. Petitioners state that, contrary to respondents' criticism of the "essentially identical" language in the preliminary determinations, the Department was not saying that SWU and EUP contracts were identical in every respect, nor is it necessary for the Department to so find.

Respondents reject petitioners' arguments on whether the enricher controls the production process, arguing that the relevant question is not whether enrichers own and control the production process for LEU, but rather whether the customer is purchasing a service. Respondents add that, because the quantity of uranium feedstock to be supplied by the customer is set pursuant to the contract, for a specified tails assay, the customer, not the enricher, has the control over its cost of supplying uranium feedstock.

Discussion

For these final determinations, we find that the enrichment companies are the only producers and exporters of the subject merchandise in these cases and, therefore, are the appropriate respondents for determining EP, CEP and NV. We will address the application of the Department's tolling regulation first, and then the nature and substance of the sales contracts at issue.[7]

Tolling

In establishing general rules for calculating EP, CEP and NV, we promulgated section 351.401(h) of our regulations to address the treatment of subcontractors and tolling operations under the AD law.[8] The purpose of the regulation is to enable the Department to identify the appropriate seller of subject merchandise and foreign like product for purposes of calculating EP, CEP and NV. *SRAMS from Taiwan* ("The company that is the first "price setter" for subject merchandise is also the company that is the producer of the merchandise."). To that end, the tolling regulation states that the Department will not consider a toller or subcontractor to be a manufacturer or producer where the toller or subcontractor (i) does not acquire ownership of the subject merchandise; and (ii) does not control the sale of subject merchandise. 19 CFR 351.401(h) (2000).

Department Precedents

In *SRAMs from Taiwan*, the key case relied upon by the respondents and AHUG, we addressed the issue of whether producer status should be conferred upon the U.S. design house or the Taiwan foundry. In that case, the issue for the Department was which sale—the sale by the design house or the sale by the foundry—should be used to calculate EP and CEP. The Department stated that "the "relevant sale" must be a sale by the company that owns the merchandise entirely, including all essential components, can dispose of the merchandise at its own discretion and, thus, controls the pricing of the merchandise and not merely the pricing of certain portions of production." *Id*. at 4.

In making the distinction between the sale by the foundry and the sale by the U.S. design house, we examined the role played by the foundries and design houses in the production of subject SRAMs, as well as the nature of the product produced. We found that the design was not only an important component of the product, but in fact defined the essence of the finished product. Because the design house not only developed the design, but also controlled how it was used in production by the foundry and the way that the products incorporating it were distributed in the marketplace, the Department concluded that the design house directed the production of the subject merchandise. *Id*. at 5. In our view, the role played by each entity as well as the nature of the product produced are important considerations in identifying the appropriate party as the producer of the subject merchandise.

In addition, since the enactment of the tolling regulation, the Department has also recognized that the regulation "does not purport to address all aspects of an analysis of tolling arrangements." *Polyvinyl Alcohol from Taiwan: Final Results of Antidumping Duty Administrative Review*, 63 FR 32810, 82813 (June 16, 1998). In that case, we acknowledged that, in assessing whether a company is a producer, we are not restricted to the four corners of the sales contract. Moreover, we emphasized that we will make our decision as to whether a party is a producer or manufacturer for purposes of determining EP, CEP and NV based upon the totality of the circumstances. *Id*. In *Polyvinyl Alcohol from Taiwan*, we further recognized that, while examining the production activities of a party may not be decisive in every case, whether a party has engaged directly or indirectly in some aspect of production is an important consideration in identifying the appropriate party as the producer. *Id*. at 32814.

---

[7] This discussion addresses the concepts of export price, CEP, and who is the producer/exporter of the subject merchandise—all issues that are relevant under the antidumping law. We note that, under the countervailing duty law, section 771(5)(E)(iv) defines as a benefit the purchase of goods for more than adequate remuneration. Because we have determined that SWU contracts involve the purchase of LEU, we determine that these transactions constitute the purchase of goods.

[8] *Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27295, 27411 (May 19, 1997).

Enrichment Companies Are Producers/Exporters of LEU

In this case, we have determined that the enrichment companies are the producers and exporters of the subject merchandise for purposes of establishing EP, CEP and NV for several reasons. First, the enrichment process is such a significant operation that it establishes the fundamental character of LEU. Second, the enrichers control the production process to such an extent that they cannot be considered tollers in the traditional sense under the regulation. Third, utility companies do not maintain production facilities for the purpose of manufacturing subject merchandise. Finally, we find that the overall arrangement, even under the SWU contracts, is an arrangement for the purchase and sale of LEU. Each element is discussed further below. While no single factor is dispositive of our determination, on balance we have determined that the enrichment companies are the producers and exporters of the subject merchandise.

First, in this case it is the enricher who creates the essential character of the LEU. The enrichment process is not merely a finishing or completion operation, but is instead the most significant manufacturing operation involved in the production of LEU. Enrichment raises to a specified assay the level of U235 contained in the product. While the types of advanced technology used to perform this operation vary, without the enrichment process, one would not be able to separate the molecules necessary to produce LEU. Like the design mask in *SRAMs*, the enrichment process establishes the essential features of the LEU, creating a clearly distinct product from uranium feedstock. Moreover, the enrichment process imparts the essential character of the product, LEU, and delineates the purpose for which the product is to be used. As noted above, LEU is a product for which there is virtually no alternative commercial use but as part of the nuclear fuel cycle. Without the enrichment of natural uranium, LEU could not be produced.

There are currently two technologies in use to enrich feedstock, gaseous diffusion and centrifuge. Each method requires a huge financial investment in facilities and a technically skilled work force. In fact, the centrifuge technology has been years in the making and has required millions of dollars in research. So highly specialized is it, and so expensive to develop, that three major European governments combined their resources to develop the technology and create Urenco. While there are hundreds of nuclear facilities around the world that require LEU for fabrication into fuel rods in order to operate their reactors, there are only five major enrichers in the world. This underscores the technological sophistication and expense required to enrich uranium into LEU. Adding to the expense and complexity of establishing an enrichment operation is an intricate web of national and international regulatory regimes and oversight commissions.

Enrichment facilities are similar to design houses in the semiconductor industry. It is the patented design of the mask that incorporates the intellectual property, accounts for a substantial portion of the value, and constitutes the essence of the microchip. The design is what makes the chip and what gives it its unique function: storing memory and thus enabling a computer to operate. Just as the design imparts the essential characteristics of a microchip, enrichment imparts the essential characteristics of LEU.

Second, we find that enrichers not only have complete control over the enrichment process, but in fact control the level of usage of the natural uranium provided by the utility company. We are aware that SWU is universally defined as the standard measure of enrichment services. However, the definition of SWU further provides that it is the effort expended in separating a specified amount of feed into a specified amount of enriched uranium at a specified product assay and a specified amount of waste at a specified assay. In each of the contracts, while the amount of LEU being purchased is not expressly stated (unless it is an EUP contract) the product assay, tails assay, and number of SWU are specified. It is the precise combination of the product assay order and the number of SWUs specified in the SWU contract that results in an exact amount of LEU to be delivered over the life of the contract. The most important factor in determining whether the contract is fulfilled is whether the utilities receive the precise amount of LEU that results from the application of the SWU equation that is explicitly spelled out and agreed upon in the SWU contract. And it is this bottom line (*i.e.*, a precise amount of LEU delivered over the life of the contract) that forms the fundamental nature of the agreement between buyer and seller in a SWU contract. With this understanding in mind, the enricher then has extraordinary leeway in determining the precise combination of SWU and feedstock to be used in the production of the LEU required by the SWU contract. The enricher's decision will depend upon such factors as the relative costs of electricity, feedstock, even the market price of "SWU," which, for all intents and purposes, trades like a commodity. As the record reflects, enrichers therefore run their facilities in a manner that they determine is most efficient.

For example, an enricher, in fulfillment of a SWU contract, may actually use more or less natural uranium and more or less SWU than is provided for in the contract (and by the utility customer). The enricher has complete control over these important production decisions. The utility company, on the other hand, provides the specifications and receives a product, as specified in the contract through the application of the SWU equation. Thus, the utility company obtains no more control over the production process than any customer who orders custom-made merchandise would obtain. In our view, the enricher has extensive control over the production process, and complete control over the amount of SWU or feed to be used in any given transaction. The extensive control further demonstrates that the enricher is not acting in a tolling capacity for the transactions at issue.

Third, in this case, the U.S. utility companies do not maintain production facilities for the purpose of manufacturing subject merchandise. Unlike the U.S. design house in *SRAMs from Taiwan*, but like the U.S. importer in *Polyvinyl Alcohol from Taiwan*, the U.S. utility companies perform no manufacturing function whatsoever with respect to the production of LEU. These companies have no LEU manufacturing operations; no capital investment in production facilities; no employees dedicated to manufacturing LEU; and add no value to the product through the performance of manufacturing operations. Most important, we find that the utility companies are the only purchasers of LEU and can only obtain LEU from enrichment companies. By contrast, enrichment companies' sole activity is to produce LEU for use by utility companies.

Finally, we find that the overall arrangement under both types of contracts is, in effect, an arrangement for the purchase and sale of LEU. The parties have made a comprehensive comparison of the terms of the contracts for SWU and EUP, arguing that the terms of the contract demonstrate that the contracts designated as SWU sales are not, in fact, sales of LEU. While we recognize that the provision of uranium feedstock may not be a payment-in-kind in the formal sense under these contracts, we maintain that the arrangement between buyer and seller in a SWU contract nonetheless is dedicated to the delivery of LEU, and critical to the trade in LEU. In reaching this conclusion, we have looked beyond the four corners of the contract and have examined the totality of the circumstances surrounding the transactions in deciding which sale is a valid representation of subject merchandise.

The Nature of the SWU Contract

In this case, based upon the way in which the industry produces and sells LEU, we find that the overall arrangement between the parties indicates that enrichment companies are engaged in selling, and utility companies are engaged in purchasing, LEU. These transactions may be construed differently in other contexts, such as for purposes of taxation, or for purposes of establishing the liabilities of the parties to the contract. However, for purposes of calculating a price for LEU, based upon our examination of the overall circumstances of the arrangement under both types of contracts, we find that the contracts designated as SWU contracts are functionally equivalent to those designated as EUP transactions.

First, both types of transactions have one fundamental objective—the delivery of LEU at a specific time and location, with a specific product assay, as agreed upon in the contract, under the same warranties and guarantees that apply to all LEU delivered by respondents. Second, utility customers are not concerned with how LEU is produced or the amount of work expended (SWU) to produce such LEU. Instead, utility customers are interested in obtaining a specific quantity of a standardized product at a specified product assay. This pertains to both types of transactions. Indeed, SWU contracts are based upon a set formula that provides the utility company with a fixed quantity of LEU over the life of the contract.

Further, under both types of contracts, because the LEU is produced at an operating tails assay determined by the enricher, the enricher ultimately determines how much uranium feed is used, the amount of SWU actually applied, and the assay of the tails that will be produced. Thus, it is clear that enrichers not only exercise the same level of control over the production process for both types of contracts, but also perform the exact same manufacturing operations, regardless of whether the sale was made under a SWU contract or an EUP contract.

In addition, there are provisions in SWU contracts that further demonstrate that the underlying arrangement is designed to operate in much the same manner, regardless of the type of contract, and that whether the enricher or the utility company provides the uranium feedstock does not substantially alter that arrangement. These provisions are proprietary. *See, e.g.,* Urenco Business Proprietary Section A Response, Volume 1, Tab B1, Contract section F.3. Furthermore, for both types of contracts ownership of the LEU is only transferred to the utility customer upon delivery of the LEU. Consistent with this provision, for both types of transactions, the enricher incurs the risk of loss with respect to the LEU. In light of the above, therefore, we believe, as a practical matter, that the arrangement between the utility company and the enricher under a SWU contract is functionally equivalent to the arrangement under an EUP contract for purposes of determining EP and CEP.

Moreover, as discussed above, the enrichment companies engage in the most significant portion of the production of LEU, and thus the value of enrichment is beyond question the most significant element of value in determining the price of LEU. In addition, LEU, the subject merchandise, is the merchandise resulting from this production operation. Accordingly, we believe the pricing behavior of the enrichment companies in these transactions is relevant to the Department's determination of whether the LEU in question is introduced into the commerce of the United States at less than fair value.

Therefore, because the pricing behavior of the enrichers in these transactions is relevant to the Department's determination and because the arrangement between the utility company and the enricher under a SWU contract is functionally equivalent to the arrangement under an EUP contract for purposes of determining EP and CEP, we have included these sales in our determination of EP and CEP in these investigations.

In assigning a specific monetary value to the natural uranium component, we estimated the market value using the average price the enrichers charged their customers for natural uranium for LEU contracts. For SWU contracts, when comparing U.S. Price with Normal Value based on constructed value, we valued natural uranium using exactly the same value for both sides of the equation. For example, for any given shipment pursuant to a SWU contract we determined the quantity (*i.e.* kgs) of associated feed uranium by applying the industry standard formula for product and tails assay specified in the contract. We valued this quantity using POI average per-kg price for natural uranium charged by enrichers. This exact same amount was included in normal value.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.,* December 2000).

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales information submitted by Cogema/Eurodif from July 23 through July 27, 2001, in France, and from August 13 through August 16, 2001, in the United States. We conducted verification of the constructed value (CV) information submitted by Cogema/Eurodif from July 30 through August 3, 2001. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the Appendix to this notice and addressed in the *Decision Memorandum* for this investigation, dated December 13, 2001, which is hereby adopted by this notice. The *Decision Memorandum* for this case is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at http://ia.ita.doc.gov/frn/summary/list.htm. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Calculation Memorandum,* dated December 13, 2001. For the final determination, we made the following revisions:

(1) We adjusted the transportation insurance amounts to account for the respondent's clerical errors.

(2) We adjusted movement expenses and U.S. duty charges for certain

UMI
VOL 66
ISS 246
DE 21
2001
UMI

deliveries to correct the respondent's clerical errors.

(3) We revised the inventory carrying costs for various U.S. deliveries to account for the respondent's clerical errors.

(4) We adjusted the total cost of manufacturing reported in the U.S. sales database to be consistent with changes made to the total cost of manufacturing in the constructed value (CV).

(5) To reflect the opportunity cost of a particular contract provision exercised by one customer, we calculated an imputed expense and applied it to the indirect selling expense ratio of that customer, for all deliveries to the customer.

(6) Based on the respondent's revised calculation from verification, we adjusted the home market indirect selling expense ratio used to calculate indirect selling expenses added to CV.

(7) We recalculated the defluorination expenses included in CV based on the tails produced during the POI.

(8) We excluded purchased LEU from the calculation of the weighted-average cost of LEU produced in the POI.

(9) We recalculated the financial expense rate based on the financial statements of CEA Industrie, the entity that consolidates Cogema's accounts.

(10) We recalculated selling, general and administrative expenses to include certain research and development expenses.

Final Determination of Investigation

We determine that the following weighted-average percentage dumping margins exist for the period October 1, 1999, through September 30, 2000:

Manufacturer/exporter	Margin (percent)
Cogema/Eurodif	19.57
All Others	19.57

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service to continue to suspend liquidation of all entries of LEU from France that are entered, or withdrawn from warehouse, for consumption on or after July 13, 2001 (the date of publication of the *Preliminary Determination* in the **Federal Register**). The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether imports of subject merchandise are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

1. Common antidumping and countervailing duty scope issues
2. Amendment of the scope to exclude imported enriched uranium consumed in the conversion or fabrication of exported uranium
3. Double-counting the subsidy in the calculation of the dumping margin
4. Treatment of "blended price" contracts
5. Calculation of the less than fair value (LTFV) margin based on delivered and undelivered sales
6. Valuation of electricity as a component of low enriched (LEU)
7. Whether to collapse Eurodif and Cogema
8. Whether defluorination costs are at arm's length
9. Accrual for tails disposal
10. Calculation of a constructed export price (CEP) offset
11. Recalculation of inventory carrying costs
12. Imputing certain expenses to Cogema/Eurodif
13. Selling, general and administrative (SG&A) expenses
14. Financial expenses
15. Purchased product
16. Constructed value (CV) profit

[FR Doc. 01–31509 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–820; A–421–808; A–428–828]

Notice of Final Determinations of Sales at Not Less Than Fair Value: Low Enriched Uranium From the United Kingdom, Germany and the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

ACTION: Notice of final determinations of sales at not less than fair value.

FOR FURTHER INFORMATION CONTACT: Frank Thomson or James Terpstra, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4793 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2000).

Final Determination

We determine that low-enriched uranium (LEU) from the United Kingdom, Germany and the Netherlands is not being sold, or is not likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Case History

The preliminary determinations in these investigations was published on July 13, 2001. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Low Enriched Uranium From the United Kingdom; Preliminary Determinations of Sales at Not Less Than Fair Value: Low Enriched Uranium From Germany and the Netherlands; and Postponement of Final Determinations*, 66 FR 36748 (July 13, 2001) *(Preliminary Determinations)*. The petitioners[1] and the respondents,

---

[1] The petitioners in these investigations are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (collectively

Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH (collectively, Urenco or the respondents), filed case briefs on antidumping methodological issues on October 12, 2001, and rebuttal briefs on October 19, 2001. A public hearing on the antidumping methodological issues was held on October 23, 2001.

On October 22 and 23, 2001, the petitioners, the Ad Hoc Utilities Group,[2] and respondents filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001.

In response to a September 28, 2001 submission by the European Commission to Mr. Grant Aldonas, Under Secretary for International Trade, regarding the antidumping (AD) and countervailing duty (CVD) investigations of LEU from France, Germany, the Netherlands and the United Kingdom, and Mr. Aldonas' November 7, 2001 reply to this letter and the November 22, 2001 submission from the European Commission, the petitioners, the Ad Hoc Utilities Group, and respondents filed briefs that addressed the content of this correspondence.

These final determinations were originally due on November 26, 2001. We subsequently tolled the final determination deadline in these investigations until December 13, 2001, to accommodate certain delayed verifications and a briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of these investigations, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these investigations. Specifically, these investigations does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of these investigations, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these investigations.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end-user.

The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, *see* Comment 1 of the *"Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from Germany, Netherlands and the United Kingdom" (Decision Memorandum)* from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion *see Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France* that is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) is October 1, 1999, through September 30, 2000. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, December 2000).

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales and cost information submitted by Urenco from July 16 through July 20, 2001, in the Netherlands; July 23 through July 30, 2001, in Germany; July 30 through August 10, 2001, in the United Kingdom, and August 22, 2001, in the United States. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these antidumping proceedings are listed in the Appendix to this notice and addressed in the *Decision Memorandum* for these investigations, which is hereby adopted by this notice. The *Decision Memorandum* for these cases is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/summary/list.htm.* The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification and analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins in these proceedings. These adjustments are

---

USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act the AdHoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

VOL 66 ISS 246 DE 21 2001 UMI

discussed in detail in the *Decision Memorandum.* For the final determinations, we made the following revisions as detailed in (1) Memorandum from Ernest Gziryan to Neal Halper (December 13, 2001), and (2) Final Calculation Memo, both of which are on file in the Central Records Unit, room B–099 of the Main Department of Commerce Building.

Common

In deriving the net U.S. price and constructed value, we made the following changes:

1. We revised the feed price based on our verification findings;
2. We did not deduct container rental expenses or feed material transportation costs from U.S. price;
3. We adjusted CV to account for double-counting of movement charges;
4. We made no adjustment for credit expenses;
5. We eliminated double-counting of a depreciation adjustment in calculating the G&A and interest expense.

Urenco (Capenhurst) Limited (UCL)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UCL's G&A expense rate by combining a Urenco Group G&A expense rate with the UCL company-specific G&A rate. We included certain non-operating expenses which relate to the general operations of the company in the calculation of UCL's G&A expense rate.
2. We increased UCL's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UCL's reported cost to include the amount of centrifuge losses attributable to the POI.

Urenco Nederland B.V.''s (UNL)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UNL's G&A expense rate by combining a Urenco Group G&A expense rate with the UNL company-specific G&A rate.
2. We increased UNL's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UNL's tails provision to reflect the market value of the tails disposal services provided by an affiliated company.

Urenco Deutschland GmbH's (UD)

1. We adjusted Urenco's reported G&A expense rate by calculating a separate G&A expense rate for each Urenco company. We calculated UD's G&A expense rate by combining a Urenco Group G&A expense rate with the UD company-specific G&A rate.
2. We increased UD's depreciation expense associated with fixed assets purchased from the Urenco Group companies to reflect the market value of these assets.
3. We recalculated Urenco's financial expense rate by excluding the adjusted G&A expenses from the denominator.
4. We adjusted UD's reported costs to include income and expense items recorded in UD's financial statements prepared in accordance with German generally accepted accounting principles.
5. We increased UD's cost of production by the amount of the certain gain used by UD to offset the reported cost.

Final Determinations of Investigations

We determine that the following weighted-average percentage dumping margins for the United Kingdom, Germany, and the Netherlands are as follows:

Manufacturer/exporter	Margin (percent)
Urenco Deutschland GmbH	0.00
Urenco Netherlands B.V.	0.00
Urenco (Capenhurst) Ltd.	(de minimis)

Termination of Suspension of Liquidation

Pursuant to section 735(c)(2) of the Act, we are directing the U.S. Customs Service to terminate suspension of liquidation, with respect to these antidumping investigations, and release any bond or other security and refund any cash deposit.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission of our determinations. These determinations are published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in Decision Memorandum

Scope Issue

1. Scope clarification

Common Sales Issues

2. Whether Urenco failed to disclose its affiliation with U.S. customers who participate in a joint venture
3. Whether Urenco failed to disclose sales activity related to an affiliated U.K. reseller—Uranium Asset Management Ltd. (''UAM'')
4. Whether Urenco never fully disclosed the role of its affiliated U.S. fuel fabricator—Westinghouse
5. Whether Urenco receives transportation services from its affiliated transporters at market rates and whether facts available should be applied
6. Whether the Department should use adverse facts available to calculate Urenco's less than fair value (''LTFV'') margins
7. Whether Urenco's U.S. sales should be treated as export price (''EP'') or constructed export price (''CEP'') Sales
8. Whether the indirect selling expense (''ISE'') ratio requires a revision
9. Whether feed material transportation costs, cylinder rental expenses, and credit expenses should be deducted from Urenco's U.S. sales price
10. Whether feed material transportation cost is double counted
11. Treatment of ''blended price'' contracts
12. Whether to apply ''discounts'' provided on separative work unites (''SWU'') sold prior to the period of investigation (''POI'')
13. Whether to utilize only completed deliveries or all sales made during the POI

Common Cost Issues

14. Affiliated Inputs

14a. Assets purchased from affiliated companies

15. Cost of Certain Product
16. Tails disposal costs
17. Futures Hedging Contracts

18. Gain to offset cost
19. General and administrative ("G&A") expenses

Urenco Deutschland Cost Issues ("UD")

20. Affiliated electricity purchases
21. Home country Generally Accepted Accounting Principles ("GAAP")

Urenco Nederland Cost Issue ("UNL")

22. UNL unreconciled costs

Urenco Capenhurst Ltd. Cost Issue ("UCL")

23. Centrifuge failure

[FR Doc. 01–31513 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Notice of Amendment of Final Determination of Sales at Less Than Fair Value Pursuant to Court Decision and Revocation in Part: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of amendment to final determination of sales at less than fair value in accordance with decision upon remand and revocation in part: Certain Pasta from Italy.

SUMMARY: We are amending the antidumping ("AD") duty rate for imports of pasta from Delverde S.r.l. ("Delverde") calculated for the final determination of the antidumping duty less-than-fair-value ("LTFV") investigation (covering the period from May 1, 1994 through April 31, 1995). The revised AD duty rate for Delverde is 1.44 percent ad valorem and, thus, *de minimis*. Therefore, we are revoking the antidumping duty order ("the order") with respect to Delverde.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood or Geoffrey Craig, AD/CVD Enforcement, Office VI, Group II, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–3836, or (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commere's ("the Department's") regulations are to 19 CFR Part 351 (2000).

Background

On June 14, 1996, the Department issued the *Notice of Final Determination of Sales at less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326 (June 14, 1996) ("*Final Determination*"). The Delverde AD duty rate was 2.80 percent. Delverde challenged the *Final Determination* in the Court of International Trade (the "CIT"). On March 26, 1998, the CIT held that the statutory provisions for level of trade ("LOT") adjustments provides that selling expenses set forth in 19 U.S.C. 1677a(d) should not be deducted from constructed export price ("CEP") before making the LOT comparison. *See Borden, Inc.* v. *United States*, 4 F. Supp.2d 1221, 1241–42 (CIT March 26, 1998) ("*Borden II*"). The United States and Delverde appealed the CIT's decision to the Federal Circuit. *See Borden, Inc.* v. *United States*, Nos. 99–1575, –1576 (Fed. Cir. March 12, 2001).

On March 12, 2001, the Federal Circuit reversed the CIT's ruling. Citing its decision in *Micron Technology, Inc.* v. *United States*, Nos. 00–1058, –1060 (Fed. Cir. March 7, 2001), the Federal Circuit held that the statute requires the Department to deduct the expenses set forth in section 772(d)(1) of the Act from the starting price of CEP sales before making the LOT comparison under section 773(a)(1)(B) of the Act. The Federal Circuit remanded the case to the CIT stating that the Department must comply with the statute and deduct the expenses set forth in section 772(d)(1) from the starting price of CEP sales before making the LOT comparison. *See Borden, Inc.*, v. *United States*, Nos. 99–1575, –1576 (Fed. Cir. March 12, 2001).

The CIT issued an order on May 21, 2001, instructing the Department to comply with the decision of the Federal Circuit. *See Borden, Inc.* v. *United States*, Court No. 96–08–1970 (CIT May 21, 2001). On October 15, 2001, the Department filed its results of redetermination pursuant to the CIT's order. On November 2, 2001, the CIT affirmed the final remand redetermination in *Borden, Inc.* v. *United States*, Consol. Court No. 96–08–01970, Slip Op. 2001–128.

Amended Final Determination and Revocation in Part

In light of the final and conclusive court decision in this action, we are amending the AD duty rate for Delverde from 2.40 to 1.44 percent *ad valorem*. The rate is less than 2.00 percent and thus, *de miminis*. Therefore, we are revoking the AD duty order in part with respect to Delverde pursuant to section 351.204(e) of the Department's regulations.

We will instruct the U.S. Customs Service ("Customs") to terminate the suspension of liquidation for any such merchandise entered, or withdrawn from warehouse, for consumption on or after January 19, 1996, the date of publication of the preliminary determination in the **Federal Register**, and will instruct Customs to release any bond and refund any cash deposit for this merchandise.

These amended final results and notice are in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31512 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION: Ron Trentham or Tom Futtner at (202) 482–6320 and (202) 482–3814, respectively; AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Preliminary Determination

We preliminarily determine that polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

The investigation was initiated on June 6, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigation: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from India and Taiwan*, 66 FR 31888 (June 13, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, at 66 FR 31889. We received no comments from any parties on this matter.

On July 2, 2001 the United States International Trade Commission (ITC) transmitted to the Department its preliminarily determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Taiwan of PET film that are alleged to be sold in the United States at LTFV. *See Polyethylene Terephthalate Film, Sheet, and Strip and Taiwan*, 66 FR 36296 (July 11, 2001).

On July 3, 2001 the Department issued the antidumping duty questionnaire[2] to Nan Ya Plastics Corporation, Ltd. (Nan Ya) and Shinkong Synthetic Fibers Corporation (Shinkong). *See Selection of Respondents* section below. We received responses to our questionnaire from both respondents. We issued supplemental questionnaires, pertaining to sections A, B, C, and D of the antidumping questionnaire, to Nan Ya and Shinkong in September, October and November 2001. Nan Ya and Shinkong responded to these supplemental questionnaires in September, October, November, and December 2001.

On October 4, 2001, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation 50 days, from October 24, 2001 until December 13, 2001. *See Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Notice of Postponement of Preliminary Antidumping Duty Determinations*; 66 FR 52108 (October 12, 2001).

During the course of this investigation, questions have arisen concerning affiliation between Nan Ya and its U.S. customers. Nan Ya has claimed that it is not affiliated with its U.S. customers. The petitioners have argued that Nan Ya is affiliated with several of its U.S. customers through a family grouping that includes collateral relatives. The Department has examined this issue by requesting and receiving information from Nan Ya and analyzing publicly available information. For these preliminary results, we are not treating Nan Ya as affiliated with its U.S. customers. We are still collecting and analyzing information on this matter and will determine whether these transactions are considered affiliated under the statute for purposes of the final results of this investigation. Interested parties are invited to submit comments on this specific issue, especially with regard to affiliation through a family group.

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On November 30, 2001 Shinkong requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Shinkong also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting party accounts for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation (POI)

The POI is April 1, 2000 through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petition identified two producers (Nan Ya and Shinkong) of PET film in Taiwan that export to the United States. Information on the record indicates that Nan Ya and Shinkong were the two largest producer/exporters of PET film from Taiwan to the United States during the POI. Due to limited resources we determined that we could investigate only the two largest producers/exporters, accounting for nearly 70 percent of total exports to the United States during the POI. *See* Memorandum regarding *Selection of Respondents,* dated June 22, 2001. Therefore, we designated Nan Ya and Shinkong as mandatory respondents and sent them the antidumping questionnaire.

---

[1] The petitioners in this investigation are DuPont Teijin Films, Mitsubishi Polyester Film of America and Toray Plastics (America), Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Taiwan during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon product type, product application, product thickness, and product grade to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

During the POI, U.S. sales by the Taiwanese respondents were export price (EP) sales. To determine whether sales of PET Film were made in the United States at LTFV, we compared EP to the normal value (NV), as described in the EP and NV sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and compared these to weighted-average home market prices during the POI.

Export Price

For the price to the United States, we used EP, in accordance with section 772(a) of the Act, because Nan Ya and Shinkong reported that they sold the merchandise directly to unaffiliated U.S. customers or sold the merchandise to unaffiliated trading companies in Taiwan with knowledge that these companies in turn sold the merchandise to U.S. customers, and constructed export price was not otherwise warranted for these transactions. For both Nan Ya and Shinkong, we calculated EP using the packed prices charged to the unaffiliated trading companies or the first unaffiliated customer in the United States (the starting price).

We deducted from the starting price, where applicable, amounts for movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, brokerage and handling charges, marine insurance, harbor duties and U.S. inland freight.

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that Nan Ya and Shinkong each had a viable home market for PET film. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV.

In deriving NV, we made adjustments as detailed in the *Calculation of NV Based on Home Market Prices* section below.

B. Cost of Production Analysis

On September 19 and September 26, 2001 the petitioners alleged that sales of PET Film in the home market were made at prices below the fully absorbed cost of production (COP) with regard to Shinkong and Nan Ya, respectively. Accordingly, the petitioners requested that the Department conduct company-specific sales-below-cost investigations. Based upon the comparison of adjusted prices for the foreign like product to COP, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of PET film produced in Taiwan were made at prices below the COP with regard to both respondents. As a result, the Department has conducted an investigation to determine whether the respondents made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. The COP analysis the Department performed is described below. *See* Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for Shinkong Synthetic Fibers Corporation, (September 28, 2001); Memorandum to Holly A. Kuga "Petitioner's Allegation of Sales Below the Cost of Production for Nan Ya Plastics Corporation, Ltd. (October 2, 2001), both on file in the CRU.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses. We relied on the COP data submitted by Shinkong and Nan Ya in their cost questionnaire responses, except, as noted below, in specific instances where the submitted costs were not appropriately quantified or valued.

Shinkong

We recalculated Shinkong's total cost of manufacture to include a portion for "Other Production-CPA adjust" attributable to subject merchandise. *See* Calculation Memorandum of the Preliminary Determination of the Investigation of Shinkong Synthetic Fibers Corporation, dated December 12, 2001.

Nan Ya

In accordance with sections 773(f)(2) and (3) of the Act, we recalculated Nan Ya's reported material adjustment to reflect the highest of the transfer price, COP, or market price of the inputs received from affiliated suppliers. In addition, we included a portion of "cost difference" and "stop loss" expenses attributable to Nan Ya's reported cost. *See* Memorandum from Ernest Gziryan, dated December 13, 2001.

2. Test of Home Market Sales Prices

On a model-specific basis, we compared the reported COP to the home market prices, adjusted for any applicable discounts and rebates, movement charges, selling expenses, and packing. We then compared the adjusted weighted-average COP for Shinkong and Nan Ya to the adjusted home market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP in substantial quantities within an extended period of time (*i.e.*, a period of one year), and, whether below-cost prices were sufficient to permit the recovery of all costs within a reasonable period of time.

VOL 66 ISS 246 DE 21 2001 UMI

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities" within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine such sales to have been made in "substantial quantities" within an extended period of time in accordance with sections 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we compare prices to POI average costs, we also determine that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of Shinkong's and Nan Ya's home market sales, within an extended period of time, were at prices less than the COP in accordance with section 773(b)(1)(A) of the Act. For these certain specific products we compared Shinkong's and Nan Ya's home market prices to POI average costs and determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time pursuant to section 773(b)(2)(B) of the Act. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in Taiwan. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses (credit expense) incurred for home market sales, and adding U.S. direct selling expenses (credit expenses). No other adjustments to NV were claimed or allowed.

D. Level of Trade (LOT)/Constructed Export Price (CEP) Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transactions as appropriate. The NV LOT is that of the starting-price of sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act. In this case, both Nan Ya and Shinkong had only EP sales.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

We obtained information from the respondents about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. We expect that, if claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. In this investigation, none of the respondents requested a LOT adjustment.

Shinkong reported that it made EP sales of subject merchandise to a single type of customer through a single channel of distribution in the U.S. market. Further, Shinkong indicated that it performed certain types of selling functions (freight and delivery arrangements, and warranty services) for the U.S. customers. Because there is only one type of customer, a single channel of distribution, and the same selling functions are performed for every customer, we preliminarily determine that there is a single LOT with respect to Shinkong's EP sales. In the home market, Shinkong reported that it sold subject merchandise to two types of customers (distributors and end-users). Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions (freight and delivery arrangements and warranty services) in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all home market customers, we preliminary find that there is only one LOT in the home market.

Upon review of the record, we found that Shinkong performed the same selling functions for EP sales as compared to home market sales. As such, we preliminarily find that there is no difference in the number, type, and degree of selling functions that Shinkong performs in the home market as compared to its EP sales. Because EP sales are made at the same LOT as home market sales, no LOT adjustment is warranted and we have not made a LOT adjustment for Shinkong's sales. *See* Memorandum to the File Re: Level of Trade Analysis for Shinkong Synthetic Fibers Corporation, dated December 13, 2001.

Nan Ya reported that it sold subject merchandise to two types of customers (distributors and end-users) in the home market. Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all home market customers, we preliminarily find that there is only one LOT in the home market.

Nan Ya reported that it sold subject merchandise to two types of customers (distributors and end-users) in the United States. Further, it indicated that, for each of the two reported channels of distribution, it provided the same types of selling functions in the same degree for each of the two types of customers. Because these selling functions are provided in equal degrees to all U.S. customers, we preliminarily find that there is only one LOT in the U.S. market.

Upon review of the record we find that Nan Ya performed substantially similar selling functions for EP sales as compared to home market sales. The record indicates that there are minor differences between the selling functions performed for EP sales and home market sales. For example, Nan Ya provided some technical service for home market customers but not EP customers. However the information on the record indicates that there is insufficient qualitative differences in the selling functions performed by Nan Ya in making sales in the home market and United States to find them to be distinct LOTs. Therefore, using the information on the record, we preliminarily determine that Nan Ya makes home market and EP sales at the same LOT.

Because Nan Ya's EP sales are made at the same LOT as home market sales, we did not make a LOT adjustment for any sales of subject merchandise by Nan Ya. See Memorandum to the File Re: Level of Trade Analysis for Nan Ya Plastics Corporation, Ltd., dated December 13, 2001.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. *See Statement of Administrative Actions, Uruguay Round Agreements Act,* Pub. L. 103–465, 103rd Cong. 2d Sess., H. Doc. 103–316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Nan Ya has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET Film from Taiwan, a margin that is based on the weighted-average margin calculated for Shinkong.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET Film from Taiwan, except for exports by Nan Ya, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margin for Nan Ya is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from Taiwan. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET Film from Taiwan, except for exports by Nan Ya.

	Margin (percent)
Manufacturer/exporter:	
Shinkong Synthetic Fibers Corporation	9.19
Nan Ya Plastics Corporation, Ltd.	1.70
All Others	9.19

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to the proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31514 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Timothy Finn, Zev Primor, or Howard Smith at (202) 482–0065, (202) 482–4114, and (202) 482–5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Preliminary Determination

We preliminarily determine that polyethylene terephthalate film, sheet, and strip (PET film) from India is being, or is likely to be sold, in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on June 6, 2001. *See Notice of Initiation of Antidumping Duty Investigations: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India and Taiwan,* 66 FR 31888 (June 13, 2001) (*Initiation Notice*).[1] Since the initiation of these investigations, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice,* at 66 FR 31889. We received no comments from any parties on this matter.

On July 2, 2001 the United States International Trade Commission (ITC) transmitted to the Department its preliminarily determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India of PET film that are alleged to be sold in the United States at LTFV. *See Polyethylene Terephthalate Film, Sheet, and Strip and Taiwan,* 66 FR 36296 (July 11, 2001).

On July 3, 2001, the Department issued antidumping questionnaires to, and received questionnaire responses from, the two mandatory respondents in this investigation, Ester Industries Limited (Ester) and Polyplex Corporation Limited (Polyplex)[2] *See Selection of Respondents* section below. On August 27, 2001, the Department returned Ester's and Polyplex's Section A responses due to over bracketing of information. Ester and Polyplex resubmitted Section A on August 29, 2001. We issued supplemental questionnaires, pertaining to sections A, B, C, and D of the antidumping questionnaire, to Ester and Polyplex in September, October, and November 2001. Ester and Polyplex responded to these supplemental questionnaires in September, October, November, and December 2001.

On October 12, 2001, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days from October 24, 2001, until December 13, 2001. *See Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Notice of Postponement of Preliminary Antidumping Duty Determinations,* 66 FR 52108 (October 12, 2001).

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On December 5, 2001, Ester and Polyplex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Ester and Polyplex also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recently completed fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

Affiliation of Parties

Pursuant to section 771(33)(F) of the Act, the Department has preliminarily determined that two customers to whom Polyplex sold PET film during the POI and whom Polyplex identified as unaffiliated parties, are, in fact, affiliated with Polyplex. Specifically, the Department has determined that one U.S. customer and one home market customer (hereinafter referred to as Company A and Company B, respectively), are part of a corporate grouping which, together with Polyplex, controls another person. According to section 771(33)(F) of the Act, two or more persons directly or indirectly controlling any other person shall be considered affiliated. Thus, we have preliminarily found the corporate grouping, including companies A and B, to be affiliated with Polyplex. For a complete discussion of this issue, see the December 13, 2001 memorandum, *Whether Polyplex Corporation Limited is Affiliated, Under the Tariff Act of 1930, as Amended, With Its U.S. Customer, Company A, and Its Home Market Customer, Company B* (*Affiliation Memorandum*), which is on file in the Central Records Unit (CRU), room B–099 of the main Department of Commerce building.

Critical Circumstances

In their petition, the petitioners requested that the Department initiate a critical circumstances investigation of PET film from India. However, the Department did not initiate a critical circumstances investigation because it found that petitioners failed to support their allegation of critical circumstances. In the *Initiation Notice* the Department stated:

> Although the petitioners provided data indicating significant increases in imports

---

[1] The petitioners in these investigations are DuPont Teijin Films, Mitsubishi Polyester Film of America, and Toray Plastics (America), Inc.

[2] The Department's July 3, 2001 antidumping questionnaire consisted for the following sections. Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales of foreign like product, or, if the home market is not viable, sales of foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of all U.S. sales of subject merchandise. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

> over a three-year period, we do not consider this to be sufficient evidence of massive imports over a relatively short period of time within the meaning of section 733(e)(1)(B) of the Act and section 351.206 of the Department's regulations. If, at a later date, the petitioners adequately allege the elements of critical circumstances, based on reasonably available information, the Department will investigate this matter further.

See Initiation Notice, 66 FR at 31891.

On September 14, 2001, petitioners requested, pursuant to section 732(e) of the Act, that the Department request the Commissioner of the U.S. Customs Service (Customs) to compile information on an expedited basis regarding entries of PET film from India into the United States. After considering this request, we have determined that the record in this investigation does not contain evidence of circumstances which warrant invoking section 732(e) of the Act. Thus, we have not requested information from Customs on an expedited basis. For a complete discussion of this issue, see the memorandum from Holly A. Kuga, Senior Director, to Bernard Carreau, Deputy Assistant Secretary, *Antidumping Investigation on Polyethylene Terephthalate Film, Sheet and Strip from India: Critical Circumstances*, dated December 13, 2001, which is on file in the CRU.

Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petition identified seven Indian producers of PET film. However, due to limited resources, we determined that we could investigate only two producers/exporters. Information on the record indicates that Ester and Polyplex were the two largest producers/exporters of PET film from India to the United States during the POI. *See* Memorandum from Nithya Nagarajan to Bernard T. Carreau, Selection of Respondents, dated June 27, 2001, which is on file in the CRU, room B–099 of the main Department of Commerce building. Therefore, we selected Ester and Polyplex as mandatory respondents and sent them antidumping questionnaires.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents, and covered by the description in the *Scope of Investigation* section above, that were sold in India during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon the grade and thickness product characteristics to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

To determine whether sales of PET film from India were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the *Export Price, Constructed Export Price*, and *Normal Value* sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to NVs.

U.S. Sales of Further-Manufactured PET Film

During the POI, Polyplex and its U.S. affiliate, Spectrum Marketing Company Inc. (Spectrum), sold PET film to a U.S. customer, Company A, who further-manufactured the PET film into non-subject merchandise. Company A did not sell non-further-manufactured PET film in the United States during the POI. After examining the various relationships between Polyplex, Spectrum, and Company A, the Department, as noted above, has preliminarily determined that Company A is affiliated with both Polyplex and Spectrum. Polyplex has requested that if the Department determines Company A to be an affiliated party, it apply section 772(e) of the Act (the special rule for merchandise with value added after importation) in determining the margin for Company A's further-manufactured sales rather than using the standard methodology described under section 772(d)(2) of the Act. After examining the record, we have determined that it does not contain sufficient information for the Department to determine whether it is more appropriate to use the special rule or the standard methodology in calculating margins for the sales in question. Moreover, the record does not contain the information necessary to apply the standard methodology.

Given the foregoing, and the requirement of section 772 of the Act to base export price and constructed export price on the price at which the merchandise is first sold to an unaffiliated purchaser, for the preliminary determination we have calculated the weighted-average dumping margin for Polyplex using only subject merchandise sales of non-further manufactured PET film that were made to unaffiliated parties. We intend to collect the information necessary to decide how to treat these sales for the final determination. For a complete discussion of this issue, see the December 13, 2001, memorandum, *How to Account for Sales of Further-Manufactured Polyethylene Terephthalate (PET) Film, Sheet, and Strip in the Preliminary Dumping Calculations* which is on file in the CRU.

Export Price

Where Ester and Polyplex sold merchandise directly to unaffiliated purchasers in the United States, we used EP, in accordance with section 772(a) of the Act, as the price to the United States. For both respondents, we calculated EP using the packed prices charged to the first unaffiliated customer in the United States (the starting price).

We deducted from the starting price, where applicable, amounts for discounts and rebates. In addition, we deducted movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, foreign and U.S. brokerage and

UMI
VOL 66 ISS 246 DE 21 2001
UMI

handling charges, insurance, U.S. duties, and U.S. inland freight.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India (PET film CVD Prelim)*, 66 FR 53389 (October 22, 2001).

Constructed Export Price

For Ester and Polyplex, we calculated CEP, in accordance with subsection 772(b) of the Act, for those sales to unaffiliated purchasers that took place after importation into the United States. We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors and freight revenue, and made deductions for early payment discounts and rebates in order to identify the correct starting price. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Movement expenses included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses, and warehousing expenses. In accordance with section 772(d)(1) of the Act, where applicable, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses, inventory carrying costs, and other indirect selling expenses. Also, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See PET film CVD Prelim.*

Normal Value

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that Ester and Polyplex each had a viable home market for PET film. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV.

In deriving NV, we made adjustments as detailed in the *Calculation of NV Based on Home Market Prices* and *Calculation of NV Based on CV*, sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

Ester reported that it only sold PET film in the home market to unaffiliated customers. Therefore, the Department's arm's-length test is inapplicable with regard to Ester's home market sales.

Polyplex reported that it made no home market sales to affiliated companies. However, since we have preliminarily determined that Company B is affiliated with Polyplex, we applied the arm's-length test to sales from Polyplex to Company B.[3] We have applied the arm's-length test by comparing sales made to the home market affiliate to sales of identical merchandise from Polyplex to unaffiliated home market customers. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and *Preamble—Department's Final Antidumping Regulations* 62 FR 27296, 27355 (May 19, 1997). If the sales to the affiliated customer satisfied the arm's-length test, we used them in our analysis. If the sales to the affiliated customer in the home market did not satisfy the arm's-length test sales to the that customer were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102 (defining "ordinary course of trade").

C. COP Analysis

Concurrent with the filing of the original petition, the petitioners alleged that sales of PET film in the home market of India were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-cost investigation. Based upon the comparison of the petition's adjusted prices and COP for the foreign like product, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of PET film manufactured in India were made at prices below the COP. *See Initiation Notice*, 66 FR at 31890. As a result, the Department has conducted an investigation to determine whether Ester and Polyplex made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. Our COP analysis is described below.

1. Calculation of COP. In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses and interest expenses.

We relied on the COP data submitted by Ester and Polyplex in their cost questionnaire responses, except, as noted below, in specific instances where Ester's submitted costs were not appropriately quantified or valued.

a. Changes to Ester's COP. Based on the information on the record, we recalculated Ester's reported G&A and interest expense ratios to include expenses on a company-wide basis rather than expenses based on Ester's PET film division only.

2. Test of Home Market Sales Prices. Pursuant to section 773(b) of the Act, on a model-specific basis we compared the COP, or in Ester's case the revised COP, to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POI average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

---

[3] Due to the proprietary nature of the determination, please see the Affiliation Memorandum, dated December 13, 2001.

We found that, for certain models of PET film, more than 20 percent of the home market sales by Ester and Polyplex were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in India. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses, pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense). We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

E. Calculation of NV Based on CV

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for those models of PET film for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable product or all sales of the comparison products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling expenses, G&A, interest, profit and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by Polyplex and Ester, respectively, in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

F. Level of Trade/CEP Offset

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP transaction. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa (CTL Plate from South Africa)*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c), in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),[4] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc.* v. *United States*, 243 F3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See CTL Plate from South Africa*.

We obtained information from each respondent regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for *each* channel of distribution. While neither company requested a LOT adjustment, both companies requested a CEP offset.

Ester reported home market sales to three customer categories through three distribution channels. Polyplex reported home market sales to two customer categories through two channels of distribution. Both respondents offer to their respective customers in these distribution channels selling services such as order booking, freight, inventory maintenance, technical assistance and general customer service. Based on an analysis of the selling functions performed in the home market channel of distribution, we find that each respondent's home market sales comprise a single LOT.

Similarly, for its U.S. sales, Ester reported EP sales to the same three customer categories through one channel of distribution, and CEP sales to the same three customer categories through a second channel of distribution. For its U.S. sales, Polyplex reported EP sales to one customer category through one channel of distribution, and CEP sales to two customer categories through a second channel of distribution. Further, for EP sales, both respondents offer their U.S. customers similar selling functions to those made in the home market (order booking, freight, inventory maintenance, technical assistance and general customer service).

After reviewing the U.S. market selling functions reported by Polyplex and Ester, and after deducting the CEP selling expenses incurred by Spectrum and EIUL (their U.S. affiliates, respectively), we found that Polyplex and Ester provided a qualitatively different degree of services on EP sales than they did on CEP sales. Both

---

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

respondents provided various degrees of selling functions on their EP sales, but virtually none on their CEP sales. Therefore, we find that each respondent's selling functions were sufficiently different in their two reported channels of distribution to warrant a determination that two separate LOTs exist in the United States for both respondents.

In their responses, neither Polyplex nor Ester claimed a LOT adjustment. However, both companies requested a CEP offset claiming that their NV LOTs were more remote from the factory than their CEP LOTs.

In determining whether separate LOTs actually existed in the home market and U.S. market for each respondent, we examined whether each respondent's sales in the two markets involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions reported. In analyzing each company's selling activities for EP sales, we noted that the sales involved basically the same selling functions as those associated with the home market LOT described above. Therefore, based upon this conclusion, we have determined that the LOT for each respondent's EP sales is the same as that of its home market sales.

Lastly, our preliminary analysis demonstrates that the home market LOTs are different from, and constitute a more advanced stage of distribution than, the CEP LOTs because after making the CEP deductions under section 772(d) of the Act, the home market LOTs include significantly more selling functions than the CEP LOTs. Therefore, because of the nature of selling functions, we find that the home market LOTs are at a different, more advanced marketing stage than the CEP LOTs. Consequently, since NV is established at a LOT which constitutes a more advanced LOT than the LOT of the CEP, and the data do not provide an appropriate basis upon which to determine a LOT adjustment (each company has only one level of trade in the home market), we conclude that Ester and Polyplex are each entitled to a CEP offset to NV. *See* the December 13, 2001, memoranda to the file regarding Ester and Polyplex: *Level of Trade Analyses.*

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. *See Statement of Administrative Actions, Uruguay Round Agreements Act*, Pub. L. No. 103.465, 103rd Cong. 2d Sess., H. Doc. 103–316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Polyplex has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET film from India, a margin that is based on the weighted-average margin calculated for Ester.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET film from India, except for exports by Polyplex, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margin for Polyplex is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from India. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET film from India, except for exports by Polyplex. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Ester Industries Limited	2.96
Polyplex Corporation Limited	1.38
All Others	2.96

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these investigations in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will normally be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 15, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–31515 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results in the antidumping duty administrative review of certain stainless steel butt-weld pipe fittings from Taiwan.

SUMMARY: On July 12, 2001, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. This review covers one manufacturer/exporter of the subject merchandise. The period of review ("POR") is June 1, 1999 through May 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based upon our analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results of this review. The final weighted-average dumping margin is listed below in the section titled "Final Results of the Review."

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: James C. Doyle or Alex Villanueva, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–0159 (Doyle) or 202–482–6412 (Villanueva), fax 202–482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

Background

On June 16, 1993, the Department published the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. *See Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Determination and Antidumping Order,* 58 FR 33250 (June 16, 1993). On June 20, 2000, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan covering the period June 1, 1999 through May 31, 2000. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, Or Suspended Investigation* 65 FR 38242 (June 20, 2000). On June 20, 2000, respondent, Ta Chen Stainless Steel Pipe Ltd., ("Ta Chen"), requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On June 30, 2000, Markovitz Enterprises, Inc. (Flowline Division), Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge, (collectively, "Petitioners") requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On July 31, 2000, in accordance with section 751(a) of the Act, the Department published a notice of initiation of this antidumping duty administrative review for the period of June 1, 1999 through May 31, 2000. *See Notice of Initiation of Antidumping or Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 65 FR 46687 (July 31, 2000). On July 12, 2001, the Department published the preliminary results of the administrative review in the **Federal Register**. *See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review,* 66 FR 36555 (July 12, 2001) ("*Preliminary Results*"). We gave interested parties an opportunity to comment on our *Preliminary Results*. Ta Chen and Petitioners filed briefs on August 21, 2001. On August 27, 2001, Ta Chen and Petitioners filed rebuttal briefs. No hearing was requested or held. The date for issuing the final results of the review was November 9, 2001. Because of complex issues in this proceeding, the Department extended the time limit for the final results by 30 days in accordance with section 751 (a)(3)(A) of the Act. *See Notice of Extension of Final Results of Antidumping Duty Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan,* 66 FR 55639 (November 2, 2001). The date for issuing the final results was moved from November 9, 2001 to December 10, 2001. The Department has conducted and completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The merchandise subject to this administrative review is certain stainless steel butt-weld pipe fittings ("SSBWPF") whether finished or unfinished, under 14 inches inside diameter. Certain SSBWPF are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: "elbows", "tees", "reducers", "stub-ends", and "caps." The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

During this administrative review, the Department received a scope ruling request on April 12, 2001 and in accordance with 19 CFR 351.225(k)(2) from Allegheny Bradford Corporation d/b/a Top Line Process Equipment Company ("Top Line"), for a scope ruling on whether stainless steel butt-

UMI
VOL 66
ISS 246
DE 21
2001
UMI

weld tube fittings it plans to import are covered by the antidumping duty order on stainless steel butt-weld pipe fittings from Taiwan. On November 15, 2001, the Department issued its preliminary scope ruling. *See Memorandum from Edward C. Yang, Director, Enforcement, Group III, Office 9, to Joseph A. Spetrini; Deputy Assistant Secretary for Import Administration, Group III: Preliminary Scope Ruling on the Antidumping Duty Order on Stainless Steel Butt-Weld Pipe Fittings: Allegheny Bradford Corporation d/b/a Top Line Process Equipment* ("*Preliminary Scope Ruling*"), dated November 15, 2001, which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. We gave interested parties an opportunity to comment on our *Preliminary Scope Ruling*. Top Line and Petitioners filed briefs on November 21, 2001. On November 26, 2001, Top Line and Petitioners filed rebuttal briefs. On December 10, 2001, the Department issued its final scope ruling that Top Line's stainless steel butt-weld tube fittings are within the scope of the Order. *See Memorandum from Edward C. Yang, Director, Enforcement, Group III, Office 9, to Joseph A. Spetrini, Deputy Assistant Secretary for Import Administration, Group III: Final Scope Ruling on the Antidumping Duty Order on Stainless Steel Butt-Weld Pipe Fittings: Allegheny Bradford Corporation d/b/a Top Line Process Equipment*, dated December 10, 2001, which is also on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099.

Analysis of Comments Received

All issues raised in the case briefs, as well as the Department's findings, in this administrative review are addressed in the *Issues and Decision Memorandum for the Administrative Review of Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: June 1, 1999, through May 31, 2000 from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration* ("*Decision Memorandum*"), dated December 10, 2001, which is hereby adopted by this notice. A list of the issues raised and to which we have responded, all of which are in the *Decision Memorandum*, and a list of our changes, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *www.ia.ita.doc.gov*. The paper copy and electronic version of the public version of the *Decision Memorandum* are identical in content.

Sales Below Cost in the Home Market

As discussed in more detail in the *Preliminary Results*, the Department disregarded home market below-cost sales that failed the cost test in the final results of review.

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes in the margin calculation, as discussed in the *Decision Memorandum*, accessible in B–099. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as Appendix I.

Final Results of the Review

We determine that the following percentage weighted-average margin exists for the period June 1, 1999 through May 31, 2000:

CERTAIN WELDED STAINLESS STEEL PIPE

Producer/manufacturer/exporter	Weighted-average margin (percent)
Ta Chen	6.11

The Department shall determine, and the U.S. Customs Service ("Customs") shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we have calculated importer-specific assessment rates. With respect to the constructed export price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct Customs to assess any resulting non-de minimis percentage margins against the entered Customs values for the subject merchandise on each of that importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of certain SSBWPF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen will be the rate shown above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers shall continue to be 51.01 percent.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: December 10, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix

Discussion of the Issues

Comment 1: Intra-Warehouse Transfer Expenses
Comment 2: Level of Trade ("LOT")/CEP Offset
Comment 3: CEP Profit
Comment 4: CEP Sales Expenses
Comment 5: U.S. Short-Term Interest Rate
Comment 6: U.S. Inventory Carrying Period
Comment 7: U.S. Indirect Selling Expenses
Comment 8: United States Indirect Selling Expenses
Comment 9: General and Administrative

Expenses
Comment 10: Reclassification of EP sales to CEP sales

[FR Doc. 01–31399 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–819]

Notice of Final Affirmative Countervailing Duty Determination: Low Enriched Uranium From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

SUMMARY: On May 14, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation on low enriched uranium (subject merchandise) from France for the period January 1, 1999 through December 31, 1999.

The net subsidy rate in the final determination differs from that of the *Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France*, 66 FR 24325 (May 14, 2001) (*Preliminary Determination*). The revised final net subsidy rate for the investigated company is listed below in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Michael Grossman at (202) 482–3146 or Richard Herring at (202) 482–4149, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On May 14, 2001, the Department published the preliminary results of investigation on low enriched uranium from France. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Low Enriched Uranium from France*, 66 FR 24325 (May 14, 2001) (*Preliminary Determination*). This investigation covers low enriched uranium (subject merchandise) from France for the period January 1, 1999, through December 31, 1999.

We invited interested parties to comment on the *Preliminary Determination*. On October 22 and 23, 2001, the petitioners,[1] the Ad Hoc Utilities Group,[2] and respondent producers/exporters Eurodif, S.A. and Compagnie Generale des Matieres Nucleaires (COGEMA) filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. On October 26, 2001, we received comments from the petitioners and the respondents. On November 5, 2001, we received rebuttal comments from petitioners and respondents. A public hearing was held at the Department of Commerce on November 7, 2001. On or about September 28, 2001, and November 22, 2001, we received letters from the EC regarding certain issues in these investigations. On November 7, 2001, Mr. Grant Aldonas, Under-Secretary for International Trade, replied to the first letter. We invited comments on these letters, which we received from petitioners, respondents, and the Ad Hoc Utilities Group, on November 15, 2001, and November 29, 2001.

This final determination was originally due on November 26, 2001. We subsequently tolled the final determination deadline in this investigation until December 13, 2001, to accommodate certain verifications and a delayed briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of this investigation, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this investigation. Specifically, this investigation does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this investigation. For purposes of this investigation, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of this investigation.

Also excluded from this investigation is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading

---

[1] The petitioners in this investigation are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (Collectively USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act the Ad Hoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Operating Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

VOL 66 ISS 246 DE 21 2001 UMI

2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, *see* Comment 1 of the "*Issues and Decision Memorandum: Final Affirmative Countervailing Duty Determination: Low Enriched Uranium from France*" (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion see *Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France*, which is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999 through December 31, 1999.

Verification

As provided in section 782(i) of the Act, we conducted verification on October 11 through October 17, 2001. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondent. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) dated December 13, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading "Federal Register Notices." The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with 703(d)(1)(A)(i) of the Act, we have calculated an individual rate for Eurodif, S.A., which we have also applied to COGEMA, Eurodif's sales agent for sales made in the United States. The "all others" rate is the same as the rate for Eurodif/COGEMA. These rates are summarized in the table below:

Producer/exporter	Net Subsidy Rate
Eurodif, S.A. & COGEMA.	13.21% *ad valorem*.
All Others	13.21% *ad valorem*.

In accordance with our *Preliminary Determination*, we instructed the U.S. Customs Service to suspend liquidation of all entries of low enriched uranium from France, which were entered or withdrawn from warehouse, for consumption on or after May 14, 2001, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after September 11, 2001, but to continue the suspension of liquidation of entries made between May 14, 2001 and September 10, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Methodology and Background Information

I. *Subsidies Valuation Information*
  A. *Treatment of the Ad Valorem Rate Calculation and the Denominator*

Analysis of Programs

I. *Purchase at Prices that Constitute "More Than Adequate Remuneration"*
II. *Exoneration/Reimbursement of Corporate Income Taxes*

Total Ad Valorem Rate

Analysis of Comments

Comment 1: Scope Clarification
Comment 2: Petitioners' Argument that Eurodif Received Non-Recurring Benefits in the Years 1986 through 1999
Comment 3: Petitioners' Argument that a Portion of the Subsidies Related to EdF's 1999 Purchases at Prices that Constitute More than Adequate Remuneration Should be Treated as a Recurring Subsidy
Comment 4: Treatment of "Part Energie" Component of EdF's Price
Comment 5: Respondents' Argument that the Department's Price Comparison in the Preliminary Determination was Flawed in Other Respects
Comment 6: Tax Exemption from the GOF

[FR Doc. 01–31510 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[(C–428–829); (C–421–809); (C–412–821)]

Notice of Final Affirmative Countervailing Duty Determinations: Low Enriched Uranium From Germany, the Netherlands, and the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Affirmative Countervailing Duty Determinations.

SUMMARY: On May 14, 2001, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determinations in the countervailing duty investigations of low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom for the period January 1, 1999 through December 31, 1999 (66 FR 24329).

The net subsidy rate in the *Final Determination* differs from that of the *Preliminary Determination*. The revised final net subsidy rate for the investigated company is listed below in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Copyak (Germany) at 202–482–2209, Stephanie Moore (the Netherlands) at 202–482–3692, and Eric B. Greynolds (United Kingdom) at 202–482–6071, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (2000).

Background

On May 14, 2001, the Department published the preliminary determinations of its investigations of low enriched uranium from Germany, the Netherlands, and the United Kingdom. *See Notice of Preliminary Affirmative Countervailing Duty Determinations and Alignment with Final Antidumping Duty Determinations: Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom*, 66 FR 24329 (May 14, 2001) (*Preliminary Determinations*). These investigations cover low enriched uranium (subject merchandise) from Germany, the Netherlands, and the United Kingdom for the period January 1, 1999, through December 31, 1999.

We invited interested parties to comment on the *Preliminary Determinations*. On October 22 and 23, 2001, the petitioners [1], the Ad Hoc Utilities Group,[2] and Urenco Ltd., Urenco (Capenhurst) Ltd., Urenco Nederland BV, and Urenco Deutschland GmbH (collectively, Urenco or the respondents) filed briefs on common scope issues in the antidumping and countervailing duty investigations of LEU from France, Germany, the Netherlands and the United Kingdom. Rebuttal briefs on these common scope issues were filed on October 29, 2001, and a public hearing on the common scope issues was held on October 31, 2001. On October 26, 2001, we received comments from the petitioners and the respondents. On November 5, 2001, we received rebuttal comments from petitioners and respondents. A public hearing was held at the Department of Commerce on November 7, 2001. On or about September 28, 2001, and on November 22, 2001, we received letters from the EC regarding certain issues in these investigations. On November 7, 2001, Mr. Grant Aldonas, Under-Secretary for International Trade, replied to the first letter. We invited comments on these letters, which we received from petitioners, respondents, and the Ad Hoc Utilities Group, on November 15, 2001, and November 29, 2001.

These final determinations were originally due on November 26, 2001. We subsequently tolled the final determination deadline in these investigations until December 13, 2001, to accommodate certain verifications and a delayed briefing and hearing schedule that were delayed because of the events of September 11, 2001.

Amended Scope of Investigation

For purposes of these investigations, the product covered is all low enriched uranium (LEU). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of these investigations. Specifically, these investigations do not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of these investigations. For purposes of these investigations, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of these investigations.

Also excluded from these investigations is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to these investigations is classified in the

---

[1] The petitioners in these investigations are USEC, Inc. and its wholly-owned subsidiary, United States Enrichment Corporation (collectively USEC), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union, AFL–CIO, CLC, Local 5–550 and Local 5–689 (collectively PACE).

[2] In accordance with section 777(h) of the Act of the Ad Hoc Utilities Group, whose members include: Arizona Public Service Co., Carolina Power & Light Co., Dominion Generation, Duke Energy Corp., DTE Energy, Entergy Services, Inc., Exelon Corporation, First Energy Nuclear Orperting Co., Florida Power Corp., Florida Power and Light Co., Nebraska Public Power District, Nuclear Management Co. LLC (on behalf of certain member companies), PPL Susquehanna LLC, PSEG Nuclear LLC, South Texas Project, Southern California Edison, Southern Nuclear Operating Co., Union Electric Company, and Wolf Creek Nuclear Operating Corp., submitted comments as industrial users of subject merchandise.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope Clarification

For further details, see Comment 1 of the "*Issues and Decision Memorandum for the Antidumping Duty Investigation of Low Enriched Uranium from Germany, Netherlands and the United Kingdom*" (*Decision Memorandum*) from Bernard T. Carreau, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice.

Goods Versus Services

Parties in all eight concurrent investigations of this product have submitted comments on this issue. For a full discussion *see Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium from France* which is published concurrently with this notice.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is January 1, 1999 through December 31, 1999.

Verification

As provided in section 782(i) of the Act, we conducted verification of the information submitted by Urenco from June 11 through June 15, 2001, in the Netherlands; June 18 through June 22, 2001, in Germany; and September 25 through October 2, 2001, in the United Kingdom. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these investigations are addressed in the "Issues and Decision Memorandum" (Decision Memorandum) dated December 13, 2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in these investigations and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://ia.ita.doc.gov, under the heading "Federal Register Notices." The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

In accordance with sections 701(d) and 703(d)(1)(A)(i) of the Act, we have calculated a single rate for the Urenco Group with respect to exports from each of the three countries. The "all others" rate is the same as the rate for the Urenco Group. These rates are summarized in the table below:

Producer/exporter	Net subsidy rate
Urenco Group Ltd.	2.26 percent *ad valorem*.
All Others	2.26 percent *ad valorem*.

In accordance with our preliminary affirmative determinations, we instructed the U.S. Customs Service to suspend liquidation of all entries of low enriched uranium from Germany, the Netherlands, and the United Kingdom, which were entered or withdrawn from warehouse, for consumption on or after May 14, 2001, the date of the publication of our preliminary determinations in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after September 11, 2001, but to continue the suspension of liquidation of entries made between May 14, 2001 and September 10, 2001.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to these investigations. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue countervailing duty orders.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

These determinations are published pursuant to sections 705(d) and 777(i) of the Act.

Dated: December 13, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

Summary

Methodology and Background Information

- I. Subsidies Valuation Information
  - A. Allocation Period
  - B. Benchmarks for Loans and Discount Rate
  - C. Treatment of the Ad Valorem Rate Calculation and the Denominator

Analysis of Programs

- I. Programs Determined to Confer Subsidies from the Government of Germany
  - A. Enrichment Technology Research and Development Program
  - B. Forgiveness of Centrifuge Enrichment Capacity Subsidies
  - C. Investment Allowance Act
- II. Program Determined To Confer Subsidies From the Government of the Netherlands
  - A. Regional Investment Premium
- III. Programs Determined Not to Confer a Benefit from the Government of Germany
  - A. Regional Government Provision of Industrial Site

B. Regional Development Grants
IV. Programs Determined Not to Confer a Benefit from the Government of the Netherlands
  A. Centrifuge Enrichment Technology Research
  B. 1981 Equity Conversion
V. Programs Determined Not to Confer a Benefit from the Government of the United Kingdom
  A. Regional Development Grants
  B. Centrifuge Development Grant
  C. Fossil Fuel Levy
  D. Forgiveness of Decommissioning Debt
VI. Programs Determined Not Countervailable from the Government of the Netherlands
  A. Subordinated Shareholder Loan Provided to Urenco Ltd. by UCN
  B. 1998 Shareholder Loan
VII. Programs Determined Not Countervailable from the Government of the United Kingdom
  A. Assumption of Debt: European Investment Bank Loans
  B. Loan-Stock Debt Forgiveness Program
  C. Subordinated Shareholder Loan Provided to Urenco Ltd. by INFL
  D. Extraordinary Asset Write Downs Prior to Transfer of BNFL Enrichment Facilities
VIII. Programs Determined Not Used in the Netherlands
  A. Wet Investeringsrekening Law (WIR)
  B. Subsidized Loan Forgiveness
IX. Program Determined Not Used in the United Kingdom
  A. Financial Assistance Under the Electricity Act of 1989
X. Total Ad Valorem Rate
XI. Analysis of Comments
  Comment 1: Scope Clarification
  Comment 2: International Consortium Provision
  Comment 3: Average Useful Life
  Comment 4: 1993 Equity Investment
  Comment 5: EIB Loans
  Comment 6: Regional Development Grants
  Comment 7: Centrifuge Development Grant (CDG)
  Comment 8: Subordinated Shareholder Loan Provided to Urenco Ltd. by INFL and UCN
  Comment 9: Loan Stock Debt Forgiveness
  Comment 10: Regional Investment Premiums (IPR)
  Comment 11: Loan Forgiveness
  Comment 12: 1981 Equity Conversion
  Comment 13: Centrifuge Enrichment Technology Research and Development Programs
  Comment 14: Sales Denominator of the Urenco Group
  Comment 15: Investment Allowance Act
  Comment 16: City and State Government Development Grants
  Comment 17: Centrifuge Enrichment Capacity Subsidies
  Comment 18: Enrichment Technology R&D Subsidies
  Comment 19: WIR Program

[FR Doc. 01–31511 Filed 12–21–01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131 (this is not a toll-free number) or E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 88–5A012."

The National Tooling and Machining Association's ("NTMA") original Certificate was issued on October 18, 1988 (53 FR 43140, October 25, 1988) and previously amended on December 4, 1989 (54 FR 51914, December 19, 1989); September 2, 1993 (58 FR 47868, September 13, 1993); May 3, 2000 (65 FR 30073, May 10, 2000); and April 5, 2001 (66 FR 21335, April 30, 2001). A summary of the application for an amendment follows.

Summary of the Application

Applicant: National Tooling and Machining Association, 9300 Livingston Road, Ft. Washington, Maryland 20744.

Contact: Thomas H. Garcia, Manager, Marketing Programs, Telephone: (301) 248–6200.

Application No.: 88–5A012.

Date Deemed Submitted: December 12, 2001.

Proposed Amendment: NTMA seeks to amend its Certificate so that the attached list will constitute the "Members" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: December 18, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading Company Affairs.

21st Century Tool & Die, Inc., Waynesboro, TN
3 M MTC, Petaluma, CA
4 Axis Machining, Inc., Denver, CO
A–1 Precision Metal Products, Phoenix, AZ
A & A Industries, Inc., Peabody, MA
A & A Machine Company, Inc., Southampton, PA
A & A Machine Shop, Inc., La Marque, TX
A & B Machine, Van Nuys, CA
A & B Machine Shop, Rockford, IL
A & B Tool & Manufacturing Corp., Toledo, OH
A & D Precision, Fremont, CA
A & E Custom Manufacturing Technologies, Inc., Kansas City, KS
A & E Machine Shop, Inc., Lone Star, TX
A & G Machine, Inc., Auburn, WA
A & S Tool & Die Company, Inc., Kernersville, NC
A A Precisioneering, Inc., Meadville, PA
A B A Division, A B A—P G T, Inc., Manchester, CT

A B C O Tool & Engineering, Phoenix, AZ
A B Heller, Inc., Milford, MI
A B N Industrial Co., Inc., Buena Park, CA
A B R Enterprises Inc., South Pasadena, CA
A C Machine, Inc., Akron, OH
A E Cole Die & Engraving, Columbus, OH
A E Machine Works, Inc., Houston, TX
A F C Tool Company, Inc., Subsidiary of F C Industries, Dayton, OH
A I M Tool & Die, Grand Haven, MI
A M C Precision, Inc., N. Tonawanda, NY
A M Design, E. Canton, OH
A M Machine Company, Inc., Baltimore, MD
A Mfg., Redlands, CA
A S C Corporation, Owings Mills, MD
A–Line Tool & Die, Inc., Louisville, KY
A–G Tool & Die, Div. of Seilkop Industries, Inc., Miamitown, OH
A–RanD, Inc., Phoenix, AZ
A & B Aerospace, Inc., Azusa, CA
A. C. Grinding & Supply Co. Inc., Levittown, PA
A. C. Cut-Off, Inc., Azusa, CA
A+ Engineering, Ipswich, MA
Abbott Tool, Inc., Toledo, OH
Abbott Machine & Tool, Inc., Toledo, OH
Ability Tool Company, Rockford, IL
Able Wire EDM, Inc., Brea, CA
Abrams Airborne Manufacturing, Inc., Tucson, AZ
Absolute Turning & Machine, Tucson, AZ
Absolute Manufacturing, N. Chelmsford, MA
Absolute Grinding Co., Inc., Mentor, OH
Acadiana Hydraulic Works, Inc., New Iberia, LA
Accu-Roll, Inc., Rochester, NY
Accu Die & Mold Inc., Stevensville, MI
AccuCraft, New Haven, MO
Accudynamics, Inc., Middleboro, MA
Accudyne Aerospace & Defense, Palm Bay, FL
Accura Industries, Inc., Rochester, NY
Accurate Grinding & Mfg. Corp., & Accurate Fishing Products, Los Angeles, CA
Accurate Grinding Corp., Warwick, RI
Accurate Machine Co. Inc., Indianapolis, IN
Accurate Machining, Mukilteo, WA
Accurate Manufacturing Company, Glendale, CA
Accurate Products Co., Tucson, AZ
Accurate Marking Products, Inc., Pittsburgh, PA
Accurite Machine & Mfg. Inc., Louisville, KY
Accutronics, Inc., Littleton, CO
Ace Specialty Company, Inc., Tonawanda, NY
Ace Manufacturing Company, Cincinnati, OH
Ackley Machine Corporation, Moorestown, NJ
Acklin Stamping, Toledo, OH
Acme/Walton Machine & Tool, Inc., Louisville, KY
Acme Metal Works, Gilbert, AZ
ACMT, Inc. dba A C Tool & Machine, Co., Louisville, KY
Acraloc Corporation, Oak Ridge, TN
Acro Industries, Inc., Rochester, NY
Acro Tool & Die Company, Inc., Akron, OH
Actco Tool & Mfg. Co., Meadville, PA
Action Die & Tool Inc., Wyoming, MI
Action Mold & Tool Co., Anaheim, CA
Action Precision Grinding Inc., North Tonawanda, NY
Action SuperAbrasive Products, Brimfield, OH
Action Tool and Manufacturing, Inc., Rockford, IL
Action Machine L.L.C., Phoenix, AZ
Action E.D.M. & Tool Inc., Concord, NC
Acucut, Inc., Southington, CT
Acutec Precision Machining Inc., Saegertown, PA
Ada Machine Company, Inc., Santa Clara, CA
Adams Engineering, Division of Manufacturing Technology, Inc., South Bend, IN
Adaptive Technologies Inc., Springboro, OH
Addison Precision Mfg. Corp., Rochester, NY
Adena Tool Corporation, Dayton, OH
Admill Machine Company, Newington, CT
Adron Tool Corporation, Menomonee Falls, WI
Advance Manufacturing Corp., Cleveland, OH
Advance Manufacturing Technology, Salt Lake City, UT
Advanced Ceramic Technology, Orange, CA
Advanced Composite Products & Technology, Inc. (ACPT Inc.), Huntington Beach, CA
Advanced Cutting Tools, Inc., Clio, MI
Advanced Machine Programming, Morgan Hill, CA
Advanced Machining Corporation, Salisbury, NC
Advanced Measurement Labs, Inc., Sun Valley, CA
Advanced Mold & Tooling Inc., Rochester, NY
Advanced Tooling Specialists Inc., Menasha, WI
Advanced Tooling Systems, Inc., Comstock Park, MI
Advanced Product Design Specialties, Riverside, CA
Advanced Machine Inc., Rochester, NY
Advanced Precision Engineering, Ipswich, MA
Advantage Mold & Design, Meadville, PA
Aero Comm Machining, Wichita, KS
Aero Design & Manufacturing Co., Phoenix, AZ
Aero Engineering & Mfg. Company, Valencia, CA
Aero Gear, Inc., Windsor, CT
Aero Machining Company, Garden Grove, CA
Aero Mechanical Engineering, Inc., Huntington Beach, CA
Aero-Tech Engineering, Inc., Wichita, KS
Aerofab, Inc., Tucson, AZ
Aerostar Aerospace Inc., Phoenix, AZ
Aetna Machine Company, Cochranton, PA
Aggressive Tool & Die, Inc., Buckner, KY
Aggressive Tool & Die, Inc., Coopersville, MI
Agrimson Tool Company, Brooklyn Park, MN
Ahaus Tool & Engineering, Inc., Richmond, IN
Aimco Precision, Inc., Phoenix, AZ
Airmetal Corporation, Jackson, MI
Ajax Tool, Inc., Fort Wayne, IN
Akro Tool Co., Inc., Cincinnati, OH
Akron Steel Fabricators Company, Akron, OH
Akron Tool & Die Company, Inc., Akron, OH
Alart Tool & Die, Inc., Houston, TX
Albert Seisler Machine Corp., Mohnton, PA
Albertson & Hein, Inc., Wichita, KS
Albion Machine & Tool Company, Albion, MI
Alco Manufacturing, Inc., Santa Ana, CA
Alfred Manufacturing Company, Denver, CO
Alger Machine Company, Inc., Rochester, NY
Alignment Engineering Co., Inc., Knoxville, TN
ALKAB Contract Manufacturing, Inc., New Kensington, PA
All Tool Company, Union, NJ
All Tools Company, Oklahoma City, OK
All Tools Texas, Inc., Houston, TX
All Weld Machine, Milpitas, CA
All-Tech Machine & Eng., Inc., San Jose, CA
All-Tech Machining, Inc., Wilmer, AL
All Five Tool Company, Inc., Bristol, CT
Allen Precision Industries, Inc., Asheboro, NC
Allen Precision Machining Co., Angleton, TX
Allen Randall Enterprises, Inc., Akron, OH
Allen Aircraft Products, Inc., Ravenna, OH
Alliance Machine Tool Co., Inc., Louisville, KY
Allied Screw Products, Inc., Mishawaka, IN
Allied Tool & Die Company, LLC, Phoenix, AZ

Allied Tool & Die, Inc., Cleveland, OH
Allied Tool & Machine Company, Kernersville, NC
Allied Tool & Machine, Inc., Saginaw, MI
Allied Tools Of Texas, Houston, TX
Allied Mechanical Products, Ontario, CA
Alloy Metal Products, Hayward, CA
Allstate Tool & Die, Inc., Rochester, NY
Almar Mfg. & Engineering, Inc., Garden Valley, CA
Alpha Mold, LLC, Huber Heights, OH
Alpha Precision Machining Inc., Kent, WA
Alpha Tool & Machine Company, Bellmawr, NJ
Alpha Tooling, Inc., Santa Fe Springs, CA
Alpha Mold West Inc., Broomfield, CO
Alpine Precision, Inc., North Billerica, MA
Alro Specialty Metals, St. Louis, MO
Alt's Tool & Machine, Inc., Santee, CA
Alton Products, Inc., Maumee, OH
Alves Precision Engineered, Products Inc., Watertown, CT
AMA Plastics, Corona, CA
Amatrol, Inc., Jeffersonville, IN
Ambel Precision Mfg. Corp., Bethel, CT
American Mfg. & Machining, Inc., Racine, WI
American Precision Machining, Inc., Phoenix, AZ
American Precision Technologies, Inc., San Fernando, CA
American Tool & Die, Inc., Toledo, OH
American Wire EDM, Inc., Orange, CA
American Metal Masters, Inc., Plantsville, CT
American Machine & Gundrilling,Co., Inc., Maple Grove, MN
Amerimold, Inc., Mogadore, OH
Ameritech Die & Mold, Inc., Mooresville, NC
Amity Mold Company, Tipp City, OH
AMS Production Machining Inc., Plainfield, IN
Anchor Tool & Die Company, Cleveland, OH
Anchor Lamina Inc., Madison Heights, MI
Anders Machine and Engraving, Div. of Ad-Tech Machine & Tool, Rochester, NY
Anderson Tool & Engineering Co., Inc., Anderson, IN
Andrew Tool Company, Inc., Plymouth, MN
Anglo-American Mold, Inc., Louisville, KY
Anmar Precision Components Inc., North Hollywood, CA
Anmark Machine, Tempe, AZ
Anoplate Corporation, Syracuse, NY
Apex Tool & Manufacturing, Inc., Evansville, IN
Apex Precision Technologies, Inc., Camby, IN
Apex Machine Company, Ft. Lauderdale, FL
Apex Machine Tool Company, Farmington, CT
Apollo Products Inc., Willoughby, OH
Apollo E.D.M. Company, Fraser, MI
Apollo Precision, Inc., Plymouth, MN
Applegate EDM, Inc., Dallas, TX
Applied Technology Manufacturing, Corp., Owego, NY
Applied Technology Manufacturing, Inc., Rochester, NY
Applied Engineering, Inc., Yankton, SD
AR Industries Inc., Cincinnati, OH
Aram Precision Tool & Die, Inc., Chatsworth, CA
Arc Drilling Inc., Garfield Heights, OH
Arca Systems, Tacoma, WA
Arco Metals Corporation, Baltimore, MD
Arco Industries, Inc., Dayton, OH
Ardekin Machine Company, Rockford, IL
Area Tool & Manufacturing, Inc., Meadville, PA
Aremco, Inc., Grand Rapids, MN
ARG Manufacturing Corp., Arlington, TX
Argo Tool Corporation, Twinsburg, OH
Aries Tool, Inc., New Berlin, WI
Arkansas Tool & Die, Inc., North Little Roc, AR
Arlington Machine & Tool Company, Fairfield, NJ
Arma Tool & Die Company, Inc., Ridgefield, CT
Armin Tool & Manufacturing Co., Inc., South Elgin, IL
Armstrong-Blum Mfg. Co., Mt. Prospect, IL
Armstrong Machine Works, Inc., Rogersville, TN
Armstrong Mold, Machining Div., East Syracuse, NY
Armstrong Technology, Inc., Sunnyvale, CA
Arnett Tool, Inc., New Paris, OH
Arnette Pattern Company/Midwest, Machining & Fabricating, Granite City, IL
Arrington Supply House, Inc., Tuscaloosa, AL
Arro Tool & Die, Inc., Lakewood, NY
Arrow Grinding, Inc., Tonawanda, NY
Arrow Diversified Tooling, Inc., Ellington, CT
Arrow Sheet Metal Products Co., Denver, CO
Arthur J. Evers Corporation, Riverton, NJ
Artisan Machining, Inc., Bohemia, NY
Artisan Associates, Detroit, MI
Ascension Industries, North Tonawanda, NY
Ash Machine Corporation, Pataskala, OH
Aspen Precision Technologies, Inc., Petaluma, CA
Associated Toolmakers, Inc., Keokuk, IA
Associated Technologies, Brea, CA
Associated Electro-Mechanics, Inc., Springfield, MA
Astley Precision Machine Co., Irwin, PA
Astro Machine Works Inc., Ephrata, PA
Astro Automation, Inc., Irwin, PA
Astrotronics Inc., Mesa, AZ
Atec Engineering, Phoenix, AZ
Athens Industries, Southington, CT
Atkins Tool Company, Riverton, NJ
Atlantic Tool & Die Company, Strongsville, OH
Atlantic Precision Products Inc., Sanford, ME
Atlas Tool, Inc., Roseville, MI
Atlas Machine & Supply, Inc., Louisville, KY
August Machine, Inc., Phoenix, AZ
Austin Machine Company Inc., O'Fallon, MO
Austro Mold Incorporated, Rochester, NY
Autocam Corporation, Kentwood, MI
Automated EDM Incorporated, Ramsey, MN
Automated Cells & Equipment, Inc., Painted Post, NY
Automatic Stamp Products, Inc., Cleveland, OH
Automation Technology, Inc., St. Louis, MO
Automation Tool & Die, Inc., Brunswick, OH
Automation Tool Company, Cookeville, TN
Avanti Engineering & Manufacturing, Inc., Greensburg, PA
Axian Technology, Phoenix, AZ
Axis Mfg. Inc., Tempe, AZ
Ay-Mac Precision, Inc., Yorba Linda, CA
Ay Machine Company, Ephrata, PA
b & b Tool Company, Inc., Rockford, IL
B & A Design Inc., Vernon, CT
B & B Machine & Grinding Service, Denver, CO
B & B Manufacturing Company, Largo, FL
B & B Precision Mfg., Inc., Avon, NY
B & E Tool Company, Inc., Southwick, MA
B & G Quality Machine & Tool,Company, Inc., Baltimore, MD
B & H Fabricators, Inc., Wilmington, CA
B & H Tool Co. Inc., San Marcos, CA
B & H Tool Works, Inc., of Rockcastle Co., Richmond, KY
B & K Engineering, Inc., Mountain View, CA
B & L Tool and Machine Company, Plainville, CT
B & M Machine Corporation of Racine, Racine, WI
B C D Metal Products Inc., Malden, MA
B J Williams Machining Co., Edinboro, PA
B-W Grinding Service, Inc., Houston, TX
B. Radtke & Sons, Inc., Round Lake Park, IL
Bachman Machine Company, Inc., St. Louis, MO

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Bachmann Precision Machine, Products Corp., South El Monte, CA
Badge Machine Products, Inc., Canandaigua, NY
Bahrs Die & Stamping Company,Inc., Cincinnati, OH
Baker Hill Industries, Inc., Coral Springs, FL
Banner Machine Inc., Phoenix, AZ
Barberie Mold, Gardena, CA
Bardons & Oliver, Inc., Solon, OH
Barile Precision Grinding Inc., Cleveland, OH
Barnes Aerospace-Apex Mfg., Phoenix, AZ
Basic VI, San Jose, CA
Bass Machining Inc., Baltimore, MD
Bateman Manufacturing Co., Inc., Hayward, CA
Baumann Engineering, Claremont, CA
Bawden Industries, Inc., Romulus, MI
Baxter Machine Products, Inc., Huntingdon, PA
Bayport Machine, Inc., La Porte, TX
Beach Mold & Tool, Inc., New Albany, IN
Beacon Tool Company, Inc., Whittier, CA
Beaver Tool & Machine Company, Inc., Feasterville, PA
Bechler Cams, Inc., Anaheim, CA
Becker, Inc., Kenosha, WI
Beckett Gas, Inc., North Ridgeville, OH
Becksted Machine, Inc., Tucson, AZ
Bedard Machine, Inc., Brea, CA
Bel-Kur, Inc., Temperance, MI
Belco Tool & Mfg. Inc., Meadville, PA
Belgian Screw Machine Products, Inc., Concord, MI
Bell Engineering, Inc., Saginaw, MI
Bellco Precision Manufacturing, Inc., Melissa, TX
Beloit Precision Die Co. Inc., Beloit, WI
Benchmark Engineering, Inc., Chandler, AZ
Benda Tool & Model Works, Hercules, CA
Bendon Gear Machine, Rockland, MA
Bennett Tool & Die Company, Nashville, TN
Bennett Tool & Machine, Fremont, CA
Benning Inc., Blaine, MN
Bent River Machine Inc., Clarkdale, AZ
Berman Tool & Die, Waldorf, MD
Bermar Associates, Inc., Troy, MI
Bertram Tool & Machine Co., Inc., Farrell, PA
Bertrand Products, Inc., South Bend, IN
Best Tool & Manufacturing Co., Inc., Kansas City, MO
Best Way Stamping Inc., La Mirada, CA
Bestway Industries, Inc., Cleveland, OH
Beta Machine Co. Inc., Cleveland, OH
Beta Tool & Mold/Dyna-Tech, Wadsworth, OH
Bilar Tool & Die Corporation, Warren, MI
Billet Industries, Inc., York, PA
Bishop Steering Technology, Inc., Indianapolis, IN
Black Creek, Inc., Gadsden, AL
Blackburn Melton Mfg. Company, Houston, TX
Blackwood Grinding Inc., Hurst, TX
Blandford Machine & Tool Co., Inc., Louisville, KY
Blue Chip Mold, Inc., Rochester, NY
Blue Chip Tool Company, Inc., New Castle, PA
Bluegrass Forging, Tool & Die, Shelbyville, KY
bmc Industries, Bakersfield, CA
BMCO Industries Inc., Cranston, RI
Bob's Tool & Cutter Grinding, Inc., Indianapolis, IN
Boice Industrial Corporation, Ruffsdale, PA
Bolt Industries, LLC., Phoenix, AZ
Boring, Inc., Rockford, IL
Bosma Machine & Tool, Corporation,Tipp City, OH
Boss Tool and Manufacturing, Inc., Fremont, CA
Boston Centerless Inc., Woburn, MA
Bourdelais Grinding Co., Inc., Chatsworth, CA
Bowden Manufacturing Corp., Willoughby, OH
Boyce Machine, Inc., Cuyahoga Falls, OH
Boyle, Inc., Freeport, PA
BPS Industries Inc., Baltimore, MD
Bra-Vor Tool & Die Company, Inc., Meadville, PA
Bradford Machine Company Inc., Brattleboro, VT
Bradhart Products, Inc., Brighton, MI
Bramko Tool & Engineering, Inc., O'Fallon, MO
Bratt Machine Company Inc., No. Andover, MA
Brij Systems, Wichita, KS
Brimar Products Inc., Fontana, CA
Brinkman Tool & Die, Inc., Dayton, OH
Britt Tool Inc., Brazil, IN
Brittain Machine, Inc., Wichita, KS
Broadway Companies, Inc., Englewood, OH
Brogdon Tool & Die, Inc., Blue Springs, MO
Brookfield Machine, Inc., West Brookfield, MA
Brooklyn Scraping & Re-Machining, Inc., W. Lafayette, IN
Brooklyn Machine & Mfg. Co. Inc., Cuyahoga Heights, OH
Brown-Covey, Inc., Kansas City, MO
Brownes' Machining, LLC., Sharon, TN
Brownstown Quality Tool & Design, Brownstown, IN
BSB Products Corporation, Buffalo, NY
BT Laser, Inc., Santa Clara, CA
Budney Overhaul & Repair, LTD., Berlin, CT
Buerk Tool & Machine Corporation, Buffalo, NY
Buiter Tool & Die, Inc., Grand Rapids, MI
Bundy Manufacturing Inc., El Segundo, CA
Burckhardt America, Inc., Greensboro, NC
Burco Precision Products, Inc., Denton, TX
Burger Engineering, Inc., Olathe, KS
Burgess Brothers, Inc., Canton, MA
Burton Industries Inc., Mentor, OH
C & C Machine Company, Akron, OH
C & C Manufacturing Corporation, Englewood, CO
C & G Machine & Tool Co., Inc., Granby, MA
C & J Industries Inc., Meadville, PA
C & M Machine Products, Inc., Willoughby, OH
C & R Manufacturing, Inc., Shawnee, KS
C & S Machine & Manufacturing, Corporation, Louisville, KY
C A R Engineering & Mfg., Victor, NY
C B Enterprises, Division of Whiteledge, Inc., Manchester, CT
C B Kaupp & Sons, Inc., Maplewood, NJ
C B S Manufacturing Company, Inc., Windsor, CT
C D M Tool & Mfg. Co., Inc., Hartford, WI
C F A Company, Inc., Milford, CT
C J Winter Machine Technologies, Inc., Rochester, NY
C K Tool, Harborcreek, PA
C M Gordon Industries Inc., Santa Fe Springs, CA
C M Industries, Inc., d/b/a Custom Marine, Inc., Old Saybrook, CT
C N C Machine & Engineering, Corporation, Colorado Springs, CO
C N C Precision Machining, Inc., Comstock Park, MI
C T D Machines, Inc., Los Angeles, CA
C V Tool Company, Inc., Southington, CT
C–P Mfg. Corp., Van Nuys, CA
C & C Precision Machining Inc., Mesa, AZ
C–Axis Inc., Hamel, MN
C. G. Tech, Inc., Phoenix, AZ
C.N.C. Tool & Mold, Naples, FL
Caco Pacific Corporation, Covina, CA
Cadco Program & Machine, St. Charles, MO
Cal-Weld, Fremont, CA
Calder Machine Co. (C M C), Florence, SC
California Mold, Fullerton, CA
California Machine Specialties, Chino, CA
Calmax Technology, Inc., Santa Clara, CA
Cambridge Specialty Company, Inc., Kensington, CT
Cambridge Tool & Die Corp., Cambridge, OH
Cameron Machine Shop, Inc., Richardson, TX
Campbell Grinding & Machine, Inc., Lewisville, TX
Campro Manufacturing, Inc., Phoenix, AZ
CamTech Systems Inc., Alhambra, CA

Canto Tool Corporation, Meadville, PA
Capitol Technologies, Inc., South Bend, IN
Capitol Tool & Die, L. P., Madison, TN
Carbi-Tech, Inc., Vandergrift, PA
Carbide Probes, Inc., Dayton, OH
Carboloy Inc., Warren, MI
Cardinal Machine Company, Inc., Strongsville, OH
Carius Tool Co., Inc., Cleveland, OH
Carlin Machine Company, Inc., Southborough, MA
Carlson Capital Manufacturing Co., Rockford, IL
Carlson Tool & Manufacturing, Corp., Cedarburg, WI
Casale Engineering, Santa Fe Springs, CA
Cascade Mold & Die, Inc., Portland, OR
Cass Screw Machine Products, Company, Brooklyn Center, MN
Catalina Tool & Mold, Inc., Tucson, AZ
Cates Machine Shop, Inc., Tyler, TX
Cavalry Precision Machine Inc., Largo, FL
CB Quality Machining & Engineering Inc., Buffalo, MN
CDL Manufacturing, Inc., Rochester, NY
Cee-San Machine & Fabrication, Co., Inc., Houston, TX
Centaur Tool & Die, Inc., Bowling Green, OH
Centennial Technologies, Inc., Saginaw, MI
Center Line Industries, Inc., West Springfield, MA
Center Line Machine Company, Lafayette, CO
Center Line Tool, Freeport, PA
Central Mass. Machine, Inc., Holyoke, MA
Central States Machine Service, Elkhart, IN
Central Tool & Machine Co., Inc., Bridgeport, CT
Central Tools, Inc., Cranston, RI
Century Die Company, Fremont, OH
Century Mold Company, Inc., Rochester, NY
Century Tool & Engr., Inc., Indianapolis, IN
Certified Grinding & Machine, Inc., Rochester, NY
Certified Industries, II, LLC, Phoenix, AZ
CG Manufacturing Company,Willoughby, OH
Chadakoin Interactive, Rochester, NY
Challenger Worldwide, Inc., Phoenix, AZ
Chalmers & Kubeck, Inc., Aston, PA
Chamtek Mfg., Inc., Rochester, NY
Chance Tool & Die Co., Inc., Cincinnati, OH
Chandler Tool & Design Inc., Rockford, IL
Chapman Engineering, Inc., Santa Ana, CA
Charmilles Technologies, Corporation, Lincolnshire, IL
Chase Machine & Mfg. Co., Rochester, NY
Chelar Tool & Die, Inc., Belleville, IL
Cherokee Industries, Hampshire, IL
Cherry Valley Tool & Machine Inc., Belvidere, IL
Chicago Mold Engineering Co., Inc., St. Charles, IL
Chicago Grinding & Machine Co., Melrose Park, IL
Chickasha Manufacturing Company, Inc., Chickasha, OK
Chippewa Tool & Manufacturing Co., Woodville, OH
CHIPSCO, Inc., Meadville, PA
Chopper Guys Biker Products, Inc.,Vallejo, CA
Christie Manufacturing, Inc., Gainesville, TX
Christopher Tool & Manufacturing, Solon, OH
Cindex Industries Inc., Ludlow, MA
Circle-K-Industries, K-Form Inc., Sterling, VA
CitiCapital Dealer Finance, Kennesaw, GA
Clarion Tech. Caledonia Tool, Caledonia, MI
Clark-Reliance Corporation, Strongsville, OH
Clark Automation Manufacturing, Company, Inc., Pleasanton, CA
Clarke Engineering, Inc., Clarke Gear Co., North Hollywood, CA
Class Machine & Welding, Inc., Akron, OH
Classic Tool, Inc., Macedonia, OH
Classic Tool, Inc., Saegertown, PA
Clay & Bailey Mfg. Co., Kansas City, MO
Cleveland Electric Laboratories, Company, Inc., Twinsburg, OH
Clifton Automatic Screw, Machine Products, Inc., Lake City, PA
Cloud Company, San Luis Obispo, CA
CNC Precision Manufacturing, Inc., Farmers Branch, TX
Coast Cutters Company, Inc., South El Monte, CA
Coastal Machine Company, Branford, CT
Cobak Tool & Manufacturing Co., St. Louis, MO
Coffey Associates, Washington, DC
Coil Pro Machinery, Southington, CT
Colbrit Manufacturing Co., Inc., Chatsworth, CA
Collins Machine Works, Inc., Wellford, SC
Collins Machine & Tool Co., Inc., Madison, TN
Collins Instrument Company, Angleton, TX
Colonial Machine Company, Kent, OH
Colonial Machine & Tool Co., Inc., Coventry, RI
Colorado Surface Grinding, Inc., Denver, CO
Colorado Laser Marking, Inc., Colorado Springs, CO
Columbia Products, Inc., Dallastown, PA
Columbia Machine Works, Inc., Columbia, TN
Comac Manufacturing Corporation, Oroville, CA
Comet Tool, Inc., Hopkins, MN
Comfab, Inc., Spartanburg, SC
Command Tooling Systems, Ramsey, MN
Commerce Grinding, Inc., Dallas, TX
Commercial Grinding Services, Inc., Cleveland, OH
Commonwealth Machine Co., Inc., Danville, VA
Competition Tooling, Inc., High Point, NC
Competitive Engineering Inc., Tucson, AZ
Complete Tool & Die, Inc., St. James, MO
Complete Metal Fabrication, Jeffersonville, IN
Composidie, Inc., Apollo, PA
Compu Die, Inc., Wyoming, MI
Compumachine Incorporated, Wilmington, MA
Computech Manufacturing Co., Inc., North Kansas City, MO
Computerized Machining Service, Inc., Englewood, CO
Concept Tool & Die Company, Euclid, OH
Conco Systems, Inc., Verona, PA
Condor Engineering, Inc., Colorado Springs, CO
Connecticut Jig Grinding, Inc., New Britain, CT
Connelly Machine Works, Santa Ana, CA
Connolly Tool & Machine Co., Dallas, TX
Conroy & Knowlton, Inc., Los Angeles, CA
Consolidated Mold & Mfg. Inc., Kent, OH
Conti Tool & Die Company, Akron, OH
Conti Machine Tool Company, Inc., Haverhill, MA
Continental Tool & Manufacturing, Inc., Lenexa, KS
Continental Tool & Machine, Strongsville, OH
Continental Precision, Inc., Phoenix, AZ
Converse Industries Inc., Kenosha, WI
Cook Technologies, Inc., Green Lane, PA
Cook Machine and Engineering, Corporation, Gardena, CA
Coorstek, Livermore, CA
Coosa Machine Company, LLC, Rainbow City, AL
Corbitt Mfg. Company, St. Charles, MO
Cornerstone Screw Machine, Products, Burbank, CA
Cornerstone Design, Franksville, WI
Corning Gilbert Inc., Glendale, AZ
Corrigan Manufacturing Co., Inc., Rockford, IL

UMI
VOL 66 ISS 246 DE 21 2001
UMI

Corrugated Roller & Machine Inc., Santa Fe Springs, CA
Corry Custom Machine, Corry, PA
Cosar Mold, Inc., Brimfield, OH
Costa Machine, Inc., Akron, OH
Country Machine & Tool, Inc., Tipp City, OH
Covert Manufacturing, Inc., Galion, OH
Cox Tool Company, Inc., Excelsior Spring, MO
Cox Mfg. Co. Inc., San Antonio, TX
CPC Tooling Technologies, Columbus, OH
Craftsman Tool & Mold Company, Aurora, IL
Craig Machinery & Design, Inc., Louisville, KY
Creative Precision, West,Phoenix, AZ
Creative Machining & Mfg., Inc., St. Petersburg, FL
Creb Engineering, Inc., Pascoag, RI
Crenshaw Die & Manufacturing, Corp., Irvine, CA
Crest Manufacturing Company, Lincoln, RI
Criterion Tool & Die, Inc., Brook Park, OH
Critical Operations, Inc., Santa Ana, CA
Crosrol, Inc., Greenville, SC
Cross Tool & Manufacturing, Inc., Flagstaff, AZ
Crossland Machinery, Kansas City, MO
CrossRidge Precision, Oak Ridge, TN
Crown Mold & Machine, Streetsboro, OH
Crown Machine, Inc., Rockford, IL
Crucible Materials Corporation, Camillus, NY
Crush Master Grinding Corp., Walnut, CA
Custom Mold & Design, Inc., Plymouth, MN
Custom Tool & Design, Inc., Erie, PA
Custom Tool & Grinding Inc., Washington, PA
Custom Tool & Model Corp., Frankfort, NY
Custom Machine, Inc., Cleveland, OH
Custom Machine, Inc., Woburn, MA
Custom Gear & Machine, Inc., Rockford, IL
Custom Engineering, Inc., Evansville, IN
Custom Metal Cutting, Inc., Rockwall, TX
Cut-Right Tools Corporation, Willoughby, OH
Cutting Edge Manufacturing, Scottsdale, AZ
Czech Tool, Saegertown, PA
D & B Industries, Inc., Dayton, OH
D & H Manufacturing Company, Fremont, CA
D & J Precision Machining, Inc., Hayward, CA
D & K Industries, Inc., Chatsworth, CA
D & N Precision, Inc., San Jose, CA
D & R Precision Machining, San Jose, CA
D & S Manufacturing Corporation, Southwick, MA
D M E Company, Madison Heights, MI
D M Machine & Tool, Kennerdell, PA
D M Machine Company, Inc., Willoughby, OH
D P I, Inc., Huntingdon Vly, PA
D P Tool & Machine Inc., Avon, NY
D S A Precision Machining, Inc., Livonia, NY
D S Greene Company, Inc., Wakefield, MA
D–Velco Manufacturing, Phoenix, AZ
D–K Manufacturing Corporation, Fulton, NY
D. F. O'Brien Precision Machining, & Tooling, Santa Fe Springs, CA
Daca Machine & Tool, Inc., Dutzow, MO
DaCo Precision Manufacturers, Sandy, UT
Dadeks Machine Works Corporation, Houston, TX
Daily Industrial Tools, Costa Mesa, CA
Dan McEachern Company, Alameda, CA
Dan's Precision Grinding, and Thread Rolling, Sun Valley, CA
Danco Precision, Inc., Phoenixville, PA
Dane Systems, Inc., Stevensville, MI
Danly IEM, Div. of Connell Ltd. Partnership, Cleveland, OH
Data Mold & Tool, Inc., Walbridge, OH
Data Machine, Inc., Adamsburg, PA
Datum Industries, Kentwood, MI
David Engineering & Mfg., Corona, CA
Davis Machine & Manufacturing, Company, Arlington, TX
Davken Inc., Brea, CA
Dayton Reliable Tool & Mfg. Co., Dayton, OH
Dayton Progress Corporation, West Carrollton, OH
De Long Manufacturing Co., Inc., Santa Clara, CA
De-Lux Mold & Machine, Inc., Brady Lake, OH
Dearborn Precision Tubular, Products, Inc., Fryeburg, ME
Deck Brothers, Inc., Buffalo, NY
Deep Holdings, Inc., dba Deephole Machine, Houston, TX
Defiance Innovations Ltd., Company, Earth City, MO
Dekalb Tool & Die, Inc., Tucker, GA
DeKing Screw Products Inc., Burbank, CA
Delco Machine & Gear, No. Long Beach, CA
Delco Corporation, Akron, OH
Dell Tool, Penfield, NY
Delltronics, Inc., Englewood, CO
Delta Machining, Inc., Niles, MI
Delta Tech, Inc., Mentor, OH
Delta Machine & Tool Company, Cleveland, OH
Deltron Engineering, Burbank, CA
Demaich Industries, Inc., Johnston, RI
Dependable Tool & Manufacturing, Co., Cleveland, OH
Dependable Machine Company, Inc., Indianapolis, IN
Desert Precision Mfg., Inc.,Tucson, AZ
Designs For Tomorrow, Inc., St. Louis, MO
Detroit Tool & Engineering Co., Lebanon, MO
Deutsch ECD, Hemet, CA
Devtek Engineering & Manufacturing, Colorado Springs, CO
Di-Matrix, Phoenix, AZ
Dial Machine Company, Andalusia, PA
Diamond Lake Tool, Inc., Anoka, MN
Diamond Machine Works, Inc., Seattle, WA
Diamond Tool & Die Co., Inc., Euclid, OH
Diamond Tool & Engineering, Inc., Bertha, MN
Die Cast Die and Mold, Inc., Perrysburg, OH
Die Dimensions, Kentwood, MI
Die Products Company, Minneapolis, MN
Die Quip Corp., Bethel Park, PA
Die Tech Industries, Ltd., Providence, RI
Die-Matic Corporation, Brooklyn Heights, OH
Die-Matic Tool and Die, Inc., Grand Rapids, MI
Die-Mension Corporation, Brunswick, OH
Die-Namic Inc., Taylor, MI
Die Solutions, Inc., Washington, MO
Die-Namic Tool & Mfg., Inc., Rockford, IL
Diemaster Tool & Mold, Inc., Macedonia, OH
Dietooling, Div. of Diemolding, Wampsville, NY
Digital Tool & Die, Inc., Grandville, MI
Dimac Manufacturing Co., Inc., Alexander, AR
Distefano Tool & Mfg. Company, Omaha, NE
Distinctive Machine Corporation, Grand Rapids, MI
Diversified Engraving Stamp, & Machine Company, Akron, OH
Diversified Manufacturing, Incorporated, Lockport, NY
Diversified Tool & Die,Vista, CA
Diversified Tool, Inc., Mukwonago, WI
Diversified Tooling Innovations, Inc., Racine, WI
Diversified Machine Products, LLC., Roebuck, SC
Dixie Tool & Die Co., Inc., Gadsden, AL
Dixon Automatic Tool, Inc., Rockford, IL
DJM Mfg., Sunnyvale, CA
Double D Machine & Tool Company, Fremont, OH
Douglas Machine & Engineering Co., Davenport, IA
Doyle Manufacturing, Inc., Holland, OH
Drabik Tool and Die Inc., Brook Park, OH
Drewco Corporation, Franksville, WI
Drill Masters Inc., Hamden, CT
DT Scheu & Kniss, Louisville, KY
Du-Well Grinding Company, Inc., Milwaukee, WI

Dugan Tool & Die, Inc., Cottage Hills, IL
Dugan Tool & Die Company, Toledo, OH
Dukowitz Machine Inc., Nikiski, AK
Dun-Rite Industries, Inc., Monroe, MI
Dunn & Bybee Tool Company, Inc., Sparta, TN
Duplicate Parts Company, Inc., San Marcos, CA
Dura-Metal Products Corporation, Irwin, PA
Durivage Pattern & Mfg. Co. Inc., Williston, OH
DuWest Tool & Die, Inc., Cleveland, OH
Dwyer Instruments Inc., W E Anderson Division, Grandview, MO
DynaGrind Precision, Inc., New Kensington, PA
Dynamic Tool & Design, Inc., Menomonee Falls, WI
Dynamic Machine & Fabricating, Phoenix, AZ
Dynamic Fabrication, Inc., Santa Ana, CA
Dynamic Engineering, Inc., Minneapolis, MN
Dysinger Incorporated, Dayton, OH
Dytran Instruments, Inc., Chatsworth, CA
E & S Precision Machine, LLC, Modesto, CA
E B & Sons Machine Inc., Aliquippa, PA
E C M Of Florida, Jupiter, FL
E J Codd Co. of Baltimore City & Codd Fabricators & Boiler Co., Inc., Baltimore, MD
E K L Machine Company, Inc., Andalusia, PA
E R C Concepts Company, Inc., Sunnyvale, CA
E W Johnson Company, Inc., Lewisville, TX
E-M-Solutions, Inc., Fremont, CA
E-Fab, Inc., Santa Clara, CA
E. D. M. Exotics, Inc., Hayward, CA
E. T. Precision Optics Inc., Rochester, NY
Eagle Mold Company, Inc., Carlisle, OH
Eagle Technologies Group, St. Joseph, MI
Eagle Tool & Machine Company, Inc., Springfield, OH
Eagle Precision Tooling Inc., Erie, PA
Eason & Waller, Manufacturing & Grinding, Phoenix, AZ
East Coast Tool & Mfg., Inc., Orchard Park, NY
East Side Machine, Inc., Webster, NY
East Texas Machine Works, Inc., Longview, TX
Eaton Manufacturing, Inc., Fremont, CA
Ebway Corporation, Fort Lauderdale, FL
Eckert Enterprises Ltd., Tempe, AZ
Eckert Machining, Inc., San Jose, CA
Eclipse Mold, Inc., Clinton Township, MI
Eclipse Tool & Die, Inc., Wayland, MI
Edco, Inc., Toledo, OH
Edge-Tech, Inc., Redmond, WA
EDM Supplies, Inc., Downey, CA
Edwardsville Machine & Welding, Company, Inc., Edwardsville, IL
Efficient Die & Mold Inc., Cleveland, OH
Egli Machine Company, Inc., Sidney, NY
Ehlert Tool Co., Inc., New Berlin, WI
Ehrhardt Tool & Machine Company, Granite City, IL
Eicom Corporation, Moraine, OH
EISC/CME, Toledo, OH
Ejay's Machine Co., Inc., Fullerton, CA
Elcam Tool & Die, Inc., Wilcox, PA
Electra Form Industries Inc., Vandalia, OH
Electric Enterprise Inc., Stratford, CT
Electro-Mechanical Products, Inc., Denver, CO
Electro-Tech Machining, Long Beach, CA
Electro-Freeto Manufacturing Co., Inc., Wayland, MA
Electro Form Corporation, Binghamton, NY
Electroform Co. Inc., Machesney Park, IL
Elite Tool & Machinery Systems, Inc., O'Fallon, MO
Elizabeth Carbide Die Co., Inc., McKeesport, PA
Elizabeth Carbide of North, Carolina, Inc., Lexington, NC
Elkhart Machine Group, Elkhart, IN
Elliot Tool & Manufacturing Co., St. Louis, MO
Elliott's Precision, Inc., Peoria, AZ
Ellis Tool & Machine, Inc., Tom Bean, TX
Ellis Machine and Fabrication Inc., Buffalo, NY
Ellison Machine Company, Laurens, SC
Elrae Industries, Alden, NY
Emig Machine and Tool, Warwick, PA
Emmert Welding & Manufacturing, Inc., Independence, MO
Empire Manufacturing Corporation, Bridgeport, CT
Empire Die Casting Co., Inc., Macedonia, OH
Engineered Pump Services, Inc., Pasadena, TX
Engineered Machine Tool, Inc., Wichita, KS
Entek Corporation, Norman, OK
Entela, Inc., Grand Rapids, MI
Enterprise Tool & Die, Brooklyn Heights, OH
Ephrata Precision Parts, Inc., Denver, PA
Epicor Software Corporation, Minneapolis, MN
Erca Tool Die & Stamping Company, Richmond Hill, NY
Erickson Tool & Machine Company, Rockford, IL
Erie Specialty Products, Inc., Erie, PA
Erie Shore Machine Co., Inc., Cleveland, OH
Ermco, Inc., Cleveland, OH
EROWA Technology Inc., Arlington Hts., IL
Estee Mold & Die, Inc., Dayton, OH
Esterle Mold & Machine Co., Stow, OH
Estul Tool & Manufacturing Co., Inc., Matthews, NC
Evans Tool & Die, Inc., Conyers, GA
Ever-Ready Tool, Inc., Largo, FL
Ever Fab, Inc., East Aurora, NY
Everett Pattern and Mfg., Inc., Middleton, MA
Ewart-Ohlson Machine Company, Cuyahoga Falls, OH
EWT, Inc., Rockford, IL
Ex-Cel Machine & Tool, Inc., Louisville, KY
Exact Tool & Die, Inc., Brook Park, OH
Exact Cutting Service, Inc., Brecksville, OH
Exacta Tech Inc., Livermore, CA
Exacta Machine, Inc., Wichita, KS
Exacto, Inc. of South Bend, South Bend, IN
Excaliber Precision Machining, Peoria, AZ
Excalibur Precision Machine Co., Inc., Hampstead, NH
Excel Stamping & Manufacturing, Inc., Houston, TX
Excel Manufacturing, Inc., Valencia, CA
Excel Manufacturing Inc., Seymour, IN
Excel Machine Company, Philadelphia, PA
Excel Precision, Inc., Tempe, AZ
Executive Mold Corporation, Huber Heights, OH
Extreme Machine LLC, Phoenix, AZ
Ezell Precision Tool Company, Clearwater, FL
F & F Machine Specialties, Mishawaka, IN
F & G Tool & Die Company, Dayton, OH
F & L Tools Corporation, Corona, CA
F & S Tool, Inc., Erie, PA
F C Machine Tool & Design, Inc., Cuyahoga Falls, OH
F D T Precision Machine Co., Inc., Taunton, MA
F G A Inc., Baton Rouge, LA
F H Peterson Machine Corporation, Stoughton, MA
F K Instrument Co., Inc., Clearwater, FL
F M Machine Company, Akron, OH
F N Smith Corporation, Oregon, IL
F P Pla Tool & Manufacturing Co., Buffalo, NY
F S G Inc, Mishawaka, IN
F T T Manufacturing Inc., Geneseo, NY
F Tinker & Sons Company, Pittsburgh, PA
F W Gartner Thermal Spraying Co., Houston, TX
F-Squared, Inc., Tarentum, PA
F. S. Machining, Inc., Englewood, CO
Fab Lab, Inc., Maryland Heights, MO
Fabricast, Inc., So. El Monte, CA
Fairbanks Machine & Tool, Raytown, MO
Fairview Machine Company, Inc., Topsfield, MA
Fairway Molds, Inc., Walnut, CA

UMI
VOL 66 ISS 246 DE 21 2001
UMI

Faith Tool & Manufacturing, Inc., Willoughby, OH
Falcon Precision Machining Co., Inc., West Springfield, MA
Falls City Machine Technology, Louisville, KY
Falls Mold & Die, Inc., Stow, OH
Fame Tool & Manufacturing Co., Cincinnati, OH
FamPEC Technology LLC, Murfreesboro, TN
Fargo Machine Company, Inc., Ashtabula, OH
Farrar Corporation, Norwich, KS
Farzati Manufacturing Corp., Greensburg, PA
Fast Physics Inc., Phoenix, AZ
Faustson Tool Corp., Arvada, CO
Fay & Quartermaine Machining, Corp., El Monte, CA
Fay Tool & Die, Inc., Orlando, FL
FCMP, Inc., Buffalo, NY
Feedall, Inc., Willoughby, OH
Feilhauer's Machine Shop Inc., Cincinnati, OH
Feller Tool Co., Inc., Elyria, OH
Fenton Manufacturing, Inc., Ashtabula, OH
Fenwick Machine & Tool, Piedmont, SC
Feral Productions LLC., Newark, CA
Ferriot Inc., Akron, OH
First International Bank, Hartford, CT
Fischer Precision Spindles, Inc., Berlin, CT
Fischer Tool & Die Corporation, Temperance, MI
Fitzwater Engineering Corp., Scituate, RI
Five Star Tool Company, Inc., Rochester, NY
Fleck Machine Company, Inc., Hanover, MD
Foresight Technologies, Tempe, AZ
Forster Tool & Mfg. Inc., Bensenville, IL
Fortner & Gifford, Inc., Prescott, AZ
Fostermation Inc., Meadville, PA
Four Pro Machine, Wichita, KS
Fox Valley Tool & Die, Inc., Kaukauna, WI
Franchino Mold & Engineering, Lansing, MI
Frasal Tool Co., Inc., Newington, CT
Frazier Aviation, Inc., San Fernando, CA
FRB Machine Inc., Emlenton, PA
Fre-Mar Industries, Inc., Brunswick, OH
Fredon Corporation, Mentor, OH
Free-MaDie Company, Kittanning, PA
Freeport Welding & Fabricating, Inc., Freeport, TX
Fries Machine & Tool, Inc., Dayton, OH
Frost & Company, Charlestown, RI
Fulton Industries, Inc., Rochester, IN
Furno Co. Inc., Pomona, CA
Future Tool & Die Company, Inc., Cleveland, OH
Future Tool & Die, Inc., Grandville, MI
Future Fabricators, Phoenix, AZ
Fyco Tool & Die, Inc., Houston, TX
G & G Tool Company, Inc., Sidney, OH
G & K Machine Company, Denver, CO
G & L Tool Corp., Agawam, MA
G B F Enterprises, Inc., Santa Ana, CA
G B Tool Company, Warwick, RI
G H Tool & Mold, Inc., Washington, MO
G M T Corporation, Waverly, IA
G R McCormick, Inc., Burbank, CA
G S G Tool and Manufacturing, Meadville, PA
G S Precision, Inc., Brattleboro, VT
Gadsden Tool, Inc., Gadsden, AL
Gainesville Machine Tools, Inc., Gainesville, TX
Galaxy Industries, Canton, MI
Gales Manufacturing Corporation, Racine, WI
Gambar Products Company, Inc., Warwick, RI
Garcia Associates, Arlington, VA
Gasaway Manufacturing LLC, Beasley, TX
Gatco, Inc., Plymouth, MI
Gauer Mold & Machine Company, Tallmadge, OH
Gaum, Inc., Robbinsville, NJ
Gear Manufacturing, Inc., Anaheim, CA
Gebhardt Machine Works, Inc., Portland, OR
Geiger Manufacturing, Inc., Stockton, CA
Gem City Engineering Company, Dayton, OH
Gene's Gundrilling Inc., Alahambra, CA
General Aluminium Forgings, Colorado Springs, CO
General Die Engraving, Inc., Twinsburg, OH
General Engineering Company, Toledo, OH
General Grinding, Inc., Oakland, CA
General Machine Shop, Inc., Cheverly, MD
General Machine-Diecron, Inc., Griffin, GA
General Tool & Die Company, Inc., Racine, WI
Genesee Manufacturing Company, Inc., Rochester, NY
Genesee Metal Stampings, Inc., West Henrietta, NY
Genesis Plastics & Engineering, LLC, Scottsburg, IN
Genesis Manufacturing, Glendale, AZ
Gentec Manufacturing Inc., San Jose, CA
Geometric Tool & Machine Co., Inc., Piedmont, SC
George Welsch & Son Company, Cleveland, OH
German Machine, Inc., Rochester, NY
Germantown Tool & Machine, Works, Inc., Huntingdon Valle, PA
Gibbs Die Casting Corporation, Henderson, KY
Gibbs Machine Company, Inc., Greensboro, NC
Gilbert Machine & Tool Company, Greene, NY
Gill Tool & Die, Inc., Grand Rapids, MI
Gillette Machine & Tool Co Inc., Rochester, NY
Gillilan Machine Co., Inc., Mt. Juliet, TN
Girard Tool & Die/Jackburn Mfg., Inc., Girard, PA
Gischel Machine Company Inc., Baltimore, MD
Givmar Precision Machining, Mountain View, CA
Glaze Tool & Engineering, Inc., New Haven, IN
Glendale Machine Company, Inc., Solon, OH
Glendo Corporation, Emporia, KS
Glidden Machine & Tool, Inc., North Tonawanda, NY
Global Mfg. & Assembly, Inc., Boyer Machine Tech LLC, Phoenix, AZ
Global Precision, Inc., Davie, FL
Global Shop Solutions, The Woodlands, TX
GMB Machining Company, Livermore, CA
Godwin—SBO, L.P., Houston, TX
Golis Machine, Inc., Montrose, PA
Goodwin-Bradley Pattern Co., Inc., Providence, RI
Graham Tech Inc., Cochranton, PA
Granby Mold, Inc., Walled Lake, MI
Grand Valley Manufacturing,Company, Titusville, PA
Graybill's Tool & Die, Inc., Manheim, PA
Great Lakes E.D.M. Inc., Clinton Twp., MI
Great Lakes Metal Treating, Inc., Tonawanda, NY
Great Western Grinding & Eng., Inc., Huntington Beach, CA
Great Lakes Tooling Inc., Cleveland, OH
Grind All Precision Tool Co., Inc., Warren, MI
Grind-All, Inc., Cleveland, OH
GrindC/O Inc., Chelmsford, MA
Grinding Service & Mfg. Co., Bristol, CT
Grindworks Inc., Glendale, AZ
Grosmann Precision,Ballwin, MO
Grover Gundrilling, Inc., Norway, ME
Guill Tool & Engineering Co., Inc., West Warwick, RI
Gulf South Machine/Drilex Corp., Houston, TX
Gurney Precision Machining, Saint Petersburg, FL
Gustav's Tool & Die, Inc., Seguin, TX
H & H Machine Company, Whittier, CA
H & H Machine Shop Of Akron, Inc., Akron, OH
H & H Machined Products, Inc., Erie, PA
H & K Machine Service Co. Inc., O'Fallon, MO
H & M Precision Machining, Santa Clara, CA
H & W Machine Company, Broomfield, CO
H & W Tool Company, Inc., Dover, NJ
H B Machine, Inc., Phoenix, AZ
H Brauning Company, Inc., Manassas, VA

H H Mercer, Inc., Mesquite, TX
H R M Machine, Inc., Costa Mesa, CA
H & L Tool Co., Erie, PA
H & M Machining Inc., Machesney Park, IL
Haberman Machine, Inc., St. Paul, MN
Hackett Precision Company, Nashville, TN
Hager Machine & Tool, Inc., Houston, TX
Haig Precision Mfg. Corp., Campbell, CA
Hal-West Technologies, Inc., Kent, WA
Hamblen Gage Corporation, Indianapolis, IN
Hamill Manufacturing Company, Trafford, PA
Hamilton Mold & Machine, Inc., Cleveland, OH
Hamilton Tool Company, Inc., Meadville, PA
Hamlin Steel Products, Inc., Akron, OH
Hammill Manufacturing Company, Toledo, OH
Hammon Precision Technologies, Hayward, CA
Hanks Pattern Company, Montrose, MN
Hanover Machine Company, Ashland, VA
Hans Rudolph, Inc., Kansas City, MO
Hansen Engineering, Harbor City, CA
Hansford Manufacturing Corp., Rochester, NY
Hanson Mold, St. Joseph, MI
Hardy Machine Inc., Hatfield, PA
Hardy-Reed Tool & Die Co., Manitou Beach, MI
Harley & Son, Inc., Yorba Linda, CA
Harris Machine/Finger Lakes Tool, Grinding LLC, Newark, NY
Harrison Enterprise, Inc., dba Accu-Tech, Phoenix, AZ
Haserodt Machine & Tool, Inc., Cleveland, OH
Haskell Machine & Tool, Inc., Homer, NY
Haumiller Engineering Company, Elgin, IL
Hawkeye Precision, Inc., Gilbert, AZ
Hawkins Machine Company, Inc., Coventry, RI
Hawkinson Mold Engineering Co., Alhambra, CA
Hayden Corporation, West Springfield, MA
Heatherington Machine Corp., Orlando, FL
Heinhold Engineering & Machine,Co., Inc., Salt Lake City, UT
Heitz Machine & Manufacturing,Co., Maryland Heights, MO
Hellebusch Tool & Die, Inc., Washington, MO
Helm Precision, Ltd., Phoenix, AZ
Henman Engineering & Machine, Muncie, IN
Hercules Machine Tool & Die, Warren, MI
Herman Machine, Inc., Tallmadge, OH
Herrick & Cowell Company, Hamden, CT
Hetrick Mfg., Inc., Lower Burrell, PA
Hewitt Machine & Tool, Inc., Hewitt, TX
Heyden Mold & Bench Company, Tallmadge, OH
Hi Tech Manufacturing, LLC, Greensboro, NC
Hi-Tech Machining & Engineering LLC, Tucson, AZ
Hi-Tech Tool Industries, Inc., Troy, MI
Hi-Tech Tool, Inc., Lower Burrell, PA
Hiatt Metal Products Company, Muncie, IN
Hickory Machine Company, Inc., Newark, NY
High Tech Turning Co., Watertown, MA
High-Tech Industries, Holland, MI
Highland Mfg. Inc., Manchester, CT
Hill Engineering, Inc., A Mestek Co., Villa Park, IL
Hillcrest Tool & Die, Inc., Titusville, PA
Hilton Tool & Die Corporation, Rochester, NY
Hittle Machine & Tool Company, Indianapolis, IN
HK Grinding, Phoenix, AZ
Hobson & Motzer, Inc., Durham, CT
Hodon Manufacturing Inc., Willoughby, OH
Hoercher Industries, Inc., East Rochester, NY
Hoffman Custom Tool & Die, Newport Beach, CA
Hoffstetter Tool & Die, Clearwater, FL
Holland Hitch Co., Wylie, TX
Hollis Line Machine Co., Inc., Hollis, NH
Holmes Manufacturing Corporation,Cleveland, OH
Homeyer Tool and Die Co., Marthasville, MO
Hoop's Machine & Welding, Inc., Denton, TX
Hoppe Tool, Inc., Chicopee, MA
Horizon Industries, Columbia, PA
Horizon Tool & Die Corp., Grandville, MI
Houston Cutting Tools, Inc., Houston, TX
Howard Tool Co. Inc., Bangor, ME
Howland Machine Corporation, Colorado Springs, CO
Hubbell Machine Company, Inc., Cleveland, OH
Hulme Products, Ltd., Ashland, OH
Humboldt Instrument Company, San Leandro, CA
Hunt Machine & Manufacturing Co., Tallmadge, OH
Hurricane Machine Company, L.L.C., McKinney, TX
Hyde Special Tools, Saegertown, PA
HydraWedge Corporation, El Segundo, CA
Hydrodyne Division Of FPI, Inc., Burbank, CA
Hydromat, Inc., St. Louis, MO
Hygrade Precision Technologies, Inc., Plainville, CT
Hytron Manufacturing Company,Inc., Huntington Beach, CA
I T M. Inc., Shertz, TX
Ideal Grinding Technologies, Inc, Chatsworth, CA
Ideal Tool Co. Inc., Meadville, PA
ILM Tool, Inc., Hayward, CA
Imperial Machine & Tool Company, Wadsworth, OH
Imperial Machining Co., Denver, CO
Imperial Mfg., Santa Fe Springs, CA
Imperial Newbould, Meadville, PA
Imperial Tool & Manufacturing Co., Inc., Lexington, KY
Imperial Die & Manufacturing Co., Strongsville, OH
IMS, Inc., Decatur, AL
Independent Forge Company, Orange, CA
Indiana Tool & Die Company, Die Sets Inc., Indiana, PA
Industrial Grinding, Inc., Dayton, OH
Industrial Machine & Tool Co., Inc., Nashville, TN
Industrial Machine Company, Oklahoma City, OK
Industrial Machining Corporation, Santa Clara, CA
Industrial Maintenance, & Electrical Corporation, Lavergne, TN
Industrial Mold + Machine, Twinsburg, OH
Industrial Molds, Inc., Rockford, IL
Industrial Precision Products,Inc., Oswego, NY
Industrial Precision, Inc., Westfield, MA
Industrial Tool & Machine Co., Cuyahoga Falls, OH
Industrial Tool, Die &,Engineering, Inc., Tucson, AZ
Industrial Tooling Technologies, Inc., Muskegon, MI
Industrial Custom Automatic, Machine (ICAM), Dayton, OH
Industrial Babbitt Bearing, Services, Inc., Gonzales, LA
Ingersoll Contract Manufacturing, Company, Loves Park, IL
Injection Mold & Machine Company, Akron, OH
Inland Tool & Manufacturing Co., Kansas City, KS
Inline Inc., Phoenix, AZ
Innex Industries, Inc., Rochester, NY
Innovative Systems Machine, & Tool, Inc., Toledo, OH
Insulate Inc., Auburn, WA
Integrated Machine Systems, Bethel, CT
Integrated Fabrication and Machine, Sharpsville, PA
Integrated Aerospace, Santa Ana, CA
Integrity Mfg. L.L.C., Farmington, CT
International Tooling & Stamping, Inc., Mt. Juliet, TN
International Stamping Inc., Warwick, RI
Intrex Corporation, Louisville, CO
ISO Machining, Inc., Pleasanton, CA
ISYS Manufacturing, Inc., Concord, CA

Iverson Industries, Inc., Wyandotte, MI
J & A Tool Company, Inc., Franklin, PA
J & F Machine Inc., Cypress, CA
J & J Tool Co., Inc., Louisville, KY
J & L Development, Inc., Keithville, LA
J & L EDM, Sunnyvale, CA
J & M Machine, Inc., Fairport Harbor, OH
J & M Unlimited, Ashland City, TN
J & W Manufacturing, Phoenix, AZ
J B Tool Die & Engineering, Inc., Fort Wayne, IN
J B Tool, Inc., Placentia, CA
J C B Precision Tool & Mold, Inc., Commerce City, CO
J D Kauffman Machine Shop, Inc., Christiana, PA
J F Fredericks Tool Company, Inc., Farmington, CT
J I Machine Company, Inc., San Diego, CA
J K Tool & Die, Inc., Apollo, PA
J M Fabrication Corporation, Arlington, TX
J M Mold South, Easley, SC
J M Mold, Inc., Piqua, OH
J M P Industries, Inc., Cleveland, OH
J M S Mold & Engineering Co., Inc., South Bend, IN
J R Custom Metal Products, Inc., Wichita, KS
J Ross Miller & Sons, Inc., Kimberton, PA
J S Die & Mold, Inc., Byron Center, MI
J W Harwood Company, Cleveland, OH
J & J Machine and Engineering, Inc., Commerce, CA
J & G Machine & Tool Co., Inc., Walworth, NY
J. C. Milling Co., Inc., Rockford, IL
J.B.A.T. t/a Cherry Hill, Precision, Cherry Hill, NJ
J2 Precision CNC, Inc., Phoenix, AZ
Jackman Machining, Corona, CA
Jackson & Heit Machine Company, Southampton, PA
Jacksonville Machine Inc., Jacksonville, IL
Jaco Tool & Die, Inc., Grand Rapids, MI
Jaco Engineering, Anaheim, CA
Jamison Mfg. Co., North Royalton, OH
Jasco Tools Inc., Cutting Tools Division, Rochester, NY
Jason Tool & Engineering, Inc., Garden Grove, CA
Jatco Machine & Tool Company, Inc., Pittsburgh, PA
JBK Manufacturing & Development,Co., Dayton, OH
Jena Tool Corporation, Dayton, OH
Jenkins Machine, Inc., Bethlehem, PA
Jenn Manufacturing Company, Inc., Warminster, PA
Jennison Corporation, Carnegie, PA
Jergens, Inc., Cleveland, OH
Jergens Tool and Mold, Englewood, OH
Jeryco Industries, Inc., Denton, TX
Jesel, Inc., Lakewood, NJ
Jesse Industries, Inc., Sparks, NV
Jet Products Co., Inc., Phoenix, AZ
Jet Products, Inc., East Bridgewater, MA
Jewett Machine Mfg. Co., Inc., Richmond, VA
Jig Grinding Service Company, Cleveland, OH
Jirgens Modern Tool Corporation, Kalamazoo, MI
JMC Technology Group, Indianapolis, IN
Johnson Tool, Inc., Fairview, PA
Johnson Precision, Inc., Buffalo, NY
Johnson Engineering Company, Indianapolis, IN
Joint Venture Acquisition Co., LLC, Saegertown, PA
Joint Production Technology, Inc., Macomb, MI
Jonco Tool Company, Racine, WI
JRM Machine Company, St. Paul, MN
Juell Machine Company, Inc., Pomona, CA
JWP Manufacturing, Inc., Santa Clara, CA
K & A Tooling, Santa Ana, CA
K & E Mfg. Company, Lee's Summit, MO
K & H Mold & Machine Division, Akron, OH
K & H Precision Products, Inc., Honeoye Falls, NY
K & M Machine-Fabricating, Inc., Cassopolis, MI
K & S Tool & Die, Inc., Meadville, PA
K & S Tool & Mfg. Company, Inc., Jamestown, NC
K L H Industries, Inc., Germantown, WI
K L N Precision Machining & Sheetmetal Corp., Fremont, CA
K M F, Inc., Fairdale, KY
K M S Machine Works, Inc., Taunton, MA
K Mold & Engineering, Inc., Granger, IN
K V, Inc., Huntingdon Valley, PA
K-Form, Inc., Tustin, CA
K. D. K. Inc., Prescott, AZ
K.C.K. Tool & Die Co., Inc., Ferndale, MI
Ka-Wood Gear & Machine Company, Madison Heights, MI
Kahre Brothers, Inc., Evansville, IN
Kalman Machining, Richmond, CA
Kalman Manufacturing, Morgan Hill, CA
Kamashian Engineering Inc., Bellflower, CA
Kanis Machine & Manufacturing, Inc., Tewksbury, MA
Kansas City Screw Products Inc., Kansas City, MO
Karlee, Garland, TX
Karlson Machine Works, Inc., Phoenix, AZ
KARR Unlimited, Inc., Newaygo, MI
Karsten Precision, Phoenix, AZ
Kaskaskia Tool & Machine, Inc., New Athens, IL
Kaufhold Machine Shop, Inc., Lancaster, PA
Kearflex Engineering Company, Warwick, RI
Keck-Schmidt Tool & Die, South El Monte, CA
Kell-Strom Tool Company, Inc., Wethersfield, CT
Kellems & Coe Tool Corporation, Jeffersonville, IN
Keller Technology Corporation, Tonawanda, NY
Kelley Industries, Inc., Eighty Four, PA
Kelltech Precision Machining, Inc., San Jose, CA
Kelly & Thome, Pomona, CA
Kelm Manufacturing Company, Benton Harbor, MI
Kem-Mil-Co, Hayward, CA
Kemco Tool & Machine Company, Fenton, MO
Kenlee Precision Corporation, Baltimore, MD
Kennametal Inc., Latrobe, PA
Kennebec Tool & Die Co., Inc., Augusta, ME
Kennedy & Bowden Machine Company, La Vergne, TN
Kennick Mold & Die, Inc., Cleveland, OH
Kentucky Machine & Tool Company, Louisville, KY
Kern Special Tools Company, Inc., New Britain, CT
Ketcham Diversified Tooling Inc., Cambridge, PA
Kewill ERP, Inc., Edina, MN
Keyes Machine Works, Inc., Gates, NY
Keystone Machine, Inc., Littlestown, PA
Kimberly Gear & Spline, Inc., Phoenix, AZ
King Machine & Engineering Co., Inc., Indianapolis, IN
King-Tek EDM & Precion Machining, Inc., Fullerton, CA
Kipp Group, Ontario, CA
Kirca Precision, Rochester, NY
Klein Steel Service, Inc., Rochester, NY
Klix Tool Corporation, Syracuse, NY
Knight Industries Precision Machining, Inc., Corona, CA
Knowlton Manufacturing Company, Norwood, OH
Knust—S B O, Houston, TX
Kolar Inc., Ithaca, NY
Kordenbrock Tool & Die Company, Cincinnati, OH
Kovacs Machine & Tool Company, Inc., Wallingford, CT
Krause Tool, Inc., A–Z Corp. Div. of Krause Tool, Golden, CO
Kuester Tool & Die Co., Inc., Quincy, IL
Kuhn Tool & Die Co., Meadville, PA
Kurt J. Lesker Company, Clairton, PA
Kurt Manufacturing Company, Minneapolis, MN
L & L Machine, Inc., Ludlow, MA
L & L Tool & Die, Gardena, CA
L & P Machine, Inc., Santa Clara, CA
L A I Southwest, Inc., Phoenix, AZ
L H Carbide Corporation, Fort Wayne, IN
L P I Corporation, Hollywood, FL

L R G Corporation, Jeannette, PA
L R W Cutting Tools, Inc., Phoenix, AZ
L T L Company, Inc., Rockford, IL
L. P. Engineering Co., Carson, CA
Lake Manufacturing Co., Inc., Newburyport, MA
Lakeside Manufacturing Company, Stevensville, MI
Lamb Machine & Tool Company, Indianapolis, IN
Lamina, Inc., Farmington Hills, MI
Lampin Corporation, Uxbridge, MA
Lancaster Machine Shop, Lancaster, TX
Lancaster Metal Products Company, Lancaster, OH
Lancaster Mold, Inc., Lancaster, PA
Land Specialties Manufacturing, Co., Inc., Raytown, MO
Lane Enterprise, Rochester, NY
Lane Punch Corporation, Salisbury, NC
Laneko Engineering Company, Ft. Washington, PA
Laneko Roll Form, Inc., Hatfield, PA
Lange Precision, Inc., Fullerton, CA
Langenau Manufacturing Company, Cleveland, OH
Lansing Tool & Engineering Inc., Lansing, MI
Laron Incorporated, Kingman, AZ
Las Cruces Machine, Manufacturing & Engineering, Las Cruces, NM
Laser Automation, Inc., Chagrin Falls, OH
Laser Beam Technology, Hayward, CA
Laser Fabrication & Machine Co., Inc., Alexandria, AL
Laser Fare, Inc., Smithfield, RI
Laser Tool, Inc., Saegertown, PA
Lathrop Machine, Fremont, CA
Latva Machine, Inc., Newport, NH
Lavelle Machine, Westford, MA
Lavigne Manufacturing, Inc., Cranston, RI
Layke Incorporated, Phoenix, AZ
Layke Tool & Manufacturing, Inc., Meadville, PA
Lead/M, L.L.C., Tempe, AZ
Ledford Engineering Company, Inc., Cedar Rapids, IA
Lee's Grinding, Inc., Cleveland, OH
Leech Industries, Inc., Meadville, PA
Lees Enterprise, Chatsworth, CA
Leese & Co., Inc., Greensburg, PA
Leggett & Platt, Inc., Whittier, CA
Leicester Die & Tool, Inc., Leicester, MA
Lemco-Miller Corporation, Danvers, MA
Lenape Forge, Inc., West Chester, PA
Lenz Technology Inc., Mountain View, CA
Leonardi Manufacturing Co., Inc., Weedsport, NY
Lewis Aviation, Phoenix, AZ
Lewis Machine & Tool Co. Inc., Cuba, MO
Lewis Machine and Tool Company, Milan, IL
Liberty Precision Industries, Ltd., Rochester, NY
Libra Precision Machining, Tecumseh, MI
Light & Medium Fabricating, Inc., Willoughby, OH
Light Machines, Manchester, NH
Ligi Tool & Engineering, Inc., Pompano Beach, FL
Lilly Software Associates, Inc., Hampton, NH
Limmco, Inc., New Albany, IN
Lindberg Heat Treating, Paramount, CA
Linmark Machine Products, Inc., Union, MO
Little Rhody Machine Repair, Inc., Coventry, RI
Littlecrest Machine Shop, Inc., Houston, TX
Lloyd Company, Houston, TX
Lobart Company, Pacoima, CA
Loecy Precision Mfg., Mentor, OH
LOMA Automation Technologies, Inc., Louisville, KY
Lordon Engineering, Gardena, CA
Loud Engineering and Manufacturing, Inc., Ontario, CA
Louis C. Morin Co. Inc., N. Billerica, MA
Loyal Machine Company, Inc., Chelsea, MA
Luick Quality Gage & Tool, Inc., Muncie, IN
Lunar Tool & Mold, Inc., North Royalton, OH
Lunar Tool & Machinery Company, St. Louis, MO
Lunquist Manufacturing Corp., Rockford, IL
Lux Manufacturing, Inc., Sunnyvale, CA
Lynn Welding Co. Inc., Newington, CT
Lyons Tool & Die Company, Meriden, CT
M & D Loe Manufacturing, Inc., Benicia, CA
M & H Engineering Company, Inc., Danvers, MA
M & H Tool & Die, Inc., Gadsden, AL
M & J Grinding & Tool Co., Holland, OH
M & J Valve Services, Inc., Lafayette, LA
M C I Tool & Die, Inc., Saginaw, MI
M C Mold & Machine, Inc., Tallmadge, OH
M D F Tool Corporation, North Royalton, OH
M F Engineering Co. Inc., Bristol, RI
M J K Precision, Woodland Park, CO
M P E Machine Tool Inc., Corry, PA
M P Technologies, Inc., Brecksville, OH
M S Willett, Inc., Cockeysville, MD
M-Tron Manufacturing Company, Inc., San Fernando, CA
M-Ron Corporation, Glendale, AZ
M–C Fabrication, Inc., Olathe, KS
M H S Automation, Round Lake Beach, IL
M. R. Mold & Engineering Corp., Brea, CA
M. J. Machining, Inc., Morgan Hill, CA
Mac Machine and Metal Works, Inc., Connersville, IN
Mac-Mold Base, Inc., Romeo, MI
Machine Incorporated, Stoughton, MA
Machine Specialties, Inc., Greensboro, NC
Machine Tooling, Inc., Cleveland, OH
Machine Works, Inc., Phoenix, AZ
Machinist Cooperative, Gilroy, CA
MacKay Manufacturing, Spokane, WA
Madden Machine Works, Torrance, CA
Maddox Metal Works, Inc., Dallas, TX
Madgett Enterprises Inc., Atascadero, CA
Magdic Precision Tooling, Inc., East McKeesport, PA
Maghielse Tool Corporation, Grand Rapids, MI
Magna Machine & Tool Company, New Castle, IN
Magnum Manufacturing Center, Inc., Colorado Springs, CO
Magnus Mfg. Corp., Phelps, NY
Mahuta Tool Corp., Germantown, WI
Main Tool & Mfg. Co., Inc., Minneapolis, MN
Maine Machine Products, South Paris, ME
Mainline Machine, Inc., Broussard, LA
Majer Precision Engineering, Inc., Tempe, AZ
Major Tool & Machine, Inc., Indianapolis, IN
Makino, Mason, OH
Malmberg Engineering, Inc., Livermore, CA
Manda Machine Company, Inc., Dallas, TX
Manetek, Inc., Broussard, LA
Manheim Special Machine Shop, Manheim, PA
Mann Tool Company, Inc., Pacific, MO
Manufacturing Machine Corp., Pawtucket, RI
Manufacturing Service Corp., West Hartford, CT
Manufacturing Quote, Inc., Smyrna, GA
Marberry Machine, Inc., Houston, TX
Marco Manufacturing Company, Akron, OH
Marcy Machine, Inc., Grandview, MO
Mardon Tool & Die Company, Inc., Rochester, NY
Marini Tool & Die Company, Inc., Racine, WI
Marion Tool and Die, Inc., Terre Haute, IN
Maris Systems Design, Inc., Spencerport, NY
Markham Machine Co. Inc., Akron, OH
Marlin Tool, Inc., Cuyahoga Falls, OH
Marox Corporation, Holyoke, MA
Marquette Tool & Die Company, St. Louis, MO
Marshall Manufacturing Company, Minneapolis, MN
Martinek Manufacturing, Fremont, CA
Martinelli Machine, San Leandro, CA
Masco Machine, Inc., Cleveland, OH
Massachusetts Machine Works Inc., Westwood, MA
Massey Industries, Inc., Houston, TX
Master Cutting & Engineering, Inc., Santa Fe Springs, CA

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Master Industries Inc., Piqua, OH
Master Precision Mold Technology, Greenville, MI
Master Precision Tool Corp., Sterling Heights, MI
Master Research & Manufacturing, Inc., Norwalk, CA
Master Tool & Die, Anaheim, CA
Master Tool & Mold, Inc., Grafton, WI
Master Machining & Manufacturing, Spokane, WA
Mastercraft Mold, Inc., Phoenix, AZ
Mastercraft Tool & Machine Co., Inc., Southington, CT
Mastercraft Tool Co., St. Louis, MO
MaTech Machining Technologies, Inc., Hebron, MD
Matrix Tool Company, Fraser, MI
Matthews Gauge, Inc., Santa Ana, CA
Maudlin & Son Manufacturing Co., Inc., Kemah, TX
May Tool & Die, Inc., North Royalton, OH
May Technology & Mfg., Inc., Kansas City, MO
Mayfran International, Cleveland, OH
McAfee Tool & Die, Inc., Uniontown, OH
McCurdy Tool & Machine Inc., Caledonia, IL
MCD Plastics & Manufacturing Inc, Piqua, OH
McFarland Machine and Engineering, Tempe, AZ
McGill Manufacturing Company, Flint, MI
McIvor Manufacturing, Inc., Buffalo, NY
McKee Carbide Tool Division, Olanta, PA
McKenzie Automation Systems, Inc, Rochester, NY
McNeal Enterprises, Inc., San Jose, CA
McNeil Industries, Inc., Willoughby, OH
McNeill Manufacturing Company, Oakland, CA
McSwain Manufacturing Corp., Cincinnati, OH
MCTD, Inc., Michigan City, IN
Meadows Manufacturing Co., Inc., Sunnyvale, CA
Meadville Plating Company, Inc., Meadville, PA
Meadville Tool Grinding, Meadville, PA
Mechanical Drive Components, Inc, Chicopee, MA
Mechanical Manufacturing Corp., Sunrise, FL
Mechanical Metal Finishing Co., Gardena, CA
Mechanized Enterprises, Inc., Anaheim, CA
Medal Industries, Mesa, AZ
Medved Tool & Die Company, Milwaukee, WI
Menegay Machine & Tool Company, Canton, OH
Mercer Machine Company, Inc., Indianapolis, IN
Mercier Tool & Die Company, Canton, OH
Merit Gage, Inc., St. Louis Park, MN
Merritt Tool Company, Inc., Kilgore, TX
Metal Cutting Specialists, Inc., Houston, TX
Metal Form Engineering, Redlands, CA
Metal Processors Inc., Stevensville, MI
Metal-Tek Machining Inc., Phoenix, AZ
Metalcraft, Inc., Tempe, AZ
Metallon, Inc., Thomaston, CT
Metals USA, Flagg Steel Co., Inc., St. Louis, MO
Metalsa—Perfek, Novi, MI
Metco Manufacturing Company, Inc., Warrington, PA
Metco L.L.C., Chatsworth, CA
Metplas, Inc., Natrona Heights, PA
Metric Machining, Monrovia, CA
Metro Manufacturing, Inc., Phoenix, AZ
Miami Tool & Die, Inc., Huntington, IN
Michigan Machining Inc., Mt. Morris, MI
Micro Chrome & Lapping, Inc., San Jose, CA
Micro Facture LLC, Mountville, PA
Micro Instrument Corporation, Rochester, NY
Micro Manufacturing, Caledonia, MI
Micro Matic Tool, Inc., Youngstown, OH
Micro Precision Company, Houston, TX
Micro Punch & Die Company, Rockford, IL
Micro Surface Engineering, Inc., Bal-tec Division, Los Angeles, CA
Micro Tool & Manufacturing, Inc., Meadville, PA
Micro-Tec, Chatsworth, CA
Micro-Tech Machine Inc., Newark, NY
Micro-Tronics, Inc., Tempe, AZ
Microfinish, Clayton, OH
Micropulse West, Inc., Tempe, AZ
Mid-Central Manufacturing, Inc., Wichita, KS
Mid-Continent Engineering, Inc., Minneapolis, MN
Mid-State Manufacturing, Inc., Milldale, CT
Mid-States Forging Die & Tool,Co., Inc., Rockford, IL
Mid-Conn Precision Manufacturing LLC, Bristol, CT
Middle River Machine Services, Inc., Baltimore, MD
Midland Precision Machining, Inc., Tempe, AZ
Midway Mfg. Inc., Elyria, OH
Midwest Tool & Die Corporation, Fort Wayne, IN
Midwest Tool & Engineering Co., Dayton, OH
Mikron Machine, Inc., Cranesville, PA
Mil-Tool & Plastics Inc., Zephyrhills, FL
Milco Wire EDM, Inc., & Milco Waterjet, Huntington Beach, CA
Millat Industries Corp., Dayton, OH
Miller Equipment Corporation, Richmond, VA
Miller Machine & Design, Inc., Charlotte, NC
Miller Mold Company, Saginaw, MI
Millrite Machine Inc., Westfield, MA
Milrose Industries, Cleveland, OH
Miltronics, Inc., Painesville, OH
Milwaukee Precision Corporation, Milwaukee, WI
Milwaukee Punch Corporation, Greendale, WI
Minco Tool & Mold Inc., Dayton, OH
Mission Tool & Manufacturing Co., Inc., Hayward, CA
Mitchell Machine, Inc., Springfield, MA
Mitchum Schaefer, Inc., Indianapolis, IN
Mittler Brothers Machine & Tool, Division-Mittler Corporation, Foristell, MO
MKR Fabricators, Saginaw, MI
Mod Tech Industries, Inc., Shawano, WI
Model Mold & Machine Company, Inc., Noblesville, IN
Model Machine Company, Inc., Baltimore, MD
Modern Machine Company, San Jose, CA
Modern Machine Company, Bay City, MI
Modern Mold, Inc., Grand Rapids, MI
Modern Technologies Corp., Xenia, OH
Modern Industries Inc., Phoenix, AZ
Modular Mining Systems, Inc., Tucson, AZ
Mold Threads Inc., Branford, CT
Moldcraft, Inc., Depew, NY
Moldesign, Inc., Knoxville, TN
Monks Manufacturing Co., Inc., Wilmington, MA
Monroe Tool & Die Co., Rochester, NY
Monsees Tool & Die, Inc., Rochester, NY
Montgomery Machine Company, Houston, TX
Moon Tool & Die Inc., Conneaut Lake, PA
Moore Quality Tooling, Inc., Dayton, OH
Moore Gear Mfg. Co., Inc., Hermann, MO
Moore's Ideal Products, Covina, CA
Morlin Incorporated, Erie, PA
Morris Machine Co., Inc., Indianapolis, IN
Morris Machining, Inc., Oak Leaf, TX
Morton & Company, Inc., Wilmington, MA
Moseys' Production Machinists, Inc., Anaheim, CA
Moss Machine/Module, San Francisco, CA
Mound Laser and Photonics Center, Miamisburg, OH
Mountain States Automation, Inc., Englewood, CO
MPC Industries, Inc., Irvine, CA
MRC Technologies, Buffalo, NY
Mueller Machine & Tool Company, Berkeley, MO
Muller Tool Inc., Cheektowaga, NY
Multi-Tool, Inc., Saegertown, PA
Multi Dimensional Machining Inc., Englewood, CO

Mutual Tool & Die, Inc., Dayton, OH
Mutual Precision, Inc., West Springfield, MA
Myers Precision Grinding Company, Inc., Warrensville Hts, OH
Myers Industries, Akro-Mils Division, Akron, OH
Myles Tool Co., Inc., Sanborn, NY
N C Dynamics, Inc., Long Beach, CA
N D T Industries, Inc., New Deal Tool & Machine, Dayton, OH
N E T & Die Company, Inc., Fulton, NY
Nashville Machine Company, Inc., Nashville, TN
National Carbide Die, McKeesport, PA
National Jet Company, Inc., LaVale, MD
National Tool & Machine Co. Inc., East St. Louis, IL
National Tool & Manufacturing Co., Newburg Park, CA
Nationwide Precision Products, Corp., Rochester, NY
Nel-Mac Tool & Mfg. Inc., McKinney, TX
Nelson Bros. & Strom Co., Inc., Racine, WI
Nelson Engineering, Garden Grove, CA
Nelson Grinding, Inc., Fullerton, CA
Nelson Precision Drilling Co., Glastonbury, CT
Nemes Machine Co., Cuyahoga, OH
Nerjan Development Company, Stamford, CT
Neutronics, Inc., Phoenix, AZ
New Century Fabricators, Inc., New Iberia, LA
New Century Remanufacturing, Inc, Santa Fe Springs, CA
New Cov Fabrication Inc., Rochester, NY
New England Die Co., Inc., Waterbury, CT
New England Precision Grinding, Inc., Holliston, MA
New Standard Corporation, York, PA
Newman Machine Company, Inc., Greensboro, NC
Newtek Manufacturing, Sunnyvale, CA
Newton Tool & Manufacturing Co., Swedesboro, NJ
Niagara Punch & Die Corporation, Buffalo, NY
Nifty Bar, Inc., Penfield, NY
Niles Machine & Tool Works, Inc., Livermore, CA
Nixon Tool Co., Inc., Richmond, IN
Nordon Tool & Mold, Inc., Rochester, NY
Noremac Manufacturing Corp., Westboro, MA
Norman Noble, Inc., Cleveland, OH
Normike Industries, Inc., Plainville, CT
North Canton Tool Company, Inc., Canton, OH
North Central Tool & Die, Inc., Houston, TX
North Coast Tool & Mold Corp., Cleveland, OH
North Easton Machine Co., Inc., North Easton, MA
North Florida Tool Engineering, Inc., Jacksonville, FL
Northeast E D M, Newburyport, MA
Northeast Manufacturing Co., Inc., Stoneham, MA
Northeast Tool & Manufacturing, Co., Indian Trail, NC
Northern Machine Tool Company, Muskegon, MI
Northern Tool & Gage, Inc., North Royalton, OH
Northmont Tool & Gage Inc., Clayton, OH
Northwest Machine Works, Inc., Grand Junction, CO
Northwest Tool & Die Company, Inc., Grand Rapids, MI
Northwest Tool & Die, Inc., Neadville, PA
Northwood Industries, Inc., Perrysburg, OH
Norton Industries Inc., Hayward, CA
Norv's Molds, Inc., Nyssa, OR
Norwood Tool Company, Dayton, OH
Nova Manufacturing Company, North Hollywood, CA
Now-Tech Industries Inc., Lackawanna, NY
NRL & Associates, Inc., Stevensville, MD
Nu-Tech Industries, Grandview, MO
Nu-Tool Industries, Inc., North Royalton, OH
Numeric Machine, Fremont, CA
Numeric Machining Co., Inc., West Springfield, MA
Numerical Concepts, Inc., Terre Haute, IN
Numerical Precision, Inc., Wheeling, IL
Numerical Productions, Inc., Indianapolis, IN
Numet Machine, Stratford, CT
NuTèc Tooling Systems, Inc., Meadville, PA
O & S Machine Company, Inc., Latrobe, PA
O–A, Inc., Agawam, MA
O E M Industries, Inc., Dallas, TX
O E M, Inc., Corvallis, OR
O–D Tool & Cutter Inc., Mansfield, MA
O'Keefe Ceramics, Woodland Park, CO
O'Neal Tool & Machine Co., Inc., DeSoto, MO
Obars Machine & Tool Company, Toledo, OH
Oberg Industries Inc., Freeport, PA
Oconee Machine & Tool Company, Inc., Westminster, SC
Oconnor Engineering Laboratories, Costa Mesa, CA
Ohio Gasket & Shim Company, Akron, OH
Ohio Transitional Machine & Tool, Inc., Toledo, OH
Ohlemacher Mold & Die, Strongsville, OH
Oilfield Die Manufacturing Co., Lafayette, LA
Okuma America Corporation, Charlotte, NC
Olson Mfg. & Distribution Inc., Shawnee, KS
Omax Corporation, Kent, WA
Omega One, Inc., Maple Heights, OH
Omega Tool, Inc., Menomonee Falls, WI
Omni Machine Works, Inc., Conyers, GA
Omni Tool, Inc., Winston Salem, NC
Optimized EDM, Santa Clara, CA
Orchard Machine, Inc., Byron Center, MI
Orenda National Aerospace, LLC, Glendale, AZ
ORIX Financial Services Inc., Charlotte, NC
Osborn Products, Inc., Phoenix, AZ
Osley & Whitney, Inc., Westfield, MA
Overland Bolling, Dallas, TX
Overton & Sons Tool & Die Co. Inc., Mooresville, IN
Overton Corporation, Willoughby, OH
P & A Tool & Die, Inc., Rochester, NY
P & N Machine Company, Inc., Houston, TX
P & P Mold & Die, Inc., Tallmadge, OH
P & R Industries, Inc., Rochester, NY
P-K Tool & Manufacturing Company, Chicago, IL
P & C Tool, Meadville, PA
P I A Group, Inc., Cincinnati, OH
P. Tool & Die Company, Inc., N. Chili, NY
Pacific Bearing Company, Rockford, IL
Pacific Precision Machine, Inc., San Carlos, CA
Pacific Tool & Die, Inc., Brunswick, OH
Pahl Tool Services, Cleveland, OH
Palma Tool & Die Company, Inc., Lancaster, NY
Palmer Manufacturing Company, Malden, MA
Palmer Machine Company Inc., Conway, NH
Pankl Aerospace Systems, Cerritos, CA
Pantera, Inc., Torrington, CT
Parallax, Inc., Largo, FL
Paramount Machine & Tool Corp., Fairfield, NJ
Park Hill Machine, Inc., Lancaster, PA
Parker Plastics Corporation, Pittsburgh, PA
Parr-Green Mold and Machine Co., North Canton, OH
Parris Tool & Die Company, Goodlettsville, TN
Parrish Machine, Inc., South Bend, IN
Pasco Tool & Die, Inc., Meadville, PA
Patco Machine & Fab, Inc., Houston, TX
Path Technologies, Inc., Mentor, OH
Patkus Machine Company, Rockford, IL
Patriot Machine, Inc., St. Charles, MO
Patten Tool & Engineering, Inc., Kittery, ME
Paul E. Seymour Tool & Die Co., North East, PA
PDQ Machine, Inc., Machesney Park, IL
PDS Industries, Inc., Irwin, PA
Peerless Precision, Inc., Westfield, MA
Pegasus/Triumph Manufacturing, Inc., East Berlin, CT

UMI VOL 66 ISS 246 DE 21 2001 UMI

Peko Precision Products, Rochester, NY
Pell Engineering & Manufacturing, Inc., Pelham, NH
Penco Precision, Fontana, CA
Pendleton Tool Company, Inc., Erie, PA
Peninsula Screw Machine Products, Inc., Belmont, CA
Penn United Tech, Inc., Saxonburg, PA
Penn State Tool & Die Corp., North Huntingdon, PA
Pennoyer-Dodge Company, Glendale, CA
Pennsylvania Tool & Gages, Inc., Meadville, PA
Pennsylvania Crusher, Cuyahoga Falls, OH
Perfection Tool & Mold Corp., Dayton, OH
Perfecto Tool & Engineering Co., Anderson, IN
Perfekta, Inc., Wichita, KS
Performance Grinding & Manufacturing, Inc., Tempe, AZ
Performance Machining Inc., Irwin, PA
Perlos, Inc., Fort Worth, TX
Perry Tool & Research Inc., Hayward, CA
Petersen Precision Engineering, LLC, Redwood City, CA
Peterson Jig & Fixture, Inc., Rockford, MI
Petro-Chem Industries, Inc., Stafford, TX
Pettey Machine Works, Inc., Trinity, AL
Phil-Coin Machine & Tool Co., Inc., Hudson, MA
Philips Machining Company, Inc., Coopersville, MI
Phoenix Tool & Gage, Inc., Phoenix, AZ
Phoenix Metallics, Phoenix, AZ
Phoenix Grinding, Div. of Cal-Disc Grinding Co., Phoenix, AZ
Piece-Maker Company, Troy, MI
Pierce Products, Inc., Cleveland, OH
Pierson Precision Inc., Campbell, CA
Pinehurst Tool & Die, Conneaut Lake, PA
Pinnacle Precision Co., Glassport, PA
Pinnacle Engineering Co., Inc., Manchester, MI
Pinnacle Manufacturing Co., Inc., Chandler, AZ
Pioneer Tool & Die Company, Akron, OH
Pioneer Tool & Die, Inc., Meadville, PA
Pioneer Tool Die & Machine Co., Inc., Ivyland, PA
Pioneer Precision Grinding, Inc., West Springfield, MA
Pioneer Industries, Seattle, WA
Piper Plastics, Inc., Chandler, AZ
Pitt-Tex, Latrobe, PA
Plainfield Stamping Illinois, Inc., Plainfield, IL
Plano Machine & Instrument Inc., Gainesville, TX
PLASTECH, San Jose, CA
Plastic Mold Technology Inc., Grand Rapids, MI
Plastipak Packaging, Inc., Package Development Plant 67, Medina, OH
Pleasanton Tool and Manufacturing,Inc., Pleasanton, CA
Plesh Industries, Inc., Buffalo, NY
PMR, Inc., Avon, OH
Pol-Tek Industries, Ltd., Cheektowaga, NY
Polynetics, Inc., Fullerton, CA
Polytec Products Corporation, Menlo Park, CA
Ponderosa Industries, Inc., Denver, CO
Popp Machine & Tool, Inc., Louisville, KY
Port City Machine & Tool Company, Muskegon Heights, MI
Portage Knife Company, Inc., Mogadore, OH
Post Products, Inc., Kent, OH
Powers Bros. Machine, Inc., Montebello, CA
Powill Manufacturing & Engineering, Inc., Phoenix, AZ
PQ Enterprise, L.L.C., Grand Rapids, MI
PR Machine Works, Inc., Mansfield, OH
Practical Machine Company, Barberton, OH
Precise Tool Engineering, Tucson, AZ
Precise Tool & Die, Inc., Leechburg, PA
Precise Technologies Inc., Largo, FL
Precise Engineering, Lowell, MI
Precise Products Corporation, Minneapolis, MN
Precision Components Group, Inc., Fremont, CA
Precision Wire EDM Service Inc., Grand Rapids, MI
Precision Wire Cut Corporation, Waterbury, CT
Precision Aircraft Components, Inc., Dayton, OH
Precision Aircraft Machining,Co., Inc. dba PAMCO, Sun Valley, CA
Precision Automated Machining, Englewood, CO
Precision Balancing & Analyzing Co., Mentor, OH
Precision Boring Company, Detroit, MI
Precision Die & Stamping Inc., Tempe, AZ
Precision Engineering & Mfg. Co., PEMCO, Haymarket, VA
Precision Engineering, Inc., Uxbridge, MA
Precision Gage & Tool Company, Dayton, OH
Precision Gage, Inc., Tempe, AZ
Precision Grinding & Mfg. Corp., Rochester, NY
Precision Grinding Inc., Phoenix, AZ
Precision Grinding, Inc., Birmingham, AL
Precision Identity Corporation, Campbell, CA
Precision Industries, Inc., Providence, RI
Precision Machine & Engineering, Inc., Phoenix, AZ
Precision Machine & Instrument, Co., Houston, TX
Precision Machine & Tool Co., Longview, TX
Precision Machine Company, Lancaster, PA
Precision Machine Rebuilding, Inc., Rogers, MN
Precision Machine Works, Aiken, SC
Precision Manufacturing, Technologies, Inc., Grand Junction, CO
Precision Matters, Inc., San Francisco, CA
Precision Metal Crafters, Ltd., Greensburg, PA
Precision Metal Fabrication, Dayton, OH
Precision Metal Tooling, Inc., San Leandro, CA
Precision Mold & Engineering, Inc., Warren, MI
Precision Mold Base Corporation, Tempe, AZ
Precision Mold Welding, Inc., Little Rock, AR
Precision Mold, Inc., Kent, WA
Precision Piece Parts Inc., Mishawaka, IN
Precision Products Inc., Greenwood, IN
Precision Resource, California Division, Huntington Beach, CA
Precision Resource Tool & Machine, Division, Shelton, CT
Precision Resources, Hawthorne, CA
Precision Specialists, Inc., West Berlin, NJ
Precision Specialties, San Jose, CA
Precision Stamping & Tool, Inc., Irvine, CA
Precision Stamping, Inc., Farmers Branch, TX
Precision Tool & Mold, Inc., Clearwater, FL
Precision Tool Work, Inc., New Iberia, LA
Precon, Inc., Anaheim, CA
Preferred Tool Company, Inc., Seymour, IN
Preferred Tool & Die Co., Inc., Comstock Park, MI
Prescott Aerospace, Inc., Prescott Valley, AZ
Pressco Products, Kent, WA
Prestige Mold Incorporated, Rancho Cucamonga, CA
Price Products, Inc., Escondido, CA
Pride, dba Pride Industries, Brooklym Park, MN
Prima Die Castings, Inc., Clearwater, FL
Prime-Co Tool Inc., East Rochester, NY
Primeway Tool & Engineering Co., Div. of Cleary Developments, Inc., Madison Heights, MI
Prince Machine, Holland, MI
Pro-Mold, Inc., Rochester, NY
Pro-Tech Machine, Inc., Burton, MI
Process Equipment Company,Tipp City, OH
Product Engineering Company, Columbus, IN
Production Tool & Mfg. Co., Portland, OR

Production Saw Works, Inc., North Hollywood, CA
Production Machining & Mfg., Dallas, TX
Producto Machine Company, Bridgeport, CT
Profab Industries L.L.C., Phoenix, AZ
Professional Instruments Co., Inc., Hopkins, MN
Professional Machine & Tool Co., Gallatin, TN
Professional Machine & Tool, Inc., Valley Center, KS
Proficient Machining Co., Inc., Mentor, OH
Profile Grinding, Inc., Cleveland, OH
Proformance Manufacturing, Inc., Corona, CA
Progressive Metallizing & Machine Company, Inc., Akron, OH
Progressive Concepts Machining, Pleasanton, CA
Progressive Machine & Design, LLC, Victor, NY
Progressive Tool & Die, Inc., Meadville, PA
Progressive Tool Company, Waterloo, IA
Progressive Tool & Die, Inc., Gardena, CA
Promax Tool Co., Rancho Cordova, CA
ProMold, Inc., Cuyahoga Falls, OH
Prompt Machine Products, Inc., Chatsworth, CA
Proper Cutter, Inc., Guys Mills, PA
Proper Mold & Engineering, Inc., Center Line, MI
Proteus Manufacturing Co., Inc., Woburn, MA
Proto Machine & Manufacturing, Kent, OH
Proto-Design, Inc., Redmond, WA
Protonics Engineering Corp., Cerritos, CA
Prototype & Plastic Mold Co., Inc., Middletown, CT
Puehler Tool Company, Valley View, OH
Pullbrite, Inc., Fremont, CA
Punch Press Products, Inc., Los Angeles, CA
Punchcraft Company—Subsidiary of MascoTech, Inc., Warren, MI
Qualfab Machining, Lodi, CA
Quality Tool Company, Toledo, OH
Quality Machining, Inc., Waunakee, WI
Quality Precision, Inc., Hayward, CA
Quality Mold & Engineering, QME Inc., Baroda, MI
Quality Mold & Die, Inc., Santa Ana, CA
Quality Centerless Grinding Corp., Middlefield, CT
Quality Machining Technology, Inc., Oakdale, CA
Quality Machine Engineering, Inc., Santa Rosa, CA
Quality Grinding and Machine, Rainbow City, AL
Quality Grinding & Machining, Inc., Bridgeport, CT
Quality Engineering Services, Wallingford, CT
Quick Action Mfg. Co., St. Louis, MO
Quick-Way Stampings, Euless, TX
R W Machine, Inc., Houston, TX
R T R Slotting & Machine Inc., Cuyahoga Falls, OH
R S Precision Industries, Inc., Farmingdale, NY
R O C Carbon Company, Houston, TX
R Davis EDM, Anaheim, CA
R & S Redco, Inc., Rockland, MA
R M I, Van Nuys, CA
R J S Corporation, Akron, OH
R G F Machining Technologies, Canon City, CO
R F Cook Manufacturing Co., Stow, OH
R E F Machine Company, Inc., Middlefield, CT
R & D Machine Shop, Dallas, TX
R & D Specialty/Manco, Phoenix, AZ
R & D Tool & Engineering, Lee's Summit, MO
R & G Precision Tool Inc., Thomaston, CT
R & H Manufacturing Inc., Kingston, PA
R & J Tool, Inc., Brookville, OH
R & M Machine Tool, Freeland, MI
R & M Manufacturing Company, Niles, MI
R & M Mold Manufacturing Co., Inc., Bloomsbury, NJ
R & R Precision Machine, Inc., Wichita, KS
R & S EDM, Inc., W. Springfield, MA
R & S Machining, Inc., Oakville, MO
R D C Machine, Inc., Santa Clara, CA
R. W. Smith Company, Inc., Dallas, TX
R. T. Callahan Machine Products, Inc., Harleysville, PA
Radiant Technologies, Phoenix, AZ
Rainbow Tool & Machine Co., Inc., Gadsden, AL
Raloid Corporation, Reisterstown, MD
Ralph Stockton Valve Products, Inc., Houston, TX
Ram Tool, Inc., Grafton, WI
Rapid-Line Inc., Grand Rapids, MI
Rapidac Machine Corporation, Rochester, NY
Ratnik Industries, Inc., Victor, NY
Rawlings Engineering, Macon, GA
Re-Del Engineering, Campbell, CA
Realco Diversified, Inc., Meadville, PA
Reardon Machine Co., Inc., St. Joseph, MO
Reata Engineering & Machine, Works, Inc., Englewood, CO
Reber Machine & Tool Company, Muncie, IN
RedSpark, Inc., San Francisco, CA
Reed Instrument Company, Houston, TX
Reese Machine Company, Inc., Ashtabula, OH
Reg-Ellen Machine Tool Corp., Rockford, IL
Reichert Stamping Company, Toledo, OH
Reitz Tool & Die Company, Inc., Walbridge, OH
Reitz Tool, Inc., Cochranton, PA
Reko International Sales, Inc., Troy, MI
Reliable EDM, Inc., Houston, TX
Remarc Manufacturing Inc., Hayward, CA
Remmele Engineering, Inc., St. Paul, MN
Remtex, Inc., Longview, TX
Reny & Company Inc., El Monte, CA
REO Hydro-Pierce Inc., Detroit, MI
Repairtech International, Inc., Van Nuys, CA
Repko Tool Inc., Meadville, PA
Republic-Lagun, Carson, CA
Republic Industries, Louisville, KY
Research Tool Inc., East Haven, CT
Reuther Mold & Manufacturing Co., Cuyahoga Falls, OH
Reward Manufacturing, Sun Valley, CA
Reynolds Manufacturing Co., Inc., Rock Island, IL
Rheaco Inc., Grand Prairie, TX
Rhode Island Centerless, Inc., Johnston, RI
Rich Tool & Die Company, Scarborough, ME
Richard Manufacturing Company, Inc., Milford, CT
Richard Tool & Die Corporation, New Hudson, MI
Richard's Grinding, Inc., Cleveland, OH
Richards Machine Tool Company, Inc., Lancaster, NY
Richsal Corporation, Elyria, OH
Rick Sanford Machine Company, San Leandro, CA
Rickman Machine Company, Wichita, KS
Rid-Lom Precision Tool Corp., Rochester, NY
Ridge Machine & Welding Company, Toronto, OH
Riggins Engineering, Inc., Van Nuys, CA
Right Tool & Die, Inc., Toledo, OH
Rima Enterprises, Huntington Beach, CA
Rite-Way Industries Inc., Louisville, KY
Riverview Machine Company, Inc., Holyoke, MA
Riviera Tool Company, Grand Rapids, MI
ROA Tool, Inc., Los Angeles, CA
Robb Machine Tool Co., Wyoming, MI
Robert C. Weisheit Co., Franklin Park, IL
Robert C. Reetz Company, Inc., Pawtucket, RI
Roberts Tool & Die Company, Chillicothe, MO
Roberts Tool Company, Inc., Chatsworth, CA
Robrad Tool & Engineering, Mesa, AZ
Rochester Precision Machine, Inc., Rochester, MN
Rochester Automated Systems, Inc., Rochester, NY
Rochester Gear, Inc., Rochester, NY
Rochester Manufacturing, Wellington, OH
Rockburl Industries Inc., Rochester, NY

UMI
VOL 66 ISS 246 DE 21 2001 UMI

Rockford Process Control, Inc., Rockford, IL
Rockford Tool & Manufacturing Co., Rockford, IL
Rockford Toolcraft, Inc., Rockford, IL
Rockhill Machining Industries Inc., Barberton, OH
Rockstedt Tool & Die, Brunswick, OH
Rocon Manufacturing Corporation, Rochester, NY
Rogers Associates Machine Tool, Corporation, Rochester, NY
Rogers Enterprises, Rochester, NY
Roll Kraft, Mentor, OH
Romac Electronics, Inc., Plainview, NY
Romold Inc., Rochester, NY
Ron Grob Company, Loveland, CO
Ronart Industries, Inc., Detroit, MI
Ronlen Industries, Inc., Brunswick, OH
Rons Racing Products, Inc., Tucson, AZ
Royal Wire Products, Inc., N. Royalton, OH
Royalton Manufacturing, Inc., Cleveland, OH
Royster's Machine Shop, LLC, Henderson, KY
Rozal Industries, Inc., Farmingdale, NY
RRR Development Co., Inc., North Canton, OH
RTS Wright Industries, Nashville, TN
Rubbermaid, Inc.—Mold Division, Wooster, OH
Runner Tool & Die Co., Inc., Akron, OH
Ruoff & Sons, Inc., Runnemede, NJ
Ryan Industries Inc., York, PA
S & R Tool Inc., Lakeville, NY
S & B Tool & Die Co., Inc., Lancaster, PA
S & P Machine & Tool Co., L.LC., Toledo, OH
S & R CNC Machining, Arleta, CA
S C Manufacturing, Akron, OH
S D S Machine, Inc., Livermore, CA
S G S Tool Company, Munroe Falls, OH
S L P Machine, Inc., Ham Lake, MN
S P M/Anaheim, Anaheim, CA
S P S Technologies, Santa Ana, CA
S. C. Machine, Chatsworth, CA
S.M.G. LLC, Cheektowaga, NY
Sabre Machining Center, Inc., Dayton, OH
Saeilo Manufacturing Industries, Blauvelt, NY
Safety-Kleen, Columbia, SC
Sage Machine & Fabricating, Houston, TX
Sagehill Engineering, Inc., Menlo Park, CA
Saginaw Products Corporation, Saginaw, MI
Saint-Gobain Advanced Ceramics, Colorado Springs, CO
Saint-Gobain Semicon Equipment, Inc., San Jose, CA
Salamon Manufacturing Inc., Middletown, CT
Saliba Industries, Inc., Lake Forest, IL
Salomon Smith Barney, Washington, DC
Samax Precision, Inc., Sunnyvale, CA
San Diego Swiss Machining, Inc., Chula Vista, CA
San Jose Laser, San Jose, CA
Sanders Tool & Mould Company, Hendersonville, TN
Sandor Tool & Manufacturing Co., Lawrence, MA
Sandy Bay Machine, Rockport, MA
Santin Engineering, Inc., West Peabody, MA
Satran Technical Enterprises, Mayer, AZ
Sattler Machine Products, Inc., Sharon Center, OH
Savco Manufacturing Co. Inc., Union, MO
Sawing Services Co., Chatsworth, CA
Sawtech, Lawrence, MA
Schaffer Grinding Company, Inc., Montebello, CA
Schill Corp., Toledo, OH
Schlitter Tool, Warren, MI
Schmald Tool & Die Inc., Burton, MI
Schmiede Corporation, Tullahoma, TN
Schneider & Marquard, Inc., Newton, NJ
Schoitz Engineering, Inc., Waterloo, IA
Schuetz Tool & Die, Inc., Hiawatha, KS
Schulze Tool Company, Independence, MO
Schwab Machine, Inc., Sandusky, OH
Schwartz Industries, Inc., Warren, MI
Scientiam Machine Co., Harbor City, CA
Scott County Machine & Tool Co., Inc., Scottsburg, IN
Sebewaing Tool & Engineering Co., Sebewaing, MI
Sebra,Tucson, AZ
Seemcor Inc., Englewood, NJ
Select Tool and Die, Toledo, OH
Select Manufacturing Company, Rainbow City, AL
Select Tool & Eng., Inc., Elkhart, IN
Select Tool & Die—Tool Div., Dayton, OH
Select Industrial Systems Inc., Fairborn, OH
SelfLube, Coopersville, MI
Selzer Tool & Die, Inc., Elyria, OH
Sematool Mold & Die Co., Santa Clara, CA
Serrano Industries Inc., Santa Fe Springs, CA
Service Tool & Die, Inc., Henderson, KY
Service Manufacturing and Engineering, Anaheim, CA
Setters Tools, Inc., Piedmont, SC
Sharon Center Mold & Die, Sharon Center, OH
Shaw Industries, Inc., Franklin, PA
Shear Tool, Inc., Saginaw, MI
Sheets Tool & Manufacturing, Inc., Saegertown, PA
Shelby Engineering Company, Inc., Indianapolis, IN
Sherer Manufacturing Incorporated, Clearwater, FL
Sherlock Machine Company, Clearwater, FL
Sherman Tool & Gage, Erie, PA
Shiloh Industries, Wellington Die Division, Wellington, OH
Shookus Special Tools, Inc., Raymond, NH
Shop Tech Industrial Software Corp., Rocky Hill, CT
Sibley Machine & Foundry Corp., South Bend, IN
Sieger Engineering, Inc., S. San Francisco, CA
Sigma Precision Mfg., Inc., Aston, PA
Signa Molds & Engineering, Sylmar, CA
Signal Machine Company, New Holland, PA
Silicon Valley Mfg., Fremont, CA
Sipco Molding Technologies, Meadville, PA
Sirius Enterprises, Inc., Dallas, TX
Sirois Tool Co. Inc., Berlin, CT
Six Sigma, Louisville, KY
Ski-Way Machine Products Company, Euclid, OH
Skillcraft Machine Tool Company, West Hartford, CT
Skulsky, Inc., Gardena, CA
Skyline Manufacturing Corp., Nashville, TN
Skylon Mold & Machining, Sugar Grove, PA
Skyway Manufacturing Corporation, Phoenix, AZ
Smith-Renaud, Inc., Cheshire, CT
Smith's Machine, Cottondale, AL
Smithfield Manufacturing, Inc., Clarksville, TN
Snyder Systems, Benicia, CA
Solar Tool & Die, Inc., Kansas City, MO
Sonic Machine & Tool, Inc., Tempe, AZ
Sonoma Precision Mfg. Co., Santa Rosa, CA
Sonora Precision Molds, Inc., Mi Wuk Village, CA
South Paw Enterprises LLC, Phoenix, AZ
South Eastern Machining, Inc., Piedmont, SC
South Bend Form Tool Company, South Bend, IN
Southampton Manufacturing, Inc., Feasterville, PA
Southeastern Technology, Inc., Murfreesboro, TN
Southern Mfg. Technologies Inc., Tampa, FL
Southwest Mold, Inc., Tempe, AZ
Southwest Manufacturing, Inc., Wichita, KS
Space City Machine & Tool Co., Houston, TX
Spalding & Day Tool & Die Co., Louisville, KY
Spark Technologies, Inc., Schenley, PA
Spartak Products Inc., Houston, TX
Specialty Machine & Hydraulics, Pleasantville, PA
Speed Precision Machining, Phoenix, AZ
Spenco Machine & Manufacturing, Temecula, CA
Spex Precision Machine Technologies, Rochester, NY
Spike Industries, North Lima, OH
Spin Pro Inc., Sunnyvale, CA

Spiral Grinding Company, Culver City, CA
Springfield Manufacturing, LLC, Clover, SC
Springfield Tool & Die, Inc., Greenville, SC
Sprint Tool & Die Inc., Meadville, PA
Spun Metals, Inc., Phoenix, AZ
STADCO, Los Angeles, CA
Standard Die Supply of Indiana, Inc., Indianapolis, IN
Standard Welding & Steel, Products, Inc., Medina, OH
Standard Machine Inc., Cleveland, OH
Standard Jig Boring Service, Inc., Akron, OH
Stanek Tool Corporation, New Berlin, WI
Stanley Machining & Tool Corp., Carpentersville, IL
Star Tool & Engineering, Inc., Newark, CA
Star Tool & Die, Inc., Elkhart, IN
Star Precision Products, Willoughby, OH
Starn Tool & Manufacturing Co., Meadville, PA
State Industrial Products, Inc., Phoenix, AZ
Stauble Machine & Tool Company, Louisville, KY
Stedcraft Inc., Torrington, CT
Stelted Manufacturing, Inc., Tempe, AZ
Sterling Engineering Corporation, Winsted, CT
Sterling Tool Company, Racine, WI
Stevens Manufacturing Co., Inc., Milford, CT
Stewart Manufacturing Company, Phoenix, AZ
Stieg Grinding Corporation, Rockford, IL
Stillion Industries, Ann Arbor, MI
Stillwater Technologies, Inc., Troy, OH
Stines' Machine, Inc., Vista, CA
STM Manufacturing, Holland, MI
Stonewall Jackson Mold Inc., Annville, KY
Stoney Crest Regrind Service, Inc., Bridgeport, MI
Streamline Tooling Systems, Muskegon, MI
Strobel Machine, Inc., Worthington, PA
Stuart Tool & Die, Falconer, NY
Studwell Engineering, Inc., Sun Valley, CA
Subsea Ventures Inc., Houston, TX
Suburban Manufacturing Company, Eastlake, OH
Summit Precision, Inc., Phoenix, AZ
Summit Machine Company, Scottdale, PA
Sun Tool Company, Houston, TX
Sun EDM Inc., Gilbert, AZ
Sunbelt Plastics, Inc., Frisco, TX
Sunrise Tool & Die, Inc., Henderson, KY
Sunset Tool Inc., Saint Joseph, MI
Super Finishers II, Phoenix, AZ
Superbolt, Inc., Carnegie, PA
Superior Jig, Inc., Anaheim, CA
Superior Mold Company, Ontario, CA
Superior Gear Box Company, Stockton, MO
Superior Die Tool Machine Co., Columbus, OH
Superior Tool, Inc., Willow Street, PA
Superior Tool & Die Company, Inc., Elkhart, IN
Superior Tool & Die Company, Bensalem, PA
Superior Thread Rolling Company Inc, Arleta, CA
Superior Programming LLC, Clearwater, KS
Superior Die Set Corporation, Oak Creek, WI
Supreme Tool & Die Company, Fenton, MO
Surface Manufacturing, Auburn, CA
Swiss Wire E D M, Costa Mesa, CA
Swissco, Inc., Bell Gardens, CA
Swisstech Tooling & Manufacturing, Inc., Scottsdale, AZ
Synergis Technologies Group, Grand Rapids, MI
Synergy Machine, Inc., Kent, WA
Synertron, Inc., Middleboro, MA
Syst-A-Matic Tool & Design, Meadville, PA
Systems 3, Inc., Tempe, AZ
T & S Industrial Machining Corp., Woburn, MA
T–M Manufacturing Corporation, Sunnyvale, CA
T J Tool and Mold, Guys Mills, PA
T M Machine & Tool, Inc., Toledo, OH
T M S Inc., Technical Machining Services, Inc., Lincoln, RI
T R Jones Machine Company, Inc., Crystal Lake, IL
T–K & Associates, Inc., La Porte, IN
T. J. Karg Company, Inc., Akron, OH
TAE Corporation, d/b/a T & E Manufacturing, Kent, WA
Tag Engineering, Inc., Tucson, AZ
Tait Design & Machine Company Inc., Manheim, PA
Talbar, Inc., Meadville, PA
Talcott Machine Products, Inc., Meriden, CT
Talent Tool & Die, Inc., Berea, OH
Tana Corporation, Toledo, OH
Tanner Oil Tools Inc., Houston, TX
Target Precision, Meadville, PA
Taurus Tool & Engineering, Inc., Muncie, IN
TCI Precision Metals, Gardena, CA
TCI Aluminum North, Hayward, CA
Team Tooling and Design, Incorporated, Shawnee, OK
Tech-Machine, Inc., Colorado Springs, CO
Tech-Etch, Inc., Plymouth, MA
Tech Tool, Inc., Detroit, MI
Tech Tool & Mold, Inc., Meadville, PA
Tech Ridge, Inc., South Chelmsford, MA
Tech Mold, Inc., Tempe, AZ
Tech Industries, Inc., Cleveland, OH
Tech Manufacturing Company, Wright City, MO
Techmetals, Inc., Dayton, OH
Techni-Products, Inc., East Longmeadow, MA
Techni-Cast Corporation, South Gate, CA
Technics 2000 Inc., Olathe, KS
Technodic, Inc., Providence, RI
Tecno Troqueles Industries, Laredo, TX
TecoMetrix, LLC, Tempe, AZ
Tedco, Inc., Cranston, RI
Teke Machine Corp., Rochester, NY
Tell Tool, Inc., Westfield, MA
Temco Corporation, Danvers, MA
Tenk Machine & Tool Company, Cleveland, OH
Tennessee Metal Works, Inc., Nashville, TN
Tennessee Tool Corporation, Charlotte, TN
Terrell Manufacturing Inc., Strongsville, OH
Testand Corporation, Pawtucket, RI
Tetco, Inc., Plainville, CT
Teter Tool & Die, Inc., La Porte, IN
Texas Honing, Inc., Pearland, TX
Thaler Machine Company, Dayton, OH
The POM Group, Inc., Auburn Hills, MI
The Ryan Group, Franklin, NJ
The Will-Burt Company, Orrville, OH
The Metalworking Group, Inc., Cincinnati, OH
The United Plastics Group, Inc., Chicopee, MA
The Timken Company, Specialty Tooling & Rebuilding, Canton, OH
The Sullivan Corporation, Hartland, WI
The Foster Group, Rochester, NY
The Sherman Corporation, Inglewood, CA
The Goforth Corp., dba The Machine Shop, Fremont, CA
The Baughman Group, Louisville, KY
The Bechdon Company, Inc., Upper Marlboro, MD
The Budd Company, Shelbyville, KY
The Die Works Inc., Hillsboro, MO
Therm, Inc., Ithaca, NY
Thiel Tool & Engineering Co., Inc., St. Louis, MO
Thomas Machine Works, Inc., Newburyport, MA
Thornhurst Manufacturing, Inc., Zephyrhills, FL
Three-Way Pattern, Inc., Wichita, KS
ThreeCore, Inc., Danvers, MA
Time Machine & Stamping, Inc., Phoenix, AZ
Timon Tool & Die Co., Toledo, OH
Tipco Punch, Inc., Hamilton, OH
Tipp Machine & Tool, Inc., Tipp City, OH
Titan, Inc., Sturtevant, WI
TLT-Babcock, Inc., Medina Ohio Facility, Akron, OH
TMI Industries, Inc., Temperance, MI
TMK Manufacturing Inc., Campbell, CA
TMX Engineering & Manufacturing, Santa Ana, CA
Toledo Blank, Inc., Toledo, OH

Toledo Molding & Die, Toledo, OH
Tolerance Masters, Inc., Circle Pines, MN
Tomak Precision, Lebanon, OH
Tomco Tool & Die, Inc., Belding, MI
TomKen Tool & Engineering, Inc., Muncie, IN
Tool-Matic Company, Inc., City Of Commerce, CA
Tool Technology, Inc., Danvers, MA
Tool Gauge & Machine Works, Inc., Tacoma, WA
Tool Mate Corporation, Cincinnati, OH
Tool Specialties Company, Hazelwood, MO
Tool Specialty Company, Los Angeles, CA
Tool Steel Service of California, Inc., Los Angeles, CA
Tool Tech Corporation, San Jose, CA
Tool Tech, Inc., Springfield, OH
Toolcomp Tooling & Components, Co., Toledo, OH
Toolcraft Products, Inc., Dayton, OH
Toolcraft of Phoenix, Inc., Glendale, AZ
Toolex, Inc., Houston, TX
Tooling Molds West, Inc., Tempe, AZ
Tools, Inc., Sussex, WI
Tools Renewal Company, Birmingham, AL
Top Tool Company, Minneapolis, MN
Top Tool & Die, Inc., Cleveland, OH
Toth Technologies, Pennsauken, NJ
Toth Industries, Inc., Toledo, OH
Tower Tool & Engineering, Inc., Machesney Park, IL
Trace-A-Matic Corporation, Brookfield, WI
Tracer Tool & Die Company Inc., Grand Rapids, MI
Trademark Die & Engineering, Belmont, MI
Tram Tek Inc., Phoenix, AZ
Tran Engineering, Garden Grove, CA
Trans-World Electric Inc., Port Arthur, TX
Transmatic Manufacturing, Tempe, AZ
Treblig, Inc., Greenville, SC
Trec Industries, Inc., Brooklyn Heights, OH
Tree City Mold & Machine Co., Inc., Kent, OH
Treffers Precision, Inc., Phoenix, AZ
Tresco Tool, Inc., Guys Mills, PA
Tri-M-Mold, Inc., Stevensville, MI
Tri Craft, Inc., Middleberg Heigh, OH
Tri J Machine Company, Inc., Gardena, CA
Tri-City Machine Products, Inc., Peoria, IL
Tri-City Tool & Die, Inc., Bay City, MI
Triad Plastic Technologies, Reno, NV
Triangle Tool Company, Erie, PA
Triangle Mold & Machine Co. Inc., Hartville, OH
Tribond Industries, Inc., Phoenix, AZ
Tricon Machine & Tool, Inc., Rochester, NY
Tricore Mold & Die, Machesney Park, IL
Tridecs Corporation, Hayward, CA
Trident Precision Manufacturing, Webster, NY
Trimac Manufacturing, Inc., Santa Clara, CA
Trimble Navigation Ltd. Engineering & Construction Division, Huber Heights, OH
Trimline Tool, Inc., Grandville, MI
Trinity Tools, Inc., North Tonawanda, NY
Trio Tool & Die, Inc., Hawthorne, CA
Triple-T Cutting Tools Inc., West Berlin, NJ
Triple Quality Tool & Die, Inc., Bell, CA
Triplett Machine, Inc., Phelps, NY
Triumph Precision, Inc., Phoenix, AZ
Trojan Mfg. Co. Inc., Piqua, OH
Trotwood Corporation, Trotwood, OH
Tru Form Manufacturing Corp., Rochester, NY
Tru Tool, Inc., Sturtevant, WI
Tru-Cut, Inc., Sebring, OH
Tru-Stop, Inc., Prescott Valley, AZ
True Cut EDM Inc., Garland, TX
True Position, Inc., Chatsworth, CA
True-Tech Corporation, Fremont, CA
Trueline Tool & Machine, Inc., Springfield, OH
Trust Technologies, Willoughby, OH
Trutron Corporation, Troy, MI
Tschida Engineering, Inc., Napa, CA
Tucker Engineering Inc., Peabody, MA
Tucker Machine Company, North Branford, CT
Turn-Tech, Inc., Pinehurst, TX
Turnkey Automation, Inc., Rockford, IL
Twin City Plating Company, Minneapolis, MN
Two-M Precision Co., Inc., Willoughby, OH
Tymar Precision Inc., Santa Clara, CA
U S Machine & Tool, Inc., Murfreesboro, TN
U M C, Inc., Hamel, MN
U C O Tool & Die, Inc., Union City, OH
U F E Incorporated, Stillwater, MN
UAB Manufacturing Co., Inc., Southampton, PA
Uddeholm, Santa Fe Springs, CA
Ugm, Inc., Santa Clara, CA
Ultima Nashua Industrial Corp., Nashua, NH
Ultra-Tech, Inc., Kansas City, KS
Ultra Tool Company, Grantsburg, WI
Ultra Tool & Manufacturing, Inc., Menomonee Falls, WI
Ultra Precision, Inc., Freeport, PA
Ultra Stamping & Assembly, Inc., Rockford, IL
Ultramation, Inc., Waco, TX
Ultron, Long Beach, CA
Uneco Manufacturing, Inc., Chicopee, MA
Unique Tool & Manufacturing, Randleman, NC
Unique Machine Company, Montgomeryville, PA
Unitech, Inc., Kansas City, MO
United States Fittings, Inc., Warrensville Hei, OH
United Tool & Engineering Co., South Beloit, IL
United Tool & Engineering, Inc., Mishawaka, IN
United Machine Co., Inc., Wichita, KS
United Centerless Grinding, East Hartford, CT
Universal Tools & Manufacturing, Co., Springfield, NJ
Universal Precision Products Inc., Akron, OH
Universal Custom Process, Inc., Streetsboro, OH
Universal Brixius, Milwaukee, WI
Upland Fab, Inc., Ontario, CA
USAeroteam, Dayton, OH
USBX, Inc., Santa Monica, CA
UT Technologies, Inc., Los Angeles, CA
V R C, Inc., Berea, OH
V & S Die & Mold, Inc., Lakewood, OH
V I Mfg., Webster, NY
V Ash Machine Company, Cleveland, OH
V A Machine & Tools, Inc., Broussard, LA
V & M Tool Company, Inc., Perkasie, PA
V.A.W. of America, Inc., Phoenix, AZ
Val-Tech Mfg., Tempe, AZ
Valley Tool & Mfg., Inc., Orange, CT
Valley Tool Room, Inc., Phoenix, AZ
Valley Tool & Die, Inc., North Royalton, OH
Valley Machine Works, Inc., Phoenix, AZ
Valv-Trol Company, Stow, OH
Van-Am Tool & Engineering, Inc., St. Joseph, MO
Van Reenen Tool & Die Inc., Rochester, NY
Van Engineering, R Vandewalle, Inc., Cincinnati, OH
Van Os Machine Works, Inc., St. Louis, MO
Vanderveer Industrial Plastics, Inc., Placentia, CA
Vanpro, Inc., Cambridge, MN
Varco Systems, Orange, CA
Vaughn Manufacturing Company, Inc., Nashville, TN
Vektek, Inc., Emporia, KS
Venango Machine Products, Inc., Reno, PA
Ver-Sa-Til Associates, Inc., Chanhassen, MN
Versacut Ind. Inc., Morenci, MI
VersaTool & Die Machining and Engineering Inc., Beloit, WI
Vi-Tec Manufacturing Inc., Livermore, CA
Vico Louisville, Louisville, KY
Viking Tool & Engineering, Whitehall, MI
Viking Tool & Gage, Inc., Conneaut Lake, PA
Virtual Fund, Inc., Eden Prairie, MN
VirtualRFQ.cc, Auburn, WA
Vistek Precision Machine Company, Ivyland, PA

Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vulcan Tool Corporation, Dayton, OH
W + D Machinery Company, Inc., Overland Park, KS
W & H Stampings & Fineblanking, Inc., Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W E C Technologies Corporation, Amityville, NY
W G Strohwig Tool & Die, Inc., Richfield, WI
W W G, Inc., Indianapolis, IN
W. C. Kirby & Son, Inc., Noblesville, IN
W.A.C. Consulting/Coss Systems Inc., Northboro, MA
WADKO Precision, Inc., Houston, TX
Wagner Engraving Co., Kirkwood, MO
Wagner Engineering, Inc., Gilbert, AZ
Waiteco Machine, Acton, MA
Wajo Tool and Die, Inc., East Hampstead, NH
Walker Tool & Machine Company, Perrysburg, OH
Walker Corporation, Ontario, CA
Wallner Tooling/Expac, Inc., Rancho Cucamonga, CA
Waltco Engineering, Inc., Gardena, CA
Walter Waukesha, Inc., Waukesha, WI
Walter Tool & Mfg. Inc., Elgin, IL
Walz & Krenzer, Inc., Oxford, CT
Warmelin Precision Products, Hawthorne, CA
Waukesha Tool & Stamping Inc., Sussex, WI
Wayne Manufacturing, Inc., Boulder, CO
Webco Machine Products, Inc., Valley View, OH
Weco Metal Products, Ontario, NY
Wejco Instruments Inc., Houston, TX
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Valley Precision Inc., San Jose, CA
West Valley Milling, Inc., Chatsworth, CA
West Tool & Manufacturing, Inc., Cleveland, OH
West Pharmaceutical Services, Erie, PA
Western Tap Manufacturing Co., Inc., Buena Park, CA
Western Air Products, Tucson, AZ
Western Mass. MechTech, Inc., Ware, MA
Westfield Tool & Die, Inc., Westfield, MA
Westfield Manufacturing Corp., Westfield, IN
Westlake Tool & Die Mfg., Avon, OH
Westool Corporation, Temperance, MI
Westtool Inc., Phoenix, AZ
WGI Inc., Southwick, MA
Whatever Manufacturing, Santa Ana, CA
White Machine, Inc., North Royalton, OH
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wiesen EDM, Inc., Belding, MI
Wightman Engineering Services, Inc., Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH
Williams Machine, Inc., Lake Elsinore, CA
Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Tooling Inc., Dorr, MI
Windsor Tool & Die, Inc., Cleveland, OH
Wintech Industries Inc., Tempe, AZ
Winter's Grinding Service, Menomonee Falls, WI
Wire Tech E D M, Inc., Los Alamitos, CA
Wire Cut Company, Inc., Buena Park, CA
Wirecut Technologies Inc., Indianapolis, IN
WireCut E D M, Inc., Dallas, TX
Wiretec, Inc., Delmont, PA
Wisconsin Engraving Company/, Unitex, New Berlin, WI
Wisconsin Mold Builders, LLC, Waukesha, WI
Wise Machine Co., Inc., Butler, PA
Wolverine Tool Company, St. Clair Shores, MI
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Woodruff Corporation, Torrance, CA
Wright-K Technology, Inc., Saginaw, MI
Wright Brothers Welding & Sheet Metal, Inc., Hollister, CA
Wright Industries, Inc., Gilbert, AZ
WSI Industries, Inc., Wayzata, MN
X–L Machine Company, Inc., Three Rivers, MI
XLI Corporation, Rochester, NY
Yarde Metals, Inc., Bristol, CT
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Youngberg Industries, Inc., Belvidere, IL
Youngers and Sons Manufacturing, Company, Inc., Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products Inc., Racine, WI
Z M D Mold & Die Inc., Mentor, OH
Zip Tool & Die Co., Inc., Cleveland, OH
Zip Products Inc., Rochester, NY
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI

[FR Doc. 01–31498 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071901A]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Construction and Operation of Offshore Oil and Gas Facilities in the Beaufort Sea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a letter of authorization (LOA) to take a small number of marine mammals incidental to the production of offshore oil and gas at the Northstar development in the Beaufort Sea off Alaska has been issued to BP Exploration (Alaska), Anchorage, AK (BPXA).

DATES: This LOA is effective from December 14, 2001, until November 30, 2002.

ADDRESSES: A copy of BPXA's application, the LOA and a list of references used in this document may be obtained by writing to the Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, or by telephoning one of the contacts listed here. Other reports referenced in this document are available for review, by appointment during regular business hours, at the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, AK 99513, and the National Marine Mammal Laboratory, NMFS, Bldg 4, 7600 Sand Point Way NE, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead (301) 713-2055, ext. 128, or Brad Smith (907) 271-5006.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of

UMI
VOL 66 ISS 246 DE 21 2001
UMI

marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region, if certain findings are made by NMFS and regulations are issued. Under the MMPA, the term “taking” means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of the species or stock(s) of marine mammals for subsistence uses, and if regulations are prescribed setting forth the permissible methods of taking and the requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of marine mammals incidental to construction and operation of the offshore oil and gas facility at Northstar in the Beaufort Sea were published and made effective on May 25, 2000 (65 FR 34014), and remain in effect until May 25, 2005.

Summary of Request

On May 15, 2001, NMFS received a request from BPXA for a renewal of an LOA issued on September 28, 2000 (65 FR 58265) for the taking of marine mammals incidental to production operations of the offshore oil and gas facility at Northstar in state and Federal waters, under section 101(a)(5)(A) of the MMPA. This request contained information in compliance with 50 CFR 216.209 which updated information provided in BPXA’s original application for takings incidental to construction and operations at Northstar. The previous LOA for the taking of marine mammals incidental to the construction of the Northstar facility expired on November 11, 2001.

Description of Activity

BPXA proposes to produce oil from the Northstar Unit offshore oil development facility. This facility is the first in the Beaufort Sea that uses a subsea pipeline to transport oil to shore and then into the Trans-Alaska Pipeline System. The Northstar Unit is located on Seal Island between 2 and 8 miles (mi)(3.2 and 12.9 kilometers (km)) offshore from Pt. Storkersen, AK. This unit is adjacent to the Prudhoe Bay industrial complex and is approximately 54 mi (87 km) northeast of Nuiqsut, a Native Alaskan community.

The Northstar island and pipelines were constructed during the winter of 1999 and early 2000. Construction of ice roads began in November 1999, and was completed in March 2000. Construction activity included the construction of several ice roads, one from West Dock and Pt. McIntyre to the Northstar gravel mine, one from the Kuparuk River delta mine site to Seal Island, and one along the pipeline route to Seal Island. The gravel-haul ice road had a parallel alternate road to transport service equipment, construction materials and alternate gravel hauling when maintenance or repair of the main ice road was required. Gravel hauling to the island extended from February to April, 2000. The pipelines were installed through a trench in the ice from March through May 2000, and buried to a depth of 6 to 8 ft (1.8 to 2.4 m) below the sea floor. Construction work and installation of facilities on the island continued during the spring ice break-up and open water season of 2000. Sheet pile installation at Northstar island began on March 7, 2000, and continued through May 29, 2000, via vibratory and impact pile-driving techniques. Additional work included capping the sheet pile retaining wall and installing the well-conductor pipes, foundation blocks, concrete slope protection, utility and permanent living quarter modules, and the drilling rig with its module. Monitoring of marine mammal impacts was conducted during this construction period and reported in Richardson and Williams (2000, 2001a, 2001b).

The operational (oil production) phase at the Northstar facility during both the ice-covered and open-water seasons will include two diesel generators (designated emergency generators), three gas-turbine generators for the power plant operating at 50-percent duty cycle (i.e., up to two will be operating at any one time), two high pressure gas-turbine compressors, one low-pressure flare, and two high-pressure flares. All flares will be located on the 215 ft (66 m) flare tower. There is no seismic survey work involved with this activity or being proposed for authorization under this LOA.

Drilling began in December 2000 and is expected to continue for about 3 years. The operational phase of Northstar is considered to begin with the first oil, likely in November 2001. Production will commence while drilling is continuing. Drilling will continue until 23 development wells (15 production, 7 gas injection) are drilled. After drilling is completed, only production-related site activities will occur.

In order to support operations at Northstar, the operations activity includes the annual construction of three ice roads. One is to be built parallel to the coast from West Dock and Pt. McIntyre to the location of the pipeline shore crossing. A second road will be constructed along the pipeline route from the shore crossing to Northstar Island. A third road from Pt. McIntyre directly to Northstar is also anticipated. Ice road construction will begin sometime during the period from late-November through January, depending on ice conditions. Ice roads are expected to be completed and ready for traffic by mid-February. Ice roads will be used to resupply needed equipment, parts, foodstuffs, and products, and for hauling wastes back to existing facilities. For a description of planned ice-road activities, please refer to BPXA’s 2001 application.

During the summer, barge trips will be required between West Dock or Endicott and the island for resupply. Year-round helicopter access to Northstar is planned for movement of personnel, foodstuffs and emergency movement of supplies and equipment. Helicopters will fly at an altitude of at least 1,000 ft (305 m), except for takeoffs, landings, and safe-flight operations.

Comments and Responses

On August 17, 2001 (66 FR 43216), NMFS published a notice of receipt and a 30-day public comment period was provided on the application and proposed authorization. During the public comment period, comments were received from the Marine Mammal Commission (MMC), the North Slope Borough (NSB), the Alaska Eskimo Whaling Commission (AEWC) and BPXA.

MMPA Concerns

Comment 1: BPXA questions whether sounds generated from ice road construction and production activities at Northstar will incidentally take ringed seals by harassment during the first several months of the ice-covered period. BPXA states that the Court of Appeals for the 9th Judicial Circuit has defined “harass” as used in the MMPA to mean . . . “direct and serious disruptions of normal marine mammal behavior . . ..” (*US* v. *Hayashi*, 22 F.3d 859, 865, 9th Cir. 1994). BPXA anticipates that sounds from Northstar ice road construction and production activities will not cause direct and serious disruptions of normal seal behavior during this period.

Response: The MMPA was amended in 1994, after *Hayashi* was decided, to include a definition of harassment, which did not exist in the statute at the time of the alleged violation in that case. The court had to determine what harassment meant in the context of how "take" was defined in the statute and the regulations at that time. Harassment as defined in the MMPA, as amended, includes any act of annoyance that has the potential to injure a marine mammal or cause disruption of behavioral patterns. Therefore, NMFS believes that harassment is broader than the *Hayashi* court's definition. Also, while NMFS concurs that, prior to March 1, Northstar ice-road construction will not cause a serious disruption of normal seal behavior during this time, both BPXA (through its application) and NMFS concur that ice road construction-related activities may cause limited and localized displacement of ringed seals during this time period.

Comment 2: The AEWC believes that NMFS is required to issue an authorization under section 101(a)(5)(A) of the MMPA for takings by oil spills. The AEWC believes that the narrow reading provided by NMFS in the proposed LOA authorization (66 FR 43216, August 17, 2001) equates an authorization of take by an oil spill with an authorization to spill oil.

Response: NMFS believes that the MMPA does not authorize the issuance of incidental take authorizations when the taking results from an unlawful activity. In that regard, the Clean Water Act (CWA) at 33 USC 1321(b)(3) prohibits discharge of harmful quantities into the water. Regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of the CWA). This is the same approach NMFS takes with respect to incidental take authorizations under the Endangered Species Act (ESA); the incidental take must result from an otherwise lawful activity (50 CFR 402.02).

Comment 3: The AEWC states that under section 101(a)(5)(A) of the MMPA, NMFS must set an upper biological limit that it will allow for all takings that might occur incidental to a specified activity. In other words, AEWC asserts that NMFS must authorize all the takes that may occur incidental to the specified activity so long as NMFS is able to make the necessary determinations for a small take LOA (negligible impact on species; no unmitigable adverse impact on subsistence), and then issue an LOA for that maximum amount. NMFS has not done this with respect to incidental taking that might be caused by oil spill or other discharge at Northstar. (This comment was made as part of the previous comment that the LOA must include authorization for takes that occur incidental to an oil spill.)

Response: Although the LOA does not authorize takes that occur incidental to an oil spill (see response to Comment 2), the impacts of an oil spill nevertheless were considered in the analysis for the impacts of BPXA's activities on the affected species or stocks. When evaluating the impacts of an activity on marine mammals, NMFS takes into account the probability of occurrence of potential impacts and the potential severity of harm to the species or stock. If the potential impacts are significant but the probability of occurrence is low, a negligible impact determination may be appropriate. The same is true if the potential effects of a specified activity are conjectural or speculative. For a further explanation of this approach, see the Final Rule implementing the regulations governing small takes of marine mammals incidental to specified activities, 50 FR 40338, 40343 (September 29, 1989). These determinations are based on the best scientific information available as later supported or negated through required monitoring program (NMFS, 1995).

For the BPXA LOA, NMFS considered both the likelihood and the potential impacts of an oil spill and made these determinations in the preamble to the Northstar final rule (66 FR 34014; May 25, 2000), NMFS determined that while a large oil spill would potentially have more than a negligible impact on bowhead whales and other marine mammals, the likelihood of such an oil spill and the likelihood of an impact are low for the five-year period of these authorizations. This allowed NMFS to make a determination that the incidental takings would have a negligible impact on marine mammals. Because the likelihood of an oil spill and the resulting impacts on marine mammals were low, NMFS deemed that any calculation of take would be speculative.

However, NMFS recognizes that in the unlikely event that a major oil spill does occur, the impact has some potential to be more than negligible. As a result, NMFS has determined that, in the event a major oil spill occurs, NMFS will need to reassess immediately its determination in this document that the taking of marine mammals by oil and gas development activities in the Beaufort Sea is having no more than a negligible impact on marine mammals and not having an unmitigable adverse impact on subsistence uses of marine mammals. If, because the takings due to the oil spill are projected to exceed the levels used in this document to make the necessary findings, NMFS will immediately suspend the LOA issued for the oil development project causing the impact. Because the LOA suspension falls under the emergency determination for LOA suspension under these regulations, NMFS will not provide a 30-day public review period prior to suspension. However, NMFS believes the possibility of this situation occurring is remote.

Marine Mammal Concerns

Comment 4: The MMC believes that the population-level effects and the impacts on Native subsistence hunting may not be negligible in the long-term (i.e., over the expected 15-20 years of production and related activities).

Response: The issue of making a negligible impact determination was addressed in detail in the preamble to the final rule (see 66 FR 34014, May 25, 2000), especially NMFS' response to comments 20 through 23). Essentially, NMFS does not agree that it should make a negligible impact assessment over the 15-20 year lifetime of the Northstar Unit. Under the MMPA, NMFS must make a determination that the "total of such taking during each 5-year (or less) period concerned will have a negligible impact on such species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for taking for subsistence purposes . . .." This is what NMFS did, as detailed in the final rule. However, by reviewing its negligible impact determinations every 5 years, as mandated by Congress when it limited authorizations to no more than 5 years at a time, NMFS has the ability to reassess its determinations through new research, monitoring and reporting that is required under the current regulations.

In that regard, it is important to note that NMFS will not continue to review the findings made in the preamble to the final rule and in this document during future LOA renewals for the Northstar facility. For future LOA renewals, NMFS will follow the renewal instructions published at 50 CFR 216.209 and will not invite public comment on LOA renewals unless NMFS receives significant new information that calls into question the findings that have been made previously, or if BPXA fails to comply with the terms and conditions of its LOA.

Comment 5: The MMC notes that while the statement in "Impacts of Noise on Marine Mammals in the Beaufort Sea" is correct, some relevant data shows that when seal structures were reassessed in May 2000, 87 percent of the structures identified as active in

UMI
VOL 66 ISS 246 DE 21 2001

December (20 of 23) had been either abandoned or eliminated by construction activities (6 eliminated; 14 abandoned, 3 active). Three of the structures found in December were still active in May. (This compares with an abandonment rate of 4 percent in earlier studies--albeit over shorter periods of time.) However, during May an additional 18 structures, 15 of which were active, were found within the portion of the construction and monitoring area that was searched again. These data show that some individual ringed seals remained near the industrial area despite the intensive island and pipeline construction activities that occurred between December and May. It is not known whether the unexpectedly high number of structures found for the first time in May was related to local relocation of seals as a result of construction activities, or inadequate survey coverage in December, or a combination of the two.

Response: The information cited in the comment is contained in BPXA's reports for activities at Northstar during the winter and spring, 1999-2000 (Richardson and Williams, 2000; Williams *et al.* (2001). One additional possible causal relationship for the high number of structures identified by the authors is the natural creation of new structures as the 9-month ice-covered season progressed. A second year of the results of this research was provided to NMFS in September 2001, after NMFS had published the notice of proposed LOA authorization (August 17, 2001 (66 FR 43216)). A summary of relevant findings from this report is provided later in this document.

Comment 6: The AEWC questions NMFS' statement that interactions between oil and whales are unlikely in the spring due to the probable alongshore trajectory of oil spilled from Northstar. The AEWC states that no data are available to support this assertion. The AEWC references the Minerals Management Service (MMS, 2001) to support this statement noting the MMS states: "...it is not possible to predict the location of a spill or its path, and therefore it is not possible to predict which ecological, social, or economic resources would be affected and to what extent."

Response: During spring, bowhead whales migrate eastward in offshore leads and no bowheads are expected to occur within 75 km (46.6 mi) of Northstar. Under-ice currents are influenced by coastal storm surges and regional circulation patterns (Corp of Engineers (Corps), 1999). While water mass movement is influenced in open water by the Beaufort Sea Undercurrent, there is no indication that significant alongshore currents exist while under the ice (current measurements vary from 0.7 in/sec (1.8 cm/sec) to 3.6 in/sec (9 cm/sec)(Corps, 1999)). As a result, while NMFS has removed this statement from this document, it continues to adopt the information contained in the Corps' final Environmental Impact Statement (final EIS) (Corps, 1999), as the best scientific information available that the probability that an oil spill from Northstar would reach bowhead whales during the spring migration period is very low.

NMFS believes that the AEWC citation of the MMS' draft proposed 5-year Outer Continental Shelf (OCS) leasing plan for 2002-2007 to support its argument is not the appropriate document for this action as it is a projection for future lease sales in all U.S. OCS areas, not just the Beaufort Sea. Since the Northstar activity is covered by an final EIS prepared by the Corps for oil and gas production at Northstar, and since oil spill trajectories have been projected for that location, NMFS believes that the Corps document is the appropriate supporting documentation for this action.

Comment 7: The AEWC further states that historically, the spring leads in the area of Northstar have tended to be relatively far offshore, and the State of Alaska has imposed seasonal drilling restrictions on BPXA's Northstar operations to help address the risk of oil entering the water during spring break-up or other broken ice periods. However, satellite images from the past two winters show the formation of large ice leads, perpendicular to the shore, in the vicinity of Northstar.

Response: Thank you for this information. However, with drilling restrictions proposed by BPXA (later adopted by the State of Alaska) that drilling into oil producing areas will not take place during springtime ice break-up (and the open water period), this new information does not affect NMFS' determination that Northstar oil and gas production would not have more than a negligible impact on bowhead whales and other marine mammals, and would not have an unmitigable adverse impact on subsistence uses of marine mammals.

Comment 8: The AEWC also questions NMFS' statement that ≥bowhead feeding is uncommon along the coast near Northstar.≥ In making this statement, NMFS fails to note repeated statements by elders and subsistence whaling captains that they consider the spring and fall migratory paths of the bowhead whale (including the waters shoreward of those paths) to be important feeding habitat. This information has been provided to NMFS in the AEWC's comments on the petition to designate critical habitat for the western stock of bowhead whales and on NMFS' draft Arctic Regional Biological Opinion.

Response: It is recognized both scientifically and by Traditional Knowledge that bowhead whales feed during spring and fall migration in the Beaufort Sea. However, according to Richardson (pers. comm. October 19, 2001) bowhead whale feeding during migration appears to be opportunistic and probably can occur wherever and whenever bowheads encounter a sufficient concentration of prey in the Alaskan Beaufort Sea. Current information, according to Richardson, indicates that bowheads sometimes feed as they travel even if the prey biomass is only moderate, but linger in one area specifically to feed only if prey biomass is high at some depth in the water column. However, bowhead aerial surveys hint that the Northstar area is not a hotspot for feeding. Feeding very likely occurs there to some extent, but less so than in some other places like the waters near and east of Kaktovik, or the area east of Barrow, AK. In those areas (unlike the Northstar area) groups of bowheads are sometimes observed feeding intensively and for extended periods (several days). Aerial survey results give the impression that bowheads probably feed more in the area between Flaxman and Cross Island than they do from Cross Island westward past Northstar to Harrison Bay. However, there have been no specific studies of feeding between Cross and Flaxman islands and areas west of Camden Bay are outside BPXA's feeding study area. It should be noted for future reference that, aside from mentioning the Cross Island stomach contents in passing, and the Barrow stomach contents in detail, BPXA's feeding study report will not deal with the Northstar area or other locations west of Camden Bay (Richardson, J. pers. comm. October 19, 2001).

Mitigation Concerns

Comment 9: The MMC recommends that, if it has not already done so, NMFS should review and, if necessary recommend modifications to, the updated Oil Discharge Prevention and Contingency Plan (ODPCP) to assure that the risk of oil spills has been estimated appropriately, that the planned measures for containing and cleaning up oil spills in both the open ocean and ice-covered areas are likely to be effective, and that everything feasible will be done to minimize the impacts of

UMI

both oil and contaminant/clean-up operations on marine mammals.

Response: As noted in the preamble to the final rule (66 FR 34014; May 25, 2000), NMFS believes that it has neither the expertise to determine the adequacy of the ODPCP, nor the authority to require the ODPCP be modified by BPXA or to place these requirements on Federal or state agencies with such authority. The ODPCP has been approved by the U.S. Department of Transportation, the U.S. Coast Guard, the MMS, and the State of Alaska Department of Environmental Conservation. For its determinations of negligible impact, NMFS relied on the information, including estimates of risk from oil spills, contained in the final EIS.

Comment 10: The MMC also recommends that NMFS provide for periodic site inspections, as part of the long-term monitoring program, to ensure that the contingency plan can be implemented as and when necessary.

Response: NMFS considers the ODPCP as part of the Northstar mitigation program, not a part of BPXA's marine mammal monitoring program. NMFS does not have the expertise to judge whether or not a contingency plan can be implemented and therefore leaves that responsibility for other federal and state agency judgements. Oil spill drills are scheduled periodically and NMFS will use the other agencies' findings, as needed, to make or confirm the necessary determinations under the MMPA. However, during previous oil-spill containment exercises, it became widely recognized that oil spill cleanup activities have not been totally successful during periods of broken ice. As a result, BPXA has confirmed to NMFS that it will not drill into oil production layers during either broken ice or open water season when oil spill impacts would be more difficult to mitigate (through containment and clean-up) and would restrict drilling to the wintertime. This is discussed in detail later in this document.

Comment 11: The MMC notes that in "Proposed Mitigation," it is unclear what is intended. There is no problem with conducting the baseline survey after 20 March in areas which are undisturbed prior to that time. However, the baseline survey date cannot be subsequent to the first date of any disturbance.

Response: NMFS agrees, recognizing that surveys using trained dogs to locate ringed seal lairs late in the season are considered by NMFS as a mitigation measure to prevent, to the greatest extent practicable, the death of newborn pups during that critical period of life. Accordingly, the March 20 date has been changed to March 1 because a ringed seal birth was discovered in early March, 2001 near Northstar. Discussion on this survey as a monitoring program is discussed later in this document.

Monitoring and Reporting Concerns

Comment 12: The MMC believes that the ongoing and proposed research and monitoring programs may not be sufficient to detect non-negligible effects. The MMC remains concerned that long-term effects may still occur and that some type of reliable monitoring program should be implemented.

Response: Without a more detailed explanation on the MMC's concern that the monitoring program is insufficient, NMFS cannot respond in any detail to the comment. BPXA has submitted several reports on the results to date on monitoring and has proposed a monitoring program that was available for review during this comment period. These monitoring plans have been peer-reviewed in at least two workshops (see Monitoring later in this document for detail) in the past. Also, NMFS has participated in meetings and workshops with industry, other government agencies and Native groups to address both short-term and cumulative impact monitoring.

It should be recognized that research and monitoring of Beaufort Sea marine mammals are also conducted by government agencies, or through government agency funding, that have not been addressed in recent documents. This includes, for example, MMS' aerial bowhead whale surveys, an annual population assessment survey for bowhead whales, a study on contaminant levels in bowhead whale tissue, and a bowhead whale health assessment study. These latter three studies are funded by, or through, NMFS. Information on these projects has been provided to the MMC by NMFS. Based on this multi-faceted monitoring program, NMFS has determined that the monitoring program is adequate to identify impacts on marine mammals, both singly from the project and cumulatively throughout the industry.

Comment 13: The MMC recommends that visual monitoring during the open-water season be resumed in future years if noisy activities, such as impact pipe driving, were to take place.

Response: Even though "construction" activities are not planned by BPXA in the near future, NMFS has added to the LOA a requirement that visual monitoring be conducted whenever activities are planned to take place that potentially would result in a sound pressure level (SPL) greater than 180 dB beyond the island perimeter.

Comment 14: The MMC believes that the use of trained dogs to locate seal structures beginning in early January is appropriate. The BPXA application states that on-ice activities will avoid located structures "when practical." The MMC believes that an explanation of when such avoidance would not be practical should be provided.

Response: The primary ice roads used during Northstar oil production must be almost straight-line in order to effectively transport crews and material to Northstar Island. As a result, there is little mitigation that has been identified that would be practical and effective during the construction of these primary roads in the early part of the winter season. One of the reasons for building the ice roads early in the season is that it mitigates to the greatest extent practical interference with seals' constructing birthing lairs. However, secondary ice roads constructed later in the season are not believed to be confined to a set track and, because of the potential impact on ringed seal pups, can and should be constructed to avoid seal structures. As a result, NMFS has imposed mitigation measures in the LOA that require (1) Using trained dogs to locate seal structures on or in the vicinity of ice roads, (2) avoiding seal structures by a minimum of 150 m (492 ft) during construction of any roads other than the two primary roads, and (3) avoiding, to the greatest extent practicable, disturbance of any located seal structure after March 1.

Section 101(a)(5)(A)(ii)(I) of the MMPA provides for regulations setting for the permissible methods of taking and other means effecting the least practicable adverse impact on the affected species or stock and its habitat. As ringed seals construct several breathing holes and lairs within their territory, they do not rely on a single structure during the year. Ice roads constructed early in the year will have the potential to result in some minor harassment as ringed seals abandon certain breathing holes, if the noise is disturbing to them. NMFS believes this is preferable to avoiding all harassment of ringed seals during early-season ice road construction (how that would be accomplished has not been identified), allowing seal structures to become birthing lairs, having the newborn pup (who may be more sensitive to noise than an adult) abandon a birthing lair prior to weaning, and then succumb to the effects of the disturbance. However, NMFS intends to have the results of recent on-ice monitoring reviewed at the next on-ice peer review workshop (tentatively scheduled for September 2002 in Seattle) to determine whether it is necessary to resume a winter-time ringed seal monitoring program for the Northstar project.

Comment 15: The MMC notes that in Monitoring During the Ice-covered Season, it is stated that "if needed, a recheck of these structures will be conducted in May 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure." It seems like such information is exactly the kind required for monitoring, and that the recheck in May should be mandatory, rather than "if needed."

Response: NMFS agrees that rechecking seal structures in the vicinity of Northstar in May is appropriate if road construction, or other significant disturbance, has taken place after March 1. The LOA has been amended to reflect this condition.

Comment 16: BPXA requested clarification on the date for delivery of the final report to NMFS. The current regulation, under which the LOA is authorized, states that the draft comprehensive report is due to NMFS on May 1 of each year. However, language in the (current) LOA states that the final draft report is due April 1 of each year. BPXA requests that the renewed LOA be consistent with the regulation and the final draft report will be due to NMFS on May 1 of each year.

Response: NMFS agrees. Under the LOA, a draft annual comprehensive report is due on May 1 of each year, as required by the regulations. This report will need to contain information from the just-completed on-ice monitoring season, and the previous year's open water monitoring period. For background information on this issue, NMFS recommends readers refer to NMFS' response to comment 44 in the preamble to the Northstar final rule (see 65 FR 34014, May 25, 2000).

Subsistence Concerns

Comment 17: The AEWC states that NMFS is compelled to provide mitigation measures for potential adverse impacts to Alaskan Eskimo subsistence hunting as part of the LOA requested by BPXA.

Response: NMFS agrees, noting that mitigation measures are described in the proposed LOA notice published in the **Federal Register** on August 17, 2001 (66 FR 43216) and in this document. This includes mitigation for both noise and potential oil spills, for reasons explained in both documents.

Comment 18: The NSB has concerns that NMFS' proposed mitigation measures for oil spills are not triggered unless the spill reaches or exceeds 1,000 barrels. This, the NSB states, is an artificial limit and there is simply no basis, logical or scientific, for this being the standard. The appropriate standard should be focused on whether or not the spill causes a reduction in the subsistence use of marine mammals. The NSB recommends NMFS adopt the definition found in the draft Good Neighbor Policy (GNP) condition B.1.

Response: The GNP is an agreement between BPXA and the NSB that outlines mitigation measures that would take place in the event that an oil spill occurred at the Northstar facility or its pipeline. On September 19, 2001, the AEWC and the Mayor, NSB, informed BPXA representatives that, if the outstanding GNP issues could be resolved to the satisfaction of the AEWC, the NSB and the Inupiat Community of the Arctic Slope would not object to the renewal of BPXA's LOA on the basis of the oil spill mitigation. This private agreement, of which NMFS is not a party, became effective on October 22, 2001.

NMFS agrees that the definition proposed in the GNP is more appropriate for determining impacts on subsistence hunting than the standard industry definition that was provided by BPXA in its application. Accordingly, this definition has been added to the LOA for Northstar and is provided later in this document.

Comment 19: The AEWC questions NMFS' statement in the proposed notice (66 FR 43216, August 17, 2001) that almost all bowhead whales travel north of Northstar during the fall migration. This assertion ignores the fact that subsistence hunters have taken bowheads in the vicinity of Northstar.

Response: The comment has been taken out of context. NMFS notes a few sentences later that "[I]n the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of Northstar, but most are 10 km (6.2 mi) or more farther offshore." In fact, in most years (1979-1995), less than 2 percent of the westward migrating population are within 15 km (9.3 mi) of Northstar (BPXA, 2001). This discussion, which is concerned about impacts of noise on marine mammals, does not ignore the fact that subsistence hunters have taken bowheads in the vicinity of Northstar. This discussion is found later in the referenced proposed LOA document (and in this document) under impacts on subsistence uses.

Description of Habitat and Marine Mammals Affected by the Activity

A detailed description of the Beaufort Sea ecosystem and its associated marine mammals can be found in several documents (Corps, 1999; MMS, 1990, 1992, 1996, 2001; NMFS, 1997).

Marine Mammals

The Beaufort/Chukchi seas support a diverse assemblage of marine mammals, including bowhead whales (*Balaena mysticetus*), gray whales (*Eschrichtius robustus*), beluga whales (*Delphinapterus leucas*), ringed seals (*Phoca hispida*), spotted seals (*Phoca largha*) and bearded seals (*Erignathus barbatus*). Descriptions of the biology and distribution of these species can be found in Ferraro *et al.* (2000), Corps (1999), MMS (2001) and the BPXA application (BPXA, 1999 and 2001). The latter two documents are available upon request (see **ADDRESSES**); Ferraro *et al.* (2000) is available at the following URL: http://www.nmfs.noaa.gov/prot—res/PR2/Stock—Assessment—Program/sars.html. Please refer to these documents for specific information on marine mammal species.

In addition to the species mentioned in this paragraph, Pacific walrus (*Odobenus rosmarus*) and polar bears (*Ursus maritimus*) also have the potential to be taken. LOAs for the taking of these species under the MMPA has been issued by the the U.S. Fish and Wildlife Service (see 66 FR 10314, February 14, 2001).

Potential Effects on Marine Mammals

Issuance of an LOA for taking marine mammals incidental to production at Northstar has been based on findings that the determinations made in the preamble to the final rule (66 FR 34014; May 25, 2000)(that the total takings by Northstar construction and operations will result in only small numbers of marine mammals being taken: have no more than a negligible impact on marine mammal stocks in the Beaufort Sea; and not have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses) remain valid. For that reason, the following discussion of impacts is provided. Additional supporting information on noise, and oil impacts on marine mammals and on impacts to subsistence needs can be found in BPXA, 1999, 2001. Additional information on noise impact assessments can be found in Richardson and Williams (eds.)(2000a, 2000b, 2001a, 2001b).

Impacts of Noise on Marine Mammals in the Beaufort Sea

Sounds and non-acoustic stimuli will be generated during oil production operations by generators, drilling, production machinery, gas flaring, camp operations and vessel and helicopter operations. The sounds generated from production operations and associated transportation activities will be detectable underwater and/or in air some distance away from the area of the activity, depending upon the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor. At times, some of these sounds are likely to be strong enough to cause an avoidance or other behavioral disturbance reaction by small numbers of marine mammals or to cause masking of signals important to marine mammals. The type and significance of behavioral reaction is likely to depend on the species and season, and the behavior of the animal at the time of reception of the stimulus, as well as the distance and level of the sound relative to ambient conditions.

Responses of seals to acoustic disturbance are highly variable, with the most conspicuous changes in behavior occurring when seals are hauled out on ice or land when exposed to human activities. Seals in open water do not appear to react as strongly. Activities planned for the ice-covered seasons during the production phase of Northstar are expected to cause no more than limited and localized displacement of ringed seals. Results of fixed-wing aircraft monitoring of hauled out ringed seals during intensive construction activities in early 2000 showed no significant change in seal density in the areas closest to Northstar (Moulton *et al.*, 2001a). In 2001, seal densities in areas close to and including the Northstar development were higher than in adjacent areas farther away. These results indicate that few, if any, seals were displaced far enough to be detectable by aerial surveys, and that any displacement that did occur was quite localized (Moulton *et al.*, 2001b).

In winter and spring, ice road construction and travel activities will displace some small numbers of ringed seals along the ice road corridors. The noise and general human activity may displace female seals away from activity areas and could negatively affect the female and young, if the female remains in the vicinity of the ice road. During the 2000/2001 season, trained dogs were used during three surveys to locate and assess the fate of seal structures in the vicinity of Northstar. During the third survey in May 2001, a total of 82 new ringed seal structures were found in the Northstar study area. Forty-five of the structures were breathing holes, 36 were lairs, and one was unidentified. All 45 breathing holes and 34 of the 36 lairs were in active use. The status of all previously located sea structures was also determined during the May 2001 survey. Of the 35 structures located in the November/December 2000 survey, 71 percent (20 breathing holes and 5 lairs) had been abandoned by May 2001. Of the 63 structures located in March 2001, 44 percent (20 breathing holes and 8 lairs) had been abandoned by May 2001. Additionally, 8 of the 81 (10 percent) identified structures first located in May were abandoned by 22 May, 2001 (2 breathing holes and 6 lairs). Preliminary results suggest a high abandonment rate for structures out to 3 km (1.9 mi) from Northstar and the associated on-ice activities. Alternatively, the continued presence of ringed seals near Northstar throughout the winter, and the creation of new structures near Northstar activities during the winter, suggest that potential negative effects to seals may be minor and highly localized (Williams *et al.* (2001b).

In addition to displacement by harassment, BPXA believes there is a small possibility of injury or mortality to a very small number of seal pups during ice road construction and transportation activities. However, planned timing of road construction (before pups are born) will minimize the probability of occurrence.

During the open-water season, all six species of whales and seals could potentially be exposed to noise from vessels, the island and from other stimuli associated with the planned operations. Vessel traffic is known to cause avoidance reactions by whales at certain times (Richardson *et al.*, 1995). Helicopter operations, and possibly other production-related activities, may also lead to disturbance of small numbers of seals or whales. In addition to disturbance, some limited masking of whale calls or other low-frequency sounds potentially relevant to bowhead whales could occur (Richardson *et al.*, 1995; BPXA, 2001).

During the late summer and autumn, almost all whales are found north of the barrier islands, and north of Northstar. In the case of belugas, most individuals follow a far-offshore migration corridor at or beyond the edge of the continental shelf. In the case of bowheads, almost all individuals travel west north of Northstar. A few individuals travel west within a few kilometers north of Northstar, but most are 10 km (6.2 mi) or more farther offshore. Gray whales are rare in the Northstar area.

In the open-water period, the principal activities on Northstar Island will be oil drilling and production activities, and associated helicopter and vessel traffic. Underwater sounds from drilling and routine production activities on the islands are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of Northstar Island. However, when tugs or self-propelled barges are in use, underwater sounds could be faintly detectable as much as 28 km (17.4 mi) offshore of Northstar (Blackwell and Greene, 2001). Avoidance reactions by bowhead, gray and beluga whales will be limited to substantially less than that distance. Cetaceans usually do not show overt avoidance reactions unless received levels of industrial noise are well above natural background noise level (Richardson *et al.*, 1995). Also, average noise levels from Northstar are expected to be lower during production activities in 2002 and beyond than they were during construction operations in 2000 (BPXA, 2001). Little disturbance or displacement of whales by vessel traffic is expected.

Impacts of Oil Spills on Marine Mammals in the Beaufort Sea

For reasons stated in the application (BPXA, 1999, 2001), BPXA believes that the effects of any oil spills on seals and whales in the open waters of the Beaufort Sea are likely to be negligible, but there could be effects on whales in areas where both oil and the whales are at least partially confined in leads or at the ice edge. In the spring, bowhead and beluga whales migrate through offshore leads in the ice, at a distance of more than 75 km (46.6 mi) from Northstar. As a result, interactions between oil and whales are unlikely in the spring. In the summer, bowheads are normally found in Canadian waters, and beluga whales are found far offshore. As a result, at this time of the year, these species would be unaffected should a spill occur. However, oil that persists in the Beaufort Sea into the fall or winter and is not contained and/or removed may impact bowhead whales.

In the fall, the migration route of bowheads can be close to shore. If bowheads were moving through leads in the pack ice, or were concentrated in nearshore waters, or if the oil migrated seaward of the barrier islands, some bowhead whales might not be able to avoid oil slicks and could be subject to prolonged contamination. However, because the autumn migration of bowhead whales past Northstar extends over several weeks and because most of

VOL 66 ISS 246 DE 21 2001 UMI

the whales travel along routes well north of Northstar, according to BPXA (1999), only a small minority of the whales would be likely to intercept patches of spilled oil. The Corps (Corps, 1999) states that considering the limited number of days each year that bowhead whales would be migrating through the area, the low probability that a spill would occur, and the very low probability that oil would move into the migration corridor of the bowheads, it is very unlikely that bowhead whales would be contacted by oil. The effects of oil on these whales have been described in several documents (BPXA, 1999; Corps, 1999; Loughlin *et al.*, 1994; and MMS, 2001).

Ringed seals exposed to oil during the winter or early spring could die if exposed to heavy doses of oil for prolonged periods of time. Prolonged exposure could occur if fuel or crude oil was spilled in or reached nearshore waters, was spilled in a lead used by seals, or was spilled under the ice when seals have limited mobility. Individual seals residing in these habitats may not be able to avoid prolonged contamination and some would die. Studies in Prince William Sound indicated a long-term decline of 36 percent in numbers of molting harbor seals located on those haulouts affected by oil from the EXXON VALDEZ spill. In addition, newborn seal pups, if contacted by oil, will likely die from oiling through loss of insulation and resulting hypothermia (BPXA, 1999). Because the number of ringed and bearded seals in the central Beaufort Sea represents a relatively small portion of their total populations, and even large oil spills are not expected to extend over large areas, relatively few ringed and bearded seals would be impacted, and impacts on regional population size would be expected to be minor.

In addition to oil contacting marine mammals, oil spill cleanup activities could increase disturbance effects on either whales or seals, causing temporary disruption and possible displacement effects (MMS, 1996; BPXA, 1999). In the event of a spill contacting and extensively oiling coastal habitats, the presence of response staff, equipment, and many low-flying aircraft involved in the cleanup will (depending on the time of the spill and cleanup) potentially displace seals and other marine mammals. However, the potential effects on bowhead and beluga whales are expected to be less than those on seals. The whales tend to occur well offshore where cleanup activities (during the open water season) are unlikely to be concentrated (BPXA, 1999). Also, because bowheads are transient and, during the majority of the year absent from the area, this should lessen the likelihood of impact by cleanup activities.

Estimated Level of Incidental Take

BPXA (2001) estimates that, during the ice-covered period, 53 (maximum 139) ringed seals and 1 (maximum 5) bearded seals potentially may be incidentally harassed annually during oil production activities. BPXA estimated these takings by harassment during the ice-covered season by assuming that seals within 3.7 km (2.3 mi) of Seal Island, and within 0.644 km (0.4 mi) of ice roads will be "taken" annually. This constitutes a total area of 46.73 km^2 (18.0 mi^2). These anticipated levels of potential take are estimated based on observed densities of seals during recent (1997-2000) aerial surveys in the Northstar area during spring (Miller *et al.*, 1998; Link *et al.*, 1999; Moulton *et al.*, 2000, 2001) plus correction factors for seals missed by aerial surveyors. NMFS however, concurs with BPXA (1999, 2001) that these "take" estimates could result in an overestimate of the actual numbers of seals "taken," if all seals within these disturbance distances do not move from the area. It should be noted that NMFS does not consider an animal to be "taken" if it simply hears a noise, but does not make a biologically significant response to avoid that noise.

For the ice break-up period, BPXA assumes that seals within 1 km (3.11 km^2) (0.62 mi/1.2 mi^2) of Northstar Island might be affected by activities on the island. Based on aerial surveys conducted in 2000 of hauled-out seals, applying correction factors for seals present on the ice but not seen and for seals not hauled out, and assuming a complete turnover of seals on a weekly basis, BPXA estimates that the total number of ringed seals harassed during the 6 week break-up period will be 25 animals.

During the open-water season, BPXA (2001) estimates that 17 (maximum 27) ringed seals, 5 spotted seals, 1-5 bearded seals, 215 (maximum 774) bowhead whales, up to 5 gray whales, and 15 (maximum 91) beluga whales may be incidentally harassed annually due to operations at Northstar. BPXA assumes that seals and beluga whales within 1 km (0.6 mi) radius of Northstar Island will be harassed incidental to oil production activities on the island. Assumed "take" radii for bowhead whales are based on the distance at which the received level of production-related noise from the island would diminish below 115 dB re 1 μPa. This distance has been conservatively estimated at 4 km (2.5 mi), due mostly to noise from tugs and self-propelled barges.

Although the potential impacts to the several marine mammal species occurring in these areas is expected to be limited to harassment, a small number of ringed seals may incur lethal and serious injury. Most effects, however, are expected to be limited to temporary changes in behavior or displacement from a relatively small area near the Northstar site and will involve only small numbers of animals relative to the size of the populations. However, the inadvertent and unavoidable take by injury or mortality of small numbers of ringed seal pups may occur during ice clearing for construction of ice roads. As a result, BPXA requested that takings by mortality also be covered by the LOA. In addition, some injury or mortality of whales or seals may result in the event that an oil spill occurs. However, because of the unpredictable occurrence, nature, seasonal timing, duration, and size of an oil spill occurring, a specific prediction cannot be made of the estimated number of takes by an oil spill. According to BPXA, in the unlikely event of a major oil spill at Northstar or from the associated subsea pipeline, numbers of marine mammals killed or injured are expected to be small and the effects on the populations negligible. While NMFS agrees that a major oil spill is unlikely, and believes that it is even less likely that spilled oil will intercept numbers of marine mammals, NMFS cannot necessarily conclude that the effects on all marine mammal populations will be negligible. Depending upon magnitude of the spill, its location and seasonality, an oil spill could have the potential to affect ringed and bearded seals, and/or bowhead and beluga whales. Because of the large population size of ringed seals and bearded seals and the small number of animals in the immediate vicinity of the Northstar facility, and because spilled oil is unlikely to disperse widely and, therefore, affect large numbers of seals, NMFS has determined that the effect on ringed and bearded seals will be negligible, even in the unlikely event that a major oil spill occurred.

Bowhead and beluga whales, however, while potentially less likely to come into contact with spilled oil because of their more prevalent offshore distribution, and potentially less seriously affected when in oiled waters provided their passage is not blocked, may be affected more seriously, if impacted, because of their smaller population sizes. However, based upon the Corps' analysis that there is less than a 10-percent chance of a major oil spill occurring during the 20-30 year lifespan of Northstar, and because NMFS believes that the potential for a major oil spill occurring and intercepting these species would be significantly less than 10 percent (approaching 1 percent), NMFS can make a determination that the taking of these two species incidental to operation at the Northstar oil production facility will have no more than a negligible impact on them.

However, regardless of the negligible impact finding, the LOA does not authorize any marine mammal takes that occur incidental to an oil spill. The reason for this is that authorizations are issued only for takes that are incidental to otherwise lawful activities, and an oil spill is not a lawful activity, as indicated by the CWA. The CWA, at 33 USC 1321(b)(3), prohibits discharge in harmful quantities into the water, and regulations at 40 CFR 110.3 define harmful quantities as violating water quality standards or causing a sheen (i.e., oil spills are considered a violation of CWA), an authorization to take marine mammals, under section 101(a)(5)(A) of the MMPA, incidental to an oil spill cannot be issued. Even though NMFS cannot issue incidental taking authorizations for oil spills, it must continue to ensure that potential takings are reduced to the lowest level possible. Therefore, the LOA requires certain mitigation measures to ensure that oil spills do not occur (see Mitigation later in this document).

Impacts on Habitat

Invertebrates and fish, the nutritional basis for those whales and seals found in the Beaufort Sea, may be affected by operations at the Northstar project. Fish may react to noise from Northstar with reactions being quite variable and dependent upon species, life history stage, behavior, and the sound characteristics of the water. Invertebrates are not known to be affected by noise. Fish may have been displaced when the island was constructed. These local, short-term effects, however, are unlikely to have an impact on marine mammal feeding.

In the event of a large oil spill, fish and zooplankton in open offshore waters are unlikely to be seriously affected. Fish and zooplankton in shallow nearshore waters could sustain heavy mortality if an oil spill were to remain within an area for several days or longer. These affected nearshore areas may then be unavailable for use as feeding habitat for seals and whales. However, because these seals and whales are mobile, and bowhead feeding is uncommon along the coast near Northstar, effects would be minor during the open water season. In winter, effects of an oil spill on ringed seal food supply and habitat would be locally significant in the shallow nearshore waters in the immediate vicinity of the spill and oil slick. However, overall effects to the species would be negligible.

Impacts on Subsistence Uses

This section contains a summary on the potential impacts from operational activities on subsistence needs for marine mammals. A more detailed description can be found in BPXA's applications (BPXA, 1999, 2001). This information, in addition to information provided by AEWC and the NSB in their comments on the final rule, and information provided in the Corps' final EIS for Northstar, is believed by NMFS to be the best information available to date on the potential effects on the availability of marine mammals for subsistence uses in the Beaufort Sea area.

Noise Impacts on Subsistence Harvests

The disturbance and potential displacement of bowhead whales and other marine mammals by sounds from vessel traffic and production activities are one of the principle concerns related to subsistence use of the area. The harvest of marine mammals is central to the culture and subsistence economies of the coastal North Slope communities. In particular, if elevated noise levels are displacing migrating bowhead whales farther offshore, this could make the harvest of these whales more difficult and dangerous for hunters. The harvest could also be affected if bowheads become more skittish when exposed to vessel or loud noise (BPXA, 1999, 2001).

Underwater sounds from drilling and production operations on the artificial gravel island are not very strong, and are not expected to travel more than about 10 km (6.2 mi) from the source. BPXA states that even those bowheads traveling along the southern edge of the migration corridor are not expected to be able to hear sounds from Northstar until the whales are well west of the main hunting area for Nuiqsut.

Nuiqsut is the community closest to the area of the proposed activity, and it harvests bowhead whales only during the fall whaling season. In recent years, Nuiqsut whalers typically have taken zero to four whales each season (BPXA, 1999). Nuiqsut whalers concentrate their efforts on areas north and east of Cross Island, generally in water depths greater than 20 m (65 ft). Cross Island, the principle field camp location for Nuiqsut whalers, is located approximately 28.2 km (17.5 mi) east of the Northstar area.

Whalers from the village of Kaktovik search for whales east, north, and west of their village. Kaktovik is located approximately 200 km (124.3 mi) east of Northstar. The westernmost reported harvest location was about 21 km (13 mi) west of Kaktovik, near 70°10'N. 144°W. (Kaleak, 1996). That site is approximately 180 km (112 mi) east of Northstar.

Whalers from the village of Barrow search for bowhead whales much further from the Northstar area, greater than 250 km (>175 mi) to the west.

While the effects on migrating bowheads from noise created by Northstar production are not expected to extend into the area where Nuiqsut hunters usually search for bowheads and, therefore, are not expected to affect the accessibility of bowhead whales to hunters, it is recognized that it is difficult to determine the maximum distance at which reactions occur (Moore and Clark, 1992). As a result, in order to avoid any unmitigable adverse impact on subsistence needs and to reduce potential interference with the hunt, the timing of various activities at Northstar as well as barge and aircraft traffic in the Cross Island area will be addressed in a Conflict Avoidance Agreement between BPXA and the AEWC on behalf of its bowhead whale subsistence hunters. Information on impacts on subsistence seal hunting can be found in the final rule document (65 FR 34014, May 25, 2000).

Oil Spill Impacts on Subsistence Harvests

Oil spills have the potential to affect the hunt for bowhead whales. As a result, the potential for oil spills from Northstar is of significant concern to the residents of the NSB. While oil spills from production drilling or pipelines could occur at any time of the year, NMFS believes that a reduction in the availability of bowhead whales for subsistence uses would be possible only if a significant spill occurred just prior to or during the subsistence bowhead hunt and spread into offshore waters. While unlikely, oil spills could extend into the bowhead hunting area under certain wind and current conditions. BPXA (1999, 2001) states that even in the event of a major spill, it is unlikely that more than a small number of those bowheads encountered by hunters would be contaminated by oil. However, disturbance associated with reconnaissance and cleanup activities could affect bowhead whales and, thus, accessibility of bowheads to hunters. As a result, in the unlikely event that a major oil spill occurred during the relatively short fall bowhead whaling season, it is possible that bowhead whale hunting could be significantly affected. Moreover, even with no more than a negligible impact on those marine mammals that would be subject to subsistence hunting, individuals and communities may perceive that the whale or seal meat or products are tainted or somehow unfit to eat or use. This could further impact subsistence hunting of these animals. However, NMFS believes that because (1) the probability of a large oil spill is less than 10 percent over the 20-30 years of Northstar operations, (2) bowhead whales in the vicinity of Northstar are hunted only in the months of September and October, limiting exposure time, (3) only under certain wind and sea conditions would it be likely that oil would reach the bowhead subsistence hunting area, (4) there will be an oil spill response program in effect that will be as effective as possible considering operating conditions in Arctic waters, and (5) other mitigation measures have been suggested by the applicant and others (and adopted by NMFS) in the event that oil did contact bowheads, NMFS determined in the preamble to the final rule for implementation of small takings of marine mammals incidental to oil production activities at Northstar (66 FR 34014, May 25, 2000) that the construction and operation at Northstar is unlikely to result in an unmitigable adverse impact on subsistence uses of marine mammals during the period of effectiveness of the regulations. During the period between that rulemaking and this document, NMFS has participated in several meetings with BPXA, the AEWC and the NSB in recognition that, although unlikely, if an oil spill were to occur and reach the bowhead migration corridor, there is a potential for significant impacts on the subsistence hunting of bowheads. These meetings resulted in identifying several mitigation measures designed to reduce the impact.

Mitigation

To minimize the likelihood that impacts will occur to the species and stocks of marine mammals and to the subsistence use of marine mammals, all activities at Northstar will be conducted in accordance with all federal, state and local regulations. BPXA will coordinate all activities with relevant federal and state agencies.

In addition to design for safety and leak prevention (including not having any valves, flanges, or fittings in the subsea section to reduce the potential for equipment failure), the pipeline (which was installed in 2000), includes the following measures to mitigate impacts on the marine environment: (1) utilize the best available technology leak detection system to monitor for any potential leaks, (2) conduct, at a minimum, weekly helicopter aerial surveillance of the offshore (and onshore) pipeline corridor; and (3) conduct ice-road surveillance of the pipeline, including checking for hydrocarbons under the ice by drilling ice holes.

An oil spill contingency plan has been developed and was submitted to the Alaska Department of Environmental Conservation, the U.S. Department of Transportation, U.S. Coast Guard, and the MMS for review and approval in March 1999. An updated plan was submitted by BPXA on August 8, 2001, to the State of Alaska Department of Environmental Conservation. Also, emergency response exercises, training and evaluation drills will occur at regular scheduled intervals.

To mitigate the potential for an oil spill to interact with bowhead whales and affect both the species and the subsistence harvest by the NSB villagers, BPXA has confirmed to NMFS that they will not drill new wells or sidetracks from existing wells into oil-bearing strata during the defined period of broken ice or open water conditions which is defined as a period beginning on June 13, 2002, and ending with the presence of 18 inches of continuous ice cover for one-half mile in all directions.

In addition, to ensure that there will not be an unmitigable adverse impact on the subsistence uses of marine mammals, principally bowhead whales, from an oil spill, this mitigation will include planning and financial assistance that will cover the following oil-spill related costs: (1) annual transportation to alternative bowhead whale hunting areas for whaling crews, (b) annual alternate subsistence food supplies to replace subsistence food otherwise provided by a whale, (c) annual counseling and cultural assistance for NSB residents and AEWC members to handle the disruptions to their lives and culture caused by the oil spill, and (d) annual assistance to the NSB and the AEWC to restore the International Whaling Commission (IWC) quota for bowhead whales in the event that an oil spill at Northstar results in a reduction or loss of the IWC quota (BPXA Good Neighbor Policy, March 14, 2001). An oil spill in this context means any significant discharge (as discharge is defined in 33 USC 2701(7)) of liquid hydrocarbons (including crude oil and diesel fuel) into the waters of the Beaufort Sea, irrespecive of cause, including Acts of God, that: (1) causes oil to be present in the water and the impacts defined in (2) to be determinable within three years of the oil spill; and (2)(a) has the significant potential to adversely affect bowhead whales or other species harvested for subsistence use; and (2)(b) is followed by a reduction in the availability of these species for subsistence use in the area(s) in which they are normally hunted.

During the ice-covered season, BPXA proposes to use trained dogs to locate seal structures in previously undisturbed areas beginning on March 1, which, although before the traditional March 20 birthing date for ringed seals, is more appropriate based on the findings in a report by Williams *et al.* (2001). With completion of this report, as required by the 2000/2001 LOA, and the concern raised in that report of the potential negative impact of this monitoring program, NMFS has determined that conducting seal structure surveys beginning January 1 will not be required this year pending a review by a peer-review group next year. If that group determines that additional monitoring is needed, NMFS will make the necessary modification to the BPXA LOA. During the open-water season, a minimum flight altitude of 1,000 ft (304.8 m) will be maintained by all aircraft unless limited by weather conditions or emergencies, and except during takeoff and landing. Helicopter flights will primarily be conducted during ice breakup or freeze-up and will occur in a specified corridor from Northstar Island to the mainland. In addition, all non-essential boat, barge and air traffic will be scheduled to avoid periods when bowhead whales are migrating through the area. Essential traffic will be closely coordinated with the NSB and the AEWC to avoid disrupting subsistence hunting. In addition, BPXA this year has installed a dock for barges at Northstar. This action will allow barges to tie up at Northstar instead of using diesel engines to remain in place, thereby reducing underwater noise levels at Northstar.

Monitoring

A detailed description of BPXA's proposed monitoring program for implementation during the production phase at Northstar can be found in BPXA's 2001 application for an LOA incidental to oil production (BPXA, 2001).

The open-water season portion of BPXA's monitoring plan was reviewed by scientists and others attending the annual open-water peer-review workshop held in Seattle on June 6, 2001, and will be reviewed again in late spring 2002. Peer review on the on-ice portion of the application was conducted on October 14-15, 1999, and October 2000. A summary of marine mammal monitoring that will be conducted during Northstar production this year is provided here; greater detail can be found in BPXA's application (BPXA, 2001).

Under the recently expired LOA, BPXA conducted 6 monitoring tasks. These were to conduct: (1) Fixed-wing, systematic, aerial surveys of seals hauled out on the ice in the spring 2001; (2) on-ice searches, during winter 2000/2001, for ringed seal breathing holes and lairs near Northstar and, if needed, follow-up surveys; (3) measurements of underwater and in air sounds produced by any construction, drilling, and operations to document sounds and vibrations from Northstar construction, (4) island-based visual monitoring for marine mammals during the open water season, and (5) acoustic monitoring of bowhead vocalizations during migration. Task 3, a late-winter helicopter survey to assess abandonment rates of seal holes, was not conducted in the spring 2000, as such a survey had been attempted in spring 1999 with limited success. The results of this monitoring program are contained in Richardson and Williams (2001a and 2001b) and were summarized previously in this document.

During 2002, BPXA will conduct the following monitoring activities:

Monitoring During the Ice-covered Season

During late May/early June, 2002, BPXA plans to conduct systematic aerial surveys, using fixed-wing aircraft, of seals hauled out on the ice. This survey will be consistent with BPXA surveys of this type conducted from 1997 through 2001 (see Richardson and Williams, 2001a, 2001b), and will be the last in the planned series. The initial surveys (1997-1998) were to provide data on baseline distribution and density prior to construction of offshore production facilities. The subsequent surveys (1999-2002) provide comparative data during and after construction at Northstar. BPXA will also make measurements of underwater and in-air sounds, as well as ice vibration produced by any construction, drilling, and operational activities occurring in 2002, whose sounds have not been previously measured.

If construction activities occur in previously undisturbed areas after March 1, 2002, on-ice searches using trained dogs will be employed to locate seal structures. If ice road construction took place after March 1, 2002, a resurvey of the area surveyed previously will be conducted in May 2002 to assess the proportion of structures abandoned relative to distance between the disturbance and the structure.

Monitoring During the Open-Water Season

During the open-water period of 2002, monitoring activities will include acoustic measurements of sounds produced by operational activities and acoustical monitoring of bowhead whales. No visual monitoring of marine mammals are planned for 2002 or in subsequent years for Northstar operations. This task was undertaken in prior years primarily to ensure that no seals or whales would be exposed to potentially injurious levels of sounds from impact pipe driving, or other loud noise sources during construction. However, even during pipe driving, impulse sound levels in the water near the island did not exceed 155 dB (re 1 μPa) and levels did not approach the established 180 dB (whales) and 190 dB (seals) sound level criteria. As BPXA does not plan to conduct impact pipe driving or other noisy activities in 2002 and beyond, there is no need to continue an observer monitoring program from Northstar. However, based on a recommendation from the MMC, NMFS has a requirement in the 2002 LOA that, if activities are conducted that have the potential to result in SPLs greater than 190 dB in the waters offshore of Seal Island, then an observer monitoring program will need to be instituted prior to beginning that activity to ensure that proper mitigation and monitoring requirements are carried out.

BPXA plans to use an acoustic localization technique in 2002 to document the occurrence and locations of calling bowhead whales in the southern part of the migration corridor. This work will be a continuation of work conducted in 2000 (Greene *et al.*, 2001) and planned for 2001 under the current LOA. The primary objective is to document the occurrence of calling bowhead whales in the southern part of the migration corridor near Northstar and to determine whether their distances from the island vary in direct relation to the sound levels emanating from the island. This will provide information on whether Northstar has affected the distribution and/or the calling behavior of the whales.

Reporting

Under the regulations, BPXA is required to provide two 90-day reports annually to NMFS. The first report is due 90 days after either the ice roads are no longer usable or spring aerial surveys are completed, whichever is later. Under recent Authorizations, this report was submitted to NMFS on September 15, 2000 (Richardson and Williams (eds.), 2000), and September 14, 2001 ((Richardson and Williams (eds.), 2001). The second 90-day report is required to be forwarded to NMFS 90 days after the formation of ice in the central Alaskan Beaufort Sea prevents water access to Northstar. Under the recently expired LOA, this report was submitted to NMFS on January 31, 2001 (Richardson and Williams (eds.), 2001a). These reports included the dates and locations of construction activities, details of marine mammal sightings, estimates of the amount and nature of marine mammal takes, and any apparent effects on accessibility of marine mammals to subsistence hunters.

Under the recently expired LOA, a draft final technical report was required to be submitted to NMFS by April 1, 2001. This report was submitted to NMFS on that date (Richardson and Williams (eds.), 2001b). The draft final report was subject to peer review in Seattle, WA on June 6, 2001. The final technical report will fully describe the methods and results of all monitoring tasks and a complete analysis of the data.

NMFS is requiring that the reporting requirements described in these paragraphs will be continued under the new LOA, except that, in conformance with the final rule on this action, the draft final technical report will be due on May 1, 2002. Endangered Species Act (ESA)

On March 4, 1999, NMFS concluded consultation with the Corps on permitting the construction and operation at the Northstar site. The finding of that consultation was that construction and operation at Northstar is not likely to jeopardize the continued existence of the endangered Western Arctic bowhead whale stock. In addition, issuance of a small take authorization to BPXA under section 101(a)(5)(A) of the MMPA is a Federal action, NMFS has completed consultation with itself under section 7 of the ESA on this action. The finding of this consultation was that the issuance of the small take authorization was unlikely to adversely affect the bowhead whale.

On May 22, 2001 (66 FR 28141), NMFS announced receipt of a petition from the Center for Biological Diversity and the Marine Biodiversity Protection Center to designate critical habitat for the Western Arctic stock of bowhead whales under the ESA. NMFS is currently reviewing this petition to determine whether designation of critical habitat is warranted. However, while there is no provision under the ESA that activities that might impact critical habitat cease while a review is underway, federally-permitted oil and gas exploration activities require consultation under section 7 of the ESA if endangered or threatened species are likely to be affected.

National Environmental Policy Act (NEPA)

On June 12, 1998 (63 FR 32207), the Environmental Protection Agency (EPA) noted the availability for public review and comment a draft EIS prepared by the Corps under NEPA on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until August 31, 1998 (63 FR 43699, August 14, 1998). On February 5, 1999 (64 FR 5789), the EPA announced the availability for public review and comment, a final EIS prepared by the Corps on Beaufort Sea oil and gas development at Northstar. Comments on that document were accepted by the Corps until March 8, 1999. Based upon a review of the final EIS, the comments received on the draft EIS and final EIS, and the comments received during the rulemaking, NMFS adopted the Corps' final EIS as its own as provided for in the Council on Environmental Quality regulations (40 CFR 1501.6) and has determined that it is not necessary to prepare supplemental NEPA documentation.

Determinations

On May 25, 2000 (65 FR 34014), NMFS determined that the impact of construction and oil production at the Northstar project in the U.S. Beaufort Sea will result in no more than a temporary modification in behavior by certain species of cetaceans and pinnipeds.

During the ice-covered season, pinnipeds close to the island may be subject to incidental harassment due to the localized displacement from construction of ice roads, from transportation activities on those roads, and from production activities at Northstar. Subsequently, this determination has been supported by monitoring conducted during Northstar construction, including ice road construction, and reported in Richardson and Williams (2001a and 2001b). As cetaceans will not be in the area during the ice-covered season, they will not be affected.

While production activities at Northstar have some potential to influence seal hunting activities by residents of Nuiqsut, NMFS believes that Northstar production-related activities will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses because (1) the peak sealing season is during the winter months, (2) the main summer sealing is off the Colville Delta, and (3) the zone of influence from Northstar on beluga and seals is fairly small.

During the open-water season, the principal operations-related noise activities will be helicopter traffic, vessel traffic, and other general oil production activities on Seal Island. Sounds from production-related activities on the island are not expected to be detectable more than about 5-10 km (3.1-6.2 mi) offshore of the island. Disturbance to bowhead or beluga whales by on-island activities will be limited to an area substantially less than that distance. Helicopter traffic will be limited to nearshore areas between the mainland and the island and is unlikely to approach or disturb whales. Barge traffic will be located mainly inshore of the whales and will involve vessels moving slowly, in a straight line, and at constant speed. Little disturbance or displacement of whales by vessel traffic is expected. While behavioral modifications may be made by these species to avoid the resultant noise, this behavioral change is expected to have no more than a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the area of operations, the number of potential harassment takings is estimated to be small. This is because the activity is in shallow waters inshore of the main migration corridor for bowhead whales and far inshore of the main migration corridor for belugas. In addition, no take by injury and/or death is anticipated, except possibly for a small take of ringed seals by mortality incidental to ice-road construction. No rookeries, areas of concentrated mating or feeding, or other areas of special significance for marine mammals occur within or near the planned area of Northstar operations.

Because bowhead whales are east of Seal Island area in the Canadian Beaufort Sea until late August/early September, activities at Northstar are not expected to impact subsistence hunting of bowhead whales prior to that date. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs has been, and continues to be the subject of consultations between BPXA and subsistence users. In that regard, on October 22, 2001, BPXA and the NSB adopted a Good Neighbor Policy that identifies measures that BPXA will implement in the event of an oil spill to mitigate impacts on subsistence harvests of marine mammals. In addition, NMFS expects BPXA and the NSB to finalize its annual Conflict Avoidance Agreement in 2002, prior to the commencement of the westward bowhead migration in the central and western Beaufort Sea.

NMFS has determined that the potential for an offshore oil spill occurring is low (less than 10 percent over 20-30 years (Corps, 1999)) and the potential for that oil intercepting whales or seals is even lower (about 1.2 percent (Corps, 1999)). Because of this low potential and because of the seasonality of bowheads, NMFS has determined that the taking of marine mammals incidental to operation at the Northstar oil production facility will have no more than a negligible impact on these species. In addition, because BPXA has certified to NMFS that it will not drill into oil-bearing strata during periods of open water or broken ice (the time period between June 13 and ending with the presence of 18 inches (0.46 m) of continuous ice cover for one-half mile (805 m) in all directions), because there will be an oil spill response program in effect that will be as effective as possible considering operating conditions in Arctic waters, and because other mitigation measures have been identified in the event that oil does contact bowheads (see previous discussion), NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses of marine mammals.

Authorization

Accordingly, an LOA has been issued by NMFS to BPXA on this date (see DATES) authorizing the taking of bowhead, beluga, and gray whales and ringed, bearded and spotted seals, incidental to oil and gas production activities at the Northstar facility in the U.S. Beaufort Sea. Issuance of this LOA is based on findings, described in the preamble to the final rule, that the total takings by this activity will result in only small numbers of marine mammals being taken, have no more than a negligible impact on marine mammal stocks in the Beaufort Sea, and not will have an unmitigable adverse impact on the availability of the affected marine mammal stocks for subsistence uses. In addition, NMFS finds that, under its previous LOA, BPXA has met the requirements contained in the implementing regulations, including monitoring and reporting requirements.

This LOA remains valid until November 30, 2002, provided BPXA is in conformance with the conditions of the regulations and the LOA and the mitigation, monitoring, and reporting requirements described in this document and in the LOA are undertaken.

Dated: December 14, 2001.

David Cottingham,

Deputy Director Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 01–31541 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801C]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene a public meeting of the Shrimp Advisory Panel (AP).

DATES: The AP will meet beginning at 8:30 a.m. on January 7, 2001 and will conclude by 3 p.m.

ADDRESSES: The meeting will be held at the New Orleans Airport Hilton, 901 Airline Highway, Kenner, LA; telephone: 504–469–5000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, at the Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Shrimp AP will receive reports from NMFS on the status and health of shrimp stocks in the Gulf and the effects of the 2001 Cooperative Shrimp Closure with the state of Texas. The Shrimp AP may make recommendations for a cooperative closure with Texas for 2002. The Shrimp AP will also review an Options Paper for Amendment 13 to the Shrimp Fishery Management Plan (FMP) that includes alternatives to add rock shrimp to the Shrimp FMP and establishment of status criteria for shrimp stocks including maximum sustainable yields (MSY), optimum yields (OY), as well as criteria for determining if any of the shrimp stocks are undergoing overfishing or should be classified as overfished. The Options Paper may also contain alternatives for bycatch quotas.

Although other non-emergency issues not on the agenda may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 31, 2001.

Dated: December 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31542 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801B]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings of the Standing and Special Reef Fish Scientific and Statistical Committee (SSC) and the Reef Fish Advisory Panel (AP) from January 7 through January 11, 2002.

DATES: The Council's Reef Fish AP will convene at 9 a.m. (EST) on Monday, January 7, 2002 and conclude by 5 p.m. Wednesday, January 9, 2002. The Council will also convene a meeting of the Standing and Special Reef Fish SSC at 8:30 a.m. (EST) on Thursday, January 10, 2002 and conclude by 5 p.m. on Friday, January 11, 2002.

ADDRESSES: The meetings will be held at the Hilton Tampa Airport Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813-877-6688.

Council address: Gulf of Mexico Fishery-Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The AP and the SSC will review a report from the Council's Reef Fish Stock Assessment Panel (RFSAP) summarizing recent NMFS stock assessments, recommendations for allowable biological catch (ABC) and thresholds for status determination for gag, vermilion snapper, and gray triggerfish. They will also review a report from the Council's Socioeconomic Panel (SEP) summarizing the available economic and social information and implications of setting recommended ABC levels for those stocks. The SSC will comment on the scientific validity of these reports, and both the SSC and AP may make recommendations for setting total allowable catch (TAC) or other management measures for these stocks.

Although other non-emergency issues not on the agenda may come before the AP/SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP/SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other

UMI
VOL 66
ISS 246
DE 21
2001
UMI

auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by December 31, 2001.

Dated: December 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31543 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801A]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Enforcement Committee and Advisory Panel, Red Crab Advisory Panel and Oversight Committee and Monkfish Oversight Committee in January, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between January 8, 2002 and January 14, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Newburyport, MA Mansfield, MA and Portsmouth, NH. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Tuesday, January 8, 2002 at 9:30 a.m.—Enforcement Committee and Advisory Panel Meeting.

Location: New England Fishery Management Council Office, 50 Water Street, Mill #2, Newburyport, MA 01950; (978) 465–0492.

The Committee will review enforcement policies and they will discuss policies as they pertain to Scallop Amendment 10 and Monkfish annual adjustments.

Tuesday, January 8, 2002 at 9:30 a.m.—Red Crab Advisory Panel Meeting.

Location: Rossi's Restaurant, 50 Water Street, Mill #2, Newburyport, MA 01950; telephone: (978) 465–0492.

The Advisory Panel will meet to discuss the Council's draft Red Crab Fishery Management Plan (FMP) and proposed management measures. The Advisors will develop recommendations on the final management measures for consideration by the Council's Red Crab Committee. Issues to be discussed include: qualification criteria for a controlled access program for the directed red crab fishery; a potential days-at-sea program for the directed fishery; a potential trip limit for the directed fishery; the establishment of the fishing year for management purposes; and other potential management measures to be implemented in the FMP.

Wednesday, January 9, 2002 at 9:30 a.m.—Red Crab Oversight Committee Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The Oversight Committee will meet to discuss the Council's draft Red Crab FMP and draft Environmental Impact Statement (EIS) and the proposed management measures. The Committee will consider comments received by the Council at public hearings on the draft EIS and during the review period. The Committee will develop recommendations on the final management measures for consideration by the Council. Issues to be discussed include: a controlled access program for the directed red crab fishery; a potential days-at-sea program for the directed fishery; a potential trip limit for the directed fishery; the establishment of the fishing year for management purposes; and other potential management measures to be implemented in the FMP.

Monday, January 14, 2002 at 10:00 a.m.—Monkfish Oversight Committee Meeting.

Location: Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone: (603) 436–2121.

The Committee will review the analysis of options under consideration in Framework 1 to the Monkfish FMP, and make a recommendation to the Council for measures to be submitted to NMFS for the fishing year starting May 1, 2002. Framework 1 contains alternatives to the default measures for Year 4 of the rebuilding program contained in the FMP. Those default measures would eliminate the directed monkfish fishery. The Council is considering various alternative measures based on trip limit and Days-at-Sea (DAS) adjustments to either achieve the same landings as in Year 2 (fishing year 2000–01), the preferred alternative, or achieve the Year 2 and 3 total allowable catch targets (TACs), the non-preferred alternative. Time permitting, the Committee will take public scoping comments on Amendment 2 to the Monkfish FMP.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: December 18, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31545 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 19, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy), Defense Commissary Agency, Plans and Policy Directorate, Analysis and Evaluation Division, ATTN: Mr. Herman Weaver, 1300 E. Avenue, Fort Lee, Virginia 23801–6300.

FOR FURTHER INFORMATION CONTACT: To request information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call (804) 734–8322.

Title and OMB Control Number: Commissary Evaluation and Utility Survey—Generic Clearance, OMB Control Number 0704–0407.

Needs and Uses: DeCA will conduct a variety of surveys to include, but not necessarily limited to customer satisfaction, transaction based comment cards, transaction based telephone interviews, commissary sizing, and patron migration. The information collection will provide customer perceptions, demographics, and will identify agency operations that need quality improvement, provide early detection of process or system problems, and focus attention on areas where customer service and functional training, new construction/renovations, and changes in existing operations that will improve service delivery.

Affected Public: Individuals or households.

Annual Burden Hours: 4,167.

Number of Respondents: 50,000.

Responses Per Respondent: 1.

Average Burden Per Response: 5.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

(All respondents are authorized patrons by DoD regulations, unless otherwise described)

Commissary Sizing Survey

Surveys will support commissary renovation and new construction based on perceptions (aisles, bakery, fish, deli, etc.) of patrons and will include demographics and sale projections.

Possible Facility Sites

Patrons will input their answers to questions concerning where they would like new facility located, what configuration (mall, off-post, mini-marts, parking, etc.), and give their opinions on concerns that will affect their shopping experience. Will include demographics, population maps, and distribution centers.

Patron Migration Survey

These surveys will determine from our patrons which commissary they will migrate to and how sales will affect renovation of receiving facility. Surveys will assess other factors that may determine a need form mini-marts or other small grocery outlets.

BRAC and/or Closure Survey

These surveys will also be given to local townships affected by base closures and its economic impact on surrounding communities, local governments, small and large businesses. The information collected will allow decisions to be made about keeping commissaries open, although, the base has closed or some alternative store for those patrons affected.

Commissary Operational Surveys

These surveys will supply information on processes like TQM, Process Action Team objectives, internal coordination, and vender satisfaction. Also, how DeCA personnel and patrol services such as new computer systems for checking groceries, how long patron services such as new computer systems for checking groceries, how long patrons wait in line, store throughput and queuing, transaction based comment cards, and any new customer service DeCA may want to implement that will need patron support. The vehicle for any survey whether it is by interview or mailing will not burden the patron over fifteen minutes.

Market Basket Surveys

These surveys support the differences between commissary and private sector supermarket prices and the average savings to the commissary patron. Also, we can determine price differences between OCONUS and CONUS commissaries. The patron will give their perceptions on their savings in the commissary versus local supermarkets.

Awareness Surveys

These surveys allow the customer and DeCA to communicate with each other on issues that will make their shopping experience user-friendly. Telephones in aisles for price checks and location of products, TV videos in front of store for specials, market products, and educate patrons on their benefit are just a few areas to keep the patron informed. Customer service is making the patron aware of new and innovative alternatives to issues that will communicate their desires.

Dated: December 17, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31418 Filed 12–20–01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2002.

Title, Form Number, and OMB Number. Health Insurance Claim Form; HCFA Form 1450 (UB 92); OMB Number 0720–0013.

Type of Request: Reinstatement.

Number of Respondents: 7,836.

Responses Per Respondent: 268 (average).

Annual Responses: 2,100,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 525,000.

Needs and Uses: This information collection requirement is necessary for a medical institution to claim benefits under the Defense Health Program, TRICARE, which includes the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). The information collected will be used by TRICARE/CHAMPUS to determine beneficially eligibility, other health insurance liability, certification that the beneficiary received the care, and that the provider is authorized to receive TRICARE/CHAMPUS payments. The form will be used by TRICARE/CHAMPUS and its contractors to determine the amount of benefits to be paid to TRICARE/CHAMPUS institutional providers. Use of the UB-92, also known as the HCFA 1450, continues TRICARE/CHAMPUS commitments to use the national standard claim form for reimbursement of medical services/supplies provided by institutional providers.

VOL 66 ISS 246 DE 21 2001 UMI

Affected Public: Individuals or Households; Business or Other For-Profit; Not-For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Stuart Shapiro.

Written comments and recommendations on the proposed information collection should be sent to Mr. Shapiro at the Office of Management and Budget, Desk Officer for DoD Health Affairs. Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 14, 2001.

Patricia L. Toppings.

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31416 Filed 12–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by January 22, 2002.

Title and OMB Number: Department of Defense Education Activity (DoDEA) Customer Satisfaction Survey for Parents and Students; OMB Number 0704–[To Be Determined].

Type of Request: New Collection.

Number of Respondent: 7,275.

Responses Per Respondent: 1.

Annual Responses: 7,275.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 2,001.

Needs and Uses: The DoDEA Customer Satisfaction Survey will be administered to all parents and teachers within the DoDEA school system, as well as students in grades 4–12. The survey is completely voluntary and will be administered through an on-line, web-based technology. The survey questions were adapted from the Phi Delta Kappa/Gallup Poll of the Public's Attitudes Toward Schools in order to have national comparison data. The survey will give parents, students, and teachers an opportunity to comment on their level of satisfaction with programmatic issues related to DoD schools. Some topics included on the survey are curriculum, communication, and technology. The surveys will be administered biennially. The information derived from this survey will be used in the improvement planning efforts at all levels throughout DoDEA.

Affected Public: Individuals or Households.

Frequency: Biennially.

Respondents Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 17, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–31417 Filed 12–20–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 19, 2002.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 17, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: New.

Title: Annual Performance Report for Title III and Title V Grantees.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 631,
Burden Hours: 11,358.

Abstract: Titles III and V of the Higher Education Act (HEA), provide discretionary and formula grant programs that make competitive awards to eligible Institutions of Higher Education and organizations (Title III, Part E) to assist these institutions expand their capacity to serve minority and low-income students. Grantees annually submit a yearly performance report to demonstrate that substantial progress is being made towards meeting the objectives of their project. This request is to implement a new, web-based Annual Performance Report to more effectively elicit program-specific information to be used for program monitoring and Government Performance and Results Act (GPRA) reporting purposes. The Annual Performance Report will be the cornerstone of a new Performance Measurement System tailored to strengthen the Department of Education's program monitoring efforts, streamline our processes, and enhance our customer service.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266 or via his internet address *Joe.Schubart@ed gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31440 Filed 12–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 2, 2002. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before February 19, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *KFLee@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: December 17, 2001.

John Tressler, Leader,

Regulatory Information Management, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: New.

Title: Survey on Ensuring Equal Opportunity for Applicants.

Abstract: To ensure equal opportunity for all applicants including small community-based, faith-based and religious groups, it is essential to collect information that allows Federal agencies to determine the level of participation of such organizations in Federal grant programs while ensuring that such information is not used in grant-making decisions.

Additional Information: The Department requests emergency processing for the "Survey on Ensuring Equal Opportunity for Applicants" which tracks the participation level of faith-based and community organizations in grant programs. The ability to utilize this form immediately is critical to the implementation of President's Bush's Faith-based and Community Initiative established by an Executive Order dated January 29, 2001 and to carry out the mandate of Section 3(b) of that order. As Congress may enact authorizing and appropriating legislation for the U.S. Department of Education in mid December 2001, it will be necessary to roll out grant application materials as soon as possible to expeditiously fund much needed social programs in Fiscal Year 2002. Since this form must be included in grant application packages, delay in the approval of this form could delay the funding of grant programs. Since this unanticipated event, the Department has consulted with the Office of Management and Budget, the White House Office of Faith-based and Community Initiatives as well as the four Centers for Faith-based and Community Initiatives at the Department of Health and Human Services, Department of Labor, Department of Housing and Urban Development, and the Department of Justice. The Department requests approval by January 2, 2002.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 17,000.
Burden Hours: 1,360.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO.RIMG@ed.gov*, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal

Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31441 Filed 12–20–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Notice 02–11: Ocean Carbon Sequestration Research Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications for research on Carbon Sequestration in the Oceans.

DATES: Applicants are strongly encouraged to submit a brief preapplication for programmatic review no later than January 18, 2002.

The deadline for receipt of formal applications is 4:30 p.m., E.S.T., March 26, 2002, to be accepted for merit review and to permit timely consideration for award in Fiscal Year 2002 and early Fiscal Year 2003.

ADDRESSES: Preapplications should be sent via E-mail to Dr. Anna Palmisano at: *anna.palmisano@science.doe.gov*.

Formal applications, referencing Program Notice 02–11, should be sent to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, MD 20874–1290, ATTN: Program Notice 02–11. This address must also be used when submitting applications by U.S. Postal Service Express Mail or any other commercial overnight delivery service, or when hand-carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Anna Palmisano, Environmental Sciences Division, SC–74, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–9963, E-mail: *anna.palmisano@science.doe.gov*, fax: (301) 903–8519. The full text of Program Notice 02–11 is available via the Internet using the following web site address: *http://www.sc.doe.gov/production/grants/grants.html*.

SUPPLEMENTARY INFORMATION: Predictions of global energy use in the next century suggest a continued increase in carbon emissions and rising concentrations of carbon dioxide (CO_2) in the atmosphere unless major changes are made in the way we produce and use energy—in particular, how we manage carbon.

One way to manage carbon is to use energy more efficiently to reduce our need for a major energy and carbon source—fossil fuel combustion. A second way is to increase our use of low-carbon and carbon-free fuels and technologies, such as nuclear power and renewable sources such as solar energy, wind power, and biomass fuels.

A third way to manage is by "carbon sequestration": The capture and long term storage of carbon either from the global energy system or directly from the atmosphere in oceanic or terrestrial ecosystems. Although many options exist to capture and sequester carbon dioxide, the focus of this solicitation is on fundamental research that would enable: (a) The enhancement of the absorption and retention of atmospheric carbon by ocean biota; and (b) the use of the deep ocean to store carbon dioxide that has been already separated, captured, and transported.

Any viable system for sequestering carbon must have a number of characteristics. It must be effective and cost-competitive with alternative means, such as renewable energy. Unintended environmental consequences must be benign compared to alternative solutions, including no action. A carbon sequestration system must be able to be monitored quantitatively and verified, because contributions to carbon sequestration almost certainly need to be measured. Research sponsored by this program could contribute to any of these goals.

This solicitation invites applications for basic research projects on carbon sequestration in the oceans. The proposed research should be fundamental in nature. Applications that test demonstrations of engineered technologies are not relevant to this solicitation.

Technical Areas of Interest

The ocean represents a large current sink for the sequestration of anthropogenic CO_2 emissions as well as a large potential for further enhancement. Two strategies for enhancing carbon sequestration in the ocean are the focus of the DOE Ocean Carbon Sequestration Research Program. One strategy is the enhancement of the net oceanic uptake from the atmosphere by fertilization of phytoplankton with micronutrients, such as iron. A second strategy is the direct injection of a relatively pure CO_2 stream to ocean depths greater than 1000 m. Sources of CO_2 for direct injection might include power plants, industries or other sources. This solicitation seeks applications that specifically address the long term effectiveness and potential environmental consequences of ocean sequestration by these two strategies. Research projects currently being funded under the DOE Ocean Carbon Sequestration Research Program may be accessed at: *http://cdiac2.esd.ornl.gov/ocean.html*. The program currently funds projects in a wide range of scientific disciplines including marine biology and ecology; biological, physical, and chemical oceanography; computational science and modeling; and physical chemistry and engineering.

Iron Fertilization

Much has been learned about the important role of iron in photosynthesis over the past 15 years through both laboratory and field iron enrichment experiments. Iron deficiency has been shown to limit the efficiency of photosystem II in phytoplankton. Evidence from paleoceanographic samples also links iron supply with marine primary production and carbon flux. However, critical questions remain: How does iron enrichment accelerate carbon flux in high nutrient, low chlorophyll (HNLC), low nutrient, low chlorophyll (LNLC), sub-mixed layer and coastal ecosystems? What are the time scales of remineralization? What are the long term ecological and biogeochemical consequences of fertilization on surface and midwater processes? Basic research is needed on the biogeochemistry of iron and carbon in the ocean. The accurate measure of carbon flux following iron fertilization is critical to the objective evaluation of this strategy for carbon sequestration. We need to understand the regulation of carbon fluxes and the role of mineral ballast in export of organic carbon from the surface to the deep ocean. Our understanding of the concentrations, sources, sinks and ligands of iron in marine systems is also very limited. The complexity of marine ecosystems necessitates careful research on potential environmental consequences of iron fertilization. These consequences may include the potential to impact key oceanic biogeochemical cycles as well as on populations of marine organisms and their trophodynamic interactions.

Examples of relevant research areas for enhancement of the biological pump through iron fertilization include:

1. Environmental consequences of long term ocean fertilization. Research might focus on:

- Examining changes in structure and function of marine ecosystems including community structure of phytoplankton and zooplankton, ocean food webs and trophodynamics, resulting from ocean fertilization.

- Examining changes in natural oceanic biogeochemical cycles (carbon, nitrogen, phosphorus, and silicon) resulting from carbon sequestration.

2. Effectiveness of ocean fertilization on a large scale. Research might focus on:

- Understanding the biological pumping of carbon to deep waters, the export of particulate organic carbon and particulate inorganic carbon to the deep sea, and mineralization or dissolution of all forms at depth. This includes understanding the role of micronutrients (such as iron) and macronutrients (such as nitrogen and phosphorus) in regulation of the biological pump.
- Determining to what extent increased carbon fixation in surface waters would result in an increase in carbon sequestered in the deep ocean, and how long it would remain sequestered.

Research proposed on iron fertilization should also support the USGCRP Carbon Cycle Science Initiative. For a copy of the Carbon Cycle Science Plan, access the following web site: *http://www.gcrio.org/OnLnDoc/pdf/carb_cycle_toc.html*. In particular, the proposed research should provide the scientific foundation for estimating the capacity of the ocean to sequester and store carbon dioxide released as a result of human activities.

Direct Injection

The overarching question for this research area is: Can direct CO_2 injection effectively sequester CO_2 in the ocean with minimal adverse environmental impacts? Fundamental research is needed to assess the efficiency and consequences of direct injection to sequester a maximum level of CO_2 while minimizing the impact on deep sea ecosystems. Current scientific literature on the physiology of deep sea animals suggests a high sensitivity of deep sea animals to acidosis and hypercapnia (CO_2 stress), however, there are few data on impacts of specific levels of CO_2 on animals from various marine habitats. Moreover, there are virtually no data on the potential effects of CO_2 on microbially-mediated biogeochemical transformations of nutrients in the deep sea. Models are needed that provide information on the fate of injected CO_2, particularly in the 100m to 100km range, from the point of injection. The ultimate goal is to be able to develop a coupled model that can predict the fact of injected CO_2 and its chemical, physical and biological effects on marine ecosystems.

Examples of relevant research areas for direct injection of carbon dioxide into the deep ocean include:

1. Environmental consequences of direct injection of CO_2 into the ocean in midwater or deep sea habitats. Research might focus on:

- Determining the effects of changes in pH and CO_2 on the physiology and survival of organisms (including microbes) from midwater and deep sea habitats.
- Understanding the effects of sustained release of concentrated CO_2 on biogeochemical processes, and on ecosystem structure and function. This includes investigations of biogeochemical interactions of seafloor sediments with a hydrated CO_2 plume.

2. Effectiveness of direct injection of CO_2 for carbon sequestration. Research might focus on:

- Understanding the longer-term fate of carbon that is added to the ocean including the carbonate chemistry of mid- and deep-ocean water.
- Addressing weaknesses in Ocean General Circulation Models (OGCMs), specifically their ability to simulate accurately western boundary currents, ocean bottom currents and plume to eddy circulation, and testing models using natural or experimental tracers.
- Coupling near-field with far-field effects of CO_2 injection, for example, couple plume modeling at the basin and global scale with ocean circulation models.

Collaboration

Applicants are encouraged to collaborate with researchers in other institutions, such as: universities, industry, non-profit organizations, federal laboratories and Federally Funded Research and Development Centers (FFRDCs), including the DOE National Laboratories, where appropriate, and to include cost sharing and/or consortia wherever feasible. Additional information on collaboration is available in the Application Guide for the Office of Science Financial Assistance Program that is available via the Internet at: *http://www.sc.doe.gov/production/grants/Colab.html*.

Program Funding

It is anticipated that up to $1,000,000 will be available for awards in this area during Fiscal Year 2002, contingent upon availability of appropriated funds. An additional $1,000,000 will be available for competition by DOE National Laboratories under a separate solicitation (LAB 02–11). Projects involving single investigators or small groups of investigators may be funded at a level up to $300,000 per year for up to 3 years. Applications for field experiments involving larger groups of investigators will be considered, but must be approved at a preapplication level. Multiple year funding of awards is expected, and is also contingent upon availability of funds, progress of the research, and continuing program need.

Preapplications

An informal preapplication may be submitted by E-mail. The preapplication should identify the institution, Principal Investigator name, address, telephone, fax and E-mail address, title of the project, and proposed collaborators. The preapplication should consist of a one to two page narrative describing the research project objectives and methods of accomplishment. These will be reviewed relative to the scope and research needs of the Ocean Carbon Sequestration Research Program. Preapplications are strongly encouraged prior to submission of a full application, especially for large, field-based collaborations. Notification of a successful preapplication is not an indication that an award will be made in response to the formal application.

Merit Review

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following evaluation criteria listed in descending order of importance as codified at 10 CFR 605.10(d):

1. Scientific and/or Technical Merit of the Project,
2. Appropriateness of the Proposed Method or Approach,
3. Competency of Applicant's Personnel and Adequacy of Proposed Resources,
4. Reasonableness and Appropriateness of the Proposed Budget.

The evaluation will include program policy factors such as the relevance of the proposed research to the terms of the announcement and the agency's programmatic needs. Note, external peer reviewers are selected with regard to both their scientific expertise and the absence of conflict-of-interest issues. Both non-federal and federal reviewers may be used, and submission of an application constitutes agreement that this is acceptable to the investigator(s) and the submitting institution.

Formal Applications

Information about the development and submission of applications, eligibility, limitations, evaluation, selection process, and other policies and procedures may be found in 10 CFR part 605, and in the Application Guide for the Office of Science Financial Assistance Program. Electronic access to the Guide and required forms is available via the World Wide Web at: *http://www.sc.doe.gov/production/grants/grants.html*. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made. The research project description must be 15 pages or less, exclusive of attachments and must contain an abstract or summary of the proposed research. On the SC grant face page, form DOE F 4650.2, in block 15, also provide the PI's phone number, fax number and E-mail address. Attachments include curriculum vitae, a listing of all current and pending federal support, and letters of intent when collaborations are part of the proposed research. Curriculum vitae should be submitted in a form similar to that of NIH or NSF (two to three pages), see for example: *http://www.nsf.gov:80/bfa/cpo/gpg/fkit.htm#forms-9*.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington DC on December 14, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–31468 Filed 12–20–01; 8:45 am]

BILLING CODE 6450–02–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE: Wednesday, January 23, 2002.
1 p.m.–8:30 p.m.

ADDRESS: Holiday Inn Santa Fe, 4048 Cerrillos Road, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Menice Manzanares, Northern New Mexico Citizens' Advisory Board, 1660 Old Pecos Trail, Suite B, Santa Fe, NM 87505. Phone (505) 995–0393; fax (505) 989–1752 or e-mail: *mmanzanares@doeal.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1–5 p.m.
—Openness Plan
—Recruitment/Membership
—Budget Review (1st Quarter)
—Report from Chair
—Report from Staff
—Report from Committees

5–6 p.m.
—Dinner Break

6–8:30 p.m.
—Recommendations to DOE
—Resource Conservation Recovery Act (RCRA) Permit Update
—Priorities for LANL EM Budget
—Public Comment

Other Board business will be conducted as necessary.

This agenda is subject to change at least one day in advance of the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Manzanares at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the beginning of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1660 Old Pecos Trail, Suite B, Santa Fe, NM. Hours of operation for the Public Reading Room are 9:00 a.m.–4:00 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Menice Manzanares at the Board's office address or telephone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.org*.

Issued at Washington, DC on December 17, 2001.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31470 Filed 12–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the High Energy Physics Advisory Panel (HEPAP). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, January 28, 2002; 9 a.m. to 6 p.m. and Tuesday, January 29, 2002; 8:30 a.m. to 4 p.m.

ADDRESS: The Latham Hotel, Georgetown, 3000 M Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Glen Crawford, Executive Secretary; High Energy Physics Advisory Panel; U.S. Department of Energy; 19901 Germantown Road; Germantown, Maryland 20874–1290; Telephone: 301–903–9458.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda: Agenda will include discussions of the following:

Monday, January 28, 2002, and Tuesday, January 29, 2002.

- Discussion of Department of Energy High Energy Physics Programs.
- Discussion of National Science Foundation Elementary Particle Physics Program.
- Discussion of the DOE/NSF High Energy Physics Advisory Panel, Subpanel on Long Range Planning for U.S. High Energy Physics.
- Discussion of High Energy Physics University Programs.
- Reports on and Discussion of U.S. Large Hadron Collider Activities.
- Reports on and Discussions of Topics of General Interest in High Energy Physics.
- Public Comment (10-minute rule).

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Panel, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Glen Crawford, 301–903–9458, or *Glen.Crawford@science.doe.gov (e-mail).* You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available for public review and copying within 30 days at the Freedom of Information Public Reading Room; Room 1E–190; Forrestal Building; 1000 Independence Avenue, SW.; Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on December 17, 2001.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 01–31469 Filed 12–20–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–505–000]

Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, New England Power Company, Public Service Company of New Hampshire, Western Massachusetts Electric Company; Notice of Filing

December 17, 2001.

Take notice that on December 11, 2001, New England Power Company (NEP), on behalf of itself and Cambridge Electric Light Company, Central Maine Power Company, The Connecticut Light and Power Company, Public Service Company of New Hampshire and Western Massachusetts Electric Company (Sponsors) submitted for filing a corrected transmittal letter for Notice of Cancellations of certain power contracts, originally filed on December 7, 2001. The corrections include no substantive changes.

The Sponsors state that this filing has been served upon each of the parties originally served in this proceeding on December 7, 2001.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Comment Date: January 2, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31467 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–65–001]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

December 17, 2001.

Take notice that on December 7, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Substitute Twenty-seventh Revised Sheet No. 18 and Substitute Seventeenth Revised Sheet No. 18A, to become effective January 1, 2002:

Columbia Gulf states that on November 30, 2001, it submitted tariff sheets in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement). The order approved GRI's 2002 funding formula. Subsequent to that filing, it has come to Columbia Gulf's attention that it inadvertently reflected the GRI surcharge applicable to those customers with load factors equal to or less than 50% at 4.1¢/Dth instead of the approved surcharge of 4.07¢/Dth. The instant filing is being made to correct the surcharge.

Columbia Gulf states that copies of its filing is being mailed to each of Columbia Gulf's firm and interruptible customers and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31447 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–56–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

December 17, 2001.

Take notice that on December 7, 2001, Dominion Transmission, Inc. (DTI) tendered for filing with the Commission an errata to its November 27, 2001 filing in Docket No. RP02–56–000 (November 27th Filing). The November 27th Filing adopted the Gas Research Institute surcharges previously approved by the Commission on September 19, 2001, in Docket No. RP01–434–000.

DTI states that the purpose of the filing is to correct a transposed number on one of the tariff sheets, affecting the reservation rate and the rate for capacity release. The revised tariff sheet, Substitute Fourteenth Revised Sheet No. 32, corrects that error.

VOL 66 ISS 246 DE 21 2001 UMI

DTI states that copies of its letter of transmittal and enclosures have been served upon DTI's customers, interested state commissions and on all persons on the official service list compiled by the Secretary of the Commission for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31446 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–109–001]

Granite State Gas Transmisison; Notice of Proposed Changes in FERC Gas Tariff

December 17, 2001.

Take notice that on December 7, 2001, Granite State Gas Transmission (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Twenty-fifth Revised Sheet No. 21 and Substitute Twenty-sixth Revised Sheet No. 22, to become effective January 1, 2002.

Granite State states that on November 30, 2001, it submitted tariff sheets in accordance with the Commission's order issued on September 19, 2001 in Gas Research Institute's (GRI) Docket No. RP01–434–000 (Order Approving Settlement). The order approved GRI's 2002 funding formula. Subsequent to that filing, it has come to Granite State's attention that it inadvertently reflected the GRI surcharge applicable to those customers with load factors equal to or less than 50% at 4.1¢/Dth instead of the approved surcharge of 4.07¢/Dth. The instant filing is being made to correct the surcharge.

Granite State states that copies of its filing has been mailed to each of Granite State's firm and interruptible customers, and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31448 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP00–411–001, and RP01–44–003]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

December 17, 2001.

Take notice that on December 10, 2001, Iroquois Gas Transmission System, L.P. (Iroquois) tendered its filing in compliance with the Commission's November 8, 2001 Order on Compliance Filing.

Iroquois states that copies of its filing have been mailed to all firm customers, interruptible customers, state regulatory commissions and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31445 Filed 12–19–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–45–000]

Texas Eastern Transmission, LP; Notice of Application

December 17, 2001.

Take notice that on December 7, 2001, Texas Eastern Transmission, LP (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP02–45–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for approval for it (i) to construct, own, operate, and maintain a 150-foot 20-inch diameter pipeline interconnect with Tennessee Gas Pipeline Company and 9.6 miles of 24-inch diameter lateral pipeline, three meter stations and three regulators and appurtenant facilities in Scioto County, Ohio and Lawrence County, Ohio; (ii) to implement a new lateral line only transportation service (Rate Schedule MLS–1) which is also proposed in Docket No. CP02–17–000; and (iii) to establish an incremental maximum recourse rate of $1.112 for service of 250,000 Dth/d to a proposed Duke Energy Hanging Rock, LLC (Hanging Rock) power plant in Lawrence County, Ohio under the new Rate Schedule MLS–1. The lateral has a design capacity of 288,920 Dth/d.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Any questions regarding the application should be directed to Steven E. Tillman, Director, Regulatory Affairs, at (713) 627–5044, (713) 627–5947 (Fax), Texas Eastern Transmission Corporation, P. O. Box 1642, Houston, Texas 77251–1642.

Texas Eastern requests that the Commission issue a final certificate by June 1, 2002. Texas Eastern says this is needed to allow it to complete construction of the proposed facilities to meet the November 1, 2002 date for test gas requested by Hanging Rock.

The proposed Rate Schedule MLS–1, included in Exhibit P of the application, will be available to any party requesting firm or interruptible transportation service on a portion of Texas Eastern's system designated as a Market Lateral. The proposed service will be provided as a "lateral line only" service with no transportation rights, secondary or otherwise, other than on the designated Market Lateral. The MLS–1 service will allow a firm contracting customer to designate in the MLS–1 Service Agreement the Maximum Daily Quantity (MDQ) and Maximum Hourly Quantity to be delivered, not to exceed the customer's MDQ for the Gas Day. A firm customer will be required to pay for any incremental facilities required to provide the customer's requested service. Firm customers under Rate Schedule MLS–1 will have secondary and capacity release rights only on the Market Lateral. The firm hourly rights will be applicable only as to flows between the Primary Receipt Point and Primary Delivery Point(s) on the Market Lateral. Hanging Rock will have non-firm hourly rates at other points on the lateral.

Texas Eastern says that the proposal will have no impact on rates charged to existing customers. The cost of the facilities is estimated to be $15,080,000. The maximum recourse rate for Hanging Rock's service pursuant to Rate Schedule MLS–1 is a 100 percent incremental reservation rate of $ 1.112 per Dth. This rate is based on proposed incremental facility costs with costs for the unsubscribed capacity of 33,920 Dth/d assigned to interruptible MLS–1 service. Texas Eastern says it has used its rate of return and other factors from Docket No. RP90–119 to derive this incremental rate. An adjustment was made to reflect the current 35% federal income tax rate.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 7, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for appellate court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have their comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of comments alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process.

Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. The Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible. If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31443 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP93–109–018]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report for Third-Party Environmental Proceeds

December 17, 2001.

Take notice that on December 11, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing, pursuant to Article III, Paragraph D of the Stipulation & Agreement dated January 31, 2001 in Docket No. RP93–109–017, its refund report of environmental proceeds received from third-party insurers.

Article III states that Williams will allocate its pass-through of third-party environmental proceeds, if any, to Williams' customers based on firm reservation revenues during the twelve months ended September 30. Williams is herewith filing its report of third-party insurance proceeds received during the twelve months ended September 30, 2001, and the allocation,

UMI
VOL 66 ISS 246 DE 21 2001
UMI

reflected on Schedule B, which sets forth the amount to be refunded to each party under the terms of this settlement. Williams will make the refunds to each of the customers listed thereon on or before January 31, 2002.

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31444 Filed 12–20–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–115–002, et al.]

Kinder Morgan Power Company, et al.; Electric Rate and Corporate Regulation Filings

December 17, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Kinder Morgan Power Company v. Southern Company Services, Inc.

[Docket No. EL01–115–002]

Take notice that on December 10, 2001, Southern Companies Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's Order issued on November 23, 2001.

Comment Date: January 9, 2002.

2. Illinois Power Company

[Docket No. ER96–185–003]

Take notice that on December 11, 2001, Illinois Power Company (Illinois Power), filed with the Federal Energy Regulatory Commission (Commission) a motion requesting a waiver of the requirement to file a market analysis in this proceeding. Illinois Power states that upon acceptance of the Emergency Energy Tariff filed in Docket No. ER02–399–000 it will file a notice of cancellation of the Power Sales Tariff accepted in this proceeding.

Illinois Power states that a copy of its motion has been mailed to each person on the official service list in this proceeding, each party having a service agreement under the Power Sales Tariff and each MAIN member currently participating in the Callable Reserves Emergency Energy Procedure under MAIN Guide No. 5B.

Comment Date: January 2, 2002.

3. Western Resources, Inc.

[Docket No. ER01–3105–001]

Take notice that on December 12, 2001, Western Resources, Inc. (WR) tendered for filing with the Federal Energy Regulatory Commission (Commission) a refiling of the Electric Interchange Agreement between WR and Kansas City Power & Light in compliance with Order 614 as required by the acceptance letter dated November 20, 2001.

WR request and effective date of September 26, 2001.

Comment Date: January 3, 2002.

4. Ameren Services Company

[Docket No.ER02–196–001]

Take notice that on December 12, 2001, Ameren Services Company (ASC) tendered for filing a Network Integration Transmission Service Agreement and Network Operating Agreement between ASC and Illinois Municipal Electric Agency. ASC asserts that the purpose of the Agreement is to replace the unexecuted Agreements in Docket No. ER 02–196–000 with the executed Agreements.

Comment Date: January 2, 2002.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER02–485–000]

Take notice that on December 13, 2001, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted revisions to Attachment N (Recovery of Costs Associated with New Facilities) of the Midwest ISO Open Access Transmission Tariff to implement specific ROE and accelerated depreciation incentives.

Comment Date: January 2, 2002.

6. Ameren Services Company

[Docket No. ER02.–525–000]

Take notice that on December 11, 2001, Ameren Services Company (ASC) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service and Non-Firm Point-to-Point Transmission Service between ASC and Dominion Nuclear Marketing II, Inc. ASC asserts that the purpose of the Agreements is to permit ASC to provide transmission service to Dominion Nuclear Marketing II, Inc. pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: January 2, 2002.

7. Central Vermont Public Service Corporation, and Green Mountain Power Company

[Docket No. ER02–528–000]

Take notice that on December 12, 2001, Central Vermont Public Service Corporation (CVPS), Green Mountain Power Corporation (GMP), and Vermont Electric Power Company, Inc. (VELCO) tendered for filing termination agreements and subsequent amendments to VELCO's Electric Rate Schedule FERC No. 234 (Rate Schedule 234) effective February 28, 2002.

The proposed termination agreements reflect that the City of Burlington Electric Department, Village of Lyndonville Electric Department, Village of Northfield Electric Department, Village of Orleans Electric Department, Town of Hardwick Electric Department, Town of Stowe Electric Department and Washington Electric Cooperative, Inc. (collectively, the Vermont Secondary Purchasers) and VELCO have mutually agreed to terminate their power purchase agreements under Rate Schedule No. 234.

Copies of the filing were served upon the all affected parties to the amended rate schedule and the Vermont Public Service Board.

Comment Date: January 2, 2002.

8. American Transmission Company LLC

[Docket No. ER02–529–000]

Take notice that on December 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Generation-Transmission Interconnection Agreement between ATCLLC and Cloverland Electric Cooperative.

ATCLLC requests an effective date of June 29, 2001.

Comment Date: January 2, 2002.

9. Duke Energy Marshall County, LLC

[Docket No. ER02–530–000]

Take notice that on December 12, 2001, Duke Energy Marshall County, LLC (Duke Marshall) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1.

Duke Marshall seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Marshall also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities. Duke Marshall requests pursuant to section 35.11 of the Commission's regulations that the Commission waive the 60-day minimum notice requirement under section 35.3(a) of its regulations and grant an effective date for this application of February 1, 2002, the date on which Duke Marshall anticipates commencing the sale of test energy.

Comment Date: January 2, 2002.

10. American Transmission Company LLC

[Docket No. ER02–531–000]

Take notice that on December 12, 2001, American Transmission Company LLC (ATCLLC) tendered for filing an executed Distribution-Transmission Interconnection Agreement between ATCLLC and the City of Plymouth.

ATCLLC requests an effective date of June 25, 2001.

Comment Date: January 2, 2002.

11. California Independent System Operator Corporation

[Docket No. ER02–532–000]

Take notice that on December 13, 2001, the California Independent System Operator Corporation tendered for filing an Amendment to Schedule 1 of the Participating Generator Agreement between the ISO and Southern California Edison Company (SoCal Edison) for acceptance by the Commission. The ISO states that this filing has been served on SoCal Edison and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective December 13, 2001.

Comment Date: January 3, 2002.

12. The Potomac Edison Company

[Docket No.ER02–533–000]

Take notice that on December 13, 2001, Allegheny Energy Service Corporation on behalf of The Potomac Edison Company (Potomac Edison), submitted a Notice of Cancellation of Service Agreement No. 22 (including its Amendments and Supplements) with Old Dominion Electric Cooperative, a customer under Potomac Edison's Rate Schedule designated as FERC Electric Tariff, Fourth Revised Volume No. 2.

Potomac Edison has requested a waiver of notice to allow the cancellation to be effective January 1, 2002.

Comment Date: January 3, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.

[FR Doc. 01–31466 Filed 12–20–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–7121–9]

Notice of Deficiency for Clean Air Act Operating Permit Program in the District of Columbia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deficiency.

SUMMARY: Pursuant to its authority under the Clean Air Act, EPA is publishing this Notice of Deficiency (NOD) for the District of Columbia's Clean Air Act title V operating permit program. The NOD is based upon EPA's finding that the District of Columbia's requirements for public notification do not comply with the requirements of the Clean Air Act and its implementing regulations. Publication of this Notice is a prerequisite for withdrawal of the District of Columbia's title V program approval, but EPA is not withdrawing this program through this action.

EFFECTIVE DATE: December 13, 2001. Because this NOD is an adjudication and not a final rule, the Administrative Procedure Act's 30 day deferral of the effective date of a rule does not apply.

FOR FURTHER INFORMATION CONTACT: Paresh R. Pandya, U.S. Environmental Protection Agency Region III (3AP11), 1650 Arch Street, Philadelphia, PA 19103 at (215) 814–2167, or by e-mail at *pandya.perry@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001 (65 FR 32035). Sierra Club and the New York Public Interest Research Group challenged the action. In settling the litigation, EPA agreed to publish a notice in the **Federal Register**, so that the public would have the opportunity to identify and bring to EPA's attention alleged deficiencies in title V programs. The EPA published that notice on December 11, 2000 (65 FR 77376).

As stated in the **Federal Register** notice, EPA agreed to respond by December 1, 2001 to timely public comments on programs that have obtained interim approval; and EPA agreed to respond by April 1, 2002 to timely comments on fully approved programs. The EPA is publishing a NOD if the Agency determines that a deficiency exists, and is notifying the commenter in writing to explain the reasons for not making a finding of deficiency on other issues. The EPA received one timely comment letter pertaining to the District of Columbia's title V program. In reviewing the commenter's concerns, EPA agrees that the commenter has identified a deficiency in the District of Columbia's title V operating permit program relating to the District of Columbia's public notification requirements. The EPA is addressing that deficiency in this notice. In addition, the commenter raised other issues that EPA has determined are not deficiencies. The EPA is responding to the commenter in writing, explaining the basis for EPA's decision.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Under EPA's permitting regulations, citizens may, at any time, petition EPA regarding alleged deficiencies in state title V operating permit programs. In addition, EPA may on its own identify deficiencies. If, in the future, EPA agrees with a new citizen petition or otherwise identifies deficiencies, EPA may issue a new NOD.

II. Description of Action

The EPA is publishing this NOD to notify the District of Columbia and the public that EPA has found a deficiency in the District of Columbia's title V operating permit program. This document is being published to satisfy section 502(i) of the Clean Air Act and 40 CFR 70.10(b)(1), which provides that EPA shall publish in the **Federal Register** a notice of any determination that a State's title V permitting program no longer complies with the requirements of 40 CFR part 70 and the Clean Air Act. The deficiency that is the subject of this document relates to the District of Columbia's regulatory authority to provide adequate public notification of permit actions, pursuant to 40 CFR part 70.

The EPA's regulations at 40 CFR 70.7(h) and 70.7(d)(3)(i) provide that public notice shall be provided for all permit proceedings, except those qualifying as administrative permit amendments or minor permit modifications. Such public notification shall be provided by a number of means, including "by publication in a newspaper of general circulation in the area where the source is located or in a State publication designed to give general public notice; to persons on a mailing list developed by the permitting authority, including those who request in writing to be on the list; and by other means if necessary to assure adequate notice to the affected public." *See*, 40 CFR 70.7(h)(1). EPA's regulations at 40 CFR 70.4(b)(16) require that State part 70 program submittals contain provisions requiring the permitting authority to implement the requirements of 40 CFR 70.7. The District of Columbia's operating permit program regulations at 20 DCMR 303.10 require that public notice of draft initial permits, significant modifications and permit renewals be published in the *District of Columbia Register* and that copies of such notice be sent to the applicant, to the representatives of affected states, and to persons on a mailing list developed by the Mayor, including those who request in writing to be on the list.

However, the regulations do not expressly require that "other means" be employed if necessary to assure adequate public notice. Because the District of Columbia's operating permit program regulations do not require the District to provide public notice by other means if necessary to assure adequate notice to the affected public, the District of Columbia's operating permit program does not fully comply with the requirements of the Clean Air Act and 40 CFR part 70.

Title V provides for the approval of State programs for the issuance of operating permits that incorporate the applicable requirements of the Clean Air Act. To receive title V program approval, a State permitting authority must submit a program to EPA that meets certain minimum criteria, and EPA must disapprove a program that fails, or withdraw an approved program that subsequently fails, to meet these criteria. These criteria include requirements for proper public participation procedures (40 CFR 70.4(b)(16)). *See* 40 CFR 70.7(h).

The EPA's title V implementing regulations at 40 CFR 70.4 and 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70 and the permitting authority fails to take corrective action. A list of potential bases for program withdrawal is provided at 40 CFR 70.10(c)(1)(i), and includes the case where the permitting authority's legal authority does not meet the requirements of 40 CFR part 70.

The procedures for program withdrawal are set forth at 40 CFR 70.10(b). The procedures require as a prerequisite to withdrawal that the EPA Administrator notify the permitting authority of any finding of deficiency by publishing a notice in the **Federal Register**. This document satisfies this requirement and constitutes a finding of deficiency. According to 40 CFR 70.10(b)(2), if the District of Columbia has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after issuance of this notice of deficiency, EPA may withdraw the state program, apply any of the sanctions specified in section 179(b) of the Act, and/or promulgate, administer, and enforce a federal title V program. As provided by 40 CFR 70.10(b)(3), if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency and signature of the NOD, EPA would be required to apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act. In addition, 40 CFR 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency, EPA will promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding. This document constitutes a finding of deficiency.

This document is not a proposal to withdraw the District of Columbia's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days to determine whether the state has taken significant action to correct the deficiency.

III. EPA Responses to Citizen Comments

EPA is responding in writing to all timely comments that citizens submitted pursuant to the settlement agreement. For all comments not resulting in an NOD, EPA is responding directly to the commenter, explaining the reasons why EPA did not find that an NOD was warranted. The EPA will publish a notice of availability in the **Federal Register** notifying the public that EPA has responded in writing to the commenter and explaining how the public may obtain a copy of EPA's responses.

IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action to issue a notice of deficiency for the District of Columbia's Clean Air Act title V operating permit program may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of December 21, 2001.

Authority: 42 U.S.C. 7401–7671q.

Dated: December 13, 2001.

Judith Katz,

Acting Regional Administrator, Region III.

[FR Doc. 01–31499 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–7]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa*.

Weekly receipt of Environmental Impact Statements

Filed December 10, 2001

Through December 14, 2001

Pursuant to 40 CFR 1506.9.

EIS No. 010523, Draft EIS, FRC, MI, WI, Bond Falls Project, Issuing a New License for Existing Hydroelectric License, (FERC No. 1864–005)

Ontonagon River Basin, Ontonagon and Gogebic Counties, MI and Vilas County, WI, Comment Period Ends: February 04, 2002, Contact: Patrick Murphy (202) 219–2659.

EIS No. 010524, Final EIS, FHW, NM, New Mexico Highway 126 (NM–126), Cuba-La Cueva Road (also Known as Forest Highway 12) Improvement, COE Section 404 Permit and NPDES Permit, Sandoval and Rio Arriba Counties, NM, Wait Period Ends: January 22, 2002, Contact: Richard J. Cushing (303) 969–5910.

EIS No. 010525, Revised Draft EIS, COE, MO, ND, SD, NB, IA, KS, Missouri River Master Water Control Manual Review and Update, Mainstem Reservoir System, New and Updated Information, Missouri River Basin, SD, NB, IA and MO, Comment Period Ends: February 04, 2002, Contact: Rose Hargrave (402) 697–2527.

EIS No. 0526, Final EIS, BLM, NV, Falcon to Gonder 345kV Transmission Project, Construction, Resource Management Plan Amendments, Right-of-Way Grant, Lander, Elko, Eureka and White Pine Counties, NV, Wait Period Ends: January 22, 2002, Contact: Mary Craggett (775) 635–4060.

EIS No. 010527, Final EIS, FTA, CT, New Britain—Hartford Busway Project, Proposal to Build an Exclusive Bus Rapid Transit (BRT) Facility, Located in the Towns/Cities of New Britain, Newington, West Hartford and Hartford CT, Wait Period Ends: January 22, 2002, Contact: Richard H. Doyle (617) 494–2055.

EIS No. 010528, Draft EIS, AFS, MO, Oak Decline and Forest Health Project, To Improve Forest Health, Treat Affected Stands, Recover Valuable Timber Products, Promote Public Safety, Potosi and Salem Ranger Districts, Mark Twain National Forest, Crawford, Dent, Iron, Reynolds, Shannon and Washington, MO, Comment Period Ends: February 04, 2002, Contact: Karen Mobley (573) 729–6656.

EIS No. 010529, Final EIS, FHW, WV, Shawnee Highway Project, Construction between the Ghent Interchange of I–787 in the North and McDowell County 14 or McDowell County 17 in the South, Funding, McDowell, Raleigh and Wyoming Counties, WV, Wait Period Ends: January 22, 2002, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 010530, Final EIS, FRC, NY, Eastchester Project, Natural Gas Pipeline and Associated Facilities, (Docket Nos. CP00–232–001) Construction, Operation and Maintenance, from Northport Long Island to the Bronx, Approval and US Army COE Section 10 and 404 Permits Issuance, Bronx Borough, NY, Wait Period Ends: February 04, 2002, Contact: John Schnagl (202) 219–2661. This document is available on the Internet at: http://rimsweb1.ferc.fed.us

EIS No. 010531, Draft EIS, UAF, CA, EL Rancho Road Bridge Project, To Provide a Flood-Free Crossing at San Antonia Creek to Access North Vandenberg Air Force Base, Santa Barbara County, CA, Comment Period Ends: February 04, 2002, Contact: Jack Bush (703) 604–0553.

Amended Notices

EIS No. 010357, Draft EIS, SFW, Light Goose Management Plan, Implementation, Reducing and Stabilizing Specific Populations "Light Geese" in North America, Comment Period Ends: January 25, 2002, Contact: Jon Andrew (703) 358–1714. Revision of FR Notice Published on 09/28/2001: CEQ Review Period Ending on 12/14/2001 has been Extended to 01/25/2002.

EIS No. 010368, Final Supplement, JUS, Cannabis Eradication in the Contiguous United States and Hawaii, Updated Information concerning New Scientific Data on Herbicidal Eradication , Wait Period Ends: January 28, 2002, Contact: Joyce M. Elliott (202) 307–8923. Published FR –10–05–01 Review Period Reopened.

EIS No. 010401, Draft Supplement, FHW, MI, US–31 Petoskey Area Improvement Study, To Reduce Congestion on US–31 in the City of Petoskey and Resort and Bear Creek Townships, COE Section 404 Permit, Emmet County, MI , Comment Period Ends: February 28, 2001, Contact: James A. Kirschensteiner (517) 702–1835.

Revision of FR Notice Published on 11/02/2001: CEQ. Comment Period Ending 12/17/2001 has been Extended to 02/28/2002.

Dated: December 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–31537 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D–COE–A39138–00 Rating **3, Programmatic EIS—Nationwide Permits Procedures Review and Examination, US Army Corps of Engineers Section 10 and 404 Permit Issuance.

Summary: EPA believes the data used in the Draft PEIS and the methods used to analyze and draw conclusions from that data were inadequate, thereby preventing a full disclosure of potentially significant environmental impacts of the proposal. EPA recommended that the draft PEIS be formally revised and made available for public comment in a supplemental or revised draft PEIS.

ERP No. D–USA–A10074–00 Rating EC2, *Programmatic EIS*—Army Transformation, Army Vision to Address the Changing Circumstances of the 21st Century, Transformation in three Phases: Initial Phase, Interim Capacibility Phase, and an Objective Force Phase.

Summary: EPA expressed environmental concerns regarding air, land use, water resources, and noise and requested additional information regarding impact analysis.

Dated: December 18, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–31538 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

UMI
VOL 66 ISS 246 DE 21 2001
UMI

ENVIRONMENTAL PROTECTION AGENCY

[PF–1063; FRL–6814–1]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1063, must be received on or before January 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1063, in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9368; e-mail address: jamerson.hoyt@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1063. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1063, in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1063. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Make sure to submit your comments by the deadline in this notice.

7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 12, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by BASF Corporation, Agricultural Products, 26Davis Drive, Research Triangle Park, NC 27709 and represents the view of BASF Corporation. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interregional Research Project Number 4

PP 0E6209

EPA has received a pesticide petition 0E6209 from the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902-3390 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of (3,6-dichloro-o-anisic acid (dicamba) in or on the raw agricultural commodities (RAC): Corn, sweet, kernel plus cob with husks removed at 0.04 part per million (ppm); corn, sweet, forage at 0.50 ppm; and corn, sweet, stover at 0.50 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism is adequately understood on the basis of soybean, asparagus, cotton, sugarcane, and published data on grass. In the majority of registered crops, the major metabolite is the 3,6-dichloro-5-OH-o-anisic acid. Tolerances are expressed as the dicamba parent plus the respective major metabolite.

2. *Analytical method*. BASF Corp. has provided suitable independently validated analytical methods for detecting and measuring levels of dicamba, and its metabolites in or on food with a limit of detection that allows monitoring of food with residues at or above the levels described in these and the existing tolerances. Adequate methods are available in PAM-II for enforcement purposes. The analytical method involves extraction, partition, clean-up and detection of residues by gas chromatography/electron capture detector (gc/ecd).

3. *Magnitude of residues*. Residue trials have been conducted with dicamba/diflufenzopyr end-use product distinct on the sweet corn crop for expanded use requested in the subject petition. The tolerances listed below are based on the maximum expected residue from geographically representative field trial data: Proposed tolerances for combined residues of the herbicide dicamba (3,6-dichloro-o-anisic acid) and its metabolite 3,6-dichloro-5-hydroxy-o-anisic acid in or on the RAC as follows (40 CFR 180.227(a)): Corn, sweet, kernel plus cob with husks removed at 0.04 ppm; corn, sweet, forage at 0.05 ppm; and corn, sweet, stover at 0.05 ppm.

4. *Animal residue*. The uses proposed do not yield secondary residues in meat, and milk above the tolerances already published under 40 CFR 180.227. Data from metabolism and feeding studies in poultry have established that the maximum expected dietary burden from crops treated with dicamba, will not result in quantifiable residues above the limits of the analytical method.

B. Toxicological Profile

1. *Acute toxicity*. Oral rat LD_{50}: 1,879 milligrams/kilograms (mg/kg) (m) and 1,581 mg/kg (f). Acute dermal rat LD_{50}: > 2,000 kg/kg (m/f). Acute inhalation rat LC_{50}: > 9.6 mg/L (m/f). Primary eye irritation: Extremely irritating and corrosive to the eye. Primary dermal irritation rabbits: Not a primary skin irritant. Dermal sensitization guinea pigs: Moderate potential to cause dermal sensitization. Acute neurotoxicity: No observed adverse levels (NOAEL) < 300 mg/kg (low dose). No neuropathological effects were found.

2. *Genotoxicity*. Ames: Negative. *In vitro* chromosome aberration in Chinese Hamster Ovary: Negative. Sex-linked recessive lethal in Drosophila: Negative. Aberrations in rat bone marrow: Negative. Mitotic recombination: Negative. UDH Unscheduled DNA synthesis (UDS) with WI-38) human lung fibroblasts: Negative. Differential toxicity with *E. coli* pol *A and B. subtilus:* Positive. Differential toxicity with *S. typhimurium*: Negative. UDS in human lung lymphocytes with activation: Negative; slight increase of sister chromatid exchange in human cultured lymphocytes; positive in *in vivo* unwinding of liver DNA Inhalable Particles (in ip) injected rats.

3. *Reproductive and developmental toxicity*. Rodent developmental toxicity rat: Oral doses of 0, 64, 160, or 400 mg/kg were administered daily during gestation days 6 to 19. The numbers of implantations, resorptions, and fetuses for test animals were similar to those numbers for control animals. No abnormalities were attributed to exposure to dicamba. Technical dicamba was not found to be teratogenic with the test system/study design employed. Maternal toxicity was found only at the highest dose tested (HDT) and the NOAEL was 160 mg/kg/day.

i. *Rabbit developmental toxicity*. Dicamba was administered orally (undiluted) via capsule to groups of 20 artificially inseminated New Zealand White rabbits. Dose levels of 0, 30, 150, or, 300 mg/kg were administered once daily on days 6–18 of presumed-gestation (day 0 = day of insemination). Females were sacrificed on day 29 of presumed gestation. There were no deaths attributed to treatment. At the 150 mg/kg and 300 mg/kg levels, increased numbers of does with decreased motor activity and statistically significant numbers of does with ataxia were noted. At 300 mg/kg, a significant number of does had rales and an increased number of does showed labored breathing, perinasal substance, dried feces, impaired righting reflex, and red substance in the cage pan. These clinical observations were considered to be effects of treatment. Females in the 300 mg/kg group had statistically significant body weight loss for the entire dosage period. At 150 mg/kg, females lost weight on day 7 and 8 of presumed gestation. Although, compensatory weight gains occurred during the post-treatment period (days 19–29 of gestation), body weight gains remained statistically significantly reduced on days 6–29 of gestation in the 300 mg/kg group. No significant differences were obtained in litter averages for*corpora lutea*, implants, litter sizes, resorption sites, percent male fetuses, fetal body weight, percent resorbed conceptuses or number of does with any resorptions. No gross external, soft tissue or skeletal alterations in fetuses were considered to be related to treatment. The maternal NOAEL for technical dicamba to pregnant rabbits was 30 mg/kg/day. Levels of 150 and 300 mg/kg caused abortions, but were at significant maternally toxic doses. The developmental NOAEL was the highest dose tested, 300 mg/kg/day. There were no effects on embryo-fetal viability or development at any level.

ii. *Two-generation reproduction rat.* Potential effects on growth and reproductive performance were assessed over 2-generations of rats maintained on diets containing technical dicamba at concentrations of 0 control, 500, 1,500 or 5,000 ppm. Exposure at 5,000 ppm was associated with a slower growth rate of F1 pups prior to weaning and resulted in lower initial body weights in those selected as parental animals. The lower body weight was associated with a decrease in both food consumption and water intake. Sexual maturation was slightly delayed among males, but was likely associated with the initial reduced growth rate. Increased liver weights were noted consistently for adults of both generations and for weanlings. There were no effects on reproductive ability from treatment at any level. The low pregnancy rate among F, females in all groups was considered to be due to increased weights of those females. The NOAEL and LOAEL for system toxicity were 1,500 and 5,000 ppm, respectively. The NOAEL and LOAEL for reproductive toxicity were 500 (45 mg/kg/day) and 1,500 ppm, respectively.

4. *Subchronic toxicity*—i. *21–Day dermal.* There were no dicamba related changes in general behavior, appearance, body weight, or in blood and urine analysis. There were no compound-related gross pathology lesions, only skin lesions. There were no significant organ weight variations observed.

ii. *Thirteen-week rodent feeding* (rat). Rats were offered technical dicamba at dietary concentrations of 0, 1,000, 5,000, or 10,000 ppm. The mean body weight and food consumption values for the high dietary level animals were decreased from the control values. No adverse treatment-related findings were noted in either the blood parameters investigated or necropsy evaluation. Microscopic examinations of the liver revealed an absence or reduction of cytoplasmic vacuolation in the hepatocytes of the high dietary level animals. The no-effect level was suggested to be 5,000 ppm.

iii. *Eight-week rodent (dog).* Technical dicamba was offered orally at dietary concentrations of 0 (Control), 100, 500, or 2,500 ppm to dogs for 1 year. Initially, a decrease in food consumption was noted mainly among males at 500 and 2,500 ppm. This was most notable in a single 2,500 ppm male resulting in almost no food consumed for the first 3 weeks of feeding. Following administration of the 2,500 ppm diet in a water slurry during weeks 4–6, this male was placed back on feed and food consumption stabilized. There appears to be a limit to the amount of material that can be added to the feed before dogs will not consume the diet. The 2,500 ppm level was considered close to the maximum that could be employed, as 1 dog failed to consume the diet when offered in the usual form. Due mainly to the aforementioned male, mean body weight of 2,500 ppm males did not increase until week 5. The overall body weight gain for the 1 year period was comparable for all groups. It was concluded that aside from the lower food consumption, the no-effect level for toxicity was 50-60 mg dicamba/kg body weight (2,500 ppm) in both males and females. Because of the lack of toxicity shown in this study, the RfD Peer Review committee concurred that the NOEL was 2,500 ppm (HDT) and a LOEL was not established.

Sub-chronic neurotoxicity. NOAEL was established at 401 (m) and 472 (f) mg/kg/day. No histopathological effects on the peripheral or central nervous system were noted.

5. *Chronic toxicity*—i.*Chronic feeding/carcinogenicity in rat.* Groups of 60 rats/sex were maintained on diets containing technical dicamba at concentrations of either 0, 50, 250, or 2,500 ppm. An interim sacrifice of 10/sex/level was conducted at 12 months. Initially scheduled as a 27–month study, males were sacrificed at 115 weeks and females at 118 weeks due to survival rates. In males, no statistically significant differences in data for all tumors combined, all benign tumors combined, and all malignant tumors combined were obtained. A slight increase in malignant lymphoma was not statistically significant (pairwise comparisons); and was not considered to be toxicologically significant. A slight increase in thyroid parafollicular cell carcinoma in the high treatment group was noted but was not statistically significant in pairwise comparisons. In females, no statistically significant differences were noted in comparisons with all tumors combined, all benign tumors combined, and all malignant tumors combined or in any individual tumor type. In summary, no signs of toxicity related to administration of dicamba were noted. Findings among animals in the three treatment groups were considered to be comparable to findings among the control animals. Dicamba was not carcinogenic for animals of the species, strain, and age under the conditions of the study. Based on the results of the study, the no effect level was considered to be 2,500 ppm.

ii. *Carcinogenicity in mice.* Groups of 52 male and 52 female mice were fed diets containing dicamba at concentrations of 0, 50, 150, 1,000, or 3,000 ppm. Males were sacrificed following 89 weeks of feeding and females were sacrificed following 104 weeks of feeding. Reduced body weight gain (not statistically different) was noted among 3,000 ppm females. Increased mortality noted among 3,000 ppm males was considered unlikely to be related to treatment but could not be completely excluded. An increased incidence in lymphoid tumors, showing a statistical significance at 150 and 1,000 ppm, occurred in females. However, the incidence at 3,000 ppm did not statistically differ from control. Additionally, there was no significant trend with dosage and the values for treated females were within historical control data. Finally, the incidence of benign and malignant tumors in any tissue were similar for treated and control animals. Administration of dicamba in the diet at achieved intakes ranging from 5.5 to 364 mg/kg/day produced no evidence of tumorigenic potential. Generally, no findings among mice receiving 1,000 ppm or below were considered to be of toxicological significance. The dietary level of 1,000 ppm (108 mg/kg/day in males and 121 mg/kg/day in females) was defined as the no toxic effect level. However, the RfD committee chose to establish the NOAEL at 3,000 ppm and stated that no LOAEL had been established.

iii. *Chronic dog.* In a 1–year chronic feeding study, dicamba 86.8% active ingredient (a.i.) was administered to Beagle dogs (4/sex/group) in the diet at 0, 10, 500 or 2,500 ppm (0, 2, 11, or 52 mg/kg/day) for 12 months. No adverse effects were observed at any dose level. No abnormalities in clinical signs, hematology, clinical chemistry, or urinalysis were reported. No abnormal findings were made at necropsy, nor were there any significant changes in food consumption or body weight. The NOAEL for this study is 52 mg/kg/day, the highest dose level tested. The LOAEL could not be established.

6. *Animal metabolism.* Dicamba has been tested in rats, dogs, cattle, goats, and hens. In all cases, dicamba is excreted very rapidly, mainly as unchanged dicamba and to a lesser extent as 3,6-dichloro-2-hydroxybenzoic acid with trace amounts of 3,6-dichloro-5-hydroxy-o-anisic acid. The results of these studies demonstrate that dicamba is not persistent and does not accumulate in animals.

7. *Metabolite toxicology.* Toxicity of the metabolites of dicamba to humans is concurrently evaluated during toxicity testing because both plant, and animal metabolites are formed during the course of toxicity tests. Both plant, and animal major metabolites are considered not of toxicological concern.

8. *Endocrine disruption.* No specific tests have been conducted with dicamba to determine whether the pesticide may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen or other endocrine effect. However, available data have not implicated dicamba in such effects.

C. Aggregate Exposure

1. *Dietary exposure.* EPA has established the RfD for 3,6-dichloro-o-anisic acid (dicamba) at 0.045 mg/kg/day. This RfD is based on a 2–generation reproduction study in rat with a NOAEL of 45 mg/kg/day and an uncertainty factor of 1,000.

Cancer classification and risk assessment. The cancer classification of dicamba has been reviewed and recommended that the compound be classified as a Group D carcinogen, not classifiable as to human carcinogenicity.

i. *Food–chronic dietary exposure.* The estimated aggregate dietary exposure is based on the Theoretical Maximum Residue Contribution (TMRC) calculation. The TMRC is a "worst case" estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated, and that residues are at the tolerances level. The dicamba TMRC for the overall U.S. population from the currently established and proposed tolerances represents approximately 23.9% of the RfD.

ii. *Drinking water.* EPA does not have monitoring data available to perform a quantitative drinking water risk assessment for dicamba at this time. A Tier 1 drinking water assessment of dicamba using the GENEEC model and the SCI-GROW model were run to produce estimates of dicamba concentrations in surface and ground water respectively. Estimated maximum concentrations of dicamba in surface and ground water are 98 and 0.013 ppb, respectively. The estimated concentrations of dicamba in surface and ground water are less than EPA's level of comparison for dicamba in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account present uses, and uses proposed in this action, BASF Corporation concludes with reasonable certainty that residues of dicamba in drinking water (when considered along with other sources of exposure for which there are reliable data), would not result in unacceptable levels of aggregate human health risk at this time.

iii. *Acute exposure and risk.* This acute dietary (food) risk assessment used the Dietary Exposure Evaluation Model (DEEM). Regulating at the 95th percentile, acute dietary exposure used up only 28.6% of the acute RfD. The risks from acute dietary exposures to dicamba do not exceed EPA's level of concern.

iv. *Chronic exposure and risk.* The chronic dietary exposure analysis from food sources was conducted using the RfD of 0.045 mg/kg/day. In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of RACs having dicamba tolerances will contain dicamba residues and those residues will be at the level of the established tolerance. This results in an overestimate of human dietary exposure. The chronic DEEM analysis used mean consumption (3–day average) data, and showed U.S. population (48 states) at only 23.9% of the RfD.

2. *Non-dietary exposure.* Dicamba (3,6-dichloro-o-anisic acid), is currently registered for use on outdoor residential and recreational turf. Application is made by both homeowners and professional applicators. There is a potential oral, inhalation, eye and dermal exposure to infants and children to dicamba from the registered uses for lawn and turfgrass weed control. These exposures are considered to be very low. Currently there are no inhalation or eye exposure data required for post-application of pesticides to lawns and turf. As inhalation exposure for mixer/loaders is acceptable, the risk to infants and children from inhalation exposure under a much lower exposure scenario is characterized qualitatively as being extremely low. Exposure data are required for hand to mouth movements of infants and children. As there are no chemical-specific or site-specific data available to determine the potential risks associated with residential exposures, the EPA has determined that residential exposure and risk are acceptable for dosages of 0.5 lb/A, based on a dermal NOAEL of 1,000 mg/kg/day and exposures of 0.051 mg/kg/day for low pressure hand wand, liquid formulations, and 0.079 mg/kg/day for granular formulations. For residential post-application exposure and risk assessment, EPA determined that the potential residential post-application risks for short-term and intermediate exposures did not exceed their level of concern. In this analysis both oral and dermal exposures, and risks for adults and infants from post-applications were determined. This analysis was based on assumptions and generic data from the Draft HED Standard Operating Procedures (SOPs) for Residential Exposure Assessments (December 18, 1997). These SOPs rely on what are considered to be upper-percentile assumptions and intended to represent Tier 1 assessments.

D. Cumulative Effects

At this time, there is no available data to determine whether dicamba, and its metabolites 3,6-dichloro-5-hydroxy-o-anisic acid and 3,6-dichloro-o-2-hydroxybenzoic acid, have a common mechanism of toxicity with other substances or how to include this pesticide or its metabolites in a cumulative risk assessment. For the purposes of this tolerance action, therefore, BASF Corporation has not assumed that dicamba and its metabolites have a common mechanism of toxicity with other substances.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above and based on the

VOL 66 ISS 246 DE 21 2001 UMI

completeness and the reliability of the toxicity data, a risk assessment for chronic dietary exposure from food and feed uses was made for all subpopulations. The percentage of the RfD occupied is only approximately 23.9% for the general population and 71.1% for non-nursing infants the most exposed group.

2. *Infants and children*. There was evidence of increased susceptibility to the offspring following prenatal and/or postnatal exposure in the 2-generation reproduction study in rat. In this study, offspring toxicity was manifested as significantly decreased pup growth in all generations and mating at a dose lower than that which caused parental systemic toxicity (abortions and clinical signs of neurotoxicity). Available studies indicated no increase susceptibility of rats or rabbits in *in utero* exposure to dicamba. In a prenatal developmental toxicity study in rats, there was no evidence of developmental toxicity at the highest dose tested. In a prenatal developmental toxicity study in rabbits, developmental toxicity (irregular ossification of internasal bones), were only seen at the dose that caused maternal toxicity (abortions and neurotoxic clinical signs). Therefore, there is an adequate toxicity data base for dicamba and exposure data are complete or are estimated based on data that reasonably account for potential exposures. A ten-fold safety factor for increased susceptibility of infants and children was applied for chronic (long-term) exposure, and a three-fold safety factor was applied for acute (short- and intermediate-term) exposures to dicamba, due to evidence of increased susceptibility to the offspring following prenatal and/or postnatal exposure in the 2-generation reproduction study in rats. The uncertainty factor (FQPA Safety Factor) of ten-fold was reduced for acute dietary and short-term and intermediate-term residential exposures because the increased susceptibility was only observed in the reproduction study and not in the prenatal developmental studies. The FQPA Safety Factor was reduced to 3x for acute dietary risk assessment for all populations, including infants and children, because: (1) The endpoint of concern is clinical signs of neurotoxicity (in the absence of neuropathology) observed following a single oral exposure in an acute neurotoxicity study; (2) the increased susceptibility was seen in the offspring of parental animals receiving repeated oral exposures in a 2-generation reproduction toxicity study; and (3) no increased susceptibility was observed following *in utero* exposures of rats or rabbits in the developmental studies.

F. International Tolerances

No CODEX maximum residue levels have been established for dicamba.

[FR Doc. 01–31494 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30517; FRL–6810–5]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30517, must be received on or before January 22, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30517 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Rita Kumar, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8291; e-mail address: kumar.rita@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to seassist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30517. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30517 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30517. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included in any Previously Registered Products

1. File symbol: 50534-ERU, later changed to 71512-A. Product name: Technical Fosthiazate.

2. File symbol: 50534-ERL, later changed to 71512-U. Product name: Fosthiazate 900EC.

3. File symbol: 50534-ERT, later changed to 71512-L. Product name: Fosthiazate 900EC.

Applicant: File symbols 50534-ERU, 50534-ERL, and 50534-ERT, were originally assigned to GB Biosciences Corporation, under company number 50534. GB Biosciences later transferred to ISK Biosciences, 7470 Auburn Rd., Suite A, Concord, OH 44077, under company number 71512. Active ingredient: The active ingredient for the above-mentioned products is fosthiazate. Proposed use: The proposed use for the above-mentioned products is formulation into insecticide.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 4, 2001

Peter Caulkins;

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31495 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7121–3 ; CWA–HQ–2001–6002; EPCRA–HQ–2001–6002; CAA–HQ–2001–6002]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Comcast Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with Comcast Corporation ("Comcast") to resolve violations of the Clean Water Act ("CWA"), Clean Air Act ("CAA"), and Emergency Planning and Community Right-to-Know Act ("EPCRA") and their implementing regulations.

The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order. EPA is also providing public notice of, and opportunity for interested parties to comment on, the CAA and EPCRA portions of this consent agreement.

Comcast failed to prepare Spill Prevention Control and Countermeasure ("SPCC") plans for fifteen facilities where they stored diesel oil in above ground tanks. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations. Comcast failed to obtain the appropriate operating permits or exemptions at fifty facilities in violation of CAA section 110, 42 U.S.C. 7410, and various state implementation plan ("SIP") requirements for emergency generators. EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations.

Comcast failed to file an emergency planning notification with the State Emergency Response Commission ("SERC") and to provide the name of an emergency contact to the Local Emergency Planning Committee ("LEPC"). Comcast failed to submit Material Safety Data Sheets ("MSDS") or a list of chemicals to the LEPC, the SERC, and the fire department with jurisdiction over each facility for one hundred and six facilities in violation of EPCRA section 311, 42 U.S.C. 11021. At eighty-three facilities, Comcast failed to submit an Emergency and Hazardous Chemical Inventory form to the LEPC, the SERC, and the fire department with jurisdiction over each facility in violation of EPCRA section 312, 42 U.S.C. 11022. EPA, as authorized by EPCRA section 325, 42 U.S.C. 11045, has assessed a civil penalty for these violations.

DATES: Comments are due on or before January 22, 2002.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2001–005, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov*. Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–3271; fax: (202) 564–9001; e-mail: cavalier.beth@epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Copies: Electronic copies of this document are available from the EPA Home Page under the link "Laws and Regulations" at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

Comcast Corporation, a telecommunications company incorporated in the Commonwealth of Pennsylvania and located at 1201 Market Street, Suite 2201, Wilmington, Delaware 19801, disclosed, pursuant to the EPA "Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations' ("Audit Policy"), 65 FR 19618 (April 11, 2000), that they failed to prepare SPCC plans for fifteen facilities where they stored diesel oil in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR Part 112. Comcast disclosed that for fifty facilities they had failed to obtain operating permits or exemptions in violation of CAA section 110, 42 U.S.C. 7410, and various SIP requirements for emergency generators. Comcast disclosed that at seventy facilities they had failed to file emergency planning notifications with the SERC and failed to provide the name of an emergency contact to the LEPC, in violation of EPCRA sections 302–303, 42 U.S.C. 7413(a)(1). Comcast further disclosed that at one hundred and six facilities they had failed to submit MSDS" or a list of chemicals to the LEPC, SERC, and the fire departments with jurisdiction over the facilities, in violation of EPCRA section 311, 42 U.S.C. 11021; and that at eighty-three facilities had failed to submit an Emergency and Hazardous Chemical Inventory for to the LEPC, SERC, and fire departments with jurisdiction over the facilities, in violation of EPCRA section 312, 42 U.S.C. 11022.

EPA determined that Comcast met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($1,215,724) and proposed a settlement penalty amount of sixty-four thousand, six hundred and three dollars ($64,603). This is the amount of the economic benefit gained by Comcast, attributable to their delayed compliance with the SPCC, CAA and EPCRA regulations. Comcast Corporation has agreed to pay this amount. EPA and Comcast negotiated and signed an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on December 7, 2001 (*In Re:Comcast Corporation* Docket Nos. CWA–HQ–2001–6002, EPCRA–HQ–2001–6002, CAA–HQ–2001–6002). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. section 1321(b)(6). EPA is expanding this opportunity for public comment to all other aspects of this consent agreement.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

Under CAA section 113(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable implementation plan or any other requirement of the Act, including any rule, order, waiver, permit or plan. Proceedings under CAA section 113(d) are conducted in accordance with 40 CFR part 22.

Under EPCRA section 325, the Administrator may issue an administrative order assessing a civil penalty against any person who has violated applicable emergency planning or right to know requirements, or any other requirement of the Act. Proceedings under EPCRA section 325 are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is January 22, 2002. All comments will be transferred to the Environmental Appeals Board ("EAB") of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

List of Subjects

Environmental protection.

Dated: December 12, 2001.

David A. Nielsen,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 01–31491 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7121–6]

Notice of Availability and Request for Public Comment: Proposed National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges of Storm Water Discharges From Construction Activities in Indian Country Within the State of Wisconsin

AGENCY: Environmental Protection Agency, Region 5 (EPA).

ACTION: Notice and request for public comment.

SUMMARY: Today's notice announces EPA's intention to issue a National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges from construction activities in Indian country within the State of Wisconsin. The general permit is proposed to cover discharges within Indian country, including the following areas: Bad River Indian Reservation, Forest County Potawatomi Indian Reservation, Ho-Chunk Nation Indian Reservation, Lac Courte Oreilles Indian Reservation, Lac Du Flambeau Indian Reservation, Menominee Indian Reservation, Oneida Indian Reservation, Red Cliff Indian Reservation, Sokaogon (Mole Lake) Indian Reservation, St. Croix Indian Reservation, and the Stockbridge-Munsee Indian Reservation.

Section 402(p)(2)(B) of the 1987 Clean Water Act requires NPDES permits for storm water discharges associated with industrial activity. Sources regulated include discharges from municipal separate storm sewer systems with populations of generally 100,000 or more and 11 categories of industrial activity. EPA has defined storm water discharges associated with industrial activity to include storm water discharges from construction sites which disturb 5 or more acres (see 40 CFR 122.26(b)(14)(x)). This formed the basis of Phase I of the national storm water regulations.

On December 8, 1999, EPA published Phase II of the national storm water regulations. Phase II regulates storm water discharges from small municipal separate storm sewer systems and discharges associated with small construction activity, including construction sites which disturb between 1 and 5 acres (40 CFR 122.26(b)(15)(i)). The proposed permit will address construction sites regulated under both the Phase I and Phase II Rules. However, the requirements for small construction sites will not be effective until March 10, 2003, the date by which these sources are to comply with the Phase II storm water regulations. The Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 postponed the Phase I permitting deadline for any storm water discharge associated with industrial activity (which includes construction activity) that is owned or operated by any municipality with populations less than 100,000, except for a discharge from an airport, powerplant, or uncontrolled sanitary landfill. Originally, EPA codified the ISTEA amendments by "reserving" permit application requirements. In the Phase II rules, however, EPA established that deadline as March 10, 2003. Construction storm water discharges that are owned or operated by Indian tribes are included in the ISTEA exemption because CWA section 502(4) defines "municipality" to include "an Indian tribe or an authorized Indian tribal organization." Thus, Tribes are not required to apply for permits for their construction activities until the March 10, 2003 deadline.

EPA invites public comment on the provisions of the draft permit within the public notice period established by this notice. In addition, EPA will hold several public meetings and a public hearing to discuss the proposed permit. The dates and locations are listed below:

Date: January 9, 2002.

Location: University of Wisconsin, Director's Room 4151, Grainger Hall, 975 University Avenue, Madison, WI 53706.

Time: 1:00 p.m. to 3:00 p.m.

Date: January 17, 2002.

Location: Bay Beach Wildlife Sanctuary, Auditorium, 1660 East Shore Drive, Green Bay, WI.

Time: 5:00 p.m. to 7:00 p.m.

Date: January 29, 2002.

Location: Marathon County Public Library, Wausau Room, 300 First Street, Wausau, WI 54403.

Time: Public Meeting 3:00 p.m. to 5:00 p.m.; Public Hearing 6:00 p.m. to 8:00 p.m.

If the library is closed due to bad weather, the public meeting and public hearing will be rescheduled for February 5, 2002, at the same times as listed above.

These meetings will also be posted on the Region 5 Storm Water Website (*www.epa.gov/r5water/npdestek/npdstma.htm*) and in one or more newspapers of general circulation within the state. Copies of the draft general permit and an accompanying fact sheet may be obtained by contacting EPA at the following telephone number or mailing address: Brian Bell, (312) 886–0981, NPDES Programs Branch (WN–16J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. Electronic copies of the draft permit and fact sheet may be viewed at the Region 5 Public Notice Page (*www.epa.gov/r5water/npdestek/npdcfrp.htm*) or the NPDES Page (*www.epa.gov/r5water/npdestek/npdnpda.htm*). Users with appropriate software capabilities may also download electronic versions of these documents.

DATES: Comments on the draft permit must be received by February 5, 2002. EPA will accept comments submitted in writing or transmitted electronically.

ADDRESSES: Comments on the draft permit may be sent to: Brian Bell, NPDES Programs Branch (WN–16J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604. Comments may also be transmitted electronically to *bell.brianc@epa.gov*.

FOR FURTHER INFORMATION CONTACT: Brian Bell, at the above address or, via telephone at 312–886–0981.

SUPPLEMENTARY INFORMATION:

I. Background

The State of Wisconsin has previously been authorized by EPA to issue NPDES permits outside of Indian country, and has issued general permits to regulate the vast majority of construction site storm water discharges outside Indian country within the State of Wisconsin. USEPA retains the authority to issue NPDES permits within Indian country within the State of Wisconsin. Indian country means (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of the State, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. See 18 U.S.C. 1151.

II. National Historic Preservation Act

The National Historic Preservation Act (NHPA), 16 U.S.C. 470a *et seq.*, generally requires, among other things, that Federal agencies take into account the effects of their undertakings on historic properties. Section 106 of NHPA seeks to accommodate historic preservation concerns with the needs of Federal undertakings through

VOL 66 ISS 246 DE 21 2001 UMI

consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties. The goal of this consultation process is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties. *See* 65 FR 77698, 77725 (December 12, 2000).

Under Section 106, EPA must complete the consultation process "prior to the issuance of any license." See 36 CFR 800.1(c). EPA has interpreted this language to apply this requirement to the issuance of today's proposed general NPDES permit for Indian country in Wisconsin. EPA is, therefore, conducting a Section 106 consultation regarding issuance of the proposed general permit.

Several parties have consultative roles in the Section 106 process that EPA is conducting for this proposed permit for Indian country in Wisconsin. These include (1) The Tribal historic preservation officer (THPO), for a tribe that has assumed such responsibilities under section 101(d)(2) of the NHPA, 16 U.S.C. 470a(d)(2); (2) the State historic preservation officer (SHPO); (3) designated representative(s) of an Indian tribe where a tribe has not assumed responsibilities of a SHPO.

In the process of preparing the proposed permit for Indian country in Wisconsin, EPA considered several possible options for meeting Section 106 of the NHPA. EPA conducted a series of consultations with the Wisconsin tribes (including THPOs and designated tribal government officials) and the Wisconsin SHPO. The consultation was conducted in a series of telephone conference calls held on February 13, February 22, March 13, and March 29, 2001.

During the consultation process, participants raised several concerns. These concerns included (1) The need for an understanding of technical and operational aspects of NPDES general permits; (2) the need for timely notice in advance of planned development projects; (3) the need for sufficient time and resources to complete historic property surveys; (4) the need to define the role of the SHPO, Tribe or THPO in the process for addressing effects on historic properties as applicants seek coverage under this NPDES general permit; (5) the need for a defined process to address potential effects on historic properties in the event of inadvertent discovery of historic properties after construction of a particular project covered under this general permit has begun; (6) the need for a consistent process to document how effects on historic properties have been addressed; (7) the need to streamline the coordination process for addressing effects on historic properties consultation across multiple, similar projects and similar geographic locations.

During the consultation, EPA explained the technical and operational requirements of the general permit, and stated that EPA is seeking information to develop a systematic process that would allow for comprehensive screening for historic properties, but also that would be sensitive to the different processes used by the THPOs, Tribal officials, and the SHPO.

Participants were concerned about an initial option proposed by EPA which would have included in the proposed general permit a precondition for coverage against discharges impacting historic sites, but without a requirement that the permit applicant seek a certification from the THPO or SHPO.

Participants were also concerned about a second option proposed by EPA which would have included in the proposed general permit a precondition for coverage against discharges impacting historic sites, but including a certification from the THPO, Tribe or SHPO. The concerns focused on the lack of a defined process and whether there would be sufficient time and resources to conduct site surveys to identify historic properties.

Participants also reviewed a third option proposed by EPA, which would provide a choice of means to provide certification, similar to the approach used in EPA's Region 4 general permit. *See* 63 FR 15622 (March 31, 1998). Concerns raised by participants on this approach focused on how the different options for meeting historic property review eligibility requirements could be most clearly defined so that permit applicants would be able to easily understand and meet these requirements.

As a result of the concerns raised during the consultation process, EPA proposed that the general permit include a performance-based standard that the applicant would not be eligible to apply for permit coverage until the applicant had coordinated with the appropriate official(s) (THPO, SHPO and/or tribes) to identify historic properties and to assess and attempt to resolve any adverse effects. This pre-certification provision was designed to address the THPO, SHPO, and tribes' concerns that they generally lacked sufficient notice of a proposed development project to conduct the necessary review and coordination on impacts to historic properties. Concerns were also raised during consultation that applicants be informed of the appropriate procedures that would apply to coordinating the review of effects on historic properties in this option. In response to these concerns, EPA proposed that the general permit would include specific references to relevant provisions of the Section 106 regulations (36 CFR 800.4–800.6, 800.13) to ensure that the regulated community was specifically informed of the pre-certification procedures they would need to meet in order to be eligible for coverage under the general permit. Under this option, the relevant procedures in the referenced provisions regarding coordination with local officials would guide applicants in coordinating with the THPO, SHPO and/or tribes to identify historic properties and to assess and attempt to resolve any adverse effects on such properties. The proposed permit would authorize such activities so long as the proper pre-certification procedures had been followed by the applicant.

In this option, which is the option included in today's proposed general permit, in order to be eligible for coverage under the general permit, applicants would need to certify that they had coordinated with the appropriate THPO, SHPO and/or tribal official consistent with the relevant procedures of the Section 106 regulations. The proposed permit would require that the applicant provide evidence of prior screening for the presence of historic properties and develop a mitigation plan, as needed, in coordination with the appropriate officials consistent with the relevant provisions of the Section 106 regulations. Finally, in the event of an inadvertent discovery of an historic property on the site during construction, the permittee would be required to immediately stop construction activity and coordinate with the appropriate THPO, SHPO and/or tribal official consistent with 36 CFR 800.13.

As part of its Section 106 consultation process on this proposed general permit, EPA invites all interested parties to comment on this option. Information regarding EPA's consultation process and the other options generally described above, is available on request from the address at the beginning of this notice.

III. Coastal Zone Management Act (CZMA)

The Coastal Zone Management Act (CZMA), 16 U.S.C. 1451 *et seq.*, establishes a scheme whereby states develop a Coastal Zone Management Plan to protect coastal areas within their jurisdiction. Section 307(c) of the CZMA requires that Federal agencies determine that various Federal activities are "consistent with the enforceable policies of approved State management programs" to the maximum extent possible. *See* 16 U.S.C. 1456(c)(1)(A).

The CZMA and its implementing regulations distinguish between different kinds of Federal activities. Section 307(c)(3) of the CZMA requires a consistency determination for a Federal "license or permit." *See* 16 U.S.C. 1456(c)(3). The CZMA implementing regulations promulgated on December 8, 2000 (65 FR 77124), provide that a general permit program, which does not involve case-by-case approval by the Federal agency, can be addressed as a "federal activity" under Section 307(c)(3) of the CZMA. *See* 15 CFR 930.31(d).

Pursuant to these regulations, "When proposing a general permit program, a Federal agency shall provide a consistency determination to the relevant management programs and request that the State agency(ies) provide the Federal agency with conditions that would permit the State agency (defined at 15 CFR 930.18) to concur with the Federal agency's consistency determination. State concurrence shall remove the need for the State agency to review future case-by-case uses of the general permit for consistency with the enforceable policies of management programs." *See* 15 CFR 930.31(d).

The regulations further provide that should the State object to the general permit or should the general permit not incorporate State conditions to the maximum extent practicable, the Federal agency shall notify potential users of the general permit that the general permit is not authorized for that State unless the State agency concurs that the activity is consistent with the State's management program. In that case, applicants would provide the State agency with their own consistency certification under the CZMA. *See* 15 CFR.930.31(d).

According to NOAA regulations and Wisconsin's Coastal Management Program, lands held in trust by the United States are excluded from the coastal zone area. *See* 16 U.S.C. 1453(l); 15 CFR 923.33(a); Wisconsin Department of Administration, *Wisconsin Coastal Management Program: Strategic Vision for the Great Lakes, [WCMP]*, June 1999, Section C, Federal Consistency. Issuance of NPDES permits currently is not included in Wisconsin's list of federal permits requiring consistency certification. See *WCMP*, Section E. However, the regulations provide that a consistency determination is still required when any "spillover" impacts may affect the coastal zone.

EPA believes that today's proposed permit is unlikely to have spillover impacts that may affect the coastal zone as defined in the WCMP. See WCMP at Section C.1(a). Permittees would be required to follow their storm water management plan, which includes erosion and sediment control best management practices and perimeter controls tailored for the particular construction site. These controls are supposed to bring discharges into compliance with applicable water quality standards within Indian country and state water quality standards when discharges leave Indian country. The proposed general permit is consistent with the technical and operational standards of the State's WPDES permit program. Based on EPA's analysis of the WPDES permit requirements, and the WCMP, EPA believes that the proposed permit would be "consistent to the maximum extent practicable with the enforceable policies of approved State management programs" as specified in Section 307(c)(1) of the CZMA. See also 15 CFR 930.32(a)(1).

Under 15 CFR 930.41, the State agency has 60 days from today's notice to inform EPA of its agreement or disagreement with this consistency determination. EPA invites comments on its application of the CZMA to today's proposed permit.

IV. Economic Impact (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may have an annual effect on the economy of $100 million or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. EPA has determined that the issuance of this general permit is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to formal OMB review prior to proposal.

V. Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The term "policies that have tribal implications" is defined in the Executive Order to include Agency actions that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

EPA has concluded that this proposed general permit may have tribal implications within the meaning of Executive Order 13175. EPA believes that the proposed general permit, however, does not impose substantial direct compliance costs on tribal governments or preempt tribal law. Overall, EPA expects that the impact of the proposed general permit on tribes will be positive. EPA's current NPDES permitting option for Indian country within Wisconsin is to issue individual permits. Issuance of this proposed general permit will provide EPA another NPDES permitting option for discharges of storm water associated with construction activity in Indian country. EPA anticipates that the availability of the general permit will promote better compliance with NPDES requirements in Indian country, thus improving water quality. Moreover, beginning in March of 2003, tribes will be required to comply with existing NPDES permit requirements. The proposed general permit will, in some situations, allow tribes to obtain a permit for discharge of storm water from construction sites more easily and quickly.

Consistent with EPA policy, EPA consulted with tribal leaders to ensure that they had meaningful and timely input into the development of this proposed general permit, as well as to provide comments to EPA on particular provisions in the proposed draft permit. EPA consulted with representatives from tribes located in Wisconsin on December 19, 2000, February 13, February 22, March 13, and March 29, 2001. During the consultation process, participants raised several concerns.

These concerns included (1) The need for an understanding of technical and operational aspects of NPDES general permits; (2) the relationship of the proposed general permit with other federal general permits issued by EPA; (3) the need for timely notice in advance of planned development projects; (4) the need for timely inspections and enforcement for potential violations of NPDES permit requirements; (5) the need for greater tribal involvement in permit issuance in Indian country; (6) the need for sufficient time, resources, and efficient process to undertake historic property surveys and otherwise ensure that permit applicants would comply with regulations protecting historic properties.

During this consultation, EPA explained the function and provisions of the proposed general permit, and explained the relationship between the proposed general permit and other federal general permits issued by EPA. EPA also explained the technical provisions of the proposed permit, including requirements which applicants would need to complete prior to filing a Notice of Intent and certification that pre-application requirements had been met. EPA also considered tribes' desire to obtain more timely notice of proposed construction projects within Indian country, and included in the draft permit a provision that would require permit applicants to send copies of the Notice of Intent form to both EPA's Region 5 office as well as the environmental department of the relevant tribe, in addition to mailing the notice to EPA's national office. EPA also included a recommendation in its fact sheet for the proposed permit that encouraged applicants to contact the relevant tribal environmental department as early in the planning stage as possible, with 90 days being the suggested minimum. EPA also addressed tribes' general concerns for greater tribal involvement in NPDES permitting by discussing how tribes could apply for and obtain federally authorized permitting authorities on their own through the "treatment as state" or tribal eligibility process outlined in Section 518 of the Clean Water Act. EPA explained that the proposed general federal permit was designed to provide direct implementation of the federal NPDES permit program in Indian country until such time as each tribe in Wisconsin could obtain a federally authorized permitting program of their own, if they so wished. Specific concerns raised by tribes regarding how regulations protecting historic properties may apply to the proposed general permit, as well as EPA's consultation with state and tribal officials on the application of the NHPA to today's action, are specifically discussed in this notice in the National Historic Preservation Act section.

EPA specifically solicits additional comment on this proposed general permit from tribal officials.

VI. Unfunded Mandates Reform Act

Section 201 of the Unfunded Mandates Reform Act (UMRA), Pub L. 104–4, generally requires Federal agencies to assess the effects of their "regulatory actions" on State, local, and tribal government and the private sector. UMRA uses the term "regulatory action" to refer to regulations. (See, e.g., UMRA section 201, "Each agency shall . . . assess the effects of Federal regulatory actions . . . (other than to the extent that such regulations incorporate requirements specifically set forth in law)" (emphasis added)). UMRA section 102 defines "regulation" by reference to 2 U.S.C. 658 which in turn defines "regulation" and "rule" by reference to section 601(2) of the Regulatory Flexibility Act (RFA). That section of the RFA defines "rule" as "any rule for which the agency publishes a notice of proposed rulemaking pursuant to section 553(b) of (the Administrative Procedure Act (APA)), or any other law * * *."

As discussed in the RFA section of this notice, NPDES general permits are not "rules" under the APA and thus are not subject to the APA requirement to publish a notice of proposed rulemaking. NPDES general permits are also not subject to such a requirement under the CWA. While EPA publishes a notice to solicit public comment on proposed general permits, it does so pursuant to the CWA section 402(a) requirement to provide "an opportunity for a hearing." Thus, NPDES general permits are not "rules" for RFA or UMRA purposes.

Nevertheless, EPA has considered the proposed general permit in light of UMRA's requirements. As noted elsewhere in today's notice, the proposed general permit is virtually the same as the NPDES general permits for construction that many construction operators have used over the past three years. EPA has determined that the proposed permit would not contain a Federal requirement that would result in expenditures of $100 million or more for State, local and Tribal governments, in the aggregate, or the private sector in any one year.

The Agency also believes that the proposed general permit will not significantly nor uniquely affect small governments. For UMRA purposes, "small governments" is defined by reference to the definition of "small governmental jurisdiction" under the RFA. (See UMRA section 102(1), referencing 2 U.S.C. 658, which references section 601(5) of the RFA.) "Small governmental jurisdiction" means governments of cities, counties, towns, etc., with a population of less than 50,000, unless the agency establishes an alternative definition.

Under existing regulations, a permit application is not required until March 10, 2003, for a storm water discharge associated with construction activity where the construction site is owned or operated by a municipality with a population of less than 100,000. See 64 FR 68780 (December 8, 1999). In any event, the requirements of the proposed general permit would not significantly affect small governments because most State laws outside Indian country already provide for the control of sedimentation and erosion in a similar manner as today's proposed general permit. The proposed general permit also will not uniquely affect small governments because compliance with the proposed permit conditions affects small governments in the same manner as any other entities seeking coverage under the proposed permit.

VII. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities resulting from the proposed general permit under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* In a separate **Federal Register** Notice, EPA will propose, a revision to the current Information Collection Request (ICR) document (Approved by the Office of Management and Budget (OMB) OMB No. 2040–0188, expiration date of March 31, 2003) to account for the increased information requirements proposed in today's permit. EPA will publish the proposed ICR revisions in a separate **Federal Register** notice and EPA will submit the revisions to OMB for approval prior to issuance of the final permit.

VIII. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA)

The Agency has determined that the proposed general permit being published today is not subject to the Regulatory Flexibility Act ("RFA"), which generally requires an agency to conduct a regulatory flexibility analysis of any significant impact the rule will have on a substantial number of small entities. By its terms, the RFA only applies to rules subject to notice-and-comment rulemaking requirements under the Administrative Procedure Act ("APA") or any other statute. Today's proposed general permit is not subject to notice and comment requirements under the APA or any other statute because the APA defines "rules" in a manner that excludes permits. See APA section 551(4),(6), and (8).

APA section 553 does not require public notice and opportunity for comment for interpretative rules or general statements of policy. In addition to proposing the new general permit, today's notice repeats an interpretation of existing regulations promulgated almost twenty years ago. The action would impose no new or additional requirements.

Nevertheless, the Agency has considered and addressed the potential impact of the proposed general permit on small entities in a manner that meets the requirements of the FRA. EPA took such action based on the likelihood that a large number of small entities may seek coverage under the general permit if finalized as proposed. The proposed general permit would make available to many small entities, particularly operators of construction sites, a streamlined process for obtaining authorization to discharge. Of the possible permitting mechanisms available to dischargers subject to the CWA, NPDES general permits are designed to reduce the reporting and monitoring burden associated with NPDES permit authorization, especially for small entities with discharges having comparatively less potential for environmental degradation than discharges regulated under individual NPDES permits. Thus, general permits provide small entities with a permitting application option that is much less burdensome than NPDES individual permit applications.

IX. Official Signatures

After review of the facts present in the notice printed above, I hereby certify pursuant to the provisions of 5 U.S.C. 605(b) that these general permits will not have a significant impact on a substantial number of small entities.

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: December 14, 2001.

Jo Lynn Traub,

Director, Water Division, Region V.

[FR Doc. 01–31492 Filed 12–20–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

December 11, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before February 19, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1-A804, Washington, DC 20554 or via the Internet to *lesmith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0644.

Title: Establishing Maximum Permitted Rates for Regulated Cable Services on Small Cable Systems.

Form Number: FCC Form 1230.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local and Tribal Governments.

Number of Respondents: 5.

Estimated Time Per Response: 2.25 hours.

Total Annual Burden to Respondents: 11.25 hours.

Total Annual Costs: $5,281.85.

Needs and Uses: On May 5, 1995, the Commission adopted rules that allow a small cable system owned by a small cable company to use a simplified cost-of-service procedure to set its maximum permitted rate. Pursuant to these rules, a cable system is eligible to set its maximum permitted rate with the FCC form 1230 if it is a system with 15,000 or fewer subscribers, and it is not owned by a cable company with more than 400,000 subscribers. The data collected are used by the Commission and local franchise authorities to determine whether cable rates for basic service, cable programming service, and associated equipment are reasonable under Commission regulations.

OMB Control Number: 3060–0433.

Title: Basic Signal Leakage Performance Report.

Form Number: FCC Form 320.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 33,000.

Estimated Time Per Response: 20 hours.

Total Annual Burden to Respondents: 660,000 hours.

Total Annual Costs: $3,750.

Needs and Uses: Cable television system operators who use frequencies in the bands 108–137 and 225–400 MHz (aeronautical frequencies) are required to file a cumulative leakage index (CLI) derived under section 76.611(a)(1) or the results of airspace measurements derived under section 76.611(a)(2). This filing must include a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This yearly filing is done in accordance with section 76.615 with the use of FCC Form 320. The data collected on the FCC Form 320 are used by the Commission staff to ensure the safe operation of aeronautical and marine radio services, and to monitor for compliance of cable aeronautical usage in order to minimize future interference to these safety of life services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31413 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

UMI
VOL 66
ISS 246
DE 21 2001
UMI

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 7, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 22, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0298.

Title: Part 61—Tariffs (Other Than Tariff Review Plan).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 2,000 respondents; 3,000 responses.

Estimated Time Per Response: 20–43 hours.

Frequency of Response: On occasion, annual and biennial reporting requirements and third party disclosure requirement.

Total Annual Burden: 135,000 hours.

Total Annual Cost: $2,161,000.

Needs and Uses: Part 61 is designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the Commission and the public with sufficient information to determine the justness and reasonableness as required by the Act, of the rates terms and conditions in those tariffs. In the *Seventh Report and Order* in CC Docket No. 96–262, the Commission has limited the application of its' tariff rules to interstate access services provided by non-dominant local exchange carriers. The *Seventh Report and Order* was approved in June 2001 from the Office of Management and Budget (OMB) under emergency processing procedures. This submission is being made to obtain the full-three year OMB approval.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31414 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 11, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 22, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not for profit institutions; individuals for household; and state, local or tribal government.

Number of Respondents: 240,576.

Estimated Time Per Response: 1.25 hour.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Total Annual Burden: 210,504 hours.

Total Annual Cost: $48,115,000.

Needs and Uses: The FCC Form 601 is a multi-purpose form used to apply for an authorization to operate radio stations, amend pending applications, modify existing licenses and perform a variety of other miscellaneous tasks in the Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships) and Aviation Services (excluding aircraft). The information is used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed, to update the database and to provide for proper use of the frequency spectrum.

OMB Control No.: 3060–0991.

Title: AM Measurement Data.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,900 respondents and 4,288 responses.

Estimated Time Per Response: 0.5–25 hours.

Frequency of Response: Recordkeeping; on occasion reporting requirement; and third party disclosure requirement.

Total Annual Burden: 29,180 hours.

Total Annual Cost: $72,500.

Needs and Uses: In order to control interference between stations and assure adequate community coverage, AM stations must conduct various engineering measurements to demonstrate that the antenna system operates as authorized. The data is used by station engineers to correct the operating parameters of an antenna. The data is also used by FCC staff in field operations to ensure that stations are in compliance with the technical requirements of the Commission's rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31415 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket Nos. 94–1, 96–45, 96–262, and 99–249; DA 01–2817]

Common Carrier Bureau Seeks Comment on Remand of $650 Million Support Amount Under Interstate Access Support Mechanism for Price Cap Carriers

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In a Public Notice in this proceeding released on December 4, 2001, the Common Carrier Bureau (Bureau) sought further comment on the $650 million support amount available under the interstate access support mechanism. Specifically, the Bureau sought comment on the uses of a cost model, including the Commission's forward-looking high-cost model or the study submitted by AT&T in this proceeding, to identify the appropriate amount available under the interstate access support mechanism. The Bureau also sought comment on the use of other studies or analyses to determine whether $650 million is the support amount that best serves the Commission's universal service goals.

DATES: Comments are due on or before January 22, 2002. Reply comments are due on or before February 4, 2002.

ADDRESSES: See Supplementary Information section for where and how to file comments.

FOR FURTHER INFORMATION CONTACT: Ted Burmeister, Attorney, or Sheryl Todd, Management Analyst, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On May 31, 2000, the Federal Communications Commission adopted the *CALLS Order*, 65 FR 57739, September 26, 2000, which reformed the interstate access rate structure for price cap carriers by removing implicit universal service support and replacing it with explicit support. To accomplish this, the Commission created a new universal service support mechanism called the interstate access support mechanism. The Commission directed that $650 million annually be made available under the interstate access support mechanism. The Commission concluded that this amount would provide sufficient, but not excessive, support. In adopting this amount, the Commission noted that $650 million fell within a range of proposed amounts submitted in the proceeding, and reflected agreement among disparate interests, including interexchange carriers and price cap carriers.

On September 10, 2001, the United States Court of Appeals for the Fifth Circuit remanded the *CALLS Order* to the Commission for further analysis and explanation regarding the establishment of the $650 million amount. The court concluded that the Commission provided inadequate justification for the support amount. Specifically, the court concluded that the Commission "failed to exercise sufficiently independent judgment in establishing the $650 million amount," by granting too much deference to the fact that many parties agreed that $650 million was an adequate support amount. The court recognized that identifying a specific amount of explicit support to replace implicit support is "an imprecise exercise," but held that the Commission must better explain how it arrived at the $650 million amount. In particular, the court noted that the Commission should better address the relevance of studies filed in the proceeding to the establishment of the support amount, including the AT&T study using the synthesis model, the ALTS and Time Warner studies, and other studies. The court therefore directed that the Commission provide further analysis and explanation justifying $650 million as an appropriate amount of support available under the interstate access universal service support mechanism.

Accordingly, we seek further comment on the $650 million support amount available under the interstate access support mechanism. Specifically, we seek comment on the uses of a cost model, including the Commission's forward-looking high-cost model or the study submitted by AT&T in this proceeding, to identify the appropriate amount available under the interstate access support mechanism. We also seek comment on the use of other studies or analyses to determine whether $650 million is the support amount that best serves the Commission's universal service goals.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before January 22, 2002. Reply comments are due on or before February 4, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554.

Parties also should send three paper copies of their filing to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5–A422, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th St., SW, Room CY–B402, Washington, DC 20554.

Pursuant to § 1.1206 of the Commission's rules, this proceeding will continue to be conducted in a permit-but-disclose proceeding in which *ex parte* communications are permitted subject to disclosure.

Dated: December 14, 2001.

Katherine L. Schroder,

Division Chief, Accounting Policy Division.

[FR Doc. 01–31459 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 01–2716]

Low Power Television Auction No. 81—Mutually Exclusive Proposals—Additional Settlement Period Announced

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document provides notice that the Mass Media Bureau has opened an additional settlement window for proposals filed during the limited low power television/television translator/Class A television auction filing window. That settlement window closes January 22, 2002.

DATES: Settlements must be submitted by January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, Video Services Division, Mass Media Bureau at (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released November 20, 2001. The complete text of the Public Notice, including attachment, is available for public inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW., Washington, DC 20035, (202) 857–3800. It is also available on the Commission's web site at http://www.fcc.gov.

In this Public Notice, the Mass Media Bureau announces an additional settlement window for those proposals filed during the limited low power television, television translator, and Class A television auction filing window that are mutually exclusive. Parties have until January 22, 2002, to file a settlement if they desire to avoid going to auction.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 01–31412 Filed 12–20–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled "Deposit Broker Processing Guide."

DATES: Comments must be submitted on or before February 19, 2002.

ADDRESSES: Interested parties are invited to submit written comments to Thomas E. Nixon, Senior Attorney (Regulatory Analysis), (202) 898–8766, Office of the Executive Secretary, Room 4060, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to "Deposit Broker Processing Guide." Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Thomas E. Nixon, at the address identified above.

SUPPLEMENTARY INFORMATION:

Title: Deposit Broker Processing Guide.

Affected Public: Deposit Brokers with brokered deposits at failed insured depository institutions.

Estimated Number of Respondents (annual): 70.

Frequency of Response: Occasional.

Estimated Number of responses (annual): 70.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden: 140 hours.

General Description of Collection: In order to assist the FDIC to pay deposit insurance to persons who had deposited funds in a failed depository institution through a deposit broker, the FDIC requests deposit brokers who opened a deposit account in a failed institution to provide the FDIC with information about the parties for whom the broker acted as an agent and the amounts of their deposits.

Request for Comments

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's request to OMB for approval of this collection. All comments will become a matter of public record.

Dated at Washington, DC, this 17th day of December, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–31450 Filed 12–20–01; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before February 19, 2002.

ADDRESSES: Comments should be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551, or mailed electronically to Regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Mary M. West, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Proposal to approve under OMB delegated authority the or the implementation of the following report:

1. *Report title:* Intermittent Survey of Businesses
Agency form number: FR 1374
OMB control number: 7100– to be assigned
Frequency: Biweekly and semiannually
Reporters: Purchasing managers, economists, or other knowledgeable individuals at business firms
Annual reporting hours: 125 hours
Estimated average hours per response: 15 minutes
Number of respondents: biweekly, 10; semiannually, 120
Small businesses are affected.
General description of report: This information collection is voluntary (12 U.S.C. §§225a, 263, and 15 U.S.C. §1691b) and is given confidential treatment (5 U.S.C. 552(b)(6)).
Abstract: The proposed survey would be used by the Federal Reserve to gather information that would be specifically tailored to the Federal Reserve's policy and operational responsibilities. It is necessary to conduct the survey biweekly to keep up with the rapidly changing developments in the economy and to provide timely information to staff and Board members. Usually, the surveys would be conducted by staff economists telephoning purchasing managers, economists, or other knowledgeable individuals at selected, relevant businesses. The content of the questions and the businesses contacted would vary depending on changing developments in the economy.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:

1. *Report title:* Notification of Foreign Branch Status
Agency form number: FR 2058
OMB control number: 7100–0069
Frequency: on occasion
Reporters: member banks, bank holding companies, Edge and agreement corporations
Annual reporting hours: 38 hours
Estimated average hours per response: 15 minutes
Number of respondents: 150
Small businesses are not affected.
General description of report: This information collection is mandatory (12 U.S.C. 321, 601, 602, 615, and 1844(c)) and is not given confidential treatment.
Abstract: Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve System of the opening, closing, or relocation of an foreign branch. The notice requires information on the location and extent of service provided by the branch and is filed within thirty days of the change in status. The Federal Reserve System needs the information to fulfill supervisory responsibilities specified in Regulation K, including the supervision of foreign branches of U.S. banking organizations. The information is needed in order to evaluate the organization's international exposure and to update the Federal Reserve's structure files on U.S. banking organizations.

Regulation K, "International Banking Operations," sets forth the conditions under which a foreign branch may be established. According to the final rule on Regulation K, published in the Federal Register on October 26, 2001 (66 FR 54345), organizations must give thirty days prior notice to the Board before the establishment of branches in the first two foreign countries. For subsequent branch establishments into additional foreign countries, organizations must give the Federal Reserve System twelve days prior written notice. The FR K–1, "International Applications and Prior Notifications Under Subparts A and C of Regulation K" (OMB No. 7100–0107) will be used for these notices. Organizations use the FR 2058 notification to notify the Federal Reserve when any of these branches has been opened, closed, or relocated.

VOL 66 ISS 246 DE 21 2001 UMI

Current Actions: The proposed revisions include adding the location of the reporting institution and the subsidiary and a few minor technical clarifications.

2. Report title: International Applications and Prior Notifications under Subparts A and C of Regulation K

Agency form number: FR K–1

OMB control number: 7100–107

Frequency: on occasion

Reporters: state member banks, national banks, bank holding companies, Edge and agreement corporations, and certain foreign banking organizations.

Annual reporting hours: 695 hours

Estimated average hours per response: Attachments A and B, 11.5 hours; Attachments C through G, 10 hours; Attachments H and I, 15.5 hours; Attachment J, 10 hours; Attachment K, 20 hours

Number of respondents: 39

Small businesses are not affected.

General description of report: This information collection is mandatory (12 U.S.C. 601–604(a), 611–631, 1843(c)(13), 1843(c)(14), and 1844(c)) and is not given confidential treatment. The applying organization has the opportunity to request confidentiality for information that it believes will qualify for a Freedom of Information Act exemption.

Abstract: The FR K–1 comprises a set of applications and notifications that govern the formation of Edge or agreement corporations and the international and foreign activities of U.S. banking organizations. The applications and notifications collect information on projected financial data, purpose, location, activities, and management. The Federal Reserve requires these applications for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Federal Reserve Act and the Bank Holding Company Act of 1956.

Current Actions: The proposed changes incorporate revisions to Regulation K, published in the Federal Register on October 26, 2001, which became effective November 26, 2001 (66 FR 54345). Technical changes to each of the existing attachments are proposed to conform with the new regulatory language. One new attachment is proposed for applications by U.S. banking organizations to invest in excess of 10 percent of capital and surplus in Edge corporations. This change is necessary as a result of The Economic Growth and Regulatory Paperwork Reduction Act of 1996. In addition, the Federal Reserve proposes to add certain new items, which are often requested after the application has been filed. Finally, several items that are no longer relevant would be deleted from the attachments.

3. Report title: Consolidated Financial Statements for Bank Holding Companies

Agency form number: FR Y–9C

OMB control number: 7100–0128

Frequency: Quarterly

Reporters: Bank holding companies

Annual reporting hours: 252,675 hours

Estimated average hours per response: 33.98 hours

Number of respondents: 1,859

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y–9C consists of standardized consolidated financial statements similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 & 041; OMB No.7100–0036). The FR Y–9C is filed quarterly by top–tier bank holding companies that have total assets of $150 million or more and by lower–tier bank holding companies that have total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y–9C.

Current Actions: Many of the proposed reporting revisions are being requested to parallel revisions to the March 31, 2002, Call Reports. The Federal Reserve may modify the proposed revisions to the FR Y–9C consistent with any modified revisions to the Call Report ultimately adopted by the FFIEC.

Revisions to parallel proposed changes to the Call Report:

Schedule HI – Report of Income

Replace existing item 7.c, "Amortization expense of intangible assets (including goodwill)," with two items: item 7.c.(1), "Goodwill impairment losses," and item 7.c.(2), "Amortization expense and impairment losses for other intangible assets." Along with appropriate revisions to the FR Y–9C instructions (e.g., goodwill should not be amortized), this change will conform the reporting of amortization expense and impairment losses for intangibles in the FR Y– the provisions of Financial Accounting Standards Board (FASB) Statement No. 142, Goodwill and Other Intangible Assets. In July 2001, the FASB issued Statement No. 142, which, in general, is effective for fiscal years beginning after December 15, 2001. Under this standard, goodwill will no longer be amortized, but will be tested for impairment on an annual basis and between annual tests in certain circumstances. Other intangible assets will be tested for impairment in accordance with the standard and some of these intangibles must be amortized. Statement No. 142 also states that "goodwill impairment losses shall be presented as a separate line item in the income statement before the subtotal income from continuing operations (or similar caption) unless a goodwill impairment loss is associated with a discontinued operation."

Bank holding companies must adopt Statement No. 142 for reporting purposes upon its effective date based on their fiscal year. At present, bank holding companies report the amortization expense of intangible assets, including goodwill amortization, in item 7.c of the income statement (Schedule HI).

Schedule HI–B, Part II – Changes in Allowance for Loan and Lease Losses

Move the disclosure now made in Notes to the Income Statement, item 1, directly into Schedule HI–B, part II, item 5, "Adjustments." This item would be modified by creating item 5.a, "LESS: Write–downs arising from transfers of loans to the held–for– sale account," and item 5.b, "Other adjustments." On March 26, 2001, the agencies issued Interagency Guidance on Certain Loans Held for Sale to provide instruction about the appropriate accounting and reporting treatment for certain loans that are sold directly from the loan portfolio or transferred to a held–for–sale (HFS) account. While the interagency guidance applies to banks, savings associations, and federal credit unions, it is also to be followed by bank holding companies that file regulatory reports based on Generaaly Accepted Accounting Principles (GAAP) as stated in the Federal Reserve's SR Letter 01–12.

One element of the guidance reminds institutions to appropriately report reductions in the value of loans transferred to held–for–sale through a write–down of the recorded investment to fair value upon transfer. Currently this write–down is reported as a charge–off in part I of Schedule HI–B – Charge–offs and Recoveries on Loans and Leases and Changes in Allowance for Loan and Lease Losses, and the corresponding reduction in the allowance is reported as an "Adjustment" to the allowance in item 5 of part II of this schedule. Write–

downs included in part II, item 5, are also disclosed in Notes to the Income Statement and described as "Write–downs arising from transfers of loans to HFS." A preprinted caption to that effect was inserted in Notes to the Income Statement, item 1, in the June 30, 2001, FR Y–9C report. The proposed change would simplify the reporting of these write–downs.

Schedule HC – Consolidated Balance Sheet

Separate the reporting of federal funds sold from securities purchased under agreements to resell (current item 3) and federal funds purchased from securities sold under agreements to repurchase (current item 14). The revised balance sheet would have separate asset and liability items for federal funds transactions (items 3.a and 14.a) and for other securities resale/repurchase agreements (items 3.b. and 14.b). Federal funds transactions would include securities resale/repurchase agreements involving the receipt of immediately available funds that mature in one business day or roll over under a continuing contract.

Schedule HC–L –Derivatives and Off–Balance–Sheet Items

Add four new items to capture the gross positive and gross negative fair values of credit derivatives where the bank holding company or any of its consolidated subsidiaries is the guarantor (items 7.a.(1) and (2)) and where the bank holding company or any of its consolidated subsidiaries is the beneficiary (items 7.b.(1) and (2)).

Schedule HC–N – Past Due and Nonaccrual Loans, Leases, and Other Assets

1. Revise Schedule HC–N to collect the amount of closed–end loans secured by first mortgages on 1–4 family residential properties (in domestic offices) that are past due 30 days or more or in nonaccrual status separately from past due and nonaccrual closed–end loans secured by junior liens on such properties (in domestic offices). A similar change would be made to the reporting of first and junior lien 1–4 family residential mortgages (in domestic offices) in Schedule HI–B, part I, Charge–offs and Recoveries on Loans and Leases. Currently, these two types of residential mortgage loans are combined for purposes of reporting past due and nonaccrual loan data as well as year–to–date charge–offs and recoveries. The revised reporting structure for residential mortgage loans in Schedule HC–N, item 1.c.(2), and Schedule HI–B, part I,item 1.c.(2), would then parallel the reporting for these types of loans (in domestic offices) in Schedule HC–C, Loans and Lease Financing Receivables, item 1.c.(2)(a) and (b).

2. Add new Memorandum item 5, "Loans and leases held for sale (included in Schedule HC–N, items 1 through 8, above)," to specifically break out such loans and leases that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, or in nonaccrual status. Existing memorandum item 5 would be renumbered to memorandum item 6.

Schedule HC–R Regulatory Capital

Add a new subtotal within the computation of Tier 1 capital. In items 1 through 11 of Schedule HC–R, bank holding companies report their computation of Tier 1 capital. Items 8 and 9 are used to disclose any disallowed Servicing assets and purchased credit card relationships and any disallowed deferred tax assets, respectively. These disallowed amounts are calculated, in part, by reference to a subtotal of Tier 1 capital components. The instructions for Schedule HC–R explain how this subtotal should be derived by adding and subtracting, as appropriate, amounts reported in items 1 through 7 of Schedule HC–R, but the amount of the subtotal is not directly reported in the schedule itself. To help ensure that bank holding companies are using the proper subtotal when determining whether they have any disallowed amounts, existing items 8 and 9 will be renumbered as items 9.a and 9.b and item 8 will become the subtotal of items 1 through 7 (i.e., the sum of items 1 and 6, less items 2, 3, 4, 5, and 7).

Other Revisions Not Related to Call Report Changes:

The following proposed revisions are not directly related to the proposed Call Report changes for March 2002. Some of these changes are proposed to provide greater consistency with current Call Report items that are not part of the March 2002 revisions.

Schedule HI – Report of Income

1. Revise memoranda item 6, "Other noninterest income (itemize and describe the three largest amounts that exceed 1% of the sum of Schedule HI, items 1.h and 5.m)" and memoranda item 7, "Other noninterest expense (itemize and describe the three largest amounts that exceed 1% of the sum of Schedule HI, items 1.h and 5.m)," to add line item captions for several of the more commonly listed significant components for each item. Blank text fields like those presently contained in memoranda items 6 and 7 will be retained for noninterest income and expense items not specifically covered in the preprinted captions. In addition, memoranda items 6 and 7 would collect all amounts that exceed the 1 percent threshold, not just the three largest amounts. The new line item captions for the noninterest income categories would be: 6(a), "Income and fees from the printing and sale of checks," 6(b), "Earnings on/increase in value of cash surrender value of life insurance," 6(c), "Income and fees from automated teller machines (ATMs)," 6(d), "Rent and other income from other real estate owned," and 6(e), "Safe deposit box rent." The new line item captions for the noninterest expense categories would be: 7(a), "Data processing expenses," 7(b), "Advertising and marketing expenses," 7(c), "Directors' fees," 7(d), "Printing, stationery, and supplies," 7(e), "Postage," 7(f), "Legal fees and expenses," and 7(g), "FDIC deposit insurance assessments." These captions are consistent with categories used on the Call Report and were determined from analysis of predominantly listed items on the FR Y–9C. Furthermore, the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in memoranda items 6 and 7 that are used internally by the Federal Reserve System. With the addition of the proposed line item captions for other noninterest income and expense, the Federal Reserve would find the codes to be of limited use.

2. Eliminate the use of the three–digit text codes (TEXC) in Memoranda item 8, "Extraordinary items and other adjustments," that are used internally by the Federal Reserve System. In addition, the preprinted caption item in 8.a.(1) would be changed to "Effect of adopting FAS 142, Goodwill and Other Intangible Assets." The previous caption identifying the effect of adopting FAS 133, Accounting for Derivative Instruments and Hedging Activities, is no longer pertinent.

3. Modify the criteria for the reporting of Memoranda item 9, "Trading revenue (from cash instruments and derivative instruments" to instruct that this item is to be completed by bank holding companies that reported average trading assets (Schedule HC–K, item 4.a) of $2 million or more for any quarter of the preceding calendar year, rather than as of the March 31st report date of the current calendar year. Bank holding companies began reporting average trading assets as of the March 31, 2001, reporting date, so this information was not available for the preceding calendar year. This reporting threshold would now be consistent with the bank Call Report.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

4. Breakout existing memorandum item 12(b), "Premiums," into two separate items: Memorandum item 12(b)(1), "Premiums on insurance related to extension of credit," and memorandum item 12(b)(2), "All other insurance premiums." This breakout would provide an indication of the extent to which insurance underwriting activities are credit related.

Schedule HC– Trading Assets and Liabilities

Similar to the change proposed to Schedule HI, Memoranda item 9, "Trading revenue (from cash instruments and derivative instruments)," modify the criteria for the filing of Schedule HC–D to instruct that this schedule is to be completed by bank holding companies that reported average trading assets (Schedule HC–K, item 4.a) of $2 million or more for any quarter of the preceding calendar year, rather than as of the March 31st report date of the current calendar year.

Schedule HC–I – Insurance–Related Activities

Several revisions are proposed for Schedule HC–I. The general instructions would be revised to require that this schedule be completed by all top–tier BHCs and not only by top–tier financial holding companies (FHCs) or top–tier BHCs that have an FHC designation at some level in its multi–tiered organization. The schedule would be retitled as "Insurance–Related Underwriting Activities (including reinsurance)" and appropriate adjustments would be made to the instructions. The new line items that are proposed for both Part I, Property and Casualty, and Part II, Life and Health, include the separate reporting of (1) total assets, (2) total equity, and (3) net income, for each of these two types of underwriting activities. In addition, Part II, Life and Health, would include a new item for the reporting of reinsurance recoverables. Finally, Part III, All Insurance–Related Activities, would be eliminated because of the revisions made to Parts I and II.

Schedule HC–L Derivatives and Off-Balance-Sheet Items

Revise item 9, "All other off–balance–sheet items (exclude derivatives) (itemize and describe each component of this item over 25% of Schedule HC, item 28, "Total equity capital")" to add line item captions for some of the more commonly listed significant components for each item. Blank text fields like those presently contained in item 9 will be retained for other off–balance–sheet items not specifically covered in the new line item captions. The new line item captions would be: 9(a), "Securities borrowed," 9(b), "Commitments to purchase when–issued securities," and 9(c), "Commitments to sell when–issued securities." These captions are consistent with categories used on the Call Report. Furthermore the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in item 9 that are used internally by the Federal Reserve System.

Schedule HC–M – Memoranda

1. Revise the yes/no question asked in item 8 to ask if a business combination occurred during the calendar year that was accounted for by the purchase method of accounting.

The current question asked in item 8 is whether the bank holding company's consolidated financial statements reflect any business combinations for which the pooling–of–interest method of accounting was used. On July 2001, the FASB issued Statement No. 141, Business Combinations. The Statement requires that all business combinations initiated after June 30, 2001, be accounted for using the purchase accounting method, thereby eliminating the use of the pooling–of–interest method.

2. Incorporate into Schedule HC–M two of the items currently reported on the FR Y–9CS, Supplement to the Consolidated Financial Statements for Bank Holding Companies. Only top–tier FHCs would continue to report these items. Top–tier FHCs would report in Memoranda items 20 and 21 the net assets of (1) Broker–Dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the Gramm–Leach– Bliley Act of 1999 (GLB Act), and (2) Insurance underwriting subsidiaries. In addition, these two items would no longer be considered confidential. The Federal Reserve would continue tracking the growth in these activities by FHCs subsequent to the enactment of the GLB Act.

Schedule HC–R – Regulatory Capital

Make a technical revision to memorandum item 3. The caption to memorandum item 3 would be revised to eliminate the term "perpetual" from the caption. The caption for memorandum item 3 would be "Preferred stock (including related surplus)". In addition, existing memorandum item 3(a)(3) would be renumbered as memorandum item 3(b) to distinguish between the reporting of perpetual preferred stock (in memorandum items 3(a)(1) and 3(a)(2)) and trust preferred securities that are reported in minority interest on the balance sheet. The line item caption for memorandum item 3(b) would not change – only the line item number to provide clarity for the reporting of these types of securities.

Instructions

Instructional revisions and clarifications will be done in accordance with changes made to the Call Report instructions or will correspond to existing Call Report instructions. In addition, instructional revisions and clarifications will be made as necessary with respect to proposed revisions not directly related to the proposed Call Report changes for March 2002.

4. Report title: Parent Company Only Financial Statements for Large Bank Holding Companies

Agency form number: FR Y–9LP

OMB control number: 7100–0128

Frequency: Quarterly

Reporters: Bank holding companies

Annual reporting hours: 40,495 hours

Estimated average hours per response: 4.55 hours

Number of respondents: 2,225

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y–9LP includes standardized financial statements filed quarterly on a parent company only basis from each bank holding company that files the FR Y–9C. In addition, for tiered bank holding companies, a separate FR Y–9LP must be filed for each lower tier bank holding company.

Current actions: The Federal Reserve proposes the following revisions to the FR Y–9LP effective with the March 31, 2002, reporting date for the reporting of additional information about trust preferred securities.

Schedule PI–Parent Company Only Income Statement

Add memorandum item 4, "Interest expense paid to special–purpose subsidiaries that issued trust preferred securities." In these types of transactions, a special–purpose subsidiary (typically, a trust) of the parent company issues preferred securities and lends the proceeds to the parent company in exchange for an intercompany note from the parent company. Because of the tremendous growth in the issuance of trust preferred securities by special purpose entities of bank holding companies as a funding source for bank holding companies, the Federal Reserve proposes to isolate the amount of interest expense that is being paid by the parent to the special–

purpose subsidiaries that issue trust preferred securities.

Schedule PC-B – Memoranda

Add item 16, "Notes payable to special–purpose subsidiaries that issued trust preferred securities." Currently, the amount of notes payable to special–purpose subsidiaries that issue trust preferred securities is included as part of the overall amount reported in Schedule PC, item 18(b), "Balances due to nonbank subsidiaries." Because of the tremendous growth in the issuance of trust preferred securities by special purpose entities of bank holding companies as a funding source for bank holding companies, the Federal Reserve proposes to isolate the amount of the notes payable to these special–purpose subsidiaries that issue trust preferred securities as a separate item from the overall intercompany balances due to nonbank subsidiaries by parent bank holding companies.

Instructions

Instructional revisions and clarifications will be made as necessary in an attempt to achieve greater consistency in reporting by respondents.

5. *Report title:* Parent Company Only Financial Statements for Small Bank Holding Companies

Agency form number: FR Y–9SP

OMB control number: 7100–0128

Frequency: Semiannual

Reporters: Bank holding companies

Annual reporting hours: 28,273 hours

Estimated average hours per response: 3.89 hours

Number of respondents: 3,634

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). Confidential treatment is not routinely given to the data in this report. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form.

Abstract: The FR Y–9SP is a parent company only financial statement filed on a semiannual basis by one–bank holding companies with total consolidated assets of less than $150 million, and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This report, an abbreviated version of the more extensive FR Y–9LP, is designed to obtain basic balance sheet and income statement information for the parent company, information on intangible assets, and information on intercompany transactions.

Current actions: The Federal Reserve proposes the following revisions to the FR Y–9SP effective with the June 30, 2002, reporting date in a manner consistent with the previously described changes to the FR Y–9C and FR Y–9LP.

Income statement

Add memorandum item 3, "Interest expense paid to special–purpose subsidiaries that issued trust preferred securities." Similar to larger bank holding companies, smaller bank holding companies are also utilizing these types of transactions (see the FR Y–9LP discussion). The Federal Reserve proposes to isolate the amount of interest expense that is being paid by the parent to the special–purpose subsidiaries that issue trust preferred securities.

Balance Sheet

1. Revise memoranda item 11, "Other assets (itemize and describe amounts that exceed 25% of balance sheet, line item 7)" and memoranda item 12, "Other liabilities (itemize and describe amounts that exceed 25% of the balance sheet, line item 13)," to add line item captions for several of the more commonly listed significant components for each item. Blank text fields like those presently contained in memoranda items 11 and 12 will be retained for other asset and other liability items not specifically covered in the new line item captions. The new line item captions for the other asset categories would be: 11(a), "Accounts receivable," 11(b), "Income taxes receivable," 11(c)"Premises and fixed assets," 11(d), "Deferred tax assets," and 11(e), "Cash surrender value of life insurance policies." The new line item captions for the other liability categories would be: 12(a), "Accounts payable," 12(b), "Income taxes payable," 12(c) "Dividends payable," and 12(d), "Deferred tax liabilities." Furthermore, the Federal Reserve proposes to eliminate the use of the three–digit text codes (TEXC) in memoranda items 11 and 12 that are used internally by the Federal Reserve System. With the addition of these preprinted captions for other assets and other liabilities, the Federal Reserve would find the codes to be of limited use.

2. Add a new memorandum item 13, "Notes payable to special–purpose subsidiaries that issued trust preferred securities." Currently, the amount of notes payable to special–purpose subsidiaries that issue trust preferred securities is included as part of the overall amount reported on the Balance Sheet, in item 14(b), "Balances due to nonbank subsidiaries and related institutions." Similar to larger bank holding companies, smaller bank holding companies are also utilizing these types of transactions (see the FR Y–9LP discussion). The Federal Reserve is interested in isolating the amount of intercompany notes payable by the parent to special–purpose subsidiaries that issue trust preferred securities.

3. Incorporate two of the items currently reported on the FR Y–9CS, Supplement to the Consolidated Financial Statements for Bank Holding Companies. Only top–tier FHCs would continue to report these items. Top–tier FHCs would report in memorandum items 21 and 22 the net assets of (1) Broker–Dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the GLB Act, and (2) Insurance underwriting subsidiaries. In addition, these two items would no longer be considered confidential. The Federal Reserve would continue tracking the growth in these activities by FHCs subsequent to the enactment of the GLB Act.

Instructions

Instructional revisions and clarifications will be made as necessary in an attempt to achieve greater consistency in reporting by respondents.

6. *Report title:* Supplement to the Consolidated Financial Statements for Bank Holding Companies

Agency form number: FR Y–9CS

OMB control number: 7100–0128

Frequency: on occasion

Reporters: Bank holding companies

Annual reporting hours: 1,200 hours

Estimated average hours per response: 0.50 hour

Number of respondents: 600

Small businesses are affected.

General description of report: This information collection is mandatory (12 U.S.C. 1844(b) and (c)). The Federal Reserve considers the information on the current version of the report form confidential pursuant to the Freedom of Information Act (5 U.S.C. 554(b)(4)), except for item 4.

Abstract: The FR Y–9CS is a free form supplement that may be utilized to collect any additional information deemed to be critical and needed in an expedited manner. It is intended to supplement the FR Y–9C and FR Y–9SP reports. Due to the enactment of the GLB Act in 1999, the current version of this supplement was implemented in 2000 to collect basic information about the new activities of FHCs.

Current actions: As of March 2002, the current version of this free form supplement will no longer be used and some of the items have been moved to other reporting forms. The disposition of each item on the current supplement is discussed in detail below. However, if other emerging issues arise that

UMI VOL 66 ISS 246 DE 21 2001 UMI

require its use, the Federal Reserve may use the FR Y-9CS to collect other supplementary information.

1. As mentioned above, net assets of broker–dealer subsidiaries engaged in underwriting or dealing securities pursuant to Section 4(k)(4)(E) of the Bank Holding Company Act as amended by the GLB Act (current item 1, Column B), and net assets of insurance underwriting subsidiaries (current item 2, Column B) would now be reported on the FR Y-9C and FR Y-9 SP. However, these two items would no longer be considered confidential. The remaining columns for gross assets (Column A), equity capital (Column C), and net income (Column D) would no longer be collected as separate items.

2. Investments held under merchant banking authority (current item 3) is now collected from institutions that meet the reporting criteria for the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12; OMB No. 7100–0300).

3. The information related to current item 4 on whether the FHC has any subsidiaries engaged in newly authorized insurance agency activities is collected on the Report of Changes in Organizational Structure (FR Y–10; OMB No. 7100–0297).

Board of Governors of the Federal Reserve System, December 17, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31434 Filed 12–20–01; 8:45 am]

BILLING CODE 3510–23–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 4, 2002.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Santo P. Pasqualucci, Falmouth, Massachusetts; to acquire voting shares of Falmouth Bancorp, Inc., Falmouth, Massachusetts, and thereby indirectly acquire voting shares of Falmouth Co-operative Bank, Falmouth, Massachusetts.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521:

1. Albert V. Schulze and Michelle A. Schulze, Orwigsburg, Pennsylvania, Albert V. Schulze (custodian for Alan Jacob Schulze, Rebecca Lauren Schulze, Cameron Prescott Keener, Christian James Keener, and Sara Anne Graver), Michelle Schulze (custodian for Zachary David Garland, Alex Nicholas Pellish, Jillian Michelle Pellish, Brianna Noel Horn, and William I. Horn, III), Dale Keener, Hamburg, Pennsylvania, and Janet Keener, Hamburg, Pennsylvania; to retain shares of Union Bancorp, Inc., Pottsville, Pennsylvania, and thereby indirectly retain voting shares of Union Bank and Trust Company, Pottsville, Pennsylvania.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31439 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 14, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. River Valley Bancorp, Inc., Eldridge, Iowa; to acquire 100 percent of the voting shares of State Bank of Seaton, Seaton, Illinois.

Board of Governors of the Federal Reserve System, December 14, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31436 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act

(12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 14, 2002.

A. **Federal Reserve Bank of Atlanta** (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. *Marion County Bancshares, Inc.*, to merge with Triangle Bancorporation, Carbon Hill, Alabama, and thereby indirectly acquire Bank of Carbon Hill, Carbon Hill, Alabama; Bank of Berry, Berry, Alabama; and Bank of Parrish, , Parrish, Alabama.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Baylor Bancshares, Inc.*, Seymour, Texas, and Baylor/Delaware Bancshares, Inc., Wilmington, Delaware; to acquire 100 percent of the voting shares of Citizens State Bank, Princeton, Texas.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31437 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 4, 2001.

A. **Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Mutual of Richmond, Inc.*, Richmond, Indiana, and Richmond Mutual Bancorporation, Inc., Richmond, Indiana; to acquire AmTrust Capital Corporation, Peru, Indiana, and thereby indirectly acquire AmericanTrust Federal Savings Bank, Peru, Indiana, and Indiana Financial Service Corporation, Peru, Indiana, and thereby engage in the operation of a savings association, pursuant to § 225.28(b)(4)(ii). Comments on this application must be received not later than January 14, 2002.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. *Union Planters Corporation*, Memphis, Tennessee; to engage *de novo* through its wholly-owned subsidiary, Union Planters Investment Advisors Inc., Memphis, Tennessee, in financial and investment advisory activities, pursuant to § 225.28(b)(6)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, December 17, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31438 Filed 12–20–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act; Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System Federal Register Citation of Previous Announcement:

66 FR 65213, December 18, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, December 19, 2001.

CHANGES IN THE MEETING: The open meeting has been canceled, and the scheduled items were handled via telephone vote.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 for a recorded announcement of this meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement. (The web site also includes procedural and other information about the open meeting.)

Dated: December 19, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31577 Filed 12–19–01; 11:10 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Agency for Toxic Substances and Disease Registry (ATSDR) and the Centers for Disease Control and Prevention (CDC) announce the following meeting.

Name: Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12:30 p.m.–7:30 p.m., February 11, 2001.

Place: YWCA of Oak Ridge, Tennessee, 1660 Oak Ridge Turnpike: Oak Ridge, TN, 37830. Telephone: (865) 482–2008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 150 people.

Background

A Memorandum of Understanding (MOU), signed in October 1990 and renewed in September 2000 between ATSDR and DOE, delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and

UMI
VOL 66
ISS 246
DE 21 2001
UMI

at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Purpose

This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator, ATSDR, pertaining to CDC's and ATSDR's public health activities and research at this DOE site. Activities shall focus on providing the public with a vehicle to express concerns and provide advice and recommendations to CDC and ATSDR. The purpose of this meeting is to receive updates from ATSDR and CDC, and to address other issues and topics, as necessary.

Matters to be Discussed: The agenda includes a discussion of the public health assessment, updates from the Public Health Assessment, Health Needs Assessment, Agenda, Communications and Outreach, and the Ad Hoc Mission Workgroup. Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: La Freta Dalton, Designated Federal Official, or Marilyn Palmer, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE, M/S E–54, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR(28737), fax 404/498–1744.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 17, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31464 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Revision and Reinstatement of Information Collection

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: State Program Report (SPR): Reporting Requirements for Titles III and VII of the Older Americans Act (OAA).

Type of Request: Reinstatement with modifications.

Use: The SPR is the source of program data for State programs on behalf of elderly individuals across the nation, administered under the OAA. The data are used by AoA to fulfill reporting requirements mandated under the OAA, the Government Performance and Results Act, and other Federal management statutes. AoA uses the data for program planning, management, assessment, accountability and development. Data for all States are published each year on the AoA website for use by the States, area agencies, providers and research entities for program analysis and other statistical purposes.

Frequency: Annual.

Respondents: State agencies on aging, including comparable agencies in U.S. territories and the District of Columbia, which administer OAA programs.

Estimated Number of Responses: 56.

Total Estimated Burden Hours: 140,000.

Additional Information or Comments: The Administration on Aging (AoA) has initiated a cooperative effort with State agencies on aging, area agencies on aging, and aging service providers to modify the SPR. Multiple factors influence AoA's plans to modify this fundamental information collection requirement at this time, particularly the following: (1) Need to incorporate into the SPR information requirements for the National Family Caregiver Support Program authorized by the 2000 Amendments to the OAA; (2) need to revise information requirements to comply with Office of Management and Budget (OMB) standards for gathering information on race and ethnicity; (3) the need to streamline and reduce the current information requirements of the SPR; and (4) the expiration of OMB approval of the SPR under the Paperwork Reduction Act in August 2002. Written comments and recommendations for the modification of this proposed information collection should be sent within 60 days of the publication of this Notice directly to the following address: Office of Planning and Evaluation, Administration on Aging, Attention: Frank Burns, 330 Independence Avenue, SW., Rm. 4741, Washington, DC 20201.

Dated: December 17, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–31501 Filed 12–20–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Approval of an Information Collection Survey

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: National Family Caregiver Support Program Survey: Grandparents and Other Relatives Raising Children.

Type of Request: This request is for approval of a one-time survey to identify agencies currently providing services to grandparents and other relatives caring for grandchildren.

Use: Data will be collected by Generations United, a National Family Caregiver Support Program discretionary grantee, on organizations providing services to grandparents and other relatives caring for children, nature of services provided, number of grandparents and other relative caregivers served annually; number of children assisted annually, and training needs of these organizations to adequately evaluate the implementation, progress and process of the National Family Caregiver Support Program, Title III–E of the Older Americans Act (42 U.S.C. 3001 *et seq.*), as amended by the Older Americans Act Amendments of 2000 (Pub.L. 106–501). AoA and Generations United will use this data to plan technical assistance to these organizations in the forthcoming year. The data will also be used by the AoA to evaluate and describe all projects funded by this initiative and address the program's evaluation and Government Performance and Results Act (GPRA) requirements. Findings will be used to manage the program and better target future activities.

Frequency: One-time survey administered by Generations United.

Respondents: State Units on Aging, Area Agencies on Aging, Tribal and Native Organizations, Primary Health Care Centers.

Estimated Number of Responses: 1600.

Total Estimated Burden Hours: 10 minutes/organization × 1600 organizations = 267 hours.

Additional Information or Comments: The Administration on Aging plans to submit to the Office of Management and Budget for approval a one-time survey to identify organizations providing services to grandparents and other relative caregivers of children to design technical assistance to those organizations. Written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this Notice directly to the following address: Office of Program Development, Administration on Aging, Attention: Rick Greene, 330 Independence Avenue, SW., Rm 4748, Washington, DC 20201.

Dated: December 17, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–31502 Filed 12–20–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–03–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Hanford Birth Cohort Study—New—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. This legislation was, in part, in response to the lack of scientific information about potential adverse health effects resulting from exposure of a general population to hazardous substances. Although environmental exposures have been documented at many hazardous waste sites in the United States, most existing data are for occupational exposures. However, environmental exposure of a general population is more likely to include exposure of vulnerable subpopulations (e.g., pregnant women, children, elderly, and the infirm). ATSDR plans activities to address these issues which include conducting health studies at sites on the Environmental Protection Agency's (EPA) National Priorities List (NPL) to determine whether and to what degree exposure to hazardous substances at these sites are harmful to human health.

The Hanford Nuclear Reservation, in south central Washington State, is on EPA's National Priorities List. Between 1944 when it opened until its closing in 1972, radioactive Iodine was released to the air from chemical separation facilities funded to produce plutonium for atomic weapons. The Hanford Environmental Dose Reconstruction Project (HEDR) estimates that the majority of releases of Iodine-131 occurred between 1944 and 1951. Broad-based scientific studies indicate that exposure to radioactive materials (including Iodine-131), may be associated with an increased risk of developing autoimmune or cardiovascular diseases. Children up to five years of age may be at higher risk than the general population of developing these diseases after exposure.

The objective of the Hanford Birth Cohort Study is to compare information on the rates of autoimmune and cardiovascular disease among a population exposed to radioactive contaminants during 1945–1951 and the rates of a less-exposed comparison population. This study may have applicability to other sites where exposure to radioactive contaminants has occurred.

ATSDR currently has underway an information collection at the Hanford Nuclear Reservation to develop educational materials and interventions related to thyroid disease for individuals exposed to I–131 as young children—the Hanford Community Health Project (OMB No. 0923–0031). This Hanford Birth Cohort Study is a separate project which will collect information on rates of autoimmune and cardiovascular disease among the selected population. Integral to designing this project, ATSDR reviewed the work of the National Cancer Institute's (NCI) Committee on Exposure of the American People to I–131 from the Nevada Atomic Bomb Tests as well as the NCI's report titled "Exposure of the American People to IODINE–131 from Nevada Nuclear-Bomb Tests."

In another ATSDR project (OMB No. 0923–0006), approximately 6,000 people were located who were born between 1940 and 1951 in three high-exposed counties nearest the Hanford site (Benton, Franklin, and Adams). For the currently proposed study, ATSDR will randomly select and interview up to 1,000 individuals from this entire birth cohort of 15,001 (including the 6,000 people who were previously located). The comparison population will include a random selection of 1,000 persons born in three low-exposed counties located farther away from the Hanford site (San Juan, Whatcom, and Mason).

To reduce the amount of time required by the respondents, Computer Assisted Telephone Interviews (CATI) will be conducted. Following completion of all respondent interviews, the data will be tabulated and analyzed (the high exposed group will be compared with the low exposed group). The information collected in this proposed study will provide reliable baseline information on the incidence of autoimmune and cardiovascular diseases as related to exposure to releases from the Hanford facility and will also provide the information needed to generate appropriate and valid hypotheses for future activities, such as other epidemiologic studies.

The total estimated annualized burden hours are 1025.

Type of respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
High Exposed Population	1,000	1	25/60
Screening	1,150	1	5/60
Low Exposed Population	1,000	1	25/60
Screening	1,150	1	5/60

Dated: December 14, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control, and Prevention.

[FR Doc. 01–31420 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Advisory Committee meeting.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8:30 a.m.–4 p.m., January 18, 2002.

Place: Centers for Disease Control and Prevention Headquarters, 1600 Clifton Road, Building 2, Auditorium B, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The committee will anticipate, identify, and propose solutions to strategic and broad issues facing CDC.

Matters to be Discussed: Agenda items will include updates from Dr. Jeffrey P. Koplan, M.D., M.P.H., Director, CDC, regarding CDC's building and facility master plan and the current CDC Director's priorities with discussions of program activities including updates from Advisory Committee workgroups and updates on CDC scientific and programmatic activities.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Kathy Cahill, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333. Telephone 404/639–7060.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 17, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31463 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Board on Radiation and Worker Health (ABRWH).

Times and Dates: 8:30 a.m.–5:30 p.m., January 22, 2002.

8 a.m.–4:30 p.m., January 23, 2002.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, NW., Washington, DC 20001, telephone 202/638–1616, fax 202/347–1813.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: The Advisory Board on Radiation and Worker Health (the Board) was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which are being promulgated by Department of Health and Human Services (HHS), advice on methods of dose reconstruction which have been promulgated as an interim final rule, evaluation of the validity and quality of dose reconstructions conducted by the National Institute for Occupational Safety and Health (NIOSH) for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000, the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to the Centers for Disease Control and Prevention (CDC). NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and in November 2001, the President completed the appointment of an initial roster of 10 Board members. The initial tasks of the Board will be to review and provide advice on the proposed and interim rules of HHS.

Purpose: This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Discussed: Agenda for this meeting will focus on member orientation and include briefings by NIOSH, CDC Committee Management Office, Office of the General Counsel and/or Office of Government Ethics. The Board will also review, evaluate, and comment on the rule on probability of causation.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION:

Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/841–4470.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 17, 2001.

John Burkhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention .

[FR Doc. 01–31462 Filed 12–20–01; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACF/ACYF/HS-2002-02]

Fiscal Year 2002 Discretionary Announcement for Child Development Associate (CDA) Credentialing Program; Availability of Funds and Request for Applications

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the availability of funds and request for applications to administer the Child Development Associate (CDA) Credentialing Program.

SUMMARY: The Administration for Children and Families (ACF), Administration on Children, Youth and Families (ACYF) announces the availability of $1,000,000 annually for each of five years to support the Child Development Associate (CDA) Credentialing Program through a Cooperative Agreement. A Cooperative Agreement is a form of Federal financial assistance that allows substantial Federal involvement in the activities for which funds are awarded. A detailed description of the Federal involvement is described in the full version of this announcement.

The CDA Program is a national project to credential qualified caregivers who work with children birth to age five in a variety of public and private agency settings, and in a variety of roles, including as center-based caregivers of infants and toddlers or preschool age children, as home visitors, or as family child care providers.

DATES: The closing date and time for receipt of application is 5 p.m. EDT on January 28, 2002.

Note: Applications should be submitted to the ACYF Operations Center at: 1815 N. Fort Myer Drive, Suite 300, Arlington, Virginia 22209. However, prior to preparing and submitting an application, in order to satisfactorily compete under this announcement it will be necessary for potential applicants to read the full announcement which is available through the address listed below.

ADDRESSES: The full announcement and applications, including all necessary forms can be downloaded from the Head Start web site at *www.acf.dhhs.gov/programs/hsb.* Hard copies of the application may be obtaining by writing or calling the ACYF Operations Center (address listed below) or sending an e-mail to *CDA@lcgnet.com*

FOR FURTHER INFORMATION CONTACT: ACYF Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209, telephone 1–800–351–2293 or e-mail to *CDA@lcgnet.com*

SUPPLEMENTARY INFORMATION:

Eligible Applicants: An applicant must be a private or public non-profit or for-profit organization. Eligible applicants include colleges and universities, and private or public non-profit or for-profit organizations or associations in the field of early childhood education or the related fields of child development, child care, and family studies. Faith-based organizations are eligible to apply for these funds. Note: For-profit organizations must agree to waive their fee under this program.

Only incorporated agencies and organizations, not individuals, are eligible to apply. On all applications developed jointly by more than one agency or organization, the application must identify only one organization as the lead organization and the official applicant. The other organizations(s) may be included as partners, participants, subgrantees or subcontractors. Before applications are reviewed, each application will be screened to determine that the organization is an eligible applicant as specified. Ineligible applicants will be notified.

Project Duration: The announcement for the Child Development Associate (CDA) Credentialing Program is soliciting applications for a project period of five years. An award will be made on a competitive basis for the first one-year budget period. An application for the continuation grant funded for this award beyond the one-year period, but within the established project period, will be entertained in subsequent years on a non-competitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Federal Share of Project Costs: A total of approximately $1,000,000 in ACF funds will be available annually for this project. The Federal share is inclusive of indirect costs.

Matching Requirements: There are not matching requirements.

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

Statutory Authority: Section 648(e) of the Head Start Act (42 U.S.C. 9843).

Evaluation Criteria

Reviewers will consider the following criteria when evaluating applicants. The maximum numbers of points available are indicated in parenthesis.

Criterion 1. Objectives and Need For Assistance (20 points)

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Criterion 2. Results and Benefits Expected (15 points)

Identify the results and benefits to be derived. For example describe the extent to which the applicant's recommendations and possible strategies for enhancing the current CDA National Credentialing Program systems and approaches to support Head Start staff qualification requirements as mandated by Section 648A of the Head Start Act and the revised Head Start Performance Standards. Clearly state the results and benefits of CDAs to be credentialed annually, and the extent to which the assessment and credentialing fee is affordable to potential candidates.

Criterion 3. Approach (50 points)

Outline a plan of action, which describes the scope, and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for

UMI
VOL 66
ISS 246
DE 21
2001
UMI

each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Criterion 4. Budget and Budget Justification (15 points)

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimated methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-five jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applicants and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date or contact if no submittal is required) on the Standard Form 424, Item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: William Wilson, Head Start Bureau, 330 C Street, SW., Washington, DC 20447, Attn: Head Start—Child Development Associate Credentialing Program.

A list of Single Points of Contact for each State and Territory can be found on the web site. http://www.whitehouse.gov/omb/grants/spoc.html.

Dated: December 18, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–31500 Filed 12–20–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

FDA Food Labeling and Allergen Declaration; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration (FDA), Southwest Regional Small Business Program (Small Business Program), Office of Regulatory Affairs, in collaboration with FDA's Center for Food Safety and Applied Nutrition, the State of Missouri Department of Public Health, the Kansas City Department of Health and the Missouri Milk, Food and Environmental Health Association is announcing a public workshop entitled "FDA Food Labeling and Allergen Declaration." This public workshop is intended to provide information about FDA food regulations, food labeling allergen declaration, good manufacturing practices, and other related matters to the regulated industry, particularly small businesses and startups.

Date and Time: The public workshop will be held on January 10 and 11, 2001, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Kansas City Department of Health Auditorium, 2400 Troost Ave., Kansas City, MO.

Contact: Gala Jaramillo, Missouri Milk, Food and Environmental Health Association, P.O. Box 105017, Jefferson City, MO 65110–5017, 573–634–6418, or Sue Thomason, FDA, 7920 Elmbrook Dr., suite 102, Dallas, TX 75247–4982, 214–655–8100, ext. 128, FAX 214–655–8114.

Registration: Preregistration by January 3, 2002, is encouraged. The Missouri Milk, Food and Environmental Health Association has a $20 preregistration fee to cover the cost of breaks. To preregister, please complete the form below and send along with a check or money order for $20 payable to The Missouri Milk, Food and Environmental Health Association (address above). As an alternative, the registration form and directions to the facility can also be obtained on the Internet at http://www.fda.gov/ora/indust_assit/Default.htm. Seats are limited, please submit registration form as soon as possible. Course space will be filled in order of receipt of registration. Those accepted into the course will receive written confirmation. Registration will close when the course is filled. Registration at the site will be done on a space available basis on the day of the public workshop beginning at 8 a.m. The cost of registration at the site is $25 payable to The Missouri Milk, Food and Environmental Health Association. If you need special accommodations due to a disability, please contact Leslie Foresberg at 816–513–6315 at least 7 days in advance.

Name: ___________

Agency: ___________

Mailing Address: ___________

City: ___________

State: ___________

Zip Code: ___________

Phone: ( ) ___________

FAX: ( ) ___________

E-mail: ___________

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the public workshop at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The workshop is being held in response to a request by the State of Missouri to present information that would be helpful to regulated industry. The Small Business Program presents this workshop to help achieve objectives set forth in section 406 of the Food and Drug Administration Modernization Act of 1997 (21 U.S.C. 393), which include working closely with stakeholders and maximizing the availability and clarity of information to stakeholders and the public. This is consistent with the purposes of the Small Business Program, which are in part to respond to industry inquiries, develop educational materials, sponsor workshops and conferences to provide firms, particularly small businesses, with firsthand working knowledge of FDA's requirements and compliance policies. This workshop is also consistent with the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), as outreach activities by Government agencies to small businesses.

The goal of the workshop is to present information that will enable manufacturers and regulated industry to better comply with labeling requirements, especially in light of growing concerns about food allergens. Information presented will be based on agency position as articulated through regulation, compliance policy guides, and information previously made available to the public. Topics to be discussed at the workshop include: (1) FDA food regulations, (2) food labeling, (3) allergen declaration, (4) good manufacturing practices, and (5) the Nutrition Labeling Education Act. FDA expects that participation in this workshop will provide regulated industry with greater understanding of the regulatory and policy perspectives on food labeling and allergen declaration.

Dated: December 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31572 Filed 12–19–01; 12:37 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0465]

Guidance for Industry on Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications." This guidance is a second revision of the guidance entitled "Major, Minor, FAX, and Telephone Amendments to Original Abbreviated New Drug Applications." FDA's Office of Generic Drugs (OGD) determined that further revision of the policy regarding determination of major, minor, and telephone amendments was necessary to help streamline the review of abbreviated new drug applications (ANDAs).

DATES: Submit written or electronic comments on the guidance by March 21, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of this guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Rita R. Hassall, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5845.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled "Major, Minor, and Telephone Amendments to Abbreviated New Drug Applications." The guidance is intended to document OGDs policy regarding the determination of major, minor, and telephone amendments to original and supplemental ANDAs. This guidance first published in August 1999 and was originally entitled "Major, Minor, FAX, and Telephone Amendments to Original Abbreviated New Drug Applications." It was revised in May 2000 to explain that the issuance of a major, minor, or FAX amendment would stop the review clock.

The second revision of this guidance (1) deletes the FAX amendment designation, which was found to be unnecessary, (2) now applies to supplemental applications as well, and (3) changes the criteria for determining the type of amendment. The changes in criteria should result in more amendments being categorized as "minor" and fewer as "major." A minor amendment request (generally reviewed within 30 to 60 days) has a higher priority than a major amendment. Since the review of a minor amendment takes place sooner than a major amendment after the original review, there is not a long break in the review process for a minor amendment. The response to a major amendment request, however, goes into the 180-day queue. This process causes a greater time lapse from when the original review was done and results in reviewers having to refamiliarize themselves with the application. It is expected that the new policy will help in moving applications through the approval process more quickly than under the previous policy. Thus the total time for approval of ANDAs will be reduced.

Because it lessens the burden on industry, this guidance is being issued as a Level 1 guidance for immediate implementation, consistent with FDA's good guidance practices regulation (21 CFR 10.115). As with other Level 1 guidances for immediate

UMI
VOL 66 ISS 246 DE 21 2001
UMI

implementation, the agency is soliciting comments from the public. This guidance represents the agency's current thinking on major, minor, and telephone amendments to ANDAs. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: December 3, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31454 Filed 12–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0493]

Draft Guidance for Industry: Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled "Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction." This draft document is intended to provide guidance to fruit and vegetable juice producers about FDA's revised recommendations for effectively achieving a 5-log pathogen reduction that is the basis for exempting juice products from the warning label requirement established by a July 8, 1998, final rule entitled "Food Labeling: Warning and Notice Statement; Labeling of Juice Products" (the juice labeling rule). A 5-log reduction is also a requirement of the January 19, 2001, final rule entitled "Hazard Analysis and Critical Control Point (HACCP); Procedures for the Safe and Sanitary Processing and Importing of Juice" (the juice HACCP rule). This draft guidance describes FDA's current recommendations for effectively achieving a 5-log pathogen reduction in juice.

DATES: Submit written or electronic comments to ensure adequate consideration in preparation of the final guidance document by February 19, 2002. Comments on this guidance may be submitted at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to Jennifer A. Burnham, Center for Food Safety and Applied Nutrition (CFSAN) (address below).

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Jennifer A. Burnham, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–0773, FAX: 202–205–4422.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has revised its guidance for effectively achieving a 5-log pathogen reduction in juice. The purpose of this guidance is to encourage those juice processors not yet subject to the juice HACCP rule (e.g., small and very small processors who are not subject to the juice HACCP rule until January 21, 2003 and January 20, 2004, respectively) who are performing a 5-log reduction to attain exemption from the warning label requirement to apply effective 5-log reduction treatments based upon current science. This draft guidance also provides guidance to processors at retail who are not subject to the juice HACCP rule and who are performing a 5-log reduction to attain exemption from the warning label requirements.

In the **Federal Register** of July 8, 1998, FDA issued the juice labeling rule (63 FR 37030). That final rule requires a warning statement on fruit and vegetable juices and juice ingredients that have not been processed to prevent, reduce, or eliminate pathogenic microorganisms that may be present. Specifically, under 21 CFR 101.17(g), juice and juice ingredients must bear a warning label if they have not been processed to achieve a 5-log pathogen reduction, or a reduction that is equal to, or greater than, the criterion established for process controls by any final regulation requiring the application of HACCP principles to the processing of juice and juice ingredients. The warning label was intended to provide a measure of public safety until final HACCP regulations could be established and implemented.

In the **Federal Register** of January 19, 2001 (66 FR 6138), FDA issued the juice HACCP rule; this rule mandates the implementation of HACCP principles and an effective 5-log pathogen reduction treatment to ensure the safe and sanitary processing of fruit and vegetable juices and ingredients. In the juice HACCP rule, FDA set forth certain criteria for achieving the 5-log pathogen reduction, which are consistent with current scientific knowledge as described in the juice HACCP rule. This draft guidance will assist juice processors in effectively achieving a 5-log pathogen reduction in a manner consistent with that knowledge.

This document is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance entitled "Guidance for Industry: Exemptions from the Warning Label Requirement for Juice—Recommendations for Effectively Achieving a 5-Log Reduction" is being issued as a level 1 draft guidance consistent with GGPs. This draft guidance represents the agency's current recommendations for effectively achieving a 5-log pathogen reduction in juice. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

II. Comments

Interested persons may submit written or electronic comments to the Dockets Management Branch (address above) on the draft guidance by February 19, 2002. However, interested persons may submit written or electronic comments at any time. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. The draft guidance and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at the CFSAN home page at http://www.cfsan.fda.gov.

Dated: December 14, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31453 Filed 12–20–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–51]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administrati9on, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; NAVY: Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: December 13, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/21/01

Suitable/Available Properties

Building (by State)

Maryland

Stillpond Housing
521 Round Top Road
Chestertown Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140013
Status: Excess
Comment: 1000 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
131 Fairview Drive
Chesterview Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140014
Status: Excess
Comment: 1000 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
100 Farwell Road
Chesterview Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140015
Status: Excess
Comment: 1000 sq. ft., most recent use—residential presence of lead paint
GSA Number: 4–U–MD–603

Stillpond Housing
115 Rolling Road
Chesterview Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140016
Status: Excess
Comment: 750 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Stillpond Housing
303 Oriole Road

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Chestertown Co: Queen Anne's MD 21620–
Landholding Agency: GSA
Property Number: 54200140017
Status: Excess
Comment: 1000 sq. ft., most recent use—residential, presence of lead paint
GSA Number: 4–U–MD–603

Stillpond Housing
213 Manor Avenue
Chestertown Co: Kent MD 21620–
Landholding Agency: GSA
Property Number: 54200140018
Status: Excess
Comment: 750 sq. ft., most recent use—residential
GSA Number: 4–U–MD–603

Unsuitable Properties

Buildings (by State)

District of Columbia

Bldg. A–150
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140016
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–057
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140017
Status: Unutilized
Reason: Extensive deterioration

Bldg. A–087/002
Naval District
Anacostia Annex
Washington Co: DC 20374–
Landholding Agency: Navy
Property Number: 77200140018
Status: Unutilized
Reason: Extensive deterioration

Maryland

Bldg. S–038
Naval District
Solomons Complex
Solomons Co: MD 20688–0147
Landholding Agency: Navy
Property Number: 77200140013
Status: Unutilized
Reason: Extensive deterioration

Bldg. S–046
Naval District
Solomons Complex
Solomons Co: MD 20688–0147
Landholding Agency: Navy
Property Number: 77200140014
Status: Unutilized
Reason: Extensive deterioration

Bldg. F–1676
Naval Air Facility
Andrews AFB Co: MD 20762–5518
Landholding Agency: Navy
Property Number: 77200140015
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 01–31186 Filed 12–20–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for endangered species permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by January 22, 2002.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to "victoria_davis@fws.gov". Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed above (see **FURTHER INFORMATION**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Applicant: Living Seas, Walt Disney World, Lake Buena Vista, Florida, TE050053–0.

The applicant requests authorization to take (receive, hold temporarily, provide medical treatment for injury or illness, satellite tag, release, and euthanize) the Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Leatherback sea turtle (*Dermochelys coriacea*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and Hawksbill sea turtle (*Eretmochelys imbricata*). The rehabilitation activities will take place on Walt Disney World property, Lake Buena Vista, Florida. Release activities will take place within the natural range of species.

Applicant: Eric J. McClanahan, Ecological Associates, Inc., TE050048–0

The applicant requests authorization to harass (perform roost checks and install cavities) the Red-cockaded woodpecker (*Picoides borealis*) to provide suitable nesting and roosting cavities for various clusters in the Francis Marion National Forest, Berkeley and Charleston Counties, South Carolina. Artificial cavity construction is a proven management tool for *Picoides borealis* and installation of cavities aid in recruitment of new clusters to populations and aid in maintaining existing clusters.

Applicant: Marine Science Center, County of Volusia Leisure Services, Bill Apgar, TE050044–0.

The applicant requests authorization to take (receive, hold temporarily, transport, provide medical treatment for injury or illness, release, and euthanize) the Loggerhead sea turtle (*Caretta caretta*), Green sea turtle (*Chelonia mydas*), Leatherback sea turtle (*Dermochelys coriacea*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and Hawksbill sea turtle (*Eretmochelys imbricata*). The rehabilitation activities will take place at the Marine Science Center, Ponce Inlet, Florida. The turtles will be transported for medical treatment to Dr. Mark A. Salzburg's medical facility, Ormond Beach, Florida.

Applicant: Michelle J. Davis, University of California, Santa Cruz, California, TE050040–0.

The applicant requests authorization to take (survey, capture, identify, band, and release) the Cape Sable Seaside sparrow (*Ammodramus maritimus mirablis*) to determine the effects of fire on their demography. The proposed activities will take place in the East Camp, Everglades National Park, Miami-Dade County, Florida.

Applicant: Margaret S. Devall, Center for Bottomland Hardwoods Research, Stoneville, Mississippi, TE049513–0.

The applicant requests authorization to remove and reduce to possession specimens of *Lindera melissifolia*, pondberry. The purposes of removal and possession of *Lindera melissifolia* are to conduct cuttings of plants for rooting and tissue culture and to provide experimental plants for a large study on the effect of the Yazoo Backwater Reformulation Project. Cuttings will be taken from 10 populations on the Delta National Forest, Sharkey County, Mississippi. Cuttings will be rooted in the greenhouse at the Center for Bottomland Hardwoods Research, Stoneville, Mississippi. The study of the effect of the Yazoo Backwater Reformulation Project will take place near the Center for Bottomland Hardwoods Research.

Applicant: Jennifer E. Buhay, Charles Lydeard, and David I. Withers, University of Alabama, TE049506–0.

The applicant requests authorization to take (survey, capture, identify, release, and euthanize four males) the Nashville crayfish (*Orconectes shoupi*). The purpose of the project is to assess the morphological and genetic diversity of the freshwater crayfish genus *Orconectes* which occupy small streams and caves across the Tennessee and Cumberland River systems. The following will be examined: (1) Utility of internal morphological features of males, females, and juveniles are unique for the identification of the twenty-five *Orconectes* species that occur in the Tennessee and Cumberland River systems, (2) evolutionary relationships of the twenty-five *Orconectes* species using mtDNA gene sequences, and (3) levels of intra-specific genetic variation of 13 native stream *Orconectes* species and 1 introduced species using mtDNA fingerprinting. The proposed activities will take place in the Mill Creek watershed and the Cumberland River drainage, Davidson and Williamson Counties, Tennessee.

Dated: December 14, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–31465 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Williams) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Michael and Pamela Williams (Applicants) have applied for an incidental take permit (TE–049666–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 73.309-acre property on Lazy Horse Trail, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049666–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Michael and Pamela Williams plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 73.309-acre property on Lazy Horse Trail, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Acting Regional Director, Region 2.

[FR Doc. 01–31421 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Nicholson) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Bruce and Myra Nicholson (Applicants) have applied for an incidental take permit (TE–049665–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 16.652-acre property on FM 2104, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049665–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Bruce and Myra Nicholson plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 16.652-acre property on FM 2104, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31422 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Angulo) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Roberto Angulo (Applicant) has applied for an incidental take permit (TE–049664–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 27.352-acre property on Old Antioch Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–049664–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Roberto Angulo plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 27.352-acre property on Old Antioch Road, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $3,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31423 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Kirchner) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Thomas and Elisa Kirchner (Applicants) have applied for an incidental take permit (TE–050153–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence and guest home on approximately 1.0 acre of a 205.0-acre property on Antioch Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before January 22, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–050153–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the "taking" of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Thomas and Elisa Kirchner plan to construct a single-family residence and guest home, within 5 years, on approximately 1.0 acre of a 205.0-acre property on Antioch Road, Bastrop County, Texas. This action will eliminate 1.0 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $4,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Bryan Arroyo,

Regional Director, Region 2.

[FR Doc. 01–31424 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–921–01–1320–EL–P; NDM 90783]

Cancellation of Competitive Coal Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of Competitive Coal Lease Offering (NDM 90783) scheduled for December 11, 2001; Request for Public Comment on Fair Market Value and Maximum Economic Recovery; and Notice of Reschedule of the Competitive Coal Lease Offering (NDM 90783) by Sealed Bid.

SUMMARY: Notice of The Coteau Properties Company's Coal Lease.

The Bureau of Land Management is providing notice of cancellation for the coal lease offering (NDM 90783) by sealed bid scheduled for December 11, 2001. According to Federal coal management regulations at 43 CFR 3422, the BLM must conduct a public hearing for comments on the environmental assessment, the fair market value (FMR), and maximum economic recovery (MER) of the proposed lease tract 30 days prior to holding a lease sale. This required Public Hearing has not occurred. Consequentially, this notice is published to: (1) retract the earlier lease sale date; (2) provide notice for a Public Hearing on the environmental assessment, FMR, and MER; and (3) announce a new date for the coal lease sale.

The lands included in Coal Lease Application NDM 90783 are located in Mercer County, North Dakota. The entire area lies within the Freedom Mine NACT 9501 permit area operated by The Coteau Properties Company.

The coal resource to be offered consists of all recoverable reserves in the following-described lands:

T. 146 N., R. 88 W., 5th P.M.

Sec. 14: SW¼SW¼

Sec. 22: N½N½, SW¼NE¼, S½NW¼ excluding a 4.59-acre tract described by metes and bounds and further described as: Beginning at a point on the west line of said Section 22, said point being 250.00 feet north of the southwest corner of the NW¼ of Section 22; thence north along said west line of Section 22, 500.00 feet; thence east at right angles to the last-described line, 400.00 feet; thence south parallel with said west line, 500.00 feet; thence west at right angles, 400.00 feet to the point of beginning; SW¼ excluding a 12.61-acre tract described by metes and bounds and further described as: Beginning at the southwest corner of the SW¼ of said Section 22, thence easterly along the south line of said Section 22, 500.00 feet; thence north at right angles to said south line, 500.00 feet; thence northwesterly to a point on the west line of said Section 22, said point being 1,700.00 feet north of said southwest corner; thence southerly along said west line to the point of beginning; NW¼SE¼

502.80 acres—Mercer County, North Dakota

For Coal Lease Application NDM 90783, the recoverable Beulah-Zap seam averages 15.2 feet with an average overburden depth of 61.8 feet. The coal, as received, averages 6,817 BTU/lb in heating 3 value, contains 0.72% sulfur content, 37.5% moisture, 6.81% ash, and 6.11% sodium. The BLM estimates recoverable coal reserves to be approximately 7 million tons.

The public is invited to submit written comments on the fair market value and the maximum economic recovery of the tract. Comments must be received on or before 30 days after the publication date of this notice in the **Federal Register**.

Notice is also given that a public hearing will be held on the environmental assessment, the proposed sale, and the fair market value and maximum economic recovery of the proposed lease tract at 1 p.m., on Tuesday, January 8, 2002, at the BLM North Dakota Field Office. The environmental assessment is available for review at the BLM North Dakota Field Office, 2933 Third Avenue West, Dickinson, North Dakota. For further information, please contact Lee Jefferis, geologist, at 701–225–7713.

In accordance with the Federal coal management regulations at 43 CFR 3422 and 3425, not less than 30 days prior to the publication of a notice of sale, the Secretary shall solicit public comments on fair market value appraisal and maximum economic recovery and on factors that may affect these two determinations. Proprietary data marked as "confidential" may be submitted to the BLM in response to this solicitation of public comments. Data so marked shall be treated in accordance with the laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on fair market value and maximum economic recovery, except those portions identified as proprietary by the author and meeting exemptions stated in the Freedom of Information Act, will be available for public inspection at the BLM, Montana State Office, 5001 Southgate Drive, Billings, Montana, during regular business hours (9 a.m. to 4 p.m.) Monday through Friday.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Comments should be sent to the BLM, Montana State Office, at the above address, and should speak to, but not necessarily be limited to, the following information:

1. The quality of the coal resource;
2. The quantity of coal;
3. The mining method or methods which would achieve maximum economic recovery of the coal, including specification of seams to be mined and the most desirable timing and rate of production;
4. If this tract is likely to be mined as part of an existing mine and, therefore, be evaluated, on a realistic incremental basis, in relation to the existing mine to which it has the greatest value;
5. If this tract should be evaluated as part of a potential larger mining unit and evaluated as a portion of a new potential mine (*i.e.*, a tract which does not in itself form a logical mining unit);
6. The configuration of any larger mining unit of which the tract may be a part;
7. Restrictions to mining which may affect coal recovery;
8. The price that the mined coal would bring when sold;
9. Costs, including mining and reclamation, of producing the coal and the times of production;
10. The percentage rate at which anticipated income streams should be discounted, either in the absence of inflation or with inflation, in which case the anticipated rate of inflation should be given;
11. Depreciation and other tax accounting factors;
12. The value of any surface estate where held privately;
13. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area; and
14. Any comparable sales data of similar coal lands.

The values given above may or may not change as a result of comments received from the public and changes in market conditions between now and when final economic evaluations are completed.

In addition, notice is hereby given that the coal resources in the lands previously described in Mercer County, North Dakota, will be offered for competitive lease by sealed bid on Tuesday, February 12, 2002, in accordance with the provisions of the Mineral Leasing Act of February 25, 1920, as amended (41 Stat. 437; 30 U.S.C. 181 *et seq.*).

The lease sale will be held at 11 a.m., Tuesday, February 12, 2002, in the BLM Montana State Office 920 conference room, 5001 Southgate Drive, Billings, Montana 59101. Bids for the tract will be in the form of sealed bids. Sealed bids *clearly marked* "Sealed Bid for NDM90783 Coal Sale—Not to be opened before 11 a.m., Tuesday, February 12, 2002," must be submitted on or before 10 a.m. Tuesday, February 12, 2002, to the cashier, BLM, Montana State Office, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

The tract in this lease offering contains split estate lands. Written consent is on file from all qualified surface owners as defined in the regulations at 43 CFR 3400.0–5.

SUPPLEMENTARY INFORMATION: The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid meets the fair market value of the coal resource. The minimum bid for the tract is $100 per acre, or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand-delivered bid. *Bids received after 10 a.m., Tuesday, February 12, 2002, will not be considered.* The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed-bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof; and a royalty payable to the United States of 12.5 percent of the value of coal mined 7 by surface methods and 8.0 percent of the value of coal mined by underground methods. The value of the coal shall be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile NDM 90783 is also available for public inspection at the Montana State Office.

FOR FURTHER INFORMATION CONTACT: Connie Schaff (Land Law Examiner) at 406–896–5060, Rebecca Good (Coal Coordinator) at 406–896–5080 or Doug Burger, (North Dakota Field Office Manager) at 701–225–9148.

Dated: December 7, 2001.

Randy D. Heuscher,

Chief, Branch of Solid Minerals.

[FR Doc. 01–31403 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–040–1320–EL, WYW154595]

Federal Coal, Environmental Document and Notice of Scoping

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental document on one lease application received for one Federal coal tract in the decertified Green River/Hamms Fork Coal Production Region, Wyoming, and Notice of Scoping.

The type of environmental document (Environmental Assessment or Environmental Impact Statement), will be determined after the scoping process is completed. If analysis shows that a plan amendment is necessary, the Green River Resource Management Plan (RMP) will be amended.

SUMMARY: BLM received a competitive coal lease application on September 28, 2001, from Bridger Coal Company. The tract applied for is approximately 7,054.34 acres in size, and contains approximately 110 million tons of in-place coal reserves. The tract is adjacent to the Bridger Mine in Sweetwater County, Wyoming. The tract, which is referred to as the Ten Mile Rim Lease by Application (LBA) Tract, was assigned case number WYW154595.

The tract was applied for as a tract LBA under the provisions of 43 CFR 3425.1. As part of the LBA process, BLM will prepare an environmental analysis in accordance with the requirements of the National Environmental Policy Act, develop possible stipulations regarding mining operations, determine the fair market value (FMV) of the Federal coal included in the tract, and evaluate the maximum economic recovery (MER) of the coal in the tract. The purpose of the public scoping period and public scoping meeting is to allow interested parties to submit comments and/or relevant information that BLM should consider in preparing an environmental analysis and in evaluating the FMV and MER of the Federal coal included in this coal lease application.

DATES: Scoping comments must be received by 30 days after publication of this notice in order to be fully considered in the draft environmental analysis. A public scoping meeting at the BLM Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming will be announced in local media.

If you have concerns or issues that you believe the BLM should address in processing this LBA proposal, you can express them verbally at the scoping meeting; or you can mail, e-mail or fax written comments to BLM at the addresses given below.

ADDRESSES: Please address questions, comments or concerns to the BLM Rock Springs Field Office, Attn: Teri Deakins, 280 Highway 191 North, Rock Springs, Wyoming 82901, fax them to 307–352–0329, or email them to the attention of Teri Deakins at *teri_deakins@blm.gov.* Please refer to Ten Mile Rim Lease in the subject field.

FOR FURTHER INFORMATION CONTACT: Teri Deakins or Ted Murphy at the above address, or phone: 307–352–0256.

SUPPLEMENTARY INFORMATION: On September 28, 2001, Bridger Coal Company filed a coal lease application for the following lands adjacent to the Bridger Mine in Sweetwater County, Wyoming:

Ten Mile Rim—WYW154595

T. 21 N., R. 100 W., 6th P.M., Wyoming
  Section 2: Lots 5–8, S2N2, S2;
  Section 4: Lots 5–8, S2N2, S2;
  Section 6: Lots 8–14, S2NE, SENW, E2SW, SE;
  Section 8: All;
  Section 10: All;
  Section 12: W2;
  Section 14: All.
T. 22 N., R. 100 W., 6th P.M., Wyoming
  Section 30: Lots 5–8, E2W2, E2;
  Section 32: All;
  Section 34: All;
T. 22 N., R. 101 W., 6th P.M., Wyoming
  Section 26: Lots 1–16;
  Section 34: Lots 1, 2, 6, 7, 8, 13, NESE, SWSE.
Containing 7,054.34 acres, more or less.

The tract includes an estimated 110 million tons of in place coal reserves. According to the application the coal would be required to provide fuel to the nearby Jim Bridger Power Plant for an additional 15 to 20 years. Land ownership in the area is checkerboard, where BLM manages for the Federal government approximately every even numbered section.

As part of the coal leasing process, BLM will evaluate the tract configuration and may decide to add or subtract Federal coal to avoid bypassing coal or to increase estimated FMV.

The Bridger Mine, which is adjacent to the Ten Mile Rim LBA Tract, has an approved mining and reclamation plan from the Land Quality Division of the Wyoming Department of Environment Quality (DEQ) and an approved air quality permit from the Air Quality Division of the Wyoming DEQ.

The Office of Surface Mining Reclamation and Enforcement (OSM) will be a cooperating agency in the preparation of the environmental document. If the tract is leased as a tract then the lease must be incorporated into the existing Jim Bridger Mining and Reclamation Plan and the Secretary of the Interior must approve the revision to the Mineral Leasing Act (MLA) mining plan before the Federal coal in the tract can be mined. OSM is the Federal agency that would be responsible for recommending approval, approval with conditions, or disapproval of the revised MLA mining plan to the office of the Secretary of the Interior if the tract were leased.

Tentative issues have been identified as occurring in the area of the Ten Mile Rim LBA Tract or during the processing of previous applications to lease Federal coal in the State of Wyoming. These include:

1. The need for resolution of conflicts between existing and proposed oil and gas development, including coal bed methane, and coal mining on the tracts proposed for leasing;
2. Potential impacts on air and water quality, and the Great Divide Basin Watershed.
3. Subsidence.
4. Potential impacts to surface resources including crucial winter range, raptor nesting, sage grouse, and listed, proposed for listing, candidate, and BLM-sensitive plant and animal species.

Comments, including names and street addresses of respondents, will be available for public review at the address listed above during regular business hours (7:45 a.m. to 4:30 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Preparation of the environmental analysis may include actions that upon review could require an amendment to the Green River RMP. Should actions be found that are not in conformance with the Green River RMP, a planning review of existing land-use decisions would be conducted at that time.

Dated: November 16, 2001.

Darla D. Pindell,

Acting Chief, Branch of Solid Minerals.

[FR Doc. 01–31407 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ES–930–01–1300–241A: MSES 46775, MSES 46780, MSES 46782, MSES 46788, MSES 46798, MSES 46800, MSES 46803, MSES 46806, MSES 46809 MSES 47871, MSES 48069, MSES 48070 and MSES 48071; Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Public Law 97–451, the lessees timely filed a petition for reinstatement of oil and gas leases MSES 46775, MSES 46780, MSES 46782, MSES 46788, MSES 46798, MSES 46800, MSES 46803, MSES 46806, MSES 46809 MSES 47871, MSES 48069, MSES 48070 and MSES 48071, Wayne and Jones Counties, Mississippi. The lessee paid the required rentals accruing from the date of termination.

The Bureau of Land Management has not issued any leases affecting the lands. The lessee paid the $500 administration fee for the reinstatement of each lease. The lessee has met the requirements for reinstatement of the leases per Sec. 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the leases, effective the date of termination, subject to:

- The original terms and conditions of the leases;
- The increased rental of $5 per acre (Non Competitive)
- The increased rental of $10 per acre (Competitive Leases);
- The increased royalty rate of 16⅔ percent of 4 percentages above the existing competitive royalty rate;
- The $158 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Ida V. Doup, Chief, Branch of Use Authorization, Division of Resources, Planning, Use and Protection, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, (703) 440–1541.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Dated: November 30, 2001.

Ida V. Doup,

Chief, Branch of Use Authorization, Division of Resources Planning, Use and Protection.

[FR Doc. 01–31401 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

[MT–920–02–1310–FI–P; MTM 90089]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease MTM 90089

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per Pub.L. 97–451, the lessee timely filed a petition for reinstatement of oil and gas lease MTM 90089, Sheridan County, Montana. The lessee paid the required rental accruing from the date of termination.

We haven't issued any leases affecting the lands. The lessee agrees to new lease terms for rentals and royalties of $10 per acre and 16–2/3 percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $148 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per sec. 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease:
- The increased rental of $10 per acre;
- The increased royalty of 16 2/3 percent or 4 percentages above the existing competitive royalty rate; and
- The $148 cost of publishing this Notice

FOR FURTHER INFORMATION CONTACT: Karen L. Johnson, Chief, Fluids Adjudication Section, BLM Montana State Office, PO Box 36800, Billings, Montana 59107, 406–896–5098.

Dated: November 30, 2001.

Karen L. Johnson,

Chief, Fluids Adjudication Section.

[FR Doc. 01–31404 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1310–01; WYW 139229]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW139229 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $158 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31(d) and (e) of the Mineral lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW139229 effective July 1, 2001, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Fluid Minerals Adjudication.

[FR Doc. 01–31406 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–ET; MTM 26024]

Opening of Land; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Public Land Order No. 6091, which withdrew 13.42 acres of National Forest System land from location and entry under the United States mining laws for a fire guard station, expired November 22, 2001, by operation of law. This action will open the land to mining. The land has been and will remain open to such forms of disposition as may by law be made of National Forest System lands.

EFFECTIVE DATE: December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–896–5052.

SUPPLEMENTARY INFORMATION: Public Land Order No. 6091, published in the **Federal Register** November 23, 1981 (46 FR 57289), withdrew 13.42 acres of National Forest System land for a period of 20 years for the Thompson Gulch Fire Guard Station. The public land order expired November 22, 2001, by operation of law. The following land is hereby opened to location and entry under the United States mining laws:

Helena National Forest

Principal Meridian, Montana

T. 9 N., R. 4 E.,

Secs. 22 and 27, a tract of land lying in the SE¼SW¼ of section 22 and the NE¼NW¼ of section 27, more particularly described as follows:

Beginning at the brass cap quarter corner monument between sections 22 and 27 which is Corner No. 1, the true point of beginning: thence S. 66°38′ W., 656.82 feet to Corner No. 2; thence N. 40°37′ W., 597.80 feet to Corner No. 3; thence N. 57°01′ E., 994.03 feet to Corner No. 4; thence N. 83°40′ E., 129.10 feet to Corner No. 5; thence S. 02°15′ E., 749.46 feet to the true point of beginning.

The area described contains 13.42 acres in Meagher County.

At 9 a.m. on December 21, 2001, the land shall be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights, since Congress has provided for such determinations in local courts.

Dated: November 6, 2001.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 01–31402 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–00; NVN–74668]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Army, Corps of Engineers, has filed an application to withdraw 40 acres of public land for the United States Air Force to use as a safe zone for departing and arriving aircraft at the Nellis Air Force Base. The land was previously withdrawn by Public Land Order No. 5832, which has expired. The land is still needed as a safe zone.

DATE: Comments and requests for meeting should be received on or before March 21, 2002.

ADDRESS: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, 775–861–6532.

SUPPLEMENTARY INFORMATION: The Department of the Army, Los Angeles District, Corps Engineers, on behalf of the United States Air Force, has filed an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 19 S., R. 62 E.,
sec. 35, SE¼SW¼.

The area described contains 40 acres in Clark County.

The purpose of the proposed withdrawal is for a clear zone near the end of the runway at the Nellis Air Force Base. The land was previously withdrawn as a clear zone by Public Land Order No. 5832, which expired in January 2001. The clear zone is critical to support the mission of the Nellis Air Force Base.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Nevada State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Nevada State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

Dated: November 26, 2001.

Jim Stobaugh,

Lands Team Lead.

[FR Doc. 01–31405 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of a revision of a currently approved information collection (OMB Control Number 1010–0104).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are submitting to OMB for review and approval an information collection request (ICR) titled "Accounting for Comparison (Dual Accounting)." We are also soliciting comments from the public on this ICR.

DATES: Submit written comments on or before January 22, 2002.

ADDRESSES: Submit written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0104), 725 17th Street, NW., Washington, DC 20503. Also, submit copies of your written comments to Carol Shelby, Regulatory Specialist, Minerals Management Service, MS 320B2, P.O. Box 25165, Denver, Colorado 80225. If you use an overnight courier service, MMS's courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also submit your comments at our email address *mrm.comments@mms.gov*. Include the title of the information collection and the OMB control number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Shelby at (303) 231–3151 or FAX (303) 231–3385.

FOR FURTHER INFORMATION CONTACT: Carol Shelby, Regulatory Specialist, phone (303) 231–3151, FAX (303) 231–3385, or email *Carol.Shelby@mms.gov*.

SUPPLEMENTARY INFORMATION:

Title: Accounting for Comparison (Dual Accounting).

OMB Control Number: 1010–0104.

Bureau Form Number: Form MMS–4410.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions for the Secretary.

MMS regulations at 30 CFR 206.172 require lessees to certify on Form MMS–4410, "Certification for Not Performing Accounting for Comparison (Dual Accounting)," that dual accounting is not required for a specific Indian lease. This is a one-time certification that remains in effect until there is a change in lease status or ownership. In this information collection request, we are asking approval to add to Form MMS–4410 the lessee's reason for not performing dual accounting. The certification and reason for not performing dual accounting will be submitted on new Part A of Form MMS–4410.

MMS regulations also require lessees to elect to perform either actual dual accounting under 30 CFR 206.176 or the alternative methodology for dual accounting under 30 CFR 206.173. Previously, lessees reported the dual accounting election on a monthly basis on Form MMS–2014, Report of Sales and Royalty Remittance. However, in our reengineering initiative, we redesigned and streamlined Form MMS–2014 (OMB Control Number 1010–0140). The revised Form MMS–2014 no longer contains the dual

UMI
VOL 66 ISS 246 DE 21 2001
UMI

accounting election information. Since we must collect the information, we are requesting approval to revise Form MMS–4410 to include the dual accounting election in a new Part B. Lessees will make the actual or alternative dual accounting election every 2 years or whenever lessees elect alternative dual accounting at the beginning of any month rather than monthly as previously required on Form MMS–2014. By moving the dual accounting election to Part B of Form MMS–4410, we are reducing the reporting burden associated with the dual accounting election from a monthly collection to a biennial collection.

The revised Form MMS–4410, Parts A and B, will consolidate the collection of all dual accounting information on one form. The changes will be effective January 2002 if OMB approves our request.

Responses to this information collection are mandatory for all Indian gas leases (except leases on the Osage Indian Reservation). Proprietary information is requested and protected, and there are no questions of a sensitive nature involved in this collection of information.

Frequency: On occasion.

Estimated Number and Description of Respondents: 370 payors on approximately 2,340 Indian leases.

Estimated Annual Reporting and Recordkeeping "Hour" Burden: 1,000 hours. See the following chart for a breakdown of the burden estimate.

30 CFR Section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
206.172(b)(1)(ii)	Gas production that you certify on Form MMS–4410, Certification for Not Performing Accounting for Comparison (Dual Accounting), is not processed before it flows into a pipeline with an index but which may be processed later. (New Part A of revised Form MMS–4410).	4	25	100
206.173(a)(1)	You may elect to perform the dual accounting calculation according to either § 206.176(a) (called actual dual accounting), or paragraph (b) of this section (called the alternative methodology for dual accounting). (New Part B of revised Form MMS–4410).	2	450	900
206.173(a)(2)	You must make a separate election to use the alternative methodology for dual accounting for your Indian leases in each MMS-designated area. (New Part B of revised Form MMS–4410).	See 206.173(a)(1) above.		
206.176(b)	If you are required to account for comparison, you may elect to use the alternative dual accounting methodology provided for in § 206.173 instead of the provisions in paragraph (a) of this section. (New Part B of revised Form MMS–4410).	See 206.173(a)(1) above.		
206.176(c)	If you do not perform dual accounting, you must certify to MMS that gas flows into such pipeline before it is processed. (New Part A of revised Form MMS–4410).	See 206.172(b)(1)(ii) above.		
Total				1,000

Estimated Annual Reporting and Recordkeeping "Non-hour" Burden: We have identified no "non-hour cost" burden.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, on June 6, 2001, we published a **Federal Register** notice (66 FR 30480) with the required 60-day comment period announcing that we would submit this ICR to OMB for approval. We received comments from one company. We responded to the comments in our ICR submission for OMB approval. We have posted a copy of the ICR at our Internet web site *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm*. We will also provide a copy of the ICR to you without charge upon request.

If you wish to comment in response to this notice, please send your comments directly to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive your comments by January 22, 2002. The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Public Comment Policy: We will post all comments received in response to this notice on our Internet web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm* for public review. We also make copies of these comments, including names and home addresses of respondents, available for public review during regular business hours at our offices in Lakewood, Colorado.

Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, telephone (202) 208–7744.

Dated: November 30, 2001.

Milton K. Dial,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 01–31532 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF THE INTERIOR

National Park Service

Final Environmental Impact Statement/General Management Plan, Mount Rainier National Park, Pierce and Lewis Counties, WA; Notice of Availability

SUMMARY: Pursuant to section 102(2)(C) the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Final Environmental Impact Statement and General Management Plan (FEIS/GMP) for Mount Rainier National Park, Washington. Upon approval, the GMP will serve as a "blueprint" to guide park managers in implementing park programs and management activities for Mount Rainier National Park over the next 15–20 years.

SUPPLEMENTARY INFORMATION: The FEIS/GMP identifies and analyzes three alternatives for managing resources and visitors in Mount Rainier National Park. The "no-action" alternative is a continuation of the present management course regarding the management of visitor use and facilities. The National Park Service's preferred alternative (Alternative 2) would provide a range of high-quality visitor experiences and improve stewardship of park resources. The primary goals of this alternative are to better manage peak-period visitation so that it does not adversely affect park resources and visitor experiences, and encourage more off-peak use of the park. Alternative 3 would offer a different combination of visitor opportunities than those offered in the preferred alternative, while still protecting resources. None of the alternatives would propose major new developments within the park, and no park resources or values would be impaired.

The FEIS/GMP evaluates the environmental consequences of the preferred alternative and the other alternatives on natural resources (e.g., air and water quality, soils and vegetation, special status species), geologic (volcanic and nonvolcanic) hazards, cultural resources (e.g., archeological resources, ethnographic resources), visitor experiences (e.g., visitor access, the range of visitor activities), Wilderness, and the socioeconomic environment (e.g., regional context, gateway communities). A range of mitigation measures appropriate to each alternative are identified and evaluated. It was determined that Alternative 2 is the Aenvironmentally preferred" alternative.

Public Comment: A Notice of Intent to prepare an EIS was published in the **Federal Register** on September 27, 1994. During the subsequent scoping phase leading to development of the Draft EIS, the NPS conducted six public meetings. The results of these meetings were published in the first of a series of public newsletters (Newsletter 1 was distributed during winter 1995). Also throughout the conservation planning and environmental impact analysis process, numerous county, state and federal agency meetings and consultations with five Tribes were conducted. A Notice of Availability of the Draft EIS/GMP was published in the **Federal Register** on November 20, 2000; the document was on public review through February 9, 2001. The NPS received 143 written responses and many oral comments during seven public meetings held in various Washington towns and cities; all were duly considered in preparing the FEIS/GMP. All comments obtained are filed in the administrative record.

ADDRESSES: Copies of the FEIS/GMP are available from the Superintendent, Mount Rainier National Park, Tahoma Woods, Star Route, Ashford, Washington 98304–9751; (360) 589–2211. Public reading copies of the FEIS/GMP will also be available for review at the following locations:

Office of the Superintendent, Tahoma Woods, Mount Rainier National Park, Ashford, Washington 98304–9751; Telephone (360) 589–2211.

NPS Library, Columbia Cascades Support Office, 909 First Avenue South, Seattle, WA 98104–1060; Telephone: (206) 220–4114.

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW., Washington, DC 20240; Telephone: (202) 208–6843.

If individuals responding to this Notice request that their name or and address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the NPS will withhold a respondent's identity as allowable by law. As always: NPS will make available to public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses; and, anonymous comments may not be considered.

Decision: A Record of Decision may be approved by the Regional Director, Pacific West Region, no sooner than 30 days after publication by the Environmental Protection Agency of the Notice of filing of this Final EIS in the **Federal Register**. The official responsible for the final decision is the Regional Director; subsequently the official responsible for implementation of the plan is the Superintendent, Mt. Rainier National Park.

Dated: October 25, 2001.

Martha K. Leicester,

Acting Regional Director, Pacific West Region.

[FR Doc. 01–31398 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Intent To Prepare a Draft Environmental Impact Statement for the Stiltsville, Management Plan, Biscayne National Park, FL

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement for the Stiltsville Management Plan, Biscayne National Park, Florida.

SUMMARY: Under the provisions of the National Environmental Policy Act of 1969, the National Park Service (NPS) is preparing a draft environmental impact statement (DEIS) for the Stiltsville Management Plan for Biscayne National Park. This effort will result in a management plan to guide public use and management of 7 stilt structures located in the northern end of Biscayne National Park in Biscayne Bay, Florida. Management options being considered include public use of the structures consistent NPS policy and best management practices for environmental protection (the preferred alternative), and private lease under NPS management.

Major issues include potential impacts on water quality, biological resources, soundscape, visual resources, cultural resources, and the visitor experience.

To facilitate sound planning and consideration of environmental resources, the NPS intends to gather information necessary for the preparation of the Management Plan/DEIS and to obtain suggestions and information from other agencies and the public on the scope of issues to be

VOL 66 ISS 246 DE 21 2001 UMI

addressed in the Management Plan/DEIS. Comments and participation in this scoping process are invited. Participation in the planning process will be encouraged and facilitated by various means, including newsletters and open houses or meetings.

DATES: The NPS will conduct public scoping meetings to explain the planning process and to solicit opinions about issues to be addressed in the Stiltsville Management Plan/DEIS. Locations, dates, and times of public scoping meetings will be announced in the local press, in NPS newsletters and on the park website, *http://www.nps.gov/bisc* and may also be obtained by contacting Biscayne National Park.

ADDRESSES: Written comments and information concerning the scope of the Management Plan/DEIS and other matters should be sent to the following address, Stiltsville Management Plan, Biscayne National Park, 9700 SW 328th St., Homestead, Florida 33033. Requests to be added to the project mailing list should be directed to the same address.

FOR FURTHER INFORMATION CONTACT: Superintendent, Biscayne National Park, 305–230–1144 ext. 3002

SUPPLEMENTARY INFORMATION: The NPS is developing a management plan for the 7 stilt structures located in the northern part of Biscayne National Park in Biscayne Bay. In 1980, the park's northern boundary expanded and Biscayne National Monument became Biscayne National Park. In 1985, when the State of Florida transferred ownership of the bay bottom within the expansion area to the park, it also transferred the leases for the property, which the structures occupy. The leases expired in July 1999. The park's 1983 General Management Plan, Development Concept Plan, Wilderness Study, and Environmental Assessment recommended removing the structures before the leases expired. Because of numerous expressions of public interest in maintaining the structures, the NPS initiated a multi-stage planning process to identify and recommend future public uses of the structures consistent with NPS policy.

In January 2001, the National Park System Advisory Board established the Stiltsville Committee directing it to identify and recommend future public use of Stiltsville and to develop recommendations to guide the future operations of the structures. The committee made several recommendations based upon an understanding that the structures and the surrounding aquatic environment are critical and important to the citizens of south Florida and to the visitors to Biscayne National Park. These comments are available on the Biscayne National Park web site: *http://www.nps.gov/bisc*

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Dated: August 24, 2001.

Paul Winegar,

Acting Regional Director, Southeast Region.

[FR Doc. 01–31397 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information under 30 CFR parts 750 and 877 which relate the surface coal mining and reclamation operations on Indian Lands; and use of police power, if necessary, to effect entry upon private lands to conduct reclamation activities or exploratory studies if the landowner refuses consent or is not available, respectively.

DATES: Comments on the proposed information collection must be received by February 19, 2002, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@smre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that OSM will be submitting to OMB for approval. These collections are contained in (1) 30 CFR part 750, Requirements for surface coal mining and reclamation operations on Indian Lands; and (2) 30 CFR part 877, Rights of entry. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Requirements for surface coal mining and reclamation operations on Indian Lands—30 CFR part 750.

OMB Control Number: 1029–0091.

Summary: Operators who conduct or propose to conduct surface coal mining and reclamation operations on Indian lands must comply with the requirements of 30 CFR part 750 pursuant to Section 710 of SMCRA.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for coal mining permits.

Total Annual Responses: 75.

Total Annual Burden Hours: 1,400.

Title: Rights of Entry—30 CFR part 877.

OMB Control Number: 1029–0055.

Summary: This regulation establishes procedures for non-consensual entry upon private lands for the purpose of abandoned mine land reclamation activities or exploratory studies when the landowner refuses consent or is not available.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State and Tribal abandoned mine land reclamation agencies.

Total Annual Responses: 20.

Total Annual Burden Hours: 30.

Dated: November 29, 2001.

Richard G. Bryson,

Chief Division of Regulatory Support.

[FR Doc. 01–31456 Filed 12–20–01; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 253–2001]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is hereby given that the Civil Division, Department of Justice, is establishing a new system of records entitled "September 11th Victim Compensation Fund of 2001 File System," Civil Division (CIV), JUSTICE/CIV–008.

The September 11th Victim Compensation Fund of 2001 File System is a system of records established to support the administration of the program to compensate individuals who were physically injured or the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. The system is being established to enable the prompt adjudication of these claims.

By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 must be issued by December 21, 2001. This notice is published in accordance with that statutory requirement. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment.

The Department is providing a report to OMB and the Congress.

Dated: December 18, 2000.

Janis Sposato,

Acting Assistant Attorney General for Administration.

Justice/CIV–008

SYSTEM NAME:

September 11th Victim Compensation Fund of 2001 File System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Civil Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530; Department of Justice—Records Management Unit, 2711 Prosperity Avenue, Fairfax, VA 22031; and Federal Records Center, Suitland, MD 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who claim benefits under the September 11th Victim Compensation Fund of 2001 (*i.e.* individuals claiming to have suffered physical injury or the personal representatives of individuals who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include: Claim forms filed by or on behalf of claimants seeking benefits under the Fund; documents submitted in support of the claims; medical, personal, employment, financial, and other records obtained or generated to adjudicate the claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

September 11th Victim Compensation Fund of 2001 enacted into law as Title IV of Pub. L. 107–42, 115 Stat. 230 ("Air Transportation Safety and System Stabilization Act").

PURPOSES:

These records are collected or generated for the purpose of determining qualification of and/or compensation to claimants under the September 11th Victim Compensation Fund of 2001.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

It is likely that routine uses will be published at a later date with an opportunity for comment. In the interim, disclosures necessary to process claims will be made only with the written consent of claimants.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper case files are maintained in filing cabinets. Automated data, including case files that have been transformed into electronic form, are stored on computer discs or magnetic tapes, which are also stored in cabinets.

RETRIEVABILITY:

Files and automated data are retrieved by name of a claimant or personal representative of a claimant, the name of the deceased, case file number and/or Social Security Number.

SAFEGUARDS:

Files and automated data are maintained under supervision of Civil Division personnel, the Special Master, or their contractors. During working hours—only authorized personnel, with the appropriate password may handle, retrieve, or disclose any information contained therein. Access to electronic records is controlled by password or other user identification code.

RETENTION AND DISPOSAL:

All claim files and automated data pertaining to a claim are destroyed 10 years after the date the claim has been fully adjudicated and/or payment made, as approved by the National Archives and Records Administration. Paper files that have been scanned to create electronic copies may be destroyed after the copies are verified. Automated data is retained in its most current form only, however, and as information is updated, outdated information is deleted.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

NOTIFICATION PROCEDURES:

Address inquiries to: Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

RECORD ACCESS PROCEDURES:

Any individual seeking access to information about a claim in which he/she is a party in interest may write to the Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530. The request should state what records are sought and must include the requester's full name, current address, and claim file number (if known). The request must be signed before a notary or submitted under penalty of perjury.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Office of the Assistant Attorney General, Civil Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530. The request should clearly and concisely state what information is being contested, the reason(s) for contesting it, and the proposed amendment to the record.

RECORD SOURCE CATEGORIES:

Individuals or entities having information pertinent to the adjudication of compensation claims, including but not limited to: Injured individuals; personal representatives of deceased individuals; eligible claimants; family members; physicians and other medical professionals, hospitals, and clinics; insurers, employers, and their agents and representatives.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–31461 Filed 12–18–01; 12:28 pm]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Premdor Inc. et al.

A Complaint, Hold Separate Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement were filed with the United States District Court for the District of Columbia, in a civil antitrust case, *United States* v. *Premdor Inc., Premdor U.S. Holdings, Inc., International Paper Company, and Masonite Corporation,* Civ. Action No. 1:01CV01696. By August 28, 2001, the United States published a notice in the Washington Post and the **Federal Register**, seeking public comments on the proposed settlement, in accord with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h). The 60 day comment period expired on October 29, 2001. Due to the unanticipated disruption of mail service to the U.S. Department of Justice, the United States requests that anyone who submitted a comment before the expiration of the comment period resubmit the comment by facsimile or e-mail to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (facsimile: (202) 307–5802; e-mail: *comments.lit2@usdoj.gov;* telephone: (202) 307–0924). Comments should be resubmitted by facsimile or e-mail within 15 days of the date of this notice.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 01–31477 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. 3d Systems Corp. and DTM Corp.

A Complaint, proposed Final Judgment, and Competitive Impact Statement were filed with the United States District Court for the District of Columbia, in a civil antitrust case, *United States* v. *3D Systems Corporation and DTM Corporation,* Civ. Action No. 1:01CV01237. By September 26, 2001, the United States published a notice in the Washington Post and the **Federal Register**, seeking public comments on the proposed settlement, in accord with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h). The 60-day comment period expired on November 26, 2001. Due to the unanticipated disruption of mail service to the U.S. Department of Justice, the United States requests that anyone who submitted a comment before the expiration of the comment period resubmit the comment by facsimile or e-mail to J. Robert Kramer II, Chief, Litigation II Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 3000, Washington, DC 20530 (facsimile: (202) 307–5802; e-mail: *comments.lit2@usdoj.gov;* telephone: (202) 307–0924). Comments should be resubmitted by facsimile or e-mail within 15 days of the date of this notice.

Constance K. Robinson,

Director of Operations & Merger Enforcement.

[FR Doc. 01–31478 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 8, 2001, American Radiolabeled Chemical, Inc., 11624 Bowling Green Drive, St. Louis, Missouri 63146, made application by renewal and by letter dated May 2, 2001, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Gamma hydroxybutyric acid (2010).	I
Lysergic acid diethylamide (7315)	I
Dimethyltryptamine (7435)	I
Dihydromophine (9145)	I
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Hydromorphone (9150)	II
Oxycodone (9143)	II
Thebaine (9333)	II
Benzoylecgonine (9180)	II
Meperidine (9230)	II
Metazocine (9240)	II
Morphine (9300)	II
Oxymorphone (9652)	II

The firm plans to bulk manufacture small quantities of the listed controlled substances as radiolabeled compounds.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: November 15, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31408 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 11, 2001, Genesis 1:29 Corporation, P.O. Box 2175, 133 Bond Avenue, Petaluma, California 94654, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basis classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I

The firm plans to cultivate marihuana to supply physician's patients within the State of California.

UMI VOL 66 ISS 246 DE 21 2001 UMI

This Notice of Application is being published as required pursuant to section 1301.33(a) of Title 21 CFR and does not authorize the applicant to manufacturer, distribute or possess any controlled substance.

Since Marihuana is a Schedule I controlled substance identified in section 1308.11(d) of Title 21 CFR and has no legitimate medical use, the DEA intends to take all appropriate measures necessary to comply with domestic and international treaty obligations.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 19, 2002.

Dated: December 13, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31409 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on April 27, 2001, Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than January 22, 2002.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import the basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: November 20, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31410 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

AGENCY INFORMATION COLLECTION ACTIVITIES: Comment Request

ACTION: Notice of information collection under review; application for certificate of citizenship.

The Department of Justice, Immigration and Naturalization Service (Service) has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Written comments on the form are encouraged and will be accepted for sixty days until February 19, 2002. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: Extension of a currently approved collection.*

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form N–600. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form is provided by the Service as a uniform format for obtaining essential data necessary to determine the applicant's eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 67,936 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 67,936 annual burden hours.

Organizations and individuals interested in submitting comments regarding this burden estimate or any aspect of this information collection requirement, including suggestions for

UMI
VOL 66
ISS 246
DE 21 2001
UMI

reducing the burden, should direct them to the Immigration and Naturalization Service, Policy Directives and Instructions Branch, Immigration and Naturalization Service, Room 4034, 425 I Street, NW., Washington, DC 20536; Attention: Richard A. Sloan, Director, (202)–514–3291.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, 601 D Street, NW., Patrick Henry Building, Suite 1600, Washington, DC 20530.

Dated: December 14, 2001.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 01–31539 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)–1337C]

Publication of Final Program Plan for Fiscal Year 2002

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice regarding publication of the Office of Juvenile Justice and Delinquency Prevention's Final Program Plan for fiscal year (FY) 2002.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing this notice to inform the public that it will postpone publication of its FY 2002 Final Program Plan to accommodate any written comments sent through the U.S. mail which may not yet have reached OJJDP due to precautions taken in response to the anthrax attacks.

FOR FURTHER INFORMATION CONTACT: OJJDP at 202–307–5911. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: OJJDP's Proposed Program Plan for fiscal year 2002 was published in the **Federal Register** on October 23, 2001 (66 FR 53692–710). The October 23 Notice requested that comments on the Proposed Plan be received by December 7, 2001.

During that time period, however, mail delivery to OJJDP was severely disrupted as a result of the extraordinary circumstances arising from the September 11 terrorist acts and subsequent anthrax attacks involving the U.S. mail.

OJJDP expects to receive its backlogged mail within the next few weeks. Consequently, in order to properly review, consider, and respond to any comments submitted by the public on its Proposed Plan, OJJDP will delay publication of the FY 2002 Final Program Plan. OJJDP will make every effort to respond to comments in a timely manner and to publish its Final Program Plan in the **Federal Register** in early 2002.

Dated: December 18, 2001.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–31540 Filed 12–20–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Occupational Safety and Health Administration (OSHA).

Title: OSHA Data Initiative (ODI).

OMB Number: 1218–0209.

Affected Public: Business or other for-profit; Farms; and State, Local, or Tribal Government.

Frequency: Annually.

Type of Response: Reporting.

Number of Respondents: 100,175.

Number of Annual Responses: 100,175.

Estimated Time Per Response: 30 minutes.

Total Burden Hours: 48,088.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $0.

Description: In accordance with 29 CFR 1904.41, OSHA is proposing to continue its data initiative to collect occupational injury and illness data and information on the number of workers employed and the number of hours worked from establishments in portions of the private sector and from some state and local government agencies. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing series safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's outreach and enforcement efforts and the data requirements tied to the Government Performance and Results Act.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31476 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

Preliminary Finding of No Significant Impact (FONSI) for the Proposed Relocation of the Cleveland Job Corps Center to be Located at 498 East 140th Street in Cleveland, OH

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the proposed relocation of the Cleveland Job Corps Center to be located at 498 East 140th Street in Cleveland, Ohio.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (CEQ) (40 CFR part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), the Employment and Training Administration (ETA) of the Department of Labor (DOL), Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for the new Cleveland Job Corps Center will have no significant environmental impact, and this Preliminary Finding of No Significant Impact (FONSI) will be made available for public review and comment for a period of 30 days.

DATES: Written comments must be received by January 22, 2002.

ADDRESSES: Any comments are to be submitted to Eric Luetkenhaus, Office of Job Corps, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Ave., NW, Room N4460, Washington, DC 20210, (202) 693–3109 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Mr. Stephen Garlington, Regional Director, Region V (Five), U.S. Department of Labor, ETA Office of Youth and Job Corps, Federal Building Room 676, 230 South Dearborn Street, Chicago, IL 60604, (312) 353–2524 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The proposed Job Corps Center site is located at 498 East 140th Street in Cleveland, Cuyahoga County, Ohio. The 22.5-acre site, situated on the northwest corner of East 140th Street and Coit Road and is currently part of the overall 46.7-acre Water Tower Park Development. The 22.5 acre site consists of an open, nearly level plain. It is located 8 miles east of downtown Cleveland in a multizoned area. The vicinity surrounding the Center consists primarily of single and multi-family residential dwellings, interspersed with commercial/industrial establishments. In addition, the culverted Nine-Mile Creek runs through the center of the site.

The EA indicates that the only structure on the site is a water tower, which was used to maintain water pressure in the former General Motors' facility water system. The water tower currently is not in use. A structural inspection in 1993 determined that the tower was in good condition. The foundation of the former manufacturing and administrative buildings are located along the south boundary of the site. Fill material was laid down at various depths, on the western quarter of the site. The remaining portion of the site consists of asphalt-paved parking lots, which is in deteriorating condition. The underlying soil is described as Urban Land, which is a soil unit, which has been extensively remodeled with much of it covered with paved surfaces. A large amount of fill material consisting of clay, clay shale and concrete demolition debris has been used to regrade the site. Underlying the Urban Land soil unit is Wisconsian-age Lake Plain material consisting of a fine layering of silt and clay deposits. Underlying the Lake Plain material in this area is a bedrock formation consisting of the Euclid Member of the Devonian-age Ohio shale at a depth of approximately 40 feet. The EA indicates that the area is a poor source for ground water. There are no wetland areas located within the 22.5-acre site.

The proposed new Cleveland Job Corps Center will consist of new buildings in a campus setting. The campus will provide facilities for 350 resident students and 80 nonresident students. Plans include dormitories, academic and vocational classrooms and workshops, administrative offices, dining and food preparation facilities, recreation facilities, storage and support facilities, and medical/dental facilities. Separate male and female dormitory areas will also be provided. The proposed project will be designed and constructed in accordance with the local fire, building, and zoning code requirements.

The construction of Job Corps Center on this parcel would be a positive asset to the area in terms of environmental and socioeconomic improvements and long-term productivity. The proposed Job Corps Center will provide a new source of employment training for the youth in Cleveland, Ohio and the South Collinwood neighborhood. In addition, the Job Corps Program is designed to graduate students to prepare for today's job market and by providing basic education, vocational skills training, work experience, counseling, health care, and related support.

The construction of the Job Corps Center will also have a positive impact on the redevelopment of the Water Tower Park Development and the surrounding neighborhood. It is also expected to result in an increase of area jobs, since personnel will be needed to provide educational, vocational, custodial, food preparation, and security services.

The proposed project will not have any significant adverse impact on any natural system or resource. There are no "historically significant" buildings nor areas of archaeological significance within the boundaries of the site. There is no documentation of threatened or endangered species on the property. There are a number of public parks and the Lake Erie shoreline within 2.5 miles of the property.

The proposal project will not have any significant adverse impact upon air quality and noise levels. The proposed project would not result in degradation of air quality since no new stationary air pollution sources will be constructed. The proposed facility is not expected to result in a significant increase in vehicular traffic since many of the students will either live at the Center or use public transportation. Noise levels in the area are consistent with residential areas. With the exception of the construction period, the noise from the proposed project will be consistent with residential areas as well.

A medical and dental facility will be part of the on-site Job Corps complex to accommodate students. Therefore, there will be no significant adverse effects upon local medical facilities. The Center will have its own security service and meet the latest in applicable fire code requirements. As a result, no significant impact on emergency, fire, and/or police facilities is expected. No significant impact is expected on city utilities such as water, electric, gas, and sanitary since the occupancy rate of the Cleveland Job Corps Center will be significantly less than that of the former General Motors facility.

The proposed project will not have any significant adverse impacts upon the existing surrounding infrastructure represented by water, sewer, and storm water systems. Adequate water is available through the City of Cleveland. The new facility construction is not expected to increase the storm water discharge since the proposed construction would actually reduce the amount of paved surfaces currently on the site. The new facility will result in an increase in sanitary discharge as compared to current conditions. However, the amount of discharge from the new facility will be much less than that of the former General Motors facility, for which the current sanitary sewer system was originally designed. Overall, the increase in sanitary discharges will not have a negative impact on the existing sanitary sewer

UMI
VOL
66
ISS
246
DE
21
2001
UMI

system due to its former use design capability.

Based on the information gathered during the preparation of the EA, the location of the Job Corps Center on the property located at 498 East 140th Street, in Cleveland, Cuyahoga County, Ohio will not create any significant adverse impact on the environment and, therefore, it is recommended that the project continue as proposed. It should be noted that no sampling of the soil, water, air or any man-made material was conducted during the preparation of the EA.

Dated this 17th day of December, 2001.

Brian V. Kennedy,

Deputy National Director, Job Corps.

[FR Doc. 01–31431 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the following forms: Miner's Claim for Benefits Under the Black Lung Benefits Act (CM–911), Employment History (CM–911a); and Miner Medical Reimbursement Form (CM–915).

DATES: Written comments must be submitted to the office listed in the addressee section below within February 19, 2002.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451, EMail *pforkel@fenix2.dol-esa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Black Lung Benefits Act of 1977, as amended, 30 U.S.C. 901 et. seq., provides for the payment of benefits to coal miners who are totally disabled by black lung disease, and to certain of their survivors. The CM–911 is the application form for benefits. The CM–911a, which is completed along with the CM–911, renders a complete history of employment and is used to establish employment criteria for benefit eligibility. Under the program, miners are eligible for reimbursement of out-of-pocket medical expenses for treatment and for medical expenses incurred in the development of a claim. The CM–915 is used to request such reimbursement.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to determine eligibility for black lung benefits.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Miner's Claim for Benefits Under the Black Lung Benefits Act; Employment History; Miner Medical Reimbursement Form.

OMB Number: 1215–0052.

Agency Numbers: CM–911, CM–911a, CM–915.

Affected Public: Individuals or households; Businesses or other for-profit.

Frequency: On occasion.

Total Respondents/Responses: 20,200.

Estimated Total Burden Hours: 9,116.

Form Hours	Respondents/Responses	Time per response	Burden hours
CM–911	4,800	45 min	3,600
CM–911a	5,900	40 min	3,933
CM–915	9,500	10 min	1,583

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $4,171.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 14, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31432 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

- Connecticut
  - CT010001 (Mar. 2, 2001)
  - CT010003 (Mar. 2, 2001)
  - CT010004 (Mar. 2, 2001)
  - CT010008 (Mar. 2, 2001)
- Massachusetts
  - MA010001 (Mar. 2, 2001)
  - MA010002 (Mar. 2, 2001)
  - MA010003 (Mar. 2, 2001)
  - MA010006 (Mar. 2, 2001)
  - MA010007 (Mar. 2, 2001)
  - MA010009 (Mar. 2, 2001)
  - MA010010 (Mar. 2, 2001)
  - MA010013 (Mar. 2, 2001)
  - MA010015 (Mar. 2, 2001)
  - MA010016 (Mar. 2, 2001)
  - MA010017 (Mar. 2, 2001)
  - MA010018 (Mar. 2, 2001)
  - MA010019 (Mar. 2, 2001)
  - MA010020 (Mar. 2, 2001)
  - MA010021 (Mar. 2, 2001)
- Maine
  - ME010012 (Mar. 2, 2001)
- New Hampshire
  - NH010011 (Mar. 2, 2001)
- New Jersey
  - NJ010002 (Mar. 2, 2001)
  - NJ010003 (Mar. 2, 2001)
  - NJ010006 (Mar. 2, 2001)
- New York
  - NY010001 (Mar. 2, 2001)
  - NY010002 (Mar. 2, 2001)
  - NY010003 (Mar. 2, 2001)
  - NY010004 (Mar. 2, 2001)
  - NY010007 (Mar. 2, 2001)
  - NY010013 (Mar. 2, 2001)
  - NY010018 (Mar. 2, 2001)
  - NY010021 (Mar. 2, 2001)
  - NY010022 (Mar. 2, 2001)
  - NY010026 (Mar. 2, 2001)
  - NY010040 (Mar. 2, 2001)
- Rhode Island
  - RI010005 (Mar. 2, 2001)

Volume II

- Delaware
  - DE010008 (Mar. 2, 2001)
- Maryland
  - MD010045 (Mar. 2, 2001)
- Pennsylvania
  - PA010008 (Mar. 2, 2001)
  - PA010010 (Mar. 2, 2001)
  - PA010016 (Mar. 2, 2001)
  - PA010021 (Mar. 2, 2001)
  - PA010023 (Mar. 2, 2001)
  - PA010024 (Mar. 2, 2001)
  - PA010050 (Mar. 2, 2001)
- West Virginia
  - WV010002 (Mar. 2, 2001)
  - WV010003 (Mar. 2, 2001)
  - WV010010 (Mar. 2, 2001)

Volume III

- North Carolina
  - NC010008 (Mar. 2, 2001)

Volume IV

- Indiana
  - IN010002 (Mar. 2, 2001)
  - IN010003 (Mar. 2, 2001)
  - IN010004 (Mar. 2, 2001)
  - IN010006 (Mar. 2, 2001)
  - IN010018 (Mar. 2, 2001)
  - IN010020 (Mar. 2, 2001)
- Michigan
  - MI010004 (Mar. 2, 2001)
  - MI010027 (Mar. 2, 2001)

Volume V

- Iowa
  - IA010001 (Mar. 2, 2001)

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov*)of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (Issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 13 day of December 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–31209 Filed 12–20–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL COUNCIL OF DISABILITY

Advisory Committee Meetings/Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of meetings/conference calls for working groups of NCD's advisory committees—International Watch. Notice of this meeting is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: International Convention on the Human Rights of People with Disabilities.

Dates and Times:

January 17, 2002, 12:00 p.m.–1:00 p.m. EST

March 21, 2002, 12:00 p.m.–1:00 p.m. EST

May 16, 2002, 12:00 p.m.–1:00 p.m. EDT

July 18, 2002, 12:00 p.m.–1:00 p.m. EDT

September 19, 2002, 12:00 p.m.–1:00 p.m. EDT

November 21, 2002, 12:00 p.m.–1:00 p.m. EST

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs.

Dates and Times:

February 21, 2002, 12:00 p.m.–1:00 p.m. EST

April 18, 2002, 12:00 p.m.–1:00 p.m. EDT

June 20, 2002, 12:00 p.m.–1:00 p.m. EDT

August 15, 2002, 12:00 p.m.–1:00 p.m. EDT

October 17, 2002, 12:00 p.m.–EDT

December 19, 2002, 12:00 p.m.–1:00 p.m. EST

FOR INTERNATIONAL WATCH INFORMATION CONTACT: Kathleen A. Blank, Attorney/Adviser, NCD, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), kblank@ncd.gov (e-mail).

Agency Mission: NCD is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meetings/Conference Calls: These NCD advisory committee meetings/conference calls will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference calls at the NCD office. Those interested in joining these conference calls should contact the appropriate staff member listed above.

Records will be kept of all International Watch meetings/conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC on December 17, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–31474 Filed 12–20–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL LABOR RELATIONS BOARD

Order Delegating Authority to the General Counsel Before Chairman Peter J. Hurtgen, and Members Wilma B. Liebman and Dennis P. Walsh

December 14, 2001.

The Board anticipates that in the near future it may for a temporary period have fewer than three Members of its statutorily-prescribed full complement of five Members.[1] The Board also recognizes that it has a continuing responsibility to fulfill its statutory obligations in the most effective and efficient manner possible. To assure that the Agency will be able to meet its obligations to the public, the Board has decided to temporarily delegate to the General Counsel full authority on all court litigation matters that would otherwise require Board authorization. This delegation shall be effective during any time at which the Board has fewer than three Members and is made under the authority granted to the Board under sections 3, 4, 6, and 10 of the National Labor Relations Act.

Accordingly, the Board delegates to the General Counsel full and final authority and responsibility on behalf of the Board to initiate and prosecute injunction proceedings under section 10(j) or section 10(e) and (f) of the Act, contempt proceedings pertaining to the enforcement of or compliance with any order of the Board, and any other court litigation that would otherwise require Board authorization; and to institute and conduct appeals to the Supreme Court by writ of error or on petition for certiorari. This delegation shall be revoked whenever the Board has at least three Members.

This delegation relates to the internal management of the National Labor Relations Board and is therefore, pursuant to 5 U.S.C. 553, exempt from the notice and comment requirements of the Administrative Procedure Act. Further, public notice and comment is impractical because of the immediate need for Board action. The public interest requires that this delegation take effect immediately.

---

[1] The five-Member Board presently has three Members, one of whom, Member Walsh, is in recess appointment which will expire at the sine die adjournment of the current session of Congress.

All existing delegations of authority to the General Counsel and to staff in effect prior to the date of this order remain in full force and effect. For the reasons stated above, the Board finds good cause to make this order effective immediately in accordance with 5 U.S.C. 553(d).

By direction of the Board.

Dated: Washington, DC, December 18, 2001.

John J. Toner,

Executive Secretary.

[FR Doc. 01–31534 Filed 12–20–01; 8:45 am]

BILLING CODE 7545–01–P

NUCLEAR REGULATORY COMMISSION

Alaron Corp.; Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Nuclear Regulatory Commission has made a Finding of No Significant Impact (FONSI) with respect to the potential environmental impact related to the request by Alaron Corporation to utilize a wet waste processing system to dry high-solids wet wastes and aqueous liquid wastes in their Wampum, Pennsylvania facility.

FOR FURTHER INFORMATION CONTACT: John R. McGrath, Senior Health Physicist, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406. Telephone 610–337–5069.

SUPPLEMENTARY INFORMATION: The Alaron Corporation of Wampum, Pennsylvania holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) for performing decontamination of equipment contaminated with radioactive material. Alaron has requested authority to add a system for the treatment of wet wastes by installing a system which includes a concentrate dryer, ultra-filtration, reverse-osmosis, demineralizers and steam generator on its site in Wampum.

Alaron estimates that approximately 214 curies of radioactive materials would be processed per year. Environmental radiation safety concerns include exposure due to airborne releases. To evaluate airborne releases, the licensee utilized a computer code (COMPLY, an EPA computer code for calculating the dose to individuals due to airborne releases) to assess dose from radionuclide emissions. The code assumed that an activity of 740 millicuries would be released in effluents to the air and projected a effective dose equivalent of 0.03 millirem/year to an individual at the nearest site boundary.

NRC has reviewed the assumptions used in the above described codes and concurs with the reported results. The maximum annual dose of 0.03 millirem is well below the regulatory limit of 100 millirem per year.

Copies of the EA and FONSI as well as supporting documentation are available for review at the NRC offices located at 475 Allendale Road, King of Prussia, Pennsylvania 19406, telephone number (610) 337–5000, during normal business hours.

John D. Kinneman,

Chief, Nuclear Materials Safety Branch 2, Division of Nuclear Material Safety, U.S. Nuclear Regulatory Commission, Region I.

Environmental Assessment of Proposal by Alaron Corporation To Perform Processing of Wet Wastes Utilizing a Multi-Methodology Treatment System

1. The Need for the Proposed Action

The Alaron Corporation of Wampum, Pennsylvania holds a license issued by the U.S. Nuclear Regulatory Commission (NRC) for performing decontamination of equipment contaminated with radioactive material. Alaron uses a variety of techniques to perform the decontamination. In a letter dated May 31, 2001, Alaron requested an amendment to their license to authorize a wet waste processing system to dry high-solids wet wastes and aqueous liquid wastes in their Wampum facility. The system will be supplied by NUKEM Nuclear Technologies and includes a concentrate dryer, ultra-filtration units, reverse-osmosis units, demineralizers, steam generator and holding tanks. The purpose of this Environmental Assessment is to determine whether or not the proposed action could contribute to significant impacts on the human environment.

2. Alternatives to the Proposed Action

The only credible alternative is to not allow Alaron to install and use the treatment system. Relocation of the unit to another part of the site would not alter the environment impact of the operation of the unit. To allow the use of some components of the system and not others could actually result in an increase in the amount of activity released to the environment.

3. The Environmental Impacts of the Proposed Action

Alaron is located on a 24 acre site in the Point Industrial Park, Wampum, Pennsylvania. Building F1 is a 67,800 ft ^{2} steel frame and steel wall building with a flat synthetic membrane type roof. The proposed wet waste processing system would be located inside a curbed area at the east end of the F1 Annex. The F1 Annex is located on the east side of the F1 Building and is a steel frame, steel walled building 32 feet wide and 88 feet long. The curbed area in the F1 Annex is capable of holding all of the contaminated liquid in the wet waste system. The NUKEM system consists of a number of water treatment components, including a concentrate dryer (CD), an ultra-filtration (UF) unit, a reverse osmosis (RO) unit, two demineralizers, and a steam generator. Wet waste will arrive by truck and will transferred to one of two 1400 gallon sludge tanks inside the curbed area of the F1 Annex using a pneumatic pump through a double containment transfer hose.

Alaron's License No. 37–20826–01 was last renewed in its entirety on December 3, 1998. As part of that renewal, NRC issued an Environmental Assessment (NUREG/CR–5549) and published a Finding of No Significant Impact in the **Federal Register** on December 2, 1998. The Environmental Assessment found that no atmospheric emissions containing radioactive contaminants were expected to be released from the operation as then licensed. This was based on the fact that potentially contaminated air within work areas in cycled through HEPA filters and exhausted back into the building. Alaron recognized, though, that fugitive emission, through doors, vents, etc. exist and a conservative estimate of an annual dose to the nearest residence was calculated to be 0.26 millirem. 10 CFR 20.1301 requires that each licensee conduct operations so that the total effective dose equivalent to individual members of the public from the licensed operation does not exceed 0.1 rem (100 millirem) in a year.

The installation of this waste treatment system would add an airborne release point at the Alaron facility. Stream from the steam generator will be vented through an exhaust stack on the roof of the F1 Building. Most of the radioactivity in the wet waste to be processed will be removed by the various treatment methods in the system and will be disposed of as solid waste. After being cleaned by passing through the system, the cleaned or polished water feeds the steam generator. Steam from the steam generator is exhausted through the stack.

Alaron estimates that the wet waste processing system will process liquid, sludge and/or resin waste whose isotopic distribution is typical of waste currently being disposed from nuclear power facilities. Based on the estimated waste throughput, approximately 214 curies of radioactive material will be processed per year. Assuming that all of the H–3 activity will become airborne, that the polished water feed to the steam generator contains other isotopes at 10 CFR Part 20 effluent limits, and that all of the radioactivity in the feed is released, the total activity emitted per year would be about 740 millicuries. The licensee performed dose calculations using the computer code COMPLY (an EPA computer code for calculating the dose to individuals due to airborne releases) which projects an effective dose equivalent of 0.03 millirem/year to an individual at the nearest site boundary as a result of the estimated release. NRC has performed a dose assessment of the proposal and agrees with the basic assumptions and results of the licensee's analysis.

With regard to direct radiation exposure, the licensee plans to conduct cleaning and back flush evolutions that will assure that accumulation of radioactive material on filter media will not result in high radiation levels around the unit. In addition, there will be shielding in place to avoid creation of high radiation levels. The maximum radiation levels is expected to be 50 millirem per hour one foot from the Concentration Dyer, i.e. within the restricted area. Radiation levels at the closest unrestricted area, including the contribution from existing operations, will be about 10 microrem per hour.

4. Conclusion

In view of the fact that the additional dose of 0.03 millirem/year to an individual at the nearest site boundary as a result of the proposed amendment is a small fraction of the dose attributed to fugitive emissions to an individual at the nearest residence as a result of existing operations, the staff concludes that the proposed action will have a negligible impact on the environment.

[FR Doc. 01–31471 Filed 12–20–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

Southern California Edison Company; San Onofre Nuclear Generating Station, Units 2 and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission, or NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix E, sections IV.F.2.b and c to Facility Operating License Nos. NPF–10 and NPF–15, issued to Southern California Edison Company (the licensee), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3, (SONGS), located in San Diego County, California. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action is a one time exemption from the requirements of Appendix E, sections IV.F.2.b and c regarding conduct of a full participation exercise of the onsite and offsite emergency plans every 2 years. Under the proposed exemption, as modified by the staff (which is discussed below), the licensee would reschedule the exercise originally scheduled for September 12, 2001, and complete the exercise requirements by December 31, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated September 18, 2001. The licensee requested a one-time exemption, in accordance with 10 CFR 50.12, "Specific exemptions," from the requirements in 10 CFR part 50, Appendix E, sections IV.F.2.b and c to perform a biennial exercise of the onsite and offsite emergency plans (EPs) with full participation of each offsite authority having a role under the offsite plan (*i.e.*, a full participation exercise), for SONGS. A full participation exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. The licensee requested that the biennial exercise for 2001 not be conducted as required by Appendix E, and the next full participation exercise be conducted in 2003 and every two years thereafter.

Because the NRC's staff has concluded that it cannot grant the licensee's request to cancel the full participation exercise for 2001, and because the scheduled 2001 full participation exercise to meet the regulations was canceled for good cause, there is insufficient time before January 1, 2002, when the licensee would be in violation of the regulations, to prepare and conduct the exercise and the licensee has provided sufficient information to provide a basis for a one-year schedular extension to the requirements in the regulations, the NRC has concluded that such a one-year schedular exemption to the biennial exercise requirements in Appendix E to 10 CFR part 50 can be granted SONGS. The full participation exercise for SONGS scheduled for 2001 would be conducted by December 31, 2002. Future exercises, however, will be performed as previously scheduled (*i.e.*, granting of a schedular exemption for the current exercise does not reset the 2-year clock and the licensee will be expected to complete the next scheduled exercise in 2003).

The Need for the Proposed Action

Sections IV.F.2.b and c, of Appendix E to 10 CFR part 50, require each licensee at each site to conduct an exercise of its onsite and offsite EPs every 2 years. Federal agencies (the NRC for the onsite exercise portion and the Federal Emergency Management Agency for the offsite exercise portion) observe these exercises and evaluate the performance of the licensee, State and local authorities having a role under the emergency plan.

The licensee had initially planned to conduct an exercise of its onsite and offsite EPs on September 12, 2001, within the required 2-year interval. However, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the revised proposed action to grant a one-year schedular extension exemption to SONGS for the biennial exercise requirements in Appendix E to 10 CFR part 50 and concludes that it involves an administrative activity (a schedular change in conducting an exercise) unrelated to plant operations.

The revised proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the revised proposed action.

With regard to potential non-radiological impacts, the revised proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the revised proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the revised proposed action.

Environmental Impacts of Alternatives to the Proposed Action

As an alternative to the revised proposed action, the NRC staff considered denial of the action (*i.e.*, the "no-action" alternative). Denial of the revised proposed action would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for SONGS dated April 1981.

Agencies and Persons Consulted

On November 29 and December 17, 2001, the NRC staff consulted with the California State official, Ben Tong of the Governor's Office of Emergency Services, regarding the environmental impact of the proposed action. The State official had no comments on the environmental impact; however, the State official did not agree with rescheduling the exercise. The State official's comments will be addressed in the safety evaluation supporting the exemption. In addition, by phone on December 3, 2001, the Federal Emergency Management Agency (FEMA) indicated that it had no disagreement with rescheduling the exercise.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the revised proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the revised proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 18, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 17th day of December, 2001.

For the Nuclear Regulatory Commission.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31472 Filed 12–20–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Sunshine Act Meeting

Board Votes To Close December 13, 2001, Meeting

By paper and telephone vote on December 11–13, 2001 the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting held in Washington, DC via teleconference. The Board determined that prior public notice was not possible.

ITEM CONSIDERED: Rate Case R2001–1.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Request for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–31636 Filed 12–19–01; 2:05 pm]

BILLING CODE 7710–12–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Statement Regarding Contributions and Support of Children, RRB Form G–139 Section 2(d)(4) of the Railroad Retirement Act (RRA), provides, in part, that a child is deemed dependent if the conditions set forth in Section 202(d)(3), (4) and (9) of the Social Security Act are met. In accordance with amendments to the Social Security Act (section 104 of Public Law 104–21) the RRB amended its regulations to eliminate to "living-with" requirement (as an alternative to actual dependency) as a basis for eligibility for an annuity as the stepchild of a railroad employee, and also to provide for the termination of the inclusion of a stepchild in the computation of the social security overall minimum guarantee provision when the stepparent's marriage to the natural parent is terminated.

The regulations outlining child support and dependency requirements are prescribed in 20 CFR 222.50.

Prior to the amendments to the Social Security Act, almost all child dependency determinations were "deemed" based on a child living with the railroad employee. To determine entitlement based on actual dependency, the RRB must solicit financial information regarding a child's means of support. A comparison is then made between the amount of support received from the railroad employee and the amount received from other sources.

The RRB uses Form G–139, Statement Regarding Contributions and Support of Children, to collect information needed to adequately determine if the child meets the dependency requirement. Completion will be required to obtain a benefit. One response is required of each respondent. The RRB estimates that 500 Form G–139's will be

UMI
VOL 66 ISS 246 DE 21 2001
UMI

completed annually. The completion time is estimated at 60 minutes. The RRB proposes non-burden impacting editorial changes to Form G–139.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 01–31425 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Financial Disclosure Statement: OMB 3220–0127.

Under Section 10 of the Railroad Retirement Act and Section 2(d) of the Railroad Unemployment Insurance Act, the RRB may recover overpayments of annuities, pensions, death benefits, unemployment benefits, and sickness benefits that were made erroneously. An overpayment may be waived if the beneficiary was not at fault in causing the overpayment and recovery would cause financial hardship. The regulations for the recovery and waiver of erroneous payments are contained in 20 CFR 255 and CFR 340.

The RRB utilizes Form G–423, Financial Disclosure Statement, to obtain information about the overpaid beneficiary's income, debts, and expenses if that person indicates that (s)he cannot make restitution for the overpayment. The information is used to determine if the overpayment should be waived as wholly or partially uncollectible. If waiver is denied, the information is used to determine the size and frequency of installment payments. The beneficiary is made aware of the overpayment by letter and is offered a variety of methods for recovery. One response is requested of each respondent. Completion is voluntary. The RRB proposes non-burden impacting editorial changes to Form G–423.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Forms #(s)	Annual responses	Time (Min)	Burden (Hrs)
G–423	1,200	85	1,700

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,
Clearance Officer.

[FR Doc. 01–31426 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Proposed Data Collection Available for Public Comment and Recommendations

SUMMARY: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and Purpose of Information Collection

Certification of Relinquishment of Rights: OMB 3220–0016

Under Section 2(e)(2) of the Railroad Retirement Act (RRA), an age and service annuity, spouse annuity, or divorced spouse annuity cannot be paid unless the Railroad Retirement Board (RRB) had evidence that the applicant has ceased railroad employment and relinquished rights to return to the service of a railroad employer. Under Section 2(f)(6) of the RRA, earnings deductions are required each month an annuitant works in certain non-railroad employment termed Las Pre-Retirement Non-Railroad Employment. Normally, the employee or spouse relinquishes rights and certifies that employment has ended as part of the annuity process. However, this is *not always* the case. In limited circumstances, the RRB utilizes Form G–88, Certification of Termination of Service and Relinquishment of Rights, to obtain an applicant's report of termination of employment and relinquishment of rights. One response is required of each respondent. Responses are required to obtain or retain benefits. The RRB proposes non-burden impacting editorial changes to Form G–88.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Forms #(s)	Annual responses	Time (Min)	Burden (Hrs)
G–88	3,600	6	360

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 01–31427 Filed 12–20–01; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25318; 812–12726]

HSBC Holdings plc, et al.; Notice of Application

December 17, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Temporary order and notice of application for a permanent order under section 9(c) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Applicants have received a temporary order exempting them and other entities of which Republic New York Securities Corporation ("RNYSC") is or becomes an affiliated person from section 9(a) of the Act, with respect to a cooperation and plea agreement entered into on December 17, 2001 between RNYSC and the U.S. Attorney for the Southern District of New York, until the Commission takes final action on the application for a permanent order. Applicants also have requested a permanent order.

Applicants: HSBC Holdings plc ("HSBC Holdings"), HSBC Asset Management (Americas) Inc. ("HAMU"), HSBC Asset Management (Taiwan) Ltd. ("HAMT") and Framlington Overseas Investment Management Ltd. ("Framlington").

*Filing Date:*The application was filed on December 17, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 11, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: Winthrop N. Brown, Esq., Milbank, Tweed, Hadley & McCloy, LLP, 1825 Eye Street, Suite 1100, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 942–0614, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. HSBC Holdings is a U.K. corporation that, together with its subsidiaries and affiliates, provides a wide range of banking and financial services worldwide. HAMU, a New York corporation, is registered under the Investment Advisers Act of 1940 (the "Advisers Act") and acts as an investment adviser and subadviser to several registered investment companies ("funds"). HAMU is wholly owned by HSBC Bank USA ("HSBC Bank"), a New York state-chartered banking corporation and the principal U.S. bank subsidiary of HSBC Holdings. HAMT and Framlington, each indirect subsidiaries of HSBC Holdings, are registered under the Advisers Act and act as investment advisers and subadvisers to funds.[1] An indirect wholly owned subsidiary of HSBC Holdings, HSBC USA Inc. ("HSBC USA"), is the parent company of RNYSC. HSBC Holdings acquired Republic New York Corporation, the then parent company of RNYSC, on December 31, 1999.

2. On December 17, 2001, the U.S. Attorney for the Southern District of New York filed a two-count information (the "Information") in the U.S. District Court for the Southern District of New York alleging conspiracy in violation of 18 U.S.C. 371 and securities fraud in violation of 15 U.S.C. 78j(b) and 78ff. The Information charges RNYSC with conspiring to defraud certain Japanese entities (the "Japanese Entities") as a result of the conduct of certain employees of RNYSC. The conduct arises out of the involvement of the Futures Division of RNYSC with its customers, which included various special purpose entities with "Princeton Global Management Limited" in their names, Princeton Economics International (together, "Princeton") and the latter's chairman, Martin Armstrong. Mr. Armstrong sold approximately $3 billion (face value) of promissory notes to the Japanese Entities, the proceeds of which were deposited in Princeton accounts maintained at the Futures Division of RNYSC. Employees of the Futures Division of RNYSC issued letters containing inflated balances of the net asset values of certain of the Princeton accounts, some of which were provided by Mr. Armstrong to some of the Japanese Entities. The conduct at issue in the Information occurred over a four-year period beginning in 1995.

3.On December 17, 2001, RNYSC entered a plea of guilty to the charge in the Information pursuant to a written cooperation and plea agreement (the "Cooperation and Plea Agreement").[2] In the Cooperation and Plea Agreement, RNYSC agreed to compensate certain of

---

[1] Applicants request that any relief granted pursuant to the application also apply to any other entity of which RNYSC is or hereafter becomes an affiliated person (together with applicants, the "Covered Persons").

[2] Applicants have agreed to promptly file a copy of the Information and the Cooperation and Plea Agreement as an amendment to this Application.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

the Japanese Entities by making restitution payments, and HSBC USA agreed to compensate the Japanese entities to the extent that the restitution amount exceeds the capital of RNYSC. As a result of the events leading up to the Information and the Cooperation and Plea Agreement, the Commodity Futures Trading Commission is entering an administrative order and simultaneously settling an administrative enforcement action against RNYSC alleging violations of sections 4b, 4d(a)(2), and 4(g) of the Commodity Exchange Act. Also as a result of the events leading to the Information and Cooperation and Plea Agreement, on December 17, 2001, the Commission entered an administrative order and simultaneously settled an administrative enforcement action against RNYSC alleging violations of section 17(a) of the Securities Act of 1933, as amended, and section 10(b) of the Securities Exchange Act of 1934, as amended, and revoking RNYSC's registrations as a broker-dealer.

Applicants' Legal Analysis

1. Section 9(a)(1) of the Act, in relevant part, prohibits a person from serving or acting in the capacity of an investment adviser, principal underwriter, or depositor for any registered investment company if the person has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of the person's conduct, among other things, as an underwriter, broker, dealer, investment adviser, or transfer agent. Section 9(a)(3) of the Act makes the prohibition in section 9(a)(1) applicable to a company any affiliated person of which has been convicted of a crime described in section 9(a)(1). The entry of the Cooperation and Plea Agreement makes the applicants subject to the prohibition in section 9(a)(3) of the Act. Other Covered Persons would be similarly disqualified pursuant to section 9(a)(3) of the Act were they to act in any of the capacities stated in section 9(a) of the Act with respect to a fund.

2. Section (c) of the Act provides that the Commission shall grant an application for an exemption from the disqualification provisions of section 9(a) of the Act if it is established that these provisions, as applied to applicants, are unduly or disproportionately severe or that applicants' conduct has been such as not to make it against the public interest or the protection of investors to grant the application. Applicants have filed an application pursuant to section 9(c) of the Act seeking temporary and permanent orders exempting them from the provisions of section 9(a) of the Act.

3. Applicants state that the prohibitions of section 9(a) as applied to applicants and other Covered Persons would be unduly and disproportionately severe and that the conduct of applicants has been such as not to make it against the public interest or protection of investors to grant the application. Applicants state that, if the exemption were not granted, the prohibition in section 9(a) would have a severe impact on the businesses of applicants that involve providing investment advisory services to funds even though those businesses were not involved in the matters underlying the Cooperation and Plea Agreement.

4. Applicants state that the prohibitions of section 9(a) of the Act would be especially unfair as applied to applicants and other Covered Persons, because they became subject to the section 9(a) prohibition solely because RNYSC became an affiliated person of applicants after the conduct underlying the Cooperation and Plea Agreement occurred.

5. Applicants assert that their conduct has been such as not to make it against the public interest or the protection of investors to grant the exemption from section 9(a). Applicants state that the matters forming the basis of the Cooperation and Plea Agreement are unrelated to the investment company business of applicants. The activities of RNYSC giving rise to the Cooperation and Plea Agreement do not involve or relate in any way to investment advisory services for funds, and applicants have not been able to identify any fund clients of applicants or any stockholders of any investment company client of applicants as having been affected by the matters giving rise to the Cooperation and Plea Agreement.

6. Applicants undertake to provide the funds that are advised or sub-advised by them with all information concerning the Cooperation and Plea Agreement and the exemptive application necessary for those funds to fulfill their disclosure and other obligations under the federal securities laws.

7. Applicants state that the employees of RNYSC who were identified by HSBC Holdings and RNYSC as having been responsible for the matters underlying the Cooperation and Plea Agreement are no longer employed by RNYSC or any Covered Person. Applicants also state that neither they nor any other Covered Person has ever previously applied for an exemption pursuant to section 9(c) of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief shall be subject to the following conditions:

1. Any temporary exemption granted pursuant to the application shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigation of, or administrative proceedings involved or against, applicants, including without limitation, the consideration by the Commission of a permanent exemption from section 9(a) of the Act requested pursuant to the application or the revocation or removal of any temporary exemptions granted under the Act in connection with the application.

2. Neither applicants nor any of the other Covered Persons will employ any of the former employees of RNYSC who have previously or who may subsequently be identified as having been responsible for the conduct underlying the Cooperation and Plea Agreement, in any capacity without first making further application to the Commission pursuant to section 9(c).

Temporary Order

The Commission has considered the matter and finds that applicants have made the necessary showing to justify granting of a temporary exemption.

Accordingly,

It Is Hereby Ordered, under section 9(c), that applicants are granted a temporary exemption from the provisions of section 9(a), effective forthwith, solely with respect to the Cooperation and Pleas Agreement, subject to the conditions in the application, until the Commission takes final action on the application for a permanent order.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–31482 Filed 12–20–01; 8:45 am]

BILLING CODE 8010–01–P

permanent order.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01-31482 Filed 12-20-01; 8:45 am]

BILLING CODE 8010-01-P

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Notice is given that Chapter S8 for the Office of the Inspector General (OIG) is being amended to reflect the retitling of five Divisions and the amendment to some of their functions. The new material and changes are as follows:

Section S8C.10 The Office of Audit—(Organization)

Retitle:

E. The Operational Audit Division (OAD)(S8CE) to the Southern Audit Division (SAD).

F. The Disability Program Audit Division (DPAD)(S8CG) to the Northern Audit Division (NAD).

G. The Program Benefits Audit Division (PBAD)(S8CH)to the Western Audit Division (WAD).

H. The Systems Audit Division (SAD)(S8CK) to the Data Analysis and Technology Audit Division (DATAD).

I. The Financial Management and Performance Monitoring Audit Division (FMPMAD)(S8CL) to the Financial Audit Division (FAD).

Section S8C.20 The Office Audit—(Functions)

Retitle and Amend in its entirety:

E. The Operational Audit Division (OAD)(S8CE) to the Southern Audit Division (SAD). Plans, and conducts, oversees and reports on the results of audits related to the SSA's Retirement, Survivors, and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general management and administrative issues related to, but not limited to facilities management, personnel, payroll, and budgeting.

F. The Disability Program Audit Division (DPAD)(S8CG) to the Northern Audit Division (NAD). Plans, conducts, oversees and reports on the results of audits related to SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general management and administrative issues related to, but not limited to, facilities management, personnel Payroll, and budgeting.

G. The Program Benefits Audit Division (PBAD)(S8CH) to the Western Audit Division (WAD). Plans, conducts, oversees and reports on the results of audits related to SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services; Representative Payees, Performance Measures; and various general Management and administrative issues related to, but not limited to, facilities management, personnel, payroll, and budgeting.

Retitle:

H. The Systems Audit Division (SAD)(S8CK)to the Data Analysis and Technology Audit Division (DATAD).

Retitle and Add:

I. The Financial Management and Performance Monitoring Audit Division (FMPMAD)(S8CL) to the Financial Audit Division (FAD).

4. The division may also perform various financial related audits of SSA's Retirement, Survivors and Disability Insurance Program; and the Supplemental Security Income Program. Specific audit responsibilities may include: Enumeration, Retirement, Survivors and Disability Insurance Initial Claims and Postentitlement Operations; Earnings Operations; Supplemental Security Income Initial Claims and Postentitlement Operations; Field Office Operations; Hearings and Appeals; Disability Determination Services and Representative Payees.

Dated: December 10, 2001.

James G. Huse,

Inspector General for SSA.

[FR Doc. 01-31455 Filed 12-20-01; 8:45 am]

BILLING CODE 4191-02-U

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-120]

Extension of Investigation and Request for Public Comment: Wheat Trading Practices of the Canadian Wheat Board

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and request for comments.

SUMMARY: The United States Trade Representative (Trade Representative) has decided to extend his investigation of the wheat trading practices of the Government of Canada and the Canadian Wheat Board until January 22, 2002. The Office of the United States Trade Representative (USTR) invites public comments on the issues in the investigation.

DATES: Comments are due on or before 5 pm on Monday, January 14, 2002.

ADDRESS: Comments should be submitted (i) electronically, to *FR0011@ustr.gov*, with Docket 301-120 in the subject line, or (ii) by mail, to Sybia Harrison, Staff Assistant to the Section 301 Committee, ATTN: Docket 301-120, Office of the United States Trade Representative, 1724 F Street, NW, Room 217, Washington, DC 20508, with a confirmation copy sent electronically or by fax to 202-395-9458.

FOR FURTHER INFORMATION CONTACT: Sharon Bomer Lauritsen, Director of Agricultural Affairs, (202) 395-6127, or William Busis, Associate General Counsel, (202) 395-3150. For information concerning procedures for submitting public comments, please contact Sybia Harrison, Staff Assistant to the Section 301 Committee, (202) 395-3419.

SUPPLEMENTARY INFORMATION: On September 8, 2000, the North Dakota Wheat Commission filed a petition pursuant to section 302(a) of the Trade Act of 1974, as amended (the Trade Act) (19 U.S.C. 2412(a)), alleging that certain wheat trading practices of the Government of Canada and the Canadian Wheat Board (CWB) are unreasonable, and that such practices burden or restrict U.S. commerce. In response to the petition, the Trade

Representative initiated an investigation on October 23, 2000 to determine whether such acts, policies or practices of the Government of Canada and the Canadian Wheat Board with respect to wheat trading are unreasonable and burden or restrict U.S. commerce and are, therefore, actionable under section 301. See 65 FR 69,362 (Nov. 16, 2000).

On March 30, 2001 the Trade Representative requested that the United States International Trade Commission (ITC) conduct an investigation, pursuant to section 332 of the Tariff Act of 1930, of the conditions of competition between the U.S. and Canadian wheat industries in the United States and third-country markets. The ITC issued a confidential version of its Section 332 report on November 1, 2001, and a public version is scheduled for release on December 21, 2001. The report is entitled: "Wheat Trading Practices: Competitive Conditions Between U.S. and Canadian Wheat (Inv. No. 332–429)."

On September 24, 2001, the petitioner requested in writing that the Trade Representative delay a decision on the actionability of CWB practices until January 22, 2002. In light of the petitioner's request and in order to have sufficient time to analyze the ITC Section 332 report, the Trade Representative decided to extend his investigation until January 22, 2002. Accordingly, on October 5, 2001 the Trade Representative determined under Section 304(a)(1) of the Trade Act that he had insufficient information at that time to make a final determination that the wheat trading practices of the Government of Canada and the Canadian Wheat Board are actionable under Section 301(b), and announced that he would make a determination as to actionability by January 22, 2002.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments on any issues raised in the petition or in other submissions to USTR in this investigation. In particular, comments are invited regarding (i) The actionability under Section 301(b) of the Trade Act of the acts, policies and practices of the Government of Canada and the Canadian Wheat Board that are the subject of this investigation; (ii) the burden or restriction, if any, on U.S. commerce caused by these acts, policies and practices; and (iii) appropriate action under section 301 which could be taken in response. In preparing comments, interested persons may wish to draw on the information or analysis contained in the ITC report.

Persons submitting comments in response to this notice should, by no later than 5 pm on Monday, January 14, 2002, either send one copy by U.S. mail, first class, postage prepaid, to Sybia Harrison at the address listed above or transmit a copy electronically to *FR0011@ustr.gov*, with Docket 301–120 in the subject line. For documents sent by U.S. mail, USTR requests that the submitter provide a confirmation copy, either electronically or by fax to 202–395–9458. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. For any document containing business confidential information submitted by electronic transmission, the file name of the business confidential version should begin with the characters "BC", and the file name of the public version should begin with the characters "P". The "P" or "BC" should be followed by the name of the submitter. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments will be placed in a file (Docket 301–120) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "BUSINESS CONFIDENTIAL" at the top of each page, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. Copies of the public version of the petition, other documents submitted in the investigation, and the public version of the ITC Section 332 report are available for public inspection in the USTR Reading Room. The USTR Reading Room is open to the public from 10 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3, First Floor, Office of the United States Trade Representative, 1724 F Street, NW, Washington, DC 20508. An appointment to review the docket (Docket No. 301–120) may be made by calling Brenda Webb at (202) 395–6186.

William L. Busis,
Chairman, Section 301 Committee.

[FR Doc. 01–31589 Filed 12–20–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Board of Directors on Thursday, January 17, 2002. The meeting begins at 1:00 p.m. The session includes the following items: (1) Welcome & Introductions, & ITS America Antitrust Policy & Conflict of Interest Statements; (2) Approval of Minutes from the September 21, 2001 Board Meeting; (3) December 17, 2001 Executive Committee Meeting Report; (4) Federal Report; (5) President's Report; (6) Finance Committee Report and Approval of 2002 Budget; (7) Nominating Committee Report; (8) Bylaws Task Force Report; (9) 511 Guidelines Resolution Review and Approval; (10) Coordinating Council Reorganization; and (11) Adjournment.

ITS America provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS America establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 USC app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of ITS AMERICA will meet on Thursday, January 17, 2002 at 1 p.m.

ADDRESSES: Marriott Wardman Park Hotel, 2660 Woodley Road, NW, Washington, DC 20008, (202) 328–2000; Fax (202) 234–0015.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW, Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS

AMERICA by telephone at (202) 484–2904 or by Fax at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 17, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, US Department of Transportation.

[FR Doc. 01–31516 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Intelligent Transportation Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Transportation Society of America (ITS AMERICA) will hold a meeting of its Coordinating Council on Tuesday, January 15, 2001, at its headquarters. The meeting begins at 1 p.m.

The General Session includes the following items: (1) Housekeeping Items: Welcome, Introductions, Antitrust statement, previous minutes, etc.; (2) Coordinating Council Reorganization; (3) Closing Housekeeping (Next meeting dates/locations?); (4) Adjournment.

ITS AMERICA provides a forum for national discussion and recommendations on ITS activities including programs, research needs, strategic planning, standards, international liaison, and priorities.

The charter for the utilization of ITS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA) 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on ITS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Coordinating Council of ITS AMERICA will meet on Tuesday, January 15, 2001 from 1 p.m.–4 p.m. at the ITS America Offices in Conference Room #1.

ADDRESS: ITS America, 400 Virginia Avenue, SW., Suite #800, Washington, DC 20024. (202) 484–4847 and the fax (202) 484–3483.

FOR FURTHER INFORMATION CONTACT: Materials associated with this meeting may be examined at the offices of ITS AMERICA, 400 Virginia Avenue SW., Suite 800, Washington, DC 20024. Persons needing further information or who request to speak at this meeting should contact Debbie M. Busch at ITS AMERICA by telephone at (202) 484–2904 or by FAX at (202) 484–3483. The DOT contact is Kristy Frizzell, FHWA, HOIT, Washington, DC 20590, (202) 366–9536. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 18, 2001.

Jeffrey Paniati,

Program Manager, ITS Joint Program Office, Department of Transportation.

[FR Doc. 01–31525 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2001–10816

Applicant: Montana Rail Link, Incorporated, Mr. Richard L. Keller, Chief Engineer, Post Office Box 16390, Missoula, Montana 59808–6390.

Montana Rail Link, Incorporated seeks approval of the proposed modification of the signal system, on the Eastward Main Track, at milepost 224.5, on the First Subdivision Division, near Billings, Montana, consisting of the discontinuance and removal of intermediate signal 2245.

The reason given for the proposed changes is to upgrade the signal system and improve train operations between East Billings and milepost 224.6 on the Eastward Main Track.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PI–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PI–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC 20590–0001. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on December 17, 2001.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards, and Program Development.

[FR Doc. 01–31520 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of an Environmental Impact Statement on a Transit Connection Between the 6400 West Light Rail Station and South Jordan in Metropolitan Salt Lake City, UT

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Wasatch Front Regional Council (WFRC) and Utah Transit Authority (UTA), is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for a transit connection from the North-South Light Rail (TRAX) Station at 6400 West, extending westward along, or near, an existing rail corridor to a logical terminus in the city of South Jordan. The need for the proposed

UMI

VOL 66 ISS 246 DE 21 2001

transportation project was identified in the South Salt Lake County "Transit Corridors Analysis" completed in December 2000. In addition to the rail transit alternatives from the "Transit Corridors Analysis," the No-Build Alternative and any new alternatives generated through the scoping process will be evaluated. Scoping will be accomplished through coordination with interested persons, organizations, and federal, state, and local agencies. FTA is serving as the federal lead agency for the project in anticipation of a grant application from UTA for its construction. Based on the results of the scoping process, FTA will establish the scope of the environmental review under NEPA, including the identification of environmental issues and effects to be addressed and the reasonable alternatives to be retained for detailed evaluation.

DATES: Interagency and public scoping and information meetings will be held on the following dates at the locations indicated:

Interagency Scoping Meeting: Wednesday, January 9, 2002 from 2:00 p.m. to 4:00 p.m., at the Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

Public Scoping Meeting No. 1: Wednesday, January 9, 2002 from 5:00 p.m. to 8:00 p.m. at the Utah Transit Authority Board Room, located at 3600 South 700 West, Salt Lake City, UT 84119–0810.

Public Scoping Meetings No. 2: Saturday January 12, 2002 from 9:00 a.m. to 11:00 a.m. at the West Jordan City Hall, located at 8000 South Redwood Road, West Jordan, UT 84088.

Written comments on the scope of the environmental study should be sent by January 28, 2002, to Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

ADDRESSES: The addresses where scoping meeting will be held and where comments on the scope of the study may be sent, appear above in the **DATES** section. A Scoping Booklet is available from Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116 or by calling the project information line at (801)–904–4127.

FOR FURTHER INFORMATION CONTACT: Don Cover, Federal Transit Administration, 216 16th Street, Suite 650, Denver, Colorado 80202; telephone (303) 844–3242.

SUPPLEMENTARY INFORMATION:

I. Scoping

The WFRC and UTA will hold interagency and public scoping meetings as presented in the **DATES** section above. At these meetings, WFRC and UTA will present the results of the "Transit Corridors Analysis" and the alternatives proposed for detailed evaluation in the EIS. At the public meetings, interested persons will have an opportunity to speak individually with a WFRC or UTA representative. In addition, a WFRC or UTA person will be available to receive written and record verbal comments on the scope of the NEPA review. All scoping meeting locations are accessible to persons with disabilities. Individuals who require special accommodations, such as a sign language interpreter, to participate in the meeting should contact Ms. Sherry L. Repscher, ADA Compliance Officer, Utah Transit Authority, 3600 South 700 West, Salt Lake City, UT 84119–0810 or by telephone at (801) 262–5626 or TDD at (801)–287–4657. Interested individuals, organizations, and public agencies are invited to attend the scoping meetings and participate in identifying any important environmental impact issues related to the proposed alternatives and suggesting alternatives which would be more economical or would have less environmental impact while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet, will be distributed to all public agencies and interested individuals and will be available at the meetings. Others may request the Scoping Booklet by contacting Barry Banks at the address listed above in *ADDRESSES*. Anyone wishing to be placed on the project mailing list to receive meeting notices and further information as the project develops should also contact Barry Banks at the address listed in **ADDRESSES** or call the project information line (801) 904–4127. Comments during the scoping period should focus on identifying the social, economic, and environmental concerns associated with the proposed action, and alternatives that deserve consideration, and not on a preference for a particular alternative. Comments regarding preference for a particular alternative may be submitted during subsequent public meetings or at a hearing on the Draft Environmental Impact Statement, when it is published. Scoping comments may be made at the scoping meetings or may be directed in writing to Barry Banks, Project Manager, at the address given in **ADDRESSES**.

II. Description of the Project Area and Transportation Need

The UTA North-South TRAX system that now includes the extension from the Salt Lake City Central Business District (CBD) to the University of Utah provides the spine for an expanded Light Rail Transit (LRT) system to serve more communities in Salt Lake County. Recent passage of a ¼ cent regional sales tax increase indicates broad public support for expansion and improvement of transit services throughout Salt Lake, Davis and Weber Counties. Expanded and improved bus service and extensions of the existing LRT system have been studied for several years by WFRC and UTA, and the Mid-Jordan Transit Corridor has been identified as a high priority for the proposed LRT extension.

In December 2000, a "Transit Corridor Analysis" evaluated alternatives for transit improvements in the existing rail corridor extending from the North-South Light Rail (TRAX) line westward through the cities of Midvale and West Jordan. This analysis identified significant and growing demand for transit service in this corridor and concluded that implementation of rail transit in this corridor held advantages over other alternatives. A copy of the "Transit Corridor Analysis" (executive summary) is available for review by contacting Barry Banks, Project Manager, as previously presented, or on the Internet at *www.wfrc.org*. The proposed alternative emerging from this study was the extension of rail service, using either LRT or "diesel multiple unit" (DMU) technology, to the Salt Lake City Community College in West Jordan. The proposed alignment crosses Interstate Highway 15 and the Union Pacific mainline on existing structures and would connect several major trip generators in Midvale and West Jordan with TRAX. Since completion of this analysis in December 2000, Kennecott Development Corporation has announced a major planned residential community called "Sunrise" in South Jordan. The proposed project would extend westward to include service to this community, so the City of South Jordan is included within the study area boundary.

The Mid-Jordan Transit Corridor Project is included in Phase I (2002–2012) of the Wasatch Front Regional Council's 2030 regional Long-Range Transportation Plan, which is expected to be approved by spring of 2002. The proposed project will be coordinated with on-going efforts to preserve a Western Transportation Corridor (WTC) in Salt Lake County. The WTC has been

UMI

identified as a north-south, multi-modal corridor; located at approximately 5800 West. The regional Long-Range Transportation Plan calls for corridor preservation, construction of highway facilities and improved transit service in the WTC.

III. Alternatives To Be Studied

A feasibility analysis was conducted as part of the South Salt Lake County Transit Corridors Analysis. During scoping, the alternatives, findings and issues covered in the earlier studies will be reviewed and will be either affirmed or, if necessary, reconsidered in detail during the NEPA process.

The alternatives expected to be considered in detail in the EIS include:

- A "no-build" alternative: This alternative represents no change in transportation services or facilities in the corridor beyond already committed projects. Committed projects include those transit improvements defined in the transportation agencies' Long-Range Transportation Plans and Transit Development Plans for which funding has been committed.
- Transportation Systems Management Alternative: This alternative consists of low-cost infrastructure and bus transit improvements, Intelligent Transportation Systems (ITS) improvements, improvements in bus routes and operations, and other transportation systems management improvements.
- Rail Transit Alternatives: These alternatives represent the construction of a rail transit system using either LRT (electric powered from overhead wires) or DMU (diesel powered by on-board motors) technology. The eastern terminus of the project would be the North-South (TRAX) LRT Line at the 6400 South Station. Opportunities for interlining with the existing (TRAX) system will be explored for the LRT alternative. The rail alternatives would also include all facilities associated with the construction and operations of a rail transit line, including right of way, structures, track, stations, park-and-ride lots, storage and maintenance facilities, and the respective rail and bus operating plans.

IV. Probable Effects

The EIS will be prepared in accordance with NEPA and its implementing regulations including those of the Council on Environmental Quality (CEQ) implementing NEPA (40 CFR parts 1500–1508), and the FTA regulation on environmental procedures shared with the Federal Highway Administration (23 CFR part 771). The EIS will evaluate the social, economic, and environmental impacts of the alternatives. Primary concerns to be addressed include: Safety at grade crossings, site contamination in railroad rights-of-way, property effects including business disruptions and relocation, impacts on local traffic and travel patterns, noise and vibration impacts, land use impacts, wetland impacts, and aesthetic/visual impacts. The cumulative impacts of the project together with other reasonably foreseeable actions and activities will be addressed.

V. FTA New Starts Procedures

Following public review of the Draft EIS, the UTA will request FTA approval to initiate Preliminary Engineering, in accordance with the FTA New Starts regulation (49 CFR part 611). FTA will consider the merits of the project at that time, in comparison with other projects across the nation competing for New Starts funding, and either recommend or not recommend that the preferred alternative advance into Preliminary Engineering, which would include the preparation of the Final EIS.

Issued on: December 12, 2001.

Lee O. Waddleton,

Regional Administrator, Federal Transit Administration.

[FR Doc. 01–31526 Filed 12–20–01; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Preparation of An Environmental Impact Statement on a Transit Connection Between the 2100 South Light Rail Station and the Cities of West Valley City and Taylorsville in Metropolitan Salt Lake City, UT

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Wasatch Front Regional Council (WFRC) and Utah Transit Authority (UTA), is issuing this notice to advise interested agencies and the public that, in accordance with the National Environmental Policy Act (NEPA), an Environmental Impact Statement (EIS) will be prepared for a transit connection westward from the North-South Light Rail line to a logical terminus near the West Valley City center. Possible extensions or other transit improvements extending southward to the city of Taylorsville will also be evaluated. This proposed transportation project was identified in a Type I Major Investment Study (MIS) completed in March 2000. In addition to the rail transit alternatives from the "Transit Corridors Analysis," the No-Build Alternative and any new alternatives generated through the scoping process will be evaluated. Scoping will be accomplished through coordination with interested persons, organizations, and federal, state, and local agencies. FTA is serving as the federal lead agency for the project in anticipation of a grant application from UTA for its construction. Based on the results of the scoping process, FTA will establish the scope of the environmental review under NEPA, including the identification of environmental issues and effects to be addressed and the reasonable alternatives to be retained for detailed evaluation.

DATES: Interagency and public scoping and information meetings will be held on the following dates at the locations indicated:

Interagency Scoping Meeting: Wednesday, January 9th, 2002 from 10 a.m. to noon, at the Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

Public Scoping Meeting No. 1: Wednesday, January 9, 2002 from 5 p.m. to 8 p.m. at the Utah Transit Authority Board Room, located at 3600 South 700 West, Salt Lake City, UT 84119–0810.

Public Scoping Meeting No. 2: Saturday, January 12, 2002 from 9 a.m. to 11 a.m. at the West Valley City Hall located at 3600 South Constitution Blvd., West Valley City, UT 84119–3720.

Written comments on the scope of the environmental study should be sent by January 28, 2002, to Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116.

ADDRESSES: The addresses where scoping meetings will be held and where comments on the scope of the study may be sent, appear above in the **DATES** section. A Scoping Booklet is available from Barry Banks, Project Manager, Wasatch Front Regional Council, 295 North Jimmy Doolittle Road, Salt Lake City, UT 84116 or by calling the project information line at (801) 904–4127.

FOR FURTHER INFORMATION CONTACT: Don Cover, Federal Transit Administration, 216 16th Street, Suite 650, Denver, Colorado 80202; telephone (303) 844–3242.

SUPPLEMENTARY INFORMATION:

UMI VOL 66 ISS 246 DE 21 2001 UMI

I. Scoping

The WFRC and UTA will hold interagency and public scoping meetings as presented in the **DATES** section above. At these meetings, WFRC and UTA will present the results of the "Type 1 MIS" and the alternatives proposed for detailed evaluation in the EIS. At the public meetings, interested persons will have an opportunity to speak individually with a WFRC or UTA representative. In addition, a WFRC or UTA person will be available to receive written and record verbal comments on the scope of the NEPA review. All scoping meeting locations are accessible to persons with disabilities. Individuals who require special accommodations, such as a sign language interpreter, to participate in the meeting should contact Ms. Sherry L. Repscher, ADA Compliance Officer, Utah Transit Authority, 3600 South 700 West, Salt Lake City, UT 84119–0810 or by telephone at (801) 262–5626 or TDD at (801) 287–4657. Interested individuals, organizations, and public agencies are invited to attend the scoping meetings and participate in identifying any important environmental impact issues related to the proposed alternatives and suggesting alternatives which would be more economical or would have less environmental impact while achieving similar transportation objectives. An information packet, referred to as the Scoping Booklet, will be distributed to all public agencies and interested individuals and will be available at the meetings. Others may request the Scoping Booklet by contacting Barry Banks at the address listed above in **ADDRESSES.** Anyone wishing to be placed on the project mailing list to receive meeting notices and further information as the project develops should also contact Barry Banks at the address listed in **ADDRESSES** or call the project information line (801) 904–4127. Comments during the scoping period should focus on identifying the social, economic, and environmental concerns associated with the proposed action, and alternatives that deserve consideration, and not on a preference for a particular alternative. Comments regarding preference for a particular alternative may be submitted during subsequent public meetings or at a hearing on the Draft Environmental Impact Statement, when it is published. Scoping comments may be made at the scoping meetings or may be directed in writing to Barry Banks, Project Manager, at the address given in **ADDRESSES.**

II. Description of the Project Area and Transportation Need

The UTA North-South TRAX system that now includes the extension from the Salt Lake City Central Business District (CBD) to the University of Utah provides the spine for an expanded Light Rail Transit (LRT) system to serve more communities in Salt Lake County. Recent passage of a ¼ cent regional sales tax increase indicates broad public support for expansion and improvement of transit services throughout Salt Lake, Davis and Weber Counties. Expanded and improved bus service and extensions of the existing LRT system have been studied for several years by WFRC and UTA, and the West Valley City Transit Corridors has been identified as a high priority among five proposed LRT corridors previously studied by WFRC and UTA.

In March 2000, a Major Investment Study (MIS) was completed for a transportation corridor connecting West Valley City, Utah's second most populous, with Salt Lake City. The Locally Preferred Alternative (LPA) emerging from this MIS was an LRT extension extending from the existing North-South (TRAX) Light Rail line near Andy Avenue to the West Valley City center. The proposed alignment crosses Interstate Highways 15 and 215 utilizing existing structures and would connect several major trip generators in West Valley City with TRAX. The MIS identified significant and growing demand for transit service in this corridor and concluded that construction of LRT in this corridor held far more advantages than other alternatives. This concept enjoys strong support from local government. The Project Sponsors propose to advance the West Valley City Corridor through the EIS–PE phase of development in two contract phases. This first phase (DEIS) includes all work necessary to gain FTA approval to commence PE in the corridor. The current planning and project approval status for this corridor follows.

A copy of the "Type I MIS" (executive summary) is available for review by contacting Barry Banks, Project Manager, as previously presented, or on the Internet at *www.wfrc.org.*

III. Alternatives To Be Studied

A feasibility analysis was conducted as part of the South Lake County Transit Corridors Analysis. During scoping, the alternatives, findings and issues covered in the earlier studies will be reviewed and will be either affirmed or, if necessary, reconsidered in detail during the NEPA process.

The alternatives expected to be considered in detail in the EIS include:

- A "no-build" alternative: This alternative represents no change in transportation services or facilities in the corridor beyond already committed projects. Committed projects include those transit improvements defined in the transportation agencies' Long-Range Transportation Plans and Transit Development Plans for which funding has been committed.
- Transportation Systems Management Alternative: This alternative consists of low-cost infrastructure and bus transit improvements, Intelligent Transportation Systems (ITS) improvements, improvements in bus routes and operations, and other transportation systems management improvements.
- Rail Transit Alternatives: These alternatives represent the construction of a rail transit system using LRT technology. The eastern terminus of the project would be the North-South (TRAX) LRT Line at the 2100 South Station. Opportunities for interlining with the existing (TRAX) system will be explored for the LRT alternative. The rail alternatives would also include all facilities associated with the construction and operations of a rail transit line, including right of way, structures, track, stations, park-and-ride lots, storage and maintenance facilities, and the respective rail and bus operating plans.

IV. Probable Effects

The EIS will be prepared in accordance with NEPA and its implementing regulations including those of the Council on Environmental Quality (CEQ) implementing NEPA (40 CFR parts 1500–1508), and the FTA regulation on environmental procedures shared with the Federal Highway Administration (23 CFR part 771). The EIS will evaluate the social, economic, and environmental impacts of the alternatives. Primary concerns to be addressed include: safety at grade crossings, site contamination in railroad rights-of-way, property effects including business disruptions and relocation, impacts on local traffic and travel patterns, noise and vibration impacts, land use impacts, wetland impacts, and aesthetic/visual impacts. The cumulative impacts of the project together with other reasonably foreseeable actions and activities will be addressed.

V. FTA New Starts Procedures

Following public review of the Draft EIS, the UTA will request FTA approval to initiate Preliminary Engineering, in accordance with the FTA New Starts regulation (49 CFR part 611). FTA will consider the merits of the project at that time, in comparison with other projects across the nation competing for New Starts funding, and either recommend or not recommend that the preferred alternative advance into Preliminary Engineering, which would include the preparation of the Final EIS.

Issued on: December 12, 2001.

Lee O. Waddleton,

Regional Administrator, Federal Transit Administration.

[FR Doc. 01–31527 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–11185]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request extension of approval for three years of a currently approved information collection.

DATES: Comments should be submitted on or before February 19, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Thomas, Maritime Administration, MAR–250, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–2646 or Fax 202–493–2288.

Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Regulations for Making Excess or Surplus Federal Property Available to the U.S. Merchant Marine Academy and State Maritime Academies.

Type of Request: Extension of currently approved information collection.

OMB Control Number: 2133–0504.

Form Numbers: None.

Expiration Date of Approval: June 30, 2002.

Summary of Collection of Information: In accordance with U.S.C. 12959, MARAD requires approved maritime training institutions seeking excess or surplus property to provide a statement of need/justification prior to acquiring the property.

Need and Use of the Information: This information collection is used by the requestor to provide a justification of the intended use of the surplus property, and is needed by MARAD to determine compliance with applicable statutory requirements.

Description of Respondents: Maritime training institutions.

Annual Responses: 60.

Annual Burden: 60 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590. Comments may also be submitted by electronic means via the Internet at *http://dmses.dot.gov/submit*. Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility; accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m. EDT, Monday through Friday, except Federal Holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

By Order of the Maritime Administrator.

Dated: December 17, 2001.

Joel C. Richard,

Secretary.

[FR Doc. 01–31451 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–10902]

Insurer Reporting Requirements; Reports under 49 U.S.C. on Section 33112(c)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of availability.

SUMMARY: This notice announces publication by NHTSA of the annual insurer report on motor vehicle theft for the 1996 reporting year. Section 33112(c) of Title 49 of the U.S. Code, requires this information to be compiled periodically and published by the agency in a form that will be helpful to the public, the law enforcement community, and Congress. As required by section 33112(c), this report provides information on theft and recovery of vehicles; rating rules and plans used by motor vehicle insurers to reduce premiums due to a reduction in motor vehicle thefts; and actions taken by insurers to assist in deterring thefts.

ADDRESSES: Due to the voluminous content of this report, interested persons may obtain a copy of this report by contacting the Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are from 9:30 a.m. to 5 p.m., Monday through Friday. Requests should refer to Docket No. 99–001; Notice 04. This report without appendices may also be viewed on-line at: *http://www.nhtsa.dot.gov/cars/rules/theft*.

FOR FURTHER INFORMATION: Ms. Rosalind Proctor, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act) was implemented to enhance detection and prosecution of motor vehicle theft (Pub. L. 98–547). The Theft Act added a new Title VI to the Motor Vehicle Information and Cost Savings Act, which required the Secretary of Transportation to issue a theft prevention standard for identifying major parts of certain high-theft lines of passenger cars. The Act also addressed several other actions to reduce motor vehicle theft, such as increased criminal penalties for those who traffic in stolen vehicles and parts, curtailment of the exportation of stolen motor vehicles and off-highway mobile equipment, establishment of penalties for dismantling vehicles for the purpose of trafficking in stolen parts, and development of ways to encourage decreases in premiums charged to consumers for motor vehicle theft insurance.

Title VI (which has since been recodified as 49 U.S.C. chapter 331), was designed to impede the theft of motor vehicles by creating a theft prevention standard which required manufacturers of designated high-theft car lines to inscribe or affix a vehicle identification number onto major components and replacement parts of all vehicle lines selected as high theft. The theft standard became effective in Model Year 1987 for designated high-theft car lines.

The Anti Car Theft Act of 1992 (Pub. L. 102–519) amended the law relating to the parts-marking of major component

UMI
VOL 66
ISS 246
DE 21
2001
UMI

parts on designated high-theft vehicles. One amendment made by the Anti Car Theft Act was to 49 U.S.C. 33101(10), where the definition of "passenger motor vehicle" now includes a "multipurpose passenger vehicle or light-duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight." Since "passenger motor vehicle" was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR part 541).

Section 33112 of Title 49 requires subject insurers or designated agents to report annually to the agency on theft and recovery of vehicles, on rating rules and plans used by insurers to reduce premiums due to a reduction in motor vehicle thefts, and on actions taken by insurers to assist in deterring thefts. Rental and leasing companies also are required to provide annual theft reports to the agency. In accordance with 49 CFR 544.5, each insurer, rental and leasing company to which this regulation applies must submit a report annually not later than October 25, beginning with the calendar year for which they are required to report. The report would contain information for the calendar year three years previous to the year in which the report is filed. The report that was due by October 25, 1999 contains the required information for the 1996 calendar year.

The annual insurer reports provided under section 33112 are intended to aid in implementing the Theft Act and fulfilling the Department's requirements to report to the public the results of the insurer reports. The first annual insurer report, referred to as the Section 612 Report on Motor Vehicle Theft, was prepared by the agency and issued in December 1987. The report included theft and recovery data by vehicle type, make, line, and model which were tabulated by insurance companies and, rental and leasing companies. Comprehensive premium information for each of the reporting insurance companies was also included. This report, the twelfth, discloses the same subject information and follows the same reporting format.

Issued on: December 17, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–31517 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–11165]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles Are eligible for importation.

SUMMARY: This document announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATE: These decisions are effective as of the date of their publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 18, 2001.

Marilynne Jacobs, Director,

Office of Vehicle Safety Compliance.

Annex A

Nonconforming Motor Vehicles Decided to be Eligible for Importation

1. Docket No. NHTSA–2001–9848

Nonconforming Vehicle: 1997 Chevrolet Cavalier passenger cars.

Substantially similar U.S.-certified vehicle: 1997 Chevrolet Cavalier passenger cars.

Notice of Petition Published at: 66 FR 35503 (July 5, 2001).

Vehicle Eligibility Number: VSP–369.

2. Docket No. NHTSA–2001–9631

Nonconforming Vehicles: 1999–2001 BMW 7 Series passenger cars.

Substantially similar U.S.-certified vehicles: 1999–2001 BMW 7 Series passenger cars.

Notice of Petition Published at: 66 FR 28026 (May 21, 2001).

Vehicle Eligibility Number: VSP–366.

3. Docket No. NHTSA–2000–9739

Nonconforming Vehicles: 1998–2001 BMW R1100 motorcycles.

Substantially similar U.S.-certified vehicles: 1998–2001 BMW R1100 motorcycles.

Notice of Petition Published at: 66 FR 31748 (June 12, 2001).

Vehicle Eligibility Number: VSP–368.

4. Docket No. NHTSA–2001–9562

Nonconforming Vehicles: 1992 Chevrolet Corvette passenger cars.

Substantially similar U.S.-certified vehicles: 1992 Chevrolet Corvette passenger cars.

Notice of Petition Published at: 66 FR 28019 (May 21, 2001).

Vehicle Eligibility Number: VSP–365.

5. Docket No. NHTSA–2001–9649

Nonconforming Vehicles: 1995–2000 KTM Duke II motorcycles.

Substantially similar U.S.-certified vehicles: 1995–2000 KTM Duke II motorcycles.

Notice of Petition Published at: 66 FR 28024 (May 21, 2001).

Vehicle Eligibility Number: VSP–363.

6. Docket No. NHTSA–2001–9560

Nonconforming Vehicle: 2000–2001 Audi TT passenger cars.

Substantially similar U.S.-certified vehicle: 2000–2001 Audi TT passenger cars.

Notice of Petition Published at: 66 FR 28023 (May 21, 2001).

Vehicle Eligibility Number: VSP–364.

7. Docket No. NHTSA–2001–9732

Nonconforming Vehicles: 1993 Ford Mustang passenger cars.

Substantially similar U.S.-certified vehicles: 1993 Ford Mustang passenger cars.

Notice of Petition Published at: 66 FR 30264 (June 5, 2001).

Vehicle Eligibility Number: VSP–367.

8. Docket No. NHTSA–2001–9947

Nonconforming Vehicles: 2000–2001 Mercedes Benz S500 and S600 passenger cars.

Substantially similar U.S.-certified vehicles: 2000–2001 Mercedes Benz S500 and S600 passenger cars.

Notice of Petition Published at: 66 FR 37722 (July 19, 2001).

Vehicle Eligibility Number: VSP–371.

9. Docket No. NHTSA–2001–10512

Nonconforming Vehicles: 2002 Harley Davidson FX, FL, and XL motorcycles.

Substantially similar U.S.-certified vehicles: 2002 Harley Davidson FX, FL, and XL motorcycles.

Notice of Petition Published at: 66 FR 46678 (September 6, 2001).

Vehicle Eligibility Number: VSP–372.

[FR Doc. 01–31519 Filed 12–20–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 5)]

Railroad Cost of Capital—2001

AGENCY: Surface Transportation Board.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 2001 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 2001. The decision solicits comments on: (1) The railroads' 2001 cost of debt capital; (2) the railroads' 2001 current cost of preferred stock equity capital; (3) the railroads' 2001 cost of common stock equity capital; and (4) the 2001 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due no later than January 14, 2002. Statements of the railroads are due by March 29, 2002. Statements of other interested persons are due by April 22, 2002. Rebuttal statements by the railroads are due by May 13, 2002.

ADDRESSES: Send an original and 10 copies of statements and a copy of the statement on a 3.5 inch disk in WordPerfect 9.0, and an original and 1 copy of the notice of intent to participate to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from the Board's contractor, Dā- To Dā Legal, Suite 405, 1925 K Street, NW, Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.] A copy of the decision can also be obtained from the Board's Internet site (www.stb.dot.gov).

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: December 13, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31368 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 602X)]

CSX Transportation, Inc.—Abandonment Exemption—in Limestone County, AL

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.56-mile line of railroad between milepost 000–290.2 and milepost 000–290.76 in Athens, Limestone County, AL. The line traverses United States Postal Service Zip Code 35614.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent

Continued

UMI
VOL 66
ISS 246
DE 21
2001
UMI

expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to CSXT's representative: Paul R. Hitchcock, Assistant General Counsel, CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by CSXT's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 11, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30993 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

---

investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–43 (Sub-No. 172X)]

Illinois Central Railroad Company-Abandonment Exemption—in Adams County, MS

On December 4, 2001, Illinois Central Railroad Company (ICR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad known as the Natchez Spur, between milepost LN 94.48 and milepost LN 98.38, a distance of 3.9 miles in Natchez, Adams County, MS.[1] The line traverses U.S. Postal Service Zip Code 39120. There are no stations on the line.

The line does not contain federally granted rights-of-way. Any documentation in ICR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 22, 2002.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 10, 2002. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–43 (Sub-No. 172X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Michael J. Barron, Jr., 455 North Cityfront Plaza Drive, Chicago, IL 60611–5317. Replies to the IC petition are due on or before January 10, 2002.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our web site at "*WWW.STB.DOT.GOV.*"

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31369 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] According to petitioner, the southernmost 0.56 miles of the line is ICR terminal trackage and former Natchez & Southern trackage not formally included in ICR's milepost numbering system. The southern boundary of the abandonment is the equivalent of milepost LN 98.38 under the numbering system used on the remainder of the line.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–596]

New York City Economic Development Corporation—Adverse Abandonment—New York Cross Harbor Railroad, Inc., in New York, NY

On December 4, 2001,[1] New York City Economic Development Corporation (NYCEDC) on behalf of the City of New York (City) filed an adverse application under 49 U.S.C. 10903 requesting that the Surface Transportation Board

---

[1] On December 4, 2001, NYCEDC filed a petition for a 1-day extension of time in order to gather the information necessary to file its application for adverse abandonment. Board regulations and case law permit extension of time for filing when good cause is shown and no party will be prejudiced by the delayed submission. *See Huron Valley Steel Co. v. Seaboard System RR, Inc.*, ICC Docket No. 39886 (ICC served Feb. 12, 1988). The extension is granted and the application is accepted because NYCEDC has shown good cause and no party will be prejudiced by the delay.

(Board) authorize the abandonment by New York Cross Harbor Railroad, Inc. (NYCH), of the Bush Terminal Yard (a/k/a "First Avenue Yard") and the Harborside Industrial Center (a/k/a "Brooklyn Army Terminal") (jointly the Tracks and Facilities), in New York, Kings County, NY. The line traverses United States Postal Service ZIP Codes 11232 and 11220. There is no indication that there are stations on the line.

NYCEDC maintains that NYCH has caused and will continue to cause significant environmental damage to the tracks and facilities by dumping chemicals and pesticides used in the operation and maintenance of a railroad. NYCEDC indicates that it filed the adverse abandonment application so that it could proceed with plans to bring suit in state court to evict NYCH from the tracks and facilities.[2] NYCEDC also claims that NYCH has incurred $20,107.61 in late fees since July 1995.

In an application by a third party for a determination that the public convenience and necessity permits service over a line to be discontinued or abandoned, the issue before the Board is whether the public interest requires that the line in question be retained as part of the national rail system. By granting a third party application, the Board withdraws its primary jurisdiction over the line. Questions of the disposition of the line, including the adjudication of various claims of ownership or other rights and obligations, are then left to state or local authorities. *See Kansas City Pub. Ser. Frgt. Operations Exempt.—Aban.*, 7 I.C.C.2d 216, 224–26 (1990).

NYCEDC states that, to the best of its knowledge, the line does not contain any federally granted rights-of-way. Any documentation in NYCEDC's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment was filed with the application.[3]

The interests of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by January 18, 2002. Applicant's reply is due on February 4, 2002. Because the line is publicly owned and is expected to remain in rail service under some new arrangement, trail use/rail banking, and public use requests are not appropriate. In light of the proposed eviction and subsequent resumption of rail service, offers of financial assistance to acquire or subsidize service on the line are not required by the public interest and will not be entertained in this proceeding.

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25.

All filings in response to this notice must refer to STB Docket No. AB–596 and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Charles A. Spitulnik and Alex Menendez, One Massachusetts Ave, NW, Suite 800, Washington, DC 20001. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment or discontinuance proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 545–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in abandonment or discontinuance proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV*.

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31504 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

---

[2] NYCH does not own the tracks and facilities or the underlying land; rather it leases the tracks and facilities from the City. NYCEDC contends that NYCH has breached its lease by violating local fire codes and state and Federal environmental law. In its Combined Environmental and Historic Report, NYCEDC indicates that the tracks and facilities will continue to be used for rail purposes because of the planned re-development and expansion of the adjacent maritime terminals in order to promote water to rail movement of cargo.

[3] In a decision served in this proceeding on December 3, 2001, NYCEDC was granted a waiver from many of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were found to be not relevant to NYCEDC's adverse abandonment application. On December 10, 2001, NYCEDC filed a supplement to its application to address the requirements not waived in the December 3 decision. The supplement is accepted for filing.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 221X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 0.9-mile line of railroad between milepost RC–0.0, at Russell Creek, and milepost RC–0.9, at Caledonia, in Wise County, VA (line).[1] The line traverses United States Postal Service Zip Code 24293.

Applicant has certified that: (1) no local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

---

[1] NSR notes that authority to discontinue operations on the line was granted by the former Interstate Commerce Commission. See *Norfolk and Western Railway Company-Discontinuance Exemption-in Wise County, VA*, Docket No. AB 290 (Sub-No. 98X) (ICC served July 16, 1990).

UMI
VOL 66
ISS 246
DE 21
2001
UMI

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 23, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 14, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, *Esq.*, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

Decided: December 10, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–30919 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

---

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 226X)]

Norfolk Southern Railway Company—Abandonment Exemption in Mingo County, WV, and Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart—*Exempt Abandonments* to abandon a 2.28-mile line of railroad between milepost CR–0.0, at Cedar, Mingo County, WV, and milepost CR–2.28, at Majestic, Pike County, KY (line). The line traverses United States Postal Service Zip Codes 25676, in the State of West Virginia, and 41547, in the State of Kentucky.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 24, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 14, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31505 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 220X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Wise County, VA

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 3.03-mile line of railroad between milepost A–0.0, at Arno Jct., and milepost A–3.03, at Derby, in Wise County, VA (line). The line traverses United States Postal Service Zip Code 24293.

Applicant has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic, if there is any, can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 22, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 31, 2001. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 10, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by December 28, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 21, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31506 Filed 12–20–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of D.C. Pensions; Proposed Collection: Comment Request

ACTION: Notice and Request for Comments.

SUMMARY: The Department of the Treasury, as part of its continuing efforts to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)). Currently, the Office of D. C. Pensions within the Department of the Treasury is soliciting comments concerning the D. C. Pension Plans Customer Satisfaction Survey.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESS: Direct all written comments to the Department of the Treasury, Office of D. C. Pensions, Kristi H. Greenslade, 1500 Pennsylvania Avenue, NW., Room 6131 Metropolitan Square, Washington, DC 20220, (202) 622–0800.

FOR FURTHER INFROMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Office of D. C. Pensions, Kristi H. Greenslade, 1500 Pennsylvania Avenue, NW, Room 6131 Metropolitan Square, Washington, DC 20220, (202) 622–0800.

SUPPLEMENTARY INFORMATION:

Title: D. C. Pension Plans Customer Satisfaction Survey.

Abstract: Under the National Capital Revitalization and Self-Government Improvement Act of 1997, Title XI of the Balanced Budget Act of 1997 [Pub. L. 105–33], as amended, (the Act), the U.S. Department of the Treasury assumed certain responsibilities for some of the District of Columbia's pension plans, including administration of fund assets and distribution of pension benefits. Treasury is responsible for paying the benefits earned through June 30, 1997, under the Police Officers and Firefighters' Retirement Plan and the Teachers' Retirement Plan. The District of Columbia is responsible for paying benefits earned after June 30, 1997, through its replacement plans. Treasury is also responsible for paying all benefits earned under the Judges' Retirement Plan.

The Office of D. C. Pensions seeks to collect information from pension benefits recipients in order to establish a customer service baseline and for use in developing a customer service plan. The survey also will be used to gauge improvements in customer service. This is a new program for Treasury. The Office of D. C. Pensions plans to develop a comprehensive customer service strategy and this survey is part of that effort.

Current Actions: This is a new collection. The information being collected will be used to determine the level of satisfaction with current service delivery, identify areas for improvement and provide overall information for developing a comprehensive customer service plan for the Office of D. C. Pensions programs.

Type of Review: New.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,157.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 539 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information of respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs and cost of operation, maintenance, and purchase of services to provide information.

Dated: December 17, 2001.

Mary Beth Shaw,

Director, Office of D. C. Pensions, Department of the Treasury.

[FR Doc. 01–31419 Filed 12–20–01; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF THE TREASURY

Customs Service

Expansion of General Program Test: Quota Preprocessing

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces that the quota preprocessing program test, which provides for the electronic processing of certain quota-class apparel merchandise prior to arrival of the carrier, will be expanded to the following additional ports: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport.

The program test is currently being conducted at ports located in New York/Newark and Los Angeles. The test is being expanded to the additional ports so that Customs can evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations. Public comments concerning any aspect of the program test as well as applications to participate in the test are requested.

DATES: The expansion of the test to include the additional ports is effective on January 1, 2002. The program test is currently scheduled to run until December 31, 2002. Applications to participate in the test and comments concerning the test will continue to be accepted throughout the testing period.

ADDRESSES: Written comments regarding this notice or any aspect of the program test should be addressed to Stephen Silvestri, Quota Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.3–D, Washington, DC 20229, or may be sent via e-mail to *Stephen.Silvestri@customs.treas.gov.* An application to participate in the program test must be sent to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing. The list of ports and corresponding program coordinators are as follows:

(1) Port of Atlanta: Spaulding Wyche, 4641 International Parkway, Suite 600, Atlanta, GA 30354;

(2) Boston seaport and/or Logan Airport: Harry Spirytus, 10 Causeway St., Boston, MA 02222;

(3) Port of Buffalo-Niagara Falls: Jim Neubert, 111 West Huron St., Buffalo, NY 14202;

(4) Port of Champlain-Rouses Point: Brenda Harrigan, 198 West Service Rd., Champlain, NY 12919;

(5) Port of Chicago: Bonita Hooks, 2571 Busse Rd., Elk Grove, IL 60007;

(6) Port of Columbus: Thomas Barnhart, 7400 Alum Creek Drive, Columbus, OH 43217;

(7) Port of Los Angeles: Nancy Petagna, 300 S. Ferry St., Terminal Island, CA 90731;

(8) Los Angeles International Airport: Tony Piscitelli, 11099 S. La Cienaga Blvd., Los Angeles, CA 90045;

(9) Port of Memphis: Terry Wright, 3150 Tchulahoma, Suite 1, Memphis, TN 38118;

(10) Port of Miami; and/or Miami International Airport: Constance Price, P.O. Box 025280, Miami, FL 33102;

(11) Ports of New York/Newark: John Lava, 1210 Corbin Street, Elizabeth, NJ 07201;

(12) JFK Airport: Barry Goldberg, JFK Building 77, Jamaica, NY 11430;

(13) Port of Newport/Portland, Oregon (area port of Portland): Megan Fishel, P.O. Box 55580, Portland, OR 97238;

(14) Port of Puget Sound (ports of Seattle; and Seattle-Tacoma International Airport): Sharon Delawyer, 1000 Second Ave., Suite 2000, Seattle, WA 98104;

(15) San Francisco seaport; and/or San Francisco International Airport: Diana Santiago, 555 Battery St., San Francisco, CA 94111; and/or

FOR FURTHER INFORMATION CONTACT: Stephen Silvestri, Quota Branch, (202–927–5397).

SUPPLEMENTARY INFORMATION:

On July 24, 1998, Customs published a general notice in the **Federal Register** (63 FR 39929) announcing the limited testing, pursuant to the provisions of § 101.9(a), Customs Regulations (19 CFR 101.9(a)), of a new operational procedure regarding the electronic processing of quota-class apparel merchandise. The test was to be conducted at the ports located in New York/Newark and Los Angeles.

Quota preprocessing permits certain quota entries (merchandise classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS)) to be filed, reviewed for admissibility, and to have their quota priority and status determined by Customs prior to arrival of the carrier, similar to the method of preliminary review by which non-quota entries are currently processed. The purpose of quota preprocessing is to reduce Customs processing time for qualified quota entries and to expedite the release of the subject merchandise to the importer. To this end, participants in quota preprocessing have been allowed to submit quota entries to Customs up to 5 days prior to vessel arrival or after the wheels are up on air shipments.

The July 24, 1998, **Federal Register** notice principally described the new procedure, specified the eligibility and application requirements for participation in the program test, and noted the acts of misconduct for which a participant in the test could be suspended and disqualified from continued participation in the program.

The initial test of the quota preprocessing procedure began on September 15, 1998, and was intended to continue for a six-month period that expired on March 14, 1999. However, on March 25, 1999, and on January 6, 2000, Customs published general notices in the **Federal Register** (64 FR 14499 and 65 FR 806, respectively) that extended the program test through 1999 and 2000. In addition, on November 30, 2000, Customs published another general notice in the **Federal Register** (65 FR 71356), further extending the program test through December 31, 2002. These respective extensions of the test procedure were undertaken so that Customs could further evaluate the effectiveness of the program and determine whether the program test should be expanded to other ports.

Customs has now concluded, following successful evaluations of the program to date, that the test should be expanded to other ports in order to enable Customs to evaluate the program's effectiveness on a much larger scale and determine whether the program should be established nationwide on a permanent basis through appropriate amendments to the Customs Regulations.

Expansion of Program Test to Additional Ports

In addition to the ports in Los Angeles and New York/Newark where the test is ongoing, Customs has determined that the program test should be expanded as of January 1, 2002 through December 31, 2002 to a number of additional ports as follows: Atlanta; Boston seaport; Logan Airport, Boston; Buffalo-Niagara Falls; Champlain-Rouses Point; Chicago; Columbus; Memphis; Miami; Miami International Airport; Newport/Portland, Oregon (the area port of Portland); Puget Sound (the ports of Seattle; and Seattle/Tacoma International Airport); San Francisco seaport; and San Francisco International Airport. The expansion of the test to these ports was determined by the volume of quota lines of apparel merchandise entered at these ports.

Furthermore, under the expanded program test, because two of the ports will receive shipments by land (Buffalo-Niagara Falls; and Champlain-Rouses Point), quota entries in these circumstances may be submitted to Customs after the carrier departs from its location in Canada destined for the U.S. border.

Eligibility and Application Criteria for the Program Test

Given the impending significant expansion of the program test and the consequent influx of additional applications to participate in the test that is anticipated, the eligibility criteria and application instructions for the program, based largely on the July 24, 1998, **Federal Register** notice, are essentially repeated below, albeit revised as appropriate to reflect the expanded test. Prospective applicants may refer to the July 24, 1998, **Federal Register** notice for a more detailed discussion of the quota preprocessing program.

Importer/Entry Eligibility Criteria

Only importers who currently import qualifying apparel through one or more of the ports listed in item "(6)" below may participate in the expanded program test. Participants are not permitted to change their importing patterns in order to take advantage of quota preprocessing. In this regard, during the test, Customs will monitor import volumes for noticeable increases of eligible quota entries through the ports covered by the expanded test.

Customs will only accept consumption entries of apparel merchandise subject to quota (types 02 and 07) for preprocessing which meet the following criteria:

(1) The entry must be filed using the Automated Broker Interface (ABI);

(2) Payment must be made electronically through the Automated Clearinghouse (ACH);

(3) Arriving carriers must use the Automated Manifest System (AMS);

(4) The quota category must be less than 85% full;

(5) The entry must contain at least one line classifiable in chapter 61 or 62 of the Harmonized Tariff Schedule of the United States (HTSUS); and

(6) The entry must be submitted at one of the following ports: the port of Atlanta (Port code: 1704); Boston seaport (Port code: 0401); Logan Airport, Boston (port code: 0417)); the port of Buffalo-Niagara Falls (Port code: 0901); the port of Champlain-Rouses Point (Port code: 0712); the port of Chicago (Port code: 3901); the port of Columbus (Port code: 4103); the port of Los Angeles (Port code: 2704); Los Angeles International Airport (Port code: 2740); the port of Memphis (Port code: 2006); the port of Miami (Port code: 5201); Miami International Airport (Port code: 5206); the ports of New York/Newark, including JFK Airport (Port codes: 1001/4601/4701); the port of Newport/Portland, Oregon (area port of Portland (Port code: 2904)); the port of Puget Sound (the ports of Seattle (Port codes: 3001, 3002, 3081); and Seattle/Tacoma International Airport (Port code: 3029)); San Francisco seaport (Port code: 2809); or San Francisco International Airport (Port code: 2801).

If an importer submits a quota entry for preprocessing and the entry does not meet all of the criteria in items "(1)" through "(6)" above, the entry summary will be rejected and the filer may not resubmit the entry summary to Customs until after the carrier has arrived. Upon arrival of the carrier, merchandise covered by a preprocessed entry will be released unless Customs decides to perform an examination. In this respect, the fact that merchandise has been processed under the quota preprocessing program will not interfere with or impede Customs ability to examine the merchandise upon its arrival, should such an examination be found to be warranted. If an examination of the merchandise is necessary, the examination will occur during the port's regular inspectional hours.

Application To Participate in Quota Preprocessing

An importer wishing to participate in quota preprocessing must submit a written application that includes the following information to the program coordinator for each port where the applicant intends to submit quota entries for preprocessing:

1. The specific port(s) included under the program where entries of the quota merchandise are intended to be made;
2. The importer of record number(s), including suffix(es), and a statement of the importer's/filer's electronic filing capabilities;
3. Names and addresses of any entry filers, including Customs brokers, that will be electronically filing entries at each port under the program on behalf of the importer/participant; and
4. The total number of consumption quota entries (types 02 and 07) filed at each of the ports subject to the program during the preceding 12-month period

and the estimated number of eligible entries expected to be filed at each designated port during the course of the test. If it is expected that a significantly higher number of eligible entries will be filed over the test period than were filed over the preceding 12-month period, an explanation for this increase will be necessary.

Applicants will be notified in writing of their selection or nonselection to participate in quota preprocessing. An applicant denied participation may appeal in writing to the port director at the port where the application was denied.

Current participants in quota preprocessing that also wish to file entries under the program at any of the additional ports must notify in writing, the additional part at least 5 working days before submitting entries at that port. Also, for those that are selected to participate in the test, the July 24, 1998, **Federal Register** notice should be consulted regarding the acts of misconduct that may result in a participant being suspended from the program and the extent to which a participant may appeal a proposed suspension from the program.

Dated: December 18, 2001.

John H. Heinrich,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–31475 Filed 12–20–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–Q

AGENCY: Internal Revenue Service (IRS), Treasury

ACTION: Notice and request for comments

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–Q, Qualified Tuition Program Payments (Under Section 529).

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Tuition Program Payments (Under Section 529).

OMB Number: 1545–1760.

Form Number: 1099–Q.

Abstract: Form 1099–Q is used to report distributions from private and state qualified tuition programs as required under Internal Revenue Code section 529.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 150.

Estimated Time Per Respondent: 190 hours.

Estimated Total Annual Burden Hours: 28,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 12, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31530 Filed 12–20–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8878

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8878, IRS e-file Signature Authorization—Application for Extension of Time To File.

DATES: Written comments should be received on or before February 19, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: IRS e-file Signature Authorization—Application for Extension of Time To File.

OMB Number: 1545–1755.

Form Number: 8878.

Abstract: Form 8878 is used to allow taxpayers to enter their PIN on their electronically filed application for extension of time to file.

Current Actions: There are no changes being made to the form at this time.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000,000.

Estimated Time Per Respondent: 37 mins.

Estimated Total Annual Burden Hours: 610,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 10, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31531 Filed 12–20–01; 8:45 am]

BILLING CODE 4830–01–P

UMI
VOL 66 ISS 246 DE 21 2001
UMI

Corrections

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Correction

In notice document 01–29055 appearing on page 58532 in the issue of Wednesday, November 21, 2001, make the following corrections:

On page 58532, in the second column, under the **Summary of Proposal(s)** heading:

a. “(8)” should read “(9)”; and

b. Insert between “(7)” and “(9)”, “(8) *Total annual responses*: 239.”

[FR Doc. C1–29055 Filed 12–20–01; 8:45 am]

BILLING CODE 1505–01–D

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Correction

In notice document 01–29056 beginning on page 58532 in the issue of Wednesday, November 21, 2001, make the following correction:

On page 58533, in the first column, under the **Summary of Proposal(s)** heading, in “(2)”, “BAZ–4” should read, “BA–4.”.

[FR Doc. C1–29056 Filed 12–20–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
December 21, 2001

Part II

General Services Administration

Federal Supply Service; Household Goods Tender of Service; Notice

GENERAL SERVICES ADMINISTRATION

Federal Supply Service

Household Goods Tender of Service

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of issuance of the GSA Household Goods Tender of Service for comment.

SUMMARY: The General Services Administration (GSA), in compliance with 41 U.S.C. 418b, is publishing the GSA Household Goods Tender of Service (HTOS) for comments. The HTOS combines the Domestic Tender of Service (DTOS), effective January 2, 1996 and the International Tender of Service (ITOS), effective October 1, 1995, into a single document. It establishes a uniform basis for purchasing transportation, accessorial services, and storage-in-transit for personal effects, unaccompanied baggage, and privately owned vehicles of Federal civilian employees relocated in the interest of the Government. Agreement to abide by the provisions of the HTOS is a prerequisite for any carrier or household goods forwarder that wishes to participate in GSA's Centralized Household Goods Traffic Management Program (CHAMP). GSA's Federal customer agencies benefit from the HTOS which leverages the Government's buying power to provide agencies standardized cost effective household goods transportation services. All submitted comments will be considered prior to issuance of the HTOS. Publication of the HTOS in the **Federal Register** will effectively cancel the DTOS, the ITOS and their respective supplements.

DATES: Please submit your comments by February 19, 2002.

ADDRESSES: Mail comments to the General Services Administration, Travel and Transportation Management Division (FBL), Washington, DC 20406, Attn: Gorman Purdy.

FOR FURTHER INFORMATION CONTACT: Mr. Gorman Purdy, Transportation Programs Branch by phone at 703–305–7999 or by e-mail at *gorman.purdy@gsa.gov*.

Dated: December 6, 2001.

Tauna T. Delmonico,

Director, Travel and Transportation Management Division.

Table of Contents

Section and Contents

1 General
2 Participation
3 Offers of Service
4 Statement of Work
4A Move Management Services (MMS)
5 Time of Performance
6 Inspection
7 Payment of Charges
8 Responsibilities and Authorities
9 Reporting Requirements
10 Participant Liability
11 Miscellaneous Agreement Provisions
12 Transit Times
13 Intentionally Left Blank
14 Geographic Coverage
15 Forms
16 Definitions and Explanation of Terms
17 Accessorial Rates, Rules and Charges

Explanation of Acronyms Used Throughout This HTOS

Acronyms and Explanation

BL	Bill of Lading
CFR	Code of Federal Regulations
CHAMP	Centralized Household Goods Traffic Management Program
CONUS	Points in the United States
CSI	Customer Satisifaction Index
DA	Dispatch Agent
DOD	Department of Defense
DOS	Department of State
DOT	Department of Transportation
DPM	Direct Procrement Method
DRN	Document Reference Number
EC	Electronic Commerce
FAR	Federal Acquisition Regulations
FMC	Federal Maritime Commission
FMR	Federal Management Regulations
FTR	Federal Travel Regulation
GBL	Government Bill of Lading
GRT	Government Rate Tender
GSA	General Services Administration
GSO	General Services Officer
HHG	Household Goods
HTOS	Household Goods Tender of Service
IFF	Industrial Funding Fee
I–FTP	File Transfer Protocal
ITGBL	International Governmnet Bill of Lading
ITMS	Interagency Transportation Management System
MMS	Move Management Serivce
MOU	Memorandum of Understanding
MTMC	Military Traffic Management Command
NADA	National Autombile Dealers Association
NTS	Non-Temporary Storage
OCONUS	Points Outside the United States
OFAC	Common Financial & Administration Control
OT	Overtime
OTO	One Time Only
P/D	Pickup/Delivery
PMO	Program Management Office
POC	Principal Operating Comany
Principal Operating Comany	
POD	Port of Debarkation
POE	Port of Embarkation
POF	Privately Owner Firearms
POV	Privately Owned Vehicles
RDD	Required Delivery Date
RFO	Request For Offers
RTO	Responsible Transportation Officer
SA	Service Area
SAP	Service Area Pairs
SCAC	Standard Carrier Alpha Code
SFR	Single Factor Rate
SIT	Storage in Transit
SPIES	Service Perfromance Index & Evaluation System
TIN	Tax Identification Number
TPA	Trading Partner Agreement
UB	Unaccompanied Air Baggage
USC	United States Code
W/H	Warehouse Handling

Section 1—General

1–1. Scope of the Tender of Service (HTOS) [old 1–1]

1–1.1. General. [old D1–1]

This HTOS is for the transportation, accessorial services, and storage-in-transit of the personal effects and property of employees of civilian, non-Department of Defense, Departments and agencies of the United States Government when relocating pursuant to permanent change of station orders between or within the continental United States and trust territories, or possessions of the U.S., or between or within the continental United States and foreign countries. (as specified in Section 14.)

1–1.2. Services To Be Furnished

1–1.2.1. General [old D1–1]

Services to be furnished are premove surveys; packing at origin residence; the use of packing containers; materials including protective pads from origin to destination; loading; movement or transportation of property from origin to destination; unpacking at destination; removal and placement of each article in the residence, warehouse, or other building; servicing and unservicing of appliances including when a third party is required to perform the service; and storage-in-transit and delivery to the residence.

1–1.2.2. Unaccompanied Air Baggage [old I1.1.1]

Services as may be required in the preparation, movement, and delivery of unaccompanied air baggage.

1–1.2.3. Privately Owned Vehicles [old I1.1.1]

Services as may be required in the preparation, movement, and delivery of privately owned vehicles.

1–1.3. DoD Tender of Service Application [old I1.1.1]

This HTOS and its associated terms, conditions, and rules are separate and distinct from the DOD (MTMC) GBL and ITGBL Tender of Service and its terms, conditions, and rules.

1–1.4. Description of Freight [old D1–1]

1–1.4.1. Freight Included

The property to be moved under this HTOS consists of personal effects and property defined as household effects (HHE) used or to be used in a dwelling when part of the equipment or supply of such dwelling includes, but is not limited to, household furnishings, equipment and appliances, furniture, clothing, books, and privately owned vehicles.

1–1.4.2. Freight Excluded [old D1–1]

Excluded from the scope of this HTOS are shipments that can be more advantageously or economically moved via parcel post or small package carrier; shipments of unusual value, explosives and other dangerous articles, commodities in bulk, commodities injurious or contaminating to other freight, property which by its inherent nature is liable to impregnate, contaminate or otherwise cause damage to other property or equipment, and shipments that the Government may elect to move in Government vehicles. Also excluded are airplanes, mobile homes, camper trailers, boats, birds, pets, livestock, cordwood, building materials, and items which cannot be taken from or delivered to the premises without damage to the items or the premises. Also excluded are packing crating services performed pursuant to a Direct Procurement Method (DPM) contract awarded by a federal civilian agency.

1–2. Acceptance of the Tender of Service (HTOS) [old D1–2]

The acceptance of the General Services Administration (GSA) Tender of Service (HTOS) is a prerequisite for a Participant which wishes to be considered for transportation of personal property routed by civilian executive agencies of the U.S. Government via the Domestic Government Bill of Lading (GBL) method or International Through Government Bill of Lading (ITGBL) method. The conditions of this HTOS are in addition to or in lieu of, as the case may be, all service provisions of any applicable tender or tariff under which a shipment may be routed, except where these conditions may be in conflict with applicable Federal, State, and local laws and regulations, including for international shipments. The acceptance of the GSA HTOS by a Participant shall be accomplished as specified in Section 2.

1–3. Application [old D1–3]

1–3.1. Routed Pursuant to Cost Comparisons [old D1–3]

The terms and conditions of this HTOS apply to firms participating in the GSA Centralized Household Goods Traffic Management Program-Domestic and/or International and servicing household goods shipments routed pursuant to domestic or international cost comparisons issued by GSA.

1–3.2. Routed Pursuant to Contracts [old D1–3]

The terms and conditions of this HTOS apply to firms participating in the GSA Centralized Household Goods Traffic Management Program and servicing household goods shipments routed pursuant to any contract awarded to a participating carrier or to a broker by GSA or a Federal civilian, non-DOD, agency.

1–3.3. Use of Term Participant [old I1.3]

The term Participant shall be used throughout this HTOS when referring to a firm approved to participate in the CHAMP and in order not to prejudice the attribution of any right or responsibility. To the extent that any specific right or responsibility pertains solely to a carrier, that responsibility shall not be attributed to or expected of an agent. To the extent that any specific right or responsibility pertains solely to an agent, that responsibility shall not be attributed to or expected of a carrier. To the extent that any right or responsibility may be considered as mutually shared by both carrier and agent during the performance of a specific move, that responsibility shall be attributed to and expected of both the carrier and the agent it uses. In the event that the terms carrier or agent appear within this HTOS, they shall be understood to mean Participant unless it is clear from the context that carrier or agent is appropriate, as the case may be.

1–3.4. Mileage Determination

Highway mileage determination for services performed in this HTOS will be as follows: (1) Shipments between any two locations within the contiguous United States (i.e., the 48 States, the District of Columbia and Alaska) apply the mileages based on 5-digit ZIP Codes, provided by ALK Technologies, Inc. Version 15, as amended. Note: For shipments to, from or within Canada, Rand McNally mileage is used. (2) Shipments performed outside the contiguous United States, apply the applicable mileage guide, book, or other method used in that particular country to determine mileages.

1–4. Revising HTOS Provisions and Method of Canceling Original or Revised Pages [old D1–4]

This Tender of Service (TOS) will be revised by the General Services Administration, Centralized Household Goods Traffic Management Program Office (6FBX) (hereinafter referred to as PMO), 1500 East Bannister Road, Kansas City, Missouri, 64131 through publication of the changes on the World Wide Web Page (*http://www.kc.gsa.gov/fsstt*), or the reissuance of the document on an "as needed" basis. HTOS updates will also be included on the Interagency Traffic Management System (ITMS) CD.

1–4.1. Page Revisions [old D1–4]

This TOS will be revised through issuing page revisions. When there are page revisions, cancellation of prior pages will be effected by means of this rule. Pages will be inserted in the document in numerical sequence. (for example: "FIRST REVISED PAGE 10" will have the effect of canceling "ORIGINAL PAGE 10", "SECOND REVISED PAGE 10" will have the effect of canceling "FIRST REVISED PAGE 10". Pages should be inserted in the following order, as page 10 would be followed by pages 10–A, 10–B, 10–C, 11, and 12.) Except where a specific cancellation is shown on a revised page, a revised page cancels any and all uncancelled revised or original pages, or uncancelled portions thereof, which bears the same page number. TEXT THAT IS CHANGED ON THE REVISED PAGES WILL BE HIGHLIGHTED.

1–4.2. Reissuing Document [old D1–4]

Reissues of this document will be identified by a number in numerical sequence, before the word "Edition". (For example, the first reissue of this TOS would be designated as the HOUSEHOLD GOODS TENDER OF SERVICE, NOVEMBER 1, 1998 EDITION, the next would be HOUSEHOLD GOODS TENDER OF SERVICE, NOVEMBER 1, 1999 EDITION, etc.). Each reissue will cancel the previous issue. When this HTOS is reissued ONLY TEXT THAT HAS BEEN CHANGED FROM THE PREVIOUS ISSUE OF THE TOS WILL BE HIGHLIGHTED.

1–4.3. Effective Date of Revisions

Unless otherwise specified on the Web document, the effective date shall be the date of publication on the WWW.

1–4.4. Issuance of Versions Other Than the WWW Version

1–4.4.1. By the PMO

The issuance of versions of the HTOS, changes thereto, or reissues thereof, on paper or electronically, shall be at the sole discretion of the PMO.

1–4.4.2. By Parties Other Than the PMO

Unless specifically endorsed by the PMO in writing as part of the publication, versions of the HTOS issued by parties other than the PMO,

UMI
VOL 66 ISS 246 DE 21 2001
UMI

including reprints of the WWW pages, copies of floppy disks, or any other form of publication, are null and void.

Section 2—Participation

2–1. General [old D2–1]

2–1.1. Transportation Services

Participation in the GSA Centralized Household Goods Traffic Management Program, Domestic and International, is open to any carrier, freight forwarder, holding authority (certificates, licenses, or permits, as appropriate) from the U.S. Department of Transportation (successor to the Interstate Commerce Commission), Federal Maritime Commission (FMC), and/or State regulatory authority.

2–2. Application To Participate

2–2.1. Application For Approval

2–2.1.1. General [old D2–2.]

Except as specified in 2–2.1.3 and 2–2.1.4, below, and subject to the restrictions set out in 2–3, below, any firm desiring to participate in the program must request approval during the open approval window.

2–2.1.2. Definitions [old I2–2.1.2]

For the purposes of this section, the following definitions apply.

2–2.1.2.1. Transportation Services

Transportation services include line haul transportation, carrier services, accessorial services, and storage-in-transit (SIT) of the personal effects and property of employees of civilian, non-Department of Defense, Departments and agencies of the United States Government when relocating pursuant to permanent change of station orders between or within the continental United States and offshore states, trust territories, or possessions of the U.S, or between or within the continental United States and foreign countries. (as specified in Section 14)

2–2.1.2.2. Carrier [old I2–2.1.2.1]

A person authorized by the appropriate regulatory body (U.S. Department of Transportation (successor to the Interstate Commerce Commission), Federal Maritime Commissions, State authority, or other authority of cognizant jurisdiction) to engage in for-hire transportation of household goods and personal effects as defined in Section 1 of this HTOS.

2–2.1.2.3. Carrier Services [old I2–2.1.2.2]

For domestic and international household goods shipments, as appropriate, carrier services include, but are not limited to, providing origin agents for the performance of premove surveys, packing, the stuffing of containers and liftvans, line-haul transportation from origin to port of debarkation, providing debarkation port agent and broker services, providing ocean transportation, providing embarkation port agent and broker services, customs clearance, inland transportation to destination, and providing destination agents for the performance of storage-in-transit, delivery, unpacking, placement of property, and removal of debris, containers, and liftvans.

2–2.1.2.4. Agent [old I2–2.1.2.3]

A person under contract to a carrier for the provision of accessorial and terminal services.

2–2.1.2.5. Agent Services [old I2–2.1.2.4]

For domestic and international household goods moves, as appropriate, agent services include, but are not limited to, providing premove surveys, packing, crating, stuffing containers and liftvans, local transportation within the origin or destination locality, storage-in-transit (SIT), delivery, unpacking, placement of property, and removal of debris, containers, and liftvans. An agent's provision of line-haul transportation services under the terms of the firm-agent contract and under the operating authority of the firm is not part of agent services.

2–2.1.3. Carriers [old I2–2.1.3]

Any carrier, hereinafter referred to as a firm, except in those instances where an agent is clearly intended or otherwise indicated as "carrier," desiring to participate in the program must apply for approval. Approval to participate in any domestic program is not qualifying for participation in any international program.

2–2.1.4. Agents [old I2–2.1.4]

Based on the requirements of the shipping Federal agency, a firm desiring to provide agent services for a carrier may require that Federal agency's approval.

2–2.1.5. Instructions for Application Submission and Evaluation [old I2–2.1.4.1]

Each Federal agency requiring agent approval is responsible for the establishment of approval application submission requirements, approval standards, and approval processing and issuance.

2–2.2. Requests To Participate [old D2–2.]

Requests to participate must be sent to: General Services Administration, Federal Supply Service Bureau, Transportation Management Branch (6FBX), 1500 East Bannister Road, Room 1076, Kansas City, MO 64131–3088, Telephone: (816) 823–3646, Fax No. (816) 823–3656; (hereafter referred to as Program Management Office or PMO).

2–3. Restriction on Application for Approval [old 2–3]

2–3.1. Previous CHAMP Participants [old I2–3.1]

Applications for approval from previous Participants in CHAMP, whether terminated by GSA or voluntarily withdrawn, are subject to the following restrictions.

2–3.1.1. Terminated Firm [old I2–3.1.1]

Subject to the provisions of 2–4, below, a firm terminated by GSA may reapply in the approval cycle after the first anniversary of the firm's termination from the program.

2–3.1.2. Withdrawn Firm [old I2–3.1.2]

Subject to the provisions of 2–4, below, a firm that has voluntarily withdrawn from the program may reapply in the next approval cycle following the firm's withdrawal from the program.

2–4. Application [old 2–4]

2–4.1. General [old D2–3. & I2–4.1]

When submitting an application for approval, a firm must submit an application in its own name for approval as a Participant. A firm that on its own behalf or on behalf of an agent (a) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (b) makes any false, fictitious or fraudulent statements or representations; or (c) makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry on any part of the application or on any document furnished pursuant to this HTOS is punishable by fines, imprisonment, or both (U.S. Code, Title 18, Section 1001). In order to be considered for approval, the following requirements must be met by either the firm or the designated agent, as specified.

2–4.2. Agreement To Abide by the HTOS [old D2–3. & I2–4.2]

2–4.2.1. Firm [old D2–3 & I2–4.2.1]

The applicant must agree to abide by the terms and conditions of the CHAMP

HTOS. If applicant is applying for both Domestic & International Programs, only one Agreement To Abide By The HTOS must be completed and signed.

2–4.2.2. Agent [old I2–4.2.2]

The applicant firm must certify that each agent it will use has agreed to abide by the terms and conditions of the CHAMP HTOS.

2–4.3. Operating Authority [old I2–4.3]

2–4.3.1. Firm [old I2–4.3.1]

The applicant firm must hold all necessary operating authorities, permits, and business licenses issued in its name, from appropriate regulatory bodies, for the transportation of personal property and will provide copies of each authority, permit, or business license to the PMO upon demand, or that it is exempt from such regulatory certification by operation of law or order of an appropriate regulatory body and, in addition to tariff and legal requirements, agrees to the provisions of this HTOS. The firm must also meet any applicable ownership requirement established by law for the type of carriage of goods in which it engages.

2–4.3.2. Agent [old 2–4.3.2]

2–4.3.2.1. Business Licenses [old I2–4.3.2.1]

The applicant firm must certify that each agent it will use holds all necessary operating authorities, permits, business licenses, issued in its name, from appropriate regulatory bodies, for the provision of agent services as defined in this section and will provide copies of each authority, permit, or business license, to the PMO upon demand, or that it is exempt from such regulatory certification by operation of law or order of an appropriate regulatory body and, in addition to tariff and legal requirements, agrees to the provisions of this HTOS. The agent must also meet any applicable ownership requirement established by law for the type of services in which it engages.

2–4.3.2.2. Carrier-Agent Agreement [old I2–4.3.2.2]

The applicant carrier must certify that each agent it will use to provide agent services is at the time of application or will be at the time of use party to a valid written agency agreement between itself and the applicant carrier. The agreement must, at a minimum, contain the language set out in Section 8 [Agency Agreements], set out the terms and conditions of the agent's representation of the carrier, the services to be provided, the terms and method of payment for services rendered, the quality control standards expected by the firm and the method of quality measurement, and the terms under which the agreement may be terminated.

2–4.4. SCAC (Standard Carrier Alpha Code) Designation [old D2–3. & I2–4.4]

An applicant firm must have a valid SCAC as issued by the National Motor Freight Association, Washington, DC. An applicant's request will not be processed without the SCAC.

2–4.5. Trading Partner Agreement

The applicant firm must complete and sign the Trading Partner Agreement and send it back in hard copy with all other required documentation. If applying for both the Domestic and International Programs, you need only to complete one TPA. An applicant's request will not be processed without the Trading Partner Agreement.

2–4.6. Cargo Insurance [old D2–3 & I2–4.5]

The applicant shall maintain cargo liability insurance during the term of this agreement at a minimum, in the amount of $65,000 for any one shipment per vehicle and $150,000 for any one disaster causing loss or damage to the contents of two or more shipments per vehicle or property otherwise located. The insurance policy must not contain any provision excluding liability for loss and/or damage for which the firm is responsible under the terms of this HTOS.

2–4.7. Provision of Bond. International Only [old I2–4.6]

In the event the applicant carrier is applying for approval to handle international shipments, the carrier shall maintain a performance bond during the term of this agreement (to be renewed on the approval anniversary of each following year) during the term of this agreement at a minimum in the amount of $75,000 or 2.5%, whichever is greater, of the firm's (principal) gross annual revenue derived from CHAMP ITGBL shipments the preceding calendar year executed by a surety appearing on the list contained in the Department of Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds."

2–4.8. Experience

2–4.8.1. Firm [old D2–3 & I2–4.7.1]

The applicant shall have and maintain operations consistent with standard industry practices and this HTOS such that an acceptable level of service has been and will continue to be provided.

2–4.8.2. Agent

2–4.8.2.1. Carrier

The applicant carrier must certify that each agent it will use has and maintains operations consistent with standard industry practices and this HTOS such that an acceptable level of service has been and will continue to be provided.

2–4.9. Quality Control Program [old 2–4.8]

2–4.9.1. Firm [old I2–4.8.1]

The applicant must have a published corporate quality control system which will provide total visibility of all facets of the CHAMP and ensures that the service provided is equal to or greater than the standards of service established by this HTOS.

2–4.9.2. Agent [old I2–4.8.2]

2–4.9.2.1. Carrier

The applicant carrier must certify that each agent it will use has a published corporate quality control system which will provide total visibility of all facets of the CHAMP, and ensure that the service provided is equal to or greater than the standards of service established by this HTOS.

2–4.10. Financial Responsibility

2–4.10.1. Firm [old D2–3. & I2–4.9.1]

The applicant must demonstrate its financial responsibility, working capital, and other financial, technical, and management resources to perform.

2–4.11. Agent Facilities [old I2–4.10]

Applicant carrier agents must have the following: (a) 2,000 cubic feet of storage space available for the use of the applicant carrier (b) two vehicles, one of which must be a weather tight van of at least 1,000 cubic feet capacity and one open bed vehicle with a minimum length of 16 feet each; and (c) one mobile lifting device with a minimum lifting capacity of 4,000 pounds.

2–4.12. Previously Approved Firms [old I2–4.11]

Firms, whether terminated by GSA or voluntarily withdrawn, reapplying for approval must have the support of former federal civilian, non-DOD, customers.

2–5. Submission Requirements [old 2–5]

2–5.1. General [old I2–5.1]

The request for approval is subject to the requirements set forth below. Unless otherwise provided, the term applicant shall mean the applicant carrier.

VOL 66 ISS 246 DEC 21 2001 UMI

2–5.2. Waiver Of Submission Requirements [old I2–5.2]

In the event an applicant has been formally registered as compliant with the International Organization for Standardization Standard 9000 or one of the standards within the 9000 series (referred to hereafter as ISO 9000) by an internationally recognized ISO 9000 registrar, GSA reserves the right to waive any or all approval requirements pertaining to *qualitystandards*.

2–5.3. ISO 9000 Registration [old I2–5.3.1]

A certified true copy of the certificate of conformity.

2–5.4. HTOS Certification [old D2–3 & I2–5.3.2]

An original signed copy of the HTOS Certification Sheet (included in Section 15 of this HTOS), entitled Request to Participate and Agreement to Abide by the Terms and Conditions of the General Service Administration's Centralized Household Goods Traffic Management Program.

2–5.5. SCAC Designation [old D2–3 & I2–5.3.3]

The applicant must submit a copy of the letter from the National Motor Freight Association, Washington, DC, assigning that firm a SCAC.

2–5.6. Applicant Information [old I2–5.3.4]

Information concerning the applicant, such as name, postal address, electronic mail address, telephone and facsimile numbers, corporate office, operating authorities, and other carriers with which the applicant does business. The applicant will indicate whether or not it is under the financial or administrative control of any other household effects carrier or forwarder, and state the name of the carrier, or forwarder controlling the applicant. The applicant will provide a list of household effects carrier(s), and/or forwarder(s) which are under its common financial or administrative control.

2–5.7. Business Statistics [old D2–3. & I2.5.3.5.]

Information concerning the applicant's household goods transportation business, including, but not limited to shipments booked, shipments serviced, and claims.

2–5.8. Scope Of Operation [old D2–3 & I2–5.3.6]

Information concerning the applicant's proposed and actual scopes of operation. For its actual scope of operation, the applicant will also provide the actual number of shipments handled between each serviced service-area pair during the past five years.

2–5.9. Financial Information [old D2–3 & I2–5.3.7]

The applicant must submit such financial information as is required by the instructions. If requested by GSA during the conduct of the initial financial review, the applicant must provide any additional or supplemental financial information. If considered necessary to assure satisfactory performance and avoidance of firm/forwarder financial problems, GSA reserves the right to request any of the following, individually or in combination: (1) Company certified financial statements; (2) CPA review (including footnotes) of financial statements; and (3) CPA audit and opinion (including footnotes) of financial statements.

2–5.10. Additional Information [old D2–3. & I2–5.3.8]

Except as otherwise provided in the HTOS, GSA reserves the right to request additional or supplemental information when that contained in the application is insufficient for a proper evaluation. Unless requested by GSA, additional or supplemental information will not be accepted.

2–5.11. Firm Processes And Process Controls [old D2–3. & I2–5.4.1]

A questionnaire dealing with various aspects of the applicant's processes and process controls, such as booking and registration, tracing, claims adjudication, SIT warehouse selection, and quality control.

2–5.12. Quality Control Program

2–5.12.1. General [old I2–5.4.2.1]

The applicant will furnish information regarding its published internal quality control program covering the functions of traffic management (routing, tracing, and billing), packing/packaging/containerization, employee training, supervision, and, if appropriate, agent supervision and include quality goals and objectives with measurable performance standards, measurement techniques, and actions based on those standards.

2–5.12.2. Carrier-Agent Interface [old I2.5.4.2.2]

The applicant will furnish information on how its quality control program is applied to its agents and how it is monitored. In addition, the applicant will describe how its program relates to and reinforces the quality control program of its agents.

2–5.13. Corporate Account Trends [old D2–3. & I2–5.4.3]

The applicant will provide information concerning its corporate account activity during the preceding five calendar years.

2–5.14. HTOS Questionnaire [old D2–3. & I2–5.4.4]

A questionnaire designed to familiarize the applicant with the requirements of the HTOS. GSA reserves the right to require that the HTOS Questionnaire be recompleted when the applicant has failed to complete a substantial number of the questions correctly.

2–5.15. Performance Bond—International Only [old I2–5.4.6]

An original written statement from the surety company indicating that it will provide, using the format set out in the approval package and at the request of the applicant, the required performance bond to the PMO no later than the due date for the filing of rates in the Filing Cycle in which the applicant first files rates. In the event the performance bond is not submitted as specified or does not meet the requirements for the performance bond, the applicant's rate filing will be handled in accordance with the Request for Offers provisions regarding non-rate related deficiencies.

2–5.16. Federal Support [old I2–5.4.7]

In the event the application is from a firm covered by 2–4.12, above, the approval application must be supported by statements from all federal agencies that had previously used that firm for household goods transportation services. The statements of support must be in the form and format specified by GSA.

2–6. Evaluation [old I2–6]

The request for approval will be evaluated in accordance with the criteria set forth below. As used in the following, the term "applicant" shall include both the firm and its sponsored agents, unless otherwise provided.

2–6.1. ISO 9000 Registration [old I2–6.1.1]

Each submitted certification will be reviewed to determine its legitimacy and applicability, and that the required periodic audits have been performed.

2–6.2. HTOS Certification [old D2–3. & I2–6.1.2]

The certification will be reviewed to determine that the applicant has agreed to abide by the Terms and Conditions of the General Services Administration's Centralized Household Goods Traffic Management Program.

2–6.3. SCAC Designation [old D2–3. & I2–6.1.3]

GSA will verify that the National Motor Freight Association, Washington, DC, has issued the SCAC.

2–6.4. Business Statistics, Scope of Operations, Applicant Operations and Processes and Facilities [old D2–3. & I2–6.1.4]

GSA will evaluate the applicant's responses in terms of whether the applicant has demonstrated actual and potential ability to perform in accordance with the HTOS, performance consistent with that of applicant's already participating in the program, and performance that will meet the levels of quality expected of approved Participants.

2–6.5. Financial Information [old D2–3. & I2–6.1.5]

GSA will evaluate this information to determine whether the applicant has sufficient financial capacity to provide service.

2–6.6. Firm Processes and Process Controls [old D2–3. & I2–6.2.1]

GSA will evaluate the applicant's responses in terms of whether the applicant has demonstrated actual potential ability to perform in accordance with HTOS, performance consistent with that of firms or agents, as appropriate, already participating in the program, and performance that will meet the levels of quality expected of approved program Participants.

2–6.7. Quality Control Program [old I2–6.2.2]

GSA will determine whether the applicant's internal quality control program has been formally published, contains quality goals and objectives with measurable performance standards, measurement techniques, and actions based on those standards, and is sufficient to ensure that the applicant's operations, employees, and agents, if appropriate, are familiar with and will be held accountable for the achievement of the program's goals and objectives. GSA will also determine that the interface of quality control programs between the applicant firm and each of its designated agents is such that the quality goals and objectives and the performance standards are relatively consistent and will result in a unified approach to the quality of service delivery.

2–6.8. Corporate Account Trends [old D2–3. & I2–6.2.3]

GSA will determine how well the applicant has managed and handled its corporate account businesses.

2–6.9. HTOS Questionnaire [old D2–3 & I2–6.2.4]

GSA will evaluate the responses to the questionnaire in terms of whether the applicant has an understanding of the HTOS sufficient to performance that will meet the levels of quality expected of approved program Participants.

2–6.10. Certificate of Insurance [old D2–3 & I2–6.2.5]

Upon receipt of the vendor certification statement of cargo liability insurance from the carrier, and in accordance with the instructions listed in the RFO, GSA will verify the primary underwriter of the cargo insurance policy is licensed by the appropriate regulatory authority. The insurance must also provide for notice of termination or cancellation be provided thirty (30) days prior thereto to the PMO. (SATISFACTORY/ UNSATISFACTORY).

2–6.11. Performance Bond.—International Only [old I2–6.2.6]

Upon receipt of the performance bond from the surety, GSA will verify that the surety company executing the bond appears on the list contained in the Department of Treasury Circular 570, "Surety Companies Acceptable on Federal Bonds," and that the sum of the bond is correct. (Acceptable/ Unacceptable).

2–6.12. Federal Support [old I2–6.2.7]

In the event the application is from a firm covered by 2–3.1, above, GSA will evaluate the federal support for the applicant to determine whether the applicant's recommencement of operations or its initiation of operations is supported by at least 75% of its former federal, non-DOD customers.

2–7. Approval [old D2–4. & I2–7]

A firm will be approved when the evaluation results in a determination that the applicant possesses sufficient qualifications, experience, facilities, quality control processes, and financial capacity.

2–8. Approval Limitation. [old D2–5 & I2–8]

2–8.1. General [old D2–5. & I2–8.1]

The approval of a firm shall include a limitation on the scope of that firm's operations within the program. The limitation shall be determined in accordance with the following criteria.

2–8.2. New Participants [old D2–5 & I2–8.2]

2–8.2.1. Transportation Services

Except as provided in Paragraphs 2.8.3 and 2.8.4 below, new firms are those applicants approved as Participants during a specific approval window. The designation "new" shall apply until November of the calendar year following the year in which approval was granted (for example, an applicant approved in 1997 shall be considered a new firm until November, 1998). GSA will limit the new Participant's scope of operation to that consistent with the applicant's experience, resources, quality control processes, and financial responsibility.

2–8.3. Applicants Whose Approval Has Been Terminated [old D2–5 & I2–8.3]

For those applicants whose approval as a firm has been terminated by GSA and have subsequently reapplied as a firm, the applicant's scope of operation will not exceed that previously approved, unless GSA determines that a lesser scope is consistent with the applicant's experience, resources, quality control processes, financial responsibility, and prior performance in the program.

2–8.4. Applicants Which Have Voluntarily Withdrawn [old D2–5 & I2–8.4]

For those firm applicants which have voluntarily withdrawn from the program and reapplied as firms, the applicant's scope of operation will not exceed that previously approved, unless GSA determines that a lesser scope is consistent with the applicant's experience, resources, quality control processes, financial responsibility, and prior performance in the program.

2–8.5. Scope Of Operation Adjustments [old D2–5. & I2–8.5]

For other than new firm Participants, the approved scope of operation will be adjusted based on customer satisfaction with the firm's performance within its assigned scope of operation as indicated by the Customer Satisfaction Index effective on November 1 of the year of adjustment. The adjustment shall be calculated in accordance with the following.

2–8.5.1. Adjustment When the Customer Satisfaction Index (CSI) Is Greater Than 105 [old D2–5 & I2–8.5.1]

A CSI greater than 105.00 indicates better than average customer satisfaction. A firm with a CSI greater than 105.00 may increase its scope of operation by an amount equal to the

UMI
VOL 66
ISS 246
DE 21
2001
UMI

difference between its CSI and 100.00. For example, a CSI of 109.83 would permit a 9.83% increase in the number of service area pairs (SAP) in the approved scope of operation, as demonstrated by the following computations:

Program Average = 100.00
CSI = 109.83
# of SAPs approved = 3
Step 1: 109.83 − 100.00 = 9.83 (move the decimal two places to the left of the decimal position—example: change 109.83 to .0983)
Step 2: 3 × .0983 = .29 or an increase of 1 SAP

Note: Round all percentages relating to the number of SAP's to the next greater whole number—For example, .29 to 1.

2–8.5.2. Adjustment When the Customer Satisfaction Index (CSI) Is Between 95 and 105 [old D2–5. & I2–8.5.2]

A CSI between 95.00 and 105.00 indicates average customer satisfaction. A firm with a CSI between 95.00 and 105.00 may not change its scope of operation.

2–8.5.3. Adjustment When the Customer Satisfaction Index (CSI) Is Less Than 95 [old D2–5. & I2–8.5.3]

A firm with a CSI less than 95.00 must decrease its scope of operation by an amount equal to the difference between its CSI and 100.00.

2–8.5.4. Reduction of a Multi-Service Area Pair Scope (Old D2–5. & I2–8.5.3.1)

When a firm has a multi-service area scope, the firm will be required to reduce its scope of operation by an amount equal to the difference between its CSI and 100.00. For example, a CSI of 88.23 would require an 11.77% decrease in the number of service area pairs (SAP) in the approved scope of operation, as demonstrated by the following computations:

Program Average = 100.00
CSI = 88.23
# of SAPs approved = 115
Step 1: 100.0 − 88.23 = 11.77% (move decimal two places to the left for calculation purposes in step 2).
Step 2: 115 × .1177 = 13.54 or decrease of 14 SAP's.

Note: Round all percentages relating to the number of SAP's to the next greater whole number—For example, round 13.54 to 14.

2–8.5.4.1. Reduction of a Single Service Area Pair Scope [old D2–5. & I2–8.5.3.2]

When a firm's CSI is less than 95.00 and the firm's scope of operation must be reduced as provided in 2-8.5.3, above, and when the resultant scope of operation would be zero (0) service area pairs or service areas, as the case may be, the scope will not be changed for the filing cycle during which the Customer Satisfaction Index will be effective, subject to the provisions of 2–8.5.6, Adjustment, when the firm is unindexed.

2–8.5.5. Adjustment When There Is No CSI [old D2–5. & I2–8.5.4]

The lack of a CSI indicates that GSA has been unable to establish the quality of the firm's performance. An unindexed firm may not change its scope of operation.

2–8.5.6. Adjustments Based on Factors Other Than the Customer Satisfaction Index [old D2–5. & I2–8.5.5]

For firms other than new that have filed rates since their approval, the approved scope of operation under the circumstances and in accordance with the provisions described below may be adjusted upon written request by the firm. Any approved adjustment will be effective as determined by GSA.

2–8.5.6.1. Adjustment Based on an Increase in Operating Authority [old D2–5. & I2–8.5.5.1]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's operating authority increases, no adjustment in the assigned scope of operation will be made unless the firm's current published Customer Satisfaction Index is greater than 105.00; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.2. Adjustment Due to Mergers and Acquisition [old D2–5. & I2–8.5.5.2]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's operating authority increases because of a merger and/or acquisition, no adjustment in the assigned scope of operation will be made unless the firm's current published Customer Satisfaction Index is greater than 105.00; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.3. Adjustments Based on Reorganization Plans [old D2–5. & I2–8.5.5.3]

If subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, a firm's plan for reorganization is approved under the laws of the United States, GSA will require the submission of current information in accordance with the requirements set out in 2–5 above, and increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.4. Adjustment Based on Financial Capacity [old D2–5. & I2-8.5.5.4]

Subsequent to a firm's approval and the assignment of or any adjustment to a scope of operation, GSA reserves the right to require a firm to submit current financial information and increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.5. Adjustment Based on Redesignation of Principal Operating Company [old D2–5. & I2–8.5.5.5]

Subsequent to a firm's approval and the assignment of or any adjustment to the scope of operation, the scope of operation will not be adjusted due to the redesignation of the principal operating company (POC) by the parent company.

2–8.5.6.6. Adjustment Based on Firm Name Change [old D2–5. & I2–8.5.5.6]

An approved firm may change its name upon submission of a copy of its approval by the U.S. Department of Transportation (successor to the Interstate Commerce Commission), or appropriate regulatory authority to the PMO. Such documentation must clearly demonstrate a change of name as can be determined by the PMO. No adjustments in the assigned scope of operation will be made; provided, however, that GSA reserves the right to require the firm to submit current information in accordance with the requirements set out in 2–5 above, and to increase, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.6.7. Adjustment When More Than One of the Factors Cited in 2–8.5.6.1 Through 2–8.5.6.6 Applies [old D2–5. & I2–8.5.5.7]

When more than one of the factors cited in 2–8.5.6.1 through 2–8.5.6.6 applies (for example, an approved reorganization coupled with a name change), GSA reserves the right to determine the factor under the terms of which any adjustment action will be taken.

2–8.5.7. Restructuring of Scope of Operation [old D2–5. & I2–8.5.6]

2–8.5.7.1. Restructuring Under the Provisions of 2–8.5.9.3 [old D2–5. & I2–8.5.6.1]

Upon approval of a reorganization plan by the cognizant Bankruptcy Court of the United States, a firm is required to submit a plan for restructuring of its scope of operation and the information required in 2–5, above.

2–8.5.7.2. Restructuring Based on Changes in Traffic Patterns [old D–2.5 & I2–8.5.6.2]

Over a period of time and for various reasons, a firm's predominant, long-term traffic patterns may change. Such changes may result in the approved scope of operation no longer matching the traffic patterns of the firm. Accordingly and notwithstanding any of the provisions set out in 2.8.5, above, a firm may request in writing a restructuring of its scope of operation.

2–8.5.7.2.1. Time of Request [old D2–5. & I2–8.5.6.2.1]

No earlier than five (5) years after the year in which the firm was approved to participate in the program and in five (5) year increments thereafter, a firm may request a review of its scope of operations; for example, a firm approved in calendar year 1989 may request a review of its scope of operation in calendar year 1994 and thereafter in calendar years 1999, 2004, and so on). [See Section 5, Restructuring of Scope of Operations.]

2–8.5.7.2.2. Procedure [old D2–5. & I2–8.5.6.2.2]

When a firm has determined that it wants to exercise its rights to request a restructuring, the firm shall notify the PMO in writing of its intent to file a request for restructuring under the terms of this HTOS. Upon receipt of such notice, the PMO shall transmit to the firm the instructions for the submission of its requests. The firm must then file the formal request in the anniversary year. Formal request, as opposed to the notice of intent to request, received by GSA prior to or after the anniversary year will be rejected.

2–8.5.7.2.3. General Content of Instructions [old D2–5. & I2–8.5.6.2.3]

Generally, the firm will be required to submit the information identified in 2–5 together with sufficient traffic flow statistics and such other information as may be needed to support a conclusion that a substantial, long term change in traffic patterns different from the approved scope of operation has occurred.

2–8.5.7.2.4. Action On The Request [old D2–5. & I2–8.5.6.2.4]

GSA reserves the right to restructure, decrease, or not change the firm's scope of operation based on the evaluation of that information.

2–8.5.7.3. Needs Of The Program [old D2–5. & I2–8.5.6.3]

GSA reserves the right to increase or restructure a firm's scope of operation without regard to the firm's Customer Satisfaction Index when the needs of the program require such increase or restructuring.

2–9. Rejection Of Application To Participate [old D2–6. & I2–9]

2–9.1. Timeliness [old D2–6. & I2–9.1]

An applicant's failure to file by the respective due dates will result in the rejection of its application.

2–9.2. Reserved For Future Use [old I2–9.2]

This Subparagraph reserved for future use.

2–9.3. Financial Responsibility [old D2–6. & I2–9.3]

An applicant not meeting the financial qualification standards will not be approved.

2–9.4. Business And Operational Responsibility [old D2–6. & I2–9.4]

An applicant not meeting the business and operational responsibility standards such that a scope of operation cannot be established will not be approved.

2–10. Continued Participation [old D2–7. & I2–10]

2–10.1. General [old D2–7. & I2–10.1]

Once an applicant has been approved to participate, continued participation depends upon (1) The Participant showing a willingness and ability to meet the transportation requirements of the United States Government and the HTOS; and (2) the Participant's maintenance of financial responsibility, working capital, and other financial, technical, quality control processes, and management resources to perform.

2–10.2. Continuation Of ISO 9000 Certification [old I2–10.2]

In the event that a firm's approval is predicated in part on ISO 9000 certification and that certification lapses or is terminated by the certification registrar, the firm's approval will become conditional until it has completed all parts of the application that were waived because of the ISO 9000 certification; provided, however, that should the firm not meet the evaluation standards, approval will be terminated.

2–10.3. Continuation of Insurance [old I2–10.3]

If at any time the firm's certification statement of cargo liability insurance is not provided to the PMO in accordance with the RFO, the firm's participation in the program will be immediately terminated.

2–10.4. Continuation of Performance Bond—International Only [old I2–10.4]

If at any time the firm's performance bond is canceled and not replaced with an acceptable new bond, the firm's participation in the program will be immediately terminated.

2–10.5. Assignment Of Rights [old I2–10.5]

Except for assignment of payment of the Participant's original bills to a bank for collection and in the event that a Participant exercises any right under a currently existing agreement nor enters into agreements with parties not subject to its control which in any way infringe, controvert, or otherwise subordinate or prevent the Participant from deciding unilaterally whether it will or will not submit a claim or file suit against the Government or pay a claim by the Government after the original bill for services performed under this HTOS, the Participant's approval will be immediately terminated.

2–10.6. Conditional Approval Based on a Customer Satisfaction Index Less Than 95.00 When a Single Service Area Scope of Operation is Involved—Firm [old I2–10.6]

Under the conditions specified in 2–8.5.4.1, above, the following applies.

2–10.6.1. Change in Approval Status [old D2–7. & I2–10.6.1]

The firm's approval will be changed to conditional for the filing cycle during which the Customer Satisfaction Index will be effective.

2–10.6.2. Revocation of Approval [old D2–7. & I2–10.6.2]

In the event the firm's Customer Satisfaction Index for the subsequent customer satisfaction rating period remains less than 95.00, the firm's approval will be terminated.

2–10.6.3. Termination of Conditional Approval [old D2–7. & I2–10.6.3]

If the firm's Customer Satisfaction Index for the subsequent customer

UMI
VOL 66
ISS 246
DE 21
2001
UMI

satisfaction rating period is 95.00 or greater or the firm is unindexed for the subsequent customer satisfaction rating period, the conditional approval will be terminated.

2–10.7. Submission of False Information [old D2–7. & I2–10.7]

Willful submission of false information on any document furnished by the applicant or Participant pursuant to this HTOS is punishable by fines, imprisonment, or both (U.S. Code Title 18, Section 1001), and may be grounds for terminating the Participant's approval to participate in the program. Federal agencies are responsible for the final evaluation of firm performance and selections of firms which best serve their needs. In the event it is later discovered that the firm was in CFAC and did not declare that fact, the Participant's approval will be terminated.

2–10.8. Updating Approval Information [old D2–7. & I2–10.8]

Whenever an approved Participant makes substantive changes in its organization or operation as described in its approval application, the Participant must advise the PMO in writing of such changes.

2–10.9. Bankruptcies [old D2–7. & I2–10.9]

2–10.9.1. General [old D2–7. & I2–10.9.1]

A Participant filing a petition for reorganization, or bankruptcy under the laws of the United States or a foreign country must notify the Program Management Office.

2–10.9.2. Reorganization [old D2–7. & I2–10.9.2]

When a Participant files a petition for reorganization under the laws of the United States or a foreign country, the Participant's approval to participate in the program will be subject to review and redetermined in accordance with the provisions of 2–8.5.6.3 and 2–8.5.7.1, above.

2–10.9.3. Bankruptcy [old D2–7. & I2–10.9.3]

When a Participant files a petition for bankruptcy, the Participant's approval to participate will be immediately terminated.

2–10.9.4. Failure To Notify PMO [old D2–7. & I2–10.9.4]

In the event the Participant fails to notify the PMO in accordance with 2–10.9.1 of its filing for reorganization and/or bankruptcy, its approval to participate in the Centralized Household Goods Program shall be terminated.

2–10.9.5. Firm Withdrawal Of Approval [old 2–10.10]

2–10.9.5.1. General [old D2–7. & I2–10.10.1]

A Participant may terminate (withdraw) its participation in the program at any time. A Participant terminating (withdrawing) its approval to participate in the Centralized Household Goods Traffic Management Program must notify the PMO in writing.

2–10.9.5.2. Constructive Withdrawal [old I2–10.10.2]

If a Participant is a principal operating company or is independently owned and operated, it will be construed as having withdrawn from participation in the program if it does not file rates in two consecutive years.

Section 3—Offers of Service

3–1. Filing [old D3–1]

Subject to Paragraph 3–4 below, Participants approved to participate in the Program may submit offers to provide the transportation services covered by this HTOS.

3–2. Time of Filing [old D3–2]

Except for newly approved Participants, offers may be filed only during the period designated in the filing instructions for the filing of offers. Newly approved Participants may file offers during the first open filing period, as set out in the filing instructions, after their approval.

3–3. Filing Restrictions [old D3–3]

3–3.1. Approved Participants [old D3–3]

The filing of offers is restricted to an approved Participant in the Centralized Household Goods Traffic Management Program (CHAMP).

3–3.2. Scope of Operation. [old D3–3]

The filing of offers is restricted to an approved Participant's scope of operation.

3–4. Acceptance/Rejection of Offers [old D3–4]

Offers submitted shall be accepted/rejected in accordance with such terms and conditions as the PMO deems necessary to assure maintenance of service, fair and reasonable pricing, and free and open competition. Offers outside the Participants approved scope of operations will be rejected.

3–5. Issuance of Special Offers.

3–5.1. General [old D3–5]

Except as provided in HTOS Paragraph 3–5.1.1. below, it is expressly prohibited for Participants party to this HTOS, their affiliates, or agents to offer, whether solicited or unsolicited, to a Federal agency subject to GSA's Centralized Household Goods Traffic Management Program any services, rates, rules, or charges different from those available in the Program. Availability in the Program shall be construed as a Participant's rate offer accepted in the normal course of a rate filing cycle; or if a Participant's rate offer had been rejected, any action by the Participant to make an offer to Federal agencies independent of GSA action. Violation of this paragraph will result in immediate placement of the principle operating company (POC) in temporary non-use for a period of 90 days, potential revocation of the POC's approval, and possible referral for Government-wide debarment.

3–5.1.1. Exception [old D3–5]

Participants may issue a special rate tender for first proviso household goods shipments for the use of a cost-reimbursable contractor of the United States Government. The terms of the rate tender must be such as to preclude use of that rate tender by the contracting Federal agency. For example, a Participant may issue a rate tender for "Department of Energy's Cost-Reimbursable Contractors", but not for "the Department of Energy and its cost-reimbursable contractors". The rates and charges offered in such rate tenders must be equal to or better than those set out in any rate tender accepted and otherwise available to Federal agencies.

3–6. Filing Instructions [old D3–6]

3–6.1. General

Instructions for the filing of offers, Request for Offers (RFO), will be issued by the PMO on an annual basis, unless changes in the program or other factors require the issuance of instructions on a different basis. Except as provided below, all terms, conditions, and instructions will be setout in the RFO.

3–6.2. Geographic Coverage [old D3–6]

3–6.2.1. Domestic

The geographic areas included in domestic offers are defined in Section 14. Offers for service within Alaska or between Alaska and all other points defined as domestic will include only those points identified in the RFO. Offers for all other domestic service must be for all points within the defined service areas for interstate and for the full state for intrastate.

3–6.2.2. International

The geographic areas included in international offers are defined in Section 14. Offers for all international service may be between international areas or between international and domestic areas. In any case, offers for international service must be for all points within the defined service areas and/or countries.

3–6.3. Supplements [old 3.6.1.6.2]

Supplements to an initially accepted offer must be submitted in accordance with the RFO. If supplements do not conform to the requirements of the RFO, they will be rejected.

3–6.4. Liability for error [old D3–6]

GSA is not liable for any error in the formatting or content of a Participant's offer. In the event of differences between a Participant's submitted offer and its accepted offers as set out in the ITMS, the accepted offer as set out in ITMS will take precedence.

Section 4—Statement of Work

4–1. Performance Of Services

4–1.1. Scope of Service [old D4–1]

The responsible transportation officer (RTO) or the owner of the goods, or his/her designated representative, shall establish firm service dates in conjunction with Participants accepting shipments offered under this HTOS for the prompt performance of all necessary origin and destination services. Origin services shall include packing, necessary servicing of appliances and electrical equipment, pickup from owner's residence or place of storage, and loading and removal of packing debris. Destination services shall include delivery, unpacking, single placement of household goods in owner's residence, servicing of appliances and electrical equipment, removal of unpacking debris, and customs services, as required. These services shall be performed on, before, or after the date shown on the Government Bill of Lading (GBL). The required delivery date noted on the GBL will not be construed by the Participant as expedited service, unless specifically authorized by the RTO. The physical transfer of individual shipments from one line-haul vehicle to another will be held to a minimum.

4–1.2. Scope of Service—International Only [old I4.1.2]

Unless directed otherwise by the employing Federal agency, the Participant will be required to place goods in Type II containers at origin, provide surface transportation to the ocean Participant terminal, transfer of goods to sea container, if necessary, transportation to port of debarkation, transfer of goods loaded in Type II containers from sea containers to motor Participant, if necessary, and delivery into storage or to destination residence; or place Type II containers in sea containers at origin residence and transportation to destination residence or storage facility.

4–1.2.1. Use of American Flag Vessels—International Only

4–1.2.1.1. General—International Only [old I4.4]

Except as provided below, the Participant will use ships of United States registry for the ocean portion of overseas shipments and book shipments for container or below deck stowage.

4–1.2.1.2. Use of Foreign Flag Shipping.—International Only [old I4.4]

When it is determined that the use of a vessel of United States registry will not provide the required service, the Participant will request permission to use Foreign Flag vessel prior to start of movement. Requests for permission to use a Foreign Flag vessel must be made to RTO on the form "Request for Approval of Use of a Foreign Flag Vessel". Authority will be granted only when US flag shipping is not available or the use of foreign flag shipping is necessary to meet delivery requirements to which the Participant will certify in writing.

4–1.2.2. Overflow And Split Shipments—International Only.

4–1.2.2.1. Ocean Shipments.—International Only. [old I4.1]

The Participant will book all items of a single shipment together on the same vessel, same voyage or departure. In the event that a portion of any shipment should be shut out by the ocean Participant, the Participant will notify the RTO. Shipments may be split between ocean containers but not between ocean voyages.

4–1.2.2.2. Non-Ocean Shipments.—International Only [old I4.1]

If it is necessary to split a shipment for the non-ocean line-haul movement, the established RDD is applicable to all parts of the shipment.

4–1.2.3. Use of Agents In Unnamed Localities—International Only [old I4.1]

An agent furnishing agent services in a locality not named in Section 14 may provide agent services to a requesting Participant; provided, however, that the Participant has obtained the permission of the RTO to use that agent prior to commencement of performance.

4–1.3. Pickup And Delivery Service [old D4–1]

When a shipment is accepted at origin, the Participant agrees to meet the specified pickup date and shall deliver the shipment in accordance with the transit time specified in Section 12, or the required delivery date (RDD) stated on the GBL, or as otherwise directed by the RTO. The required delivery date noted on the GBL will not be construed by the Participant as expedited service, unless specifically authorized by the RTO. Pickup maybe performed by the Participant's local agent with transfer to a line-haul Participant at the Participant's origin terminal facility. Shipments will not be scheduled by the Participant for pickup or delivery on Saturdays, Sundays, local holidays, or US holidays unless so directed by the RTO. In the event that the final date of the transit time or the RDD falls on a Saturday, Sunday, local holiday, or US holiday, the final date shall become the first workday following the Saturday, Sunday, local holiday, or US holiday. The Participant will not begin any service that will not allow completion by 5 p.m., local time, without prior approval of the RTO and will return the following workday morning to complete the job.

4–1.4. Adverse Weather Conditions [old D4–1]

When packing, loading, unloading or unpacking during adverse weather conditions could create a potential hazard to the owner's household goods or personal effects, such services will be suspended until more favorable weather conditions exists, unless otherwise mutually agreed in writing by the Participant and the owner. Participants must, if requested, produce a copy of this in writing to GSA.

4–1.5. Continuous Control [old D4–1]

Participants shall maintain continuous control of shipments and shall be responsible for monitoring and tracing to ensure prompt completion of all services.

4–1.6. Electronic Communications [old D4–1]

In those instances when a Participant has the capability, it may make available (at no cost to Federal agencies) electronic communications capabilities for such purposes as shipment booking, tracing, and claims settlement

UMI
VOL 66
ISS 246
DE 21
2001
UMI

information. This provision does not apply to electronic mail (e-mail); provided, however, that should both the Participant and the agency have the capability to exchange e-mail, nothing in this HTOS Paragraph prohibits the use of e-mail for such purposes as shipment booking, tracing, and claims settlement information.

4–1.7. Commencement of Transportation Services [old I4–1]

Transportation service of a shipment to its ultimate destination shall be commenced only upon receipt of the Government bill of lading by the Participant, unless otherwise mutually agreed upon by the Participant and the RTO.

4–1.8. Services Beyond those Specified in the HTOS [old I4–1]

Services beyond those specified in this HTOS will not be provided by the Participant, unless such service(s) are authorized in writing with the charge(s) agreed thereto.

4–2. Premove Survey

4–2.1. Conduct of Surveys [old D4–3]

The Participant must conduct an on-site premove survey of the property to be moved to determine those items to be shipped, the approximate net weight of the shipment, packing material and container requirements, and to schedule dates for packing and pickup of the shipment. The survey must list the major items of furniture, appliances and equipment which are to be included in the shipment. It must also indicate the number of wooden crates required to protect fragile items and the approximate number of cartons required for the shipment. At the time of the onsite survey, the Participant, at its own expense, must furnish the owner a copy of the General Services Administration's (GSA) pamphlet entitled "Your Rights and Responsibilities" an estimate, and such other documents as the HTOS specifies. The Federal Highway Administration publication OCE–100 does not satisfy this requirement.

4–2.2. Telephone Surveys [old D4–3]

Telephone premove surveys shall not be conducted unless specifically authorized by the RTO.

4–3. Accessorial Services-Moving Services

4–3.1. Packing And Padding [old D4–2]

The Participant shall perform all of the packing and/or crating and padding necessary for the protection of the goods to be transported.

4–3.2. Materials [old D4–2]

The Participant shall furnish packing containers, including, but not limited to, boxes, wardrobes, and cartons; all crating materials; and all padding materials and equipment.

4–3.3. Disassembling and Reassembling [old D4–2]

The disassembling of property (e.g., beds, waterbeds, and sectional bookcases) and the preparing of appliances (e.g., washers, dryers, and record players) for shipment shall be performed by the Participant. The Participant shall reassemble the property and service the appliances upon delivery at the new location. NOTE: The disassembling and reassembling of waterbeds does not include draining or refilling.

4–3.4. Unpacking And Placement. [old D4–2]

Unloading at destination will include the one-time laying of rugs and the one-time placement of furniture and like items in the appropriate room of the dwelling or a room designated by the property owner. On a one-time basis, all boxes, cartons and/or crates will be unpacked and the contents will be placed in the room designated by the property owner. This includes placement of articles in cabinets, cupboards, or on shelving in the kitchen when convenient and consistent with safety of the article(s) and proximity of the area desired by the owner, but does not include arranging the articles in a manner desired by the owner. The Participant shall also place the property in the new location as instructed by the owner of the property or authorized representative, and shall remove all packing and similar or related material from the premises as requested by the owner or authorized representative. Placement shall not be construed to include storage of unpacked articles in cupboards, cabinets, drawers, or closets (except when articles are returned from hanging wardrobes).

4–3.5. Removal or Placement of Property From or to Inaccessible Locations [old I4.2]

When the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect, the Participant is not responsible for the removal or placement of such property unless the property owner requests and the RTO authorizes such removal or placement and the labor charges incident thereto.

4–4. Packing

4–4.1. General [old I4.7]

All packing will be accomplished in accordance with provisions of this section. The Participant is liable and responsible for all packing. The Participant has the responsibility to inspect all prepacked goods to ascertain the contents, condition of the contents and that only articles not otherwise prohibited by the Participant's tariff/tender are contained in the shipment. Furthermore, when it is determined by the Participant that goods require repacking, such packing will be performed by the Participant.

4–4.2. Number and Weight of Containers [old D4–4]

The number and weight of containers will not be greater than necessary to accomplish efficient movement.

4–4.3. Least Cubic Measurement [old D4–4]

All packing by the Participant must be performed in a professional manner which will result in the least cubic measurement producing packages that will withstand normal movement without damage to the transporting vehicle, liftvan/container or contents, and at a minimum of weight. Care shall be exercised to prevent loss or damage of personal property.

4–4.4. Use Of Materials

4–4.4.1. General

The Participant shall:

4–4.4.1.1. Domestic [old D4–2]

Ensure that all cartons, boxes, containers and materials are clean and of sufficient quality for protection of the goods.

4–4.4.1.2. International [old I4.7]

Ensure that all cartons, boxes, containers and materials are new and of sufficient quality for protection of the goods. The use of damp, wet, or unclean packing is prohibited.

4–4.4.2. Use of Original Containers

4–4.4.2.1. General [old D4–4]

At the property owner's request, articles such as electronic equipment and computer type equipment will be packed in original containers by the Participant when furnished by the owner and if the containers are considered to be in good condition for shipping purposes. When original cartons are utilized, the provisions of

HTOS Paragraph 4–4.4.4, below, do not apply.

4–4.4.2.2. When Original Containers Are Not Available [old I4.7]

When the original containers are not available and when necessary to protect electrical equipment for safe transportation or during SIT, such equipment will be completely wrapped in paper or unicellular polypropylene foam and packed in a carton with enough padding to provide insulation necessary to prevent contact of one article with another and to eliminate movement of any article in the liftvan/container. When packing in a carton is not necessary, the items will be properly wrapped and padded for protection.

4–4.4.3. Boxes [old I4.7]

When using wooden boxes for the packing of property and when such boxes will be stored within an exterior shipping container, such wooden boxes will be new; i.e., used for the first time. The boxes used will be wood cleated plywood or nailed wood. Boxes will be made of new lumber and new plywood and will be well manufactured and free from imperfections which may affect their utility. Size and spacing of nails will be in accordance with the best commercial practice. The use of wood cannibalized from used boxes, recoopered, or rebuilt wooden boxes is prohibited.

4–4.4.4. Cartons [old I4.7]

Cartons of solid or corrugated fiberboard will be used for packing linens, books, bedding, lampshades, draperies or other similar articles. After packing, cartons must be sealed by taping lengthwise at the joint on top and bottom. The inside dimensions of the carton (length, width, and depth totaled) will not exceed 75 inches with a weight limitation of 65 pounds. All corrugated cartons shall be stamped with a manufacturer's certificate indicating name of manufacturer, minimum combined weight of facings, size limit, gross weight limit and information indicating type of carton. Cartons lacking such certification are not authorized for use. Egg crates, fruit or vegetable crates, tea crates and similar type boxes will not be used, even when packed by the property owner. Overflow boxes will not be of triwall or corrugated cardboard construction.

4–4.4.5. Barrels, Fiber Drums, And Cartons [old I4.7]

Wood barrels, fiber drums or cartons with a capacity of not less than 5 cubic feet are to be used for packing glassware, chinaware, bric-a-brac, table lamp bases, and other fragile articles. When packing of fragile items has been completed and space is left in a dish pack, such space may be used for packing other lightweight items. These containers will not contain more than 120 pounds. Corrugated containers may be used instead of barrel or drum-type containers. Not more than 120 pounds of material will be packed therein. The sum of the interior horizontal and vertical girths will be not less than 157 inches for wooden barrels, fiber drums or other drum-type containers. The cube of corrugated containers will be determined by actual measurements. All barrels or fiber drums will be securely headed and marked "This End Up."

4–4.4.6. Crates [old D4–4]

Except for the packing of grandfather clocks, glass and marble tabletops, projection televisions, and pool table slate, the use of crates must be authorized by the RTO.

4–4.4.7. Filler Material [old I4.7]

Good quality wood excelsior pads, wood wool excelsior pads, shredded paper pads, cellulosic (bubble pack, etc.) cushioning material, fiberboard, corrugated fiberboard, unicellular polypropylene foam, unprinted newsprint, and/orkraft paper will be used as a filler.

4–4.4.8. Padding [old I4.7]

New and good quality used-wood excelsior pads, unicellular polypropylene foam, shredded paper pads or other equally suitable material will be used when required.

4–4.4.9. Wrapping [old I4.7]

Wrapping paper or unicellular polypropylene foam will be new, clean and appropriate for the purposes intended. Each item of silverware, silver ornamentation or brass that is not coated to prevent tarnishing will be completely wrapped in unicellular polypropylene foam or nontarnish tissue paper.

4–4.4.10. Paper, Waxed or Treated [old I4.7]

All waxed paper used will be manila wax or equivalent. Treated paper may be used if it is butcher type paper.

4–4.4.11. Unicellular Polypropylene Foam [old I4.7]

All unicellular polypropylene foam wrapping material will be new, clean and will conform to Federal Specification PPP-C-1797.

4–4.4.12. Marking Requirements [old I4.7]

All cartons must be marked on the exterior in general terms as to the nature of the contents. Each carton must be identified with an inventory number, full last name of the employee, and lot number if storage-in-transit is applicable. These numbers and the employee's name must also be shown on the outside of each piece that is not going to be placed in a carton for shipment.

4–4.5. Special Items

4–4.5.1. Bicycles For Overseas Shipment—International Only [old I4.7]

When shipped as a separate item and not included within a container as specified in HTOS Paragraph 4–4.4.4, above, bicycles shall be packaged and packed in the following manner: the handle bar shall be loosened, lowered, turned at a right angle from its usual position, swung downward and retightened when necessary. Wheels or mechanisms shall not be removed or disassembled from the frame. When necessary, pedals shall be removed and secured on edge forward of the seat post or above the back fender. Before placement into the carton, the bicycle will be wrapped with protective wrapping and padding. Empty areas in the container will be filled to prevent shifting or movement during transit. The container must be constructed or fabricated in a manner which will accept the bicycle without removal of the front or rear wheel assemblies and meets the requirement of HTOS Paragraph 4–4.4.5, above.

4–4.5.2. Books [old D4–4]

Books will be placed in cartons. All books of similar size will be packed together in rows. Pads of solid or corrugated fiberboard will be inserted between rows and packaged tightly, wedged with pads or paper, if necessary, to fill out the carton and prevent chafing. Books normally will be packed not more than two rows high in a book carton.

4–4.5.3. Fragile items [old D4–4]

Use of clean bubble type or other modern method of packing is required for the packing of glassware, chinaware, bric-a-brac, table lamp bases, and other fragile articles. Packing of fragile items must be such as to keep the articles safe from the normal hazards of transportation to the ultimate destination. Use of excelsior or shredded paper is not acceptable.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

4–4.5.4. Kitchenware [old D4–4]

All kitchenware will be padded and packed into cartons. Kitchenware must not be packed with other items.

4–4.5.5. Linens, Clothing, And Draperies

4–4.5.5.1. Domestic Only [old D4–4]

Linen, clothing, draperies, and similar items may remain in drawers, chests, dressers, trunks, etc., when considered safe for carriage. If considered unsafe for carriage, these items will be packed carefully into new cartons which will be properly sealed at residence.

4–4.5.5.2. Use Of Regular Cartons.—International Only [old I4.7]

Small, lightweight, unbreakable items, e.g., clothing items, certain linens, will be packed into new (regular) cartons which will be properly sealed at residence.

4–4.5.6. Use of Wardrobes

4–4.5.6.1. Domestic Only [old D4–4]

On domestic door-to-door shipments, clothing normally on hangers will be hung in the wardrobes.

4–4.5.6.2. International Only [old I4.7]

Clothing normally on hangers in closets and draperies will be packed in flat wardrobes with hangers removed from clothing and drapery hooks removed from the draperies. If requested by the employee, the Participant may use hanging wardrobes for clothing normally on hangers.

4–4.5.7. Mirrors, Pictures, Stone Table Tops [old D4–4]

Subject to the restriction contained in HTOS 4–4.4.6., above, mirrors, pictures and paintings, both glass-faced and nonglass-faced, glass or stone table tops and similar fragile articles will be wrapped and packed in a crate, if authorized by the RTO, or suitable fiberboard carton. When more than one article is packed in any one crate or carton, a divider will be provided. No more than four articles will be packed in any one crate or fiberboard carton. Stone or marble tabletops will be packed separately. Small pictures, paintings, mirrors, and similar articles will be carefully packed into cartons and properly sealed at residence.

4–4.5.8. Lampshades, Ornaments [old D4–4]

Lampshades, ornaments, small toys, and other small items easily crushed will be wrapped and placed in cartons and will be insulated from the carton walls and from other items. Lampshades will be wrapped individually with new paper or new unicellular polypropylene foam placed in cartons and cushioned to prevent shifting or damage.

4–4.5.9. Mattresses [old D4–4]

Mattresses will be placed in new mattress cartons at the residence and sealed with tape.

4–4.5.10. Rugs and Pads [old D4–4]

All rugs and rug pads will be properly rolled (not folded). Rugs will not be subsequently folded or bent to an extent that may cause damage to the rug.

4–4.5.10.1. International Only [old I4.7]

For international shipments, rugs and pads will be moth flaked, wrapped in kraft paper and placed in rug boxes/cartons for shipment. A wooden crate may also be used, if authorized by the RTO.

4–5. Preparation Of Articles For Transportation

4–5.1. Appliance Servicing

4–5.1.1.1. General [old I4.7]

Each appliance serviced will be appropriately labeled to indicate that it must be serviced at destination before use (reversing the process performed at origin). Appliance servicing includes the servicing and unservicing of household appliances and other articles which have free moving parts, mechanisms, attachments or accessories which, if not properly serviced, might be damaged or rendered inoperative during transit.

4–5.1.1.2. Washers [old I4.7]

Washers requiring servicing will be secured with washer kits, washer packs, washer locks, or special plastic inserts. The use of sheet fiberboard/cardboard is prohibited.

4–5.1.1.3. Appliances and Electrical Equipment

Appliances and electrical equipment requiring other servicing will be serviced in accordance with the best prevailing industry shipping practices.

4–5.1.1.4. Exclusion [old I4.7]

Servicing will not include disconnecting or reconnecting appliances including personal computers and related peripheral devices, repairing articles, removal or installation of radio/TV antennas or air conditioners, wiring or plumbing service, and the securing of stereo arms or turntables.

4–5.2. Items of Unusual Nature [old I4.8]

The disassembling and reassembling of items of unusual nature such as, but not limited to, German shranks, grandfather clocks, waterbeds with attached wall units, steel shelving, pool tables, elongated work tables, and counters may require special service by a third party. This third party service, including disassembly and reassembly, must be approved in advance by the RTO. Participant will not perform these services unless requested and approved by the RTO.

4–5.3. Firearms [old I4.7]

All Privately Owned Firearms (POF) must be placed in the Number 1 external shipping container. For international shipments, containers must be positioned so that they are readily accessible for examination by customs officials when required. This shipping container will be closed and sealed at the employee's residence. Under no circumstances will the Participant be permitted to remove the POF to the warehouse or other facility for placement in shipping containers.

4–5.4. Surfaces [old D4–8]

All articles having surfaces liable to damage by scratching, marring, soiling, or chafing will be wrapped at time of loading at residence in textile or paper furniture pads, covers (other than burlap) or other acceptable wrapping materials. When storage of these articles is necessary, they will be afforded the same protection against damage.

4–5.5. Disassembly/Reassembly [old D4–8 & I4.8.2]

Except as provided in HTOS Paragraph 4–5.2, above, the Participant will disassemble at point of origin and so shown on the inventory form all items of personal property including waterbeds without attached wall units (excluding draining or refilling) which, in the judgment of the Participant, require disassembly to ensure safe delivery at destination. The Participant is not responsible for removing any outdoor article embedded in the ground or secured to a building, nor the assembling or disassembling of any outdoor articles such as steel utility cabinets, swing sets, slides, sky rides, jungle gyms, television and radio antennas or other outdoor articles of similar nature. If items are disassembled by owner, it will be so indicated on the inventory form.

4–5.6. Hardware [old D4–8]

All nuts, bolts, screws, small hardware and other fasteners removed from articles by the Participant in the preparation for shipment will be placed in a cloth bag or similar durable container and securely attached to the article from which removed and will be so noted on the inventory. The Participant, in such cases, will be required to furnish, at the time of reassembling, any new hardware, nuts, bolts, etc., necessary to reassemble the property.

4–5.7. Items Removed From Furniture [old D4–8]

Legs and other articles removed from furniture will be properly wrapped, bundled together and identified, e.g., dining room table legs, six each, and listed as a separate item on the inventory.

4–5.8. Unaccompanied Air Baggage [old D4–6]

Unaccompanied air baggage shall be handled in accordance with the instructions of the shipping Federal agency. Participant will be required to provide the movement of unaccompanied air baggage including packing and crating of goods at origin, surface transportation to origin airport, air transportation to destination airport, and surface transportation to destination residence. Unaccompanied baggage will be unpacked by the Participant unless waived by the owner. Certification that unpacking was performed by the Participant will be by the owner on a DD Form 619, or comparable commercial document.

4–6. Authorized Privately Owned Vehicles (POV)

4–6.1. Domestic Only

Transportation of privately owned vehicles (POV) within CONUS shall be handled in accordance with the instructions of the shipping Federal agency. Participant will be required to provide for the preparation of vehicle; pickup at origin; transportation from origin to destination; delivery to final destination; and valuation based on the current value of the vehicle.

4–6.2. International Only [old I4.1 & I4.8]

Privately owned vehicles shall be handled in accordance with the instructions of the shipping Federal agency. An agency may ship only one POV to a post of duty outside CONUS, excluding replacement vehicles. Participant will be required to provide for the movement of POVs whereby provisions are made for truck-away to the port of exit and delivery to destination residence from port of entry. If the distance between origin residence/destination residence and port of exit/entry is 30 miles or less, the vehicle may be driven. The employing Federal agency reserves the option of Door-to-Door or Port-to-Port services.

4–7. Preparation of Shipment Inventory

4–7.1. Inventory Forms [old D4–9]

Inventory forms will be of multiple copy design, must specify the name and address of the Participant, and contain an explanation of the exception symbols used to describe the condition of the goods. In addition, there shall be space for indicating the name of the owner of the goods and the date of shipment. The same inventory prepared at origin will be used to verify condition and count upon delivery of the shipment.

4–7.2. Preparation of Origin Inventory

4–7.2.1. General [old D4–9]

The Participant must, in conjunction with the owner or his designated representative, prepare an inventory list of all articles received for shipment. The inventory list should clearly and legibly indicate each article of furniture or personal effects to the extent necessary to properly identify it (them). Words such as "household goods" or other general descriptive terms will not be used. An automated inventory may be used if completed at the place of pickup as long as the appropriate data are recorded and copies provided as required. Each copy of the inventory of the shipment will bear the signature of the employee, or the employee's agent, together with the signature of the Participant's representative certifying to its accuracy and completeness.

4–7.2.1.1. International Only [old I4.10]

Each liftvan shall contain a seal serial number which shall be annotated on the original inventory form.

4–7.2.2. Items Containerized at Warehouse—International Only [old I4.10]

If the RTO permits the Participant to partially containerize a shipment at the warehouse, each item removed from the residence will be annotated on the inventory as containerized at warehouse (CW).

4–7.2.3. Preparation of Container Inventory—International Only [old I4.10]

"Bingo cards" or comparable inventory form will be used to record and identify by inventory line item number those items placed in each liftvan or overflow container. This, in effect, will be an individual liftvan inventory which can be cross referenced with the employee's master inventory.

4–7.2.4. Listing of Firearms [old D4–9]

For all firearms being shipped pursuant to this TOS with a serial number attached and packed in the original container or a Participant-packed container, the Participant must place the serial number on the corresponding line in the "condition at origin" column on the descriptive inventory.

4–7.2.5. Receipt of Firearms

Participants who deliver firearms in interstate or foreign commerce must obtain a written acknowledgment of receipt from the recipient of any package containing a firearm.

4–7.2.6. Preparation of Inventory for High Risk Items [old I4.10]

Unless specifically authorized by the RTO, the inventory prepared in accordance with HTOS Paragraph 4–7.2.1, above, will not be used for or contain a listing of high risk items.

4–7.2.7. Preparation of Inventory for Overflow Items [old I4.10]

A separate inventory will be prepared for overflow items, one copy dispatched immediately to the RTO and one copy to the property owner at the time of delivery.

4–7.2.8. Annotation of Inventory Upon Change in Custody [old I4.10]

The Participant shall annotate the inventory to show any overage, shortage, and damage found, including visible damage to external shipping containers each time custody of the property changes from a storage container (warehouseman) to a Participant or from one Participant to another.

4–7.2.9. Listing of Cartons and Contents [old D4–9]

All cartons must be marked to clearly identify the size of the carton and its contents. The same general identification of contents must also be shown on the inventory. Nothing herein shall be construed as prohibiting the Participant from preparing a detailed or itemized list of carton contents. Each article must be identified with an inventory number and such numbers shall be recorded on the inventory form.

4–7.2.10. Omission of an Exception Symbol [old D4–9]

Special care must be exercised to ensure that the inventory list reflects the true condition of the property. Omission of an exception symbol will indicate the article is in good condition except for normal wear.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

4–7.2.11. Exceptions to the Condition [old D4–9]

Exceptions to the condition of the goods must be recorded specifically for each article and brought to the attention of the owner before the goods are removed from the residence. General terms, such as marred, scratched, dented, worn, torn, gouged, etc., must not be used without supplemental description as to the degree and location of the exception. If the owner takes exception to the manner in which the Participant describes the condition of an item, such exception will be noted on each copy of the inventory.

4–7.3. Preparation of Destination Inventory [old D4–9]

When unloading and/or unpacking articles at the destination residence, the Participant must use the same inventory prepared at origin to verify delivery at destination and inspect each article for damage and check the inventory against possible loss of and/or damage to articles in conjunction with the owner or his representative. A record will be made of any difference in count and condition from that shown on the inventory list prepared at origin and such record will be jointly signed by the Participant and the owner or his authorized agent. Such record of count and condition will be indicated on the inventory form, or other delivery document or the form prescribed by the shipping Federal agency. Discrepancies will be noted on the last page of the inventory. If articles are missing, every effort will be made to locate these items and forward them to the owner by expedited means, at no additional cost to the Government or the owner.

4–7.3.1.1. International Only [old I4.10]

The seal serial numbers for each liftvan will be verified against the numbers as applied at origin residence.

4–8. Shipping Containers

4–8.1. Protection of Containers [old D4–5]

All household effects (HHE) shipping containers, i.e., liftvans, moving in line-haul service by flatbed equipment will be covered with a waterproof tarpaulin or other material providing equal protection, and such material will cover the cargo on the top and sides down to the vehicle bed and all surfaces of the overhang. Note: Shipments moving to port agent facilities in Baltimore are considered as moving in line-haul service even though they may be moving within the named localities of Washington, DC, or Baltimore, MD.

4–8.2. Shipments Held at Terminal Facilities—International Only [old I4.9]

Shipments not loaded in sea vans, but under the Participant's control and held at terminal facilities awaiting transportation will be placed in a secured, fenced and covered area which will provide complete protection from the elements. In any case, all shipments held at terminal facilities will be placed within a secured fenced area.

4–8.3. Containers—International Only [old I4.9]

The Participant will use liftvans/containers which meet the following specifications.

4–8.3.1. General—International Only [old I4.9]

All household effects containers, i.e., liftvans, used by the Participant must have been constructed to the specifications of the containers tested in accordance with MIL–STD 1489, Performance Testing of Commercially Owned Household Effects Containers. The primary liftvan for surface shipments under this HTOS is the 206 cubic foot (exterior) box which conforms to the approved material and structure requirements for MTMC container number 186–A (as modified by MTMC Approval Code 186–1) and MTMC container number 152–A–1 (Mod) as specified in MTMC Pamphlet 55–12. All containers are new, clean, and swept. Liftvans will be free from holes or other conditions such as dry rot which could permit the entry of water and that sides and doors, when closed, fit tightly and securely. Liftvans are to be constructed so as to require a sealant/caulking material to be applied to the joints and door(s) to ensure water tightness. Before each shipment, they will be appropriately caulked, sealed, and banded with a material that, when subjected to varying climatic temperatures, will not stain or otherwise damage the contents of the shipment. The interior of all containers shall be lined with either a kraft-asphalt-kraft barrier paper of the reinforced type or polyethylene sheeting with a minimum thickness of 0.004 mil on all sides and the top. New liftvans will be used for each shipment regardless of origin. Liftvans will not be the property of the US Government.

4–8.3.2. Overflow Boxes (Containerized Shipments)—International Only [old I4.9]

Overflow containers must, at the time of use, be new wooden boxes and shall be limited to use for oversized items that cannot be packed into HHE shipment containers (liftvans) prescribed by this HTOS. The overflow container normally is of a lesser size than a PPP–B–580 container or those described in MTMC Pamphlet 55–12. Overflow boxes will be constructed in accordance with Federal Specification PPP–B–601, Boxes, Wood, Cleated-Plywood, Style A or B, and will be caulked and lined with plastic during assembly.

4–8.4. Packing And Stuffing of Containers [old I4.9]

Containers, i.e., liftvans, or overflow boxes, when used in door-to-door service, will be packed and stuffed at origin residence unless specific exception is authorized by the RTO. For the authorized exceptions, such items will be listed on the inventory and will be annotated that items will be containerized at the warehouse. A notation will also be made of the name of the employee who authorized the exception.

4–8.5. Container Marking [old I4.9]

Unless the shipping Federal agency directs otherwise, containers will be marked pursuant to U.S. Department of State instructions.

4–8.6. Container Seals [old I4.9]

The external shipping containers (liftvans) for all containerized household effects will be sealed at the origin pick up point with accountable seals. Six serial numbered metal seals are required for each household goods liftvan. These seals will secure both ends by overlapping one seal on each side to the ends or door panels and one from the top panel to the ends or doors of the liftvan. Seal numbers will be recorded on the inventory, either beside the container number or annotated by individual container number on the last page of the inventory. The owner or his/her representative will initial on the last page of the inventory attesting to the correct seal numbers listed on the inventory.

4–8.7. Position of Containers [old I4.9]

When a shipment is moved via flatbed type vehicle, the containers, i.e., liftvans, will be loaded in an upright position and will not protrude beyond the rear edge of the vehicle bed surface more than 12 inches (no protrusion is permitted for the sides or front). In all cases of rear overhang, the container must be resting on the weight-bearing surface of the skid.

4–9. Pickup and Delivery

4–9.1. Loading

4–9.1.1. Domestic Only [old D4–10]

The Participant must provide for the physical removal of the property from the owner's residence, and placement in the transporting vehicle. Property will not be loaded onto the tailgates of motor vans or precariously loaded on extensions to flat bed trailers or equipment.

4–9.1.2. International Only [old I4.12]

The Participant must provide for the physical removal of the property from the owner's residence and placement into liftvans. Liftvans will not be loaded onto the tailgates of motor vans or precariously loaded on extensions to flat bed trailers or equipment. When authorized by the RTO, the Participant may use moving vans to transport loose property between the residence and the Participant's facility at origin.

4–9.2. Unloading

4–9.2.1. Domestic Only [old D4–10]

The Participant must provide for the physical unloading of the property from the transporting vehicle into a warehouse for SIT or the unloading of the property into the owner's residence at destination.

4–9.2.2. International Only [old I4.12]

The Participant must provide for the physical unloading of the property from the liftvans into a warehouse for SIT or the unloading of the contents of the liftvans into the owner's residence at destination.

4–9.2.3. Unpacking at Destination [old I4.12]

If requested, the Participant shall unpack and/or uncrate all property that was packed and/or crated for movement under this HTOS. All articles disassembled by the Participant or originating from storage will be reassembled. The unpacking service and removal of debris will be performed at the time the goods are delivered to the residence unless specifically waived in writing by the employee or the employee's agent. The waiver will be held in the Participant's files for further reference.

4–9.3. Containers Moving in Local Service [old D4–5 & I4.9]

Containers (storage or liftvans) moving in local pickup or delivery service will be covered with a waterproof tarpaulin or other material providing equal protection when local weather conditions dictate. In any event, such protective covering must be available. Containers will not extend beyond the side or end of flatbed equipment.

4–9.4. Removal Of Debris [old D4–2 & I4.12]

Packing and loading at origin will include removing from the employee's residence, to include driveway and curbside, all empty Participant-provided containers, packing materials, cartons and other debris, e.g., nails accumulated incident to packing and loading. All "debris" which may have accumulated on the street, or next-door neighbor's property or in parking spaces will be removed.

4–9.5. Protection of Residence Floors and Protection for Buildings [old D4–2 & I4.8]

The floor and carpeting or the employee's residence will be appropriately covered during packing, loading, and delivery to prevent damage or soiling. "Appropriately covered" is generally defined as substantial protection from scratching, gouging, or soiling the floor or carpet of the residence. The Participant shall furnish or cause to be furnished, when necessary, padding or other protective material for the interior of the buildings, including elevators, from and to which the property will be moved under this HTOS.

4–9.6. Impracticable Operation and Auxiliary Services

4–9.6.1. General [old I4.13]

Nothing in this Section will require the Participant to perform any line haul service or any pick up or delivery service or any other service from or to, or at any point or location where, through no fault or neglect of the Participant, the furnishing of such services is impracticable because: (a) the conditions of roads, streets, driveways, alleys or approaches thereto would subject operations to unreasonable risk of loss or damage to life or property; (b) loading or unloading facilities are inadequate; (c) any force majeure, war, insurrection riot, civil disturbance, strike, picketing or other labor disturbance would (c) (1) subject operations to unreasonable risk of loss or damage to life or property or (c) (2) unreasonably jeopardize the ability of the Participant to render line haul or pick up or delivery or any other service from or to or at other points or locations; (d) Participant's hauling contractors, Participant's employees or Participant's agents are precluded, for reasons beyond Participant's control, from entering premises where pickup or delivery is to be made; (e) local, state or federal restrictions, regulations or laws prohibit performance of such services by line-haul equipment; (f) when service is impracticable for reasons stated in this rule, and service can be completed through the employment of services of third persons, the RTO or the origin/destination GSO may order such service.

4–9.6.2. Provision of Smaller Equipment [old I4.13]

Upon request of the RTO, the Participant will use or engage smaller equipment than its normal road haul equipment or provide extra labor for the purpose of transferring the shipment between the origin or destination address and the nearest point of approach by the Participant's road equipment.

4–9.7. Lack of Proper Delivery Address [old I4.14]

If the Government bill of lading sets out a specific residential delivery address and delivery cannot be made at the address specified on the Government bill of lading for other than the fault of the Participant, and neither the shipping Federal agency, the destination RTO, nor the property owner designates another address at which delivery can be made, the Participant will place the property in storage-in-transit only after the RTO authorizes the storage.

4–9.8. Constructive Delivery

4–9.8.1. Tender at Nearest Point of Approach [old I4.15]

When it is physically impossible for Participant to perform pickup of shipment at origin address or to complete delivery of the shipment at the destination address with normally assigned road equipment, due to the structure of the building, its inaccessibility by highway, inadequate or unsafe public or private road, overhead obstructions, narrow gates, sharp turns, trees, shrubbery, the deterioration of roadway due to rain, flood, snow or nature of an article or articles included in the shipment, the Participant will hold itself available at point of pickup or tender delivery at destination at the nearest point of approach to the desired location where the road equipment can be made safely accessible.

4–9.8.2. Owner Non-Acceptance of Delivery

4–9.8.2.1. General [old I4.15]

If the owner does not accept the shipment at nearest point of safe

UMI
VOL 66
ISS 246
DE 21 2001
UMI

approach by Participant's road equipment to the destination address, the Participant may place the shipment or any part thereof not reasonably possible for delivery, in storage at the nearest available warehouse (see exception below, for international shipments). The RTO must be informed of and approve such action prior to placement in warehouse. The liability on the part of the Participant will cease when the shipment is unloaded into the warehouse and the shipment will be considered as having been delivered.

4–9.8.2.2. Exception—International Only [old I4.15]

Storage authorized in accordance with this subparagraph for international shipments must occur in the nearest available DOD or DOS approved warehouse.

4–9.9. Detention By Participant or Agent [old I4.6]

Personal property shipments moved under this HTOS are sponsored by the Government of the United States of America and, as such, will not under any condition or for any reason be detained by Participants or agents.

4–10. Determination Of Weight

4–10.1. Weighing Requirement [old I4.19]

Participants will determine the weight of each shipment transported prior to the assessment of any charges depending on the shipment weight. Except as otherwise provided in this item, the weight shall be obtained on a scale approved by the appropriate regulatory authority for use in determining the weight of household goods shipments.

4–10.1.1. Weight Variance

In the event the actual shipment weight is greater than 115% of the premove survey weight, the Participant must notify the RTO or its third party representative prior to billing the Federal Agency of the original weighing and be prepared to justify the difference. In the event the Participant fails to notify the RTO or third party representative, the Participant stipulates that the agreed weight of the shipment will be 115% of the premove survey weight. In the event the Participant fails to adequately justify the difference between the actual and premove survey weights, the Participant stipulates that the agreed weight of the shipment will be 115% of the premove survey weight. The agreed weight shall take precedence over the actual weight for the assessment of transportation, accessorial, and storage-in-transit charges when based on weight. The RTO has the authority to waive this provision.

4–10.1.2. Verification of Weight Variance

A copy of the premove survey must accompany the billing voucher and associated documents when the weight variance rule is applied.

4–10.2. Weighing Procedure Household Effects

4–10.2.1. General [old I4.19]

Except as otherwise provided herein, the weight of each shipment will be obtained by determining the difference between the tare weight of the vehicle on which the shipment is to be loaded prior to the loading and the gross weight of the same vehicle after the shipment is loaded or, the gross weight of the same vehicle after the shipment is loaded or the gross weight of the vehicle with the shipment loaded and the tare weight of the same vehicle after the shipment is unloaded.

4–10.2.2. Included In Weighing

4–10.2.2.1. General [old D11–2 & I4–9]

At the time of both weighings, the vehicle will have installed or loaded all pads, dollies, hand trucks, ramps and other equipment required in the transportation of each shipment. Neither the driver nor any other persons shall be on the vehicle at the time of either weighing. Participants will bill for the net weight of a household goods shipment described on the GBL. The net weight will consist of actual goods (including a separate weight for designated PBP&E and for privately-owned automobiles), plus special wooden crates (when approved by the RTO), cartons, barrels, fiber drum, and wardrobes used to pack linens, books, bedding, mattresses, lampshades, draperies, glassware, chinaware, bric-a-brac, table lamp bases, kitchenware and other fragile articles and the necessary wrapping, packing and filler material incident thereto. Nothing else will be included in the net weight.

4–10.2.2.2. Included in Net Weight [old D11–2]

In determining net weight on containerized shipments, Participants will include in the tare weight all padding material, e.g., paper pads, cloth blankets, or any wrapping material used as a substitute for cloth blankets, and blocking and bracing material used for a Participant's convenience to protect and secure a shipment.

4–10.2.2.3. Lift Van Weights—International Only [old I4.19]

The net weight of shipments transported in lift vans will be the difference between the tare weight of the empty lift van, and the gross weight of the packed lift van.

4–10.2.3. Fuel Tanks [old I4.19]

The fuel tanks on the vehicle will be full at the time of each weighing or, in the alternative, no fuel may be added between the two weighings, when the tare weighing is the first weighing performed.

4–10.2.4. Detaching Equipment [old I4.19]

The trailer of a tractor-trailer vehicle combination may be detached from the tractor and the trailer weighed separately at each weighing providing the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

4–10.2.5. Time of Weighing [old I4.19]

Shipments may be weighed on a certified platform or warehouse scale prior to loading for transportation or subsequent to unloading.

4–10.2.6. Right To Observe Weighing [old I4.19]

The shipper, the Government or its representative or any other person responsible for payment of the freight charges will have the right to observe all weighings of the shipment. The Participant must advise the shipper or any other person entitled to observe the weighings, of the time and specific location where each weighing will be performed and must give that person a reasonable opportunity to be present to observe the weighings. Waiver by a shipper of the right to observe any weighing or reweighing is permitted and does not affect any rights of the shipper under these regulations or otherwise.

4–10.3. Weight Tickets [old I4.19]

The Participant will obtain a separate weight ticket for each weighing required under this item except when both weighings, are performed on the same scale, one weight ticket may be used to record both weighings. Every weight ticket must be signed by the person performing the weighing and must contain the following minimum information: (1) The complete name and location of the scale; (2) the date of each weighing; (3) identification of the weight entries thereon as being the tare, gross and/or net weights; (4) the company or Participant identification of the vehicle; (5) the name of the owner of the household effects as it appears on the GBL; (6) the Participant shipment registration or GBL number; (7) the original weight ticket or tickets relating to the determination of the weight of a shipment must be retained by the Participant as part of the file on the shipment. All freight bills presented to collect any shipment charges dependent on the weight transported must be accompanied by true copies of all weight tickets obtained in the determination of the shipment weight.

4–10.4. Reweighing of Shipments [old D4–12 & I4.19]

The Participant, upon request of the shipper or his representative, made prior to delivery of the shipment, and when approved by the RTO, will reweigh the shipment. Reweigh of the shipment must be performed on a scale different from the one on which the original weighing occurred. If a reweigh is required, shipment will be reweighed upon final delivery and performed on a scale different from the one on which the original weighing occurred.

4–10.5. Constructive Weight [old D11–2 & I4.19]

The application of constructive weight will occur only upon written approval of the RTO. If approved, constructive weight will be applied based on seven pounds per cubic foot. When PBP&E or a privately owned automobile is included as part of the shipment, the weight of such articles will be annotated separately on the GBL.

4–10.6. Platform Scales [old D11–2 & I4.19]

HTOS Participants may use platform scales to obtain tare and gross weight of containerized shipments.

4–11. Storage-In-Transit

4–11.1. General [old D4–11 & I4.17]

The Participant must provide SIT at destination when required. (SIT may not occur at origin unless authorized by the RTO). SIT is the holding of a shipment or portion thereof at a facility or warehouse the Participant uses for storage, pending further transportation. A shipment may be held in SIT for a period not to exceed 180 days. The Participant must advise the employee when the storage period will end and determine from the employee whether the shipment or any portion thereof, will be delivered to employee's residence or held in storage. If SIT is required beyond 180 days, the employee will inform the RTO and any SIT extension will be by mutual agreement between the RTO and the Participant. After the initial 180 day period ends, the Participant's liability terminates; the applicable interstate, intrastate or international character of the shipment or portion thereof ceases; the warehouse is considered the destination of the property; the warehouseman becomes the agent for the shipper; the property then is subject to the rules, regulations, and charges of the warehouseman; and storage charges are the employee's responsibility.

4–11.2. Facilities [old D4–11]

The facilities or warehouses used by the Participant for SIT must be commercial facilities or warehouses used by the Participant or its agent in the normal course of business for receipt and storage of household goods awaiting further transportation and furnishing the services set out in 4–11.3 through 4–11.9, below. Unless approved by the RTO, the use of trailers, vans, public warehouses, and self storage units is prohibited.

4–11.3. Location of SIT

4–11.3.1. General [old D4–11]

The Participant will perform SIT only when specified on the bill of lading. Authorized SIT must be at the participant's nearest available SIT facility at the destination shown in the "consignee" block (or at origin shown in the "consignor block" when the RTO specifically authorized SIT at origin). However, in no case may SIT be more than 50 miles from the origin/destination municipality the bill of lading specifies or the RTO authorizes. Placing a shipment in SIT does not constitute a delivery or completion of service. Delivery of the shipment to the final destination and completion of destination services must be performed as part of the through service after the household goods are removed from SIT.

4–11.3.2. Exception—International Only [old I4.17]

For international shipments, the Participant must place shipments in SIT at the nearest available SIT facility of the Participant's agent at destination shown in the "Consignee Block" unless specified on the GBL or authorized by the RTO.

4–11.4. Lot Identification [old D4–7 & I4.16]

All lots will be properly identified by the owner's name, order number, warehouse lot number and GBL number. Such identification will be in plain view on each lot.

4–11.5. Rugs and Pads—Domestic Only [old D4–7]

Rugs, carpets, and padding will be stored on racks in a horizontal position without folding any portion of the rug, carpet, and padding.

4–11.6. Overstuffed Furniture—Domestic Only [old D4–7]

Upholstered or overstuffed furniture will be placed in an upright normal position and covered for protection against dust. No boxes, cartons or other pieces of furniture will be placed upon this type of furniture. When placed in individual room storage or when containers are employed for warehouse storage, upholstered or overstuffed furniture will have protection, padding, blocking, and bracing to preclude damage from any pressure against the upholstery, including pressure from its own weight as well as from conditions external to the container.

4–11.7. Palletization of Property [old D4–7 & I4.16]

Personal property will be stored on skids, pallet bases, elevated platforms or similar storage aids maintaining a minimum of at least two inches clearance from the floor to the under most portion of the personal property. In addition, property will not be stored in contact with exterior walls. Trash cans, extension ladders, lawn mowers, television antennas, swing sets, and other like items are excluded from this requirement.

4–11.8. Removal From Shipping Containers—International Only [old I4.17]

The contents of containerized shipments will not be removed from the containers when placed in SIT.

4–11.9. Marking of SIT Containers [old I4.17]

All containerized shipments of household effects shall be marked with the employees' name and the GBL number.

4–11.10. Partial Withdrawal From Storage in Transit (SIT)

4–11.10.1. Identification of Item To Be Withdrawn [old I4.17]

Items for withdrawal from SIT should be indicated by the property owner/agent at the time of packing whenever possible. When the shipment has already been packed, inventory item numbers will be furnished by the employee to the RTO who shall provide the information to the Participant.

4–11.10.2. Ordering Partial Withdrawal [old I4.17]

In accordance with the previous HTOS Paragraph, partial withdrawal shall only be ordered by the RTO who shall so certify on the DD Form 619–1 or other commercial form.

4–11.10.3. Consist of Withdrawal [old I4.17]

Only complete cartons or item numbers on the inventory may be withdrawn. Individual cartons will not be opened.

4–11.10.4. Weight of Partial Withdrawal [old I4.17]

Participant is responsible for obtaining the weight of the portion withdrawn.

4–11.10.5. Billing for Partial Withdrawal [old I4.17]

Participant shall bill for the partial withdrawal of property as directed by the RTO.

4–12. Tracing

4–12.1. Shipment [old I4.16]

The Participant shall trace a shipment upon request from the RTO or property owner and will promptly report to the requesters the location of the shipments.

4–12.2. Missing Household Effects [old I4.16]

The Participant shall take action to trace missing loose household effects.

4–12.3. Missing Liftvans/Containers [old I4.16]

The Participant shall take action to trace missing liftvan(s)/container(s) when a containerized shipment is placed into SIT and the liftvan(s)/container(s) are found to be missing with an annotation of the GBL or inventory to explain the shortage.

4–13. Non-Temporary Storage [old D4–6 & I4.1]

If requested by the employing Federal agency, the Participant will be responsible to provide or arrange non-temporary storage for those household goods and personal effects authorized by the appropriate Federal agency. Tender rates will apply into the carrier warehouse. Rates for monthly non-temporary storage per 100 pounds and rates for full value protection per each $100 of value to be negotiated between the carrier and the Federal agency.

Section 4A—Move Management Services (MMS) Statement of Work

4A–1. Performance of Services

The MMS provider must provide the MMS outlined in this section 4A in conjunction with HHG transportation services. The MMS provider must comply with all requirements of this HTOS including the service, delivery timeframe, billing, reporting, and liability requirements.

4A–2. Memorandum of Understanding (MOU)

The MMS provider and the agency must enter into a written MOU setting out the terms and conditions of the MMS provider responsibilities as identified in this section 4A. In instances when the agency requests bill of lading (BL) preparation and maintenance under HTOS paragraph 4A–6.5, the MOU should contain at a minimum specific instructions on the BL preparation and maintenance, including instructions to complete each portion of the BL. If requested by the MMS provider and/or the agency, the GSA PMO will review the agreement before implementation.

4A–3. Performance as Participant

The MMS provider must file rates within its current approved scope of operations; be subject to the Customer Satisfaction Index (CSI) rating system; and must comply with the requirement to collect and pay GSA its IFF as specified in RFO Section 2–7.6.

4A–4. Commissions

An MMS provider must not charge a commission to a participant to which it tenders a HHG shipment.

4A–5. Required Services

4A–5.1. General

The MMS provider must arrange, coordinate, and monitor each relocating employee's HHG move from initial notification of the move by the agency through completion of all move-related transactions required under HTOS paragraphs 4A5.1 through 4A–5.9. An HHG move within the continental United States (CONUS) is defined as a basic move consisting of one shipment of HHG and, when specifically authorized by the agency, shipment of one or more privately owned vehicles (POV). A HHG move to/from an international location is defined as a basic move consisting of one surface shipment of HHG and, when specifically authorized by the agency, one or more unaccompanied baggage shipments and shipment of one or more POV's. Multiple origins and/or destinations may be involved for both CONUS and international shipments. The MMS provider must provide the services specified in HTOS paragraphs 4A–5.2 through 4A–5.9.

4A–5.2. Participant Selection

An agency may select the participant to transport the relocating employee's HHG or may delegate this responsibility to the MMS provider in which case the agency will furnish the MMS provider criteria to use in selecting the participant. The selected participant must be currently approved to participate in CHAMP and must have approved rates on file with GSA. The MMS provider must be capable of accessing the GSA Interagency Transportation Management System (ITMS) to obtain cost comparison information for use in making the participant selection when delegated this responsibility by the employing agency.

4A–5.3. Shipment Booking

The MMS provider must perform the following:

(1) Schedule the move with the selected participant;

(2) Order a pre-move survey;

(3) Identify any special services needed and obtain the RTO's written authorization. The RTO is responsible for authorizing storage-in-transit (SIT) or any special service. Special services include, but not limited to: shuttle service, special crating, third party servicing, elevator charges, long carry, and/or stair carry;

(4) Indicate in writing all services authorized and identify those that will be paid as an entitlement of the relocating employee as well as those which the relocating employee requests, but for which the relocating employee has no entitlement and which may be advanced and charged back to the relocating employee; and

(5) Inform the relocating employee before service performance of any service that will be advanced and charged back to the employee.

The provider may develop a generic form for the purpose of this item. Any service shown on a generic form that is not applicable to a particular shipment must be "crossed out" or marked "none" or "not applicable" before submitting the form to the RTO for written authorization/approval.

4A–5.4. Ensuring Participant Performance

The MMS provider must ensure that transportation services are in keeping with procedures under this HTOS, notwithstanding the Origin and Destination On-Site Quality Control procedures specified in HTOS paragraph 4A–6.7. The MMS provider also must take any action deemed necessary and appropriate to protect the interests of the agency to ensure proper participant performance, and to protect both the real and personal property of the relocating employee. When the MMS provider fails to direct performance as required which could causes the agency or relocating employee to incur damages (other than damage to HHG), the MMS provider will be liable to the agency and/or the relocating employee, as appropriate for such damages.

4A–5.5. Arranging Storage in Transit (SIT)

If an agency authorizes SIT, the MMS provider must arrange the storage under provisions of this HTOS. The MMS provider must notify the relocating employee of the authorized SIT duration and location and provide the relocating employee's SIT-provider contact information within five (5) calendar days after delivery into SIT.

4A–5.5.1. Monitoring Shipments in SIT

The MMS provider must monitor shipments in SIT and provide a written request for disposition instructions from the relocating employee or the agency's destination facility representative at least ten (10) working days before expiration of the authorized SIT period. The written request must inform the relocating employee of his/her personal financial responsibility for any charges incurred for storage in excess of the maximum period authorized. The MMS provider is responsible for arranging delivery of shipments from SIT.

4A–5.5.2. SIT in Excess of 180 Days

If storage exceeds 180 days, the MMS provider must determine the condition of the relocating employee's property at the end of the 180-day SIT period to protect the Government's and the relocating employee's right to recover for participant-caused loss or damage. The warehouse automatically will be considered the shipment's destination upon expiration of the 180-day SIT period at which time the MMS provider's responsibility for the shipment ends. The shipment then becomes subject to the warehouse's rules, procedures, and charges, including local drayage out of storage. The relocating employee is responsible for payment of storage charges for any period of storage in excess of 180 days. If any discrepancy exists between other HTOS provisions and the provisions of this HTOS paragraph 4A–5.5.2 for purposes of SIT, the provisions of HTOS paragraph 4A–5.5.2 apply.

4A–5.6. Completion of GSA Form 3080

The MMS provider must furnish the relocating employee a GSA Form 3080, "Household Goods Carrier Evaluation Report" for completion of the section entitled, "Relocating Employee's Response". This form is available for downloading and printing at *http://hydra.gsa.gov/forms* (other forms-external forms-numeric by form number). The provider must instruct the relocating employee to return the evaluation form upon completion to the agency for completion of the section entitled, "BL/GBL Issuing Officer's Response." The provider also must follow up in an attempt to ensure both the relocating employee and the agency completes their respective portions of the form and return it to the PMO. If the relocating employee has not completed the appropriate section on the form within thirty (30)-days from the date of delivery of the HHG to the new residence, the provider will so advise the agency.

4A–5.7. Service Performance Audit

The MMS provider must conduct an independent service performance audit of transportation billings and complete a certification document certifying by line item whether billed services (including any services specifically requested by the relocating employee) were or were not necessary, properly authorized, and actually performed. The provider may develop a form for this purpose and must, if requested, have it pre-approved by the agency. This audit is unrelated to an agency's audit of the actual billing charges which also is an optional "provider" service under paragraph 4A–6.3. If prepayment audit of transportation bills is performed under procedures in HTOS paragraph 4A–6.6, the provider must furnish the service performance audit certification along with the transportation billing to the prepayment auditor for audit of the actual billing charges.

4A–5.8. Management Information Reports

The Government requires certain management information reports that may or may not be commercially standard. If the MMS provider has a commercial report that would meet an agency's stated specific need, it may propose that the agency use that report instead of the one specified as long as it can satisfactorily demonstrate how the proposed substitution would meet the agency's needs. Reports must contain monthly, quarterly, and year-to-date totals, when appropriate. The MMS provider must provide required reports to the agency within fifteen (15) business days following the month/quarter services were performed.

4A–5.8.1. Agency Reports

If requested by the shipping agency, the MMS Provider must furnish the following reports in the manner specified by the agency with regard to format, content, and frequency. Data elements may be revised by the ordering activity.

4A–5.8.2. Shipment Summary

A summary of the total number of shipments handled for the specified period further broken down into the following incremental categories:

(1) Number of shipments by agency activity;

(2) Number of shipments by participant;

(3) Number of interstate shipments;

(4) Number of intrastate shipments; and

(5) Number of shipments to an international location.

For each category the provider must show total line-haul and accessorial charges.

4A–5.8.3. Claims Summary

A summary of the total number of loss/damage claims handled for the specified period further broken down into the following incremental categories:

(1) Number of claims by agency activity;

(2) Number of claims by participant;

(3) Number of intrastate claims;

(4) Number of interstate claims;

(5) Number of international location claims;

(6) Average number of days between the date of claim filing and date of issue of initial settlement offer;

(7) Average number of days between the date of receipt of the initial settlement offer and the date of final settlement;

(8) Average amount claimed and settled interstate;

(9) Average amount claimed and settled intrastate; and

(10) Average amount claimed and settled on shipments to an international location.

For each claim not settled within thirty (30) days and/or sixty (60) days as requested by the agency's RTO, an explanation for the delay must be supported by the appropriate Delay Codes identified in the HTOS Section 9.

4A–5.8.4. Counseling Contact Summary Report

(Applies only when an agency has chosen the optional "Employee Pre-Move Counseling" service)

A summary report of counseling contacts showing relocating employee's name, date of initial contact, and current status of the move including date(s) for the pre-move survey, packing, pickup, and actual or proposed delivery into SIT and/or residence.

UMI VOL 66 ISS 246 DE 21 2001 UMI

4A–5.8.5. On-time Services Summary Report

A summary report listing:

(1) Relocating employee(s) name;

(2) Scheduled pickup date;

(3) Actual pickup date;

(4) Scheduled delivery date(s) into SIT and/or residence;

(5) Actual delivery date(s) into SIT and/or residence;

(6) Scheduled date for delivery out of SIT;

(7) Actual date for delivery out of SIT; and

When scheduled and actual dates are different, an explanation must be provided.

4A–5.8.6. Specially Requested Reports

Special one-time reports furnished to the RTO when the agency requests and the PMO approves.

4A–5.9. Customer Service

The contractor shall provide a 24-hour, toll-free telephone number to assist in tracking/tracing shipments; resolving problems that occur during any phase of the move, including quality control problems; and in filing post-delivery claims for agencies that choose that optional service.

4A–6. Optional Services

4A–6.1. General

If specifically requested by the agency, the MMS provider must provide the following optional services specified in HTOS paragraphs 4A–6.1 through 4A–6.9.

4A–6.2. Employee Pre-Move Counseling

Employee pre-move counseling (as distinguished from a participant provided pre-move survey) must include information on the participant's commercial moving practices affecting all aspects of the HHG move. It also may include Government-specific information on HHG entitlements and allowances prescribed in the Federal Travel Regulation (41 CFR chapters 300–304) as well as information on any agency internal implementing regulations, including weight allowance information. Additionally, the provider must counsel the relocating employee about services the relocating employee is authorized at Government expense as well as any requested services that are not the Government's financial responsibility and which the employing agency will charge back to the relocating employee. Some of these services are:

(1) Extra pickup/delivery;

(2) Temporary SIT authorized by the agency;

(3) Non-temporary (permanent) storage (NTS);

(4) Unauthorized items;

(5) Assembly/ disassembly of property;

(6) Shipment of perishable items;

(7) Firearms and hazardous material exclusions;

(8) Level of service coverage, options, and costs;

(9) Reporting concealed damages, relocating employee rights and responsibilities, third-party servicing;

(10) Packing/unpacking and crating/ uncrating;

(11) Preparation and filing of claims;

(12) Name and address of origin/ destination storage provider; and

(13) Local drayage out of storage.

The counseling also includes explaining the Government's role concerning Commuted Rate Schedule moves as prescribed in the Federal Travel Regulations (FTR) and limitations on the Government's financial obligation for reimbursement on such moves. Following is an availability listing of publications that contain information important in the relocating employee's pre-move counseling process:

(1) FTR: Available on the Internet at: http://policyworks.gov/org/main/mt/homepage/mtt/FTR/FTRHP.shtml

(2) CHAMP: Available on the Internet at: http://r6.gsa.gov/fsstt/

(3) Agency specific regulations/ procedures: (Contact appropriate agency for availability)

4A–6.3. Prepayment Audit

(1) *MMS Provider Responsibilities.* The MMS provider will conduct, or arrange to have conducted, a prepayment audit of each transportation billing and supplemental billing for service performed under this HTOS.

(2) *Certification.* Any auditor (other than a GSA Prepayment Audit Schedule contractor) desiring to perform a prepayment audit service must be certified by the GSA Audit Division (FBA) to do so. Certification may be obtained by contacting: General Services Administration, Federal Supply Service, Audit Division (FBA), 1800 F Street, NW., Washington, DC 20405, *http://pub.fss.gsa.gov/transtrav.*

(3) *Procedures.* The Prepayment Audit procedures under this HTOS paragraph 4A–6.3 are subject to provisions of the Federal Management Regulations (FMR) part 102–118 (41 CFR parts 102–118). Procedures stated in this HTOS paragraph 4A–6.3 reflect requirements and may be used in addition to any other required procedures published in the FMR, in developing the MMS provider/agency MOU. The prepayment auditor must adjust billed charges as appropriate based on the service performance audit as specified in HTOS paragraph 4A–5.7 and the prepayment audit before submitting the billing invoice, along with the service performance audit certification, to the agency for payment.

(4) *Adjustments.* Upon instructions from the agency, the MMS provider must advise the participant and/or the agency via a statement of differences submitted either electronically or in writing within seven (7) days of receipt of the bill of any adjustment the auditor makes. The statement of differences must include the following:

(a) Participant's standard alpha code (SCAC);

(b) Participants' bill number;

(c) Amount billed;

(d) Amount paid;

(e) Agency name;

(f) Participant's taxpayer identification number (TIN);

(g) Document reference number (DRN);

(h) Payment voucher number;

(i) Complete tender or tariff authority, including the governing item or section number.

The MMS provider must annotate the following information on all transportation bills that have been completed:

(a) Participant's standard carrier alpha code (SCAC);

(b) Participants bill number;

(c) Amount billed;

(d) Amount paid;

(e) Agency name;

(f) Participant's taxpayer identification number (TIN);

(g) Document Reference Number (DRN);

(h) Payment voucher number;

(i) Complete tender or tariff authority with the applicable rate authority, including the governing item or section number;

(j) Copy of any statement of differences sent to the participant; and

(k) The date invoice received from the participant.

(5) *Appeal Procedures.* The agency must establish an appeal process that directs participant appeals to an agency official or to the MMS provider with responsibility for providing adequate consideration and review of the circumstances of the claim. Review of an appeal must be completed within thirty (30) days. If the participant disputes the findings and the agency or MMS provider as appropriate, cannot resolve the dispute with the participant, all relevant documents including a complete billing history and the appropriation or fund charged should be forwarded to GSA for the rendering of a decision. Carrier claims must be

submitted within three (3) years beginning the day after the latest of the following dates (except in time of war):

(a) Accrual of the cause of action;

(b) Payment of charges fore the transportation involved;

(c) Subsequent refusal for over payment of those charges; or

(d) Deduction made to a carrier claim by the Government under 31 U.S.C. 3726.

4A–6.4. Performance Standards for Service Performance Audit and Prepayment Audit-6.5

The Government must comply with provisions of the Prompt Payment Act (31 U.S.C. 3901(a)(5). The MMS provider therefore must ensure that within seven (7) days of receiving the participant's bill, it has completed the service performance as described in HTOS paragraph 4A–5.7 and prepayment audits as described in HTOS paragraph 4A–6.3 and has the consolidated transportation/MMS billing, accompanied by the service performance audit certification, in the hands of the agency for payment. The MOU between the agency and the MMS provider must stipulate whether the agency or the MMS provider will be responsible for remitting payment to the participant. If the MMS provider is to remit payment to the participant, the agency must issue and forward the remittance by check or electronic transfer to the MMS provider in time for the agency to be deemed "in compliance" with provisions of the Prompt Payment Act. The MMS provider will not be liable for any late payment interest charge the agency may accrue on a transportation payment that is not in compliance with the Prompt Payment Act requirements.

4A–6.5. Preparation of Shipment Documentation

If an agency exercises its option to have the contractor prepare a GBL or BL, the contractor must comply with the terms and conditions set forth in FMR part 102–117 (41 CFR Part 102–117. On international shipments the MMS provider must complete, and distribute copies of, each GBL following instructions published in the GSA Federal Supply Service Guide, "How to Prepare and Process U.S. Government Bills of Lading" (National Stock Number 7610–00–682–6740, 41 CFR 101–41.305–1 and 2). The provider must furnish a legible memorandum copy of all GBL's or a legible copy of all BL's prepared and distributed to the RTO before the shipment pickup date.

4A–6.6. Data Communications Capabilities

The MMS provider must:

(1) Provide on-line electronic access to all database information pertaining to task orders and applicable shipment records;

(2) Provide the RTO or designee and the GSA PMO in Kansas City, Missouri, on-line access to all database information pertaining to task orders and shipment records for all accounts established under the terms of this HTOS;

(3) Establish sufficient safeguards to prevent unauthorized access to the database information;

(4) Make the electronic access available through an asynchronous modem with a baud rate of at least 2400; and

(5) Furnish clear documentation setting out procedures for access to and use of the database.

4A–6.6.1. Data Elements

The database must contain, but is not limited to, the following elements: (1) task order information; and (2) shipment information sufficient to generate the reports specified in HTOS paragraph 4A–5. The shipment database must be maintained in a separate directory with separate shipment records for each relocating employee move. Shipment files must not be commingled with data maintained for shipments not subject to this HTOS. Each shipment record must contain all information required for that particular shipment, including any claims filed by the participant, status of the claim, etc. using a continuous computer terminal screen, if necessary. Performance data documenting how the move was handled must be collected independently and maintained in this file. The provider must provide the facility for the RTO's and the GSA PMO to extract and consolidate data such as participant performance if specific reports are required.

4A–6.6.2. Database Maintenance

The MMS provider must update the database on a twenty (24)-hour basis, at a minimum, and provide for on-line electronic access to database elements for a period of one year from date of pickup. After one year, only a hard copy of the records is required to be maintained as specified under the Examination of Records Clause in GSA Form 3504.

4A–6.7. On-site Quality Control Service

If an agency requests, the MMS provider must arrange for quality control personnel to provide on-site inspection service at the origin/destination residence at pickup/delivery. Inspection services include, but are not limited to:

(1) Verification of correct inventory coding;

(2) Use of proper packing materials;

(3) Appropriate article servicing;

(4) Equipment and personnel suitability; and

(5) Satisfactory performance of unpacking.

The actual cost of any on-site quality control service requested is negotiable between the MMS provider and the agency. The agreed upon price must be stated in a written document and retained by both parties. The document will be construed as a one-time only amendment to the provider's rate filing. A copy of the written document must be included with the MMS provider's voucher. The provider may engage a third party to perform these services provided they are representatives or employees of a HHG carrier, forwarder, or an agent thereof.

4A–6.8. Quality Assurance Plan

If requested by the agency, the MMS provider must provide the agency a quality assurance plan to assist in ensuring quality service and must designate quality assurance personnel to execute the plan.

4A–6.9. Claims Preparation, Filing, and Settlement Assistance

If the relocating employee or agency requests, the MMS provider must provide timely loss/damage claim preparation/filing assistance, including follow-up assistance for any subsequently discovered loss or damage. The provider must review and negotiate any settlement offer that is inconsistent with the participant's liability or HTOS provisions, and in the case of an impasse must refer the complete file to the agency. The MMS provider also must counsel the employee about potential consequences of signing any full and unconditional release on any offer of settlement before all claims resulting from a particular move have been resolved.

Section 5—Time of Performance

5–1. Approval

5–1.1. Filing of Application [old D5–10 & I5.1]

Unless otherwise specified by the PMO, a Participant or agent filing for approval in accordance with the HTOS Section 2 must file its application for approval in accordance with the dates specified in the application instructions. To be considered timely filed, the application must be received at the

UMI
VOL 66
ISS 246
DE 21
2001
UMI

address specified in HTOS Section 2. Receipt at any other address of the General Services Administration will not constitute receipt by the PMO.

5–1.2. Filing of Supplemental Information

5–1.2.1. Non-Financial Information [old D5–10]

In the event the PMO determines that the non-financial material submitted is deficient, the applicant will be notified by certified mail dated no later than February 1 to provide the supplemental information. A Participant required to submit supplemental information must do so no later than the due date specified in the request. To be considered timely filed the supplemental information must be received at the address specified in HTOS Paragraph 2–2.2. Receipt at any other address of the General Services Administration will not constitute receipt by the PMO.

5–1.2.2. Financial Information [old D5–10]

Supplemental financial material will not be requested or accepted.

5–1.3. Notice of Action on Application

5–1.3.1. Approved Applicants, No Supplemental Information Requested [old D5–10]

Applicants approved without a request for supplemental information will be notified by certified mail dated no later than February 1 of the year following submission of the application.

5–1.3.2. Approved Applicants, Supplemental Information Requested. [old D5–10]

Applicants approved subsequent to a request for supplemental information will be notified by certified mail dated no later than June 1 of the year following submission of the application.

5–1.3.3. Non-Approved Applicants

5–1.3.3.1. Non-Approved Applicants on Non-Financial Basis [old D5–10]

Applicants' applications not approved on a non-financial basis will be notified by certified mail dated no later than June 1 of the year following submission of the application.

5–1.3.3.2. Non-Approval on Financial Basis [old D5–10]

Applicants' applications not approved on a financial basis will be notified by certified mail dated no later than February 1 of the year following submission of the application.

5–2. Restructuring of Scope of Operations

5–2.1. Time of Request [old D5–10]

A request for restructuring of a Participant's approved scope of operation based on changes in traffic patterns may be submitted at any time during the fifth anniversary year and subsequent fifth anniversary years. Formal requests, as opposed to the notice of intent to request, received by GSA prior to or after the anniversary year will be rejected.

5–2.2. Notice of Intent [old D5–10]

A notice of intent to request a restructure of a Participant's scope of operation may be presented to the PMO at any time in the calendar year prior to the anniversary year or during the anniversary year.

5–3. Establishment of Pickup Date [old I5.7]

Participants will be provided at least five (5) working days advance notice when tendered shipments. Under unusual circumstances, Participants may agree but are not obligated to accept pickups on less than 5 working days notice. Once shipments are accepted with less notice, the Participant is obligated to the agreed pickup date.

5–3.1. Domestic

For domestic shipments, the employee and/or his designated representative, and the Participant shall establish and agree to a pickup date.

5–3.2. International

For international shipments, the RTO and the Participant shall establish and agree to a pickup date.

5–4. Origin and Destination Services [old D5–4 & I5.6]

All origin and destination services shall be performed between 8AM and 5PM, local time, on regular business days, excluding Saturdays, Sundays, local holidays, or U.S. holidays, unless mutually agreed upon in writing. No liability on the part of the Government will be incurred for overtime labor or any other additional charges. Participant must, if requested, produce a copy of this writing to an authorized inspector.

5–4.1. Domestic Only [old D5–4]

For domestic shipments, agreeing parties include the Participant, the owner of the household goods or his designated representative *and/or* the RTO.

5–4.2. International Only [old I5.6]

For international shipments, agreeing parties include the Participant, the owner of the goods or his designated representative, *and* the RTO.

5–5. Obtaining Another Agent—International Only [old I5.18]

The Participant must obtain another approved agent within 30 calendar days of the cessation of the relationship between a Participant and its designated agent.

5–6. Transit Time.

5–6.1. General [old D5–1]

Shipments handled pursuant to this HTOS and delivered directly to a residence or delivered to SIT at destination will be transported and delivered in accordance with the time periods specified in HTOS Section 12, as appropriate, corresponding to the type, weight and distance of any shipment.

5–6.1.1. Measurement of Transit Times [old D5–1]

Transit time will be measured in calendar days from the date loading is completed to the date on which the shipment is offered for delivery at the residence, except when the last day of the transit time falls on Saturday, Sunday, local holiday, or a Federal holiday, then the next United States Government working day will be considered the last day of transit. In the event SIT occurs at origin, transit time will be measured based on the transportation from the point of SIT to the delivery residence.

5–6.1.2. Transit Time Basis [old D5–1]

The transit times are based on the assumption that a Participant will be given a minimum of five (5) days notice before the pickup date of shipments. If less than five (5) days notice is given the Participant, the transit times will be increased one (1) day for each day under the five (5) day notice period.

5–6.1.3. Transit Times for a Privately Owned Vehicle (POV) [old I5.9.3]

(1). The transit time for a POV, except as provided in subsection (2) below, is the same as that for a surface shipment specified in HTOS Section 12.

(2). The transit time for a POV between CONUS and a point in Alaska, Guam, the Hawaiian Islands, Puerto Rico, or the Virgin Islands (St. Thomas, St. Croix, or St. John) is specified in HTOS Section 12. The Participant must notify the applicable Federal department or agency in writing of the port(s) it intends to use to meet the transit time required.

(3). A transit time penalty applies if the Participant fails to meet the transit time specified in HTOS Section 12. The Participant must notify the applicable department or agency within twenty-four (24) hours of any expected delay. Also, the Participant must arrange for the transferee's use of a rental car at the Participant's expense. The rental must be the same or comparable, size/model as the POV the transferee shipped. The RTO may waive this penalty in whole or in part based on the circumstances of the delay.

5–6.2. Interstate Transit Times [old D5–1]

Interstate transit times apply to shipments picked up at an address in one State and delivered to an address in another State, both States being in the continental United States, or picked up/delivered between an address in the continental United States and an address in Canada. The transit times in Section 12 are the maximum transit times in days applying to interstate shipments unless waived by the RTO in writing.

5–6.3. Intrastate Transit Times [old D5–1]

Intrastate transit times apply to shipments picked up and delivered within the same State. The transit times in Section 12 are the maximum transit times in days applying to intrastate shipments unless waived by the RTO in writing.

5–6.4. International Transit Times

5–6.4.1. Unaccompanied Air Baggage [old D5–1]

Transit time for unaccompanied air baggage is 15 days unless waived by the RTO in writing.

5–6.4.2. Surface Shipments [old I5.9]

International transit times apply to shipments picked up/delivered between the named State, Trust Territory, or Possession of the United States and the named countries. The transit times in Section 12 are the maximum transit times in days applying to international shipments unless waived by the RTO in writing.

5–7. Notice of Shipment Availability for Delivery—International Only [old I5.10]

5–7.1. Availability for Delivery—International Only [old I5.10]

Upon notification from the Participant/agent that a shipment has arrived and is available for delivery, the RTO will have 24 hours in which to confirm delivery arrangements. If delivery arrangements cannot be confirmed by the expiration of the 24 hour period, storage will be authorized and effective as of the date on which the 24 hour period expired.

5–7.2. Delivery of Shipments Not Involving SIT

5–7.2.1. Arrival Prior to RDD—International Only [old I5.10]

For shipments that arrive prior to the RDD, Participant will deliver to the owner or owner's agent prior to the RDD.

5–7.2.2. Arrival After the RDD—International Only [old I5.10]

For shipments that arrive after the RDD, the Participant will deliver in accordance with the instructions or within two workdays after notifying the destination RTO of the shipment's arrival.

5–7.3. Notification of SIT Pickup/Delivery—International Only [old I5.10]

If requested by the RTO, the notification of SIT pickup or delivery availability on the afternoon preceding the scheduled pickup or delivery will be provided to the RTO.

5–8. Notice of SIT Location [old D5–3]

A written electronic transmission, including facsimile or other form of notice of the SIT location (street address, City/state) together with a telephone number for the warehouse, as provided in HTOS Paragraph 9–2.4, must be furnished to the RTO within five (5) calendar days after placement of the shipment in SIT or change in SIT location. The Property Owner must be notified as soon as possible after placement of the shipment in SIT or change in SIT location.

5–9. Delivery From Storage in Transit [old D5–2]

Unless the property owner agrees to the contrary, delivery from SIT must be accomplished on the date requested, excluding Saturdays, Sundays, local holidays, and Federal holidays. If because of prior commitments, the Participant cannot deliver on the day requested, delivery must be completed no later than three business days thereafter. If the shipment is not removed from the storage warehouse within three working days (excluding Saturday, Sunday, and holidays) after the delivery date requested, storage charges will cease to accrue as of the requested delivery date.

5–10. Shipment Tracing [old D5–7 & I5.19]

When the owner of the household goods or RTO requests information concerning shipments in transit, Participants will retain a written record as provided in HTOS 8–5.14.5.3.2, of such requests and acknowledge and make a prompt report, by electronic transmission, including facsimile or other form of electronic transmission, if available, to the requestor as to the location of the shipment. Time frames for completing the above include seventy-two (72) hours for an international shipment, and twenty-four (24) hours on a domestic shipment, including interstate and intrastate.

5–11. Notice of Concealed Loss/Damage [old I5.12]

In order for the Participant to be liable as specified in Section 10–1.3.7.1, for loss and/or damage discovered by the owner within seventy-five (75) days after delivery (concealed), the Government or the property owner must notify the Participant, in writing, of the concealed loss and/or damage within seventy-five (75) days from the date of delivery.

5–12. Acknowledgment and Settlement of Claims

5–12.1. Acknowledgment [old D5–8]

The Participant shall acknowledge directly, unless otherwise instructed, to the property owner all claims for loss and damage or delay within 10 calendar days after receipt.

5–12.2. Settlement [old D5–8]

The Participant shall make settlement of all claims for loss and damage or delay directly, unless otherwise instructed, to the owner of the property for any loss or damage for which the Participant is liable within 30 days after receipt thereof.

5–12.3. Delay in Settlement [old D5–8]

If the claim cannot be processed and disposed of within 30 days after receipt thereof, an additional 30 day period shall be available for settlement of the claim; provided, however, that the Participant shall, at that time, advise the claimant and the RTO in writing or electronically of the status of the claim and the reason for the delay in making final disposition thereof and that Participant shall retain a copy of such advice to the claimant in its claim file thereon. Failure to make settlement within the initial 30 day period, or the maximum 60 day period if proper notice is given, shall be construed as a refusal by the Participant to settle the claim.

UMI
VOL 66 ISS 246 DE 21 2001
UMI

5–12.4. Payment of Transportation Charges for Partial Loss [old D5–8]

The Participant shall refund in accordance with the provisions of HTOS Paragraph 7–5.2 that portion of its freight charges (including any charges for accessorial or terminal service) corresponding to that portion of the shipment which is lost or destroyed in transit at the time it disposes of claims of loss, damage, or injury to the articles in the shipment.

5–13. Waiver of Requirements

5–13.1. Requests [old D5–5 & I5.4]

Written confirmation of a request for a waiver of requirements, including requests for approvals as provided in 8–1.1, must be submitted to the RTO within five (5) business days of the verbal request. If the RTO has not issued the approval/waiver as required in HTOS Paragraph 8–1.1.3 through 8–1.1.21 in the time period specified in 5–13.2, below, the Participant may contact the PMO for assistance.

5–13.2. Issuance of an Approval or Waiver of Requirements [old D5–6 & I5.5]

The RTO shall issue the approvals required in HTOS Paragraph 8–1.1.3 through 8–1.1.21 or a waiver of requirements as provided in writing within seven (7) calendar days.

5–14. Documents To Be Furnished

5–14.1. To Property Owner

5–14.1.1. Domestic Only [old D8–6]

The documents specified in HTOS Paragraph 8–5.8.2 will be provided by the Participant to the property owner within ten (10) business days after performance of the specified service.

5–14.1.2. International Only [old I5.15]

The documents specified in HTOS Paragraph 8–5.8.2 will be provided by the Participant to the property owner within seven (7) business days after performance of the specified service.

5–14.2. To the Responsible Transportation Officer

5–14.2.1. Domestic Only [old D8–6]

The documents specified in HTOS Paragraph 8–5.8.3 will be provided by the Participant within 14 business days after performance of the specified service, except that the DD Form 1840, when required by the Federal agency, will be provided within 30 days of shipment delivery.

5–14.2.2. International Only [old I5.16]

The documents specified in HTOS Paragraph 8–5.8.3 will be provided by the Participant within seven (7) business days after performance of the specified service, except that the DD Form 1840, when required by the Federal agency, will be provided within 30 days of shipment delivery.

5–15. Reports to the RTO

5–15.1. Unusual Incidents [old D5–9]

A Participant must report unusual incidents (see HTOS Paragraph 9–2.2), no later than the first working day after discovery by the Participant.

5–15.2. Pickup and Delivery [old D5–9]

A Participant must notify the RTO and if practicable, the owner immediately upon in determining that scheduled pickup or delivery dates cannot be met.

5–15.3. Report of Shipment Arrival—International Only [old I5.19]

Participant will notify the RTO and the employee within one (1) workday of a shipment's arrival at agent's facility, and advise of the shipment's first available delivery date.

5–15.4. Agency Shipment Reports—International Only [old I5.19]

The report specified in HTOS Paragraph 9–2.7.1 will be provided to the shipping federal agency within not more than five (5) calendar days following date of pickup of a shipment in either CONUS or overseas.

5–15.5. Settlement Report.—International Only [old I5.14]

Simultaneously with the transmission of the settlement to the employee, the Participant will report to the RTO both the final action taken on any claim, including the date, and the total amount of settlement.

5–15.6. Notice of Reorganization/Bankruptcies [old D5–9]

The Participant must report to the PMO the filing for reorganization or bankruptcy (see HTOS 2–10.9) within ten (10) calendar day after the date of filing.

5–15.7. Report of Loss/Damage Tracing [old I5.19]

In the event the shipping Federal agency requires the use of DD Forms 1840 and 1840R, the Participant will report the results of the tracing action to the RTO in writing within thirty (30) working days of notification of loss.

5–15.8. Change in Designated Agent—International Only [old I5.19]

The Participant must report to the PMO any change in its designated agents within 15 calendar days of the cessation of the Participant-agent relationship.

5–15.9. Report of Real Property Damage [old I5.19]

The Participant will notify the RTO in writing no later than the first working day following the discovery of the damage, however caused, to an employee's real property.

5–15.10. Report of Shipments on Hand—International Only [old I5.19]

The carrier will provide the shipments on hand report specified in HTOS Paragraph 9–2.7.4 no later than 4 p.m., local time, on the first business day of the week.

5–15.11. Commercial Port Level Report—International Only [old I5.19]

The carrier will provide the Commercial Port Level Report specified in HTOS Paragraph 9–2.8 no later than 4 p.m., local time, on the first business day of the week.

5–16. Reports to the PMO

5–16.1. Shipment Reports [old D5–9]

The shipment report specified in HTOS Paragraph 9–3.1.2 shall be submitted to the PMO within sixty (60) calendar days after the end of each calendar quarter. Participants submitting their reports electronically as required in HTOS Paragraph 9–3.1.2.1 may submit their reports more frequently.

5–16.2. Claims Settlement Report [old D5–9]

The claims settlement report required in HTOS Paragraph 9–3.1.1 shall be submitted to the PMO within sixty (60) calendar days after the end of each calendar quarter.

5–17. GSA Industrial Funding Fee [old D5–11 & I5.20]

The Participant must remit the GSA industrial funding fee (IFF) specified in HTOS Paragraph 7–1.11 within sixty (60) calendar days after the end of each calendar quarter upon which the shipment reports are required.

5–18. Maintenance of Insurance

5–18.1. Notice of Termination [old I5.2]

The cargo liability insurance certificate must provide that notice of termination or cancellation be furnished to the PMO thirty (30) days prior to such termination or cancellation.

5–18.2. Submission of Certificate of Insurance [old I5.1]

Cargo insurance certification meeting the requirements of Paragraph 5–18.1

must be submitted in accordance with the instructions set out in the Request for Offers.

5–19. Maintenance of Performance Bond

5–19.1. Duration of Bond—International Only [old I5.3]

The bond is continuous until canceled by carrier or surety company. In the event a bond is canceled, it must be replaced effective close of business on the date of the canceled bond in order to maintain approval.

5–19.2. Submission of Performance Bond [old 5.1.2.3]

Performance bond meeting the requirements of Paragraph 5–19.1 must be submitted in accordance with the instructions set out in the Request for Offers.

5–20. Limitation of Action

5–20.1. Claims for Charges

5–20.1.1. Filing of Claims by Participants [old I5.18]

All claims and actions at law by Participants for recovery of their charges on shipments subject to the provisions of this HTOS will be filed within three (3) years (not including any time of war) from the date of any one of the following: (1) Final delivery of the property; (2) Payment of the transportation charges thereon; (3) Subsequent refund of excess charges; or (4) Deduction of such excess charges from Participant's account, whichever is later.

5–20.1.2. Filing of Claims Against Participants [old I5.18]

All claims and actions at law against Participants for recovery of excess charges on shipments subject to the provisions of this HTOS will be filed within three (3) years (not including any time of war) from the date of payment of the charges thereon.

5–20.1.3. Government's Breach of Limitation—International Only [old I5.18]

Provided, however, that if the limitation of actions set forth in this item is breached by the Government by the filing of a claim or action at law (other than by mistake or inadvertence) at a time other than stated in this HTOS Paragraph, this HTOS Paragraph will be of no force and effect and will be void ab intitio.

5–20.2. Claims for Property Loss/Damage [old I5.18]

The time frame for the filing of claims for property loss and damage shall be in accordance with the laws of the United States of America and the terms and conditions of the applicable Government bill of lading.

Section 6—Inspection

6–1. Inspection by the Government

6–1.1. Inspection of Facilities and Operations

6–1.1.1. Right To Review [old D6–1 & I6.1]

The PMO or its designee shall have the right to review and inspect the facilities and operations of any Participant in the Program or its agents to determine if the equipment, facilities, operations, and personnel are adequate and capable of performing the services required by United States Government, or have been performed in accordance with the provisions of this HTOS and the Participant's approval and the requirements of the Federal ordering office. Reviews will be conducted during regular office hours or at any time work is in progress. Published Corporate Participant Quality Control Programs will be presented and explained to authorized inspectors when the Participant's facilities are inspected.

6–1.1.2. Facilities [old D6–1]

The Participant must furnish PMO representatives with free access and reasonable facilities and assistance required to accomplish the review. The Participant shall also provide without cost to the Government legible reproductions of any documents required in the performance of the inspection.

6–1.1.3. Reports of Review [old D6–1]

Upon completion of an on-site review, the PMO shall furnish the Participant within ninety (90) days of completion of the on-site review with a report showing the findings of the review and corrective actions, if any, which must be taken by the Participant to bring its operation into compliance with requirements as set forth in this HTOS. A Participant receiving a report showing corrective actions which need to be taken shall have its approval changed to conditional, and shall have thirty (30) calendar days from its receipt of the report to institute these corrective actions identified as requiring immediate action and to notify the PMO of doing so. In the event the Participant objects to the stated necessary corrective actions and the reasons behind such actions, the Participant may appeal in accordance with the provisions of HTOS Paragraph 8–5.10.2.

6–1.2. Inspection of Service Performance

6–1.2.1. General [old D6–1]

Authorized representatives of the RTO shall have the right to inspect the packing, loading, weighing, pickup, delivery, unpacking, warehousing, and any other services performed or being performed by the Participant. Authorized representatives of the RTO shall include personnel of the GSA designated to perform quality assurance, or in the absence of such GSA personnel, the owner of the property or personnel of the Federal agency employing the owner. Authorized representatives may inspect the performance of services at the residence of the owner of the goods or at the warehouse or other facility of the Participant or its agents during regular office hours or at any time that work is in process.

6–1.2.2. Corrective Action [old D6–1]

When authorized representatives of the RTO find that packing, loading, unpacking, or any other work being performed or already completed does not comply with the terms, conditions or specifications set out in this HTOS, the authorized representative shall so advise the Participant. The Participant must promptly correct the deficiency by taking whatever action is necessary at no additional cost to the Government or the owner.

6–1.2.3. Facilities [old D6–1]

The Participant must furnish Government representatives with free access and reasonable facilities and assistance required to accomplish their inspection.

6–1.2.4. Reports [old D6–1]

6–1.2.4.1. General

Reports of inspection shall be furnished to the PMO. Except as provided in Subparagraph 6–1.2.4.2.2.3.2. below, reports of inspection shall be construed as final and conclusive of the performance of services.

6–1.2.4.2. GSA Form 3080, Household Goods Carrier Evaluation Report

6–1.2.4.2.1. Completion

While any written statement from an authorized representative as specified in HTOS Paragraph 6–1.2.1, above, is an acceptable report of inspection, GSA Form 3080, Household Goods Participant Evaluation, is normally used as a report of inspection and will be provided to the owner of each shipment and to the RTO to assist the GSA in the

UMI
VOL 66
ISS 246
DE 21 2001
UMI

overall evaluation of customer satisfaction on personal property shipments. Upon completion of services by the Participant at destination, the owner will complete the appropriate section of GSA Form 3080 and transmit it to the RTO for completion of the appropriate section. After completion by both the property owner and the RTO, GSA Form 3080 is returned to the PMO. The PMO will review each completed form to ensure that all shipments routed under the GSA HTOS received high quality service. After the PMO has reviewed the form, the information contained on the form will be entered into the Service Performance Index and Evaluation System (SPIES) data base.

6–1.2.4.2.2. Appeal Procedures

In the event that the rated Participant disagrees with the evaluation contained on the GSA Form 3080, Household Goods Carrier Evaluation, the Participant has the right to appeal such evaluation as specified below. Except as provided below, an appeal received by the PMO directly from a rated Participant will be rejected.

6–1.2.4.2.2.1. Shipment Not Tendered

In the event the rated Participant carrier determines that a shipment was not tendered to its company, the Participant must advise the PMO in writing requesting review and correction.

6–1.2.4.2.2.2. Disagree With the Rating by the Property Owner

In the event the rated Participant disagrees with the property owner's evaluation and the property owner's evaluation had not been changed by the RTO prior to submission to the PMO, the rated Participant must first notify the property owner in writing setting out the basis of the disagreement and requesting the opportunity to resolve it. In the event the rated Participant disagrees with the property owner's evaluation and the property owner's evaluation had been changed by the RTO prior to submission to the PMO, the procedures set out the in Paragraph "Disagree with rating by RTO" apply.

6–1.2.4.2.2.2.1. Disagreement is Resolved

If the property owner and the rated carrier resolve the disagreement and that resolution changes the property owner's rating, the property owner and the rated Participant must jointly advise the RTO by a single memo signed by both. The RTO will then in writing notify the PMO and request that the rating be changed.

6–1.2.4.2.2.2.2. Disagreement is not Resolved

If the property owner and the rated Participant cannot resolve the disagreement, the rated Participant must notify the RTO in writing requesting review and resolution. The request will set out the basis of the disagreement, actions taken to resolve the disagreement, and include a copy of the letter to the property owner and any records that may have been made of conversations, meetings, or correspondence with the property owner. The RTO will then investigate the disagreement, determine whether any changes should be made in the rating, and if so, advise the PMO in writing. The RTO's determination is final and not reviewable by the PMO.

6–1.2.4.2.2.3. Disagree with Rating by the RTO

In the event the rated Participant disagrees with the RTO's evaluation, the rated Participant must first notify the RTO in writing setting out the basis of the disagreement and requesting the opportunity to resolve it.

6–1.2.4.2.2.3.1. Disagreement is Resolved

If the RTO and the rated Participant resolve the disagreement and that resolution changes the RTO's rating, the RTO and the rated carrier must jointly advise the PMO in single memo signed by both.

6–1.2.4.2.2.3.2. Disagreement is Not Resolved

If the RTO and the rated Participant cannot resolve the disagreement, the rated Participant and the RTO must jointly request in a single memo signed by both to the PMO that they request resolution of the disagreement by the PMO and agree to accept the findings of the PMO without further appeal. The request will set out the basis of the disagreement, actions taken to resolve the disagreement, and include a copy of the letter to the RTO and any records that may have been made of conversations, meetings, or correspondence by either party. The PMO will then investigate the disagreement, determine whether any changes should be made to the rating, and if so, advise the rated Participant and the RTO in writing, and correct the rating. If the rated Participant and the RTO cannot agree to jointly request review and resolution by the PMO, the original rating will remain in effect.

6–1.2.4.2.2.4. Oral Appeals

Oral appeals will be construed as without merit and rejected.

6–1.3. Inspection of Sorting for Partial Withdrawal From Sit [old I6.1]

The employee or any other person responsible for payment of the freight charges will have the right to be present at the Participant's facility during the sorting of the property. The Participant will deliver, or the employee has the option to pick up, the property.

6–2. Acceptance by the Government [old D6–2]

Acceptance of the services as satisfactorily performed shall be as determined under such conditions as the RTO specifies.

6–3. Inspection by the Participant (Prepacked Items)

6–3.1. General [old D6–3]

The Participant is responsible for all packing. The Participant is authorized to inspect all prepacked goods to ascertain the contents and determine that only articles not otherwise prohibited by this HTOS are contained in the shipment.

6–3.2. Repacking of Owner-Packed Items [old D6–3]

The Participant is authorized to determine that owner packed goods require repacking. Such repacking will be performed by the Participant in a Participant-provided container. The Government will bear the costs for repacking in this instance, subject to the provisions of Paragraph 7–6 of this HTOS.

Section 7—Payment of Charges

7–1. Payment of Charges

7–1.1. Billing of Charges

7–1.1.1. Applicable Rate [old D7–1 & I7.1]

All charges for transportation and related services for shipments handled shall be in accordance with the lowest applicable tariff or tender, and will be billed to the civilian executive agency shown in the "Bill Charges to" block on the GBL (SF1103 or SF1203). The Participant's public voucher for charges must be supported by the documents specified in HTOS Paragraphs 7–1.2 through 7–1.10, below as applicable. Failure to submit any of the documents shall result in non-payment of the associated charges.

7–1.1.2. Applicable Rate in Absence of Accepted Rate [old I7.1]

Acceptance and movement of a shipment by the Participant over routes for which the Participant has no accepted rates or whose rates have been canceled shall constitute an agreement by that Participant to perform the transportation services at the lowest rate filed by any Participant on that route.

7–1.1.3. Applicable Charges on Overweight Shipments [old I7.1]—International Only

In accordance with HTOS Paragraph 9–2.1.2.2 and in the event that the RTO requires notification of overweight shipments and the Participant fails to notify the RTO in accordance with his/her instructions and moves the shipment from origin to destination, including any intermediate point(s) and the location of SIT, the Participant may collect from the Government without recourse to the relocating employee as transportation and accessorial service charges, including terminal services, an amount equal to the charges accruing to the authorized shipment weight.

7–1.1.4. Applicable Weight When Reweigh Performed [old I7.1]

When a shipment is reweighed in accordance with HTOS Paragraph 4–10.4, charges will be based on the reweigh weight. In the event the reweigh information is not available at the time of the Participant's initial submission of its Public Voucher for Transportation Charges, SF1113, the Participant will either present a supplemental billing adjusting the transportation charges, or adjust supplemental billings to reflect the reweigh weight.

7–1.1.5. Substitute Documents In Lieu of Lost Government Bill of Lading (SF1103 or SF1203) [old I7.1]

If the original GBL is lost or destroyed, the Participant shall forward the freight waybill original (SF1105 or SF1205) to the Federal agency billing office for payment. Duplicate or reproduced copies of SF1105's or SF1205's are not acceptable. If both the original GBL, SF1103 or SF1203, and the freight waybill, SF1105 or SF1205, are lost, the Participant shall request and be provided a certified true copy of the issuing office's Memorandum Copy, SF1103A or SF1203A, for use as a substitute billing document. If the original GBL is located and made available to the Participant before settlement is made, the Participant shall return the memorandum copy to the issuing office. If the original GBL is found after settlement, the Participant shall forward the bill to the appropriate issuing office for proper voiding.

7–1.2. Original Public Voucher for Transportation Charges (SF1113) [old D7–1]

The Participant must include on the SF1113 the following items: (a) The required transit time for the shipment, as set forth in this HTOS; (b) The actual transit time for the shipment; (c) Taxpayer ID Number; and (d) The Late Delivery Reduction assessed as a deduction from total charges in accordance with HTOS Paragraphs 11–1.3 or 11–1.4, as applicable.

7–1.3. Government Bill of Lading (GBL) [old D7–1]

Original Government Bill of Lading or certified copy of the original waybill and other Government approved documentation.

7–1.4. Scale Tickets [old D7–1]

Scale tickets determining net weight (original weighing and reweighing) with proper identification of the shipment thereon and, if applicable, a copy of the written request for reweighing.

7–1.5. Authorization for Diversion or Reconsignment [old D7–1]

Written authorization for diversion or reconsignment.

7–1.6. Approvals and Authorization for Waiver [old D7–1]

If additional charges are to be assessed as a result of a waiver or approval, written authorization is required for a waiver of any requirements stated herein and any written approvals for changes.

7–1.7. Advanced Charges [old I7.1]

Charges advanced by Participant for services of others engaged with the authorization of the RTO will be supported by the Participant with the RTO's authorization, a copy of the invoice setting forth services rendered, charges and basis thereof (including reference to any applicable tariff, price list, rate schedule, or similar statement of rates and charges). The charges so advanced are in addition to and shall be paid with all other lawful rates and charges.

7–1.8. Miscellaneous Charge [old I7.1]

Any cost incurred by the Participant for a service outside the terms of this HTOS, authorized by the RTO, and provided by the Participant will be billed as a miscellaneous charge. A description of the service, the RTO's authorization, and the basis for the computation of the charge is required.

7–1.9. DD Form 619 or Comparable Commercial Form [old D7–1]

Original "Statement of Accessorial Services Performed" (DD Form 619) or comparable commercial form when charges are assessed for accessorial services, not including SIT. Each household appliance serviced will be identified to show the kind, make, model, or the name of the manufacturer; and

7–1.10. DD Form 619–1 or Comparable Commercial Form [old D7–1]

Original "Statement of Accessorial Services Performed—SIT Delivery and Reweigh" (DD Form 619–1) or comparable commercial form, when charges are assessed for SIT delivery. Net or gross weight, whichever is applicable, will be noted on the DD Form 619–1.

7–1.11. GSA Industrial Funding Fee (IFF)

7–1.11.1. Remittance of GSA IFF. [old D7–1]

The GSA IFF will be remitted to GSA on the basis of shipments billed as reported, in accordance with the provisions of HTOS Paragraph 9–3.1.2. The remittance may be transmitted either by check or by electronic funds transfer.

7–1.11.1.1. Remittance by Check [old D7–1]

Checks shall be made payable to "GSA–GL474.1[SCAC Code]"; e.g., "GSA–GL474.1 [YZAB] and mailed to General Services Administration, Accounts Receivable, P.O. Box 73221, Chicago, IL 60673.

7–1.11.1.2. Remittance by Electronic Funds Transfer [old D7–1]

Payments submitted by electronic funds transfer should be submitted in accordance with the below listed format.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Sample Funds Transfer Message Format

```
             [
     [1]
     [2]         [3]
     [4]         [5]          [7]
                              [8]
                              [9]
                              [10]
                              [11]
                              [12]
```

EXPLANATION OF REFERENCES

Ref.	Name	GSA required fill	Explanation
{1}	Priority code		Provided by the sending bank. Note: Some Federal Reserve district banks may not require this item.
{2}	Treasury Department Code	021030004	The nine-digit identifier is the routing symbol of the United States Treasury. This item is a constant and is required for all funds trasnfer messages note to the United States Treasury.
{3}	Type Code		The type code will be provided by the bank.
{4}	Sending Bank Code		The nine-digit sending bank code will be provided by the sending bank.
{5}	Class Code		The class code may be provided by the sending bank at its option (if permitted by the Federal Reserve district bank).
{6}	Reference Number		The reference number,may be inserted by the sending bank to identify the transaction.
{7}	Amount		The amount will include the dollar sign and the appropriate punctuation including cents digits. This item will be provided by the depositor.
{8}	Sending Bank Name		The telegraphic abbreviation which corresponds to item {4} will be provided by the sending bank.
{9}	Treasury Department Name	Treas NYC/(47000016) GSA	This item is of critical importance. It must appear on the funds transfer message in the precise manner as stated to allow for the automated processing and classification of the funds transfer message to the agency location code of the appropriate agency. The item is comprised of a rigidly formatted, non-variable sequence of 15 characters as shown.
{10}	Information	GSA Shipment Surcharge	This item identifies the purpose of payment.
{11}	Information plus SCAC	GL474.1 [YZAB]	This item identifies the account in GSA.
{12}	Information	Payment for [SCAC]	This identifies the Participant making the payment. For [SCAC] substitute the Participant's Standard Carrier Alpha Code.

Example:

```
             2
         02103004           10
         011000390                0650          $1,500.00
FIRST BOS
TREAS NYC/(47000016)GSA
GSA INDUSTRIAL FUNDING FEE
GL474.1 YZAB
PAYMENT FOR YZAB
```

7–1.11.1.3. Remittance by Credit Card RESERVED.

7–1.11.2. Failure To Submit Remittance [old D7–1]

The failure to submit the remittance as required by this HTOS Paragraph and in accordance with the time frames established in HTOS Paragraph 5–17 will result in immediate placement in temporary nonuse pending revocation of the Participant's approval to participate in the CHAMP.

7–1.11.3. Application

7–1.11.3.1. First Shipment [old I7.1]

The first shipment of a relocation performed pursuant to this HTOS is defined as a surface shipment of household effects, shipment of a privately owned vehicle, and/or a shipment of unaccompanied air baggage, all or any one of which are tendered to the Participant by the shipping Federal agency at the same time or within six months of the tender of the first component of the first shipment.

7–1.11.3.1.1. Supplemental Shipments [old I7.1]

A supplement shipment of a relocation performed pursuant to this HTOS is defined as any surface shipment, shipment of a privately owned vehicle, or unaccompanied air baggage shipment tendered to the Participant by the shipping Federal agency after six months from the date of the tender of the first component of the first shipment.

7–1.11.3.2. Exclusions

7–1.11.3.2.1. Shipments in Storage-In-Transit [old I7.1]

The GSA Shipment Surcharge does not apply to the pickup or delivery of a shipment to or from SIT when that shipment was stored in transit as part of the first shipment of a relocation as defined in HTOS Paragraph 7–1.11.3.1, above, or when that shipment was a supplemental shipment as defined in HTOS Paragraph 7–1.11.3.1.1, above.

7–1.12. Adjustment Based on Rate Differentials Involved in the Use of Foreign Flag Shipping—International Only [old I7.1]

Adjustments in rates will be permitted when rate differentials are involved due to the use of Foreign Flag Shipping. A Justification Certificate (HTOS Section 15) is required for the use of a Foreign Flag vessel. When increases or decreases occur in rates due to the use of Foreign Flag Shipping, billing and documentation submitted in connection with the ITGBL shipment, will have differences between the Foreign Flag vessel rate and the rate used in computing the accepted transportation single factor rate (SFR), adjusted in favor of the Participant or the Government on the basis of the ocean freight bill which must be submitted to support each Government Bill of Lading. An example of the adjustment required in the event of an ocean rate increase would be.

ITGBL Shipment Adjustment Example.

PROBLEM. 3,000 lb., 450 × $32.00 per cwt. Cubic Ft., ITGBL Rate $32.00 per cwt.
STEP 1. 3,000 lb. = $960.00.
STEP 2. Ocean rate used in constructing the effective ITGBL rate. 81 cents per cubic foot.
STEP 3. Paid to Foreign Flag ocean Participant as shown on freight bill. 90 cents per cubic foot.
STEP 4. Supplemental charge for ocean freight as stated on the ocean freight bill and computed in accordance with the measurement rule stated in tariff governing the rate. 450 cubic feet at 9 cents per cubic foot = $40.50.
STEP 5. Total charges due ITGBL Participant $1,000.50.

7–2. Payment in the Event of Shipment Termination [old I7.2]

7–2.1. Domestic Only

In the event a Participant's right to provide services is terminated by the RTO as provided in HTOS Paragraph 8–1.1.17.1, the Participant will be paid up to the point of termination for services actually performed. Payment to the terminated Participant will be based on the actual services performed, less the difference between the terminated Participant's billing and the billing of the replacement Participant.

7–2.2. International Only

In the event a Participant's right to provide services is terminated by the RTO as provided in HTOS Paragraph 8–1.1.17.2, the Participant will be paid up to the point of termination on a prorated basis for the services actually performed. The basis of proration shall be negotiated between the RTO and the Participant. Upon determination, the RTO's decision shall be final and conclusive.

7–3. Valuation Charges [old D7–2]

Although the liability in excess of that declared by the shipping Federal agency is an expense of the owner, the charges will be billed by the Participant to the finance office of the Federal civilian executive agency sponsoring the shipment and identified as a separate item of billing.

7–4. Charges Storage-In-Transit

7–4.1. General.—International Only [old I7.4]

Except as specifically provided for herein, each portion of the shipment will be rated at the applicable rate in effect on the date of initial pickup of the shipment, based of the total weight of the entire shipment.

7–4.2. Warehouse Handling Charges [old D7–4]

Warehouse handling charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination municipality shown on the GBL, unless otherwise specifically authorized by the RTO. In the event the use of trailers, vans, public warehouses, and self storage units is approved, one-half the applicable warehouse handling rate will be paid.

7–4.3. Storage Charges [old 7.4.3]

Storage charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination municipality shown on the GBL, unless otherwise specifically authorized by the RTO. In the event the use of trailers, vans, public warehouses, and self storage units is approved, one-half the applicable storage rate will be paid.

7–4.3.1. Storage Charges at Destination—International Only [old I7.6]

When storage-in-transit is at destination, charges, including charges for additional services, advances, and other properly authorized charges will be billed after storage-in-transit is completed. This provision is applicable to temporary storage only.

7–4.4. Pickup or Delivery Charges.—Domestic Only [old D7–4]

Pickup or delivery charges for shipments placed in SIT will be in accordance with the applicable tariff and/or tender for the destination point shown on the GBL, unless otherwise specifically authorized by the RTO.

7–4.4.1. Pickup or Delivery Charges.—International Only [old I7.6]

On shipments delivered from SIT, the applicable transportation charges will be the delivery transportation rate from nearest available Participant's agent DoD/DOS approved SIT facility at destination shown in the "Consignee Block" to final destination point.

7–4.4.2. Use Of A Facility For The Participant's Convenience [old I7.6]

Should the Participant use a more distant facility in excess of it's nearest facility for its own convenience, SIT and related charges will be based on the Participant's agent's nearest available DoD/DOS approved facility. Nearest available Participant's agent DoD/DOS approved storage facility is defined as that Participant's agent's facility which has DoD/DOS approval, has space for the shipment, and is accepting Federal civilian non-DoD traffic from the Participant.

7–4.4.3. Agent Refusal Of SIT Shipment.—International Only [old I7.6]

If the agent refuses to accept a shipment, e.g., because of the Participant's refusal to provide a waiver and/or due to the Participant's poor payment history, the agent's facility will be considered "available" for purpose of determining charges irrespective of what destination warehouse the Participant uses.

7–4.4.4. Delivery/Pickup at a Mini-Storage Warehouse [old I7.6]

Except as otherwise provided herein, if shipment is delivered to or picked up at a mini storage warehouse, the rates for transportation include only the unloading or loading at door, platform, or other point convenient or accessible to the vehicle.

VOL 66 ISS 246 DE 21 2001 UMI

7–4.4.5. Reduction In Charges [old I7.6]

In the event the storage occurs at a point other than the Participant's agent's nearest available facility, regardless of the cause and without the approval of the RTO, and in the event that the transit time for delivery from the actual point of storage to the final destination exceeds the transit time between the Participant's agent's nearest available facility and the final destination, the total charges shall be subject to a reduction equal to the Government paid cost of temporary quarters for the excess transit time.

7–4.5. Charges Applicable to Portion [old I7.6]

The transportation charges to apply on a portion of a storage-in-transit shipment delivered from warehouse location to destination will be the applicable transportation rate based on the weight of such portion, subject to the provisions of HTOS Paragraph 7–4.7.

7–4.6. Overflow [old I7.6]

On property consigned to storage-in-transit wherein an overflow of property requires that a split shipment be delivered to the warehouse on different dates, the charges for such property will be as follows: (1) Transportation charges from initial point of pick up to warehouse location will be based on the combined weight of the property stored in transit, and computation of transportation charges will be as provided in HTOS Paragraph 7–4.8; (2) storage charges in effect on date of initial pick up will apply and be assessed separately on each portion of shipment stored in transit, except the 1,000 pound minimum weight will apply to the combined weight of property stored in transit. Storage will be rated separately on each portion added; (3) warehouse handling charges will apply only once, based on the combined weight of the property stored in transit; (4) all subsequent charges will be based on the combined weight of the property stored in transit.

7–4.7. Withdrawal of Property [old I7.6]

During storage-in-transit, the property owner may withdraw a portion of the property. When the selection of items requires unstacking and/or restacking of the shipment or a portion of the shipment, charges for such handling will be assessed in accordance with labor charges. Charges for transportation furnished, if any, for portion selected for delivery will be assessed on the same basis as would apply to that portion as an individual shipment. The following will be applicable to the portion remaining in storage: (1) Storage charges will continue to apply on the weight of remainder of the property and (2) Charges for transportation furnished, if any, for the delivery of the remainder of the property will be assessed on the same basis as would apply to that portion as an individual shipment. Billing of charges incident to partial withdrawal of property will be in accordance with the instructions of the RTO.

7–4.8. Placement in SIT on Different Dates [old I7.6]

When property is placed in SIT in segments on different dates, the transportation rates and additional service charges in effect on the date of the pickup of the initial shipment will apply to each property segment placed in SIT.

7–4.9. Removal From SIT and Extra Pickup [old I7.6]

When property is removed from storage-in-transit and extra pickups are ordered, the transportation rates and additional service charges in effect on the date of the pickup of the initial shipment will apply based on the weight of the property removed from SIT or constituting the extra pickup.

7–4.10 Exceptions to Item 118 of the GRT (RFO 2–7.13)

The provisions of item 118 of the GRT, Attempted Delivery to Residence from SIT, will not apply: (1) When the delivery is attempted after 5:00 p.m. or before 8:00 a.m., unless previously agreed to or requested by the shipper; (2) when the delivery is attempted between the hours of 8:00 a.m. and 5:00 p.m. but at a time other than that previously requested or agreed to by the shipper; or (3) if delivery is not attempted or shipper is not otherwise contacted within 90 minutes of the prearranged and agreed to delivery time.

7–5. Charges For Lost Or Destroyed Shipment

7–5.1. Total Loss [old D7–5]

The Participant shall not collect, or require, a payment of any charges when the shipment is totally lost or destroyed in transit. Notwithstanding any other provisions of this HTOS Paragraph, the Participant shall collect, and the shipper shall be required to pay, any specific valuation charge that may be due. This HTOS Paragraph shall not be applicable to the extent that any such loss or destruction is due to the act or omission of the shipper.

7–5.2. Partial Loss [old D7–5]

In the event that any portion, but less than all, of a shipment of household goods is lost or destroyed in transit, the Participant shall refund that proportion of its charges (including any charges for accessorial or terminal services) corresponding to that portion of the shipment which is lost or destroyed in transit. In order to calculate the charges applicable to the shipment as delivered, the Participant shall multiply the percentage corresponding to the portion of the shipment delivered by the total charges applicable to the shipment as tendered by the shipper. If the charges so computed exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges shall apply. Notwithstanding any other provisions of this HTOS Paragraph, the Participant shall collect, and the shipper shall be required to pay any specific valuation charge that may be due. The provisions of this HTOS Paragraph shall not be applicable to the extent that any such loss or destruction is due to the act or omission of the shipper or Acts of God. Participants shall determine, at their own expense, the proportion of the shipment not lost or destroyed in transit.

7–5.3. Partial Loss Involving More Than One Vehicle—International Only [old I7.7]

In the event of the loss or destruction of any part of a shipment being transported on more than one vehicle, the collection of charges as provided in HTOS Paragraph 7–5.2 of this item will also be in conformity with the requirements of this item.

7–6. Charges for Repacking Prepacked Items [old D7–6]

The Government will bear the costs for the Participant repacking owner-packed goods that the Participant has determined require repacking. The charges for such repacking shall be based on the actual size of the carton(s) provided, subject to the Max-pack provisions of the Participants' bureau issued interstate government rate tender.

7–7. Charges for Reweigh [old I7.5]

There will be no charge for a reweigh.

7–8. Application of Prompt Payment Act [old I7.4]

The Prompt Payment Act, 31 USC 3901, *et seq.*, applies to shipments transported under this HTOS.

7–9. Payment of Debt [old I7.10]

Should any Federal agency be advised that a Participant filing rates under the terms of this HTOS has failed to comply with the terms of an arrangement entered into between the Participant and an agency of the Federal Claims Collection Act of 1966 relating to transportation services, that Federal agency may place the Participant in nonuse or disqualification status until such time as the arrangement entered into by the Participant has been complied with.

7–10. Excess Costs—International Only [old I7.11]

To enable the Government to collect excess costs incurred due to Participants/forwarders defaulting on shipments contained in transit, Participants assuming the onward movement will maintain records of all excess costs including demurrage, storage, etc., over and above those normally associated with a shipment.

7–11. Charges for Crating Services

Crating services will be quoted, billed and paid as provided in the GRT. If a third party is used to provide crating services and the charges are in excess of those provided in the GRT, the GBLIO/RTO has the authority to waive and negotiate the excess crating charges in whole or in part, based on the circumstances of the use of third party services.

7–12. Excessive Distance Carry

Notwithstanding any other provisions of the Item 160 of the GRT, any reference to a distance of less than 100 feet will be construed as 100 feet.

Section 8—Responsibilities and Authorities

8–1. Responsible Transportation Officer Responsibilities and Authorities

8–1.1. General

8–1.1.1. Contractor As Responsible Transportation Officer. [old D8–1 & I8.1]

In those instances where a shipment is managed by a third party relocation contractor, pursuant to a contract awarded by GSA or a Federal civilian, non-DOD, agency, the contractor shall have the responsibilities and authorities, to the extent not limited or modified by the contract, set out in this HTOS for the RTO and/or the GBL Issuing Office.

8–1.1.2. General Services Officer (GSO) As Responsible Transportation Officer (RTO) [old I8.1]

For the purposes of this HTOS and where reference is made to the RTO for the authorization of services at foreign origins/destinations, the GSO shall be construed to have the same authority as the RTO.

8–1.1.3. Participant Liability [old D8–1]

The RTO must establish and authorize in writing on the GBL the level of service, as set out in HTOS Paragraph 10–1.2, to be provided by a Participant in furnishing transportation services.

8–1.1.4. Expedited Service [old D8–1]

The RTO must authorize in writing expedited service.

8–1.1.5. Designation of Agent—International Only [old I8.1]

If required by the shipping Federal agency, the RTO is authorized to direct the use of specific agents for performance of origin and destination services.

8–1.1.6. Telephonic Premove Surveys [old D8–1]

The RTO must, in accordance with HTOS Paragraph 4–2.2, approve in writing telephonic premove surveys.

8–1.1.7. Use of Crates [old D8–1]

The RTO must in accordance with HTOS Paragraphs 4–4.2, 4–4.4.2.1, and 4–4.5.7 approve in writing the use of crates.

8–1.1.8. Shuttle Service (Impracticable Operation) [old D8–1]

The RTO must approve in writing the use of shuttle service.

8–1.1.9. Transit Time [old D8–1]

The RTO must approve in writing changes in transit time.

8–1.1.10. Inspection of Services and Facilities [old D8–1]

The RTO is authorized, in accordance with HTOS Paragraph 6–1.1 & 6–1.2, to perform inspections of Participant facilities and of Participant performance of service.

8–1.1.11. Defective Performance [old D8–1]

The RTO is authorized, in accordance with HTOS Paragraphs 6–1.2.1 and 11–1.1.3, to direct the Participant to correct or reperform defective services.

8–1.1.12. Shipment Weight

8–1.1.12.1. Constructive Weight [old D8–1]

The RTO must, in accordance with HTOS Paragraph 4–10.5, approve in writing the use of constructive weight.

8–1.1.13. Indirect Routing [old D8–1]

The RTO must, in accordance with Paragraph 8–5.14.5.7.1, approve in writing indirect routing of a shipment.

8–1.1.14. Use of Foreign Flag Shipping—International Only [old I8.1]

The Responsible Transportation Office must, in accordance with HTOS Paragraph 4–1.2.1.2, approve in writing the use of foreign flag shipping.

8–1.1.15. Use of Alternate Participant.—Domestic Only [old D8–1]

The RTO must, in accordance with Paragraph 8–5.15, approve use in writing of an alternate Participant.

8–1.1.16. Diversion and Reconsignment

8–1.1.16.1. General [old D8–1]

The RTO must authorize and approve in writing the diversion and/or reconsignment of a shipment to a destination area other than that specified on the GBL.

8–1.1.16.1.1. International Shipments [old I8.1]

The destination area is the territory within a fifty (50) air mile radius of the principal building of the United States Embassy or United States Consulate in the destination city or municipality shown on the GBL. Instructions furnished by the owner or his representative to the Participant or its agent to perform local drayage to any point within the destination area shall not constitute an order for diversion or reconsignment. A shipment terminated by the RTO in accordance with HTOS Paragraph 8–1.1.17 will not constitute a diversion.

8–1.1.17. Termination of Performance [old D8–1]

The RTO is authorized to terminate the right of the Participant to provide the services or such part or parts thereof as to which there has been delay, refusal, or failure to complete and to procure similar services on the open market by contract or otherwise, charging against the Participant any excess cost occasioned to the Government thereby, including any applicable Late Delivery Reduction.

8–1.1.17.1. Domestic Only

Included with the meaning of delay, refusal, or failure to complete performance is the frustration of a shipment or shipments due to (1) nonpayment of agent's fees and/or charges by the Participant whereby the shipment is being detained at an agent's facility; (2) detention of a shipment by an origin/destination local agent for any reason relative to Participant/agent disputes; (3) non-traceable or non-available documentation attributable to the fault of the Participant or its agents; (4) inability of the agent and/or

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Participant to pick up, transport, or deliver a shipment in a timely manner.

8–1.1.17.2. International Only [old I8.1]

Included with the meaning of delay, refusal, or failure to complete performance is the frustration of a shipment or shipments due to (1) nonpayment of charges by the ITGBL Participant whereby the shipment is being detained by the ocean or motor Participant either aboard a vessel or within an ocean or motor terminal; (2) nonpayment of port agent's fees and/or charges by a Participant whereby the shipment is being detained at a port agent's facility by a port agent; (3) detention of a shipment by an origin/destination local agent for any reason relative to Participant/agent disputes; (4) non-traceable or non-available documentation attributable to the fault of the Participant or its agents; (5) port congestion arising from the inability of the port agent and/or Participant to book and clear shipments in a timely manner.

8–1.1.18. Taking Possession of Shipments.—International Only [old I8.1]

When a Participant is placed in worldwide nonuse by a civilian agency, the RTO may take possession of their agency's shipments in the Participant's possession and move them via another Participant to their final destinations. The RTO or his/her authorized agents may inspect local and port agent facilities located in their area of responsibility for shipments of subject Participant still on hand and will be responsible for the termination of these shipments and arranging alternate transportation to final destination.

8–1.1.19. Removal of Property From Disapproved Facilities [old D8–1]

When a Participant's facilities or the facilities of its agent are disapproved for further use, and the RTO or his authorized representative considers it necessary to remove the household goods shipment to prevent damage or contamination, the RTO is authorized to direct the Participant to immediately remove the property and place it in a Government approved warehouse. The cost of such removal will be at the Participant's expense and at no expense to the Government or the property owner.

8–1.1.20. Storage-In-Transit

8–1.1.20.1. SIT at Destination.—Domestic Only [old D8–1]

The RTO must approve in writing SIT in excess of 50 miles from the destination and the charges applicable to such storage location.

8–1.1.20.2. SIT at Destination.—International Only [old I8.1]

The RTO must, prior to placement, authorize and approve in writing the placement of a shipment in SIT at destination. The RTO must, in accordance with HTOS Paragraphs 4–11.3.2 and 7–4.3.1, authorize and approve in writing SIT at a destination location other than the Participant's agent's nearest available DOD/DOS approved storage facility, when used for other than Participant convenience and the charges applicable to such storage location.

8–1.1.20.3. SIT at Other Than Destination [old I8.1]

The RTO must, in accordance with HTOS Paragraphs 4–11.3.1 and 7–4.3, authorize and approve in writing SIT at origin; or SIT at a destination location other than the Participant's agent's nearest storage facility, when used for other than Participant convenience and the charges applicable to such storage location; or in excess of 50 miles from the destination on an interstate or intrastate location; or SIT involving the use of trailers, vans, public warehouses, and self storage units.

8–1.1.21. Approvals/Waivers of Requirements [old D8–1]

Notwithstanding the provisions of this Paragraph 8–1.1.3 and 8–1.1.20.3, above, the RTO is authorized to waive the requirements set forth is this TOS, in whole or in part, on an individual shipment because of the incompatibility of such requirements with the prevailing circumstances.

8–1.2. Filing of Claims

8–1.2.1. Claims for Equitable Adjustment for Incomplete or Non-Performance of Services [old D8–1]

The RTO is authorized to and responsible for filing claims with the Participant for equitable adjustment of the shipment costs in the event of incomplete or non-performance of services.

8–1.2.2. Claims for Loss and/or Damage to Property [old D8–1]

Unless waived to the property owner (see HTOS Paragraph 8–4.6, below), the RTO is authorized to and responsible for filing claims for loss and/or damage with the Participant.

8–1.3. Initial Decisions

8–1.3.1. Excusable Delay, Refusal, or Failure [old D8–1]

When delay, refusal, or failure to provide services is alleged by the Participant to be excusable, the decisions as to whether such delay, refusal, or failure is excusable shall be made only by the RTO. Causes beyond the control and without the fault or negligence of the Participant include, but are not restricted to, acts of God or the public enemy, strikes, freight embargoes, and unusually severe weather; provided, however, that this provision shall not take effect unless the Participant shall notify the Ordering Officer immediately of the cause of any such delay, refusal, or failure. In such event, the Ordering Office will ascertain the facts and the extent of delay, refusal, or failure, advise the RTO who shall then decide the excusability of the delay, refusal, or failure to complete the services. In the event the RTO determines that the alleged delay, refusal, or failure is inexcusable, the Ordering Office shall determine whether to terminate the order. The RTO shall advise the PMO of its decision.

8–1.3.2. Settlement of Claims [old D8–1]

In the event the Participant fails to settle a claim within thirty (30) days of receipt, or an additional thirty (30) days in accordance with HTOS Paragraph 5–12.3, or fails to settle a claim to the full extent of its legal liability as determined and to the satisfaction of the property owner, the Federal agency paying the costs of the services furnished pursuant to this HTOS, or by the Ordering Office, the RTO is authorized to make initial decisions determinative of Participant liability for: (a) Equitable adjustment for incomplete or non-performance of services; and/or, (b) loss of and/or damage to real and personal property. In making decisions determinative of Participant liability, the RTO has the right to interview the Participant, the property owner or his designated representative, review the Participant's settlement and all supporting schedules and documentation, determine the propriety of that settlement and, when appropriate, direct the Participant to resettle in the amount or amounts determined proper by the RTO.

8–1.3.2.1. Delay in Claim Settlement [old I8.1]

The RTO shall, in accordance with HTOS Paragraph 5–12.3, authorize extensions in time for Participant settlement of a claim.

8–1.3.2.2. Claim Settlement Penalty

In the event that the Participant fails to settle a claim within 30 days after receipt due to Participants failure, the Participant will pay a $25.00 per day penalty to the Federal agency. The total penalty shall not exceed $250.00. The

RTO has the authority to waive the penalty in whole or in part based on circumstances of the delay.

8–1.3.3. Effect of Initial Decisions [old D8–1]

Unless appealed to the Program Manager, initial decisions of the RTO shall be final and conclusive upon the Participant.

8–1.3.4. Setoff [old D8–1]

In the event the Participant refuses to settle a claim in accordance with the RTO's initial decision or after a final decision by the Program Manager, the RTO is authorized to initiate such action as is necessary to collect from any monies due the Participant, by setoff or otherwise, the settlement determined proper by the RTO or the Program Manager.

8–1.3.4.1. High Risk Item Programs [old I8.1]—International Only

The RTO must establish and authorize in writing, in accordance with HTOS Paragraph 10–1.6, the terms and conditions of any program limiting a Participant's liability for items of high risk.

8–1.3.5. Scheduling Service

8–1.3.5.1. On Saturday, Sunday, or Holidays [old I8.1]

The RTO must authorize and approve in writing prior to performance the beginning of any service that may be scheduled for Saturday, Sunday, local holidays, or Federal holidays.

8–1.3.5.2. For Completion After 5PM, Local Time—Domestic Only [old D5–4]

The RTO, the owner or his/her designated representative may authorize and must approve in writing the beginning of any service that will not allow completion by 5pm, local time. Work completed after 5pm is at no cost to the Government.

8–1.3.5.3. For Completion After 5PM, Local Time.—International Only [old I8.1]

The RTO must authorize and approve in writing the beginning of any service that will not allow completion by 5pm, local time. Work completed after 5pm is at no cost to the Government.

8–1.3.6. Services Beyond Those Specified in the HTOS [old I8.1]

The RTO must authorize and approve in writing prior to performance the Participant furnishing of any services and the charges therefor that are outside the scope of this HTOS.

8–1.3.7. Packing and Stuffing of Containers [old I8.1]

The RTO must, prior to performance, authorize and approve in writing the packing and stuffing of liftvans and overflow boxes at a location other than the origin residence.

8–1.3.8. Inaccessible Locations [old I8.1]

The RTO must in accordance with HTOS Paragraph 4–3.5 approve in writing the removal or placement of property from or to inaccessible locations.

8–1.3.9. Shipment Weight

8–1.3.9.1. Reweigh [old I8.1]

The RTO must, in accordance with HTOS Paragraph 4–10.4, approve the reweigh of a shipment.

8–1.3.10. Use of Third Parties [old I8.1]

The RTO must, in accordance with HTOS Paragraphs 4–5.2, approve the use of third parties.

8–1.3.10.1. Payment of Release Fees and Setoff—International Only [old I8.1]

The RTO is authorized to pay any charges necessary to release a shipment, and to initiate action for setoff of expenses incurred by the Government which are in excess to those which would have been incurred if the Participant had maintained total through movement of the shipment.

8–1.3.10.2. Extension of Storage—International Only [old I8.1]

The RTO is authorized in accordance with HTOS Paragraph 4–11.1 to negotiate storage beyond 180 days.

8–1.3.10.3. Use of Non-Commercial Facilities [old I8.1]

The RTO must in accordance with HTOS Paragraph 4–11.2 approve in writing the use for storage-in-transit of trailers, vans, public warehouses, self storage units, or any other facility not normally used in the normal course of business for the receipt and storage of household goods.

8–1.3.10.4. Ordering Partial Withdrawal From Sit [old I8.1]

The RTO must prior to withdrawal authorize and approve the partial withdrawal of property from SIT and inform the Participant of the billing instructions.

8–1.3.11. Removal or Placement of Property From or to Inaccessible Locations [old I8.1]

The RTO must prior to commencement of performance authorize and approve in writing the removal or placement of property from or to attics, basements, and other locations, and to make property available to the Participant where the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect. The RTO must also, prior to commencement of performance, authorize and approve in writing the charges therefor.

8–1.3.12. Document Preparation and Annotation [old I8.1]

To the extent applicable and not otherwise specifically stated herein, the Ordering Office is responsible for preparation of the GBL, SF1103 or SF1203.

8–1.3.13. Document Distribution [old I8.1]

The Ordering Office is responsible for distributing the GBL in accordance with its agency procedures.

8–2. Program Manager Responsibilities and Authorities [old 8.3]

8–2.1. Participant Request to Participate [oldD8–3]

The Program Manager is authorized to approve or reject, in accordance with Section 2, an applicant's request to participate in the Centralized Household Goods Traffic Management Program.

8–2.2. Participant Rate Filing [old D8–3]

The Program Manager is authorized, in accordance with Section 3 to approve, reject, or require the correction of a Participant's rate filing.

8–2.3. Handling of Participant Appeals

8–2.3.1. Revocation of Approval [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.1 a proposal to revoke approval of the Participant to participate in this Program, the PMO shall handle the appeal in accordance with the provisions of Federal Acquisition Regulations (FAR), Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning revocation of approval.

8–2.3.2. Temporary Nonuse, Suspension, and Debarment [old D8–3]

In the event a Participant appeals the Government's proposal to place it in temporary nonuse, suspension, or debarment, the Government shall handle the appeal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3).

8–2.3.3. Corrective Actions [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.3 corrective actions required as a result of an on-site review in accordance with HTOS Paragraph 6–1.1, the PMO shall handle the appeal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning corrective actions.

8–2.3.4. Performance Reports [old D8–3]

In the event a Participant appeals in accordance with the provisions of HTOS Paragraph 8–5.11.4 performance information provided in accordance with HTOS Paragraph 9–5.1.1, the PMO shall consider only those items which are factual in nature and shall inform the Participant of the result of its review within 30 workdays of receiving the Participant's submission or presentation.

8–2.3.5. Claims [old D8–3]

In the event a Participant disagrees with an initial decision of the RTO and a satisfactory agreement cannot be reached, the Program Manager is authorized after review of all relevant and necessary information to issue a final decision on the matter in dispute.

8–2.4. Review of Records [old D8–3]

The Program Manager and any of his duly authorized representatives shall, until the expiration of three years after final payment under this agreement, or of the time periods for the particular records specified in Subpart 4.7 of the Federal Acquisition Regulation (48 CFR 4.7), whichever expires earlier, have access to and the right to examine any books, documents, papers, and records of the Participant involving transactions related to this HTOS or compliance with any clauses thereunder. The Participant shall furnish, upon request, copies of all documents/records deemed necessary by the Program Manager or his designee. The Participant shall furnish copies of such records at no cost to the Government.

8–2.5. Performance Reports (Quarterly) [old D8–3]

The PMO shall furnish Participants a performance report. This report will be furnished to the Participant on a calendar quarter basis, and shall either contain information derived from GSA Forms 3080 received during the previous quarter pertaining to shipments handled by the Participant or consist of copies of the GSA Forms 3080 received during the previous quarter.

8–2.6. Performance Reports (Annual) [old D8–3]

The PMO shall publish an annual report based upon information from GSA Forms 3080 received during the previous calendar year and such other information as the PMO deems appropriate.

8–3. Temporary Nonuse, Suspension, Debarment

8–3.1. By Program Management Office [old D8–4]

The PMO is authorized to place a Participant in a temporary non-use status in accordance with the procedures in the Federal Management Regulations (FMR) Part 102–117. (41 CFR Part 102–117) The PMO, in accordance with the procedures in the FMR Part 102–117, is authorized to refer a Participant for suspension or debarment.

8–3.1.1. Basis for Temporary Nonuse

8–3.1.1.1. General [old I8.3]

The bases specified below supplement those cited in the applicable FMR and are not to be considered exclusive. Repeated instances of the following or other acts within the compass of the FMR may form the basis for suspension or debarment. Temporary nonuse action may be initiated without regard to other Participants or their individual performance.

8–3.1.1.1.1. Agency Agreement Termination-International Only [old I8.3]

In the event the Participant's agent is terminated and the Participant does not establish an agency agreement with a new agent within the time period specified in HTOS 5–5, the Participant may be placed in temporary nonuse until a new agency agreement is effected.

8–3.2. By Shipping Federal Agencies

8–3.2.1. General [old I8.3]

RTOs of the shipping Federal agency are authorized to place a Participant or agent in a temporary nonuse status in accordance with the procedures in the Federal Management Regulations (FMR) Part 102–117. (41 CFR Part 102–117) The RTO, in accordance with the procedures in the FMR Part 102–117, is authorized to refer a Participant for suspension or debarment.

8–3.2.2. Basis for Temporary Nonuse

8–3.2.2.1. General [old I8.3]

The basis specified below supplement those cited in the applicable FMR and are not to be considered exclusive. Repeated instances of the following or other acts within the compass of the FMR may form the basis for suspension or debarment. Temporary nonuse action may be initiated without regard to other Participants or their individual performance.

8–3.2.2.2. Movement of Shipments Without Proper Tarping [old I8.3]

The RTO may immediately place a Participant in temporary nonuse when it is discovered that the Participant has moved shipments in line-haul service which have not been properly tarped.

8–3.2.2.3. Violation of Tender of Service [old I8.3]

The RTO may place a Participant in temporary nonuse because of any substantial violation or repeated violation of any item of this HTOS or failure to perform in accordance with tariff/rate tender and/or other legal requirements. If the action by the Participant is sufficiently serious, the RTO may place the Participant immediately in temporary nonuse.

8–3.2.2.4. Lack of or Incomplete Corrective Action [old I8.3]

The RTO may immediately place a Participant in temporary nonuse in the event that the Participant's corrective actions have not been actually taken.

8–3.2.2.5. Inventory Coding [old I8.3]

The RTO may place a Participant in temporary nonuse for the continued inventory practice of "mass" coding or the totally inaccurate use of coding so as to falsify the actual condition of articles.

8–3.2.2.6. Improper Conduct [old I8.3]

The RTO may place a Participant in temporary nonuse when Participant personnel are reported by the RTO or the owner as being under the influence of alcohol, drugs, as using abusive language, or engaging in abusive conduct.

8–4. Owner Responsibilities

8–4.1. Limitation of Authority [old D8–5 & I8.4]

Except for the reweigh service provision in Section 4, no owner or owner's designated representative shall have authority to make any agreement with the Participant which shall diminish the rights or increase the obligations of the United States Government.

8–4.2. Adverse Weather Conditions [old I8.4]

When packing, loading, unloading or unpacking during adverse weather conditions could create a potential hazard to the owner's household goods or personal effects, such services will be suspended until more favorable weather conditions exists, unless otherwise mutually agreed upon (in writing) between the Participant and the owner.

8–4.3. Removal or Placement of Property From or to Inaccessible Locations [old I8.4]

The owner is responsible for the removal or placement of property from or to attics, basements, and other locations, and to make property available to the Participant where the location of property and goods to be shipped or delivered is (1) not accessible by a permanent stairway (does not include ladders of any type), (2) not adequately lighted, (3) does not have a flat continuous floor, or (4) does not allow a person to stand erect. Employees are not authorized to make the Government liable for the charges incident to the removal or placement of property from or to inaccessible locations.

8–4.4. Inspection and Acceptance [old D8–5]

For the purpose of inspection of the services provided pursuant to this HTOS and in the absence of an authorized representative of GSA, the employing agency, the RTO, or the property owner is authorized to perform inspection of services in accordance with the provisions of this HTOS, the owner's report of inspection shall be administratively final.

8–4.5. Valuation [old D8–5]

Prior to the commencement of services, the owner is authorized to establish a level of service or declared value in excess of that established by the Government for the performance of transportation services.

8–4.6. Claims [old D8–5]

When authorized by the RTO, the owner of the property or his designated representative is authorized to file claims with the Participant for loss of and/or damage to the property. Such authorization need not be in writing. (NOTE: Participants should note that it is common practice for owners to file claims directly with the Participant. Owner filing of a claim is not grounds to refuse settlement.)

8–4.7. Service Dates [old D8–5]

Unless otherwise established by the RTO, the owner of the property is authorized to and is responsible for establishing with the Participant specific dates for the performance of the premove survey, packing, loading, and, if applicable, delivery from storage-in-transit.

8–4.8. Document Preparation and Annotation.

8–4.8.1. Verification of Origin Inventory [old D8–5]

The owner of the property is responsible for verification of the inventory listing and condition of items at the time of pickup.

8–4.8.2. Verification of Destination Inventory [old D8–5]

The owner of the property is responsible for verification of the inventory listing and condition of the items at the time of delivery.

8–4.8.3. Annotation of Loss/Damage at Delivery [old D8–5]

The owner of the property is responsible in conjunction with the Participant for annotating loss and/or damage on the delivery documents.

8–4.8.4. Appraisals Of Property [old D8–5]

The owner of the property is responsible for having appraised by a reputable company any highly valued and/or antique property. A copy of the appraisal may be furnished the Participant prior to the move.

8–4.8.5. Extraordinary Value Inventory [old D8–5]

If required by the Federal agency and prior to packing, loading, and subsequent pickup by the Participant, the owner of property is responsible for identifying and providing the Participant with a listing of all items of extraordinary (unusual) value.

8–4.8.6. Disassembly and Reassembly of Property [old D8–5]

The owner of the property is responsible for the disassembly and reassembly of swing sets, other playground equipment, television and radio antennas, satellite dish antennas, storage sheds, and other similar articles. The draining and refilling of waterbeds is the responsibility of the owner.

8–5. Participant Responsibilities

8–5.1. General [old D8–6 & I8.5]

The responsibilities specified in HTOS Paragraphs 8–5.6 and old 8–5.15 below, are in addition to all other requirements of this HTOS. To the extent that any specific responsibility pertains solely to a Participant, that responsibility shall not be attributed to or expected of an agent. To the extent that any specific responsibility pertains solely to an agent, that responsibility shall not be attributed to or expected of a Participant. To the extent that any responsibility may be considered as mutually shared by both Participant and agent, that responsibility shall be attributed to and expected of both the Participant and the agent it uses. In order not to prejudice the attribution of responsibility, the term "Participant" shall be used through this HTOS Paragraph.

8–5.2. Responsible for Acts or Omissions [old D8–6]

Each Participant providing transportation of household goods subject to the provisions of the HTOS shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) and which are within the actual or apparent authority of the agent from the Participant or which are ratified by the Participant.

8–5.3. Responsible for Diligence and Reasonable Care [old D8–6]

Each Participant providing transportation of household goods subject to the provisions of the HTOS shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this HTOS and by such Participant.

8–5.4. Shipment Refusal [old I8.5]

The Participant is responsible for refusing shipments offered for any route for which the Participant has no accepted rate or for service areas outside its approved scope of operations.

8–5.5. Shipment Routings

8–5.5.1. Open Routing [old I8.5]

The Participant is responsible for determining the routing of shipments handled under this HTOS.

8–5.5.2. Exception to Open Routing—International Only [old I8.5]

The Participant may not route shipments through ports which historically become congested during peak shipping months with the resultant frustration of HTOS shipments.

UMI
VOL 66 ISS 246 DE 21 2001
UMI

8–5.6. Complaint and Inquiry Handling [old D8–6]

Each Participant engaged in the transportation of household goods subject to the provisions of this HTOS shall establish and maintain a procedure for receiving and responding to complaints and inquiries from the RTO and the owner of the household goods or his/her representative. The procedure shall include a means whereby the RTO and the property owner or his/her representative are aware of the telephone number by which they can communicate with the principal office of the Participant. The Participant shall retain and make part of the file relating to a shipment a written record of all complaints received in writing or by telephone from the RTO and the property owner or his/her representative.

8–5.7. Document Preparation and Annotation [old D8–6]

To the extent applicable and not otherwise specifically provided herein, the Participant is responsible for properly preparing and annotating the shipping, billing, and claims settlement (see HTOS Paragraph 8-5.10.2, Claims Settlement Documentation) documents.

8–5.8. Document Distribution [old D8–6]

The Participant is responsible for distributing the shipping documents in accordance with the following.

8–5.8.1. Retained by the Participant [old D8–6]

Original GBL (SF1103 or SF1203), copy of estimate, copy of inventory, originals of DD Form 619 and 619–1, or comparable commercial forms, original weight and reweigh tickets.

8–5.8.2. Documents to be Provided to the Employee [old 8.6.8.2]

8–5.8.2.1. Domestic [old D8–6]

The Participant shall furnish the employee or the employee's agent (1) One copy of the shipping Federal agency GBL, SF1103B or SF 1203B; (2) original estimate; (3) original inventory; (4) copies of DD Forms 619 and 619–1, or comparable commercial forms.

8–5.8.2.1.1. After Delivery [old D8–6]

The Participant shall furnish the employee or the employee's agent (1) A legible copy of DD Form 619–1 or comparable commercial form, if SIT or reweigh services are performed en route or at destination; (2) a legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the owner or his designated representative, or the RTO; and, (3) if required by the shipping Federal agency, three copies of the DD Form 1840, Joint Statement of Loss or Damage at Delivery. The Participant will provide the documents listed in this HTOS Paragraph to the owner or his designated representative and the RTO within 10 business days after delivery.

8–5.8.2.2. International

8–5.8.2.2.1. After Pickup [old I8.5]

The Participant shall furnish the employee or the employee's agent (1) The consignee's memorandum copy of the shipping Federal agency GBL, SF1103B or SF1203B, as appropriate; (2) a legible copy of the completed Household Effects Descriptive Inventory; and (3) a completed and legible copy of DD Form 619, Statement of Accessorial Service Performed.

8–5.8.2.2.2. After Delivery [old I8.5]

The Participant shall furnish the employee or the employee's agent (1) A legible copy of the DD Form 619–1 or comparable commercial form, if storage-in-transit, reweigh, or other accessorial services are performed en route or at destination; and, if required by the shipping Federal agency, (2) three copies of the DD Form 1840, Joint Statement of Loss or Damage at Delivery.

8–5.8.2.3. Reweigh Tickets [old D8–6]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the owner or his designated representative, or the RTO.

8–5.8.2.4. Signing of Forms [old I8.5]

The employee or employee's agent will not under any circumstances be asked to sign a blank or partially completed DD Form 619, DD Form 619–1, or any other form, except for the "Unit Price" and "Charge" columns which may be incomplete.

8–5.8.3. Furnished to the Responsible Transportation Officer

8–5.8.3.1. Domestic [old D8–6]

The Participant will provide the RTO the following documents, no later than 14 business days after receipt of shipment or GBL, whichever is later:

8–5.8.3.2. International [old 5.15]

The Participant will provide the RTO the following documents, no later than 7 business days after receipt of shipment or GBL, whichever is later:

8–5.8.3.2.1. After Pickup

8–5.8.3.2.2. One Memorandum Copy of the GBL [old D8–6]

One memorandum copy of the Government Bill of Lading (SF1103A or SF1203A, as appropriate) annotated with the gross, tare, and net weights and charges, including any ITGBL charges (when applicable), to date. For containerized shipments, the Participant will also indicate the total number of containers and the gross cube of the shipment.

8–5.8.3.2.3. Statement of Accessorial Services Performed (DD Form 619) or Comparable Commercial Form [old I8.5]

One signed copy of the Statement of Accessorial Services Performed (DD Form 619 or comparable commercial form) itemizing accessorial services performed will be prepared by the Participant's representative and the employee or his/her agent when such services are required and separately charged. Each household appliance serviced will be identified to show the make, model or name of the manufacturer. All entries for appliance servicing by a third party will be supported by an invoice stating the type of service performed. No accessorial services will be billed when such services are included in single factor rates.

8–5.8.3.2.4. Inventory [old D8–6 & I8.5]

One legible signed copy of the Household Goods Descriptive Inventory, together with on international shipments, a copy of the "bingo cards" which identify the contents of each liftvan or overflow container by inventory line item number.

8–5.8.3.2.5. Weight Tickets [old D8–6]

One legible copy of the weight tickets signed by the person performing the weighing which must contain the information required by the U.S. Department of Transportation (successor to the Interstate Commerce Commission). If the shipment is to be delivered prior to the submission of the aforementioned documents, the RTO will be advised of the weight of the shipment by telephone, or other appropriate means, prior to delivery, unless an exception to this requirement is granted. Confirmation by hard copy, facsimile or expedited delivery may be requested by the RTO.

8–5.8.3.2.6. Reweigh Tickets.—International Only [old I8.5]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the owner or his designated representative, or the RTO.

8–5.8.3.3. After Delivery

8–5.8.3.3.1. DD Form 1840 [old I8.5]

If required by the Federal agency, the Participant will furnish the responsible Federal agency official at destination with a copy of the DD Form 1840 within 30 days of shipment delivery.

8–5.8.3.3.2. Reweigh Tickets [old I8.5]

A legible copy of the reweigh tickets prepared by a certified weighmaster on a certified scale, if requested by the RTO.

8–5.9. Requests for Approval and Waivers [old D8–6]

Because of the incompatibility of an HTOS requirement with the circumstances prevailing on a given shipment, a Participant may request from the RTO at any time but prior to performance, a waiver of a requirement or approval to provide a special service. If requested verbally, the request must be confirmed in writing.

8–5.10. Claims Documentation

8–5.10.1. Preparation [old I8.5]

The Participant must furnish to the property owner all reasonable and necessary assistance in the preparation and filing of claims. Included in such assistance are inspections of the damaged property, if requested, completion of claim forms, and obtaining estimated repair costs at no cost to property owner.

8–5.10.2. Settlement [old D8–6]

In those instances when a claim is denied in full or compromised in part, the Participant shall, as part of the claims settlement transmittal to the claimant include a written item-by-item analysis of the denial or compromise. Such analysis must be sufficient to establish the reasons and method for denial or compromise. For example, a settlement based on depreciation must include an explanation of how the depreciation was determined. The use of such phrases as "pre-existing damage," "depreciation allowance," or "other" is unacceptable.

8–5.11. Appeal Procedures

8–5.11.1. Revocation of Approval [old D8–6]

In the event the PMO proposes to revoke the approval of a Participant to participate in this Program, the Participant has the right to appeal such proposal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning revocation of approval.

8–5.11.2. Temporary Nonuse, Suspension, and Debarment [old D8–6]

In the event the Government proposes to place a Participant in temporary nonuse, suspension, or debarment, the Participant has the right to appeal such proposal in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3).

8–5.11.3. Corrective Actions [old D8–6]

In the event a Participant disputes corrective actions required as a result of an on-site review in accordance with HTOS Paragraph 6–1.1, the Participant has the right to appeal such corrective actions in accordance with the provisions of FAR Subpart 9.407–3 (48 CFR 9.407–3); provided, however, that any reference to temporary nonuse in said regulation shall be construed as meaning corrective actions.

8–5.11.4. Performance Reports [old D8–6]

In the event a Participant disputes performance information provided in accordance with HTOS Paragraph 9–5.1.1, the Participant has a right of appeal for a period of thirty (30) calendar days from the date of report issuance during which the Participant may submit in person, in writing, or through a representative, rebuttal information and arguments opposing the performance information; provided, that the date of report issuance is deemed to be the GSA date stamp on the report.

8–5.11.5. Claims [old D8–6]

In the event the Participant disagrees with an initial decision of the RTO and cannot make a satisfactory resolution regarding equitable adjustment for incomplete or non-performance of services and/or Participant liability for loss and/or damage, the Participant is responsible for submitting such disagreement to the Program Manager for a final decision. The Participant's submission shall contain at a minimum: (a) Name and address of the agency and RTO issuing the initial decision; (b) copy of the initial decision; (c) copy of the GBL; (d) copy of all documents related to the dispute; and (e) copy of all documents supporting the Participant's position.

8–5.12. Equipment [old D8–6]

Equipment shall be in good operating condition and the interior of vans, trailers, and containers shall be clean and contain a sufficient quantity of clean pads, covers, and other protective equipment to ensure safe transit of the household goods.

8–5.13. Facilities [old D8–6]

Participants must maintain equipment, facilities, operations, and personnel adequate and capable of performing the services required by this HTOS and ordered by the Federal ordering office.

8–5.14. Maintenance of Records

8–5.14.1. Records To Be Maintained [old D8–6]

The Participant shall maintain for each shipment handled pursuant to this HTOS copies of the Public Voucher for Transportation Charges, SF1113, and all supporting documents. The Participant shall also maintain all relevant notes, worksheets, and other documents necessary for reconstructing or understanding the shipment and its handling.

8–5.14.2. Microfilming Records [old D8–6]

The Participant may use microfilm (e.g., film chips, jackets, aperture cards, microprints, roll film, and microfiche) or electronic means for record keeping, subject to such limitations as are determined by the Program Manager.

8–5.14.3. Filing and Retrieval [old D8–6]

The Participant shall: (a) maintain an effective indexing system to permit timely and convenient access by the Government to the records and (b) have adequate viewing equipment, if microfilmed or stored electronically, and provide printouts of the approximate size of the original material.

8–5.14.4. Quality Control

8–5.14.4.1. Legibility [old D8–6]

The microfilm when displayed on a microfilm reader (viewer) or reproduced on paper must exhibit a high degree of legibility.

8–5.14.4.2. Periodic Review [old D8–6]

The quality of the Participant's record microfilming or electronic storage processes are subject to periodic review by the Program Manager or authorized representative.

8–5.14.5. Employees

8–5.14.5.1.1. General [old D8–6 & I8.5]

Participants will use only trained personnel qualified in their assigned duties in packing and handling of personal property. When any of the Participant's personnel appears to be

VOL 66 ISS 246 DE 21 2001 UMI

under the influence of alcohol or drugs or uses abusive language, or engaging in abusive conduct, the Participant will immediately replace same on the job with qualified personnel, when requested by the shipping Federal agency employee or the shipping Federal agency. The Participant's failure to comply with the request may result in the Participant being placed in a period of non-use by the RTO or by GSA. The Participant will not use parolees, convicts or prison labor in the packing or movement of personal effects belonging to employees of the shipping Federal agency. Trained personnel do not include pickup or truck stop labor. Those employees who perform services at the property owner's residence shall be neat in appearance and in proper attire which identifies them as employees of the Participant or its agent. They shall be neat and in proper uniform identifying them as employees of the Participant and have in their possession valid identification.

8–5.14.5.1.2. Required Identification

8–5.14.5.1.2.1. Personal Identification [old I8.5]

An ID which has a current photo, name, and their signature, such ID consisting of either a valid driver's license or a non-drivers photo ID issued by the appropriate jurisdiction's Department of Motor Vehicles (or equivalent).

8–5.14.5.1.2.2. Participant Issued Identification International Only [old I8.5]

A photo ID showing the Participant name and/or logo, employee name, address, social security number, employment date, and employee signature or a similar ID format from an outside firm specializing in such ID.

8–5.14.5.1.2.3. Participant Identification for Overseas Posts—International Only [old I8.5]

For overseas posts, those individuals who perform services at the property owner's residence, must have in their possession, a Participant issued photo identification card which identifies the individual as an employee of the Participant.

8–5.14.5.1.3. Unacceptable Forms of Identification [old I8.5]

Unacceptable forms of ID include expired driver's license, defaced or illegible photo ID's, photo copies, or other forms of ID.

8–5.14.5.2. Completion of Performance [old D8–6]

Upon temporary nonuse, suspension, or debarment of a Participant, the Participant is required to complete performance of service for any shipments in process, or have the services completed by another Participant, whereupon the nonuse, suspended, or debarred Participant shall reimburse GSA or the appropriate civilian executive agency for all additional expenses incurred in completing the shipments. GSA and the civilian executive agencies maintain the right to immediate possession of a shipment in the custody of a Participant or its agent. Nothing in the HTOS shall be construed as creating or permitting the creation of a lien or other possessory right by the Participant against GSA or the appropriate civilian agency with respect to property which comes into custody or possession of the Participant or its agent.

8–5.14.5.3. Shipment Tracing

8–5.14.5.3.1. Tracing [old I8.5]

In the event the shipping Federal agency requires the use of DD Forms 1840 and 1840R, the Participant will trace all missing items annotated on DD Form 1840 and/or DD From 1840R immediately and respond to the RTO in writing within 30 working days of notification of loss.

8–5.14.5.3.2. Record of Tracing Actions [old D8–6]

The Participant shall retain a written record of all requests for shipment tracing when provided in accordance with HTOS Paragraph 5–10 of this HTOS. The record shall include the date of the requests, time received, name of the requestor, and the date and time status provided.

8–5.14.5.4. Location of Storage-In-Transit

8–5.14.5.4.1. Domestic Only

The Participant will use the Participant's agent facility located within a 50 mile radius of the origin or destination city or installation shown in the "Consignee Block" of the GBL; however, if Participant's facility is located outside the 50 mile radius the Participant must use their agent's nearest facility, and receive authorization from the RTO.

8–5.14.5.4.2. International Only [old I8.5]

The Participant will use the Participant's agent facility located nearest the origin or destination city or installation shown in the "Consignee Block" of the GBL, as appropriate, regardless of the 50 mile radius.

8–5.14.5.5. Quality Control Program [old I8.5]

The Participant will establish and maintain within its company an effective corporate quality control system which will provide total visibility of all facets of the CHAMP and ensures that the Federal civilian, non-DoD, agencies are furnished service equal to or greater than the standards of service established by this HTOS. This system will include, but not be limited to, specific subsystems for the functions of traffic management (routing, tracing, and billing), packaging, employee training and supervision and agent supervision. Upon request to the designated official of the Participant during normal business hours, the Participant will provide the PMO and any requesting Federal agency written detailed descriptions and Standard Operating Procedures for its quality control system. Also, published Corporate Participant Quality Control Programs will be presented and explained to authorized inspectors when the Participant's facilities are inspected.

8–5.14.5.6. Claims for Additional Charges [old I8.5]

Claims for additional transportation or additional accessorial charges over and above those originally assessed by the Participant and paid for by the Government will be presented to the shipping Federal agency, upon request. The claims will contain a full explanation as to the reasons why they are being presented and state specifically the amount claimed thereon.

8–5.14.5.7. Through Responsibility

8–5.14.5.7.1. Movement of Shipments [old D8–6]

All shipments tendered to the Participant will be moved under its responsibility from origin to destination. Unless a Participant has requested approval of indirect routing or transshipment to a particular destination and a waiver is granted by the RTO, shipments shall not transship when satisfactory direct service is available.

8–5.14.5.7.2. Participant Error in Shipment [old I8.5]

As part of the Participant's through responsibility, the Participant understands that if, through its fault or that of its agent, the Participant ships all or a portion of the wrong property or all or a portion of a shipment is sent to the wrong destination, the Participant will be responsible for the return of the erroneous shipment and movement by an expedited method, including air transportation, of the correct property to the employee's destination at its expense. The Participant will coordinate the method of movement with the shipping Federal agency origin and destination RTO's prior to shipment.

8–5.14.5.7.3. Federal Agency/Employee Error in Shipment [old I8.5]

The Participant will not be liable for movement cost for shipments released in error by the shipping Federal agency or by the property owner or owner's agent.

8–5.14.5.8. Ocean Terminal Port Agents—International Only [old I8.5]

The facilities of CONUS and overseas ocean port agents must meet national/host country standards and codes with respect to fire safety, prevention and protection requirements; storage of combustible materials; and are used in accordance with generally accepted warehousing practices.

8–5.14.5.9. Assignment of Bills [old I8.5]

Except for assignment of payment of the Participant's original bills to a bank for collection, the Participant will not subrogate its rights and/or interest in the bills for service rates and charges on which such charges are based or any subsequent claims thereon to third parties. The Participant will always retain the right and authority either to claim or not to claim or to cancel claims or services to the shipping Federal Agency which it furnished and/or billed for. The Participant will not exercise any right under an currently existing agreement nor will it enter into agreements with parties not subject to its control which in any way infringe, controvert, or otherwise subordinate or prevent it from deciding unilaterally whether it will or will not submit a claim or file suit against the Government or pay a claim by the Government after the original bill for services performed under this HTOS.

8–5.14.5.10. Release to Shipping Federal Agency—International Only [old I8.5]

In the case of port agents, all shipping Federal agency household effects (HHE) shipments must be identified on the ocean bills of lading/manifests as personal property shipments of the shipping, sponsoring Federal agency and subject to release to the shipping Federal agency upon demand.

8–5.14.5.11. Agents [old I8.5]

8–5.14.5.11.1. General.—International Only [old I8.5]

Agents specifically used in this program are the choice of the Participant's and the requirements set out in this HTOS Paragraph apply to the relationship between the Participant and its chosen agent.

8–5.14.5.11.2. Located in Service Area.—International Only [old I8.5]

The Participant understands that it must have a resident agent in each state, offshore location, country, and trust territory or possession of the United States, for which it submits rates.

8–5.14.5.11.3. Use of Undesignated Agent.—International Only [old I8.5]

Except in those instances where the shipping Federal agency has not designated a servicing agent, the Participant may not use as an agent any firm that has not been designated by a shipping Federal agency as an origin or destination agent for the localities for which it submits rates.

8–5.14.5.11.4. Use of General Agents.—International Only [old I8.5]

The use of general agents will be allowed.

8–5.14.5.11.5. Operation.—International Only [old 8.5]

The agent's office will be manned at all times during normal working hours with personnel authorized to book shipments or otherwise perform services for the Participant. One employee with such authority is required for one to three Participants represented. One additional employee with such authority is required when more than three Participants are represented. A total of two administrative personnel are required to represent four or more Participants.

8–5.14.5.11.6. Agency Agreements [old I8.5]

8–5.14.5.11.6.1. General.—International Only [old I8.5]

The Participant will contractually bind its agents with a formal written document (and, as necessary, official translation into English) concerning terms and requirements of this HTOS and will provide specific instructions for implementing them prior to the effective date of any accepted rates.

8–5.14.5.11.6.2. Required Agreement Language [old I8.5]

Participants agree to include the following stipulation in their contracts, agreement, and/or order with underlying Participants/agents. "By acceptance of this contract/agreement/order/reimbursement schedule, I recognize that property being transported hereunder is United States Government sponsored personal property and, as such, will not be detained by my firm under any circumstances. Further, I guarantee representatives of the U.S. Government free access to any facilities, including those of my agents, during normal working hours for their lawful purpose of inspecting and removing Participant containers in which United States Government sponsored personal property is shipped". Agents refusing to consummate agreements/contract which contain this clause will not be used by Participants.

8–5.14.5.11.7. Use of Agents

8–5.14.5.11.7.1. Providing Information to the Government.—International Only [old I8.5]

Upon request from any RTO shipping pursuant to the terms of this HTOS, the Participant will furnish a list of its agents.

8–5.14.5.11.7.2. Changes in Agents

8–5.14.5.11.7.2.1. General.—International Only [old I8.5]

If the Participant finds it necessary to change agents, the Participant understands that a shipping Federal agency representative may inspect the facility and make appropriate recommendation to the PMO.

8–5.14.5.11.7.2.2. Termination of Agent. by the Participant.—International Only [old I8.5]

In the event an agency agreement is terminated by the Participant, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.14.5.11.7.2.3. By The Government.—International Only [old I8.5]

In the event an agent is terminated by the PMO or an agent is placed in temporary nonuse by a shipping Federal agency, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.14.5.11.7.2.4. By The Agent.—International Only [old I8.5]

In the event that an agent voluntarily withdraws from the program or terminates its agency agreement with a

Participant, the Participant must make immediate interim arrangements to provide necessary destination services on a temporary basis with another agent located in the service area.

8–5.15. Use of Alternate Carriers.—Domestic Only

8–5.15.1. Definitions

8–5.15.1.1. Principal Carrier.—Domestic Only [old D8–6]

Principal carrier as used in this paragraph means the carrier, motor common carrier or freight forwarder, named on the Government bill of lading, including its employees and contract (other than trip lease) drivers, if applicable, and those holding primary agency agreements in accordance with 49 CFR 1056.14(a)(1) in the course of which and in the normal course of their business, hold themselves out as representing the principal carrier.

8–5.15.1.2. Alternate Carrier.—Domestic Only [old D8–6]

Alternate carrier as used in this paragraph means a person acting individually or as an established business furnishing origin, line-haul, or destination services for a specific shipment other than the principal carrier. It includes carriers operating in conjunction with the principal carrier on the basis of interline or trip lease arrangements.

8–5.15.2. Motor Carrier.—Domestic Only

8–5.15.2.1. Responsibility.—Domestic Only [old D8–6]

The principal carrier is responsible for and shall physically perform origin, line-haul, and destination services from point of origin to final destination and shall satisfy any claim. Notwithstanding the provision of Paragraph 8–5.15.2.3, below, and in any event the principle carrier is responsible for performance of all services and satisfaction of any claims.

8–5.15.2.2. Use of Alternate Carrier.—Domestic Only [old D8–6]

Unless specifically approved by the GBL Issuing Officer, the principal carrier may not use, transfer, surrender, interline, or otherwise relinquish possession of the property to an alternate carrier. If such action is approved by the GBL Issuing Officer, the alternate carrier must be an approved Participant in the GSA Centralized Household Goods Traffic Management Program.

8–5.15.2.3. Responsibility of Alternate Carrier.—Domestic Only [old D8–6]

The alternate carrier must perform the assigned services to the same extent as the principal carrier and is subject to all provisions of this TOS relating to that performance as though the alternate carrier were the principal carrier.

8–5.15.2.4. Notice to Responsible Transportation Officer (RTO).—Domestic Only [old D8–6]

The principal carrier must notify the RTO in writing prior to performance of services the name of all alternate carriers being used for the performance of origin, line-haul, and destination services.

8–5.15.3. Freight Forwarder.—Domestic Only

8–5.15.3.1. Responsibility.—Domestic Only [old D8–6]

The principal carrier is responsible for the performance of origin, line-haul, and destination services from point of origin to final destination and shall satisfy any claim.

8–5.15.3.2. Use of Alternate Carrier.—Domestic Only [old D8–6]

The principal carrier may not use a motor carrier for the performance of line-haul services that is not an approved Participant in the GSA Centralized Household Goods Traffic Management Program.

8–5.15.3.3. Notice to GBL Issuing Officer.—Domestic Only [old D8–6]

The principal carrier must notify the GBL Issuing Officer in writing prior to performance of services the name of all alternate carriers being used for the performance of origin, line-haul, and destination services.

8–6. Disputes—International Only [old I8.6]

Disputes arising out of any action, undercharge claim, or overcharge claim by the Government against the Participant, not otherwise settled to the satisfaction of either party, will be made the subject of a discussion between the above stated parties within sixty (60) days after either party makes such a request. The purpose of such discussion is to permit the parties to reach an amicable settlement of the dispute without either party having to resort to litigation, and if possible, to resolve the matter for the future. The failure of the parties to reach an agreement or eliminate the dispute under the above procedure will in no way preclude either party from subsequently exercising the legal and administrative remedies otherwise available to it, providing that no suit filed by the Participant will be prosecuted to trial before exhaustion of the administrative remedies described above.

Section 9—Reporting Requirements

9–1. Reports to the Relocating Employee

Reports required to be furnished to the relocating employee are described as part of and in conjunction with those detailed in the paragraph entitled Reports to the RTO.

9–1.1. Pre-move Survey Report [old I9.2]

A copy of the survey that is signed and dated by the estimator, indicating the total estimated net weight of the shipment, will be given to the property owner or his/her agent upon completion of the pre-move survey.

9–2. Reports to the RTO

9–2.1. Weight Variance

9–2.1.1. Notification

In the event the actual shipment weight is greater than 115% of the pre-move survey weight, the Participant must notify the RTO or its third party representative of the original weight prior to billing the Federal Agency and be prepared to justify the difference.

9–2.1.2. Failure to Notify RTO of Weight Variance

In the event the Participant fails to notify the RTO or third party representative, the Participant stipulates that the agreed weight of the shipment will be 115% of the pre-move survey weight.

9–2.1.3. Failure to Justify Weight Variance

In the event the Participant fails to adequately justify the difference between the actual and pre-move survey weights, the Participant stipulates that the agreed weight of the shipment will be 115% of the pre-move survey weight. The agreed weight shall take precedence over the actual weight for the assessment of transportation, accessorial, and storage-in-transit charges when based on weight. The RTO has the authority to waive this provision.

9–2.1.4. Actual Weight in Excess of Employee's Authorized Allowance.—International Only

9–2.1.4.1. General [old I9.3]

Prior to moving any shipment from the origin warehouse, the RTO must be advised, if he/she so requires, of the actual net weight of the shipment. If the shipment weighs in excess of the employee's authorized allowance, the RTO will notify the Participant when it may move the shipment. This time will not be counted against the Participant in calculating its RDD compliance, and payment will be authorized for any SIT at origin.

9–2.1.4.2. Failure to Notify the Responsible Transportation Officer [old I9.3]

In the event that the RTO requires notification of overweight shipments, and the Participant fails to notify the RTO in accordance with his/her instructions, and moves the shipment from origin to destination, the Participant may collect from the Government for transportation and accessorial service charges, including terminal services, only an amount equal to the charges accruing to the authorized shipment weight. In this instance, the Participant may not collect anything from the relocating employee for the excess weight.

9–2.2. Unusual Incidents Report

9–2.2.1. Content of Report [old D9–1]

In the event of incidents of major significance which produce substantial loss, damage, or delay, such as strikes, embargoes, fires, pilferage, vandalism, and similar incidents, the Participant must submit to the RTO by electronic transmission (TELEX, facsimile, or other electronic format acceptable to the shipping Federal agency) the following information on each shipment involved:

(1) Type of incident;
(2) Location of incident;
(3) Last name, first name, and middle initial of employee;
(4) GBL number and date issued;
(5) RTO (both origin and destination);
(6) Origin;
(7) Destination;
(8) Date shipment received by Participant;
(9) Required delivery date;
(10) Date and time of incident or discovery thereof;
(11) Estimated amount of loss and extent of damage;
(12) Current status of shipment, including new estimated time of arrival (ETA);
(13) Location of shipment(s), if applicable, including port and pier location and date vessel arrived or warehouse location, plus the serial number and name of the owner of the sea container(s); and
(14) Name of ship, if appropriate.

9–2.2.2. After Action Report [old D9–1]

The Participant will furnish the RTO an after action report which provides a final assessment of the loss or damage incurred, delays encountered, and final disposition of the household goods.

9–2.3. Delays Report [old D9–4]

When, for any reason, a Participant finds it impossible to meet the scheduled pickup date or the required delivery date, the RTO, and if practicable, the owner, will be notified. Neither the Government nor the relocating employee will be responsible for additional charges assessed on any shipment a Participant or its agent holds for any reason unless specific written approval has been obtained from the RTO.

9–2.4. Storage-In-Transit Location Report [old D9–2]

For shipments delivered to Storage-in-transit (SIT) the Participant shall notify the RTO in writing, by facsimile, or similar electronic means, of the name, address, and telephone number of the warehouse in which the shipment has been placed, and shall make and keep a record of such notification. If a change in warehouse location is effected during the SIT period, the RTO and the property owner must be notified of the change in location and the new telephone number within the timeframe specified in DTOS Paragraph 5–3 & ITOS Paragraph 5.11.

9–2.5. Sit Pickup/Delivery Report.—International Only [old I9.10]

Upon request of the RTO, the Participant will provide information on the afternoon preceding scheduled pickup/delivery as to whether the SIT pickup or delivery will be performed in the morning (0800 to 1200) or in the afternoon (1200 to 1700) of the following day.

9–2.6. Use of DD Forms 1840 and 1840R

9–2.6.1. General [old I9.5]

If use of DD Forms 1840, Joint Statement of Loss or Damage at Delivery, and 1840R, Notice of Loss or Damage, are required by the shipping Federal agency, the procedures and Participant responsibilities covering the use of DD Form 1840 and DD Form 1840R are outlined below.

9–2.6.2. Use of DD Form 1840 and 1840R in Lieu of DD Form 619 [old I9.5]

DD Form 1840 and 1840R will be used in lieu of the loss and damage portions of DD Form 619.

9–2.6.3. Completion [old I9.5]

9–2.6.3.1. Section A [old I9.5]

Complete Section A of the DD Form 1840 and make all five (5) copies available upon delivery.

9–2.6.3.2. Section B [old I9.5]

In conjunction with employee, annotate all loss and/or damage in Section B on all five (5) copies of the DD Form 1840.

9–2.6.4. Distribution [old I9.5]

9–2.6.4.1. To the Employee [old I9.5]

Provide the employee with three (3) copies of the completed DD Form 1840 signed by both the Participant's representative and employee.

9–2.6.4.2. To the Responsible Transportation Officer [old I9.5]

Provide the destination RTO a copy of DD Form 1840 within thirty (30) workdays of delivery.

9–2.7. Agency Shipment Reports [old I9.9]

9–2.7.1. Shipment Report.—International Only [old I9.9]

Within not more than five (5) calendar days following date of pickup of a shipment in either CONUS or overseas, the origin agent will provide the following information to the RTO: (1) Employee's Name; (2) Shipment GBL Number; (3) Pieces, Net Weight, Gross Weight and Cube; (4) Estimated date shipment will be picked up by line-haul equipment for movement to the ocean port; (5) Estimated date of sailing and identity of port and vessel; (6) Routing of vessel and discharge port; and (7) Estimated date of arrival at destination.

9–2.7.2. Notice of Shipment Arrival [old I9.9]

Participant will notify the RTO within one workday of shipment's arrival at agent's facility, and advise of the shipment's first available delivery date.

9–2.7.2.1. On a Normal Workday [old I9.9]

When a shipment arrives at destination on a normal workday, the Participant will notify the RTO before delivery/attempted delivery of household effects to the residence in accordance with the instructions specified on the shipping Federal agency GBL.

9–2.7.2.2. On Other Than a Normal Workday [old I9.9]

In the event the shipment arrives at the destination on a weekend or holiday, the Participant will contact the RTO to ascertain if delivery can be made.

9–2.7.2.3. Arrival Prior to RDD [old I9.9]

For shipments that arrive prior to the RDD, Participant will deliver to the

UMI VOL 66 ISS 246 DE 21 2001 UMI

employee or employee's agent prior to the RDD.

9–2.7.2.4. Arrival After the RDD [old I9.9]

For shipments that arrive after the RDD, the Participant will deliver in accordance with the instructions or within two workdays after notifying the destination GSO or the shipping Federal agency Transportation Division, as appropriate, of the shipment's arrival.

9–2.7.3. Late Delivery [old I9.9]

When the Participant knows for any reason it will be impossible for it to have the shipment at destination on or before the RDD, the Participant will notify the RTO at the earliest practicable time, advising it of the last known location of the shipment and furnishing an estimate of the delay expected beyond the RDD. An electronic communication or facsimile will be utilized in notifying the RTO and the Participant, ensuring that the notification reaches the appropriate RTO before expiration of the RDD. At a minimum, the following information will be provided: (1) Last name, first name, middle initial, and SSN of the employee; (2) Origin and destination of the shipment; (3) GBL number and RDD; and (4) Last known location of the shipment and new ETA at destination.

9–2.7.4. Report of Shipments On Hand.—International Only [old I9.9]

If required by the RTO, the Participant will provide a weekly report of all of its shipments (except shipments in Storage-in-Transit) on hand which were picked up from an employee's residence as well as from its agent's facilities before the previous Wednesday. The report will reflect the date, the employees' names, the shipping Federal agency GBL numbers, pickup date, Participant code and RDD. Negative reports are required.

9–2.7.5. Participant Error in Shipment [old I9.9]

The Participant will report to the RTO any instances in which the Participant ships all or a portion of the wrong property or in which all or a portion of a shipment is sent to the wrong destination.

9–2.8. Commercial Port Level Report.—International Only [old I9.7]

Unless otherwise required by the RTO, the Participant shall submit to the shipping Federal agency and the US Dispatch Agents during the period May through September of each year a commercial port agent report showing a weekly summary of the total number of personal property shipments on hand at commercial ports for the preceding week. Reports must be submitted by FAX. See ITOS Section 15 for specific report format.

9–2.9. Ocean Terminal Port Agents.—International Only

9–2.9.1. Submission of Port Agent Rosters.—International Only [old I9.15]

If required by a Federal agency shipping pursuant to this HTOS, the Participant will submit copies of the ocean terminal port agent rosters in the following manner: (1) Three (3) copies of the rosters of CONUS ocean terminal port agents to the shipping Federal agency; and (2) Five (5) copies of the rosters of overseas ocean terminal port agents to the shipping Federal agency.

9–2.9.2. Updating the Port Agent Roster.—International Only [old I9.15]

If Participants are required to submit ocean terminal port agent rosters in accordance with the above, the Participants will update the ocean terminal port agent rosters annually. Changes in the names, locations, and telephone numbers will be submitted as they occur to the shipping Federal agency.

9–3. Reports to the PMO

9–3.1. Claim Settlement and Shipment Reports

9–3.1.1. Claim Settlement Reports [old D9–3]

In accordance with the reporting periods specified in DTOS Paragraph 5–9D and ITOS Paragraph 5.19.6, Participants shall furnish to the PMO a quarterly report of claims settled during the calendar quarter on shipments handled pursuant to this HTOS. For the purposes of this reporting requirement, the reportable claim settlement is the first offer (full payment, partial payment, or full denial) made by the Participant.

9–3.1.1.1. Claim Report Content and Format Requirements

Such report shall contain information identified in HTOS Paragraph 9–3.2.2.6 for electronic submission requirements. For purposes of this requirement, the content should identify all first proviso household goods claims, claims for POV's and UAB claims handled pursuant to this HTOS. This provision applies to both domestic and international shipments.

9–3.1.2. Shipment Reports [old D9–5]

The Participant shall furnish to the PMO by electronic filing, a quarterly report of shipments billed to the applicable Federal Agency during the quarter on shipments handled pursuant to this HTOS. Only those shipments billed for which the GSA Industrial Funding Fee (IFF) is applicable will be included in the shipment reports. For purposes of this report, the date of submission of the Public Voucher for Transportation Charges, SF1113, (billing date) is the determining date.

9–3.1.2.1. Shipment Report Content and Format Requirements

Such report shall contain information identified in HTOS Paragraph 9–3.2.2.2 for electronic submission requirements. For purposes of this requirement, the content should identify all first proviso household goods shipments, POV's and UAB handled pursuant to this HTOS. This provision applies to both domestic and international shipments.

9–3.1.3. Report Deficiencies—Shipment, Claim Reporting

9–3.1.3.1. Shipment and Claim Reports

The PMO will notify the Participant of any shipment or claim report deficiency. If a Participant's report is submitted by a Service Provider, the Provider will be notified of the deficiency, not the Participant. Failure to correct deficiencies in either the shipment and/or claim report will result in an incomplete report submission status, and will therefore, affect a Participant's Customer Satisfaction Index score.

9–3.1.3.2. Negative Reports [old D9–3]

Participants are required to submit a negative report even if a shipment was not billed or if a claim was not settled during the quarter. The Participant will be considered non responsive if it doesn't file either report and will be subject to HTOS 9–3.1.3.3.

9–3.1.3.3. Failure To Submit Reports [old D9–3]

Failure to submit either the claims settlement or shipment reports in two consecutive quarters and/or three of four quarters will result in the withdrawal of a Participant's rates and/or subsequent revocation of its approval. Failure to submit one of four quarters of either the shipment and/or claim reports will result in an incomplete report submission status, and will affect a Participant's Customer Satisfaction Index score.

9–3.1.4. Industrial Funding Fee

The total number of household shipments reported in HTOS Paragraph 9–3.1.2. must be equally dividable by the Industrial Funding Fee (IFF) amount, as identified in the Request for Offers. In the event the number of shipments reported cannot be divided equally by the IFF amount, the Participant will be responsible for verifying the deficiency to the PMO. Any deficiencies found will be handled in accordance with HTOS Paragraph 9–3.1.4.1. and 9–3.1.4.2.

9–3.1.4.1. Industrial Funding Fee Deficiencies

In the event deficiencies are found in the IFF amounts submitted to GSA, the PMO will notify the Participant in writing of the existing deficiency. The Participant will be given an opportunity to correct the noted deficiency.

9–3.1.4.2. Correction of Deficiencies in IFF

Failure to acknowledge or correct deficiencies after notification by the PMO will result in the PMO placing the Participant in a temporary non-use status, in accordance with procedures in Federal Management Regulation (FMR) Part 102–117. The PMO is authorized to refer a Participant for suspension or debarment.

9–3.1.4.3. Failure To Submit IFF

Failure to submit the Industrial Funding Fee due GSA for household goods shipments handled, will result in immediate placement of the Participant in temporary non-use status pending revocation of the Participant's approval, in accordance with HTOS paragraph 7–1.11.2, Failure to Submit Remittance.

9–3.1.5. Filing Requirements

9–3.1.5.1. Hard Copy Reports [old D9–3]

Hard copy (paper) reports will not be accepted. In those instances where hard copy reports are submitted to the PMO, it will be considered the same as a failure to submit reports and handled in accordance with HTOS Paragraph 9–3.1.3.3.

9–3.1.6. Report Format Requirements

9–3.1.6.1. General

The claims settlement and shipment reports specified above shall meet the requirements set out in this paragraph.

9–3.1.6.2. Consolidated Reports

In no instance shall any combination of shipment reports (domestic or international) and claim reports (domestic or international) be consolidated. Each report must be separate, with a separate header and filename.

9–3.1.6.3. Electronic Media Reports

9–3.1.6.3.1. Schedule for Submission

Electronic media reports must be submitted in accordance with the following requirements. Electronic media reports must be transmitted between the dates indicated below of each calendar year:

Quarter	Months	Submission
1st	Jan-March	April 1 thru May 31
2nd	April-June	July 1 thru August 31
3rd	July-Sept	Oct 1 thru Nov 30
4th	Oct-Dec	Jan 1 thru Feb 28 (29)

9–3.2. Claim Settlement and Shipment Report Format Requirements [old D9–7]

Format requirements, as set out below, must be adhered to. Submissions received from Participants or services not conforming to the record requirements will be unacceptable and not incorporated in the database. Submissions received from Participants or filing services not conforming to the report formatting specifications will be rejected. The below listed formatting requirements for the submission of shipment and claim reports will be in effect for all reports filed for 3rd Quarter Calendar Year 1999.

9–3.2.1.Line 1: Report Header

This line is the Header Record providing information about the Participant report. The Header Record is position sensitive. Positions marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250).

Field	Required positions	Record position(s)	Contents
Header ID	1	1	Must be S for Shipment files, C for Claim files.
Field Delimiter	1	2	Comma.
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code. Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma.
Type of Transportation.	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International. **Please note that if you provide multiple services within CHAMP, you must create separate reports (files) for each type of service provided.
Field Delimiter	1	10	Comma.
*Number of Records	4	11–14	Number of records transmitted. This identifies the number of lines submitted in the shipment report. Example: 0321=321 records. **If this is a Negative report, use all zeros.
Field Delimiter	1	15	Comma.
Identifying Quarter	5	16–20	YYYYQ—Complete year with the calendar quarter number, where Q = calendar quarter as referenced in file naming above. Example: 19993 = third quarter of 1999

Examples:
(1) 50 General Domestic Shipments for January-March, 1999: S,GSAA,GD,0050,19991
(2) 101 Broker International Shipments for July-September, 2000: S,GSAA,BI,0101,20003
(3) 20 General International Claims for April-June, 1999: C,GSAA,GI,0020,19992
(4) 87 Broker Domestic Claims for October-December, 2000: C,GSAA,BD,0087,20004
(5) Negative General Domestic Shipment Report for April-June: S, GSAA,GD,0000,19992
(6) Negative General Domestic Claim Report for April-June: C,GSAA,GD,0000,19992

9–3.2.2.Line 2: Detail Records

9–3.2.2.1. General

Information on claims and shipments. Line 2 and each line thereafter will identify individual shipment records. For illustration purposes, claim and shipment formats are shown separately.

9–3.2.2.2. Shipment Report Spreadsheet Format

Entry format is text entry (i.e. left aligned). Fields marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250 for 250) depending on the field size. Save the file as a comma-separated file (.CSV) then rename as necessary (.SHP or .ERS).

Field	Required positions	Record position(s)	Contents
Record ID	1	1	Must be S
Field Delimiter	1	2	Comma
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma
Type of Transportation.	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International.
Field Delimiter	1	10	Comma
Type of Move	3	11–13	If the GBL was used for household goods, put in HHG; for Automobile, put in POV; for Unaccompanied Air Baggage, put in UAB. **If multiple elements were moved using one GBL, each element must have an individual shipment record.
Field Delimiter	1	14	Comma
Federal Agency Identification Code.	9	15–23	Agency's 9 digit User ID code used to access ITMS. This User ID can be obtained directly from the using agency or from the ITMS system itself. If unable to obtain the proper User ID, please contact the PMO. Records with this field blank. X or zero-filled will not be accepted.
Field Delimiter	1	24	Comma
Carrier Reference Number.	15	25–39	Carrier reference number used when the shipment was booked by the carrier. Start the reference number with position 25. If reference number does not consist of 15 numbers, place X's after number to fill out the 15 positions. Example: Reference number 135895 would appear as 135895XXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	40	Comma
Billing Date	8	41–48	Date of Agency Billing (YYYYMMDD)
Field Delimiter	1	49	Comma
BL Number	8	50–57	Bill of Lading Number. Use GBL number OR commercial bill of lading (CBL) number that was used to handle the shipment. If CBL number is less then 8 characters, place X's after the number to fill in field. Records with this field blank or zero filled will not be accepted.
Field Delimiter	1	58	Comma
Type of GBL	1	59	Input V if Virtual GBL was used. Input G if standard GBL was used.
Field Delimiter	1	60	Comma
Pickup Date	8	61–68	YYYYMMDD (19980215 = February 15, 1998)
Field Delimiter	1	69	Comma
Delivery Date	8	70–77	YYYYMMDD (see Pickup Date)
Field Delimiter	1	78	Comma
*Transit Time	3	79–81	Actual Transit Times in days Example: 007 = 7 days
Field Delimiter	1	82	Comma
Origin State or Country Code.	4	83–86	Four digit state or country identifier. State is the two digit state identifier, all CAPS, plus two (2) zeros (0) Example: FL00. Country code is the four-digit country code as listed in the most current Request For Offers. Example: Germany = 3940 Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	87	Comma
Origin Zip Code	5	88–92	5-digit zip (X Fill for Canada or International Shipments)
Field Delimiter	1	93	Comma
Destination State or Country Code.	4	94–97	See Origin State above. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	98	Comma
Destination Zip Code	5	99–103	5-digit zip (X Fill for Canada or International Shipments)
Field Delimiter	1	104	Comma
*Actual Weight Shipped.	5	105–109	In pounds for HHG or UAB. Example: 09800 = 9800 pounds. If the record is for POV, place five (5) zeros, 00000 **If field is zero filled for POV, positions 11–13 must state POV
Field Delimiter	1	110	Comma
*Mileage	4	111–114	Whole miles only. Example: 0750 = 750 miles. This field should be zero filled for International moves.
Field Delimiter	1	115	Comma
*Transportation Charge.	5	116–120	Exclusive of SIT charges, in whole dollars only. Example: 07600 = $7,600.00
Field Delimiter	1	121	Comma
Employee's Last Name.	15	122–136	Last name of the employee listed on the GBL in all CAPS. If the employee's name does not consist of 15 letters, place X's after the name to fill out the 15 positions. Example: The name of Jones would appear as JONESXXXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	137	Comma

Field	Required positions	Record position(s)	Contents
Participants Tax ID Number.	9	138–146	Participant TIN

Examples:

(1) Domestic:

A	B	C	D	E	F	G	H	I	J	K	L
S	GSAA	GD	HHG	RXPG8TY43	Q794912349XXXXX	19990612	S12345XX	V	19990105	19990312	007

M	N	O	P	Q	R	S	T	U
MO00	64131	OK00	71222	10030	0400	03800	SMITH-BATTSONXX	103777444

(2) International:

A	B	C	D	E	F	G	H	I	J	K	L
S	GSAA	GI	POV	RXPG8TY43	Q794-P912666XXX	19991012	PP123456	G	19990601	19990724	053

M	N	O	P	Q	R	S	T	U
MO00	64131	490J	XXXXX	00000	0000	03800	SMITH-BATTSONXX	103777444

9–3.2.2.3. State Codes (CONUS) for Use in Shipment

State	Code
Alabama	AL00
Alaska	See Table Below.
Arizona	AZ00
Arkansas	AR00
California	CA00
Colorado	CO00
Connecticut	CT00
Delaware	DE00
District of Columbia	DC00
Florida	FL00
Georgia	GA00
Idaho	ID00
Illinois	IL00
Indiana	IN00
Iowa	IA00
Kansas	KS00
Kentucky	KY00
Louisiana	LA00
Maine	ME00
Maryland	MD00
Massachusetts	MA00
Michigan	MI00
Minnesota	MN00
Mississippi	MS00
Missouri	MO00
Montana	MT00
Nebraska	NE00
Nevada	NV00
New Hampshire	NH00
New Jersey	NJ00
New Mexico	NM00
New York	NY00
North Carolina	NC00
North Dakota	ND00
Ohio	OH00
Oklahoma	OK00
Oregon	OR00
Pennsylvania	PA00
Rhode Island	RI00
South Carolina	SC00
South Dakota	SD00
Tennessee	TN00
Texas	TX00
Utah	UT00
Vermont	VT00
Virginia	VA00
Washington	WA00
West Virginia	WV00
Wisconsin	WI00
Wyoming	WY00

Alaskan Points	Code
Anchorage	AN00
Cordova	CV00
Fairbanks	FB00
Juneau	JN00
Ketchican	KN00
Kodiak	KD00
Petersburb	PB00
Sitka	SA00
Wrangell	WG00

Note: See the International table for the code for the Hawaiian Islands, Puerto Rico, Guam and Virgin Islands.

9–3.2.2.4. Canadian Provincial Codes for use in Shipment Origin/Destination

Province	Code
Alberta	AB00
British Columbia	BC00
Labrador	LB00
Manitoba	MB00
New Brunswick	NB00
Newfoundland	NF00
Northwest Territories	NT00
Nova Scotia	NS00
Ontario	ON00
Prince Edward Island	PE00
Quebec	PQ00
Saskatchewan	SK00
Yukon	YT00

9–3.2.2.5. Country Codes for use in Shipment Origin/Destination

ALBANIA	120A
ALGERIA	1250
AMERICAN SAMOA	060A
ANGOLA	1410
ANTIGUA	1490
ARGENTINA	150A
AUSTRAILIA	160A
AUSTRIA	1650
AZORES	735A
BAHAMAS	1800
BAHRAIN	1810
BANGLADESH	1820
BARBADOS	1840
BELGIUM	1900
BELIZE	2270
BERMUDA	1950
BOLIVIA	2050
BOTSWANA	2100
BRAZIL	220A
BRUNEI	2320
BULGARIA	2450
BURKINA FASO	9270
BURMA	2500
BURUNDI	2520
CAMBODIA	2550
CAMEROON	2570

UMI
VOL 66
ISS 246
DE 21 2001
UMI

CANARY ISLANDS	830C
CAYMEN ISLANDS	2680
CENTRAL AFRICAN REPUBLIC	2690
CHAD	2730
CHILE	2750
CHINA	2800
COLOMBIA	2850
COSTA RICA	2950
CROATIA	4400
CUBA	3000
CYPRUS	3050
CZECHOSLOVAKIA	3100
DENMARK	3150
DJIBOUTI	3170
DOMINICAN REPUBLIC	3200
ECUADOR	3250
EGYPT	9220
EL SALVADOR	3300
ENGLAND	925E
ETHIOPIA	3350
FIJI	3380
FINLAND	3400
FRANCE	3500
GABON	3880
GERMANY	3940
GHANA	3960
GREECE	4000
GUADELOUPE	4070
GUAM	170G
GUATEMALA	4150
GUINEA	4170
GUYANA	4180
HAITI	4200
HAWAIIAN ISLANDS OF HAWAII, KAUAI, MAUI, OAHU.	210H
HONDURAS	4300
HONG KONG	4350
HUNGARY	4450
ICELAND	4500
INDIA	4550
INDONESIA	4580
IRELAND	4700
ISRAEL	4750
ITALY	4800
IVORY COAST	4850
JAMAICA	4870
JAPAN	490J
JORDAN	5000
KAZAKHSTAN	5250
KENYA	5050
KOREA (SOUTH)	5150
KUWAIT	5200
LAOS	5300
LEBANON	5400
LITHUANIA	5420
LUXEMBOURG	5700
MADAGASCAR	5750
MALAWI	5770
MALAYSIA	5800
MALI	5850
MALTA	5900
MARINAS ISLAND	591M
MAURITANIA	5920
MAURITIUS	5930
MEXICO	5950
MICRONESIA	0630
MONACO	6070
MOROCCO	6100
MOZAMBIQUE	6150
NAMIBIA	8210
NEPAL	6250
NETHERLANDS	6300
NETHERLANDS ANTILLES	6400
NEW ZEALAND	6600
NICARAGUA	6650
NIGERIA	6700
NORTHERN IRELAND	925I
NORTHERN MARIANA ISLANDS	0690
NORWAY	6850
OKINAWA	490K
OMAN	6160
PAKISTAN	7000
PANAMA	7100
PAPUA NEW GUINEA	7120
PARAGUAY	7150
PERU	7200
PHILIPPINES	7250
POLAND	7300
PORTUGAL	7350
PUERTO RICO	180P
QATAR	7470
ROMANIA	7550
RUSSIA	8250
SAIPAN	069S
SAUDI ARABIA	7850
SCOTLAND	925S
SENEGAL	7870
SIERRA LEONE	7900
SINGAPORE	7950
SLOVENIA	7890
SOLOMON ISLANDS	789S
SOUTH AFRICA	8010
SPAIN	8300
SRI LANKA	2720
SUDAN	8350
SURINAME	8400
SWEDEN	8500
SWITZERLAND	8550
SYRIA	8580
TAHITI	350T
TAIWAN	2810
TANZANIA	8650
THAILAND	8750
TRINIDAD	205T
TUNISIA	8900
TURKEY	9050
UGANDA	9100
UKRAINE	9280
UNITED ARAB EMIRATE	8880
URUGUAY	9300
VENEZUELA	9400
VIETNAM	9450
VIRGIN ISLANDS OF ST. THOMAS & ST. CROIX.	190V
VIRGIN ISLANDS OF ST. JOHN	200V
WESTERN SAMOA	9630
YEMEN	9650
YUGOSLAVIA	9700
ZAIRE	2910
ZAMBIA	9900
ZIMBABWE	8180

9–3.2.2.6. Claim Settlement Spreadsheet Format

Entry format is text entry (i.e. left aligned). Fields marked with an asterisk (*) are numeric and must, if necessary, be zero filled from the left (i.e., 00250 for 250) depending on the field size. Line 2 and each line thereafter will identify individual claim records.

Field	Required positions	Record position(s)	Contents
Record ID	1	1	Must be C.
Field Delimiter	1	2	Comma.
SCAC	4	3–6	Four (4) digit Standard Carrier Alpha Code. Identify the SCAC for the carrier the GBL was issued to.
Field Delimiter	1	7	Comma.
Type of Transportation	2	8–9	Enter GD for General Domestic, GI for General International, DD for Direct Domestic Move Management, DI for Direct International, BD for Broker Domestic Move Management, or BI for Broker International.
Field Delimiter	1	10	Comma.
Type of Move	3	11–13	If multiple elements were moved using one GBL, each element must have an individual shipment record; if the GBL was used for household goods, put in HHG; for Automobile, enter POV; and for Unaccompanied Air Baggage, enter UAB. ** If multiple elements were moved using one GBL, each element must have an individual shipment record.
Field Delimiter	1	14	Comma.
Federal Agency Identification Code.	9	15–23	Agency's 9 digit User ID code used to access ITMS. This User ID can be obtained directly from the using agency or from the ITMS system itself. If unable to obtain the proper User ID, please contact the PMO. Records with this field blank, X or zero-filled will not be accepted.
Field Delimiter	1	24	Comma.

Field	Required positions	Record position(s)	Contents
Carrier Reference Number	15	25–39	Carrier reference number used when the shipment was booked by the carrier. Start the reference number with position 25. If reference number does not consist of 15 numbers, place X's after number to fill out the 15 positions. Example: Reference number 135895 would appear as 135895XXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	40	Comma.
BL Number	8	41–48	Bill of Lading Number. Use GBL number *OR* commercial bill of lading (CBL) number that was used to handle the shipment. If CBL number is less then 8 characters, place X's after the number to fill in field. Records with this field blank or zero filled will not be accepted.
Field Delimiter	1	49	Comma.
Type of GBL	1	50	Input V if Virtual GBL was used. Input G if standard GBL was used.
Field Delimiter	1	51	Comma.
Date Claim Received	8	52–59	YYYYMMDD (19990315 = March 15, 1999).
Field Delimiter	1	60	Comma.
Date Claim Settled	8	61–68	YYYYMMDD (see claim received date).
Field Delimiter	1	69	Comma.
Days to settle	3	70–72	Number of days, excluding day of receipt, but including the settlement date. Example: 010 = 10 Days
Field Delimiter	1	73	Comma.
Amount Claimed	6	74–79	Whole dollars only Example: 000500 = $500.00.
Field Delimiter	1	80	Comma.
Amount Settled	6	81–86	Whole dollars only. Example: 000250 = $250.00.
Field Delimiter	1	87	Comma.
Settlement Delay Codes	30	88–117	If days to settle exceeds 60, use the codes specified below in the Delay Code Specification. If codes are used, place them starting in position 81. Once all codes are loaded, place X's to fill out the 30 positions. Example: C99C11C12XXXXXXXXXXXXXXXXXXXXX If no codes are used X fill the 30 positions.
Field Delimiter	1	118	Comma.
Employee's Last Name	15	119–133	Last name of the employee listed on the GBL in all CAPS. If the employee's name does not consist of 15 letters, place X's after the name to fill out the 15 positions. Example: The name of Jones would appear as JONESXXXXXXXXXX. Records with this field blank, X or zero filled will not be accepted.
Field Delimiter	1	134	Comma.
Participants Tax ID Number.	9	135–143	Participant TIN.

Example: Columns

Columns

A	B	C	D	E	F	G	H	I	J	K	L
C	GSAA	GI	POV	RXPG8TY43	Q794–P912666XXX	PP123456	G	19990601	19990622	021	002300

M	N	O	P
001600	Z99C12P13XXXXXXXXXXXXXXXXXXXXX	O'TOOLEXXXXXXXX	123456722

9–3.2.2.7. Claim Settlement Delay Code Specifications [old D9–7]

Codes beginning with a "C" apply specifically to reasons for a late settlement because of a Participant's act or omission; codes beginning with a "P" apply specifically to reasons for a late settlement because of a property owner's act or omission. Codes "C99," "P99," and "Z99" are used to indicate a group of reasons for a late settlement; see below for additional information. Except as otherwise specified, the Delay Codes must begin in position 81.

9–3.2.2.7.1. Delay Code C99

Indicates that because of a combination of Participant failures, as indicated by the following Participant codes, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., C99C12C13. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with only one other code (Example: C99 or C99C12).

9–3.2.2.7.2. Delay Code C11

Participant Failure: Indicates that the Participant through administrative error failed to make a settlement offer within 60 days.

9–3.2.2.7.3. Delay Code C12

Adjuster Failure: Indicates that the adjuster hired by the Participant failed to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days. If the adjuster's failure

UMI
VOL 66 ISS 246 DE 21 2001
UMI

was based on inability to meet with the property owner, use Delay Code P12.

9–3.2.2.7.4. Delay Code C13

Repair Estimates: Indicates that the Participant failed to obtain estimates of repair in sufficient time to make a settlement offer within 60 days (see DTOS Paragraph 10–2 for the requirement that the Participant obtain repair estimates). If the failure to obtain timely repair estimates was based on the inability of the repair firm to meet with the property owner, use Delay Code P13.

9–3.2.2.7.5. Delay Code C14

RESERVED.

9–3.2.2.7.6. Delay Code C15

RESERVED.

9–3.2.2.8. Property Owner Codes [Old D9–7]

9–3.2.2.8.1. Delay Code P99

Indicates that because of a combination of property owner failures, as indicated by the following property owner codes, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., P99P12P14. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with only one other code (Example: P99 or P99P12).

9–3.2.2.8.2. Delay Code P11

Insufficient information: Indicates that the information on or submitted with the claim was insufficient for the Participant to make a settlement and that despite the Participant's timely request for such information, the information was not returned to the Participant in sufficient time for allow for settlement within 60 days. Such information includes additional descriptions of the property or copies of purchase receipts; it does not include estimates of repair (see Delay Codes C13 and P13), high value article appraisals (see Delay Code P14).

9–3.2.2.8.3. Delay Code P12

Adjuster Failure: Indicates that the property owner was unable to meet with the Participant's adjuster in sufficient time for the adjuster to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days.

9–3.2.2.8.4. Delay Code P13

Repair Estimates: Indicates that the property owner was unable to meet with the Participant's repair firm in sufficient time for the firm to complete review and settlement action within 60 days or to provide the Participant with its report so that the Participant could complete settlement within 60 days. This code may also be used to indicate that the employee declined use of the Participant's repair firm, but failed to provide the Participant with repair estimates in sufficient time for the Participant to complete settlement within 60 days.

9–3.2.2.8.5. Delay Code P14

Appraisals: Indicates that despite a timely request from the Participant, the property owner failed to provide the Participant high value article appraisals when such appraisals are warranted by the nature of the property (such as antiques or art objects) in sufficient time for the Participant to complete settlement within 60 days.

9–3.2.2.8.6. Delay Code P15

RESERVED.

9–3.2.2.9. Combination Code. [old D9–7]

9–3.2.2.9.1. Delay Code Z99

Indicates that because of a combination of Participant and property owner failures, settlement was delayed past 60 days. If this code is used, it must begin in position 81 with the specific codes following it, e.g., Z99C12P14. Do not use for an 'other' or 'unknown' indication. Do not use by itself or with codes for only one other type (Example: Z99 or Z99C12).

9–3.3. Claim Settlement and Shipment Report Submission Requirements

9–3.3.1. Electronic Submission. [old D9–8]

Reports must be submitted electronically by Internet FTP. Hard copy (paper) reports will not be accepted. Submissions received from Participants or filing services not conforming to the report submission specifications will be rejected.

9–3.3.2. File Naming Convention

Implementation of the Interagency Transportation Management System (ITMS) has created the need for the development of a File Naming Convention. This File Naming Convention applies to quarterly shipment and claim reports submitted to the PMO. The File Naming Convention identified below must be adhered to. Failure to do so will result in an incomplete status of shipment and/or claim report submission. File names must be eight (8) characters, and the file extension will reflect the record type (Shipment/Claim).

Field	Required positions	Record position(s)	Contents
Carrier Code	4	1–4	Four (4) digit Standard Carrier Alpha Code
Year	1	5	Last digit of calendar year (1999 would be 9).
Quarter	1	6	Calendar quarter, e.g., 1=Jan–Mar, 2=Apr–Jun, 3=Jul–Sep, 4=Oct–Dec.
File Type	1	7	Designates the type of transportation the file contains. General Domestic = *A*, General International = *B*, Direct Move Management Domestic = *C*, Direct Move Management International = *D*, Broker Move Management Domestic = *E*, Broker Move Management International = *F*.
Report Type	1	8	Report Submission Number (i.e. first submission of original quarterly report =1; corrected error report submission=2).
File Extension	3	9–11	Shipments: Original submission must be .SHP; the correction report submitted requires an .ERS extension. Claims: Original submission must be .CLM; the correction report submitted requires an .ERC extension.

Example: Original Shipment Report Submission

GSAA93A1.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
1	Report Type.
.SHP	File Extension.

Example: Corrected Shipment Report Submission

GSAA93A2.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
2	Report Type.
.ERS	File Extension.

Example: Original Claim Report Submission

GSAA93A1.shp	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
1	Report Type.
.CLM	File Extension.

Example: Corrected Claim Report Submission

GSAA93A2.clm	
GSAA	Carrier Code.
9	Last Digit of Calendar Year.
3	Calendar Quarter.
A	File Type.
2	Report Type.
.ERC	File Extension.

If you have several files to transmit at one time, each file name must be unique (i.e., GSAA93B1.SHP, GSAA93A1.CLM, GSAA93A2.ERS, etc.).

9–4. Electronic Report Submission Instructions

9–4.1. General

Claim and shipment reports must be submitted via the Internet using the File Transfer Protocol (I–FTP) and must meet the transmission requirements defined below. Hard copy (paper) reports are not acceptable. If your firm has never submitted reports electronically to the General Service Administration (GSA) and intends to directly transmit the required reports via I–FTP instead of using a filing service, your firm will need to contact the Program Management Office (PMO) in writing on company letterhead to receive a user ID and password. A FACSIMILE request is acceptable.

9–4.2. Format

Format requirements as set out in HTOS Paragraph 9–3.2 of this Section must be adhered to and must be via the Internet using the File Transfer Protocol (I-FTP). Submissions received from Participants or services not conforming to the record requirements will be unacceptable and not incorporated in the database.

9–4.3. File Preparation

In order to transfer the file(s) via the I-FTP the file must be transmitted as unformatted ASCII (TEXT ONLY) flat file, (i.e., no tab characters, etc.). The file *must not* have a top, bottom, or left margin, pagefeeds, or embedded blank records (Note: The type of software you will be using will determine what must be done to prepare the file for transmission). GSA suggests using "File Save As Text Document" to prevent saving any formatting along with the text. Be sure to change the .TXT file extension to the required one after saving the text file.

9–4.4. Accessing the I–FTP

GSA is unable to provide specific instructions on how to access the I–FTP, how to upload a file onto the I–FTP, how to download a file from the I–FTP, or how to move around in the I–FTP due to the fact that accessing and operating within the I–FTP are dependent upon the type of Internet software used. Consequently, a firm will need to contact its I–FTP provider for assistance. The information listed below provides the (1) address to GSA's I–FTP directory and (2) two different methods (there are others) of accessing a firm's individual directory in which the firm's shipment and/or claim reports will need to be uploaded.

9–4.4.1. User ID and Password

(See HTOS Paragraph 9–4.1.)

9–4.4.2. I–FTP Address

Kcftp.gsa.gov

9–4.4.3. Directory Access

Methods of accessing individual directories (i.e., item in **bold** are words/phrases THAT YOU MUST TYPE IN EXACTLY)

FTP>CD CARRIERS/USER ID
or
FTP>D:\PUB\CARRIERS\USER ID

9–4.4.4. Verification of File Transfer

Once you have transmitted a file onto the I–FTP within your firm's assigned directory, you can follow the steps identified below to verify that your firm's file was successfully transmitted onto the I–FTP.

1. Exit I–FTP;
2. Re-connect to I–FTP;
3. Enter your firm's assigned User ID and Password when requested;
4. Change to your firm's directory—

FTP>CD CARRIERS/USER ID
or
FTP>PUB:\PUB\CARRIERS\USER ID; and

5. Type **DIR.**

At this point you should be able to see your firm's file identified in your assigned directory. If the file doesn't appear, you will need to "Upload" the file to the I–FTP again. The steps identified above will assist you only in verifying that your firm's claim and/or shipment report(s) file was transferred successfully onto the I–FTP. Following these steps WILL NOT verify that the contents of your firm's reports have been formatted correctly— only that GSA has received a file.

9–4.5. Reorganizations and Bankruptcies Reports

9–4.5.1. Reorganization Report [Old D9–9]

The Participant shall furnish a copy of the court approved reorganization plan to the PMO within the timeframe specified in Section 5 of the DTOS or ITOS.

9–4.5.2. Bankruptcy Report [Old D9–9]

The Participant shall furnish a copy of the bankruptcy judgment to the PMO within the timeframe specified in Section 5 of this HTOS. The Participant shall also provide a listing of all shipments handled pursuant to this HTOS in its possession, in transit, or in SIT, and shall notify agencies of the bankruptcy. The shipment listing shall identify the name of the Federal agency and the property owner, the location of the shipment, and the telephone number of the SIT facility, if the shipment is in SIT. In the event the shipment is in transit, the Participant shall also advise the Federal agency of the Participant's plans for disposition of the shipment. The Participant shall also notify those Federal agencies that have booked shipments but which have not yet been picked up.

9–5. Reports by the PMO

9–5.1. Performance Reports

9–5.1.1. Performance Reports (Quarterly) [Old D9–6]

The PMO shall furnish Participants a performance report. The report will be

UMI

furnished to the Participant on a calendar quarter basis, and shall either contain information derived from GSA Forms 3080 received during the previous quarter pertaining to shipments handled by the Participant or consist of copies of the GSA Forms 3080 received during the previous quarter.

9–5.1.2. Performance Reports (Annual) [Old D9–6]

The PMO shall publish an annual report based upon information from GSA Forms 3080 received during the previous calendar year and such other information as the PMO deems appropriate.

Section 10—Participant Liability

10–1. Participant Liability

10–1.1. Levels Of Service And Released Value

10–1.1.1. Levels Of Service [Old D10–1 & I10.2]

Participants providing domestic and/or international transportation services pursuant to the provisions of this HTOS shall offer full value service for each shipment, defined as transportation services (including accessorial and terminal services) furnished by a Participant for which the Participant assumes liability for loss and/or damage not to exceed the full replacement value of the items transported.

10–1.2. Released Value

10–1.2.1. Full Value Service

10–1.2.1.1. Domestic Shipments [Old D10–1]

The released value of shipments handled under Full Value Service will be a value no less than _ times the net weight of each domestic shipment in pounds. However, the released value may be increased by the Government on behalf of the relocating employee for a specific shipment, which must be so annotated on the bill of lading. For the applicable released value dollar amount, refer to the RFO.

10–1.2.1.2. International Shipments [Old I10.2]

The released value of shipments handled under Full Value Service will be a value no less than __ times the net weight of each international and/or offshore shipment. However, the released value may be increased by the Government on behalf of the relocating employee for a specific shipment, which must be so annotated on the bill of lading. For the applicable released value dollar amount, refer to the RFO.

10–1.2.2. Increase in Basic Released Value [old D10–1]

Should the owner elect to specify a released value different from that specified on the GBL after the GBL has been issued, but prior to the date of pickup, the Participant should have the owner contact the RTO and request an amendment to the original GBL indicating the desired valuation.

10–1.3. Extent of Liability.

10–1.3.1. Exception to Liability [old D10–1 and I10.3]

Provided that the burden of proof shall be on the Participant to show that the loss or damage was so caused by the one or more of the following excepted conditions which relieve it of liability, the Participant is not responsible for loss or damage caused by (a) acts of God, public authority or negligence of the owner, and/or owner's agent; (b) hostile or warlike action in the time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, including (1) by any government or sovereign power (de jure or de facto), or by an authority maintaining forces, and (2) by an agent of any such government, power, authority or forces; (c) any weapon of war employing atomic fission or radioactive force whether in time of peace or war, including contamination attributable to effects of radioactive or fissionable materials; (d) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating, or defending against such occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade; (e) strikes, lockouts, labor disturbances, riots, civil commotion, acts of person or persons taking part in such occurrence or disorder; (f) Inherent vice of the article or infestations by mollusks, arachnids, crustaceans, parasites or other types of pests, fumigation or decontamination when not the fault of the Participant. The burden of proof shall be on the Participant to show that the immediate cause of the loss or damage was one or more of the exceptions listed above which relieved it of liability.

10–1.3.2. Liability for General Average/Salvages—International Only [old I10.3]

On ocean shipments, in addition to the Participant's liability as otherwise provided in this HTOS, the Participant assumes full liability for and will pay all contributions in general average or salvage assessed against personal property and will provide bonds or make arrangements for the prompt release of the shipments from any maritime lien arising therefrom.

10–1.3.3. Liability for Non-Vehicular Personal Property.

10–1.3.3.1. General

Except when loss and/or damage arises out of causes beyond the control and without the fault or negligence of the Participant, the Participant shall be liable to the United States Government or the owner for the loss of and/or damage to any article in an amount not to exceed the released value of the article. The Participant shall be so liable for any article over which the Participant has control or custody. Custody on the part of the Participant shall be considered to begin at the time performance of service commences and shall continue until services are completed; including, but not limited to, while being packed, picked up, loaded, transported, delivered, unloaded, or unpacked; stored in transit; or serviced (appliances, etc.) by a third person hired by the Participant to perform the servicing.

10–1.3.3.1.1. Non-Vehicular Property Delivered to a Foreign Post—International Shipments [old I10.3]

Subject to the general provisions stated above and in the event non-vehicular personal property is lost or damaged, the measure of damages for a shipment to be delivered to a foreign post shall be repair or replacement not to exceed the replacement value of the item at the foreign post; provided, however, the foreign post value is within 10 percent (±10%) of the CONUS replacement value at of the point of origin at the time of arrival at the port of debarkation. In the event the foreign post value is not within 10 percent (±10%), the measure of damages will be the CONUS replacement value of the item at the point of origin at the time of arrival at the port of debarkation plus the cost of transportation and delivery of the property, including customs clearance, to the employee at the post. Replacement value must be based on replacement of the property with property of comparable kind and quality.

10–1.3.3.1.2. Non-Vehicular Property Delivered Within the Continental United States [old I10.3]

Subject to the general provisions stated above and in the event personal non-vehicular property is lost or damaged, the measure of damages for a shipment to be delivered within the Continental United States shall be repair or replacement not to exceed the replacement value of the property at the point of destination in the United States, including the cost of transportation and delivery of the property, and including customs clearance when applicable, to the employee at the destination residence. Replacement value must be based on replacement of the property with property of comparable kind and quality

10–1.3.4. Liability for Vehicular Property.

10–1.3.4.1. International Shipment [old I10.3]

In the event of loss/damage to vehicular property during the course of an international shipment, the measure of damages will be repair or replacement not to exceed the current value of the vehicle based on the National Automobile Dealers Association (NADA) value for the vehicle in the month of landing converted to local currency plus the cost of rental of a comparable vehicle for the period of time during which the vehicle is unavailable for employee use due to inoperability or repair; provided, however, that the liability of the cost of rental shall not exceed the current value of the vehicle. The quality of repair or replacement must equal or exceed the standards applied in the Continental United States.

10–1.3.4.2. Domestic Shipment. [old I10.3]

In the event of loss/damage to vehicular property during the course of a domestic shipment, the measure of damages will be repair or replacement not to exceed the current value of the vehicle based of the National Automobile Dealers Association (NADA) value for the vehicle plus the cost of rental of a comparable vehicle for the period of time during which the vehicle is unavailable for employee use due to inoperability or repair; provided, however, that the liability of the cost of rental shall not exceed the current value of the vehicle. The quality of repair or replacement must equal or exceed the standards applied in the Continental United States.

10–1.3.5. Liability for Real Property Damage [old I10.2]

The Participant will be liable for any damage sustained to the premises and/or property of the employee/owner caused by the Participants' agents/employees.

10–1.3.6. Liability for High Risk Items [old I10.3]

Participant's legal liability for loss or damage to high risk items will be the same as for any other property lost or damaged. Unless covered by a high risk program established in accordance with HTOS Paragraph 10.1.6. below, a Participant's liability for high risk items shall in no way be limited to a value less than that established under the terms of the level of service stated on the Government bill of Lading.

10–1.3.7. Liability for Concealed Loss/Damage

10–1.3.7.1. General [old D10–1]

The Participant shall be liable for concealed loss and/or damage discovered by the owner within 75 days after delivery if the owner notifies the Participant, in writing, of the loss and/or damage within 75 days from the date of delivery. The notification requirement cited in HTOS Paragraph 5.11 does not mean that a claim cannot be filed after seventy-five (75) days by the property owner and may not be used as the sole basis for denying a claim.

10–1.3.7.2. Burden of Proof When Notice Is Given [old I10.2]

If a claim for concealed damage is filed within the period specified in HTOS Paragraph 5.11, the burden of proving that it did not cause the loss/damage is on the Participant. If a claim for concealed loss/damage is filed after the period specified in HTOS Paragraph 5.11 and the Participant received notice of all or some of the loss/damage within the period specified in HTOS Paragraph 5.11, the burden of proof is on the Participant for that loss/damage for which it received notice and on the property owner for that loss/damage for which he/she did not give notice.

10–1.3.7.3. Burden of Proof When Notice Is Not Given [old I10.2]

If a claim for concealed loss/damage is filed after the period specified in HTOS Paragraph 5.11 and the Participant did not receive notice of any of the loss/damage within the period specified in HTOS Paragraph 5.11, the burden of proving that the Participant caused the loss/damage is on the property owner.

10–1.3.7.4. Government Custody [old I10.3]

Except as provided above with respect to concealed loss and damage, the Participant shall not be liable for loss or damage when the Participant can reasonably establish that such loss or damage occurred while the shipment was in the effective custody and control of the Government.

10–1.3.8. Liability for Delay [old I10.2]

Participant shall be liable for the inconvenience and extra expense caused to the owner and to the Government, if the owner is required to retain temporary quarters due to the Participant's failure to pickup or deliver the household goods shipment in accordance with the instructions provided by the RTO, the owner of the property, or his designated representative. Equipment failure, actions by underlying Participants and/or agents and illness of or error by persons in its employ or in the employ of its agents, among others, are considered within the control of the Participant and may not be used as a basis for denying a claim for damages due to delay.

10–1.3.9. Liability for Terminated Shipments [old I10.2]

In the event the progress of a shipment is terminated by the Government and is assigned to another Participant for completion of service, both the terminated and the assigned Participants shall be jointly liable for any loss and/or damage to the shipment and for any delay by the responsible Participant. The Government reserves the right to file any claim for property loss/damage or for shipment delay with either the terminated Participant or the assigned Participant, and the Participant against which the claim was filed shall be responsible for settling the claim in full without waiting for any acknowledgment of liability or reimbursement from the other Participant.

10–1.3.10. Liability for Prohibited Items [old I10.3]

When a Participant undertakes the shipment of items prohibited by law or regulatory body which are injurious or contaminating to the shipment, the Participant shall be liable for loss or damage resulting from its failure to decline such items.

10–1.3.11. Liability for Missing Articles

10–1.3.11.1. General [old D10–1 & I10.2]

If the missing articles are not found within thirty (30) calendar days from the date of shipment delivery, they shall be presumed lost by the Participant and payment to the property owner will be made without dispute upon the filing of a claim.

10–1.3.11.2. Exception [old I10.2]

In the event article/items are located subsequent to claims action by the

VOL 66 ISS 246 DE 21 2001 UMI

employee and/or the Government, the Participant shall hold the articles/items at the point of location, notify the RTO, and await disposition instructions. When articles/items are returned to the employee, any claims which have been paid in favor of the employee, shall be readjusted in the Participant's favor.

10–1.4. Employee Failure To Verify Inventory [old I10.2]

The Participant may not deny liability for property loss and/or damage solely on the basis that the Government, the employee, or the employee's authorized representative failed to verify the origin or destination inventories as prepared in accordance with HTOS Paragraph 4–6.

10–1.5. Participant Failure To Settle [old I10.2]

Failure to make settlement within the initial thirty (30) day period, or the maximum sixty (60) day period if proper notice is given as provided in HTOS Paragraph 5–12.3, shall be construed as a refusal by the Participant to settle the claim and as an admission of its liability to the full extent of the law and this HTOS.

10–1.6. Establishment of High Risk Program [old I10.3]

A high risk program limiting a Participant's liability for loss of or damage to high risk items may only be established with the approval of the RTO and be evidenced by a written agreement setting out the terms and conditions established by the shipping Federal agency. The mere issuance of a GBL to a Participant with a pre-existing high risk program is not sufficient to incorporate the terms of such high risk program into the contract of carriage.

10–2. Preparation and Filing of Claim

10–2.1. General [old D10–2]

The Participant must furnish to the property owner all reasonable and necessary assistance in the preparation and filing of claims. Included in such assistance are inspections of the damaged property, if requested, completion of claim forms, and obtaining estimated repair costs at no cost to property owner.

10–2.2. Claims for Loss of and/or Damage to Personal Property. [old D10–2]

Claims for loss of and/or damage to personal property shipped pursuant to this HTOS must be filed with the Participant by the shipping Federal agency; provided, however, that with the approval of the shipping federal agency, the owner of the property or his designated representative may file the claim on behalf of himself and the Government.

10–2.3. Claims for Damage to Real Property [old D10–2]

Claims for damage to real property belonging to the property owner at the time of shipment or subsequent thereto must be filed with the Participant by the shipping Federal agency; provided, however, that with the approval of the shipping federal agency, the owner of the property or his designated representative may file the claim on behalf of himself and the Government.

10–2.4. Claims for Injury [old D10–2]

Claims for injury shall be filed with the Participant by the injured party.

10–2.5. Claims for Delay [old D10–2]

Claims for delay may be filed by the property owner, or his designated representative, or by the Federal agency paying the cost of the services provided pursuant to this HTOS.

10–3. Minimum Filing Requirements [old D10–3]

A communication in writing from a claimant filed with the Government or the Participant and (1) containing facts sufficient to identify the shipment (or shipments) of property involved, (2) asserting liability for alleged loss, damage, injury, or delay, and (3) making claim for the payment of a specified or determinable amount of money, will be considered as sufficient compliance with the provisions for filing claims embraced in the bill of lading or other contract of carriage.

10–4. Documents Not Constituting Claims [old D10–4]

Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, on freight bills, delivery receipts, or other documents, or inspection reports issued by the Participant or their inspection agencies, whether the extent of the loss or damage is indicated in dollars and cents or otherwise will, standing alone, not be considered as sufficient to comply with the minimum claim filing requirements specified above.

10–5. Supporting Documents

10–5.1. General [old D10–5]

When necessary as part of an investigation, each claim must be supported for each article by a statement of the nature and extent of such damage, the basis for the amount claimed, i.e., date article purchased, original cost, amount of depreciation, actual cash value at time of loss or damage, or the full replacement value, in those cases where shipments are released to full replacement value.

10–5.2. Inconvenience Claims [old D10–5]

Inconvenience claims shall be supported with an itemized listing of costs incurred and payments made by the Government to the employee.

10–5.3. Identical Inventory Exception Coding [old D10–5]

In the event items are listed on the inventory with identical, or substantially identical, exception coding, the exception coding shall be construed as void and such items shall be construed as inventoried without exception.

10–6. Verification of Loss

10–6.1. Only Claim [old D10–6]

When an asserted claim for loss of an entire package or an entire shipment cannot be otherwise authenticated upon investigation, the Participant will obtain from the claimant of the shipment involved a certified statement, in writing, that the property for which the claim is filed, has not been received from any other source.

10–6.1.1. Inventory Correctness [old D10–6]

When there is an asserted claim for loss of an article, either contained in a carton or as a stand alone item, and it is not specified on the inventory, the item shall be construed as present and the Participant shall not contest a claim for the missing items, unless the Participant can establish that the inventory was a complete listing of all items in the shipment and that the article was not received by the Participant.

10–7. Satisfaction of Claim

10–7.1. Property Loss/Damage [old D10–7]

The Participant shall satisfy a claim by repairing or replacing the property lost or damaged to the extent of Participant liability with materials of like kind, quality, and condition at time of acceptance by the Participant. Repair and/or replacement will also be construed to include payment in cash. In the event that estimates of repair costs are obtained by the employee, either on his/her own or at the request of the Participant, the estimator's cost to furnish such estimates shall be reimbursable to the employee; provided, however, that if the terms of the estimate provide that the cost of the estimate will be deducted from the cost of repairs when repairs are completed, the Participant's liability will not exceed the cost of repairs.

10–7.2. Inconvenience Claims

10–7.2.1. Filed by Employee [old D10–7]

When the claim is filed by the employee, the Participant shall be liable for the reasonable costs incurred by the employee in excess of those reimbursed the employee by the Government.

10–7.2.2. Filed by The Government [old D10–7]

When the claim is filed by the Government, the Participant shall be liable for the reimbursement made by the Government to the employee for the temporary quarters retained by the employee.

10–8. Government Liability—International Only [old I10.1]

The United States Government (DOS or other US Government agencies assuming effective custody) will be liable to the Participant for damage to or loss or destruction of lift vans due to negligence of the Government, reasonable wear and tear excepted.

Section 11—Miscellaneous Agreement Provisions

11–1. Warranty of Services [old D11–1]

11–1.1. Acceptance and Correction [old D11–1]

11–1.1.1. Definitions [old D11–1]

11–1.1.1.1. Acceptance [old D11–1]

Acceptance, as used in this HTOS Paragraph, means the act of an authorized representative of the Government by which the Government assumes for itself or approves specific services, as partial or complete performance of the HTOS.

11–1.1.1.2. Correction [old D11–1]

Correction, as used in this clause, means the elimination of a defect.

11–1.1.2. Warranty [old D11–1]

Notwithstanding inspection and acceptance by the Government or any provision concerning the conclusiveness thereof, the participant warrants that all services performed under this HTOS will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this HTOS. The RTO shall give written notice of any defect or nonconformance to the participant within forty-five (45) days from the date of acceptance by the Government. This notice shall state either (1) that the participant shall correct or reperform any defective or nonconforming services, or (2) that the Government does not require correction or reperformance.

11–1.1.3. Correction and Reperformance [old D11–1]

If the participant is required to correct or reperform, it shall be at no cost to the Government, and any services corrected or reperformed by the participant shall be subject to this clause or if the participant refuses to correct or reperform, the RTO may correct or replace with similar services and charge to the participant the cost occasioned to the Government thereby, or make an equitable adjustment in the price for services rendered.

11–1.1.4. No Correction and Reperformance [old D11–1]

If the Government does not require correction or reperformance, the RTO shall make an equitable adjustment in the price for services rendered.

11–1.2. Improper Customs Clearance Reduction.—International Only [old 11.1.2]

In the event that a carrier improperly clears a shipment through customs (for example, a shipment is cleared as a DoD shipment, rather than a DOS shipment) and warehouse handling, storage, or delivery costs accrue exceeding those applicable to the shipment had the shipment been properly cleared, the excess warehouse handling, storage, or delivery costs will not be reimbursable by the Federal agency paying the transportation charges.

11–1.3. Late Delivery Reduction.—DOMESTIC ONLY [old D11–1]

A late delivery reduction of $100.00 per day will be payable to the Federal agency paying the transportation charges, for each calendar day or fraction thereof, when the actual transit time for direct delivery shipments exceeds the transit time as defined in Section 12 of this HTOS, subject to the following items: (1) When the Government and the participant mutually agree to a transit time longer than the transit time as shown in this HTOS, the penalty will begin on the day after the agreed date; (2) When the Government and the participant mutually agree to a transit time chart other than the chart in this HTOS, the penalty will begin on the day after the agreed date; (3) When a shipment consigned to Storage-in-Transit (SIT) at destination is en route and the destination is changed to a direct delivery, the transit time is negotiable and no penalty occurs for late delivery; (4) This item will apply only for shipments which: (a) Weigh or are rated at 3,500 pounds or more that are picked up during the period from October 1 through May 14 of each subsequent year; OR. (b) weigh or are rated at 5,000 pounds or more that are picked up during the period from May 15 through September 30 of each year; (5) This item applies only when both origin and destination of the shipment are within the continental United States; (6) This item will not apply if delay is caused by reasons beyond the participant's control, described as "Impractical Operation" in the participant's governing Government Rate Tender; (7) This item will not apply to a shipment, or portion thereof, which is lost or destroyed in transit and cannot be delivered due to such loss or destruction; (8) This item will not apply to an overflow portion of the shipment when the overflow weight represents less than twenty (20) percent of the total shipment weight and contains nonessential items (possessions not needed to maintain day-to-day housekeeping during the period of time between delivery of the main portion of the shipment and delivery of the overflow); (9) This item will apply when reconsignment or diversion is made on a shipment, based on the applicable mileage and weight of the shipment from point of diversion to the new destination; (10) The total reimbursement shall not exceed an amount equal to the linehaul transportation charges for the shipment; (11) This payment satisfies the Government's right to equitable adjustment for failure to perform, but does not waive, mitigate, or satisfy any other right or remedy available to the Government on account of late delivery by the participant.

11–1.4. Late Delivery Reduction.—INTERNATIONAL ONLY [old I11.1.3]

A late delivery reduction of $100.00 per day will be payable to the Federal agency paying the transportation charges, for each calendar day or fraction thereof, when the actual transit time for direct delivery shipments exceeds the transit time as defined in Section 12 of this HTOS, subject to the following items: (1) When the Government and the participant mutually agree to a transit time longer than the transit time as shown in this HTOS, the penalty will begin on the day after the agreed date; (2) When the Government and the participant mutually agree to a transit time chart other than the chart in this HTOS, the penalty will begin on the day after the agreed date; (3) When a shipment consigned to Storage-in-Transit (SIT) at

UMI
VOL 66
ISS 246
DE 21
2001
UMI

destination is en route and the destination is changed to a direct delivery, the transit time is negotiable and no penalty occurs for late delivery; (4) This item will apply only for shipments which: (a) weigh or are rated at 3,500 pounds or more that are picked up during the period from October 1 through May 14 of each subsequent year; OR. (b) weigh or are rated at 5,000 pounds or more that are picked up during the period from May 15 through September 30 of each year; (5) This item will not apply if delay is caused by reasons beyond the participant's control, described as "Impractical Operation" in the participant's governing Government Rate Tender; (6) This item will not apply to a shipment, or portion thereof, which is lost or destroyed in transit and cannot be delivered due to such loss or destruction; (7) This item will not apply to an overflow portion of the shipment when the overflow weight represents less than twenty (20) percent of the total shipment weight and contains nonessential items (possessions not needed to maintain day-to-day housekeeping during the period of time between delivery of the main portion of the shipment and delivery of the overflow); (8) This item will apply when reconsignment or diversion is made on a shipment, based on the applicable mileage and weight of the shipment from point of diversion to the new destination; (9) The total reimbursement shall not exceed an amount equal to total charges for the shipment, excluding SIT; (10) This payment satisfies the Government's right to equitable adjustment for failure to perform, but does not waive, mitigate, or satisfy any other right or remedy available to the Government on account of late delivery by the participant.

11–2. Diversion Or Reconsignment. [old D11–3]

Diversion or reconsignment of a shipment to a destination area other than that specified on the GBL can only be authorized by written order or oral notice followed by written order of the GBL Issuing Officer. The destination area is the territory recognized as the commercial zone for the destination city or municipality shown on the GBL. Instructions furnished by the owner or his representative to the carrier or its agent to perform local drayage to any point within the commercial zone shall not constitute an order for diversion or reconsignment.

11–3. Advertising Of Participant Approval. [old D11–4 & I11.3]

Except in those instances where the participant uses information or data publicly available, the participant will not refer to GSA approval to participate in the program or participation in the program in commercial advertising in such a manner as to state or imply that the services provided are endorsed or preferred by the Federal Government or are considered by the Government to be superior to other services.

Section 12—Transit Times

12–1. Transit Times

This HTOS paragraph 12–1 provides transit times for shipments moving between CONUS locations, between CONUS and Canada locations, and between locations in CONUS and Canada on the one hand and on the other hand international locations, including POV surface shipments (except locations shown in HTOS paragraph 12–2. For Transit Times on international unaccompanied air baggage, refer to HTOS Section 5.

(For Special Agency Transit Times, refer to the Request for Offers (RFO))

BETWEEN DOMESTIC AND INTERNATIONAL TRANSIT TIMES INTERSTATE TRANSIT TIMES, INCLUDING BETWEEN CONUS AND CANADA.

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
1–250	8	7	6	5	4
251–500	9	9	7	6	5
501–750	11	10	9	8	7
751–1000	13	11	9	9	8
1001–1250	14	12	10	9	9
1251–1500	15	13	11	10	9
1501–1750	16	14	12	11	10
1751–2000	17	15	13	12	11
2001–2250	18	16	14	13	12
2251–2500	18	17	15	14	13
2501–2750	19	18	16	15	14
2751–3000	20	18	17	16	15
3001–3250	21	19	16	17	16
3251–3500	22	20	16	18	17

INTRASTATE TRANSIT TIMES, INCLUDING INTRA-CANADA

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
1–250	7	6	5	5	4
251–500	9	8	6	5	5
501–750	11	10	8	7	6
751–1000	12	11	9	8	7
1001–1250	13	11	10	9	8
1251–1500	14	12	11	10	9
1501–1750	15	13	11	11	10
1751–2000	16	14	12	11	11
2001–2250	17	15	13	12	11
2251–2500	17	16	14	13	12
2501–2750	18	17	15	14	13
2751–3000	19	17	16	15	14

INTRASTATE TRANSIT TIMES, INCLUDING INTRA-CANADA—Continued

Weight between miles	0 to 999 lbs.	1,000 to 1,999 lbs.	2,000 to 3,999 lbs.	4,000 to 7,999 lbs.	8,000 lbs. and over
3001–3250	20	18	17	16	15
3251–3500	21	19	17	17	16

State	Days	State	Days	State	Days
Between ALBANIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between ALGERIA and					
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	57
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	56
—British Columbia	73	—Iowa	70	Oregon	59
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		
Between AMERICAN SAMOA					
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49

UMI
VOL 66
ISS 246
DE 21
2001
UMI

State	Days	State	Days	State	Days
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		
Between ANGOLA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between ANTIGUA and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between ARGENTINA and					
Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	70	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60

State	Days	State	Days	State	Days
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

Between AUSTRALIA-EAST and

State	Days	State	Days	State	Days
Alabama	76	Delaware	75	New Jersey	77
Alaska	49	District of Columbia	74	New Mexico	69
Arizona	69	Florida	76	New York	77
Arkansas	77	Georgia	76	North Carolina	76
California	71	Idaho	73	North Dakota	76
Canada		Illinois	72	Ohio	75
—Alberta	83	Indiana	72	Oklahoma	73
—British Columbia	65	Iowa	72	Oregon	66
—Labrador	93	Kansas	77	Pennsylvania	76
—Manitoba	79	Kentucky	78	Rhode Island	77
—New Brunswick	81	Louisiana	72	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	76	Tennessee	77
—Nova Scotia	83	Massachusetts	76	Texas	73
—Ontario	80	Michigan	77	Utah	73
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	82	Mississippi	73	Virginia	76
—Saskatchewan	81	Missouri	76	Washington	66
—Yukon	54	Montana	78	West Virginia	77
Colorado	69	Nebraska	73	Wisconsin	75
Connecticut	77	Nevada	69	Wyoming	76
		New Hampshire	78		

Between AUSTRALIA-WEST and

State	Days	State	Days	State	Days
Alabama	79	Delaware	80	New Jersey	78
Alaska	51	District of Columbia	75	New Mexico	74
Arizona	74	Florida	77	New York	78
Arkansas	78	Georgia	77	North Carolina	77
California	72	Idaho	76	North Dakota	80
Canada		Illinois	76	Ohio	78
—Alberta	84	Indiana	76	Oklahoma	77
—British Columbia	72	Iowa	76	Oregon	68
—Labrador	95	Kansas	78	Pennsylvania	77
—Manitoba	83	Kentucky	79	Rhode Island	78
—New Brunswick	83	Louisiana	76	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	80
—Northwest Terr	61	Maryland	77	Tennessee	78
—Nova Scotia	85	Massachusetts	78	Texas	74
—Ontario	81	Michigan	76	Utah	76
—Pr. Edward Isl	86	Minnesota	78	Vermont	80
—Quebec	83	Mississippi	77	Virginia	77
—Saskatchewan	82	Missouri	77	Washington	67
—Yukon	56	Montana	79	West Virginia	78
Colorado	75	Nebraska	76	Wisconsin	79
Connecticut	78	Nevada	74	Wyoming	76
		New Hampshire	80		

Between AUSTRIA and

State	Days	State	Days	State	Days
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62

VOL 66 ISS 246 DE 21 2001 UMI

State	Days	State	Days	State	Days
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		
Between AZORES and					
Alabama	64	Delaware	60	New Jersey	62
Alaska	62	District of Columbia	60	New Mexico	62
Arizona	63	Florida	62	New York	62
Arkansas	59	Georgia	57	North Carolina	57
California	64	Idaho	67	North Dakota	67
Canada		Illinois	63	Ohio	61
—Alberta	72	Indiana	62	Oklahoma	61
—British Columbia	72	Iowa	65	Oregon	68
—Labrador	78	Kansas	62	Pennsylvania	61
—Manitoba	70	Kentucky	62	Rhode Island	62
—New Brunswick	66	Louisiana	63	South Carolina	57
—Newfoundland	73	Maine	63	South Dakota	67
—Northwest Terr	72	Maryland	60	Tennessee	59
—Nova Scotia	68	Massachusetts	60	Texas	61
—Ontario	69	Michigan	66	Utah	64
—Pr. Edward Isl	69	Minnesota	67	Vermont	63
—Quebec	67	Mississippi	64	Virginia	61
—Saskatchewan	70	Missouri	66	Washington	67
—Yukon	67	Montana	67	West Virginia	60
Colorado	62	Nebraska	64	Wisconsin	64
Connecticut	62	Nevada	65	Wyoming	67
		New Hampshire	63		
Between BAHAMAS and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between BAHRAIN and					
Alabama	61	Delaware	60	New Jersey	62
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67

State	Days	State	Days	State	Days
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	66
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		
Between BANGLADESH and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	67	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	68	Minnesota	79	Vermont	82
—Quebec	85	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		
Between BARBADOS and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	56	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	46	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between BELGIUM and					
Alabama	62	Delaware	56	New Jersey	
Alaska		District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas		Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta		Indiana	58	Oklahoma	63
—British Columbia		Iowa	67	Oregon	66
—Labrador		Kansas	64	Pennsylvania	57
—Manitoba		Kentucky	58	Rhode Island	
—New Brunswick		Louisiana	61	South Carolina	57

VOL 66 ISS 246 DE 21 2001 UMI

State	Days	State	Days	State	Days
—Newfoundland		Maine	59	South Dakota	69
—Northwest Terr		Maryland	56	Tennessee	58
—Nova Scotia		Massachusetts	56	Texas	63
—Ontario		Michigan	62	Utah	66
—Pr. Edward Isl		Minnesota	62	Vermont	59
—Quebec		Mississippi	62	Virginia	57
—Saskatchewan		Missouri	64	Washington	63
—Yukon		Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut		Nevada	63	Wyoming	69
		New Hampshire	....		
Between BELIZE and					
Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		
Between BERMUDA and					
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
Between BOLIVIA and					
Alabama	55	Delaware	61	New Jersey	61
Alaska	58	District of Columbia	60	New Mexico	54
Arizona	53	Florida	51	New York	61
Arkansas	54	Georgia	53	North Carolina	54
California	57	Idaho	60	North Dakota	64
Canada		Illinois	62	Ohio	61
—Alberta	69	Indiana	61	Oklahoma	59
—British Columbia	67	Iowa	60	Oregon	63
—Labrador	77	Kansas	60	Pennsylvania	62
—Manitoba	67	Kentucky	58	Rhode Island	61

State	Days	State	Days	State	Days
—New Brunswick	65	Louisiana	54	South Carolina	53
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	68	Maryland	60	Tennessee	54
—Nova Scotia	67	Massachusetts	60	Texas	57
—Ontario	65	Michigan	62	Utah	61
—Pr. Edward Isl	68	Minnesota	62	Vermont	62
—Quebec	66	Mississippi	55	Virginia	60
—Saskatchewan	67	Missouri	59	Washington	62
—Yukon	63	Montana	64	West Virginia	62
Colorado	58	Nebraska	62	Wisconsin	61
Connecticut	61	Nevada	55	Wyoming	62
		New Hampshire	62		
Between BOTSWANA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	76	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between BRAZIL and					
Alabama	55	Delaware	61	New Jersey	61
Alaska	58	District of Columbia	60	New Mexico	54
Arizona	53	Florida	51	New York	61
Arkansas	54	Georgia	53	North Carolina	54
California	57	Idaho	60	North Dakota	64
Canada		Illinois	62	Ohio	61
—Alberta	69	Indiana	61	Oklahoma	59
—British Columbia	67	Iowa	60	Oregon	63
—Labrador	77	Kansas	60	Pennsylvania	62
—Manitoba	67	Kentucky	58	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	53
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	68	Maryland	60	Tennessee	54
—Nova Scotia	67	Massachusetts	60	Texas	57
—Ontario	65	Michigan	62	Utah	61
—Pr. Edward Isl	68	Minnesota	62	Vermont	52
—Quebec	66	Mississippi	55	Virginia	60
—Saskatchewan	67	Missouri	59	Washington	62
—Yukon	63	Montana	64	West Virginia	52
Colorado	58	Nebraska	62	Wisconsin	61
Connecticut	61	Nevada	55	Wyoming	62
		New Hampshire	62		
Between BRUNEI and					
Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
—Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78

State	Days	State	Days	State	Days
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80		
Between BULGARIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between BURKINA FASO and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	76	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between BURMA and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71

State	Days	State	Days	State	Days
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		

Between BURUNDI and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between CAMBODIA and

Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Caroline	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

Between CAMEROON and

Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
		Between CANARY ISLANDS and			
Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	68	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	57	Wyoming	69
		New Hampshire	62		
		Between CAYMAN ISLANDS and			
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
		Between CENTRAL AFRICA REPUBLIC and			
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73

State	Days	State	Days	State	Days
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between CHAD and

State	Days	State	Days	State	Days
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

Between CHILE and

State	Days	State	Days	State	Days
Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	70	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

Between CHINA and

State	Days	State	Days	State	Days
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		
Between COLOMBIA and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	56	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
	–	New Hampshire	64		
Between COSTA RICA and					
Alabama	47	Delaware	56	New Jersey	57
Alaska	55	District of Columbia	56	New Mexico	54
Arizona	53	Florida	53	New York	57
Arkansas	52	Georgia	53	North Carolina	56
California	54	Idaho	57	North Dakota	59
Canada		Illinois	57	Ohio	56
—Alberta	64	Indiana	56	Oklahoma	55
—British Columbia	67	Iowa	54	Oregon	61
—Labrador	73	Kansas	56	Pennsylvania	55
—Manitoba	62	Kentucky	56	Rhode Island	57
—New Brunswick	61	Louisiana	48	South Carolina	53
—Newfoundland	68	Maine	58	South Dakota	59
—Northwest Terr	65	Maryland	56	Tennessee	52
—Nova Scotia	63	Massachusetts	56	Texas	52
—Ontario	64	Michigan	61	Utah	57
—Pr. Edward Isl	64	Minnesota	61	Vermont	60
—Quebec	62	Mississippi	49	Virginia	56
—Saskatchewan	62	Missouri	54	Washington	62
—Yukon	60	Montana	59	West Virginia	56
Colorado	54	Nebraska	57	Wisconsin	58
Connecticut	57	Nevada	55	Wyoming	59
		New Hampshire	60		
Between CROATIA and					
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56

State	Days	State	Days	State	Days
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		

Between CUBA and

State	Days	State	Days	State	Days
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between CYPRUS and

State	Days	State	Days	State	Days
Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	81	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		

Between CZECHOSLOVAKIA and

State	Days	State	Days	State	Days
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
Arkansas	52	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

Between DENMARK and

Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	56
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

Between DJIBOUTI and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between DOMINICAN REPUBLIC and

Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47

State	Days	State	Days	State	Days
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	46	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	46	Wyoming	52
		New Hampshire	51		

Between EGYPT and

State	Days	State	Days	State	Days
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
Labrador	86	Kansas	70	Pennsylvania	61
Manitoba	70	Kentucky	66	Rhode Island	61
New Brunswick	74	Louisiana	63	South Carolina	63
Newfoundland	81	Maine	71	South Dakota	67
Northwest Terr	75	Maryland	62	Tennessee	65
Nova Scotia	76	Massachusetts	68	Texas	62
Ontario	70	Michigan	67	Utah	69
Pr. Edward Isl.	77	Minnesota	68	Vermont	66
Quebec	66	Mississippi	63	Virginia	59
Saskatchewan	74	Missouri	68	Washington	68
Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

Between EL SALVADOR and

State	Days	State	Days	State	Days
Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		

Between ENGLAND and

State	Days	State	Days	State	Days
Alabama	61	Delaware	57	New Jersey	59

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	63	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl.	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		
Between EQUADOR and					
Alabama	51	Delaware	61	New Jersey	61
Alaska	59	District of Columbia	61	New Mexico	57
Arizona	56	Florida	52	New York	61
Arkansas	57	Georgia	55	North Carolina	57
California	58	Idaho	63	North Dakota	63
Canada		Illinois	62	Ohio	51
—Alberta	68	Indiana	61	Oklahoma	57
—British Columbia	70	Iowa	58	Oregon	66
—Labrador	77	Kansas	61	Pennsylvania	61
—Manitoba	66	Kentucky	57	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	55
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	69	Maryland	61	Tennessee	56
—Nova Scotia	67	Massachusetts	61	Texas	57
—Ontario	66	Michigan	63	Utah	60
—Pr. Edward Isl	68	Minnesota	63	Vermont	62
—Quebec	66	Mississippi	56	Virginia	60
—Saskatchewan	66	Missouri	57	Washington	65
—Yukon	64	Montana	63	West Virginia	61
Colorado	57	Nebraska	61	Wisconsin	63
Connecticut	61	Nevada	59	Wyoming	63
		New Hampshire	62		
Between ETHIOPIA and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between FIJI and					
Alabama	73	Delaware	74	New Jersey	78

State	Days	State	Days	State	Days
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		

Between FINLAND and

Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

Between FRANCE and

Alabama	62	Delaware	56	New Jersey	58
Alaska	61	District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas	58	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	74	Indiana	58	Oklahoma	63
—British Columbia	68	Iowa	67	Oregon	66
—Labrador	74	Kansas	64	Pennsylvania	57
—Manitoba	72	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	61	South Carolina	57
—Newfoundland	69	Maine	59	South Dakota	69
—Northwest Terr.	71	Maryland	56	Tennessee	58
—Nova Scotia	64	Massachusetts	56	Texas	63
—Ontario	65	Michigan	62	Utah	66
—Pr. Edward Isl.	65	Minnesota	62	Vermont	59
—Quebec	63	Mississippi	62	Virginia	57
—Saskatchewan	72	Missouri	64	Washington	63
—Yukon	66	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	63	Wyoming	69
		New Hampshire	59		

Between GABON and

Alabama	64	Delaware	61	New Jersey	69

VOL 66 ISS 246 DE 21 2001 UMI

State	Days	State	Days	State	Days
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between GERMANY and

State	Days	State	Days	State	Days
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	66	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

Between GHANA and

State	Days	State	Days	State	Days
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between GREECE and

State	Days	State	Days	State	Days
Alabama	68	Delaware	66	New Jersey	68

State	Days	State	Days	State	Days
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	65	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		

Between GUADELOUPE and

State	Days	State	Days	State	Days
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—North West Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between GUAM and

State	Days	State	Days	State	Days
Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	52	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	56
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		

Between GUATEMALA and

State	Days	State	Days	State	Days
Alabama	48	Delaware	58	New Jersey	59

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		
		Between GUINEA and			
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—North West Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
		Between GUYANA and			
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		
		Between HAITI and			
Alabama	44	Delaware	45	New Jersey	48

State	Days	State	Days	State	Days
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		
		Between HAWAII and			
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		
		Between HONDURAS and			
Alabama	48	Delaware	58	New Jersey	59
Alaska	57	District of Columbia	58	New Mexico	55
Arizona	55	Florida	55	New York	59
Arkansas	53	Georgia	55	North Carolina	57
California	56	Idaho	61	North Dakota	61
Canada		Illinois	58	Ohio	57
—Alberta	66	Indiana	57	Oklahoma	56
—British Columbia	63	Iowa	56	Oregon	63
—Labrador	74	Kansas	57	Pennsylvania	59
—Manitoba	64	Kentucky	58	Rhode Island	59
—New Brunswick	62	Louisiana	50	South Carolina	55
—Newfoundland	69	Maine	59	South Dakota	61
—Northwest Terr	67	Maryland	58	Tennessee	53
—Nova Scotia	64	Massachusetts	58	Texas	53
—Ontario	65	Michigan	62	Utah	58
—Pr. Edward Isl	65	Minnesota	62	Vermont	60
—Quebec	64	Mississippi	53	Virginia	57
—Saskatchewan	64	Missouri	54	Washington	58
—Yukon	62	Montana	61	West Virginia	57
Colorado	56	Nebraska	59	Wisconsin	60
Connecticut	59	Nevada	56	Wyoming	60
		New Hampshire	60		
		Between HONG KONG and			
Alabama	65	Delaware	66	New Jersey	66

State	Days	State	Days	State	Days
Alaska	41	District of Columbia	64	New Mexico	61
Arizona	60	Florida	69	New York	68
Arkansas	68	Georgia	66	North Carolina	66
California	59	Idaho	64	North Dakota	63
Canada		Illinois	67	Ohio	66
—Alberta	69	Indiana	67	Oklahoma	65
—British Columbia	64	Iowa	64	Oregon	62
—Labrador	84	Kansas	67	Pennsylvania	69
—Manitoba	66	Kentucky	68	Rhode Island	68
—New Brunswick	72	Louisiana	65	South Carolina	69
—Newfoundland	79	Maine	69	South Dakota	65
—Northwest Terr	51	Maryland	64	Tennessee	68
—Nova Scotia	74	Massachusetts	68	Texas	67
—Ontario	72	Michigan	69	Utah	63
—Pr. Edward Isl	75	Minnesota	68	Vermont	70
—Quebec	73	Mississippi	67	Virginia	64
—Saskatchewan	67	Missouri	65	Washington	59
—Yukon	46	Montana	64	West Virginia	67
Colorado	63	Nebraska	67	Wisconsin	68
Connecticut	68	Nevada	59	Wyoming	66
		New Hampshire	70		
Between HUNGARY and					
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
Between ICELAND and					
Alabama	55	Delaware	52	New Jersey	53
Alaska	61	District of Columbia	52	New Mexico	60
Arizona	61	Florida	55	New York	54
Arkansas	58	Georgia	54	North Carolina	53
California	62	Idaho	62	North Dakota	60
Canada		Illinois	56	Ohio	54
—Alberta	83	Indiana	55	Oklahoma	59
—British Columbia	75	Iowa	58	Oregon	63
—Labrador	75	Kansas	59	Pennsylvania	53
—Manitoba	71	Kentucky	54	Rhode Island	53
—New Brunswick	63	Louisiana	56	South Carolina	53
—Newfoundland	70	Maine	55	South Dakota	60
—Northwest Terr	71	Maryland	52	Tennessee	55
—Nova Scotia	65	Massachusetts	53	Texas	59
—Ontario	66	Michigan	55	Utah	61
—Pr. Edward Isl	66	Minnesota	59	Vermont	55
—Quebec	64	Mississippi	56	Virginia	52
—Saskatchewan	81	Missouri	57	Washington	62
—Yukon	66	Montana	62	West Virginia	52
Colorado	61	Nebraska	59	Wisconsin	55
Connecticut	54	Nevada	62	Wyoming	61
		New Hampshire	54		
Between INDIA and					
Alabama	75	Delaware	75	New Jersey	77

State	Days	State	Days	State	Days
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	78	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		

Between INDONESIA and

State	Days	State	Days	State	Days
Alabama	73	Delaware	74	New Jersey	70
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	70
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		

Between IRELAND and

State	Days	State	Days	State	Days
Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	62
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	58
		New Hampshire	60		

Between ISRAEL and

State	Days	State	Days	State	Days
Alabama	62	Delaware	61	New Jersey	64

UMI
VOL
66
ISS
2
4
6
DE
21
2001
UMI

State	Days	State	Days	State	Days
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
		Between ITALY and			
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
		Between IVORY COAST and			
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	78
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
		Between JAMAICA and			
Alabama	44	Delaware	45	New Jersey	48

State	Days	State	Days	State	Days
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	46
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	48	Wyoming	52
		New Hampshire	51		

Between JAPAN and

Alabama	64	Delaware	63	New Jersey	63
Alaska	48	District of Columbia	63	New Mexico	65
Arizona	61	Florida	65	New York	65
Arkansas	66	Georgia	66	North Carolina	68
California	59	Idaho	57	North Dakota	62
Canada		Illinois	66	Ohio	64
—Alberta	78	Indiana	65	Oklahoma	64
—British Columbia	70	Iowa	68	Oregon	56
—Labrador	95	Kansas	65	Pennsylvania	64
—Manitoba	82	Kentucky	67	Rhode Island	63
—New Brunswick	83	Louisiana	63	South Carolina	66
—Newfoundland	90	Maine	66	South Dakota	68
—Northwest Terr	62	Maryland	63	Tennessee	70
—Nova Scotia	85	Massachusetts	63	Texas	63
—Ontario	86	Michigan	69	Utah	62
—Pr. Edward Isl	86	Minnesota	68	Vermont	66
—Quebec	84	Mississippi	64	Virginia	64
—Saskatchewan	76	Missouri	66	Washington	55
—Yukon	57	Montana	63	West Virginia	63
Colorado	65	Nebraska	67	Wisconsin	67
Connecticut	63	Nevada	61	Wyoming	66
		New Hampshire	66		

Between JORDAN and

Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	56	Wisconsin	69
Connecticut	64	Nevada	58	Wyoming	69
		New Hampshire	68		

Between KAZAKSTAN and

Alabama	73	Delaware	76	New Jersey	78

State	Days	State	Days	State	Days
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
		Between KENYA and			
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	69
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		Between KOREA and			
Alabama	66	Delaware	67	New Jersey	64
Alaska	50	District of Columbia	67	New Mexico	69
Arizona	62	Florida	70	New York	69
Arkansas	70	Georgia	70	North Carolina	72
California	62	Idaho	62	North Dakota	69
Canada		Illinois	70	Ohio	68
—Alberta	79	Indiana	69	Oklahoma	68
—British Columbia	71	Iowa	72	Oregon	61
—Labrador	95	Kansas	69	Pennsylvania	68
—Manitoba	83	Kentucky	69	Rhode Island	68
—New Brunswick	84	Louisiana	67	South Carolina	70
—Newfoundland	91	Maine	70	South Dakota	69
—Northwest Terr	63	Maryland	67	Tennessee	74
—Nova Scotia	86	Massachusetts	67	Texas	67
—Ontario	87	Michigan	73	Utah	63
—Pr. Edward Isl	87	Minnesota	74	Vermont	70
—Quebec	85	Mississippi	68	Virginia	68
—Saskatchewan	77	Missouri	70	Washington	60
—Yukon	58	Montana	68	West Virginia	67
Colorado	66	Nebraska	71	Wisconsin	71
Connecticut	68	Nevada	62	Wyoming	67
		New Hampshire	68		
		Between KUWAIT and			
Alabama	61	Delaware	60	New Jersey	62

State	Days	State	Days	State	Days
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	65
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		

Between LAOS and

State	Days	State	Days	State	Days
Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	[illegible]
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

Between LEBANON and

State	Days	State	Days	State	Days
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between LITHUANIA and

State	Days	State	Days	State	Days
Alabama	73	Delaware	76	New Jersey	78

State	Days	State	Days	State	Days
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	61	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
Between LUXEMBOURG and					
Alabama	62	Delaware	56	New Jersey	58
Alaska	61	District of Columbia	56	New Mexico	64
Arizona	65	Florida	58	New York	58
Arkansas	58	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	74	Indiana	58	Oklahoma	63
—British Columbia	68	Iowa	67	Oregon	66
—Labrador	74	Kansas	64	Pennsylvania	57
—Manitoba	72	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	61	South Carolina	57
—Newfoundland	69	Maine	59	South Dakota	69
—Northwest Terr	71	Maryland	56	Tennessee	58
—Nova Scotia	64	Massachusetts	56	Texas	63
—Ontario	65	Michigan	62	Utah	66
—Pr. Edward Isl	65	Minnesota	62	Vermont	59
—Quebec	63	Mississippi	62	Virginia	57
—Saskatchewan	72	Missouri	64	Washington	63
—Yukon	66	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	63	Wyoming	69
		New Hampshire	59		
Between MADAGASCAR and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between MALAWI and

State	Days	State	Days	State	Days
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	64	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

Between MALAYSIA and

State	Days	State	Days	State	Days
Alabama	70	Delaware	71	New Jersey	73
Alaska	45	District of Columbia	71	New Mexico	69
Arizona	66	Florida	72	New York	73
Arkansas	71	Georgia	72	North Carolina	73
California	64	Idaho	66	North Dakota	72
Canada		Illinois	72	Ohio	71
—Alberta	73	Indiana	72	Oklahoma	71
—British Columbia	68	Iowa	74	Oregon	63
—Labrador	89	Kansas	72	Pennsylvania	71
—Manitoba	75	Kentucky	72	Rhode Island	73
—New Brunswick	77	Louisiana	68	South Carolina	72
—Newfoundland	84	Maine	74	South Dakota	72
—Northwest Terr	55	Maryland	70	Tennessee	71
—Nova Scotia	79	Massachusetts	72	Texas	71
—Ontario	77	Michigan	74	Utah	67
—Pr. Edward Isl	80	Minnesota	75	Vermont	72
—Quebec	78	Mississippi	72	Virginia	72
—Saskatchewan	71	Missouri	73	Washington	63
—Yukon	50	Montana	68	West Virginia	70
Colorado	68	Nebraska	73	Wisconsin	73
Connecticut	73	Nevada	66	Wyoming	71
		New Hampshire	72		

Between MALI and

State	Days	State	Days	State	Days
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	64	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between MALTA and					
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	55	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
Between MARINAS ISLAND and					
Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	57	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	58
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		
Between MAURITANIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

UMI VOL 66 ISS 246 DE 21 2001 UMI

State	Days	State	Days	State	Days
Between MAURITIUS and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	66	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between MEXICO and					
Alabama	46	Delaware	47	New Jersey	52
Alaska	56	District of Columbia	46	New Mexico	51
Arizona	46	Florida	43	New York	51
Arkansas	46	Georgia	44	North Carolina	47
California	51	Idaho	52	North Dakota	52
Canada		Illinois	49	Ohio	48
—Alberta	65	Indiana	48	Oklahoma	47
—British Columbia	62	Iowa	48	Oregon	50
—Labrador	73	Kansas	47	Pennsylvania	51
—Manitoba	63	Kentucky	48	Rhode Island	52
—New Brunswick	61	Louisiana	44	South Carolina	46
—Newfoundland	68	Maine	51	South Dakota	52
—Northwest Terr	68	Maryland	46	Tennessee	47
—Nova Scotia	63	Massachusetts	51	Texas	46
—Ontario	64	Michigan	50	Utah	51
—Pr. Edward Isl	64	Minnesota	52	Vermont	52
—Quebec	63	Mississippi	45	Virginia	49
—Saskatchewan	63	Missouri	47	Washington	52
—Yukon	61	Montana	50	West Virginia	50
Colorado	47	Nebraska	53	Wisconsin	51
Connecticut	51	Nevada	53	Wyoming	51
		New Hampshire	52		
Between MICRONESIA and					
Alabama	57	Delaware	56	New Jersey	56
Alaska	52	District of Columbia	56	New Mexico	52
Arizona	57	Florida	58	New York	56
Arkansas	57	Georgia	58	North Carolina	58
California	50	Idaho	56	North Dakota	56
Canada		Illinois	58	Ohio	58
—Alberta	61	Indiana	58	Oklahoma	57
—British Columbia	56	Iowa	59	Oregon	51
—Labrador	74	Kansas	59	Pennsylvania	56
—Manitoba	59	Kentucky	58	Rhode Island	56
—New Brunswick	62	Louisiana	57	South Carolina	58
—Newfoundland	69	Maine	59	South Dakota	56
—Northwest Terr	62	Maryland	56	Tennessee	57
—Nova Scotia	64	Massachusetts	56	Texas	57
—Ontario	64	Michigan	61	Utah	52
—Pr. Edward Isl	65	Minnesota	61	Vermont	59
—Quebec	61	Mississippi	57	Virginia	56
—Saskatchewan	59	Missouri	59	Washington	51
—Yukon	57	Montana	56	West Virginia	56
Colorado	53	Nebraska	59	Wisconsin	61
Connecticut	56	Nevada	52	Wyoming	56
		New Hampshire	59		

State	Days	State	Days	State	Days
Between MONACO and					
Alabama	59	Delaware	52	New Jersey	54
Alaska	58	District of Columbia	54	New Mexico	63
Arizona	62	Florida	55	New York	54
Arkansas	60	Georgia	56	North Carolina	54
California	63	Idaho	62	North Dakota	61
Canada		Illinois	58	Ohio	58
—Alberta	69	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	62	Oregon	64
—Labrador	72	Kansas	61	Pennsylvania	55
—Manitoba	64	Kentucky	58	Rhode Island	54
—New Brunswick	60	Louisiana	59	South Carolina	57
—Newfoundland	67	Maine	57	South Dakota	64
—Northwest Terr	68	Maryland	54	Tennessee	60
—Nova Scotia	62	Massachusetts	54	Texas	62
—Ontario	62	Michigan	59	Utah	63
—Pr. Edward Isl	63	Minnesota	60	Vermont	58
—Quebec	59	Mississippi	59	Virginia	56
—Saskatchewan	67	Missouri	61	Washington	64
—Yukon	63	Montana	64	West Virginia	60
Colorado	61	Nebraska	62	Wisconsin	60
Connecticut	54	Nevada	63	Wyoming	64
		New Hampshire	58		
Between MOROCCO and					
Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	66	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	67	Wyoming	69
		New Hampshire	62		
Between MOZAMBIQUE and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

State	Days	State	Days	State	Days
Between NAMIBIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	76
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between NEPAL and					
Alabama	77	Delaware	77	New Jersey	81
Alaska	53	District of Columbia	77	New Mexico	72
Arizona	73	Florida	80	New York	81
Arkansas	77	Georgia	79	North Carolina	81
California	69	Idaho	76	North Dakota	79
Canada		Illinois	79	Ohio	78
—Alberta	83	Indiana	79	Oklahoma	78
—British Columbia	76	Iowa	80	Oregon	71
—Labrador	97	Kansas	79	Pennsylvania	80
—Manitoba	82	Kentucky	80	Rhode Island	81
—New Brunswick	85	Louisiana	77	South Carolina	77
—Newfoundland	92	Maine	82	South Dakota	80
—Northwest Terr	63	Maryland	79	Tennessee	77
—Nova Scotia	87	Massachusetts	80	Texas	77
—Ontario	82	Michigan	79	Utah	73
—Pr. Edward Isl	88	Minnesota	79	Vermont	82
—Quebec	86	Mississippi	79	Virginia	79
—Saskatchewan	81	Missouri	80	Washington	71
—Yukon	58	Montana	78	West Virginia	81
Colorado	76	Nebraska	79	Wisconsin	78
Connecticut	81	Nevada	71	Wyoming	76
		New Hampshire	82		
Between NETHERLANDS ANTILLES and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	56
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

UMI
VOL 66
ISS 246
DEC 21
2001
UMI

State	Days	State	Days	State	Days
Between THE NETHERLANDS and					
Alabama	52	Delaware	56	New Jersey	57
Alaska	63	District of Columbia	56	New Mexico	64
Arizona	65	Florida	61	New York	58
Arkansas	64	Georgia	57	North Carolina	57
California	63	Idaho	65	North Dakota	69
Canada		Illinois	59	Ohio	57
—Alberta	75	Indiana	58	Oklahoma	63
—British Columbia	69	Iowa	67	Oregon	64
—Labrador	75	Kansas	64	Pennsylvania	57
—Manitoba	74	Kentucky	65	Rhode Island	57
—New Brunswick	64	Louisiana	61	South Carolina	57
—Newfoundland	70	Maine	59	South Dakota	69
—Northwest Terr	72	Maryland	56	Tennessee	59
—Nova Scotia	66	Massachusetts	56	Texas	63
—Ontario	67	Michigan	62	Utah	66
—Pr. Edward Isl	67	Minnesota	62	Vermont	59
—Quebec	65	Mississippi	62	Virginia	57
—Saskatchewan	73	Missouri	64	Washington	63
—Yukon	68	Montana	69	West Virginia	56
Colorado	64	Nebraska	66	Wisconsin	60
Connecticut	58	Nevada	67	Wyoming	69
		New Hampshire	57		
Between NEW ZEALAND and					
Alabama	76	Delaware	75	New Jersey	77
Alaska	49	District of Columbia	74	New Mexico	69
Arizona	69	Florida	76	New York	77
Arkansas	77	Georgia	76	North Carolina	76
California	71	Idaho	73	North Dakota	76
Canada		Illinois	72	Ohio	75
—Alberta	83	Indiana	72	Oklahoma	73
—British Columbia	65	Iowa	72	Oregon	66
—Labrador	93	Kansas	77	Pennsylvania	76
—Manitoba	79	Kentucky	78	Rhode Island	77
—New Brunswick	81	Louisiana	72	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	76	Tennessee	77
—Nova Scotia	83	Massachusetts	76	Texas	73
—Ontario	80	Michigan	77	Utah	73
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	82	Mississippi	73	Virginia	76
—Saskatchewan	81	Missouri	76	Washington	60
—Yukon	54	Montana	78	West Virginia	77
Colorado	69	Nebraska	73	Wisconsin	75
Connecticut	77	Nevada	69	Wyoming	76
		New Hampshire	78		
Between NICARAGUA and					
Alabama	47	Delaware	56	New Jersey	57
Alaska	55	District of Columbia	56	New Mexico	54
Arizona	53	Florida	53	New York	57
Arkansas	52	Georgia	53	North Carolina	56
California	54	Idaho	57	North Dakota	59
Canada		Illinois	57	Ohio	56
—Alberta	64	Indiana	56	Oklahoma	55
—British Columbia	67	Iowa	54	Oregon	61
—Labrador	73	Kansas	56	Pennsylvania	55
—Manitoba	62	Kentucky	56	Rhode Island	57
—New Brunswick	61	Louisiana	46	South Carolina	53
—Newfoundland	68	Maine	58	South Dakota	59
—Northwest Terr	65	Maryland	56	Tennessee	52
—Nova Scotia	63	Massachusetts	56	Texas	52
—Ontario	64	Michigan	61	Utah	57
—Pr. Edward Isl	64	Minnesota	61	Vermont	60
—Quebec	62	Mississippi	49	Virginia	56
—Saskatchewan	62	Missouri	54	Washington	62
—Yukon	60	Montana	59	West Virginia	56
Colorado	54	Nebraska	57	Wisconsin	58
Connecticut	57	Nevada	55	Wyoming	59
		New Hampshire	60		

State	Days	State	Days	State	Days
Between NIGERIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between N. IRELAND and					
Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	56
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	65	Montana	76	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		
Between NORWAY and					
Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		

State	Days	State	Days	State	Days
Between OKINAWA and					
Alabama	66	Delaware	65	New Jersey	63
Alaska	47	District of Columbia	65	New Mexico	62
Arizona	60	Florida	67	New York	67
Arkansas	68	Georgia	68	North Carolina	70
California	58	Idaho	60	North Dakota	65
Canada		Illinois	68	Ohio	66
—Alberta	77	Indiana	67	Oklahoma	66
—British Columbia	69	Iowa	70	Oregon	59
—Labrador	94	Kansas	67	Pennsylvania	66
—Manitoba	81	Kentucky	69	Rhode Island	67
—New Brunswick	82	Louisiana	65	South Carolina	68
—Newfoundland	89	Maine	68	South Dakota	67
—Northwest Terr	61	Maryland	65	Tennessee	72
—Nova Scotia	84	Massachusetts	65	Texas	65
—Ontario	85	Michigan	71	Utah	61
—Pr. Edward Isl	85	Minnesota	67	Vermont	68
—Quebec	83	Mississippi	66	Virginia	66
—Saskatchewan	75	Missouri	68	Washington	58
—Yukon	56	Montana	66	West Virginia	65
Colorado	64	Nebraska	69	Wisconsin	69
Connecticut	67	Nevada	60	Wyoming	65
		New Hampshire	66		
Between OMAN and					
Alabama	63	Delaware	62	New Jersey	65
Alaska	67	District of Columbia	62	New Mexico	72
Arizona	71	Florida	64	New York	65
Arkansas	66	Georgia	62	North Carolina	66
California	72	Idaho	72	North Dakota	68
Canada		Illinois	67	Ohio	68
—Alberta	78	Indiana	67	Oklahoma	68
—British Columbia	75	Iowa	68	Oregon	72
—Labrador	82	Kansas	68	Pennsylvania	65
—Manitoba	71	Kentucky	66	Rhode Island	65
—New Brunswick	70	Louisiana	64	South Carolina	65
—Newfoundland	77	Maine	67	South Dakota	71
—Northwest Terr	77	Maryland	62	Tennessee	66
—Nova Scotia	72	Massachusetts	65	Texas	66
—Ontario	71	Michigan	68	Utah	70
—Pr. Edward Isl	73	Minnesota	69	Vermont	69
—Quebec	70	Mississippi	64	Virginia	63
—Saskatchewan	76	Missouri	68	Washington	70
—Yukon	72	Montana	73	West Virginia	62
Colorado	71	Nebraska	70	Wisconsin	70
Connecticut	65	Nevada	70	Wyoming	71
		New Hampshire	69		
Between PAKISTAN and					
Alabama	75	Delaware	75	New Jersey	77
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	78	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		

State	Days	State	Days	State	Days
Between PANAMA and					
Alabama	51	Delaware	58	New Jersey	60
Alaska	58	District of Columbia	58	New Mexico	58
Arizona	59	Florida	54	New York	60
Arkansas	52	Georgia	55	North Carolina	58
California	62	Idaho	63	North Dakota	63
Canada		Illinois	61	Ohio	59
—Alberta	67	Indiana	60	Oklahoma	57
—British Columbia	68	Iowa	54	Oregon	64
—Labrador	76	Kansas	58	Pennsylvania	59
—Manitoba	65	Kentucky	60	Rhode Island	60
—New Brunswick	64	Louisiana	50	South Carolina	55
—Newfoundland	72	Maine	61	South Dakota	63
—Northwest Terr	66	Maryland	58	Tennessee	55
—Nova Scotia	66	Massachusetts	58	Texas	56
—Ontario	67	Michigan	64	Utah	60
—Pr. Edward Isl	68	Minnesota	64	Vermont	61
—Quebec	65	Mississippi	51	Virginia	59
—Saskatchewan	65	Missouri	53	Washington	63
—Yukon	63	Montana	63	West Virginia	58
Colorado	58	Nebraska	60	Wisconsin	62
Connecticut	61	Nevada	61	Wyoming	63
		New Hampshire	62		
Between PAPUA NEW GUINEA and					
Alabama	73	Delaware	74	New Jersey	78
Alaska	49	District of Columbia	73	New Mexico	73
Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		
Between PARAGUAY and					
Alabama	56	Delaware	63	New Jersey	64
Alaska	61	District of Columbia	62	New Mexico	57
Arizona	53	Florida	56	New York	64
Arkansas	60	Georgia	55	North Carolina	59
California	59	Idaho	62	North Dakota	65
Canada		Illinois	64	Ohio	63
—Alberta	76	Indiana	63	Oklahoma	61
—British Columbia	69	Iowa	65	Oregon	64
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	61	Rhode Island	64
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	65	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	60
—Nova Scotia	70	Massachusetts	63	Texas	60
—Ontario	67	Michigan	64	Utah	63
—Pr. Edward Isl	71	Minnesota	64	Vermont	62
—Quebec	69	Mississippi	58	Virginia	63
—Saskatchewan	68	Missouri	61	Washington	64
—Yukon	66	Montana	65	West Virginia	65
Colorado	62	Nebraska	63	Wisconsin	65
Connecticut	64	Nevada	56	Wyoming	64
		New Hampshire	62		

VOL 66 ISS 246 DE 21 2001 UMI

State	Days	State	Days	State	Days
		Between PERU and			
Alabama	51	Delaware	61	New Jersey	61
Alaska	59	District of Columbia	61	New Mexico	57
Arizona	56	Florida	52	New York	61
Arkansas	57	Georgia	55	North Carolina	57
California	58	Idaho	63	North Dakota	63
Canada		Illinois	62	Ohio	51
—Alberta	68	Indiana	61	Oklahoma	57
—British Columbia	70	Iowa	58	Oregon	66
—Labrador	77	Kansas	61	Pennsylvania	61
—Manitoba	66	Kentucky	57	Rhode Island	61
—New Brunswick	65	Louisiana	54	South Carolina	55
—Newfoundland	72	Maine	62	South Dakota	63
—Northwest Terr	69	Maryland	61	Tennessee	56
—Nova Scotia	67	Massachusetts	61	Texas	57
—Ontario	66	Michigan	63	Utah	60
—Pr. Edward Isl	68	Minnesota	63	Vermont	62
—Quebec	66	Mississippi	56	Virginia	60
—Saskatchewan	66	Missouri	57	Washington	65
—Yukon	64	Montana	63	West Virginia	61
Colorado	57	Nebraska	61	Wisconsin	63
Connecticut	61	Nevada	59	Wyoming	63
		New Hampshire	62		
		Between PHILLIPINES and			
Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80		
		Between POLAND and			
Alabama	65	Delaware	59	New Jersey	61
Alaska	54	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		

UMI

State	Days	State	Days	State	Days
Between PORTUGAL and					
Alabama	64	Delaware	60	New Jersey	61
Alaska	62	District of Columbia	60	New Mexico	62
Arizona	63	Florida	62	New York	62
Arkansas	65	Georgia	57	North Carolina	57
California	64	Idaho	67	North Dakota	67
Canada		Illinois	63	Ohio	61
—Alberta	74	Indiana	62	Oklahoma	61
—British Columbia	72	Iowa	65	Oregon	68
—Labrador	77	Kansas	62	Pennsylvania	61
—Manitoba	72	Kentucky	62	Rhode Island	61
—New Brunswick	65	Louisiana	63	South Carolina	57
—Newfoundland	72	Maine	63	South Dakota	67
—Northwest Terr	72	Maryland	60	Tennessee	59
—Nova Scotia	67	Massachusetts	60	Texas	61
—Ontario	68	Michigan	66	Utah	64
—Pr. Edward Isl	68	Minnesota	67	Vermont	63
—Quebec	66	Mississippi	64	Virginia	61
—Saskatchewan	72	Missouri	66	Washington	67
—Yukon	67	Montana	67	West Virginia	60
Colorado	62	Nebraska	64	Wisconsin	64
Connecticut	61	Nevada	65	Wyoming	67
		New Hampshire	61		
Between PUERTO RICO and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	46	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between QATAR and					
Alabama	61	Delaware	60	New Jersey	62
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	64	Georgia	60	North Carolina	61
California	69	Idaho	69	North Dakota	67
Canada		Illinois	65	Ohio	64
—Alberta	77	Indiana	65	Oklahoma	65
—British Columbia	73	Iowa	66	Oregon	69
—Labrador	80	Kansas	66	Pennsylvania	63
—Manitoba	70	Kentucky	63	Rhode Island	62
—New Brunswick	68	Louisiana	62	South Carolina	61
—Newfoundland	75	Maine	65	South Dakota	67
—Northwest Terr	74	Maryland	59	Tennessee	64
—Nova Scotia	70	Massachusetts	62	Texas	64
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	71	Minnesota	66	Vermont	66
—Quebec	67	Mississippi	61	Virginia	60
—Saskatchewan	75	Missouri	65	Washington	68
—Yukon	69	Montana	72	West Virginia	64
Colorado	66	Nebraska	66	Wisconsin	66
Connecticut	62	Nevada	67	Wyoming	68
		New Hampshire	66		

State	Days	State	Days	State	Days
Between ROMANIA and					
Alabama	66	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	66
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	65	Tennessee	068
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between RUSSIA and					
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	56
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	68	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	56	Wyoming	72
		New Hampshire	62		
Between SAIPAN and					
Alabama	78	Delaware	77	New Jersey	79
Alaska	52	District of Columbia	77	New Mexico	79
Arizona	72	Florida	79	New York	79
Arkansas	84	Georgia	80	North Carolina	82
California	72	Idaho	67	North Dakota	79
Canada		Illinois	80	Ohio	78
—Alberta	78	Indiana	79	Oklahoma	78
—British Columbia	70	Iowa	84	Oregon	66
—Labrador	95	Kansas	79	Pennsylvania	78
—Manitoba	82	Kentucky	79	Rhode Island	79
—New Brunswick	83	Louisiana	77	South Carolina	80
—Newfoundland	90	Maine	80	South Dakota	79
—Northwest Terr	62	Maryland	77	Tennessee	84
—Nova Scotia	85	Massachusetts	77	Texas	77
—Ontario	86	Michigan	83	Utah	73
—Pr. Edward Isl	86	Minnesota	84	Vermont	80
—Quebec	84	Mississippi	78	Virginia	78
—Saskatchewan	76	Missouri	80	Washington	65
—Yukon	57	Montana	73	West Virginia	77
Colorado	76	Nebraska	81	Wisconsin	81
Connecticut	79	Nevada	72	Wyoming	77
		New Hampshire	80		

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Between SAINT LUCIA and

State	Days	State	Days	State	Days
Alabama	44	Delaware	45	New Jersey	48
Alaska	48	District of Columbia	45	New Mexico	47
Arizona	45	Florida	40	New York	48
Arkansas	46	Georgia	42	North Carolina	42
California	51	Idaho	52	North Dakota	52
Canada		Illinois	50	Ohio	50
—Alberta	55	Indiana	50	Oklahoma	47
—British Columbia	61	Iowa	47	Oregon	57
—Labrador	65	Kansas	47	Pennsylvania	51
—Manitoba	55	Kentucky	45	Rhode Island	48
—New Brunswick	53	Louisiana	44	South Carolina	44
—Newfoundland	60	Maine	50	South Dakota	52
—Northwest Terr	58	Maryland	45	Tennessee	46
—Nova Scotia	55	Massachusetts	48	Texas	49
—Ontario	55	Michigan	52	Utah	52
—Pr. Edward Isl	56	Minnesota	53	Vermont	51
—Quebec	53	Mississippi	45	Virginia	47
—Saskatchewan	53	Missouri	46	Washington	56
—Yukon	53	Montana	50	West Virginia	51
Colorado	49	Nebraska	51	Wisconsin	52
Connecticut	48	Nevada	46	Wyoming	52
		New Hampshire	51		

Between SAUDI ARABIA and

State	Days	State	Days	State	Days
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		

Between SCOTLAND and

State	Days	State	Days	State	Days
Alabama	65	Delaware	60	New Jersey	62
Alaska	66	District of Columbia	60	New Mexico	67
Arizona	68	Florida	61	New York	62
Arkansas	67	Georgia	63	North Carolina	63
California	74	Idaho	72	North Dakota	72
Canada		Illinois	63	Ohio	61
—Alberta	67	Indiana	62	Oklahoma	66
—British Columbia	78	Iowa	71	Oregon	75
—Labrador	79	Kansas	67	Pennsylvania	61
—Manitoba	75	Kentucky	62	Rhode Island	61
—New Brunswick	67	Louisiana	64	South Carolina	61
—Newfoundland	74	Maine	63	South Dakota	72
—Northwest Terr	75	Maryland	60	Tennessee	65
—Nova Scotia	69	Massachusetts	60	Texas	66
—Ontario	70	Michigan	66	Utah	69
—Pr. Edward Isl	70	Minnesota	66	Vermont	63
—Quebec	68	Mississippi	65	Virginia	61
—Saskatchewan	65	Missouri	67	Washington	74
—Yukon	70	Montana	82	West Virginia	60
Colorado	67	Nebraska	69	Wisconsin	64
Connecticut	62	Nevada	75	Wyoming	72
		New Hampshire	62		

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
		Between SENEGAL and			
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
—Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
		Between SIERRA LEONE and			
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
		Between SINGAPORE and			
Alabama	70	Delaware	71	New Jersey	73
Alaska	45	District of Columbia	71	New Mexico	69
Arizona	66	Florida	72	New York	73
Arkansas	71	Georgia	72	North Carolina	73
California	64	Idaho	66	North Dakota	72
Canada		Illinois	72	Ohio	71
—Alberta	73	Indiana	72	Oklahoma	71
—British Columbia	68	Iowa	74	Oregon	63
—Labrador	69	Kansas	72	Pennsylvania	71
—Manitoba	75	Kentucky	72	Rhode Island	73
—New Brunswick	77	Louisiana	68	South Carolina	72
—Newfoundland	84	Maine	74	South Dakota	72
—Northwest Terr	55	Maryland	70	Tennessee	71
—Nova Scotia	79	Massachusetts	72	Texas	71
—Ontario	77	Michigan	74	Utah	67
—Pr. Edward Isl	80	Minnesota	75	Vermont	72
—Quebec	78	Mississippi	72	Virginia	72
—Saskatchewan	71	Missouri	73	Washington	63
—Yukon	50	Montana	68	West Virginia	70
Colorado	68	Nebraska	73	Wisconsin	73
Connecticut	73	Nevada	66	Wyoming	71
		New Hampshire	72		

State	Days	State	Days	State	Days
Between SLOVENIA and					
Alabama	65	Delaware	59	New Jersey	61
Alaska	64	District of Columbia	59	New Mexico	67
Arizona	68	Florida	61	New York	61
Arkansas	62	Georgia	60	North Carolina	60
California	66	Idaho	68	North Dakota	72
Canada		Illinois	62	Ohio	60
—Alberta	77	Indiana	61	Oklahoma	66
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	77	Kansas	67	Pennsylvania	60
—Manitoba	75	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	64	South Carolina	60
—Newfoundland	72	Maine	62	South Dakota	72
—Northwest Terr	74	Maryland	59	Tennessee	62
—Nova Scotia	67	Massachusetts	59	Texas	66
—Ontario	68	Michigan	65	Utah	69
—Pr. Edward Isl	68	Minnesota	65	Vermont	62
—Quebec	66	Mississippi	65	Virginia	60
—Saskatchewan	75	Missouri	67	Washington	66
—Yukon	69	Montana	72	West Virginia	59
Colorado	67	Nebraska	69	Wisconsin	63
Connecticut	61	Nevada	66	Wyoming	72
		New Hampshire	62		
Between SOLOMON ISLANDS and					
2Alabama	73	Delaware	74	New Jersey	78
Alaska	49	District of Columbia	73	New Mexico	73
2Arizona	69	Florida	78	New York	78
Arkansas	77	Georgia	75	North Carolina	77
California	57	Idaho	70	North Dakota	76
Canada		Illinois	76	Ohio	75
—Alberta	75	Indiana	75	Oklahoma	75
—British Columbia	71	Iowa	70	Oregon	67
—Labrador	93	Kansas	75	Pennsylvania	77
—Manitoba	79	Kentucky	75	Rhode Island	78
—New Brunswick	81	Louisiana	73	South Carolina	76
—Newfoundland	88	Maine	78	South Dakota	76
—Northwest Terr	59	Maryland	73	Tennessee	77
—Nova Scotia	83	Massachusetts	74	Texas	76
—Ontario	79	Michigan	76	Utah	72
—Pr. Edward Isl	84	Minnesota	77	Vermont	78
—Quebec	83	Mississippi	75	Virginia	75
—Saskatchewan	73	Missouri	76	Washington	66
—Yukon	54	Montana	70	West Virginia	77
Colorado	71	Nebraska	77	Wisconsin	77
Connecticut	78	Nevada	70	Wyoming	75
		New Hampshire	78		
Between SOUTH AFRICA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between SPAIN and					
Alabama	60	Delaware	59	New Jersey	61
Alaska	62	District of Columbia	59	New Mexico	64
Arizona	65	Florida	61	New York	61
Arkansas	61	Georgia	60	North Carolina	59
California	66	Idaho	63	North Dakota	69
Canada		Illinois	62	Ohio	60
—Alberta	74	Indiana	61	Oklahoma	63
—British Columbia	72	Iowa	67	Oregon	71
—Labrador	77	Kansas	64	Pennsylvania	60
—Manitoba	72	Kentucky	61	Rhode Island	61
—New Brunswick	65	Louisiana	59	South Carolina	59
—Newfoundland	72	Maine	62	South Dakota	69
—Northwest Terr	72	Maryland	59	Tennessee	61
—Nova Scotia	67	Massachusetts	59	Texas	63
—Ontario	68	Michigan	65	Utah	66
—Pr. Edward Isl	68	Minnesota	69	Vermont	62
—Quebec	66	Mississippi	60	Virginia	60
—Saskatchewan	72	Missouri	62	Washington	67
—Yukon	67	Montana	69	West Virginia	59
Colorado	64	Nebraska	66	Wisconsin	63
Connecticut	61	Nevada	67	Wyoming	69
		New Hampshire	62		
Between SRI LANKA and					
Alabama	75	Delaware	75	New Jersey	77
Alaska	51	District of Columbia	74	New Mexico	74
Arizona	72	Florida	77	New York	77
Arkansas	76	Georgia	77	North Carolina	76
California	70	Idaho	74	North Dakota	77
Canada		Illinois	77	Ohio	78
—Alberta	80	Indiana	77	Oklahoma	76
—British Columbia	76	Iowa	80	Oregon	74
—Labrador	95	Kansas	77	Pennsylvania	77
—Manitoba	80	Kentucky	78	Rhode Island	77
—New Brunswick	83	Louisiana	74	South Carolina	77
—Newfoundland	90	Maine	80	South Dakota	77
—Northwest Terr	61	Maryland	76	Tennessee	76
—Nova Scotia	85	Massachusetts	77	Texas	75
—Ontario	83	Michigan	80	Utah	74
—Pr. Edward Isl	86	Minnesota	81	Vermont	79
—Quebec	82	Mississippi	78	Virginia	76
—Saskatchewan	78	Missouri	70	Washington	71
—Yukon	56	Montana	75	West Virginia	76
Colorado	74	Nebraska	78	Wisconsin	78
Connecticut	77	Nevada	72	Wyoming	76
		New Hampshire	79		
Between SUDAN and					
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

State	Days	State	Days	State	Days
Between SURINAME and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		
Between SWEDEN and					
Alabama	61	Delaware	55	New Jersey	58
Alaska	60	District of Columbia	55	New Mexico	64
Arizona	64	Florida	57	New York	58
Arkansas	61	Georgia	58	North Carolina	58
California	65	Idaho	64	North Dakota	65
Canada		Illinois	59	Ohio	59
—Alberta	71	Indiana	59	Oklahoma	63
—British Columbia	70	Iowa	64	Oregon	65
—Labrador	75	Kansas	62	Pennsylvania	57
—Manitoba	68	Kentucky	60	Rhode Island	58
—New Brunswick	63	Louisiana	61	South Carolina	58
—Newfoundland	70	Maine	60	South Dakota	65
—Northwest Terr	70	Maryland	55	Tennessee	61
—Nova Scotia	65	Massachusetts	55	Texas	63
—Ontario	63	Michigan	60	Utah	66
—Pr. Edward Isl	66	Minnesota	61	Vermont	59
—Quebec	63	Mississippi	61	Virginia	56
—Saskatchewan	69	Missouri	63	Washington	65
—Yukon	65	Montana	66	West Virginia	58
Colorado	63	Nebraska	63	Wisconsin	61
Connecticut	58	Nevada	64	Wyoming	67
		New Hampshire	59		
Between SWITZERLAND and					
Alabama	67	Delaware	63	New Jersey	63
Alaska	64	District of Columbia	62	New Mexico	69
Arizona	58	Florida	64	New York	62
Arkansas	66	Georgia	63	North Carolina	62
California	69	Idaho	67	North Dakota	72
Canada		Illinois	64	Ohio	64
—Alberta	77	Indiana	64	Oklahoma	68
—British Columbia	71	Iowa	68	Oregon	71
—Labrador	77	Kansas	67	Pennsylvania	63
—Manitoba	75	Kentucky	64	Rhode Island	63
—New Brunswick	65	Louisiana	65	South Carolina	62
—Newfoundland	72	Maine	65	South Dakota	71
—Northwest Terr	74	Maryland	62	Tennessee	66
—Nova Scotia	67	Massachusetts	63	Texas	67
—Ontario	68	Michigan	66	Utah	72
—Pr. Edward Isl	68	Minnesota	66	Vermont	65
—Quebec	66	Mississippi	66	Virginia	63
—Saskatchewan	75	Missouri	67	Washington	67
—Yukon	69	Montana	72	West Virginia	64
Colorado	68	Nebraska	69	Wisconsin	67
Connecticut	63	Nevada	69	Wyoming	73
		New Hampshire	63		

UMI
VOL 66
ISS 246
DE 21 2001
UMI

State	Days	State	Days	State	Days
		Between SYRIA and			
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
		Between TAHITI and			
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		
		Between TAIWAN and			
Alabama	65	Delaware	66	New Jersey	68
Alaska	41	District of Columbia	64	New Mexico	61
Arizona	60	Florida	69	New York	68
Arkansas	68	Georgia	66	North Carolina	66
California	59	Idaho	64	North Dakota	63
Canada		Illinois	67	Ohio	66
—Alberta	69	Indiana	67	Oklahoma	65
—British Columbia	64	Iowa	64	Oregon	62
—Labrador	84	Kansas	67	Pennsylvania	69
—Manitoba	66	Kentucky	68	Rhode Island	68
—New Brunswick	72	Louisiana	65	South Carolina	69
—Newfoundland	79	Maine	69	South Dakota	65
—Northwest Terr	51	Maryland	64	Tennessee	68
—Nova Scotia	74	Massachusetts	58	Texas	67
—Ontario	72	Michigan	69	Utah	63
—Pr. Edward Isl	75	Minnesota	68	Vermont	70
—Quebec	73	Mississippi	67	Virginia	64
—Saskatchewan	67	Missouri	65	Washington	59
—Yukon	46	Montana	64	West Virginia	67
Colorado	63	Nebraska	67	Wisconsin	68
Connecticut	68	Nevada	59	Wyoming	66
		New Hampshire	70		

State	Days	State	Days	State	Days
Between TANZANIA and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
Yukon	70	Montana	70	West Virginia	6
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between THAILAND and					
Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	68	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl	82	Minnesota	78	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		
Between TRINIDAD and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		

UMI
VOL 66
ISS 246
DE 21
2001
UMI

State	Days	State	Days	State	Days
		Between TUNISIA and			
Alabama	60	Delaware	56	New Jersey	58
Alaska	60	District of Columbia	56	New Mexico	63
Arizona	64	Florida	55	New York	58
Arkansas	55	Georgia	53	North Carolina	56
California	62	Idaho	68	North Dakota	68
Canada		Illinois	59	Ohio	57
—Alberta	73	Indiana	58	Oklahoma	62
—British Columbia	69	Iowa	66	Oregon	69
—Labrador	74	Kansas	63	Pennsylvania	57
—Manitoba	71	Kentucky	58	Rhode Island	58
—New Brunswick	62	Louisiana	59	South Carolina	53
—Newfoundland	69	Maine	59	South Dakota	68
—Northwest Terr	70	Maryland	56	Tennessee	55
—Nova Scotia	64	Massachusetts	56	Texas	62
—Ontario	65	Michigan	62	Utah	65
—Pr. Edward Isl	65	Minnesota	68	Vermont	59
—Quebec	63	Mississippi	60	Virginia	57
—Saskatchewan	71	Missouri	62	Washington	64
—Yukon	65	Montana	68	West Virginia	56
Colorado	63	Nebraska	65	Wisconsin	60
Connecticut	58	Nevada	66	Wyoming	68
		New Hampshire	59		
		Between TURKEY and			
Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
		Between UGANDA and			
Alabama	61	Delaware	60	New Jersey	61
Alaska	65	District of Columbia	60	New Mexico	67
Arizona	69	Florida	62	New York	61
Arkansas	65	Georgia	61	North Carolina	63
California	72	Idaho	69	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	76	Indiana	69	Oklahoma	66
—British Columbia	73	Iowa	70	Oregon	69
—Labrador	86	Kansas	70	Pennsylvania	61
—Manitoba	70	Kentucky	68	Rhode Island	61
—New Brunswick	74	Louisiana	63	South Carolina	63
—Newfoundland	81	Maine	71	South Dakota	67
—Northwest Terr	75	Maryland	62	Tennessee	65
—Nova Scotia	76	Massachusetts	68	Texas	62
—Ontario	70	Michigan	67	Utah	69
—Pr. Edward Isl	77	Minnesota	68	Vermont	66
—Quebec	66	Mississippi	63	Virginia	59
—Saskatchewan	74	Missouri	68	Washington	68
—Yukon	70	Montana	71	West Virginia	65
Colorado	68	Nebraska	66	Wisconsin	69
Connecticut	61	Nevada	68	Wyoming	67
		New Hampshire	66		

State	Days	State	Days	State	Days
Between UKRAINE and					
Alabama	73	Delaware	76	New Jersey	78
Alaska	79	District of Columbia	76	New Mexico	81
Arizona	81	Florida	75	New York	78
Arkansas	75	Georgia	73	North Carolina	76
California	82	Idaho	86	North Dakota	84
Canada		Illinois	79	Ohio	77
—Alberta	91	Indiana	78	Oklahoma	79
—British Columbia	91	Iowa	80	Oregon	86
—Labrador	94	Kansas	79	Pennsylvania	77
—Manitoba	87	Kentucky	78	Rhode Island	78
—New Brunswick	82	Louisiana	76	South Carolina	73
—Newfoundland	89	Maine	79	South Dakota	84
—Northwest Terr	89	Maryland	76	Tennessee	75
—Nova Scotia	84	Massachusetts	76	Texas	79
—Ontario	85	Michigan	82	Utah	85
—Pr. Edward Isl	85	Minnesota	82	Vermont	79
—Quebec	83	Mississippi	75	Virginia	77
—Saskatchewan	89	Missouri	82	Washington	86
—Yukon	84	Montana	86	West Virginia	76
Colorado	81	Nebraska	83	Wisconsin	80
Connecticut	78	Nevada	86	Wyoming	85
		New Hampshire	79		
Between UNITED ARAB DEM. and					
Alabama	63	Delaware	62	New Jersey	65
Alaska	67	District of Columbia	62	New Mexico	72
Arizona	71	Florida	64	New York	65
Arkansas	66	Georgia	62	North Carolina	66
California	72	Idaho	72	North Dakota	68
Canada		Illinois	67	Ohio	66
—Alberta	78	Indiana	67	Oklahoma	68
—British Columbia	75	Iowa	68	Oregon	72
—Labrador	82	Kansas	68	Pennsylvania	65
—Manitoba	71	Kentucky	66	Rhode Island	65
—New Brunswick	70	Louisiana	64	South Carolina	65
—Newfoundland	77	Maine	67	South Dakota	71
—Northwest Terr	77	Maryland	62	Tennessee	66
—Nova Scotia	72	Massachusetts	65	Texas	66
—Ontario	71	Michigan	68	Utah	70
—Pr. Edward Isl	73	Minnesota	69	Vermont	69
—Quebec	70	Mississippi	64	Virginia	63
—Saskatchewan	76	Missouri	68	Washington	70
—Yukon	72	Montana	73	West Virginia	62
Colorado	71	Nebraska	70	Wisconsin	70
Connecticut	65	Nevada	70	Wyoming	71
		New Hampshire	69		
Between UNITED KINGDOM and					
Alabama	61	Delaware	57	New Jersey	59
Alaska	61	District of Columbia	57	New Mexico	63
Arizona	64	Florida	57	New York	59
Arkansas	61	Georgia	55	North Carolina	59
California	70	Idaho	68	North Dakota	68
Canada		Illinois	60	Ohio	58
—Alberta	83	Indiana	59	Oklahoma	62
—British Columbia	75	Iowa	67	Oregon	71
—Labrador	75	Kansas	63	Pennsylvania	58
—Manitoba	71	Kentucky	59	Rhode Island	59
—New Brunswick	63	Louisiana	60	South Carolina	54
—Newfoundland	70	Maine	60	South Dakota	68
—Northwest Terr	71	Maryland	57	Tennessee	61
—Nova Scotia	65	Massachusetts	57	Texas	62
—Ontario	66	Michigan	63	Utah	65
—Pr. Edward Isl	66	Minnesota	63	Vermont	60
—Quebec	64	Mississippi	61	Virginia	58
—Saskatchewan	81	Missouri	63	Washington	70
—Yukon	66	Montana	78	West Virginia	57
Colorado	63	Nebraska	65	Wisconsin	61
Connecticut	59	Nevada	71	Wyoming	68
		New Hampshire	60		

State	Days	State	Days	State	Days
Between URUGUAY and					
Alabama	55	Delaware	63	New Jersey	63
Alaska	60	District of Columbia	63	New Mexico	60
Arizona	60	Florida	58	New York	64
Arkansas	61	Georgia	60	North Carolina	62
California	65	Idaho	64	North Dakota	64
Canada		Illinois	64	Ohio	64
—Alberta	70	Indiana	64	Oklahoma	63
—British Columbia	69	Iowa	63	Oregon	66
—Labrador	80	Kansas	64	Pennsylvania	64
—Manitoba	68	Kentucky	64	Rhode Island	63
—New Brunswick	68	Louisiana	57	South Carolina	60
—Newfoundland	75	Maine	66	South Dakota	65
—Northwest Terr	71	Maryland	63	Tennessee	61
—Nova Scotia	70	Massachusetts	64	Texas	61
—Ontario	67	Michigan	64	Utah	66
—Pr. Edward Isl	71	Minnesota	64	Vermont	65
—Quebec	69	Mississippi	59	Virginia	62
—Saskatchewan	68	Missouri	62	Washington	68
—Yukon	66	Montana	65	West Virginia	64
Colorado	66	Nebraska	64	Wisconsin	67
Connecticut	63	Nevada	61	Wyoming	67
		New Hampshire	64		
Between VENEZUELA and					
Alabama	52	Delaware	61	New Jersey	64
Alaska	61	District of Columbia	61	New Mexico	59
Arizona	59	Florida	57	New York	64
Arkansas	58	Georgia	57	North Carolina	60
California	64	Idaho	64	North Dakota	64
Canada		Illinois	63	Ohio	62
—Alberta	69	Indiana	62	Oklahoma	60
—British Columbia	69	Iowa	60	Oregon	63
—Labrador	79	Kansas	61	Pennsylvania	63
—Manitoba	67	Kentucky	61	Rhode Island	64
—New Brunswick	67	Louisiana	56	South Carolina	58
—Newfoundland	74	Maine	64	South Dakota	64
—Northwest Terr.	71	Maryland	61	Tennessee	58
—Nova Scotia	69	Massachusetts	61	Texas	60
—Ontario	67	Michigan	64	Utah	62
—Pr. Edward Isl.	70	Minnesota	64	Vermont	64
—Quebec	69	Mississippi	58	Virginia	61
—Saskatchewan	67	Missouri	60	Washington	64
—Yukon	66	Montana	64	West Virginia	61
Colorado	62	Nebraska	62	Wisconsin	63
Connecticut	64	Nevada	61	Wyoming	64
		New Hampshire	64		
Between VIETNAM and					
Alabama	73	Delaware	74	New Jersey	75
Alaska	48	District of Columbia	73	New Mexico	73
Arizona	69	Florida	75	New York	75
Arkansas	75	Georgia	75	North Carolina	76
California	68	Idaho	66	North Dakota	75
Canada		Illinois	75	Ohio	75
—Alberta	77	Indiana	75	Oklahoma	74
—British Columbia	71	Iowa	76	Oregon	70
—Labrador	91	Kansas	75	Pennsylvania	74
—Manitoba	78	Kentucky	74	Rhode Island	75
—New Brunswick	79	Louisiana	71	South Carolina	75
—Newfoundland	86	Maine	76	South Dakota	75
—Northwest Terr.	58	Maryland	72	Tennessee	75
—Nova Scotia	81	Massachusetts	73	Texas	72
—Ontario	80	Michigan	77	Utah	71
—Pr. Edward Isl.	82	Minnesota	70	Vermont	75
—Quebec	80	Mississippi	75	Virginia	74
—Saskatchewan	75	Missouri	76	Washington	66
—Yukon	53	Montana	72	West Virginia	72
Colorado	70	Nebraska	75	Wisconsin	76
Connecticut	75	Nevada	69	Wyoming	71
		New Hampshire	75		

State	Days	State	Days	State	Days
Between VIRGIN ISLANDS (St. Croix/St. Thomas) and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr.	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl.	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	48	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between VIRGIN ISLANDS (St. John) and					
Alabama	42	Delaware	40	New Jersey	39
Alaska	48	District of Columbia	40	New Mexico	46
Arizona	46	Florida	43	New York	39
Arkansas	42	Georgia	41	North Carolina	41
California	48	Idaho	48	North Dakota	48
Canada		Illinois	43	Ohio	43
—Alberta	53	Indiana	43	Oklahoma	44
—British Columbia	56	Iowa	45	Oregon	51
—Labrador	56	Kansas	45	Pennsylvania	39
—Manitoba	51	Kentucky	43	Rhode Island	39
—New Brunswick	44	Louisiana	42	South Carolina	41
—Newfoundland	51	Maine	41	South Dakota	48
—Northwest Terr.	58	Maryland	40	Tennessee	42
—Nova Scotia	46	Massachusetts	39	Texas	44
—Ontario	48	Michigan	45	Utah	48
—Pr. Edward Isl.	47	Minnesota	45	Vermont	41
—Quebec	44	Mississippi	42	Virginia	40
—Saskatchewan	51	Missouri	45	Washington	51
—Yukon	53	Montana	48	West Virginia	40
Colorado	47	Nebraska	45	Wisconsin	45
Connecticut	39	Nevada	48	Wyoming	48
		New Hampshire	41		
Between WESTERN SAMOA					
Alabama	49	Delaware	50	New Jersey	50
Alaska	49	District of Columbia	50	New Mexico	36
Arizona	36	Florida	58	New York	50
Arkansas	49	Georgia	51	North Carolina	51
California	34	Idaho	40	North Dakota	40
Canada		Illinois	52	Ohio	52
—Alberta	45	Indiana	52	Oklahoma	41
—British Columbia	41	Iowa	41	Oregon	36
—Labrador	68	Kansas	41	Pennsylvania	50
—Manitoba	43	Kentucky	52	Rhode Island	50
—New Brunswick	56	Louisiana	49	South Carolina	51
—Newfoundland	63	Maine	53	South Dakota	40
—Northwest Terr	59	Maryland	50	Tennessee	49
—Nova Scotia	58	Massachusetts	50	Texas	41
—Ontario	49	Michigan	46	Utah	36
—Pr. Edward Isl	59	Minnesota	46	Vermont	53
—Quebec	55	Mississippi	49	Virginia	50
—Saskatchewan	43	Missouri	41	Washington	36
—Yukon	54	Montana	40	West Virginia	50
Colorado	37	Nebraska	41	Wisconsin	46
Connecticut	50	Nevada	36	Wyoming	40
		New Hampshire	53		

State	Days	State	Days	State	Days
Between YEMEN and					
Alabama	62	Delaware	61	New Jersey	64
Alaska	65	District of Columbia	61	New Mexico	70
Arizona	68	Florida	64	New York	64
Arkansas	65	Georgia	62	North Carolina	63
California	69	Idaho	67	North Dakota	67
Canada		Illinois	67	Ohio	67
—Alberta	75	Indiana	67	Oklahoma	66
—British Columbia	73	Iowa	64	Oregon	70
—Labrador	82	Kansas	68	Pennsylvania	64
—Manitoba	70	Kentucky	66	Rhode Island	64
—New Brunswick	70	Louisiana	63	South Carolina	63
—Newfoundland	77	Maine	67	South Dakota	66
—Northwest Terr	75	Maryland	61	Tennessee	65
—Nova Scotia	72	Massachusetts	64	Texas	62
—Ontario	69	Michigan	66	Utah	66
—Pr. Edward Isl	73	Minnesota	67	Vermont	68
—Quebec	69	Mississippi	63	Virginia	61
—Saskatchewan	73	Missouri	67	Washington	68
—Yukon	70	Montana	70	West Virginia	66
Colorado	66	Nebraska	66	Wisconsin	69
Connecticut	64	Nevada	68	Wyoming	69
		New Hampshire	68		
Between YUGOSLAVIA and					
Alabama	68	Delaware	66	New Jersey	68
Alaska	69	District of Columbia	66	New Mexico	70
Arizona	72	Florida	67	New York	68
Arkansas	68	Georgia	67	North Carolina	68
California	73	Idaho	72	North Dakota	74
Canada		Illinois	69	Ohio	67
—Alberta	80	Indiana	68	Oklahoma	71
—British Columbia	78	Iowa	72	Oregon	74
—Labrador	85	Kansas	70	Pennsylvania	69
—Manitoba	77	Kentucky	66	Rhode Island	68
—New Brunswick	73	Louisiana	69	South Carolina	64
—Newfoundland	80	Maine	70	South Dakota	74
—Northwest Terr	79	Maryland	66	Tennessee	68
—Nova Scotia	75	Massachusetts	67	Texas	71
—Ontario	74	Michigan	71	Utah	75
—Pr. Edward Isl	76	Minnesota	72	Vermont	69
—Quebec	73	Mississippi	68	Virginia	67
—Saskatchewan	78	Missouri	71	Washington	73
—Yukon	74	Montana	75	West Virginia	66
Colorado	71	Nebraska	72	Wisconsin	69
Connecticut	68	Nevada	74	Wyoming	75
		New Hampshire	69		
Between ZAIRE and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

State	Days	State	Days	State	Days
Between ZAMBIA and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		
Between ZIMBABWE and					
Alabama	64	Delaware	61	New Jersey	69
Alaska	71	District of Columbia	61	New Mexico	76
Arizona	74	Florida	69	New York	69
Arkansas	71	Georgia	68	North Carolina	69
California	75	Idaho	75	North Dakota	75
Canada		Illinois	73	Ohio	73
—Alberta	84	Indiana	73	Oklahoma	72
—British Columbia	81	Iowa	74	Oregon	78
—Labrador	87	Kansas	74	Pennsylvania	70
—Manitoba	78	Kentucky	71	Rhode Island	69
—New Brunswick	75	Louisiana	64	South Carolina	69
—Newfoundland	82	Maine	72	South Dakota	74
—Northwest Terr	81	Maryland	68	Tennessee	71
—Nova Scotia	77	Massachusetts	72	Texas	70
—Ontario	77	Michigan	74	Utah	74
—Pr. Edward Isl	78	Minnesota	75	Vermont	70
—Quebec	74	Mississippi	64	Virginia	67
—Saskatchewan	82	Missouri	70	Washington	76
—Yukon	76	Montana	79	West Virginia	66
Colorado	74	Nebraska	74	Wisconsin	75
Connecticut	69	Nevada	72	Wyoming	75
		New Hampshire	70		

12–2 Special POV Transit Times

This HTOS paragraph 12–2 applies for shipments of POV's between CONUS locations and locations in Alaska, Guam, Hawaiian Islands, Puerto Rico and the Virgin Islands AND between locations in Alaska, Guam, Hawaiian Islands, Puerto Rico and the Virgin Islands.

Between and	*Alaskan points	Guam	Hawaiian Islands	Puerto Rico	Virgin Islands-St. Thomas/ St. Croix	Virgin Islands-St. John
	Days	Days	Days	Days	Days	Days
AK	....	25	15	20	20	20
AL	20	28	20	15	15	15
AR	20	28	20	15	15	15
AZ	15	26	15	20	20	20
CA	15	25	15	20	20	20
CO	15	26	15	20	20	20
CT	20	28	20	15	15	15
DC	20	28	20	15	15	15
DE	20	28	20	15	15	15
FL	20	29	20	15	15	15
GA	20	29	20	15	15	15
IA	20	29	20	20	20	20

Between and	*Alaskan points Days	Guam Days	Hawaiian Islands Days	Puerto Rico Days	Virgin Islands-St. Thomas/ St. Croix Days	Virgin Islands-St. John Days
ID	15	28	15	20	20	20
IL	20	29	20	15	15	15
IN	20	29	20	15	15	15
KS	15	29	15	20	20	20
KY	20	29	20	15	15	15
LA	20	28	20	15	15	15
MA	20	28	20	15	15	15
MD	20	28	20	15	15	15
ME	20	29	20	15	15	15
MI	20	30	20	20	20	20
MN	20	30	20	20	20	20
MO	15	29	15	20	20	20
MS	20	28	20	15	15	15
MT	15	28	15	20	20	20
NC	20	29	20	15	15	15
ND	20	28	20	20	20	20
NE	15	29	15	20	20	20
NH	20	29	20	15	15	15
NJ	20	28	20	15	15	15
NM	15	26	15	20	20	20
NV	15	26	15	20	20	20
NY	20	28	20	15	15	15
OH	20	29	20	15	15	15
OK	20	28	20	20	20	20
OR	15	25	15	20	20	20
PA	20	28	20	15	15	15
RI	20	28	20	15	15	15
SC	20	29	20	15	15	15
SD	20	28	20	20	20	20
TN	20	28	20	15	15	15
TX	15	28	15	15	15	15
UT	15	26	15	20	20	20
VA	20	28	20	15	15	15
VT	20	29	20	15	15	15
WA	15	25	15	20	20	20
WI	20	30	20	20	20	20
WV	20	28	20	15	15	15
WY	15	28	15	20	20	20
GUAM	25	....	20	30	30	30
HAWAII	20	15	....	20	20	20
PUERTO RICO	20	30	25	....	10	10
VIRGIN ISL., ST. THOMAS/ST. CROIX	25	30	25	10	....	10
VIRGIN ISL., ST. JOHN	25	30	25	10	10	....

*Alaskan points include the following cities: Anchorage, Cordova, Fairbanks, Juneau, Ketchikan, Kodiak, Petersburg, Sitka, and Wrangell.

Section 14—Geographic Coverage

14–1. Geographic Coverage

14–1.1. Domestic

The geographic coverage included in domestic offers is from/to points in the continental United States (CONUS), interstate and intrastate first proviso household goods movements. Offers for service within Alaska or between Alaska and all other points defined as domestic will include only those points identified in the RFO. Offers for all other domestic service must be for all points within the defined service areas for interstate and for the full state for intrastate.

Service Area 1	Points in the State of California
Service Area 2	Points in the States of Washington and Oregon
Service Area 3	Points in the States of Nevada and Utah
Service Area 4	Points in the States of Idaho, Montana, North Dakota, South Dakota, and Wyoming
Service Area 5	Points in the State of Colorado
Service Area 6	Points in the States of Arizona and New Mexico
Service Area 7	Points in the States of Oklahoma and Texas
Service Area 8	Points in the States of Iowa, Kansas, Missouri, and Nebraska
Service Area 9	Points in the States of Michigan, Minnesota, and Wisconsin
Service Area 10	Points in the States of Illinois, Indiana, Kentucky, and Ohio
Service Area 11	Points in the States of Arkansas, Alabama, Louisiana, Mississippi, and Tennessee
Service Area 12	Points in the State of Florida
Service Area 13	Points in the States of Georgia, North Carolina, and South Carolina
Service Area 14	Points in the States of Delaware, Maryland, Virginia, and West Virginia, and the District of Columbia
Service Area 15	Points in the States of Connecticut, Rhode Island, Massachusetts, New Jersey, New York, and Pennsylvania

Service Area 16	Points in the States of Maine, New Hampshire, and Vermont
Service Area 22	Points in the State of Alaska identified in the RFO
Service Area 2300	Points in the Canadian Province of Alberta
Service Area 2301	Points in the Canadian Province of British Columbia
Service Area 2302	Points in the Canadian Province of Labrador
Service Area 2303	Points in the Canadian Province of Manitoba
Service Area 2304	Points in the Canadian Province of New Brunswick
Service Area 2305	Points in the Canadian Province of Newfoundland
Service Area 2306	Points in the Canadian Province of Nova Scotia
Service Area 2307	Points in the Canadian Province of Ontario
Service Area 2308	Points in the Canadian Province of Prince Edward Island
Service Area 2309	Points in the Canadian Province of Quebec
Service Area 2310	Points in the Canadian Province of Saskatchewan
Service Area 2311	Points in the Canadian Province of Northwest Territory
Service Area 2312	Points in the Canadian Province of Yukon

14–1.2. International

Offers for all international service may be between international areas or between international and domestic areas. In any case, offers for international service must be for all points within the defined service areas and/or countries. The geographic coverage included in international offers is from/to points within the defined country, as identified below.

Off-shore application	Via port of
Guam	Oakland, CA.
Hawaiian Islands of Hawaii, Kauai, Maui, and Oahu.	Oakland, CA.
Puerto Rico	Jacksonville, FL.
Virgin Islands	Jacksonville, FL.

14–2. Named Localities Within Off-Shore States, Territories, or Possessions of The United States of America

Agana, Guam (International Program)
Anchorage, Alaska (Domestic Program)
Honolulu, Hawaii (International Program)
San Juan, Puerto (International Program)
St. Thomas, Virgin Islands (International Program)

14–3. Named Localities In Central America

Panama City, Panama
Republic of Mexico, all points
Guatemala City, Guatemala
Quito, Ecuador
San Jose, Costa Rica
The Bahamas

14–4. Named Localities Within Europe

Adana, Turkey
Amsterdam, The Netherlands
Ankara, Turkey
Athens, Greece
Barcelona, Spain
Belfast, Northern Ireland
Berlin, Germany
Bern, Switzerland
Bilboa, Spain
Bonn, Germany
Bordeaux, France
Brussels, Belgium
Copenhagen, Denmark
Edinburgh, Scotland
Florence, Italy
Frankfurt, Germany
Geneva, Switzerland
Genoa, Italy
Hamburg, Germany
Istanbul, Turkey
Izmir, Turkey
Leipzig, Germany
Leon, France
Lisbon, Portugal
London, England
Madrid, Spain
Marseille, France
Milan, Italy
Munich, Germany
Naples, Italy
Palermo, Italy
Paris, France
Reykjavik, Iceland
Rome, Italy
Strasbourg, France
Stuttgart, Germany
The Hague, The Netherlands
Thessaloniki, Greece
Zurich, Switzerland

14–5. Named Localities Within Asia.

Bangkok, Thailand
Beijing, China
Cebu, Philippines
Chiang Mai, Thailand
Fukuoka, Japan
Hong Kong, United Kingdom
Islamabad, Pakistan
Jakarta, Indonesia
Karachie, Pakistan
Manila, Philippines
Naha, Okinawa
New Delhi, India
Osaka-Kobe, Japan
Pusan, Korea
Sapporo, Japan
Sengapore, Singapore
Seoul, Korea
Songkhia, Thailand
Tokyo, Japan
Udorn, Thailand

14–6. Named Localities Within Australia.

Brisbane, Australia
Canberra, Australia
Melbourne, Australia
Sydney, Australia
Perth, Australia

14–7. Named Localities In South America.

Bogota, Colombia
La Paz, Bolivia
Lima, Peru
Montevideo, Uruguay
Santiago, Chile

14–8. Named Localities In The Middle East

Cairo, Egypt
Dakar, Senegal
Jeddah, Saudi Arabia
Manama, Bahrain
Ripadh, Saudi Arabia
United Arab Emerit

14–9. Named Localities by City

14–9.1. Cities Beginning With A

Adana, Turkey
Amsterdam, The Netherlands
Ankara, Turkey
Athens, Greece

14–9.2. Cities Beginning With B

Bangkok, Thailand
Barcelona, Spain
Beijing, China
Belfast, Northern Ireland
Berlin, Germany
Bern, Switzerland
Bilboa, Spain
Bogota, Colombia
Bonn, Germany
Bordeaux, France
Brisbane, Australia
Brussels, Belgium

14–9.3. Cities Beginning With C

Cairo, Egypt
Canberra, Australia
Cebu, Philippines
Chiang Mai, Thailand
Copenhagen, Denmark

14–9.4 Cities Beginning With D

Dakar, Senegal

14–9.5 Cities Beginning With E

Edinburgh, Scotland

14–9.6. Cities Beginning With F

Florence, Italy
Frankfurt, Germany
Fukuoka, Japan

14–9.7. Cities Beginning With G

Geneva, Switzerland
Genoa, Italy
Guatemala City, Guatemala

14–9.8. Cities Beginning With H

The Hague, The Netherlands
Hamburg, Germany
Hong Kong, United Kingdom

14–9.9. Cities Beginning With I

Islamabad, Pakistan
Istanbul, Turkey
Izmir, Turkey

14–9.10. Beginning With J–K

Jakarta, Indonesia
Jeddah, Saudi Arabia
Karachie, Pakistan

14–9.11. Cities Beginning With L

La Paz, Bolivia
Leipzig, Germany
Leon, France
Lima, Peru
Lisbon, Portugal
London, England

14–9.12. Cities Beginning With M

Madrid, Spain
Manama, Bahrain
Manila, Philippines
Marseille, France
Melbourne, Australia
Milan, Italy
Montevideo, Uruguay
Munich, Germany

14–9.13. Cities Beginning With N

Naha, Okinawa
Naples, Italy
New Delhi, India

14–9.14. Cities Beginning With O

Osaka-Kobe, Japan

14–9.15. Cities Beginning With P

Palermo, Italy
Panama City, Panama
Paris, France
Perth, Australia
Pusan, Korea

14–9.16. Cities Beginning With Q

Quito, Ecuador

14–9.17. Cities Beginning With R

Republic of Mexico, all points
Reykjavik, Iceland
Ripadh, Saudi Arabia
Rome, Italy

14–9.18. Cities Beginning With S

San Jose, Costa Rica
Santiago, Chile
Sapporo, Japan
Sengapore, Singapore
Seoul, Korea
Songkhia, Thailand
Strasbourg, France
Stuttgart, Germany
Sydney, Australia

14–9.19. Cities Beginning With T

The Hague,
The Netherlands
Thessaloniki, Greece
Tokyo, Japan

14–9.20. Cities Beginning With U

Udorn, Thailand

14–9.21. Cities Beginning With Z

Zurich, Switzerland

Country	Code
Albania	120A
Algeria	1250
American Samoa	060A
Angola	1410
Antigua	1490
Argentina	150A
Australia	160A
Austria	1650
Azores	735A
Bahamas	1800
Bahrain	1810
Bangladesh	1820
Barbados	1840
Belgium	1900
Belize	2270
Bermuda	1950
Bolivia	2050
Botswana	2100
Brazil	220A
Brunei	2320
Bulgaria	2450
Burkina Faso	9270
Burma	2500
Burundi	2520
Cambodia	2550
Cameroon	2570
Canary Islands	830C
Cayman Islands	2680
Central African Republic	2690
Chad	2730
Chile	2750
China	2800
Colombia	2850
Costa Rica	2950
Croatia	4400
Cuba	3000
Cyprus	3050
Czechoslovakia	3100
Denmark	3150
Djibouti	3170
Dominican Republic	3200
Ecuador	3250
Egypt	9220
El Salvador	3300
England	925E
Ethiopia	3350
Fiji	3380
Finland	3400
France	3500
Gabon	3880
Germany	3940
Ghana	3960
Greece	4000
Guadeloupe	4070
Guatemala	4150
Guinea	4170
Guyana	4180
Haiti	4200
Honduras	4300
Hong Kong	4350
Hungary	4450
Iceland	4500
India	4550
Indonesia	4580
Ireland	4700
Israel	4750
Italy	4800
Ivory Coast	4850
Jamaica	4870
Japan	490J
Jordan	5000
Kazakhstan	5250
Kenya	5050
Korea (South)	5150
Kuwait	5200
Laos	5300
Lebanon	5400
Lithuania	5420
Luxembourg	5700
Madagascar	5750
Malawi	5770
Malaysia	5800
Mali	5850
Malta	5900
Marinas Island	591M
Mauritania	5920
Mauritius	5930
Mexico	5950
Micronesia	0630
Monaco	6070
Morocco	6100
Mozambique	6150
Namibia	8210
Nepal	6250
Netherlands	6300
Netherlands Antilles	6400
New Zealand	6600
Nicaragua	6650
Nigeria	6700
Northern Ireland	925I
Northern Mariana Islands	0690
Norway	6850
Okinawa	490K
Oman	6160
Pakistan	7000
Panama	7100
Papua New Guinea	7120
Paraguay	7150
Peru	7200
Philippines	7250
Poland	7300
Portugal	7350
Qatar	7470
Romania	7550
Russia	8250
Saipan	069S
Santa Lucia	7700
Saudi Arabia	7850
Scotland	925S
Senegal	7870
Sierra Leone	7900
Singapore	7950
Slovenia	7890
Solomon Islands	789S
South Africa	8010

Country	Code
Spain	8300
Sri Lanka	2720
Sudan	8350
Suriname	8400
Sweden	8500
Switzerland	8550
Syria	8580
Tahiti	350T
Taiwan	2810
Tanzania	8650
Thailand	8750
Trinidad	205T
Tunisia	8900
Turkey	9050
Uganda	9100
Venezuela	9400
Vietnam	9450
Western Samoa	9630
Yemen	9650
Yugoslavia	9700
Zaire	2910
Zambia	9900
Zimbabwe	8180

Section 15—Forms

15–1. Carrier Request To Participate And Agreement.

CARRIER REQUEST TO PARTICIPATE AND AGREEMENT TO ABIDE BY THE TERMS AND CONDITIONS OF THE GENERAL SERVICES ADMINISTRATION'S CENTRALIZED HOUSEHOLD GOODS TRAFFIC MANAGEMENT PROGRAM (CHAMP)

This requests approval to participate in the General Services Administration's (GSA) Centralized Household Goods Traffic Management Program (CHAMP). I agree to abide by the terms and conditions set forth in the GSA Household Goods Tender of Service (HTOS), dated [insert date], revisions and supplements thereto or reissues thereof.

I understand that participation in GSA's CHAMP is contingent upon our performance or service as stated in the GSA HTOS. I certify that the information presented herein is completed and correct to the best of my knowledge, understanding that willful submission of false information in my application or on any document furnished pursuant to this HTOS is punishable by fines, imprisonment, or both (US Code, Title 18, Section 1001). I further understand that GSA may terminate my participation in the program upon notice to me of such intent, based upon evidence of my non-compliance with the terms and conditions of the GSA HTOS.

I certify and acknowledge receipt of the HTOS, dated [INSERT DATE] consisting of Sections 1 through 17.

Company Name: ________

____

Signature and Title of Authorized Official

Date

Carrier/Forwarder Contact Information:

Name ________

Title ________

Address ________

City/State ________

Telephone Number ________

Fax Number: ________

Internet E-Mail Address ________

15.2. Carrier Commercial Port Level Report.

COMMERCIAL PORT LEVEL REPORT

Port of: ________—

Port Agent: ________

Period Ending: ________—

Date of Report: ________

PART 1.—SHIPMENTS ON HAND.

Data Required.

A. Number of import shipments that have not been picked up for line-haul movement ____

B. Number of import shipments that are past the RDD. ________

C. Number of export shipments on hand. ____

D. Number of export shipments on hand that are past the RDD. ________

PART 2.—NARRATIVE COMMENTS.

Provide comments regarding the following:

Processing Problems ________

____

____

Availability and Responsiveness of Truckers

____

____

Customs Problems ________

____

Responsiveness of Vessel Operators ________

____

____

Other Issues ________

____

____

PART 3.—MISSED REQUIRED DELIVERY DATE.

Provide the following information for all on-hand shipments that have missed the RDD:

Relocation Employee's Name	Bill of Lading	Final Destination

PART 4.—MISCELLANEOUS.

Report any specific problems anticipated or encountered in moving personal property to the applicable port.

____

____

____

____

____

I certify this to be a true and accurate report

Company Name: ________

Signature and Title of Authorized Official

Date

Carrier Contact Information

Name: ________

Title: ________

Address: ________

City/State: ________

Telephone No.: ________

Fax Number: ________

Internet E-Mail Address: ________

15.3.—Justification Certificate for Use of Foreign Flag Vessel.

GENERAL SERVICES ADMINISTRATION CENTRALIZED HOUSEHOLD GOODS TRAFFIC MANAGEMENT PROGRAM

JUSTIFICATION CERTIFICATE FOR USE OF FOREIGN FLAG VESSEL.

Date: ________

ITGBL Carrier: ________

I certify that it (is)(was) necessary to transport the household goods of ________

GBL# ________

between ________

and ________

enroute from ________

to ________

via the ________

a foreign flag vessel for the following reasons. ________

Explanation (A full explanation is required):

Required Delivery Date: ________

Departure Date: ________

Arrival Date: ________

Cubic Feet: ________

Gross Weight: ________

Net Weight: ________

Freight Charges: ________

Per: ________

The Thru/GBL rate on file with the General Services Administration will be protected under the terms and conditions of the General Services Administration Household Goods Tender of Service.

____

Signature of Authorized Participant Representative Date

Title V. GAO Manual—RESPONSIBILITY OF CERTIFYING OFFICER. Certifying officers have the responsibility in the first instance of determining the acceptability of the foregoing certificate which must be attached to bills involving movements by foreign flag vessels prior to the certification of such bills.

Agency: ______

Authorizing Official: ______

Title: ______

Date: ______

15.4 Participant Carrier Certification Statement Of Eligibility.

CARRIER CERTIFICATION STATEMENT OF ELIGIBILITY FOR THE AWARD OF CONTRACTS FOR TRANSPORTATION

A. By submitting this rate tender, the participant certifies that:

(1) Neither the participant, nor any of its subsidiaries, officers, directors, principal owners, or principal employees is currently suspended, debarred,) or in receipt of a notice of proposed debarment from any agency as a result of a civil judgment or criminal conviction or for any cause from GSA), or has been placed in temporary nonuse status by GSA for the routes covered by this tender as of the date that this rate tender is offered.

(2) The participant is not a corporation, partnership, sole proprietorship or any other business entity which has been formed or organized following the suspension or debarment of, a subsidiary, officer, director, principal owner, or principal employee thereof (or from such an entity formed after receipt of a notice of proposed debarment).

B. The following definitions are applicable to this certification:

(1) A subsidiary is a business entity whose management decisions are influenced by the participant through legal or equitable ownership of a controlling interest in the firm's stock, assets, or otherwise.

(2) A principal owner is an individual or company which owns a controlling interest in the participant's stock, or an individual who can control, or substantially influence, the participant's management, through the ownership interest of family members or close associates.

(3) A principal employee is a person(s) acting in a managerial or supervisory capacity (including consultants and business advisors) who is able to direct, or substantially influence, the participant's performance of its obligations under its contracts for transportation with the Federal Government.

C. Knowledge required.

The knowledge of the person who executes this certification is not required to exceed the knowledge which that person can reasonably be expected to possess, following inquiry, regarding the suspended or debarred status of the parties defined in (B), above.

D. Obligation to inform.

The participant has a continuing obligation to inform the GSA office to which this rate tender is submitted of any change in circumstances which results in its ineligibility for the receipt of contracts for transportation.

E. Erroneous certification.

An erroneous certification of eligibility or failure to notify the GSA transportation zone office receiving this tender of a change in eligibility, may result in a recommendation for administrative action against the participant. Additionally, false statements to an agency of the Federal Government are subject to criminal prosecution pursuant to 18 USC 1001, as well as possible civil penalties.

______

COMPANY NAME

______

SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL DATE

PARTICIPANT CONTACT

NAME: ______

TITLE: ______

ADDRESS: ______

CITY/STATE: ______

TELEPHONE NO:(______) ______

General Services Administration—Basic Transportation Trading Partner Agreement

Applicability: Check the box below which represents the activity of your firm under this Trading Partner Agreement:

☐ Freight Common Carrier (All paragraphs, except Paragraph 4, of this agreement will apply and are binding.)

☐ Household Goods Common Carrier (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding.)

☐ Freight Forwarder (All paragraphs, except Paragraph 4, of this agreement will apply and are binding.)

☐ Household Goods Freight Forwarder (All paragraphs, except Paragraphs 3 and 5G, of this agreement will apply and are binding.)

☐ Freight Broker (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding.)

☐ Freight Shipper Agent/Intermodal Marketing Company (All paragraphs, except Paragraphs 4 and 5G, of this agreement will apply and are binding.)

☐ Rate Filing Service Provider (All paragraphs, except Paragraph 5G, of this agreement will apply and are binding.)

1. Introduction

This agreement prescribes the general procedures and policies to be followed when Electronic Commerce (EC) is used for transmitting and receiving requests for offers, rate tenders, or other business information in lieu of creating one or more paper documents normally associated with conducting business with the General Services Administration. The General Services Administration (GSA or the agency) will transmit and receive using the File Transfer Protocol (FTP) of the Internet network (I–FTP) such transaction sets (documents) as it chooses and as established by the governing tender of service or the request for offers. These transaction sets will be transmitted to those firms, organizations, agencies, or other entities (trading partners) recognized by GSA that agree to accept such documents and to be bound by the terms and conditions contained in those documents, this agreement, and any applicable tender of service.

2. Purpose

This agreement is to ensure that all EC obligations are legally binding on all trading partners. Further, the use of any electronic equivalent of a standard business document referenced in Paragraphs 3 and 4 will be deemed an acceptable business practice and that no trading partner will challenge the admissibility of the electronic information in evidence, except in circumstances in which an analogous paper document could be challenged. Where participant is used in this agreement it will mean carrier/forwarder as applicable.

3. Freight Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

- GSA Freight Traffic Management Program Standard Tender of Service.
- Optional Form 280
- GSA Freight Traffic Management Program Request for Offers

4. Household Goods Reference

This agreement, in addition to the terms and conditions stated in Paragraph 5, is subject to the terms and conditions of the following documents:

VOL 66 ISS 246 DE 21 2001 UMI

- GSA Centralized Household Goods Traffic Management Program Tender of Service.
- Optional Form 280
- GSA Centralized Household Goods Traffic Management Program Request for Offers

5. Terms and Conditions

(A) GSA will place electronic documents in a publicly accessible website (www.KC.GSA.GOV/FSST) and when warranted in the directory of a confirmed trading partner (trading partner/<SCA>), hereinafter referred to as directory. It will receive documents from confirmed trading partners in each confirmed trading partner's directory via I–FTP. Receipt by the trading partner is considered to occur when the document is placed and either the public directory or the trading partner's directory, as the case may be.

(B) GSA will bear the costs of maintaining the GSA FTP server and the costs of placing documents issued by GSA in the appropriate directory on the GSA FTP server, and the costs of managing documents put on the GSA FTP server by its trading partners. The agency's trading partners are responsible for all costs associated with getting documents from or putting documents on the GSA FTP server.

(C) When the transmissions are submission or fate tenders, the submitting firm must have first met all applicable approval requirements set out in the applicable, governing Tender of Service.

(D) GSA will be responsible for the accuracy of documents issued by it and placed in the GSA FTP server directory. GSA will not be responsible for errors occurring in documents put on the GSA FTP server, nor will GSA be responsible for errors occurring in documents gotten from the GSA FTP server.

(E) GSA will not be responsible for any damages incurred by a trading partner as a result of missing or delayed transmissions when the problem is not with or caused by GSA or the agency's FTP server.

(F) Any document placed in a directory maintained on the GSA FTP server is to be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction. Likewise, any document from a trading partner put into a directory on the GSA FTP server will be considered a valid and authentic document backed by the same guarantees of legitimacy as are found in a paper transaction.

(G) If a participant uses a broker, shipper agent/Intermodal Marketing Company, or filing service to file its rates with GSA, documents submitted on behalf of the participant will be accepted as though submitted by the participant and GSA. The use of a broker, shipper agent/Intermodal Marketing Company, or filing service does not relieve the participant of any of its rights or obligations under the terms of this agreement, including the maintenance of a valid trading partner agreement with GSA.

6. Force Majeure

None of the parties in this agreement will be liable for failure to properly conduct EC in the event of war, accident, riot, fire, flood, epidemic, power outage, labor dispute, act of God, act of public enemy, malfunction or inappropriate design of hardware or software, or any other cause beyond such party's control. If standard business cannot be conducted by EC, GSA, will, at its discretion, return to a paper based system.

7. Effective Date

The effective date of this agreement will be the latest of the date(s) shown on the signature page of this document

8. Agreement Review

The agreement will be affective on a continuing basis, except as provided in Paragraph 9, below; provided, however, that GSA may from time to time make such changes to the agreement as are necessary, and the trading partner may request review of the agreement at any time.

9. Termination

(A) If GSA terminates a participant's participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement will be considered terminated as of the date notice is given to a firm of its participation termination.

(B) If a participant terminated its participation in the GSA Freight Traffic Management Program and/or the GSA Centralized Household Goods Traffic Management Program, this agreement will be considered terminated as of the date notice of such termination is received by the GSA.

(C) Except as provided above, this agreement may be terminated by either GSA or its trading partner, effective 30 days after receipt of written notice by either party. Termination will have no effect on transactions occurring before the effective date of termination.

10. Whole Agreement

This agreement and all addenda constitute the entire agreement between the parties. No changes in terms and conditions of this agreement will be effective unless approved and signed by both parties. At the inception of this agreement, Addendum/Addenda (is) (are) not applicable. As the parties develop and implement additional EC capabilities, addenda may be incorporated into this agreement. Each addendum will be signed and dated by both parties. The latest date contained on the signature page will be the effective date of the addenda. The addendum will be appended to this agreement.

Representing the Carrier

____
Name and Signature

____
Title

____
Firm

____
Street Address

____
City, State, Zip

____
Telephone

____
Fax

____
Internet E-mail

____
Electronic Commerce Contact

____
Telephone

____
Fax

____
Internet E-mail

____
Date

Representing the General Services Administration

____
Name and Signature

Manager, Centralized Household Goods Traffic Management Program (CHAMP)
____
Title

Federal Supply Service
____
Firm

1500 East Bannister Road, Room 1076
____
Street Address

Kansas City, MO 64131
____
City, State, Zip

816–823–3646
____

Telephone

816–823–3656

Fax

Internet E-mail

Electronic Commerce Contact

816–823–3646

Telephone

816–823–3656

Fax

Internet E-mail

Date

Trading Partner Agreement Number

(TO BE COMPLETED BY GSA)

Section 16—Definitions & Explanation of Terms

16–1. Advanced Charges

A charge advanced by the participant for services of others engaged at the request of the RTO, or required by Federal, State or local law.

16.2. Attempted Pickup and/or Delivery [old 16.1]

Is when a participant fails to perform pickup services, through no fault of its own, at a relocating employee's residence. The participant is authorized compensation for labor services and/or vehicle use in accordance with the applicable tariff and/or tender for the origin municipality shown on the bill of lading.

16.3. Attempted Pickup [old 16.1.1]

Is when a participant fails to perform delivery services, through no fault of its own, at a relocating employee's residence. The participant is authorized compensation on direct delivery and from SIT shipments for labor services and/or vehicle use in accordance with the applicable tariff and/or tender for the destination municipality shown on the bill of lading.

16–4. Auxiliary Services

RTO approved labor services and/or non-standard linehaul or delivery vehicles used by the participant to pickup or delivery of shipments when the origin or destination is inaccessible by virtue of building design or roadway nonexistence, design, condition, construction, or obstacles.

16–5. Agency

The Federal shipping or receiving office responsible for shipping a relocating employee's HHG. Any reference in this HTOS made to "agency" will be understood to mean Federal shipping agency, Federal ordering agency, Federal civilian agency or Federal agency.

16–6. Bill of Lading (BL)

An accountable shipping document used for the acquisition of authorized transportation and related services from commercial participants for the movement of GSA sponsored HHG shipments. (See Federal Management Regulation Part 117 (41 CFR Part 102-117) for GBL terms and conditions for all Government shipments moving under this HTOS.)

16–7. BLIO

Bill of Lading Issuing Officer.

16–8. Destination Point [old 16.7]

That city or post shown in the block #5 (destination) on the Government Bill of Lading (International) or the appropriate destination block on the bill of lading (Domestic).

16–9. Diversion [old 16.8]

A change in the original destination of an en route HHG shipment to a new destination more than a 30 mile radius from the original destination point. Shipment requiring further over ocean transportation will be terminated and reshipped.

16–10. Domestic Transportation

The movement of a relocated Government employee's HHG within the conterminous United States (CONUS), including Alaska and Canada.

16–11. Employee

Any reference to "employee" in this HTOS will be understood to mean relocating employee or relocating employee's representative.

16–12. Filing Dates [old 16.9]

Designated dates announced by GSA during which CHAMP rates and other data must be filed.

16–13. Filing Criteria [old 16.10]

The terms and conditions for the filing of rates established in the GSA issued Request for Offers.

16–14. Final Delivery Point [old 16.11]

Place at which participant surrenders possession of property to the relocating employee and no further transportation or services are required under the bill of lading.

16–15. General Services Administration (GSA) [old 16.12]

The Agency responsible for the administration of the Household Goods Tender of Service (HTOS) and the Centralized Household Goods Traffic Management Program (CHAMP). The office is located at 1500 East Bannister Road, Kansas City, MO 64131–3088.

16–16. General Transportation Services

Transportation and accessorial services normally associated with a HHG move as set out in interstate and intrastate tariffs or this HTOS.

16–17. Government Bill of Lading (GBL) [old 16.42]

An accountable shipping document (OF 1203) used for the acquisition of authorized international transportation (including domestic offshore Alaska, Hawaii, Guam, Virgin Islands and Puerto Rico), and related services from commercial participants for the movement of GSA sponsored HHG shipments. For GBL terms and conditions, see Federal Management Regulation Part 102 (41 CFR Part 102–117). The GBL is being retired for domestic use (in all forms) March 31, 2002. For domestic shipments, where reference is made in this HTOS to a GBL, it shall be construed as a BL.

16–18. Government Bill of Lading Office Code (GBLOC) [old 16.14]

A designated code consisting of four alpha characters unique to GSA and each overseas post participating in the ITGBL Program. It is found in block 33b of the GBL.

16–19. GBLIO

Government Bill of Lading Issuing Officer.

16–20. Government Rate Tender (GRT)

The Professional Movers Government Rate Tender, STB HGB 415 series and supplements thereto, issued by the Household Goods Carriers' Bureau Committee, Agent.

16–21. Government Storage Warehouse [old 16.15]

Government-owned or leased facility used for storing household effects shipments.

16–22. Gross Weight [old 16.16]

The aggregate weight of all articles plus necessary packing materials and shipping containers.

16–23. Household Goods (HHG) [old 16.17]

The personal effects of Government employee's and their dependants.

(Please note that GSA does not consider boats to be Household Effects/HHG).

16–24. International Transportation

Door to door container movement of HHG outside the conterminous United States (OCONUS), including Alaska and Canada, in lift vans. A Participant provides complete through service from origin to destination residence by surface ocean means.

16–25. ITBL International Government Bill of Lading

16–24. Item (Or Article) [old 16.20]

The terms "item" and "article" used in this solicitation shall be interchangeable. Each shipping piece or package and the contents thereof shall constitute one item. Any item taken apart or knocked down for handling or loading shall constitute one item.

16–26. Kilogram [old 16.21]

One kilogram is equal to 2.2046 pounds. To convert kilograms into pounds, multiply kilograms by a 2.2046 factor. To convert pounds into kilograms, multiply pounds by a 0.453 factor.

16–27. Kilometer [old 16.22]

One kilometer is equal to 3,280.8 feet or 0.62137 mile. To convert kilometers into miles, multiply the number of kilometers by a 0.62137 factor. To convert miles into kilometers, multiply the number of miles by a 1.609 factor.

16–28. Miscellaneous Charge

Any cost incurred by the participant performing a service authorized by the RTO that is outside the terms of this HTOS.

16–29. Mistake in Rate Filing (MIRF) [old 16.23]

An error acknowledged by the participant after rate submissions. Participants may obtain relief for mistakes in rate filing upon review and approval by GSA.

16–30. Move Management Services (MMS)

Services performed by a MMS provider to arrange, coordinate, and monitor each relocating employee's HHG move, from initial notification of shipment booking through delivery at destination. Services as identified in Section 4A will be provided within a participant's approved scope of operations.

16–31. Net Weight [old 16.24]

The net weight of shipments transported in containers shall be the difference between the tare weight of the empty container and the gross weight of the packed container.

16–32. Non-Temporary Storage (NTS) [old 16.25]

Service for long-term storage, other than storage-in-transit, or personal property at the relocation employee's or Government's expense.

16–33. One-Time-Only (OTO) Rates [old 16.26]

Rates solicited by GSA from individual participants for the one time movement of personal property.

16–34. Packing Carton [old 16.27]

The carton used for packing articles requiring additional protection prior to placing them inside a shipping container.

16–35. Participant [old 16.3]

Any HHG carrier/forwarder that is approved to participate in the Centralized Household Goods Traffic Management Program (CHAMP) and provide HHG General Transportation Services and/or Move Management Services (MMS).

16–36. Participant's Agent [old 16.4]

A business firm, corporation, or individual acting for or in behalf of a participant. A bona fide agent of a personal property participant, as distinguished from a broker, is a person who, or business enterprise which, represents and acts for a participant and performs its duties under the direction of the participant, pursuant to a preexisting agreement with the participant, providing for a continuing relationship between them.

16–37. Pick-up Point [old 16.28]

The specific location where the participant takes possession of HHG for shipment.

16–38. Point of Diversion [old 16.29]

The location of the shipment when orders are given to change destination point.

16–39. Port of Embarkation/Debarkation [old 16.30]

Includes dock, wharf, pier, berth at which cargo is loaded aboard ship or is discharged from ship, including the participant's port terminal facility or warehouse serving the port.

16–40. Program Management Office (PMO)

The PMO is responsible for providing transportation management services to Federal departments and agencies through out the world including CHAMP carrier approval, price negotiation and participant performance measurement. The PMO responsibilities are managed through five GSA Zone Offices in Washington, DC (National Capital Region), Atlanta, GA (Southeast Sunbelt Region), Kansas City, MO (Heartland Region) and San Francisco, CA (Pacific Rim Region). (See GSA website www.kc.gsa.gov/fsstt for detailed information and points of contact) Any reference to PMO in this HTOS will be understood to mean PMO and or its designees or representatives.

16–41. Property Owner

Any reference made to "property owner" or "property owner's representative" in this HTOS will be understood to mean "relocating employee".

16–42. Rate Cycle [old 16.31]

A period of time during which rates filed by participants are effective.

16–43. Rate Solicitation Cycle [old 16.32]

The designation assigned to the bill of lading electronic rates filed with GSA which are effective for a specific rate cycle.

16–44. Regular Working Hours [old 16.33]

Regular working hours include the days Monday through Friday, between the hours of 8 a.m. and 5 p.m. local time, and exclude all other hours of the day, days of the week, and officially declared foreign national, U.S. National or State holidays

16–45. Relocating Employee

An employee of an agency relocating to a different duty station. The term "relocating employee" includes a relocating employee's agent, designee or representative.

16–46. Required Delivery Date (RDD) [old 16.34]

A specified calendar date on or before which the participant agrees to offer the entire shipment of personal property for delivery to the employee or employee's agent at destination. If the RDD falls on a Saturday, Sunday, Foreign National, U.S. National, or State holiday, the RDD will be the following working day.

16–47. Responsible Transportation Officer (RTO) [old 16.35]

The individual or its designee or representative or office within the shipping or receiving agency responsible for HHG traffic management functions.

16–48. Shipper. [old 16.36]

The agency responsible for the payment of the bill of lading or GBL, usually the employer of the relocating personnel.

16–49. Shipping Container. [old 16.37]

External container, lift van, crate, tri-wall, bi-wall as specified by the RTO into which individual articles and/or packing cartons are placed.

16–50. Solicitation Period. [old 16.38]

The period of time specified in the rate solicitation during which the rates will be in effect.

16–51. Storage-in-Transit. [old 16.39]

Temporary storage, other than non-temporary storage of a HHG shipment prior to final delivery.

16–52. Supporting Documentation. [old 16.40]

Documentation requiring participant certification and submission to GSA by designated dates provided in each cycle solicitation letter to include participant Tender of Service Signature Sheet, LOI's, etc.

16–53. Tare Weight

14–10. The weight of an empty vehicle or liftvan before loading and after unloading.

16–54. Unaccompanied Air Baggage (UAB). [old 16.41]

The portion of an employee's prescribed weight allowance of HHG including professional books, papers, and equipment, normally shipped separately from the bulk of personal property and designated as such on the employee's application for shipment.

Section 17—Accessorial Rates, Rules, and Charges

17–1. Purpose

This chapter contains general requirements as well as specific rates and charges permissible under the CHAMP International Program.

17–2. Measurement To Metric Measurement

To convert U.S. customary units to metric units, multiply by the conversion factor. To convert metric to U.S. customary units, divide by the conversion factor.

Symbol	When you know	Multiply by	To find	Symbol
		Length		
in	inches	2.54	centimeters	cm
ft	feet	30.48	centimeters	cm
ft	feet	0.3048	meters	m
yd	yards	0.9144	meters	m
mi	miles	1.6093	meters	m
		Mass		
oz	ounces	28.35	grams	g
lb	pounds	0.4536	kilograms	kg
t	short ton (2,000 lb.)	0.9072	metric ton	t
		Volume		
pt	pints	0.473	liters	L
qt	quarts	0.946	liters	L
gal	gallons	3.785	liters	L

17–3. Rates

Rates as specified herein will apply for accessorial services performed by the carrier in addition to the single factor rate (SFR) for surface transportation from point of origin to point of destination or destination warehouse.

17–4. Minimum Weights

Except as otherwise provided herein, the minimum weight for surface household effects shipments shall be 1,000 pounds (45kg); and the minimum weight of unaccompanied air baggage shipments shall be 45 kilograms (100 lbs).

17–5. Accessorial Services

The accessorial services shown herein, which are not included in the single factor transportation rate will be furnished by the carrier upon request of the shipper at the rates or charges specified herein.

17–6. Additional Services.

A. Geographic application of rates and charges applying to additional services indicated (labor, long caries and storage-related charges at origin) see HTOS paragraph 17–6.1 series.

B. The rates shown opposite the service area and schedule locations in HTOS paragraph 17–7 apply in US dollars and cents for services performed at the named service area locations in HTOS paragraph 17–6.1.

C. Explanations of abbreviations used in HTOS paragraph 17–6–1 series are shown below.

Abbreviation	Meaning	Abbreviation	Meaning
ADDL	Additional	P/D	Pickup Or Delivery
CWT (45KG)	Hundredweight	REG	Regular
EA	Each	SA	Service Area
ELV	Elevator	S/C	Stair Carry
1ST	First	SCH	Schedule
L/C	Long Carry	SIT	Storage-In-Transit
O/T	Overtime	W/H	Warehouse Handling

17–6.1. Service Area Designations

Where reference is made to HTOS paragraph 17–6–1 series, use the service area numbers corresponding to the countries shown therein to determine the applicable rates and charges for services performed at CONUS locations.

17–6.1.1. Alabama Service Areas

County	SA	County	SA	County	SA
2 Autauga	20	46 Dale	8	92 Marengo	16
4 Baldwin	16	48 Dallas	20	94 Marion	4
6 Barbour	212	50 De Kalb	12	96 Marshall	12
8 Bibb	4	52 Elmore	20	98 Mobile	16
10 Blount	4	54 Escambia	188	100 Monroe	16
12 Bullock	20	56 Etowah	4	102 Montgomery	20
14 Butler	20	58 Fayette	4	104 Morgan	12
16 Calhoun	4	60 Franklin	12	106 Perry	20
18 Chambers	212	62 Geneva	8	108 Pickens	436
20 Cherokee	4	64 Greene	4	110 Pike	20
22 Chilton	20	66 Hale	4	112 Randolph	4
24 Choctaw	436	68 Henry	8	114 Russell	212
26 Clarke	16	70 Houston	8	116 Saint Clair	4
28 Clay	4	72 Jackson	12	118 Shelby	4
30 Cleburne	4	74 Jefferson	4	120 Sumter	436
32 Coffee	8	76 Lamar	4	122 Talladega	4
34 Colbert	12	78 Lauderdale	12	124 Tallapoosa	20
36 Conecuh	16	80 Lawrence	12	126 Tuscaloosa	4
38 Coosa	20	82 Lee	212	128 Walker	4
40 Covington	188	84 Limestone	12	130 Washington	16
42 Crenshaw	20	86 Lowndes	20	132 Wilcox	16
44 Cullman	4	88 Macon	20	134 Winston	4
		90 Madison	12		

17–6.1.2. Arizona Service Areas

County	SA	County	SA	County	SA
2 Apache	528	12 Greenlee	32	22 Pima	32
4 Cochise	32	14 La Paz	36	24 Pinal	28
6 Coconino	24	16 Maricopa	28	26 Santa Cruz	32
8 Gila	28	18 Mohave	500	28 Yavapai	24
10 Graham	32	20 Navajo	24	30 Yuma	36

17–6.1.3. Arkansas Service Areas

County	SA	County	SA	County	SA
2 Arkansas	48	52 Garland	48	102 Newton	40
4 Ashley	352	54 Grant	48	104 Ouachita	360
6 Baxter	48	56 Greene	44	106 Perry	48
8 Benton	40	58 Hempstead	360	108 Phillips	44
10 Boone	40	60 Hot Spring	48	110 Pike	360
12 Bradley	352	62 Howard	360	112 Poinsett	44
14 Calhoun	360	64 Independence	48	114 Polk	40
16 Carroll	40	66 Izard	48	116 Pope	48
18 Chicot	424	68 Jackson	44	118 Prairie	48
20 Clark	48	70 Jefferson	48	120 Pulaski	48
22 Clay	44	72 Johnson	40	122 Randolph	44
24 Cleburne	48	74 Lafayette	360	124 Saline	48
26 Cleveland	48	76 Lawrence	44	126 Scott	40
28 Columbia	360	78 Lee	44	128 Searcy	48
30 Conway	48	80 Lincoln	424	130 Sebastian	40
32 Craighead	44	82 Little River	360	132 Sevier	360
34 Crawford	40	84 Logan	40	134 Sharp	48
36 Crittenden	728	86 Lonoke	48	136 St. Francis	44
38 Cross	44	88 Madison	40	138 Stone	48
40 Dallas	48	90 Marion	48	140 Union	352
42 Desha	424	92 Miller	784	142 Van Buren	48
44 Drew	424	94 Mississippi	44	144 Washington	40
46 Faulkner	48	96 Monroe	44	146 White	48
48 Franklin	40	98 Montgomery	40	148 Woodruff	44
50 Fulton	48	100 Nevada	360	150 Yell	40

UMI
VOL 66
ISS 246
DE 21 2001
UMI

17–6.1.4. California Service Areas

County	SA	County	SA	County	SA
2 Alameda	80	40 Madera	52	80 San Luis Obispo	56
4 Alpine	68	42 Marin	80	82 San Mateo	80
6 Amador	68	44 Mariposa	60	84 Santa Barbara	56
8 Butte	84	46 Mendocino	84	86 Santa Clara	80
10 Calaveras	68	48 Merced	60	88 Santa Cruz	60
12 Colusa	84	50 Modoc	64	90 Shasta	64
14 Contra Costa	80	52 Mono	68	92 Sierra	504
16 Del Norte	64	54 Monterey	60	94 Siskiyou	64
18 El Dorado	68	56 Napa	80	96 Solano	68
20 Fresno	52	58 Nevada	504	98 Sonoma	80
22 Glenn	84	60 Orange	56	100 Stanislaus	68
24 Humboldt	64	62 Placer	68	102 Sutter	84
26 Imperial	76	64 Plumas	84	104 Tehama	64
28 Inyo	52	66 Riverside	72	106 Trinity	64
30 Kern	56	68 Sacramento	68	108 Tulare	52
32 Kings	52	70 San Benito	80	110 Tuolumne	68
34 Lake	84	72 San Bernardino	72	112 Ventura	56
36 Lassen	64	74 San Diego	76	114 Yolo	68
38 Los Angeles	56	76 San Francisco	80	116 Yuba	84
		78 San Joaquin	68		

17–6.1.5. Canada Service Areas

Province	SA	Province	SA	Province	SA
2 Alberta	88	10 New Brunswick	104	20 Quebec	128
4 British Columbia	92	12 Newfoundland	108	22 Saskatchewan	132
6 Labrador	96	14 Nova Scotia	116	24 Northwest Territory	112
8 Manitoba	100	16 Ontario	120	26 Yukon	136
		18 Prince Edward Isle	124		

17–6.1.6. Colorado Areas

County	SA	County	SA	County	SA
2 Adams	144	44 Fremont	140	86 Montrose	152
4 Alamosa	140	46 Garfield	148	88 Morgan	144
6 Arapahoe	144	48 Gilpin	144	90 Otero	140
8 Archuleta	156	50 Grand	148	92 Ouray	152
10 Baca	140	52 Gunnison	156	94 Park	140
12 Bent	140	54 Hinsdale	156	96 Phillips	144
14 Boulder	144	56 Huerfano	140	98 Pitkin	156
16 Chaffee	156	58 Jackson	148	100 Prowers	140
18 Cheyenne	140	60 Jefferson	144	102 Pueblo	140
20 Clear Creek	144	62 Kiowa	140	104 Rio Blanco	148
22 Conejos	156	64 Kit Carson	140	106 Rio Grande	156
24 Costilla	156	66 La Plata	152	108 Routt	148
26 Crowley	140	68 Lake	156	110 Saguache	140
28 Custer	140	70 Larimer	144	112 San Juan	152
30 Delta	152	72 Las Animas	140	114 San Miguel	152
32 Denver	144	74 Lincoln	140	116 Sedgwick	144
34 Dolores	152	76 Logan	144	118 Summit	144
36 Douglas	144	78 Mesa	152	120 Teller	140
38 Eagle	148	80 Mineral	156	122 Washington	144
40 El Paso	140	82 Moffat	148	124 Weld	144
42 Elbert	144	84 Montezuma	152	126 Yuma	144

17–6.1.7. Connecticut Service Areas

County	SA	County	SA	County	SA
2 Fairfield	544	8 Middlesex	160	14 Tolland	160
4 Hartford	160	10 New Haven	160	16 Windham	160
6 Litchfield	160	12 New London	160		

17–6.1.8. Delaware Service Areas

County	SA	County	SA	County	SA
2 Kent	164	4 New Castle	164	6 Sussex	164

17–6.1.9. District Of Columbia Service Areas

County	SA	County	SA	County	SA
899 Any Point	188				

17–6.1.10. Florida Service Areas

County	SA	County	SA	County	SA
2 Alachua	176	46 Gulf	188	92 Okaloosa	188
4 Baker	176	48 Hamilton	192	94 Okeechobee	180
6 Bay	188	50 Hardee	196	96 Orange	184
8 Bradford	176	52 Hendry	172	98 Osceola	184
10 Brevard	184	54 Hernando	196	100 Palm Beach	180
12 Broward	180	56 Highlands	196	102 Pasco	196
14 Calhoun	188	58 Hillsborough	196	104 Pinellas	196
16 Charlotte	172	60 Holmes	188	106 Polk	196
18 Citrus	196	62 Indian River	184	108 Putnam	176
20 Clay	176	64 Jackson	8	110 Santa Rosa	188
22 Collier	172	66 Jefferson	192	112 Sarasota	196
24 Columbia	176	68 Lafayette	192	114 Seminole	184
26 Dade	180	70 Lake	184	116 St. Johns	176
28 De Soto	196	72 Lee	172	118 St. Lucie	180
30 Dixie	192	74 Leon	192	120 Sumter	196
32 Duval	176	76 Levy	176	122 Suwannee	192
34 Escambia	188	78 Liberty	192	124 Taylor	192
36 Flagler	184	80 Madison	192	126 Union	176
38 Franklin	192	82 Manatee	196	128 Volusia	184
40 Gadsden	192	84 Marion	176	130 Wakulla	192
42 Gilchrist	176	86 Martin	180	132 Walton	188
44 Glades	172	88 Monroe	180	134 Washington	188
		90 Nassau	176		

17–6.1.11. Georgia Service Areas

County	SA	County	SA	County	SA
2 Appling	200	108 Evans	216	214 Newton	204
4 Atkinson	200	110 Fannin	720	216 Oconee	204
6 Bacon	200	112 Fayette	204	218 Oglethorpe	204
8 Baker	200	114 Floyd	720	220 Paulding	204
10 Baldwin	212	116 Forsyth	204	222 Peach	212
12 Banks	204	118 Franklin	204	224 Pickens	204
14 Barrow	204	120 Fulton	204	226 Pierce	200
16 Bartow	204	122 Gilmer	720	228 Pike	212
18 Ben Hill	200	124 Glascock	208	230 Polk	204
20 Berrien	200	126 Glynn	176	232 Pulaski	200
22 Bibb	212	128 Gordon	720	234 Putnam	204
24 Bleckley	200	130 Grady	192	236 Quitman	212
26 Brantley	176	132 Greene	204	238 Rabun	204
28 Brooks	192	134 Gwinnett	204	240 Randolph	200
30 Bryan	216	136 Habersham	204	242 Richmond	208
32 Bulloch	216	138 Hall	204	244 Rockdale	204
34 Burke	208	140 Hancock	204	246 Schley	212
36 Butts	204	142 Haralson	204	248 Screven	216
38 Calhoun	200	144 Harris	212	250 Seminole	8
40 Camden	176	146 Hart	204	252 Spalding	204
42 Candler	216	148 Heard	204	254 Stephens	204
44 Carroll	204	150 Henry	204	256 Stewart	212
46 Catoosa	720	152 Houston	212	258 Sumter	200
48 Charlton	176	154 Irwin	200	260 Talbot	212
50 Chatham	216	156 Jackson	204	262 Taliaferro	208
52 Chattahoochee	212	158 Jasper	204	264 Tattnall	216
54 Chattooga	720	160 Jeff Davis	200	266 Taylor	212
56 Cherokee	204	162 Jefferson	208	268 Telfair	200
58 Clarke	204	164 Jenkins	208	270 Terrell	200
60 Clay	8	166 Johnson	208	272 Thomas	192
62 Clayton	204	168 Jones	212	274 Tift	200
64 Clinch	200	170 Lamar	212	276 Toombs	200
66 Cobb	204	172 Lanier	200	278 Towns	204
68 Coffee	200	174 Laurens	200	280 Treutlen	200
70 Colquitt	200	176 Lee	200	282 Troup	212
72 Columbia	208	178 Liberty	216	284 Turner	200
74 Cook	200	180 Lincoln	208	286 Twiggs	212

County	SA	County	SA	County	SA
76 Coweta	204	182 Long	216	288 Union	204
78 Crawford	212	184 Lowndes	192	290 Upson	212
80 Crisp	200	186 Lumpkin	204	292 Walker	720
82 Dade	720	188 Macon	212	294 Walton	204
84 Dawson	204	190 Madison	204	296 Ware	200
86 De Kalb	204	192 Marion	212	298 Warren	208
88 Decatur	192	194 McDuffie	208	300 Washington	208
90 Dodge	200	196 McIntosh	216	302 Wayne	216
92 Dooly	200	198 Meriwether	212	304 Webster	212
94 Dougherty	200	200 Miller	8	306 Wheeler	200
96 Douglas	204	202 Mitchell	200	308 White	204
98 Early	8	204 Monroe	212	310 Whitfield	720
100 Echols	192	206 Montgomery	200	312 Wilcox	200
102 Effingham	216	208 Morgan	204	314 Wilkes	208
104 Elbert	204	210 Murray	720	316 Wilkinson	212
106 Emanuel	208	212 Muscogee	212	318 Worth	200

17–6.1.12. Hawaii Service Areas

County	SA	County	SA	County	SA
2 Hawaii	220	4 Honolulu	224	8 Maui	232
		6 Kauai	228		

17–6.1.13. Idaho Service Areas

County	SA	County	SA	County	SA
2 Ada	236	32 Cassia	244	62 Lewis	836
4 Adams	236	34 Clark	240	64 Lincoln	244
6 Bannock	240	36 Clearwater	836	66 Madison	240
8 Bear Lake	240	38 Custer	244	68 Minidoka	244
10 Benewah	844	40 Elmore	236	70 Nez Perce	836
12 Bingham	240	42 Franklin	240	72 Oneida	240
14 Blaine	244	44 Fremont	240	74 Owyhee	236
16 Boise	236	46 Gem	236	76 Payette	236
18 Bonner	844	48 Gooding	244	78 Power	240
20 Bonneville	240	50 Idaho	836	80 Shoshone	844
22 Boundary	844	52 Jefferson	240	82 Teton	240
24 Butte	240	54 Jerome	244	84 Twin Falls	244
26 Camas	244	56 Kootenai	844	86 Valley	236
28 Canyon	236	58 Latah	844	88 Washington	236
30 Caribou	240	60 Lemhi	464		

17–6.1.14. Illinois Service Areas.

County	SA	County	SA	County	SA
2 Adams	264	70 Hardin	336	138 Morgan	264
4 Alexander	336	72 Henderson	260	140 Moultrie	264
6 Bond	256	74 Henry	260	142 Ogle	252
8 Boone	252	76 Iroquois	248	144 Peoria	260
10 Brown	264	78 Jackson	336	146 Perry	256
12 Bureau	260	80 Jasper	256	148 Piatt	248
14 Calhoun	456	82 Jefferson	256	150 Pike	264
16 Carroll	260	84 Jersey	456	152 Pope	336
18 Cass	264	86 Jo Daviess	252	154 Pulaski	336
20 Champaign	248	88 Johnson	336	156 Putnam	260
22 Christian	264	90 Kane	252	158 Randolph	256
24 Clark	288	92 Kankakee	252	160 Richland	256
26 Clay	256	94 Kendall	252	162 Rock Island	260
28 Clinton	456	96 Knox	260	164 Saline	336
30 Coles	288	98 La Salle	252	166 Sangamon	264
32 Cook	252	100 Lake	252	168 Schuyler	264
34 Crawford	288	102 Lawrence	288	170 Scott	264
36 Cumberland	288	104 Lee	260	172 Shelby	264
38 De Kalb	252	106 Livingston	248	174 St. Clair	456
40 De Witt	264	108 Logan	264	176 Stark	260
42 Douglas	288	110 Macon	264	178 Stephenson	252
44 Du Page	252	112 Macoupin	264	180 Tazewell	260
46 Edgar	288	114 Madison	456	182 Union	336
48 Edwards	256	116 Marion	256	184 Vermilion	248
50 Effingham	256	118 Marshall	260	186 Wabash	256

County	SA	County	SA	County	SA
52 Fayette	256	120 Mason	260	188 Warren	260
54 Ford	248	122 Massac	336	190 Washington	256
56 Franklin	256	124 McDonough	260	192 Wayne	256
58 Fulton	260	126 McHenry	252	194 White	256
60 Gallatin	336	128 McLean	248	196 Whiteside	260
62 Greene	264	130 Menard	264	198 Will	252
64 Grundy	252	132 Mercer	260	200 Williamson	336
66 Hamilton	256	134 Monroe	456	202 Winnebago	252
68 Hancock	260	136 Montgomery	264	204 Woodford	260

17–6.1.15. Indiana Service Areas

County	SA	County	SA	County	SA
2 Adams	276	64 Hendricks	280	126 Pike	272
4 Allen	276	66 Henry	280	128 Porter	252
6 Bartholomew	280	68 Howard	284	130 Posey	272
8 Benton	284	70 Huntington	276	132 Pulaski	284
10 Blackford	276	72 Jackson	280	134 Putnam	268
12 Boone	284	74 Jasper	252	136 Randolph	280
14 Brown	280	76 Jay	276	138 Ripley	608
16 Carroll	284	78 Jefferson	608	140 Rush	280
18 Cass	284	80 Jennings	280	142 Scott	608
20 Clark	332	82 Johnson	280	144 Shelby	280
22 Clay	288	84 Knox	288	146 Spencer	272
24 Clinton	284	86 Kosciusko	268	148 St. Joseph	268
26 Crawford	272	88 Lagrange	276	150 Starke	268
28 Daviess	288	90 Lake	252	152 Steuben	276
30 Dearborn	608	92 La Porte	268	154 Sullivan	288
32 Decatur	280	94 Lawrence	288	156 Switzerland	608
34 De Kalb	276	96 Madison	280	158 Tippecanoe	284
36 Delaware	280	98 Marion	280	160 Tipton	280
38 Dubois	272	100 Marshall	268	162 Union	280
40 Elkhart	268	102 Martin	288	164 Vanderburgh	272
42 Fayette	280	104 Miami	284	166 Vermillion	288
44 Floyd	332	106 Monroe	288	168 Vigo	288
46 Fountain	284	108 Montgomery	284	170 Wabash	276
48 Franklin	608	110 Morgan	280	172 Warren	284
50 Fulton	284	112 Newton	252	174 Warrick	272
52 Gibson	272	114 Noble	276	176 Washington	272
54 Grant	280	116 Ohio	608	178 Wayne	280
56 Greene	288	118 Orange	272	180 Wells	276
58 Hamilton	280	120 Owen	288	182 White	284
60 Hancock	280	122 Parke	288	184 Whitley	276
62 Harrison	332	124 Perry	272		

17–6.1.16. Iowa Service Areas

County	SA	County	SA	County	SA
2 Adair	296	68 Floyd	304	134 Monona	300
4 Adams	488	70 Franklin	304	136 Monroe	296
6 Allamakee	304	72 Fremont	488	138 Montgomery	488
8 Appanoose	296	74 Greene	296	140 Muscatine	292
10 Audubon	488	76 Grundy	304	142 O'Brien	300
12 Benton	292	78 Guthrie	296	144 Osceola	300
14 Black Hawk	304	80 Hamilton	304	146 Page	488
16 Boone	296	82 Hancock	304	148 Palo Alto	300
18 Bremer	304	84 Hardin	304	150 Plymouth	300
20 Buchanan	304	86 Harrison	488	152 Pocahontas	300
22 Buena Vista	300	88 Henry	292	154 Polk	296
24 Butler	304	90 Howard	304	156 Pottawattamie	488
26 Calhoun	300	92 Humboldt	304	158 Poweshiek	296
28 Carroll	300	94 Ida	300	160 Ringgold	296
30 Cass	488	96 Iowa	292	162 Sac	300
32 Cedar	292	98 Jackson	292	164 Scott	292
34 Cerro Gordo	304	100 Jasper	296	166 Shelby	488
36 Cherokee	300	102 Jefferson	296	168 Sioux	712
38 Chickasaw	304	104 Johnson	292	170 Story	296
40 Clarke	296	106 Jones	292	172 Tama	296
42 Clay	300	108 Keokuk	296	174 Taylor	488
44 Clayton	304	110 Kossuth	304	176 Union	296
46 Clinton	292	112 Lee	292	178 Van Buren	296

UMI
VOL 66
ISS 246
DE 21
2001
UMI

County	SA	County	SA	County	SA
48 Crawford	300	114 Linn	292	180 Wapello	296
50 Dallas	296	116 Louisa	292	182 Warren	296
52 Davis	296	118 Lucas	296	184 Washington	292
54 Decatur	296	120 Lyon	712	186 Wayne	296
56 Delaware	304	122 Madison	296	188 Webster	304
58 Des Moines	292	124 Mahaska	296	190 Winnebago	304
60 Dickinson	300	126 Marion	296	192 Winneshiek	304
62 Dubuque	304	128 Marshall	296	194 Woodbury	300
64 Emmet	300	130 Mills	488	196 Worth	304
66 Fayette	304	132 Mitchell	304	198 Wright	304

17–6.1.17.Kansas Service Areas

County	SA	County	SA	County	SA
2 Allen	320	72 Greeley	312	142 Osborne	312
4 Anderson	316	74 Greenwood	320	144 Ottawa	320
6 Atchison	316	76 Hamilton	308	146 Pawnee	308
8 Barber	632	78 Harper	320	148 Phillips	312
10 Barton	312	80 Harvey	320	150 Pottawatomie	316
12 Bourbon	320	82 Haskell	308	152 Pratt	308
14 Brown	316	84 Hodgeman	308	154 Rawlins	312
16 Butler	320	86 Jackson	316	156 Reno	320
18 Chase	320	88 Jefferson	448	158 Republic	316
20 Chautauqua	320	90 Jewell	312	160 Rice	312
22 Cherokee	320	92 Johnson	448	162 Riley	316
24 Cheyenne	312	94 Kearny	308	164 Rooks	312
26 Clark	308	96 Kingman	320	166 Rush	312
28 Clay	316	98 Kiowa	308	168 Russell	312
30 Cloud	316	100 Labette	320	170 Saline	320
32 Coffey	316	102 Lane	312	172 Scott	312
34 Comanche	308	104 Leavenworth	448	174 Sedgwick	320
36 Cowley	320	106 Lincoln	312	176 Seward	308
38 Crawford	320	108 Linn	316	178 Shawnee	316
40 Decatur	312	110 Logan	312	180 Sheridan	312
42 Dickinson	320	112 Lyon	316	182 Sherman	312
44 Doniphan	316	114 Marion	320	184 Smith	312
46 Douglas	448	116 Marshall	316	186 Stafford	308
48 Edwards	308	118 McPherson	320	188 Stanton	308
50 Elk	320	120 Meade	308	190 Stevens	308
52 Ellis	312	122 Miami	448	192 Sumner	320
54 Ellsworth	312	124 Mitchell	312	194 Thomas	312
56 Finney	308	126 Montgomery	320	196 Trego	312
58 Ford	308	128 Morris	316	198 Wabaunsee	316
60 Franklin	448	130 Morton	308	200 Wallace	312
62 Geary	316	132 Nemaha	316	202 Washington	316
64 Gove	312	134 Neosho	320	204 Wichita	312
66 Graham	312	136 Ness	312	206 Wilson	320
68 Grant	308	138 Norton	312	208 Woodson	320
70 Gray	308	140 Osage	316	210 Wyandotte	448

17–6.1.18. Kentucky Service Areas

County	SA	County	SA	County	SA
2 Adair	324	82 Grant	608	162 McLean	324
4 Allen	324	84 Graves	336	164 Meade	332
6 Anderson	332	86 Grayson	324	166 Menifee	860
8 Ballard	336	88 Green	324	168 Mercer	328
10 Barren	324	90 Greenup	860	170 Metcalfe	324
12 Bath	328	92 Hancock	272	172 Monroe	324
14 Bell	340	94 Hardin	332	174 Montgomery	328
16 Boone	608	96 Harlan	340	176 Morgan	860
18 Bourbon	328	98 Harrison	328	178 Muhlenberg	324
20 Boyd	860	100 Hart	324	180 Nelson	332
22 Boyle	328	102 Henderson	272	182 Nicholas	328
24 Bracken	608	104 Henry	332	184 Ohio	324
26 Breathitt	860	106 Hickman	336	186 Oldham	332
28 Breckinridge	332	108 Hopkins	324	188 Owen	608
30 Bullitt	332	110 Jackson	340	190 Owsley	340
32 Butler	324	112 Jefferson	332	192 Pendleton	608
34 Caldwell	324	114 Jessamine	328	194 DPerry	340
36 Calloway	336	116 Johnson	860	196 Pike	860

County	SA	County	SA	County	SA
38 Campbell	608	118 Kenton	608	198 Powell	860
40 Carlisle	336	120 Knott	860	200 Pulaski	340
42 Carroll	608	122 Knox	340	282 Robertson	328
44 Carter	860	124 Larue	332	204 Rockcastle	340
46 Casey	340	126 Laurel	340	206 Rowan	860
48 Christian	324	128 Lawrence	860	208 Russell	340
50 Clark	328	130 Lee	860	210 Scott	328
52 Clay	340	132 Leslie	340	212 helby	332
54 Clinton	340	134 Letcher	860	214 Simpson	324
56 Crittenden	324	136 Lewis	860	216 Spencer	332
58 Cumberland	324	138 Lincoln	340	218 Taylor	324
60 Daviess	272	140 Livingston	336	220 Todd	324
62 Edmonson	324	142 Logan	324	222 Trigg	324
64 Elliott	860	144 Lyon	324	224 Trimble	608
66 Estill	860	146 Madison	328	226 Union	272
68 Fayette	328	148 Magoffin	860	228 Warren	324
70 Fleming	328	150 Marion	332	230 Washington	332
72 Floyd	860	152 Marshall	336	232 Wayne	340
74 Franklin	332	154 Martin	860	234 Webster	324
76 Fulton	336	156 Mason	608	236 DWhitley	340
78 Gallatin	608	158 McCracken	336	238 Wolfe	860
80 Garrard	328	160 McCreary	340	240 DWoodford	328

17–6.1.19. Louisiana Service Areas

County	SA	County	SA	County	SA
2 Acadia	348	44 Grant	344	88 St. Bernard	356
4 Allen	348	46 Iberia	348	90 St. Charles	356
6 Ascension	356	48 Iberville	356	92 St. Helena	356
8 Assumption	356	50 Jackson	352	94 St. James	356
0 Avoyelles	344	52 Jefferson	356	96 St. John The Baptist	356
12 Beauregard	348	54 Jefferson Davis	348	98 St. Landry	348
14 Bienville	352	56 La Salle	344	100 St. Martin	348
16 Bossier	360	58 Lafayette	348	102 St. Mary	348
18 Caddo	360	60 Lafourche	356	104 St. Tammany	356
20 Calcasieu	764	62 Lincoln	352	106 Tangipahoa	356
22 Caldwell	352	64 Livingston	356	108 Tensas	352
24 Cameron	764	66 Madison	352	110 Terrebonne	356
26 Catahoula	344	68 Morehouse	352	112 Union	352
28 Claiborne	352	70 Natchitoches	344	114 Vermilion	348
30 Concordia	344	72 Orleans	356	116 Vernon	344
32 De Soto	360	74 Ouachita	352	118 Washington	356
34 East Baton Rouge	356	76 Plaquemines	356	120 Webster	360
36 East Carroll	352	78 Pointe Coupee	356	122 West Baton Rouge	356
38 East Feliciana	356	80 Rapides	344	124 West Carroll	352
40 Evangeline	348	82 Red River	360	126 West Feliciana	356
42 Franklin	352	84 Richland	352	128 Winn	344
		86 Sabine	344		

17–6.1.20. Maine Service Areas

County	SA	County	SA	County	SA
2 Androscoggin	364	12 Kennebec	364	24 Sagadahoc	364
4 Aroostook	376	14 Knox	364	26 Somerset	368
6 Cumberland	372	16 Lincoln	364	28 Waldo	364
8 Franklin	364	18 Oxford	364	30 Washington	368
10 Hancock	368	20 Penobscot	368	32 York	372
		22 Piscataquis	368		

17–6.1.21. Maryland Service Areas

County	SA	County	SA	County	SA
2 Allegany	828	18 Dorchester	164	34 Queen Annes	164
4 Anne Arundel	380	20 Frederick	380	36 Somerset	164
6 Baltimore	380	22 Garrett	828	38 St. Marys	168
8 Calvert	168	24 Harford	380	40 Talbot	164
10 Caroline	164	26 Howard	380	42 Washington	828
12 Carroll	380	28 Kent	164	44 Wicomico	164
14 Cecil	380	30 Montgomery	168	46 Worcester	164
16 Charles	168	32 Prince Georges	168	610 Baltimore	380

UMI

VOL 66
ISS 246
DE 21 2001
UMI

17–6.1.22.064 Massachusetts Service Areas

County	SA	County	SA	County	SA
2 Barnstable	684	12 Franklin	388	22 Norfolk	384
4 Berkshire	388	14 Hampden	388	24 Plymouth	384
6 Bristol	684	16 Hampshire	388	26 Suffolk	384
8 Dukes	684	18 Middlesex	384	28 Worcester	384
10 Essex	384	20 Nantucket	684		

17–6.1.23. Michigan Service Areas

County	SA	County	SA	County	SA
2 Alcona	396	58 Gratiot	404	114 Missaukee	396
4 Alger	408	60 Hillsdale	400	116 Monroe	400
6 Allegan	404	62 Houghton	408	118 Montcalm	404
8 Alpena	396	64 Huron	400	120 Montmorency	396
10 Antrim	396	66 Ingham	400	122 Muskegon	404
12 Arenac	396	68 Ionia	404	124 Newaygo	404
14 Baraga	408	70 Iosco	396	126 Oakland	400
16 Barry	404	72 Iron	408	128 Oceana	404
18 Bay	400	74 Isabella	404	130 Ogemaw	396
20 Benzie	396	76 Jackson	400	132 Ontonagon	412
22 Berrien	268	78 Kalamazoo	404	134 Osceola	396
24 Branch	404	80 Kalkaska	396	136 Oscoda	396
26 Calhoun	404	82 Kent	404	138 Otsego	396
28 Cass	268	84 Keweenaw	408	140 Ottawa	404
30 Charlevoix	396	86 Lake	396	142 Presque Isle	396
32 Cheboygan	396	88 Lapeer	400	144 Roscommon	396
34 Chippewa	408	90 Leelanau	396	146 Saginaw	400
36 Clare	396	92 Lenawee	400	148 Sanilac	400
38 Clinton	404	94 Livingston	400	150 Schoolcraft	408
40 Crawford	396	96 Luce	408	152 Shiawassee	400
42 Delta	408	98 Mackinac	408	154 St. Clair	400
44 Dickinson	408	100 Macomb	400	156 St. Joseph	404
46 Eaton	404	102 Manistee	396	158 Tuscola	400
48 Emmet	396	104 Marquette	408	160 Van Buren	404
50 Genesee	400	106 Mason	396	162 Washtenaw	400
52 Gladwin	396	108 Mecosta	404	164 Wayne	400
54 Gogebic	412	110 Menominee	408	166 Wexford	396
56 Grand Traverse	396	112 Midland	400		

17–6.1.24. Minnesota Service Areas

County	SA	County	SA	County	SA
2 Aitkin	412	60 Isanti	416	118 Pipestone	712
4 Anoka	416	62 Itasca	412	120 Polk	600
6 Becker	596	64 Jackson	712	122 Pope	712
8 Beltrami	412	66 Kanabec	416	124 Ramsey	416
10 Benton	416	68 Kandiyohi	712	126 Red Lake	600
12 Big Stone	712	70 Kittson	600	128 Redwood	712
14 Blue Earth	420	72 Koochiching	412	130 Renville	712
16 Brown	420	74 Lac Qui Parle	712	132 Rice	420
18 Carlton	412	76 Lake	412	134 Rock	712
20 Carver	416	78 Lake Of The Woods	412	136 Roseau	600
22 Cass	412	80 Le Sueur	420	138 Scott	416
24 Chippewa	712	82 Lincoln	712	140 Sherburne	416
26 Chisago	416	84 Lyon	712	142 Sibley	416
28 Clay	596	86 Mahnomen	600	144 St. Louis	412
30 Clearwater	412	88 Marshall	600	146 Stearns	416
32 Cook	412	90 Martin	420	148 Steele	420
34 Cottonwood	712	92 McLeod	416	150 Stevens	712
36 Crow Wing	412	94 Meeker	416	152 Swift	712
38 Dakota	416	96 Mille Lacs	416	154 Todd	412
40 Dodge	420	98 Morrison	416	156 Traverse	712
42 Douglas	596	100 Mower	420	158 Wabasha	420
44 Faribault	420	102 Murray	712	160 Wadena	412
46 Fillmore	420	104 Nicollet	420	162 Waseca	420
48 Freeborn	420	106 Nobles	712	164 Washington	416
50 Goodhue	420	108 Norman	596	166 Watonwan	420
52 Grant	596	110 Olmsted	420	168 Wilkin	596
54 Hennepin	416	112 Otter Tail	596	170 Winona	420
56 Houston	420	114 Pennington	600	172 Wright	416

County	SA	County	SA	County	SA
58 Hubbard	412	116 Pine	416	174 Yellow Medicine	712

17–6.1.25. Mississippi Service Areas

County	SA	County	SA	County	SA
2 Adams	344	56 Issaquena	432	112 Perry	428
4 Alcorn	440	58 Itawamba	440	114 Pike	432
6 Amite	432	60 Jackson	428	116 Pontotoc	440
8 Attala	432	62 Jasper	436	118 Prentiss	440
10 Benton	440	64 Jefferson	432	120 Quitman	440
12 Bolivar	424	66 Jefferson Davis	432	122 Rankin	432
14 Calhoun	440	68 Jones	436	124 Scott	432
16 Carroll	424	70 Kemper	436	126 Sharkey	432
18 Chickasaw	440	72 Lafayette	440	128 Simpson	432
20 Choctaw	440	74 Lamar	428	130 Smith	432
22 Claiborne	432	76 Lauderdale	436	132 Stone	428
24 Clarke	436	78 Lawrence	432	134 Sunflower	424
26 Clay	440	80 Leake	432	136 Tallahatchie	424
28 Coahoma	440	82 Lee	440	138 Tate	440
30 Copiah	432	84 Leflore	424	140 Tippah	440
32 Covington	432	86 Lincoln	432	142 Tishomingo	440
34 De Soto	728	88 Lowndes	436	144 Tunica	440
36 Forrest	428	90 Madison	432	146 Union	440
38 Franklin	432	92 Marion	432	148 Walthall	432
40 George	428	94 Marshall	440	150 Warren	432
42 Greene	428	96 Monroe	440	152 Washington	424
44 Grenada	424	98 Montgomery	424	154 Wayne	436
46 Hancock	428	100 Neshoba	436	156 Webster	440
48 Harrison	428	102 Newton	436	158 Wilkinson	344
50 Hinds	432	104 Noxubee	436	160 Winston	436
52 Holmes	432	106 Oktibbeha	440	162 Yalobusha	424
54 Humphreys	424	108 Panola	440	164 Yazoo	432
		110 Pearl River	428		

17–6.1.26. Missouri Service Areas

County	SA	County	SA	County	SA
2 Adair	444	78 Greene	452	156 Pemiscot	728
4 Andrew	448	80 Grundy	448	158 Perry	456
6 Atchison	448	82 Harrison	448	160 Pettis	448
8 Audrain	444	84 Henry	448	162 Phelps	444
10 Barry	452	86 Hickory	452	164 Pike	456
12 Barton	452	88 Holt	448	166 Platte	448
14 Bates	448	90 Howard	444	168 Polk	452
16 Benton	448	92 Howell	452	170 Pulaski	444
18 Bollinger	456	94 Iron	456	172 Putnam	448
20 Boone	444	96 Jackson	448	174 Ralls	444
22 Buchanan	448	98 Jasper	452	176 Randolph	444
24 Butler	456	100 Jefferson	456	178 Ray	448
26 Caldwell	448	102 Johnson	448	180 Reynolds	456
28 Callaway	444	104 Knox	444	182 Ripley	456
30 Camden	452	106 Laclede	452	184 Saline	448
32 Cape Girardeau	456	108 Lafayette	448	186 Schuyler	444
34 Carroll	448	110 Lawrence	452	188 Scotland	444
36 Carter	456	112 Lewis	444	190 Scott	456
38 Cass	448	114 Lincoln	456	192 Shannon	456
40 Cedar	452	116 Linn	448	194 Shelby	444
42 Chariton	448	118 Livingston	448	196 St. Charles	456
44 Christian	452	120 Macon	444	198 St. Clair	452
46 Clark	444	122 Madison	456	200 St. Francois	456
48 Clay	448	124 Maries	444	202 St. Louis	456
50 Clinton	448	126 Marion	444	204 Ste. Genevieve	456
52 Cole	444	128 McDonald	452	206 Stoddard	456
54 Cooper	444	130 Mercer	448	208 Stone	452
56 Crawford	456	132 Miller	444	210 Sullivan	448
58 Dade	452	134 Mississippi	336	212 Taney	452
60 Dallas	452	136 Moniteau	444	214 Texas	452
62 Daviess	448	138 Monroe	444	216 Vernon	452
64 De Kalb	448	140 Montgomery	456	218 Warren	456
66 Dent	456	142 Morgan	448	220 Washington	456
68 Douglas	452	144 New Madrid	336	222 Wayne	456

County	SA	County	SA	County	SA
70 Dunklin	728	146 Newton	452	224 Webster	452
72 Franklin	456	148 Nodaway	448	226 Worth	448
74 Gasconade	456	150 Oregon	456	228 Wright	452
76 Gentry	448	152 Osage	444	610 St. Louis	456
	—	154 Ozark	452		

17–6.1.27. Montana Service Areas

County	SA	County	SA	County	SA
2 Beaverhead	464	40 Granite	476	78 Powell	472
4 Big Horn	460	42 Hill	472	80 Prairie	468
6 Blaine	468	44 Jefferson	464	82 Ravalli	476
8 Broadwater	464	46 Judith Basin	472	84 Richland	468
10 Carbon	460	48 Lake	476	86 Roosevelt	468
12 Carter	460	50 Lewis and Clark	472	88 Rosebud	460
14 Cascade	472	52 Liberty	472	90 Sanders	476
16 Chouteau	472	54 Lincoln	476	92 Sheridan	468
18 Custer	460	56 Madison	464	94 Silver Bow	464
20 Daniels	468	58 McCone	468	96 Stillwater	460
22 Dawson	468	60 Meagher	472	98 Sweet Grass	460
24 Deer Lodge	464	62 Mineral	476	100 Teton	472
26 Fallon	460	64 Missoula	476	102 Toole	472
28 Fergus	472	66 Musselshell	460	104 Treasure	460
30 Flathead	476	68 Park	464	106 Valley	468
32 Gallatin	464	70 Petroleum	468	108 Wheatland	472
34 Garfield	468	72 Phillips	468	110 Wibaux	468
36 Glacier	472	74 Pondera	472	112 Yellowstone	460
38 Golden Valley	460	76 Powder River	460		

17–6.1.28. Nebraska Service Areas

County	SA	County	SA	County	SA
2 Adams	480	64 Frontier	484	126 Nance	480
4 Antelope	480	66 Furnas	484	128 Nemaha	488
6 Arthur	484	68 Gage	488	130 Nuckolls	480
8 Banner	492	70 Garden	492	132 Otoe	488
10 Blaine	484	72 Garfield	480	134 Pawnee	488
12 Boone	480	74 Gosper	484	136 Perkins	484
14 Box Butte	492	76 Grant	484	138 Phelps	480
16 Boyd	480	78 Greeley	480	140 Pierce	480
18 Brown	484	80 Hall	480	142 Platte	480
20 Buffalo	480	82 Hamilton	480	144 Polk	480
22 Burt	488	84 Harlan	480	146 Red Willow	484
24 Butler	488	86 Hayes	484	148 Richardson	488
26 Cass	488	88 Hitchcock	484	150 Rock	484
28 Cedar	300	90 Holt	480	152 Saline	488
30 Chase	484	92 Hooker	484	154 Sarpy	488
32 Cherry	484	94 Howard	480	156 Saunders	488
34 Cheyenne	492	96 Jefferson	488	158 Scotts Bluff	492
36 Clay	480	98 Johnson	488	160 Seward	488
38 Colfax	488	100 Kearney	480	162 Sheridan	492
40 Cuming	488	102 Keith	484	164 Sherman	480
42 Custer	484	104 Keya Paha	484	166 Sioux	492
44 Dakota	300	106 Kimball	492	168 Stanton	488
46 Dawes	492	108 Knox	480	170 Thayer	480
48 Dawson	484	110 Lancaster	488	172 Thomas	484
50 Deuel	492	112 Lincoln	484	174 Thurston	300
52 Dixon	300	114 Logan	484	176 Valley	480
54 Dodge	488	116 Loup	484	178 Washington	488
56 Douglas	488	118 Madison	480	180 Wayne	300
58 Dundy	484	120 McPherson	484	182 Webster	480
60 Fillmore	480	122 Merrick	480	184 Wheeler	480
62 Franklin	480	124 Morrill	492	186 York	480

17–6.1.29. Nevada Service Areas

County	SA	County	SA	County	SA
2 Carson City	504	14 Eureka	496	26 Nye	496
4 Churchill	504	16 Humboldt	496	30 Pershing	496
6 Clark	500	18 Lander	496	32 Storey	504

County	SA	County	SA	County	SA
8 Douglas	504	20 Lincoln	500	34 Washoe	504
10 Elko	496	22 Lyon	504	36 White Pine	496
12 Esmeralda	496	24 Mineral	504		

17–6.1.30. New Hampshire Service Areas

County	SA	County	SA	County	SA
2 Belknap	508	8 Coos	508	16 Rockingham	384
4 Carroll	508	10 Grafton	508	18 Strafford	372
6 Cheshire	372	12 Hillsboro	384	20 Sullivan	372
		14 Merrimack	372		

17–6.1.31. New Jersey Service Areas

County	SA	County	SA	County	SA
2 Atlantic	512	16 Gloucester	672	30 Ocean	512
4 Bergen	544	18 Hudson	544	32 Passaic	544
6 Burlington	672	20 Hunterdon	544	34 Salem	672
8 Camden	672	22 Mercer	672	36 Somerset	544
10 Cape May	512	24 Middlesex	544	38 Sussex	544
12 Cumberland	512	26 Monmouth	544	40 Union	544
14 Essex	544	28 Morris	544	42 Warren	672

17–6.1.32.New Mexico Service Areas

County	SA	County	SA	County	SA
2 Bernalillo	516	24 Harding	740	46 Roosevelt	524
4 Catron	528	26 Hidalgo	532	48 San Juan	528
6 Chaves	520	28 Lea	520	50 San Miguel	516
8 Cibola	528	30 Lincoln	520	52 Sandoval	516
10 Colfax	516	32 Los Alamos	516	54 Santa Fe	516
12 Curry	524	34 Luna	532	56 Sierra	532
14 De Baca	524	36 McKinley	528	58 Socorro	516
16 Dona Ana	532	38 Mora	516	60 Taos	516
18 Eddy	520	40 Otero	532	62 Torrance	516
20 Grant	532	42 Quay	740	64 Union	740
22 Guadalupe	524	44 Rio Arriba	516	66 Valencia	516

17–6.1.33. New York Service Areas

County	SA	County	SA	County	SA
2 Albany	536	44 Herkimer	556	86 Richmond	544
4 Allegany	540	46 Jefferson	556	88 Rockland	544
6 Bronx	544	48 Kings	544	90 Saratoga	556
8 Broome	680	50 Lewis	556	92 Schenectady	536
10 Cattaraugus	540	52 Livingston	540	94 Schoharie	536
12 Cayuga	552	54 Madison	552	96 Schuyler	552
14 Chautauqua	668	56 Monroe	540	98 Seneca	552
16 Chemung	680	58 Montgomery	536	100 St. Lawrence	548
18 Chenango	552	60 Nassau	544	102 Steuben	540
20 Clinton	548	62 New York	544	104 Suffolk	544
22 Columbia	536	64 Niagara	540	106 Sullivan	536
24 Cortland	552	66 Oneida	556	108 Tioga	680
26 Delaware	536	68 Onondaga	552	110 Tompkins	552
28 Dutchess	544	70 Ontario	540	112 Ulster	544
30 Erie	540	72 Orange	544	114 Warren	556
32 Essex	548	74 Orleans	540	116 Washington	556
34 Franklin	548	76 Oswego	556	118 Wayne	540
36 Fulton	556	78 Otsego	536	120 Westchester	544
38 Genesee	540	80 Putnam	544	122 Wyoming	540
40 Greene	536	82 Queens	544	124 Yates	552
42 Hamilton	556			84 Rensselaer	536

17–6.1.34. North Carolina Service Areas

County	SA	County	SA	County	SA
2 Alamance	584	68 Forsyth	584	136 Orange	580

County	SA	County	SA	County	SA
4 Alexander	564	70 Franklin	580	138 Pamlico	576
6 Alleghany	584	72 Gaston	564	140 Pasquotank	816
8 Anson	564	74 Gates	816	142 Pender	576
10 Ashe	584	76 Graham	560	144 Perquimans	816
12 Avery	584	78 Granville	580	146 Person	580
14 Beaufort	572	80 Greene	572	148 Pitt	572
16 Bertie	572	82 Guilford	584	150 Polk	560
18 Bladen	568	84 Halifax	572	152 Randolph	584
20 Brunswick	576	86 Harnett	568	154 Richmond	564
22 Buncombe	560	88 Haywood	560	156 Robeson	568
24 Burke	564	90 Henderson	560	158 Rockingham	584
26 Cabarrus	564	92 Hertford	572	160 Rowan	564
28 Caldwell	584	94 Hoke	568	162 Rutherford	560
30 Camden	816	96 Hyde	572	164 Sampson	568
32 Carteret	576	98 Iredell	564	166 Scotland	568
34 Caswell	580	100 Jackson	560	168 Stanly	564
36 Catawba	564	102 Johnston	580	170 Stokes	584
38 Chatham	580	104 Jones	576	172 Surry	584
40 Cherokee	720	106 Lee	568	174 Swain	560
42 Chowan	816	108 Lenoir	572	176 Transylvania	560
44 Clay	560	110 Lincoln	564	178 Tyrrell	572
46 Cleveland	564	112 Macon	560	180 Union	564
48 Columbus	568	114 Madison	560	182 Vance	580
50 Craven	576	116 Martin	572	184 Wake	580
52 Cumberland	568	118 McDowell	560	186 Warren	580
54 Currituck	816	120 Mecklenburg	564	188 Washington	572
56 Dare	572	122 Mitchell	560	190 Watauga	584
58 Davidson	584	124 Montgomery	564	192 Wayne	572
60 Davie	564	126 Moore	568	194 Wilkes	584
62 Duplin	576	128 Nash	572	196 Wilson	572
64 Durham	580	130 New Hanover	576	198 Yadkin	584
66 Edgecombe	572	132 Northampton	572	200 Yancey	560
		134 Onslow	576		

17–6.1.35. North Dakota Service Areas

County	SA	County	SA	County	SA
2 Adams	592	38 Grant	588	74 Ransom	596
4 Barnes	596	40 Griggs	596	76 Renville	604
6 Benson	600	42 Hettinger	592	78 Richland	596
8 Billings	592	44 Kidder	588	80 Rolette	604
10 Bottineau	604	46 La Moure	596	82 Sargent	596
12 Bowman	592	48 Logan	588	84 Sheridan	588
14 Burke	604	50 McHenry	604	86 Sioux	588
16 Burleigh	588	52 McIntosh	588	88 Slope	592
18 Cass	596	54 McKenzie	592	90 Stark	592
20 Cavalier	600	56 McLean	588	92 Steele	596
22 Dickey	596	58 Mercer	588	94 Stutsman	596
24 Divide	604	60 Morton	588	96 Towner	600
26 Dunn	592	62 Mountrail	604	98 Traill	596
28 Eddy	600	64 Nelson	600	100 Walsh	600
30 Emmons	588	66 Oliver	588	102 Ward	604
32 Foster	596	68 Pembina	600	104 Wells	588
34 Golden Valley	592	70 Pierce	604	106 Williams	604
36 Grand Forks	600	72 Ramsey	600		

17–6.1.36. Ohio Service Areas

County	SA	County	SA	County	SA
2 Adams	608	60 Guernsey	624	120 Muskingum	616
4 Allen	628	62 Hamilton	608	122 Noble	624
6 Ashland	612	64 Hancock	628	124 Ottawa	628
8 Ashtabula	668	66 Hardin	628	126 Paulding	628
10 Athens	624	68 Harrison	676	128 Perry	616
12 Auglaize	628	70 Henry	628	130 Pickaway	616
14 Belmont	676	72 Highland	608	132 Pike	624
16 Brown	608	74 Hocking	624	134 Portage	612
18 Butler	608	76 Holmes	612	136 Preble	620
20 Carroll	676	78 Huron	612	138 Putnam	628
22 Champaign	620	80 Jackson	660	140 Richland	612
24 Clark	620	82 Jefferson	676	142 Ross	624

County	SA	County	SA	County	SA
26 Clermont	608	84 Knox	616	144 Sandusky	628
28 Clinton	608	86 Lake	612	146 Scioto	860
30 Columbiana	676	88 Lawrence	860	148 Seneca	628
32 Coshocton	616	90 Licking	616	150 Shelby	628
34 Crawford	628	92 Logan	628	152 Stark	612
36 Cuyahoga	612	94 Lorain	612	154 Summit	612
38 Darke	620	96 Lucas	628	156 Trumbull	612
40 Defiance	628	98 Madison	616	158 Tuscarawas	612
42 Delaware	616	100 Mahoning	612	160 Union	616
44 Erie	612	102 Marion	616	162 Van Wert	628
46 Fairfield	616	104 Medina	612	164 Vinton	624
48 Fayette	616	106 Meigs	624	166 Warren	608
50 Franklin	616	108 Mercer	628	168 Washington	624
52 Fulton	628	110 Miami	620	170 Wayne	612
54 Gallia	860	112 Monroe	624	172 Williams	628
56 Geauga	612	114 Montgomery	620	174 Wood	628
58 Greene	620	116 Morgan	624	176 Wyandot	628
		118 Morrow	616		

17–6.1.37. Oklahoma Service Areas

County	SA	County	SA	County	SA
2 Adair	640	54 Grant	632	106 Nowata	640
4 Alfalfa	632	56 Greer	788	108 Okfuskee	636
6 Atoka	636	58 Harmon	788	110 Oklahoma	636
8 Beaver	308	60 Harper	632	112 Okmulgee	640
10 Beckham	636	62 Haskell	40	114 Osage	640
12 Blaine	632	64 Hughes	636	116 Ottawa	452
14 Bryan	636	66 Jackson	788	118 Pawnee	640
16 Caddo	636	68 Jefferson	636	120 Payne	636
18 Canadian	636	70 Johnston	636	122 Pittsburg	40
20 Carter	636	72 Kay	632	124 Pontotoc	636
22 Cherokee	640	74 Kingfisher	632	126 Pottawatomie	636
24 Choctaw	360	76 Kiowa	636	128 Pushmataha	360
26 Cimarron	308	78 Latimer	40	130 Roger Mills	632
28 Cleveland	636	80 Le Flore	40	132 Rogers	640
30 Coal	636	82 Lincoln	636	134 Seminole	636
32 Comanche	636	84 Logan	636	136 Sequoyah	640
34 Cotton	636	86 Love	636	138 Stephens	636
36 Craig	640	88 Major	632	140 Texas	308
38 Creek	640	90 Marshall	636	142 Tillman	788
40 Custer	632	92 Mayes	640	144 Tulsa	640
42 Delaware	640	94 McClain	636	146 Wagoner	640
44 Dewey	632	96 McCurtain	360	148 Washington	640
46 Ellis	632	98 McIntosh	40	150 Washita	636
48 Garfield	632	100 Murray	636	152 Woods	632
50 Garvin	636	102 Muskogee	640	154 Woodward	632
52 Grady	636	104 Noble	632		

17–6.1.38. Oregon Service Areas

County	SA	County	SA	County	SA
2 Baker	656	26 Harney	644	50 Morrow	656
4 Benton	648	28 Hood River	660	52 Multnomah	660
6 Clackamas	660	30 Jackson	652	54 Polk	660
8 Clatsop	660	32 Jefferson	644	56 Sherman	660
10 Columbia	660	34 Josephine	652	58 Tillamook	660
12 Coos	652	36 Klamath	652	60 Umatilla	656
14 Crook	644	38 Lake	644	62 Union	656
16 Curry	652	40 Lane	648	64 Wallowa	656
18 Deschutes	644	42 Lincoln	648	66 Wasco	660
20 Douglas	652	44 Linn	648	68 Washington	660
22 Gilliam	660	46 Malheur	236	70 Wheeler	644
24 Grant	644	48 Marion	660	72 Yamhill	660

17–6.1.39. Pennsylvania Service Areas

County	SA	County	SA	County	SA
2 Adams	672	46 Delaware	672	92 Montgomery	672
4 Allegheny	676	48 Elk	668	94 Montour	680

County	SA	County	SA	County	SA
6 Armstrong	676	50 Erie	668	96 Northampton	672
8 Beaver	676	52 Fayette	676	98 Northumberland	680
10 Bedford	664	54 Forest	668	100 Perry	672
12 Berks	672	56 Franklin	664	102 Philadelphia	672
14 Blair	664	58 Fulton	664	104 Pike	680
16 Bradford	680	60 Greene	676	106 Potter	664
18 Bucks	672	62 Huntingdon	664	108 Schuylkill	680
20 Butler	676	64 Indiana	676	110 Snyder	664
22 Cambria	664	66 Jefferson	668	112 Somerset	676
24 Cameron	668	68 Juniata	664	114 Sullivan	680
26 Carbon	680	70 Lackawanna	680	116 Susquehanna	680
28 Centre	664	72 Lancaster	672	118 Tioga	680
30 Chester	672	74 Lawrence	676	120 Union	664
32 Clarion	668	76 Lebanon	672	122 Venango	668
34 Clearfield	664	78 Lehigh	672	124 Warren	668
36 Clinton	664	80 Luzerne	680	126 Washington	676
38 Columbia	680	82 Lycoming	680	128 Wayne	680
40 Crawford	668	84 McKean	668	130 Westmoreland	676
42 Cumberland	672	86 Mercer	668	132 Wyoming	680
44 Dauphin	672	88 Mifflin	664	134 York	672
		90 Monroe	680		

17–6.1.40. Rhode Island Service Areas

County	SA	County	SA	County	SA
2 Bristol	684	6 Newport	684	10 Washington	684
4 Kent	684	8 Providence	684		

17–6.1.41. South Carolina Service Areas

County	SA	County	SA	County	SA
2 Abbeville	688	32 Darlington	696	64 Lexington	696
4 Aiken	208	34 Dillon	696	66 Marion	696
6 Allendale	692	36 Dorchester	692	68 Marlboro	564
8 Anderson	688	38 Edgefield	208	70 McCormick	208
10 Bamberg	692	40 Fairfield	696	72 Newberry	688
12 Barnwell	692	42 Florence	696	74 Oconee	688
14 Beaufort	692	44 Georgetown	696	76 Orangeburg	696
16 Berkeley	692	46 Greenville	688	78 Pickens	688
18 Calhoun	696	48 Greenwood	688	80 Richland	696
20 Charleston	692	50 Hampton	692	82 Saluda	688
22 Cherokee	688	52 Horry	696	84 Spartanburg	688
24 Chester	564	54 Jasper	692	86 Sumter	696
26 Chesterfield	564	56 Kershaw	696	88 Union	688
28 Clarendon	696	58 Lancaster	564	90 Williamsburg	696
30 Colleton	692	60 Laurens	688	92 York	564
		62 Lee	696		

17–6.1.42. South Dakota Service Areas

County	SA	County	SA	County	SA
2 Aurora	704	46 Fall River	708	90 McPherson	700
4 Beadle	712	48 Faulk	700	92 Meade	708
6 Bennett	704	50 Grant	700	94 Mellette	704
8 Bon Homme	712	52 Gregory	704	96 Miner	712
10 Brookings	712	54 Haakon	704	98 Minnehaha	712
12 Brown	700	56 Hamlin	700	100 Moody	712
14 Brule	704	58 Hand	704	102 Pennington	700
16 Buffalo	704	60 Hanson	712	104 Perkins	708
18 Butte	708	62 Harding	708	106 Potter	700
20 Campbell	700	64 Hughes	704	108 Roberts	700
22 Charles Mix	704	66 Hutchinson	712	110 Sanborn	712
24 Clark	700	68 Hyde	704	112 Shannon	708
26 Clay	712	70 Jackson	704	114 Spink	700
28 Codington	700	72 Jerauld	704	116 Stanley	704
30 Corson	708	74 Jones	704	118 Sully	704
32 Custer	708	76 Kingsbury	712	120 Todd	704
34 Davison	712	78 Lake	712	122 Tripp	704
36 Day	700	80 Lawrence	700	124 Turner	712
38 Deuel	712	82 Lincoln	712	126 Union	712

County	SA	County	SA	County	SA
40 Dewey	708	84 Lyman	704	128 Walworth	700
42 Douglas	704	86 Marshall	700	132 Yankton	712
44 Edmunds	700	88 McCook	712	134 Ziebach	708

17–6.1.43. Tennessee Service Areas

County	SA	County	SA	County	SA
2 Anderson	724	66 Hamilton	720	130 Morgan	724
4 Bedford	732	68 Hancock	716	132 Obion	728
6 Benton	728	70 Hardeman	728	134 Overton	732
8 Bledsoe	720	72 Hardin	728	136 Perry	732
10 Blount	724	74 Hawkins	716	138 Pickett	724
12 Bradley	720	76 Haywood	728	140 Polk	720
14 Campbell	724	78 Henderson	728	142 Putnam	732
16 Cannon	732	80 Henry	728	144 Rhea	720
18 Carroll	728	82 Hickman	732	146 Roane	724
20 Carter	716	84 Houston	732	148 Robertson	732
22 Cheatham	732	86 Humphreys	732	150 Rutherford	732
24 Chester	728	88 Jackson	732	152 Scott	724
26 Claiborne	724	90 Jefferson	724	154 Sequatchie	720
28 Clay	732	92 Johnson	716	156 Sevier	724
30 Cocke	724	94 Knox	724	158 Shelby	728
32 Coffee	12	96 Lake	728	160 Smith	732
34 Crockett	728	98 Lauderdale	728	162 Stewart	732
36 Cumberland	724	100 Lawrence	732	164 Sullivan	716
38 Davidson	732	102 Lewis	732	166 Sumner	732
40 De Kalb	732	104 Lincoln	12	168 Tipton	728
42 Decatur	732	106 Loudon	724	170 Trousdale	732
44 Dickson	732	108 Macon	732	172 Unicoi	716
46 Dyer	728	110 Madison	728	174 Union	724
48 Fayette	728	112 Marion	720	176 Van Buren	720
50 Fentress	724	114 Marshall	732	178 Warren	732
52 Franklin	12	116 Maury	732	180 Washington	716
54 Gibson	728	118 McMinn	720	182 Wayne	732
56 Giles	732	120 McNairy	728	184 Weakley	728
58 Grainger	724	122 Meigs	720	186 White	732
60 Greene	716	124 Monroe	720	188 Williamson	732
62 Grundy	720	126 Montgomery	732	190 Wilson	732
64 Hamblen	724	128 Moore	12		

17–6.1.44. Texas Service Areas

County	SA	County	SA	County	SA
2 Anderson	784	172 Gillespie	744	342 Moore	740
4 Andrews	776	174 Glasscock	776	344 Morris	784
6 Angelina	764	176 Goliad	748	346 Motley	772
8 Aransas	748	178 Gonzales	780	348 Nacogdoches	784
10 Archer	788	180 Gray	740	350 Navarro	752
12 Armstrong	740	182 Grayson	752	352 Newton	764
14 Atascosa	780	184 Gregg	784	354 Nolan	776
16 Austin	744	186 Grimes	764	356 Nueces	748
18 Bailey	772	188 Guadalupe	780	358 Ochiltree	740
20 Bandera	780	190 Hale	772	360 Oldham	740
22 Bastrop	744	192 Hall	772	362 Orange	764
24 Baylor	788	194 Hamilton	736	364 Palo Pinto	736
26 Bee	748	196 Hansford	740	366 Panola	784
28 Bell	744	198 Hardeman	788	368 Parker	752
30 Bexar	780	200 Hardin	764	370 Parmer	772
32 Blanco	744	202 Harris	764	372 Pecos	756
34 Borden	776	204 Harrison	784	374 Polk	764
36 Bosque	752	206 Hartley	740	376 Potter	740
38 Bowie	784	208 Haskell	788	378 Presidio	760
40 Brazoria	764	210 Hays	744	380 Rains	784
42 Brazos	744	212 Hemphill	740	382 Randall	740
44 Brewster	760	214 Henderson	784	384 Reagan	776
46 Briscoe	772	216 Hidalgo	748	386 Real	756
48 Brooks	748	218 Hill	752	388 Red River	784
50 Brown	736	220 Hockley	772	390 Reeves	760
52 Burleson	744	222 Hood	752	392 Refugio	748
54 Burnet	744	224 Hopkins	784	394 Roberts	740
56 Caldwell	744	226 Houston	764	396 Robertson	744

UMI
VOL 66 ISS 246 DE 21 2001
UMI

County	SA	County	SA	County	SA
58 Calhoun	748	228 Howard	776	398 Rockwall	752
60 Callahan	736	230 Hudspeth	760	400 Runnels	736
62 Cameron	748	232 Hunt	752	402 Rusk	784
64 Camp	784	234 Hutchinson	740	404 Sabine	784
66 Carson	740	236 Irion	776	406 San Augustine	784
68 Cass	784	238 Jack	788	408 San Jacinto	764
70 Castro	772	240 Jackson	764	410 San Patricio	748
72 Chambers	764	242 Jasper	764	412 San Saba	736
74 Cherokee	784	244 Jeff Davis	760	414 Schleicher	756
76 Childress	772	246 Jefferson	764	416 Scurry	776
78 Clay	788	248 Jim Hogg	768	418 Shackelford	736
80 Cochran	772	250 Jim Wells	748	420 Shelby	784
82 Coke	776	252 Johnson	752	422 Sherman	740
84 Coleman	736	254 Jones	736	424 Smith	784
86 Collin	752	256 Karnes	780	426 Somervell	752
88 Collingsworth	740	258 Kaufman	752	428 Starr	768
90 Colorado	744	260 Kendall	780	430 Stephens	736
92 Comal	780	262 Kenedy	748	432 Sterling	776
94 Comanche	736	264 Kent	772	434 Stonewall	772
96 Concho	736	266 Kerr	780	436 Sutton	756
98 Cooke	752	268 Kimble	736	438 Swisher	772
100 Coryell	744	270 King	772	440 Tarrant	752
102 Cottle	772	272 Kinney	756	442 Taylor	736
104 Crane	776	274 Kleberg	748	444 Terrell	756
106 Crockett	756	276 Knox	788	446 Terry	772
108 Crosby	772	278 La Salle	768	448 Throckmorton	788
110 Culberson	760	280 Lamar	784	450 Titus	784
112 Dallam	740	282 Lamb	772	452 Tom Green	776
114 Dallas	752	284 Lampasas	744	454 Travis	744
116 Dawson	776	286 Lavaca	780	456 Trinity	764
118 De Witt	780	288 Lee	744	458 Tyler	764
120 Deaf Smith	740	290 Leon	764	460 Upshur	784
122 Delta	784	292 Liberty	764	462 Upton	776
124 Denton	752	294 Limestone	752	464 Uvalde	756
126 Dickens	772	296 Lipscomb	740	466 Val Verde	756
128 Dimmit	768	298 Live Oak	748	468 Van Zandt	784
130 Donley	740	300 Llano	744	470 Victoria	748
132 Duval	768	302 Loving	760	472 Walker	764
134 Eastland	736	304 Lubbock	772	474 Waller	764
136 Ector	776	306 Lynn	772	476 Ward	776
138 Edwards	756	308 Madison	764	478 Washington	744
140 El Paso	760	310 Marion	784	480 Webb	768
142 Ellis	752	312 Martin	776	482 Wharton	764
144 Erath	736	314 Mason	736	484 Wheeler	740
146 Falls	744	316 Matagorda	764	486 Wichita	788
148 Fannin	752	318 Maverick	768	488 Wilbarger	788
150 Fayette	744	320 McCulloch	736	490 Willacy	748
152 Fisher	776	322 McLennan	744	492 Williamson	744
154 Floyd	772	324 McMullen	768	494 Wilson	780
156 Foard	788	326 Medina	780	496 Winkler	776
158 Fort Bend	764	328 Menard	736	498 Wise	752
160 Franklin	784	330 Midland	776	500 Wood	784
162 Freestone	752	332 Milam	744	502 Yoakum	772
164 Frio	780	334 Mills	738	504 Young	788
166 Gaines	776	336 Mitchell	776	506 Zapata	768
168 Galveston	764	338 Montague	752	508 Zavala	768
170 Garza	772	340 Montgomery	764		

17–6.1.45 Utah Service Areas

County	SA	County	SA	County	SA
2 Beaver	792	22 Iron	792	42 Sevier	792
4 Box Elder	800	24 Juab	796	44 Summit	800
6 Cache	800	26 Kane	792	46 Tooele	800
8 Carbon	796	28 Millard	792	48 Uintah	796
10 Daggett	888	30 Morgan	800	50 Utah	796
12 Davis	800	32 Piute	792	52 Wasatch	796
14 Duchesne	796	34 Rich	800	54 Washington	792
16 Emery	796	36 Salt Lake	800	56 Wayne	792
18 Garfield	792	38 San Juan	792	58 Weber	800
20 Grand	152	40 Sampete	796		

17–6.1.46 Vermont Service Areas

County	SA	County	SA	County	SA
2 Addison	808	12 Franklin	808	22 Rutland	804
4 Bennington	804	14 Grand Isle	808	24 Washington	808
6 Caledonia	804	16 Lamoille	808	26 Windham	804
8 Chittenden	808	18 Orange	804	28 Windsor	804
10 Essex	804	20 Orleans	804		

17–6.1.47 Virginia Service Areas

County	SA	County	SA	County	SA
2 Accomack	164	92 Isle of Wight	816	184 Westmoreland	820
4 Albemarle	812	94 James City	820	186 Wise	716
6 Alleghany	812	96 King and Queen	820	188 Wythe	824
8 Amelia	820	98 King George	168	190 York	816
10 Amherst	812	100 King William	820	610 Alexandria	168
12 Appomattox	812	102 Lancaster *	820	612 Bedford	824
14 Arlington	168	104 Lee	716	614 Bristol	716
16 Augusta	812	106 Loudon	168	616 Buena Vista	812
18 Bath	812	108 Louisa	812	618 Charlottesville	812
20 Bedford	824	110 Lunenburg	820	620 Chesapeake	816
22 Bland	824	112 Madison	168	622 Clifton forge	812
24 Botetourt	824	114 Mathews	820	630 Colonial Heights	820
26 Brunswick	820	116 Mecklenburg	820	632 Covington	812
28 Buchanan	716	118 Middlesex	820	635 Danville	824
30 Buckingham	820	120 Montgomery	824	638 Emporia	816
32 Campbell	824	122 Nelson	812	640 Fairfax	168
34 Caroline	168	124 New Kent	820	650 Falls Church	168
36 Carroll	584	126 Northampton	164	660 Franklin	816
38 Charles City	820	128 Northumberland	820	670 Fredericksburg	168
40 Charlotte	820	130 Nottoway	820	674 Galax	824
42 Chesterfield	820	132 Orange	168	680 Hampton	816
44 Clarke	828	134 Page	168	682 Harrisonburg	168
46 Craig	824	136 Patrick	584	690 Hopewell	820
48 Culpeper	168	138 Pittsylvania	824	692 Lexington	812
50 Cumberland	820	140 Powhatan	820	695 Lynchburg	824
52 Dickenson	716	142 Prince Edward	820	700 Manassas	168
54 Dinwiddie	820	144 Prince George	820	710 Manassas Park	168
56 Essex	820	146 Prince William	168	715 Martinsville	824
58 Fairfax	168	148 Pulaski	824	720 Newport News	816
60 Fauquier	168	150 Rappahannock	168	730 Norfolk	816
62 Floyd	824	152 Richmond	820	735 Norton	716
64 Fluvanna	812	154 Roanoke	824	740 Petersburg	820
66 Franklin	824	156 Rockbridge	812	750 Poquoson	816
68 Frederick	828	158 Rockingham	168	760 Portsmouth	816
70 Giles	824	160 Russell	716	765 Radford	824
72 Gloucester	820	162 Scott	716	770 Richmond	820
74 Goochland	820	164 Shenandoah	828	780 Roanoke	824
76 Grayson	584	166 Smyth	824	790 Salem	824
78 Greene	812	168 Southampton	816	795 South Boston	820
80 Greensville	816	170 Spotsylvania	168	797 Staunton	812
82 Halifax	820	172 Stafford	168	800 Suffolk	816
84 Hanover	820	174 Surry	816	820 Virginia Beach	816
86 Henrico	820	176 Sussex	816	825 Waynesboro	812
88 Henry	824	178 Tazewell	824	830 Williamsburg	820
90 Highland	812	180 Warren	828	840 Winchester	828
		182 Washington	716		

17–6.1.48. Washington Service Areas

County	SA	County	SA	County	SA
2 Adams	844	28 Grays Harbor	840	54 Pierce	840
4 Asotin	836	30 Island	840	56 San Juan	832
6 Benton	836	32 Jefferson	840	58 Skagit	832
8 Chelan	848	34 King	840	60 Skamania	660
10 Clallam	840	36 Kitsap	840	62 Snohomish	840
12 Clark	660	38 Kittitas	848	64 Spokane	844
14 Columbia	836	40 Klickitat	660	66 Stevens	844
16 Cowlitz	660	42 Lewis	840	68 Thurston	840
18 Douglas	848	44 Lincoln	844	70 Wahkiakum	660
20 Ferry	844	46 Mason	840	72 Walla Walla	836

UMI
VOL 66
ISS 246
DE 21
2001
UMI

County	SA	County	SA	County	SA
22 Franklin	836	48 Okanogan	832	74 Whatcom	832
24 Garfield	836	50 Pacific	840	76 Whitman	844
26 Grant	848	52 Pend Oreille	844	78 Yakima	848

17–6.1.49. West Virginia Service Areas

County	SA	County	SA	County	SA
2 Barbour	856	38 Jefferson	828	76 Pocahontas	852
4 Berkeley	828	40 Kanawha	852	78 Preston	856
6 Boone	852	42 Lewis	856	80 Putnam	852
8 Braxton	852	44 Lincoln	860	82 Raleigh	852
10 Brooke	676	46 Logan	860	84 Randolph	856
12 Cabell	860	48 Marion	856	86 Ritchie	624
14 Calhoun	852	50 Marshall	676	88 Roane	852
16 Clay	852	52 Mason	860	90 Summers	852
18 Doddridge	856	54 McDowell	824	92 Taylor	856
20 Fayette	852	56 Mercer	824	94 Tucker	856
22 Gilmer	856	58 Mineral	828	96 Tyler	624
24 Grant	828	60 Mingo	860	98 Upshur	856
26 Greenbrier	852	62 Monongalia	856	100 Wayne	860
28 Hampshire	828	64 Monroe	852	102 Webster	852
30 Hancock	676	66 Morgan	828	104 Wetzel	856
32 Hardy	828	68 Nicholas	852	106 Wirt	624
34 Harrison	856	70 Ohio	676	108 Wood	624
36 Jackson	624	72 Pendleton	828	110 Wyoming	852
		74 Pleasants	624		

17–6.1.50. Wisconsin Service Areas

County	SA	County	SA	County	SA
2 Adams	868	50 Iowa	868	98 Polk	864
4 Ashland	412	52 Iron	412	100 Portage	876
6 Barron	864	54 Jackson	864	102 Price	876
8 Bayfield	412	56 Jefferson	868	104 Racine	872
10 Brown	876	58 Juneau	868	106 Richland	868
12 Buffalo	864	60 Kenosha	872	108 Rock	868
14 Burnett	412	62 Kewaunee	876	110 Rusk	864
16 Calumet	868	64 La Crosse	868	112 Sauk	868
18 Chippewa	864	66 Lafayette	868	114 Sawyer	412
20 Clark	864	68 Langlade	876	116 Shawano	876
22 Columbia	868	70 Lincoln	876	118 Sheboygan	872
24 Crawford	868	72 Manitowoc	868	120 St. Croix	416
26 Dane	868	74 Marathon	876	122 Taylor	876
28 Dodge	872	76 Marinette	876	124 Trempealeau	864
30 Door	876	78 Marquette	868	126 Vernon	868
32 Douglas	412	80 Menominee	876	128 Vilas	876
34 Dunn	864	82 Milwaukee	872	130 Walworth	872
36 Eau Claire	864	84 Monroe	868	132 Washburn	412
38 Florence	876	86 Oconto	876	134 Washington	872
40 Fond Du Lac	872	88 Oneida	876	136 Waukesha	872
42 Forest	876	90 Outagamie	876	138 Waupaca	876
44 Grant	868	92 Ozaukee	872	140 Waushara	868
46 Green	868	94 Pepin	864	142 Winnebago	868
48 Green Lake	868	96 Pierce	864	144 Wood	876

17–6.1.51. Wyoming Service Areas

County	SA	County	SA	County	SA
2 Albany	880	18 Hot Springs	884	34 Sheridan	884
4 Big Horn	884	20 Johnson	884	36 Sublette	888
6 Campbell	708	22 Laramie	880	38 Sweetwater	888
8 Carbon	880	24 Lincoln	888	40 Teton	884
10 Converse	880	26 Natrona	880	42 Uinta	888
12 Crook	708	28 Niobrara	880	44 Washakie	884
14 Fremont	888	30 Park	884	46 Weston	708
16 Goshen	880	32 Platte	880		

17–6.2. Service Areas. Geographic Application of Rates for Additional Services.

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
4	Birmingham AL	27.75	42.00	D	1.90	0.20	4.40	D
8	Dothan AL	19.00	28.25	B	1.15	0.16	2.10	B
12	Huntsville AL	23.25	35.00	C	1.30	0.20	3.35	C
16	Mobile AL	19.00	28.25	B	1.15	0.16	2.10	B
20	Montgomery AL	19.00	28.25	B	1.45	0.20	2.95	B
24	Flagstaff AZ	37.00	55.75	F	1.40	0.17	2.35	F
28	Phoenix AZ	32.50	48.75	E	1.60	0.20	3.35	E
32	Tucson AZ	37.00	55.75	F	1.40	0.17	2.45	F
36	Yuma AZ	32.50	48.75	E	1.15	0.15	2.05	E
40	Ft. Smith/Fayetteville AR	23.25	35.00	C	1.15	0.16	2.20	C
44	Jonesboro AR	19.00	28.25	B	1.05	0.15	1.90	B
48	Little Rock AR	27.75	42.00	D	1.40	0.17	2.20	D
52	Fresno CA	45.75	68.50	H	1.50	0.20	4.10	H
56	Los Angeles CA	45.75	68.50	H	2.00	0.21	5.25	H
60	Monterey CA	45.75	68.50	H	1.75	0.20	4.60	H
64	Redding CA	37.00	55.75	F	1.40	0.17	1.90	F
68	Sacramento CA	45.75	68.50	H	1.70	0.20	4.65	H
72	San Bernadino CA	41.25	62.00	G	2.00	0.21	5.25	G
76	San Diego CA	45.75	68.50	H	2.00	0.21	5.25	H
80	San Francisco CA	45.75	68.50	H	2.15	0.22	5.25	H
84	Yuba City CA	45.75	68.50	G	1.40	0.17	1.90	G
88	Alberta Prov., CN	50.75	76.00	H	2.25	0.25	5.10	H
92	British Columbia, CN	50.75	76.00	H	2.25	.025	5.40	H
96	Labrador Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
100	Manitoba Prov., CN	45.75	68.50	G	2.10	0.25	5.05	G
104	New Brunswick, CN	45.75	68.50	G	2.10	0.25	5.05	G
108	Newfoundland, CN	45.75	68.50	G	2.10	0.25	5.05	G
112	Northwest Terr., CN	50.75	76.00	H	2.25	0.25	5.40	H
116	Nova Scotia, CN	45.75	68.50	G	2.10	0.25	5.05	G
120	Ontario Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
124	Pr. Edward Isl., CN	45.75	68.50	G	2.10	0.25	5.05	G
128	Quebec Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
132	Saskatchewan, CN	45.75	76.00	G	2.10	0.25	5.05	G
136	Yukon Prov., CN	50.75	76.00	H	2.25	0.25	5.40	H
140	Colorado Springs CO	37.00	55.75	F	1.45	0.20	5.25	F
144	Denver CO	32.50	48.75	E	1.60	0.20	5.50	E
148	Glenwood Springs CO	32.50	48.75	E	1.05	0.15	1.90	E
152	Grand Junction CO	37.00	55.75	F	1.60	0.20	3.80	F
156	Gunnison CO	32.50	48.75	E	1.25	0.17	2.75	E
160	Hartford CT	45.75	68.50	H	1.60	0.20	3.75	H
164	Dover DE	41.25	62.00	G	1.45	0.20	3.80	G
168	Washington DC	32.50	48.75	E	1.75	0.20	3.65	E
172	Ft. Myers FL	32.50	48.75	E	1.45	0.20	2.70	E
176	Jacksonville FL	19.00	28.25	B	1.40	0.17	2.35	B
180	Miami FL	37.00	55.75	F	1.60	0.20	4.85	F
184	Orlando FL	27.75	42.00	D	1.25	0.17	2.95	D
188	Pensacola FL	27.75	42.00	D	1.45	0.20	2.95	D
192	Tallahassee FL	27.75	42.00	D	1.60	0.20	2.95	D
196	Tampa FL	27.75	42.00	D	1.50	0.20	4.05	D
200	Albany GA	27.75	42.00	D	1.15	0.16	2.10	D
204	Atlanta GA	32.50	48.75	E	1.70	0.20	3.10	E
208	Augusta GA	23.25	35.00	C	1.25	0.17	2.35	C
212	Columbus GA	14.25	21.25	A	1.25	0.17	2.05	A
216	Savannah GA	27.75	42.00	D	1.70	0.20	3.10	D
220	Hawaii, HI	25.75	38.75	C	1.55	0.21	3.05	C
224	Honolulu, HI	30.75	46.50	D	1.90	0.22	2.25	D
228	Kauai, HI	25.75	38.75	C	1.55	0.21	3.05	C
232	Maui, HI	25.75	38.75	C	1.55	0.21	3.05	C
236	Boise ID	37.00	55.75	F	1.45	0.20	4.05	F

UMI
VOL 66 ISS 246 DE 21 2001
UMI

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
240	Pocatello ID	37.00	55.75	F	1.40	0.17	2.35	F
244	Twin Falls ID	27.75	42.00	D	1.20	0.16	3.55	D
248	Bloomington IL	37.00	55.75	F	1.60	0.20	4.75	F
252	Chicago IL	45.75	68.50	H	2.25	0.25	5.20	H
256	Mount Vernon IL	45.75	68.50	H	1.45	0.20	3.55	H
260	Peoria IL	32.50	48.75	E	1.50	0.20	4.30	E
264	Springfield IL	37.00	55.75	F	1.45	0.20	4.60	F
268	Elkhart IN	41.25	62.00	G	1.50	0.20	4.10	G
272	Evansville IN	27.75	42.00	D	1.40	0.17	3.05	D
276	Ft. Wayne IN	37.00	55.75	F	1.40	0.17	2.85	F
280	Indianapolis IN	32.50	48.75	E	1.25	0.17	2.45	E
284	Lafayette IN	32.50	48.75	E	1.40	0.17	2.85	E
288	Terre Haute IN	37.00	55.75	F	1.30	0.17	2.80	F
292	Davenport IA	32.50	48.75	E	1.50	0.20	4.10	E
296	Des Moines IA	27.75	42.00	D	1.60	0.20	4.10	D
300	Sioux City IA	37.00	55.75	F	1.40	0.17	3.55	F
304	Waterloo IA	32.50	48.75	E	1.50	0.20	4.10	E
308	Dodge City KS	32.50	48.75	E	1.05	0.15	1.90	E
312	Great Bend KS	32.50	48.75	E	1.05	0.15	1.90	E
316	Topeka KS	27.75	42.00	D	1.40	0.17	3.80	D
320	Wichita KS	32.50	48.75	E	1.25	0.17	3.05	E
324	Bowling Green KY	23.25	35.00	C	1.15	0.16	2.35	C
328	Lexington KY	19.00	28.25	B	1.25	0.17	2.45	B
332	Louisville KY	27.75	42.00	D	1.70	0.21	4.85	D
336	Paducah KY	23.25	35.00	C	1.15	0.15	1.90	C
340	Somerset KY	23.25	35.00	C	1.05	0.15	1.90	C
344	Alexandria LA	32.50	48.75	E	1.25	0.17	2.35	E
348	Lafayette LA	27.75	42.00	D	1.45	0.20	2.75	D
352	Monroe LA	41.25	62.00	G	1.15	0.16	2.35	G
356	New Orleans LA	19.00	28.25	B	1.25	0.17	2.35	B
360	Shreveport LA	19.00	28.25	B	1.25	0.17	2.35	B
364	Augusta ME	32.50	48.75	E	1.25	0.17	2.95	E
368	Bangor ME	32.50	48.75	E	1.25	0.17	3.35	E
372	Portland ME	37.00	55.75	F	1.50	0.20	3.35	F
376	Presque Isle ME	32.50	48.75	E	1.40	0.17	3.35	E
380	Baltimore MD	37.00	55.75	F	1.50	0.20	2.70	F
384	Boston MA	45.75	68.50	H	1.75	0.20	4.20	H
388	Springfield MA	41.25	62.00	G	1.45	0.20	3.10	G
392	Not Applicable							
396	Cadillac MI	41.25	62.00	G	1.40	0.17	3.85	G
400	Detroit MI	45.75	68.50	H	1.75	0.20	5.25	H
404	Grand Rapids MI	45.75	68.50	H	1.45	0.20	2.85	H
408	Marquette MI	41.25	62.00	G	1.40	0.17	2.45	G
412	Duluth MN	45.75	68.50	H	1.50	0.20	4.40	H
416	Minneapolis MN	45.75	68.50	H	2.00	0.21	4.75	H
420	Rochester MN	41.25	62.00	G	1.40	0.20	2.95	G
424	Greenville MS	27.75	42.00	D	1.15	0.16	1.90	D
428	Gulfport MS	27.75	42.00	D	1.40	0.17	2.20	D
432	Jackson MS	37.00	55.75	F	1.20	0.16	2.45	F
436	Meridian MS	19.00	28.25	B	1.05	0.15	1.90	B
440	Tupelo MS	27.75	42.00	D	1.05	0.15	1.90	D
444	Columbia MO	19.00	28.25	B	1.45	0.20	2.85	B
448	Kansas City MO	32.50	48.75	E	1.45	0.20	4.10	E
452	Springfield MO	19.00	28.25	B	1.05	0.15	1.90	B
456	St. Louis MO	37.00	55.75	F	1.40	0.17	3.35	F
460	Billings MT	23.25	35.00	C	1.45	0.20	5.25	C
464	Butte MT	32.50	48.75	E	1.25	0.16	3.55	E
468	Glasgow MT	32.50	48.75	E	1.05	0.15	2.70	E

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
472	Great Falls MT	41.25	62.00	G	1.45	0.20	5.25	G
476	Missoula MT	37.00	55.75	F	1.40	0.17	3.05	F
480	Grand Island NE	23.25	35.00	C	1.05	0.15	2.35	C
484	North Platte NE	23.25	35.00	C	1.15	0.16	2.25	C
488	Omaha NE	27.75	42.00	D	1.40	0.17	2.80	D
492	Scottsbluff NE	14.25	21.25	A	1.15	0.16	2.10	A
496	Elko NV	45.75	68.50	H	1.05	0.15	1.90	H
500	Las Vegas NV	45.75	68.50	H	1.85	0.21	5.05	H
504	Reno NV	41.25	62.00	G	2.15	0.22	3.80	G
508	Laconia NH	32.50	48.75	E	1.25	0.17	2.65	E
512	Lakewood NJ	37.00	55.75	F	1.75	0.21	4.10	F
516	Albuquerque NM	32.50	48.75	E	1.25	0.17	3.05	E
520	Carlsbad NM	32.50	48.75	E	1.25	0.17	2.00	E
524	Clovis NM	27.75	42.00	D	1.15	0.15	2.25	D
528	Gallup NM	32.50	48.75	E	1.25	0.17	3.05	E
532	Las Cruces NM	27.75	42.00	D	1.05	0.15	2.05	D
536	Albany NY	37.00	55.75	F	1.45	0.20	3.55	F
540	Buffalo NY	45.75	68.50	H	1.60	0.20	4.80	H
544	New York NY	45.75	68.50	H	2.25	0.22	5.20	H
548	Plattsburgh NY	32.50	48.75	E	1.25	0.17	3.10	E
552	Syracuse NY	41.25	62.00	G	1.45	0.20	3.80	G
556	Utica NY	27.75	42.00	D	1.25	0.17	2.25	D
560	Asheville NC	23.25	35.00	C	1.15	0.16	2.35	C
564	Charlotte NC	27.75	42.00	D	1.25	0.17	2.25	D
568	Fayetteville NC	14.25	21.25	A	1.15	0.16	2.35	A
572	Greenville NC	23.25	25.00	C	1.05	0.16	1.90	C
576	Jacksonville NC	19.00	28.25	B	1.15	0.16	2.10	B
580	Raleigh Durham NC	27.75	42.00	D	1.20	0.16	2.25	D
584	Winston Salem NC	27.75	42.00	D	1.15	0.16	2.45	D
588	Bismarck ND	23.25	35.00	C	1.75	0.20	4.40	C
592	Dickinson ND	23.25	35.00	C	1.75	0.20	4.40	C
596	Fargo ND	27.75	42.00	D	1.75	0.20	4.40	D
600	Grand Forks ND	41.25	62.00	G	1.45	0.20	3.15	G
604	Minot ND	23.25	35.00	C	1.75	0.20	4.40	C
608	Cincinnati OH	37.00	55.75	F	1.70	0.20	4.35	F
612	Cleveland OH	45.75	68.50	H	1.75	0.21	4.75	H
616	Columbus OH	27.75	42.00	D	1.25	0.17	3.10	D
620	Dayton OH	37.00	55.75	F	1.85	0.20	2.70	F
624	Marietta OH	27.75	42.00	D	1.50	0.17	4.35	D
628	Toledo OH	32.50	48.75	E	1.75	0.20	4.20	E
632	Enid OK	37.00	55.75	F	1.20	0.16	2.80	F
636	Oklahoma City OK	19.00	28.25	B	1.70	0.20	4.00	B
640	Tulsa OK	32.50	48.75	E	1.70	0.20	3.35	E
644	Bend OR	37.00	55.75	F	1.60	0.20	4.85	F
648	Eugene OR	37.00	55.75	F	2.05	0.21	5.05	F
652	Medford OR	41.25	62.00	G	1.45	0.20	4.20	G
656	Pendleton OR	32.50	48.75	E	1.45	0.20	4.20	E
660	Portland OR	45.75	68.50	H	2.05	0.21	5.05	H
664	Altoona PA	32.50	48.75	E	1.40	0.17	2.45	E
668	Erie PA	37.00	55.75	F	1.25	0.17	3.80	F
672	Philadelphia PA	41.25	62.00	G	1.85	0.20	5.25	G
676	Pittsburgh PA	32.50	55.75	F	2.05	0.21	4.65	F
680	Scranton PA	41.25	62.00	G	1.25	0.17	2.05	G
684	Providence RI	45.75	68.50	H	1.45	0.17	3.15	H
688	Anderson SC	23.25	35.00	C	1.25	0.17	2.25	C
692	Charleston SC	32.50	48.75	E	1.25	0.17	2.25	E
696	Columbia SC	23.25	35.00	C	1.25	0.17	2.35	C
700	Aberdeen SD	27.75	42.00	D	1.20	0.16	2.70	D

SA No	Service area	HTOS paragraph 17.9		HTOS para 17.30	HTOS paragraph 17.21 storage			HTOS para 17.23
		Reg	OT	L/C	1st day	EA ADD day	W/H	P/D from SIT
704	Pierre SD	27.75	42.00	D	1.20	0.16	2.20	D
708	Rapid City SD	19.00	28.25	B	1.40	0.17	2.45	B
712	Sioux Falls SD	32.50	48.75	E	1.40	0.17	3.05	E
716	Bristol TN	37.00	55.75	F	1.05	0.15	2.35	F
720	Chattanooga TN	23.25	35.00	C	1.25	0.17	2.80	C
724	Knoxville TN	27.75	42.00	D	1.05	0.15	2.65	D
728	Memphis TN	37.00	55.75	F	1.75	0.20	4.95	F
732	Nashville TN	23.25	35.00	C	1.25	0.17	2.35	C
736	Abilene TX	27.75	42.00	D	1.25	0.17	2.10	D
740	Amarillo TX	27.75	42.00	D	1.05	0.15	2.65	D
744	Austin TX	32.50	48.75	E	1.20	0.16	2.45	E
748	Corpus Christi TX	37.00	55.75	F	1.05	0.15	1.90	F
752	Dallas TX	32.50	48.75	E	2.20	0.25	4.75	E
756	Del Rio TX	27.75	42.00	D	1.05	0.15	1.90	D
760	El Paso TX	23.25	35.00	C	1.05	0.15	1.90	C
764	Houston TX	27.75	42.00	D	1.50	0.20	4.00	D
768	Laredo TX	27.75	42.00	D	1.05	0.15	1.90	D
772	Lubbock TX	27.75	42.00	D	1.40	0.17	2.65	D
776	Midland TX	23.25	35.00	C	1.70	0.20	4.35	C
780	San Antonio TX	23.25	35.00	C	1.40	0.17	3.55	C
784	Tyler TX	27.75	42.00	D	1.05	0.15	2.35	D
788	Wichita Falls TX	37.00	55.75	F	1.40	0.17	2.70	F
792	Cedar City UT	27.75	42.00	D	1.25	0.17	3.05	D
796	Provo UT	27.75	42.00	D	1.40	0.17	2.70	D
800	Salt Lake City UT	27.75	42.00	D	1.40	0.17	2.70	D
804	Bennington VT	27.75	42.00	D	1.05	0.20	2.90	D
808	Burlington VT	27.75	42.00	D	1.45	0.20	2.85	D
812	Charlottesville VA	27.75	42.00	D	1.15	0.16	2.35	D
816	Norfolk VA	23.25	35.00	C	1.25	0.17	2.25	C
820	Richmond VA	32.50	48.75	E	1.05	0.16	3.80	E
824	Roanoke VA	27.75	42.00	D	1.05	0.16	3.80	D
828	Winchester VA	32.50	48.75	E	1.05	0.15	1.90	E
832	Bellingham WA	41.25	62.00	G	1.60	0.20	4.40	G
836	Richland WA	41.25	62.00	G	1.40	0.17	3.90	G
840	Seattle WA	41.25	62.00	G	2.10	0.21	5.25	G
844	Spokane WA	41.25	62.00	G	1.40	0.17	3.90	G
848	Yakima WA	37.00	55.75	F	1.50	0.20	3.90	F
852	Charleston WV	32.50	48.75	E	1.50	0.17	4.35	E
856	Clarksburg WV	32.50	48.75	E	1.40	0.17	3.05	E
860	Huntington WV	27.75	42.00	D	1.50	0.20	4.35	D
864	Eau Claire WI	32.50	48.75	E	1.05	0.15	3.05	E
868	Madison WI	37.00	55.75	F	1.40	0.17	3.05	F
872	Milwaukee WI	37.00	55.75	F	1.60	0.20	4.20	F
876	Wausau/Green Bay WI	37.00	55.75	F	1.40	0.17	4.05	F
880	Casper WY	32.50	48.75	E	1.25	0.17	2.35	E
884	Cody WY	27.75	42.00	D	1.25	0.15	2.45	D
888	Rock Springs WY	45.75	68.50	H	1.90	0.22	4.20	H

17–7 Reserved for Future Use

17–8. Auxiliary Services

A. Auxiliary services rates will be applied under the conditions stated in this HTOS Paragraph 17–8.

B. Charges for auxiliary service:

(1) Per additional vehicle: US$29.45 per hour.

(2) Labor: Apply labor rates contained in HTOS Paragraph 17–9.

17–9. Labor Charges

A. Covers all services for which no charges are otherwise provided in the solicitation when such services are authorized and confirmed in writing on a DD Form 619 (Statement of Assessorial Services Performed) or comparable commercial form by the RTO.

B. Charges based on time are computed by multiplying the hourly rate by the time involved. When fractions of an hour are used, charges will be as follows: 15 minutes or less, one quarter of an hour; 16 to 30 minutes, one-half hour; 31 to 45 minutes, three-quarters of an hour; and in excess of 45 minutes, 1 hour.

C. See HTOS Paragraph 17–6, Geographical Application of Rates and Schedules, for Labor Rates to apply to HHG and UB shipments WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS, CANADA, AND HAWAII.

D. Applicable rates are shown below:

	Rates (In dollars and cents)	
	Regular hour per man	Overtime hour per man
WHEN Services is Performed at all points outside Conus, Canada, and Hawaii, Except as Provided below	US$11.90	US$17.85
Germany, Belgium, and The Netherlands	$17.90	$26.85
Alaska	$42.00	$50.00

17–10. Waiting Time

A. This HTOS Paragraph 17–10 will not apply when waiting time is the fault of the carrier.

B. Loading and unloading or pickup and delivery will be performed during regular working hours. (See definition in Chapter II). Waiting time charges will be applicable only between these hours at rate of US$29.45 per hour per vehicle less free waiting time.

C. Free waiting time is allowed as follows: For direct deliveries, 3 hours; for deliveries from storage-in-transit, 1 hour, for attempted pickup of HHG only, 1 hour.

D. Additional waiting time, after expiration of the free waiting time, requires RTO prior approval and is subject to carrier's convenience.

E. Charges based on time are computed by multiplying the hourly rate by the time involved. When fractions of an hour are used, the charges will be as follows: 15 minutes or less, one quarter of an hour; 16 to 30 minutes, one-half hour; 31 to 45 minutes, three quarters of an hour; and in excess of 45 minutes, one hour.

F. Labor charges for the vehicle driver and helper(s) will be at the hourly labor rate in HTOS Paragraph 17.9.

17–11. Overtime Loading and Unloading

A. Except as otherwise provided for and subject to applicable notes below, an additional charge of US$2.35 per net CWT (45kg) will apply for each overtime loading or each overtime unloading when this service is performed other than during regular working hours and when authorized and confirmed, in writing, by the RTO.

B. Overtime loading and unloading charges apply when: the service is performed other than during regular working hours when this service is made necessary by landlord requirements, or is required by prevailing laws or ordinances, or is rendered at the specific request of RTO or its agent, made in writing, and the shipper or its agent is notified of the additional charge specified in this HTOS Paragraph 17.11 for this service before the loading and/or unloading begins. (See notes below.)

Note 1: Overtime loading and unloading charges will be based on the net hundredweight (45 kg) of the shipments subject to a minimum of 500 pounds (227 kg).

Note 2: Overtime loading and unloading charges will not apply when service is performed for carrier's convenience or when shipments are delivered to a warehouse at destination.

Note 3: Overtime loading and unloading services will be rendered only at the option of the carrier. Service involving loading or unloading at a warehouse must be agreed to by the warehouseman.

Note 4: Other than regular working hours is defined as follows:

(a) Between 5 p.m. and 8 a.m., except Saturdays, Sundays, and holidays.

(b) During any hour on Saturday.

(c) During any hour on Sunday.

(d) During any hour on officially declared Foreign National, U.S. National or State holidays, except such charges apply on State holidays ONLY when service is rendered within that State on such holiday.

17–12. Reweigh—Household Effects

A. The carrier will reweigh the shipment prior to delivery when requested to do so by the RTO. The lower of the two net scales weights will be used for determining transportation charges. No reweigh service charge will apply.

B. Reweigh provisions are not applicable when constructive weight is used in accordance with HTOS Paragraph 4–10.5.

17–13. Reserved for Future Use.

17–14. Unpacking Service Unaccompanied Air Baggage Only.

A. Additional charges apply when unpacking service is requested by the RTO and verified by the employee.

(1) When carrier unpacks the external container/crate, and places each article in the residence or other building, a US$.60 per cubic foot (US$20.00 per cubic meter) charge will apply.

(2) When a carrier unpacks the internal cartons and places each article in the residence or other building, the carrier has the option of billing a per cubic foot (cubic meters) charge as outlined in (1) above; or a per carton charge, whichever is greater. Carrier cannot bill for both.

B. Charges. Charges shall be in accordance with the following.

Description	Per	Unpacking rate (In US dollars and cents)
CFFT = Cubic Foot (Cubic Meter) or Fraction Thereof.		
BARRELS		
Barrel, dish-pack, drum or specially designed containers for use in lieu of barrel, dish-pack or drum of not less than 5 cubic feet (0.15 cubic meters) capacity.	Each	US$3.40
BOXES		
Not over 5 cubic feet (0.15 cubic meters)	Each	US$1.90
Over 5 but not over 8 cubic feet (over 0.15 but not over 0.24 cubic meters).	Each	US$3.25

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Description	Per	Unpacking rate (In US dollars and cents)
Over 8 cubic feet (0.24 cubic meters)	CFFT	US$.60 (US$20.00 per cubic meter)
CARTONS		
Double or Triple-Wall (Federal Specifications PPP–B–1364 or PPP–B–640		
Not over 4 cubic feet (0.12 cubic meters)	Each	US$3.50
Over 4 but not over 6 cubic feet (0.12 cubic meters)	Each	US$3.65
Over 6 but not over 8 cubic feet (over 0.18 but not over 0.24 cubic meters).	Each	US$4.35
Over 8 cubic feet (0.24 cubic meters)	CFFT	US$0.60 (US$20.00 per cubic meter)
When cartons of more than 1½ cubic feet (0.045 cubic meters) are used and no rate is shown for the size carton used, charges will be based on the rate for the next lower size carton shown. Cubic content must be shown on all cartons.		
WARDROBE CARTON		
Not less than 10 cubic feet (0.3 cubic meters)	Each	None.
CONTAINERS OR CRATES specifically designated for mirrors, painting, glass or marble tops and similar fragile articles.		
Gross measurement of specially designed container or crate	CFFT	US$.60 (US$20.00 per cubic meter)
Minimum charge per specially designed container or crate	Each	US$2.15

17–15. Crates/Special Containers.

A. Compensation to the carrier is authorized for construction of crates/containers necessary for safe transit of motorcycles, mopeds, minibikes and items of unusual nature such as but not limited to, hang gliders, sail boards, hot tubs, slate pool tables, marble/glass table tops and certain grandfather clocks (protruding glass faces), and other similar articles requiring special protection.

B. External shipping containers are authorized for items that will not fit into standard household effects shipping containers.

(1) Compensation: US$4.55 per cubic foot, (US$152.00 per cubic meter) no minimum charge.

(2) Container becomes property of the Government.

C. Internal crates are authorized for items that will fit not standard household effects shipping containers but require additional protection for safe transit.

(1) Compensation: US$14.45 per crate or US$3.35 per cubic foot (US$112.00 per cubic meter) whichever is greater.

(2) Crates remain the property of employee.

D. Carriers are responsible for notifying the RTO of any property requiring crates/containers prior to performing service. RTO must provide written authorization prior to construction of crates/containers.

E. With the exception of vehicular equipment, such as motorcycles, mopeds, minibikes, the RTO is responsible for determining the necessity of carrier's, as well as employees', requests for crating. Vehicular items are not automatically approved for crating. See HTOS Paragraph 4.7.1.4. Note: Some countries require that motorcycles be crated separately. It is the responsibility of the carrier to determine which destinations have this requirement.

F. If a carrier utilizes crates retained by the employee from a previous move, compensation for service performed will be made under labor costs.

17–16. Extra Pickup or Delivery

A. Portions of a shipment may be picked up or delivered at one or more places, origins, destinations, or enroute, provided all portions of the shipment are made available to the carrier at the same time. Service under this HTOS Paragraph 17–16 will be authorized by proper entry on the GBL or by ordering of service and certification on DD Form 619 or comparable commercial form by the RTO.

B. Charges for extra pickup or delivery of HHG will be computed as follows:

Contiguous United States and Hawaii	Overseas, excluding Alaska	Alaska
Within A 50 Mile Radius Of The Extra Origin/Destination		
US $57.10 per extra pickup/delivery	US $57.10 per extra pickup/delivery	US $38.60 per extra pickup/delivery;
51–150 Miles Of The Origin/Destination Point		
US $57.10 per shipment plus US $0.05 net per CWT (45kg) per highway mile from 51 miles to 150 miles inclusive (subject to a 50 mile minimum).	US $57.10 per shipment plus US$0.03 net per CWT (45kg) per highway mile from 51 miles to 150 miles inclusive (subject to a 50 mile minimum).	US $77.20 per shipment plus US $0.85 for each 20 miles or fraction thereof.

Contiguous United States and Hawaii	Overseas, excluding Alaska	Alaska
151 Miles And Over Of The Origin/Destination Point		
US$57.10 per shipment plus US $0.05 net CWT (US $.05) (45kg) per highway mile from 51 miles to 150 miles inclusive plus US $0.01 net CWT (45kg) per highway mile from 151 miles and over.	US$57.10 per shipment plus US $0.03 net CWT (45kg) per highway mile from 51 miles to 150 miles inclusive plus US$0.01 net CWT (45kg) per highway mile from 151 miles and over.	US $77.20 per shipment plus US$0.85 net CWT (45kg) for each 20 miles or fraction thereof from 51 miles and over.

C. Land transportation rates, when applicable, will be calculated on the weight of the additional pickup or delivery. When the carrier is required to unstuff and restuff containers to affect the extra pickup/delivery, the labor rates in HTOS Paragraph 17–9 will apply.

D. Charges for Extra Pickup or Delivery of UB will be as follows:

(1) Portions of a shipment may be picked up or delivered at one or more places at origin or destination, provided that all portions of the shipment are made available to the carrier at the same time. Services performed under this HTOS Paragraph 17–16 will be ordered on a DD Form 619 or comparable commercial form and certified by the RTO.

(2) An additional charge of US$12.85 per extra pickup or delivery per shipment will apply.

17–17. Attempted Delivery to Residence From SIT

A. Compensation to the carriers for attempted delivery to residence from Storage-In-Transit when failure to deliver is not the fault of the carrier, will be as follows:

(1) Round trip mileage from the warehouse to residence and return.

(a) If total mileage is 50 miles (80 km) or less, Pickup or Delivery Transportation Rate on storage-in-transit shipments will apply.

(b) If total mileage is greater than 50 miles, (80 km) applicable provisions of HTOS Paragraphs 17–33 17–47 will apply.

(2) Warehouse Handling: A second warehouse handling charge will apply if the shipment is again placed into SIT.

Note: If the shipment remains on the vehicle until delivered, this additional warehouse handling charge WILL NOT APPLY.

(3) Waiting Time: The provisions of HTOS Paragraph 17.9 will apply if carrier is required to wait at residence.

(4) Storage-In-Transit: If property is again placed into SIT, the same SIT control number will apply. Storage charges in CONUS and CANADA will continue at the additional daily rate. Storage charges in overseas areas will continue on a 30-day basis for HHG and a 15-day basis for UB.

17–18. Attempted Pickup and Direct Delivery Charges

A. Whenever attempted pick-up or direct delivery occurs, under conditions stated in definition of the term in HTOS paragraph 16–1, service will be supported by DD Form 619 or comparable commercial form certified by the RTO.

B. Charges for this service will be computed as follows:

(1) *Per vehicle:* US$29.45 per hour.

(2) Labor: Apply labor rates contained in HTOS Paragraph 17–9.

(3) Waiting Time: One hour free time in accordance with HTOS Paragraph 17–10 (Household Goods only).

17–19. Delivery to Storage in Government Facilities

Shipment delivered to nontemporary storage in Government facilities will be considered as terminated. Such Government facilities will be considered the final delivery point for the shipment.

17–20. Reserved for Future Use

17–21. Storage-in-Transit and Warehouse Handling Charge Household Goods Surface Shipment

A. Storage-in-transit and warehouse handling charges are in dollars and cents per net cwt (45kg) and apply based on location of warehouse where storage-in-transit service is provided. Charges for these services will be based on actual weight of goods stored in transit, subject to a 1000 pound (454 kg) minimum. Rates in effect on the date of initial pick-up at origin will apply.

B. This HTOS Paragraph 17–21 applies when SIT is ordered by RTO and performed by a carrier or its agent.

(1) CONUS and CANADA locations: Storage charges apply for each day of storage, and apply exact time storage-in-transit service is rendered. Storage days will include the day goods are placed in storage, and the day goods are removed from storage. If the goods are removed from storage on the same day they are placed in storage, one (1) day storage will apply.

(2) OVERSEAS locations: Storage charges apply for 30 days of storage or fraction thereof, and each time storage-in-transit service is rendered. Storage days will include the day goods are placed in storage, but not the day removed from storage. If the goods are removed from storage on the same day they are placed in storage, one 30 day storage period will apply.

C. Warehouse handling charge applies once each time shipment is placed in storage-in-transit.

D. Except as provided below, a shipment or portion thereof may be placed in storage-in-transit one or more times for an aggregate period not to exceed 180 days unless additional storage is authorized by the RTO, who will notify carrier of the extension of the projected termination date. When not removed from SIT at the expiration of the time limit specified herein, liability of the carrier shall terminate at midnight on the 180th day or at the end of the extended SIT period authorized by the RTO. The through GBL character of the shipment will cease, the warehouse will be considered the destination of the shipment, the warehouseman will become the agent for the shipper and the shipment becomes subject to the rules, regulations and charges of the warehouseman.

Exception: When the shipper has requested final delivery of their property, on a date five days preceding the expiration of storage, and when the carrier, through no fault of the shipper, does not deliver the property prior to the end of the 180 day period, or any extension thereof, then storage-in-transit charges will not apply after the 180 days or at the end of the extended SIT period. All other provisions under the original tender will continue in effect until property is delivered to final residence.

E. Delivery to residence will be made on the date requested. If prior commitments prevent the carrier from delivery on that date, then delivery will be made as soon as possible thereafter. In any event, storage charges will cease on the following date, whichever is earlier:

(1) Requested delivery date, or five working days following the date of notification to deliver, whichever is later; or

(2) Date of actual delivery for CONUS and CANADA locations, or the date

UMI VOL 66 ISS 246 DE 21 2001 UMI

immediately prior to the date of actual delivery for overseas locations.

F. See HTOS Paragraph 17–6 Geographical Application of Rates and Schedules, for Storage-In-Transit and Warehouse Handling Rate to apply WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS, CANADA, AND HAWAII (other than points listed below).

Overseas

Application: Rates apply as shown below based on the location of warehouse when Storage-In-Transit service is provided. Also see HTOS Paragraph 4–18.

Location	Overseas storage for each 30 days or fraction thereof per cwt (45kg)	Warehouse handling charge per cwt. (45kg)
At any point other than those listed below	US$2.45	US$2.80
Alaska	US$4.90	US$3.85
Australia (both East and West)	US$2.95	US$3.70
Beligum	US$2.60	US$3.30
Germany, United Kingdom, and Scotland, Switzerland	US$1.95	US$1.95
Netherlands, The	US$3.70	US$4.90
Iceland	US$3.24	US$3.24
Japan (less Okinawa)	US$7.39	US$6.58
Okinawa	US$4.33	US$4.32

17–22. Storage-in-Transit and Warehouse Handling Charge Household Goods, Unaccompanied Air Baggage

Rates are in dollars and cents per gross CWT (45 kg) and apply in territory or areas shown below, based on location of warehouse where SIT service is provided:

When warehouse is located at	Sit for each 15 days or fraction thereof		Warehouse handling charge	
	Per gross Cwt (45kg)	Minimum charge per each 15 days or fraction thereof	Per gross Cwt (45kg)	Minimum charge per shipment
Any point within CONUS and CANADA	US$1.45	US$7.55	US$1.45	US$7.55
Any overseas point not listed below	US$1.15	US$5.95	US$1.15	US$5.95
Alaska	US$2.35	US$11.85	US$2.35	US$11.85
Hawaii	US$2.10	US$10.70	US$3.00	US$12.90
Puerto Rico	US$2.00	US$10.10	US$2.00	US$10.10

Note 1: Delivery to residence will be made on the date specified by the RTO provided the RTO has given the carrier 3 working days notice. The carrier must deliver the shipment no later than 3 working days after RTO notification. If notification is given before noon of a working day, that day will be considered day one. If notification is given after noon of a working day, the following day will be considered day one. Storage charges will cease as shown below:

(a) After day 3, when the shipment is delivered beyond the 3rd working day at the convenience of the carrier.

(b) The day after the shipment is removed from storage, when the shipment is delivered beyond the 3rd working day at the RTO's request.

Note 2: This HTOS Paragraph 17–22 applies when SIT is ordered by a RTO and performed by a carrier or its agent. Storage days will include the day goods are placed in storage and the day goods are removed from storage. If the goods are removed from storage on the same day they are placed in storage, one 15-day storage period will apply.

Note 3: Warehouse Handling Charge applies once each time shipment is placed in SIT.

17–23. Pick-Up or Delivery Transportation Rates To Apply on Storage-in-Transit Shipment Household Effects, Surface

A. Rates in this HTOS Paragraph 17–23 apply to drayage of SIT shipments as follows:

(1) From residence to SIT facility at origin.

(2) From destination SIT facility to final residence.

Note: Applies to shipments stored at either a commercial or Government facility.

B. Shipments stored within CONUS, CANADA, or HAWAII:

(1) Pick-up or delivery within 50 miles (80 km) radius of SIT facility, apply the rates in applicable schedule in this item.

(2) Pick-up or delivery beyond 50 miles (80 km) radius of SIT facility, apply the schedules in this item, plus the rate for additional mileage beyond 50 miles, refer to HTOS Paragraphs 17–33–17.47.

C. Shipments stored within overseas area refer to HTOS Paragraphs 17–33–17.47.

D. RTO may order, subject to carrier's concurrence, the services provided by this HTOS Paragraph 17–23 during other than regular working hours. The rates specified below plus overtime loading and/or unloading charges will apply. These additional charges will not apply when service is performed for the convenience of the carrier. When such service is ordered, it must be confirmed in writing. Rates in effect on date of initial pickup at origin will apply.

E. See HTOS Paragraph 17–6, Geographical Application of Rates and Schedules for Pick-up or Delivery Transportation Schedules to apply WHEN SERVICE IS PERFORMED AT POINTS WITHIN CONUS AND CANADA.

Note 1: Rates are expressed in terms of dollars per shipment and in terms of dollars per cwt (45 kg) for each 100 pounds (45 kg) or fraction thereof, in excess of 22,999 pounds (10,432 kg). The "Add'l CWT. (45 kg)" rate applies for each additional 100 pounds (45 kg), or fraction thereof, in excess of 22,999 pounds (10,432 kg), *plus* the base rate per shipment.

Note 2: For rates applicable for Hawaii, apply Schedule D; for Alaska apply Schedule H.

PICKUP OR DELIVERY TRANSPORTATION RATES ON STORAGE-IN-TRANSIT SHIPMENTS

Weight		Schedules							
From	Thru	A	B	C	D	E	F	G	H
1000	1099	125	139	154	171	190	211	234	260
1100	1199	135	150	166	185	205	227	252	280
1200	1299	145	161	178	198	220	244	271	301
1300	1399	155	172	191	212	235	261	289	321
1400	1499	165	183	203	225	250	277	306	342
1500	1599	175	194	215	239	265	294	326	362
1600	1699	184	205	227	252	280	311	345	383
1700	1799	194	216	239	266	295	327	363	403
1800	1899	204	227	252	279	310	344	382	424
1900	1999	214	238	264	293	325	361	400	445
2000	2199	226	251	279	310	344	382	424	470
2200	2399	241	268	297	330	366	407	451	501
2400	2599	256	284	316	350	389	432	479	532
2600	2799	271	301	334	371	411	457	507	563
2800	2999	286	317	352	391	434	482	535	593
3000	3199	301	334	371	411	456	507	562	624
3200	3399	316	350	389	432	479	532	590	655
3400	3599	330	367	407	452	502	557	618	686
3600	3799	345	383	425	472	524	582	646	717
3800	3999	360	400	444	492	547	607	673	748
4000	4199	374	416	461	512	568	631	700	777
4200	4399	388	431	478	531	589	654	726	806
4400	4599	402	446	495	550	610	678	752	835
4600	4799	416	462	513	569	632	701	778	864
4800	4999	430	477	530	588	653	724	804	892
5000	5199	444	493	547	607	674	748	830	921
5200	5399	458	508	564	626	695	771	856	950
5400	5599	471	523	581	645	716	794	882	979
5600	5799	485	539	598	664	737	818	908	1007
5800	5999	499	554	615	683	758	841	934	1036
6000	6199	513	569	632	702	779	864	959	1065
6200	6399	527	585	649	720	800	888	985	1094
6400	6599	541	600	666	739	821	911	1011	1123
6600	6799	555	616	683	758	842	934	1037	1151
6800	6999	568	631	700	777	863	958	1063	1180
7000	7199	582	646	717	796	884	981	1089	1209
7200	7399	596	662	734	815	905	1004	1115	1238
7400	7599	610	677	752	834	926	1028	1141	1266
7600	7799	624	692	769	853	947	1051	1167	1295
7800	7999	638	708	786	872	968	1074	1193	1324
8000	8499	661	733	814	904	1003	1113	1236	1372
8500	8999	693	769	854	948	1052	1167	1296	1438
9000	9499	725	805	893	992	1101	1222	1356	1505
9500	9999	757	840	933	1035	1149	1276	1416	1572
10000	10499	789	876	972	1079	1198	1330	1476	1639
10500	10999	821	911	1011	1123	1246	1383	1535	1704
11000	11499	854	948	1052	1167	1296	1438	1597	1772
11500	11999	886	983	1091	1211	1345	1493	1657	1839
12000	12499	917	1018	1129	1254	1392	1545	1715	1903
12500	12999	946	1050	1166	1294	1437	1595	1770	1965
13000	13499	976	1083	1203	1335	1482	1645	1826	2027
13500	13999	1006	1116	1239	1376	1527	1695	1881	2088

UMI VOL 66 ISS 246 DE 21 2001 UMI

PICKUP OR DELIVERY TRANSPORTATION RATES ON STORAGE-IN-TRANSIT SHIPMENTS—Continued

Weight		Schedules							
From	Thru	A	B	C	D	E	F	G	H
14000	14499	1035	1149	1276	1416	1572	1745	1937	2150
14500	14999	1065	1182	1312	1457	1617	1795	1992	2211
15000	15499	1095	1215	1349	1497	1662	1845	2048	2273
15500	15999	1125	1248	1386	1538	1707	1895	2103	2335
16000	16499	1153	1280	1421	1577	1750	1943	2157	2394
16500	16999	1180	1310	1454	1614	1792	1989	2207	2450
17000	17499	1207	1340	1488	1651	1833	2035	2258	2507
17500	17999	1235	1370	1521	1688	1874	2080	2309	2563
18000	18499	1262	1401	1555	1726	1916	2126	2360	2620
18500	18999	1289	1431	1588	1763	1957	2172	2411	2676
19000	19499	1316	1461	1622	1800	1998	2218	2462	2733
19500	19999	1343	1491	1655	1837	2039	2264	2513	2789
20000	20499	1371	1521	1689	1875	2081	2310	2564	2846
20500	20999	1398	1552	1722	1912	2122	2356	2615	2902
21000	21499	1425	1582	1756	1949	2163	2401	2666	2959
21500	21999	1452	1612	1789	1986	2205	2447	2716	3015
22000	22499	1480	1642	1823	2023	2246	2493	2767	3072
22500	22999	1507	1672	1856	2061	2287	2539	2818	3128
Add'l Cwt. (45 kg)	....	5	6	7	7	8	9	10	11

17–24. Pickup or Delivery Transportation Rates To Apply on Storage-in-Transit Shipment Unaccompanied Air Baggage

A. Rates apply for pickup of shipments at residence and transportation to origin agents warehouse for SIT or for delivery from SIT at destination agent's warehouse to residence or other final delivery point.

Note: This HTOS Paragraph 17–24 applies when either a commercial or Government storage facility is used.

B. Rates apply in territory or areas shown below based on location of warehouse where SIT service is provided. Charges are subject to a US$32.55 minimum per shipment.

C. The following rates apply within 50-mile (80 km) radius of warehouse:

Applicable rates when warehouse is located at	Rates per gross Cwt (45kg)
Any point within CONUS and CANADA	US$8.85
Any overseas point not listed below	US$4.40
Alaska	US$12.55
Germany	US$7.80
Hawaii	US$11.15

D. For distances over a 50-mile (80 km) radius:

(1) Within CONUS, CANADA and the Island of Oahu, Hawaii, apply the rates in the applicable linehaul rate tables or the above rates, whichever is greater, subject to a US$37.00 minimum charge per shipment.

(2) Overseas (except Germany, Alaska, and the Island of Oahu, Hawaii), apply the rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$30.65 minimum charge per shipment.

(3) Within Alaska, apply the rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$37.00 minimum charge per shipment.

(4) Germany (either origin and/or destination) apply rates in the applicable linehaul rate tables or the above rate, whichever is greater, subject to a US$30.65 minimum charge per shipment.

(5) An administrative fee of US$15.00 per shipment will apply.

E. For delivery or pickup of shipments from/to SIT to Islands of Hawaii other than Oahu, the rate of US$8.20 per gross CWT (45kg) in addition to the above will apply.

F. Pickups and/or deliveries may be made after regular hours or days at the written request of the RTO, subject to the carrier's concurrence and additional charges. If this service is provided for the convenience of the carrier with the member's concurrence, additional charges WILL NOT APPLY.

G. Charges noted above are in addition to the SFR.

17–25. Termination of Shipment Household Effects, Surface.

A. A shipment will be terminated when appropriate and ordered by the RTO or other authorized Government representative.

B. When an order for termination is received, the carrier will locate the shipment, advise RTO of shipment's location and effect the required change. RTO will issue a GBL correction notice to reflect the termination point.

C. The following will apply to shipment terminated for the convenience of the Government:

(1) Shipments terminated prior to departure from the origin area (both CONUS, CANADA and overseas). Applicable payments are authorized as follows:

(a) US$54.00 per net cwt (45kg) including the use of packing materials and stuffing into household effects containers.

(b) SIT Charges, warehouse handling charges and delivery to SIT when required and authorized.

(c) When SIT is not ordered, apply applicable line haul rate table to cover local drayage charges, when applicable.

(2) Shipments terminated subsequent to movement from origin but prior to commencement of ocean or air transportation. Applicable payments are authorized as follows:

(a) US$54.00 per new cwt (45kg) including the use of packing materials and stuffing into household effects containers.

(b) See HTOS Paragraphs 17–33–17–47 below regarding rates to cover local drayage from residence to warehouse.

(c) See HTOS Paragraphs 17–33–17–47 below regarding rates from origin warehouse to point of termination.

(d) SIT and warehouse handling charges apply when required and authorized.

(3) Shipments terminated during or subsequent to the completion of overwater transportation. Applicable payments are authorized as follows:

(a) Carrier's SFR to rate area of the termination point or carrier's SFR to the rate area of the original destination point whichever is less, minus US$3.00 per cwt (45kg) for non-performance of the unpacking services. The GBL correction notice will reflect this reduction.

(b) If the shipment is to be delivered to a residence or warehouse also within the rate area of the termination point, the carrier's SFR as specified above in paragraph c (1) plus appropriate charges for additional services as ordered by DOS on a DD Form 619 or comparable commercial form will apply.

(4) A termination charge of US$40.00 per shipment will apply in addition to other charges authorized herein. The termination charge will be supported by the GBL correction notice.

D. When shipments are terminated through the fault of the carrier, the provisions of the HTOS Paragraph 8–1.1.17, Shipment Termination, apply.

Note: Any charges for services performed after the termination of the shipment will be in accordance with applicable rules and rates.

17–26. Termination of Shipment Unaccompanied Air Baggage

A. A shipment will be terminated when appropriate and ordered by a RTO or other authorized Government representative.

B. When an order for termination is received, the carrier will locate the shipment, advise the RTO of shipment's location and effect the required change. The RTO will issue a GBL correction notice to reflect the termination point.

C. The following will apply to shipment terminated for the convenience of the Government:

(1) Shipments terminated prior to departure from the origin area (both CONUS, CANADA and overseas). Applicable payments are authorized as follows:

(a) US$5.00 per gross CWT (45kg) for packing, including the use of packing materials and stuffing into containers, if used.

(b) SIT charges, warehouse handling charges, and delivery to or from SIT, when required and authorized.

(c) Unpacking charges, if applicable.

(d) When SIT is not ordered, apply applicable linehaul rate table to cover local drayage charges.

(2) Shipments terminated subsequent to movement from origin but prior to commencement of ocean or air transportation. Applicable payments are authorized as follows:

(a) US$5.00 per gross CWT (45kg) for packing, including the use of packing materials and stuffing into containers, if used.

(b) Applicable linehaul rates for mileage from origin to point of termination.

(c) SIT and warehouse handling charges, when required and authorized.

(d) Unpacking charges, if applicable.

(3) Shipments terminated during or subsequent to the completion of overwater transportation. Applicable payments are authorized as follows:

(a) Carrier's SFR to rate area of the termination point or carrier's SFR to the rate area of the original destination point, whichever is less.

(b) If the shipment is to be delivered to a residence also within the rate area of the termination point, the carrier's SFR rate as specified above, plus appropriate charges for additional services as ordered by the RTO on a DD Form 619 or comparable commercial form, will apply.

(4) A termination charge of US$10.00 per shipment will apply in addition to other charges authorized herein. The termination charge will be supported by the GBL correction notice.

D. When shipments are terminated through the fault of the carrier, the provisions of HTOS Paragraph 8–1.1.17, Shipment Termination, apply. The termination charge of US$10.00 will not apply.

17–27. Reshipments-Household Effects, Surface

A. This HTOS Paragraph 17–27 applies to shipments which are terminated for the convenience of the government and which require over ocean transportation either by air or water. A reshipment normally will be handled by the carrier originally tendered the shipment if that carrier has a cost effective GSA approved rate on file.

B. The point of termination will be considered the final destination of the original shipment and the GBL will be adjusted accordingly.

C. Onward movement of property will be treated as a new shipment under a new GBL. The following procedures will be followed in determining applicable rates for the new GBL.

(1) If the carrier originally handling the shipment has a cost effective GSA approved rate on file to the new destination, that SFR, less US$54.00 per net cwt (45kg) will apply. The reduction will be supported by DOS annotation on the original GBL.

(2) If the carrier originally handling the shipment does not have a cost effective rate on file to the new destination, an acceptable rate wail be negotiated with RTO or the shipment will be tendered to another carrier.

(3) If the shipment is tendered to another carrier with a cost effective GSA approved rate on file, the SFR will be reduced by US$49.00 per net cwt (45kg) for non-performance of packing services. The shipment will be decontainerized and restuffed into other containers and original containers returned to owner.

(D) The above procedures are not applicable to those shipments terminated and retendered due to the fault of the carrier, such as carrier bankruptcy or failure to complete movement as defined in HTOS Paragraph 8–1.1.17. In these instances, due to the need to expedite onward movement, shipments will remain in the original carrier's containers. These containers will be made available to the original carrier by the new carrier at destination.

(E) Old and new GBLs will be cross-referenced.

17–28. Reshipments—Unaccompanied Air Baggage

(A) this HTOS Paragraph 17–28 applies to shipments which are terminated for convenience of the Government and which require over ocean transportation either by air or water. A reshipment normally will be handled by the carrier originally tendered the shipment if that carriers has a cost effective, GSA approved rate on file or negotiates an acceptable OTO rate with GSA.

(B) The point of termination will be considered the final destination and the original GBL will be terminated at that point.

(C) Onward movement of property will be treated as a new shipment under a new GBL. The following procedures will be followed in determining applicable rates for the new GBLy

(1) If the carrier originally handling the shipment has a cost effective, GSA approved rate on file to the new destination, that SFR, less US$5.00 per gross CWT (45kg) for nonperformance of packing will apply. The reduction will be supported by a RTO annotation on the original GBL.

(2) If the carrier originally handling the shipment does not have a cost effective, GSA approved rate on file to

UMI
VOL 66
ISS 246
DE 21 2001
UMI

the new destination, an acceptable OTO SFR will be negotiated or the shipment will be tendered to another carrier.

(3) If the shipment is tendered to another carrier, this SFR will be reduced by US$5.00 per gross CWT (45kg) for nonperformance of packing services.

D. Old and new GBLs will be cross-referenced.

17–29. Shipments Diverted After Commencement Of Transportation Service

A. Upon instructions made and confirmed in writing by RTO, shipments will be diverted subject to the provisions and charges shown below. However, when charges are assessed in accordance with the provisions of this item, the charges associated with delivery from SIT herein, will not apply.

B. The term "diverted" or "diversion" as used herein, means a change to a new destination point more than fifty (50) (80 km) miles from the original destination point. A diversion will be made only at an ocean port of embarkation, an ocean port of debarkation, or at destination point. If the RTO directs the movement of the shipment to a place which is less than 50 (80 km) miles from the original destination point of the shipment, the shipment will be terminated at the point designated by the RTO and no diversion will occur. In such instance, the SFR will be that applicable to the original destination point. If the RTO directs the movement of the shipment to a place which is more than 50 (80 km) miles from the original destination point, the transportation charges as stated below in this HTOS Paragraph 17–29 will apply.

Exception: The provisions of this HTOS Paragraph 17–29 will not apply if instructions are received to change the destination of a shipment that is in SIT as destination. In such instances, transportation charges to the new destination point from the SIT warehouse will be computed under the provisions of Pickup/Delivery Transportation Rate to apply on SIT shipments.

C. When an order for diversion is received by carrier, diligent effort will be made by carrier to locate the shipment at the ocean port of embarkation or debarkation, or destination and effect the change desired. The carrier will not be responsible for failure to effect the change ordered, unless such failure is due to error or negligence of the carrier or its employees.

D. Upon receipt of a diversion certificate from the RTO, and properly affixed to carrier's bill to support billing for diversion charges, a US$40.00 per shipment charge will apply and when applicable the following additional provisions, and associated rates and charges will apply:

SHIPMENTS ORIGINATING IN CONUS AND CANADA

Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a CONUS AND CANADA destination point.	There will be no diversions to a CONUS AND CANADA destination point. Shipment will be terminated at the POE and the international nature of the movement will cease (See Termination of Shipment Movement to the CONUS AND CANADA destination point will be affected under domestic shipping procedures.
Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a different overseas rate area using the same (original) POE where diver sion is effected..	Use the carrier's SFR from origin to new overseas rate area (See Note below).
Shipment diverted at CONUS AND CANADA ocean port of embarkation (POE).	Diverted to a different overseas rate area using a different (new) POE.	Use applicable line haul rate table from the origin to the original POE where diversion is effected. Use the carrier's SFR from the original POE where diversion is effected to the new overseas rate area (See Note below).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to a CONUS AND CANADA destination point.	There will be no diversion to a CONUS AND CANADA destination point. The shipment will be terminated at the POD and reshipped to CONUS AND CANADA. (See Reshipments and Termination of Shipment).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in the same overseas rate area as the original destination point.	Use the carrier's SFR from origin to destination rate area (no change in SFR).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses the same (original) POD..	Use the carrier's SFR from origin to new overseas rate area (See Note below).
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses a different POD but no further overwater transportation is required.	Use carrier's SFR to the original POD where diversion is effected. Rate will be negotiated with GSA or the RTO.
Shipment diverted at overseas ocean port of debarkation (POD).	Diverted to an overseas destination point in another overseas rate area which uses a different (new) POD and where further over water transportation is required.	There will be no diversion to a new overseas rate area requiring further over water transportation. Shipment will be terminated at the POD in accordance with Termination of Shipment procedures. Rate will be negotiated with GSA or RTO.

SHIPMENTS ORIGINATING IN CONUS AND CANADA—Continued

Shipment diverted at overseas destination	There will be no diversion from overseas destination. Shipments will terminate at destination and reshipment will be made as a new shipment..	

Note: If the carrier does not have a SFR on file from the POE or POD when diversion is effected to the new destination, the carrier will contact GSA or appropriate GSO for further guidance.

SHIPMENTS ORIGINATING OVERSEAS

Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at the overseas POE enroute to a CONUS OR CANADA destination.	There will be no diversion. The shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at overseas POE to an overseas destination point in the same overseas rate area as the POE where diversion is effected.	There will be no diversion. Shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at overseas ocean port of embarkation (POE).	Diverted at the overseas POE to another overseas destination point in another overseas rate area.	There will be no diversion. Shipment will be terminated at the overseas POE. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD)..	Diverted at CONUS OR CANADA POD to a new destination point in CONUS OR CANADA.	There will be no diversion. Shipment will be terminated at the CONUS OR CANADA POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD)..	Diverted at CONUS OR CANADA POD to a destination point overseas.	There will be no diversion. Shipment will be terminated at the POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD).	Diverted at an overseas POD to a destination point in CONUS OR CANADA.	There will be no diversion. Shipment will be terminated at the overseas POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA/ overseas port of debarkation (POD).	Diverted at overseas POD to a new destination point overseas.	There will be no diversion. Shipment will be terminated at the overseas POD. Reshipment to new destination will be made as a new shipment.
Shipment diverted at CONUS OR CANADA destination.	Diverted at CONUS OR CANADA POD to a new destination point in CONUS OR CANADA.	There will be no diversion of shipment at CONUS OR CANADA destination. Shipment will be terminated at CONUS OR CANADA destination. Reshipment to new destination will be made under domestic procedures as a new shipment.

17–30. Excessive Distance Carry Charges To and From Mini-Warehouse Storage (Long Carries)

On shipments picked up at or delivered to a mini-warehouse which involve a carry in excess of 75 feet (23 meters) between the carrier's vehicle and the outside entrance door of the actual storage area. An additional long carry charge will apply as follows:

RATES IN DOLLARS AND CENTS PER CWT (45KG) SCHEDULES

A	B	C	D	E	F	G	H
US$0.70	US$0.70	US$0.85	US$0.90	US$1.00	US$1.05	US$1.10	US$1.20

Note 1: Refer to HTOS Paragraph 17–6 for application of charges.

Note 2: Refer to HTOS Paragraph 17–6 for CONUS geographic application of rate schedules in this item. Apply Schedule H at all overseas points.

17–31. Reserved for Future Use

17–32. Surface Linehaul Rate Table for Overseas Areas Not Otherwise Specified

The following table will be used for all overseas areas not otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	3.80	1,737	3.30	3,637	3.00
51–75	5.40	1,723	4.65	3,613	4.20
76–100	6.15	1,724	5.30	3,623	4.80
101–150	6.90	1,740	6.00	3,567	5.35
151–200	7.65	1,752	6.70	3,583	6.00
201—250	8.45	1,740	7.35	3,592	6.60
251—300	9.20	1,740	8.00	3,601	7.20
301—350	10.00	1,741	8.70	3,587	7.80
351—400	10.75	1,740	9.35	3,573	8.35
401—450	11.50	1,740	10.00	3,581	8.95
451—500	12.30	1,740	10.70	3,589	9.60
501—550	13.05	1,740	11.35	3,595	10.20
551—600	13.80	1,740	12.00	3,601	10.80
601—650	14.55	1,739	12.65	3,605	11.40
651—700	15.35	1,740	13.35	3,596	12.00
701—750	16.10	1,740	14.00	3,601	12.60
751—800	16.90	1,734	14.65	3,605	13.20
801—850	17.65	1,740	15.35	3,597	13.80
851—900	18.40	1,740	16.00	3,601	14.40

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–33. Surface Linehaul Rate Table for Belgium, Italy, The Netherlands, and West Germany

The following table will be used for Belgium, Italy, The Netherlands, and West Germany for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1—50	3.95	1,747	3.45	3,595	3.10
51—75	6.35	1,733	5.50	3,637	5.00
76—100	7.95	1,736	6.90	3,595	6.20
101—150	9.50	1,748	8.30	3,591	7.45
151—200	11.10	1,739	9.65	3,607	8.70
201—250	12.20	1,746	10.65	3,587	9.55
251—300	13.35	1,738	11.60	3,587	10.40
301—350	14.45	1,738	12.55	3,602	11.30
351—400	15.55	1,737	13.50	3,601	12.15
401—450	16.65	1,742	14.50	3,601	13.05
451—500	17.80	1,736	15.45	3,599	13.90
501—550	18.85	1,741	16.40	3,610	14.80
551—600	20.00	1,736	17.35	3,609	15.65
601—650	21.10	1,740	18.35	3,597	16.50
651—700	22.20	1,739	19.30	3,596	17.35
701—750	23.30	1,743	20.30	3,597	18.25
751—800	24.45	1,739	21.25	3,596	19.10
801—850	25.55	1,738	22.20	3,604	20.00
851—900	26.65	1,738	23.15	3,603	20.85
901—950	27.75	1,741	24.15	3,562	21.50
951—1000	28.85	1,741	25.10	3,602	22.60
1001—1100	29.95	1,740	26.05	3,601	23.45
1101—1200	33.35	1,737	28.95	3,600	26.05
1201—1300	35.50	1,741	30.90	3,599	27.80
1301—1400	37.75	1,738	32.80	3,604	29.55
1401—1500	40.00	1,738	34.75	3,603	31.30
1501—1600	42.15	1,742	36.70	3,603	33.05

Note: Over 1,600 miles, add US$2.00 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

17–34. Surface Linehaul Rate Table for CONUS, Canada, Alaska, and Hawaii

The following table will be used for CONUS, Canada, Alaska, and Hawaii for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
1–10	14.95	653	9.75	1,683	8.20	3,464	7.10	6,536	5.80	11,690	5.65
11–20	15.50	668	10.35	1,653	8.55	3,369	7.20	6,667	6.00	11,501	5.75
21–30	16.30	672	10.95	1,644	9.00	3,356	7.55	6,464	6.10	11,410	5.80
31–40	17.20	652	11.20	1,643	9.20	3,348	7.70	6,598	6.35	11,528	6.10
41–50	18.05	649	11.70	1,659	9.70	3,382	8.20	6,244	6.40	11,532	6.15
51–60	18.80	636	11.95	1,657	9.90	3,374	8.35	6,611	6.90	11,131	6.40
61–70	19.60	641	12.55	1,650	10.35	3,305	8.55	6,737	7.20	11,501	6.90
71–80	20.30	648	13.15	1,613	10.60	3,378	8.95	6,749	7.55	11,444	7.20
81–90	21.30	639	13.60	1,618	11.00	3,346	9.20	6,696	7.70	11,767	7.55
91–100	22.10	629	13.90	1,619	11.25	3,432	9.65	6,881	8.30	11,133	7.70
101–110	22.90	634	14.50	1,614	11.70	3,317	9.70	6,887	8.35	11,138	7.75
111–120	23.60	634	14.95	1,592	11.90	3,278	9.75	6,934	8.45	11,787	8.30
121–130	24.30	636	15.45	1,573	12.15	3,260	9.90	6,910	8.55	11,720	8.35
131–140	24.90	639	15.90	1,579	12.55	3,251	10.20	6,942	8.65	11,458	8.45
141–150	25.60	637	16.30	1,589	12.95	3,182	10.30	6,952	8.95	11,866	8.85
151–160	26.15	643	16.80	1,572	13.20	3,197	10.55	6,863	9.05	11,934	9.00
161–170	26.80	648	17.35	1,534	13.30	3,294	10.95	7,051	9.65	11,254	9.05
171–180	27.40	646	17.70	1,549	13.70	3,241	11.10	7,028	9.75	11,324	9.20
181–190	27.95	646	18.05	1,563	14.10	3,192	11.25	7,254	10.20	11,236	9.55
191–200	28.65	639	18.30	1,574	14.40	3,251	11.70	7,077	10.35	11,305	9.75
201–220	29.45	639	18.80	1,575	14.80	3,230	11.95	7,331	10.95	11,179	10.20
221–240	30.25	640	19.35	1,597	15.45	3,211	12.40	7,226	11.20	11,304	10.55
241–260	30.85	650	20.05	1,582	15.85	3,168	12.55	7,267	11.40	11,685	11.10
261–280	31.70	641	20.30	1,621	16.45	3,210	13.20	7,243	11.95	11,448	11.40
281–300	32.35	645	20.85	1,641	17.10	3,182	13.60	7,353	12.50	11,473	11.95
301–320	33.20	647	21.45	1,628	17.45	3,187	13.90	7,454	12.95	11,584	12.50
321–340	33.85	653	22.10	1,634	18.05	3,214	14.50	7,338	13.30	11,685	12.95
341–360	34.45	664	22.85	1,637	18.70	3,198	14.95	7,412	13.85	11,524	13.30
361–380	35.10	666	23.35	1,658	19.35	3,205	15.50	7,433	14.40	11,542	13.85
381–400	35.75	662	23.65	1,675	19.80	3,213	15.90	7,523	14.95	11,559	14.40
401–420	36.35	672	24.40	1,656	20.20	3,258	16.45	7,538	15.50	11,459	14.80
421–440	37.15	667	24.75	1,669	20.65	3,274	16.90	7,527	15.90	11,661	15.45
441–460	37.95	661	25.05	1,701	21.30	3,259	17.35	7,586	16.45	11,417	15.65
461–480	38.60	668	25.75	1,678	21.60	3,278	17.70	7,594	16.80	11,358	15.90
481–500	39.35	665	26.15	1,691	22.10	3,267	18.05	7,579	17.10	11,544	16.45
501–520	39.95	671	26.80	1,691	22.65	3,232	18.30	7,585	17.35	11,620	16.80
521–540	40.55	668	27.05	1,705	23.05	3,263	18.80	7,532	17.70	11,594	17.10
541–560	40.95	670	27.40	1,716	23.50	3,252	19.10	7,561	18.05	11,535	17.35
561–580	41.60	669	27.80	1,702	23.65	3,290	19.45	7,527	18.30	11,443	17.45
581–600	41.90	670	28.05	1,730	24.25	3,242	19.65	7,614	18.70	11,583	18.05
601–620	42.50	673	28.60	1,707	24.40	3,287	20.05	7,542	18.90	11,620	18.30
621–640	42.95	672	28.85	1,709	24.65	3,278	20.20	7,703	19.45	11,445	18.55
641–660	43.35	673	29.15	1,709	24.90	3,318	20.65	7,613	19.65	11,481	18.80
661–680	43.65	672	29.30	1,748	25.60	3,266	20.90	7,675	20.05	11,432	19.10
681–700	44.20	670	29.60	1,747	25.85	3,296	21.30	7,587	20.20	11,644	19.60
701–725	44.55	674	30.00	1,744	26.15	3,282	21.45	7,628	20.45	11,619	19.80
726–750	44.95	680	30.55	1,729	26.40	3,281	21.65	7,723	20.90	11,541	20.10
751–775	45.45	679	30.85	1,738	26.80	3,284	22.00	7,746	21.30	11,437	20.30
776–800	45.80	683	31.25	1,732	27.05	3,350	22.65	7,630	21.60	11,584	20.85
801–825	46.25	666	31.70	1,729	27.40	3,365	23.05	7,636	22.00	11,646	21.35
826–850	46.40	689	31.95	1,741	27.80	3,353	23.30	7,691	22.40	11,599	21.65
851–875	46.55	690	32.10	1,742	27.95	3,364	23.50	7,779	22.85	11,554	22.00
876–900	46.95	690	32.35	1,744	28.20	3,355	23.65	7,814	23.10	11,533	22.20
901–925	47.15	695	32.75	1,747	28.60	3,399	24.30	7,688	23.35	11,641	22.65
926–950	47.60	695	33.05	1,746	28.85	3,418	24.65	7,660	23.60	11,721	23.05
951–975	47.75	698	33.30	1,757	29.25	3,426	25.05	7,745	24.25	11,555	23.35

UMI
VOL 66
ISS 246
DE 21 2001
UMI

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
976–1000	48.95	684	33.45	1,770	29.60	3,473	25.70	7,627	24.50	11,584	23.65
1001–1050	50.15	686	34.40	1,768	30.40	3,448	26.20	7,817	25.60	11,602	24.75
1051–1100 ...	51.60	684	35.25	1,774	31.25	3,489	27.25	7,692	26.20	11,726	25.60
1101–1150 ...	52.90	680	35.95	1,786	32.10	3,477	27.90	7,757	27.05	11,623	26.20
1151–1200 ...	54.20	686	37.15	1,780	33.05	3,462	28.60	7,805	27.90	11,635	27.05
1201–1250 ...	55.35	685	37.90	1,771	33.55	3,494	29.30	7,809	28.60	11,707	27.90
1251–1300 ...	56.60	682	38.60	1,783	34.40	3,489	30.00	7,814	29.30	11,714	28.60
1301–1350 ...	57.35	688	39.40	1,787	35.20	3,506	30.85	7,780	30.00	11,701	29.25
1351–1400 ...	58.15	694	40.35	1,772	35.75	3,519	31.45	7,784	30.60	11,726	29.90
1401–1450 ...	59.00	696	41.05	1,779	36.50	3,507	32.00	7,863	31.45	11,676	30.60
1451–1500 ...	59.75	700	41.80	1,780	37.20	3,522	32.75	7,842	32.10	11,683	31.25
1501–1550 ...	60.40	704	42.50	1,786	37.95	3,526	33.45	7,845	32.80	11,744	32.10
1551–1600 ...	61.20	705	43.10	1,792	38.60	3,539	34.15	7,813	33.35	11,803	32.80
1601–1650 ...	61.85	705	43.60	1,801	39.25	3,547	34.80	7,817	34.00	11,771	33.35
1651–1700 ...	62.55	707	44.20	1,808	39.95	3,555	35.50	7,809	34.65	11,775	34.00
1701–1750 ...	63.25	708	44.75	1,813	40.55	3,547	35.95	7,845	35.25	11,796	34.65
1751–1800 ...	63.85	712	45.45	1,820	41.35	3,560	36.80	7,805	35.90	11,783	35.25
1801–1850 ...	64.55	717	46.25	1,804	41.70	3,578	37.30	7,840	36.55	11,787	35.90
1851–1900 ...	65.05	721	46.85	1,796	42.05	3,620	38.05	7,822	37.20	11,791	36.55
1901–1950 ...	65.90	723	47.60	1,803	42.90	3,595	38.55	7,866	37.90	11,763	37.15
1951–2000 ...	66.50	725	48.20	1,799	43.35	3,599	39.00	7,857	38.30	11,875	37.90
2001–2050 ...	67.25	728	48.95	1,794	43.90	3,618	39.70	7,849	38.95	11,877	38.55
2051–2100 ...	67.85	728	49.35	1,806	44.55	3,632	40.45	7,793	39.40	11,879	39.00
2101–2150 ...	68.55	732	50.15	1,803	45.20	3,633	41.05	7,815	40.10	11,821	39.50
2151–2200 ...	69.20	730	50.50	1,814	45.80	3,642	41.70	7,789	40.60	11,853	40.10
2201–2250 ...	69.75	733	51.10	1,817	46.40	3,634	42.15	7,849	41.35	11,783	40.60
2251–2300 ...	70.25	737	51.75	1,815	46.95	3,647	42.80	7,814	41.80	11,785	41.05
2301–2350 ...	70.75	736	52.05	1,826	47.50	3,634	43.15	7,815	42.15	11,872	41.70
2351–2400 ...	71.30	741	52.80	1,809	47.75	3,657	43.65	7,863	42.90	11,791	42.15
2401–2450 ...	72.00	741	53.30	1,809	48.20	3,677	44.30	7,793	43.15	11,931	42.90
2451–2500 ...	72.45	744	53.90	1,813	48.85	3,665	44.75	7,804	43.65	43.35	
									11,918		
2501–2550 ...	72.65	747	54.20	1,812	49.10	3,662	44.95	7,885	44.30	11,824	43.65
2551–2600 ...	72.85	747	54.40	1,822	49.55	3,670	45.45	7,877	44.75	11,866	44.25
2601–2650 ...	73.50	746	54.80	1,831	50.15	3,654	45.80	7,878	45.10	11,828	44.45

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
2651–2700 ...	73.65	751	55.25	1,827	50.45	3,671	46.30	7,888	45.65	11,764	44.75
2701–2750 ...	73.95	750	55.45	1,827	50.65	3,669	46.45	7,906	45.90	11,791	45.10
2751–2800 ...	74.10	755	55.90	1,829	51.10	3,676	46.95	7,907	46.40	11,807	45.65
2801–2850 ...	74.75	752	56.20	1,828	51.35	3,701	47.50	7,891	46.85	11,757	45.90
2851–2900 ...	74.95	756	56.65	1,828	51.75	3,691	47.75	7,892	47.10	11,822	46.40
2901–2950 ...	75.15	756	56.80	1,831	52.00	3,708	48.20	7,884	47.50	11,836	46.65
2951–3000 ...	75.50	760	57.35	1,828	52.40	3,699	48.45	7,885	47.75	11,850	47.15
3001–3050 ...	76.00	761	57.80	1,831	52.90	3,702	48.95	7,878	48.20	11,864	47.65
3051–3100 ...	76.25	761	58.00	1,837	53.25	3,689	49.10	7,943	48.75	11,767	47.80
3101–3150 ...	76.40	762	58.20	1,842	53.60	3,698	49.55	7,904	48.95	11,829	48.25
3151–3200 ...	76.90	765	58.80	1,837	54.00	3,719	50.20	7,841	49.20	11,891	48.75
3201–3250 ...	77.05	766	59.00	1,838	54.20	3,724	50.45	7,874	49.85	11,831	48.95
3251–3300 ...	77.50	768	59.45	1,844	54.80	3,698	50.65	7,929	50.20	11,738	49.10
3301–3350 ...	77.55	768	59.55	1,848	55.00	3,713	51.05	7,899	50.40	11,751	49.35
3351–3400 ...	77.80	767	59.65	1,855	55.30	3,715	51.35	7,891	50.65	11,847	50.00
3401–3450 ...	78.15	765	59.75	1,857	55.45	3,734	51.75	7,892	51.05	11,801	50.20
3451–3500 ...	78.20	770	60.15	1,846	55.50	3,734	51.80	7,892	51.10	11,848	50.45
3501–3550 ...	78.40	770	60.30	1,858	56.00	3,715	52.00	7,901	51.35	11,837	50.65
3551–3600 ...	78.60	772	60.65	1,854	56.20	3,730	52.40	7,901	51.75	11,838	51.05
3601–3650 ...	78.90	773	60.95	1,858	56.60	3,718	52.60	7,902	51.95	11,816	51.15
3651–3700 ...	79.15	774	61.20	1,853	56.70	3,732	52.90	7,872	52.05	11,897	51.60
3701–3750 ...	79.60	773	61.50	1,849	56.85	3,747	53.25	7,880	52.45	11,852	51.80
3751–3800 ...	79.75	775	61.75	1,858	57.35	3,732	53.50	7,896	52.80	11,819	52.00

17–35. Surface Linehaul Rate Table for Greece, Spain, and Other European Countries Not Otherwise Specified

The following table will be used for Greece, Spain, and other European Countries not otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.80	1,751	4.20	3,572	3.75
51–75	6.75	1,734	5.85	3,624	5.30
76–100	7.70	1,728	6.65	3,640	6.05
101–150	8.65	1,735	7.50	3,627	6.80
151–200	9.60	1,740	8.35	3,593	7.50
201–250	10.55	1,745	9.20	3,587	8.25
251–300	11.55	1,741	10.05	3,602	9.05
301–350	12.50	1,737	10.85	3,613	9.80
351–400	13.45	1,740	11.70	3,590	10.50
401–450	14.40	1,744	12.55	3,602	11.30
451–500	15.40	1,734	13.35	3,611	12.05

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
501–550	16.30	1,743	14.20	3,606	12.80
551–600	17.30	1,740	15.05	3,589	13.50
601–650	18.25	1,737	15.85	3,609	14.30
651–700	19.20	1,740	16.70	3,605	15.05
701–750	20.15	1,742	17.55	3,602	15.80
751–800	21.15	1,740	18.40	3,598	16.55
801–850	22.10	1,738	19.20	3,605	17.30
851–900	23.05	1,740	20.05	3,601	18.05

Note: Over 900 miles, add US$1.70 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–36. Surface Linehaul Rate Table for Japan

The following table will be used for Japan for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	2.55	1,765	2.25	3,556	2.00
51–75	5.20	1,731	4.50	3,601	4.05
76–100	7.50	1,681	6.30	3,620	5.70
101–150	9.35	1,744	8.15	3,583	7.30
151–200	10.40	1,741	9.05	3,603	8.15
201–250	11.45	1,730	9.90	3,617	8.95
251–300	12.45	1,743	10.85	3,503	9.50
301–350	13.50	1,741	11.75	3,592	10.55
351–400	14.55	1,739	12.65	3,589	11.35
401–450	15.55	1,743	13.55	3,602	12.20
451–500	16.60	1,741	14.45	3,599	13.00
501–550	17.65	1,740	15.35	3,597	13.80
551–600	18.70	1,738	16.25	3,594	14.60
601–650	19.70	1,742	17.15	3,604	15.45
651–700	20.75	1,740	18.05	3,602	16.25
701–750	21.80	1,739	18.95	3,599	17.05
751–800	22.85	1,738	19.85	3,597	17.85
801–850	23.90	1,737	20.75	3,605	18.70
851–900	24.90	1,739	21.65	3,603	19.50

Note: Over 900 miles, add US$1.80 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–37. Surface Linehaul Rate Table for Korea, Philippines, and Other Pacific Areas

The following table will be used for Korea, Philippines, and other Pacific areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs incl.	Break point	4,000 lbs. and over
1–50	3.20	1,751	2.80	3,572	2.50
51–75	6.45	1,737	5.60	3,608	5.05
76–100	9.00	1,745	7.85	3,593	7.05
101–150	11.60	1,742	10.10	3,585	9.05
151–200	12.90	1,729	11.15	3,624	10.10
201–250	14.15	1,739	12.30	3,610	11.10
251–300	15.45	1,742	13.45	3,599	12.10
301–350	16.75	1,738	14.55	3,602	13.10
351–400	18.05	1,740	15.70	3,593	14.10

Note: Over 400 miles, add US$2.25 for each additional 100 miles or fraction thereof, to 400-mile rate shown above.

17–38. Surface Linehaul Rate Table for the United Kingdom

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving surface household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 Lbs. Incl.	Break point	2,000 to 3,999 lbs. include	Break point	4,000 Lbs. and over
1–50	4.60	1,740	4.00	3,651	3.65
51–75	6.55	1,726	5.65	3,611	5.10
76–100	7.45	1,732	6.45	3,597	5.80
101–150	8.40	1,727	7.25	3,587	6.50
151–200	9.30	1,742	8.10	3,605	7.30
201–250	10.25	1,737	8.90	3,596	8.00
251–300	11.15	1,740	9.70	3,609	8.75
301–350	12.10	1,736	10.50	3,601	9.45
351–400	13.05	1,740	11.35	3,595	10.20
401–450	13.95	1,742	12.15	3,573	10.85
451–500	14.90	1,739	12.95	3,599	11.65
501–550	15.80	1,741	13.75	3,608	12.40
551–600	16.75	1,738	14.55	3,602	13.10
601–650	17.65	1,740	15.35	3,610	13.85
651–700	18.60	1,742	16.20	3,593	14.55
701–750	19.55	1,740	17.00	3,601	15.30
751–800	20.50	1,737	17.80	3,607	16.05
801–850	21.40	1,739	18.60	3,603	16.75
851–900	22.35	1,737	19.40	3,598	17.45

Note: Over 900 miles, add US$1.60 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–39. Unaccompanied Air Baggage Linehaul Rate Table for Alaska

The following table will be used for Alaska for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
1–10	16.45	653	10.73	1,683	9.02	3,464	7.81	6,536	6.38	11,690	6.22
11–20	17.05	668	11.39	1,653	9.41	3,369	7.92	6,667	6.60	11,501	6.33
21–30	17.93	672	12.05	1,644	9.90	3,356	8.31	6,464	6.71	11,410	6.36
31–40	18.92	652	12.32	1,643	10.12	3,348	8.47	6,598	6.99	11,528	6.71
41–50	19.86	649	12.87	1,659	10.67	3,382	9.02	6,244	7.04	11,532	6.77
51–60	20.68	636	13.15	1,657	10.89	3,374	9.19	6,611	7.59	11,131	7.04
61–70	21.56	641	13.81	1,650	11.39	3,305	9.41	6,737	7.92	11,501	7.59
71–80	22.33	648	14.47	1,613	11.66	3,378	9.85	6,749	8.31	11,444	7.92
81–90	23.43	639	14.95	1,618	12.10	3,346	10.12	6,696	8.47	11,767	8.31
91–100	24.31	629	15.29	1,619	12.38	3,432	10.62	6,881	9.13	11,133	8.47
101–110	25.19	634	15.95	1,614	12.87	3,317	10.67	6,887	9.19	11,138	8.53
111–120	25.96	634	16.45	1,592	13.09	3,278	10.73	6,934	9.30	11,787	9.13
121–130	26.73	636	17.00	1,573	13.37	3,260	10.89	6,910	9.41	11,720	9.19
131–140	27.39	639	17.49	1,579	13.81	3,251	11.22	6,942	9.74	11,458	9.30
141–150	28.16	637	17.93	1,589	14.25	3,182	11.33	6,952	9.85	11,866	9.74
151–160	28.77	643	18.48	1,572	14.52	3,197	11.61	6,863	9.96	11,934	9.90
161–170	29.48	640	19.09	1,534	14.63	3,294	12.05	7,051	10.62	11,254	9.96
171–180	30.14	645	19.47	1,549	15.07	3,241	12.21	7,028	10.73	11,324	10.12
181–190	30.75	646	19.86	1,563	15.51	3,192	12.38	7,254	11.22	11,236	10.51
191–200	31.52	639	20.13	1,574	15.84	3,251	12.87	7,077	11.39	11,305	10.73
201–220	32.40	639	20.66	1,575	16.28	3,230	13.15	7,331	12.05	11,179	11.22

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
221–240	33.28	640	21.29	1,597	17.00	3,211	13.64	7,226	12.32	11,304	11.61
241–260	33.94	650	22.06	1,582	17.44	3,168	13.81	7,267	12.54	11,685	12.21
261–280	34.87	641	22.33	1,621	18.10	3,210	14.52	7,243	13.15	11,448	12.54
281–300	35.59	645	22.94	1,641	18.81	3,182	14.96	7,353	13.75	11,473	13.15
301–320	36.52	647	23.60	1,628	19.20	3,187	15.29	7,454	14.25	11,584	13.75
321–340	37.24	653	24.31	1,634	19.86	3,214	15.95	7,338	14.63	11,685	14.25
341–360	37.90	664	25.14	1,637	20.57	3,198	16.45	7,412	15.24	11,524	14.63
361–380	38.61	666	25.69	1,658	21.29	3,205	17.05	7,433	15.84	11,542	15.24
381–400	39.33	662	26.02	1,675	21.78	3,213	17.49	7,523	16.45	11,559	15.84
401–420	39.99	672	26.84	1,656	22.22	3,258	18.10	7,538	17.05	11,459	16.26
421–440	40.87	667	27.23	1,669	22.72	3,274	18.59	7,527	17.49	11,661	17.00
441–460	41.75	661	27.56	1,701	23.43	3,259	19.09	7,586	18.10	11,417	17.22
461–480	42.46	668	28.33	1,678	23.76	3,278	19.47	7,594	18.48	11,358	17.49
481–500	43.29	665	28.77	1,691	24.31	3,267	19.86	7,579	18.81	11,544	18.10
501–520	43.95	671	29.48	1,691	24.92	3,232	20.13	7,585	19.09	11,620	18.48
521–540	44.61	668	29.76	1,705	25.36	3,263	20.68	7,532	19.47	11,594	18.81
541–560	45.05	670	30.14	1,716	25.85	3,252	21.01	7,561	19.86	11,535	19.09
561–580	45.76	669	30.58	1,702	26.02	3,290	21.40	7,527	20.13	11,443	19.20
581–600	46.09	670	30.86	1,730	26.68	3,242	21.62	7,614	20.57	11,583	19.86
601–620	46.75	673	31.46	1,707	26.84	3,287	22.06	7,542	20.79	11,620	20.13
621–640	47.25	672	31.74	1,709	27.12	3,278	22.22	7,703	21.40	11,445	20.41
641–660	47.69	673	32.07	1,709	27.39	3,318	22.72	7,613	21.62	11,481	20.68
661–680	48.02	672	32.23	1,748	28.16	3,266	22.99	7,675	22.06	11,432	21.01
681–700	48.62	670	32.56	1,747	28.44	3,296	23.43	7,587	22.22	11,644	21.56
701–725	49.01	674	33.00	1,744	28.77	3,282	23.60	7,628	22.50	11,619	21.78
726–750	49.45	680	33.61	1,729	29.04	3,281	23.82	7,723	22.99	11,541	22.11
751–775	50.00	679	33.94	1,738	29.48	3,284	24.20	7,746	23.43	11,437	22.33
776–800	50.38	683	34.38	1,732	29.76	3,350	24.92	7,630	23.76	11,584	22.94
801–825	50.88	686	34.87	1,729	30.14	3,365	25.36	7,636	24.20	11,646	23.49
826–850	51.04	689	35.15	1,741	30.58	3,353	25.63	7,691	24.64	11,599	23.82
851–875	51.21	690	35.31	1,742	30.75	3,364	25.85	7,779	25.14	11,554	24.20
876–900	51.65	690	35.59	1,744	31.02	3,355	26.02	7,814	25.41	11,533	24.42

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
901–925	51.87	695	36.03	1,747	31.46	3,399	26.73	7,688	25.69	11,641	24.92
926–950	52.36	695	36.36	1,746	31.74	3,418	27.12	7,660	25.96	11,721	25.36
951–975	52.53	698	36.63	1,757	32.18	3,426	27.56	7,745	26.68	11,555	25.69
976–1000 ..	53.85	684	36.80	1,770	32.56	3,473	28.27	7,627	26.95	11,584	26.02
1001–1050 ..	55.17	686	37.84	1,768	33.44	3,448	28.82	7,817	28.16	11,602	27.23
1051–1100 ..	56.76	684	38.78	1,774	34.38	3,489	29.98	7,692	28.82	11,726	28.16
1101–1150 ..	58.19	680	39.55	1,786	35.31	3,477	30.69	7,757	29.76	11,623	28.82
1151–1200 ..	59.62	686	40.87	1,780	36.36	3,462	31.46	7,805	30.69	11,635	29.76
1201–1250 ..	60.89	685	41.69	1,771	36.91	3,494	32.23	7,809	31.46	11,707	30.69
1251–1300 ..	62.26	682	42.46	1,783	37.84	3,489	33.00	7,814	32.23	11,714	31.46
1301–1350 ..	63.09	688	43.34	1,787	38.72	3,506	33.94	7,780	33.00	11,701	32.18
1351–1400 ..	63.97	694	44.39	1,772	39.33	3,519	34.60	7,784	33.66	11,726	32.89
1401–1450 ..	64.90	696	45.16	1,779	40.15	3,507	35.20	7,863	34.60	11,676	33.66
1451–1500 ..	65.73	700	45.98	1,780	40.92	3,522	36.03	7,842	35.31	11,683	34.38
1501–1550 ..	66.44	704	46.75	1,786	41.75	3,526	36.80	7,845	36.08	11,744	35.31
1551–1600 ..	67.32	705	47.41	1,792	42.46	3,539	37.57	7,813	36.69	11,803	36.08
1601–1650 ..	68.04	705	47.96	1,801	43.18	3,547	38.28	7,817	37.40	11,771	36.69
1651–1700 ..	68.81	707	48.62	1,808	43.95	3,555	39.05	7,809	38.12	11,775	37.40
1701–1750 ..	69.58	708	49.23	1,813	44.61	3,547	39.55	7,845	38.78	11,796	38.12
1751–1800 ..	70.24	712	50.00	1,820	45.49	3,560	40.46	7,805	39.49	11,783	38.78
1801–1850 ..	71.01	717	50.68	1,804	45.87	3,578	41.03	7,840	40.21	11,787	39.49
1851–1900 ..	71.56	721	51.54	1,796	46.26	3,620	41.86	7,822	40.92	11,791	40.21
1901–1950 ..	72.49	723	52.36	1,803	47.19	3,595	42.41	7,866	41.69	11,763	40.87
1951–2000 ..	73.15	725	53.02	1,799	47.69	3,599	42.90	7,857	42.13	11,875	41.69
2001–2050 ..	73.98	728	53.85	1,794	48.29	3,618	43.67	7,849	42.85	11,877	42.41
2051–2100 ..	74.64	728	54.29	1,806	49.01	3,632	44.50	7,793	43.34	11,879	42.90
2101–2150 ..	75.41	732	55.17	1,803	49.72	3,633	45.16	7,815	44.11	11,821	43.45
2151–2200 ..	76.12	730	55.55	1,814	50.38	3,642	45.87	7,789	44.66	11,853	44.11
2201–2250 ..	76.73	733	56.21	1,817	51.04	3,634	46.37	7,849	45.49	11,783	44.66
2251–2300 ..	77.28	737	56.93	1,815	51.65	3,647	47.08	7,814	45.98	11,785	45.16
2301–2350 ..	77.83	736	57.26	1,826	52.25	3,634	47.47	7,815	46.37	11,872	45.87
2351–2400 ..	78.43	741	58.08	1,809	52.53	3,657	48.02	7,863	47.19	11,791	46.37

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	Brk pt.	12,000 lbs. and over
2401–2450 ..	79.20	741	58.63	1,809	53.02	3,677	48.73	7,793	47.47	11,931	47.19
2451–2500 ...	79.70	744	59.29	1,813	53.74	3,665	49.23	7,804	48.02	11,918	47.69
2501–2550 ..	79.92	747	59.62	1,812	54.01	3,662	49.45	7,885	48.73	11,824	48.02
2551–2600 ..	80.14	747	59.84	1,822	54.51	3,670	50.00	7,877	49.23	11,866	48.68
2601–2650 ..	80.85	746	60.28	1,831	55.17	3,654	50.38	7,878	49.61	11,828	48.90
2651–2700 ..	81.02	751	60.78	1,827	55.50	3,671	50.93	7,888	50.22	11,764	49.23
2701–2750 ..	81.35	750	61.00	1,827	55.72	3,669	51.10	7,906	50.49	11,791	49.61
2751–2800 ..	81.51	755	61.49	1,829	56.21	3,676	51.65	7,907	51.04	11,807	50.22
2801–2850 ..	82.23	752	61.82	1,828	56.49	3,701	52.25	7,891	51.54	11,757	50.49
2851–2900 ..	82.45	756	62.32	1,828	56.93	3,691	52.53	7,892	51.81	11,822	51.04
2901–2950 ..	82.67	756	62.48	1,831	57.20	3,708	53.02	7,884	52.25	11,836	51.54
2951–3000 ..	83.05	760	63.09	1,828	57.64	3,699	53.30	7,885	52.53	11,850	51.87
3001–3050 ..	83.60	761	63.58	1,831	58.19	3,702	53.85	7,878	53.02	11,864	52.42
3051–3100 ..	83.88	761	63.80	1,837	58.58	3,689	54.01	7,943	53.63	11,767	52.58
3101–3150 ..	84.04	762	64.02	1,842	58.96	3,698	54.51	7,904	53.85	11,829	53.08
3151–3200 ..	84.59	765	64.68	1,837	59.40	3,719	55.22	7,841	54.12	11,891	53.63
3201–3250 ..	84.76	766	64.90	1,838	59.62	3,724	55.50	7,874	54.62	11,831	53.85
3251–3300 ..	85.25	768	65.40	1,844	60.28	3,698	55.72	7,929	55.22	11,738	54.01
3301–3350 ..	85.31	768	65.51	1,848	60.50	3,713	56.16	7,899	55.44	11,751	54.29
3351–3400 ..	85.58	767	65.62	1,855	60.83	3,715	56.49	7,891	55.72	11,847	55.00
3401–3450 ..	85.97	765	65.73	1,857	61.00	3,734	56.93	7,892	56.16	11,801	55.22
3451–3500 ..	86.02	770	66.17	1,846	61.05	3,734	56.98	7,892	56.21	11,848	55.50
3501–3550 ..	86.24	770	66.33	1,858	61.60	3,715	57.20	7,901	56.49	11,837	55.72
3551–3600 ..	86.46	772	66.72	1,854	61.82	3,730	57.64	7,901	56.93	11,838	56.16
3601–3650 ..	86.79	773	67.05	1,858	62.26	3,718	57.86	7,902	57.15	11,816	56.27
3651–3700 ..	87.07	774	67.32	1,853	62.37	3,732	58.19	7,872	57.26	11,897	56.78
3701–3750 ..	87.56	773	67.65	1,849	62.54	3,747	58.58	7,880	57.70	11,852	56.98
3751–3800 ..	87.73	775	67.93	1,858	63.09	3,732	58.85	7,896	58.08	11,819	57.20

17–40. Unaccompanied Air Baggage Linehaul Rate Table for All Overseas Areas Except Those Otherwise Specified

The following table will be used for all overseas areas except those otherwise specified for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	5.51	1,737	4.79	3,637	4.35
51–75	7.83	1,723	6.74	3,613	6.09
76–100	8.92	1,724	7.69	3,623	6.96
101–150	10.01	1,740	8.70	3,567	7.76
151–200	11.09	1,752	9.72	3,583	8.70
201–250	12.25	1,740	10.66	3,592	9.57
251–300	13.34	1,740	11.60	3,601	10.44
301–350	14.50	1,741	12.62	3,587	11.31
351–400	15.59	1,740	13.56	3,573	12.11
401–450	16.68	1,740	14.50	3,581	12.98
451–500	17.84	1,740	15.52	3,589	13.92
501–550	18.92	1,740	16.46	3,595	14.79
551–600	20.01	1,740	17.40	3,601	15.66
601–650	21.10	1,739	18.34	3,605	16.53
651–700	22.26	1,740	19.36	3,596	17.40
701–750	23.35	1,740	20.30	3,601	18.27
751–800	24.51	1,734	21.24	3,605	19.14
801–850	25.59	1,740	22.26	3,597	20.01
851–900	26.68	1,740	23.20	3,601	20.88

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–41. Unaccompanied Air Baggage Linehaul Rate Table for Belgium, Italy, and The Netherlands

The following table will be used for Belgium, Italy, and The Netherlands for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	2.57	1,747	2.24	3,595	2.02
51–75	4.13	1,733	3.58	3,637	3.25
76–100	5.17	1,736	4.49	3,595	4.03
101–150	6.18	1,748	5.40	3,591	4.84
151–200	7.22	1,739	6.27	3,607	5.66
201–250	7.93	1,746	6.92	3,587	6.21
251–300	8.66	1,738	7.54	3,587	6.76
301–350	9.39	1,738	8.16	3,602	7.35
351–400	10.11	1,737	8.78	3,601	7.90
401–450	10.82	1,742	9.43	3,601	8.48
451–500	11.57	1,736	10.04	3,599	9.04
501–550	12.25	1,741	10.66	3,610	9.62
551–600	13.00	1,736	11.28	3,609	10.17
601–650	13.72	1,740	11.93	3,597	10.73
651–700	14.43	1,739	12.55	3,596	11.28
701–750	15.15	1,743	13.20	3,597	11.86
751–800	15.89	1,739	13.81	3,596	12.42
801–850	16.61	1,738	14.43	3,604	13.00
851–900	17.32	1,738	15.05	3,603	13.55
901–950	18.04	1,741	15.70	3,562	13.98
951–1000	18.75	1,741	16.32	3.602	14.69
1001–1100	19.47	1,740	16.93	3.601	15.24
1101–1200	21.68	1,737	18.82	3,600	16.93
1201–1300	23.08	1,741	20.09	3.599	18.07
1301–1400	24.54	1,738	21.32	3,604	19.21
1401–1500	26.00	1,738	22.59	3,603	20.35
1501–1600	27.40	1,742	23.86	3.603	21.48

Note: Over 1,600 miles, add US$1.30 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

UMI
VOL
66
ISS
2
4
6
DE
21
2001
UMI

17–42. Unaccompanied Air Baggage Linehaul Rate Table for CONUS, Canada, and Hawaii

The following table will be used for CONUS, Canada, and Hawaii for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
1–10	12.71	653	8.29	1,683	6.97	3,464	6.04	6,536	4.93	11,690	4.80
11–20 ...	13.18	668	8.80	1,653	7.27	3,369	6.12	6,667	5.10	11,501	4.89
21–30 ...	13.86	672	9.31	1,644	7.65	3,356	6.42	6,464	5.19	11,410	4.93
31–40 ...	14.62	652	9.52	1,643	7.82	3,348	6.55	6,598	5.40	11,528	5.19
41–50 ...	15.34	649	9.95	1,659	8.25	3,382	6.97	6,244	5.44	11,532	5.23
51–60 ...	15.98	636	10.16	1,657	8.42	3,374	7.10	6,611	5.87	11,131	5.44
61–70 ...	16.66	641	10.67	1,650	8.80	3,305	7.27	6,737	6.12	11,501	5.87
71–80 ...	17.26	648	11.18	1,613	9.01	3,378	7.61	6,749	6.42	11,444	6.12
81–90 ...	18.11	639	11.56	1,618	9.35	3,346	7.82	6,696	6.55	11,767	6.42
91–100	18.79	629	11.82	1,619	9.56	3,432	8.20	6,881	7.06	11,133	6.55
101–110	19.47	634	12.33	1,614	9.95	3,317	8.25	6,887	7.10	11,138	6.59
111–120	20.06	634	12.71	1,592	10.12	3,278	8.29	6,934	7.18	11,787	7.06
121–130	20.66	636	13.13	1,573	10.33	3,260	8.42	6,910	7.27	11,720	7.10
131–140	21.17	639	13.52	1,579	10.67	3,251	8.67	6,942	7.52	11,458	7.18
141–150	21.76	637	13.86	1,589	11.01	3,182	8.76	6,952	7.61	11,866	7.52
151–160	22.23	643	14.28	1,572	11.22	3,197	8.97	6,863	7.69	11,934	7.65
161–170	22.78	648	14.75	1,534	11.31	3,294	9.31	7,051	8.20	11,254	7.69
171–180	23.29	646	15.05	1,549	11.65	3,241	9.44	7,028	8.29	11,324	7.82
181–190	23.76	646	15.34	1,563	11.99	3,192	9.56	7,254	8.67	11,236	8.12
191–200	24.35	639	15.56	1,574	12.24	3,251	9.95	7,077	8.80	11,305	8.29
201–220	25.03	639	15.98	1,575	12.58	3,230	10.16	7,331	9.31	11,179	8.67
221–240	25.71	640	16.45	1,597	13.13	3,211	10.54	7,226	9.52	11,304	8.97
241–260	26.22	650	17.04	1,582	13.47	3,168	10.67	7,267	9.69	11,685	9.44
261–280	26.95	641	17.26	1,621	13.98	3,210	11.22	7,243	10.16	11,448	9.69
281–300	27.50	645	17.72	1,641	14.54	3,182	11.56	7,353	10.63	11,473	10.16
301–320	28.22	647	18.23	1,628	14.83	3,187	11.82	7,454	11.01	11,584	10.63
321–340	28.77	653	18.79	1,634	15.34	3,214	12.33	7,338	11.31	11,685	11.01
341–360	29.28	664	19.42	1,637	15.90	3,198	12.71	7,412	11.77	11,524	11.31
361–380	29.84	666	19.05	1,658	16.45	3,205	13.18	7,433	12.24	11,542	11.77
381–400	30.39	662	20.10	1,675	16.83	3,213	13.52	7,523	12.71	11,559	12.24
401–420	30.90	672	20.74	1,656	17.17	3,258	13.98	7,538	13.18	11,459	12.58
421–440	31.58	667	21.04	1,669	17.55	3,274	14.37	7,527	13.52	11,661	13.13
441–460	32.26	661	21.29	1,701	18.11	3,259	14.75	7,586	13.98	11,417	13.30
461–480	32.81	668	21.89	1,678	18.36	3,278	15.05	7,594	14.28	11,358	13.52
481–500	33.45	665	22.23	1,691	18.79	3,267	15.34	7,579	14.54	11,544	13.98
501–520	33.96	671	22.78	1,691	19.25	3,232	15.56	7,585	14.75	11,620	14.28
521–540	34.47	668	22.99	1,705	19.59	3,263	15.98	7,532	15.05	11,594	14.54
541–560	34.81	670	23.29	1,716	19.98	3,252	16.24	7,561	15.34	11,535	14.75
561–580	35.36	669	23.63	1,702	20.10	3,290	16.53	7,527	15.56	11,443	14.83
581–600	35.62	670	23.84	1,730	20.61	3,242	16.70	7,614	15.90	11,583	15.34
601–620	36.13	673	24.31	1,707	20.74	3,287	17.04	7,542	16.07	11,620	15.56
621–640	36.51	672	24.52	1,709	20.95	3,278	17.17	7,703	16.53	11,445	15.77
641–660	36.85	673	24.78	1,709	21.17	3,318	17.55	7,613	16.70	11,481	15.98
661–680	37.10	672	24.91	1,748	21.76	3,266	17.77	7,675	17.04	11,432	16.24
681–700	37.57	670	25.16	1,747	21.97	3,296	18.11	7,587	17.17	11,644	16.66
701–725	37.87	674	25.50	1,744	22.23	3,282	18.23	7,628	17.38	11,619	16.83
726–750	38.21	680	25.97	1,729	22.44	3,281	18.40	7,723	17.77	11,541	17.09
751–775	38.63	679	26.22	1,738	22.78	3,284	18.70	7,746	18.11	11,437	17.26
776–800	38.93	683	26.56	1,732	22.99	3,350	19.25	7,630	18.36	11,584	17.72
801–825	39.31	686	26.95	1,729	23.29	3,365	19.59	7,636	18.70	11,646	18.15
826–850	39.44	689	27.16	1,741	23.63	3,353	19.81	7,691	19.04	11,599	18.40
851–875	39.57	690	27.29	1,742	23.76	3,364	19.98	7,779	19.42	11,554	18.70
876–900	39.91	690	27.50	1,744	23.97	3,355	20.10	7,814	19.64	11,533	18.87
901–925	40.06	695	27.84	1,747	24.31	3,399	20.66	7,688	19.85	11,641	19.25
926–950	40.46	695	28.09	1,746	24.52	3,418	20.95	7,660	20.06	11,721	19.59
951–975	40.59	698	28.31	1,757	24.86	3,426	21.29	7,745	20.61	11,555	19.85

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
976–1000 ..	41.61	684	28.43	1,770	25.16	3,473	21.85	7,627	20.83	11,584	20.10
1001–1050 ..	42.63	686	29.24	1,768	25.84	3,448	22.27	7,817	21.76	11,602	21.04
1051–1100 ..	43.86	684	29.96	1,774	26.56	3,489	23.16	7,692	22.27	11,726	21.76
1101–1150 ..	44.97	680	30.56	1,786	27.29	3,477	23.72	7,757	22.99	11,623	22.27
1151–1200 ..	46.07	686	31.58	1,780	28.09	3,462	24.31	7,805	23.72	11,635	22.99
1201–1250 ..	47.05	685	32.22	1,771	28.52	3,494	24.91	7,809	24.31	11,707	23.72
1251–1300 ..	48.11	682	32.81	1,783	29.24	3,489	25.50	7,814	24.91	11,714	24.31
1301–1350 ..	48.75	688	33.49	1,787	29.92	3,506	26.22	7,780	25.50	11,701	24.86
1351–1400 ..	49.43	694	34.30	1,772	30.39	3,519	26.73	7,784	26.01	11,726	25.42
1401–1450 ..	50.15	696	34.89	1,779	31.03	3,507	27.20	7,863	26.73	11,676	26.01
1451–1500 ..	50.79	700	35.53	1,780	31.62	3,522	27.84	7,842	27.29	11,683	26.56
1501–1550 ..	51.34	704	36.13	1,786	32.26	3,526	28.43	7,845	27.88	11,744	27.29
1551–1600 ..	52.02	705	36.64	1,792	32.81	3,539	29.03	7,813	28.35	11,803	27.88
1601–1650 ..	52.57	705	37.06	1,801	33.36	3,547	29.58	7,817	28.90	11,771	28.35
1651–1700 ..	53.17	707	37.57	1,808	33.96	3,555	30.18	7,809	29.45	11,775	28.90
1701–1750 ..	53.76	708	38.04	1,813	34.47	3,547	30.56	7,845	29.96	11,796	29.45
1751–1800 ..	54.27	712	38.63	1,820	35.15	3,560	31.28	7,805	30.52	11,783	29.96
1801–1850 ..	54.87	717	39.31	1,804	35.45	3,578	31.71	7,840	31.07	11,787	30.52
1851–1900 ..	55.29	721	39.82	1,796	35.74	3,620	32.34	7,822	31.62	11,791	31.07
1901–1950 ..	56.02	723	40.46	1,803	36.47	3,595	32.77	7,866	32.22	11,763	31.58
1951–2000 ..	56.53	725	40.97	1,799	36.85	3,599	33.15	7,857	32.56	11,875	32.22
2001–2050 ..	57.16	728	41.61	1,794	37.32	3,618	33.75	7,849	33.11	11,877	32.77
2051–2100 ..	57.67	728	41.95	1,806	37.87	3,632	34.38	7,793	33.49	11,879	33.15
2101–2150 ..	58.27	732	42.63	1,803	38.42	3,633	34.89	7,815	34.09	11,821	33.56
2151–2200 ..	58.82	730	42.93	1,814	38.93	3,642	35.45	7,789	34.51	11,853	34.09
2201–2250 ..	59.29	733	43.44	1,817	39.44	3,634	35.83	7,849	35.15	11,783	34.51
2251–2300 ..	59.71	737	43.99	1,815	39.91	3,647	36.38	7,814	35.53	11,785	34.89
2301–2350 ..	60.14	736	44.24	1,826	40.38	3,634	36.68	7,815	35.83	11,872	35.45
2351–2400 ..	60.61	741	44.88	1,809	40.59	3,657	37.10	7,863	36.47	11,791	35.83
2401–2450 ..	61.20	741	45.31	1,809	40.97	3,677	37.66	7,793	36.68	11,931	36.47
2451–2500 ..	61.58	744	45.82	1,813	41.52	3,685	38.04	7,804	37.10	11,918	36.85
2501–2550 ..	61.75	747	46.07	1,812	41.74	3,662	38.21	7,885	37.66	11,824	37.10
2551–2600 ..	61.92	747	46.24	1,822	42.12	3,670	38.63	7,877	38.04	11,866	37.61

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Miles	Less than 1,000 lbs. incl.	Brk pt.	1,000 to 1,999 lbs. incl.	Brk pt.	2,000 to 3,999 lbs. incl.	Brk pt.	4,000 to 7,999 lbs. incl.	Brk pt.	8,000 to 11,999 lbs. incl.	BRK pt.	12,000 lbs. and over
2601–2650 ..	62.48	746	46.58	1,831	42.63	3,654	38.93	7,878	38.34	11,828	37.78
2651–2700 ..	62.60	751	46.96	1,827	42.88	3,671	39.36	7,888	38.80	11,764	38.04
2701–2750 ..	62.86	750	47.13	1,827	43.05	3,669	39.48	7,906	39.02	11,791	38.34
2751–2800 ..	62.99	755	47.52	1,829	43.44	3,676	39.91	7,907	39.44	11,807	38.80
2801–2850 ..	63.54	752	47.77	1,828	43.65	3,701	40.38	7,891	39.82	11,757	39.02
2851–2900 ..	63.71	756	48.15	1,828	43.99	3,691	40.59	7,892	40.04	11,822	39.44
2901–2950 ..	63.88	756	48.28	1,831	44.20	3,708	40.97	7,884	40.38	11,836	39.82
2951–3000 ..	64.18	760	48.75	1,828	44.54	3,699	41.18	7,885	40.59	11,850	40.08
3001–3050 ..	64.60	761	49.13	1,831	44.97	3,702	41.61	7,878	40.97	11,864	40.50
3051–3100 ..	64.81	761	49.30	1,837	45.26	3,689	41.74	7,943	41.44	11,767	40.63
3101–3150 ..	64.94	762	49.47	1,842	45.56	3,698	42.12	7,904	41.61	11,829	41.01
3151–3200 ..	65.37	765	49.96	1,837	45.90	3,719	42.67	7,841	41.82	11,891	41.44
3201–3250 ..	65.49	766	50.15	1,838	46.07	3,724	42.88	7,874	42.20	11,831	41.61
3251–3300 ..	65.68	768	50.53	1,844	46.58	3,698	43.05	7,929	42.67	11,738	41.74
3301–3350 ..	65.92	768	50.62	1,848	46.75	3,713	43.39	7,899	42.84	11,751	41.95
3351–3400 ..	66.13	767	50.70	1,855	47.01	3,715	43.65	7,891	43.05	11,847	42.50
3401–3450 ..	66.43	765	50.79	1,857	47.13	3,734	43.99	7,892	43.39	11,801	42.67
3451–3500 ..	66.47	770	51.13	1,846	47.18	3,734	44.03	7,892	43.44	11,848	42.88
3501–3550 ..	66.64	770	51.26	1,858	47.60	3,715	44.20	7,901	43.65	11,837	43.05
3551–3600 ..	66.81	772	51.55	1,854	47.77	3,730	44.54	7,901	43.99	11,838	43.39
3601–3650 ..	67.07	773	51.81	1,858	48.11	3,718	44.71	7,902	44.16	11,816	43.48
3651–3700 ..	67.28	774	52.02	1,853	48.20	3,732	44.97	7,872	44.24	11,897	43.86
3701–3750 ..	67.66	773	52.28	1,849	48.32	3,747	45.26	7,880	44.58	11,852	44.03
3751–3800 ..	67.79	775	52.49	1,858	48.75	3,732	45.48	7,896	44.88	11,819	44.20

17–43. Unaccompanied Air Baggage Linehaul Rate Table for Greece, Spain, and Other European Areas

The following table will be used for Greece, Spain, and other European areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	5.04	1,751	4.41	3,572	3.94
51–75	7.09	1,734	6.14	3,624	5.57
76–100	8.09	1,728	6.98	3,640	6.35
101–150	9.08	1,735	7.88	3,627	7.14
151–200	10.08	1,740	8.77	3,593	7.88
201–250	11.08	1,745	9.66	3,587	8.68

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
251–300	12.13	1,741	10.55	3,602	9.50
301–350	13.13	1,737	11.39	3,613	10.29
351–400	14.12	1,740	12.29	3,590	11.03
401–450	15.12	1,744	13.18	3,602	11.87
451–500	16.17	1,734	14.02	3,611	12.65
501–550	17.12	1,743	14.91	3,606	13.44
551–600	18.17	1,740	15.80	3,589	14.18
601–650	19.16	1,737	16.64	3,609	15.02
651–700	20.16	1,740	17.54	3,605	15.80
701–750	21.16	1,742	18.43	3,602	16.59
751–800	22.21	1,740	19.32	3,598	17.38
801–850	23.21	1,738	20.16	3,605	18.17
851–900	24.20	1,740	21.05	3,601	18.95

Note: Over 900 miles, add US$1.79 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–44. Unaccompanied Air Baggage Linehaul Rate Table for Japan

The following table will be used for Japan for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	1.91	1,765	1.69	3,556	1.50
51–75	3.90	1,731	3.38	3,601	3.04
76–100	5.63	1,681	4.73	3,620	4.28
101–150	7.01	1,744	6.11	3,583	5.48
151–200	7.80	1,741	6.79	3,603	6.11
201–250	8.59	1,730	7.43	3,617	6.71
251–300	9.34	1,743	8.14	3,503	7.13
301–350	10.13	1,741	8.81	3,592	7.91
351–400	10.91	1,739	9.49	3,589	8.51
401–450	11.66	1,743	10.16	3,602	9.15
451–500	12.45	1,741	10.84	3,599	9.75
501–550	13.24	1,740	11.51	3,597	10.35
551–600	14.03	1,738	12.19	3,594	10.95
601–650	14.78	1,742	12.86	3,604	11.59
651–700	15.56	1,740	13.54	3,602	12.19
701–750	16.35	1,739	14.21	3,599	12.79
751–800	17.14	1,738	14.89	3,597	13.39
801–850	17.93	1,737	15.56	3,605	14.03
851–900	18.68	1,739	16.24	3,603	14.63

Note: Over 900 miles, add US$1.35 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–45. Unaccompanied Air Baggage Linehaul Rate Table for Korea, Philippines, and Other Pacific Areas

The following table will be used for Korea, Philippines, and other Pacific areas for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	3.20	1,751	2.80	3,572	2.50
51–75	6.45	1,737	5.60	3,608	5.05
76–100	9.00	1,745	7.85	3,593	7.05
101–150	11.60	1,742	10.10	3,585	9.05
151–200	12.90	1,729	11.15	3,624	10.10
201–250	14.15	1,739	12.30	3,610	11.10
251–300	15.45	1,742	13.45	3,599	12.10
301–350	16.75	1,738	14.55	3,602	13.10

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
351–400	18.05	1,740	15.70	3,593	14.10

Note: Over 400 miles, add US$2.25 for each additional 100 miles or fraction thereof, to 400-mile rate shown above.

17–46. Unaccompanied Air Baggage Linehaul Rate Table for the United Kingdom.

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.60	1,740	4.00	3,651	3.65
51–75	6.55	1,726	5.65	3,611	5.10
76–100	7.45	1,732	6.45	3,597	5.80
101–150	8.40	1,727	7.25	3,587	6.50
151–200	9.30	1,742	8.10	3,605	7.30
201–250	10.25	1,737	8.90	3,596	8.00
251–300	11.15	1,740	9.70	3,609	8.75
301–350	12.10	1,736	10.50	3,601	9.45
351–400	13.05	1,740	11.35	3,595	10.20
401–450	13.95	1,742	12.15	3,573	10.85
451–500	14.90	1,739	12.95	3,599	11.65
501–550	15.80	1,741	13.75	3,608	12.40
551–600	16.75	1,738	14.55	3,602	13.10
601–650	17.65	1,740	15.35	3,610	13.85
651–700	18.60	1,742	16.20	3,593	14.55
701–750	19.55	1,740	17.00	3,601	15.30
751–800	20.50	1,737	17.80	3,607	16.05
801–850	21.40	1,739	18.60	3,603	16.75
851–900	22.35	1,737	19.40	3,598	17.45

Note: Over 900 miles, add US $1.60 for each additional 100 miles or fraction thereof, to 900-mile rate shown above.

17–47. Unaccompanied Air Baggage Linehaul Rate Table for West Germany

The following table will be used for the United Kingdom for delivery in/out of SIT, diversions, terminations, alternate ports, etc., involving unaccompanied air baggage household goods shipments. "Break points" indicate weight at which lower charge develops by use of lowest weight and applicable rate in next higher weight bracket.

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1–50	4.15	1,747	3.62	3,595	3.26
51–75	6.67	1,733	5.78	3,637	5.25
76–100	8.35	1,736	7.25	3,595	6.51
101–150	9.98	1,748	8.72	3,591	7.82
151–200	11.66	1,739	10.13	3,607	9.14
201–250	12.81	1,746	11.18	3,587	10.03
251–300	14.02	1,738	12.18	3,587	10.92
301–350	15.17	1,738	13.18	3,602	11.87
351–400	16.33	1,737	14.18	3,601	12.76
401–450	17.48	1,742	15.23	3,601	13.70
451–500	18.69	1,736	16.22	3,599	14.60
501–550	19.79	1,741	17.22	3,610	15.54
551–600	21.00	1,736	18.22	3,609	16.43
601–650	22.16	1,740	19.27	3,597	17.33
651–700	23.31	1,739	20.27	3,596	18.22
701–750	24.47	1,743	21.32	3,597	19.16
751–800	25.67	1,739	22.31	3,596	20.06
801–850	26.83	1,738	23.31	3,604	21.00
851–900	27.98	1,738	24.31	3,603	21.89
901–950	29.14	1,741	25.36	3,562	22.58
951–1000	30.29	1,741	26.36	3,602	23.73

Miles	Less than 2,000 lbs. incl.	Break point	2,000 to 3,999 lbs. incl.	Break point	4,000 lbs. and over
1001–1100	31.45	1,740	27.35	3,601	24.62
1101–1200	35.02	1,737	30.40	3,600	27.35
1201–1300	37.28	1,741	32.45	3,599	29.19
1301–1400	39.64	1,738	34.44	3,604	31.03
1401–1500	42.00	1,738	36.49	3,603	32.87
1501–1600	44.26	1,742	38.54	3,603	34.70

Note: Over 1,600 miles, add US$2.10 for each additional 100 miles or fraction thereof, to 600-mile rate shown above.

17–48. Reserved for Future Use

17–49. Excess Valuation Charges

The relocating employee has the right to increase the value in excess of the base valuation established under the following provisions:

(1) Transportation: If a value greater than the base valuation of ___ (NOTE) times the net weight of the shipment in pounds is expressly declared, a Full Value Protection Service Shipment Charge of ___ (NOTE) will apply on the portion of the valuation declared in excess of shipments released value of___ (NOTE) times the weight. This excess valuation charge will be in addition to the SFR.

(2) Storage-in-Transit: If a value greater than ___ (NOTE) times the net weight of the shipment in pounds is expressly declared a Full Value Protection Service Storage Liability Charge of ___ (NOTE) will apply on that portion of the valuation declared in excess of shipments released at full value of (NOTE) times the weight. This excess valuation charge will apply only once regardless of the length of time that a shipment is in SIT, but may be applied each time the shipment is placed in storage-in-transit.

Note: For applicable charges and value amount, refer to the RFO.

[FR Doc. 01–30880 Filed 12–20–01; 8:45 am]

BILLING CODE 6820–24–P

VOL
66

ISS
2
4
6

DE
21

2001

UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 21, 2001

Part III

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 574 et al.
Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects; Proposed Rule

UMI
VOL 66
ISS 246
DE 21
2001
UMI

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 574, 576, 579

[Docket No. NHTSA 2001–8677; Notice 2]

RIN 2127–AI25

Reporting of Information and Documents About Potential Defects Retention of Records That Could Indicate Defects

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This document proposes a regulation that would implement the "early warning reporting requirements" of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Under this proposal, motor vehicle and motor vehicle equipment manufacturers would be required to report information and to submit documents on customer satisfaction campaigns and other activities that may assist in identifying defects related to motor vehicle safety.

We are also proposing amendments to NHTSA's general and tire recordkeeping regulations (Parts 576 and 574) to assure that manufacturers retain the information that must be reported to NHTSA under the early warning rule.

DATES: *Comment Closing Date:* Comments must be received on or before February 4, 2002.

ADDRESSES: All comments on this NPRM should refer to the docket and notice number set forth above and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. The docket room hours are from 9:30 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, contact Jonathan White, Office of Defects Investigation, NHTSA (phone: 202–366–5226). For legal issues, contact Taylor Vinson, Office of Chief Counsel, NHTSA (phone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of the Proposed Rule
II. Background: The TREAD Act (Public Law 106–414)
III. Manufacturers That Would Be Covered by the New Reporting Requirements
  A. Manufacturers of motor vehicles.
  B. Manufacturers of motor vehicle equipment.
    1. Original equipment.
    2. Replacement equipment, including tires.
  C. Foreign manufacturers of motor vehicles and equipment.
  D. Other representatives of manufacturers.
IV. Information That Would Be Reported
  A. Production information.
  B. Claim: a proposed definition.
  C. Notice: a proposed definition.
  D. Identification of the product in claims and notices.
  E. Claims and notices involving death.
    1. Whether to define "death"
    2. Claims involving death.
    3. Notices involving death.
    4. Information about deaths.
  F. Claims and notices involving injuries.
    1. The difficulties of defining "serious injury."
    2. Reporting of incidents in which persons were injured, based on claims and notices.
  G. Other possible conditions on reporting of claims and notices for death and injury.
  H. Identical or substantially similar motor vehicles or equipment.
    1. The meaning of "identical."
    2. Substantially similar motor vehicles.
    3. Substantially similar motor vehicle equipment and tires.
  I. Claims and notices involving property damage.
    1. Definition of "property damage," and whether to define "aggregate statistical data."
    2. Reports involving property damage.
  J. Consumer complaints.
    1. Definition of "consumer complaint."
    2. The rationale of requiring reports of consumer complaints.
  K. Warranty claims information.
    1. Definitions of "warranty" and "warranty claim."
    2. Reports involving warranty claims.
  L. Field reports.
    1. Definition of "field report."
    2. Reporting of field reports.
  M. Customer satisfaction campaigns, consumer advisories; recalls, or other activities involving the repair or replacement of motor vehicles or motor vehicle equipment.
  N. Components, systems, and fires to be included in reports.
  O. One-time reporting of information on certain information received from January 1, 2000 to December 31, 2002, on 1994–2003 model year vehicles, and on child restraints and tires manufactured on or after January 1, 1998.
V. Information That We Would Not Require at This Time
  A. Internal investigations and design changes in parts and components.
  B. Most activities and events in foreign countries.
VI. When Information Would be Reported
  A. Periodically.
  B. Upon NHTSA's request.
VII. The Manner and Form in Which Information Would be Reported
VIII. How NHTSA Plans to Handle and Utilize Early Warning Information
  A. Review and use of information.
  B. Information in the possession of the manufacturer.
  C. Disclosure.
  D. The proposed requirements are not unduly burdensome.
  E. Periodic Review.
IX. Proposed Extension of Recordkeeping Requirements to Include Manufacturers of Child Restraint Systems and Tires
X. Administrative Amendments to 49 CFR Part 573 to Accommodate Final Rules Implementing 49 U.S.C. Sections 30166(l) and (m)
XI. Rulemaking Analyses

I. Summary of the Proposed Rule

The proposed rule—the first phase of early warning reporting rulemaking—would in effect divide manufacturers of motor vehicles and motor vehicle equipment into two groups with different responsibilities for reporting information that could indicate the existence of potential safety related defects.

The first group would consist of larger manufacturers of motor vehicles, and all manufacturers of child restraint systems and tires. In general, vehicle manufacturers would report separately on five categories of vehicles (if they produced, imported, or sold 500 or more of a category annually in the United States): light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles. These manufacturers would report certain specified information about each incident involving a death that occurred in the United States that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's product together with each death occurring in foreign countries that is identified in a claim against the manufacturer involving the manufacturer's product, or one that is identical or substantially similar to a product that the manufacturer has offered for sale in the United States. These manufacturers would also report the following:

- *Injuries.* Certain specified information about each incident that occurred in the United States in which a person was injured that is identified in a claim against the manufacturer or in a notice to the manufacturer alleging or proving that the injury was caused by a possible defect in the manufacturer's product.
- *Property damage.* Manufacturers other than child seat manufacturers would report the numbers of claims for $1,000 or more in property damage that occurred in the United States that are related to alleged problems with certain specified components and systems (there would be no minimum amount of property damage for claims received by tire manufacturers).
- *Consumer complaints.* Manufacturers (other than tire manufacturers) would report the numbers of consumer complaints they receive that are related to problems with certain specified components and systems that occurred in the United States.
- *Warranty claims information.* Manufacturers would report the number of warranty claims they receive that are related to problems with certain specified components and systems that occurred in the United States.
- *Field reports.* Manufacturers would report the total number of field reports they

receive from the manufacturer's employees and dealers, and from fleets, that are related to problems with certain specified components and systems and potential defects that occurred in the United States. In addition, manufacturers would provide copies of reports received from their employees and fleets, but would not need to provide copies of reports received from dealers.

These manufacturers would report the numbers identified above for each model and model or production year.

A tire manufacturer or brand name owner would not have to report any information other than information relating to incidents involving deaths for tires of the same size and design for which the cumulative annual production and importation does not exceed 15,000 (readers should note this exclusion in reviewing the proposed reporting requirements of this document, as we may not repeat it in all instances in which it may apply).

The second group would consist of all other manufacturers of motor vehicles and motor vehicle equipment, i.e., vehicle manufacturers insofar as they produced, imported, or sold in the United States fewer than 500 light vehicles, medium-heavy vehicles, buses, motorcycles, or trailers annually, manufacturers of original motor vehicle equipment and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires. These manufacturers would report the same information about incidents involving deaths as the first category, but would not be required to report any other information.

In addition, all vehicle and equipment manufacturers in both groups would be required to provide copies of all documents sent or made available to more than one dealer, distributor, or owner, in the United States with respect to consumer advisories, recalls, or activities involving the repair or replacement of vehicles or equipment.

Reports would be submitted electronically, in specified formats. The components and systems on which reporting would be required would vary, depending on the type of product involved.

There would be four reporting periods each calendar year of three months each. All reports would be due not later than 30 days after the end of a calendar quarter. For submission of documents, the documents would be due not later than 30 days after the end of the month in which they are received or generated by the manufacturer. To help NHTSA identify trends that could indicate potential safety problems, manufacturers would be required, on a one-time basis, to report historical information by quarter for each of the reportable items covering the three-year period from January 1, 2000 through December 31, 2002, the date preceding the beginning of the first reporting period that would be established by the final rule, January 1, 2003.

The early warning reporting requirements would comprise subpart C of a new 49 CFR Part 579. The foreign defect reporting requirements proposed on October 11, 2001 (66 FR 51907) would comprise Subpart B of Part 579. This NPRM proposes a Subpart A containing general requirements that will apply to both subparts.

We also propose to expand recordkeeping requirements:

- For vehicles, records now required to be maintained under 49 CFR Part 576 for eight years would have to be maintained for 10 years.
- For the first time, manufacturers of tires and child restraint systems would be required to maintain the same types of records that manufacturers of vehicles have been required to keep under 49 CFR Part 576.
- Manufacturers of tires would be required to retain for five years records of purchasers of tires they manufacture. Manufacturers of motor vehicles would be required to retain for five years records of tires on each vehicle manufactured and the purchaser of each vehicle. Currently, 49 CFR Part 574 requires that these records be retained for three years. The early warning final rule, the final rule pertaining to foreign defect campaigns, and current 49 CFR 573.8 would become 49 CFR Part 579. The provisions of current Part 579 would be moved to Part 573. Proposed effective dates: for amendments to Parts 574 and 576, 30 days after publication of the final rule; for revised Part 579, January 1, 2003.

II. Background: The TREAD Act (Public Law 106–414)

The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act was enacted on November 1, 2000, Public Law 106–414.

The TREAD Act provides for NHTSA to require manufacturers of motor vehicles and motor vehicle equipment to submit information, periodically or upon NHTSA's request, that includes claims for deaths and serious injuries, property damage data, communications to customers and others, information on incidents resulting in fatalities or serious injuries from possible defects in vehicles or equipment in the United States or in identical or substantially similar vehicles or equipment in a foreign country, and other information that would assist NHTSA in identifying potential safety-related defects.

The TREAD Act amends 49 U.S.C. 30166 to add a new subsection (m), Early warning reporting requirements. Sections 30166(m)(3), (4), and (5) address, respectively, the elements to be reported, the handling and utilization of reported information, and periodic review and update of the final rule.

The crux of the early warning provisions is Section 30166(m)(3), which states: (3) Reporting elements.

(A) *Warranty and claims data.* As part of the final rule * * * the Secretary [of Transportation] shall require manufacturers of motor vehicles and motor vehicle equipment to report, periodically or upon request by the Secretary, information which is received by the manufacturer derived from foreign and domestic sources to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns—

(i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; or

(ii) customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.

(B) *Other data.* As part of the final rule * * *, the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers of motor vehicles or motor vehicle equipment to report, periodically or upon request of the Secretary, such information as the Secretary may request.

(C) *Reporting of possible defects.* The manufacturer of a motor vehicle or motor vehicle equipment shall report to the Secretary, in such manner as the Secretary establishes by regulation, all incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment in the United States, or in a foreign country when the possible defect is in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States.

The Secretary has delegated to the NHTSA Administrator the authority to carry out 49 U.S.C. Chapter 301 (49 CFR 1.50(a)).

On January 22, 2001, we issued an advance notice of proposed rulemaking (ANPRM) to discuss and to solicit comments on the ways in which NHTSA may best implement these statutory provisions (66 FR 6532). The reader is referred to that document for a discussion of the background of the TREAD Act and a manufacturer's reporting obligations prior to the TREAD Act. On October 11, 2001, we issued a notice of proposed rulemaking (NPRM) that would implement another provision of the TREAD Act, adding Section 30166(l) to Title 49 (66 FR 51907). Subsection (l) also applies to manufacturers of motor vehicles and motor vehicle equipment; it requires them to notify us of defect campaigns that they conduct outside the United States, or are ordered by a foreign government to conduct abroad, on vehicles and equipment identical or substantially similar to those sold in the United States. Readers are requested to review that NPRM in parallel with the early warning NPRM to ensure consistency between application and definitions as we intend for each final rule to become a subchapter of Part 579.

In response to the ANPRM, we received comments from a variety of sources. Motor vehicle manufacturers and associated trade organizations who commented were Ford Motor Company (Ford), Volvo Trucks North America (Volvo), the Truck Manufacturers Association (TMA), Blue Bird Body Co. (Blue Bird), International Truck and Engine Corporation (International Truck), Mack Trucks, Inc. (Mack), DaimlerChrysler

Corporation (DaimlerChrysler), the Association of International Automobile Manufacturers, Inc. (AIAM), the Recreational Vehicle Industry Association (RVIA), Harley-Davidson Motor Company (Harley-Davidson), Nissan North America, Inc. (Nissan), Volkswagen of America, Inc. (for itself, Volkswagen, AG and Audi AG) (Volkswagen), the Truck Trailer Manufacturers Association (TTMA), American Honda Motor Company (Honda), the Motorcycle Industry Council (MIC), the National Automobile Dealers Association (NADA), Fontaine Modification Company (Fontaine), and the Alliance of Automobile Manufacturers (the Alliance). The tire industry was represented by the Rubber Manufacturers Association (RMA) and the Bridgestone Corporation. Other motor vehicle equipment manufacturers and associated trade organizations who commented were the Automotive Occupants Restraint Council (AORC), TRW, Inc. (TRW), Atwood Mobile Products (Atwood), the Battery Council International, ArvinMeritor, Peterson Manufacturing Company, the Motor and Equipment Manufacturers Association (MEMA) and the Original Equipment Suppliers Association (OESA), both supported by Eagle-Picher Industries, Breed Technologies (Breed), Dana Corporation (Dana), Pilkington North America, Inc. (PNA), the Transportation Safety Equipment Institute (TSEI), the Automotive Aftermarket Industry Association (AAIA), Johnson Controls, the Torrington Company, the Specialty Equipment Manufacturers Association (SEMA), the National Truck Equipment Association (NTEA), Delphi Automotive Systems, LLC (Delphi), Webb Wheel Products, Inc. (Webb), Hella North America, Inc. (Hella), Osram Sylvania, Shepherd Hardware Products, LLC (Shepherd), Valeo, Inc., Am-Safe Commercial Products, Inc., and Harbour Industries. We also received comments from Consumer Union, Public Citizen, and Advocates for Highway and Auto Safety (Advocates).

These comments have provided us with numerous insights in developing this NPRM. We plan to issue a final rule by the statutory deadline, June 30, 2002, which will incorporate the early warning reporting elements specifically set forth in the TREAD Act. In addition to these elements, under Section 30166(m)(3)(B) we propose to require the submission of additional information that may assist in the identification of defects in vehicles in the United States. This will complete the first phase of our early warning rulemaking. Consistent with Section 30166(m)(5), we will periodically review the final rule; such review could result in amendments after June 30, 2002.

III. Manufacturers That Would Be Covered by the New Reporting Requirements

A. Manufacturers of Motor Vehicles

The TREAD Act provides for the agency to require manufacturers of motor vehicles[1] to submit information that may assist in the identification of safety-related defects. We must decide which manufacturers of motor vehicles would be required to submit reports under this rule, and whether different reporting requirements should apply to various categories of manufacturers. Section 30166(m)(3) does not exempt any manufacturer of motor vehicles from its coverage. On the other hand, it provides substantial discretion to the agency. The word "may" is used at several points in the statute. In addition, the agency's ability to use the information submitted is a statutory concern.

One of the threshold questions in this rulemaking is whether the agency should exercise its discretion to defer the imposition of some or all potential early warning reporting requirements on some classes of manufacturers. The early warning regulation would be a new regulation, and inevitably the agency and regulated entities will face some issues in implementing it. It would be counterproductive to require the submission of more information than we could beneficially review or to impose impracticable requirements, particularly on small manufacturers. We have concluded that we should phase in the early warning reporting requirements and that, for the most part, it would be appropriate to focus first on larger volume manufacturers and on information regarding incidents and activities in the United States, as contrasted to those occurring in foreign countries.

Vehicles produced in small quantities have a smaller overall impact upon safety than large production vehicles, as we have frequently noted in providing temporary exemptions from one of more of the Federal motor vehicle safety standards under 49 U.S.C. 30113. Although we would not expect the volume of reports from any individual small volume manufacturer to be overwhelming if we were to require comprehensive reporting by smaller manufacturers, there would be some burden on them. More important, our interactions with, and review of submissions by, the large number of small manufacturers would divert the agency's resources from reports submitted by high volume manufacturers involving potential safety defects that could affect a far greater number of vehicles and thus have a greater impact on safety.

For the present time, we propose to exclude from most of the reporting requirements any vehicle manufacturer that manufactures for sale, offers for sale, imports, or sells, in the United States, fewer than 500 vehicles in the year of the reporting period, or which has done so in the two calendar years preceding the reporting period. We are also proposing to exclude registered importers (RIs) of vehicles not originally manufactured to comply with Federal motor vehicle safety standards from most of the reporting requirements. RIs would not have information that would be useful because most are small, and those that are not import vehicles on which we would generally receive reports from assembling or importing manufacturers. This exclusion would also apply to many manufacturers of multistage vehicles and alterers since most manufacture or sell fewer than 500 vehicles annually. However, these smaller volume manufacturers would not be exempt from the requirements, addressed below, to report to us certain specified information regarding all deaths occurring in the United States that are identified in claims against the manufacturer or in notices to in which it is alleged or proven that a death was caused by a possible defect in the manufacturer's vehicle, together with information on deaths occurring in foreign countries that are identified in claims against the manufacturer involving a vehicle that is identical or substantially similar to a vehicle that the manufacturer has offered for sale in the United States. With respect to all such reported deaths, manufacturers would have to provide certain information regarding the underlying incident, as described in greater detail below. These manufacturers would also have to provide copies of documents related to customer satisfaction campaigns, consumer advisories, recalls, and other safety activities under proposed section 579.5.

For those motor vehicle manufacturers that are not excluded from full reporting based on low levels of sales in the United States, we are proposing to establish separate reporting requirements based on the category of vehicle produced. We are proposing five categories of vehicles: Light vehicles, medium-heavy vehicles, buses, motorcycles and trailers. Each category has components and systems that distinguish it from the other four categories, and which may develop safety-related problems unique to that category. Therefore, we would require different information regarding each category of vehicle, which will help to reduce the complexity and burdensomeness of the rule.

Under our proposal, light vehicles would comprise any motor vehicle, except a bus, trailer, or motorcycle, with a GVWR of 10,000 lbs. or less. Medium-heavy vehicles would include trucks and multipurpose passenger vehicles with a GVWR over 10,000 lbs. Buses (including school buses) and trailers would be separately categorized regardless of GVWR. Motorcycles would include any two- or three-wheeled vehicle meeting the definition of motorcycle in 49 CFR 571.3(b).

We ask for comments on whether an annual aggregate production, importation, or sales of 500 vehicles in the United States is an appropriate figure upon which to base this distinction, whether a manufacturer's eligibility for these lesser reporting requirements should be determined based upon its production in the two calendar years preceding this report or whether a shorter, longer, or different period would be appropriate, and whether small volume vehicle manufacturers should be required to provide other data and information in addition to that relating to deaths. Finally, we are interested in having comments on our proposed five categories of vehicles. For instance, we are not proposing a separate category of "medium vehicle" because it seems to us that the components and systems of such vehicles would be those for which reporting would be required are those with which either light or medium-heavy vehicles are equipped.

---

[1] The term "motor vehicle" is a broad one. The statutory definition of "motor vehicle" (49 U.S.C. 30102(a)(6)) has been the subject of numerous interpretations since 1966.

B. Manufacturers of Motor Vehicle Equipment

The TREAD Act also provides for the agency to require manufacturers of motor vehicle equipment to submit early warning reporting information that may assist in the identification of safety-related defects. "Motor vehicle equipment" is defined in 49 U.S.C. 30102(a)(7), and consists of "original equipment" (OE) and "replacement equipment." These two terms are currently defined in 49 CFR 579.4. We are not changing the definitions, but we are revising the language in new section 579.4(c) to make it more understandable.

1. Original Equipment

There are approximately 10,000 to 14,000 individual items of OE in a contemporary passenger car. Some are fabricated by the vehicle manufacturer, some by parts manufacturers, and some parts are incorporated into systems or modules assembled by various suppliers. There is a growing trend to packaging individual parts into a single unit, or module. For example, a steering wheel assembly may include an air bag, horn control, turn signal control, wiper control, ignition switch, cruise control, lighting controls, as well as associated wiring. Many of these units are assembled by a supplier, often with components from various manufacturers. Each of these fabricators or assemblers is also a manufacturer of motor vehicle equipment.

When a component or module installed as OE on a vehicle fails, generally vehicle owners will complain or file a claim with the entity that has manufactured and warranted the vehicle, rather than the assembler of the module or the manufacturers of the individual parts, who in most instances are unknown to the vehicle owner. In view of this, the Alliance, Ford, and AIAM specifically supported exclusion of OE manufacturers (OEMs) from early warning reporting requirements in their comments on the ANPRM.

OEMs, however, are not currently exempt from defect reporting requirements. Pursuant to 49 CFR 573.3(f), if an OEM sells an item of OE to more than one vehicle manufacturer and a defect or noncompliance is decided to exist in that OE, the OEM is required to notify us (as are the manufacturers of the vehicles in which the OE is installed). If the defective OE is used in the vehicles of only one vehicle manufacturer, the OEM may notify us on behalf of both itself and the vehicle manufacturer (Section 573.3(e))(in either case, the OEM may also be the party remedying the safety defect or the noncompliance). Thus, OEMs can and do make determinations that OE contains safety-related defects, and they will have some information of the type that the TREAD Act authorizes us to require, such as claims alleging failures of their products. Thus, we do not propose to totally exempt OEMs from early warning reporting.

We have tentatively decided that most meaningful information about possible defects is more likely to come to the attention of the vehicle manufacturer earlier than it would to the OEM. However, we want to be certain that we obtain information regarding deaths attributed to defects in OE. Accordingly, at this time, we are proposing that OEMs be exempt from all reporting requirements regarding OE they manufacture, except for reporting to us regarding deaths in the same manner as small volume vehicle manufacturers, discussed above. Of course, the vehicle manufacturer would be required to report fully in its capacity as a vehicle manufacturer, even if the vehicle manufacturer believed that the problem was the responsibility of the OEM.

2. Replacement Equipment, Including Tires

Replacement equipment comprises an even broader universe of parts than OE. Under both current 49 CFR 579.4(b) and proposed 579.4(c), it includes all motor vehicle equipment other than OE. Not only does the term have the literal meaning of equipment that is intended to replace OE, it also includes accessory equipment and "off-vehicle equipment" that is not part of a motor vehicle, such as retroreflective motorcycle rider apparel and child restraints. Manufacturers of replacement equipment are within the scope of the early warning reporting provisions of the statute.

Some replacement equipment items are critically important from a safety perspective, while others have less of a safety nexus. Tires, of course, are essential items of motor vehicle equipment, and tire manufacturers have the duty to conduct notification and remedy campaigns and to address defective or noncompliant tires, whether sold in the aftermarket or installed on new vehicles (see current 49 CFR 579.5(b)). Tire brand name owners (e.g., house brands) are also considered manufacturers (49 U.S.C. 30102(b)(1)(E)) and have the same defect and noncompliance reporting requirements as the actual fabricators of the tires (49 CFR 573.3(d)). Child restraints are also critical safety items. Therefore, we are proposing that all tire manufacturers, tire brand name owners, and manufacturers of child restraints would be required to provide the full range of information and documents proposed. There are relatively few manufacturers of child restraints and tires, and most are large businesses.

There is a large number of manufacturers of other types of replacement equipment. Much of this equipment is imported by or for auto parts houses such as J.C. Whitney, or general merchandisers such as K–Mart. An importer for resale is considered a manufacturer under the statute. See 49 U.S.C. 30102(a)(5)(B). A large universe of entities would be subject to multiple requirements if we were to fully apply early warning reporting requirements to all fabricators and importers of replacement equipment.

Therefore, at least for purposes of this initial rulemaking, we are proposing that, as with lower volume vehicle manufacturers and original equipment manufacturers, manufacturers of other types of replacement equipment would only be required to report to us claims and notices regarding deaths allegedly due to defects in their products. However, we may revisit these limitations under our periodic review of the rule.

C. Foreign Manufacturers of Motor Vehicles and Equipment

As defined before the enactment of the TREAD Act, a manufacturer is defined as "a person manufacturing or assembling motor vehicles or motor vehicle equipment, or importing motor vehicles or motor vehicle equipment for resale" (49 U.S.C. 30102(a)(5)). Foreign manufacturers offering vehicles or vehicle equipment for import must designate an agent on whom service may be made (49 U.S.C. 30164).

In its defect and noncompliance reporting regulations, the agency has addressed the question of who may file a defect or noncompliance report related to an imported item. Under 49 CFR 573.3(b), in the case of vehicles or equipment imported into the United States, a defect or noncompliance report may be filed by either the fabricating manufacturer or the importer of the vehicle or equipment. Defect and noncompliance reports covering vehicles manufactured outside of the United States have generally been submitted by the importer of the vehicles, which is usually a subsidiary of a foreign parent corporation (e.g., defects in vehicles made in Japan by Honda Motor Co. Ltd. are reported by American Honda Motor Co., Inc., even if the vehicle was certified by Honda Motor Co. Ltd.).

The TREAD Act expanded manufacturers' responsibilities with respect to foreign events and activities. See 49 U.S.C. 30166(l) and (m). It is evident that the TREAD Act has extraterritorial effect. In its comments on the ANPRM, the Alliance recognized that the TREAD Act was clearly written by Congress to apply to persons and activities outside of the United States and it is therefore a clear assertion of extraterritorial jurisdiction by the United States (Alliance comment, Attachment 10, p. 9). The Alliance went on to state that the early warning rule could reasonably require reports from foreign companies manufacturing vehicles for sale in the United States as long as the required reports relate to issues that could arise in those vehicles (p. 11). Today's proposal is consistent with that conclusion. Foreign entities would be required to provide the same information as we would require for domestic manufacturers, but as explained in further detail below, only with respect to vehicles and equipment that they sell in the United States, and to incidents involving death outside the United States that involve identical or substantially similar vehicles or equipment. To assure that we receive information initially provided to various foreign entities, including affiliates of foreign parent corporations, we propose to apply Part 579 to all vehicle and equipment manufacturers "with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer."

This leaves the question of who must and who may report. In view of the definition of manufacturer and in further view of the specific provisions of Section 30166(m), we believe that the agency has authority to require a report from the foreign entity that

UMI
VOL 66 ISS 246 DE 21 2001
UMI

maintains the information, from the fabricating manufacturer, and from the importer of the vehicle or equipment. However, we are proposing to apply the reporting requirements for early warning in the same manner as we currently utilize for reporting noncompliance and defect determinations to NHTSA under Part 573, and that we have proposed for reporting of safety recalls and other safety campaigns in foreign countries pursuant to Section 3(a) of the TREAD Act, 49 U.S.C. 30166(l). See 66 FR 51905 et seq., October 11, 2001. Thus, under today's proposal, the report must be filed by either the fabricating manufacturer or by the importer of the vehicle or equipment. This is consistent with current reporting of safety defects and noncompliances. See 49 CFR 573.3(b).

A multinational corporation must ensure that all relevant information on matters for which reports are required throughout the world are made available to whatever entity makes those reports so that its designated entity timely provides the information to NHTSA. Thus, it would be a violation of law for a foreign fabricating manufacturer to designate its U.S. importer as its reporting entity, and then fail to assure that it is provided with the information that must be reported under this rule. Such manufacturers will have to adopt and implement practices to assure the proper flow of relevant information.

D. Other Representatives of Manufacturers

Most of the information covered by this rule would be provided directly to the entity (usually a corporation) that assembles or imports vehicles or equipment. However, some information, such as claims-related documents or field reports, might be initially received by affiliates or other representatives of manufacturers, such as their registered agents and outside counsel. Consistent with the thrust of the early warning statutory provisions, we are proposing to deem information received by these entities to be in the possession of the manufacturer, and thus to require each manufacturer to ensure that entities that it has the ability to control furnish it with relevant early warning information so that the manufacturer may make a full and timely report to NHTSA. However, we are not proposing to require such an affiliate or representative to report directly to NHTSA. We also ask for comments on our proposed applicability of this regulation to parents, affiliates, and subsidiaries of vehicle manufacturers.

In general, motor vehicle dealers are independent businesses (this is not the case with respect to some tire dealers). To the extent that they are independent, claims and other information received by dealers would not automatically be considered in the possession of the manufacturer. However, if the dealer were to convey such information to any employee or other representative of a manufacturer, the manufacturer would be deemed to have possession of it upon receipt.

IV. Information That Would Be Reported

Section 30166(m)(3)(A) directs NHTSA to require manufacturers to report information which concerns data on "claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment," and on "customer satisfaction campaigns, consumer advisories, recalls or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment." Section 30166(m)(3)(B) authorizes us to require manufacturers to report other "such information" that may assist in the identification of safety defects. Finally, Section 30166(m)(3)(C) requires reporting of incidents, of which the manufacturer receives actual notice, involving deaths or serious injuries which are alleged or proven to have been caused by a possible defect in the manufacturer's vehicle or equipment in the United States, or in a foreign country when the possible defect is in a vehicle or equipment identical or substantially similar to that sold in the United States.

A. Production Information

For each reporting period, we would require manufacturers of vehicles whose sales, production, or importation for sale in the United States is 500 or more, and manufacturers of child restraint systems and tires, to provide information on the volume of production of their products. Production numbers are needed because the agency's trend analyses frequently are normalized to the number of claims, complaints, etc. per unit of production. These manufacturers would submit the following information with respect to each model and model year of vehicle manufactured in the calendar year of the reporting period and the nine model years prior to the model year of the reporting period, including models no longer in production: the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models of vehicles that are manufactured with more than one type of fuel system, the information required by this subsection would be reported separately for gasoline-powered vehicles and for non-gasoline-powered vehicles. For medium-heavy vehicles, there would be further subcategorization by service brake system (e.g., hydraulic, air).

We recognize that manufacturers of child restraint systems and tires generally do not specify "model years" for their products. For purposes of this rule, to avoid confusion, we are defining the term "model year" as the year that the item of equipment was manufactured.

Figure 1, below, represents a pro-forma example of how production information would be reported by a manufacturer of medium-heavy trucks, using an electronic spreadsheet. For each model/model year, there would be multiple rows if the medium-heavy truck model was produced with different types of fuel or brake systems.

Production Information

MEDIUM-HEAVY TRUCKS
Reporting Period:
Manufacturer:

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		2003	#		
		2002	#		
		2001	#		
		2000	#		
		1999	#		
		1998	#		
		1997	#		
		1996	#		
		1995	#		

Make	Model	Model year	Production	Fuel system type (see below)	Brake system type (see below)
		1994	#		

Fuel System Type:
- a. Gasoline
- b. Diesel
- c. Other

Brake System Type:
- a. Hydraulic
- b. Air
- c. Other than hydraulic or air

Figure 1

We ask for comments on this suggested format for providing production information by electronic means.

B. Claim: A Proposed Definition

Section 30166(m)(3)(A) refers to claims data. The ANPRM stated that, in order to achieve the goals of the TREAD Act, the term "claim" must be construed broadly and provided some examples.

We have researched the definition of claim, considered comments received in response to the ANPRM, and considered our investigatory experience with requests for claims information.

Case law provides interpretations of the word "claim" in various contexts. In a Federal law context, " 'claim' is something more than mere notice of an accident and an injury. The term 'claim' contemplates, in general usage, a demand for payment or relief." *Avril* v. *U.S.*, 461 F.2d 1090, 1091 (9th Cir. 1972). See also, *Conoco, Inc.* v. *United States*, 39 Env't. Rep. Cas. (BNA) 1541 (N.D. La. 1994)(written request for compensation for damages or costs); 31 U.S.C. 3729(c) (claim involves request for demand for money or property).

State case law also provides a definition of the word "claim." For example, *Fireman's Fund Insurance Co.* v. *The Superior Court of Los Angeles County*, 65 Cal. App. 4th 1205, 1216 (1997), noted that a claim encompasses more than a suit:

> "claim" can be any number of things, none of which rise to the formal level of a suit—it may be a demand for payment communicated in a letter, or a document filed to protect an injured party's right to sue a governmental entity, or the document used to initiate a wide variety of administrative proceedings.

Other state law cases have further addressed the meaning of "claim." *Safeco Surplus Lines Co.* v. *Employer's Reinsurance Corp.*, 11 Cal. App. 4th 1403, 1407 (1992), held that a "claim" is "the assertion, demand or challenge of something as a right; the assertion of a liability to the party making it do some service or pay a sum of money." *Phoenix Ins. Co.* v. *Sukut Construction Co.*, 136 Cal. App. 3d 673, 677 (1982), stated that "a claim both in its ordinary meaning and as interpreted by the courts, is a demand for something as a right, or as due and a formal lawsuit is not required before a claim is made."

Commenters provided a variety of views on a possible definition of a claim. The Alliance offered this definition to which Ford and Delphi agreed:

> A claim or incident involving serious injury or death is any written demand, complaint, subrogation request or lawsuit received by a manufacturer from or on behalf of the person seriously or fatally injured that (a) involves "serious injury," as further defined, or death, (b) alleges that a product defect was, at least in part, a contributing cause of the serious or fatal injury, and (c) contains sufficient information to identify the motor vehicle or item of motor vehicle equipment involved.

DaimlerChrysler would add that a "claim" includes a formal request for compensation. International Truck stated that the term should exclude warranty claims, which International considers to be dealer or customer submissions for reimbursement on parts and labor. TRW also pointed out the difference between claims for deaths and injuries and those submitted under warranties. TRW offered a definition for claims in the personal injury context as

> a written demand for compensation against the manufacturer or written notice to the manufacturer of litigation where compensation is sought from the manufacturer and it is expressly alleged that death or serious personal injury has been caused by a defect in a specified vehicle and/or in specified motor vehicle equipment of the manufacturer.

Mack Truck stated that claims should be defined as verified written communications transmitted to the manufacturer, requesting compensation for property damage, death or personal injury allegedly caused by safety-related defects in a specified product of the manufacturer. Volvo Trucks would restrict "claim" to "any lawsuit filed requesting compensation for personal injuries or property damage that is the result of an alleged safety-related defect in a motor vehicle" and did not include subrogation claims. It would also exclude "any request for consequential damages that are the result of a warrantable repair or an alleged defect that does not relate to safety."

We have considered the case law and the comments. We believe that the definition of claim should be broad, and meet our needs under the TREAD Act. We propose the following definition for claim:

> A written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or a fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

The proposed definition includes many of the elements addressed above by commenters. We do not address, as did the Alliance and others, what the claim must involve, allege or contain, as those matters are not parts of a definition of a claim. They are addressed below. However, we do refer to a motor vehicle crash, accident, component or system failure, and a fire, as these are the events that have safety implications. The definition would exclude, for example, events with which the rule is not concerned, such as injuries in manufacturers' factories. Warranties are addressed separately below. The last two sentences of our proposal are designed to assure that all relevant claims are provided to us. This would preclude attempts, similar to those that have been made by some manufacturers in our investigations, to evade reporting claims by conditioning them on receipt of parts, or their own assessments of the merits of claims.

UMI
VOL 66
ISS 246
DE 21 2001
UMI

C. Notice: A Proposed Definition

Section 30166(m)(3)(C) requires that the rule include the reporting of "all incidents of which the manufacturer receives actual notice," involving fatalities or serious injuries that are alleged or proven to have been caused by a possible defect in its products. The term "actual notice" is extremely broad. Nonetheless, to avoid impractical requirements, we are proposing only to require reporting of incidents of which a manufacturer receives or obtains documentation (e.g., in written or electronic formats). Therefore, in this context, we would define "notice" of an applicable incident to mean "a document received by or prepared by a manufacturer that does not include a demand for relief." This would include, for example, a letter advising a manufacturer of a crash in which there was a death or injury and an allegation of a defect in the vehicle where there was no claim for monetary or other relief. It would also include police accident reports transmitted to a manufacturer regarding deaths or injuries in which a causative factor was stated to be a performance failure of the vehicle or equipment, but would not include reports where no defect in, or failure of, the vehicle or equipment was indicated (e.g., a crash due to the driver losing control, with no system or equipment failure reported). Newspaper articles or other media reports would not, in themselves, constitute "notice," unless either they were provided to the manufacturer, such as by an owner, or actions taken by the manufacturer reflect that it had received notice of the incidents in question.

D. Identification of the Product in Claims and Notices

To be covered by these early warning requirements, a claim or notice, as well as other matters addressed below, would have to identify the vehicle or equipment item involved in at least a minimal way. Otherwise, it would not be possible to identify what vehicle or equipment was involved, and the information would not help us to identify potential defects. In the context of identification, we propose to use the term "minimal specificity" and define it to mean "(a) for a vehicle, the make, model and model year, (b) for a child seat, the model (either the model name or model number), (c) for a tire, the model and size, and (d) for other motor vehicle equipment, if there is a model or family of models, the model name or model number."

With regard to claims, notices, and other reporting obligations discussed below, for vehicles, we would define "model" to mean "a name that a manufacturer applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type." "Make," in turn, would mean "a name that a manufacturer applies to a group of vehicles." The proposed definition of "make" is the identical definition of "make" used in 49 CFR Part 565, *Vehicle Identification Number Requirements* (see section 565.3(g)). The proposed definition of "model" is the definition the VIN regulation uses for "[vehicle] line" (see section 565.3(f)). Our objective is to obtain reports by commonly-understood designations. For example, with regard to the General Motors S–10 platform, we would expect to receive separate reports for pickup trucks and sport-utility vehicles, but the total for each would include both Chevrolet and GMC nameplates. But we would expect C and K platform pickup trucks to be reported together (the total including both Chevrolet and GMC nameplates) as they are both pickup trucks and the relevant difference (2- vs. 4-wheel drive) appears to be insignificant for early warning reporting. As another example, with regard to Ford pickup trucks, we expect separate reports for the F–150 and F–250, but, within each designation, do not want separate reports for two-door and four-door versions, or versions with different engines or transmissions. We request comments on this approach and how our definition may achieve it.

We would define "model year" for this and all other early warning reporting purposes to include the year that a vehicle was manufactured if the manufacturer has not assigned a model year to the vehicle covered by the report.

For equipment, "model" would mean the name that its manufacturer uses to designate it. "Model year" would mean the calendar year in which the equipment was manufactured.

We ask for comments on the clarity and inclusiveness of these proposed definitions.

If an otherwise covered claim or notice as initially received by the manufacturer does not identify the allegedly defective product with minimal specificity but a subsequent communication does, it would become a covered claim or notice at the time of the subsequent communication, and the manufacturer would be required to report it in its next report to NHTSA.

E. Claims and Notices Involving Death

1. Whether to Define Death

We are not proposing to define death or fatality because we do not believe that it is necessary or appropriate to do so. Our reason is simple: the subject matter of this category of information is claims involving deaths and notices of incidents involving fatalities. Proof of death is not necessary, nor does it matter when death occurred.

2. Claims Involving Death

We propose that every manufacturer be required to report certain information about each incident involving a death identified in claims it has received during each reporting period, if the claim identifies the product with minimal specificity. This would apply to claims regarding fatal incidents in foreign countries as well as the United States. Reports of claims involving death would be in electronic form, as we discuss later.

3. Notices Involving Death

We are also proposing that manufacturers be required to report similar information about each incident involving a death that occurred in the United States that is identified in a notice (as defined above) in which it is alleged or proven that the fatality was caused in whole or in part by a possible defect in such manufacturer's vehicle or equipment, received during each reporting period, if the product is identified with minimal specificity. Information about such deaths would be combined with information about claims of death on the same report.

4. Information About Deaths

The information about deaths to be reported would contain, for each incident, model and model year of the vehicle or equipment, the date of the incident, the number of deaths that occurred in the incident, the name of the State in the United States or the specific foreign country in which the incident occurred, and the identification of each component or system that allegedly contributed to the incident or the death reported.

We are proposing that manufacturers who sell 500 or more vehicles annually in the United States and manufacturers of tires (except as to low production tires) and child restraint systems identify systems or components involved in the same manner as those used for their other reporting obligations. These are discussed below. Vehicle manufacturers who sell fewer than 500 vehicles annually in the United States would also identify systems or components involved in the same manner. However, given the large and varying universe of motor vehicle equipment, manufacturers of original equipment and of replacement equipment other than tires and child restraint systems would describe the systems or components involved in their own words, based on the claim or notice. We are proposing this approach to make reporting by these manufacturers simpler than it would otherwise be if they had to use designations with which they are not familiar.

For claims and notices, if the component or system is not identified, the manufacturer would enter "unknown." If the manufacturer was not aware of one or more of the required items of information at the time the report was submitted, it would have to provide the information in a further report covering the reporting period in which it was received.

F. Claims and Notices Involving Injuries

1. The Difficulties of Defining "Serious Injury"

The issue of whether to define "serious injury," and if so, how, has proven to be one of the more challenging tasks in the development of this NPRM.

We have considered several approaches. Originally, it seemed to us that it might be appropriate to use the Abbreviated Injury Scale (AIS) system. The AIS system was developed by a joint Committee on Injury Scaling, comprised of representatives from the American Medical Association, Association for the Advancement of Automotive Medicine, and the Society of Automotive Engineers (SAE). The AIS system ranks the severity of injuries numerically from 1 to 7. The injuries that are recorded are those that occur to the head, face, neck, thorax, abdomen, spine, upper and lower extremities, external/skin, burns and other trauma. In the ANPRM, the agency sought input on the potential use of the AIS system. The commenters had many disparate views.

In its comments, the Alliance labeled the AIS system unworkable for this purpose due to the highly sophisticated coding and complex nature of identifying claims. The Alliance noted that each manufacturer would need to have a staff of thoroughly trained personnel who understand the entire system. The manufacturer would have to train its responsible personnel to understand basic medicine and medical terms and to use the AIS coding system, which is not a simple task. There is a lengthy manual, and the Association for the Advancement of Automotive Medicine offers a two-day course for injury scaling according to the AIS. The course is designed for trauma nurses, registrars, physicians, hospital records personnel, and researchers who are responsible for injury databases. A general knowledge of anatomy is required before taking the class.

Another issue with using the AIS system is the amount of information required to determine the actual injury level. A manufacturer may never have enough information to properly code an injury according to the AIS system. Many claims and notices received by a manufacturer will allege an injury but contain insufficient information for AIS coding. In the absence of information demonstrating that the injury in question reached whatever threshold AIS level might be selected, a manufacturer would be justified in not reporting the incident, which could result in substantial under-reporting.

In addition, the AIS system necessarily involves subjective judgments. This could introduce error and inconsistency. Moreover, the manufacturers have stated that they are reluctant to interpret medical records.

Another concern is universal administration. The AIS system is prevalent in some professional circles in the United States, but many manufacturers indicated that the AIS system is not utilized outside the U.S. This may cause confusion when translating or reviewing foreign claims, especially if there is a different reporting system for injuries in foreign countries. Similarly, while most major vehicle manufacturers probably have employees who are familiar with it, the AIS system may not be utilized by many smaller manufacturers. Many smaller manufacturers commented that they were unaware of the AIS or believed that using it as a determinant of serious injury would be unworkable. We do not believe that it would be appropriate to specify different reporting criteria for different industry segments.

Nissan diverged from most manufacturers and supported a system similar to the AIS system for defining serious injuries, but sought a simplified, flexible system. Nissan suggested that the government and the industry create a joint task force to develop a table based upon the AIS system that would allow the ranking of injuries to define serious injury. Similar to Nissan, AIAM suggested that the AIS system needed to be simplified to allow manufacturers to easily classify an injury as serious or not serious. We do not know whether this approach would be workable. However, even if it were, there is insufficient time to develop such a system within the statutory deadline for the early warning rule.

CU and Advocates both supported the use of the AIS system as a triggering device. However, both commenters stated that if a claim alleges an injury and it cannot be determined if it involves a serious injury, the claim should be reported to the agency.

We also considered basing the definition of serious injury for purposes of the early warning rule on certain statutory and regulatory definitions. RMA suggested the definition from 18 U.S.C. 1365(g)(3). In that section, serious injury is defined as: "a bodily injury which involves (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ or mental faculty." The MIC suggested that we define serious injury similarly to the Consumer Product Safety Commission's (CPSC) definition of "grievous bodily injury" (16 CFR 1116.2 (b)). That section states, in pertinent part:

> (b) Grievous bodily injury includes, but is not limited to, any of the following categories of injury:
> (1) Mutilation or disfigurement. Disfigurement includes permanent facial disfigurement or non-facial scarring that results in permanent restriction of motion;
> (2) Dismemberment or amputation, including the removal of a limb or other appendage of the body;
> (3) The loss of important bodily functions or debilitating internal disorder. These terms include:
> (i) Permanent injury to a vital organ, in any degree;
> (ii) The total loss or loss of use of any internal organ,
> (iii) Injury, temporary or permanent, to more than one internal organ;
> (iv) Permanent brain injury to any degree or with any residual disorder (e.g. epilepsy), and brain or brain stem injury including coma and spinal cord injuries;
> (v) Paraplegia, quadriplegia, or permanent paralysis or paresis, to any degree;
> (vi) Blindness or permanent loss, to any degree, of vision, hearing, or sense of smell, touch, or taste;
> (vii) Any back or neck injury requiring surgery, or any injury requiring joint replacement or any form of prosthesis, or;
> (viii) Compound fracture of any long bone, or multiple fractures that result in permanent or significant temporary loss of the function of an important part of the body;
> (4) Injuries likely to require extended hospitalization, including any injury requiring 30 or more consecutive days of in-patient care in an acute care facility, or 60 or more consecutive days of in-patient care in a rehabilitation facility;
> (5) Severe burns, including any third degree burn over ten percent of the body or more,

or any second degree burn over thirty percent of the body or more;
(6) Severe electric shock, including ventricular fibrillation, neurological damage, or thermal damage to internal tissue caused by electric shock.
(7) Other grievous injuries, including any allegation of traumatically induced disease.

In the context of early warning reporting, these definitions suffer from many of the same deficiencies as identified above regarding the AIS system. Reporting would ultimately depend on highly subjective determinations, including the assessment of terms like "substantial," "extreme," and "protracted." This could lead to inconsistencies, under-reporting, and unwarranted delays. In addition, many categories, such as "substantial risk of death" and "extreme physical pain," would need to be further defined.

We also considered using a surrogate for serious injury, such as hospitalization. The Alliance, which, as noted above, opposed technical assessments of injuries under the AIS system, took this approach. The Alliance would define serious injury as any non-fatal injury resulting in an overnight hospital admission (but not including emergency room treatment if the person was treated and released). The Alliance asserts that it is simple and is easier to administer than the AIS system. This is true; the Alliance's definition is simple and does not require sophisticated training of reporting personnel. Also, the definition provides an objective criterion. The reporting trigger, the hospitalization, would not need to be interpreted by the manufacturer to determine if it meets another standard.

On the other hand, the Alliance's definition is not broad enough. The definition only includes injuries that result in an overnight admission into a hospital, but excludes significant emergency room treatment. For the purposes of early warning, in our view, this is not sufficient. Due to various factors, such as health care management practices and evolving medical approaches, individuals with injuries that most people would view as serious are often treated in an emergency room but not actually admitted to a hospital. For example, under the Alliance's definition, a person who fractured a leg might not be considered to have incurred a serious injury, since he or she might not be admitted into the hospital for an overnight stay. Yet we believe that most people would agree that a fractured leg would be considered a serious injury. In addition, for various reasons, some seriously injured people, such as the poor and people in various religious groups, might not be admitted into a "hospital." Most important, it is likely that most claims, and possibly even lawsuits, will not specifically state whether or not there was a hospital stay. Thus, many serious injuries that involved hospitalization would not be reported under this definition.

A difficulty that would exist under any definition of serious injury is the effort that would be needed to monitor the progress of claims to see if a claim that initially did not allege an injury that satisfied the definition was amended or supplemented such that the injury was serious. The Alliance asserted that constant monitoring of claims is not feasible and would not further the goals of the early warning provisions. The Alliance further commented that the burden should not be on the manufacturer to determine if a claim involves a serious injury. We disagree with the Alliance's assertion that follow up review under such a scenario would not further the goals of early warning. Nonetheless, we recognize that such efforts would impose significant additional burdens on manufacturers.

2. Reporting of Incidents in Which Persons Were Injured, Based on Claims and Notices

In view of the substantial problems associated with defining "serious injury," for purposes of early warning reporting we are proposing to require certain categories of manufacturers to report each incident in which persons are injured in the United States that is identified in a claim or notice alleging or proving that the injury was caused by a possible defect in the manufacturer's product, if the claim or notice identifies the product with minimal specificity. For these manufacturers, the report would be combined with the reporting of incidents involving fatalities. This would limit the number of reports and avoid duplication that could be associated with separate reports of deaths and injuries stemming from the same incident.

We recognize that Sections 30166(m)(3)(A) and (C) refer to "serious injuries." Nevertheless, we are authorized to require reporting of claims about, and notices of, all injuries by Section 30166(m)(3)(B) which provides:

> *Other Data.* As part of the final rule * * *, the Secretary may, to the extent that such information may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States, require manufacturers * * * to report, periodically or upon request of the Secretary, such information as the Secretary may request.

It is evident that information about injuries caused by defects in vehicles and equipment will "assist in the identification of defects related to safety." Often, the gravity of an injury does not help determine whether a vehicle or equipment is defective, since the fact that a possible defect led to a crash is generally more relevant than the degree of injury experienced by a vehicle occupant in the crash. Thus, limiting reporting to serious injuries would not better lead to the discovery of defect trends. By requiring all claims and notices of injury to be reported, we would increase the robustness of the data base on which we could analyze whether a possible defect trend existed. Thus, such a requirement is authorized by Section 30166(m)(3)(B), and satisfies the agency's obligations under Sections 30166(m)(3)(A) and (C).

This proposed requirement avoids the operational difficulties described above associated with any attempt to develop a universal, objective definition of "serious" injuries. The decision about whether an incident involving an injury must be reported could be made on the basis of the limited information that would be expected in a claim or a notice of a covered incident, without requiring complicated coding efforts, or awaiting detailed information about the specifics of the injury or the extent of hospitalization. Thus, it would reduce delays that could turn "early warning" into "late warning."

There are other benefits to this approach. Because manufacturers would not have to determine if the alleged injury met one or more potentially complex criteria for seriousness of an injury as provided under some proposals, this approach would eliminate the need for subjective determinations, and thus address the concern of manufacturers that their decisions could be second-guessed.

Although the incidents that would be reported in which persons were injured would be greater than under a more limited definition of "serious injury," this approach would actually reduce the burden on manufacturers. They would not need specialized or highly trained staffs to make decisions about "seriousness." As importantly, the need to monitor and repeatedly review incoming information to reassess whether an injury was "serious" would be minimized, if not eliminated. Also, most manufacturers would not have to significantly restructure their existing database systems to comply with this reporting requirement, since most, if not all, manufacturers keep a record of claims.

We have considered the consequence upon NHTSA of receiving, organizing, and analyzing this information. The Alliance has raised the specter that agency would be flooded with a tremendous amount of data, even if it was submitted in electronic form, stating that there are over 3.2 million injuries per year as a result of 6.3 million police-reported crashes. The Alliance has overstated the burden on NHTSA. The vast majority of those crashes and injuries do not result in claims against manufacturers, and do not involve alleged defects. In fact, the Alliance's supplemental comments noted that only 9,200 claims alleging death or injury were filed against their manufacturer members and two other manufacturers in the United States in 2000. Also, NHTSA would not be overwhelmed because, as discussed below, only a limited amount of information involving injury-producing incidents would be reported, as opposed to copies of the underlying claims or notices themselves.

We would require those manufacturers that must report information about injuries to provide the same information as required with respect to incidents involving deaths. If an incident involved both deaths and injuries, it would only be reported once, with both the number of deaths and the number of injuries specified.

G. Other Possible Conditions on Reporting of Deaths and Injuries

Some commenters suggested that, to be covered under the reporting provisions, a claim or notice must also specifically allege that the fatality or injury was caused by a possible defect. The allegation of a defect is not statutorily required under Section 30166(m)(3)(A) or (B). Moreover, such a limitation would lead to under-reporting. In a lawsuit, which is one type of a claim, a defect need not be alleged if the pleading requirements of the relevant jurisdiction do not require such an averment. For example, in some states such as California, the claim/pleading requirements for complaints do not require the plaintiff to allege the existence of a defect. Moreover, with respect to claims, the assertion of a defect is implicit, since ordinarily there would otherwise be no reason to make the claim. Therefore, we are proposing that, for early warning reporting purposes, a claim need not specifically allege or describe a defect. It is enough if the claim contains information indicating that a death or injury has allegedly occurred, and it is alleged or proven that the manufacturer's product is responsible.

Different considerations apply to those incidents of which the manufacturer receives notice that does not amount to a claim, since only incidents in which a defect is alleged or proven are to be reported under Section 30166(m)(3)(C). Thus, for such incidents, we would require an allegation of a defect. Otherwise, the manufacturer would be required to report incidents that came to its attention when no one believes that the manufacturer's product contributed to the death or injury; e.g., a fatal crash due to high speed or drunk driving. However, the specific component or system that allegedly led to the incident would not have to be identified in the claim or notice.

Some manufacturers suggested that the allegation that a vehicle component is involved would have to be confirmed before an incident would have to be reported. We reject this suggestion, since the litigation process is lengthy, and it may be months or years before the involvement of a component is confirmed, if at all. The vast majority of cases settle without findings and of those that do not, many may not identify the defective component in jury resolutions. Also, the earlier that information arrives at the agency, the earlier our investigators will have information to determine whether an investigation needs to be opened.

Some manufacturers also suggested that the reportable incidents be limited to failures of or problems with certain vehicle systems. As discussed below, we believe that this approach is appropriate for certain types of information. However, while deaths and injuries due to alleged defects are relatively rare, they are so significant that we want our information to be as complete as possible. Therefore, we propose to require reporting of all deaths and injuries in the United States based on claims and notices, regardless of the implicated components.

Section 30166(m)(3)(A) refers to claims "derived from foreign and domestic sources." In the same vein, Section 30166(m)(3)(C) refers to the reporting of certain incidents of which the manufacturer receives actual notice that occur in a foreign country, when the vehicle or equipment is identical or substantially similar to products offered for sale in the United States. In an effort to minimize the burdens associated with gathering information about incidents in foreign countries, in this phase of rulemaking we are proposing to require only reporting of such claims involving fatalities occurring in a foreign country but not to require reports about incidents in foreign countries that resulted in non-fatal injuries. Relatively few claims are filed outside the United States, and, in light of the anticipated robustness of the domestic data, we do not believe that our early warning capabilities would be adversely affected. We recognize that this proposal would require manufacturers and their affiliates to review foreign information bases, but believe the seriousness of fatalities associated with potential defects warrants this requirement.

H. Identical or Substantially Similar Motor Vehicles or Equipment.

Under Section 30166(m)(3)(C), manufacturers of vehicles or equipment must report:

> * * * incidents of which the manufacturer receives actual notice which involve fatalities or serious injuries which are alleged or proven to have been caused by a possible defect in such manufacturer's motor vehicle or motor vehicle equipment * * * in a foreign country when the possible defect is *in a motor vehicle or motor vehicle equipment that is identical or substantially similar to a motor vehicle or motor vehicle equipment offered for sale in the United States*. (emphasis added)

In response to the ANPRM, we received comments on the meaning and scope of this phrase. These comments helped us in preparing the NPRM ("Foreign Defect NPRM") published on October 11, 2001 which would implement Section 30166(l), Reporting of defects in motor vehicles and products in foreign countries (66 FR 51907), which contains the underlined phrase.

1. The Meaning of "Identical"

The ANPRM asked:

"1. Is the word 'identical' understood internationally, or do we need to define it? If so, how?"

We discussed this issue extensively in the Foreign Defect NPRM (see 66 FR 51907 at 10–11) and incorporate that discussion by reference. We concluded that a definition of "identical" was not needed. The same applies to this notice.

2. Substantially Similar Motor Vehicles

The Foreign Defect NPRM discussed extensively the comments received in response to the ANPRM on the meaning of "substantially similar motor vehicles" (see 66 FR 51907 at 11–13), and that discussion is also incorporated by reference. On the basis of these comments, we proposed that motor vehicles would be substantially similar to each other for foreign defect reporting if one or more of five criteria was met, at proposed 49 CFR 579.12:

> (a) A motor vehicle sold or in use outside the United States is identical or substantially

UMI
VOL 66 ISS 246 DE 21 2001
UMI

similar to a motor vehicle sold or offered for sale in the United States if:

(1) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(2) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(3) Such a vehicle is manufactured in the United States for sale in a foreign country;

(4) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States or

(5) Such a vehicle and a vehicle sold or offered for sale in the United States both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the components or systems is installed and regardless of whether the part numbers are identical.

We believe that the first four proposed criteria are equally appropriate for the purposes of early warning reporting, and are proposing them in this notice. With respect to the fourth criterion, or alternative test, the preamble of the Foreign Defect NPRM did not directly explain what we meant by a "counterpart" vehicle. However, by example, a discussion appearing on page 51912 provides an explanation of what, in our view, would be counterpart vehicles: "An example would be Ford Explorers assembled outside the United States, such as those assembled in Venezuela." We added that "We would appreciate comments on whether this latter class of vehicles needs to be defined with greater specificity," warning that that "in our view the term substantially similar sweeps with a broad brush and is not to be defeated by persons bent on finding or inventing distinctions to evade reporting." We have now decided to propose a definition of "counterpart vehicle" for early warning which we believe should also apply for foreign defect reporting. A "counterpart vehicle" would be "a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements." This would apply to both foreign defect reporting and early warning reporting.

The fifth alternative test, while appropriate for foreign defect reporting, is not relevant for purposes of early warning. Under the Foreign Defect NPRM, vehicles would be substantially similar if "both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, without regard to the vehicle platform on which the component or systems is installed and regardless of whether the part numbers are identical." Under Section 30166(l), a potential safety defect has already been identified in a specific component or system of a motor vehicle, usually by the manufacturer. In that context, the relative precision of a component-or system-based determination is workable. However, under Section 30166(m), a defect has not yet been identified by the manufacturer, and often a component-or system-based analysis will not be possible based on the information contained in a claim received by the manufacturer. Accordingly, we believe that a less precise focus is warranted. More particularly, we believe that platform-based reporting is consistent with the breadth of early warning reporting, yet specific enough to provide focus. We would consider foreign and U.S. vehicles as substantially similar if they use the same vehicle platform. An example would be the Cadillac Catera which uses the same vehicle platform as the Opel Omega, or the Jaguar S-Class, which shares a platform with the Lincoln LS. We specifically request comment on our view that foreign and U.S. vehicles would be substantially similar for reporting under Section 30166(m) if they shared a platform. We have not proposed a definition for "platform." If a commenter believes that a definition of this term is necessary, we invite the commenter to suggest a definition that the commenter believes is appropriate.

3. Substantially Similar Motor Vehicle Equipment and Tires

Both Sections 30166(l) and (m) require reports pertaining to substantially similar motor vehicle equipment and tires, and the preamble to the Foreign Defect NPRM contains a pertinent discussion of this issue (see p. 51913–14).

For purposes of foreign defect reporting, we proposed to deem foreign and U.S. motor vehicle equipment as identical or substantially similar "if such equipment and the equipment sold or offered for sale in the United States are the same component or system, or both contain the component or system that gave rise or contributed to a safety recall or other safety campaign in a foreign country, regardless of whether the part numbers are identical." The reference to a safety recall is inapposite for purposes of early warning, but we believe that the remainder of the proposed definition is valid. Accordingly, we are proposing that an item of motor vehicle equipment sold or in use outside the United States would be identical or substantially similar to equipment sold or offered for sale in the United States "if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical." We believe that the breadth provided by this definition is necessary given the nature of claims, which often do not identify particular problematic components. In this light, we would regard foreign child restraint systems as substantially similar (if not identical) to U.S. counterparts if they incorporate one or more parts that are used in models of child restraints offered for sale in the U.S., regardless of whether the restraints are designed for children of different sizes than those sold in the U.S. and regardless of whether they share the same model number or name. For example, if buckles, tether hooks, anchorages, or straps are common throughout a manufacturer's range of models, the child restraints would be substantially similar even though the buckles, hooks, anchorages, or straps might be used on a variety of add-on, backless, belt positioning, rear-facing or booster seats produced by the manufacturer.

In light of the foregoing discussion, we request comments on the appropriate formulation of test(s) for determining whether foreign motor vehicle equipment is substantially similar to U.S. equipment.

Finally, the Foreign Defect NPRM contained a relevant discussion on identical or substantially similar tires (see p. 51914). We proposed that tires would be identical or substantially similar "if they have the same model name and size designation, or if they are identical except for the model name." The wording of today's proposal differs slightly; tires would be identical or substantially similar if they have "the same model and size designation, or if [they are] identical in design except for the model name." We see no real substantive difference in the two proposals and will adopt a common interpretation of this phrase that will be identical in both final rules.

I. Claims and Notices Involving Property Damage

Section 30166(m)(3)(A)(i) provides for reporting of "aggregate statistical data on property damage" from alleged defects in the manufacturer's products.

1. Definition of "Property Damage," and Whether to Define "Aggregate Statistical Data"

In response to the ANPRM, manufacturers proposed definitions of property damage to be reported. Nissan would limit it

> to those claims received from vehicle owners, owner representatives, or insurance companies, which involve a crash, tire failure or fire where there is an allegation of defect which may have caused the crash, tire failure or fire. Specifically excluded would be communications requesting restitution for mechanical breakdown or improper operation such as the example of the engine that fails due to lack of maintenance.

AIAM would "include only claims received by the manufacturer in writing * * * limited to incidents in which a defect is alleged in one of the critical safety systems (brakes, steering, occupant restraint, fuel)." AIAM also suggested that a "dollar value threshold should be set (perhaps $2500)" to reduce the reporting of minor claims.

In our view, this portion of Section 30166(m)(3)(A)(i) is not limited to "claims" for property damage. Subparagraph (i) refers to "data on claims * * * for serious injuries (including death) and aggregate statistical data on property damage." The words "claims for" do not pertain to property damage. Nevertheless, we recognize in most cases that manufacturers will only be aware of property damage that may be related to potential defects if they receive a claim seeking payment for the damage. Accordingly, with respect to property damage, we are proposing to require only reporting of claims information and not incidents of which a manufacturer receives actual notice.

We believe that the term "property damage" needs to be defined, and the comments have been helpful in formulating a proposed definition. We would include damage to the vehicle or other tangible property, but exclude equipment failure and matters solely involving warranty repairs. For example, if the brakes failed and there were no physical consequences other than the need to repair the brake system, there would be no property damage. If there was a brake failure and the vehicle hit an object, there could be property damage to the vehicle or object. Accordingly, for purposes of this rule, we propose that property damage means "physical injury to tangible property." A property damage claim would mean:

> A claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

We also asked for comments on how to define "aggregate statistical data on property damage." We learned that there is no generally understood meaning of the term. For example, Fontaine believes "aggregate statistical data" means "the compilation of quantitative data without specific information on individual events." For Delphi, "aggregate statistical data" means "summaries of property damage information organized by category (e.g. model year, product type, damage type) and tabulated as to total cost or number of incidents."

AIAM would define aggregate statistical data "to exclude allegations of simple failure or breakage of a component" and limit it "to the number of incidents involving a collision, tire failure or fire and occurring in the U.S." DaimlerChrysler would restrict "aggregate statistical data" to warranty information.

The Alliance stated that non-injury claims data should be normalized on the basis of total production or total sales. Trailer manufacturers, according to TTMA, "propose to report statistical data related to warranty claims, claims and lawsuits involving property damage resulting from an alleged safety-related defect involving the following components or systems: tires, axles/suspension/brake components, rear impact guards, lighting and related components, king pins and fifth-wheel couplers, pintle hooks and drawbar eyes."

The property damage information that we are proposing to require manufacturers to submit is limited to the number of claims involving a limited number of systems, components, and fires (to be discussed later). Thus, the information to be submitted will be "aggregate statistical data." Therefore, we do not see a need for a separate regulatory definition of this term.

2. Reports Involving Property Damage

Unlike reporting of claims and notices of incidents involving deaths and injuries, we would only require reporting of property damage claims when one or more specified vehicle components or systems has been identified as causing or contributing to the incident or damage. These components and systems were selected based upon their connection to safety recalls in the past, as described in Section IV below. They vary depending on the type of vehicle or equipment that is the subject of the report.

If the incident that allegedly led to the property damage also resulted in a death or injury, the manufacturer would only report the incident as one involving a death or injury, and it would not be required to report the incident under the property damage requirement. Otherwise, there could be a misleading "double count."

Reports of property damage claims would be submitted in the same manner as the number of consumer complaints, warranty claims, and field reports, discussed later. The information would be reported separately for each model and model year and would be submitted in electronic form, as discussed in Section VII below. The manufacturer would not be required to submit documents reflecting the extent of the property damage or the details of the incident that allegedly led to the damage.

With respect to manufacturers of motor vehicle equipment, we are proposing to require only manufacturers of tires to report property damage information. We note that it is extremely unlikely that a child restraint would cause significant property damage.

We also propose that a vehicle manufacturer need not include in its report property damage claims that are for $1,000 or less, on the ground that this would exclude minor matters and reduce reporting burdens. We request comments on whether it is appropriate to establish such an exclusion, and, if so, what the level should be.

Tire manufacturers have historically kept records of all property damage claims, without regard for the amount of the claim, and this information has proven to be very valuable in identifying potential tire defects. For these reasons, we are proposing to require tire manufacturers to report all property damage claims, regardless of the amount of the claim.

J. Consumer Complaints

We are proposing to require submission of information about certain "consumer complaints" as "other data" under Section 30166(m)(3)(B).

1. Definition of "Consumer Complaint"

The ANPRM addressed consumer complaints but did not suggest a definition of "consumer complaint." Nissan commented that the meaning of "consumer complaints" in the ANPRM was not clear, and that a definition was needed. DaimlerChrysler proposed the following definition: "Reports of incidents causing some dissatisfaction with the product, not necessarily accompanied by any demand for compensation or reimbursement." Both DaimlerChrysler and Nissan noted that there was overlap between "consumer complaints" and "claims," and that it would be difficult to completely separate the two. DaimlerChrysler also stated that about half of the over 100,000 "customer contacts" it receives

UMI
VOL 66 ISS 246 DE 21 2001
UMI

monthly represent consumer complaints and half involve questions or comments about the product.

NTEA argued that only safety-related complaints should be reported, and that non-safety-related complaints should not be reported.

Notwithstanding DaimlerChrysler's and Nissan's assertions, we believe that we can formulate a definition for "consumer complaint" that would not overlap with our proposed definition of "claim." The primary distinction is that a "consumer complaint" would not seek monetary or other relief. It would be defined as:

> a communication of any kind made by a consumer (or other person) to a manufacturer expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

The term "a communication of any kind" would primarily include communications that are written but it would also include oral complaints, such as made through a telephone call, that a manufacturer memorializes in a document, including an electronic information system. The definition we propose would also include communications in which the owner of a vehicle or item of equipment that is subject to a defect or noncompliance recall asserted that the remedy failed to correct the defect or noncompliance.

We recognize that this definition would include complaints about problems that do not involve safety. Based on our past experience during defect investigations, we do not believe that it would be appropriate to simply require reporting of "safety-related" problems, since manufacturers often have a much more narrow view of what constitutes a safety-related problem than we do. As explained below, we will assure that manufacturers only need to report consumer complaints about safety-related problems by itemizing the specific safety-related components and systems with respect to which complaints must be reported.

2. The Rationale for Requiring Reports of Consumer Complaints

Over the years, NHTSA's Office of Defects Investigation (ODI) has made productive use of consumer complaints to manufacturers in its investigations of alleged defects. The problem experience of owners or operators in the real-world use of their vehicles and equipment, as reflected in their communications to manufacturers, has indicated failures of components and systems that can have an impact on safety. While a given level of complaints regarding some components or systems may not indicate the existence of a defect, a higher level might. (This level would vary, depending on the component or system involved.) Because we have no way to measure directly, or to count, all failures in the field, the frequency of consumer complaints (which complement warranty claims and field reports) can provide valuable indications of possible safety problems warranting further investigation. Consumer complaints were discussed in the Congressional hearings that led to the TREAD Act. See, e.g. Firestone Tire Recall: Hearing before the Subcomm. on Telecomm. Trade & Consumer Prot. and the Subcomm. on Oversight & Investigations of the House Comm. on Commerce. 106th Congress (as yet unpublished) (September 6, 2000) (Statement of Dr. Susan Bailey, Administrator, NHTSA).

We stated in the ANPRM that consumer complaints might help in the early detection of possible safety-related defects, and might be "particularly important after the expiration of warranties." During the warranty period, consumer complaint data would complement warranty data. We sought comments on how, whether, and to what extent we should require manufacturers to submit information about consumer complaints to us under Section 30166(m)(3)(B).

The responses from advocacy groups and the manufacturers differed significantly. Advocates and Public Citizen supported requiring the submission of consumer complaint information. One manufacturers' group, AORC, which represents a segment of equipment manufacturers, agreed with us that consumer complaints can provide a means to help NHTSA identify potential safety defects.

Most manufacturers and trade associations that commented on this issue opposed requiring the submission of consumer complaint information. Essentially, they argued that consumer complaint data would not be of any real value as early warning information. With respect to light vehicles, Ford and the Alliance noted that owner and consumer correspondence is less technically rich or timely than other sources of information. Three equipment manufacturers (ArvinMeritor, Atwood and TRW) argued that consumer complaints were of only marginal value. RMA, representing tire manufacturers, stated that reporting of all informal complaints would generate information that is misleading because it might be misinterpreted as fact, and that verbal complaints did not usually provide sufficient information to verify the legitimacy of the complaint. MIC also argued that the majority of consumer complaints are unreliable.

The ANPRM did not specifically state whether we expected to require manufacturers to submit complete copies of consumer complaints or simply "counts" of those complaints. MIC stated that "reporting of consumer complaints should not be required due to the large volume and the need to evaluate them as material to the purpose of the rule unless the Agency contemplates receiving all such communications." Johnson Controls commented that even a count of customer complaints would overwhelm the agency "by data that has questionable relevance to safety."

With respect to data other than consumer complaints, Public Citizen stated that, in most cases, summary information would be adequate until evidence of a potential defect surfaces. However, it would make an exception for consumer complaints. It would require submission of complete consumer complaints, because NHTSA "already has in place a well-developed system for categorizing those complaints by scanning them into a searchable format." Advocates argued that consumer complaint information "is an important resource," but suggested only that it "should be reported in aggregate form in conjunction with other reported information." It would have a manufacturer search its database for relevant consumer reports for entries about the same or similar type of occurrence, vehicle system, part, or component when the manufacturer had information about a death, injury, or property damage.

After reviewing the comments received and assessing the value of consumer complaints to an early warning system, we have decided to propose requiring manufacturers of 500 or more vehicles as well as all child seat manufacturers to provide aggregated consumer complaint information to us on a periodic basis, but not to require copies of such complaints periodically. NHTSA relies heavily on consumer complaint information in initiating and conducting defect investigations. We often open investigations on the basis of consumer complaints that we receive and screen. More than 75 percent of the investigations conducted by ODI are opened on the basis of complaints that we receive from individual consumers, or that are furnished to us by interested third parties, such as consumer groups, police departments, State vehicle inspectors, and school bus and other fleets.

After it opens investigations, ODI routinely asks manufacturers to provide information and copies of consumer complaints on the "subject defect;" also, ODI often asks manufacturers to update complaint information during the course of the investigation. This sort of information is very valuable in evaluating whether a defect related to motor vehicle safety exists in a given vehicle or equipment item. Since our first litigated defects enforcement case, *United States* v. *General Motors Corp.* (*"Wheels"*), 518 F.2d 420, 438 (D.C. Cir. 1975), which held that a *prima facie* case of defect can be made by showing a significant, "non de minimis number" of failures of a critical part that is expected to last for the life of the vehicle, the federal courts have recognized that consumer complaints can be a valuable source of evidence of the existence of a safety-related defect in motor vehicles.

ODI's experience has shown that consumers are more likely to report a problem to the manufacturer than to NHTSA. Historically, the number of consumer complaints to the manufacturer (either directly or through dealers) that NHTSA obtains after opening a defect investigation usually exceeds by a substantial amount the number of complaints that NHTSA had received directly from consumers prior to opening the investigation. Also, many consumers do not complain to NHTSA until after they have complained (unsuccessfully) to the manufacturer. Although there is no single threshold of consumer complaints about a particular component or system that will automatically trigger a defect investigation, it is likely that if it were aware of a relatively large number of consumer complaints to a manufacturer, ODI might well open investigations earlier. To the extent that such an investigation led to a recall, opening it earlier would likely have led to corrective action at an earlier date and the avoidance of some additional incidents.

Consumer complaints to child seat manufacturers have also consistently far outnumbered those to NHTSA about particular problems. For example, in November 1996, ODI opened an investigation of harness release button breaks in certain infant car seats. ODI had received four consumer complaints when it opened the investigation. After writing to the manufacturer and requesting complaint information, ODI learned that the company had received 328 complaints about the harness release button in those seats. Similarly, in May 1998, ODI opened an investigation of harness buckle failure in infant car seats on the basis of two consumer complaints. After writing to the manufacturer, ODI learned in July 1998, only two months later, that the company had received 92 complaints. Both of these investigations led to corrective action by the manufacturers.

We believe that NHTSA's ability to identify potential defects in a timely manner, and to identify and understand emerging defect trends, would be greatly strengthened if the agency were to receive information about consumer complaints relatively shortly after the manufacturer does. At present, ODI's decisions as to which products should be investigated are often based on limited information from consumers.

We are not proposing to require tire manufacturers to report the number of consumer complaints. We have concluded, from our experience with conducting tire investigations, that consumer complaints to tire manufacturers generally do not contain useful information for analysis of the alleged problem. For example, tire complaints do not consistently have full information describing the tire model, size, and date of manufacture. Without this identification, an analysis of failure rates and trends is not possible. Far more useful for analysis of potential defect trends is the tire manufacturer's adjustment (warranty) and claims data. The adjustment and claims data contain complete identification of the tire make, model, build plant type, and date of production. We have received such data in response to information requests issued during our defect investigations and find that these data are far superior than that contained in complaints.

We are proposing to require larger motor vehicle manufacturers, and all child restraint system manufacturers, to report the number of consumer complaints that the manufacturers have received about designated components and systems of their vehicles or equipment during each reporting period. Vehicle manufacturers would also report complaints about fire. The designated components and systems would be the same as those on which property damage claims are reported.

We are not proposing at this time to require reporting of consumer complaints from outside the United States. There are a number of issues related to foreign complaints, such as manufacturer review of potentially large numbers of complaints in foreign languages and NHTSA follow-up use, that dictate against requiring reporting, at least for the present.

NTEA, representing final stage manufacturers, said that manufacturers should be required to report only about components for which they are responsible, rather than about all components in a vehicle about which they may have received complaints. In view of our proposal to only require reporting from manufacturers of 500 or more vehicles per year (other than incidents involving fatalities), it is likely that few NTEA members will have to submit consumer complaint information. However, for these that are covered, we note that the issue of which manufacturer's product is "responsible" often is disputed and is not determinative for early warning purposes. Moreover, the final stage manufacturer is often the only entity with which an owner deals. For example, a consumer who experiences a fuel leak in a vehicle is more likely to complain to that manufacturer than the chassis manufacturer. To assure that important information is submitted, we are proposing to require that each covered vehicle manufacturer report on all consumer complaints (and other specified information) that it receives.

Under this proposal, manufacturers would be required to review, maintain, and compile consumer complaints made in any form, including those made by telephone to their customer relations representatives (employees or contractors) and those made to dealers that are transmitted to the manufacturer, as well as written communications directly to the manufacturer. The manufacturers have the capability to do this, as they presently submit relevant complaints in response to ODI information requests during defect investigations.

K. Warranty Claims Information

We are proposing to require submission of information about certain "warranty claims" as "other data" under Section 30166(m)(3)(B).

1. Definitions of "Warranty" and "Warranty Claim"

In the ANPRM, we sought input related to reporting of warranty claims but did not define them. We have decided to propose definitions of warranty and warranty claim. After reviewing various definitions of "warranty," and comments on the issue, we have decided to propose a definition of warranty based on the definition of written warranty in the Moss-Magnuson Act, 15 U.S.C. 2301(6), to which manufacturers are subject. Under that Act, a "written warranty" means:

> (A) any written affirmation of fact or written promise made in connection with the sale of

VOL 66 ISS 246 DE 21 2001 UMI

> a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time, or
>
> (B) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking, which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

We propose to tailor that definition to the subject matter at issue and to define "warranty" as:

> Any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

As explained below, we propose to require reporting of the number of repairs and/or replacements free of charge under warranties, as well as those under formal or informal extended warranties and good will. Good will includes the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty. This can occur because the terms of the warranty have expired, or the issue is outside the terms of the warranty, for example, when the manufacturer pays or participates in voluntary Buy-Backs and Lemon Law Buy-Backs of vehicles or motor vehicle equipment.

The normal practice is for dealers to perform the repair or to provide the replacement and then to submit a claim for reimbursement to the manufacturer. Accordingly, we propose that warranty claim means "any claim presented to a manufacturer for payment pursuant to a warranty program, extended warranty program, or good will."

2. Reports Involving Warranty Claims

In the ANPRM, we indicated that we believed that information about warranty claims can often provide relevant information that indicates the possible existence of a safety defect. Manufacturers, however, questioned this. The Alliance and Ford indicated that the data could be used to provide a dimension for a problem, but would be unlikely to be accurate as an early warning indicator. The primary problem, as seen by light duty vehicle manufacturers, is that there is a range of reasons for warranty claims that do not necessarily imply a safety defect. As Honda put it, "Warranty rates may be more reflective of Honda's customer satisfaction policy than an indication of product quality or failure rate."

Most heavy duty vehicle manufacturers expressed concerns similar to those of light duty vehicle manufacturers. International Truck noted that "a manufacturer usually identifies safety issues long before there is any indication of such problems in the warranty system." Several others commented on what they believed to be a lack of relationship between warranty claims and safety defects. Heavy duty vehicle purchasers, these commenters related, can choose from standard or premium warranty coverage terms, and some fleets negotiate individual coverage plans that are different from those applicable to light duty vehicles. The particular warranty terms vary from one to eight years, 100,000 miles to 1,000,000 miles, and 3250 operating hours to 18,000 operating hours.

These commenters asserted that, without knowing the warranty terms for the vehicles on which manufacturers report claim data, it would not be possible for NHTSA to interpret the data validly. Additionally, these commenters stated, because purchasers can choose their warranty coverage, they can tailor it to their expected use of the vehicle. As a result, some warranty coverage categories could show particularly high occurrences of claims as a result of use patterns rather than safety defects. While this would suggest that comparisons might not be valid in determinations whether there is a defect, it does not demonstrate that the information would have little or no use. For example, high rates or substantially increasing trends might warrant further inquiry by the agency. Without this information, the agency might not have a basis to look into the matter.

If some reporting of warranty data is required, light duty vehicle manufacturers argued that claims from foreign countries should be excluded. The reasons given by Nissan for exclusion include significantly greater complexity of reporting, the existence of a rich statistical sample due to volume and diverse operating conditions in the U.S. without additional foreign reports, different warranty periods in overseas markets, and different cultures and environments overseas. RVIA also opposed providing foreign warranty data. PACCAR suggested reporting foreign warranty information only if the components are substantially similar.

MIC suggested including warranty claims information related to major systems or components, but excluding foreign warranty data. Harley Davidson would like to exclude claims unrelated to safety or performance, such as fit, finish, or top speed.

Most equipment manufacturers opposed the reporting of warranty data; some asserted that they did not have such data and others asserted any they did have was of too poor quality to use. AAIA believes that historic data involving safety-related items that suggest potential for defects and/or recalls should be included in reporting. The major issue underlying the opposition of most equipment manufacturers appears to be that, in most cases, manufacturers of the vehicles receive warranty claims rather than the equipment manufacturers. As a result, the equipment manufacturers have limited information, much of which is considered proprietary by the vehicle manufacturers. Equipment manufacturers also repeated the data quality concerns asserted by both light and heavy duty vehicle manufacturers.

Tire manufacturers, represented by RMA, cautioned against assuming that warranty adjustments reflect tire defects. It noted that "many dealers, as well as tire manufacturers, sometimes use warranty adjustments as a means to "keep the customer happy," and therefore the adjustment is "not necessarily a statement about product performance or an indication of product deficiency." It also suggested that no foreign data or data prior to the effective date of the rule should be reported. It believes that foreign data is not comparable because of differences in coverage and road conditions and would be a burden to collect because of possible availability or integration problems between foreign and U.S. data.

Advocacy groups wanted warranty claims data to be reported as part of the early warning system.

Assuming that domestic warranty claims reporting is required, there was a common view among light duty vehicle manufacturers on what categories to include or exclude. Restraint systems, brake systems, steering systems and fuel systems would be included, as well as tires. However, this does not cover numerous components whose failure has led to safety recalls.

There was no consensus among heavy duty vehicle manufacturers on what warranty claims information should be reported. In part, the variance is a reflection of the different products the commenters manufacture. RVIA and PACCAR both named restraint systems, fuel tanks, steering systems, and axle/suspension/brake components as the most important systems on which to report (PACCAR suggested that build date of vehicles should be used in place of model year because model year is not identified in their warranty data and varies by manufacturer). TTMA focused on the components relevant to its members: axle/suspension/brake components, rear impact guards, tires, lighting and related components, king-pins and fifth wheel couplers, and pintle hooks and drawbar eyes. Fontaine suggested that only components most frequently associated with recalls, including equipment to which a FMVSS applies and defined safety-related items, should be subject to reporting.

After reviewing the comments received and assessing the value of warranty claims data to the early identification of possible safety defects, we have decided to propose to require manufacturers of 500 or more vehicles annually and all child seat and tire manufacturers to report aggregated warranty claims data from the U.S. on certain specified components and systems (as described below).

Although we agree that the evidence of even a relatively high rate of warranty claims does not necessarily indicate the existence of a defect, our experience in conducting defect investigations has demonstrated that warranty claims information often reveals a potential problem that could be related to safety. As noted above, we are limiting our proposal to require information regarding only some systems. Moreover, we would not require actual copies of warranty claims, but rather a listing of the number of such claims regarding each specified component or system in each vehicle or equipment model received by the manufacturer in each reporting period.

As with consumer complaints, manufacturers would have to maintain warranty claims, group the numbers of claims by reporting categories, and report them. Most, if not all, manufacturers maintain warranty information in computerized databases, and they have the ability to provide problem-specific warranty information under this rule, since they already do so in response to ODI's information requests during defect investigations.

L. Field Reports

As part of its defect investigations, ODI regularly requires manufacturers to provide "field reports" about alleged defects. These include communications received by a manufacturer from the manufacturer's technical staff, a dealer, an authorized service center, or others, regarding an alleged problem in or dissatisfaction with a product in use. They are usually prepared by someone with technical expertise. There are far fewer field reports than consumer complaints, although practices resulting in the generation of field reports vary widely among manufacturers. Field reports are not specifically mentioned in the TREAD Act, but were addressed in the ANPRM. We sought input on the appropriate definition of field report, the components or systems on which field reports would be valuable in an early warning context, information in them that should be reported to NHTSA, and manufacturers' use of them. We are proposing to require submission of information and documents about certain "field reports" as "other data" under Section 30166(m)(3)(B).

1. Definition of "Field Report"

The ANPRM asked for comments on an appropriate definition of "field report." Two broad themes cut across industry responses. First, respondents stressed the importance of clearly and precisely defining the term "field report." The term has a variety of meanings, both within and across industry segments. The Alliance requested that the term be defined as technical reports by technical staff involving one or more incidents in the field involving a covered vehicle system on a vehicle that had been sold. According to other respondents, the term has numerous meanings within the medium and heavy-duty truck industry as well as among equipment manufacturers and is not well defined across the tire industry. We were told that the trailer industry, for example, does not use the term "field reports."

The second broad theme in the comments by manufacturers was a recommendation to limit the number and types of field reports to be reported to us. As reflected in the definition suggested above, the Alliance would limit it to certain technical reports about an incident (or several similar incidents) that are prepared by technical representatives. The Alliance would exclude unverified reports regarding customer complaints that are passed through to the manufacturer without any technical analysis. They would also exclude research reports or accident reconstruction reports prepared for local police departments or litigation. Commenters in the tire industry and the heavy trucking industry indicated that many of the communications they refer to as field reports deal with sales, marketing and customer satisfaction programs, which they would exclude.

We have concluded that the Alliance's proposed restriction of the definition to "technical reports" that are prepared by "technical" employees is not feasible. It would require a definition of "technical" and "technical report" and assessments of whether the author was a technical employee and whether the content amounted to a technical report, which could result in delays, under-reporting, and unnecessary burdens. Nonetheless, we agree that sales and marketing literature should not be included.

There was considerable discussion about whether we should require the reporting of field reports prepared by a dealer's technicians. The Alliance recommended including both types of reports in an early warning system. Some manufacturers as well as MIC, however, felt that submission of dealer reports should not be required. We believe that it is important for us to receive information about such dealer reports received by manufacturers regarding potential defects because they are a valuable source of relevant information. Indeed, they are one of the bases upon which manufacturers become aware of potential defects in their products. We therefore are proposing to require reporting of the cumulative number of field reports prepared both by manufacturers' employees or representatives and by dealers, including their employees. However, manufacturers would not have to submit copies of reports prepared by dealers or dealer employees.

We also propose to include in our definition of "field report" any document received by a manufacturer that was prepared by a person owning or representing one or more fleets of vehicles. For these purposes, a fleet would be defined as more than ten vehicles of the same model and model year. Such reports often contain data on multiple incidents involving vehicles used by delivery companies (e.g., FedEx, UPS), rental companies, trucking companies, police departments, and school districts. Fleet vehicles generally accumulate greater miles over a given period of time than non-commercial vehicles and therefore can serve as a valuable source of predictive information for early warning purposes.

VOL 66 ISS 246 DE 21 2001 UMI

Other definitional issues raised by commenters were whether field reports should be limited to written communication and to "non-privileged" documents. Reporting would be required with regard to documented communications (e.g., those in writing, entered electronically, or otherwise converted into a document in the broadest sense of the word). With respect to the issue of privilege, we recognize that a field report truly prepared in anticipation of litigation could be considered as work product, and thus ordinarily be exempt from production in litigation. We believe that the existence of any such reports should be indicated to us, even though privileged and work product documents would not have to be submitted.

Accordingly, we propose the following definition for "field report:"

> A communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether the problem is verified or assessed to be lacking in merit.

2. Reporting of Field Reports

The ANPRM asked whether reporting of field reports should be limited to reports on systems and components that are safety-related, and whether the same systems and components should be covered as for warranty claims. The ANPRM did not identify the specific systems and components with respect to which the submission of field reports might be required.

TTMA supplied a list that included some equipment: rear impact guards, lighting and related components, king pins and fifth wheel couplers, pintle hooks and drawbar eyes. On the opposing side, ArvinMeritor felt that each manufacturer is best able to determine what components and environmental and loading factors constitute a possible risk of product failure and whether those failures are likely to pose a risk to safety. Public Citizen opposed limiting early warning programs to certain components or special lists of parts. It argued that an incremental approach is "dangerously under-inclusive and thus out of conformance with Congressional intent under the TREAD Act."

We do not agree that each manufacturer should be allowed to determine possible risks of product failure and whether they are likely to pose a risk to safety before reporting field report information. On the other hand, we do not agree with Public Citizen that an incremental approach under which only certain reports would have to be submitted would be "dangerously under-inclusive," particularly if we require the submission of field reports on systems and components that historically have been most represented in safety defect recall campaigns.

We have tentatively decided, therefore, that manufacturers of 500 or more motor vehicles and all manufacturers of child restraint systems and tires must report the number of field reports originating in the United States regarding the same components and systems as for property damage claims, consumer complaints, and warranty claims. As with these categories of information, reporting would be done separately for each model and model year.

Consumer complaints that were merely forwarded to the manufacturer by the dealer without any comment or assessment would not have to be reported as field reports, but they would have to be reported as consumer complaints.

In addition to requiring the number of field reports by category that are prepared or received during each reporting period, we would require copies of the field reports themselves that are generated by employees or representatives of the manufacturer or by representatives of fleets of the manufacturers' vehicles. We would not require copies of reports that are prepared by dealers or their employees.

M. Customer Satisfaction Campaigns, Consumer Advisories, Recalls, or Other Activities Involving the Repair or Replacement of Motor Vehicles or Motor Vehicle Equipment

Section 30166(m)(3)(A)(ii) provides for submission of information (derived from foreign and domestic sources) that concerns "customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment" (we will use the term "campaign" at times hereafter collectively to refer to all such actions by the manufacturer). As we stated in the ANPRM, this new section is broader than 49 CFR 573.8 (2001) (which implements Section 30166(f)), which requires a manufacturer to provide copies of communications to more than one manufacturer, distributor, dealer, lessor, lessee, or purchaser regarding "any defect" including "any failure or malfunction beyond normal deterioration in use, or any flaw or unintended deviation from design specifications, whether or not such defect is safety related." We further stated in the ANPRM that this category of information would encompass any communication to, or made available to, more than one dealer, distributor, other manufacturer, or more than one owner, whether in writing or by electronic means, relating to replacement or repair of a component, or modification of the way that a vehicle or equipment item is to be operated.

The ANPRM requested comments on whether the various campaign activities identified in the TREAD Act should be defined, and, if so, what would be appropriate definitions. Most of the comments from the light and heavy vehicle manufacturers generally argued that campaigns should be defined because the term has different meanings across industry segments. Nevertheless, only the Alliance suggested a definition (also endorsed by Ford and Nissan), which reads as follows:

> Customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment shall mean those actions, other than foreign recalls or other safety campaigns as further defined [by the Alliance], undertaken or authorized by a manufacturer in which a class of affected owners of motor vehicles or items of motor vehicle equipment are notified of an offer to repair or replace the vehicle or equipment or to extend any applicable vehicle or equipment warranty.

The proposed Alliance definition does not address one of the categories of action identified in the statute: "other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment." It is also too limited with respect to some of the other categories. For instance, "customer satisfaction campaigns" and "consumer advisories" need not involve repair, replacement, or extended warranties. Also, a "consumer advisory" could include a warning relating to the way that a vehicle is to be driven or maintained. Accordingly, it would not necessarily involve repair or replacement.

We agree with the Alliance's suggestion that foreign recall and safety campaigns, which are covered under Section 30166(l), and a new Subpart B to 49 CFR Part 579 (see the Foreign Defect NPRM at 66 FR 51907 *et seq.*), need not be separately reported under the early warning provisions.

UMI

We propose to define the phrase "customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment," to mean:

> Any communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, whether in writing or by electronic means, relating to (1) repair, replacement, or modification of a vehicle, component of a vehicle or item of equipment, or a component thereof (2) the manner in which a vehicle or equipment is to be maintained or operated, or (3) or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

We have included communications related to operation and maintenance because they may relate to a potential defect. For example, a warning not to turn on the wipers when the windshield has snow on it may indicate a wiper defect.

The proposed definition would not include routine marketing documents or documents relating to surveys of owner satisfaction. It would include all notifications, product improvement or technical service bulletins, advisories, and other communications regarding the subject matter that are issued to, or made available to, more than one vehicle or equipment dealer, distributor, lessor, lessee, other manufacturer or owner involving any systems or components in the vehicle or equipment, not merely the specified components for which reports must be submitted regarding property damage claims, consumer complaints, warranty claims, or field reports. This would include any category of information relating to the replacement or repair of a vehicle or vehicle component, or the way a vehicle or vehicle equipment item is to be maintained or operated, whether or not there has been any determination by the manufacturer that these actions pertain to or are being undertaken because of a defect or a safety-related concern.

In our view, this requirement is similar to although somewhat broader than the notices, bulletins, and other communications that for years have been required to be submitted by 49 CFR 573.8 (2001). Under Section 573.8, a manufacturer might argue that a condition that was the subject of a communication to dealers or others did not rise to the level of a "defect" or "malfunction," and that it therefore did not have to provide copies of such a communication to NHTSA. Under early warning reporting, it would have to provide these related notices regardless of whether a "defect" existed.

Nevertheless, because of these similarities, we are proposing to implement this aspect of early warning reporting by including it in the same section as current Section 573.8, which would be moved to a new Section 579.5(a). This new Section 579.5(b) would also apply to all manufacturers of vehicles and equipment, which are currently required to submit copies of similar communications to NHTSA on a monthly basis. We anticipate that there will be relatively few documents covered by this proposal that would not have been covered under Section 573.8.

In our administration of existing Section 573.8, we have noted several problems, such as the failure of a manufacturer to make monthly submissions of covered documents and disputes over what had actually been sent to us. These problems could have been avoided if the manufacturer had issued a cover letter identifying the submitted documents. Therefore, we are proposing to require a cover letter for each monthly submission of documents required to be submitted under proposed Section 579.5 that identifies each communication in the submission by name or subject matter and date.

If a communication falls within the category described in both Section 579.5(a) and Section 579.5(b), it would only have to be submitted once.

Finally, the ANPRM sought comments on whether we should require manufacturers to provide additional information regarding the facts and analysis that led to the decision to conduct the campaigns. Many of the commenters opposed a requirement of this nature, feeling that requiring the routine submission of background information regarding the facts and analysis that led to campaigns would be extremely burdensome. On the other hand, both CU and Advocates contended that NHTSA should receive information regarding the facts and analysis that led to the manufacturer's decision to initiate the campaign.

The general consensus of manufacturers was that NHTSA should review all covered communications, including service bulletins that the agency currently receives under Section 573.8, and then decide whether to request additional facts and analysis on a case-by-case basis. This is what we currently do with respect to communications received under Section 573.8. Certain communications suggest a potential safety issue which requires clarification. ODI then contacts the manufacturer to obtain additional information, as appropriate. We plan to proceed in the same manner with respect to these submissions, except that we would require each submission to be accompanied by a cover letter identifying each communication that is part of the submission and the date of the communication.

N. Components, Systems and Fires To Be Included in Reports

We considered requiring manufacturers to provide us with the number of property damage claims, consumer complaints, warranty claims and field reports that are associated with all systems and components of a vehicle or item of equipment. We decided against doing so, because this approach could generate large volumes of information that, we believe, would not be particularly useful. Instead, NHTSA has attempted to identify, for each category of vehicle, for child restraint systems, and for tires, those systems and components whose failures are most likely to lead to safety recalls. These are the systems and components on which it is most important that we obtain timely information regarding failures, as compared to failures that are not related to safety or those that rarely, if ever, lead to safety recalls. Our goal was to select those systems and components which capture the vast majority of safety recalls. In identifying these vehicle systems and components, we requested the Volpe National Transportation Systems Center (Volpe) to conduct an analysis of past defect recalls. For each category of vehicle, Volpe looked at, among others, the total number of defect recalls associated with various specific systems and components, the number of vehicles covered by those recalls, the number of recalls influenced by ODI investigations, and the number of recalled vehicles influenced by ODI investigations.

The study provided information on different components and systems implicated in recalls for light vehicles, medium-heavy vehicles, buses, motorcycles, and trailers. A copy of the study, which includes a description of the methodology, is in the docket. The underlying data are in NHTSA's DIMS II data base which can be searched by the public through the NHTSA website. The components and systems are identified below as part of the discussion on reporting requirements.

For light vehicles, we propose to require manufacturers to separately report the number of problems/incidents related to steering, suspension, service brakes, parking brakes, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts (including anchorages and other related components), structure (other than latches), seats, engine speed control including throttle and cruise control, integrated child restraint systems, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, and the number of incidents in which there was a fire. For incidents of death and injury only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice, the incident would be included, and "other" would be specified. Figures 2 and 3, below, represent pro-forma examples of how a manufacturer of light vehicles would report incidents involving deaths and injuries and warranty claims, using electronic spreadsheets.

Incidents Involving Deaths and/or Injuries Based on Claims and Notices

LIGHT VEHICLES
Reporting Period:
Manufacturer:

Make	Model	Model year	Incident date	Number of deaths	Number of injuries (U.S. only)	State or foreign country	Involved systems or components (see below)

Involved Systems or Components:
01 Steering
02 Suspension
03 Service Brakes
04 Parking Brakes
05 Engine Speed Control Including Throttle and Cruise Control
06 Air Bags
07 Seat Belts
08 Integrated Child Restraint Systems
09 Latches—Doors, Hoods, Hatches
10 Tires
11 Fuel System Integrity
12 Power Train
13 Electrical System
14 Engine and Engine Cooling System
15 Structure (other than Latches)
16 Visual Systems
17 Seats
18 Lighting
19 Wheels
20 Climate Control System Including Defroster
21 Trailer Hitches and Related Attachments
22 Fire
99 Other

Fig. 2

Warranty Claims

Light Vehicles
Manufacturer:
Reporting Period:

Make	Model	Model year	Number of reports																					
			Steering	Suspension	Service brakes	Parking brakes	Engine	Fuel system	Power train	Electrical	Lighting	Visual	Climate control	Seat belts	Air bags	Structure	Seats	Engine speed controls	Integrated child restraints	Latches	Tires	Wheels	Hitches	Fires
		2003																						
		2002																						
		2001																						
		2000																						
		1999																						
		1998																						
		1997																						

Note: Make, model, and model year data will be coded in a way to relate it to data in the products table shown in Figure 1. Reports must be broken out for each subgroup, by fuel system type and brake system type for each subgroup where more than one brake or fuel system was produced in a given make, model, and model year product line.

Figure 3

UMI
VOL 66
ISS 246
DE 21
2001
UMI

We have placed in the docket copies of pro-forma spreadsheets for other types of numerical reporting, such as property damage claims, and request comments on the appropriateness and utility of this format. We have also proposed definitions for many of the systems and components for which reporting would be required, such as suspension, vehicle speed control, and latches. While we believe that these definitions are straight forward and self-explanatory, we request comments on their accuracy and completeness.

For medium-heavy vehicles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust system, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For buses/school buses, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, parking brake, engine and engine cooling system, fuel system integrity, power train, electrical system, lighting/horn/alarms, visual systems, climate control system including defroster, airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), seat belts including anchorages and other related components, structure (other than latches), seats, engine speed control including throttle and cruise control, latches (door, hood, hatch), tires, wheels, trailer hitches and related attachments, engine exhaust systems, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For trailers, we propose to require manufacturers to separately report the number of problems/incidents relating to suspension, service brakes, parking brakes, electrical system, lighting/horns/alarms, climate control systems (including fuel systems in camping/travel trailers), structure (other than latches), latches, tires, wheels, trailer hitches and related attachments, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

For motorcycles, we propose to require manufacturers to separately report the number of problems/incidents relating to steering, suspension, service brakes, engine and engine cooling system, fuel system integrity, powertrain, electrical system, lighting, structure, engine speed control (including throttle and cruise control), wheels, tires, the number of incidents in which there was a fire, and, for incidents of death only, if another system or component is allegedly involved or if the system or component is not specified in the claim or notice

ODI did not ask Volpe to analyze recalls of child restraint systems. Rather, ODI separately reviewed those recalls to identify the components whose failures have led to most of the recalls. Based on this review, which has been placed in the docket, we propose to require manufacturers to separately report the number of problems/incidents relating to the buckle and restraint harness, handle, shell, and base.

With respect to tires, we are proposing to follow the suggestions of the Rubber Manufacturers Association (RMA) in its comments. Fatality and injury reporting would include the information required of manufacturers of other products, and would also include the damage claimed, the vehicle manufacturer, the vehicle make, model and model year, the tire size, "the tire line," and the DOT identification code for the tire. In addition, under RMA's suggestions shown in Attachment B to Comment NHTSA 2001–8677–15, warranty and property damage claim data would be provided for each applicable "tire size, tire line, SKU, serial code, Mfg. Plant, OE/Repl, OE Vehicle & Year." (We specifically request RMA to provide their comments on appropriate definitions of the terms "bead," "common green," "tire line," "sidewall," "SKU," and "serial code".) For each year of production, the manufacturer would provide the number of tires produced under warranty and the total number of tires produced, the number of adjustments, the warranty adjustment rate, the number of property damage claims, and the property damage claims rate.

For property damage and warranty adjustments, we propose to require manufacturers to separately report the number of problems/incidents relating to tread, sidewall, and bead. For incidents involving death, if another component is allegedly involved, or if the component is not specified in the claim, the incident would still have to be reported.

Each tire manufacturer would also have to include information regarding "common green tires" with respect to each applicable tire model.

Consistent with the approach taken in connection with the Uniform Tire Quality Grading Standard, 49 CFR 575.104, we are not proposing to require reporting of warranty adjustment, property damage claims, and field reports with respect to tires for which total annual production of the same design and size is 15,000 or less. This would include retreaded tires as well, and may have the practical effect of excluding most, if not all, retreaded tire manufacturers from all reporting requirements except for reports of incidents involving death.

O. One-time Reporting of Information on Certain Information Received From January 1, 2000 to December 31, 2002, on 1994–2003 Model Year Vehicles, and on Child Restraints and Tires Manufactured on or After January 1, 1998

As early warning reporting begins, receipt by NHTSA of information from the first several reporting periods would not provide sufficient information to allow us to identify potential safety defects unless we could compare it to similar information about earlier periods. Without this historical information, we would not be able to identify potential defect trends or make comparisons. For example, data indicating that a particular component in a particular model/model year vehicle was the subject of six property damage claims in the third year after the model was introduced would be more relevant if we knew the claims history of similar models in recent years. To assure that the data are useful from the onset of reporting, we must "seed" our data base with historical data rather than merely letting it accumulate from the effective date of the final rule. Therefore, we are proposing that, no later than the date that a manufacturer must submit its first reports under the final rule, expected to be April 30, 2003, each manufacturer would also submit, on a one-time basis, corresponding reports reflecting the same information required by paragraphs (a) and (c) in each of proposed Sections 579.21

through 579.27, as applicable, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000, to December 31, 2002, for each model and model year vehicle manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report would identify the alleged system or component related to the claim, incident, etc., as would the reports for the current reporting period. We would not require such historical information on claims for deaths and injuries because we do not expect information of this type to indicate trends in potential defects to the same extent as warranty claims or property damage claims may.

We request comment on whether the time frame for the proposal is appropriate, and whether we should exclude historical data for deaths and injuries.

V. Information That We Would Not Require at This Time

The ANPRM requested comments on whether we should require reporting on a number of additional types of information that could help us to promptly identify possible defects. However, given the fact that a final rule must be published in less than eight months from the publication date of this notice, and in recognition of the potential burdens on manufacturers to develop information systems capable of retaining and reporting information to us, we have attempted to minimize these burdens to the extent possible. Moreover, we have concentrated our efforts on identifying the types of information noted in the statute or for which most manufacturers currently maintain records, such as customer complaints and warranty claim data.

A. Internal Investigations and Design Changes in Parts and Components

We received a number of comments on the questions we asked regarding manufacturers' internal investigations of possible safety-related defects. Manufacturers generally called attention to the semantic difficulties in determining when an investigation had been commenced and the alleged chilling effect a reporting requirement might have on such investigations. For the present, we have decided not to seek this type of information, but we may give further consideration to this issue in future rulemaking relating to early warning reporting.

We also asked for comments on requiring reporting of changes in the design or construction of parts. Many commenters felt that this would be burdensome due to the sheer number of changes, few of which relate to safety. We are deferring any consideration of requiring reports of parts changes.

B. Most Activities and Events in Foreign Countries

As noted above, at this time we are proposing to require manufacturers to report to us information on claims regarding foreign deaths (and on foreign campaigns under Section 30166(l)), involving substantially similar motor vehicles and equipment. We may decide to propose reporting of additional information regarding foreign activities and incidents in a future rulemaking.

VI. When Information Would Be Reported

Section 30166(m)(3)(A) and (B) state that the information covered by those paragraphs shall be reported "periodically or upon request" by NHTSA. Section 30166(m)(3)(C) states that the information covered by that paragraph shall be reported "in such manner as [NHTSA] establishes by regulation." The ANPRM discussed several possibilities.

A. Periodically

The statute authorizes us to require periodic reporting of information related to the early warning of defects. In the ANPRM, we posited reporting on bases of "information-as-received," monthly, and quarterly, depending upon our perception of the gravity of the information involved (e.g., we suggested the possibility that information about deaths allegedly caused by safety defects might justify a more frequent period of reporting than other types of information).

Commenters generally objected to reporting information "as received." There was no objection to reporting on a quarterly basis, the same as is required for defect campaign reporting under 49 CFR 573.6.

On balance, we have concluded that, with respect to statistical reports, an "as received" or even monthly basis would impose too great a burden and would be unlikely to provide significant timeliness benefits. A quarterly reporting period would appear to be more appropriate. However, we request comments on whether we should require reporting six times per year. Finally, the burden upon manufacturers would be lessened if a common reporting date were adopted for the submission of all statistical early warning information that we will require "periodically."

We are proposing that all information, as well as copies of relevant field reports, be submitted to us not later than the 30th day of the calendar month following the end of the reporting period. We believe that 30 days will be sufficient to compile this information, but we request comments on whether a shorter or longer period would be appropriate. We also propose that all communications that would be required by Section 579.5 (those presently required by 49 CFR 573.8 and those that would be covered by the early warning rule, i.e., communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment) be submitted to us monthly, within 5 working days of the end of the month, as is presently required for submissions under Section 573.8.

B. Upon NHTSA's Request

The TREAD Act also requires all manufacturers to provide information within the scope of the early warning provision when we request it. Such a requirement complements our pre-TREAD authority to request safety-related information as part of our investigations. Under this new authority, the information need not relate to an investigation; it need only be of such a nature that it may assist us in the identification of safety-related defects. Thus, we plan to follow up with manufacturers to obtain additional information if the information in the periodic reports suggests that there may be a possible problem. Such inquiries need not be characterized as formal defect investigations. Rather, they would be part of the agency's screening process under which it decides whether to open a defect investigation into particular matters.

VII. The Manner and Form in Which Information Would Be Reported

Section 30166(m)(4)(A) (iii) requires us to specify "the manner and form of reporting [early warning] information including in electronic form."

Before the ANPRM, we had a limited amount of knowledge about information that manufacturers receive regarding certain types of incidents and activities in the United States, in what form it is received, and how, if at all, they route, code, maintain, and review the information. It seemed likely to us that the types of information to be reported would be kept in a variety of manufacturer computer systems and formats, at least for major and mid-sized manufacturers. Some manufacturers might use different computer systems for different types of information, and some might not be computerized at all. We noted that to be able to use most of the early warning information efficiently, we would have to maintain it in computer systems that can read and incorporate the information into a standardized set of data fields, definitions, and codes.

In the ANPRM, we discussed the possibility of establishing levels below which manufacturers would not be required to report to us, citing the practice of the California Air Resources Board in establishing a "trigger" of a percentage of returned emissions system components. Upon reflection, we have concluded that determining appropriate triggers is not possible at this time. We lack a basis for establishing triggers, and it would be unduly complicated to determine a dividing line. Companies have different practices with respect to warranty programs, field reports, and other information items. The comments did not give us sufficient information to establish appropriate dividing lines. We believe that the solution we propose, the submission of the numbers of activities or incidents, will provide us with more usable information and obviate the need for a manufacturer to calculate rates based upon production figures that change from one reporting period to the next.

In the ANPRM, we discussed the possibility of using spreadsheets in a specified format with separate reports of the numbers of various categories of information (e.g., claims/notices of deaths and injuries, consumer complaints, warranty claims, field reports) along with other information (such as production volumes) by make, model, model year, and by component (we would specify which components). We would then be able to utilize a computer to identify aggregate numbers, rates (using production data which would be submitted), or unusual trends in each of these categories. This would obviate the need for manufacturers to provide us with their warranty or claims codes or to make significant revisions to their current coding procedures.

NHTSA is considering several alternative methods for manufacturers' to submit their periodic reports. As described elsewhere, aggregate data would be required from some manufacturers. These data would be formatted in either a Microsoft Excel spreadsheet, or in a form readily importable into an Excel spreadsheet, using the then-current version of Excel. NHTSA would establish a link on its web site to a data repository suitable for containing these data. Manufacturers would be able to use that link to "push" their file to the NHTSA site. Upon receipt of the data, an acknowledgement would be returned to the submitter, noting the date and time of the submission.

For data files smaller than the size limit of the DOT Internet e-mail server, currently set at 5 MB [megabyte], manufacturers could submit their data as an attachment to an e-mail message. NHTSA would establish an e-mail address to receive these submissions. The e-mail system would provide a return receipt. There is, however, increased risk that this method would not result in the data actually arriving at the appropriate office in NHTSA, since e-mail servers are often unreliable in handling of large attachments, both within DOT and, possibly, within the manufacturers' own systems. We believe that the preferred method, based on ease of use and reliability, would be the web site link described above.

NHTSA would also accept the data on a CD-ROM, mailed to the Office of Defects Investigation via certified mail with the postal service return receipt.

For small manufacturers, which only need to submit minimal amounts of data, we are considering establishing an interactive form on our web site that could be filled out by manual data entry by the submitter. It is anticipated that this method will require completing a form for each make, model, and model year of a product that was involved in a fatal incident.

Paper documents, computer printouts, or similar non-electronic submissions of the required aggregate data would not be acceptable.

With respect to copies of communications submitted under proposed Section 579.5 and copies of manufacturer and fleet field reports, we would prefer receiving the documents in electronic form using any state of the art graphic compression protocol available, through any of the first three methods described above. However, we would also accept paper copies of those documents mailed to ODI.

Submitting manufacturers would have to provide ODI with the name and contact information (phone number, address, e-mail address, etc.) of a technical IT (information technology) point-of-contact person who will be responsible for resolving issues with data submissions as they come up from time to time.

We are willing to consider other methods for delivery of the data, and we invite comment on the feasibility of these suggestions, and any other proposed methods.

After the final rule is published but before the first reporting period, NHTSA will conduct a public meeting at the DOT headquarters in Washington to discuss implementation of the data transmission methods. Interested persons, particularly the manufacturers' IT staff members, will be invited to discuss technical issues in an open forum to resolve any issues regarding the technical issues related to the submission of data.

There would be six reports for manufacturers of 500 and more vehicles, representing: (1) production information, (2) incidents involving deaths and injuries identified in claims and notices, (3) property damage claims, (4) consumer complaints, (5) warranty claims data, and (6) field reports. We have previously discussed the information content for Category (2) in Section IV.D.4 above, and for the other categories in Section IV.N above.

We would not require manufacturers to submit the actual documents constituting claims and notices involving death or injuries, property damage claims, warranty claims, consumer complaints, or dealer field reports. Manufacturers would have to retain each such claim, report, etc., for a period of five calendar years from the date the manufacturer acquires it, but would not have to retain it after the calendar year is or becomes ten years greater than the model year of the motor vehicle that is the subject of the document. For example, if on July 1, 2002, a manufacturer were to receive two consumer complaints relating to 1996 and 1999 model year automobiles, the manufacturer would have to retain the complaint on the MY1999 automobile until July 1, 2007. However, it would only have to keep the complaint about the MY1996 automobile until the beginning of the 2006 model year, even though less than five years had passed. (For purposes of this provision only, and to avoid any uncertainty, we will construe the model year as beginning on September 1 of the preceding year).

While this proposal would not require manufacturers to maintain records in electronic recordkeeping systems, we believe that the burdens associated with the proposed reporting requirements would be significantly reduced if manufacturers maintained data and records in searchable electronic systems. We again seek comments on the nature of manufacturers' recordkeeping systems for data and documents related to early warning reporting and as to the feasibility of various ways of searching their systems for relevant information.

VIII. How NHTSA Plans To Handle and Utilize Early Warning Information

A. Review and Use of Information

Section 30166(m)(4)(A)(i) and (ii) require that our early warning rule specify how the information reported to us will be used. Those paragraphs provide:

> (A) [NHTSA's] specifications. In requiring the reporting of any information requested by [NHTSA] under this subsection, [NHTSA] shall specify in the final rule * * *
>
> (i) how [early warning] information will be reviewed and utilized to assist in the identification of defects related to motor vehicle safety; [and]
>
> (ii) the systems and processes [that NHTSA] will employ or establish to review and utilize such information.

In the Alliance's view, under Section 30166(m), NHTSA "cannot compel the reporting of information unless it will 'assist in the identification of defects related to motor vehicle safety.'" This provision "is a substantive limitation on NHTSA's new information gathering powers, and therefore one that cannot be made absent notice and an opportunity for public comment on the agency's tentative conclusions." For this reason, the Alliance believes that NHTSA should explain as part of this NPRM "how it will review and use any information it proposes to require 'to assist in the identification of effects related to motor vehicle safety,' and allow public comment on that explanation."

We do not agree with the Alliance's assertion, since these provisions relate to internal NHTSA matters and are not ordinarily required by the Administrative Procedure Act to be adopted pursuant to notice and comment rulemaking procedures. Nevertheless, we sought, and continue to seek, public comment on ways to improve our collection, review, and analysis of information and data with the new reporting tools that Congress has given us.

We stated in the ANPRM that we would specifically address the matters covered by subparagraphs (i) and (ii) above. We originally thought that we would do this through amendments to 49 CFR Part 554, *Standards Enforcement and Defects Investigation* (one purpose of which is to inform the public of the procedures we follow in investigating possible safety-related defects). Upon review, however, we have concluded that Part 554 covers agency enforcement investigations and actions, and does not relate to material of the nature that would be reported to the agency under early warning reporting (we shall refer to this as "pre-investigation" information or materials). Therefore, we are not proposing amendments to that regulation.

Rather, we will comply with the statutory provision by explaining in this document that we intend to consider pre-investigation information received under Section 30166(m) in the same manner as we currently treat other information that is now available to us about possible safety defects, such as consumer complaints to NHTSA and documents received from manufacturers under 49 CFR 573.8. That is to say, we will review the available data and information to determine whether potentially problematic trends are developing in the vehicles, equipment items, components, and systems for which information has been provided. As noted earlier, if we identify matters that might possibly suggest the existence of a safety defect, we plan to seek additional clarifying information from the manufacturer in question, and from other sources, to help us to decide whether to open a formal defect investigation. If we decide to change this approach, we will discuss any such changes in the final rule to be issued in 2002.

We are in the process of developing an enhanced data warehouse and data processing system called ARTEMIS—Advanced Retrieval (Tire, Equipment, Motor vehicles) Information System. ARTEMIS will provide for centralized storage of information, include a document management system, use data analysis tools, allow access to electronic information such as NASS and FARS, and facilitate the provision of appropriate information to the public. We expect to have a fully functional system by the summer of 2002, although modifications may be made throughout the remainder of 2002 in preparation for the receipt of early warning information beginning in early 2003.

B. Information in the Possession of the Manufacturer

Section 30166(m)(4)(B) provides as follows:

> (B) Information in possession of manufacturer.—The [early warning] regulations may not require a manufacturer of a motor vehicle or motor vehicle equipment to maintain or submit records respecting information not in the possession of the manufacturer.

The information that we are proposing to require manufacturers to submit to us is in their possession, or will be under the recordkeeping requirements that we plan to adopt. For example, if a manufacturer does not have "possession" of a claim or a complaint or a field report, it obviously cannot (and would not have to) report to us about such a document. However, we want to emphasize that we will not tolerate any attempts by manufacturers to utilize this provision to avoid reporting by improperly failing to obtain, maintain, and retain relevant records.

For many years, pursuant to 49 CFR Part 576, *Record Retention*, we have required manufacturers of motor vehicles to retain for a period of five years from the date of generation or acquisition "complaints, reports, and other records concerning motor vehicle malfunctions that may be related to motor vehicle safety" (49 CFR 576.1). These are described with great specificity in 49 CFR 576.6:

> Records to be maintained by manufacturers * * * include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, communications from vehicle users and memoranda of user complaints; reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under or claims made under warranties; service reports or similar documents, including electronic transmissions; from dealers or manufacturer's field personnel; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

Section 576.8 sets forth the meaning of "malfunctions that may be related to motor vehicle safety," which include with respect to a motor vehicle:

> * * * any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, an accident or an injury to a person.

Thus, manufacturers of motor vehicles, by virtue of complying with Part 576, already have in their possession the types of information that would have to be reported under this rule.[2]

As we stated in the ANPRM, we interpret "possession" as meaning not only information in the actual possession of a manufacturer's employees or in its proprietary databases, but also constructive possession and ultimate control of information, such as information in the possession of affiliates or subsidiaries in

---

[2] NHTSA is proposing in this document to require similar retention of records by manufacturers of motor vehicle equipment, as well as a longer period for retention. See discussion below.

VOL 66 ISS 246 DE 21 2001 UMI

foreign countries, or information possessed by outside counsel or consultants. Thus, manufacturers would have to report claims to us that may be in the form of lawsuits filed with attorneys outside the company who are representing the manufacturer. This may require a manufacturer to periodically consult with its counsel and foreign affiliates to ensure that reports are accurate.

C. Disclosure

The TREAD Act does not affect the right of a manufacturer to request confidential treatment for information that it submits to NHTSA. The rules that pertain to such requests can be found in 49 CFR Part 512, *Confidential Business Information*.

Specifically, as provided in Part 512, manufacturers that submit information claimed to be confidential should identify the particular portions of their submission for which they claim confidentiality and they should stamp or mark the word "confidential" or some other term that clearly indicates the presence of information claimed to be confidential, on the top of each page that contains information claimed to be confidential.

In addition, submitters of information claimed to be confidential should include with their submissions a certification stating that the manufacturer (or its agents) have made a diligent inquiry to ascertain that the submitted information has not been disclosed or otherwise been made public and should also include information supporting their claim for confidential treatment. The supporting information should, among other things, inform the agency of the period of time for which confidential treatment is being requested and describe the particular harm that would result from disclosure.

In accordance with Part 512, requests for confidential treatment should be submitted in a separate enclosure marked confidential to the Office of Chief Counsel, NCC–30, 400 Seventh Street SW., Washington, DC 20590. In addition, at least one complete copy of the submission (including the portions that contain information claimed to be confidential) and also at least one copy of a public version of the submission (from which portions claimed to be confidential have been redacted) should be submitted directly to the office that requested that information. Information submitted to the agency by a manufacturer pursuant to its obligations under the TREAD Act and the agency's implementing regulations will be entitled to confidential treatment if its disclosure would be likely to result in competitive harm to the submitter of the information, in accordance with 5 U.S.C. 552(b)(4) and *National Parks & Conservation Ass'n* v. *Morton*, 498 F.2d 765 (D.C. Cir. 1974). (Since the submission of the information is compelled by the agency, the alternative criteria for voluntarily submitted information described in *Critical Mass Energy Project* v. *NRC*, 975 F.2d 871 (D.C. Cir. 1992), (*en banc*), *cert denied*, 507 U.S. 984 (1994), would not apply.)

It is expected that the types of information that manufacturers would be required to submit to the agency under this NPRM would include information about claims and notices that allege death or injury; numbers of property damage claims, consumer complaints, warranty claims, and field reports. They would also have to submit documents related to customer satisfaction campaigns, consumer advisories, recalls, or other activity involving the repair or replacement of motor vehicles or equipment, as well as certain field reports. Historically, these types of information generally have not been considered by the agency to be entitled to confidential treatment, unless the disclosure of the information would reveal other proprietary business information, such as confidential production figures, product plans, designs, specifications, or costs. See 49 CFR Part 512, Appendix B. Light vehicle production information is generally not confidential, unlike production data on child restraint systems and tires.

Accordingly, the agency does not expect to receive many requests for confidential treatment for submissions under the early warning reporting requirements of the TREAD Act. However, if a manufacturer believes that any portion of materials submitted to the agency should be treated confidentially, the manufacturer should request confidential treatment for the information, in accordance with Part 512.

Some of the materials that manufacturers would be required to submit to the agency under this NPRM, such as field reports and supplemental reports about claims and notices of deaths, may contain personal information regarding individuals. Such personal information might include names, addresses, telephone numbers, driver license, credit card or social security numbers; or medical information. One issue presented by this rulemaking is how will the privacy of individuals be protected. In particular, the agency seeks comment on whether the manufacturer should submit only redacted versions of required field reports, or some alternative.

D. The Proposed Requirements Are Not Unduly Burdensome

Section 30166(m)(4)(D), Burdensome requirements, requires that the final rule:

> shall not impose requirements unduly burdensome to a manufacturer or a motor vehicle or motor vehicle equipment, taking into account the manufacturer's cost of complying with such requirements and [NHTSA's] ability to use the information sought in a meaningful manner to assist in the identification of defects related to motor vehicle safety.

The ANPRM gave manufacturers a general idea of the types of data and information that they may be required to submit under a final rule. This allowed them to make a tentative assessment of the burdens that an early warning reporting rule may entail. Some manufacturers and other commenters addressed these issues. There is a fuller discussion in the agency's Preliminary Regulatory Evaluation (PRE) of estimated costs to manufacturers which has been placed in the docket. We have taken these comments into consideration in formulating a proposed rule. This will allow manufacturers to make a more accurate assessment of potential compliance burdens and to identify them with specificity. The agency has tried to reduce the burden to the extent possible while still fulfilling the intent of the TREAD Act.

In our view, there is unlikely to be a significant burden associated with the actual *reporting* of information. Rather, the burden on each manufacturer will depend on the extent to which that manufacturer must revise and/or supplement its current information management and retention systems. Most major manufacturers already have a log or database of information about each of the categories for which early warning reporting would be required that is comprehensive and regularly updated. In this case, the burden associated with the rule would not be substantial. At most, such manufacturers would have to add several data elements, such as the identification of components involved in claims and a process for dealing with foreign claims related to deaths.

If a manufacturer does not already have logs or databases that include relevant categories of information, it would have to develop one or more systems to review, retrieve, organize and log the information it receives. It may also have to utilize manual systems and retrieve information from files.

The PRE estimates the number of claims, warranty claims, customer complaints, field reports, etc. for each of the following groups of manufacturers: light vehicles, medium and heavy trucks, buses, trailers, motorcycles, tires, and child restraint systems. It estimates the costs of setting up computer systems to handle the reporting requirements and the types of skills and labor hours needed to provide the proposed information. For example, for light vehicle manufacturers, the PRE estimates the first year start-up costs will be over $1.6 million and that recurring annual costs will be over $1 million. Similar estimates are made for each of the other groups of manufacturers. Cumulative costs for the other groups are significantly higher, since they include many more manufacturers, and many of those manufacturers are not as computerized today as the light vehicle manufacturers. The total start-up costs for all affected industries is estimated to be about $18 million, while recurring annual costs will be about $6 million.

We eliminated reporting requirements that could potentially create significant burdens when we thought that the information that would have been provided would not substantially improve our ability to detect potential defects in a timely manner. We have significantly reduced the burden on manufacturers of vehicles and equipment from the levels that could have been required under the TREAD Act, at least for this phase of rulemaking. First, other than requiring reports about incidents involving deaths based on claims and notices, which do not need to be maintained in a complex computer system, and campaign documents, we have decided not to require small vehicle manufacturers, original equipment manufacturers and replacement equipment manufacturers (other than manufacturers of child restraint systems and tires), to submit periodic early warning reports. Second, we have decided not to require at this time any information about incidents that occur in foreign countries except for those based on claims involving deaths. We believe there would be problems in collecting data, categorizing it by component or system, translating it, and deciding if it related to vehicles or equipment that were similar to vehicles and equipment in the United States. We believe the costs of doing so might be up to ten times the cost of supplying similar information from the United States.

We also considered requiring information for all systems and components of a vehicle, instead of those specified in Section IV.N above. We believe that the reduced number of components on which reporting is required will reduce reporting costs.

With respect to field reports, we also considered whether to require a hard copy of all reports by fleets, manufacturers, and dealers. After the Alliance estimated that there are about two million dealer field reports per year (on all subjects), we decided not to require copies of dealer reports.

E. Periodic Review

Under section 30166(m)(5), NHTSA must specify in the final rule "procedures for the periodic review and update of such rule." Once a final early warning rule is developed and issued, we anticipate that our experience will indicate areas where the regulation ought to be amended, to add or delete information required, and to modify our information-gathering procedures. We would then make internal adjustments where called for, or propose appropriate modifications to the final rule. This would be an on-going process of evaluation. We plan to commence the initial review of the rule within one year after the initial reports are received. Subsequently, we plan to review our defect information-gathering procedures at least once every four years.

IX. Proposed Extension of Recordkeeping Requirements To Include Manufacturers of Child Restraint Systems and Tires

Our principal record keeping regulation is 49 CFR Part 576, *Record Retention*. The current regulation applies only to motor vehicle manufacturers and requires them to keep certain records for a period of five years.

A colloquy on the floor of the House with respect to Section 30166(m)(4)(B) addressed the need to preserve relevant records to assure that the goals of the TREAD Act are achieved:

> Mr. Markey: Concern has been expressed that this provision not become a loophole for unscrupulous manufacturers who might be willing to destroy a record in order to demonstrate that it is no longer in its possession. Would [Mr. Tauzin] agree that it is in [NHTSA's] discretion to require a manufacturer to maintain records that are in fact in the manufacturer's possession and that it would be a violation of such a requirement to destroy such a record?
>
> Mr. Tauzin: The gentleman is again correct.

As we discussed in Section VIII above, we are proposing to amend Part 576 to assure that documents covered by the early warning regulation are kept for an appropriate length of time after a manufacturer acquires or generates them.

Part 576 currently applies only to vehicle manufacturers, while the TREAD Act covers manufacturers of motor vehicle equipment as well. We propose to extend the applicability of Part 576 to those equipment manufacturers from whom we would require full reporting, i.e., manufacturers of child restraint systems and of tires. We ask for comments on whether record retention requirements should also be expanded to include manufacturers of replacement equipment other than child restraint systems and tires and manufacturers of original equipment.

Until the TREAD Act, the requirement that a remedy for safety defects and noncompliances be provided without charge did not apply if a vehicle or child restraint system was bought by the first purchaser more than eight calendar years, or a tire, including an original equipment tire, was bought by the first purchaser more than three calendar years, before the determination that a defect or noncompliance existed. (Section 30120(g)(1)). Section 4 of the TREAD Act amended Section 30120(g)(1) to extend the free remedy period to ten years for vehicles and most replacement equipment including child restraint systems, and to five years for tires.

Currently, 49 CFR 576.5 requires manufacturers of motor vehicles to retain the records specified in 49 CFR 576.6 for a period of five years from the date they were acquired or generated by the manufacturer. The purpose of Part 576 is:

> * * * to preserve records that are needed for the proper investigation, and adjudication or other disposition, of possible defects related to motor vehicle safety and instances of nonconformity to the motor vehicle safety standards and associated regulations (49 CFR 576.2)).

To effectuate this purpose, we believe that records that may be pertinent to possible defects and noncompliances should be retained by a manufacturer of motor vehicles for the period during which the manufacturer is required to provide a remedy without charge. Thus, we are proposing amending Section 576.5 to extend the record retention period from five years to ten years for the records specified in Section 576.6. Given that manufacturers of child restraint systems and tires are also required by statute to remedy defects and noncompliances without charge, and that they are also covered by the TREAD Act's early warning reporting requirements, we have tentatively decided that manufacturers of child

UMI
VOL 66
ISS 246
DE 21 2001
UMI

restraint systems and tires should be required to retain records for ten and five years, respectively.

We find the same justification for including manufacturers of child restraint systems and tires that we did in our original proposal of August 20, 1974, to adopt Part 576 (which was limited to vehicle manufacturers):

> Typically, the manufacturer is the main recipient of complaints of malfunctions by the vehicle [or equipment] owner. Many reports of malfunctions are processed through channels for the administration of vehicle [or equipment] warranties by manufacturers and their dealers. Manufacturers' field service representatives may also serve as collection points for information of this nature. It is to be expected that manufacturers compile analyses and lists of malfunction reports, with a view toward * * * the remedying of safety-related defects. Since some defects are not revealed as such until months or years after the vehicle's [or equipment's] manufacture, a determination by NHTSA of the proper disposition of a possible defect * * * may be seriously hindered if manufacturers do not retain these records (39 FR 30048).

We note that in 1995 we amended 49 CFR 576.5 to extend the record retention period from five years from receipt of the information to eight years from the last date of the model year in which the vehicle to which the record relates was produced, in order to make it congruent with the period for free remedy. However, we received a number of petitions for reconsideration of the amendment, rescinded it, and, on January 4, 1996, reinstated the previous period of five years. In doing so, we noted (61 FR 274 at 276):

> The primary reason for this decision is the time and cost burdens that the amendment would have placed upon vehicle manufacturers. Several manufacturers stated that it would be highly costly and extremely time consuming to change their computerized record keeping systems to comply with the new record retention requirements. The agency has concluded that the safety benefit that would be derived from revising the record retention period requirements would be far outweighed by costs and other burdens on resources that would be incurred by manufacturers in order to make the change.

The agency believes that costs of data retention technology on a unit storage basis in electronic format have decreased since 1996, and, therefore, that the cost of record keeping systems would be acceptable in light of the TREAD Act provisions.

Currently, Section 576.6 includes as records to be kept "communications from vehicle users and memoranda of user complaints; * * * material * * * related to * * * claims made under warranties; service reports or similar documents, including electronic transmissions, from dealers or manufacturer's field personnel; * * *." This definition clearly covers consumer complaints, warranty claims, and field reports, which we are proposing to require manufacturers to keep for periods of not more than five years. We would remove these categories from Section 576.6 where we are proposing that the documents covered by that section be held by vehicle manufacturers for ten years.

Finally, we have reviewed our regulation on tire record keeping, 49 CFR Part 574. Section 574.6(d) and Section 574.10 require, respectively, tire manufacturers and motor vehicle manufacturers to maintain records of new tires they produce, and tires on new vehicles and the names and addresses of the first purchaser of the vehicles for not less than three years after the date of purchase. In light of the statutory amendment increasing the period from three to five years for free remedy of tires, and our proposed conforming change to Part 576, we are proposing conforming amendments to Sections 574.6(d) and 574.10 under which these records would also be held for five years.

X. Administrative Amendments to 49 CFR Part 573 To Accommodate Final Rules Implementing 49 U.S.C. Sections 30166(l) and (m)

For many years, we have required manufacturers to furnish us with a copy of all notices, bulletins, other communications including warranty and policy extension communiques and product improvement bulletins regarding defects, whether or not safety related (49 CFR 573.8). Currently, this requirement is located in our regulation on defect and noncompliance reporting, 49 CFR Part 573. Given our intent to adopt a new regulation, Part 579 *Reporting of Information and Communications About Potential Defects*, it seems appropriate to transfer the subject matter of Section 573.8 to Part 579. Accordingly, in the Foreign Defect NPRM, we proposed a Section 579.5 which is identical to Section 573.8. Proposed Section 579.5 would become Section 579.5(a), under this early warning NPRM. Under proposed Section 579.5(b) we would receive additional documentation such as communications relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment where a manufacturer had not decided that a defect exists. When the first final rule is issued, implementing either Section 30166(l) or Section 30166(m), we will remove Section 573.8.

There currently exists a regulation cited as 49 CFR Part 579 *Defect and Noncompliance Responsibility*. This regulation sets forth the responsibilities of manufacturers for safety-related defects and noncompliances. As such, we feel that it would be appropriate for its specifications to be reflected in Part 573. Accordingly, we shall amend Part 573 to incorporate these specifications at the time our proposed new Part 579 becomes effective.

XI. Rulemaking Analyses

Regulatory Policies and Procedures. Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993) provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines as "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have considered the impact of this rulemaking under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking has been determined to be non-significant by the Office of Management and Budget under E.O. 12866. This action has also been determined to be not "significant" under DOT's regulatory policies and procedures because of the anticipated relatively low costs that would be required to implement the rulemaking (see the agency's discussion of impacts above as taken from the PRE). This action does not impose substantive requirements and only requires reporting of information in the possession of the manufacturer.

Regulatory Flexibility Act. NHTSA has considered the impact of this rulemaking action in relation to the

Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*) Information on the number of enterprises manufacturing relevant equipment or vehicles currently sold in the U.S., by product category, is presented below. It should be noted that the employee figures within the parentheses are the employment thresholds for classification as a small business from the January 1, 2001 edition of 13 CFR 121.201—*Small Business Size Standards.* The categorization below is based on consolidated employment of any known parent company and its other subsidiaries.

1. Passenger cars and light trucks, including vans, SUV's and pickups. (1000 employees) *Ward's Automotive Yearbook 2000* lists 16 manufacturers of such vehicles sold in the United States, net of any that are now merged with or majority-controlled by another. All are large businesses.

In the 1998 (Preliminary) Regulatory Flexibility Analysis prepared for the FMVSS 208 (Advanced Air Bag) rulemaking, NHTSA stated that were four small manufacturers of (complete) motor vehicles in the U.S., accounting for <.1% of U.S. production, and, in addition, "several hundred" enterprises that modified or completed unfinished vehicles, of which many were van converters. Light truck conversions include those for recreational use as well as for light freight and passenger carriage, special transport of the handicapped and other work functions.[3] Under the proposed rule, a converter who certifies a vehicle would be either a manufacturer or an alterer, and subject to the reporting requirements. Conversions, it should be noted, are covered by the NAICS classification "motor vehicle bodies produced on purchased chassis," and are also subject to the small business threshold of 1000 employees. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

2. Medium and heavy trucks. (1000 employees) *Ward's Automotive Yearbook 2000* lists 12 manufacturers of such vehicles sold in the United States. All are large businesses. In addition, an unknown number of enterprises build specialty freight-carrying or work function bodies (including fire and heavy rescue apparatus) onto chassis produced by these manufacturers. Those enterprises which certify completed vehicles would be manufacturers subject to the reporting requirements of this proposed rule. Almost all final stage manufacturers and alterers certify fewer than 500 vehicles annually and would have very slight reporting requirements.

3. Buses. (1000 employees) In the 2000 (Preliminary) Regulatory Flexibility Act analysis prepared for the FMVSS Nos. 141 and 142 rulemaking (Platform lift systems), NHTSA estimated that there were 10 small manufacturers of transit and paratransit buses. There is one small manufacturer of school buses, and three small manufacturers of over-the-road buses.

4. Motorcycles. (500 employees) Only two motorcycle manufacturers could be identified from current editions of *Ward's* and *Standard and Poor's* as small businesses.

5. Trailers. (500 employees). We have identified 8 trailer manufacturers who produce 500 or more trailers per year. The remaining trailer manufacturers, even if small businesses, would have minimal reporting obligations under this rule.

6. Tires. (new—1000 employees; retreaded—500 employees) *Modern Tire Dealer* and *Rubber and Plastics News* together identify 10 companies manufacturing general-service highway vehicle tires sold in the U.S. under the companies' own or "private brand" trade names. All are large businesses. The International Tire and Rubber Association website states that there are approximately 1,126 retread tire plants in the U.S., of which approximately 95 percent are owned/operated by small businesses.

7. Child restraint systems. (500 employees) Child restraint systems are interpreted here as "infant's car seats," classified as NAICS 3371247231 under the system now used in Part 121 in place of SIC codes, within "furniture and related products." Available information on infant's car seats yields a total of 14 independent enterprises, of which seven are small manufacturers.

8. Small vehicle manufacturers, manufacturers of original equipment, and manufacturers of replacement equipment other than child restraint systems and tires. While there are manufacturers of fewer than 500 light vehicles, medium-heavy vehicles, buses, trailers, and motorcycles annually, and manufacturers of original and replacement equipment (other than manufacturers of child restraint systems and tires) that are small businesses, these manufacturers would have a reporting obligation under this regulation limited to incidents of death involving their products. These are expected to be rare. Thus, this rule would have only a slight impact on these manufacturers.

Executive Order 13132 (Federalism). Executive Order 13132 on "Federalism" requires us to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of "regulatory policies that have federalism implications." The Executive Order defines this phrase to include regulations "that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." A final rule based upon this NPRM would regulate the manufacturers of motor vehicles and motor vehicle equipment and would not have substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

Civil Justice Reform. A rule based on this NPRM would not have a retroactive or preemptive effect, and judicial review of it may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

Paperwork Reduction Act. The final rule will require manufacturers of motor vehicles and motor vehicle equipment to report information and data to NHTSA periodically and upon request. We may also adopt a standardized form for reporting numerical counts of information, so as to ensure consistency of responses, and are proposing appropriate spreadsheets in this NPRM. These provisions are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1329. Accordingly, the requirements proposed will be submitted to OMB for its approval, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long (49 CFR 553.21). We established this limit to encourage you

---

[3] Some conversions of the larger versions of vans and pickups involve vehicles of over 8500 lbs. GVW rating, to which the Advanced Air Bag rulemaking did not apply.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the beginning of this document, under ADDRESSES.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA (NCC–30), at the address given at the beginning of this document under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies from which you have deleted the claimed confidential business information, to Docket Management at the address given at the beginning of this document under ADDRESSES. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation, 49 CFR Part 512.

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated at the beginning of this notice under DATES. Because we must issue a final rule not later than June 30, 2002, we are unlikely to extend the comment closing date for this notice. However, in accordance with our policies, to the extent possible, we will also consider comments that Docket Management receives after the specified comment closing date. If Docket Management receives a comment too late for us to consider in developing the final rule, we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address and times given near the beginning of this document under ADDRESSES.

You may also see the comments on the internet. To read the comments on the internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on "search."

(3) On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the heading of this document. Example: if the docket number were "NHTSA–2001–1234," you would type "1234."

(4) After typing the docket number, click on "search."

(5) The next page contains docket summary information for the docket you selected. Click on the comments you wish to see.

You may download the comments. The comments are imaged documents, in either TIFF or pdf format. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

49 List of Subjects

49 CFR Part 574

Labeling, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products, Tires.

49 CFR Part 576

Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 579

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR chapter V is proposed to be amended as follows:

PART 574—TIRE IDENTIFICATION AND RECORDKEEPING

1. The authority for part 574 is revised to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 574.7(d) is proposed to be revised to read as follows:

§ 574.7 Information requirement—new tire manufacturers, new tire brand name owners.

* * * * *

(d) The information that is specified in paragraph (a)(4) of this section and recorded on registration forms submitted to a tire manufacturer or its designee shall be maintained for a period of not less than five years from the date on which the information is recorded by the manufacturer or its designee.

* * * * *

3. Section 574.10 is proposed to be amended by revising the final sentence to read as follows:

§ 574.10 Requirements for motor vehicle manufacturers.

* * * These records shall be maintained for a period of not less than 5 years from the date of sale of the vehicle to the first purchaser for purposes other than resale.

PART 576—RECORD RETENTION

4. The authority citation for part 576 is revised to read as follows:

Authority: 49 U.S.C. 322(a), 30117, 30120(g), 30141–30147; delegation of authority at 49 CFR 1.50.

5. Section 576.1 would be revised to read as follows:

§ 576.1 Scope.

This part establishes requirements for the retention by manufacturers of motor vehicles and of child restraint systems and of tires, of claims, complaints, reports, and other records concerning alleged and proven motor vehicle or motor vehicle equipment malfunctions that may be related to motor vehicle safety.

6. Section 576.3 would be revised to read as follows:

§ 576.3 Application.

This part applies to all manufacturers of motor vehicles, with respect to all records generated or acquired on or after August 16, 1969, and to all manufacturers of child restraint systems and tires, with respect to all records generated or acquired on or after [the effective date of the final rule].

7. Section 576.4 would be revised to read as follows:

§ 576.4 Definitions.

All terms in this part that are defined in 49 U.S.C. 30102 and part 579 of this chapter are used as defined therein.

8. Section 576.5 would be revised to read as follows

§ 576.5 Basic requirements.

As specified in § 576.7:

(a) Each manufacturer of motor vehicles and each manufacturer of child restraint systems shall retain all records described in § 576.6 of this part for a period of ten calendar years from the date on which they were generated or acquired by the manufacturer.

(b) Each manufacturer of tires shall retain all records described in § 576.6 of this part for a period of five calendar years from the date on which they were generated or acquired by the manufacturer.

(c) Each manufacturer of motor vehicles, original equipment, and replacement equipment shall retain each claim or notice related to an incident involving a death or injury.

(d) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each property damage claim, warranty claim, consumer complaint, and field report received from an authorized dealer of such manufacturer, for a period of five calendar years from the date the manufacturer acquires it, but need not retain it when the calendar year is or becomes ten years greater than the model year of any motor vehicle or child restraint system that is the subject of the document.

(e) Each manufacturer of motor vehicles, child restraint systems, and tires shall retain each field report received from either one of its employees or from the owner or operator of ten or more motor vehicles of the same make, model, and model year, that it has manufactured, and a copy of each document reported to NHTSA for a customer satisfaction campaign, consumer advisory, recall (other than that submitted pursuant to parts 573 and 577 of this chapter), for a period of one calendar year after it has received or generated such report or document.

9. Section 576.6 would be revised to read as follows:

§ 576.6 Records.

Records to be maintained by manufacturers under this part include all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. Such records include, but are not limited to, reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under warranties; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

10. Part 579 is proposed to be revised to read as follows:

PART 579—REPORTING OF INFORMATION AND COMMUNICATIONS ABOUT POTENTIAL DEFECTS

Subpart A—General

Sec.
579.1 Scope.
579.2 Purpose.
579.3 Application.
579.4 Terminology.
579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.
579.6 Address for submitting reports and other information.
579.7–579.10 [Reserved]

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

579.11–579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.
579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles annually.
579.23 Reporting requirements for manufacturers of 500 or more buses annually.
579.24 Reporting requirements for manufacturers of 500 or more motorcycles annually.
579.25 Reporting requirements for manufacturers of 500 or more trailers annually.
579.26 Reporting requirements for manufacturers of child restraint systems.
579.27 Reporting requirements for manufacturers of tires.
579.28 Reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment other than child restraint systems and tires.
579.29 Due date of reports, and other provisions.
579.30 Manner of reporting.

Authority: Sec. 3, Pub. L. 106–414, 114 Stat. 1800 (49 U.S.C. 30102–103, 30112, 30117–121, 30166–167); delegation of authority at 49 CFR 1.50.

Subpart A—General

§ 579.1 Scope.

This part sets forth requirements for reporting information and submitting documents that may help identify defects related to motor vehicle safety and noncompliances with Federal motor vehicle safety standards, including the reporting of foreign safety recalls and other safety-related campaigns conducted outside the United States under 49 U.S.C. 30166(l), early warning information under 49 U.S.C. 30166(m), and copies of communications about defects and noncompliances under 49 U.S.C. 30166(f).

§ 579.2 Purpose.

The purpose of this part is to enhance motor vehicle safety by specifying information and documents that manufacturers of motor vehicles and motor vehicle equipment must provide periodically to NHTSA with respect to possible safety-related defects and noncompliances in their products.

§ 579.3 Application.

(a) This part applies to all manufacturers of motor vehicles and motor vehicle equipment with respect to all vehicles and equipment that have been offered for sale, sold, or leased by the manufacturer, any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, or any subsidiary or affiliate of any parent corporation of the manufacturer.

(b) In the case of any report required under this part, compliance by either the fabricating manufacturer or the importer of the motor vehicle or motor vehicle equipment shall be considered compliance by both.

§ 579.4 Terminology.

(a) *Statutory terms.* The terms *dealer, defect, distributor, manufacturer, motor vehicle, motor vehicle equipment,* and *State* are used as defined in 49 U.S.C. 30102. For purposes of this part, the term *manufacturer* includes any parent corporation of the manufacturer, any subsidiary or affiliate of the manufacturer, any subsidiary or affiliate of any parent corporation of the manufacturer, and any legal counsel retained by the manufacturer.

(b) *Regulatory terms.* The terms *bus, GVWR, motorcycle, trailer,* and *truck* are used as defined in § 571.3(b) of this chapter.

(c) *Other terms.* The following terms apply to this part:

Administrator means the Administrator of the National Highway Traffic Safety Administration (NHTSA), or the Administrator's delegate.

Air service brakes means service brake systems based on an air actuation system.

Base means the detachable bottom portion of a child restraint system that may remain in the vehicle to provide a base for securing the system to a seat in a motor vehicle.

Bead means the area of a tire below the sidewall and in the rim contact area,

VOL 66 ISS 246 DE 21 2001 UMI

including: bead rubber components; bead bundle and rubber coating if present; the body ply and its turn-up including the rubber coating; rubber, fabric, or metallic bead reinforcing materials; and the inner-liner rubber under the bead area.

Body type means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo-carrying features and the roofline (e.g., sedan, fastback, hatchback).

Buckle and restraint harness means the components of a child restraint system that are intended to restrain a child seated in such a system, including the belt webbing, shield, pads, buckles, buckle release mechanism, belt adjusters, and belt positioning devices.

Child restraint system means any system that meets or is offered for sale in the United States as meeting the definition set out in S4 of § 571.213 of this chapter, or is offered for sale as a child restraint system in a foreign country.

Claim means a written request or demand for relief, including money or other compensation, assumption of expenditures, or equitable relief, related to a motor vehicle crash, accident, the failure of a component or system of a vehicle or an item of motor vehicle equipment, or fire. Claim includes but is not limited to a demand in the absence of a lawsuit, a complaint initiating a lawsuit, an assertion or notice of litigation, a settlement, covenant not to sue or release of liability in the absence of a written demand, and a subrogation request. A claim exists regardless of any denial or refusal to pay it, and regardless of whether it has been settled or resolved in the manufacturer's favor. The existence of a claim may not be conditioned on the receipt of anything beyond the document stating a claim.

Common green tires means tires that are produced to the same internal specifications as a tire brand, but that have, or may have, different external characteristics and may be sold under different model designations.

Consumer complaint means a communication of any kind made by a consumer (or other person) to or with a manufacturer, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product, but not including a claim of any kind or a notice involving a fatality or injury.

Counterpart vehicle means a vehicle made in a foreign country that is equivalent to one made in the United States except that it may have a different name, labeling, driver side restraints, lighting or wheels/tires, or metric system measurements.

Customer satisfaction campaign, consumer advisory, recall, or other activity involving the repair or replacement of motor vehicles or motor vehicle equipment means a communication by a manufacturer to, or made available to, more than one dealer, distributor, lessor, lessee, other manufacturer, or owner, in the United States, whether in writing or by electronic means, relating to repair, replacement, or modification of a vehicle, or item of equipment, or a component of a vehicle or item of equipment, the manner in which a vehicle or item of equipment is to be operated or maintained, or advice or direction to a dealer or distributor to cease the delivery or sale of specified models of vehicles or equipment.

Dealer field report means a field report from a dealer or authorized service facility of a manufacturer of motor vehicles or motor vehicle equipment.

Equipment comprises original and replacement equipment:

(1) *Original equipment* means an item of motor vehicle equipment (other than a tire) that was installed in or on a motor vehicle at the time of its delivery to the first purchaser if the item of equipment was installed on or in the motor vehicle at the time of its delivery to a dealer or distributor for distribution; or the item of equipment was installed by the dealer or distributor with the express authorization of the motor vehicle manufacturer.

(2) *Replacement equipment* means motor vehicle equipment other than original equipment, and tires.

Field report means a communication in writing, including communications in electronic form, from an employee or representative of a manufacturer of motor vehicles or motor vehicle equipment, a dealer or authorized service facility of such manufacturer, or by an entity that owns or operates a fleet, to a manufacturer, regarding the failure, malfunction, lack of durability, or other performance problem of a motor vehicle or motor vehicle equipment, or any part thereof, produced by that manufacturer, regardless of whether verified or assessed to be lacking in merit.

Fire means combustion of any material in a vehicle as evidenced by, but not limited to, flame, smoke, sparks, or smoldering.

Fleet means more than ten motor vehicles of the same make, model, and model year.

Good will means the repair or replacement of a motor vehicle or item of motor vehicle equipment, including labor, paid for by the manufacturer, at least in part, when the repair or replacement is not covered under warranty.

Hydraulic service brakes means service brake systems based on a hydraulic actuation system.

Integrated child restraint system means a factory-installed built-in child restraint system as defined by S4 of § 571.213 of this chapter, or is offered for sale as a factory-installed built-in child restraint system in a vehicle sold in a foreign country.

Latches means a latching system and its components fitted to a vehicle's exterior door, rear hatch, liftgate, tailgate, trunk, or hood. This includes, but is not limited to, devices for the remote operation of a latching device such as remote release cables (and associated components), electric release devices, or wireless control release devices.

Light vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR of 10,000 lbs or less.

Make means a name that a manufacturer applies to a group of vehicles.

Medium-heavy vehicle means any motor vehicle, except a bus, motorcycle, or trailer, with a GVWR greater than 10,000 lbs.

Minimal specificity means:

(1) for a vehicle, the make, model, and model year,

(2) for a child seat, the model (either the model name or model number),

(3) for a tire, the model and size, and

(4) for other motor vehicle equipment, if there is a model or family of models, the model name or model number.

Model means a name that a manufacturer of motor vehicles applies to a family of vehicles within a make which have a degree of commonality in construction, such as body, chassis or cab type. For equipment, it means the name that its manufacturer uses to designate it.

Model year means, for vehicles, the year that a manufacturer uses to designate a discrete model of vehicle, irrespective of the calendar year in which the vehicle was manufactured and if a year is not so designated, the year the vehicle was manufactured. For equipment, it means the year that the equipment was manufactured.

Notice means a document received by or prepared by a manufacturer that does not include a demand for relief.

Parking brake means a mechanism designed to prevent the movement of a stationary motor vehicle.

Power train means the components or systems of a motor vehicle which transfer motive power from the engine to the wheels, including transmission (manual and automatic), clutch, transfer case, driveline, differential(s), and all driven axle assemblies.

Property damage means physical injury to tangible property.

Property damage claim means a claim for property damage, excluding that part of a claim, if any, pertaining solely to damage to a component or system of a vehicle or an item of equipment itself based on the alleged failure or malfunction of the component, system, or item, and further excluding matters addressed under warranty.

Reporting period means a calendar quarter of a year, unless otherwise stated.

Seat shell means the portion of a child restraint system that provides the structural shape, form and support for the system, and for other components of the system such as the seat padding, shield, belt attachment points, and anchorage points to allow the system to be secured to a passenger seat in a motor vehicle.

Sidewall means the area of a tire between the tread and the bead area of the tire, including: the sidewall rubber components; the body ply and its coating under the rubber in the sidewall area; and the inner-liner rubber under the body ply in the side areas.

Structure means any part of a motor vehicle that serves to maintain the shape and size of the vehicle, and which provides attachment and connectivity of all of the components of the vehicle, including frame members, the body of the vehicle, bumpers, doors, tailgate, hatchback, trunk lid, hood, and roof.

Suspension system means the components and systems of a motor vehicle including but not limited to springs, shock absorbers, and dampers, that are designed to minimize the impact on the vehicle chassis of shocks from the road surface irregularities that are transmitted through the wheels, and to provide stability when the vehicle is being operated through a range, of speed, load, and dynamic conditions.

Tread (also known as crown) means all materials in the tread area of the tire including: the rubber that makes up the tread; sub-base rubber, when present, between the tread base and the top of the belts; the belt material, either steel and/or fabric, and the rubber coating of the belt material, including any rubber inserts; the body ply and its coating rubber under the tread of the tire; and the inner-liner rubber under the tread.

Vehicle speed control means the systems and components of a motor vehicle that control vehicle speed either by command of the operator or by automatic control, including but not limited to the accelerator pedal, linkages, cables, springs, speed control devices (cruise control) and speed limiting devices.

Visual systems means the systems and components of a motor vehicle through which a driver views the surroundings of the vehicle including windshield, side windows, back window, and rear view mirrors, and systems and components used to wash and wipe windshields and back windows.

Warranty means any written affirmation of fact or written promise made in connection with the sale or lease of a motor vehicle or motor vehicle equipment by a manufacturer, distributor, or dealer to a buyer or lessee that relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of performance over a specified period of time (including any extensions of such specified period of time), or any undertaking in writing in connection with the sale or lease by a manufacturer, distributor, or dealer of a motor vehicle or item of motor vehicle equipment to refund, repair, replace, or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

Warranty claim means mean any claim presented to a manufacturer for payment pursuant to a warranty program, an extended warranty program, or good will.

(d) *Foreign claims and notices.* For purposes of subpart C of this part:

(1) A motor vehicle sold or in use outside the United States is identical or substantially similar to a motor vehicle sold or offered for sale in the United States if—

(i) Such a vehicle has been sold in Canada or has been certified as complying with the Canadian Motor Vehicle Safety Standards;

(ii) Such a vehicle is listed in Appendix A to part 593 of this chapter or determined to be eligible for importation into the United States in any agency decision issued between amendments to Appendix A to part 593;

(iii) Such a vehicle is manufactured in the United States for sale in a foreign country;

(iv) Such a vehicle is a counterpart of a vehicle sold or offered for sale in the United States; or

(v) Such a vehicle uses the same vehicle platform as a vehicle sold or offered for sale in the United States.

(2) An item of motor vehicle equipment sold or in use outside the United States is identical or substantially similar to equipment sold or offered for sale in the United States if such equipment and the equipment sold or offered for sale in the United States have one or more components or systems that are the same, regardless of whether the part numbers are identical.

(3) A tire sold or in use outside the United States is substantially similar to a tire sold or offered for sale in the United States if it has the same model and size designation, or if it is identical in design except for the model name.

§ 579.5 Notices, bulletins, customer satisfaction campaigns, consumer advisories, and other communications.

(a) Each manufacturer shall furnish to NHTSA a copy of all notices, bulletins, and other communications (including those transmitted by computer, telefax, or other electronic means and including warranty and policy extension communiques and product improvement bulletins) other than those required to be submitted pursuant to § 573.5(c)(9) of this chapter, sent to more than one manufacturer, distributor, dealer, lessor, lessee, owner, or purchaser, in the United States, regarding any defect in its vehicles or items of equipment (including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications), whether or not such defect is safety-related.

(b) Each manufacturer shall furnish to NHTSA a copy of each communication relating to a customer satisfaction campaign, consumer advisory, recall, or other safety activity involving the repair or replacement of motor vehicles or equipment, that the manufacturer issued to, or made available to, more than one dealer, distributor, lessee, other manufacturer, owner, or purchaser, in the United States.

(c) If a notice or communication is required to be submitted under both paragraphs (a) and (b) of this section, it need only be submitted once.

(d) Each copy shall be in readable form and shall be submitted monthly, not more than five (5) working days after the end of each month. Each submission shall be accompanied by a document identifying each communication in the submission by name or subject matter and date.

VOL 66 ISS 246 DE 21 2001 UMI

§ 579.6 Address for submitting reports and other information

Information and reports required to be submitted to NHTSA pursuant to this part, if submitted by mail or on CD-ROM, must be addressed to the Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration (NHTSA), 400 7th Street, SW., Washington, DC 20590. Information and reports may also be submitted by electronic means to NHTSA's website address: www.*odi@nhtsa.dot.gov*. Submissions must be made by a means that permits the sender to verify that the report was in fact received by NHTSA and the day it was received by NHTSA.

§§ 579.7—579.10 [Reserved]

Subpart B—Reporting of Defects in Motor Vehicles and Motor Vehicle Equipment in Countries Other Than the United States

§ 579.11—579.20 [Reserved]

Subpart C—Reporting of Early Warning Information

§ 579.21 Reporting requirements for manufacturers of 500 or more light vehicles annually.

For each reporting period, a manufacturer whose aggregate number of light vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, the manufacturer shall submit information separately with respect to each make, model and model year of light vehicle manufactured during the reporting period and the nine model years prior to the earliest model year of the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period, and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered light vehicles.

(b) *Information on incidents involving death or injury.* For all light vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on each incident involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death or injury was caused by a possible defect in the manufacturer's vehicle, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, if that vehicle is identical or substantially similar to a light vehicle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United (States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 01 for steering, 02 for suspension, 03 for service brakes, 04 for parking brakes, 05 for engine speed control including throttle and cruise control, 06 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 07 for seat belts (including anchorages and other related components), 08 for integrated child restraint systems, 09 for door, hood, or hatch latches, 10 for tires, 11 for fuel system integrity, 12 for power train, 13 for electrical system, 14 for engine and engine cooling system, 15 for structure (other than latches), 16 for visual systems, 17 for seats, 18 for lighting, 19 for wheels, 20 for climate control system including defroster, 21 for trailer hitches and related attachments, 22 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all light vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.22 Reporting requirements for manufacturers of 500 or more medium-heavy vehicles annually.

For each reporting period, a manufacturer whose aggregate number of medium-heavy vehicles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model and model year of medium-heavy vehicle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered vehicles and for non-gasoline-powered medium-heavy vehicles.

(b) *Information on incidents involving death or injury.* For all medium-heavy vehicles less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle, or one that is identical or substantially similar to a medium-heavy vehicle that the manufacturer has offered for sale in the United States. The report shall be

organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the medium-heavy vehicle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the vehicle that allegedly contributed to the incident, whether the incident involved a fire, as follows: 21 for steering, 22 for suspension, 23 for service brakes, 24 for parking brake, 25 for engine and engine cooling system, 26 for fuel system integrity, 27 for power train, 28 for electrical system, 29 for lighting, 30 for visual systems, 31 for climate control system including defroster, 32 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 33 for seat belts (including anchorages and other related components), 34 for structure (other than latches), 35 for seats, 36 for engine speed control including cruise control, 37 for latches (door, hood, or hatch), 38 for tires, 39 for wheels, 40 for trailer hitches and related attachments, 41 for engine exhaust system, 42 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents where a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all medium-heavy vehicles less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.23 Reporting requirements for manufacturers of 500 or more buses annually.

For each reporting period, a manufacturer whose aggregate number of buses manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each make, model, and model year of bus manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased. For all models that are manufactured with more than one type of fuel system, the information required by this subsection shall be reported separately for gasoline-powered buses and for non-gasoline-powered buses.

(b) *Information on incidents involving death or injury.* For all buses less than ten calendar years old at the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's bus together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's bus, or one that is identical or substantially similar to a bus that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the bus, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the bus that allegedly contributed to the incident, and whether the incident involved a fire, as follows: 51 for steering, 52 for suspension, 53 for service brakes, 54 for parking brake, 55 for engine and engine cooling system, 56 for fuel system integrity, 57 for power train, 58 for electrical system, 59 for lighting/horn/alarms, 60 for visual systems 61 for climate control system including defroster, 62 for airbags (including but not limited to frontal, side, head protection, and curtains that deploy in a crash), 63 for seat belts including anchorages and other related components, 64 for structure (other than latches), 65 for seats, 67 for engine speed control including throttle and cruise control, 68 for latches (door, hood, hatch), 69 for tires, 70 for wheels, 71 for trailer hitches and related attachments, 72 for engine exhaust system, 73 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the vehicle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all buses less than ten calendar years old as of the beginning of the reporting period, , a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.24 Reporting requirements for manufacturers of 500 or more motorcycles annually.

For each reporting period, a manufacturer whose aggregate number of motorcycles manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of motorcycle manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

VOL 66 ISS 246 DE 21 2001 UMI

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all motorcycles less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's motorcycle together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's motorcycle, or one that is identical or substantially similar to a motorcycle that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the motorcycle, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the motorcycle that allegedly contributed to the incident, and whether a fire was involved, as follows: 81 for steering, 82 for suspension, 83 for service brakes, 84 for engine and engine speed control, 85 for fuel system integrity, 86 for powertrain, 87 for electrical system, 88 for lighting 89 for structure, 90 for engine speed control (including throttle and cruise control, 91 for tires, 92 for wheels, 93 for fires, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the motorcycle, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all motorcycles less than ten years old as of the date of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.25 Reporting requirements for manufacturers of 500 or more trailers annually.

For each reporting period, a manufacturer whose aggregate number of trailers manufactured for sale, offered for sale, imported, or sold, in the United States, during the calendar year of the reporting period or during either of the prior two calendar years is 500 or more shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information with respect to each make, model and model year of trailer manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all trailers less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's trailer together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's trailer, or one that is identical or substantially similar to a trailer that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the trailer, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, each system or component of the trailer that allegedly contributed to the incident, and whether a fire was involved, as follows: 101 for suspension, 102 for service brakes, 103 for parking brakes, 104 for fuel system integrity (camping/travel trailers), 105 for electrical system, 105 for lighting/horn/alarms, 106 for climate control systems (camping/travel trailers), 107 for structure (other than latches), 108 for latches, 109 for tires, 110 for wheels, 111 for hitches and related attachments, 112 for 63 for tires, 113 for fire, and 99 if another system or component is allegedly involved or if the system or component is not specified in the claim or notice.

(c) *Numbers of property damage claims, consumer complaints, warranty claims, and field reports.* A report on the numbers of property damage claims, consumer complaints, warranty claims, and field reports involving the same systems and components of the trailer, and the number of incidents in which a fire was involved, as set forth in paragraph (b)(2) of this section, except that no reporting is necessary if the system or component involved is not identified in paragraph (b)(2) of this section.

(d) *Documents to be submitted.* For all trailers less than ten calendar years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during a reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.26 Reporting requirements for manufacturers of child restraint systems.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold child restraint systems in the United States, shall submit the following information. For paragraphs (a) and (c) of this section, a manufacturer shall submit information separately with respect to each model and model year of child restraint system manufactured during the reporting period and the nine model years prior to the earliest model year in the reporting period, including models no longer in production.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the make, the model, the model year, the current model year production to the end of the reporting period and the total model year production for all model years for which production has ceased.

(b) *Information on incidents involving death or injury.* For all child restraint systems less than ten calendar years old as of the beginning of the reporting period:

(1) A report on incidents involving one or more deaths or injuries occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's child restraint system together with each incident involving one or more deaths occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's child restraint system, or one that is identical or substantially similar to a child restraint system that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident described in paragraph (b)(1) of this section, the manufacturer shall separately report the make, model and model year of the child restraint system, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, and each system or component of the child restraint system that allegedly contributed to the incident and whether a fire was involved, as follows: 121 for buckle and restraint harness, 122 for seat shell, 123 for handle, 124 for base, and, only for incidents of death, 99 if another component is involved or if the component is not specified in the complaint, claim, or report.

(c) *Documents to be submitted.* For all child restraint systems less than ten years old as of the beginning of the reporting period, a copy of each field report (other than a dealer report) that the manufacturer received during the reporting period. These documents shall be submitted alphabetically by model and within model chronologically by model year.

§ 579.27 Reporting requirements for manufacturers of tires.

For each reporting period, a person who has manufactured for sale, offered for sale, imported, or sold, in the United States, tires shall submit the following information. For paragraphs (a) and (b) of this section, a manufacture shall submit separately for each model and model year produced during the reporting period and the nine calendar years prior to the earliest model year in the reporting period including models no longer in production. If the number of tires of the same size and design manufactured or imported does not exceed 15,000 tires in any single calendar year, the manufacturer shall report only information on incidents involving a death with respect to such tires, as specified in paragraph (b) of this section.

(a) *Production information.* Information that states the manufacturer's name, the quarterly reporting period, the tire model, the tire size, the plant where manufactured, the common green application, the serial code, the "SKU" code, application (original or replacement tire) and if original, the make model, and model year of the vehicle on which it is original equipment, production year, and warranty and total production information for the current production year and for all production years for which manufacture has ceased.

(b) *Information on incidents involving death or injury.* (1) A report on incidents involving one or more deaths or injuries occurring in the United States that are identified in claims against the manufacturer or in notices to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's tire together with incidents involving one or more death(s) occurring in foreign countries that is identified in claims against the manufacturer involving the manufacturer's tire, or one that is identical or substantially similar to a tire that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(2) For each such incident, the manufacturer shall separately report the tire model, size of the tire, the DOT identification code, the incident date, the number of deaths, the number of injuries for incidents occurring in the United States, the State or foreign country where the incident occurred, the make, model and model year of the vehicle on which the tire was installed, and each component of the tire allegedly involved and/or failure allegedly involved in the incident, as follows: 131 for tread, 132 for sidewall, 133 for bead, and, only for incidents of death, 99 if another component is allegedly involved, or if the component is not specified in the claim.

(c) *Numbers of property damage claims, field reports, and warranty claims (adjustments).* For all tires less than five calendar years old as of the date of the reporting period, for each tire model, the tire size, the SKU serial code, manufacturing plant, whether the application is as original or replacement tire, if original equipment, the make, model, and model year of the vehicle on which the tire was installed. The manufacturer shall separately report information on the number of property damage claims, field reports, and warranty claims (adjustments), involving the component of the tire or problem referred to in the claim, as specified in paragraph (b)(2) of this section.

§ 579.28 Reporting requirements for manufacturers of fewer than 500 vehicles annually, for manufacturers of original equipment, and for manufacturers of replacement equipment, other than child restraint systems and tires.

(a) *Applicability.* This section applies to all manufacturers of motor vehicles that are not required to file a report pursuant to §§ 579.21 through 579.25 of this part, to all manufacturers of original equipment, and to all manufacturers of replacement equipment other than manufacturers of tires and child restraint systems.

(b) *Information on incidents involving deaths.* For each reporting period, a manufacturer to which this section applies shall submit a report, pertaining to vehicles and/or equipment manufactured or sold during the calendar year of the reporting period and the nine calendar years prior to the reporting period, including models no longer in production, on each incident involving one or more deaths occurring in the United States that is identified in claim(s) against the manufacturer or in notice(s) to the manufacturer alleging or proving that the death was caused by a possible defect in the manufacturer's vehicle or equipment, together with each incident involving one or more death(s) occurring in a foreign country that is identified in claim(s) against the manufacturer involving the manufacturer's vehicle or equipment, if it is identical or substantially similar to a vehicle or item of equipment that the manufacturer has offered for sale in the United States. The report shall be organized such that incidents are reported alphabetically by model and within model chronologically by model year.

(c) For each such incident, the manufacturer shall separately report the model and model year of the vehicle or equipment, the incident date, the number of deaths, the State or foreign country where the incident occurred, and each system or component of the

UMI
VOL 66
ISS 246
DE 21
2001
UMI

vehicle or equipment that allegedly contributed to the incident, and whether a fire was involved, as follows:

(1) For light vehicles, the system or component involved, and fire, shall be identified as specified in § 579.21(b)(2) of this part.

(2) For medium-heavy vehicles, the system or component involved, and fire, shall be identified as specified in § 579.22(b)(2) of this part.

(3) For buses, the system or component involved, and fire, shall be identified as specified in § 579.23(b)(2) of this part.

(4) For motorcycles, the system or component involved, and fire, shall be identified as specified in § 579.24(b)(2) of this part.

(5) For trailers, the system or component involved, and fire, shall be identified as specified in § 579.25(b)(2) of this part.

(6) For original and replacement equipment, a written identification of the alleged component or fire involved, in the manufacturer's own words.

§ 579.29 Due date of reports, and other provisions.

(a) *Due date of reports.* Each manufacturer of motor vehicles and motor vehicle equipment shall submit each report that is required by this subpart not later than 30 days after the last day of the reporting period.

(b) *One-time reporting of historical information.* No later than the date that each manufacturer subject to §§ 579.21 through 579.27 of this part must submit its first reports under those sections (April 30, 2003), the manufacturer shall also file corresponding reports, providing information on the numbers of property damage claims, consumer complaints, warranty claims, and field reports that it received in each calendar quarter from January 1, 2000 to December 31, 2002 for vehicles manufactured in model years 1994 through 2003, for child restraint systems manufactured on or after January 1, 1998, and for tires manufactured on or after January 1, 1998. Each report shall include production data, as specified in paragraph (a) of §§ 579.21 through 579.27 of this part and shall identify the alleged system or component related to the claim, incident, and other information, as specified in paragraph (c) of §§ 579.21 through 579.27 of this part.

(c) *Minimal specificity.* A claim or notice involving death, a claim or notice involving injury, a claim involving property damage, a consumer complaint, a warranty claim, a consumer complaint, or a field report need not be reported if it does not identify the vehicle or equipment with minimal specificity. If a manufacturer initially receives a claim, notice, or report in which the vehicle or equipment is not identified with minimal specificity, and subsequently obtains information that provides the requisite information needed to identify the product with minimal specificity the claim, etc. shall be deemed to have been received at that time.

(d) *Abbreviations.* Whenever a manufacturer is required to identify a State in which an incident occurred, the manufacturer shall use the two-letter abbreviations established by the United States Postal Service (e.g., AZ for Arizona). Whenever a manufacturer is required to identify a foreign country in which an incident occurred, the manufacturer shall use the English-language name of the country in non-abbreviated form

(e) *Claims of confidentiality.* If a manufacturer claims that any of the information, data, or documents that it submits is entitled to confidential treatment, it must make such claim in accordance with part 512 of this chapter. If a manufacturer submits a document that contain personal information about a person or persons, including but not limited to names, addresses, telephone numbers, driver licenses, credit cards, social security numbers or medical information, the manufacturer shall, at the same time, submit a copy of such document from which all such personal information has been redacted.

(f) *Additional related information that NHTSA may request.* In addition to information required periodically under this subpart, NHTSA may request other information that may help identify a defect related to motor vehicle safety.

§ 579.30 Manner of reporting.

(a) *Form of reports submitted.* (1) All reports required under paragraphs (a) through (c) of §§ 579.21 through 579.27 of this part shall be formatted by a manufacturer in either a Microsoft Excel spread sheet, or in a form readily importable into an Excel spread sheet, using the version of Excel that is current at the time the report is filed. The report shall be submitted to NHTSA's website address: *www.odi@nhtsa.dot.gov.* Alternatively, the report may be submitted to NHTSA on a CD–ROM, using the mailing address set forth in § 579.6 of this part. The report shall use the data elements specified in §§ 579.21 through 579.27 of this part. For data files smaller than the size limit of the Internet e-mail server of the Department of Transportation, a manufacturer may submit a report as an attachment to an e-mail message.

(2) Reports submitted under § 579.28 of this part may be submitted either in the form specified in paragraph (a)(1) of this section or as a paper document.

(b) *Form of documents submitted.* A copy of a document may be submitted as a photocopy of the document, or in digital form sent by electronic mail, on a computer diskette, or on a CD–ROM.

(c) *Designation of manufacturer contact.* At the time of its first submission, each manufacturer must designate by name, office telephone number, mailing address, and electronic mail address, an employee whom NHTSA may contact for resolving issues that may arise concerning submissions of reports and documents required by this subpart. The manufacturer shall promptly notify NHTSA of any changes in this information.

Issued on: December 14, 2001.

Kathleen C. DeMeter,

Acting Associate Administrator for Safety Assurance.

[FR Doc. 01–31382 Filed 12–17–01; 4:33 pm]

BILLING CODE 4910–59–P

Federal Register

Friday,
December 21, 2001

Part IV

Environmental Protection Agency

Standards for the Use or Disposal of Sewage Sludge; Notice

VOL 66 ISS 246 DE 21 2001 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7120–5]

Standards for the Use or Disposal of Sewage Sludge

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is giving final notice of its determination that numeric standards or management practices are not warranted for dioxin and dioxin-like compounds in sewage sludge that is disposed of at a surface disposal site or incinerated in a sewage sludge incinerator. In December 1999, EPA proposed to amend the Standards for the Use or Disposal of Sewage Sludge to limit dioxin and dioxin-like compounds in sewage sludge that is applied to the land. In that proposal, EPA also stated that the Agency was not proposing amendments to add numeric standards or management practice requirements for dioxins in sewage sludge that is placed in a surface disposal unit or incinerated in a sewage sludge incinerator. Final action on the proposal to amend the Standards for the Use or Disposal of Sewage Sludge for sewage sludge which is applied to the land will be published separately at a later date.

FOR FURTHER INFORMATION CONTACT: Arleen Plunkett, U.S. Environmental Protection Agency, Office of Water, Health and Ecological Criteria Division (4304), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. (202) 260–3418. *plunkett.arleen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Affected Entities
II. Docket Information
III. Historical and Legal Background
IV. What Did EPA Propose for Dioxins in Sewage Sludge?
V. What Final Action is EPA Taking Today?
VI. Risk Assessment Methodologies and Results
  A. Approach and Assumptions in EPA's Risk Assessments for Exposure to Dioxins Resulting from Surface Disposal and Incineration
  B. Description of Surface Disposal Risk Assessment
    1. Overview of Risk Assessment Methodology for Surface Disposal
    2. Key Assumptions for the Surface Disposal Risk Assessment
    3. Surface Disposal Risk Characterization
  C. Description of Incineration Risk Assessment
    1. Overview of Risk Assessment Methodology for Incineration
    2. Key Assumptions for the Incineration Risk Assessment
    3. Incineration Risk Characterization
VII. Summary of Public Comments and EPA Responses
  A. Major Comments Applicable to Both Surface Disposal and Incineration
  B. Major Comments on Surface Disposal
  C. Major Comments on Incineration
VIII. List of References

I. Affected Entities

Entities typically regulated by Standards for the Use or Disposal of Sewage Sludge are those that prepare sewage sludge and/or use or dispose of the sewage sludge through application to the land, placement in a surface disposal unit, or incineration in a sewage sludge incinerator. Categories and entities affected by today's action include:

Category	Examples of affected entities
State/Local/Tribal Government	Publicly-owned treatment works and other treatment works that treat domestic sewage, that prepare sewage sludge and/or dispose of sewage sludge by placement in a surface disposal unit or incineration in a sewage sludge incinerator.
Federal Government	Federal Agencies with treatment works that treat domestic sewage, that prepare sewage sludge and/or dispose of sewage sludge by placement in a surface disposal unit or incineration in a sewage sludge incinerator.
Industry	Privately-owned treatment works that treat domestic sewage, and persons who receive sewage sludge and change the quality of the sewage sludge before it is disposed in a surface disposal unit or incinerated in a sewage sludge incinerator.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities affected by today's Notice pertaining to Standards for the Use or Disposal of Sewage Sludge.

II. Docket Information

The record for this Notice has been established under docket number W–99–18 and includes supporting documentation as well as the printed paper versions of electronic materials. The record is available for inspection from 9 a.m. to 4 p.m. Eastern Standard or Daylight time, Monday through Friday, excluding legal holidays, at the Water Docket, Room EB 57, USEPA Headquarters, 401 M Street, SW., Washington, DC 20460. For access to the docket materials, please call 202–260–3027 to schedule an appointment.

For information on the existing rule in 40 CFR part 503, you may obtain a copy of A Plain English Guide to the EPA Part 503 Biosolids Rule on the Internet at *http://www.epa.gov/owm/bio.htm* or request the document (EPA publication number EPA/832/R–93/003) from: Municipal Technology Branch, Office of Wastewater Management (4204), Office of Water, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001.

III. Historical and Legal Background

EPA promulgated Standards for the Use or Disposal of Sewage Sludge (40 CFR part 503) under section 405(d) and (e) of the Clean Water Act (CWA), 33 U.S.C. 1345(d), (e), as amended by the Water Quality Act of 1987. In these amendments to section 405 of the CWA, Congress, for the first time, set forth a comprehensive program for reducing the potential environmental risks and maximizing the beneficial use of sewage sludge. As amended, section 405(d) of the CWA requires EPA to establish numeric limits and management practices that protect public health and the environment from the reasonably anticipated adverse effects of toxic pollutants in sewage sludge. Section 405(e) prohibits any person from disposing of sewage sludge from a publicly owned treatment works (POTW) or other treatment works treating domestic sewage through any use or disposal practice for which regulations have been established pursuant to section 405 except in compliance with the section 405 regulations.

Amended section 405(d) also established a timetable for the development of the sewage sludge use or disposal regulations. H. Rep. No. 1004, 99th Cong. 2d. Sess. 158 (1986). Section 405(d) calls for two rounds of sewage sludge regulations. In the first round, EPA was to establish numeric limits and management practices for those toxic pollutants which, based on “available information on their toxicity, persistence, concentration, mobility, or potential for exposure may be present in sewage sludge in concentrations which may adversely affect public health or the environment.” CWA section 405(d)(2)(A). The second round was to address toxic pollutants not regulated in the first round “which may adversely affect public health or the environment.” CWA section 405(d)(2)(B).

EPA did not meet the timetable in section 405(d) for promulgating the first round of regulations, and a citizen's suit was filed to require EPA to fulfill this mandate. (*Gearhart* v. *Whitman*, Civ. No. 89–6266–HO (D. Ore.)). In accordance with the consent decree entered by the court in this case, EPA promulgated the first round of sewage sludge regulations in 1993, 40 CFR part 503. 58 FR 9248 (Feb. 19, 1993) (“Round One”). The consent decree also established a schedule for EPA to identify additional toxic pollutants in sewage sludge and completing the second round of regulation under section 405(d)(2)(B) (“Round Two”). In May 1993, EPA identified 31 pollutants not regulated in Round One that EPA was considering for regulation. In November 1995, EPA notified the court that it was revising the original list of 31 pollutants and considering two pollutant groups for the second round rulemaking: polychlorinated dibenzo-p-dioxins/dibenzofurans (PCDDs/Fs) and dioxin-like coplanar polychlorinated biphenyls (PCBs) (USEPA, 1996a). The consent decree required the Administrator to sign a notice for publication proposing Round Two regulations no later than December 15, 1999, and to sign a notice taking final action on the proposal no later than December 15, 2001.

On December 15, 1999, the Administrator signed a proposal to establish numerical limits for dioxins in sewage sludge that is applied to the land and proposed not to regulate dioxins in sewage sludge that is disposed of in a surface disposal unit or fired in a sewage sludge incinerator. 64 FR 72045 (Dec. 23, 1999).

IV. What Did EPA Propose for Dioxins in Sewage Sludge?

EPA proposed a numeric standard for “dioxins” in sewage sludge that is land applied, measured as toxic equivalents (TEQs), and related monitoring, recordkeeping and reporting requirements. EPA proposed a definition of “dioxins” to mean 29 specific congeners of polychlorinated dibenzo-p-dioxins, polychlorinated dibenzofurans, and coplanar PCBs that have been found in sewage sludge. The proposed definition of “dioxins” specifies seven 2,3,7,8,-substituted congeners of polychlorinated dibenzo-p-dioxins (PCDDs), ten 2,3,7,8-substituted congeners of polychlorinated dibenzofurans (PCDFs), and twelve coplanar PCB congeners. See 64 FR 72048–72051 for a full discussion of proposed requirements for land application.

EPA also assessed the risk of exposure to dioxins in sewage sludge that is disposed of by placement in a surface disposal unit or incinerated in a sewage sludge incinerator. EPA concluded that no numerical limits on dioxins or additional management practices are needed for sludge disposed of in either of these manners; i.e., that existing regulation of surface disposal and sewage sludge incinerators is adequate to protect public health and the environment from any reasonably anticipated adverse effects of dioxins. Therefore EPA did not propose any regulatory changes to 40 CFR part 503, subparts C and E.

V. What Final Action Is EPA Taking Today?

EPA is providing final notice of its decision not to regulate dioxins in sewage sludge that is placed in a surface disposal unit or fired in a sewage sludge incinerator. As explained below in sections VI.B. and C., EPA has determined that no further regulation of sewage sludge that is placed in a surface disposal unit or incinerated in a sewage sludge incinerator is needed to protect public health and the environment from any reasonably anticipated adverse effects of dioxins. Therefore, no additional numeric limit, operational standard, or monitoring requirements are currently being established.

EPA will address at a later time the proposed provisions related to dioxin and dioxin-like compounds in sewage sludge that is land applied.

VI. Risk Assessment Methodologies and Results

A. Approach and Assumptions in EPA's Risk Assessments for Exposure to Dioxins Resulting From Surface Disposal and Incineration

As we explained in the proposal, EPA conducted separate risk assessments for surface disposal of sewage sludge and incineration of sewage sludge in a sewage sludge incinerator. (64 FR 72051–72055). The four steps of the risk assessment process include hazard identification, dose-response assessment, exposure assessment, and risk characterization. Both risk assessments used similar hazard identification and dose-response data and assumptions. However, the risk assessments examined different exposure pathways and have different risk characterizations. The following presents an overview of the approaches used for these risk analyses.

Today's final action is based on assessments of the risks to human health posed by dioxins that are in surface-disposed sewage sludge or sewage sludge incinerator emissions.[1] The hazard identified for these risk assessments is cancer as a human health endpoint from the compounds assessed. We took into account the impacts on human cancer risk nationwide. We examined the cancer risk of 2,3,7,8–TCDD and estimated several dose-response relationships for this congener (USEPA, 1994). The cancer risk of the other congeners included in the risk assessment are expressed in relation to the cancer risk of 2,3,7,8–TCDD (USEPA, 1994).

The risk assessments for the proposal evaluated cancer as the human health risk using the 1985 cancer slope factor for dioxin (USEPA, 1994). Because the Agency's Dioxin Reassessment has not yet been finalized, the final determination for surface disposal and incineration continues to be based on evaluation of cancer risk applying the 1985 cancer slope factor. Our conclusions on the protection of human health that support this no action decision would be the same even if we considered the 2000 Draft Dioxin Reassessment (USEPA, 2000a), since use of the pertinent information from the Draft Reassessment would increase the risks only slightly.

Regarding exposure pathways, our evaluation of surface disposal of sewage sludge considered the human health risks associated with drinking ground water contaminated by dioxins and breathing air containing volatilized dioxins. For incineration in a sewage sludge incinerator, we evaluated human exposure to dioxins directly through inhalation of gases and particles in the emissions from sewage sludge incinerators, and indirectly by consumption of crops and animal products produced on agricultural lands and home gardens affected by the

---

[1] Of the approximately 6.9 million dry metric tons produced annually in the United States, we estimate that less than two percent is placed in sewage sludge-only surface disposal units, and 19 percent is fired in sewage sludge incinerators (Bastian, 1997).

UMI
VOL 66 ISS 246 DE 21 2001
UMI

deposition of particles from sewage sludge incinerator emissions.

You will find below descriptions of routes of exposure (called the exposure pathways) through surface disposal and incineration of sewage sludge that we assessed. We then calculated risks associated with these pathways by comparing exposures with dose-response information for the pollutants.

B. Description of Surface Disposal Risk Assessment

We performed an exposure assessment in order to estimate the risk to humans from surface disposal of sewage sludge containing dioxins. In this exposure assessment we identified the population that may be exposed, determined the routes through which exposure to dioxins may occur, and estimated the magnitude, duration, and timing of dioxin doses that people may receive. This procedure resulted in a distribution of predicted individual exposures. We used this distribution of individual exposures to determine the types of individuals who may be at highest risk as well as those with average ("central tendency") risks. High-end assumptions are intended to estimate risks that are expected to occur in small but definable "high end" portions of the subject population. This means that exposure is above the 90th percentile exposure in a population, but not higher than the individual in the population who has the highest exposure. To estimate high-end risk, we used some high-end parameters and some central tendency parameters. The central estimate of individual exposure was based on either the arithmetic mean or the median exposure. In addition to individual descriptors, we also estimated population risk to obtain an estimate of the number of health effects that might be expected in the population over a specific time period.

1. Overview of Risk Assessment Methodology for Surface Disposal

This risk assessment methodology focused on the last two steps of the risk assessment process, exposure assessment and risk characterization. The hazard identification and dose-response assessment portions of the risk assessment were taken from the External Review Draft Dioxin Reassessment Document (USEPA, 1994).

The purpose of this analysis was to estimate the total concentration of dioxins, furans, and coplanar PCBs that can be present in sewage sludge and still be protective of human health when sewage sludge is managed by surface disposal in monofills (i.e., sludge-only landfills) or surface impoundments. In order to assess the potential exposures from dioxins in sewage sludge placed in a surface disposal unit, we characterized the management practices associated with surface disposal facilities. This included ascertaining the environmental settings where surface disposal of sewage sludge may occur and identifying scenarios under which contaminants in sewage sludge may be transported through the environment to a human receptor.

We considered two possible exposure pathways: volatilization of dioxins from the surface disposal facility with subsequent inhalation of these pollutants and the leaching of dioxins to groundwater with subsequent consumption of this groundwater. Based on the general requirements and management practices for surface disposal under subpart C of the 40 CFR part 503 standards and the fact that dioxin congeners have an extremely low water solubility, we concluded that there is an insignificant chance that dioxins would be released to groundwater or surface water even during extreme wet weather conditions. Part 503, subpart C includes management practices designed to prevent groundwater and surface water contamination. For example, 40 CFR 503.24(d) prohibits the siting of an active sewage sludge surface disposal unit within 60 meters of an active seismic fault to prevent or significantly mitigate contamination of groundwater as a result of seismic events. These management practices also include requirements that prevent or significantly mitigate contamination of surface water. 40 CFR 503.24(b), (g). These requirements specify that an active sewage sludge surface disposal unit shall not restrict the flow of a base flood; runoff from an active sewage sludge unit shall be collected and disposed under applicable requirements; and the runoff collection system employed for the active sewage sludge unit shall have the capacity to handle runoff from a 24 hour, 25 year storm event. These requirements in part 503, subpart C for surface disposal units, therefore, serve to either prevent or significantly mitigate dioxin transport to and subsequent contamination of groundwater and surface waters.

2. Key Assumptions for the Surface Disposal Risk Assessment

There are two principal configurations used for surface disposal today (USEPA, 1990). We considered each to determine which had the highest potential for dioxin exposure to the modeled population. We then modeled the worse case (USEPA, 1999a).

The first surface disposal configuration that we considered is a monofill that is an unlined, sewage sludge-only trench fill receiving dewatered sludge with a solids content greater than 20%. Operating procedures for monofills established in 40 CFR 503.25 require vector control, which may include application of daily cover, and § 503.22 requires a written closure and post closure plan, including final cover provisions.

The second surface disposal configuration that we considered is a surface impoundment for which we assumed a continuous inflow of sewage sludge with a solids content of between 2% and 5%. For surface impoundments, a vertical outflow pipe maintained the surface liquid level at a constant height, and liquid was assumed to leave the impoundment both in the outflow (possibly for return to the treatment works) and in seepage through the floor of the impoundment. Over time, particulate settling would occur and a denser layer of solids accumulated on the floor of the impoundment. Eventually, this layer of solids reached the top of the impoundment and no further inflow was possible.

In order to assess the maximum level of risk for the surface disposal, surface impoundments were the modeled configuration. Surface impoundments are considered to be the worse of the two cases for dioxin transport and subsequent human exposure for the following reasons. With respect to exposure from volatilized dioxins, we assumed that, unlike monofills, there was no daily cover applied to the surface impoundment to reduce volatilization of dioxins to the ambient air. However, upon closure, we assumed that the surface impoundment was covered under the applicable requirements of part 503, subpart C. Pollutants, including dioxins, also can more readily leach to groundwater from surface impoundments than from monofills. This results from a greater hydraulic head in surface impoundments to transfer pollutants through the bottom of the unit.

Our exposure evaluation and risk assessment for surface impoundments (USEPA, 1999a) concluded that there is an insufficient flux of dioxins to ambient air from volatilization and to groundwater from leaching to result in a significant risk to exposed individuals. Therefore, placement of sewage sludge in a monofill also was determined not to result in a significant risk from dioxins to exposed individuals.

The following were the major assumptions used in the surface disposal risk assessment:

- Pollutant mass was assumed to enter the surface impoundment through continuous inflow of sewage sludge and leave through four loss processes: degradation within the impoundment; seepage through the floor; liquid overflow to a treatment facility; and volatilization.
- Rates of pollutant loss (including volatilization) were assumed to be "first-order" (i.e., the higher the concentration of the pollutant, the greater the rate of loss).
- Pollutants were assumed to be either attached to the surface of the sludge particles or dissolved in the surrounding water and to be at equilibrium (i.e., in a state of balance between the liquid and solid phases).
- Rates of pollutant transfer and loss when the impoundment is half-filled with solids were assumed to be typical of the surface impoundment both before and after it fills with sewage sludge.

3. Surface Disposal Risk Characterization

We found that the risks to human health from the surface disposal of sewage sludge to be extremely small. The incremental cancer risk to a highly exposed individual (i.e., "high end" risk) did not exceed 3.5 in ten million (3.5×10^{-7}) for either exposure pathway (USEPA, 1999a). Dioxins have extremely low volatility and would not be expected to offer significant exposure through inhalation. Also, dioxins do not dissolve readily in water. Even in the absence of a liner, combined with high porosity soil and a short distance to ground waters, only insignificant amounts of dioxins could ever reach the groundwater. For these reasons, we conclude that no action to regulate dioxins for sewage sludge surface disposal is necessary.

The surface disposal risk assessment supporting the proposal for no action did not explicitly consider cancer risks based on infant or childhood exposures. Based on the overall low cancer risk estimated for surface disposal of sewage sludge in that risk assessment which supports this final action, EPA has concluded that the cancer risk to infants and children due to exposure to dioxins from surface-disposed sewage sludge is not expected to be significant.

The surface disposal risk assessment also did not explicitly consider ecological risks. Surface disposal units are sited, designed, operated, and maintained to contain and isolate sewage sludge in order to minimize or eliminate exposure to humans and other organisms. The human health risk assessment that was performed for surface disposal units identified only two relevant exposure pathways for receptor populations: volatilization of dioxins to the atmosphere and leaching to groundwater. The summed exposures and subsequent incremental cancer risk estimated for dioxins from these two pathways to the modeled highly exposed human populations were very low (i.e., 3.5×10^{-7}). As already noted, dioxins have low volatility which results in insignificant volatilization. Dioxins also are extremely hydrophobic (i.e., do not readily dissolve in water), which likewise results in minimal leaching to groundwater and subsequent transport to surface waters to impact aquatic organisms. Based on the properties of dioxins and the design and operational characteristics of the disposal units, only an insignificant quantity of dioxins could move to the surrounding media to expose humans and other species. In addition dioxins exhibit similar mechanisms of toxicity across vertebrate species, including humans (USEPA 2000a). Therefore, while ecological impacts could not be predicted, we assumed that the results of the sewage sludge risk assessments that protect humans are also generally protective for ecological species.

In sum, EPA concluded that existing regulations are adequate to protect public health and the environment from the reasonably anticipated adverse effects of dioxins in sewage sludge that is surface-disposed.

C. Description of Incineration Risk Assessment

We used four steps to estimate risks from firing sewage sludge in sewage sludge incinerators (USEPA, 2000b). First, we estimated the rate at which pollutants are emitted from incinerator stacks. Next, we estimated the movement of pollutants in air near incinerators, including estimates of how much pollutant plumes overlap. We then overlaid maps of expected ground-level concentrations of pollutants and human populations. Finally, we determined the extent and nature of resulting health risks of human exposure to emitted dioxins.

The last step was accomplished by performing a multi-pathway risk assessment for exposure to dioxins that result from the firing of sewage sludge in a sewage sludge incinerator. The risk assessment estimated hypothetical average and high end risks to the highly-exposed sub-populations of farmers and home gardeners. We evaluated the risk to the hypothetical highly-exposed individual who is exposed by both a direct route (*e.g.*, inhalation) and indirect routes (*e.g.*, eating contaminated food). In addition, we conducted a probabilistic analysis to estimate the range of risks for home gardeners and farmers impacted by the modeled facilities and to quantify the uncertainty associated with these estimates.

In response to peer review comments, EPA corrected an emission rate for one sewage sludge incinerator and recalculated risks. We also combined the risk assessment and the risk characterization into a single document (USEPA, 2000b). Finally, we clarified the discussion and explanation of the multi-pathway exposure and risk model that was used in this risk assessment.

We considered multiple hearth units without afterburners to be the worst case technology for sewage sludge incineration and likely the highest emitters of dioxins and coplanar PCBs. The analysis focused on the six highest emitting incinerators for dioxins/dibenzofurans and coplanar PCBs from an initial screening of 135 incinerators so as to provide a high end to a bounding estimate of the risk from sewage sludge incineration.

1. Overview of Risk Assessment Methodology for Incineration

The assessment considered 15 exposure pathways. We evaluated those pathways expected to result in the highest risk estimates for which data were available. We selected two exposure scenarios to represent highly-exposed sub-populations that reside near sewage sludge incinerators: (1) Beef and dairy farmers consuming home produced meat, dairy and crops and, at recreational fisher levels, fish caught near sewage sludge incinerators; and (2) home gardeners consuming home-grown produce grown near a sewage sludge incinerator as a portion of their diet. For both scenarios, we estimated average and high end exposures for children and adults at locations where they are expected to reside. We used a geographical information system to identify land uses and terrain around facilities, to identify watershed and water body parameters for estimating fish and drinking water ingestion risks, and to provide census information about farmers and residents exposed to incinerator emissions. We estimated the numbers of individuals exposed and the associated risks for six population age groups.

VOL 66 ISS 246 DE 21 2001 UMI

2. Key Assumptions for the Incineration Risk Assessment

Many important factors in estimating exposure vary from facility to facility. As a result, the highest emitting facility will not always produce the highest risk. We therefore selected the six highest emitting incinerators that also resulted in the highest potential inhalation exposures from the initial screening assessment of 135 incinerators. The variables that are important for exposure assessment and considered in the screen include, for example, distance to exposed population, activities of the exposed population, effective release height of pollutants, and meteorological conditions. We also considered emission rates, emission release characteristics, and actual populations near the facilities in the initial screening assessment.

To address high end risk, plausible ranges of values for key exposure and model variables were modeled using Monte Carlo procedures. This analysis estimated the range of possible risk values and their probability of occurring. The variables considered for the Monte Carlo modeling were identified by sensitivity analyses. The variables were exposure duration, beef and dairy consumption, beef and dairy biotransfer factors, air to plant transfer, dry sludge throughput, adult inhalation rate, and fraction of time an adult is indoors and outdoors.

The large number of exposure values used in the risk assessment are shown in appendix B of the Technical Support Document for incineration (USEPA, 2000b). Unless otherwise noted in the Technical Support Document, the source of the exposure values used in the incineration risk assessment is the EPA Exposure Factors Handbook (USEPA, 1997). The following is a summary of a few key values:

- Adult body weight is 71.8 kilograms (kg).
- Body weight of a 3–5 year old is 17.5 kg.
- Exposure duration for the farmer is 17.3 years.
- Exposure duration for the home gardener is 12 years.
- Adult inhalation rate is 13.3 cubic meters each day.
- Child 3–5 years old inhalation rate is 8.3 cubic meters each day.
- Child daily soil ingestion rate is 0.1 grams each day.
- Adult daily soil ingestion rate is 0.05 grams each day.
- Adult daily fish ingestion rate is 0.162 grams per kg. body weight per day.

For the farmer exposure pathway, we evaluated the inhalation of vapor and particle-bound pollutants released from the incinerator stack(s), soil ingestion, ingestion of homegrown fruits and vegetables, ingestion of home-produced beef and dairy products, ingestion of drinking water from nearby surface water bodies, and ingestion of fish at recreational fisher levels from those water bodies. The home gardener pathway included inhalation of vapor and particle-bound pollutants, soil ingestion, ingestion of homegrown fruits and vegetables, and ingestion of drinking water from surface water bodies. For infants in both home gardener and farm families, breast milk ingestion from an exposed mother also is included. Dermal exposure to soil and water, and consumption of other animal products were not quantified since exposures from these pathways are expected to be significantly less than the pathways evaluated.

Cancer risks due to infant and childhood exposures were calculated as a part of the multi-pathway sewage sludge incineration risk assessment. Risks were estimated for infants and children aged: less than one year, 1–2 years, 3–5 years, 6–11 years, and 12–17 years for both the home gardener and the farmer/recreational fisher exposure scenarios. The infant age group also included exposure via breast milk ingestion. In all scenarios modeled for infants and children, the estimated lifetime cancer risks were similar to those modeled for adults, and were less than or equal to 1×10^{-6}.

3. Incineration Risk Characterization

We found that average and high-end risks were about the same for farmers and home gardeners. However, estimated risks were higher for receptors closer to the facility than farther away in both groups. The most significant pathway for the farmer was ingestion of home-grown beef and dairy products and was ingestion of home-grown produce for the home gardener. At locations where farmers and home gardeners are likely to reside near the six assessed facilities, potential risks ranged from 1×10^{-8} to 1×10^{-6} for farmers, and from 4×10^{-8} to 1×10^{-6} for gardeners. For infants of farmers, the highest estimated risks for the breast milk ingestion pathway were 2×10^{-8}, and were 5×10^{-8} for infants of home gardeners. These risks are at or below the Agency's acceptable risk range of 1×10^{-6} to 1×10^{-4}. Furthermore, based on census data, an extremely small numbers of farmers are predicted to be exposed to risk levels near the upper end of the predicted range. The risk assessment estimates that the average and high-end risks for highly exposed sub-populations in the proximity of the six largest dioxin emitters are at or below the range of acceptable risks.

Additionally, the concentration of dioxins in sewage sludge fed into sewage sludge incinerators does not influence the amounts of dioxins being emitted from the incinerator. The key factors influencing the amount of dioxins being emitted are the combustion conditions in the incinerator, incinerator design, and the efficiency and operational conditions of any air pollution control devices used on the incinerator. The Agency's Dioxin Source Inventory (USEPA, 2001a) estimated that total dioxins (chlorinated dioxins and chlorinated dibenzofurans only) being emitted from all of the Nation's sewage sludge incinerators was approximately 14.8 g. TEQ per year in 1995, a very minor fraction of the total North American dioxin inventory, which was 3255 g. TEQ per year as of 1995. The amount of dioxins emitted from sewage sludge incinerators is expected to be further reduced as the self-implementing means to meet the requirement for all sewage sludge incinerators to comply with either 100 parts per million (ppm) total hydrocarbons (THC) or 100 ppm carbon dioxide (CO) in their emissions are implemented. 40 CFR 503.45, 64 FR 42552, 42560 (Aug. 4, 1999).

We reviewed plans for any future changes for the six multiple hearth incinerators used in our risk assessment to determine if any significant reductions in emissions of dioxin and dioxin-like compounds might be expected in the future. The operators of three of the six incineration facilities indicated that no changes that might reduce emissions were planned in the foreseeable future. These facilities are currently meeting the total hydrocarbon emission limitation of 100 ppm.

One facility started up a new fluidized bed incinerator in June 2000, replacing two existing multiple hearth incinerators. One of the two existing multiple hearth incinerators will remain as a backup incinerator, with only occasional use. Testing of fluidized bed incinerators has demonstrated more complete destruction of organic compounds than in multiple hearth incinerators (USEPA, 1992). Another facility has shut down its incineration operation completely and is drying their sewage sludge instead.

The operator of the largest and highest emitting of the incineration facilities plans to start eliminating incineration of sewage sludge in their multiple hearth incinerators over the next three to four years. This facility plans to use a new high temperature process to convert sludge to a glass-like aggregate. An initial evaluation indicates that the aggregate process is cost-effective. The facility operator expects to submit a permit application within the next year to build the first aggregate unit. If this initial unit is successful, the operator will submit another permit application to build additional units to replace the entire multiple hearth incineration facility. However, if the new aggregate process does not prove feasible, then this facility will continue to use the existing multiple hearth incinerators. The facility operator also may consider building fluidized bed incinerators to start replacing the aging multiple hearth incinerators.

EPA promulgated amendments to the incineration subpart of the Part 503 standards on August 4, 1999 (64 FR 42551–42573). These amendments included a provision making all sewage sludge incineration requirements self-implementing. All incinerator owners/operators must now continuously monitor for either THC or CO emissions and operate their incinerators to limit either THC or CO emissions to 100 ppm or less (40 CFR 503.40, 503.44, 503.45 (a)). We will continue to inspect the operations and records of these incinerators to assure attainment of the THC or CO limits.

The exposure and risk assessments performed for dioxins from sewage sludge incinerators estimated very low exposure and subsequent incremental cancer risk (i.e., 1×10^{-6}) to the modeled highly exposed human population. This small incremental dioxin exposure from incineration of sewage sludge predicts that contamination of surrounding environmental media such as soils, surface water, and sediments is also small. On this basis, we concluded that sewage sludge incineration also would not appreciably increase dioxin concentrations in surrounding environmental media. In addition, dioxins exhibit similar mechanisms of toxicity across vertebrate species, including humans (USEPA 2000a). For these reasons, we would not expect ecological species to suffer adverse effects due to dioxins from sewage sludge incineration.

In making our final decision, we considered the results of the completed risk assessment for dioxins emissions from sewage sludge incinerators, the comments to our proposal not to set national standards for dioxin and dioxin-like compounds for sewage sludge incinerators, and the projected reductions of dioxin and dioxin-like compounds in emissions from sewage sludge incinerators. Based on the results summarized above, we conclude that no further regulatory action is needed to protect public health and the environment from adverse effects from dioxins in sewage sludge fired in a sewage sludge incinerator.

VII. Summary of Public Comments and EPA Responses

EPA received over 200 comments on the proposed amendments to the Standards for the Use and Disposal of Sewage Sludge. The majority of these comments concerned the proposed amendments to 40 CFR part 503, subpart B, land application of sewage sludge. EPA will address those comments when the Agency takes final action on the proposed amendments to subpart B of part 503. Today's final action concerns only the surface disposal and sewage sludge incinerator portions of part 503, found in subparts C and E. EPA's decision not to regulate dioxins in sewage sludge that is placed in a surface disposal unit is based in part on discrete portions of the risk assessment for land application. Regarding comments on the risk assessment, EPA is responding to those comments that relate directly to surface disposal as part of today's final action.

A. Major Comments Applicable to Both Surface Disposal and Incineration

We received relatively few comments on our proposal not to directly regulate dioxin and dioxin-like compounds in sewage sludge disposed in surface disposal and sewage sludge incineration facilities. The most prevalent comment that we received was overall support for the Agency's proposal not to further regulate dioxins for sewage sludge-only surface disposal units and incinerators. This group of commenters included a number of municipalities and treatment works associations, a sewage sludge processing company and a trade association. These commenters agreed that the risk to human health from dioxins in sewage sludge disposed in these types of facilities was very small and did not warrant setting limits. One municipality which supported the proposal not to further regulate surface disposal and incineration suggested that this decision be supported with a risk assessment similar to the risk assessment conducted for land application. This commenter apparently was unaware that comparable risk assessments which evaluated the appropriate exposure pathways for these management practices were conducted to support the Agency's proposal not to further regulate surface disposal and incineration.

A comment from a public policy institute stated that the decision not to regulate dioxins in sewage sludge disposed of by surface disposal and incineration is unacceptable because dioxin has been linked to health effects other than cancer. The commenter suggested that we evaluate other health effects, particularly reproductive and developmental toxicity. A comment from an environmental advocacy organization expressed a similar concern specifically about the incineration decision. We agree that other significant health effects may be associated with dioxin and dioxin-like compounds, but existing methodologies are not available to develop probabilistic estimates of human health non-cancer risks or to determine levels that would be without risk. Because the predicted cancer risk for dioxin is so low (i.e., 10^{-6} or less), we believe that existing regulations for surface disposal and sewage sludge incineration are adequate to protect public health from both cancer and non-cancer effects.

One State commenter asked if there is a connection between these actions not to regulate sewage sludge surface disposal and incinerators, and the effluent guidelines and standards for landfills at 40 CFR part 445. There is no connection intended or implied by the Agency.

B. Major Comments on Surface Disposal

One treatment authority stated that dioxin limits should be set for surface disposal sites which are operated similarly to land application sites (i.e., for cattle grazing and food crop production). We are aware of only two surface disposal sites which are operated in this manner. The current part 503 regulation addresses this situation: § 503.24(k) and (l) prohibit growing crops or grazing animals on active surface disposal sites "unless the owner/operator * * * demonstrates to the permitting authority that through management practices public health and the environment are protected from any reasonably anticipated adverse effects of pollutants in sewage sludge * * *."

A comment from an environmental advocacy group expressed concern that dioxins may become soluble and contaminate ground water when in the presence of solvents and surfactants, also found in sewage sludge. Data from the National Sewage Sludge Survey, which analyzed for more than 400 chemicals, indicate that the concentrations of solvents and surfactants in sewage sludge are relatively small (USEPA 1990). On this basis, we assumed that solubilization of dioxin and dioxin-like compounds by solvents and surfactants in sewage sludge would not be significant.

C. Major Comments on Incineration

A comment from a public policy institute noted that we gave no explanation for our use of different assumptions for soil ingestion by children in risk assessments for incineration and land application to support our proposals (0.1 grams/day and 0.4 grams/day, respectively.) The apparent difference in the two values is attributable to the different approaches incorporated in the risk assessments for the land application and incineration proposals. The land application proposal was supported by a deterministic risk assessment for which single point values are assumed for various input parameters. The commenter is correct that the land application risk assessment for the proposal assumed 0.4 grams/day for soil ingestion by children. For incinerator risk assessment, we conducted a probabilistic analysis that uses distributions of values for exposure variables where a range of data is available, including soil ingestion by children. This distribution included low end values, mid-range values, and high end values. Soil ingestion by children at a rate 0.1 grams/day is the mean value and 0.4 grams/day is a high end value.

This commenter also stated that no additional dioxin exposure to humans should be allowed as a result of sewage sludge incineration. A comment from an environmental advocacy organization expressed a similar concern. We agree with the principle that additional exposure to dioxin should be minimized and are concentrating our resources on reducing the emissions from the sources which have the highest dioxin emissions in order to achieve this reduction. The total annual dioxins emitted from sewage sludge incinerators are very small in comparison to other sources (USEPA, 2001). Furthermore, based on the very low predicted risk, we are confident that no further regulatory action is necessary.

Another comment from the same public policy institute questioned EPA's finding that the estimated risks were higher for individuals close to a sewage sludge incinerator than those farther away since dioxins can travel more than 100 miles from their source. We agree that dioxins can travel for extended distances from the source, but disagree that the risks would be the same or higher for individuals farther away from the source. Our assessment estimated close-in risks as well as risks out to 30 miles. The assessment estimated risks at locations where individuals are likely to be found and calculated risks at sites of maximum exposure whether or not people are at these sites. The assessment looked at risk from inhalation as well as ingestion of food and water. In all cases the estimated risks were not significant (USEPA, 2000b).

Finally, this commenter expressed concern that if sewage sludge incinerators are upgraded as EPA is predicting, the ash from these incinerators will become even more toxic and hazardous to land apply. This concern appears to be based on the assumption that dioxins that are removed from the air emissions will be recycled in the fly and bottom ash from the incinerator. The upgrades for multiple hearth incinerators are designed to destroy dioxin-like compounds by increasing the temperature and time of exposure of emissions exiting from the multiple hearth incinerators. Fly ash collected by particulate collection systems have been exposed to the increased temperature and time conditions before their collection. Thus not only are the stack emissions of dioxin-like compounds greatly reduced, but any dioxin-like compounds contained in the fly ash is greatly reduced. In addition, the bottom ash from multiple hearth incinerators is not affected by the installation of air pollution equipment on the exit gas stream. In the situation where a multiple hearth incinerator is replaced with a fluidized bed incinerator, the net production of dioxin-like compounds in a fluidized bed combustion chamber has been demonstrated to be an order of magnitude less than that occurring in a multiple hearth incinerator. Thus the replacement of a multiple hearth incinerators with a fluidized bed incinerator will reduce the dioxin-like compounds in both the stack emissions and in the ash removed from the fluidized bed incinerator.

A public interest group contended that the incinerator risk assessment looks only at inhalation exposures. The commenter stated that the major issue with dioxin emissions from incinerators is not inhalation but deposition to the soil, crops, and water in the neighboring area. The commenter believes that without including data on increased generation and/or deposition of particulates due to sludge burning, the incineration risk analysis fails to adequately address the dangers posed to nearby residents from the combination of dietary impacts and inhalation factors. In response, the Agency notes that, as described above, the incineration risk assessment estimated risks from both direct inhalation and ingestion of substances impacted by deposition of incinerator emissions. The ingestion scenarios included ingestion of beef and dairy products, fish, and vegetables by children and adults, and soil ingestion by children.

A comment from an environmental advocacy group raised a number of concerns about deficiencies in the risk model EPA used in developing the proposal for incineration, including: protection of children and fetuses; use of deterministic methods instead of probabilistic methods; consideration of synergistic effects of pollutant exposures; consideration of ecological impacts; and background levels of human exposure to dioxins.

Cancer risks due to infant and childhood exposures were calculated as a part of the multi-pathway sewage sludge incineration risk assessment. Risks were estimated for infants and children aged: Less than one year, 1–2 years, 3–5 years, 6–11 years, and 12–17 years for both the home gardener and the farmer/recreational fisher exposure scenarios. The infant age group also included exposure via breast milk ingestion. In all scenarios modeled for infants and children, the estimated lifetime cancer risks were similar to those modeled for adults, and were less than or equal to 1×10^{-6}.

The incineration risk assessment was deterministic in approach. However, probabilistic methods and data distributions formed the second part of the risk assessment. This probabilistic component served as a sensitivity instrument and was used to select the most appropriate input values for the deterministic model runs. Finally, this risk assessment was subjected to external peer review. This review found that the risk assessment was scientifically sound.

At the present time, there is no method for evaluating synergistic health effects from exposure to pollutants with different mechanisms or modes of toxicity.

The exposure and risk assessments performed for dioxins from sewage sludge incinerators estimated very low exposure and subsequent incremental cancer risk (i.e., 1×10^{-6}) to the modeled highly exposed human population. This small incremental dioxin exposure from incineration of sewage sludge predicts that contamination of surrounding environmental media such as soils, surface water, and sediments is also small. On this basis, we concluded that sewage sludge incineration also would not appreciably increase dioxin concentrations in surrounding environmental media. In addition, dioxins exhibit similar mechanisms of toxicity across vertebrate species, including humans. For these reasons, we would not expect ecological species to suffer adverse effects due to dioxins from sewage sludge incineration.

Our decision was based on the incremental exposure to dioxins from incineration of sewage sludge, in line with Agency procedures for assessing cancer risks. However, EPA did consider background levels of exposure to dioxins in making this decision. We compared the incremental dioxin exposure from sewage sludge incineration to background dioxin exposure and concluded that no further regulatory action is needed to protect public health.

A treatment works association commenter agreed with the proposed decision not to regulate dioxin emissions from sewage sludge incinerators, but expressed concerns that the complex modeling used in the incineration risk assessments had not been adequately peer-reviewed, has largely not been verified, and has not been subjected to rigorous quality control measures. This commenter stated that most of the references for the modeling performed in the risk assessment have not themselves been peer-reviewed, and that adequate evaluation of such complex modeling requires a longer period than the 90 days allotted for public comments. We agree that the complex models were not individually peer-reviewed prior to proposal. However the entire incineration risk assessment using these models was peer-reviewed and appropriately revised prior to making our final determination. Furthermore, the verification to date shows that the models perform reasonably well for dioxins and furans (Lorber, *et. al.*, 2000). We are currently conducting a lengthy peer review and extensive model verification for an updated multi-pathway model (the Total Risk Integrated Methodology—TRIM) that will eventually replace the multi-pathway model used in the incinerator risk assessment. The models used in the risk assessment for sewage sludge incinerators are the best available at this time and adequate for purposes of this action. We also note that the comment period was originally 60 days, and EPA was requested to extend the comment period to allow for more time to review the technical support documents. EPA agreed and reopened the comment for an additional 30 days. 65 FR 1278 (March 2, 2000). Consistent with similar Agency actions, we believe that a 90 day comment period was reasonable for this action.

A State environmental agency commented that dioxin emissions from medical waste combustors and solid waste combustors should be further reduced since these are the main sources of air deposition compared to wastewater treatment plants. EPA has issued guidance and regulations for reduction of dioxin emissions from both municipal waste combustors and medical waste incinerators that have already resulted in drastic reductions of dioxin-like compounds. For municipal waste combustors, national emissions of dioxin-like compounds have been reduced from 4,170 g. TEQ per year in 1990 to 40.6 g. TEQ per year in 2000. Continued compliance with current regulations is expected to further reduce emissions to 12 g. TEQ per year by 2005 (USEPA, 1999b). For medical waste incinerators, emissions of dioxin-like compounds have been reduced from 600 g. TEQ per year in 1990 to 150 g. TEQ per year in 2000 and further reductions are expected to drop to 5–7 g. TEQ per year by 2002 (USEPA, 1996b).

VIII. List of References

Bastian, R.K. 1997. Biosloids (Sludge) Treatment, Beneficial Use, and Disposal Situation in the USA. European Water Pollution Control, Vol. 7, No. 2: 62–80.

Lorber, M., Eschenroder, A. and R. Robinson. 2000. Testing the USEPA's ISCST-Version 3 Model on Dioxin: a Comparison of Predicted and Observed Air and Soil Concentrations. Atmospheric Environment 34: 3995–4010.

USEPA, 1990. National Sewage Sludge Survey; Availability of Information and Data, and Anticipated Impacts on Proposed Regulations; Proposed Rule. **Federal Register** 55 (218): 47210–47283.

USEPA, 1992. Technical Support Document for Sewage Sludge Incineration. Office of Water. Washington, DC. EPA/822-R–93–003.

USEPA, 1994. Health Assessment for 2,3,7,8-TCDD and Related Compounds. External Review Draft. EPA/600/BP–92/001a-c.

USEPA, 1996a. Technical Support Document for the Round Two Sewage Sludge Pollutants. Office of Science and Technology. Washington, DC. EPA–822-R–96–003.

USEPA, 1996b. National Dioxin Emissions from Medical Waste Incinerators. Office of Air Quality Planning and Standards. Research Triangle Park, NC.

USEPA, 1997. Exposure Factors Handbook: Volumes I, II, and III. National Center for Environmental Assessment. Office of Research and Development. Washington, DC. EPA/600/P–95/002 Fa.

USEPA, 1999a. Risk Analysis for the Round Two Biosolids Pollutants. Office of Science and Technology. Washington, DC.

USEPA, 1999b. Summary of the National Emission Estimates for Municipal Waste Combustion Units. Office Air Quality Planning and Standards. Research Triangle Park, NC.

USEPA, 2000a. Exposure and Human Health Reassessment of 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds. Science Advisory Board External Review Draft. National Center for Environmental Assessment, Office of Research and Development Washington, DC.

USEPA, 2000b. Sewage Sludge Incineration Dioxin-Like Compound Risk Analysis. Revised Technical Support Document. Office of Air Quality Planning and Standards. Research Triangle Park, NC.

USEPA, 2001. Database of Sources of Environmental Releases of Dioxin-Like Compounds in the United States: Reference Years 1987 and 1995. National Center for Environmental Assessment, Office of Research and Development. March, 2001. EPA/600/C–01/012.

Dated: December 14, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–31342 Filed 12–20–01; 8:45 am]

BILLING CODE 6560-50-P

UMI

VOL
66

ISS
2
4
6

DE
21

2001

UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Friday,
December 21, 2001

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 154

Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security; Proposed Rule

UMI
VOL 66
ISS 246
DE 21 2001
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 154

[Docket No. FAA—2001–11172 Notice No. 01–13]

RIN 2120–AH60

Procedures for Reimbursement of Airports, On-Airport Parking Lots and Vendors of On-Airfield Direct Services to Air Carriers for Security Mandates

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing procedures for certain operators to apply for reimbursement of allowable costs incurred to comply with certain security requirements imposed by the FAA or Transportation Security Administration (TSA) on or after September 11, 2001. These procedures are need to inform airport operations, on-airport parking lots, and vendors of on-airfield direct services to air carriers how to apply for reimbursement of allowable costs. In the event that funds are appropriated for this purpose, the FAA or TSA would use the applications to approve reimbursement of allowable costs as described in this proposed rule.

DATES: Submit comments by January 22, 2002.

ADDRESSES: Address your comments to the Dockets Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the docket number FAA–2001–11172 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA and the TSA received your comments, include a self-addressed, stamped postcard. You may also submit comments through the Internet to *http://dms.dot.gov.*

You may review the public docket containing comments to these regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Barry Molar, Manager, Airports Financial Assistance Division, Office of the Associate Administrator for Airports, (202) 267–3831, or Frank J. San Martin, Airports Law Branch, Office of the Chief Counsel, (202) 267–3199/3473 Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in this rulemaking by submitting written data, views, or arguments. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late-filed comments will be considered to the extent practicable. The proposals in this Notice may be changed in light of the comments received.

See **ADDRESSES** above for information on how to submit comments.

Availability of Proposed Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search.*).

(2) On the search page type in the last five digits of the Docket number shown at the beginning of this notice. Click on "search."

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the rulemaking.

You can also get an electronic copy using the Internet through FAA's web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information and advise about compliance with statutes and regulations within the FAA's jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official. Internet users can find additional information on SBREFA on the FAA's web page at *http:www.faa.gov/avr/arm/sbrefa.htm* and send electronic inquiries to the following Internet address: *9–AWA–SBREFA@faa.gov.*

Background

As a consequence of the terrorists attacks on the United States on September 11, 2001, airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers have been required to dramatically increase security.

Acting to preserve the continued viability and security of the U.S. air transportation system, Congress enacted, and President Bush signed, the Aviation and Transportation Security Act ("the Act)," Public Law 107–71, 115 Stat. 597 (November 19, 2001).

Section 121(a) of the Act authorized to be appropriated to the Secretary of Transportation for fiscal years 2002 and 2003 a total of $1.5 billion to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001. Under Section 121(b), cost must be documented to the satisfaction of the Secretary using sworn financial statements or other appropriate data demonstrating that the cost is eligible for reimbursement and was in fact incurred.

Section 121(c) requires that within 30 days (by December 19, 2001) and after consultation with airports operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, the Secretary publish in the **Federal Register** the procedures for filing claims for reimbursement under section 121 of eligible costs incurred. In December 2001, FAA airports, security, and counsel staff consulted on proposed claim procedures, as required by the Act, with representatives of Airports Council International, Metropolitan Washington Airports Authority, Maryland Aviation Administration, American Association of Airport

Executives, National Air Transportation Association (NATA), individual NATA members who provide services to air carriers, and vendors of on-airfield services. Consultations with representatives of on-airport parking lots are pending. Airport operators advised that a high percentage of on-airport parking lots are controlled by the airports and not by independent business entities.

This action contains the proposed procedures for filing claims for reimbursement under section 121 of eligible costs incurred by airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers.

Section-by-Section Analysis

Subpart A—General Provisions

Section 154.1 What Is the Purpose of This Part?

This section states the purpose of part 154, which is to carry out the statutory provisions of the Act with respect to reimbursement of airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers for direct costs, incurred to comply with new, additional, or revised security mandates imposed by the FAA or TSA on or after September 11, 2001.

Section 154.3 Definitions

This section provides definitions for the terms used in the Act. Several definitions incorporate terms from the act or other existing sources. The term "air carrier" is defined as in 49 U.S.C. 40102 and "airport" is defined as it is found in 49 U.S.C. 47102(2). The definition of "airport" is broader than current definitions because the Act does not limit reimbursement to airport operators who are eligible to receive federal Airport Improvement Program grants or to airports in the National Plan of Integrated Airport Systems (NPIAS).

The terms "on-airport parking lot" and "vendor of on-airfield direct services to air carriers" are defined to identify the two other groups of possible applicants for reimbursement under the Act. The definition of "on-airport parking lot" excludes those on-airport parking lots controlled by airport operators. Claims for direct costs incurred by an on-airport parking lot controlled by an airport operator would be included in the airport operator's application. The statutory term "vendor of on-airfield direct services to air carriers" by terms requires that the direct service to an air carrier be conducted on the airfield. Direct services to an air carrier include, cleaning, fueling, maintenance, baggage handling, food and beverage services, or other services for aircraft on the airfield. The term "on-the airfield" is not defined in the Act or in Title 49, United States Code. For purposes of this Part the term airfield denotes the aircraft operating area of an airport, where most of the aeronautical activities occur. The location of the vendor's business need not be on the airport so long as the work is performed on the airfield. For example, a vendor that repairs aircraft must perform at least part of the service on the airfield to be covered. Other definitions were incorporated with modifications from the Federal Acquisition Regulations, 48 CFR part 31, Office of Management and Budget circulars, and similar sources reflecting generally accepted accounting terms.

The definitions of "eligible security requirements" reflects the condition imposed by the Act that reimbursement be limited to direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001. The security requirements found in security directives, emergency amendments, orders, regulations, approved airport and air carrier security programs, contingency measures, and implementing instructions constitute sensitive security information (SSI) under 14 CFR part 191. Applicants are required to associate a specific provision in the applicable Security Directive, emergency to a security program under Part 107, Part 108, or Part 129, order, regulation or other directive with each claimed direct cost and identify it as security sensitive information under 14 CFR part 191 in the application. That information would be withheld from public disclosure under the terms of part 191. Claims for reimbursement submitted under these procedures would be initially reviewed by the field offices of the FAA's Office of Civil Aviation Security Operations or the appropriate office of the TSA to determine whether the claim is appropriately based on new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001.

Section 154.5 What Funds Will the FAA Distribute Under This Part?

The Act authorizes to be appropriated to the Secretary of Transportation $1.5 billion in reimbursement of direct costs for fiscal years (FY) 2002 and 2003. As of the date of this proposed rule no funds have been appropriated for reimbursement under Section 121. The FAA plans to disburse funds under Section 121 of the Act after appropriation by Congress for FY 2002 and/or FY 2003. In contrast to Section 119 of the Act, which provides for funding for aviation security with Airport Improvements Program (AIP) funds under 49 U.S.C. § 47101 *et seq.*, the amount authorized to be appropriated under section 121 is not considered AIP funds.

Reimbursement provided under Section 121 of the Act would qualify as Federal assistance pursuant to 49 U.S.C. § 47133. Therefore, airport operator recipients of reimbursement under Section 121 of the Act would be subject to the restriction on use of airport revenues of 49 U.S.C. § 47133. Neither Section 47133 nor its legislative history explained the term Federal assistance. In Section II(A) of FAA Policy and Procedures Concerning the Use of Airport Revenue, 64 FR 7696, (February 16, 1999), the FAA provided a non-exclusive list of five types of federal airport grants and conveyances that is considered to be Federal financial assistance. Reimbursements under Section 121 would be similar to federal airport grants in that they constitute reimbursement for funds spend by the airport operator.

Section 154.7 How Much of an Eligible Applicant's Estimated Reimbursement Will Be Distributed Under This Part?

As discussed below, June 1, 2002 would be the due date for applications, and only costs incurred between September 11, 2001 and March 31, 2002 will be considered. The FAA would consider all applications together to determine the allowable costs. If the total of allowable costs exceeds the amounts appropriated, the FAA would allocate funds on a pro-rated basis, based on the ratio of each applicant's allowable costs to the total of all allowable costs claimed. If additional funds are subsequently appropriated, the FAA would give priority to fully reimbursing unreimbursed allowable costs incurred before March 31, 2002.

If the total of allowable costs is less than the amounts appropriated, the FAA would pay claimed expenses in full (subject to 10 percent withholding for audited results) and establish by **Federal Register** notice a due date for a new round of applications. Consistent with the Act applicants will receive reimbursement for which they demonstrate that they are eligible. To be eligible to receive reimbursement, an applicant would have to demonstrate to the satisfaction of the FAA that it has actually incurred direct costs for the purposes specified in the Act. The burden of proof with respect to

VOL 66 ISS 246 DE 21 2001 UMI

eligibility rests with applicants applying for reimbursement.

Section 154.9 What Are the Limits on Reimbursement to the Applicants?

Pursuant to the Act, applicants would only be reimbursed for direct costs incurred to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001. Initial applications would be limited to allowable costs incurred during the period between September 11, 2001 and March 31, 2002, so that applicants may have time to determine their direct costs under their normal accounting procedures. Direct costs, as explained in the discussion of the definitions section above, would be the only costs allowable for reimbursement under Section 121 of the Act. Direct costs are those costs that airport operators, on-airport parking lots and vendors of on-airfield direct services to air carriers can demonstrate to be unique to the new, additional, or revised security requirements. Unallowable costs include indirect costs, lost revenue, operating losses, prudent measures, normal costs, and capital costs, as well as pre-September 11, 2001 costs. In addition, costs that would be eligible for reimbursement but that are otherwise recovered by the eligible applicant are generally not reimbursable. Where costs are recovered by a direct surcharge or charge-back for incremental security costs, or by a specific grant, insurance payment, or other financial assistance device, the costs would not be reimbursed. Where the cost was recovered by a general increase in prices or rates and charges, the FAA may approve reimbursement, subject to a requirement that the eligible applicant provide an appropriate rebate to its customers, tenants, or users.

Section 154.11 Who Is Eligible To Apply for Compensation Under This Part?

Airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers would be eligible to apply. Airport operator applicants would not be limited to public airports or certain categories of privately owned public use airports that are eligible to receive AIP grants under the terms of 49 U.S.C. 47102, and they would not limited to airports in the National Plan of Integrated Airport Systems (NPIAS).

Subpart B—Application Procedures

Section 154.13 When Must Applicants Apply for Reimbursement?

All eligible entities would submit a completed application in triplicate, which must be received by June 1, 2002. Submissions would reflect costs incurred from September 11, 2001 through March 30, 2002. Unless an applicant could demonstrate to the satisfaction of the FAA that extremely unusual extenuating circumstances, completely beyond its control, prevented it from making a timely submissions, the FAA would not accept a late submission. If funds initially appropriated under this Part exceed total allowable costs or if additional funds become available, the FAA would publish a new due date for new applications in the **Federal Register**.

Section 154.15 To What Address Must Applicants Send Their Application?

This section provides the address to which applicants must submit their application. The FAA would not accept applications sent to another address. In addition, applications would be required to be mailed or personally delivered. Faxes and e-mails alone would not be acceptable, unless hard copies are also submitted by mail or personal delivery. Hand-carried applications will be subject to arrangements to receive hand-carried applications consistent with current FAA security procedures. Applications also must be complete, containing all the required information. The FAA would not accept incomplete applications.

Section 154.17 What Documentation is Necessary To Support an Application?

The application must include the completed form in Appendix A. The applicant would be required to support the costs it claims for reimbursement with the normal invoices, vouchers, payrolls and supporting accounting records that constitute adequate documentary evidence for the purposes of an independent audit. Supporting accounting records include general and specialized journals, ledgers, manuals, and supporting worksheets and other analyses; and corroborating evidence such as invoices, and vouchers. Audited financial statements are adequate support provided they show the specific costs submitted for reimbursement. Documentary evidence would be required to show that the amounts requested for reimbursement. Documentary evidence would be required to show that the amounts requested for reimbursement were actually incurred. Budget estimates or cost allocations would not be sufficient by themselves to establish a claim for reimbursement. This standard of documentation is the same as the standard used in FAA's Policy and Procedures Concerning the Use of Airport Revenue.

Applicants would be required to identify the specific security requirement and the FAA or TSA source document associated with each claimed allowable cost. This information would be identified as security sensitive information, subject to confidential treatment under 14 CFR Part 191 and would be marked with the warning provided in Section 154.17. The FAA or TSA would review this information to verify that the cost was incurred to satisfy an eligible security requirement. Questions concerning security requirements applicable to a particular eligible applicant may be addressed to Special Projects Officer, Office of Civil Aviation Security Operations (202) 267–7296 or 7262 at the Federal Aviation Administration. Airport operators must also certify that they have consulted with their non-air carrier tenants regarding an adjustment of rates and charges in accordance with section 122 of the Act.

Section 154.19 Must Applicants Certify The Truth and Accuracy of Data They Submit?

This section provides the form of a certification that the Chief Executive Officer, Chief Financial Officer, or Chief Operating Officer, or equivalent official, of an applicant would be required to make the respect to applications for reimbursement and participation in the reimbursement program. The certification would attest to the truth and accuracy of the information and compliance with Section 121 of the Act.

Section 154.21 What Records Must Applicants Retain?

An applicant that applies for reimbursement under this part would be required to retain all books, records, and other source and summary documentation supporting its claims for reimbursement of direct costs pursuant to Section 121 of the Act. This requirement includes, but is not limited to, retaining supporting evidence and documentation demonstrating the validity of the data provided; obtaining and retaining all reports, working papers and supporting documentation pertaining to audits or review conducted by independent auditors under the requirements of this part.

An applicant would be required to preserve and maintain this documentation for five years in a manner that readily permits its audit and examination by representatives of the FAA, the TSA, the Office of the Secretary, Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies. An applicant must make all requested data available within one week from a request by such activities.

Section 154.23 Are Applicants That Participate in This Program Subject to Audit?

All claims by applicants are subject to audit the FAA, TSA, Office of the Secretary of Transportation (including the Office of Inspector General), the Comptroller General, or other authorized Federal agencies. All information submitted with the application and all records and documentation retained would be subject to audit.

To accommodate each applicant's normal fiscal year and audit cycle, the FAA would partially release approved reimbursements prior to completion of the annual audit on the condition that the audit will be forwarded to the FAA (same address as the application) within 30 days after completion. Until completion of the audit, the FAA would retain 10% of the approved reimbursement. Upon receipt of the audit, the Department would adjust the reimbursement to conform to the results of audit and the requirements of this Rule.

Airport operators must follow the Office of Management and Budget Circular No. A–133 Single Audit Requirements (for availability see 5 CFR 1310.3); consequently, their requests for reimbursement must be treated as though the amount had been a Federal award and audited in accordance with OMB Circular A–133. If the airport operator did not have Federal assistance of $300,000 or more to meet the criteria for having a single audit, that operator may rely on the submission of supporting documentation as specified in section 154.17. Vendors of on-airfield direct services to air carriers, parking lot operators, and other entities that request reimbursement but are not subject to OMB Circular A–133 would be required to comply with the following requirements. For requests of $300,000 or more, the amount must be subject to annual audit and the amount for the period under audit must be commented upon and certified by the auditor. If the amount requested for reimbursement spans more than one audit period, the independent auditor must comment and certify the amount for each period. As an alternative, the applicant may submit a single certified audit report that specifically addresses the amount requested for reimbursement. For requests under $300,000, the applicant, as an alternative to audit, may submit with its application its supporting documentation, as specified in Section 154.17.

Paperwork Reduction Act

This rule contains information collection requirements subject to the Paperwork Reduction Act (PRA), specifically the application documents that airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers must submit to the FAA to obtain reimbursement. The title, description, and respondent description of the information collections as well as an estimate of the annual recordkeeping and periodic reporting burden are shown below. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Procedures for Reimbursement of Airports for Security Mandates.

Need for Information: The information is required to administer the requirements of the Act.

Use of Information: The FAA would use the data submitted by the applicants to determine whether the applicants' documented costs are eligible for reimbursement under the Act as direct costs, incurred by operators, on-airport parking lots, or vendors of on-airfield direct services to air carriers to comply with new, additional, or revised security requirements imposed by the FAA or TSA on or after September 11, 2001.

Frequency: For this final rule, the FAA will collect the information once, unless an additional application period is necessary to apply for additional appropriated funds.

Respondents: THe respondents include a possible estimated 4000 applicants. This number is based on an estimate of the number of commercial service airports, with assumptions of one parking operator per airport and 5 vendors of on-airfield services to air carriers.

Burden Estimate: Total of 16,000 burden hours (4 hours per application multiplied by an estimated 4,000 potential applicants). Total cost to industry would be approximately $455,200.

Form(s): The data would be collected both electronically and from paper sources.

Average Burden Hours per Respondent: 4 hours per applicant at an average cost of about $114 per respondent.

The Office of Management and Budget has approved this information collection, with Control Number .

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Under this proposed rule no entity would be required to take any action so that the economic impact is minimal. Since its costs and benefits do not make it a "significant regulatory action" as defined in the Order, we have not prepared a "regulatory evaluation," which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory and Procedures. We do not need to do the latter analysis where the economic impact is minimal.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601–612, directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a "significant economic impact on a substantial number of small entities" as defined in the Act. If we find that the action will have a significant impact, we must do a "regulatory flexibility analysis."

Under this proposed rule no entity would be required to take any action. Those that choose to apply under this proposed rule may obtain a benefit. The costs of complying are those stated in the Paperwork Reduction Act section in this preamble, and are minimal. Therefore, we certify that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activity that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for

VOL 66 ISS 246 DE 21 2001 UMI

U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

This proposed rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power responsibilities among the various levels of government. Therefore, we have determined that this proposal does not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy (NEPA) environmental impact statement. In accordance with FAA Order 1050.ID, appendix 4, paragraph 4(j) this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of this proposal has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 14 CFR Part 154

Airports, Business and industry, Reimbursement, Reporting and recordkeeping requirements.

The Amendments

For the reasons set forth in the preamble, the FAA proposes to add new part 154 to Title 14, Code of Federal Regulations, to read as follows:

PART 154—PROCEDURES FOR REIMBURSEMENT OF AIRPORTS, ON-AIRPORT PARKING LOTS AND VENDORS OF ON-AIRFIELD DIRECT SERVICES TO AIR CARRIERS FOR SECURITY MANDATES

Subpart A—General Provisions

Sec.
154.1 What is the purpose of this part?
154.3 Definitions.
154.5 What funds will the FAA distribute under this part?
154.7 How much of an eligible applicant's estimated reimbursement will be distributed under this part?
154.9 What are the limits on reimbursement to applicants?
154.11 Who is eligible to apply for reimbursement under this part?

Subpart B—Application Procedures

154.13 When must applicants apply for reimbursement?
154.15 To what address must applicants send their applications?
154.17 What documentation is necessary to support an application?
154.19 Must applicants certify the truth accuracy of data they submit?
154.21 What records must applicants retain?
154.23 Are applicants that participate in this program subject to audit?
Appendix A to Part 154—Form for Application for Reimbursement

Authority: Section 121 of Pub. L. 107–71, 115 Stat. 597.

Subpart A—General Provisions

§ 154.1 What is the purpose of this part?

The purpose of this part is to establish procedures to implement section 121 of the Aviation and Transportation Security Act ("the Act"), Public Law 107–71, 115 Stat. 597. This statutory provision authorizes appropriations to reimburse airport operators, on-airport parking lots, and vendors of on-airfield direct services to air carriers, for direct costs incurred by such operators to comply with new, additional, or revised security requirements imposed by the FAA or the Transportation Security Administration (TSA) on or after September 11, 2001.

§ 154.3 Definitions

The following terms apply to this part:

Air carrier means any U.S. carrier or foreign air carrier as defined in 49 U.S.C. 40102.

Airport means any U.S. airport as defined in 49 U.S.C. 47102.

Airport operator means the owner or individual, public, or business entity that controls the daily operation, maintenance, and management of an airport.

Allowable cost means the direct costs incurred by an eligible applicant to comply with eligible security requirement son or after September 11, 2001.

Capital cost means a cost that in accordance with accrual accounting procedures would not be charged as an expense to a single fiscal period. Capital costs include expenditures for extensive terminal or parking garage remodeling, road construction, and installation of permanent barricades. The costs of minor terminal and parking alterations, installation of temporary barricades, such as Jersey barriers, and minor purchases of equipment are not considered to be capital costs. Any project or purchase that would be AIP eligible under the standards of eligibility in effect prior to enactment of the Act is a capital expenditure. The eligible applicant's normal cost accounting procedures will weigh heavily for determining whether a transaction should be considered a current year expenditure or a capital expenditure. Entities that are on a cash accounting basis should apply accrual accounting principles to determine whether a transaction is a current year expenditure or a capital expenditure.

Costs otherwise recovered means costs that would otherwise be eligible for reimbursement under this part, but that the eligible agency passed through to vendors, customers, subcontractors, or the public, or costs that were recovered through insurance, grant programs, or other kinds of aid.

Direct costs means the costs that eligible applicants can specifically identify as being unique to new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001. Such sots must be incurred on or after September 11, 2001 and may not be allocable from or to other cost pools or cost objectives.

Eligible applicant means an airport operator, on-airport parking lot, or vendor of on-airfield direct services to air carriers eligible to apply for reimbursement under this part.

Eligible security requirement means a new, additional, or revised security requirement imposed by the FAA or the TSA through a Security Directive, emergency amendment to a security program under Part 107, Part 108 or Part 129 of this chapter, order, regulation, or other directive on or after September 11, 2001.

Indirect costs are any costs that are not directly identified with a single, final cost objective. Indirect administrative costs are the accounting, budgeting, data processing, legal services, insurance, office space, utilities, printing, reproduction, and other costs that are not directly traceable to the new additional, or revised security requirements. Indirect management costs are those costs incurred from the corporate, division, and local officers and supervisors that were reasonable for implementing the new, additional, or revised security requirements, but who also continued to have their normal managerial or supervisory responsibilities. For example, a local supervisor may have been responsible for implementing the reissuance of security badges, but that supervisor may have also continued with his normal duties, such as, the routine scheduling of shift personnel or the supervision of personnel in the normal course of their duties.

Lost revenue means those revenues which the eligible applicant would have earned were it not for measures required by the Department of Transportation or law enforcement agencies in response to the events of September 11, 2001. An example of lost revenue is the lost revenue from parking spaces that were placed out of service as the result of FAA security requirements. Lost revenue also includes, but is not limited to, the loss of airport landing fees resulting from decreased air traffic as the result of FAA suspending air operations, and reduced fees paid by airport vendors due to the lost sales that they incurred as the result of FAA suspending air operations.

Normal costs means the costs incurred by eligible applicants for the purpose of airport security that are not directly related to the new, additional, or revised security requirements imposed by the FAA or the TSA on or after September 11, 2001.

On-airport parking lot means the individual or business entity, other than an airport operator, that controls through lease or other business arrangement with an airport operator, the daily operation, maintenance, and management of a parking lot located on land identified as airport property on an airport property map.

Operator losses mean the losses resulting from decreased revenue or increased expenses resulting from FAA security requirements.

Pre-September 11, 2001 costs means costs otherwise budgeted or expended prior to September 11, 2001.

Prudent measure means a new or additional measure undertaken by an eligible applicant to improve airport and passenger security which was not directly ordered by the FAA. Contracting for on-airport catering to provide meals for law enforcement officers located at the airport in response to an FAA security directive but not specifically directed by the FAA would be an example of a prudent measure.

Unallowable costs means those costs that do not meet the definitions of allowable and direct costs. Unallowable costs include capital costs, indirect costs, normal costs, lost revenue, operating losses, and prudent measures, as well as pre-September 11, 2001 costs.

Vendor of on-airfield direct services to air carriers means an individual or business entity, other than the serviced air carrier or airport operator, that provides through a fee arrangement cleaning, fueling, maintenance, baggage handling, food and beverages or other services for aircraft on the airfield. For the purposes of this definitions, an air carrier that performs such services for another air carrier is considered to be a vendor when performing the same or similar services on the airfield. For purposes of this part the term airfield denotes the aircraft operating area of an airport where most of the aeronautical activities occur. The location of the vendor's business need not be on the airport so long as the work is performed on the airfield.

§ 154.5 What funds will the FAA distribute udner this part?

(a) Through the regulations in this part, the FAA is distributing reimbursement authorized under section 121 of the Act, to the extent such funds are appropriated by Congress. As of December 21, 2002, no such funds have been appropriated.

(b) The reimbursement provided under this part to an airport is Federal assistance within the meaning of 49 U.S.C. 47133, and Federal financial assistance within the meaning of the FAA Policy and Procedures Concerning the Use of Airport Revenue published on February 16, 1999 (for availability see http://www.faa.gov/arp/fedreg/htm).

§ 154.7 How much of an eligible applicant's estimated reimbursement will be distributed under this part?

Upon appropriation, and after all applications are received in accordance with this part, the FAA will determine the total amount of all allowable costs requested. In the event the total allowable costs exceed appropriated funds, the FAA will approve reimbursement of a uniform percentage of allowable costs that equates the total approved reimbursements with the appropriated amount. In the event that additional funds are subsequently made available, the FAA will give priority to fully reimbursing allowable costs claimed in initial applications. If total allowable costs are less than appropriated funds, the FAA will publish a notice in the **Federal Register** of the due date for the filing of further applications.

§ 154.9 What are the limits on reimbursement to applicants?

(a) The FAA approves reimbursement only for allowable costs, subject to the limitation in paragraph (c)(3) of this section.

(b) Initial applications must be limited to allowable costs incurred during the period between September 11, 2001 and March 31, 2002.

(c) The following items are not eligible for reimbursement:

(1) Unallowable costs.

(2) Lost revenue.

(3) Costs otherwise recovered. Where the costs are recovered by direct charge, surcharge, or charge-back for incremental or new security costs, or by a specific grant, insurance payment, or other financial assistance device, the costs will not be reimbursed. Where the cost are recovered by a general increase in prices or rates and charges, the FAA may approve reimbursement, subject to a requirement that the eligible applicant provide an appropriate rebate of reimbursed amounts to its customers, tenants, or users.

§ 154.11 Who is eligible to apply for reimbursement under this part?

The following are eligible to apply for reimbursement under this part:

(a) Airport operators.

(b) On-airport parking lots.

(c) Vendor of on-airfield direct services to air carriers.

Subpart B—Application Procedures

§ 154.13 When must applicants apply for reimbursement?

(a) All eligible applicants must submit an initial completed application covering the period September 11, 2001 through March 31, 2002. The FAA must receive applications by June 1, 2002.

(b) If funds initially appropriated for reimbursement under this part exceed total allowable costs included in all applications, or if additional funds subsequently become available, the FAA will publish a new application due date in the **Federal Register**.

§ 154.15 To what address must applicants send their applications?

(a) You must submit your application, and all required supporting information,

UMI VOL 66 ISS 246 DE 21 2001 UMI

in hard copy (not solely by fax or electronic means) in triplicate to the following address: Federal Aviation Administration, Office of Airport Planning and Programming, Airport Financial Assistance Division, APP–500, 800 Independence Avenue SW., Washington, DC 20591.

(b) If your complete application is not sent to the address in paragraph (a) of this section, the FAA will not accept it.

§ 154.17 What documentation is necessary to support an application?

(a) The application must include the completed form in Appendix A of this Part. You must support the costs of claims for reimbursement with the normal invoices, vouchers, payrolls, and supporting accounting records that constitute adequate documentary evidence for the purposes of an independent audit. Supporting accounting records include general and specialized journals, ledgers, manuals, and supporting worksheets and other analyses, and corroborating evidence such as invoices and vouchers. You must supply a copy of this supporting documentation to the FAA upon request. Audited financial statements are adequate support provided they show the specific costs submitted for reimbursement. Documentary evidence must show that the amounts requested for reimbursement were actually incurred. Budget estimates or cost allocations are not sufficient by themselves to establish a claim for reimbursement.

(b) You must designate the specific security requirement and the Federal Aviation Administration or Transportation Security Administration source document associated with each claimed allowable cost by citing the Security Directive number and paragraph, Emergency Amendment number and paragraph, or other specific cite. You must identify this information as sensitive security information (SSI) under 14 CFR Part 191, by marking the top and bottom of the first page "Sensitive Security Information" and marking each page that contains SSI with the following:

Warning:

THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 14 CFR PART 191. THE INFORMATION MAY NOT BE RELEASED IN ANY FORM WITHOUT THE EXPRESS PRIOR WRITTEN CONSENT OF THE ADMINISTRATOR OR ASSOCIATE ADMINISTRATOR FOR CIVIL AVIATION SECURITY, ACS–1. IN ACCORDANCE WITH 49 U.S.C. 40119, THIS INFORMATION IS EXEMPT BY STATUTE FROM DISCLOSURE UNDER THE FOIA. UNDER THE PROVISIONS OF 14 CFR 191.5(D), VIOLATORS ARE SUBJECT TO CIVIL PENALTY OR OTHER ACTION BY THE FAA.

(c) The Federal Aviation Administration or Transportation Security Administration will review this information to verify that the cost was incurred to satisfy an eligible requirement. Questions concerning security requirements applicable to a particular eligible applicant may be addressed to Special Projects Officer, Office of CAS Operations (202) 267–7296 or 7262 at the Federal Aviation Administration.

(d) You must certify that you have consulted with airport tenants regarding adjustment in rental rates in accordance with section 122 of the Act.

(e) You must document the extent to which you recovered costs otherwise eligible for reimbursement.

§ 154.19 Must applicants certify the truth and accuracy of data they submit?

The Chief Officer (CEO), Chief Financial Officer (CFO), or the Chief Operating Officer (COO) must certify the request for reimbursement on the form in Appendix A of this part. The certification must attest to the truth and accuracy of the information and to compliance with Section 121 of the Aviation and Transportation Security Act.

§ 154.21 What records must applicants retain?

As an applicant that applies for reimbursement under this part:

(a) You must retain all books, records, and other source and summary documentation supporting your claims for reimbursement of direct costs pursuant to Section 121 of the Act. This requirement includes, but is not limited to:

(1) Supporting evidence and documentation demonstrating the validity of the data you provide; and

(2) All reports, working papers, and supporting documentation pertaining to audits or review conducted by independent auditors under the requirements of this part.

(b) You must preserve and maintain this documentation in a manner that readily permits its audit and examination by representatives of the FAA, the TSA, the Office of the Secretary, Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies.

(c) You must retain this documentation for five years.

(c) You must make all requested data available within one week from a request by the FAA, the TSA, the Office of the Secretary, the Department of Transportation (including the Office of the Inspector General), the Comptroller General of the United States, or other authorized Federal agencies.

§ 154.23 Are applicants that participate in this program subject to audit?

(a) All requests for reimbursement are subject to audit. All information you submit with your applications and all records and documentation that you retain are also subject to audit.

(b) To accommodate each eligible applicant's normal fiscal year and audit cycle, the FAA will partially release approved reimbursement prior to completion of the annual audit on the condition that the audit will be forwarded to the FAA (same address as the application) within 30 days after completion. Until completion of the audit, the FAA will retain 10% of the approved reimbursement. Upon receipt of the audit, the Department will adjust the reimbursement to conform with the results of audit and the requirements of this part.

(c) Airport operators that are non-Federal local governments, and non-profit organizations, must follow the Office of Management and Budget Circular No. A–133 Single Audit Requirements (for availability see 5 CFR 1310.3). Consequently, their requests for reimbursement must be treated as though the amount had been a Federal award and must be audited in accordance with OMB Circular A–133. If the airport operator did not have Federal assistance of $300,000 or more to meet the criteria for having a single audit, that operator follow the procedures set forth in paragraph (d)(2) of this section governing requests "under $300,000."

(d) Vendors of on-airfield direct services to air carriers, parking lot operators, and other eligible applicants that request reimbursement but are not subject to OMB Circular A–133 (for availability see 5 CFR 1310.3) must comply with the following requirements:

(1) For requests of $300,000 or more, the amount must be subject to annual audit and the amount for the period under audit must be commented upon and certified by the auditor. If the amount requested for reimbursement spans more than one audit period, the independent auditor must comment and certify the amount for each period. As an alternative, the applicant may submit a single certified audit report that specifically addresses the amount requested for reimbursement.

(2) For requests under $300,000, the eligible applicant, as an alternative to audit, may submit with its application copies of its supporting documentation, as described in § 154.17(a) upon request by the FAA.

(e) Questions regarding audit procedures, or the reimbursement form may be addressed to AAS–400, at (202) 267–5879.

(f) The auditor is not responsible for expressing an opinion on whether a particular claimed cost was incurred to comply with an eligible requirement. That determination will be made by the FAA or the TSA based on the information submitted with the application as set forth in § 154.17. Information identified in § 154.17(b) is SSI and may be disclosed to auditors only on a need to know basis, in accordance with part 191 of this chapter. Each auditor is considered to be employed by, contracted to, or acting for an airport operator or air carrier, and is responsible for restricting disclosure of SSI in accordance with § 191.5 of this chapter.

Appendix A to Part 154—Form for Application for Reimbursement

BILLING CODE 4910-13-M

UMI
VOL 66
ISS 246
DE 21
2001
UMI

AVIATION AND TRANSPORTATION SECURITY ACT SECTION 121

APPLICATION TO PART 154 FOR REIMBURSEMENT OF NEW, ADDITIONAL, OR REVISED SECURITY REQUIREMENTS

Name	**Type of entity** (airport operator, on-airport parking lot, vendor of on-airfield direct services to air carriers).
Address	**Telephone Number**
Airport(s) Associated with the Request for Reimbursement (list on attachment if required)	
Filing – Is this a revised or Original Filing?	

ACCOUNT INFORMATION

Bank Routing Number	(9 Positions)
Account Number	
Name of Account	
Type of Account	

Total Reimbursement Claimed (from attached cost incurred sheets)	$

CERTIFICATIONS

I Certify that the information contained in this form is a true and accurate request for reimbursement of the allowable - direct costs permitted under Section 121 of the ATSA P.L.107-71, 115 Stat. 597. I understand that falsification of this claim for reimbursement may result in criminal prosecution resulting in fine and/or imprisonment. (18 U.S.C. 1001)

[APPLICABLE ONLY TO AIRPORT OPERATORS] I Certify that the airport identified above has consulted with tenants at the airport regarding adjustments in rental rates in accordance with the terms of section 122 of the ATSA, P.L. 107-71, 115 Stat. 597.

Certifying Officer (signature) **Date**

Print Name and Title (CEO, CFO, or COO) **Telephone Number**

Cost Incurred By Category

Please provide a separate sheet for each category of cost for which you request reimbursement. For instance, new background checks, reissuance of security badges, additional security patrols, additional security check points, installation of barricades, and terminal, airfield, cargo, and parking facility modifications are separate cost categories.

Cost Category	

Description of the new, additional, or revised security requirement imposed by the FAA or the TSA on or after September 11, 2001.

Type –New, Additional, or Revised	

COST SUMMARY

Expense	**Contracted for or Budgeted amount Prior to 9/11/01**	**Actual Cost**	**Difference**
Wage and Salary			
Contracts			
Equipment			
Materials			
Land			
Miscellaneous (not to exceed 5% of the cost category)			
Other (Please attached a list)			
Subtotals			

RECOVERED COSTS SUMMARY

Costs recovered through direct charge, surcharge, charge-back, insurance payment, grant etc.	$
Costs recovered through general increase in prices, lease rates or rates and charges	

Total Reimbursement Claimed for Cost Category	$

Issued in Washington, DC on December 17, 2001.

Jane F. Garvey,

Administrator.

[FR Doc. 01–31435 Filed 12–18–01; 3:57 pm]

BILLING CODE 4910–13–C

UMI
VOL
66
ISS
2
4
6
DE
21
2001
UMI

Federal Register

Friday,
December 21, 2001

Part VI

Department of Education

Office of Educational Research and Improvement (OERI), Cognition and Student Learning (CASL) Research Grant Program; Notice

UMI
VOL 66
ISS 246
DE 21 2001
UMI

DEPARTMENT OF EDUCATION

[CFDA No. 84.305H]

Office of Educational Research and Improvement (OERI), Cognition and Student Learning (CASL) Research Grant Program

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2002.

Purpose of Program: The purpose of this program is to improve student learning by supporting a new program of research that brings recent advances in cognitive science and neuroscience to bear on significant educational problems. The overarching goal of this program of research is to establish a scientific foundation for educational practice by supporting research on key processes of attention, memory, and reasoning that are essential for learning and that are likely to produce substantial gains in academic achievement.

Eligible Applicants: Public and private agencies, institutions, and organizations, including for-profit and non-profit organizations; institutions of higher education; State and local educational agencies; and regional educational laboratories.

Deadline for Receipt of Letter of Intent: February 5, 2002.

A Letter of Intent is *optional*, but encouraged, for each application. The Letter of Intent is for OERI planning purposes and will not be used in the evaluation of the application.

Applications Available: December 21, 2001.

Deadline for Transmittal of Applications: April 15, 2002.

Estimated Available Funds: Up to $3,000,000 for the first year of this program.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2002. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $75,000 to $500,000.

Estimated Size of Awards: The size of the awards will be commensurate with the nature and scope of the work proposed.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Page Limits: The application must include the following sections: title page form (ED 424), one-page abstract, research narrative, literature cited, curriculum vitae for principal investigators(s) and other key personnel, budget summary form (ED 524) with budget narrative, appendix, and statement of equitable access (GEPA 427). The research narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the research narrative (text plus all figures, charts, tables, and diagrams) to the equivalent of 25 pages and the appendix to 20 pages, using the following standards:

- A "page" is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the research narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to the title page form, the one-page abstract, the budget summary form and narrative budget justification, the curriculum vitae, literature cited, or the assurances and certifications. Our reviewers will not read any pages of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

We have found that reviewers are able to conduct the highest quality review when applications are concise and easy to read, with pages consecutively numbered.

Applicable Statute and Regulations: (a) 20 U.S.C. 6031; (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except as limited in 34 CFR 700.5), 76, 77, 80, 81, 82, 85, 86 (part 86 applies only to Institutions of Higher Education), 97, 98, and 99; and (c) The regulations in 34 CFR part 700.

Selection Criteria: The Secretary selects the following selection criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. The criteria below will receive the following percentage weights.

(a) National Significance (.2)
(b) Quality of the Project Design (.5)
(c) Quality and Potential Contributions of Personnel (.2)
(d) Adequacy of Resources (.1)

Strong applications for CASL grants clearly address each of the applicable selection criteria. They make a well-reasoned and compelling case for the national significance of the problems or issues that will be the subject of the proposed research, and present a research design that is complete, clearly delineated, and incorporates sound research methods. In addition, the personnel descriptions included in strong applications make it apparent that the project director, principal investigator, and other key personnel possess training and experience commensurate with their duties.

Collaboration: We encourage collaboration in the conduct of research. For example, major research universities and institutions may collaborate with historically underrepresented institutions, such as Historically Black Colleges and Universities, Hispanic-Serving Institutions, and Tribal Colleges and Universities.

Pre-Application Meeting: We will hold a pre-application meeting on February 19, 2002 to discuss the funding priority. You are invited to participate. You will receive technical assistance and information about the funding priority. Participants are also encouraged to use this meeting to engage in substantive discussion about prior empirical research and the nature of high quality research in this new area. The meeting will be held at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., room 101, Washington, DC, between 1 p.m. and 4 p.m. A summary of the meeting will be posted on the Internet at: *http://www.ed.gov/offices/OERI*

Assistance to Individuals With Disabilities at the Meeting

The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT** at least two weeks before the scheduled meeting date. Although we will attempt to meet a request we receive after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

SUPPLEMENTARY INFORMATION: Cognitive science and neuroscience have been dynamic areas of research over the past fifteen years, producing breakthroughs in our basic understanding of the brain and behavior. Although this research has identified key processes of attention, memory, and reasoning that are essential for learning, it has yet to be systematically applied to significant educational problems. Therefore, OERI is interested in funding research that builds on these advances and meaningfully connects them to profound and pervasive problems in learning or academic achievement. In this competition, we focus on cognitive psychology rather than linguistics, artificial intelligence, or other areas of cognitive science. We seek research proposals on both basic information processing (problems in encoding, processing information in working memory, storage, and retrieval of knowledge) and higher order cognition (problems in executive function and monitoring, inferential and critical thinking, and verbal and quantitative reasoning). Ranging from basic to higher order cognition, the following topics are illustrative foci for research:

Attention: Research has identified complex attentional mechanisms at the neural and behavioral level that govern information encoding. Little is known, however, about the encoding of information presented to students, notably, how much information is encoded, how attentional mechanisms are implicated in failures to encode, and the degree to which encoding failure explains academic failure, particularly among students who would not be characterized as having attention deficit disorder. Clearly, the effectiveness of teaching and learning interventions depend on whether students process those interventions, and it may well be that effectiveness can be improved by increasing the quality and degree of student attention. Furthermore, attentional and related information-processing systems undergo significant development with age and experience, and such development interacts with task and contextual variables to affect cognitive performance. Research is needed that bridges the gap between detailed, rigorous models of attention (and its development) and successful academic performance.

Memory: Recent research suggests that memory can be conceived of as a property of brain systems and as an outcome of the brain's processing, rather than as a distinct item stored in a specific brain location. Thus, memory is both a part and a product of information-processing activities that are crucial for learning. For example, in working memory, presented information is both stored and operated on, as when students add a series of numbers in their head (i.e., mental arithmetic). Indeed, thinking, problem solving, comprehension, judgment, and long-term retention are related to operations in working memory; all but the simplest tasks also recruit executive control in managing working memory. Although research has related working memory to individual differences in test performance, few process analyses have been done to either isolate sources of difficulties in school-related tasks or to design process-based interventions to reduce those difficulties. Most recently, research on memory has focused on multiple memory systems and processes in long-term memory, which would be tapped to different degrees in different academic tasks. Although theorists differ about the exact nature of these multiple memories, research has demonstrated that learners harbor memories for presented material that are elicited with varying success in different testing environments. Thus, research might profitably focus on how to improve retrieval of these implicit memories for learned material, how memory systems differ in their support for reasoning and problem solving, and how representations in memory can more accurately reflect what has been taught.

Reasoning: Although the seeds of reasoning competence appear to be planted early in development, logical and other forms of reasoning continue to develop significantly into late adolescence. Rudimentary reasoning is required for students to comprehend textbooks, follow class lectures and discussions, and to write and think effectively on their own. Research has distinguished different kinds of reasoning errors in laboratory tasks, which can be ameliorated in different ways. Furthermore, research has shown that students are not trapped in cognitive stages until they are "ready to learn," but, rather, they can learn to improve their reasoning at each stage of development. Research is needed that links this work on reasoning development and performance to the amelioration of reasoning problems in important academic contexts, such as high-stakes testing. Students who fail to master these higher-order reasoning skills are unlikely to compete effectively in a fast-moving economy in which new learning and problem solving are routinely required.

Applicants must focus on research that has the potential to produce substantial gains in academic achievement. Dependent variables may include: measures of cognitive processes, such as conceptual understanding; performance on problems from textbooks, homework exercises, and other ordinarily and widely assigned school tasks; items such as those customarily given on standardized tests (*e.g.*, SATs, NAEP); and other measures of learning or cognition that are demonstrably relevant to academic achievement.

Priority

This competition focuses on projects designed to meet the following absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet the priority.

Absolute Priority

Despite their relevance to learning, recent advances in cognitive science and neuroscience have remained virtually untapped in education. This program of research on Cognition and Student Learning seeks to establish a scientific foundation for educational practice by building on these theoretical and empirical advances and applying them to significant problems in learning or academic achievement. Specifically, proposals are solicited that address either 1 or 2 below.

1. Mechanisms of basic information processing, such as the following, and their relation to significant problems in learning or academic achievement.
   a. Attention.
   b. Working memory.
   c. Learning processes: Acquisition and retention.
   d. Storage in and retrieval from long-term memory.
   e. Interference and inhibition.
2. Mechanisms of higher order cognition, such as the following, and their relation to significant problems in learning or academic achievement.
   a. Executive function and monitoring.
   b. Metamemory/memory strategies.
   c. Meaning extraction (literal and figurative) for words, sentences, discourse, and complex events.
   d. Inference and critical thinking: derivation of semantic, logical, and pragmatic inferences, situation models, and other mental representations.
   e. Similarity, categorization, and analogical reasoning.
   f. Non-verbal reasoning (e.g., spatial, scientific, quantitative reasoning).
   g. Conceptual development (e.g., biology, music, calculus).
   h. Judgment and decision-making.

Proposed research must be motivated by a specific conceptual framework and relevant prior empirical evidence, both of which must be clearly articulated. The research must have the potential to advance fundamental knowledge that bears on solving important problems in learning or academic achievement. The proposal must indicate method and why the approach taken optimally addresses the research question. Any approach

VOL 66 ISS 246 DE 21 2001 UMI

must incorporate a valid process that allows for generalization beyond the study participants. Proposals must indicate which of the following approaches is to be used:

1. Experiment (control group; randomized assignment—both required).
2. Quasi-experiment (comparison group, stratified random assignment, groups comparable at pretest, statistical adjustment for comparability).
3. Correlational study (simple, multiple/logistic regression, structural equation modeling, hierarchical linear modeling).
4. Other quantitative (e.g., simulation).
5. Descriptive study using qualitative techniques (e.g., ethnographic methods; focus groups; classroom observations; case studies; single subject designs).

The design of studies should be clear: Independent and dependent, or predictor and criterion, variables should be distinguished. Proposed research is expected to employ the most sophisticated level of design and analysis that is appropriate to the research question. For research questions that cannot be answered using a randomized assignment experimental design, the proposal should spell out the reasons why such a design is not applicable and why it would not represent a superior approach (compared to the selected design).

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in FY 2002, the Secretary has decided to issue this application notice without first publishing a proposed priority for public comment. These regulations will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

OERI is conducting this grant competition under the national research institutes authority for the purpose of funding projects that will establish a new stream of research bridging basic cognitive science and educational application. Cognitive science, including studies of learning, memory, decision making, language acquisition, higher order thinking skills, as well as the brain mechanisms underlying these abilities, has shown explosive growth in the last 25 years. Indeed, along with genomic science, many believe that the cognitive and brain sciences have generated the greatest scientific progress of the late 20th century. Basic research within the disciplines of psychology, linguistics, and neuroscience has generated new and important fundamental knowledge on how people learn. However, most of this research has been conducted in laboratory settings, with samples of convenience, and with tasks that are artificial. Translations of this research into educational practice have either not occurred or have not gotten further than abstract statements of principles.

The new program of research sponsored by OERI is intended to move research in the cognitive and brain sciences into schools, expanding the knowledge base to school settings, and to develop new programs and interventions that take advantage of that knowledge base.

Thus for the first time OERI is soliciting applications that will address the lack of substantial interplay between the applied problems of schools and learners, and the cognitive and brain sciences.

In a separate **Federal Register** notice to be published in the near future, the Assistant Secretary will ask for public comment on this priority for the purpose of designing and conducting future grant competitions for this research.

Pilot Project for Electronic Submission of Applications

In FY 2002, the U.S. Department of Education is continuing to expand its pilot project of electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The Cognition and Student Learning Research Grant Program (CFDA 84.305H) is one of the programs included in the pilot project. If you are an applicant under the CASL program, you may submit your application to us in either electronic or paper format.

The pilot project involves the use of the Electronic Grant Application System (e-APPLICATION, formerly e-GAPS) portion of the Grant Administration and Payment System (GAPS). We request your participation in this pilot project. We shall continue to evaluate its success and solicit suggestions for improvement.

If you participate in this e-APPLICATION pilot, please note the following:

- Your participation is voluntary.
- You will not receive any additional point value or penalty because you submit a grant application in electronic or paper format.
- You can submit all documents electronically, including the Application for Federal Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Within three working days of submitting your electronic application, fax a signed copy of the Application for Federal Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from the e-APPLICATION system.
2. Make sure that the institution's Authorizing Representative signs this form.
3. Before faxing this form, submit your electronic application via the e-APPLICATION system. You will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
4. Place the PR/Award number in the upper right hand corner of ED 424.
5. Fax ED 424 to the Application Control Center at (202) 260–1349.

We may request that you give us original signatures on all other forms at a later date.

You may access the electronic grant application for the CASL Program at: *http://e-grants.ed.gov.*

Due to software upgrades, it is anticipated that the e-Application software will be unavailable for several days in mid-January. The tentative dates for this system down time are January 11–21, 2002. Please check this site for future updates on system availability.

We have included additional information about the e-APPLICATION pilot project (see Parity Guidelines between Paper and Electronic Applications) in the application package.

FOR APPLICATIONS AND FURTHER INFORMATION CONTACT: Valerie Reyna, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, room 600, Washington, DC 20208. Telephone: (202) 219–1385 or via Internet: *Valerie.Reyna@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting Valerie Reyna. However, the

Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Program Authority: 20 U.S.C. 6031.

Dated: December 18, 2001.

Grover J. Whitehurst,

Assistant Secretary for Educational, Research and Improvement.

[FR Doc. 01–31503 Filed 12–20–01; 8:45 am]

BILLING CODE 4000–01–U

UMI

VOL

66

ISS

2
4
6

DE

21

2001

UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION 1985

Federal Register

Friday,
December 21, 2001

Part VII

The President

Executive Order 13240—Council of Europe in Respect of the Group of States Against Corruption

Executive Order 13241—Providing an Order of Succession Within the Department of Agriculture

Executive Order 13242—Providing an Order of Succession Within the Department of Commerce

Executive Order 13243—Providing an Order of Succession Within the Department of Housing and Urban Development

UMI

VOL
66
ISS
2
4
6
DE
21
2001
UMI

Feder
Vol. 6
Friday

Title

The

[FR D
Filed
Billin

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

Presidential Documents

Title 3—

The President

Executive Order 13240 of December 18, 2001

Council of Europe in Respect of the Group of States Against Corruption

By the authority vested in me as President by the Constitution and the laws of the United States, including section 1 of the International Organizations Immunities Act (22 U.S.C. 288) (the "Act"), and having found that the Council of Europe in Respect of the Group of States Against Corruption (GRECO) is a public international organization in which the United States participates within the meaning of the Act, I hereby designate GRECO as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the Act. This designation is not intended to abridge in any respect privileges, exemptions, or immunities that such organization may have acquired or may acquire by international agreement or by law.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31665
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

UMI

VOL 66 ISS 246 DE 21 2001

UMI

Presidential Documents

Executive Order 13241 of December 18, 2001

Providing an Order of Succession Within the Department of Agriculture

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Agriculture (Secretary) during any period when both the Secretary and the Deputy Secretary of Agriculture (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretary of Agriculture for Farm and Foreign Agricultural Services;

(b) Under Secretary of Agriculture for Marketing and Regulatory Programs;

(c) Under Secretary of Agriculture for Rural Development;

(d) Under Secretary of Agriculture for Food, Nutrition, and Consumer Services;

(e) Under Secretary of Agriculture for Natural Resources and Environment;

(f) Under Secretary of Agriculture for Research, Education, and Economics;

(g) Under Secretary of Agriculture for Food Safety;

(h) General Counsel of the Department of Agriculture;

(i) Assistant Secretary of Agriculture for Administration; and

(j) Assistant Secretary of Agriculture for Congressional Relations.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(j) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11957 of January 13, 1977, is hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01-31666
Filed 12-20-01; 8:45 am]
Billing code 3195-01-P

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Presidential Documents

Executive Order 13242 of December 18, 2001

Providing an Order of Succession Within the Department of Commerce

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Commerce (Secretary) during any period when both the Secretary and the Deputy Secretary of Commerce (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) General Counsel of the Department of Commerce;

(b) Under Secretary of Commerce for International Trade;

(c) Under Secretary of Commerce for Economic Affairs;

(d) Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration;

(e) Under Secretary of Commerce for Technology;

(f) Under Secretary of Commerce for Export Administration;

(g) Chief Financial Officer of the Department of Commerce and Assistant Secretary of Commerce in charge of Administration; and

(h) Assistant Secretary of Commerce in charge of Legislative and Intergovernmental Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11880 of October 2, 1975, Executive Order 12998 of April 5, 1996, and section 26 of Executive Order 12608 of September 9, 1987, are hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31667
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Presidential Documents

Executive Order 13243 of December 18, 2001

Providing an Order of Succession Within the Department of Housing and Urban Development

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Housing and Urban Development (Secretary) during any period when both the Secretary and the Deputy Secretary of Housing and Urban Development (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) General Counsel of the Department of Housing and Urban Development;

(b) Assistant Secretary of Housing and Urban Development in charge of Housing-Federal Housing Commission;

(c) Assistant Secretary of Housing and Urban Development in charge of Community, Planning and Development;

(d) Assistant Secretary of Housing and Urban Development in charge of Public and Indian Housing;

(e) Assistant Secretary of Housing and Urban Development in charge of Policy Development and Research;

(f) Assistant Secretary of Housing and Urban Development in charge of Fair Housing and Equal Opportunity;

(g) Assistant Secretary of Housing and Urban Development in charge of Congressional and Intergovernmental Relations;

(h) Assistant Secretary of Housing and Urban Development in charge of Administration; and

(i) Assistant Secretary of Housing and Urban Development in charge of Public Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(i) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11274 of March 30, 1996, is hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31668
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

VOL
66
ISS
2
4
6
DE
21
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 21, 2001

Part VIII

The President

Executive Order 13244—Providing an Order of Succession Within the Department of the Interior

Executive Order 13245—Providing an Order of Succession Within the Department of Labor

Executive Order 13246—Providing an Order of Succession Within the Department of the Treasury

Executive Order 13247—Providing an Order of Succession Within the Department of Veterans Affairs

VOL
66
ISS
2
4
6
DE
21
2001
UMI

Federal Register
Vol. 66, No. 246
Friday, December 21, 2001

Presidential Documents

Title 3—

The President

Executive Order 13244 of December 18, 2001

Providing an Order of Succession Within the Department of the Interior

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Interior (Secretary) during any period when both the Secretary and the Deputy Secretary of the Interior (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Solicitor of the Department of the Interior;

(b) Assistant Secretary of the Interior in charge of Policy, Management and Budget;

(c) Assistant Secretary of the Interior in charge of Land and Minerals Management;

(d) Assistant Secretary of the Interior in charge of Water and Science;

(e) Assistant Secretary of the Interior for Fish and Wildlife and Parks; and

(f) Assistant Secretary of the Interior for Indian Affairs.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(f) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11487 of October 6, 1969, is hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31669
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Presidential Documents

Executive Order 13245 of December 18, 2001

Providing an Order of Succession Within the Department of Labor

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Labor (Secretary) during any period when both the Secretary and the Deputy Secretary of Labor (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Solicitor of Labor;

(b) Assistant Secretary of Labor in charge of Administration and Management;

(c) Assistant Secretary of Labor in charge of Policy;

(d) Assistant Secretary of Labor in charge of Congressional and Intergovernmental Affairs;

(e) Assistant Secretary of Labor in charge of the Employment and Training Administration;

(f) Assistant Secretary of Labor in charge of the Employment Standards Administration;

(g) Assistant Secretary of Labor in charge of the Pension and Welfare Benefits Administration;

(h) Assistant Secretary of Labor for Occupational Safety and Health;

(i) Assistant Secretary of Labor for Mine Safety and Health;

(j) Assistant Secretary of Labor in charge of the Office of Public Affairs;

(k) Assistant Secretary of Labor for Veterans' Employment and Training; and

(l) Assistant Secretary of Labor in charge of the Office of Disability Employment Policy.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(l) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 10513 of January 19, 1954, is hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31670
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Presidential Documents

Executive Order 13246 of December 18, 2001

Providing an Order of Succession Within the Department of the Treasury

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Section 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of the Treasury (Secretary) during any period when both the Secretary and the Deputy Secretary of the Treasury (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretaries of the Treasury (including the Under Secretary of the Treasury for Enforcement), in the order in which they shall have taken the oath of office as such officers;

(b) General Counsel of the Department of the Treasury; and

(c) Deputy Under Secretaries of the Treasury and those Assistant Secretaries of the Treasury appointed by the President by and with the consent of the Senate, in the order in which they shall have taken the oath of office as such officers.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(c) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter 33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

Sec. 4. Executive Order 11822 of December 10, 1974, is hereby revoked.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01–31671
Filed 12–20–01; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13247 of December 18, 2001

Providing an Order of Succession Within the Department of Veterans Affairs

By the authority vested in me as President by the Constitution and the laws of the United States of America, including Subchapter III of Chapter 33 of title 5 of the United States Code, it is hereby ordered that:

Sec. 1. Subject to the provisions of section 3 of this Executive Order, the officers named in section 2, in the order listed, shall act as and perform the functions and duties of the office of Secretary of Veterans Affairs (Secretary) during any period when both the Secretary and the Deputy Secretary of Veterans Affairs (Deputy Secretary) have died, resigned, or are otherwise unable to perform the functions and duties of the office of Secretary.

Sec. 2. *Order of Succession.*

(a) Under Secretary of Veterans Affairs for Health;

(b) Under Secretary of Veterans Affairs for Benefits;

(c) Under Secretary of Veterans Affairs for Memorial Affairs;

(d) General Counsel of the Department of Veterans Affairs;

(e) Assistant Secretaries of Veterans Affairs, in the order in which they shall have taken the oath of office as Assistant Secretaries, other than the Chief Financial Officer and, if an Assistant Secretary, the Chief Information Officer;

(f) Chief Information Officer of the Department of Veterans Affairs, if the Chief Information Officer is an officer appointed by the President by and with the consent of the Senate;

(g) Chief Financial Officer of the Department of Veterans Affairs; and

(h) Chairman, Board of Veterans' Appeals.

Sec. 3. *Exceptions.*

(a) No individual who is serving in an office listed in section 2(a)–(h) in an acting capacity shall act as Secretary pursuant to this Executive Order.

(b) Notwithstanding the provisions of this Executive Order, the President retains discretion, to the extent permitted by Subchapter III of Chapter

VOL 66 ISS 246 DE 21 2001 UMI

33 of title 5 of the United States Code, to depart from this Executive Order in designating an acting Secretary.

THE WHITE HOUSE,
December 18, 2001.

[FR Doc. 01-31672
Filed 12-20-01; 8:45 am]
Billing code 3195-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 21, 2001

Part IX

Department of Justice

Office of the Attorney General

---

28 CFR Part 104
September 11th Victim Compensation Fund of 2001; Interim Final Rule

UMI
VOL 66
ISS 246
DE 21 2001
UMI

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 104

[CIV 104P; AG Order No. 2541–2001]

RIN 1105–AA79

September 11th Victim Compensation Fund of 2001

ACTION: Interim final rule with request for comments.

SUMMARY: Shortly after the September 11, 2001 terrorist attacks, the President signed the "September 11 Victim Compensation Fund of 2001" (the "Fund") into law as Title IV of Public Law 107–42 ("Air Transportation Safety and System Stabilization Act") (the "Act"). The Act authorizes compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. The Act provides that the Fund will be administered by a Special Master appointed by the Attorney General. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master.

The Department of Justice, in consultation with the Special Master, is issuing certain procedural rules so the Special Master may commence operations of the program as soon as practicable. In order to allow the Special Master to begin distributing funds, the Department is issuing this rule as an "Interim Final Rule" that will have the force and effect of law immediately upon publication. This rule is designated "interim," however, because the Department is also seeking further comment for a period of 30 days as part of its further review and may expand or adjust aspects of the rule after receiving additional comments.

DATES: This interim rule takes effect on December 21, 2001. Comments in response to this notice are due by January 22, 2002.

ADDRESSES: Comments on the interim rule should be submitted by e-mail to: *victimcompensation.comments@usdoj.gov*, or by telefax to 301–519–5956. Telefaxes should be limited to 15 pages. Comments may also be mailed to Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW, Washington, DC 20530. However, the Department encourages commenters to submit their comments by e-mail or telefax. Comments received are public records. The name and address of the commenter should be included with all submissions. The comments will be made available on the Victim Compensation Fund Web site, *www.usdoj.gov/victimcompensation*. Comments will also be available for public inspection at a reading room in Washington, DC. Arrangements to visit the reading room must be made in advance by calling 888–714–3385 (TDD: 888–560–0844).

FOR FURTHER INFORMATION CONTACT: Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW, Washington, DC 20530, telephone 888–714–3385 (TDD 888–560–0844).

SUPPLEMENTARY INFORMATION:

Statement by the Special Master

The September 11th Victim Compensation Fund of 2001 is an unprecedented expression of compassion on the part of the American people to the victims and their families devastated by the horror and tragedy of September 11. The Act itself (specifically Title IV—Victim Compensation), and the attached regulations drafted and implemented pursuant to the Act, are designed to bring some measure of financial relief to those most devastated by the events of September 11. In one important sense, the Fund symbolizes the commitment of the American people to those most in need. It is an example of how Americans rally around the less fortunate.

The attached regulations have two objectives: (1) To provide fair, predictable and consistent compensation to the victims of September 11 and their families throughout the life of the program; and (2) to do so in an expedited, efficient manner without unnecessary bureaucracy and needless demands on the victims. The regulations highlight a fast track administrative compensation program, eliminating the red tape, time and expense of a traditional lawsuit. Quick payment to eligible claimants characterizes this program.

The Fund offers the eligible claimant an alternative to litigation. To succeed in the courtroom, a victim of the September 11 tragedy, or his or her representative, would be compelled to litigate, probably for many years at excessive cost, and with all the uncertainty of result which is part of the litigation process. Among the hazards of such a court proceeding are: Would liability be demonstrated? Against whom? Would sufficient funds be available to pay in full any resulting tort award? Would the verdict, even if favorable, withstand appellate challenge?

Trade-offs are required in developing Fund procedures that are different than those in the more conventional lawsuit. It is possible to develop an alternative administrative scheme, providing speedy and efficient compensation, which will help bring some closure to the events of September 11. We should not require its victims to revisit the tragic events of September 11 over and over again during the pendency of a lawsuit in our courts.

In formulating the regulations, we heeded the instruction of the Attorney General to help the neediest of victims as quickly as possible. Accordingly, under these regulations, an eligible claimant can receive an *immediate* advance payment of $50,000 in cases involving death, or $25,000 in certain cases involving serious physical injury. These payments are downpayments only, advanced to provide immediate financial assistance to those in need.

We were required, of course, to adhere to the language which Congress set out in the statute, including the provisions requiring that awards be offset by all collateral source compensation such as benefits from life insurance and other government programs. However, we did find ambiguity in the statute as to gifts provided to victims and their families by private charities. These regulations do not require that awards be offset by such private charitable assistance.

We have concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of claimants' individual circumstances. We have concluded that any methodology that does nothing more than attempt to replicate a theoretically possible future income stream would lead to awards that would be insufficient relative to the needs of some victims' families, and excessive relative to the needs of others. The statute specifies that individual circumstances beyond economic and noneconomic harm should be taken into account. It is our view that, absent extraordinary circumstances, awards in excess of $3 million, tax-free, will rarely be appropriate in light of individual needs and resources. At the same time, we want to ensure that victims' families are receiving at least a minimum level of resources to help meet their needs and rebuild their lives. Thus, we have concluded that the families of deceased victims should receive a combined total of at least $500,000 from this program, other state and Federal programs, life insurance policies and other sources of compensation. Similarly, the baseline for single decedents should be $300,000. This ensures that every needy claimant's total compensation from this program and other sources will be at least equal to these threshold amounts.

In sum, the September 11th Victim Compensation Fund of 2001 is an attempt by the American people to demonstrate their solidarity with, and generosity for, those injured by the terrible September 11 attack on our country. It provides an alternative compensation scheme to the traditional tort system, a method of providing substantial and quick compensation to those who elect to participate.

Neither this Fund nor any monetary compensation can possibly provide a full measure of relief to those who have suffered as a result of September 11. But the Fund will provide appropriate compensation and some measure of comfort to those whose lives have been torn asunder by the events of September 11.

Background

The following discussion provides background information and explanation of the regulations promulgated herein. Section A describes the statutory backdrop for the regulations; Section B discusses the Department's rulemaking procedures to date; Section C addresses Eligibility; Section D pertains to Advance Benefits; Section E discusses Final Awards made by the Fund; Section F describes the Special Master's claims evaluation process; and Section G relates to Assistance to Claimants. The text of the regulations is set forth following these explanatory sections. A catalog of public commentary is set forth thereafter as an Appendix. More detailed information regarding the program, including a flow chart of applicable procedures and a table of estimated or "presumed" awards, will be available on the Victims Compensation Fund Web site at *www.usdoj.gov/victimcompensation*.

A. The Statute

The President signed the "September 11th Victim Compensation Fund of 2001" (the "Fund") into law on September 22, 2001, as Title IV of Public Law 107–42 ("Air Transportation Safety and System Stabilization Act") ("the Act"). The purpose of this Fund is to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a "personal representative" for those who died as a result of the crashes. Generally, eligibility is limited to: (1) Individuals on the planes at the time of the crashes (other than the terrorists); and (2) individuals present at the World Trade Center, the Pentagon or the site of the crash in Pennsylvania at the time of the crashes or in the immediate aftermath of the crashes.

The Fund is designed to provide a no-fault alternative to tort litigation for individuals who were physically injured or killed as a result of the aircraft hijackings and crashes on September 11, 2001. Others who may have suffered losses as a result of those events (e.g., those without identifiable physical injuries but who lost employment) are not included in this special program. Indeed, compensation will be provided only for losses caused on account of personal physical injuries or death, even though the victims may have suffered other losses, such as property loss. For this reason, the Department and the Special Master anticipate that all awards from the Fund will be free of federal taxation. *See* I.R.C. § 104(a)(2) (stating that damages received "on account of personal physical injuries or physical sickness" are excludable from gross income for purposes of federal income taxation).

A claimant who files for compensation waives any right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for actions to recover collateral source obligations.

Determinations on eligibility and the amount of compensation are to be made by the Special Master. After determining whether an individual is an eligible claimant under the Act, the Special Master is to determine the amount of compensation to be awarded based upon the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

The law also provides that the Special Master is to make a final determination on any claim within 120 days from when the claim was filed and, if an award is made, to authorize payment within 20 days thereafter. The determinations of the Special Master are final and are not reviewable by any court. Claims with the Fund must be filed on or before two years after the effective date of these regulations, i.e. December 22, 2003. Payments from the Fund are made by the United States Government, which in turn obtains the right of subrogation to each award.

Pursuant to the Act, regulations addressing certain administrative matters must be issued within 90 days of enactment. Section 407 of the Act provides that the Department, in consultation with the Special Master, promulgate regulations on four matters by December 21, 2001:

(1) Forms to be used in submitting claims;

(2) The information to be included in such forms;

(3) Procedures for hearing and the presentation of evidence; and

(4) Procedures to assist an individual in filing and pursuing claims under this title.

In addition, section 407 authorizes, but does not require, the Department to issue additional rules to implement the program. This Interim Final Rule addresses issues beyond the four specifically required by the Act in order to create a program that will be efficient, will treat similarly situated claimants alike, and will allow potential claimants to make informed decisions regarding whether to file claims with the Fund. Nonetheless, the Department recognizes that it cannot anticipate all of the issues that will arise over the course of the program and that there will inevitably be many difficult issues that the Special Master will have to resolve in the course of making determinations on individual claims.

B. Rulemaking History to Date

On November 5, 2001, the Department requested public input on a number of issues. 66 FR 55901. The Department noted that, at that time, the Special Master had not yet been appointed, but that it wanted as much public comment as feasible before issuing the regulations by December 21, 2001. On November 26, 2001, the Attorney General appointed Kenneth R. Feinberg as Special Master. As called for by the Act, this interim final rule is promulgated in consultation with the Special Master.

The Department received more than 800 comments in response to the Department's Notice of Inquiry. Some were very brief and only spoke to a single issue; others responded to the Department's questions on a point by point basis. Still others contained detailed analyses, recommendations and even proposed regulatory language.

The range of commenters was very broad. Some commenters identified themselves as citizens, taxpayers or law professors, and many identified themselves as individuals who had contributed to charities for those impacted by the terrorist crashes. Many other commenters identified themselves as members of victims' families, partners or close friends, including some from organizations and groups of

UMI
VOL 66 ISS 246 DE 21 2001
UMI

survivors. Several commenters identified themselves as employers who lost a significant number of employees in the crashes. A number of commenters identified themselves as residents of housing near "Ground Zero" in New York.

In addition, the Department received comments from many organizations including the American Insurance Association, the American Arbitration Association, the American Bar Association, Trial Lawyers Care, New York Trial Lawyers' Association, New York City Bar Association, Massachusetts Bar Association, National Center for Victims of Crime, National Association of Crime Victim Compensation Boards, the Oklahoma Crime Victim Compensation Board, Consumers Union, Public Citizen, the National Right To Life Committee, the Lamda Legal Defense & Education Fund, the American Civil Liberties Union, the Association of Flight Attendants, the Council on Foundations, the Nonprofit Coordinating Committee of New York, Independent Sector, the Alternative Dispute Resolution of the Federal Bar Association, the Alliance of Fiduciary Consultants, and the Foreign Claims Settlement Commission.

Individual members of Congress, groups of members, and members of the Senate leadership also provided comments. Further, joint comments were submitted on behalf of the New York City Mayor, the New York Governor, and the New York Attorney General, by members of the New York Assembly, and by the Attorney General of Connecticut.

Comments were also submitted by United Airlines and American Airlines, and from various individuals and companies who identified themselves as having expertise or experience in the administration of claims programs.

The Department has read every submission it received in response to this notice, from handwritten notes to scholarly discussions. The Department wants to express its appreciation for the time and careful thought reflected in those submissions.

While the Department has reviewed every submission it received, it will not regulate on every topic addressed in those comments. Over 70 separate topics were identified; almost two dozen full size notebooks are necessary to organize all of the comments by topic. All of the comments will be retained by the Department for subsequent consideration when it reviews comments on this interim final rule, and the comments will remain posted on the Department's web site where they may be reviewed by the public. The Department was pleased to see that some comments responded to others placed on the web site, and hopes this facility will continue to be of interest to the public.

It is not feasible to repeat here all of the suggestions received in the comments, let alone directly respond to each. The Appendix to this interim final rulemaking highlights some of the points raised by commenters in order to indicate the range of views received on how various issues should be approached.

C. Eligibility

Section 405(b) of the Act requires the Special Master to determine whether a claimant is an "eligible individual" under section 405(c). "Eligibility," in turn, is defined by the Act to include: (1) individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; (2) individuals who were "present at" the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. This interim final rule addresses eligibility by defining the terms "present at the site," "immediate aftermath," "physical harm," and "personal representative."

"Present at the site": This rule defines the term "present at the site" (i.e. the World Trade Center, Pentagon, or Shanksville site) to mean physically present at the time of the crashes or immediate aftermath:

(1) In the buildings or portions of buildings that were destroyed as a result of the airplane crashes; or

(2) In any area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or collapse of buildings (generally, the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons).

There are several reasons for this geographic limitation. First, this geographic limitation comports with the plain meaning of the statutory term "present at." Second, this geographic limitation is consistent with the further statutory requirement of physical injury or death, because the zone designated is that in which there was a demonstrable risk of physical harm from falling debris, explosions, or fire.

"Immediate aftermath": This rule defines the term "immediate aftermath" of the crashes to mean, for purposes of all claimants other than rescue workers, the period of time from the crashes until 12 hours after the crashes. This time frame appears to cover all of those who suffered physical injury or death, with the exception of rescue workers.

With respect to rescue workers who assisted in efforts to search for and recover victims, the regulations define "the immediate aftermath" to include the period from the crashes until 96 hours after the crashes. The regulations provide for this longer time period for rescue workers in recognition of their heroic efforts and their selfless reasons for being at the sites, and responds to a request by the Mayor of New York City that the program recognize the high level of danger and difficulty during the first four days of rescue operations.

"Physical harm": This rule defines the term "physical harm" to mean an objectively verifiable physical injury that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue and either required hospitalization as an in-patient for at least 24 hours or caused, either temporarily or permanently, partial or total physical disability, incapacity, or disfigurement.

There are several reasons for this definition. The statutory term "physical harm" indicates that Congress did not intend for this Fund to compensate those who suffered only emotional harm or property damage. The statutory term "physical harm" also indicates that Congress did not intend for this Fund to cover those who face only a risk of future injury (i.e. latent harm that does not fully manifest itself within the statutory time period for this Fund). Indeed, because participation in this Fund precludes claimants from recovering through tort litigation, those with latent injuries that later became manifest would likely be *undercompensated* if they sought compensation now from the Fund before the injuries became manifest. Conversely, those who recovered for latent injuries that did *not* later become manifest could be *overcompensated* if they recovered from the Fund. While Congress might later consider whether an administrative program for latent harm caused by the September 11, 2001 terrorist-related aircraft crashes may be appropriate, the language of the statute that created this Fund does not contemplate awards for that purpose.

"Personal Representative": Section 405(c)(2)(C) provides that in the case of an individual who is deceased but who otherwise meets the other criteria for eligibility, a claim can be filed by the Personal Representative of the decedent. Section 405(c)(3)(A) provides that no more than one claim may be submitted by an individual or on behalf of a deceased individual.

In many or most cases, the identity of the "Personal Representative" will not be in dispute. Where there are disputes, two issues arise: (1) What are the rules for determining who is the Personal Representative?; and (2) who should apply the rules and resolve the dispute?

As to the first issue, the regulations rely on state law. Subject to certain contingencies, this rule defines the term "Personal Representative" to mean an individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate. In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative is the person named by the decedent in the decedent's will as the executor or administrator. In the event no will exists, the Special Master may, in his discretion, determine that the Personal Representative is the first person in the line of succession established by the laws of the state of the decedent's domicile governing intestacy.

Reliance on state law is necessary in part because those who file for recovery under the Fund waive their rights to recover through litigation, in which state law would determine the identity of the appropriate representatives of the decedent, or the decedent's estate, to bring suit. Thus, if the identity of Personal Representatives for purposes of this Fund were determined by federal regulation, there could be many situations in which the representative as defined by state law would choose litigation while the Personal Representative as defined by federal regulation would seek to recover from the Fund.

The second issue raises questions of program administration. Disputes between relatives, former spouses and other interested parties can be exceptionally fact-intensive and time-consuming. Indeed, state courts often spend considerable time and resources resolving such matters. The Special Master cannot accomplish his statutory duties if bogged down with these types of complex disputes. Nor would it be advisable for the Special Master to attempt to step in and supplant state court practice or the testamentary intent of decedents. Consequently, the rule provides that the Special Master has no obligation to arbitrate, litigate or otherwise resolve disputes as to the identity of the Personal Representative. Instead, to ensure that funds are not needlessly tied up due to disputes regarding the identity of the Personal Representative, the regulations provide that the disputing parties may agree *in writing* to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while those disputing parties work to settle their dispute. In appropriate cases, the Special Master may determine an award, but place the payment in escrow until the dispute regarding the Personal Representative is finally resolved.

Finally, the determination of the Personal Representative is not the same question as the determination of who ultimately will receive the award. In that regard, this rule provides that the Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. However, in order to assure that the families of needy victims receive adequate compensation, the regulations further provide that the Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the personal representative to distribute all or part of the award be distributed to such spouse, children, or other relatives.

D. Advance Benefits

In order to comply with the Attorney General's November 26, 2001 instructions to the Special Master to pay benefits to eligible claimants as quickly as possible, these regulations permit claimants to seek immediate "Advance Benefits" in the fixed amount of $50,000 in the case of deceased individuals and $25,000 in the case of severely injured individuals who required hospitalization for one week or more.

To qualify for advance benefits, applicants must complete a short form (the "Eligibility Form") identifying basic eligibility and indicating that advance benefits would assist them in confronting current or immediate financial hardships. Such forms will be made available at claims intake centers as they are established, in response to telephone requests (888–714–3385, 202–305–1352, TDD: 888–560–0844), and on the Victims Compensation Fund Web site at *www.usdoj.gov/victimcompensation.*

Eligible claimants may apply for and receive advance benefits and then file their lengthier "Personal Injury Compensation Form" or "Death Compensation Form" at any time within the two-year time frame for filing claims under the program. This will allow needy eligible claimants to obtain prompt advance payments even though they may need more time to collect full information regarding the amount of compensation they seek. The 120-day period for determination of compensation will be stayed or tolled until the claimant files the completed "Personal Injury Compensation Form" or "Death Compensation Form" needed to allow the Special Master to determine the amount of the final award. However, once a claimant applies for Advance Benefits, the claimant will be deemed to have waived the right to file a civil action in state or federal court for damages sustained as a result of the September 11 attacks.

Advance benefits will be treated as advance payments on ultimate awards from the Fund. Thus, the amount of any advance benefits received will be deducted from the claimant's subsequent award.

E. Final Awards Made by the Fund

Section 405(b) of the Act provides that the Special Master shall compensate eligible claimants based on the harm to the claimant (including both economic loss and noneconomic losses), the facts of the claim, and the individual circumstances of the claimant. The Act further provides that the Special Master shall determine the claimant's eligibility and the amount of compensation within 120 days.

The Special Master and the Department have studied the language of the Act, the varying public comments, evidence and data about the many victims of the September 11 attacks, and economic and demographic studies and data in fashioning the interim final rule. After this careful consideration, the Special Master and the Department have concluded that the following principal objectives should guide any determination of economic and noneconomic losses.

UMI VOL 66 ISS 246 DE 21 2001 UMI

The first objective is that the process should be efficient, straightforward, and understandable to the claimants. This objective is based in part upon the statutory requirement that the Special Master review each claim and make an award determination within 120 days of filing. More important, however, is that claimants be able to enter the program—or choose not to enter the program—with an understanding of how their claims will be treated. This is especially important because the Act provides that, upon submission of a claim, a claimant waives the right to file a civil action for damages sustained as a result of the September 11 attacks. For claimants to make an informed decision regarding this waiver, they should have some understanding of how their award will be calculated and how much they would receive from the Fund should they decide to file a claim.

The second objective is that each claimant should, to the greatest extent possible, be treated fairly based on the claimant's own individual circumstances and relative to other claimants. While the circumstances of death for many victims will differ, those circumstances will in many cases be unknowable. In principle, similarly situated claimants should not receive dramatically differing treatment.

After careful consideration, the Special Master and the Department have concluded that, in order best to achieve these principal objectives, the Special Master should develop a methodology for calculating *presumed* economic and noneconomic losses that is based on readily identifiable individual circumstances for each claimant, such as age, prior income levels, marital status, and the number and ages of the victim's dependents. A methodology for determining presumed economic and noneconomic losses will also assist the Special Master in making fair and appropriate compensation determinations swiftly and efficiently within the time frame permitted by the Act.

In order to enable claimants to make informed decisions regarding whether to submit a claim under the Fund and, if so, whether to submit evidence of extraordinary individual circumstances that could justify departure from the presumed awards, the interim final rule directs the Special Master to publish schedules, tables, or charts of presumed determinations for economic and noneconomic losses. While these schedules, tables, or charts cannot cover every possible claimant (e.g., injured claimants), they are extensive and detailed enough to provide the majority of potential claimants with a general dollar range into which their awards may fall.

Nonetheless, the Special Master and the Department recognize that it will be impossible to fashion a presumptive methodology that will take into account *all* of the individual facts and circumstances for every claimant. Rather, some claimants may have extraordinary individual circumstances that justify departure from the presumed awards. Thus, the interim final rule provides that claimants may request that the Special Master depart from the presumed economic and noneconomic losses based upon a demonstration of extraordinary circumstances that the presumed award methodology does not adequately address.

Economic loss: Determination of economic loss requires a prediction about each claimant's future. This assessment will be, by its nature, somewhat speculative. While the determination of economic loss should be based upon facts regarding the individual victim where those facts are available, some facts cannot be predicted on an individualized basis.

The regulations also provide that the Special Master's schedules, tables, or charts should identify presumed determinations of economic loss up to a salary level commensurate with the 98th percentile of individual income in the United States. The Department recognizes that projecting earnings over worklife for people with extraordinary annual incomes is a very complex exercise, often requiring a detailed evaluation of variable and often complex formulae for nonvariable income, differing work life expectations, often highly volatile industries or markets, and other factors that are not often subject to easy generalization. We have also concluded that the purpose of the Act is not simply to examine economic and noneconomic harm, but also to provide compensation that is just and appropriate in light of the financial needs and resources of claimants. Any methodology that does nothing more than attempt to replicate a theoretically possible future income stream would lead to awards that would be insufficient relative to the needs of some victims' families, and excessive relative to the needs of others. Therefore, a claimant should not assume that he or she will receive an award greater than the presumed award simply because the victim had an income that exceeded the income for the 98th percentile. Indeed, the Act's requirement that the Special Master consider "the individual circumstances of the claimant" indicates that the Special Master may consider a particular claimant's financial needs and resources, just as the Department and the Special Master considered the needs of the claimants in concluding that no claimant bringing a claim on behalf of a deceased victim should receive less than $500,000 or $300,000 before collateral source offsets.

If a claimant seeks review of a presumed award, the Special Master may consider a range of information, including demographic information on retirement trends for high wage earners, the individual's historical expenses, savings, and any other factors he deems relevant, including economic trends, information available from the Bureau of Labor Statistics, the Census Bureau and other entities on *average* income and retirement age for the victim's profession or even for the victim's former employer. Claimants should not expect awards grossly in excess of the highest awards listed on the Special Master's presumed award chart, as the individual circumstances of the wealthiest and highest-income claimants will often indicate that multi-million dollar awards out of the public coffers are not necessary to provide them with a strong economic foundation from which to rebuild their lives.

The Special Master and the Department recognize that the extent of physical injury for those victims who survived the September 11 attacks may vary to a degree that does not lend itself to a schedule, table, or chart. If the claimant's injury causes only a temporary disability, the Special Master may consider evidence regarding the length of time the claimant was absent from his employment in determining the appropriate compensation for economic loss. For those victims who suffered permanent physical disability, the Special Master may rely upon his economic loss methodology, but adjust the award based upon the extent of the physical disability. In evaluating claims of disability, the Special Master will, in general, make a determination regarding whether the claimant is capable of performing his or her usual profession in light of the injuries.

With respect to claims of total permanent disability, the Special Master may accept a determination of disability made by the Social Security Administration as evidence of disability without any further medical evidence or review. The Special Master may also consider determinations of permanent total disability made by other governmental agencies or private insurers in evaluating the claim. The Special Master may require an evaluation of the claimant's disability and ability to perform his or her occupation from medical experts.

With respect to claims of partial disability, the Special Master may consider evidence of the effect of the partial disability on the claimant's ability to perform his or her usual occupation as well as the effect of the partial disability on the claimant's ability to participate in usual daily activities.

Noneconomic losses: Each person who was killed or injured in the September 11 attacks suffered grievous harm, and each person experienced the unspeakable events of that day in a unique way. Some victims experienced terror for many minutes, as they were held hostage by terrorists on an airplane or trapped in a burning building. Some victims had no warning of what was coming and died within seconds of a plane hitting the building in which they worked. While these circumstances may be knowable in a few extraordinary circumstances, for the vast majority of victims these circumstances are unknowable.

After extensive fact finding, public outreach, and review of public comments, the Special Master and the Department have concluded that the most rational and just way to approach the imponderable task of placing a dollar amount upon the pain, emotional suffering, loss of enjoyment of life, and mental anguish suffered by the thousands of victims of the September 11 attacks is to assess the noneconomic losses for categories of claimants. The most obvious distinction is between those who died and those who suffered physical injury but survived.

The regulations therefore set a *presumed* award for noneconomic losses sustained. For those victims who died as a result of the September 11 aircraft crashes, the presumed noneconomic losses will be $250,000, plus an additional $50,000 for the spouse and each dependent of the deceased victim. That $250,000 figure is roughly equivalent to the amounts received under existing federal programs by public safety officers who are killed while on duty, or members of our military who are killed in the line of duty while serving our nation. *See* 38 U.S.C. 1967 (military personnel); 42 U.S.C. 3796 (Public Safety Officers Benefit Program). The latter figures—$50,000 for the spouse and each dependent—include a noneconomic component of "replacement services loss."

For those victims who suffered physical injury but survived the September 11 attacks, the Special Master may establish a methodology for estimating their noneconomic losses. The Special Master may determine that it is appropriate to give some percentage of the noneconomic loss award given for victims who died, based upon the extent of the injury.

The Special Master and the Department recognize, however, that no presumed award can take into account all of the unique individual circumstances of each claimant. Accordingly, as noted above, claimants may either accept the presumed award or instead attempt to demonstrate in a hearing before the Special Master extraordinary circumstances that justify departure from the presumed award.

Collateral Sources: Section 405(b)(6) of the Act provides that the Special Master *shall* reduce the amount of compensation by the amount of the collateral source compensation "a claimant has received or is entitled to receive" as a result of the terrorist-related aircraft crashes of September 11, 2001. The interim final rule provides that collateral sources will include life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001. While many public commenters voiced strong opposition to the inclusion of some or all of these as collateral source compensation, the Act expressly includes each one within the definition of "collateral sources."

At the same time, the Act does not address whether certain other types of payments constitute collateral source compensation. The interim final rule provides that the following are *not* collateral source compensation:

(1) The value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing; and

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by private charitable entities; provided, however, that the Special Master may determine that funds provided to victims or their families through a private charitable entity constitute, in substance, a collateral source as described above.

The Department has concluded that charitable contributions should not be considered collateral source compensation within the meaning of the Act because, among other reasons, such charitable contributions are different in kind from the collateral sources listed in the Act. Moreover, because the collateral offset only applies to collateral source compensation that the claimant has received or is entitled to receive, deducting charitable awards from the amount of compensation would have the perverse effect of encouraging potential donors to withhold their giving until after claimants have received their awards from the Fund.

F. The Claims Evaluation Process

Section 405(b)(4) of the Act provides that a claimant, after the filing of the claim, has the right to present evidence to the Office of the Special Master. The statute specifically provides that the claimant has the right to present witness statements and documents, the right to obtain legal counsel, and such other due process rights as are determined to be appropriate by the Special Master.

The interim final regulations provide claimants with a choice of two Procedural Options—Track A or Track B. If a claimant selects *Track A,* the Claims Evaluator will determine eligibility and the claimant's presumed award and, within 45 days of the date the claim was deemed filed, notify the claimant in writing of the eligibility determination, the amount of the presumed award, and the right to request a hearing before the Special Master or his designee under § 104.33 of these regulations. After an eligible claimant has been notified of the presumed award, the claimant may either accept the presumed compensation determination as the final determination and request payment, or may instead request a review before the Special Master or his designee pursuant to § 104.33. If a claimant opts for a review, the claimant may make supplemental submissions. The Special Master may alter or modify the award if the presumed award was calculated erroneously, or if the claimant demonstrates extraordinary circumstances indicating that the presumed award does not adequately address the claimant's injury. There will be no further review or appeal from this determination.

If the claimant selects *Track B,* a Claims Evaluator will determine eligibility within 45 days of the date the claim was deemed filed, but shall not determine the claimant's presumed award. The Claims Evaluator will then notify the claimant in writing of the eligibility determination. Upon notification of eligibility, the claimant will proceed to a hearing pursuant to § 104.33. At such hearing, the Special Master or his designee will utilize the presumed award methodology, but may modify or vary the award if the claimant presents extraordinary circumstances not adequately addressed by the presumed award methodology. There shall be no review or appeal from this determination.

UMI
VOL 66 ISS 246 DE 21 2001
UMI

Hearings, when sought, will be held by the Special Master or his designee. These hearings shall be conducted in a nonadversarial manner, the objective of which will be to permit the claimant to present information or evidence that the claimant believes is necessary to a full understanding of the claim. Claimants will be permitted, but not required, to present witnesses, including expert witnesses. The hearing officer shall be permitted to examine the credentials of experts.

The hearings shall be limited in length to a time period determined by the Special Master or the relevant hearing officer, but generally not to exceed two hours. The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The claimant shall be entitled to be represented by an attorney in good standing, but it is not necessary that the claimant be represented by an attorney.

G. Assistance to Claimants

In its November 5, 2001 Notice of Inquiry, the Department noted that section 405(a) of the Act establishes some specific requirements with respect to the claim form and the information to be included. The law requires the Special Master to develop a claim form to use in filing claims for compensation under this program. The Special Master is to ensure that the form can be filed electronically if it is determined to be practicable. Moreover, by law, the form must include a statement of the factual basis for eligibility and information regarding income in recent years. In addition, the form is to request information from the claimant as to: (1) The physical harm suffered by a victim, or information confirming the death of the victim, as a result of the terrorist-related aircraft crashes of September 11, 2001; (2) income tax returns for recent years and other records; and (3) documentation regarding collateral source compensation including life insurance policies and government or employment-related programs which have or may provide funds or benefits to the claimant.

The Department believes that it is important that this Fund be accessible to potential claimants who have limited resources and who are not trained in the law. Rather than attempt to address in detail the means by which the Special Master should provide assistance to claimants, these regulations leave the Special Master with discretion to implement steps to provide assistance to claimants and to make this Fund accessible to them.

Because the Act does not provide for payment of legal or other fees by the Fund, these regulations do not impose any limits on the types or amount of fees that claimants may pay their attorneys or others providing assistance. Although the Department's regulations do not set specific limits on attorneys fees separate from those existing in state law or attorney ethical standards, the Department believes that contingency arrangements exceeding 5% of a claimant's recovery from the Fund would not be in the best interest of the claimants.

The Department contemplates that the Special Master will have discretion to inform potential claimants of the nature of the Fund so that they may make informed decisions regarding the types or amount of fees that they pay for legal or other assistance. For example, the Special Master may notify claimants and potential claimants of the availability of free legal services. Likewise, the Special Master may inform claimants and potential claimants that the Fund is a no-fault, administrative scheme that should not involve the kind of risks and expense that would justify any significant contingency fees.

These regulations similarly do not address the manner in which claimants may use funds that they receive from the Fund, except that the Personal Representatives must agree in an acknowledgment and release form to distribute the award to the beneficiaries of the decedent in accordance with the decedent's will or applicable state law or ruling by a court of competent jurisdiction. While the Department does not believe that it is appropriate for the Special Master to place further legal restrictions on the claimants' or beneficiaries' use of payments from the Fund, the Department does contemplate that the Special Master will have discretion to provide claimants with information regarding annuities or other financial planning devices or to offer structured awards with periodic payments.

Application of Various Laws and Executive Orders to This Rulemaking

Administrative Procedure Act, 5 U.S.C. 553

This rule provides for compensation to eligible individuals who were physically injured and to the personal representatives of those who were killed as a result of the terrorist-related aircraft crashes of September 11, 2001. In order to provide compensation to eligible claimants as expeditiously as possible, Congress set a short 90-day deadline for the issuance of these regulations. The Department did seek public input on the issues, but it was not possible for the Department to prepare and publish a proposed rule for notice and comment within that very short time period.

The APA provides that an agency need not go through proposed rulemaking and comment before issuing rules to implement benefits programs. 5 U.S.C. 553(a)(2). Moreover, the Department, in consultation with the Special Master, determined that taking the time to draft and publish a proposed rule for notice and comment before this rule took effect would have been impracticable in light of the short time between the enactment of the statute and the deadline for rulemaking, and also would have been contrary to the public interest, which strongly favors prompt disbursement of benefits. Accordingly, the Department has determined that there is "good cause" for exempting this rule from the provision of the Administrative Procedure Act that requires a notice of proposed rulemaking and the opportunity for public comment. 5 U.S.C. 553(b)(B).

For the same reasons, the Department also finds "good cause" for exempting this rule from the provision of the Administrative Procedure Act providing for a delayed effective date. 5 U.S.C. 553(d). Delaying the opportunity for eligible claimants to seek Advance Benefits or to file claims under the Act would be contrary to the public interest.

Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has designated this interim final rule as a "major rule" as that term is defined by the Congressional Review Act ("CRA"), 5 U.S.C. 801 *et. seq.* Pursuant to section 808(2) of the CRA, the Department finds that "good cause" exists for establishing an effective date for this rule upon publication because delay would be impracticable in light of the short time between the enactment of the statute and the deadline for rulemaking, and also would be contrary to the public interest favoring prompt disbursement of benefits.

Paperwork Reduction Act of 1995

The Department of Justice, Civil Division, has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been granted, and this information collection has been assigned OMB control number 1105–0073. The proposed information collection is published to obtain comments from the public and affected agencies. The emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection will be undertaken. All comments and suggestions, or questions regarding additional information, including obtaining a copy of the proposed information collection instrument with instructions, should be directed to Office of the Special Master, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530. We request written comments and suggestions from the public and affected agencies concerning the proposed emergency collection of information.

Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New Collection.

(2) *Title of the Form/Collection:* Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* SM–001, Office of the Special Master, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals who were physically injured and personal representatives of those killed as a result of the terrorist-related aircraft crashes of September 11, 2001. Abstract: The information collected from the Registration/Eligibility Form and Application for Emergency Benefits from the Victim Compensation Fund will be used to make advance payments to those claimants deemed eligible by the Special Master or his designee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,000 claimants with an average of 6.0 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 30,000 hours annually.

If additional information is required, contact: Robert B. Briggs, Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Suite 1600, Washington, D.C. 20004.

Privacy Act of 1974

The Department of Justice, Civil Division is establishing a new Privacy Act system of records entitled "September 11th Victim Compensation Fund of 2001, JUSTICE/CIV–008." By law, regulations addressing certain administrative matters for the September 11th Victim Compensation Fund of 2001 must be issued within the 90-day period established by Congress. The Privacy Act notice will be published with no routine uses, so that it will be effective on the date published. It is likely that amendments to this notice, including routine uses, will be published at a later date, with the opportunity to comment. In the interim, disclosures necessary to process claims will be made only with the written consent of claimants or as otherwise authorized under 5 U.S.C. 552a(b).

Regulatory Flexibility Act

These regulations set forth procedures by which the Federal government will award compensation benefits to eligible victims of the September 11, 2001 terrorist attacks. Under 5 U.S.C. 601(6), the term "small entity" does not include the Federal government, the party charged with incurring the costs attendant to the implementation and administration of the Victims Compensation Fund. To the extent that small entities, including small government entities, will be economically affected by the promulgation of these regulations, such effects will likely be minimal. Further, the number of entities that will be affected will, in all probability, fall short of a "substantial number" of small entities. In fact, the Department believes that the promulgation of these rules will play a considerable role in reducing the amount of complex, private litigation, wherein a substantial number of small (and large) entities would undoubtedly be significantly impacted.

Accordingly, the Department has reviewed this rule in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) and by approving it certifies that this rule will not have a significant economic impact on a substantial number of small entities because it provides compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a "personal representative" for those who were killed as a result of those crashes. This rule provides compensation to individuals, not to entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Order 12866—Regulatory Planning and Review

This regulation has been drafted and reviewed in accordance with Executive Order 12866, "Regulatory Planning and Review," section 1(b), Principles of Regulation. The Department of Justice has determined that this rule is a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, and accordingly this rule has been reviewed by the Office of Management and Budget.

Executive Order 13132—Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. However, the Department of Justice has worked cooperatively with state and local officials in the affected communities in the preparation of this rule. Also, the

VOL 66 ISS 246 DE 21 2001 UMI

Department individually notified national associations representing elected officials of the initial request for comment and will be taking similar action in connection with the interim final rule.

List of Subjects in 28 CFR Part 104

Disaster assistance, Disability benefits, Terrorism.

Accordingly, for the reasons set forth in the preamble, Part 104 of chapter I of Title 28 of the Code of Federal Regulations is added to read as follows:

PART 104—SEPTEMBER 11TH VICTIM COMPENSATION FUND OF 2001

Subpart A—General; Eligibility

104.1 Purpose.
104.2 Eligibility definitions and requirements.
104.3 Other definitions.
104.4 Personal Representative.
104.5 Foreign claims.
104.6 Amendments to this rule.

Subpart B—Filing for Compensation; Application for Advance Benefits

104.21 Filing for compensation.
104.22 Advance benefits.

Subpart C—Claim Intake, Assistance, and Review Procedures

104.31 Procedure for claims evaluation.
104.32 Eligibility review.
104.33 Hearing.
104.34 Publication of awards.
104.35 Claims deemed abandoned by claimants.

Subpart D—Amount of Compensation for Eligible Claimants

104.41 Amount of compensation.
104.42 Applicable state law.
104.43 Determination of presumed economic loss for decedents.
104.44 Determination of presumed noneconomic losses for decedents.
104.45 Determination of presumed economic loss for claimants who suffered physical harm.
104.46 Determination of presumed noneconomic losses for claimants who suffered physical harm.
104.47 Collateral sources.

Subpart E—Payment of Claims

104.51 Payments to eligible individuals.
104.52 Distribution of award to decedent's beneficiaries.

Subpart F—Limitations

104.61 Limitation on civil actions.
104.62 Time limit on filing claims.
104.63 Subrogation.

Subpart G—Measures to Protect the Integrity of the Compensation Program

104.71 Procedures to prevent and detect fraud.

Authority: Title IV of Pub. L. 107–42, 115 Stat. 230, 49 U.S.C. 40101 note.

Subpart A—General; Eligibility

§ 104.1 Purpose.

This part implements the provisions of the September 11th Victim Compensation Fund of 2001, Title IV of Public Law 107–42, 115 Stat. 230 (Air Transportation Safety and System Stabilization Act) to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and to the "personal representatives" of those who were killed as a result of the crashes. All compensation provided through the Fund will be on account of personal physical injuries or death.

§ 104.2 Eligibility definitions and requirements.

(a) *Eligible claimants.* The term *eligible claimants* means:

(1) Individuals present at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the crashes and who suffered physical harm, as defined herein, as a direct result of the terrorist-related aircraft crashes;

(2) The Personal Representatives of deceased individuals aboard American Airlines flights 11 or 77 and United Airlines flights 93 or 175; and

(3) The Personal Representatives of individuals who were present at the World Trade Center, Pentagon, or Shanksville, Pennsylvania site at the time of or in the immediate aftermath of the crashes and who died as a direct result of the terrorist-related aircraft crash.

(4) The term eligible claimants does *not* include any individual or representative of an individual who is identified to have been a participant or conspirator in the terrorist-related crashes of September 11.

(b) *Immediate aftermath.* The term *immediate aftermath* of the crashes shall mean, for purposes of all claimants other than rescue workers, the period of time from the crashes until 12 hours after the crashes. With respect to rescue workers who assisted in efforts to search for and recover victims, the immediate aftermath shall include the period from the crashes until 96 hours after the crashes.

(c) *Physical harm.*

(1) The term *physical harm* shall mean a physical injury to the body that was treated by a medical professional within 24 hours of the injury having been sustained or within 24 hours of rescue; and

(i) Required hospitalization as an in-patient for at least 24 hours; or

(ii) Caused, either temporarily or permanently, partial or total physical disability, incapacity or disfigurement.

(2) In every case not involving death, the physical injury must be verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

(d) *Personal Representative.* The term *Personal Representative* shall mean the person determined to be the Personal Representative under § 104.4 of this part.

(e) *Present at the site.* The term *present at the site* (i.e., the World Trade Center, Pentagon, or Shanksville, Pennsylvania site) shall mean physically present at the time of the crashes or in the immediate aftermath:

(1) In the buildings or portions of buildings that were destroyed as a result of the airplane crashes; or

(2) In any area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (generally, the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured persons).

§ 104.3 Other definitions.

(a) *Beneficiary.* The term *beneficiary* shall mean a person entitled under the laws of the decedent's domicile to receive payments or benefits from the estate of or on behalf of the decedent on whose behalf the claim to the Fund was filed.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her federal tax return for the year 2000 unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1, 2001;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1, 2001; or

(3) The victim was not required by law to file a federal income tax return for the year 2000.

(c) *Spouse.* The Special Master shall identify as the spouse of a victim the person reported as spouse on the victim's federal tax return for the year 2000 unless:

(1) The victim was married or divorced in accordance with applicable state law on or after January 1, 2001; or

(2) The victim was not required by law to file a federal income tax return for the year 2000.

(d) *The Act. The Act*, as used in this part, shall mean Public Law 107–42, 115 Stat. 230 ("Air Transportation Safety and System Stabilization Act"), 49 U.S.C. 40101 note.

(e) *Victim*. The term *victim* shall mean an eligible injured claimant or a decedent on whose behalf a claim is brought by an eligible Personal Representative.

§ 104.4 Personal Representative.

(a) *In general*. The Personal Representative shall be:

(1) An individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate.

(2) In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the person named by the decedent in the decedent's will as the executor or administrator of the decedent's estate. In the event no will exists, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the first person in the line of succession established by the laws of the decedent's domicile governing intestacy.

(b) *Notice to beneficiaries*. Any purported Personal Representative must, before filing an Eligibility Form, provide written notice of the claim (including a designated portion of the Eligibility Form) to the immediate family of the decedent (including, but not limited to, the decedent's spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent. Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this provision. The claim forms shall require that the purported Personal Representative certify that such notice (or other notice that the Special Master deems appropriate) has been given. In addition, as provided in § 104.21(b)(5) of this part, the Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Objections to Personal Representatives*. Objections to the authority of an individual to file as the Personal Representative of a decedent may be filed with the Special Master by parties who assert a financial interest in the award up to 30 days following the filing by the Personal Representative. If timely filed, such objections shall be treated as evidence of a "dispute" pursuant to paragraph (d) of this section.

(d) *Disputes as to identity*. The Special Master shall not be required to arbitrate, litigate, or otherwise resolve any dispute as to the identity of the Personal Representative. In the event of a dispute over the appropriate Personal Representative, the Special Master may suspend adjudication of the claim or, if sufficient information is provided, calculate the appropriate award and authorize payment, but place in escrow any payment until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree *in writing* to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while the disputing parties work to settle their dispute.

§ 104.5 Foreign claims.

In the case of claims brought by or on behalf of foreign citizens, the Special Master may alter the requirements for documentation set forth herein to the extent such materials are unavailable to such foreign claimants.

§ 104.6 Amendments to this rule.

In the event that amendments are subsequently made to any section of this Part, claimants are entitled to have their claims processed in accordance with the provisions that were in effect at the time that their claims were submitted under § 104.21(d).

Subpart B—Filing for Compensation; Application for Advance Benefits

§ 104.21 Filing for compensation.

(a) *Compensation form; "filing."* Except for applications for Advance Benefits pursuant to § 104.22, no claim may be considered until the claimant has submitted both an "Eligibility Form" *and* either a "Personal Injury Compensation Form" or a "Death Compensation Form." A claim shall be deemed "filed" for purposes of section 405(b)(3) of the Act (providing that the Special Master shall issue a determination not later than 120 days after the date on which a claim is filed), and for any time periods in this part, when a Claims Evaluator determines that both the Eligibility Form and either a Personal Injury Compensation Form or a Death Compensation Form are substantially complete. *Provided*, however, that if a claimant files an Eligibility Form requesting Advance Benefits pursuant to § 104.22 of this part without filing either a "Personal Injury Compensation Form" or a "Death Compensation Form," the claim shall be deemed "filed" when the Claims Evaluator determines that the Eligibility Form is substantially complete, but the time period for determination and any time periods in this part shall be stayed or tolled as described in § 104.22(g) of this part.

(b) *Eligibility Form*. The Special Master shall develop an Eligibility Form that will require the claimant to provide information necessary for determining the claimant's eligibility to recover from the Fund.

(1) The Eligibility Form may require that the claimant certify that he or she has dismissed any pending lawsuit seeking damages as a result of the terrorist-related airplane crashes of September 11, 2001 (except for actions seeking collateral source benefits) within 90 days of the effective date of this part pursuant to section 405(c)(3)(B)(ii) of the Act and that there is no pending lawsuit brought by a dependent, spouse, or beneficiary of the victim.

(2) The Special Master may require as part of the notice requirement pursuant to § 104.4(b) that the claimant provide copies of a designated portion of the Eligibility Form to the immediate family of the decedent (including, but not limited to, the spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent.

(3) The Eligibility Form may require claimants to provide the following proof:

(i) Proof of death: Death certificate or similar official documentation;

(ii) Proof of presence at site: Documentation sufficient to establish presence at one of the crash sites, which may include, without limitation, a death certificate, records of employment, contemporaneous medical records, contemporaneous records of federal, state, city or local government, an affidavit or declaration of the decedent's or injured claimant's employer, or other

UMI
VOL 66
ISS 246
DE 21
2001
UMI

sworn statement (or unsworn statement complying with 28 U.S.C. 1746) regarding the presence of the victim;

(iii) Proof of death on board aircraft: Death certificate or records of American or United Airlines or other sufficient official documentation;

(iv) Proof of physical harm: Contemporaneous medical records of hospitals, clinics, physicians, licensed medical personnel, or registries maintained by federal, state, or local government, and records of all continuing medical treatment;

(v) Personal Representative: Copies of relevant legal documentation, including court orders; letters testamentary or similar documentation; proof of the purported Personal Representative's relationship to the decedent; copies of wills, trusts, or other testamentary documents; and information regarding other possible beneficiaries as requested by the Eligibility Form;

(vi) Any other information that the Special Master deems necessary to determine the claimant's eligibility.

(4) The Special Master may also require waivers, consents, or authorizations from claimants to obtain directly from third parties tax returns, medical information, employment information, or other information that the Special Master deems relevant in determining the claimant's eligibility or award, and may request an opportunity to review originals of documents submitted in connection with the Fund.

(5) Application for Advance Benefits: The Eligibility Form shall include a section allowing claimants to indicate that they wish to apply for Advance Benefits. Claimants who apply for such Advance Benefits must certify on that Form that they have not yet received $450,000 in collateral source compensation if they are bringing a claim on behalf of a deceased victim with a spouse or dependent, $250,000 in collateral source compensation if they are bringing a claim on behalf of a deceased victim who was single with no dependents, or an amount in excess of their lost wages plus out-of-pocket medical expenses if they are an injured claimant. All such claimants also must state on the Form facts establishing financial hardship that would justify a determination that they are in need of Advance Benefits.

(6) The Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Personal Injury Compensation Form and Death Compensation Form.* The Special Master shall develop a Personal Injury Compensation Form that each injured claimant must submit. The Special Master shall also develop a Death Compensation Form that each Personal Representative must submit. These forms shall require the claimant to provide certain information that the Special Master deems necessary to determining the amount of any award, including information concerning income, collateral sources, benefits, and other financial information, and shall require the claimant to state the factual basis for the amount of compensation sought. It shall also allow the claimant to submit certain other information that may be relevant, but not necessary, to the determination of the amount of any award.

(1) Claimants shall, at a minimum, submit all tax returns that were filed for the years 1998, 1999, and 2000. The Special Master may, at his discretion, require that claimants submit copies of tax returns or other records for any other period of years he deems appropriate for determination of an award. The Special Master may also require waivers, consents, or authorizations from claimants to obtain directly from third parties medical information, employment information, or other information that the Special Master deems relevant to determining the amount of any award.

(2) Claimants may attach to the "Personal Injury Compensation Form" or "Death Compensation Form" any additional statements, documents or analyses by physicians, experts, advisors, or any other person or entity that the claimant believes may be relevant to a determination of compensation.

(d) *Submission of a claim.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except for civil actions to recover collateral source obligations. A claim shall be deemed submitted for purposes of section 405(c)(3)(B) of the Act when the claim is deemed filed pursuant to § 104.21, regardless of whether any time limits are stayed or tolled.

(e) *Provisions of information by third parties.* Any third party having an interest in a claim brought by a Personal Representative may provide written statements or information regarding the Personal Representative's claim. The Claims Evaluator or the Special Master or his designee may, at his or her discretion, include the written statements or information as part of the claim.

§ 104.22 Advance Benefits.

(a) *Advance Benefits.* Eligible Claimants may apply for immediate "Advance Benefits" in a fixed amount as follows:

(1) $50,000 for Personal Representatives; and

(2) $25,000 for injured claimants who meet the requirements of paragraph (d) of this section.

(b) *Credit against award.* The Advance Benefit shall be credited against any final compensation award so that the amount of the Advance Benefit is deducted from the final award under this program.

(c) *Application for Advance Benefits.* An otherwise eligible claimant may seek Advance Benefits to alleviate financial hardship faced by the claimant (or financial hardship faced by the beneficiaries of the decedent) by submitting an Eligibility Form described in § 104.21(b) and indicating thereon that he or she is applying for Advance Benefits.

(d) *Eligibility for Advance Benefits.* In the case of a Personal Representative, the claimant may be deemed eligible for Advance Benefits if a Claims Evaluator or the Special Master or his designee determines that the claimant is eligible to recover under the Fund. In the case of an injured claimant, the claimant may be deemed eligible for Advance Benefits when the Special Master or his designee determines that the claimant is eligible to recover under the Fund *and* that the claimant's physical injury required hospitalization for one week or more.

(e) *Authorization of payments.*

(1) Payment in the amount described in paragraph (a) of this section will be authorized immediately upon a determination that the claimant is eligible for Advance Benefits and the claimant is:

(i) An injured claimant;

(ii) A Personal Representative who was the spouse of the deceased victim on September 11, 2001; or

(iii) A Personal Representative who has obtained the consent of the spouse of the deceased victim (or, if there is no surviving spouse, all of the dependents of the deceased victim) to file for Advance Benefits.

(2)(i) With respect to other Personal Representatives, payment will be authorized within 15 days after the determination that the claimant is eligible for Advance Benefits, provided that no other individual has asserted a colorable conflicting claim as the Personal Representative with respect to the decedent and the Personal

Representative identifies and has given notice to the beneficiaries to whom such Advance Benefits will be distributed.

(ii) In the event that a colorable conflicting claim has been asserted, no Advance Benefit will be paid until a final eligibility determination has been made.

(f) *Tolling of 120-day clock and other time periods.* A claimant filing an Eligibility Form requesting Advance Benefits before filing a Personal Injury Compensation Form or Death Compensation Form will be deemed to have waived his right to commencement of the 120-day period in section 405(b)(3) of the Act (providing that the Special Master shall provide notice to the claimant of his determination within 120 days after the date on which a claim is filed). The 120-day period and all other time limitations in this part, except those applicable to Advance Benefit payments, shall be stayed or tolled until such time that a Claims Evaluator determines that the claimant's Personal Injury Compensation Form or Death Compensation Form is substantially complete.

Subpart C—Claim Intake, Assistance, and Review Procedures

§ 104.31 Procedure for claims evaluation.

(a) *Initial review.* Claims Evaluators shall review the forms filed by the claimant and either deem the claim "filed" (pursuant to 104.21(a)) or notify the claimant of any deficiency in the forms or any required documents.

(b) *Procedural tracks.* Each claim will be placed on a procedural track, described herein as "Track A" and "Track B," selected by the claimant on the Personal Injury Compensation Form or Death Compensation Form.

(1) *Procedure for Track A.* The Claims Evaluator shall determine eligibility and the claimant's presumed award pursuant to §§ 104.43 to 104.46 of this part and, within 45 days of the date the claim was deemed filed, notify the claimant in writing of the eligibility determination, the amount of the presumed award, and the right to request a hearing before the Special Master or his designee under § 104.33 of this part. After an eligible claimant has been notified of the presumed award, the claimant may either accept the presumed compensation determination as the final determination and request payment, or may instead request a review before the Special Master or his designee pursuant to § 104.33. Claimants found to be ineligible may appeal pursuant to § 104.32.

(2) *Procedure for Track B.* The Claims Evaluator shall determine eligibility within 45 days of the date the claim was deemed filed, but shall not determine the claimant's presumed award; the Claims Evaluator shall notify the claimant in writing of the eligibility determination. Upon notification of eligibility, the claimant will proceed to a hearing pursuant to § 104.33. At such hearing, the Special Master or his designee shall utilize the presumptive award methodology as set forth in §§ 104.43 to 104.46 of this part, but may modify or vary the award if the claimant presents extraordinary circumstances not adequately addressed by the presumptive award methodology. There shall be no review or appeal from this determination.

(c) *Multiple claims from the same family.* The Special Master may treat claims brought by or on behalf of two or more members of the same immediate family as related or consolidated claims for purposes of determining the amount of any award.

§ 104.32 Eligibility review.

Any claimant deemed ineligible by the Claims Evaluator may appeal that decision to the Special Master or his designee by filing an eligibility appeal on forms created by the office of the Special Master.

§ 104.33 Hearing.

(a) *Supplemental submissions.* The claimant may prepare and file Supplemental Submissions within 21 calendar days from notification of either the presumed award (Track A) or eligibility (Track B). The Special Master shall develop forms appropriate for Supplemental Submissions.

(b) *Conduct of hearings.* Hearings shall be before the Special Master or his designee. The objective of hearings shall be to permit the claimant to present information or evidence that the claimant believes is necessary to a full understanding of the claim. The claimant may request that the Special Master or his designee review any evidence relevant to the determination of the award, including without limitation: Factors and variables used in calculating economic loss; the identity of the victim's spouse and dependents; the financial needs of the claimant; facts affecting noneconomic loss; and any factual or legal arguments that the claimant contends should affect the award. Claimants shall be entitled to submit any statements or reports in writing. The Special Master or his designee may require authentication of documents, including medical records and reports, and may request and consider information regarding the financial resources and expenses of the victim's family or other material that the Special Master or his designee deems relevant.

(c) *Location and duration of hearings.* The hearings shall, to the extent practicable, be scheduled at times and in locations convenient to the claimant or his or her representative. The hearings shall be limited in length to a time period determined by the Special Master or his designee, but generally not to exceed two hours. The claimant may elect whether the hearing shall be public or private.

(d) *Witnesses, counsel, and experts.* Claimants shall be permitted, but not required, to present witnesses, including expert witnesses. The Special Master or his designee shall be permitted to question witnesses and examine the credentials of experts. The claimant shall be entitled to be represented by an attorney in good standing, but it is not necessary that the claimant be represented by an attorney.

(e) *Waivers.* The Special Master shall have authority and discretion to require any waivers necessary to obtain more individualized information on specific claimants.

(f) *Track A review of presumed award.* For proceedings under Track A, the Special Master or his designee shall make a determination whether:

(1) There was an error in determining the presumptive award, either because the claimant's individual criteria were misapplied or for another reason; or

(2) The claimant presents extraordinary circumstances not adequately addressed by the presumptive award.

(g) *Determination.* The Special Master shall notify the claimant in writing of the final amount of the award, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination.

§ 104.34 Publication of awards.

In order to assist potential claimants in evaluating their options of either filing a claim with the Special Master or filing a lawsuit in tort, the Special Master reserves the right to publicize the amounts of some or all of the awards, but shall not publish the name of the claimants or victims that received each award. If published, these decisions would be intended by the Special Master as general guides for potential claimants and should not be viewed as precedent binding on the Special Master or his staff.

UMI VOL 66 ISS 246 DE 21 2001 UMI

§ 104.35 Claims deemed abandoned by claimants.

The Special Master and his staff will endeavor to evaluate promptly any information submitted by claimants. Nonetheless, it is the responsibility of the claimant to keep the Special Master informed of his or her current address and to respond within the duration of this two-year program to requests for additional information. Claims outstanding at the end of this program because of a claimant's failure to complete his or her filings shall be deemed abandoned.

Subpart D—Amount of Compensation for Eligible Claimants.

§ 104.41 Amount of compensation.

As provided in section 405(b)(1)(B)(ii) of the Act, in determining the amount of compensation to which a claimant is entitled, the Special Master shall take into consideration the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant. The individual circumstances of the claimant may include the financial needs or financial resources of the claimant or the victim's dependents and beneficiaries. As provided in section 405(b)(6) of the Act, the Special Master shall reduce the amount of compensation by the amount of collateral source compensation the claimant (or, in the case of a Personal Representative, the victim's beneficiaries) has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001. In no event shall an award (before collateral source compensation has been deducted) be less than $500,000 in any case brought on behalf of a deceased victim with a spouse or dependent, or $300,000 in any case brought on behalf of a deceased victim who was single with no dependents.

§ 104.42 Applicable state law.

The phrase "to the extent recovery for such loss is allowed under applicable state law," as used in the statute's definition of economic loss in section 402(5) of the Act, is interpreted to mean that the Special Master is not permitted to compensate claimants for those categories or types of economic losses that would not be compensable under the law of the state that would be applicable to any tort claims brought by or on behalf of the victim.

§ 104.43 Determination of presumed economic loss for decedents.

In reaching presumed determinations for economic loss for Personal Representatives bringing claims on behalf of decedents, the Special Master shall consider sums corresponding to the following:

(a) *Loss of earnings or other benefits related to employment.* The Special Master, as part of the process of reaching a "determination" pursuant to section 405(b) of the Act, shall develop a methodology and publish schedules, tables, or charts that will permit prospective claimants to estimate determinations of loss of earnings or other benefits related to employment based upon individual circumstances of the deceased victim, including: The age of the decedent as of September 11, 2001; the number of dependents who survive the decedent; whether the decedent is survived by a spouse; and the amount and nature of the decedent's income for recent years. The decedent's salary/income in 1998–2000 shall be evaluated in a manner that the Special Master deems appropriate. The Special Master may, if he deems appropriate, take an average of income figures for each of those three years. The Special Master's methodology and schedules, tables, or charts shall yield presumed determinations of loss of earnings or other benefits related to employment for annual incomes up to but not beyond the 98th percentile of individual income in the United States for the year 2000. In cases where the victim was a minor child, the Special Master may assume an average income for the child commensurate with the average income of all wage earners in the United States.

(b) *Medical expense loss.* This loss equals the out-of-pocket medical expenses that were incurred as a result of the physical harm suffered by the victim (i.e., those medical expenses that were not paid for or reimbursed through health insurance). This loss shall be calculated on a case-by-case basis, using documentation and other information submitted by the Personal Representative.

(c) *Replacement services loss.* For decedents who did not have any prior earned income, or who worked only part time outside the home, economic loss may be determined with reference to replacement services and similar measures.

(d) *Loss due to death/burial costs.* This loss shall be calculated on a case-by-case basis, using documentation and other information submitted by the personal representative and includes the out-of-pocket burial costs that were incurred.

(e) *Loss of business or employment opportunities.* Such losses shall be addressed through the procedure outlined above in paragraph (a) of this section.

§ 104.44 Determination of presumed noneconomic losses for decedents.

The presumed noneconomic losses for decedents shall be $250,000 plus an additional $50,000 for the spouse and each dependent of the deceased victim. Such presumed losses include a noneconomic component of replacement services loss.

§ 104.45 Determination of presumed economic loss for claimants who suffered physical harm.

In reaching presumed determinations for economic loss for claimants who suffered physical harm (but did not die), the Special Master shall consider sums corresponding to the following:

(a) *Loss of earnings or other benefits related to employment.* The Special Master may determine the loss of earnings or other benefits related to employment on a case-by-case basis, using documentation and other information submitted by the claimant, regarding the actual amount of work that the claimant has missed or will miss without compensation. Alternatively, the Special Master may determine the loss of earnings or other benefits related to employment by relying upon the methodology created pursuant to § 104.43(a) and adjusting the loss based upon the extent of the victim's physical harm.

(1) *Disability; in general.* In evaluating claims of disability, the Special Master will, in general, make a determination regarding whether the claimant is capable of performing his or her usual profession in light of the injuries.

(2) *Total permanent disability.* With respect to claims of total permanent disability, the Special Master may accept a determination of disability made by the Social Security Administration as evidence of disability without any further medical evidence or review. The Special Master may also consider determinations of permanent total disability made by other governmental agencies or private insurers in evaluating the claim. The Special Master may require that the claimant submit an evaluation of the claimant's disability and ability to perform his or her occupation prepared by medical experts.

(3) *Partial disability.* With respect to claims of partial disability, the Special Master may consider evidence of the effect of the partial disability on the claimant's ability to perform his or her usual occupation as well as the effect of the partial disability on the claimant's ability to participate in usual daily activities.

(b) *Medical Expense Loss.* This loss equals the out-of-pocket medical expenses that were incurred as a result of the physical harm suffered by the victim (*i.e.*, those medical expenses that were not paid for or reimbursed through health insurance). In addition, this loss equals future out-of-pocket medical expenses that will be incurred as a result of the physical harm suffered by the victim (*i.e.*, those medical expenses that will not be paid for or reimbursed through health insurance). These losses shall be calculated on a case-by-case basis, using documentation and other information submitted by the claimant.

(c) *Replacement services loss.* For injured claimants who did not have any prior earned income, or who worked only part-time outside the home, economic loss may be determined with reference to replacement services and similar measures.

(d) *Loss of business or employment opportunities.* Such losses shall be addressed through the procedure outlined above in paragraph (a) of this section.

§ 104.46 Determination of presumed noneconomic losses for claimants who suffered physical harm.

The Special Master may determine the presumed noneconomic losses for claimants who suffered physical harm (but did not die) by relying upon the noneconomic losses described in § 104.44 and adjusting the losses based upon the extent of the victim's physical harm. Such presumed losses include any noneconomic component of replacement services loss.

§ 104.47 Collateral sources.

(a) *Payments that constitute collateral source compensation.* The amount of compensation shall be reduced by all collateral source compensation, including life insurance, pension funds, death benefit programs, and payments by federal, state, or local governments related to the terrorist-related aircraft crashes of September 11, 2001.

(b) *Payments that do not constitute collateral source compensation.* The following payments received by claimants do *not* constitute collateral source compensation:

(1) The value of services or in-kind charitable gifts such as provision of emergency housing, food, or clothing; and

(2) Charitable donations distributed to the beneficiaries of the decedent, to the injured claimant, or to the beneficiaries of the injured claimant by private charitable entities; provided, however, that the Special Master may determine that funds provided to victims or their families through a private charitable entity constitute, in substance, a payment described in paragraph (a) of this section.

Subpart E—Payment of Claims

§ 104.51 Payments to eligible individuals.

Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under the Fund, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

§ 104.52 Distribution of award to decedent's beneficiaries.

The Personal Representative shall distribute the award in a manner consistent with the law of the decedent's domicile or any applicable rulings made by a court of competent jurisdiction. The Personal Representative shall, before payment is authorized, provide to the Special Master a plan for distribution of any award received from the Fund. Notwithstanding any other provision of these regulations or any other provision of state law, in the event that the Special Master concludes that the Personal Representative's plan for distribution does not appropriately compensate the victim's spouse, children, or other relatives, the Special Master may direct the Personal Representative to distribute all or part of the award be distributed to such spouse, children, or other relatives.

Subpart F—Limitations

§ 104.61 Limitation on civil actions.

(a) *General.* Section 405(c)(3)(B) of the Act provides that upon the submission of a claim under the Fund, the claimant waives the right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, except that this limitation does not apply to civil actions to recover collateral source obligations. The Special Master shall take appropriate steps to inform potential claimants of section 405(c)(3)(B) of the Act.

(b) *Pending actions.* Claimants who have filed a civil action or who are a party to such an action as described in paragraph (a) of this section may not file a claim with the Special Master unless they withdraw from such action not later than March 21, 2002.

§ 104.62 Time limit on filing claims.

In accordance with the Act, no claim may be filed under this part after December 22, 2003.

§ 104.63 Subrogation.

Compensation under this Fund does not constitute the recovery of tort damages against a third party nor the settlement of a third party action, and the United States shall be subrogated to all potential claims against third party tortfeasors of any victim receiving compensation from the Fund. For that reason, no person or entity having paid other benefits or compensation to or on behalf of a victim shall have any right of recovery, whether through subrogation or otherwise, against the compensation paid by the Fund.

Subpart G—Measures to Protect the Integrity of the Compensation Program

§ 104.71 Procedures to prevent and detect fraud.

(a) *Review of claims.* For the purpose of detecting and preventing the payment of fraudulent claims and for the purpose of assuring accurate and appropriate payments to eligible claimants, the Special Master shall implement procedures to:

(1) Verify, authenticate, and audit claims;

(2) Analyze claim submissions to detect inconsistencies, irregularities, duplication, and multiple claimants; and

(3) Ensure the quality control of claims review procedures.

(b) *Quality control.* The Special Master shall institute periodic quality control audits designed to evaluate the accuracy of submissions and the accuracy of payments, subject to the oversight of the Inspector General of the Department of Justice.

(c) *False or fraudulent claims.* The Special Master shall refer all evidence of false or fraudulent claims to appropriate law enforcement authorities.

Dated: December 19, 2001.

John Ashcroft,

Attorney General.

Note: This Appendix will not appear in the Code of Federal Regulations.

Appendix to Preamble—Summary of Public Comments Submitted in Response to the November 5, 2001 Notice of Inquiry and Advance Notice of Rulemaking

The following is a summary of the comments the Department of Justice ("the Department") received in response to its Notice of Inquiry published on November 5, 2001. The Notice of Inquiry sought input on numerous issues regarding potential regulations for the "September 11 Victim Compensation Fund of 2001" (the "Fund"), which was signed into law as Title IV of Public Law 107–42 ("Air Transportation

VOL
66
ISS
246
DE
21
2001
UMI

Safety and System Stabilization Act") (the "Act").

Over 800 comments were received by the November 26, 2001 deadline established by the Department. Additionally, hundreds of comments have been received since that date. Every comment was—and continues to be—reviewed, considered, and catalogued into one or more of 72 different topics. While the following summary does not address every issue raised by commenters, it provides a general synopsis of the most often raised issues. The summary is not intended to be an exhaustive illustration of every issue contemplated by the Special Master or the Department. Indeed, as mentioned above, all comments were considered in the promulgation of these interim final rules. Finally, the summarized issues below are not arranged in any particular order of importance or level of volume.

The Effective Date of This Interim Final Rule

While the Act specified that this rule should be issued by December 21, 2001, it did not specify when they should become effective. Accordingly, the Department sought comment on this issue. The Department noted that the Administrative Procedure Act generally provides that rules not go into effect for at least 30 days absent "good cause."

Many commenters favored an immediate effective date so that claims could be filed right away. Many indicated an immediate need for relief and expressed frustration about their experiences with obtaining short-term assistance from other sources. However, some commenters thought an immediate effective date would be difficult to implement because the Special Master would need time to hire personnel and to set up the operation of the program before beginning to process claims.

A number of commenters suggested a compromise—making available some amount of short-term relief on an immediate basis to eligible claimants, and then commencing the more detailed review process necessary to provide a final award. Some suggested using flat amounts for these immediate awards, while another commenter suggested establishing an interest-free line of credit upon which families could draw. Another suggestion was that claims for immediate assistance be prioritized by "need."

Eligibility

In its November 5, 2001, Notice of Inquiry, the Department noted that section 405(b) of the statute requires the Special Master to determine whether a claimant is an "eligible individual" under section 405(c). "Eligibility," in turn, is defined by the Act to include: (1) individuals (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; or (2) individuals who were "present at" the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes; or (3) personal representatives of deceased individuals who would otherwise be eligible. Moreover, to be eligible for an award, an individual must have suffered physical harm or death as a result of one of the terrorist-related air crashes. The Department sought comment on whether a Departmental regulation or a statement of policy by the Special Master would be appropriate to clarify these criteria, and if so, what those criteria should be.

The Department specifically invited comment on the following questions related to eligibility:

- How should "present at" be interpreted?
- Should the term "physical harm" be limited to serious injuries, as it is under some other no-fault compensation schemes, (see, e.g., N.Y. Ins. Law § 5102), or should it be construed more broadly?
- Should "physical harm" be limited to currently identifiable injuries?
- Can and should the program address latent, but not yet evident, harm?
- What duration of time is intended by the statutory phrase "immediate aftermath"?

(1) "Present At" And "Immediate Aftermath"

Many of the comments addressed the question of how to define the terms "present at the site" and "immediate aftermath," especially for purposes of those who were in New York at the time of the crashes. Some commenters urged a broad definition of these terms. They recommended that anybody in New York City be considered "present" because the debris and ash from the collapse of the World Trade Towers was widespread. Residents who live near the Ground Zero site in New York urged that they be eligible to recover under the Fund.

In contrast, other commenters argued for a narrower definition of the terms, asserting that the legislation intended to constrain the Fund to the locus of the buildings themselves, and to some very limited time period after the crashes. One comment recommended that "immediate aftermath" be defined as 48 hours after the crashes.

(2) Physical Harm

With respect to the nature of harm involved, some commenters asserted there should be no lower boundary for "nonserious" injuries. Of those who commented on the point, there were disagreements as to whether post-traumatic stress could be considered physical harm for purposes of filing a claim under the Fund. Certain commenters indicated that many people suffered substantial stress from witnessing the attacks and devastation and that they should be eligible to recover from the Fund. However, others argued that the Fund was not intended to cover psychological injury because the language of the statute specifically requires that the claimant suffer "physical harm." These commenters feared that recovery for stress-related injuries would open a Pandora's Box of less serious claims, which, in turn, may reduce the amount of compensation issued to those with the most serious physical injuries.

(3) Latent Harm

Some of the comments focused on the problem of latent injuries and diseases. Several commenters mentioned the coughing they have experienced as a result of exposure to the crash site in New York, and some nearby residents expressed concern about latent harm that might accrue from returning to their homes before the conclusion of the rescue and cleanup efforts. On the other hand, other commenters expressed concern about covering any harms that do not manifest themselves within the two-year lifetime of the Fund. They argued the Fund was not designed to compensate for latent harm primarily because the Fund only exists for two years, and many injuries may not become manifest until after that time.

(4) Eligibility of Victims And Survivors

Some commenters addressed the meaning of the word "victim." For example, some commenters urged that any unborn child who died should be considered eligible for an award as a victim. With respect to a different group of potential claimants, some commenters argued that illegal aliens should not be eligible for awards. However, other commenters did not think that legal status should preclude an award from the Fund.

With regard to claims on behalf of decedent victims, the comments evidenced a tremendous amount of confusion about whether the statute intended to cover only the losses incurred by the victim or the losses incurred by relatives and others. Some commenters noted that section 405 of the Act provides that only claims on behalf of the victim can be filed with the Fund, presumably leaving to the courts any claims by family members or partners on their own behalf. However, some commenters noted that section 403 of the Act states that its purpose is to provide compensation to any individual "or relatives of a deceased individual" who were killed as a result of the terrorist-related aircraft crashes. The commenters further noted that various types of losses that may be compensated by the Fund pursuant to section 402 are akin to those that in civil actions are normally considered losses to survivors rather than to the victim.

Many commenters commented on the "eligibility" of particular "survivors" of the victim. Some suggested that only a spouse and children be considered "eligible." Others expressed concern as to whether parents, divorced spouses, children of a prior marriage, and others with a legal relationship would be "eligible" for an award under the Fund. In this regard, a number of comments specifically urged that non-married partners and others with a non-traditional relationship be considered "eligible" for an award. Some commenters opposed the idea of extending eligibility under the Fund to those in non-traditional relationships and argued for a narrower definition of eligibility.

Similarly, there were a number of comments about how "eligible" survivors would participate in the decision of whether to submit an application to the Fund, since in their view the application to the Fund would prohibit all of them from filing civil litigation. Some commenters explicitly suggested the law be interpreted to allow claims both on behalf of the decedent's estate and on behalf of any survivors, and suggested that such claims could be consolidated for decision before the Special Master. Others, however, specifically recommended that claims be limited to those on behalf of the estate. Many commenters, presuming that to be the case, recommended that the state courts be responsible for designating the representative to represent the estate, and that any award be distributed in accordance with the requirements of the will or state intestacy law.

Assistance to Claimants

In its Notice of Inquiry of November 5, 2001, the Department noted that it would appear that these requirements—combined with the statutory time frame for the Special Master to reach a decision once a claim is filed—contemplate a detailed form and filing. Accordingly, the Department invited comments on whether there are actions the Special Master should be required to take before he can accept a claim, or deem a claim "filed." The Department noted that the statute appeared to provide a very limited time frame for the Special Master to evaluate a claim before making a decision—120 days from the date a claim is filed. Accordingly, the Department sought comment on whether the Special Master should be permitted to dismiss a claim as not properly filed for lack of adequate supporting information and, if so, whether an individual should thereafter be permitted to refile the claim. Comments were also solicited on whether it would be advisable to include in the rules a procedure where the time for making a determination could be extended by agreement.

The Department also requested comment on the design and content of the claim forms in light of the statutory requirements, as well as on making the forms and their instructions readable and readily available. The Department also sought comment on how it should implement the statutory requirement that claimants be provided with assistance.

While most of those who commented supported maintaining firm deadlines, many commenters suggested that a claimant be able to "halt the clock" at the claimant's discretion for various purposes (e.g., to provide further evidence before the claim is evaluated, to allow more time to prepare for a hearing, or to allow for an administrative review of an initial award determination). Some suggested that the Special Master also have the authority not to start the clock until the claim contained sufficient information upon which an award determination could be made, or to halt the process for a set period of time to allow for review of an initial determination (provided that the claimant concurred with that decision).

A number of commenters stressed that a claimant should not lose the right to proceed with their claim due to an incomplete file. One commenter suggested the Special Master should have 14 days to review a claim before deciding if there is enough information to proceed. Several commenters suggested that claimants not be required to waive their right to litigation until it was determined the claimant was eligible to recover from the Fund. Similarly, some commenters stated they would have difficulty deciding whether or not to opt into the fund (and thus waive their right to sue) if they did not have some idea or presumption of the range of recovery they might expect from the Fund.

Many commenters urged the Department to establish a simplified procedure for initiating a claim with the Fund. They expressed frustration with the barrage of paperwork required to apply for assistance with other organizations. Some employers offered to provide information on behalf of their employees or survivors in an effort to reduce the paperwork burden on claimants. On the other hand, some noted that—in light of the pro bono legal assistance that has been offered to the survivors—claimants would have the option to have the assistance of an attorney to complete the forms. A number of commenters suggested a two-step claims process that would involve a simple initial submission, followed by a more asserted effort to collect additional information with the guidance of claimant assistance personnel from the Office of the Special Master.

A number of commenters had suggestions as to how the Special Master might assist claimants both in filing claims and completing the claims process. Many suggested that local offices be established in New York City, Washington DC, Pennsylvania, and other cities that served as the domicile of victims. Some urged that outreach efforts be made to locate potential claimants and make them aware of the program's operations. Some mentioned that outreach should include multi-lingual assistance and publications. One group suggested that each Hearing Office have an Applicant's Assistant. Others suggested the Special Master hire victim advocates to assist claimants throughout the process.

The Claims Evaluation Process

The Department solicited comment on whether every claimant should be granted an oral hearing or whether paper hearings may be sufficient, and what types of oral hearing might be practicable in light of the statutory time frames.

Further, the Department sought comment on how evidence might be established and whether it is authorized to enforce requests made by the hearing officer to third parties for evidence that is necessary to a proceeding (e.g., evidence that might bear on whether all aspects of the claim file on which the decision will be based are accurate and complete). The Department sought comment on whether such proceedings should be recorded, whether such proceedings should be held in a location convenient to the claimant, how to deal with scheduling conflicts, and whether the opportunity for a hearing can be waived by a claimant through inaction or unwarranted delay.

Many commenters had opposing views on the role hearings should play in claims evaluation. Some commenters—comparing this program to civil litigation—viewed the hearings as essential to each and every claim. These commenters recommended hearings as a sort of "mini-trial," which would include rules of evidence (albeit relaxed rules) and adversarial questioning of witnesses. Using the same analogy, however, these commenters suggested that many claims could be "settled" based on only the paper submissions. Other comments suggested the hearings be more akin to an opportunity—for those claimants who want to exercise it—to make an informal oral presentation of their cases. They viewed the hearing as an opportunity to ensure that the decision maker was aware of their individual circumstances. Many of these commenters also suggested, for various reasons, that not all claimants would want a hearing. Some commenters suggested allowing claimants, upon filing a claim, to elect among different "tracks"—one that would involve a hearing, and one that would not.

On the question of who should be hired as hearing officers, suggestions included retired trust executives, retired judges, attorneys experienced in handling high volume caseloads, and those experienced in civil litigation. Some commenters recommended there be a panel of hearing officers rather than one hearing officer. A number of commenters also recommended that claimants have the opportunity for review of their award to ensure that the decision maker was aware of their individual circumstances.

Many commenters submitted detailed procedural suggestions for the claims process. Among other things, these suggestions dealt with how eligibility and damages could be established through the use of affidavits under penalty of perjury in the event relevant documents had been lost as a result of the crashes themselves (e.g., designations of beneficiaries maintained by employers). Additionally, a number of commenters suggested the Special Master have the right to subpoena evidence required to make a determination.

Awards Under the Fund

(1) Meeting the 120-Day Deadline

The Department invited comment on what means and mechanisms could be implemented to allow just compensation within the statutorily-mandated 120-day period for processing claims. In particular, the Department sought input on whether and how statistical methodologies should be developed and used as a starting point for decision, and whether publication of hypothetical or presumptive awards for classes of individuals would assist potential claimants in determining whether to opt into the Fund. For the most part, these comments were encapsulated in discussions regarding the calculation of damages; namely, economic and noneconomic losses.

(2) Calculating "Economic Losses"

The Department sought specific comment on how the Special Master should determine "economic losses." Although retaining experts is certainly not prohibited, the Special Master will not require any claimant to obtain legal counsel or other experts to assist in proving or presenting evidence of damages. The Special Master may, however, draw on available information from appropriate specialists in relevant fields to analyze economic losses. The Department invited comment regarding the necessary qualifications for such specialists, the data that should be utilized, the methodologies that should be employed, the documentation that should be required for every claimant, and how state law should bear upon such determinations. In addition, the Department invited comments on how to address the economic losses of individuals whose lost future income streams would have been highly contingent, variable, or unpredictable.

As expected, the range of comments on how best to calculate economic losses was widely varied. One group suggested a minimum value be calculated based on median income and remaining years of work, with flexibility to adjust the award after hearing all the evidence in individual cases. Similarly, certain comments suggested the use of a grid would be appropriate in certain circumstances to identify presumed awards. Others urged that no type of grid be used.

In terms of presumptive valuation, a few commenters recommended that awards mirror the amount a party could anticipate receiving from personal injury or wrongful death actions. Others disagreed. Many recognized the limited opportunities now available to potential plaintiffs filing claims in civil courts arising out of the September 11, 2001 terrorist attacks. At least one commenter argued that the fairest approach in determining economic losses is that which insurance companies use in settling claims.

Some commenters indicated that economic awards should not be based on differences in individual income prior to the crash. Some suggested using a flat dollar figure per surviving family member (e.g., $250,000 for each survivor). Another suggested a flat amount for death at $100,000, injury at $50,000, and various other losses at slated dollar figures. On the other hand, some commenters felt the purpose of the program is to act as a substitute for civil damage actions, and that efforts should be made to determine and take into consideration the amount of income likely lost by a decedent. A large number of comments were received with respect to how to establish such income (e.g., average over a certain number of prior years, plus information supplied by employers on future prospects).

(3) Calculating "Noneconomic Losses"

The Department also sought comment as to "noneconomic losses." Most notably, the Department invited comments regarding whether, and in what manner, the Special Master can or should draw meaningful distinctions between both those victims who died in different locations and those who suffered similar injuries. The Department also invited comments on whether the Department should (as some have suggested) issue regulations determining the amount of noneconomic loss for classes of similarly situated individuals or whether, instead, the Special Master should determine all noneconomic loss on a detailed claim-by-claim basis. Further, the Department requested comment on what facts and circumstances should be considered in determining noneconomic losses for each individual, and what standards should be employed.

Comments regarding noneconomic losses were similarly varied. One commenting association suggested noneconomic losses—such as pain and suffering—should be standardized because such losses do not vary by income strata. Numerous commenters advocated a "fixed" noneconomic award, stating that the government should not attempt to draw distinctions in the amount of pain suffered by victims or their survivors. One commenter suggested the most equitable process for determining noneconomic awards would be an elective process. Under this proposed method, a claimant could elect to have the award calculated by use of a matrix, or alternatively, could present evidence at a hearing to establish the amount to which the claimant believes he or she is entitled. A number of commenters argued that the statute necessitated an entirely individualized determination of noneconomic losses in every case. A group representing survivors of decedents suggested that noneconomic losses must be uncapped and based, in part, on the number and age of any surviving children or dependents, the current and future pain and suffering experienced by the victim's family, and the severity of pain suffered by the victim himself or herself.

(4) Taxation

A number of commenters raised questions about the taxability of various kinds of awards issued under the Fund. Several commenters asserted that compensation from the Fund should be nontaxable under federal law, similar to various types of tort awards. Another commenter stated that state victim compensation fund awards generally are not taxable, either by the state or the federal government. On the other hand, another commenter stated he did not see the purpose of distributing taxpayers' money to victims, and urged taxing the awards so as to return some of the money to the Treasury.

Collateral Sources

The Department sought comments on the issue of collateral sources. Although the Act requires that collateral sources be deducted from awards issued under the Fund (and explicitly outlines examples of certain types of collateral sources), the Department invited comment as to how the term "collateral source" should be defined.

(1) General Comments

Despite the explicit language in the Act, a number of commenters took issue with deducting any collateral sources whatsoever. Although many recognized that both the Department and the Special Master are bound to follow the language in the Act, they nonetheless argued that collateral sources are—in many states—not offset in wrongful death suits. Some urged that the type of collateral source offsets should be interpreted narrowly. A number of commenters also suggested that if collateral source benefits to a victim are to be offset, a counter-offset should be made for the premiums or contributions made by the victim to purchase various benefits. Others specifically suggested that only the value of collateral benefits funded by a victim's employer should be offset.

Many commenters, however, asserted that the program should not "unjustly enrich" the victims or their survivors, and supported the use of widespread offsets. Some of these comments mentioned that—although the statute does not provide either a ceiling or floor for the amount of awards—the Fund may have only a limited pool of resources to distribute to claimants (akin to the funds being collected and distributed by charitable organizations), and suggested the need to help those most in need. Other comments noted that unjust enrichment should not flow through tax-payer dollars. It was mentioned that many taxpayers—who ultimately will provide the funds under the program—also sent in charitable contributions not to unjustly enrich victims or their families, but, rather, solely to help them through these troubled times.

(2) "A claimant has received or is entitled to receive"

Some commenters specifically focused on the word "claimant" in the phrase "a claimant has received or is entitled to receive," and urged that any collateral source benefits not paid or to be paid directly to the claimant not be deducted from the award. These comments were often parallel to those concerning the question of whose losses are to be compensated under the Fund: only those of the decedent (estate), or those of others as well. (See the discussion of Eligibility.)

A number of comments also focused on the words "entitled to receive." Some recommended that only those collateral benefits scheduled to be paid as a result of contractual or other clear obligations should be deducted from an award. Others recommended that only the present value of any future contingent awards be considered in making any offset.

(3) Life Insurance

Many commenters were frustrated that the Act requires life insurance proceeds to be deducted from awards. Many asserted that deducting life insurance will penalize those who planned ahead. One suggested that life insurance should only be offset if payable to a dependent of the victim, and another group of commenters indicated that only the sums received by the eligible applicant net of all taxes that exceed the premiums—or other payments made by the applicant—be deducted. A number suggested that if life insurance is to be offset, the premiums paid should be returned to the victim by reducing the amount of the benefit offset.

(4) Pensions

While similar concerns (as to life insurance) were raised in connection with pensions, a more common comment concerned the meaning of the term "pension." For example, some commenters noted that pensions are not normally considered to be "compensation for a loss" but are instead akin to savings.

(5) Workers Compensation And Victim Assistance Programs

One commenter pointed out that most of the victims may be eligible for workers' compensation benefits because they were killed while on the job. Further, with respect to those receiving benefits under New York law, the compensation insurer can terminate workers' compensation payments—absent claimants obtaining consent to enter the Fund—if benefits are being paid to the injured workers or survivors. New York State legal authorities confirmed the noteworthiness of this issue, and recommended that workers' compensation payments not be considered a collateral source to this extent.

With respect to state victim assistance funds, one commenter noted that 42 U.S.C. 10602(e)—which generally provides that state crime victim boards may refuse to pay out benefits if another Federal program is paying benefits—was explicitly amended to exclude payments made under the September 11th Victim Compensation Fund of 2001. The commenter suggested that some programs covered under that code provision—that have already made payments—may be entitled to reimbursement as a result.

(6) Charitable Contributions

Many victims of the terrorist-related crashes on September 11, 2001, have or may receive support from special funds set up to assist them, as well as from special programs established by some of their employers to share future profits and the like. Accordingly, whether to reduce Fund awards by the amount of such contributions was one of the issues given the most attention in the comments. Notably, this issue was discussed in a number of news articles at about the time the Notice of Inquiry was issued.

Commenters were heavily divided on this issue. Many were strongly opposed to reducing awards by the amount of charity funding received. This includes some commenters who donated to charities established for this purpose, as well as employers who established funds to help the families of the victims. Many insisted that funds collected by employers solely for the purpose of compensating victims of the September 11 attacks should not be deemed a collateral source. Many drew a distinction between funds provided for short-term assistance and need, and those designed to compensate victims for their losses.

On the other hand, a number of comments from those who contributed money to various charities viewed the purposes of the charities and the Fund as one and the same; namely, compensating the victims. These commenters asserted they had not intended making contributions to unjustly enrich the families, and would hesitate to make such contributions in the future if their help turns out only to ensure persons maintain a certain lifestyle.

A number of commenters also pointed to the practical difficulties of trying to establish what claimants may have received from charities. Some suggested the Fund should have access to any database of charitable contributions, including one that was reported to be under consideration in New York.

After discussing these factors, some commenters suggested that the Special Master only offset charitable contributions over a certain amount. A few commenters suggested only offsetting charities set up for longer term assistance to the victims (e.g., tuition funds or scholarships for the children of all the victims).

Payment of Awards

Some commenters expressed the view that payments by the fund should be in the form of "structured settlements" or annuities rather than in lump sum. One commenter suggested payments to children should go to a trustee for the benefit of the child. However, other commenters argued for lump sum payments and objected to the government placing any restrictions on the claimants' award.

Limitations on Fees for Assistance And Payment by the Special Master

The Department requested comments on whether the Special Master has the authority to limit the types and amounts of fees that can be charged by counsel, accountants, experts or others who are retained by claimants to assist them to file and pursue compensation claims, and whether such fees can and should be paid by the Special Master directly out of compensation awards. The Department also solicited comments on what limitations, if any, the rules should impose on non-attorney, non-claimant representatives' participation in filing claims.

A number of commenters noted that the right to be represented by counsel is provided by the statute, that not all claimants would be comfortable using pro-bono counsel to represent their interests, and that payment of attorneys' fees is necessary to ensure representation by counsel of choice. Some of these commenters suggested, however, that fees could be limited so as not to exceed 10% of the award to claimant. Paradoxically, some commenters opposed using any amount of money from the Fund to pay legal fees.

[FR Doc. 01–31681 Filed 12–19–01; 4:09 pm]

BILLING CODE 4410–12–P

VOL
66
ISS
2
4
6
DE
21
2001
UMI

Re

CUST

Feden
Gener
aids

Laws

Presic
Execu
The U

Other
Electr
Privac
Public
TTY f

ELECT

World

Full te
is loca

Federa
Inspec
http://

E-mai

FEDR
an ope
form c
of the
PDF li

To joi
Online
(or ch

PENS
servic

To sul
and se
the in

FEDRI
respor

Refere
Federa

The F
regula

FEDE

60139
62907
63149
63307
63487
63621
63905
64095
64349
64735
64909
65091
65423
65597
65811

Reader Aids

Federal Register

Vol. 66, No. 246

Friday, December 21, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20
65811–66292	21

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497
7513	64095
7514	65089
Executive Orders:	
10513 (Revoked by EO 13245)	66268
11274 (Revoked by EO 13243)	66262
11487 (Revoked by EO 13244)	66267
11582 (See EO 13238)	63903
11822 (Revoked by EO 13246)	66270
11880 (Revoked by EO 13242)	66260
11957 (Revoked by EO 13241)	66258
12608 (Revoked in part by EO 13242)	66260
12958 (See Order of December 10, 2001)	64347
12998 (Revoked by EO 13242)	66260
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

302	63905
317	63905
330	63905
333	63905
335	63905
534	63906
591	63906
930	63906
6001	60139
Proposed Rules:	
890	64160

7 CFR

210	65597
226	65597
301	63151
989	65423
Proposed Rules:	
81	64918
352	63005
1410	63339

8 CFR

103	65811

9 CFR

70	63588
71	65598
78	63910
85	65598
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

10 CFR

20	64737
30	64737
32	64737
34	64737
40	64737
50	64737
51	64737
430	65091
Proposed Rules:	
50	65661
54	65141
72	63964

12 CFR

5	62914
201	65816
226	65604
500	65817
505	65817
506	65817
516	65817
517	65817
541	65817
543	65817
544	65817
545	65817
546	65817
552	65817
556	65817
559	65822
560	65817, 65822
561	65817
563	65817

VOL 66 ISS 246 DE 21 2001 UMI

563d....65817
563g....65817
565....65817
568....65817
570....65817
573....65817
583....65817
590....65817
700....65622
701....65622, 65625, 65628
712....65622
715....65622
723....65622
725....65622
790....65622
1773....65097

Proposed Rules:

Ch. IX....63008
226....64381
360....65144
584....63517
701....65662
1750....65146

13 CFR

120....64739

14 CFR

25....64349
39....60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629, 65827, 65829, 65832
71....63489, 63623, 64909, 64910, 65834
73....63433
91....63888
93....63294
97....64139, 64141
107....63474
108....63474

Proposed Rules:

39....63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666
71....60162, 63517
93....64778
154....66238

15 CFR

4....65631
4a....65631
4b....65631
744....65836
801....63916, 63918

Proposed Rules:

738....65666
742....65666

16 CFR

3....64142
4....64142
305....63749
1700....65836

17 CFR

Proposed Rules:

15....64383

18 CFR

381....63162

Proposed Rules:

35....65858

19 CFR

12....63490

20 CFR

655....63298

Proposed Rules:

404....63634

21 CFR

1....65429
510....63163, 63164, 63499
520....63165, 63166
524....63164
556....62916
558....62916, 63499, 63500

Proposed Rules:

500....63519
1310....64173

24 CFR

30....63436

Proposed Rules:

5....65162
202....65162

26 CFR

1....63920
301....64351, 64740, 64911
602....64076, 64351

Proposed Rules:

1....63203, 64385, 64904
301....64386
602....64386

28 CFR

Proposed Rules:

97....64934

29 CFR

578....63501
579....63501
580....63501
4022....64744
4044....64744

Proposed Rules:

470....65163
1910....64946
1915....64946
1926....64946
1928....64946

30 CFR

256....60147
918....64746
944....62917

Proposed Rules:

936....63968, 65858

31 CFR

211....63623

32 CFR

619....65651

33 CFR

100....63624
117....62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104
165....60151, 62940, 64144, 64912, 65105, 65838

Proposed Rules:

1....63640
147....63642
165....64778
175....63645
181....63650

34 CFR

Proposed Rules:

Ch. VI....63203

36 CFR

1202....65652

37 CFR

201....62942, 63920

Proposed Rules:

255....64783

38 CFR

17....63446, 63449, 64904
20....60152

Proposed Rules:

3....64174
20....65861

39 CFR

20....64353, 65780

Proposed Rules:

111....65668

40 CFR

8....63454
9....65256
52....63311, 63921, 64146, 64148, 64750, 64751
62....63311, 63938, 64151, 64152, 65448
63....63313, 65072
70....62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81....64751
122....65256
123....65256
124....65256
125....65256
152....64759
156....64759
180....63192, 64768, 65450, 65839, 65850
261....60153, 62973
271....63331
300....64357
721....63941

Proposed Rules:

52....63204, 63343, 63972, 63982, 64176, 64783
60....64176
62....63985, 64207, 64208, 65460
63....65079
80....60153, 65164
89....65164
90....65164
91....65164
300....64387
1048....65164
1051....65164
1065....65164
1068....65164

41 CFR

61–250....65452

42 CFR

411....60154
1001....62980, 63749

Proposed Rules:

1001....65460

43 CFR

3600....63334
3610....63334
3620....63334
3800....63334

44 CFR

64....63627
65....65107, 65110
67....65115, 65120

Proposed Rules:

61....60176
67....65668, 65671

46 CFR

Proposed Rules:

67....64784

47 CFR

1....62992
25....63512
36....65856
54....64775, 65856
73....60156, 60157, 63199, 63629, 64776, 64777, 65122
76....62992
101....63512

Proposed Rules:

1....64785, 65866
2....64785
51....63651, 64946
73....63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873
87....64785

48 CFR

Ch. 1....65346, 65372
2....65349, 65351, 65353
5....65370
8....65367
11....65351
12....65370
15....65351, 65368, 65369
19....65370
22....65370
23....65351, 65370
25....65349, 65370
32....65353
39....65371
42....65351
44....65367
52....65349, 65353, 65367, 65370
53....65370
202....63334
212....63335
215....63334
217....63336
237....63335
242....63334

Proposed Rules:

1....65792
36....65792
53....65792
235....63348, 65676

1823	64391
1836	64391
1852	64391

49 CFR

241	63942
571	60157, 64154, 64358, 65376
572	64368
Proposed Rules:	
107	63096
171	63096
172	63096
173	63096
177	63096
178	63096
180	63096
219	64000
567	65536
571	65536
573	64078, 64087, 65165
574	65536, 66190
575	65536
576	66190
577	64078, 64087

50 CFR

17	62993, 63752
222	65658
223	65658
230	64378
600	63199
622	60161
635	63003, 64378
648	63003, 65454, 65660
660	63199, 63630
679	64380, 64915
Proposed Rules:	
17	63349, 63654
20	63665
21	63349, 63665
222	64793, 65873
223	64793, 65676
224	64793, 65676
648	63013, 63666, 64392
679	65028

VOL 66 ISS 246 DE 21 2001 UMI

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 21, 2001

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Cherries (sweet) grown in—
  - Washington; published 11-21-01
- Cherries (tart) grown in—
  - Michigan et al.; published 11-21-01

COMMERCE DEPARTMENT

Export Administration Bureau

- Export administration regulations:
  - Entity list; revisions and additions—
    - Russia; published 12-21-01

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Commercial items acquisition; published 10-22-01
  - Construction contracts; Davis-Bacon Act application with options to extend term of contract; published 10-22-01
  - Very Small Business Pilot Program; published 10-22-01
  - Veterans' employment; published 10-22-01

ENVIRONMENTAL PROTECTION AGENCY

- Air pollutants, hazardous; national emission standards:
  - Pesticide active ingredient production; published 11-21-01
- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Fluthiacet-methyl; published 12-21-01
  - Sodium thiosulfate; published 12-21-01

GENERAL SERVICES ADMINISTRATION

- Federal Acquisition Regulation (FAR):
  - Commercial items acquisition; published 10-22-01
  - Construction contracts; Davis-Bacon Act application with options to extend term of contract; published 10-22-01
  - Very Small Business Pilot Program; published 10-22-01
  - Veterans' employment; published 10-22-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- Federal Acquisition Regulation (FAR):
  - Commercial items acquisition; published 10-22-01
  - Construction contracts; Davis-Bacon Act application with options to extend term of contract; published 10-22-01
  - Very Small Business Pilot Program; published 10-22-01
  - Veterans' employment; published 10-22-01

TRANSPORTATION DEPARTMENT

Coast Guard

- Pollution:
  - National Invasive Species Act of 1996; implementation; published 11-21-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Honeywell; published 11-16-01

TREASURY DEPARTMENT

Thrift Supervision Office

- Technical amendments; published 12-21-01

RULES GOING INTO EFFECT DECEMBER 24, 2001

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Indiana; published 10-24-01

FEDERAL COMMUNICATIONS COMMISSION

- Digital television stations; table of assignments:
  - Montana; published 11-9-01
- Radio stations; table of assignments:
  - New Hampshire; published 11-21-01
  - New Mexico; published 11-21-01
  - Pennsylvania; published 11-21-01
  - Tennessee; published 12-3-01
  - Texas and Louisiana; published 11-21-01

INTERIOR DEPARTMENT

Land Management Bureau

- Minerals management:
  - Mineral materials disposal; sales; free use; published 11-23-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Hartzell Propeller, Inc.; published 11-19-01
  - Rolls-Royce plc.; published 11-19-01

TRANSPORTATION DEPARTMENT

Federal Highway Administration

- Transportation Equity Act for 21st Century; implementation:
  - Engineering services; State transportation departments; administrative costs eligibility; published 11-23-01

RULES GOING INTO EFFECT DECEMBER 26, 2001

ENVIRONMENTAL PROTECTION AGENCY

- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Imazapic; published 12-26-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Agusta S.p.A.; published 12-10-01
  - Pilatus Aircraft Ltd.; published 11-7-01

TREASURY DEPARTMENT

Internal Revenue Service

- Income taxes:
  - New markets tax credit; published 12-26-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:
  - Citrus canker; comments due by 12-27-01; published 11-27-01 [FR 01-29473]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Fishery conservation and management:
  - Northeastern United States fisheries—
    - Summer flounder, scup, and black sea bass; comments due by 12-28-01; published 12-13-01 [FR 01-30828]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - West Virginia; comments due by 12-27-01; published 11-27-01 [FR 01-29471]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28852]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste program authorizations:
  - Utah; comments due by 12-26-01; published 11-26-01 [FR 01-28851]
- Radioactive waste disposal:
  - Transuranic radioactive waste characterization program documents for disposal at Waste Isolation Pilot Plant—
    - Hanford Site, WA; comments due by 12-27-01; published 11-27-01 [FR 01-29454]
    - Savannah River Site, SC; comments due by 12-27-01; published 11-27-01 [FR 01-29455]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29469]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—

    - National priorities list update; comments due by 12-28-01; published 11-28-01 [FR 01-29470]

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- North Carolina and South Carolina; comments due by 12-26-01; published 11-20-00 [FR 00-29626]

Television broadcasting:
- Cable television systems—
    - Horizontal and vertical ownership limits and broadcast and MDS attribution rules; comments due by 12-26-01; published 10-11-01 [FR 01-25479]

FEDERAL RESERVE SYSTEM

Risk-based capital:
- Supplementary capital elements (tier 2 capital); deferred tax assets (Regulations H and Y); comments due by 12-27-01; published 11-27-01 [FR 01-29331]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare and Medicaid:
- Fire safety standards for certain health care facilities; comments due by 12-26-01; published 10-26-01 [FR 01-25422]

Medicare:
- Supplementary medical insurance premium surcharge agreements; comments due by 12-26-01; published 10-26-01 [FR 01-27120]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
- Illinois; comments due by 12-27-01; published 11-27-01 [FR 01-29452]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Grant and Cooperative Agreement Handbook; cooperative agreements with cooperative firms; policy clarification, process improvements, etc.; comments due by 12-28-01; published 10-29-01 [FR 01-26622]

NUCLEAR REGULATORY COMMISSION

Rulemaking petitions:
- Leyse, Robert H.; comments due by 12-26-01; published 10-12-01 [FR 01-25672]
- Nuclear Energy Institute; comments due by 12-26-01; published 10-11-01 [FR 01-25565]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Bell; comments due by 12-28-01; published 10-29-01 [FR 01-26966]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Dassault; comments due by 12-26-01; published 11-26-01 [FR 01-29342]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Enstrom Helicopter Corp.; comments due by 12-28-01; published 10-29-01 [FR 01-26965]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Honeywell; comments due by 12-28-01; published 10-29-01 [FR 01-26968]

Applications, hearings, determinations, etc.:
- BAE Systems (Operations) Ltd.; comments due by 12-28-01; published 11-28-01 [FR 01-29599]

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Engineering and traffic operations:
- Highway bridge replacement and rehabilitation program; comments due by 12-26-01; published 9-26-01 [FR 01-24091]
- National bridge inspection standards; comments due by 12-26-01; published 9-26-01 [FR 01-24092]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 717/P.L. 107–84

Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (Dec. 18, 2001; 115 Stat. 823)

H.R. 1766/P.L. 107–85

To designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building". (Dec. 18, 2001; 115 Stat. 831)

H.R. 2261/P.L. 107–86

To designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office". (Dec. 18, 2001; 115 Stat. 832)

H.R. 2299/P.L. 107–87

Department of Transportation and Related Agencies Appropriations Act, 2002 (Dec. 18, 2001; 115 Stat. 833; 42 pages)

H.R. 2454/P.L. 107–88

To redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office". (Dec. 18, 2001; 115 Stat. 875)

H.J. Res. 71/P.L. 107–89

Amending title 36, United States Code, to designate September 11 as Patriot Day. (Dec. 18, 2001; 115 Stat. 876)

Last List December 18, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

UMI
VOL 66
ISS 246
DE 21
2001
UMI

Public Laws

107th Congress, 1st Session, 2001

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 107th Congress, 1st Session, 2001.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara005.html

---

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 107th Congress, 1st Session, 2001 for $225 per subscription.

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)
May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
2
4
6
DE
21
2001
UMI

Printed on recycled paper

VOL
66

ISS
2
4
7

DE
26

2001

UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–26–01
Vol. 66 No. 247

Wednesday
Dec. 26, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

*****************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
7
DE
26
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–26–01
Vol. 66 No. 247
Pages 66293–66704

Wednesday
Dec. 26, 2001

VOL 66
ISS 247
DE 26 2001
UMI

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register
Vol. 66, No. 247
Wednesday, December 26, 2001

Actuaries, Joint Board for Enrollment
See Joint Board for Enrollment of Actuaries

Agency for Healthcare Research and Quality
NOTICES
Meetings:
  Health Services Research Initial Review Group Committee, 66417

Agriculture Department
See Farm Service Agency
See Forest Service
See Natural Resources Conservation Service
See Rural Business-Cooperative Service
See Rural Utilities Service
NOTICES
Submission for OMB review; comment request, 66392–66395

Coast Guard
PROPOSED RULES
Ports and waterways safety:
  Kennebec River, Bath, Maine; Bath Iron Works; safety zone, 66380–66381

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
  Merchants Exchange—
    Cash-settled energy futures, 66404–66405

Copyright Office, Library of Congress
NOTICES
Cable royalty funds:
  Phase II distribution of 1993-1997 funds, 66433–66455

Education Department
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 66405–66407
Grants and cooperative agreements; availability, etc.:
  Strengthening Institutions Program et al., 66407–66409

Employment and Training Administration
NOTICES
Adjustment assistance:
  Blue Mountain Products, 66429
  Cleveland Caroknit, 66429
  Eagle Knitting Mills, Inc., 66429–66430
  Elizabeth Webbing, Inc., 66430
  Glenshaw Glass Co., Inc., 66430
  Kentucky Electric Steel, 66430
  Steag Hamatech, Inc., 66430–66431
  Trico Steel Co., 66431
Adjustment assistance and NAFTA transitional adjustment assistance:
  Bethlehem Steel Corp. et al., 66425–66427
  Budd Co., 66427–66428
  Unico et al., 66428–66429
NAFTA transitional adjustment assistance:
  Besser Lithibar, 66431–66432
  Collis, Inc., 66432
  Dnkyo America et al., 66432–66433
  Fashion Works; Inc., 66433
  Tyco Electronics, 66433

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air programs; State authority delegations:
  District of Columbia, 66321–66325
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
  Louisiana, 66317–66321
Hazardous waste program authorizations:
  Kentucky, 66340–66342
  Tennessee, 66342–66346
Pesticides; tolerances in food, animal feeds, and raw agricultural
  Halosulfuron-methyl, 66333–66340
  Imazapic, 66325–66333
PROPOSED RULES
Air programs; State authority delegations:
  District of Columbia, 66381–66382
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
  Louisiana, 66382
Hazardous waste program authorizations:
  Kentucky, 66383
  Tennessee, 66382–66383

Executive Office of the President
See Management and Budget Office
See Presidential Documents
See Trade Representative, Office of United States

Farm Service Agency
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 66395

Federal Aviation Administration
RULES
Airworthiness directives:
  McDonnell Douglas, 66296–66307
  Rolls-Royce Corp.; correction, 66296
PROPOSED RULES
Airworthiness directives:
  Boeing, 66360–66362

Federal Communications Commission
RULES
Radio stations; table of assignments:
  California, 66346

PROPOSED RULES
Digital television stations; table of assignments:
  South Carolina, 66383–66384
Radio stations; table of assignments:
  Texas, 66384
NOTICES
Meetings:
  North American Numbering Council, 66415

Federal Emergency Management Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
  Pre-Disaster Mitigation Program, 66415–66416

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
  Pittsfield Generating Co., L.P., et al., 66411–66413
Environmental statements; availability, etc.:
  Cocheco Falls Associates, 66413
Hydroelectric applications, 66414–66415
Reports and guidance documents; availability, etc.:
  Better stakeholder involvement in interstate natural gas pipeline planning pre-filing process; staff report, 66415
Applications, hearings, determinations, etc.:
  Great Lakes Gas Transmission L.P., 66409–66410
  Llano Estacado Wind, LP, 66410
  PPL Montana, LLC, et al., 66411
  Symbiotics, LLC., 66411

Federal Railroad Administration
RULES
Rail equipment accidents/incidents reporting:
  Monetary threshold adjustment, 66346–66348

Federal Reserve System
RULES
Home mortgage disclosure (Regulation C):
  Depository institutions; asset-size exemption threshold adjustment, 66295
NOTICES
Federal Open Market Committee:
  Domestic policy directives, 66416–66417

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
  Flat-tailed horned lizard, 66384–66385

Food and Drug Administration
NOTICES
Food for human consumption:
  U.S. Health and Human Services and Agriculture Departments and United Mexican States Secretariats of Health and Agriculture et al.—
    Cooperative activities to enhance food safety, 66418–66423
Meetings:
  Medical Devices Advisory Committee, 66423–66424

Forest Service
NOTICES
Meetings:
  North Gifford Pinchot National Forest Resource Advisory Committee, 66395
  Okanogan and Wenatchee National Forests Resource Advisory Committee, 66396
  South Gifford Pinchot National Forest Resource Advisory Committee, 66396

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Food and Drug Administration
NOTICES
Scientific misconduct findings; administrative actions:
  Valentin, Vilma, 66417

Interior Department
See Fish and Wildlife Service
See National Indian Gaming Commission
See Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
  Delaware and Lehigh National Heritage Corridor Commission, 66424

Internal Revenue Service
RULES
Income taxes:
  New markets tax credit, 66307–66314
PROPOSED RULES
Income taxes:
  Credit for increasing research activities, 66362–66375
  New markets tax credit; cross-reference, 66376–66377
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 66497
Meetings:
  Special Enrollment Examination Advisory Committee, 66498

International Trade Administration
NOTICES
Antidumping:
  Ferrovanadium from—
    China and South Africa, 66398–66402
  Oil country tubular goods, other than drill pipe, from—
    Korea, 66402–66403
  Stainless steel wire rod from—
    Taiwan, 66403

International Trade Commission
NOTICES
Import investigations:
  Garage door operators, including components, 66424–66425
  Organizer racks and products containing same, 66425

Joint Board for Enrollment of Actuaries
NOTICES
Meetings:
  Actuarial Examinations Advisory Committee, 66392

Labor Department
See Employment and Training Administration

Library of Congress
See Copyright Office, Library of Congress

Management and Budget Office
NOTICES
Hospital and medical care and treatment furnished by United States, costs; rates regarding recovery from tortiously liable third persons (Circular A-25), 66477–66485

Maritime Administration
NOTICES
Coastwise trade laws; administrative waivers:
ADAMANT, 66493–66494

Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66455–66461

National Credit Union Administration
PROPOSED RULES
Semi-annual agenda
Correction, 66359

National Indian Gaming Commission
PROPOSED RULES
Management contract provisions:
Minimum internal control standards, 66499–66546

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Northeastern United States fisheries—
Summer flounder, scup, and black sea bass, 66348–66358
PROPOSED RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands and Gulf of Alaska groundfish, 66390–66391
Atlantic highly migratory species—
Recreational landings monitoring, 66386–66390
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 66403–66404

National Science Foundation
NOTICES
Meetings:
DOE/NSF Nuclear Science Advisory Committee, 66461

Natural Resources Conservation Service
NOTICES
Meetings:
Agricultural Air Quality Task Force, 66396–66397

Nuclear Regulatory Commission
NOTICES
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 66461–66477

Office of Management and Budget
See Management and Budget Office

Office of United States Trade Representative
See Trade Representative, Office of United States

Presidential Documents
PROCLAMATIONS
Trade:
Harmonized Tariff Schedule; modification under the North American Free Trade Agreement (Proc. 7515), 66547–66704

Public Health Service
See Agency for Healthcare Research and Quality
See Food and Drug Administration

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 66494–66496

Rural Business-Cooperative Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66397–66398

Rural Utilities Service
RULES
Electric loans:
Insured and guaranteed loans; general and pre-loan policies and procedures—
Treasury rate direct loan program, 66293–66295
PROPOSED RULES
Electric loans:
Insured and guaranteed loans; general and pre-loan policies and procedures—
Treasury rate direct loan program, 66359

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 66485–66489
National Association of Securities Dealers, Inc., 66489–66491
New York Stock Exchange, Inc.; correction, 66491

Small Business Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66491
Disaster loan areas:
Wyoming, 66491
Meetings; district and regional advisory councils:
Florida, 66491–66492

State Department
NOTICES
Foreign terrorist organizations; designation:
Jaish e-Mohammed and Lashkar e-Tayyiba, 66492
Meetings:
Shipping Coordinating Committee, 66492

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Kentucky, 66314–66317
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
Louisiana, 66377–66379

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
North Coast Railroad Authority, 66496
Railroad services abandonment:
Norfolk Southern Railway Co., 66496–66497

Trade Representative, Office of United States

NOTICES

Intellectual property rights, countries denying; identification:
  Canada, 66492–66493

Transportation Department

See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See Maritime Administration
See Research and Special Programs Administration
See Surface Transportation Board

Treasury Department

See Internal Revenue Service

Separate Parts In This Issue

Part II

Interior Department, National Indian Gaming Commission, 66499–66546

Part III

Executive Office of the President, Presidential Documents, 66547–66704

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
6641 (See Proc. 7515)....66547
6763 (See Proc. 7515)....66547
7351 (See Proc. 7515)....66547
7512 (See Proc. 7515)....66547
7515....66547

7 CFR
1710....66293
Proposed Rules:
1710....66359

12 CFR
203....66295
Proposed Rules:
Ch. VII....66359

14 CFR
39 (5 documents)....66296, 66299, 66302, 66304
Proposed Rules:
39....66360

25 CFR
Proposed Rules:
542....66500

26 CFR
1....66307
602....66307
Proposed Rules:
1 (2 documents)....66362, 66376

30 CFR
917....66314
Proposed Rules:
918....66377

33 CFR
Proposed Rules:
165....66380

40 CFR
52....66317
63....66321
81....66317
180 (2 documents)....66325, 66333
271 (2 documents)....66340, 66342
Proposed Rules:
52....66382
63....66381
81....66382
271 (2 documents)....66382, 66383

47 CFR
73....66346
Proposed Rules:
73 (2 documents)....66383, 66384

49 CFR
225....66346

50 CFR
648....66348
Proposed Rules:
17....66384
635....66386
679....66390

VOL
66

ISS
247

DEC
26
2001

UMI

Rules and Regulations

Federal Register
Vol. 66, No. 247
Wednesday, December 26, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AB71

Treasury Rate Direct Loan Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule.

SUMMARY: In fiscal year 2001, Congress provided funding to establish a Treasury rate direct loan program to address the backlog of qualified loan applications for insured municipal rate electric loans from RUS. RUS administered the Treasury rate loan program in a manner substantially the same as it administered the municipal rate program under a Notice of Funding Availability (NOFA) published in the **Federal Register** at 65 FR 80830 on December 22, 2000. Title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 authorizes a direct Treasury rate electric loan program of $750 million for FY 2002. RUS is amending its regulations to establish rules and regulations to administer the Treasury rate direct loan program.

DATES: This rule is effective February 11, 2002 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before January 25, 2002. If we receive such comments or notice, we will publish a timely document in the **Federal Register** withdrawing the direct final rule. Comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS suggests a signed original and three copies of all comments (7 CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between 8 a.m. and 4 p.m. (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Robert O. Ellinger, Chief, Policy Analysis and Loan Management Staff, U.S. Department of Agriculture, Rural Utilities Service, Electric Program, Room 4041 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250–1560, Telephone: (202) 720–0424, FAX (202) 690–0717, E-mail: *rellinge@rus.usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws and regulations that are in conflict with this rule will be preempted; no retroactive effect will be given to this rule; and, in accordance with section 212(e) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. sec. 6912(e)) administrative appeals procedures, if any are required, must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that this rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The RUS electric program provides loans and loan guarantees to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements.

Information and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this rule are currently approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under control number 0572–0032.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this rule will not significantly affect the quality of human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850, Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

Executive Order 12372

This rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. See the final rule related notice entitled "Department Programs

VOL 66 ISS 247 DE 26 2001 UMI

and Activities Excluded From Executive Order 12372," (50 FR 47034) advising that RUS loans and loan guarantees are not covered by Executive Order 12372.

Background

Title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106–387) authorized a direct Treasury rate electric loan program of $500 million for FY 2001. On December 22, 2000, a Notice of Funding Availability (NOFA) was published in the **Federal Register** at 65 FR 80830 announcing the availability of $500 million in direct Treasury rate electric loans for fiscal year (FY) 2001. The document described the eligibility and submission requirements, the criteria to be used by the RUS to select applications for funding, and the expectation that the current backlog of qualifying applications for loans from RUS under the Rural Electrification Act would exhaust all of the available funding.

With the primary distinction between the established municipal rate electric loan program and the Treasury rate electric loan program merely one of interest setting methodologies, qualifying applications for municipal rate electric loans which were submitted to RUS in accordance with 7 CFR part 1710, subpart I, before October 28, 2000, were treated as pre-applications for Treasury rate electric loans. RUS contacted qualified applicants in the order which they were queued, and offered the applicant the opportunity to elect to receive its loan at the Treasury rate in lieu of the municipal rate. RUS administered the direct Treasury rate program during FY 2001 in a manner substantially the same as it administered the municipal rate program.

General, pre-loan, and post-loan policies and procedures for electric loans made by RUS may be found in 7 CFR parts 1710, 1714, and 1717. It is expected that the continued use of established and highly effective electric loan program procedures will enable RUS to continue to make prudent loans to qualified applicants. These procedures are familiar to both RUS staff and to the applicants and worked well for the Treasury rate loan program. Continuing this approach helps assure that the funds authorized by Congress are expended in a timely and efficient manner as Congress intended. RUS considered using another NOFA for FY 2002 but has decided that the continuation of this program for the second year makes rulemaking appropriate at this time.

Section 4 of the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 904), among other things, provides RUS with the authority to make loans for rural electrification and for the purpose of furnishing and improving electric service in rural areas. Title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Pub. L. 107–76) authorizes a direct Treasury rate electric loan program of $750 million for FY 2002. Congress provided funding for continuation of the Treasury rate direct loan program in an effort to meet current and projected demand for capital to furnish and improve electric service in rural areas. RUS is amending its regulations to establish rules and regulations for use in administering the Treasury rate direct loan program.

List of Subjects in 7 CFR Part 1710

Electric power, Electric utilities, Loan programs-energy, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, RUS amends 7 CFR Chapter XVII as follows:

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO ELECTRIC LOANS AND GUARANTEES

1. The authority citation for this part 1710 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

2. The subject heading for part 1710 is revised to read as set out above.

Subpart B—Types of Loans and Loan Guarantees

3. Redesignate § 1710.51 as § 1710.52 and add a new § 1710.51 to read as follows:

§ 1710.51 Direct loans.

RUS makes direct loans under section 4 of the RE Act.

(a) *General.* Except as otherwise modified by this section, RUS will make loans under the direct Treasury rate loan program in the same manner that it makes loans under the municipal rate program. The general and pre-loan policies and procedures for municipal rate electric loans made by RUS may be found in this part and 7 CFR part 1714. Treasury rate electric loans are also governed by such municipal rate policies and procedures, except as follows:

(1) *Interest rates.* The standard interest rate on direct Treasury rate loans will be established daily by the United States Treasury. The borrower will select interest rate terms for each advance of funds. The minimum interest rate term shall be one year. Interest rate terms will be limited to terms published by the Treasury (i.e. 1, 2, 3, 5, 7, 10, 20, and 30). Interest rate terms to final maturity date, if other than published by Treasury, will be determined by RUS. Interest rates for terms greater than 30 years will be at the 30-year rate. There will be no interest rate cap on Treasury rate loans.

(2) *Prepayment.* A Treasury rate direct electric loan may be repaid at par on its rollover maturity date if there is one. Such a loan, or portion thereof, may also be prepaid after it has been advanced for not less than two years, at any time prior to its rollover or final maturity date at its "net present value" (NPV) as determined by RUS.

(3) *Supplemental financing.* Supplemental financing will not be required in connection with Treasury rate direct electric loans.

(4) *Transitional assistance.* A Treasury rate direct loan is not available to provide transitional assistance to borrowers.

(b) *Loan documents.* Successful applicants will be required to execute and deliver to RUS a promissory note evidencing the borrower's obligation to repay the loan. The note must be in form and substance satisfactory to RUS. RUS will require a form of note substantially in the form that it currently accepts for direct municipal rate electric loans, with such revisions as may be necessary or appropriate to reflect the different interest setting provisions and the terms of paragraphs (a) (1) and (2) of this section. All notes will be secured in accordance with the terms of 7 CFR part 1718.

Subpart C—Loan Proposes and Basic Policies

4. In § 1710.102, redesignate paragraphs (b) and (c) as (c) and (d) and add a new paragraph (b) to read as follows:

§ 1710.102 Borrower eligibility for different types of loans.

* * * * *

(b) *Direct loans under section 4.* Direct loans are normally reserved for the financing of distribution and subtransmission facilities of both distribution and power supply borrowers, including, under certain circumstances, the implementation of demand side management, energy conservation programs, and on grid and off grid renewable energy systems.

* * * * *

Subpart I—Application Requirements and Procedures for Loans

5. The heading for Subpart I is revised to read as set out above.

6. Revise § 1710.401(a)(2)(i) to read as follows:

§ 1710.401 Loan application documents.

(a) * * *

(2) * * *

(i) The requested loan type, loan amount, loan term, final maturity and method of amortization (§ 1710.110(b));

* * * * *

Dated: December 18, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 01–31574 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–1119]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; staff commentary.

SUMMARY: The Board is publishing a final rule amending the staff commentary that interprets the requirements of Regulation C (Home Mortgage Disclosure). The Board is required to adjust annually the asset-size exemption threshold for depository institutions based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The present adjustment reflects changes for the twelve–month period ending in November 2001. During this period, the index increased by 2.91 percent; as a result, the exemption threshold is increased to $32 million. Thus, depository institutions with assets of $32 million or less as of December 31, 2001, are exempt from data collection in 2002.

DATES: Effective January 1, 2002. This rule applies to all data collection in 2002.

FOR FURTHER INFORMATION CONTACT: Dan S. Sokolov, Attorney, Division of Consumer and Community Affairs, at (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) only, contact(202) 263–4869.

SUPPLEMENTARY INFORMATION: The Home Mortgage Disclosure Act (HMDA; 12 U.S.C. 2801 *et seq.*) requires most mortgage lenders located in metropolitan areas to collect data about their housing-related lending activity. Annually, lenders must file reports with their federal supervisory agencies and make disclosures available to the public. The Board's Regulation C (12 CFR part 203) implements HMDA.

Provisions of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (codified at 12 U.S.C. 2808(b)) amended HMDA to expand the exemption for small depository institutions. Prior to 1997, HMDA exempted depository institutions with assets totaling $10 million or less, as of the preceding year end. The statutory amendment increased the asset-size exemption threshold by requiring a one time adjustment of the $10 million figure based on the percentage by which the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPIW) for 1996 exceeded the CPIW for 1975, and provided for annual adjustments thereafter based on the annual percentage increase in the CPIW. The one–time adjustment increased the exemption threshold to $28 million for 1997 data collection.

Section 203.3(a)(1)(ii) of Regulation C provides that the Board will adjust the threshold based on the year–to–year change in the average of the CPIW, not seasonally adjusted, for each twelve–month period ending in November, rounded to the nearest million. Pursuant to this section, the Board raised the threshold to $29 million for 1998 data collection, raised it to $30 million for 1999 data collection, and kept it at that level for data collection in 2000. The Board raised the threshold to $31 million for data collection in 2001.

During the period ending November 2001, the CPIW increased by 2.91 percent. As a result, the exemption threshold is increased to $32 million. Thus, depository institutions with assets of $32 million or less as of December 31, 2001, are exempt from data collection in 2002. An institution's exemption from collecting data in 2002 does not affect its responsibility to report the data it was required to collect in 2001.

The Board is amending comment 3(a)–2 of the staff commentary to implement the increase in the exemption threshold. Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board finds that notice and public comment are unnecessary or would be contrary to the public interest. 5 U.S.C. 553(b)(B). Regulation C establishes the formula for determining adjustments to the exemption threshold, if any, and the amendment to the staff commentary merely applies the formula. This amendment is technical and not subject to interpretation. For these reasons, the Board has determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary and would be contrary to the public interest. Therefore, the amendment is adopted in final form.

List of Subjects in 12 CFR Part 203

Banks, Banking, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 203 as follows:

PART 203—HOME MORTGAGE DISCLOSURE (REGULATION C)

1. The authority citation for part 203 continues to read as follows:

Authority: 12 U.S.C. 2801–2810.

2. In Supplement I to part 203, under Section 203.3–Exempt Institutions, under 3(a) *Exemption based on location, asset size, or number of home–purchase loans*, paragraph 2 is revised to read as follows:

SUPPLEMENT I to PART 203–STAFF COMMENTARY

* * * * *

Section 203.3 Exempt Institutions

3(a) *Exemption based on location, asset size, or number of home-purchase loans.*

* * * * *

2. *Adjustment of exemption threshold for depository institutions.* For data collection in 2002, the asset–size exemption threshold is $32 million. Depository institutions with assets at or below $32 million are exempt from collecting data for 2002.

* * * * *

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority, December 18, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31563 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–33–S

VOL
66
ISS
2
4
7
DE
26
2001
UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–38–AD; Amendment 39–12529; AD 2001–24–12]

RIN 2120–AA64

Airworthiness Directives: Rolls-Royce Corporation (formerly Allison Engine Company) 250–C20 Series Turboshaft and 250–B17 Series Turboprop Engines, Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2001–24–12 applicable to Rolls-Royce Corporation (formerly Allison Engine Company) 250–C20 series turboshaft and 250–B17 series turboprop engines, that was published in the **Federal Register** on December 4, 2001 (66 FR 62915). The AD number being superseded was inadvertently omitted under the PART 39—AIRWORTHINESS DIRECTIVES amendatory instruction 2 in the heading of the AD. This document corrects that omission. In all other respects, the original document remains the same.

EFFECTIVE DATE: December 19, 2001.

FOR FURTHER INFORMATION CONTACT: John Tallarovic, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone (847) 294–8180, fax (847) 294–7834.

SUPPLEMENTARY INFORMATION: A final rule; request for comments airworthiness directive applicable to Rolls-Royce Corporation (formerly Allison Engine Company) 250–C20 series turboshaft and 250–B17 series turboprop engines was published in the **Federal Register** on December 4, 2001 (66 FR 62915). The following correction is needed:

§39.13 [Corrected]

On page 62916, in the first column, under PART 39—AIRWORTHINESS DIRECTIVES, amendatory instruction 2, the heading of the AD is corrected to read as follows:

2001–24–12 Rolls-Royce Corporation (formerly Allison Engine Company): Amendment 39–12529. Docket No. 2001-NE-38-AD. Supersedes AD 2001–20–51.

Issued in Burlington, Massachusetts, on December 14, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–31327 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–283–AD; Amendment 39–12568; AD 2001–26–04]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying (“freighter”) configuration, that requires, among other actions, modification of the main deck cargo door structure and fuselage structure; replacement of fasteners in the two door-side hinge elements; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier. The actions specified by this AD are intended to prevent opening of the cargo door while the airplane is in flight, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

DATES: Effective January 30, 2002.

ADDRESSES: Information pertaining to this AD may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying (“freighter”) configuration was published in the **Federal Register** on September 27, 2000 (65 FR 58203). That action proposed to require, among other actions, modification of the main deck cargo door structure and fuselage structure; replacement of fasteners in the two door-side hinge elements; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Revise Compliance Times

One commenter requests that the compliance times specified in paragraph (b) of the proposed AD be revised from “Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first” to “within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first.” The commenter contends that if the inspection and evaluation required by that paragraph reveals a discrepancy, the corrective modification will be extensive. The commenter states that such an extension would allow operators to correct discrepancies at one maintenance visit, and thus, minimize airplane downtime.

The FAA agrees. Since issuance of the NPRM, we have gained a better understanding of the design feature of the original modification relative to the vertical side restraint installation and decompression venting. We have determined that the structure is sufficiently robust, and that accomplishing the required inspection, evaluation, and modification, if necessary, required by paragraph (b) of this AD “within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first,” will provide an acceptable level of safety. For the same reasons, we also find that the 2-year compliance time for the modification required by paragraph (e) of this AD can be extended to “within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first.” Therefore, we have revised the compliance times of paragraphs (b) and (e) of the final rule accordingly.

The same commenter requests that the compliance time specified in paragraph (f)(2) of the proposed AD be revised from “Within 2 years or 2,000 flight hours after the effective date of this AD, whichever occurs first" to "within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first." The commenter states that postponing the replacement for another year will not adversely affect safety, because incorporating inspections into the operator's FAA-approved maintenance or inspection program within 1 year, as required by paragraph (a)(1) of the proposed AD, will provide an acceptable level of safety. The commenter also states that a 3-year compliance time would allow it to perform the proposed replacement concurrently with the major rework on the door structure, and thus, reduce airplane downtime.

Based on the commenter's reasons, the FAA agrees to extend the compliance time for the replacement required by paragraph (f)(2) of this AD. Extending the compliance time to "within 3 years or 4,000 flight cycles" will not adversely affect safety and will allow the replacement to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. We have revised paragraph (f)(2) of the final rule to specify a compliance time of "within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first." It should be noted that we inadvertently used "flight hours" instead of "flight cycles" in paragraphs (f)(1) and (f)(2) of the NPRM. Therefore, we have revised that term to read "flight cycles" in paragraphs (f)(1) and (f)(2) of the final rule, as was used in other paragraphs of the NPRM.

Request To Provide an Alternate Means of Compliance

The commenter also requests that paragraph (a)(2)(i) of the proposed AD be revised to include an option that states: "Main deck zone loading can be limited as approved by manager LA ACO in such a manner that no modification is required for the main deck floor structure. This will eliminate the requirement for Alternate Means of Compliance." The commenter notes that under the heading "3. Capability of the Unmodified Floor" in the preamble of the proposed AD, it states "It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification." The commenter states that the analysis performed by the DC–8 Cargo Conversion Joint Task Force and FAA has shown that the main deck floor modified per Supplemental Type Certificate (STC) SA1802SO or SA421NW is capable of carrying the zone loads equivalent to Aeronavali modified airplanes.

The FAA consulted with the commenter to clarify its reference to paragraph (a)(2)(i) of the proposed AD. The commenter meant to refer to paragraph (c) of the proposed AD. We do not agree with the commenter's request to revise paragraph (c) of the final rule. We find that the option suggested by the commenter would require operators to obtain a separate approval from the Manager of the Los Angeles Aircraft Certification Office (ACO). Adding the commenter's statement in the AD would not save us or the operators any resources, because, like the requirements of paragraph (c) of this AD, it also would require operators to submit a letter and substantiating data to us for review. The difference between the two letters would be in name only (i.e., alternate method of compliance vs. approved method of compliance). Therefore, no change to paragraph (c) of the final rule is necessary.

Approval of Supplemental Type Certificate (STC)

Since issuance of the NPRM, the FAA has reviewed and approved STC ST01181LA (held by Structural Integrity Engineering (SIE)). We find that this STC provides an acceptable means of compliance with the requirements of paragraphs (a) through (g) of this AD. Therefore, we have revised the final rule to include a new Note 2 to reference the applicable STC as a source of service information for accomplishing the requirements of paragraphs (a) through (g) of this AD.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 32 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this proposed AD is $6,718,140, or $231,660 per airplane.

Action	Work hours (estimated)	Parts cost (estimated)	Total cost (estimated)
Incorporation of inspections into maintenance or inspection program.	8	N/A	$13,920, or $480 per airplane.
Modification of main deck cargo door structure and fuselage structure.	1,420	$6,500	$2,659,300, or $91,700 per airplane.
Inspection of exposed surfaces of main deck cargo door hinge.	16	N/A	$27,840, or $960 per airplane.
Replacement of the existing fasteners in the two door-side hinge elements.	60	$100	$107,300, or $3,700 per airplane.
Inspection and evaluation of the cargo handling system.	16	N/A	$27,840, or $960 per airplane.
Modification of main deck cargo floor	40	$500	$84,100, or $2,900 per airplane.
Inspection and evaluation of the venting system	16	N/A	$27,840, or $960 per airplane.
Installation of main deck cargo 9g crash barrier	1,500	$40,000	$3,770,000, or $130,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time

VOL 66 ISS 247 DE 26 2001 UMI

necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001-26-04 McDonnell Douglas: Amendment 39-12568. Docket 2000-NM-283-AD.

Applicability: Model DC-8 series airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with Supplemental Type Certificate (STC) SA1802SO or SA421NW; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

Note 2: Installation of Structural Integrity Engineering (SIE) STC ST01181LA, is an approved means of compliance with the requirements of paragraphs (a) through (g) of this AD.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure

(a) Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

Actions Addressing the Main Deck Cargo Floor

(b) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load devices (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) Except for those airplanes that have been modified in accordance with paragraph (c) of this AD, within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

Actions Addressing Main Deck Cargo Door Hinge

(f) Accomplish the actions specified in paragraphs (f)(1) and (f)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Within 250 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door-side hinge elements). If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

Note 3: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, replace the existing fasteners in the two door-side hinge elements at the forward and aft ends of the hinge with fasteners of acceptable strength.

Actions Addressing Main Deck Cargo 9g Crash Barrier

(g) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

Alternative Methods of Compliance

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(i) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(j) This amendment becomes effective on January 30, 2002.

Issued in Renton, Washington, on December 13, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31553 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–282–AD; Amendment 39–12567; AD 2001–26–03]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration. This amendment requires, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier. These actions are necessary to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

DATES: Effective January 30, 2002.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration was published in the Federal Register on September 27, 2000 (65 FR 58197). That action proposed to require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. However, the FAA did receive comments in response to notice of proposed rulemaking (NPRM), Rules Docket 2000–NM–283–AD. Because certain issues raised by the commenter are generally relevant to this AD, those comments are discussed below.

Request To Revise Compliance Times

One commenter requests that the compliance times specified in paragraph (b) of the proposed be revised from "Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first" to "within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first." The commenter contends that if the inspection and evaluation required by that paragraph reveals a discrepancy, the corrective modification will be extensive. The commenter states that such an extension would allow operators to correct discrepancies at one maintenance visit, and thus, minimize airplane downtime.

The FAA agrees. Since issuance of the NPRM, we have gained a better understanding of the design feature of the original modification relative to the vertical side restraint installation and decompression venting. We have determined that the structure is sufficiently robust, and that accomplishing the required inspection, evaluation, and modification, if necessary, required by paragraph (b) of this AD "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first," will provide an acceptable level of safety. For the same reasons, we also find that the 2-year compliance time for the modification required by paragraph (e) of this AD can be extended to "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first." Therefore, we have revised the compliance times of paragraphs (b) and (e) of the final rule accordingly.

Request To Provide an Alternate Means of Compliance

The commenter also requests that paragraph (a)(2)(i) of the proposed AD

VOL 66 ISS 247 DE 26 2001 UMI

be revised to include an option that states: "Main deck zone loading can be limited as approved by manager LA ACO in such a manner that no modification is required for the main deck floor structure. This will eliminate the requirement for Alternate Means of Compliance." The commenter notes that under the heading "3. Capability of the Unmodified Floor" in the preamble of the proposed AD, it states "It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification." The commenter states that the analysis performed by the DC–8 Cargo Conversion Joint Task Force and FAA has shown that the main deck floor modified per Supplemental Type Certificate (STC) SA1862SO is capable of carrying the zone loads equivalent to Aeronavali modified airplanes.

The FAA consulted with the commenter to clarify its reference to paragraph (a)(2)(i) of the proposed AD. The commenter meant to refer to paragraph (c) of the proposed AD. We do not agree with the commenter's request to revise paragraph (c) of the final rule. We find that the option suggested by the commenter would require operators to obtain a separate approval from the Manager of the Los Angeles Aircraft Certification Office (ACO). Adding the commenter's statement in the AD would not save us or the operators any resources, because, like the requirements of paragraph (c) of this AD, it also would require operators to submit a letter and substantiating data to us for review. The difference between the two letters would be in name only (i.e., alternate method of compliance vs. approved method of compliance). Therefore, no change to paragraph (c) of the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 6 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 6 airplanes of U.S. registry will be affected by this AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this AD is $1,175,820, or $196,420 per airplane.

Action	Work hours (estimated)	Parts cost (estimated)	Total cost (estimated)
Incorporation of inspections into maintenance or inspection program.	8	N/A	$2,880 or $480 per airplane.
Modification of main deck cargo door structure and fuselage structure.	225	$700	$85,200, or $14,200 per airplane.
Inspection of exposed surfaces of main deck cargo door hinge.	16	N/A	$5,760, or $960 per airplane.
Inspection of mating surfaces of main deck cargo door hinge.	16	N/A	$5,760, or $960 per airplane.
Installation of a main deck cargo door hinge	60	$200	$22,800, or $3,800 per airplane.
Inspection and evaluation of the cargo handling system	16	N/A	$5,760, or $960 per airplane.
Modification of main deck cargo floor	60	500	$24,600 or $4,100 per airplane.
Inspection and evaluation of the venting system	16	N/A	$5,760, or $960 per airplane.
Installation of main deck cargo 9g crash barrier	2,000	$50,000	$1,020,000, or $170,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–03 McDonnell Douglas: Amendment 39–12567. Docket 2000–NM–282–AD.

Applicability: Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with Supplemental Type

Certificate (STC) SA1832SO; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure

(a) Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure that continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) and this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

Actions Addressing the Main Deck Cargo Floor

(b) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits for above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manger, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) Except for those airplanes that have been modified in accordance with paragraph (c) of this AD, within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approving by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting systems does not limit decompression loads to a level that can be carried by the floor structure without failure, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manger, Los Angeles ACO.

Actions Addressing Main Deck Cargo Door Hinge

(f) Within 250 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements), in accordance with a method approved by the Manager, Los Angeles ACO. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(g) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Perform a detailed visual inspection to detect cracks or other discrepancies (i.e., double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge. If any discrepancy is detected, prior to further flight, repair the discrepant part.

(2) Install a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

Actions Addressing Main Deck Cargo 9g Crash Barrier

(h) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(k) This amendment becomes effective on January 30, 2002.

Issued in Renton, Washington, on December 13, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31552 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–281–AD; Amendment 39–12566; AD 2001–26–02]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration. This amendment requires, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable. These actions are necessary to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

DATES: Effective January 30, 2002.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration was published in the **Federal Register** on September 27, 2000 (65 FR 58192). That action proposed to require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. However, the FAA did receive comments in response to notice of proposed rulemaking (NPRM), Rules Docket 2000–NM–283–AD. Because certain issues raised by the commenter are generally relevant to this AD, those comments are discussed below.

Request To Revise Compliance Times

One commenter requests that the compliance times specified in paragraph (b) of the proposed be revised from "Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first" to "within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first." The commenter contends that if the inspection and evaluation required by that paragraph reveals a discrepancy, the corrective modification will be extensive. The commenter states that such an extension would allow operators to correct discrepancies at one maintenance visit, and thus, minimize airplane downtime.

The FAA agrees. Since issuance of the NPRM, we have gained a better understanding of the design feature of the original modification relative to the vertical side restraint installation and decompression venting. We have determined that the structure is sufficiently robust, and that accomplishing the required inspection, evaluation, and modification, if necessary, required by paragraph (b) of this AD "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first," will provide an acceptable level of safety. For the same reasons, we also find that the 2-year compliance time for the modification required by paragraph (e) of this AD can be extended to "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first." Therefore, we have revised the compliance times of paragraphs (b) and (e) of the final rule accordingly.

Request To Provide an Alternate Means of Compliance

The commenter also requests that paragraph (a)(2)(i) of the proposed AD be revised to include an option that states: "Main deck zone loading can be limited as approved by manager LA ACO in such a manner that no modification is required for the main deck floor structure. This will eliminate the requirement for Alternate Means of Compliance." The commenter notes that under the heading "3. Capability of the Unmodified Floor" in the preamble of the proposed AD, it states "It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification." The commenter states that the analysis performed by the DC–8 Cargo Conversion Joint Task Force and FAA has shown that the main deck floor modified per Supplemental Type Certificate (STC) SA1862SO is capable of carrying the zone loads equivalent to Aeronavali modified airplanes.

The FAA consulted with the commenter to clarify its reference to paragraph (a)(2)(i) of the proposed AD. The commenter meant to refer to paragraph (c) of the proposed AD. We do not agree with the commenter's request to revise paragraph (c) of the final rule. We find that the option suggested by the commenter would require operators to obtain a separate approval from the Manager of the Los Angeles Aircraft Certification Office (ACO). Adding the commenter's statement in the AD would not save us or the operators any resources, because, like the requirements of paragraph (c) of this AD, it also would require operators to submit a letter and substantiating data to us for review. The difference between the two letters would be in name only (i.e., alternate method of compliance vs. approved method of compliance). Therefore, no change to paragraph (c) of the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 5 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 4 airplanes of U.S. registry will be affected by this AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this AD is $442,560, or $110,640 per airplane.

STC	Action	Work Hours (estimated)	Parts Cost (estimated)	Total Cost (estimated)
SA1862SO ...	Incorporation of inspections into maintenance or inspection program.	8	N/A	$1,920 or of $480 per airplane.
SA1862SO ...	Modification of main deck cargo door structure and fuselage structure.	225	$700	$56,800, or $14,200 per airplane.
ST00309AT	Inspection and evaluation of the cargo handling system.	16	N/A	$3,840, or $960 per airplane.
ST00309AT	Modification of main deck cargo floor	60	$500	$16,400, or $4,100 per airplane.
ST00309AT	Inspection and evaluation of the venting system.	16	N/A	$3,840, or $960 per airplane.
ST00309AT	Installation of main deck cargo 9g crash barrier.	1,000	$30,000	$360,000, or $90,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

AUTHORITY: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–02 McDonnell Douglas: Amendment 39–12566. Docket 2000–NM–281–AD.

Applicability: Model DC–8 series airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with Supplemental Type Certificates (STC) SA1862SO and ST00309AT; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure

(a) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC SA1862SO: Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

Actions Addressing the Main Deck Cargo Floor

(b) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC ST00309AT: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the

VOL 66 ISS 247 DE 26 2001 UMI

unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC ST00309AT: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC ST00309AT, except for those airplanes that have been modified in accordance with paragraph (c) of this AD: Within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

Actions Addressing Main Deck Cargo 9g Crash Barrier

(f) For airplanes that have been converted from a passenger to a cargo-carrying ("freighter") configuration in accordance with STC ST00309AT: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(i) This amendment becomes effective on January 30, 2002.

Issued in Renton, Washington, on December 13, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31551 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–280–AD; Amendment 39–12565; AD 2001–26–01]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration. This amendment requires, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable. The actions specified by this AD are intended to prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage. These actions are intended to address the identified unsafe condition.

DATES: Effective January 30, 2002.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Michael E. O'Neil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5320; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration was published in the **Federal Register** on September 27, 2000 (65 FR 58185). That action proposed to require, among other actions, modification of the main deck cargo door structure and fuselage structure; modification of a main deck cargo door hinge; modification of the main deck cargo floor; and installation of a main deck cargo 9g crash barrier; as applicable.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. However, the FAA did receive comments in response to notice of proposed rulemaking (NPRM), Rules Docket 2000–NM–283–AD. Because certain issues raised by the commenter are generally relevant to this AD, those comments are discussed below.

Request To Revise Compliance Times

One commenter requests that the compliance times specified in paragraph (b) of the proposed be revised from "Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first" to "within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first." The commenter contends that if the inspection and evaluation required by that paragraph reveals a discrepancy, the corrective modification will be extensive. The commenter states that such an extension would allow operators to correct discrepancies at one maintenance visit, and thus, minimize airplane downtime.

The FAA agrees. Since issuance of the NPRM, we have gained a better understanding of the design feature of the original modification relative to the vertical side restraint installation and decompression venting. We have determined that the structure is sufficiently robust, and that accomplishing the required inspection, evaluation, and modification, if necessary, required by paragraph (b) of this AD "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first," will provide an acceptable level of safety. For the same reasons, we also find that the 2-year compliance time for the modification required by paragraph (e) of this AD can be extended to "within 3 years or 4,000 flight hours after the effective date of this AD, whichever occurs first." Therefore, we have revised the compliance times of paragraphs (b) and (e) of the final rule accordingly.

Request To Provide an Alternate Means of Compliance

The commenter also requests that paragraph (a)(2)(i) of the proposed AD be revised to include an option that states: "Main deck zone loading can be limited as approved by manager LA ACO in such a manner that no modification is required for the main deck floor structure. This will eliminate the requirement for Alternate Means of Compliance." The commenter notes that under the heading "3. Capability of the Unmodified Floor" in the preamble of the proposed AD, it states "It is also possible to limit the main deck zone loading to a level that the main deck cargo floor can be supported safely without modification." The commenter states that the analysis performed by the DC–8 Cargo Conversion Joint Task Force and FAA has shown that the main deck floor modified per Supplemental Type Certificate (STC) SA1862SO is capable of carrying the zone loads equivalent to Aeronavali modified airplanes.

The FAA consulted with the commenter to clarify its reference to paragraph (a)(2)(i) of the proposed AD. The commenter meant to refer to paragraph (c) of the proposed AD. We do not agree with the commenter's request to revise paragraph (c) of the final rule. We find that the option suggested by the commenter would require operators to obtain a separate approval from the Manager of the Los Angeles Aircraft Certification Office (ACO). Adding the commenter's statement in the AD would not save us or the operators any resources, because, like the requirements of paragraph (c) of this AD, it also would require operators to submit a letter and substantiating data to us for review. The difference between the two letters would be in name only (i.e., alternate method of compliance vs. approved method of compliance). Therefore, no change to paragraph (c) of the final rule is necessary.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 15 Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 11 airplanes of U.S. registry will be affected by this AD. The following table shows the estimated cost impact for airplanes affected by this AD. The average labor rate is $60 per work hour. The estimated maximum total cost for all airplanes affected by this AD is $2,192,520, or $199,320 per airplane.

STC	Action	Work hours (estimated)	Parts cost (estimated)	Total cost (estimated)
SA1063SO ...	Incorporation of inspections into maintenance or inspection program.	8	N/A	$5,280 or $480 per airplane.
SA1063SO ...	Modification of main deck cargo door structure and fuselage structure.	205	$700	$143,000, or $13,000 per airplane.
SA1063SO ...	Inspection of exposed surfaces of main deck cargo door hinge.	16	N/A	$10,560, or $960 per airplane.
SA1063SO ...	Inspection of mating surfaces of main deck cargo door hinge.	16	N/A	$10,560, or $960 per airplane.
SA1063SO ...	Installation of a main deck cargo door hinge ..	60	$200	$41,800, or $3,800 per airplane.
SA1377SO ...	Inspection and evaluation of the cargo handling system.	16	N/A	$10,560, or $960 per airplane.
SA1377SO ...	Modification of main deck cargo floor	120	$1,000	$90,200, or $8,200 per airplane.
SA1377SO ...	Inspection and evaluation of the venting system.	16	N/A	$10,560, or $960 per airplane.
SA1377SO ...	Installation of main deck cargo 9g crash barrier.	2,000	$50,000	$1,870,000, or $170,000 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules

VOL 66
ISS 247
DE 26 2001
UMI

Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–01 McDonnell Douglas: Amendment 39–12565. Docket 2000–NM–280–AD.

Applicability: Model DC–8 series airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration in accordance with Supplemental Type Certificates (STC) SA1063SO and SA1377SO; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent opening of the cargo door while the airplane is in flight or collapse of the main deck cargo floor, and consequent rapid decompression of the airplane including possible loss of flight control or severe structural damage, accomplish the following:

Actions Addressing the Main Deck Cargo Door and Associated Fuselage Structure

(a) For airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration in accordance with STC SA1063SO: Accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA.

(1) Within 1 year or 1,200 flight cycles after the effective date of this AD, whichever occurs first, incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any principal structural element (PSE) associated with the STC modification and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

(2) Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Modify the main deck cargo door structure and fuselage structure immediately surrounding the main deck cargo door to comply with the applicable requirements of Civil Air Regulations (CAR) part 4b.

(ii) Incorporate inspections into the operator's FAA-approved maintenance or inspection program that ensure the continued operational safety of the airplane. These inspections should be based on a damage tolerance assessment that identifies any PSE associated with the STC modification required by paragraph (a)(2)(i) of this AD and should include associated inspection thresholds, inspection methods, and repetitive inspection intervals.

Actions Addressing the Main Deck Cargo Floor

(b) For airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration in accordance with STC SA1377SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the cargo handling system to determine if the side restraints provide the support required by the unit load device (ULD), in accordance with a method approved by the Manager, Los Angeles ACO. If any vertical side restraint does not provide the required support, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the vertical side restraint to provide the support appropriate to the ULD's compatible with the cargo handling system, in accordance with a method approved by the Manager, Los Angeles ACO.

(c) For airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration in accordance with STC SA1377SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the main deck cargo floor to safely carry the applicable FAA-approved payload limits above and below the main deck cargo floor. The modification and payload distribution shall be accomplished in accordance with a method approved by the Manager, Los Angeles ACO. The modification must comply with the applicable requirements of CAR part 4b for the FAA-approved payload distribution.

(d) For airplanes that have been converted from a passenger-to a cargo-carrying ("freighter") configuration in accordance with STC SA1377SO, except for those airplanes that have been modified in accordance with paragraph (c) of this AD: Within 1 year or 1,000 flight cycles after the effective date of this AD, whichever occurs first, perform an inspection and evaluation of the venting system of the main deck cargo floor to determine if the system limits decompression loads to a level that can be carried by the floor structure without failure, in accordance with a method approved by the Manager, Los Angeles ACO.

(e) If, based on the evaluation required by paragraph (d) of this AD, the venting system does not limit decompression loads to a level that can be carried by the floor structure without failure, within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, modify the venting system, as necessary, to limit the decompression loads to a level that can be supported successfully by the existing floor structure, in accordance with a method approved by the Manager, Los Angeles ACO.

Actions Addressing Main Deck Cargo Door Hinge

(f) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC SA1063SO: Within 250 flight cycles after the effective date of this AD, perform a detailed visual inspection to detect cracks of the exposed surfaces of the main deck cargo door hinge (both fuselage and door side hinge elements), in accordance with a method approved by the Manager, Los Angeles ACO. If any crack is detected, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles ACO, or replace the cracked hinge element with a new, like part.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.

(g) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC SA1063SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD in accordance with a method approved by the Manager, Los Angeles ACO.

(1) Perform a detailed visual inspection to detect cracks or other discrepancies (i.e., double or closely drilled holes, corrosion, chips, scratches, or gouges) of the mating surfaces of the main deck cargo door hinge, skin of the main deck cargo door, and external fuselage doubler underlying the hinge. If any discrepancy is detected, prior to further flight, repair the discrepant part.

(2) Install a main deck cargo door hinge that complies with the applicable requirements of CAR part 4b, including fail-safe requirements.

Actions Addressing Main Deck Cargo 9g Crash Barrier

(h) For airplanes that have been converted from a passenger- to a cargo-carrying ("freighter") configuration in accordance with STC SA1377SO: Within 3 years or 4,000 flight cycles after the effective date of this AD, whichever occurs first, install a main deck cargo 9g crash barrier that complies with the applicable requirements of CAR part 4b, in accordance with a method approved by the Manager, Los Angeles ACO.

Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permit

(j) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Effective Date

(k) This amendment becomes effective on January 30, 2002.

Issued in Renton, Washington, on December 13, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31550 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8971]

RIN 1545–BA49

New Markets Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance for taxpayers claiming the new markets tax credit under section 45D. A taxpayer making a qualified equity investment in a qualified community development entity that has received a new markets tax credit allocation may claim a 5-percent tax credit with respect to the qualified equity investment on each of the first 3 credit allowance dates and a 6-percent tax credit with respect to the qualified equity investment on each of the remaining 4 credit allowance dates. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in REG–119436–01 published elsewhere in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective December 26, 2001.

Date of Applicability: For date of applicability of § 1.45D–1T, see § 1.45D–1T(h).

FOR FURTHER INFORMATION CONTACT: Paul Handleman, (202) 622–3040.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1765. Responses to these collections of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning these collections of information, and where to submit comments on the collections of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains temporary regulations relating to the new markets tax credit under section 45D of the Internal Revenue Code (Code). This provision was added to the Code by section 121(a) of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554). The Secretary has delegated certain administrative, application, allocation, monitoring, and other programmatic functions relating to the new markets tax credit program to the Under Secretary (Domestic Finance), who in turn has delegated those functions to the Community Development Financial Institutions Fund (CDFI Fund).

On May 1, 2001, the IRS published an advance notice of proposed rulemaking in the **Federal Register** (66 FR 21844) inviting comments relating to tax issues arising under section 45D. Numerous comments have been received. The IRS and Treasury Department have reviewed and considered all the comments in the process of preparing this Treasury decision. This preamble to the temporary regulations describes many, but not all, of the comments received by the IRS.

Explanation of Provisions

General Overview

Taxpayers may claim a new markets tax credit on a credit allowance date in an amount equal to the applicable percentage of the taxpayer's qualified equity investment in a qualified community development entity (CDE). The credit allowance date for any qualified equity investment is the date on which the investment is initially made and each of the 6 anniversary dates thereafter. The applicable percentage is 5 percent for the first 3 credit allowance dates and 6 percent for the remaining credit allowance dates.

A CDE is any domestic corporation or partnership if: (1) The primary mission of the entity is serving or providing investment capital for low-income communities or low-income persons; (2) the entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity; and (3) the entity is certified by the Secretary for purposes of section 45D as being a CDE.

The new markets tax credit may be claimed only for a qualified equity investment in a CDE. A qualified equity investment is any equity investment in a CDE for which the CDE has received an allocation from the Secretary if, among other things, the CDE uses substantially all of the cash from the investment to make qualified low-income community investments. Under a safe harbor, the substantially-all requirement is treated as met if at least 85 percent of the aggregate gross assets of the CDE are invested in qualified low-income community investments.

Qualified low-income community investments consist of: (1) Any capital or equity investment in, or loan to, any qualified active low-income community business; (2) the purchase from another CDE of any loan made by such entity that is a qualified low-income community investment; (3) financial counseling and other services to businesses located in, and residents of, low-income communities; and (4) certain equity investments in, or loans to, a CDE.

In general, a qualified active low-income community business is a corporation or a partnership if for the taxable year: (1) At least 50 percent of the total gross income of the entity is derived from the active conduct of a qualified business within any low-income community; (2) a substantial portion of the use of the tangible property of the entity is within any low-income community; (3) a substantial portion of the services performed for the entity by its employees is performed in any low-income community; (4) less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to certain collectibles; and (5) less than 5 percent of the average of the aggregate unadjusted bases of the property of the entity is attributable to certain nonqualified financial property.

Substantially All

As indicated above, a CDE must use substantially all of the cash from a qualified equity investment to make qualified low-income community investments. Most commentators suggest that the substantially-all test should require that at least 85 percent of the taxpayer's cash be committed to, or invested in, qualified low-income community investments. Some commentators propose that in order to provide CDEs with financial flexibility in managing their investments, the percentage should be reduced for the later years of the 7-year credit period. The temporary regulations adopt the suggestion to define *substantially all* as 85 percent or more and reduce the substantially-all percentage to 75 percent for the seventh year of the 7-year credit period.

Some commentators suggest that a CDE's costs of obtaining equity investments in the CDE (such as underwriters' fees and broker fees) and the CDE's overhead expenses (such as staff salaries) should count toward satisfying the substantially-all requirement. Some commentators suggest that reserves maintained by the CDE of up to 10 percent of the taxpayer's cash investment in the CDE should count toward satisfying the substantially-all requirement. The temporary regulations do not include issuance costs or CDE overhead expenses as counting toward the substantially-all requirement. However, the temporary regulations provide that reserves (but not in excess of 5 percent of the taxpayer's cash investment) for loan losses and for additional investments in existing qualified low-income community investments are treated as invested in a qualified low-income community investment.

Several commentators suggest that, for purposes of the "85 percent of the aggregate gross assets" safe harbor, aggregate gross assets should be determined according to cost basis and not, for example, fair market value. The temporary regulations adopt this suggestion. Cost basis is defined under the temporary regulations as cost basis under section 1012.

Commentators propose that a CDE should have from 12 months to 5 years to invest the cash from a qualified equity investment in a qualified low-income community investment, depending upon the type of investment. The temporary regulations adopt a 12-month period for investing the taxpayer's cash investment.

Commentators propose that repayments to a CDE of equity or principal from qualified low-income community investments should have to be reinvested by the CDE within 12 months, but that no reinvestment should be required in the sixth and seventh years of the 7-year credit period. One commentator proposes that reinvestment should be encouraged, but not required. Another commentator would limit the time period to 45 days for identifying the investment and 180 days for making the investment. The temporary regulations adopt the suggestion that repayment amounts reinvested within 12 months are treated as continuously invested in qualified low-income community investments. In addition, repayments received in the seventh year of the 7-year credit period are not required to be reinvested.

Qualified Active Low-Income Community Businesses

As indicated above, qualified low-income community investments include any capital or equity investment in, or loan to, any qualified active low-income community business. A business is a qualified active low-income community business only if, among other things: (1) At least 50 percent of the total gross income of the business is derived from the active conduct of a qualified business within any low-income community; (2) a substantial portion of the use of the tangible property of the business is within any low-income community; and (3) a substantial portion of the services performed for the business by its employees is performed in any low-income community.

Commentators propose that, to satisfy the "50 percent of the total gross income * * * derived from the active conduct" requirement (50-percent requirement) in the case of a manufacturing business, 50 percent of production, but not sales, should have to occur within a low-income community. For a services business, commentators recommend a requirement that at least 50 percent of the services be provided by employees of offices in low-income communities even if the services are provided elsewhere. One commentator suggests that the 50-percent requirement should be deemed met if the business is located in the low-income community and most of the employees are residents of the low-income community. Another commentator suggests that the requirement should be satisfied if 50 percent of the total gross income is derived from: (1) The operation of, or production at, a facility located in a low-income community; (2) most of the employees are based at such a facility; and (3) the management is located within the low-income community.

For purposes of the tangible property and services performed requirements, recommendations for the percentage that should constitute a substantial portion range from 20 percent to 50 percent. Alternatively, some commentators propose that the tangible property and services performed requirements should be satisfied if the business satisfies one of the following: (1) The business is located in a qualified area; (2) the business operates a major facility in a qualified area; (3) the business' primary business activity takes place in a qualified area; or (4) the business' primary mission is working with people in qualified areas.

For purposes of the tangible property and services performed requirements, the temporary regulations define a substantial portion as 40 percent. In addition, the temporary regulations provide that the 50-percent requirement is deemed to be satisfied if the entity meets the requirements of either the tangible property test or the services performed test, if 50 percent is substituted for 40 percent. Further, the entity may satisfy the 50-percent requirement based on all the facts and circumstances.

Commentators propose that for purposes of determining when a trade or business constitutes a qualified active low-income community business, an entity should qualify as a qualified active low-income community business if the CDE reasonably expects, at the time the CDE makes the capital or equity investment in, or loan to, the entity, that the entity will satisfy the requirements to be a qualified active low-income community business throughout the entire period of the investment or loan. This proposal has been adopted in the temporary regulations, except in the case where the CDE controls the entity.

If the CDE controls the entity at any time during the 7-year credit period, the reasonable expectation test does not apply and the entity must be a qualified active low-income community business during the entire period the CDE controls the entity. Commentators suggest that control for this purpose should be defined as at least 50 percent of voting power. Some commentators suggest that control should be determined based on whether the CDE is related to the entity within the meaning of sections 267(b) or 707(b)(1). The temporary regulations define control with respect to an entity as direct or indirect ownership (based on value) or control (based on voting or management rights) of 33 percent or more of the entity. However, a CDE does not control an entity if an unrelated person possesses greater control over the entity than the CDE.

Financial Counseling and Other Services

Commentators suggest that the definition of financial counseling and other services should include services for identifying CDE investment opportunities; preparing business owners to use financial products; underwriting loans and investments; helping business owners create viable business plans; and, after loans and investments are made, enhancing business planning, marketing, management, and financial skills of business owners and serving on their boards of directors. The temporary regulations define *financial counseling and other services* as advice provided by the CDE relating to the organization or operation of a trade or business that is provided to a qualified active low-income community business or to residents of a low-income community.

Investments in Other CDEs

Commentators propose that, for purposes of the substantially-all requirement, tracing should not be required when a CDE invests in another CDE, but other mechanisms should be required (for example, decertifying the recipient CDE if it does not use funds properly). Alternatively, commentators propose tracing at the recipient CDE level, but minimizing the reporting and recapture burdens for the recipient CDEs. Some commentators suggest that the recipient CDE should have the same restrictions placed on it as the investing CDE. The temporary regulations provide that an equity investment in, or loan to, another CDE is a qualified low-income community investment only to the extent that the recipient CDE uses the proceeds: (1) For either an investment in, or a loan to, a qualified active low-income community business, or financial counseling and other services; and (2) in a manner that would constitute a qualified low-income community investment if it were made directly by the CDE making the equity investment or loan.

Recapture

A recapture event requiring an investor to recapture credits previously taken may occur for an equity investment in a CDE if the CDE: (1) Ceases to be a CDE; (2) ceases to use substantially all of the proceeds of the equity investment for qualified low-income community investments; or (3) redeems the investor's equity investment. Commentators suggest that a CDE should be permitted to take remedial actions to avoid recapture. The temporary regulations adopt this suggestion by providing a CDE the opportunity to request a waiver of a requirement or an extension of time to meet a deadline contained in the temporary regulations if such waiver or extension does not materially frustrate the purposes of section 45D and the regulations thereunder. A CDE that believes it has good cause for a waiver or an extension may request relief from the Commissioner in a ruling request. In considering such a ruling request, the Commissioner may consult with the CDFI Fund in a manner consistent with section 6103. The granting of a waiver or an extension may require adjustments of the CDE's requirements under section 45D and the regulations thereunder as may be appropriate.

Other Federal Tax Benefits

The Treasury Department is authorized to prescribe regulations that limit the new markets tax credit for investments that are directly or indirectly subsidized by other Federal tax benefits (including the low-income housing tax credit under section 42 and the exclusion from gross income under section 103). Commentators suggest that a CDE should not be permitted to use the proceeds of a qualified equity investment to purchase tax-exempt bonds. However, the same commentators state that there should be no restriction on the receipt of tax-exempt bond proceeds by a qualified active low-income community business. The temporary regulations do not prohibit a CDE from purchasing tax-exempt bonds because tax-exempt financing provides a subsidy to borrowers and not bondholders. Moreover, a loan by a CDE directly to a qualified active low-income community business cannot be a tax-exempt bond because the loan is not an obligation of a state or local government. Because the rental to others of residential rental property cannot be a qualified active low-income community business, a taxpayer cannot receive the low-income housing tax credit and new markets tax credit on the same investment. Although the temporary regulations do not provide specific rules on double tax benefit issues, the IRS and the Treasury Department request additional comments on what Federal tax benefits should limit the new markets tax credit.

Reporting Requirements

The Treasury Department is authorized to prescribe regulations that impose appropriate reporting requirements for the new markets tax credit. Commentators suggest that the information reporting to the Treasury Department should be undertaken on an annual basis and that CDEs should be required to provide the following information: Financial statements, a list of investors and closing and commitment dates, a list of eligible investments, terms of investments and location of investments, information on loan loss or investments reserves, and information on financial counseling and other services.

The reporting requirements in the temporary regulations require a CDE to provide notice: (1) To any taxpayer who acquires a qualified equity investment in the CDE at its original issue that the equity investment is a qualified equity investment entitling the taxpayer to claim the new markets tax credit; and (2) in the case of a recapture event, to each holder of an equity investment, including all prior holders of that investment, that a recapture event has occurred. CDEs must comply with such reporting requirements to the Secretary as the Secretary may prescribe. Taxpayers may claim the new markets tax credit by completing Form 8874, "New Markets Credit," and by filing the form with the taxpayer's Federal income tax return.

VOL 66 ISS 247 DE 26 2001 UMI

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Paul F. Handleman, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.45D–1T also issued under 26 U.S.C. 45D(i); * * *

Par. 2. Section 1.45D–1T is added to read as follows:

§ 1.45D–1T New markets tax credit.

(a) *Table of contents.* This paragraph lists the headings that appear in § 1.45D–1T.

(a) Table of contents.
(b) Allowance of credit
(1) In general.
(2) Credit allowance date.
(3) Applicable percentage.
(4) Amount paid at original issue.
(c) Qualified equity investment.
(1) In general.
(2) Equity investment.
(3) Equity investments made prior to allocation.
(i) In general.
(ii) Exception.
(iii) Initial investment date.
(4) Limitations.
(i) In general.
(ii) Allocation limitation.
(5) Substantially all.
(i) In general.
(ii) Direct-tracing calculation.
(iii) Safe harbor calculation.
(iv) Time limit for making investments.
(v) Reduced substantially-all percentage.
(6) Aggregation of equity investments.
(7) Subsequent purchasers.
(d) Qualified low-income community investments.
(1) In general.
(i) Investment in a qualified active low-income community business.
(ii) Purchase of certain loans from CDEs.
(iii) Financial counseling and other services.
(iv) Investments in other CDEs.
(2) Payments of, or for, capital, equity or principal.
(i) In general.
(ii) Subsequent reinvestments.
(iii) Special rule for loans.
(iv) Example.
(3) Special rule for reserves.
(4) Qualified active low-income community business.
(i) In general.
(A) Gross-income requirement.
(B) Use of tangible property.
(C) Services performed.
(D) Collectibles.
(E) Nonqualified financial property.
(ii) Proprietorships.
(iii) Portions of business.
(5) Qualified business.
(i) In general.
(ii) Rental of real property.
(iii) Exclusions.
(A) Trades or businesses involving intangibles.
(B) Certain other trades or businesses.
(C) Farming.
(6) Qualifications.
(i) In general.
(ii) Control.
(A) In general.
(B) Definition of control.
(7) Financial counseling and other services.
(e) Recapture.
(1) In general.
(2) Recapture event.
(3) Bankruptcy.
(4) Waiver of requirement or extension of time.
(i) In general.
(ii) Manner for requesting a waiver or extension.
(iii) Terms and conditions.
(5) Example.
(f) Basis reduction.
(1) In general.
(2) Adjustment in basis of interest in partnership or S corporation.
(g) Other rules.
(1) Anti-abuse.
(2) Reporting requirements.
(i) Notification by CDE to taxpayer.
(A) Allowance of new markets tax credit.
(B) Recapture event.
(ii) CDE reporting requirements to Secretary.
(iii) Manner of claiming new markets tax credit.
(iv) Reporting recapture tax.
(h) Effective date.

(b) *Allowance of credit*—(1) *In general.* For purposes of the general business credit under section 38, a taxpayer holding a qualified equity investment on a credit allowance date which occurs during the taxable year may claim the new markets tax credit determined under section 45D and this section for such taxable year in an amount equal to the applicable percentage of the amount paid to a qualified community development entity (CDE) for such investment at its original issue. *Qualified equity investment* is defined in paragraph (c) of this section. *Credit allowance date* is defined in paragraph (b)(2) of this section. Applicable percentage is defined in paragraph (b)(3) of this section. A *CDE* is a qualified community development entity as defined in section 45D(c). The amount paid at original issue is determined under paragraph (b)(4) of this section.

(2) *Credit allowance date.* The term *credit allowance date* means, with respect to any qualified equity investment—

(i) The date on which the investment is initially made; and

(ii) Each of the 6 anniversary dates of such date thereafter.

(3) *Applicable percentage.* The *applicable percentage* is 5 percent for the first 3 credit allowance dates and 6 percent for the other 4 credit allowance dates.

(4) *Amount paid at original issue.* The amount paid to the CDE for a qualified equity investment at its original issue consists of all amounts paid by the taxpayer to, or on behalf of, the CDE (including any underwriter's fees) to purchase the investment at its original issue.

(c) *Qualified equity investment*—(1) *In general.* The term *qualified equity investment* means any equity investment (as defined in paragraph (c)(2) of this section) in a CDE if—

(i) The investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash;

(ii) Substantially all (as defined in paragraph (c)(5) of this section) of such cash is used by the CDE to make qualified low-income community investments (as defined in paragraph (d)(1) of this section); and

(iii) The investment is designated for purposes of section 45D and this section by the CDE on its books and records using any reasonable method.

(2) *Equity investment.* The term *equity investment* means any stock (other than nonqualified preferred stock as defined in section 351(g)(2)) in an entity that is a corporation for Federal tax purposes and any capital interest in an entity that is a partnership for Federal tax purposes. See §§ 301.7701–1 through 301.7701–3 of this chapter for rules governing when a business entity, such as a business trust or limited liability company, is classified as a corporation or a partnership for Federal tax purposes.

(3) *Equity investments made prior to allocation—(i)* In general. Except as provided in paragraph (c)(3)(ii) of this section, an equity investment in an entity is not eligible to be designated as a qualified equity investment if it is made before the entity enters into an allocation agreement with the Secretary. An *allocation agreement* is an agreement between the Secretary and a CDE relating to a new markets tax credit allocation under section 45D(f)(2).

(ii) *Exception.* Notwithstanding paragraph (c)(3)(i) of this section, an equity investment in an entity is eligible to be designated as a qualified equity investment under paragraph (c)(1)(iii) of this section if—

(A) The equity investment is made on or after April 20, 2001;

(B) The entity in which the equity investment is made is certified by the Secretary as a CDE under section 45D(c) before January 1, 2003;

(C) The entity in which the equity investment is made receives notification of the credit allocation (with the actual receipt of such credit allocation contingent upon subsequently entering into an allocation agreement) from the Secretary before January 1, 2003; and

(D) The equity investment otherwise satisfies the requirements of section 45D and this section.

(iii) *Initial investment date.* If an equity investment is designated as a qualified equity investment in accordance with paragraph (c)(3)(ii) of this section, the investment is treated as initially made on the effective date of the allocation agreement between the CDE and the Secretary.

(4) *Limitations*—(i) *In general.* The term *qualified equity investment* does not include—

(A) Any equity investment issued by a CDE more than 5 years after the date the CDE enters into an allocation agreement (as defined in paragraph (c)(3)(i) of this section) with the Secretary; and

(B) Any equity investment by a CDE in another CDE, if the CDE making the investment has received an allocation under section 45D(f)(2).

(ii) *Allocation limitation.* The maximum amount of equity investments issued by a CDE that may be designated under paragraph (c)(1)(iii) of this section by the CDE may not exceed the portion of the limitation amount allocated to the CDE by the Secretary under section 45D(f)(2).

(5) *Substantially all—(i) In general.* Except as provided in paragraph (c)(5)(v) of this section, the term *substantially all* means at least 85 percent. The substantially-all requirement must be satisfied for each annual period in the 7-year credit period using either the direct-tracing calculation under paragraph (c)(5)(ii) of this section, or the safe harbor calculation under paragraph (c)(5)(iii) of this section. The substantially-all requirement is treated as satisfied for an annual period if either the direct-tracing calculation under paragraph (c)(5)(ii) of this section, or the safe harbor calculation under paragraph (c)(5)(iii) of this section, is performed every six months and the average of the two calculations for the annual period is at least 85 percent. For purposes of this paragraph (c)(5)(i), the *7-year credit period* means the period of 7 years beginning on the date the qualified equity investment is initially made. See paragraph (c)(6) of this section for circumstances in which a CDE may treat more than one equity investment as a single qualified equity investment.

(ii) *Direct-tracing calculation.* The substantially-all requirement is satisfied if at least 85 percent of the taxpayer's investment is directly traceable to qualified low-income community investments as defined in paragraph (d)(1) of this section. The direct-tracing calculation is a fraction the numerator of which is the CDE's aggregate cost basis determined under section 1012 in all of the qualified low-income community investments that are directly traceable to the taxpayer's cash investment, and the denominator of which is the amount of the taxpayer's cash investment under paragraph (b)(4) of this section. For purposes of this paragraph (c)(5)(ii), cost basis includes the cost basis of any qualified low-income community investment that becomes worthless. See paragraph (d)(2) of this section for the treatment of amounts received by a CDE in payment of, or for, capital, equity or principal with respect to a qualified low-income community investment.

(iii) *Safe harbor calculation.* The substantially-all requirement is satisfied if at least 85 percent of the aggregate gross assets of the CDE are invested in qualified low-income community investments as defined in paragraph (d)(1) of this section. The safe harbor calculation is a fraction the numerator of which is the CDE's aggregate cost basis determined under section 1012 in all of its qualified low-income community investments, and the denominator of which is the CDE's aggregate cost basis determined under section 1012 in all of its assets. For purposes of this paragraph (c)(5)(iii), cost basis includes the cost basis of any qualified low-income community investment that becomes worthless. See paragraph (d)(2) of this section for the treatment of amounts received by a CDE in payment of, or for, capital, equity or principal with respect to a qualified low-income community investment.

(iv) *Time limit for making investments.* The taxpayer's cash investment received by a CDE is treated as invested in a qualified low-income community investment as defined in paragraph (d)(1) of this section only to the extent that the cash is so invested no later than 12 months after the date the cash is paid by the taxpayer (directly or through an underwriter) to the CDE.

(v) *Reduced substantially-all percentage.* For purposes of the substantially-all requirement (including the direct-tracing calculation under paragraph (c)(5)(ii) of this section and the safe harbor calculation under paragraph (c)(5)(iii) of this section), 85 percent is reduced to 75 percent for the seventh year of the 7-year credit period (as defined in paragraph (c)(5)(i) of this section).

(6) *Aggregation of equity investments.* A CDE may treat any qualified equity investments issued on the same day as one qualified equity investment. If a CDE aggregates equity investments under this paragraph (c)(6), the rules in this section shall be construed in a manner consistent with that treatment.

(7) *Subsequent purchasers.* A qualified equity investment includes any equity investment that would (but for paragraph (c)(1)(i) of this section) be a qualified equity investment in the hands of the taxpayer if the investment was a qualified equity investment in the hands of a prior holder.

(d) *Qualified low-income community investments*—(1) *In general.* The term qualified low-income community investment means any of the following—

(i) *Investment in a qualified active low-income community business.* Any capital or equity investment in, or loan to, any qualified active low-income community business (as defined in paragraph (d)(4) of this section).

UMI
VOL 66
ISS 247
DE 26 2001
UMI

(ii) *Purchase of certain loans from CDEs.* The purchase from another CDE (whether or not that CDE has received an allocation from the Secretary under section 45D(f)(2)) of any loan made by such entity that is a qualified low-income community investment. A loan purchased from another CDE is a qualified low-income community investment if it qualifies as such either—

(A) At the time the selling CDE made the loan; or

(B) At the time the loan is purchased from the selling CDE.

(iii) *Financial counseling and other services.* Financial counseling and other services (as defined in paragraph (d)(7) of this section) provided to any qualified active low-income community business, or to any residents of a low-income community (as defined in section 45D(e)).

(iv) *Investments in other CDEs.* Any equity investment in, or loan to, any CDE, but only to the extent that the CDE in which the equity investment or loan is made uses the proceeds of the investment or loan in a manner—

(A) That is described in paragraphs (d)(1)(i) or (iii) of this section; and

(B) That would constitute a qualified low-income community investment if it were made directly by the CDE making such equity investment or loan.

(2) *Payments of, or for, capital, equity or principal*—(i) *In general.* Except as otherwise provided in this paragraph (d)(2), amounts received by a CDE in payment of, or for, capital, equity or principal with respect to a qualified low-income community investment must be reinvested by the CDE in a qualified low-income community investment no later than 12 months from the date of receipt to be treated as continuously invested in a qualified low-income community investment. If the amounts received by the CDE are equal to or greater than the cost basis of the original qualified low-income community investment (or applicable portion thereof), and the CDE reinvests, in accordance with this paragraph (d)(2)(i), an amount at least equal to such original cost basis, then an amount equal to such original cost basis will be treated as continuously invested in a qualified low-income community investment. In addition, if the amounts received by the CDE are equal to or greater than the cost basis of the original qualified low-income community investment (or applicable portion thereof), and the CDE reinvests, in accordance with this paragraph (d)(2)(i), an amount less than such original cost basis, then only the amount so reinvested will be treated as continuously invested in a qualified low-income community investment. If the amounts received by the CDE are less than the cost basis of the original qualified low-income community investment (or applicable portion thereof), and the CDE reinvests an amount in accordance with this paragraph (d)(2)(i), then the amount treated as continuously invested in a qualified low-income community investment will equal the excess (if any) of such original cost basis over the amounts received by the CDE that are not so reinvested. Amounts received by a CDE in payment of, or for, capital, equity or principal with respect to a qualified low-income community investment during the seventh year of the 7-year credit period (as defined in paragraph (c)(5)(i) of this section) do not have to be reinvested by the CDE in a qualified low-income community investment in order to be treated as continuously invested in a qualified low-income community investment.

(ii) *Subsequent reinvestments.* In applying paragraph (d)(2)(i) of this section to subsequent reinvestments, the original cost basis is reduced by the amount (if any) by which the original cost basis exceeds the amount determined to be continuously invested in a qualified low-income community investment.

(iii) *Special rule for loans.* Periodic amounts received during a calendar year as repayment of principal on a loan that is a qualified low-income community investment are treated as continuously invested in a qualified low-income community investment if the amounts are reinvested in another qualified low-income community investment by the end of the following calendar year.

(iv) *Example.* The application of paragraphs (d)(2)(i) and (ii) of this section is illustrated by the following example:

Example. On April 1, 2003, A, B, and C each pay $100,000 to acquire a capital interest in X, a partnership. X is a CDE that has received a new markets tax credit allocation from the Secretary. X treats the 3 partnership interests as one qualified equity investment under paragraph (c)(6) of this section. In August 2003, X uses the $300,000 to make a qualified low-income community investment under paragraph (d)(1) of this section. In August 2005, the qualified low-income community investment is redeemed for $250,000. In February 2006, X reinvests $230,000 of the $250,000 in a second qualified low-income community investment and uses the remaining $20,000 for operating expenses. Under paragraph (d)(2)(i) of this section, $280,000 of the proceeds of the qualified equity investment is treated as continuously invested in a qualified low-income community investment. In December 2008, X sells the second qualified low-income community investment and receives $400,000. In March 2009, X reinvests $320,000 of the $400,000 in a third qualified low-income community investment. Under paragraphs (d)(2)(i) and (ii) of this section, $280,000 of the proceeds of the qualified equity investment is treated as continuously invested in a qualified low-income community investment ($40,000 is treated as invested in another qualified low-income community investment in March 2009).

(3) *Special rule for reserves.* Reserves (not in excess of 5 percent of the taxpayer's cash investment under paragraph (b)(4) of this section) maintained by the CDE for loan losses or for additional investments in existing qualified low-income community investments are treated as invested in a qualified low-income community investment under paragraph (d)(1) of this section.

(4) *Qualified active low-income community business*—(i) *In general.* The term *qualified active low-income community business* means, with respect to any taxable year, a corporation (including a nonprofit corporation) or a partnership, if the requirements in paragraphs (d)(4)(i)(A), (B), (C), (D), and (E) of this section are met.

(A) *Gross-income requirement.* At least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business (as defined in paragraph (d)(5) of this section) within any low-income community (as defined in section 45D(e)). An entity is deemed to satisfy this paragraph (d)(4)(i)(A) if the entity meets the requirements of either paragraph (d)(4)(i)(B) or (C) of this section, if "50 percent" is applied instead of *40 percent.* In addition, an entity may satisfy this paragraph (d)(4)(i)(A) based on all the facts and circumstances.

(B) *Use of tangible property.* At least 40 percent of the use of the tangible property of such entity (whether owned or leased) is within any low-income community. This percentage is determined based on a fraction the numerator of which is the average value of the tangible property owned or leased by the entity and used by the entity during the taxable year in a low-income community and the denominator of which is the average value of the tangible property owned or leased by the entity and used by the entity during the taxable year. Property owned by the entity is valued at its cost basis as determined under section 1012. Property leased by the entity is valued at a reasonable amount established by the entity.

(C) *Services performed.* At least 40 percent of the services performed for such entity by its employees are performed in a low-income community. This percentage is determined based on a fraction the numerator of which is the total amount paid by the entity for employee services performed in a low-income community during the taxable year and the denominator of which is the total amount paid by the entity for employee services during the taxable year.

(D) *Collectibles.* Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of business.

(E) *Nonqualified financial property.* Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1397C(e)). Because the definition of *nonqualified financial property* in section 1397C(e) includes debt instruments with a term in excess of 18 months, banks, credit unions, and other financial institutions are generally excluded from the definition of a *qualified active low-income community business.*

(ii) *Proprietorships.* Any business carried on by an individual as a proprietor is a qualified active low-income community business if the business would meet the requirements of paragraph (d)(4)(i) of this section if the business were incorporated.

(iii) *Portions of business.* A CDE may treat any trade or business as a qualified active low-income community business if the trade or business would meet the requirements of paragraph (d)(4)(i) of this section if the trade or business were separately incorporated.

(5) *Qualified business*—(i) *In general.* Except as otherwise provided in this paragraph (d)(5), the term *qualified business* means any trade or business. There is no requirement that employees of a *qualified business* be residents of a low-income community.

(ii) *Rental of real property.* The rental to others of real property located in any low-income community (as defined in section 45D(e)) is a *qualified business* if and only if the property is not residential rental property (as defined in section 168(e)(2)(A)) and there are substantial improvements located on the real property.

(iii) *Exclusions*—(A) *Trades or businesses involving intangibles.* The term *qualified business* does not include any trade or business consisting predominantly of the development or holding of intangibles for sale or license.

(B) *Certain other trades or businesses.* The term *qualified business* does not include any trade or business consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(C) *Farming.* The term *qualified business* does not include any trade or business the principal activity of which is farming (within the meaning of section 2032A(e)(5)(A) or (B)) if, as of the close of the taxable year of the taxpayer conducting such trade or business, the sum of the aggregate unadjusted bases (or, if greater, the fair market value) of the assets owned by the taxpayer that are used in such a trade or business, and the aggregate value of the assets leased by the taxpayer that are used in such a trade or business, exceeds $500,000. For purposes of this paragraph (d)(5)(iii)(C), two or more trades or businesses will be treated as a single trade or business under rules similar to the rules of section 52(a) and (b).

(6) *Qualifications*—(i) *In general.* Except as provided in paragraph (d)(6)(ii) of this section, an entity is treated as a qualified active low-income community business for the duration of the CDE's investment in the entity if the CDE reasonably expects, at the time the CDE makes the capital or equity investment in, or loan to, the entity, that the entity will satisfy the requirements to be a qualified active low-income community business under paragraph (d)(4)(i) of this section throughout the entire period of the investment or loan.

(ii) *Control*—(A) *In general.* If a CDE controls or obtains control of an entity at any time during the 7-year credit period (as defined in paragraph (c)(5)(i) of this section), the entity will be treated as a qualified active low-income community business only if the entity satisfies the requirements of paragraph (d)(4)(i) of this section throughout the entire period the CDE controls the entity.

(B) *Definition of control.* Generally, control means, with respect to an entity, direct or indirect ownership (based on value) or control (based on voting or management rights) of 33 percent or more of the entity. However, a CDE does not control an entity if an unrelated person possesses greater control over the entity than the CDE.

(7) *Financial counseling and other services.* The term *financial counseling and other services* means advice provided by the CDE relating to the organization or operation of a trade or business.

(e) *Recapture*—(1) *In general.* If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a CDE, there is a recapture event under paragraph (e)(2) of this section with respect to such investment, then the tax imposed by Chapter 1 of the Internal Revenue Code for the taxable year in which the recapture event occurs is increased by the credit recapture amount under section 45D(g)(2). A recapture event under paragraph (e)(2) of this section requires recapture of credits allowed to the taxpayer who purchased the equity investment from the CDE at its original issue and to all subsequent holders of that investment.

(2) *Recapture event.* There is a recapture event with respect to an equity investment in a CDE if—

(i) The entity ceases to be a CDE;

(ii) The proceeds of the investment cease to be used in a manner that satisfies the substantially-all requirement of paragraph (c)(1)(ii) of this section; or

(iii) The investment is redeemed by the CDE.

(3) *Bankruptcy.* Bankruptcy of a CDE is not a recapture event.

(4) *Waiver of requirement or extension of time*—(i) In general. The Commissioner may waive a requirement or extend a deadline if such waiver or extension does not materially frustrate the purposes of section 45D and this section.

(ii) *Manner for requesting a waiver or extension.* A CDE that believes it has good cause for a waiver or an extension may request relief from the Commissioner in a ruling request. The request should set forth all the relevant facts and include a detailed explanation describing the event or events relating to the request for a waiver or an extension. For further information on the application procedure for a ruling, see Rev. Proc. 2001–1 (2001–1 I.R.B. 1) (see § 601.601(d)(2) of this chapter).

(iii) *Terms and conditions.* The granting of a waiver or an extension to a CDE under this section may require adjustments of the CDE's requirements under section 45D and this section as may be appropriate.

(5) *Example.* The application of this paragraph (e) is illustrated by the following example:

Example. In 2003, A and B acquire separate qualified equity investments in X, a partnership. X is a CDE that has received a new markets tax credit allocation from the Secretary. X uses the proceeds of A's

VOL 66 ISS 247 DE 26 2001 UMI

qualified equity investment to make a qualified low-income community investment in Y, and X uses the proceeds of B's qualified equity investment to make a qualified low-income community investment in Z. Y and Z are not CDEs. X controls both Y and Z within the meaning of paragraph (d)(6)(ii)(B) of this section. In 2003, Y and Z are qualified active low-income community businesses. In 2007, Y, but not Z, is a qualified active low-income community business and X does not satisfy the substantially-all requirement using the safe harbor calculation under paragraph (c)(5)(iii) of this section. A's equity investment satisfies the substantially-all requirement of paragraph (c)(1)(ii) of this section using the direct-tracing calculation of paragraph (c)(5)(ii) of this section because A's equity investment is traceable to Y. However, B's equity investment fails the substantially-all requirement using the direct-tracing calculation because B's equity investment is traceable to Z. Therefore, under paragraph (e)(2)(ii) of this section, there is a recapture event for B's equity investment (but not A's equity investment).

(f) *Basis reduction*—(1) *In general*. A taxpayer's basis in a qualified equity investment is reduced by the amount of any new markets tax credit determined under paragraph (b)(1) of this section with respect to the investment. A basis reduction occurs on each credit allowance date under paragraph (b)(2) of this section. This paragraph (f) does not apply for purposes of sections 1202, 1400B, and 1400F.

(2) *Adjustment in basis of interest in partnership or S corporation*. The adjusted basis of either a partner's interest in a partnership, or stock in an S corporation, must be appropriately adjusted to take into account adjustments made under paragraph (f)(1) of this section in the basis of a qualified equity investment held by the partnership or S corporation (as the case may be).

(g) *Other rules*—(1) *Anti-abuse*. If a principal purpose of a transaction or a series of transactions is to achieve a result that is inconsistent with the purposes of section 45D and this section, the Commissioner may treat the transaction or series of transactions as causing a recapture event under paragraph (e)(2) of this section.

(2) *Reporting requirements*—(i) *Notification by CDE to taxpayer*—(A) *Allowance of new markets tax credit*. A CDE must provide notice to any taxpayer who acquires a qualified equity investment in the CDE at its original issue that the equity investment is a qualified equity investment entitling the taxpayer to claim the new markets tax credit. The notice must be provided by the CDE to the taxpayer no later than 60 days after the date the taxpayer makes the investment in the CDE. The notice must contain the amount paid to the CDE for the qualified equity investment at its original issue and the taxpayer identification number of the CDE.

(B) *Recapture event*. If, at any time during the 7-year period beginning on the date of the original issue of a qualified equity investment in a CDE, there is a recapture event under paragraph (e)(2) of this section with respect to such investment, the CDE must provide notice to each holder, including all prior holders, of the investment that a recapture event has occurred. The notice must be provided by the CDE no later than 60 days after the date the CDE becomes aware of the recapture event.

(ii) *CDE reporting requirements to Secretary*. Each CDE must comply with such reporting requirements to the Secretary as the Secretary may prescribe.

(iii) *Manner of claiming new markets tax credit*. A taxpayer may claim the new markets tax credit for each applicable taxable year by completing Form 8874, "New Markets Credit," and by filing Form 8874 with the taxpayer's Federal income tax return.

(iv) *Reporting recapture tax*. If there is a recapture event with respect to a taxpayer's equity investment in a CDE, the taxpayer must include the credit recapture amount under section 45D(g)(2) on the line for recapture taxes on the taxpayer's Federal income tax return for the taxable year in which the recapture event under paragraph (e)(2) of this section occurs (or on the line for total tax, if there is no such line for recapture taxes) and write *NMCR* (new markets credit recapture) next to the entry space.

(h) *Effective date*. This section applies on or after December 26, 2001.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (b) is amended by adding an entry to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * *	* *
1.45D–1T	1545–1765
* * *	* *

Approved: December 17, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–31528 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

[KY–221–FOR]

Kentucky Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving an amendment to the Kentucky regulatory program (Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Kentucky is proposing revisions to the Kentucky Administrative Regulations (KAR) pertaining to the general requirements for performance bonds and liability insurance. Kentucky intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: William J. Kovacic, Field Office Director, Lexington Field Office, 2675 Regency Road, Lexington, Kentucky 40503. Telephone: (859) 260–8400. Internet address: bkovacic@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Kentucky Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Kentucky Program

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the SMCRA * * *" and "rules and regulations consistent with regulations issued by the Secretary" pursuant to the SMCRA. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Kentucky program on May 18, 1982. You can find background information on the Kentucky program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 18, 1982, **Federal Register** (47 FR 21404). Subsequent actions concerning the Kentucky program and previous amendments are codified at 30 CFR 917.11, 917.13, 917.15, 917.16, and 917.17.

II. Submission of the Proposed Amendment

By letter dated May 4, 1999 (Administrative Record No. KY–1459), Kentucky submitted a proposed amendment to its program at 405 KAR 10:010 under SMCRA (30 U.S.C. 1201 *et seq.*). By letter dated August 20, 1999 (Administrative Record No. KY–1465), Kentucky advised us it revised section 2(2) of 405 KAR 10:010 by inserting references to sections 5(1)(a) and 5(1)(g) where the new bond forms are incorporated by reference. The final regulation and bond forms were otherwise unchanged. OSM did not reopen the public comment period because the revision did not constitute a substantive change to the original submission.

We announced receipt of the proposed amendment in the June 1, 1999, **Federal Register** (64 FR 29247), invited public comment, and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on July 1, 1999. We did not receive any comments and we did not hold a public hearing because no one requested one.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment. Any revisions that we do not specifically discuss below concern nonsubstantive wording changes.

At section 2(2), Kentucky adds language which clarifies that for surface coal mining operations on non-Federal lands the applicant shall file the bond form designated at section 5(1)(a) and for coal mining operations on Federal lands the applicant shall file the bond form designated at section 5(1)(g). This amendment does not change the substantive meaning of the rule; rather it further clarifies the intent of the rule by defining which bond form is used for what type of land (non-Federal vs. Federal lands). We therefore find that with this change the State provision is consistent with the Federal provisions at 30 CFR 800.11(a) which requires a permit applicant to file a bond on a form prescribed and furnished by the regulatory authority. The change is therefore approved.

At section 5(1), Kentucky revises the following titles to the documents it incorporates by reference: Irrevocable Standby Letter of Credit—Form SME–72 (July 1994); Certificate of Liability Insurance—Form SME–29; Notice of Cancellation, Non-Renewal or Change of Liability Insurance—Form SME–30; and Escrow Agreement—Form SME–64, (May 1991). The incorporation by reference of these documents was previously approved by OSM on December 17, 1996, at 61 FR 66220–66225. The revisions do not alter the requirements of the previously approved provisions in the Kentucky regulations. Since these revisions are nonsubstantive, we find that they will not make the Kentucky regulations inconsistent with the Federal regulations.

Kentucky also revises the edition date to the Confirmation of Irrevocable Standby Letter of Credit—Form SME–72–A, from April 1991 to July 1994, which is incorporated by reference at section 5(1). Nothing else on the form was changed. The incorporation by reference of this form was also approved by OSM on December 17, 1996. The revision does not alter the requirements of the previously approved provision in the Kentucky regulations. Since this is a nonsubstantive change, we find that it will not make the Kentucky regulation inconsistent with the Federal regulations.

Kentucky is also incorporating by reference and revising the form: Performance Bond—Form SME–42, (June 1999). Revised form SME–42 is a standard performance bond form for Non-Federal Lands as required by KRS 350.060(11) and section 2 of this regulation. It specifies the terms and conditions of the bond, including the obligations of the principal and surety and bond release or forfeiture conditions. It identifies among other things: the permit or application number, the amount and type of bond, and the acreage and location of the bonded land. The following deletions from the original form were made: the requirement that a resident Kentucky agent countersign a surety bond executed by an out-of-State surety (KRS 304.3–250 originally required it, this section was repealed on July 15, 1998) and the requirement to enter the name of the community near the lands associated with the bond. The June 1999 edition replaces the February 1991 edition. There is no Federal counterpart to either requirement that Kentucky proposes to delete. Therefore, the deletion of both the countersignature and the name of the nearby community do not render the Kentucky program less effective than the Federal rules.

New form SME–42–F is a standard performance bond form for Federal Lands as required by KRS 350.060(11), KRS 350.064(11) and section 2 of this regulation. Pursuant to 523(c) of SMCRA, Kentucky and the Secretary of the Department of the Interior entered into a Cooperative Agreement (the "Agreement") for the regulation of surface coal mining and reclamation operations on Federal lands in Kentucky. See 63 FR 53252 (October 2, 1998). Article IX of the Agreement requires that the performance bond form for Federal lands, state on its face, that in the event the Agreement is terminated, the portion of the bond covering Federal lands shall be assigned to the United States. The Agreement also required the bond form to state that if subsequent to the forfeiture of the bond, the Agreement is terminated, any unspent or uncommitted proceeds of the bond covering the Federal lands shall be assigned and forwarded to the United States. The new form includes these requirements on the form. The new form also specifies the terms and conditions of the bond, including the obligations of the principal and surety and bond release and forfeiture conditions. It identifies, among other things, the permit or application number, the amount and type of bond and the acreage and location of the bonded land.

This form satisfies the requirements in the Agreement and is not inconsistent with the Federal rules since it implements the bonding requirements. The change is therefore approved.

At section 5(2), Kentucky provides for the inspection and reproduction of the above materials. There is no direct Federal counterpart. This amendment makes the bond form available to the public. We therefore find that with this change the State provision is not inconsistent with the Federal rules. The change is therefore approved.

VOL 66 ISS 247 DE 26 2001 UMI

IV. Summary and Disposition of Comments

Public Comments

We solicited public comments on the amendment. No comments were submitted.

Federal Agency Comments

On March 1, 2000, we asked for comments from various Federal agencies who may have an interest in the Kentucky amendment (Administrative Record No. KY–1492) according to 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA. No one responded.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written agreement from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). Since none of the proposed amendment provisions relate to air or water quality, we did not ask EPA to agree on the amendment. We did ask EPA to comment but they did not respond.

V. Director's Decision

Based on the above findings, we approve the proposed amendment submitted by Kentucky on May 4, 1999, and revised on August 20, 1999.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 917, codifying decisions concerning the Kentucky program. We find that good cause exists under 5 U.S.C. 553(d)(3) of SMCRA to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of SMCRA and meeting its purposes. Making this regulation effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

Effect of the Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Kentucky program, we will recognize only the statutes, regulations, and other materials we have approved, together with any consistent implementing policies, directives, and other materials. We will require that Kentucky enforce only such provisions.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million. (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 24, 2001.

Roger Calhoun,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for Part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 917.15 is amended in the table in paragraph (a) by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 917.15 Approval of Kentucky regulatory program amendments.

(a) * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
May 4, 1999	December 26, 2001	KAR 10:010 Sections 2(2), 5(1), 5(2) and bond forms SME–42(6/99 ed.) and SME–42–F(6/99 ed.)

* * * * *

[FR Doc. 01–31535 Filed 12–21–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA–55–1–7485a; FRL–7121–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Redesignation of Lafourche Parish Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on redesignation of Lafourche Parish from nonattainment to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based on three years of complete, quality-assured, ambient air monitoring data for the 1997 to 1999 ozone seasons that demonstrate that the ozone NAAQS has been attained in the area. On August 9, 2000 the State of Louisiana submitted a request to redesignate the ozone nonattainment area of Lafourche Parish to attainment. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA will, unless adverse or critical comment is received, approve Louisiana's request for designation of Lafourche Parish because the request meets the requirements of the CAA.

DATES: This direct final rule is effective on February 25, 2002, unless EPA receives adverse comment by January 25, 2002. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Thomas Diggs at (214) 665–7214.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" are used, we mean the EPA.

Table of Contents

I. What action is EPA taking?
II. What is the background for this action?
III. Why are we taking this action?
IV. What evaluation criteria was used?
V. What are the effects of this action?
VI. Why is this a "Final Action"?
VII. What administrative requirements apply for this action?

I. What Action Is EPA Taking?

We have determined that the Lafourche Parish ozone nonattainment area has attained the NAAQS for ozone. EPA has evaluated the State's redesignation request for consistency with the CAA, EPA regulations and policy. EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, EPA has determined that the redesignation request meets the requirements and policy set forth in the General Preamble and policy memorandum discussed in this document for area designations. EPA is today approving Louisiana's redesignation request for Lafourche Parish.

II. What Is the Background for This Action?

The CAA as amended in 1977 required areas that were designated

VOL 66 ISS 247 DE 26 2001 UMI

nonattainment based on failure to meet the ozone national ambient air quality standard (NAAQS) to develop State Implementation Plans (SIPs) with sufficient control measures to expeditiously attain and maintain the standard. Lafourche Parish was designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on September 11, 1978 (40 CFR 81.319). In accordance with section 110 of the 1977 CAA, the State of Louisiana submitted an ozone SIP as required by part D on December 10, 1979. EPA fully approved this ozone SIP on October 29, 1981 (46 FR 53412).

On November 15, 1990, the CAA Amendments of 1990 were enacted, 42 U.S.C. 7401–7671q. The ozone nonattainment designation for Lafourche Parish continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (56 FR 56694). Since the State had not yet collected the required three years of ambient air quality data in Lafourche Parish necessary to petition for redesignation to attainment, the area was designated as an ozone nonattainment area and classified as an incomplete data area.

On November 18, 1994, the Louisiana Department of Environmental Quality (LDEQ) requested redesignation of Lafourche Parish to attainment of the NAAQS for ozone. The request was accompanied by ambient air monitoring data that showed no violations of the NAAQS standard of 0.12 parts per million (ppm) for a period of three years and a maintenance SIP for ozone. EPA approved the request for redesignation to attainment and maintenance SIP on August 18, 1995 (60 FR 43020), by issuing a direct final rule. However, before the redesignation was final, an ozone NAAQS violation was recorded at a Lafourche Parish ozone monitoring station. On December 5, 1997, EPA corrected the designation for Lafourche Parish to nonattainment for ozone (62 FR 64284) but left the maintenance SIP approved August 18, 1995, in place.

On August 9, 2000, LDEQ again requested redesignation of the ozone attainment status for Lafourche Parish, by submitting to EPA data for the period of January 1, 1997 through December 31, 1999, indicating the NAAQS standard for ozone had been achieved. EPA has also evaluated the ozone data for the years 2000 and 2001. No violations or the 0.12 ppm ozone standard occured in these additional years. The data satisfies the CAA requirements of no more than one exceedance per annual monitoring period. There have been no monitored ozone exceedances for Lafourche Parish since 1996. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements.

III. Why Are We Taking This Action?

We are making a determination that the area has attained the 1-hour ozone standard and has continued to be in attainment. EPA bases this determination upon three years of complete, quality-assured ambient air monitoring data for the 1997–1999 ozone seasons that demonstrate that the ozone NAAQS has been attained in the Lafourche Parish area. EPA also determined that the area has continued to attain the standard, based on the most recent three years of data.

The 1990 Amendments revised section 107(d)(3)(E) to provide six specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110, (3)the area must meet all applicable requirements under part D of the CAA; (4) the area must have a fully approved SIP under section 110(k) of the CAA; (5) the air quality improvement must be permanent and enforceable; and, (6) the area must have a fully approved maintenance plan pursuant to section 175A of the CAA. Section 107(d)(3)(D) allows a Governor to initiate the redesignation process for an area to apply for attainment status.

IV. What Evaluation Criteria Was Used?

The redesignation request meets the criteria as follows:

A. Attainment of the NAAQS for Ozone

Attainment of the ozone NAAQS is determined based on the expected number of exceedances in a calendar year. The method for determining attainment of the ozone NAAQS is contained in 40 CFR 50.9, and appendix H to that section. The simplest method by which expected exceedances are calculated is by averaging actual exceedances at each monitoring site over a three year period. An area is in attainment of the standard if this average results in expected exceedances for each monitoring site of 1.0 or less per calendar year. When a valid daily maximum hourly average value is not available for each required monitoring day during the year, the missing days must be accounted for when estimating exceedances for the year. Appendix H provides the formula used to calculate exceedances for each year.

The State of Louisiana's request is based on an analysis of quality-assured ozone air quality data which is relevant to the redesignation request. The data come from the State and Local Air Monitoring Station network. The requests are based on ambient air ozone monitoring data collected for 3 consecutive years from January 1, 1997, through December 31, 1999. The data clearly show an exceedance rate of less than one for all these areas.

In addition to the demonstration discussed above, EPA required completion of air network monitoring requirements set forth in 40 CFR Part 58. This included a quality assurance plan revision and a monitoring network review to determine the adequacy of the ozone monitoring network. The LDEQ fulfilled these requirements to complete documentation for the air quality demonstration. The LDEQ has also committed to continue monitoring in these areas in accordance with 40 CFR part 58.

In summary, EPA believes that the data submitted by the LDEQ provides an adequate demonstration that Lafourche Parish attained the ozone NAAQS. Moreover, the monitoring data continue to show attainment to date. If the monitoring data record a violation of the NAAQS before the direct final action is effective, the direct final approval of the redesignation will be withdrawn and a proposed disapproval substituted for the direct final approval. Please see the TSD for a detailed discussion of the monitoring data.

B. Section 110 Requirements

For purposes of redesignation, to meet the requirement that the SIP contain all applicable requirements under the CAA, EPA has reviewed the SIP to ensure that it contains all measures that were due under the CAA prior to or at the time the State submitted its redesignation request, as set forth in EPA policy. EPA interprets section 107(d)(3)(E)(v) of the CAA to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the same time as the submission of a complete redesignation request. In this case, the date of submission of a complete redesignation request is August 9, 2000. Requirements of the CAA that come due subsequently continue to be applicable to the area at later dates (see section 175A(c)) and, if redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements. These requirements are discussed in the following EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993. These documents are available at the address above.

EPA has analyzed the Louisiana SIP and determined that it is consistent with the requirements of amended section 110(a)(2). The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting.

C. Part D Requirements

Before Lafourche Parish can be redesignated to attainment, the Louisiana SIP must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a)(1).

Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded, or approved under title 23 U.S.C. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity").

Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the CAA required EPA to promulgate. The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62118) and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment, or subject to a maintenance plan approved under CAA section 175A.

Pursuant to 40 CFR 51.390 (transportation conformity) and 40 CFR 51.851 (general conformity), the State of Louisiana was required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Louisiana was required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Louisiana submitted both its transportation and general conformity rules to EPA on November 10, 1994. These were approved on December 29, 1999 (64FR72934) and March 9, 1998 (63FR11372) respectively.

The EPA published additional guidance on maintenance plans and their applicability to conformity issues in a memorandum entitled "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas," (hereinafter "limited maintenance plan memo") from Sally L. Shaver, Director, Air Quality Strategies & Standards Division, on November 16, 1994. This limited maintenance plan memo discusses maintenance requirements for certain areas petitioning for redesignation to attainment. Nonclassifiable ozone nonattainment areas with design values less than 85% of the exceedance level of the ozone standard are no longer required to project emissions over the maintenance period. Lafourche Parish has a design value less than 85% of the exceedance value of the ozone standard.

The Federal transportation conformity rule (58 FR 62188) and the Federal general conformity rule (58 FR 63214) apply to areas operating under maintenance plans. Under either rule, one means by which a maintenance area can demonstrate conformity for Federal projects is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Based on guidance discussed in the limited maintenance plan memo, emissions inventories in areas that qualify for the limited maintenance plan approach are not required to be projected over the life of the maintenance plan. EPA feels it is unreasonable to expect that such an area as the Lafourch Parish will experience so much growth in that period that a violation of the NAAQS would occur. Emissions budgets in limited maintenance plan areas would be treated as essentially not constraining emissions growth, and would not need to be capped for the maintenance period. In these cases, Federal projects subject to conformity determinations could be considered to satisfy the "budget test" of the Federal conformity rules.

D. Fully Approved SIP

The State of Louisiana has a fully approved SIP for the Lafourche Parish.

E. Permanent and Enforceable Measures

Under the CAA, EPA approved Louisiana's SIP control strategy for the Lafourche Parish, satisfied that the rules and the emission reductions achieved as a result of those rules were enforceable. Several Federal and Statewide rules are in place which have significantly improved the ambient air quality in these areas. Existing Federal programs, such as the Federal Motor Vehicle Control Program and the Reid Vapor Pressure (RVP) limit of 7.8 pounds per square inch for gasoline, will not be lifted upon redesignation. These programs will counteract emissions growth as the areas experience economic growth over the life of their maintenance plans.

The State adopted VOC reduction rules such as oil/water separation; degreasing and solvent clean-up processes; surface coating rules for large appliances, furniture, coils, paper, fabric, vinyl, cans, miscellaneous metal parts and products, and factory surface coating of flat wood paneling; solvent-using rules for graphic arts; and miscellaneous industrial source rules such as for cutback asphalt. The applicable reasonably available control technology (RACT) rules will also remain in place in Lafourche Parish. In addition, the State permits program, the PSD permits program, and the Operating Permits program will help counteract emissions growth.

The EPA finds that the combination of existing EPA-approved SIP and Federal measures ensure the permanence and enforceability of reductions in ambient ozone levels that have allowed the area to attain the NAAQS.

F. Fully Approved Maintenance Plan Under Section 175A

EPA has approved the State's minimal maintenance plan for the Lafourche

VOL 66 ISS 247 DE 26 2001 UMI

Parish (see 60 FR 43020, August 18, 1995). Thus, the Parish has a fully approved maintenance plan in accordance with section 175A of the CAA, which sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan contains contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

V. What Are the Effects of This Action?

This action determines that Lafourche Parish has attained the 1-hour ozone standard. This redesignation changes the official designation for Lafourche Parish from nonattainment to attainment for the 1-hour ozone standard. It also retains the plan for maintaining the 1-hour standard for 10 years. These plans include contingency measures to correct any future violations of the 1-hour ozone standard.

VI. Why Is This a "Final Action"?

The EPA has evaluated the State of Louisiana's redesignation request for Lafourche Parish for consistency with the CAA, EPA regulations and policy. The EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard.

The EPA is taking direct final action on redesignation of Lafourche Parish from nonattainment to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. This action will be effective February 25, 2002. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will then address all adverse public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VII. What Administrative Requirements Apply for This Action?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 25, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 10, 2001.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

Parts 52 and 81, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart T—Louisiana

2. Section 52.975 is amended by revising paragraph (f) to read as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

* * * * *

(f) Approval—The Louisiana Department of Environmental Quality (LDEQ) submitted minimal maintenance plans for Lafourche Parish on November 18, 1994. The LDEQ submitted a redesignation request on August 9, 2000. The maintenance plans meet the redesignation requirements in section 107(d)(3)(E) of the Act as amended in 1990. The redesignation meets the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Louisiana ozone State Implementation Plan for Lafourche Parish.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.319, the table entitled "Louisiana—Ozone (1-Hour Standard)" is amended by revising the entry for Lafourche Parish to read as follows:

§ 81.319 Louisiana.

* * * * *

LOUISIANA—OZONE (1-HOUR STANDARD)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Lafourche Parish	2/25/02	Attainment.		
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

[FR Doc. 01–31483 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[DC001–1000; FRL–7121–7]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; District of Columbia; Department of Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation.

SUMMARY: EPA is taking direct final action to approve the District of Columbia (the District) Department of Health's (DoH's) request for delegation of authority to implement and enforce its hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, and publicly owned treatment works, as well as the test methods, which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations (CFR). This approval will automatically delegate future amendments to these regulations once the District incorporates those amendments into its regulations. In addition, EPA is taking direct final action to approve the District's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails DoH's incorporation by reference of the Federal standard (unchanged), into its hazardous air pollutant regulation, DoH's notification to EPA of such incorporation, and DoH's submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. EPA is not waiving its notification and reporting requirements, therefore, sources will need to send notifications and reports to both DoH and EPA. This action pertains to affected sources, as defined by the Clean Air Act's (CAA or the Act) hazardous air pollutant program. EPA is taking this action in accordance with the Act.

DATES: This direct final rule will be effective February 25, 2002 unless EPA receives adverse or critical comments by January 25, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Donald E. Wambsgans II, Program Manager of the Air Quality Division, District of Columbia Department of Health, 825 North Capital Street, NE., Suite 400, Washington, DC 20002. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the District of Columbia Department of Health, 825 North Capital Street, NE., Suite 400, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 CFR part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth in 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations

VOL 66 ISS 247 DE 26 2001 UMI

on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) A schedule demonstrating expeditious implementation of the regulation; and

(c) A plan that assures expeditious compliance by all sources subject to the regulation.

On May 21, 2001, EPA received a request from the District's DoH seeking delegation of authority to implement and enforce the hazardous air pollutant regulations for certain affected sources defined in 40 CFR part 63. At the present time, this request includes the hazardous pollutant general provisions and regulations for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works, as well as the hazardous pollutant regulation test methods which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63, subparts A, M, N, T, VVV and Appendix A. The District also requested that EPA automatically delegate future amendments to these regulations and approve DoH's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails the DoH's incorporation by reference of the Federal standard, unchanged, into its hazardous air pollutant regulation at Section 700 of Title 20 of the District of Columbia Municipal Regulation, DoH's notification to EPA of such incorporation, and DoH's submission of a delegation request letter to EPA following notification of a new Federal requirement.

II. EPA's Analysis of the District's Submittal

Based on the District's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that the District has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), the District's DoH submitted a written finding by the District of Columbia Corporation Counsel which demonstrates that the District of Columbia has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources, and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), the District submitted copies of its statutes, regulations and requirements that grant authority to DoH to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), the District submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation and compliance by all sources. Therefore, the District's program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts A, M, N, T, VVV and Appendix A, as well as any future emission standards, should the District's DoH seek delegation for these standards. The DoH adopts the emission standards promulgated in 40 CFR part 63 into section 700 of Title 20 of the District of Columbia Municipal Regulations (DCMR). The District's DoH has the primary authority and responsibility to carry out all elements of these programs for all sources covered in the District of Columbia, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for the District's DoH to receive automatic delegation of future amendments to the hazardous air pollutant general provisions and the perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works regulations and test method regulations, each such amendment must be legally adopted by the District of Columbia. As stated earlier, these amendments are adopted into section 700 of Title 20 of the DCMR. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The DoH will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that DoH's mechanism for receiving delegation of future hazardous air pollutant regulations, which it adopts unchanged from the Federal requirements, can be approved. This mechanism requires DoH to legally adopt the Federal regulation into section 700 of Title 20 of the DCMR and to notify EPA of such adoption. The DoH is also required to submit a delegation request letter to EPA following EPA notification of a new Federal requirement. EPA will grant the delegation request, if appropriate, by sending a letter to DoH outlining the authority to implement and enforce the standard. The delegation will be finalized within 10 days of receipt of the delegation letter unless DoH files a negative response. The official notice of delegation of additional emission standards will be published in the **Federal Register**.

The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to the District's DoH and EPA Region III.

If at any time there is a conflict between a District regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of the District. EPA is responsible for determining stringency between conflicting regulations. If the District's DoH does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III, in writing, as soon as possible so that this portion of the delegation may be revoked.

If EPA determines that DoH's procedures for enforcing or implementing the 40 CFR part 63 requirements are inadequate, or are not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the "Delegation of Authorities" section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), but may only be exercised on a case-by-case basis. When any of these authorities are exercised, the District's DoH must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards[1];

(2) Responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans[2], e.g., 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, e.g., 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans[3], e.g., 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, the District's DoH and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a DoH interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of DoH. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in the District of Columbia. The District's DoH will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by the District's DoH to identify sources determined to be applicable during that quarter.

Although the District's DoH has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works and the hazardous pollutant test methods, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving the District DoH's request for delegation of authority to implement and enforce its hazardous air pollutant general provisions and its regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works and hazardous pollutant test methods which have been adopted by reference from 40 CFR part 63, subparts A, M, N, T, VVV and Appendix A, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of DoH's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts, unchanged, from the Federal requirements. This mechanism entails legal adoption by the District of Columbia of the amendments or rules into Section 700 of Title 20 of the DCMR, DoH's notification to EPA of such incorporation and DoH's submission of a delegation request letter to EPA following notification by EPA of a new Federal requirement. This action pertains only to affected sources, as defined by 40 CFR part 63. The delegation of authority shall be administered in accordance with the terms outlined in this document. This delegation of authority is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because the District DoH's request for delegation of the hazardous pollutant general provisions and the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works and test methods and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However,

---

[1] Applicability determinations are considered to be nationally significant when they:

(i) Are unusually complex or controversial;

(ii) Have bearing on more than one state or are multi-Regional;

(iii) Appear to create a conflict with previous policy or determinations;

(iv) Are a legal issue which has not been previously considered; or

(v) Raise new policy questions and shall be forwarded to EPA Regional III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring*, dated February 1999. The DoH may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[2] The DoH will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[3] The DoH will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

VOL 66 ISS 247 DE 26 2001 UMI

in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of DoH's request for delegation if adverse comments are filed. This rule will be effective on February 25, 2002 without further notice unless EPA receives adverse comment by January 25, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 25, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, pertaining to the approval of DoH's delegation of authority for the hazardous air pollutant general provisions and regulations for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, publicly owned treatment works and test methods (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control , Hazardous substances, Intergovernmental relations.

Dated: December 11, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et. seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(9) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(9) District of Columbia.

(i) The District of Columbia is delegated the authority to implement and enforce the regulations in 40 CFR part 63, subparts A, M, N, T, VVV and Appendix A and all future unchanged 40 CFR part 63 standards and amendments, if delegation of future standards and amendments is sought by the District of Columbia Department of Health and approved by EPA Region III, at affected sources, as defined by 40 CFR part 63, in accordance with the final rule, dated December 26, 2001, effective February 25, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

* * * * *

[FR Doc. 01–31485 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301198; FRL–6816–2]

RIN 2070–AB78

Imazapic; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of imazapic, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid and its metabolite (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-hydroxymethyl-3-pyridinecarboxylic acid, both free CL 263284 and conjugated CL 189215) in or on grass, forage and grass, hay and the combined residues of imazapic and its metabolite CL 263284 in or on milk; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep; and kidney of cattle, goats, horses, and sheep. BASF requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective December 26, 2001. Objections and requests for hearings, identified by docket control number OPP–301198, must be received by EPA on or before February 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301198 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Product Manager (PM) 25, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301198. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 24, 2000 (65 FR 51608) (FRL–6598–6), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 9F5092) for tolerance by American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543–0400. This notice included a summary of the petition prepared by American Cyanamid, the registrant at the time of filing. The current registrant for the chemical is BASF, at the same address. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.490(a) be amended by establishing a tolerance for combined residues of the herbicide imazapic and its hydroxymethyl metabolite, both free (CL 263284) and conjugated (CL 189215) in or on the raw agricultural commodities grass, forage at 35 ppm, and grass, hay at 15 parts per million (ppm). Tolerances were also proposed for the combined residues of imazapic and its free hydroxymethyl metabolite in or on milk at 0.1 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep at 0.1 ppm; and kidney of cattle, goats, horses, and sheep at 2.0 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from

VOL 66 ISS 247 DE 26 2001 UMI

aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of imazapic and its metabolite, both free CL 263284 and conjugated CL 189215, in or on grass, forage at 30 ppm, and grass, hay at 15 ppm; and for the combined residues of imazapic and its free hydroxymethyl metabolite in milk at 0.1 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep at 0.1 ppm; and kidney of cattle, goats, horses, and sheep at 1.0 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by imazapic are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL) and the lowest observed adverse effect level (LOAEL) from the toxicity studies reviewed.

TABLE 1.—IMAZAPIC TECHNICAL SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type (All Studies Acceptable)	Results
870 3100	90-Day oral toxicity rodents-rat	NOAEL = 1,552 mg/kg/day in males, 1,728 mg/kg/day in females (HDT) LOAEL = not established
870.3200	21-Day dermal toxicity-rabbit	NOAEL = 1,000 mg/kg/day (males and females) LOAEL = not established
870.3700	Prenatal developmental in rodents-rat	Maternal NOAEL = 1,000 mg/kg/day (HDT) LOAEL = not established Developmental NOAEL = 1,000 mg/kg/day LOAEL = not established
870.3700	Prenatal developmental in nonrodents-rabbit	Maternal NOAEL = 350 mg/kg/day LOAEL = 500 mg/kg/day based on decreased body weight gain and food consumption. At 700 mg/kg/day (HDT), there was excessive mortality resulting in a total of only 7 surviving litters Developmental NOAEL = 500 mg/kg/day LOAEL = not established. Due to excessive mortality at 700 mg/kg/day, only 47 fetuses were available for examination which precluded a meaningful evaluation of developmental findings at this dose level
870.3800	Reproduction and fertility effects-rat	Parental/Systemic NOAEL = 1,205 mg/kg/day in males, 1,484 mg/kg/day in females (HDT) LOAEL = not established Reproductive NOAEL = 1,205 mg/kg/day in males, 1,484 mg/kg/day in females LOAEL = not established Offspring NOAEL = 1,205 mg/kg/day in males, 1,484 mg/kg/day in females LOAEL = not established

TABLE 1.—IMAZAPIC TECHNICAL SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type (All Studies Acceptable)	Results
870.4100	Chronic toxicity dogs	NOAEL = not established LOAEL = 137 mg/kg/day in males, 180 mg/kg/day in females based on increased incidence of minimal degeneration and/or necrosis and lymphocyte and/or macrophage infiltration in skeletal muscle in both males and females and slightly decreased blood creatinine levels in females (LDT)
870.4100/870.4200	Chronic/carcinogenicity rats	NOAEL = 1,029 mg/kg/day in males, 1,237 mg/kg/day in females (HDT) LOAEL = not established No evidence of carcinogenicity
870.4300	Carcinogenicity mice	NOAEL = 1,134 mg/kg/day in males, 1,422 mg/kg/day in females (HDT) LOAEL = not established No evidence of carcinogenicity
870.5265	Gene mutation	Non-mutagenic when tested up to 5,000 µg/plate, in presence and absence of activation, in *S. typhimurium* strains TA98, TA100, TA1535 and TA1537 and *E.coli* strain WP2uvra.
870.5300	Gene mutation	Non-mutagenic at the HGPRT locus in Chinese hamster ovary (CHO) cells tested up to cytotoxic concentrations or limit of solubility, in presence and absence of activation.
870.5375	Chromosome aberration	Did not induce structural chromosome aberration in CHO cell cultures in the presence and absence of activation.
870.5385	Chromosomal aberration	Non-mutagenic in rat bone marrow chromosomal aberrations assay up to 5,000 mg/kg.
870.7485	Metabolism and pharmacokinetics - rat	Total recovery of the administered dose was 98–106% at 7 days. Urinary excretion was the major route of elimination (94–102% of the dose), with only unchanged parent detected. There was no evidence of bioaccumulation in the tissues. There were no sex- or dose-related differences following oral or intravenous administration.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences. Because a developmental neurotoxicity study is not needed, there are currently no residential uses, dietary exposure assessments will not underestimate the potential exposures for infants and children, and the toxicology database is complete, no additional FQPA Safety Factor (FQPA SF) is required.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk.

VOL 66 ISS 247 DE 26 2001 UMI

A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for imazapic used for human risk assessment is shown in the following Table 2:

TABLE 2.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR IMAZAPIC FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (general population and females 13-50 years old)	None	An acute dietary endpoint was not selected based on the absence of an appropriate endpoint attributed to a single dose	None
Chronic dietary (all populations)	LOAEL= 137 mg/kg/day UF = 300 Chronic RfD = 0.5 mg/kg/day	FQPA SF = 1X cPAD = cRfD/FQPA SF = 0.5 mg/kg/day	LOAEL = 137 mg/kg/day based on increased incidence of minimal degeneration and/or necrosis of skeletal muscle in 1 year dog feeding study
Incidental oral, short-term (1-7 days)	Oral NOAEL = 350 mg/kg/day	LOC = 100	LOAEL = 500 mg/kg/day based on decreased body weight and food consumption during the dosing period in rabbit developmental study
Incidental oral, intermediate-term (7 days-several months)	Oral NOAEL = 350 mg/kg/day	LOC = 100	LOAEL = 500 mg/kg/day based on decreased body weight and food consumption during the dosing period in rabbit developmental study
Short- and intermediate-term dermal (1-7 days and 1 week-several months) (Occupational)	None	No systemic toxicity was seen following repeated dermal application at 1,000 mg/kg/day over a 3-week period. Since no hazard was identified, quantification is not required.	None
Long-term dermal (several months-lifetime) (Occupational)	Oral LOAEL = 137 mg/kg/day (dermal absorption rate = 50%)	LOC for MOE = 300	LOAEL = 137 mg/kg/day based on increased incidence of minimal degeneration and/or necrosis of skeletal muscle in 1 year dog feeding study
Short- and intermediate-term inhalation (1-7 days and 1 week-several months) (Occupational)	Oral study NOAEL= 350 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 100	LOAEL = 500 mg/kg/day based on decreased body weight and food consumption during dosing in rabbit developmental study
Long-term inhalation (several months-lifetime) (Occupational)	Oral study LOAEL= 137 mg/kg/day (inhalation absorption rate = 100%)	LOC for MOE = 300	LOAEL = 137 mg/kg/day based on increased incidence of minimal degeneration and/or necrosis of skeletal muscle in 1 year dog feeding study
Cancer (oral, dermal, inhalation)	Cancer classification ("Group E")	Risk assessment not required	No evidence of carcinogenicity

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.490(a) for the combined residues of imazapic and its metabolites CL 263284 and CL 189215, in or on peanut, nutmeat at 0.1 ppm. Time-limited tolerances set to expire December 31, 2001 are established under (40 CFR 180.490(b) in connection with section 18 emergency exemptions (99NE0009) for residues of imazapic and its metabolites CL 263284 and CL 189215 for grass, forage at 30 ppm; grass, hay at 15 ppm; milk at 0.10 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, hogs, horses, and sheep at 0.10 ppm; and kidney of cattle, goats, hogs, horses, and sheep at 1.0 ppm. The present analyses included the published peanut values together with re-evaluated tolerance levels for livestock-derived commodities, based on the new grass use proposed. Risk assessments were conducted by EPA to assess dietary exposures from imazapic in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. An acute exposure assessment is not applicable based on the absence of an appropriate effect of concern.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM™ version 7.73) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: Residues present at tolerance levels, 100% of each crop is treated, and the use of default processing concentration factors (Tier 1 analysis).

iii. *Cancer.* A cancer risk assessment was not conducted, since imazapic has been classified as a "Group E" chemical (evidence of non-carcinogenicity for humans) based upon lack of evidence of carcinogenicity in two adequate studies (rats and mice).

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for imazapic in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of imazapic.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The Screening Concentrations in Ground Water (SCI-GROW) model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to imazapic they are further discussed in the aggregate risk sections below.

Based on the FIRST and SCI-GROW models, the EECs of imazapic for acute exposures are estimated to be 17 parts per billion (ppb) for surface water and 14 ppb for ground water. The EECs for chronic exposures are estimated to be 1.5 ppb for surface water and 14 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Imazapic is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether imazapic has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, imazapic does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imazapic has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* Based on the available data, no evidence of increased susceptibility was seen in the rat and rabbit prenatal toxicity studies or following prenatal/postnatal exposure in the 2-generation reproduction study.

3. *Conclusion.* There is a complete toxicity data base for imazapic and exposure data are complete or are estimated based on data that reasonably account for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because: A developmental neurotoxicity study is not needed; there are currently no residential uses; and dietary exposure assessments will not underestimate the potential exposures for infants and children.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water EECs. DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the

VOL 66 ISS 247 DE 26 2001 UMI

Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: Acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Imazapic is not expected to pose an acute risk because no acute endpoint of concern was identified in the toxicity test.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to imazapic from food will utilize 0.1% of the cPADs for the U.S. population, all infants, and children 1-6 years old. There are no residential uses for imazapic that result in chronic residential exposure to imazapic. In addition, there is potential for chronic dietary exposure to imazapic in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO IMAZAPIC RESIDUES

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.5	0.000259	1.5	14	17,000
All infants (< 1 year old)	0.5	0.000505	1.5	14	5,000
Children (1-6 years old)	0.5	0.000684	1.5	14	5,000

3. *Short- or intermediate-term risk.* Since there are no registered uses for imazapic which would result in non-dietary, non-occupational exposure, contributions to the aggregate risk from both short- and intermediate-term non-dietary exposures are not expected.

4. *Aggregate cancer risk for U.S. population.* Imazapic has been classified as a "Group E" chemical (evidence of non-carcinogenicity for humans); therefore imazapic is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to imazapic residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate independent method validation (ILV) studies have been submitted in support of all methods. A method which is similar to the peanut enforcement method has been submitted for the determination of residues of imazapic and its metabolites CL 263284 and CL 189215 in/on grass forage and hay, and methods for the enforcement of tolerances of imazapic and CL 263284 in milk and livestock tissues and an HPLC/MS method for the enforcement of tolerances in fat have been submitted.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican maximum residue limits (MRLs) for imazapic residues.

C. Conditions

The registrant has committed to conduct four side-by-side grass field trials using the maximum rate WDG acid formulation. The registrant has also agreed to conduct four additional grass field trials reflecting a single postemergence application of the 2 lb acid equivalence (ae)/gal ammonium salt SC formulation at 0.1875 lb ae/A; these trials will be conducted in Regions 7 and 8. The registrant also is required to conduct a 28–day inhalation toxicity study, using the protocol for the existing 90–day inhalation toxicity study. The results of this study will provide a basis from which to determine more reliable route-specific Margins of Exposure (MOEs) for worker inhalation risks rather than the less reliable route-to-route MOE calculations currently being used.

V. Conclusion

Therefore, the tolerance is established for combined residues of the herbicide imazapic and its hydroxymethyl metabolite, both free (CL 263284) and conjugated (CL 189215) in or on the raw agricultural commodities grass, forage at 30 ppm, and grass, hay at 15 ppm. Tolerances are also established for the combined residues of imazapic and its free hydroxymethyl metabolite in or on milk at 0.1 ppm; fat, meat, and meat byproducts (except kidney) of cattle, goats, horses, and sheep at 0.1 ppm; and kidney of cattle, goats, horses, and sheep at 1.0 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301198 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301198, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process

VOL 66 ISS 247 DE 26 2001 UMI

to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 11, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.490 is amended by revising paragraph (a) and removing and reserving the text of paragraph (b) to read as follows:

§ 180.490 Imazapic-ammonium; tolerances for residues.

(a) *General*. (1) Tolerances are established for combined residues of the herbicide imazapic, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid and its metabolite (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-hydroxymethyl-3-pyridinecarboxylic acid, both free and conjugated, in or on the following food commodities:

Commodity	Parts per million
Grass, forage	15
Grass, hay	30
Peanut nutmeat	0.1

(2) Tolerances are also established for the combined residues of the herbicide imazapic, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-methyl-3-pyridinecarboxylic acid and its free metabolite (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-hydroxymethyl-3-pyridinecarboxylic acid, in or on the following food commodities:

Commodity	Parts per million
Cattle, fat	0.10
Cattle, kidney	1.0
Cattle, mbyp (except kidney)	0.1
Cattle, meat	0.1
Goats, fat	0.1
Goats, kidney	1.0
Goats, mbyp (except kidney)	0.1
Goats, meat	0.1
Horses, fat	0.1
Horses, kidney	1.0
Horses, mbyp (except kidney)	0.1
Horses, meat	0.1
Milk	0.1

Commodity	Parts per million
Sheep, fat	0.1
Sheep, kidney	1.0
Sheep, mbyp (except kidney)	0.1
Sheep, meat	0.1

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

[FR Doc. 01–31493 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301200; FRL–6816–8]

RIN 2070–AB78

Halosulfuron-methyl; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of halosulfuron-methyl in or on the melon subgroup. IR-4 requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective December 26, 2001. Objections and requests for hearings, identified by docket control number OPP–301200, must be received by EPA on or before February 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301200 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Shaja R. Brothers, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460; telephone number: (703) 308–3194; and e-mail address: brothers.shaja@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301200. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 31, 2001 (66 FR 45993) (FRL–6796–1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by the Interregional Research Project Number 4 (IR-4), 681 U.S. Highway 1 South, North Brunswick, NJ 08902–3390. This notice included a summary of the petition prepared by Gowan Company, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.479 be amended by establishing a tolerance for residues of the herbicide halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl) aminocarbonylamino] sulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on the melon subgroup-crop group 9A (includes citron melon, muskmelon, and watermelon) at 0.1 part per million (ppm).

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of halosulfuron-methyl on the melon subgroup at 0.1 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by halosulfuron-methyl are discussed in Unit II.A. of the final rule on halosulfuron-methyl pesticide tolerances published in the **Federal Register** for September 29, 2000 (65 FR 58424) (FRL–6746–2).

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for halosulfuron-methyl used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR HALOSULFURON-METHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute Dietary females 13–50 years of age	NOAEL = 50 mg/kg/day; UF = 100; Acute RfD = 0.5 mg/kg/day	FQPA SF = 1X; aPAD = acute RfD/FQPA SF = 0.5 mg/kg/day	Developmental- Rabbit; LOAEL = 150 mg/kg/day based on decreased mean litter size and increases in resorptions and post implantation loss.
Chronic Dietary all populations	NOAEL= 10 mg/kg/day; UF = 100; Chronic RfD = 0.1 mg/kg/day	FQPA SF = 1X; cPAD = chronic RfD/FQPA SF = 0.1 mg/kg/day	Chronic Toxicity-Dog; LOAEL 40 mg/kg/day decrease in body weight gain and alterations in hematology and clinical chemistry parameters.
Short-Term Dermal (1 to 7 days) (Residential)	dermal (or oral) study NOAEL= 50 mg/kg/day (dermal absorption rate = 75%)	LOC for MOE = 100 (Residential)	Developmental- Rabbit; LOAEL = 150 mg/kg/day based on decreased mean litter size and increases in resorptions and post implantation loss.

VOL 66 ISS 247 DE 26 2001 UMI

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR HALOSULFURON-METHYL FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Intermediate-Term Dermal (1 week to several months) to Long - Term (several months to lifetime) (Residential)	dermal (or oral) study NOAEL = 10 mg/kg/day (dermal absorption rate = 75%	LOC for MOE = 100 (Residential)	Chronic Toxicity-Dog; LOAEL 40 mg/kg/day decrease in body weight gain and alterations in hematology and clinical chemistry parameters.

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.479) for residues of halosulfuron-methyl, in or on the following raw agricultural commodities: squash/cucumber (crop subgroup 9-B); tree nuts (crop group14), pistachio nutmeat; almond hulls; sugar cane; corn (sweet, kernel+cob with husks removed; field grain, fodder and forage; and pop grain and fodder); rice (grain and straw); and cotton (gin byproducts and undelinted seed) at the range of 0.05 to 0.8 ppm. Additionally, tolerances for residues of halosulfuron-methyl and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (CSA, expressed as parent equivalents) are established at 0.1 ppm on meat byproducts including cattle, goats, hogs, horses and sheep. Risk assessments were conducted by EPA to assess dietary exposures from halosulfuron-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: The Acute DEEM® analysis was performed assuming tolerance level residues and 100% crop treated (CT) for commodities for which halosulfuron-methyl is registered and 0.1 ppm (the recommended tolerance) and 100% CT for the melon subgroup (crop group 9–A). No reduction factors of any kind were used in the analysis. This analysis is considered highly conservative.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: The chronic DEEM® analysis was performed assuming tolerance level residues and 100% crop treated (CT) for commodities for which halosulfuron-methyl is registered and a proposed tolerance 0.1 ppm and 100% CT for the melon subgroup (crop group 9–A). No reduction factors of any kind were used in the analysis. This analysis is considered highly conservative.

iii. *Cancer.* Halosulfuron-methyl is classified as a "not likely" human carcinogen based on a lack of evidence of carcinogenicity in male and female mice and rats. Accordingly, a cancer risk assessment was not conducted.

2. *Dietary exposure from drinking water.* The available data on halosulfuron-methyl (parent) shows that the compound is mobile in soil and is persistent at phytotoxically significant levels for months to years at some sites. Halosulfuron-methyl has the potential to leach to groundwater, and also presents concerns for transport to surface water by runoff.

The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for halosulfuron-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of halosulfuron-methyl.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in groundwater. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to halosulfuron-methyl they are further discussed in the aggregate risk sections below.

Based on the GENEEC model the acute and chronic estimated environmental concentrations (EECs) of halosulfuron-methyl for surface water are estimated to be 8.3 μg/L and 1.7 μg/L, respectively. Based on the SCI-GROW model the estimated EECs of

VOL 66 ISS 247 DE 26 2001 UMI

halosulfuron-methyl for groundwater is estimated to be 0.065 µg/L.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Halosulfuron-methyl is currently registered for use on the following residential non-dietary sites: commercial and residential turf and on other non-crop sites including airports, cemeteries, fallow areas, golf courses, landscaped areas, public recreation areas, residential property, road sides, school grounds, sod or turf seed farms, sports fields, landscaped areas with established woody ornamentals and other similar use sites. The risk assessment was conducted as follows: For short-term exposure and risk for residential lawn applicators (handlers), the resulting dermal exposure for female handlers is 0.000043 mg/kg/day resulting in an MOE of 1,200,000. This MOE does not exceed EPA's level of concern for residential handlers. Chronic- and intermediate-term handler assessments were not conducted because lawn application of halosulfuron-methyl is not expected to be made continuously over the duration of the chronic- or intermediate-term exposure scenarios.

For residential postapplication exposure and risk calculations for adults, short- and intermediate-term exposures result in MOEs that range from 1,800 to 5,200. These MOEs do not exceed EPA's level of concern for adults.

For children's residential postapplication exposure and risk calculations, dermal exposure was combined with incidental oral hand-to-mouth and object-to-mouth exposures (because all exposures are compared to the same endpoint) to represent a worst-case scenario. The short-term risk estimate results in an MOE of 2,900 and the intermediate-term risk results in an MOE of 1,100. These risks do not exceed EPA's level of concern.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether halosulfuron-methyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, halosulfuron-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that halosulfuron-methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1 *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to halosulfuron-methyl. In the prenatal developmental toxicity studies in rats and rabbits and the two-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

3. *Conclusion.* There is a complete toxicity database for halosulfuron-methyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because there was no indication of increased susceptibility of rats or rabbits *in utero* and/or postnatal exposure to halosulfuran methyl, and although a developmental neurotoxicity study was required, an additional safety factor was not warranted.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, OPP concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to halosulfuron-methyl will occupy <1% of the aPAD for females (13 years and older), infants, and children (1–6 years old). In

addition, there is potential for acute dietary exposure to halosulfuron-methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.— AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
All infants	0.5	0.00070	8.3	0.065	5,000
Children (1–6 years)	0.5	0.00097	8.3	0.065	5,000
Females (13–50 years	0.5	0.00056	8.3	0.065	15,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to halosulfuron-methyl from food will utilize <1% of the cPAD for the U.S. population, infants (<1 year old), children (1–6 years old), and females (13–50 years old). Based on the use pattern, chronic residential exposure to residues of halosulfuron-methyl is not expected. In addition, there is potential for chronic dietary exposure to halosulfuron-methyl in drinking water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.10	0.00020	1.7	0.065	3,500
All infants (<1 year)	0.10	0.00059	1.7	0.065	1,000
Children (1–6 years)	0.10	0.00035	1.7	0.065	1,000
Females (13–50 years)	0.10	0.00016	1.7	0.065	3,000

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Halosulfuron-methyl is currently registered for use that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for halosulfuron-methyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 4,500 for females 13–50 years and older, and 2,800 for infants (<1 year old). A short-term risk assessment is required for adults because there is a residential exposure scenario (handler and postapplication). In addition, a short-term risk assessment is required for infants and children because there are residential post-application dermal and oral exposure scenarios. The risk calculations for adult females is expected to result in a higher risk than adult males because a lower body weight is used (60 kg), therefore adult females will represent the U.S. population. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron-methyl in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
U.S. Population	4,500	100	1.7	0.065	17,000
Infants (<1 year old)	2,800	100	1.7	0.065	4,800
Females (13–50 years old)	4,500	100	1.7	0.065	15,000

VOL 66 ISS 247 DE 26 2001 UMI

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Halosulfuron-methyl is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for halosulfuron-methyl.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,700 females 13–50 years old, and 1,100 for infants (<1 year old). An intermediate-term risk assessment is required for adults because there is a residential exposure scenario (handler and postapplication). In addition, an intermediate-term risk assessment is required for infants and children because there are residential post-application dermal and oral exposure scenarios. The risk calculations for adult females is expected to result in a higher risk than adult males because a lower body weight is used (60 kg), therefore adult females will represent the U.S. population. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron-methyl in ground and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.— AGGREGATE AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE-TERM EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
U.S. Population	1,700	100	1.7	0.065	3,300
Infants (<1 year old)	1,100	100	1.7	0.065	910
Females (13–50 years old)	1,700	100	1.7	0.065	2,800

5. *Aggregate cancer risk for U.S. population.* Halosulfuron-methyl is classified as a not likely human carcinogen based on a lack of evidence of carcinogenicity in male and female mice and rats, and thus no cancer risk is expected from exposure to halosulfuron methyl.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to halosulfuron-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

EPA now requires measurement of parent halosulfuron only using the revised enforcement method, Analytical Method for the Determination of MON 12000 in Raw Agricultural Commodities and Processed Fractions. The method was accepted by EPA as an enforcement method and sent to FDA to be included in PAM II.

The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no established Codex, Canadian, or Mexican maximum residue limits (MRLs) or tolerances for residues of halosulfuron-methyl in/on the melon subgroup.

V. Conclusion

Therefore, the tolerance is established for residues of halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl) amino] carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on melon subgroup at 0.1 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301200 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental

Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301200, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal

VOL 66 ISS 247 DE 26 2001 UMI

government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 13, 2001.

Peter Caulkins,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.479 is amended by alphabetically adding the following commodity to the table in paragraph (a)(2) to read as follows:

§ 180.479 Halosulfuron-methyl; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million
* * *	* *
Melon Subgroup	0.1
* * *	* *

* * * * *

[FR Doc. 01–31639 Filed 12–21–01; 8:45 am

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7120–8]

Kentucky: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Kentucky has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Kentucky's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on February 25, 2002 unless EPA receives adverse written comment by January 25, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can view and copy Kentucky's application from 8 a.m. to 4:30 p.m. at the following addresses: Kentucky Department for Environmental Protection, Division of Waste Management, Fort Boone Plaza, Building 2, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564–6716; U.S. EPA, Region 4, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Kentucky's application for the Omnibus Provision meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Kentucky Final authorization to operate its hazardous waste program with the Omnibus Provision changes described in the authorization application. Kentucky has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Kentucky, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Kentucky subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Kentucky has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulation for which Kentucky is being authorized by today's action is already effective, and is not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Kentucky Previously Been Authorized for?

Kentucky initially received Final authorization on January 17, 1985, effective January 31, 1985 (50 FR 46437), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on December 19, 1988, March 20, 1989, May 15, 1989, November 30, 1992, March 13, 1995, May 25, 1996, June 25, 1996, and July 22, 1996.

G. What Changes Are We Authorizing With Today's Action?

On June 14, 1996, Kentucky submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Kentucky's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Kentucky Final authorization for the following program change:

Federal requirement	Federal Register	Analogous State authority [1]
17–O—Omnibus Provision	07/15/85 50 FR 28702	Kentucky Revised Statutes (KRS) 224.10–100; 224.46–520; 401 Kentucky Administrative Regulations (KAR) 38:030 § 3 (2)(a).

[1] The Kentucky provision is from the Kentucky Administrative Regulations, effective March 10, 1988.

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Kentucky will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State Program is approved in the new areas, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty (30) days of the approval of the State program. Upon the effective date of an equivalent State permit, EPA will terminate those Federal permits issued pursuant to 40 CFR 124.5 and 271.8 and Kentucky's compliance with § 271.13 (d). EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Kentucky is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Kentucky?

Kentucky's Hazardous Waste Program is not being authorized to operate in Indian country.

K. What Is Codification and Is EPA Codifying Kentucky's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart S for this authorization of Kentucky's program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Kentucky is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 17, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 01–31487 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7121–1]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Tennessee's changes to its hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on February 25, 2002, unless EPA receives adverse written comment by January 25, 2002. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8440. You can view and copy Tennessee's application from 8:00 a.m. to 4:30 p.m. at the following addresses: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535; and EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8190.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Tennessee's application for RCRA Cluster VIII meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Tennessee Final authorization to operate its hazardous waste program with the changes described in the authorization application. Tennessee has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Tennessee, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Tennessee subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. Tennessee has enforcement responsibilities under its state hazardous waste program for violations of such programs, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Tennessee is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Tennessee Previously Been Authorized for?

Tennessee initially received Final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 26, 2000, effective December 26, 2000 (65 FR 64161), on September 15, 1999, effective November 15, 1999 (64 FR 49998), on January 30, 1998, effective March 31, 1998 (63 FR 45870), on May 23, 1996, effective July 22, 1996 (61 FR 25796), on August 24, 1995, effective October 23, 1995 (60 FR 43979), on May 8, 1995, effective July 7, 1995 (60 FR 22524), on June 1, 1992, effective July 31, 1992 (57 FR 23063), and on June 12, 1987, effective August 11, 1987 (52 FR 22443).

G. What Changes Are We Authorizing With Today's Action?

On March 23, 2001, Tennessee submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Tennessee's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Final authorization for the following program changes:

Federal requirement	Federal Register	Analogous State authority [1]
160—Land Disposal Restrictions; Phase III—Emergency Extension of the KO88 National Capacity Variance.	62 FR 37694, 07/14/97	Tennessee Code Annotated (TCA) 68–212–104(7) & (16); 68–212–106(a)(1) & (2); 68–212–107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200–1–11–10(2)(j)3.
161—Second Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed Hazardous Waste From Carbamate Production.	62 FR 45568, 08/28/97	Tennessee Code Annotated (TCA) 68–212–104(7) & (16); 68–212–106(a)(1) & (2); 68–212–107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200–1–11–10(3)(a)7, .10(3)(i)1/Table.
162—Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances.	62 FR 64504, 12/05/97	Tennessee Code Annotated (TCA) 68–212–104(7) & (16); 68–212–106(a)(1) & (2); 68–212–107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200–1–11–.10(3)(3).

Federal requirement	Federal Register	Analogous State authority[1]
163—Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	62 FR 64636, 12/08/97	Tennessee Code Annotated (TCA) 68–212–104(6) & (7); 68–212–106(a)(1) & (2); 68–212–107(a), (d)(1), (3), & (6); 68–212–108(a)(1); Tennessee Revised Code 1200–1–11–.06(2)(f)2(iv), .06(5)(d)2(vi), .06(30)(a)2(iii), .06(30)(a)3 & 5; .06(30)(b), .06(30)(d)1(ii)(I)–(IV), .06(31)(a)2(iii), .06(31)(a)3 & 6, .06(31)(k)1, .06(31)(k)2(i)–(iv), .06(31)(m)2(ii)–(iii), .06(31)(o)7(vi), .06(31)(o)13, .06(32)(a)2(i), .06(32)(a)3, .06(32)(c)2, .06(32)(c)3(ii)(IX)I–II, .06(32)(c)3(iii), .06(32)(c)3(iv)(II), .06(32)(d)1(ii), .06(32)(d)2(i), .06(32)(e)3(ii)(III), .06(32)(e)3(ii)(III)II, .06(32)(e)3(ii)(III)II.A & B, .06(32)(e)5(iv), .06(32)(e)6(iii)(I)IV.D, .06(32)(e)6(iii)(III), .06(32)(e)6(iv), .06(32)(e)10(ii)(III), .06(32)(f)2(ii), .06(32)(f)4(i)(III), .06(32)(f)4(ii)(I)II, .06(32)(f)5(ii)(III), .06(32)(g)3(ii), .06(32)(g)3(iv)(I), .06(32)(g)4(ii), .06(32)(g)4(iv)(I), .06(32)(g)7, .06(32)(h)3(iii)(II), .06(32)(h)3(vii), .06(32)(j)1, .06(32)(j)2(i)(II)II, .06(32)(j)6(i), .06(32)(j)10, .06(32)(j)10(i)–(ii); .05(2)(f)2(iv), .05(5)(d)2(vi), .05(27)(a)2(iii), .05(27)(a)4, .05(27)(d)1(ii)(I)–(IV), .05(27)(d)6(ii)(VI)II, .05(28)(a)2(iii), .05(28)(a)5, .05(28)(k)1, .05(28)(k)2(i)–(iv), .05(28)(m)2(ii)–(iii), .05(28)(o)7(vi), .05(28)(o)13, .05(29)(a)2(i), .05(29)(b), .05(29)(c)1, .05(29)(c)1(i)–(ii), .05(29)(c)1(ii)(I)–(IV), .05(29)(c)2, .05(29)(c)2(i)–(ii), .05(29)(c)2(ii)(I)–(III), .05(29)(c)3 & 4, .05(29)(d)2, .05(29)(d)3(ii)(I), .05(29)(d)3(ii)(IX)I–II, .05(29)(d)3(iii), .05(29)(d)3(iv)(II), .05(29)(e)1(ii), .05(29)(e)1(iii)(II)II, .05(29)(e)1(iii)(III), .05(29)(e)1(iii)(III)I, VI, VII & VII.A, .05(29)(e)1(iii)(IV), .05(29)(e)1(iii)(IV)I, II, II.A, II.B, .05(29)(e)1(iii)(V), .05(29)(e)1(iv)(IV), .05(29)(e)2(i), .05(29)(e)2(iii)(II)II, .05(29)(e)2(iii)(III), .05(29)(e)2(iii)(III)VI–VII, .05(29)(e)2(iii)(IV) & (V), .05(29)(e)2(viii)(III), .05(29)(e)2(ix)(IV), .05(29)(e)4(v)(II), .05(29)(f)3(ii)(III), .05(29)(f)3(ii)(III)II, .05(29)(f)3(ii)(III)II.A & B, .05(29)(f)5(iv), .05(29)(f)6(iii)(I)IV.D, .05(29)(f)6(iv), .05(29)(f)10(ii)(III), .05(29)(g)2(ii), .05(29)(g)4(i)(III), .05(29)(g)4(ii)(I)II, .05(29)(g)5(ii)(III), .05(29)(h)3(iv)(I), .05(29)(h)4(iv)(I), .05(29)(h)7, .05(29)(i)3(iii)(II), .05(29)(i)3(vii), .05(29)(k)1, .05(29)(k)2(i)(II)II, .05(29)(k)6(i), .05(29)(k)10, .05(29)(k)10(i) & (ii), .05(53)Appendix VI; .07(5)(a)1(v)
164—Kraft Mill Steam Stripper Condensate Exclusion.	63 FR 18504, 04/15/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1); 68–212–107(d)(1); Tennessee Revised Code 1200–1–11–.02(1)(d)1(xvii).
166—Recycled Used Oil Management Standards, Technical Correction and Clarification.	63 FR 24963, 05/06/99 63 FR 37780, 07/14/98	Tennessee Code Annotated (TCA) 68–211–106(a)(1) & 2; 68–211–107(a); 68–211–1001 *et seq.*; 68–212–106(a)(1); 68–212–107(a), (d)(1), (3), & (6); Tennessee Revised Code 1200–1–11–.02(1)(e)10, .02(1)(f)1(iii)(IV)I–III, .11(2)(a)9, .11(3)(c)4, .11(3)(c)4(i)–(iv), .11(5)(f)8, .11(5)(f)8(i)–(iv), .11(6)(e)7, .11(6)(e)7(i)–(iv), .11(7)(e)7, .11(7)(e)7(i)–(iv), .11(8)(e)2, .11(8)(e)2(i)–(iv).
167A–Land Disposal Restrictions; Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes.	63 FR 28556, 05/26/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.10(1)(b)10, .10(1)(c)4, .10(2)(e)1, 3 & 4, .10(2)(e)5 .10(2)(e)5(i)–(iv), .10(2)(e)6, .10(3)(a)5 & 8, .10(3)(a)/Table "Treatment Mineral Wastes", .10(3)(i)/Table UTS (Universal Treatment Standards)
167B–Land Disposal Restriction Phase IV—Hazardous Soils Treatment Standards and Excluision.	63 FR 28556, 05/26/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11 –.10(1)(b)9, .10(1)(g)1(i)–(ii), .10(1)(g)1(ii)(I)–(II), .10(1)(g)1(iii)intro, .10(1)(g)1(iii)(II), .10(1)(g)1(iv), .10(1)(g)1(iv)/Table, .10(1)(g)1(v)–(vi), .10(1)(g)2(i)–(iii), .10(1)(g)2(iv) intro, .10(1)(g)5 intro, .10(1)(g)5(i)–(ii), .10(3)(e), .10(3)(j)1– 2, .10(3)(j)3 intro, .10(3)(j)3(i) intro, .10(3)(j)3(i)(I)–(III), .10(3)(j)3(ii), .10(3)(j)3(iii) intro, .10(3)(j)3(iii)(I)– (II), .10(3)(j)4, .10(3)(j)5 intro, .10(3)(j)5(i), .10(3)(j)5(ii) intro, .10(3)(j)5(ii)(I)–(II).
167C–Land Disposal Restrictions, Phase IV—Corrections.	63 FR 28556, 05/26/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11.10(1)(d)1(ii)(II)–(III) .10(1)(g)1(vii), .10(1)(g)2(iii)(II)/Table, .10(1)(g)2(iv)(IV)–(V), .10(1)(g)2(v) & (vi), .10(3)(a)5, .10(3)(a)10/Table, .10(3)(c)1, .10(3)(c)1(i)–(iii), .10(3)(f)1 intro, .10(3)(f)4(iii)–(iv), .10(3)(i)1/table UTS, .10(5)Appendix VII, Table 1, .10(5)Appendix VIII.
167D—Mineral Processing Secondary Materials Exclusion.	63 FR 28556, 05/26/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.02(1)(b)3(iii), .02(1)(b)3(iv/Table, .02(1)(b)5(i)(III), .02(1)(d)1(xviii) intro, .02(1)(d)1(xviii)(I)–(III), .02(1)(d)1(xviii)(IV)I–III, .02(1)(d)1(xviii)(V)–(VI).
167E—Bevill Exclusion Revisions and Clarifications.	63 FR 28556, 05/26/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.02(1)(c)1(ii)(I) & (III), .02(1)(d)3(ii)(III) intro, .02(1)(d)3(ii)(III)I–II, .02(1)(d)3(ii)(III)II.A–T, .02(1)(d)3(ii)(III)III, .02(1)(d)3(ii)(III)III.A & B.

Federal requirement	Federal Register	Analogous State authority [1]
168—Hazardous Waste Conbustors, Revised Standards.	63 FR 33782, 06/19/98	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1); 68–212–107(a), (d)(1), (3), & (4); 68–212–108(a)(1) & (b); Tennessee Revised Code 1200–1–11– .02(1)(d)1(xix), .02(4)(i) intro, .02(4)(i)1 intro, .02(4)(i)1(i) intro, .02(4)(i)1(i)(I)–(II), .02(4)(i)1(ii), .02(4)(i)2 intro, .02(4)(i)2(i)–(v), .02(4)(i)/Table 1, .02(4)(i)3 intro, .02(4)(i)3(i), .02(4)(i)3(i)(I) intro, .02(4)(i)3(i)(I)I–II, .02(4)(i)3(i)(I)III intro, .02(4)(i)3(i)(I)III.A–D, .02(4)(i)3(i)(II) intro, .02(4)(i)3(i)(II)I–V, .02(4)(i)3(ii) intro, .02(4)(i)3(ii)(I), .02(4)(i)3(ii)(II) intro, .02(4)(i)3(ii)(II)I–II, .02(4)(i)3(ii)(III), .02(4)(i)3(iii) intro, .02(4)(i)3(iii)(I)–(III), .02(4)(i)3(iv)(I) intro, .02(4)(i)3(iv)(I)I–III, .02(4)(i)3(iv)(II), .02(4)(i)3(v) intro, .02(4)(i)3(v)(I) intro, .02(4)(i)3(v)(I)I– III, .02(4)(i)3(v)(II), .02(4)(i)3(vi), .02(4)(i)3(vii) intro, .02(4)(i)3(vii)(I) intro, .02(4)(i)3(vii)(I) I–V, .02(4)(i)3(vii)(II) intro, .02(4)(i)3(vii)(II)I–VIII, .02(4)(i)3(vii)(III), .02(4)(i)3(viii) intro, .02(4)(i)3(viii)(I) intro, .02(4)(i)3(viii)(I)I–IV, .02(4)(i)3(viii)(II), .02(4)(i)3(viii)(III) intro, .02(4)(i)3(viii)(III)I–II, .02(4)(i)3(viii)(IV)–(VII), .02(4)(i)3(viii)(VIII) intro, .02(4)(i)3(viii)(VIII)I–II, .02(4)(i)3(viii)(IX), .02(4)(i)3(ix), .02(4)(i)3(x) intro, .02(4)(i)3(x)(I) intro, .02(4)(i)3(x)(I)I–III, .02(4)(i)3(x)(II)–(VII), .02(4)(i)3(x)(VIII) intro, .02(4)(i)3(x)(VIII)I–VIII, .02(4)(i)3(x)(IX) intro, .02(4)(i)3(x)(IX)I–V, .02(4)(i)3(xi), .02(4)(i)3(xii) intro, .02(4)(i)3(xii)(I)–(III), .02(4)(i)3(xiii); .07(9)(c)5(x), .07(9)(c)5(x)(I)–(II), .07(10)(1)9, .07(3)(c)2(viii).

[1] The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective July 19, 1999.

H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Tennessee will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. At the time the State Program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty (30) days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Tennessee?

Tennessee's Hazardous Waste Program is not being authorized to operate in Indian country.

K. What Is Codification and Is EPA Codifying Tennessee's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart RR for this authorization of Tennessee's program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Tennessee is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

VOL 66 ISS 247 DE 26 2001 UMI

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 22, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region IV.

[FR Doc. 01–31489 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2846; MM Docket No. 01–168; RM–10187]

Radio Broadcasting Services; Mendocino, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 66 FR 41489 (August 8, 2001), this document adds Channel 266A to Mendocino, California, and removes channel 224A from Mendocino, California. This action enables Station KMFB(FM) to operate with maximum facilities as a Class A FM station, utilizing its current site for that station. The coordinates for Channel 266A at Mendocino are 39–20–33 North Latitude and 123–46–51 West Longitude.

DATES: Effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–168, adopted November 28, 2001, and released December 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 224A and adding Channel 266A at Mendocino, California.

Federal Communications Commission

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–31562 Filed 12–21–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–1998–4898, Notice No. 4]

RIN 2130–AB30

Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents—Calendar Year 2002

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule establishes at $6,700 the monetary threshold for reporting railroad accidents/incidents involving railroad property damage that occur during calendar year 2002. The monetary threshold of $6,700 for calendar year 2002 represents an $100 increase over last year's monetary threshold of $6,600. This action is needed to ensure and maintain comparability between different years of data by having the threshold keep pace with any increases or decreases in equipment and labor costs so that each year accidents involving the same minimum amount of railroad property damage are included in the reportable accident counts.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Robert L. Finkelstein, Staff Director, Office of Safety Analysis, RRS–22, Mail Stop 17, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202–493–6280); or Nancy L. Friedman, Trial Attorney, Office of Chief Counsel, RCC–12, Mail Stop 10, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202–493–6034).

SUPPLEMENTARY INFORMATION:

Background

Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c). As revised in 1997, paragraphs (c) and (e) of 49 CFR 225.19, provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225, to reflect any cost increases or decreases. 61 FR 30942, 30969 (June 18, 1996); 61 FR 60632, 60634 (Nov. 29, 1996); 61 FR 67477, 67490 (Dec. 23, 1996).

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was last reviewed, and approximately four years since it was revised. 64 FR 69193 (Dec. 10, 1999); 63 FR 71790 (Dec. 30, 1998); 62 FR 63675 (Dec. 2, 1997). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $6,600, which applies to rail equipment accidents/incidents that occur during calendar year 2001, should increase by $100 to $6,700 for the same rail equipment accidents/incidents that occur during calendar year 2002, effective January 1, 2002.

Accordingly, §§ 225.5 and 225.19 and appendix B have been amended to state the reporting threshold for calendar year 2002 and the most recent cost figures and the calculations made to determine that threshold.

Notice and Comment Procedures

In this rule, FRA has recalculated the monetary reporting threshold based on the formula adopted, after notice and comment, in the final rule published June 18, 1996, 61 FR 30959, 30969, and discussed in detail in the final rule published November 29, 1996, 61 FR 30632. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA has found that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, FRA has concluded that notice and comment procedures are impracticable, unnecessary, and contrary to the public interest. As a consequence, FRA is proceeding directly to this final rule.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing regulatory policies and procedures and is considered to be a nonsignificant regulatory action under DOT policies and procedures. 44 FR 11034 (Feb. 26, 1979). This final rule also has been reviewed under Executive Order 12866 and is also considered "nonsignificant" under that Order.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), FRA has published an interim policy that formally establishes "small entities" as being railroads that meet the line-haulage revenue requirements of a Class III railroad. 62 FR 43024 (Aug. 11, 1997). For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. About 645 of the approximately 700 railroads in the United States are considered small businesses by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral because the rule is maintaining, rather than increasing, their reporting burden. The American Shortline and Regional Railroad Association (ASLRRA) represents the interests of most small freight railroads and some excursion railroads operating in the United States. FRA field offices and the ASLRRA engage in various outreach activities with small railroads. For instance, when new regulations are issued that affect small railroads, FRA briefs the ASLRRA, which in turn disseminates the information to its members and provides training as appropriate. When a new railroad is formed, FRA safety representatives visit the operation and provide information regarding applicable safety regulations. The FRA regularly addresses questions and concerns regarding regulations raised by railroads. Because this rule is not anticipated to affect small railroads, FRA is not providing alternative treatment for small railroads under this rule.

Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

Federalism Implications

Executive Order 13132, entitled, "Federalism," issued on August 4, 1999, requires that each agency "in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met * * *." This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

Environmental Impact

FRA has evaluated this regulation in accordance with its "Procedures for Considering Environmental Impacts" (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547, May 26, 1999. Section 4(c)(20) reads as follows:

> (c) Actions Categorically Excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. * * * The following classes of FRA actions are categorically excluded:
>
> * * * * *
>
> (20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions of air or water pollutants or noise or increased traffic congestion in any mode of transportation.

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, 2 U.S.C. 1531), each federal agency "shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law)." Section 202 of the Act (2 U.S.C. 1532) further requires that "before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement" detailing the effect on State, local, and tribal governments and the private sector. The final rule would not result in the expenditure, in the aggregate, of $100,000,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement

VOL 66 ISS 247 DE 26 2001 UMI

of Energy Effects for any "significant energy action." 66 FR 28355 (May 22, 2001). Under the Executive Order, a "significant energy action" is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation (including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking) (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule will not have a significant adverse effect on the supply, distribution, or use of energy and the Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action.

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, FRA amends part 225, title 49, Code of Federal Regulations as follows:

PART 225—RAILROAD ACCIDENTS/INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS

1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49.

2. By amending § 225.19 by revising the first sentence of paragraph (c) and revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (i.e., $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, $6,600 for calendar years 1998 through 2001, and $6,700 for calendar year 2002) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

* * * * *

(e) The reporting threshold is $6,300 for calendar years 1991 through 1996. The reporting threshold is $6,500 for calendar year 1997, $6,600 for calendar years 1998 through 2001, and $6,700 for calendar year 2002. The procedure for determining the reporting threshold for calendar year 1997 and later appears as appendix B to part 225.

3. Part 225 is amended by revising paragraphs 8 and 9 of appendix B to read as follows:

Appendix B to Part 225—Procedure for Determining Reporting Threshold

* * * * *

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times \left\{1 + 0.5\frac{(\text{Wn} - \text{Wp})}{\text{Wp}} + 0.5\frac{(\text{En} - \text{Ep})}{100}\right\}$$

Where:

Prior Threshold = $6,600 (for rail equipment accidents/incidents that occur during calendar year 2001);
Wn = New average hourly wage rate ($) = 18.188333;
Wp = Prior average hourly wage rate ($) = 17.763333;
En = New equipment average PPI value ($) =135.733333;
Ep = Prior equipment average PPI value ($) = 135.633333.

.. The result of these calculations is $6,682.254777. Since the result is rounded to the nearest $100, the new reporting threshold for rail equipment accidents/incidents that occur during calendar year 2002 is $6,700, which represents an $100 increase from the monetary threshold for calendar years 1998 through 2001.

Issued in Washington, DC on December 17, 2001.

Allan Rutter,

Administrator, Federal Railroad Administration.

[FR Doc. 01–31521 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011109274–1301–02; I.D. 102501B]

RIN 0648–AP06

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; 2002 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule, final 2002 specifications, and preliminary commercial quota adjustment; notification of 2002 commercial summer flounder quota harvest for the States of Maine and Delaware.

SUMMARY: NMFS issues final specifications for the 2002 summer flounder, scup, and black sea bass fisheries and makes preliminary adjustments to the 2002 commercial quotas for these fisheries. This final rule specifies allowed harvest limits for both commercial and recreational fisheries, as well as other commercial management measures, including scup and black sea bass possession limits and gear modifications. This action also prohibits federally permitted commercial vessels from landing summer flounder in the States of Delaware and Maine in 2002. Regulations governing the summer flounder fishery require publication of this notification to advise these states, Federal vessel permit holders and Federal dealer permit holders that no commercial quota is available for landing summer flounder in Delaware and Maine in 2002. The intent of this action is to comply with implementing regulations for the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of these fisheries.

DATES: The 2002 final specifications are effective from January 1, 2002, through December 31, 2002. The prohibition on landings of summer flounder in Delaware and Maine by Federal permit holders is effective 0001 hours January 1, 2002, through 2400 hours December 31, 2002. Sections 648.14 (a)(92), 648.14 (u)(1), 648.123 (a)(1), 648.143 (a), 648.144 (a)(1)(i), 648.144 (b)(2), and 648.145 (d) are effective February 25, 2002.

ADDRESSES: Copies of supporting documents used by the Summer Flounder, Scup, and Black Sea Bass Monitoring Committees; the Regulatory Impact Review (RIR), the Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/FRFA is also accessible via the Internet at *http://www.nero.nmfs.gov.*

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, (978) 281–9279, fax (978) 281–9135, e-mail *rick.a.pearson@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The summer flounder, scup and black sea bass fisheries are managed cooperatively by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Light, NC) northward to the U.S./Canada border. Implementing regulations for these fisheries are found at 50 CFR part 648, subparts A, G (summer flounder), H (scup), and I (black sea bass).

Pursuant to §§ 648.100 (summer flounder), 648.120 (scup), and 648.140 (black sea bass), the Administrator, Northeast Region, NMFS, (Regional Administrator) implements measures for the fishing year to assure that the target fishing mortality rate (F) or exploitation rate for each fishery, as specified in the FMP, is not exceeded. The target F or exploitation rate and management measures (e.g., commercial quotas, recreational harvest limits, minimum mesh requirements, minimum fish sizes, possession limits, and other gear restrictions) are summarized below, by species. Detailed background information regarding the status of the summer flounder, scup and black sea bass stocks and the development of the 2002 specifications for these species was provided in the proposed specifications for the 2002 summer flounder, scup and black sea bass fisheries (66 FR 58097, November 20, 2001). That information is not repeated here. NMFS has considered the comments received during the comment period and, other than a minor change to black sea bass gear measures (escape vents) to reflect a clarification provided by the Council, publishes these final specifications without change from those in the proposed rule.

NMFS will establish the 2002 recreational management measures for summer flounder, scup and black sea bass by publishing a proposed and final rule in the Federal Register at a later date, following receipt of the Council's recommendations, as specified in the FMP.

Regulatory Amendment for Summer Flounder, Scup and Black Sea Bass

NMFS has published proposed regulations to implement a regulatory amendment (66 FR 64392, December 13, 2001) that would revise the way in which the commercial quotas for summer flounder, scup and black sea bass are adjusted if landings in any fishing year exceed the quota allocated (thus resulting in a quota overage). The FMP currently requires that any landings in excess of a commercial quota allocation for a state or period in one year must be deducted from that state's or period's annual quota allocation for the following year. This has created problems because complete landings data for the year are not available until after the beginning of the next fishing year. As a result, it is impossible under the existing system to compile complete landings data for one fishing year, establish overages, and finalize adjustments for the following year prior to the start of the fishing year on January 1st. It has often been necessary for NMFS to publish several subsequent quota adjustments throughout the fishing year as additional landings data from the prior year became available. These adjustments have complicated the resource management efforts of state marine fisheries agencies, and have hampered planning by commercial fishers.

NMFS has proposed in the regulatory amendment to establish a cut-off date of October 31 for landings data to be used in calculating quota overages and making the resultant adjustments to the quotas for the following fishing year. Any additional overages due to landings occurring after October 31, or landings reported late, would be deducted from a state's (or period's) quota allocation for the subsequent year. The quota overages reflected in this final rule for summer flounder, scup and black sea bass are consistent with the measure proposed in the regulatory amendment and are based on landings reported for the period January 1 - October 31, 2001. If the final measures implemented by NMFS to address the quota overage determination problem differ from those contained in the proposed rule, NMFS will publish a notification of any necessary quota adjustments for 2002 in January 2002.

Summer Flounder

The FMP specifies a target F for 2002 of F_{MAX}, the level of fishing that produces maximum yield per recruit. Best available data indicate that F_{MAX} is currently equal to 0.26 (equal to an exploitation rate of about 22 percent from fishing). The total allowable landings (TAL) associated with the target F are allocated 60 percent to the commercial sector and 40 percent to the recreational sector. The commercial quota is then allocated to the coastal states based upon percentage shares specified in the FMP. The recreational harvest limit is specified on a coastwide basis. Recreational measures will be the subject of a separate rulemaking early in 2002.

This final rule implements the specifications contained in the proposed rule, except that the research quota set-aside amount is modified as explained below. This results in a 24.3—million lb (11.02–million kg) summer flounder TAL, allocated 14.58 million lb (6.61–million kg) to the commercial sector and 9.72 million lb (4.40–million kg) to the recreational sector. The TAL was determined by the Summer Flounder Monitoring Committee to have a 50–percent probability of achieving the 2002 target F of 0.26, as specified in the FMP, if the 2001 TAL and assumed discard levels are not exceeded.

The proposed rule reflected the Council's and Board's recommendation to set-aside 2 percent (485,943 lb; 220,420 kg) of the summer flounder TAL for scientific research activities through the process established by Framework Adjustment 2 to the FMP. This process resulted in publication of a Request for Proposals that solicited proposals for 2002, based upon the research priorities identified by the Council (66 FR 38636, July 25, 2001, and 66 FR 45668, August 29, 2001). The

VOL 66 ISS 247 DE 26 2001 UMI

deadline for submission of proposals was September 14, 2001. No research project proposals were recommended for approval that would utilize the summer flounder research set-aside. As a result, this final rule does not establish a research quota set-aside for summer flounder and the entire TAL is available to the commercial and recreational fisheries.

Table 1 presents the final 2001 commercial summer flounder quota for each state, reported 2001 landings for each state through October 31, 2001, and resultant 2001 quota overages.

TABLE 1.— SUMMER FLOUNDER PRELIMINARY COMMERCIAL 2001 LANDINGS BY STATE

State	2001 Quota[1]		Reported 2001 Landings through 10/31/01		Preliminary 2001 Overage	
	Lb	Kg[2]	Lb	Kg[2]	Lb	Kg[2]
ME	2,146	973	22,017	9,987	19,871	9,013
NH	100	45	0	0	....	....
MA	647,169	293,551	702,710	318,744	55,451	25,193
RI	1,724,507	782,223	1,387,418	629,322	....	....
CT	241,517	109,550	232,941	105,660	....	....
NY	834,599	378,568	740,578	335,920	....	....
NJ	1,743,704	790,931	1,544,955	700,780	....	....
DE	[3](41,708)	(18,918)	4,532	2,056	(46,240)	(20,974)
MD	193,970	87,983	178,585	81,005	....	....
VA	2,377,721	1,078,516	1,557,227	706,346	....	....
NC	2,651,470	1,202,687	1,804,943	818,708	....	....
Total[4]	10,416,903	4,725,028	8,175,906	3,708,528		....

[1] Reflects quotas as published on September 12, 2001 (66 FR 47413).

[2] Kilograms are as converted from pounds and may not necessarily add due to rounding

[3] Parentheses indicate a negative number.

[4] Total quota is the sum of all states having allocation. A state with a negative number has an allocation of zero (0). Total quota and total landings do not equal the overage because they reflect positive quota balances in several states.

Based upon 2001 landings through October 31, 2001, NMFS adjusts the 2002 commercial quotas for 2001 quota overages. The 2002 initial quota, 2001 quota overages, and preliminary adjusted commercial quotas, by state, for 2002 are presented in Table 2.

TABLE 2.— FINAL STATE-BY-STATE COMMERCIAL SUMMER FLOUNDER ALLOCATIONS FOR 2002

State	Percent Share	2002 Initial Quota		2001 Quota Overages (through 10/31/01)		Adjusted 2002 Quota	
		Lb	Kg[1]	Lb	Kg[1]	Lb	Kg[1]
ME	0.04756	6,933	3,145	19,871	9,013	(12,938)[2]	(5,868)[2]
NH	0.00046	67	30	....	....	67	30
MA	6.82046	994,306	451,010	55,541	25,193	938,765	425,817
RI	15.68298	2,286,310	1,037,053	....	....	2,286,310	1,037,053
CT	2.25708	329,044	149,258	....	....	329,044	149,252
NY	7.64699	1,114,800	505,665	....	....	1,114,800	505,665
NJ	16.72499	2,438,217	1,105,957	....	....	2,438,217	1,105,957
DE	0.01779	2,593	1,176	(46,240)[2]	(20,974)[2]	(43,647)[2]	(19,798)[2]
MD	2.03910	297,266	134,838	....	....	297,266	134,838
VA	21.31676	3,107,619	1,409,592	....	....	3,107,619	1,409,592
NC	27.44584	4,001,133	1,814,883	....	....	4,001,133	1,814,883
Total[3]	100.00	14,578,288	6,612,600	....	....	14,513,221	6,583,086

[1] Kilograms are as converted from pounds and may not necessarily add due to rounding.

[2] Parentheses indicate a negative number.

[3] Total quota is the sum of all states having allocation. A state with a negative number has an allocation of zero (0).

The Commission has established a system whereby 15 percent of each state's quota would be voluntarily set aside each year to enable vessels to land an incidental catch allowance after the directed fishery has been closed. The intent of the incidental catch set-aside is to reduce discards by allowing fishermen to land summer flounder caught incidentally in other fisheries during the year, while also ensuring that the state's overall quota is not exceeded. These Commission set-asides are not included in these 2002 final specifications, because NMFS does not have authority to establish such subcategories.

Delaware and Maine Summer Flounder Closures

Table 2 above indicates that, for the States of Delaware and Maine, the amount of the 2001 summer flounder quota overage is greater than the amount of commercial quota allocated to the states for 2002. As a result, there is no quota available for 2002 in either Delaware or Maine. The regulations at § 648.4 (b) provide that Federal permit holders agree, as a condition of their permit, not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available for harvest. Therefore, effective January 1, 2002, landings of summer flounder in Delaware and Maine by vessels holding commercial Federal fisheries permits are prohibited for the 2002 calendar year, unless additional quota becomes available through a quota transfer and is announced in the **Federal Register**. Federally permitted dealers are advised that they may not purchase summer flounder from federally permitted vessels that land in Delaware or Maine for the 2002 calendar year, unless additional quota becomes available through a transfer.

Scup

The FMP established a target exploitation rate for scup of 21 percent for the 2002 fishing year. The total allowable catch (TAC) associated with the exploitation rate is allocated 78 percent to the commercial sector and 22 percent to the recreational sector by the FMP. Scup discard estimates are deducted from both TACs to establish for both sectors (TAC - discards = TAL). The commercial TAL is then allocated on a coastwide basis to three quota periods: Winter I (January–April)–45.11 percent; Summer (May–October)–38.95 percent; and Winter II (Nov–December)–15.94 percent. The recreational harvest limit is allocated on a coastwide basis.

The proposed rule reflected the Council's and Board's recommendation to set-aside 3 percent (323,100 lb; 146,556 kg) of the scup TAL for scientific research activities through the process established by Framework Adjustment 2 to the FMP. Three research projects that utilized scup research quota have been recommended for approval. These three projects would utilize 222,775 lb (101,049 kg) of the scup research set-aside. The scup TAL has been adjusted to reflect this research set-aside. If the NOAA Grants Office should disapprove any of these projects, the associated research quota will be restored to the scup TAL through publication of a rule by NMFS.

This final rule implements the specifications contained in the proposed rule, with the adjustment to the research quota set-aside as described; a scup TAC of 12.92 million lb (5.86 million kg); a research quota set-aside of 222,775 (101,049 kg); a TAL of 10.55 million lb (4.78 million kg); a commercial TAL of 7,834,522 lb (3,553,679 kg) and a recreational harvest limit of 2,712,703 lb (1,230,461 kg).

Table 3 presents the final 2001 commercial scup quota for each period, reported 2001 landings for the Winter I and Summer periods through October 31, 2001, and resultant 2001 quota overages.

TABLE 3.— SCUP PRELIMINARY 2001 COMMERCIAL LANDINGS BY QUOTA PERIOD AND 2001 OVERAGES

Quota Period	2001 Quota[1]		Reported 2001 Landings through 10/31/01		2001 Overages as of 10/31/01	
	Lb	Kg[2]	Lb	Kg[2]	Lb	Kg[2]
Winter I	1,675,960	752,038	1,692,813	767,847	16,853	7,644
Summer	1,128,832	512,030	1,623,783	736,536	494,951	224,506
Winter II	708,469	321,356	n/a[3]	n/a[3]	n/a[3]	n/a[3]
Total	3,495,261	1,585,424	3,316,596	1,504,383	....	....

[1] Reflects quotas as published on September 12, 2001 (66 FR 47413).
[2] Kilograms are as converted from pounds and may not necessarily add due to rounding.
[3] Not applicable.

Table 4 presents the initial 2002 commercial scup quota allocations with and without the research set-aside deduction, and the commercial possession limits being implemented through this final rule.

TABLE 4.— 2002 INITIAL COMMERCIAL SCUP QUOTA AND POSSESSION LIMITS

Period	Percent	TAC[1]	Discards[2]	Commercial Quota		Possesion Limits	
				W/O Research Set-Aside	W/Research Set-Aside	Lb	Kg
Winter I	45.11	4,546,005 (2,062,033)	937,205 (425,109)	3,608,800 (1,636,924)	3,534,153 (1,603,065)	10,000[3]	4,536
Summer	38.95	3,925,225 (1,780,452)	809,225 (367,058)	3,116,000 (1,413,394)	3,051,546 (1,384,158)	n/a[*]	....
Winter II	15.94	1,606,370 (728,637)	331,170 (150,216)	1,275,200 (578,421)	1,248,823 (566,456)	2,000	907
Total[4]	100.00	10,077,600 (4,571,122)	2,077,600 (942,383)	8,000,000 (3,628,739)	7,834,522 (3,553,679)		

[1] Total allowable catch in pounds (kilograms in parentheses).
[2] Discard estimates in pounds (kilograms in parentheses).
[3] The Winter I landing limit will drop to 1,000 lb (454 kg) upon attainment of 80 percent of the seasonal allocation.
[4] Totals subject to rounding error.
[5] Kilograms in parentheses.
[*] n/a-Not applicable.

Table 5 presents the initial 2002 commercial scup quota allocations (with the research set-aside deductions), 2001 commercial quota overages for Winter I and Summer periods as of October 31, 2001, and the preliminary adjusted 2002 commercial scup quotas by period.

TABLE 5.— FINAL 2002 COMMERCIAL SCUP QUOTA ALLOCATIONS BY PERIOD

Quota Period	2002 Initial Quota[1]		2001 Quota Overages through 10/31/01		Preliminary 2002 Adjusted Quota	
	Lb	Kg[2]	Lb	Kg[2]	Lb	Kg[2]
Winter I	3,534,153	1,603,065	16,853	7,644	3,517,300	1,595,420
Summer	3,051,546	1,384,158	494,951	224,506	2,556,595	1,159,652
Winter II	1,248,823	566,456	n/a[3]	n/a[3]	1,248,823	566,456
Total	7,834,522	3,553,679	511,804	232,150	7,322,718	3,321,529

[1] Reflects quotas with the research set-aside.
[2] Kilograms are as converted from pounds and may not necessarily add due to rounding.
[3] Not applicable.

To achieve the commercial quotas, this final rule implements a Winter I period (January-April) possession limit of 10,000 lb (4,536 kg), and a Winter II period (November-December) possession limit of 2,000 lb (907 kg). The Winter I possession limit will be reduced to 1,000 lb (453.6 kg) when 80 percent of the commercial quota is attained.

The existing minimum mesh size requirement for the directed scup trawl fishery is also modified by this final rule. The purpose of the modification is to protect recent strong scup year classes, most notably the 1997, 1999 and 2000 year classes. Recruitment of these strong year classes to the fishery is the primary reason why the scup TAL is being increased, even though the target exploitation rate has decreased. NMFS believes it is important to protect these strong scup year classes through gear modifications to ensure that the stock will continue to grow. The otter trawl gear modifications are as follows: For large nets, no more than 25 meshes of 4.5-inch (11.43–cm) mesh in the codend, with at least 100 meshes of 5.0-inch (12.70–cm) mesh forward of the 4.5-inch (11.43–cm) mesh; and for small nets with codends (including an extension) less than 125 meshes, the entire net must have 4.5–inch (11.43–cm) mesh or larger throughout. These minimum mesh sizes are applicable to trawl vessels issued a scup moratorium permit that possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31.

In the proposed rule, NMFS explained the reasons for its disapproval of the Council's and Commission Board's recommendation to allow trawl vessels using small mesh and fishing for non-exempt species into the scup Gear Restricted Areas (GRAs) without NMFS-certified observers, provided they use modified trawl nets with an escapement extension (45 meshes of 5.5-inch (13.97-cm) square mesh) between the body of the net and the codend. That explanation is not repeated here.

Black Sea Bass

The FMP established a target exploitation rate for black sea bass of 37 percent for the 2002 fishing year. The TAL associated with the exploitation rate is allocated 49 percent to the commercial sector and 51 percent to the recreational sector by the FMP. The commercial TAL is then allocated on a coastwide basis to four quarterly periods: Quarter 1 (January – March) –38.64 percent; Quarter 2 (April–June)–29.26 percent; Quarter 3 (July–September)–12.33 percent; and Quarter 4 (October–December)–19.77 percent. The recreational TAL is specified as a coastwide harvest limit. The total TAL associated with the exploitation rate required by the FMP is 6.80 million lb (3.08 million kg).

The proposed rule reflected the Council's and Board's recommendation to set-aside 3 percent (204,000 lb; 92,533 kg) of the black sea bass TAL for scientific research activities through the process established by Framework Adjustment 2 to the FMP. Four research projects that utilize black sea bass research quota were recommended for approval by a review committee. These four projects would utilize 76,005 lb (34,475 kg) of the black sea bass research set-aside. The black sea bass TAL has been adjusted in this final rule to reflect this research set-aside. If the NOAA Grants Office disapproves any of these projects, the associated amount of research quota will be restored to the black sea bass TAL through publication of a rule by NMFS.

As a result, a TAL of 6.72 million lb (3.05 million kg) is being implemented through this final rule. This results in a commercial TAL of 3,294,758 lb (1,494,477 kg) and a recreational harvest limit of 3,429,237 lb (1,555,476 kg).

Table 6 presents the final 2001 commercial black sea bass quota for each quarter, reported 2001 landings for Quarter 1, Quarter 2 and Quarter 3 through October 31, 2001, and resultant 2001 quota overages.

TABLE 6.— BLACK SEA BASS PRELIMINARY 2001 COMMERCIAL LANDINGS BY QUARTER AND 2001 OVERAGES

Quarter	2001 Quota[1]		Reported 2001 Landings through 10/31/01		2001 Overages as of 10/31/01	
	Lb	Kg[2]	Lb	Kg[2]	Lb	Kg[2]
Quarter 1	1,168,760	530.141	1,221,802	554,200	53,042	24,059
Quarter 2	645,942	292,994	753,780	341,909	107,838	48,914
Quarter 3	311,902	141,476	318,045	144,263	6,143	2,786
Quarter 4	575,231	260,920	n/a[3]	n/a[3]	n/a[3]	n/a[3]
Total	2,701,835	1,225,532	2,293,627	1,040,372	....	....

[1] Reflects quotas as published on September 12, 2001 (66 FR 47413).
[2] Kilograms are as converted from pounds and may not necessarily add due to rounding.
[3] Not applicable.

Table 7 presents the initial 2002 commercial black sea bass quota allocations with and without the research set-aside deduction, and the commercial possession limits being implemented through this final rule.

TABLE 7.— 2002 INITIAL COMMERCIAL BLACK SEA BASS QUOTA AND POSSESSION LIMITS

Quarter	Percent	Commercial Quota		Possession Limits	
		TAL[1] W/O Research Set-Aside	TAL With Research Set-Aside	Lb	Kg
Quarter 1	38.64	1,287,485 (583,993)[2]	1,273,094 (577,466)	7,000	3,175
Quarter 2	29.26	974,943 (442,227)	964,046 (437,284)	2,000	907
Quarter 3	12.33	410,836 (186,352)	406,244 (184,269)	2,000	907
Quarter 4	19.77	658,736 (298,798)	651,374 (295,458)	2,000	907
Total[2]	100.00	3,332,000 (1,511,370)	3,294,758 (1,494,477)		

[1] Total allowable landings in pounds (kilograms in parentheses).

[2] Totals subject to rounding error.

Table 8 presents the initial 2002 commercial black sea bass quota allocations (with the research set-aside deductions), 2001 commercial quota overages for Quarters 1–3 as of October 31, 2001, and the preliminary adjusted 2002 commercial black sea bass quotas by period.

TABLE 8.— FINAL 2002 COMMERCIAL BLACK SEA BASS QUOTA ALLOCATIONS BY QUARTER

Quarter	2002 Initial Quota[1]		2001 Quota Overages through 10/31/01		Preliminary 2002 Adjusted Quota	
	Lb	Kg[2]	Lb	Kg[2]	Lb	Kg[2]
Quarter 1	1,273,094	577,466	53,042	24,049	1,220,052	553,406
Quarter 2	964,046	437,284	107,838	48,914	856,208	388,369
Quarter 3	406,244	184,269	6,143	2,786	400,101	181,483
Quarter 4	651,374	295,458	n/a[3]	n/a[3]	651,374	295,458
Total	3,294,758	1,494,477	....	....	3,127,735	1,418,717

[1] Reflects quotas with the research set-aside.

[2] Kilograms are as converted from pounds and may not necessarily add due to rounding.

[3] Not applicable.

To achieve the commercial quotas, this final rule implements possession limits of 7,000 lb (3,175 kg) for Quarter 1 (January–March), and 2,000 lb (907 kg) for Quarters 2–4 (April–December). It also implements measures to protect recent strong year classes of black sea bass. These measures include: (1) An increase in the commercial minimum black sea bass fish size from 10 inches (25.4 cm) to 11 inches (27.94 cm); (2) a modification of the trawl net minimum mesh size such that large trawl nets are required to possess a minimum of 75 meshes of 4.5-inch (11.43-cm) diamond mesh in the codend or, for nets with codends less than 75 meshes, the entire net must have a minimum mesh size of 4.5 inches (11.43 cm) throughout; (3) a decrease in the black sea bass possession limit that triggers the requirement to utilize the black sea bass minimum mesh size from 1,000 lb (453.6 kg) year-round to 500 lb (226.8 kg) during Quarter 1 (January–March), and 100 lb (45.3 kg) during Quarters 2–4 (April–December); and (4) an increase in black sea bass pot and trap escape vent sizes to 2 and 3/8-inch (6.03 cm) circular, 2-inch (5.08 cm) square, or 1 and 3/8-inch (3.49 cm) x 5 and 3/4–inch (14.61 cm) rectangular. The gear modifications are consistent with the commercial minimum fish size of 11 inches (27.94-cm).

In the proposed rule, NMFS specifically sought public comment on the most appropriate sizes for black sea bass escape vents for an 11-inch (27.94 cm) minimum commercial fish size. While a few comments were received on various aspects of this proposal, the information provided does not present a consensus view that could be used as the basis for a change from the proposed measures.

Changes from Proposed Rule

The Council submitted a comment that proposed regulatory text pertaining to the size of escape vents in black sea bass pots and traps should be modified. Specifically, the proposed regulations did not propose to amend the regulations pertaining to the spacing between lathes in wooden traps. The Council clarified that the space between the wooden lathes in a wooden trap should be equal to the shortest space separating the sides of the rectangular escape vent, or 1 and 3/8 inches (3.49 cm). These final regulations reflect this clarification in § 648.144 (b)(2).

Comments and Responses

Eleven comments were received on the proposed measures from commercial fishing industry participants, law firms and organizations representing the commercial fishing industry, a group of environmental advocacy organizations, a state marine fisheries agency, and the Council. All comments received prior to the close of the comment period that directly related to the measures in the

VOL 66 ISS 247 DE 26 2001 UMI

proposed rule were considered in developing the measures contained in this final rule. Several commenters raised issues associated with the management of these species that were beyond the scope of the proposed measures. This final rule does not respond to such comments.

Comment 1: Comments were received both supporting and opposing NMFS' disapproval of the measure that would have allowed vessels fishing with small mesh for non-exempted species access to the GRA's, provided they used modified trawl nets (possessing an escapement extension of 45 meshes of 5.5–inch (13.97–cm) square mesh between the body of the net and the codend). One group of commenters supported the disapproval, noting that it would be premature to relax GRA restrictions on the basis of limited, although promising, gear research, especially without mandatory observer coverage. Three commenters, including the Council, opposed the disapproval. They expressed concern that NMFS did not rely more heavily on the research report on the proposed gear, or on industry advice and experience to support adoption of this measure. One commenter indicated that NMFS should have relied on the research report because it represents the best available science.

Response: In the proposed rule, NMFS clearly articulated its rationale for disapproval of the recommended measure. In summary, the research upon which the recommendation was based, although promising, is too preliminary to justify a universal exemption for all vessels at all times. NMFS notes that the draft report referred to by the commenters states that, "It does not necessarily follow that this solution (modified trawl gear) will work for vessels of all sizes, in all areas or at all times." Two of the projects that will utilize the scup research quota set-aside are intended to test and develop gear modifications to address scup bycatch in small-mesh fisheries. NMFS is hopeful that these projects, and others, will provide more comprehensive information that can be used in developing future management measures to reduce scup discard mortality.

Comment 2: Two commenters, including the Council, suggested that NMFS' disapproval of the exemption to allow small-mesh vessels to fish for non-exempt species in the GRAs when deploying modified trawl gear would prevent the *Loligo* squid fishery from attaining its annual commercial quota. The Council provided 2001 landings data showing that the quarterly quotas have not been attained.

Response: NMFS acknowledges that the *Loligo* quotas allocated to each quarterly period in 2001 have not been attained. NMFS disagrees, however, that it is possible to conclude, based on one year of landings data, that GRAs are the reason quotas are not being attained. GRAs were in place for the 2000 fishing year, though with different boundaries, and commercial landings approached or exceeded the *Loligo* squid commercial quotas that year. In any case, NMFS believes that there is a critical need to protect scup from excessive discard mortality in small-mesh fisheries.

Comment 3: A state marine fisheries agency expressed concern about the magnitude of the 2001 Summer period scup quota overage, and suggested that NMFS should reconsider making the 2002 overage deduction. The commenter acknowledged that the large overage was the result of the higher Summer period quota established by the Commission, but believes that the Commission action was legitimate. The commenter was concerned that the large quota deduction in 2002 will widen the gap between Federal and state permit holders in future years and will eventually result in a minuscule Federal Summer period scup quota.

Response: NMFS shares this concern about divergence between the quotas established by state and Federal management agencies. NMFS has specifically noted concern about the Summer period scup quota on several occasions, and has explained that the FMP requires NMFS to deduct any overages of the commercial quota from that period's allocation for the following year. Under the current FMP, NMFS is legally prevented from taking any action to "reconsider" this requirement through this final rule, due to the requirements of the FMP.

Comment 4: One commenter opposed the proposed black sea bass TAL because it is higher than the TAL recommended by the Black Sea Bass Monitoring Committee. The commenter stated that NMFS did not provide adequate justification for the higher black sea bass TAL and requested that NMFS demonstrate that the higher TAL has a 50–percent chance of attaining the target fishing mortality rate (F = 0.37) for black sea bass.

Response: The commenter referred to a target F rate of F=0.37. In fact, the FMP does not specify a target F rate. Rather, it specifies a target exploitation rate of 37 percent, because the data available for this fishery cannot support an estimate of F. The TAL is established using the target exploitation rate because it can be calculated using data that are available for this fishery (i.e., the NEFSC spring survey abundance index). Similarly, the quality of the assessment data for this species does not allow for a precise estimate of the probability of achieving the target exploitation rate.

The increased TAL is directly related to the other conservation measures being enacted to protect recent strong year classes of black sea bass. These include: (1) An increase in the minimum fish size from 10 inches (25.4 cm) to 11 inches (27.9 cm); (2) a 1/2–inch (1.27–cm) increase in the minimum trawl mesh size; (3) an increase in escape vent sizes for black sea pots and traps; and (4) a decrease in the possession limit that triggers the requirement to utilize the black sea bass minimum mesh size from 1,000 lb (453.6 kg) year-round to 500 lb (226.8 kg) in Quarter 1 and 100 lb (45. 3 kg) in Quarters 2 through 4. NMFS believes it is reasonable to anticipate that the conservation benefits associated with these gear changes will offset the increase in the TAL.

NMFS anticipates that a significant number of additional small fish (< 11 inches (27.9 cm)) will escape, grow and reproduce as a result of these measures. The information that is available indicates that a minimum fish size of 11 inches (27.9 cm) corresponds to the L_{25} (length at which 25 percent of fish are retained) associated with the increased minimum mesh size in the trawl fishery, and the L_{50} (length at which 50 percent of fish are retained) associated with the increase in escape vent sizes. Also, a recent study indicates substantive changes in selectivity using a rectangular vent size similar to that recommended by the Council.

NMFS acknowledges that, if overall fishing effort and exploitation are high, any increase in spawning stock biomass as a result of the gear changes would not be realized. However, relative exploitation indices in the black sea bass fishery have significantly declined since 1998. The combination of this trend of decreasing exploitation and the conservative gear modifications support the higher TAL.

NMFS is also giving consideration to the importance of maintaining a consistent TAL between state and Federal waters. Past instances of divergent TALs, such as that noted in Comment 3, have weakened the effectiveness of the management program. NMFS prefers, when possible, to implement measures that are consistent with those enacted by the states.

Comment 5: One commenter wrote in support of the proposed black sea bass possession limits of 7,000 lb (3,175 kg) for Quarter 1, and 2,000 lb (907 kg) for Quarters 2-4. The commenter suggested that the higher trip limits in Quarters 2–4 were necessary to provide flexibility to the states, which are considering whether to establish more restrictive landing limits. Two other commenters were opposed to the proposed black sea bass possession limits, and recommended adoption of the possession limits recommended by the Black Sea Bass Monitoring Committee: 7,000 lb (3,175 kg) in Quarter 1; 1,000 lb (453.6 kg) in Quarter 2; 2,500 lb (226.8 kg) in Quarter 3; and 750 lb (340.2 kg) in Quarter 4. One of the commenters opposed to the proposed landing limits contended that the higher limits would create a derby-style fishery, wreak havoc with prices, and result in a early closures of the quarterly fisheries.

Response: The establishment of black sea bass possession limits has been a contentious issue since the FMP was first fully implemented in 1996. Through this final rule, NMFS is implementing the possession limits that were recommended by the Council at its August 2001 meeting. These possession limits were chosen as an appropriate balance between the economic concerns expressed by industry members, who sought sufficient landings to make a trip economically viable, and the objective of maintaining quota availability over the entire quota period. The Commission's Black Sea Bass Board tabled its motion on possession limits for further discussion. The higher Federal limits imposed through this final rule facilitate the implementation by the states of more restrictive landings limits, and provide the states with flexibility in designing management measures appropriate to their fisheries.

Comment 6: One commenter opposed the increase in black sea bass escape vent sizes, stating that wooden pots and wire pots would have to be modified at great cost as a result of the regulation. The commenter felt that the management measure would never pass a cost-benefit analysis.

Response: Black sea bass are over-exploited and at a low biomass level. However, recruitment indices indicate that exceptionally large year classes were produced in 1999 and 2000. Preliminary results indicate a poor 2001 year class. Therefore, the 1999 and 2000 black sea bass year classes must be protected in order to allow for these fish to grow to maturity so they can reproduce and contribute to stock rebuilding. As a result, the commercial minimum fish size is being increased to 11 inches (27.94 cm). It is necessary when increasing the minimum fish size to implement measures that will modify the gear used in the fishery appropriately. Otherwise, fish smaller than the minimum size will suffer unnecessary mortality which would reduce the effectiveness of the minimum size measure. The increase in the vent sizes is one such measure.

The Council analysis concluded that the cost of replacing escape vents would be minimal and indicated that some industry members are already using escape vents consistent with the new requirement. It is expected that these measures will ultimately produce both short and long-term benefits as the black sea bass stock continues to rebuild and TALs are correspondingly increased.

Comment 7: One commenter supported the proposed escape vent sizes for black sea bass pots and traps. Another commenter supported the proposed sizes for circular (2–3/8 inch (6.03–cm)) and square (2–inch (5.08–cm)) escape vents, but was strongly opposed to the proposed rectangular escape vent size (1–3/8 x 5–3/4 inches (3.49 x 14.60 cm)). The commenter stated that, according to a 1994 study, the proposed rectangular escape vent size would allow 50-percent more 11–inch (27.94–cm) fish to escape than a 1–1/4 x 5-3/4–inch (3.175 x 14.60-cm) escape vent. The commenter was also opposed to any increase beyond 1–1/4 inches in the separation of lathes in wooden pots. Another commenter suggested requiring a 2–inch (5.08–cm) mesh panel in the entire backside of the black sea bass traps. The Council also commented, as noted earlier, that the regulations associated with lathe spacing in wooden pots must also be modified.

Response: The Council initially adopted the 1–3/8 x 5–3/4–inch (3.49 x 14.60–cm) rectangular black sea bass escape vent size at the suggestion of industry members that attended the August 2001 Council meeting. In the proposed rule, NMFS specifically requested additional comment from industry members concerning the appropriate sizes for escape vents for an 11–inch (27.94–cm) minimum fish size. NMFS received few comments on this issue, and does not believe there is a basis to modify the proposed measures. NMFS is making the lathe spacing change recommended by the Council for consistency.

Comment 8: One commenter indicated that fishermen will not benefit from an 11-inch (27.94–cm) minimum black sea bass fish size because there will be fewer small fish to sell and prices for larger fish will decrease. The commenter disputed the conclusion in the Initial Regulatory Flexibility Analysis (IRFA) that vessels are likely to experience increased revenues in 2002 compared to 2001 because the commenter believes that the market for black sea bass has been severely damaged by fishery closures and reopenings.

Response: It is not possible to predict accurately the direction and magnitude of price changes for large fish that may result as a consequence of this rule. Therefore, the IRFA relied upon prices from 2000. The IRFA concluded that vessels will land more medium-sized fish and fewer smaller-sized fish as a result of increasing the minimum fish size. Because larger fish have historically commanded a higher price per pound, the IRFA concluded that fishers would benefit from the increase in minimum fish size. The overall conclusion in the IRFA that vessels would experience increased revenues in 2002 is based upon the fact that the commercial black sea bass quota is being increased. It is possible that the commenters point could prove to be true. However, if it does, it would not change the selection of the preferred action because increasing the minimum fish size and the associated gear modifications are necessary to protect recent strong year classes and, also, to support the recommended black sea bass TAL.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This action establishes annual quotas and related management measures for the summer flounder, scup and black sea bass fisheries. If implementation of the quota provisions and other management measures is delayed, NMFS will be prevented from carrying out its function of preventing overfishing of these three species. The fisheries covered by this action will begin making landings on January 1, 2002. If a delay in effectiveness is required, and a quota were to be harvested during a delayed effectiveness period, the lack of effective quota specifications would prevent NMFS from closing the fishery. This could result in large overages that would have distributional effects on other quota periods and might potentially disadvantage some gear sectors. Therefore, with the exception of the sections pertaining to gear modifications, the Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553

(d)(3) to waive the 30–day delayed effectiveness period for the quotas and other management measures, and for the closures of the fisheries in the States of Delaware and Maine. In order to provide sufficient time for industry participants to make the gear modifications required by §§ 648.14(a)(92), 648.14(u)(1), 648.123(a)(1), 648.143 (a), 648.144 (a)(1)(i), 648.144 (b)(2) and 648.145 (d), NMFS is delaying the effectiveness of these measures for 60 days following the date of publication in the **Federal Register**.

This rule does not contain policies with federalism implications, as that term is defined in Executive Order 13132.

The Council and NMFS prepared a Final Regulatory Flexibility Analysis (FRFA) for this action. The FRFA includes comments on the IRFA, responses contained herein, and a summary of the analyses done in support of these specifications. A copy of the analysis is available from the Regional Administrator (see **ADDRESSES**). The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here. A summary of the FRFA follows:

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preambles to the proposed rule and this final rule and are not repeated here. This action does not contain any collection-of-information, reporting, or recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal rules.

Public Comments

Eleven comments were received on the measures contained in the proposed rule. Comments did not refer specifically to the IRFA, but several were related to economic impacts on small entities (see responses to comments 5, 6 and 8 in the preamble of this final rule). No changes were made to the measures outlined in the proposed rule as a result of these comments.

Number of Small Entities

The Council estimates that the proposed 2002 quotas and management measures could affect 1,969 vessels with a Federal summer flounder, scup, and/or black sea bass permit, as of September 5, 2000. However, the more immediate impact of this rule will likely be felt by the 1,038 vessels that actively participated in these fisheries in 2000 (as demonstrated by having landed these species). These 1,038 vessels include vessels holding only state permits.

Minimizing Significant Economic Impact on Small Entities

In the FRFA, NMFS analyzed the measures being implemented in this action. Economic impacts are being minimized to the extent practicable with the measures being implemented in this final rule, while being consistent with the target fishing mortality rates or target exploitation rates specified in the FMP. The FRFA analysis compared the effects of the 2002 measures, following adjustment for known overages at the time of the analysis, to 2000 landings, the most recent year for which complete data are available. Three alternative combinations of summer flounder, scup and black sea bass landings (commercial and recreational) were evaluated (see Table 9 below).

TABLE 9.—COMPARISON OF THE ALTERNATIVE COMBINATIONS OF COASTWIDE COMMERCIAL QUOTA AND RECREATIONAL HARVEST LIMITS REVIEWED. "FLK" IS SUMMER FLOUNDER.

	Commercial Quota	Recreational Harvest Limit
Quota Alternative 1 (Preferred Alternative)		
FLK Preferred Alternative	14,578,288	9,720,000
Scup Preferred Alternative	8,000,000	2,770,000
Black Sea Bass Preferred Alternative	3,332,000	3,470,000
Quota Alternative 2 (Status Quo, Most Restrictive)		
FLK Status Quo	10,747,535	7,160,000
Scup Status Quo	4,444,600	1,770,000
Black Sea Bass Status Quo	3,024,770	3,150,000
Quota Alternative 3 (Least Restrictive)		
FLK Non-Selected Alternative 3	20,878,658	13,900,000
Scup Non-Selected Alternative 3	9,530,000	3,200,000
Black Sea Bass Non-Selected Alternative 3	3,970,960	4,130,000

The measures implemented by this rule would likely result in revenue increases for the 1,038 commercial vessels expected to be impacted by this rule. Alternative 3 would have established quotas higher than those established by this rule for each of the three species. This alternative would likely result in revenue increases to the 1,038 commercial vessels expected to be impacted under this rule, greater than the expected revenue increases under the preferred alternative. However, alternative 3 was not selected for implementation because these quotas are too risk prone in terms of achieving the FMP's annual target F levels or target exploitation rates.

The impacts of the three alternatives on recreational fishers were evaluated by comparing the recreational harvest limits to the recreational landings in 2000, the most recent year for which complete data are available. For both summer flounder and scup, any of the three alternatives considered would require more restrictive management measures to be established, because landings in 2000 exceeded even the highest recreational harvest limit in Alternative 3. For black sea bass, Alternative 3 may have allowed management measures to be less restrictive because Alternative 3 represents a 14–percent increase in the recreational harvest limit. However, black sea bass Alternative 2 establishes a harvest limit nearly identical to the 2000 recreational landings level, so it is not expected to have negative impacts. The effect of more restrictive recreational measures cannot be estimated, but could affect demand for party/charter boat trips. However, party/charter activity in the 1990s has remained relatively stable, so the effects are expected to be minimal.

The modification of the level at which the scup Winter I possession limit is decreased from 10,000 lb (4,536 kg) to

1,000 lb (453 kg) is modified slightly by this rule. Previously, the possession limit was decreased when 75 percent of the quota allocated to the Winter I period was projected to be harvested; this rule modifies the level to 80 percent. This change is anticipated to have a minimal impact on the fishery.

The gear modifications required for participants in the scup and black sea bass fisheries do not modify the amount of quota allocated to the fishery, and therefore, are not projected to impact revenues directly. The modifications themselves will have associated costs, estimated at $775 to $1,354 per net for the trawl gear requirement. The costs associated with changes to the vent sizes in pot and trap gear are projected to be minimal.

The change to the minimum fish size for black sea bass landed by the commercial fishery is projected to generate a benefit to fishers, based on the fact that fishers received a higher price per pound for fish in the larger size category in 2000.

This rule does not establish a research quota set-aside for summer flounder, but does establish such set-asides for scup and black sea bass. The existence of the set-asides does not alter the total revenues in any of the three fisheries, since the fish are projected to be harvested either by the commercial and recreational fisheries, or through research-related activity.

In summary, the commercial quotas and recreational harvest limits contained in this final rule will result in increased landings and revenues for each of the species, most notably for summer flounder and scup, yet still achieve the fishing mortality and exploitation targets specified in the FMP. While the commercial quotas and recreational harvest limits specified in Alternative 3 would provide for even larger increases in landings and revenues, they would not achieve the fishing mortality and exploitation targets specified in the FMP. The possession limits for scup and black sea bass that are being implemented balance the need to provide for economically viable fishing trips with the need to ensure an equitable distribution of the quota over the entire period. The gear modifications in the black sea bass fishery (increased minimum trawl mesh size and pot/trap escape vents) will impose some initial compliance costs, but are needed to complement the increase in minimum commercial fish size and the increase in the black sea bass TAL. Similarly, the modification to scup trawl nets will impose initial compliance costs, but will allow for additional escapement of undersized fish and provide for future increases in exploitable biomass. The economic effects of the existing GRAs will not change as a result of this proposed rule. The disapproved alternative that would allow small-mesh vessels to fish for non-exempt species in the GRAs was not selected because the research supporting the alternative was deemed by NMFS to be too preliminary, and therefore, causative of an unacceptable risk to increased juvenile scup mortality. Finally, the revenue decreases associated with the research set-asides are expected to be minimal, and are expected to yield important long-term benefits associated with improved data. It should also be noted that fish harvested under the research set-asides would be sold. As such, total gross revenue to the industry would not decrease if the research set asides are utilized.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 18, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraphs (a)(92) and (u)(1) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(92) Fish for, catch, possess, land, or retain black sea bass in or from the EEZ north of 35°15.3 N. lat. (the latitude of Cape Hatteras Light, NC, to the U.S.-Canadian border) in excess of the amount specified in § 648.145 (a).

* * * * *

(u) * * *

(1) Fish for, catch, possess, land, or retain black sea bass in excess of the amount specified in § 648.144(a)(1)(i)(i.e. 500 lb (226.8 kg) from January 1 through March 31, or 100 lb (45.4 kg) from April 1 through December 31), unless the vessel meets the minimum mesh requirement specified in § 648.144 (a).

* * * * *

3. In § 648.123, paragraph (a)(1) is revised to read as follows:

§ 648.123 Gear restrictions.

(a) * * *

(1) *Minimum mesh size.* The owners or operators of otter trawlers who are issued a scup moratorium permit and who possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 100 lb (45.4 kg) or more of scup from May 1 through October 31, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh for no more than 25 continuous meshes forward of the terminus of the codend, and with at least 100 continuous meshes of 5.0-inch (12.7–cm) mesh forward of the 4.5-inch (11.43–cm) mesh. For trawl nets with codends (including an extension) less than 125 meshes, the entire trawl net must have a minimum mesh size of 4.5 inches (11.43 cm) throughout the net. Scup on board these vessels shall be stored separately and kept readily available for inspection.

* * * * *

4. In § 648.143, paragraph (a) is revised to read as follows:

§ 648.143 Minimum sizes.

(a) The minimum size for black sea bass is 11 inches (27.94 cm) total length for all vessels issued a moratorium permit under § 648.4 (a)(7) that fish for, possess, land or retain black sea bass in or from U.S. waters of the western Atlantic Ocean from 35′ 15.3 N. Lat., the latitude of Cape Hatteras Light, North Carolina, northward to the U.S.-Canadian border. The minimum size may be adjusted for commercial vessels pursuant to the procedures in § 648.140.

* * * * *

5. In § 648.144, paragraph (a)(1)(i) and (b)(2) are revised to read as follows:

§ 648.144 Gear restrictions.

(a) * * *

(1) * * *

(i) Otter trawlers whose owners are issued a black sea bass moratorium permit and that land or possess 500 lb (226.8 kg) or more of black sea bass from January 1 through March 31, or 100 lb (45.4 kg) or more of black sea bass from April 1 through December 31, must fish with nets that have a minimum mesh size of 4.5 inch (11.43-cm) diamond mesh applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with less than 75 meshes, the entire net must have a minimum mesh size of 4.5 inch (11.43-cm) diamond mesh throughout.

* * * * *

(b) * * *

(2) All black sea bass traps or pots must have an escape vent placed in a

UMI
VOL 66
ISS 247
DE 26
2001
UMI

lower corner of the parlor portion of the pot or trap that complies with one of the following minimum sizes: 1.375 inches (3.49 cm) by 5.75 inches (14.61 cm); or a circular vent 2.375 inches (6.03 cm) in diameter; or a square vent with sides of 2 inches (5.08 cm), inside measure; however, black sea bass traps constructed of wooden lathes may have instead an escape vent constructed by leaving a space of at least 1.375 inches (3.49 cm) between one set of lathes in the parlor portion of the trap. These dimensions for escape vents and lathe spacing may be adjusted pursuant to the procedures in § 648.140.

* * * * *

6. In § 648.145, paragraph (d) is revised to read as follows:

§ 648.145 Possession limit

* * * * *

(d) Owners or operators of otter trawl vessels issued a moratorium permit under § 648.4 (a)(7) and fishing with, or possessing on board, nets or pieces of net that do not meet the minimum mesh requirements specified in § 648.144(a) and that are not stowed in accordance with § 648.144 (a)(4), may not retain more than 500 lb (226.8 kg) of black sea bass from January 1 through March 31, or more than 100 lb (45.4 kg) of black sea bass from April 1 through December 31. Black sea bass on board these vessels shall be stored so as to be readily available for inspection in a standard 100–lb (45.4 kg) tote.

[FR Doc. 01–31637 Filed 12–19–01; 4:00 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 247
Wednesday, December 26, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AB71

Treasury Rate Direct Loan Program

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: In fiscal year 2001, Congress provided funding to establish a Treasury rate direct loan program to address the backlog of qualified loan applications for insured municipal rate electric loans from RUS. RUS administered the Treasury rate loan program in a manner substantially the same as it administered the municipal rate program under a Notice of Funding Availability (NOFA) published in the **Federal Register** at 65 FR 80830 on December 22, 2000. Title III of the Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act, 2002 authorizes a direct Treasury rate electric loan program of $750 million for FY 2002. RUS is proposing to amend its regulations to establish rules and regulations to administer the Treasury rate direct loan program.

In the final rule section of this **Federal Register**, RUS is publishing this action as a direct final rule without prior proposal because RUS views this as a non-controversial action and anticipates no adverse comments. If no adverse comments are received in response to the direct final rule, no further action will be taken on this proposed rule and the action will become effective at the time specified in the direct final rule. If RUS receives adverse comments, a document will be published withdrawing the direct final rule and all public comments received will be addressed in a subsequent final rule. Any parties interested in commenting on this proposed action should do so at this time.

DATES: Comments on this proposed action must be received on or before January 25, 2002.

ADDRESSES: Submit adverse comments or notice of intent to submit adverse comments to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1522, Washington, DC 20250–1522. RUS suggests a signed original and three copies of all comments (7CFR 1700.4). All comments received will be made available for public inspection at room 4030, South Building, Washington, DC, between 8 a.m. and 4 p.m. (7CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Robert O. Ellinger, Chief, Policy Analysis and Loan Management Staff, Rural Utilities Service, Electric Program, Room 4041 South Building, Stop 1560, 1400 Independence Ave., SW., Washington, DC 20250–1560, Telephone: (202) 720–0424, FAX (202) 690–0717, E-mail *rellinge@rus.usda.gov*.

SUPPLEMENTARY INFORMATION: See the Supplementary Information provided in the direct final rule located in the final rule section of this **Federal Register** for the applicable supplementary information on this action.

Dated: December 18, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service.

[FR Doc. 01–31575 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–15–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Regulatory Agenda; Correction

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual regulatory agenda; correction.

SUMMARY: The following information was inadvertently omitted from NCUA's semiannual regulatory agenda, which was published on Monday, December 3, 2001 (66 FR 62718).

FOR FURTHER INFORMATION CONTACT: Sheila A. Albin, Associate General Counsel, 1775 Duke Street, Alexandria, Virginia 22314 or telephone (703) 518–6540.

Correction: In the semiannual regulatory agenda Part LVIII, beginning on page 62718 in the issue of December 3, 2001, make the following correction. On page 62723, in the third column, add the following sequence numbers 4534 and 4535 following sequence number 4533.

Completed Actions:

4534. Requirements for Insurance (Subpart B)

Timetable:

Action	Date	FR Cite
Duplicate of RIN 3313–. AC14 (Completed in Spring 2001 Agenda).	04/30/01	

RIN: 3133–AC55.

4535. Nondiscrimination in Advertising

Priority: Substantive, Nonsignificant.

Legal Authority: 42 USC 3604(c).

CFR Citation: 12 CFR 701.31(d).

Legal Deadline: None. *Abstract:* Update the NCUA regulations for advertising and posting notice of nondiscrimination in real estate-related lending.

Timetable:

Action	Date	FR Cite
NPRM	04/26/01	66 FR 20945
NPRM Comment Period End	06/25/01	
Final Action	09/19/01	66 FR 48205
Final Action Effective.	10/19/01	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Paul M. Peterson, Staff Attorney, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, Phone: 703 518–6555, Fax: 703–518–6569, Email: *ppeterson@ncua.gov*

RIN: 3133–AC58.

Dated: December 18, 2001.

Hattie M. Ulan,

Special Counsel to the General Counsel.

[FR Doc. 01–31571 Filed 12–21–01; 8:45 am]

BILLING CODE 7535–01–P

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–382–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 series airplanes. This proposal would require repetitive inspections of the side panels of the nose wheel well for broken rivets and replacement of any broken rivets with bolts. This proposal would also require follow-on inspections of adjacent areas for cracks or broken rivets, whenever two or more adjacent broken rivets are found; repair of any cracks; and replacement of any broken rivets with bolts. Finally, this proposal provides for the optional replacement of all rivets in the affected area with bolts, which would terminate the repetitive inspections. This action is necessary to detect and correct broken rivets in the nose wheel well side panels and top panel, which could impair the function of the nose landing gear and cause fatigue cracks in the side panel and top panel webs of the nose wheel well, which could result in rapid cabin depressurization during flight. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by February 11, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–382–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain "Docket No. 2000–NM–382–AD" in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2000–NM–382–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2000–NM–382–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report indicating that 155 broken rivets were found in the side and top panels of the nose wheel well on a Boeing Model 767–200 airplane. Analysis indicates that pressurization loads on the side panel and top panel webs results in high prying loads on these rivets. Broken rivets in the side and top panels of the nose wheel well, if not corrected, could impair the function of the nose landing gear and cause fatigue cracks in the side and top panel webs of the nose wheel well, which could result in rapid cabin depressurization during flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 767–53A0090, Revision 1, dated September 14, 2000, which describes procedures for repetitive inspections of the nose wheel well side panels for broken rivets and replacement of any broken rivets with bolts. The service bulletin also describes procedures for follow-up inspections of adjacent areas for broken rivets and cracks, whenever two or more adjacent broken rivets are found; repair of any cracks; and replacement of any broken rivets with bolts. Finally, the service bulletin describes procedures for the optional replacement of all rivets in the affected area with bolts, which eliminates the need for repetitive inspections.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed rule would require accomplishment of the actions specified in the service bulletin described previously, except as described below.

Differences Between Service Bulletin and Proposed Rule

Operators should note that the service bulletin specifies that if broken rivets are found during a secondary inspection, they must be repaired, and that repair data should be requested from the Boeing Company. However, this proposed rule would require the repair to be accomplished per a method approved by the FAA, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle Aircraft Certification Office, to make such findings.

Cost Impact

There are approximately 62 airplanes of the affected design in the worldwide fleet. The FAA estimates that 46 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $5,520, or $120 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 2000–NM–382–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 62; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct broken rivets in the nose wheel well side panels and top panel, which could impair the function of the nose landing gear and cause fatigue cracks in the nose wheel well side panel and top panel webs, which could result in rapid cabin depressurization during flight, accomplish the following:

Initial and Repetitive Inspections

(a) Within 18 months or 3,000 flight cycles after the effective date of this AD, whichever occurs first: Perform a detailed visual inspection of the nose wheel well side panels for broken rivets, in accordance with Boeing Service Bulletin 767–53A0090, Revision 1, dated September 14, 2000.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

Note 3: Inspections, replacement, and repairs performed prior to the effective date of this AD in accordance with Boeing Service Bulletin 767–53A0090, dated August 3, 2000, are considered acceptable for compliance with the applicable actions specified in this amendment.

(1) If no broken rivets are detected: No further action is required as part of the initial inspection. Repeat the inspection at intervals not to exceed 18 months or 3,000 flight cycles, whichever occurs first.

(2) If broken rivets are detected, but they do not include two or more adjacent rivets: Prior to further flight, replace the broken rivets with bolts in accordance with the service bulletin. Repeat the inspection at intervals not to exceed 18 months or 3,000 flight cycles, whichever occurs first.

(3) If two or more adjacent broken rivets are detected: Prior to further flight, perform a secondary inspection as specified in paragraph (c) of this AD.

Optional Terminating Action

(b) Replacement of all the rivets with bolts in accordance with Figure 5 of Boeing Service Bulletin 767–53A0090, Revision 1, dated September 14, 2000, terminates the repetitive inspection required by paragraph (a) of this AD.

Secondary Inspections

(c) If two or more adjacent broken rivets are found during any inspection required by paragraph (a) of this AD: Prior to further flight, perform a detailed visual inspection of the side panels and the top panel of the nose wheel well for cracks or broken rivets, in accordance with Boeing Service Bulletin 767–53A0090, Revision 1, dated September 14, 2000.

(1) If no cracks or additional broken rivets are found: Prior to further flight replace all of the rivets with bolts in accordance with Figure 5 of the service bulletin. This terminates the repetitive inspections required by paragraph (a) of this AD.

(2) If any cracks or additional broken rivets are found: Prior to further flight, repair the cracks and replace all of the rivets, per a method approved by the Manager, Seattle Aircraft Certification Office, or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD. This terminates the repetitive inspections required by paragraph (a) of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on December 17, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31558 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–112991–01]

RIN 1545–AY82

Credit for Increasing Research Activities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the computation of the research credit under section 41(c) and the definition of qualified research under section 41(d). In addition, this document contains proposed regulations describing when computer software that is developed by (or for the benefit of) a taxpayer primarily for the taxpayer's internal use is excepted from the internal-use software exclusion contained in section 41(d)(4)(E). These proposed regulations reflect changes to section 41 made by the Tax Reform Act of 1986, the Revenue Reconciliation Act of 1989, the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, the Tax and Trade Relief Extension Act of 1998, and the Tax Relief Extension Act of 1999. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments and requests to speak (with outlines of oral comments) at the public hearing scheduled for March 27, 2002 must be received no later than March 6, 2002.

ADDRESSES: Send submissions to: CC:IT&A:RU (REG–112991–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:IT&A:RU (REG–112991–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: http://www.irs.gov/tax_regs/reglist.html. The public hearing will be held in the IRS Auditorium (7th Floor), Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Lisa J. Shuman, 202–622–3120; concerning submissions of comments and the hearing, LaNita VanDyke, 202–622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this proposed regulation have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and assigned OMB Control Number 1545–1625. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On January 3, 2001, Treasury and the IRS published in the **Federal Register** (66 FR 280) final regulations (TD 8930) relating to the computation of the credit for increasing research activities (the research credit) under section 41(c) and the definition of qualified research under section 41(d). In response to taxpayer concerns regarding TD 8930, on January 31, 2001, Treasury and the IRS published Notice 2001–19 (2001–10 I.R.B. 784), announcing that Treasury and the IRS would review TD 8930 and reconsider comments previously submitted in connection with the finalization of TD 8930. Comments were requested on all aspects of TD 8930 with specific comments requested on whether modifications should be made to the documentation requirement contained in § 1.41–4(d).

Notice 2001–19 also provided that, upon the completion of this review, Treasury and the IRS would announce changes to the regulations, if any, in the form of proposed regulations. Notice 2001–19 stated that TD 8930 would be revised so that the provisions of the regulations, including any changes to TD 8930, would be effective no earlier than the date when the completion of this review was announced, except that the provisions relating to internal-use computer software (including any revisions) generally would be applicable for taxable years beginning after December 31, 1985.

Explanation of Provisions

This document amends 26 CFR part 1 to provide additional rules under section 41. Section 41 contains the rules for the research credit. After consideration of the statute and legislative history, the court decisions, TD 8930 and the comments previously submitted in connection with the finalization of TD 8930, and the comments submitted in response to Notice 2001–19, Treasury and the IRS have revised TD 8930 to provide rules regarding:

(i) The requirement in section 41(d)(1)(B)(i) that qualified research be "undertaken for the purpose of discovering information which is technological in nature";

(ii) The requirement in section 41(d)(1)(C) that qualified research be research "substantially all of the activities of which constitute elements of a process of experimentation";

(iii) The type of computer software constituting software "which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer" for purposes of section 41(d)(4)(E); and

(iv) the documentation required to substantiate the research credit. These and other changes to TD 8930 are discussed below.

I. Research That Is Undertaken for the Purpose of Discovering Information Which Is Technological in Nature

Section 41(d)(1)(B)(i) requires that qualified research must be "undertaken for the purpose of discovering information which is technological in nature." TD 8930 provided that "research is undertaken for the purpose of discovering information only if it is undertaken to obtain knowledge that exceeds, expands, or refines the common knowledge of skilled professionals in a particular field of science or engineering" and that "information is technological in nature if the process of experimentation used to discover such information fundamentally relies on principles of the physical or biological sciences, engineering, or computer science."

With respect to the phrase "undertaken for the purpose of discovering information," commentators noted that § 1.174–2(a)(1) imposes a requirement that a taxpayer's activities must be "intended to discover information" in order to give rise to research and experimental expenditures under section 174, and that section 41(d)(1)(A) incorporates this requirement because an expenditure must qualify under section 174 in order to give rise to the research credit. Commentators argued that the enactment of the section 41(d)(1)(B) "undertaken for the purpose of discovering information" language should not necessarily be viewed as imposing a different standard than that imposed under section 174 because the section 174 "intended to discover information" language was promulgated in regulations after section 41(d)(1)(B) was enacted.

Commentators also stated that the requirement that qualified research be "undertaken for the purpose of discovering information which is technological in nature" reflects Congress' concern that the research credit had been claimed for non-technological research. These commentators note that in 1984 hearings to evaluate the operation of the research credit prior to the changes of the Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085, 2186 (the 1986 Act), members of the Subcommittee on Oversight of the House Committee on Ways and Means and Treasury officials cited research credit claims by fast food restaurants, fashion designers and hair stylists as examples of activities that should not be credit eligible. These commentators argue that the 1986 Act modifications to the research credit were intended to target research that relies upon principles of the physical or biological sciences, engineering, or computer science.

Based upon their review of these comments, the statute and legislative history, Treasury and the IRS have determined that the definition of qualified research set out in TD 8930 does not fully address Congress' concerns regarding the importance of research activities to the U.S. economy. Accordingly, Treasury and the IRS have eliminated in these proposed regulations the requirement that qualified research must be undertaken to obtain knowledge that exceeds, expands, or refines the common knowledge of skilled professionals in a particular field of science or engineering. Rather, Treasury and the IRS believe that the requirement that qualified research be "undertaken for the purpose of discovering information which is technological in nature" is intended to distinguish technological research, which may qualify for the research credit, from non-technological research, which does not.

When the research credit rules were amended by the 1986 Act, Congress explained the requirement in section 41(d)(1)(B)(i) as follows:

> [t]he determination of whether the research is undertaken for the purpose of discovering information that is technological in nature depends on whether the process of experimentation utilized in the research fundamentally relies on principles of the physical or biological sciences, engineering, or computer science/3/—in which case the information is deemed technological in nature—or on other principles, such as those of economics—in which case the information is not to be treated as technological in nature. For example, information relating to financial services or similar products (such as new types of variable annuities or legal forms) or advertising does not qualify as technological in nature.

H.R. Conf. Rep. No. 99–841, at II–71 (1986) (footnote omitted). This explanation of section 41(d)(1)(B)(i) focuses on the distinction between information derived from a process of experimentation that fundamentally relies on principles of physical or biological sciences, engineering or computer science, and information derived by other means. This and other changes to the research credit by the 1986 Act were driven by Congressional concerns that the research credit had been applied "too broadly" and that "[m]any taxpayers claiming the credit were not in industries that involved high technology or its application in developing new and improved products or methods of production." H.R. Rep. No. 99–426, at 177–78; S. Rep. No. 99–313, at 694–95. The examples provided by Congress illustrate this point. Information relating to financial services, variable annuities, legal forms and advertising all involve information derived from non-technological research. This distinction between technological and non-technological research is further emphasized by other changes made to the definition of qualified research by the 1986 Act. For example, section 41(d)(4)(D) specifically excludes from the definition of qualified research certain non-technical activities including efficiency surveys, activities relating to management function or technique, market research testing, routine data collection and quality control testing. Similarly, section 41(d)(3)(B) generally provides that if the purpose of research relates to style, taste, cosmetic or seasonal design factors, then that research cannot constitute qualified research. The 1986 Act also expanded the list of social science exclusions contained in section 41(d)(4)(G).

In contrast, the 1986 legislative history does not indicate that section 41(d)(1)(B)(i) was enacted to impose a scientific discovery requirement. The legislative history does not contain a definition of the term *discovery.* The footnote 3 referenced in the above quoted legislative history does state:

> Research does not rely on the principles of computer science merely because a computer is employed. Research may be treated as undertaken to discover information that is technological in nature, however, if the research is intended to expand or refine existing principles of computer science.

H.R. Conf. Rep. No. 99–841, at II–71, n.3 (1986). This footnote, however, does not set forth a rule of general application, but instead merely illustrates a clear example of research satisfying the requirement that qualified research be technological in nature.

For all of these reasons, Treasury and the IRS have concluded that there should be no "discovery" requirement in the research credit regulations separate and apart from that already required under § 1.174–2(a)(1), which states, in part:

> Expenditures represent research and development costs in the experimental or laboratory sense if they are for activities intended to discover information that would eliminate uncertainty concerning the development or improvement of a product. Uncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the product or the appropriate design of the product.

Accordingly, these proposed regulations do not retain from TD 8930 the requirement that qualified research must be undertaken to obtain knowledge that exceeds, expands, or refines the common knowledge of skilled professionals in a particular field of science or engineering. Instead, the proposed regulations repeat the requirement from § 1.174–2(a)(1) by stating that research is undertaken for the purpose of discovering information if it is intended to eliminate uncertainty concerning the development or improvement of a business component. Uncertainty, for purposes of this requirement, exists if the information available to the taxpayer does not establish the capability or method of developing or improving the business component, or the appropriate design of the business component.

These proposed regulations expand on the definition of *technological in nature* set out in TD 8930. As under TD 8930, information is technological in nature if the process of experimentation used to discover such information fundamentally relies on principles of the physical or biological sciences, engineering, or computer science. As in TD 8930, these proposed regulations clarify the definition of technological in nature by stating that a taxpayer may employ existing technologies and may rely on existing principles of the physical or biological sciences, engineering, or computer science to satisfy this requirement.

TD 8930 contained a patent safe harbor providing that a taxpayer is conclusively presumed to have obtained knowledge that exceeds, expands, or refines the common knowledge of skilled professionals in the relevant field of science or engineering, if that taxpayer was awarded a patent (other than a patent for design issued under the provisions of 35 U.S.C. 171) for the business component. These proposed regulations contain a similar rule that conforms to the underlying requirement for credit eligibility in section 41(d)(1)(B)(i) that research must be undertaken for the purpose of discovering information that is technological in nature. Accordingly, these proposed regulations provide that a taxpayer is conclusively presumed to have discovered information that is technological in nature that is intended to eliminate uncertainty concerning the development or improvement of a business component if that taxpayer was awarded a patent (other than a patent for design issued under the provisions of 35 U.S.C. 171) for the business component.

II. Process of Experimentation

Together with the requirements of section 41(d)(1)(A) and (B), section 41(d)(1)(C) provides that qualified research means research substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, or reliability or quality. In TD 8930, Treasury and the IRS clarified how the process of experimentation required by section 41(d)(1)(C) differs from research and development in the experimental or laboratory sense required by § 1.174–2(a). Specifically, TD 8930 provided that a process of experimentation is a process to evaluate more than one alternative designed to achieve a result where the capability or method of achieving that result is uncertain at the outset, but does not include the evaluation of alternatives to establish the appropriate design of a business component when the capability and method for developing or improving the business component are not uncertain. Several commentators objected to any distinction regarding the design of a business component and cited examples from the legislative history which these commentators contend show that the determination of the appropriate design of a business component involved a process of experimentation.

Treasury and the IRS continue to believe that the requirements for a process of experimentation under section 41 are more stringent than the requirements for research and development in the experimental or laboratory sense under § 1.174–2(a)(1). However, Treasury and the IRS have determined that a process of experimentation may exist if a taxpayer performs research to establish the appropriate design of a business component when the capability and method for developing or improving the business component are not uncertain. As is discussed in more detail below, not all research to arrive at the appropriate design of a business component will be credit eligible.

These proposed regulations provide that a process of experimentation is a process designed to evaluate one or more alternatives to achieve a result where the capability or the method of achieving that result, or the appropriate design of that result, is uncertain as of the beginning of the taxpayer's research activities. Whether a taxpayer has undertaken a process of experimentation is a facts and circumstances determination. The proposed regulations provide factors that are indicative of a process of experimentation. The factors listed are not exclusive, and no one factor is dispositive.

A taxpayer's activities do not constitute elements of a process of experimentation where the capability and method of achieving the desired new or improved business component, and the appropriate design of the desired new or improved business component, are readily discernible and applicable as of the beginning of the taxpayer's research activities so that true experimentation in the scientific or laboratory sense would not have to be undertaken to test, analyze, and choose among viable alternatives. Similarly, a process of experimentation does not include merely selecting among several alternatives that are readily discernible and applicable. The fact that a taxpayer conducts only rudimentary or non-technological testing in order to develop or improve a business component tends to indicate that the appropriate design of the business component was readily discernible and applicable at the outset within the meaning of these rules.

TD 8930 provided that the substantially all requirement of section 41(d)(1)(C) is satisfied only if 80 percent or more of the research activities, measured on a cost or other consistently applied reasonable basis (and without regard to § 1.41–2(d)(2)), constitute elements of a process of experimentation for a purpose described in section 41(d)(3). The substantially all requirement is applied separately to each business component. These proposed regulations retain the same rule. Treasury and the IRS, however, request comments on the application of the substantially all rule. Treasury and the IRS are specifically interested in comments on whether research expenses incurred for non-qualified purposes are includible in the credit computation provided that substantially all of the research expenses constitute elements of a process of experimentation.

III. Internal Use Software

Section 41(d)(4)(E) provides that, except to the extent provided by regulations, research with respect to "computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer" (i.e., internal-use software) is excluded from the definition of qualified research. TD 8930 provided that the development of internal-use software constitutes qualified research only if the research satisfies both the general requirements for credit eligibility under section 41 (including that the research not be otherwise excluded) and an additional, three-part high threshold of innovation test. TD 8930 defined internal-use software as software that is to be used internally, such as software used in general and administrative functions of the taxpayer, or in providing noncomputer services. Noncomputer services are services offered by a taxpayer to customers who do business with the taxpayer primarily to obtain a service other than a computer service, even if such other service is enabled, supported, or facilitated by computer or software technology. TD 8930, however, contained an exception to this rule that provides that internal-use software does not include software that is designed to provide customers with a new feature, not available from the taxpayer's competitors, with respect to a noncomputer service and that the taxpayer reasonably anticipates will give rise to increased customer demand for the noncomputer service.

The high threshold of innovation test in TD 8930 generally required that (i) the internal-use software be innovative; (ii) the development of the internal-use software involve significant economic risk; and (iii) the internal-use software not be commercially available. The high threshold of innovation test, however, does not apply with respect to the development of software (i) for use in conducting qualified research; (ii) for use in a production process; (iii) for use as part of a package of hardware and software developed concurrently; and (iv) for use in providing computer services to customers. Computer services are services offered by a taxpayer to customers who do business with the taxpayer primarily for the use of the taxpayer's computer or software technology.

In response to Notice 2001–19, several commentators objected to the internal-use software provisions of TD 8930. After reviewing the legislative history to the 1986 Act, the Tax and Trade Relief Extension Act of 1998, Public Law 105–277, 112 Stat. 2681, 2681–888 (the 1998 Act), and the Tax Relief Extension Act of 1999, Public Law 106–170, 113 Stat. 1860, 1919, together with the comment letters, Treasury and the IRS made several changes to the internal-use software rules. These proposed regulations clarify the definition of internal-use software contained in TD 8930 as well as the exceptions to this definition and the types of software that are not required to satisfy the high threshold of innovation test. These changes are discussed below.

Internal-Use Software Defined

Under these proposed regulations, software that is developed by (or for the benefit of) the taxpayer primarily to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties is not treated as internal use software. All other software is presumed to be developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use. This distinction reflects the view that software that is sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties is software that is intended to be used primarily by the customers of the taxpayer, whereas software that does not satisfy this requirement is software that is intended to be used primarily by the taxpayer for its internal use or in connection with a noncomputer service provided by the taxpayer.

These proposed regulations retain the provision in TD 8930 that excluded from the definition of *internal-use software* computer software and hardware developed as a single product. This rule, however, has been modified in response to a commentator's suggestion that some purchasers of combined software and hardware packages may develop their own computer software to operate the package or modify the imbedded computer software. Because the computer software is an integral part of the hardware, these commentators urged that the computer software/hardware rule should be extended to these development costs. Treasury and the IRS agree that, provided the computer software is developed to be used with hardware as a single product and the activities are otherwise credit-eligible and not excluded under another provision (e.g., section 41(d)(4)(B)), the computer software/hardware rule should extend to these development costs. Thus, under these proposed regulations, internal-use software does not include a new or improved package of computer software and hardware developed together by the taxpayer as a single product (or to the costs to modify an acquired computer software and hardware package), of which the software is an integral part, that is used directly by the taxpayer in providing services in its trade or business to customers.

High Threshold of Innovation Test

These proposed regulations retain the general rule contained in TD 8930 that internal-use software must satisfy the general requirements for credit eligibility (and not be excluded from the definition of qualified research under any other exclusion) and the three-part high threshold of innovation test. These proposed regulations clarify the first prong of the three-part test by providing that internal-use software is innovative if the software is intended to be unique or novel and is intended to differ in a significant and inventive way from prior software implementations or methods. This change is being proposed pursuant to the authority provided in section 41(d)(4)(E) and the legislative history thereunder in order to update the definition of innovative contained in TD 8930. The TD 8930 definition was derived from the legislative history to the 1986 Act and required that the software be intended to result in a reduction in cost, improvement in speed, or other improvement, that is substantial and economically significant. Treasury and the IRS became concerned that the elements of the TD 8930 definition, while perhaps reflecting innovations in computer software in the mid-1980s, did not adequately reflect the factors that indicate that software is innovative today. The proposed change, therefore, is an attempt both to update the definition of innovative, and to provide a more flexible definition with continuing application. Several examples were added to these proposed regulations to illustrate the application of this proposed rule. The second and third prongs of the high threshold of innovation test (i.e., significant economic risk and commercial availability) remain unchanged from TD 8930.

Software Not Required To Satisfy the High Threshold of Innovation Test

Like TD 8930, these proposed regulations provide that software is not required to satisfy the high threshold of innovation test if the software was developed by the taxpayer for use in an activity that constitutes qualified research (other than the development of the internal-use software itself), a production process that meets the requirements of section 41(d)(1), or in providing computer services to customers. These proposed regulations, however, eliminate the special rule contained in TD 8930 for software used to deliver noncomputer services to customers with features that are not yet offered by a taxpayer's competitors. Several commentators stated that this rule is too limited and subjective in its application to have significant value to taxpayers. Due to other revisions contained in these proposed regulations, Treasury and the IRS believe that the computer software targeted by this rule generally would be credit eligible without this rule.

Several commentators objected to the distinction between computer services and noncomputer services and urged that the definition of internal-use software exclude any software used to deliver a service to customers or any software that includes an interface with customers or the public. An exclusion for software that includes an interface with customers or the public would entail substantial administrative difficulties and may inappropriately permit certain categories of costs (e.g., certain web site development costs) to constitute qualified research expenses without having to satisfy the high threshold of innovation test.

VOL 66 ISS 247 DE 26 2001 UMI

With respect to software developed by a taxpayer for use in a production process satisfying the requirements of section 41(d)(1), comments from service providers urged Treasury and the IRS to give service providers the same benefits as manufacturing companies. Congress provided an explicit exclusion for software developed for use in a production process; however, it did not provide a similar exclusion for software used in the provision of noncomputer services. Therefore, Treasury and the IRS conclude that software used in the provision of noncomputer services generally should be subject to the internal-use software requirements.

Effective Date

Treasury and the IRS propose the revisions to the internal-use software rules to be effective for taxable years beginning after December 31, 1985. Treasury and the IRS believe that the proposed rule is consistent with the legislative history and the legislative mandate for retroactive application of the rule. Taxpayers, however, may continue to rely on TD 8930 until regulations are finalized.

IV. Shrinking-Back Rule

TD 8930 contained a special shrinking-back rule. These proposed regulations revise the shrinking-back rule to conform it to the rule in the legislative history to the 1986 Act. These proposed regulations also reiterate that the shrinking-back rule may not itself be applied as a reason to exclude research activities from credit eligibility.

V. Other Exclusions

Several commentators raised issues concerning activities excluded from the definition of qualified research. In particular, the commentators were concerned about the research after commercial production exclusion. Because the rules contained in § 1.41–4(c) of TD 8930 closely reflected the legislative history regarding post-research activities, these proposed regulations retain the rules contained in TD 8930. See H.R. Conf. Rep. No. 99–841, at II–74–75. However, new examples are included to illustrate the application of the exclusions. Treasury and the IRS request comments concerning the application of the exclusions and the extent to which additional guidance concerning the exclusions may be helpful.

VI. Gross Receipts

When Congress revised the computation of the research credit to incorporate a taxpayer's gross receipts, neither the statute nor the legislative history defined the term *gross receipts*, other than to provide that gross receipts for any taxable year are reduced by returns and allowances made during the tax year, and, in the case of a foreign corporation, that only gross receipts effectively connected with the conduct of a trade or business within the United States are taken into account. See section 41(c)(6).

TD 8930 adopted a broad definition of the term *gross receipts* for purposes of computing the research credit. TD 8930 generally defined gross receipts as the total amount derived by a taxpayer from all activities and sources. In addition, because certain extraordinary gross receipts might not be taken into account when a business determines its research budget, TD 8930 provided that certain items (e.g., receipts from the sale or exchange of capital assets, or repayments of loans or similar instruments) would be excluded from the computation of gross receipts. Further, TD 8930 excluded from the definition of gross receipts any income derived by a taxpayer in a taxable year that precedes the first taxable year in which the taxpayer derives more than $25,000 in gross receipts other than investment income.

In response to Notice 2001–19, some commentators suggested that the definition of gross receipts created an administrative burden to the extent that taxpayers would be obligated to apply the definition of the term for the four years preceding the determination years as well as to the 1984 through 1988 base years.

These proposed regulations retain the definition of gross receipts contained in TD 8930. Treasury and the IRS continue to believe that the definition of gross receipts should be construed broadly and that the definition of gross receipts in TD 8930 is appropriate for purposes of computing the research credit. Further, Treasury and the IRS believe that the administrative burden referred to by commentators is due to the incremental nature of the credit and the statutorily determined base years, and not to the definition of gross receipts.

VII. Recordkeeping for the Research Credit

Under TD 8930, taxpayers were required to prepare and retain written documentation before or during the early stages of the research project that describes the principal questions to be answered and the information the taxpayer seeks to obtain that exceeds, expands, or refines the common knowledge of skilled professionals in the relevant field of science or engineering. These proposed regulations eliminate this recordkeeping requirement.

Treasury and the IRS recognize that the research credit presents a particular burden for taxpayers because tracking eligible expenditures may necessitate taxpayers preparing and keeping records unlikely to be prepared or kept for other business purposes. The fact that the records are not prepared or kept for other business purposes has made administration of the research credit burdensome for the IRS. Moreover, section 41 often requires an allocation between qualifying and non-qualifying costs that is difficult for taxpayers to make and for the IRS to administer.

Nevertheless, when the research credit was extended in 1999, Congress made clear that the credit should not impose unreasonable recordkeeping requirements:

> The conferees also are concerned about unnecessary and costly taxpayer record keeping burdens and reaffirm that eligibility for the credit is not intended to be contingent on meeting unreasonable recordkeeping requirements.

H.R. Conf. Rep. No. 106–478, at 132 (1999). Treasury and the IRS have re-evaluated whether a research credit-specific documentation requirement is warranted and have concluded that the high degree of variability in the objectives and conduct of research activities in the United States compels a conclusion that taxpayers must be provided reasonable flexibility in the manner in which they substantiate their research credits. Accordingly, Treasury and the IRS have concluded that the failure to keep records in a particular manner (so long as such records are in sufficiently usable form and detail to substantiate that the expenditures claimed are eligible for the credit) cannot serve as a basis for denying the credit. Treasury and the IRS have decided that the rules generally applicable under section 6001 provide sufficient detail about required documentary substantiation for purposes of the research credit. Consequently, no separate research credit-specific documentation requirement is included in these proposed regulations.

Section 1.6001–1 requires the keeping of records "sufficient to establish the amount of * * * credits, * * * required to be shown * * *." The consequence of failing to keep sufficient records substantiating a claimed credit may be denial of the credit. To address any ongoing recordkeeping concerns regarding the research credit, Treasury and the IRS propose to use pre-filing processes, including industry issue resolution, pre-filing agreements, determination letters, and record retention agreements, to provide certainty to taxpayers about the records that must be kept and to ensure the availability to the IRS of the records necessary to examine taxpayers' returns expeditiously. Treasury and the IRS solicit comments from taxpayers on establishing recordkeeping rules that will facilitate compliance and administration, including whether pre-filing agreements should extend to the qualification of particular cost centers or to the procedures established by the taxpayer for determining the expenditures qualifying for the credit. Treasury and the IRS also solicit comments from taxpayers on the extent to which guidelines may be developed on an industry-by-industry basis.

Proposed Effective Dates

Except as specifically provided in § 1.41–4(c)(6)(ix), the proposed amendments to § 1.41–4 are proposed to apply to taxable years ending on or after December 26, 2001. Notwithstanding this prospective effective date, Treasury and the IRS believe that these rules prescribe the proper treatment of the expenditures they address, and the IRS generally will not challenge return positions consistent with the proposed regulations. Therefore, taxpayers may rely on these proposed regulations until the date final regulations under § 1.41–4 are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 533(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 27, 2002, at 10 a.m. in the IRS Auditorium (7th Floor), Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Because of access restrictions, visitors will not be admitted beyond the building lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit (in the manner described in the **ADDRESSES** portion of this preamble) comments and an outline of the topics to be discussed and the time to be devoted to each topic by March 6, 2002.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.41–0 is amended as follows:

1. Revising the section heading for 1.41–3.
2. Revising the entries for 1.41–4.
3. Revising the section heading for 1.41–8.

§ 1.41–0 Table of contents.

* * * * *

§ 1.41–3 Base amount for taxable years ending on or after December 26, 2001.

* * * * *

§ 1.41–4 Qualified research for expenditures paid or incurred in taxable years ending on or after December 26, 2001.

(a) Qualified research.
(1) General rule.
(2) Requirements of section 41(d)(1).
(3) Undertaken for the purpose of discovering information.
(i) In general.
(ii) Application of the discovering information requirement.
(iii) Patent safe harbor.
(4) Technological in nature.
(5) Process of experimentation.
(i) In general.
(ii) Readily discernible capability, method and appropriate design.
(iii) Qualified purpose.
(iv) Factors tending to indicate that the taxpayer has engaged in a process of experimentation.
(6) Substantially all requirement.
(i) General rule.
(ii) Illustrations. [Reserved]
(7) Use of computers and information technology.
(8) Illustrations.
(b) Application of requirements for qualified research.
(1) In general.
(2) Shrinking-back rule.
(3) Illustration.
(c) Excluded activities.
(1) In general.
(2) Research after commercial production.
(i) In general.
(ii) Certain additional activities related to the business component.
(iii) Activities related to production process or technique.
(iv) Clinical testing.
(3) Adaptation of existing business components.
(4) Duplication of existing business component.
(5) Surveys, studies, research relating to management functions, etc.
(6) Internal use software for taxable years beginning on or after December 31, 1985.
(i) General rule.
(ii) Requirements.
(iii) Computer software and hardware developed as a single product.
(iv) Primarily for internal use.
(v) Software used in the provision of services.
(A) Computer services.
(B) Noncomputer services.
(vi) High threshold of innovation test.
(vii) Application of high threshold of innovation test.
(viii) Illustrations.
(ix) Effective date.
(7) Activities outside the United States, Puerto Rico, and other possessions.
(i) In general.
(ii) Apportionment of in-house research expenses.
(iii) Apportionment of contract research expenses.
(8) Research in the social sciences, etc.
(9) Research funded by any grant, contract, or otherwise.
(10) Illustrations.
(d) Recordkeeping for the research credit.
(e) Effective dates.

* * * * *

§ 1.41–8 Special rules for taxable years ending on or after December 26, 2001.

Par. 3. Section 1.41–3 is amended by:

VOL 66
ISS 247
DE 26
2001
UMI

1. Revising the section heading.

2. Revising paragraph (e).

The revisions read as follows:

§ 1.41–3 Base amount for taxable years ending on or after December 26, 2001.

* * * * *

(e) *Effective date.* The rules of this section are applicable for taxable years ending on or after the date December 21, 2001.

Par. 4. Section 1.41–4 is revised to read as follows:

§ 1.41–4 Qualified research for expenditures paid or incurred in taxable years ending on or after December 26, 2001.

(a) *Qualified research*—(1) *General rule.* Research activities related to the development or improvement of a business component constitute qualified research only if the research activities meet all of the requirements of section 41(d)(1) and this section, and are not otherwise excluded under section 41(d)(3)(B) or (d)(4), or this section.

(2) *Requirements of section 41(d)(1).* Research constitutes qualified research only if it is research—

(i) With respect to which expenditures may be treated as expenses under section 174, see § 1.174–2;

(ii) That is undertaken for the purpose of discovering information that is technological in nature, and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(iii) Substantially all of the activities of which constitute elements of a process of experimentation that relates to a new or improved function, performance, reliability or quality.

(3) *Undertaken for the purpose of discovering information*—(i) *In general.* For purposes of section 41(d) and this section, research must be undertaken for the purpose of discovering information that is technological in nature. Research is undertaken for the purpose of discovering information if it is intended to eliminate uncertainty concerning the development or improvement of a business component. Uncertainty exists if the information available to the taxpayer does not establish the capability or method for developing or improving the business component, or the appropriate design of the business component.

(ii) *Application of the discovering information requirement.* A determination that research is undertaken for the purpose of discovering information that is technological in nature does not require the taxpayer be seeking to obtain information that exceeds, expands or refines the common knowledge of skilled professionals in the particular field of science or engineering in which the taxpayer is performing the research. In addition, a determination that research is undertaken for the purpose of discovering information that is technological in nature does not require that the taxpayer succeed in developing a new or improved business component.

(iii) *Patent safe harbor.* For purposes of section 41(d) and paragraph (a)(3)(i) of this section, the issuance of a patent by the Patent and Trademark Office under the provisions of 35 U.S.C. 151 (other than a patent for design issued under the provisions of 35 U.S.C. 171) is conclusive evidence that a taxpayer has discovered information that is technological in nature that is intended to eliminate uncertainty concerning the development or improvement of a business component. However, the issuance of such a patent is not a precondition for credit availability.

(4) *Technological in nature.* For purposes of section 41(d) and this section, information is technological in nature if the process of experimentation used to discover such information fundamentally relies on principles of the physical or biological sciences, engineering, or computer science. A taxpayer may employ existing technologies and may rely on existing principles of the physical or biological sciences, engineering, or computer science to satisfy this requirement.

(5) *Process of experimentation*—(i) *In general.* For purposes of section 41(d) and this section, a process of experimentation is a process designed to evaluate one or more alternatives to achieve a result where the capability or the method of achieving that result, or the appropriate design of that result, is uncertain as of the beginning of the taxpayer's research activities. Thus, a taxpayer may undertake a process of experimentation if there is no uncertainty concerning the taxpayer's capability or method of achieving the desired result so long as the appropriate design of the desired result is uncertain as of the beginning of the taxpayer's research activities. However, a process of experimentation does not include the evaluation of alternatives to achieve the desired result if the capability and method of achieving the desired result, and the appropriate design of the desired result, are readily discernible and applicable as of the beginning of the taxpayer's research activities. A process of experimentation may include developing one or more hypotheses designed to achieve the desired result, designing and conducting an experiment to test and analyze those hypotheses, and refining or discarding the hypotheses as part of a design process to develop or improve the business component. For purposes of this paragraph (a)(5), factors that tend to indicate that the taxpayer has engaged in a process of experimentation are listed in paragraph (a)(5)(iv) of this section.

(ii) *Readily discernible capability, method and appropriate design.* A taxpayer's activities do not constitute elements of a process of experimentation where the capability and method of achieving the desired new or improved business component, and the appropriate design of the desired new or improved business component, are readily discernible and applicable as of the beginning of the taxpayer's research activities, so that true experimentation in the scientific or laboratory sense would not have to be undertaken to test, analyze, and choose among viable alternatives. A process of experimentation does not include any activities to select among several alternatives that are readily discernible and applicable.

(iii) *Qualified purpose.* For purposes of section 41(d) and this section, a process of experimentation is undertaken for a qualified purpose if it relates to a new or improved function, performance, reliability or quality of the business component. Research will not be treated as conducted for a qualified purpose if it relates to style, taste, cosmetic, or seasonal design factors.

(iv) *Factors tending to indicate that the taxpayer has engaged in a process of experimentation.* For purposes of section 41(d) and this section, in determining whether a taxpayer has undertaken a process of experimentation, all facts and circumstances with respect to a taxpayer's research activities are taken into account. No one factor is dispositive in making this determination. Further, it is not intended that only the factors described in this paragraph are to be taken into account in making the determination. Thus, no inference should be drawn from the taxpayer's failure to satisfy any or all of the factors. Among the factors that tend to indicate that the taxpayer has engaged in a process of experimentation are—

(A) The taxpayer tests and analyzes numerous alternative hypotheses to develop a new or improved business component;

(B) The taxpayer engages in extensive, comprehensive, intricate or complex scientific or laboratory testing; or

(C) The taxpayer evaluates numerous or complex specifications related to the function, performance, reliability or quality of a new or improved business component.

(6) *Substantially all requirement*—(i) *General rule.* The substantially all requirement of section 41(d)(1)(C) and paragraph (a)(2)(iii) of this section is satisfied only if 80 percent or more of the research activities, measured on a cost or other consistently applied reasonable basis (and without regard to § 1.41–2(d)(2)), constitute elements of a process of experimentation for a purpose described in section 41(d)(3). The substantially all requirement is applied separately to each business component.

(ii) *Illustrations.* [Reserved]

(7) *Use of computers and information technology.* The employment of computers or information technology, or the reliance on principles of computer science or information technology to store, collect, manipulate, translate, disseminate, produce, distribute, or process data or information, and similar uses of computers and information technology does not itself establish that qualified research has been undertaken.

(8) *Illustrations.* The following examples illustrate the application of paragraph (a)(5) of this section:

Example 1. (i) *Facts.* X is engaged in the business of developing and manufacturing widgets. X wants to change the color of its blue widget to green. X obtains from various suppliers several different shades of green paint. X paints several sample widgets, and surveys X's customers to determine which shade of green X's customers prefer.

(ii) *Conclusion.* X's activities to change the color of its blue widget to green are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section because substantially all of X's activities are not undertaken for a qualified purpose. All of X's research activities are related to style, taste, cosmetic, or seasonal design factors.

Example 2. (i) *Facts.* X is engaged in the business of manufacturing widgets and wants to change the color of its blue widget to green. X obtains samples of green paint from a supplier and determines that X must modify its painting process to accommodate the green paint because the green paint has different characteristics from other paints X has used. X obtains detailed data on the green paint from X's paint supplier. X also consults with the manufacturer of X's paint spraying machines and determines that X must acquire new nozzles that are designed to operate with paints similar to the green paint X wants to use. X installs the new nozzles on its paint spraying machines and tests the nozzles to ensure that to ensure that they work as specified by the manufacturer of the paint spraying machines.

(ii) *Conclusion.* X's activities to modify its painting process is a separate business component under section 41(d)(2)(A). X's activities to modify its painting process by installing new nozzles on its paint spraying machines to change the color of its blue widget to green are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. The capability, method and appropriate design of the changes to X's painting process are readily discernible and applicable to X as of the beginning of X's activities. X's activities to test the nozzles to determine if the nozzles work as specified by the manufacturer of the paint spraying machines are not the type of testing activities that tend to indicate that a process of experimentation was undertaken.

Example 3. (i) *Facts.* X is engaged in the business of manufacturing food products and currently manufactures a large-shred version of a product. Because X's competitors manufacture both a large-shred and fine-shred version of comparable food products, X seeks to modify its current production line to permit it to manufacture both a large-shred version and fine-shred version of one of its own food products. A shredding blade capable of producing a fine-shred version of the food product is not commercially available. Thus, X must develop a new shredding blade that can be fitted onto X's current production line. X must test and analyze numerous alternative hypotheses to determine whether a new shredding blade must be constructed of a different material from that of its existing shredding blade. In addition, X must engage in comprehensive and complex scientific or laboratory testing to ensure that its modified production process, with the newly-developed shredding blade, can accommodate the manufacture of both the large-shred and fine-shred versions of X's food products.

(ii) *Conclusion.* X's activities to modify its current production line meet the requirements of qualified research as set forth in paragraph (a)(2) of this section. Substantially all of X's activities constitute elements of a process of experimentation because X must evaluate more than one alternative to achieve a result where the method and appropriate design are uncertain as of the beginning of the taxpayer's research activities. X must test and analyze numerous alternative hypotheses and engage in comprehensive and complex scientific or laboratory testing to ensure that its modified production process, with a newly-developed shredding blade, can accommodate the manufacture of both the large-shred and fine-shred versions of X's food products.

Example 4. (i) *Facts.* X operates wireless networks in several U.S. cities. X discovers in City a service problem and collects data on the nature of the problem. X analyzes the data and knows, based on its previous experience with wireless networks in other cities, that the installation of a new type of gateway will eliminate the problem. X installs the new gateway in its City network.

(ii) *Conclusion.* X's activities to determine a solution to its service problem are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. Substantially all of X's research activities do not constitute elements of a process of experimentation because the solution to the service problem is readily discernible and applicable by X as of the beginning of X's research activities.

Example 5. (i) *Facts.* X is engaged in the business of manufacturing and selling automobiles. X incorporated into one of its new vehicles a new exhaust system that it designed. After X offered the vehicle for sale, X received complaints of a rattling noise that could be heard in the passenger compartment. X's engineers determined that the cause of the noise was the exhaust system coming into contact with the undercarriage of the vehicle. Based on previous experience with similar noise problems, X's engineers knew of two safe, effective, reliable solutions that would eliminate the noise. X's engineers selected one of the solutions based on cost studies that indicated it would be the less expensive alternative.

(ii) *Conclusion.* X's activities to eliminate the rattling noise are not qualified research under section 41(d)(1) and paragraph (a)(5) of this section. Substantially all of X's research activities do not constitute elements of a process of experimentation because the solution is readily discernible and applicable to X as of the beginning of X's activities.

Example 6. (i) *Facts.* X is in the business of designing, developing and manufacturing automobiles and decides to update one of its current model vehicles. In response to government-mandated fuel economy requirements, X undertakes to improve aerodynamics by lowering the hood of the current model vehicle. X determines that lowering the hood changes the air flow under the hood, which changes the rate at which air enters the engine through the air intake system, and which reduces the functionality of the cooling system. X designs, models, tests, refines, and re-tests proposed modifications to both the air intake system and cooling system until modifications are developed that meet X's requirements. X then integrates the modified air intake and cooling systems into a current model vehicle with a lower hood, modifying in the process the new air intake and cooling systems as well as the underhood wiring, brake lines and fuel line. X conducts extensive and complex scientific or laboratory testing to determine if the current model vehicle meets X's requirements. X conducts extensive and complex scientific or laboratory testing (including simulations and crash tests) to determine if the current model vehicle meets X's requirements.

(ii) *Conclusion.* X's activities to update its vehicle meet the requirements of qualified research as set forth in paragraph (a)(2) of this section. X must test and analyze numerous alternative hypotheses, engage in extensive testing and analysis, and evaluate complex specifications related to the functionality of several of the vehicle's underhood systems and to the vehicle's overall performance. These activities indicate that X undertook a process of experimentation to achieve the appropriate design of the updated vehicle.

(b) *Application of requirements for qualified research*—(1) *In general.* The requirements for qualified research in section 41(d)(1) and paragraph (a) of this section, must be applied separately to each business component, as defined in section 41(d)(2)(B). In cases involving development of both a product and a manufacturing or other commercial production process for the product, research activities relating to development of the process are not qualified research unless the requirements of section 41(d) and this section are met for the research activities relating to the process without taking into account the research activities relating to development of the product. Similarly, research activities relating to development of the product are not qualified research unless the requirements of section 41(d) and this section are met for the research activities relating to the product without taking into account the research activities relating to development of the manufacturing or other commercial production process.

(2) *Shrinking-back rule*. The requirements of section 41(d) and paragraph (a) of this section are to be applied first at the level of the discrete business component, that is, the product, process, computer software, technique, formula, or invention to be held for sale, lease, or license, or used by the taxpayer in a trade or business of the taxpayer. If the requirements for credit eligibility are met at that first level, then some or all of the taxpayer's qualified research expenses are eligible for the credit. If all aspects of such requirements are not met at that level, the test applies at the most significant subset of elements of the product, process, computer software, technique, formula, or invention to be held for sale, lease, or license. This shrinking back of the product is to continue until either a subset of elements of the product that satisfies the requirements is reached, or the most basic element of the product is reached and such element fails to satisfy the test. This shrinking-back rule is applied only if a taxpayer does not satisfy the requirements of section 41(d)(1) and paragraph (a)(2) of this section with respect to the overall business component. The shrinking-back rule is not itself applied as a reason to exclude research activities from credit eligibility.

(3) *Illustration*. The following example illustrates the application of this paragraph (b):

Example. X, a motorcycle engine builder, develops a new carburetor for use in a motorcycle engine. X also modifies an existing engine design for use with the new carburetor. Under the shrinking-back rule, the requirements of section 41(d)(1) and paragraph (a) of this section are applied first to the engine. If the modifications to the engine when viewed as a whole, including the development of the new carburetor, do not satisfy the requirements of section 41(d)(1) and paragraph (a) of this section, those requirements are applied to the next most significant subset of elements of the business component. Assuming that the next most significant subset of elements of the engine is the carburetor, the research activities in developing the new carburetor may constitute qualified research within the meaning of section 41(d)(1) and paragraph (a) of this section.

(c) *Excluded activities*—(1) *In general*. Qualified research does not include any activity described in section 41(d)(4) and paragraph (c) of this section.

(2) *Research after commercial production*—(i) *In general*. Activities conducted after the beginning of commercial production of a business component are not qualified research. Activities are conducted after the beginning of commercial production of a business component if such activities are conducted after the component is developed to the point where it is ready for commercial sale or use, or meets the basic functional and economic requirements of the taxpayer for the component's sale or use.

(ii) *Certain additional activities related to the business component*. The following activities are deemed to occur after the beginning of commercial production of a business component—

(A) Preproduction planning for a finished business component;

(B) Tooling-up for production;

(C) Trial production runs;

(D) Trouble shooting involving detecting faults in production equipment or processes;

(E) Accumulating data relating to production processes; and

(F) Debugging flaws in a business component.

(iii) *Activities related to production process or technique*. In cases involving development of both a product and a manufacturing or other commercial production process for the product, the exclusion described in section 41(d)(4)(A) and paragraphs (c)(2)(i) and (ii) of this section applies separately for the activities relating to the development of the product and the activities relating to the development of the process. For example, even after a product meets the taxpayer's basic functional and economic requirements, activities relating to the development of the manufacturing process still may constitute qualified research, provided that the development of the process itself separately satisfies the requirements of section 41(d) and this section, and the activities are conducted before the process meets the taxpayer's basic functional and economic requirements or is ready for commercial use.

(iv) *Clinical testing*. Clinical testing of a pharmaceutical product prior to its commercial production in the United States is not treated as occurring after the beginning of commercial production even if the product is commercially available in other countries. Additional clinical testing of a pharmaceutical product after a product has been approved for a specific therapeutic use by the Food and Drug Administration and is ready for commercial production and sale is not treated as occurring after the beginning of commercial production if such clinical testing is undertaken to establish new functional uses, characteristics, indications, combinations, dosages, or delivery forms for the product. A functional use, characteristic, indication, combination, dosage, or delivery form shall be considered new only if such functional use, characteristic, indication, combination, dosage, or delivery form must be approved by the Food and Drug Administration.

(3) *Adaptation of existing business components*. Activities relating to adapting an existing business component to a particular customer's requirement or need are not qualified research. This exclusion does not apply merely because a business component is intended for a specific customer.

(4) *Duplication of existing business component*. Activities relating to reproducing an existing business component (in whole or in part) from a physical examination of the business component itself or from plans, blueprints, detailed specifications, or publicly available information about the business component are not qualified research. This exclusion does not apply merely because the taxpayer examines an existing business component in the course of developing its own business component.

(5) *Surveys, studies, research relating to management functions, etc.* Qualified research does not include activities relating to—

(i) Efficiency surveys;

(ii) Management functions or techniques, including such items as preparation of financial data and analysis, development of employee training programs and management organization plans, and management-based changes in production processes (such as rearranging work stations on an assembly line);

(iii) Market research, testing, or development (including advertising or promotions);

(iv) Routine data collections; or

(v) Routine or ordinary testing or inspections for quality control.

(6) *Internal use software for taxable years beginning on or after the December 31, 1985*—(i) *General rule*. Research with respect to computer

software that is developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use is eligible for the research credit only if the software satisfies the requirements of paragraph (c)(6)(ii) of this section.

(ii) *Requirements.* The requirements of this paragraph (c)(6)(ii) are—

(A) The software satisfies the requirements of section 41(d)(1);

(B) The software is not otherwise excluded under section 41(d)(4) (other than section 41(d)(4)(E)); and

(C) One of the following conditions is met—

(*1*) The taxpayer develops the software for use in an activity that constitutes qualified research (other than the development of the internal-use software itself);

(*2*) The taxpayer develops the software for use in a production process that satisfies the requirements of section 41(d)(1);

(*3*) The taxpayer develops the software for use in providing computer services to customers; or

(*4*) The software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section.

(iii) *Computer software and hardware developed as a single product.* This paragraph (c)(6) does not apply to the development costs of a new or improved package of computer software and hardware developed together by the taxpayer as a single product (or to the costs to modify an acquired computer software and hardware package), of which the software is an integral part, that is used directly by the taxpayer in providing services in its trade or business to customers. In these cases, eligibility for the research credit is to be determined by examining the combined software-hardware product as a single product.

(iv) *Primarily for internal use.* Unless computer software is developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties, computer software is presumed developed by (or for the benefit of) the taxpayer primarily for the taxpayer's internal use. For example, the computer software may serve general and administrative functions of the taxpayer, or may be used in providing a noncomputer service. General and administrative functions include, but are not limited to, functions such as payroll, bookkeeping, financial management, financial reporting, personnel management, sales and marketing, fixed asset accounting, inventory management and cost accounting. Computer software that is developed to be commercially sold, leased, licensed or otherwise marketed, for separately stated consideration to unrelated third parties is not developed primarily for the taxpayer's internal use. The requirements of this paragraph (c)(6) apply to computer software that is developed primarily for the taxpayer's internal use even though the taxpayer subsequently sells, leases, licenses, or otherwise markets the computer software for separately stated consideration to unrelated third parties.

(v) *Software used in the provision of services*—(A) Computer services. For purposes of this section, a computer service is a service offered by a taxpayer to customers who conduct business with the taxpayer primarily for the use of the taxpayer's computer or software technology. A taxpayer does not provide a computer service merely because customers interact with the taxpayer's software.

(B) *Noncomputer services.* For purposes of this section, a noncomputer service is a service offered by a taxpayer to customers who conduct business with the taxpayer primarily to obtain a service other than a computer service, even if such other service is enabled, supported, or facilitated by computer or software technology.

(vi) *High threshold of innovation test.* Computer software satisfies this paragraph (c)(6)(vi) only if the taxpayer can establish that—

(A) The software is innovative in that the software is intended to be unique or novel and is intended to differ in a significant and inventive way from prior software implementations or methods;

(B) The software development involves significant economic risk in that the taxpayer commits substantial resources to the development and there is substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period; and

(C) The software is not commercially available for use by the taxpayer in that the software cannot be purchased, leased, or licensed and used for the intended purpose without modifications that would satisfy the requirements of paragraphs (c)(6)(v)(A) and (B) of this section.

(vii) *Application of high threshold of innovation test.* The costs of developing internal use software are eligible for the research credit only if the software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section. This test takes into account only the results attributable to the development of the new or improved software independent of the effect of any modifications to related hardware or other software.

(viii) *Illustrations.* The following examples illustrate provisions contained in this paragraph (c)(6) of this section. No inference should be drawn from these examples concerning the application of section 41(d)(1) and paragraph (a) of this section to these facts. The examples are as follows:

Example 1. (i) *Facts.* X, an insurance company, has increased its number of insurance policies in force. In recent years, regulatory and financial accounting rules for computing actuarial reserves on these insurance policies have changed several times. In order to compute actuarial reserves in a more timely and cost-effective manner, X undertakes to create an improved reserve valuation software that will generate data for regulatory and financial accounting purposes.

(ii) *Conclusion.* The improved reserve valuation software created by X is internal use software because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. The improved reserve valuation software was developed by X to serve X's general and administrative functions. X's costs of developing the reserve valuation software are eligible for the research credit only if the software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section.

Example 2. (i) *Facts.* Assume the same facts as in *Example 1.* Also assume that in order to create an improved reserve valuation software, X purchases updated hardware with a new operating system to build the new software system. Several other insurance companies using the same updated hardware and new operating system have in place software systems that can handle the volume of transactions that X seeks to handle, provide reserve computations within a similar time frame, and accommodate the most current regulatory and financial accounting requirements.

(ii) *Conclusion.* X's reserve valuation software system is internal use software that does not satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section. The software is not intended to be unique or novel in that it is intended to be merely comparable to software developed by other insurance companies. The software does not differ in a significant or inventive way from prior software implementations because X's reserve valuation software system was developed using the same technologies and methods that were employed by other insurance companies. Further, X's reserve valuation software is not excluded from the application of paragraph (c)(6) of this section by the rule of paragraph (c)(6)(iii) of this section.

Example 3. (i) *Facts.* In 1986, X, a large regional bank with hundreds of branch offices, maintained separate software systems for each of its customer's accounts, including checking, deposit, loan, lease, and trust. X determined that improved customer service could be achieved by redesigning its disparate systems into one customer-centric system. X also determined that commercially available database management systems did not meet all of the critical requirements of the proposed system. Specifically, available relational database management systems were well suited for the proposed system's data modeling requirements but not the data integrity and transaction throughput (transactions-per-second) requirements. Rather than waiting several years for vendor offerings to mature and become viable for its purpose, X decided to embark upon the project utilizing older technology that satisfied the data integrity and transaction throughput requirements but that was severely challenged with respect to the data modeling capabilities. X commits substantial resources to this project and, because of technical risk, X cannot determine if it will recover its resources in a reasonable period. Early in the course of the project, industry analysts observed that the project appeared highly ambitious and risky. The limitations of the technology X was attempting to utilize required that X develop a new database architecture that could accommodate transaction volumes unheard-of in the industry. X was unable to successfully develop the system and X abandoned the project.

(ii) *Conclusion*. X intended to develop a computer software system primarily for X's internal use because X did not intend to commercially sell, lease, license, or otherwise market the software, for separately stated consideration to unrelated third parties, and X intended to use the software in providing noncomputer services to its customers. X's software development activities satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the system was intended to be innovative in that it was intended to be novel and it was intended to differ in a significant and inventive way from prior software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the system, software meeting X's requirements was not commercially available for use by X.

Example 4. (i) *Facts*. X wishes to improve upon its capabilities in the area of insurance fraud prevention, detection and control. X believes that it can exceed the capabilities of current commercial offerings in this area by developing and applying pattern matching algorithms that are not implemented in current vendor offerings. X has determined that many insurance fraud perpetrators can evade detection because its current system relies too heavily on exact matches and scrubbed data. Because a computer software system that will accomplish these objectives is not commercially available, X undertakes to develop and implement advanced pattern matching algorithms that would significantly improve upon the capabilities currently available from vendors. X commits substantial resources to the development of the software system and cannot determine, because of technical risk, if it will recover its investment within a reasonable period.

(ii) *Conclusion*. X's computer software system is developed primarily for X's internal use because X did not intend to sell, lease, license or otherwise market the software, for separately stated consideration to unrelated third parties. X's software development activities satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the software system is innovative in that it was intended to be novel and it was intended to differ in a significant and inventive way from prior software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

Example 5. (i) *Facts*. X is engaged in the business of designing, manufacturing, and selling widgets. X delivers its widgets in the same manner and time as its competitors. To improve customer service, X undertakes to develop computer software that will monitor the progress of the manufacture and delivery of X's widgets to enable X's customers to track their widget orders from origination to delivery, whether by air, land or ship. In addition, at the request of a customer, X will be able to intercept and return or reroute packages prior to delivery. At the time X undertakes its software development activities, X is uncertain whether it can develop the real-time communication software necessary to achieve its objective. None of X's competitors have a comparable tracking system. X commits substantial resources to the development of the system and, because of technical risk, X cannot determine if it will recover its investment within a reasonable period.

(ii) *Conclusion*. X's computer software is developed primarily for X's internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's computer software was developed to be used by X in providing noncomputer services to its customers. X's software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section because, at the time the research is undertaken, X's software is designed to provide a new tracking capability that is novel in that none of X's competitors have such a capability. Further, the new capability differs in a significant and inventive way from prior software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

Example 6. (i) *Facts*. X, a multinational chemical manufacturer with different business and financial systems in each of its divisions, undertakes a software development project aimed at integrating the majority of the functional areas of its major software systems into a single enterprise resource management system supporting centralized financial systems, inventory, and management reporting. This project involves the detailed analysis of X's (as well as each of X's divisions) legacy systems to understand the actual current business processes and data requirements. X also has to develop programs to fill in the gaps between the software features and X's system requirements. X hires Y, a systems consulting firm to assist with this development effort. Y has experience in developing similar systems. X, working jointly with Y, evaluates its needs, establishes goals for the new system, re-engineers the business processes that will be made concurrently with the implementation of the new system, and chooses and purchases a software system upon which to base its enterprise-wide system.

(ii) *Conclusion*. X's enterprise-wide computer software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's computer software was developed to be used by X to serve X's general and administrative functions. However, the development of X's enterprise management system does not satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the system that X is seeking to develop is not intended to be unique or novel. Further, the software does not differ in a significant or inventive way from software implemented by other manufacturers.

Example 7. (i) *Facts*. X, a financial services company specializing in commercial mortgages, decides to support its ongoing expansion by upgrading its information technology infrastructure. In order to accommodate its expanding efforts to acquire and maintain corporate borrowers and draw securitized loan investors, X builds a scalable and modular enterprise network to run its latest business applications, including web-based portfolio access for investors and staff, document imaging for customer service personnel, desktop access to information services for in-house securities traders and multimedia on-line training and corporate information delivery for all company personnel. As a result, X is able to access market information faster and function more efficiently and effectively than before. The new network is based on a faster local area network technology which is better able to meet the higher bandwidth requirements of X's current multimedia applications.

(ii) *Conclusion*. X's software is software developed primarily for X's internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's software development activities do not meet the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the system is not intended to be unique or

VOL 66 ISS 247 DE 26 2001 UMI

novel. Further, the software does not differ in a significant or inventive way from other existing software implementations.

Example 8. (i) *Facts.* X, a corporation, undertook a software project to rewrite a legacy mainframe application using an object-oriented programming language, and to move the new application off the mainframe to a client/server environment. Both the object-oriented language and client/server technologies were new to X. This project was undertaken to develop a more maintainable application, and to be able to implement new features more quickly. X had to perform a detailed analysis of the old legacy application in order to determine the requirements of the rewritten application. To accomplish this task, X had to train the legacy mainframe programmers in the new object-oriented and client/server technologies that they would have to utilize. Several of X's competitors had successfully implemented similar systems using object-oriented programming language and client/server technologies.

(ii) *Conclusion.* X's software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's activities to rewrite a legacy mainframe application using an object-oriented programming language, and to move the application from X's mainframe to a client/server environment do not satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section. The software developed is not intended to be either unique or novel and is not intended to differ in a significant and inventive way from prior software implementations or methods.

Example 9. (i) *Facts.* X, a retail and distribution company, wants to upgrade its warehouse management software. Therefore, X performs an analysis of the warehouse management products and vendors in the marketplace. X selects vendor V's software and, in turn, develops the software interfaces between X's legacy systems and V's warehouse management software in order to integrate the new warehouse management system with X's financial and inventory systems. The development of these interfaces requires a detailed understanding of all the input and output fields and their data formats, and how they map from the old system to the new system and vice-versa. Once X develops the interfaces, X has to perform extensive testing and validation work to ensure that the interfaces work correctly and accurately.

(ii) *Conclusion.* X's software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's software development activities do not satisfy the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the software development does not involve significant economic risk in that there is no substantial uncertainty, because of technical risk, that such resources will be recovered within a reasonable period.

Example 10. (i) *Facts.* X, a credit card company, knows that its customers are not comfortable with purchasing products over the Internet because they feel the Web is not secure. X decides to build a payment system that provides customers with a single use, automatically generated, short-term time-based, transaction number. This single-use transaction number has a short expiration period that is just long enough to allow a merchant to process and fill the customer's order. Thus, when a customer wishes to make a purchase over the Internet, the customer requests X to generate automatically a single-use transaction number that merchant systems will accept as a legitimate card number. All purchases using single-use transaction numbers are automatically linked back to the customer's credit card account. X commits substantial resources to the development of the system and X cannot determine, because of technical risk, if it will recover its investment within a reasonable period. At the time of this project, nothing exists in the market that has these capabilities.

(ii) *Conclusion* X's software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's computer software is developed primarily for X's internal use because it was intended to be used by X in providing noncomputer services to its customers. X's software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the system is a novel way to solve the security issue of making purchases over the Internet. Further, because of the secure payment capability, the software differs in a significant and inventive way from prior software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

Example 11. (i) *Facts.* X, a corporation, wants to expand its internal computing power, and is aware that its PCs and workstations are idle at night, on the weekends, and for a significant part of any business day. Because the corporate computations that X needs to make could be done on workstations as well as PCs, X develops a screen-saver like application that runs on employee computers. When employees' computers have been idle for an amount of time set by each employee, the "screen-saver" starts to execute. However, instead of displaying moving lines, like the typical screen-saver, X's application goes back to a central server to get a new job to execute. This job will execute on the idle employee's computer until it has either finished, or the employee resumes working on his computer. X wants to ensure that it can manage all of the computation jobs distributed across its thousands of PCs and workstations. In addition, X wants to ensure that the additional load on its network caused by downloading the jobs and uploading the results, as well as in monitoring and managing the jobs, does not adversely impact the corporate computing infrastructure. At the time X undertook this software development project, X was uncertain, because of technical risk, it could develop a server application that could schedule and distribute the jobs across thousands of PCs and workstations, as well as handle all the error conditions that occur on a user's machine. Also, at the time X undertook this project, there was no commercial application available with such a capability.

(ii) *Conclusion.* X's computer software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's computer software was developed to be used by X to serve X's general and administrative functions. X's software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section because making use of idle corporate computing resources through what is ostensibly a screen-saver, was a novel approach to solving X's need for more computer intensive processing time. In addition, X's software development involves significant economic risk in that there was substantial uncertainty, because of technical risk, that the server application that schedules and distributes the jobs across thousands of PCs and workstations, as well as handles all the error conditions that can occur on a user's machine, amounts to developing a new operating system with new capabilities. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

Example 12. (i) *Facts.* (A) X, a corporation, wants to protect its internal documents without building a large public key infrastructure. In addition, X needs to implement a new highly secure encryption algorithm that has a "back-door" such that X can decrypt and read any document, even when the employee is on vacation or leaves the company. X wants to develop a new encryption algorithm that is both secure, easy to use, and difficult to break. Current commercial encryption/decryption products are too slow for high-level secure encryption processing. Furthermore, no commercial product exists that provides the capability of having a secure back-door key to decrypt files when the owner is unavailable.

(B) The development of the encryption/decryption software requires specialized knowledge of cryptography and computational methods. Due to the secret nature of X's work, the encryption algorithm has to be unbreakable, yet recoverable should the employee forget his key. X commits substantial resources to the development of the system and, because of technical risk, cannot estimate whether it will recover its investment within a reasonable period.

(ii) *Conclusion.* X's back-door file encryption software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for

VOL 66 ISS 247 DE 26 2001 UMI

separately stated consideration to unrelated third parties. X's back-door file encryption software was developed to be used by X to serve X's general and administrative functions. X's encryption software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section because, at the time the research is undertaken. X's software is designed to provide encryption and back-door decryption capabilities that are unique in that no other product has these capabilities, which indicates the software encryption system differs in a significant way from prior software implementations. Further, the encryption and back-door decryption capabilities indicate that the software differs in a significant and inventive way from prior software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

Example 13. (i) *Facts.* X, a large regional telephone company, is experiencing rapidly increasing customer demand. X would like to determine whether evolutionary algorithms such as genetic algorithms may improve its ability to design cost-effective networks and extend existing networks. X would also like to determine whether such adaptive algorithms may be used to optimize the routing of call traffic across existing networks in order to use efficiently the resources available without causing congestion. X first explores the use of evolutionary algorithms for the call routing task, because X determines that this type of complex, unpredictable problem is most appropriate for an adaptive algorithm solution. X develops and tests genetic algorithms until it determines that it has developed a software system it can test on a pilot basis on its existing networks. X commits substantial resources to the project, and cannot predict, because of technical risk, whether it will recover its resources within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available for use by X.

(ii) *Conclusion.* X's software is developed primarily for internal use because the software is not developed to be commercially sold, leased, licensed, or otherwise marketed, for separately stated consideration to unrelated third parties. X's computer software is intended to be used by X in providing noncomputer services to its customers. X's software satisfies the high threshold of innovation test of paragraph (c)(6)(vi) of this section because the software is intended to be novel and is intended to differ in a significant and inventive way from other existing software implementations. In addition, X's development activities involved significant economic risk in that X committed substantial resources to the development and there was substantial uncertainty, because of technical risk, that such resources would be recovered within a reasonable period. Finally, at the time X undertook the development of the software, software satisfying X's requirements was not commercially available.

(ix) *Effective date.* This paragraph (c)(6) is applicable for taxable years beginning after December 31, 1985.

(7) *Activities outside the United States, Puerto Rico, and other possessions*—(i) *In general.* Research conducted outside the United States, as defined in section 7701(a)(9), the Commonwealth of Puerto Rico and other possessions of the United States does not constitute qualified research.

(ii) *Apportionment of in-house research expenses.* In-house research expenses paid or incurred for qualified services performed both in the United States, the Commonwealth of Puerto Rico and other possessions of the United States and outside the United States, the Commonwealth of Puerto Rico and other possessions of the United States must be apportioned between the services performed in the United States, the Commonwealth of Puerto Rico and other possessions of the United States and the services performed outside the United States, the Commonwealth of Puerto Rico and other possessions of the United States. Only those in-house research expenses apportioned to the services performed within the United States, the Commonwealth of Puerto Rico and other possessions of the United States are eligible to be treated as qualified research expenses, unless the in-house research expenses are wages and the 80 percent rule of § 1.41–2(d)(2) applies.

(iii) *Apportionment of contract research expenses.* If contract research is performed partly in the United States, the Commonwealth of Puerto Rico and other possessions of the United States and partly outside the United States, the Commonwealth of Puerto Rico and other possessions of the United States, only 65 percent (or 75 percent in the case of amounts paid to qualified research consortia) of the portion of the contract amount that is attributable to the research activity performed in the United States, the Commonwealth of Puerto Rico and other possessions of the United States may qualify as a contract research expense (even if 80 percent or more of the contract amount is for research performed in the United States, the Commonwealth of Puerto Rico and other possessions of the United States).

(8) *Research in the social sciences, etc.* Qualified research does not include research in the social sciences (including economics, business management, and behavioral sciences), arts, or humanities.

(9) *Research funded by any grant, contract, or otherwise.* Qualified research does not include any research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity). To determine the extent to which research is so funded, § 1.41–4A(d) applies.

(10) *Illustrations.* The following examples illustrate provisions contained in paragraphs (c)(1) through (9) (excepting (c)(6)) of this section. No inference should be drawn from these examples concerning the application of section 41(d)(1) and paragraph (a) of this section to these facts. The examples are as follows:

Example 1. (i) *Facts.* X, a tire manufacturer, develops a new material to use in its tires. X conducts research to determine the changes that will be necessary for X to modify its existing manufacturing processes to manufacture the new tire. X determines that the new material retains heat for a longer period of time than the materials X currently uses and, as a result, adheres to the manufacturing equipment during tread cooling. X evaluates numerous options for processing the treads at cooler temperatures. X designs, develops, and conducts sophisticated tests on the numerous options for a new type of belt to be used in tread cooling. X then manufactures a set of belts for its production equipment, installs the belts, and tests the belts to make sure they were manufactured correctly.

(ii) *Conclusion.* X's research with respect to the design of the new belts to be used in its manufacturing of the new tire may be qualified research under section 41(d)(1) and paragraph (a) of this section. However, X's expenses to implement the design, including the costs to manufacture, install, and test the belts were incurred after the belts met the taxpayer's functional and economic requirements and are excluded as research after commercial production under section 41(d)(4)(A) and paragraph (c)(2) of this section. In addition, amounts expended on component materials of the production belts and the costs of labor or other elements involved in the manufacture and installation of the production belts are not qualified research expenses. These expenses are not for expenditures that may be treated as expenses under section 174 and thus are not qualified research under section 41(d)(1)(A) and paragraph (a)(2)(i) of this section. See section 174(c) and § 1.174–2(b). Further, testing or inspection to determine whether the production belts were manufactured correctly is quality control testing under § 1.174–2(a)(4) and thus is not qualified research under section 41(d)(1)(A) and paragraph (a)(2)(i) of this section.

Example 2. (i) *Facts.* For several years, X has manufactured and sold a particular kind of widget. X initiates a new research project to develop a new or improved widget.

(ii) *Conclusion.* X's activities to develop a new or improved widget are not excluded from the definition of qualified research under section 41(d)(4)(A) and paragraph (c)(2) of this section. X's activities relating to the development of a new or improved widget constitute a new research project to develop a new business component. X's research activities relating to the development of the new or improved widget, a new business component, are not considered to be activities conducted after the beginning of commercial production under section 41(d)(4)(A) and paragraph (c)(2) of this section.

Example 3. (i) *Facts.* X, a computer software development firm, owns all substantial rights in a general ledger accounting software core program that X markets and licenses to customers. X incurs expenditures in adapting the core software program to the requirements of C, one of X's customers.

(ii) *Conclusion.* Because X's activities represent activities to adapt an existing software program to a particular customer's requirement or need, X's activities are excluded from the definition of qualified research under section 41(d)(4)(B) and paragraph (c)(3) of this section.

Example 4. (i) *Facts.* The facts are the same as in *example 3*, except that C pays X to adapt the core software program to C's requirements.

(ii) *Conclusion.* Because X's activities are excluded from the definition of qualified research under section 41(d)(4)(B) and paragraph (c)(3) of this section, C's payments to X are not for qualified research and are not considered to be contract research expenses under section 41(b)(3)(A).

Example 5. (i) *Facts.* The facts are the same as in *example 3*, except that C's own employees adapt the core software program to C's requirements.

(ii) *Conclusion.* Because C's employees' activities to adapt the core software program to C's requirements are excluded from the definition of qualified research under section 41(d)(4)(B) and paragraph (c)(3) of this section, the wages C paid to its employees do not constitute in-house research expenses under section 41(b)(2)(A).

Example 6. (i) *Facts.* X manufacturer and sells rail cars. Because rail cars have numerous specifications related to performance, reliability and quality, rail car designs are subject to extensive, complex testing in the scientific or laboratory sense. B orders passenger rail cars from X. B's rail car requirements differ from those of X's other customers in that B wants fewer seats in its passenger cars and a higher quality seating material and carpet. X manufactures rail cars meeting B's requirements. X does not conduct complex testing in the scientific or laboratory sense on the rail cars manufactured for B.

(ii) *Conclusion.* X's activities to manufacture rail cars for B are excluded from the definition of qualified research. The rail cars designed for B were not subject to the type of complex testing that is indicative of a process of experimentation. Further, the rail car sold to B was not a new business component, but merely an adaptation of an existing business component. Thus, X's activities to manufacture rail cars for B are excluded from the definition of qualified research under section 41(d)(4)(B) and paragraph (c)(3) of this section because X's activities represent activities to adapt an existing business component to a particular customer's requirement or need.

Example 7. (1) *Facts.* X, a manufacturer, undertakes to create a manufacturing process for a new valve design. X determines that it requires a specialized type of robotic equipment to use in the manufacturing process for its new valves. X is unable to locate robotic equipment that meets X's precise specifications, and, therefore, purchases the existing robotic equipment for the purpose of modifying it to meet its needs. X's engineers conduct experiments using modeling and simulation in modifying the robotic equipment and conduct extensive scientific and laboratory testing of design alternatives. As a result of this process, X's engineers develop a design for the robotic equipment that meets X's specifications. X constructs and installs the modified robotic equipment on its manufacturing process.

(ii) *Conclusion.* X's research activities to determine how to modify X's robotic equipment for its manufacturing process are not excluded from the definition of qualified research under section 41(d)(4)(B) and paragraph (c)(3) of this section.

Example 8. (1) *Facts.* An existing gasoline additive is manufactured by Y using three ingredients, A, B, and C. X seeks to develop and manufacture its own gasoline additive that appears and functions in a manner similar to Y's additive. To develop its own additive, X first inspects the composition of Y's additive, and uses knowledge gained from the inspection to reproduce A and B in the laboratory. Any differences between ingredients A and B that are used in Y's additive and those reproduced by X are insignificant and are not material to the viability, effectiveness, or cost of A and B. X desires to use with A and B an ingredient that has a materially lower cost than ingredient C. Accordingly, X engages in a process of experimentation to develop, analyze and test potential alternative formulations of the additive.

(ii) *Conclusion.* X's activities in analyzing and reproducing ingredients A and B involve duplication of existing business components and are excluded from the definition of qualified research under section 41(d)(4)(C) and paragraph (c)(4) of this section. X's experimentation activities to develop potential alternative formulations of the additive do not involve duplication of an existing business component and are not excluded from the definition of qualified research under section 41(d)(4)(C) and paragraph (c)(4) of this section.

Example 9. (1) *Facts.* X, a manufacturing corporation, undertakes to restructure its manufacturing organization. X organizes a team to design an organizational structure that will improve X's business operations. The team includes X's employees as well as outside management consultants. The team studies current operations, interviews X's employees, and studies the structure of other manufacturing facilities to determine appropriate modifications to X's current business operations. The team develops a recommendation of proposed modifications which it presents to X's management. X's management approves the team's recommendation and begins to implement the proposed modifications.

(ii) *Conclusion.* X's activities in developing and implementing the new management structure are excluded from the definition of qualified research under section 41(d)(4)(D) and paragraph (c)(5) of this section. Qualified research does not include activities relating to management functions or techniques including management organization plans and management-based changes in production processes.

Example 10. (1) *Facts.* X, an insurance company, develops a new life insurance product. In the course of developing the product, X engages in research with respect to the effect of pricing and tax consequences on demand for the product, the expected volatility of interest rates, and the expected mortality rates (based on published data and prior insurance claims).

(ii) *Conclusion.* X's activities related to the new product represent research in the social sciences (including economics and business management) and are thus excluded from the definition of qualified research under section 41(d)(4)(G) and paragraph (c)(8) of this section.

(d) *Recordkeeping for the research credit.* A taxpayer claiming a credit under section 41 must retain records in sufficiently usable form and detail to substantiate that the expenditures claimed are eligible for the credit. For the rules governing record retention, see § 1.6001–1. To facilitate compliance and administration, the IRS and taxpayers may agree to guidelines for the keeping of specific records for purposes of substantiating research credits.

(e) *Effective dates.* In general, the rules of this section are applicable for taxable years ending on or after December 26, 2002.

Par. 5. Section 1.41–8 is amended by:

1. Revising the section heading.
2. Revising paragraph (b)(4).

The revisions read as follows:

§ 1.41–8 Special rules for taxable years ending on or after December 26, 2001.

* * * * *

(b) * * *

(4) *Effective date.* Paragraphs (b)(2) and (3) of this section are applicable for taxable years ending on or after December 26, 2002.

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 01–31007 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–119436–01]

RIN 1545–AY87

New Markets Tax Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the new markets tax credit. The text of those regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by February 25, 2002. Outlines of topics to be discussed at the public hearing scheduled for March 14, 2002, must be received by February 21, 2002.

ADDRESSES: Send submissions to: CC:ITA:RU (REG–119436–01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:ITA:RU (REG–119436–01), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may send submissions electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or directly to the IRS Internet site at *http://www.irs.gov/tax_regs/regslist.html*. The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Paul Handleman, (202) 622–3040; concerning submissions, the hearing, and/or to be placed on the building access list to attend the hearing, Treena Garret, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224. Comments on the collection of information should be received by February 25, 2002.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility; The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The requirement for the collection of information in this notice of proposed rulemaking is in § 1.45D–1(g)(2). The information is required so that a taxpayer may claim a new markets tax credit on each credit allowance date during the 7-year credit period and report compliance with the requirements of section 45D and the regulations thereunder to the Secretary. The collection of information is mandatory. The likely respondents are businesses or other for-profit institutions, nonprofit institutions, and small businesses or organizations.

Estimated total annual reporting burden: 378 hours.

The estimated annual burden per respondent: 2.5 hours.

Estimated number of respondents : 151.

Estimated annual frequency of responses: once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 45D. The temporary regulations provide guidance for taxpayers claiming the new markets tax credit under section 45D. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that any burden on taxpayers is minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 14, 2002, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must use the main building entrance on Constitution Avenue, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by February 21, 2002.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Paul F. Handleman, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.45D–1 also issued under 26 U.S.C. 45D(i); * * *

Par. 2. Section 1.45D–1 is added to read as follows:

§ 1.45D–1 New markets tax credit.

[The text of proposed § 1.45D–1 is the same as the text of § 1.45D–1T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–31529 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

[SPATS No. LA–021–FOR]

Louisiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of revisions to a previously proposed amendment to the Louisiana regulatory program (Louisiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The revisions concern valid existing rights. Louisiana intends to revise its program to be consistent with the corresponding Federal regulations.

DATES: We will accept written comments until 4 p.m., c.s.t., January 10, 2002.

ADDRESSES: You should mail or hand deliver written comments to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Louisiana program, the amendment, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430

Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, P. O. Box 94275, Baton Rouge, LA 70804, Telephone: (225) 342–5540

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior approved the Louisiana program on October 10, 1980. You can find background information on the Louisiana program, including the Secretary's findings and the disposition of comments in the October 10, 1980, **Federal Register** (45 FR 67340). You can find later actions concerning the Louisiana program at 30 CFR 918.15 and 918.16.

II. Discussion of the Proposed Amendment

By letter dated August 3, 2001 (Administrative Record No. LA–366.04), Louisiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Louisiana sent the amendment in response to our letters dated August 23, 2000, and March 14, 2001 (Administrative Record Nos. LA–366 and LA–366.03, respectively), that we sent to Louisiana under 30 CFR 732.17(c).

We announced receipt of the amendment in the September 20, 2001, **Federal Register** (66 FR 48393) and invited public comment on its adequacy. The public comment period closed October 22, 2001.

During our review of the amendment, we identified concerns about the proposed amendment. We notified Louisiana of these concerns by letter dated November 14, 2001 (Administrative Record No. LA–366.08). By letter dated November 20, 2001, Louisiana sent us a revised amendment (Administrative Record No. LA–366.09).

Louisiana submitted additional revisions for the following provisions of the amendment:

A. Section 105, Definition of Valid Existing Rights

Louisiana proposes to add a provision at paragraph c.4 of its proposed definition to provide that a person who claims valid existing rights to use or construct a road across the surface of protected lands may demonstrate that valid existing rights exist under § 105.Valid Existing Rights a and b.

VOL 66 ISS 247 DE 26 2001 UMI

B. Section 1105, Areas Where Mining Is Prohibited or Limited

Louisiana proposes to revise the introductory language of this section to read as follows:

> No surface coal mining operation shall be conducted on the following lands unless the applicant has either valid existing rights, as determined under § 2323, or qualifies for the exception under § 1109.

C. Section 1107, Procedures

1. Louisiana proposes to add a new § 1107.B to provide that the office will reject any portion of a permit application that would locate surface coal mining operations on lands protected under § 1105 unless (1) the site qualifies for the exception for existing operations under § 1109; (2) a person has valid existing rights for the land, as determined under § 2323; (3) the applicant obtains a waiver or exception from the prohibitions of § 1105 in accordance with § 1107.C or D; or (4) for lands protected by § 1105.a.3, both the office and the agency with jurisdiction over the park or place jointly approve the proposed operation in accordance with § 1107.E.

2. Louisiana proposes to redesignate existing § 1107.B as new § 1107.C, and revise it to read as follows:

> 1. If the office is unable to determine whether the proposed operation includes land within an area specified in § 1105.A.1; or is located closer than the limits provided in § 1105.A.6 or 7, the office shall transmit a copy of the relevant portions of the permit application to the federal, state, or local government agency with jurisdiction over the protected land, structure, or feature for a determination or clarification of the relevant boundaries or distances, with a notice to the appropriate agency that it must respond within 30 days of receipt of the request. The notice must specify that another 30 days is available upon request, and that the office will not necessarily consider a response received after the comment period provided. If no response is received within the 30-day period or within the extended period granted, the office may make the necessary determination based on the information it has available.

3. Louisiana proposes to redesignate existing § 1107.C as new § 1107.D, and add a sentence at the beginning that states that the provisions of § 1107.D do not apply to lands for which a person has valid existing rights, as determined under § 2323; lands within the scope of the exception for existing operations in § 1109; or access or haul roads that join a public road, as described in § 1105.A.4.b.

4. Louisiana proposes to redesignate existing § 1107.D as new § 1107.E, and add a sentence at the beginning that states that the provisions of § 1107.E do not apply to lands for which a person has valid existing rights, as determined under § 2323; lands within the scope of the exception for existing operations in § 1109; or access or haul roads that connect with an existing public road on the side of the public road opposite the dwelling, as provided in § 1105.A.5.

5. Louisiana proposes to redesignate existing § 1107.E as new § 1107.F, and revise it to read as follows:

> 1. Where the office determines that the proposed surface coal mining operation will adversely affect any publicly owned park or any place included in the National Register of Historic Places, the office shall transmit to the federal, state, or local agency with jurisdiction over the park or place a copy of applicable parts of the permit application, together with a request for the agency's approval or disapproval of the operation, and a notice to that agency that it has 30 days from receipt of the request within which to respond. The notice must specify that another 30 days is available upon request, and that failure to interpose a timely objection will constitute approval. The office may not issue a permit for a proposed operation subject to the provisions of this paragraph unless all affected agencies jointly approve.
>
> 2. § 1107.F does not apply to lands for which a person has valid existing rights, as determined under § 2323 or lands within the scope of the exception for existing operations in § 1109.

6. Finally, Louisiana proposed to delete existing § 1107.F and G.

D. Section 1109, Exception for Existing Operations

Louisiana proposes to add this new section to provide that the prohibitions of § 1105 do not apply to surface coal mining operations for which a valid permit, issued under Subpart 3 of the Louisiana Surface Mining Regulations, exists when the land comes under the protection of § 1105. This exception applies only to lands within the permit area as it exists when the land comes under the protection § 1105.

E. Section 2323, Valid Existing Rights Determination

1. Louisiana proposes to add new § 2323.A to describe when the office is responsible for making valid existing rights determinations.

2. Louisiana proposes to redesignate proposed § 2323.A as new § 2323.B, and revise it to describe what an applicant must submit when a request for a valid existing rights determination relies on the various standards described in § 105.Valid Existing Rights.b, b.i, b.ii, and c.

3. Louisiana proposes to redesignate proposed § 2323.B as new § 2323.C, and correct references throughout to reflect the changes made in this proposed rule.

4. Louisiana proposes to redesignate proposed § 2323.C as new § 2323.D, delete the sentence at new § 2323.D.1 that provides that OSM will publish a public notice in the **Federal Register**, and correct references throughout new § 2323.D to reflect the changes made in this proposed rule.

5. Louisiana proposes to redesignate proposed § 2323.D as new § 2323.E, correct references throughout to reflect the changes made in this proposed rule, and replace the phrases "agency responsible for making the determination of valid existing rights," "responsible agency," and "agency" with the word "office." Louisiana also proposes to delete the sentence at new § 2323.E.5.b that provides that OSM will publish its determination, along with an explanation of appeal rights and procedures, in the **Federal Register**.

6. Louisiana proposes to redesignate proposed § 2323.E and F as new § 2323.F and G, and correct references throughout to reflect the changes made in this proposed rule. Louisiana also proposes to replace the phrases "agency responsible for processing a request subject to notice and comment under § 2323.C," "agency, when acting as the regulatory authority," and "agency" with the word "office."

F. Miscellaneous Changes

Finally, Louisiana proposes to make a number of cross-reference changes in §§ 1105.A.4.b, 2311.B, 2731.A.2, 2733, 3103.A.5, and 3115.A.4.c to reflect the changes made in this proposed rule. Louisiana also proposes to correct a typographical error in § 2111.

III. Public Comment Procedures

We are reopening the comment period on the proposed Louisiana program amendment to provide you an opportunity to reconsider the adequacy of the amendment in light of the additional materials sent to us. Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Louisiana program.

Written Comments: If you submit written comments on the proposed rule during the 15-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C.804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 10, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–31615 Filed 12–21–01; 8:45 am]

BILLING CODE 4310–05–P

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–155]

RIN 2115–AA97

Safety Zone; Vessel Launches, Bath Iron Works, Kennebec River, Bath, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes a 150-yard radius safety zone around the Bath Iron Works facility dry dock in Bath, Maine to be activated when the dry dock is deployed and positioned into its dredged basin hole near the center of the Kennebec River. This safety zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with positioning a 700-foot dry dock near the center of the river to launch and recover large vessels.

DATES: Comments and related material must reach the Coast Guard on or before February 25, 2002.

ADDRESSES: You may mail comments and related material to Marine Safety Office, Portland, 103 Commercial Street, Portland, Maine 04101. The Port Operations Department maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Marine Safety Office Portland between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W.W. Gough, Ports and Waterways Safety Branch Chief, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD01–01–155, indicate the specific section of this document to which each comment applies, and give reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in the view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Marine Safety Office Portland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Bath Iron Works facility in Bath, Maine recently acquired a 700-foot dry dock. This dry dock needs to be pulled away from shore to be placed in a dredged basin near the center of the Kennebec River in order to submerge to be able to launch and recover vessels. This position in the dredged basin is just to the south and southwest of Red Nun Buoy Number "34." The Captain of the Port, Portland, Maine proposes to establish a permanent moving safety zone around the dry dock when it is being moved from its moored position at the Bath Iron Works facility to its deployed location in the dredged basin of the Kennebec River, and from its deployed location back to its mooring. The Captain of the Port, Portland, Maine also proposes to establish a permanent safety zone around the dry dock while it is in its deployed position in the waters of the Kennebec River. The safety zone would restrict entry into waters of the Kennebec River within a 150-yard radius from the dry dock. This safety zone is needed to protect the maritime community from the possible dangers and hazards to navigation associated with positioning a 700-foot dry dock near the center of the river and with launching and recovering large vessels.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary for the following reasons: this safety zone would only be activated temporarily when the dry dock is relocated to its launch and recovery position and during vessel launch and recovery; the safety zone only restricts movement in a portion of the Kennebec River allowing vessels to safely navigate around the zone without delay; the maritime community will be notified of the restrictions via broadcast notice to mariners; and there will be advanced coordination of vessel traffic around the safety zone to minimize the effect on commercial vessel traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons stated in the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would effect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant (Junior Grade) W.W. Gough, Ports and Waterways Safety Branch Chief, Captain of the Port, Portland, Maine at (207) 780–3251.

Collection of Information

This rule contains no collection of information requirements under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 13132 and have determined that this rule does not have sufficient federalism implications for Federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government's having first provided the funds to pay those costs. This rule will not impose an Unfunded Mandate.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

Energy Effects

The Coast Guard has analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Redesignate § 165.103 as § 165.108.

3. Add new § 165.103 to read as follows:

§ 165.103 Safety Zone; vessel launches, Bath Iron Works, Kennebec River, Bath, Maine.

(a) *Location.* The following is a safety zone: all waters of the Kennebec River within a 150-yard radius of the Bath Iron Works dry dock while it is being moved to and from its moored position at the Bath Iron Works Facility in Bath, Maine to a deployed position in the Kennebec River, and while launching or recovering vessels.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

Dated: November 26, 2001.

M.P. O'Malley,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 01–31658 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[DC001–1000; FRL–7121–6]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; District of Columbia; Department of Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the District of Columbia (the District) Department of Health's (DoH's) request for delegation of authority to implement and enforce its hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, and publicly owned treatment works, as well as the test methods, which have been adopted by reference from the Federal requirements set forth in the *Code of Federal Regulations* (CFR). This proposed approval will automatically delegate future amendments to these regulations once the District incorporates these amendments into its regulations. In addition, EPA is proposing to approve of DoH's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails DoH's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation, DoH's notification to EPA of such incorporation and DoH's submission of a delegation request letter to EPA following EPA notification of a new Federal requirement. This action pertains only to affected sources, as defined by the Clean Air Act's hazardous air pollutant program. In the Final Rules section of this **Federal Register**, EPA is approving the District of Columbia's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period.

VOL 66 ISS 247 DE 26 2001 UMI

Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before January 25, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Donald E. Wambsgans II, Program Manager of the Air Quality Division, District of Columbia Department of Health, 825 North Capital Street, NE, Suite 400, Washington, DC 20002. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the District of Columbia Department of Health, 825 North Capital Street, NE, Suite 400, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov*. Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of the District DoH's delegation of authority for the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, halogenated solvent cleaning, and publicly owned treatment works, as well as the relevant test methods, please see the direct final rule, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: December 11, 2001.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 01–31486 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[LA–55–1–7485b; FRL–7121–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Redesignation of Lafourche Parish Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a redesignation request from the State of Louisiana that redesignates Lafourche Parish from nonattainment to attainment for the 1-hour ozone National Ambient Air Quality Standard.

DATES: Written comments must be received by January 25, 2002.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Thomas Diggs at (214) 665–7214.

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, EPA is approving the State's redesignation request as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

For additional information, see the direct final rule located in the "Rules and Regulations" section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 10, 2001.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 01–31484 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7121–2]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Tennessee has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Tennessee. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments so that they are received by January 25, 2002.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can examine copies of the materials submitted by Tennessee during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; Phone number: (404) 562–8190, or the Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243–1535.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: October 22, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–31490 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7120–9]

Kentucky: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Kentucky has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Kentucky. In the "Rules and Regulations" section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments so that they are received by January 25, 2002.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440. You can examine copies of the materials submitted by Kentucky during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–3104; Phone number: (404) 562–8190, or the Kentucky Department for Environmental Protection, Division of Waste Management, Fort Boone Plaza, Building 2, 18 Reilly Road, Frankfort, Kentucky 40601; (502) 564–6716.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the "Rules and Regulations" section of this **Federal Register**.

Dated: October 17, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–31488 Filed 12–21–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2967, MM Docket No. 01–335, RM–10338]

Digital Television Broadcast Service; Charleston, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Media General Communications, Inc., licensee of station WCBD–TV, NTSC channel 2, Charleston, South Carolina, requesting the substitution of DTV channel 50 for station WCBD–TV's assigned DTV channel 59. DTV Channel 50 can be allotted to Charleston, South Carolina, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 32–56–24 N. and 79–41–45 W. As requested, we propose to allot DTV Channel 50 to Charleston with a power of 1000 and a height above average terrain (HAAT) of 561 meters.

DATES: Comments must be filed on or before February 4, 2002, and reply comments on or before February 19, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John R. Feore, Jr., Dow, Lohnes & Albertson, PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802 (Counsel for Media General Communications, Inc.)

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–335, adopted December 13, 2001, and released December 14, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com*.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

VOL 66 ISS 247 DE 26 2001 UMI

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under South Carolina is amended by removing DTV Channel 59 and adding DTV Channel 50 at Charleston.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31560 Filed 12–21–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2847; MM Docket No. 01–223; RM–10157]

Radio Broadcasting Services; Crystal Beach and Stowell, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule, withdrawal.

SUMMARY: This document dismisses a petition for rule making filed by Tichenor License Corporation requesting the substitution of Channel 287C3 for Channel 287A at Crystal Beach, Texas and reallotment of Channel 287C3 to Stowell, Texas. *See* 66 FR 48108, September 18, 2001. Tichenor License Corporation withdrew its interest in the allotment of Channel 287C3 at Stowell, Texas.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 01–223, adopted November 28, 2001, and released December 7, 2001. The full text of this Commission decision is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–31561 Filed 12–21–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants, Notice of Reinstatement of the 1993 Proposed Listing of the Flat-tailed Horned Lizard as a Threatened Species and the Reopening of The Comment Period on The Proposed Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of reinstatement of proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announces the reinstatement of the 1993 proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species, and the reopening of the public comment period on this proposed listing. On November 29, 1993, we published a rule proposing threatened status for the flat-tailed horned lizard, pursuant to the Endangered Species Act of 1973, as amended (Act). On July 15, 1997, we withdrew the proposed rule to list the flat-tailed horned lizard as threatened based on information available at that time. On July 31, 2001, the Ninth Circuit Court of Appeals vacated an earlier ruling from the District Court for the Southern District of California that upheld the withdrawal of the proposed listing of the lizard as threatened. Moreover, the Ninth Circuit directed the District Court to remand the withdrawal decision to the Service for consideration in accord with the legal standards outlined in its opinion. On October 24, 2001, the District Court remanded the matter to the Service and, with the parties consent, ordered the Service to reinstate the 1993 proposed listing for the flat-tailed horned lizard within 60 calendar days, and complete the final listing decision within 12 months from the date of reinstatement. Consequently, we are hereby providing notice that the 1993 proposed rule for the flat-tailed horned lizard is reinstated, and that we will complete a final listing decision for the flat-tailed horned lizard by December 26, 2002.

In addition, we are reopening the public comment period for 120 days on the 1993 proposed listing rule to obtain information concerning the current status, ecology, distribution, threats to, and management/conservation efforts in place for the flat-tailed horned lizard to make a new final listing determination based on the best scientific and commercial data currently available.

DATES: We will consider comments on this proposal received by the close of business on April 25, 2002. Any comments that are received after the closing date may not be considered in the final decision on this action. Requests for a public hearing must be received by February 11, 2002.

ADDRESSES: Comments: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status of the species, you may submit your comments and materials by any one of several methods: You may submit written comments and information to Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You may hand-deliver written comments to our Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You may send comments by electronic mail (e-mail) to *fthl@r1.fws.gov.*

For further information or a copy of the proposed rule contact: Ms. Sandy Vissman or Mr. Christopher Otahal, Carlsbad Fish and Wildlife Office, at the above address (telephone 760–431–9440; facsimile 760–431–9624).

SUPPLEMENTARY INFORMATION: The flat-tailed horned lizard is a small, cryptically colored, lizard that reaches a maximum adult body length (excluding the tail) of approximately 81 millimeters (3.2 inches). The lizard has a flattened body, short tail, and dagger-like head spines like other horned lizards. It is distinguished from other horned lizards in its range by a dark vertebral stripe, two slender elongated occipital spines, and the absence of external ear openings. The upper surface of the flat-tailed horned lizard is pale gray to light rusty brown. The underside is white and unmarked, with the exception of a prominent umbilical scar.

The flat-tailed horned lizard is endemic (restricted) to the Sonoran Desert in southern California and

Arizona and in northern Mexico. The species inhabits desert areas of southern Riverside, eastern San Diego, and Imperial counties in California; southwestern Arizona; and adjacent regions of northwestern Sonora and northeastern Baja California Norte, Mexico. Within the United States, populations of the flat-tailed horned lizard are concentrated in portions of the Coachella Valley, Ocotillo Wells, Anza Borrego Desert, West Mesa, East Mesa, and the Yuma Desert in California; and the area between Yuma and the Gila Mountains in Arizona. The flat-tailed horned lizard occurs at elevations up to 520 meters (m) (1700 feet (ft)) above sea level, but most populations are below 250 m (820 ft) elevation.

According to Hodges (1997), approximately 51.2 percent of the historic range of the flat-tailed horned lizard habitat within the United States remains. This remaining habitat includes an estimated 503,500 hectares (ha) (1,244,00 acres (ac)) of habitat in the United States, of which approximately 56,800 ha (140,300 ac) occur in Arizona and 446,670 ha (1,103,800 ac) occur in California. Within this range, the lizard typically occupies sparsely vegetated, sandy desert flatlands with low plant species diversity, but it is also found in areas with small pebbles or desert pavement, mud hills, dunes, alkali flats, and low, rocky mountains.

Based on information obtained since the withdrawal of the proposed listing rule and the information documented in the proposed rule itself, threats to the flat-tailed horned lizard may include one or more of the following: Commercial and residential development, agricultural development, off-highway vehicle activity, energy developments, military activities, introduction of nonnative plants, pesticide use, and border patrol activities along the United States-Mexican border.

In 1982, we first identified the flat-tailed horned lizard as a category 2 candidate for listing under the Act (47 FR 58454). Service regulations defined category 2 candidate species as "taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules. In 1989, we elevated the species to category 1 status (54 FR 554). Category 1 included species "for which the Service has on file sufficient information on biological vulnerability and threat(s) to support issuance of a proposed rule." Subsequently, on November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species (58 FR 62624).

On May 16,1997, in response to a lawsuit filed by the Defenders of Wildlife to compel us to make a final listing determination on the flat-tailed horned lizard, the District Court in Arizona ordered the Service to issue a final listing decision within 60 days. A month after the District Court's order, several State and Federal agencies signed a Conservation Agreement (CA) implementing a recently completed range-wide management strategy to protect the flat-tailed horned lizard. Pursuant to the CA, cooperating parties agreed to take voluntary steps aimed at "reducing threats to the species, stabilizing the species" populations, and maintaining its ecosystem.'

On July 15, 1997, we issued a final decision to withdraw the proposed rule to list the flat-tailed horned lizard as a threatened species (62 FR 37852). The withdrawal was based on three factors: (1) Population trend data did not conclusively demonstrate significant population declines; (2) some of the threats to the flat-tailed horned lizard habitat had grown less serious since the proposed rule was issued; and (3) the belief that the recently approved "conservation agreement w[ould] ensure further reductions in threats."

Six months following our withdrawal of the proposed listing rule, the Defenders of Wildlife filed a lawsuit challenging our decision. On June 16, 1999, the District Court for the Southern District of California granted summary judgement in our favor upholding the Service's decision not to list the flat-tailed horned lizard. However, on July 31, 2001, the Ninth Circuit Court of Appeals reversed the lower court's ruling and directed the District Court to remand the matter back to the Service for further consideration in accord with the legal standards outlined in its opinion. On October 24, 2001, the District Court ordered the Service to reinstate the previously effective proposed listing rule within 60 calendar days and, thereafter, commence a 12-month statutory time schedule for a final listing decision.

This notice announces the reinstatement of the 1993 proposed rule to list the flat-tailed horned lizard as a threatened species, and reopens the public comment period on this reinstated rulemaking. The public comment period is being opened for 120 days to accept public comment on the reinstated proposed rule to list the flat-tailed horned lizard as a threatened species and gather updated information concerning its ecology and distribution, threats, conservation/management actions, and any additional available information to assist us in making a final listing determination based on the best scientific and commercial data available.

We are specifically seeking information that has become available concerning the flat-tailed horned lizard since the last public comment period on the proposed rule which closed on June 9, 1997. Information is particularly requested concerning: (1) Threats to the species as a whole or to local populations, (2) the size, number, and/or distribution of known populations, (3) sufficiency of current conservation/management and/or regulatory mechanisms for the flat-tailed horned lizard, and (4) the conservation value of different populations across the range of the species.

Please send written comments to the address listed above (see **ADDRESSES** section). When submitting comments via e-mail, please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at telephone number 760/431–9440.

Comments and materials received, as well as supporting documentation used in the preparation of the proposed rule and subsequent withdrawal, will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office.

Author: The primary author of this notice is Mr. Christopher Otahal. (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: December 10, 2001.

Steve Thompson,

Acting Manager, California/Nevada Operations Office, Region 1.

[FR Doc. 01–31734 Filed 12–21–01; 8:45 am]

BILLING CODE 4310–55–P

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 000629197–1282–02; I.D. 032900A]

RIN 0648–AN06

Atlantic Highly Migratory Species; Monitoring of Recreational Landings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments; public hearings.

SUMMARY: NMFS proposes this rule to amend regulations governing Atlantic billfish and North Atlantic swordfish recreational fisheries to implement recommendations adopted at the 2000 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and to enhance management programs for these species. NMFS proposes to implement a mandatory recreational landings reporting system for Atlantic blue marlin, Atlantic white marlin, west Atlantic sailfish, and North Atlantic swordfish. In addition, NMFS proposes to establish a recreational retention limit for North Atlantic swordfish; to add handlines as an authorized gear for North Atlantic swordfish; to clarify language concerning applicability of recreational retention limits for sharks, yellowfin tuna, and North Atlantic swordfish; to clarify language regarding the Billfish Certificate of Eligibility and to develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery. The intent of these actions is to improve monitoring and conservation of overfished Atlantic billfish and swordfish stocks. NMFS will hold three hearings regarding these proposed amendments.

DATES: Written comments on the proposed rule must be received by 5 p.m. on February 25, 2002. NMFS will hold public hearings on the following dates:

3. January 14, 2002—Mobile, AL
1. January 23, 2002—Fort Lauderdale, FL
2. January 22, 2002—Manteo, NC

ADDRESSES: The meeting locations are:

1. Broward County Main Library, 100 S. Andrews Ave., Bienes Center, 6th Floor, Fort Lauderdale, FL 33301.
2. North Carolina Aquarium, Airport Road, Manteo, NC 27954.
3. Mobile Public Library, Cottage Hill Branch, 5025 Cottage Hill Road, Mobile, AL 36609.

Comments on the proposed rule may also be submitted by mail to the Highly Migratory Species (HMS) Division, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via facsimile (fax) to 301–713–1917. Comments will not be accepted if submitted via e-mail or on the Internet. Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to the HMS Division, 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of the Draft Environmental Assessment/Regulatory Impact Review (EA/RIR) for this proposed rule may be obtained from the Highly Migratory Species Division, Southeast Regional Office, 727–570–5447. The EA/RIR may also be viewed on the Highly Migratory Species Division website at *www.nmfs.noaa.gov/sfa/hmspg.html.*

FOR FURTHER INFORMATION CONTACT: Michael Barnette at 727–570–5447 or Jill Stevenson at 301–713–2347; fax: 727–570–5656; email: michael.barnette@noaa.gov or jill.stevenson@noaa.gov.

SUPPLEMENTARY INFORMATION: Atlantic HMS are managed under the Fishery Management Plan for Atlantic Billfish (Atlantic Billfish FMP) and the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). The FMPs are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) at 50 CFR part 635. In addition, billfish, swordfish and tunas are managed throughout the Atlantic Ocean by ICCAT, to which the United States is a contracting party. The Secretary of Commerce has the responsibility, under the Atlantic Tunas Convention Act (ATCA), to implement ICCAT recommendations.

Atlantic Blue and White Marlin

At the November, 2000 meeting, ICCAT developed a two-phased rebuilding plan for Atlantic blue and white marlin. The rebuilding strategy was based on the results of the most recent stock assessments completed by ICCAT's Standing Committee for Research and Statistics (SCRS). The July 2000 assessment indicated that Atlantic marlin stocks are not rebuilding and continue to be overfished. Specifically, Atlantic blue marlin stocks are about 40 percent of the level needed to support maximum sustainable yield (MSY) and white marlin stocks are about 15 percent of the level needed to support MSY.

Phase One of the ICCAT Atlantic marlin rebuilding plan requires that countries capturing marlin in commercial fisheries reduce Atlantic blue marlin landings by 50 percent and white marlin landings by 67 percent from 1999 levels. Furthermore, the United States agreed to limit annual landings by U.S. recreational fishermen to 250 Atlantic blue and white marlin, combined, for 2001 and 2002, and to maintain regulations that have prohibited retention of marlins by U.S. pelagic longline fishermen since the implementation of the 1988 Atlantic Billfish FMP.

In Phase Two of the rebuilding plan, the SCRS will conduct stock assessments of Atlantic blue and white marlin in 2002 and present its evaluation of specific stock recovery scenarios that take into account the new stock assessments and any re-evaluation of the historical catch and effort time series. Based on the advice of the SCRS at its 2002 meeting, ICCAT will, as necessary, develop and adopt programs to rebuild Atlantic blue and white marlins to levels that would support MSY. Such rebuilding programs will include a timetable for recovery to a scientifically derived goal, with associated milestones and biological reference points.

North Atlantic Swordfish

A 1996 assessment of North Atlantic swordfish stock by the SCRS indicated that swordfish were overfished and that the biomass was estimated to be 58 percent of the biomass needed to produce MSY. A 1999 stock assessment indicated that the decline in swordfish biomass has been slowed or arrested and that biomass was 65 percent of the biomass needed to produce MSY. However, the SCRS cautioned that the North Atlantic swordfish recovery plan is very sensitive to any increases in fishing mortality due to overharvest of landing quotas, increased dead discards, or to increases in the proportion of juvenile fish taken in the fisheries.

The U.S. recreational swordfish fishery has been re-emerging after a period of relatively low activity, though recent catches are still below historical levels achieved when the stock was more abundant. In recent years, recreational fishing effort for swordfish has evolved from incidental catches related to yellowfin tuna trips in the Mid-Atlantic Bight to a rapidly growing directed fishery off Florida, New York, and New Jersey. There is concern that this expansion is not being effectively monitored and that, therefore, mortality of both legal and undersized swordfish cannot be accurately estimated for the recreational fishery.

Effective April 1, 2001, NMFS implemented a closed area off the east coast of Florida that was specifically aimed at reducing dead discards of swordfish in the pelagic longline fishery (65 FR 47214, August 1, 2001). This area remains open to handgear fishermen, and, while many swordfish are released alive, it is anticipated that further increases in recreational effort could result in increased mortality of undersized swordfish and affect the stock rebuilding plan. Furthermore, there have been reports of swordfish being foul-hooked by recreational fishing gear due to the nature of swordfish feeding behavior. Injuries sustained by the fish could impair recovery and result in delayed mortality even if the fish appears to be released in good condition.

Recreational Catch of Sailfish

In 1992, ICCAT scientists completed a stock assessment for west Atlantic sailfish/spearfish and deemed the populations to be fully fished. Since that time, there has not been a complete stock assessment due to a lack of specific data (internationally, sailfish are often reported combined with spearfish species in logbooks). In 2001, ICCAT scientists evaluated sailfish catches independently of spearfish catches, however, considerable uncertainties remain related to catches and catch rates. The stock is considered to be fully fished. Abundance indices have remained relatively stable over the last 20 years. However, population models have not been successfully used to predict the dynamics of this stock. Recreational landings in the United States are not well monitored by existing surveys because of their rare-event nature. NMFS anticipates that a recreational call-in monitoring system would improve the quality of data that the United States submits to ICCAT annually and which would be used in future stock assessments.

Current Catch Management Programs

The primary issue for the United States resulting from the 2000 ICCAT recommendation for Atlantic blue and white marlin is determining the appropriate management strategy to ensure compliance with the annual limit of 250 marlin landings for 2001 and 2002. Monitoring recreational landings of Atlantic billfish is challenging because of the broad geographic range over which Atlantic blue and white marlin can potentially be caught and landed by U.S. recreational anglers. While U.S. recreational anglers predominantly practice a catch-and-release fishery, a limited number of billfish are landed, particularly in association with fishing tournaments. The recreational billfish fishery within the U.S. Exclusive Economic Zone (EEZ), including U.S. territories, is monitored primarily through the NMFS Recreational Billfish Survey (RBS). The RBS mainly focuses on fishing tournament data but does include a limited number of Atlantic billfish landings outside tournaments. While landings reporting for HMS tournaments is becoming more comprehensive due to the tournament registration requirement adopted in Amendment 1 to the Atlantic Billfish FMP (Billfish Amendment), the level of recreational fishing effort directed at billfish that occurs outside the tournament context is highly uncertain.

Billfish landings outside tournaments are occasionally noted by dockside interviewers conducting the Marine Recreational Fisheries Statistical Survey (MRFSS) or the Large Pelagics Survey (LPS), but such low frequency sampling cannot yield precise estimates of total landings. Additionally, landings from U.S. vessels in foreign ports are not at present effectively monitored though all landings from vessels of the United States must be assessed against the landing limit. Some improvements in monitoring of recreational billfish landings are anticipated as the HMS Charter/Headboat permit, vessel logbook, and at-sea observer programs that were developed as part of the HMS FMP and Billfish Amendment become fully implemented. However, it is unlikely that these programs, taken together, will be sufficient to monitor all recreational Atlantic billfish landings.

NMFS published an Advanced Notice of Proposed Rulemaking (ANPR) to solicit comments on options which would support ICCAT's objectives. Options ranged from restricting minimum size limits to reduce landings to implementing upgraded monitoring programs (65 FR 48671, August 9, 2000). Comments received were generally supportive of the need to increase monitoring of recreational landings.

Several commenters supported a mandatory landings tag program, either with an unlimited number of tags available or a more complex controlled distribution system. Such a program would be costly for the agency and may be more burdensome for fishermen.

A few comments supported a port sampling program that could be implemented through cooperative agreements with coastal states. Other commenters recommended requiring a recreational billfish permit and periodic reporting requirements through logbooks. While NMFS is not proposing a permit requirement in this rule, a permit requirement may be implemented in the future to provide a more complete sample frame for surveying recreational HMS fishermen.

Other commenters were concerned about double counting of billfish and therefore opposed self-reporting, post cards, fishing club reports, or a landing tag program. NMFS has similar concerns with respect to monitoring the expanding recreational swordfish fishery. While the LPS dockside intercept survey focuses on fishing sites with high activity for HMS, interviewers could encounter anglers landing swordfish only off the Mid-Atlantic region due to lack of LPS coverage in the South Atlantic, Gulf of Mexico, and Caribbean at this time. Therefore, comprehensive information on landings from the expanding recreational swordfish fishery off Florida is not available through the LPS. Although the MRFSS has a broader area of coverage, day-time interviewers are not likely to sample swordfish due to the nocturnal nature of the fishery.

Given the limitations of existing recreational fishing monitoring programs with respect to Atlantic billfish and swordfish, NMFS believes that additional measures are needed to ensure compliance with applicable ICCAT recommendations and to provide data for improving stock assessments. The NMFS is issuing this proposed rule, and seeks additional public comments to address these concerns.

Enhanced Monitoring Program

To ensure compliance with ICCAT recommendations and to further domestic fishery management goals, NMFS proposes to monitor Atlantic sailfish, blue and white marlin, and North Atlantic swordfish recreational landings through a self-reporting method based on a toll-free telephone call-in system. Such a call-in system would collect catch information for all landings made from U.S. fishing vessels, including landings made in foreign ports. To avoid duplication, landings reported through a registered HMS tournament would be exempt from the telephone call-in requirement. The toll-free call would take less than 5 minutes for each response, and the reporting requirement would likely amount to less than 500 calls per year. NMFS anticipates a high level of compliance based on the conservation ethic and interest in resource conservation by

VOL 66 ISS 247 DE 26 2001 UMI

recreational Atlantic billfish and swordfish anglers. To foster support, the call-in requirement for non-tournament landings would be advertised through public outreach with constituent groups, sport fishing magazines, fishing tournaments, Fishery Management Councils, and Billfish and HMS Advisory Panel members.

In addition to improving estimates of landings made outside tournaments, mandatory reporting of billfish and swordfish landings via the call-in system would provide additional data on the recreational fishery and improve future stock assessments. Information on fishing locations and ports of landing would enable NMFS to tailor existing dockside and telephone surveys to better assess effort and catch rates in the recreational billfish and swordfish fisheries.

Recreational Retention Measures

In light of the recent expansion in the recreational swordfish fishery, NMFS also proposes to revise regulations at § 635.22 to implement a recreational retention limit for North Atlantic swordfish of one swordfish, per vessel, per trip. This recreational possession limit would apply to all vessels and is intended to establish long-term stability within the recreational fishery, and to reduce the incentive for unauthorized sale of swordfish landed in the recreational fishery. Those vessel operators who wish to pursue a commercial handgear fishery could seek to purchase a swordfish handgear limited access permit. Only fishermen with such limited access permits are exempt from the recreational retention limit and are authorized to sell swordfish.

Additionally, NMFS proposes to revise regulations at § 635.21 to clarify that only certain gear is authorized for recreational fishing for Atlantic swordfish. Prior to the publication of the HMS FMP and consolidation of Atlantic HMS regulations under new part 635 of the Code of Federal Regulations (CFR) (64 FR 29090, May 28,1999), regulations governing the Atlantic swordfish fisheries existed under 50 CFR part 630. Regulatory text at § 630.2 specified that recreational harvest of swordfish was limited to fish taken by rod and reel gear. While that specific restriction was included in the initial proposed consolidated HMS regulations (61 FR 57361, November 6, 1996), it was not explicitly re-stated when the consolidated regulations were re-proposed to implement the new requirements of the HMS FMP (64 FR 3486, January 20, 1999).

The regulatory consolidation was not intended to make substantive changes to existing regulations, other than those specifically noted as necessary to achieve consistency or to implement new requirements of the HMS FMP. The ambiguous reference to the restriction on recreational swordfish fishing gear as it currently appears in the consolidated regulatory text under 50 CFR part 635 was a drafting error and requires the correction contained in this proposed rule. However, recognizing that there has been some historical use of this handline gear consistent with recreational fishing activity, NMFS also proposes to revise regulations at § 635.21 (d)(4) to include handlines as authorized gear in the recreational swordfish fishery.

Applicability of Recreational Retention Limits

NMFS finalized a regulatory requirement for Charter/Headboat vessel owners to obtain a permit to fish for Atlantic HMS in conjunction with publication of the final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) (64 FR 29090, May 29, 1999). At the time of publication of the final rule, OMB had not yet approved the information collection. After receiving OMB approval, NMFS published a notification to make the permit requirement effective (66 FR 30651, June 7, 2001).

In a technical amendment to the consolidated regulations (64 FR 37700, July 13, 1999), NMFS clarified that the recreational daily retention limit of three yellowfin tuna per person applies at all times to persons fishing aboard vessels permitted with an Atlantic tunas Charter/Headboat permit. That permit is now issued as the HMS Charter/Headboat permit. Therefore, NMFS must revise the regulations pertaining to retention limits to reflect issuance of the HMS Charter/Headboat permit. In this rule, NMFS proposes to revise regulations at § 635.22 to apply recreational Atlantic yellowfin tuna and shark retention limits to HMS Charter/Headboat permit holders.

Mortality Reduction Program

To further reduce the potential for dead discards and delayed mortality of swordfish, NMFS proposes to develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery. NMFS has received information indicating that use of conventional "J"-style hooks in the recreational fishery is resulting in foul-hooked fish (either in the fins or in the body) due to the aggressive nature of swordfish feeding behavior. Foul-hooked fish can receive sufficient injury to impair health which could lead to delayed mortality after release. The use of circle hooks typically results in fish being hooked in the mouth, which allows for a fish to be boated and released in better condition. Circle hooks are already being used to some extent within the recreational fishery due to their recognized ecological benefits, so it is expected that with sufficient public outreach, circle hook usage would increase.

Billfish Trade Requirements

Prior to the publication of the HMS FMP and consolidation of Atlantic HMS regulations under new part 635 of the Code of Federal Regulations (CFR) (64 FR 29090, May 28,1999), regulations governing the Atlantic billfish fisheries existed under 50 CFR part 644. Regulatory text at § 644.24 prohibited persons from selling or purchasing billfish taken from the Atlantic Ocean management unit. Billfish taken from outside the Atlantic Ocean management unit could be sold only if accompanied by documentation of its source. These regulations were necessary to implement the Billfish FMP objective of reserving harvest of Atlantic billfish for the recreational fishery.

While the specific regulations on the Billfish Certificate of Eligibility were included in the initial proposed consolidated HMS regulations (61 FR 57361, November 6, 1996), they were restated differently when the consolidated regulations were re-proposed to implement the new requirements of the HMS FMP (64 FR 3486, January 20, 1999). The regulatory consolidation was not intended to make substantive changes to existing regulations, other than those specifically noted as necessary to achieve consistency or to implement new requirements of the HMS FMP. The revisions to the Billfish COE regulations in the final consolidated regulatory text under 50 CFR part 635 were a drafting error that requires a correction to facilitate enforcement of the COE requirements as originally intended. Therefore, NMFS proposes to amend § 635.31 to clarify these provisions.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and the ATCA. The Assistant Administrator for Fisheries, NOAA (AA), has preliminarily determined that the regulations contained in this rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic highly migratory species fisheries.

NMFS prepared a draft Environmental Assessment (EA) for this proposed rule, and the AA has preliminarily concluded that there would be no significant impact on the human environment if this proposed rule was implemented. The EA presents analyses of the anticipated impacts of these proposed regulations and the alternatives considered. A copy of the draft EA is available from NMFS (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act(PRA), unless that collection of information displays a currently valid OMB Control Number.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the PRA. The requirement for mandatory reporting, via a toll-free call-in system, of all non-tournament recreational landings of Atlantic sailfish, blue marlin, white marlin, and North Atlantic swordfish has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 5 minutes per initial reporting call and 5 minutes per confirmation callback. This proposed rule also repeats collection-of-information requirements that have been approved by OMB under control number 0648-0216. The estimated response times are 20 minutes to prepare a billfish Certificate of Eligibility and 2 minutes for recordkeeping by subsequent purchasers of the billfish.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and OMB (see **ADDRESSES**).

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel of Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

> The proposed rule would establish a recreational landings monitoring program for Atlantic billfish and swordfish that would be based on a toll-free call-in system. The system would collect catch associated information for landings of Atlantic sailfish, blue and white marlin, and North Atlantic swordfish, taken by persons aboard U.S. fishing vessels. Additionally, the proposed rule would implement a recreational retention limit for North Atlantic swordfish of 1 swordfish, per vessel, per trip, as well as develop an outreach program to promote the use of circle hooks within the recreational swordfish fishery.
>
> The landings monitoring call-in system would have minimal economic impact to the recreational fishing community as there would be no cost for the call and it would likely take less than 5 minutes to report. Likewise, a recreational fishing catch limit of one swordfish per vessel per trip should not have any significant economic impact on recreational anglers or associated support industries because of the relatively large size of most recreationally-landed swordfish (often 50 to in excess of 200 pounds). Finally, it is expected that the use of circle hooks would be well-received within the recreational community and that voluntary use would occur. Circle hooks are already being used to some extent within the recreational fishery due to their recognized ecological benefits in avoiding injury to fish.

Accordingly; an initial regulatory flexibility analysis was not prepared for this proposed rule.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 19, 2001.

Rebecca Lent,

Acting Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.5, paragraph (c) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

(c) *Anglers*—(1) *Bluefin tuna*. The owner of a vessel permitted, or required to be permitted, in the Atlantic Tunas Angling or Atlantic HMS Charter/Headboat category must report all BFT landed under the Angling category quota designated at § 635.27 (a) through the NMFS automated catch reporting system within 24 hours of the landing. Such reports may be made by calling 1–888–872–8862 or by submitting the required information over the Internet at: www.nmfspermits.com.

(2) *Billfish and swordfish*. Anglers must report all landings of Atlantic blue marlin, Atlantic white marlin, Atlantic sailfish and North Atlantic swordfish. Except for fish reported through a fishing tournament registered with NMFS, anglers must report all landings to NMFS by calling 1–800–894–5528 within 24 hours of the landing. A reported landing during a tournament must include the species, size, date, and place of landing. For telephone reports, an additional contact phone number must be provided so that NMFS can provide the angler with a confirmation of the reported landing. The landing report has not been completed unless the angler has received a confirmation number from a NMFS' designee for telephone reports or from the tournament operator for a landing made during a registered tournament.

(3) *Alternative recreational catch reporting*. Alternative recreational catch reporting procedures may be established by NMFS in cooperation with states and may include such methodologies as telephone, dockside or mail surveys, mail in or phone-in reports, tagging programs, or mandatory check-in stations. A census or a statistical sample of persons fishing under the recreational fishing regulations of this part may be used for these alternative reporting programs (after the programs have received Paperwork Reduction Act approval from OMB). Persons or vessel owners selected for reporting will be notified by NMFS or by the cooperating state agency of the requirements and procedures for reporting recreational catch. Each person so notified must comply with those requirements and procedures. Additionally, NMFS may determine that recreational landing reporting systems implemented by the states, if mandatory, at least as restrictive, and effectively enforced, are sufficient for recreational landing monitoring as required under this part. In such case, NMFS will file with the Office of the Federal Register for publication notification indicating that compliance with the state system

VOL 66 ISS 247 DE 26 2001 UMI

satisfies the reporting requirements of paragraph (c) of this section.

3. In § 635.20, paragraph (a) is revised to read as follows:

§ 635.20 Size limits.

(a) *General.* The CFL will be the sole criterion for determining the size and/or size class of whole (head on) Atlantic tunas. The LJFL will be the sole criterion for determining the size of an Atlantic swordfish possessed on board, or landed from, a vessel that has not been issued a limited access swordfish permit under § 635.4.

4. In § 635.21, paragraph (d)(4)(iv) is added to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(d) * * *

(4) * * *

(iv) Except for persons aboard a vessel that has been issued a limited access swordfish permit under § 635.4, no person may fish for swordfish with, or possess a swordfish taken by, any gear other than handline or rod and reel.

5. In § 635.22, paragraphs (a), (c), and (d) are revised, and paragraphs (e) and (f) are added to read as follows:

§ 635.22 Recreational retention limits.

(a) *General.* Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic EEZ, to a North Atlantic swordfish taken from or possessed in the Atlantic Ocean, and to bluefin and yellowfin tuna taken from or possessed in the Atlantic Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and for the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in state waters.

(c) *Sharks.* One shark from the large coastal, small coastal, or pelagic group may be retained per vessel per trip, subject to the size limits described in § 635.20(e), and, in addition, one Atlantic sharpnose shark may be retained per person per trip. Regardless of the length of a trip, no more than one Atlantic sharpnose shark per person may be possessed on board a vessel. No prohibited sharks listed in table 1(d) of appendix A to this part may be retained. The recreational retention limit for sharks applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a limited access vessel permit under § 635.4 for Atlantic sharks.

(d) *Yellowfin tuna.* Three yellowfin tunas per person per day may be retained. Regardless of the length of a trip, no more than three yellowfin tuna per person may be possessed on board a vessel. The recreational retention limit for yellowfin tuna applies to a person who fishes in any manner, except to a person aboard a vessel issued a vessel permit under § 635.4 for Atlantic tunas in a category other than Angling. The yellowfin tuna retention limit applies to all persons aboard a vessel issued an Atlantic Highly Migratory Species Charter/Headboat permit under § 635.4, including captain and crew.

(e) *Bluefin tuna.* Refer to § 635.23 for Atlantic bluefin tuna recreational retention limits.

(f) *North Atlantic swordfish.* One North Atlantic swordfish per vessel per day may be retained. Regardless of the length of a trip, no more than one North Atlantic swordfish may be possessed on board a vessel. The recreational retention limit for swordfish applies to a person who fishes in any manner, except to a person aboard a vessel that has been issued a limited access swordfish permit under § 635.4.

6. In § 635.30, paragraph (d) is revised to read as follows:

§ 635.30 Possession at sea and landing.

(d) *Swordfish.* Except for persons aboard a vessel that has been issued a limited access swordfish permit under § 635.4, any person who possesses an Atlantic swordfish on board a vessel or who lands an Atlantic swordfish in an Atlantic coastal port must maintain such swordfish with its head, fins, and bill intact through offloading; persons may eviscerate such swordfish, but it must otherwise be maintained whole. Persons aboard a fishing vessel that has been issued a limited access swordfish permit under § 635.4 must maintain Atlantic swordfish in either round or dressed form when possessed on board the vessel from the time of capture through offloading in an Atlantic coastal port.

7. In § 635.31, paragraph (b)(2)(ii) is revised and paragraph (b)(3) is added to read as follows:

§ 635.31 Restrictions on sale and purchase.

(b) Billfish.

(2) * * *

(ii) It is accompanied by a Billfish Certificate of Eligibility (COE) form obtained from NMFS or its equivalent that documents that the fish was harvested from other than the Atlantic Ocean management unit.

(A) The Billfish COE required under this section must indicate, in English, the name and homeport of the harvesting vessel, and the date and port of offloading. Only the purchaser of the billfish from the harvesting vessel must complete this information.

(B) The Billfish COE must be signed and dated by each dealer in possession of the product throughout the chain of custody up to but not including the consumer. This signature indicates a declaration that the billfish were not harvested from the management unit.

(C) A Billfish COE may refer to billfish taken from only one harvesting vessel. If a shipment contains billfish taken from more than one vessel, a separate billfish COE must accompany the shipment for each harvesting vessel.

(D) A model Billfish COE can be obtained by contacting the Division Chief. An equivalent form may be used provided it contains all of the information required under this section.

(3) For the purposes of this paragraph 635.31(b), a dealer or seafood processor means any individual, other than a consumer, who engages in any activity, other than fishing, of industry, trade, or commerce, including but not limited to the buying or selling of a regulated species or parts thereof and activities conducted for the purpose of facilitating such buying and selling.

[FR Doc. 01–31662 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 121701D]

Groundfish Fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of meeting to review proposed work plan for preparing a revised Alaska Groundfish Fisheries Draft Programmatic Supplemental Environmental Impact Statement (SEIS) and to discuss draft multi-objective policy alternatives.

SUMMARY: On November 27, 2001, NMFS announced its intent to revise the Alaska Groundfish Fisheries draft Programmatic SEIS. After reviewing more than 21,000 comment letters received on the draft Programmatic SEIS, NMFS determined that revisions to the draft Programmatic SEIS are

appropriate and necessary. NMFS also determined that these revisions will require the release of a revised draft Programmatic SEIS. Based on these decisions, NMFS announced a new series of dates for preparing the revised draft, preparing the final programmatic SEIS, and issuing the Record of Decision.

This document announces that NMFS will hold three public meetings in Seattle, WA, and in Anchorage and Bethel, AK in January 2002 for the purpose of presenting a work plan, answering questions concerning the new work plan, and schedule, and soliciting public input on new, multi-objective policy alternatives.

DATES: See **SUPPLEMENTARY INFORMATION** under the heading "Meeting Dates and Addresses" for the dates of the public meetings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** under the heading "Meeting Dates and Addresses" for meeting addresses.

FOR FURTHER INFORMATION CONTACT: Steven K. Davis, Programmatic SEIS Coordinator, Anchorage, AK, (907) 271-3523.

SUPPLEMENTARY INFORMATION: On November 27, 2001, NMFS issued a notice informing the public of its decision to prepare a revised draft Programmatic SEIS and release that draft for public comment prior to preparing a final Programmatic SEIS. This decision was based on the agency's review and preliminary analysis of the comments received on the draft Programmatic SEIS.

NMFS has scheduled two public meetings and is planning a third meeting in January 2002. The purpose of these meetings is to present a work plan for preparing the revised draft programmatic SEIS, answering questions concerning the work plan and schedule, and soliciting suggestions for draft multi-objective policy alternatives. The development of these new alternatives will be based on comments received on the January 2001 draft Programmatic SEIS, input received from the public at these January meetings, and on recommendations from the North Pacific Fishery Management Council (Council). The final suite of multi-objective policy alternatives will serve as the focus of the revised draft Programmatic SEIS.

Information on these meetings can also be found in the Council's December 2001 newsletter. A meeting announcement will also be mailed to the Programmatic SEIS mailing list. Additional information concerning the meeting agenda and draft multi-objective policy alternatives will be posted on the NMFS Alaska Region's website at *http://www.fakr.noaa.gov* and at the Council's website at *http://www.fakr.noaa.gov/npfmc* prior to the meetings.

Meeting Dates and Addresses

1. January 22, 2002, 9 a.m. Pacific standard time - Alaska Fisheries Science Center, 7600 Sand Point Way N.E., Building 9, Room A/B, Seattle, WA.

2. January 24, 2002, 9 a.m. Alaska local time - Federal Courthouse, 222 West 9th Avenue, Room 154, Anchorage, AK.

3. Bethel, AK. The meeting will begin at 9 a.m. Alaska local time. The location and date to be announced (see websites for information).

Special Accommodations

The meetings will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Steven K. Davis (see **FOR FURTHER INFORMATION CONTACT**) at least 7 working days prior to the meeting date.

Authority: 16 U.S.C. 1801 et seq.

Dated: December 19, 2001.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01-31659 Filed 12-21-01; 8:45 am]

BILLING CODE 3510-22-S

VOL 66 ISS 247 DE 26 2001 UMI

Notices

Federal Register
Vol. 66, No. 247
Wednesday, December 26, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee on Actuarial Examinations

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Washington, DC at the Office of Director of Practice on January 10 and 11, 2002.

DATES: Thursday, January 10, 2002, from 9 a.m. to 5 p.m., and Friday, January 11, 2002 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held in Suite 4200E, Conference Room, Fourth Floor, East Tower, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Director of Practice and Executive Director of the Joint Board for the Enrollment of Actuaries, 202–694–1805.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Suite 4200E, Conference Room, Fourth Floor, East Tower, Franklin Court Building, 1099 14th Street, NW., Washington, DC on Thursday, January 10, 2002, from 9 a.m. to 5 p.m., and Friday, January 11, 2002, from 8:30 a.m. to 5 p.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the November 2001 Pension (EA–2A) Joint Board Examination in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the May 2002 Basic (EA–1) Examination and the May 2002 Pension (EA–2B) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and review of the November 2001 Joint Board examination fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1 PM on January 11 and will continue for as long as necessary to complete the discussion, but not beyond 3 PM. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should must notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and must submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All other persons planning to attend the public session must also notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be faxed, no later than December 31, 2001, to 202–694–1876, Attn: Executive Director. Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to the Executive Director: Joint Board for the Enrollment of Actuaries, c/o Internal Revenue Service, Attn: Executive Director N:C:SC:DOP, 1111 Constitution Avenue, NW., Washington, DC 20224.

Dated: December 17, 2001.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 01–31653 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 17, 2001.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agriculture Statistics Service

Title: Childhood Injury and Adult Occupational Survey.

OMB Control Number: 0535–0235.

Summary of Collection: Primary function of the National Agricultural Statistics Services (NASS) is to prepare and issue State and national estimates of crop and livestock production under the authority of 7 U.S.C. 2204 (a). NASS has been asked by the National Institute of Occupational Safety Health (NIOSH) to conduct a childhood injury and adult occupational injury survey. The survey is designed to provide estimates of childhood nonfatal injury incidence and description of injury occurring to children less than 20 years of age who reside, work, or visit farms and describe the occupational injury experience of all farm operators.

Need and Use of the Information: Data from this survey will provide source of consistent information that NIOSH can use to target funds appropriated by Congress for the prevention of childhood agricultural injuries and adult occupational injuries. No source of data on childhood injuries or adult occupational farm injuries exists that covers all aspects of the agricultural production sector.

Description of Respondents: Farms.

Number of Respondents: 60,500.

Frequency of Responses: Reporting: Other.

Total Burden Hours: 12,612.

Rural Utilities Service

Title: 7 CFR Part 1744, Subpart B, Lien Accommodations and Subordination Policy.

OMB Control Number: 0572–0126.

Summary of Collection: Recent changes in the telecommunications industry, including deregulation and technological developments, have caused Rural Utilities Service (RUS) borrowers and other organizations providing telecommunications services to consider undertaking projects that provide new telecommunications services and other telecommunications services not ordinarily financed by RUS. To facilitate the financing of those projects and services, RUS is willing to consider accommodating the Government's lien on telecommunications borrowers' systems in an expedited manner based on the financial strength of the borrowers operations. The RUS telecommunications program provides loans to borrowers at interest rates and on terms that are most favorable than those generally available from the private sector.

Need and Use of the Information: Depending on the purposes for which a lien accommodation is sought, RUS will use the information to provide "automatic" approval for borrowers that meet the financial tests. These tests are designed to ensure that the financial strength of the borrowers is more than sufficient to protect the government's loan security interests; hence, the lien accommodations will not adversely affect the government's financial interests.

Description of Respondents: Business or other for-profit; Not for-profit institutions.

Number of Respondents: 30.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 23.

Animal Plant and Health Inspection Service

Title: National Animal Health Monitoring System Sheep 2001 Study.

OMB Control Number: 0579–NEW.

Summary of Collection: The Department of Agriculture is responsible for protecting the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of contagious, infectious, or communicable diseases of livestock and poultry and for eradicating such diseases from the United States when feasible. In connection with this mission, the Animal and Plant Health Inspection Service (APHIS) operates the National Health Monitoring System (NAHMS), which collects, on a national basis, statistically valid and scientifically sound data on the prevalence and economic importance of livestock and poultry diseases. NAHMS will initiate the first national data collection for sheep through a national study, Sheep 2001. The study will take place in 22 States, which represent 88.8% of the U.S. sheep population. Collection and dissemination of animal and poultry health information is mandated by 7 U.S.C. 391, The Animal Industry Act of 1884 and 21 U.S.C. 19, "Agents to Examine and Report on Methods of Treatment of Animals, and Means for Suppression of Diseases," amended February 7, 1928.

Need and Use of the Information: APHIS will use the data collected to: (1) Predict or detect national and regional trends in disease emergence and movement, (2) address emerging issues, (3) determine the economic consequences of disease, and (4) develop trade strategies and support trade decisions. Without the data, the U.S.' ability to detect trends in management, production, and health status that increase/decrease farm economy, either directly or indirectly, would be reduced or nonexistent.

Description of Respondents: Farms; Business or other for profit; Individuals or households; Federal Government; State, Local or Tribal Government.

Number of Respondents: 10,731.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 9,090.

Agricultural Marketing Service

Title: Filberts/Hazelnuts Grown in Oregon and Washington.

OMB Control Number: 0581–NEW.

Summary of Collection: Marketing Order No. 982 (7 CFR Part 982), covers filberts/hazelnuts grown in Oregon and Washington. This legislation was designed to permit regulation of certain agricultural commodities for the purpose of providing orderly marketing conditions in interstate commerce and improving returns to growers. The order was developed to stabilize marketing conditions for domestic inshell hazelnuts.

Need and Use of the Information: The information collected will provide the Board with more accurate information on the total supply of hazelnuts handled in Oregon and Washington. This will facilitate the Boards preparation of its annual marketing policy. Reports and forms are periodically reviewed to avoid duplication of information collected by industry and public sector agencies. No similar information is collected from any other organizations. Collecting data less frequently would eliminate data needed to keep the hazelnut industry and USDA abreast of changes at the State and local levels.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 5.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2.

Forest Service

Title: National Woodland Owner Survey.

OMB Control Number: 0596–0078.

Summary of Collection: The Forest and Rangeland Renewable Resources Planning Act of 1974 (Pub. L. 93–278) and the Forest and Rangeland Renewable Resources Act of 1978 (Pub. L. 307) are the legal authorities for conducting the National Woodland Owner Survey. The National Woodland Owner Survey collects information to help answer questions related to the characteristics of the landholdings and landowners, ownership objectives, the supply of timber and non-timber products, forest management practices, delivery of the concerns/constraints perceived by the landowners.

Need and Use of the Information: The Forest Service will collect information to determine the opportunities and constraints that private woodlands owners typically face and facilitate planning and implementing forest policies and programs. If the information is not collected, the knowledge and understanding of private woodland ownerships and their concerns and activities will be severely limited.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 10,000.

Frequency of Responses: Reporting: Other (every 5 years).

Total Burden Hours: 2,500.

National Agricultural Statistics Service

Title: Wildlife Damage Surveys.

OMB Control Number: 0535–0217.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to provide, prepare and issue current official State and national estimates of crop and livestock production, disposition, and prices. Auxiliary services, such as statistical consultation, data collection, summary tabulation, and analysis are performed for other federal and State agencies on a reimbursable basis. NASS has entered into an agreement with the Animal and Plant Health Inspection Service (APHIS) to conduct a nationwide survey of selected field crop, livestock, poultry, vegetable, fruit, and nut producers to assess the true incidence, extent, specific cause, and monetary value of agricultural product and resource losses caused by vertebrate wildlife.

Need and Use of the Information: NASS will collect information on the development of valid statistical data reflecting the percentage of fruit, nut, and berry growers experiencing losses of products or resources and the total dollar losses at the national level caused by vertebrate wildlife. Goals of the survey are to assess the agricultural community's use and name recognition of the Wildlife Service program at a regional level, and provide accurate measurement of wildlife damage to agricultural products for use in long range planning and fund allocation.

Description of Respondents: Farms.

Number of Respondents: 12,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 1,700.

Farm Service Agency

Title: Certification of Livestock Losses for Eligible Disaster.

OMB Control Number: 0560–0179.

Summary of Collection: Under P.L. 106–387, Sec. 813 states "The Secretary shall use up to $10,000,000 of the funds of the Commodity Credit Corporation to make livestock indemnity payment to producers on a farm that have incurred livestock losses during calendar year 2000 due to a disaster, as determined by the Secretary, including losses due to fires and anthrax. Over the past several years, Congress has provided ad hoc funding under several appropriation bills to partially compensate producers who lost livestock because of natural disasters. Producer requesting compensation on CCC–661, Certificate of Livestock Losses for eligible Disaster must provide documentation that shows the number of type of livestock lost in the disaster.

Need and Use of the Information: The Farm Service Agency (FSA) will collect information to determine eligibility and the amount of compensation. Without obtaining the information from the producers, FSA could not carry out the statutory provisions and ensure that funds are being provided to eligible producers.

Description of Respondents: Farms.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,000.

Food and Nutrition Service

Title: Food Stamp Redemption Certificate.

OMB Control Number: 0584–0085.

Summary of Collection: The Food Stamp Act of 1977, requires the Department of Agriculture to issue regulations that provide for the redemption of coupons accepted by retail food stores through approved wholesale food concerns or through insured financial institutions. The Food and Nutrition Service (FNS) will provide authorized retail stores and wholesale food concerns with redemption certificates. The Redemption Certificate and Wholesaler Redemption Certificate (RCs) are used by all authorized wholesalers or retailers when depositing food stamp coupons, and are processed by financial institutions when they are presented for credit or for cash. The issuance of food stamp benefits through the Electronic Benefit Transfer (EBT) system is replacing the issuance of food coupons.

Need and Use of the Information: The Food and Nutrition Service (FNS) will collect information on the verification of the amount of coupons forwarded to the bank for redemption. RCs are distributed to each authorized retailer or wholesaler by FNS for completion. FNS uses the deposit information from the RC to monitor (1) deposits by retailer and wholesale food concerns, and (2) for store monitoring and compliance purposes.

Description of Respondents: Business or other for-profit.

Number of Respondents: 155,584.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 135,947.

Food and Nutrition Service

Title: WIC Local Agency Directory Report.

OMB Control Number: 0584–0431.

Summary of Collection: The Supplemental Nutrition Program for Women, Infants, and Children (WIC) is authorized by Section 17 of the Child Nutrition Act (CAN) of 1966 (42 U.S.C. 1786, as amended. The Food and Nutrition Service (FNS) of USDA administers the WIC Program by awarding cash grants to State agencies (generally State health departments). The State agencies award subgrants to local agencies (generally local health departments and nonprofit organizations) to deliver program benefits and services to eligible participants. Local agencies authorized to furnish WIC participants with supplemental foods, nutrition education, breastfeeding promotion and support activities and referral to related health services are subject to change. New local agencies may be selected to operate the WIC Program and local agencies already in operation may be disqualified for continued operation. FNS will collect information using form FNS–648 to report additions and deletions of local agencies operating the WIC program and local agency address changes, when such changes occur.

Need and Use of the Information: The FNS will collect information to maintain a local agency directory that lists the names and addresses of all WIC local agencies. The WIC local agency directory serves as the primary source of data on the number and location of local agencies and is published annually. It is used to refer individuals to the nearest source of WIC Program services and to maintain continuity of program services to migrant and other transient participants.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 88.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 15.

Food and Nutrition Service

Title: WIC Farmers Market Nutrition Program (FMNP) Forms: 683, 203 & Regulations.

OMB Control Number: 0584–0447.

Summary of Collection: The WIC Farmers' Market Nutrition Program (FMNP) is authorized by Public Law 102–314, enacted on July 2, 1992. The purpose of the FMNP is to provide resources to women, infants, and children who are nutritionally at risk, in the form of fresh, nutritious, unprepared foods (such as fruits and vegetables) from farmers' markets; to expand the awareness and use of farmers' markets; and, to increase sales at such markets. The Food and Nutrition Service (FNS) will collect information from each state that receives a grant under the FMNP program in conjunction with the preparation of annual financial and recipient reports.

Need and Use of the Information: FNS will collect information from the state agency administering the FMNP to develop an annual financial report on the number and type of recipients served by both Federal and non-Federal benefits under the program. The information is necessary for reporting to Congress in accordance with the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and for program planning purposes.

Description of Respondents: State, Local, or Tribal Government; Individuals or household; Business or other for-profit.

Number of Respondents: 2,009.

Frequency of Responses: Recordkeeping; Reporting; Annually.

Total Burden Hours: 4,912.

Sondra A. Blakey,

Departmental Information Clearance Officer.

[FR Doc. 01–31548 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Revision and Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request extension and revision of the information collection currently approved for Form FSA 440–32, used in support of the FSA Farm Loan Programs (FLP). Form FSA 440–32 has been revised for clarification in conjunction with renewal of the paperwork burden package.

DATES: Comments on this notice must be received on or before February 25, 2002 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Bashir Duale, USDA, Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522; Telephone (202) 720–1645; Electronic mail: *bashir_duale@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form FSA 440–32, Verification of Debts and Assets.

OMB Control Number: 0560–0166.

Expiration Date of Approval: February 17, 2002.

Type of Request: Revision and Extension of a Currently Approved Information Collection.

Abstract: FSA 440–32 is necessary to ensure the accuracy of information obtained in connection with applications for FSA direct loan assistance. It is used to verify debt information provided by applicants in order to determine their suitability for an Operating, Farm Ownership or Emergency loan. Additionally, it is used by FSA to verify debts and assets of borrowers requesting primary and preservation loan servicing or debt settlement.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Individual farmers, farm or other business entities and financial institutions.

Estimated Number of Respondents: 22,547

Estimated Number of Responses Per Respondent: 2

Estimated Total Annual Burden On Respondents: 11,274

Comments are invited on the following: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Bashir Duale, Senior Loan Officer, USDA, Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522.

Comments will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC on December 17, 2001.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 01–31601 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

North Gifford Pinchot National Forest Resource Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The North Gifford Pinchot National Forest Resource Advisory Committee will meet on Thursday, January 17, 2002, at the Lewis County Law and Justice Center (old county annex building), 345 West Main Street, Chehalis, Washington. The meeting will begin at 10 a.m. and continue until 5 p.m. The purpose of the meeting is to:

(1) Provide committee members with the rules and regulations that govern it, and its role,

(2) Discuss the project approval process,

(3) Elect a committee chair, and

(4) Provide for a Public Open Forum.

All North Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (4) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: December 18, 2001.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 01–31583 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–11–M

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF AGRICULTURE

Forest Service

Okanogan and Wenatchee National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Okanogan and Wenatchee National Forests Resource Advisory Committee will meet on Friday, January 11, 2002, at the Wenatchee National Forest headquarters main conference room, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting committee members will discuss committee organization, adopt bylaws, choose a committee chairperson, and set the specific agenda for the January 31, 2002 meeting. All Okanogan and Wenatchee National Forests Resource Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: December 18, 2001.

Sonny J. O'Neal,

Forest Supervisor, Okanogan and Wenatchee National Forests.

[FR Doc. 01–31581 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Okanogan and Wenatchee National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Okanogan and Wenatchee National Forests Resource Advisory Committee will meet on Thursday, January 31, 2002, at the Wenatchee National Forest Service headquarters main conference room, 215 Melody Lane, Wenatchee, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. Committee members will review projects proposed under Resource Advisory Committee consideration under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000. All Okanogan and Wenatchee National Forests Resource Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington, DC 98801, 509–662–4335.

Dated: December 18, 2001.

Sonny J. O'Neal,

Forest Supervisor, Okanogan and Wenatchee National Forests.

[FR Doc. 01–31582 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

South Gifford Pinchot National Forest Resource Advisory Committee Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The South Gifford Pinchot National Forest Resource Advisory Committee will meet on Wednesday, January 16, 2002, at the Skamania County Public Works Department basement located in the Courthouse Annex, 170 NW. Vancouver Avenue, Stevenson, Washington. The meeting will begin at 10 a.m. and continue until 5 p.m. The purpose of the meeting is to:

(1) Provide committee members with the rules and regulations that govern it, and its role,

(2) Discuss the project approval process,

(3) Elect a committee chair, and

(4) Provide for a Public Open Forum.

All South Gifford Pinchot National Forest Resource Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The "open forum" provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The "open forum" is scheduled as part of agenda item (4) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Tom Knappenberger, Public Affairs Officer, at (360) 891–5005, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE. 51st Circle, Vancouver, WA 98682.

Dated: December 18, 2001.

Claire Lavendel,

Forest Supervisor.

[FR Doc. 01–31584 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Task Force on Agricultural Air Quality will meet to continue discussions on critical air quality issues relating to agriculture. Special emphasis will be placed on understanding the relationship between agricultural production and air quality. The meeting is open to the public.

EFFECTIVE DATES: The meeting will convene Wednesday, January 16, 2002, at 9 a.m., and continue until 4 p.m. The meeting will resume Thursday, January 17, 2002 from 9 a.m. to 4 p.m. Written material and requests to make oral presentations should reach the Natural Resources Conservation Service, at the address below, on or beforeJanuary 7, 2002.

ADDRESSES: The meeting will be held at the Embassy Suite Hotel Phoenix-Scottsdale at the Stonecreek Golf Course, 4415 E. Paradise Village Parkway South, Phoenix, Arizona 85032; telephone: (602) 765–5800. Written material and requests to make oral presentations should be sent to Beth Sauerhaft, USDA–NRCS, PO Box 2890,Room 6158, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Questions or comments should be directed to Beth Sauerhaft, Designated Federal Official; telephone: (202) 720–8578; fax: (202) 720–2646; email: *beth.sauerhaft@usda.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the January 16 and 17, 2002, meeting that occur after this **Federal Register** Notice is published, may be found on the World Wide Web at *http://www.nhq.nrcs. usda.gov/faca/aaqtf.html.*

Draft Agenda of the January 16 and 17 Meeting

A. Welcome to Phoenix, Arizona
1. Arizona State Official
B. Approve minutes of the Denver, Colorado, July 18–19, 2001, AAQTF meeting.
C. EPA Update
- National Academy of Sciences Scientific Assessment update
- Confined Animal Feeding Operation issues
- Status of residue burning issues
- Status of Agricultural Voluntary Compliance policy

D. Subcommittee Business
Research Priorities and Oversight Subcommittee
- Report on re-evaluation of research priorities

Emissions Factors Subcommittee
- Emission Factor Survey results

Concentrated Animal Feeding Operation Subcommittee
- Update on Action Plan

Voluntary/Incentive Based Program Subcommittee
Follow-up Subcommittee
Agricultural Burning Subcommittee
E. New Topics
- Farm Bill status
- Carbon credits trading
- Update on selected legal actions

F. Next Meeting, time/place
G. Public Input (time will be reserved before lunch and at the close of each daily session to receive public comment. Individual presentations will be limited to 5 minutes).

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may present oral presentations during the meeting. Persons wishing to make oral presentations should notify Beth Sauerhaft no later than January 7, 2002. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 25 copies to Beth Sauerhaft no later than January 7, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Beth Sauerhaft.

USDA prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statutes enforced by USDA. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA'sTarget Center at (202) 720–2000 (voice and TDD).

To file a complaint of discrimination to USDA, write to the Director, Office of Civil Rights, Room 326–W, Whitten Building, 1400 Independence Avenue, SW, Washington, D.C. 20250–9410, or call (202) 720–5964 (voice and TDD). The USDA is an equal opportunity provider and employer.

Signed at Washington, DC, on December 11, 2001.

Pearlie S. Reed,

Chief, Natural Resources Conservation Service.

[FR Doc. 01–31381 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Business—Corporative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Business-Cooperative Service's (RBS) intention to request an extension for a currently approved information collection in support of the program for the Business and Industry Loan Program.

DATES: Comments on this notice must be received by February 25, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Rick Bonnet, Senior Commercial Loan Specialist, RBS, U.S. Department of Agriculture, Stop 3221, telephone (202) 720–1804 or email *rick.bonnet@usda.gov*. The Federal Information Relay Service on (800) 887–8339 is available for TDD users.

SUPPLEMENTARY INFORMATION:

Title: Business and Industry Loan Program.

OMB Number: 0570–0014.

Expiration Date of Approval: March 31, 2002.

Type of Request: Extension of a currently approved information collection and recordkeeping requirements.

Abstract: The B&I Program is authorized under Section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the Business and Industry (B&I) Guaranteed and Direct Loan Programs is to improve, develop, or finance businesses, industry and employment and improve the economic and environmental climate in rural communities, including pollution control abatement and control. This purpose is achieved through bolstering the existing private credit structure, either through the guaranteeing of quality loans made by lending institutions, or making direct loans, thereby providing lasting community benefits. B&I program authority is composed of direct loan authority and loan guarantee authority. The program is administered by the Agency through a State Director serving the State.

All reporting and recordkeeping burden estimates for making and servicing B&I Guaranteed Loans have been moved to the new B&I Guaranteed Loan Program regulations which are at 7 CFR 4279–A and B and 4287–B. The only burden associated with 7 CFR 1980–E is a small portion of B&I Direct loanmaking. 7 CFR 1951–E is used for servicing B&I Direct and Community Facility Loans.

Estimate of Burden: Public reporting for this collection of information is estimated to average 8 hours per response.

Respondents: Individuals, rural businesses, for profit businesses, non-profit businesses, Indian tribes, public bodies, cooperatives.

Estimated Number of Respondents: 200.

Estimated Number of Responses per Respondent: 3.

Estimated Number of Responses: 586.

Estimated Total Annual Burden on Respondents: 4,545 hours.

Copies of this information collection can be obtained from Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division at (202) 692–0043.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RBS, including whether the information will have practical utility; (b) the accuracy of RBS estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the

UMI
VOL 66
ISS 247
DE 26 2001
UMI

collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Cheryl Thompson, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 14, 2001.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 01–31618 Filed 12–21–01; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–873 and A–791–815]

Notice of Initiation of Antidumping Duty Investigations: Ferrovanadium From the People's Republic of China and the Republic of South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of Antidumping Duty Investigations.

EFFECTIVE DATE: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Manning or Chris Brady at (202) 482–5253 and (202) 482–4406, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Initiation of Investigations

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are references to the provisions codified at 19 CFR Part 351 (2000).

The Petition

On November 26, 2001, the Department received a petition filed in proper form by the Ferroalloys Association Vanadium Committee and its members: Bear Metallurgical Company, Shieldalloy Metallurgical Corporation, Gulf Chemical & Metallurgical Corporation, U.S. Vanadium Corporation, and CS Metals of Louisiana LLC (collectively, the petitioners). The Department received information supplementing the petition on December 7, 2001.

In accordance with section 732(b) of the Act, the petitioners allege that imports of ferrovanadium from the People's Republic of China (PRC) and the Republic of South Africa (South Africa) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and 771(9)(D) of the Act and have demonstrated sufficient industry support with respect to each of the antidumping investigations that they are requesting the Department to initiate (*see the Determination of Industry Support for the Petition* section below).

Scope of Investigations

The scope of these investigations covers all ferrovanadium produced in the PRC and South Africa, regardless of grade, chemistry, form, shape or size. Ferrovanadium is an alloy of iron and vanadium that is used chiefly as an additive in the manufacture of steel. The merchandise is commercially and scientifically identified as ferrovanadium. The scope of this investigation specifically excludes vanadium additives other than ferrovanadium, such as nitrided vanadium, vanadium-aluminum master alloys, vanadium chemicals, vanadium oxides, vanadium waste and scrap, and vanadium-bearing raw materials such as slag, boiler residues and fly ash. Merchandise under the following Harmonized Tariff Schedule of the United States (HTSUS) headings are specifically excluded:

- 2850.00.2000 Hydrides, nitrides, azides, silicides and borides, whether or not chemically defined, other than compounds which are also carbides of heading 2849: * * * Of vanadium.
- 8112.40.3000 Beryllium, * * * vanadium * * *, and articles of these metals, including waste and scrap: * * * Vanadium: Waste and scrap
- 8112.40.6000 Beryllium, * * * vanadium * * *, and articles of these metals, including waste and scrap: * * * Vanadium: Other

Ferrovanadium is classified under HTSUS heading 7202.92.00. Although the HTSUS subheading is provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

During our review of the petitions, we discussed the scope with the petitioners to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by January 7, 2002. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The United States International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to their separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

---

[1] *See Algoma Steel Corp. Ltd., v. United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High*

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this petition, petitioners do not offer a definition of domestic like product distinct from the scope of these investigations. Thus, based on our analysis of the information presented to the Department by petitioners, and the information obtained and received independently by the Department, we have determined that there is a single domestic like product, which is defined in the *Scope of Investigations* section above, and have analyzed industry support in terms of this domestic like product.

Section 732(b)(1) of the Act requires that a petition be filed on behalf of domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Information contained in the petition demonstrates that the domestic producers or workers who support the petition account for over 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petitions account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) are met. *See* the *Import Administration AD Investigation Checklist*, dated December 17, 2001 (*Initiation Checklist*) (public version on file in the Central Records Unit of the Department of Commerce, Room B–099). Furthermore, because the Department received no opposition to the petitions, the domestic producers or workers who support the petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petitions. *See Initiation Checklist*. Thus, the requirements of section 732(c)(4)(A)(i)(ii) are met.

Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See Initiation Checklist*.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department has based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to home market price, U.S. price, constructed value (CV) and factors of production (FOP) are detailed in the *Initiation Checklist*.

The anticipated period of investigation (POI) for the PRC, a non-market economy (NME) country is April 1, 2001 through September 30, 2001, while the anticipated POI for South Africa, a market economy country, is October 1, 2000 through September 30, 2001. The petitioners requested that the Department, pursuant to section 351.204(b)(1) of the Department's regulations, extend the POI for South Africa to include October 2001, thus creating a thirteen-month POI. According to the petitioners, the Department should grant this extension because of "particularly aggressive pricing" by South African producers during October 2001.

We have denied the petitioners request for a thirteen-month POI. Although the petitioners are correct that section 351.204(b)(1) does provide the Department the authority to examine any period it considers appropriate, in practice we have departed from the normal POI in relatively few instances either before or after the passage of the URAA.[2] The Department's regulations provide for a twelve-month POI in market economy cases, and without sufficient demonstration that the Department's analysis would be improved by expanding the POI, we analyze sales made during this period. For purposes of this initiation, we find that the petitioners have not sufficiently demonstrated that use of the extended POI would improve the Department's analysis. Indeed, upon examination of the three U.S. price quotes from October 2001, we note that one of the quotes is actually higher than the price quote from within the POI. Furthermore, although the other two prices are below the price quote from within the POI, we do not find this level of pricing by South African producers to be significantly more aggressive than the level of pricing experienced during the POI. Because there is no evidence in the petition to demonstrate that expanding the POI would otherwise improve our analysis, thereby warranting an extension of the POI, we will utilize the normal POI of October 1, 2000, through September 30, 2001, for this investigation.

Regarding an investigation involving a NME, the Department presumes, based on the extent of central government control in a NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the PRC*, 59 FR 22585 (May 2, 1994). In the course of the investigation of ferrovanadium from the PRC, all parties will have the opportunity to provide relevant information related to the issue of the PRC's status and the granting of separate rates to individual exporters.

People's Republic of China

Export Price

The petitioners identified the following three companies as producers and/or exporters of ferrovanadium from the PRC: Chengde Xinghua Vanadium Chemical Company Ltd., Jinzhou Ferroalloy (Group) Company Ltd., and Panzhihua Iron & Steel Group. To calculate export price (EP), petitioners provided (1) Price quotes from U.S. importers and/or distributors to unaffiliated U.S. customers for sales of Chinese ferrovanadium, and (2) the average unit value (AUV) calculated from import statistics released by the

---

Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380–81 (July 16, 1991).

[2] In *EMD from Ireland*, the Department explained the circumstances in which it would alter the normal POI. Specifically, the Department explained that expansion of the POI may be warranted in cases where the normal POI does not reflect the sales practices of the firms subject to investigation, including the following situations: (1) Where sales were made pursuant to long-term contracts; (2) where distortions would have occurred as a result of "seasonally-affected sales;" (3) where there are special order or customized sales; and (4) where sales activity was unusually depressed resulting in too few sales for an adequate investigation. *See Electrolytic Manganese Dioxide From Ireland: Final Determination of No Sales at Less Than Fair Value*, 54 FR 8776 (Mar. 2, 1989). Additionally, in *Pure Magnesium from the Russian Federation*, certain respondents requested that the Department extend the POI to cover shipments of pure magnesium made pursuant to long-term contracts signed prior to the POI. However, based on the arguments and evidence presented on this issue, the Department believed it was not appropriate to extend the POI in this investigation and continued to use the six-month period defined by 19 CFR 351.204(b)(1) for proceedings involving non-market economies. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 21319, 21321 (Apr. 30, 2001), followed in *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347, 49348 (Sept. 27, 2001).

Census Bureau. Petitioners calculated the AUV using the quantity and value of imports during the POI of ferrovanadium from the PRC, entered under HTSUS 7202.92.00.

The price quotes provided by the petitioners are from a time period prior to the POI for the PRC. Because it is the Department's preference to use U.S. price data originating during the POI, we did not consider these price quotes as a basis for EP.

Based on information contained in the petition, the Department believes that HTSUS 7202.92.00 is the category under which all imports of ferrovanadium likely enter and the possibility of a misclassification by the U.S. Customs Service is minimal because non-subject merchandise is entered the United States under different HTSUS subheadings. *See* supplement to the petition (supplemental petition), dated December 7, 2001, at 3–6. Moreover, the Department believes that the AUV provides a better basis for initiation because the AUV is an average price covering the entire POI, while the reported price quotes are from a period of time before the POI for the PRC. As a result, we relied on the AUV to calculate EP. The petitioners used the "customs value" of the merchandise and the contained weight of vanadium in its AUV calculation. According to the definition provided by the ITC's Trade Data Web, the "customs value" does not include international freight or marine insurance.

The petitioners calculated a net U.S. price by deducting from the AUV foreign inland freight and foreign brokerage and handling. *See Initiation Checklist.*

Normal Value

The petitioners assert that the PRC is an NME country and no determination to the contrary has yet been made by the Department. In previous investigations, the Department has determined that the PRC is an NME. *See Steel Concrete Reinforcing Bars from the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value (Re-Bars from China)*, 66 FR 33522 (June 22, 2001), and *Notice of Final Determination of Sales at Less Than Fair Value: Foundry Coke Products from the People's Republic of China (Foundry Coke from China)*, 66 FR 39487 (July 31, 2001). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Pursuant to section 771(18)(C)(i) of the Act, because the PRC's status as an NME remains in effect, the petitioners determined the dumping margin using an FOP analysis.

For normal value (NV), the petitioners based the FOP, as defined by section 773(c)(3) of the Act, on the consumption rates of one U.S. ferrovanadium producer, adjusted for known differences in production efficiencies on the basis of available information. The petitioners assert that information regarding the Chinese producers' consumption rates is not available, and have therefore assumed, for purposes of the petition, that producers in the PRC use the same inputs in the same quantities as the petitioners use, except where a variance from the petitioners' cost model can be justified on the basis of available information. Based on the information provided by the petitioners, we believe that the petitioners' FOP methodology represents information reasonably available to the petitioners and is appropriate for purposes of initiating this investigation.

Pursuant to section 773(c) of the Act, the petitioners assert that South Africa is the most appropriate surrogate country for the PRC, claiming that South Africa is: (1) A market economy; (2) a significant producer of comparable merchandise; and (3) at a level of economic development comparable to the PRC in terms of per capita gross national product (GNP). The Department's regulations state that it will place primary emphasis on per capita GNP in determining whether a given market economy is at a level of economic development comparable to the NME country. In recent antidumping cases involving the PRC, the Department identified a group of countries at a level of economic development comparable to the PRC based primarily on per capita GNP. This group includes India, Pakistan, Indonesia, Sri Lanka, the Philippines, and Egypt. None of these countries are significant producers of ferrovanadium. The petitioners assert that there is no other product that can be considered "comparable" with ferrovanaduim. *See* supplemental petition, at 6–10. Based on information reasonably available to the Department, we have accepted this claim for purposes of initiation. Since the recent surrogate countries for the PRC do not produce ferrovanadium or products comparable to ferrovanadium, another surrogate country must be chosen.

Where the countries normally considered at a level of economic development similar to that of the country in question do not produce comparable merchandise, the Department's practice is to find the most comparable surrogate country that is a significant producer of comparable merchandise. The petitioners submit that South Africa is the most appropriate surrogate market economy for purposes of this investigation because it is a significant producer of ferrovanadium and, among the countries that produce ferrovanadium, it is at a level of economic development closest to the PRC.

Based on the information provided by the petitioners, we believe that the petitioners' use of South Africa as a surrogate country is appropriate for purposes of initiating this investigation.

In accordance with section 773(c)(4) of the Act, petitioners valued FOP, where possible, on reasonably available, public surrogate data from South Africa. Materials were valued based on South African import values, as published by *World Trade Atlas.* With respect to vanadium pentoxide, however, the petitioners asserted that South African import data are problematic because these data are dominated by imports into South Africa from Australia. The petitioners provided evidence indicating that one of the South African producers, Xstrata, imports large quantities of vanadium pentoxide from a related party in Australia. The petitioners argue that the per-unit price derived from South African import data is unreliable because these data include transfer prices between Xstrata and its affiliate. To support this claim, the petitioners calculated the per-unit price for vanadium pentoxide based upon South African import data and Australian export data, and found that the unit price from South African import data is approximately 40 percent lower than the unit price from Australian export data.

Although this price difference could result from several factors, such as differences in the value basis of the data reported by the governments of South Africa and Australia or the time lag between export from Australia and entry into South Africa, we find that, for purposes of initiation, the existence of transfer prices accounting for a large portion of the data from which the per-unit price is calculated is a valid reason to exclude Australian imports from the surrogate value.

To avoid this possible distortion, the petitioners recommend that the Department exclude imports of vanadium pentoxide from Australia when calculating the surrogate value for this input. We agree with this recommendation. However, because only a very small quantity of vanadium pentoxide entered from non-Australian countries during the months of the anticipated POI of the PRC case, the unit value resulting from these data, for this time period, is aberrational. In contrast, during the longer POI for the South Africa case, there are enough imports from countries other than Australia to calculate a non-aberrational per-unit value. Therefore, we used the per-unit price derived from South African import statistics, excluding imports from Australia and covering the period October 2000 through September 2001, as the surrogate value to be used for this input.

Labor was valued using the Department's regression-based wage rate for the PRC, in accordance with 19 CFR 351.408(c)(3). Electricity was valued using South African electricity prices for industrial consumers published by the U.S. Department of Energy. For overhead, selling, general and administrative (SG&A) expenses and profit, the petitioners applied rates derived from the public fiscal year 2000 financial statements of a South African ferrovanadium producer that petitioners believe to be representative of ferrovanadium producers in South Africa. All surrogate values which fell outside the POI were adjusted for inflation through the use of an inflation adjustment factor that was calculated using South African price data, as published by the International Monetary Fund's *International Financial Statistics*. Based on the information provided by the petitioners, we believe that the surrogate values represent information reasonably available to the petitioners and are acceptable for purposes of initiating this investigation.

Based upon the comparison of EP to NV, the petitioners calculated an estimated dumping margin of 91.64 percent.

South Africa

Export Price

The petitioners identified the following three companies as producers and/or exporters of ferrovanadium from South Africa: Highveld Steel & Vanadium Corporation Ltd., Vametco Minerals Corporation, and Xstrata SA (Pty) Ltd. To calculate EP, the petitioners provided (1) four price quotes from U.S. importers and/or distributors to unaffiliated U.S. customers for sales of South African ferrovanadium, and (2) the AUV calculated from import statistics released by the Census Bureau. Petitioners calculated the AUV using the quantity and value of imports during the POI of ferrovanadium from the South Africa, entered under HTSUS 7202.92.00.

In the petitioners' discussion concerning the AUV it calculated for imports of South African ferrovanadium, the petitioners noted that a large portion of imports from South Africa are shipments made by Xstrata to its related U.S. importer. Consequently, the petitioners state that the prices serving as the foundation of the AUV do not accurately reflect arm's length prices to unaffiliated purchasers. The petitioners supported this assertion by calculating the AUV of imports into the United States from South Africa and comparing the result to the AUV calculated from South African export data for exports of subject merchandise to the United States. The petitioners found that the AUV calculated from U.S. import data is approximately one-third higher than the AUV calculated from South African export data. According to the petitioners, this large price differential indicates the existence of transfer price manipulation by Xstrata and its related U.S. importer.

Although this price differential could result from several factors, such as differences in the value basis of the data reported by the Census Bureau and the South African government or the time lag between export from South Africa and entry into the United States, we find that the existence of transfer prices accounting for a large portion of the data from which the AUV is calculated is a valid reason to reject the AUV as the basis of EP.

The petitioners also provided four price quotes for sales of South African ferrovanadium from U.S. importers and/or distributors to unaffiliated customers in the United States. We note that one of the price quotes is from within the POI, while the three other price quotes are from after the POI for South Africa. Because it is the Department's preference to use U.S. price data originating during the POI, we did not consider the price quotes from outside the POI. For purposes of initiation, we relied upon the price quote from within the POI. This price quote was for a sale of South African ferrovanadium, from a U.S. distributor to an unaffiliated U.S. customer, on a packed and delivered basis.

The petitioners calculated a net U.S. price by deducting from the starting price foreign inland freight, foreign brokerage and handling, ocean freight, U.S. customs duty and fees, unloading and handling fees, repackaging costs, U.S. inland freight, and a U.S. distributor mark-up. *See Initiation Checklist*.

Normal Value

The petitioners were unable to obtain specific sales or offers for sale of ferrovanadium in South Africa. However, the petitioners provided an affidavit from a source familiar with the ferrovanadium market in South Africa that states that South African producers typically set their home market sales prices no higher than the published London Metal Bulletin (LMB) low price for ferrovanadium. Because the home market price charged by these companies is no higher than this benchmark, the petitioners claim that the LMB low price is a conservative number as a reasonable approximation of home market prices.

Although the petitioners provided information that the LMB prices are a reasonable approximation of home market prices, they also provided information demonstrating reasonable grounds to believe or suspect that sales of ferrovanadium in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation.

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacture (COM), SG&A expenses, and packing. The petitioners calculated COM based on their own production experience, adjusted for known differences between costs incurred to produce ferrovanadium in the United States and South Africa using publicly available data. To determine depreciation and SG&A expenses, the petitioners used the public unconsolidated fiscal year 2000 financial statements of a South African ferrovanadium producer that the petitioners believe to be representative of ferrovanadium producers in South Africa. To determine interest expenses, the petitioners relied upon amounts reported in the public consolidated fiscal year 2000 financial statements of the same South African ferrovanadium producer. Based upon the comparison of the published LMB low prices to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation. *See Initiation of Cost Investigation* section below. *See Initiation Checklist*.

Based on the cost data discussed above, petitioners found that the published LMB low prices were below

VOL 66 ISS 247 DE 26 2001 UMI

COP. Therefore, pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in South Africa on constructed value (CV). The petitioners calculated CV using the same COM, SG&A, interest, and packing expenses used to compute South African home market COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. The petitioners relied upon amounts reported in the same South African ferrovanadium producer's public unconsolidated fiscal year 2000 financial statements to determine the amount for profit.

Based upon the comparison of EP to CV, the petitioners calculated an estimated dumping margin of 116 percent.

Initiation of Cost Investigation

As noted above, pursuant to section 773(b) of the Act, the petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of South Africa were made at prices below the fully absorbed COP and, accordingly, requested that the Department conduct a country-wide sales-below-COP investigation in connection with the requested antidumping investigations for this country. The Statement of Administrative Action (SAA), submitted to the U.S. Congress in connection with the interpretation and application of the URAA, states that an allegation of sales below COP need not be specific to individual exporters or producers. SAA, H. Doc. 103–316, Vol. 1, 103d Cong., 2d Session, at 833(1994). The SAA, at 833, states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation."

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below cost sales have occurred before initiating such an investigation. 'Reasonable grounds' * * * exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices." *Id.* Based upon the comparison of the LMB low prices for ferrovanadium to the COP for South African producers, we find the existence of "reasonable grounds to believe or suspect" that sales of foreign like product in South Africa were made at prices below their respective COPs within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating the requested country-wide cost investigation.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of ferrovanadium from the PRC and South Africa are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. Individually, the volume of imports from the PRC and South Africa, using the latest available data, exceeded the statutory threshold of seven percent for a negligibility exclusion. Therefore, when cumulated, the volumes for these two countries also exceed the threshold. *See* section 771(24)(A)(ii) of the Act. Petitioners contend that the industry's injured condition is evidenced in the declining trends in operating profits, decreased U.S. market share, and price suppression and depression. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, domestic consumption, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and have determined that these allegations are properly supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist.

Initiation of Antidumping Investigations

Based on our examination of the petition on ferrovanadium, and the petitioners' response to our supplemental questionnaire clarifying the petition, we find that the petition meets the requirements of section 732 of the Act. See Initiation Checklist. Therefore, we are initiating antidumping duty investigations to determine whether imports of ferrovanadium from the PRC and South Africa are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the governments of the PRC and South Africa. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as appropriate.

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will determine, no later than January 10, 2002 whether there is a reasonable indication that imports of ferrovanadium from the PRC and South Africa are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: December 17, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31643 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–825]

Notice of Extension of Time Limit for Final Results of Administrative Antidumping Review: Oil Country Tubular Goods, Other Than Drill Pipe, From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay or Thomas Gilgunn, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0780 and (202) 482–4236, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2000).

Background

On August 11, 1995, the Department published in the **Federal Register** an antidumping duty order on oil country tubular goods, other than drill pipe, (OCTG) from Korea (60 FR 41057). On August 31, 2000, the Department received a timely request from SeAH to conduct an administrative review pursuant to section 351.213(b)(2) of the Department's regulations. We published a notice of initiation of this antidumping duty administrative review on OCTG on October 2, 2000 (65 FR 58733).

The Department subsequently determined it was not practicable to complete the review within the standard time frame, and extended the deadline for completion of the preliminary results for this antidumping duty administrative review. *See Oil Country Tubular Goods from Korea: Extension of Time Limit for Preliminary Results of Antidumping Administrative Review*, 66 FR 23232 (May 8, 2001). On September 10, 2001, the Department published the preliminary results of this administrative review. *See Oil Country Tubular Goods From Korea: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 46999 (September 10, 2001).

Extension of Time Limits for Final Results

Due to the need to analyze comments on inland freight expenses and indirect selling expenses, it is not practicable to complete the review within the initial time limits mandated by section 751(a)(3)(A) of the Act. Therefore, we are extending the due date for the final results of this review until March 9, 2002.

Dated: December 13, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–31642 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–828]

Stainless Steel Wire Rod From Taiwan: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review for the period September 1, 2000 through August 31, 2001.

SUMMARY: On October 26, 2001, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on Stainless Steel Wire Rod (SSWR) from Taiwan for one manufacturer/exporter of subject merchandise, Walsin Lihwa Corporation (Walsin), for the period September 1, 2000 through August 31, 2001. The Department is rescinding this review after receiving a timely withdrawal from the party requesting this review.

EFFECTIVE DATE: December 26, 2001.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur or Karine Gziryan, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5346 or (202) 482–4081, respectively; fax (202) 482–5105.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2001).

Background

On September 25, 2001, the Department received a timely request from Walsin that we conduct an administrative review of its sales for the period September 1, 2000 through August 31, 2001. On October 23, 2001, the Department initiated an administrative review of the antidumping duty order on SSWR from Taiwan for the period of review (POR), September 1, 2000 through August 31, 2001, in order to determine whether merchandise imported into the United States is being sold at dumped prices. On October 26, 2001, the Department published in the **Federal Register** a notice of initiation of this administrative review on SSWR from Taiwan for the POR. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 66 FR 54195 (October 26, 2001). On November 21, 2001, Walsin withdrew its request for a review.

Rescission of 2000–2001 Antidumping Duty Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if a party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Because Walsin submitted its request for rescission within the 90-day time limit and there were no other requests for review from an interested party, we are rescinding this review. As such, we will issue appropriate assessment instructions directly to the U. S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is in accordance with section 751 of the Act and section 19 CFR 351.213(d)(4) of the Department's regulations.

Dated: December 17, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration, Group II.

[FR Doc. 01–31641 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801E]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

VOL 66 ISS 247 DE 26 2001 UMI

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of the Standing and Special Mackerel Scientific and Statistical Committee (SSC) and the Mackerel Advisory Panel (AP) on January 9 and January 10, 2002.

DATES: The Council's Standing and Special Mackerel SSC meeting will be convened at 8:30 a.m. EST on Wednesday, January 9, 2002 will conclude by 3 p.m. The Mackerel AP will be convened at 8:30 a.m. EST on Thursday, January 10, 2002 and will conclude by 3 p.m.

ADDRESSES: The meetings will be held at the Hilton Tampa Airport Hotel, 2225 Lois Avenue, Tampa, FL 33607; telephone: 813-877-6688.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, the Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Mackerel AP and SSC will review the 2001 stock assessment analyses for Gulf group king and Spanish mackerel, as well as an assessment of cobia stocks in the Gulf of Mexico. They will also review the Mackerel Stock Assessment Panel (MSAP) reports for mackerels and cobia, and the report of the Socioeconomic Panel (SEP) that includes economic and social information. Based on this review, the Mackerel AP and SSC may recommend to the Council status criteria including maximum sustainable yield (MSY), optimum yield (OY), as well as overfishing and overfished criteria. The Mackerel AP and SSC may also make recommendations for total allowable catch (TAC), bag limits, size limits, commercial quotas, and other measures under the framework procedure of the Coastal Migratory Pelagics Fishery Management Plan.

Although other non-emergency issues not on the agenda may come before the AP/SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP/SSC will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Copies of the agenda can be obtained by calling 813–228–2815.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by January 2, 2002.

Dated: December 19, 2001.

Richard W. Surdi.

Acting Director, Office of Sustainable Fisheries, national Marine Fisheries Service.

[FR Doc. 01–31660 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801D]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Deep Water Crab Advisory Panel (AP).

DATES: This meeting will begin at 9 a.m. on Thursday, January 9, 2002 and will conclude by 5 p.m.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Fishery Biologist, Gulf of Mexico Fishery Management Council; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The Council will convene its Deep-water Crab AP to review a preliminary issues and options paper for the development of a Deep-water Crab Fishery Management Plan (FMP).

The species that would be managed under the Deep-water Crab FMP will be the golden crab (*Chaceon fenneri*) and red crab (*Chaceon quinquedens*). The preliminary issues and options paper for the development of a Deep-water Crab FMP examines fisheries issues including management needs, gear requirements and restrictions, crab size and sex limitations for harvest, and requirements for fishery participants. Based on its review, the Deep-water Crab AP may recommend to the Council management criteria that will benefit the fishery while preserving the resource under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act. The Council will consider these recommendations at its January meeting to be held in Brownsville, TX, from January 21-24, 2002.

Although other non-emergency issues not on the agendas may come before the AP for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during these meetings. Actions of the AP will be restricted to those issues specifically identified in the agendas and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by January 2, 2002.

Dated: December 19, 2001.

Richard W. Surdi.

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31661 Filed 12–21–01; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Request of the Merchants Exchange (ME) for Approval of Six Cash-Settled Energy Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of commodity futures contracts.

SUMMARY: The Merchants Exchange (ME or Exchange) has requested that the Commission approve six new cash settled energy futures contracts pursuant to the provisions of Section 5c(c)(2)(A) of the Commodity Exchange Act as amended: Brent crude oil futures, European gas oil futures, light "sweet" crude oil futures, natural gas futures, no. 2 heating oil (New York Harbor

delivery) futures, and unleaded gasoline (New York Harbor delivery) futures. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by the Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before January 10, 2002.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to the ME cash-settled energy futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Storer of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: *jstorer@cftc.gov*

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the ME in support of the request for approval may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder 17 CFR part 145 (2000)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the ME should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC on December 18, 2001.

Richard A. Shilts,

Acting Director.

[FR Doc. 01–31547 Filed 12–21–01; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 25, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Lauren.Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 19, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Part B Complaint Procedures.

Frequency: On Occasion; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,079.

Burden Hours: 10,790.

Abstract: States are required to implement complaint procedures to resolve complaints or allegations that a State (grantee) or a subgrantee that participates in the program funded under Part B of the Individuals with Disabilities Education Act is violating any requirement of Part B.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31608 Filed 12–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 25, 2002.

VOL 66 ISS 247 DE 26 2001 UMI

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 19, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Lists of Hearing Officers and Mediators.

Frequency: When modifications are deemed necessary.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 75,560.

Burden Hours: 15,292.

Abstract: Under Part B of the Individuals with Disabilities Education Act, each public educational agency receiving Part B funds must keep a list of persons who serve as hearing officers. The State keeps a list of mediators. These lists serve to provide interested parties with information about hearing officers and mediators qualifications.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31609 Filed 12–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 25, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 19, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Local Educational Agency Application Under Part B of the Individuals with Disabilities Education Act.

Frequency: When modifications are deemed necessary.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 28,844.

Burden Hours: 28,844.

Abstract: Local educational agencies and eligible State agencies must have an application on file with the State educational agency in order to be eligible for funds under Part B of the Individuals with Disabilities Education Act. The Local educational agency application is required to receive a Part B subgrant.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–31610 Filed 12–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 25, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title: An Evaluation of the State Program Improvement Grant (SIG) Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 135. Burden Hours: 306.

Abstract: The purpose of this data collection is to obtain relevant and credible information from an evaluation of the State Improvement Grant Program in order to (1) make mid-course programmatic improvements to the Program, and (2) describe the implementation and progress of the Program to Federal officials, Congress, and other stakeholders. These data will also inform the reauthorization of the Individuals with Disabilities Education Act (IDEA). Respondents will include SIG Directors, SIG project evaluators, State educational agencies (SEA) policymakers, and SIG sub-grant directors in each of the 36 states with currently funded SIG projects.

Requests for copies of the proposed information collection request may be accessed from http://edicsweb.ed.gov, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO.RIMG@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her internet address Sheila.Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Dated: December 19, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

[FR Doc. 01–31611 Filed 12–21–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA NO. 84.031H]

Strengthening Institutions (SIP), American Indian Tribally Controlled Colleges and Universities (TCCU), Alaska Native and Native Hawaiian-Serving Institutions (ANNH) and Hispanic Serving Institutions (HSI) Programs; Notice Inviting Applications for Designation as Eligible Institutions for Fiscal Year (FY) 2002

Purpose of Programs: Under the SIP, TCCU, and ANNH Programs authorized under Part A of Title III of the Higher Education Act of 1965, as amended (HEA), institutions of higher education are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. Similarly, HSIs are eligible to apply for grants under the HSI Program, authorized under Title V of the HEA, if they meet specific statutory and regulatory requirements.

In addition, an institution that is designated as an eligible institution under those programs may also receive a waiver of certain non-Federal share requirements under the Federal Supplemental Educational Opportunity Grant (FSEOG), the Federal Work Study (FWS), the Student Support Services (SSS) and the Undergraduate International Studies and Foreign Language (UISFL) Programs. These first three programs are authorized under Title IV of the HEA; the fourth program is authorized under Title VI of the HEA. Qualified institutions may receive these waivers even if they are not recipients of grant funds under the Title III Part A or Title V programs.

Special Note: To become eligible, your institution must satisfy a criterion related to needy student enrollment and one related to Educational and General (E&G) expenditures for a particular base year.

Because we changed the collection processes for determining the thresholds for these criteria, we do not have base year data beyond 1998–99. In order to award FY 2002 grants in a timely manner, we will use threshold data from base year 1998–99 rather than a later base year. In completing your eligibility application, therefore, you are to use data from the base year 1998–99.

Eligible Applicants: To qualify as an eligible institution under any of the programs included in this notice, an accredited institution must, among other requirements, have a high enrollment of needy students, and its E&G expenditures per full-time equivalent (FTE) undergraduate student must be low in comparison with the average E&G expenditures per FTE undergraduate student of institutions

VOL 66 ISS 247 DE 26 2001 UMI

that offer similar instruction. The complete eligibility requirements for the HSI Program are found in 34 CFR 606.2–606.5. The complete eligibility requirements for the remaining programs are found in 34 CFR 607.2–607.5. The regulations may also be accessed by visiting the following Department of Education web site on the World Wide Web: *http://www.ed.gov/legislation/FedRegister/finrule/1999-4/121599a.html*

Enrollment of Needy Students: Under 34 CFR 606.3(a) and 607.3(a), an institution is considered to have a high enrollment of needy students if—(1) at least 50 percent of its degree students received financial assistance under one or more of the following programs: Federal Pell Grant, FSEOG, FWS, and Federal Perkins Loan Programs; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offered similar instruction.

To qualify under this latter criterion, an institution's Federal Pell Grant percentage for base year 1998–1999 must be *more than* the median for its category of comparable institutions provided in the table in this notice.

Educational and General Expenditures per Full-Time Equivalent Student: An institution should compare its 1998–1999 E&G expenditures per FTE student to the average E&G expenditure per FTE student for its category of comparable institutions contained in the table in this notice. If the institution's E&G expenditures for the 1998–1999 base year are *less than* the average for its category of comparable institutions, it meets this eligibility requirement.

An institution's E&G expenditures are the total amount it expended during the base year for instruction, research, public service, academic support, student services, institutional support, operation and maintenance, scholarships and fellowships, and mandatory transfers.

The following table identifies the relevant median Federal Pell Grant percentages and the relevant average E&G expenditures per FTE student for the base year, 1998–1999, for the four categories of comparable institutions:

Type of institution	Median Pell grant percentage	Average E&G FTE
2-year Public Institutions	19.1	$7,948
2-year Non-Profit Private Institutions	30.6	25,358
4-year Public Institutions	25.0	18,732
4-year Non-Profit Private Institutions	25.2	27,143

Waiver Information: Institutions of higher education that are unable to meet the needy student enrollment requirement or the E&G expenditure requirement may apply to the Secretary for waivers of these requirements, as described in 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b) and 607.4(c) and (d). *Institutions requesting a waiver of the needy student or the E&G expenditures requirement must include the detailed information as described in the instructions for completing the application.*

The needy student requirement waiver authority, provided in 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3), refers to "low-income" students and families. The regulations define "low-income" as an amount that does not exceed 150 percent of the amount equal to the poverty level in the 1998–99 base year as established by the U.S. Bureau of the Census, 34 CFR 606.3(c) and 607.3(c). For the purposes of this waiver provision, the following table sets forth the low-income levels for the various sizes of families:

1998 ANNUAL LOW-INCOME LEVELS

Size of family unit	Contiguous 48 States, the District of Columbia and Outlying	Alaska	Hawaii
1	$12,075	$15,105	$13,890
2	16,275	20,355	18,720
3	20,475	25,605	23,550
4	24,675	30,855	28,380
5	28,875	36,105	33,210
6	33,075	41,355	38,040
7	37,275	46,605	42,870
8	41,475	51,855	47,700

For family units with more than eight members, add the following amount for each additional family member: $4,200 for the contiguous 48 states, the District of Columbia and outlying jurisdictions; $5,250 for Alaska; and $4,830 for Hawaii.

The figures shown as low-income levels represent amounts equal to 150 percent of the family income levels established by the U.S. Bureau of the Census for determining poverty status. The Census levels were published by the U.S. Department of Health and Human Services in the **Federal Register** on February 24, 1998 (63 FR 9235–9238).

In reference to the waiver option specified in 606.3(b)(4) and 607.3(b)(4) of the regulations, information about "metropolitan statistical areas" may be obtained by requesting the Metropolitan Statistical Areas, 1999, order number PB99-501538, from the National Technical Information Service, Document Sales, 5285 Port Royal Road, Springfield, Virginia 22161, telephone number 1–800–553–6847. There is a charge for this publication.

Applications Available: January 4, 2002.

Deadline for Transmittal of Eligibility Applications:

- March 29, 2002 for applicant institutions that wish to apply for fiscal year 2002 new grants under the Title III SIP, TCCU, and ANNH Programs or the Title V HSI Program.

- May 24, 2002 for applicant institutions that wish to apply only for cost-sharing waivers under the FSEOG, FWS, SSS or UISFL Programs.
- March 29, 2002 for applicant institutions that wish to apply for both a grant under the Title III SIP, TCCU, and ANNH Programs or the Title V HSI Program and a waiver of the cost-sharing requirements under the FSEOG, FWS, SSS or UISFL Programs.

Electronic Submission of Applications: For FY 2002, we are again offering applicant institutions the option of submitting their Designation of Eligibility application in hard copy or sending it electronically to our eligibility web site at: *http://webprod.cbmiweb.com/Title3and5/index.html*

To enter the web site, you must use your institution's unique 8-digit identifier, i.e., your Office of Postsecondary Education Identification Number (OPE ID number). If you receive a hard copy of the eligibility application and instructions from us in the mail, look for the OPE ID number on the address label. Otherwise, your business office or student financial aid office should have the OPE ID number. If your business office or student financial aid office does not have that OPE ID number, contact a Department of Education staff member using the e-mail address located at the end of the Web page or the contact persons' telephone numbers or e-mail addresses included in this notice.

You will find detailed instructions for completing the form electronically under the "eligibility 2002" link at either of the following web sites:

http://www.ed.gov/offices/OPE/HEP/idues/title3a.html

or

http://www.ed.gov/hsi.

We encourage applicants to complete their form electronically and to complete it as soon as possible. For institutions of higher education that are unable to meet the needy student enrollment requirement or the E&G expenditure requirement and wish to request a waiver of one or both of those requirements, you may complete your designation application form on-line, print the form, and attach your narrative waiver request(s) to the printed form and mail both to the address in the next paragraph.

Mail your Designation of Eligibility application request to: U.S. Department of Education, 1990 K Street, NW, Request for Eligibility Designation, Washington, DC 20202–8513.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 79, 82, 85, 86, 97, 98, and 99. (b) The regulations for the SIP, TCCU and ANNH Programs in 34 CFR part 607, and for the HSI Program in 34 CFR 606.

For Applications and Further Information Contact: Thomas M. Keyes, Margaret A. Wheeler or Ellen Sealey, Institutional Development and Undergraduate Education Service, U.S. Department of Education, 1990 K Street, Request for Eligibility Designation, Washington, DC 20202–8513. Mr. Keyes' telephone number is (202) 502–7577. Ms. Wheeler's telephone number is (202) 502–7583. Ms. Sealey's telephone number is (202) 502–7580. Mr. Keyes, Ms. Wheeler and Ms. Sealey may be reached by e-mail at: *thomas.keyes@ed.gov*, *margaret.wheeler@ed.gov*, *ellen.sealey@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audio tape, or computer diskette) on request to the contact persons listed under **FOR APPLICATIONS AND FURTHER INFORMATION CONTACT.**

Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting those persons. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/legislation/FedRegister*

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Authority: 20 U.S.C. 1057–1059d, 1101–1103g.

Dated: December 19, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–31654 Filed 12–21–01; 8:45 am]

BILLING CODE 4001–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–49–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Application

December 18, 2001.

Take notice that on December 12, 2001, Great Lakes Gas Transmission Limited Partnership (Great Lakes), 5250 Corporate Drive, Troy, Michigan 48098, filed in Docket No. CP02–49–000 , an application pursuant to section 7(b) of the Natural Gas Act (NGA) for authorization to abandon certain meter station facilities on Great Lakes' system, located in Clare County, Michigan, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket #" from the RIMS Menu and follow the instructions (call (202) 208–2222 for assistance).

Great Lakes proposes to abandon its Summerfield Meter Station facilities, located in Clare County, Michigan, by removal of all above-ground and below-ground appurtenances upstream of Great Lakes' preexisting Mainline Branch Valve 11–5. Great Lakes states that the facilities to be abandoned include minor valves and fittings, 300 linear feet of nominal 2-inch diameter pipeline, a separator, condensate tank, heater, fence, building, and miscellaneous related facilities. Great Lakes indicates that it intends to salvage a 2-inch positive displacement meter and gas sampling equipment; all other items removed will be disposed of as scrap and/or solid waste, as appropriate.

On April 2, 1986, in Docket No. CP86–12–000, 35 FERC ¶ 62,038 (1986), the Commission issued a certificate to Great Lakes authorizing the construction and operation of a tap and metering facilities in Summerfield Township, Clare County, Michigan. Great Lakes declares that construction and operation of the Summerfield Meter Station was necessary for Great Lakes to provide certain interruptible transportation service to Michigan Consolidated Gas Company (MichCon). Great Lakes avers that the facilities were placed into service on September 26, 1986.

Great Lakes states that since that time, MichCon removed its interconnecting facilities at the Summerfield receipt point. Great Lakes declares that MichCon has not delivered gas at the Summerfield receipt point since April of 1988, and has indicated it does not oppose Great Lakes' abandonment of the facilities there. Great Lakes asserts that no other customer's service utilizes the subject facilities.

Great Lakes states that the estimated cost to abandon the subject facilities is $50,000.

Any questions regarding this application should be directed to M. Catharine Davis, Senior Attorney, Great Lakes Gas Transmission Company, 5250 Corporate Drive, Troy, Michigan 48098, at (248) 205–7593.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before January 8, 2002, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31598 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–73–000]

Llano Estacado Wind, LP; Notice of Filing

December 18, 2001.

Take notice that on December 12, 2001, Llano Estacado Wind, LP (Llano Estacado Wind) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to section 205 of the Federal Power Act, and part 35 of the Commission's regulations, a supplemental filing in response to the Commission's December 10, 2001 Letter Order in the above-captioned proceeding. The supplement clarifies the ownership structures of Llano Estacado Wind and certain other entities.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Comment Date: December 26, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31591 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Project No. 5–067]

Federal Energy Regulatory Commission

PPL Montana, LLC; Confederated Salish and Kootenai Tribes of the Flathead Nation; Notice Denying Intervention and Rejecting Request for Rehearing

December 18, 2001.

By order issued October 16, 2001, the Director, Division of Hydropower Compliance and Administration, granted an extension of time to develop and implement plans under Articles 60 and 64 for the Kerr Hydroelectric Project No. 5, located on lands within the Flathead Indian Reservation and on other federal lands. 97 FERC ¶ 62,050.

On November 19, 2001, The National Organization to Save Flathead Lake (National Organization) filed a motion to intervene and a request for rehearing of the Director's order to the extent that it granted an extension of time for the filing of a drought management plan under Article 60. On November 19, 2001, Bayside Park and Marine Center, L.L.C. (Bayside) filed a motion to intervene, and Bayside and Pointer Scenic Cruises (Pointer) filed a request for rehearing of the Director's order to the extent that it granted an extension of time for the filing of a drought management plan under Article 60.[1]

In proceedings on compliance matters arising after issuance of a license, the Commission will entertain interventions and requests for rehearing only when the filing or order entails a material change in the plan of project development or in the terms of a license, or would adversely affect the rights of a property holder in a manner not contemplated by the license. The Commission will also entertain interventions and requests for rehearing in proceedings commenced pursuant to a license article if the entity seeking intervention is specifically given a consultation role in the license article in question.[2] However, the timing of a compliance filing is an administrative matter between the licensee and the Commission and does not give rise to an opportunity to request intervention and seek rehearing.[3]

Because the Director's order addressed the timing of a compliance filing, the requests for intervention filed by National Organization and Bayside are dismissed, and the requests for rehearing filed by National Organization, Bayside, and Pointer are rejected.[4]

This notice constitutes final agency action. Requests for rehearing by the Commission of this notice must be filed within 30 days of issuance of this notice, pursuant to 18 CFR 385.713.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31597 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

---

[1] Although Bayside's motion to intervene states that the filing is on behalf of Bayside and Pointer, the motion seeks intervention only for Bayside and implies that Pointer may already be an intervenor due to earlier participation in matters dealing with the Kerr Project. However, any such previous intervention would not extend to the present post-licensing matter.

[2] See Pacific Gas & Electric Co., 40 FERC ¶ 61,035 (1987).

[3] Bangor Hydro-Electric Co., 87 FERC ¶ 61,035 (1999).

[4] Only entities that have filed motions to intervene become parties, and only parties may file a request for rehearing. See 18 C.F.R. 385.713(b) (2001). Therefore, Pointer's request for rehearing is rejected for the additional reason that Pointer did not seek intervention.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11953–000]

Symbiotics, LLC.; Notice Granting Late Intervention

December 18, 2001.

On November 26, 2001, the Commission issued a notice of the preliminary permit application filed by the Symbiotics, LLC. for the Wickiup Dam Project No. 11953, located on the Deschutes River, in Deschutes County, Florida. The notice established August 13, 2001, as the deadline for filing motions to intervene in the proceeding.

On November 26, 2001, a motion to intervene was filed late by American Rivers and WaterWatch of Oregon. Granting the late motion to intervene will not unduly delay or disrupt the proceeding or prejudice other parties to it. Therefore, pursuant to Rule 214,[1] the late motion to intervene filed in this proceeding by American Rivers and WaterWatch of Oregon is granted, subject to the Commission's rules and regulations.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31592 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

---

[1] 18 CFR 385.214 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–41–000, *et al.*]

Pittsfield Generating Company, L.P., *et al.*; Electric Rate and Corporate Regulation Filings

December 18, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Pittsfield Generating Company, L.P.

[Docket Nos. EL02–41–000 and QF88–21–009]

Take notice that on November 27, 2001, Pittsfield Generating Company, L.P. filed in the above-referenced docket a request for waiver of the efficiency standard.

A copy of the filing was served on all parties listed in this docket, all parties listed in Docket No. ER98–4400–000, the Massachusetts Department of Telecommunications and Energy, Commonwealth Electric Company, Cambridge Electric Light Company, and New England Power Company.

Comment Date: January 8, 2002.

2. Shady Hills Power Company, L.L.C.

[Docket No. EG02–45–000]

Take notice that on December 13, 2001, Shady Hills Power Company, L.L.C. (Shady Hills Power) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Shady Hills Power owns a 480 MW generating facility that is under construction in New Port Richey, Florida (the Facility). When completed, the Facility will be interconnected to the transmission system of Florida Power Corporation. The Facility is scheduled to begin commercial operation in March 2002.

Comment Date: January 8, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. LSP-Pike Energy, LLC

[Docket No. EG02–46–000]

On December 13, 2001, LSP-Pike Energy, LLC (Pike) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32

VOL 66 ISS 247 DE 26 2001 UMI

of the Public Utility Holding Company Act of 1935 (PUHCA) and part 365 of the Commission's regulations.

As more fully explained in the application, Pike is a limited liability company that will be engaged either directly or indirectly and exclusively in the business of owning and operating an electric generation facility located in Mississippi.

Comment Date: January 8, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Blue Spruce Energy Center, LLC

[Docket No. EG02–47–000]

Take notice that on December 14, 2001, Blue Spruce Energy Center, LLC (Blue Spruce) filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Blue Spruce, a Delaware limited liability company, proposes to own and operate a 336 MW electric generating facility and sell the output at wholesale to electric utilities, an affiliated power marketer and other purchasers. The facility is a natural gas-fired, simple cycle generating facility, which is under development in Adams County, Colorado.

Comment Date: January 8, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Duke Energy Marshall County, LLC

[Docket No. EG02–48–000]

Take notice that on December 12, 2001, Duke Energy Marshall County, LLC (Duke Marshall) filed an application with the Federal Energy Regulatory Commission (the Commission) for determination of exempt wholesale generator status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Marshall is a Delaware limited liability company that will be engaged directly and exclusively in the business of operating all or part of one or more eligible facilities to be located in Marshall County, Kentucky. The eligible facilities will consist of an approximately 640 MW dual fuel fired simple cycle electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment Date: January 8, 2002. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. Progress Energy, Inc. on Behalf of Florida Power Corporation

[Docket No. ER02–534–000]

Take notice that on December 13, 2001, Florida Power Corporation (FPC) filed a Service Agreement with DTE Energy Trading, Inc. under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10. A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

FPC is requesting an effective date of November 20, 2001 for this Agreement.

Comment Date: January 3, 2002.

7. Xcel Energy Services, Inc.

[Docket No. ER02–535–000]

Take notice that on December 13, 2001, Xcel Energy Services, Inc. (XES), on behalf of Northern States Power Company and Northern States Power Company (Wisconsin) (collectively, NSP), submitted for filing a Form of Service Agreement with Lighthouse Energy Trading, Inc. (Lighthouse), which is in accordance with NSP's Rate Schedule for Market-Based Power Sales (NSP Companies FERC Electric Tariff, Original Volume No. 6).

XES requests that this agreement become effective on October 24, 2001.

Comment Date: January 3, 2002.

8. Progress Energy, Inc. on behalf of Florida Power Corporation

[Docket No. ER02–536–000]

Take notice that on December 13, 2001, Florida Power Corporation (FPC) filed a Service Agreement with The Detroit Edison Company under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10. A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

FPC is requesting an effective date of November 20, 2001 for this Agreement.

Comment Date: January 3, 2002.

9. Shady Hills Power Company, LLC

[Docket No. ER02–537–000]

Take notice that on December 13, 2001, Shady Hills Power Company, LLC (Shady Hills Power) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for an order accepting its FERC Electric Tariff No. 1, granting certain blanket approvals, including the authority to sell electricity at market-base rates, and waiving certain regulations of the Commission. Shady Hills Power requested expedited Commission consideration. Shady Hills Power requested that its Rate Schedule No. 1 become effective upon the earlier of the date the Commission authorizes market-based rate authority, or 30-days from the date of this filing. Shady Hills Power also filed its FERC Electric Tariff No. 1.

Comment Date: January 3, 2002.

10. LSP-Pike Energy, LLC

[Docket No. ER02–538–000]

Take notice that on December 13, 2001, LSP-Pike Energy, LLC (Pike) filed with the Federal Energy Regulatory Commission (Commission), under section 205 of the Federal Power Act (FPA), an application requesting that the Commission (1) accept for filing its proposed market-based FERC Rate Schedule No. 1; (2) grant blanket authority to make market-based wholesale sales of capacity and energy under the FERC Rate Schedule No. 1; (3) grant authority to sell ancillary services at market-based rates; and (4) grant such waivers and blanket authorizations as the Commission has granted in the past to other nonfranchised entities with market-based rate authority.

Comment Date: January 3, 2002.

11. Mid-Continent Area Power Pool

[Docket No. ER02–539–000]

Take notice that on December 13, 2001, the Mid-Continent Area Power Pool, on behalf of its public utility members, filed executed short-term firm and non-firm service agreements under MAPP Schedule F with Exelon Generating Company, LLC.

Comment Date: January 3, 2002.

12. Michigan Electric Transmission Company

[Docket No. ER02–540–000]

Take notice that on December 13, 2001 Michigan Electric Transmission Company (METC) tendered for filing an unexecuted Generator Interconnection and Operating Agreement Between METC and Tallmadge Generation Company, LLC [Generator] (Agreement). Generator had requested that the unexecuted Agreement be filed. METC requested that the Agreement be allowed to become effective December 13, 2001.

Copies of the filing were served upon Generator and the Michigan Public Service Commission.

Comment Date: January 3, 2002.

13. Michigan Electric Transmission Company

[Docket No. ER02–541–000]

Take notice that on December 13, 2001, Michigan Electric Transmission Company (METC) tendered for filing an executed Service Agreement for

Network Integration Transmission Service and a Network Operating Agreement with Midwest Energy Cooperative (Midwest) and Wabash Valley Power Association, Inc. (Wabash) pursuant to METC's Open Access Transmission Service Tariff (METC FERC Electric Tariff No. 1). Copies of the filed agreements were served upon the Michigan Public Service Commission, Wabash and Midwest.

METC is requesting an effective date of January 1, 2002 for the Agreements.

Comment Date: January 3, 2002.

14. Tucson Electric Power Company

[Docket No. ER02–542–000]

Take notice that on December 17, 2001, Tucson Electric Power Company tendered for filing one (1) Umbrella Service Agreement (for short-term firm service) and one (1) Service Agreement (for non-firm service) pursuant to Part II of Tucson's Open Access Transmission Tariff, which was filed in Docket No. ER01–208–000.

The details of the service agreements are as follows: Umbrella Agreement for Short-Term Firm Point-to-Point Transmission Service dated as of September 26, 2001 by and between Tucson Electric Power Company El Paso Electric Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 176. No service has commenced at this time. Form of Service Agreement for Non-Firm Point-to Point Transmission Service dated as of September 26, 2001 by and between Tucson Electric Power Company El Paso Electric Company—FERC Electric Tariff Vol. No. 2, Service Agreement No. 177. No service has commenced at this time.

Comment Date: January 7, 2002.

15. Duke Energy Corporation

[Docket No. ER02–543–000]

Take notice that on December 11, 2001, Duke Electric Transmission (Duke), a division of Duke Energy Corporation, tendered for filing a Service Agreement with PSEG Energy Resources for Firm Transmission Service under Duke's Open Access Transmission Tariff. Duke requests that the proposed Service Agreement be permitted to become effective on November 27, 2001. Duke states that this filing is in accordance with part 35 of the Commission's regulations, 18 CFR 35, and that a copy has been served on the North Carolina Utilities Commission.

Comment Date: January 2, 2002.

16. American Transmission Company LLC

[Docket No. ER02–548–000]

Take notice that on December 14, 2001, American Transmission Company LLC (ATCLLC) tendered for filing Generation-Transmission Interconnection Agreements for the Port Washington Power Plant, Power the Future Units and the Oak Creek Power Plant, Power the Future Units between Wisconsin Electric Power Company and ATCLLC. ATCLLC requests and effective date of December 14, 2001.

Comment Date: January 4, 2002.

17. Entergy Services, Inc.

[Docket No. ER02–550–000]

Take notice that on December 14, 2001, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), submitted for filing the Second Revised Network Integration Transmission Service Agreement between Energy Services, as agent for the Entergy Operating Companies, and Louisiana Generating LLC.

Comment Date: January 4, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31590 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4718–011]

Cocheco Falls Associates; Notice of Availability of Environmental Assessment

December 18, 2001.

An environmental assessment (EA) is available for public review. The EA is for petitions to revise the license for the Cocheco Falls Project with respect to fish passage. The EA recommends reasonable modifications to project structures and operation to benefit fish passage and that such modifications would not constitute a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Energy Projects, Federal Energy Regulatory Commission. Copies of the EA can be viewed in the Reference and Information Center, Room 2A, of the Commission's Offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link-select "Docket #" and follow the instructions (call 202–208–2222 for assistance).

Comments on the EA are invited. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers for substance should be supported by appropriate documentation. Comments should be filed within 30 days from the date of this notice with Linwood A. Watson, Jr., Acting Secretary, 888 First Street, NE., Washington, DC 20426, and should reference Project No. 4718.

For further information, please contact Mr. Robert H. Grieve at (202) 219–2655.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31596 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

December 18, 2001.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 2165.

c. *Date filed:* November 19, 2001.

d. *Submitted by:* Alabama Power Company—current licensee.

e. *Name of project:* Warrior River Hydroelectric Project.

f. *Location:* On the Black Warrior River and on the Sipsey Fork of the Black Warrior River in Cullman, Walker, Winston, and Tuscaloosa Counties, Alabama. The project occupies federal lands administered by the U.S. Army Corps of Engineers, and located within the William B. Bankhead National Forest.

g. *Filed pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee contact:* Jim Crew, *JFCREW@southernco.com*, (205) 257–4265, or Barry Lovett, *BKLOVETT@southernco.com*, (205) 257–1268.

i. *FERC contact:* Ron McKitrick, ronald.mckitrick@ferc.fed.us, (770) 452–3778.

j. *Effective date of current license:* September 1, 1957.

k. *Expiration date of current license:* August 31, 2007.

l. *Description of the project:* The project consists of the following two developments:

The Smith Development consists of the following existing facilities: (1) The 300-foot-high, 2,200-foot-long Smith Dam; (2) a 956-foot-long concrete spillway section; (3) the 21,200-acre Smith Lake with a normal water surface elevation of 510 feet msl; (4) two 630-foot-long, 22-foot-diameter tunnels leading to; (5) a powerhouse containing two generating units with a total installed capacity of 157.5 MW, (6) a 700-foot-long tailrace; (7) two 115-kV transmission lines and one 161-kV transmission line; and (8) other appurtenances.

The Bankhead Development consists of the following existing facilities: (1) The 1,400-foot-long John Hollis Bankhead Dam consisting of: (a) a 1,230-foot-long concrete spillway section equipped with 22 vertical lift gates; (b) a 78-foot-wide intake section; (2) the 9,200-acre Bankhead Lake with a normal water surface elevation of 255feet msl; (3) a powerhouse containing one generating unit with an installed capacity of 52.5 MW; (4) a 115–kV transmission line; and (5) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by August 31, 2005.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31593 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

December 18, 2001.

a. *Type of filing:* Notice of Intent to File an Application for a New License.

b. *Project No.:* 618.

c. *Date filed:* November 19, 2001.

d. *Submitted by:* Alabama Power Company—current licensee.

e. *Name of project:* Jordan Hydroelectric Project.

f. *Location:* On the Coosa River in Chilton, Coosa, and Elmore Counties, Alabama. The project does not occupy federal lands.

g. *Filed pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee contact:* Jim Crew, *JFCREW@southernco,com*, (205) 257–4265, or Barry Lovett, *BKLOVETT@southernco.com*, (205) 257–1268.

i. *FERC contact:* Ron McKitrick, ronald.mckitrick@ferc.fed.us, (770) 452–3778.

j. *Effective date of current license:* October 1, 1980.

k. *Expiration date of current license:* July 31, 2007.

l. *Description of the project:* The project consists of the following existing facilities: (1) The Jordan Dam consisting of: (a) A 75-foot-long concrete bulkhead; (b) a 246-foot-long concrete intake structure; (c) a 1,330-foot-long concrete spillway section equipped with eighteen 34-foot-wide by 8-foot-high radial gates and seventeen 30-foot-wide by 19-foot-high vertical lift gates; (d) a 177-foot-long concrete bulkhead; (2) the 5,880-acre Jordan Lake with a normal water surface elevation of 252 feet msl; (3) a powerhouse containing four generating units with a total installed capacity of 100 MW; (4) seven 115-kV transmission lines; and (5) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2005.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31594 Filed 12–21–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

December 18, 2001.

a. *Type of filing:* Notice of Intent to File An Application for a New License.

b. *Project No.:* 82.

c. *Date filed:* November 19, 2001.

d. *Submitted by:* Alabama Power Company—current licensee.

e. *Name of project:* Mitchell Hydroelectric Project.

f. *Location:* On the Coosa River in Chilton and Coosa Counties, Alabama. The project does not occupy federal lands.

g. *Filed pursuant to:* Section 15 of the Federal Power Act.

h. *Licensee contact:* Jim Crew, *JFCREW@southernco,com*, (205) 257–4265, or Barry Lovett, *BKLOVETT@southernco.com*, (205) 257–1268.

i. *FERC contact:* Ron McKitrick, ronald.mckitrick@ferc.fed.us, (770) 452–3778.

j. *Effective date of current license:* November 1, 1975.

k. *Expiration date of current license:* July 31, 2007.

l. *Description of the project:* The project consists of the following existing facilities: (1) The Mitchell Dam consisting of: (a) a 964-foot-long concrete spillway section equipped with twenty-three 30-foot-wide by 15-foot-high timber-faced radial gates and three 30-foot-wide by 25-foot-high steel gates; (b) a 449-foot-long west embankment; (2) the 5,850-acre Mitchell Lake with a normal water surface elevation of 312 feet msl; (3) the original powerhouse containing one generating unit with an installed capacity of 20 MW; (4) a new powerhouse containing three generating units with an installed capacity of 150 MW; (5) four 115-kV transmission lines; and (6) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by July 31, 2005.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31595 Filed 12-21-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Issuance of Staff Report on Ideas for Better Stakeholder Involvement

December 18, 2001.

The staff of the Office of Energy Projects has issued a revised version of its report entitled: "Ideas For Better Stakeholder Involvement In The Interstate Natural Gas Pipeline Planning Pre-Filing Process." The report has been revised based on feedback received at Sixth Interstate Natural Gas Facility-Planning Seminar held on October 26, 2001.

The report can be downloaded from the FERC Web site at *www.ferc.gov* or requested by E-mail at: *gas outreach-feedback@ferc.fed.us.*

As discussed at the October 26 meeting, the staff is in the process of planning a series of workshops to bring interstate natural gas companies and Federal, state and local agency representatives, and landowners together to discuss implementation of stakeholder involvement programs. The workshops will be organized in a way to provide opportunities to present and discuss case-studies of efforts taken by interstate pipeline companies which highlight the various challenges and successes of getting people involved in the pipeline planning process before the applications are filed. Future notices will announce the format, dates and locations of the workshops.

If you have any questions, please contact Richard Hoffmann at 202/208-0066 or Lauren O'Donnell at 202/208-0325.

J. Mark Robinson,

Director, Office of Energy Projects.

[FR Doc. 01-31599 Filed 12-21-01; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92-237; DA 01-2929]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On December 19, 2001, the Commission released a public notice announcing the January 15-16, 2002 meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418-2320 or *dblue@fcc.gov.* The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, The Portals II, 445 12th Street, SW., Suite 6A207, Washington, DC 20554. The fax number is: (202) 418-2345. The TTY number is: (202) 418-0484.

SUPPLEMENTARY INFORMATION: Released: December 19, 2001.

The North American Numbering Council (NANC) has scheduled a meeting to be held Tuesday, January 15, 2002, from 8:30 a.m. until 5 p.m., and on Wednesday, January 16, 2002, from 8:30 a.m., until 12 noon (if required). The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW-C305, Washington, DC.

SUPPLEMENTARY INFORMATION: This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Deborah Blue at the address under **FOR FURTHER INFORMATION CONTACT**, stated above.

Proposed Agenda

1. Announcements and Recent News
2. Approve Minutes
   - —September 25, 2001 Conference Call Meeting
   - November 27-28, 2001 Meeting
3. Report of North American Numbering Plan Administrator (NANPA)
4. Report of NANPA Oversight Working Group
   - —Industry associations to report on efforts to encourage members to complete surveys
5. Report of National Thousands-Block Pooling Administrator
6. Report of NANP Expansion/Optimization IMG
7. Status of Industry Numbering Committee activities
8. Report of the Local Number Portability Administration (LNPA) Working Group
   - —Wireless Number Portability Operations (WNPO) Subcommittee
9. Report of NAPM LLC
10. Report from NBANC
11. Report of Cost Recovery Working Group
12. Report of E-Conferencing Subcommittee
13. Steering Committee
    - —Table of NANC Projects
14. Report of Steering Committee
15. Action Items
16. Public Participation (5 minutes each)
17. Other Business

Adjourn (No later than 5 PM)

Wednesday, January 16, 2002 (if required)

18. Complete any unfinished Agenda Items
19. Other Business

Adjourn (No later than 12 Noon)

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 01-31580 Filed 12-21-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

State Funds for FY2002 Pre-Disaster Mitigation Program

AGENCY: Federal Insurance and Mitigation Administration, Federal Emergency Management Agency (FEMA).

ACTION: Notice of availability of one-time grants for states.

SUMMARY: FEMA gives notice of the availability of a one-time $50,000 grant for each of the fifty States, as well as the District of Columbia, the U.S. Virgin Islands, and the Commonwealth of

Puerto Rico to prepare for and develop processes and procedures to implement the Pre-Disaster Mitigation (PDM) program, as authorized by § 102 of the Disaster Mitigation Act of 2000. No match is required for these one-time grants. The ultimate goal of this grant is to ensure that States have a process in place to implement the new PDM program when funds become available, and to ensure that implementation is coordinated with other mitigation programs and activities at the State level.

DATES: Grant applications should be submitted to the appropriate FEMA Regional Office by January 11, 2002.

ADDRESSES: FEMA Regional Offices: *Serving the State of Maine, State of New Hampshire, State of Vermont, State of Rhode Island, State of Connecticut, and the Commonwealth of Massachusetts:*

FEMA Region I

442 J.W. McCormack POCH, Boston, MA 02109–4595.

Serving the State of New York, State of New Jersey, the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands:

FEMA Region II

26 Federal Plaza, Rm. 1337, New York, NY 10278–0002.

Serving the District of Columbia, Delaware, Maryland, Pennsylvania, Commonwealth of Virginia, and West Virginia:

FEMA Region III

1 Independence Mall, 6th Floor, 615 Chestnut Street, Philadelphia, PA 19106–4404.

Serving the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee:

FEMA Region IV

3003 Chamblee Tucker Road, Atlanta, GA 30341.

Serving the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin:

FEMA Region V

536 S. Clark Street, 6th Floor, Chicago, IL 60605.

Serving the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas:

FEMA Region VI

FRC 800 North Loop 288, Denton, TX 76201–3698.

Serving Iowa, Kansas, Missouri, and Nebraska:

FEMA Region VII

2323 Grand Avenue, Suite 900, Kansas City, MO 64108.

Serving Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming:

FEMA Region VIII

Denver Federal Center, Building 710, Box 25267, Denver, CO 80225–0267.

Serving the States of Arizona, California, Hawaii and Nevada; and the Territory of American Samoa, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau:

FEMA Region IX

Building 105, Presidio of San Francisco, San Francisco, CA 94129–1250.

Serving the States of Alaska, Idaho, Oregon and Washington:

FEMA Region X

Federal Regional Center, 130 228th Street, SW, Bothell, WA 98021–9796.

FOR FURTHER INFORMATION CONTACT: Margaret Lawless, Program Planning and Delivery Division, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Room 401, Washington, DC 20472, (202) 646–3027 or E-mail: *Margaret.Lawless@fema.gov.*

SUPPLEMENTARY INFORMATION:

Appropriations

Under Public Law 106–377, 114 Stat. 1441, Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriation Act, 2001, we are issuing a Request for Application (RFA) to implement the PDM Program.

Applicant Eligibility

Each of the fifty States is eligible, including the Virgin Islands, the Commonwealth of Puerto Rico, and Washington, DC.

Grant Application Process

To apply for this grant, States must complete and submit to the appropriate FEMA Regional Office the standard grant application forms in accordance with 44 Code of Federal Regulations Part 13.10, which can be obtained from the Regional Office. The grant application should include:

- Application for Federal Assistance, Standard Form 424;
- Budget Information " Non-Construction Program, FEMA Form 20–20;
- Summary Sheet for Assurances and Certification, FEMA Form 20–16;
- Assurances " Non-Construction Program, FEMA Form 20–16A;
- Certification Regarding Lobbying; Debarment, Suspension and Other Responsible Matters; and Drug-Free Workplace Requirements, FEMA Form 20–16C;
- Disclosure of Lobbying Activities, Standard Form LLL; and,
- Program Narrative describing staffing, activities, and timeframes to complete the activities.

Eligible Activities

- Developing a State-wide strategy for PDM program implementation, including a process for soliciting community applications, and criteria prioritizing applications that is consistent with the State mitigation plan;
- Providing technical assistance to sub-grantees in completing the application process;
- Conducting workshops for local officials on the development of local mitigation plans;
- Developing an Enhanced State Mitigation Plan based on the new DMA 2000 planning criteria; and,
- Obtaining contractor support to assist the States in the accomplishment of any of these eligible items.

Reporting Requirements

The States shall submit a final financial report and a final performance report to the appropriate FEMA Regional Office 90 days after the close of the grant.

Robert F. Shea,

Acting Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 01–31635 Filed 12–21–01; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of November 6, 2001

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 6, 2001.[1]

---

[1] Copies of the Minutes of the Federal Open Market Committee meeting on November 6, 2001, which includes the domestic policy directive issued

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate to an average of around 2 percent.

By order of the Federal Open Market Committee, December 17, 2001.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 01-31606 Filed 12-21-01; 8:45 am]

BILLING CODE 6210-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Ms. Vilma Valentin, Boston University School of Medicine: Based on the report of an investigation conducted by the Boston University (BU) School of Medicine (BU Report) as well as additional analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) found that Ms. Vilma Valentin, a former counselor and interventionist on the BU Inner City Asthma Study at the BU School of Medicine, engaged in scientific misconduct by fabricating records in research funded by two National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), cooperative agreements: U01 AI39776, "Data Coordinating Center for NCICAS II," and U01 AI39769, "Trial of Interventions to Reduce Asthma Morbidity."

Specifically, PHS found that Ms. Valentin fabricated: (1) The data on three environmental intervention forms for visits that she allegedly made to two patients' homes in early and late August 1999; these visits did not take place; and (2) the reports of two telephone calls that she allegedly made to the two patients' families during the same period; these calls were not made. The study intervention included home visits, telephone calls, and advocacy letters, all of which were central to the research, which sought to evaluate the effectiveness of two interventions to reduce asthma severity. Thus, the data and reports could have had a substantive effect on the outcome of the research had the institution not corrected the research record.

While acknowledging the findings of scientific misconduct as set forth above and in the BU Report but without admitting liability or wrongdoing, Ms. Valentin has entered into a Voluntary Exclusion Agreement in which she has voluntarily agreed for a period of three (3) years, beginning on December 5, 2001:

(1) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which Ms. Valentin's participation is proposed, that uses her in any capacity on PHS-supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of her duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Ms. Valentin's research contribution.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. 01-31579 Filed 12-21-01; 8:45 am]

BILLING CODE 4150-31-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The peer review groups listed below are subcommittees of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.

Date: January 24-25, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: AHRQ 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

2. *Name of Subcommittee:* Health Care Technology and Decision Sciences.

Date: February 21-22, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: AHRQ 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

3. *Name of Subcommittee:* Health Systems Research.

Date: February 28-March 1, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: AHRQ 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

4. *Name of Subcommittee:* Health Research Dissemination and Implementation.

Date: February 28-March 1, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: AHRQ 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

5. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.

Date: March 7-8, 2002 (Open from 8 a.m. to 8:15 a.m. and closed for remainder of the meeting).

Place: AHRQ 6010 Executive Boulevard, 4th Floor Conference Center, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594-1846.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: December 18, 2001.

John M. Eisenberg,

Director.

[FR Doc. 01-31617 Filed 12-21-01; 8:45 am]

BILLING CODE 4160-90-M

---

at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cooperative Arrangement Between the United States Departments of Health and Human Services and Agriculture and the Secretariats of Health and Agriculture, Livestock, Rural Development, Fish, and Food of the United Mexican States Regarding Cooperative Activities to Enhance the Safety of Food for Human Consumption

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a cooperative arrangement between the Department of Health and Human Services and the Department of Agriculture of the United States of America and the Secretariat of Health and the Secretariat of Agriculture, Livestock, Rural Development, Fish, and Food of the United Mexican States. The purpose of this arrangement is to strengthen existing scientific and public health protection cooperative activities related to the regulation of the safety of food to achieve a reduction in the incidence of foodborne illnesses in both countries.

DATES: The arrangement became effective September 4, 2001.

FOR FURTHER INFORMATION CONTACT: Camille Brewer, International Activities Coordinator for Food, Center for Food Safety and Applied Nutrition (HFS–032), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–260–2314. (After December 14, 2001, the Center for Food Safety and Applied Nutrition's address will be 5100 Paint Branch Pkwy., College Park, MD 20740.)

SUPPLEMENTARY INFORMATION: This cooperative arrangement is being published in accordance with 21 CFR 20.108(c) which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**.

Dated: December 13, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

The arrangement is set forth in its entirety as follows:

BILLING CODE 4160–01–S

COOPERATIVE ARRANGEMENT

AMONG

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

AND

THE DEPARTMENT OF AGRICULTURE
OF THE UNITED STATES OF AMERICA

AND

THE SECRETARIAT OF HEALTH

AND

THE SECRETARIAT OF AGRICULTURE, LIVESTOCK,
RURAL DEVELOPMENT, FISH, AND FOOD
OF THE UNITED MEXICAN STATES

REGARDING COOPERATION TO ENHANCE ACTIVITIES OF MUTUAL INTEREST IN THE AREA OF THE SAFETY OF FOODS FOR HUMAN CONSUMPTION

The Department of Health and Human Services (DHHS) and the Department of Agriculture (USDA) of the United States of America and the Secretariat of Health (SSA) and the Secretariat of Agriculture, Livestock, Rural Development, Fish, and Food (SAGARPA) of the United Mexican States, hereinafter referred to as the "participants,"

RECOGNIZING

The special relationship between the participants and their mutual commitment to achieve a significant reduction in the incidence of food-borne illnesses in both countries as evidenced by the United Mexican States and the United States of America Joint Statement on Food Safety signed on June 10, 1998;

Food safety officials and competent authorities of the participants can better achieve this goal by sharing information and experience concerning the regulation of food products;

The trade links between the United States and Mexico under the North American Free Trade Agreement, the common border, and the high degree of trade in food products between our two countries;

In particular, that close bilateral cooperation with regard to those food products that are traded, or may be traded, between the two countries has the potential to significantly increase public health protection in both countries;

That effective food safety programs, both in the United States and in Mexico, require close cooperative efforts of public health and regulatory officials and agencies at the federal, state, and local levels; that such programs require the active participation by other non-government entities such as consumers, industry, and academia that are responsible for and concerned about food safety and reducing the incidence of food-borne health hazards; and that this Arrangement does not diminish any of the existing and ongoing cooperative efforts of these government and non-government agencies, groups, and individuals working to enhance and effect food safety; and

The importance of reducing potential hazards related to situations involving processed and unprocessed food products in both countries through enhanced regulatory and scientific collaboration and through the implementation of specific cooperative activities

Have reached the following understanding:

Article 1
Purpose

This Arrangement is intended to affirm the intention between the participants to strengthen existing scientific and public health protection cooperative activities related to the regulation of the safety of food, including products and feed for food-producing animals.

Article 2
Products

In order to achieve the goal of this Arrangement, the cooperative activities include the following products:

- foods and food products for human consumption, both processed and unprocessed
- feeds intended for use in food-producing animals
- foods derived from biotechnology;
- additives intended for use in such foods and feeds
- pesticide residues and other contaminants in food agricultural commodities
- animal drugs intended for use in food-producing animals

And, the following activities related to the above-mentioned products:

- antimicrobial resistance
- good agricultural practices
- good manufacturing practices
- good laboratory practices
- biotechnology
- nutrition
- labeling requirements
- incidents or outbreaks of disease, health hazard, contamination, injury, adverse event, or adverse finding that may arise in routine or emergency situations

Article 3
Activities

The participants, in accordance with their legal authority, intend to develop joint efforts to effectively and appropriately exchange information and enhance and develop programs and intend to coordinate as appropriate with other relevant food safety agencies, groups, and individuals within their countries. These information exchanges and programs may include the following activities:

A. Development of specific procedures for the exchange of regulatory and public health information, both for routine and emergency purposes. This information includes laws, regulations, proposed amendments, guidelines, procedures, and technical documents (such as evaluation of foreign suppliers of regulated products and enforcement decisions, including inspection reports, reports of injury related to processed or unprocessed food products, recalls or rejected shipments of products, and training material from regulatory agencies pertaining to regulated products).

B. Development of specific procedures for exchanging information in the early stages of an investigation, whenever possible, rather than in the last stages or at the conclusion of the investigation, during emergency situations such as the seizure, detention, or withdrawal of products because of safety reasons or other reasons.

C. Determining the information that should be exchanged among the participants prior to making information related to emergency situations public.

D. Dialogue and other communication intended to achieve, where appropriate, common positions on emerging international standards or practices in meetings of international organizations such as the Codex Alimentarius Commission and the Organization International des Epizooties.

E. Identification of research projects and studies to support the scientific basis for regulatory requirements and actions that are of mutual interest, such as those related to epidemiology, exposure estimates, risk identification, and other information that would form the bases for pre- and post-market risk assessments, risk analysis, and safety evaluations.

F. Identification of regulatory and scientific standards, procedures, and other requirements where there is potential for immediate and future harmonization.

G. Identification and implementation of joint training for the purpose of mutual understanding and harmonization of surveillance and compliance activities.

H. Exchange of information and data resulting from an investigation conducted by the participants when these investigations have been related to food-borne illnesses.

Article 4
Confidentiality

The participants expect that most of the information exchanged under this Arrangement may be provided in a form appropriate for public dissemination under the laws of the transmitting participants. Information that is not appropriate for public dissemination should be shared according to the procedures and policies of the participants as permitted by the laws of the participants.

The participants also should provide the other participants with copies of their laws and regulations governing their ability to maintain information as confidential.

With regard to any non-public information that may be provided to SAGARPA or SSA by U.S. participants, such transmissions should be made in accordance with the specific signed confidentiality commitments and other requirements of those participants.

Article 5
Funding

Each participant intends to fund its own activities subject to the availability of appropriated funds, personnel, and other resources.

Article 6
Plan of Work

The participants intend to develop a Plan of Work describing specific activities to be carried out under this Arrangement. Liaison Officers intend to meet at least once a year to review and revise the Plan of Work.

Liaison Officers will be as follows:

A. For DHHS

Director
Division of Emergency and Investigational Operations
U.S. Food and Drug Administration
5600 Fishers Lane
Rockville MD 20857
Telephone: 301- 443-1240 or 301- 827-5660
Fax: 301- 443-3757

International Activities Coordinator for Food
Center for Food Safety and Applied Nutrition
200 C Street, SW
Washington, D.C. 20204
Telephone: 202-260-2314
Fax: 202-260-9653

B. For USDA

Assistant Deputy Administrator
Program Coordination and Evaluation
Office of Policy, Program Development, and Evaluation
Food Safety Inspection Service
Department of Agriculture
1400 Independence Avenue, SW
Room 4866 South Building
Washington, D.C. 2500-3700
Telephone: 202-720-3473
Fax: 202-720-3856

C. For SSA

Federal Commission Against Sanitary Risks
Direction General of Sanitary Control of Products and Services
Donceles 39, 1er Piso
Col.Centro. 06010 México, D.F.
Telephone: 525-512-3050 or 525-521-9134
Fax: 525-521-9628

D. For SAGARPA

Director in Chief
Comision Nacional de Seguridad Agropecuaria (CONASAG)
Amores 321, 1er Piso
Col. Del Valle, C.P. 03100, México, D.F.
Telephone: 525-536-6626 or 525-687-7954
Fax: 525-687-7938

Article 7
Settlement of Disputes

The participants should strive to resolve by mutual decision any disputes that arise from the interpretation or application of this Arrangement.

Article 8
Duration

This Arrangement commences upon signature by all participants for ten (10) years. It may be extended for an additional ten-year period, after evaluation by the participants.

The participants may amend this document, by mutual written consent, specifying the date the amended Arrangement commences.

This Arrangement may be terminated by any participant upon thirty days advance written notice to the other participants.

Termination of this Arrangement does not affect the completion of cooperation activities that may have been formalized prior to termination.

SIGNED at Washington, D.C., this fourth day of September 2001, in quadruplicate, in the Spanish and English languages.

Tommy Thompson

FOR THE DEPARTMENT OF HEALTH
AND HUMAN SERVICES OF THE
UNITED STATES OF AMERICA

FOR THE SECRETARIAT OF
HEALTH OF THE UNITED
MEXICAN STATES

Bill Hawks

FOR THE DEPARTMENT OF
AGRICULTURE OF THE
UNITED STATES OF AMERICA

for

FOR THE SECRETARIAT OF
AGRICULTURE, LIVESTOCK,
RURAL DEVELOPMENT, FISH,
AND FOOD OF THE UNITED
MEXICAN STATES

[FR Doc. 01–31576 Filed 12–21–01; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 10, 2002, from 9:30 a.m. to 5 p.m.

Location: Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Hany W. Demian, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12521. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss, make recommendations, and vote on premarket approval application (PMA) for a spinal fusion cage with a growth factor soaked in a collagen sponge intended for use to treat lumbar degenerative disc disease. Background information, including the agenda and questions for the committee, will be available to the public on January 9, 2002, on the Internet at http://www.fda.gov/cdrh/panelmtg.html.

Procedure: On January 10, 2002, from 9:30 a.m. to 1 p.m., and from 2 p.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 4, 2002. Oral presentations from the public will be scheduled between approximately 9:30 a.m. and 10 a.m. on January 10, 2002. Near the end of the committee deliberations for the PMA, a 30-minute open public session will be conducted for interested persons to address issues specific to the submission before the committee. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 4, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Presentation of Data: On January 10, 2002, from 1 p.m. to 2 p.m., the meeting will be closed to the public to permit the committee to discuss and review trade secret and/or confidential commercial information presented by a sponsor (5 U.S.C. 552b(c)(4)).

FDA regrets that it was unable to publish this notice 15 days prior to the January 10, 2002, Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 18, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01-31578 Filed 12-21-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware and Lehigh Heritage Corridor Commission Meeting

AGENCY: Department of Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92-463).

Meeting Date and Time: Friday, January 11, 2002, Time 1:30 p.m. to 4 p.m.

Address: Bethlehem Township Municipal Building, 4225 Easton Avenue, Bethlehem PA 18020.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 10 E. Church Street, Room A-208, Bethlehem, PA 18018, (610) 861-9345.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100-692, November 18, 1988 and extended through Public Law 105-355, November 13, 1998.

Dated: December 18, 2001.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 01-31585 Filed 12-21-01; 8:45 am]

BILLING CODE 6820-PE-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-459]

In the Matter of Certain Garage Door Operators Including Components Thereof; Notice of Decision to Modify an Initial Determination Granting a Motion to Intervene

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to modify an initial determination (ID) (Order No. 5), as supplemented by Order No. 7, issued by the presiding administrative law judge (ALJ) in the above-captioned investigation. The ID is modified to the extent that the restrictions placed an intervenor's participation in the investigation are lifted.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-3104. Copies of all nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol.public.* Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on July 16, 2001, based on a complaint filed by The Chamberlain Group, Inc. ("Chamberlain") against six entities, not including Microchip Technology Inc. (Microchip). 66 FR 37704. Chamberlain's complaint alleges violations of section 337 in the importation into the United States, sale for importation, and/or sale within the United States after importation of certain garage door operators by reason of infringement of certain claims of Chamberlain's U.S. Letters Patents Nos. Re. 35,364 and Re. 36,703. On August 6, 2001, Microchip filed a motion to intervene in this investigation.

On October 1, 2001, the ALJ issued an ID (Order No. 5) granting Microchip's motion. The ID allowed Microchip to become an "intervenor" in the present investigation, but placed restrictions on Microchip's participation. Under the ID, Microchip was allowed to participate in the discovery phase of the investigation, but was not allowed to notice depositions during discovery or participate as a party at the hearing. On October 30, 2001, the Commission

VOL 66 ISS 247 DE 26 2001 UMI

determined to review the ID and remanded the ID to the ALJ for either a modification of the ID or a statement of reasons supporting his decision to allow only limited intervention. Commission Order and Notice of Review, dated October 30, 2001.

On November 20, 2001, the ALJ issued Order No. 7, in which he supplied reasons for the restrictions that he placed on Microchip. Microchip filed a submission concerning Order No.7 on November 28, 2001. On December 5, 2001, complainant Chamberlain responded in opposition to the submission. On the same date, the Commission investigative attorney filed a response in support of Microchip.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.45 of the Commission's rules of practice and procedure, 19 CFR 210.45.

By order of the Commission.

Issued: December 18, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31600 Filed 12–21–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–466]

In the Matter of Certain Organizer Racks and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 21, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Spectrum Concepts, Inc. of Carlsbad, California. An amended complaint was filed on December 14, 2001, and supplementary letters were filed on November 27 and December 14, 2001. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain organizer racks and products containing same, by reason of infringement of claims 1, 6, 8, 11, 12, 13, and 24 of U.S. Letters Patent 5,740,924. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's ADD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2580.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.10 (2001).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on December 18, 2001, *Ordered that*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain organizer racks and products containing same, by reason of infringement of claims 1, 6, 8, 11, 12, 13, or 24 of U.S. Letters Patent 5,740,924, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Spectrum Concepts, Inc., 1911 Palomar Oaks Way, Carlsbad, CA 92008–6511;

(b) The respondent is the following company alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Bryan Plastics Ltd., 5 Bovis Pointe, Claire, Quebec, Canada H9R 4N3;

(c) Jeffrey R. Whieldon, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation;

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge;

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.13. Pursuant to 19 CFR §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

Issued: December 18, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31559 Filed 12–21–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the

VOL 66 ISS 247 DE 26 2001 UMI

Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of December, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,967; Bethlehem Steel Corp., Lackawanna Coke Div., Lackawanna, NY
TA–W–39,977; Lamtech, LLC, Hartsville, TN
TA–W–39,234; Globe Building Materials, Inc., Cornell, WI
TA–40,186; B.G. Sullzle, Syracuse, NY
TA–W–39,580 & A; Elkay Manufacturing Co., Lanark, IL and Oakbrook, IL
TA–W–40.065; Haemerw-right Tool and Die, Inc., Saegertown, PA
TA–W–39,694; C.T. Gamble Acquisition Corp., Ohmite Holding, LLC, Delanco, NJ
TA–W–39,067A; Thomson Saginaw Ball Screw Co. LLC, Cut Center, Saginaw, MI
TA–W–40,168; Stitches, Inc., El Paso, TX

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,681; United Shoe Machinery Corp., Wilmington, MA
TA–W–40,119; Tennford Weaving, Sanford, ME
TA–W–39,959; Teccor Electronics, A Div. Of Invensys, Irving, TX
TA–W–40,091; Bolivar Tees, Bolivar, MO
TA–W–39,988; Stephens Pipe and Steel, Russell Springs, KY
TA–W–40,118; Displaytech, Inc., Longmont, Co
TA–W–39,868; Yarway Corp., A Div. of Tyco International, Blue Bell, PA
TA–W–39,850; Seagate Technology, Shakopee, MN
TA–W–38,751; Dayton Tire, Oklahoma City, OK

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–39,935; Contract Apparel, Inc., El Paso, TX
TA–W–40,098; Toastmaster, Inc., A Subsidiary of Salton, Inc., Boonville, MO
TA–W–40,023; National Ford Chemicals Co., Inc., Fort Mill, SC
TA–W–39,974; Motorola, Inc., Global Telecommunications Solution Sector, Arlington Heights, IL

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–39,067; Thomson Saginaw Ball Screw Co LLC, Saginaw, MI: April 3, 2000
TA–W–40,221; Olympic Mill Services, A Div. Of Tube City, Inc., Employed at Auburn Steel Co., Lemont, IL: September 26, 2000.
TA–W–39,566; Louisiana Pacific Corp., Rouge River Veneer Plant, Rogue River, OR: June 12, 2000.
TA–W–39,271; The CustomShop, com, Franklin, NJ: May 2, 200.
TA–W–39,407; Greer Steel Co., Dover, OH: June 7, 2000.
TA–W–114; Caroll Wren, Inc.; Long Island City, NY: April 10, 2000.
TA–W–40,021 & A; Alba-Waldensian, Inc., Rutherfordton Plant, Rutherfordton, NC and John Louis Plant, Valdese, NC: August 27, 2000.
TA–W–40,024; Phillips-Van Heusen, Ozark, AL: August 28, 2000.
TA–W–40,019 & A; Carolina Mills, Inc., Plant #23, Gastonia, NC and Plant #26, St. Pauls, NC: August 29, 2000.
TA–W–39,715; Ansell Healthcare, Inc., Massillon, OH: July 20, 2000.
TA–W–39,962; Specialty Coatings of Virginia, Ltd, Ridgeway, VA: August 20, 2000.
TA–W–40,159; Mirello Manufacturing, Cartersville, GA: September 18, 2000.
TA–W–40,129; Partek Forest, LLC, Gladstone, MI: September 17, 2000.
TA–W–40,139; Volvo Construction Equipment North America, Inc., Asheville Plant, Skyland, NC: September 13, 2000.
TA–W–39,419; Kentucky Electric Steel, Ashland, KY: May 11, 2000.
TA–W–39,406; Artesyn Technolgoies, Red Falls, MN: May 21, 2000.
TA–W–40,116; Metro Fabrics, Inc., New York, NY: September 10, 2000.
TA–W–40,141; Findlay Industries, Ohio City, OH: September 5, 2000.
TA–W–40,210; Tepro of Florida, Inc., Clearwater, FL: September 25, 2000.
TA–W–40,045; Maxwell Corp of America, Conyers, GA: August 28, 2000.
TA–W–40,169; Curtain and Drapery Fashions, Gastonia, NC: September 20, 2000.
TA–W–409,015; Versatile Mold and Design, Inc., Rutledge, GA: August 28, 2000.
TA–W–40,154; E–H Barre, Robinson, IL: September 9, 2000.
TA–W–39,623; E.J. Victor, Inc., Casegoods Div., Morganton, NC: July 2, 2000.
TA–W–39,329; Dystar L.P., Mt Holly, NC: May 15, 2000.
TA–W–40,166; Security Chain Manufacturing, Div. of Burns Brothers, Inc., Clackamas, OR: September 12, 2000.
TA–W–39,210; General Electric Co., Industrial Systems, Houston, TX: April 26, 2000.
TA–W–39,972; Tyco Electronics Corp., Communications, Computer and Electronics Div., Carlisle, PA: August 23, 2000.
TA–W–40,334; Matel, Inc., Murray Production Facility, Murray, KY: October 26, 2000.
TA–W–40,187; Advanced Wood Resources, Brownsville, OR: September 22, 2000.
TA–W–39,871; McCord Winn Textron, A Div. Of Textron Automotive Co., Inc., Manchester, NH: August 20, 2000.
TA–W–40,265; McGhan Medical, Santa Barbara, CA: Sepgember 29, 2000.
TA–W–39,451; Phelps Dodge Morenci, Inc., Morenci, AZ: June 4, 2000.
TA–W–39,803; New Monarch Tool, Inc., Cortland, NY: July 26, 2000.
TA–W–39,927; Pechiney Plastic Packaging, Inc., Cleveland, OH: August 10, 2000.
TA–W–39,899; Tyco Electronics Corp., East Berlin, PA: August 3, 2000.
TA–W–39,563; Excalibur Tubing Corp., Benwood, WV: June 15, 2000.
TA–W–39,088; WSW Company of Sharon, Inc., Sharon, TN: April 5, 2000.

Also, pursuant to Title V of the North American Free Trade Agreement

Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of December, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases of imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05352; Visteon Systems, LLC, Connersville, IN

NAFTA–TAA–05518; Appleton Papers, Inc., Harrisburg Plant, Camp Hill, PA

NAFTA–TAA–05360; Con Lime, Inc., Bellefonte, PA

NAFTA–TAA–05262; Lamtech, LLC, Hartsville, TN

NAFTA–TAA–04781; Globe Building Materials, Inc., Cornell, WI

NAFTA–TAA–04958; Philips Display Components, Display Components, Ottawa, OH

NAFTA–TAA–05421; Stitches, Inc., El Paso, TX

NAFTA–TAA–05389; Stephens Pipe and Steel, Russell Springs, KY

NAFTA–TAA–04780; WSW Company of Sharon, Inc., Sharon, TN

NAFTA–TAA–05281; Haemer-Wright Tool and Die, Inc., Saegertown, PA

NAFTA–TAA–04759A; Thomson Saginaw Ball Screw Company LLC, Cut Center, Saginaw, MI

The workers firm does not produce an article as required for certification under section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended.

NAFTA–TAA–05295; Genlyte Thomas Group, LLC, Hopkinsville, KY

NAFTA–TAA–05550; Datamark, Inc., El Paso, TX

NAFTA–TAA–05274; Toastmaster, Inc., A Subsidiary of Salton, Inc., Boonville, MO

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–04759; Thomson Saginaw Ball Screw Company LLC, Saginaw, MI: April 12, 2000.

NAFTA–TAA–05001; Louisiana Pacific Corp., Rogue River Veneer Plant, Rogue River, OR: June 18, 2000.

NAFTA–TAA–05259; Specialty Coatings of Virginia, Ltd, Ridgeway, VA: August 20, 2000.

NAFTA–TAA–05212; Yarway Corp., A Div. of Tyco International, Blue Bell, PA: August 8, 2000.

NAFTA–TAA–05420; Communications and Power Industries, Inc., Satcom Div., Palo Alto, CA: October 4, 2000.

NAFTA–TAA–05322; Volvo Construction Equipment North America, Inc., Asheville Plant, Skyland, NC: September 13, 2000.

NAFTA–TAA–05468; CW Industries, Hazleton Enterprises, Hazleton, PA: October 22, 2000.

NAFTA–TAA–05246; Teccor Electronics, A Div. of Invensys, Irving, TX: August 17, 2000.

NAFTA–TAA–05523; Motorola, Automotive Communications and Electronics Systems, Elk Grove Village, IL: November 5, 2000.

NAFTA–TAA–05333; Tyco International, Anderson Greenwood Crosby Div., Wrentham, MA: August 31, 2000.

NAFTA–TAA–05363; Advanced Wood Resources, Brownville, OR September 22, 2000.

NAFTA–TAA–05317; Tyco Electronics Corp., Communications, Computer and Electronics Div., Carlisle, PA: September 7, 2000.

NAFTA–TAA–05474; Bremen-Bowdon Investment Company, Bowdon, GA: October 24, 2000.

NAFTA–TAA–05487; Crouzet Corp., Carrollton, TX: June 29, 2001.

NAFTA–TAA–05243; Maxell Corp., of America, Conyers, GA: August 29, 2000.

NAFTA–TAA–5189; Tyco Electronics Corp., East Berlin, PA: August 3, 2000.

NAFTA–TAA–05251; Willamette Industries, Inc., Korpine Div., Bend, OR: August 17, 2000.

NAFTA–TAA–05458; Scientific Atlanta, Inc., Norcross, GA: October 22, 2000.

NAFTA–TAA–05044; Kimlor Mills, Inc., Orangeburg, SC: June 30, 2000.

NAFTA–TAA–05308 and A; Carolina Mills, Inc., Plant #23, Gastonia, NC and Plant #26, St. Pauls, NC: September 4, 2000.

I hereby certify that the aforementioned determinations were issued during the month of December, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 18, 2001.

Edward A. Tomchick,

Director, Division of, Trade Adjustment Assistance.

[FR Doc. 01–31625 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[Docket No. TA–W–38, 893] and [NAFTA–04613]

The Budd Company Stamping and Frame Division Philadelphia, PA, Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 9, 2001 the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance, applicable to petition numbers TA–W–38,893 and NAFTA 04613, respectively. The denial notices were signed on May 10, 2001 and published in the **Federal Register** on May 23, 2001 (66 FR 28553 and 28554, respectively).

The petitioner indicated that the subject firm opened a new stamping plant in Silao, Mexico during the fall of 2000. The petitioner further stated that the opening of the Mexican plant resulted in a significant shift in plant production to Mexico.

VOL 66 ISS 247 DE 26 2001 UMI

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 30th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31619 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of November and December, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,506; Unico, Sanford, ME

TA–W–39,806; Kysor Panel Systems, a Div. of Enodis Corp., Portland, OR

TA–W–39,883; FB Johnston Group, North Carolina Div., Hillsborough, NC

TA–W–39,033 G.E. Lighting, Inc., Bucyrus, OH

TA–W–39,511; Philips Display Components, Display Components, Ottawa, OH

TA–W–40.069; Westvaco Corp., Tyrone, PA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–39,926; Anvil Knitwear, Inc., King Mountain, NC

TA–W–39,991; Broyhill Furniture, Plant #34, Lenoir, NC

TA–W–39,955; Pennco Tool & Die, Meadville, PA

TA–W–39,703; Echo Bay Minerals Co., Battle Mountain, NV

TA–W–40,254; Graphic Packaging, Portland, OR

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–40,140; Wormser Knitting Mills, Charlotte, NC

TA–W–40,262; Parago, Inc., Coppell, TX

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–39,682; Wellmade Industries, New York, New York

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–40,022; Tyco International, Anderson Greenwood Crosby Div., Wrentham, MA: August 29, 2000.

TA–W–40,373 & A, B, C, D; Tect, Inc., Topton Sewing Plant, Topton, Pa., Cutting and Automated Sewing Dept., Allentown, PA, Knitting Dept, Allentown, PA, Temple Sewing Plant, Temple, PA and Sewing and Embellishment Dept., Allentown, PA: October 5, 2000.

TA–W–40,074; Kentucky Apparel, Tompkinsville, KY: September 5, 2000.

TA–W–39,909; RF Monolithics, Inc., Dallas, TX: August 13, 2000.

TA–W–39,858; Fedders Corp., Columbia Specialties, Inc., Columbia, TN: August 20, 2000.

TA–W–40,213; Communications and Power Industries, Inc., Satcom Div., Palo Alto, CA: October 4, 2000.

TA–W–40,247; IFF, Inc., Salem, OR: October 2, 2000.

TA–W–40,042; WP Textiles Processing Corp., Richmond, VA: September 4, 2000.

TA–W–39,874; Zinc Corp. of America, Balmat Mining Div., Hailesboro, NY: August 20, 2000.

TA–W–39,893; Union Apparel, Inc., Norvelt, PA: August 8, 2000.

TA–W–39,767; Bremen-Bowdon Investment Col, Bowdon, GA: July 20, 2000.

TA–W–39,805; Donaldson Co., Inc., Dust Collection Equipment, Lousville, KY: July 27, 2000.

TA–W–40,054; Fairchild Semiconductor, (Formerly Intersil Corp), Mountaintop, PA: September 2, 2000.

TA–W–39,489; California Cedar Products Co., Roseburg Sawmill, Roseburg, OR: June 7, 2000

TA–W–39,895; Crossville Rubber, Inc., Crossville, TN: August 15, 2000.

TA–W–39,896; KPT, Inc., Bloomfield, IN: August 7, 2000

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of November and December, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of

articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NATA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. there was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–05164; Kysor Panel Systems, A Div. of Enodis Corp., Portland, OR

NAFTA–TAA–04953; G.E. Lighting, Inc., Bucyrus, OH

NAFTA–TAA–04455; Sunlite Casual Furniture, Paragould, AR

NAFTA–TAA–05326; FB Johnston Group, North Carolina Div., Hillsborough, NC

NAFTA–TAA–05081 & A, B, C & G; Spartan International, Inc., Cherokee Finishing Plant, SC, Spartan Plant, Spartansburg, SC, Rosemont Plant, Jonesville, SC King Finishing Plant, Dover, GA and Retail Business Office, Charlotte, NC

The workers firm does not produce an article as required for certification under section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended.

NAFTA–TAA–05346; Contract Apparel, Inc., El Paso, TX

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–05081D; & E, F, H & I; Spartan International, King Mill, August, GA, Cleveland Mills, Lawndale, NC, Cleveland-Caroknit, Jefferson SC, Sales Office, New York, NY and Corporate Office, Spartanburg, SC: July 13, 2000.

NAFTA–TAA–05434; Tect, Inc., Sewing and Embellishment Departments, Allentown, PA: October 12, 2000.

NAFTA–TAA–05433; Tect, Inc., Temple Sewing Plant, Temple, PA: October 12, 2000.

NAFTA–TAA–05430; Tect, Inc., Topton Sewing Plants, Topton, PA: October 12, 2000.

NAFTA–TAA–05432; Tect, Inc., Knitting Department, Allentown, PA: October 12, 2000.

NAFTA–TAA–05349; Brooks Automation, Tracking Div., Including Leased Workers of K Force Professional Staffing, Volt Contractors, Superior Contractors and Aerotek Contractors, Colorado Springs, Co: September 20, 2000.

NAFTA–TAA–05393; Liebert Corp., Irvine California Operations, Irvine, CA: September 27, 2000.

NAFTA–TAA–04988; California Cedar Products Co., Roseburg Sawmill, Roseburg, OR: June 11, 2000.

NAFTA–TAA–05342; Curtain and Drapery Fashions, Inc., Gastonia, NC: September 20, 2000.

NAFTA–TAA–05431; Tect, Inc., Cutting and Automated Sewing Departments, Allentown, PA: October 12, 2000.

NAFTA–TAA–05374; Axiohm Transaction Solutions, Inc., American Magnetics Division, Cypress, CA: September 20, 2000.

NAFTA–TAA–05494; Sportrack Accessories, Div. of Sportrack Automotive, Shelburne, VT: October 26, 2000.

NAFTA–TAA–05398; IFF, Inc., Salem, OR: October 3, 2000.

I hereby certify that the aforementioned determinations were issued during the month of November and December, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 30, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31634 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,809]

Blue Mountain Products Pendleton, OR; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 17, 2001, the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, petition TA–W–38,809. The denial notice was signed on June 18, 2001 and published in the **Federal Register** on July 5, 2001 (66 FR 35462).

The Department has reviewed the request for reconsideration and has determined that further clarification of a survey response from a major customer of the subject firm would be appropriate.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 11th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade. Adjustment Assistant.

[FR Doc. 01–31624 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,908]

Cleveland Caroknit Lawndale, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 27, 2001, in response to a worker petition which was filed on behalf of workers at Cleveland Caroknit, Lawndale, North Carolina.

An investigation applicable to the petitioning group of workers is in process (TA–W–39,518). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 11th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment. Assistance.

[FR Doc. 01–31632 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,133 and TA–W–40,133A]

Eagle Knitting Mills, Inc. Shawano, WI; Eagle Knitting Mills, Inc. Kenosha, WI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 28, 2001, in response to a worker petition at Eagle Knitting Mills, Inc., Shawano and Kenosha, Wisconsin.

A negative determination applicable to the petitioning group of workers was issued on May 14, 2001 (TA–W–39,070). The petition filed in the subject case is identical to that filed for the prior case. No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC this 10th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31631 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,068]

Elizabeth Webbing, Inc. Central Falls, RI; Notice of Revised Determination on Reconsideration

On November 13, 2001, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on December 5, 2001 (66 FR 63263).

On June 25, 2001 the Department initially denied TAA to workers of Elizabeth Webbing, Inc., Central Falls, Rhode Island producing nylon and polyester webbing because the "contributed importantly" group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met.

On reconsideration, the department surveyed additional customers of the subject plant regarding their purchases of nylon and polyester webbing during the relevant period. The survey revealed that customers increased their imports of nylon and polyester webbing, while decreasing their purchases from the subject plant during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with nylon and polyester webbing, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Elizabeth Webbing, Inc., Central Falls, Rhode Island. In accordance with the provisions of the Act, I make the following certification:

All workers of Elizabeth Webbing, Inc., Central Falls, Rhode Island who became totally or partially separated from employment on or after April 9, 2000 through two years of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC this 12th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31623 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,921]

Glenshaw Glass Company, Inc. Glenshaw, PA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of June 11, 2001, the workers requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, petition TA–W–38,921. The denial notice was signed on May 15, 2001 and published in the **Federal Register** on May 25, 2001 (66 FR 28928).

The Department has reviewed the request for reconsideration and has determined that the Department will examine the petitioner's allegation claiming that the parent customer is importing glass containers similar to what the subject plant produced and selling the glass containers to the subject firm's customer base.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore, granted.

Signed at Washington, DC this 30th day of November 2001.

Edward A. Tomchick,

Director, Division of Trade, Adjustment Assistance.

[FR Doc. 01–31620 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,434]

Kentucky, Electric Steel, Ashland, KY; Notice of Termination of Investigation

Pursuant to section 221 of Trade Act of 1974, an investigation was initiated on June 18, 2001 in response to a worker petition which was filed on the same date on behalf of workers at Kentucky Electric Steel, Ashland, Kentucky.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–39,419). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 13th day of December, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31628 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,953]

Steag Hamatech, Inc., Saco, ME; Notice of Revised Determination on Reconsideration

By letter of July 9, 2001, the company, requested administrative reconsideration regrading the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on May 21, 2001, based on the finding that the "contributed importantly;" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The investigation revealed that imports did not contribute importantly to worker separations at the firm. A major portion of production was for the export market. The reason for the separations at the subject firm was the transfer of production aboard. The denial notice was published in the **Federal Register** on June 8, 2001 (66 FR 30947).

To support the request for reconsideration, the company provided additional information clarifying how the company was impacted by imported products like and directly competitive with what was produced at the subject firm.

The company indicated that they were the only domestic manufacturer of this type of equipment (referred to as replication equipment) and that the machinery is a type of capital equipment, which normally is not purchased on an annual basis. The domestic market accounted for a meaningful portion of the subject plant's customer base.

The additional information supplied by the company helped clarity customer response(s) in the survey that was conducted during the original investigation. Upon examination of the survey, it is now clear that major customer significantly increased their imports of machinery like and directly competitive with what the subject plant produced during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports or articles like or directly competitive with those produced at STEAG Hamatech, Saco, Maine contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firms. In accordance with the provisions of the Act, I the following certification:

> All workers of STEAG Hamatech, Saco, Maine, who became totally or partially separated from employment on or after March 21, 2000 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Dated: Signed in Washington, DC this 11th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31622 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,969]

Trico Steel Company Decatur, AL; Notice of Negative Determination Regarding Application for Reconsideration

By application dated July 26, 2001, the company requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on July 5, 2001, and published in the **Federal Register** on July 20, 2001 (66 FR 38026).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Trico Steel Co., Decatur, Alabama was denied because the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended, was not met. The "contributed importantly" test is generally demonstrated through a survey of customers of the workers' firm. Respondents reported that they either did not import or had very minor and declining imports in the relevant time periods.

The petitioner feels that the time period considered in the investigation is not correct. The petitioner states that the January through March 2001 period is not representative of the relevant period. That is, the petitioner indicates that imports of hot rolled products were illegally dumped into the United States during the May through November 2000 period and therefore the Department should look at the 2000 time frame.

During the initial investigation, plant and survey data were examined for the following periods: 1999, 2000 and January through March 2001 over the corresponding 2000 period. Plant sales and production increased substantially from 1999 to 2000, followed by declines through the closure of the plant during March 2001. Employment data reported by the company was stable during the 2000 period.

The survey as already indicated, revealed that the respondents (all customers supplied by the company responded to the survey) reported that they did not import or had very minor and declining imports from 1999 to 2000. The survey further revealed that, during the January through March 2001 period over the corresponding 2000 period, imports were negligible.

Examination of industry data further revealed that United States imports of hot rolled carbon sheet steel decreased both absolutely and relative to the U.S shipments in the January through April 2001 period, compared to the same period one year earlier. In the year 2000, both U.S. shipments and U.S. imports of hot rolled carbon sheet steel increased over the 1999 period. The ratio of U.S. imports to U.S. shipments remained relatively stable in 1999 into 2000. However, during the last eight months of 2000 of the ratio of U.S. imports to U.S. shipments declined.

The petitioner further indicates that the International Trade Commission (ITC) issued a preliminary dumping duties decision against eleven countries and that the ITC investigation would examine possible trade restrictions relating to the dumping of steel under the 201 provision of the trade act.

The Department of Labor does take into consideration such factors as the International Trade Commission (ITC) preliminary dumping duties and the factors that are alleged and decided on, but also investigates each company on the basis of how increased imports impacted products produced by the petitioning plant and how increasing imports contributed importantly to the declines in employment.

The petitioner further indicates that, during the period of January through March 2001, Trico Steel Company was forced to reduce it's capacity by 50% because of high customer inventories of foreign steel that was imported during the fourth quarter of 2000.

Inventory level build up can not be considered in meeting the "contributed importantly" group eligibility requirement of section 222(3) of the Trade Act of 1974, as amended.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error of misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 12th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01-31621 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5085]

Besser Lithibar, Holland, MI; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on July 13, 2001, in response to a petition filed on behalf of workers at Besser Lithibar, Holland, Michigan. Workers produce automated material handling equipment.

A negative determination on an identical petition regarding the same worker group was issued on August 31, 2001. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 12th day of December, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31626 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–04606]

Collis, Inc., Elizabethtown, KY; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of August 30, 2001 the United Steelworkers of America, AFL–CIO–CLC, District 8 requested administrative reconsideration of the Department of Labor's Notice of negative Determination Regarding Eligibility to Apply for NAFTA Transitional Adjustment Assistance. The denial notice was signed on August 8, 2001 and published in the **Federal Register** on August 23, 2001 (66 FR 44378).

The petitioner presented additional information that appears to warrant additional investigation. The information provided by the petitioner shows that a portion of plant production may have been shifted to Mexico. The information further shows the possibility of increased company imports from Mexico contributing importantly to the layoffs at the subject plant.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 17th day of December 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31629 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for NAFTA Transitional Adjustment Assistance

Petitions for transitional adjustment assistance under the North American Free Trade Agreement-Transitional Adjustment Assistance Implementation Act Pub. L. 103–182), hereinafter called (NAFTA–TAA), have been filed with State Governors under section 250(b)(1) of Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended, are identified in the Appendix to this Notice. Upon notice from a Governor that a NAFTA–TAA petition has been received, the Director of the Division of Trade Adjustment Assistance (DTAA), Employment and Training Administration (ETA), Department of Labor (DOL), announces the filing of the petition and takes action pursuant to paragraphs (c) and (e) of section 250 of the Trade Act.

The purpose of the Govenor's actions and the Labor Department's investigations are to determine whether the workers separated from employment on or after December 8, 1993 (date of enactment of P.L. 103–182) are eligible to apply for NAFTA–TAA under Subchapter D of the Trade Act because of increased imports from or the shift in production to Mexico or Canada.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing with the Director of DTAA at the U.S. Department of Labor (DOL) in Washington, D.C. provided such request if filed in writing with the Director of DTAA not later than January 7, 2002.

Also, interested persons are invited to submit written comments regarding the subject matter of the petitions to the Director of DTAA at the address shown below not later than January 7, 2002.

Petitions filed with the Governors are available for inspection at the Office of the Director, DTAA, ETA, DOL, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 11th day of December, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

Subject Firm	Location	Date received at Governor's Office	Petition No.	Articles Produced
Dnkyo America (Co.)	Columbus, IN	12/06/2001	NAFTA–5,601	farm equipment.
Intervet, Inc. (Co.)	Gainesville, GA	12/04/2001	NAFTA–5,602	poultry vaccine.
In Vogue Apparel (Wkrs)	West Hazelton, PA	12/07/2001	NAFTA–5,603	women's slacks.
Jones Aparel Group USA (Wkrs)	Bristol, PA	12/07/2001	NAFTA–5,604	garments.
Hershey Foods (Co.)	Pennsburg, PA	12/07/2001	NAFTA–5,605	confectionary products.
Cooper Standard Automotive (Wkrs).	Fairview, MI	12/07/2001	NAFTA–5,606	automotive rubber tubing.
ANR Pipeline (Wkrs)	Detroit, MI	12/05/2001	NAFTA–5,607	natural gas transmission.
TRW Aeronavtical Systems (Wkrs)	Aurora, OH	12/06/2001	NAFTA–5,608	generators.
Key Industries (Co.)	Buffalo, MO	12/05/2001	NAFTA–5,609	coverall, overalls and jackets.
General Electric Transportation Global (Wkrs).	Grain Valley, MO	12/05/2001	NAFTA–5,610	railroad electronic & communications.
Stylemaster Apparel (Wkrs)	Union, MO	12/05/2001	NAFTA–5,611	men's and women's baseball caps etc.
Domestic Corp. (UAW)	LaGrange, IN	12/03/2001	NAFTA–5,612	air conditioners.
Hibbing Taconite—Cliffs Mining (Wrks).	Hibbing, MN	12/04/2001	NAFTA–5,613	semi finished slabs & finished steel.
Emerson Electronic Connector Components (Wkrs).	Waseca, MN	12/04/2001	NAFTA–5,614	RF coaxial connector assemblies.
Kurt Manufacturing (Wkrs)	Minneapolis, MN	12/05/2001	NAFTA–5,615	machine die cast.

Subject Firm	Location	Date received at Governor's Office	Petition No.	Articles Produced
Midland Steel Products (Co.)	Janesville, WI	12/05/2001	NAFTA–5,616	steel.
Electronic Assembly Corp. (Wkrs)	Neenak, WI	12/04/2001	NAFTA–5,617	electronic products.
Cherry Automative (Wkrs)	Pleasant Prairie, WI	11/13/2001	NAFTA–5,618	electronic products.
Graham Tech (Co.)	Cochranton, PA	12/07/2001	NAFTA–5,619	gaging.
EM Solutions (Wkrs)	Longmont, CO	12/06/2001	NAFTA–5,620	
Biltwell Clothing—Rector Sportwear (Co.).	Rector, AZ	12/05/2001	NAFTA/05/2001	men's tailored pants and slacks.
Lexmark International (Co.)	Lexington, KY	12/05/2001	NAFT–5,622	inkjet printers and cartridges.
Protel, Inc. (Wkrs)	Lakeland, FL	12/03/2001	NAFTA–5,623	pay phones.
AVX Corporation (Wkrs)	Vancouver, WA	12/04/2001	NAFTA–5,624	electronic capacitor.
Alcatel USA Marketing	Andover, MA	11/30/3001	NAFTA–5,625	router.
Milmaukee Electric (Wkrs)	Blytterville, AR	12/05/2001	NAFTA–5,626	electric power tools.
Freightliner PMP (Wkrs)	Gastonia, NC	12/04/2001	NAFTA–5,627	trucks and parts.
Cooper Bussman (Wkrs)	Goldsboro, NC	12/05/2001	NAFTA–5,628	fuses & fuseholders.
ASARCO (Co.)	Strawberry Plains, TN	12/05/2001	NAFTA–5,629	zinc.
Meridian Automotive Systems (UAW).	Controlia, IL	11/30/2001	NAFTA–5,630	fixtures, water jets, heat shield molds.
VF Jeanswear Limited Partnership (Wkrs).	Shenandoah, VA	12/05/2001	NAFTA–5,631	men's and women's bluejeans & casualwear.
VF Jeanswear Limited Partnership (Wkrs).	El Paso, TX	12/07/2001	NAFTA–5,632	men's and women's pants.
Evergreen Wholesale Florist (Wkrs)	Seattle, WA	12/10/2001	NAFTA–5,633	florist—flower arrangement.

[FR Doc. 01–31633 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5254]

Fashion Works, Inc. Dallas, TX; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on August 23, 2001, in response to a petition filed by the company on behalf of workers at Fashion Works, Inc., Dallas, Texas.

The petitioner requests the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 10th day of December, 2001.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 01–31630 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–005302]

Tyco Electronics, TDI Division, Romeoville, Illinois; Notice of Termination

Pursuant to Title V of the North American Free Trade Agreement Implementation Act Pub. L. 103–1 concerning transitional adjustment assistance, hereinafter called NAFTA–TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on September 4, 2001, in response to a petition filed on behalf of workers at Tyco Electronics, TDI Division, Romeoville, Illinois. Workers produced battery packs.

An active certification covering the petitioning group of workers remains in effect (NAFTA–004168). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 11th day of December, 2001.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 01–31627 Filed 12–21–01; 8:45 am]

BILLING CODE 4510–30–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2000–2 CARP CD 93–97]

Distribution of 1993, 1994, 1995, 1996 and 1997 Cable Royalty Funds

AGENCY: Copyright Office, Library of Congress.

ACTION: Order.

SUMMARY: The Librarian of Congress, upon the recommendation of the Register of Copyrights, announces his rejection of the initial and revised reports of the Copyright Arbitration Royalty Panel ("CARP") in the Phase II proceeding in the syndicated programming category for distribution of the 1997 cable royalty funds, and remands the case for a new proceeding before a new CARP.

EFFECTIVE DATE: December 26, 2001.

ADDRESSES: The full text of the CARP's initial report and revised report to the Librarian of Congress are available for inspection and copying during normal business hours in the Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE, Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney for Compulsory Licenses, Copyright Arbitration Royalty Panel ("CARP"), P.O. Box 70977, Southwest Station, Washington, DC 20024–0400. Telephone (202) 707–8380. Telefax: (202) 252–3423.

VOL 66 ISS 247 DE 26 2001 UMI

SUPPLEMENTARY INFORMATION:

Background

Each year, cable systems in the United States submit royalties to the Copyright Office under a statutory license which allows cable systems to retransmit over-the-air television and radio broadcast signals to their subscribers. 17 U.S.C. 111. These royalties are, in turn, distributed in one of two ways to copyright owners whose works were included in the cable retransmissions of over-the-air television and radio broadcast signals and who timely filed a claim for royalties with the Copyright Office. The copyright owners may either negotiate a settlement agreement amongst themselves as to the distribution of the royalty fees or, if they cannot agree, the Librarian of Congress may convene one or more Copyright Arbitration Royalty Panels ("CARPs") to determine the distribution of the royalty fees which remain in controversy. *See* 17 U.S.C. chapter 8.

Cable royalty distribution proceedings are conducted by the Librarian under the CARP system in two phases. In a Phase I proceeding, the total cable royalty pool for a given year or years is divided among different categories of copyrighted programming that typically appear on broadcast programming. These categories are movies and syndicated programming, sports programming, devotional or religious programming, musical programming, commercial and noncommercial broadcast programming, and Canadian programming. Once the royalty pool is divided into these categories, the Librarian conducts one or more proceedings at Phase II to resolve disputes within a particular category as to the division of the royalties. Today's royalty distribution determination is a Phase II proceeding in the movie and syndicated programming category (often referred to collectively as the "program supplier" category).

The litigants in this Phase II proceeding in the program supplier category are the Motion Picture Association of America, Inc. ("MPAA"), which represents the majority of copyright owners who filed claims for a distribution of 1997 cable royalties, and the Independent Producers Group ("IPG"), which represents the remaining copyright owners who filed claims for a cable royalty distribution. The Librarian was required to convene a CARP to resolve this Phase II proceeding because MPAA and IPG could not agree as to the division of royalties in the program supplier category.

After a protracted discovery period, the Librarian convened the CARP in this proceeding on October 17, 2000. As provided by section 802(e) of title 17, United States Code, the CARP had six months to hear the evidentiary presentations and arguments of MPAA and IPG and to render a decision. The CARP delivered its initial report to the Librarian on April 16, 2001, awarding IPG 0.5% of the royalty pool and the remainder to MPAA. After review, the Librarian returned the case to the CARP. By Order dated June 5, 2001, the Librarian dismissed all of the claimants comprising IPG's case except for Litton Syndications, Inc. and directed the CARP to adjust its award to IPG and MPAA to account for the dismissal. In addition, the Librarian directed the CARP to articulate the methodology it was using to assign the new distribution percentages and to detail the application of the methodology to the facts before it. *See* Order in Docket No. 2000–2 CARP CD 93–97 (June 5, 2001). The Librarian fully explains his reasoning for rejecting the initial determination of the CARP in this Order.

On June 20, 2001, the CARP returned a new determination. It awarded IPG 0.212% of the royalty funds, with the remaining 99.788% to MPAA. The Librarian permitted IPG and MPAA an additional round of petitions to modify the CARP's determination and replies. The Register now makes her recommendation to the Librarian following her review of the CARP's determination.

Part One—Decisions of the CARP

The Initial CARP Report

The 108-page initial report of the CARP has three essential parts. The first part deals with the validity of the royalty claim filed with the Copyright Office in July 1998 under 17 U.S.C. 111(d)(4) that forms the basis for IPG's participation in this proceeding. The second part addresses and ascribes the proper representation of specific television programs as between MPAA and IPG. The third part of the report resolves the division of the royalties in the program supplier category between MPAA and IPG. The Panel awarded MPAA 99.50% of the royalties and 0.50% to IPG.

1. IPG's Claim

The validity of IPG's claim was hotly contested in this proceeding. The first challenge was raised in the precontroversy discovery period when MPAA moved to dismiss IPG's Phase II case on the grounds that IPG's claim (marked as No. 176 by the Copyright Office) did not comply with the Office's rules and regulations. MPAA asserted that none of the entities listed in exhibit D of IPG's written direct case, which forms the basis of IPG's claim for royalties, appeared on claim No. 176 as required by § 252.2 of the rules. 37 CFR 252.2. According to MPAA, IPG entered into representation agreements with the exhibit D parties after July 31, 1998 (the closing date for filing cable royalty claims with the Office for calendar year 1997), thereby circumventing the requirement of § 252.2 that all claimants to a joint claim be identified on the claim as filed with the Office.

IPG's compliance with § 252.2 was questionable. Stylized as a "joint claim," IPG identified only one claimant—Artists Collection Group ("ACG"). After the Copyright Office questioned the claim in July of 1998, IPG amended the claim to include ACG and Worldwide Subsidy Group ("WSG").[1] This amendment appeared, on its face, to satisfy the requirements of § 252.2, and the Office did not pursue the matter further. However, when IPG filed a written direct case identifying 16 other parties as claimants, the Library considered MPAA's motion for possible violation of the rule.

In an Order dated June 22, 2000, the Library determined that the prudent course of action was to designate the matter of MPAA's motion to the CARP for further factual findings and final resolution. The Library did this after consideration of IPG's objections to MPAA's motion to dismiss, the language of § 252.2, and the provisions of the Copyright Act related to filing cable royalty claims. The Library rejected IPG's argument that it was acceptable for ACG to file a single claim on behalf of 16 other parties and chastised IPG for not listing the 16 in its joint claim as provided in § 252.2. However, the Library declined to dismiss IPG's case and designated the MPAA motion to the CARP because:

> [T]he Library cannot say with certainty that all previous claims filed in cable royalty proceedings have listed all joint claimants. It is sometimes the case that the Copyright Office will receive a single claim filed by a production company that does not identify any joint claimants. Whether this production company owns all or some of the copyrights represented by the claim, or is just a representative of unidentified copyright owners, is unknown to the Office. To the Library's knowledge, these claims have not been challenged in the past, and this is a case of first impression. Consequently, the Library is not inclined without prior warning to strictly enforce the requirement that all owners and distributors be identified in a joint claim. However, what is clear, and what the law requires, is a factual determination as to which of the owners and distributors identified by IPG in exhibit D of its written

> direct case were in fact represented by Worldwide Subsidy Group [1] at the close of the filing period for 1997 cable claims. Any party listed in exhibit D (with the exception of Lacey Entertainment, which filed its own claim) that was not represented by Worldwide Subsidy Group before August 1998 cannot be said to have filed a timely claim, and therefore testimony contained in IPG's written direct case regarding such party must be stricken.

Order in Docket No. 2000–2 CARP CD 93–97 at 7 (June 22, 2000). The Library directed the CARP to make factual determinations as to whether there existed written agreements between WSG and each of the exhibit D claimants dated on or before July 31, 1998, the close of the cable royalty claim filing period. IPG submitted, as directed by the Library, copies of the representation agreements between WSG and the exhibit D claimants, along with additional corroborating documents to prove the existence of a representation arrangement on or before July 31, 1998.[2]

Upon its convocation, the CARP turned to the task of examining the representation agreements and supporting documents to determine which, if any, of IPG's exhibit D claimants would be allowed to remain in the proceeding. The representation agreements are standard form contracts for representation by WSG in collecting (among other things) cable compulsory license royalties. The contract is effective upon the date identified in the lead paragraph of the contract, which provides that "as of (date)," WSG and the identified party have entered into the agreement. With only two exceptions, none of the signature pages in the representation agreements bore a date indicating when the agreement was signed and executed. Some of the additional documents provided by IPG (copies of letters and faxes) provided context to some of the representation agreements to indicate the time period in which they were signed and executed.

In its report, the CARP examined the documents for each of the exhibit D claimants and decided which claimants had a signed agreement with WSG on or before July 31, 1998, and which did not. The CARP determined that a valid representation agreement existed for the following: Abrams/Gentile Entertainment; Raycom Sports; Flying Tomato Films; Funimation Productions; Golden Films Finance Corporation IV and American Film Investment Corporation II; Litton Syndications, Inc.; Sandra Carter Productions; and The Tide Group d/b/a Psychic Readers Network. The CARP found that while there may have existed a valid representation agreement between WSG and Mendelson/PAWS, WSG's claim of representation was trumped by General Mills, a claimant ascribed to MPAA's claim. The CARP dismissed the United Negro College Fund from IPG's case because it determined that a representation agreement did not exist until sometime in November of 1998, well after the July 31, 1998, deadline.

2. IPG's Programs

As provided in the section 111 cable license, copyrighted works that are retransmitted by cable systems on a distant basis are entitled to royalties collected from cable systems. In the program supplier category, which is the subject of this proceeding, these works are movies and syndicated television programs.

After resolving the matter of which IPG claimants remained in the proceeding, the CARP turned to the task of determining which of the programs claimed by IPG claimants were entitled to a royalty distribution.[3] Some programs were claimed by both IPG and MPAA. The following is a summary of the programs that the CARP credited to IPG's claimants.

a. *Abrams/Gentile Entertainment.* The CARP awarded all five programs claimed by IPG—*Dragon Flyz; Happy Ness, Secret of the Loch; Jelly Bean Jungle; Sky Dancers*; and *Van Pires*—to IPG. MPAA asserted that *Jelly Bean Jungle* belonged to Audio Visual Copyright Society d/b/a Screenrights, rather than Abrams/Gentile, but the CARP determined that "Audio Visual Copyright Society's own 1997 [program] Certification [did] not list such program in its claim." CARP Report at 53.

b. *Raycom Sports.* The CARP awarded all four programs claimed by IPG—*Elvis, His Life and Times; Journey of the African American Athlete; More Than a Game; Our Holiday Memories*—to IPG, finding that the MPAA did not contest any of these titles. CARP Report at 53–54.

c. *Flying Tomato Films.* The CARP did not credit the one program, *Just Imagine*, to Flying Tomato Films, because it determined that Litton Syndications held the syndication rights to the program. CARP Report at 54–55.

d. *Funimation Productions.* The CARP identified only one program belonging to Funimation Productions: *Dragon Ball Z.* The CARP determined that Fox Family Worldwide, not Funimation Productions, was the proper syndicator for *Dragon Ball Z*, and therefore IPG was not entitled to a distribution for this program. CARP Report at 55–56.

e. *Golden Films Finance Corporation IV and American Film Investment Corporation II.* Two programs were claimed by IPG for these companies: *Enchanted Tales* and *Thumbelina*. The CARP determined that *Enchanted Tales* is a series of videos, one of which is *Thumbelina*, and that the syndication rights to these programs belong to Eyemark Entertainment and Summit Media, not Golden Films and American Films. CARP Report at 58. Further, the CARP determined that both *Enchanted Tales* and *Thumbelina* were not retransmitted by cable systems during 1997. *Id.* Consequently, the CARP did not give credit to IPG for these programs.

f. *Litton Syndications, Inc.* IPG identified thirteen programs belonging to Litton in its written direct case: *Algo's Factory; Jack Hanna's Animal Adventures; Dramatic Moments in Black Sports History; Dream Big; Harvey Penick's Golf Lessons; Shaka Zulu; Story of a People; Mom USA; Nprint; Critter Gitters; Sophisticated Gents; The Sports Bar*; and *Bloopy's Buddies*. The CARP eliminated *Shaka Zulu* and *Story of a People* from IPG's claim, finding that syndication rights to *Shaka Zulu* were properly held by Harmony Gold USA, not Litton, and that the proper syndicator for *Story of a People* was unknown. CARP Report at 60–61. The CARP also eliminated *Dream Big*, determining that Warner Brothers, not Litton, was the syndicator of that program. *Id.* at 62. Although both IPG and MPAA claimed *Dramatic Moments in Black Sports History*, the CARP determined that Litton was indeed the syndicator and credited IPG's claim with this program. *Id.* The remaining programs were credited to IPG.

g. *Mendelson/PAWS.* The single program claimed by Mendelson/PAWS, *Garfield and Friends*, was claimed by both MPAA and IPG. MPAA supplied documentary evidence from General Mills indicating that it was the syndicator of *Garfield and Friends*, even though Mendelson/PAWS produced the program. The CARP did not credit IPG with *Garfield and Friends*, determining that Mendelson/ PAWS resolved the dispute by removing its claim. CARP Report at 64–65.

---

[1] IPG by this time had informed the Library that ACG had withdrawn its claim and that WSG was the sole claimant remaining for claim No. 176

[2] The Library amended its regulations after the June 22, 2000 Order to prevent future confusion as to the filing of single and joint claims. *See* 66 FR 29700 (June 1, 2001).

[3] Because all remaining monies in the 1997 program supplier category automatically belonged to MPAA's claimants once IPG's claim was determined, the CARP focused its attention only on IPG's programs.

h. *Sandra Carter Productions*. IPG identified five programs belonging to Sandra Carter: *Bottom Line; By River, By Rail; Flex; Parenting in the 90's; Til Earth and Heaven Ring*. MPAA asserted that *Parenting in the 90s* belonged to Audio Visual Copyright Society d/b/a/ Screenrights, but the CARP determined that Screenrights did not list that program in their certification to MPAA and credited it to IPG. CARP Report at 66. The CARP determined that *Bottom Line; By River, By Rail*; and *Til Earth and Heaven Ring* appeared on television station WBAL-TV, Baltimore, Maryland, and was not subject to a distant retransmission by a cable system. These programs were removed from IPG's claim. *Id.* at 66–67. Finally, the CARP credited *Flex* to IPG.

i. *The Tide Group d/b/a Psychic Readers Network*. IPG claimed several programs for the Tide Group that had multiple titles. The CARP credited IPG with *Alcatraz* as one program, *Kenny Kingston* as one program, and *Psychic Readers* (with its alternate title *Psychic Readers Network*) as one program. CARP Report at 68.

j. *United Negro College Fund*. IPG claimed one program for the United Negro College Fund: *Lou Rawls Parade of Stars*. However, the CARP determined that the United Negro College Fund did not have a valid representation agreement with WSG by July 31, 1998. Consequently, IPG did not receive credit for *Lou Rawls Parade of Stars*. CARP Report at 69–70.

k. *Lacey Entertainment*. Both MPAA and IPG claimed credit for Lacey Entertainment's two programs: *America's Dumbest Criminals* and *Mega Man*. The CARP found that Lacey confirmed that MPAA was its representative for section 111 royalties for *Mega Man* and that Lacey was not the U.S. distributor for *America's Dumbest Criminals*. Consequently, the CARP did not credit IPG with these programs. CARP Report at 71–72.

3. The Distribution Percentages

The third part of the CARP's report, which awards IPG 0.5% of the royalties and MPAA 99.5%, is the most troubling portion. After leveling a number of criticisms at both MPAA's and IPG's proposed distribution methodologies, the CARP failed to articulate the method it settled upon in assigning the 0.5% and 99.5% awards.

Both MPAA and IPG proposed detailed methodologies for determining the royalty awards in this proceeding. MPAA's methodology is based upon viewership analysis of movies and syndicated television programs retransmitted by cable systems in 1997 on a distant signal basis. The underlying premise of the MPAA formula is that actual viewing of movies and syndicated television programs by cable subscribers is the best way to determine the marketplace value of the programming. The source elements for determining actual viewership are: (1) TVData station logs, which show the programs broadcast by the stations and the date and time of their broadcast, for the 82 television stations used by MPAA in its sample survey; (2) a special study of the same 82 stations for the sweeps period conducted by Nielsen Media Research; (3) program ownership data (i.e. which claimants to the 1997 cable royalties own which programs) as contained in the Cable Data Corporation ("CDC") database; and (4) the weighting factors used by CDC to interpolate viewing for non-sweeps months when data from Nielsen is not available. CARP Report at 81.

The CARP described the details of MPAA's distribution methodology as follows:

> MPAA selects 82 of the most heavily carried stations retransmitted as a distant signal by Form 3 system operators. Form 3 systems subscribers comprise the largest group of cable subscribers—89% and their gross receipts represent the largest portion—96.5%—of the 1997 cable royalty fund.
>
> The program schedules of these stations are acquired from TVData. The program information is matched to viewing data provided by Nielsen Media Research ("Nielsen"). In particular, Nielsen provides the number of quarter hour segments (QH) each program aired on the station and the average number of cable subscribers who viewed each program on that station on a distant basis.
>
> For each station in the MPAA sample, Nielsen goes into the diary database of approximately 150,000 homes for each sweep, eliminates diaries in local area of the station (as supplied by MPAA), sums the weights by quarter hour for each diary and generates estimated projections on quarter-hour-by-quarter-hour basis.
>
> MPAA then calculates the household viewing hours (HHVH) for each series and motion picture in the study. Household viewing hours for every program (claimed and unclaimed) is [sic] calculated for each program using the Nielsen data and interpolated audience data for non-sweeps periods.
>
> After reconciling programs with broadcast times, MPAA then calculates the household viewing hours (HHVH) for each series and motion picture in the study using the Nielsen data and interpolated audience data.
>
> The HHVH formula is: $(\Sigma QH/4) \times DCHH = HHVH$. The formula may be stated as follows: Add the total number of QH segments a program is broadcast in a particular time slot on a particular station. The sum is divided by four to get an hourly measure. The result is multiplied by the average number of distant cable households (DCHH) that actually watched the program on that station during the time period.

CARP Report at 81–82 (footnotes omitted). Applying MPAA's formula to the 1997 data yields, according to MPAA, a determination that programming represented by MPAA received 99.9292% of the total distant viewing—3,474,810,364 viewing hours out of 3,477,272,694 total viewing hours. MPAA therefore asked for 99.9292% of the 1997 cable royalties. MPAA Findings of Fact at 20, ¶ 55.

IPG proposed a different distribution methodology which yields a greater distribution percentage to IPG. Instead of focusing on viewership as the main valuation method, IPG's methodology operates from the premise that it is best to look at the availability of programming offered to subscribers and the benefits received by the cable operators who retransmit that programming. IPG submits that while the decision of a television station to transmit a particular program is driven by a desire for viewership ratings, cable systems are not concerned with viewership of a particular program, but rather are concerned with attracting and holding the greatest number of subscribers by offering multiple programming choices. IPG attempts to place a value on each and every broadcast using the following data: (1) The number of distant cable subscribers capable of receiving the program broadcast during 1997; (2) the distant retransmission royalties generated during 1997 that are attributable to stations broadcasting a particular program; (3) the time placement of the broadcast; and (4) the length of the particular broadcast. CARP Report at 95.

The CARP described IPG's distribution methodology as follows:

> IPG expanded MPAA's station sample to 99 television stations, including only those with a combined percentage of distant cable subscribers and "fees gen." (fees generated) significantly greater than the original selection. The added stations were heavily retransmitted according to distant subscribership data for Form 1, Form 2, and Form 3 cable systems.
>
> IPG secured data from TVData reflecting all programs broadcast on the 99 Sample Stations, 24 hours a day, for the entire year of 1997 and segregated programming compensable in the syndicated programming category.
>
> IPG accorded a "Station Weight Factor" to each and every compensable broadcast blending of (i) the average percentage of distant cable subscribers capable of viewing the station of broadcast and (ii) the average percentage of "fees gen." attributable to the station of broadcast, as compared to the other 99 Sample Stations.

> IPG then accorded a "Time Period Weight Factor" based on the time period or daypart of the program broadcast, weighted according to data derived from the "1998 Report on Television" published by Nielsen Media Research, and factored in the length of each such broadcast.

CARP Report at 96 (footnotes omitted; parenthetical not in original). Applying IPG's methodology to its data yields, according to IPG, a determination that 0.881% of the aggregate Sum Weighted Value of all programs claimed in this proceeding belongs to IPG. IPG Findings of Fact at 16–17, ¶ 51.

Both MPAA and IPG leveled criticisms at each other's methodologies, and the CARP details those criticisms. *See* CARP Report at 82–94 (IPG); 97–102 (MPAA). The CARP accepted the following criticisms of MPAA's approach:

—MPAA's direct testimony did not sufficiently lay the foundation for the survey or explain its results.

—The Panel was forced to call its own witnesses, Mr. Lindstrom from Nielsen, and Mr. Larson from Cable Data Corporation to explain their methods of data acquisition and reporting.

—The number of sampled stations [in MPAA's station survey] has declined without adequate explanation.

—Station selection criteria was excluded Form 1 and Form 2 cable systems.

—The number of "zero" viewing hours shows the flaw in attempting to use the Nielsen data as a proxy for the retransmission market especially since Nielsen had 24 hour sampling capability in 1997.

—There are unanswered technical questions regarding relative error rates and mixing diary and meter data.

—The method of interpolation of non-sweep month estimated viewing needs statistical validation.

—There is an overvaluation of WTBS and under-valuation of the other Superstations in the survey.

Id. at 102–103.

The CARP found the following criticisms of IPG's methodology:

—A mathematically sound basis for the creation and application of the station weight factor and time period weight factor should have been presented by a statistician.

—Daypart data was misapplied thus overstating "all other" viewing.

—It doesn't directly address the marketplace value of the works transmitted, a primary criteria.

Id. at 103.

After stating that it was "recogniz[ing] the strengths and weaknesses" of MPAA's and IPG's approaches, the Panel proceeded to summarily award IPG 0.5% of the 1997 cable fund and the remaining 99.5% to MPAA. The CARP did observe that "certain "claimants" had not satisfied the criteria for asserting their claims and certain programs were not qualified. The Panel did not award any royalty allocation for such unqualified "claimants" nor did it award any royalty allocation for unqualified programs." *Id.* at 106.

Standard of Review

Section 802(f) of the Copyright Act directs that, upon the recommendation of the Register of Copyrights, the Librarian shall adopt the report of the CARP "unless the Librarian finds that the determination is arbitrary or contrary to the applicable provisions of this title." The narrow scope of review has been discussed in great detail in prior decisions which have concluded that the use of the term "arbitrary" in this provision is no different than the "arbitrary" standard described in the Administrative Procedure Act, 5 U.S.C. 706(2)(A). *See* 63 FR 49823 (September 18, 1998); 63 FR 25394 (May 8, 1998); 62 FR 55742 (October 28, 1997); 62 FR 6558 (February 12, 1997); 61 FR 55653 (October 28, 1996). Thus, the standard of review adopted by the Librarian is narrow and provides that the Librarian will not reject the determination of a CARP unless its decision falls outside the "zone of reasonableness" that had been used by the courts to review decisions of the Copyright Royalty Tribunal ("CRT"). *See National Cable Television Ass'n.* v. *Copyright Royalty Tribunal*, 724 F.2d 176, 182 (D.C. Cir. 1983). Moreover, based on a determination by the Register and the Librarian that the Panel's decision is neither arbitrary nor contrary to law, the Librarian will adopt the CARP's determination even if the Register and the Librarian would have reached conclusions different from the conclusions reached by the CARP.

The U.S. Court of Appeals for the District of Columbia Circuit has stated, however, that the Librarian would act arbitrarily if "without explanation or adjustment, he adopted an award proposed by the Panel that was not supported by any evidence or that was based on evidence which could not reasonably be interpreted to support the award." *See National Ass'n of Broadcasters* v. *Librarian of Congress*, 146 F.3d 907, 923 (D.C. Cir. 1998).

For this reason, the Panel must provide a detailed rational analysis of its decision, setting forth specific findings of fact and conclusions of law. *See National Cable Television Ass'n.* v. *Copyright Royalty Tribunal*, 689 F.2d 1077, 1091 (D.C. Cir. 1992) (requiring CRT to weigh all relevant considerations and set out its conclusions in a form that permits the court to determine whether it has exercised its responsibilities lawfully).

It is then the task of the Register of Copyrights to review the Panel's report and make her recommendation to the Librarian as to whether it is arbitrary or contrary to the provisions of the Copyright Act and, if so, whether and in what manner the Librarian should substitute his own determination.

Remand to the CARP

After receiving the CARP's initial determination, the Register of Copyrights recommended, and the Librarian accepted, that the Report be rejected and remanded to the CARP for further consideration. It was apparent from reviewing the Report that the CARP had acted arbitrarily in three instances: (1) The CARP misapprehended the intent of the June 22, 2000, Order designating consideration of the circumstances of IPG's representation agreements with its exhibit D claimants; (2) the CARP awarded programs to an IPG claimant when there was no introduction of evidence as to the value of the program and assigned another program to IPG without adequate explanation of its decision; and (3) the CARP failed to articulate the reasoning it used in arriving at a distribution percentage of 0.5% for IPG and 99.5% for MPAA. *See* Order, Docket No. 2000–2 CARP CD 93–97 (June 5, 2001).

1. Dismissal of Additional IPG Claimants

As discussed above, the status of IPG's claim No. 176 has been a focal point of this proceeding. MPAA has moved to dismiss IPG's entire claim no less than three times, claiming that claim No. 176 flouts the Copyright Office's rules and the statute, and is a fraud on the Library. The CARP appears to agree with MPAA's contentions, but stops short of dismissing most if not all of IPG's exhibit D claimants, noting that it "is attempting to accommodate the Copyright Office's previously created, one-time exception to the strict enforcement of the Copyright Office's claim filing rules, while aspiring to achieve fairness for all affected claimants." CARP Report at 42.

The Register concludes that the CARP did not follow the direction and intent of the June 22, 2000, Order directing it to consider the status of IPG's representation of the exhibit D

VOL 66 ISS 247 DE 26 2001 UMI

claimants. The rule and intent of that Order are as follows.

Section 111(d)(3) of the Copyright Act states that royalties collected from cable systems under the cable statutory license may only be distributed to copyright owners "who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period." 17 U.S.C. 111(d)(3). This means that it is copyright owners—individuals or entities that own one or more of the exclusive rights granted by section 106 of the Copyright Act—that are entitled to royalty fees, not those who represent them in CARP proceedings. The statute also provides that royalty fees may only be distributed to "claimants" that file a claim with the Copyright Office during the month of July for royalties collected in the previous calendar year. 17 U.S.C. 111(d)(4)(A). Further, the statute states that claims filed with the Copyright Office shall be submitted "in accordance with requirements that the Librarian of Congress shall prescribe by regulation." *Id.*

The Librarian adopted such regulations, which are found at part 252 of 37 CFR. Section 252.3 of the rules prescribes the content of a cable claim, distinguishing between "individual claims" and "joint claims." An "individual claim" involves royalties that are being sought by a single "claimant," whereas a "joint claim" involves two or more "claimants." The requirements for an "individual claim" are "a general statement of the nature of the claimant's copyrighted works and identification of at least one secondary transmission by a cable system of such works establishing a basis for the claim." 37 CFR 252.3(a)(4). "Joint claims" have an additional requirement. If the claim is a "joint claim," there must be "a concise statement of the authorization for the filing of the joint claim, and the name of each claimant to the joint claim." 37 CFR 252.3(a)(3). Additionally, the "joint claim" must have "a general statement of the nature of the joint claimants' copyrighted works and identification of at least one secondary transmission of one of the joint claimants' copyrighted works by a cable system establishing a basis for the joint claim." 37 CFR 252.3(a)(4).[4]

The June 22, 2000, Order recounts the history of § 252.3, and it will not be repeated here. *See* June 22 Order at 2–5. The importance about § 252.3 in the context of this proceeding is that it uses the word "claimant" in the text, as opposed to the terms "copyright owner" or "holder of one or more of the exclusive rights granted by section 106 of the Copyright Act." IPG argued to the Library in response to MPAA's initial motion to dismiss its claim that it was acceptable for Artists Collection Group ("ACG") to file an individual claim, even though it represented several copyright owners, because it was the only "claimant" submitting a claim. June 22 Order at 5. If § 252.3 had used the term "copyright owner" instead of "claimant," then this clearly would not be a permissible interpretation of the rule. The Library disagreed with IPG's interpretation of § 252.3, concluding instead that what ACG had filed was in reality a joint claim, because it was representing only a group of copyright owners who would ultimately be entitled, under 17 U.S.C. 111(d)(3), to the royalties. *Id.* at 6. However, ACG did not list the exhibit D claimants it represented on the claim, as required by § 252.3(a)(3) for joint claims, other than to list Worldwide Subsidy Group ("WSG") which, as was revealed in the proceedings before the CARP, was nothing more than an unregistered, fictitious business name for ACG. CARP Report at 35. The Library did not take the harsh step of dismissing IPG's claim for ACG's failure to list the exhibit D claimants on claim No. 176. Instead, the Library made a one-time exception to the requirement by affording IPG the opportunity to prove that ACG/WSG had entered into valid written representation agreements with each of the exhibit D claimants on or before July 31, 1998, the last day for filing claims to 1997 cable royalties. The Library did this because it could not

> say with certainty that all previous claims filed in cable royalty proceedings have listed all joint claimants. It is sometimes the case that the Copyright Office will receive a single claim filed by a production company that does not identify any joint claimants. Whether this production company owns all or some of the copyrights represented by the claim, or is just a representative of unidentified copyright owners, is unknown to the Office. To the Library's knowledge, these claims have not been challenged in the past, and this is a case of first impression. Consequently, the Library is not inclined without prior warning to strictly enforce the requirement that all owners and distributors be identified in a joint claim.

June 22 Order at 7.

In designating to the CARP for factual determination the status of ACG/WSG as representatives of the exhibit D claimants, the Library offered some decisional guidelines:

> First, because Worldwide Subsidy Group did not list any joint claimants, IPG has the burden of proving that it represented each of the exhibit D parties for distribution of 1997 cable royalties on or before July 31, 1998. Second, IPG must submit written proof of representation for each exhibit D party. Written proof is required because claim No. 176 does not identify any of the exhibit D parties, and because testimonial evidence alone will not preserve the integrity of the law and the regulations which prohibit adding parties to a joint claim after the fact. Proof must be in the form of written agreements of representation between IPG and each of the exhibit D parties executed on or before July 31, 1998. Finally, if the CARP determines that one or more of the exhibit D parties were not validly represented by Worldwide Subsidy Group for distribution of 1997 cable royalties on or before July 31, 1998, the CARP must strike that portion of IPG's written direct case related to that party or parties.

June 22 Order at 7

After issuance of the June 22 Order, IPG petitioned the Library for reconsideration, asserting that it had written material in addition to the standard form contract entered into between WSG and the exhibit D claimants that clarified that a representational arrangement existed on or before July 31, 1998. The Library clarified that the "June 22 Order's requirement that proof of representation "must be in the form of written agreements" does not mean that IPG's standard representational agreement form is the only acceptable document that proves timely representation." Order in Docket No. 2002–2 CARP CD 93–97 at 4 (September 22, 2000). The Library allowed IPG to submit additional documentation, but did not permit the introduction of testimonial evidence. IPG submitted the additional documents, which consisted of letters and faxes discussing the representational contracts submitted earlier by IPG, on October 10, 2000 (these documents are hereinafter referred to as the "October 10 documents").

The Library has reviewed the representational contracts and the October 10 documents for all sixteen of the exhibit D claimants. Several things are evident from this examination. First, with the exception of two of the contracts, they do not contain any dates of execution of the signature page.[5] Rather, the contract bears a provision, in the lead paragraph, that it is effective "as of" a certain date. In all instances this date is on or before July 31, 1998. Second, it is apparent from the October 10 documents that the "as of" date in the contract is not the date of execution of the contract. Rather, it was the practice of WSG to send a copy of its contract to a potential client during negotiations for representation and type in the "as of" date at that time. The contract may not have been signed and executed for weeks, or even months, after the "as of" date. Third, there are not October 10 documents for all of the exhibit D parties. For some, the only document evidencing representation is the contract itself bearing the "as of" date.

---

[4] See footnote 2, *supra.*

[5] The contract with Jay Ward Productions was dated "11/02/99." IPG, however, voluntarily withdrew Jay Ward Productions from its case. Likewise, Mainframe Entertainment's contract was dated October 8, 1998, and IPG also withdrew Mainframe from its case.

In each instance, with the exception of the United Negro College Fund, the CARP accepted the "as of" date on the representational contracts as evidence that a representational agreement existed on that date. The Register determines that that decision is arbitrary because it runs contrary to the evidence presented to the CARP. The Register also determines that the Panel's decision on this point countervails the June 22 Order. Pursuant to the terms of that Order, the burden was squarely on IPG to demonstrate through documentary evidence that a valid representational arrangement existed on or before July 31, 1998. The "as of" date is not evidence of such an arrangement, because it is clear from the October 10 documents that the contracts were signed sometime after the "as of" date. In those circumstances where there is documentary evidence that the contract was signed on or before July 31, 1998, IPG has met its burden of proving a representational arrangement.

For Raycom Sports, Abrams/Gentile Entertainment, Funimation Productions, and Sandra Carter Productions, the only documents supplied by IPG are the representational contracts. Because the "as of" dates on these contracts do not prove the dates of their execution, it cannot be determined whether they were signed, and a valid representational arrangement existed, on or before July 31, 1998. Consequently, these parties are dismissed from this proceeding.

There are October 10 documents for The Tide Group d/b/a Psychic Readers Network, but they do not prove that the representational contract had been signed or that a valid representational arrangement had been reached on or before July 31, 1998. Consequently, this party is dismissed.

The CARP dismissed the United Negro College Fund because the October 10 documents suggested that the representational contract was not signed on or before July 31, 1998. The contract bears no date on the signature page, and an "as of" date of July 30, 1998, is handwritten in the first paragraph. There are October 10 documents discussing entering into a representational agreement in November of 1998, which led the CARP to conclude that a representational arrangement did not exist as of July 30, 1998. IPG has not met its burden of demonstrating that a representational arrangement existed on or before July 31, 1998. Consequently, the Register accepts the CARP's determination to dismiss the United Negro College Fund.

The only exhibit D party for which IPG has met its burden is Litton Syndications.[6] While there is no date of execution on the Litton/WSG contract, there is a June 16, 1998, letter from Peter Sniderman of Litton to Raul Galaz of WSG stating that "enclosed are four copies of the executed Litton Syndications, Inc.—Worldwide Subsidy Group agreement." In addition, there is a June 18, 1998, letter from Galaz to Sniderman stating that "enclosed herein please find two (2) fully executed originals of the above-referenced agreement." It is clear from these documents that a valid representational arrangement existed between Litton and WSG prior to July 31, 1998. IPG has therefore met its burden as provided in the June 22 Order.

2. The Status of ACG, WSG and IPG

After the extended discussion and analysis of claim No. 176 in the June 22 Order and above, one might believe that the validity of claim No. 176 is definitively resolved. This is not so, because of issues surrounding the names—ACG and WSG—that appeared on the claim. The Library must therefore resolve whether claim No. 176 was a deliberately perpetrated fraud on the Copyright Office and the section 111 filing system.

The CARP Report devotes a considerable amount of discussion to the identity and status of ACG, WSG, and IPG. It is a complicated discussion. When claim No. 176 was originally filed with the Copyright Office on July 11, 1998, it listed ACG as the sole claimant. ACG was incorporated in May of 1998 in the state of California by Raul Galaz, its principal, for the apparent purpose of representing claimants before the Library for cable and satellite television royalties. Although ACG was the only claimant on claim No. 176, the claim stated that it was a joint claim being filed on behalf of ACG and "on behalf of others." Claim No. 176. Mr. Galaz signed the claim. When Mr. Galaz was informed by the Copyright Office that in order for claim No. 176 to be a joint claim it must identify at least one other claimant, he amended claim No. 176 to include WSG. At that time, WSG was nothing more than an unregistered, fictitious business name for ACG. The following year, Mr. Galaz moved from California to Texas, whereupon he filed articles of incorporation for WSG in Texas. Before leaving California, Mr. Galaz also registered the name WSG in California as a fictitious business name for WSG.

Once in Texas, Mr. Galaz took steps in 2000 to dissolve ACG by filing articles of dissolution in California for ACG. This left WSG as a Texas corporation. Mr. Galaz then adopted an unregistered, fictitious business name for WSG in Texas: IPG. When MPAA moved to dismiss claim No. 176 in June of 2000, IPG informed the Library in a footnote of its opposition to the motion that ACG had voluntarily withdrawn its claim from the proceeding, leaving WSG Texas/IPG as the sole claimant in this proceeding.

The first question is whether these various changes in identity were an attempt to perpetrate a fraud on the Copyright Office by hiding from the Office the real claimants in this proceeding. In other words, did IPG deliberately refrain from listing its exhibit D claimants in claim No. 176 (Litton, Flying Tomato Films, et al.) because it was hiding something from the Office? Assuming that listing only ACG and WSG (California) on claim No. 176 was not an honest mistake, as IPG vigorously claims that it was, the only reason the Library can divine for not listing the exhibit D claimants was that ACG/WSG did not then represent some or all of those claimants or, in the alternative, ACG/WSG did not want to preclude the possibility of signing up additional claimants after the July 31, 1998, deadline.

Whether or not this was ACG/WSG's true motivation is unknown, although the CARP at least suggests a sinister element in Mr. Galaz's actions. CARP Report at 42. In any event, the Register believes that the Library has satisfactorily dealt with the status of IPG's representation of the exhibit D claimants in the June 22, 2000, Order and the above discussion. It is apparent that WSG—i.e., Mr. Galaz—had a valid

---

[6] The remainder of the exhibit D parties have been either withdrawn from the preceeding, or their programs have been credited to another. The programs of Beacon Communications Corp., Cosgrove-Meurer Productions, Jay Ward Productions, Mainframe Entertainment, and Scholastic Entertainment were withdrawn by IPG. Flying Tomato Films' program was credited to Litton. CARP Report at 55. Mendelson/PAWS, Inc.'s programs were credited to MPAA. *Id.* at 64. The CARP determined that Golden Films Finance Corporation IV and American Film Corporation II were not entitled to a distribution because their programs were not retransmitted by a cable system on a distant basis. *Id.* at 58. Lacey Entertainment's programs were credited to MPAA. *Id.* at 71–72.

VOL 66 ISS 247 DE 26 2001 UMI

representation arrangement with Litton Syndications in July of 1998 before the close of the cable claim filing period. The Library need not make any determination as to whether Litton's agreement was with ACG/WSG California, WSG Texas, or IPG. Any attempt to do so would necessarily involve questions of state law with respect to the effect of incorporation of a company and use of fictitious business names. Such determinations are beyond the jurisdiction of the Library and are unnecessary in this proceeding. Mr. Galaz/WSG had a valid representation agreement with Litton in July of 1998, and Litton affirms this relationship by allowing IPG to represent it in this proceeding. Because the Library has agreed—this one time [7]—that it was acceptable that Litton did not appear on claim No. 176, *supra*, Litton has a valid claim in this proceeding.

The second question surrounds ACG's voluntary withdrawal from this proceeding. MPAA contends that when ACG withdrew its claim that left only WSG California on claim No. 176, and WSG California was nothing more than a fictitious business name for ACG. MPAA Petition to Modify CARP Report at 33. Litton's representation agreement is with WSG Texas, which is not a claimant in this proceeding, and therefore claim No. 176 must be dismissed. IPG responds that it was counsel's mistake to inform the Library that ACG had withdrawn its claim and that such mistake should be discounted because it appeared in a footnote to an opposition to MPAA's motion to dismiss. IPG Reply to MPAA Petition to Modify CARP Report at 27–29.

Once again, the legal status of ACG, WSG California, WSG Texas, and IPG involve questions of state law beyond the jurisdiction of the Library. While it is true that IPG did state that the claims of ACG were withdrawn, it is illogical to assume that IPG was effectively ending its case by rendering claim No. 176 void. Rather, it is apparent that IPG believed that it held all rights of ACG when it sought to dissolve ACG in California, particularly since Mr. Galaz was the principal for both organizations. It would work a serious injustice to deny Litton royalties based upon a determination that Mr. Galaz made a technical error in assuming that all rights of ACG were held by IPG before ACG withdrew from the proceeding. Indeed, while IPG stated that it was withdrawing ACG's claim, the Library did not enter any order to that effect, leaving the status of ACG in this proceeding unresolved. Certainly, the actions of Mr. Galaz are not to be condoned and should serve as a warning to future claimants to make sure that proper transfers of rights between corporations are effected prior to seeking dismissal or dissolution of a claimant. However, the Library has determined that a valid representation arrangement existed for Litton and that, in this instance, it is appropriate that Litton's claim be allowed to go forward.

Finally, there is the question of the programs listed on claim No. 176. Section 252.3(d)(4) requires that for joint claims there must be an "identification of at least one secondary transmission of one of the joint claimants' copyrighted works by a cable system establishing a basis for the joint claim." 37 CFR 252.3(a)(4). ACG listed two programs on claim No. 176, *Unsolved Mysteries* and *Garfield and Friends*, neither of which was ultimately credited to IPG. *Unsolved Mysteries* was dropped from IPG's case because it was determined that it was a network program not eligible for section 111 cable royalties. Both IPG and MPAA claimed *Garfield and Friends*, and the CARP ultimately determined that it was properly credited to MPAA. This means that ACG did not identify a secondary transmission on claim No. 176 that belonged to one or more of its joint claimants.

The purpose of requiring identification of at least one secondary transmission by a cable system is to permit the Copyright Office to determine if the claim is facially valid. In other words, if a claimant lists a network program, or a program that was not retransmitted in the calendar year for which royalties are sought, the Office can take immediate action either to request further information, or to dismiss the claim. The Office has contemplated amending its rules to require claimants to identify all the programs that comprise their claim, but is aware that there is considerable opposition among copyright claimants to adopting such a requirement. If the program listed on a claim appears facially valid, the Office does not attempt to resolve its ownership status and the claim is allowed to go forward. In this case, it is apparent that IPG had a colorable claim to *Garfield and Friends*, believing that it had a valid representation agreement with Mendelson/PAWS, the producer of the *Garfield* programs. The CARP determined, however, that MPAA had a stronger claim, ruling that General Mills held the syndication rights to the programs. Consequently, this is not a case where IPG had no realistic claim to *Garfield and Friends*.[8]

Given the dispute over ownership rights of *Garfield and Friends*, the Register determines that it would be unjust to invalidate all of the claims covered by claim No. 176 because it was ultimately determined that MPAA held the superior claim to the program. Were we to rule the other way, it would make § 252.3(a)(4) a trap for unwary joint claimants. Since the rule requires identification of only one secondary transmission, hundreds of joint claims could potentially be invalidated if a single program is identified that, after litigation before a CARP, is determined to have a superior claimant. There is also the question of what might happen if the joint claimant with the single identified program withdraws its claim or changes representation in the proceeding. Such gamesmanship could potentially wipe out many otherwise valid claims from the proceeding. Because IPG had a colorable claim to *Garfield and Friends* at the start of this proceeding, it would be unjust to invalidate claim No. 176 because the program was ultimately awarded to MPAA.

In sum, the Register concludes that claim No. 176 is sufficiently valid to allow the claim of Litton, as described below, to go forward in this proceeding and receive a distribution of royalties.

3. Programs Credited to Litton

During proceedings before the CARP, IPG claimed thirteen programs for Litton: *Algo's Factory; Jack Hanna's Animal Adventures; Dramatic Moments in Black Sports History; Dream Big; Harvey Penick's Private Golf Lessons; MomUSA; Nprint; Critter Gitters; Shaka Zulu; Sophisticated Gents; The Sports Bar, Bloopy's Buddies* and *Story of a People*. The CARP did not credit IPG with *Shaka Zulu*, finding that the program properly belonged to Harmony Gold USA, and determined that *Story of a People* was an unclaimed program. The CARP also did not credit IPG with *Dream Big*, determining that it was properly claimed by Warner Bros. as the syndicator of the program. The remaining programs were credited to IPG.

In its petition to modify the initial decision of the CARP, MPAA challenges the CARP's determination to credit Litton with *Dramatic Moments in Black Sports History, Critter Gitters,* and *Bloopy's Buddies.* The CARP credited *Critter Gitters* and *Bloopy's Buddies* to Litton because these programs appeared on Litton's representation agreement with WSG. CARP Report at 59. Both MPAA and IPG claimed *Dramatic Moments in Black Sports History.* After allowing evidentiary supplements to IPG's and MPAA's claim on this program, the CARP stated that "[i]n view of the entire supplemented record, therefore, the CARP finds that *Dramatic Moments in Black Sports History* is represented under the IPG rather than the MPAA claim." *Id.* at 61–62.

---

[7] See footnote 2, *supra*.

[8] The same cannot be said for *Unsolved Mysteries*. *Unsolved Mysteries* is a network program which can never be eligible for section 111 royalties. *See* 17 U.S.C. 111(d)(3)(A) (only nonnetwork programs are eligible for distributions). ACG should have known that *Unsolved Mysteries* failed to satisfy the requirements of 37 CFR 252.3(a)(4). If this had been the only program that ACG listed in claim No. 176, there would be solid grounds for dismissal of the claim.

With respect to *Critter Gitters* and *Bloopy's Buddies,* MPAA asserts that "IPG made no claim for either program" and "presented no evidence of their value." MPAA Petition to Modify CARP Report at 44. Further, MPAA asserts that the CARP "cites no evidence that either program was broadcast in the United States." *Id.* With respect to *Dramatic Moments in Black Sports History,* MPAA argues that:

> The program is listed in MPAA's list of claimed programs. The claimant—New Line Cinema Corporation—appears on MPAA's list of claimants. It appears on the alpha list as owned by New Line Cinema. New Line *has* certified its entitlement to royalties for *Dramatic Moments in Black Sports History.* The record, therefore, only will support a conclusion that MPAA represents New Line.

Id. at 43–44 (footnotes omitted).

In response to MPAA's challenge of *Critter Gitters* and *Bloopy's Buddies,* IPG acknowledges that it made no claim in these programs and did not present any evidence of their value "because both programs appear to have been broadcast exclusively on non-commercial television stations." IPG Reply to MPAA Petition to Modify CARP Report at 34. IPG "does not challenge modification of the Panel Report to reflect that such programs were not claimed by IPG." *Id.* IPG does assert, however, that there was evidence supporting its claim to *Dramatic Moments in Black Sports History,* stating that the program is "expressly identified in the contract between Litton and WSG" and was therefore properly credited to IPG. *Id.*

It is apparent that the CARP acted arbitrarily in crediting IPG with *Critter Gitters* and *Bloopy's Buddies,* and the Register recommends rejecting this determination and removing the programs from Litton's list. With respect to *Dramatic Moments in Black Sports History,* the CARP offered no reasons or explanation as to why it was awarding the program to IPG rather than MPAA, other than to state that such result was obtained "[i]n view of the entire supplemented record." CARP Report at 61–62. Unexplained decisionmaking is the hallmark of arbitrary action. The Register therefore recommends rejection of the CARP's award of *Dramatic Moments in Black Sports History* to IPG. The June 5, 2001, Order directed the CARP to explain its reasoning for awarding *Dramatic Moments in Black Sports History* to IPG.

In sum, the June 5, 2001, Order directed the Panel to credit the following programs to Litton: *Algo's Factory; Jack Hanna's Animal Adventures; Harvey Penick's Private Golf Lessons; Mom USA; Nprint; Sophisticated Gents; The Sports Bar;* and *Just Imagine.*[9] The Order also directed the CARP to explain its reasons for crediting *Dramatic Moments in Black Sports History* to IPG and, if it continued to believe that it made the correct determination, to credit IPG with that program.

4. The Royalty Awards

The CARP awarded IPG 0.5% of the program supplier category funds, and the remaining 99.5% to MPAA. The CARP, however, failed to explain its reasoning or its methodology for bestowing these awards. Because unexplained decisionmaking by a CARP is arbitrary, the CARP's awards must be rejected. The June 5, 2001, Order remanded the matter to the CARP to determine new awards for IPG and MPAA, in light of the decision announced in that Order to dismiss additional IPG claimants and programs, and to explain the reasoning for the new awards.

The CARP's failure to articulate any reasons for the 0.5% and 99.5% awards, and the methodology it used to produce these numbers, is puzzling. The CARP began its analysis in an appropriate fashion, fully detailing in its report the distribution methodologies proposed by IPG and MPAA. As discussed above, IPG's and MPAA's methodologies were premised on fundamentally different principles. MPAA addressed the marketplace value of the programs it represented by attempting to evaluate the amount of viewership they received, while IPG examined the value of the programs to cable operators who retransmitted them. IPG's methodology accorded the programs it represented a higher award—0.881%—than if the MPAA's methodology were applied to the same programs—0.0708%. The CARP then analyzed each side's criticisms of the other's methodology and concluded that a number of the criticisms were valid. It found the following shortcomings for MPAA's methodology:

- MPAA's direct testimony did not sufficiently lay the foundation for the survey or explain its results.
- The Panel was forced to call its own witnesses, Mr. Lindstrom from Nielsen, and Mr. Larson from Cable Data Corporation to explain their methods of data acquisition and reporting.
- The number of sampled stations [in MPAA's station survey] has declined without adequate explanation.
- Station selection criteria excluded Form 1 and Form 2 cable systems.
- The number of "zero" viewing hours shows the flaw in attempting to use the Nielsen data as a proxy for the retransmission market especially since Nielsen had 24 hour sampling capability in 1997.
- The method of interpolation of non-sweep month estimated viewing needs statistical validation.
- There is an overvaluation of WTBS and under-valuation of the other Superstations in the survey.

CARP Report at 102–103. For IPG, the CARP found the following criticisms:

- A mathematically sound basis for the creation and application of the station weight factor and time period weight factor should have been presented by a statistician.
- Daypart data was misapplied thus overstating "all other" viewing.
- It doesn't directly address the marketplace value of the works transmitted, a primary criteria.

Id. at 103. The Register has reviewed the record evidence in this proceeding and finds that there is ample support for these criticisms. They are not arbitrary. What is arbitrary, however, is what the CARP did next. Rather than address these criticisms in the context of its decision making process, the CARP immediately awarded the 0.5 and 99.5 percentages without any explanation as to how they arrived at these numbers. Since no reasoning was provided for these numbers, they must be rejected. *National Ass'n of Broadcasters* v. *Librarian of Congress,* 146 F.3d 907, 923 (D.C. Cir. 1998)(royalty distribution award arbitrary if rendered without explanation). The June 5, 2001, Order directed the CARP to provide a full explanation of the approach it was using in adopting new distribution awards.[10]

---

[9] The CARP determined that Just Imagine was properly credited to Litton, and not to Flying Tomato Films. Both of these parties are represented by IPG. No challenge to the CARP's determination on this matter was made.

[10] In explaining their final numbers, CARPs have flexibility in the methodologies or approaches they

Continued

The Revised CARP Report

On June 20, 2001, the CARP delivered its revised report. The revised report assigns new distribution percentages to IPG and MPAA and explains the CARP's reasoning for both its initial awards and the revised awards.

As directed by the June 5, 2001 Order, the CARP only credited IPG with programs belonging to Litton Syndications. The programs are: *Algo's Factory, Jack Hanna's Animal Adventures, Harvey Pennick's Private Golf Lessons, MomUSA, Nprint, Sophisticated Gents, The Sports Bar* and *Just Imagine*. The CARP did not credit IPG with *Dramatic Moments in Black Sports History*, reversing its earlier determination that Litton was the syndicator of the program. *See* Initial report at 62; Revised report at 2. The CARP determined that "[a]lthough both parties claim this program, New Line Cinema's program certification with MPAA indicates that it claims the program as syndicator." Revised report at 2.

With respect to awards, the CARP modified its initial determination by reducing IPG's award from 0.5% to 0.212% , and increasing MPAA's award from 99.5% to 99.788%. The CARP then explained how it determined the initial 0.5% and 99.5% awards, and then modified them in light of the June 5, 2001, Order to produce the new percentages.

Although the CARP was presented with disparate methodologies for calculating the royalty awards-MPAA's methodology based on Nielsen household viewing hours and IPG's methodology based on value of the programming to cable operators—the CARP did find two elements of these competing methodologies in common. MPAA based its methodology upon a database obtained from CDC that contained 82 commercial television broadcast stations that were retransmitted by large (Form 3) cable systems on a distant basis during 1997. IPG based its methodology upon a CDC database that contained 99 commercial television broadcast stations (which included the same 82 stations used by MPAA) that were retransmitted by small, medium, and large (Form 1, 2, and 3) cable systems on a distant basis during 1997. Both of these databases have two overlapping categories: "Rebroadcasts," the number of times a particular program was retransmitted; and "Airtime," the length of the program multiplied by the number of times it was rebroadcast. The CARP stated that the purpose of examining the two databases was two-fold: "First to verify the accuracy of the numbers presented in the testimony and exhibits; and secondly to give the CARP a sense of the relative positions of MPAA and IPG represented claimants in the 1997 marketplace by comparing the only two categories included in both databases, Rebroadcasts and Airtime." Revised report at 18.

Appendix A of the revised CARP report compares the Rebroadcasts of the eight programs credited to Litton (as directed by the June 5, 2001 Order) for both the IPG and MPAA databases. For the IPG database, these programs accounted for 0.4394782365% of the total number of program titles Rebroadcast in 1997. For the MPAA database, the eight programs account for 0.2811997603% of the total number of program titles Rebroadcast in 1997.

Appendix B of the revised CARP report compares the Airtime of the eight programs credited to Litton for both the IPG and MPAA databases. For the IPG database, these programs accounted for 0.3494840195% of total Airtime of all programs retransmitted in 1997. For the MPAA database, the programs accounted for 0.2171099164% of the total Airtime of all programs retransmitted in 1997.

The numbers described in Appendices A and B provide a range of comparison as to the amount of time that Litton's eight programs were available on distant broadcast signals retransmitted by cable systems. But this range did not account for how much these programs were watched, or the value ascribed to these programs by cable operators. To account for this, the CARP turned to MPAA's and IPG's methodologies and applied its criticisms of the evidence presented for each methodology, assessing penalties (percentage deductions from the total award yielded by the methodology) for each criticism depending upon the severity of the criticism. The eight criticisms of MPAA's methodology and the three criticisms of IPG's methodology, and their accompanying deductions, are described in Appendix D of the CARP's revised report. As a result of the eight criticisms, MPAA suffered a 0.450% reduction in the awards yielded by its methodology, and IPG suffered a 0.375% reduction in the awards yielded by its methodology.

As with its comparison of IPG and MPAA databases, the revised IPG and MPAA methodologies (i.e. after the penalty reductions) yielded yet another range of numbers. For IPG, the revised MPAA methodology gave it an award of 0.462% of the 1997 royalty funds, while revision of its own methodology yielded an award of 0.731%. *See* Appendix D. According to the CARP, it is this range of numbers that yielded the 0.5% award to IPG in the initial report. Revised report at 18.

Because the June 5, 2001, Order eliminated programs credited to IPG under both MPAA's and IPG's methodologies, the CARP needed a way to adjust downward IPG's award, and increase MPAA's award, to reflect the eliminated programs. It did this by examining the reduction in the percentages of Rebroadcasts and Airtime credited to IPG for its original claim and derived a median change of minus 57.673%. Appendix C. The minus 57.673% figure represents the median change from the original amount of Rebroadcasts and Airtime credited to IPG. According to the CARP, "[e]liminating all claimants except Litton, means that on average, IPG now represents only 42.322% of the Rebroadcasts and Airtime that they did before." Revised report at 20. This meant that "IPG is entitled to 42.322% of the Original Award" of 0.5%. *Id.* Consequently, the CARP awarded IPG 0.212% of the 1997 royalty funds in the syndicated program category, and the remaining 99.788% to MPAA.

Petitions to Modify the CARP's Revised Report

Both MPAA and IPG level a number of criticisms at the conclusions reached by the CARP in the revised report, all of which they charge rise to the level of arbitrary action as a matter of law. MPAA submits that the CARP's award of 0.212 of one percent of the royalty funds to IPG is excessive and must be reduced. IPG counters that the methodology used by the CARP is fundamentally flawed and that its award must be increased.

MPAA charges that the CARP made mathematical, methodological, and evidentiary errors in both the initial and revised reports. The principal mathematical error, according to MPAA,

---

use. The courts have recognized that there is a considerable "zone of reasonableness" when awarding a particular distribution percentage. *See*, e.g. *National Cable Television Ass'n* v. *Copyright Royalty Tribunal*, 724 F.2d 176, 182 (D.C. Cir. 1983). In other words, there are no magical formulas that produce precise results. In this proceeding, the CARP could have chosen either IPG's or MPAA's formulas, adjusted the chosen formula to account for the CARP's criticisms of it, and used that process to yield the final numbers. Or, the CARP could have chosen a combination of both formulas, taking into account the criticisms of both, to arrive at the final numbers. Or, the CARP could have adopted its own distribution methodology or formula, using the data in the record of the proceeding to achieve the final results. Each of these approaches is acceptable *provided* that the CARP articulates the reasons for its choice, explains how it applied its choice to produce its final determination, and the determination itself is reasonable.

concerns the CARP's use of IPG's requested royalty distribution percentage of 0.881. In appendix D to the revised report, the CARP used the 0.881% distribution percentage offered by IPG and adjusted it downward by 0.375% to reflect its three criticisms of IPG's evidentiary presentation. MPAA states that 0.881% is the wrong starting percentage because it reflects all the programs originally claimed by IPG and does not take into account the programs that the CARP eliminated from IPG's claim. Using IPG's valuations for each of its claimed programs, MPAA asserts that the CARP should have adjusted the 0.881% claim of IPG downward to 0.332%, since only 37.68% of the programs originally claimed by IPG were credited by the CARP in its initial report. MPAA Petition to Modify Revised Report at 5. Deducting 0.375% for the three criticisms of IPG's evidentiary presentation from 0.332% yields a negative distribution percentage for IPG.

MPAA challenges the methodology employed by the CARP; in particular the use of Rebroadcasts and Airtime for IPG's and MPAA's represented programming. MPAA asserts that this approach unduly relies upon time considerations (i.e. time on the air) and ignores the marketplace value of the programming in contravention of prior CARP precedent. CARP Report in Docket No. 94–3 CARP CD 90–92 at 19–20 (June 3, 1996). These considerations aside, MPAA also questions the usefulness of comparing Rebroadcasts and Airtime from both MPAA's and IPG's sample surveys, since MPAA's 82 station sample survey contains more rebroadcasts and more hours of airtime than IPG's 99 station survey. The inherent illogic of this result should have, according to MPAA, indicated to the CARP that reliance solely on these numbers is flawed.[11]

MPAA also makes numerous challenges to the CARP's treatment of the evidence presented in this proceeding. In particular, MPAA asserts that the CARP's five criticisms of various aspects of MPAA's evidentiary presentation, that resulted in a 0.450% upward adjustment to IPG's share of the royalties as identified by MPAA, are baseless. First, MPAA argues that the 82 station sample survey it put forth was statistically sound since it "very nearly reflects the entire universe of distant signal carriage, accounting for 92.5 per cent of aggregate subscribers instances. Therefore, the possibility of a margin for error that is in any way significant is nil." MPAA Petition to Modify Revised Report at 12.

Second, MPAA argues that there is no record evidence that demonstrates that exclusion of Form 1 and Form 2 cable systems from the total instances of distant cable carriage of syndicated programming negatively impacts the results of its 82 station sample survey, since the Form 3 cable systems used in the survey account for 89% of all cable subscribers to distant broadcast stations. Third, MPAA argues that the CARP had no grounds to criticize the number of zero viewing instances reported in the Nielsen household viewing hours used in the MPAA survey, especially since Paul Lindstrom, the only qualified expert in economics and statistics testifying in the proceeding, asserted that they did not have a significant bearing on the statistical validity of the survey.

Fourth, MPAA charges that it was inappropriate and unfair for the CARP to criticize MPAA for not presenting relative error figures with respect to its methodology components and for mixing Nielsen diary data with Nielsen meter data. Finally, MPAA charges that it was groundless for the CARP to penalize MPAA 0.10% for its interpolation of data for time periods not measured by Nielsen (i.e. non sweeps periods) and only accord IPG a 0.075% penalty for a similar criticism.

IPG also asserts that the CARP made a series of errors in fashioning both the original awards and the revised awards. IPG asserts that the CARP erroneously assigned two programs—*Dream Big* and *Dramatic Moments in Black Sports History*—to MPAA. *Dream Big* was credited to MPAA in the CARP's original report because it identified Warner Bros. as the syndicator of the program. With respect to *Dramatic Moments in Black Sports History*, the CARP originally assigned it to IPG (as claimed by Litton) but was directed by the Librarian's June 5, 2001, Order to provide an explanation for this decision. In the revised report, the CARP changed its mind and assigned *Dramatic Moments in Black Sports History* to MPAA because it concluded that New Line Cinema was the syndicator of the program, not Litton. IPG submits that if the Librarian does not restore these two programs to Litton's claim, then he should "place the funds for the[se] program[s] * * * in escrow until the proper recipient is determined." IPG Petition to Modify Revised Report at 4.

Like MPAA, IPG criticizes the CARP's reliance upon the number of Rebroadcasts and Airtime in fashioning its awards, noting that undue reliance on time considerations is contrary to precedent of the CRT and is not reflective of the value of the programming. IPG states that it provided the CARP with the unit value for each of its claimed programs (utilizing IPG's methodology), thereby giving the CARP the opportunity to derive an award based on the programs it credited to IPG. The eight programs credited to Litton amount to 79.074% of the original award to IPG of 0.5%, meaning that the CARP should have adjusted the original 0.5% award downward to 0.3958%. Such an award would, according to IPG, reflect the true value of the Litton programs.

With respect to the CARP's criticisms of MPAA's methodology, IPG argues that the CARP did not go far enough. IPG asserts that the CARP never verified the number of household viewing hours attributed to MPAA in its study, noting that MPAA received credit for appreciable numbers of programs not claimed by MPAA or certified by its members. Further, IPG asserts that the CARP should have penalized MPAA for having to call Paul Lindstrom and Thomas Larson as witnesses to provide additional support for MPAA's methodology. And IPG submits that the CARP should have penalized MPAA more than it did for reducing the number of stations in its station sample survey and for the large amount of zero viewing instances of programming contained in the Nielsen data presented by MPAA.

Finally, IPG asserts that certain of the CARP's criticisms of IPG's methodology are not valid. With respect to the CARP's critique that IPG misapplied its daypart data thereby overstating its weighted viewing factor, IPG asserts that no evidence was presented to demonstrate that such misapplication provided any benefit to IPG. And, with respect to the CARP's criticism that IPG's methodology attempted to demonstrate the overall appeal of broadcast stations to cable operators, as opposed to the overall appeal of the programming to cable operators, IPG argues that the CARP simply mischaracterized its summary reference of "overall station appeal" by ignoring the elements that comprised this aspect of IPG's methodology.

Rejection of the Revised Report

The Register makes her recommendation as to whether the revised royalty awards to IPG and MPAA should be adopted by the Librarian of Congress, or whether they are arbitrary or contrary to the provisions of the Copyright Act, title 17, United States Code. In making this recommendation, the Register has reviewed both the initial report of the CARP and the revised report, including the petitions to modify both reports filed by the parties. For the reasons stated below, the Register concludes that both the initial report and the revised report are arbitrary and must be rejected.

---

[11] IPG counters this argument by noting that MPAA's 82 station data includes all broadcasts, irrespective of whether the program falls in the syndicated programming category or another category (such as sports, local programming, etc.) and irrespective of whether the program is claimed by IPG, MPAA or no party. IPG's 99 station data makes these distinctions, resulting in fewer measured broadcasts and broadcast hours.

Review of the initial report and the revised report reveals a number of arbitrary actions by the CARP. These include: (1) Failure to adequately explain the evidence supporting the CARP's reversal of its award of Dramatic Moments in Black Sports History from IPG to MPAA; (2) failure of the CARP in its initial report to adjust downward IPG's requested distribution percentage after the CARP eliminated a number of IPG's claimed programs; (3) failure of the CARP in its initial report to adjust upward MPAA's requested distribution for IPG given the number of programs which the CARP credited IPG; (4) failure of the CARP in the revised report to adjust both IPG's and MPAA's requested distributions in light of the final programs credited to IPG; (5) failure of the CARP to base any of its downward deductions to both IPG's and MPAA's methodologies (based on the CARP's criticisms) on record evidence; and (6) adoption by the CARP of a distribution methodology that arguably has little relationship to the marketplace value of the programs. In recommending rejection of the CARP's determination, the Register focuses her discussion on the second failure described above-the lack of downward adjustment to IPG's requested distribution in light of the programs credited-because it created a fundamental flaw in the CARP's approach that invalidates the distribution awards granted IPG in both the initial and the revised reports.

The CARP's distribution methodology, articulated only in the revised report, is fully discussed above. Briefly recapped, it is the product of two "ranges." First, the CARP utilized the Rebroadcast and Airtime data-the only data categories common to both methodologies-to give the CARP "a sense of the relative positions of MPAA and IPG represented claimants in the 1997 marketplace." Revised Report at 18. This produced the first range for locating the CARP's final awards. Then, the CARP utilized "the parties competing requests for allocations and the formulas presented advocating their averred distribution percentages," adjusting them by applying deductions reflective of the CARP's criticisms of the respective methodologies. This produced the second range for locating the CARP's final awards. The second range appears to be the one actually used by the CARP to settle upon its original award of 0.5% to IPG. *Id.*

A critical flaw occurs with the inputs for the second prong of the CARP's methodology. The CARP started with IPG's requested distribution percentage of 0.881%, drawn from IPG's proposed findings of fact and conclusions of law. The 0.881% is an inflated percentage, however, because it was based upon inclusion of all programs originally claimed by IPG. Earlier in the CARP's initial report, it spent considerable time discussing the validity of IPG's claimed programs and found a number of the claims invalid. *See*, Initial Report at 72–74 (royalty allocation for *Dragon Ball Z* to MPAA; no royalty allocation for *Enchanted Tales* and *Thumbelina;* royalty allocation for *Dream Big* to MPAA; no royalty allocation for *Bottom Line, By River By Rail, Til Earth and Heaven Ring;* no royalty allocation for *Lou Rawls Parade of Stars;* no royalty allocation for *Psychic Friends, Psychic Friends Network, Psychic Revival Network, Psychic Solution, Psychic Talk, Psychic Talk 2, Psychic Talk USA, Psychic Talk Thirty).* These programs were included in IPG's 0.881% request. It was therefore arbitrary for the CARP to accept the 0.881% figure as a starting point because it had eliminated many of the programs that produced this number.

Likewise, the CARP made the same error when it looked at the distribution percentage for IPG yielded by MPAA's methodology. MPAA's distribution percentage of 0.012% was based on only seven programs credited to IPG. However, in its initial award, the CARP credited IPG with far more than just seven programs. It was therefore arbitrary for the CARP to use the 0.012% figure as a starting point for its application of MPAA's methodology.

In sum, the faulty inputs to the second prong of the CARP's methodology make the range generated by that prong wholly inaccurate, thereby rendering the initial award erroneous. The revised report, since it merely takes the original award to IPG and makes a median change to it based upon the reduction in programs credited to IPG, is likewise erroneous. Although there are other serious flaws in the CARP's approach, as described above, the Register need go no further. The CARP's determination must be rejected, and the Librarian must substitute his own determination.

Part Two—Recommendation of the Register

This is not the first time that the Register of Copyrights has recommended, and the Librarian of Congress has accepted, a rejection of a decision of a CARP. In most of those cases, the Register has recommended that only portions of a CARP's decision be rejected, *see,* e.g., 61 FR 55653 (October 28, 1996)(cable distribution); 62 FR 55742 (October 28, 1997)(satellite rate adjustment). In one case, the Register recommended that the Librarian reject the royalty rate established by the CARP, and substitute his own determination. 63 FR 25394 (May 8, 1998)(digital performance right in sound recording rate adjustment).

Section 802(f) of the Copyright Act provides that "[i]f the Librarian rejects the determination of the arbitration panel, the Librarian shall * * * after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be." 17 U.S.C. 802(f). As discussed above, the distribution methodology applied by the CARP in this proceeding is so flawed that any distribution percentages generated by it are inherently arbitrary. As a consequence, there must be an independent review of the record to resolve this proceeding.

Distribution Criteria

Section 111 does not prescribe the standards or guidelines for distributing royalties collected from cable operators under the statutory license. Instead, Congress decided to let the Copyright Royalty Tribunal "consider all pertinent data and considerations presented by the claimants" in determining how to divide the royalties. H.R. Rep. No. 1476, at 97 (1976). In the first cable distribution proceedings, the Tribunal fashioned five distribution criteria: three primary criteria and two secondary criteria. The three primary criteria were: (1) The harm caused to copyright owners by secondary transmissions of their copyrighted works by cable systems; (2) the benefit derived by cable systems for secondary transmissions of the copyrighted works; and (3) the marketplace value of the works. The secondary criteria were: (1) the quality of the copyrighted program and (2) time-related considerations. *National Ass'n of Broadcasters* v. *Librarian of Congress,* 146 F.3d 907 (D.C. Cir. 1998). In 1989, the Tribunal eliminated the secondary criterion of program quality from its consideration. 57 FR 15286, 15303

(April 27, 1992). In 1998, the Librarian determined that a CARP did not act arbitrarily by eliminating the primary criterion of harm to the copyright owner. *NAB*, 146 F.3d 907 (D.C. Cir. 1998).

In considering the value of programming in a Phase II cable distribution proceeding, we must simulate the marketplace for that programming. Under the statutory license regime of section 111, programs are not bought and sold in the open marketplace-the statutory license substitutes for the marketplace. Cable operators pay an established fee for the privilege of retransmitting all the programs contained on a particular broadcast signal, rather than license the programs individually. However, just because cable systems pay a single fee for all the programs does not mean all the programs are of equal value. The established distribution criteria, as modified, must be applied in an effort to simulate a marketplace for these programs where one does not exist because of section 111. We now turn to a consideration of the evidence presented by MPAA and IPG as to the value of their programs.

The Programs

Before considering the appropriate methodology for distributing the 1997 cable royalties in the syndicated programming category, the programs to be credited to MPAA's and IPG's royalty distribution claims must be determined.[12] In the Librarian's June 5, 2001 Order, IPG's program claim in this proceeding was pared down to the following eight programs: *Algo's Factory; Jack Hanna's Animal Adventures; Harvey Pennick's Golf Lessons; Mom USA; Sophisticated Gents; Nprint; Just Imagine* and *The Sports Bar*. Order in Docket No. 2000–2 CARP CD 93–97 at 1 (June 5, 2001). Each of these programs is claimed by Litton Syndications. IPG claims an additional two programs on behalf of Litton: *Dream Big* and *Dramatic Moments in Black Sports History*.

A. Dream Big

Dream Big is listed in exhibit D of IPG's written direct case as belonging to Litton. Litton's representation agreement with IPG lists *Dream Big* as a program claimed by Litton, and the representation agreement contains the following boilerplate language:

> Principal (i.e. Litton) warrants that to the best of Principal's knowledge Principal has the right to collect the Distribution Proceeds to Programs, and has not previously conveyed the right to collect the Distribution Proceeds to any third party.

Representation agreement at 2, clause 7. At hearing, on cross-examination of IPG's witness Raul Galaz, the following exchange took place:

Q: The program *Dream Big*, Mr. Galaz, do you know who the copyright owner of that program is?

A: No.

Q: And, again, do you know who the syndicator of that program is?

A: My understanding is that Litton Syndications is the syndicator.

Q: And do you know, again, the nature of the particular right or interest owned by Litton with respect to their entitlement to Section 111 royalties?

A: No, I don't know whether they are, additionally, an owner.

Q: I didn't hear you. I'm sorry.

A: I don't know whether they are, additionally, an owner or not.

Tr. 1063–64. No additional testimony regarding *Dream Big* took place.

In its petition to modify the initial decision of the CARP, IPG requests that the Librarian reopen the record to admit a copy of an agreement between Warner Vision Entertainment and Litton which, according to IPG, conclusively proves that Litton holds the syndication rights to *Dream Big*. The agreement states that Warner Vision "hereby grants to Litton, and Litton hereby accepts, the right to syndicate a children's audio-visual series tentatively entitled 'Real Kids.'" IPG Petition to Modify CARP Report at appendix 2. IPG asserts that Warner Vision is a subsidiary of Warner Bros., and that "Real Kids" is the initial name for *Dream Big*.

MPAA claims *Dream Big* in exhibit D of its written direct case. *Dream Big* is identified on MPAA's Alpha List (a listing of all programs broadcast in 1997 and including both MPAA-represented and IPG-represented programs) as belonging to Warner Bros. MPAA also obtained a program certification form from Warner Bros. that lists *Dream Big* as a Warner Bros. program. The certification form, signed by Michael Troxler, Vice President of Finance, contains MPAA's boilerplate language stating that Warner Bros. is entitled to receive 1997 cable royalties for *Dream Big* by virtue of being "An officer (if a corporation) or a partner (if a partnership) of the legal entity identified as the owner or the authorized agent of the owner of the programs on the printout." IPG Exhibit 7XR at 389. Other than the cross-examination of Mr. Galaz identified above, MPAA did not put forth any further information at hearing regarding *Dream Big*.

In reaction to IPG's request to reopen the record and have the Librarian consider the Warner Vision/Litton agreement, MPAA submits an April 11, 2000, letter of Michael Troxler of Warner Bros. stating:

> WarnerVision is the rightful copyright holder to the series Dream Big. This was subdistributed on behalf of WarnerVision by Litton for a clearance fee based upon U.S. coverage. Since Litton was paid a clearance fee, they are not entitled to any of the Cable Copyright Royalties.

MPAA Reply to IPG Petition to Modify CARP Report at appendix 2.

In *National Broadcasting Co., Inc.* v. *Copyright Royalty Tribunal*, 848 F.2d 1289 (D.C. Cir. 1988), the Court reviewed the Copyright Royalty Tribunal's attempt to resolve competing claims for the program *Little House on the Prairie*. NBC created and produced the program and granted to Worldvision, Inc. exclusive rights to distribute the program for a period of 35 years. The Tribunal determined that Worldvision, as the exclusive syndicator of the program, was the party entitled to section 111 royalties. The Court upheld this conclusion, stating:

> The CRT determined that the directly affected party [from the harm caused by retransmission of the program by cable systems] will typically be the exclusive syndicator, and that the CRT will therefore as a general rule always distribute royalties initially to the syndicator. This presumption by the CRT, in the face of congressional silence, is a permissible interpretation of the statute, to which we defer.

848 F.2d at 1296.

Examining the record evidence, the Register cannot ascertain who is currently the exclusive syndicator of *Dream Big*. The non-record evidence, even if admitted, still does not resolve the issue. And section 802(f) of the Copyright Act states that the Librarian shall base his decision only upon the record evidence.

Given the dearth of record evidence, it would be arbitrary for the Register to recommend that *Dream Big* be awarded to either MPAA or IPG. Consequently, the Register recommends that the only acceptable course of action is to seek further evidence from the parties to determine the proper status of the program when the proceeding is remanded to a new CARP.

---

[12] As a practical matter, the focus will be on the programs represented by IPG. The reason for such focus is obvious. There are only two claimants in this proceeding; one that represents most of the programs eligible for distribution (MPAA), and one that represents only a few (IPG). Once it is determined which IPG-represented programs are eligible for a distribution of the 1997 royalty funds, the value of those programs can be ascertained and IPG's distribution share can be established. Assuming that ineligible and unclaimed programs are excluded from consideration, there is no need to focus on the eligibility of MPAA programs (except as they affect IPG's claim to the same program), since the remainder of the 1997 fund will go to MPAA once IPG's share is deducted. *But see* discussion of MPAA's methodology, *infra*.

B. Dramatic Moments in Black Sports History

Dramatic Moments in Black Sports History ("*Dramatic Moments*") is also claimed by both MPAA and IPG. The record for Dramatic Moments is as follows.

IPG identifies *Dramatic Moments* in exhibit D of its written direct case as belonging to Litton. The program is identified in Litton's representation agreement with IPG and contains the same contract warranty provision that applies to *Dream Big*. At hearing, the following exchange took place on cross-examination of Mr. Galaz, IPG's sole witness.

Q: Okay. The program *Dramatic Moments in Black Sports History*, do you know who the copyright owner of that program [is], Mr. Galaz?

A: No.

Q: Do you know the syndicator?

A: My understanding is that Litton Syndications is the syndicator.

Q: And do you know the particular right or interest owned by Litton relative to their entitlement to Section 111 royalties?

A: Whether it's as the owner or syndicator, I don't know.

Q: But if it is the owner or syndicator, do you know who they—when they acquired and how they acquired the right? If they are a syndicator, not if they're an owner?

A: Restate your question.

Q: If they're a syndicator, if indeed they are the syndicator, do you know how that right was acquired?

A: Well, they can be both the owner and the syndicator.

Q: Right.

A: So your question was asking whether or not

Q: Right. If they—

A:—the nature of the right, and the nature of the right could be as both the owner or the syndicator. I don't know which.

Q: You don't know whether they're the owner as well as the syndicator?

A: My understanding is that they're the syndicator. I do not know whether they are, additionally, the owner.

Tr. 1062–63. No further record evidence was presented by IPG regarding the program.

In exhibit 3 of its written direct case, MPAA identifies *Dramatic Moments* as part of its claim. The program appears on the revised Alpha List of MPAA programming, identifying New Line Cinema as the claimant. MPAA presented a program certification form for New Line Cinema, which states that New Line is an officer or partner of the "legal entity identified as the owner or the authorized agent of the owner of the programs on the printout." IPG ex. 7XR at 188. The certification is signed by Frank A. Buquicchio, who identified himself as the Senior Vice president of Television and Ancillary Accounting for New Line. Other than the cross-examination of Mr. Galaz, MPAA presented no other evidence as to the ownership of *Dramatic Moments*.

In its petition to modify the further report of the CARP, IPG argues that the burden should be on MPAA to prove its claim to *Dramatic Moments*. IPG asserts that MPAA did not produce the program certification forms until one day before the start of the hearings, thereby precluding IPG's ability to prepare an effective cross-examination on program ownership. IPG further asserts that if the Librarian cannot resolve the proper ownership of the royalties attributable to *Dramatic Moments*, the money should be placed in escrow to permit resolution between Litton and New Line Cinema.

As with the case of Dream Big, neither IPG nor MPAA have presented sufficient evidence to permit a determination as to who should receive credit for *Dramatic Moments*. Consequently, the Register recommends that further evidence must be adduced on remand to resolve the status of this program.

The Evidentiary Presentations

As discussed above, IPG and MPAA presented competing statistical methodologies to support their claims to the 1997 syndicated programming royalty pool. MPAA's presentation operates from the assumption that viewership of programs retransmitted by cable operators in 1997 is the way to measure the value of those programs, and provides a sample survey purporting to gauge viewing. IPG's presentation operates from the assumption that every program retransmitted in 1997 has value and should be compensated from the royalty pool, and provides a sample survey that attempts to value each program based upon the royalty fees generated by television stations broadcasting the programming.

A. MPAA's Presentation

1. *Description of the methodology*. MPAA's written direct case consists of the testimony of Marsha Kessler, Vice President of Retransmission Royalty Distribution at MPAA, and the nine exhibits that she sponsors. In addition, MPAA designated the direct testimony and exhibits of Paul Lindstrom, Leonard Kalcheim, and James Von Schilling from Docket No. 97–1 CARP SD 92–95 (1992–1995 satellite royalty distribution) and the direct and rebuttal testimony and exhibits of Marsha Kessler, Allen Cooper and Paul Lindstrom from Docket No. CRT 91–2–89CD (1989 cable royalty distribution). During the course of the proceeding, at the behest of the CARP, MPAA presented two additional witnesses: Paul Lindstrom of Nielsen Media Research and Thomas Larson of Cable Data Corporation.[13]

MPAA attempts to demonstrate the marketplace value of movies and syndicated programs retransmitted by cable systems in 1997. As it has done in previous royalty distribution proceedings before the Copyright Royalty Tribunal and the CARPs, MPAA submits that the best way to determine the marketplace value of a television series or movie is to examine how many people watched the program in the given distribution year. The greater the number of people who watched the program, the more valuable the program is. MPAA notes that in cable and broadcast markets where programs are bought and sold without the constraint of a compulsory license, broadcasters purchase the rights to broadcast a particular program based upon the number of viewers they believe the program will attract. The same is true for cable programmers. Kessler Direct at 12–13. And advertisers are willing to pay broadcasters and cable programmers higher fees to have their ads aired during programs that attract many viewers. *Id*. Thus, from MPAA's perspective, viewer avidity for a particular program is the best determinative of the program's marketplace value.

MPAA constructs a study—a sampling of the cable retransmission universe in 1997—that attempts to demonstrate the amount of viewing that the programs claimed by MPAA and IPG garnered on broadcast stations that were retransmitted on a distant basis.[14] It is not a study that reveals how many people in the United States actually watched a given program; the cost of such an undertaking would be too high.

---

[13] MPAA also presented testimony from David E. Farbman regarding activities of IPG's principal, Raul Galaz. His testimony is not relevant to the calculation of royalty shares.

[14] The study only attempts to estimate viewership for programming retransmitted by cable systems on a distant basis, since local retransmissions of the same program are not compensable under the cable license. *See* 17 U.S.C. 111(d)(3)(A).

Rather, the MPAA study generates estimates of viewing, described as total household viewing hours (HHVH) for each program claimed by MPAA and IPG.

MPAA's study utilizes data from three sources—Cable Data Corporation ("CDC"), TV Data and Nielsen Media Research ("Nielsen"). MPAA Proposed Findings at 20, ¶ 55. First, MPAA determines the number of television stations that it wishes to include in its survey. For the 1997 study, MPAA selected 82 TV broadcast stations. These stations were retransmitted by Form 3 cable systems (MPAA excluded Form 1 and Form 2 systems) and account for 92.5% of aggregated subscriber instances. *Id.* "Aggregated subscriber instances," means that subscribers receiving broadcast programming were viewing it on a distant signal basis only, since section 111 of the Copyright Act does not allow compensation for programming that is retransmitted on a local basis. Thus, the 82 stations used in MPAA's study account for 92.5% of distant signal viewing of MPAA and IPG programs. This data was supplied by CDC.

Next, MPAA consults the TV Data television log books to determine what programs were broadcast at what times. For 1997, MPAA examined the log books for the 82 stations it included in its survey. Exhibit 3 of MPAA's written direct case identifies the programs which MPAA claims that it represents in this proceeding, along with the number of broadcasts of each program on the 82 stations surveyed. Of the over 3,700 titles, over 500 of these are television series (sitcoms, dramas, etc.) while the remaining titles are movies. MPAA Proposed Findings at 14, ¶ 42. MPAA makes great effort to demonstrate that its claim includes most of the top-rated syndicated television series and movies. Kessler Direct at 6–7.

Finally, MPAA takes the programming data from these two sources and matches it to viewing data supplied by Nielsen. Nielsen provides the names of the programs that were broadcast for each station in the study, the number of 15-minute segments (referred to as quarter hours (QH)) each program aired on that station, and what MPAA describes as the average number of cable subscribers who viewed each program on that station on a distant basis. Kessler Direct at 8. Using this information, MPAA then calculated the household viewing hours for each program appearing in the study. The formula that MPAA utilized to make this calculation is as follows:

$$(\Sigma QH/4) \text{ x average DCHH} = \text{HHVH}$$

Id. Marsha Kessler stated the formula thus:

> Add together the total number of 15 minute (QH) segments a program is broadcast in a particular time slot on a particular station. Divide that number by 4 to get an hourly measure. Multiply the result by the average number of distant cable households (DCHH) that actually watched [the] program on that station during that time period.

Id.

It is important to note that the data supplied by Nielsen does not attempt to measure viewing 365 days a year. Rather, Nielsen conducts "sweeps'—0limited periods of time in which actual viewing to programming is measured. Nielsen can only provide viewing data for four or six sweeps periods, meaning that substantial portions of the year are not measured. To counteract this problem, MPAA devised a method for interpolating viewing for those periods when Nielsen data is not available. Using data supplied by Nielsen, MPAA assigns an estimated number of viewers for a given broadcast station for a given quarter hour in a given day. For example, there are no Nielsen sweeps in June. To determine viewership for a program broadcast on a specific station during a specific time period in June, MPAA averages the viewing for the same time slot in May (a sweeps month) and July (also a sweeps month) to estimate what viewership would be for the corresponding time slot in June. The process is described as straight line interpolation. Tr. 1615–16.

Once armed with household viewing data for all programs broadcast by the 82 stations in its survey, MPAA determined the household viewing hours for all of its programs and IPG's programs. MPAA determined that the total household viewing hours for MPAA and IPG programming was 3,476,625,750. MPAA Proposed Findings at 73, ¶ 291. MPAA's programming received 3,476,218,917 household viewing hours, while IPG's programming received 406,833. *Id.* This calculation was based on MPAA's assignment of household viewing hours to the following IPG programs:

Algo's Factory—11,707 viewing hours.

Harvey Pennick's Private Golf Lessons—5,193 viewing hours.

Jack Hanna's Animal Adventures—372,488 viewing hours.

Mom USA—0 viewing hours.

Nprint—1645 viewing hours.

Sophisticated Gents—7010 viewing hours.

The Sports Bar—8790 viewing hours.

Id. at 72, ¶¶ 285–291. Missing from this calculation is *Just Imagine*, which the Librarian has credited to IPG's claim. *See* June 5, 2001 Order at 2.

Based on its household viewing hour calculations, MPAA claims that it is entitled to 99.9871% of the 1997 cable royalties, while IPG is entitled to 0.0117% of the royalties (for the seven Litton programs). MPAA Proposed Findings at 73, ¶ 291.

2. *Validity of the methodology.* Throughout the course of this proceeding, IPG has attempted to sully both the construct and the application of the MPAA methodology. Many of these criticisms were accepted by the CARP. *See, generally,* Initial report at 102–103; Revised report at 5–12. We now consider these criticisms as part of our evaluation of the evidentiary presentation of MPAA.

At the outset, we affirm what the Copyright Royalty Tribunal long ago stated: that actual measured viewing of a broadcast program is significant to determining the marketplace value of that program. 51 FR 12792, 12808 (April 15, 1986). In a perfect world, we would know all viewing to all programs that were retransmitted on a distant basis by all cable systems in 1997. We recognize that the cost of attempting to present such evidence would be prohibitive. Even if we had access to such information, the inquiry would not end there because there are other factors besides viewing that can have a bearing on the marketplace value of a program. Because we are charged with the task of simulating the marketplace for a broadcast program in an effort to determine the value of the program, the Register must consider those factors, where relevant, in the equation as well.

Given the recognition that viewing of programs has probative value, we turn to a consideration of MPAA's presentation. The construct of MPAA's methodology is generally similar to that presented in previous cable distribution proceedings before the Tribunal and the CARPs. There are, however, some notable differences. In prior proceedings, particularly at Phase I, experts from Nielsen participated in the construct and presentation of the study, as well as supplying the viewing data. Nielsen's participation in MPAA's study in this proceeding is limited to providing select data for use by others. Lindstrom Tr. 1387–88; 1407; 1421; 1439–42. Consequently, we have refrained from describing the 82 sample station survey as the "Nielsen" survey. In addition, MPAA has derived a considerable volume of viewing hours from a process described as "interpolation," which it is has not presented extensively in prior

VOL 66 ISS 247 DE 26 2001 UMI

proceedings. "Interpolation" is discussed *infra*.

When the MPAA presented its viewing study to the Copyright Royalty Tribunal in Phase I proceedings, the Tribunal described the study as a good "starting off point." 57 FR 15286, 15288(April 27, 1992)(1989 cable Phase I distribution). Is the MPAA's 82 station sample survey a "good starting off point" for this proceeding?[15]

The CARP concluded that MPAA's 82 station sample survey was "stretched to cover more ground and answer more questions than it was originally designed to do." It listed eight specific criticisms of the MPAA approach:

- —MPAA's direct testimony did not sufficiently lay the foundation for the survey or explain its results.
- —The Panel was forced to call its own witnesses, Mr. Lindstrom from Nielsen, and Mr. Larson from Cable Data Corporation to explain their methods of data acquisition and reporting.
- —The number of sampled stations has declined without adequate explanation.
- —Station criteria excluded Form 1 and Form 2 cable systems.
- —The number of "zero" viewing hours shows the flaw in attempting to use the Nielsen data as a proxy for the retransmission market especially since Nielsen had 24 hour sampling capability in 1997.
- —There are unanswered technical questions regarding relative error rates and mixing diary and meter data.
- —The method of interpolation of non-sweep month estimated viewing needs statistical validation.
- —There is an overvaluation of WTBS and under-valuation of the other Superstations in the survey.

Initial report at 102–03. There is a theme underlying this critique of MPAA's case that can be summarized as follows: the broad brush that is used to paint the big picture is a poor tool for crafting the details. MPAA's viewer study can paint a statistically useful picture of how much sports programming, for example, the viewing public watches relative to the amount of syndicated programming it watches. But when the same study is used in an effort to determine how much the viewing public watches an individual television program, the accuracy of the results comes into question. Accord 51 FR 12792, 12817 (April 15, 1986)(1983 cable Phase II distribution)("[O]verall reliability [of the Nielsen study] may be somewhat less when the focus is on individual programs.").

How much confidence can we place in the results yielded by MPAA's 82 station sample survey? MPAA does not provide an answer. Section 251.48(f)(4) requires parties submitting studies involving statistical methodology to provide confidence levels for the methodology. Specifically, the rule requires calculation of the standard error for each component of the methodology. 37 CFR 251.48(f)(4)(ii). MPAA acknowledges that it did not comply with the rule, but offers that "the absence of relative error figures has raised no bar to significant reliance on the Nielsen study in [prior] Phase II proceedings." MPAA Reply Findings at 38.

Regardless of what may have sufficed in prior proceedings before the Copyright Royalty Tribunal, there is reason to believe there is considerable relative error in MPAA's results in this proceeding. On cross-examination, Paul Lindstrom stated the following:

Q: In past CRT proceedings, it's my understanding that Nielsen reports have been entered into the record, is that correct?

A: That is correct.

Q: And when Nielsen reports have been entered into the record, they have come with qualifications or characterizations to assist the parties and the Panel understand the data and the relative errors, standard error factors and the like, is that correct?

A: It is correct that we have produced the relative error figures for the category data.

Q: And did you produce relative error figures for the 1997 data?

A: The relative error figures were not produced by us because the final data would not be produced by us. We're basically developing a database which is being passed on to Mr. Larson who then takes it and produces the aggregated report. The standard errors are really relevant on the aggregated data and so we're kind of a mid-product in the process.

Q: Is there any—in Mr. Larson's work would you consult with him so that he makes proper assessment of the data?

A: We have had opportunities at times where we have needed to work together in order to work out issues or to make clear on definitions or categorizations, but on a day to day basis, he's not directing us on how to produce our portion of it and we're not directing him on how to produce his.

Q: But again, in terms of the portion you produced, you basically are asked to produce from your database of data, information regarding quarter hours of viewing to particular stations within a subset of counties that would qualify as distant for purposes of cable copyright rules?

A: That is correct.

Q: And in past proceedings you've aggregated the information into program categories and provided relative errors for that. In this proceeding you have not done that, is that correct?

A: That is correct.

Q: And in past proceedings you have not been asked to address, except in incidental situations specific programs, you have only addressed program categories, is that correct?

A: To the best of my knowledge, yes.

Q: Do you see any difference in Nielsen, just focusing on independent Mr. Larson's responsibilities in terms of the way Nielsen data for purposes of this proceeding, should be viewed—should it be viewed the same or differently from prior data presented where you do not have program categories, but the data is solely addressed to quarter hours of particular stations?

A: If I'm understanding correctly, I'll repeat what I think I hear you say, is that is there a difference in—I imagine you're talking about the accuracy or use [sic] that word, for aggregated category data versus individual program information and if that's the question, then that is absolutely correct. Once the data is beginning to get aggregated, the sampling errors go down and go down substantially.

Q: But conversely, if it's not aggregated, the sampling errors would increase?

A: The sampling errors for any—again, any given program on any given station on any given day so that we're talking about an individual week, individual program, individual station will be subject to huge relative errors.

Tr. 1406–10.

Mr. Lindstrom's testimony underscores the pitfalls of using MPAA's 82 station sample survey to measure household viewing hours for individual programs. When large amounts of programming and household viewing hours are measured, such as in a Phase I proceeding, the aggregation of the measuring data is substantial and the relative error is low. This is what makes the MPAA's sample survey "a good starting off point." However, when the number of programs and household viewing hours are small, the aggregation of the data is minimal and, in the words of Mr. Lindstrom, "subject to huge relative errors." Tr. 1409–10. Of the thousands of programs and billions of viewing hours represented in MPAA's sample survey, IPG's claim only accounts for eight programs and less than 500,000 viewing hours. Although we do not know how large the error factor is for this calculation since MPAA failed to present such information, it is reasonable to presume that it is quite large given that it is drawn from such a small piece of the data. This leads us to the conclusion that, as a methodological approach, it cannot be said that the MPAA sample survey is a "good" starting off point; at best, it is simply "a" starting point.

---

[15] Although the Tribunal never described the Nielsen study as a "good starting off point" for Phase II proceedings, it readily accepted Nielsen results that were presented by MPAA in Phase II proceedings. *See, e.g.* 53 FR 7132, 7136 (March 4, 1988)(1985 cable Phase II)("[W]e give great reliance on the Nielsen data")

Having considered MPAA's sample survey conceptually, we now turn to the specifics of its application. As discussed above, the CARP concluded that there were a number of flaws in certain aspects of the sample survey. Although we do not necessarily agree with the number and severity of the CARP's criticisms, there is no need to discuss them here. What matters are what the Register, and ultimately the Librarian, conclude are the flaws in the sample survey, and what impact those flaws have on the usefulness of the MPAA approach.

(i). *Program ownership*. Program ownership is an important and highly contested issue in this proceeding. The issue, however, has centered on the claim of IPG and the programs it has purported to represent in this proceeding. Little attention was given to MPAA's ownership of programs. The CARP requested that MPAA submit program certifications obtained from its member companies, apparently in an effort to resolve issues surrounding certain programs claimed by both MPAA and IPG. MPAA provided these certifications to the CARP as a "courtesy," carefully noting that it was not "legally" required to do so. Tr. 2571–73. MPAA's position is that it is not required to prove its program ownership because it will receive all remaining funds in the 1997 syndicated program royalty pool once IPG's claim is established. While it is true that MPAA will receive all funds less IPG's share, program ownership is nonetheless essential to the application of MPAA's methodology.

As discussed above, MPAA's 82 station sample survey is straightforward in its approach. Calculate the universe of programs in this proceeding, determine the total number of viewing hours for these programs, and then calculate the percentage of the total of viewing hours for IPG programs, yielding IPG's royalty distribution percentage. The so-called "alpha list" submitted by MPAA supposedly contains the household viewing hours for all IPG and all MPAA programs. *Id.* at 28, ¶ 79. The number of IPG programs on this list is known; it is the eight programs of Litton Syndications which the Library has determined are properly attributable to IPG. How do we know that all the remaining programs are properly attributable to MPAA? The answer is that we do not know. MPAA created the alpha list, but it did not provide any testimony to verify the accuracy of the list. It may be that the alpha list contains programs which are not properly represented by MPAA. IPG raises concerns about the status of several program certifications submitted by MPAA, including a number of MPAA claimants for which no certifications were submitted. IPG Proposed Findings at 44–48, ¶¶ 153–169. The CARP allowed the record of this proceeding to remain open after argument had ended to allow submission of additional certifications from MPAA. We cannot determine the sufficiency of these additional filings because there is no testimony to review.

The import of these omissions to the confidence to be placed in MPAA's sample survey is considerable. If MPAA's program ownership cannot be verified, then the total number of household viewing hours for programs in this proceeding cannot be verified. What is even more troubling is that if the alpha list does contain programs which are not properly a part of this proceeding, the benefit of those inclusions inures directly to MPAA because the MPAA's methodology measures IPG's claim as a percentage of the total number of household viewing hours. In other words, the more programs—and consequently the more household viewing hours—that are included in the total, the smaller is IPG's percentage share of that total and consequently the smaller is its royalty share under MPAA's formula.

MPAA points out there is no regulation that requires that it put into evidence program certifications. This is correct. However, MPAA is requesting us to accept its methodology as the means of determining the division of royalties in this proceeding. Unless MPAA can prove that it properly represents all the programs it claims on the alpha list, we cannot verify that MPAA's methodology is being correctly applied. We cannot assume that the copyright owners of all the programs claimed by MPAA are actually represented by MPAA simply because it says so.

(ii). *Zero viewing hours*. The amount of zero viewing hours in MPAA's 82 station sample survey—instances where Nielsen recorded no viewing for a particular program—was especially troubling to the CARP, and the CARP penalized MPAA the most for this anomaly. The CARP made the following finding:

> The record reveals that 68% of the quarter hours measured by Nielsen were attributed with "zero" viewing. Factoring in broadcasts occurring between 2:00–6:00 a.m. for which the MPAA methodology automatically attributes a "zero" value, a total of 73% of the quarter-hour broadcasts occurring on such stations during such measurement period were attributed with "zero" viewing. With one exception, each station in MPAA's study has a significant percentage of measured quarter-hour broadcasts accorded "zero" viewing, ranging from 26% to 96%. Of the 82 stations in the MPAA study, 64 measured by Nielsen recorded no viewing in excess of 50% of their broadcasts, a figure that increases to 74 of the television stations when "zero" viewing for the 2:00–6:00 a.m. daypart is factored in. Eight stations including the New York affiliate of CBS, WCBS–TV, were credited with "zero" viewing during more than 90% of their measured broadcasts.
>
> The only exception to the significant percentages of "zero" viewing are programs broadcast on Superstation WTBS. The Nielsen study credited WTBS, the most retransmitted station during 1997, with only .5% of "zero" viewing. Inexplicably, the Nielsen "special study" credited other superstations with significant distant cable subscribers with large percentages of "zero" viewing. Of note for example, is WGN–TV, the second most retransmitted station with an average of 28 million distant cable subscribers during 1997. Despite its substantial distant subscribership, WGN–TV was credited with "zero" viewing in 52% of its measured broadcasts. Three other "Superstations" were credited with "zero" viewing ranging between 26% and 62% of their measured broadcasts.

We conclude that of the eight deficiencies we have noted in MPAA's distribution royalties,[16] this "zero" viewing hours deficiency is, by far, the most egregious. The evidence offered by MPAA to explain this perceived deficiency in its methodology was less than enlightening. Mr. Lindstrom, who is not a statistician, clarified that attribution of "zero" viewing does not mean that no persons were watching, only that no diaries recorded viewing, and that any suggestion to the Panel that no viewing occurred would reflect a misunderstanding of the data. But then he stated that the "zero" viewing hour information consists of pieces of data that are imprecise; that they are among a series of estimates that may be either high or low; that such individual quarter hour entries have little usefulness; but that they aggregate up to an accurate result, and "the more imprecise

---

[16] The word "royalties" should probably read "methodology."

VOL 66 ISS 247 DE 26 2001 UMI

> bricks you throw in the pile, the more accurate the overall number is going to be."
>
> Accepting this and other testimony of Mr. Lindstrom at face value, we find that it does not even begin to explain the enormous discrepancies described above regarding the crediting of "zero" viewing hours. There is little if any evidence in this record that these high credits of "zero" viewing hours were offset in 1997 by credits of excessively high units of viewing hours. Thus, we are left with a record that more than merely suggests that the MPAA methodology is significantly defective in the manner in which it credits "zero" viewing hours.

Revised report at 8–10 (citations omitted).

MPAA describes the CARP's rationale as follows: "Wow. That many zeros must mean something. We haven't a clue what it is, but there are just too many of them to ignore." MPAA Reply to IPG Petition to Modify Revised Report at 7. MPAA then summarily concludes that "[t]he zeros mean nothing." *Id.* Contrary to MPAA's assertions, we believe that the zeros mean something. They cannot mean "nothing."

MPAA continues to insist that Mr. Lindstrom has adequately explained the high number of zero viewing hours, assuring that the aggregation of the viewing data makes up for the zeros; "the more of these, sort of, imprecise bricks you throw in the pile, the more accurate the overall number is going to be." Tr. 1432. We make a layperson's observation that when you aggregate lots of zeros, the result is still zero. As the CARP noted, almost three-quarters of the quarter hour viewing measured by Nielsen for the stations in MPAA's 82 station sample survey received a zero, despite the fact that Mr. Lindstrom stated that a zero viewing rating did not mean that no viewing was actually taking place, only that it was not measured. Tr. 1424. To us the extraordinarily high level of zero viewing does not mean that the overall results of MPAA's sample survey are more accurate; rather, it means that the sample survey actually measures much less viewing than MPAA suggests.

WTBS is the one station with a modest level of zero viewing; 0.5% according to the CARP. This is not surprising, given the large number (52 million) of distant cable subscribers to WTBS. What is surprising is the number of zero viewing instances for WGN which had an average of 28 million distant cable subscribers during 1997. Over half of the measured WGN broadcasts resulted in zero viewing. Revised report at 9. Even further, three other superstations had zero viewing ranging between 26% and 62% of their measured broadcasts. *Id.* How is it possible that some of the most distributed broadcast stations in the cable industry have such little viewing?

MPAA offers a couple of possible explanations for such discrepancies. For WGN, MPAA suggests that the number of zero viewing instances "could be accounted for by the fact that WGN because WGN (sic) satellite feed to distant cable systems includes programs not part of the station's local broadcast program schedule. These programs are not credited to WGN's distant viewing by Nielsen." MPAA Petition to Modify Revised Report at 17–18. This is a *post hoc* speculation, because there is nothing in the record of this proceeding that demonstrates or even suggests that there are substantial differences between the programs contained on the WGN satellite feed distributed to cable operators and the over-the-air feed of the station. MPAA presented no evidence to support this argument. Furthermore, if MPAA's assertion is true, it demonstrates that certain programming contained on WGN is greatly undervalued because Nielsen is not measuring its viewing.

MPAA also points to Mr. Lindstrom's testimony where he states that there could be "loads of reasons" why there are so many instances of zero viewing. Tr. 1424. Unfortunately, Mr. Lindstrom does not describe the "loads of reasons," other than to suggest that the FCC's network nonduplication rules may have resulted in a considerable number of distant programs being blacked out in local markets, and consequently not measured in the sample survey. Once again, there is no record evidence to support Mr. Lindstrom's suggestion. Ms. Kessler's testimony that she was unconcerned about the number of zero viewing instances is not helpful. Even if one assumes that Mr. Lindstrom's observation is correct, the network nonduplication rules only apply to network stations and do not explain the vast amounts of zero viewing on superstations which are considered to be independent stations under the section 111 license.

The considerable sums of zero viewing, and MPAA's failure to explain it, further undermines the value of the 82 station sample survey. The practical effect of zero viewing is to overvalue those few stations in the survey that received more measured viewing, and thereby overvalue the programs broadcast on those stations. Meanwhile, programs that even MPAA admits are seen by some viewers are given no value whatsoever. In the future, if MPAA continues to present a Nielsen-based viewer methodology, it needs to present convincing evidence, backed by testimony of a statistical expert, that demonstrates the causes for the large amounts of zero viewing and explains in detail the effect of the zero viewing on the reliability of the results of the survey. In addition, MPAA needs to take steps to improve the measurement of broadcasts in the survey to reduce the number of zero viewing hours, thereby increasing the reliability of its study.

(iii) *The 82 station sample.* According to Ms. Kessler, the 82 stations used in MPAA's sample survey were selected because they each had 90,000 or more Form 3[17] distant cable subscribers as identified by Cable Data Corporation. Tr. 242. MPAA chose the 90,000 subscribers as its minimum in selecting its sample of broadcast stations because such criteria "hit virtually all subscribers and accounted for generally all of the money that was paid into the fund during that time." Tr. 243.

During the proceeding, IPG presented testimony that demonstrated that MPAA did not apply the 90,000 subscriber criteria as it claimed. Several broadcast stations with more than 90,000 subscribers were excluded from the survey, and several with less than 90,000 subscribers were included in the survey. IPG written rebuttal at 30–31. In one extreme circumstance, station KDVR was included in the sample survey despite the fact that it had less than 3,000 distant subscribers in 1997. Id. at 31. MPAA did not refute this testimony, nor did it explain why certain stations that satisfied the criteria were excluded, while others that did not were included in the sample survey.

We cannot determine what effect, if any, MPAA's selection of stations had on the results generated by its sample survey. Likewise, we cannot determine from the record whether MPAA's failure to apply its 90,000 subscriber criteria was deliberate, or the result of oversight. What is clear is that MPAA's failure to apply its chosen selection criteria consistently further undermines our confidence in the accuracy of the results generated by its sample survey. In the future, when presenting a methodological survey, MPAA needs to rigorously adhere to its announced standards and parameters for the survey.

(iv) *Interpolation.* As mentioned above, the MPAA sample survey submitted in this Phase II proceeding is similar to the one it has submitted in past Phase I proceedings with one exception. The exception is the use of "straight line," "forward," and "backward" interpolation. The reason for and operation of interpolation is as follows. Nielsen measures viewing of all broadcast stations in the 82 station sample survey for only four months of the year. These measured viewing periods are referred to as the "sweeps." Nielsen also conducts two partial sweep periods, in which some of the 82 stations' broadcasts are measured, but not others.[18] This leaves six full months of unmeasured viewing, plus an additional two months for stations not covered by the partial sweeps periods. If MPAA relied only upon the sweeps and partial sweeps periods to measure viewing of programs, many programs belonging to MPAA members (as well as to IPG) would receive zero household viewing hours because they were broadcast on stations not covered by the sweeps. To compensate for this considerable omission, MPAA developed an interpolation method that allegedly estimates what the viewing might be for these programs had they been included in the sweeps periods.

---

[17] "Form 3" refers to the statement of account form used by the Copyright Office in collecting royalty fees under the section 111 cable license. "Form 3" cable systems are the largest systems filing with the Office, having in excess of $292,000 in gross receipts from subscribers for the retransmission of over-the-air broadcast signals.

Briefly described, MPAA's interpolation method makes three measurements in an effort to estimate viewing for programs outside the sweeps period. The first measurement is "straight line" interpolation. In "straight line" interpolation, MPAA ascertained the number of household viewing hours for a specific time period from the two closest sweeps periods, and then took the average of those hours. For example, May and July are sweeps periods, but there is no measured viewing for the month of June. MPAA looked at the May sweeps results and the July sweeps results and applied the average of those results to each corresponding time period in the month of June. Thus, the "straight line" interpolated viewing result for the quarter hour of 10 a.m. to 10:15 a.m. on June 7, 1997, is the average of the measured household viewing hours for that time period for a particular station on May 7, 1997, and July 7, 1997. Tr. 1614–17.

Both "forward" and "backward" interpolation use data obtained from Nielsen meter rankings, as opposed to the data obtained from viewing diaries during the sweeps periods. Meter rankings are different from the diary method in that meter rankings do not capture specific viewing, but rather merely record when a television is on in a given Nielsen household (whether or not anyone is actually watching it) and what station the television is tuned to. Tr.1273–74; 1347–50. "Forward" interpolation uses the sweeps household viewing measurement obtained from the viewing diaries for the period preceding the time frame to be measured and multiplies that by the ratio of Nielsen meter rankings for the preceding period and the period to be measured. In the above example, "forward" interpolation takes the corresponding daypart measurement from the May sweeps period and multiplies that by the Nielsen meter ranking for the same daypart in June divided by the May meter ranking for that daypart. Tr. 1616.

"Backward" interpolation utilizes the same approach as "forward" interpolation, except that it uses the sweep data for the period following the one to be measured, as well as the meter ranking from that period. Again, in the above example, the household viewing hours from the July sweeps period would be multiplied by the June meter ranking for the corresponding daypart divided by the July meter ranking. Tr. 1617. After the three interpolated results have been obtained through "straight line," "forward," and "backward" interpolation, they are divided by three to obtain an average number of household viewing hours for the daypart being examined. *Id.* The purported purpose of "straight line," "forward," and "backward" interpolation is to provide more accuracy to the Nielsen meter rankings through the process of averaging. Tr. 1602–03, 1614–17.

We recognize the purpose of interpolation and appreciate that MPAA is forced to estimate viewing for programs broadcast during non-sweeps periods. Our problem with interpolation is the manner in which MPAA presented it in this proceeding. First, MPAA laid no foundation for a statistical methodology that it was presenting for the first time in a cable distribution proceeding. Marsha Kessler is not a statistician who could testify as to the statistical validity of the interpolation approach; and moreover, she did not compile or review the interpolation data presented by MPAA and, apparently, did not participate in the creation of the methodology or its application. Tr. 1603. The interpolated data was created by Tom Larson of Cable Data Corporation who only presented testimony on the interpolated data when called as a witness by the CARP. In the future if MPAA uses viewing studies to present data on household viewing hours obtained through interpolation, MPAA should present expert testimony as to the statistical validity of the approach, including the confidence intervals for the data.

Second, the testimony establishes that Mr. Larson made the interpolated data calculations, applying "straight line," "forward," and "backward" interpolation "millions of times" in order to generate viewing data for programs broadcast during the 6–8 months of 1997 for which Nielsen did not measure viewing. Tr. 1603. MPAA apparently asks us to trust that Mr. Larson performed these interpolations accurately, because there is nothing in the record that permits verification. This is especially troubling given that more than half of the viewing data presented in MPAA's sample survey is obtained from interpolated results. MPAA should in the future present evidence that permits some verification of the results of interpolated viewing, rather than just total household viewing hours for all programs.

Finally, we note the Copyright Royalty Tribunal's admonition that data that is not specific to programs is unreliable in determining actual viewing of specific programs. 57 FR 15286, 15299 (April 27, 1992) (1989 cable distribution). MPAA's interpolation methodology assigns viewing hours to time slots, not to programs. Tr. 1688–89. It is likely that the viewing assigned these time slots was in many cases derived from programs of a completely different type, perhaps not the same programming category, than the programs measured during the Nielsen sweeps periods. And it is certain that many of the individual programs accounted for by interpolation were not actually transmitted during the period of interpolation. This is particularly troubling given the large amount of total viewing hour data presented by MPAA which was obtained from interpolation.

3. *Relevance of the methodology.* While we agree that viewing of programs is probative in assessing their value in a Phase II proceeding, the results generated by MPAA's sample survey are so unreliable that they cannot support an assessment of IPG's and MPAA's claims in this proceeding. All that can be garnered from the MPAA presentation is that MPAA's claim is large and IPG's is quite small, something that is readily ascertainable from that fact that IPG only represents eight programs in this proceeding. Precisely how small IPG's claim is, which is the task at hand, cannot be ascertained using MPAA's results. Further, MPAA's results cannot be used to establish a zone of reasonableness within which to

---

[18] The partial sweeps periods are confined, for the most part, to broadcast stations in the top television markets in the country.

place IPG's award because of the high probability of error in MPAA's results. Consequently, we cannot accept MPAA's presentation as providing any basis for the determination of the distribution of royalties in this proceeding.

B. IPG's Presentation

1. Description of the Methodology

IPG's written direct case presents the testimony of Raul Galaz, IPG's president and principal, and the exhibits that he sponsors. As a first-time participant in a cable distribution, IPG did not designate any prior testimony, nor did the CARP request IPG to call additional witnesses.

IPG takes a different approach in attempting to demonstrate the value of programming in this proceeding. Rather than rely on the estimated viewing of a particular program, IPG attempts to determine the value of a program based upon the carriage of the program by cable operators. IPG Proposed Findings at 14, ¶ 42. According to IPG, a cable operator is not interested in the viewer ratings generated by a particular broadcast program it retransmits; rather, it is the overall appeal of all the programs on the broadcast signal that is of value to the operator. Galaz Direct at 6–7. "Overall appeal" is important to the cable operator because the operator attempts to attract as many subscribers as possible to its system. When deciding which stations to retransmit, the operator will attempt to appeal to as wide a subscriber base as possible by providing multiple program opportunities, so-called "niche" programs that appeal to particular tastes.

> In some instances it will be the desire of the cable system operator to exhibit certain sports programming, in other instances it may be the desire to have news programming from a market that is of interest to the cable system operator's market, the desire to increase the amount of children's programming offered to the cable system's subscribers, or the desire to carry more game shows.

Id. at 7. According to IPG, in a compulsory license marketplace it is the overall appeal of a broadcast station to the cable operator that determines the value of the programming on that station.

Since overall appeal of a station is equated with value, the greater the number of subscribers to a station, the greater the value of that station and, consequently, the programming on that station. *Id.* at 8. The relative value of the programs contained on the station is determined, according to IPG, by the time placement of the program and the frequency of its telecast. Thus, a program that is retransmitted in prime-time once a week is of greater value than a program broadcast once a month at 2 o'clock in the morning.

In sum, IPG focuses on four elements to determine program value: (1) The number of distant cable subscribers capable of receiving the program broadcast during 1997; (2) the cable license royalties generated during 1997 that are attributable to stations broadcasting the program; (3) the time placement of the broadcast; and (4) the length of the broadcast. IPG Proposed Findings at 14, ¶ 43.

In order to measure these elements, IPG, like MPAA, surveyed a number of broadcast stations that were retransmitted by cable systems on a distant basis in 1997. IPG sampled 99 stations that were carried on Form 1, 2, and 3 cable systems, and examined all the programs that were broadcast by these stations during 1997. *Id.* at 15, ¶¶ 46–47. Such data comprised approximately 1.1 million logged broadcasts. *Id.* at 15, ¶ 47. IPG then segregated all programming not within the syndicated programming category, leaving only movies and syndicated series.

Because of the parallel between the number of cable subscribers receiving a station and the amount of royalty fees generated by that station, IPG created a factor to weigh the relative significance of any given station and the broadcast of any program on that station. Dubbed the "Station Weight Factor," it was "derived from the concept that the relative significance of any given station should be affected by both (i) the number of distant cable subscribers that could potentially view such station, and (ii) the amount of distant cable retransmission fees generated by such station." Galaz Direct at 11. The Station Weight Factor was created as follows. For each of the 99 sampled stations, IPG summed the figure representing the percentage of subscribers in the survey that received the given station with the figure representing the percentage of total cable royalty fees generated by the 99 sampled stations. This figure was then divided in half. *Id.* The figure generated by this equation equals, according to IPG, the relative significance of each of the 99 sampled stations.

Having determined the relative value of each station—and the corresponding programming on that station—IPG then attempted to determine the relative value of each program on each station by examining the number of broadcasts of the program and its time placement within the broadcast day. In order to do this, IPG created a factor that uses data on anticipated viewership of all persons during time periods of the day (referred to as "dayparts") in order to weigh the relative significance of any given broadcast. Dubbed the "Time Period Weight Factor," it was determined as follows:

> The Time Period Weight Factor was derived from data published by Nielsen Media Research ("Weekly Viewing Daypart" table within the "1998 Report on Television"), reflecting the weekly viewing habits of all persons in 1997. Weekly viewing is stated in terms of the number of television hours viewed during the week, specifies the amount of viewing attributable to specific time periods, allowing allocation amongst such time periods. IPG then determined the "Average Minutes Viewed Per Hour in Viewing Period" (i.e. the "Time Period Weight Factor") in order to apply such Time Period Weight Factor against each and every logged broadcast on the "99 Sample Stations," and according to the period during which such logged broadcast appeared.

Id. at 13.

After ascribing the Station Weight Factor and the Time Period Weight Factor to each broadcast, IPG applied the figures for each broadcast against the length of such broadcast, in order to ascribe a final value to each compensable broadcast. IPG Proposed Findings at 16, ¶ 50.

As a final step to the process, IPG summed the resulting value for its programs and all other programs in its survey and accorded a "Sum Weighted Value" to both these categories of programs. *Id.* at 16, ¶ 51.

In its written direct case, IPG applied its methodology for 43 programs that it believed that it represented in this proceeding. Galaz Direct at 5–6. It determined that IPG-represented programs produced a Sum Weighted Value of 2,3791.7968, as compared to the Sum Weighted Value of 1,369,901.837 for all syndicated broadcasts within the 99 sample station survey. *Id.* at 14. This yielded a percentage of 1.7367519% for IPG programs. Because IPG did not have access to the programs claimed by MPAA, it could not apply its methodology to determine the Sum Weighted Value of MPAA's programs. Consequently, IPG argued that "[t]o the extent that MPAA represents less than 100% of the non-IPG programming appearing on the '99 Sample Stations,' IPG's respective percentage must be adjusted upward." *Id.* at 14–15.

Once proceedings began before the CARP, MPAA produced the program certifications for some, but not all, of its claimants.[19] Also, during proceedings before the CARP, a number of IPG-claimed programs were eliminated from consideration, either through voluntary dismissal by IPG or as a result of the CARP's rejection of IPG's representation agreements with Jay Ward Productions, Mainframe Entertainment, and Scholastic Productions. IPG Proposed Findings at 53, ¶ 2. IPG then recalculated its own share, and that of MPAA's, and determined that its programs accounted for 0.881% of the aggregated Sum Weighted Value of all programs claimed in this proceeding.

Although IPG's methodology yielded 0.881% for its claimed programs, it argued that it was nonetheless entitled to 2% of the royalty pool. IPG justified the 2% figure based upon certain alleged failures, abuses, and shortcomings on MPAA's part, including: (1) Failure to produce program certifications for 33 of MPAA's claimants, and production of 6 certifications that were not properly authorized; (2) failure to establish entitlement to 1,100 programs that were not, according to a 1986 Advisory Opinion of the Copyright Royalty Tribunal, eligible for compensation in the syndicated programming category; (3) abuse of the discovery process by failing to produce documents underlying its methodology in contravention to Library and CARP discovery orders; and (4) serious shortcomings in the application of MPAA's distribution methodology. *Id.* at pp. 52–55.

2. Validity of the Methodology

This marks the first time that IPG has appeared in a cable royalty distribution proceeding, and the first time its distribution methodology has been presented. As such, we do not have the benefit of prior consideration or acceptance of the IPG methodology by either the Copyright Royalty Tribunal or a CARP, other than the CARP's opinion in this proceeding. We must consider IPG's methodology from a theoretical point of view, as well as examine its particular application to this Phase II proceeding.

At the outset, we note that IPG's methodology attempts to blend two approaches that have been presented to the Tribunal and the CARPs. The first part of the methodology, the Station Weight Factor, is a fee generation approach in that it considers the royalty fees paid by cable systems during 1997 for the 99 broadcast stations used in the IPG survey. Each of the stations in the 99 station sample survey is ranked from highest to lowest depending upon the amount of fees the station generated for the 1997 royalty pool. IPG submits that the Station Weight Factor is relevant to the marketplace value of broadcast programs because cable systems' decisions to retransmit a particular broadcast station are "based on the "overall appeal" of the retransmitted station and its ability to generate additional cable system subscribers, not the ratings of a particular program appearing on the retransmitted station." IPG Proposed Findings at 14–15, ¶ 45.

IPG's focus on the value of distant signals to cable operators recalls the Bortz survey that has been presented for many years at Phase I in cable royalty distribution proceedings. The Bortz survey attempts to measure the value of different categories of programming appearing on retransmitted broadcast signals by presenting to persons from cable companies a hypothetical programming budget for a given year, and then asking how much value they place on different kinds of programming (sports, movies, syndicated series, etc.) in compiling their program schedule. 57 FR 15286, 15292 (April 27, 1992). The more value placed on a program category, the more cable Phase I royalties it should receive, according to proponents of the Bortz survey.

The focus on value to the cable operator has been endorsed by both the Tribunal and the CARPs as one of the ways to assess marketplace value, and the results of the Bortz survey have received credit in Phase I proceedings. *See, e.g.* 57 FR 15286, 15301 (April 27, 1992)(1989 cable Phase I) IPG's Station Weight Factor attempts to ride the coattails of the Bortz survey's acceptance by ranking the "overall appeal" of stations as an expression of the value of the programming broadcast on those stations. While it must be true that a station such as WTBS, for example, has a significant "overall appeal" to cable operators by virtue of the number of cable systems that retransmit it, the "overall appeal" does not translate well to a Phase II proceeding dealing with one program category. It is quite possible, and perhaps likely, that the "overall appeal" of stations in the 99 station sample survey is based upon programming that is not in issue in this proceeding. Thus, the reason that so many cable operators carry WTBS may have more to do with Atlanta Braves baseball and Atlanta Hawks basketball than it does with syndicated series and movies. IPG failed to present any evidence that established a clear nexus between the syndicated programming category and the "overall appeal" of the 99 broadcast stations subjected to the Station Weight Factor.

This is a significant omission which raises serious concerns regarding the validity of IPG's methodology. The Copyright Royalty Tribunal has rejected estimating techniques that are not tied to programming categories because of their inherent unreliability. 57 FR at 15299 (1989 Phase I cable distribution). In the absence of convincing evidence that demonstrates that the ranking of the 99 stations is based upon the syndicated programming category, and not some other, the validity of the Station Weight Factor is not established.

The second element of IPG's methodology is the Time Period Weight Factor. The Time Period Weight Factor uses data from the 1998 Report on Television published by Nielsen. Galaz Direct at 13. The Report on Television provides viewing estimates for early morning (M–F 7–10 a.m.), daytime (M–F 10 a.m.–4 p.m.), prime time (M=—at 8–11 p.m. and Sun. 7–11 p.m.), and late night (11:30 p.m.–1 a.m.) dayparts. For all other dayparts, weekly viewing was extrapolated from the data in the above categories and lumped into the "All Other" category. IPG Exhibit H. These viewing estimates enable IPG to rank the dayparts. Like the ranking of the 99 stations in IPG's sample survey, the ranking of dayparts is not tied to programming. The Nielsen viewing estimates for these dayparts are drawn from viewing of all program categories. In fact, the estimates apparently also include viewing of local stations over-the-air and on cable, cable networks, and VCR recording of programming, which are completely outside the scope of the section 111 license. Tr. 1369. As with the Station Weight Factor, the Time Period Weight Factor is not tied to programming. IPG did not present any testimony establishing a link between syndicated programming and the ranking accorded to dayparts by Nielsen. Unless such link is established, the relevance of the Time Period Weight Factor is in question.

This is our evaluation of the theory of IPG's methodology. In addition, there are specific concerns about its application in this proceeding with respect to the use of daypart data obtained from Nielsen. While we acknowledge that obtaining specific daypart data from Nielsen is costly, the dayparts culled by IPG from the 1998 Report on Television are far too broad because they ignore variations in viewing within dayparts. For example, IPG's methodology assigns the same value to any program broadcast within the 1 a.m. to 7 a.m. daypart. MPAA

---

[19] MPAA submitted additional certifications to the CARP prior to closing arguments in the case. Tr. 2576.

VOL 66 ISS 247 DE 26 2001 UMI

points out that Nielsen estimates that household viewing falls from 18.9% to 8.2% at 4:30 a.m. and then begins to rise back to 19.7% in the 6:30 a.m. to 7 a.m. half hour. MPAA Proposed Findings at 60, ¶ 261. Thus, a program broadcast at 4:30 a.m. gets the same value under IPG's methodology as a program broadcast at 6:30 a.m., even though it has less than half the viewers. Even within IPG's own construct, which attempts to assign value based on relative viewing, this result is illogical. Dayparts must be broken down into smaller increments before the Time Period Weight Factor could be given any credence.

In addition, IPG's extrapolated daypart data, the "All Other" category, is plainly overweighted. For example, IPG applies the weight applicable to the "All Other" category to the 1 a.m. to 7 a.m. daypart. This is the same weight factor that is applied to programming broadcast between 4 p.m. and 8 p.m., where viewing, according to Nielsen, is considerably higher than in the 1 a.m. to 7 a.m. time frame. The result is that a program broadcast at 3 a.m. is of equal value under IPG's methodology as a program broadcast at 7:30 p.m.[20] Further, the 1998 Report on Television contains viewing estimates for the Saturday 7 a.m. to 1 p.m. daypart and the Sunday 1 p.m. to 7 p.m. daypart, neither of which IPG used in its methodology. Instead, IPG applied the "All Other" category to these time periods. As the CARP correctly observed, the value of the "All Other Category" is overstated, thereby inflating the value of IPG's claim. Revised Report at 14.

3. *Relevance of the methodology.* As with MPAA's presentation, we conclude that the results of IPG's presentation are so unreliable that they cannot be used as a basis for determining the distribution of royalties in this proceeding. The theory of IPG's case lacks statistical foundation, and places value on programs unconnected to their actual viewership. The evidence demonstrates that IPG's methodology overstates the value of its claim, although by how much cannot be determined. Given the lack of reliability of the results, IPG's presentation cannot be used as a basis for the distribution of royalties in this proceeding.

Determination

1. *Remand.* Having determined that the results presented by MPAA and IPG are wholly unreliable, we examined the record to determine if there is any evidence sufficient to base a distribution of royalties. As part of its distribution methodology, the CARP examined the number of rebroadcasts of programs and the airtime of programs contained in both the 82 sample stations presented by MPAA and the 99 stations presented by IPG. The CARP examined this data because it was the only data common to both MPAA's and IPG's presentations. Revised report at 17. This gave an indication of the relative size of MPAA's and IPG's claims; i.e. that MPAA's was large and IPG's small. *Id.* at 18. The CARP then turned to the methodologies presented by the parties and used them as a means of creating final distribution percentages.

We determine that the number of rebroadcasts and airtime of programs contained in the 82 station and 99 station sample surveys cannot form the basis of a distribution. All that data demonstrates is that MPAA's programming dominated the broadcast marketplace, something that is already known. The number of times a program is broadcast and the amount of time it is on the air is no indication of the marketplace value of the program. While the number of times a program is broadcast might intuitively suggest that it is of more value, the opposite is often true. Programs which garner low syndication fees are often broadcast by television stations many times because the rights are cheap. And other programs, such as motion pictures, may be broadcast relatively few times because the rights are expensive, but they are nonetheless of greater marketplace value. Number of broadcasts and airtime are therefore not the answer.

What then is the answer? We determine that the record of this proceeding is insufficient on which to base a distribution determination. The record does not permit us to assess what is the zone of reasonableness for the distribution awards, let alone determine the awards themselves. Given the lack of reliability of MPAA's and IPG's presentations, crafting awards from the current record would constitute arbitrary action.

We conclude that a distribution of royalties cannot be made based on the current record. Consequently, this case must be remanded to a new CARP for a new proceeding under chapter 8 of the Copyright Act.

2. *New proceeding.* In the new proceeding, the parties will be required to submit new written direct cases and present evidence that takes into account the concerns expressed in this Order, with the new CARP rendering its determination based upon the new record. All procedural and substantive requirements for a CARP proceeding will apply to the new proceeding.

Although the parties will able to present new cases and new evidence in the new proceeding, there are two matters that have been decided. As discussed above, the Librarian has ruled that IPG represents Litton Syndications for distribution of 1997 cable royalties, and no other claimant. Consequently, in the new proceeding, IPG is barred from relitigating whether it represents other claimants. The Librarian also determined that Litton's claim consists of at least 8 programs, and listed them in the June 5, 2001 Order. This part of Litton's claim is decided and may not be relitigated. Whether there are additional programs that should be credited to Litton's claim (such as *Dream Big* and *Dramatic Moments in Black Sports History*) may be addressed in the new proceeding. Likewise, all other matters as to program ownership, and the proper division of the royalties, are open to consideration in the new proceeding.

The Library will issue a scheduling order for the new proceeding once the arrangements have been made.

Order of the Librarian

Having duly considered the recommendation of the Register of Copyrights regarding the initial report and the revised report of the CARP in the above-captioned proceeding, the Librarian determines the following. First, the Librarian has accepted the recommendation of the Register to reject the initial report of the CARP and remand the proceeding to the CARP with instructions for further action. This was done in the June 5, 2001, Order in this proceeding, and the Librarian incorporates that Order as a part of his final determination. *See* Appendix A.

Second, the Librarian accepts the recommendation of the Register to reject the revised report of the CARP. Third, the Librarian accepts the recommendation of the Register to remand this proceeding to a new CARP for a new proceeding to determine the proper distribution of 1997 cable royalties between MPAA and IPG. The Library will issue a scheduling order for the new CARP proceeding once arrangements have been made.

---

[20] There is record evidence that shows that as much as 30% of IPG's originally claimed programs were broadcast between 1 a.m. and 7 a.m. Tr. 1035–37.

Dated: December 14, 2001.

Marybeth Peters,

Register of Copyrights.

APPENDIX A—LIBRARIAN'S REMAND ORDER DATED JUNE 5, 2001

[Docket No. 2002–2 CARP CD 93–97]

In the Matter of Distribution of 1993, 1994, 1995, 1996 and 1997 Cable Royalty Funds

Order

On April 16, 2001, the Librarian of Congress received the report of the Copyright Arbitration Royalty Panel (CARP) in the above-captioned proceeding. Both the Motion Picture Association of America (MPAA) and the Independent Producers Group (IPG), the two litigants in this proceeding, have filed their petitions to modify and/or set aside the determination of the CARP, and their replies to those petitions.

After a review of the report and examination of the record in this proceeding, the Register recommends that the Librarian reject the decision of the CARP, and remand the case to the CARP for modification of the decision. The Register concludes that the CARP acted arbitrarily in three ways. First, the CARP did not follow the decisional guidelines and intent of the June 22, 2000, Order issued in this proceeding which directed the CARP to dismiss any claimants listed in exhibit D of IPG's written direct case that did not have a written representation agreement with Worldwide Subsidy Group on or before July 31, 1998.

Second, the CARP arbitrarily included two programs—*Critter Gitters* and *Bloopy's Buddies*—in the claim of Litton Syndications, Inc. (represented by IPG) when IPG did not introduce any evidence as to the value of those programs. In addition, the CARP arbitrarily assigned the program *Dramatic Moments in Black Sports History* to IPG without adequate explanation of its decision.

Third, the CARP acted arbitrarily in awarding 0.5% of the 1997 cable royalties to IPG, and the remaining 99.5% of the royalties to MPAA, because it did not provide any explanation of the methodology or analysis it used to arrive at these numbers.

A full discussion of the Register's reasons for these conclusions shall appear in the final order in this proceeding published in the **Federal Register**.

Wherefore, the Register recommends that the Librarian reject the CARP's report and remand to the CARP to take the following actions in modifying its report:

1. That the CARP award royalties to IPG only on the claims of Litton Syndications and not award any royalties to IPG based upon the other claimants in exhibit D of IPG's written direct case;
2. That the CARP credit Litton with only the following programs: *Algo's Factory; Jack Hanna's Animal Adventures; Harvey Penick's Golf Lesson; Mom USA; Nprint; Sophisticated Gents; Just Imagine* and *The Sports Bar;*
3. That the CARP explain its reasons for crediting *Dramatic Moments in Black Sports History* to Litton's claim; and, if it concludes that its initial decision was correct, add the program to the list contained in #2;
4. That the CARP enter a new distribution percentage for IPG, based only on the claim of Litton and the programs listed in #2 and, if appropriate, #3, and allocate the remainder of the royalties to MPAA; and
5. That the CARP fully explain its reasons and methodology for the distribution percentages it assigns to IPG and MPAA.

The Register further recommends that the CARP be given until June 20, 2001, to report its modified decision to the Librarian and that section 251.55 of the rules, 37 C.F.R., apply to the CARP's modified report, except that the periods for petitions and replies be shortened from 14 days to 7 days for petitions, and from 14 days to 5 days for replies, due to the proximity of the time period for issuance of the Librarian's final order in this proceeding.

So recommended.

Dated: June 5, 2001.

Marybeth Peters,

Register of Copyrights.

So Ordered.

James H. Billington,

The Librarian of Congress.

[FR Doc. 01–31607 Filed 12–21–01; 8:45 am]

BILLING CODE 1410–33–P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Institute for Environmental Conflict Resolution—Program Evaluation Instruments: Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, U.S. Institute for Environmental Conflict Resolution.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the U.S. Institute for Environmental Conflict Resolution (the U.S. Institute), part of the Morris K. Udall Foundation, is planning to submit 18 proposed Information Collection Requests (ICRs) to the Office of Management and Budget (OMB). Each of these 18 ICRs is a new collection request; they are being consolidated under a single filing to provide a more coherent picture of information collection activities by the U.S. Institute. The proposed information collection is expected to neither have a significant economic impact on respondents, nor affect a substantial number of small entities. The average cost (in lost time) per respondent is estimated to be $4.91.

Before submitting the ICRs to OMB for review and approval, the U.S. Institute is soliciting comments on specific aspects of the information collection as described at the beginning of the section labeled "Supplementary Information."

DATES: Comments must be submitted on or before February 25, 2002.

ADDRESSES: U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701. Worldwide web: www.ecr.gov.

FOR FURTHER INFORMATION CONTACT: David P. Bernard, Associate Director, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, Fax: 520–670–5530, Phone: 520–670–5299, E-mail: *bernard@ecr.gov*.

SUPPLEMENTARY INFORMATION:

OVERVIEW

To comply with the Government Performance and Results Act (GPRA) (Pub. L. 103–62), the U.S. Institute for Environmental Conflict Resolution, as part of the Morris K. Udall Foundation, is required to produce, each year, an Annual Performance Plan, linked directly to the goals and objectives outlined in the Institute's five-year Strategic Plan. The U.S. Institute is also required to produce an Annual Performance Report, evaluating progress toward achieving its performance commitments. The U.S. Institute is currently developing a program evaluation system to gather and analyze information needed to assist in producing its Annual Performance Report.

The U.S. Institute is committed to establishing, achieving, and maintaining a national standard of excellence in all its programs, products, and services. To do so, the U.S. Institute requires high quality information concerning effectiveness of its various initiatives. Systematic and ongoing monitoring of program outcomes will allow the U.S. Institute to perform a variety of tasks, including giving individual project and program managers, as well as the Institute's management, the ability to accurately assess and report on program and project achievements. The new evaluation system has been carefully designed to support efficient and economical generation, analysis and use of this much-needed information, with an emphasis on program feedback, learning and improvement.

As part of the program evaluation system, the U.S. Institute intends to collect specific information from participants in, and users of, several of its programs and services. Specifically, five of the Institute's programs and services are the subject of this Federal

VOL 66 ISS 247 DE 26 2001 UMI

Notice: (1) Environmental conflict assessment services; (2) environmental conflict resolution services; (3) the National Roster of Environmental Dispute Resolution and Consensus Building Professionals; (4) environmental conflict resolution training courses and workshops; and (5) meeting facilitation. Evaluations will mainly involve administering questionnaires to parties and professionals engaged in U.S. Institute projects, as well as members and users of the National Roster. Responses by members of the public to the Institute's request for information (i.e., questionnaires) will be voluntary and anonymous.

The U.S. Institute is exploring with several other federal agencies how its program evaluation system can be of use to their own program evaluation needs. The broader use of similar data collection instruments and consistent data collection and analysis techniques may provide cost savings to other agencies and accelerate the rate at which each agency reviews and improves effective performance of conflict resolution processes.

Key Issues

The U.S. Institute would appreciate receiving comments that can be used to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the U.S. Institute, including whether the information will have practical utility;

(ii) Determine whether the nature and extent of the proposed level of anonymity for those from whom the U.S. Institute will be collecting information is adequate and appropriate;

(iii) Evaluate the accuracy of the U.S. Institute's estimate of the burden associated with the proposed information collection activities;

(iv) Enhance the quality, utility, and clarity of the information to be collected;

(v) Minimize the burden of the information collection on those who are to respond, including suggestions concerning use of automated collection techniques or other forms of information technology (e.g., allowing electronic submission of responses).

As used in this document, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal Agency. This includes time needed to: review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Technical Details

The upcoming information collection request by the U.S. Institute is one step in the process for establishing an operational program evaluation system. Development of the system formally began in 1999, as part of a broader collaborative program evaluation initiative co-sponsored by the U.S. Institute and the Policy Consensus Initiative (PCI), involving the University of Arizona's Udall Center for Studies in Public Policy, Indiana University's School for Public and Environmental Affairs, the Indiana Conflict Resolution Institute, and Syracuse University's Maxwell School for Citizenship and Public Affairs. After extensive preparation, a two-day workshop on program evaluation was held with several federal and state program managers, academic researchers, and practitioners. Subsequently, the U.S. Institute and PCI began working together with two state agencies that administer public policy and environmental dispute resolution programs; the Massachusetts Office of Dispute Resolution and the Oregon Dispute Resolution Commission. With PCI's support and coordination and contracted program evaluation consultants, the U.S. Institute and these state programs have been developing their program evaluation systems. These programs have now completed pilot testing and are in the early stages of implementation. This collaborative effort has provided essential guidance, critical review and confirmation for the U.S. Institute's approach to its program evaluation system.

Technical details of the Institute's evolving program evaluation system are contained in a December 2001 draft report entitled Applying Program Evaluation Methods at the U.S. Institute for Environmental Conflict Resolution. Paper copies of this report can be obtained by contacting the Institute; an electronic copy can be downloaded from the Institute's website: *www.ecr.gov/techdoc.htm.*

One of the most important design criteria for any program evaluation system is its validity—ensuring that reported results will be trustworthy and accurately portray the level of success that individual programs and projects achieved in meeting intended outcomes. For each of the Institute's five program and service areas an operational diagram was composed that systematically registers all intended program outcomes and each of the factors believed by current program theory to affect those outcomes. These five outcome diagrams were then used as the framework for formulating the detailed questionnaires that will be used to gather information for evaluating whether intended outcomes were achieved, and for providing diagnostic insights useful in analyzing what factors most influenced the outcomes.

Primary audiences for results from the U.S. Institute's program evaluation system include members of the U.S. Institute program staff and management, which will use the information in decision-making regarding program operation and directions, and oversight bodies such as the Udall Foundation Board of Trustees and OMB. Secondary audiences will likely include other federal agencies, practitioners in the field, researchers, and members of the public. The U.S. Institute will use the information and analysis generated by its program evaluation system for a variety of purposes, including: ongoing improvements to design and operation of projects and programs; periodic performance reporting; annual evaluations of personnel performance; and learning about what factors most influence successful outcomes in specific situations. Ultimately, it is expected that this information will aid further development of best practices for the field of environmental conflict resolution (ECR).

A. List of ICRs Planned To Be Submitted

The U.S. Institute is planning to submit 18 ICRs to OMB, corresponding to 18 individual questionnaires that will be administered to those involved in environmental conflict resolution (ECR) activities connected with U.S. Institute services and programs. Questionnaires will be used to gather information concerning the effectiveness of the ECR services and programs provided by or on behalf of the U.S. Institute. As noted above, consideration is being given to the use of these questionnaires by other agencies for ECR activities, which may or may not involve the U.S. Institute. In the listing below, the questionnaires are organized into five activity areas, indicating the recipients of the questionnaires and, in parentheses, the frequency of administration. It should be noted that additional questionnaires will be administered to U.S. Institute project managers, but OMB clearance is not required for questionnaires directed to federal employees.

Environmental Conflict Assessment
  (1) Assessment—Initiating Organization, at the conclusion of the process (once)
  (2) Assessment—Neutral, at the conclusion of the process (once)
Environmental Conflict Resolution Services
  (3) ECR Process—Parties, at the conclusion of the process (once)
  (4) ECR Process—Parties, subsequent to the conclusion of the process (once)
  (5) ECR Process—Parties' Attorneys, subsequent to the conclusion of the process (mediation only) (once)
  (6) ECR Process—Neutral (facilitators and mediators) at the conclusion of the process (once)
  (7) ECR Process—Neutral case summary at conclusion of the process (once)
National Roster of Environmental Dispute Resolution and Consensus-Building Professionals
  (8) National Roster—Members (once, upon acceptance to the roster)
  (9) National Roster—Members (annual follow-up)
  (10) National Roster—Users (once, upon initial use of WWW site)
  (11) National Roster-Users (once, per Roster search)
  (12) National Roster—Users requesting a referral (once, per request)
Environmental Conflict Resolution Training Courses and Workshops
  (13) Training—Participants, prior to start (once)
  (14) Training—Participants, at the conclusion (once)
  (15) Training—Participants, follow-up (once, six months after training)
  (16) Training—Instructor, prior to start (once)
  (17) Training—Instructor, at the conclusion (once)
Meeting Facilitation
  (18) Meeting Facilitation—Meeting Attendees, at the conclusion of the process (once)

B. Contact Individual for ICRs

David P. Bernard, Associate Director, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, Fax: 520–670–5530, Phone: 520–670–5299, E-mail: *bernard@ecr.gov*.

C. Confidentiality and Access to Information

To encourage candor and responsiveness on the part of those completing the questionnaires, the U.S. Institute intends to report information obtained from questionnaires only in the aggregate. The U.S. Institute intends to withhold the names of respondents and individuals named in responses. Such information regarding individuals is exempt from disclosure under the Freedom of Information Act (FOIA), pursuant to exemption (b)(6) (5 U.S.C. Section 552(b)(6), as the public interest in disclosure of that information would not outweigh the privacy interests of the individuals. Therefore, respondents will be afforded anonymity. Furthermore, no substantive case-specific information that might be confidential under statute, court order or rules, or agreement of the parties will be sought.

The U.S. Institute is committed to providing agencies, researchers and the public with information on the effectiveness of environmental conflict resolution (ECR) and the performance of the U.S. Institute's programs and services. Access to such useful information will be facilitated to the extent possible. The U.S. Institute is also committed, however, to managing the collection and reporting of data so as not to interfere with any ongoing ECR processes or the subsequent implementation of agreements. Case specific data will not be released until an appropriate time period has passed following conclusion of the case; such time period to be determined. FOIA requests will be evaluated on a case-by-case basis.

D. Information on Individual ICRs

Environmental Conflict Assessment

The U.S. Institute consistently encourages the use of conflict or situation assessments. Generally, such assessments are conducted by a neutral party and include a series of confidential structured interviews in person or on the telephone with individuals or groups of parties. Through such assessments, neutrals identify and clarify key issues and parties, and assess the appropriateness of an ECR process and its potential for helping the parties reach agreement. Assessment reports seek to clarify and communicate in a neutral manner the issues and concerns of all parties, and commonly conclude with process design recommendations intended to provide the parties with one or more options for effectively collaborating in inventing a solution to their conflict.

(1) Assessment—Initiating Organization Questionnaire; New collection request; Abstract: Immediately following conclusion of a conflict assessment process, the initiating agency or organization(s) will be surveyed once via questionnaire to determine their views on a variety of issues. Topics to be investigated include: was the conflict assessment approach well suited to the nature of the issues in conflict; was the selected neutral appropriate for the assignment; were all key parties consulted, and, were all key issues and alternatives properly identified and considered? The voluntary questionnaire contains 15 simple questions, many of which require respondents to only provide a fill-in-the blank rating number. Information from the questionnaire will permit U.S. Institute staff to not only evaluate performance for specific projects, but also improve the design of future assessment projects. *Affected Entities:* Entities potentially affected by this action are individuals in organizations that participate in a conflict assessment conducted by U.S. Institute staff or contractors. *Burden Statement:* It is estimated that the annual national public burden and associated costs and will be approximately 15 hours and $405 respectively. These values were calculated assuming that on average (a) respondents require 12 minutes per questionnaire (b) there are 1.5 respondents per project (c) respondents are surveyed only once, and (d) there will be 50 assessments conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(2) Assessment—Neutral Questionnaire; New collection request; Abstract: Immediately following conclusion of a conflict assessment, the selected neutral(s) will be surveyed once via questionnaire to determine their views on a variety of issues. Topics to be investigated include: was the conflict assessment approach well suited to the nature of the issues in conflict; were all key parties consulted, and, were all key issues and alternatives properly identified and considered? In most cases, it will be specified in the neutral's contract that they be required to complete the questionnaire. The neutral's questionnaire contains 14 simple questions, many of which require respondents only to provide a fill-in-the blank rating number. Information from the questionnaire will permit U.S. Institute staff to not only evaluate performance for the neutral, but also improve the process for selecting appropriate neutrals for future assessment projects. Affected Entities: Entities potentially affected by this action are neutral ECR practitioners who

VOL 66 ISS 247 DE 26 2001 UMI

either are staff members of the U.S. Institute or have been contracted by the Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 10.5 hours and $378, respectively. These values were calculated assuming that on average: (a) neutrals require 10 minutes per questionnaire (b) there are 1.25 respondents per project (c) respondents are surveyed only once, and (d) there will be 50 assessments conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

Environmental Conflict Resolution Services

A variety of non-adversarial, participatory processes are available as adjuncts or alternatives to conventional forums for resolving environmental disputes or reaching environmental agreements. Such environmental conflict resolution (ECR) processes range broadly depending on the nature of the dispute and the parties involved as well as their context (for example, early on in planning processes, when seeking administrative relief, or during litigation). Under the right circumstances, a well-designed ECR process facilitated or mediated by the right neutral can effectively assist parties in reaching agreement on plans, proposals, and recommendations to settle their dispute. ECR processes can also result in improvement in relationships among the parties, and increase their individual and collective capacity to manage or resolve future conflicts. The following survey instruments have been designed for use across the full range of ECR, be they collaborative agreement-seeking processes or environmental mediation.

(3) ECR Process—Parties Questionnaire; New collection request; Abstract: Immediately following conclusion of an ECR process, the parties that have been involved will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated include: are the parties now more likely to consider collaborative processes in the future; were the "right" parties effectively engaged throughout the process; was there an appropriate scope and design for the ECR process; did the parties have the capacity to engage in the process; was the neutral (or team) that guided the process appropriate; and did all parties have access to the best available and relevant information? The voluntary questionnaire contains 29 questions, many of which require respondents only to fill-in-the blank with their level of agreement or a rating number. Information from the questionnaire will permit U.S. Institute staff to evaluate if the intended ECR outcomes were achieved, and if so or not, why. Affected Entities: Entities potentially affected by this action are parties to ECR process conducted by, on behalf of, the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 400 hours and $10,800, respectively. These values were calculated assuming that on average: (a) parties require 12 minutes per questionnaire (b) there are 20 respondents per project (c) respondents are surveyed only once, and (d) there will be 100 ECR projects conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(4) ECR Process—Parties Follow-up Questionnaire; New collection request; Abstract: To gain information concerning the loner-term effectiveness of the ECR process, an additional questionnaire will be administered to the parties at a future date following conclusion of the process. Topics to be examined include: do all parties perceive an improvement in their collective relationships; do the parties consider the ECR process to have been fair and open; are the parties satisfied with services of the U.S. Institute; did the decision makers agree to implement the plans, proposals, recommendations or settlement agreement; and—if implemented—did the solution endure changes in conditions and unanticipated events. The voluntary questionnaire contains 13 questions, many of which require respondents to only fill-in-the blank with their level of agreement or a rating number. Information from the questionnaire will permit U.S. Institute staff to evaluate if the ECR outcomes were sustainable, and if not, why. Affected Entities: Entities potentially affected by this action are parties to ECR process conducted by, on behalf of, the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 333 hours and $9,000, respectively. These values were calculated assuming that on average: (a) parties require 10 minutes per questionnaire (b) there are 20 respondents per project (c) respondents are surveyed only once, and (d) there will be 100 ECR projects conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(5) ECR Process—Parties' Attorneys Questionnaire (mediation only); New collection request; Abstract: Immediately following conclusion of an ECR mediation process, attorneys (if any) who represented parties to the dispute will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated are similar to those in questionnaire (4), above, except this instrument places greater emphasis on gaining a legal perspective. This voluntary questionnaire contains 38 questions, and only a few of these require other than a simple fill-in-the blank response. Information from this questionnaire will permit U.S. Institute staff to evaluate if the intended ECR outcomes were achieved, and if so or not, why. Affected Entities: Entities potentially affected by this action are parties to ECR process conducted by, on behalf of, the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 9 hours and $369, respectively. These values were calculated assuming that on average: (a) attorneys require 12 minutes per questionnaire; (b) there are 0.45 respondents per project (c) respondents are surveyed only once, and (d) there will be 100 ECR projects conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $41 hr.

(6) ECR Process—Neutral (facilitators and mediators) Questionnaire; New collection request; Abstract: Immediately following conclusion of an environmental conflict resolution process, the neutral(s) will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated include: was the ECR approach well suited to the nature of the issues in conflict; were all key parties consulted, and, were all key issues and alternatives properly identified and considered? In most cases, it will be specified in the neutral's contract that they be required to complete the questionnaire. The neutral's questionnaire contains 44 questions. Information from this questionnaire will permit U.S. Institute staff to evaluate if the intended ECR outcomes were achieved, and if so or not, why. Affected Entities: Entities potentially affected by this action are neutrals in ECR processes conducted by, on behalf of, the U.S. Institute. Burden Statement: It is estimated that the annual national

public burden and associated costs and will be approximately 62.5 hours and $2,250, respectively. These values were calculated assuming that on average: (a) neutrals will require minutes per questionnaire; (b) there are 1.25 respondents per project (c) respondents are surveyed only once, and (d) there will be 100 ECR projects conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

(7) ECR Process—Neutral case summary; New collection request; Abstract: Immediately following conclusion of an environmental conflict resolution process, the neutral(s) will be asked to provide answers to four questions the answers to which will help the U.S. Institute characterize the controversy. Among other things, the questions explore the benefits from the collaborative process, and insights concerning which controversies are most appropriate for collaborative processes, along with suggestions regarding the design and implementation of ECR processes. In those cases managed by the U.S. Institute, it will be specified in the neutral's contract that they be required to provide answers to these questions. Information from this questionnaire will permit U.S. Institute staff to evaluate if the intended ECR outcomes were achieved, and if so or not, why. Affected Entities: Entities potentially affected by this action are neutrals in ECR processes conducted by, on behalf of, the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 31.25 hours and $1,125, respectively. These values were calculated assuming that on average: (a) neutrals will require 15 minutes per questionnaire; (b) there are 1.25 respondents per project (c) respondents are surveyed only once, and (d) there will be 100 ECR projects conducted each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

National Roster of Environmental Dispute Resolution and Consensus-Building Professionals

The U.S. Institute has a full-time Roster Manager who supervises a Roster Program consisting of two main components: design and operation of the National Roster of Environmental Dispute Resolution and Consensus Building Professionals, and overseeing the associated referral system. Membership on the roster remains open at all times. Potential members apply on line and are required to provide information that demonstrates a level of training and experience adequate to meet specific, objective entry criteria. First constituted in February 2000, the roster currently includes over 180 members, nationwide. When making referrals and locating neutrals for sub-contracting, the U.S. Institute uses the roster as a primary source to find experienced individuals, particularly in the locale of the project or dispute (as required by the Institute's enabling legislation). Currently, dispute resolutions specialists at the U.S. EPA have direct access to the roster and use it to assist them in finding practitioners. Other federal agencies, and the public, will soon have direct access to the roster via the WWW. When requested by any party to a qualifying dispute, the Roster Manager also provides advice and assistance regarding selection of appropriate practitioners.

(8) National Roster—Members Questionnaire; New collection request; Abstract: After being registered as a roster member, individuals will be surveyed once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated include their level of satisfaction with the application process and computer system that provides web access; and their level awareness of the roster and how to best use it for their needs. This voluntary questionnaire contains 20 questions, and most require only a simple fill-in-the blank response. Data and information from this questionnaire will permit U.S. Institute staff to evaluate the performance of the Roster Program, to determine it is meeting its intended outcomes, and if so or not, why. Affected Entities: Entities potentially affected by this action are roster members. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 66.7 hours and $2,400, respectively. These values were calculated assuming that on average: (a) roster members require 20 minutes per questionnaire; (b) there are 200 roster members per year; (c) respondents are surveyed only once. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

(9) National Roster—Members Follow-up Questionnaire; New collection request; Abstract: After being registered as a roster member for a period of time, individuals will be again surveyed, once, via questionnaire, to determine their views on a variety of issues. Topics to be investigated are similar to those in questionnaire (8), described above, and include their level of satisfaction with their roster membership, the computer system that provides web access; and the degree to which roster membership has been beneficial to them. This voluntary questionnaire contains 20 questions, and most require only a simple fill-in-the blank response. Data and information from this questionnaire will permit U.S. Institute staff to evaluate the performance of its Roster Program, to determine if it is meeting its intended outcomes, and if not, why. Affected Entities: Entities potentially affected by this action are roster members. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 76.7 hours and $2,760, respectively. These values were calculated assuming that on average: (a) roster members require 20 minutes per questionnaire; (b) there are 230 roster members per year; (c) respondents are surveyed only once. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

(10) National Roster—Users Questionnaire (Upon Registering); New collection request; *Abstract:* Users who are seeking to identify appropriate neutrals for a specific case via electronic access to the roster must first register on line with the Roster Manager to gain access to the roster website. After gaining access, users will be surveyed once prior to logging off from their first use of the website to gain information concerning the functioning and utility of the website. Should major revisions occur in the website design, these users will again be surveyed, once, following their next use of the roster website. This voluntary questionnaire contains seven questions, most requiring only a simple fill-in-the blank response. Information from this questionnaire will permit U.S. Institute staff to evaluate the performance of the Roster website and whether it is meeting the intended outcomes, and if so or not, why. *Affected Entities:* Entities potentially affected by this action are individuals who have register to use the roster website. *Burden Statement:* It is estimated that the annual national public burden and associated costs and will be approximately 5 hours and $135, respectively. These values were calculated assuming that on average: (a) users require 15 minutes to complete the questionnaire; (b) there are 20 new users per year; and (c) respondents are surveyed only once. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents,

VOL 66 ISS 247 DE 26 2001 UMI

and (b) respondents' time is valued at $27 hr.

(11) National Roster-Questionnaire for Users After Each Roster Search; New collection request; Abstract: Users who search the roster will be surveyed once for each new roster search. This voluntary questionnaire contains 23 questions, most requiring no more than a simple fill-in-the blank response. Information from this questionnaire will permit U.S. Institute staff to evaluate how well the Roster is performing in meeting the needs of those searching the roster, and if so or not, why. Affected Entities: Entities potentially affected by this action are individuals who use the roster to search for names of neutrals. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 10 hours and $270, respectively. These values were calculated assuming that on average: (a) roster searchers require 10 minutes to complete the questionnaire; (b) there are 60 roster searches per year; and (c) respondents are surveyed only once. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(12) National Roster—Questionnaire for Users Requesting A Referral; New collection request; Abstract: Users who request assistance for their roster search directly from the Roster Manager, or other U.S. Institute staff, will be surveyed once for each new assisted roster search. This voluntary questionnaire contains 18 questions, most requiring only a simple fill-in-the blank response. Information from this questionnaire will permit U.S. Institute staff to evaluate how well the combination of the roster and support from Institute personnel performed in meeting the needs of those requesting assistance, and if or if not fully, then why. Affected Entities: Entities potentially affected by this action are individuals who request assistance in using the roster to search for names of neutral candidates. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 10 hours and $360, respectively. These values were calculated assuming that on average: (a) users who have requested assistance will require 10 minutes to complete the questionnaire; (b) there are 60 assisted roster searches each year; and (c) respondents are surveyed only once for each referral. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

Environmental Conflict Resolution Training Courses and Workshops

Education and training sessions are conducted by the U.S. Institute and its contractors for a variety of audiences to both increase the appropriate use of ECR and to improve the ability of those participating in ECR processes to effectively negotiate on their own behalf and collaborate on the best possible agreement. The subject of training sessions varies widely, depending on the participants and their specific training needs. The specific objectives of the training must be articulated at the outset and professional training instructors are expected to design and/or deliver appropriate training to meet those objectives and the expectations of the participants.

Participants in training sessions will be asked to complete three questionnaires, one each before the course is presented, again at the conclusion of the training, and finally at some future date. Likewise, instructors will be asked to complete two questionnaires, one each before the course begins, and at the conclusion of the course.

(13) Training—Participants Questionnaire, prior to start; New collection request; Abstract: Training participants will be asked to complete a questionnaire before the course begins. Participation is voluntary and the questionnaire contains 18 questions, most requiring only a simple fill-in-the blank response. Data and information from this questionnaire will establish a baseline for measuring changes in an individual's level of skill and knowledge as a function of participation in the training sessions. Affected Entities: Entities potentially affected by this action are individuals who participate in training sessions sponsored by the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 500 hours and $13,500, respectively. These values were calculated assuming that on average: (a) training participants require 10 minutes to complete the questionnaire; and (b) there are 3,000 training participants each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(14) Training—Participants Questionnaire, at the conclusion; New collection request; Abstract: Training participants will be asked to complete a questionnaire at the end of the course. Participation is voluntary and the survey instrument contains nine questions, about half requiring descriptive answers. Data and information from this questionnaire will be compared with the baseline established with the pre-training questionnaire. Results will be used to determine the effectiveness of the training in improving each participant's level of skill and knowledge, and to aid in determining what, if any, factors favorably or adversely affected the participant's learning. Affected Entities: Entities potentially affected by this action are individuals who participate in training sessions sponsored by the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs and will be approximately 500 hours and $13,500, respectively. These values were calculated assuming that on average: (a) training participants require 10 minutes to complete this questionnaire; and (b) there are 3,000 training participants each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(15) Training—Participants Questionnaire, Follow-Up; New collection request; Abstract: Six months (or an appropriate interval to be determined) after the training session, each participant will be asked to complete a final questionnaire. Participation is voluntary and the survey instrument contains nine questions, about half requiring descriptive answers. Data and information from this questionnaire will be used to determine the longevity and practical usefulness of any improvements in skills and knowledge that participants gained from the original training sessions. The questionnaire also contains some questions designed to identify if and why longer-term training results may not be expected. Affected Entities: Entities potentially affected by this action are individuals who participate in training sessions sponsored by the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 500 hours and $13,000, respectively. These values were calculated assuming that on average: (a) training participants require 10 minutes to complete this questionnaire; and (b) there are 3,000 training participants each year. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $27 hr.

(16) Training—Instructor Questionnaire, prior to start; New

collection request; Abstract: Instructors will be asked to complete a questionnaire before the course begins. In most cases, it will be specified in the instructor's contract that they complete the questionnaire. This survey instrument contains six questions, most requiring only a simple fill-in-the blank response. Data and information from this questionnaire will establish a baseline of the instructor's expectations and intentions to be used in measuring changes at the end of the course. Affected Entities: Entities potentially affected by this action are instructors who lead training sessions sponsored by the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 33.3 hours and $1,200, respectively. These values were calculated assuming that on average: (a) instructors require 10 minutes to complete the questionnaire; and (b) each year there are 200 instructors who work on training sessions sponsored by the U.S. Institute. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

(17) Training—Instructor Questionnaire, at the conclusion; New collection request; Abstract: When the course concludes, instructors will be asked to complete a questionnaire. In most cases, it will be specified in their contract that they complete this questionnaire. The survey instrument contains five questions, most requiring only a simple fill-in-the blank response. Data and information from this questionnaire will help establish a contextual baseline for evaluating survey data from the training participants. As well, this instrument is also intended to generate useful feedback on ways to improve the U.S. Institute's training projects. Affected Entities: Entities potentially affected by this action are instructors who lead training sessions sponsored by the U.S. Institute. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 33.3 hours and $1,200, respectively. These values were calculated assuming that on average: (a) instructors require 10 minutes to complete the questionnaire; and (b) each year there are 200 instructors who work on training sessions sponsored by the U.S. Institute. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents, and (b) respondents' time is valued at $36 hr.

Meeting Facilitation

U.S. Institute staff and contractors facilitate and provide leadership for many public meetings, ranging from small group meetings to large public convenings of several hundred attendees. In order to maximize the probability that such meeting objectives will be accomplished, the meeting participants must both understand the objectives for the meeting, and perceive that the meeting was managed in a fair and efficient manner. This requires that the right facilitator run the meeting, and the right people attend the meeting.

(18) Meeting Facilitation—Meeting Attendees Questionnaire, at the conclusion of the process; New collection request; Abstract: Attendees at public meetings run by U.S. Institute staff or contractors will be asked to complete a voluntary questionnaire at the conclusion of the meeting. The questionnaire used in this case contains nine questions, two-thirds requiring only a simple fill-in-the blank response. Information from this questionnaire will help evaluate the effectiveness of individual facilitators and particular meeting process designs. Affected Entities: Entities potentially affected by this action are individuals who participate in these public meetings. Burden Statement: It is estimated that the annual national public burden and associated costs will be approximately 833.3 hours and $22,500, respectively. These values were calculated assuming that on average: (a) meeting attendees require 10 minutes to complete the questionnaire; (b) the U.S. Institute conducts 100 public meetings each year; and (c) 50 people attend the average meeting. Cost burden estimates assume: (a) there are no capital or start-up costs for respondents; and (b) respondents' time is valued at $27 hr.

Dated: December 18, 2001.

Christopher L. Helms,

Executive Director, Morris K. Udall Foundation.

[FR Doc. 01–31587 Filed 12–21–01; 8:45 am]

BILLING CODE 6820–FN–P

NATIONAL SCIENCE FOUNDATION

DOE/NSF Nuclear Science Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: DOE/NSF Nuclear Science Advisory Committee (1176).

Date and Time: Monday, Jan. 14, 2002 8 a.m.–6 p.m.; Tuesday, Jan. 15, 2002; 8 a.m.–6 p.m.

Place: Rm 585–II 4201 Wilson Blvd., Arlington, VA 22230.

Contact Person: Dr. Bradley D. Keister, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 292–7380.

Purpose of Meeting: To provide advice and recommendations concerning the scientific programs of the NSF and DOE in the area of basic nuclear physics research.

Dated: December 19, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–31640 Filed 12–21–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

(**Note:** The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.)

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from December 3, 2001 through December 14, 2001. The last biweekly notice was published on December 12, 2001 (66 FR 64284).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation

VOL 66 ISS 247 DE 26 2001 UMI

of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By January 25, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, http://www.nrc.gov/NRC/ADAMS/index.html. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Branch, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Assess and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document room (PDR) Reference staff at 1–800–397–4209, 304–415–4737 or by email to *pdr@nrc.gov*.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: April 17, 2001.

Description of amendment request: The proposed amendment would make editorial and administrative corrections to Technical Specifications (TS) Section 3.3, "Instrumentation", and eliminate minor discrepancies between TS Section 3.3 and other plant licensing basis documents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Does the Change Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated?

The proposed changes involve correction of editorial or administrative errors made during the conversion of the Clinton Power Station (CPS) Technical Specifications (TS) to the improved TS (ITS). These proposed changes are based upon current design and licensing basis requirements. The proposed changes involve correction or reformatting of the TS and do not involve any physical changes to plant systems, including those that mitigate the consequences of accidents or the manner in which these plant systems are operated. As such, these changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

Does the Change Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated?

The proposed changes involve correcting errors or reformatting existing TS requirements that do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. These changes are consistent with the assumptions in the safety analyses and licensing basis. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the Change Involve a Significant Reduction in a Margin of Safety?

The proposed changes involve correcting editorial or administrative errors introduced during the conversion of the CPS TS to the ITS. The change to the Allowable Value for the Control Room Ventilation System air intake radiation monitors setpoint in TS Table 3.3.7.1–1 is consistent with the supporting analyses for the trip setpoint value that was previously contained in the TS. The changes involve reformatting or correction of errors, and therefore will not reduce any margin of safety because there is no effect on any safety analysis assumptions. These proposed changes maintain requirements within the safety analyses and licensing basis. Therefore, these changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert Helfrich, Mid-West Regional Operating Group, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

AmerGen Energy Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Date of amendment request: May 21, 2001.

Description of amendment request: The proposed amendment would revise the actions required if the refueling equipment interlocks become inoperable. The proposed changes are consistent with the changes submitted to the Nuclear Regulatory Commission by the Technical Specifications Task Force, Issue number 225, Revision 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Does the Change Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated?

The proposed addition of alternate actions in the event that the refueling equipment interlocks are determined to be in operable ensures that the safety function provided by the interlocks are enforced. This is accomplished through manually inserting a rod block to prevent the inadvertent withdrawal of a control rod when fuel is being moved over the core region.

The refueling equipment interlocks are credited in the Control Rod Removal Error During Refueling—Fuel Insertion with Control Rod Withdrawn as described in Updated Safety Analysis (USAR Section 15.4.1.1.2.2). The manual insertion of a control rod withdrawal block provides equivalent protection for the conditional rod block provided by the refueling equipment interlocks.

The proposed change to the surveillance frequency does not change the means in which the refueling equipment operates. A review of surveillance history was performed for the past two refueling outages. In the last seven performances of the refueling equipment interlocks operability test, the interlocks have operated successfully with no corrective maintenance or corrective action necessary. Therefore, since the proposed changes do not result in any physical changes to the facility, or involve any modifications to plant systems or design parameters or conditions that contribute to the initiation of any accidents previously evaluated, the proposed changes do not increase the probability of any accident previously evaluated.

Since the proposed changes maintain the same level of protection provided by the refueling equipment interlocks, the conclusion of the accident scenario remain valid. The probability of a criticality event during refueling remains such that no radioactive material would be released. Therefore, the proposed changes do not increase the consequences of an accident previously evaluated.

In summary, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the Change Create the Possibility of a New or Different Kind of Accident From Any Accident Previously Evaluated?

The proposed changes do not involve a change to the plant design or operation. Inserting a manual rod block is not considered an abnormal operation. The change to the SR [surveillance requirement] frequency does not increase the probability of a malfunction of the refueling equipment interlocks, since the interlocks are considered reliable and their function can be verified with each fuel move. As a result, the proposed changes do not affect any of the parameters or conditions that could contribute to the initiation of any accidents. No new accident modes or equipment failure modes are created by these changes.

Therefore, these proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Does the Change Involve a Significant Reduction in a Margin of Safety?

The major challenge to the margin of safety would be a criticality event that would cause a potential failure of the fuel cladding. The proposed addition of alternative actions in the event that the refueling equipment interlocks are determined to be inoperable ensure that equivalent protection is in place during fuel loading movements. Given this equivalent protection, a criticality event is not credible. In addition, the increase in the SR frequency for performing the channel functional test of the refueling equipment interlocks does not impact the ability of the interlocks to perform their function, thereby maintaining the refueling interlocks function.

Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert Helfrich, Mid-West Regional Operating Group, Exelon Generation Company; LLC, 4300 Windfield Road, Warrenville, IL 60555.

NRC Section Chief: Anthony J. Mendiola.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: December 7, 2001.

Description of amendment request: The proposed amendments would allow implementation of 10 CFR Part 50, Appendix J, Option B, which governs performance-based containment leakage testing requirements, for Type B and C testing. In addition, the licensee also proposes to (a) modify Technical Specification (TS) 3.6.3 to delete the requirement for conducting soap bubble tests of welded penetrations during Type A tests which are not individually Type B or Type C testable, and (b) to modify TS 3.6.3 to delete a separate requirement for leak testing containment purge lower and upper compartment and instrument room valves with resilient seals. These valves will be covered by the overall Containment Leakage Rate Testing Program. Associated changes to the Bases are also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The following discussion is a summary of the evaluation of the changes contained in this proposed amendment against the 10 CFR 50.92(c) requirements to demonstrate that all three standards are satisfied. A no significant hazards consideration is indicated if operation of the facility in accordance with the proposed amendment would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated, or
2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or
3. Involve a significant reduction in a margin of safety.

First Standard

The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated. Implementation of these changes will provide continued assurance that specified parameters associated with containment integrity will remain within acceptance limits as delineated in 10 CFR 50, Appendix J, Option B. The changes are consistent with current safety analyses. Although some of the proposed changes represent minor relaxation to existing TS requirements, they are consistent with the requirements specified by Option B of 10 CFR 50, Appendix J. The systems affecting containment integrity related to this proposed amendment request are not assumed in any safety analyses to initiate any accident sequence. Therefore, the probability of any accident previously evaluated is not increased by this proposed amendment. The proposed changes maintain an equivalent level of reliability and availability for all affected systems. In addition, maintaining leakage within analyzed limits assumed in accident analyses does not adversely affect either onsite or offsite dose consequences. Therefore, the proposed amendment does not increase the consequences of any accident previously evaluated.

Second Standard

The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. No changes are being proposed which will introduce any physical changes to the existing plant design. The proposed changes are consistent with the current safety analyses. Some of the changes may involve revision in the testing of components; however, these are in accordance with the McGuire's current safety analyses and provide for appropriate testing or surveillance that is consistent with 10 CFR 50, Appendix J, Option B. The proposed changes will not introduce new failure mechanisms beyond those already considered in the current safety analyses. No new modes of operation are introduced by the proposed changes. The proposed changes maintain, at minimum, the present level of operability of any system that affects containment integrity.

Third Standard

The proposed amendment will not involve a significant reduction in a margin of safety. The provisions specified in Option B of 10 CFR 50, Appendix J allow changes to Type B and Type C test intervals based upon the performance of past leak rate tests. 10 CFR 50, Appendix J, Option B allows longer intervals between leakage tests based on performance trends, but does not relax the leakage acceptance criteria. Changing test intervals from those currently provided in the TS to those provided in 10 CFR 50, Appendix J, Option B does not increase any risks above and beyond those that the NRC has deemed acceptable for the performance based option. In addition, there are risk reduction benefits associated with reduction in component cycling, stress, and wear associated with increased test intervals. The proposed changes provide continued assurance of leakage integrity of containment without adversely affecting the public health and safety and will not significantly reduce existing safety margins. Similar proposed changes have been previously reviewed and approved by the NRC, and they are applicable to McGuire.

Based upon the preceding discussion, Duke Energy has concluded that the proposed amendment does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. Albert Carr, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina.

NRC Section Chief: Richard J. Laufer, Acting.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: November 15, 2001.

Description of amendment request: Entergy Operations, Inc. is proposing that the Grand Gulf Nuclear Station (GGNS) Operating License be amended to revise the GGNS Technical Specification Surveillance Requirements (SRs) pertaining to testing of the standby emergency diesel generators (DGs) to allow DG testing during reactor operation. The proposed change would remove the restriction associated with these SRs that prohibits conducting the required testing of the DGs during reactor operating Modes 1, 2, or 3.

Basis for proposed no significant hazards consideration determination:

VOL 66 ISS 247 DE 26 2001 UMI

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

The DGs and their associated emergency loads are accident mitigating features, not accident initiating equipment. Therefore, there will be no impact on any accident probabilities by the approval of the requested amendment.

The design of plant equipment is not being modified by these proposed changes. As such, the ability of the DGs to respond to a design basis accident will not be adversely impacted by these proposed changes. The capability of the DGs to supply power in a timely manner will not be compromised by permitting performance of DG testing during periods of power operation. Additionally, limiting testing to only one DG at a time ensures that design basis requirements for backup power is met, should a fault occur on the tested DG. Therefore, there would be no significant impact on any accident consequences.

Based on the above, the proposed change to permit certain DG surveillance tests to be performed during plant operation will have no effect on accident probabilities or consequences.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new accident causal mechanisms would be created as a result of NRC [Nuclear Regulatory Commission] approval of this amendment request since no changes are being made to the plant that would introduce any new accident causal mechanisms. Equipment will be operated in the same configuration with the exception of the plant mode in which the testing is conducted. This amendment request does not impact any plant systems that are accident initiators; neither does it adversely impact any accident mitigating systems.

Based on the above, implementation of the proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in the margin of safety.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes to the testing requirements for the plant DGs do not affect the operability requirements for the DGs, as verification of such operability will continue to be performed as required (except during different allowed Modes).

Continued verification of operability supports the capability of the DGs to perform their required function of providing emergency power to plant equipment that supports or constitutes the fission product barriers. Consequently, the performance of these fission product barriers will not be impacted by implementation of this proposed amendment.

In addition, the proposed changes involve no changes to setpoints or limits established or assumed by the accident analysis. On this and the above basis, no safety margins will be impacted. Therefore, implementation of the proposed changes would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: October 29, 2001.

Description of amendment request: The proposed amendments would revise technical specification (TS) 3.9.3, "Refueling Operations—Decay Time," by reducing the amount of time that the reactor must be subcritical before the licensee is allowed to move irradiated fuel assemblies in the reactor pressure vessel from 150 hours to 100 hours. The amendment also makes various editorial, format and administrative changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed change does not alter the manner in which fuel assemblies are handled or core alterations are performed. The proposed change does not alter the manner in which heavy loads are controlled at BVPS. The proposed change does not result in changes being made to structures, systems, or components (SSCs), or to event initiators or precursors. Also, the proposed change does not impact the design of plant systems such that previously analyzed SSCs would now be more likely to fail. The initiating conditions and assumptions for accidents described in the Updated Final Safety Analysis Report (UFSAR) remain as previously analyzed. Thus, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The proposed revision of the decay time from 150 hours to 100 hours is consistent with the assumptions used in the NRC approved fuel handling accident (FHA) analyses for Beaver Valley Power Station (BVPS) Unit Nos. 1 and 2. The BVPS radiological analyses demonstrates that should a FHA occur within the containment or the fuel building that involves irradiated fuel with at least 100 hours of decay, the projected offsite doses for this event will be well within the applicable regulatory limits.

Limiting Condition for Operation (LCO) 3.9.3, "Refueling Operations—Decay Time," will continue to ensure that irradiated fuel is not moved in the reactor pressure vessel until at least 100 hours after shutdown which is consistent with the FHA radiological analysis. This LCO will continue to ensure that key assumptions used in the radiological safety analysis are met. The previously analyzed SSCs are unaffected by the proposed change and continue to provide assurance that they are capable of performing their intended design function in mitigating the effects of design basis accidents (DBAs). As such, the consequences of accidents previously evaluated in the UFSAR will not be increased and no additional radiological source terms are generated. Therefore, there will be no reduction in the capability of those SSCs in limiting the radiological consequences of previously evaluated accidents and reasonable assurance that there is no undue risk to the health and safety of the public will continue to be provided. Thus, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

The proposed administrative, editorial, and format changes do not affect the probability or consequences of any accident.

Therefore, the proposed amendment does not significantly increase the probability or consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not affect a previously evaluated accident; e.g., FHA. The proposed amendment takes credit for the normal decay of irradiated fuel and the existing radiological analyses for FHAs.

The proposed change does not involve physical changes to analyzed SSCs or changes to the modes of plant operation defined in the technical specification. The proposed change does not involve the addition or modification of plant equipment (no new or different type of equipment will be installed) nor does it alter the design or operation of any plant systems. No new accident scenarios, accident or transient initiators or precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed change.

The proposed change does not cause the malfunction of safety-related equipment assumed to be operable in accident analyses. No new or different mode of failure has been created and no new or different equipment performance requirements are imposed for accident mitigation. As such, the proposed change has no effect on previously evaluated accidents.

The proposed administrative, editorial, and format changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The proposed revision of the decay time from 150 hours to 100 hours is consistent with the assumptions used in the NRC approved FHA accident analyses for BVPS Unit Nos. 1 and 2 and thus does not involve a significant reduction in a margin of safety.

The proposed amendment does not alter the manner in which fuel assemblies are handled or core alterations are performed. The proposed amendment does not alter the manner in which heavy loads are controlled at BVPS.

The proposed changes to the TS requirements will continue to ensure that the necessary plant equipment is operable in the plant conditions where these systems are required to operate to mitigate a DBA. The proposed administrative, editorial, and format changes do not affect plant safety.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: L. Raghavan, Acting.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of amendment request: October 31, 2001.

Description of amendment request: The proposed amendments would revise the Technical Specifications (TSs) by relocating the pressure temperature Limit Curves and Low Temperature Overpressure Protection (LTOP) and by creating a Pressure-Temperature Limits Report in accordance with Generic Letter 96–03 (GL–96–03), "Relocation of the Pressure Temperature Limit Curves and Low Temperature Overpressure Protection System Limits."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The proposed changes are a relocation of the Reactor Coolant System (RCS) pressure/temperature (P/T) limits, overpressure protection system (OPPS) setpoint, and the enable temperature from the Technical Specifications to the proposed Pressure and Temperature Limits Report (PTLR). The PTLR is created in accordance with the guidance provided by Generic Letter (GL) 96–03 and is consistent with the content of NUREG–1431. The RCS P/T limits, OPPS setpoint, and enable temperature will continue to meet the requirements of 10 CFR 50, Appendix G, and will be generated in accordance with the NRC approved methodology described in WCAP–14040–NP–A, Rev. 2 with the exceptions noted in Technical Specification Section 6.9.6.

Since the proposed changes are administrative in nature and do not involve any change to any values being relocated, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. As stated above, the proposed changes to relocate the RCS P/T limits, OPPS setpoint, and the enable temperature from the Technical Specifications to the PTLR are administrative changes. The proposed changes do not result in a physical change to the plant or add any new or different operating requirements on plant systems, structures, or components.

Therefore, the proposed changes do not result in a significant increase in the possibility of a new or different accident from any previously evaluated.

3. Does the change involve a significant reduction in a margin of safety?

No. The margin of safety is not affected by the creation of the proposed PTLR. Operation of the plant in accordance with the limits specified in the PTLR will continue to meet the requirements of 10 CFR 50, Appendix G, with the identified exceptions, and will assure that a margin of safety is not significantly decreased as the result of the proposed changes.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary O'Reilly, FirstEnergy Nuclear Operating Company, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Lakshminaras Raghavan (Acting).

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station (DBNPS), Unit 1, Ottawa County, Ohio

Date of amendment request: October 9, 2001.

Description of amendment request: The proposed amendment changes affected Technical Specifications (TS) 3/4.3.2.2, "Instrumentation—Steam and Feedwater Rupture Control System Instrumentation," including Table 3.3–11, "Steam and Feedwater Rupture Control System Instrumentation," Table 3.3–12, "Steam and Feedwater Rupture Control System Instrumentation Trip Setpoints," and Table 4.3–11 "Steam and Feedwater Rupture Control System Instrumentation Surveillance Requirements." Related administrative changes are proposed to TS 3/4.3.2.3, "Instrumentation—Anticipatory Reactor Trip System Instrumentation," Table 3.3–17, "Anticipatory Reactor Trip System Instrumentation," and TS 3/4.3.3.1, "Instrumentation—Monitoring Instrumentation—Radiation Monitoring Instrumentation," Table 3.3–6, "Radiation Monitoring Instrumentation." Related changes to associated TS Bases 3/4.3.1 and 3/4.3.2, "Reactor Protection System and Safety System Instrumentation," are also proposed.

The main purpose for this license amendment request is to decrease the channel functional test frequency from monthly to quarterly for the Steam and Feedwater Rupture Control System (SFRCS) Instrumentation Channels.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below. These changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because the proposed changes do not change any accident initiator, initiating condition, or assumption.

The proposed changes would revise Technical Specification (TS) Table 3.3–11, "Steam and Feedwater Rupture Control System Instrumentation," and Table 4.3–11 "Steam and Feedwater Rupture Control System Instrumentation Surveillance Requirements," to identify the Steam and Feedwater Rupture Control System (SFRCS) output logic as a separate Functional Unit. In addition, the proposed changes would revise TS Table 3.3–12, "Steam and Feedwater

VOL 66 ISS 247 DE 26 2001 UMI

Rupture Control System Instrumentation Trip Setpoints," to remove the "Trip Setpoint" values and also modify the "Allowable Values" entry for Functional Unit 3, "Steam Generator Feedwater Differential Pressure—High," consistent with updated calculations and current setpoint methodology, and revise the applicability of TS Allowable Values for other SFRCS Functional Units in this table. The proposed changes would also revise TS Table 4.3–11 to change the Channel Functional Test surveillance requirements for the SFRCS instrument channels from monthly to quarterly, consistent with current methodology. The proposed changes would also make related administrative changes to TS Limiting Condition for Operation (LCO) 3.3.2.2, TS Table 3.3–17, "Anticipatory Reactor Trip System Instrumentation," TS Table 3.3–6, "Radiation Monitoring Instrumentation," and the associated TS Bases.

These proposed changes do not involve a significant change to plant design or operation.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not invalidate assumptions used in evaluating the radiological consequences of an accident, do not alter the source term or containment isolation, and do not provide a new radiation release path or alter radiological consequences.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed changes do not introduce a new or different accident initiator or introduce a new or different equipment failure mode or mechanism.

3. Not involve a significant reduction in a margin of safety as defined in the basis for any Technical Specification. The SFRCS instrumentation setpoint analyses will continue to adequately preserve the margin of safety. In addition, there are no new or significant changes to the initial conditions contributing to accident severity or consequences. Therefore, there are no significant reductions in a margin of safety.

Conclusion:

On the basis of the above, the Davis-Besse Nuclear Power Station has determined that the License Amendment Request does not involve a significant hazards consideration. As this License Amendment Request concerns a proposed change to the Technical Specifications that must be reviewed by the Nuclear Regulatory Commission, this License Amendment Request does not constitute an unreviewed safety question.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station (DBNPS), Unit 1, Ottawa County, Ohio

Date of amendment request: October 12, 2001.

Description of amendment request: The proposed amendment would change the Operating License (OL) paragraph 2.C(1), Maximum Power Level; OL paragraph 2.C(3)(d), Additional Conditions; Technical Specification (TS) 1.3, Definitions—Rated Thermal Power; TS 2.1.1, Safety Limits—Reactor Core, and associated Bases; TS 2.2.1, Limiting Safety System Settings—Reactor Protection System Setpoints, and associated Bases; TS 3/4.1.1.3, Reactivity Control Systems—Moderator Temperature Coefficient; TS 3/4.2.5, Power Distribution Limits—DNB Parameters; TS 3/4.4.9.1, Reactor Coolant System—Pressure/Temperature Limits, and associated Bases; and TS 6.9.1.7, Core Operating Limits Report. The purpose of this license amendment application would make the necessary revisions to the Davis-Besse Nuclear Power Station (DBNPS) TS to reflect an increase in the authorized rated thermal power from 2772 MWt to 2817 MWt (approximately 1.63 percent), based on the use of Caldon Inc. Leading Edge Flow Meter (LEFM) CheckPlus™ System instrumentation to improve the accuracy of the feedwater mass flow input to the plant power calorimetric measurement.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

1a. Not involve a significant increase in the probability of an accident previously evaluated based on the comprehensive analytical efforts that were performed to demonstrate the acceptability of the proposed power uprate changes. The proposed changes include: revision of the maximum power level limit stated in Operating License (OL) paragraph 2.C(1) and Technical Specification (TS) Section 1.3, increasing the allowable power level from 2772 MWt to 2817 MWt; revision of the reactor core safety limits specified in TS Section 2.1.1; revision of the Reactor Protection System (RPS) high flux and Reactor Coolant System (RCS) pressure-temperature setpoints provided in TS Section 2.2.1; revision of the RCS pressure-temperature limits in TS Section 3/4.4.9.1, and a related change to OL paragraph 2.C(3)(d); and revision of administrative controls associated with the Core Operating Limits Report, as described in TS Section 6.9.1.7. In addition, related changes to the TS Bases associated with these TS Sections are proposed. An evaluation has been performed that identified the systems and components that could be affected by these proposed changes. The evaluation determined that these systems and components will function as designed and that performance requirements remain acceptable.

The primary loop components (reactor vessel, reactor internals, control rod drive mechanisms (CRDMs), loop piping and supports, reactor coolant pumps, steam generators and pressurizer) will continue to comply with their applicable structural limits and will continue to perform their intended design functions. Thus, there is no increase in the probability of a structural failure of these components leading to an accident.

The Leak-Before-Break analysis conclusions remain valid and the breaks previously exempted from structural consideration remain unchanged.

All of the Nuclear Steam Supply System (NSSS) systems will continue to perform their intended design functions during normal and accident conditions. The pressurizer spray flow remains above its design value. Thus, the control system design analyses, which credit the flow, do not require any modification. The components continue to comply with applicable structural limits and will continue to perform their intended design functions. Thus, there is no increase in the probability of a structural failure of these components.

All of the NSSS/Balance of Plant (BOP) interface systems will continue to perform their intended design functions. The main steam safety valves will provide adequate relief capacity to maintain the main steam system within design limits.

The current loss of coolant accident (LOCA) hydraulic forcing functions remain bounding.

The reduction in power measurement uncertainty through the use of the Caldon Leading Edge Flow Meter (LEFM) CheckPlus™ system, allows for certain safety analyses to continue to be used, without modification, at the 2827 MWt power level (102% of 2772 MWt). Other safety analyses performed at a nominal power level of 2772 MWt have been either re-performed or re-evaluated at the 2817 MWt power level, and continue to meet their applicable acceptance criteria. Some existing safety analyses had been previously performed at a power level greater than 2827 MWt, and thus continue to bound the 2817 MWt power level.

The proposed changes to the RCS pressure-temperature limit curves impose a conservative projection of the increase in neutron fluence associated with the power uprate. This projection will ensure that the requirements of 10 CFR 50 Appendix G, "Fracture Toughness Requirements," will continue to be met following the proposed power uprate. The design basis events that were protected against by these limits have not changed, therefore, the probability of an accident previously evaluated is not increased.

In addition to the changes related to the proposed power uprate, unrelated changes are proposed to revise the moderator temperature coefficient requirements listed

VOL 66 ISS 247 DE 26 2001 UMI

in TS Section 3.1.1.3, and to revise requirements relating to the Departure from Nucleate Boiling (DNB) parameters listed in TS Section 3.2.5. These proposed changes are conservative changes and clarifications that do not involve any physical change to systems or components, nor do they alter the typical manner in which the systems or components are operated. Therefore, these changes will not result in a significant increase in the probability of an accident.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed power uprate changes do not alter any assumptions previously made in the radiological consequence evaluations, nor affect mitigation of the radiological consequences of an accident previously evaluated.

The accident radiation dose evaluation was performed at 2827 MWt and is bounding when operating at the proposed 2817 MWt using the LEFM CheckPlus™ flow instrumentation.

The proposed changes unrelated to the power uprate also do not alter any assumption previously made in the radiological consequence evaluations, nor do they affect mitigation of the radiological consequences of an accident previously evaluated. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident scenarios, failure mechanisms or single failures are introduced as a result of the proposed power uprate changes as well as the proposed changes unrelated to the power uprate. All systems, structures, and components previously required for the mitigation of an event remain capable of fulfilling their intended design function. The proposed changes have no adverse effects on any safety-related system or component and do not challenge the performance or integrity of any safety-related system.

3. Not involve a significant reduction in a margin of safety because extensive analyses of the primary fission product barriers, conducted in support of the proposed power uprate, have concluded that all relevant design criteria remain satisfied, both from the standpoint of the integrity of at the primary fission product barrier and from the standpoint of compliance with the regulatory acceptance criteria. As appropriate, all evaluations have been performed using methods that have either been reviewed and approved by the Nuclear Regulatory Commission (NRC) or that are in compliance with applicable regulatory review guidance and standards. The proposed changes unrelated to the power uprate do not involve a significant reduction in a margin of safety because they do not involve the potential for a significant increase in a failure rate of any system or component, and existing system and component redundancy is not affected. Also, these changes do not involve any new or significant changes to the initial conditions contributing to accident severity or consequences.

Conclusion: On the basis of the above, the Davis-Besse Nuclear Power Station has determined that the License Amendment Request does not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Anthony J. Mendiola.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of amendment request: November 26, 2001.

Description of amendment request: The licensee proposed to amend the Technical Specifications (TSs) to delete Section 3/4.2.6, "Inservice Inspection and Testing," and its associated bases, revise Section 4.2.7, "Reactor Coolant System Isolation Valves," and its associated bases, create a new Section 6.17, "Inservice Testing Program," and delete several reporting requirements in Section 6.9.3, "Special Reports." These changes will improve the TSs, making it consistent with current NRC guidance and the improved Standard Technical Specifications for General Electric (GE) Boiling Water Reactor (BWR)/4 and BWR/6 plants (NUREG–1433 and NUREG–1434, respectively). Most of these changes would also render the TSs to be similar to the Nine Mile Point Nuclear Station, Unit No. 2 TSs, which is based on NUREG–1433 and NUREG–1434.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment deletes duplicative and unnecessary inservice inspection (ISI) and inservice testing (IST) requirements from the Technical Specifications; clarifies remaining IST requirements; revises a requirement to perform quarterly testing of the reactor coolant isolation valves to conform to the periodic testing requirements of the ASME [American Society of Mechanical Engineers] Boiler and Pressure Vessel Code (ASME Code); and deletes unnecessary reporting requirements relating to routine ISI, primary containment leakage testing, and secondary containment leakage testing. These changes do not reduce the plant's existing ISI/IST commitments based on 10CFR50.55a, Section XI of the ASME Code, and Generic Letter 88–01. These changes also do not involve hardware changes, changes in plant setpoints, or changes in plant safety parameters.

Based on the above, the operation of Nine Mile Point Unit 1 (NMP1) in accordance with the proposed amendment, will not involve a significant increase in the probability or the consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical modifications to the plant nor alter equipment configuration, setpoints, or safety parameters. The ISI/IST related changes are consistent with current NRC guidance and industry standards and will continue to ensure acceptable equipment operability and availability.

Based on the above, the operation of NMP1 in accordance with the proposed amendment cannot create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Nine Mile Point Unit 1 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The proposed changes do not affect any of the plant's fission product barriers or safety/operational limits. The ISI/IST related changes will continue to ensure acceptable equipment operability and availability.

Based on the above, the operation of NMP1 in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: L. Raghavan, Acting.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station Unit No. 2, Oswego County, New York

Date of amendment request: November 20, 2001.

Description of amendment request: The licensee proposed to amend the Technical Specifications (TSs) regarding the safety limit minimum critical power ratio (SLMCPR) to reflect the results of cycle-specific calculations performed for the next fuel cycle (i.e., Cycle 9), using NRC-approved methodology for determining SLMCPR values. The proposed amendment would also editorially revise references to topical reports which document the approved methodology.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The derivation of the revised Safety Limit Minimum Critical Power Ratio (SLMCPR) values for Nine Mile Point Unit 2 (NMP2) Cycle 9 for incorporation into the Technical Specifications (TS) and their use to determine cycle-specific thermal limits has been performed using the NRC-approved methods and procedures in [Topical Report] NEDE–24011–P–A, "General Electric Standard Application for Reactor Fuel" (GESTAR II). The analysis methodology incorporates cycle-specific parameters and reduced power distribution uncertainties in the determination of the SLMCPR values. These calculations do not change the method of operating the plant and have no effect on the probability of an accident initiating event or transient.

The basis of the Minimum Critical Power Ratio Safety Limit is to ensure no mechanistic fuel damage is calculated to occur if the limit is not violated. The new SLMCPR values preserve the existing margin to transition boiling and the probability of fuel damage is not increased. The deletion of listed documents that are already incorporated by reference into GESTAR II is administrative only. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The new SLMCPR values for the NMP2 Cycle 9 core reload have been calculated in accordance with the methods and procedures described in GESTAR II. These methods have been reviewed and approved by the NRC. The deletion of listed documents that are already incorporated by reference into GESTAR II is administrative only. The changes do not involve any new method for operating the facility and do not involve any facility modifications. No new initiating events or transients result from these changes. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Nine Mile Point Unit 2, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The margin of safety as defined in the TS bases will remain the same. The new, cycle-specific SLMCPR values are calculated using NRC-approved methods and procedures that are in accordance with the current fuel design and licensing criteria. The SLMCPR values remain high enough to ensure that greater than 99.9% of all fuel rods in the core are expected to avoid transition boiling if the limits are not violated, thereby preserving the fuel cladding integrity. The deletion of listed documents that are already incorporated by reference into GESTAR II is administrative only. Therefore, the proposed TS changes do not involve a significant reduction in [a] margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston & Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Section Chief: L. Raghavan, Acting.

Nuclear Management Company, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: November 19, 2001.

Description of amendment request: A change is proposed to Technical Specification (TS) 3.0.3 to allow a longer period of time to perform a missed surveillance. The time is extended from the current limit of "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is less" to "* * * up to 24 hours or up to the limit of the specified Frequency, whichever is greater." In addition, the following requirement would be added to the specification: "A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed."

The Nuclear Regulatory Commission (NRC) staff issued a notice of opportunity for comment in the ***Federal Register*** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process. The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the following NSHC determination in its application dated November 7, 2001.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function.

Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

The NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: William D. Reckley, Acting.

Nuclear Management Company, LLC, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: February 2, 2001, supplemented August 31, 2001.

Description of amendment request: The proposed amendments would revise the technical specifications (TSs) to clarify the plant conditions under which various specifications are applicable. The licensee stated in its amendment request that a literal reading of the current technical specifications wording may result in situations where a routine plant shutdown would seem to be prohibited by TSs and, thereby, require entry into TS 3.0.C. This amendment request also makes several administrative changes to the TSs, including revising references to the Chief Nuclear Corporate Officer, capitalizing defined terms, and updating references to previously relocated TS paragraphs and correcting the List of Figures. The licensee's supplement to the amendment request, dated August 31, 2001, proposed a correction of a typographical error in TS Table 3.5–2B, Action 33.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does operation of the facility with the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. The proposed changes do not significantly affect any system that is a contributor to initiating events for previously evaluated accidents. Neither do the changes significantly affect any system that is used to mitigate any previously evaluated accidents. Therefore, the proposed changes do not involve any significant increase in the probability or consequence of an accident previously evaluated.

2. Does operation of the facility with the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. The proposed changes do not alter the design, function, or operation of any plant component and do not install any new or different equipment, therefore a possibility of a new or different kind of accident from those previously analyzed has not be[en] created.

3. Does operation of the facility with the proposed amendment involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and clarify existing specifications without reducing or altering the requirements imposed by existing specifications. Thus, the proposed change[s] do not involve a significant reduction in the margin of safety associated with the safety limits inherent in either the principle barriers to a radiation release (fuel cladding, RCS [reactor coolant system] boundary, and reactor containment), or the maintenance of critical safety functions (subcriticality, core cooling, ultimate heat sink, RCS inventory, RCS boundary integrity, and containment integrity).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Peter Marquardt, Legal Department, 688 WCB, Detroit Edison Company, 2000 2nd Avenue, Detroit, Michigan 48226–1279.

NRC Acting Section Chief: William D. Reckley, Acting.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 21, 2001.

Description of amendment request: The proposed amendment will revise Technical Specifications 2.15(5) and 2.15(6) to identify: (1) all indication and control functions required for the alternate (remote) shutdown panels, (2) panel locations of the functions, and (3) the number of operable channels required.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specifications Sections 2.15(5) and 2.15(6) identify functions, instruments, and controls along with their location and the number of required channels. New Technical Specifications Section 2.15(5) addresses the regulatory requirements for equipment required for Alternative and Dedicated Shutdown Capability per 10 CFR part 50, Appendix R. It will ensure that proper Limiting Conditions for Operation are entered for equipment or functional inoperability. There are no physical alterations being made to the Alternate Shutdown Panels and the Auxiliary Feedwater Panel or related systems. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will not result in any physical alterations to the Alternate Shutdown Panels or the Auxiliary Feedwater Panel, or any plant configuration, systems, equipment, or operational characteristics. There will be no changes in operating modes, or safety limits, or instrument limits. With the proposed changes in place, Technical Specifications retain requirements for the Alternate Shutdown Panels and the Auxiliary Feedwater Panel. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed changes clarify the regulatory requirements for the Alternative and Dedicated Shutdown Capability as defined by 10 CFR Part 50, Appendix R. The proposed changes will not alter any physical or operational characteristics of the Alternate Shutdown Panels and the Auxiliary Feedwater Panel and their associated systems and equipment. Therefore, the proposed changes do not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James R. Curtiss, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: November 21, 2001.

Description of amendment request: The proposed amendment will add three topical report references to Technical Specification 5.9.5, "Core Operating Limit Reports."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment incorporates three additional Framatome ANP topical reports for conducting core reload analyses. Since the intent of the amendment request is to add references to NRC-approved reload analysis methods, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new or different modes of operation are proposed as a result of these changes. The proposed revision does not change any equipment required to mitigate the consequences of an accident. The proposed addition of NRC-approved topical reports to the Technical Specification does not modify the manner in which the topical reports may be implemented. The plant will continue to operate within the limits specified by the Core Operating Limits Report and corrective actions will be taken in accordance with the Technical Specifications should these limits be exceeded. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

As required by Technical Specification 5.9.5, the analytical methods used to determine the core operating limits shall be those previously reviewed and approved by the NRC. The proposed change incorporates methodologies applicable for use with fuel supplied by Framatome ANP that have been approved by the NRC as documented by Safety Evaluation Reports (References 10.1, 10.2, and 10.3 [of the November 21, 2001, amendment request]). Because Technical Specification 5.9.5 also requires that the core operating limits shall be determined and requires that all applicable limits of the safety analysis are met, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: James R. Curtiss, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005–3502.

NRC Section Chief: Stephen Dembek.

Pacific Gas and Electric Company, Docket No. 50–133, Humboldt Bay Power Plant, Unit 3, Humboldt County, California

Date of amendment request: December 28, 2000, as supplemented by letters dated March 29 and October 31, 2001.

Description of amendment request: The proposed amendment would convert the Humboldt Bay Power Plant Unit 3 Current Technical Specifications to a set of Permanently Defueled Technical Specifications with a more standardized format and content based on a revision to 10 CFR 50.36 (Technical Specifications) and technical specifications approved for other permanently shutdown nuclear power plants (Millstone Unit 1 and Trojan Nuclear Plant).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analyses of the issue of no significant hazards consideration, which are presented below.

The conversion of the Humboldt Bay Power Plant (HBPP) Current Technical Specifications (CTS) to Permanently Defueled Technical Specifications (PDTS) involves the following four types of dispositions:

A Administrative reformatting and rewording
D Item deleted from the Technical Specifications (TS)
LG Relocating items from CTS to the Defueled Safety Analysis Report (DSAR), PDTS, or other Licensee-Controlled Document
N Addition of new requirements of new sections to the PDTS

Administrative Reformatting and Rewording

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves reformatting and editorially rewording of the CTS. As such, this change is administrative in nature and does not impact initiators of analyzed events or assumed mitigation of accidents or transient events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different operational requirements and any administrative additions are non-operational in nature and have not been identified and justified. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. This change is administrative in nature. As such, no question of safety is involved.

Items Deleted from the Technical Specifications that are Duplicative in Nature to Other Regulatory Requirements

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves deleting information from the CTS. The information being deleted is still required to be performed and is being performed by the licensee because the information is contained in regulatory requirements contained in the Code of Federal Regulations. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different operational requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no impact on

VOL 66 ISS 247 DE 26 2001 UMI

any safety analysis assumptions. This change is administrative in nature. The requirements being deleted from the CTS are still required to be met and are being met by the licensee because these requirements exist in the Code of Federal Regulations. As such, no question of safety is involved.

Items Deleted from the Technical Specifications That Have No Application in the Proposed HBPP PDTS

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves deleting information from the CTS. The deletion process involves no technical changes to the CTS. As such, this change is administrative in nature and does not impact initiators of analyzed events or assumed mitigation of accidents or transient events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different operational requirements. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. This change is administrative in nature. As such, no question of safety is involved.

Relocating Information from CTS to the DSAR, PDTS Bases or Other Licensee-Controlled Documents

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change relocates requirements and descriptive information from the CTS to the PDTS Bases, DSAR, or other licensee-controlled documents. The PDTS Bases, DSAR, or other licensee-controlled documents containing the relocated requirements and information will be maintained using provisions of 10 CFR 50.59 or other appropriate regulatory controls. Since any future changes to the PDTS Bases, DSAR, or other licensee-controlled documents will be evaluated per the requirements of 10 CFR 50.59 or other appropriate regulatory controls, proper controls are in place to adequately limit the probability or consequences of an accident previously evaluated. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different requirements and adequate control of the information will be maintained. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. In addition, the requirements and information to be relocated from the CTS to the PDTS Bases, DSAR, or other licensee-controlled documents are not being revised; they are being relocated verbatim. Since any future changes to these requirements in the PDTS Bases, DSAR, or other licensee-controlled documents will be evaluated per the requirements of 10 CFR 50.59 or other appropriate regulatory controls, proper controls are in place to maintain an appropriate margin of safety. Therefore this change does not involve a significant reduction in a margin of safety.

Addition of New Requirements or New Sections to the PDTS

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves the addition of requirements or sections to the proposed PDTS. Each addition either provides equivalent or potentially more restrictive controls than previously provided. The additional requirements or controls do not impact initiators of analyzed events or assumed mitigation of accidents or transient events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will not impose any different operational requirements and any addition is non-operational in nature and has been identified and justified. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change will not reduce a margin of safety because it has no impact on any safety analysis assumptions. This change provides the equivalent or more restrictive requirements on the surveillance and control of TS parameters. As such, no question of safety is involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Christopher J. Warner, Esquire, Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Section Chief: Stephen Dembek.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 22, 2001.

Description of amendment request: Approve reactor core power uprate, and revise the Technical Specifications to reflect the power uprate.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

> STPNOC [South Texas Project Nuclear Operating Company] has evaluated whether or not a significant hazards consideration is involved with the proposed amendment by focusing on the three standards set forth in 10 CFR 50.92, "Issuance of amendment," as discussed below.
>
> 1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.
>
> The comprehensive analytical efforts performed to support the proposed uprate conditions include a review and evaluation of all components and systems (including interface systems and control systems) that could be affected by this change. The revised power uprate value was input to applicable safety analyses. The proposed change is not an initiator of any design-basis accident. All of the Nuclear Steam Supply System or Balance of Plant interface systems will continue to perform their intended design functions and meet all performance requirements. The primary loop components (reactor vessel, reactor internals, control rod drive mechanisms, loop piping and supports, reactor coolant pump, steam generator, and pressurizer) continue to comply with their applicable structural limits and will continue to perform their intended design functions. Therefore, there is no increase in the probability of a structural failure of these components.
>
> The auxiliary systems and components continue to comply with applicable structural limits and will continue to perform their intended design functions. Therefore, there is no increase in the probability of a structural failure of these components. The steam generator safety valves will provide adequate relief capacity to maintain the steam generators within design limits. The steam dump system will still relieve 40

percent of the maximum full-load steam flow.

Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated.

The applicable analyses have been evaluated with respect to the increase in core power associated with this change. All applicable radiological acceptance criteria continue to be met. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change neither causes the initiation of any accident nor creates any new limiting single failures. All of the affected systems and components continue to perform their intended design functions. The proposed change has no adverse effects on any safety-related system or component and does not challenge the performance or integrity of any safety-related system.

The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The WRB–2M DNB methodology is used to demonstrate that core thermal-hydraulic limits are maintained without any significant reduction in margin of safety for the uprated power level of 3853 MWt (1.4-percent uprate) assuming core designs composed of Robust Fuel Assemblies. The WRB–1 DNB correlation demonstrates that there is no significant reduction in the margin of safety for core designs composed of standard or Vantage 5 Hybrid (V5H) fuel types. Extensive analyses of the primary fission product barriers have concluded that all relevant design criteria remain satisfied, both from the standpoint of the integrity of the primary fission product barrier and from the standpoint of compliance with the regulatory acceptance criteria. As appropriate, all evaluations have been performed using methods that either have been reviewed and approved by the Nuclear Regulatory Commission or are in compliance with all applicable regulatory review guidance and standards.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, STPNOC concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of "no significant hazards consideration" is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Attorney for licensee: Jack R. Newman, Esq., Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036–5869.

NRC Section Chief: Robert A. Gramm.

TXU Electric, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: October 23, 2001.

Brief description of amendments: The proposed amendment would revise Technical Specification (TS) 5.5.9, "Steam Generator Tube Surveillance Program," to permit tube sleeving repair techniques, developed by Westinghouse Electric Company (Westinghouse) and referred to as "Westinghouse Leak Tight Sleeves."

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The Westinghouse Leak Tight Sleeves are designed using the applicable American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code and, therefore, meet the design objectives of the original steam generator tubing. The applicable design criteria for the sleeves conforms to the stress limits and margins of safety of Section III of the ASME code. Mechanical testing has shown that the structural strength of repair sleeves under normal, upset, and faulted conditions provides margin to the acceptance limits. These acceptance limits bound the most limiting (three times normal operating pressure differential) burst margin recommended by Draft Regulatory Guide 1.121. Burst testing of sleeved tubes has demonstrated that no unacceptable levels of primary-to-secondary leakage are expected during any plant condition.

Evaluation of the repaired steam generator tubes indicates no detrimental effects on the sleeve or sleeve-tube assembly from reactor coolant system flow, primary or secondary coolant chemistries, thermal conditions or transients, or pressure conditions as may be experienced at CPSES [Comanche Peak Steam Electric Station]. Corrosion testing of sleeve-tube assemblies indicates no evidence of sleeve or tube corrosion considered detrimental under anticipated service conditions.

The installation of the proposed sleeves is controlled via the sleeving vendor's proprietary processes and equipment. The Westinghouse process has been in use since 1984 and has been implemented more than 24 times for the installation of over 4,200 sleeves. The CPSES steam generator design was reviewed and found to be compatible with the installation processes and equipment.

The implementation of the proposed amendment has no significant effect on either the configuration of the plant or the manner in which it is operated. The consequences of a hypothetical failure of the sleeved tube is bounded by the current steam generator tube rupture (SGTR) analysis described in the CPSES FSAR [Final Safety Analysis Report]. Due to the slight reduction in diameter caused by the sleeve wall thickness, primary coolant release rates would be slightly less than assumed for the steam generator tube rupture analysis, depending on the break location, and therefore, would result in lower total primary fluid mass release to the secondary system. A main steam line break or feed line break will not cause a SGTR since the sleeves are analyzed for a maximum accident differential pressure greater than that predicted in the CPSES safety analysis. The proposed reduction of the steam generator primary to secondary operational leakage limit provides added assurance that leaking flaws will not propagate to burst prior to commencement of plant shutdown.

In conclusion, based on the discussion above, these changes will not significantly increase the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The Westinghouse Leak Tight Sleeves are designed using the applicable ASME Code as guidance; therefore, they meet the objectives of the original steam generator tubing. As a result, the functions of the steam generators will not be significantly affected by the installation of the proposed sleeves. The proposed repair sleeves do not interact with any other plant systems. Any accident as a result of potential tube or sleeve degradation in the repaired portion of the tube is bounded by the existing tube rupture accident analysis. The continued integrity of the installed sleeve is periodically verified by the Technical Specification requirements.

The implementation of the proposed amendment has no significant effect on either the configuration of the plant or the manner in which it is operated. As discussed above, the reduced primary to secondary leakage limit is considered a conservative change in the plant limiting conditions for operation. Therefore, TXU Electric concludes that this proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The repair of degraded steam generator tubes with Westinghouse Leak Tight Sleeves restores the structural integrity of the degraded tube under normal operating and postulated accident conditions. The design safety factors utilized for the repair sleeves are consistent with the safety factors in the ASME Code used in the original steam generator design. The portions of the installed sleeve assembly that represents the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation. Use of the

VOL 66 ISS 247 DE 26 2001 UMI

previously identified design criteria and design verification testing assures that the margin of safety is not significantly different from the original steam generator tubes. The proposed sleeve inspection requirements are more stringent than existing requirements for inspection of the steam generator tubes, and the reduction in the operational limit for primary to secondary leakage through the steam generator tubes is more conservative than current requirements. Therefore, TXU Electric concludes that the proposed change does not involve a significant reduction in a margin of safety.

EPRI [Electric Power Research Institute] qualified eddy current techniques will be used for the detection of tube degradation in 3/4 inch welded sleeved tubes. Alternate inspection techniques, may be used as they become available, as long as it can be demonstrated that the technique used provides the same degree or greater degree of inspection rigor.

The effect of sleeving on the design transients and accident analyses were reviewed and found to remain valid up to the level of steam generator tube plugging consistent with the minimum reactor flow rate as specified in Technical Specification 3.4.1. Continued compliance with the RCS [Reactor Coolant System] flow limits of Technical Specification 3.4.1 is assured through precision flow measurements.

Because all relevant safety analyses were reviewed and found to remain valid, and because the appropriate design margins are maintained through compliance with the relevant ASME Code requirements, it is concluded that the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Section Chief: Robert A. Gramm.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: November 20, 2001.

Description of amendment request: The proposed amendment would: (1) Move Table 4.7.2, "Primary Containment Isolation Valves" and references to the Table from the Vermont Yankee Nuclear Power Station (VY) Technical Specifications (TSs) to the Technical Requirements Manual; (2) change Surveillance Requirement 4.7.B.1.b to reflect that the Standby Gas Treatment system (SBGT) duct heater needs to meet relative humidity design basis; (3) add section 3.7.E, "Reactor Building Automatic Ventilation System Isolation Valves," to the Table of Contents; (4) remove wording in 3.5.A.4.a and b referencing a one-time 30-day Limiting Condition for Operation; and (5) make administrative changes to Sections 5.3 and 6.4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of the Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes consist of removal of the primary containment isolation valve component list from the VY TS, revision of the SBGT inlet heater surveillance minimum power rating and other administrative changes. The probability of occurrence of a previously evaluated accident is not increased because neither containment isolation nor the SBGT heater are accident initiators, and the proposed changes do not impact any accident initiating conditions. The consequences of an accident previously evaluated are not increased because the proposed changes do not impact the ability of containment to restrict, or SBGT to filter, the release of any fission product radioactivity to the environment. The proposed changes to remove the primary containment isolation valve component list from TS, relocate the information to a licensee controlled document, and to change the SBGT inlet heater power input surveillance requirement, will have no significant impact on any safety related structures, systems or components. The TS requirements for the primary containment isolation valves and SBGT operability and surveillance will not be changed. Additionally, the administrative changes do not affect any system operation or function.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical alteration of plant equipment and do not change the method by which any safety-related system performs its function. No new or different types of equipment will be installed. The proposed changes do not create any new accident initiators or involve an activity that could be an initiator of an accident of a different type.

Therefore, the proposed changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

The proposed administrative changes, the removal of the primary containment isolation valve component list from TS and the change to the SBGT inlet heater power input surveillance requirement, do not alter the TS requirements for containment integrity, containment isolation, SBGT operability, or adversely affect their capability. The changes will not alter the basic operation of process variables, systems, or components as described in the safety analysis. No new equipment is introduced.

The proposed changes do no impact design margins of the primary containment isolation system, SBGT or any other system to perform their safety functions. The essential safety functions of providing primary containment integrity and providing filtration of airborne radioactive releases, are maintained. There is no physical or operational change being made which would alter the sequence of events, plant response, or margins in existing safety analyses. The proposed changes result in no impact on analyzed accident event precursors or effects.

These proposed changes do not alter the physical design of the plant. There is no change in methods of operation. The proposed changes do not alter the means by which primary containment isolation capability is maintained and SBGT is operated.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 30, 2001, as supplemented on November 6, 2001.

Brief description of amendment: Connecticut Yankee Atomic Power Company (the licensee) requested changes to the Technical Specifications (TSs) for the Haddam Neck Plant. The changes to Sections 5 and 6 of the TSs correct terminology, clarify the specifications for consistency with established programs and Standard TSs, and reflect current plant conditions. The changes also reflect the licensee's current organization titles. For information only, the licensee also included proposed changes to the TS Bases for spent fuel pool water level and cooling. The NRC staff did not review the proposed changes to the TS Bases.

Date of issuance: December 4, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 196.

Facility Operating License No. DPR–61: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* August 22, 2001 (66 FR 44164).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 4, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut Inc., et al., Docket Nos. 50–336 and 50–423, Millstone Nuclear Power Station, Unit Nos. 2 and 3, New London County, Connecticut Date of application for amendment: August 9, 2001

Brief Description of amendment: The amendments modify the Millstone Nuclear Power Station, Unit Nos. 2 and 3 Technical Specifications to clarify the licensed operator qualification standards.

Date of issuance: December 5, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment No.: 258 and 199.

Facility Operating License Nos. NPD–69 and NPF–49: Amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 17, 2001 (66 FR 52798).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 5, 2001.

No significant hazards consideration comments received: No.

Dominion Nuclear Connecticut, Inc., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 23, 2001.

Brief description of amendment: The amendment approves a change to Technical Specification (TS) 3.8.1.1, "Electrical Power System—A.C. Sources." The change removes Surveillance Requirement 4.8.1.1.2.c.1 regarding Emergency Diesel Generator inspection at least once per 18 months during shutdown condition.

Date of issuance: December 7, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 259.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* June 12, 2001 (66 FR 31705).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 7, 2001.

No significant hazards consideration comments received: No.

Duke Energy Corporation, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina Date of application for amendments: June 13, 2000, as supplemented August 30 and September 10, 2001.

Brief description of amendments: The amendments revised the Facility Operating License of each unit to (1) delete license conditions that have been fulfilled; and (2) make other corrections and editorial changes.

Date of issuance: December 5, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 200 and 181.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Facility Operating License.

*Date of initial notice in **Federal Register**:* November 1, 2000 (65 FR 65341).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 5, 2001.

No significant hazards consideration comments received: No.

VOL 66 ISS 247 DEC 26 2001 UMI

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: June 15, 2001.

Brief description of amendments: Eliminate the Technical Specifications (TS) requirement that the Automatic Depressurization System (ADS) designated Safety/Relief Valves (S/RVs) open during the manual actuation of the ADS and rewords the Surveillance Requirement (SR) 3.5.1.8 frequency to require the testing of all required ADS manual actuation solenoids during the performance of SR 3.5.1.8 in place of testing on a staggered basis.

Date of issuance: December 13, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: 151 and 137.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 8, 2001 (66 FR 41618).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 13, 2001.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Beaver County, Pennsylvania

Date of application for amendments: August 13, 2001.

Brief description of amendments: These amendments delete Technical Specifications (TS) Section 6.8.4, which required a Post-Accident monitoring program, for Beaver Valley Power Station, Unit Nos. 1 and 2, and thereby eliminate the requirements to have and maintain the post-accident sampling system (PASS) for those units.

Date of Issuance: December 6, 2001.

Effective date: Upon issuance and shall be implemented within 180 days.

Amendment Nos.: 245, 123.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** September 19, 2001 (66 FR 48286).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 6, 2001.

No significant hazards consideration comments received: No.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of application for amendments: May 17, 2001, as supplemented by letter dated September 5, 2001.

Brief description of amendments: The amendments revised Technical Specification (TS) 3/4.9.3, "Decay Time," to allow the start of core offload at 100 hours after reactor subcriticality between September 15 and June 15, when the lake temperature is assumed to be not higher than 77.8°F, and 148 hours after reactor subcriticality between June 16 and September 14, when the lake temperature is assumed to be not higher than 85°F. TS 3/4.9.3 currently prohibits fuel movement in the reactor pressure vessel until the reactor has been subcritical for at least 168 hours. The 168-hour decay time was placed in the CNP TS with Amendment Nos. 169 and 152 to DPR–58 and DPR–74, respectively, on January 14, 1993.

Date of issuance: November 30, 2001.

Effective date: As of the date of issuance and shall be implemented within 45 days.

Amendment Nos.: 260 and 243.

Facility Operating License Nos. DPR–58 and DPR–74: Amendments revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** August 22, 2001 (66 FR 44174)

The supplemental letter contained clarifying information and did not change the initial no significant hazards consideration determination and did not expand the scope of the original ***Federal Register*** notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated November 30, 2001.

No significant hazards consideration comments received: No.

Nuclear Management Company, LLC, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 30, 2001, as supplemented October 10 and November 16, 2001.

Brief description of amendment: The amendment revises the Technical Specification safety limit minimum critical power ratio for two recirculation pump operation for Cycle 21.

Date of issuance: December 6, 2001.

Effective date: As of the date of issuance and shall be implemented within 60 days.

Amendment No.: 125.

Facility Operating License No. DPR–22: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** October 3, 2001 (66 FR 50470)

The October 10 and November 16, 2001, supplements provided clarifying information that was within the scope of the original **Federal Register** notice and did not change the staff's initial proposed no significant hazards considerations determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 6, 2001.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: February 7, 2001, as supplemented by letters dated October 17 and November 2, 2001.

Brief description of amendment: The requested changes replaced the current accident source term used in the design basis radiological analyses for control room habitability with an alternative source term (AST) pursuant to 10 CFR 50.67, "Accident Source Term." OPPD requested a full implementation of the AST. Changes were also made to the Ft. Calhoun Technical Specifications to make them consistent with the revised associated accident analysis.

Date of issuance: December 5, 2001.

Effective date: December 5, 2001, to be implemented within 60 days from the date of issuance.

Amendment No.: 201.

Facility Operating License No. DPR–40: Amendment revised the Technical Specifications.

Date of initial notice in ***Federal Register:*** May 2, 2001 (66 FR 22031).

The October 17 and November 2, 2001, supplemental letters provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 5, 2001.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendments request: May 3, 2001.

Brief Description of amendments: The amendments relocate cycle-specific reactor coolant system parameter limits from the Technical Specifications (TS) and associated Bases, to the Core Operating Limits Report. The amendments also, add a reference to the Refueling Boron Concentration to TS 5.6.5 to correct an omission.

Date of issuance: December 4, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 151 and 143.

Facility Operating License Nos. NPF–2 and NPF–8: Amendments revise the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 31, 2001 (66 FR 55024).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 4, 2001.

No significant hazards consideration comments received: No.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 12, 2001.

Brief description of amendments: The amendments consist of deleting Surveillance Requirement 4.4.6.2.2.e of South Texas Project Technical Specifications Section 3/4.4.6.2.

Date of issuance: December 11, 2001.

Effective date: As of the date of issuance, and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1—134; Unit 2—123.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* June 12, 2001 (66 FR 31715).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 11, 2001.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units 1 and 2, Louisa County, Virginia

Date of application for amendment: December 14, 2000.

Brief description of amendment: These amendments revise Technical Specifications Sections 4.7.7.1.d.1 and 4.7.7.2.a. These changes increase the specified minimum number of compressed bottles of air from 84 to 102, and revise the differential pressure limit across the Control Room Emergency Ventilation System HEPA Filter, demister filter, and charcoal adsorber.

Date of issuance: December 12, 2001.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 228 and 209.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments change the Technical Specifications.

*Date of initial notice in **Federal Register**:* January 24, 2001 (66 FR 7687).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 2001.

No significant hazards consideration comments received: No.

(**Note:** The publication date for this notice will change from every other Wednesday to every other Tuesday, effective January 8, 2002. The notice will contain the same information and will continue to be published biweekly.

Dated at Rockville, Maryland, this 17th day of December, 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31473 Filed 12–21–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of Public Law 87–693 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the two sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (Part 43, Chapter I, Title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided and will remain in effect until further notice. The rates for VA that were published in the **Federal Register** on October 31, 2000 remain in effect until further notice. The rates are as follows:

1. Department of Defense

The Department of Defense (DoD) reimbursement rates for inpatient, outpatient, and other services are provided in accordance with Title 10, United States Code, section 1095. Due to size, the sections containing the Drug Reimbursement Rates (section III.D.) and the rates for Ancillary Services Requested by Outside Providers (section III.E.) are not included in this package. Those rates are available from the TRICARE Management Activity's Uniform Business Office web site: *http://www.tricare.osd.mil/ebc/rm_home/imcp/ubo/ubo_01.htm*. The medical and dental service rates in this package (including the rates for ancillary services and other procedures requested by outside providers) are effective October 1, 2001. Pharmacy rates are updated on an as needed basis.

2. Health and Human Services

The tortiously liable rates for Indian Health Service health facilities are based on Medicare cost reports. The obligations for the Indian Health Service hospitals participating in the cost report project were identified and combined with applicable obligations for area offices costs and headquarters costs. The hospital obligations were summarized for each major cost center providing medical services and distributed between inpatient and outpatient. Total inpatient costs and outpatient costs were then divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation costs were incorporated to conform to requirements set forth in OMB Circular A–25.

In addition, the obligations for each cost center include obligations from certain other accounts, such as Medicare and Medicaid collections and the Contract Health fund, that were used to support the inpatient and outpatient workload. Obligations were excluded for certain cost centers that primarily support workloads outside of the directly operated hospitals or clinics (public health nursing, public health nutrition, health education). These obligations are not a part of the traditional cost of hospital operations and do not contribute directly to the inpatient and outpatient visit workload.

Separate rates per inpatient day and outpatient visit were computed for Alaska and the rest of the United States.

VOL 66 ISS 247 DEC 26 2001 UMI

This gives proper weight to the higher cost of operating medical facilities in Alaska.

1. Department of Defense

For the Department of Defense, effective October 1, 2001 and thereafter:

Inpatient, Outpatient and Other Rates and Charges

I. Inpatient Rates[1][2]

Per inpatient day	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
A. Burn Center	$3,550.00	$6,156.00	$6,492.00
B. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG)[3].			

1. Average FY 2002 Direct Care Inpatient Reimbursement Rates

Adjusted standard amount	IMET	Interagency	Other (full/third party)
Large Urban	$3,625.00	$6,170.00	$6,486.00
Other Urban/Rural	3,771.00	6,694.00	7,069.00
Overseas	3,958.00	9,293.00	9,742.00

2. Overview

The inpatient rates are based on the cost per DRG, which is the inpatient full reimbursement rate per hospital discharge weighted to reflect the intensity of the principal diagnosis, secondary diagnoses, procedures, patient age, etc. involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban/rural, and overseas facilities will be published annually as an inpatient adjusted standardized amount (ASA) (see paragraph I.B.1, above). The ASA will be applied to the RWP for each inpatient case, determined from the DRG weights, outlier thresholds, and payment rules published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1), including adjustments for length of stay (LOS) outliers. An outlier refers to a patient's LOS, which is either atypically short or long. They are determined by short or long stay outlier thresholds. Inliers, i.e., those patients who fall within the bounds of the outlier thresholds, receive DRG weights that represent their relative resource intensity.

Each Military Treatment Facility (MTF) providing inpatient care has a separate ASA rate. The MTF-specific ASA rate is the published ASA rate adjusted for area wage differences and indirect medical education (IME) for the discharging hospital (see Attachment 1). The MTF-specific ASA rate submitted on the claim is the rate that payers will use for reimbursement purposes. An example of how to apply a specific military treatment facility's ASA rate to a DRG standardized weight to arrive at the costs to be recovered is contained in paragraph I.B.3. below.

3. Example of Adjusted Standardized Amounts for Inpatient Stays

Figure 1 shows examples for a non-teaching hospital (Reynolds Army Community Hospital) in Other Urban/Rural areas.

a. The cost to be recovered is the MTF cost for medical services provided. Billings will be at the third party rate.

b. DRG 020: Nervous System Infection Except Viral Meningitis. The RWP (i.e. the DoD measure of workload credit derived from biometrics dispositions weighted by CHAMPUS DRG weights) for an inlier case is the CHAMPUS weight of 2.0860. (DRG statistics shown are from FY 2000.)

c. The MTF-applied ASA rate is $6,849.00 (Reynolds Army Community Hospital's third party rate as shown in Attachment 1).

d. The MTF cost to be recovered is the RWP factor (2.0860) in subparagraph 3.b., above, multiplied by the amount ($6,849.00) in subparagraph 3.c., above which equals $14,287.00

e. Cost to be recovered is $14,287.00.

FIGURE 1.—THIRD PARTY BILLING EXAMPLES

DRG No.	DRG description	DRG weight	Arithmetic mean LOS	Geometric mean LOS	Short stay threshold	Long stay threshold
020	Nervous System Infection Except Viral Meningitis	2.0860	7.7	5.5	1	29

Hospital	Location	Area wage rate index	IME adjustment	Group ASA	MTF–Applied ASA
Reynolds Army Community Hospital	Other Urban/Rural	.0996	1.0	$7,069.00	$6,849.00

Patient	Length of stay	Days above threshold	Relative weighted product			TPC
			Inlier*	Outlier**	Total	Amount***
#1	7 days	0	2.0860	000	2.0860	$14,287.00
#2	21 days	0	2.0860	000	2.0860	14,287.00

Patient	Length of stay	Days above threshold	Relative weighted product			TPC
			Inlier *	Outlier **	Total	Amount ***
#3	35 days	6	2.0860	.7510	2.8370	19,431.00

* DRG Weight

** Outlier calculation = 33 percent of per diem weight X number of outlier days. The outlier must meet the criteria determined by the outlier threshold, i.e., the number of days beyond which hospitalization LOS is considered outside the typical range. These are specific for each DRG.

=.33 (DRG Weight/Geometric Mean LOS) × (Patient LOS − Long Stay Threshold)
=.33 (2.0860/5.5) × (35 − 29)
=.33 (.37927) × 6 (take out to five decimal places)
=.12516 X 6 (carry to five decimal places)
=.7510 (carry to four decimal places)

*** MTF-Applied ASA × Total RWP

II. Outpatient Rates

A. *Per Clinic Visit*[1] [2]

MEPRS Code[4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	1. Medical Care			
BAA	Internal Medicine	$50.00	$199.00	$210.00
BAB	Allergy	61.00	113.00	119.00
BAC	Cardiology	107.00	199.00	209.00
BAE	Diabetic	74.00	137.00	144.00
BAF	Endocrinology (Metabolism)	124.00	231.00	243.00
BAG	Gastroenterology	146.00	272.00	286.00
BAH	Hematology	225.00	419.00	442.00
BAI	Hypertension	198.00	369.00	388.00
BAJ	Nephrology	180.00	334.00	352.00
BAK	Neurology	136.00	254.00	267.00
BAL	Outpatient Nutrition	51.00	95.00	100.00
BAM	Oncology	158.00	294.00	310.00
BAN	Pulmonary Disease	144.00	267.00	281.00
BAO	Rheumatology	116.00	216.00	228.00
BAP	Dermatology	93.00	172.00	182.00
BAQ	Infectious Disease	151.00	282.00	297.00
BAR	Physical Medicine	94.00	175.00	184.00
BAS	Radiation Therapy	142.00	264.00	278.00
BAT	Bone Marrow Transplant	154.00	287.00	302.00
BAU	Genetic	343.00	639.00	673.00
BAV	Hyperbaric	276.00	513.00	540.00
	2. Surgical Care			
BBA	General Surgery	162.00	302.00	318.00
BBB	Cardiovascular and Thoracic Surgery	291.00	541.00	570.00
BBC	Neurosurgery	169.00	314.00	331.00
BBD	Ophthalmology	106.00	198.00	209.00
BBE	Organ Transplant	717.00	1,335.00	1,406.00
BBF	Otolaryngology	117.00	217.00	229.00
BBG	Plastic Surgery	134.00	249.00	262.00
BBH	Proctology	95.00	177.00	186.00
BBI	Urology	131.00	244.00	257.00
BBJ	Pediatric Surgery	72.00	133.00	140.00
BBK	Peripheral Vascular Surgery	83.00	155.00	163.00
BBL	Pain Management	113.00	210.00	222.00
BBM	Vascular and Interventional Radiology	351.00	653.00	688.00
	3. Obstetrical and Gynecological (OB-GYN) Care			
BCA	Family Planning	75.00	139.00	146.00
BCB	Gynecology	98.00	182.00	191.00
BCC	Obstetrics	78.00	145.00	153.00
BCD	Breast Cancer Clinic	147.00	274.00	289.00
	4. Pediatric Care			
BDA	Pediatric	71.00	133.00	140.00
BDB	Adolescent	75.00	139.00	146.00
BDC	Well Baby	49.00	91.00	96.00

VOL 66 ISS 247 DEC 26 2001 UMI

MEPRS Code [4]	Clinical service	International military education & training (IMET)	Interagency & other federal agency sponsored patients	Other (full/third party)
	5. Orthopaedic Care			
BEA	Orthopaedic	112.00	208.00	219.00
BEB	Cast	63.00	117.00	123.00
BEC	Hand Surgery	60.00	112.00	118.00
BEE	Orthotic Laboratory	72.00	134.00	141.00
BEF	Podiatry	63.00	117.00	124.00
BEZ	Chiropractic	30.00	56.00	58.00
	6. Psychiatric and/or Mental Health Care			
BFA	Psychiatry	121.00	226.00	238.00
BFB	Psychology	75.00	140.00	148.00
BFC	Child Guidance	71.00	132.00	139.00
BFD	Mental Health	118.00	219.00	231.00
BFE	Social Work	113.00	211.00	222.00
BFF	Substance Abuse	110.00	206.00	216.00
	7. Family Practice/Primary Medical Care			
BGA	Family Practice	84.00	156.00	165.00
BHA	Primary Care	82.00	152.00	160.00
BHB	Medical Examination	82.00	152.00	160.00
BHC	Optometry	57.00	106.00	112.00
BHD	Audiology	48.00	90.00	94.00
BHE	Speech Pathology	91.00	169.00	178.00
BHF	Community Health	67.00	125.00	131.00
BHG	Occupational Health	90.00	167.00	176.00
BHH	TRICARE Outpatient	58.00	108.00	114.00
BHI	Immediate Care	113.00	211.00	222.00
	8. Emergency Medical Care			
BIA	Emergency Medical	142.00	264.00	278.00
	9. Flight Medical Care			
BJA	Flight Medicine	98.00	183.00	192.00
	10. Underseas Medical Care			
BKA	Underseas Medicine	57.00	107.00	113.00
	11. Rehabilitative Services			
BLA	Physical Therapy	43.00	81.00	85.00
BLB	Occupational Therapy	87.00	162.00	70.00

B. *Ambulatory Procedure Visit* (APV)—*Per Visit*[5]

MEPRS Code [4]	Clinical Service	International Military Education & Training (IMET)	Interagency & Other Federal Agency Sponsored Patients	Other (Full/Third Party)
BB	Surgical Care	1,068.00	1,987.00	2,093.00
BE	Orthopaedic Care	1,315.00	2,448.00	2,577.00
All Other	B clinics other than BB and BE, to include those B clinics where: 1. There is an APU established within DoD guidelines AND 2. There is a rate established for that clinic in section IIA. Some B clinics, such as BF, BI, BJ and BL, perform the type of services where the establishment of an APU would not be within appropriate clinical guidelines.	297.00	553.00	582.00

III. Other Rates and Charges[1] [2]

A. Per Each

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
FBI	Immunization	$18.00	$34.00	$36.00
	B. *Family Member Rate* (formerly Military Dependents Rate)	11.90		
	C. *Subsistence Rate.*[15]			
	Standard Rate	8.10		
	Discount Rate	6.75		

D. Reimbursement Rates For Drugs Requested By Outside Providers[6]

E. Ancillary Services Requested by an Outside Provider—Per Procedure[7]

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
DB	Laboratory procedures requested by an outside provider current procedural terminology (CPT) 2001 weight multiplier.	$19.00	$28.00	$29.00
DC, DI	Radiology procedures requested by an outside provider CPT 2001 weight multiplier.	38.00	54.00	57.00

F. Dental Rate—Per Procedure[11]

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
	Dental services ADA code weight multiplier	$31.00	$73.00	$77.00

G. Ambulance Rate—Per Hour[12]

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
FEA	Ambulance	$67.00	$124.00	$131.00

H. AirEvac Rate—Per Trip (24 hour period)[13]

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
	AirEvac Services—Ambulatory	$257.00	$479.00	$505.00
	AirEvac Services—Litter	751.00	1,397.00	1,471.00

I. Observation Rate—Per hour[14]

MEPRS code[4]	Clinical service	International military education & training (IMET)	Interagency & other Federal agency sponsored patients	Other (full/third party)
	Observation Services—Hour	$13.00	$24.00	$26.00

IV. Elective Cosmetic Surgery Procedures and Rates

Cosmetic surgery procedure	International classification diseases (ICD–9)	Current procedural terminology (CPT)[8]	FY 2002 charge[9]	Amount of Charge
Mammaplasty—augmentation.	85.50, 85.32, 85.31	19325, 19324, 19318	Inpatient Charge per DRG or APV	(a) (b)
Mastopexy	85.60	19316	Inpatient Charge per DRG Or APV or applicable Outpatient Clinic Rate.	(a b c)
Facial Rhytidectomy	86.82, 86.22	15824	Inpatient Charge per DRG or APV	(a b)
Blepharoplasty	08.70, 08.44	15820, 15821, 15822, 15823.	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Mentoplasty (Augmentation/Reduction).	76.68, 76.67	21208, 21209	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Abdominoplasty	86.83	15831	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Lipectomy Suction per region[10].	86.83	15876, 15877, 15878, 15879.	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	
Rhinoplasty	21.87, 21.86	30400, 30410	Inpatient Charge per DRG Or APV or applicable Outpatient Clinic Rate.	(a b c)
Scar Revisions beyond CHAMPUS.	86.84	1578	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Mandibular or Maxillary Repositioning.	76.41	21194	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Dermabrasion	86.25	15780	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Hair Restoration	86.64	15775	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Removing Tattoos	86.25	15780	Inpatient Charge per DRG or APV or applicable Outpatient Clinic Rate.	(a b c)
Chemical peel	86.24	15790	Inpatient charge per DRG or APV or applicable Outpatient clinic rate.	(a b c)
Arm/thigh dermolipectomy.	86.83	15836/15832	Inpatient charge per DRG or APV	(a b)
Refractive surgery			APV or applicable outpatient clinic rate	(b c e)
Radial keratotomy		65771		
Other procedure (if applies to laser or other refractive surgery).		66999		
Otoplasty		69300	APV or applicable outpatient clinic rate	(b c)
Brow lift	86.3	15839	Inpatient charge per DRG or APV or applicable outpatient clinic rate.	(a b c)

Notes on Cosmetic Surgery Charges

[a] Charges for Inpatient surgical care services are based on the cost per DRG. (See notes 8 through 10, below, for further details on reimbursable rates.)

[b] Charges for ambulatory procedure visits (formerly same day surgery) are listed in section II.B. (See notes 8 through 10, below, for further details on reimbursable rates.) The ambulatory procedure visit (APV) rate is used if the elective cosmetic surgery is performed in an ambulatory procedure unit (APU).

[c] Charges for outpatient clinic visits are listed in sections II.A. The outpatient clinic rate is not used for services provided in an APU. The APV rate should be used in these cases.

[d] Charge is solely determined by the location of where the care is provided and is not to be based on any other criteria. An APV rate can only be billed if the location has been established as an APU following all required DoD guidelines and instructions.

[e] Refer to Office of the Assistant Secretary of Defense (Health Affairs) policy on Vision Correction Via Laser Surgery For Non-Active Duty Beneficiaries, April 7, 2000, for further guidance on billing for these services. It can be downloaded from: *http://www.tricare.osd.mil/policy/2000poli.htm.*

Notes on Reimbursable Rates

[1] Percentages can be applied when preparing bills for both inpatient and outpatient services. Pursuant to the provisions of 10 U.S.C. 1095, the inpatient Diagnosis Related Groups and inpatient per diem percentages are 96 percent hospital and 4 percent professional charges. The outpatient per visit percentages are 89 percent outpatient services and 11 percent professional charges.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed.

[3] The cost per Diagnosis Related Group (DRG) is based on the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal and secondary diagnoses, surgical procedures, and patient demographics involved. The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the direct care system is comparable to procedures used by the Centers for Medicare and Medicaid Services (CMS) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses include all direct care expenses associated with direct patient care. The average cost per RWP for large urban, other urban/rural, and overseas will be published annually as an adjusted standardized amount (ASA) and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources, not just third party payers.

MTFs without inpatient services, whose providers are performing inpatient care in a civilian facility for a DoD beneficiary, can bill payers the percentage of the charge that represents professional services as provided in [1] above. The ASA rate used in these cases, based on the absence of a ASA rate for the facility, will be based on the average ASA rate for the type of metropolitan statistical area the MTF resides, large urban, other urban/rural, or overseas (see paragraph I.B.1.). The Uniform Business Office must receive documentation of care provided in order to produce a bill.

[4] The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. MEPRS codes are used to ensure that consistent expense and operating performance data is reported in the DoD military medical system. An example of the MEPRS hierarchical arrangement follows:

Outpatient Care (Functional Category), B (MEPRS CODE), Medical Care (Summary Account), BA (MEPRS CODE), Internal Medicine (Subaccount), BAA (MEPRS CODE).

[5] Ambulatory procedure visit is defined in DoD Instruction 6025.8, "Ambulatory Procedure Visit (APV)," dated September 23, 1996, as immediate (day of procedure) pre-procedure and immediate post-procedure care requiring an unusual degree of intensity and provided in an ambulatory procedure unit (APU). An APU is a location or organization within an MTF (or freestanding outpatient clinic) that is specially equipped, staffed, and designated for the purpose of providing the intensive level of care associated with APVs. Care is required in the facility for less than 24 hours. All expenses and workload are assigned to the MTF-established APU associated with the referring clinic. The BB and BE APV rates are to be used only by clinics that are subaccounts under these summary accounts (see [4] for an explanation of MEPRS hierarchical arrangement). The All Other APV rate is to be used only by those clinics that are not a subaccount under BB or BE. In addition, APV rates may only be utilized for clinics where there is a clinic rate established. For example, BLC, Neuromuscular Screening, no longer has an established rate. Therefore, an APU cannot be defined and an APV cannot be billed for this clinic.

[6] Third party payers (such as insurance companies) shall be billed for prescription services when beneficiaries who have medical insurance obtain medications from MTFs that are prescribed by providers external to the MTF (e.g., physicians and dentists). Eligible beneficiaries (family members or retirees with medical insurance) are not liable personally for this cost and shall not be billed by the MTF. Medical Services Account (MSA) patients, who are not beneficiaries as defined in 10 U.S.C. 1074 and 1076, are charged at the "Other" rate if they are seen by an outside provider and only come to the MTF for prescription services. The standard cost of medications ordered by an outside provider includes the DoD-wide average cost of the drug, calculated by lowest cost for the generic drugs with the same dosage and strength. The prescription charge is calculated by multiplying the number of units (e.g., tablets or capsules) by the unit cost and adding $6.00 for the cost of dispensing the prescription. Dispensing costs include overhead, supplies, and labor, etc. to fill the prescription.

The list of drug reimbursement rates is too large to include in this document. Those rates are available from the TRICARE Management Activity's Uniform Business Office web site, *http://www.tricare.osd.mil/ebc/rm_home/imcp/ubo/ubo_01.htm*.

[7] The list of rates for ancillary services requested by outside providers and obtained at a Military Treatment Facility is too large to include in this document. Those rates are available from the TRICARE Management Activity's Uniform Business Office website, http://www.tricare.osd.mil/ebc/rm_home/imcp/ubo/ubo_01.htm.

Charges for ancillary services requested by an outside provider (e.g., physicians and dentists) are relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for ancillary services when beneficiaries who have medical insurance obtain services from the MTF which are prescribed by providers external to the MTF. Laboratory and Radiology procedure costs are calculated by multiplying the DoD-established weight for the Physicians' Current Procedural Terminology (CPT) 2001 code by either the laboratory or radiology multiplier (section III.E.). Radiology procedures performed by Nuclear Medicine use the same methodology as Radiology for calculating a charge because their workload and expenses are included in the establishment of the Radiology multiplier.

Eligible beneficiaries (family members or retirees with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. MSA patients, who are not beneficiaries as defined by 10 U.S.C. 1074 and 1076, are charged at the "Other" rate if they are seen by an outside provider and only come to the MTF for ancillary services.

[8] The attending physician is to complete the CPT 2001 code to indicate the appropriate procedure followed during cosmetic surgery. The appropriate rate will be applied depending on the treatment modality of the patient: ambulatory procedure visit, outpatient clinic visit or inpatient surgical care services.

[9] Family members of active duty personnel, retirees and their family members, and survivors shall be charged elective cosmetic surgery rates. Elective cosmetic surgery procedure information is contained in section IV. The patient shall be charged the rate as specified in the FY 2002 reimbursable rates for an episode of care. The charges for elective cosmetic surgery are at the full reimbursement rate (designated as the "Other" rate) for inpatient care services based on the cost per DRG, ambulatory procedure visits as contained in section II.B. or the appropriate outpatient clinic rate in sections II.A. The patient is responsible for the cost of the implant(s) and the prescribed cosmetic surgery rate. (Note: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.)

[10] Each regional lipectomy shall carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[11] Dental service rates are based on a dental rate multiplied by the DoD established weight for the American Dental Association (ADA) code performed. For example, for ADA code 00270, bite wing single film, the weight is 0.15. The weight of 0.15 is multiplied by the appropriate rate, IMET, IAR, or Full/Third Party rate to obtain the charge. If the Full/Third Party rate is used, then the charge for this ADA code will be $11.55 ($77 × .15 = $11.55).

The list of ADA codes and weights for dental services is too large to include in this document. Those rates are available from the TRICARE Management Activity's Uniform Business Office web site, *http://www.tricare.osd.mil/ebc/rm_home/imcp/ubo/ubo_01.htm*.

[12] Ambulance charges shall be based on hours of service in 15 minute increments. The rates listed in section III.G. are for 60 minutes or 1 hour of service. Providers shall calculate the charges based on the number of hours (and/or fractions of an hour) that the ambulance is logged out on a patient run. Fractions of an hour shall be rounded to the next 15 minute increment (e.g., 31 minutes shall be charged as 45 minutes).

[13] Air in-flight medical care reimbursement charges are determined by the status of the patient (ambulatory or litter) and are per patient during a 24-hour period. The appropriate charges are billed only by the Air Force Global Patient Movement Requirement Center (GPMRC). These charges are only for the cost of providing medical care. Flight charges are billed by GPMRC separately.

[14] Observation Services are billed at the hourly charge. Begin counting when the patient is placed in the observation bed and round to the nearest hour. For example, if a patient has received 1 hour and 20 minutes of observation, then you bill for 1 hour of service. If the status of a patient changes to inpatient, the charges for observation services are added to the DRG assigned to the case and not separately billed. If a patient is released from observation status and is sent to an APV, the charges for observation services are not billed separately but are added to the APV rate to recover all expenses.

[15] Subsistence is billed under the Medical Services Account (MSA) Program only. The MSA office shall collect subsistence charges from all persons, including inpatients and transient patients not entitled to food service at Government expense. Please refer to DoD 6010.15–M, Military Treatment Facility Uniform Business Office (UBO) Manual, April 1997 and the DoD 7000.14–R, "Department of Defense Financial Management Regulation", Volume 12, Chapter 19 for guidance on the the use of these rates.

ATTACHMENT 1.—FY02 ADJUSTED STANDARDIZED AMOUNTS (ASA) BY MILITARY TREATMENT FACILITY

DMISID	MTF name	Serv	Full cost rate	Interagency rate	IMET rate	TPC rate
0003	Lyster AH—Ft. Rucker	A	$6,703	$6,348	$3,576	$6,703
0005	Bassett ACH—Ft. Wainwright	A	7,241	6,856	3,863	7,241
0006	3rd Med Grp—Elmendorf AFB	F	7,109	6,732	3,793	7,109

ATTACHMENT 1.—FY02 ADJUSTED STANDARDIZED AMOUNTS (ASA) BY MILITARY TREATMENT FACILITY—Continued

DMISID	MTF name	Serv	Full cost rate	Interagency rate	IMET rate	TPC rate
0009	56th Med Grp—Luke AFB	F	6,474	6,159	3,618	6,474
0014	60th Med Grp—Travis AFB	F	9,946	9,419	5,306	9,946
0024	NH Camp Pendleton	N	8,687	8,264	4,855	8,687
0028	NH Lemoore	N	7,034	6,661	3,752	7,034
0029	NH San Diego	N	10,904	10,374	6,094	10,904
0030	NH Twenty Nine Palms	N	6,596	6,274	3,686	6,596
0032	Evans ACH—Ft. Carson	A	6,985	6,615	3,726	6,985
0033	10th Med Grp—USAF Academy	F	7,062	6,687	3,767	7,062
0037	Walter Reed AMC—Washington DC	A	10,384	9,878	5,803	10,384
0038	NH Pensacola	N	8,704	8,242	4,643	8,704
0039	NH Jacksonville	N	8,539	8,123	4,772	8,539
0042	96th Med Grp—Eglin AFB	F	8,747	8,283	4,666	8,747
0045	6th Med Grp—MacDill AFB	F	6,482	6,167	3,623	6,482
0047	Eisenhower AMC—Ft. Gordon	A	8,677	8,217	4,629	8,677
0048	Martin ACH—Ft. Benning	A	8,118	7,688	4,331	8,118
0049	Winn ACH—Ft. Stewart	A	6,989	6,618	3,728	6,989
0052	Tripler AMC—Ft. Shafter	A	10,134	9,597	5,406	10,134
0053	366th Med Grp—Mountain Home AFB	F	7,056	6,682	3,764	7,056
0055	375th Med Grp—Scott AFB	F	8,579	8,161	4,794	8,579
0056	NH Great Lakes	N	6,538	6,220	3,654	6,538
0057	Irwin AH—Ft. Riley	A	6,498	6,154	3,467	6,498
0060	Blanchfield ACH—Ft Campbell	A	6,577	6,228	3,509	6,577
0061	Ireland ACH—Ft. Knox	A	6,467	6,124	3,450	6,467
0064	Bayne-Jones ACH—Ft. Polk	A	6,602	6,252	3,522	6,602
0066	89th Med Grp—Andrews AFB	F	8,807	8,378	4,922	8,807
0067	NNMC Bethesda	N	10,913	10,382	6,099	10,913
0073	81st Med Grp—Keesler AFB	F	10,213	9,671	5,448	10,213
0075	Wood ACH—Ft. Leonard Wood	A	6,572	6,223	3,506	6,572
0078	55th Med Grp—Offutt AFB	F	9,245	8,755	4,932	9,245
0079	99th Med Grp—Nellis AFB	F	6,495	6,179	3,630	6,495
0084	49th Med Grp—Holloman AFB	F	7,068	6,693	3,771	7,068
0086	Keller ACH—West Point	A	7,342	6,953	3,917	7,342
0089	Womack AMC—Ft. Bragg	A	7,586	7,184	4,047	7,586
0091	NH Camp LeJeune	N	6,694	6,339	3,571	6,694
0092	NH Cherry Point	N	6,809	6,448	3,632	6,809
0093	319th Med Grp—Grand Forks AFB	F	6,966	6,597	3,716	6,966
0094	5th Med Grp—Minot AFB	F	6,965	6,595	3,715	6,965
0095	74th Med Grp—Wright-Patterson AFB	F	11,385	10,781	6,073	11,385
0098	Reynolds ACH—Ft. Sill	A	6,849	6,486	3,654	6,849
0100	NH Newport	N	6,486	6,170	3,625	6,486
0101	20th Med Grp—Shaw AFB	F	7,028	6,656	3,749	7,028
0104	NH Beaufort	N	6,940	6,572	3,702	6,940
0105	Moncrief ACH—Ft. Jackson	A	7,011	6,639	3,740	7,011
0106	28th Med Grp—Ellsworth AFB	F	7,049	6,675	3,760	7,049
0108	Wm Beaumont AMC—Ft. Bliss	A	8,575	8,120	4,575	8,575
0109	Brooke AMC—Ft. Sam Houston	A	9,404	8,946	5,255	9,404
0110	Darnall AH—Ft. Hood	A	7,904	7,485	4,216	7,904
0112	7th Med Grp— Dyess AFB	F	6,999	6,628	3,734	6,999
0113	82nd Med Grp—Sheppard AFB	F	6,970	6,600	3,718	6,970
0117	59th Med Wing F—Lackland AFB	F	9,977	9,491	5,575	9,977
0120	1st Med Grp—Langley AFB	F	6,421	6,108	3,588	6,421
0121	McDonald ACH—Ft. Eustis	A	6,103	5,806	3,411	6,103
0123	Dewitt AH—Ft. Belvoir	A	8,131	7,735	4,544	8,131
0124	NH Portsmouth	N	8,355	7,949	4,669	8,355
0125	Madigan AMC—Ft. Lewis	A	11,847	11,218	6,320	11,847
0126	NH Bremerton	N	8,400	7,955	4,481	8,400
0127	NH Oak Harbor	N	6,709	6,382	3,749	6,709
0131	Weed ACH—Ft. Irwin	A	7,064	6,689	3,769	7,064
0606	95th CSH—Heidelberg	A	9,742	9,293	3,958	9,742
0607	Landstuhl Rgn MC	A	9,742	9,293	3,958	9,742
0609	67th CSH—Wurzburg	A	9,742	9,293	3,958	9,742
0612	121st Gen Hosp—Seoul	A	9,742	9,293	3,958	9,742
0615	NH Guantanamo Bay	N	9,742	9,293	3,958	9,742
0616	NH Roosevelt Roads	N	9,742	9,293	3,958	9,742
0617	NH Naples	N	9,742	9,293	3,958	9,742
0618	NH Rota	N	9,742	9,293	3,958	9,742
0620	NH Guam	N	9,742	9,293	3,958	9,742
0621	NH Okinawa	N	9,742	9,293	3,958	9,742
0622	NH Yokosuka	N	9,742	9,293	3,958	9,742
0623	NH Keflavik	N	9,742	9,293	3,958	9,742
0624	BH Sigonella	N	9,742	9,293	3,958	9,742

ATTACHMENT 1.—FY02 ADJUSTED STANDARDIZED AMOUNTS (ASA) BY MILITARY TREATMENT FACILITY—Continued

DMISID	MTF name	Serv	Full cost rate	Interagency rate	IMET rate	TPC rate
0633	48th Med Grp—RAF Lakenheath	F	9,742	9,293	3,958	9,742
0635	39th Med Grp—Incirlik AB	F	9,742	9,293	3,958	9,742
0638	51st Med Grp—Osan AB	F	9,742	9,293	3,958	9,742
0639	35th Med Grp—Misawa	F	9,742	9,293	3,958	9,742
0640	374th Med Grp—Yokota AB	F	9,742	9,293	3,958	9,742
0805	52nd Med Grp—Spangdahlem	F	9,742	9,293	3,958	9,742
0806	31st Med Grp—Aviano	F	9,742	9,293	3,958	9,742

2. Department of Health and Human Services

For the Department of Health and Human Services, Indian Health Service, effective October 1, 2001 and thereafter:

Hospital Care Inpatient Day	
General Medical Care.	
Alaska	$2,025
Rest of the United States	1,571
Outpatient Medical Treatment	
Outpatient Visit.	
Alaska	363
Rest of the United States	196

Beginning October 1, 2001, the rates prescribed herein superceded those established by the Director of the Office of Management and Budget October 31, 2000 (FR Doc. 00–27726).

Mitchell Daniels, Jr.,

Director, Office of Management and Budget.

[FR Doc. 01–31663 Filed 12–21–01; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45160; File No. SR–Amex–2001–91]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC Relating to the Listing and Trading of Balanced Strategy Notes

December 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or ("Sec") a proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Amex amended its proposal on November 21, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change and Amendment No. 1 from interested persons and to approve the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to list and trade Balanced Strategy Notes ("Balanced Strategy Notes" or "Notes"), the return on which is based on the Balanced Strategy Index ("Balanced Strategy Index"). The Balanced Strategy Index is based upon the performance of the Standard & Poor's ("S&P") 500 Total Return Index ("S&P 500 Total Return Index") and the U.S. Domestic Master Index ("U.S. Bond Index"[4] (each, an "Underlying Index," and together, the "Underlying Indexes") pursuant to the methodology set forth below. Initially, the Underlying Indexes will each have a weighting of 50% of the Balanced Strategy Index. The Amex will rebalance the Balanced Strategy Index annually to reset the weighting of the Underlying Indexes to 50% each of the weight of the Balanced Strategy Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change, as amended, and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item III below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Under Section 107A of the Amex Company Guide ("Company Guide"), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[5] The Amex proposes to list for trading under Section 107A of the Company Guide notes based on the Balanced Strategy Index ("Balance Strategy Notes" or "Notes"), as described below. The Balanced Strategy Index will be determined, calculated and maintained solely by the Amex.[6]

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240. 19b–4.

[3] *See* letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Yvonne Fraticelli, Special Counsel, Division of Market Regulation ("Division"), Commission, dated November 20, 2001 ("Amendment No. 1"). In Amendment No. 1, the Amex enclosed a draft circular that the Amex will distribute to members. Among other things, the circular described the Balanced Strategy Notes and the suitability requirements applicable to the Balanced Strategy Notes. In addition, the Amex made the following clarifications: (1) with respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Balanced Strategy Notes to determine that such transaction is suitable for the customer, and to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transactions; (2) Merrill Lynch & Co., Inc. has designed the Balanced Strategy Notes for investors who want to participate in the changes in U.S. domestic equity and bond markets and who are willing to forego market interest payments on the Balanced Strategy Notes; (3) the Amex represents that its surveillance procedures are adequate to properly monitor the trading of the Balanced Strategy Notes; and (4) the index divisor referenced in connection with the Standard and Poor's 500 Total Return Index keeps the index comparable over time to its base period (1941–1943) and is the reference point for all maintenance adjustments.

[4] The Amex clarified the definition of the U.S. Bond Index by indicating that it intends to refer to the U.S. Domestic Master Index as the U.S. Bond Index. Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Yvonne Fraticelli, Special Counsel, Division, Commission, on December 7, 2001)"December 7 Conversation"). As discussed more fully below, the U.S. Bond Index, which is comprised of over 4,000 issues, is an indicator of the performance of the investment grade U.S. domestic bond market.

[5] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29) ("Hybrid Approval Order").

Description of the Notes

The Balanced Strategy Notes are senior non-convertible debt securities of Merrill Lynch & Co., Inc ("Merrill Lynch"). Merrill Lynch has designed the Balanced Strategy Notes for investors who want to participate in changes in U.S. domestic equity and bond markets and who are willing to forego market interest payments on the Notes, such as floating interest rates paid on standard senior non-callable debt securities.[7] The Notes will have a term of not less than one, nor more than ten years. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change between the "Starting Index Value" and the "Ending Index Value" (the "Redemption Amount") less an index adjustment factor, as described more fully below. The "Starting Index Value" is the value of the Balanced Strategy Index on the date the issuer prices the Notes for initial sale to the public. The "Ending Index Value" is the value of the Balanced Strategy Index over a period shortly prior to the expiration of the Notes. The Ending Index Value will be used in calculating the amount owners will receive upon maturity. The Notes will not have a minimum principal amount that will be repaid, and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Notes. During a two-week period in the designated month each year, investors will have the right to require the issues to repurchase the Balanced Strategy Notes at a redemption amount based on the value of the Balanced Strategy Index at such repurchase date. The Balanced Strategy Notes are not callable by the issuer.

The Balanced Strategy Notes are cash-settled in U.S. dollars. The holder of a Note does not have any right to receive any of the securities comprising the Underlying Indexes or any other ownership right or interest in the component securities of the Underlying Indexes.

At the outset, the Underlying Indexes will each approximate 50% of the Starting Index Value. Specifically, both the S&P 500 Total Return Index and the U.S. Bond Index will be assigned a multiplier on the date of issuance so that each Underlying Index represents approximately an equal percentage of the value of the Balanced Strategy Index on the date the Notes are priced for initial sale to the public. The multiplier indicates the percentage of the Underlying Index, given its current value, to be included in the calculation of the Balanced Strategy Index. The Balanced Strategy Index will initially be set to provide a benchmark value of 100.00 at the close of trading on the date the Notes are priced for initial sale to the public. The value of the Balanced Strategy Index at any time will equal the sum of values of each Underlying Index multiplied by their respective multiplier less a pro rata portion of the annual index adjustment factor.[8]

The S&P 500 Total Return Index is a broad-based stock index that provides an indication of the performance of the U.S. equity market. The S&P 500 Total Return Index is a capitalization-weighted index reflecting the total market value, including the reinvestment of dividends, of 500 widely-held component stocks relative to a particular base period. The S&P 500 Total Return Index is computed by dividing the total market value, plus dividends reinvested,[9] of the 500 companies in the S&P 500 Total Return Index by an index divisor.[10] The securities included in the S&P 500 Total Return Index are listed on the Amex or the New York Stock Exchange, Inc. ("NYSE"), or traded through the facilities of the National Association of Securities Dealers, Inc. Automated Quotation ("Nasdaq") System and listed as Nasdaq National Market securities. As of October 22, 2001, the market capitalization of the securities included in the S&P 500 Total Return ranged from a high of $373,58 billion to a low $329.04 million. The average daily trading volume for these same securities for the last six months, as of the same date, ranged from a high of 22 million shares to a low of 1.1 million shares. The Amex and other options exchanges previously have listed options and other securities whose performance has been linked to or based on the S&P 500 Composite Stock Price Index ("S&P 500 Index"),[11] which is identical to the S&P 500 Total Return Index except that the S&P 500 Total Return Index includes dividends paid on the underlying component stocks of the S&P 500 Index.

The Commission previously approved an Amex proposal to list and trade seven bond index-linked term notes under Section 107A of the Company Guide.[12] One of the bond indexes included in the 1999 Order was the U.S. Bond Index. The U.S. Bond Index, established in 1975 and sponsored and calculated by the Merrill Lynch Research Portfolio Strategy Group, is an indicator of the performance of the investment grade U.S. domestic bond market. It is a broad-based index consisting of over 4,000 bonds with a market value of over $5 trillion. For a bond to qualify for inclusion in the U.S. Bond Index, the bond must meet a pre-established and defined list of objective criteria.[13] The bonds included in the U.S. Bond Index also meet or exceed the Exchange's Bond and Debenture Listing Standards set forth in Section 104 of the Company Guide.[14] The U.S. Bond Index is rebalanced on the last calendar day of the month. Bonds meeting the U.S. Bond Index's inclusion criteria on the last calendar day of the month are included in the U.S. Bond Index for the following month. Issues that no longer meet the criteria during the course of the month remain in the U.S. Bond Index until the next month-end rebalancing, at which point they are dropped from the U.S. Bond Index. Bonds included in the U.S. Bond Index are held constant throughout the month until the following monthly rebalancing. Bond weightings for the U.S. Bond Index are based on a bond's total outstanding capitalization (sum of the product of total face value currently outstanding multiplied by the price and accrued interest). Returns and weighted average characteristics are published daily.

---

[6] Subject to the criteria in the prospectus supplement of the Notes regarding the construction of the Balanced Strategy Index, the Exchange has sole discretion regarding changes to the Balanced Strategy Index.

[7] *See* Amendment No. 1, *supra* note 3.

[8] At the end of each day, the Balanced Strategy Index will be reduced by a pro rata portion of the annual index adjustment factor, expected to be 1.0% (*i.e.*, 1.0% 365 days = 0.0027% daily). This reduction of the value of the Balanced Strategy Index will reduce the total return to investors upon exchange or maturity. The Amex represents that an explanation of this deduction will be included in any marketing materials, fact sheets, or any other material circulated to investors regarding the trading of this product.

[9] The S&P 500 Total Return Index assumes the reinvestment of dividends on a daily basis. Monthly, quarterly, and annual total return numbers are calculated by daily compounding of reinvested dividends.

[10] The index divisor keeps the S&P 500 Total Return Index comparable over time to its base period (1941–1943) and is the reference point for all maintenance adjustments. *See* Amendment No. 1, *supra* note 3.

[11] *See* Securities Exchange Act Release Nos. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (File No. SR–CBOE–83–08) (approving the listing and trading of options on the S&P 500 Index); 31591 (December 11, 1992), 57 FR 60253 (December 18, 1992) (File No. SR–Amex–92–18) (approving the listing and trading of Portfolio Depositary Receipts based on the S&P 500 Index); No. 27382 (October 26, 1989), 54 FR 45834 (October 31, 1989) (File No. SR–NYSE–89–05) (approving the listing and trading of Exchange Stock Portfolios based on the value of the S&P 500 Index); and 30394 (February 21, 1992), 57 FR 7409 (March 2, 1992) (File No. SR–AMEX–90–06) (approving the listing and trading of a unitinvestment trust linked to the S&P 500 Index).

[12] *See* Securities Exchange Act Release No. 41334 (April 27, 1999), 64 FR 23883 (May 4, 1999) (order approving File No. SR–Amex–99–03) ("1999 Order").

[13] Information as to how the U.S. Bond Index is calculated, including the inclusion rules, is published on Bloomberg and the Merrill Lynch public web site. Changes in any rules are generally published approximately 30 days in advance of the change.

[14] The Exchange's Bond and Debenture Listing Standards provide for the listing of individual bond or debenture issuance provided the issue has an aggregate market value or principal amount of at least $5 million and either: The issuer of the debt security has equity securities listed on the Exchange (or on the NYSE); an issuer of equity securities listed on Exchange (or on the NYSE) directly or indirectly owns a majority interest in, or is under common control with, the issuer of the debt security; an issuer of equity securities listed on the Exchange (or on the NYSE) has guaranteed the debt security; a nationally recognized statistical rating organization (an "NRSRO") has assigned a current rating to the debt security that is no lower than an S&P Corporation "B" rating or equivalent rating by another NRSRO; or if no NRSRO has assigned a rating to the issue, an NRSRO has currently assigned: (i) An investment grade rating to an

As of the close of business on each anniversary date (the anniversary of the day the Balanced Strategy Index was initially calculated and set to 100), the Amex will rebalance the Balanced Strategy Index so that each Underlying Index will represent approximately 50% of the value of the Balanced Strategy Index. To effectuate this result, the Amex will determine the multiplier for each Underlying Index and will indicate the percentage allocated to each Underlying Index, given their respective closing values on the anniversary date, so that each Underlying Index represents an equal percentage of the Balanced Strategy Index value at the close of business on an anniversary date. For example, if the Balanced Strategy Index value at the close of business on an anniversary date was 200, then each of the Underlying Indexes would be allocated a portion of the value of the Index equal to 100, and if the closing market price of one Underlying Index on the anniversary date was 160, the applicable share multiplier would be reset to 0.625. Conversely, if the Balanced Strategy Index value was 80, then each of the Underlying Indexes would be allocated the value of the Balanced Strategy Index equal to 40, and if the closing market price of one Underlying Index on the anniversary date was 20, the applicable share multiplier would be reset to 2.

The Exchange will continuously calculate the Balanced Strategy Index and, similar to other stock index values published by the Exchange, the value of the Balanced Strategy Index will be disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Criteria for Initial and Continued Listing

The Balanced Strategy Notes will conform to the initial listing guidelines under Section 107A of the Company Guide and continued listing guidelines under Sections 1001–1003 of the Company Guide. Specifically, under Section 107A of the Company Guide, the initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer shall have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer that is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, Section 107A of the Company Guide provides that the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess of $100 million and stockholders' equity of at least $20 million.

The continued listing guidelines are set forth under Sections 1001 through 1003 of Part 10 to the Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced as to make further dealings on the Exchange inadvisable. With respect to the continued listing guidelines for distribution of the Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv) of the Company Guide. Section 1003(b)(iv)(A) of the Company Guide provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held less than $400,000.

The Notes will be registered under Section 12 of the Act.[15]

Lastly, in conjunction with the Amex's Hybrid Approval Order,[16] the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance regarding member firm compliance responsibilities and requirements, including suitability recommendations, and highlighting the special risks and characteristics of the Notes. In particular, with respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes to: (1) Determine that such transaction is suitable for the customer; and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.[17]

Rules Applicable to the Trading of the Notes

Because the Notes are linked, in part to a portfolio consisting of equity securities, the Amex's existing equity floor trading rules will apply to the trading of the Notes. First, pursuant to Amex Rule 411, "Duty to Know and Approve Customers," the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[18] Second, the Notes will be subject to the equity margin rules of the Exchange. Third, as discussed earlier, in conjunction with the Amex's Hybrid Approval Order,[19] the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes.

Furthermore, the Amex represents that its surveillance procedures are adequate to properly monitor the trading of Balanced Strategy Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities to monitor trading in the Notes.[20] In addition, the Amex also has a general policy that prohibits the distribution of material, non-public information by its employees.[21]

Disclosure and Dissemination of Information

The Amex will issue a circular to the membership providing guidance with regard to member firm compliance

---

immediately senior issue; or (ii) a rating that is no lower than an S&P Corporation "B" rating, or an equivalent rating by another NRSRO, to a pari passu or junior issue.

[15] *See* December 7 Conversation, *supra* note 4.

[16] *See* note 5, *supra*.

[17] *See* Amendment No. 1, *supra* note 3.

[18] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[19] *See* note 5, *supra*.

[20] *See* Amendment No. 1, *supra* note 3.

[21] Id.

VOL 66 ISS 247 DE 26 2001 UMI

responsibilities when handling transactions in the Notes and explaining the special characteristics and risks of the Notes. Furthermore, Merrill Lynch will deliver a prospectus in connection with the initial purchase of the Notes. The procedure for the delivery of a prospectus will be the same as Merrill Lynch's current procedure involving primary offerings.[22]

(2) Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[23] in general, and furthers the objectives of Section 6(b)(5)[24] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market an a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment No. 1 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2001–91 and should be submitted by January 16, 2002.

IV. Commissions Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Amex has asked the Commission to approve the proposal and Amendment No. 1 on an accelerated basis because the Amex believes that the Notes are similar to several instruments listed and currently trading on the Amex.[25]

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)(5) of the Act,[26] in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and a national market system.[27] The Commission believes that the Notes will provide investors who are willing to forego market interest payments during the term of the Notes with a means to participate in the U.S. domestic equity and bond markets.[28] Specifically, as described more fully above, at maturity, or upon exchange, the holder of a Note will receive an amount based upon the percentage change in the value of the Balanced Strategy Index, less the index adjustment factor.

The Notes are debt instruments whose price will be derived from and based upon the value of the Balanced Strategy Index. In addition, as discussed more fully above, the Notes do not guarantee any return of principal at maturity. Thus, if the Balanced Strategy Index has declined at maturity, the holder of the Note may receive significantly less than the original public offering price of the Note. Accordingly, the level of risk involved in the purchase or sale of the Notes is similar to the risk involved in the purchase or sale of traditional common stock. Because the final rate of return on the Notes is derivatively priced and based upon the performance of an index of securities and because the Notes are instruments that do not guarantee a return of principal, there are several issues regarding trading of this type of product. For the reasons discussed below, the Commission believes that the Amex's proposal, as amended, adequately addresses the concerns raised by this type of product.

First, the Commission notes that the protections of Section 107A of the Company Guide were designed to address the special concerns attendant to the trading of hybrid securities like the Notes. In particular, by imposing the hybrid listing standards, heighted suitability for recommendations,[29] and compliance requirements, noted above, the Commission believes that the Exchange has adequately addressed the potential problems that could arise from the hybrid nature of the Notes. The Commission notes that the Amex will distribute a circular to its membership that provides guidance regarding member firm compliance responsibilities and requirements, including suitability recommendations, and highlights the special risks and characteristics associated with the Notes. Specifically, among other things, the circular notes that the issuer will make no payments prior to maturity, that the value of the Balanced Strategy Index must increase for holders to receive at least the original public offering price of $10 per Note upon exchange or at maturity, and that holders will receive less, and possibly significantly less than $10 per Note if the Balanced Strategy Index declines. Distribution of the circular should help to ensure that only customers with an understanding of the risks attendant to the trading of the Notes and who are able to bear the financial risks associated with transactions in the Notes will trade the Notes. In addition, the Commission notes that Merrill Lynch will deliver a prospectus in connection with the initial purchase of the Notes.[30]

---

[22] Telephone conversation between Jeffrey P. Burns, Assistant General Counsel, Amex, and Cyndi Nguyen, Attorney, Division, Commission, on December 13, 2001 ("December 13 Conversation").

[23] 15 U.S.C. 78f(b)

[24] 15 U.S.C. 78f(b)(5).

[25] *See* Securities Exchange Act Release Nos. 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (File No. SR–Amex–2001–40) (approving the listing and trading of non-principal protected exchangeable notes linked to the Institutional Holdings Index); 44437 (June 18, 2001), 66 FR 33585 (June 22, 2001) (File No. SR–Amex–2001–39) (approving the listing and trading of non-principal protected exchangeable notes linked to the Industrial 15 Index); 44342 (May 23, 2001), 66 FR 29613 (May 31, 2001) (File No. SR–Amex–2001–28) (approving the listing and trading of non-principal protected exchangeable notes linked to the Select Ten Index); and 42582 (March 27, 2000), 65 FR 17685 (April 4, 2000) (File No. SR–Amex–99–42) (approving the listing and trading of notes linked to a basket of no more than twenty equity securities). *See also* 1999 Order, *supra* note 12.

[26] 15 U.S.C. 78f(b)(5).

[27] In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[28] *See* Amendment No. 1, *supra* note 3. Although holders of the Notes will not receive interest payments during the term of the Notes, holders of the Notes will have the right, during a two-week period in the designated month each year, to require the issuer to repurchase the Notes at a redemption amount based on the value of the Balanced Strategy Index at the repurchase date.

[29] As discussed above, the Amex will require members, member organizations, and employees thereof recommending a transaction in the Notes to: (1) determine that the transaction is suitable for the customer; and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, the transaction. *See* Amendment No. 1, *supra* note 3.

Second, the Commission notes that the final rate of return on the Notes depends, in part, upon the individual credit of the issuer, Merrill Lynch. To some extent this credit risk is minimized by the Exchange's listing standards in Section 107A of the Company Guide, which provide that only issuers satisfying substantial asset and equity requirements may issue these types of hybrid securities. In addition, the Exchange's hybrid listing standards further require that the Notes have at least $4 million in market value. Financial information regarding Merrill Lynch will be publicly available.

Third, the Notes will be registered under Section 12 of the Act. As noted above, the Amex's existing equity floor trading rules will apply to the Notes, which will be subject to the Amex's equity margin rules. The Amex will rely on its existing surveillance procedures for equities to monitor trading in the Notes.[31]

Fourth, the Commission has systemic concern that a broker-dealer, such as Merrill Lynch, or a subsidiary providing a hedge for the issuer will incur position exposure. However, as the Commission has concluded in previous approval orders for other hybrid instruments issued by broker-dealers,[32] the Commission believes that this concern is minimal given the size of the Notes issuance in relation to the net worth of Merrill Lynch.

Fifth, the Commission believes that the listing and trading of the Notes should not unduly impact the market for the securities underlying the Balanced Strategy Index or raise manipulative concerns. As discussed more fully above, the Balanced Strategy Index is based upon the return of the Underlying Indexes. Each of the Underlying Indexes will have a weighting of 50% of the weight of the Balanced Strategy Index, initially and immediately following each annual rebalancing of the Balanced Strategy Index. Both of the Underlying Indexes are well-established and broad-based,[33] and the Commission has concluded previously that the Underlying Indexes are not readily susceptible to manipulation. For example, in the 1999 Order, the Commission found that the U.S. Bond Index, and the other bond indexes reviewed in the 1999 Order, were not readily susceptible to manipulation based on the indexes' issue size, market value, and the representative nature of different sectors of the fixed income securities market.[34] Similarly, in approving a proposal to eliminate position and exercise limits for S&P 500 Index options, S&P 100 Index options, and Dow Jones Industrial Index options, the Commission noted that the enormous capitalization of and deep, liquid markets for the underlying securities contained in the indexes significantly reduced concerns regarding market manipulation or disruption in the underlying market.[35] In addition, the Amex's surveillance procedures should serve to deter as well as detect any potential manipulation of the Balanced Strategy Index.

Finally, the Commission notes that the value of the Balanced Strategy Index will be disseminated at least once every fifteen seconds throughout the trading day. The Commission believes that disseminating the value of the Balanced Strategy Index at least once every fifteen seconds throughout the trading date is useful and will benefit investors in the Notes.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the day of publication of notice of filing thereof in the **Federal Register**. The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal, as amended, will allow investors to begin trading the Notes promptly. Amendment No. 1 strengthens the Amex's proposal by, among other things, noting the surveillance procedures that will apply to trading in the Notes and requiring members, member organizations, and employees thereof recommending transactions in the Notes to: (1) Determine that the transaction is suitable for the customer; and (2) have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, the transaction. Accordingly, the commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act[36] to approve the proposal and Amendment No. 1 on an accelerated basis.

The Commission is approving the Amex's proposed listing standards for the Notes. The commission specifically notes that, notwithstanding approval of the listing standards for the Notes, other similarly structured products will require review by the Commission prior to being listed and traded on the Amex.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[37], that the proposed rule change, as amended, (File No. SR-Amex-2001-91) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-31564 Filed 12-21-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45162; File No. SR-NASD-2001-89]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Effectiveness of the Pilot Injunctive Relief Rule

December 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

---

[30] *See* December 13 Conversation, *supra* note 22.

[31] *See* Amendment No. 1, *supra* note 3.

[32] *See, e.g.*, Securities Exchange Act Release Nos. 44913 (October 9, 2001), 66 FR 52469 (October 15, 2001) (order approving File No. SR-NASD-2001-73) (approving the listing and trading of notes issued by Morgan Stanley Dean Witter & Co. whose return is based on the performance of the Nasdaq-100 Index); 44483 (June 27, 2001), 66 FR 35677 (July 6, 2001) (order approving File No. SR-Amex-2001-40) (approving the listing and trading of notes issued by Merrill Lynch whose return is based on a portfolio of 20 securities selected from the Amex Institutional Index); and 37744 (September 27, 1996), 61 FR 52480 (October 7, 1996) (order approving File No. SR-Amex-96-27) (approving the listing and trading of notes issued by Merrill Lynch whose return is based on a weighted portfolio of healthcare/biotechnology industry securities).

[33] *See* Order, *supra* note 12 (concluding that the U.S. Bond Index is well-established and broad-based); and Securities Exchange Act Release No. 19907 (June 24, 1983), 48 FR 30814 (July 5, 1983) (order approving File No. SR-CBOE-83-8)(noting that the S&P 500 Index is a broad-based index).

[34] *See* 1999 Order, *supra* note 12.

[35] *See* Securities Exchange Act Release No. 44994 (October 26, 2001), 66 FR 55722 (November 2, 2001) (order approving File No. SR-CBOE-2001-22) ("2001 Order"). In the 2001 Order, the Commission also noted that, as of October 2001, the market capitalization of the S&P 500 Index was $9.81 trillion.

[36] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30-3(a)(12).

VOL 66 ISS 247 DE 26 2001 UMI

("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2001, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its wholly-owned subsidiary NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by NASD Dispute Resolution. For the reasons discussed below, the Commission is publishing this notice is solicit comments on the proposed rule change and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Dispute Resolution is proposing to amend Rule 10335 of the Code of Arbitration ("Code") of the NASD, to extend the pilot injunctive relief rule for six months, pending Commission action on a pending rule filing, SR–NASD–00–02, to amend Rule 10335 and make it a permanent part of the Code. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

1000. Code of Arbitration Procedure

* * *

10335. Injunctions

(a)–(h) Unchanged.

(i) Effective Date.

This Rule shall apply to arbitration claims filed on or after January 3, 1996. Except as otherwise provided in this Rule, the remaining provisions of the Code shall apply to proceedings instituted under this Rule. This Rule shall expire on [January 4, 2002] *July 1, 20002*, unless extended by the Association's Board of Governors.

* * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Dispute Resolution included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. NASD Dispute Resolution has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 10335, the NASD's pilot injunctive relief rule, provides procedures for obtaining interim injunctive relief in controversies involving member firms and associated persons in arbitration. The rule has primarily been used in "raiding cases," or cases involving the transfer of an employee from one firm to another firm. Rule 10335 took effect on January 3, 1996, for a one-year pilot period. The SEC has periodically extended the initial pilot period in order to permit the NASD to assess the effectiveness of the rule. The pilot rule is currently due to expire on January 4, 2002.[3]

NASD Dispute Resolution believes that it is in the interest of members and associated persons that the effectiveness of the pilot rule remain uninterrupted pending final Commission action on SR–NASD–00–02. Therefore, NASD Dispute Resolution believes that the pilot rule should be extended to July 1, 2002, or such earlier time as permitted by Commission action on the permanent rule filing, which makes clear that, if approved, the amended rule would supersede the pilot rule in its entirety.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[4] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[5] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–89 and should be submitted by January 16, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

NASD Dispute Resolution has requested that the Commission find good cause pursuant to Section 19(b)(2)[6] for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder.[7] Rule 10335 is intended to provide a pilot system within the NASD arbitration forum to process request for temporary injunctive relief. Rule 10335 is intended principally to facilitate the disposition of employment disputes, and related disputes, concerning members who file for injunctive relief to prevent registered representatives from transferring their client accounts to their new firms.

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On January 12, 2000, NASD Regulation, Inc. filed a proposed rule filing, SR–NASD–00–02 to amend Rule 10335 and to make it a permanent part of the Code. *See* Securities Exchange Act Release No. 42606 (April 3, 2000), 65 FR 18405 (April 7, 2000) (File No. NASD–00–02). The NASD has amended the rule filing on several occasions, most recently on August 9, 2001. The most recent amendments were published for comment on October 25, 2001. *See* Securities Exchange Act Release No. 44950 (October 18, 2001), 66 FR 54041 (October 25, 2001).

[4] 15 U.S.C. 78*o*–3(b)(6).

[5] In reviewing this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78s(b)(2).

[7] 15 U.S.C. 78*o*–3.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof in that accelerated approval will permit members to have the benefit of injunctive relief in arbitration pending Commission action on the rule filing proposing to amend Rule 10335 and make it a permanent part of the Code.[8] The Commission believes, therefore, that granting accelerated approval of the proposed rule change is consistent with Section 15A of the Act.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NASD–2001–89) is approved on an acclerated basis through July 1, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31565 Filed 12–21–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45138; File No. SR–NYSE–2001–42]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change by the New York Stock Exchange, Inc., Establishing the Fees for NYSE OpenBook™

December 18, 2001.

Correction

In FR Document 01–30879 beginning on page 64895 for Friday, December 14, 2001, the release number for File No. SR–NYSE–2001–42 should read 34–45138.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31566 Filed 12–21–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Submit comments on or before February 25, 2002.

ADDRESSES: Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Saunders Miller, Senior Policy Advisor, Office of Investment Division, Small Business Administration, 409 3rd Street, SW., Suite 6300, Washington DC 20416.

FOR FURTHER INFORMATION CONTACT: Saunders Miller, Senior Policy Advisor, (202) 205–3545 or Curtis B. Rich, Management Analyst, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: SBIC License Application, Part, 1 Incorporating the Management Assessment Questionnaire.

Form No: 2181.

Description of Respondents: Applicants for SBIC Licenses.

Annual Responses: 90.

Annual Burden: 160.

Title: SBIC License Application, Part, II, and Exhibits to the License Application.

Form No: 2182.

Description of Respondents: Applicants for SBIC Licenses.

Annual Responses: 60.

Annual Burden: 160.

Title: SBIC License Application, Part, III, Exhibits to the Management Assessment Questionnaire.

Form No: 2183.

Description of Respondents: Applicants for SBIC Licenses.

Annual Responses: 90.

Annual Burden: 160.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 01–31649 Filed 12–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9N84]

State of Wyoming; Disaster Loan Area

Park County and the contiguous Counties of Big Horn, Fremont, Hot Springs, Teton and Washakie in the State of Wyoming; and Carbon, Gallatin and Park Counties in the State of Montana constitute an economic injury disaster loan area as a result of a forest fire that closed the east entrance to Yellowstone National Park from July 29 through August 13, 2001. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on September 17, 2002 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, FT. Worth, TX 76155.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. The number assigned for economic injury for this disaster is 9N8400 for the State of Wyoming and 9N8500 for the State of Montana.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: December 17, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–31648 Filed 12–21–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV—North Florida District Advisory Council; Public Meeting

The Small Business Administration Region IV North Florida District Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting at 11 a.m. Eastern Standard Time on Thursday, January 17, 2002, at the Gainesville Technology Enterprise Center, 2153 Hawthorne Rd, Gainesville, FL 32641, to discuss such matters as may be presented by Advisory Council members, staff of the Small Business Administration, and/or others present.

Anyone wishing to make an oral presentation to the Board must contact Wilfredo J. Gonzalez, District Director, in writing by letter or fax no later than January 10th, 2002, in order to be put on the agenda. Please direct requests to:

---

[8] *See supra* note 3.

[9] 15 U.S.C. 78*o*–3

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12)

[1] 17 CFR 200.30–3(a)(12).

VOL 66 ISS 247 DE 26 2001 UMI

Wilfredo J. Gonzalez, District Director, U.S. Small Business Administration, North Florida District Office, 7825 Baymeadows Way, Suite 100B, Jacksonville, Florida 32256, (904) 443–1900 phone (904) 443–1980 fax; *wilfredo.gonzalez@sba.gov.*

FOR FURTHER INFORMATION CONTACT: Lola Kress, U.S. Small Business Administration, 7825 Baymeadows Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1933.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–31650 Filed 12–21–01; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3860]

Office of the Coordinator for Counterterrorism; Designation of Foreign Terrorist Organizations

AGENCY: Department of State.

ACTION: Designation.

Pursuant to section 219 of the Immigration and Nationality Act (“INA”), as added by the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–132, § 302, 110 Stat. 1214, 1248 (1996), and amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, 110 Stat. 3009 (1996), and by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, the Secretary of State hereby designates, effective December 24, 2001, the following organizations as foreign terrorist organizations:

Jaish e-Mohammed
  also known as the Army of Mohammed
  also known as Mohammed's Army
  also known as Tehrik ul-Furqaan
Lashkar e-Tayyiba
  also known as the LT
  also known as Lashkar e-Toiba
  also known as Lashkar-I-Taiba
  also known as Army of the Righteous

Dated: December 18, 2001.

Mark Wong,

Acting Coordinator for Counterterrorism, Department of State.

[FR Doc. 01–31588 Filed 12–21–01; 5:00 pm]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 3832]

Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee will conduct an open meeting at 9 a.m. on Friday, January 18, 2002, in Room 6319, at U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. This meeting will discuss the upcoming 45TH Session of the Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on July 22–26, 2002, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. Harmonization of damage stability provisions in the IMO instruments,

b. Revision of technical regulations of the 1966 International Load Line Convention,

c. Revisions to the Fishing Vessel Safety Code and Voluntary Guidelines,

d. Large Passenger Vessel Safety,

e. Matters relating to Bulk Carrier Safety, and

f. High Speed Craft Code amendments and model tests

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen, U.S. Coast Guard Headquarters, Commandant (G–MSE–2), Room 1308, 2100 Second Street, SW, Washington, DC 20593–0001 or by calling (202) 267–2988.

Dated: December 12, 2001.

Stephen Miller,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 01–31603 Filed 12–21–01; 8:45 am]

BILLING CODE 4710–07–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Identification of Countries Under Section 182 of the Trade Act of 1974: Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Request for written submissions from the public.

SUMMARY: Section 182 of the Trade Act of 1974 (Trade Act) (19 U.S.C. 2242), requires the United States Trade Representative (USTR) to identify countries that deny adequate and effective protection of intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. (Section 182 is commonly referred to as the “Special 301” provisions in the trade act.) In addition, the USTR is required to determine which of these countries should be identified as Priority Foreign Countries. Acts, policies or practices which are the basis of a country's identification as a priority foreign country are normally the subject of an investigation under the Section 301 provisions of the trade act. Section 182 of the Trade Act contains a special rule for the identification of actions by Canada affecting United States cultural industries.

USTR requests written submissions from the public concerning foreign countries' acts, policies, and practices that are relevant to the decision whether particular trading partners should be identified under Section 182 of the Trade Act.

DATES: Submissions must be received on or before 12 noon on Friday, February 15, 2002.

ADDRESSES: 1724 F. Street, N.W., Room 1, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Claude Burcky, Assistant U.S. Trade Representative for Intellectual Property (202) 395–6864; Kira Alvarez, Director for Intellectual Property (202) 395–6864; Stephen Kho or Victoria Espinel, Assistant General Counsels (202) 395–7305, Officer of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: Pursuant to Section 182 of the Trade Act, the USTR must identify those countries that deny adequate and effective protection for intellectual property rights or deny fair and equitable market access to U.S. persons who rely on intellectual property protection. Those countries that have the most onerous or egregious acts, policies, or practices and whose acts, policies or practices have the greatest adverse impact (actual or potential) on relevant U.S. products are to be identified as Priority Foreign Countries. Acts, policies or practices that are the basis of a country's designation as a Priority Foreign country are normally the subject of an investigation under the section 301 provisions of the Trade Act.

USTR may not identify a country as a Priority Foreign Country if its entering into good faith negotiations, or making significant progress in bilateral or multilateral negotiations, to provide adequate and effective protection of intellectual property rights.

In identifying countries that deny adequate and effective protection of intellectual property rights in 2001, USTR will continue to pay special attention to other countries' efforts reduce piracy of optical media (music CDs, video CDs, CD–ROMs, and DVDs) and prevent unauthorized government use of computer software. USTR will also focus on countries' compliance with their TRIPS obligations, which came due on January 1, 2000.

Section 182 contains a special rule regarding actions of Canada affecting United States cultural industries. The USTR is obligated to identify any act, policy or practice of Canada which affects cultural industries, is adopted or expanded after December 17, 1992, and is actionable under Article 2106 of the North American Free Trade Agreement (NAFTA). Any such act, policy or practice so identified shall be treated the same as an act, policy or practice which was the basis for a country's identification as a Priority Foreign Country under Section 182(a)(2) of the trade Act, unless the United States has already taken action pursuant to Article 2106 of the NAFTA.

USTR must make the above-referenced identifications within 30 days after publication of the National Trade Estimate (NTE) report, i.e., no later that April 30, 2002.

Requirements for Comments

Comments should include a description of the problems experienced and the effect of the acts, policies and practices on U.S. industry. Comments should be as detailed as possible and should provide all necessary information for assessing the effect of the acts, policies and practices. Any comments that include quantitative loss claims should be accompanied by the methodology used in calculating such estimated losses. Comments must be in english and provided in twenty copies. A submitter requesting that information contained in a comment be treated as confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly marked "business confidential" in a contrasting color ink at the top of each page of each copy. A non-confidential version of the comment must also be provided.

All comments should be sent to Brenda Webb, special Assistant to the Section 301 committee, 1724 F Street, NW., Room 1, Washington, DC 20508, and must be received no later than 12 noon on Friday, February 15, 2002.

Public Inspection of Submissions

Within one business day of receipt, non-confidential submissions will be placed in a public file, open for inspection at the USTR reading room, Office of the United States Trade Representative, Annex Building, 1724 F Street, NW, room 1, Washington, DC. An appointment to review the file may be made by calling Brenda Webb, (202) 395–6186. The USTR reading room is open to the public from 10 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday.

Joseph Papovich,

Assistant USTR for Services, Investment and Intellectual Property.

[FR Doc. 01–31605 Filed 12–21–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–11192]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ADAMANT.

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before January 25, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2001–11192. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: ADAMANT. *Owner:* Marco Basich.

(2) Size, capacity and tonnage of vessel. According to the applicant: "Length 32' LOA; Beam 12'; Tonnage 18 tons (net tonnage 15 tons; LBO 7.3)"

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: "Vessel has been in bare-boat charter (time-share lease program) since going into the water in February, 1987. Application is for purpose of changing use to captained charter of small passenger vessel or uninspected passenger vessel." "Coastal and inland waters of Washington State * * *"

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1986. Place of construction: Kaohsiung, Taiwan.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "This vessel has been continuously involved in a bare-boat charter program since 1987. My request is to simply add captaining (and potentially additional crew) for up to 12 passengers, which should provide no adverse impact on boat chartering industry. Size of vessel dictates day trips and weekly charters which will not adversely affect commuter ferry or cruise ship industries."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "This waiver should have no impact on US shipyards. Production on this vessel ceased in Taiwan an estimated ten years ago. The vessel will continue to be operated for charter in the same waters, with the addition of including the owner as a licensed captain."

Dated: December 19, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01-31638 Filed 12-21-01; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applications for Modification of Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before January 10, 2002.

ADDRESS COMMENT TO: Records Center, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at *http://dms.dot.gov.*

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 17, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
3216-M.	Solvay Fluorides St. Louis, MO (See Footnote 1).	3216.	
8215-M.	Olin Corp., Brass & Winchester, Inc. East Alton, IL (See Footnote 2).	8215.	
10442-M	Kennedy Space Center Kennedy Space Center, FL (See Footnote 3).	10442.	
10798-M.	Chemetall Foote Corporation Kings Mountain, NC (See Footnote 4).	10798.	
10929-M.	Bulkmatic Transport Company Jersey City, NJ (See Footnote 5).	10929.	
11185-M	Medical Waste Solutions, Inc. Gary, IN (See Footnote 6).	11185.	
11770-M.	Gas Cylinder Technologies, Inc. Tecumseh, Ontario N8N 2M4 Canada (See Footnote 7).	11770.	
11911-M	RSPA-97-2735	Transfer Flow, Inc. Chico, CA (See Footnote 8)	11911
11924-M	RSPA-97-2744	Wrangler Corp., A Division of Lapoint Industries Auburn, ME (See Footnote 9).	11924
12817-M	RSPA-01-10513	Phibro-Tech, Inc. Fort Lee, NJ (See Footnote 10)	12817

(1) To modify the exemption to authorize the transportation of a Division 2.3 material in non-DOT specifications multi-unit tank car tanks.

(2) To modify the exemption to authorize the addition of a Division 1.1D material and for Division 1.1A and 1.1D materials to be transported in a newly designed motor vehicle (trailer).

(3) To modify the exemption to authorize an alternative shipping paper and container marking description for the transportation of certain Division 1.3C waste explosive substances in specifically authorized packagings.

(4) To modify the exemption to authorize the transportation of a Division 4.2 and an additional Class 3 material in DOT Specification tank cars.

(5) To modify the exemption to authorize the transportation of additional Class 3 materials in DOT Specification tank cars.

(6) To modify the exemption to more accurately describe the non-DOT specifications bulk packaging used for the transportation of Division 6.2 materials.

(7) To modify the exemption to authorize an additional chemistry composition for the manufacture of non-DOT specification cylinders, comparable to DOT 3E, for the transportation of Division 2.1, 2.2 and 2.3 materials.

(8) To modify the exemption to authorize an increased water capacity range of 15–105 gallons for the non-DOT specification metal refueling tanks containing Class 3 materials and the inclusion of a 12-volt fuel pump system.

(9) To modify the exemption to authorize two additional DOT Specification containers for use as outer packaging for lab pack applications transporting various classes of hazardous wastes.

(10) To reissue the exemption originally issued on an emergency basis authorizing the reuse of Specification UN 1H1 non-removable head plastic drums for the transportation of certain Class 8 materials to Environmental Protection Agency licensed treatment, storage or disposal facilities.

[FR Doc. 01–31656 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number of the "Nature of Application" portion of the table below as follows: 1—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before January 25, 2002.

ADDRESSES COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at *http://dms.dot.gov*.

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on December 18, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12865–N	RSPA–01–11013	BOC Gases, Riverton, NJ.	49 CFR 173.301(j)	To authorize the transportation in commerce of non-DOT specification cylinders for export containing various compressed gases without pressure relief devices. (Modes 1, 3.)
12867–N	RSPA–01–11076	G.L.I. Citergaz, 964 Civray, FR.	49 CFR 178.245–1(a).	To authorize the manufacture, marking, sale and use of DOT Specification 51 steel portable tanks permanently mounted in an ISO frame for use in transporting Division 2.1 and 2.2 materials. (Modes 1, 2, 3.)
12868–N	RSPA–01–11075	Anderson Development Company, Adrian, MI.	49 CFR 173.301(j)	To authorize the transportation in commerce of non-DOT specification cylinders for export containing various compressed gases without pressure relief devices. (Modes 1, 3.)
12869–N	RSPA–01–11074	Praxair, Inc., Danbury, CT.	49 CFR 173.301(j)	To authorize the transportation in commerce of non-DOT specification cylinders for export containing various compressed gases without pressure relief devices. (Modes 1, 3.)
12871–N	RSPA–01–11072	Southern California Edison, San Clemente, CA.	49 CFR 173.403, 173.427(a), 173.427(b)(c).	To authorize the one-time transportation of a nuclear generating-station reactor pressure vessel package transport system to a burial site. (Modes 1, 2, 3.)
12872–N	RSPA–01–11077	Southern California Edison, San Clemente, CA.	49 CFR 173.403 ..	To authorize the one-time transportation in commerce of specially designed equipment containing Class 7 radioactive material. (Mode 2.)
12873–N	RSPA–01–11099	Balchem Corporation, Slate Hill, NY.	49 CFR 172.302(c), 174.67(i)&(j).	To authorize rail cars to remain attached during unloading of Division 2.1 and 2.3 hazardous materials without the physical presence of an unloader. (Mode 2.)

VOL
66
ISS
247
DE
26
2001
UMI

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12874–N	RSPA–01–11108	Zomeworks Corporation, Albuquerque, NM.	48 CFR 171 to 180.	The authorize the transportation in commerce of machine components that are charged with non-flammable, non-toxic refrigerant gas without packaging or communication requirements. (Modes 1, 2, 3, 4, 5.)
12876–N	RSPA–01–11096	Asai Glass Fluoropolymers USA, Inc., Bayonne, NJ.	49 CFR 174.67(i)&(j).	To authorize rail cars containing a Division 2.2 material to remain standing while connected without the physical presence of an unloader. (Mode 2.)
12877–N	RSPA–01–11119	BAE Systems, Pomona, CA.	49 CFR 172.400(a), 172.500(a), 173.211(a), 175.3.	To authorize the transportation in commerce of cesium, Division 4.3, without required labeling and placarding in specially designed packaging to be used on military aircraft. (Modes 1, 4, 5.)
12879–N	RSPA–01–11095	Millennium Speciality Chemicals, Jacksonville, FL.	49 CFR 172.514	To authorize the transportation in commerce of portable tanks and IBCs containing combustible liquids without required placards when placed in closed sealed freight containers that are properly placarded. (Modes 1, 3.)
12880–N	RSPA–01–11100	Northrop Grumman Corporation, Baltimore, MD.	49 CFR 172.101. Col.(9)(b), 173.302, 175.3.	To authorize the transportation in commerce of a specially designed device consisting of a non-DOT specification cylinder containing 25 grams of Division 2.3 material. (Modes 1, 3, 4.)

[FR Doc. 01–31657 Filed 12–21–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34127]

ParkSierra Corporation (Successor-in-Interest to California Northern Railroad Company Limited Partnership)—Trackage Rights Exemption-North Coast Railroad Authority

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board is granting a petition for exemption from the prior approval requirements of 49 U.S.C. 11323–25 for ParkSierra Corporation, successor-in-interest to California Northern Railroad Company Limited Partnership, to acquire from North Coast Railroad Authority incidental trackage rights over a 10.5-mile segment of line in northern California between Schellville, milepost NWP 40.60 (SP 72.50), and Lombard, milepost SP 62.00, subject to employee protective conditions.

DATES: This exemption is effective on January 10, 2002. Petitions to stay must be filed by January 7, 2002. Petitions to reopen must be filed by January 22, 2002.

ADDRESSES: An original and 10 copies of all pleadings referring to STB Finance Docket No. 34127 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative, Troy W. Garris, 1300 19th Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, Suite 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1–800–877–8339.]

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 17, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31644 Filed 12–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 225X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 5.6 miles of its line of railroad between milepost HL–15.0 at Bane and milepost HL–20.6 at Levisa Spur, in Pike County, KY. The line traverses United States Postal Service Zip Code 41501.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91

(1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 25, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 7, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 15, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. SEA will issue an environmental assessment (EA) by December 31, 2001. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 26, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *www.stb.dot.gov*.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: December 18, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31645 Filed 12–21–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–120168–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–120168–97 (TD 8798), Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility.

DATES: Written comments should be received on or before February 25, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Preparer Due Diligence Requirements for Determining Earned Income Credit Eligibility.

OMB Number: 1545–1570.

Regulation Project Number: REG–120168–97.

Abstract: Income tax return preparers who satisfy the due diligence requirements in this regulation will avoid the imposition of the penalty section 6695(g) of the Internal Revenue Code for returns or claims for refund due after December 31, 1997. The due diligence requirements include soliciting the information necessary to determine a taxpayer's eligibility for, and amount of, the Earned Income Tax Credit and the retention of this information.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 5 hours, 4 minutes.

Estimated Total Annual Burden Hours: 507,136.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 17, 2001.

George Freeland,

IRS Reports Clearance Officer.

[FR Doc. 01–31651 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

VOL 66 ISS 247 DE 26 2001 UMI

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Special Enrollment Examination Advisory Committee; Notice of Meeting

AGENCY: Internal Revenue Service, Office of Director of Practice, Treasury

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: Notice is given of a meeting of the Special Enrollment Examination Advisory Committee.

DATES: The meeting will be held Friday, January 18, 2002 (8:30 a.m. to 11 a.m.) Written requests to speak at the meeting or to attend the meeting must be received no later than January 7, 2002.

ADDRESSES: The meeting will be held at the Radisson Hotel Opryland, 2401 Music Valley Drive, Nashville, Tennessee 37214. Written requests to speak at the meeting or to attend the meeting must be mailed, faxed, or E-mailed to: Internal Revenue Service, Office of Director of Practice, N:C:SC:DOP, Attn: Kathy Hughes, Designated Federal Officer, 1111 Constitution Avenue, NW., Washington, DC 20224; fax number 202–694–1934; E-mail address *Kathy.E.Hughes@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Kathy Hughes, Designated Federal Officer, Special Enrollment Examination Advisory Committee, at 202–694–1851.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to cover the following agenda:

Friday, January 18, 2002, 8:30 a.m.–11 a.m.

Public Session: Discussion of Continuing Professional Education Courses

Beginning at 10 a.m. on Friday, January 18, 2002, interested persons may speak at the meeting in accordance with the following limitations: (1) Speakers' remarks must be germane to the topic listed above or germane to the Enrolled Agent Program; and (2) remarks must be limited to no more than 10 minutes. Persons wishing to speak must send Kathy Hughes, the Designated Federal Officer, a written request and the text or outline of their remarks, prior to the meeting in order to allow for the compilation of a speakers list. Speakers will be entered on the list in order of the receipt of their requests. No more than six requests will be accepted. Speakers will be notified of their position on the list, or in case more than six requests are received, that their requests to speak cannot be granted.

Persons interested in attending the meeting (but not speaking) must also send Kathy Hughes a written request prior to the meeting in order to allow for adequate seating. Every effort will be made to accommodate all requests for attendance.

Written requests to speak and written requests to attend must be received no later than January 7, 2002.

At any time, any interested person may submit to Kathy Hughes a written statement concerning the SEE or the Enrolled Agent Program. Such statements will be considered by the Director of Practice and, at his discretion, may be referred to the Committee for discussion at a later meeting.

Dated: December 17, 2001.

Patrick W. McDonough,

Director of Practice.

[FR Doc. 01–31652 Filed 12–21–01; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Wednesday,
December 26, 2001

Part II

National Indian Gaming Commission

25 CFR Part 542
Minimum Internal Control Standards; Proposed Rule

VOL 66 ISS 247 DE 26 2001 UMI

NATIONAL INDIAN GAMING COMMISSION

25 CFR Part 542

RIN 3141–AA24

Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule.

SUMMARY: In response to the inherent risks and the need for effective controls in tribal gaming operations, the Commission, in 1999, developed Minimum Internal Control Standards (MICS). Since their original implementation, it has become obvious that the MICS require technical adjustments and revisions so that they may continue to be effective in protecting tribal assets, while allowing tribes to utilize technological advances in the gaming industry. To that end, this proposed rule contains numerous revisions to the Commission's existing MICS that provide clarification of the rules and the flexibility to allow tribal gaming operations to make use of technological advances.

DATES: Submit comments on or before February 25, 2002. At least one public hearing will be held during the comment period.

ADDRESSES: Mail comments to Comments on Proposed Rule on MICS, National Indian Gaming Commission, 1441 L St., NW., Suite 9100, Washington, D.C. 20005, Attn.: Michele F. Mitchell. Comments may also be sent by facsimile to 202–632–7066.

FOR FURTHER INFORMATION CONTACT: Joe H. Smith, 202–632–7003.

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1999, the Commission first published its Minimum Internal Control Standards (MICS) as a Final rule. Since this time, as gaming tribes and the Commission gained practical experience with the MICS, it became apparent that some of the standards required clarification or modification to operate as the Commission had intended. Also recognizing the changes and advances in Indian gaming and gaming technology since implementation, on November 27, 2000, the Commission published an advanced notice of proposed rulemaking requesting public comments on the implementation of the MICS.

In keeping with its commitment to consultation and recognizing the government-to-government relationship it shares with tribes, the Commission solicited nominations of individuals interested in serving on an Advisory Committee designed to assist in revisiting the MICS. The ten tribal representatives were selected based on several factors, including the experiences and backgrounds of the individuals nominated, the sizes of their gaming operation(s), the types of games played at their gaming operation(s), and the areas of the country their gaming operation(s) are located. The selection process was a difficult one as numerous highly qualified individuals expressed an interest in serving on this important Committee. As expected, the value added by involving tribal representatives who work daily with the MICS was immeasurable.

Those participating on the behalf of tribes as members of this Advisory Committee were: Jamie Hummingbird, Director, Cherokee Nation Gaming Commission, Cherokee Nation; Patrick H. Lambert, Executive Director, Eastern Band of Cherokee Gaming Commission, Eastern Band of Cherokee; Stephen R. Lewis, Commissioner, Gila River Gaming Commission, Gila River Indian Community; Kristin L. Lumley, Executive Director, Yakama Nation Gaming Commission, Yakama Nation; John Monforte, Executive Director, Acoma Gaming Commission, Pueblo of Acoma; Lisa B. Otipoby, Director, Kaw Nation Enterprise Development Authority, Kaw Nation; Kevin F. O'Toole, Executive Director, Oneida Nation Gaming Commission, Oneida Nation of New York; Sandra Plawman, Treasurer, Ho-Chunk Nation Gaming Commission, Ho-Chuck Nation; Jerome J. Schultze, Director, Morongo Gaming Agency, Morongo Band of Mission Indians; and Saunie K. Wilson, Executive Secretary, Oglala Sioux Tribal Gaming Commission, Oglala Sioux. The Advisory Committee also included the following Commission representatives: Teresa E. Poust, Commissioner; Joe H. Smith, Acting Director of Audits; Michele F. Mitchell, Attorney; Timothy B. Russ, Financial Analyst; and Denise Desiderio, Assistant to the Commission.

The Advisory Committee worked together as a team, guided by a Partnership Agreement developed at its first meeting. An important component of this Partnership Agreement was that decision-making would be done by consensus. Without concurrence from all Committee members on a proposed change, none would be made. As such, the proposed rule represents a series of compromises made by all members of the Advisory Committee after much discussion.

The Commission worked closely with the Advisory Committee to address their concerns about the existing MICS and to address the nearly one hundred comments received in response to the advanced notice of proposed rulemaking. Between May and November 2001, the Commission sponsored six working meetings. During these meetings, every clause of the existing MICS was reviewed and every comment submitted to the Commission was considered. Each meeting was held in a different region of the country, enabling visits to a number of tribal gaming operations. These visits provided valuable, first-hand experience with technological advances and concerns expressed during the comment period. Changes were made to the existing MICS based on comments, input from Advisory Committee members, and data gathered during site visits.

Public Comments and Comments From the Advisory Committee

Authority

Some public commenters and members of the Advisory Committee challenge the Commission's authority to promulgate this rule, particularly as it pertains to class III gaming. Members of the Advisory Committee agreed to participate in the process of revising the MICS, despite their position that the Commission may be without authority to promulgate minimum internal controls for class III gaming. The lengthy discussion regarding authority also included a discussion as to whether the MICS should be promulgated as recommended guidelines versus a mandatory rule. The Commission acknowledges that the participation of tribal representatives in this process does not in any way indicate concurrence in the Commission's determination that it does have the statutory authority to establish and enforce these regulations.

MICS Structure

Several commenters suggested that the Commission develop separate MICS for class II and class III gaming. Along these lines, several Advisory Committee members submitted proposals structuring the MICS so that the document itself was divided into class II and class III MICS. During consideration, a second alternative was discussed: that is, separating the MICS based upon tiers. A common complaint of tier A and B operations is that the existing MICS are confusing as to which requirements apply and which do not. After extensive discussion, the Committee reached consensus on dividing the MICS along tier lines rather than game classification, recognizing that the requirements placed upon tribal gaming operations should differ based upon their annual gross gaming revenue.

The proposed rule is organized first by category of games, such as bingo, keno, and table games. As with the original rule, the proposed rule is not designed to classify the games into class II or class III. Rather, the MICS address the control issues related to the particular game, regardless of class. Pull tabs, for example, can be played as a class II or a class III game depending on the nature and circumstances of their play. Section 542.8 pertaining to pull tabs applies regardless of whether they are being played as class II or class III. Beginning with Subpart A, the proposed rule is then divided into subparts for each tier. Sections for each tier contain standards applicable only to the tier addressed. The Commission continues to believe that the most effective method of tailoring the MICS for class II and/or class III operations is through the tribal MICS as provided for in section 542.3(c) of this part. Each tribe will continue to adopt MICS that address the specific games that their operations offer.

Tier Structure

Much discussion centered on the specifics of the tier structure itself. Several members of the Advisory Committee submitted proposals adding an additional tier, subtracting an existing tier, or expanding the tier thresholds to an even greater extent than that which was eventually reached by consensus. The tier separation, which is based on annual gross gaming revenues, has been updated and expanded. The Advisory Committee recognizes the positive benefits this action will have on a number of smaller gaming facilities.

Furthermore, an operation that moves from one tier to another will now have nine months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier. Previously, no time frame was specified. Changes have also been made throughout the proposed rule altering some of the requirements of the lowered tiered operations.

Recognizing the unique characteristics of the very small gaming operations, an exemption, similar to that for charitable gaming operations, has been extended to gaming operations with annual gross gaming revenues of less than $1 million. Subject to the approval of the Tribal gaming regulatory authority, such gaming operations would need not comply with the MICS as long as the Tribal gaming regulatory authority develops and the gaming operation complies with alternate procedures that protect the integrity of the games offered and safeguard the assets used in connection with the operation. The Advisory Committee asked that the ceiling of $1 million be periodically revisited. The Commission agrees to do so.

Technological Advances in Gaming

One of the most widely mentioned issues was that of technological advances in many areas of gaming. Many commenters felt that the MICS did not adequately address those areas in which new computer technology provides protections that are at least as safe as manual controls. The Committee and the Commission have attempted to address this issue in two ways. First, where necessary, specific sections of the MICS were modified to accommodate technological advances. Second, language was added to each section allowing use of computer applications that provide at least the level of control described by the standards in that section. Such usage would have to first be approved by the Tribal gaming regulatory authority. A variance would not be necessary, so long as the level of control required by the MICS is maintained.

Tribal Gaming Regulatory Authority

One of the terms used throughout the proposed rule is "Tribal gaming regulatory authority." Tribes are responsible for the primary, day-to-day regulation of their operations, and the Committee and the Commission recognize that tribal governments have chosen different approaches of exercising their regulatory authority. A vast majority of tribes have implemented independent tribal gaming commissions, which in most cases the Commission believes to be the most effective way of ensuring the proper regulation of gaming operations. Alternate regulatory structures have also been developed, such as utilizing existing tribal governments, business, or economic development agencies, when determined to be more appropriate to the needs of the tribe. The term "Tribal gaming regulatory authority" is intended to refer to the tribally designated entity responsible for gaming regulation. In order to clarify the role of Tribal gaming regulatory authorities and recognize their immense value, the requirement that the Tribal gaming regulatory authority approve procedures implemented by gaming operation(s) has been added where appropriate.

Variances

Many comments were received on the variance process within the existing MICS. Some indicated confusion as to when a variance is required. Many commenters also questioned whether the Commission or the Tribal gaming regulatory authority should be issuing variances. This section has been restructured providing clarity and recognizing that the Tribal gaming regulatory authority should, in the first instance, determine whether a variance should be granted to a gaming operation. The Commission would then be requested to concur with the granted variance. If the Commission does not agree, it must justify its objection. The new process also allows for an appeal to the full Commission.

Some commenters requested that approved variances be published by the Commission. Because a variance is often based on intimate knowledge of the gaming operation and its procedures, a variance that works for one operation, because of additional factors known to the Tribal gaming regulatory authority, may not be sufficient to meet the control standard in another operation. These initial determinations are best made on an individual basis by tribal regulators who are most familiar with a gaming operation. However, to meet these concerns, the Commission will make variance concurrences available upon request, with the understanding that a variance continues to be applicable only to the operation for which it is granted.

Tribal-State Compacts

Members of the Committee requested clarification on the effect of the NIGC MICS on standards contained within a Tribal-State Compact. Wording was put forth by Advisory Committee members that would require that the standards contained within a tribal-state compact take precedence over these MICS. The Commission was concerned that some compacts, while containing some internal control standards, may not adequately provide enough protection over Indian gaming operations. This section has been re-organized to reflect the Commission and Committee's understanding that this regulation contains minimum standards and does not require that Tribes adopt these exact standards, but that they adopt standards "at least as stringent as those set forth in this part." Section 542.3(c)(1). The language contained in section 542.4 has been modified to reflect this ideal. Instead of requiring that a standard contained in a tribal-state compact be "more stringent than," in order to be applicable, the requirement will now be

VOL 66 ISS 247 DE 26 2001 UMI

that it must only be "as or more stringent than." Therefore, a standard contained within a tribal-state compact, that meets or exceeds the requirements contained herein, shall be an acceptable alternative to the standard set forth in this part.

Accounting Standards

Information was presented to the Committee regarding the addition of accounting standards to the MICS. Data was reviewed from multiple gaming jurisdictions indicating that such standards are a typical element of a gaming regulatory framework. After much consideration, it was the Committee's consensus that the standards should be reserved for the Tribal gaming regulatory authorities to promulgate. Furthermore, it was recommended that the Commission provide guidance to the Tribes in the development of the standards and that such guidance be in the form of a bulletin.

Regulatory Matters

Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Indian Tribes are not considered to be small entities for the purposes of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions and does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Commission has determined that this proposed rule does not impose an unfunded mandate on State, local or tribal governments or on the private sector of more than $100 million per year. Thus, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.* The Commission has determined that this proposed rule may have a unique effect on tribal governments, as this rule applies exclusively to tribal governments, whenever they undertake the ownership, operation, regulation, or licensing of gaming facilities on Indian lands as defined by the Indian Gaming Regulatory Act. Thus, in accordance with section 203 of the Unfunded Mandates Reform Act, the Commission has developed a small government agency plan that provides tribal governments with adequate notice, opportunity for "meaningful" consultation, and information, advice and education on compliance.

The Commission's small government agency plan includes: request for public comment on changes needed; formation of a tribal advisory committee; discussions with Tribal leaders and tribal associations; preparation of guidance material and model documents; a public hearing; and technical assistance. During the period from May 2001 through November 2001, the Commission and the Tribal Advisory Committee met six times to develop a regulatory proposal. In selecting committee members, consideration was placed on the applicant's experience in this area, as well as the size of the tribe the nominee represented, geographic location of the gaming operation, and the size and type of gaming conducted. The Commission attempted to assemble a committee that incorporates diversity and is representative of Indian gaming interests. Since beginning formulation of this proposed rule, the Commission spoke at several tribal association meetings. The Commission will develop guidance materials that will include guidelines for CPA firms who must audit gaming operations to determine compliance with Tribal MICS. The Commission also plans to hold a public hearing on the proposed regulation prior to publication of a final rule. The Commission will then meet again with the Tribal Advisory Committee to discuss the public comments that are received as a result of publication of this proposed rule and make a recommendation regarding the final rule. The Commission also plans on continuing its policy of providing technical assistance, through its field offices, to tribes to assist in complying with MICS.

Takings

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This proposed regulation requires an information collection under the Paperwork Reduction Act 44 U.S.C. 3501 *et seq.*, as did the regulation it replaces. There is no change to the paperwork requirements created by this amendment. The Commission's OMB Control number for this regulation is 3141–0009.

National Environmental Policy Act

The Commission has determined that this proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq).

List of Subjects in 25 CFR Part 542

Accounting, Auditing, Gambling, Indian-lands, Indian-tribal government, Reporting and recordkeeping requirements.

For reasons stated in the preamble, the National Indian Gaming Commission proposes to revise 25 CFR Part 542 to read as follows:

PART 542—MINIMUM INTERNAL CONTROL STANDARDS

Subpart A—General

Sec.

542.1 What does this part cover?
542.2 What are the definitions for this part?
542.3 How do I comply with this part?
542.4 How do these regulations affect minimum internal control standards established in a Tribal-State compact?
542.5 How do these regulations affect state jurisdiction?
542.6 Does this part apply to small and charitable gaming operations?

Subpart B—Gaming Operations

542.7 What are the minimum internal control standards for bingo?
542.8 What are the minimum internal control standards for pull tabs?
542.9 What are the minimum internal control standards for card games?
542.10 What are the minimum internal control standards for keno?
542.11 What are the minimum internal control standards for pari-mutuel wagering?
542.12 What are the minimum internal control standards for table games?
542.13 What are the minimum internal control standards for gaming machines?
542.14 What are the minimum internal control standards for the cage?
542.15 What are the minimum internal control standards for credit?

542.16 What are the minimum internal control standards for information technology?
542.17 What are the minimum internal control standards for complimentary services or items?
542.18 How does a gaming operation apply for a variance from these standards?

Tier A Gaming Operations

542.20 What is a Tier A gaming operation?
542.21 What are the minimum internal control standards for drop and count for Tier A gaming operations?
542.22 What are the minimum internal control standards for internal audit for Tier A gaming operations?
542.23 What are the minimum internal control standards for surveillance for Tier A gaming operations?

Tier B Gaming Operations

542.30 What is a Tier B gaming operation?
542.31 What are the minimum internal control standards for drop and count for Tier B gaming operations?
542.32 What are the minimum internal control standards for internal audit for Tier B gaming operations?
542.33 What are the minimum internal control standards for surveillance for Tier B gaming operations?

Tier C Gaming Operations

542.40 What is a Tier C gaming operation?
542.41 What are the minimum internal control standards for drop and count for Tier C gaming operations?
542.42 What are the minimum internal control standards for internal audit for Tier C gaming operations?
542.43 What are the minimum internal control standards for surveillance for a Tier C gaming operation?

Authority: 25 U.S.C. 2702(2), 25 U.S.C. 2706(b)(10).

§ 542.1 What does this part cover?

This part establishes the minimum internal control standards for gaming operations on Indian land.

§ 542.2 What are the definitions for this part?

The definitions in this section shall apply to all sections of this part unless otherwise noted.

Account access card means an instrument used to access customer accounts for wagering at a gaming machine. Account access cards are used in connection with a computerized account database.

Accountability means all items of cash, chips, coins, tokens, receivables, and customer deposits constituting the total amount for which the bankroll custodian is responsible at a given time.

Accumulated credit payout means credit earned in a gaming machine that is paid to a customer manually in lieu of a machine payout.

Actual hold percentage means the percentage calculated by dividing the win by the drop or coin-in (number of credits wagered). Can be calculated for individual tables or gaming machines, type of table games or gaming machines on a per day or cumulative basis.

Ante means a player's initial wager or predetermined contribution to the pot before the dealing of the first hand.

Bank or bankroll means the inventory of cash, coins, chips, checks, tokens, receivables, and customer deposits in the cage, pit area, gaming booths, and on the playing tables, and cash in bank which is used to make change, pay winnings, bets, and pay gaming machine jackpots.

Betting station means the area designated in a pari-mutuel area that accepts and pays winning bets.

Betting ticket means a printed, serially numbered form used to record the event upon which a wager is made, the amount and date of the wager, and sometimes the line or spread (odds).

Bill acceptor means the device that accepts and reads cash by denomination in order to accurately register customer credits at a gaming machine.

Bill acceptor canister means the box attached to bill acceptors used to contain cash received by bill acceptors.

Bill acceptor canister release key means the key used to release the bill acceptor canister from the bill acceptor device.

Bill acceptor canister storage rack key means the key used to access the storage rack where bill acceptor canisters are secured.

Bill acceptor drop means cash contained in bill acceptor canisters.

Bill-in meter means a meter included on a gaming machine accepting cash that tracks the number of bills put in the machine.

Boxman means the first-level supervisor who is responsible for directly participating in and supervising the operation and conduct of the craps game.

Breakage means the difference between actual bet amounts paid out by a racetrack to bettors and amounts won due to bet payments being rounded up or down. For example, a winning bet that should pay $4.25 may be actually paid at $4.20 due to rounding.

Cage means a secure work area within the gaming operation for cashiers and a storage area for the gaming operation bankroll.

Cage accountability form means an itemized list of the components that make up the cage accountability.

Cage credit means advances in the form of cash or gaming chips made to customers at the cage. Documented by the players signing an IOU or a marker similar to a counter check.

Cage marker form means a document, usually signed by the customer, evidencing an extension of credit at the cage to the customer by the gaming operation.

Calibration module means the section of a weigh scale used to set the scale to a specific amount or number of coins to be counted.

Call bets means a wager made without cash or chips, reserved for a known patron and includes marked bets (which are supplemental bets made during a hand of play). For the purpose of settling a call bet, a hand of play in craps is defined as a natural winner (e.g., seven or eleven on the come-out roll), a natural loser (e.g., a two, three or twelve on the come-out roll), a seven-out, or the player making his point, whichever comes first.

Card game means a game in which the gaming operation is not party to wagers and from which the gaming operation receives compensation in the form of a rake, a time buy-in, or other fee or payment from a player for the privilege of playing.

Card room bank means the operating fund assigned to the card room or main card room bank.

Cash-out ticket means an instrument of value generated by a gaming machine representing a cash amount owed to a customer at a specific gaming machine. This investment may be wagered at other machines by depositing the cash-out ticket in the machine document acceptor.

Chips mean cash substitutes, in various denominations, issued by a gaming establishment and used for wagering.

Coin-in meter means the meter that displays the total amount wagered in a gaming machine that includes coins-in and credits played.

Coin meter count machine means a device used in a coin room to count coin.

Coin room means an area where coins and tokens are stored.

Coin room inventory means coins and tokens stored in the coin room that are generally used for gaming machine department operation.

Commission means the National Indian Gaming Commission.

Complimentary means service or item provided to an individual for a legitimate business purpose.

Count means the total funds counted for a particular game, coin-operated gaming device, shift, or other period.

Count room means a room where the coin and cash drop from gaming machines, table games, or other games are transported to and counted.

VOL 66 ISS 247 DE 26 2001 UMI

Count team means personnel that perform either the count of the gaming machine drop and/or the table game drop.

Counter check means a form provided by the gaming operation for the customer to use in lieu of a personal check.

Credit means the right granted by a gaming operation to a patron to defer payment of debt or to incur debt and defer its payment.

Credit limit means the maximum dollar amount of credit assigned to a customer by the gaming operation.

Credit slip means a form used to record either:

(1) The return of chips from a gaming table to the cage; or

(2) The transfer of IOUs, markers, or negotiable checks from a gaming table to a cage or bankroll.

Customer deposits means the amounts placed with a cage cashier by customers for the customers' use at a future time.

Deal means a specific pull tab game in which each pull tab is numerically sequenced.

Dealer means an employee who operates a game, individually or as a part of a crew, administering house rules and making payoffs.

Dedicated camera means a video camera required to continuously record a specific activity.

Deskman means a person who authorizes payment of winning tickets and verifies payouts for keno games.

Document acceptor means the device integrated into each gaming machine that reads bar codes on coupons and cash-out tickets.

Draw ticket means a blank keno ticket whose numbers are punched out when balls are drawn for the game. Used to verify winning tickets.

Drop (for gaming machines) means the total amount of cash, cash-out tickets, or coupons removed from the drop bucket and bill acceptor canister.

Drop (for table games) means the total amount of cash and chips contained in the drop box, plus the amount of credit issued at the table.

Drop box means a locked container affixed to the gaming table into which the drop is placed. The game type, table number, and shift are indicated on the box.

Drop box contents keys means the key used to open drop boxes.

Drop box release keys means the key used to release drop boxes from tables.

Drop box storage rack keys means the key used to access the storage rack where drop boxes are secured.

Drop bucket means a container located in the drop cabinet (or in a secured portion of the gaming machine in coinless/cashless configurations) for the purpose of collecting coins, tokens, cash-out tickets, and coupons from the gaming machine.

Drop cabinet means the wooden or metal base of the gaming machine that contains the gaming machine drop bucket.

Earned and unearned take means race bets taken on present and future race events. Earned take means bets received on current or present events. Unearned take means bets taken on future race events.

EPROM means erasable programmable read-only memory or other equivalent game software media.

Fill means a transaction whereby a supply of chips or coins and tokens is transferred from a bankroll to a table game, coin-operated gaming device, bingo or keno department.

Fill slip means a document evidencing a fill.

Flare means the information sheet provided by the manufacturer that sets forth the rules of a particular pull tab game and that is associated with a specific deal of pull tabs. The flare shall contain the following information:

(1) Name of the game;

(2) Manufacturer name or manufacturer's logo;

(3) Ticket count; and

(4) Prize structure, which shall include the number of winning pull tabs by denomination, with their respective winning symbols, numbers or both.

Future wagers means bets on races to be run in the future (e.g., Kentucky Derby).

Game server means an electronic selection device, utilizing a random number generator.

Gaming machine means an electronic or electromechanical machine which contains a microprocessor with random number generator capability which allows a player to play games of chance, some of which may be affected by skill, which machine is activated by the insertion of a coin, token or cash, or by the use of a credit, and which awards game credits, cash, tokens, or replays, or a written statement of the player's accumulated credits, which written statements be redeemable for cash.

Gaming machine analysis report means a report prepared that compares theoretical to actual hold by a gaming machine on a monthly or other periodic basis.

Gaming machine booths and change banks means a booth or small cage in the gaming machine area used to provide change to players, store change aprons and extra coin, and account for jackpot and other payouts.

Gaming machine count means the total amount of coins, tokens, and cash removed from a gaming machine. The amount counted is entered on the Gaming Machine Count Sheet and is considered the drop. Also, the procedure of counting the coins, tokens, and cash or the process of verifying gaming machine coin and token inventory.

Gaming machine fill means the coins or tokens placed in a hopper.

Gaming machine pay table means the reel strip combinations illustrated on the face of the gaming machine that can identify payouts of designated coin amounts.

Gaming operation accounts receivable (for gaming operation credit) means credit extended to gaming operation patrons in the form of markers, returned checks, or other credit instruments that have not been repaid.

Gross gaming revenue means annual total amount of cash wagered on class II and class III games and admission fees (including table or card fees), less any amounts paid out as prizes or paid for prizes awarded.

Hold means the relationship of win to coin-in for gaming machines and win to drop for table games.

Hub means the person or entity that is licensed to provide the operator of a pari-mutuel wagering operation information related to horse racing which is used to determine winners of races or payoffs on wagers accepted by the pari-mutuel wagering operation.

Internal audit means individuals who perform an audit function of a gaming operation that are independent of the department subject to audit. Independence is obtained through the organizational reporting relationship as the internal audit department shall not report to management of the gaming operation. Internal audit activities should be conducted in a manner that permits objective evaluation of areas examined. Internal audit personnel may provide audit coverage to more than one operation within a Tribe's gaming operation holdings.

Issue slip means a copy of a credit instrument that is retained for numerical sequence control purposes.

Jackpot payout means the portion of a jackpot paid by gaming machine personnel. The amount is usually determined as the difference between the total posted jackpot amount and the coins paid out by the machine. May also be the total amount of the jackpot.

Lammer button means a type of chip that is placed on a gaming table to indicate that the amount of chips designated thereon has been given to the customer for wagering on credit before completion of the credit instrument. Lammer button may also mean a type of chip used to evidence transfers between table banks and card room banks.

Linked electronic game means any game linked to two (2) or more facilities that are physically separate.

Main card room bank means a fund of cash, coin, and chips used primarily for poker and pan card game areas. Used to make even cash transfers between various games as needed. May be used similarly in other areas of the gaming operation.

Marker means a document, usually signed by the customer, evidencing an extension of credit to him by the gaming operation.

Marker credit play means that players are allowed to purchase chips using credit in the form of a marker.

Marker inventory form means a form maintained at table games or in the gaming operation pit that are used to track marker inventories at the individual table or pit.

Marker transfer form means a form used to document transfers of markers from the pit to the cage.

Master credit record means a form to record the date, time, shift, game, table, amount of credit given, and the signatures or initials of the individuals extending the credit.

Master game program number means the game program number listed on a gaming machine EPROM.

Master game sheet means a form used to record, by shift and day, each table game's winnings and losses. This form reflects the opening and closing table inventories, the fills and credits, and the drop and win.

Mechanical coin counter means a device used to count coins that may be used in addition to or in lieu of a coin weigh scale.

Meter means an electronic (soft) or mechanical (hard) apparatus in a gaming machine. May record the number of coins wagered, the number of coins dropped, the number of times the handle was pulled, or the number of coins paid out to winning players.

MICS means minimum internal control standards in this part 542.

Motion activated dedicated camera means a video camera that, upon its detection of activity or motion in a specific area, begins to record the activity or area.

Multi-game machine means a gaming machine that includes more than one type of game option.

Multi-race ticket means a keno ticket that is played in multiple games.

On-line gaming machine monitoring system means a system used by a gaming operation to monitor gaming machine meter reading activity on an online basis.

Order for credit means a form that is used to request the transfer of chips or markers from a table to the cage. The order precedes the actual transfer transaction that is documented on a credit slip.

Outstation means areas other than the main keno area where bets may be placed and tickets paid.

Par percentage means the percentage of each dollar wagered that the house wins (i.e., gaming operation advantage).

Par sheet means a specification sheet for a gaming machine that provides machine hold percentage, model number, hit frequency, reel combination, number of reels, number of coins that can be accepted and reel strip listing.

Pari-mutuel wagering means a system of wagering on horse races, jai-alai, greyhound and harness racing, where the winners divide the total amount wagered, net of commissions and operating expenses, proportionate to the individual amount wagered.

Payment slip means that part of a marker form on which customer payments are recorded.

Payout means a transaction associated with a winning event.

PIN means the personal identification number used to access a player's account.

Pit podium means a stand located in the middle of the tables used by gaming operation supervisory personnel as a workspace and a record storage area.

Pit supervisor means the employee who supervises all games in a pit.

Player tracking system means a system typically used in gaming machine departments that can record the gaming machine play of individual patrons.

Post time means the time when a pari-mutuel track stops accepting bets in accordance with rules and regulations of the applicable jurisdiction.

Primary and secondary jackpots means promotional pools offered at certain card games that can be won in addition to the primary pot.

Progressive gaming machine means a gaming machine, with a payoff indicator, in which the payoff increases as it is played (i.e., deferred payout). The payoff amount is accumulated, displayed on a machine and will remain until a player lines up the jackpot symbols that result in the progressive amount being paid.

Progressive jackpot means deferred payout from a progressive gaming machine.

Progressive table game means table games that offer progressive jackpots.

Promotional payout means merchandise or awards given to players by the gaming operation based on a winning event.

Promotional progressive pots and/or pools means funds contributed to a table game by and for the benefit of players. Funds are distributed to players based on a predetermined event.

Rabbit ears means a device, generally V-shaped, that holds the numbered balls selected during a keno or bingo game so that the numbers are visible to players and employees.

Rake means a commission charged by the house for maintaining or dealing a game such as poker.

Rake circle means the area of a table where rake is placed.

Random number generator means a device that generates numbers in the absence of a pattern. May be used to determine numbers selected in various games such as keno and bingo. Also commonly used in gaming machines to generate game outcome.

Reel symbols means symbols listed on reel strips of gaming machines.

Rim credit means extensions of credit that are not evidenced by the immediate preparation of a marker and does not include call bets.

Runner means a gaming employee who transports chips/cash to and from a gaming table to a cashier.

SAM means a screen-automated machine used to accept pari-mutuel wagers. SAM's also pay winning tickets in the form of a voucher, which is redeemable for cash.

Shift means an eight-hour period, unless otherwise approved by the Tribal gaming regulatory authority, not to exceed twenty-four (24) hours.

Shill means an employee financed by the house and acting as a player for the purpose of starting or maintaining a sufficient number of players in a game.

Short pay means a payoff from a coin-operated gaming device that is less than the listed amount.

Soft count means the count of the contents in a drop box or a bill acceptor canister.

Sufficient clarity means use of monitoring and recording at a minimum of twenty (20) frames per second. Multiplexer tape recordings are insufficient to satisfy the requirement of sufficient clarity.

Surveillance room means a secure location(s) in a gaming operation used primarily for casino surveillance.

Surveillance system means a system of video cameras, monitors, recorders, video printers, switches, selectors, and other ancillary equipment used for casino surveillance.

Table games means games that are banked by the house or a pool whereby the house or the pool pays all winning bets and collects from all losing bets.

VOL 66 ISS 247 DE 26 2001 UMI

Table inventory means the total coins, chips, and markers at a table.

Table inventory form means the form used by gaming operation supervisory personnel to document the inventory of chips, coins, and tokens on a table at the beginning and ending of a shift.

Table tray means container located on gaming tables where chips, coins, or cash are stored that are used in the game.

Take means the same as earned and unearned take.

Theoretical hold means the intended hold percentage or win of an individual gaming machine as computed by reference to its payout schedule and reel strip settings or EPROM.

Theoretical hold worksheet means a worksheet provided by the manufacturer for all gaming machines which indicate the theoretical percentages that the gaming machine should hold based on adequate levels of coin-in. The worksheet also indicates the reel strip settings, number of credits that may be played, the payout schedule, the number of reels and other information descriptive of the particular type of gaming machine.

Tier A means gaming operations with annual gross gaming revenues of more than $1 million but not more than $5 million.

Tier B means gaming operations with annual gross gaming revenues of more than $5 million but not more than $15 million.

Tier C means gaming operations with annual gross gaming revenues of more than $15 million.

Tokens means a coin-like cash substitute, in various denominations, used for gambling transactions.

Vault means a secure area within the gaming operation where tokens, checks, cash, coins, and chips are stored.

Weigh/count means the value of coins and tokens counted by a weigh machine.

Weigh scale interface means a communication device between the weigh scale used to calculate the amount of funds included in drop buckets and the computer system used to record the weigh data.

Weigh tape means the tape where weighed coin is recorded.

Wide area progressive gaming machine means progressive gaming machines that are linked to machines in other operations and all the machines affect the progressive amount. As wagers are placed, the progressive meter on all of the linked machines increase.

Win means the net win resulting from all gaming activities. Net win results from deducting all gaming losses from all wins prior to considering associated operating expenses.

Win-to-write hold percentage means win divided by write to determine hold percentage.

Wrap means the method of storing coins after the count process has been completed, including, but not limited to, wrapping, racking, or bagging. May also refer to the total amount or value of the counted and stored coins.

Write means the total amount wagered in keno, bingo, pull tabs, and pari-mutuel operations.

Writer means an employee who writes keno, bingo, pull tabs, or pari-mutuel tickets. A keno writer usually also makes payouts.

§ 542.3 How do I comply with this part?

(a) *Compliance based upon tier.*

(1) Tier A gaming operations must comply with §§ 542.1 through 542.18.

(2) Tier B gaming operations must comply with §§ 542.1 through 542.18.

(3) Tier C gaming operations must comply with §§ 542.1 through 542.18.

(b) *Determination of tier.* The determination of tier level shall be made based upon the annual gross gaming revenues indicated within the gaming operation's audited financial statements. Gaming operations moving from one tier to another shall have nine (9) months from the date of the independent certified public accountant's audit report to achieve compliance with the requirements of the new tier.

(1) The Tribe or Tribal gaming regulatory authority may extend the deadline by an additional six (6) months if:

(i) The Tribe or Tribal gaming regulatory authority submits a written request to the Commission to extend the deadline no later than two weeks before the expiration of the initial nine (9) month period;

(ii) The request includes an explanation of why the gaming operation cannot come into compliance with a specific section(s) of the MICS within the initial nine (9) month period; and

(iii) The Tribe or Tribal gaming regulatory authority has not received written notification from the Commission denying the request within two weeks following submission of the request.

(2) [Reserved]

(c) Tribal internal control standards. Within six (6) months of [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], each Tribe or Tribal gaming regulatory authority shall establish by regulation and implement tribal internal control standards that shall:

(1) Be at least as stringent as those set forth in this part;

(2) Contain standards for currency transaction reporting that comply with 31 CFR part 103;

(3) Establish standards for games that are not addressed in this part; and

(4) Establish a deadline, which shall not exceed six (6) months from [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], by which a gaming operation must come into compliance with the tribal minimum internal control standards. However, the Tribe or Tribal gaming regulatory authority may extend the deadline by an additional six (6) months if:

(i) The Tribe or Tribal gaming regulatory authority submits a written request to the Commission to extend the deadline no later than two weeks before the expiration of the initial six (6) month period;

(ii) The request includes an explanation of why the gaming operation cannot come into compliance with a specific section(s) of the MICS within the initial six (6) month period; and

(iii) The Tribe or Tribal gaming regulatory authority has not received written notification from the Commission denying the request within two weeks following submission of the request.

(5) *Existing gaming operations.* All gaming operations that are operating on or before [DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], shall comply with this part within the time requirements established in this paragraph. In the interim, such operations shall continue to comply with existing tribal internal control standards.

(6) *New gaming operations.* All gaming operations that commence operations after [DATE 60 DAYS AFTER DATE OF PUBLICATION OF THE FINAL RULE IN THE **Federal Register**], shall comply with this part before commencement of operations.

(d) *Submission to Commission.* Tribal regulations promulgated pursuant to this part shall not be required to be submitted to the Commission pursuant to 25 CFR 522.3(b).

(e) *Gaming operations.* Each gaming operation shall develop and implement an internal control system that, at a minimum, complies with the tribal minimum internal control standards.

(f) *CPA testing.* (1) An independent certified public accountant (CPA) shall be engaged to perform procedures to verify, on a test basis, that the gaming operation is in material compliance with the tribal minimum internal control standards or a tribally approved variance that has received Commission concurrence. The procedures may be performed in conjunction with the annual audit. The CPA shall report its findings to the Tribe, Tribal gaming regulatory authority, and management. The Tribe shall submit a copy of the report to the Commission within 120 days of the gaming operation's fiscal year end.

(2) *CPA Guidelines.* In connection with the CPA testing pursuant to paragraph (f)(1) of this section, the Commission shall develop recommended CPA Guidelines available upon request.

§ 542.4 How do these regulations affect minimum internal control standards established in a Tribal-State compact?

(a) If there is a direct conflict between an internal control standard established in a Tribal-State compact and a standard or requirement set forth in this part, then the internal control standard established in a Tribal-State compact shall prevail.

(b) If a standard in a Tribal-State compact is as or more stringent than a standard set forth in this part, then the Tribal-State compact standard shall prevail.

(c) If an internal control standard or a requirement set forth in this part is more stringent than an internal control standard established in a Tribal-State compact, then the internal control standard or requirement set forth in this part shall prevail.

§ 542.5 How do these regulations affect state jurisdiction?

(a) Nothing in this part shall be construed to grant to a state jurisdiction in class II gaming or extend a state's jurisdiction in class III gaming.

§ 542.6 Does this part apply to small and charitable gaming operations?

(a) *Small gaming operations.* This part shall not apply to small gaming operations provided that:

(1) The Tribal gaming regulatory authority permits the operation to be exempt from this part;

(2) The annual gross gaming revenue of the operation does not exceed $1 million; and

(3) The Tribal gaming regulatory authority develops and the operation complies with alternate procedures that:

(i) Protect the integrity of games offered; and

(ii) Safeguard the assets used in connection with the operation.

(b) *Charitable gaming operations.* This part shall not apply to charitable gaming operations provided that:

(1) All proceeds are for the benefit of a charitable organization;

(2) The Tribal gaming regulatory authority permits the charitable organization to be exempt from this part;

(3) The charitable gaming operation is operated wholly by the charitable organization's employees or volunteers;

(4) The annual gross gaming revenue of the charitable gaming operation does not exceed $100,000;

(i) Where the annual gross gaming revenues of the charitable gaming operation exceed $100,000, but are less than $1 million, paragraph (a) of this section shall also apply; and

(ii) [Reserved]

(5) The Tribal gaming regulatory authority develops and the charitable gaming operation complies with alternate procedures that:

(i) Protect the integrity of the games offered; and

(ii) Safeguard the assets used in connection with the gaming operation.

(c) *Independent operators.* Nothing in this section shall exempt gaming operations conducted by independent operators for the benefit of a charitable organization.

Subpart B—Gaming Operations

§ 542.7 What are the minimum internal control standards for bingo?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Game play standards.* The functions of seller and payout verifier shall be segregated. Employees who sell cards on the floor shall not verify payouts with cards in their possession. Floor clerks who sell cards on the floor are permitted to announce the serial numbers of winning cards.

(2) All sales of bingo cards shall be documented by recording at least the following:

(i) Date;

(ii) Shift (if applicable);

(iii) Session (if applicable);

(iv) Dollar amount;

(v) Signature, initials, or identification number of at least one seller (if manually documented); and

(vi) Signature, initials, or identification number of person independent of seller who has randomly verified the card sales (this requirement is not applicable to locations with $1 million or less in annual write).

(3) The total win and write shall be computed and recorded by shift (or session, if applicable).

(4) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall develop and the gaming operation shall comply with procedures that ensure the correct calling of numbers selected in the bingo game.

(5) Each ball shall be shown to a camera immediately before it is called so that it is individually displayed to all patrons. For speed bingo games not verified by camera equipment, each ball drawn shall be verified by an independent person.

(6) For all coverall games and other games offering a payout of $1,200 or more, as the balls are called the numbers shall be immediately recorded by the caller and maintained for a minimum of 24 hours.

(7) Controls shall be present to assure that the numbered balls are placed back into the selection device prior to calling the next game.

(8) The authenticity of each payout shall be verified by at least two persons. A computerized card verifying system may function as the second person verifying the payout if the card with the winning numbers is displayed on a reader board.

(9) Payouts in excess of $1,200 shall require written approval, by personnel independent of the transaction, that the bingo card has been examined and verified with the bingo card record to ensure that the ticket has not been altered.

(10) Total payout shall be computed and recorded by shift or session, if applicable.

(c) *Promotional payouts or awards.* (1) If the gaming operation offers promotional payouts or awards, the payout form/documentation shall include the following information:

(i) Date and time;

(ii) Dollar amount of payout or description of personal property (e.g., jacket, toaster, car, etc.), including fair market value;

(iii) Type of promotion; and

(iv) Signature of at least one employee authorizing and completing the transaction.

(2) [Reserved]

(d) *Accountability form.* (1) All funds used to operate the bingo department shall be recorded on an accountability form.

(2) All funds used to operate the bingo department shall be counted independently by at least two persons and reconciled to the recorded amounts at the end of each shift or session.

VOL 66 ISS 247 DE 26 2001 UMI

(e) *Bingo equipment.* (1) Access to controlled bingo equipment (e.g., blower, balls in play, and back-up balls) shall be restricted to authorized persons.

(2) Procedures shall be established to inspect new bingo balls put into play as well as for those in use.

(3) Bingo equipment shall be maintained and checked for accuracy on a periodic basis.

(4) The bingo card inventory shall be controlled so as to assure the integrity of the cards being used as follows:

(i) Purchased paper shall be inventoried and secured by an individual independent from the bingo sales;

(ii) The issue of paper to the cashiers shall be documented and signed for by the inventory control department and cashier. The document log shall include the series number of the bingo paper;

(iii) A copy of the bingo paper control log shall be given to the bingo ball caller for purposes of determining if the winner purchased the paper that was issued to the gaming operation that day (electronic verification satisfies this standard);

(iv) At the end of each month, an independent person shall verify the accuracy of the ending balance in the bingo paper control by counting the paper on-hand;

(v) Monthly the amount of paper sold from the bingo paper control log shall be compared to the amount of revenue for reasonableness.

(f) *Standards for statistical reports.* (1) Records shall be maintained, which include win, write (card sales), and a win-to-write hold percentage, for:

(i) Each shift or each session;

(ii) Each day;

(iii) Month-to-date; and

(iv) Year-to-date or fiscal year-to-date.

(2) Non-bingo management shall review bingo statistical information at least on a monthly basis and investigate any large or unusual statistical fluctuations.

(3) Investigations shall be documented and maintained for Commission inspection.

(g) *Electronic equipment.* (1) If the gaming operation utilizes electronic equipment in connection with the play of bingo, then the following standards shall also apply.

(i) If the electronic equipment contains a bill acceptor, then § 542.21(d) and (e), § 542.31(d) and (e), or § 542.41(d) and (e)(as applicable) shall apply.

(ii) If the electronic equipment uses a bar code or microchip reader, the reader shall be tested periodically by an entity independent of bingo personnel to determine that it is correctly reading the bar code or the microchip.

(iii) If the electronic equipment returns a voucher or a payment slip to the player, then § 542.13(n) (as applicable) shall apply.

(2) [Reserved]

(h) *Standards for linked electronic games.* Management shall ensure that all agreements/contracts entered into after [the effective date of the final rule] to provide linked electronic games shall contain a provision requiring the vendor to comply with the standards in this section.

(i) *Host requirements/game information (for linked electronic games).* (1) Providers of any linked electronic game(s) shall maintain complete records of game data for a period of one (1) year from the date the games are played (or a time frame established by the Tribal gaming regulatory authority). This data may be kept in an archived manner, provided the information can be produced within 24 hours upon request. In any event, game data for the preceding 72 hours shall be immediately accessible.

(2) Data required to be maintained for each game played includes:

(i) Date and time game start and game end;

(ii) Sales information by location;

(iii) Cash distribution by location;

(iv) Refund totals by location;

(v) Cards-in-play count by location;

(vi) Identification number of winning card(s);

(vii) Ordered list of bingo balls drawn; and

(viii) Prize amounts at start and end of game.

(j) *Host requirements/sales information (for linked electronic games).* (1) Providers of any linked electronic game(s) shall maintain complete records of sales data for a period of one (1) year from the date the games are played (or a time frame established by the Tribal gaming regulatory authority). This data may be kept in an archived manner, provided the information can be produced within 24 hours upon request. In any event, sales data for the preceding 10 days shall be immediately accessible. Summary information must be accessible for at least 120 days.

(2) Sales information required shall include:

(i) Daily sales totals by location;

(ii) Commissions distribution summary by location;

(iii) Game-by-game sales, prizes, refunds, by location; and

(iv) Daily network summary, by game by location.

(k) *Remote host requirements (for linked electronic games).* (1) Linked electronic game providers shall maintain online records at the remote host site for any game played. These records shall remain online until the conclusion of the session of which the game is a part. Following the conclusion of the session, records may be archived, but in any event, must be retrievable in a timely manner for at least 72 hours following the close of the session. Records shall be accessible through some archived media for at least 90 days from the date of the game.

(2) Game information required includes date and time of game start and game end, sales totals, cash distribution (prizes) totals, and refund totals.

(3) Sales information required includes cash register reconciliations, detail and summary records for purchases, prizes, refunds, credits, and game/sales balance for each session.

(l) *Standards for player accounts (for proxy play and linked electronic games).* (1) Prior to participating in any game, players shall be issued a unique player account number. The player account number can be issued through the following means:

(i) Through the use of a point-of-sale (cash register device);

(ii) By assignment through an individual play station; or

(iii) Through the incorporation of a "player tracking" media.

(2) Printed receipts issued in conjunction with any player account should include a time/date stamp.

(3) All player transactions shall be maintained, chronologically by account number, through electronic means on a data storage device. These transaction records shall be maintained online throughout the active game and for at least 24 hours before they can be stored on an "off-line" data storage media.

(4) The game software shall provide the ability to, upon request, produce a printed account history, including all transactions, and a printed game summary (total purchases, deposits, wins, debits, for any account that has been active in the game during the preceding 24 hours).

(5) The game software shall provide a "player account summary" at the end of every game. This summary shall list all accounts for which there were any transactions during that game day and include total purchases, total deposits, total credits (wins), total debits (cash-outs) and an ending balance.

§ 542.8 What are the minimum internal control standards for pull tabs?

(a) *Computer applications.* For any computer application utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Pull tab inventory.* (1) Pull tab inventory (including unused tickets) shall be controlled, to assure the integrity of the pull tabs.

(2) Purchased pull tabs shall be inventoried and secured by an individual independent from the pull tab sales.

(3) The issue of pull tabs to the cashier or sales location shall be documented and signed for by the inventory control department and the cashier witnessing the fill. The document log shall include the serial number of the pull tabs.

(4) Appropriate documentation shall be given to the redemption booth for purposes of determining if the winner purchased the pull tab that was issued by the gaming operation. Electronic verification satisfies this requirement.

(5) At the end of each month, an independent person shall verify the accuracy of the ending balance in the pull tab control by counting the pull tabs on hand.

(6) A monthly comparison for reasonableness shall be made of the amount of pull tabs sold from the pull tab control log to the amount of revenue recognized.

(c) *Access.* Access to pull tabs shall be restricted to authorized persons.

(d) *Transfers.* Transfers of pull tabs from storage to the sale location shall be secured and independently controlled.

(e) *Winning pull tabs.* (1) Winning pull tabs shall be verified and paid as follows:

(i) Payouts in excess of a dollar amount determined by the Tribal gaming regulatory authority shall be verified by at least two employees.

(ii) Total payout shall be computed and recorded by shift.

(iii) The winning pull tabs shall be voided so that they cannot be presented for payment again.

(2) Personnel independent of pull tab management shall verify the amount of winning pull tabs redeemed each day.

(f) *Accountability form.* (1) All funds used to operate the pull tab game shall be recorded on an accountability form.

(2) All funds used to operate the pull tab game shall be counted independently by at least two persons and reconciled to the recorded amounts at the end of each shift or session.

(g) *Standards for statistical reports.* (1) Records shall be maintained, which include win, write (sales), and a win-to-write hold percentage as compared to the theoretical hold percentage derived from the flare, for:

(i) Each deal or type of game;

(ii) Each shift;

(iii) Each day;

(iv) Month-to-date; and

(v) Year-to-date or fiscal year-to-date as applicable.

(2) Non-pull tab management independent of pull tab personnel shall review statistical information at least on a monthly basis and shall investigate any large or unusual statistical fluctuations. These investigations shall be documented and maintained for inspection.

(3) Each month, the actual hold percentage shall be compared to the theoretical hold percentage. Any significant variations (±3%) shall be investigated.

(h) *Electronic equipment.* (1) If the gaming operation utilizes electronic equipment in connection with the play of pull tabs, then the following standards shall also apply.

(i) If the electronic equipment contains a bill acceptor, then § 542.21(d) and (e), § 542.31(d) and (e), or § 542.41(d) and (e)(as applicable) shall apply.

(ii) If the electronic equipment uses a bar code or microchip reader, the reader shall be tested periodically to determine that it is correctly reading the bar code or microchip.

(iii) If the electronic equipment returns a voucher or a payment slip to the player, then § 542.13(n)(as applicable) shall apply.

(2) [Reserved]

§ 542.9 What are the minimum internal control standards for card games?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Standards for drop and count.* The procedures for the collection of card games drop boxes and the count of the contents thereof shall comply with this part as it is applicable to table game drop and table game soft count.

(c) *Standards for supervision.* (1) Supervision shall be provided at all times the card room is in operation by personnel with authority equal to or greater than those being supervised.

(2) Exchanges between table banks and the main card room bank (or cage, if a main card room bank is not used) in excess of $100.00 shall be authorized by a supervisor. All exchanges shall be evidenced by the use of a lammer unless the exchange of chips, tokens, and/or cash takes place at the table.

(3) Exchanges from the main card room bank (or cage, if a main card room bank is not used) to the table banks shall be verified by the card room dealer and the runner.

(4) If applicable, transfers between the main card room bank and the cage shall be properly authorized and documented.

(5) A rake collected or ante placed shall be done in accordance with the posted rules.

(d) *Standards for playing cards.* (1) Playing cards shall be maintained in a secure location to prevent unauthorized access and to reduce the possibility of tampering.

(2) Used cards shall be maintained in a secure location until marked, scored, or destroyed, in a manner subject to the approval of the Tribal gaming regulatory authority, to prevent unauthorized access and reduce the possibility of tampering.

(3) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish a reasonable time period, which shall not exceed seven (7) days of use, within which to mark and remove cards from play.

(i) This standard shall not apply where playing cards are retained for an investigation.

(ii) [Reserved]

(4) A card control log shall be maintained that documents when cards are received on site, distributed to and returned from tables and removed from the gaming operation.

(e) *Plastic cards.* Notwithstanding paragraph (d) of this section, if a gaming operation uses plastic cards (not plastic-coated cards), the cards may be used for up to three (3) months if the plastic cards are washed or cleaned after at least every 72 hours of use.

(f) *Standards for shills.* (1) Issuance of shill funds shall have the written approval of the supervisor.

(2) Shill returns shall be recorded and verified on the shill sign-out form.

(3) The replenishment of shill funds shall be documented.

(g) *Standards for reconciliation of card room bank.* (1) The amount of the main card room bank shall be counted, recorded, and reconciled on at least a per shift basis.

(2) At least once per shift, the table banks that were opened during that shift shall be counted, recorded, and reconciled by a dealer (or other individual if the table is closed) and a supervisor, and shall be attested to by their signatures on the check-out form.

(h) *Standards for promotional progressive pots and pools.* (1) All funds contributed by players into the pools shall be returned when won in

VOL 66 ISS 247 DE 26 2001 UMI

accordance with the posted rules with no commission or administrative fee withheld.

(2) Rules governing promotional pools shall be conspicuously posted and designate:

(i) The amount of funds to be contributed from each pot;

(ii) What type of hand it takes to win the pool (e.g., what constitutes a "bad beat");

(iii) How the promotional funds will be paid out;

(iv) How/when the contributed funds are added to the jackpots; and

(v) Amount/percentage of funds allocated to primary and secondary jackpots, if applicable.

(3) Promotional pool contributions shall not be placed in or near the rake circle, in the drop box, or commingled with gaming revenue from card games or any other gambling game.

(4) The amount of the jackpot shall be conspicuously displayed in the card room.

(5) At least once a day, the posted pool amount shall be updated to reflect the current pool amount.

(6) At least once a day, increases to the posted pool amount shall be reconciled to the cash previously counted or received by the cage by personnel independent of the card room.

(7) All decreases to the pool must be properly documented, including a reason for the decrease.

(i) *Promotional progressive pots and pools where funds are displayed in the card room.* Promotional funds displayed in the card room shall be placed in a locked container in plain view of the public.

(2) Persons authorized to transport the locked container shall be precluded from having access to the contents keys.

(3) The contents key shall be maintained by personnel independent of the card room.

(4) At least once a day, the locked container shall be removed by two individuals, one of whom is independent of the card games department, and transported directly to the cage or other secure room to be counted, recorded, and verified.

(5) The locked container shall then be returned to the card room where the posted pool amount shall be updated to reflect the current pool amount.

(j) *Promotional progressive pots and pools where funds are maintained in the cage.* (1) Promotional funds removed from the card game shall be placed in a locked container.

(2) Persons authorized to transport the locked container shall be precluded from having access to the contents keys.

(3) The contents key shall be maintained by personnel independent of the card room.

(4) At least once a day, the locked container shall be removed by two individuals, one of whom is independent of the card games department, and transported directly to the cage or other secure room to be counted, recorded, and verified, prior to accepting the funds into cage accountability.

(5) The posted pool amount shall then be updated to reflect the current pool amount.

§ 542.10 What are the minimum internal control standards for keno?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Game play standards.* (1) The computerized customer ticket shall include the date, game number, ticket sequence number, station number, and conditioning (including multi-race if applicable).

(2) Concurrently with the generation of the ticket the information on the ticket shall be recorded on a restricted transaction log or computer storage media.

(3) Keno personnel shall be precluded from access to the restricted transaction log or computer storage media.

(4) When it is necessary to void a ticket, the void information shall be inputted in the computer and the computer shall document the appropriate information pertaining to the voided wager (e.g., void slip is issued or equivalent documentation is generated).

(5) Controls shall exist to prevent the writing and voiding of tickets after a game has been closed and after the number selection process for that game has begun.

(6) The controls in effect for tickets prepared in outstations (if applicable) shall be identical to those in effect for the primary keno game.

(c) *Rabbit ear or wheel system.* (1) The following standards shall apply if a rabbit ear or wheel system is utilized:

(i) A dedicated camera shall be utilized to monitor the following both prior to, and subsequent to, the calling of a game:

(A) Empty rabbit ears or wheel;
(B) Date and time;
(C) Game number; and
(D) Full rabbit ears or wheel.

(ii) The film of the rabbit ears or wheel shall provide a legible identification of the numbers on the balls drawn.

(iii) Keno personnel shall immediately input the selected numbers in the computer and the computer shall document the date, the game number, the time the game was closed, and the numbers drawn.

(iv) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures that prevent unauthorized access to keno balls in play.

(v) Back-up keno ball inventories shall be secured in a manner to prevent unauthorized access.

(vi) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures for inspecting new keno balls put into play as well as for those in use.

(2) [Reserved]

(d) *Random number generator.* (1) The following standards shall apply if a random number generator is utilized:

(i) The random number generator shall be linked to the computer system and shall directly relay the numbers selected into the computer without manual input.

(ii) Keno personnel shall be precluded from access to the random number generator.

(2) [Reserved]

(e) *Winning tickets.* Winning tickets shall be verified and paid as follows:

(1) The sequence number of tickets presented for payment shall be inputted into the computer, and the payment amount generated by the computer shall be given to the patron.

(2) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures to preclude payment on tickets previously presented for payment, unclaimed winning tickets (sleepers) after a specified period of time, voided tickets, and tickets which have not been issued yet.

(3) All payouts shall be supported by the customer (computer-generated) copy of the winning ticket (payout amount is indicated on the customer ticket or a payment slip is issued).

(4) A manual report or other documentation shall be produced and maintained documenting any payments made on tickets which are not authorized by the computer.

(5) Winning tickets over a specified dollar amount (not to exceed $10,000 for locations with more than $5 million annual keno write and $3,000 for all other locations) shall also require the following:

(i) Approval of management personnel independent of the keno department, evidenced by their signature;

(ii) Review of the video recording and/or digital record of the rabbit ears or wheel to verify the legitimacy of the draw and the accuracy of the draw ticket (for rabbit ear or wheel systems only);

(iii) Comparison of the winning customer copy to the computer reports;

(iv) Regrading of the customer copy using the payout schedule and draw information; and

(v) Documentation and maintenance of the procedures in this paragraph.

(6) When the keno game is operated by one person, all winning tickets in excess of an amount to be determined by management (not to exceed $1,500) shall be reviewed and authorized by someone independent of the keno department.

(f) *Check out standards at the end of each keno shift.* (1) For each writer station, a cash summary report (count sheet) shall be prepared that includes:

(i) Computation of net cash proceeds for the shift and the cash turned in; and

(ii) Signatures of two employees who have verified the net cash proceeds for the shift and the cash turned in.

(2) [Reserved]

(g) *Promotional payouts or awards.* (1) If a gaming operation offers promotional payouts or awards, the payout form/documentation shall include the following information:

(i) Date and time;

(ii) Dollar amount of payout or description of personal property (e.g., jacket, toaster, car, etc.), including fair market value;

(iii) Type of promotion; and

(iv) Signature of at least one employee authorizing and completing the transaction.

(2) [Reserved]

(h) *Standards for statistical reports.* (1) Records shall be maintained which include win and write by individual writer for each day.

(2) Records shall be maintained which include win, write, and win-to-write hold percentage for:

(i) Each shift;

(ii) Each day;

(iii) Month-to-date; and

(iv) Year-to-date or fiscal year-to-date as applicable.

(3) Non-keno management independent from the keno personnel shall review keno statistical data at least on a monthly basis and investigate any large or unusual statistical variances.

(4) At a minimum, investigations shall be performed for statistical percentage fluctuations from the base level for a month in excess of +/-3%. The base level shall be defined as the gaming operation's win percentage for the previous business year or the previous 12 months.

(5) Such investigations shall be documented and maintained.

(i) *System security standards.* (1) All keys (including duplicates) to sensitive computer hardware in the keno area shall be maintained by a department independent of the keno function.

(2) Personnel independent of the keno department shall be required to accompany such keys to the keno area and shall observe changes or repairs each time the sensitive areas are accessed.

(j) *Documentation standards.* (1) Adequate documentation of all pertinent keno information shall be generated by the computer system.

(2) This documentation shall be restricted to authorized personnel.

(3) The documentation shall include, at a minimum:

(i) Ticket information (as described in paragraph (b)(1) of this section);

(ii) Payout information (date, time, ticket number, amount, etc.);

(iii) Game information (number, ball draw, time, etc.);

(iv) Daily recap information, including:

(A) Write;

(B) Payouts; and

(C) Gross revenue (win);

(v) System exception information, including:

(A) Voids;

(B) Late pays; and

(C) Appropriate system parameter information (e.g., changes in pay tables, ball draws, payouts over a predetermined amount, etc.); and

(vi) Personnel access listing, including:

(A) Employee name;

(B) Employee identification number; and

(C) Listing of functions employee can perform or equivalent means of identifying same.

(k) *Keno audit standards.* (1) The keno audit function shall be independent of the keno department.

(2) At least annually, keno audit shall foot the write on the restricted copy of the keno transaction report for a minimum of one shift and compare the total to the total as documented by the computer.

(3) For at least one shift every other month, keno audit shall perform the following:

(i) Foot the customer copy of the payouts and trace the total to the payout report; and

(ii) Regrade at least 1% of the winning tickets using the payout schedule and draw ticket.

(4) Keno audit shall perform the following:

(i) For a minimum of five games per week, compare the video recording and/or digital record of the rabbit ears or wheel to the computer transaction summary;

(ii) Compare net cash proceeds to the audited win/loss by shift and investigate any large cash overages or shortages (i.e., in excess of $25.00);

(iii) Review and regrade all winning tickets greater than or equal to $1,500, including all forms which document that proper authorizations and verifications were obtained and performed;

(iv) Review the documentation for payout adjustments made outside the computer and investigate large and frequent payments;

(v) Review personnel access listing for inappropriate functions an employee can perform;

(vi) Review system exception information on a daily basis for propriety of transactions and unusual occurrences including changes to the personnel access listing;

(vii) If a random number generator is used, then at least weekly review the numerical frequency distribution for potential patterns; and

(viii) Investigate and document results of all noted improper transactions or unusual occurrences.

(5) When the keno game is operated by one person:

(i) The customer copies of all winning tickets in excess of $100 and at least 5% of all other winning tickets shall be regraded and traced to the computer payout report;

(ii) The video recording and/or digital record of rabbit ears or wheel shall be randomly compared to the computer game information report for at least 10% of the games during the shift; and

(iii) Keno audit personnel shall review winning tickets for proper authorization pursuant to paragraph (e)(6) of this section.

(6) In the event any person performs the writer and deskman functions on the same shift, the procedures described in paragraphs (k)(5)(i) and (ii) of this section (using the sample sizes indicated) shall be performed on tickets written by that person.

(7) Documentation (e.g., a log, checklist, etc.) which evidences the

VOL 66 ISS 247 DE 26 2001 UMI

performance of all keno audit procedures shall be maintained.

(8) Non-keno management shall review keno audit exceptions, and perform and document investigations into unresolved exceptions.

(9) When a multi-game ticket is part of the sample in paragraphs (k)(3)(ii), (k)(5)(i) and (k)(6) of this section, the procedures may be performed for 10 games or 10% of the games won, whichever is greater.

(l) *Access.* Access to the computer system shall be adequately restricted (i.e., passwords are changed at least quarterly, access to computer hardware is physically restricted, etc.).

(m) *Equipment standards.*

(1) There shall be effective maintenance planned to service keno equipment, including computer program updates, hardware servicing, and keno ball selection equipment (e.g., service contract with lessor).

(i) Keno equipment maintenance (excluding keno balls) shall be independent of the operation of the keno game.

(ii) Keno maintenance personnel shall report irregularities to management personnel independent of keno.

(iii) If the gaming operation utilizes a barcode or microchip reader in connection with the play of keno, the reader shall be tested at least annually by personnel independent of the keno department to determine that it is correctly reading the barcode or microchip.

(2) [Reserved]

(n) *Document retention.*

(1) All documents, including computer storage media, discussed in this section shall be retained for five (5) years, except for the following, which shall be retained for at least seven (7) days:

(i) Video recordings and/or digital records of rabbit ears or wheel;

(ii) All copies of winning keno tickets of less than $1,500.00.

(2) [Reserved]

(o) *Multi-race tickets.* (1) Procedures shall be established to notify keno personnel immediately of large multi-race winners to ensure compliance with standards in paragraph (e)(5) of this section.

(2) Procedures shall be established to ensure that keno personnel are aware of multi-race tickets still in process at the end of a shift.

(p) *Manual keno.* For gaming facilities that conduct manual keno games, alternate procedures that provide at least the level of control described by the standards in this section shall be developed and implemented.

§ 542.11 What are the minimum internal control standards for pari-mutuel wagering?

(a) *Exemptions.* (1) The requirements of this section shall not apply to gaming operations who house pari-mutuel wagering operations conducted entirely by a state licensed simulcast service provider pursuant to an approved tribal-state compact if:

(i) The simulcast service provider utilizes its own employees for all aspects of the pari-mutuel wagering operation;

(ii) The gaming operation posts, in a location visible to the public, that the simulcast service provider and its employees are wholly responsible for the conduct of pari-mutuel wagering offered at that location;

(iii) The gaming operation receives a predetermined fee from the simulcast service provider; and

(iv) In addition, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall adopt standards that ensure that the gaming operation receives, from the racetrack, its contractually guaranteed percentage of the handle.

(2) Gaming operations that contract directly with a state regulated racetrack as a simulcast service provider, but whose on-site pari-mutuel operations are conducted wholly or in part by tribal gaming operation employees, shall not be required to comply with paragraphs (h)(5) thru (h)(9) of this section.

(i) If any standard contained within this section conflicts with state law, a tribal-state compact, or a contract, then the gaming operation shall document the basis for noncompliance and shall maintain such documentation for inspection by the Tribal gaming regulatory authority and the Commission.

(ii) In addition, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall adopt standards that ensure that the gaming operation receives, from the racetrack, its contractually guaranteed percentage of the handle.

(b) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(c) *Betting ticket and equipment standards.* (1) All pari-mutuel wagers shall be transacted through the pari-mutuel satellite system. In case of computer failure between the pari-mutuel book and the hub, no tickets shall be manually written.

(2) Whenever a betting station is opened for wagering or turned over to a new writer/cashier, the writer/cashier shall sign on and the computer shall document gaming operation name, station number, the writer/cashier identifier, and the date and time.

(3) A betting ticket shall consist of at least two parts:

(i) An original, which shall be transacted and issued through a printer and given to the patron; and

(ii) A copy that shall be recorded concurrently with the generation of the original ticket either on paper or other storage media (e.g., tape or diskette).

(4) Upon accepting a wager, the betting ticket that is created shall contain the following:

(i) A unique transaction identifier;

(ii) Gaming operation name and station number;

(iii) Race track, race number, horse identification or event identification, as applicable;

(iv) Type of bet(s), each bet amount, total number of bets, and total take; and

(v) Date and time.

(5) All tickets shall be considered final at post time.

(6) If a gaming operation voids a betting ticket written prior to post time, it shall be immediately entered into the system.

(7) Future wagers shall be accepted and processed in the same manner as regular wagers.

(d) *Payout standards.* (1) Prior to making payment on a ticket the writer/cashier shall input the ticket for verification and payment authorization.

(2) The computer shall be incapable of authorizing payment on a ticket that has been previously paid, a voided ticket, a losing ticket, or an unissued ticket.

(e) *Checkout standards.* (1) Whenever the betting station is closed or the writer/cashier is replaced, the writer/cashier shall sign off and the computer shall document the gaming operation name, station number, the writer/cashier identifier, the date and time, and cash balance.

(2) For each writer/cashier station a summary report shall be completed at the conclusion of each shift including:

(i) Computation of cash turned in for the shift; and

(ii) Signatures of two employees who have verified the cash turned in for the shift.

(f) *Employee wagering.* Pari-mutuel employees shall be prohibited from wagering on race events while on duty, including during break periods.

(g) *Computer reports standards.* (1) Adequate documentation of all pertinent pari-mutuel information shall be generated by the computer system.

(2) This documentation shall be restricted to authorized personnel.

(3) The documentation shall be created for each day's operation and shall include, but is not limited to:

(i) Unique transaction identifier;

(ii) Date/time of transaction;

(iii) Type of wager;

(iv) Animal identification or event identification;

(v) Amount of wagers (by ticket, writer/SAM, track/event, and total);

(vi) Amount of payouts (by ticket, writer/SAM, track/event, and total);

(vii) Tickets refunded (by ticket, writer, track/event, and total);

(viii) Unpaid winners/vouchers ("outs") (by ticket/voucher, track/event, and total);

(ix) Voucher sales/payments (by ticket, writer/SAM, and track/event);

(x) Voids (by ticket, writer, and total);

(xi) Future wagers (by ticket, date of event, total by day, and total at the time of revenue recognition);

(xii) Results (winners and payout data);

(xiii) Breakage data (by race and track/event);

(xiv) Commission data (by race and track/event); and

(xv) Purged data (by ticket and total).

(4) The system shall generate the following reports:

(i) A reconciliation report that summarizes totals by track/event, including write, the day's winning ticket total, total commission and breakage due the gaming operation, and net funds transferred to or from the gaming operation's bank account;

(ii) An exception report that contains a listing of all system functions and overrides not involved in the actual writing or cashing of tickets, including sign-on/off, voids, and manually input paid tickets; and

(iii) A purged ticket report that contains a listing of the unique transaction identifier, description, ticket cost and value, and date purged.

(h) *Accounting and auditing functions.* A gaming operation shall perform the following accounting and auditing functions:

(1) The pari-mutuel audit shall be conducted by someone independent of the pari-mutuel operation.

(2) Documentation shall be maintained evidencing the performance of all pari-mutuel accounting and auditing procedures.

(3) An accounting employee shall review handle, commission, and breakage for each day's play and recalculate the net amount due to or from the systems operator on a weekly basis.

(4) The accounting employee shall verify actual cash/cash equivalents turned in to the system's summary report for each cashier's drawer (Beginning balance, (+) fills (draws), (+) net write (sold less voids), (-) payouts (net of IRS withholding), (-) cashbacks (paids), (=) cash turn-in).

(5) An accounting employee shall produce a gross revenue recap report to calculate gross revenue for each day's play and for a month-to-date basis, including the following totals:

(i) Commission;

(ii) Positive breakage;

(iii) Negative breakage;

(iv) Track/event fees;

(v) Track/event fee rebates; and

(vi) Purged tickets.

(6) All winning tickets and vouchers shall be physically removed from the SAM's for each day's play.

(7) In the event a SAM does not balance for a day's play, the auditor shall perform the following procedures:

(i) Foot the winning tickets and vouchers deposited and trace to the totals of SAM activity produced by the system;

(ii) Foot the listing of cashed vouchers and trace to the totals produced by the system;

(iii) Review all exceptions for propriety of transactions and unusual occurrences;

(iv) Review all voids for propriety;

(v) Verify the results as produced by the system to the results provided by an independent source;

(vi) Regrade 1% of paid (cashed) tickets to ensure accuracy and propriety; and

(vii) When applicable, reconcile the totals of future tickets written to the totals produced by the system for both earned and unearned take, and review the reports to ascertain that future wagers are properly included on the day of the event.

(8) At least annually the auditor shall foot the wagers for one day and trace to the total produced by the system.

(9) At least one day per quarter, the auditor shall recalculate and verify the change in the unpaid winners to the total purged tickets.

§ 542.12 What are the minimum internal control standards for table games?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Standards for drop and count.* The procedures for the collection of table game drop boxes and the count of the contents thereof shall comply with this part as it is applicable to table game drop and table game soft count.

(c) *Fill and credit standards.* (1) Fill slips and credit slips shall be in at least triplicate form, and in a continuous, prenumbered series. Such slips shall be concurrently numbered in a form utilizing the alphabet and only in one series at a time. The alphabet need not be used if the numerical series is not repeated during the business year.

(2) Unissued and issued fill/credit slips shall be safeguarded and adequate procedures shall be employed in their distribution, use, and control. Personnel from the cashier or pit departments shall have no access to the secured (control) copies of the fill/credit slips.

(3) When a fill/credit slip is voided, the cashier shall clearly mark "void" across the face of the original and first copy, the cashier and one other person independent of the transactions shall sign both the original and first copy, and shall submit them to the accounting department for retention and accountability.

(4) Fill transactions shall be authorized by a pit supervisor before the issuance of fill slips and transfer of chips, tokens, or cash equivalents. The fill request shall be communicated to the cage where the fill slip is prepared.

(5) At least three parts of each fill slip shall be utilized as follows:

(i) One part shall be transported to the pit with the fill and, after the appropriate signatures are obtained, deposited in the table game drop box;

(ii) One part shall be retained in the cage for reconciliation of the cashier bank; and

(iii) For computer systems, one part shall be retained in a secure manner to insure that only authorized persons may gain access to it. For manual systems, one part shall be retained in a secure manner in a continuous unbroken form.

(6) For Tier C gaming operations, the part of the fill slip that is placed in the table game drop box shall be of a different color for fills than for credits, unless the type of transaction is clearly distinguishable in another manner (the checking of a box on the form shall not be a clearly distinguishable indicator).

(7) The table number, shift, and amount of fill by denomination and in total shall be noted on all copies of the fill slip. The correct date and time shall be indicated on at least two copies.

(8) All fills shall be carried from the cashier's cage by an individual who is independent of the cage or pit.

(9) The fill slip shall be signed by at least the following individuals (as an indication that each has counted the

amount of the fill and the amount agrees with the fill slip):

(i) Cashier who prepared the fill slip and issued the chips, tokens, or cash equivalent:

(ii) Runner who carried the chips, tokens, or cash equivalents from the cage to the pit;

(iii) Dealer who received the chips, tokens, or cash equivalents at the gaming table; and

(iv) Pit supervisor who supervised the fill transaction.

(10) Fills shall be broken down and verified by the dealer in public view before the dealer places the fill in the table tray.

(11) A copy of the fill slip shall then be deposited into the drop box on the table by the dealer, where it shall appear in the soft count room with the cash receipts for the shift.

(12) Table credit transactions shall be authorized by a pit supervisor before the issuance of credit slips and transfer of chips, tokens, or other cash equivalent. The credit request shall be communicated to the cage where the credit slip is prepared.

(13) At least three parts of each credit slip shall be utilized as follows:

(i) Two parts of the credit slip shall be transported by the runner to the pit. After the appropriate signatures are obtained, one copy shall be deposited in the table game drop box and one copy shall accompany transport of the chips, tokens, markers, or cash equivalents from the pit to the cage.

(ii) For computer systems, one part shall be retained in a secure manner to insure that only authorized persons may gain access to it. For manual systems, one part shall be retained in a secure manner in a continuous unbroken form.

(14) The table number, shift, and the amount of credit by denomination and in total shall be noted on all copies of the credit slip. The correct date and time shall be indicated on at least two copies.

(15) Chips, tokens, and/or cash equivalents shall be removed from the table tray by the dealer and shall be broken down and verified by the dealer in public view prior to placing them in racks for transfer to the cage.

(16) All chips, tokens, and cash equivalents removed from the tables and markers removed from the pit shall be carried to the cashier's cage by an individual who is independent of the cage or pit.

(17) The credit slip shall be signed by at least the following individuals (as an indication that each has counted or, in the case of markers, reviewed the items transferred):

(i) Cashier who received the items transferred from the pit and prepared the credit slip;

(ii) Runner who carried the items transferred from the pit to the cage and returned to the pit with the credit slip;

(iii) Dealer who had custody of the items prior to transfer to the cage; and

(iv) Pit supervisor who supervised the credit transaction.

(18) The credit slip shall be inserted in the drop box by the dealer.

(19) Chips, tokens, or other cash equivalents shall be deposited on or removed from gaming tables only when accompanied by the appropriate fill/credit or marker transfer forms.

(20) Cross fills (the transfer of chips between table games) and even cash exchanges are prohibited in the pit.

(d) *Table inventory forms.* (1) At the close of each shift, for those table banks that were opened during that shift:

(i) The table's chip, token, coin, and marker inventory shall be counted and recorded on a table inventory form; or

(ii) If the table banks are maintained on an imprest basis, a final fill or credit shall be made to bring the bank back to par.

(2) If final fills are not made, beginning and ending inventories shall be recorded on the master game sheet for shift win calculation purposes.

(3) The accuracy of inventory forms prepared at shift end shall be verified by the outgoing pit supervisor and a dealer. Alternatively, if either the outgoing pit supervisor or a dealer is not available, such verification may be provided by another pit supervisor or another supervisor from another gaming department. Verifications shall be evidenced by signature on the inventory form.

(4) If inventory forms are placed in the drop box, such action shall be performed by someone other than a pit supervisor.

(e) *Table games computer generated documentation standards.* (1) The computer system shall be capable of generating adequate documentation of all information recorded on the source documents and transaction detail (e.g., fill/credit slips, markers, etc.).

(2) This documentation shall be restricted to authorized personnel.

(3) The documentation shall include, at a minimum:

(i) System exception information (e.g., appropriate system parameter information, corrections, voids, etc.); and

(ii) Personnel access listing, which includes, at a minimum:

(A) Employee name;

(B) Employee identification number (if applicable); and

(C) Listing of functions employees can perform or equivalent means of identifying the same.

(f) *Standards for playing cards and dice.* (1) Playing cards and dice shall be maintained in a secure location to prevent unauthorized access and to reduce the possibility of tampering.

(2) Used cards and dice shall be maintained in a secure location until marked, scored, or destroyed, in a manner subject to the approval of the Tribal gaming regulatory authority, to prevent unauthorized access and reduce the possibility of tampering.

(3) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish a reasonable time period, which shall not exceed seven (7) days of use, within which to mark and remove cards and dice from play.

(i) This standard shall not apply where playing cards or dice are retained for an investigation.

(ii) [Reserved]

(4) A card control log shall be maintained that documents when cards and dice are received on site, distributed to and returned from tables and removed from the gaming operation.

(g) *Standards for supervision.* Pit supervisory personnel (with authority equal to or greater than those being supervised) shall provide supervision of all table games.

(h) *Analysis of table game performance standards.* (1) Records shall be maintained by day and shift indicating any single-deck blackjack games that were dealt for an entire shift.

(2) Records reflecting hold percentage by table and type of game shall be maintained by shift, by day, cumulative month-to-date, and cumulative year-to-date.

(3) This information shall be presented to and reviewed by management independent of the pit department on at least a monthly basis.

(4) The management in paragraph (h)(3) of this section shall investigate any unusual fluctuations in hold percentage with pit supervisory personnel.

(5) The results of such investigations shall be documented in writing and maintained.

(i) *Accounting/auditing standards.* (1) The accounting and auditing procedures shall be performed by personnel who are independent of the transactions being audited/accounted for.

(2) If a table game has the capability to determine drop (e.g., bill-in/coin-drop meters, bill acceptor, computerized record, etc.) the dollar amount of the

drop shall be reconciled to the actual drop by shift.

(3) Accounting/auditing employees shall review exception reports for all computerized table games systems at least monthly for propriety of transactions and unusual occurrences.

(4) All noted improper transactions or unusual occurrences shall be investigated with the results documented.

(5) Evidence of table games auditing procedures and any follow-up performed shall be maintained and be available upon request by the Commission.

(6) A daily recap shall be prepared for the day and month-to-date which shall include the following information:

(i) Pit credit issues;

(ii) Pit credit payments in chips;

(iii) Pit credit payments in cash;

(iv) Drop;

(v) Win; and

(vi) Gross revenue.

(j) *Marker credit play.* If a gaming operation allows marker credit play (exclusive of rim credit and call bets), the following standards shall apply:

(i) A marker system shall allow for credit to be both issued and repaid in the pit.

(ii) Prior to the issuance of gaming credit to a player, the employee extending the credit shall contact the cashier or other independent source to determine if the player's credit limit has been properly established and there is sufficient remaining credit available for the advance.

(iii) Proper authorization of credit extension in excess of the previously established limit shall be documented.

(iv) The amount of credit extended shall be communicated to the cage or another independent source and the amount documented within a reasonable time subsequent to each issuance.

(v) The marker form shall be prepared in at least triplicate form (triplicate form being defined as three parts performing the functions delineated in the standard in paragraph (j)(1)(vi) of this section), with a preprinted or concurrently-printed marker number, and utilized in numerical sequence. (This requirement shall not preclude the distribution of batches of markers to various pits.)

(vi) At least three parts of each separately numbered marker form shall be utilized as follows:

(A) Original shall be maintained in the pit until settled or transferred to the cage;

(B) Payment slip shall be maintained in the pit until the marker is settled or transferred to the cage. If paid in the pit, the slip shall be inserted in the table game drop box. If not paid in the pit, the slip shall be transferred to the cage with the original;

(C) Issue slip shall be inserted into the appropriate table game drop box when credit is extended or when the player has signed the original.

(vii) When marker documentation (e.g., issue slip and payment slip) is inserted in the drop box, such action shall be performed by the dealer or boxman at the table.

(viii) A record shall be maintained which details the following (e.g., master credit record retained at the pit podium):

(A) The signature or initials of the individual(s) approving the extension of credit (unless such information is contained elsewhere for each issuance);

(B) The legible name of the individual receiving the credit;

(C) The date and shift of granting the credit;

(D) The table on which the credit was extended;

(E) The amount of credit issued;

(F) The marker number;

(G) The amount of credit remaining after each issuance or the total credit available for all issuances;

(H) The amount of payment received and nature of settlement (e.g., credit slip number, cash, chips, etc.); and

(I) The signature or initials of the individual receiving payment/settlement.

(ix) The forms required in paragraphs (j)(1)(v), (vi), and (viii) of this section shall be safeguarded, and adequate procedures shall be employed to control the distribution, use, and access to these forms.

(x) All credit extensions shall be initially evidenced by lammer buttons, which shall be displayed on the table in public view and placed there by supervisory personnel.

(xi) Marker preparation shall be initiated and other records updated within approximately one hand of play following the initial issuance of credit to the player.

(xii) Lammer buttons shall be removed only by the dealer or boxman employed at the table upon completion of a marker transaction.

(xiii) The original marker shall contain at least the following information:

(A) Marker number;

(B) Player's name and signature;

(C) Date; and

(D) Amount of credit issued.

(xiv) The issue slip or stub shall include the same marker number as the original, the table number, date and time of issuance, and amount of credit issued. The issue slip or stub shall also include the signature of the individual extending the credit, and the signature or initials of the dealer or boxman at the applicable table, unless this information is included on another document verifying the issued marker.

(xv) The payment slip shall include the same marker number as the original. When the marker is paid in full in the pit, it shall also include the table number where paid, date and time of payment, nature of settlement (cash, chips, etc.), and amount of payment. The payment slip shall also include the signature of a pit supervisor acknowledging payment, and the signature or initials of the dealer or boxman receiving payment, unless this information is included on another document verifying the payment of the marker.

(xvi) When partial payments are made in the pit, a new marker shall be completed reflecting the remaining balance and the marker number of the marker originally issued.

(xvii) When partial payments are made in the pit, the payment slip of the marker which was originally issued shall be properly cross-referenced to the new marker number, completed with all information required by paragraph (j)(1)(xv) of this section, and inserted into the drop box.

(xviii) The cashier's cage or another independent source shall be notified when payments (full or partial) are made in the pit so that cage records can be updated for such transactions. Notification shall be made no later than when the patron's play is completed or at shift end, whichever is earlier.

(xix) All portions of markers, both issued and unissued, shall be safeguarded and procedures shall be employed to control the distribution, use and access to the forms.

(xx) An investigation shall be performed to determine the cause and responsibility for loss whenever marker forms, or any part thereof, are misusing. The result of the investigation shall be documented and maintained for inspection.

(xxi) When markers are transferred to the cage, marker transfer forms or marker credit slips (or similar documentation) shall be utilized and such documents shall include, at a minimum, the date, time, shift, marker number(s), table number(s), amount of each marker, the total amount transferred, signature of pit supervisor releasing instruments from the pit, and the signature of cashier verifying receipt of instruments at the cage.

(xxii) All markers shall be transferred to the cage within 24 hours of issuance.

VOL 66 ISS 247 DE 26 2001 UMI

(xxiii) Markers shall be transported to the cashier's cage by an individual who is independent of the marker issuance and payment functions (pit clerks may perform this function).

(2) [Reserved]

(k) *Name credit instruments accepted in the pit.* For the purposes of this paragraph, name credit instruments means personal checks, payroll checks, counter checks, hold checks, traveler's checks, or other similar instruments that are accepted in the pit as a form of credit issuance to a player with an approved credit limit.

(2) The following standards shall apply if name credit instruments are accepted in the pit:

(i) A name credit system shall allow for the issuance of credit without using markers;

(ii) Prior to accepting a name credit instrument, the employee extending the credit shall contact the cashier or another independent source to determine if the player's credit limit has been properly established and the remaining credit available is sufficient for the advance;

(iii) All name credit instruments shall be transferred to the cashier's cage (utilizing a two-part order for credit) immediately following the acceptance of the instrument and issuance of chips (if name credit instruments are transported accompanied by a credit slip, an order for credit is not required);

(iv) The order for credit (if applicable) and the credit slip shall include the patron's name, amount of the credit instrument, the date, time, shift, table number, signature of pit supervisor releasing instrument from pit, and the signature of cashier verifying receipt of instrument at the cage;

(v) The procedures for transacting table credits at standards in paragraphs (j)(1)(xvi) through (xxiii) of this section shall be strictly adhered to; and

(vi) The acceptance of payments in the pit for name credit instruments shall be prohibited.

(l) *Call bets.*

(1) The following standards shall apply if call bets are accepted in the pit:

(i) A call bet shall be evidenced by the placement of a lammer button, chips, or other identifiable designation in an amount equal to that of the wager in a specific location on the table;

(ii) The placement of the lammer button, chips, or other identifiable designation shall be performed by supervisory/boxmen personnel. The placement may be performed by a dealer only if the supervisor physically observes and gives specific authorization;

(iii) The call bet shall be settled at the end of each hand of play by the preparation of a marker, repayment of the credit extended, or the payoff of the winning wager. Call bets extending beyond one hand of play shall be prohibited; and

(iv) The removal of the lammer button, chips, or other identifiable designation shall be performed by the dealer/boxman upon completion of the call bet transaction.

(2) [Reserved]

(m) *Rim credit.*

(1) The following standards shall apply if rim credit is extended in the pit:

(i) Rim credit shall be evidenced by the issuance of chips to be placed in a neutral zone on the table and then extended to the patron for the patron to wager, or to the dealer to wager for the patron, and by the placement of a lammer button or other identifiable designation in an amount equal to that of the chips extended; and

(ii) Rim credit shall be recorded on player cards, or similarly used documents, which shall be:

(A) Prenumbered or concurrently numbered and accounted for by a department independent of the pit;

(B) For all extensions and subsequent repayments, evidenced by the initials or signatures of a supervisor and the dealer attesting to the validity of each credit extension and repayment;

(C) An indication of the settlement method (e.g., serial number of marker issued, chips, cash);

(D) Settled no later than when the patron leaves the table at which the card is prepared;

(E) Transferred to the accounting department on a daily basis; and

(F) Reconciled with other forms utilized to control the issuance of pit credit (e.g., master credit records, table cards).

(2) [Reserved]

(n) *Foreign currency.* (l) The following standards shall apply if foreign currency is accepted in the pit:

(i) Foreign currency transactions shall be authorized by a pit supervisor/boxman who completes a foreign currency exchange form before the exchange for chips or tokens;

(ii) Foreign currency exchange forms include the country of origin, total face value, amount of chips/token extended (i.e., conversion amount), signature of supervisor/boxman, and the dealer completing the transaction;

(iii) Foreign currency exchange forms and the foreign currency shall be inserted in the drop box by the dealer; and

(iv) Alternate procedures specific to the use of foreign valued gaming chips shall be developed by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority.

(2) [Reserved]

§ 542.13 What are the minimum internal control standards for gaming machines?

(a) *Standards for gaming machines.*

(1) For this section only, credit or customer credit means a unit of value equivalent to cash or cash equivalents deposited, wagered, won, lost, or redeemed by a patron.

(2) Coins shall include tokens.

(3) For all computerized gaming machine systems, a personnel access listing shall be maintained which includes at a minimum:

(i) Employee name; or

(ii) Employee identification number (or equivalent); and

(iii) Listing of functions employee can perform or equivalent means of identifying same.

(b) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(c) *Standards for drop and count.* The procedures for the collection of the gaming machine drop and the count thereof shall comply with § 542.21, § 542.31, or § 542.41 (as applicable).

(d) *Jackpot payouts, gaming machines fills, short pays and accumulated credit payouts standards.* (1) For jackpot payouts and gaming machine fills, documentation shall include the following information:

(i) Date and time;

(ii) Machine number;

(iii) Dollar amount of cash payout or gaming machine fill (both alpha and numeric) or description of personal property awarded, including fair market value. Alpha is optional if another unalterable method is used for evidencing the amount of the payout;

(iv) Game outcome (including reel symbols, card values, suits, etc.) for jackpot payouts. Game outcome is not required if a computerized jackpot/fill system is used;

(v) Signatures of at least two employees verifying and witnessing the payout or gaming machine fill; however, on graveyard shifts (eight-hour maximum) payouts/fills less than $100 can be made without the payout/fill being witnessed if the second person signing can reasonably verify that a payout/fill is justified. Alternatively, with regard to jackpot payouts, the signature of one employee is sufficient if an on-line accounting system is utilized and the jackpot is less than $1,200; and

(vi) Preprinted or concurrently printed sequential number.

(2) Jackpot payouts over a predetermined amount shall require the signature and verification of a supervisory or management employee independent of the gaming machine department. This predetermined amount shall be authorized by management (subject to the approval of the Tribal gaming regulatory authority), documented, and maintained.

(3) For short pays of $10.00 or more, and payouts required for accumulated credits, the payout form includes:

(i) Date and time;

(ii) Machine number;

(iii) Dollar amount of payout (both alpha and numeric); and

(iv) Signatures of at least two employees verifying and witnessing the payout.

(4) Computerized jackpot/fill systems shall be restricted so as to prevent unauthorized access and fraudulent payouts by one individual as required by § 542.16(a).

(5) Payout forms shall be controlled and routed in a manner that precludes any one individual from producing a fraudulent payout by forging signatures or by altering the amount paid out subsequent to the payout and misappropriating the funds.

(e) *Promotional payouts or awards.* (1) If a gaming operation offers promotional payouts or awards that are not reflected on the gaming machine pay table, then the payout form/documentation shall include:

(i) Date and time;

(ii) Machine number and denomination;

(iii) Dollar amount of payout or description of personal property (e.g., jacket, toaster, car, etc.), including fair market value;

(iv) Type of promotion (e.g., double jackpots, four-of-a-kind bonus, etc.); and

(v) Signature of at least one employee authorizing and completing the transaction.

(2) [Reserved]

(f) *Gaming machine department funds standards.* (1) The gaming machine booths and change banks, which are active during the shift, shall be counted down and reconciled each shift utilizing appropriate accountability documentation.

(2) The wrapping of loose gaming machine booth and cage cashier coin shall be performed at a time or location that does not interfere with the hard count/wrap process or the accountability of that process.

(3) A record shall be maintained evidencing the transfers of wrapped and unwrapped coins and retained for seven (7) days.

(g) *EPROM control standards.* (1) At least annually, procedures shall be performed to insure the integrity of a sample of gaming machine game program EPROMs, or other equivalent game software media, by personnel independent of the gaming operation or the machines being tested.

(2) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall develop and implement procedures for the following:

(i) Removal of EPROMs, or other equivalent game software media, from devices, the verification of the existence of errors as applicable, and the correction via duplication from the master game program EPROM, or other equivalent game software media.

(ii) Copying one gaming device program to another approved program;

(iii) Verification of duplicated EPROMs before being offered for play;

(iv) Receipt and destruction of EPROMs, or other equivalent game software media; and

(v) Securing the EPROM, or other equivalent game software media, duplicator, and master game EPROMs, or other equivalent game software media, from unrestricted access.

(3) The master game program number, par percentage, and the pay table shall be verified to the par sheet when initially received from the manufacturer.

(4) Gaming machines with potential jackpots in excess of $100,000 shall have the game software circuit boards locked or physically sealed. The lock or seal shall necessitate the presence of an individual independent of the gaming machine department to access the device game program EPROM, or other equivalent game software media. If a seal is used to secure the board to the frame of the gaming device, it shall be pre-numbered.

(5) Records that document the procedures in paragraph (g)(2)(i) of this section shall include the following information:

(i) Date;

(ii) Machine number (source and destination);

(iii) Manufacturer;

(iv) Program number;

(v) Personnel involved;

(vi) Reason for duplication;

(vii) Disposition of any permanently removed EPROM, or other equivalent game software media; (viii) Seal numbers, if applicable; and

(ix) Approved testing lab approval numbers, if available.

(6) EPROMS, or other equivalent game software media, returned to gaming devices shall be labeled with the program number. Supporting documentation shall include the date, program number, information identical to that shown on the manufacturer's label, and initials of the individual replacing the EPROM, or other equivalent game software media.

(h) *Standards for evaluating theoretical and actual hold percentages.* (1) Accurate and current theoretical hold worksheets shall be maintained for each gaming machine.

(2) For those gaming machines or groups of identical machines (excluding multi-game machines) with differences in theoretical payback percentage exceeding a 4% spread between the minimum and maximum theoretical payback, an employee or department independent from the gaming machine department shall:

(i) On a quarterly basis, record the meters that contain the number of plays by wager (i.e., one coin, two coins, etc.);

(ii) On an annual basis, calculate the theoretical hold percentage based on the distribution of plays by wager type;

(iii) On an annual basis, adjust the machine(s) theoretical hold percentage in the gaming machine statistical report to reflect this revised percentage; and

(iv) For those gaming machines that do not record the number of plays by wager, the following alternative standard shall apply:

(A) On at least an annual basis, calculate the actual hold percentage for each gaming machine;

(B) On at least an annual basis, adjust the theoretical hold percentages for each gaming machine to the previously calculated actual hold percentage; and

(C) The adjusted theoretical hold percentage shall be within the spread between the minimum and maximum theoretical payback percentages.

(3) For multi-game machines with a four percent (4%) or greater spread between minimum and maximum theoretical payback percentages, an employee or department independent of the gaming machine department shall:

(i) Weekly, record the total coin-in meter;

(ii) Quarterly, record the coin-in meters for each game contained in the machine; and

(iii) On an annual basis, adjust the theoretical hold percentage to a weighted average based upon the ratio of coin-in for each game.

(4) The adjusted theoretical hold percentage for multi-game machines may be combined for machines with

exactly the same game mix throughout the year.

(5) The theoretical hold percentages used in the gaming machine analysis reports should be within the performance standards set by the manufacturer.

(6) Records shall be maintained for each machine indicating the dates and type of changes made and the recalculation of theoretical hold as a result of the changes.

(7) Records shall be maintained for each machine which indicate the date the machine was placed into service, the date the machine was removed from operation, the date the machine was placed back into operation, and any changes in machine numbers and designations.

(8) All of the gaming machines shall contain functioning meters which shall record coin-in or credit-in, or on-line gaming machine monitoring system that captures similar data.

(9) All gaming machines with bill acceptors shall contain functioning bill-in meters that record the dollar amounts or number of bills accepted by denomination.

(10) Gaming machine in-meter readings shall be recorded at least weekly (monthly for Tier A and Tier B gaming operations) immediately prior to or subsequent to a gaming machine drop. On-line gaming machine monitoring systems can satisfy this requirement. However, the time between readings may extend beyond one week in order for a reading to coincide with the end of an accounting period only if such extension is for no longer than six days. In-meter readings should be retained for at least five years.

(11) The employee who records the in-meter reading shall either be independent of the hard count team or shall be assigned on a rotating basis, unless the in-meter readings are randomly verified quarterly for all gaming machines and cash acceptors by someone other than the regular in-meter reader.

(12) Upon receipt of the meter reading summary, the accounting department shall review all meter readings for reasonableness using pre-established parameters.

(13) Prior to final preparation of statistical reports, meter readings that do not appear reasonable shall be reviewed with gaming machine department employees, and exceptions documented, so that meters can be repaired or clerical errors in the recording of meter readings can be corrected.

(14) A report shall be produced at least monthly showing month-to-date, year-to-date (previous twelve (12) months data preferred), and if practicable, life-to-date actual hold percentage computations for individual machines and a comparison to each machine's theoretical hold percentage previously discussed.

(15) Each change to a gaming machine's theoretical hold percentage, including progressive percentage contributions, shall result in that machine being treated as a new machine in the statistical reports (i.e., not commingling various hold percentages).

(16) If promotional payouts or awards are included on the gaming machine statistical reports, it shall be in a manner that prevents distorting the actual hold percentages of the affected machines.

(17) A report shall be produced at least monthly showing year-to-date combined gaming machine performance, by denomination. The report shall include the following for each denomination:

(i) Combined actual hold percentage;

(ii) Percentage variance; and

(iii) Projected dollar variance (i.e., coin-in times the percentage variance).

(18) The statistical reports shall be reviewed by both gaming machine department management and management employees independent of the gaming machine department on at least a monthly basis.

(19) Large variances (± 3% recommended) between theoretical hold and actual hold, for those machines in play for more than six (6) months, shall be investigated and resolved with the findings documented in a timely manner.

(20) Maintenance of the on-line gaming machine monitoring system data files shall be performed by a department independent of the gaming machine department. Alternatively, maintenance may be performed by gaming machine supervisory employees if sufficient documentation is generated and it is randomly verified on a monthly basis by employees independent of the gaming machine department.

(21) Updates to the on-line gaming machine monitoring system to reflect additions, deletions, or movements of gaming machines shall be made at least weekly prior to in-meter readings and the weigh process.

(i) *Gaming machine hopper contents standards.* When machines are removed from the floor, the gaming machine drop and hopper contents shall be counted and recorded by at least two employees with appropriate documentation being routed to the accounting department for proper recording and accounting for initial hopper loads.

(j) *Player tracking system.*

(1) The following standards apply if a player tracking system is utilized:

(i) The player tracking system shall be secured so as to prevent unauthorized access (e.g., changing passwords at least quarterly and physical access to computer hardware, etc.).

(ii) The addition of points to members' accounts other than through actual gaming machine play shall be sufficiently documented (including substantiation of reasons for increases) and shall be authorized by a department independent of the player tracking and gaming machines. Alternatively, addition of points to members' accounts may be authorized by gaming machine supervisory employees if sufficient documentation is generated and it is randomly verified by employees independent of the gaming machine department on a quarterly basis.

(iii) Booth employees who redeem points for members shall be allowed to receive lost cards, provided that they are immediately deposited into a secured container for retrieval by independent personnel.

(iv) Changes to the player tracking system parameters, such as point structures and employee access, shall be performed by supervisory employees independent of the gaming machine department. Alternatively, changes to player tracking system parameters may be performed by gaming machine supervisory employees if sufficient documentation is generated and it is randomly verified by supervisory employees independent of the gaming machine department on a monthly basis.

(v) All other changes to the player tracking system shall be appropriately documented.

(2) [Reserved]

(k) *In-house progressive gaming machine standards.* (1) A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

(i) At least once each day, each gaming operation shall record the amount shown on each progressive jackpot meter at the gaming operation's establishment except for those jackpots that can be paid directly from the machine's hopper;

(ii) Explanations for meter reading decreases shall be maintained with the progressive meter reading sheets, and where the payment of a jackpot is the explanation for a decrease, the gaming operation shall record the jackpot payout number on the sheet or have the number reasonably available; and

(iii) Each gaming operation shall record the base amount of each progressive jackpot the gaming operation offers.

(iv) The Tribal gaming regulatory authority shall approve procedures specific to the transfer of progressive amounts in excess of the base amount to other gaming machines. Such procedures may also include other methods of distribution that accrue to the benefit of the gaming public via an award or prize.

(2) [Reserved]

(l) *Wide area progressive gaming machine standards.*

(1)A meter that shows the amount of the progressive jackpot shall be conspicuously displayed at or near the machines to which the jackpot applies.

(i) At least once each day, each gaming operation shall record the amount shown on each progressive jackpot meter at the gaming operation's establishment except for those jackpots that can be paid directly from the machine's hopper;

(ii) Explanations for meter reading decreases shall be maintained with the progressive meter reading sheets, and where the payment of a jackpot is the explanation for a decrease, the gaming operation shall record the jackpot payout number on the sheet or have the number reasonably available; and

(iii) Each gaming operation shall record the base amount of each progressive jackpot the gaming operation offers.

(2) As applicable to participating gaming operations, the wide area progressive gaming machine system shall be adequately restricted to prevent unauthorized access (e.g., changing passwords at least quarterly, restrict access to EPROMs or other equivalent game software media, and restrict physical access to computer hardware, etc.).

(3) For the wide area progressive system, procedures shall be developed, implemented, documented or contracted for:

(i) Reconciliation of meters and jackpot payouts;

(ii) Collection/drop of gaming machine funds;

(iii) Jackpot verification and payment and billing to gaming operations on pro-rata basis;

(iv) System maintenance;

(v) System accuracy; and

(vi) System security.

(4) Reports, where applicable, adequately documenting the procedures required in paragraph (1)(3) of this section shall be generated and retained.

(m) *Accounting/auditing standards.* (1) Gaming machine accounting/auditing procedures shall be performed by employees who are independent of the transactions being reviewed.

(2) For computerized player tracking systems, an accounting/auditing employee shall perform the following procedures at least one day per month:

(i) Foot all points-redeemed documentation and trace to the system-generated totals; and

(ii) Review all points-redeemed documentation for propriety.

(3) For on-line gaming machine monitoring systems, procedures shall be performed at least monthly to verify that the system is transmitting and receiving data from the gaming machines properly and to verify the continuing accuracy of the coin-in meter readings as recorded in the gaming machine statistical report.

(4) For weigh scale and currency interface systems, for at least one drop period per month accounting/auditing employees shall make such comparisons as necessary to the system generated count as recorded in the gaming machine statistical report, in total. Discrepancies shall be resolved prior to generation/distribution of gaming machine reports.

(5) For each drop period, accounting/auditing personnel shall compare the coin-to-drop meter reading to the actual drop amount. Discrepancies should be resolved prior to generation/distribution of on-line gaming machine monitoring system statistical reports.

(6) Follow-up shall be performed for any one machine having an unresolved variance between actual coin drop and coin-to-drop meter reading in excess of 3% or $25.00, whichever is greater. The follow-up performed and results of the investigation shall be documented and maintained.

(7) At least weekly, accounting/auditing employees shall compare the bill-in meter reading to the total currency acceptor drop amount for the week. Discrepancies shall be resolved before the generation/distribution of gaming machine statistical reports.

(8) Follow-up shall be performed for any one machine having an unresolved variance between actual currency drop and bill-in meter reading in excess of $200.00. The follow-up performed and results of the investigation shall be documented and maintained.

(9) At least annually, accounting/auditing personnel shall randomly verify that EPROM or other equivalent game software media changes are properly reflected in the gaming machine analysis reports.

(10) Accounting/auditing employees shall review exception reports for all computerized gaming machine systems on a daily basis for propriety of transactions and unusual occurrences.

(11) All gaming machine auditing procedures and any follow-up performed shall be documented and maintained for inspection.

(n) *Cash-out tickets.* For gaming machines that utilize cash-out tickets, the following standards apply. This standard is not applicable to Tiers A and B. Tiers A and B shall develop adequate standards governing the security over the issuance of the cash-out paper to the gaming machines and the redemption of cash-out slips.

(1) In addition to the applicable auditing and accounting standards in paragraph (m) of this section, on a quarterly basis, the gaming operation shall foot all jackpot cash-out tickets equal to or greater than $1,200 and trace totals to those produced by the host validation computer system.

(2) The customer may request a cash-out ticket from the gaming machine that reflects all remaining credits. The cash-out ticket shall be printed at the gaming machine by an internal document printer. Cash-out ticket shall be valid for a time period specified by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority. Tickets may be redeemed for payment or inserted in another gaming machine and wagered, if applicable, during the specified time period.

(3) The customer shall redeem the cash-out ticket at a change booth or cashiers' cage. Alternatively, if a gaming operation utilizes a remote computer validation system, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall develop alternate standards, for the maximum amount that can be redeemed, which shall not exceed $1,199.99 per cash-out ticket. Once the cash-out ticket is presented for redemption, the following shall occur:

(i) Scan the bar code via an optical reader or its equivalent; or

(ii) Input the cash-out ticket validation number into the computer.

(4) The information contained in paragraph (n)(3) of this section shall be communicated to the host computer. The host computer shall verify the authenticity of the cash-out ticket and communicate directly to the redeemer of the cash-out ticket.

(5) If valid, the redeemer of the cash-out ticket pays the customer the appropriate amount and the cash-out ticket is electronically noted "paid" in the system. The "paid" cash-out ticket shall remain in the cashiers'' bank for reconciliation purposes. The host

VOL 66 ISS 247 DEC 26 2001 UMI

validation computer system shall electronically reconcile the cashier's banks for the paid cashed-out tickets.

(6) If invalid, the host computer shall notify the redeemer of the cash-out ticket that one of the following conditions exists:

(i) Serial number cannot be found on file (stale date, forgery, etc.);

(ii) Cash-out ticket has already been paid; or

(iii) Amount of cash-out ticket differs from amount on file. The cashier shall refuse payment to the customer and notify a supervisor of the invalid condition. The supervisor shall resolve the dispute.

(7) If the host validation computer system temporarily goes down, cashiers may redeem cash-out tickets after recording the following:

(i) Serial number of the cash-out ticket;

(ii) Date;

(iii) Dollar amount; and

(iv) Issuing gaming machine number.

(8) Cash-out tickets shall be validated as expeditiously as possible when the host validation computer system is restored.

(9) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall develop and implement procedures to control cash-out ticket paper which shall include procedures which:

(i) Mitigate the risk of counterfeiting of cash-out ticket paper;

(ii) Adequately controls the inventory of the cash-out ticket paper; and

(iii) Provide for the destruction of all unused cash-out ticket paper.

(10) If the host validation computer system is down for more than four hours, the gaming operation shall promptly notify the Tribal gaming regulatory authority or its designated representative.

(11) These gaming machine systems shall comply with all other standards (as applicable) in this part including:

(i) Standards for bill acceptor drop and count;

(ii) Standards for coin drop and count; and

(iii) Standards concerning EPROMS or other equivalent game software media.

(o) *Account access cards.* For gaming machines that utilize account access cards to activate play of the machine, the following standards shall apply:

(1) *Equipment.* (i) A central computer, with supporting hardware and software, to coordinate network activities, provide system interface, and store and manage a player/account database;

(ii) A network of contiguous player terminals with touch-screen or button-controlled video monitors connected to an electronic selection device and the central computer via a communications network;

(iii) One or more electronic selection devices, utilizing random number generators, each of which selects any combination or combinations of numbers, colors, and/or symbols for a network of player terminals.

(2) *Player terminals standards.* (i) The player terminals are connected to a game server;

(ii) The game server shall generate and transmit to the bank of player terminals a set of random numbers, colors, and/or symbols at regular intervals. The subsequent game results are determined at the player terminal and the resulting information is transmitted to the account server;

(iii) The game server shall be housed in a game server room or a secure locked cabinet.

(3) *Patron account maintenance standards.* A central computer acting as an account server shall provide customer account maintenance and the deposit/withdrawal function of those account balances;

(ii) Patrons may access their accounts on the computer system by means of a account access card at the player terminal. Each player terminal may be equipped with a card reader and personal identification number (PIN) pad or touch screen array for this purpose;

(iii) All communications between the player terminal and the account server shall be encrypted for security reasons.

(4) *Patron account generation standards.* (i) A computer file for each patron shall be prepared by a clerk, with no incompatible functions, prior to the patron being issued an account access card to be utilized for machine play. The patron may select his/her PIN to be used in conjunction with the account access card.

(ii) The clerk shall sign-on with a unique password to a terminal equipped with peripherals required to establish a customer account. Passwords are issued and can only be changed by information technology personnel at the discretion of the department director.

(iii) After entering a specified number of incorrect PIN entries at the cage or player terminal, the patron shall be directed to proceed to the Gaming Machine Information Center to obtain a new PIN. If a patron forgets, misplaces or requests a change to their PIN, the patron shall proceed to the Gaming Machine Information Center.

(5) *Deposit of credits standards.* (i) The cashier shall sign-on with a unique password to a cashier terminal equipped with peripherals required to complete the credit transactions. Passwords are issued and can only be changed by information technology personnel at the discretion of the department director.

(ii) The patron shall present cash, chips, coin or coupons along with their account access card to a cashier to deposit credits.

(iii) The cashier shall complete the transaction by utilizing a card scanner which the cashier shall slide the patron's account access card through.

(iv) The cashier shall accept the funds from the patron and enter the appropriate amount on the cashier terminal.

(v) A multi-part deposit slip shall be generated by the point of sale receipt printer. The cashier shall direct the patron to sign two copies of the deposit slip receipt. The original of the signed deposit slip shall be given to the patron. The first copy of the signed deposit slip shall be secured in the cashier's cash drawer.

(vi) The cashier shall verify the patron's balance before completing the transaction. The cashier shall secure the funds in their cash drawer and return the account access card to the patron.

(6) *Prize standards.* (i) Winners at the gaming machines may receive cash, prizes redeemable for cash or merchandise.

(ii) If merchandise prizes are to be awarded, the specific type of prize or prizes that may be won shall be disclosed to the player before the game begins.

(iii) The redemption period of account access cards, as approved by the Tribal gaming regulatory authority, shall be conspicuously posted in the gaming operation.

(7) *Credit withdrawal.* The patron shall present their account access card to a cashier to withdraw their credits. The cashier shall perform the following:

(i) Scan the account access card;

(ii) Request the patron to enter their PIN, if the PIN was selected by the patron;

(iii) The cashier shall ascertain the amount the patron wishes to withdraw and enter the amount into the computer;

(iv) A multi-part withdrawal slip shall be generated by the point of sale receipt printer. The cashier shall direct the patron to sign the original and one copy of the withdrawal slip;

(v) The cashier shall verify that the account access card and the patron match by:

(A) Comparing the patron to image on the computer screen of patron's picture ID; or

(B) Comparing the patron signature on the withdrawal slip to signature on the computer screen.

(vi) The cashier shall verify the patron's balance before completing the transaction. The cashier shall pay the patron the appropriate amount, issue the patron the original withdrawal slip and return the account access card to the patron;

(vii) The first copy of the withdrawal slip shall be placed in the cash drawer. All account transactions shall be accurately tracked by the account server computer system. The first copy of the withdrawal slip shall be forwarded to the accounting department at the end of the gaming day; and

(viii) In the event the imaging function is temporarily disabled, patrons shall be required to provide positive ID for cash withdrawal transactions at the cashier stations.

(p) *Smart cards.* All smart cards (i.e., cards that possess the means to electronically store and retrieve data) that maintain the only source of account data are prohibited.

§ 542.14 What are the minimum internal control standards for the cage?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Personal checks, cashier's checks, payroll checks, and counter checks.* (1) If personal checks, cashier's checks, payroll checks, or counter checks are cashed at the cage, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall implement appropriate controls for purposes of security and integrity.

(2) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures for the acceptance of personal checks, collecting and recording checks returned to the gaming operation after deposit, re-deposit, and write-off authorization.

(3) When counter checks are issued, the following shall be included on the check:

(i) The patron's name and signature;

(ii) The dollar amount of the counter check (both alpha and numeric);

(iii) Patron's bank name and bank account number;

(iv) Date of issuance; and

(v) Signature or initials of the individual approving the counter check transaction.

(4) When traveler's checks or other guaranteed drafts such as cashier's checks are presented, the cashier shall comply with the examination and documentation procedures as required by the issuer.

(c) *Customer deposited funds.* If a gaming operation permits a customer to deposit funds with the gaming operation at the cage, the following standards shall apply.

(1) The receipt or withdrawal of a customer deposit shall be evidenced by at least a two-part document with one copy going to the customer and one copy remaining in the cage file.

(2) The multi-part receipt shall contain the following information:

(i) Same receipt number on all copies;

(ii) Customer's name and signature;

(iii) Date of receipt and withdrawal;

(iv) Dollar amount of deposit/withdrawal; and

(v) Nature of deposit (cash, check, chips); however,

(vi) Provided all of the information in paragraph (c)(2)(i) through (v) is available, the only required information for all copies of the receipt is the receipt number.

(3) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures that:

(i) Maintain a detailed record by patron name and date of all funds on deposit;

(ii) Maintain a current balance of all customer cash deposits which are in the cage/vault inventory or accountability; and

(iii) Reconcile this current balance with the deposits and withdrawals at least daily.

(4) The gaming operation, subject to the approval of the Tribal gaming regulatory authority, shall describe the sequence of the required signatures attesting to the accuracy of the information contained on the customer deposit or withdrawal form ensuring that the form is signed by the cashier.

(5) All customer deposits and withdrawal transactions at the cage shall be recorded on a cage accountability form on a per-shift basis.

(6) Only cash, cash equivalents, chips, and tokens shall be accepted from customers for the purpose of a customer deposit.

(7) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures that verify the patron's identity, including photo identification.

(8) A file for patrons shall be prepared prior to acceptance of a deposit.

(d) *Cage and vault accountability standards.* All transactions that flow through the cage shall be summarized on a cage accountability form on a per shift basis and shall be supported by documentation.

(2) The cage and vault (including coin room) inventories shall be counted by the oncoming and outgoing cashiers. These employees shall make individual counts for comparison of accuracy and maintenance of individual accountability. Such counts shall be recorded at the end of each shift during which activity took place. All discrepancies shall be noted and investigated.

(3) The gaming operation cash-on-hand shall include, but is not limited to, the following components:

(i) Currency and coins;

(ii) House chips, including reserve chips;

(iii) Personal checks, cashier's checks, counter checks, and traveler's checks for deposit;

(iv) Customer deposits;

(v) Chips on tables;

(vi) Hopper loads (coins put into machines when they are placed in service); and

(vii) Fills and credits (these documents shall be treated as assets and liabilities, respectively, of the cage during a business day. When win or loss is recorded at the end of the business day, they are removed from the accountability).

(4) The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish a minimum bankroll formula to ensure the gaming operation maintains cash or cash equivalents (on hand and in the bank, if readily accessible) in an amount sufficient to satisfy obligations to the gaming operation's patrons as they are incurred. A suggested bankroll formula will be provided by the Commission upon request.

(e) *Chip and token standards.* The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall establish and the gaming operation shall comply with procedures for the receipt, inventory, storage, and destruction of gaming chips and tokens.

(f) *Coupon standards.* Any program for the exchange of coupons for chips, tokens, and/or another coupon program shall be approved by the Tribal gaming regulatory authority prior to implementation. If approved, the gaming operation shall establish and comply with procedures that account for and control such programs.

(g) *Accounting/auditing standards.* (1) The cage accountability shall be reconciled to the general ledger at least monthly.

(2) A trial balance of gaming operation accounts receivable, including the name of the patron and current balance, shall be prepared at least monthly for active, inactive, settled or written-off accounts.

(3) The trial balance of gaming operation accounts receivable shall be reconciled to the general ledger each month. The reconciliation and any follow-up performed shall be documented and retained.

(4) On a monthly basis an evaluation of the collection percentage of credit issued to identify unusual trends shall be performed.

(5) All cage and credit accounting procedures and any follow-up performed shall be documented.

(h) *Extraneous items.* The Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, shall develop procedures to address the transporting of extraneous items, such as coats, purses, and/or boxes, into and out of the cage, coin room, count room, and/or vault.

§ 542.15 What are the minimum internal control standards for credit?

(a) *Computer applications.* For any computer applications utilized, alternate documentation and/or procedures that provide at least the level of control described by the standards in this section, as approved by the Tribal gaming regulatory authority, will be acceptable.

(b) *Credit standards.* The following standards shall apply if the gaming operation authorizes and extends credit to patrons:

(1) At least the following information shall be recorded for patrons who have credit limits or are issued credit (excluding personal checks, payroll checks, cashier's checks, and traveler's checks):

(i) Patron's name, current address, and signature;

(ii) Identification verifications;

(iii) Authorized credit limit;

(iv) Documentation of authorization by an individual designated by management to approve credit limits; and

(v) Credit issuances and payments.

(2) Prior to extending credit, the patron's gaming operation credit record and/or other documentation shall be examined to determine the following:

(i) Properly authorized credit limit;

(ii) Whether remaining credit is sufficient to cover the credit issuance; and

(iii) Identity of the patron (except for known patrons).

(3) Credit extensions over a specified dollar amount shall be approved by personnel designated by management.

(4) Proper approval of credit extensions over ten percent (10%) of the previously established limit shall be documented.

(5) The job functions of credit approval (i.e., establishing the patron's credit worthiness) and credit extension (i.e., advancing patron's credit) shall be segregated for credit extensions to a single patron of $10,000 or more per day (applies whether the credit is extended in the pit or the cage).

(6) If cage credit is extended to a single patron in an amount exceeding $2,500, appropriate gaming personnel shall be notified on a timely basis of the patrons playing on cage credit, the applicable amount of credit issued, and the available balance.

(7) Cage marker forms shall be at least two parts (the original marker and a payment slip), prenumbered by the printer or concurrently numbered by the computerized system, and utilized in numerical sequence.

(8) The completed original cage marker shall contain at least the following information:

(i) Marker number;

(ii) Player's name and signature; and

(iii) Amount of credit issued (both alpha and numeric).

(9) The completed payment slip shall include the same marker number as the original, date and time of payment, amount of payment, nature of settlement (cash, chips, etc.), and signature of cashier receiving the payment.

(c) *Payment standards.* All payments received on outstanding credit instruments shall be permanently recorded in the gaming operation's records.

(2) When partial payments are made on credit instruments, they shall be evidenced by a multi-part receipt (or another equivalent document) which contains:

(i) The same preprinted number on all copies;

(ii) Patron's name;

(iii) Date of payment;

(iv) Dollar amount of payment (or remaining balance if a new marker is issued), and nature of settlement (cash, chips, etc.);

(v) Signature of employee receiving payment; and

(vi) Number of credit instrument on which partial payment is being made.

(3) Unless account balances are routinely confirmed on a random basis by the accounting or internal audit departments, or statements are mailed by someone independent of the credit transactions and collections thereon, and the department receiving payments cannot access cash, then the following standards shall apply:

(i) The routing procedures for payments by mail require that they be received by a department independent of credit instrument custody and collection;

(ii) Such receipts by mail shall be documented on a listing indicating the customer's name, amount of payment, nature of payment (if other than a check), and date payment received; and

(iii) The total amount of the listing of mail receipts shall be reconciled with the total mail receipts recorded on the appropriate accountability form by the accounting department on a random basis (for at least three days per month).

(d) *Access to credit documentation.* (1) Access to credit documentation shall be restricted as follows:

(i) The credit information shall be restricted to those positions that require access and are so authorized by management;

(ii) Outstanding credit instruments shall be restricted to persons authorized by management; and

(iii) Written-off credit instruments shall be further restricted to individuals specified by management.

(2) [Reserved]

(e) *Maintenance of credit documentation.* (1) All extensions of cage credit, pit credit transferred to the cage, and subsequent payments shall be documented on a credit instrument control form.

(2) Records of all correspondence, transfers to and from outside agencies, and other documents related to issued credit instruments shall be maintained.

(f) *Write-off and settlement standards.* (1) Written-off or settled credit instruments shall be authorized in writing.

(2) Such authorizations shall be made by at least two management officials who are from departments independent of the credit transaction.

(g) *Collection agency standards.* (1) If credit instruments are transferred to collection agencies or other collection representatives, a copy of the credit instrument and a receipt from the collection representative shall be obtained and maintained until the original credit instrument is returned or payment is received.

(2) An individual independent of credit transactions and collections shall periodically review the documents in paragraph (g)(1) of this section.

(h) Accounting/auditing standards.

(1) An individual independent of the cage, credit, and collection functions shall perform all of the following at least three (3) times per year:

(i) Ascertain compliance with credit limits and other established credit issuance procedures;

(ii) Randomly reconcile outstanding balances of both active and inactive accounts on the accounts receivable listing to individual credit records and physical instruments;

(iii) Examine credit records to determine that appropriate collection efforts are being made and payments are being properly recorded; and

(iv) For a minimum of five (5) days per month, partial payment receipts shall be subsequently reconciled to the total payments recorded by the cage for the day and shall be numerically accounted for.

(2) [Reserved]

§ 542.16 What are the minimum internal control standards for information technology?

(a) *General controls for gaming hardware and software.* (1) Management shall take an active role in making sure that physical and logical security measures are implemented, maintained, and adhered to by personnel to prevent unauthorized access that could cause errors or compromise data or processing integrity.

(i) Management shall ensure that all new gaming vendor hardware and software agreements/contracts will contain language requiring the vendor to adhere to the tribal minimum internal control standards.

(ii) Physical security measures shall exist over computer, computer terminals, and storage media to prevent unauthorized access and loss of integrity of data and processing.

(iii) Access to systems software and application programs shall be limited to authorized personnel.

(iv) Access to computer data shall be limited to authorized personnel.

(v) Access to computer communications facilities, or the computer system, and information transmissions shall be limited to authorized personnel.

(vi) Standards in paragraph (a)(1) of this section shall apply to each applicable department within the gaming operation.

(2) The main computers (i.e., hardware, software, and data files) for each gaming application (e.g., keno, race and sports, gaming machines, etc.) shall be in a secured area with access restricted to authorized persons, including vendors.

(3) Access to computer operations shall be restricted to authorized personnel to reduce the risk of loss of integrity of data or processing.

(4) Incompatible duties shall be adequately segregated and monitored to prevent error in general information technology procedures to go undetected or fraud to be concealed.

(5) Non-information technology personnel shall be precluded from having unrestricted access to the secured computer areas.

(6) The computer systems, including application software, shall be secured through the use of passwords or other approved means where applicable. Management personnel or persons independent of the department being controlled shall assign and control access to system functions.

(7) Passwords shall be controlled as follows unless otherwise addressed in the standards in this section.

(i) Each user shall have their own individual password;

(ii) Passwords shall be changed at least quarterly with changes documented; and

(iii) For computer systems that automatically force a password change on a quarterly basis, documentation shall be maintained listing the systems and the date the user was given access.

(8) Adequate backup and recovery procedures shall be in place which include:

(i) Frequent backup of data files;

(ii) Backup of all programs;

(iii) Secured off-site storage of all backup data files and programs, or other adequate protection; and

(iv) Recovery procedures, which are tested on a sample basis at least annually with documentation of results.

(9) Adequate information technology department system documentation shall be maintained, including descriptions of hardware and software, operator manuals, etc.

(b) *Independence of information technology personnel.* (1) The information technology personnel shall be independent of the gaming areas (e.g., cage, pit, count rooms, etc.). Information technology personnel procedures and controls should be documented and responsibilities communicated.

(2) Information technology personnel shall be precluded from unauthorized access to:

(i) Computers and terminals located in gaming areas;

(ii) Source documents; and

(iii) Live data files (not test data).

(3) Information technology personnel shall be:

(i) Restricted from having unauthorized access to cash or other liquid assets; and

(ii) From initiating general or subsidiary ledger entries.

(c) *Program changes.*

(1) Program changes for in-house developed systems should be documented as follows:

(i) Requests for new programs or program changes shall be reviewed by the information technology supervisor. Approvals to begin work on the program shall be documented;

(ii) A written plan of implementation for new and modified programs shall be maintained and include, at a minimum, the date the program is to be placed into service, the nature of the change, a description of procedures required in order to bring the new or modified program into service (conversion or input of data, installation procedures, etc.), and an indication of who is to perform all such procedures;

(iii) Testing of new and modified programs shall be performed and documented prior to implementation; and

(iv) A record of the final program or program changes, including evidence of user acceptance, date in service, programmer, and reason for changes, shall be documented and maintained.

(2) [Reserved]

(d) *Security logs.* (1) Computer security logs, if generated by the system, shall be reviewed by information technology supervisory personnel for evidence of:

(i) Multiple attempts to log-on, or alternatively, the system shall deny user access after three attempts to log-on;

(ii) Unauthorized changes to live data files; and

(iii) Any other unusual transactions.

(2) This paragraph shall not apply to personal computers.

(e) *Remote dial-up.* (1) If remote dial-up to any associated equipment is allowed for software support, the gaming operation shall maintain an access log that includes:

(i) Name of employee authorizing modem access;

(ii) Name of authorized programmer or manufacturer representative;

(iii) Reason for modem access;

(iv) Description of work performed; and

(v) Date, time, and duration of access.

(2) [Reserved]

(f) *Document storage.* (1) Documents may be scanned or directly stored to an unalterable storage medium under the following conditions.

(i) The storage medium shall contain the exact duplicate of the original document.

(ii) All documents stored on the storage medium shall be maintained with a detailed index containing the gaming operation department and date. This index shall be available upon request by the Commission.

(iii) Upon request and adequate notice by the Commission, hardware (terminal, printer, etc.) shall be made available in order to perform auditing procedures.

(iv) Controls shall exist to ensure the accurate reproduction of records up to and including the printing of stored documents used for auditing purposes.

(v) The storage medium shall be retained for a minimum of five years.

(vi) Original documents must be retained until the books and records have been audited by an independent certified public accountant.

(2) [Rserved]

§ 542.17 What are the minimum internal control standards for complimentary services or items?

(a) Each Tribal gaming regulatory authority or gaming operation shall establish procedures for the authorization, issuance, and tracking of complimentary services and items, including cash and non-cash gifts, and the gaming operation shall comply with such procedures. Such procedures must be approved by the Tribal gaming regulatory authority and shall include, but shall not be limited to, the procedures by which the gaming operation delegates to its employees the authority to approve the issuance of complimentary services and items, and the procedures by which conditions or limits, if any, which may apply to such authority are established and modified (including limits based on relationships between the authorizer and recipient), and shall further include effective provisions for audit purposes.

(b) At least monthly, accounting, information technology, or audit personnel that cannot grant or receive complimentary privileges shall prepare reports that include the following information:

(1) Name of patron who received the complimentary service or item;

(2) Name(s) of authorized issuer of the complimentary service or item;

(3) The actual cash value of the complimentary service or item;

(4) The type of complimentary service or item (i.e., food, beverage, etc.); and

(5) Date the complimentary service or item was issued.

(c) The report required by paragraph (b) of this section shall not be required to include complimentary services or items below a reasonable amount to be established by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority.

(d) The internal audit or accounting departments shall review the reports required in paragraph (b) of this section at least monthly. These reports shall be made available to the Tribe, the Tribal gaming regulatory authority, and the Commission upon request.

§ 542.18 How does a gaming operation apply for a variance from the standards of this part?

(a) *Tribal gaming regulatory authority approval.* (1) A Tribal gaming regulatory authority may approve a variance for a gaming operation if it has determined that the variance will achieve a level of control sufficient to accomplish the purpose of the standard it is to replace.

(2) For each enumerated standard for which the Tribal gaming regulatory authority approves a variance, it shall submit to the Commission, within 30 days, a detailed report, which shall include the following:

(i) A detailed description of the variance;

(ii) An explanation of how the variance achieves a level of control sufficient to accomplish the purpose of the standard it is to replace; and

(iii) Evidence that the Tribal gaming regulatory authority has approved the variance.

(3) In the event that the Tribal gaming regulatory authority or the Tribe chooses to submit a variance request directly to the Commission, it may do so without the approval requirement set forth in paragraph (a)(2)(iii) of this section.

(b) *Commission concurrence.* (1) Following receipt of the variance approval, the Commission shall have 90 days to concur with or object to the approval of the variance.

(2) Any objection raised by the Commission shall be in the form of a written explanation based upon the following criteria:

(i) There is no valid explanation of why the gaming operation should have received a variance approval from the Tribal gaming regulatory authority on the enumerated standard; or

(ii) The variance as approved by the Tribal gaming regulatory authority does not provide a level of control sufficient to accomplish the purpose of the standard it is to replace.

(3) If the Commission fails to object in writing within 90 days after the date of receipt of a complete submission, the variance shall be considered concurred with by the Commission.

(4) The 90-day deadline may be extended, provided such extension is mutually agreed upon by the Tribal gaming regulatory authority and the Commission.

(c) *Curing Commission objections.* (1) Following an objection by the Commission to the issuance of a variance, the Tribal gaming regulatory authority shall have the opportunity to cure any objections noted by the Commission.

(2) A Tribal gaming regulatory authority may cure the objections raised by the Commission by:

(i) Rescinding its initial approval of the variance; or

(ii) Amending its initial approval and re-submitting it to the Commission.

(3) Upon any re-submission of a variance approval, the Commission shall have 30 days to concur with or object to the re-submitted variance.

(4) If the Commission fails to object in writing within 30 days after the date of receipt of the re-submitted variance, the re-submitted variance shall be considered concurred with by the Commission.

(d) *Appeals.* (1) Upon receipt of objections to a re-submission of a variance, the Tribal gaming regulatory authority shall be entitled to an appeal before the full Commission in accordance with the following process:

(i) Within 30 days of receiving an objection to a re-submission, the Tribal gaming regulatory authority shall file its notice of appeal.

(ii) Failure to file an appeal within the time provided by this section shall result in a waiver of the opportunity for an appeal.

(iii) An appeal under this section shall specify the reasons why the Tribal gaming regulatory authority believes the Commission's objections should be reviewed, and shall include supporting documentation, if any.

(iv) Within 30 days after receipt of the appeal, the Commission shall render a decision unless the appellant elects to provide the Commission additional time, not to exceed an additional 30 days, to render a decision.

(v) In the absence of a decision within the time provided, the Tribal gaming regulatory authority's re-submission shall be considered concurred with by the Commission and become effective.

(2) [Reserved]

(e) *Effective date of variance.* The gaming operation shall comply with standards that achieve a level of control sufficient to accomplish the purpose of the standard it is to replace until such time as the Commission objects to the Tribal gaming regulatory authority's approval of a variance as provided in paragraph (b) of this section.

Tier A Gaming Operations

§ 542.20 What is a Tier A gaming operation?

A Tier A gaming operation is one with annual gross gaming revenues of more than $1 million but not more than $5 million.

§ 542.21 What are the minimum internal control standards for drop and count for Tier A gaming operations?

(a) *Table game drop standards.* (1) The setting out of empty table game drop boxes and the drop shall be a continuous process.

(2) At the end of each shift:

(i) All locked table game drop boxes shall be removed from the tables by an individual independent of the pit shift being dropped;

(ii) A separate drop box shall be placed on each table opened at any time during each shift or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Upon removal from the tables, table game drop boxes shall be transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(3) If drop boxes are not placed on all tables, then the pit department shall document which tables were open during the shift.

(4) The transporting of table game drop boxes shall be performed by a minimum of two individuals, at least one of whom is independent of the pit shift being dropped.

(5) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(b) *Soft count room personnel.* (1) The table game soft count and the gaming machine bill acceptor count shall be performed by a minimum of two employees.

(2) Count room personnel shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks. At no time during the count, shall there be fewer than two employees in the count room until the drop proceeds have been accepted into cage/vault accountability.

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same two individuals more than four days per week. This standard shall not apply to gaming operations that utilize a count team of more than two individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, however, a dealer or a cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all soft count documentation.

(c) *Table game soft count standards.* (1) The table game soft count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The table game drop boxes shall be individually emptied and counted in such a manner to prevent the commingling of funds between boxes until the count of the box has been recorded.

(i) The count of each box shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If cash counters are utilized and the count room table is used only to empty boxes and sort/stack contents, a count team member shall be able to observe the loading and unloading of all cash at the cash counter, including rejected cash.

(6) Table game drop boxes, when empty, shall be shown to another member of the count team, or to another person who is observing the count, or to surveillance.

(7) Orders for fill/credit (if applicable) shall be matched to the fill/credit slips. Fills and credits shall be traced to or recorded on the count sheet.

(8) Pit marker issue and payment slips (if applicable) removed from the table game drop boxes shall either be:

(i) Traced to or recorded on the count sheet by the count team; or

(ii) Totaled by shift and traced to the totals documented by the computerized system. Accounting personnel shall verify the issue/payment slip for each table is accurate.

(9) Foreign currency exchange forms (if applicable) removed from the table game drop boxes shall be reviewed for the proper daily exchange rate and the conversion amount shall be recomputed by the count team. Alternatively, this may be performed by accounting/auditing employees.

(10) The opening/closing table and marker inventory forms (if applicable) shall either be:

(i) Examined and traced to or recorded on the count sheet; or

(ii) If a computerized system is used, accounting personnel can trace the opening/closing table and marker inventory forms to the count sheet. Discrepancies shall be investigated with the findings documented and maintained for inspection.

(11) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(12) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(13) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(14) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(15) Access to stored, full table game drop boxes shall be restricted to authorized members of the drop and count teams.

(16) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(d) *Gaming machine bill acceptor drop standards.* (1) A minimum of two employees shall be involved in the removal of the gaming machine drop, at least one of whom is independent of the gaming machine department.

(2) All bill acceptor canisters shall be removed only at the time previously designated by the gaming operation and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) The bill acceptor canisters shall be removed by an individual independent of the gaming machine department then

VOL 66 ISS 247 DE 26 2001 UMI

transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security shall be provided over the bill acceptor canisters removed from the gaming machines and awaiting transport to the count room.

(ii) The transporting of bill acceptor canisters shall be performed by a minimum of two individuals, at least one of whom is independent of the gaming machine department.

(4) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(e) *Gaming machine bill acceptor count standards.* (1) The gaming machine bill acceptor count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The bill acceptor canisters shall be individually emptied and counted in such a manner to prevent the commingling of funds between canisters until the count of the canister has been recorded.

(i) The count of each canister shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If cash counters are utilized and the count room table is used only to empty canisters and sort/stack contents, a count team member shall be able to observe the loading and unloading of all cash at the cash counter, including rejected cash.

(6) Canisters, when empty, shall be shown to another member of the count team, or to another person who is observing the count, or to surveillance.

(7) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(8) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(9) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(10) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(11) Access to stored bill acceptor canisters, full or empty, shall be restricted to authorized members of the drop and count teams.

(12) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(f) *Gaming machine coin drop standards.* (1) A minimum of two employees shall be involved in the removal of the gaming machine drop, at least one of whom is independent of the gaming machine department.

(2) All drop buckets shall be removed only at the time previously designated by the gaming operation and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) Security shall be provided over the buckets removed from the gaming machine drop cabinets and awaiting transport to the count room.

(4) As each machine is opened, the contents shall be tagged with its respective machine number if the bucket is not permanently marked with the machine number. The contents shall be transported directly to the area designated for the counting of such drop proceeds. If more than one trip is required to remove the contents of the machines, the filled carts of coins shall be securely locked in the room designed for counting or in another equivalently secure area with comparable controls. There shall be a locked covering on any carts in which the drop route includes passage out of doors.

(i) Alternatively, a smart bucket system that electronically identifies and tracks the gaming machine number, and facilitates the proper recognition of gaming revenue, shall satisfy the requirements of this paragraph.

(ii) [Reserved]

(5) Each drop bucket in use shall be:

(i) Housed in a locked compartment separate from any other compartment of the gaming machine and keyed differently than other gaming machine compartments; and

(ii) Identifiable to the gaming machine from which it is removed. If the gaming machine is identified with a removable tag that is placed in the bucket, the tag shall be placed on top of the bucket when it is collected.

(6) Each gaming machine shall have drop buckets into which coins or tokens that are retained by the gaming machine are collected. Drop bucket contents shall not be used to make change or pay hand-paid payouts.

(7) The collection procedures may include procedures for dropping gaming machines that have trays instead of drop buckets.

(g) *Hard count room personnel.* (1) The weigh/count shall be performed by a minimum of two employees.

(2) At no time during the weigh/count shall there be fewer than two employees in the count room until the drop proceeds have been accepted into cage/vault accountability.

(i) If the gaming machine count is conducted with a continuous mechanical count meter which is not reset during the count and is verified in writing by at least two employees at the start and end of each denomination count, then one employee may perform the wrap.

(ii) [Reserved]

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same two individuals more than four days per week. This standard shall not apply to gaming operations that utilize a count team of more than two individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, unless they are non-supervisory gaming machine employees and perform the laborer function only (A non-supervisory gaming machine employee is defined as a person below the level of gaming machine shift supervisor). A cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all count documentation.

(h) *Gaming machine coin count and wrap standards.* (1) Coins shall include tokens.

(2) The gaming machine coin count and wrap shall be performed in a count room or other equivalently secure area with comparable controls.

(i) Alternatively, an on-the-floor drop system utilizing a mobile scale shall satisfy the requirements of this paragraph, subject to the following conditions:

(A) The gaming operation shall utilize and maintain an effective on-line gaming machine monitoring system, as described in § 542.12(r)(3);

(B) Surveillance shall be notified when the weigh/drop/count begins and shall be capable of monitoring the entire process;

(C) An independent observer shall remain by the weigh scale at all times and shall observe the entire weigh/drop/count process;

(D) Physical custody of the keys needed to access the laptop and video compartment shall require the involvement of two persons, one of whom is independent of the drop and count team;

(E) The mule key, the laptop and video compartment keys, and the remote control for the VCR shall be maintained by a department independent of the gaming machine department. The appropriate personnel shall sign out these keys;

(F) An independent person shall be required to accompany these keys while they are checked out, and observe each time the laptop compartment is opened;

(G) The laptop access panel shall not be opened outside the hard count room, except in instances when the laptop must be rebooted as a result of a crash, lock up, or other situation requiring immediate corrective action;

(H) User access to the system shall be limited to those employees required to have full or limited access to complete the weigh/drop/count;

(I) Prior to the drop, the drop/count team shall ensure the scale batteries are charged;

(J) Prior to the drop, a videotape shall be inserted into the VCR on board the mule and the VCR shall be activated;

(K) The weigh scale test shall be performed prior to removing the unit from the hard count room for the start of the weigh/drop/count;

(L) When the weigh/drop/count is completed, the independent observer shall access the laptop compartment, end the recording session, eject the videotape, and deliver the videotape to surveillance; and

(M) The gaming operation must obtain the security camera available with the system, and this camera must be added in such a way as to eliminate tampering.

(ii) [Reserved]

(3) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(5) The following functions shall be performed in the counting of the gaming machine drop:

(i) Recorder function, which involves the recording of the gaming machine count; and

(ii) Count team supervisor function, which involves the control of the gaming machine weigh and wrap process. The supervisor is precluded from performing the initial recording of the weigh/count unless a weigh scale with a printer is used.

(6) The gaming machine drop shall be counted, wrapped, and reconciled in such a manner to prevent the commingling of gaming machine drop coin with coin (for each denomination) from the next gaming machine drop until the count of the gaming machine drop has been recorded. If the coins are not wrapped immediately after being weighed or counted, they shall be secured and not commingled with other coin.

(i) The amount of the gaming machine drop from each machine shall be recorded in ink or other permanent form of recordation on a gaming machine count document by the recorder or mechanically printed by the weigh scale.

(ii) Corrections to information originally recorded by the count team on gaming machine count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(A) If a weigh scale interface is used, corrections to gaming machine count data shall be made using either of the following:

(*1*) Crossing out the error on the gaming machine document, entering the correct figure, and then obtaining the initials of at least two count team employees. If this procedure is used, an employee independent of the gaming machine department and count team shall enter the correct figure into the computer system prior to the generation of related gaming machine reports; or

(*2*) During the count process, correct the error in the computer system and enter the passwords of at least two count team employees. If this procedure is used, an exception report shall be generated by the computer system identifying the gaming machine number, the error, the correction, and the count team employees attesting to the correction.

(B) [Reserved]

(7) If applicable, the weight shall be converted to dollar amounts prior to the reconciliation of the weigh to the wrap.

(8) If a coin meter is used, a count team member shall convert the coin count for each denomination into dollars and shall enter the results on a summary sheet.

(9) The recorder and at least one other count team member shall sign the weigh tape and the gaming machine count document attesting to the accuracy of the weigh/count.

(10) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(11) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(12) All gaming machine count and wrap documentation, including any applicable computer storage media, shall be delivered to the accounting department by a count team member or someone other than the cashier's department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(13) If the coins are transported off the property, a second (alternative) count procedure shall be performed before the coins leave the property. Any variances shall be documented.

(14) *Variances.* Large (by denomination, either $1,000 or 2% of the drop, whichever is less) or unusual (e.g., zero for weigh/count or patterned for all counts) variances between the weigh/count and wrap shall be investigated by management personnel independent of the gaming machine department, count team, and the cage/vault functions on a timely basis. The results of such investigation shall be documented and maintained.

(i) *Security of the coin room inventory during the gaming machine coin count and wrap.* (1) If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, then the following standards shall apply:

(i) At the commencement of the gaming machine count the following requirements shall be met:

(A) The coin room inventory shall be counted by at least two employees, one of whom is a member of the count team and the other is independent of the weigh/count and wrap procedures;

(B) The count in paragraph (i)(1)(i)(A) of this section shall be recorded on an appropriate inventory form;

(ii) Upon completion of the wrap of the gaming machine drop:

(A) At least two members of the count team (wrap team), independently from each other, shall count the ending coin room inventory;

(B) The counts in paragraph (i)(1)(ii)(A) of this section shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room;

(C) The same count team members shall compare the calculated wrap to the weigh/count, recording the comparison and noting any variances on the summary report;

(D) A member of the cage/vault department shall count the ending coin room inventory by denomination and shall reconcile it to the beginning inventory, wrap, transfers, and weigh/count; and

(E) At the conclusion of the reconciliation, at least two count/wrap team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

(iii) The functions described in paragraph (i)(1)(ii)(A) and (C) of this section may be performed by only one count team member. That count team member must then sign the summary report, along with the verifying employee, as required under paragraph (i)(1)(ii)(E).

(2) If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, all of the following requirements shall be completed, at the conclusion of the count:

(i) At least two members of the count/wrap team shall count the final wrapped gaming machine drop independently from each other;

(ii) The counts shall be recorded on a summary report;

(iii) The same count team members (or the accounting department) shall compare the final wrap to the weigh/count, recording the comparison, and noting any variances on the summary report;

(iv) A member of the cage/vault department shall count the wrapped gaming machine drop by denomination and reconcile it to the weigh/count;

(v) At the conclusion of the reconciliation, at least two count team members and the cage/vault employee shall sign the summary report attesting to its accuracy; and

(vi) The wrapped coins (exclusive of proper transfers) shall be transported to the cage, vault or coin vault after the reconciliation of the weigh/count to the wrap.

(j) *Transfers during the gaming machine coin count and wrap.* (1) Subject to the approval of the Tribal gaming regulatory authority, transfers may be permitted during the count and wrap.

(2) Each transfer shall be recorded on a separate multi-part form with a preprinted or concurrently-printed form number (used solely for gaming machine count transfers) which shall be subsequently reconciled by the accounting department to ensure the accuracy of the reconciled gaming machine drop.

(3) Each transfer must be counted and signed for by at least two members of the count team and by someone independent of the count team who is responsible for authorizing the transfer.

(k) *Gaming machine drop key control standards.* (1) Gaming machine coin drop cabinet keys, including duplicates, shall be maintained by a department independent of the gaming machine department.

(2) The physical custody of the keys needed to access gaming machine coin drop cabinets, including duplicates, shall require the involvement of two persons, one of whom is independent of the gaming machine department.

(3) Two employees (separate from key custodian) shall be required to accompany such keys while checked out and observe each time gaming machine drop cabinets are accessed.

(l) *Table game drop box and bill acceptor canister key control standards.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(2) Procedures shall be developed and implemented to insure that unauthorized access to empty table game drop boxes shall not occur from the time the boxes leave the storage racks until they are placed on the tables.

(3) The involvement of at least two individuals independent of the cage department shall be required to access stored empty table game drop boxes.

(4) The release keys shall be separately keyed from the contents keys.

(5) At least two count team members are required to be present at the time count room and other count keys are issued for the count.

(6) All duplicate keys shall be maintained in a manner that provides the same degree of control as is required for the original keys. Records shall be maintained for each key duplicated that indicate the number of keys made and destroyed.

(7) Logs shall be maintained by the custodian of sensitive keys to document authorization of personnel accessing keys.

(m) *Table game drop box release keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(i) The table game drop box release keys shall be maintained by a department independent of the pit department.

(ii) Only the person(s) authorized to remove table game drop boxes from the tables shall be allowed access to the table game drop box release keys; however, the count team members may have access to the release keys during the soft count in order to reset the table game drop boxes.

(iii) Persons authorized to remove the table game drop boxes shall be precluded from having simultaneous access to the table game drop box contents keys and release keys.

(iv) For situations requiring access to a table game drop box at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(2) [Reserved]

(n) *Bill acceptor canister release keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(i) The bill acceptor canister release keys shall be maintained by a department independent of the gaming machine department.

(ii) Only the person(s) authorized to remove bill acceptor canisters from the gaming machines shall be allowed access to the release keys.

(iii) Persons authorized to remove the bill acceptor canisters shall be precluded from having simultaneous access to the bill acceptor canister contents keys and release keys.

(iv) For situations requiring access to a bill acceptor canister at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(2) [Reserved]

(o) *Table game drop box storage rack keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(2) Persons authorized to obtain table game drop box storage rack keys shall be precluded from having simultaneous access to table game drop box contents keys, with the exception of the count team.

(p) *Bill acceptor canister storage rack keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(2) Persons authorized to obtain bill acceptor canister storage rack keys shall be precluded from having simultaneous access to bill acceptor canister contents keys, with the exception of the count team.

(q) *Table game drop box contents keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(i) The physical custody of the keys needed for accessing stored, full table game drop box contents shall require the involvement of persons from at least two separate departments, with the exception of the count team.

(ii) Access to the table game drop box contents key at other than scheduled count times shall require the involvement of at least two persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(iii) Only count team members shall be allowed access to table game drop box contents keys during the count process.

(2) [Reserved]

(r) *Bill acceptor canister contents keys.* (1) Tier A gaming operations shall be exempt from compliance with this paragraph if the Tribal gaming regulatory authority adopts and the gaming operation complies with procedures that maintain adequate key control and restricts access to the keys.

(i) The physical custody of the keys needed for accessing stored, full bill acceptor canister contents shall require involvement of persons from two separate departments, with the exception of the count team.

(ii) Access to the bill acceptor canister contents key at other than scheduled count times shall require the involvement of at least two persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(iii) Only the count team members shall be allowed access to bill acceptor canister contents keys during the count process.

(2) [Reserved]

(s) *Emergency drop procedures.* Emergency drop procedures shall be developed by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority.

(t) *Equipment standards for gaming machine count.* (1) A weigh scale calibration module shall be secured so as to prevent unauthorized access (e.g., prenumbered seal, lock and key, etc.).

(2) Someone independent of the cage, vault, gaming machine, and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained.

(3) If a weigh scale interface is used, it shall be adequately restricted so as to prevent unauthorized access (passwords, keys, etc.).

(4) If the weigh scale has a zero adjustment mechanism, it shall be physically limited to minor adjustments (e.g., weight of a bucket) or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

(5) The weigh scale and weigh scale interface (if applicable) shall be tested by someone who is independent of the cage, vault, and gaming machine departments and count team at least quarterly. At least annually, this test shall be performed by internal audit in accordance with the internal audit standards. The result of these tests shall be documented and signed by the person(s) performing the test.

(6) Prior to the gaming machine count, at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated (varying weights/coin from drop to drop is acceptable).

(7) If a mechanical coin counter is used (instead of a weigh scale), the Tribal gaming regulatory authority or the gaming operation shall establish, and the gaming operation shall comply, with procedures that are equivalent to those described in paragraphs (t)(4), (t)(5), and (t)(6) of this section. Such procedures shall be subject to the approval of the Tribal gaming regulatory authority.

(8) If a coin meter count machine is used, the count team member shall record the machine number denomination and number of coins in ink on a source document, unless the meter machine automatically records such information.

(i) A count team member shall test the coin meter count machine prior to the actual count to ascertain if the metering device is functioning properly with a predetermined number of coins for each denomination.

(ii) [Reserved]

§ 542.22 What are the minimum internal control standards for internal audit for Tier A gaming operations?

(a) *Internal audit personnel.* (1) For Tier A gaming operations, a separate internal audit department must be maintained. Alternatively, designating personnel (who are independent with respect to the departments/procedures being examined) to perform internal audit work satisfies the requirements of this paragraph.

(2) The internal audit personnel shall report directly to the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe in accordance with the definition of internal audit in § 542.2.

(b) Audits. (1) Internal audit personnel shall perform audits of all major gaming areas of the gaming operation. The following are reviewed at least annually:

(i) Bingo, including but not limited to, bingo card control, payout procedures, and cash reconciliation process;

(ii) Pull tabs, including but not limited to, statistical records, winner verification, perpetual inventory, and accountability of sales versus inventory;

(iii) Card games, including but not limited to, card games operation, cash exchange procedures, shill transactions, and count procedures;

(iv) Keno, including but not limited to, game write and payout procedures, sensitive key location and control, and a review of keno auditing procedures;

(v) Pari-mutual wagering, including write and payout procedures, and pari-mutual auditing procedures;

VOL 66 ISS 247 DE 26 2001 UMI

(vi) Table games, including but not limited to, fill and credit procedures, pit credit play procedures, rim credit procedures, soft drop/count procedures and the subsequent transfer of funds, unannounced testing of count room currency counters and/or currency interface, location and control over sensitive keys, the tracing of source documents to summarized documentation and accounting records, and reconciliation to restricted copies;

(vii) Gaming machines, including but not limited to, jackpot payout and gaming machine fill procedures, gaming machine drop/count and bill acceptor drop/count and subsequent transfer of funds, surprise testing of weigh scale and weigh scale interface, unannounced testing of count room currency counters and/or currency interface, gaming machine drop cabinet access, tracing of source documents to summarized documentation and accounting records, reconciliation to restricted copies, location and control over sensitive keys, compliance with EPROM duplication procedures, and compliance with MICS procedures for gaming machines that accept currency or coins and issue cash-out tickets or gaming machines that do not accept currency or coin and do not return currency or coin;

(viii) Cage and credit procedures including all cage, credit, and collection procedures, and the reconciliation of trial balances to physical instruments on a sample basis. Cage accountability shall be reconciled to the general ledger;

(ix) Information technology functions, including review for compliance with information technology standards;

(x) Complimentary service or item, including but not limited to, procedures whereby complimentary service items are issued, authorized, and redeemed; and

(xi) Any other internal audits as required by the Tribal gaming regulatory authority.

(2) In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six months following the date of notification.

(3) Whenever possible, internal audit observations shall be performed on an unannounced basis (i.e., without the employees being forewarned that their activities will be observed). Additionally, if the independent accountant also performs the internal audit function, the accountant shall perform separate observations of the table games/gaming machine drops and counts to satisfy the internal audit observation requirements and independent accountant tests of controls as required by the American Institute of Certified Public Accountants guide.

(c) *Documentation.* (1) Documentation (e.g., checklists, programs, reports, etc.) shall be prepared to evidence all internal audit work performed as it relates to the requirements in this section, including all instances of non-compliance.

(2) The internal audit department shall operate with audit programs, which, at a minimum, address the MICS. Additionally, the department shall properly document the work performed, the conclusions reached, and the resolution of all exceptions. Institute of Internal Auditors standards are recommended but not required.

(d) *Reports.* (1) Reports documenting audits performed shall be maintained and made available to the Commission upon request. The audit reports shall include the following information:

(i) Audit objectives;

(ii) Audit procedures and scope;

(iii) Findings and conclusions;

(iv) Recommendations, if applicable; and

(v) Management's response.

(2) [Reserved]

(e) *Material exceptions.* All material exceptions resulting from internal audit work shall be investigated and resolved with the results of such being documented and retained for five years.

(f) *Role of management.* (1) Internal audit findings shall be reported to management.

(2) Management shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the internal audit report that will be delivered to management and the Tribal gaming regulatory authority.

§ 542.23 What are the minimum internal control standards for surveillance for Tier A gaming operations?

(a) Tier A gaming operations must, at a minimum, maintain and operate an unstaffed surveillance system in a secured location whereby the areas under surveillance are continually recorded.

(b) The entrance to the secured location shall be located so that it is not readily accessible by either gaming operation employees who work primarily on the casino floor, or the general public.

(c) Access to the secured location shall be limited to surveillance personnel, designated employees, and other persons authorized in accordance with the surveillance department policy. Such policy shall be subject to the approval of the Tribal gaming regulatory authority.

(d) The surveillance system shall include date and time generators which possess the capability to display the date and time of recorded events on video and/or digital recordings. The displayed date and time shall not significantly obstruct the recorded view.

(e) The surveillance department shall strive to ensure staff is trained in the use of the equipment, knowledge of the games, and house rules.

(f) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled by patrons or employees.

(g) Each camera required by the standards in this section shall possess the capability of having its picture recorded. The surveillance system shall include sufficient numbers of recorders to simultaneously record multiple gaming and count room activities, and record the views of all dedicated cameras and motion activated dedicated cameras.

(h) Reasonable effort shall be made to repair each malfunction of surveillance system equipment required by the standards in this section within seventy-two (72) hours after the malfunction is discovered.

(1) In the event of a dedicated camera malfunction, the gaming operation or the surveillance department shall, upon identification of the malfunction, provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity.

(2) [Reserved]

(i) *Bingo.* The surveillance system shall record the bingo ball drawing device, the game board, and the activities of the employees responsible for drawing, calling, and entering the balls drawn or numbers selected.

(j) *Card games.* The surveillance system shall record the general activities in each card room and be capable of identifying the employees performing the different functions.

(k) *Keno.* The surveillance system shall record the keno ball drawing device, the general activities in each keno game area, and be capable of identifying the employees performing the different functions.

(l) *Table games.* (1) *Operations with four (4) or more table games.* Except as otherwise provided in paragraphs (l)(3), (4), and (5) of this section, the surveillance system of gaming operations operating four (4) or more table games shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

(i) With sufficient clarity to identify patrons and dealers; and

(ii) With sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values, and game outcome.

(iii) One (1) dedicated camera per table and one (1) pan-tilt-zoom camera per four (4) tables may be an acceptable alternative procedure to satisfy the requirements of this paragraph.

(2) *Operations with three (3) or fewer table games.* The surveillance system of gaming operations operating three (3) or fewer table games shall:

(i) Comply with the requirements of paragraph (l)(1) of this section; or

(ii) Have one (1) overhead camera at each table.

(3) *Craps.* All craps tables shall have two (2) dedicated cross view cameras covering both ends of the table.

(4) *Roulette.* All roulette areas shall have one (1) overhead dedicated camera covering the roulette wheel and shall also have one (1) dedicated camera covering the play of the table.

(5) *Big wheel.* All big wheel games shall have one (1) dedicated camera viewing the wheel.

(m) *Progressive table games.* (1) Each progressive table game with a progressive jackpot of $25,000 or more shall be recorded by dedicated cameras that provide coverage of:

(i) The table surface, sufficient that the card values and card suits can be clearly identified;

(ii) An overall view of the entire table with sufficient clarity to identify patrons and dealer; and

(iii) A view of the progressive meter jackpot amount. If several tables are linked to the same progressive jackpot meter, only one meter need be recorded.

(2) [Reserved]

(n) *Gaming machines.* (1) Except as otherwise provided in paragraphs (n)(2) and (3) of this section, each gaming machine offering a payout of more than $250,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(2) *In-house progressive machine.* Each in-house progressive gaming machine offering a base payout amount of more than $100,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(3) *Wide-area progressive machine.* Each wide-area progressive gaming machine offering a base payout amount of more than $1.5 million and monitored by an independent vendor utilizing an online progressive computer system shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(4) Notwithstanding paragraph (n)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

(o) *Currency and coin.* The surveillance system shall record a general overview of all areas where currency or coin may be stored or counted.

(p) *Video recording and/or digital record retention.* All video recordings and/or digital records of coverage provided by the dedicated cameras or motion-activated dedicated cameras required by the standards in this section shall be retained for a minimum of seven (7) days.

(2) Recordings involving suspected or confirmed gaming crimes, unlawful activity, or detentions by security personnel, must be retained for a minimum of 30 days.

(3) Copies of video recordings and/or digital records shall be provided to the Commission upon request. If an original is requested, the Commission shall provide written receipt to the Tribal gaming regulatory authority.

(q) *Video library log.* A video library log, or comparable alternative procedure approved by the Tribal gaming regulatory authority, shall be maintained to demonstrate compliance with the storage, identification, and retention standards required in this section.

(r) *Malfunction and repair log.* Surveillance personnel shall maintain a log or alternative procedure approved by the Tribal gaming regulatory authority that documents each malfunction and repair of the surveillance system as defined in this section.

(2) The log shall state the time, date, and nature of each malfunction, the efforts expended to repair the malfunction, and the date of each effort, the reasons for any delays in repairing the malfunction, the date the malfunction is repaired, and where applicable, any alternative security measures that were taken.

Tier B Gaming Operations

§ 542.30 What is a Tier B gaming operation?

A Tier B gaming operation is one with gross gaming revenues of more than $5 million but not more than $15 million.

§ 542.31 What are the minimum internal control standards for drop and count for Tier B gaming operations?

(a) *Table game drop standards.* (1) The setting out of empty table game drop boxes and the drop shall be a continuous process.

(2) At the end of each shift:

(i) All locked table game drop boxes shall be removed from the tables by an individual independent of the pit shift being dropped;

(ii) A separate drop box shall be placed on each table opened at any time during each shift or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Upon removal from the tables, table game drop boxes shall be transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(3) If drop boxes are not placed on all tables, then the pit department shall document which tables were open during the shift.

(4) The transporting of table game drop boxes shall be performed by a minimum of two individuals, at least one of whom is independent of the pit shift being dropped.

(5) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(6) Surveillance shall be notified when the drop is to begin so that surveillance may monitor the activities.

(b) *Soft count room personnel.* (1) The table game soft count and the gaming machine bill acceptor count shall be performed by a minimum of two employees.

(i) The count shall be viewed live, or on video recording and/or digital record, within seven days by an employee independent of the count.

VOL 66 ISS 247 DE 26 2001 UMI

(ii) [Reserved]

(2) Count room personnel shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks. At no time during the count, shall there be fewer than two employees in the count room until the drop proceeds have been accepted into cage/vault accountability. Surveillance shall be notified whenever count room personnel exit or enter the count room during the count.

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same two individuals more than four days per week. This standard shall not apply to gaming operations that utilize a count team of more than two individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, however, a dealer or a cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all soft count documentation.

(c) *Table game soft count standards.* (1) The table game soft count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The table game drop boxes shall be individually emptied and counted in such a manner to prevent the commingling of funds between boxes until the count of the box has been recorded.

(i) The count of each box shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If currency counters are utilized and the count room table is used only to empty boxes and sort/stack contents, a count team member shall be able to observe the loading and unloading of all currency at the currency counter, including rejected currency.

(6) Table game drop boxes, when empty, shall be shown to another member of the count team, or to another person who is observing the count, or to surveillance, provided the count is monitored in its entirety by someone independent of the count.

(7) Orders for fill/credit (if applicable) shall be matched to the fill/credit slips. Fills and credits shall be traced to or recorded on the count sheet.

(8) Pit marker issue and payment slips (if applicable) removed from the table game drop boxes shall either be:

(i) Traced to or recorded on the count sheet by the count team; or

(ii) Totaled by shift and traced to the totals documented by the computerized system. Accounting personnel shall verify the issue/payment slip for each table is accurate.

(9) Foreign currency exchange forms (if applicable) removed from the table game drop boxes shall be reviewed for the proper daily exchange rate and the conversion amount shall be recomputed by the count team. Alternatively, this may be performed by accounting/auditing employees.

(10) The opening/closing table and marker inventory forms (if applicable) shall either be:

(i) Examined and traced to or recorded on the count sheet; or

(ii) If a computerized system is used, accounting personnel can trace the opening/closing table and marker inventory forms to the count sheet. Discrepancies shall be investigated with the findings documented and maintained for inspection.

(11) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(12) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(13) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(14) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(15) Access to stored, full table game drop boxes shall be restricted to authorized members of the drop and count teams.

(16) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(d) *Gaming machine bill acceptor drop standards.* (1) A minimum of two employees shall be involved in the removal of the gaming machine drop, at least one of who is independent of the gaming machine department.

(2) All bill acceptor canisters shall be removed only at the time previously designated by the gaming operations and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) Surveillance shall be notified when the drop is to begin so that surveillance may monitor the activities.

(i) Surveillance shall record in a proper log or journal in a legible manner any exceptions or variations to established procedures observed during the drop. Such log or journal shall be made available for review to authorized persons only.

(ii) [Reserved]

(4) The bill acceptor canisters shall be removed by an individual independent of the gaming machine department then transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security shall be provided over the bill acceptor canisters removed from the gaming machines and awaiting transport to the count room.

(ii) The transporting of bill acceptor canisters shall be performed by a minimum of two individuals, at least one of who is independent of the gaming machine department.

(5) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(e) *Gaming machine bill acceptor count standards.* (1) The gaming machine bill acceptor count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers,

supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The bill acceptor canisters shall be individually emptied and counted in such a manner to prevent the commingling of funds between canisters until the count of the canister has been recorded.

(i) The count of each canister shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If currency counters are utilized and the count room table is used only to empty canisters and sort/stack contents, a count team member shall be able to observe the loading and unloading of all currency at the currency counter, including rejected currency.

(6) Canisters, when empty, shall be shown to another member of the count team, to another person who is observing the count, or to surveillance, provided that the count is monitored in its entirety by someone independent of the count.

(7) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(8) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(9) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(10) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(11) Access to stored bill acceptor canisters, full or empty, shall be restricted to authorized members of the drop and count teams.

(12) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(f) *Gaming machine coin drop standards.* (1) A minimum of two employees shall be involved in the removal of the gaming machine drop, at least one of who is independent of the gaming machine department.

(2) All drop buckets shall be removed only at the time previously designated by the gaming operation and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) Surveillance shall be notified when the drop is to begin in order that surveillance may monitor the activities.

(i) Surveillance shall record in a proper log or journal in a legible manner any exceptions or variations to established procedures observed during the drop. Such log or journal shall be made available for review to authorized persons only.

(ii) [Reserved]

(4) Security shall be provided over the buckets removed from the gaming machine drop cabinets and awaiting transport to the count room.

(5) As each machine is opened, the contents shall be tagged with its respective machine number if the bucket is not permanently marked with the machine number. The contents shall be transported directly to the area designated for the counting of such drop proceeds. If more than one trip is required to remove the contents of the machines, the filled carts of coins shall be securely locked in the room designed for counting or in another equivalently secure area with comparable controls. There shall be a locked covering on any carts in which the drop route includes passage out of doors.

(i) Alternatively, a smart bucket system that electronically identifies and tracks the gaming machine number, and facilitates the proper recognition of gaming revenue, shall satisfy the requirements of this paragraph.

(ii) [Reserved]

(6) Each drop bucket in use shall be:

(i) Housed in a locked compartment separate from any other compartment of the gaming machine and keyed differently than other gaming machine compartments; and

(ii) Identifiable to the gaming machine from which it is removed. If the gaming machine is identified with a removable tag that is placed in the bucket, the tag shall be placed on top of the bucket when it is collected.

(7) Each gaming machine shall have drop buckets into which coins or tokens that are retained by the gaming machine are collected. Drop bucket contents shall not be used to make change or pay hand-paid payouts.

(8) The collection procedures may include procedures for dropping gaming machines that have trays instead of drop buckets.

(g) *Hard count room personnel.* (1) The weigh/count shall be performed by a minimum of two employees.

(i) The count shall be viewed either live, or on video recording and/or digital record within 7 days by an employee independent of the count.

(ii) [Reserved]

(2) At no time during the weigh/count shall there be fewer than two employees in the count room until the drop proceeds have been accepted into cage/vault accountability. Surveillance shall be notified whenever count room personnel exit or enter the count room during the count.

(i) If the gaming machine count is conducted with a continuous mechanical count meter which is not reset during the count and is verified in writing by at least two employees at the start and end of each denomination count, then one employee may perform the wrap.

(ii) [Reserved]

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same two individuals more than 4 days per week. This standard shall not apply to gaming operations that utilize a count team of more than two individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, unless they are non-supervisory gaming machine employees and perform the laborer function only (A non-supervisory gaming machine employee is defined as a person below the level of gaming machine shift supervisor). A cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all count documentation.

(h) *Gaming machine coin count and wrap standards.* (1) Coins shall include tokens.

(2) The gaming machine coin count and wrap shall be performed in a count room or other equivalently secure area with comparable controls.

(i) Alternatively, an on-the-floor drop system utilizing a mobile scale shall satisfy the requirements of this paragraph, subject to the following conditions:

(A) The gaming operation shall utilize and maintain an effective on-line gaming machine monitoring system, as described in § 542.12(r)(3);

(B) Surveillance shall be notified when the weigh/drop/count begins and shall be capable of monitoring the entire process;

(C) An independent observer shall remain by the weigh scale at all times and shall observe the entire weigh/drop/count process;

(D) Physical custody of the keys needed to access the laptop and video compartment shall require the involvement of two persons, one of whom is independent of the drop and count team;

(E) The mule key, the laptop and video compartment keys, and the remote control for the VCR shall be maintained by a department independent of the gaming machine department. The appropriate personnel shall sign out these keys;

(F) An independent person shall be required to accompany these keys while they are checked out, and observe each time the laptop compartment is opened;

(G) The laptop access panel shall not be opened outside the hard count room, except in instances when the laptop must be rebooted as a result of a crash, lock up, or other situation requiring immediate corrective action;

(H) User access to the system shall be limited to those employees required to have full or limited access to complete the weigh/drop/count;

(I) Prior to the drop, the drop/count team shall ensure the scale batteries are charged;

(J) Prior to the drop, a videotape shall be inserted into the VCR on board the mule and the VCR shall be activated;

(K) The weigh scale test shall be performed prior to removing the unit from the hard count room for the start of the weigh/drop/count;

(L) When the weigh/drop/count is completed, the independent observer shall access the laptop compartment, end the recording session, eject the videotape, and deliver the videotape to surveillance; and

(M) The gaming operation must obtain the security camera available with the system, and this camera must be added in such a way as to eliminate tampering.

(ii) [Reserved]

(3) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(5) The following functions shall be performed in the counting of the gaming machine drop:

(i) Recorder function, which involves the recording of the gaming machine count; and

(ii) Count team supervisor function, which involves the control of the gaming machine weigh and wrap process. The supervisor is precluded from performing the initial recording of the weigh/count unless a weigh scale with a printer is used.

(6) The gaming machine drop shall be counted, wrapped, and reconciled in such a manner to prevent the commingling of gaming machine drop coin with coin (for each denomination) from the next gaming machine drop until the count of the gaming machine drop has been recorded. If the coins are not wrapped immediately after being weighed or counted, they shall be secured and not commingled with other coin.

(i) The amount of the gaming machine drop from each machine shall be recorded in ink or other permanent form of recordation on a gaming machine count document by the recorder or mechanically printed by the weigh scale.

(ii) Corrections to information originally recorded by the count team on gaming machine count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(A) If a weigh scale interface is used, corrections to gaming machine count data shall be made using either of the following:

(*1*) Crossing out the error on the gaming machine document, entering the correct figure, and then obtaining the initials of at least two count team employees. If this procedure is used, an employee independent of the gaming machine department and count team shall enter the correct figure into the computer system prior to the generation of related gaming machine reports; or

(*2*) During the count process, correct the error in the computer system and enter the passwords of at least two count team employees. If this procedure is used, an exception report shall be generated by the computer system identifying the gaming machine number, the error, the correction, and the count team employees attesting to the correction.

(B) [Reserved]

(7) If applicable, the weight shall be converted to dollar amounts before the reconciliation of the weigh to the wrap.

(8) If a coin meter is used, a count team member shall convert the coin count for each denomination into dollars and shall enter the results on a summary sheet.

(9) The recorder and at least one other count team member shall sign the weigh tape and the gaming machine count document attesting to the accuracy of the weigh/count.

(10) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(11) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(12) All gaming machine count and wrap documentation, including any applicable computer storage media, shall be delivered to the accounting department by a count team member or someone other than the cashier's department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(13) If the coins are transported off the property, a second (alternative) count procedure shall be performed before the coins leave the property. Any variances shall be documented.

(14) *Variances.* Large (by denomination, either $1,000 or 2% of the drop, whichever is less) or unusual (e.g., zero for weigh/count or patterned for all counts) variances between the weigh/count and wrap shall be investigated by management personnel independent of the gaming machine department, count team, and the cage/vault functions on a timely basis. The results of such investigation shall be documented and maintained.

(i) *Security of the coin room inventory during the gaming machine coin count and wrap.*

(1) If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, then the following standards shall apply:

(i) At the commencement of the gaming machine count the following requirements shall be met:

(A) The coin room inventory shall be counted by at least two employees, one of whom is a member of the count team and the other is independent of the weigh/count and wrap procedures;

(B) The count in paragraph (i)(1)(i)(A) of this section shall be recorded on an appropriate inventory form;

(ii) Upon completion of the wrap of the gaming machine drop:

(A) At least two members of the count team (wrap team), independently from each other, shall count the ending coin room inventory;

(B) The counts in paragraph (i)(1)(ii)(A) of this section shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room;

(C) The same count team members shall compare the calculated wrap to the weigh/count, recording the comparison and noting any variances on the summary report;

(D) A member of the cage/vault department shall count the ending coin room inventory by denomination and shall reconcile it to the beginning inventory, wrap, transfers and weigh/count; and

(E) At the conclusion of the reconciliation, at least two count/wrap team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

(iii) The functions described in paragraph (i)(1)(ii)(A) and (C) of this section may be performed by only one count team member. That count team member must then sign the summary report, along with the verifying employee, as required under paragraph (i)(1)(ii)(E).

(2) If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, all of the following requirements shall be completed, at the conclusion of the count:

(i) At least two members of the count/wrap team shall count the final wrapped gaming machine drop independently from each other;

(ii) The counts shall be recorded on a summary report;

(iii) The same count team members (or the accounting department) shall compare the final wrap to the weigh/count, recording the comparison, and noting any variances on the summary report;

(iv) A member of the cage/vault department shall count the wrapped gaming machine drop by denomination and reconcile it to the weigh/count;

(v) At the conclusion of the reconciliation, at least two count team members and the cage/vault employee shall sign the summary report attesting to its accuracy; and

(vi) The wrapped coins (exclusive of proper transfers) shall be transported to the cage, vault or coin vault after the reconciliation of the weigh/count to the wrap.

(j) *Transfers during the gaming machine coin count and wrap.* (1) Subject to the approval of the Tribal gaming regulatory authority, transfers may be permitted during the count and wrap.

(2) Each transfer shall be recorded on a separate multi-part form with a preprinted or concurrently-printed form number (used solely for gaming machine count transfers) which shall be subsequently reconciled by the accounting department to ensure the accuracy of the reconciled gaming machine drop.

(3) Each transfer must be counted and signed for by at least two members of the count team and by someone independent of the count team who is responsible for authorizing the transfer.

(k) *Gaming machine drop key control standards.* (1) Gaming machine coin drop cabinet keys, including duplicates, shall be maintained by a department independent of the gaming machine department.

(2) The physical custody of the keys needed to access gaming machine coin drop cabinets, including duplicates, shall require the involvement of two persons, one of whom is independent of the gaming machine department.

(3) Two employees (separate from key custodian) shall be required to accompany such keys while checked out and observe each time gaming machine drop cabinets are accessed, unless surveillance is notified each time keys are checked out and surveillance observes the person throughout the period the keys are checked out.

(l) *Table game drop box and bill acceptor canister key control standards.* (1) Procedures shall be developed and implemented to insure that unauthorized access to empty table game drop boxes shall not occur from the time the boxes leave the storage racks until they are placed on the tables.

(2) The involvement of at least two individuals independent of the cage department shall be required to access stored empty table game drop boxes.

(3) The release keys shall be separately keyed from the contents keys.

(4) At least two count team members are required to be present at the time count room and other count keys are issued for the count.

(5) All duplicate keys shall be maintained in a manner that provides the same degree of control as is required for the original keys. Records shall be maintained for each key duplicated that indicate the number of keys made and destroyed.

(6) Logs shall be maintained by the custodian of sensitive keys to document authorization of personnel accessing keys.

(m) *Table game drop box release keys.* (1) The table game drop box release keys shall be maintained by a department independent of the pit department.

(2) Only the person(s) authorized to remove table game drop boxes from the tables shall be allowed access to the table game drop box release keys; however, the count team members may have access to the release keys during the soft count in order to reset the table game drop boxes.

(3) Persons authorized to remove the table game drop boxes shall be precluded from having simultaneous access to the table game drop box contents keys and release keys.

(4) For situations requiring access to a table game drop box at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(n) *Bill acceptor canister release keys.* (1) The bill acceptor canister release keys shall be maintained by a department independent of the gaming machine department.

(2) Only the person(s) authorized to remove bill acceptor canisters from the gaming machines shall be allowed access to the release keys.

(3) Persons authorized to remove the bill acceptor canisters shall be precluded from having simultaneous access to the bill acceptor canister contents keys and release keys.

(4) For situations requiring access to a bill acceptor canister at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(o) *Table game drop box storage rack keys.* Persons authorized to obtain table game drop box storage rack keys shall be precluded from having simultaneous access to table game drop box contents keys with the exception of the count team.

(p) *Bill acceptor canister storage rack keys.* Persons authorized to obtain bill acceptor canister storage rack keys shall be precluded from having simultaneous access to bill acceptor canister contents keys with the exception of the count team.

(q) *Table game drop box contents keys.* (1) The physical custody of the keys needed for accessing stored, full table game drop box contents shall require the involvement of persons from at least two separate departments, with the exception of the count team.

(2) Access to the table game drop box contents key at other than scheduled count times shall require the involvement of at least two persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(3) Only count team members shall be allowed access to table game drop box contents keys during the count process.

(r) Bill acceptor canister contents keys. The physical custody of the keys needed for accessing stored, full bill acceptor canister contents shall require involvement of persons from two separate departments, with the exception of the count team.

(2) Access to the bill acceptor canister contents key at other than scheduled count times shall require the involvement of at least two persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(3) Only the count team members shall be allowed access to bill acceptor canister contents keys during the count process.

(s) *Emergency drop procedures.* Emergency drop procedures shall be developed by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority.

(t) *Equipment standards for gaming machine count.* (1) A weigh scale calibration module shall be secured so as to prevent unauthorized access (e.g., prenumbered seal, lock and key, etc.).

(2) Someone independent of the cage, vault, gaming machine, and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained.

(3) If a weigh scale interface is used, it shall be adequately restricted so as to prevent unauthorized access (passwords, keys, etc.).

(4) If the weigh scale has a zero adjustment mechanism, it shall be physically limited to minor adjustments (e.g., weight of a bucket) or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

(5) The weigh scale and weigh scale interface (if applicable) shall be tested by someone who is independent of the cage, vault, and gaming machine departments and count team at least quarterly. At least annually, this test shall be performed by internal audit in accordance with the internal audit standards. The result of these tests shall be documented and signed by the person(s) performing the test.

(6) Prior to the gaming machine count, at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated (varying weights/coin from drop to drop is acceptable).

(7) If a mechanical coin counter is used (instead of a weigh scale), the Tribal gaming regulatory authority or the gaming operation shall establish, and the gaming operation shall comply, with procedures that are equivalent to those described in paragraphs (t)(4), (t)(5), and (t)(6) of this section. Such procedures shall be subject to the approval of the Tribal gaming regulatory authority.

(8) If a coin meter count machine is used, the count team member shall record the machine number denomination and number of coins in ink on a source document, unless the meter machine automatically records such information.

(i) A count team member shall test the coin meter count machine before the actual count to ascertain if the metering device is functioning properly with a predetermined number of coins for each denomination.

(ii) [Reserved]

§ 542.32 What are the minimum internal control standards for internal audit for Tier B gaming operations?

(a) *Internal audit personnel.* (1) For Tier B gaming operations, a separate internal audit department must be maintained. Alternatively, designating personnel (who are independent with respect to the departments/procedures being examined) to perform internal audit work satisfies the requirements of this paragraph.

(2) The internal audit personnel shall report directly to the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe in accordance with the definition of internal audit in § 542.2.

(b) *Audits.* (1) Internal audit personnel shall perform audits of all major gaming areas of the gaming operation. The following are reviewed at least annually:

(i) Bingo, including but not limited to, bingo card control, payout procedures, and cash reconciliation process;

(ii) Pull tabs, including but not limited to, statistical records, winner verification, perpetual inventory, and accountability of sales versus inventory;

(iii) Card games, including but not limited to, card games operation, cash exchange procedures, shill transactions, and count procedures;

(iv) Keno, including but not limited to, game write and payout procedures, sensitive key location and control, and a review of keno auditing procedures;

(v) Pari-mutual wagering, including write and payout procedures, and pari-mutual auditing procedures;

(vi) Table games, including but not limited to, fill and credit procedures, pit credit play procedures, rim credit procedures, soft drop/count procedures and the subsequent transfer of funds, unannounced testing of count room currency counters and/or currency interface, location and control over sensitive keys, the tracing of source documents to summarized documentation and accounting records, and reconciliation to restricted copies;

(vii) Gaming machines, including but not limited to, jackpot payout and gaming machine fill procedures, gaming machine drop/count and bill acceptor drop/count and subsequent transfer of funds, surprise testing of weigh scale and weigh scale interface, unannounced testing of count room currency counters and/or currency interface, gaming machine drop cabinet access, tracing of source documents to summarized documentation and accounting records, reconciliation to restricted copies, location and control over sensitive keys, compliance with EPROM duplication procedures, and compliance with MICS procedures for gaming machines that accept currency or coins and issue cash-out tickets or gaming machines that do not accept currency or coin and do not return currency or coin;

(viii) Cage and credit procedures including all cage, credit, and collection procedures, and the reconciliation of trial balances to physical instruments on a sample basis. Cage accountability shall be reconciled to the general ledger;

(ix) Information technology functions, including review for compliance with information technology standards;

(x) Complimentary service or item, including but not limited to, procedures whereby complimentary service items are issued, authorized, and redeemed; and

(xi) Any other internal audits as required by the Tribal gaming regulatory authority.

(2) In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six months following the date of notification.

(3) Whenever possible, internal audit observations shall be performed on an unannounced basis (i.e., without the employees being forewarned that their activities will be observed). Additionally, if the independent accountant also performs the internal audit function, the accountant shall perform separate observations of the table games/gaming machine drops and counts to satisfy the internal audit observation requirements and independent accountant tests of controls as required by the American Institute of Certified Public Accountants guide.

(c) *Documentation.* (1) Documentation (e.g., checklists, programs, reports, etc.) shall be prepared to evidence all internal audit work performed as it relates to the requirements in this section, including all instances of non-compliance.

(2) The internal audit department shall operate with audit programs, which, at a minimum, address the MICS. Additionally, the department shall properly document the work performed, the conclusions reached, and the resolution of all exceptions. Institute of Internal Auditors standards are recommended but not required.

(d) *Reports.* (1) Reports documenting audits performed shall be maintained and made available to the Commission upon request. The audit reports shall include the following information:

(i) Audit objectives;

(ii) Audit procedures and scope;

(iii) Findings and conclusions;

(iv) Recommendations, if applicable; and

(v) Management's response.

(2) [Reserved]

(e) *Material exceptions.* All material exceptions resulting from internal audit work shall be investigated and resolved with the results of such being documented and retained for five years.

(f) *Role of management.* (1) Internal audit findings shall be reported to management.

(2) Management shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the internal audit report that will be delivered to management and the Tribal gaming regulatory authority.

§ 542.33 What are the minimum internal control standards for surveillance for Tier B gaming operations?

(a) The surveillance system shall be maintained and operated from a staffed surveillance room and shall provide surveillance over gaming areas.

(b) The entrance to the surveillance room shall be located so that it is not readily accessible by either gaming operation employees who work primarily on the casino floor, or the general public.

(c) Access to the surveillance room shall be limited to surveillance personnel, designated employees, and other persons authorized in accordance with the surveillance department policy. Such policy shall be subject to the approval of the Tribal gaming regulatory authority. The surveillance department shall maintain a sign-in log of other authorized persons entering the surveillance room.

(d) Surveillance room equipment shall have total override capability over all other satellite surveillance equipment located outside the surveillance room.

(e) The surveillance system shall include date and time generators which possess the capability to display the date and time of recorded events on video and/or digital recordings. The displayed date and time shall not significantly obstruct the recorded view.

(f) The surveillance department shall strive to ensure staff is trained in the use of the equipment, knowledge of the games, and house rules.

(g) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled by patrons or employees.

(h) Each camera required by the standards in this section shall possess the capability of having its picture displayed on a monitor and recorded. The surveillance system shall include sufficient numbers of monitors and recorders to simultaneously display and record multiple gaming and count room activities, and record the views of all dedicated cameras and motion activated dedicated cameras.

(i) Reasonable effort shall be made to repair each malfunction of surveillance system equipment required by the standards in this section within seventy-two (72) hours after the malfunction is discovered.

(1) In the event of a dedicated camera malfunction, the gaming operation or surveillance department shall immediately provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity.

(2) [Reserved]

(j) *Bingo.* (1) The surveillance system shall possess the capability to monitor the bingo ball drawing device or random number generator which shall be recorded during the course of the draw by a dedicated camera with sufficient clarity to identify the balls drawn or numbers selected.

(2) The surveillance system shall monitor and record the game board and the activities of the employees responsible for drawing, calling, and entering the balls drawn or numbers selected.

(k) *Card games.* The surveillance system shall monitor and record general activities in each card room with sufficient clarity to identify the employees performing the different functions.

(l) *Progressive card games.* (1) Each progressive card game with a progressive jackpot of $25,000 or more shall be recorded and monitored by dedicated cameras that provide coverage of:

(i) The table surface, sufficient that the card values and card suits can be clearly identified;

(ii) An overall view of the entire table with sufficient clarity to identify patrons and dealer; and

(iii) A view of the posted jackpot amount.

(2) [Reserved]

(m) *Keno.* (1) The surveillance system shall possess the capability to monitor the keno ball drawing device or random number generator which shall be recorded during the course of the draw by a dedicated camera with sufficient clarity to identify the balls drawn or numbers selected.

(2) The surveillance system shall monitor and record general activities in each keno game area with sufficient clarity to identify the employees performing the different functions.

(n) *Pari-mutuel.* The surveillance system shall monitor and record general activities in the pari-mutuel area, to include the ticket writer and cashier areas, with sufficient clarity to identify the employees performing the different functions.

(o) *Table games.* (1) Operations with four (4) or more table games. Except as otherwise provided in paragraphs (o)(3), (4), and (5) of this section, the surveillance system of gaming operations operating four (4) or more table games shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

(i) With sufficient clarity to identify patrons and dealers; and

(ii) With sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values, and game outcome.

(iii) One (1) dedicated camera per table and one (1) pan-tilt-zoom camera per four (4) tables may be an acceptable alternative procedure to satisfy the requirements of this paragraph.

(2) *Operations with three (3) or fewer table games.* The surveillance system of gaming operations operating three (3) or fewer table games shall:

(i) Comply with the requirements of paragraph (o)(1) of this section; or

(ii) Have one (1) overhead camera at each table.

(3) *Craps.* All craps tables shall have two (2) dedicated cross view cameras covering both ends of the table.

(4) *Roulette.* All roulette areas shall have one (1) overhead dedicated camera covering the roulette wheel and shall also have one (1) dedicated camera covering the play of the table.

(5) *Big wheel.* All big wheel games shall have one (1) dedicated camera viewing the wheel.

(p) *Progressive table games.* (1) Each progressive table game with a progressive jackpot of $25,000 or more shall be recorded and monitored by dedicated cameras that provide coverage of:

(i) The table surface, sufficient that the card values and card suits can be clearly identified;

(ii) An overall view of the entire table with sufficient clarity to identify patrons and dealer; and

(iii) A view of the progressive meter jackpot amount. If several tables are linked to the same progressive jackpot meter, only one meter need be recorded.

(2) [Reserved]

(q) *Gaming machines.* (1) Except as otherwise provided in paragraphs (q)(2) and (3) of this section, each gaming machine offering a payout of more than $250,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine, and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(2) *In-house progressive machine.* Each in-house progressive gaming machine offering a base payout amount of more than $100,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(3) *Wide-area progressive machine.* Each wide-area progressive gaming machine offering a base payout amount of more than $1.5 million and monitored by an independent vendor utilizing an online progressive computer system shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(4) Notwithstanding paragraph (q)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

(r) *Cage and vault.* (1) The surveillance system shall monitor and record a general overview of activities occurring in each cage and vault area with sufficient clarity to identify employees within the cage and patrons and employees at the counter areas.

(2) Each cashier station shall be equipped with one (1) dedicated overhead camera covering the transaction area.

(3) The surveillance system shall be used as an overview for cash transactions. This overview should include the customer, the employee, and the surrounding area.

(s) *Fills and credits.* (1) The cage or vault area in which fills and credits are transacted shall be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the chip values and the amounts on the fill and credit slips.

(2) Controls provided by a computerized fill and credit system may be deemed an adequate alternative to viewing the fill and credit slips.

(t) *Currency and coin.* The surveillance system shall monitor and record with sufficient clarity all areas where currency or coin may be stored or counted. The surveillance system shall provide for:

(i) Coverage of scales shall be sufficiently clear to view any attempted manipulation of the recorded data.

(ii) Monitoring and recording of the table game drop box storage rack or area by either a dedicated camera or a motion-detector activated camera.

(iii) Monitoring and recording of all areas where coin may be stored or counted, including the hard count room, all doors to the hard count room, all scales and wrapping machines, and all areas where uncounted coin may be stored during the drop and count process.

(iv) Monitoring and recording of soft count room, including all doors to the room, all table game drop boxes, safes, and counting surfaces, and all count team personnel. The counting surface area must be continuously monitored by a dedicated camera during the soft count.

(v) Monitoring and recording of all areas where currency is sorted, stacked, counted, verified, or stored during the soft count process.

(2) [Reserved]

(u) *Change booths.* The surveillance system shall monitor and record a general overview of the activities occurring in each gaming machine change booth.

(v) *Video recording and/or digital record retention.* All video recordings and/or digital records of coverage provided by the dedicated cameras or motion-activated dedicated cameras required by the standards in this section shall be retained for a minimum of seven (7) days.

(2) Recordings involving suspected or confirmed gaming crimes, unlawful activity, or detentions by security personnel, must be retained for a minimum of 30 days.

(3) Copies of video recordings and/or digital records shall be provided to the Commission upon request. If an original is requested, the Commission shall provide written receipt to the Tribal gaming regulatory authority.

(w) *Video library log.* A video library log, or comparable alternative procedure approved by the Tribal gaming regulatory authority, shall be maintained to demonstrate compliance with the storage, identification, and retention standards required in this section.

(x) *Malfunction and repair log.* Surveillance personnel shall maintain a log or alternative procedure approved by the Tribal gaming regulatory authority that documents each malfunction and repair of the surveillance system as defined in this section.

(2) The log shall state the time, date, and nature of each malfunction, the efforts expended to repair the malfunction, and the date of each effort, the reasons for any delays in repairing the malfunction, the date the malfunction is repaired, and where applicable, any alternative security measures that were taken.

(y) *Surveillance log.* Surveillance personnel shall maintain a surveillance log of all surveillance activities in the surveillance room. The log shall be maintained by surveillance room personnel and shall be stored securely within the surveillance department. At a minimum, the following information shall be recorded in a surveillance log:

(i) Date;

(ii) Time commenced and terminated;

(iii) Activity observed or performed;

(iv) The name or license credential number of each person who initiates, performs, or supervises the surveillance; and

(v) Summary of the results of the surveillance of suspicious activity. The summary may be maintained in a separate log.

(2) [Reserved]

Tier C Gaming Operations

§ 542.40 What is a Tier C gaming operation?

A Tier C gaming operation is one with annual gross gaming revenues of more than $15 million.

§ 542.41 What are the minimum internal control standards for drop and count for Tier C gaming operations?

(a) *Table game drop standards.* (1) The setting out of empty table game drop boxes and the drop shall be a continuous process.

(2) At the end of each shift:

(i) All locked table game drop boxes shall be removed from the tables by an individual independent of the pit shift being dropped;

(ii) A separate drop box shall be placed on each table opened at any time during each shift or a gaming operation may utilize a single drop box with separate openings and compartments for each shift; and

(iii) Upon removal from the tables, table game drop boxes shall be transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(3) If drop boxes are not placed on all tables, then the pit department shall document which tables were open during the shift.

(4) The transporting of table game drop boxes shall be performed by a minimum of two individuals, at least one of whom is independent of the pit shift being dropped.

(5) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(6) Surveillance shall be notified when the drop is to begin so that surveillance may monitor the activities.

(b) *Soft count room personnel.* (1) The table game soft count and the gaming machine bill acceptor count shall be performed by a minimum of three employees.

(2) Count room personnel shall not be allowed to exit or enter the count room during the count except for emergencies or scheduled breaks. At no time during the count, shall there be fewer than three employees in the count room until the drop proceeds have been accepted into cage/vault accountability. Surveillance shall be notified whenever count room personnel exit or enter the count room during the count.

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same three individuals more than 4 days per week. This standard shall not apply to gaming operations that utilize a count team of more than three individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, however, a dealer or a cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all soft count documentation.

(c) *Table game soft count standards.*

(1) The table game soft count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The table game drop boxes shall be individually emptied and counted in such a manner to prevent the commingling of funds between boxes until the count of the box has been recorded.

(i) The count of each box shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If currency counters are utilized and the count room table is used only to empty boxes and sort/stack contents, a count team member shall be able to observe the loading and unloading of all currency at the currency counter, including rejected currency.

(6) Table game drop boxes, when empty, shall be shown to another member of the count team, or to another person who is observing the count, or to surveillance, provided the count is monitored in its entirety by someone independent of the count.

(7) Orders for fill/credit (if applicable) shall be matched to the fill/credit slips. Fills and credits shall be traced to or recorded on the count sheet.

(8) Pit marker issue and payment slips (if applicable) removed from the table game drop boxes shall either be:

(i) Traced to or recorded on the count sheet by the count team; or

(ii) Totaled by shift and traced to the totals documented by the computerized system. Accounting personnel shall verify the issue/payment slip for each table is accurate.

(9) Foreign currency exchange forms (if applicable) removed from the table game drop boxes shall be reviewed for the proper daily exchange rate and the conversion amount shall be recomputed by the count team. Alternatively, this may be performed by accounting/auditing employees.

(10) The opening/closing table and marker inventory forms (if applicable) shall either be:

(i) Examined and traced to or recorded on the count sheet; or

(ii) If a computerized system is used, accounting personnel can trace the opening/closing table and marker inventory forms to the count sheet. Discrepancies shall be investigated with the findings documented and maintained for inspection.

(11) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(12) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(13) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

VOL 66 ISS 247 DE 26 2001 UMI

(14) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(15) Access to stored, full table game drop boxes shall be restricted to authorized members of the drop and count teams.

(16) All table game drop boxes shall be posted with a number corresponding to a permanent number on the gaming table and marked to indicate game, table number, and shift.

(d) *Gaming machine bill acceptor drop standards.* (1) A minimum of three employees shall be involved in the removal of the gaming machine drop, at least one of who is independent of the gaming machine department.

(2) All bill acceptor canisters shall be removed only at the time previously designated by the gaming operations and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) Surveillance shall be notified when the drop is to begin so that surveillance may monitor the activities.

(i) Surveillance shall record in a proper log or journal in a legible manner any exceptions or variations to established procedures observed during the drop. Such log or journal shall be made available for review to authorized persons only.

(ii) [Reserved]

(4) The bill acceptor canisters shall be removed by an individual independent of the gaming machine department then transported directly to the count room or other equivalently secure area with comparable controls and locked in a secure manner until the count takes place.

(i) Security shall be provided over the bill acceptor canisters removed from the gaming machines and awaiting transport to the count room.

(ii) The transporting of bill acceptor canisters shall be performed by a minimum of two individuals, at least one of who is independent of the gaming machine department.

(5) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(e) *Gaming machine bill acceptor count standards.* (1) The gaming machine bill acceptor count shall be performed in a soft count room or other equivalently secure area with comparable controls.

(2) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(3) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(4) The bill acceptor canisters shall be individually emptied and counted in such a manner to prevent the commingling of funds between canisters until the count of the canister has been recorded.

(i) The count of each canister shall be recorded in ink or other permanent form of recordation.

(ii) A second count shall be performed by an employee on the count team who did not perform the initial count.

(iii) Corrections to information originally recorded by the count team on soft count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(5) If currency counters are utilized and the count room table is used only to empty canisters and sort/stack contents, a count team member shall be able to observe the loading and unloading of all currency at the currency counter, including rejected currency.

(6) Canisters, when empty, shall be shown to another member of the count team, or to another person who is observing the count, or to surveillance, provided that the count is monitored in its entirety by someone independent of the count.

(7) The count sheet shall be reconciled to the total drop by a count team member who shall not function as the sole recorder.

(8) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(9) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(10) The count sheet, with all supporting documents, shall be delivered to the accounting department by a count team member or someone other than the cashiers department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(11) Access to stored bill acceptor canisters, full or empty, shall be restricted to authorized members of the drop and count teams.

(12) All bill acceptor canisters shall be posted with a number corresponding to a permanent number on the gaming machine.

(f) *Gaming machine coin drop standards.* (1) A minimum of three employees shall be involved in the removal of the gaming machine drop, at least one of who is independent of the gaming machine department.

(2) All drop buckets shall be removed only at the time previously designated by the gaming operation and reported to the Tribal gaming regulatory authority, except for emergency drops.

(3) Surveillance shall be notified when the drop is to begin in order that surveillance may monitor the activities.

(i) Surveillance shall record in a proper log or journal in a legible manner any exceptions or variations to established procedures observed during the drop. Such log or journal shall be made available for review to authorized persons only.

(ii) [Reserved]

(4) Security shall be provided over the buckets removed from the gaming machine drop cabinets and awaiting transport to the count room.

(5) As each machine is opened, the contents shall be tagged with its respective machine number if the bucket is not permanently marked with the machine number. The contents shall be transported directly to the area designated for the counting of such drop proceeds. If more than one trip is required to remove the contents of the machines, the filled carts of coins shall be securely locked in the room designed for counting or in another equivalently secure area with comparable controls. There shall be a locked covering on any carts in which the drop route includes passage out of doors.

(i) Alternatively, a smart bucket system that electronically identifies and tracks the gaming machine number, and facilitates the proper recognition of gaming revenue, shall satisfy the requirements of this paragraph.

(ii) [Reserved]

(6) Each drop bucket in use shall be:

(i) Housed in a locked compartment separate from any other compartment of the gaming machine and keyed differently than other gaming machine compartments; and

(ii) Identifiable to the gaming machine from which it is removed. If the gaming machine is identified with a removable tag that is placed in the bucket, the tag shall be placed on top of the bucket when it is collected.

(7) Each gaming machine shall have drop buckets into which coins or tokens that are retained by the gaming machine are collected. Drop bucket contents shall not be used to make change or pay hand-paid payouts.

(8) The collection procedures may include procedures for dropping gaming machines that have trays instead of drop buckets.

(g) *Hard count room personnel.* The weigh/count shall be performed by a minimum of three employees.

(2) At no time during the weigh/count shall there be fewer than three employees in the count room until the drop proceeds have been accepted into cage/vault accountability. Surveillance shall be notified whenever count room personnel exit or enter the count room during the count.

(i) If the gaming machine count is conducted with a continuous mechanical count meter which is not reset during the count and is verified in writing by at least three employees at the start and end of each denomination count, then one employee may perform the wrap.

(ii) [Reserved]

(3) Count team members shall be rotated on a routine basis such that the count team is not consistently the same three individuals more than four days per week. This standard shall not apply to gaming operations that utilize a count team of more than three individuals.

(4) The count team shall be independent of transactions being reviewed and counted. The count team shall be independent of the cage/vault departments, unless they are non-supervisory gaming machine employees and perform the laborer function only (A non-supervisory gaming machine employee is defined as a person below the level of gaming machine shift supervisor). A cage cashier may be used if this person is not allowed to perform the recording function. An accounting representative may be used if there is an independent audit of all count documentation.

(h) *Gaming machine coin count and wrap standards.* (1) Coins shall include tokens.

(2) The gaming machine coin count and wrap shall be performed in a count room or other equivalently secure area with comparable controls.

(i) Alternatively, an on-the-floor drop system utilizing a mobile scale shall satisfy the requirements of this paragraph, subject to the following conditions:

(A) The gaming operation shall utilize and maintain an effective on-line gaming machine monitoring system, as described in § 542.12(r)(3);

(B) Surveillance shall be notified when the weigh/drop/count begins and shall be capable of monitoring the entire process;

(C) An independent observer shall remain by the weigh scale at all times and shall observe the entire weigh/drop/count process;

(D) Physical custody of the keys needed to access the laptop and video compartment shall require the involvement of two persons, one of whom is independent of the drop and count team;

(E) The mule key, the laptop and video compartment keys, and the remote control for the VCR shall be maintained by a department independent of the gaming machine department. The appropriate personnel shall sign out these keys;

(F) An independent person shall be required to accompany these keys while they are checked out, and observe each time the laptop compartment is opened;

(G) The laptop access panel shall not be opened outside the hard count room, except in instances when the laptop must be rebooted as a result of a crash, lock up, or other situation requiring immediate corrective action;

(H) User access to the system shall be limited to those employees required to have full or limited access to complete the weigh/drop/count;

(I) Prior to the drop, the drop/count team shall ensure the scale batteries are charged;

(J) Prior to the drop, a videotape shall be inserted into the VCR on board the mule and the VCR shall be activated;

(K) The weigh scale test shall be performed prior to removing the unit from the hard count room for the start of the weigh/drop/count;

(L) When the weigh/drop/count is completed, the independent observer shall access the laptop compartment, end the recording session, eject the videotape, and deliver the videotape to surveillance; and

(M) The gaming operation must obtain the security camera available with the system, and this camera must be added in such a way as to eliminate tampering.

(ii) [Reserved]

(3) Access to the count room during the count shall be restricted to members of the drop and count teams, with the exception of authorized observers, supervisors for resolution of problems, and authorized maintenance personnel.

(4) If counts from various revenue centers occur simultaneously in the count room, procedures shall be in effect that prevent the commingling of funds from different revenue centers.

(5) The following functions shall be performed in the counting of the gaming machine drop:

(i) Recorder function, which involves the recording of the gaming machine count; and

(ii) Count team supervisor function, which involves the control of the gaming machine weigh and wrap process. The supervisor is precluded from performing the initial recording of the weigh/count unless a weigh scale with a printer is used.

(6) The gaming machine drop shall be counted, wrapped, and reconciled in such a manner to prevent the commingling of gaming machine drop coin with coin (for each denomination) from the next gaming machine drop until the count of the gaming machine drop has been recorded. If the coins are not wrapped immediately after being weighed or counted, they shall be secured and not commingled with other coin.

(i) The amount of the gaming machine drop from each machine shall be recorded in ink or other permanent form of recordation on a gaming machine count document by the recorder or mechanically printed by the weigh scale.

(ii) Corrections to information originally recorded by the count team on gaming machine count documentation shall be made by drawing a single line through the error, writing the correct figure above the original figure, and then obtaining the initials of at least two count team members who verified the change.

(A) If a weigh scale interface is used, corrections to gaming machine count data shall be made using either of the following:

(*1*) Crossing out the error on the gaming machine document, entering the correct figure, and then obtaining the initials of at least two count team employees. If this procedure is used, an employee independent of the gaming machine department and count team shall enter the correct figure into the computer system prior to the generation of related gaming machine reports; or

(*2*) During the count process, correct the error in the computer system and enter the passwords of at least two count team employees. If this procedure is used, an exception report shall be generated by the computer system identifying the gaming machine

VOL 66 ISS 247 DE 26 2001 UMI

number, the error, the correction, and the count team employees attesting to the correction.

(B) [Reserved]

(7) If applicable, the weight shall be converted to dollar amounts before the reconciliation of the weigh to the wrap.

(8) If a coin meter is used, a count team member shall convert the coin count for each denomination into dollars and shall enter the results on a summary sheet.

(9) The recorder and at least one other count team member shall sign the weigh tape and the gaming machine count document attesting to the accuracy of the weigh/count.

(10) All members of the count team shall sign the count document or a summary report to attest to their participation in the count.

(11) All drop proceeds and cash equivalents that were counted shall be turned over to the cage or vault cashier (who shall be independent of the count team) or to an authorized person/employee independent of the revenue generation and the count process for verification. Such individual shall certify by signature as to the accuracy of the drop proceeds delivered and received.

(12) All gaming machine count and wrap documentation, including any applicable computer storage media, shall be delivered to the accounting department by a count team member or someone other than the cashier's department. Alternatively, it may be adequately secured (e.g., locked container to which only accounting personnel can gain access) until retrieved by the accounting department.

(13) If the coins are transported off the property, a second (alternative) count procedure shall be performed before the coins leave the property. Any variances shall be documented.

(14) *Variances.* Large (by denomination, either $1,000 or 2% of the drop, whichever is less) or unusual (e.g., zero for weigh/count or patterned for all counts) variances between the weigh/count and wrap shall be investigated by management personnel independent of the gaming machine department, count team, and the cage/vault functions on a timely basis. The results of such investigation shall be documented and maintained.

(i) *Security of the count room inventory during the gaming machine coin count and wrap.* (1) If the count room serves as a coin room and coin room inventory is not secured so as to preclude access by the count team, then the following standards shall apply:

(i) At the commencement of the gaming machine count the following requirements shall be met:

(A) The coin room inventory shall be counted by at least two employees, one of whom is a member of the count team and the other is independent of the weigh/count and wrap procedures;

(B) The count in paragraph (i)(1)(i)(A) of this section shall be recorded on an appropriate inventory form;

(ii) Upon completion of the wrap of the gaming machine drop:

(A) At least two members of the count team (wrap team), independently from each other, shall count the ending coin room inventory;

(B) The counts in paragraph (i)(1)(ii)(A) of this section shall be recorded on a summary report(s) which evidences the calculation of the final wrap by subtracting the beginning inventory from the sum of the ending inventory and transfers in and out of the coin room;

(C) The same count team members shall compare the calculated wrap to the weigh/count, recording the comparison and noting any variances on the summary report;

(D) A member of the cage/vault department shall count the ending coin room inventory by denomination and shall reconcile it to the beginning inventory, wrap, transfers, and weigh/count; and

(E) At the conclusion of the reconciliation, at least two count/wrap team members and the verifying employee shall sign the summary report(s) attesting to its accuracy.

(2) If the count room is segregated from the coin room, or if the coin room is used as a count room and the coin room inventory is secured to preclude access by the count team, all of the following requirements shall be completed, at the conclusion of the count:

(i) At least two members of the count/wrap team shall count the final wrapped gaming machine drop independently from each other;

(ii) The counts shall be recorded on a summary report;

(iii) The same count team members (or the accounting department) shall compare the final wrap to the weigh/count, recording the comparison and noting any variances on the summary report;

(iv) A member of the cage/vault department shall count the wrapped gaming machine drop by denomination and reconcile it to the weigh/count;

(v) At the conclusion of the reconciliation, at least two count team members and the cage/vault employee shall sign the summary report attesting to its accuracy; and

(vi) The wrapped coins (exclusive of proper transfers) shall be transported to the cage, vault or coin vault after the reconciliation of the weigh/count to the wrap.

(j) *Transfers during the gaming machine coin count and wrap.* (1) Subject to the approval of the Tribal gaming regulatory authority, transfers may be permitted during the count and wrap.

(2) Each transfer shall be recorded on a separate multi-part form with a preprinted or concurrently-printed form number (used solely for gaming machine count transfers) which shall be subsequently reconciled by the accounting department to ensure the accuracy of the reconciled gaming machine drop.

(3) Each transfer must be counted and signed for by at least two members of the count team and by someone independent of the count team who is responsible for authorizing the transfer.

(k) *Gaming machine drop key control standards.* (1) Gaming machine coin drop cabinet keys, including duplicates, shall be maintained by a department independent of the gaming machine department.

(2) The physical custody of the keys needed to access gaming machine coin drop cabinets, including duplicates, shall require the involvement of two persons, one of whom is independent of the gaming machine department.

(3) Two employees (separate from key custodian) shall be required to accompany such keys while checked out and observe each time gaming machine drop cabinets are accessed, unless surveillance is notified each time keys are checked out and surveillance observes the person throughout the period the keys are checked out.

(l) *Table game drop box and bill acceptor canister key control standards.* (1) Procedures shall be developed and implemented to insure that unauthorized access to empty table game drop boxes shall not occur from the time the boxes leave the storage racks until they are placed on the tables.

(2) The involvement of at least two individuals independent of the cage department shall be required to access stored empty table game drop boxes.

(3) The release keys shall be separately keyed from the contents keys.

(4) At least three (two for table game drop box keys in operations with three tables or fewer) count team members are required to be present at the time count room and other count keys are issued for the count.

(5) All duplicate keys shall be maintained in a manner that provides the same degree of control as is required for the original keys. Records shall be maintained for each key duplicated that indicate the number of keys made and destroyed.

(6) Logs shall be maintained by the custodian of sensitive keys to document authorization of personnel accessing keys.

(m) *Table game drop box release keys.* (1) The table game drop box release keys shall be maintained by a department independent of the pit department.

(2) Only the person(s) authorized to remove table game drop boxes from the tables shall be allowed access to the table game drop box release keys; however, the count team members may have access to the release keys during the soft count in order to reset the table game drop boxes.

(3) Persons authorized to remove the table game drop boxes shall be precluded from having simultaneous access to the table game drop box contents keys and release keys.

(4) For situations requiring access to a table game drop box at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(n) *Bill acceptor canister release keys.* (1) The bill acceptor canister release keys shall be maintained by a department independent of the gaming machine department.

(2) Only the person(s) authorized to remove bill acceptor canisters from the gaming machines shall be allowed access to the release keys.

(3) Persons authorized to remove the bill acceptor canisters shall be precluded from having simultaneous access to the bill acceptor canister contents keys and release keys.

(4) For situations requiring access to a bill acceptor canister at a time other than the scheduled drop, the date, time, and signature of employee signing out/in the release key must be documented.

(o) *Table game drop box storage rack keys.* (1) Someone independent of the pit department shall be required to accompany the table game drop box storage rack keys and observe each time table game drop boxes are removed from or placed in storage racks.

(2) Persons authorized to obtain table game drop box storage rack keys shall be precluded from having simultaneous access to table game drop box contents keys with the exception of the count team.

(p) *Bill acceptor canister storage rack keys.* (1) Someone independent of the gaming machine department shall be required to accompany the bill acceptor canister storage rack keys and observe each time canisters are removed from or placed in storage racks.

(2) Persons authorized to obtain bill acceptor canister storage rack keys shall be precluded from having simultaneous access to bill acceptor canister contents keys with the exception of the count team.

(q) *Table game drop box contents keys.* (1) The physical custody of the keys needed for accessing stored, full table game drop box contents shall require the involvement of persons from at least two separate departments, with the exception of the count team.

(2) Access to the table game drop box contents key at other than scheduled count times shall require the involvement of at least three persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(3) Only count team members shall be allowed access to table game drop box content keys during the count process.

(r) *Bill acceptor canister contents keys.* (1) The physical custody of the keys needed for accessing stored, full bill acceptor canister contents shall require involvement of persons from two separate departments, with the exception of the count team.

(2) Access to the bill acceptor canister contents key at other than scheduled count times shall require the involvement of at least three persons from separate departments, including management. The reason for access shall be documented with the signatures of all participants and observers.

(3) Only the count team members shall be allowed access to bill acceptor canister contents keys during the count process.

(s) *Emergency drop procedures.* Emergency drop procedures shall be developed by the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority.

(t) *Equipment standards for gaming machine count.* (1) A weigh scale calibration module shall be secured so as to prevent unauthorized access (e.g., prenumbered seal, lock and key, etc.).

(2) Someone independent of the cage, vault, gaming machine, and count team functions shall be required to be present whenever the calibration module is accessed. Such access shall be documented and maintained.

(3) If a weigh scale interface is used, it shall be adequately restricted so as to prevent unauthorized access (passwords, keys, etc.).

(4) If the weigh scale has a zero adjustment mechanism, it shall be physically limited to minor adjustments (e.g., weight of a bucket) or physically situated such that any unnecessary adjustments to it during the weigh process would be observed by other count team members.

(5) The weigh scale and weigh scale interface (if applicable) shall be tested by someone who is independent of the cage, vault, and gaming machine departments and count team at least quarterly. At least annually, this test shall be performed by internal audit in accordance with the internal audit standards. The result of these tests shall be documented and signed by the person(s) performing the test.

(6) Prior to the gaming machine count, at least two employees shall verify the accuracy of the weigh scale with varying weights or with varying amounts of previously counted coin for each denomination to ensure the scale is properly calibrated (varying weights/coin from drop to drop is acceptable).

(7) If a mechanical coin counter is used (instead of a weigh scale), the Tribal gaming regulatory authority or the gaming operation shall establish, and the gaming operation shall comply, with procedures that are equivalent to those described in paragraphs (t)(4), (t)(5), and (t)(6) of this section. Such procedures shall be subject to the approval of the Tribal gaming regulatory authority.

(8) If a coin meter count machine is used, the count team member shall record the machine number denomination and number of coins in ink on a source document, unless the meter machine automatically records such information.

(i) A count team member shall test the coin meter count machine before the actual count to ascertain if the metering device is functioning properly with a predetermined number of coins for each denomination.

(ii) [Reserved]

§ 542.42 What are the minimum internal control standards for internal audit for Tier C gaming operations?

(a) *Internal audit personnel.* (1) For Tier C gaming operations, a separate internal audit department shall be maintained whose primary function is performing internal audit work and which is independent with respect to the departments subject to audit.

(2) The internal audit personnel shall report directly to the Tribe, Tribal gaming regulatory authority, audit committee, or other entity designated by the Tribe in accordance with the definition of internal audit in § 542.2.

(b) *Audits.* (1) Internal audit personnel shall perform audits of all major gaming areas of the gaming operation. The following are reviewed at least annually:

(i) Bingo, including but not limited to, bingo card control, payout procedures, and cash reconciliation process;

(ii) Pull tabs, including but not limited to, statistical records, winner verification, perpetual inventory, and accountability of sales versus inventory;

(iii) Card games, including but not limited to, card games operation, cash exchange procedures, shill transactions, and count procedures;

(iv) Keno, including but not limited to, game write and payout procedures, sensitive key location and control, and a review of keno auditing procedures;

(v) Pari-mutual wagering, including write and payout procedures, and pari-mutual auditing procedures;

(vi) Table games, including but not limited to, fill and credit procedures, pit credit play procedures, rim credit procedures, soft drop/count procedures and the subsequent transfer of funds, unannounced testing of count room currency counters and/or currency interface, location and control over sensitive keys, the tracing of source documents to summarized documentation and accounting records, and reconciliation to restricted copies;

(vii) Gaming machines, including but not limited to, jackpot payout and gaming machine fill procedures, gaming machine drop/count and bill acceptor drop/count and subsequent transfer of funds, surprise testing of weigh scale and weigh scale interface, unannounced testing of count room currency counters and/or currency interface, gaming machine drop cabinet access, tracing of source documents to summarized documentation and accounting records, reconciliation to restricted copies, location and control over sensitive keys, compliance with EPROM duplication procedures, and compliance with MICS procedures for gaming machines that accept currency or coins and issue cash-out tickets or gaming machines that do not accept currency or coin and do not return currency or coin;

(viii) Cage and credit procedures including all cage, credit, and collection procedures, and the reconciliation of trial balances to physical instruments on a sample basis. Cage accountability shall be reconciled to the general ledger;

(ix) Information technology functions, including review for compliance with information technology standards;

(x) Complimentary service or item, including but not limited to, procedures whereby complimentary service items are issued, authorized, and redeemed; and

(xi) Any other internal audits as required by the Tribal gaming regulatory authority.

(2) In addition to the observation and examinations performed under paragraph (b)(1) of this section, follow-up observations and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by internal audit, the independent accountant, and/or the Commission. The verification shall be performed within six months following the date of notification.

(3) Whenever possible, internal audit observations shall be performed on an unannounced basis (i.e., without the employees being forewarned that their activities will be observed). Additionally, if the independent accountant also performs the internal audit function, the accountant shall perform separate observations of the table games/gaming machine drops and counts to satisfy the internal audit observation requirements and independent accountant tests of controls as required by the American Institute of Certified Public Accountants guide.

(c) *Documentation.* (1) Documentation (e.g., checklists, programs, reports, etc.) shall be prepared to evidence all internal audit work performed as it relates to the requirements in this section, including all instances of non-compliance.

(2) The internal audit department shall operate with audit programs, which, at a minimum, address the MICS. Additionally, the department shall properly document the work performed, the conclusions reached, and the resolution of all exceptions. Institute of Internal Auditors standards are recommended but not required.

(d) *Reports.* (1) Reports documenting audits performed shall be maintained and made available to the Commission upon request. The audit reports shall include the following information:

(i) Audit objectives;

(ii) Audit procedures and scope;

(iii) Findings and conclusions;

(iv) Recommendations, if applicable; and

(v) Management's response.

(2) [Reserved]

(e) *Material exceptions.* All material exceptions resulting from internal audit work shall be investigated and resolved with the results of such being documented and retained for five years.

(f) *Role of management.* (1) Internal audit findings shall be reported to management.

(2) Management shall be required to respond to internal audit findings stating corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the internal audit report that will be delivered to management and the Tribal gaming regulatory authority.

§ 542.43 What are the minimum internal control standards for surveillance for a Tier C gaming operation?

(a) The surveillance system shall be maintained and operated from a staffed surveillance room and shall provide surveillance over gaming areas.

(b) The entrance to the surveillance room shall be located so that it is not readily accessible by either gaming operation employees who work primarily on the casino floor, or the general public.

(c) Access to the surveillance room shall be limited to surveillance personnel, designated employees, and other persons authorized in accordance with the surveillance department policy. Such policy shall be subject to the approval of the Tribal gaming regulatory authority. The surveillance department shall maintain a sign-in log of other authorized persons entering the surveillance room.

(d) Surveillance room equipment shall have total override capability over all other satellite surveillance equipment located outside the surveillance room.

(e) In the event of power loss to the surveillance system, an auxiliary or backup power source shall be available and capable of providing immediate restoration of power to all elements of the surveillance system that enable surveillance personnel to observe the table games remaining open for play and all areas covered by dedicated cameras. Auxiliary or backup power sources such as a UPS System, backup generator, or an alternate utility supplier, satisfy this requirement.

(f) The surveillance system shall include date and time generators which possess the capability to display the date and time of recorded events on video and/or digital recordings. The displayed date and time shall not significantly obstruct the recorded view.

(g) The surveillance department shall strive to ensure staff is trained in the use of the equipment, knowledge of the games, and house rules.

(h) Each camera required by the standards in this section shall be installed in a manner that will prevent it from being readily obstructed, tampered with, or disabled by patrons or employees.

(i) Each camera required by the standards in this section shall possess the capability of having its picture displayed on a monitor and recorded. The surveillance system shall include sufficient numbers of monitors and recorders to simultaneously display and record multiple gaming and count room activities, and record the views of all dedicated cameras and motion activated dedicated cameras.

(j) Reasonable effort shall be made to repair each malfunction of surveillance system equipment required by the standards in this section within seventy-two (72) hours after the malfunction is discovered.

(1) In the event of a dedicated camera malfunction, the gaming operation shall immediately provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity.

(2) [Reserved]

(k) *Bingo.* (1) The surveillance system shall possess the capability to monitor the bingo ball drawing device or random number generator which shall be recorded during the course of the draw by a dedicated camera with sufficient clarity to identify the balls drawn or numbers selected.

(2) The surveillance system shall monitor and record the game board and the activities of the employees responsible for drawing, calling, and entering the balls drawn or numbers selected.

(l) *Card games.* The surveillance system shall monitor and record general activities in each card room with sufficient clarity to identify the employees performing the different functions.

(m) *Progressive card games.* (1) Each progressive card game with a progressive jackpot of $25,000 or more shall be recorded and monitored by dedicated cameras that provide coverage of:

(i) The table surface, sufficient that the card values and card suits can be clearly identified;

(ii) An overall view of the entire table with sufficient clarity to identify patrons and dealer; and

(iii) A view of the posted jackpot amount.

(2) [Reserved]

(n) *Keno.* The surveillance system shall possess the capability to monitor the keno ball drawing device or random number generator which shall be recorded during the course of the draw by a dedicated camera with sufficient clarity to identify the balls drawn or numbers selected.

(2) The surveillance system shall monitor and record general activities in each keno game area with sufficient clarity to identify the employees performing the different functions.

(o) *Pari-mutuel.* The surveillance system shall monitor and record general activities in the pari-mutuel area, to include the ticket writer and cashier areas, with sufficient clarity to identify the employees performing the different functions.

(p) *Table games.* (1) Operations with four (4) or more table games. Except as otherwise provided in paragraphs (p)(3), (4), and (5) of this section, the surveillance system of gaming operations operating four (4) or more table games shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

(i) With sufficient clarity to identify patrons and dealers; and

(ii) With sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values, and game outcome.

(iii) One (1) dedicated camera per table and one (1) pan-tilt-zoom camera per four (4) tables may be an acceptable alternative procedure to satisfy the requirements of this paragraph.

(2) *Operations with three (3) or fewer table games.* The surveillance system of gaming operations operating three (3) or fewer table games shall:

(i) Comply with the requirements of paragraph (p)(1) of this section; or

(ii) Have one (1) overhead camera at each table.

(3) *Craps.* All craps tables shall have two (2) dedicated cross view cameras covering both ends of the table.

(4) *Roulette.* All roulette areas shall have one (1) overhead dedicated camera covering the roulette wheel and shall also have one (1) dedicated camera covering the play of the table.

(5) *Big wheel.* All big wheel games shall have one (1) dedicated camera viewing the wheel.

(q) *Progressive table games.* (1) Each progressive table game with a progressive jackpot of $25,000 or more shall be recorded and monitored by dedicated cameras that provide coverage of:

(i) The table surface, sufficient that the card values and card suits can be clearly identified;

(ii) An overall view of the entire table with sufficient clarity to identify patrons and dealer; and

(iii) A view of the progressive meter jackpot amount. If several tables are linked to the same progressive jackpot meter, only one meter need be recorded.

(2) [Reserved]

(r) *Gaming machines.* (1) Except as otherwise provided in paragraphs (r)(2) and (3) of this section, each gaming machine offering a payout of more than $250,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine, and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(2) *In-house progressive machine.* Each in-house progressive gaming machine offering a base payout amount of more than $100,000 shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(3) *Wide-area progressive machine.* Each wide-area progressive gaming machine offering a base payout amount of more than $1.5 million and monitored by an independent vendor utilizing an online progressive computer system shall be monitored by a dedicated camera(s) to provide coverage of:

(i) All patrons and employees at the gaming machine; and

(ii) The face of the gaming machine, with sufficient clarity to identify the payout line(s) of the gaming machine.

(4) Notwithstanding paragraph (r)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

(s) *Cage and vault.* (1) The surveillance system shall monitor and record a general overview of activities occurring in each cage and vault area with sufficient clarity to identify employees within the cage and patrons and employees at the counter areas.

(2) Each cashier station shall be equipped with one (1) dedicated overhead camera covering the transaction area.

(3) The surveillance system shall be used as an overview for cash transactions. This overview should include the customer, the employee, and the surrounding area.

(t) *Fills and credits.* (1) The cage or vault area in which fills and credits are transacted shall be monitored and recorded by a dedicated camera or motion activated dedicated camera that provides coverage with sufficient clarity to identify the chip values and the amounts on the fill and credit slips.

(2) Controls provided by a computerized fill and credit system may

VOL 66 ISS 247 DE 26 2001 UMI

be deemed an adequate alternative to viewing the fill and credit slips.

(u) *Currency and coin.* (1) The surveillance system shall monitor and record with sufficient clarity all areas where currency or coin may be stored or counted. Audio capability of the soft count room shall also be maintained. The surveillance system shall provide for:

(i) Coverage of scales shall be sufficiently clear to view any attempted manipulation of the recorded data.

(ii) Monitoring and recording of the table game drop box storage rack or area by either a dedicated camera or a motion-detector activated camera.

(iii) Monitoring and recording of all areas where coin may be stored or counted, including the hard count room, all doors to the hard count room, all scales and wrapping machines, and all areas where uncounted coin may be stored during the drop and count process.

(iv) Monitoring and recording of soft count room, including all doors to the room, all table game drop boxes, safes, and counting surfaces, and all count team personnel. The counting surface area must be continuously monitored by a dedicated camera during the soft count.

(v) Monitoring and recording of all areas where currency is sorted, stacked, counted, verified, or stored during the soft count process.

(2) [Reserved]

(v) *Change booths.* The surveillance system shall monitor and record a general overview of the activities occurring in each gaming machine change booth.

(w) *Video recording and/or digital record retention.* (1) All video recordings and/or digital records of coverage provided by the dedicated cameras or motion-activated dedicated cameras required by the standards in this section shall be retained for a minimum of seven (7) days.

(2) Recordings involving suspected or confirmed gaming crimes, unlawful activity, or detentions by security personnel, must be retained for a minimum of 30 days.

(3) Copies of video recordings and/or digital records shall be provided to the Commission upon request. If an original is requested, the Commission shall provide written receipt to the Tribal gaming regulatory authority.

(x) *Video library log.* A video library log, or comparable alternative procedure approved by the Tribal gaming regulatory authority, shall be maintained to demonstrate compliance with the storage, identification, and retention standards required in this section.

(y) *Malfunction and repair log.* (1) Surveillance personnel shall maintain a log or alternative procedure approved by the Tribal gaming regulatory authority that documents each malfunction and repair of the surveillance system as defined in this section.

(2) The log shall state the time, date, and nature of each malfunction, the efforts expended to repair the malfunction, and the date of each effort, the reasons for any delays in repairing the malfunction, the date the malfunction is repaired, and where applicable, any alternative security measures that were taken.

(z) *Surveillance log.* (1) Surveillance personnel shall maintain a surveillance log of all surveillance activities in the surveillance room. The log shall be maintained by surveillance room personnel and shall be stored securely within the surveillance department. At a minimum, the following information shall be recorded in a surveillance log:

(i) Date;

(ii) Time commenced and terminated;

(iii) Activity observed or performed;

(iv) The name or license credential number of each person who initiates, performs, or supervises the surveillance; and

(v) Summary of the results of the surveillance of suspicious activity. The summary may be maintained in a separate log.

(2) [Reserved]

This Proposed Rule was prepared under the direction of Montie R. Deer, Chairman, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005.

Signed at Washington, DC this 6th day of December, 2001.

Montie R. Deer,
Chairman.

Elizabeth L. Homer,
Vice-Chair.

Teresa E. Poust,
Commissioner.

[FR Doc. 01–30788 Filed 12–21–01; 8:45 am]

BILLING CODE 7565–01–P

Federal Register

Wednesday,
December 26, 2001

Part III

The President

Proclamation 7515—To Modify the Harmonized Tariff Schedule of the United States, To Provide Rules of Origin Under the North American Free Trade Agreement for Affected Goods, and for Other Purposes

VOL
66

ISS
2
4
7

DE
26

2001

UMI

Federal
Vol. 66
Wednes

Title

The

Federal Register
Vol. 66, No. 247
Wednesday, December 26, 2001

Presidential Documents

Title 3—

The President

Proclamation 7515 of December 18, 2001

To Modify the Harmonized Tariff Schedule of the United States, To Provide Rules of Origin Under the North American Free Trade Agreement for Affected Goods, and for Other Purposes

By the President of the United States of America

A Proclamation

1. Section 1205(a) of the Omnibus Trade and Competitiveness Act of 1988 (the "1988 Act") (19 U.S.C. 3005(a)) directs the United States International Trade Commission (the "Commission") to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and periodically to recommend to the President such modifications in the HTS as the Commission considers necessary or appropriate to accomplish the purposes set forth in that subsection. The Commission has recommended modifications to the HTS pursuant to sections 1205(c) and (d) of the 1988 Act (19 U.S.C. 3005(c) and (d)) to conform the HTS to amendments made to the International Convention on the Harmonized Commodity Description and Coding System (the "Convention").

2. Section 1206(a) of the 1988 Act (19 U.S.C. 3006(a)) authorizes the President to proclaim modifications to the HTS, based on the recommendations of the Commission under section 1205 of the 1988 Act (19 U.S.C. 3005), if he determines that the modifications are in conformity with the obligations of the United States under the Convention and do not run counter to the national economic interest of the United States. I have determined that the modifications to the HTS proclaimed in this proclamation pursuant to section 1206(a) are in conformity with the obligations of the United States under the Convention and do not run counter to the national economic interest of the United States.

3. (a) Presidential Proclamation 6641 of December 15, 1993, implemented the North American Free Trade Agreement (the "NAFTA") with respect to the United States and, pursuant to sections 201 and 202 of the North American Free Trade Agreement Implementation Act (the "NAFTA Implementation Act") (19 U.S.C. 3331 and 3332), incorporated in the HTS the tariff modifications and rules of origin necessary or appropriate to carry out the NAFTA.

(b) Because the substance of the changes to the Convention will be reflected in slightly differing form in the national tariff schedules of the three parties to the NAFTA, the rules of origin and interpretative rules set forth in Appendix 6.A of Annex 300–B, Annex 401, and Annex 403.1 to the NAFTA must be changed to ensure that the tariff and certain other treatment accorded under the NAFTA to originating goods will continue to be provided under the tariff categories that are being modified to reflect the amendments to the Convention. The NAFTA parties have agreed to make these changes.

4. Section 202 of the NAFTA Implementation Act provides rules for determining whether goods imported into the United States originate in the territory of a NAFTA party and thus are eligible for the tariff and other treatment contemplated under the NAFTA. Section 202(q) of the NAFTA Implementation Act (19 U.S.C. 3332(q)) authorizes the President to proclaim the rules of origin set out in the NAFTA and any subordinate tariff categories

necessary to carry out the NAFTA Implementation Act consistent with the NAFTA.

5. I have determined that the modifications to the HTS proclaimed in this proclamation pursuant to sections 201 and 202 of the NAFTA Implementation Act are necessary in order to ensure that the tariff and certain other treatment accorded under the NAFTA, including previously proclaimed staged reductions in rates of duty, will continue to be given to NAFTA originating goods under tariff categories that are being modified to reflect the amendments to the Convention.

6. Presidential Proclamation 6763 of December 23, 1994, implemented with respect to the United States the trade agreements resulting from the Uruguay Round of multilateral trade negotiations, including Schedule XX-United States of America, annexed to the Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994 ("Schedule XX"), that were entered into pursuant to sections 1102(a) and (e) of the 1988 Act (19 U.S.C. 2902(a) and (e)) and approved in section 101(a) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3511(a)).

7. Pursuant to the authority provided in section 111 of the URAA (19 U.S.C. 3521) and sections 1102(a) and (e) of the 1988 Act, Proclamation 6763 included the staged reductions in rates of duty that the President determined to be necessary or appropriate to carry out the concessions set forth in Schedule XX. In order to ensure the continuation of such staged reductions in rates of duty for imported goods under tariff categories that are being modified to reflect the amendments to the Convention, I have determined that additional modifications to the HTS are necessary or appropriate to carry out the duty reductions previously proclaimed, including certain technical or conforming changes within the tariff schedule.

8. Presidential Proclamation 7351 of October 2, 2000, implemented section 211 of the United States-Caribbean Basin Trade Partnership Act (title II of Public Law 106–200, 114 Stat. 286) (CBTPA), in order to provide certain preferential tariff treatment to eligible articles that are the product of any country that the President has designated as a "CBTPA beneficiary country" and that has satisfied the requirements of section 213(b)(4)(A)(ii) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2703(b)(4)(A)(ii)). Section 213(b)(3) of the CBERA (19 U.S.C. 2703(b)(3)) provides that the tariff treatment accorded at any time under the CBTPA to any article referred to in section 213(b)(1)(B) through (F) of the CBERA (19 U.S.C. 2703(b)(1)(B) through (F)) that is a CBTPA originating good shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.

9. Pursuant to section 213(b) of the CBERA, Proclamation 7351 included the staged reductions in rates of duty that the President determined to be necessary or appropriate to provide such identical tariff treatment to CBTPA originating goods. In order to ensure the continuation of such staged reductions in rates of duty for imported goods under tariff categories that are being modified to reflect the amendments to the Convention and the conforming changes in the NAFTA rules of origin, I have determined that additional modifications to the HTS are necessary or appropriate to carry out the duty reductions previously proclaimed.

10. Presidential Proclamation 7512 of December 7, 2001, implemented with respect to the United States the Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area (JFTA), which was entered into on October 24, 2000, and implemented pursuant to section 101 of the United States-Jordan Free Trade Area Implementation Act (the "JFTA Act") (19 U.S.C. 2112 Note). That proclamation included the staged reductions in rates of duty that I determined to be necessary or appropriate to carry out the concessions set forth in Annex 2.1 to the JFTA. In order to ensure the continuation

of such staged reductions in rates of duty for originating goods under tariff categories that are being modified to reflect the amendments to the Convention, I have determined that additional modifications to the HTS are necessary or appropriate to carry out the duty reductions previously proclaimed.

11. Section 201(b) of the NAFTA Implementation Act (19 U.S.C. 3331(b)) authorizes the President, subject to the consultation and layover requirements of section 103(a) of the NAFTA Implementation Act (19 U.S.C. 3313(a)), to proclaim accelerated schedules of duty elimination that the United States may agree to with Mexico or Canada. Consistent with Article 302(3) of the NAFTA, I, through my duly empowered representative, have entered into an agreement with the Government of Mexico providing for an accelerated schedule of duty elimination for specific goods of Mexico.

12. Pursuant to section 201(b) of the NAFTA Implementation Act, I have determined that the modifications herein proclaimed of duties on goods originating in the territory of a NAFTA party are necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Mexico provided for by the NAFTA, and to carry out the agreement with Mexico providing an accelerated schedule of duty elimination for specific goods. Pursuant to section 213(b)(3)(A) of the CBERA (19 U.S.C. 2703(b)(3)), I have determined that the rates of duty resulting from the accelerated schedule of duty elimination for specific goods of Mexico should also apply to CBTPA originating goods described in the same 8-digit subheadings of the HTS.

13. Section 604 of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including section 604 of the 1974 Act, sections 1102, 1205, and 1206 of the 1988 Act, section 213 of the CBERA, sections 201 and 202 of the NAFTA Implementation Act, section 111 of the URAA, and section 101 of the JFTA Act, do hereby proclaim:

(1) In order to modify the HTS to conform it to the Convention or any amendment thereto recommended for adoption, to promote the uniform application of the Convention, to establish additional subordinate tariff categories to carry out modifications to the rules of origin under the NAFTA, and to make technical and conforming changes to existing provisions, the HTS is modified as set forth in Annex I to this proclamation.

(2) In order to modify the rules of origin under the NAFTA to reflect the modifications to the HTS being made to conform it to the Convention and to make certain conforming changes, general note 12 to the HTS is further modified as provided in Annex II to this proclamation.

(3) In order to provide for the continuation of previously proclaimed staged duty reductions in the Rates of Duty 1-General subcolumn under section 111(a) of the URAA, as provided in Presidential Proclamation 6763, for goods classifiable in the provisions modified by Annex I to this proclamation that are entered, or withdrawn from warehouse for consumption, on or after each of the dates specified in section A of Annex III to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-General subcolumn for each of the HTS subheadings enumerated in section A of Annex III shall be deleted and the rate of duty provided in such section inserted in lieu thereof.

(4) In order to provide for the continuation of previously proclaimed staged duty reductions in the Rates of Duty 1-Special subcolumn for originating goods of Mexico under the NAFTA that are classifiable in the provisions modified by Annex I to this proclamation and entered, or withdrawn from warehouse for consumption, on or after each of the dates specified

in section B of Annex III to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section B of Annex III shall be deleted and the rate of duty provided in such section inserted in lieu thereof.

(5) In order to provide for the continuation of previously proclaimed staged duty reductions in the Rates of Duty 1-Special subcolumn for originating goods of CBTPA beneficiary countries that are classifiable in the provisions modified by Annex I to this proclamation and entered, or withdrawn from warehouse for consumption, on or after each of the dates specified in section C of Annex III to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section C of Annex III shall be deleted and the rate of duty provided in such section inserted in lieu thereof.

(6) In order to provide for the continuation of previously proclaimed staged duty reductions in the Rates of Duty 1-Special subcolumn for originating goods of Jordan under the JFTA that are classifiable in the provisions modified by Annex I to this proclamation and entered, or withdrawn from warehouse for consumption, on or after each of the dates specified in section D of Annex III to this proclamation, the rate of duty in the HTS set forth in the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section D of Annex III shall be deleted and the rate of duty provided in such section inserted in lieu thereof.

(7) In order to provide an accelerated schedule of duty elimination for specific goods of Mexico under the terms of general note 12 to the HTS, and to provide identical tariff treatment for originating goods of a CBTPA beneficiary country provided for in the same HTS subheading, the special tariff treatment set forth in the HTS for the pertinent subheadings is modified as provided in Annex IV to this proclamation.

(8) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(9)(a) The modifications and technical rectifications to the HTS made by Annexes I and II to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the later of (i) January 1, 2002, or (ii) the 15th day after the date of publication of this proclamation in the **Federal Register**.

(b) The modifications made by Annexes III and IV to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the respective dates specified in each section of such Annexes for the goods described therein.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of December, in the year of our Lord two thousand one, and of the Independence of the United States of America the two hundred and twenty-sixth.

Billing code 3195–01–P

VOL 66 ISS 247 DE 26 2001 UMI

Annex I

The Harmonized Tariff Schedule (HTS) is modified as provided in this annex, with bracketed matter included to assist in the understanding of proclaimed modifications. The following provisions supersedes matter now in the HTS. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 1995, the Rates of Duty 1 Special subcolumn is for subheading 2906.11.00 is modified by inserting in the parentheses following the "Free" rate in such subcolumn the symbol "K" in alphabetical order.

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the later of (i) January 1, 2002, or (ii) the fifteenth day after the date of publication of this proclamation in the Federal Register, the HTS is modified as follows:

(1). General note 4(d) is modified by deleting the following subheadings and the country set out opposite such subheadings:

8517.19.80	Indonesia	8525.20.05	Philippines
8517.21.00	Thailand	8531.20.00	Thailand
8517.80.10	Indonesia	8534.00.00	Thailand
8517.90.24	Costa Rica	8536.90.40	Argentina

(2). Subheadings 0101.11.00 through 0101.20.40 and any intervening text or text immediately preceding such subheadings are superseded by:

	[Live horses, asses, mules and hinnies:]			
"0101.10.00	Purebred breeding animals	Free		Free
0101.90	Other:			
0101.90.10	Horses	Free		20%
0101.90.20	Asses	6.8%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15%
	Mules and hinnies:			
0101.90.30	Imported for immediate slaughter	Free		Free
0101.90.40	Other	4.5%	Free (A+,CA,D,E, IL,J,JO,MX)	20%"

(3). Heading 0106.00 and all subordinate subheadings and text thereto are superseded by:

"0106	Other live animals:			
	Mammals:			
0106.11.00	Primates	Free		15%
0106.12.00	Whales, dolphins and porpoises (mammals of the order Cetacea); manatees and dugongs (mammals of the order Sirenia)	Free		15%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)
-2-

	[Other live animals:]			
	[Mammals:]			
0106.19	Other:			
0106.19.30	Foxes	4.8%	Free (A+,CA,D,E,IL,J,JO,MX)	15%
0106.19.90	Other	Free		15%
0106.20.00	Reptiles (including snakes and turtles)	Free		15%
	Birds:			
0106.31.00	Birds of prey	1.8%	Free (A,CA,E,IL,J,JO,MX)	20%
0106.32.00	Psittaciformes (including parrots, parakeets, macaws and cockatoos)	1.8%	Free (A,CA,E,IL,J,JO,MX)	20%
0106.39.00	Other	1.8%	Free (A,CA,E,IL,J,JO,MX)	20%
0106.90.00	Other	Free		15%"

(4)(a). The following subheadings are inserted in numerical sequence:

	[Other meat and edible meat offal, fresh,...]			
"0208.30.00	Of primates	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	20%
0208.40.00	Of whales, dolphins and porpoises (mammals of the order Cetacea); of manatees and dugongs (mammals of the order Sirenia)	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	20%
0208.50.00	Of reptiles (including snakes and turtles)	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	20%"

(b). Subheading 0208.90.40 is renumbered as 0208.90.90.

(5). Subheadings 0210.90, 0210.90.20 and 0210.90.40 are superseded by:

	[Meat and edible meat offal, salted, in brine,...]			
	"Other, including edible flours and meals of meat and meat offal:			
0210.91.00	Of primates	2.3%	Free (A,CA,E,IL,J,JO,MX)	20%
0210.92.00	Of whales, dolphins and porpoises (mammals of the order Cetacea); of manatees and dugongs (mammals of the order Sirenia)	2.3%	Free (A,CA,E,IL,J,JO,MX)	20%
0210.93.00	Of reptiles (including snakes and turtles)	2.3%	Free (A,CA,E,IL,J,JO,MX)	20%
0210.99	Other:			
0210.99.20	Meat of poultry of heading 0105	2.3%	Free (A,CA,E,IL,J,JO,MX)	20%
0210.99.90	Other	2.3%	Free (A,CA,E,IL,J,JO,MX)	20%"

Annex I (continued)

(6). Note 1 to chapter 3 is modified by:
  (a). deleting subdivision (a);
  (b). redesignating subdivisions (b) and (c) as (c) and (d), respectively; and
  (c). inserting the following subdivisions in alphabetical sequence:

"(a) Mammals of heading 0106;

(b) Meat of mammals of heading 0106 (heading 0208 or 0210);"

(7). Subheading 0302.39.00 is superseded by:

	[Fish, fresh or chilled, excluding fish fillets...]			
	[Tunas (of genus Thunnus)....]			
"0302.34.00	Bigeye tunas (Thunnus obesus)	Free		Free
0302.35.00	Bluefin tunas (Thunnus thynnus)	Free		Free
0302.36.00	Southern bluefin tunas (Thunnus maccoyii)	Free		Free
0302.39.01	Other	Free		Free"

(8). Subheadings 0303.10.00 is superseded by:

	[Fish, frozen, excluding fish fillets and other...]			
	"Pacific salmon (Oncorhynchus nerka, Oncorhynchus gorbuscha, Oncorhynchus keta, Oncorhynchus tschawytscha, Oncorhynchus kisutch, Oncorhynchus masou and Oncorhynchus rhodurus), excluding livers and roes:			
0303.11.00	Sockeye salmon (red salmon) (Oncorhynchus nerka)	Free		4.4¢/kg
0303.19.00	Other	Free		4.4¢/kg"

(9). Subheading 0303.49.00 is superseded by:

	[Fish, frozen, excluding fish fillets and other...]			
	[Tunas (of the genus Thunnus)....]			
"0303.44.00	Bigeye tunas (Thunnus obesus)	Free		Free
0303.45.00	Bluefin tunas (Thunnus thynnus)	Free		Free
0303.46.00	Southern bluefin tunas (Thunnus maccoyii)	Free		Free
0303.49.01	Other	Free		Free"

(10). The article description of subheading 0305.20 is modified to read:

"Livers and roes of fish, dried, salted or in brine:"

(11). Note 3 to chapter 5 is superseded by:"

"3. Throughout the tariff schedule, elephant, hippopotamus, walrus, narwhal and wild boar tusks, rhinoceros horns and the teeth of all animals are regarded as "ivory"."

Annex I (continued)
-4-

(12). Subheading 0709.51.00 is superseded and the following subheadings are inserted in numerical sequence:

	[Other vegetables, fresh or chilled:]			
	[Mushrooms and truffles:]			
"0709.51.01	Mushrooms of the genus Agaricus	8.8¢/kg + 20%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	22¢/kg + 45%
0709.59.00	Other	8.8¢/kg + 20%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	22¢/kg + 45%"

(13)(a). Subheadings 0711.10.00 and 0711.90.40 are deleted.

(b). The following provisions are inserted in numerical sequence:

	[Vegetables provisionally preserved (for...]			
	"Mushrooms and truffles:			
0711.51.00	Mushrooms of the genus Agaricus	5.7¢/kg on drained weight + 8%	Free (A+,CA,D,E, IL,J,JO,MX)	22¢/kg on drained weight + 45%
0711.59	Other:			
0711.59.10	Mushrooms	5.7¢/kg on drained weight + 8%	Free (A+,CA,D,E, IL,J,JO,MX)	22¢/kg on drained weight + 45%
0711.59.90	Other	7.7%	Free (A,CA,E,IL,J, JO,MX)	35%
	[Other vegetables; mixtures of...]			
0711.90.50	Onions	5.1%	Free (A,CA,E,IL,J, JO,MX)	35%"

(c). Subheading 0711.90.60 is renumbered as 0711.90.65.

(14)(a). Subheadings 0712.30 through 0712.30.40 and any intervening text to such subheadings are superseded by:

	[Dried vegetables, whole, cut, sliced, broken or...]			
	"Mushrooms, wood ears (Auricularia spp.), jelly fungi (Tremella spp.) and truffles:			
0712.31	Mushrooms of the genus Agaricus:			
0712.31.10	Air dried or sun dried	1.3¢/kg + 1.8%	Free (A,CA,E,IL,J, JO,MX)	22¢/kg + 45%
0712.31.20	Other	1.9¢/kg + 2.6%	Free (A+,CA,D,E, IL,J,JO,MX)	22¢/kg + 45%
0712.32.00	Wood ears (Auricularia spp.)	8.3%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%
0712.33.00	Jelly fungi (Tremella spp.)	8.3%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

-5-

	[Dried vegetables, whole, cut, sliced, broken or...]			
	[Mushrooms, wood ears...]			
0712.39	Other:			
	Mushrooms:			
0712.39.10	Air dried or sun dried	1.3¢/kg + 1.8%	Free (A,CA,E,IL,J, JO,MX)	22¢/kg + 45%
0712.39.20	Other	1.9¢/kg + 2.6%	Free (A+,CA,D,E, IL,J,JO,MX)	22¢/kg + 45%
0712.39.40	Truffles	Free		Free"

(b). Subheading 0712.90.80 is renumbered as 0712.90.85.

(15)(a). Subheadings 0714.90.45, 0714.90.50 and 0714.90.60 are superseded and the following provisions are inserted in numerical sequence with the superior text "Frozen:" inserted following subheading 0714.90.40:

	[Cassava (manioc), arrowroot, salep, Jerusalem...]			
	[Other:]			
	[Fresh or chilled:]			
"0714.90.05	Chinese water chestnuts	20%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	50%
	Frozen:			
0714.90.41	Mixtures of pea pods and Chinese water chestnuts	7.9%	Free (A,CA,E,IL,J, JO,MX)	35%
0714.90.42	Other mixtures of Chinese water chestnuts	14%	Free (A+,CA,D,E, IL,J,JO,MX)	35%
0714.90.44	Chinese water chestnuts, not mixed	Free		35%
0714.90.45	Other	6%	Free (A*,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%
	[Other:]			
0714.90.48	Chinese water chestnuts	8.3%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%
	Other:			
0714.90.50	In the form of pellets	Free		Free
0714.90.60	Other	8.3%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%"

(b). Subheading 0709.90.90 is renumbered as 0709.90.91.

(c). Subheading 0710.80.10 is renumbered as 0710.80.15 and the article description is modified to read:

"Bamboo shoots and water chestnuts, other than Chinese water chestnuts"

VOL 66
ISS 247
DE 26 2001
UMI

Annex I (continued)

(d). Subheading 0710.90.10 is renumbered as 0710.90.11 and the article description is modified to read:

"Mixtures of pea pods and water chestnuts, other than Chinese water chestnuts"

(e). Subheading 0710.90.90 is renumbered as 0710.90.91.

(f). Conforming change: The superior text preceding subheading 9906.07.50 which reads "Provided for in subheading 0709.90.90" is modified by deleting "0709.90.90" and inserting "0709.90.91" in lieu thereof.

(16)(a). Subheadings 0805.30, 0805.30.20 and 0805.30.40 are superseded and the following provisions inserted in numerical sequence:

	[Citrus fruit, fresh or dried:]			
"0805.50	Lemons (Citrus limon, Citrus limonum) and limes (Citrus aurantifolia, Citrus latifolia):			
0805.50.20	Lemons..	2.2¢/kg	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	5.5¢/kg
	Limes:			
0805.50.30	Tahitian limes, Persian limes and other limes of the Citrus aurantifolia variety.........	0.8%	Free (A*,CA,E,IL,J,JO,MX)	35%
0805.50.40	Other..	1.8¢/kg	Free (A,CA,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	4.4¢/kg"

(b). Subheading 0805.90.00 is renumbered as 0805.90.01.

(c). General note 4 (d) is modified by:

(A). deleting the following subheading and the countries set out opposite such subheading:

0805.90.00 Jamaica;
Turkey

(B). adding, in numerical sequence, the following subheadings and countries set out opposite them:

0805.50.30 Jamaica;
Turkey
0805.90.01 Jamaica;
Turkey

(17)(a). The following subheading is inserted in numerical sequence:

	[Other fruit, fresh:]			
"0810.60.00	Durians..	2.2%	Free (A,CA,E,IL,J,JO,MX)	35%"

Annex I (continued)

(b). Subheading 0810.90.40 is renumbered as 0810.90.45.

(18). Subheading 0812.20.00 is deleted and the following subheading is inserted in numerical sequence:

	[Fruit and nuts, provisionally preserved...]			
	[Other:]			
	[Other:]			
"0812.90.50	Strawberries	0.8¢/kg	Free (A+,CA,D,E,IL,J,JO,MX)	2.8¢/kg"

(19). Note 1(b) to chapter 11 is superseded by:

"(b) Prepared flours, groats, meals or starches of heading 1901;"

(20)(a). Subheadings 1103.12.00 and 1103.14.00 are deleted.

(b). Subheadings 1103.19.00 through 1103.29.00 and any intervening text to such subheadings are superseded by:

	[Cereal groats, meal and pellets:]			
	[Groats and meal:]			
"1103.19	Of other cereals:			
1103.19.12	Of oats	0.8¢/kg	Free (A,CA,E,IL,J,JO,MX)	1.8¢/kg
1103.19.14	Of rice	0.09¢/kg	Free (A,CA,E,IL,J,JO,MX)	1.4¢/kg
1103.19.90	Of other cereals	9%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	20%
1103.20.00	Pellets	Free		10%"

(21)(a). Subheadings 1104.11.00 and 1104.21.00 are deleted.

(b). Subheadings 1104.19.00 and 1104.29.00 are superseded by:

	[Cereal grains otherwise worked (for example,...]			
	[Rolled or flaked grains:]			
"1104.19	Of other cereals:			
1104.19.10	Of barley	2¢/kg	Free (A+,CA,D,E,IL,J,JO,MX)	4.4¢/kg
1104.19.90	Other	0.45¢/kg	Free (A+,CA,D,E,IL,J,JO,MX)	1¢/kg
	[Other worked grains (for example,...]			
1104.29	Of other cereals:			
1104.29.10	Of barley	1.2%	Free (A+,CA,D,E,IL,J,JO,MX)	17%
1104.29.90	Other	2.7%	Free (A,CA,E,IL,J,JO,MX)	20%"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(22). Subheading 1106.20.00 is superseded by:

	:[Flour, meal and powder of the dried...]			
"1106.20	Of sago or of roots or tubers of heading 0714:			
1106.20.10	Of Chinese water chestnuts	8.3%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%
1106.20.90	Other	Free		Free"

(23). The following subheading note and title to chapter 12 are inserted before the U.S. additional note:

"Subheading Note

1. For the purposes of subheading 1205.10, the expression "low erucic acid rape or colza seeds" means rape or colza seeds yielding a fixed oil which has an erucic acid content of less than 2 percent by weight and yielding a solid component which contains less than 30 micromoles of glucosinolates per gram."

(24). Heading 1205.00.00 is superseded by:

"1205	Rape or colza seeds, whether or not broken:			
1205.10.00	Low erucic acid rape or colza seeds	0.58¢/kg	Free (A+,CA,D,E, IL,J,JO,MX)	4.4¢/kg
1205.90.00	Other	0.58¢/kg	Free (A+,CA,D,E, IL,J,JO,MX)	4.4¢/kg"

(25)(a). Subheading 1207.92.00 is deleted.

(b). Subheading 1207.99.00 is renumbered as 1207.99.01.

(26)(a). The article description of the superior text immediately preceding subheading 1209.21.00 is modified to read:

"Seeds of forage plants:"

(b). Subheadings 1209.11.00 and 1209.19.00, the superior text immediately preceding 1209.11.00, and subheading 1209.29.00 are superseded and the following provisions are inserted in numerical sequence:

	:[Seeds, fruits and spores of a kind used...]			
"1209.10.00	Sugar beet seed	Free		Free
	[Seeds of forage plants:]			
1209.29	Other:			
1209.29.10	Beet	Free		9¢/kg
1209.29.90	Other	Free		8%"

(27)(a). The following subheadings are inserted in numerical sequence:

	:[Plants and parts of plants (including seeds and...]			
"1211.30.00	Coca leaf	Free		Free
1211.40.00	Poppy straw	Free		Free"

(b). Subheading 1211.90.80 is renumbered as 1211.90.90.

Annex I (continued)

-9-

(28)(a). Subheading 1212.92.00 is deleted.

(b). Subheadings 1212.30.00 and 1212.99.00 are superseded by:

	[Locust beans, seaweeds and other algae, sugar...]			
"1212.30	Apricot, peach (including nectarine) or plum stones and kernels:			
1212.30.10	Nectarine	Free		4.4¢/kg
1212.30.90	Other	1.5¢/kg	Free (A+,CA,D,E, IL,J,JO,MX)	6.6¢/kg

	[Locust beans, seaweeds and other algae, sugar...]			
	[Other:]			
1212.99	Other:			
1212.99.10	Sugar cane	$1.24/t	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	$2.76/t
1212.99.90	Other	Free		4.4¢/kg"

(29)(a). Notes 1(f) to 1(ij) to chapter 13 are redesignated as notes 1(g) to 1(k), respectively.

(b). The following subdivision to note 1 of chapter 13 is inserted in alphabetical sequence:

"(f) Concentrates of poppy straw containing not less than 50 percent by weight of alkaloids (heading 2939);"

(30). Heading 1402 and all subordinate subheadings and text thereto are superseded by:

"1402.00	Vegetable materials of a kind used primarily as stuffing or as padding (for example, kapok, vegetable hair and eel-grass), whether or not put up as a layer with or without supporting material:			
1402.00.91	Vegetable hair	0.5¢/kg	Free (A+,CA,D,E, IL,J,JO,MX)	2.2¢/kg
1402.00.99	Other	Free		20%"

(31)(a). Heading 1403 and all subordinate subheadings and text thereto are superseded by:

"1403.00	Vegetable materials of a kind used primarily in brooms or in brushes (for example, broomcorn, piassava, couch grass and istle), whether or not in hanks or bundles:			
1403.00.10	Broomcorn (Sorghum vulgare var. technicum)	$4.95/t	Free (A+,CA,D,E, IL,J,JO,MX)	$22/t
1403.00.92	Istle	Free		Free
1403.00.94	Other	2.3%	Free (A*,CA,E,IL, J,JO,MX)	20%"

(b). Conforming change: General note 4(d) is modified by deleting "1403.90.40 India" and inserting "1403.00.94 India" in lieu thereof.

(32). The following subheading note and title to chapter 15 are inserted before the additional U.S. note:

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)
-10-

"Subheading Note

1. For the purposes of subheadings 1514.11.00 and 1514.19.00, the expression "low erucic acid rape or colza oil" means the fixed oil which has an erucic acid content of less than 2 percent by weight."

(33)(a). Heading 1505 and all subordinate subheadings and text thereto are superseded by:

"1505.00	Wool grease and fatty substances derived therefrom (including lanolin):			
1505.00.10	Wool grease, crude	1.3¢/kg	Free (A,CA,E,IL,J,JO,MX)	9.5¢/kg
1505.00.90	Other	2.4%	Free (A,CA,E,IL,J,JO,MX)	27%"

(b). Conforming change: The article description of subheading 9903.02.44 is modified by deleting "1505.90" and inserting "1505.00.90" in lieu thereof.

(34). Subheadings 1514.10 through 1514.90.90 and any intervening text to such subheadings are superseded by:

	[Rapeseed, colza or mustard oil, and fractions...]			
	"Low erucic acid rape or colza oil and its fractions:			
1514.11.00	Crude oil	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	22.5%
1514.19.00	Other	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	22.5%
	Other:			
1514.91	Crude oil:			
1514.91.10	Imported to be used in the manufacture of rubber substitutes or lubricating oil	Free		1,8¢/kg
1514.91.90	Other	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	22.5%
1514.99	Other:			
1514.99.10	Imported to be used in the manufacture of rubber substitutes or lubricating oil	Free		1.8¢/kg
	Other:			
1514.99.50	Denatured	1.3¢/kg	Free (A+,CA,D,E,IL,J,JO,MX)	9.92¢/kg
1514.99.90	Other	6.4%	Free (A+,CA,D,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	22.5%"

(35)(a). Subheading 1515.60.00 is deleted.

(b). Subheading 1515.90.40 is renumbered as 1515.90.80.

Annex I (continued)

(c). The following subheading is inserted in numerical sequence:

	[Other fixed vegetable fats and oils (including...] [Other:]			
"1515.90.60	Jojoba oil and its fractions..	2.3%	Free (A,CA,E,IL,J, JO,MX)	20%"

(36). Additional U.S. note 1 to chapter 17 is superseded by:

"1. The term "degree" as used in the "Rates of Duty" columns of this chapter means sugar degree as determined by a polarimetric test."

(37). The article description of subheading 1702.40 is modified to read:

"Glucose and glucose syrup, containing in the dry state at least 20 percent but less than 50 percent by weight of fructose, excluding invert sugar:"

(38). The article description of subheading 1702.60 is modified to read:

"Other fructose and fructose syrup, containing in the dry state more than 50 percent by weight of fructose, excluding invert sugar:"

(39). The article description of subheading 1702.90 is modified to read:

"Other, including invert sugar and other sugar and sugar syrup blends containing in the dry state 50 percent by weight of fructose:"

(40). Note 2 to chapter 19 is superseded by:

"2. For the purposes of heading 1901:

(a) The term "groats" means cereal groats of chapter 11;

(b) The terms "flour" and "meal" mean:

(1) Cereal flour and meal of chapter 11, and

(2) Flour, meal and powder of vegetable origin of any chapter, other than flour, meal or powder of dried vegetables (heading 0712), of potatoes (heading 1105) or of dried leguminous vegetables (heading 1106)."

(41). The article description of heading 1901 is modified by deleting "preparations of flour, meal" and inserting "preparations of flour, groats, meal" in lieu thereof.

(42). The article description of heading 1904 is modified by deleting "(except flour and meal)" and inserting "(except flour, groats and meal)" in lieu thereof.

(43)(a). The following subheading is inserted in numerical sequence:

	[Prepared foods obtained by the swelling or...]			
"1904.30.00	Bulgur wheat..	14%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	35%"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(b). Subheading 1904.90.00 is renumbered as 1904.90.01.

(44). Subheading 1905.30.00 is superseded by:

	:[Bread, pastry, cakes, biscuits and other bakers'...]			
	"Sweet biscuits; waffles and wafers:			
1905.31.00	Sweet biscuits	Free		30%
1905.32.00	Waffles and wafers	Free		30%"

(45)(a). Note 5 to chapter 20 is redesignated as note 6.
(b). The following note to chapter 20 is inserted in numerical sequence:

"5. For the purposes of heading 2007, the expression "obtained by cooking" means obtained by heat treatment at atmospheric pressure or under reduced pressure to increase the viscosity of a product through reduction of water content or other means."

(46.) The following subheading note to chapter 20 is inserted in numerical sequence:

"3. For the purposes of subheadings 2009.12, 2009.21, 2009.31, 2009.41, 2009.61.00 and 2009.71.00, the expression "Brix value" means the direct reading of degrees Brix obtained from a Brix hydrometer or of refractive index expressed in terms of percentage sucrose content obtained from a refractometer, at a temperature of 20°C or corrected for 20°C if the reading is made at a different temperature."

(47)(a). Subheading 2001.20.00 is deleted.
(b). The following subheadings are inserted in numerical sequence:

	:[Vegetables, fruit, nuts and other edible parts...]			
	[Other:]			
	[Other:]			
	[Vegetables:]			
"2001.90.34	Onions	3.6%	Free (A,CA,E,IL,J, JO,MX)	35%
2001.90.45	Chinese water chestnuts	9.6%	Free (A,CA,E,IL,J, JO,MX)	35%"

(c). Subheading 2001.90.39 is renumbered as 2001.90.38.
(d). The article description for subheading 2001.90.42 is modified to read:

"Chestnuts, other than Chinese water chestnuts"

(48). Subheading 2003.10.00 is superseded and the following subheadings inserted in numerical sequence:

	:[Mushrooms and truffles, prepared or...]			
"2003.10.01	Mushrooms of the genus Agaricus	6¢/kg drained weight + 8.5%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	22¢/kg on drained weight + 45%
2003.90.00	Other	6¢/kg drained weight + 8.5%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	22¢/kg on drained weight + 45%"

Annex I (continued)

(49). The article description of heading 2007 is modified by deleting "being cooked preparations," and inserting "obtained by cooking," in lieu thereof.

(50)(a). The superior text immediately preceding subheading 2008.30.60 is modified to read:

"Lemons (Citrus limon, Citrus limonum) and limes (Citrus aurantifolia, Citrus latifolia):"

(b). Subheadings 2008.30.65 and 2008.30.95 are renumbered as 2008.30.66 and 2008.30.96, respectively.

(51)(a). Subheading 2008.70.00 is superseded by:

	[Fruit, nuts and other edible parts of plants,...]			
"2008.70	Peaches, including nectarines:			
2008.70.10	Nectarines................................	16%	Free (A+,CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	35%
2008.70.20	Other peaches................................	17%	Free (A+,CA,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	35%"

(b). Subheading 2008.99.42 is deleted.

(52)(a). The following subheadings are inserted in numerical sequence:

	[Fruit, nuts and other edible parts of plants,...]			
	[Other, including mixtures other than those...]			
	[Other:]			
	"Chinese water chestnuts:			
2008.99.70	Frozen................................	11.2%	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	35%
2008.99.71	Other................................	Free		35%"

(b). Subheading 2004.90.90 is renumbered as 2004.90.85.

(c). Subheading 2005.90.40 is renumbered as 2005.90.41 and the article description is modified to read:

"Water chestnuts, other than Chinese water chestnuts"

(53)(a). Subheadings 2009.19 through 2009.40.40, 2009.60.00 and 2009.70.00 and any intervening text to such subheadings are superseded by:

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Fruit juices (including grape must) and...]			
	[Orange juice:]			
2009.12	Not frozen, of a Brix value not exceeding 20:			
2009.12.25	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).........	4.5¢/liter	Free (CA,D,E,IL,J, JO) [See Annex III(B) to this proclamation](MX)	18¢/liter
2009.12.45	Other..........	7.85¢/liter	Free (CA,D,E,IL,J, JO) [See Annex III(B) to this proclamation](MX)	18¢/liter
2009.19.00	Other..........	7.85¢/liter	Free (CA,D,E,IL,J, JO) [See Annex III(B) to this proclamation](MX)	18¢/liter
	Grapefruit juice:			
2009.21	Of a Brix value not exceeding 20:			
2009.21.20	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree).........	4.5¢/liter	Free (CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.21.40	Other..........	7.9¢/liter	Free (CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.29.00	Other..........	7.9¢/liter	Free (CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
	Juice of any other single citrus fruit:			
2009.31	Of a Brix value not exceeding 20:			
	Lime:			
2009.31.10	Unfit for beverage purposes..........	1.8¢/kg	Free (A*,CA,E,IL, J,JO,MX)	11¢/kg
2009.31.20	Other..........	1.7¢/liter	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
	Other:			
2009.31.40	Not concentrated..........	3.4¢/liter	Free (CA,D,E,IL,J, JO) [See Annex III(B) to this proclamation](MX)	18¢/liter

Annex I (continued)

-15-

	[Fruit juices (including grape must) and...] [Juice of any other single citrus fruit:] [Of a Brix value not exceeding 20:] [Other:]			
2009.31.60	Concentrated	7.9¢/liter	Free (CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.39	Other: Lime:			
2009.39.10	Unfit for beverage purposes	1.8¢/kg	Free (A*,CA,E,IL, J,JO,MX)	11¢/kg
2009.39.20	Other	1.7¢/liter	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.39.60	Other	7.9¢/liter	Free (CA,D,E,IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
	Pineapple juice:			
2009.41	Of a Brix value not exceeding 20:			
2009.41.20	Not concentrated, or having a degree of concentration of not more than 3.5 (as determined before correction to the nearest 0.5 degree)	4.2¢/liter	Free (A+,CA,D,E, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.41.40	Other	1¢/liter	Free (A+,CA,D,E, IL,J,JO,MX)	18¢/liter
2009.49	Other:			
2009.49.20	Not concentrated, or having a degree of concentration of not more than 3.5 (as determined before correction to the nearest 0.5 degree)	4.2¢/liter	Free (A+,CA,D,E, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	18¢/liter
2009.49.40	Other	1¢/liter	Free (A+,CA,D,E, IL,J,JO,MX)	18¢/liter

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

-16-

	[Fruit juices (including grape must) and...]			
	Grape juice (including grape must):			
2009.61.00	Of a Brix value not exceeding 30	4.4¢/liter	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	26¢/liter
2009.69.00	Other	4.4¢/liter	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	26¢/liter
	Apple juice:			
2009.71.00	Of a Brix value not exceeding 20	Free		1.3¢/liter
2009.79.00	Other	Free		1.3¢/liter"

(b). Conforming changes:

(A). General note 4(d) is modified by deleting "2009.30.10 Honduras" and inserting "2009.31.10 Honduras" and "2009.39.10 Honduras" in lieu thereof.

(B). General note 18(e)(ii) is modified by deleting "2009.30" and inserting "2009.39" in lieu thereof.

(C). Note 22 to subchapter VI of chapter 99 is deleted and subheadings 9906.20.08 and 9906.20.09 and the superior text to 9906.20.08 are deleted.

(54)(a). The following subheading is inserted in numerical sequence:

	[Food preparations not elsewhere specified or...]			
	[Other:]			
"2106.90.39	Artificially sweetened cough drops	Free		30%"

(b). Subheading 3004.90.90 is renumbered as 3004.90.91.

(55). The following subheading note and title to chapter 23 are inserted before the additional U.S. note:

"Subheading Note

1. For the purposes of subheading 2306.41.00, the expression "low erucic acid rape or colza seed" means seeds as defined in subheading note 1 to chapter 12."

(56). Subheading 2306.40.00 is superseded by:

	[Oilcake and other solid residues, whether or not...]			
	"Of rape or colza seeds:			
2306.41.00	Of low erucic acid rape or colza seeds	0.17¢/kg	Free (A,CA,E,IL,J, JO,MX)	0.7¢/kg
2306.49.00	Other	0.17¢/kg	Free (A,CA,E,IL,J, JO,MX)	0.7¢/kg"

(57). Heading 2308 and all subordinate subheadings and text thereto are superseded by:

"2308.00	Vegetable materials and vegetable waste, vegetable residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included:			
2308.00.10	Acorns and horse-chestnuts	1.4%	Free (A+,CA,D,E, IL,J,JO,MX)	20%

Annex I (continued)

	:[Vegetable materials and...]			
2308.00.93	Screenings, scalpings, chaff or scourings, ground, or not ground, of flaxseed (linseed)	Free		10%
2308.00.95	Dehydrated marigolds	1.9%	Free (A,CA,E,IL,J,JO,MX)	20%
2308.00.98	Other	1.4%	Free (A+,CA,D,E,IL,J,JO,MX)	20%"

(58). Note 4 to chapter 25 is modified by deleting "broken pottery." and inserting "broken pieces of pottery, brick or concrete.".

(59)(a). The article description of heading 2518 is modified to read:

"Dolomite whether or not calcined or sintered, including dolomite roughly trimmed or merely cut, by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape; dolomite ramming mix:"

(b). The article description of subheading 2518.10.00 is modified to read

"Dolomite, not calcined or sintered"

(c). The article description of subheading 2518.20.00 is modified to read:

"Calcined or sintered dolomite"

(d). The article description of subheading 2518.30.00 is modified to read:

"Dolomite ramming mix"

(60)(a). Heading 2527.00.00 and subheading 2530.40.00 are deleted.
(b). Subheading 2530.90.00 is superseded by:

	:[Mineral substances not elsewhere specified or...]			
"2530.90	Other:			
2530.90.10	Natural cryolite; natural chiolite	Free		Free
2530.90.20	Natural micaceous iron oxides	2.9%	Free (A,CA,E,IL,J,JO,MX)	20%
2530.90.80	Other	Free		0.3¢/kg"

(61). Notes 1(c) to 1(f) to chapter 26 are redesignated as 1(d) to 1(g), respectively, and the following note to chapter 26 is inserted in alphabetical sequence:

"(c) Sludges from the storage tanks of petroleum oils, consisting mainly of such oils (heading 2710);"

(62). Note 3 to chapter 26 is superseded by:

"3. Heading 2620 applies only to:

Ash and residues of a kind used in industry either for the extraction of metals or as a basis for the manufacture of chemical compounds of metals, excluding ash and residues from the incineration of municipal waste (heading 2621); and

Ash and residues containing arsenic, whether or not containing metals, of a kind used either for the extraction of arsenic or metals or for the manufacture of their chemical compounds."

Annex I (continued)

(63). The following subheading notes and title to chapter 26 are inserted before the additional U.S. notes:

"Subheading Notes

1. For the purposes of subheading 2620.21.00, "leaded gasoline sludges and leaded anti-knock compound sludges" means sludges obtained from storage tanks of leaded gasoline and leaded anti-knock compounds (for example, tetraethyl lead), and consisting essentially of lead, lead compounds and iron oxide.

2. Ash and residues containing arsenic, mercury, thallium or their mixtures, of a kind used for the extraction of arsenic or those metals or for the manufacture of their chemical compounds, are to be classified in subheading 2620.60."

(64)(a). The article description of heading 2620 is modified to read:

> "Ash and residues (other than from the manufacture of iron or steel), containing arsenic, metals or their compounds:"

(b). Subheading 2620.50.00 is deleted.

(c). Subheadings 2620.20.00 and 2620.90 through 2620.90.85 and any intervening text to subheadings between 2620.90 and 2620.90.85 are superseded and the following provisions inserted in numerical sequence:

	[Ash and residues (other than from the...]			
	"Containing mainly lead:			
2620.21.00	Leaded gasoline sludges and leaded anti-knock compound sludges	Free		8.8¢/kg on copper content + 3.3¢/kg on lead content + 3.7¢/kg on zinc content
2620.29.00	Other	Free		8.8¢/kg on copper content + 3.3¢/kg on lead content + 3.7¢/kg on zinc content
2620.60	Containing arsenic, mercury, thallium or their mixtures, of a kind used for the extraction of arsenic or those metals or for the manufacture of their chemical compounds:			
2620.60.10	Of a kind used only for the extraction of arsenic or the manufacture of its chemical compounds	5%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
2620.60.90	Other	Free		30%
	Other:			
2620.91.00	Containing antimony, beryllium, cadmium, chromium or their mixtures	Free		30%

Annex I (continued)

-19-

	[Ash and residues (other than from the...)]			
	[Other:]			
2620.99	Other:			
2620.99.10	Containing mainly vanadium	Free		Free
2620.99.20	Containing mainly tungsten	17.6¢/kg on tungsten content + 3.8%	Free (A,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	$1.32/kg on tungsten content + 40%
2620.99.30	Materials not provided for elsewhere in this heading containing by weight over 10 percent nickel	Free		Free
2620.99.50	Slag containing by weight over 40 percent titanium, and which if containing over 2 percent by weight of copper, lead, or zinc is not to be treated for the recovery thereof	Free		Free
2620.99.75	Other materials which are residues not advanced in value or condition by any means, and which if containing over 2 percent by weight of copper, lead or zinc are not to be treated for the recovery thereof	Free		Free
2620.99.85	Other	Free		30%"

(65). Heading 2621.00.00 is superseded by:

"2621	Other slag and ash, including seaweed ash (kelp); ash and residues from the incineration of municipal waste:			
2621.10.00	Ash and residues from the incineration of municipal waste	Free		Free
2621.90.00	Other	Free		Free"

(66). The following note to chapter 27 is inserted in numerical sequence:

"3. For the purposes of heading 2710, "waste oils" means waste containing mainly petroleum oils obtained from bituminous minerals (as described in note 2 to this chapter), whether or not mixed with water. These include:

(a) Such oils no longer fit for use as primary products (for example, used lubricating oils, used hydraulic oils and used transformer oils);

(b) Sludge oils from the storage tanks of petroleum oils, mainly containing such oils and a high concentration of additives (for example, chemicals) used in the manufacture of the primary products; and

(c) Such oils in the form of emulsions in water or mixtures with water, such as those resulting from oil spills, storage tank washings, or from the use of cutting oils for machining operations."

(67). Subheading note 3 to chapter 27 is superseded by:

"3. For the purposes of subheadings 2707.10, 2707.20, 2707.30, 2707.40 and 2707.60, the terms "benzene", "toluene", "xylenes", "naphthalene" and "phenols" apply to products which contain more than 50 percent by weight of benzene, toluene, xylenes, naphthalene or phenols, respectively."

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(68). The following subheading note to chapter 27 is inserted in numerical sequence:

"4. For the purposes of subheading 2710.11, "light oils and preparations" are those of which 90 percent or more by volume (including losses) distill at 210°C (ASTM D 86 method)."

(69)(a). Heading 2710.00 and all subordinate subheadings and text thereto are superseded by:

"2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:			
	Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70 percent or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than waste oils:			
2710.11	Light oils and preparations:			
2710.11.15	Motor fuel	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
2710.11.18	Motor fuel blending stock	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
2710.11.25	Naphthas (except motor fuel or motor fuel blending stock)	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
	Other:			
2710.11.45	Mixtures of hydrocarbons not elsewhere specified or included, which contain by weight not over 50 percent of any single hydrocarbon compound	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.11.90	Other	7%	Free (A+,CA,E,D, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	25%

Annex I (continued)

	[Petroleum oils and oils obtained...]			
	[Petroleum oils and oils obtained...]			
2710.19	Other:			
	Distillate and residual fuel oils (including blended fuel oils):			
2710.19.05	Testing under 25 degrees A.P.I.	5.25¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.19.10	Testing 25 degrees A.P.I. or more	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.19.15	Kerosene-type jet fuel	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
	Kerosene (except kerosene-type jet fuel):			
2710.19.21	Motor fuel	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
2710.19.22	Motor fuel blending stock	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
2710.19.23	Kerosene (except motor fuel or motor fuel blending stock)	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
	Lubricating oils and greases, with or without additives:			
2710.19.30	Oils	84¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.68/bbl

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Petroleum oils and oils obtained...]			
	[Petroleum oils and oils obtained from...]			
	[Other:]			
	[Lubricating oils and greases, with...]			
	Greases:			
2710.19.35	Containing not over 10 percent by weight of salts of fatty acids of animal (including marine animal) or vegetable origin	5.8%	Free (A,CA,IL,MX, R) [See Annex III(D)2 to this proclamation](JO)	20%
2710.19.40	Other	1.3¢/kg + 5.7%	Free (A,CA,IL,MX, R) [See Annex III(D)2 to this proclamation](JO)	4.4¢/kg + 20%
	Other:			
2710.19.45	Mixtures of hydrocarbons not elsewhere specified or included, which contain by weight not over 50 percent of any single hydrocarbon compound	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.19.90	Other	7%	Free (A+,CA,E,D, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	25%
	Waste oils:			
2710.91.00	Containing polychlorinated biphenyls (PCBs), polychorlinated terphenyls (PCTs) or polybrominated biphenyls (PBBs)	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.99	Other:			
	Wastes of distillate and residual fuel oils (whether or not blended):			
2710.99.05	Testing under 25 degrees A.P.I.	5.25¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl

Annex I (continued)

-23-

	[Petroleum oils and oils obtained...]			
	[Waste oils:]			
	[Other:]			
	[Wastes of distillate and residual...]			
2710.99.10	Testing 25 degrees A.P.I. or more......	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
2710.99.16	Wastes of motor fuel or of motor fuel blending stock..........	52.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.05/bbl
2710.90.21	Wastes of kerosene or naphthas..........	10.5¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl
	Wastes of lubricating oils and greases (whether or not containing additives):			
2710.99.31	Of oils..........	84¢/bbl	Free (A+,CA,D,IL, JO) [See Annex III(C) to this proclamation] (MX,R)	$1.68/bbl
	Of greases:			
2710.99.32	Containing not over 10 percent by weight of salts of fatty acids of animal (including marine animal) or vegetable origin..........	5.8%	Free (A,CA,IL,MX, R) [See Annex III(D)2 to this proclamation](JO)	20%
2710.99.39	Other..........	1.3¢/kg + 5.7%	Free (A,CA,IL,MX, R) [See Annex III(D)2 to this proclamation](JO)	4.4¢/kg + 20%
	Other:			
2710.99.45	Mixtures of hydrocarbons not elsewhere specified or included, which contain by weight not over 50 percent of any single hydrocarbon compound..........	10.5¢/bbl	Free (A+,CA,D,IL) JO) [See Annex III(C) to this proclamation] (MX,R)	21¢/bbl

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Petroleum oils and oils obtained...]			
	[Waste oils:]			
	[Other:[			
	[Other:]			
2710.99.90	Other	7%	Free (A+,CA,E,D, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	25%"

(b). Conforming change: The article description of heading 9901.00.50 is modified by deleting "2710.00.15" and inserting "2710.11.15, 2710.19.15 or 2710.19.21" in lieu thereof.

(70). Note 3(d) to chapter 28 is superseded by:

"(d) Inorganic products of a kind used as luminophores, of heading 3206; glass frit and other glass in the form of powder, granules or flakes, of heading 3207;"

(71)(a). The superior text to subheading 2805.11.00 is modified to read:

"Alkali or alkaline-earth metals:"

(b). Subheadings 2805.19.00 through 2805.22.20 and any intervening text to such subheadings are superseded by:

	[Alkali or alkaline-earth metals; rare-earth...]			
	[Alkali or alkaline-earth metals:]			
2805.12.00	Calcium	3%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
2805.19	Other:			
2805.19.10	Strontium	3.7%	Free (A*,CA,E,IL, J,JO,MX)	25%
2805.19.20	Barium	Free		25%
2805.19.90	Other	5.5%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	25%"

(c). Conforming change: General note 4(d) is modified by deleting "2805.22.10 India" and inserting "2805.19.10 India" in lieu thereof.

(72). The article description of heading 2809 is modified to read:

"Diphosphorus pentaoxide; phosphoric acid; polyphosphoric acids, whether or not chemically defined:"

Annex I (continued)

(73)(a). Subheadings 2816.20.00 and 2816.30.00 are superseded by:

	[Hydroxide and peroxide of magnesium; oxides,...]			
"2816.40	Oxides, hydroxides and peroxides, of strontium or barium:			
2816.40.10	Of strontium	4.2%	Free (A*,CA,E,IL, J,JO,MX)	25%
2816.40.20	Of barium	2%	Free (A*,CA,E,IL, J,JO,MX)	10.5%"

(b). Conforming change: General note 4(d) is modified by deleting "2816.20.00 India" and "2816.30.00 India" and inserting "2816.40.10 India" and "2816.40.20 India" in lieu thereof.

(74)(a). Subheading 2827.38.00 is deleted.

(b). The following subheading is inserted in numerical sequence:

	[Chlorides, chloride oxides and chloride...]			
	[Other chlorides:]			
	[Other:]			
"2827.39.45	Of barium	4.2%	Free (A*,CA,E,IL, J,JO,MX)	28.5%"

(c). Conforming change: General note 4(d) is modified by deleting "2827.38.00 India" and inserting "2827.39.45 India" in numerical sequence in lieu thereof.

(75). The article description of heading 2830 is modified to read:

"Sulfides; polysulfides, whether or not chemically defined:"

(76)(a). Subheading 2834.22.00 is deleted.

(b). The following provision is inserted in numerical sequence:

	[Nitrites; nitrates:]			
	[Nitrates:]			
	[Other:]			
"2834.29.05	Of bismuth	5.5%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	35%"

(c). Conforming change: General note 4(d) is modified by deleting "2834.22.00 India" and inserting "2834.29.05 India" in lieu thereof.

(77). The article description of heading 2835 is modified to read:

"Phosphinates (hypophosphites), phosphonates (phosphites) and phosphates; polyphosphates, whether or not chemically defined:"

(78). The article description of subheading 2836.70.00 is modified to read:

"Lead carbonates"

VOL
66
ISS
247
DE
26
2001
UMI

Annex I (continued)
-26-

(79)(a). Subheading 2841.40.00 is deleted.

(b). Subheading 2841.50.00 is superseded by:

	[Salts of oxometallic or peroxometallic acids:]			
"2841.50	Other chromates and dichromates; peroxochromates:			
2841.50.10	Potassium dichromate	1.5%	Free (A*,CA,E,IL, J,JO,MX)	3.5%
2841.50.90	Other	3.1%	Free (A*,CA,E,IL, J,JO,MX)	25%"

(c). Conforming changes: General note 4(d) is modified by:

(A). deleting the following subheadings and the countries set out opposite such subheadings:

2841.40.00 India
2841.50.00 Argentina
India

(B). adding, in numerical sequence, the following subheadings and countries set out opposite them:

2841.50.10 India
2841.50.90 Argentina;
India

(80)(a). The article description of heading 2842 is modified to read:

"Other salts of inorganic acids or peroxoacids (including aluminosilicates whether or not chemically defined), other than azides:"

(b). The article description of subheading 2842.10.00 is modified to read:

"Double or complex silicates, including aluminosilicates whether or not chemically defined"

(81). Note 1(c) to chapter 29 is superseded by:

"(c) The products of headings 2936 to 2939 or the sugar ethers, sugar acetals and sugar esters, and their salts, of heading 2940, or the products of heading 2941, whether or not chemically defined;"

(82). The following note to chapter 29 is inserted in numerical sequence:

"8. For the purposes of heading 2937:

(a) The term "hormones" includes hormone-releasing or hormone-stimulating factors, hormone inhibitors and hormone antagonists (antihormones);

(b) The expression "used primarily as hormones" applies not only to hormone derivatives and structural analogues used primarily for their hormonal effect, but also to those derivatives and structural analogues used primarily as intermediates in the synthesis of products of this heading."

Annex I (continued)

(83)(a). Subheading 2903.16.00 is deleted.

(b). The following subheading is inserted in numerical sequence:

	[Halogenated derivatives of hydrocarbons:]			
	[Saturated chlorinated derivatives of...]			
	[Other:]			
"2903.19.05	1,2-Dichloropropane (Propylene dichloride) and dichlorobutanes	5.1%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	33.3%"

(c). Conforming change: General note 4(d) is modified by deleting "2903.16.00 India" and inserting "2903.19.05 India" in lieu thereof.

(84)(a). Subheadings 2905.50 through 2905.50.60 and any intervening text to such subheadings are superseded by:

	[Acyclic alcohols and their halogenated,...]			
	"Halogenated, sulfonated, nitrated or nitrosated derivatives of acyclic alcohols:			
2905.51.00	Ethchlorvynol (INN)	Free		39%
2905.59	Other:			
2905.59.10	Derivatives of monohydric alcohols	5.5%	Free (A*,CA,E,IL, J,K,MX) [See Annex III(D)2 to this proclamation](JO)	39%
2905.59.30	Dibromoneopentyl glycol	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX)	54.5%
2905.59.90	Other	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,K,MX) [See Annex III(D)2 to this proclamation](JO)	54.5%"

(b). Conforming changes:

(A). General note 4(d) is modified by deleting "2905.50.10 India", "2905.50.30 India" and "2905.50.60 India" and inserting "2905.59.10 India", "2905.59.30 India" and "2905.59.90 India" in lieu thereof.

(B). The article description of heading 9902.33.08 is modified by deleting "2905.50.60" and inserting "2905.59.90" in lieu thereof.

(85)(a). The superior text immediately preceding subheading 2907.21.00 is modified to read:

"Polyphenols; phenol-alcohols:"

(b). Subheading 2907.30.00 is deleted.

Annex I (continued)

(c). The following subheading is inserted in numerical sequence:

	[Phenols; phenol-alcohols:]			
	[Polyphenols; phenol-alcohols:]			
	[Other:]			
"2907.29.05	Phenol-alcohols	5.5%	Free (A+,CA,D,E, IL,J,L) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 44%"

(86). The article description of subheading 2915.60 is modified to read:

"Butanoic acids, pentanoic acids, their salts and esters:"

(87)(a). Subheadings 2918.17, 2918.17.10 and 2918.17.50 are deleted.

(b). The following provisions are inserted in numerical sequence:

	[Carboxylic acids with additional oxygen function...]			
	[Carboxylic acids with alcohol function...]			
	[Other:]			
	[Aromatic:]			
	"Phenylglycolic acid (Mandelic acid), its salts and esters:			
2918.19.12	Mandelic acid	Free		15.4¢/kg + 67.5%
2918.19.15	Other	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 67.5%"

(88). The title of subchapter VIII of chapter 29 is modified to read:

"VIII. ESTERS OF INORGANIC ACIDS OF NONMETALS AND THEIR SALTS, AND THEIR HALOGENATED, SULFONATED, NITRATED OR NITROSATED DERIVATIVES"

(89). The article description of heading 2920 is modified to read:

"Esters of other inorganic acids of nonmetals (excluding esters of hydrogen halides) and their salts; their halogenated, sulfonated, nitrated or nitrosated derivatives:"

(90)(a). The following subheading is inserted in numerical sequence:

	[Amine-function compounds:]			
	[Aromatic monoamines and their...]			
"2921.46.00	Amfetamine (INN), benzfetamine (INN), dexamfetamine (INN), etilamfetamine (INN), fencamfamin (INN), lefetamine (INN), levamfetamine (INN), mefenorex (INN) and phentermine (INN); salts thereof	Free		15.4¢/kg + 149.5%"

(b). Subheading 2921.49.37 is renumbered as 2921.49.38.

Annex I (continued)

(91). The superior text immediately preceding subheading 2922.11.00 is modified to read:

> "Amino-alcohols, other than those containing more than one kind of oxygen function, their ethers and esters; salts thereof:"

(92). Subheadings 2922.19.12 and 2922.19.18 and the superior text immediately preceding 2922.19.12 are superseded and the following provisions are inserted in numerical sequence:

	[Oxygen-function amino-compounds:]			
	[Amino-alcohols, other than...]			
"2922.14.00	Dextropropoxyphene (INN) and its salts..............	Free		15.4¢/kg + 119.5%
	[Other:]			
	[Aromatic:]			
2922.19.09	Drugs..	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 45%"

(93). The superior text immediately preceding subheading 2922.21 is modified to read:

> "Amino-naphthols and other amino-phenols, other than those containing more than one kind of oxygen function, their ethers and esters; salts thereof:"

(94)(a). Subheadings 2922.30 through 22922.30.50 and any intervening text to such subheadings are superseded by:

	[Oxygen-function amino-compounds:]			
	"Amino-aldehydes, amino-ketones and amino-quinones, other than those containing more than one kind of oxygen function; salts thereof:			
2922.31.00	Amfepramone (INN), methadone (INN) and normethadone (INN); salts thereof......................	Free		15.4¢/kg + 50%
2922.39	Other:			
	Aromatic:			
2922.39.05	1-Amino-2,4-dibromo-anthraquinone; and 2-Amino-5-chlorobenzophenone.........	Free		15.4¢/kg + 50%
2922.39.10	2'-Aminoacetophenone; 3'-Aminoacetophenone; 1-Amino-4-bromo-2-methyl-anthraquinone; 1,4-Bis[(1-anthraquinonyl-amino]anthraquinone; 1,4-Dimesidinoanthraquinone; 4-Dimethylaminobenzaldehyde; and Iminodianthraquinone.....................	5.8%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 39%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	:[Oxygen-function amino-compounds:]			
	[Amino-aldehydes, amino-ketones and...]			
	[Other:]			
	[Aromatic:]			
2922.39.14	2-Aminoanthraquinone	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 50%
2922.39.17	1-Aminoanthraquinone	Free		15.4¢/kg + 50%
	Other:			
2922.39.25	Products described in additional U.S. note 3 to section VI	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 50%
2922.39.45	Other	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,L) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 50%
2922.39.50	Other	6.5%	Free (A*,CA,E,IL, J,K,MX) [See Annex III(D)2 to this proclamation](JO)	30.5%"

(b). Conforming changes:

(i). General note 4(d) is modified by deleting "2922.30.14 India", "2922.30.17 India" and "2922.30.50 India" and inserting "2922.39.14 India" and "2922.39.50 India" in lieu thereof.

(ii). The article description of subheading 9906.29.12 is modified by deleting "2922.30.45" and inserting "2922.39.45" in lieu thereof.

(95). The superior text immediately preceding subheading 2922.41.00 is modified to read:

> "Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof:"

(96)(a). The following subheading is inserted in numerical sequence:

	:[Oxygen-function amino-compounds (con.):]			
	[Amino-acids, other than those...]			
"2922.44.00	Tilidine (INN) and its salts	Free		15.4¢/kg + 45%"

(b). Subheading 2922.49.27 is renumbered as 2922.49.26.

(c). Conforming change: The article description of heading 9902.08.10 is modified by deleting "2922.49.27" and inserting "2922.49.26" in lieu thereof.

Annex I (continued)

(97). The article description of heading 2923 is modified to read:

> "Quaternary ammonium salts and hydroxides; lecithins and other phosphoaminolipids, whether or not chemically defined:"

(98)(a). Subheadings 2924.10 through 2924.10.80 and any intervening text to such subheadings are superseded by:

	[Carboxyamide-function compounds;...]			
	"Acyclic amides (including acyclic carbamates) and their derivatives; salts thereof:			
2924.11.00	Meprobamate (INN)	Free		25%
2924.19	Other:			
2924.19.10	Amides	3.7%	Free (A*,CA,E,IL, J,JO,K,MX)	25%
2924.19.80	Other	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	30.5%"

(b). Conforming changes:

(A). General note 4(d) is modified by deleting "2924.10.10 India" and inserting "2924.19.10 India" in lieu thereof.

(B). The article description of heading 9902.29.70 is modified by deleting "2924.10.10" and inserting "2924.19.10" in lieu thereof.

(C). The article description of heading 9902.29.52 is modified by deleting "2924.10.80" and inserting "2924.19.80" in lieu thereof.

(99)(a). Subheading 2924.22.00 is deleted.

(b). The following provisions are inserted in numerical sequence:

	[Carboxyamide-function compounds;...]			
	[Cyclic amides (including cyclic...]			
"2924.23	2-Acetamidobenzoic acid (N-acetylanthranilic acid) and its salts:			
2924.23.10	2-Acetamidobenzoic acid	[See Annex III(A) to this proclamation	Free (A+,CA,D,E, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 58%
	Other:			
2924.23.70	Products described in additional U.S. note 3 to section VI	[See Annex III(A) to this proclamation	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 58%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Carboxyamide-function compounds;...] [Cyclic amides (including cyclic...] [2-Acetamidobenzoic acid...] [Other:]			
2924.23.75	Other	[See Annex III(A) to this proclamation	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 58%
2924.24.00	Ethinamate (INN)	Free		30.5%"

(b). Subheadings 2924.29.70, 2924.29.75 and 2924.29.90 are renumbered as 2924.29.71, 2924.29.76 and 2924.29.95, respectively.

(c). Conforming changes:

(A). General note 4(d) is modified by deleting "2924.29.90 India" and inserting "2924.29.95 India" in lieu thereof.

(B). The article description of headings 9902.29.29, 9902.29.72, 9902.29.91, 9902.32.54 and 9902.32.91 is modified by deleting "2924.29.70" and inserting "2924.29.71" in lieu thereof.

(C). The article description of heading 9902.29.65 is modified by deleting "2924.29.75" and inserting "2924.29.76" in lieu thereof.

(100)(a). Subheadings 2924.29.41 and 2935.00.05 are renumbered as 2924.29.43 and 2935.00.06, respectively, and the article description of such subheadings are modified to read as follows:

[2924.29.43]	"3-Ethoxycarbonylaminophenyl-*N*-phenylcarbamate (Desmedipham); and Isopropyl-*N*-(3-chlorophenyl)carbamate (CIPC)"
[2935.00.06]	"4-Amino-6-chloro-*m*-benzenedisulfonamide; and Methyl-4-aminobenzenesulfonylcarbamate (Asulam)"

(b). Conforming changes:

(A). General note 4(d) is modified by deleting "2924.29.41 India" and "2935.00.05 India" and inserting "2924.29.43 India" and "2935.00.06 India" in numerical sequence in lieu thereof.

(B). The article description of heading 9902.31.14 is modified by deleting "2924.29.41" and inserting "2924.29.43" in lieu thereof.

(101)(a). The following subheading is inserted in numerical sequence:

	[Carboxyimide-function compounds (including saccharin...] [Imides and their derivatives; salts thereof:]			
"2925.12.00	Glutethimide (INN)	Free		15.4¢/kg + 61%"

(b). Subheading 2925.19.40 is renumbered as 2925.19.42.

(c). Conforming change: The article description of heading 9902.33.66 is modified by deleting "2925.19.40" and inserting "2925.19.42" in lieu thereof

Annex I (continued)

-33-

(102)(a). The following subheadings are inserted in numerical sequence:

	[Nitrile-function compounds:]			
"2926.30	Fenproporex (INN) and its salts; Methadone (INN) intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane):			
2926.30.10	Fenproporex (INN) and its salts	Free		15.4¢/kg + 65.5%
2926.30.20	4-Cyano-2-dimethylamino-4,4-diphenylbutane	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 65.5%"

(b). Subheadings 2926.90.44 and 2926.90.47 are renumbered as 2926.90.43 and 2926.90.48, respectively.

(103)(a). The following subheading is inserted in numerical sequence:

	[Heterocyclic compounds with oxygen hetero-atom(s)...] [Other:]			
"2932.95.00	Tetrahydrocannabinols (all isomers)	Free		15.4¢/kg + 52%"

(b). Subheading 2932.99.60 is renumbered as 2932.99.61.

(104)(a). The following subheading is inserted in numerical sequence:

	[Heterocyclic compounds with nitrogen hetero-...] [Compounds containing an unfused pyridine ring...]			
"2933.33.00	Alfentanil (INN), anileridine (INN), bezitramide (INN), bromazepam (INN), difenoxin (INN), diphenoxylate (INN), dipipanone (INN), fentanyl (INN), ketobemidone (INN), methylphenidate (INN), pentazocine (INN), pethidine (INN), pethidine (INN) intermediate A, phencyclidine (INN) (PCP), phenoperidine (INN), pipradol (INN), piritramide (INN), propiram (INN) and trimeperidine (INN); salts thereof	Free		15.4¢/kg + 149.5%"

(b). Subheading 2933.39.30 is renumbered as 2933.39.31.

(105)(a). Subheading 2933.40 and all subordinate subheadings and text to such subheading and subheading 2933.51 and all subordinate subheadings and text to such subheading are superseded and the following provisions are inserted in numerical sequence:

	[Heterocyclic compounds with nitrogen hetero-...] "Compounds containing in the structure a quinoline or isoquinoline ring-system (whether or not hydrogenated), not further fused:			
2933.41.00	Levorphanol (INN) and its salts	Free		15.4¢/kg + 67.5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Heterocyclic compounds with nitrogen hetero-...]			
	[Compounds containing in the structure...]			
2933.49	Other:			
2933.49.08	4,7-Dichloroquinoline	[See Annex III(A) to this proclamation	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
2933.49.10	Ethoxyquin (1,2-Dihydro-6-ethoxy-2,2,4-trimethylquinoline)	6.5%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 55%
2933.49.15	8-Methylquinoline and isoquinoline	5.8%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 39.5%
2933.49.17	Ethyl ethyl-6,7,8-trifluoro-1,4-dihydro-4-oxo-3-quinolinecarboxylate	Free		15.4¢/kg + 52%
	Other:			
	Drugs:			
2933.49.20	5-Chloro-7-iodo-8-quinolinol (Iodochlorhydroxyquin); Decoquinate; Diiodohydroxyquin; and Oxyquinoline sulfate	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 46%
2933.49.26	Other	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 67.5%
2933.49.30	Pesticides	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 40%
	Other:			
2933.49.60	Products described in additional U.S. note 3 to section VI	[See Annex III(A) to this proclamation	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
2933.49.70	Other	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
	[Compounds containing a pyrimidine ring...]			
2933.52	Malonylurea (barbituric acid) and its salts:			
2933.52.10	Malonylurea (barbituric acid)	Free		25%
2933.52.90	Other	Free		50%

	:[Heterocyclic compounds with nitrogen hetero-...]			
	[Compounds containing a pyrimidine ring...]			
2933.53.00	Allobarbital (INN), amobarbital (INN), barbital (INN), butalbital (INN), butobarbital, cyclobarbital (INN), methylphenobarbital (INN), pentobarbital (INN), phenobarbital (INN), secbutabarbital (INN), secobarbital (INN) and vinylbital (INN); salts thereof	Free		50%
2933.54.00	Other derivatives of malonylurea (barbituric acid); salts thereof	3.7%	Free (A+,CA,D,E, IL,J,JO,K,L, MX)	50%
2933.55.00	Loprazolam (INN), mecloqualone (INN), methaqualone (INN) and zipeprol (INN); salts thereof	Free		15.4¢/kg + 149.5%"

(b). Subheading 2933.59.45 is renumbered as 2933.59.46.

(c). Conforming changes:

(A). General note 4(d) is modified by:

(i). deleting the following subheadings and the countries set out opposite such subheadings:

2933.40.08 India
2933.40.10 India
2933.40.30 Argentina;
India

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

2933.49.08 India
2933.49.10 India
2933.49.30 Argentina;
India

(B). The article description of heading 9902.33.40 is modified by deleting "2933.40.26" and inserting "2933.49.26" in lieu thereof.

(C). The article description of headings 9902.29.47 and 9902.29.60 is modified by deleting "2933.40.30" and inserting "2933.49.30" in lieu thereof.

(D). The article description of headings 9902.30.65, 9902.32.43, 9902.32.44 and 9902.32.45 is modified by deleting "2933.40.60" and inserting "2933.49.60" in lieu thereof.

(E). The article description of heading 9902.29.61 is modified by deleting "2933.40.70" and inserting "2933.49.70" in lieu thereof.

(106)(a). The following subheading is inserted in numerical sequence:

	:[Heterocyclic compounds with nitrogen hetero-...]			
	[Lactams:]			
"2933.72.00	Clobazam (INN) and methyprylon (INN)	Free		15.4¢/kg + 52%"

(b). Subheadings 2933.79.09 and 2933.79.80 are renumbered as 2933.79.08 and 2933.79.85, respectively.

(c). Conforming change: General note 4(d) is modified by deleting "2933.79.80 India" and inserting "2933.79.85 India" in lieu thereof.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(107)(a). Subheadings 2933.90 through 2933.90.97 and any intervening text to such subheadings are superseded by:

	[Heterocyclic compounds with nitrogen hetero-...]			
	"Other:			
2933.91.00	Alprazolam (INN), camazepam (INN), chlordiazepoxide (INN), clonazepam (INN), clorazepate, delorazepam (INN), diazepam (INN), estazolam (INN), ethyl loflazepate (INN), fludiazepam (INN), flunitrazepam (INN), flurazepam (INN), halazepam (INN), lorazepam (INN), lormetazepam (INN), mazindol (INN), medazepam (INN), midazolam (INN), nimetazepam (INN), nitrazepam (INN), nordazepam (INN), oxazepam (INN), pinazepam (INN), prazepam (INN), pryovalerone (INN), temazepam (INN), tetrazepam (INN) and triazolam (INN); salts thereof	Free		15.4¢/kg + 149.5%
2933.99	Other:			
	Aromatic or modified aromatic:			
2933.99.01	Butyl (*R*)-2-[4-(5-trifluoromethyl-2-pyridinyloxy)phenoxy]propanoate	Free		15.4¢/kg + 50%
2933.99.02	2-[4-[(6-Chloro-2-quinoxalinyl)oxy]-phenoxy]propionic acid, ethyl ester; and *O,O*-Dimethyl-*S*-[(4-oxo-1,2,3-benzotriazin-3-(4*H*)-yl)methyl]-phosphorodithioate	Free		15.4¢/kg + 64.5%
2933.99.05	Acridine and indole	Free		Free
2933.99.06	α-Butyl-α-(4-chlorophenyl)-1*H*-1,2,4-triazole-1-propanenitrile (Myclobutanil); and α-[2-(4-Chlorophenyl)ethyl]-α-phenyl-1*H*-1,2,4-triazole-1-propanenitrile (Fenbuconazole)	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 64.5%
2933.99.08	Acetoacetyl-5-aminobenzimidazolone; 3-(2*H*-Benzotriazol-2-yl)-5-(*tert*-butyl)-4-hydroxybenzene propanoic acid, C_7-C_9 branched or linear alkyl esters; 2-(2*H*-Benzotriazol-2-yl)-6-dodecyl-4-methylphenol, in liquid form, branched and linear; and 1,3,3-Trimethyl-2-methylene-indoline	Free		15.4¢/kg + 52%
2933.99.11	Carbazole	Free		15.4¢/kg + 39.5%

Annex I (continued)

-37-

	[Heterocyclic compounds with nitrogen hetero-...]			
	[Other:]			
	[Other:]			
	[Aromatic or modified aromatic:]			
2933.99.13	6-Bromo-5-methyl-1*H*-imidazo-[4,5-*b*]pyridine; 2-sec-Butyl-4-tert-butyl-6-(benzotriazol-2-yl)phenol; 2-tert-Butyl-4-methyl-6-(5-chlorobenzotriazol-2-yl)phenol; 2,4-Di-tert-butyl-6-(benzotriazol-2-yl)phenol; 2,4-Di-tert-butyl-6-(5-chloro-benzotriazol-2-yl)phenol; 2,3-Dichloro-6-quinoxaline-carbonyl chloride; 1-Hydroxy-2-carbazolecarboxylic acid; 2-Hydroxy-3-carbazolecarboxylic acid; 2-Hydroxy-3-carbazolecarboxylic acid, sodium salt; Iminodibenzyl(10,11-dihydro-5*H*-dibenz[*b,f*]azepine); Indoline; 3-Methylbenzo[f]quinoline; 2-Methylindoline; 2-Methylmercaptobenzimidazole; 1-Methyl-2-phenylindole; 1-Methylpyrazine; 2,4-Methylpyrazolic acid; 2-Phenylbenzimidazole; 2-Phenylindole; 3-Quinuclidinol; Tetramethylpyrazine; 2,3,5-Triphenyltetrazolium chloride; *dl*-Tryptophan; and Vinylcarbazole, monomer....................	5.8%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 39.5%
	Other:			
	Pesticides:			
2933.99.14	5-Amino-4-chloro-o-phenyl-3-pyridazinone.......	6.5%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 40.5%
2933.99.16	o-Diquat dibromide (1,1'-Ethylene-2,2'-dipyridylium dibromide).....	Free		15.4¢/kg + 40.5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

-38-

	[Heterocyclic compounds with nitrogen hetero-...]			
	[Other:]			
	[Other:]			
	[Aromatic or modified aromatic:]			
	[Other:]			
	[Pesticides:]			
	Other:			
2933.99.17	Insecticides	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 64.5%
2933.99.22	Other	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL,J,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 64.5%
2933.99.24	Photographic chemicals	6.5%	Free (A*,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 50%
	Drugs:			
2933.99.26	Antihistamines	6.5%	Free (A+,CA,D,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 45%
	Anti-infective agents:			
2933.99.42	Acriflavine; Acriflavine hydrochloride; Carbadox; and Pyrazinamide	Free		15.4¢/kg + 46%
2933.99.46	Other	6.5%	Free (A+,CA,D,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 57.5%
	Cardiovascular drugs:			
2933.99.51	Hydralazine hydrochloride	Free		15.4¢/kg + 47.5%
2933.99.53	Other	6.5%	Free (A+,CA,D,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 65%
	Drugs primarily affecting the central nervous system:			
2933.99.55	Analgesics, antipyretics and nonhormonal anti-inflammatory agents	6.5%	Free (A*,CA,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 47.5%

Annex I (continued)

-39-

	[Heterocyclic compounds with nitrogen hetero-...]			
	[Other:]			
	[Other:]			
	[Aromatic or modified aromatic:]			
	[Other:]			
	[Drugs:]			
	[Drugs primarily...]			
	Antidepressants, tranquilizers and other psychotherapeutic agents:			
2933.99.58	Droperidol; and Imipramine hydrochloride	Free		15.4¢/kg + 45.5%
2933.99.61	Other	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 149.5%
2933.99.65	Anticonvulsants, hypnotics and sedatives	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 48.5%
2933.99.70	Other	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 56.5%
2933.99.75	Other	6.5%	Free (A+,CA,D,E, IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 45%
	Other:			
2933.99.79	Products described in additional U.S. note 3 to section VI	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
2933.99.82	Other	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
	Other:			
2933.99.85	3-Amino-1,2,4-triazole	3.7%	Free (A*,CA,E,IL, J,JO,MX)	25%
2933.99.87	Hexamethylenetetramine	6.3%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	58%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Heterocyclic compounds with nitrogen hetero-...]			
	[Other:]			
	[Other:]			
	[Other:]			
2933.99.89	Hexamethyleneimine	Free		30.5%
	Other:			
2933.99.90	Drugs	3.7%	Free (A*,CA,E,IL, J,JO,K,MX)	25%
2933.99.97	Other	6.5%	Free (A*,CA,E,IL, J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	30.5%"

(b). Conforming changes:

(A). General note 4(d) is modified by:

(i). deleting the following subheadings and the countries set out opposite such subheadings:

2933.90.06 India
2933.90.14 India
2933.90.17 India
2933.90.22 India
2933.90.24 India
2933.90.55 Argentina; India
2933.90.85 India
2933.90.87 India
2933.90.90 India
2933.90.97 India

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

2933.99.06 India
2933.99.14 India
2933.99.17 India
2933.99.22 India
2933.99.24 India
2933.99.55 Argentina; India
2933.99.85 India
2933.99.87 India
2933.99.90 India
2933.99.97 India

(B). The article description of heading 9902.32.87 is modified by deleting "2933.90.06" and inserting "2933.99.06" in lieu thereof.

(C). The article description of heading 9902.32.89 is modified by deleting "2933.90.17" and inserting "2933.99.17" in lieu thereof.

(D). The article description of heading 9902.38.30 is modified by deleting "2933.90.22" and inserting "2933.99.22" in lieu thereof.

(E). The article description of headings 9902.29.37 and 9902.29.39 is modified by deleting "2933.90.24" and inserting "2933.99.24" in lieu thereof.

(F). The article description of headings 9902.20.05 and 9902.29.92 is modified by deleting "2933.90.46" and inserting "2933.99.46" in lieu thereof.

(G). The article description of headings 9902.29.22, 9902.29.38 and 9902.33.16 is modified by deleting "2933.90.79" and inserting "2933.99.79" in lieu thereof.

(H). The article description of heading 9902.33.90 is modified by deleting "2933.90.82" and inserting "2933.99.82" in lieu thereof.

(IJ). The article description of heading 9902.29.08 is modified by deleting "2933.90.97" and inserting "2933.99.97" in lieu thereof.

Annex I (continued)

(108). The article description of heading 2934 is modified to read:

"Nucleic acids and their salts, whether or not chemically defined; other heterocyclic compounds:"

(109). The article description of subheading 2934.20 is modified to read:

"Compounds containing in the structure a benzothiazole ring-system (whether or not hydrogenated), not further fused:"

(110). The article description of subheading 2934.30 is modified to read:

"Compounds containing in the structure a phenothiazine ring-system (whether or not hydrogenated), not further fused:".

(111)(a). Subheadings 2934.90 through 2934.90.90 and any intervening text to such subheadings are superseded by:

	[Nucleic acids and their salts, whether...]			
	"Other:			
2934.91.00	Aminorex (INN), brotizolam (INN), clotiazepam (INN), cloxazolam (INN), dextromoramide (INN), haloxazolam (INN), ketazolam (INN), mesocarb (INN), oxazolam (INN), pemoline (INN), phendimetrazine (INN), phenmetrazine (INN) and sufentanil (INN); salts thereof	Free		15.4¢/kg 45%
2934.99	Other:			
	Aromatic or modified aromatic:			
2934.99.01	Mycophenolate mofetil	Free		15.4¢/kg + 45%
2934.99.03	2-Acetylbenzo(*b*)thiophene; 3-Methylene-7-(2-phenoxy-acetamido)cephan-4-carboxylic acid, *p*-nitrobenzyl ester, 1-oxide; and Naphth[1,2-d]-[1,2,3]-oxadiazole-5-sulfonic acid and its sodium salt	Free		15.4¢/kg + 52%
2934.99.05	5-Amino-3-phenyl-1,2,4-thiadiazole (3-Phenyl-5-amino-1,2,4-thiadiazole); 2-Hydroxybenzoxazole (Benzoxazolone); 4-Phenylmorpholine; 1,9-Thianthrenedicarboxylic acid; and Thioxanthene-9-one (Thioxanthone)	5.8%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 39.5%
2934.99.06	7-Nitronaphth[1,2]oxadiazole-5-sulfonic acid and its salts	6.5%	Free (A+,CA,D,E, IL,J,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 65.5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)
-42-

	[Nucleic acids and their salts, whether...]			
	[Other:]			
	[Other:]			
	[Aromatic or modified aromatic:]			
2934.99.07	Ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate (Fenoxaprop-ethyl)	Free		15.4¢/kg + 48.5%
2934.99.08	2,5-Diphenyloxazole	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
2934.99.09	1,2-Benzisothiazolin-3-one	Free		15.4¢/kg + 40.5%
	Other:			
	Pesticides:			
2934.99.11	2-tert-Butyl-4-(2,4-dichloro-5-isopropoxyphenyl)-Δ^2-1,3,4-oxadiazolin-5-one; 3-Isopropyl-1*H*-2,1,3-benzothiadiazin-4-(3*H*)-one-2,2-dioxide (Bentazon); and *O,O*-Diethyl-*S*-[(6-chloro-2-oxobenzoxazolin-3-yl)methyl]-phosphorodithioate (Phosalone)	6.5%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 40.5%
	Other:			
2934.99.12	Fungicides	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 40%
2934.99.15	Herbicides	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 48.5%
2934.99.16	Insecticides	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 64.5%
2934.99.18	Other	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 40%
2934.99.20	Photographic chemicals	6.5%	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 50%

Annex I (continued)

	[Nucleic acids and their salts, whether...]			
	[Other:]			
	[Other:]			
	[Aromatic or modified aromatic:]			
	[Other:]			
2934.99.30	Drugs	6.5%	Free (A*,CA,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 45%
	Other:			
2934.99.39	Products described in additional U.S. note 3 to section VI	[See Annex III(A) to this proclamationa]	Free (A+,CA,D,E,IL,J,K,L,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
2934.99.44	Other	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 52%
	Other:			
2934.99.47	Drugs	3.7%	Free (A*,CA,E,IL,J,JO,K,MX)	25%
	Other:			
2934.99.70	Morpholinoethyl chloride hydrochloride; 2-Methyl-2,5-dioxo-1-oxa-2-phospholan; and (6R-trans)-7-Amino-3-methyl-8-oxo-5-thia-1-azabicyclo[4.2.0]-oct-2-ene-2-carboxylic acid	Free		30.5%
2934.99.90	Other	6.5%	Free (A*,CA,E,IL,J,K,MX) [See Annex III(D)2 to this proclamation](JO)	30.5%"

(b). Conforming changes:

(A). General note 4(d) is modified by:

(I). deleting the following subheadings and the countries set out opposite such subheadings:

2934.90.08 India
2934.90.11 India
2934.90.12 India
2934.90.15 Brazil; India
2934.90.16 India
2934.90.18 India
2934.90.20 India
2934.90.30 India
2934.90.47 India
2934.90.90 India

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

2934.99.08	India
2934.99.11	India
2934.99.12	India
2934.99.15	Brazil; India
2934.99.16	India
2934.99.18	India
2934.99.20	India
2934.99.30	India
2934.99.47	India
2934.99.90	India

(B). The article description of heading 9902.29.67 is modified by deleting "2934.90.11" and inserting "2934.99.11" in lieu thereof.

(C). The article description of headings 9902.29.42, 9902.29.74, 9902.29.80, 9902.29.97 and 9902.38.20 is modified by deleting "2934.90.12" and inserting "2934.99.12" in lieu thereof.

(D). The article description of headings 9902.29.66, 9902.29.79 and 9902.30.17 is modified by deleting "2934.90.15" and inserting "2934.99.15" in lieu thereof.

(E). The article description of heading 9902.29.37 is modified by deleting "2934.90.20, and 2934.90.90" and inserting "2934.99.20, and 2934.99.90" in lieu thereof.

(F). The article description of heading 9902.32.56 is modified by deleting "2934.90.30" and inserting "2934.99.30" in lieu thereof.

(G). The article description of heading 9902.32.97 is modified by deleting "2934.90.39" and inserting "2934.99.39" in lieu thereof.

(H). The article description of headings 9902.29.51, 9902.29.55, 9902.29.87, 9902.32.33, 9902.32.36 and 9902.32.39 is modified by deleting "2934.90.90" and inserting "2934.99.90" in lieu thereof.

(112)(a). Heading 2937 and all subordinate subheadings and text are superseded by:

"2937	Hormones, prostaglandins, thromboxanes and leukotrienes, natural or reproduced by synthesis; derivatives and structural analogues thereof, including chain modified polypeptides, used primarily as hormones:			
	Polypeptide hormones, protein hormones and glycoprotein hormones, their derivatives and structural analogues:			
2937.11.00	Somatotropin, its derivatives and structural analogues..........	Free		10%
2937.12.00	Insulin and its salts..........	Free		10%
2937.19.00	Other..........	Free		25%
	Steroidal hormones, their derivatives and structural analogues:			
2937.21.00	Cortisone, hydrocortisone, prednisone (Dehydrocortisone) and prednisolone (Dehydrohydrocortisone)..........	Free		25%
2937.22.00	Halogenated derivatives of corticosteroidal hormones..........	Free		25%

Annex I (continued)

	[Hormones, prostaglandins,...]			
	[Steroidal hormones, their derivatives and...]			
2937.23	Estrogens and progestins:			
2937.23.10	Obtained directly or indirectly from animal or vegetable materials	Free		25%
	Other:			
2937.23.25	Estradiol benzoate; and Estradiol cyclopentylpropionate (Estradiol cypionate)	Free		15.4¢/kg + 49%
2937.23.50	Other	Free		15.4¢/kg + 78.5%
2937.29	Other:			
2937.29.10	Desonide; and Nandrolone phenpropionate	Free		15.4¢/kg + 49%
2937.29.90	Other	Free		25%
	Catecholamine hormones, their derivatives and structural analogues:			
2937.31.00	Epinephrine	Free		15.4¢/kg + 49%
2937.39	Other:			
2937.39.10	Epinephrine hydrochloride	Free		15.4¢/kg + 49%
2937.39.90	Other	Free		25%
2937.40	Amino-acid derivatives:			
2937.40.10	*l*-Thyroxine (Levothyroxine), sodium	Free		15.4¢/kg + 49%
2937.40.90	Other	Free		25%
2937.50.00	Prostaglandins, thromboxanes and leukotrienes, their derivatives and structural analogues	Free		25%
2937.90.00	Other	Free		25%"

(b). Subheadings 3002.10.00 and 3002.90.50 are renumbered as 3002.10.01 and 3002.90.51, respectively.

(113)(a). Subheading 2939.10 and all subordinate subheadings and text to such subheading are superseded by:

	[Vegetable alkaloids, natural or reproduced...]			
	"Alkaloids of opium and their derivatives; salts thereof:			
2939.11.00	Concentrates of poppy straw; buprenorphine (INN), codeine, dihydrocodeine (INN), ethylmorphine, etorphine (INN), heroin, hydrocodone (INN), hydromorphone (INN), morphine, nicomorphine (INN), oxycodone (INN), oxymorphone (INN), pholcodine (INN), thebacon (INN) and thebaine; salts thereof	Free		15.4¢/kg + 50%
2939.19	Other:			
2939.19.10	Papaverine and its salts	Free		15.4¢/kg + 104%
	Other:			
2939.19.20	Synthetic	Free		15.4¢/kg + 50%
2939.19.50	Other	Free		10.6¢/g"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(b). Subheading 1302.19.20 is renumbered as 1302.19.21.

(114)(a). The following subheading is inserted in numerical sequence:

	[Vegetable alkaloids, natural or reproduced...]			
	[Ephedrines and their salts:]			
"2939.43.00	Cathine (INN) and its salts	Free		15.4¢/kg + 59%"

(b). Subheading 2939.49.00 is renumbered as 2939.49.01.

(115). Subheading 2939.50.00 is superseded by:

	[Vegetable alkaloids, natural or reproduced...]			
	"Theophylline and aminophylline (theophylline-ethylenediamine) and their derivatives; salts thereof:			
2939.51.00	Fenetylline (INN) and its salts	Free		25%
2939.59.00	Other	Free		25%"

(116)(a). Subheading 2939.70.00 is deleted.
(b). Subheadings 2939.90, 2939.90.10 and 2939.90.50 are superseded by:

	[Vegetable alkaloids, natural or reproduced...]			
	"Other:			
2939.91.00	Cocaine, ecgonine, levometamfetamine, metamfetamine (INN), metamfetamine racemate; salts, esters and other derivatives thereof	Free		25%
2939.99.00	Other	Free		25%"

(117). The article description of heading 2940.00 is modified to read:

"Sugars, chemically pure, other than sucrose, lactose, maltose, glucose and fructose; sugar ethers, sugar acetals and sugar esters, and their salts, other than products of heading 2937, 2938 or 2939:"

(118). Note 1(a) to chapter 30 is superseded by:

"(a) Foods or beverages (such as dietetic, diabetic or fortified foods, food supplements, tonic beverages and mineral waters), other than nutritional preparations for intravenous administration (section IV);

(119)(a). Note 4(g) to chapter 30 is modified by deleting the word "and" after the semicolon.
(b). Note 4(h) to chapter 30 is superseded by:

"(h) Chemical contraceptive preparations based on hormones, on other products of heading 2937 or on spermicides;"

(c). The following notes 4(ij) and 4(k) are inserted in alphabetical sequence:

"(ij) Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments; and

(k) Waste pharmaceuticals, that is, pharmaceutical products which are unfit for their original intended purpose due to, for example, expiry of shelf life."

Annex I (continued)

(120). The article description of heading 3004 is modified to read:

"Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale:"

(121). The article description of subheading 3004.32.00 is modified to read:

"Containing corticosteroid hormones, their derivatives and structural analogues"

(122). The article description of subheading 3006.60.00 is modified to read:

"Chemical contraceptive preparations based on hormones, on other products of heading 2937 or on spermicides"

(123)(a). The following subheadings are inserted in numerical sequence:

	:[Pharmaceutical goods specified in note 4...]			
"3006.70.00	Gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments	5%	Free (A+,CA,D,E, IL,J,JO,K, MX)	25%
3006.80.00	Waste pharmaceuticals	Free		45%"

(b). Subheading 3824.90.90 is renumbered as 3824.90.91.

(c). Conforming change: The article description of headings 9902.29.83, 9902.38.10 and 9902.38.25 is modified by deleting "3824.90.90" and inserting "3824.90.91" in lieu thereof.

(124). The article description of subheading 3206.11.00 is modified to read:

"Containing 80 percent or more by weight of titanium dioxide calculated on the dry matter"

(125). The article description of heading 3401 is modified to read:

"Soap; organic surface-active products and preparations for use as soap, in the form of bars, cakes, molded pieces or shapes, whether or not containing soap; organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent:"

(126)(a). The following subheadings are inserted in numerical sequence:

	:[Soap; organic surface-active products and...]			
"3401.30	Organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap:			
3401.30.10	Containing any aromatic or modified aromatic surface-active agent	4%	Free (A*,CA,E,IL, J,JO,K,MX)	15.4¢/kg + 53.5%
3401.30.50	Other	Free		25%"

(b). Subheadings 3402.20.10 and 3402.20.50 are renumbered as 3402.20.11 and 3402.20.51, respectively.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(c). Conforming change: General note 4(d) is modified by deleting "3402.20.10 India" and inserting "3401.30.10 India" and "3402.20.11 India" in numerical sequence in lieu thereof.

(127). The article description of subheading 3404.20.00 is modified to read:

"Of poly(oxyethylene) (polyethylene glycol)"

(128). The article description of subheading 3506.91.00 is modified to read:

"Adhesives based on polymers of headings 3901 to 3913 or on rubber"

(129)(a). Subheadings 3702.91.00 and 3702.92.00 are superseded by:

	[Photographic film in rolls, sensitized,...] [Other:]			
"3702.91.01	Of a width not exceeding 16 mm..............................	3.7%	Free (A*,CA,E,IL, J,JO,MX)	25%

(b). Conforming change: General note 4(d) is modified by deleting "3702.91.00 India" and "3702.92.00 India" and inserting "3702.91.01 India" in lieu thereof.

(130)(a). Note 1(a)(4) to chapter 38 is superseded by:

"(4) Certified reference materials specified in note 2 below;

(5) Products specified in note 3(a) or 3(c) below;"

(b). Note 1(b) to chapter 38 is modified by deleting the "." at the end of the note and inserting a ";" in lieu thereof.

(c). Notes 1(c) and 1(d) to chapter 38 are redesignated as 1(d) and 1(e), respectively, and the redesignated note 1(d) is modified by deleting the "." at the end of such note and inserting "; or" in lieu thereof.

(d). The following note is 1(c) is inserted in alphabetical sequence:

"(c) Ash and residues (including sludges, other than sewage sludge), containing metals, arsenic or their mixtures and meeting the requirements of note 3(a) or 3(b) to chapter 26 (heading 2620);"

(131)(a). Note 2 to chapter 38 is redesignated as note 3.

(b). The following note to chapter 38 is inserted in numerical sequence:

"2. (a) For the purposes of heading 3822.00, the expression "certified reference materials" means reference materials which are accompanied by a certificate which indicates the values of the certified properties, the methods used to determine these values and the degree of certainty associated with each value and which are suitable for analytical, calibrating or referencing purposes.

(b) With the exception of the products of chapter 28 or 29, for the classification of certified reference materials, heading 3822 shall take precedence over any other heading in the tariff schedule."

(132). The following notes to chapter 38 are inserted in numerical sequence:

"4. Throughout the tariff schedule, "municipal waste" means waste of a kind collected from households, hotels, restaurants, hospitals, shops, offices, etc., road and pavement sweepings, as well as construction and demolition waste. Municipal waste generally contains a large variety of materials such as plastics, rubber, wood, paper, textiles, glass, metals, food materials, broken furniture and other damaged or discarded articles. The term "municipal waste", however, does not cover:

(a) Individual materials or articles segregated from the waste, such as wastes of plastics, rubber, wood, paper, textiles, glass or metals and spent batteries, which fall in their appropriate headings of the tariff schedule;

(b) Industrial waste;

(c) Waste pharmaceuticals, as defined in note 4(k) to chapter 30; or

(d) Clinical waste, as defined in note 6(a) below.

5. For the purposes of heading 3825, the expression "sewage sludge" means sludge arising from urban effluent treatment plants and includes pre-treatment waste, scourings and unstabilized sludge. Stabilized sludge, when suitable for use as fertilizer, is excluded (chapter 31).

6. For the purposes of heading 3825, the expression "other wastes" applies to:

(a) Clinical waste, that is, contaminated waste arising from medical research, diagnosis, treatment or other medical, surgical, dental or veterinary procedures, which often contain pathogens and pharmaceutical substances and require special disposal procedures (for example, soiled dressings, used gloves and used syringes);

(b) Waste organic solvents;

(c) Wastes of metal pickling liquors, hydraulic fluids, brake fluids and anti-freezing fluids; and

(d) Other wastes from chemical or allied industries.

The expression "other wastes" does not, however, cover wastes which contain mainly petroleum oils or oils obtained from bituminous minerals (heading 2710)."

(133). The following subheading note and title to chapter 38 are inserted after new note 6 to chapter 38:

"Subheading Note

1. For the purposes of subheadings 3825.41.00 and 3825.49.00, "waste organic solvents" are wastes containing mainly organic solvents, not fit for further use as presented as primary products, whether or not intended for recovery of the solvents."

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)
-50-

(134). Heading 3817 and all subordinate subheadings and text thereto are superseded by:

"3817.00	Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading 2707 or 2902:			
	Mixed alkylbenzenes:			
3817.00.10	Mixed linear alkylbenzenes	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 55%
3817.00.15	Other	[See Annex III(A) to this proclamation	Free (A*,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	15.4¢/kg + 55%
3817.00.20	Mixed alkylnaphthalenes	[See Annex III(A) to this proclamation	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	3.7¢/kg + 60%"

(b). Conforming change: General note 4(d) is modified by deleting "3817.10.50 India" and inserting "3817.00.15 India" in lieu thereof.

(135). Headings 3822.00 and all subordinate subheadings are superseded by:

"3822.00	Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials:			
	Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006:			
3822.00.10	Containing antigens or antisera	Free		Free
3822.00.50	Other	Free		25%
3822.00.60	Certified reference materials	Free		25%"

(136). The article description for heading 3824 is modified to read:

> "Prepared binders for foundry molds or cores; chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included:"

(137). The following provisions are inserted in numerical sequence:

"3825	Residual products of the chemical or allied industries; not elsewhere specified or included; municipal waste; sewage sludge; other wastes specified in note 6 to this chapter:			
3825.10.00	Municipal waste	Free		Free
3825.20.00	Sewage sludge	Free		Free
	Waste organic solvents:			
3825.41.00	Halogenated	Free		Free
3825.49.00	Other	Free		Free
3825.50.00	Wastes of metal-pickling liquors, hydraulic fluids, brake fluids and anti-freeze fluids	Free		Free

Annex I (continued)

	[Residual products of the chemical or...]			
	Other wastes from the chemical or allied industries:			
3825.61.00	Mainly containing organic constituents	Free		Free
3825.69.00	Other	Free		Free
3825.90.00	Other	Free		Free"

(138)(a). The title "Subheading Note" in chapter 39 is modified to read "Subheading Notes".

(b). The following subheading note to chapter 39 is inserted in numerical sequence:

"2. For the purposes of subheading 3920.43, the term "plasticizers" includes secondary plasticizers."

(139). The article description of subheading 3904.10.00 is modified to read:

"Poly(vinyl chloride), not mixed with any other substances"

(140). The superior text immediately preceding subheading 3904.21.00 is modified to read:

"Other poly(vinyl chloride):"

(141). The superior text immediately preceding subheading 3905.12.00 is modified to read:

"Poly(vinyl acetate):"

(142). The article description of subheading 3905.30.00 is modified to read:

"Poly(vinyl alcohol), whether or not containing unhydrolyzed acetate groups"

(143). The article description of subheading 3906.10.00 is modified to read:

"Poly(methyl methacrylate)"

(144). The article description of subheading 3907.60.00 is modified to read:

"Poly(ethylene terephthalate)"

(145)(a). Subheadings 3917.32, 3917.32.20 and 3917.32.60 are superseded by:

	[Tubes, pipes and hoses and fittings therefor...]			
	[Other tubes, pipes and hoses:]			
"3917.32.00	Other, not reinforced or otherwise combined with other materials, without fittings	3.1%	Free (A,B,CA,E,IL, J,JO,MX)	25%"

(b). Conforming change: The following subheading is inserted in numerical sequence:

	[Other articles of plastics and articles of other...]			
	[Other):]			
"3926.90.96	Casing for bicycle derailleur cables; and Casing for cable or inner wire for caliper and cantilever brakes, whether or not cut to length	Free		25%"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(146). Subheadings 3920.41.00, 3920.42, 3920.42.10 and 3920.42.50 are superseded by:

	[Other plates, sheets, film, foil and strip,...]			
	[Of polymers of vinyl chloride:]			
"3920.43	Containing by weight not less than 6 percent of plasticizers:			
3920.43.10	Made in imitation of patent leather	3.1%	Free (A,CA,E,IL, J,JO,MX)	25%
3920.43.50	Other	4.2%	Free (A,CA,E,IL, J,JO,MX)	25%
3920.49.00	Other	5.8%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	35%"

(147). The article description of subheading 3920.51 is modified to read:

"Of poly(methyl methacrylate):"

(148). The article description of subheading 3920.62.00 is modified to read:

"Of poly(ethylene terephthalate)"

(149). The article description of subheading 3920.91.00 is modified to read:

"Of poly(vinyl butyral)"

(150). The article description of heading 3922 is modified to read:

"Baths, shower baths, sinks, washbasins, bidets, lavatory pans, seats and covers, flushing cisterns and similar sanitary ware, of plastics:"

(151). The article description of subheading 3922.10.00 is modified to read:

"Baths, shower baths, sinks and washbasins"

(152). The article description of subheading 3926.20 is modified to read:

"Articles of apparel and clothing accessories (including gloves, mittens and mitts):"

(153). The superior text immediately preceding subheading 3926.20.10 is modified to read:

"Gloves, mittens and mitts:"

(154). Note 2(f) to chapter 40 is superseded by:

"(f). Articles of chapter 95 (other than sports gloves, mittens and mitts and articles of headings 4011 to 4013)."

Annex I (continued)

(155)(a). Subheadings 4009.10.00, 4009.20.00, 4009.30.00, 4009.40.00 and 4009.50.00 are superseded by:

	[Tubes, pipes and hoses, of vulcanized rubber...]			
	"Not reinforced or otherwise combined with other materials:			
4009.11.00	Without fittings	2.5%	Free (A,B,CA,E, IL,J,JO,MX)	25%
4009.12.00	With fittings	2.5%	Free (A,B,C,CA,E, IL,J,JO,MX)	25%
	Reinforced or otherwise combined only with metal:			
4009.21.00	Without fittings	2.5%	Free (A,B,CA,E, IL,J,JO,MX)	25%
4009.22.00	With fittings	2.5%	Free (A,B,C,CA,E, IL,J,JO,MX)	25%
	Reinforced or otherwise combined only with textile materials:			
4009.31.00	Without fittings	2.5%	Free (A,B,CA,E, IL,J,JO,MX)	25%
4009.32.00	With fittings	2.5%	Free (A,B,C,CA,E, IL,J,JO,MX)	25%
	Reinforced or otherwise combined with other materials:			
4009.41.00	Without fittings	2.5%	Free (A,B,CA,E, IL,J,JO,MX)	25%
4009.42.00	With fittings	2.5%	Free (A,B,C,CA,E, IL,J,JO,MX)	25%"

(156). Subheadings 4010.21 through 4010.29.90 and any intervening text to such subheadings are superseded by:

	[Conveyor or transmission belts or belting....]			
	[Transmission belts or belting:]			
"4010.31	Endless transmission belts of trapezoidal cross-section (V-belts), V-ribbed, of an outside circumference exceeding 60 cm but not exceeding 180 cm:			
4010.31.30	Combined with textile materials	3.4%	Free (A+,B,CA,D, E,IL,J,JO, MX)	30%
4010.31.60	Other	2.8%	Free (A,CA,E,IL, J,JO,MX)	25%
4010.32	Endless transmission belts of trapezoidal cross-section (V-belts), other than V-ribbed, of an outside circumference exceeding 60 cm but not exceeding 180 cm:			
4010.32.30	Combined with textile materials	3.4%	Free (A+,B,CA,D, E,IL,J,JO, MX)	30%
4010.32.60	Other	2.8%	Free (A,CA,E,IL, J,JO,MX)	25%
4010.33	Endless transmission belts of trapezoidal cross-section (V-belts), V-ribbed, of an outside circumference exceeding 180 cm but not exceeding 240 cm:			
4010.33.30	Combined with textile materials	3.4%	Free (A+,B,CA,D, E,IL,J,JO, MX)	30%
4010.33.60	Other	2.8%	Free (A,CA,E,IL, J,JO,MX)	25%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Conveyor or transmission belts or belting,...]			
	[Transmission belts or belting:]			
4010.34	Endless transmission belts of trapezoidal cross-section (V-belts), other than V-ribbed, of an outside circumference exceeding 180 cm but not exceeding 240 cm:			
4010.34.30	Combined with textile materials	3.4%	Free (A+,B,CA,D, E,IL,J,JO, MX)	30%
4010.34.60	Other	2.8%	Free (A,CA,E,IL, J,JO,MX)	25%
4010.35	Endless synchronous belts, of an outside circumference exceeding 60 cm but not exceeding 150 cm:			
	Combined with textile materials:			
4010.35.30	With textile components in which vegetable fibers predominate by weight over any other single textile fiber	4.1%	Free (A,CA,E,IL, J,JO,MX)	30%
	With textile components in which man-made fibers predominate by weight over any other single textile fiber:			
4010.35.41	Of a width exceeding 20 cm	8%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%
4010.35.45	Other	6.4%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%
4010.35.50	Other	1.9%	Free (A+,CA,D,E, IL,J JO,) [See Annex III(B) to this proclamation](MX)	25%
4010.35.90	Other	3.3%	Free (A,CA,E,IL, J,JO,MX)	25%
4010.36	Endless synchronous belts, of an outside circumference exceeding 150 cm but not exceeding 198 cm:			
	Combined with textile materials:			
4010.36.30	With textile components in which vegetable fibers predominate by weight over any other single textile fiber	4.1%	Free (A,CA,E,IL, J,JO,MX)	30%
	With textile components in which man-made fibers predominate by weight over any other single textile fiber:			
4010.36.41	Of a width exceeding 20 cm	8%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%

Annex I (continued)

	[Conveyor or transmission belts or belting,...]			
	[Transmission belts or belting:]			
	[Endless synchronous belts, of an...]			
	[Combined with textile materials:]			
	[With textile components...]			
4010.36.45	Other	6.4%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%
4010.36.50	Other	1.9%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	25%
4010.36.90	Other	3.3%	Free (A,CA,E,IL, J,JO,MX)	25%
4010.39	Other:			
	Of trapezoidal cross section (V-belts and belting):			
4010.39.10	Combined with textile materials	3.4%	Free (A+,B,CA,D, E,IL,J,JO, MX)	30%
4010.39.20	Other	2.8%	Free (A,CA,E,IL, J,JO,MX)	25%
	Other:			
	Combined with textile materials:			
4010.39.30	With textile components in which vegetable fibers predominate by weight over any other single textile fiber	4.1%	Free (A,CA,E,IL, J,JO,MX)	30%
	With textile components in which man-made fibers predominate by weight over any other single textile fiber:			
4010.39.41	Of a width exceeding 20 cm	8%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%
4010.39.45	Other	6.4%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	74%
4010.39.50	Other	1.9%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	25%
4010.39.90	Other	3.3%	Free (A,CA,E,IL, J,JO,MX)	25%"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

-56-

(157)(a). The superior text immediately preceding subheading 4011.91, subheadings 4011.91 through 4011.99.80 and any intervening text to such subheadings are superseded by:

	[New pneumatic tires, of rubber:]			
	"Other, having a "herring-bone" or similar tread:			
4011.61.00	Of a kind used on agricultural or forestry vehicles and machines	Free		Free
4011.62.00	Of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61 cm	Free		10%
4011.63.00	Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm	Free		10%
4011.69.00	Other	Free		10%
	Other:			
4011.92.00	Of a kind used on agricultural or forestry vehicles and machines	Free		Free
4011.93	Of a kind used on construction or industrial handling vehicles and machines and having a rim size not exceeding 61 cm:			
4011.93.40	Radial	4%	Free (A,CA,E,IL,J, JO,MX)	10%
4011.93.80	Other	3.4%	Free (A,CA,E,IL,J, JO,MX)	10%
4011.94	Of a kind used on construction or industrial handling vehicles and machines and having a rim size exceeding 61 cm:			
4011.94.40	Radial	4%	Free (A,CA,E,IL,J, JO,MX)	10%
4011.94.80	Other	3.4%	Free (A,CA,E,IL,J, JO,MX)	10%
4011.99	Other:			
4011.99.45	Radial	4%	Free (A,CA,E,IL,J, JO,MX)	10%
4011.99.85	Other	3.4%	Free (A,CA,E,IL,J, JO,MX)	10%"

(b). Conforming changes:

(A). The article description of headings 9902.84.79, 9902.84.81 and 9902.84.83 is modified by deleting "subheading 4011.91.50 or subheading 4011.99.40" and inserting "subheadings 4011.63.00 or 4011.69.00 or subheadings 4011.94.40 or 4011.99.45" in lieu thereof.

(B). The article description of heading 9902.84.85, 9902.84.87, 9902.84.89 and 9902.84.91 is modified by deleting "subheading 4011.91 or subheading 4011.99" and inserting "subheadings 4011.61.00, 4011.63.00 or 4011.69.00 or subheadings 4011.92.00, 4011.94.40 or 4011.99.45" in lieu thereof.

Annex I (continued)

(158)(a). The article description of heading 4012 is modified to read:

"Retreaded or used pneumatic tires of rubber; solid or cushion tires, tire treads and tire flaps, of rubber:"

(b). Subheadings 4012.10 through 4012.10.80 and any intervening text are superseded by:

	[Retreaded or used pneumatic tires of...]			
	"Retreaded tires:			
4012.11	Of a kind used on motor cars (including station wagons and racing cars):			
4012.11.40	Radial	4%	Free (A,CA,E,IL, J,JO,MX)	10%
4012.11.80	Other	3.4%	Free (A,CA,E,IL, J,JO,MX)	10%
4012.12	Of a kind used on buses or trucks:			
4012.12.40	Radial	4%	Free (A,CA,E,IL, J,JO,MX)	10%
4012.12.80	Other	3.4%	Free (A,CA,E,IL, J,JO,MX)	10%
4012.13.00	Of a kind used on aircraft	Free		30%
4012.19	Other:			
4012.19.20	Designed for tractors provided for in subheading 8701.90.10 or for agricultural or horticultural machinery or implements provided for in chapter 84 or in subheading 8716.80.10	Free		Free
	Other:			
4012.19.40	Radial	4%	Free (A,CA,E,IL, J,JO,MX)	10%
4012.19.80	Other	3.4%	Free (A,CA,E,IL, J,JO,MX)	10%"

(159)(a). The article description of heading 4015 is modified to read:

"Articles of apparel and clothing accessories (including gloves, mittens and mitts), for all purposes, of vulcanized rubber other than hard rubber:"

(b). The superior text immediately preceding subheading 4015.11.00 is modified to read:

"Gloves, mittens and mitts:"

(c). The article description of subheading 4015.11.00 is modified to read "Surgical" and 4015.11.00 is renumbered as 4015.11.01.

(d). Subheadings 4015.19.10 and 4015.19.50 are superseded by:

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Articles of apparel and clothing accessories...]			
	[Gloves, mittens and mitts:]			
	[Other:]			
"4015.19.05	Medical	Free		25%
	Other:			
4015.19.10	Seamless	3%	Free (A,CA,E,IL, J,JO,MX)	25%
4015.19.50	Other	14%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	75%"

(160)(a). Note 2 to chapter 41 is redesignated as note 3 and the expression "heading 4111" is deleted and "heading 4115" inserted in lieu thereof.

(b). The following note to chapter 41 is inserted in numerical sequence:

"2. (a) Headings 4104 to 4106 do not cover hides and skins which have undergone a tanning (including pre-tanning) process which is reversible (headings 4101 to 4103, as the case may be).

(b) For the purposes of headings 4104 to 4106, the term "crust" includes hides and skins that have been retanned, colored or fat-liquored (stuffed) prior to drying."

(161). Additional U.S. note 1 to chapter 41 is modified by deleting "heading 4109" and inserting "subheading 4114.20" in lieu thereof.

(162). The article description of heading 4101 is modified by inserting "(including buffalo)" after "Raw hides and skins of bovine".

(163)(a). Subheadings 4101.10.00 through 4101.40.00 and any intervening text to such subheadings are superseded by:

	[Raw hides and skins of bovine (including...)]			
"4101.20	Whole hides and skins, of a weight per skin not exceeding 8 kg when simply dried, 10 kg when dry-salted, or 16 kg when fresh, wet-salted or otherwise preserved:			
4101.20.10	Not pretanned	Free		10%
	Other:			
	Of bovine animals (including buffalo):			
	Of a unit surface area not not exceeding 28 square feet (2.6 m^2):			
4101.20.20	Upper and lining	Free		15%
4101.20.30	Other	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4101.20.35	Of buffalo	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%

Annex I (continued)

	[Raw hides and skins of bovine (including...]			
	[Whole hides and skins, of a weight...]			
	[Other:]			
	[Of bovine animals (including buffalo):]			
	[Other:]			
	Other:			
4101.20.40	Vegetable pretanned........	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.20.50	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.20.70	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.50	Whole hides and skins, of a weight exceeding 16 kg:			
4101.50.10	Not pretanned..............................	Free		10%
	Other:			
	Of bovine animals (including buffalo):			
	Of a unit surface area not not exceeding 28 square feet (2.6 m^2):			
4101.50.20	Upper and lining..............................	Free		15%
4101.50.30	Other..............................	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4101.50.35	Of buffalo..............................	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4101.50.40	Vegetable pretanned........	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.50.50	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.50.70	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.90	Other, including butts, bends and bellies:			
4101.90.10	Not pretanned..............................	Free		10%
	Other:			
	Of bovine animals (including buffalo):			
4101.90.35	Of buffalo..............................	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4101.90.40	Vegetable pretanned..............	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.90.50	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4101.90.70	Other..............................	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%"

(b). Conforming change: General note 4(d) is modified by adding, in numerical sequence, the following subheadings and countries set out opposite them:

4101.20.35 India
4101.20.40 Argentina
4101.20.50 Argentina; Brazil
4101.20.70 Argentina
4101.50.35 India
4101.50.40 Argentina
4101.50.50 Argentina; Brazil
4101.50.70 Argentina
4101.90.35 India
4101.90.40 Argentina
4101.90.50 Argentina; Brazil
4101.90.70 Argentina

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(164). Subheadings 4102.10.00 and 4102.29.00 are superseded and the following provisions inserted in numerical sequence:

	:[Raw skins of sheep or lambs (fresh, or...]			
"4102.10	With wool on:			
4102.10.10	Not pretanned	Free		Free
	Other:			
4102.10.20	Vegetable pretanned	Free		10%
4102.10.30	Other	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
	[Without wool on:]			
4102.29	Other:			
4102.29.10	Not pretanned	Free		Free
	Other:			
4102.29.20	Vegetable pretanned	Free		10%
4102.29.30	Other	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%"

(165)(a). Subheadings 4103.10.00, 4103.20.00 and 4103.90.00 are superseded by:

	:[Other raw hides and skins (fresh, or salted, dried,...]			
"4103.10	Of goats or kids:			
4103.10.10	Not pretanned	Free		Free
	Other:			
4103.10.20	Vegetable pretanned	Free		10%
4103.10.30	Other	3.7%	Free (A*,CA,E,IL, J,JO,MX)	25%
4103.20	Of reptiles:			
4103.20.10	Not pretanned	Free		Free
	Other:			
4103.20.20	Vegetable pretanned	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4103.20.30	Other	Free		25%
4103.30	Of swine:			
4103.30.10	Not pretanned	Free		Free
4103.30.20	Other	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4103.90	Other:			
4103.90.10	Not pretanned	Free		Free
4103.90.20	Other	3.3%	Free (A+,CA,D,E, IL,J,JO,MX)	25%"

(b). Conforming change: General note 4(d) is modified by adding, in numerical sequence, the following subheadings and countries set out opposite them:

4103.10.30 India;
Pakistan
4103.20.20 Argentina

Annex I (continued)

(166)(a). Headings 4104 through 4111.00.00 and all subordinate subheadings and thereto to such subheadings are superseded by:

4104	Tanned or crust hides and skins of bovine (including buffalo) or equine animals, without hair on, whether or not split, but not further prepared:			
	In the wet state (including wet-blue):			
4104.11	Full grains, unsplit; grain splits:			
	Whole bovine leather, of a unit surface area not exceeding 28 square feet (2.6 m²):			
4104.11.10	Upper leather; lining leather	Free		15%
4104.11.20	Other	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4104.11.30	Buffalo	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4104.11.40	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.11.50	Other	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.19	Other:			
	Whole bovine leather, of a unit surface area not exceeding 28 square feet (2.6 m²):			
4104.19.10	Upper leather; lining leather	Free		15%
4104.19.20	Other	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4104.19.30	Buffalo	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4104.19.40	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.19.50	Other	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
	In the dry state (crust):			
4104.41	Full grains, unsplit; grain splits:			
	Whole bovine leather, of a unit surface area not exceeding 28 square feet (2.6 m²):			
4104.41.10	Upper leather; lining leather	Free		15%
4104.41.20	Other	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4104.41.30	Buffalo	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Tanned or crust hides and skins of bovine...]			
	[In the dry state (crust):]			
	[Full grains, unsplit; grain splits:]			
	[Other:]			
	Other:			
4104.41.40	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.41.50	Other	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.49	Other:			
	Whole bovine leather, of a unit surface area not exceeding 28 square feet (2.6 m^2):			
4104.49.10	Upper leather; lining leather	Free		15%
4104.49.20	Other	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Other:			
4104.49.30	Buffalo	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4104.49.40	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
4104.49.50	Other	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
4105	Tanned or crust skins of sheep or lambs, without wool on, whether or not split, but not further prepared:			
4105.10	In the wet state (including wet-blue):			
4105.10.10	Wet blues	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4105.10.90	Other	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4105.30.00	In the dry state (crust)	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4106	Tanned or crust hides and skins of other animals, without wool or hair on, whether or not split, but not further prepared:			
	Of goats or kids:			
4105.21	In the wet state (including wet-blue):			
4106.21.10	Wet blues	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
4106.21.90	Other	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
4106.22.00	In the dry state (crust)	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Of swine:			
4106.31	In the wet state (including wet-blue):			
4106.31.10	Wet blues	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4106.31.90	Other	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4106.32.00	In the dry state (crust)	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4106.40.00	Of reptiles	Free		25%

Annex I (continued)

	[Tanned or crust hides and skins of other...]			
	Other:			
4106.91.00	In the wet state (including wet-blue)	3.3%	Free (A+,CA,D,E,IL,J,JO,MX)	25%
4106.92.00	In the dry state (crust)	3.3%	Free (A+,CA,D,E,IL,J,JO,MX)	25%
4107	Leather further prepared after tanning or crusting, including parchment-dressed leather, of bovine (including buffalo) or equine animals, without hair on, whether or not split, other than leather of heading 4114:			
	Whole hides and skins:			
4107.11	Full grains, unsplit:			
	Of bovines, and of a unit surface area not exceeding 28 square feet (2.6 m²):			
4107.11.10	Upper leather; lining leather	Free		15%
	Other:			
4107.11.20	Not fancy	2.4%	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
4107.11.30	Fancy	3.6%	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	30%
	Other:			
4107.11.40	Buffalo	2.5%	Free (A,CA,E,IL,J,JO,MX)	25%
	Other:			
4107.11.50	Upholstary leather	2.8%	Free (A*,CA,E,IL,J,JO,MX)	20%
4107.11.60	Upper leather; sole leather	3.3%	Free (A*,CA,E,IL,J,JO,MX)	25%
	Other:			
4107.11.70	Not fancy	5%	Free (A*,E,CA,IL,J,JO,MX)	25%
4107.11.80	Fancy	2.4%	Free (A*,CA,E,IL,J,JO,MX)	30%
4107.12	Grain splits:			
	Of bovines, and of a unit surface area not exceeding 28 square feet (2.6 m²):			
4107.12.10	Upper leather; lining leather	Free		15%
	Other:			
4107.12.20	Not fancy	2.4%	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
4107.12.30	Fancy	3.6%	Free (A+,CA,D,E,IL,J,JO) [See Annex III(B) to this proclamation](MX)	30%
	Other:			
4107.12.40	Buffalo	2.5%	Free (A,CA,E,IL,J,JO,MX)	25%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Leather further prepared after tanning or...]			
	[Whole hides and skins:]			
	[Grain splits:]			
	[Other:]			
	Other:			
4107.12.50	Upholstery leather	2.8%	Free (A*,CA,E,IL, J,JO,MX)	20%
4107.12.60	Upper leather; sole leather	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4107.12.70	Not fancy	5%	Free (A*,E,CA,IL, J,JO,MX)	25%
4107.12.80	Fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	30%
4107.19	Other:			
	Of bovines, and of a unit surface area not exceeding 28 square feet (2.6 m^2):			
4107.19.10	Upper leather; lining leather	Free		15%
	Other:			
4107.19.20	Not fancy	2.4%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
4107.19.30	Fancy	3.6%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	30%
	Other:			
4107.19.40	Buffalo	2.5%	Free (A,CA,E,IL,J, JO,MX)	25%
	Other:			
4107.19.50	Upholstery leather	2.8%	Free (A*,CA,E,IL, J,JO,MX)	20%
4107.19.60	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4107.19.70	Not fancy	5%	Free (A*,E,CA,IL, J,JO,MX)	25%
4107.19.80	Fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	30%
	Other, including sides:			
4107.91	Full grains, unsplit:			
4107.91.40	Buffalo	2.5%	Free (A,CA,E,IL,J, JO,MX)	25%
	Other:			
4107.91.50	Upholstery leather	2.8%	Free (A*,CA,E,IL, J,JO,MX)	20%
4107.91.60	Upper leather; sole leather	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4107.91.70	Not fancy	5%	Free (A*,E,CA,IL, J,JO,MX)	25%
4107.91.80	Fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	30%
4107.92	Grain splits:			
4107.92.40	Buffalo	2.5%	Free (A,CA,E,IL,J, JO,MX)	25%

Annex I (continued)

	[Leather further prepared after tanning or...]			
	[Other, including sides:]			
	[Grain splits:]			
	Other:			
4107.92.50	Upholstery leather	2.8%	Free (A*,CA,E,IL, J,JO,MX)	20%
4107.92.60	Upper leather; sole leather	3.3%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4107.92.70	Not fancy	5%	Free (A*,E,CA,IL, J,JO,MX)	25%
4107.92.80	Fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	30%
4107.99	Other:			
4107.99.40	Buffalo	2.5%	Free (A,CA,E,IL,J, JO,MX)	25%
	Other:			
4107.99.50	Upholstery leather	2.8%	Free (A*,CA,E,IL, J,JO,MX)	20%
4107.99.60	Upper leather; sole leather	5%	Free (A*,CA,E,IL, J,JO,MX)	25%
	Other:			
4107.99.70	Not fancy	5%	Free (A*,E,CA,IL, J,JO,MX)	25%
4107.99.80	Fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	30%
4112.00	Leather further prepared after tanning or crusting, including parchment-dressed leather, of sheep or lamb, without wool on, whether or not split, other than leather of heading 4114:			
4112.00.30	Not fancy	2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4112.00.60	Fancy	2%	Free (A*,CA,E,IL, J,JO,MX)	30%
4113	Leather further prepared after tanning or crusting, including parchment-dressed leather, of other animals, without wool or hair on, whether or not split, other than leather of heading 4114:			
4113.10	Of goat or kids:			
4113.10.30	Not fancy	2.4%	Free (A*,CA,E,IL, J,JO,MX)	25%
4113.10.60	Fancy	2.8%	Free (A*,CA,E,IL, J,JO,MX)	30%
4113.20.00	Of swine	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4113.30	Of reptiles:			
4113.30.30	Not fancy	Free		25%
4113.30.60	Fancy	Free		30%
4113.90	Other:			
4113.90.30	Not fancy	3.3%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
4113.90.60	Fancy	1.6%	Free (A*,CA,E,IL, J,JO,MX)	30%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

4114	Chamois (including combination chamois) leather; patent leather and patent laminated leather; metallized leather:			
4114.10.00	Chamois (including combination chamois) leather	3.2%	Free (A,CA,E,IL, J,JO,MX)	25%
4114.20	Patent leather and patent laminated leather; metallized leather:			
4114.20.30	Patent leather	2.3%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	15%
	Patent laminated leather; metallized leather:			
4114.20.40	Calf and kip	3.6%	Free (A+,CA,D,E, IL,J,JO) [See Annex III(B) to this proclamation](MX)	30%
4114.20.70	Other	1.6%	Free (A*,CA,E,IL, J,JO,MX)	30%
4115	Composition leather with a basis of leather or leather fiber, in slabs, sheets or strip, whether or not in rolls; parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour:			
4115.10.00	Composition leather with a basis of leather or leather fiber, in slabs, sheets or strip, whether or not in rolls	Free		10%
4115.20.00	Parings and other waste of leather or of composition leather, not suitable for the manufacture of leather articles; leather dust, powder and flour	Free		10%"

(b). Conforming changes:

(A). General note 4(d) is modified by:

(i). deleting the following subheadings and the countries set out opposite such subheadings:

4104.21.00	Argentina
4104.22.00	Argentina; Brazil
4104.29.30	India
4104.29.50	Argentina
4104.29.90	Argentina
4104.31.40	Argentina
4104.31.50	Argentina
4104.31.60	Argentina
4104.31.80	Argentina
4104.39.20	India
4104.39.40	Argentina
4104.39.50	Argentina; India
4104.39.60	Argentina
4104.39.80	Argentina
4105.20.60	Argentina
4106.12.00	India; Pakistan
4106.19.20	India
4106.19.30	India; Pakistan
4106.20.30	India; Pakistan
4106.20.60	India; Pakistan
4107.21.00	Argentina
4107.90.60	Argentina
4109.00.70	Argentina

Annex I (continued)

(ii). adding, in numerical sequence, the following subheadings and countries set out opposite them:

4104.11.30 India
4104.11.40 Argentina
4104.11.50 Argentina
4104.19.30 India
4104.19.40 Argentina
4104.19.50 Argentina
4104.41.30 India
4104.41.40 Argentina
4104.41.50 Argentina
4104.49.30 India
4104.49.40 Argentina
4104.49.50 Argentina
4106.21.10 India; Pakistan
4106.21.90 India; Pakistan
4106.22.00 India; Pakistan
4107.11.50 Argentina
4107.11.60 Argentina
4107.11.70 Argentina
4107.11.80 Argentina
4107.12.50 Argentina
4107.12.60 Argentina
4107.12.70 Argentina
4107.12.80 Argentina
4107.19.40 India
4107.19.50 Argentina
4107.19.60 Argentina; India
4107.19.70 Argentina
4107.19.80 Argentina
4107.91.50 Argentina
4107.91.60 Argentina
4107.91.70 Argentina
4107.91.80 Argentina
4107.92.50 Argentina
4107.92.60 Argentina
4107.92.70 Argentina
4107.92.80 Argentina
4107.99.40 India
4107.99.50 Argentina
4107.99.60 Argentina; India
4107.99.70 Argentina
4107.99.80 Argentina
4112.00.60 Argentina
4113.10.30 India; Pakistan
4113.10.60 India; Pakistan
4113.90.60 Argentina
4114.20.70 Argentina

(B). The article description of subheading 9903.41.05 is modified by deleting "4104" and inserting "4104 or 4107" and deleting "4105 or 4106" and inserting "4105, 4106, 4112 or 4113".

(167). Note 1(b) to chapter 42 is modified by deleting "gloves" and inserting "gloves, mittens and mitts" in lieu thereof.

(168). Note 3 to chapter 42 is modified by deleting "gloves (including sports gloves)" and inserting "gloves, mittens and mitts (including those for sport or for protection)" in lieu thereof.

(169). The article description of heading 4202 is modified by deleting "traveling bags, toiletry bags," and inserting "traveling bags, insulated food or beverage bags, toiletry bags," in lieu thereof.

(170)(a). The following provisions are inserted in numerical sequence:

	[Trunks, suitcases, vanity cases, attache cases,...] [Other:] [With outer surface of sheeting of plastic or...] "Insulated food or beverage bags:			
4202.92.05	With outer surface of textile materials	7%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	40%
4202.92.10	Other	3.4%	Free (A,CA,E,IL, J,JO,MX)	80%"

(b). Subheadings 3924.10.50 and 6307.90.99 are renumbered as 3924.10.40 and 6307.90.98, respectively.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(c). Conforming changes: The article description of heading 9817.57.01 is modified by deleting "6307.90.99" and inserting "6307.90.98" in lieu thereof.

(171). Note 2(c) to chapter 43 is modified by deleting "Gloves" and inserting "Gloves, mittens and mitts" in lieu thereof.

(172)(a). Subheadings 4301.20.00, 4301.40.00 and 4301.50.00 are deleted.
(b). Subheading 4301.80.00 is renumbered as 4301.80.01.

(173)(a). Subheading 4302.12.00 is deleted.
(b). The following subheading is inserted in numerical sequence:

	[Tanned or dressed furskins (including heads,...] [Whole skins, with or without head, tail...] [Other:]			
"4302.19.55	Of rabbit or hare	2.7%	Free (A,CA,E,IL,J, JO,MX)	25%"

(174). Subheading note 1 to chapter 44 is superseded by:

"1. For the purposes of subheadings 4403.41.00 to 4403.49.00, 4407.24.00 to 4407.29.00, 4408.31.00 to 4408.39.00 and 4412.13 to 4412.99, the expression "tropical wood" means one of the following types of wood:

Abura, Acajou d'Afrique, Afrormosia, Ako, Alan, Andiroba, Aningré, Avodiré, Azobé, Balau, Balsa, Bossé clair, Bossé foncé, Cativo, Cedro, Dabema, Dark Red Meranti, Dibétou, Doussié, Framiré, Freijo, Fromager, Fuma, Geronggang, Ilomba, Imbuia, Ipé, Iroko, Jaboty, Jelutong, Jequitiba, Jongkong, Kapur, Kempas, Keruing, Kosipo, Kotibé, Koto, Light Red Meranti, Limba, Louro, Maçaranduba, Mahogany, Makoré, Mandioqueira, Mansonia, Mengkulang, Meranti Bakau, Merawan, Merbau, Merpauh, Mersawa, Moabi, Niangon, Nyatoh, Obeche, Okoumé, Onzabili, Orey, Ovengkol, Ozigo, Padauk, Paldao, Palissandre de Guatemala, Palissandre de Para, Palissandre de Rio, Palissandre de Rose, Pau Amarelo, Pau Marfim, Pulai, Punah, Quaruba, Ramin, Sapelli, Saqui-Saqui, Sepetir, Sipo, Sucupira, Suren, Tauari, Teak, Tiama, Tola, Virola, White Lauan, White Meranti, White Seraya, Yellow Meranti.

(175). The article description of heading 4407 is modified by deleting "finger-jointed" and inserting "end-jointed" in lieu thereof.

(176)(a). The article description of heading 4408 is modified to read:

"Sheets for veneering (including those obtained by slicing laminated wood), for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness not exceeding 6 mm:"

(b). HTS subheadings 4408.10.00, 4408.31.00, 4408.39.00 and 4408.90.00 are renumbered as 4408.10.01, 4408.31.01, 4408.39.01 and 4408.90.01, respectively.

(177). The article description of heading 4409 is modified by deleting "edges or faces, whether or not planed, sanded or finger-jointed" and inserting "edges, ends or faces, whether or not planed, sanded or end-jointed" in lieu thereof.

(178)(a). Subheadings 4409.10.10 through 4409.10.90 and any intervening text to such subheadings and subheadings 4409.20.10 through 4409.20.90 and any intervening text to such subheadings are superseded by:

Annex I (continued)

-69-

	[Wood (including strips and friezes for parquet...]			
	[Coniferous:]			
"4409.10.05	Wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or faces, all the foregoing whether or not planed, sanded or end-jointed	3.2%	Free (A,CA,E,IL, J,JO,MX)	33 1/3%
	Other:			
4409.10.10	Wood siding	Free		2.2¢/m^2
4409.10.20	Wood flooring	Free		33 1/3%
	Wood moldings:			
	Standard wood molding:			
4409.10.40	Pine (Pinus spp.)	Free		5%
4409.10.45	Other	Free		5%
4409.10.50	Other	Free		40%
	Wood dowel rods:			
4409.10.60	Plain	Free		5%
4409.10.65	Sanded, grooved, or otherwise advanced in condition	4.9%	Free (A+,CA,D,E, IL,J,JO,MX)	33 1/3%
4409.10.90	Other	Free		\$1.70/m^3
	[Nonconiferous:]			
4409.20.05	Wood continuously shaped along any of its ends, whether or not also continuously shaped along any of its edges or faces, all the foregoing whether or not planed, sanded or end-jointed	3.2%	Free (A,CA,E,IL, J,JO,MX)	33 1/3%
	Other:			
4409.20.10	Wood siding	Free		4.3¢/m^2
4409.20.25	Wood flooring	Free		8%
	Wood moldings:			
4409.20.40	Standard wood moldings	Free		5%
4409.20.50	Other	Free		40%
	Wood dowel rods:			
4409.20.60	Plain	Free		5%
4409.20.65	Sanded, grooved or otherwise advanced in condition	4.9%	Free (A+,CA,D,E, IL,J,JO,MX)	33 1/3%
4409.20.90	Other	Free		\$1.70/m^3"

(b). Subheadings 4418.90.40 and 4421.90.98 are renumbered as 4418.90.45 and 4421.90.97, respectively.

(179). Heading 4410 and all subordinate subheadings and text thereto are superseded by:

"4410	Particle board and similar board (for example, oriented strand board and waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances:			
	Oriented strand board and waferboard, of wood:			
4410.21.00	Unworked or not further worked than sanded	Free		40%
4410.29.00	Other	Free		40%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Particle board and similar board...]			
	Other, of wood:			
4410.31.00	Unworked or not further worked than sanded	Free		40%
4410.32.00	Surface-covered with melamine-impregnated paper	Free		40%
4410.33.00	Surface-covered with decorative laminates of plastics	Free		40%
4410.39.00	Other	Free		40%
4410.90.00	Other	Free		20%"

(180)(a). The subheadings listed in the in the first column of the following table are renumbered as the respective subheadings in the second column of the table:

Column 1	Column 2	Column 1	Column 2
4412.13.50	4412.13.51	4412.29.45	4412.29.46
4412.13.90	4412.13.91	4412.29.55	4412.29.56
4412.14.30	4412.14.31	4412.92.05	4412.92.06
4412.14.55	4412.14.56	4412.92.40	4412.92.41
4412.22.05	4412.22.06	4412.92.50	4412.92.51
4412.22.30	4412.22.31	4412.92.90	4412.92.91
4412.22.40	4412.22.41	4412.93.00	4412.93.01
4412.22.50	4412.22.51	4412.99.45	4412.99.46
4412.23.00	4412.23.01	4412.99.55	4412.99.56
4412.29.35	4412.29.36	4412.99.95	4412.99.96

(b). Conforming changes: General note 4(d) is modified by:

(A). deleting the following subheadings and the countries set out opposite such subheadings:

4412.13.50 Brazil; Indonesia
4412.13.90 Brazil; Indonesia
4412.14.30 Brazil
4412.14.55 Brazil
4412.22.30 Brazil; Indonesia
4412.22.40 Brazil; Colombia; Indonesia
4412.29.35 Brazil; Indonesia
4412.29.45 Brazil; Ecuador; Indonesia
4412.92.40 Ecuador
4412.92.50 Guyana
4412.99.55 Colombia

Annex I (continued)

(B). adding, in numerical sequence, the following subheadings and countries set out opposite them:

4412.13.51 Brazil; Indonesia
4412.13.91 Brazil; Indonesia
4412.14.31 Brazil
4412.14.56 Brazil
4412.22.31 Brazil; Indonesia
4412.22.41 Brazil; Colombia; Indonesia
4412.29.36 Brazil; Indonesia
4412.29.46 Brazil; Ecuador; Indonesia
4412.92.41 Ecuador
4412.92.51 Guyana
4412.99.56 Colombia

(181). Subheading 4421.90.94 is superseded by:

	[Other articles of wood:]			
	[Other:]			
"4421.90.93	Theatrical, ballet, and operatic scenery and properties, including sets	Free		33 1/3%"

(182)(a). Subheading 4601.10.00 is deleted.

(b). Subheadings 4601.91.20, 4601.91.40 and 4601.99.00 are superseded by:

	[Plaits and similar products of plaiting...]			
	[Other:]			
	[Of vegetable materials:]			
"4601.91.05	Plaits and similar products of plaiting materials, whether or not assembled into strips	2.7%	Free (A*,CA,E,IL,J,JO,MX)	50%
	Other:			
4601.91.20	Of one or more of the materials bamboo, rattan, willow or wood	6.6%	Free (A,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	45%
4601.91.40	Other	Free		25%
4601.99	Other:			
4601.99.05	Plaits and similar products of plaiting materials, whether or not assembled into strips	2.7%	Free (A*,CA,E,IL,J,JO,MX)	50%
4601.99.90	Other	3.3%	Free (A+,CA,D,E,IL,J,JO,MX)	25%"

(c). Conforming change: General note 4(d) is modified by deleting "4601.10.00 India" and inserting "4601.91.05 India" and "4601.99.05 India" in lieu thereof.

(183). The article description of heading 4705.00.00 is modified to read:

"Wood pulp obtained by a combination of mechanical and chemical pulping processes"

VOL
66
ISS
2
4
7
DE
26
2001
UMI

Annex I (continued)

-72-

(184)(a). Notes 1 through 11 to chapter 48 are redesignated as notes 2 through 12, respectively.

(b). The following new note 1 to chapter 48 is inserted in numerical sequence:

"1. For the purposes of this chapter, except where the context otherwise requires, a reference to "paper" includes references to paperboard (irrespective of thickness or weight per m^2)."

(185). Note 3 (previously note 2) to chapter 48 is modified by deleting "Subject to the provisions of note 6," and inserting "Subject to the provisions of note 7," in lieu thereof.

(186). Note 5 (previously note 4) to chapter 48 is superseded by:

"5. For the purposes of heading 4802, the expressions "paper and paperboard, of a kind used for writing, printing or other graphic purposes" and "nonperforated punch-cards and punch tape paper" mean paper and paperboard made mainly from bleached pulp or from pulp obtained by a mechanical or chemi-mechanical process and satisfying any of the following criteria:

For paper or paperboard weighing not more than 150 g/m^2:

(a) Containing 10 percent or more of fibers obtained by a mechanical or chemi-mechanical process, and

1. weighing not more than 80 g/m^2, or
2. colored throughout the mass; or

(b) Containing more than 8 percent ash, and

1. weighing not more than 80 g/m^2, or
2. colored throughout the mass; or

(c) Containing more than 3 percent ash and having a brightness of 60 percent or more; or

(d) Containing more than 3 percent but not more than 8 percent ash, having a brightness less than 60 percent and a burst index equal to or less than 2.5 $kPa \cdot m^2/g$; or

(e) Containing 3 percent ash or less, having a brightness of 60 percent or more and a burst index equal to or less than 2.5 $kPa \cdot m^2/g$.

For paper or paperboard weighing more than 150 g/m^2:

(a) Colored throughout the mass; or

(b) Having a brightness of 60 percent or more, and

1. a caliper of 225 micrometers (microns) or less, or
2. a caliper of more than 225 micrometers but not more than 508 micrometers (microns) and an ash content of more than 3 percent; or

(c) Having a brightness of less than 60 percent, a caliper of 254 micrometers (microns) or less and an ash content of more than 8 percent.

Heading 4802 does not, however, cover filter paper or paperboard (including teabag paper) or felt paper or paperboard."

Annex I (continued)

(187). Note 8 (previously note 7) to chapter 48 is superseded by:

"8. Headings 4801 and 4803 to 4809 apply only to paper, paperboard, cellulose wadding and webs of cellulose fibers:

(a) In strips or rolls of a width exceeding 36 cm; or

(b) In rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state."

(188). Subheading note 3 to chapter 48 is superseded by:

"3. For the purposes of subheading 4805.11, "semichemical fluting paper" means paper, in rolls, of which not less than 6 percent by weight of the total fiber content consists of unbleached hardwood fibers obtained by a semichemical pulping process, and having a CMT 30 (Corrugated Medium Test with 30 minutes of conditioning) crush resistance exceeding 1.8 newtons/g/m^2 at 50 percent relative humidity, at 23°C."

(189)(a). Subheadings notes 4 and 5 to chapter 48 are redesignated as subheading notes 6 and 7, respectively.

(b). The following new subheading notes 4 and 5 to chapter 48 are inserted in numerical sequence:

"4. Subheading 4805.12 covers paper, in rolls, made mainly of straw pulp obtained by a semichemical pulping process, weighing 130 g/m^2 or more, and having a CMT 30 (Corrugated Medium Test with 30 minutes of conditioning) crush resistance exceeding 1.4 newtons/g/m^2 at 50 percent relative humidity, at 23°C.

5. Subheading 4805.24 and 4805.25 cover paper and paperboard made wholly or mainly of pulp recovered (waste and scrap) paper or paperboard. Testliner may also have a surface layer of dyed paper or of paper made of bleached or unbleached non-recovered pulp. These products have a Mullen burst index of not less than 2 kPa·m^2/g."

(190). Subheading note 7 (previously note 5) to chapter 48 is modified by deleting "4810.21" and inserting "4810.22" in lieu thereof.

(191). The article description of heading 4802 is modified to read:

> "Uncoated paper and paperboard, of a kind used for writing, printing or other graphic purposes, and non perforated punch-cards and punch tape paper, in rolls or rectangular (including square) sheets, of any size, other than paper of heading 4801 or 4803; hand-made paper and paperboard:"

(192). Subheadings 4802.20.00, 4802.30.20 and 4802.30.40 are superseded by:

	[Uncoated paper and paperboard, of a kind...]			
"4802.20	Paper and paperboard of a kind used as a base for photo-sensitive, heat-sensitive or electro-sensitive paper or paperboard:			
4802.20.10	In strips or rolls of a width exbeeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded-state........	Free		20%
	Other:			
4802.20.20	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.20.40	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Uncoated paper and paperboard, of a kind...]			
	[Carbonizing base paper:]			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4802.30.50	Weighing not over 15 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	38%
4802.30.60	Weighing over 15 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30.5%
4802.30.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%"

(193)(a). The superior text immediately preceding subheading 4802.51 and subheadings 4802.51 through 4802.60.90 and any intervening text to such subheadings are superseded by:

	[Uncoated paper and paperboard, of a kind...]			
	"Other paper and paperboard, not containing fibers obtained by a mechanical or chemi-mechanical process or of which not more than 10 percent by weight of the total fiber content consists of such fibers:			
4802.54	Weighing less than 40 g/m^2:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4802.54.10	Writing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	25%
4802.54.20	India and bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	18%
4802.54.30	Other	Free		11.5%
	Other:			
4802.54.40	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.54.50	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.54.60	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.55	Weighing 40 g/m^2 or more but not more than 150 g/m^2, in rolls:			
	Of a width exceeding 15 cm:			
4802.55.10	Writing and cover paper	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX)	20%
4802.55.20	Drawing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%

Annex I (continued)

	[Uncoated paper and paperboard, of a kind...]			
	[Other paper and paperboard, not...]			
	[Weighing 40 g/m² or more but...]			
	[Of a width exceeding 15 cm:]			
4802.55.30	India and bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	18%
4802.55.40	Other	Free		11.5%
	Other:			
4802.55.50	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.55.60	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.55.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.56	Weighing 40 g/m² or more but not more than 150 g/m², in sheets with one side not exceeding 435 mm and the other side not exceeding 297 mm in the unfolded state:			
	With one side exceeding 360 mm and the other side exceeding 150 mm in the unfolded state:			
4802.56.10	Writing and cover paper	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX)	25%
4802.56.20	Drawing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%
4802.56.30	India and bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	18%
4802.56.40	Other	Free		11.5%
	Other:			
4802.56.50	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.56.60	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.56.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.57	Other, weighing 40 g/m² or more but not more than 150 g/m²:			
4802.57.10	Writing and cover paper	[See Annex III(A) to this proclamation]	Free (A*,CA,E,IL, J,MX)	25%
4802.57.20	Drawing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%
4802.57.30	India and bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	18%
4802.57.40	Other	Free		11.5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Uncoated paper and paperboard, of a kind...]			
	[Other paper and paperboard, not...]			
4802.58	Weighing more than 150 g/m²:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4802.58.10	Writing and cover paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.58.20	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	24.5%
	Other:			
4802.58.40	Printed, embossed or perforated........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.58.50	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.58.60	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other paper and paperboard, of which more than 10 percent by weight of the total fiber content consists of fibers obtained by a mechanical or chemi-mechanical process:			
4802.61	In rolls:			
	Of a width exceeding 15 cm:			
4802.61.10	Writing paper and cover paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	28%
4802.61.20	Drawing paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%
4802.61.30	Other........	Free		11.5%
	Other:			
4802.61.40	Printed, embossed or perforated........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.61.50	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.61.60	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.62	In sheets with one side not exceeding 435 mm and the other side not exceeding 297 mm in the unfolded state:			
	With one side exceeding 360 mm and the other side exceeding 150 mm in the unfolded state:			
4802.62.10	Writing paper and cover paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	28%

Annex I (continued)

	[Uncoated paper and paperboard, of a kind...]			
	[Other paper and paperboard, of which...]			
	[In sheets with one side not...]			
	[With one side exceeding...]			
4802.62.20	Drawing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%
4802.62.30	Other	Free		11.5%
	Other:			
4802.62.40	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4802.62.50	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4802.62.60	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4802.69	Other:			
4802.69.10	Writing paper and cover paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26%
4802.69.20	Drawing paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	15.5%
4802.69.30	Other	Free		11.5%"

(b). Conforming changes:

(A). General note 4(d) is modified by deleting "4802.52.10 Argentina" and inserting "4802.55.10 Argentina", "4802.56.10 Argentina" and "4802.57.10 Argentina" in lieu thereof.

(B). The superior text immediately preceding subheading 4823.51.00 and subheadings 4823.51.00, 4823.59, 4823.59.20 and 4823.59.40 are deleted.

(194)(a). The article description of heading 4805 is modified by deleting "note 2" and inserting "note 3" in lieu thereof:

(b). Subheadings 4805.10.00 through 4805.29.00 and any intervening text to such subheadings and subheadings 4805.60 through 4805.80.40 and any intervening text to such subheadings are superseded by:

	[Other uncoated paper and paperboard, in rolls...]			
	"Fluting paper:			
4805.11.00	Semichemical fluting paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.12	Straw fluting paper:			
4805.12.10	Weighing 150 g/m² or less	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.12.20	Weighing over 150 g/m²	Free		30%
4805.19	Other:			
4805.19.10	Weighing 150 g/m² or less	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.19.20	Weighing over 150 g/m²	Free		30%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Other uncoated paper and paperboard, in rolls...]			
	Testliner (recycled liner board):			
4805.24	Weighing 150 g/m² or less:			
4805.24.50	Weighing not over 15 g/m2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.24.70	Weighing over 15 g/m² but not over 30 g/m²	Free		11¢/kg + 15%
4805.24.90	Weighing over 30 g/m²	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.25.00	Weighing more than 150 g/m²	Free		30%
	Other:			
4805.91	Weighing 150 g/m² or less:			
4805.91.10	Multi-ply paper and paperboard; bibulous and wrapping paper	Free		30%
4805.91.20	Condenser paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	25%
	Other:			
4805.91.50	Weighing not over 15 g/m2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.91.70	Weighing over 15 g/m² but not over 30 g/m²	Free		11¢/kg + 15%
4805.91.90	Weighing over 30 g/m²	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.92	Weighing more than 150 g/m² but less than 225 g/m²:			
4805.92.20	Pressboard	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.92.40	Other	Free		30%
4805.93	Weighing 225 g/m² or more:			
4805.93.20	Pressboard	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4805.93.40	Other	Free		30%"

(195). Heading 4807 and all subordinate subheadings and text thereto are superseded by:

"4807.00	Composite paper and paperboard (made by sticking flat layers of paper or paperboard together with an adhesive), not surface-coated or impregnated, whether or not internally reinforced, in rolls or sheets:			
4807.00.10	Paper and paperboard, laminated internally with bitumen, tar or asphalt	Free		30%
	Other:			
4807.00.91	Straw paper and paperboard, whether or not covered with paper other than straw paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%

Annex I (continued)

	[Composite paper and paperboard (made...]			
	[Other:]			
	Other:			
4807.00.92	Cloth-lined or reinforced paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	22.5%
4807.00.94	Other........	Free		30%"

(196)(a). Heading 4810 and all subordinate subheadings and text thereto are superseded by:

"4810	Paper and paperboard, coated on one or both sides with kaolin (China clay) or other inorganic substances, with or without a binder, and with no other coating, whether or not surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size:			
	Paper and paperboard of a kind used for writing, printing or other graphic purposes, not containing fibers obtained by a mechanical or chemi-mechanical process or of which not more than 10 percent by weight of the total fiber content consists of such fibers:			
4810.13	In rolls:			
	Of a width exceeding 15 cm:			
	Weighing not more than 150 g/m^2:			
4810.13.11	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.13.13	India or bible paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	24%
4810.13.19	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
4810.13.20	Weighing more than 150 g/m^2........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	42%
	Other:			
4810.13.50	Printed, embossed or perforated........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4810.13.60	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.13.70	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.14	In sheets with one side not exceeding 435 mm and the other side not exceeding 297 mm in the unfolded state:			
	With one side exceeding 360 mm and the other side exceeding 150 mm in the unfolded state:			
	Weighing not more than 150 g/m^2:			
4810.14.11	Basic paper to be sensitized for use in photography........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Paper and paperboard, coated on one or...]			
	[Paper and paperboard of a kind used...]			
	[In sheets with one side not...]			
	[With one side exceeding...]			
	[Weighing not more than 150 g/m^2:]			
4810.14.13	India or bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	24%
4810.14.19	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
4810.14.20	Weighing more than 150 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	42%
	Other:			
4810.14.50	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4810.14.60	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.14.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.19	Other:			
	Weighing not more than 150 g/m^2:			
4810.19.11	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.19.13	India or bible paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	24%
4810.19.19	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
4810.19.20	Weighing more than 150 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	42%
	Paper and paperboard of a kind used for writing, printing or other graphic purposes, of which more than 10 percent by weight of the total fiber content consists of fibers obtained by a mechanical or chemi-mechanical process:			
4810.22	Light-weight coated paper:			
4810.22.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
	Other:			
4810.22.50	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%

Annex I (continued)

	[Paper and paperboard, coated on one or...]			
	[Paper and paperboard of...]			
	[Light-weight coated paper:]			
	[Other:]			
	Other:			
4810.22.60	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.22.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.29	Other:			
4810.29.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
	Other:			
4810.29.50	Printed, embossed or perforated	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Other:			
4810.29.60	Basic paper to be sensitized for use in photography	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	5%
4810.29.70	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
	Kraft paper and paperboard, other than that of a kind used for writing, printing or other graphic purposes:			
4810.31	Bleached uniformly throughout the mass and of which more than 95 percent by weight of the total fiber content consists of wood fibers obtained by a chemical process and weighing 150 g/m^2 or less:			
4810.31.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state	Free		25%
	Other:			
4810.31.30	Cards, not punched, for punchcard machines, whether or not in strips	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.31.65	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%

Annex I (continued)

	[Paper and paperboard, coated on one or...]			
	[Kraft paper and paperboard, other...]			
4810.32	Bleached uniformly throughout the mass and of which more than 95 percent by weight of the total fiber content consists of wood fibers obtained by a chemical process and weighing more than 150 g/m^2:			
4810.32.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state	Free		25%
	Other:			
4810.32.30	Cards, not punched, for punchcard machines, whether or not in strips	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.32.65	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%
4810.39	Other:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4810.39.12	Whether or not impregnated, but not otherwise treated	Free		25%
4810.39.14	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	20%
	Other:			
4810.39.30	Cards, not punched, for punchcard machines, whether or not in strips	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.39.65	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%
	Other paper and paperboard:			
4810.92	Multi-ply:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4810.92.12	Weighing more than 150 g/m^2	Free		30%
4810.92.14	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	20%
	Other:			
4810.92.30	Cards, not punched, for punchcard machines, whether or not in strips	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.92.65	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Paper and paperboard, coated on one or...]			
	[Other paper and paperboard:]			
4810.99	Other:			
4810.99.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	20%
	Other:			
4810.99.30	Cards, not punched, for punchcard machines, whether or not in strips.....	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4810.99.65	Other..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%

(b). Conforming change: Subheadings 4823.90.30 and 4823.90.65 are renumbered as 4823.90.31 and 4823.90.66, respectively.

(197)(a). Heading 4811 and all subordinate subheadings and text thereto are superseded by:

"4811	Paper, paperboard, cellulose wadding and webs of cellulose fibers, coated, impregnated, covered, surface-colored, surface-decorated or printed, in rolls or rectangular (including square) sheets, of any size, other than goods of the kind described in heading 4803, 4809 or 4810:			
4811.10	Tarred, bituminized or asphalted paper and paperboard:			
4811.10.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state..........	Free		10%
4811.10.20	Other..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	26.5%
	Gummed or adhesive paper and paperboard:			
4811.41	Self-adhesive:			
4811.41.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	40%
	Other:			
4811.41.20	In strips or rolls..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	40%
4811.41.30	Other..........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%

VOL 66 ISS 247 DE 26 2001 UMI

	[Paper, paperboard, cellulose wadding and...]			
	[Gummed or adhesive paper and paperboard:]			
4811.49	Other:			
4811.49.10	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state........	Free		14%
	Other:			
4811.49.20	In strips or rolls........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4811.49.30	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%
	Paper and paperboard, coated, impregnated or covered with plastics (excluding adhesives):			
4811.51	Bleached, weighing more than 150 g/m^2:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.51.20	0.3 mm or more in thickness........	Free		30%
4811.51.40	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	42%
4811.51.60	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%
4811.59	Other:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.59.20	Printing paper........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	37%
4811.59.40	Other........	Free		25%
4811.59.60	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%
4811.60	Paper and paperboard, coated, impregnated or covered with wax, paraffin, stearin, oil or glycerol:			
4811.60.40	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	17.5
4811.60.60	Other........	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%

Annex I (continued)

-85-

	[Paper, paperboard, cellulose wadding and...]			
4811.90	Other paper, paperboard, cellulose wadding and webs of cellulose fibers:			
	In strips or rolls of a width exceeding 15 cm or in rectangular (including square) sheets with one side exceeding 36 cm and the other side exceeding 15 cm in the unfolded state:			
4811.90.10	Handmade paper	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	27%
	Other:			
4811.90.20	Wholly or partly covered with flock, gelatin, metal or metal solutions	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	22.5%
	Other:			
4811.90.30	Impregnated with latex	Free		25%
	Other:			
4811.90.40	Weighing not over 15 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	30%
4811.90.60	Weighing over 15 g/m^2: but not over 30 g/m^2	Free		20%
4811.90.80	Weighing over 30 g/m^2	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	18.5%
4811.90.90	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	35%"

(b). Conforming changes:

(A). The article description of subheading 4821.90.20 is modified to read "Self-adhesive".

(B). Subheadings 4823.11.00, 4823.19.00 and 4823.90.85 are renumbered as 4823.12.00, 4823.19.01 and 4823.90.86, respectively, and the article description of subheading 4823.12.00 is modified to read "Self-adhesive".

(C). The article description of heading 9907.48.01 is modified by deleting "4811.31.40" and inserting "4811.51.40" in lieu thereof.

(D). The article description of heading 9907.48.03 is modified by deleting "4823.90.30 or 4823.90.85" and inserting "4810.31.30, 4810.32.30, 4810.39.30, 4810.92.30, 4810.99.30, 4823.90.36 or 4823.90.86" in lieu thereof.

(198). Note 2 to chapter 49 is modified by deleting "of a computer" and inserting "of an automatic data processing machine" in lieu thereof.

(199). The article description of heading 4907.00.00 is modified by deleting "country to which they are destined;" and inserting "country in which they have, or will have, a recognized face value;" in lieu thereof.

(200). Subheading note 1 to section XI is modified by inserting immediately above subdivision (k) the following nonindented new text:

"The definition at (e) to (j) above apply, *mutatis mutandis*, to knitted or crocheted fabrics."

Annex I (continued)

-86-

(201). Subdivision (A) of subheading note 2 to section XI is modified by deleting "chapters 50 to 55" and inserting "chapters 50 to 55 or of heading 5809" in lieu thereof.

(202). Subheadings 5102.10 through 5102.10.90 and any intervening text are superseded by:

	[Fine or coarse animal hair, not carded or combed:]			
	"Fine animal hair:			
5102.11	Of Kashmir (cashmere) goats:			
5102.11.10	Not processed in any manner beyond the degreased or carbonized condition	5.1¢/clean kg kg	Free (CA,E,IL,J, JO,MX)	46.3¢/clean kg
5102.11.90	Other	4.9¢/kg + 4%	Free (CA,IL,JO, MX)	81.6¢/kg + 20%
5102.19	Other:			
	Not processed in any manner beyond the degreased or carbonized condition:			
5102.19.20	Hair of the camel	5¢/clean kg kg	Free (CA,E,IL,J, JO,MX)	55¢/clean kg
5102.19.60	Other	0.4%	Free (A,CA,E,IL, J,JO,MX)	6.9%
	Other:			
5102.19.80	Fur, prepared for hatters' use	Free		35%
5102.19.90	Other	4.9¢/kg + 4%	Free (CA,IL,JO, MX)	81.6¢/kg + 20%"

(203). Subheading 5105.30.00 is superseded by:

	[Wool and fine or coarse animal hair, carded or...]			
	"Fine animal hair, carded or combed:			
5105.31.00	Of Kashmir (cashmere) goats	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	81.6¢/kg + 20%
5105.39.00	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	81.6¢/kg + 20%"

(204). Subheadings 5305.91.00 and 5305.99.00 and the superior text to 5305.91.00 are superseded by:

	[Coconut, abaca (Manila hemp or...]			
"5305.90.00	Other	Free		Free"

(205)(a). Subheading 5308.30.00 is deleted.

(b). Subheading 5308.90.00 is superseded by:

	[Yarn of other vegetable textile fibers; paper yarn:]			
"5308.90	Other:			
5308.90.10	Paper yarn	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL, J,JO,MX)	35%
5308.90.90	Other	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX)	40%"

(206). The article description of subheading 5408.10.00 is modified by deleting "yarn, of" and inserting "yarn of" in lieu thereof.

(207)(a). Subheadings 5607.30, 5607.30.10 and 5607.30.20 are deleted.
(b). Subheading 5607.90.20 is renumbered as 5607.90.90.
(c). The following provisions are inserted in numerical sequence together with their immediately superior text:

	[Twine, cordage, ropes and cables, whether or...]			
	[Other:]			
	"Of abaca (Manila hemp or Musa textilis Nee) or other hard (leaf) fibers:			
5607.90.25	Of stranded construction measuring 1.88 cm or over in diameter	Free		4¢/kg
5607.90.35	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, JO,MX)	40%"

(208). The article description of heading 5804 is modified by deleting "heading 6002" and inserting "headings 6002 to 6006" in lieu thereof.

(209). Note 1 to chapter 59 is modified by deleting "heading 6002" and inserting "headings 6002 to 6006" in lieu thereof.

(210). The article description of subheading 5903.10 is modified by deleting "polyvinyl chloride" and inserting "poly(vinyl chloride)" in lieu thereof.

(211)(a). Subheadings 5904.91.00 and 5904.92.00 and the superior text to 5904.91.00 are superseded by:

	[Linoleum, whether or not cut to shape; floor...]			
"5904.90	Other:			
5904.90.10	With a base consisting of needleloom felt or nonwovens	[See Annex III(A) to this proclamation	Free (A,B,CA,E,IL, J,MX)	40%
5904.90.90	Other	[See Annex III(A) to this proclamation	Free (A*,B,CA,E, IL,J,MX)	40%"

(b). Conforming change: General note 4(d) is modified by:
(A). deleting the following subheading and the countries set out opposite such subheading:

5904.92.00 Guatemala;
India

(B). adding, in numerical sequence, the following subheading and countries set out opposite such subheading:

5904.90.90 Guatemala;
India

VOL
66
ISS
247
DE
26
2001
UMI

Annex I (continued)

(212). Heading 6002 and all subordinate provisions and text thereto are superseded by:

"6002	Knitted or crocheted fabrics of a width not exceeding 30 cm, containing by weight 5 percent or more of elastomeric yarn or rubber thread, other than those of heading 6001:			
6002.40	Containing by weight 5 percent or more of elastomeric yarn but not containing rubber thread:			
6002.40.40	Of cotton	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	35%
6002.40.80	Other	[See Annex III(A) to this proclamation]	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	90%
6002.90	Other:			
6002.90.40	Of cotton	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	35%
6002.90.80	Other	[See Annex III(A) to this proclamation]	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003	Knitted or crocheted fabrics of a width not exceeding 30 cm, other than those of heading 6001 or 6002:			
6003.10	Of wool or fine animal hair:			
6003.10.10	Open-work fabrics, warp knit	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.10.90	Other	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	59%
6003.20	Of cotton:			
6003.20.10	Open-work fabrics, warp knit	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.20.30	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	35%
6003.30	Of synthetic fibers:			
6003.30.10	Open-work fabrics, warp knit	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.30.60	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%

Annex I (continued)

	[Knitted or crocheted fabrics of a width not exceeding...]			
6003.40	Of artificial fibers:			
6003.40.10	Open-work fabrics, warp knit	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.40.60	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.90	Other:			
6003.90.10	Open-work fabrics, warp knit	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	90%
6003.90.90	Other	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	59%
6004	Knitted or crocheted fabrics of a width exceeding 30 cm, containing by weight 5 percent or more of elastomeric yarn or rubber thread, other than those of heading 6001:			
6004.10.00	Containing by weight 5 percent or more of elastomeric yarn but not containing rubber thread	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6004.90	Other:			
6004.90.20	Containing elastomeric yarn and rubber thread	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6004.90.90	Other	[See Annex III(A) to this proclamation	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	60%
6005	Warp knit fabrics (including those made on galloon knitting machines), other than those of headings 6001 to 6004:			
6005.10.00	Of wool or fine animal hair	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	65.5%
	Of cotton:			
6005.21.00	Unbleached or bleached	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6005.22.00	Dyed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Warp knit fabrics (including those made...]			
	[Of cotton:]			
6005.23.00	Of yarns of different colors	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6005.24.00	Printed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
	Of synthetic fibers:			
6005.31.00	Unbleached or bleached	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.32.00	Dyed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.33.00	Of yarns of different colors	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.34.00	Printed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
	Of artificial fibers:			
6005.41.00	Unbleached or bleached	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.42.00	Dyed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.43.00	Of yarns of different colors	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.44.00	Printed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6005.90.00	Other	[See Annex III(A) to this proclamation]	Free (CA,E*,IL, MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006	Other knitted or crocheted fabrics:			
6006.10.00	Of wool or fine animal hair	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	65.5%

Annex I (continued)

	[Other knitted or crocheted fabrics:]			
	Of cotton:			
6006.21	Unbleached or bleached:			
6006.21.10	Circular knit, wholly of cotton yarns exceeding 100 metric number per single yarn	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.21.90	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.22	Dyed:			
6006.22.10	Circular knit, wholly of cotton yarns exceeding 100 metric number per single yarn	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.22.90	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.23	Of yarns of different colors:			
6006.23.10	Circular knit, wholly of cotton yarns exceeding 100 metric number per single yarn	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.23.90	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.24	Printed:			
6006.24.10	Circular knit, wholly of cotton yarns exceeding 100 metric number per single yarn	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.24.90	Other	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	45%
	Of synthetic fibers:			
6006.31.00	Unbleached or bleached	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.32.00	Dyed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.33.00	Of yarns of different colors	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%

VOL 66 ISS 247 DEC 26 2001 UMI

Annex I (continued)
-92-

	[Other knitted or crocheted fabrics:]			
	[Of synthetic fibers:]			
6006.34.00	Printed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
	Of artificial fibers:			
6006.41.00	Unbleached or bleached	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.42.00	Dyed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.43.00	Of yarns of different colors	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.44.00	Printed	[See Annex III(A) to this proclamation]	Free (CA,IL,MX) [See Annex III(D)2 to this proclamation](JO)	113.5%
6006.90	Other:			
6006.90.10	Containing 85 percent or more by weight of silk or silk waste	[See Annex III(A) to this proclamation]	Free (CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	45%
6006.90.90	Other	[See Annex III(A) to this proclamation]	Free (CA,E*,IL, MX)	45%"

(213)(a). Subheadings 6110.10, 6110.10.10 and 6110.10.20 are superseded by:

	[Sweaters, pullovers, sweatshirts, waistcoats...]			
	"Of wool or fine animal hair:			
6110.11.00	Of wool	[See Annex III(A) to this proclamation]	Free (CA,IL) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	54.5%
6110.12	Of Kashmir (cashmere) goats:			
6110.12.10	Wholly of cashmere	[See Annex III(A) to this proclamation]	Free (CA,IL) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	52%
6110.12.20	Other	[See Annex III(A) to this proclamation]	Free (CA,IL) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	54.5%

Annex I (continued)

	[Sweaters, pullovers, sweatshirts, waistcoats...] [Of wool or fine animal hair:]			
6110.19.00	Other	[See Annex III(A) to this proclamation]	Free (CA,IL) [See Annex III(B) to this proclamation](MX) [See Annex III(D)2 to this proclamation](JO)	54.5%"

(b). Conforming changes:

(A). The article description of subheading 9817.61.01 is modified by deleting "6110.10.20," and inserting "6110.11, 6110.12.20, 6110.19," in lieu thereof.

(B). The article description of subheading 9819.11.15 is modified by deleting "6110.10" and inserting "6110.12" in lieu thereof.

(214). Note 3(b) to chapter 64 is modified by deleting "headings 4104 to 4109" and inserting "headings 4107 and 4112 to 4114" in lieu thereof.

(215). Note 1(b) to chapter 68 is superseded by:

"(b) Coated, impregnated or covered paper and paperboard of heading 4810 or 4811 (for example, paper and paperboard coated with mica powder or graphite, bituminized or asphalted paper and paperboard);"

(216)(a). Subheadings 6812.10.00, 6812.20.00, 6812.30.00 and 6812.40.00 are deleted.

(b). Subheading 6812.90.00 is renumbered as 6812.90.01.

(217). The superior text to 7010.91 and subheadings 7010.91 through 7010.94.50 and any intervening text to such subheadings are superseded by:

	[Carboys, bottles, flasks, jars, pots,...]			
"7010.90	Other:			
7010.90.05	Serum bottles, vials and other pharmaceutical containers	Free		50¢/gross
	Containers (with or without their closures) of a kind used for the conveyance or packing of perfume or other toilet preparations; other containers if filled with or designed for use with ground glass stoppers:			
7010.90.20	Produced by automatic machine	2.5%	Free (A,CA,E,IL,J,JO,MX)	25%
7010.90.30	Other	5.2%	Free (A,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	75%
7010.90.50	Other containers (with or without their closures)	Free		4.9%"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(218). Additional U.S. note 1(c) to chapter 71 is superseded by:

"(c) The term "waste and scrap" refers to materials and articles which are second-hand or waste or refuse, or are obsolete, defective or damaged, and which are fit only for the recovery of the metal content or for use in the manufacture of chemicals. It includes residues and ashes of a kind used principally for the recovery of precious metals, but does not include metals in unwrought form or metal-bearing materials provided for in heading 2616."

(219). Subheadings 7112.10.00, 7112.20.00 and 7112.90.00 are superseded by:

	[Waste and scrap of precious metal or of...]			
"7112.30.00	Ash containing precious metal or precious metal compounds	Free		Free
	Other:			
7112.91.00	Of gold, including metal clad with gold but excluding sweepings containing other precious metals	Free		Free
7112.92.00	Of platinum, including metal clad with platinum but excluding sweepings containing other precious metals	Free		Free
7112.99.00	Other	Free		Free"

(220)(a). Subheading 7302.20.00 is deleted.

(b). Subheading 7302.90.00 is superseded by:

	[Railway or tramway track construction...]			
"7302.90	Other:			
7302.90.10	Sleepers (cross-ties)	[See Annex III(A) to this proclamation]	Free (A+,CA,D,E, IL,J,MX)	2%
7302.90.90	Other	[See Annex III(A) to this proclamation]	Free (A,CA,E,IL,J, MX)	45%"

(221). Subheadings 7415.31.00 through 7415.32.90 and any intervening text to such subheadings are superseded by:

	[Nails, tacks, drawing pins, staples (other...]			
	[Other threaded articles:]			
"7415.33	Screws; bolts and nuts:			
7415.33.05	Screws for wood	3%	Free (A,B,CA,E,IL, J,JO,MX)	45%
7415.33.10	Muntz or yellow metal bolts	1.4%	Free (A,B,CA,E,IL, J,JO,MX)	7%
7415.33.80	Other screws and bolts; nuts	3%	Free (A,B,CA,E,IL, J,JO,MX)	45%"

Annex I (continued)

(222). Subheadings 8101.91 through 8101.93.00 are superseded by:

	[Tungsten (wolfram) and articles...] [Other:]			
"8101.94.00	Unwrought tungsten, including bars and rods obtained simply by sintering	6.6%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	60%
8101.95.00	Bars and rods, other than those obtained simply by sintering, profiles, plates, sheets, strip and foil	6.5%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	60%
8101.96.00	Wire	4.4%	Free (A+,CA,D,E, IL,J,JO,MX)	60%
8101.97.00	Waste and scrap	2.8%	Free (A,CA,E,IL,J, JO,MX)	50%"

(223). Subheadings 8102.91 through 8102.93.00 are superseded by:

	[Molybdenum and articles thereof,...] [Other:]			
"8102.94.00	Unwrought molybdenum, including bars and rods obtained simply by sintering	13.9¢/kg on molybdenum content + 1.9%	Free (A+,CA,D,E, IL,J,JO,MX)	$1.10/kg on molybdenum content + 15%
8102.95	Bars and rods, other than those obtained simply by sintering, profiles, plates, sheets, strip and foil:			
8102.95.30	Bars and rods	6.6%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	60%
8102.95.60	Other	6.6%	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	60%
8102.96.00	Wire	4.4%	Free (A,CA,E,IL,J, JO,MX)	60%
8102.97.00	Waste and scrap	Free		Free"

(224). Subheadings 8103.10, 8103.10.30 and 8103.10.60 are superseded by:

	[Tantalum and articles thereof,...]			
"8103.20.00	Unwrought tantalum, including bars and rods obtained simply by sintering; powders	2.5%	Free (A,CA,E,IL,J, JO,MX)	25%
8103.30.00	Waste and scrap	Free		Free"

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(225)(a). Subheadings 8105.10 through 8105.10.90 and any intervening text to such subnheadings are superseded by:

	[Cobalt mattes and other intermediate...]			
"8105.20	Cobalt mattes and other intermediate products of cobalt metallurgy; unwrought cobalt; powders:			
	Unwrought cobalt:			
8105.20.30	Alloys	4.4%	Free (A+,CA,D,E, IL,J,JO,MX)	45%
8105.20.60	Other	Free		Free
8105.20.90	Other	Free		Free
8105.30.00	Waste and scrap	Free		Free"

(b). Conforming change: The article description of heading 9902.80.05 is modified by deleting "8105.10.30" and inserting "8105.20.30" in lieu thereof.

(226). Subheading 8107.10.00 is superseded by:

	[Cadmium and articles thereof, including...]			
"8107.20.00	Unwrought cadmium; powders	Free		33¢/kg
8107.30.00	Waste and scrap	Free		33¢/kg"

(227). Subheadings 8108.10, 8108.10.10 and 8108.10.50 are superseded by:

	[Titanium and articles thereof, including...]			
"8108.20.00	Unwrought titanium; powders	15%	Free (A+,CA,D,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	25%
8108.30.00	Waste and scrap	Free		Free"

(228). Subheadings 8109.10, 8109.10.30 and 8109.10.60 are superseded by:

	[Zirconium and articles thereof, including...]			
"8109.20.00	Unwrought zirconium; powders	4.2%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
8109.30.00	Waste and scrap	Free		Free"

(229). Heading 8110.00.00 is superseded by:

"8110	Antimony and articles thereof, including waste and scrap:			
8110.10.00	Unwrought antimony; powders	Free		4.4¢/kg
8110.20.00	Waste and scrap	Free		4.4¢/kg
8110.90.00	Other	Free		4.4¢/kg"

(230). Subheadings 8112.11, 8112.11.30 and 8112.11.60 are superseded by:

	[Beryllium, chromium, germanium,...]			
	[Beryllium:]			
"8112.12.00	Unwrought; powders	8.5%	Free (A,CA,E,IL, J,MX) [See Annex III(D)2 to this proclamation](JO)	25%
8112.13.00	Waste and scrap	Free		Free"

(231). Subheadings 8112.20, 8112.20.30 and 8112.20.60 are superseded by:

	:[Beryllium, chromium, germanium,...]			
	"Chromium:			
8112.21.00	Unwrought; powders	3%	Free (A,CA,E,IL,J, JO,MX)	30%
8112.22.00	Waste and scrap	Free		Free
8112.29.00	Other	3%	Free (A,CA,E,IL,J, JO,MX)	30%"

(232)(a). Subheadings 8112.91 through 8112.99.00 and any intervening text to such subheadings are superseded and the following provisions are inserted in numerical sequence:

	:[Beryllium, chromium, germanium, vanadium,...]			
	"Thallium:			
8112.51.00	Unwrought; powders	4%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
8112.52.00	Waste and scrap	Free		Free
8112.59.00	Other	4%	Free (A,CA,E,IL,J, JO,MX)	45%
	[Other:]			
8112.92	Unwrought; waste and scrap; powders:			
8112.92.05	Waste and scrap	Free		Free
	Other:			
8112.92.10	Gallium	3%	Free (A,CA,E,IL,J, JO,MX)	25%
8112.92.20	Hafnium	Free		25%
8112.92.30	Indium	Free		25%
8112.92.40	Niobium (columbium)	4.9%	Free (A+,CA,D,E, IL,J,JO,MX)	25%
8112.92.50	Rhenium	3%	Free (A,CA,E,IL,J, JO,MX)	25%
8112.99.01	Other	4%	Free (A,CA,E,IL,J, JO,MX)	45%"

(b). Conforming change: U.S. note 6(a)(xii) to subchapter X of chapter 98 is modified by inserting "8112.59," immediately following "8112.19, ".

(233)(a). Note 1(e) to section XVI is modified by deleting "Transmission or conveyor belts of textile material" and inserting "Transmission or conveyor belts or belting of textile material" in lieu thereof.

(b). Note 1(o) to section XVI is modified by deleting the word "or" at the end of that note.

(c). Note 1(p) to section XVI is modified by deleting the period at the and of that note and inserting "; or" in lieu thereof.

(d). The following note 1(q) to section XVI is inserted in alphabetical sequence:

"(q) Typewriter or similar ribbons, whether or not on spools or in cartridges (classified according to their constituent material, or in heading 9612 if inked or otherwise prepared for giving impressions)."

(234). Note 2(a) to section XVI is modified by deleting "chapters 84 and 85" and inserting "chapter 84 or 85" in lieu thereof.

(235). Note 3 to section XVI is modified by deleting "other machines adapted for the purpose" and inserting "other machines designed for the purpose" in lieu thereof.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(236). Note 1(e) to chapter 84 is superseded by:

"(e) Electromechanical domestic appliances of heading 8509; digital cameras of heading 8525; or"

(237)(a). Subheading 8415.10.00 is superseded by:

	:[Air conditioning machines, comprising a...]	:	:	:
"8415.10	: Window or wall types, self-contained or "split-system":	:	:	:
8415.10.30	: Self-contained..........	: Free	:	: 35%
	: Other:	:	:	:
8415.10.60	: Incorporating a refrigerating unit and a valve for reversal of the cooling/heat cycle (reversible heat pumps)..........	: 1%	: Free (A,B,C,CA,E, IL,J,JO,MX)	: 35%
8415.10.90	: Other..........	: 2.2%	: Free (A,B,C,CA,E, IL,J,JO,MX)	: 35%"

(b). Subheadings 8415.81.00 and 8415.82.00 are renumbered as 8415.81.01 and 8415.82.01, respectively, and the article description of subheading 8415.81.01 is modified by inserting the expression "(reversible heat pumps)" at the end of such description.

(238). The article description of heading 8419 is modified by deleting "whether or not electrically heated," and inserting "whether or not electrically heated (excluding furnaces, ovens and other equipment of heading 8514)," in lieu thereof.

(239). Subheading 8419.90.80 is superseded by:

	:[Machinery, plant or laboratory equipment,...]	:	:	:
	: [Parts:]	:	:	:
	: [Other:]	:	:	:
"8419.90.85	: Of electromechanical tools for working in the hand with self-contained electric motor..........	: Free	:	: 35%
8419.90.95	: Other..........	: 4%	: Free (A,CA,E,IL, J,JO,MX)	: 35%"

(240)(a). Subheading 8430.62.00 is deleted.

(b). Subheading 8430.69.00 is renumbered as 8430.69.01.

(241). The article description of heading 8443 is modified to read:

"Printing machinery used for printing by means of printing type, blocks, plates, cylinders and other printing components of heading 8442; ink-jet printing machines, other than those of heading 8471; machines for uses ancillary to printing; parts thereof:"

(242)(a). Subheadings 8461.10, 8461.10.40 and 8461.10.80 are deleted.

(b). Subheadings 8461.90.40 and 8461.90.80 are renumbered as 8461.90.30 and 8461.90.60, respectively.

(243). The article description of heading 8467 is modified by deleting "self-contained nonelectric motor" and inserting "self-contained electric or nonelectric motor" in lieu thereof.

Annex I (continued)

(244)(a). The following new provisions are inserted in numerical sequence:

	:[Tools for working in the hand, pneumatic,...]	:	:	:
	: "With self-contained electric motor:	:	:	:
8467.21.00	: Drills of all kinds	: 1.7%	: Free (A,CA,E,IL,J, JO,MX)	: 35%
8467.22.00	: Saws	: Free	:	: 35%
8467.29.00	: Other	: Free	:	: 35%"

(b). Heading 8508 and subheadings 8508.10.00, 8508.20.00, 8508.80.00, 8508.90, 8508.90.40 and 8508.90.80 are deleted.

(c). The subheadings listed in the in the first column of the following table are renumbered as the respective subheadings in the second column of the table:

Column 1	Column 2	Column 1	Column 2
8414.80.15	8414.80.16	8422.40.90	8422.40.91
8414.90.40	8414.90.41	8422.90.10	8422.90.11
8419.39.00	8419.39.01	8422.90.20	8422.90.21
8422.30.10	8422.30.11	8422.90.90	8422.90.91
8422.30.90	8422.30.91	8467.91.00	8467.91.01
8422.40.10	8422.40.11	8467.99.00	8467.99.01

(d). Conforming changes:

(A). The article description of subheading 9903.41.30 is modified by deleting "8508.80" and inserting "8467.29" in lieu thereof.

(B). The article description of subheading 9903.41.35 is modified by deleting "8508.10 or 8508.80" and inserting "8467.21 or 8467.29" in lieu thereof.

(245). The article description of subheading 8471.50.00 is modified by deleting "subheading 8471.41 and 8471.49" and inserting "subheading 8471.41 or 8471.49" in lieu thereof.

(246)(a). Subheading 8472.90.95 is superseded by:

	:[Other office machines (for example,...]	:	:	:
	: [Other:]	:	:	:
"8472.90.80	: Printing machines other than those of heading 8443 or 8471	: Free	:	: 25%
8472.90.90	: Other	: 1.8%	: Free (A,CA,E,IL,J, JO,MX)	: 35%"

(b). Conforming change: Subheading 8443.59.50 is renumbered as 8443.59.90.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(247)(a). Subheading 8473.40.95 is superseded by:

	[Parts and accessories (other than covers,...]			
	[Parts and accessories of the machines...]			
"8473.40.80	Parts and accessories of the goods of subheading 8472.90.80	Free		25%
8473.40.85	Other	1.9%	Free (A,CA,E,IL,J,JO,MX)	35%"

(b). Conforming change: Subheading 8443.90.50 is renumbered as 8443.90.90.

(248)(a). Subheading 8479.89.97 is superseded by:

	[Machines and mechanical appliances having...]			
	[Other machines and mechanical...]			
	[Other:]			
	[Other:]			
"8479.89.96	Printing machines other than those of heading 8443, 8471 or 8472	Free		25%
8479.89.98	Other	2.5%	Free (A,B,C,CA,E,IL,J,JO,MX)	35%"

(b). Conforming changes:

(A). Additional U.S. note 1 to chapter 84 is modified by deleting "8479.89.97" and inserting "8479.89.98" in lieu thereof.

(B). The article description of headings 9817.84.01, 9902.84.00, 9902.84.16 and 9902.84.30 is modified by deleting "8479.89.97" and inserting "8479.89.98" in lieu thereof.

(249). The article description of subheading 8481.30 is modified to read:

"Check (nonreturn) valves:"

(250). The article description of subheading 8483.90 is modified to read:

"Toothed wheels, chain sprockets and other transmission elements presented separately; parts:"

(251). Note 3 to chapter 85 is modified by deleting "Vacuum cleaners," and inserting "Vacuum cleaners, including dry and wet vacuum cleaners," in lieu thereof.

(252). The second paragraph of note 3 to chapter 85 is modified by deleting "electric scissors (heading 8508)" and inserting "electric scissors (heading 8467)" in lieu thereof.

(253). Note 6 to chapter 85 is superseded by:

"6. Records, tapes and other media of heading 8523 or 8524 remain classified in those headings when entered with the apparatus for which they are intended.

This note does not apply to such media when they are entered with articles other than the apparatus for which they are intended.

For the purposes of this note, the term "apparatus for which they are intended" refers to apparatus which reads or plays the media or which records or writes on the media."

Annex I (continued)

(254). The following subheading note to chapter 85 is inserted in numerical sequence:

"2. For the purposes of subheading 8542.10, the term "smart cards" means cards which have embedded in them an electronic integrated circuit (microprocessor) of any type in the form of a chip and which may or may not have a magnetic stripe."

(255). Additional U.S. note 12 to chapter 85 is modified by inserting the expression "articles of subheading 8543.89.10;" immediately before the expression "articles of subheading 8543.89.92".

(256). The following additional U.S. note to chapter 85 is inserted in numerical sequence:

"13. For the purposes of subheading 8527.90.86, the term "paging receivers" includes paging alert devices designed merely to emit a sound or visual signal (e.g., flashing light) upon the reception of a pre-set radio signal."

(257). The article description of subheading 8506.80.00 is modified to read:

"Other primary cells and primary batteries"

(258). The article description of subheading 8509.10.00 is modified to read:

"Vacuum cleaners, including dry and wet vacuum cleaners"

(259). The article description of heading 8514 is modified to read:

"Industrial or laboratory electric furnaces and ovens (including those functioning by induction or dielectric loss); other industrial or laboratory equipment for the heat treatment of materials by induction or dielectric loss; parts thereof:"

(260). Subheadings 8514.20.00 and 8514.90.00 are superseded and the following provisions inserted in numerical sequence:

	[Industrial or laboratory electric furnaces and...]			
"8514.20	Furnaces and ovens functioning by induction or dielectric loss:			
	Microwave ovens:			
8514.20.40	For making hot drinks, or for cooking or heating food	4%	Free (A,C,CA,E,IL, J,JO,MX)	35%
8514.20.60	Other	4.2%	Free (A,CA,E,IL, J,JO,MX)	35%
8514.20.80	Other	Free		35%
8514.90	Parts:			
8514.90.40	Of microwave ovens	4%	Free (A,CA,E,IL, J,JO,MX)	35%
8514.90.80	Other	Free		35%"

(b). Conforming changes:

(A). Subheading 8419.81.10 is deleted.

(B). The article description of subheading 8419.81.50 is modified by deleting "Other cooking stoves" and inserting "Cooking stoves" in lieu thereof.

(C). Subheading 8419.89.90 is renumbered as 8419.89.95.

(D). U.S. note 2(t) to subchapter XVII of chapter 98 is modified by deleting "8419.81.10".

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(261). The article description of subheading 8514.40.00 is modified to read:

> "Other equipment for the heat treatment of materials by induction or dielectric loss"

(262). The article description of heading 8518 is modified by deleting "headphones, earphones and combined microphone/speaker sets" and inserting "headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers" in lieu thereof.

(263). The article description of subheading 8518.30 is modified to read:

> "Headphones and earphones, whether or not combined with a microphone, and sets consisting of a microphone and one or more loudspeakers:"

(264). The article description of heading 8525 is modified by deleting "other video camera recorders:" and inserting "other video camera recorders; digital cameras:" in lieu thereof.

(265). The article description of subheading 8525.40 is modified by deleting "other video camera recorders:" and inserting "other video camera recorders; digital cameras:" in lieu thereof.

(266)(a). Subheadings 8531.80 through 8531.80.90 and any intervening text to such subheadings are superseded by:

	[Electric sound or visual signaling apparatus...]			
"8531.80.00	Other apparatus	1.3%	Free (A,B,C,CA,E, IL,J,JO,MX)	35%"

(b). Subheading 8527.90.85, 8529.90.23, 8529.90.76 and 8529.90.85 are renumbered as 8527.90.86, 8529.90.22, 8529.90.75 and 8529.90.86, respectively.

(c). Subheading 8531.90.10 is renumbered as 8531.90.15 and the article description is modified to read "Of the panels of subheading 8531.20".

(d). Subheading 8531.90.70 is renumbered as 8531.90.75 and the article description is modified to read "Of the panels of subheading 8531.20".

(267)(a). The superior text immediately preceding subheading 8542.12.00 and subheadings 8542.12.00 through 8542.30.00 and any intervening text to such subheadings are superseded by:

	[Electronic integrated circuits and microassemblies;...]			
"8542.10.00	Cards incorporating an electronic integrated circuit ("smart" cards)	Free		35%
	Monolithic integrated circuits:			
8542.21	Digital:			
8542.21.40	For high definition television, having greater than 100,000 gates	Free		35%
8542.21.80	Other	Free		35%
8542.29.00	Other	Free		35%"

(b). Subheadings 8542.40.00 and 8542.50.00 are renumbered as 8542.60.00 and 8542.70.00, respectively.

(268)(a). The following provisions are inserted in numerical sequence:

Annex I (continued)

	[Electrical machines and apparatus, having...]			
	[Other machines and apparatus:]			
	[Other:]			
	"Physical vapor deposition apparatus:			
8543.89.10	Machines for processing of semiconductor materials; machines for production of diodes, transistors and similar semiconductor devices and electronic integrated circuits..........	Free		35%
8543.89.20	Other..........	2.5%	Free (A,CA,E,IL,J, JO,MX)	35%
	[Parts:]			
8543.90.10	Of physical vapor deposition apparatus..........	Free		35%"

(b). Subheadings 8479.89.85 and 8479.90.95 are renumbered as 8479.89.84 and 8479.90.94, respectively.

(269). The article description of heading 8713 is modified to read:

"Carriages for disabled persons, whether or not motorized or otherwise mechanically propelled:"

(270). The article description of subheading 8714.20.00 is modified to read:

"Of carriages for disabled persons"

(271). Subheading 8805.20.00 is superseded by:

	[Aircraft launching gear; deck-arrestor or...]			
	"Ground flying trainers and parts thereof:			
8805.21.00	Air combat simulators and parts thereof..........	Free		35%
8805.29.00	Other..........	Free		35%"

(272). Heading 8906.00 and subheadings 8906.00.10 and 8906.00.90 are superseded by:

"8906	Other vessels, including warships and lifeboats other than row boats:			
8906.10.00	Warships..........	Free		Free
8906.90.00	Other..........	Free		Free"

(273). Note 1(h) to chapter 90 is modified by deleting "still image video cameras and other video camera recorders (heading 8525); radar apparatus, radio navigational aid apparatus and radio remote control apparatus (heading 8526);" and inserting "still image video cameras, other video camera recorders and digital cameras (heading 8525); radar apparatus, radio navigational aid apparatus and radio remote control apparatus (heading 8526); numerical control apparatus (heading 8537);" in lieu thereof.

Annex I (continued)

(274). Note 6 to chapter 90 is redesignated as note 7 and modified as follows:

(a). inserting the expression ", which are designed to bring this factor to, and maintain it at, a desired value, stabilized against disturbances, by constantly or periodically measuring its actual value" immediately following the expression "factor to be automatically controlled" in paragraph (a) of such note 7.

(b). inserting the expression ", which are designed to bring this factor to, and maintain it at, a desired value, stabilized against disturbances, by constantly or periodically measuring its actual value" immediately following the expression "factor to be controlled" in paragraph (b) of such note 7.

(275). The following new note 6 to chapter 90 is inserted in numerical sequence:

"6. For the purposes of heading 9021, the expression "orthopedic appliances" means appliances for:

(a) Preventing or correcting bodily deformities; or

(b) Supporting or holding parts of the body following an illness, operation or injury.

Orthopedic appliances include footwear and special insoles designed to correct orthopedic conditions, provided that they are either (1) made to measure or (2) mass-produced, entered singly and not in pairs and designed to fit either foot equally."

(276). Additional U.S. note 5 to chapter 90 is modified by deleting "Subheadings 9009.90.10 and 9009.90.30 cover" and inserting "Subheading 9009.99.40 covers" in lieu thereof.

(277)(a). Subheadings 9009.90 through 9009.90.70 and any intervening text to such subheadings are superseded by:

	[Photocopying apparatus incorporating an...]			
	"Parts and accessories:			
9009.91.00	Automatic document feeders	Free		35%
9009.92.00	Paper feeders	Free		35%
9009.93.00	Sorters	Free		35%
9009.99	Other:			
9009.99.40	Parts of photocopying apparatus of subheading 9009.12 specified in additional U.S. note 5 to this chapter	Free		35%
9009.99.80	Other	Free		35%"

(b). Conforming change: U.S. note 6(a)(xvii) to subchapter X of chapter 98 is modified by deleting "9009.90" and inserting "9009.99" in lieu thereof.

(278). The article description of subheading of subheading 9015.20 is modified by inserting "(tacheometers)" at the end thereof.

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

(279). The superior text immediately preceding subheading 9021.11.00 and subheadings 9021.11.00 through 9021.19.85 and 9021.30.00 are superseded and the following provisions inserted in numerical sequence:

	:[Orthopedic appliances, including crutches,...]			
"9021.10.00	Orthopedic or fracture appliances, and parts and accessories thereof	Free		55%
	Other artificial parts of the body and parts and accessories thereof:			
9021.31.00	Artificial joints and parts and accessories thereof	Free		55%
9021.39.00	Other	Free		40%"

(280). The superior text immediately preceding subheading 9108.91 and subheadings 9108.91 through 9108.99.80 and any intervening text to such subheadings are superseded by:

	:[Watch movements, complete and assembled:]			
"9108.90	Other:			
	Having no jewels or only one jewel:			
9108.90.10	Measuring 33.8 mm or less	29¢ each	Free (CA,D,E,IL,J,JO,MX,R)	$1.50 each
9108.90.20	Other	25¢ each	Free (CA,D,E,IL,J,JO,MX,R)	$1.50 each
	Having over one jewel but not over 7 jewels:			
9108.90.30	Measuring 33.8 mm or less	57¢ each	Free (CA,D,E,IL,J,JO,MX,R)	$2.50 each
9108.90.40	Other	25¢ each	Free (CA,D,E,IL,J,JO,MX,R)	$1.50 each
	Having over 7 jewels but not over 17 jewels:			
	Measuring 33.8 mm or less.			
	Valued not over $15 each:			
9108.90.50	Measuring not over 15.2 mm	$2.16 each	Free (CA,D,E,IL,J,MX,R) [See Annex III(D)2 to this proclamation](JO)	$4 each
9108.90.60	Measuring over 15.2 mm	$1.80 each	Free (CA,D,E,IL,J,MX,R) [See Annex III(D)2 to this proclamation](JO)	$4 each
9108.90.70	Valued over $15 each	90¢ each	Free (CA,D,E,IL,J,JO,MX,R)	$4 each
	Other:			
9108.90.80	Valued not over $15 each	$1.44 each	Free (CA,D,E,IL,J,MX,R) [See Annex III(D)2 to this proclamation](JO)	$4 each
9108.90.85	Valued over $15 each	Free		$4 each
	Having over 17 jewels:			
9108.90.90	Measuring 33.8 mm or less	$1.50 each	Free (CA,D,E,IL,J,MX,R) [See Annex III(D)2 to this proclamation](JO)	$10.75 each
9108.90.95	Other	$1.72 each	Free (CA,D,E,IL,J,JO,MX,R)	$10.75 each"

(281). Subheading 9112.10.00 and 9112.80.00 are superseded by:

VOL 66 ISS 247 DE 26 2001 UMI

Annex I (continued)

	[Clock cases and cases of a similar type...]			
"9112.20	Cases:			
9112.20.40	Cases of metal	3.5%	Free (A+,B,CA,D, E,IL,J,JO, MX)	45%
9112.20.60	Other cases	5.5%	Free (A,B,CA,E, IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	45%"

(282). Heading 9301.00 and subheadings 9301.00.30, 9301.00.60 and 9301.00.90 are superseded by:

"9301	Military weapons, other than revolvers, pistols and the arms of heading 9307:			
	Artillery weapons (for example, guns, howitzers and mortars:			
9301.11.00	Self-propelled	Free		27.5%
9301.19.00	Other	Free		27.5%
9301.20.00	Rocket launchers; flame-throwers; grenade launchers; torpedo tubes and similar projectors	Free		27.5%
9301.90	Other:			
9301.90.30	Rifles	4.7% on the value of the rifle + 20% on the value of the telescopic sight, if any	Free (A,CA,E,IL,J, MX) [See Annex III(D)2 to this proclamation](JO)	65%
9301.90.60	Shotguns	2.6%	Free (A,CA,E,IL,J, JO,MX)	65%
9301.90.90	Other	Free		27.5%"

(283). Subheadings 9305.90 through 9305.90.60 and any intervening text to such subheadings are superseded by:

	[Parts and accessories of articles of headings...]			
	"Other:			
9305.91	Of military weapons of heading 9301:			
9305.91.10	Of rifles	Free		55%
9305.91.20	Of shotguns	Free		55%
9305.91.30	Other	Free		27.5%
9305.99	Other:			
9305.99.40	Of articles of heading 9303 other than shotguns or rifles	Free		27.5%
9305.99.50	Of articles of subheading 9304.00.20 or 9304.00.40	3.9%	Free (A,CA,E,IL,J, JO,MX)	70%
9305.99.60	Other	2.9%	Free (A,CA,E,IL,J, JO,MX)	45%"

(284). Note 1(u) to chapter 95 is modified by deleting "gloves" and inserting "gloves, mittens and mitts" in lieu thereof.

Annex I (continued)

(285). The following note to chapter 95 is inserted in numerical sequence:

"4. Heading 9503 does not cover articles which, on account of their design, shape or constituent material, are identifiable as intended exclusively for animals, e.g., "pet toys" (classification in their own appropriate heading)."

(286). The article description of subheading 9504.30.00 is modified to read:

"Other games, operated by coins, banknotes (paper currency), discs or other similar articles, other than bowling alley equipment; parts and accessories thereof"

(287). The article description of subheading 9504.90.40 is modified to read:

"Game machines, other than those operated by coins, banknotes (paper currency), discs or other similar articles; parts and accessories thereof"

(288). Heading 9508.00.00 is superseded by:

"9508	Merry-go-rounds, boat-swings, shooting galleries and other fairground amusements; traveling circuses and traveling menageries; traveling theaters; parts and accessories thereof:			
9508.10.00	Traveling circuses and traveling menageries; parts and accessories	Free		35%
9508.90.00	Other	Free		35%"

(289)(a). Subheading 9613.30.00 is deleted.

(b). Subheadings 9613.80.20 through 9613.80.80 and any intervening text to such subheadings are superseded by:

	[Cigarette lighters and other lighters, whether...]			
	[Other lighters:]			
"9613.80.10	Table lighters	4.8%	Free (A,CA,E,IL,J,JO,MX)	80%"
	Other:			
9613.80.20	Electrical	3.9%	Free (A,B,CA,E,IL,J,JO,MX)	35%
	Other:			
9613.80.40	Of precious metal (except silver), of precious or semiprecious stones or of such metal and such stones	3.6%	Free (A,CA,E,IL,J,JO,MX)	80%
	Other:			
9613.80.60	Valued not over $5 per dozen pieces	8%	Free (A,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	110%
9613.80.80	Valued over $5 per dozen pieces	9%	Free (A,CA,E,IL,J,MX) [See Annex III(D)2 to this proclamation](JO)	110%"

VOL 66 ISS 247 DE 26 2001 UMI

(290). Note 1(a) to chapter 97 is superseded by:

"(a) Unused postage or revenue stamps, postal stationary (stamped paper) or the like, of heading 4907;"

(291). The article description of heading 9704.00.00 is modified by deleting "used, or if unused not of current or new issue in the country to which they are destined" and inserting "used or unused, other than those of heading 4907" in lieu thereof.

(292). The following heading is inserted in subchapter XVII of chapter 98 in numerical sequence:

"9817.64.01	Footwear, other than goods of heading 9021, of a kind for supporting or holding the foot following an illness, operation or injury, provided that such footwear is (1) made to measure and (2) presented singly and not in pairs and designed to fit either foot equally	Free		The rate applicable in the absence of this heading"

Annex II

RECTIFICATIONS TO GENERAL NOTE 12 TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods of Mexico and to goods of Canada under the terms of general note 12 to the Harmonized Tariff Schedule of the United States (HTS) that are entered, or withdrawn from warehouse for consumption, on or after the later of (i) January 1, 2002, or (ii) the fifteenth day after the date of publication of this proclamation in the Federal Register, the tariff classification rules ("TCRs") set forth in subdivision (t) of such general note 12 to the HTS are modified as provided herein:

1. The TCR for chapter 13 is deleted and the following new TCR is inserted in lieu thereof:

   "A change to headings 1301 through 1302 from any other chapter, except from concentrates of poppy straw of subheading 2939.11."

2. TCR 10 for chapter 19 is deleted and the following new TCR 10 is inserted in lieu thereof:

   "10. A change to subheadings 1904.30 through 1904.90 from any other chapter."

3. TCR 5 for chapter 20 is deleted and the following new TCR 5 is inserted in lieu thereof:

   "5. A change to subheadings 2009.11 through 2009.39 from any other chapter, except from heading 0805."

4. TCR 6 for chapter 20 is deleted and the following new TCR 6 is inserted in lieu thereof:

   "6. A change to subheadings 2009.41 through 2009.80 from any other chapter."

5. TCR 6 for chapter 28 is deleted and the following new TCRs are inserted in lieu thereof:

   "6. A change to subheadings 2805.11 through 2805.12 from any other subheading, including another subheading within that group.

   6A. (A) A change to other alkali metals of subheading 2805.19 from other alkaline earth metals of subheading 2805.19 or from any other subheading; or

   (B) A change to other alkali earth metals of subheading 2805.19 from other alkali metals of subheading 2805.19 or from any other subheading.

   6B. A change to subheadings 2805.30 through 2805.40 from any other subheading, including another subheading within that group."

6. TCR 14 for chapter 28 is deleted and the following new TCRs are inserted in lieu thereof:

   "14. A change to subheading 2816.10 from any other subheading.

   14A. (A) A change to oxide, hydroxide or peroxide of strontium of subheading 2816.40 from oxide, hydroxide or peroxide of barium of subheading 2816.40 or from any other subheading.

   (B) A change to oxide, hydroxide or peroxide of barium of subheading 2816.40 from oxide, hydroxide or peroxide of strontium of subheading 2816.40 or from any other subheading.

   14B. A change to subheadings 2817.00 through 2818.30 from any other subheading, including another subheading within that group."

7. TCR 22 for chapter 28 is deleted and the following new TCRs are inserted in lieu thereof:

Annex II (continued)

-2-

"22. A change to subheadings 2825.10 through 2826.90 from any other subheading, including another subheading within that group.

22A. A change to subheadings 2827.10 through 2827.36 from any other subheading, including another subheading within that group.

22B. (A) A change to barium chloride of subheading 2827.39 from other chlorides of subheading 2827.39 or from any other subheading; or

(B) A change to other chlorides of subheading 2827.39 from barium chloride of subheading 2827.39 or from any other subheading.

22C. A change to subheadings 2827.41 through 2827.60 from any other subheading, including another subheading within that group.

22D. A change to subheadings 2828.10 through 2828.90 from any other subheading, including another subheading within that group."

8. TCR 25 for chapter 28 is deleted and the following new TCRs are inserted in lieu thereof:

"25. A change to subheadings 2830.10 through 2833.40 from any other subheading, including another subheading within that group.

25A. A change to subheadings 2834.10 through 2834.21 from any other subheading, including another subheading within that group.

25B. (A) A change to bismuth nitrates of subheading 2834.29 from other nitrates of subheading 2834.29 or from any other subheading; or

(B) A change to other nitrates of subheading 2834.29 from bismuth nitrates of subheading 2834.29 or from any other subheading.

25C. A change to subheadings 2835.10 through 2835.39 from any other subheading, including another subheading within that group."

9. TCR 29 for chapter 28 is deleted and the following new TCRs are inserted in lieu thereof:

"29. A change to subheadings 2837.11 through 2840.30 from any other subheading, including another subheading within that group.

29A. A change to subheadings 2841.10 through 2841.30 from any other subheading, including another subheading within that group.

29B. (A) A change to potassium dichromate of subheading 2841.50 from other chromates, dichromates or peroxochromates of subheading 2841.50 or from any other subheading; or

(B) A change to other chromates, dichromates or peroxochromates of subheading 2841.50 from potassium dichromate of subheading 2841.50 or from any other subheading.

29C. A change to subheadings 2841.61 through 2841.90 from any other subheading, including another subheading within that group.

29D. (A) A change to double or complex silicates, including chemically defined aluminosilicates, of subheading 2842.10 from non-chemically defined aluminosilicates of subheading 2842.10 or from any other subheading;

(B) A change to non-chemically defined aluminosilicates of subheading 2842.10 from any other chapter, except from chapters 28 through 38; or

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

-3-

(C) A change to non-chemically defined aluminosilicates of subheading 2842.10 from double or complex silicates, including chemically defined aluminosilicates, of subheading 2842.10 or from any other subheading within chapters 28 through 38, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

29E. A change to subheading 2842.90 from any other subheading.

29F. A change to subheadings 2843.10 through 2850.00 from any other subheading, including another subheading within that group."

10. TCR 5 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"5. (A) A change to subheadings 2903.11 through 2903.15 from any other subheading, including another subheading within that group, except from headings 2901 through 2902; or

(B) A change to subheadings 2903.11 through 2903.15 from headings 2901 through 2902, whether or not there is also a change from any other subheading, including another subheading within subheadings 2903.11 through 2903.15, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

5A. (A) A change to 1,2-dichloropropane (propylene dichloride) or dichlorobutanes of subheading 2903.19 from other saturated chlorinated derivatives of acyclic hydrocarbons of subheading 2903.19 or any other subheading, except from heading 2901 through 2902;

(B) A change to 1,2-dichloropropane (propylene dichloride) or dichlorobutanes of subheading 2903.19 from heading 2901 through 2902, whether or not there is also a change from other saturated chlorinated derivatives of acyclic hydrocarbons of subheading 2903.19 or any other subheading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used;

(C) A change to other saturated chlorinated derivatives of acyclic hydrocarbons of subheading 2903.19 from 1,2-dichloropropane (propylene dichloride) or dichlorobutanes of subheading 2903.19 or from any other subheading, except from headings 2901 through 2902; or

(D) A change to other saturated chlorinated derivatives of acyclic hydrocarbons of subheading 2903.19 from headings 2901 through 2902, whether or not there is also a change from 1,2-dichloropropane (propylene dichloride) or dichlorobutanes of subheading 2903.19 or from any other subheading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

5B. (A) A change to subheadings 2903.21 through 2903.30 from any other subheading, including another subheading within that group, except from headings 2901 through 2902; or

(B) A change to subheadings 2903.21 through 2903.30 from headings 2901 through 2902, whether or not there is also a change from any other subheading, including another subheading within subheadings 2903.21 through 2903.30, provided there is a regional value content of not less than:

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

-4-

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

11. TCR 11 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"11. A change to subheadings 2905.51 through 2905.59 from any subheading outside that group."

12. TCR 12 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"12. A change to subheadings 2906.11 through 2906.29 from any other subheading, including another subheading within that group.

12A. A change to subheadings 2907.11 through 2907.23 from any other subheading, including another subheading within that group.

12B. (A) A change to phenol-alcohols of subheading 2907.29 from polyphenols of subheading 2907.29 or from any other subheading; or

(B) A change to polyphenols of subheading 2907.29 from phenol-alcohols of subheading 2907.29 or from any other subheading."

13. TCR 36 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"36. A change to subheadings 2918.11 through 2918.16 from any other subheading, including another subheading within that group.

36A. (A) A change to phenylglycolic acid (mandelic acid), its salts or esters of subheading 2918.19 from any other good of subheading 2918.19 or from any other subheading; or

(B) A change to any other good of subheading 2918.19 from phenylglycolic acid (mandelic acid), its salts or esters of subheading 2918.19 or from any other subheading.

36B. A change to subheading 2918.21 from any other subheading."

14. TCR 46 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"46. (A) A change to subheadings 2921.41 through 2921.45 from any other heading, except from headings 2901, 2902, 2904, 2916, 2917 or 2926; or

(B) A change to subheadings 2921.41 through 2921.45 from any other subheading within heading 2921, including another subheading within that group, or headings 2901, 2902, 2904, 2916, 2917 or 2926, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

46A. (A) A change to subheadings 2921.46 through 2921.49 from any other heading, except from headings 2901, 2902, 2904, 2916, 2917 or 2926; or

(B) A change to subheadings 2921.46 through 2921.49 from any subheading outside that group within heading 2921 or headings 2901, 2902, 2904, 2916, 2917 or 2926, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

Annex II (continued)

-5-

46B. (A) A change to subheadings 2921.51 through 2921.59 from any other heading, except from headings 2901, 2902, 2904, 2916, 2917 or 2926; or

(B) A change to subheadings 2921.51 through 2921.59 from any other subheading within heading 2921, including another subheading within that group, or headings 2901, 2902, 2904, 2916, 2917 or 2926, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

15. TCR 47 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"47. (A) A change to subheadings 2922.11 through 2922.13 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheadings 2922.11 through 2922.13 from any other subheading within heading 2922, including another subheading within that group, or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47A. (A) A change to subheadings 2922.14 through 2922.19 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheadings 2922.14 through 2922.19 from any subheading outside that group within heading 2922 or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47B. (A) A change to subheadings 2922.21 through 2922.29 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheadings 2922.21 through 2922.29 from any other subheading within heading 2922, including another subheading within that group, or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47C. (A) A change to subheadings 2922.31 through 2922.39 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheadings 2922.31 through 2922.39 from any subheading outside that group within heading 2922 or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47D. (A) A change to subheadings 2922.41 through 2922.43 from any other heading, except from headings 2905 through 2921; or

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

(B) A change to subheadings 2922.41 through 2922.43 from any other subheading within heading 2922, including another subheading within that group, or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47E. (A) A change to subheadings 2922.44 through 2922.49 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheadings 2922.44 through 2922.49 from any subheading outside that group within heading 2922 or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

47F. (A) A change to subheading 2922.50 from any other heading, except from headings 2905 through 2921; or

(B) A change to subheading 2922.50 from any other subheading within heading 2922 or headings 2905 through 2921, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

16. TCR 49 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"49. A change to subheadings 2924.11 through 2924.19 from any subheading outside that group."

17. TCR 51 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"51. (A) A change to subheading 2924.23 from any other subheading, except from subheadings 2917.20 or 2924.24 through 2924.29;

(B) A change to 2-acetamidobenzoic acid (N-acetylanthranilic acid) of subheading 2924.23 from its salts of subheading 2924.23 or subheadings 2917.20 or 2924.24 through 2924.29, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to salts of subheading 2924.23 from 2-acetamidobenzoic acid (N-acetylanthranilic acid) of subheading 2924.23 or subheadings 2917.20 or 2924.24 through 2924.29, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

51A. (A) A change to subheadings 2924.24 through 2924.29 from any subheading outside that group, except from subheadings 2917.20 or 2924.23; or

Annex II (continued)

-7-

(B) A change to subheadings 2924.24 through 2924.29 from subheading 2917.20 or from 2-acetamidobenzoic acid (N-acetylanthranilic acid) of subheading 2924.23, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

18. TCR 52 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"52. A change to subheading 2925.11 from any other subheading.

52A. A change to subheadings 2925.12 through 2925.19 from any subheading outside that group.

52B. A change to subheading 2925.20 from any other subheading.

52C. A change to subheadings 2926.10 through 2926.20 from any other subheading, including another subheading within that group.

52D. A change to subheadings 2926.30 through 2926.90 from any subheading outside that group.

52E. A change to headings 2927 through 2928 from any other heading, including another heading within that group."

19. TCR 56 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"56. (A) A change to subheadings 2932.11 through 2932.94 from any other heading; or

(B) A change to subheadings 2932.11 through 2932.94 from any other subheading within heading 2932, including another subheading within that group, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

56A. (A) A change to subheadings 2932.95 through 2932.99 from any other heading; or

(B) A change to subheadings 2932.95 through 2932.99 from any subheading outside that group within heading 2932, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

20. TCR 57 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"57. (A) A change to subheadings 2933.11 through 2933.32 from any other heading; or

(B) A change to subheadings 2933.11 through 2933.32 from any other subheading within heading 2933, including another subheading within that group, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

-8-

57A. (A) A change to subheadings 2933.33 through 2933.39 from any other heading; or

(B) A change to subheadings 2933.33 through 2933.39 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

57B. (A) A change to subheadings 2933.41 through 2933.49 from any other heading; or

(B) A change to subheadings 2933.41 through 2933.49 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

57C. (A) A change to subheadings 2933.52 through 2933.54 from any other heading; or

(B) A change to subheadings 2933.52 through 2933.54 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

57D. (A) A change to subheadings 2933.55 through 2933.59 from any other heading; or

(B) A change to subheadings 2933.55 through 2933.59 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

57E. (A) A change to subheadings 2933.61 through 2933.69 from any other heading; or

(B) A change to subheadings 2933.61 through 2933.69 from any other subheading within heading 2933, including another subheading within that group, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

21. TCR 59 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"59. (A) A change to subheadings 2933.72 through 2933.79 from any other heading; or

(B) A change to subheadings 2933.72 through 2933.79 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

Annex II (continued)

-9-

59A. (A) A change to subheadings 2933.91 through 2933.99 from any other heading; or

(B) A change to subheadings 2933.91 through 2933.99 from any subheading outside that group within heading 2933, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

22. TCR 60 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"60. A change to subheadings 2934.10 through 2934.30 from any other subheading, including another subheading within that group.

60A. (A) A change to subheadings 2934.91 through 2934.99 from any subheading outside that group; or

(B) A change to nucleic acids of subheadings 2934.91 through 2934.99 from other heterocyclic compounds of subheading 2934.91 through 2934.99."

23. TCR 63 for chapter 29 is deleted and the following new TCR is inserted in lieu thereof:

"63. (A) A change to subheadings 2937.11 through 2937.90 from any other chapter, except from chapters 28 through 38; or

(B) A change to subheadings 2937.11 through 2937.90 from any other subheading within chapters 28 through 38, including another subheading within that group, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

24. TCR 65 for chapter 29 is deleted and the following new TCRs are inserted in lieu thereof:

"65. (A) A change to concentrates of poppy straw of subheading 2939.11 from any other subheading, except from chapter 13; or

(B) A change to any other good of subheading 2939.11 from concentrates of poppy straw of subheading 2939.11 or any other subheading, except from subheading 2939.19.

65A. A change to subheading 2939.19 from concentrates of poppy straw of subheading 2939.11 or any other subheading, except from any other good of subheading 2939.11.

65B. A change to subheadings 2939.21 through 2939.42 from any other subheading, including another subheading within that group.

65C. A change to subheadings 2939.43 through 2939.49 from any subheading outside that group.

65D. A change to subheadings 2939.51 through 2939.59 from any subheading outside that group.

65E. A change to subheadings 2939.61 through 2939.69 from any other subheading, including another subheading within that group.

65F. (A) A change to subheadings 2939.91 through 2939.99 from any subheading outside that group;

(B) A change to nicotine or its salts of subheading 2939.99 from any other good of subheading 2939.99; or

(C) A change to any other good of subheading 2939.99 from nicotine or its salts of subheading 2939.99."

Annex II (continued)

-10-

25. TCRs 1 through 12 for chapter 30 are deleted and the following new TCRs are inserted in lieu thereof:

"1. (A) A change to subheadings 3001.10 through 3001.20 from any other heading, except from subheading 3006.80; or

(B) A change to subheadings 3001.10 through 3001.20 from any other subheading within heading 3001, including another subheading within that group, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

2. A change to subheading 3001.90 from any other subheading, except from subheading 3006.80.

3. A change to subheadings 3002.10 through 3002.90 from any other subheading, including another subheading within that group, except from subheading 3006.80.

4. (A) A change to subheadings 3003.10 through 3003.90 from any other heading, except from subheading 3006.80; or

(B) A change to subheadings 3003.10 through 3003.90 from any other subheading within heading 3003, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

5. (A) A change to subheadings 3004.10 through 3004.31 from any other heading, except from heading 3003 or subheading 3006.80; or

(B) A change to subheadings 3004.10 through 3004.31 from heading 3003 or any other subheading within heading 3004, including another subheading within that group, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

6. (A) A change to hormone derivatives of corticosteroid hormones of subheading 3004.32 from corticosteroid hormones or structural analogues of corticosteroid hormones of subheading 3004.32 or any other subheading, except from subheadings 3004.39 or 3006.80;

(B) A change to structural analogues of corticosteroid hormones of subheading 3004.32 from corticosteroid hormones or derivatives of subheading 3004.32 or any other subheading, except from subheadings 3004.39 or 3006.80;

(C) A change to any other good of subheading 3004.32 from any other heading, except from heading 3003 or subheading 3006.80; or

(D) A change to any other good of subheading 3004.32 from hormone derivatives or structural analogues of corticosteroid hormones of subheading 3004.32, heading 3003, or any other subheading within heading 3004, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

Annex II (continued)

-11-

7. A change to subheading 3004.39 from any other subheading, except from subheading 3006.80.

8. (A) A change to subheadings 3004.40 through 3004.50 from any other heading, except from heading 3003 or subheading 3006.80; or

   (B) A change to subheadings 3004.40 through 3004.50 from heading 3003 or any other subheading within heading 3004, including another subheading within that group, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

      (1) 60 percent where the transaction value method is used, or

      (2) 50 percent where the net cost method is used.

9. A change to subheading 3004.90 from any other subheading, except from subheading 3006.80.

10. (A) A change to subheadings 3005.10 through 3005.90 from any other heading, except from subheading 3006.80; or

   (B) A change to subheadings 3005.10 through 3005.90 from any other subheading within heading 3005, whether or not there is also a change from any other heading, except from subheading 3006.80, provided there is a regional value content of not less than:

      (1) 60 percent where the transaction value method is used, or

      (2) 50 percent where the net cost method is used.

11. (A) A change to subheading 3006.10 from any other heading; or

   (B) A change to subheading 3006.10 from any other subheading within heading 3006, except from subheading 3006.80, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

      (1) 60 percent where the transaction value method is used, or

      (2) 50 percent where the net cost method is used.

12. A change to subheading 3006.20 from any other subheading, except from subheading 3006.80.

13. (A) A change to subheadings 3006.30 through 3006.60 from any other heading; or

   (B) A change to subheadings 3006.30 through 3006.60 from any other subheading within heading 3006, including another subheading within that group, except from subheading 3006.80, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

      (1) 60 percent where the transaction value method is used, or

      (2) 50 percent where the net cost method is used.

14. (A) A change to subheading 3006.70 from any other chapter, except from chapters 28 through 38; or

   (B) A change to subheading 3006.70 from any other subheading within chapters 28 through 38, except from subheading 3006.80, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

      (1) 60 percent where the transaction value method is used, or

      (2) 50 percent where the net cost method is used.

15. A change to subheading 3006.80 from any other chapter."

VOL 66
ISS 247
DEC 26
2001
UMI

Annex II (continued)

-12-

26. TCRs 1 and 2 for chapter 34 are deleted and the following new TCRs are inserted in lieu thereof:

"1. (A) A change to subheading 3401.30 from any other subheading, except from subheading 3402.90; or

(B) A change to subheading 3401.30 from subheading 3402.90, whether or not there is also a change from any other subheading, provided there is a regional value content of not less than:

(1) 65 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

2. (A) A change to subheadings 3402.11 through 3402.12 from any other heading, except to linear alkylbenzene sulfonic acid or linear alkylbenzene sulfonates of subheading 3402.11 from linear alkylbenzene of heading 3817; or

(B) A change to subheadings 3402.11 through 3402.12 from any other subheading, including another subheading within heading 3402,whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 65 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

27. TCR 5 for chapter 34 is deleted and the following new TCR is inserted in lieu thereof:

"5. (A) A change to subheadings 3402.20 through 3402.90 from any subheading outside that group, except from subheading 3401.30; or

(B) A change to subheadings 3402.20 through 3402.90 from any other subheading within that group or from subheading 3401.30, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than:

(1) 65 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

28. TCRs 19 and 20 for chapter 38 are deleted and the following new TCR is inserted in lieu thereof:

"19. A change to headings 3817 through 3819 from any other heading, including another heading within that group."

29. TCR 23 for chapter 38 is deleted and the following new TCR is inserted in lieu thereof:

"23. (A) A change to certified reference materials of heading 3822 from any other good of heading 3822 or any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used;

(B) A change to any other good of heading 3822 from any other chapter, except from chapters 28 through 38; or

Annex II (continued)

-13-

(C) A change to any other good of heading 3822 from any other subheading within chapters 28 through 38, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

30. The following new TCRs for chapter 38 are inserted in numerical sequence:

"31. A change to subheadings 3825.10 through 3825.69 from any other chapter, except from chapters 28 through 38, 40 or 90.

32. (A) A change to subheading 3825.90 from any other chapter, except from chapters 28 through 38; or

(B) A change to subheading 3825.90 from any other subheading within chapters 28 through 38, whether or not there is also a change from any other chapter, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

31. TCR 3 for chapter 40 is deleted and the following new TCRs are inserted in lieu thereof:

"3. A change to subheading 4009.11 from any other heading, except from headings 4010 through 4017.

3A. (A) A change to tubes, pipes or hoses of subheading 4009.12, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017;

(B) A change to tubes, pipes or hoses of subheading 4009.12, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from subheadings 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to tubes, pipes or hoses of subheading 4009.12, other than those of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017.

3B. A change to subheading 4009.21 from any other heading, except from headings 4010 through 4017.

3C. (A) A change to tubes, pipes or hoses of subheading 4009.22, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017;

(B) A change to tubes, pipes or hoses of subheading 4009.22, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from subheadings 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

VOL
66
ISS
2
4
7
DE
26
2001
UMI

Annex II (continued)

(1) 60 percent where the transaction method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to tubes, pipes or hoses of subheading 4009.22, other than those of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017.

3D. A change to subheading 4009.31 from any other heading, except from headings 4010 through 4017.

3E. (A) A change to tubes, pipes or hoses of subheading 4009.32, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017;

(B) A change to tubes, pipes or hoses of subheading 4009.32, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from subheading 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to tubes, pipes or hoses of subheading 4009.32, other than those of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017.

3F. A change to subheading 4009.41 from any other heading, except from headings 4010 through 4017.

3G. (A) A change to tubes, pipes or hoses of subheading 4009.42, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017;

(B) A change to tubes, pipes or hoses of subheading 4009.42, of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheadings 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from subheadings 4009.11 through 4017.00, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction method is used, or

(2) 50 percent where the net cost method is used; or

(C) A change to tubes, pipes or hoses of subheading 4009.42, other than those of a kind for use in a motor vehicle of tariff items 8702.10.01, 8702.10.02 or 8702.90.01 through 8702.90.03, subheading 8703.21 through 8703.90, 8704.21 or 8704.31 or heading 8711 from any other heading, except from headings 4010 through 4017."

32. TCR 6 for chapter 40 is deleted and the following new TCR is inserted in lieu thereof:

"6. A change to subheadings 4012.11 through 4012.19 from any subheading outside that group, except from tariff items 4012.20.15 or 4012.20.60."

Annex II (continued)

-15-

33. TCR 1 for chapter 41 is deleted and the following new TCRs are inserted in lieu thereof:

"1. (A) A change to hides or skins of heading 4101 which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 4101 or from any other chapter; or

(B) A change to any other good of heading 4101 from any other chapter.

1A. (A) A change to hides or skins of heading 4102 which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 4102 or from any other chapter; or

(B) A change to any other good of heading 4102 from any other chapter.

1B. (A) A change to hides or skins of heading 4103 which have undergone a tanning (including pre-tanning) process which is reversible from any other good of heading 4103 or from any other chapter; or

(B) A change to any other good of heading 4103 from any other chapter."

34. TCR 2 for chapter 41 is deleted and the following new TCR is inserted in lieu thereof:

"2. A change to heading 4104 from any other heading, except from hides or skins of heading 4101 which have undergone a tanning (including pre-tanning) process which is reversible or from headings 4105 through 4115."

35. TCR 3 for chapter 41 is deleted and the following new TCR is inserted in lieu thereof:

"3. A change to heading 4105 from heading 4102, tariff item 4105.10.10 or any other chapter, except from hides or skins of heading 4102 which have undergone a tanning (including pre-tanning) process which is reversible."

36. TCR 4 for chapter 41 is deleted and the following new TCRs are inserted in lieu thereof:

"4. A change to subheadings 4106.21 through 4106.22 from heading 4103, tariff item 4106.21.10 or any other chapter, except from hides or skins of subheading 4103.10 which have undergone a tanning (including pre-tanning) process which is reversible.

4A. A change to subheadings 4106.31 through 4106.32 from heading 4103, tariff item 4106.31.10 or any other chapter, except from hides or skins of subheading 4103.30 which have undergone a tanning (including pre-tanning) process which is reversible.

4B. A change to subheadings 4106.40 through 4106.92 from heading 4103 or from any other chapter, except from hides or skins of subheading 4103.20 or 4103.90 which have undergone a tanning (including pre-tanning) process which is reversible."

37. TCR 5 for chapter 41 is deleted and the following new TCR is inserted in lieu thereof:

"5. A change to heading 4107 from heading 4101 or from any other chapter, except from hides or skins of heading 4101 which have undergone a tanning (including pre-tanning) process which is reversible."

38. TCR 6 for chapter 41 is deleted and the following new TCRs are inserted in lieu thereof:

"6. A change to heading 4112 from heading 4102, tariff item 4105.10.10 or any other chapter, except from hides or skins of heading 4102 which have undergone a tanning (including pre-tanning) process which is reversible.

7. A change to heading 4113 from heading 4103, tariff item 4106.21.10 or 4106.31.10 or any other chapter, except from hides or skins of heading 4103 which have undergone a tanning (including pre-tanning) process which is reversible.

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

8. A change to headings 4114 through 4115 from headings 4101 through 4103 or from any other chapter, except from hides or skins of headings 4101 through 4103 which have undergone a tanning (including pre-tanning) process which is reversible."

39. TCR 1 for chapter 48 is deleted and the following new TCRs are inserted in lieu thereof:

"1. A change to heading 4801 from any other chapter.

1A. (A) A change to paper or paperboard in strips or rolls of a width not exceeding 15cm of heading 4802 from strips or rolls of a width exceeding 15cm of heading 4802 or from any other heading, except from headings 4817 through 4823;

(B) A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 4802 from strips or rolls of a width exceeding 15cm of heading 4802, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 4802 or from any other heading, except from headings 4817 through 4823; or

(C) A change to any other good of heading 4802 from any other chapter.

1B. A change to headings 4803 through 4807 from any other chapter."

40. TCR 3 for chapter 48 is deleted and the following new TCRs are inserted in lieu thereof:

"3. (A) A change to paper or paperboard in strips or rolls of a width not exceeding 15cm of heading 4810 from strips or rolls of a width exceeding 15cm of heading 4810 or from any other heading, except from headings 4817 through 4823;

(B) A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 4810 from strips or rolls of a width exceeding 15cm of heading 4810, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 4810 or from any other heading, except from headings 4817 through 4823; or

(C) A change to any other good of heading 4810 from any other chapter.

3A. (A) A change to paper or paperboard in strips or rolls of a width not exceeding 15cm of heading 4811 from strips or rolls of a width exceeding 15cm of heading 4811 or from any other heading, except from headings 4817 through 4823;

(B) A change to paper or paperboard in rectangular (including square) sheets with the larger dimension not exceeding 36 cm or the other dimension not exceeding 15 cm in the unfolded state of heading 4811 from strips or rolls of a width exceeding 15cm of heading 4811, paper or paperboard in rectangular (including square) sheets with the larger dimension exceeding 36 cm and the other dimension exceeding 15 cm in the unfolded state of heading 4811 or from any other heading, except from headings 4817 through 4823; or

(C) A change to any other good of heading 4811 from any other chapter.

3B. A change to headings 4812 through 4813 from any other chapter."

41. TCR 6 for chapter 48 is deleted and the following new TCRs are inserted in lieu thereof:

"6. A change to headings 4817 through 4822 from any heading outside that group, except from heading 4823.

Annex II (continued)

-17-

6A. (A) A change to strips or rolls of a width of 15 cm or less of heading 4823 from strips or rolls of a width exceeding 15 cm of heading 4823, other than strips or rolls of heading 4823 which but for their width would be classified in headings 4803, 4809 or 4814, or from any other heading, except from headings 4817 through 4822;

(B) A change to strips or rolls of a width exceeding 15 cm of heading 4823 from any other heading, except from headings 4801, 4804 through 4808 or 4817 through 4822; or

(C) A change to any other good of heading 4823 from strip or rolls of a width exceeding 15cm of heading 4823, other than strips or rolls of heading 4823 which but for their width would be classified in headings 4803, 4809 or 4814, or from any other heading, except from strip or rolls of a width exceeding 15cm but not exceeding 36cm or paper or paperboard in rectangular (including square) sheets with one side not exceeding 36 cm or the other side not exceeding 15 cm in the unfolded state of headings 4802, 4810 or 4811, or from headings 4817 through 4822."

42. The TCR for chapter 60 is modified by deleting "6002" and by inserting in lieu thereof "6006".

43. Chapter rule 1 for chapter 61 is modified by deleting "6002.43 or 6002.91 through 6002.93" and by inserting in lieu thereof "6005.31 through 6005.44 or 6006.10 through 6006.44".

44. Chapter rule 3 for chapter 61 is modified by deleting "6002" and by inserting in lieu thereof "6006".

45. TCRs 1 through 39, inclusive, for chapter 61 are each modified by deleting therefrom "6002" and by inserting in lieu thereof "6006".

46: TCRs 27(A), 30(A) and 32(A) for chapter 61 are each modified by deleting therefrom "tariff item 6002.92.10" and by inserting in lieu thereof "tariff items 6006.21.10, 6006.22.10, 6006.23.10 or 6006.24.10".

47. Chapter rule 1 for chapter 62 is modified by deleting "6002.43 or 6002.91 through 6002.93" and by inserting in lieu thereof "6005.31 through 6005.44 or 6006.10 through 6006.44".

48. TCRs 1 through 35, inclusive, 37 and 38 for chapter 62 are each modified by deleting therefrom "6002" and by inserting in lieu thereof "6006".

49. TCRs 1, 2, 3 and 4 for chapter 63 are each modified by deleting therefrom "6002" and by inserting in lieu thereof "6006".

50. TCR 1 for chapter 66 is modified by deleting therefrom "6002" and by inserting in lieu thereof "6006".

51. TCRs 2 through 4, inclusive, and TCR 6 for chapter 68 are each deleted, and the following new TCR 6 for chapter 68 is inserted in numerical sequence:

"6. (A) A change to fabricated asbestos fibers or mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate of subheading 6812.90 from any other chapter;

(B) A change to yarn or thread of subheading 6812.90 from any other good of subheading 6812.90 or from any other subheading;

(C) A change to cords or string, whether or not plaited, of subheading 6812.90 from any other good of subheading 6812.90 or from any other subheading, except from woven or knitted fabric of subheading 6812.90;

VOL
66
ISS
2
4
7
DE
26
2001
UMI

Annex II (continued)

(D) A change to woven or knitted fabric of subheading 6812.90 from any other good of subheading 6812.90 or from any other subheading, except from cords or string, whether or not plaited, of subheading 6812.90; or

(E) A change to any other good of subheadings 6812.60 through 6812.90 from fabricated asbestos fibers or mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate, yarn or thread, cords or string, whether or not plaited, or woven or knitted fabric of subheading 6812.90 or from any subheading outside that group."

52. TCRs 1 through 3, inclusive, for chapter 81 are deleted and the following new TCRs are inserted in lieu thereof:

"1. A change to subheadings 8101.10 through 8101.94 from any other chapter.

2. A change to subheading 8101.95 from any other subheading.

3. A change to subheadings 8101.96 through 8101.97 from any other chapter."

53. TCRs 5 through 7, inclusive, for chapter 81 are deleted and the following new TCRs are inserted in lieu thereof:

"5. A change to subheadings 8102.10 through 8102.94 from any other chapter.

6. A change to subheading 8102.95 from any other subheading.

7. A change to subheading 8102.96 from any other subheading, except from tariff item 8102.95.30.

7A. A change to subheading 8102.97 from any other chapter."

54. TCR 9 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"9. A change to subheadings 8103.20 through 8103.30 from any other chapter."

55. TCR 13 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"13. A change to subheadings 8105.20 through 8105.30 from any other chapter."

56. TCR 16 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"16. A change to subheadings 8107.20 through 8107.30 from any other chapter."

57. TCR 18 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"18. A change to subheadings 8108.20 through 8108.30 from any other chapter."

58. TCR 20 for chapter 81 is deleted and the following new TCR is inserted in lieu thereof:

"20. A change to subheadings 8109.20 through 8109.30 from any other chapter."

59. TCRs 32 and 33 for chapter 84 are each deleted and the following new TCRs are inserted in lieu thereof:

"32. (A) A change to self-contained window or wall type air conditioning machines of subheading 8415.10 from any other subheading, except from tariff item 8415.90.40 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing;

Annex II (continued)

(B) A change to "split-systems" of subheading 8415.10 from any other subheading, except from subheadings 8415.20 through 8415.83, tariff item 8415.90.40 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing; or

(C) A change to "split-systems" of subheading 8415.10 from tariff item 8415.90.40 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing, whether or not there is also a change from subheadings 8415.20 through 8415.83, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

33. (A) A change to subheadings 8415.20 through 8415.83 from any subheading outside that group, except from split systems of subheading 8415.10, tariff item 8415.90.40 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing; or

(B) A change to subheadings 8415.20 through 8415.83 from tariff item 8415.90.40 or assemblies incorporating more than one of the following: compressor, condenser, evaporator, connecting tubing, whether or not there is also a change from any subheading outside that group, except from split systems of subheading 8415.10, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

60. TCR s 157 and 158 for chapter 84 are each deleted.

61. TCR 183 for chapter 84 is deleted and the following new TCRs are inserted in lieu thereof:

"183. (A) A change to subheadings 8467.11 through 8467.19 from any other heading; or

(B) A change to subheadings 8467.11 through 8467.19 from subheading 8467.91 or 8467.92, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

183A. (A) A change to subheadings 8467.21 through 8467.29 from any subheading outside that group, except from housings of subheading 8467.91 or 8467.99 or heading 8501; or

(B) A change to subheadings 8467.21 through 8467.29 from housings of subheading 8467.91 or 8467.99 or heading 8501, whether or not there is also a change from any subheading outside that group, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used.

183B. (A) A change to subheadings 8467.81 through 8467.89 from any other heading; or

(B) A change to subheadings 8467.81 through 8467.89 from subheading 8467.91 or 8467.99, whether or not there is also a change from any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

VOL 66 ISS 247 DE 26 2001 UMI

Annex II (continued)

62. TCRs 15 and 16 for chapter 85 are each deleted.

63. TCR 88(A) for chapter 85 is modified by deleting "items 8542.13.40, 8542.14.40 or 8542.19.40" and by inserting in lieu thereof "item 8542.21.40".

64. TCR 89(A) for chapter 85 is modified by deleting "items 8542.13.40, 8542.14.40 or 8542.19.40" and by inserting in lieu thereof "item 8542.21.40".

65. TCR 92F(A) for chapter 85 is modified by deleting "items 8542.13.40, 8542.14.40 or 8542.19.40" and by inserting in lieu thereof "item 8542.21.40".

66. TCR 92G(A) for chapter 85 is modified by deleting "items 8542.13.40, 8542.14.40 or 8542.19.40" and by inserting in lieu thereof "item 8542.21.40".

67. TCR 92N(A) for chapter 85 is modified by deleting "items 8542.13.40, 8542.14.40 or 8542.19.40" and by inserting in lieu thereof "item 8542.21.40".

68. TCR 104 for chapter 85 is modified by deleting "items 8531.90.10" and by inserting in lieu thereof "items 8531.90.15".

69. TCR 106 for chapter 85 is deleted.

70. The subheading rule applicable to TCR 142 for chapter 85 is modified by deleting "8542.12 through 8542.50" and by inserting in lieu thereof "8542.10 through 8542.70"; and such TCR 142 is deleted and the following new TCR is inserted in lieu thereof:

> "142. No required change in tariff classification to any of subheadings 8541.10 through 8542.90."

71. Chapter rule 3 for chapter 90 is modified by deleting "Tariff items 9009.90.10 and 9009.90.30 cover" and by inserting in lieu thereof "Tariff item 9009.99.40 covers".

72. TCR 21 for chapter 90 is modified by deleting "items 9009.90.10 or 9009.90.30" and by inserting in lieu thereof "item 9009.99.40".

73. TCRs 23 and 24 for chapter 90 are deleted and the following new TCRs are inserted in lieu thereof:

> "24. A change to subheadings 9009.91 through 9009.93 from any other heading.
>
> 24A. A change to tariff item 9009.99.40 from subheadings 9009.91, 9009.92 or 9009.93, tariff item 9009.99.80 or any other heading, provided that at least one of the components of such assembly named in chapter rule 3 to chapter 90 is originating.
>
> 24B. A change to subheading 9009.99 from any other heading."

Annex II (continued)

74. TCR 5 for chapter 91 is deleted and the following new TCR is inserted in lieu thereof:

"5. A change to subheading 9112.20 from subheading 9112.90 or any other heading, provided there is a regional value content of not less than:

(1) 60 percent where the transaction value method is used, or

(2) 50 percent where the net cost method is used."

VOL 66 ISS 247 DE 26 2001 UMI

Annex III

(A). Staged rate reductions of the rates of duty in the Rates of Duty 1-General subcolumn.

For each of the following provisions, the Rates of Duty 1-General subcolumn is modified by:

(i) deleting the rate of duty in such subcolumn and inserting, on the later of (a) January 1, 2002, or (b) the fifteenth day after the date of publication of this proclamation in the Federal Register, the rate of duty specified for such provision in the "Year 1" column in the table below in lieu thereof, and

(ii) on January 1 for each of the subsequent dated columns the rates of duty in the Rates of Duty 1-General subcolumn are deleted and the following rates of duty are inserted in such provisions in lieu thereof on the date specified.

HTS Subheading	Year 1	2003	2004
2905.49.20	6.9%	6.2%	5.5%
2905.59.30	2.5%	1.2%	Free
2905.59.90	6.9%	6.2%	5.5%
2921.49.38	8.5%	7.5%	6.5%
2922.39.14	7.9%	7.2%	6.5%
2922.39.25	7.9%	7.2%	6.5%
2922.39.45	0.7¢/kg + 8.3%	0.4¢/kg + 7.4%	6.5%
2924.23.10	0.7¢/kg + 8.8%	0.4¢/kg + 7.7%	6.5%
2924.23.70	7.9%	7.2%	6.5%
2924.23.75	0.7¢/kg + 8.8%	0.4¢/kg + 7.7%	6.5%
2924.29.71	7.9%	7.2%	6.5%
2924.29.76	0.7¢/kg + 8.8%	0.4¢/kg + 7.7%	6.5%
2925.19.42	8.2%	7.4%	6.5%
2926.30.20	7.9%	7.2%	6.5%
2926.90.43	7.9%	7.2%	6.5%
2926.90.48	9.2%	7.8%	6.5%
2932.99.61	7.9%	7.2%	6.5%
2933.39.31	8.5%	7.5%	6.5%
2933.49.08	0.7¢/kg + 8.4%	0.4¢/kg + 7.5%	6.5%
2933.49.30	7.4%	7%	6.5%
2933.49.60	7.9%	7.2%	6.5%
2933.49.70	0.7¢/kg + 8.4%	0.4¢/kg + 7.5%	6.5%
2933.59.46	8.5%	7.5%	6.5%
2933.79.08	7.9%	7.2%	6.5%
2933.99.06	7.5%	7%	6.5%
2933.99.17	7.7%	7.1%	6.5%
2933.99.22	7.9%	7.2%	6.5%

Annex III (continued)

-2-

HTS Subheading	Year 1	2003	2004
2933.99.61	8.5%	7.5%	6.5%
2933.99.79	7.9%	7.2%	6.5%
2933.99.82	0.7¢/kg + 8.4%	0.4¢/kg + 7.5%	6.5%
2934.99.08	0.7¢/kg + 8.4%	0.4¢/kg + 7.5%	6.5%
2934.99.12	7.4%	7%	6.5%
2934.99.15	7.9%	7.2%	6.5%
2934.99.16	7.7%	7.1%	6.5%
2934.99.18	7.3%	6.9%	6.5%
2934.99.39	7.9%	7.2%	6.5%
2934.99.44	0.7¢/kg + 8.4%	0.4¢/kg + 7.5%	6.5%
3817.00.10	0.2¢/kg + 8.7%	0.1¢/kg + 7.6%	6.5%
3817.00.15	0.2¢/kg + 8.7%	0.1¢/kg + 7.6%	6.5%
3817.00.20	0.7¢/kg + 7.9%	0.4¢/kg + 7.2%	6.5%
4802.20.20	0.2%	0.1%	Free
4802.20.40	0.6%	0.3%	Free
4802.30.50	0.5%	0.3%	Free
4802.30.60	0.4%	0.2%	Free
4802.30.70	0.6%	0.3%	Free
4802.54.10	0.5%	0.2%	Free
4802.54.20	0.4%	0.2%	Free
4802.54.40	0.6%	0.3%	Free
4802.54.50	0.2%	0.1%	Free
4802.54.60	0.6%	0.3%	Free
4802.55.10	0.5%	0.2%	Free
4802.55.20	0.3%	0.2%	Free
4802.55.30	0.4%	0.2%	Free
4802.55.50	0.6%	0.3%	Free
4802.55.60	0.2%	0.1%	Free
4802.55.70	0.6%	0.3%	Free
4802.56.10	0.5%	0.2%	Free
4802.56.20	0.3%	0.2%	Free
4802.56.30	0.4%	0.2%	Free
4802.56.50	0.6%	0.3%	Free
4802.56.60	0.2%	0.1%	Free
4802.56.70	0.6%	0.3%	Free
4802.57.10	0.5%	0.2%	Free
4802.57.20	0.3%	0.2%	Free

Annex III (continued)

-3-

HTS Subheading	Year 1	2003	2004
4802.57.30	0.4%	0.2%	Free
4802.58.10	0.5%	0.2%	Free
4802.58.20	0.3%	0.2%	Free
4802.58.40	0.6%	0.3%	Free
4802.58.50	0.2%	0.1%	Free
4802.58.60	0.6%	0.3%	Free
4802.61.10	0.5%	0.2%	Free
4802.61.20	0.3%	0.2%	Free
4802.61.40	0.6%	0.3%	Free
4802.61.50	0.2%	0.1%	Free
4802.61.60	0.6%	0.3%	Free
4802.62.10	0.5%	0.2%	Free
4802.62.20	0.3%	0.2%	Free
4802.62.40	0.6%	0.3%	Free
4802.62.50	0.2%	0.1%	Free
4802.62.60	0.6%	0.3%	Free
4802.69.10	0.5%	0.2%	Free
4802.69.20	0.3%	0.2%	Free
4805.11.00	0.8%	0.4%	Free
4805.12.10	0.8%	0.4%	Free
4805.19.10	0.8%	0.4%	Free
4805.24.50	0.3%	0.2%	Free
4805.24.90	0.8%	0.4%	Free
4805.91.20	0.9%	0.4%	Free
4805.91.50	0.3%	0.2%	Free
4805.91.90	0.8%	0.4%	Free
4805.92.20	1%	0.5%	Free
4805.93.20	1%	0.5%	Free
4807.00.91	0.6%	0.3%	Free
4807.00.92	0.5%	0.2%	Free
4810.13.11	0.2%	0.1%	Free
4810.13.13	0.3%	0.2%	Free
4810.13.19	0.5%	0.2%	Free
4810.13.20	0.5%	0.3%	Free
4810.13.50	0.6%	0.3%	Free
4810.13.60	0.2%	0.1%	Free
4810.13.70	0.6%	0.3%	Free

Annex III (continued)

-4-

HTS Subheading	Year 1	2003	2004
4810.14.11	0.2%	0.1%	Free
4810.14.13	0.3%	0.2%	Free
4810.14.19	0.5%	0.2%	Free
4810.14.20	0.5%	0.3%	Free
4810.14.50	0.6%	0.3%	Free
4810.14.60	0.2%	0.1%	Free
4810.14.70	0.6%	0.3%	Free
4810.19.11	0.2%	0.1%	Free
4810.19.13	0.3%	0.2%	Free
4810.19.19	0.5%	0.2%	Free
4810.19.20	0.5%	0.3%	Free
4810.22.10	0.5%	0.2%	Free
4810.22.50	0.6%	0.3%	Free
4810.22.60	0.2%	0.1%	Free
4810.22.70	0.6%	0.3%	Free
4810.29.10	0.5%	0.2%	Free
4810.29.50	0.6%	0.3%	Free
4810.29.60	0.2%	0.1%	Free
4810.29.70	0.6%	0.3%	Free
4810.31.30	0.8%	0.4%	Free
4810.31.65	1.1%	0.6%	Free
4810.32.30	0.8%	0.4%	Free
4810.32.65	1.1%	0.6%	Free
4810.39.14	0.4%	0.2%	Free
4810.39.30	0.8%	0.4%	Free
4810.39.65	1.1%	0.6%	Free
4810.92.14	0.4%	0.2%	Free
4810.92.30	0.8%	0.4%	Free
4810.92.65	1.1%	0.6%	Free
4810.99.10	0.4%	0.2%	Free
4810.99.30	0.8%	0.4%	Free
4810.99.65	1.1%	0.6%	Free
4811.10.20	1.1%	0.6%	Free
4811.41.10	1.2%	0.6%	Free
4811.41.20	1.2%	0.6%	Free
4811.41.30	1.1%	0.5%	Free
4811.49.20	0.6%	0.3%	Free

VOL 66 ISS 247 DE 26 2001 UMI

Annex III (continued)

HTS Subheading	Year 1	2003	2004
4811.49.30	1.1%	0.5%	Free
4811.51.40	0.5%	0.3%	Free
4811.51.60	1.1%	0.5%	Free
4811.59.20	0.5%	0.2%	Free
4811.59.60	1.1%	0.5%	Free
4811.60.40	0.7%	0.3%	Free
4811.60.60	1.1%	0.5%	Free
4811.90.10	0.8%	0.4%	Free
4811.90.20	0.7%	0.3%	Free
4811.90.40	0.6%	0.3%	Free
4811.90.80	0.4%	0.2%	Free
4811.90.90	1.1%	0.5%	Free
4823.12.00	1.2%	0.6%	Free
4823.19.01	0.6%	0.3%	Free
4823.90.31	0.8%	0.4%	Free
4823.90.66	1.1%	0.6%	Free
4823.90.86	1.1%	0.5%	Free
5105.31.00	7¢/kg + 5.6%	6.9¢/kg + 5.6%	6.8¢/kg + 5.5%
5105.39.00	7¢/kg + 5.6%	6.9¢/kg + 5.6%	6.8¢/kg + 5.5%
5308.90.10	3.2%	3%	2.7%
5308.90.90	0.8%	0.4%	Free
5607.90.35	4.1%	3.7%	3.4%
5607.90.90	6.5%	6.4%	6.3%
5904.90.10	1%	0.5%	Free
5904.90.90	1%	0.5%	Free
6002.40.40	9%	8.9%	8.8%
6002.40.80	8.3%	8.1%	8%
6002.90.40	9%	8.9%	8.8%
6002.90.80	8.3%	8.1%	8%
6003.10.10	14.5%	14.3%	14.1%
6003.10.90	6.8%	6.7%	6.6%
6003.20.10	14.5%	14.3%	14.1%
6003.20.30	8.4%	8.2%	8%
6003.30.10	14.5%	14.3%	14.1%
6003.30.60	7.8%	7.7%	7.6%
6003.40.10	14.5%	14.3%	14.1%
6003.40.60	7.8%	7.7%	7.6%

Annex III (continued)

-6-

HTS Subheading	Year 1	2003	2004
6003.90.10	14.5%	14.3%	14.1%
6003.90.90	6.8%	6.7%	6.6%
6004.10.00	12.6%	12.5%	12.3%
6004.90.20	12.6%	12.5%	12.3%
6004.90.90	7.2%	7.1%	7%
6005.10.00	11.8%	10.9%	10%
6005.21.00	10.8%	10.4%	10%
6005.22.00	10.8%	10.4%	10%
6005.23.00	10.8%	10.4%	10%
6005.24.00	10.8%	10.4%	10%
6005.31.00	10.8%	10.4%	10%
6005.32.00	10.8%	10.4%	10%
6005.33.00	10.8%	10.4%	10%
6005.34.00	10.8%	10.4%	10%
6005.41.00	10.8%	10.4%	10%
6005.42.00	10.8%	10.4%	10%
6005.43.00	10.8%	10.4%	10%
6005.44.00	10.8%	10.4%	10%
6005.90.00	10.8%	10.4%	10%
6006.10.00	11.8%	10.9%	10%
6006.21.10	10.8%	10.4%	10%
6006.21.90	10.8%	10.4%	10%
6006.22.10	10.8%	10.4%	10%
6006.22.90	10.8%	10.4%	10%
6006.23.10	10.8%	10.4%	10%
6006.23.90	10.8%	10.4%	10%
6006.24.10	10.8%	10.4%	10%
6006.24.90	10.8%	10.4%	10%
6006.31.00	10.8%	10.4%	10%
6006.32.00	10.8%	10.4%	10%
6006.33.00	10.8%	10.4%	10%
6006.34.00	10.8%	10.4%	10%
6006.41.00	10.8%	10.4%	10%
6006.42.00	10.8%	10.4%	10%
6006.43.00	10.8%	10.4%	10%
6006.44.00	10.8%	10.4%	10%
6006.90.10	8.4%	7.7%	7%

Annex III (continued)

-7-

HTS Subheading	Year 1	2003	2004
6006.90.90	2.8%	1.4%	Free
6110.11.00	16.2%	16.1%	16%
6110.12.10	4.7%	4.4%	4%
6110.12.20	16.2%	16.1%	16%
6110.19.00	16.2%	16.1%	16%
7302.90.10	0.2%	0.1%	Free
7302.90.90	1.1%	0.6%	Free

Annex III (continued)

-8-

(B). Staged rate reductions of the rates of duty in the Rates of Duty 1-Special subcolumn, effective with respect to goods of Mexico, under the terms of general note 12 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after the dates listed below.

For each of the following provisions, the Rates of Duty 1-Special subcolumn is modified by:

(i) deleting the rate of duty followed by the symbol "MX" in parentheses in such subcolumn and inserting in such subcolumn, on the later of (a) January 1, 2002, or (b) the fifteenth day after the date of publication of this proclamation in the Federal Register, the rate of duty specified for such provision in the "Year 1" column in the table below in lieu thereof, and

(ii) on January 1 for each of the subsequent dated columns the rates of duty followed by the symbol "MX" in parentheses in the Rates of Duty 1-Special subcolumn are deleted and the following rates of duty are inserted in such provisions in lieu thereof on the date specified.

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008
0709.51.01	0.8¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
0709.59.00	0.8¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
0714.90.05	1.8%	Free	Free	Free	Free	Free	Free
0805.50.20	0.2¢/kg	Free	Free	Free	Free	Free	Free
0805.50.40	0.2¢/kg	Free	Free	Free	Free	Free	Free
2003.10.01	0.7¢/kg on drained weight + 1%	Free	Free	Free	Free	Free	Free
2003.90.00	0.7¢/kg on drained weight + 1%	Free	Free	Free	Free	Free	Free
2004.90.85	1.7%	Free	Free	Free	Free	Free	Free
2008.30.66	1.7%	Free	Free	Free	Free	Free	Free
2008.70.10	2%	Free	Free	Free	Free	Free	Free
2008.70.20	1.5%	Free	Free	Free	Free	Free	Free
2008.99.70	1.7%	Free	Free	Free	Free	Free	Free
2009.12.25	2.12¢/liter	1.767¢/liter	1.413¢/liter	1.06¢/liter	0.707¢/liter	0.353¢/liter	Free
2009.12.45	3.7¢/liter	3¢/liter	2.4¢/liter	1.8¢/liter	1.2¢/liter	0.6¢/liter	Free
2009.19.00	3.7¢/liter	3¢/liter	2.4¢/liter	1.8¢/liter	1.2¢/liter	0.6¢/liter	Free
2009.21.20	0.5¢/liter	Free	Free	Free	Free	Free	Free
2009.21.40	0.9¢/liter	Free	Free	Free	Free	Free	Free

Annex III (continued)

-9-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008
2009.29.00	0.9¢/liter	Free	Free	Free	Free	Free	Free
2009.31.40	0.5¢/liter	Free	Free	Free	Free	Free	Free
2009.31.60	0.9¢/liter	Free	Free	Free	Free	Free	Free
2009.39.60	0.9¢/liter	Free	Free	Free	Free	Free	Free
2009.41.20	0.5¢/liter	Free	Free	Free	Free	Free	Free
2009.49.20	0.5¢/liter	Free	Free	Free	Free	Free	Free
2009.61.00	0.6¢/liter	Free	Free	Free	Free	Free	Free
2009.69.00	0.6¢/liter	Free	Free	Free	Free	Free	Free
2710.11.90	0.7%	Free	Free	Free	Free	Free	Free
2710.19.90	0.7%	Free	Free	Free	Free	Free	Free
2710.99.90	0.7%	Free	Free	Free	Free	Free	Free
2907.29.05	0.7%	Free	Free	Free	Free	Free	Free
2922.39.45	0.3¢/kg + 1.5%	Free	Free	Free	Free	Free	Free
2924.23.10	0.3¢/kg + 1.8%	Free	Free	Free	Free	Free	Free
2925.19.42	1.5%	Free	Free	Free	Free	Free	Free
3817.00.10	0.1¢/kg + 1.7%	Free	Free	Free	Free	Free	Free
4010.35.50	0.2%	Free	Free	Free	Free	Free	Free
4010.36.50	0.2%	Free	Free	Free	Free	Free	Free
4010.39.50	0.2%	Free	Free	Free	Free	Free	Free
4101.20.30	0.3%	Free	Free	Free	Free	Free	Free
4101.50.30	0.3%	Free	Free	Free	Free	Free	Free
4104.11.20	0.3%	Free	Free	Free	Free	Free	Free
4104.19.20	0.3%	Free	Free	Free	Free	Free	Free
4104.41.20	0.3%	Free	Free	Free	Free	Free	Free
4104.49.20	0.3%	Free	Free	Free	Free	Free	Free
4107.11.20	0.3%	Free	Free	Free	Free	Free	Free
4107.11.30	0.5%	Free	Free	Free	Free	Free	Free
4107.12.20	0.3%	Free	Free	Free	Free	Free	Free
4107.12.30	0.5%	Free	Free	Free	Free	Free	Free
4107.19.20	0.3%	Free	Free	Free	Free	Free	Free
4107.19.30	0.5%	Free	Free	Free	Free	Free	Free
4114.20.30	0.3%	Free	Free	Free	Free	Free	Free
4114.20.40	0.5%	Free	Free	Free	Free	Free	Free
6110.11.00	1.7%	Free	Free	Free	Free	Free	Free

Annex III (continued)

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008
6110.12.10	0.7%	Free	Free	Free	Free	Free	Free
6110.12.20	1.7%	Free	Free	Free	Free	Free	Free
6110.19.00	1.7%	Free	Free	Free	Free	Free	Free

VOL 66 ISS 247 DE 26 2001 UMI

Annex III (continued)
-11-

(C). Staged rate reductions of the rates of duty in the Rates of Duty 1-Special subcolumn, effective with respect to goods of Mexico, under the terms of general note 12 to the tariff schedule, and products of countries designated as beneficiary countries under the United States-Caribbean Basin Trade Partnership Act of 2002, entered, or withdrawn from warehouse for consumption, on or after the dates listed below.

For each of the following provisions, the Rates of Duty 1-Special subcolumn is modified by:

(i) deleting the rate of duty followed by the symbol "MX,R" in parentheses in such subcolumn and inserting in such subcolumn, on the later of (a) January 1, 2002, or (b) the fifteenth day after the date of publication of this proclamation in the Federal Register, the rate of duty specified for such provision in the "Year 1" column in the table below in lieu thereof, and

(ii) on January 1 for each of the subsequent dated columns the rates of duty followed by the symbol "MX,R" in parentheses in the Rates of Duty 1-Special subcolumn are deleted and the following rates of duty are inserted in such provisions in lieu thereof on the date specified.

HTS Subheading	Year 1	2003
2710.11.15	5.2¢/bbl	Free
2710.11.18	5.2¢/bbl	Free
2710.11.25	1¢/bbl	Free
2710.11.45	1¢/bbl	Free
2710.19.05	0.5¢/bbl	Free
2710.19.10	1¢/bbl	Free
2710.19.15	5.2¢/bbl	Free
2710.19.21	5.2¢/bbl	Free
2710.19.22	5.2¢/bbl	Free
2710.19.23	1¢/bbl	Free
2710.19.30	8.4¢/bbl	Free
2710.19.45	1¢/bbl	Free
2710.91.00	1¢/bbl	Free
2710.99.05	0.5¢/bbl	Free
2710.99.10	1¢/bbl	Free
2710.99.16	5.2¢/bbl	Free
2710.99.21	1¢/bbl	Free
2710.99.31	8.4¢/bbl	Free
2710.99.45	1¢/bbl	Free

Annex III (continued)

(D). Staged rate reductions of the rates of duty in the Rates of Duty 1-Special subcolumn, effective with respect to goods of Jordan, under the terms of general note 18 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after the dates listed below.

1. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the parenthetical "(JO)" and the rate preceding such parenthetical and by inserting "JO", in alphabetical order, in the parentheses following the "Free" rate of duty such subcolumn on the later of (a) January 1, 2002, or (b) the fifteenth day after the date of publication of this proclamation in the Federal Register.

0709.90.91
0710.90.11
0710.90.91
0711.90.65
0805.90.01
0810.90.45
2001.90.38
2004.90.85
3402.20.11
3824.90.91
4418.90.45
4421.90.97
8415.81.01
8415.82.01
8419.89.95
8461.90.30
8461.90.60

VOL 66 ISS 247 DE 26 2001 UMI

Annex III (continued)
-13-

2. For each of the following provisions, the Rates of Duty 1-Special subcolumn is modified by:

(i) deleting the rate of duty followed by the symbol "JO" in parentheses in such subcolumn and inserting in such subcolumn, on the later of (a) January 1, 2002, or (b) the fifteenth day after the date of publication of this proclamation in the Federal Register, the rate of duty specified for such provision in the "Year 1" column in the table below in lieu thereof, and

(ii) on January 1 for each of the subsequent dated columns the rates of duty followed by the symbol "JO" in parentheses in the Rates of Duty 1-Special subcolumn are deleted and the following rates of duty are inserted in such provisions in lieu thereof on the date specified.

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
0101.90.20	3.4%	1.7%	Free	Free	Free	Free	Free	Free	Free
0208.30.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0208.40.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0208.50.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0208.90.90	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
0712.32.00	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0712.33.00	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0712.90.85	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0714.90.45	3%	1.5%	Free	Free	Free	Free	Free	Free	Free
0714.90.48	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0714.90.60	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
0805.50.40	0.9¢/kg	0.4¢/kg	Free	Free	Free	Free	Free	Free	Free
1103.19.90	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free
1106.20.10	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
1212.99.10	62¢/t	31¢/t	Free	Free	Free	Free	Free	Free	Free
1514.11.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1514.19.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free

Annex III (continued)

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
1514.91.90	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1514.99.90	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
1904.30.00	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
1904.90.01	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.30.66	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.30.98	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
2008.70.10	9.6%	6.4%	3.2%	Free	Free	Free	Free	Free	Free
2008.70.20	10.2%	6.8%	3.4%	Free	Free	Free	Free	Free	Free
2009.21.20	2.2¢/liter	1.1¢/liter	Free	Free	Free	Free	Free	Free	Free
2009.21.40	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free
2009.29.00	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free
2009.31.20	0.8¢/liter	0.4¢/liter	Free	Free	Free	Free	Free	Free	Free
2009.31.60	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free
2009.39.20	0.8¢/liter	0.4¢/liter	Free	Free	Free	Free	Free	Free	Free
2009.39.60	4.7¢/liter	3.1¢/liter	1.5¢/liter	Free	Free	Free	Free	Free	Free
2009.41.20	2.5¢/liter	1.6¢/liter	0.8¢/liter	Free	Free	Free	Free	Free	Free
2009.49.20	2.5¢/liter	1.6¢/liter	0.8¢/liter	Free	Free	Free	Free	Free	Free
2620.99.20	8.8¢/kg on tungsten content + 1.9%	4.4¢/kg on tungsten content + 0.9%	Free	Free	Free	Free	Free	Free	Free
2710.11.90	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2710.19.35	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2710.19.40	0.6¢/kg + 2.8%	0.3¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
2710.19.90	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free

VOL 66 ISS 247 DE 26 2001 UMI

Annex III (continued)
-15-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
2710.99.32	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2710.99.39	0.6¢/kg + 2.8%	0.3¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
2710.99.90	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
2805.19.90	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2834.29.05	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2903.19.05	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
2905.59.10	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2905.59.90	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2907.29.05	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
2918.19.15	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2921.49.38	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2922.19.09	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.39.10	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2922.39.14	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.39.25	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2922.39.45	0.9¢/kg + 6%	0.6¢/kg + 4%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2922.39.50	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2922.49.26	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.19.80	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.23.10	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.23.70	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.23.75	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free

Annex III (continued)

-16-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
2924.29.43	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2924.29.71	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2924.29.76	0.9¢/kg + 6.6%	0.6¢/kg + 4.4%	0.3¢/kg + 2.2%	Free	Free	Free	Free	Free	Free
2924.29.95	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2925.19.42	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
2926.30.20	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2926.90.43	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2926.90.48	7.1%	4.7%	2.3%	Free	Free	Free	Free	Free	Free
2932.99.61	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.39.31	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.49.08	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.49.10	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.49.15	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
2933.49.20	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.49.26	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.49.30	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2933.49.60	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.49.70	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.59.46	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.79.06	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.79.85	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.06	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
2933.99.13	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free

Annex III (continued)

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
2933.99.14	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.17	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2933.99.22	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.99.24	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.26	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.46	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.53	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.55	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.61	6.3%	4.2%	2.1%	Free	Free	Free	Free	Free	Free
2933.99.65	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.70	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.75	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2933.99.79	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2933.99.82	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2933.99.87	3.1%	1.5%	Free	Free	Free	Free	Free	Free	Free
2933.99.97	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.99.05	2.8%	1.4%	Free	Free	Free	Free	Free	Free	Free
2934.99.06	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.99.08	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.99.11	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.99.12	4.1%	2%	Free	Free	Free	Free	Free	Free	Free
2934.99.15	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.99.16	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
2934.99.18	4.1%	2%	Free	Free	Free	Free	Free	Free	Free

Annex III (continued)
-18-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
2934.99.20	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.99.30	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2934.99.39	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
2934.99.44	0.9¢/kg + 6.2%	0.6¢/kg + 4.1%	0.3¢/kg + 2%	Free	Free	Free	Free	Free	Free
2934.99.90	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
2935.00.06	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
3817.00.10	0.2¢/kg + 6.4%	0.1¢/kg + 4.3%	2.1%	Free	Free	Free	Free	Free	Free
3817.00.15	0.2¢/kg + 6.4%	0.1¢/kg + 4.3%	2.1%	Free	Free	Free	Free	Free	Free
3817.00.20	0.7¢/kg + 4.6%	0.3¢/kg + 2.3%	Free	Free	Free	Free	Free	Free	Free
3920.49.00	2.9%	1.4%	Free	Free	Free	Free	Free	Free	Free
4010.35.41	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.35.45	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.36.41	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.36.45	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4010.39.41	4%	2%	Free	Free	Free	Free	Free	Free	Free
4010.39.45	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
4015.19.50	8.4%	5.6%	2.8%	Free	Free	Free	Free	Free	Free
4202.92.05	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
4412.13.51	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.13.91	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.14.31	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.14.56	4%	2%	Free	Free	Free	Free	Free	Free	Free

VOL 66 ISS 247 DE 26 2001 UMI

Annex III (continued)
-19-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
4412.22.31	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.22.41	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.29.36	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.29.46	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.92.41	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.92.51	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4412.99.46	4%	2%	Free	Free	Free	Free	Free	Free	Free
4412.99.56	2.5%	1.2%	Free	Free	Free	Free	Free	Free	Free
4601.91.20	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
5105.31.00	3.6¢/kg + 2.9%	1.8¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
5105.39.00	3.6¢/kg + 2.9%	1.8¢/kg + 1.4%	Free	Free	Free	Free	Free	Free	Free
5607.90.90	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
6002.40.40	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6002.40.80	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6002.90.40	4.6%	2.3%	Free	Free	Free	Free	Free	Free	Free
6002.90.80	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
6003.10.10	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6003.10.90	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6003.20.10	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6003.20.30	4.4%	2.2%	Free	Free	Free	Free	Free	Free	Free
6003.30.10	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6003.30.60	4%	2%	Free	Free	Free	Free	Free	Free	Free
6003.40.10	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6003.40.60	4%	2%	Free	Free	Free	Free	Free	Free	Free

Annex III (continued)

-20-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
6003.90.10	8.9%	5.9%	2.9%	Free	Free	Free	Free	Free	Free
6003.90.90	3.5%	1.7%	Free	Free	Free	Free	Free	Free	Free
6004.10.00	7.8%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
6004.90.20	7.8%	5.2%	2.6%	Free	Free	Free	Free	Free	Free
6004.90.90	3.7%	1.8%	Free	Free	Free	Free	Free	Free	Free
6005.10.00	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6005.21.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.22.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.23.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.24.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.31.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.32.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.33.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.34.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.41.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.42.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.43.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.44.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6005.90.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.10.00	8.1%	5.4%	2.7%	Free	Free	Free	Free	Free	Free
6006.21.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.21.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.22.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.22.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.23.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free

Annex III (continued)

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
6006.23.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.24.10	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.24.90	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.31.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.32.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.33.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.34.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.41.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.42.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.43.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.44.00	6.9%	4.6%	2.3%	Free	Free	Free	Free	Free	Free
6006.90.10	4.9%	2.4%	Free	Free	Free	Free	Free	Free	Free
6110.11.00	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6110.12.10	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
6110.12.20	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
6110.19.00	9.8%	6.5%	3.2%	Free	Free	Free	Free	Free	Free
7010.90.30	2.6%	1.3%	Free	Free	Free	Free	Free	Free	Free
8101.94.00	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8101.95.00	3.2%	1.6%	Free	Free	Free	Free	Free	Free	Free
8102.95.30	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8102.95.60	3.3%	1.6%	Free	Free	Free	Free	Free	Free	Free
8108.20.00	9%	6%	3%	Free	Free	Free	Free	Free	Free
8112.12.00	4.2%	2.1%	Free	Free	Free	Free	Free	Free	Free
9108.90.50	$1.296 each	86.4¢ each	43.2¢ each	Free	Free	Free	Free	Free	Free
9108.90.60	$1.44 each	$1.26 each	$1.08 each	90¢ each	72¢ each	54¢ each	36¢ each	18¢ each	Free

Annex III (continued)
-22-

HTS Subheading	Year 1	2003	2004	2005	2006	2007	2008	2009	2010
9108.90.80	$1.152 each	$1.008 each	86.4¢ each	72¢ each	57.6¢ each	43.2¢ each	28.8¢ each	14.4¢ each	Free
9108.90.90	75¢ each	37.5¢ each	Free	Free	Free	Free	Free	Free	Free
9112.20.80	2.7%	1.3%	Free	Free	Free	Free	Free	Free	Free
9301.90.30	2.8% on the value of the rifle + 12% on the value of the telescopic sight, if any	1.8% on the value of the rifle + 8% on the value of the telescopic sight, if any	0.9% on the value of the rifle + 4% on the value of the telescopic sight, if any	Free	Free	Free	Free	Free	Free
9613.80.60	4%	2%	Free	Free	Free	Free	Free	Free	Free
9613.60.80	4.5%	2.2%	Free	Free	Free	Free	Free	Free	Free

VOL 66
ISS 247
DE 26 2001
UMI

Annex IV

Modifications to the Harmonized Tariff Schedule of the United States (HTS)

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the parenthetical "(MX,R)" and the rate preceding such parenthetical and by inserting "MX" and "R", in alphabetical order, in the parentheses following the "Free" rate of duty such subcolumn.

6402.30.90
6402.91.60
6402.91.70
6402.99.60
6402.99.70
6404.11.20
6404.19.15
6404.19.25
6404.19.30
6404.19.35
6404.19.50
6404.19.60
6404.19.70
6404.19.80
6404.20.20
6404.20.40
6404.20.60
6406.10.05
6406.10.10
6406.10.20
6406.10.45

[FR Doc. 01–31522
Filed 12–19–01; 8:45 am]
Billing code 3190–01–C

Reader Aids

Federal Register

Vol. 66, No. 247

Wednesday, December 26, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20
65811–66292	21
66293–66704	26

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
6641	66547
6763	66547
7351	66547
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497, 66547
7513	64095
7514	65089
7515	66547
Executive Orders:	
10513 (Revoked by EO 13245)	66268
11274 (Revoked by EO 13243)	66262
11487 (Revoked by EO 13244)	66267
11582 (See EO 13238)	63903
11822 (Revoked by EO 13246)	66270
11880 (Revoked by EO 13242)	66260
11957 (Revoked by EO 13241)	66258
12608 (Revoked in part by EO 13242)	66260
12958 (See Order of December 10, 2001)	64347
12998 (Revoked by EO 13242)	66260
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

302	63905
317	63905
330	63905
333	63905
335	63905
534	63906
591	63906
930	63906
6001	60139
Proposed Rules:	
890	64160

7 CFR

210	65597
226	65597
301	63151
989	65423
1710	66293
Proposed Rules:	
81	64918
352	63005
1410	63339
1710	66359

8 CFR

103	65811

9 CFR

70	63588
71	65598
78	63910
85	65598
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

10 CFR

20	64737
30	64737
32	64737
34	64737
40	64737
50	64737
51	64737
430	65091
Proposed Rules:	
50	65661
54	65141
72	63964

12 CFR

5	62914
201	65816
203	66295
226	65604
500	65817
505	65817
506	65817
516	65817
517	65817
541	65817
543	65817
544	65817
545	65817

VOL 66
ISS 247
DE 26 2001
UMI

546....65817
552....65817
556....65817
559....65822
560....65817, 65822
561....65817
563....65817
563d....65817
563g....65817
565....65817
568....65817
570....65817
573....65817
583....65817
590....65817
700....65622
701....65622, 65625, 65628
712....65622
715....65622
723....65622
725....65622
790....65622
1773....65097

Proposed Rules:

Ch. VII....66359
Ch. IX....63008
226....64381
360....65144
584....63517
701....65662
1750....65146

13 CFR

120....64739

14 CFR

25....64349
39....60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629, 65827, 65829, 65832, 66296, 66299, 66302, 66304
71....63489, 63623, 64909, 64910, 65834
73....63433
91....63888
93....63294
97....64139, 64141
107....63474
108....63474

Proposed Rules:

39....63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666, 66360
71....60162, 63517
93....64778
154....66238

15 CFR

4....65631
4a....65631
4b....65631
744....65836
801....63916, 63918

Proposed Rules:

738....65666
742....65666

16 CFR

3....64142
4....64142
305....63749
1700....65836

17 CFR

Proposed Rules:

15....64383

18 CFR

381....63162

Proposed Rules:

35....65858

19 CFR

12....63490

20 CFR

655....63298

Proposed Rules:

404....63634

21 CFR

1....65429
510....63163, 63164, 63499
520....63165, 63166
524....63164
556....62916
558....62916, 63499, 63500

Proposed Rules:

500....63519
1310....64173

24 CFR

30....63436

Proposed Rules:

5....65162
202....65162

25 CFR

Proposed Rules:

542....66500

26 CFR

1....63920, 66307
301....64351, 64740, 64911
602....64076, 64351, 66307

Proposed Rules:

1....63203, 64385, 64904, 66362, 66376
301....64386
602....64386

28 CFR

Proposed Rules:

97....64934

29 CFR

578....63501
579....63501
580....63501
4022....64744
4044....64744

Proposed Rules:

470....65163
1910....64946
1915....64946
1926....64946
1928....64946

30 CFR

256....60147
917....66314
918....64746
944....62917

Proposed Rules:

918....66377
936....63968, 65858

31 CFR

211....63623

32 CFR

619....65651

33 CFR

100....63624
117....62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104
165....60151, 62940, 64144, 64912, 65105, 65838

Proposed Rules:

1....63640
147....63642
165....64778, 66380
175....63645
181....63650

34 CFR

Proposed Rules:

Ch. VI....63203

36 CFR

1202....65652

37 CFR

201....62942, 63920

Proposed Rules:

255....64783

38 CFR

17....63446, 63449, 64904
20....60152

Proposed Rules:

3....64174
20....65861

39 CFR

20....64353, 65780

Proposed Rules:

111....65668

40 CFR

8....63454
9....65256
52....63311, 63921, 64146, 64148, 64750, 64751, 66317
62....63311, 63938, 64151, 64152, 65448
63....63313, 65072, 66321
70....62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
81....64751, 66317
122....65256
123....65256
124....65256
125....65256
152....64759
156....64759
180....63192, 64768, 65450, 65839, 65850, 66325, 66333
261....60153, 62973
271....63331, 66340, 66342
300....64357
721....63941

Proposed Rules:

52....63204, 63343, 63972, 63982, 64176, 64783, 66382
60....64176
62....63985, 64207, 64208, 65460
63....65079, 66381
80....60153, 65164
81....66382
89....65164
90....65164
91....65164
271....66382, 66383
300....64387
1048....65164
1051....65164
1065....65164
1068....65164

41 CFR

61–250....65452

42 CFR

411....60154
1001....62980, 63749

Proposed Rules:

1001....65460

43 CFR

3600....63334
3610....63334
3620....63334
3800....63334

44 CFR

64....63627
65....65107, 65110
67....65115, 65120

Proposed Rules:

61....60176
67....65668, 65671

46 CFR

Proposed Rules:

67....64784

47 CFR

1....62992
25....63512
36....65856
54....64775, 65856
73....60156, 60157, 63199, 63629, 64776, 64777, 65122, 66346
76....62992
101....63512

Proposed Rules:

1....64785, 65866
2....64785
51....63651, 64946
73....63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873, 66383, 66384
87....64785

48 CFR

Ch. 1....65346, 65372
2....65349, 65351, 65353
5....65370
8....65367
11....65351
12....65370
15....65351, 65368, 65369
19....65370
22....65370
23....65351, 65370
25....65349, 65370

32.....65353
39.....65371
42.....65351
44.....65367
52.....65349, 65353, 65367, 65370
53.....65370
202.....63334
212.....63335
215.....63334
217.....63336
237.....63335
242.....63334

Proposed Rules:

1.....65792
36.....65792
53.....65792
235.....63348, 65676
1823.....64391
1836.....64391
1852.....64391

49 CFR

225.....66346
241.....63942
571.....60157, 64154, 64358, 65376
572.....64368

Proposed Rules:

107.....63096
171.....63096
172.....63096
173.....63096
177.....63096
178.....63096
180.....63096
219.....64000
567.....65536
571.....65536
573.....64078, 64087, 65165
574.....65536, 66190
575.....65536
576.....66190
577.....64078, 64087

50 CFR

17.....62993, 63752
222.....65658
223.....65658
230.....64378
600.....63199
622.....60161
635.....63003, 64378
648.....63003, 65454, 65660, 66348
660.....63199, 63630
679.....64380, 64915

Proposed Rules:

17.....63349, 63654, 66384
20.....63665
21.....63349, 63665
222.....64793, 65873
223.....64793, 65676
224.....64793, 65676
635.....66386
648.....63013, 63666, 64392
679.....65028, 66390

VOL 66 ISS 247 DE 26 2001 UMI

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 26, 2001

ENVIRONMENTAL PROTECTION AGENCY

- Pesticides; tolerances in food, animal feeds, and raw agricultural commogities
  - Halosulfuron-methyl; published 12-26-01
- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Imazapic; published 12-26-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - Kentucky; published 12-26-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Agusta S.p.A.; published 12-10-01
  - Pilatus Aircraft Ltd.; published 11-7-01

TREASURY DEPARTMENT

Internal Revenue Service

- Income taxes:
  - New markets tax credit; published 12-26-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Raisins produced from grapes grown in—
  - California; comments due by 1-3-02; published 12-19-01 [FR 01-31321]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

- Pizza identity standards; elimination; comments due by 1-2-02; published 11-2-01 [FR 01-27542]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control; new motor vehicles and engines:
  - Nonroad compression-ignition engines, new and in-use; emissions control—
    - Diesel emissions standards; Staff Technical Paper availability; comments due by 1-4-02; published 11-20-01 [FR 01-28856]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27588]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27589]
    - Reformulated gasoline terminal receipt date; comments due by 1-2-02; published 12-3-01 [FR 01-29777]
- Air quality implementation plans; approval and promulgation; various States:
  - Missouri; comments due by 1-4-02; published 12-5-01 [FR 01-30102]
- Hazardous waste:
  - Identification and listing—
    - Exclusions; comments due by 1-3-02; published 11-19-01 [FR 01-28624]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste:
  - Identification and listing—
    - Mixture and derived-from rules; treatment, storage, or disposal; comments due by 1-2-02; published 12-3-01 [FR 01-29958]

FEDERAL COMMUNICATIONS COMMISSION

- Common carrier services:
  - Commercial mobile radio services—
    - Wireless enhanced 911 service conditions; public safety answering point clarification; Richardson, TX; comments due by 1-2-02; published 11-2-01 [FR 01-27605]

FEDERAL EMERGENCY MANAGEMENT AGENCY

- National Flood Insurance Program:
  - Increased rates for coverage; comments due by 1-2-02; published 12-3-01 [FR 01-29747]

GENERAL SERVICES ADMINISTRATION

- Federal Management Regulation:
  - Annual real property inventories; comments due by 1-2-02; published 11-2-01 [FR 01-27609]

LABOR DEPARTMENT

Labor-Management Standards Office

- Federal contractors and subcontractors:
  - Employee rights concerning union dues or fees payment
    - Duplicate copies of comments requested due to mail delivery problems; comments due by 1-2-02; published 12-18-01 [FR 01-31210]

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

- Copyright office and procedures:
  - Materials delayed due to disruption or suspension of postal or other transportation or communications services; comments due by 1-3-02; published 12-4-01 [FR 01-30013]

INTERIOR DEPARTMENT

National Indian Gaming Commission

- Federal claims collection; comments due by 1-4-02; published 11-20-01 [FR 01-28693]

PERSONNEL MANAGEMENT OFFICE

- Absence and leave:
  - Restored annual leave use due to response to national emergency resulting from terrorist attacks; comments due by 1-2-02; published 11-2-01 [FR 01-27518]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Aerostar Aircraft Corp.; comments due by 1-2-02; published 10-24-01 [FR 01-26714]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Airbus; comments due by 1-4-02; published 12-5-01 [FR 01-30082]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Boeing; comments due by 1-3-02; published 11-19-01 [FR 01-28796]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Fokker; comments due by 1-4-02; published 12-5-01 [FR 01-30081]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Pilatus Britten-Norman Ltd.; comments due by 1-3-02; published 11-27-01 [FR 01-29394]
- Class D airspace; comments due by 1-2-02; published 12-3-01 [FR 01-29887]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

- Motor vehicle safety standards:
  - Child restraint systems—
    - Labels and instructions; simplification; comments due by 1-2-02; published 11-2-01 [FR 01-27545]
    - Labels and instructions; simplification; correction; comments due by 1-2-02; published 11-29-01 [FR 01-29637]

VETERANS AFFAIRS DEPARTMENT

- Disabilities rating sechedule:
  - Ankylosis and limitation of motion of fingers and thumb; comments due by 1-2-02; published 11-2-01 [FR 01-27426]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 717/P.L. 107–84

Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (Dec. 18, 2001; 115 Stat. 823)

H.R. 1766/P.L. 107–85

To designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building". (Dec. 18, 2001; 115 Stat. 831)

H.R. 2261/P.L. 107–86

To designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office". (Dec. 18, 2001; 115 Stat. 832)

H.R. 2299/P.L. 107–87

Department of Transportation and Related Agencies Appropriations Act, 2002 (Dec. 18, 2001; 115 Stat. 833; 42 pages)

H.R. 2454/P.L. 107–88

To redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office". (Dec. 18, 2001; 115 Stat. 875)

H.J. Res. 71/P.L. 107–89

Amending title 36, United States Code, to designate September 11 as Patriot Day. (Dec. 18, 2001; 115 Stat. 876)

Last List December 18, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

VOL 66 ISS 247 DE 26 2001 UMI

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869-044-00004-1)	53.00	Jan. 1, 2001
700–1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27–52	(869-044-00008-3)	45.00	Jan. 1, 2001
53–209	(869-044-00009-1)	34.00	Jan. 1, 2001
210–299	(869-044-00010-5)	56.00	Jan. 1, 2001
300–399	(869-044-00011-3)	38.00	Jan. 1, 2001
400–699	(869-044-00012-1)	53.00	Jan. 1, 2001
700–899	(869-044-00013-0)	50.00	Jan. 1, 2001
900–999	(869-044-00014-8)	54.00	Jan. 1, 2001
1000–1199	(869-044-00015-6)	24.00	Jan. 1, 2001
1200–1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600–1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900–1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940–1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
1950–1999	(869-044-00020-2)	45.00	Jan. 1, 2001
2000–End	(869-044-00021-1)	43.00	Jan. 1, 2001
8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869-044-00023-7)	55.00	Jan. 1, 2001
200–End	(869-044-00024-5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869-044-00025-3)	55.00	Jan. 1, 2001
51–199	(869-044-00026-1)	52.00	Jan. 1, 2001
200–499	(869-044-00027-0)	53.00	Jan. 1, 2001
500–End	(869-044-00028-8)	55.00	Jan. 1, 2001
11	(869-044-00029-6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869-044-00030-0)	27.00	Jan. 1, 2001
200–219	(869-044-00031-8)	32.00	Jan. 1, 2001
220–299	(869-044-00032-6)	54.00	Jan. 1, 2001
300–499	(869-044-00033-4)	41.00	Jan. 1, 2001
500–599	(869-044-00034-2)	38.00	Jan. 1, 2001
600–End	(869-044-00035-1)	57.00	Jan. 1, 2001
13	(869-044-00036-9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869-044-00037-7)	57.00	Jan. 1, 2001
60–139	(869-044-00038-5)	55.00	Jan. 1, 2001
140–199	(869-044-00039-3)	26.00	Jan. 1, 2001
200–1199	(869-044-00040-7)	44.00	Jan. 1, 2001
1200–End	(869-044-00041-5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869-044-00042-3)	36.00	Jan. 1, 2001
300–799	(869-044-00043-1)	54.00	Jan. 1, 2001
800–End	(869-044-00044-0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869-044-00045-8)	45.00	Jan. 1, 2001
1000–End	(869-044-00046-6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869-044-00048-2)	45.00	Apr. 1, 2001
200–239	(869-044-00049-1)	51.00	Apr. 1, 2001
240–End	(869-044-00050-4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869-044-00051-2)	56.00	Apr. 1, 2001
400–End	(869-044-00052-1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869-044-00053-9)	54.00	Apr. 1, 2001
141–199	(869-044-00054-7)	53.00	Apr. 1, 2001
200–End	(869-044-00055-5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869-044-00056-3)	45.00	Apr. 1, 2001
400–499	(869-044-00057-1)	57.00	Apr. 1, 2001
500–End	(869-044-00058-0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869-044-00059-8)	37.00	Apr. 1, 2001
100–169	(869-044-00060-1)	44.00	Apr. 1, 2001
170–199	(869-044-00061-0)	45.00	Apr. 1, 2001
200–299	(869-044-00062-8)	16.00	Apr. 1, 2001
300–499	(869-044-00063-6)	27.00	Apr. 1, 2001
500–599	(869-044-00064-4)	44.00	Apr. 1, 2001
600–799	(869-044-00065-2)	15.00	Apr. 1, 2001
800–1299	(869-044-00066-1)	52.00	Apr. 1, 2001
1300–End	(869-044-00067-9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869-044-00068-7)	56.00	Apr. 1, 2001
300–End	(869-044-00069-5)	42.00	Apr. 1, 2001
23	(869-044-00070-9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869-044-00071-7)	53.00	Apr. 1, 2001
200–499	(869-044-00072-5)	45.00	Apr. 1, 2001
500–699	(869-044-00073-3)	27.00	Apr. 1, 2001
700–1699	(869-044-00074-1)	55.00	Apr. 1, 2001
1700–End	(869-044-00075-0)	28.00	Apr. 1, 2001
25	(869-044-00076-8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869-044-00077-6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869-044-00078-4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869-044-00079-2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869-044-00080-6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869-042-00081-1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869-044-00083-1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869-044-00084-9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869-044-00085-7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869-044-00086-5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869-044-00087-3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869-044-00088-1)	58.00	Apr. 1, 2001
2–29	(869-044-00089-0)	54.00	Apr. 1, 2001
30–39	(869-044-00090-3)	37.00	Apr. 1, 2001
40–49	(869-044-00091-1)	25.00	Apr. 1, 2001
50–299	(869-044-00092-0)	23.00	Apr. 1, 2001
300–499	(869-044-00093-8)	54.00	Apr. 1, 2001
500–599	(869-044-00094-6)	12.00	[5]Apr. 1, 2001
600–End	(869-044-00095-4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869-044-00096-2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200-End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
•1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
•500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00202–7)	26.00	Oct. 1, 2001
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001

VOL 66 ISS 247 DE 26 2001 UMI

Title	Stock Number	Price	Revision Date
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

Now Available Online

through

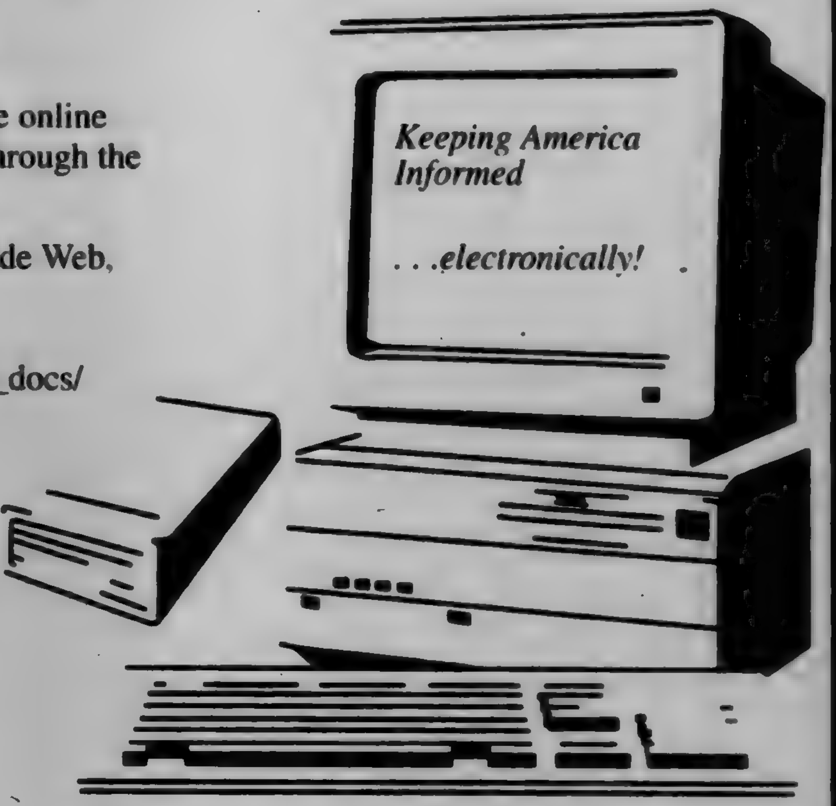
GPO Access

A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

Easy, Convenient, FREE



Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www. access. gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).

You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

VOL 66
ISS 247
DE 26
2001
UMI

Order Now!

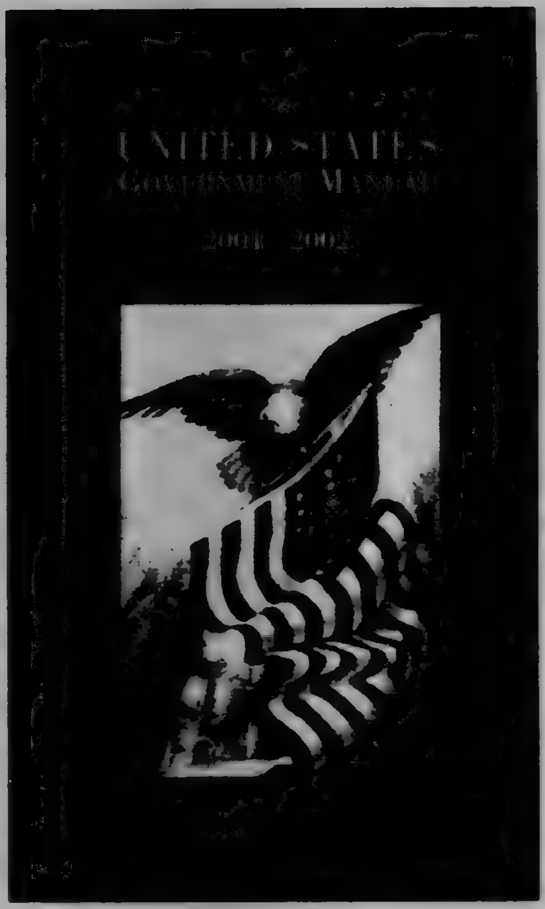
The United States Government Manual 2001/2002

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to contact about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix B, which lists the agencies and functions of the Federal Government abolished, transferred, or renamed subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.



$41 per copy

Superintendent of Documents **Publications** Order Form

United States Government INFORMATION
PUBLICATIONS ✦ PERIODICALS ✦ ELECTRONIC PRODUCTS

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code
***7917**

☐ **YES**, please send me ——— copies of **The United States Government Manual** 2001/2002, S/N 069–000–00134–3 at $41 ($51.25 foreign) each.

Total cost of my order is $ ________ . **Price includes regular domestic postage and handling** and is subject to change.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Herbert Hoover

Harry Truman

Dwight D. Eisenhower

John F. Kennedy

Lyndon B. Johnson

Richard Nixon

Gerald R. Ford

Jimmy Carter

Ronald Reagan

George Bush

William J. Clinton

Public Papers of the Presidents of the United States

William J. Clinton

1993 (Book I)	$51.00
1993 (Book II)	$51.00
1994 (Book I)	$56.00
1994 (Book II)	$52.00
1995 (Book I)	$60.00
1995 (Book II)	$65.00
1996 (Book I)	$66.00
1996 (Book II)	$72.00
1997 (Book I)	$69.00
1997 (Book II)	$78.00
1998 (Book I)	$74.00
1998 (Book II)	$75.00
1999 (Book I)	$71.00
1999 (Book II)	$75.00
2000–2001 (Book I)	$68.50

Published by the Office of the Federal Register,
National Archives and Records Administration

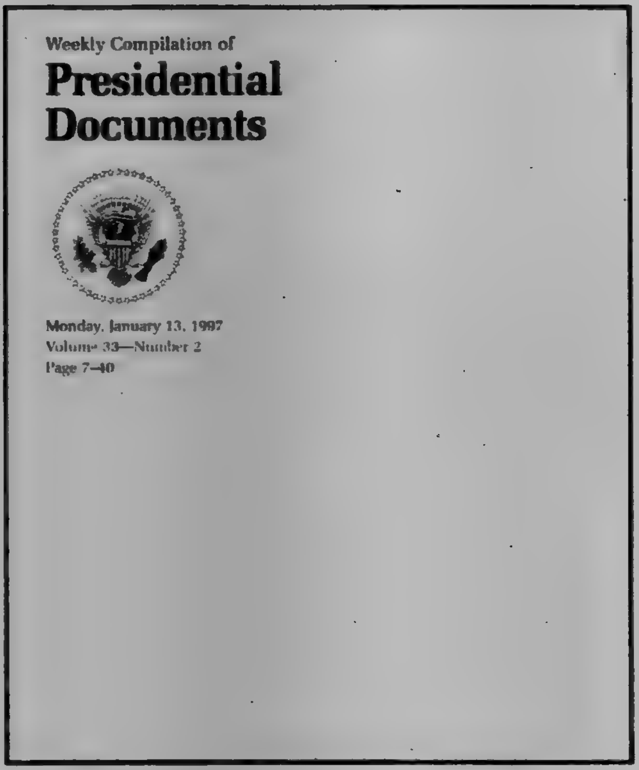
Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA

(Rev. 12/01)

VOL 66
ISS 247
DE 26 2001
UMI

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**


Weekly Compilation of
Presidential Documents

Monday, January 13, 1997
Volume 33—Number 2
Page 7–40

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5420**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $151.00 First Class Mail ☐ $92.00 Regular Mail

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

he

VISA

-2250

-1800

I can

nge.

nts

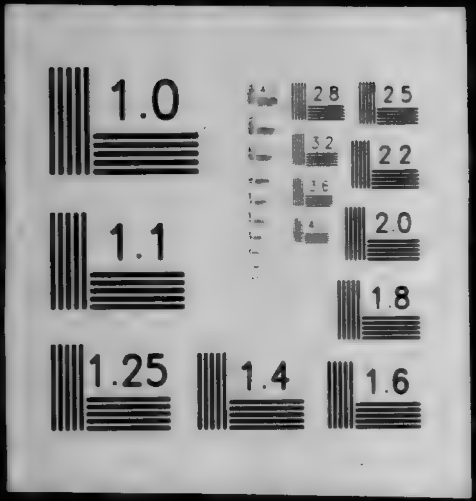
ou for
order!

8/00

54

VOL
66
ISS
2
4
7
DE
26
2001
UMI

Printed on recycled paper


1.0
2.8
2.5
3.2
2.2
3.6
2.0
4.0
1.1
1.8
1.25
1.4
1.6

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–27–01
Vol. 66 No. 248
Thursday
Dec. 27, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

VOL
66
ISS
2
4
8
DE
27
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–27–01
Vol. 66 No. 248
Pages 66705–67068

Thursday
Dec. 27, 2001

VOL 66
ISS 248
DE 27 2001
UMI

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**

FEDERAL AGENCIES

Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 66, No. 248

Thursday, December 27, 2001

Agricultural Marketing Service
RULES
Egg, poultry, and rabbit products; inspection and grading:
Fees and charges increase, 66712–66714

Agriculture Department
See Agricultural Marketing Service
See Forest Service
See Natural Resources Conservation Service

Amtrak Reform Council
NOTICES
Meetings, 66871–66872

Centers for Disease Control and Prevention
NOTICES
Meetings:
Public Health Service Activities and Research at DOE Sites Citizens Advisory Committee, 66902–66903

Centers for Medicare & Medicaid Services
NOTICES
Privacy Act:
Systems of records, 66903–66909

Children and Families Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66910

Civil Rights Commission
NOTICES
Meetings; Sunshine Act, 66872

Coast Guard
RULES
Anchorage regulations and ports and waterways safety:
Lake Michigan—
Chicago Harbor, IL; safety zone, 66747–66749
Navy Pier, Chicago Harbor, IL; security zone, 66749–66751
Drawbridge operations:
Iowa and Illinois, 66751–66753
Ports and waterways safety:
Chesapeake Bay and Hampton Roads, VA; regulated navigation area, 66753–66755
PROPOSED RULES
Drawbridge operations:
Illinois, 66865–66867

Commerce Department
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Technology Administration

Commission of Fine Arts
NOTICES
Grants and cooperative agreements; availability, etc.:
National Capital Arts and Cultural Affairs Program, 66889
Meetings, 66889

Comptroller of the Currency
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66978–66979

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
AmeriCorps* VISTA financial asset development projects; correction, 66889–66890

Defense Department
RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 66984–66986
Revocation, 66986–66990
Introduction, 66983–66984
Small entity compliance guide, 66990–66991

Defense Nuclear Facilities Safety Board
RULES
Testimony by agency employees and production of official records in legal proceedings, 66714–66718

Drug Enforcement Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66936–66939
Applications, hearings, determinations, etc.:
Chattem Chemicals, Inc., 66939

Employment and Training Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66941–66943

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Albert Einstein Distinguished Educator Fellowship Program, 66890
Microbial Genome Program and Genomes to Life Program, 66891–66893

Environmental Protection Agency
RULES
Air programs:
Fuels and fuel additives—
California gasoline; enforcement exemptions; CFR correction, 66769
Air quality implementation plans; approval and promulgation; various States:
California
CFR correction, 66769
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Halosulfuron-methyl, 66778–66786
Imazamox, 66773–66778

VOL 66 ISS 248 DE 27 2001 UMI

- Pymetrozine, 66786–66794
- Rhodamine B, 66769–66773

PROPOSED RULES

- Air programs:
  - Fuels and fuel additives—
    - Motorcycle fuel inlet restrictor exemption; gasoline containing lead or lead additives; prohibition for highway use; withdrawn, 66867

Executive Office of the President

- *See* Presidential Documents
- *See* Trade Representative, Office of United States

Federal Aviation Administration

RULES

- Airworthiness directives:
  - Airbus, 66733–66734, 66739–66741
  - Boeing, 66734–66737
  - Dornier, 66730–66732
  - Gulfstream, 66737–66739
- Class E airspace, 66741

PROPOSED RULES

- Airworthiness directives:
  - Air Tractor, Inc., 66823–66828
  - Fairchild, 66828–66832
  - MD Helicopters, Inc., 66821–66823
  - Pratt & Whitney, 66819–66821
- Class E5 airspace, 66832–66833

NOTICES

- Agency information collection activities:
  - Submission for OMB review; comment request, 66965–66966
- Meetings:
  - Research, Engineering, and Development Advisory Committee, 66966

Federal Communications Commission

RULES

- Radio stations; table of assignments:
  - Kentucky, 66802

PROPOSED RULES

- Digital television stations; table of assignments:
  - Wisconsin, 66867–66868

Federal Deposit Insurance Corporation

NOTICES

- Agency information collection activities:
  - Submission for OMB review; comment request, 66978–66979
- Meetings; Sunshine Act, 66895–66896

Federal Election Commission

PROPOSED RULES

- Allocations of candidate and committee activities:
  - Party committee transfers of nonfederal funds for allocable expenses payment; policy statement, 66813

Federal Emergency Management Agency

NOTICES

- Preparedness:
  - Offsite radiological emergency preparedness program; services fee; 2002 FY hourly rate, 66896

Federal Energy Regulatory Commission

NOTICES

- *Applications, hearings, determinations, etc.:*
  - Central Illinois Public Service Co. et al., 66893
  - Eastern Shore Natural Gas Co., 66893
  - Kinder Morgan Interstate Gas Transmission, LLC, 66893
  - PG&E Gas Transmission, Northwest Corp., 66894
  - Texas-New Mexico Power Co., 66894
  - Transcontinental Gas Pipe Line Corp., 66894–66895
  - Williams Gas Pipelines Central, Inc., 66895
  - Wyoming Interstate Co., Ltd., 66895

Federal Housing Finance Board

RULES

- Federal home loan bank system:
  - Unsecured credit limits, 66718–66730

PROPOSED RULES

- Affordable Housing Program; amendments, 66813–66819

Federal Motor Carrier Safety Administration

NOTICES

- Motor carrier safety standards:
  - Driver qualifications—
    - Boggs, Loa A., et al.; vision requirement exemptions, 66966–66968
    - Bohley, Woodrow E., et al.; vision requirement exemptions, 66969–66970
  - Parts and accessories necessary for safe operation—
    - Ford Motor Co.; fuel tank exemptions, 66970–66972
    - General Motors Corp.; fuel tank exemptions, 66972–66973

Federal Reserve System

NOTICES

- Agency information collection activities:
  - Submission for OMB review; comment request, 66978–66979
- Banks and bank holding companies:
  - Formations, acquisitions, and mergers, 66896

Federal Trade Commission

NOTICES

- Prohibited trade practices:
  - Diageo PLC et al., 66896–66899
  - Valero Energy Corp. et al., 66899–66902

Federal Transit Administration

NOTICES

- Agency information collection activities:
  - Proposed collection; comment request, 66973–66974

Fine Arts Commission

- *See* Commission of Fine Arts

Fish and Wildlife Service

RULES

- Endangered and threatened species:
  - Tumbling Creek cavesnail, 66802–66811

PROPOSED RULES

- Endangered and threatened species:
  - Tumbling Creek cavesnail, 66868–66869

NOTICES

- Marine mammals:
  - Incidental taking; authorization letters, etc.—
    - Oil and gas industry exploration activities; polar bears, 66915–66916

Food and Drug Administration

RULES

- Animal drugs, feeds, and related products:
  - Sponsor name and address changes—
    - Phibro Animal Health, 66742–66743
- Organization, functions, and authority delegations:
  - Address change; technical amendment, 66741–66742

NOTICES
Reports and guidance documents; availability, etc.:
  Antimicrobial drug residues from food of animal origin; effects on human intestinal flora; assessment, 66910–66912

Forest Service
NOTICES
Environmental statements; notice of intent:
  Lassen National Forest, CA, 66870
Meetings:
  Oregon Coast Provincial Advisory Committee, 66870
  Siskiyou County Resource Advisory Committee, 66870
  Siuslaw Resource Advisory Committee, 66870–66871

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
  Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 66984–66986
    Revocation, 66986–66990
  Introduction, 66983–66984
  Small entity compliance guide, 66990–66991
Federal travel:
  Per diem localities; maximum lodging and meal allowances, 66794–66802

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health

Indian Affairs Bureau
PROPOSED RULES
Economic enterprises:
  Gaming on trust lands acquired after October 17, 1988; determination procedures, 66847–66848
NOTICES
Indian tribes, acknowledgment of existence determinations, etc.:
  Lenape Nation of Pennsylvania et al., 66916–66917

Indian Health Service
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 66912–66913

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Minerals Management Service
See National Park Service
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
  Fresh garlic from—
    China, 66872–66873
  Polyethylene terephthalate film, sheet, and strip from—
    Korea, 66873–66874
Tariff rate quotas:
  Worsted wool fabrics, 66874

Justice Department
See Drug Enforcement Administration
NOTICES
Pollution control; consent judgments:
  Baton Rouge, LA, et al., 66931
  Chevron U.S.A. Production Co., 66931
  Clean Harbors Inc. et al., 66931–66932
  Cohen et al., 66932
  Del Norte County, CA, 66932
  Gendron, Frederick, et al., 66933
  Grand Rapids, MI, 66933
  International Paper Co. et al., 66933–66934
  Marine Shale Processors, Inc., 66934
  Monongahela Power Co., Inc., 66934–66935
  MRC Holdings, Inc., et al., 66935
  Premium Standard Farms, Inc., et al., 66935–66936
  Viacom, Inc., et al., 66936

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 66939–66941

Land Management Bureau
NOTICES
Alaska native claims selection:
  Dinyea Corp., 66917
Closure of public lands:
  Arizona, 66917–66918
  California, 66918
Environmental statements; availability, etc.:
  Arkansas and Louisiana; public domain lands; planning analysis; correction, 66918
  Douglas and Coos Counties, OR; natural gas pipeline right-of-way, 66918–66920
  Rocking "R" Ranch, Trona, CA, 66920
Environmental statements; notice of intent:
  Blue Mountain Lake Project Area, AR; Federal mineral estate leasing for oil and gas exploration and development, 66920
  Carr Creek Project Area, KY; Federal mineral estate leasing for oil and gas exploration and development, 66920–66921
  Grand Staircase-Escalante National Monument, UT; correction, 66921
  Lea County, NM, et al.; pipeline right-of-way, 66921–66922
Motor vehicle use restrictions:
  California, 66922
Public land orders:
  New Mexico, 66922–66923
Realty actions; sales, leases, etc.:
  Arizona, 66923
  California, 66923–66924
  Idaho, 66924–66925
  Nevada, 66925–66927
Survey plat filings:
  Minnesota, 66927–66928
  Wisconsin, 66928

Minerals Management Service
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulphur operations:
  Fixed and floating platforms; documents incorporated by reference, 66851–66865

Pressure Vessel Inspection Code; incorporation by reference, 66848–66850

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings, 66984–66986
Revocation, 66986–66990
Introduction, 66983–66984
Small entity compliance guide, 66990–66991

National Institute of Standards and Technology
NOTICES
Grants and cooperative agreements; availability, etc.:
Small grants programs, 66874–66887

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 66913–66914
National Institute of Child Health and Human Development, 66914
National Institute of Neurological Disorders and Stroke, 66914
National Library of Medicine, 66914–66915
Peer Review Oversight Group, 66915
Scientific Review Center, 66915

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Coastal pelagic species, 66811–66812
NOTICES
Permits:
Marine mammals, 66888

National Park Service
RULES
Historic properties leasing regulations, 66755–66763
NOTICES
National Register of Historic Places:
Pending nominations, 66928–66930

National Science Foundation
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 66945

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Curry County et al., NM, 66871
Reports and guidance documents; availability, etc.:
Aging watershed dams rehabilitation; request rank and approval system, 66871

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Energy Department, 66947–66948
Exelon Generation Co., LLC, 66948
Meetings; Sunshine Act, 66949
Reports and guidance documents; availability, etc.:
Boiling water reactors; post accident sampling requirements elimination; model safety evaluation, 66949–66954

Applications, hearings, determinations, etc.:
Entergy Operations, Inc., 66945–66946
Florida Power & Light Co., 66946–66947

Occupational Safety and Health Administration
NOTICES
Settlement agreements:
Occupational injury and illness recording and reporting—
National Association of Manufacturers, 66943–66944

Office of United States Trade Representative
See Trade Representative, Office of United States

Personnel Management Office
RULES
Federal Personnel Manual abolished and references removed; technical amendments, 66709–66712

Postal Service
NOTICES
Meetings; Sunshine Act, 66954

Presidential Documents
EXECUTIVE ORDERS
United Airlines, Inc., and International Association of Machinists and Aerospace Workers; creation of an emergency board of investigation (EO 13248), 66705–66706
ADMINISTRATIVE ORDERS
Jerusalem Embassy Act; suspension of funding limitations (Presidential Determination No, 2002-5 of December 14, 2001), 66707

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Indian Health Service
See National Institutes of Health

Research and Special Programs Administration
RULES
Pipeline safety:
Hazardous liquid transportation—
Hazardous liquid and carbon dioxide pipelines; corrosion control standards, 66993–67007

Securities and Exchange Commission
PROPOSED RULES
Securities:
Qualified purchaser; definition, 66839–66847
NOTICES
Investment Company Act of 1940:
Exemption applications—
Sensar Corp., 66954–66956
Joint industry plan:
Chicago Board Options Exchange, Inc., 66956–66957
Self-regulatory organizations:
Clearing agency registration applications—
Government Securities Clearing Corp., 66957
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 66957–66961

State Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 66961–66962
Art objects; importation for exhibition:
Cosme Tura: Painting and Design in Renaissance Ferrara, 66963

Goya: Images of Women, 66963
Surrealism: Desire Unbound, 66963

Surface Mining Reclamation and Enforcement Office

RULES

Permanent program and abandoned mine land reclamation plan submissions:
  Iowa, 66743–66747
  Pennsylvania, 67009–67067

Surface Transportation Board

NOTICES

Rail carriers:
  Cost recovery procedures—
    Adjustment factor, 66974
Railroad operation, acquisition, construction, etc.:
  Fulton Railroad Co., Ltd., 66974–66975
  Norfolk Southern Railway Co. et al., 66975

Technology Administration

NOTICES

Committees; establishment, renewal, termination, etc.:
  National Medal of Technology Nomination Evaluation Committee, 66888–66889

Trade Representative, Office of United States

NOTICES

Telecommunications trade agreements; compliance; comment request, 66963–66964

Transportation Department

See Coast Guard
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Transit Administration
See Research and Special Programs Administration
See Surface Transportation Board

PROPOSED RULES

Airline service quality performance reports:
  Causes of airline delays and cancellations; reporting requirements modification, 66833–66839

NOTICES

Aviation proceedings:
  Agreements filed; weekly receipts, 66964–66965
  Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 66965

Treasury Department

See Comptroller of the Currency

NOTICES

Grants and cooperative agreements; availability, etc.:
  First Accounts Program, 66975–66978

Veterans Affairs Department

RULES

Adjudication; pensions, compensation, dependency, etc.:
  Filipino veterans' benefits improvements, 66763–66769

NOTICES

Agency information collection activities:
  Submission for OMB review; comment request, 66979–66981
    31827
Meetings:
  Rehabilitation Research and Development Service Scientific Merit Review Board, 66982

Separate Parts In This Issue

Part II

Defense Department; General Services Administration; National Aeronautics and Space Administration, 66983–66991

Part III

Transportation Department, Research and Special Programs Administration, 66993–67007

Part IV

Interior Department, Surface Mining Reclamation and Enforcement Office, 67009–67067

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

VOL 66 ISS 248 DE 27 2001 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

13248 66705

Administrative Orders:

Presidential Determinations:

No. 02–05 of December 14, 2001 66707

5 CFR

213 66709
250 66709
293 66709
294 66709
300 66709
315 66709
316 66709
332 66709
339 66709
351 66709
352 66709
534 66709
550 66709
720 66709
732 66709
831 66709
837 66709
841 66709
930 66709
960 66709

7 CFR

56 66712
70 66712

10 CFR

1707 66714

11 CFR

Proposed Rules:

106 66813

12 CFR

930 66718
932 66718

Proposed Rules:

951 66813

14 CFR

39 (5 documents) 66730, 66733, 66734, 66737, 66739
71 66741

Proposed Rules:

39 (4 documents) 66819, 66821, 66823, 66828
71 66832
234 66833

17 CFR

Proposed Rules:

230 66839

21 CFR

Ch. 1 66741
510 66742

25 CFR

Proposed Rules:

292 66847

30 CFR

915 66743
938 67010

Proposed Rules:

250 (2 documents) 66848, 66851

33 CFR

110 (2 documents) 66747, 66749
117 66751
165 (3 documents) 66747, 66749, 66753

Proposed Rules:

117 66865

36 CFR

18 66755

38 CFR

3 66763

40 CFR

52 66769
80 66769
153 66769
180 (4 documents) 66769, 66773, 66778, 66786

Proposed Rules:

80 66867

41 CFR

Ch. 301 66794

47 CFR

73 66803

Proposed Rules:

73 66867

48 CFR

Ch. 1 (2 documents) 66984, 66990
9 (2 documents) 66984, 66986
14 (2 documents) 66984, 66986
15 (2 documents) 66984, 66986
31 (2 documents) 66984, 66986
52 (2 documents) 66984, 66986

49 CFR

195 66994

50 CFR

17 66803
660 66811

Proposed Rules:

17 66868

Federal Register
Vol. 66, No. 248
Thursday, December 27, 2001

Presidential Documents

Title 3—

The President

Executive Order 13248 of December 20, 2001

Establishing an Emergency Board To Investigate a Dispute Between United Airlines, Inc., and its Mechanics and Related Employees Represented by the International Association of Machinists and Aerospace Workers

A dispute exists between United Airlines, Inc., and its employees represented by the International Association of Machinists and Aerospace Workers.

The dispute has not heretofore been adjusted under the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188) (the "Act").

In the judgment of the National Mediation Board, this dispute threatens substantially to interrupt interstate commerce to a degree that would deprive sections of the country of essential transportation service.

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States, including sections 10 and 201 of the Act (45 U.S.C. 160 and 181), it is hereby ordered as follows:

Section 1. *Establishment of the Board (Board).* There is established, effective December 21, 2001, a Board of three members to be appointed by the President to investigate and report on this dispute. No member may be pecuniarily or otherwise interested in any organization of airline employees or any air carrier. The Board shall perform its functions subject to the availability of funds.

Sec. 2. *Report.* The Board shall report to the President with respect to this dispute within 30 days of its creation.

Sec. 3. *Maintaining Conditions.* As provided by section 10 of the Act, from the date of the creation of the Board and for 30 days after the Board has submitted its report to the President, no change in the conditions out of which the dispute arose shall be made by the parties to the controversy, except by the agreement of the parties.

Sec. 4. *Records Maintenance.* The records and files of the Board are records of the Office of the President and upon the Board's termination shall be maintained in the physical custody of the National Mediation Board.

Sec. 5. *Expiration*. The Board shall terminate upon the submission of the report provided for in section 2 of this order.

THE WHITE HOUSE,
December 20, 2001.

[FR Doc. 01–31959
Filed 12–26–01; 8:45 am]
Billing code 3195–01–P

Federal Register
Vol. 66, No. 248
Thursday, December 27, 2001

Presidential Documents

Title 3—

The President

Presidential Determination No. 02-05 of December 14, 2001

Suspension of Limitations Under the Jerusalem Embassy Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 7(a) of the Jerusalem Embassy Act of 1995 (Public Law 104–45) (the "Act"), I hereby determine that it is necessary to protect the national security interests of the United States to suspend for a period of 6 months the limitations set forth in sections 3(b) and 7(b) of the Act. My Administration remains committed to beginning the process of moving our embassy to Jerusalem.

You are hereby authorized and directed to transmit this determination to the Congress, accompanied by a report in accordance with section 7(a) of the Act, and to publish the determination in the **Federal Register**.

This suspension shall take effect after transmission of this determination and report to the Congress.

THE WHITE HOUSE,
Washington, December 14, 2001.

VOL

66

ISS

2
4
8

DE

27

2001

UMI

Ru

This s
contai
applic
are ke
Feder
50 titl

The C
the Su
new b
REGI

OFFI
MAN

5 CF
315,
720,

RIN 3

Misc
Pers

AGEN
Mana
ACTIO
amer

SUMM
Mana
remo
Perso
aboli
refer
actio
chan
DATE
27, 2
FOR
Richa
SUPP
to 5
cause
amer
prop
delay
is no
curre

Regu

I c
have
a sub
becau
agen

List
293,
352,
930,

Ad
proc
Alim

Rules and Regulations

Federal Register
Vol. 66, No. 248
Thursday, December 27, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 213, 250, 293, 294, 300, 315, 316, 332, 339, 351, 352, 534, 550, 720, 732, 831, 837, 841, 930, and 960

RIN 3206–AJ54

Miscellaneous Changes in Office of Personnel Management's Regulations

AGENCY: Office of Personnel Management.

ACTION: Final rule; technical amendment.

SUMMARY: The Office of Personnel Management is issuing a final rule to remove all references to the Federal Personnel Manual (FPM). With the abolishment of the FPM, these references are no longer in effect. This action does not make any substantive changes to the affected rules.

DATES: This rule is effective December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Richard B. Lowe, (202) 606–1000.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 553(b)(3)(B) and (d)(3), good cause exists for publishing this amendment without a notice of proposed rulemaking and a 30-day delay in effectiveness. This amendment is non-substantive and will not affect current compliance.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Parts 213, 250, 293, 294, 300, 315, 316, 332, 339, 351, 352, 534, 550, 720, 732, 831, 837, 841, 930, and 960

Administrative practice and procedure, Air traffic controllers, Alimony, Archives and records, Authority delegations (Government agencies), Claims, Computer technology, Disability benefits, Equal employment opportunity, Firefighters, Freedom of information, Government employees, Health records, Hospitals, Income taxes, Individuals with disabilities, Intergovernmental relations, Law enforcement officers, Motor vehicles, National defense, Organization and functions (Government agencies), Pensions, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Kay Coles James,
Director.

Accordingly, OPM is amending parts 213, 250, 293, 294, 300, 315, 316, 332, 339, 351, 352, 534, 550, 720, 732, 831, 837, 841, 930, and 960 of title 5 of the Code of Federal Regulations as follows:

PART 213—EXCEPTED SERVICE

1. The authority citation for part 213 continues to read as follows:

Authority: 5 U.S.C. 3301 and 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; Sec. 213.101 also issued under 5 U.S.C. 2103; Sec. 213.3102 also issued under 5 U.S.C. 3301, 3302, 3307, 8337(h) and 8456; E.O. 12364, 47 FR 22931, 3 CFR 1982 Comp., p. 185; 38 U.S.C. 4301 *et seq.*; Pub. L. 105–339, 112 STAT. 3182–83; and E.O. 13162.

§ 213.3102 [Amended]

2. In § 213.3102, paragraph (t) is amended by removing "in accordance with the guidance in Federal Personnel Manual Chapter 306" and by adding the verbatim language from the Federal Personnel Manual "who have been certified by state vocational rehabilitation agencies as likely to succeed" in its place, paragraph (ii) is amended by removing "published in the Federal Personnel Manual" and by adding "prescribed in OPM issuances" in its place.

PART 250—PERSONNEL MANAGEMENT IN AGENCIES

3. The authority citation for part 250 continues to read as follows:

Authority: 5 U.S.C. 1101 note, 1104, 1302, 3301, 3302; E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218.

§ 250.101 [Amended]

4. Section 250.101 is amended by removing "Federal Personnel Manual" and by adding "Guide to Processing Personnel Actions" in its place and by removing "Federal Personnel Manual Chapter 296" and adding "the Guide to Processing Personnel Actions" in its place.

§ 250.103 [Amended]

5. Section 250.103 is amended by removing "in the Federal Personnel Manual".

PART 293—PERSONNEL RECORDS

6. The authority citation for part 293 continues to read as follows:

Authority: 5 U.S.C. 1104; 5 U.S.C. Chap 7; 5 U.S.C. 7135; 5 U.S.C. 7301; and E. O. 11491.

§ 293.103 [Amended]

7. In § 293.103, paragraph (b) is amended by removing both occurrences of "Federal Personnel Manual" and by adding "Guide to Personnel Recordkeeping" in their place.

§ 293.302 [Amended]

8. Section 293.302 is amended by removing "Federal Personnel Manual" and by adding "Guide to Personnel Recordkeeping" in its place.

§ 293.306 [Amended]

9. In § 293.306, paragraph (b)(3) is amended by removing "FPM Supplement 293–31" and by adding "the Guide to Personnel Recordkeeping" in its place.

§ 293.309 [Amended]

10. Section 293.309 is amended by removing "Federal Personnel Manual" and by adding "Guide to Personnel Recordkeeping" in its place.

§ 293.405 [Amended]

11. In § 293.405, paragraph (a) is amended by removing "FPM Supplement 293–31" and by adding "the Guide to Personnel Recordkeeping" in its place.

§ 293.504 [Amended]

12. In § 293.504, paragraph (a) is amended by removing "FPM" and by adding "OPM" in its place.

PART 294—AVAILABILITY OF OFFICIAL INFORMATION

13. The authority citation for part 294 continues to read as follows:

Authority: 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502, as amended by the Freedom of Information Reform Act of 1936, Pub. L. 99–570, and E.O. 12600, 52 FR 23781 (June 25, 1987).

§ 294.106 [Amended]

14. In § 294.106, the heading is amended by removing "FPM" and adding "OPM" in its place, and by removing "and addendum", and paragraphs (a)(1) and (d) are amended by removing "FPM".

§ 294.301 [Amended]

15. In § 294.301, paragraph (a) is amended by removing "Federal Personnel Manual or the".

PART 300—EMPLOYMENT (GENERAL)

16. The authority citation for part 300 continues to read as follows:

Authority: 5 U.S.C. 552, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., page 218, unless otherwise noted.

Secs. 300.101 through 300.104 also issued under 5 U.S.C. 7201, 7204, and 7701; E.O. 11478, 3 CFR 1966–1970 Comp., page 803.

Secs. 300.401 through 300.408 also issued under 5 U.S.C. 1302 (c), 2301, and 2302.

Secs. 300.501 through 300.507 also issued under 5 U.S.C. 1103 (a)(5).

Secs. 300.603 also issued under 5 U.S.C. 1104.

§ 300.501 [Amended]

17. In § 300.501, paragraph (c) is amended by removing "chapter 630 of the Federal Personnel Manual" and by adding "OPM issuances" in its place.

§ 300.503 [Amended]

18. In § 300.503, paragraph (b) is amended by removing "in chapter 316 of the Federal Personnel Manual" and by adding "found in 5 CFR part 316" in its place.

§ 300.603 [Amended]

19. In § 300.603, paragraph (b)(6) is amended by removing "chapter 338 of the Federal Personnel Manual" and by adding "OPM's operating manuals" in its place.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

20. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. P. 218, unless otherwise noted; and E.O. 13162. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 120034, 3 CFR, 1978 Comp. p. 11. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp. p. 303. Sec 315.607 also issued under 22 U.S.C. 2506. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec 315.610 also issued under 5 U.S.C. 3304(d). Sec. 315.611 also issued under Section 511, Pub. L. 106–117, 113 STAT. 1575–76. Sec 315.710 also issued under E.O. 12108, 3 CFR, 1978 Comp., p. 264.

§ 315.603 [Amended]

21. In § 315.603, paragraphs (a)(1)(iv), (a)(2)(ii), (a)(3)(iv) are amended by removing "by a provision of the Federal Personnel Manual".

§ 315.606 [Amended]

22. Section 315.606 is amended by removing "in the Federal Personnel Manual".

§ 315.701 [Amended]

23. In § 315.701, paragraph (a)(2) is amended by removing "by a provision of the Federal Personnel Manual".

§ 315.704 [Amended]

24. In § 315.704, paragraph (b)(2) is amended by removing "the Federal Personnel Manual" and by adding "its operating manuals" in its place.

§ 315.707 [Amended]

25. In § 315.707, paragraph (a)(1) is amended by removing "in the Federal Personnel Manual".

§ 315.710 [Amended]

26. In § 315.710, paragraph (a) is amended by removing "in the Federal Personnel Manual".

PART 316—TEMPORARY AND TERM EMPLOYMENT

27. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

§ 316.403 [Amended]

28. In § 316.403, paragraph (a)(3) is amended by removing "in the Federal Personnel Manual".

PART 332—RECRUITMENT AND SELECTION THROUGH COMPETITIVE EXAMINATION

29. The authority citation for part 332 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

§ 332.301 [Amended]

30. In § 332.301, paragraph (b) is amended by removing "in the Federal Personnel Manual".

§ 332.312 [Amended]

31. Section 332.312, introductory paragraph, is amended by removing "the Federal Personnel Manual" and by adding "its operating manuals" in its place.

§ 332.406 [Amended]

32. In § 332.406, paragraph (e) is amended by removing "the Federal Personnel Manual" and by adding "its operating manuals" in its place.

PART 339—MEDICAL QUALIFICATION DETERMINATIONS

33. The authority citation for part 339 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 5112, E.O. 9830, February 24, 1947.

§ 339.202 [Amended]

34. In § 339.202, paragraph (b) is amended by removing the comma and "and" and adding a period after "position" and by removing paragraph (c).

PART 351—REDUCTION IN FORCE

35. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; sec. 351.801 also issued under E.O. 12828, 58 FR 2965.

§ 351.205 [Amended]

36. Section 351.205 is amended by removing "through the Federal Personnel Manual system".

PART 352—REEMPLOYMENT RIGHTS

Subpart C—Details and Transfer of Federal Employees to International Organizations

37. The authority citation for subpart C continues to read as follows:

Authority: 5 U.S.C. 3584, E.O. 11552, 3 CFR 1966–1970 Comp., p. 954; Section 352.313 also issued under 5 U.S.C. 7701, *et seq.*

§ 352.304 [Amended]

38. Section 352.304 is amended by removing both occurrences of "in the Federal Personnel Manual".

§ 352.310 [Amended]

39. In § 352.310, paragraph (c) is amended by removing "the Federal Personnel Manual" and by adding "OPM issuances" in its place.

PART 534—PAY UNDER OTHER SYSTEMS

40. The authority citation for part 534 continues to read as follows:

Authority: 5 U.S.C. 1104, 5307, 5351, 5352, 5353, 5376, 5383, 5384, 5385, 5541, and 5550a.

§ 534.503 [Amended]

41. In § 534.503, paragraph (a) is amended by removing "and the Federal Personnel Manual", by removing the comma and adding "and" after "law", and by removing the comma after "regulations".

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart E—Pay From More Than One Position

42. The authority citation for part 550 subpart E continues to read as follows:

Authority: 5 U.S.C. 5533.

§ 550.504 [Amended]

43. In § 550.504, paragraph (b) is amended by removing "in the Federal Personnel Manual".

PART 720—AFFIRMATIVE EMPLOYMENT PROGRAMS

Subpart C—Disabled Veterans Affirmative Action Program

44. The authority citation for part 720, subpart C continues to read as follows:

Authority: 5 U.S.C. 7201; 42 U.S.C. 2000e; 38 U.S.C. 101(2), 2001(3), 2014; 5 U.S.C. 3112; 29 U.S.C. 791(b).

§ 720.306 [Amended]

45. In § 720.306, paragraph (b) is amended by removing "through the Federal Personnel Manual (FPM)" and the comma after "veterans".

PART 732—NATIONAL SECURITY POSITIONS

46. The authority citation for part 732 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 7312; 50 U.S.C. 403; E.O. 10450, 3 CFR, 1949–1953 Comp., p. 936.

§ 732.102 [Amended]

47. In § 732.102, paragraph (a) is amended by removing "FPM chapter 732 and related" and adding "OPM" in its place.

§ 732.201 [Amended]

48. In § 732.201, paragraph (b) is amended by removing "FPM chapter 732" and adding "OPM issuances" in its place.

§ 732.301 [Amended]

49. In § 732.301, paragraph (e) is amended by removing "the Federal Personnel Manual and related" and adding "its" in its place.

PART 831—RETIREMENT

50. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2) and section 7001 of Pub. L. 105–174, 112 Stat. 58; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under sections 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under sections 7(b) and 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under sections 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under section 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under section 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.301 also issued under section 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and section 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337; Sec. 831.502 also issued under section 1(3), E.O. 11228, 3 CFR 1964–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under section 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under section 201(d) of Pub. L. 99–251, 100 Stat. 23; Sec. 831.912 also issued under section 636 of H.R. 5658, incorporated by reference in Pub. L. 106–554, 114 Stat. 2763, and published as Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–125; subpart V also issued under 5 U.S.C. 8343a and section 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under section 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

Subpart A—Administration and General Provisions

§ 831.102 [Amended]

51. Section 831.102 is amended by removing "in Federal Personnel Manual Supplement 831–1" and adding in its place "by OPM issuances."

§ 831.111 [Amended]

52. In section 831.111 paragraph (a) and (b)(2) are amended by removing "in the Federal Personnel Manual".

Subpart F—Survivor Annuities

§ 831.613 [Amended]

53. In § 831.613, paragraph (d) is amended by removing "through the Federal Personnel Manual system or other issuances".

Subpart S—State Income Tax Withholding

§ 831.1907 [Amended]

54. Remove § 831.1907.

Subpart U—Deposits for Military Service

§ 831.2103 [Amended]

55. In § 831.2103, amend the definition for *Sufficient evidence*, by removing "Federal Personnel Manual".

§ 831.2106 [Amended]

56. In § 831.2106, paragraph (c) is amended by removing "in the Federal Personnel Manual" .

§ 831.2107 [Amended]

57. In § 831.2107 paragraph (a)(5) is amended by removing "in the Federal Personnel Manual" and by adding in its place "by OPM issuances."

PART 837—REEMPLOYMENT OF ANNUITANTS

58. The authority citation for part 837 continues to read as follows:

Authority: 5 U.S.C. 8337, 8344, 8347, 8455, 8456, 8461, and 8468; and sec. 302, Pub. L. 99–335, 100 Stat. 514, as amended by Title I, sec. 134(a), Pub. L. 100–238, 101 Stat. 1762; Title V, sec. 529 [Title I, sec. 108(c)], Pub. L. 101–509, 104 Stat. 1427, 1450; Div. A, Title XII, sec. 1206(j)(3), Pub. L. 101–510, 104 Stat. 1664; Div. A., Title VI, sec. 655(c), Pub. L. 102–190, 105 Stat. 1392; sec. 8(a), Pub. L. 102–378, 106 Stat. 1359.

§ 837.304 [Amended]

59. Section 837.304, paragraphs (a), (b), and (c) are amended by removing "in the Federal Personnel Manual".

PART 841—FEDERAL EMPLOYEES' RETIREMENT SYSTEM—GENERAL ADMINISTRATION

60. The authority citation for part 841 continues to read as follows:

Authority: 5 U.S.C. 8461; Sec. 841.108 also issued under 5 U.S.C. 552a; subpart D also issued under 5 U.S.C. 8423; Sec. 841.504 also issued under 5 U.S.C. 8422; Sec. 841.507 also issued under section 505 of Pub. L. 99–335; subpart J also issued under 5 U.S.C. 8469; Sec. 841.506 also issued under 5 U.S.C. 7701(b)(2); Sec. 841.508 also issued under section 505 of Pub. L. 99–335; Sec. 841.604 also issued under Title II, Pub. L. 106–265, 114 Stat. 780.

§ 841.1008 [Amended]

61. Remove § 841.1008.

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

62. The authority citation for part 930 continues to read as follows:

Authority: 5 U.S.C. 3301, 3320, 7301; 40 U.S.C. 491; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218 E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306. (Separate authority is listed under § 930.107)

§ 930.110 [Amended]

63. Section 930.110 is amended by removing "and the Federal Personnel Manual".

§ 930.115 [Amended]

64. Section 930.115 is amended by removing "or the Federal Personnel Manual".

PART 960—FEDERAL EXECUTIVE BOARDS

65. The authority citation for part 960 continues to read as follows:

Authority: Memorandum of the President for Heads of Departments and Agencies (November 10, 1961).

§ 960.108 [Amended]

66. In § 960.108, remove "through the Federal Personnel Manual System and other appropriate instruments".

[FR Doc. 01–31353 Filed 12–26–01; 8:45 am]

BILLING CODE 6325-46-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–01–005]

RIN 0581–AB99

Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: David Bowden, Jr., Chief, Standardization Branch, (202) 720–3506.

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 *et seq.*) authorizes official voluntary grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from users of the program services to cover, as nearly as practicable, the costs of services rendered.

The AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This rule will amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with them.

A recent review of the current fee schedule, effective October 1, 2000, revealed that anticipated revenue would not adequately cover increasing program costs. Without a fee increase, FY 2002 revenues for grading services are projected at $24.1 million, costs are projected at $26.0 million, and trust fund balances would be $14.8 million. With a fee increase, FY 2002 revenues are projected at $25.3 million, costs are projected at $26.0 million, and trust fund balances would be $16.0 million.

Employee salaries and benefits account for approximately 81 percent of the total operating budget. A general and locality salary increase for Federal employees, ranging from 3.56 to 4.46 percent, depending on locality, became effective in January 2001 and has materially affected program costs. Another general and locality salary increase estimated at 3.6 percent is expected in January 2002. Also, from October 2000 through September 2001, salaries and fringe benefits of federally licensed State employees will have increased by about 6.0 percent.

The impact of these cost increases was determined for resident, nonresident, and fee services. To offset projected cost increases, the hourly resident and nonresident rate will be increased by approximately 5 percent and the fee rate will be increased by approximately 6 percent. The hourly rate for resident and nonresident service covers graders' salaries and benefits. The hourly rate for fee service covers graders' salaries and benefits, plus the cost of travel and supervision.

Administrative charges that cover the cost of supervision for resident poultry and shell egg grading will also be increased as shown in the table below. Administrative charges for resident rabbit grading and nonresident services will not be changed.

The following table compares current fees and charges with the revised fees and charges for egg, poultry, and rabbit grading as found in 7 CFR parts 56 and 70:

Service	Current	Proposed
Resident Service (egg, poultry, rabbit grading)		
Inauguration of service	310	310
Hourly charges:		
Regular hours	29.96	31.52
Administrative charges—Poultry grading:		
Per pound of poultry	.00035	.00036
Minimum per month	225	250
Maximum per month	2,625	2,650
Administrative charges—Shell egg grading:		
Per 30-dozen case of shell eggs	.044	.046
Minimum per month	225	250
Maximum per month	2,625	2,650
Administrative charges—Rabbit grading:		
Based on 25% of grader's salary		

VOL 66 ISS 248 DE 27 2001 UMI

Service	Current	Proposed
Minimum per month	260	260
Nonresident Service (egg, poultry grading)		
Hourly charges:		
Regular hours	29.96	31.52
Administrative charges:		
Based on 25% of grader's salary		
Minimum per month	260	260
Fee and Appeal Service (egg, poultry, rabbit grading)		
Hourly charges:		
Regular hours	51.32	54.40
Weekend and holiday hours	59.12	62.76

Comments

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (66 FR 42456) on August 13, 2001. Comments on the proposed rule were solicited from interested parties until September 12, 2001.

The Agency received one comment during the 30-day comment period from an egg industry association. The association requested that the Agency not implement the fee increase, or delay implementation of the increase, because current economic conditions of the shell egg industry are abysmal. Although the Agency seeks to minimize or negate any fee increases for the poultry, rabbit, and egg grading programs, it must operate these programs on a sound financial basis. Therefore, the Agency must implement these increases, as proposed, to ensure the financial stability of its grading programs.

Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the AMS has considered the economic impact of this action on small entities. It is determined that its provisions would not have a significant economic impact on a substantial number of small entities.

There are about 400 users of Poultry Programs' grading services. These official plants can pack eggs, poultry, and rabbits in packages bearing the USDA grade shield when AMS graders are present to certify that the products meet the grade requirements as labeled. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.201). These entities are under no obligation to use grading services as authorized under the Agricultural Marketing Act of 1946.

The AMS regularly reviews its user fee financed programs to determine if the fees are adequate. The most recent review determined that the existing fee schedule would not generate sufficient revenues to cover program costs while maintaining an adequate reserve balance. Without a fee increase, FY 2002 revenues for grading services are projected at $24.1 million, costs are projected at $26.0 million, and trust fund balances would be $14.8 million. With a fee increase, FY 2002 revenues are projected at $25.3 million, costs are projected at $26.0 million, and trust fund balances would be $16.0 million.

This action will raise the fees charged to users of grading services. The AMS estimates that overall, this rule will yield an additional $1.2 million during FY 2002. The hourly rate for resident and nonresident service will increase by approximately 5 percent and the fee rate will increase by approximately 6 percent. The impact of these rate changes in a poultry plant will range from less than 0.006 to 0.02 cents per pound of poultry handled. In a shell egg plant, the range will be less than 0.028 to 0.033 cents per dozen eggs handled.

Civil Justice Reform

This action has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Paperwork Reduction

The information collection requirements that appear in the sections to be amended by this action have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act (44 U.S.C. Chapter 35) as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**. The revised fees need to be implemented on an expedited basis in order to avoid further financial losses in the grading program. The effective date of the fee increase will be set to coincide with the billing cycle that begins on the first day of the first month after date of publication in the **Federal Register**.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, Title 7, Code of Federal Regulations, parts 56 and 70 are amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In § 56.46, paragraphs (b) and (c) are revised to read as follows:

§ 56.46 On a fee basis.

(a) * * *

VOL 66 ISS 248 DE 27 2001 UMI

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $54.40 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $62.76 per hour. Information on legal holidays is available from the Supervisor.

3. In § 56.52, paragraph (a)(4) is revised to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.046, except that the minimum charge per billing period shall be $250 and the maximum charge shall be $2,650. The minimum charge also applies where an approved application is in effect and no product is handled.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

4. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

5. In § 70.71, paragraphs (b) and (c) are revised to read as follows:

§ 70.71 On a fee basis.

(a) * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $54.40 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $62.76 per hour. Information on legal holidays is available from the Supervisor.

6. In § 70.77, paragraph (a)(4) is revised to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00036, except that the minimum charge per billing period shall be $250 and the maximum charge shall be $2,650. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: December 20, 2001.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–31820 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–02–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

10 CFR Part 1707

Testimony by DNFSB Employees and Production of Official Records in Legal Proceedings

AGENCY: Defense Nuclear Facilities Safety Board (DNFSB).

ACTION: Final rule.

SUMMARY: The Defense Nuclear Facilities Safety Board (DNFSB) is implementing procedures governing testimony by DNFSB employees and the production of official records in legal proceedings. This rule sets forth procedures that requesters must follow when making demands or requests to a DNFSB employee to produce official records or information or to provide testimony relating to official information in connection with a legal proceeding in which the DNFSB is not a party. This rule establishes procedures to respond to such demands and requests in an orderly and consistent manner. This rule, among other benefits, promotes uniformity in decisions, protects confidential information, provides guidance to requesters, and reduces the potential for both inappropriate disclosures of official information and wasteful allocation of agency resources.

EFFECTIVE DATE: January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Azzaro, General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901, telephone: 202–694–7062; FAX: 202–208–6518.

SUPPLEMENTARY INFORMATION:

Background

On November 14, 2001, DNFSB published in the **Federal Register** a notice of proposed rulemaking proposing to establish procedures governing testimony by DNFSB employees and the production of official records in legal proceedings to which DNFSB is not a party (66 FR 57003–57007). This rule establishes a new part 1707 of our regulations, which sets forth the DNFSB rules for responding to requests for information, records, or testimony in legal proceedings.

The Defense Nuclear Facilities Safety Board may receive subpoenas and requests for DNFSB employees to provide evidence in litigation in which the DNFSB is not a party. These subpoenas and requests may also be for DNFSB records that are not available to the public under the Freedom of Information Act. Also, DNFSB could receive subpoenas or requests for DNFSB employees to appear as witnesses in litigation in conjunction with a request for nonpublic records.

Responding to such demands and requests could divert DNFSB resources from their congressionally mandated functions. This regulation will ensure a more efficient use of DNFSB resources, minimize the possibility of involving DNFSB in issues unrelated to its responsibilities, promote uniformity in responding to such requests and subpoenas, and maintain impartiality of DNFSB in matters that are in dispute between other parties. It also serves DNFSB's duty to protect sensitive, confidential, and privileged information and records.

This rule, issued under the authority of 5 U.S.C. 301, is similar to rules issued by numerous Government agencies and departments. Section 301 of Title 5, the "housekeeping statute," authorizes the head of an executive agency to issue "regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property." In *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951), the Supreme Court upheld the authority of Federal agencies to establish procedures pursuant to section 301 similar to those established here. Federal courts have consistently held that a person seeking testimony or records from an agency must comply with the agency's "Touhy regulation" before seeking judicial enforcement of a subpoena. In addition, under section 2286b of the enabling statute of the Defense Nuclear Facilities Safety Board, 42 U.S.C. 2286 et seq., the DNFSB has authority to promulgate regulations necessary to the efficient administration of the DNFSB functions.

In the notice of proposed rulemaking published in the **Federal Register** on November 14, 2001, the DNFSB requested comments by December 14, 2001. DNFSB received no comments on the proposed rule.

Explanation of Final Rule

This rule establishes DNFSB policies and procedures applicable to requests for official agency information, records, or testimony in legal proceedings.

Scope

This rule will prohibit disclosure of nonpublic official records or testimony by DNFSB employees unless authorization is provided pursuant to this rule (sections 1707.201 and 1707.203). This rule identifies the factors that DNFSB will consider in making determinations in response to such requests and what information requesters must provide (sections 1707.202 and 1707.203). This rule also specifies when the request should be submitted (section 1707.203), the time period for review (section 1707.205), potential fees (section 1707.301), and, if a request is granted, any restrictions that may be placed on the disclosure of records or the appearance of a DNFSB employee as a witness (sections 1707.207 and 1707.208).

This rule applies to a broad range of matters in any legal proceeding in which DNFSB is not a named party. It also applies to former and current DNFSB employees (as well as DNFSB consultants and advisors). Former employees are prohibited from testifying about specific matters for which they had responsibility during their active employment unless permitted to testify as provided in the proposed rule. They would not be barred from appearing to testify about general matters unconnected with the specific matters for which they had responsibility.

Certification

DNFSB will certify that records in DNFSB's possession as true copies in order to facilitate their use as evidence.

Fees

We charge a fee for production of records or information and certification. The fee schedules for duplication are the same as those established in 10 CFR 1703.107(b)(6) of the Board's regulations, as appropriate. The charges for witnesses are the same as those provided by the Federal courts. The fees related to production of records are the same as those charged under FOIA. The charges for time spent by an employee to prepare for testimony and for certification of records by DNFSB are authorized under 31 U.S.C. 9701, which permits an agency to charge for services or things of value that are provided by the agency.

Procedural Nature of the Regulations

The DNFSB rule is internal to the agency, and is essentially procedural, not substantive. It does not create a right to obtain official records or the testimony of a DNFSB employee nor does it create any additional right or privilege not already available to DNFSB to deny any demand or request therefor. However, failure to comply with the procedures in this rule would be a basis for denying a demand or request submitted to DNFSB.

Regulatory Procedures

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. chapter 6), this rule will not have a significant economic impact on a substantial number of small entities. The rule addresses only the procedures to be followed in the production or disclosure of DNFSB materials and information in litigation where DNFSB is not a party. Accordingly, DNFSB has determined that a Regulatory Flexibility Analysis is not required.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation).

Executive Order 12866

In issuing this regulation, the Defense Nuclear Facilities Safety Board has adhered to the regulatory philosophy and the applicable principles of regulation as set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive Order since it is not a significant regulatory action within the meaning of the Executive Order.

Executive Order 12988

The Defense Nuclear Facilities Safety Board, has reviewed this regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certifies that it meets the applicable standards provided therein.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval by the Office of Management and Budget. The Defense Nuclear Facilities Safety Board expects the collection of information that is called for by the regulation would involve fewer than ten persons each year.

Congressional Review Act

The Defense Nuclear Facilities Safety Board has determined that this rulemaking does not involve a rule within the meaning of the Congressional Review Act (5 U.S.C. chapter 8).

List of Subjects in 10 CFR Part 1707

Administrative practice and procedure, Conflict of interests, Courts, Government employees, Records, Subpoenas, Testimony.

Dated: December 18, 2001.

John T. Conway,

Chairman, Defense Nuclear Facilities Safety Board.

Accordingly, for the reasons set forth in the preamble, the Defense Nuclear Facilities Safety Board adds a new part 1707 to 10 CFR chapter XVII to read as follows:

PART 1707—TESTIMONY BY DNFSB EMPLOYEES AND PRODUCTION OF OFFICIAL RECORDS IN LEGAL PROCEEDINGS

Subpart A—General Provisions

Sec.

1707.101 Scope and purpose.
1707.102 Applicability.
1707.103 Definitions.

Subpart B—Requests for Testimony and Production of Documents

1707.201 General prohibition.
1707.202 Factors DNFSB will consider.
1707.203 Filing requirements for demands or requests for documents or testimony.
1707.204 Service of subpoenas or requests.
1707.205 Processing demands or requests.
1707.206 Final determination.
1707.207 Restrictions that apply to testimony.
1707.208 Restrictions that apply to released records.
1707.209 Procedure when a decision is not made prior to the time a response is required.
1707.210 Procedure in the event of an adverse ruling.

Subpart C—Schedule of Fees

1707.301 Fees.

VOL 66 ISS 248 DE 27 2001 UMI

Subpart D—Penalties

1707.401 Penalties.

Authority: 42 U.S.C. 2286b(c); 44 U.S.C. 3101–3107, 3301–3303a, 3308–3314.

Subpart A—General Provisions

§ 1707.101 Scope and purpose.

(a) This part sets forth policies and procedures you must follow when you submit a demand or request to an employee of the Defense Nuclear Facilities Safety Board (DNFSB) to produce official records and information, or provide testimony relating to official information, in connection with a legal proceeding. You must comply with these requirements when you request the release or disclosure of official records and information.

(b) The Defense Nuclear Facilities Safety Board intends these provisions to:

(1) Promote economy and efficiency in its programs and operations;

(2) Minimize the possibility of involving DNFSB in controversial issues not related to our functions;

(3) Maintain DNFSB's impartiality among private litigants where DNFSB is not a named party; and

(4) Protect sensitive, confidential information and the deliberative processes of DNFSB.

(c) In providing for these requirements, DNFSB does not waive the sovereign immunity of the United States.

(d) This part provides guidance for the internal operations of DNFSB. It does not create any right or benefit, substantive or procedural, that a party may rely upon in any legal proceeding against the United States.

§ 1707.102 Applicability.

This part applies to demands and requests to employees for factual, opinion, or expert testimony relating to official information, or for production of official records or information, in legal proceedings whether or not the United States or the DNFSB is a named party. However, it does not apply to:

(a) Demands upon or requests for a DNFSB employee to testify as to facts or events that are unrelated to his or her official duties or that are unrelated to the functions of DNFSB;

(b) Demands upon or requests for a former DNFSB employee to testify as to matters in which the former employee was not directly or materially involved while at the DNFSB;

(c) Requests for the release of records under the Freedom of Information Act, 5 U.S.C. 552, or the Privacy Act, 5 U.S.C. 552a; and

(d) Congressional demands and requests for testimony or records.

§ 1707.103 Definitions.

DNFSB means the Defense Nuclear Facilities Safety Board.

DNFSB employee or employee means:

(1) Any current or former officer or employee of DNFSB;

(2) Any contractor or contractor employee working on behalf of the DNFSB or who has performed services for DNFSB; and

(3) Any individual who is serving or has served in any advisory capacity to DNFSB, whether formal or informal.

(4) Provided, that this definition does not include persons who are no longer employed by DNFSB and who are retained or hired as expert witnesses or who agree to testify about general matters, matters available to the public, or matters with which they had no specific involvement or responsibility during their employment with DNFSB.

Demand means a subpoena, or an order or other demand of a court or other competent authority, for the production, disclosure, or release of records or for the appearance and testimony of a DNFSB employee that is issued in a legal proceeding.

General Counsel means the General Counsel of DNFSB or a person to whom the General Counsel has delegated authority under this part.

Legal proceeding means any matter before a court of law, administrative board or tribunal, commission, administrative law judge, hearing officer, or other body that conducts a legal or administrative proceeding. Legal proceeding includes all phases of litigation.

Records or official records and information mean:

(1) All documents and materials which are DNFSB agency records under the Freedom of Information Act, 5 U.S.C. 552;

(2) All other documents and materials contained in DNFSB files; and

(3) All other information or materials acquired by a DNFSB employee in the performance of his or her official duties or because of his or her official status.

Request means any formal or informal request, by whatever method, for the production of records and information or for testimony which has not been demanded by a court or other competent authority.

Testimony means any written or oral statements, including but not limited to depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

Subpart B—Requests for Testimony and Production of Documents

§ 1707.201 General prohibition.

No employee may produce official records and information or provide any testimony relating to official information in response to a demand or request without the prior, written approval of the General Counsel.

§ 1707.202 Factors DNFSB will consider.

The General Counsel, in his or her sole discretion, may grant an employee permission to testify on matters relating to official information, or produce official records and information, in response to a demand or request. Among the relevant factors that the General Counsel may consider in making this decision are whether:

(a) The purposes of this part are met;

(b) Allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(c) DNFSB has an interest in the decision that may be rendered in the legal proceeding;

(d) Allowing such testimony or production of records would assist or hinder DNFSB in performing its statutory duties or use DNFSB resources where responding to the request will interfere with the ability of DNFSB employees to do their work;

(e) Allowing such testimony or production of records would be in the best interest of DNFSB or the United States;

(f) The records or testimony can be obtained from other sources;

(g) The demand or request is unduly burdensome or otherwise inappropriate under the applicable rules of discovery or the rules of procedure governing the case or matter in which the demand or request arose;

(h) Disclosure would violate a statute, executive order or regulation;

(i) Disclosure would reveal confidential, sensitive, or privileged information, trade secrets or similar, confidential commercial or financial information, or otherwise protected information, or would otherwise be inappropriate for release;

(j) Disclosure would impede or interfere with an ongoing law enforcement investigation or proceedings;

(k) Disclosure would compromise constitutional rights;

(l) Disclosure would result in DNFSB appearing to favor one litigant over another;

(m) Disclosure relates to documents that were produced by another agency;

(n) A substantial Government interest is implicated;

(o) The demand or request is within the authority of the party making it; and

(p) The demand or request is sufficiently specific to be answered.

§ 1707.203 Filing requirements for demands or requests for documents or testimony.

You must comply with the following requirements whenever you issue demands or requests to a DNFSB employee for official records, information, or testimony.

(a) Your request must be in writing and must be submitted to the General Counsel. If you serve a subpoena on DNFSB or a DNFSB employee before submitting a written request and receiving a final determination, DNFSB will oppose the subpoena on grounds that your request was not submitted in accordance with this subpart.

(b) Your written request must contain the following information:

(1) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved;

(2) A copy of the complaint or equivalent document setting forth the assertions in the case and any other pleading or document necessary to show relevance of the testimony, records, or information you seek from the DNFSB;

(3) A list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony or records sought;

(4) A statement as to how the need for the information outweighs the need to maintain any confidentiality of the information and outweighs the burden on DNFSB to produce the records or provide testimony;

(5) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than a DNFSB employee, such as a retained expert;

(6) If testimony is requested, the intended use of the testimony, a general summary of the desired testimony, and a showing that no document could be provided and used in lieu of testimony;

(7) A description of all prior decisions, orders, or pending motions in the case that bear upon the relevance of the requested records or testimony;

(8) The name, address, and telephone number of counsel to each party in the case; and

(9) An estimate of the amount of time that the requester and other parties will require with each DNFSB employee for time spent by the employee to prepare for testimony, in travel, and for attendance in the legal proceeding.

(c) The Defense Nuclear Facilities Safety Board reserves the right to require additional information to complete your request where appropriate.

(d) Your request should be submitted at least 45 days before the date that records or testimony is required. Requests submitted in less than 45 days before records or testimony is required must be accompanied by a written explanation stating the reasons for the late request and the reasons for expedited processing.

(e) Failure to cooperate in good faith to enable the General Counsel to make an informed decision may serve as the basis for a determination not to comply with your request.

§ 1707.204 Service of subpoenas or requests.

Subpoenas or requests for official records or information or testimony must be served on the General Counsel, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2901.

§ 1707.205 Processing demands or requests.

(a) After service of a demand or request to testify, the General Counsel will review the demand or request and, in accordance with the provisions of this subpart, determine whether, or under what conditions, to authorize the employee to testify on matters relating to official information and/or produce official records and information.

(b) The Defense Nuclear Facilities Safety Board will process requests in the order in which they are received. Absent exigent or unusual circumstances, DNFSB will respond within 45 days from the date that we receive it. The time for response will depend upon the scope of the request.

(c) The General Counsel may grant a waiver of any procedure described by this subpart where a waiver is considered necessary to promote a significant interest of the DNFSB or the United States or for other good cause.

§ 1707.206 Final determination.

The General Counsel makes the final determination on demands and requests to employees for production of official records and information or testimony. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requester and the court or other authority of the final determination, the reasons for the grant or denial of the demand or request, and any conditions that the General Counsel may impose on the release of records or information, or on the testimony of a DNFSB employee.

§ 1707.207 Restrictions that apply to testimony.

(a) The General Counsel may impose conditions or restrictions on the testimony of DNFSB employees including, for example, limiting the areas of testimony or requiring the requester and other parties to the legal proceeding to agree that the transcript of the testimony will be kept under seal or will only be used or made available in the particular legal proceeding for which testimony was requested. The General Counsel may also require a copy of the transcript of testimony at the requester's expense.

(b) The DNFSB may offer the employee's written declaration in lieu of testimony.

(c) If authorized to testify pursuant to this part, an employee may testify as to facts within his or her personal knowledge, but, unless specifically authorized to do so by the General Counsel, the employee shall not:

(1) Disclose classified, privileged, or otherwise protected information;

(2) Testify as an expert or opinion witness with regard to any matter arising out of the employee's official duties or the functions of DNFSB unless testimony is being given on behalf of the United States (see also 5 CFR 2635.805 for current employees).

§ 1707.208 Restrictions that apply to released records.

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, DNFSB may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original DNFSB records may be presented for examination in response to a demand or request, but they are not to be presented as evidence or otherwise used in a manner by which they could lose their identity as official DNFSB records, nor are they to be marked or altered. In lieu of the original records, certified copies will be

VOL 66 ISS 248 DE 27 2001 UMI

presented for evidentiary purposes (see 28 U.S.C. 1733).

§ 1707.209 Procedure when a decision is not made prior to the time a response is required.

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 1707.201, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the demand or request is being reviewed, and seek a stay of the demand or request pending a final determination.

§ 1707.210 Procedure in the event of an adverse ruling.

If the court or other competent authority fails to stay the demand, the employee upon whom the demand is made, unless otherwise advised by the General Counsel, will appear at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand, citing *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). A written response may be offered to a request, or to a demand, if permitted by the court or other competent authority.

Subpart C—Schedule of Fees

§ 1707.301 Fees.

(a) Generally. The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to DNFSB.

(b) Fees for records. Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the demand or request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowance, and benefits). Fees for duplication will be the same as those charged by DNFSB in its Freedom of Information Act fee regulations at 10 CFR part 1703.

(c) Witness fees. Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear. Such fees will include cost of time spent by the witness to prepare for testimony, in travel, and for attendance in the legal proceeding.

(d) Payment of fees. You must pay witness fees for current DNFSB employees and any records certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony by former DNFSB employees, you must pay applicable fees directly to the former employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) Certification (authentication) of copies of records. The Defense Nuclear Facilities Safety Board may certify that records are true copies in order to facilitate their use as evidence. If you seek certification, you must request certified copies from DNFSB at least 45 days before the date they will be needed. The request should be sent to the General Counsel. You will be charged a certification fee of $15.00 for each document certified.

(f) Waiver or reduction of fees. The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(g) De minimis fees. Fees will not be assessed if the total charge would be $10.00 or less.

Subpart D—Penalties

§ 1707.401 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by DNFSB or as ordered by a Federal court after DNFSB has had the opportunity to be heard, may face the penalties provided in 18 U.S.C. 641 and other applicable laws. Additionally, former DNFSB employees are subject to the restrictions and penalties of 18 U.S.C. 207 and 216.

(b) A current DNFSB employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action.

[FR Doc. 01-31533 Filed 12-26-01; 8:45 am]

BILLING CODE 3670-01-P

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 930 and 932

[No. 2001-28]

RIN 3069-AB11

Unsecured Credit Limits for Federal Home Loan Banks

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending the unsecured credit provision of its rules, which was adopted as part of its capital rule on December 20, 2000 and governs the amount of unsecured credit that a Federal Home Loan Bank (Bank) can extend to a particular counterparty. The unsecured credit limits adopted in December were generally stricter than the limits under which the Banks operated with the Finance Board's Financial Management Policy (FMP). The amendments adopted herein will require the Banks to base the credit limit on the long-term credit rating of the counterparty. They also will set the amount of unsecured credit that a Bank can extend to a government-sponsored enterprise (GSE) at the level allowed under the FMP, and adjust the limits for sales of overnight federal funds and the limits for unsecured credit that can be extended to groups of affiliated counterparties. The amendments also address how the unsecured credit limits should be applied to certain housing finance agency bonds, and clarify how a Bank should calculate its credit exposures from on- and off-balance sheet items and derivative contracts. The Finance Board also is adding to § 932.9 a requirement that a Bank report promptly non-compliance with the unsecured credit limits set forth in the rule as well as making other technical or clarifying changes to the rule.

EFFECTIVE DATE: The final rule is effective on March 27, 2002.

FOR FURTHER INFORMATION CONTACT: James L. Bothwell, Managing Director, (202) 408-2821; Scott L. Smith, Acting Director, (202) 408-2991; or Julie Paller, Senior Financial Analyst, (202) 408-2842, Office of Policy, Research and Analysis; or Thomas E. Joseph, Senior Attorney-Advisor, (202) 408-2512, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 20, 2000, in accordance with the Gramm-Leach-Bliley Act, Pub.

L. No. 106–102, 133 Stat. 1338 (November 12, 1999) (GLB Act), the Finance Board adopted a final rule to implement the new capital structure that the GLB Act established for the Banks. 66 FR 8262 (January 30, 2001). As part of the final capital rule, the Finance Board adopted § 932.9 of its rules, 12 CFR 932.9, which set new limits on a Bank's unsecured credit exposures to a single counterparty or a group of affiliated counterparties. *Id.* at 8318–19. These new limits represented a revision and codification of the unsecured credit guidelines of section VI of the FMP, Finance Board Res. No. 96–45 (July 3, 1996), as amended by Finance Board Res. No. 96–90 (December 6, 1996), Finance Board Res. No. 97–05 (January 14, 1997), and Finance Board Res. No. 97–86 (December 17, 1997). Given concerns raised by the Banks about the unsecured limits adopted in December 2000, the Finance Board delayed the effective date of these requirements on the condition that the FMP restrictions remained in effect, and, on March 7, 2001, published a proposed rule requesting comment on potential amendments to the unsecured credit requirements. *See* 66 FR 13688 (Mar. 7, 2001).

After considering comments on this rule proposal, the Finance Board believed more changes were needed than those it had previously considered and, as a consequence, published for comment in the **Federal Register** a new set of proposed amendments to § 932.9 on August 8, 2001 (the proposed rule). *See* 66 FR 41474 (Aug. 8, 2001). The Finance Board also again extended the effective date for compliance with § 932.9 subject to the condition that section VI of the FMP remained in effect. *Id.* at 41475. The comment period on the second proposed rule closed on September 7, 2001. After considering the comments received, the Finance Board has made a number of changes to the rule proposed in August 2001, and is adopting an amended version of § 932.9, as discussed below.

II. Discussion of the Comments Received

The Finance Board received seven comment letters on the proposed rule, all of which were from Banks. Two commenters submitted follow-up comment letters to the Finance Board, after the close of the comment period. Nevertheless, these follow-up letters were considered in developing this rule. The comments requested both changes to the proposed rule and amendments and clarifications of how the proposed rule would be applied. The Finance Board agrees with many of the comments made, and as a result has made a number of changes to the proposed rule. The Finance Board addresses the comments received on its proposed changes to § 932.9 below.

Effective Date of Rule

Four of the commenters requested that the Finance Board delay the effective date of § 932.9, which had been scheduled to take effect on October 1, 2001 or on the date the proposed rule was adopted in final form, whichever was earlier. *See* Fin. Brd. Res. No. 2001–11 (June 5, 2001). The commenters suggested that the effective date of the rule be set at various dates that ranged from three to six months after a final rule had been published. The commenters stated that the extension was necessary to give the Banks sufficient time to conform recordkeeping and reporting systems to whatever limits were ultimately adopted by the Finance Board.

The Finance Board generally agrees with these comments. On September 26, 2001, it extended the effective date of § 932.9 until January 28, 2002 to provide sufficient time to complete the rulemaking process. *See* Fin. Brd. Res. No. 2001–20 (Sept. 26, 2001). However, given the date of approval of these final rule amendments, the Banks will have less than ninety days to prepare for implementing the amended version of § 932.9 adopted herein if the January 28, 2002 date for complying with § 932.9 is not changed.[1] Thus, the Finance Board is also adopting separate from these rule amendments, a resolution that delays the date for complying with § 932.9 until the effective date of these final rule amendments. This new effective date will be 90 days from the date this final rule is published in the **Federal Register**.[2] The delay in the effective date is conditioned upon the Banks' continued compliance with the unsecured credit limits in section VI of the FMP. The Finance Board believes that this time frame should be sufficient for the Banks to conform their recordkeeping and reporting systems to the rule as amended.

General Approach

The proposed rule would have required a Bank to determine the applicable maximum capital exposure limits for a particular counterparty based on the long-term credit rating received by that counterparty from an organization regarded as a Nationally Recognized Statistical Rating Organization (NRSRO) by the Securities and Exchange Commission, except in certain limited circumstances. The proposed amendment represented a change from the approach adopted in December 2000 which required a Bank to determine the maximum capital exposure limit for a short-term credit based on an NRSRO's short-term credit rating for the counterparty and to determine the maximum capital exposure limit for a long-term credit based on an NRSRO's long-term credit rating for the counterparty. Under the proposed rule (as under the rule adopted in December 2000), the unsecured credit limit for a particular counterparty (subject to certain exceptions set forth in the rule) would equal the maximum capital exposure limit for that counterparty multiplied by the lesser of the Bank's total capital or the counterparty's Tier 1 or total capital.

Two commenters objected to the reliance on long-term credit ratings, as proposed. The commenters argued that short-term credit exposures presented a markedly different credit risk to a Bank than would a long-term exposure to the same counterparty, and that by disregarding short-term ratings, the Finance Board was ignoring important information about a counterparty embodied in that rating. The commenters also believed that the proposed approach would greatly restrict the amount of unsecured credit a Bank could provide from levels permitted under the FMP or under § 932.9 as adopted in December 2000. One commenter stated that this reduction would force the Banks to seek lower-rated counterparties and increase the term of their lending, thereby raising overall credit risk. The other commenter stated the proposed change, if adopted, would reduce the amount of unsecured credit that a Bank would have available to its members, which may result in membership becoming less attractive to some institutions.

Given these concerns, one commenter urged the Finance Board not to adopt the proposed change and continue to base unsecured credit limits for short-term exposures on short-term credit ratings. The other commenter suggested the Finance Board provide the Banks the option of using short-term credit

---

[1] Further, the Finance Board recognizes that given the large number of amendments adopted by this rulemaking, it would serve no purpose to require the Banks to implement § 932.9, as adopted in December 2000, on January 28, 2002, and then implement this amended version of the rule soon thereafter. It is more reasonable to continue to apply the current unsecured credit restrictions of section VI of the FMP to the Banks until section VI of the FMP is superceded by the amended version § 932.9.

[2] The Finance Board is also extending the effective date for the liquidity requirements set forth in § 932.8 so that both the amended unsecured credit limits and the new liquidity requirements will take effect on the same day.

VOL 66 ISS 248 DE 27 2001 UMI

ratings. The second commenter also urged the Finance Board to develop new short- and long-term limits and a new total limit which would be the sum of the short- and long-term limits plus capacity for additional overnight lending.

A third commenter believed that it was inappropriate to use the counterparty's capital as a basis for setting the unsecured credit limits because this approach could result in unduly large Bank System-wide unsecured credit exposures to a counterparty in relation to that counterparty's total assets. The commenter urged the Finance Board to set the unsecured credit limits at the lesser of a percentage of a Bank's total capital or a counterparty's total assets.

The Finance Board has considered these comments but has decided not to make any changes to the proposed rule in response. In the **SUPPLEMENTARY INFORMATION** section of the **Federal Register** proposing release for this rule, the Finance Board noted three reasons to require the Banks to determine the applicable maximum capital exposure limit based solely a counterparty's long-term credit rating. First, the Finance Board stated that the reliance on long-term credit ratings was consistent with the approach being suggested by the Basel Committee on Banking Supervision (Basel Committee) for establishing risk-weightings under its standardized approach in the proposed New Capital Accord, which generally proposes using long-term ratings assigned by rating agencies (*i.e.*, NRSROs) and disregarding the maturity of a credit in setting risk weightings. *See* 66 FR at 41479–80 (*citing* Basel Committee, "A New Capital Adequacy Framework" 26–36 (June 1999); and Basel Committee, "Overview of the New Basel Accord" 13–14 (Jan. 2000)).[3] Second, the Finance Board noted that parties that would be assigned the same short-term credit rating may have markedly different maximum 30-day default rates, depending on a party's long-term credit rating, so that use of long-term ratings would assure more restrictive limits were imposed on borrowers with the higher maximum 30-day default rate. 66 FR at 41480. Finally, the Finance Board stated that exclusive reliance on long-term credit ratings for determining the maximum exposure limits would simplify the Banks' monitoring of their counterparties' ratings. *Id.*

The comments received do not alter the Finance Board's basic reasoning for proposing exclusive use of long-term credit ratings to determine the maximum capital exposure limit applicable to a counterparty. In this regard, the Finance Board emphasizes that its approach is consistent with the standardized approach being proposed by the Basel Committee in the New Capital Accord for establishing risk weightings. The Basel Committee decided generally to ignore maturity of claims in establishing risk weighting in large part because of "the difficulties in pursuing greater precision in differentiating among the maturities of claims through capital charges" and the "broad brush" nature of the proposed capital requirements. *See* Basel Committee, "A New Capital Adequacy Framework" at 33. The same reasoning can be applied to the unsecured credit limits being adopted herein, especially given that the credit limits are designed to provide a broad framework to prevent concentration of credit in single counterparties or groups of affiliated counterparties and not to differentiate with precision the risks of lending to particular counterparties. *See* 66 FR at 8302 (explaining reasoning for adopting § 932.9).

The Finance Board also disagrees with the suggestions of the one commenter that the unsecured credit limits will create more risk by lowering the quality of the Bank's credit portfolios. The unsecured credit limits adopted herein are themselves restrictive as to the amounts of credit that can be lent to lower rated counterparties. At the same time, before undertaking any significant lending or investment activity that was not allowed under the FMP, a Bank will first have to demonstrate pursuant to part 980 of the Finance Board rules, 12 CFR part 980, that it is able to undertake the new lending in a safe and sound manner. In addition, the lending undertaken by a Bank will eventually be subject to the capital requirements of part 932 of the Finance Board rules, helping to assure a Bank holds sufficient capital if it is indeed engaging in lending to lower quality counterparties. Even before the requirements of part 932 become effective, however, a Bank will be subject to the capital requirements set forth in § 956.4 of the Finance Board rules, 12 CFR 956.4, if the Bank undertakes unsecured transactions with any counterparty rated below the second highest credit rating by an NRSRO. Further, with regard to the second commenter's concern about unsecured lending to members, the unsecured credit rules will not in any way limit a Bank's ability to continue to provide liquidity to members using short-term advances.

The Finance Board also continues to believe that it is appropriate to base the unsecured credit limits on the lesser of the capital of the Bank or the capital of the counterparty rather than adopt the commenter's suggestion of using a percentage of a counterparty's assets. The approach adopted herein addresses the Finance Board's concerns with potential concentrations of unsecured credit as a percentage of Bank capital on both the individual Bank and Bank System level. *See* 66 FR at 8302. The approach also is relatively straightforward to implement so the Finance Board sees no reason to alter it in response to the commenter's concerns.

Further, basing the limit on a percentage of counterparty assets rather than counterparty capital would result in higher limits as a percentage of counterparty capital for counterparties with lower capital ratios. For example, two counterparties with the same credit rating and same amount of total assets would be subject to the same limit. If one of the two has a lower capital ratio than the other, however, the Bank's lending to the less capitalized counterparty could equal a higher percentage of that counterparty's capital (*i.e.*, the limit as a percentage of capital would be higher). Because capital serves as a cushion against loss, this methodology suggested by the commenter would allow the Bank a higher exposure relative to capital to the less-capitalized counterparty and provide less protection against potential losses. Thus, the Finance Board believes that limiting extensions of unsecured credit to a percent of capital is the more appropriate methodology.

Overnight Federal Funds Transactions

The proposed rule would have amended § 932.9 to require a Bank to meet two unsecured credit limits for each private counterparty. The first, the term limit, would have applied to all unsecured credit transactions except sales of federal funds with a maturity of one day or less or sales of federal funds subject to a continuing contract (together "overnight federal funds"). The term limit for a particular counterparty equaled the maximum capital exposure limit times the lesser of the Bank's total capital or the appropriate measure of the counterparty's capital. The second limit, the overall limit, would have applied to all transactions with a particular counterparty including any overnight federal funds transactions. The overall limit for a particular counterparty equaled twice the counterparty's term limit.

---

[3] *See also*, Basel Committee, "Consultative Document: The new Basel Capital Accord" 14–15 (Jan. 2001) ("if there is a long-term issue or issuer assessment [*i.e.*, rating], that assessment should be used not only for long-term claims but also for short-term claims, regardless of the availability of a short-term assessment * * *).

The Finance Board received two comments on this proposed amendment. One commenter felt that the special treatment afforded overnight Federal Funds transactions by the proposed amendment offered only limited relief to, what the commenter believed were, the unnecessarily restrictive limits of § 932.9. This commenter urged the Finance Board to exclude all overnight federal funds transactions from the unsecured credit limits, or in the alternative, to allow a flat 15 percent of capital add-on to the term limit for overnight federal funds transactions for counterparties with the highest short-term rating and at least the third highest long-term rating. The commenter argued that the "funding advantage" that may be enjoyed by the Banks, which the commenters viewed as the reason the Finance Board failed to exclude all overnight federal funds transactions from the rule, was a myth, noting that if such an advantage existed, depository institutions would get most of their funds from the Banks. The commenter also pointed out that given the low spread on advances, the Banks needed to maintain leverage through short-term investments such as selling overnight federal funds. More generally, the commenter believed that the Finance Board's "conservative" approach to the unsecured credit limits was inconsistent with the GLB Act because the GLB Act made clear that the Finance Board's responsibility was safety and soundness regulation and not management of the Banks. The other commenter on the proposed amendment recommended that the Finance Board apply the proposed special limits only to overnight investment transactions between a Bank and a member institution, and that the Finance Board include in the overall limit all types of unsecured overnight transactions, not just overnight federal funds transactions.

As the Finance Board has previously stated, it adopted the unsecured credit limits as a safety and soundness regulation to prevent undue concentrations of credit in a single counterparty or groups of affiliated counterparties. *See* 66 FR at 8301–02. Other banking regulators have similar limits in effect.[4] These types of regulations also are consistent with practices for sound management of credit risk as articulated by the Basel Committee. *See* Basel Committee, "Principles for Management of Credit Risk" 10 (Sept. 2000). Thus, the Finance Board is confident that these regulations are consistent with its obligations and authority to ensure that the Banks operate in a financially safe and sound manner, and are not inconsistent with the GLB Act or the Bank Act more generally. *See* 12 U.S.C. 1422a(a)3 and 1422b.

Further, as noted in the **SUPPLEMENTARY INFORMATION** section of the preamble of the proposed rule, the Finance Board considered excluding overnight federal funds transactions from its unsecured credit limits because other banking regulators excluded these transactions from their lending limits. *See* 66 FR at 41476. The Finance Board also noted that the Banks have different incentives than commercial depository institutions to lend into the federal funds markets. The differing incentives include both the funding advantage enjoyed by GSEs in borrowing and the more varied lending and investment opportunities available to commercial banking enterprises which reduces these institutions' incentives to engage in federal funds lending. *Id.* The Finance Board also emphasized that overnight federal funds transactions are currently subject to the unsecured credit limits of the FMP and that completely excluding overnight federal funds transactions from the restrictions of § 932.9 would have represented a significant loosening of its restrictions, which was not the purpose of adopting these limits. Given these considerations, the Finance Board concluded that it was not appropriate to completely exclude overnight federal funds transactions from the unsecured credit limits, and instead, proposed the overall limit discussed above.

The Finance Board continues to believe that its initial reasoning remains sound. In particular, the Finance Board believes there is a basis for concluding that Banks have a financial incentive to lend to the federal funds markets, and that to permit such lending without limits would be imprudent. The Finance Board also believes that the rule as adopted provides the Banks with sufficient flexibility to invest funds to both meet their liquidity needs and to counter cyclical fluctuations in their business. Based on the same reasoning discussed above, the Finance Board also sees no compelling reasons to extend the treatment offered to overnight federal funds transactions to other types of overnight transactions in which a Bank may engage or to limit the additional lending capacity for overnight federal funds transactions just to transactions with members. Such restrictions would unnecessarily limit a Bank's investment opportunities with little apparent gain from a safety and soundness perspective. Moreover, nothing would prevent a Bank from implementing internal policies that would achieve this goal so long as the policies were consistent with § 932.9 and other Finance Board regulations.

Affiliated Counterparties

In response to concerns that the unsecured credit limits were too restrictive, the Finance Board proposed to amend § 932.9 so that the unsecured credit limit applicable to groups of affiliated counterparties would equal 30 percent of the Banks total capital. 66 FR at 41482. The Finance Board explained that the proposed aggregate limit on extensions of unsecured credit to affiliated counterparties would have allowed the Banks to extend somewhat larger amounts of credit to large financial conglomerates than did the provisions in § 932.9 as adopted in December 2000. *Id.* at 41480.

The Finance Board also proposed amending the definition of "affiliated counterparty." *Id.* at 41481. The Finance Board believed that new definition was more understandable and was more consistent with the meaning of the phrase "corporate group" as used in regulations issued by the Office of the Comptroller of the Currency (OCC), which addressed lending to affiliated counterparties. *Id.* at 41480. The effects of the proposed definition would have generally been to raise the threshold for control when defining an affiliate from (either direct or indirect) ownership of 25 percent of the voting securities or interests of an entity to 50 percent of such securities or interests. The Finance Board did not believe the change would generally alter the number or groupings of affiliated counterparties covered by the restrictions in § 932.9. *Id.*

The Finance Board received only one comment on the proposed changes to the unsecured credit limits applicable to extensions to a Bank's unsecured lending to groups of affiliated counterparties. The commenter urged the Finance Board to raise the limit from 30 percent of a Bank's total capital to 50 percent of a Bank's total capital because, as the commenter believed, there was only an indirect link between affiliates related by a common holding company and failure of one affiliate would seldom cause another affiliate to fail. The commenter also recommended that counterparties related by a common holding company and special bankruptcy-remote subsidiaries should

---

[4] The Office of the Comptroller of the Currency sets forth its lending limits at 12 CFR part 32.

VOL 66 ISS 248 DE 27 2001 UMI

not be considered affiliates for purposes of § 932.9.

The Finance Board considered this comment but has not altered the proposed unsecured lending limits for groups of affiliated counterparties or the proposed definition of affiliated counterparty as a result. The Finance Board disagrees with the commenter's suggestion that there is only minimal risk that the failure of one affiliated counterparty would affect the financial standing of other affiliates. As the Finance Board previously pointed out, applying credit exposure limits to groups of affiliated counterparties is consistent with sound principles of risk management and with practices of other regulators. *See* 66 FR at 41477. The Finance Board believes that the new limit suggested by the commenter would be too lenient and allow Banks too great an exposure to groups of affiliated counterparties. The limit adopted herein on extensions of credit to groups of affiliated counterparties, however, is consistent with limits adopted by other bank regulators.[5] *See* 12 CFR 932.5(d) and 12 CFR 560.93(c). As already stated, the Finance Board also believes that the definition of "affiliated counterparty," as proposed and as adopted herein, is consistent with similar terms used by other banking regulators.

GSE Limits

The Finance Board proposed raising the limit on extensions of unsecured credit to a GSE to 100 percent of the lesser of a Bank's or GSE's total capital. *Id.* at 41482. This change basically would have re-instituted the limit on extensions of unsecured credit to GSEs that had been in effect under the FMP.[6] *Id.* at 41475–76. As the Finance Board explained, the proposal resulted from Banks' concerns that the limits as adopted in December 2000 may have disrupted the Banks' investment strategies. At the same time, the Finance Board did not believe the proposal raised any safety and soundness concerns. *Id.* The proposed amendment also would have required a Bank to treat a GSE like other private counterparties should any NRSRO have assigned a credit rating to, or downgraded a credit rating of, any long-term senior unsecured credit obligation issued by a GSE to below the highest investment grade or placed a GSE on a credit watch for such a downgrade. *Id.* at 41482. This trigger provision was proposed to assure the preferential GSE limit was not applied to an entity undergoing obvious financial difficulty. *Id.* at 41475.

The Finance Board received two comments on this proposed rule. The first commenter believed the trigger provision would have resulted in too drastic a cut in future credit to a troubled GSE and recommended that the deadline for applying the lower limits applied to a GSE after a downgrade in its credit rating be keyed to the extent of the downgrade (*e.g.*, six months if downgraded to the second highest investment grade credit rating, three months if downgraded to the third highest investment grade credit rating, etc.). The commenter argued that reducing future extensions of credit to a GSE in times of financial difficulty could increase the risk of default by that entity. The second commenter requested that the Finance Board clarify that the preferential unsecured lending limit for GSEs would not be applied to subordinated debt issued by the GSE.

The Finance Board does not believe that any change in the proposed trigger provision is necessary in response to the comment and is adopting it as proposed. The commenter's suggestion, if adopted, could leave the Banks with the risk of maintaining the liquidity of other GSEs in the unlikely occurrence that another GSE experienced severe financial difficulties. More importantly, to the extent that special action were needed to help a GSE, or any other large financial institution, such action would have to be coordinated with other financial regulators, and the Finance Board would have to take appropriate action at that time (*e.g.*, waiver of the trigger provision to allow the Banks to adjust their lending positions accordingly. At the same time, the Finance Board would expect that a Bank would take steps to reduce its exposure to a GSE (or any other counterparty) as soon as the GSE's potential financial difficulties became apparent. Thus, the reduction in extensions of unsecured credit may be spread over time, and the reduction in unsecured credit triggered when the credit rating downgrade actually occurs may not be as drastic as the commenter suggested.

The Finance Board agrees with the second commenter, however, and has altered the final rule to make clear that the preferential unsecured credit limits applicable to GSEs do not apply to subordinated debt. GSE subordinated debt is generally perceived as providing an indication of the entity's financial standing, independent of any implied government guarantee. As such, the risk of holding GSE subordinated debt would be similar to the risks associated with holding non-GSE debt. The amendments to § 932.9 adopted by the Finance Board will restrict a Bank's holding of GSE debt to the level calculated using the maximum capital exposure limit associated with the credit rating assigned to the GSE's subordinated debt. This rule would apply even if the GSE's subordinated debt received the highest investment grade rating from an NRSRO. Further, a Bank's holdings of a GSE's subordinated debt would be included in the total amount of unsecured credit extended to that GSE for purposes of applying the preferential lending limit for GSEs (*i.e.*, 100 percent of the lesser of the Bank's or the GSE's total capital).

The Finance Board also recognizes that the commenter's concerns with regard to GSE subordinated debt would also apply to the subordinated debt of any other counterparty. Thus, the Finance Board is also adopting new § 932.9(a)(4)(iii) as part of these final rule amendments. This provision imposes a special sub-limit on any debt issued by a counterparty if that debt obligation received an issue rating from an NRSRO that is lower than the counterparty's long-term credit rating. This sub-limit would be calculated using the rating assigned to the lower-rated debt obligation for purposes of determining the maximum capital exposure limit. Because the lower credit rating assigned to a particular obligation would indicate that holding that obligation is more risky than holding other obligations of the issuer-counterparty, it is appropriate to limit the Bank's holdings of that specific obligation. Generally, the Finance Board believes that an issue rating will be lower than the issuer's long-term rating only in cases where the issue in question is subordinated debt.

Measurement of Derivatives Exposure

The Finance Board proposed amending § 932.9 to require a Bank to measure the unsecured credit exposure arising from a derivative contract in accordance with §§ 932.4(g) and 932.4(h) of the Finance Board rules. 12 CFR 932.4(g) and 932.4(h). As adopted in December 2000, § 932.9 contained no provision indicating how a Bank should measure its unsecured credit exposure to a counterparty, and this change would have conformed the measurement for derivative contracts with that undertaken when calculating a Bank's credit risk capital charges for derivative contracts under § 932.4 of the Finance Board rules.

---

[5] The cited regulations generally restrict an institution's aggregate extension of credit, including any lending that is fully secured by readily marketable financial instruments or bullion in which the lender holds a perfected security interest, to a corporate group to an amount not to exceed 50 percent of a bank's capital and surplus. The Finance Board's limit, though lower, would not apply to extensions of credit which are backed by collateral held by a Bank in accordance with the requirements of § 932.9.

[6] Mortgage-backed securities issued by other federal housing GSEs and purchased by the Banks were previously, and are not now, considered a form of unsecured credit by the Finance Board.

Four commenters pointed out that when read strictly this provision as proposed would not take account of collateral held against derivative exposure. These commenters pointed out that the proper measure of the unsecured credit exposure from a derivative contract should be the net marked-to-market value of the contract less the collateral posted by the counterparty. Two of these commenters also specifically stated that it was inappropriate to include the potential future credit exposure (PFE) of a contract in the calculation of the Bank's extension of unsecured credit to a counterparty. The two commenters pointed out that the exposure of a Bank upon default of a counterparty would be the marked-to-market value of the contract at the time of default. Further, these commenters stated risk management techniques, such as the right to value derivatives and call for additional collateral at any time, mitigate the need to include PFE in exposure calculations. One of these two commenters also requested that the Finance Board specify the frequency with which a Bank must measure its credit exposure from a derivative contract and recommended a frequency of once a month, which would coincide with minimum requirements in agreements for measuring exposure and settling collateral.

The Finance Board did not intend that derivative exposure against which collateral is properly held be included in the amount of unsecured credit extended to a counterparty, but agrees that the proposed wording in § 932.9(f) did not make this clear. Thus, this provision, as adopted, has been reworded to make clear that any portion of a derivative exposure against which the Bank holds collateral shall not be counted toward the total amount of unsecured credit extended to a counterparty. To be counted, however, this collateral must be held in accordance with § 932.4(e)(2)(ii)(B) of the Finance Board's rules, which among other things requires the value of the collateral to be appropriately discounted to protect the Bank against a price decline during the holding period and to account for the potential cost of liquidation of the collateral.

The Finance Board, however, believes that it is appropriate to continue to include a derivative contract's PFE in the calculation of extension of unsecured credit. Such practice appears to be standard for derivative dealers when setting counterparty credit limits. *See e.g.*, Bank for International Settlements, "OTC Derivatives: Settlement Procedures and Counterparty Risk Management" 15–16 (Sept. 1998). The Finance Board believes that it is also appropriate here since the value of certain derivative contracts may be fast changing and the use of collateral may reduce losses but generally does not eliminate credit risk. *Id.* at 4. Thus, as adopted, § 932.9(f) requires a Bank to include both the current credit exposure and the PFE in its calculation of the amount of unsecured credit extended to a counterparty. This provision, both as proposed and as adopted, allows a Bank, however, to calculate its exposure on a net basis for derivative contracts subject to a qualifying bilateral netting contract, as that phrase is defined under § 932.4(h)(3).

The Finance Board has also decided not to place in the rule a minimum frequency for calculating exposures under a derivative contract. Instead, Banks should establish clear policies to govern such calculations, and these policies will be reviewed by the Finance Board in the course of Bank examinations. In setting this policy, a Bank should consider the complexity of its derivative holdings and the volatility of the value of those holdings as well as other relevant factors. The Finance Board generally believes, however, that a Bank should value its derivative contracts more frequently than once a month for purposes of applying § 932.9.

Requests for Additions to the Rule

Two commenters asked that the Finance Board add a provision to the rule to clarify the status of bonds issued by state and local housing finance agencies (HFAs). Both commenters pointed out that investment in HFA bonds helped Banks achieve their housing finance missions and provided Banks with investment flexibility and that treating HFAs like other counterparties severely restricts the Banks' investment in HFA bonds because HFAs often have low capital. These commenters also noted that HFA bonds were considered outside the scope of the unsecured credit limits of section VI of the FMP. As a follow up to its comment letter, one commenter sent an additional letter stating that they believe that most HFA bonds were secured by mortgage collateral and therefore should have been exempt from the unsecured credit limits, but provided no justification or legal rationale to support such a conclusion. Another commenter requested that the Finance Board add a provision that if a third-party guaranteed repayment by the counterparty, the unsecured credit limits should be applied to the guarantor and not to the counterparty itself, as has been required under the FMP.

The Finance Board has considered these comments and has made changes in the final rule as a result. With regard to the HFA obligations, the Finance Board believes that generally these obligations should be subject to the unsecured credit limitations. While the structure of the HFA obligations held by the Banks may vary widely, it does not appear that these obligations are usually secured in the sense that the HFA provides the Bank with collateral that the Bank holds in accordance with the principles set forth in § 932.4(e)(2)(ii)(B) or in the same sense that a Bank secures an advance. Nevertheless, given that the structure of these transactions may vary, the Finance Board is willing to consider on a case-by-case basis that a specific HFA transaction may be considered secured and therefore should be excluded from the limits of § 932.9.

The Finance Board agrees with the commenters, however, that application of the proposed limits in § 932.9 may restrict the Banks' ability to purchase the HFA obligation and be detrimental to the Banks' housing finance mission. Investments in HFA obligations are also subject to other Finance Board regulations. Thus, the Finance Board is adopting new § 932.9(a)(3) which sets a special limit for certain HFA obligations. As is explained more fully in the next section of this preamble, this special limit for qualified HFA obligations will be calculated based upon the Bank's total capital and the maximum capital exposure limit associated with the rating of the instrument purchased by the Bank. To qualify for treatment under § 932.9(a)(3), the HFA obligation must either be an acquired member asset, as defined in § 955.2 of the Finance Board rules, or be the type of obligation excluded by § 956.3(a)(4)(iii) from the general prohibition against the Banks' investing in whole mortgages or loans (or interests therein). The Finance Board believes that the approach adopted in these amendments will provide the Banks with sufficient capacity to invest in HFA obligations in support of their housing finance mission while still preventing undue concentrations of these instruments on the Banks' books.

More generally, the Finance Board recognizes that, given the comment concerning the status of HFA bonds, there may be some confusion concerning the intended scope of this rule. This is especially true where a

VOL 66 ISS 248 DEC 27 2001 UMI

bond or other debt securities may be backed by a pledge of specific property or by revenues, such as may occur with certain HFA bonds, so that the debt security may be considered secured in some context. In developing this rule, however, the Finance Board has viewed the purchase of a debt security or other debt obligation generally to be an unsecured extension of credit, unless the Bank, itself, holds or controls collateral against its exposure from the debt obligation, in accordance with the requirements of § 932.4(e)(2)(ii)(B). To make this view clear, the Finance Board has adopted new § 932.9(f)(2). New § 932.9(f) also makes clear that the Finance Board continues to exempt mortgage-backed securities from the unsecured credit limits and that loans purchased as acquired member assets (AMA) and identified in §§ 955.2(a)(1) and (2), 12 CFR 955.2(a)(1) and (2), are also exempt.

The AMA exemption under new § 932.9(f)(2) does not extend to HFA bonds purchased under the AMA. Generally, a member or housing associate does not need to provide added credit enhancements and collateralize that credit enhancement for HFA bonds as it would for mortgages purchased under the AMA program. *See* 12 CFR 955.3(b)(3). This is because the HFA bonds purchased under the AMA program are already enhanced by collateral (not held by the Bank) and rated sufficiently high that additional enhancement or collateral is not required. Further, the unsecured credit provision for HFA bonds already takes account of this higher rating by allowing the maximum capital exposure limits to be determined based on the issue rating of the HFA bond itself rather than on the rating of the HFA. The new provision also makes clear that the Finance Board is willing to consider on a case-by-case basis that any debt obligation or debt security purchased by the Bank should not be subject to the limits of § 932.9 because the Bank's credit exposure is adequately secured.

The Finance Board also agrees with the commenter that where a third-party has provided an unconditional and irrevocable guarantee covering a credit extended by the Bank, the Bank's exposure will ultimately be to the guarantor. Given this fact, the Finance Board has modified proposed § 932.9(a) to make clear that if repayment of a credit is guaranteed unconditionally and irrevocably by a third-party, the resulting unsecured credit exposure would be treated as if it were to the third-party guarantor. This means that in calculating the unsecured credit limits for these guaranteed transactions, a Bank would consider the credit rating and capital of the third-party guarantor and would aggregate the credit exposure arising from the guarantee with any other unsecured credit extended to the third-party guarantor. The Finance Board recognizes that for regulatory or other reasons, a third-party may not provide, or be able to provide, an irrevocable guarantee, but may provide some other form of support or credit enhancement. While the rule as adopted only allows unconditional, irrevocable guarantees to be attributed to the third-party guarantor, the Finance Board would be willing to consider allowing this treatment to be extended on a case-by-case basis to other specific support arrangements, if a Bank can demonstrate that the support or credit enhancement provided by the third-party provides a level of protection equivalent to an irrevocable guarantee.

Requests for Clarification

One commenter requested clarification as to whether the phrase "affiliated counterparties' combined * * * capital" as used in the reporting requirements of proposed § 932.9(e)(1)(ii) meant the consolidated capital of the affiliated group or the combined capital of only those affiliated counterparties' to which a Bank had actually extended credit. The Finance Board believes that the phrase "affiliated counterparties' combined * * * capital" should be interpreted to mean the consolidated capital of the holding company for the affiliated group. Use of this figure would help avoid double counting of capital of affiliated members of a group.

This commenter also requested clarification whether the Finance Board expected data as of the month-end or some other date under the "monthly" reporting that would be required under § 932.9(e). This requirement applies to extensions of credit outstanding at any time during the month, not just at month-end, although the Bank does not have to submit its report to the Finance Board until after the last business day of the month. Such report should be provided promptly after that date.

Another commenter asked for clarification of the meaning of the phrase "net payments due a Bank" as used in proposed § 932.9(f)(1), a provision which addresses the measurement of unsecured credit exposures from on-balance sheet transactions. The Finance Board notes that this phrase was used in section VI of the FMP, and the Finance Board intends that it has the same meaning as under the FMP. Thus, the phrase indicates an amount due to or accrued by the Bank as of a point in time (i.e., the time a Bank measures its exposure from the on-balance sheet transaction) and not the future amounts due over the life of the transaction.

Status of FMP Provisions

One commenter requested that the Finance Board specifically rescind in the final version of § 932.9 provisions in section VI of the FMP concerning maximum maturities for derivative contracts and contingent collateralization of interest rate exchange agreements. The Finance Board does not believe a specific provision needs to be added to § 932.9 as requested by the commenter. Upon the effective date of § 932.9, the unsecured credit limitations of section VI of the FMP will be superseded and replaced by the rule. Any provision of section VI of the FMP which has not been adopted as part of § 932.9, such as the two cited by the commenter, will no longer apply to the Banks.

Another commenter asked the Finance Board to clarify whether restrictions contained in certain parts of the FMP would still be applicable after the effective date of § 932.9. Specifically, the commenter requested clarification of the applicability of: footnote 1 which defines "eligible financial institutions" and effectively limits the counterparties to which a Bank may lend overnight and term funds; footnote 3 which sets forth qualifications for issuers of commercial paper, bank notes and thrift notes that a Bank may buy; and footnote 6 which sets forth the criteria for eligible non-member counterparties for hedging transactions. Footnotes 1 and 3 appear in section II.B of the FMP, and footnote 6 is found in section V of the FMP. The Finance Board believes that because these provisions restrict, based on credit ratings, the counterparties to which the Bank may extend credit or with which a Bank may transact business which would create a credit exposure, these restrictions should be superseded upon the effective date of § 932.9. Section 932.9 is intended to address concerns about the credit rating of the Banks' counterparties. It does so, however, by limiting the amount of credit a Bank can extend to parties rated at these various levels and not by restricting the counterparties with which the Bank can transact. The new business activity requirements of Part 980 of the Finance Board's rules would apply to any investments involving counterparties the Bank intends to transact with that were not permitted under the FMP. *See* 66 FR at 41477–78.

III. The Final Rule

Except as noted below, the Finance Board is adopting the amendments to § 930.1 and § 932.9 of its rules, generally as proposed. The notices of proposed rulemaking published in the **Federal Register** on March 7, 2001, 66 FR 13688, and August 8, 2001, 66 FR 41474, contain additional explanatory information about the changes being adopted herein, and interested parties should review these document for a more complete understanding of the rule provisions discussed below.

Definitions

The Finance Board is amending § 930.1 of its rules, as proposed, to change the definition for "affiliated counterparty" and to add a new definition for the phrase "sales of federal funds subject to a continuing contract." The definition of "affiliated counterparty" being adopted herein reads as follows:

> *Affiliated counterparty* means a counterparty of a Bank that controls, is controlled by or is under common control with another counterparty of the Bank. For the purposes of this definition only, direct or indirect ownership (including beneficial ownership) of more than 50 percent of the voting securities or voting interests of an entity constitutes control.

The amended definition will generally raise the threshold for control from direct or indirect ownership of 25 percent of the voting securities or voting interests of an entity to ownership of 50 percent of such interests, but is not likely to alter significantly the number or groupings of counterparties that would be covered by the affiliated counterparty limitations. *See,* 66 FR at 41480.

In addition, the Finance Board is defining the phrase "sales of federal funds subject to a continuing contract" as an overnight federal funds loan that is automatically renewed each day unless terminated by either the lender or the borrower. This definition is consistent with the generally understood meaning of this phrase, and makes clear the types of federal funds transactions that will benefit from treatment under the overall limit of § 932.9(a)(2) of the Finance Board rules. *See Id.* at 41478.

Unsecured Extensions of Credit to a Single Counterparty

The Finance Board is adopting proposed § 932.9(a) with additional provisions designed primarily to address subordinated debt issued by a counterparty and a Banks' purchases of certain obligations issued by HFAs. In addition, the Finance Board has adopted a change to the proposed rule that requires a Bank to attribute the unsecured credit exposure arising from a transaction for which repayment is irrevocably and unconditionally guaranteed by a third-party to the guarantor. The Finance Board also has restructured § 932.9(a) slightly to accommodate the new provisions.

As adopted, § 932.9(a) of the Finance Board rules sets forth the limits on a Bank's extensions of unsecured credit to a single, non-GSE counterparty. Specifically, a Bank must always meet two limits. Under the first limit, all unsecured extensions of credit, except sales of overnight federal funds, by a Bank to single non-GSE counterparty can not exceed the term limit set forth in § 932.9(a)(1). Under the second limit, which is twice the term limit, all unsecured extensions of credit including overnight federal funds transactions by a Bank to a single counterparty can not exceed the overall limit set forth in § 932.9(a)(2). *See Id.* The effect of these limits is to allow the Banks to increase their lending of overnight federal funds to non-GSE counterparties beyond the term limit applicable to other types of unsecured lending.

Section 932.9(a) also sets out the criteria for calculating the term limit and the overall limit applicable to non-GSE counterparties. Under the rule, the term limit equals the product of the maximum capital exposure limit multiplied by the lesser of: (i) The Bank's total capital or (ii) the counterparty's Tier 1 capital, or, if Tier 1 capital is not available total capital (as defined by the counterparty's principal regulator), or some comparable measure identified by the Bank. This approach is the same approach adopted in § 932.9 in December 2000. *See* 66 FR at 8301–02. The overall limit is twice the term limit calculated for the counterparty.

Further, as adopted, § 932.9(a) clarifies how a Bank attributes the credit exposure arising from a transaction that is subject to an unconditional and irrevocable guarantee by a third-party. Under the rule, if repayment of any unsecured credit is irrevocably and unconditionally guaranteed by a third party, the third-party guarantor shall be considered the counterparty. The Bank would therefore attribute the credit exposure to the third-party guarantor and calculate the applicable unsecured credit limits based upon the long-term credit rating of the third-party guarantor and the lesser of the Bank's total capital or the relevant capital measure for the third-party guarantor. If the third-party only guarantees a portion of the repayment of the credit, only that portion of the credit exposure so guaranteed shall be attributable to the third party guarantor, and the remainder of the exposure shall be attributable to the direct counterparty and subject to the limits applicable to the direct counterparty. As discussed above, the Finance Board is willing to consider requests from the Bank on a case-by-case basis that it apply this approach to other forms of credit enhancement that may not clearly constitute an irrevocable unconditional guarantee, but may nonetheless offer a equivalent level of support.

As previously discussed, the limits for qualifying obligations issued by an HFA also are calculated somewhat differently, and, as set forth in § 932.9(a)(3), the limit for these HFA obligations will always equal the product of the applicable maximum capital exposure limit and the Bank's total capital. Furthermore, the maximum capital exposure limit will be determined based on the credit rating assigned to the particular obligation purchased by the Bank. This approach could conceivably result in different limits applying to different classes or series of obligations issued by the same HFA (if each class or series received different issue ratings from the NRSROs). In such a case, however, the rule makes clear that limits will not be separately and independently applied so that the total amount of unsecured credit extended to a HFA by a Bank could never exceed the limit associated with the highest rated qualifying obligation purchased by the Bank. For example, if a Bank purchased two classes of qualifying obligations from a HFA with different structures such that one class was rated in the highest investment grade category and the other was rated in the second highest investment grade category by an NRSRO, the Bank's combined total purchase of both classes of instruments could not exceed 15 percent of the Bank's total capital. At the same time, the Bank's purchase of the instrument rated in the second highest investment grade category could not exceed 14 percent of the Bank's total capital.

To qualify for treatment under § 932.9(a)(3), the HFA obligation must either be an acquired member asset, as defined in § 955.2 of the Finance Board rules, or be the type of obligation excluded by § 956.3(a)(4)(iii) from the general prohibition against the Banks' investing in whole mortgages or loans (or interests therein). Any other type of obligation issued by an HFA or any other form of unsecured extension of credit to the HFA would not qualify for treatment under § 932.9(a)(3), and the limit for that investment would be calculated under § 932.9(a)(1). Of course, the Bank would also have to be authorized to invest in or provide such other form of unsecured credit under part 956 of the Finance Board rules or some other applicable Finance Board regulation or order.

The maximum capital exposure limits are set forth in Table 4. Each maximum capital exposure limit corresponds to a different investment grade rating so that more restrictive maximum capital exposure limits are imposed on lower-rated, and therefore potentially riskier, counterparties. The applicable maximum capital exposure limit for a counterparty rated at the highest investment grade by an NRSRO is set at 15 percent. This level is broadly consistent with federal lending limits pertaining to commercial banks as set forth by statute and regulation. The maximum capital exposure limits corresponding to credit ratings below the highest investment grade, however, are calibrated to the 15 percent maximum capital exposure limit based upon the ratio of the average credit risk percentage requirement (over all maturity bucket groupings) for the highest investment grade to the average credit risk percentage requirement for each investment grade.[7] A more complete explanation of the derivation of the maximum capital exposure limits is found in the **SUPPLEMENTARY INFORMATION** section of the **Federal Register** release proposing this rule. *See* 66 FR at 41478–80.

As set forth in § 932.9(a)(4)(i), a Bank will determine the maximum capital exposure limit applicable to a counterparty based on the counterparty's long-term credit rating, subject to two exceptions.[8] Under the first exception, a short-term credit rating will be used to determine the applicable maximum credit exposure limit if NRSROs have provided a short-term credit rating for a counterparty but have not provided a long-term rating for that counterparty. *See Infra* § 932.9(a)(4)(ii). If a short-term credit rating for a counterparty is used, however, the highest short-term investment grade rating is deemed to correspond to the maximum capital exposure limit assigned to the third highest long-term investment grade rating in Table 4 (*i.e.*, nine percent), and the second and third highest short-term investment grade ratings would correspond to the maximum capital exposure limit assigned to the fourth highest long-term investment grade rating in Table 4 (*i.e.*, 3 percent). This treatment of the short-term investment grade credit ratings is more fully discussed in the proposing release. 66 FR at 41480.

The second exception to exclusive use of long-term credit ratings is set forth in § 932.9(a)(4)(iii), and has been added by the Finance Board in adopting this final rule. This provision states that if a Bank purchases a debt obligation from a counterparty that has an investment rating from an NRSRO that is lower than the counterparty's long-term rating, the amount of the lower-rated obligation held by the Bank can not exceed a special sub-limit. Specifically, this sub-limit equals the maximum capital exposure limit from Table 4 corresponding to the rating assigned the lower-rated debt obligation multiplied by the lesser of the Bank's total capital or the counterparty's applicable capital measurement. While the Bank's purchases of the lower-rate obligation could not exceed the sub-limit, the total amount of unsecured credit extended by the Bank to the counterparty (including amounts of the lower rated obligation) would be restricted by the term limit and overall limit calculated using the counterparty's long-term credit rating. As already noted, the Finance Board recognized the need to adopt this provision when considering comments that the special unsecured credit limits for GSEs should not be applied to subordinated debt issued by the GSE because the same concerns arise whether a GSE or a non-GSE counterparty issues subordinated debt.[9]

Section 932.9(a)(5) establishes the criteria that a Bank will use to determine a counterparty's long-term credit rating. The same criteria should be used whenever § 932.9 requires a Bank to determine the short-term rating of a counterparty or the issue rating of a specific obligation. This criteria is generally the same as that adopted in § 932.9 in December 2000, and has been altered only to remove provisions that are no longer necessary given other changes adopted in this final rule. *See Id.* at 41481. In determining a counterparty's long-term credit rating, the rule requires a Bank to use the most recent rating issued by an NRSRO, and if more than one NRSRO has rated the counterparty, to use the lowest rating from among those ratings. A Bank should also ignore modifiers (*e.g.*, +, −, or 1, 2, 3), so that, for example, ratings of A+ or A− would both correspond to the same maximum capital exposure limit in Table 4 (*i.e.*, third highest investment grade or 9 percent). Further, if a counterparty is placed on a credit watch by an NRSRO, the rule states that the credit rating from that NRSRO at the next lower grade shall be used. In cases where a counterparty is not rated by an NRSRO, the rule allows a Bank to determine the applicable credit rating using standards available from an NRSRO or similar standards.

Affiliated Counterparties

The Finance Board is adopting the unsecured credit limit on groups of affiliated counterparties in § 932.9(b), as proposed. *See Id.* at 41480 (discussing proposed affiliated counterparty limit). Under § 932.9(b), the aggregate limit on the extension of unsecured credit to a group of affiliated counterparties would equal 30 percent of the FHLBank's total capital. In calculating the amounts of unsecured credit extended to a group of affiliated counterparties, a Bank should include the amounts of sales of overnight federal funds to those affiliated counterparties. The rule also makes clear that unsecured credit limitations on individual counterparties continue to apply to each counterparty within a group of affiliated counterparties.

GSE Limits

The Finance Board is adopting the special limit for GSEs generally as proposed, *see id.* at 41475–76, 41478, but, as already explained above, has added a provision to establish a lower, sub-limit for GSE subordinated debt held by a Bank. In adopting the final version of § 932.9(c), the Finance Board also has made some technical and conforming changes to the proposed rule.

Section 932.9(c) establishes the credit limits that a Bank should impose on its unsecured lending to GSEs. Under § 932.9(c)(1), a Bank's unsecured credit exposure to a GSE may not exceed 100 percent of the lesser of either the Bank's total capital or the GSE's total capital (as defined by the GSE's principal regulator, or some similar measure of the GSE's capital identified by the Bank). In applying this limit, a Bank must include in its calculation of the total amount of unsecured credit extended to a GSE all forms of unsecured lending, including sales of overnight federal funds and a Bank's purchases of the GSE's subordinated debt. In addition, § 932.9(c)(2) requires that a Bank's total purchase of a GSE's subordinated debt not exceed a special sub-limit, which equals the maximum capital exposure limit corresponding to the credit rating assigned to the subordinated debt multiplied by the lesser of the Bank's total capital or the applicable capital measurement of the GSE. For example, if a GSE's subordinated debt were rated AA and the GSE's total capital were larger than the Bank's total capital, the sub-limit on purchases of the GSE's subordinated debt would equal 14 percent of the Bank's total capital. A Bank must calculate and apply the sub-limit on subordinated debt even if the subordinated debt is rated at the highest investment grade.

---

[7] The credit risk percentage requirements are set forth in § 932.4. Table 1.3 of Part 932 of the Finance Board rules, 12 CFR 932.4, and are used to calculate the credit risk component of the Bank's risk-based capital requirement.

[8] The Finance Board addressed its reasons for relying on long-term credit rating in its response to comments in Section II above as well as in the preamble of the August 2001 proposing release for this rule. *See* 66 FR at 41479.

[9] By contrast, a review of Moody's September 2001 Rating Lists for Banks and Securities Firms found that the issuer rating (i.e., the long-term counterparty rating) seldom if every differed from issue ratings for long-term senior debt. This is especially true under the rule because the rule ignores modifiers when determining credit ratings.

Section 932.9(c)(3) requires a Bank to treat GSEs like private counterparties in the event any NRSRO assigns a credit rating to, or downgrades the credit rating of, any long-term, senior debt obligation issued by a GSE to below the highest investment grade, or places the GSE on a credit watch for a potential downgrade. In this case, the Bank must calculate the maximum amount of its unsecured extensions of credit to that GSE in accordance with paragraph (a)(1) of the proposed rule. After a GSE's credit rating is downgraded or the GSE is placed on a watch list for a potential downgrade, § 932.9(d) applies to a Bank's extensions of unsecured credit to that GSE.

Section 932.9(c)(4) exempts a Bank's unsecured lending to another Bank from all the unsecured credit limits of this rule, although a Bank still must report its credit exposure to another Bank to the extent required by § 932.9(e). In adopting § 932.9(c)(4), the Finance Board is incorporating into the unsecured credit rule a similar inter-Bank exclusion that was contained in the FMP's unsecured credit provision. *See Id.* at 41476, 41478.

Transition Provision for Downgrades

The Finance Board has adopted the transition provision of § 932.9(d), as proposed. *See Id.* at 41480–81. This provision provides that in the event a lower maximum credit limit is imposed on a counterparty (including on a GSE) because an NRSRO has downgraded the credit rating applicable to a counterparty or has placed a counterparty on a credit watch for a potential downgrade, a Bank is not required to unwind or liquidate any transaction or position that was entered into prior to the date of the downgrade or the placement on credit watch so long as the transaction or position complied with the limits at the time it was entered.[10] However, any new unsecured extensions of credit to the counterparty would have to comply with the new lower maximum exposure limit. The rule makes clear that a renewal of an existing unsecured extension of credit, including any decision not to terminate a sale of federal funds subject to a continuing contract, would be considered a new extension of unsecured credit.

Reporting Requirements

The Finance Board is adopting the reporting requirements contained in § 932.9(e), generally as proposed. These requirements are in substance the same as those that were contained in § 932.9(c) of the version of the unsecured credit rule adopted by the Finance Board in December 2000. However, in adopting the final version of § 932.9, the Finance Board has added new provision to § 932.9(e) which requires the Banks promptly to report any positions in excess of the term limit, the overall limit or the special GSE limit set forth in the rule.

Under this provision, the Banks must report monthly to the Finance Board the amount of unsecured credit to a single counterparty, or group of affiliated counterparty, that exceeds five percent of either a Bank's total capital or the counterparty's, or the affiliated counterparties' combined, Tier 1 capital, or if Tier 1 capital is not available the counterparty's total capital (as defined by the counterparty's principal regulator) or some other comparable measure identified by the Bank. As discussed above, the consolidated capital of the holding company of the group of affiliated counterparties would be considered the combined capital of that affiliated group. In addition, the Banks must report monthly to the Finance Board the amount of the Bank's total combined secured and unsecured extensions of credit to a single counterparty or group of affiliated counterparties that exceed five percent of a Bank's total assets.

These reporting obligations apply to all extensions of credit by a Bank (including extensions of credit to other Banks), except those arising from a Bank's purchase of obligations of, or guaranteed by, the United States. As discussed above Banks must report promptly after the last business day of the month any extensions of credit in excess of the limits set forth in §§ 932.9(e)(1) and (e)(2) that occurred during that month.

New § 932.9(e)(3) requires that a Bank report promptly to the Finance Board any time its extensions of unsecured credit exceed any one or more of the limits set forth in §§ 932.9(a), (b) or (c). The Banks should report the name of the counterparty or group of affiliated counterparties involved, the date or dates for which the Bank was not in compliance, the level of the limit calculated in accordance with the rule and the amount by which the Bank's extension of unsecured credit exceeded the limit. The Bank may also include a brief statement describing any extenuating circumstances or other factors that may have led to non-compliance with the limits. The Finance Board believes that the initial report by the Bank need only be brief. If additional information is needed, the Finance Board will request it from the Bank depending on the particular circumstances of the situation. The Finance Board has not set a specific deadline for submitting a report required under § 932.9(e)(3) to provide some flexibility in this area. By way of guidance, however, the Finance Board believes that a report would be prompt if it occurred within two business days of when the Bank recognizes that a limit had been breached.

The Finance Board is adopting this new provision to help it closely monitor the effectiveness of these unsecured credit limits, and the Banks' concentration of credit. The Finance Board also believes that it is more effective and provides an opportunity for quick action (if needed) to require that reports be made to the Finance Board as soon as a Bank finds that it is not in compliance with the unsecured credit limits rather than seek such information on an *ad hoc* basis or wait for the monthly credit reporting required under the rule. The requirement also closes gaps in the reporting provision in that a Bank could be in violation of the unsecured credit limits with regard to a lower-rated counterparty but not necessarily be required to report the credit concentration under §§ 932.9(e)(1) or (2).

Calculating Extensions of Credit

The Finance Board has adopted proposed § 932.9(f) as § 932.9(f)(1) with one change to make clear that any credit exposure from a derivative contract against which the Bank holds collateral is not counted as unsecured credit. The provision, as adopted, also makes clear that the Bank must hold this collateral in accordance with § 932.4(e)(2)(ii)(B) in order for the value of the collateral to be subtracted from the credit exposure arising from the derivative contract. As discussed in Section II of this preamble, the Finance Board has also adopted new § 932.9(f)(2) to clarify the status of certain debt securities and debt obligations purchased by the Bank. Section 932.9(f) also has been restructured to accommodate the new provision. Other parts of § 932.4(f)(1) are adopted as proposed. *See Id.* at 41481. Thus, the amount of unsecured credit arising from on-balance sheet transactions will equal the sum of the book value of the item plus any amounts accrued by the Bank but not yet paid with respect to that item. The rule also requires a Bank to measure exposures from off-balance sheet and derivative transactions in accordance with § 932.4 of the Finance Board rules, which sets forth the requirements for calculating a Bank's credit risk-based capital charge. Thus, unsecured credit exposures arising from off-balance sheet transactions should be measured in accordance with § 932.4(f); unsecured credit exposures from single derivatives contracts should be measured in accordance with § 932.4(g); and unsecured credit exposures for derivative contracts subject to a qualifying bilateral netting contract should be measured in accordance with § 932.4(h). The Banks should include both the current credit exposure and the PFE in calculations of exposures arising from derivative contracts.

---

[10] The finance Board has already stated that § 932.9 will not require a Bank to unwind existing positions that do not conform to its new limits, provided that the credit was extended in accordance with the FMP prior to the effective date of this rule. *See* 66 FR at 41477–78.

As previously discussed, § 932.9(f)(2) has been adopted to clarify the Finance Board's view that any debt obligation or debt security purchased by the Bank will be subject to the unsecured credit limits unless the Bank's credit exposure arising from these instruments is collateralized in accordance with § 932.4(e)(2)(ii)(B) or the Finance Board has made a determination on a case-by-case basis that the debt obligation should not be subject to the unsecured credit limits. The new provision specifically states that MBS are not subject to the unsecured credit limits nor are loans identified in §§ 955.2(a)(1) and (2) and purchased by the Bank as AMA under authority granted in part 955. HFA bonds purchased under a Bank's AMA authority, however, would be subject to the unsecured credit limits unless the Finance Board determines otherwise. Further, § 932.9(f)(2) only addresses debt obligations or debt securities purchased by the Bank. Thus, transactions with members originated by the Bank such as advances or letters of credit would be considered secured and not subject to the rules as long as collateral is posted and held in accordance with any applicable Finance Board rules and Bank policies.

United States Obligations

The Finance Board is adopting § 932.9(g), as proposed. *See Id.* at 41481. This provision makes clear that obligations of, or guaranteed by, the United States are not subject to the any of requirements of § 932.9 (including the reporting requirements that are contained in § 932.9(e)).

IV. Regulatory Flexibility Act

The final rule applies only to the Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Therefore, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that this final rule, will not have a significant economic effect on a substantial number of small entities.

V. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Parts 930 and 932

Capital, Credit, Federal home loan banks, Investments, Reporting and recordkeeping requirements.

Accordingly, the Federal Housing Finance Board amends title 12, chapter IX, Code of Federal Regulations as follows:

PART 930—DEFINITIONS APPLYING TO RISK MANAGEMENT AND CAPITAL REGULATIONS

1. The authority citation for part 930 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1440, 1443, 1446.

2. In § 930.1 revise the definition of *Affiliated counterparty*, and add, in correct alphabetical order the definition for *Sales of federal funds subject to a continuing contract*, to read as follows:

§ 930.1 Definitions.

* * * * *

Affiliated counterparty means counterparty of a Bank that controls, is controlled by or is under common control with another counterparty of the Bank. For the purposes of this definition only, direct or indirect ownership (including beneficial ownership) of more than 50 percent of the voting securities or voting interests of an entity constitutes control.

* * * * *

Sales of federal funds subject to a continuing contract means an overnight federal funds loan that is automatically renewed each day unless terminated by either the lender or the borrower.

* * * * *

PART 932—FEDERAL HOME LOAN BANK CAPITAL REQUIREMENTS

3. The authority citation for part 932 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1440, 1443, 1446.

4. Revise § 932.9 to read as follows:

§ 932.9 Limits on unsecured extensions of credit to one counterparty or affiliated counterparties; reporting requirements for total extensions of credit to one counterparty or affiliated counterparties.

(a) *Unsecured extensions of credit to a single counterparty.* A Bank shall not extend unsecured credit to any single counterparty (other than a GSE) in an amount that would exceed the limits of this paragraph. A Bank shall not extend unsecured credit to a GSE in an amount that would exceed the limits set forth in paragraph (c) of this section. If a third-party provides an irrevocable, unconditional guarantee of repayment of a credit (or any part thereof), the third-party guarantor shall be considered the counterparty for purposes of calculating and applying the unsecured credit limits of this section with respect the to guaranteed portion of the transaction.

(1) *Term limits.* All unsecured extensions of credit by a Bank to a single counterparty that arise from the Bank's on- and off-balance sheet and derivative transactions (but excluding the amount of sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract) shall not exceed the product of the maximum capital exposure limit applicable to such counterparty, as determined in accordance with paragraph (a)(4) of this section and Table 4 of this part, multiplied by the lesser of:

(i) The Bank's total capital; or

(ii) The counterparty's Tier 1 capital, or if Tier 1capital is not available, total capital (as defined by the counterparty's principal regulator) or some similar comparable measure identified by the Bank.

(2) *Overall limits including sales of overnight federal funds.* All unsecured extensions of credit by a Bank to a single counterparty that arise from the Bank's on- and off-balance sheet and derivative transactions, including the amounts of sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract, shall not exceed twice the limit calculated pursuant to paragraph (a)(1) of this section.

(3) *Limits for certain obligations issued by state, local or tribal governmental agencies.* The term limit set forth in paragraph (a)(1) of this section when applied to the marketable direct obligations of state, local or tribal government unit or agencies that are acquired member assets identified in § 955.2(a)(3) of this chapter or are otherwise excluded from the prohibition against investments in whole mortgages or whole loan or interests in such mortgages or loans by § 956.3(a)(4)(iii) of this chapter shall be calculated based on the Bank's total capital and the credit rating assigned to the particular obligation as determined in accordance with paragraph (a)(5) of this section. If a Bank owns series or classes of obligations issued by a particular state, local or tribal government unit or agency or has extended other forms of unsecured credit to such entity falling into different rating categories, the total amount of unsecured credit extended by the Bank to that government unit or agency shall not exceed the term limit associated with the highest-rated obligation issued by the entity and actually purchased by the Bank.

(4) *Bank determination of applicable maximum capital exposure limits.* (i) Except as set forth in paragraph (a)(4)(ii) or (a)(4)(iii) of this section, the applicable maximum capital exposure limits are assigned to each counterparty based upon the long-term credit rating of the counterparty, as determined in accordance with paragraph (a)(5) of this section, and are provided in the following Table 4 of this part:

TABLE 4.—MAXIMUM LIMITS ON UNSECURED EXTENSIONS OF CREDIT TO A SINGLE COUNTERPARTY BY COUNTERPARTY LONG-TERM CREDIT RATING CATEGORY

Long-term credit rating of counterparty category	Maximum capital exposure limit (in percent)
Highest Investment Grade	15
Second Highest Investment Grade	14
Third Highest Investment Grade	9
Fourth Highest Investment Grade	3
Below Investment Grade or Other	1

(ii) If a counterparty does not have a long-term credit rating but has received a short-term credit rating from an NRSRO, the maximum capital exposure limit applicable to that counterparty shall be based upon the short-term credit rating, as determined in accordance with paragraph (a)(5) of this section, as follows:

(A) The highest short-term investment grade credit rating shall correspond to the maximum capital exposure limit provided in Table 4 of this part for the third highest long-term investment grade rating;

(B) The second highest short-term investment grade rating shall correspond to the maximum capital exposure limit provided in Table 4 of this part for the fourth highest long-term investment grade rating; and

(C) The third highest short-term investment grade rating shall correspond to the maximum capital exposure limit provided in Table 4 of this part for the fourth highest long-term investment grade rating.

(iii) If a specific debt obligation issued by a counterparty receives a credit rating from an NRSRO that is lower than the counterparty's long-term credit rating, the total amount of the lower-rated obligation held by the Bank may not exceed a sub-limit calculated in accordance with paragraph (a)(1) of this section, except that the Bank shall use the credit rating associated with the specific obligation to determine the applicable maximum capital exposure limit. For purposes of this paragraph, the credit rating of the debt obligation shall be determined in accordance with paragraph (a)(5) of this section.

(5) *Bank determination of applicable credit ratings.* The following criteria shall be applied to determine a counterparty's credit rating:

(i) The counterparty's most recent credit rating from a given NRSRO shall be considered;

(ii) If only one NRSRO has rated the counterparty, that NRSRO's rating shall be used. If a counterparty has received credit ratings from more than one NRSRO, the lowest credit rating from among those NRSROs shall be used;

(iii) Where a credit rating has a modifier, the credit rating is deemed to be the credit rating without the modifier;

(iv) If a counterparty is placed on a credit watch for a potential downgrade by an NRSRO, the credit rating from that NRSRO at the next lower grade shall be used; and

(v) If a counterparty is not rated by an NRSRO, the Bank shall determine the applicable credit rating by using credit rating standards available from an NRSRO or other similar standards.

(b) *Unsecured extensions of credit to affiliated counterparties.* (1) *In general.* The total amount of unsecured extensions of credit by a Bank to a group of affiliated counterparties that arise from the Bank's on- and off-balance sheet and derivative transactions, including sales of federal funds with a maturity of one day or less and sales of federal funds subject to a continuing contract, shall not exceed thirty percent of the Bank's total capital.

(2) *Relation to individual limits.* The aggregate limits calculated under this paragraph shall apply in addition to the limits on extensions of unsecured credit to a single counterparty imposed by paragraph (a) of this section.

(c) *Special limits for GSEs.* (1) *In general.* Unsecured extensions of credit by a Bank to a GSE that arise from the Bank's on- and off-balance sheet and derivative transactions, including from the purchase of any subordinated debt subject to the sub-limit set forth in paragraph (c)(2) of this section, from any sales of federal funds with a maturity of one day or less and from sales of federal funds subject to a continuing contract, shall not exceed the lesser of:

(i) The Bank's total capital; or

(ii) The GSE's total capital (as defined by the GSE's principal regulator) or some similar comparable measure identified by the Bank.

(2) *Sub-limit for subordinated debt.* The maximum amount of subordinated debt issued by a GSE and held by a Bank shall not exceed the term limit calculated under paragraph (a)(1) of this section, except that a Bank shall use the credit rating of the GSE's subordinated debt to determine the applicable maximum capital exposure limit. The credit rating of the subordinated debt shall be determined in accordance with paragraph (a)(5) of this section.

(3) *Limits applying to a GSE after a downgrade.* If any NRSRO assigns a credit rating to any senior debt obligation issued (or to be issued) by a

GSE that is below the highest investment grade or downgrades, or places on a credit watch for a potential downgrade of the credit rating on any senior unsecured obligation issued by a GSE to below the highest investment grade, the special limits on unsecured extensions of credit under paragraph (c)(1) of this section shall cease to apply, and instead, the Bank shall calculate the maximum amount of its unsecured extensions of credit to that GSE in accordance with paragraphs (a)(1) and (a)(2) of this section.

(4) *Extensions of unsecured credit to other Banks.* The limits of this section do not apply to unsecured credit extended by one Bank to another Bank.

(d) *Extensions of unsecured credit after downgrade or placement on credit watch.* If an NRSRO downgrades the credit rating applicable to any counterparty or places any counterparty on a credit watch for a potential downgrade, a Bank need not unwind or liquidate any existing transaction or position with that counterparty that complied with the limits of this section at the time it was entered. In such a case, however, a Bank may extend any additional unsecured credit to such a counterparty only in compliance with the limitations that are calculated using the lower maximum exposure limits. For the purposes of this section, the renewal of an existing unsecured extension of credit, including any decision not to terminate any sales of federal funds subject to a continuing contract, shall be considered an additional extension of unsecured credit that can be undertaken only in accordance with the lower limit.

(e) *Reporting requirements.* (1) *Total unsecured extensions of credit.* Each Bank shall report monthly to the Finance Board the amount of the Bank's total unsecured extensions of credit arising from on- and off-balance sheet and derivative transactions to any single counterparty or group of affiliated counterparties that exceeds 5 percent of:

(i) The Bank's total capital; or

(ii) The counterparty's, or affiliated counterparties' combined, Tier 1 capital, or if Tier 1 capital is not available, total capital (as defined by each counterparty's principal regulator) or some similar comparable measure identified by the Bank.

(2) *Total secured and unsecured extensions of credit.* Each Bank shall report monthly to the Finance Board the amount of the Bank's total secured and unsecured extensions of credit arising from on- and off-balance sheet and derivative transactions to any single counterparty or group of affiliated counterparties that exceeds 5 percent of the Bank's total assets.

(3) *Extensions of credit in excess of limits.* A Bank shall report promptly to the Finance Board any extensions of unsecured credit that exceeds any limit set forth in paragraphs (a), (b) or (c) of this section. In making this report, a Bank shall provide the name of the counterparty or group of affiliated counterparties to which the excess unsecured credit has been extended, the dollar amount of the applicable limit which has been exceeded, the dollar amount by which the Bank's extension of unsecured credit exceeds such limit, the dates for which the Bank was not in compliance with the limit, and, if applicable, a brief explanation of any extenuating circumstances which caused the limit to be exceeded.

(f) *Measurement of unsecured extensions of credit.* (1) *In general.* For purposes of this section, unsecured extensions of credit will be measured as follows:

(i) For on-balance sheet transactions, an amount equal to the sum of the book value of the item plus net payments due the Bank;

(ii) For off-balance sheet transactions, an amount equal to the credit equivalent amount of such item, calculated in accordance with § 932.4(f) of this part; and

(iii) For derivative transactions, an amount equal to the sum of the current and potential future credit exposures for the derivative contract, where those values are calculated in accordance with §§ 932.4(g) or 932.4(h) of this part, as applicable, less the amount of any collateral that is held in accordance with the requirements of § 932.4(e)(2)(ii)(B) of this part against the credit exposure from the derivative contract.

(2) *Status of debt obligations purchased by the Bank.* Any debt obligation or debt security (other than mortgage-backed securities or acquired member assets that are identified in §§ 955.2(a)(1) and (2) of this chapter) purchased by a Bank shall be considered an unsecured extension of credit for the purposes of this section, except:

(i) Any amount owed the Bank against which the Bank holds collateral in accordance with § 932.4(e)(2)(ii)(B) of this part; or

(ii) Any amount which the Finance Board has determined on a case-by-case basis shall not be considered an unsecured extension of credit.

(g) *Obligations of the United States.* Obligations of, or guaranteed by, the United States are not subject to the requirements of this section.

Dated: December 11, 2001.

By the Board of Directors of the Federal Housing Finance Board.

J. Timothy O'Neill,

Chairman.

[FR Doc. 01–31570 Filed 12–26–01; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–29–AD; Amendment 39–12562; AD 2001–25–09]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Model 228–212 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Dornier Luftfahrt GmbH (Dornier) Model 228–212 airplanes that have a certain brake assembly installed. This AD requires you to inspect the brake housing subassembly for cracks, nicks, or corrosion (referred to as damage). This AD also requires you to replace damaged brake housing assemblies and modify the torque take-out cavity. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to detect and correct damage to the brake housing assembly, which could result in failure of this assembly. Such failure could lead to loss of braking action on landing and possible loss of control of the airplane.

DATES: This AD becomes effective on January 18, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of January 18, 2002.

ADDRESSES: You may get the service information referenced in this AD from Dornier Luftfahrt GmbH, Customer Support, P.O. Box 1103, D–82230 Wessling, Federal Republic of Germany; telephone: (08153) 300; facsimile: (08153) 304463. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–29–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified FAA that an unsafe condition may exist on all Dornier Model 228–212 airplanes equipped with brake assembly part-number 5009850–1, 5009850–2, 5009850–3, or 5009850–4. The LBA reports one occurrence of failure of the right-hand main landing gear (MLG) brake housing subassembly on one of the above-referenced airplanes. Failure of the brake housing assembly resulted in total loss of braking power.

The brake manufacturer, Aircraft Braking Systems Corporation (ABSC), has developed a modification to the torque take-out cavity of the brake housing assembly. The incorporation of this modification on Dornier Model 228–212 airplanes would prevent surface damage from developing into fatigue damage.

What is the potential impact if FAA took no action? Damage to the brake housing assembly, if not detected and corrected, could result in failure of this assembly. Such failure could result in loss of braking action on landing and possible loss of control of the airplane.

Has FAA taken any action to this point? We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Dornier Model 228–212 airplanes that have a certain brake assembly installed. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 2, 2001 (66 FR 50125). The NPRM proposed to require you to inspect the brake housing subassembly for cracks, nicks, or corrosion (referred to as damage), replace damaged brake housing assemblies, and modify the torque take-out cavity.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or on our determination of the cost to the public.

FAA's Determination

What is FAA's final determination on this issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. We have determined that these minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How many airplanes does this AD impact? We estimate that this AD affects 1 airplane in the U.S. registry.

What is the cost impact of this AD on owners/operators of the affected airplane? We estimate the following costs to accomplish the inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
10 workhours × $60 per hour = $600	No parts required for the inspection	$600	$600

You will not need parts or special equipment to accomplish any necessary repairs after the inspection. The time necessary to accomplish any repairs is included in the inspection labor cost.

We estimate the following costs to accomplish any necessary replacements that will be required based on the results of the inspection. We have no way of determining the number of airplanes that may need such replacements.

Labor cost	Parts cost	Total cost per airplane
9 workhours × $60 per hour = $540	$46	$586

ABSC will provide labor reimbursement for the modification to the torque take-out cavity of the brake housing to the extent noted in Service Bulletin Do228–212–13, dated December 15, 2000.

Regulatory Impact

Does this AD impact various entities? The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does this AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2001–25–09 Dornier Luftfahrt GMBH: Amendment 39–12562; Docket No. 2001–CE–29–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model 228–212 airplanes, all serial numbers, that are:

(1) certificated in any category; and

(2) equipped with brake assembly part-number 5009850–1, 5009850–2, 5009850–3, or 5009850–4.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct damage to the brake housing assembly, which could result in failure of this assembly. Such failure could lead to loss of braking action on landing and possible loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Inspect, using both visual and eddy current methods, the brake housing subassembly for damage (cracks, nicks, corrosion, etc.), and accomplish the following: (i) Replace the brake housing if damage is found in the torque take-out cavity in the area specified in the referenced service information; or (ii) Repair the brake housing if damage is found on the walls of the torque take-out cavity and the width exceeds the maximum limit specified in the referenced service information.	Inspect within the next 300 hours time-in-service (TIS) after January 18, 2002, the effective date of this AD. Repair or replace prior to further flight.	In accordance with Aircraft Braking Systems Corporation Service Bulletin Do228–212–32–13, dated December 15, 2000, and Aircraft Braking Systems Corporation Service Bulletin Do228–212–32–12, dated November 15, 2000, as specified in Fairchild/Dornier Dornier 228 Service Bulletin SB–228–236, issued January 11, 2001.
(2) Modify the torque take-out cavity of the brake housing assembly.	Prior to further flight after the inspection required by paragraph (d)(1) of this AD, and thereafter prior to the installation of a brake housing subassembly.	In accordance with Aircraft Braking System Corporation Service Bulletin Do228–212–32–13, dated December 15, 2000, and Aircraft Braking Systems Corporation Service Bulletin Do228–212–32–12, dated November 15, 2000, as specified in Fairchild/Dornier Dornier 228 Service Bulletin SB–228–236, issued January 11, 2001.
(3) Do not install any brake housing assembly (or FAA-approved equivalent part number) unless it has been inspected as required in paragraph (d)(1) of this AD, is damage free or repaired as required in paragraph (d)(1)(ii) of this AD; and modified as required in paragraph (d)(2) of this AD.	As of January 18, 2002, the effective date of this AD.	Not applicable.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Aircraft Braking Systems Corporation Service Bulletin Do228–212–32–13, dated December 15, 2000, Aircraft Braking Systems Corporation Service Bulletin Do228–212–32–12, dated November 15, 2000, and Fairchild/Dornier Dornier 228 Service Bulletin SB–228–236, issued January 11, 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Dornier Luftfahrt GmbH, Customer Support, P.O. Box 1103, D-82230 Wessling, Federal Republic of Germany. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in German AD Number 2001–164, dated June 14, 2001.

(i) *When does this amendment become effective?* This amendment becomes effective on January 18, 2002.

Issued in Kansas City, Missouri, on December 11, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31297 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–247–AD; Amendment 39–12572; AD 2001–26–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 Series Airplanes and Model A300 B4–2C, B4–103, and B4–203 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300 B2 series airplanes and Model A300 B4–2C, B4–103, and B4–203 series airplanes, that requires identifying the types and areas of repairs on the airplane between frame 10 and frame 80, and performing follow-on actions for certain repairs. These actions are necessary to detect and correct fatigue cracking of certain repairs of the fuselage between frame 10 and frame 80, which could result in reduced structural integrity of the airplane. These actions are intended to address the identified unsafe condition.

DATES: Effective January 31, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300 B2 and B4 series airplanes was published in the **Federal Register** on August 28, 2001 (66 FR 45192). That action proposed to require identifying the types and areas of repairs on the airplane between frame 10 and frame 80, and performing follow-on actions for certain repairs.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Revise Applicability Statement of Proposed AD

One commenter requests that the FAA revise the applicability statement of the proposed AD to exclude Model A300 B4–600 series airplanes. The commenter states that this is an appropriate change because French airworthiness directive 2000–261–312(B), dated June 28, 2000 (which is the French airworthiness directive corresponding to the proposed AD), and Airbus Service Bulletin A300–53–0313, Revision 01, dated April 27, 1999 (which the proposed AD refers to as the appropriate source of service information for certain actions therein), do not apply to Model A300 B4–600 series airplanes.

We concur with the commenter's request. We do not intend this AD to apply to Model A300 B4–600 series airplanes. However, based on the commenter's request, we recognize that the identification of the affected airplanes models in the proposed rule could potentially confuse some owner/operators. Therefore, we have revised the applicability statement of this AD, as well as the title and summary sections in the preamble of this AD, to clarify that this AD applies to all Airbus Model A300 B2 series airplanes and Model A300 B4–2C, B4–103, and B4–203 series airplanes.

Request To Provide for Modified Airplanes

One commenter, a supplemental type certificate (STC) holder, requests that we provide a different follow-on action for airplanes that have been converted from passenger airplanes to freighters according to a specific STC. The commenter explains that such conversion results in increased loads on certain fuselage skin panels on the airplane. The commenter states that, if an operator of a converted airplane identifies an existing repair that is subject to this AD on one of the fuselage skin panels affected by the conversion, the operator should contact the STC holder for assistance in evaluating the repair.

We do not concur that any change is necessary in this regard, though we do concur that the operator should contact the STC holder for assistance in evaluating the repair. Note 1 of this AD specifies that, if an airplane has been modified in such a way that the AD requirements have been affected, the owner/operator must request approval of an alternative method of compliance in accordance with paragraph (d) of this AD. This provision would apply to airplanes modified per the commenter's STC.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 13 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $1,560, or $120 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3)

VOL 66 ISS 248 DE 27 2001 UMI

will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–08 Airbus: Amendment 39–12572. Docket 2000–NM–247–AD.

Applicability: All Model A300 B2 series airplanes and Model A300 B4–2C, B4–103, and B4–203 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of certain repairs of the fuselage between frame 10 and frame 80, which could result in reduced structural integrity of the airplane, accomplish the following:

Identification of Repairs

(a) Before 10,000 total landings, or before 2,500 landings after the effective date of this AD, whichever occurs later: Identify the types and areas of repairs on the airplane between frame 10 and frame 80, as specified in Airbus Service Bulletin A300–53–0313, Revision 01, dated April 27, 1999. Do the actions per the Accomplishment Instructions of the service bulletin. If none of the repairs specified in the service bulletin are found, no additional action is needed under this AD.

Follow-On Actions

(b) If, during the inspection, any repair is found that meets the criteria specified in Airbus Service Bulletin A300–53–0313, Revision 01, dated April 27, 1999: Do either an eddy current or ultrasonic inspection, depending on the type of repair found, to detect cracking of the applicable area identified in Flow Chart 1, Figure 1, Sheet 1, of the service bulletin. Do the inspection at the time and in the manner specified in the service bulletin. Based on the results of the inspection, take the actions shown in the following table:

TABLE 1.—FOLLOW-ON ACTIONS

If the following is found:	Then—	Per this schedule:
(1) No cracking	Repeat the inspection	At least every 2,500 landings.
(2) Any cracking	Replace the repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).	Before further flight.

Terminating Action

(c) Replacement of a repair that is specified in Airbus Service Bulletin A300–53–0313, Revision 01, dated April 27, 1999, per a method approved by either the Manager, International Branch, ANM–116, or the DGAC (or its delegated agent), terminates the requirements of this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) Except as provided in Table 1 and paragraph (c) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A300–53–0313, Revision 01, dated April 27, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2000–261–312(B), dated June 28, 2000.

Effective Date

(g) This amendment becomes effective on January 31, 2002.

Issued in Renton, Washington, on December 14, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31428 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–351–AD; Amendment 39–12573; AD 2001–26–09]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–

200 series airplanes, that requires a one-time inspection of the water line heater tape where it passes close to the duct assemblies of the air distribution system for the flight compartment to detect damage, and follow-on actions. This amendment also requires eventual replacement of certain duct assemblies or foam insulation on those duct assemblies with new duct assemblies or improved foam insulation. This action is necessary to prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective January 31, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 31, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2788; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767–200 series airplanes was published in the **Federal Register** on May 14, 2001 (66 FR 24306). That action proposed to require replacement of certain duct assemblies of the air distribution system for the flight compartment with new duct assemblies with improved insulation, and follow-on actions.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Two commenters concur with the proposed rule.

Change Paragraph (a)

Three commenters ask that paragraph (a) of the proposed rule be changed, as follows:

One commenter states that the proposed AD is similar to AD 2000–26–05, amendment 39–12055 (65 FR 82898, December 29, 2000). That AD requires modification of the environmental control system ducts for Model 737, 747, 757, and 767 series airplanes within 6 years after the effective date of the AD. The commenter asks that the compliance time in this proposed AD be changed to allow 18 months for verification of proper clearance between the water line heater tape and the duct assemblies of the air distribution system for the flight compartment, and 6 years for duct insulation replacement, similar to the compliance time allowed by AD 2000–26–05.

The second commenter asks that the compliance time be changed to specify doing the one-time general visual inspection of the water line heater tape, as specified in paragraph (a)(2) of the proposed rule, within 18 months, and then the replacement of the duct assemblies, as specified in paragraph (a)(1) of the proposed rule, within 6 years. The commenter states that, since the burned duct was ignited by an overheated water line heater tape routed too close to a duct assembly, this sequence of actions would ensure an equivalent level of safety, while providing operators the opportunity to replace the duct assemblies at an aircraft's heavy maintenance visit.

The third commenter, Air Transport Association, states that the original equipment manufacturer is developing a service bulletin which will allow replacement of the BMS 8–39 foam insulation on the ducts of the air distribution system for the flight compartment with BMS 8–300 foam. Inclusion of this option in the AD would minimize any need for the replacement of the duct assemblies as the means for installing the new insulation material. The commenter adds that requiring inspection and corrective action to ensure proper clearance between the duct and heater tape within 18 months after the effective date of the AD is prudent. The commenter states that once these actions are satisfactorily completed, an acceptable level of safety would be attained, and safe operations could be continued. The commenter also recommends issuing a supplemental notice of proposed rulemaking to address the revised instructions specified above.

We concur with the commenters. Since the issuance of the proposed rule the FAA has reviewed and approved Boeing Alert Service Bulletin 767–21A0154, Revision 1, dated August 9, 2001. The service bulletin adds an option to replace the existing BMS 8–39 foam insulation on the ducts of the air distribution system for the flight compartment with BMS 8–300 polyimide foam insulation, and recommends inspection of the water line heater tape within 18 months. Therefore, per the revised bulletin and the above comments, the FAA agrees to require either replacement of the duct assemblies or the foam insulation, and to extend the compliance time for that replacement. Revision 1 also has been added as the source of service information for accomplishment of the required actions, and a new Note 3 has been added to give credit for previous accomplishment of certain actions per Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000 (which was listed as the source of service information for accomplishment of the actions specified in the proposed rule). This new requirement gives operators the option of either replacement of the duct assemblies or the foam insulation, and does not add any additional work. Therefore, issuing a supplemental notice of proposed rulemaking is not necessary.

Paragraph (a) of the final rule has been changed to require an 18-month compliance time for the one-time general visual inspection of the water line heater tape for damage, and follow-on actions; and a new paragraph (b) has been added to expand the compliance time to 6 years for either replacement of the duct assemblies or replacement of the existing BMS 8–39 foam insulation on the ducts with BMS 8–300 polyimide foam insulation. The Summary section in this final rule also has been revised accordingly.

Change Preamble in Proposed Rule

One commenter expands on the language in the Discussion section in the preamble of the proposed rule by stating that the foam insulation was compliant with flammability regulations at the time of airplane delivery. The FAA infers that the commenter wants this information added to the final rule. We acknowledge that certain information in that section could be changed for clarification purposes. However, since that section of the proposed rule does not appear in the final rule, no change to the final rule is necessary in this regard.

VOL 66 ISS 248 DE 27 2001 UMI

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 81 airplanes of the affected design in the worldwide fleet. The FAA estimates that 52 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to do the general visual inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $3,120, or $60 per airplane.

The replacement of the duct assemblies is one option for compliance with this AD action and will take approximately 2 work hours to accomplish, at an average labor rate of $60 per work hour. Required parts will cost a maximum of $7,285 per airplane. Based on these figures, the cost impact of the replacement of the duct assemblies required by this AD is estimated to be $7,405 per airplane.

In lieu of replacement of the duct assemblies, this AD provides for replacement of the foam insulation on the ducts. It will take approximately 3 work hours to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the replacement of the foam insulation required by this AD is estimated to be $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–09 Boeing: Amendment 39–12573. Docket 2000–NM–351–AD.

Applicability: Model 767–200 series airplanes, as listed in Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ignition of foam insulation on the air distribution ducts, which could result in a fire in the airplane, accomplish the following:

Inspection and Follow-on Actions

(a) Within 18 months after the effective date of this AD: Do a one-time general visual inspection of the water line heater tape where it passes close to the duct assemblies of the air distribution system for the flight compartment to detect damage; including wear, chafing, pinching, discoloration, localized burn marks, etc; per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–21A0154, Revision 1, dated August 9, 2001.

(1) If no damage is detected, before further flight, measure the clearance between the duct assemblies and the water line heater tape. If clearance is less than 0.25 inch, before further flight, re-route the heater tape per the service bulletin.

(2) If any damage is detected, before further flight, replace the heater tape with new heater tape, per the service bulletin. When installing the new tape, make sure that clearance between the water line heater tape and the duct assemblies is a minimum of 0.25 inch.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

Replacement

(b) Within 6 years after the effective date of this AD, do the actions specified in paragraph (b)(1) or (b)(2) of this AD, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–21A0154, Revision 1, dated August 9, 2001. Before further flight after doing the applicable action, do a general visual inspection to make sure that clearance between the water line heater tape and the duct assemblies is a minimum of 0.25 inch. If clearance is less than 0.25 inch, before further flight, re-route the heater tape per the service bulletin.

(1) Replace the duct assemblies of the air distribution system for the flight compartment (which are located under the main deck) with new duct assemblies having fiberglass insulation; or

(2) Replace the existing BMS 8–39 foam insulation on the ducts of the air distribution system for the flight compartment (which are located under the main deck) with BMS 8–300 polyimide foam insulation.

Note 3: Inspection, replacement and follow-on actions done before the effective date of this AD per Boeing Alert Service Bulletin 767–21A0154, dated March 16, 2000, are considered acceptable for compliance with the applicable actions specified in paragraphs (a) and (b) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–21A0154, Revision 1, including Appendix A, dated August 9, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 31, 2002.

Issued in Renton, Washington, on December 14, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31429 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–361–AD; Amendment 39–12571; AD 2001–26–07]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Model G–IV Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Gulfstream Model G–IV series airplanes. This action requires an inspection of the electrical connections for the fire extinguisher bottles; an inspection after any subsequent maintenance affecting the fire extinguisher bottles; and corrective action, if necessary. This action is prompted by a report indicating that the electrical connections for the fire extinguisher bottle squibs had been improperly installed either during manufacturing or during subsequent maintenance. This action is necessary to prevent fire extinguishing agent from being discharged into the wrong location, which could result in failure to extinguish an in-flight fire on an affected engine and jeopardize operation of the opposite engine.

DATES: Effective January 11, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 11, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 28, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–361–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2001–NM–361–AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–9980. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John J. Philbin, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6072; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: The FAA has received a report that, during an inspection of a Gulfstream Model G–IV series airplane, the electrical connections for the left and right fire extinguisher bottle squibs were found to be improperly installed. The improper installation occurred either during manufacturing or during subsequent maintenance affecting the fire extinguisher bottles. The manufacturer states that a contributing factor for improper connection of the fire extinguisher bottle is the potential for the identification labels to migrate up the wiring harness, which increases the possibility for a technician to connect the wiring to incorrect terminals. This condition, if not corrected, could cause fire extinguishing agent to be discharged into the wrong location, which could result in failure to extinguish an in-flight fire on an affected engine and jeopardize operation of the opposite engine.

FAA Determination

The FAA has determined that issuance of this AD, applicable to Gulfstream Model G–IV series airplanes, serial numbers 1253 through 1464 inclusive, is necessary because of the potential for improper connection of the electrical connections, as described previously. The FAA adds that wire marking tags often have been found much farther from the terminal ends than intended by the design, and it is uncertain when the discrepancies in tag installation began during production.

However, the FAA has been notified by the manufacturer that the identified unsafe condition has been addressed on Model G–IV series airplanes, serial numbers 1465 and subsequent, by a clarification in the build instructions. Therefore, it is unnecessary to include those airplanes in the applicability of this AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved Gulfstream GIV Alert Customer Bulletin No. 30, dated November 2, 2001, which describes procedures for an inspection of the electrical connections for the engine fire extinguisher bottles; and corrective action, if necessary.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent fire extinguishing agent from being discharged into the wrong location, which could result in failure to extinguish an in-flight fire on an affected engine and jeopardize operation of the opposite engine. This AD requires accomplishment of the actions specified in the alert customer bulletin described previously, except as discussed below. This AD also requires that operators report the results of the inspection findings (both positive and negative) to the FAA.

Differences Between Service Bulletin and This AD

Because it is not known whether the improper installation of the electrical connections for the fire extinguisher bottles occurred during the manufacturing process or during subsequent maintenance, this AD requires inspection of those electrical connections following any maintenance affecting the fire extinguisher bottles. The alert customer bulletin does not refer to inspection following maintenance. This AD also requires that inspection findings be reported to the FAA, whereas the alert customer bulletin recommends notice to Gulfstream that the Accomplishment Instructions of the alert customer bulletin have been performed.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–361–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–07 Gulfstream Aerospace Corporation: Amendment 39–12571. Docket 2001–NM–361–AD.

Applicability: Model G–IV series airplanes, serial numbers 1253 through 1464 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire extinguishing agent from being discharged into the wrong location, which could result in failure to extinguish an in-flight fire on an affected engine and jeopardize operation of the opposite engine, accomplish the following:

Inspections

(a) Within the next 25 flight hours, but no later than 10 days after the effective date of this AD: Perform a general visual inspection of the electrical connections of the fire extinguisher bottles for correct connections, in accordance with Gulfstream GIV Alert Customer Bulletin No. 30, dated November 2, 2001.

Note 2: For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

(b) Prior to further flight following any maintenance affecting the fire extinguisher bottles that is accomplished after performing the inspection required by paragraph (a) of this AD: Perform the inspection required by paragraph (a) of this AD, in accordance with Gulfstream GIV Alert Customer Bulletin No. 30, dated November 2, 2001.

Corrective Action

(c) If any incorrect electrical connection is detected during the inspection required by paragraph (a) or (b) of this AD, prior to further flight, correct that connection in accordance with the Accomplishment Instructions of Gulfstream GIV Alert Customer Bulletin No. 30, dated November 2, 2001.

Reporting

(d) Submit a report of inspection findings (both positive and negative) of the inspection required by paragraph (a) of this AD to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; fax (770) 703–6097; at the applicable time specified in paragraph (d)(1) or (d)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, airplane serial number, and number of landings and flight hours on the airplane. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection required by paragraph (a) of this AD is accomplished after the effective date of this AD: Submit the report within 35 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the inspection required by paragraph (a) of this AD has been accomplished prior to the effective date of this AD: Submit the report within 35 days after the effective date of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Gulfstream GIV Alert Customer Bulletin No. 30, dated November 2, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D–10, Savannah, Georgia 31402–9980. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on January 11, 2002.

Issued in Renton, Washington, on December 14, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31430 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–354–AD; Amendment 39–12574; AD 2001–26–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes. This action requires an in-situ one-time detailed visual inspection of Dräeger Type I oxygen containers, located in the passenger service units, and Dräeger Type II oxygen containers, located in the utility areas, for the presence of foam pads. This action also requires the installation of a new foam pad, if necessary; and other actions to ensure proper operations of the masks. This action is necessary to prevent failure of the oxygen containers to deliver oxygen to the passengers in the event of a rapid decompression or cabin depressurization. This action is intended to address the identified unsafe condition.

DATES: Effective January 11, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 11, 2002.

Comments for inclusion in the Rules Docket must be received on or before January 28, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–354–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via the Internet must contain "Docket No. 2001-NM–354-AD" in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2141; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A319, A320, and A321 series airplanes having manufacturer serial numbers 1035 through 1384 inclusive. The DGAC advises that an operator reported foam pads missing from some Dräeger Type I (three/four-mask) and Dräeger Type II (two-mask) oxygen containers. The foam pads, located at the end of the oxygen

VOL 66 ISS 248 DE 27 2001 UMI

generator, prevent the lanyard between the oxygen mask and oxygen release pin from getting twisted around the generator starter lever arm. In such a configuration, and in case of sudden release of cabin pressure, the oxygen supply to passengers may not be ensured. Findings indicate that the foam pads, erroneously thought to be packing material, were removed during installation of the oxygen containers on the airplane. The foam pads are necessary to prevent entanglement of the mask lanyards if the masks are required in an emergency.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–35–1022, dated June 27, 2001, which describes procedures for an inspection of Dräeger Type I oxygen containers, located in the power supply units, and Dräeger Type II oxygen containers, located in the utility areas, for the presence of foam pads; the installation of a new foam pad, if necessary; and other actions to ensure proper operation of the masks. Other actions include repacking the masks in the correct position; checking the masks, tubes, and lanyards for correct stowage; and doing a manual release test and an operational test. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–363(B), dated August 8, 2001, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent failure of the oxygen containers to deliver oxygen to the passengers in the event of a rapid decompression or cabin depressurization. This AD requires an in-situ one-time detailed visual inspection of Dräeger Type I oxygen containers, located in the passenger service unit, and Dräeger Type II oxygen containers, located in the utility areas, for the presence of foam pads; installation of new foam pads, if necessary; and other actions to ensure proper operation of the masks. The actions are required to be accomplished in accordance with the service bulletin described previously.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NM–354–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001-26-10 Airbus Industrie: Amendment 39-12574. Docket 2001-NM-354-AD.

Applicability: Model A319, A320, and A321 series airplanes, certificated in any category, having manufacturer serial numbers 1035 and 1384 inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the oxygen containers to deliver oxygen to the passengers in the event of a rapid decompression or cabin depressurization; accomplish the following:

Inspection, Installation, and Other Actions

(a) Within 600 flight hours after the effective date of this AD, do an in-situ one-time detailed visual inspection of Dräger Type I (three/four mask) oxygen containers, located in the passenger service units, and Dräeger Type II (two-mask) oxygen containers, located in the utility areas, for the presence of foam pads, per Airbus Service Bulletin A320-35-1022, dated June 27, 2001.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

(1) If all foam pads are installed, before further flight, complete the other actions (including repacking the masks in the correct position; checking the masks, tubes, and lanyards for correct stowage; and doing a manual release test and an operational test) specified in the Accomplishment Instructions of the service bulletin to ensure proper operation of the masks.

(2) If any foam pad is missing, before further flight, install a foam pad in the applicable oxygen container, and complete the other actions (including repacking the masks in the correct position; checking the masks, tubes, and lanyards for correct stowage; and doing a manual release test and an operational test) specified in the Accomplishment Instructions of the service bulletin to ensure proper operation of the masks.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane a Dräeger Type I or Dräeger Type II oxygen container unless it has been inspected and other actions done per Airbus Service Bulletin A320-35-1022, dated June 27, 2001.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM-116

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320-35-1022, dated June 27, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie 1 Rond Point, Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 2001-363(B), dated August 8, 2001.

Effective Date

(f) This amendment becomes effective on January 11, 2002

Issued in Renton, Washington, on December 17, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-31549 Filed 12-26-01; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01-ACE-7]

Amendment to Class E Airspace; Ankeny, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Ankeny, IA.

EFFECTIVE DATE: 0901 UTC, December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in **Federal Register** on September 24, 2001 (66 FR 48794). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 27, 2001. Adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on December 18, 2001.

Herman J. Lyons, Jr.,

Manager, Air Traffic Division, Central Region.

[FR Doc. 01-31727 Filed 12-26-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

Change of Address; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

VOL 66 ISS 248 DE 27 2001 UMI

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to remove references to certain room numbers that no longer are valid because the address of the Center for Food Safety and Applied Nutrition (CFSAN) changed to 5100 Paint Branch Pkwy., College Park, MD, on December 14, 2001. FDA also is amending its regulations to remove a reference to an alternate site for submissions of documents to the Docket Management Branch. This alternate site is no longer available effective December 14, 2001. This action is editorial in nature and is intended to improve the accuracy and clarity of the agency's regulations.

EFFECTIVE DATE: December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Louis B. Brock, Office of Regulations and Policy, Center for Food Safety and Applied Nutrition (HFS-24), 5100 Paint Branch Pkwy., College Park, MD, 20740-3835, 301-436-2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 6, 2001 (66 FR 56034), FDA amended its regulations to reflect that on December 14, 2001, CFSAN's address was changed to 5100 Paint Branch Pkwy., College Park, MD 20740. This change of address will make room numbers cited in certain regulations invalid. Therefore, FDA is amending its regulations in 21 CFR parts 73, 101, 172, 173, 177, 178, and 184 to remove the phrase "rm. 3321" wherever it appears. FDA also is amending 21 CFR 10.20(f) to add a period after "20857" and to remove the following phrase: ", except that a submission which is required to be received by the Branch by a specified date may be delivered in person to the FDA building in Washington (Room 6819, 200 C Street, SW., Washington, DC 20204) and will be considered as received by the Branch on the date on which it is delivered." This alternate site, originally provided for the convenience of the public, is no longer available because CFSAN's address has changed to College Park.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR chapter I is amended as follows:

1. Section 10.20(f) is amended by adding a period after "20857" and by removing the rest of the sentence.

2. Parts 73, 101, 172, 173, 177, 178, and 184 are amended by removing the words "rm. 3321" wherever they appear.

Dated: December 19, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-31714 Filed 12-26-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor's address for Phibro Animal Health.

DATES: This rule is effective December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV-102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-827-0209.

SUPPLEMENTARY INFORMATION: Phibro Animal Health, One Parker Plaza, Fort Lee, NJ 07024, has informed FDA of a change of sponsor's address to 710 Rt. 46 East, suite 401, Fairfield, NJ 07004. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801-808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for "Phibro Animal Health" and in the table in paragraph (c)(2) by revising the entry for "066104" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * *	* * *
Phibro Animal Health, 710 Rt. 46 East, suite 401, Fairfield, NJ 07004	066104
* * * *	* * *

(2) * * *

Drug labeler code	Firm name and address
* * * *	* * *
066104	Phibro Animal Health, 710 Rt. 46 East, suite 401, Fairfield, NJ 07004

Drug labeler code	Firm name and address

* * * * * * *

Dated: November 30, 2001.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 01–31715 Filed 12–26–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[IA–012–FOR]

Iowa Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Mines and Minerals Bureau (Division or Iowa) proposed revisions to its April 1999 revegetation success guidelines concerning normal husbandry practices; minimum planting arrangements and tree and shrub stocking requirements for recreational, wildlife, and forested lands; and criteria for dry weight determinations for corn, soybean, oat, and wheat crops. Iowa intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: John W. Coleman, Office of Surface Mining, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002. Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Iowa Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Iowa program on January 21, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 21, 1981, **Federal Register** (46 FR 5885). You can find later actions on the Iowa program at 30 CFR 915.10, 915.15, and 915.16.

II. Submission of the Amendment

By letter dated August 17, 2001 (Administrative Record No. IA–446), Iowa sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Iowa sent the amendment in response to required program amendments at 30 CFR 915.16(b), (d), and (e). Iowa proposed changes to its April 1999 revegetation success guidelines entitled "Revegetation Success Standards and Statistically Valid Sampling Techniques."

We announced receipt of the amendment in the September 24, 2001, **Federal Register** (66 FR 48841). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on October 24, 2001. We did not receive any comments. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified concerns about a typographical error in a provision for interseeding at Section III.H.4.(c)(ii); the interpretation of the revegetation success standards for recreational, wildlife, and forested lands at Section IV.E; and the interpretation of the dry weight determination for grain samples at Section V.A.2(l). We notified Iowa of the error at Section III.H.4.(c)(ii) and explained our interpretation of its provisions at Sections IV.E and V.A.2(l) in a letter dated September 12, 2001 (Administrative Record No. IA–446.3A).

By letter dated September 28, 2001 (Administrative Record No. IA–446.5), Iowa agreed to correct the typographical error and concurred with our interpretation of its provisions at Sections IV.E and V.A.2(l).

III. OSM's Findings

This section contains our findings concerning the amendment to the Iowa program. We are making these findings in accordance with the criteria and procedural requirements of the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not discuss below are minor wording changes or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Normal Husbandry Practices

Section III, Part H of Iowa's April 1999 revegetation success guidelines describes normal husbandry practices that a permittee can use in the repair of rills and gullies without restarting the responsibility period for successful revegetation and bond liability. A permittee may address rill and gully erosion within the permit or partial permit area without restarting the responsibility period only if repairs are completed using the normal husbandry practice guidelines provided in this section. If the repair work requires augmented seeding, fertilization, or irrigation, the period of responsibility will restart. Normal husbandry practices do not include any temporary erosion control structures, such as silt fencing, straw, or hay bale dikes. This section includes requirements for terrace repair and maintenance; riprap repair and maintenance; land smoothing and reseeding; and liming, fertilizing, and interseeding.

The Federal regulations at 30 CFR 816.116(c)(4) for surface mining operations and 30 CFR 817.116(c)(4) for underground mining operations allow the regulatory authority, under specified conditions, to approve selective husbandry practices (excluding augmented seeding, fertilization, or irrigation) without extending the period of responsibility for revegetation success and bond liability. The regulatory authority must obtain prior approval from OSM in accordance with 30 CFR 732.17 that the practices are normal

VOL 66 ISS 248 DE 27 2001 UMI

husbandry practices that can either be expected to continue as part of the postmining land use or will not reduce the probability of permanent revegetation success if the practices are discontinued after the responsibility period expires. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. In the September 7, 1988, preamble for the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4), we discussed the type of documentation that the regulatory authority must submit to support its proposed normal husbandry practices (53 FR 34641). The regulatory authority must submit documentation that demonstrates that the practice is the usual or expected state, form, amount, or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resource and to maintain a prescribed level of use or productivity on similar unmined lands. The documentation may include either conservation practice guidelines or agronomy guidelines and fact sheets for the management of unmined lands in the applicable State. The guidelines and fact sheets could be those distributed by the Natural Resources Conservation Service (NRCS) or other organizations with similar expertise in management of a State's natural resources, including agricultural lands.

In our final rule dated November 26, 1999, we did not approve Section III, Part H because Iowa did not submit documentation that demonstrated that the proposed normal husbandry practices were the usual or expected state, form, amount, or degree of management performed habitually or customarily to prevent exploitation, destruction, or neglect of the resources on similar unmined lands in the State (64 FR 66385). We required Iowa to either remove its guidelines for normal husbandry practices at Section III, Part H or submit documentation that supports the proposed normal husbandry practices. We codified this requirement at 30 CFR 915.16(b).

In response to the required program amendment at 30 CFR 915.16(b), Iowa made changes to Section III, Part H and submitted documentation for support of the proposed normal husbandry practices. The documentation included copies of five publications: (1) NRCS Conservation Practice Standard 600, Terrace; (2) NRCS Conservation Practice Standard 468, Lined Waterway or Outlet; (3) NRCS Conservation Practice Standard 466, Land Smoothing; (4) NRCS Conservation Practice Standard 590, Nutrient Management; and (5) Iowa State University Extension Service Publication Pm-1097, Interseeding and No-till Pasture Renovation. Based on the findings below, we are approving Iowa's normal husbandry practice guidelines at Section III, Part H and removing the required program amendment at 30 CFR 915.16(b).

1. Part H.1 provides that terrace repair and maintenance required because of specified occurrences will be considered normal husbandry practices and will not require restarting the responsibility period. First, the permittee may repair terraces damaged because of rainfall events that exceed their designed capacities. Second, the permittee may clean out and reestablish terrace flow lines during the first year or two after the initial terrace construction and seeding when sediment deposition into a terrace flow line exceeds the designed sediment storage capacity. Third, the permittee may clean out and reestablish terrace flow lines and repair or replace tile lines that have been plugged or crushed due to differential settling. Part H.1 includes a listing of the types of terrace repair and maintenance options that the State will consider as normal husbandry practices. Iowa submitted NRCS Conservation Practice Standard 600 (Terrace) to support these practices.

Based on the supporting documentation provided by Iowa, we find that the proposed guidelines for terrace repair and maintenance at Part H.1 meet the requirements of the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) for normal husbandry practices.

2. Part H.2 provides guidelines for riprap repair and maintenance on ditches and structures due to storm events that exceed the maximum design standard. Part H.2 includes a listing of the types of riprap repair and maintenance practices that Iowa will consider for normal husbandry practices. Iowa submitted NRCS Conservation Practice Standard 468 (Lined Waterway or Outlet) to support these practices.

Based on the supporting documentation provided by Iowa, we find that the proposed guidelines for riprap repair and maintenance on ditches and structures at Part H.2 meet the requirements of the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) for normal husbandry practices.

3. Part H.3 provides that normal husbandry practices can include limited land smoothing and reseeding as long as the individual areas are no larger than one acre in size and the cumulative acreage is no greater than 10 percent of the entire permit area. Iowa submitted NRCS Conservation Practice Standard 466 (Land Smoothing) to support these practices.

Based on the supporting documentation and the acreage limitations provided by Iowa, we find that Iowa's proposed guidelines for land smoothing and reseeding at Part H.3 meet the requirements of the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) for normal husbandry practices.

4. Part H.4 provides normal husbandry practices for applications of lime and fertilizer at paragraphs (a) and (b). It also provides normal husbandry practices for interseeding at paragraph (c).

Part H.4(a) and (b) provide, respectively, that lime and fertilizer applications may be made based on soil test recommendations for the appropriate crop or vegetation. Before any lime and fertilizer applications, the permittee must submit to the Division the original copies of the soil test recommendations and a map of the permit areas indicating where each soil sample was taken. Iowa requires the permittee to follow the lime and fertilizer maintenance application guidelines of NRCS Conservation Practice Standard 590 (Nutrient Management). For lime and fertilizer applications, the permittee must submit the original weight tickets for the applications to the Division at the times specified in section III, part B.3. If subsequent submittals of lime and fertilizer weight tickets prove that actual applications were in excess of the soil test recommendations, Iowa will restart the responsibility period. Iowa submitted NRCS Conservation Practice Standard 590 (Nutrient Management) to support its normal husbandry practice guidelines for liming and fertilizing.

Part H.4(c) requires the Division to approve any species to be interseeded before the seed is planted. The permittee must submit the original seed tickets to the Division at the times specified in Section III, Part B.3. Iowa will restart the responsibility period if any interseeding completed on the permit area fails to meet any of the criteria listed below.

> (i) Interseeding of a legume on the third year of a grass/legume vegetative cover.
>
> (ii) Interseeding of a single species in the permit approved seeding mixture, or interseeding of a replacement species, that has been approved by the Division, to improve the vegetative cover when unfavorable weather conditions adversely

affect the germination success of the original revegetation effort.

(iii) Interseeding of a species due to excessive winter kill.

Iowa submitted Iowa State University Extension Service Publication Pm–1097 (Interseeding and No-till Pasture Renovation) to support its normal husbandry practice guidelines for interseeding.

Based on the documentation submitted by Iowa, we find that the proposed guidelines for liming, fertilizing, and interseeding at Part H.4 meet the requirements of the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) for normal husbandry practices.

B. Recreational, Wildlife, and Forested Lands

Section IV, Part E of Iowa's April 1999 revegetation success guidelines contains the revegetation success standards for recreational areas, wildlife areas, and forested lands. In our final rule dated November 26, 1999, we approved section IV, part E with two exceptions (64 FR 66388). First, Iowa's guidelines did not contain any planting arrangement provisions for these land uses as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). Second, Iowa did not submit any documentation to prove that the State agencies responsible for the administration of forestry and wildlife programs approved its minimum stocking provisions as required by 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We required Iowa to either add planting arrangement provisions for recreational, wildlife, and forested land to its guidelines and obtain program-wide concurrence from the State agencies responsible for the administration of forestry and wildlife programs or add a provision to its guidelines that requires permit-specific concurrence for planting arrangements from the State agencies responsible for the administration of forestry and wildlife programs. We also required Iowa to either obtain program-wide concurrence for its minimum stocking provisions or add a provision to its guidelines that requires permit-specific concurrence for minimum stocking from the State agencies responsible for the administration of forestry and wildlife programs. We codified these requirements at 30 CFR 915.16(d)(1) and (2).

Iowa made the following changes to section IV, part E to address these requirements.

1. Iowa added the following new provision to the beginning of the second paragraph of section IV, part E:

> The wildlife and recreational lands have site specific vegetation. Each permit with these types of post-mining land use have been approved by the Division in concurrence with the Iowa Department of Natural Resources.

We are interpreting the language of this provision to mean that Iowa requires permit specific concurrence from the Iowa Department of Natural Resources for both planting arrangements and stocking rates for recreational, wildlife, and forested land uses. In its letter dated September 28, 2001, Iowa agreed with our interpretation (Administrative Record No. IA–446.5). Based on this interpretation, we find that section IV, part E is no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i). We are also removing the required program amendments at 30 CFR 915.16(d)(1) and (2).

2. Iowa added the following new provision for tree and shrub stocking requirements at Section IV, Part E, Step 2:

> The tree and shrub planting shall be spaced such that there are a minimum of five hundred (500) seedlings per acre. Acceptable tree and shrub spacing, which will meet or exceed the minimum number of seedlings per acre, are listed below. Narrower spacing is used for timber production. Wider spacing and planting in groups or clumps is used for wildlife and recreational tree and shrub plantings. These group or clump plantings should consist of a minimum of five (5) or more trees, and fifteen (15) or more shrubs per group.

TREE AND SHRUB SPACING FOR PLANTING

Spacing in feet	Number of seedlings per acre
5 x 5	1,742
5 x 10	871
6 x 6	1,210
6 x 10	726
7 x 7	889
7 x 10	622
8 x 8	681
8 x 10	545

We find that this provision provides additional guidance to permittees for addressing planting arrangements and stocking rates for recreational, wildlife, and forested land uses in their permits. As discussed above, Iowa requires permit specific concurrence from the Iowa Department of Natural Resources for both planting arrangements and stocking rates for these land uses. Therefore, we find that Section IV.E.2 is no less effective than the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i).

C. Corn, Soybean, Oat, and Wheat Crops

Section V of Iowa's April 1999 revegetation success guidelines contains sampling procedures and techniques to determine productivity for corn, soybeans, oats, wheat, and forage crops; to determine ground cover percentage; and to determine if trees and shrubs meet minimum density standards. In our final rule dated November 26, 1999, we approved Section V of Iowa's April 1999 revegetation success guidelines with one exception (64 FR 66388). We did not fully approve Section V, Part A, Step 2, which contains the grain sampling techniques for test plot harvesting, because it did not specify how the permittee is to obtain the dry weight of the test plot grain samples. The dry weight is used in a calculation to determine the moisture percentage for each test plot sample. We required Iowa to revise its April 1999 revegetation success guidelines at Section V, Part A, Step 2 by adding a provision that specifies the standard method that permittees are to use for obtaining the dry weight of test plot grain samples. We codified this requirement at 30 CFR 915.16(e).

In response to the required amendment at 30 CFR 915.16(e), Iowa added the following new provision to the beginning of Step 2(l):

> (l) The grain samples collected and labeled in Step 2.g. above must be oven dried until a constant dry weight is obtained. Weighing will be performed immediately after oven drying to avoid absorption of water from humid air. This dry weight will equal zero percent (0%) moisture. All samples will be adjusted to the appropriate percent moisture for that grain.

We interpret the first sentence of Iowa's new provision to mean that the permittees must use the standard air-oven method to obtain dry weights. The air-oven method is recognized by the United States Department of Agriculture as a means of determining the moisture content of grain. In its letter dated September 28, 2001, Iowa agreed with our interpretation (Administrative Record No. IA–446.5). Based on Iowa's concurrence with our interpretation, we are approving Section V, Part A, Step 2(l) and removing the required amendment at 30 CFR 915.16(e).

IV. Summary and Disposition of Comments

Federal Agency Comments

On August 30, 2001, under section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal

VOL 66 ISS 248 DE 27 2001 UMI

regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Iowa program (Administrative Record No. IA–446.1A). We did not receive any comments.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Iowa proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IA–446.1A). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On August 31, 2001, we requested comments on Iowa's amendment (Administrative Record No. IA–446.2A), but we received no response to our request.

Public Comments

We requested public comments on the proposed amendment, but we did not receive any.

V. OSM's Decision

Based on the above findings, we approve the amendment as sent to us by Iowa on August 17, 2001.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 915, which codify decisions concerning the Iowa program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866 and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 4, 2001.

Richard J. Seibel,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 915 is amended as set forth below:

PART 915—IOWA

1. The authority citation for Part 915 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 915.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

§ 915.15 Approval of Iowa regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
August 17, 2001	December 27, 2001	Sections III.H, IV.E, and V.A.2(l) of Iowa's April 1999 Revegetation Success Standards and Statistically Valid Sampling Techniques.

3. Section 915.16 is amended by removing and reserving paragraphs (b), (d), and (e).

[FR Doc. 01–31683 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD09–01–153]

RIN 2115–AA97 and 2115–AA98

Safety Zone and Anchorage Regulations; Chicago Harbor, Chicago, Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone and suspending a portion of an anchorage area encompassed by the safety zone for the City of Chicago's New Year Celebration. This rulemaking is necessary for the protection and safety of passengers and vessels during the fireworks display. This rulemaking is intended to restrict vessel traffic from a portion of Lake Michigan in the area of the Chicago Harbor, in particular, the Monroe Street Harbor. During this event, vessels will be unable to enter or exit the Monroe Harbor.

DATES: This temporary final rule is effective from 11 p.m. (local) December 31, 2001 until 12:45 a.m. (local) January 1, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–153] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: MST3 Mike E. Esquivel, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2155.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling in the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at this event and help minimize the associated risk.

The safety zone encompasses the waters of the Chicago Harbor bounded by the following positions: 41° 52.43 N, 087° 36.43 W, thence east to 41° 52.43 N, 087° 36.16 W, thence south to 41° 52.28 N, 087° 36.16 W, thence west to 41° 52.28 N, 087° 36.43 W, thence north back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83). This area includes a portion of the Monroe Street Harbor including the Grant Park anchorage areas (33 CFR 110.83), the entrance to the Monroe Street Harbor, as well as a portion outside the breakwall for the Monroe Street Harbor. Only that portion of the anchorage area encompasses by the safety zone will be suspended.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Chicago or his designated on scene representative. The Captain of the Port or his designated on scene

VOL 66 ISS 248 DE 27 2001 UMI

representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard considered whether this rule will have a significant impact on a substantial number of small businesses and not-for-profit organizations that are not dominant in their respective fields, and government jurisdictions with populations less than 50,000. For the same reasons set fourth in the above regulatory evaluations, the Coast Guard certifies under section 605 (b) of the Regulatory Flexibility Act (5 U.S.C.601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. At this time of year there the amount of vessel traffic is at a minimum level and the safety zone will only be in place for a very short duration. In addition, those vessels requiring transit of the area may request permission from the Captain of the Port Chicago to transit the zone.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effectiveness and participate in the rulemaking process. If your small business or organization is affected by this rule, and you have questions concerning its provisions or options for compliance, please contact the office listed in **ADDRESSES** in this preamble.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not federalism implication under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this regulation and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, it is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

§ 110.83 [Amended]

2. In § 110.83, suspend paragraph (a) from 11 p.m. December 31, 2001(local time) until 12:45 a.m. (local time) on January 1, 2002.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 160.5; 49 CFR 1.46.

4. A new temporary § 165.T09–123 is added to read as follows:

§ 165.T09–123 Safety Zone; Chicago Harbor, Chicago, Illinois.

(a) *Location*. The safety zone will encompass the waters of the Lake Michigan in the Chicago Harbor, including a portion of the Monroe Street harbor and the entrance to the Monroe Street Harbor, bounded by the following positions: starting at 41° 52.43 N, 087° 36.43 W, thence east to 41° 52.43 N, 087° 36.16 W, thence south to 41° 52.28 N, 087° 36.16 W, thence west to 41° 52.28 N, 087° 36.43 W, thence north back to the point of origin.

(b) *Effective time and date*. This section is effective from 11 p.m. (local time) December 31, 2001 until 12:45 a.m. (local time) on January 1, 2002.

(c) *Regulations*. In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago, or his designated on-scene representative. The Captain of the Port Chicago or his designated on-scene representative may be contacted via VHF Channel 16. The designated on-scene representative will be the Patrol Commander.

Dated: December 17, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, District Commander, Ninth Coast Guard District.

[FR Doc. 01–31843 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD09–01–139]

RIN 2115–AA97 and 2115–AA98

Security Zone and Anchorage Regulations; Lake Michigan, Navy Pier, Chicago Harbor, Chicago, Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule, request for comments.

SUMMARY: The Coast Guard is establishing a temporary security zone and suspending an anchorage area encompassed by the security zone on the navigable waters of Lake Michigan around Chicago, Illinois. This security zone is necessary to protect the Navy Pier from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. This zone is intended to restrict vessel traffic from a portion of Lake Michigan.

DATES: This rule is effective at 3 p.m. (local), December 17, 2001 until 11 a.m. (local) March 1, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–139 and are available for inspection or copying at 215 W. 83rd Street, Chicago, Illinois 60521 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Petty Officer Mike Hogan, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Burr Ridge, Illinois 60521. The telephone number is (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Following the catastrophic nature and extent of damage realized from the aircraft flown into the World Trade Center towers, this rulemaking is urgently necessary to protect the national security interests of the United States against future potential terrorists strikes against public and governmental targets. A similar attack was conducted against the Pentagon on the same day. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center, New York City, New York, were destroyed as a result of two commercial airliner crashes, an act of terrorism. This regulation establishes a security zone over the waters of Lake Michigan encompassed by a line drawn from the northeast corner of the Central District Filtration Plant, at 41° 53′46″ N, 87° 36′09″ W; then east to the breakwall at 41° 53′46″ N, 87° 35′30″ W; south to 41° 53′20″ N, 87° 35′30″ N; west to 41° 53′20″ N, 87° 36′20″ W; and then following the shoreline back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83).

Since this security zone will encompass an already established anchorage area, this anchorage area will be suspended for the duration of this temporary security zone. The anchorage areas are described in 33 CFR 110.205, Chicago Harbor, Illinois. The anchorage areas specified in paragraph (a)(1), Anchorage A, exterior breakwaters and (a)(5), Anchorage E, Chicago Harbor Lock North, will be suspended.

This security zone is necessary to protect the public, the facilities, and the surrounding area from possible acts of sabotage or other subversive acts. All persons and vessels other that those approved by the Captain of the Port Chicago, or his authorized patrol representative, are prohibited from entering or moving within the zone without the prior approval of the Captain of the Port Chicago.

The Captain of the Port Chicago will generally permit those passenger vessels that normally operate from the Navy Pier to regularly transit the area. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those vessels which normally operate from the Navy Pier to request permission before leaving or entering the security zone. The Captain of the Port Chicago may be contacted via VHF Channel 16.

In addition to publication in the **Federal Register**, the public will be made aware of the existence of this security zone, its exact location within these boundaries, and the restrictions involved, via Broadcast Notice to Mariners.

Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10 (e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will not obstruct the regular flow of traffic and will allow vessel traffic to pass safely around the security zone. In addition, those passenger vessels that normally operate out of Navy Pier will be permitted to transit the zone. However, should the Captain of the Port Chicago determine it is appropriate, he may require even those vessels which normally operate from the Navy Pier to request permission from his on-scene representative before leaving or entering the security zone. The Captain of the Port Chicago's on-scene representative will be the Patrol Commander. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If you are a small entity and you need assistance in how the rule applies to you, please contact the office listed in **ADDRESSES** in this preamble.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 110 and 165 as follows:

PART 110—ANCHORAGE REGULATIONS

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 1221 through 1236, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g).

§ 110.205 [Amended]

2. In § 110.205, suspend paragraphs (a)(1) and (a)(5) from 3 p.m. (local) December 17, 2001, until 11 a.m. (local) March 1, 2002.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS.

3. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

4. A new temporary § 165.T09–112 is added to read as follows:

§ 165.T09–112 Security zone; Lake Michigan, Navy Pier, Chicago Harbor, Chicago, IL.

(a) *Location.* The following is a security zone: All waters of Lake Michigan encompassed by a line drawn from the northeast corner of the Central District Filtration Plant (41°53′46″ N, 87°36′09″ W); then east to the breakwall at 41°53′46″ N, 87°35′30″ W; then south to 41°53′20″ N, 87°35′30″ W; west to 41°53′20″ N, 87°36′20″ W; then following the shoreline back to the point of origin (NAD 83).

(b) *Effective dates.* This section is effective from 3 p.m. December 17, 2001 through 11 a.m. (local), March 1, 2002.

(c) *Regulations.*

(1) This section is issued under § 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226).

(2) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Coast Guard Captain of the Port Chicago.

(3) The Captain of the Port Chicago will generally permit those passenger vessels that normally operate from the Navy Pier to regularly transit the area. However, should the Captain of the Port Chicago determine it is appropriate, he will require even those vessels which normally operate from the Navy Pier to request permission before leaving or entering the security zone. The Captain of the Port Chicago will notify these vessels via Broadcast Notice to Mariners if they must notify the Coast Guard before transiting the security zone. The Captain of the Port Chicago may be contacted via VHF Channel 16.

(4) All persons and vessels shall comply with the instruction of the Captain of the Port Chicago or the designated on-scene U.S. Coast Guard patrol personnel. On-scene patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Emergency response vessels are authorized to move within the zone but must abide by the restrictions imposed by the Captain of the Port.

Dated: December 17, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–31844 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–042]

RIN 2115–AE47

Drawbridge Operation Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Commander, Eighth Coast Guard District is temporarily changing the regulation governing the Rock Island Railroad and Highway Drawbridge, Mile 482.9, Upper Mississippi River. The drawbridge will be allowed to remain closed to navigation from 8 a.m., December 19, 2001, until 8 a.m., March 11, 2002. This change is necessary to perform annual maintenance and repair work on the bridge.

DATES: This temporary rule is effective from 8 a.m. Central Standard Time (CST) on December 19, 2001, to 8 a.m. Central Standard Time (CST) on March 11, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD08–01–042 and are available for inspection or copying at room 2.107f in the Robert A. Young Federal Building at the Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103–2832, between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch at (314) 539–3900, extension 378.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rule is being promulgated without an NPRM due to the short time frame allowed between the submission of the request by the Department of the Army, Rock Island Arsenal and the date of requested closure. The Coast Guard received the request from the Department of the Army, Rock Island Arsenal, on 25 October 2001. Winter conditions on the Upper Mississippi River coupled with the closure of the Army Corps of Engineers' Lock No. 24 (Mile 273.4 UMR) until March 2, 2002 and Lock No. 12 (Mile 556.7) until March 11, 2002, will preclude any significant navigation demands for the drawspan opening .

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators. No objections were raised.

Background and Purpose

On October 25, 2001, the Department of the Army, Rock Island Arsenal requested a temporary change to the operation of the Rock Island Railroad and Highway Drawbridge across the Upper Mississippi River, Mile 482.9 at Rock Island, Illinois. The Department of the Army, Rock Island Arsenal requested that the drawbridge be temporarily closed to navigation in order to perform necessary maintenance and bridge repair during the winter months.

The Rock Island Railroad and Highway Drawbridge has a vertical clearance of 23.8 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. Presently, the draw opens on signal for passage of river traffic. The Department of the Army, Rock Island Arsenal requested the drawbridge be permitted to remain closed-to-navigation from 8 a.m., December 19, 2001, until 8 a.m., March 11, 2002. Winter conditions on the Upper Mississippi River coupled with the closure of the Army Corps of Engineers' Lock No. 24 (Mile 273.4 UMR) until March 2, 2002 and Lock No. 12 (Mile 556.7) until March 11, 2002, will preclude any significant navigation demands for the drawspan opening. The Rock Island Railroad and Highway Drawbridge, Mile 482.9 Upper Mississippi River, is located upstream from Lock 24. Performing maintenance on the bridge during the winter months when no vessels are impacted is preferred to bridge closures or advance notification requirements during the commercial navigation season. This temporary drawbridge operation amendment has been coordinated with the commercial waterway operators. No objections were raised.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of the temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This is because river traffic will be extremely limited by lock closures and ice during this period.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Any individual that qualifies or, believes he or she qualifies as a small entity and requires assistance with the provisions of this rule, may contact Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 539–3900, extension 378.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule contains no new collection-of-information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector or $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1 (series), this rule is categorically excluded from further environmental documentation. Promulgation of changes to drawbridge regulations has been found not to have significant effects on the human environment. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. Sec. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. From 8 a.m., December 19, 2001, through 8 a.m., March 11, 2002, § 117.T392 is added to read as follows:

§ 117.T392 Upper Mississippi River.

Rock Island Railroad and Highway Drawbridge Mile 482.9 Upper Mississippi River.

From 8 a.m. (CST), December 19, 2001 through 8 a.m. (CST), March 11, 2002, the drawspan is allowed to be maintained in the closed to navigation position and need not open for vessel traffic.

Dated: December 7, 2001.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 01–31841 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–01–060]

RIN 2115–AE84

Regulated Navigation Area; Chesapeake Bay Entrance and Hampton Roads, VA and Adjacent Waters

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Commander, Fifth Coast Guard District is temporarily expanding the geographic definition of the Hampton Roads Regulated Navigation Area to include the waters of the 12 nautical mile territorial sea off the Coast of Virginia and adding new port security measures, in order to improve the safety and security of vessel traffic at the entrance to Chesapeake Bay and Hampton Roads, Virginia. The effect of this temporary rule will be to ensure the safety and security of the boating public, local military commands, and commercial shipping interests in the area.

DATES: This temporary final rule is effective from December 11, 2001 to June 15, 2002.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, Virginia, 23510 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Monica Acosta, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441–3453.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation and the rule takes effect immediately. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Immediate action is necessary to ensure the safety and security of the public, naval vessels moored at Naval Station Norfolk, and the commercial shipping industry in Hampton Roads, VA. There have been recent reports, all a matter of public record, that indicate a continuing high risk of terrorist activity in the United States. Based on these reports, the Fifth Coast Guard District Commander has determined a heightened security condition in the Port of Hampton Roads is required. Delay in implementing these changes, therefore, would be contrary to the public interest.

For similar reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

This temporary rule is necessary for the District Commander to reduce the potential threat to the Port of Hampton Roads, VA and surrounding waterways. The Coast Guard, as lead federal agency for maritime homeland security, must have the means to be aware of, deter, detect, intercept, and respond to asymmetric threats, acts of aggression, and attacks by terrorists on the American homeland while at the same time maintaining our freedoms and sustaining the flow of commerce. The Coast Guard implements Limited Access Areas, listed in 33 CFR part 165, in order to control vessel movements within Captain of the Port Zones. A Regulated Navigation Area is a type of Limited Access Area that may be used to control vessel traffic by specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors or other waters. The temporary rule the District Commander has established by this rulemaking allows for differentiation between lawful and unlawful maritime activities without unreasonably disrupting the free flow of commerce.

The District Commander has created a series of validation procedures to identify legitimate users of the Port of Hampton Roads. Validation procedures for vessels in excess of 300 GT, including tug and barge combinations in excess of 300 gross tons combined, include the following:

1. Vessels must check in with the Captain of the Port or his representative at least 30 minutes prior to entry to obtain permission to transit the Regulated Navigation Area.
2. Upon authorization and approval by the Captain of the Port or his representative, the vessel may enter the Regulated Navigation Area.
3. All vessels that receive permission to enter the Regulated Navigation Area remain subject to a Coast Guard port security boarding.
4. Thirty (30) minutes prior to getting underway, vessels departing or moving within the Regulated Navigation Area must contact the Captain of the Port or his representative via VHF–FM channel 13 or 16, call (757) 444–5209/5210, or call (757) 441–3298 for the Captain of the Port Command Duty Officer.

The Captain of the Port will notify the public of changes in the status of the port security requirements by marine information broadcast on VHF–FM marine band radio, channel 22A (157.1 MHz)

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This temporary final rule will affect only those vessels in excess of 300 GT that enter and depart the Port of Hampton Roads and it is implemented for a limited duration. Therefore, we expect the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

VOL 66 ISS 248 DE 27 2001 UMI

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we have considered whether this temporary rule will have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this temporary rule will not have a significant economic impact on a substantial number of small entities. This temporary rule will affect only the following entities, some of which may be small entities: owners and operators of commercial vessels larger than 300 gross tons intending to transit or anchor in the Regulated Navigation Area. Because the number of small entities owning/operating commercial vessels of this size is not substantial, the rule is for a limited duration, and there is little anticipation of delay when requesting entry into the Area, the economic impact of this temporary rule should be minimal.

If, however, you believe that your business or organization qualifies as a small entity and that this temporary rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you believe it qualifies and in what way and to what degree this temporary rule will economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This temporary rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this temporary rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this temporary rule will not result in such expenditure, we do discuss the effects of this temporary rule elsewhere in this preamble.

Taking of Private Property

This temporary rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this temporary rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This temporary rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This temporary rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this temporary rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C, this temporary final rule is categorically excluded from further environmental documentation. This temporary rule seeks to modify a well-established Regulated Navigation Area, and will be in effect for 6 months. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. From December 11, 2001 until June 15, 2002, in § 165.501, suspend paragraph (a)(1), and add paragraphs (a)(13), (d)(15), and (d)(16) to read as follows:

§ 165.501 Chesapeake Bay entrance and Hampton Roads, VA. and adjacent waters—regulated navigation area.

(a) * * *

(13) A line drawn due east from the mean low water mark at the North Carolina / Virginia border at latitude 36°33′03″ N, longitude 75°52′00″ W, to the Territorial Seas boundary line at latitude 36°33′05″ N, longitude 75°36′51″ W, thence generally

northeastward along the Territorial Seas boundary line to latitude 38°01′39″ N, longitude 74°57′18″ W, thence due west to the mean low water mark at the Maryland / Virginia border at latitude 38°01′39″ N, longitude 75°14′30″ W.

* * * * *

(d) * * *

(15) *Port Security Requirements.* No vessel in excess of 300 gross tons, including tug and barge combinations in excess of 300 gross tons (combined), shall enter the Regulated Navigation Area, move within the Area, or be present within the Area unless it complies with the following requirements.

(i) Obtain authorization to enter the Regulated Navigation Area from the Captain of the Port or his representative at least thirty minutes prior to entering the Regulated Navigation Area. All vessels entering or remaining in the Area may be subject to a Coast Guard boarding.

(ii) Follow all instructions issued by the Captain of the Port or his representative.

(iii) Ensure that no person who is not a permanent member of the vessel's crew, or a member of a Coast Guard boarding team, boards the vessel without presenting valid photo identification.

(iv) Report any departure from or movement within the Regulated Navigation Area to the Captain of the Port or his representative at least 30 minutes prior to getting underway.

(v) Contact the Captain of the Port or his representative on VHF–FM channel 13 or 16, or by calling (757) 444–5209 or (757) 444–5210.

(vi) In addition to the authorities listed in this Part, this section is promulgated under the authority under 33 U.S.C. 1226.

(16) For purposes of the port security requirements in paragraph (d)(15) of this section, the Captain of the Port or his representative means any official designated by the Captain of the Port including, but not limited to, any Coast Guard patrol vessel. All patrol vessels shall display the Coast Guard Ensign at all times when underway.

* * * * *

Dated: December 11, 2001.

T.W. Allen,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 01–31523 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 18

RIN 1024–AC78

Leasing Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule amends current National Park Service (NPS) regulations (36 CFR part 18) concerning the leasing of historic properties within areas of the national park system to encompass additional types of properties as authorized by law and to change in certain respects the procedural requirements for leasing of properties. This rule was published for public comment in the **Federal Register** on December 12, 2000 (65 FR 77538).

EFFECTIVE DATE: January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Cindy Orlando, National Park Service, 1849 C Street, NW., Room 7311, Washington DC 20240 (202/565–1212).

SUPPLEMENTARY INFORMATION: Section 802 of the National Parks Omnibus Management Act, Pub. L. 105–391 (Section 802), authorizes NPS to grant leases for the use of buildings and associated property located within areas of the national park system to persons and governmental entities under certain conditions. This new leasing authority supplements existing NPS leasing authority concerning historic properties set forth in 16 U.S.C. 470h–3 and implemented in 36 CFR part 18. This amendment of 36 CFR part 18 combines in one regulation the leasing authority provided by Section 802 with the leasing authority provided by 16 U.S.C. 470h–3. In general, this rule permits NPS to lease buildings, lands associated with such buildings, and, historic land located within the boundaries of park areas. It does not permit the leasing of non-historic land.

This amendment of 36 CFR part 18 achieves simplification of the NPS historic leasing process as also called for by Section 802 and expands the scope of NPS leasing authority to all eligible properties. NPS also has authority to lease certain property located within units of the national park system under 16 U.S.C. 460l–22(a). This authority is implemented by NPS in 36 CFR part 17 which remains unchanged by the amended 36 CFR part 18. Eight public comments were received in response to the proposed rule. Several changes were made in response to them. In addition, the final rule contains a number of editorial changes and clarifications.

Section Content

The following discussion describes the general content of each section of the final regulation. Public comments on these sections are also addressed as appropriate.

Section 18.1

Authority and Purposes. Section 18.1 describes the authority for the rule. The basic authority is 16 U.S.C. 1 *et seq.*, (the National Park Service Organic Act), particularly 16 U.S.C. 1a–2(k) (the general NPS leasing authority contained in section 802 of Pub. L. 105–391), and 16 U.S.C. 470h–3 (government-wide leasing authority applicable to historic properties). NPS has included a "grandfather" provision in this section of the final regulation to permit the execution of proposed leases that were solicited under 36 CFR part 18 prior to the effective date of this part. In response to comments, NPS has clarified the particular categories of NPS property to which this part applies. In addition, NPS notes that although this part is couched in terms of leasing particular properties, nothing in this part precludes NPS from leasing a number of properties in a combined solicitation or from engaging management companies (where otherwise authorized) to assist in implementing an appropriate overall park area leasing program in accordance with the terms of this part.

Section 18.2

Section 18.2 defines the terms used in the proposed rule. NPS has clarified the definition of "associated property" in the final regulation to make clear that associated property may relate to one or more buildings. NPS has also clarified the definition of "fair market value" by making clear that the particular terms and conditions of the lease being offered are to be taken into account in determining the fair market value of the lease. Finally, NPS has clarified the definitions of property types as used in the regulation and added a definition of non-historic property as a clarification. A comment asked whether a limited liability company qualifies as a "person" for purposes of this part. It does. A comment suggested that the definition historic property be expanded to include properties determined historic by state or local governments. NPS notes that the definition used is statutory and, in any event, includes properties of state or local significance listed in the National Register of Historic Places.

VOL 66 ISS 248 DE 27 2001 UMI

Section 18.3

Section 18.3 describes the types of property that NPS may lease under this part. In general, this part applies to leases of both historic and non-historic property located within the boundaries of park areas. However, Section 18.3(b) makes clear that non-historic land, i.e., vacant land that is not located within the boundaries of an historic district, may not be leased under this part. This is because of the express limitations on the types of property that may be leased under the authorities for this part. However, certain types of vacant land located in eligible units of the national park system may be leased under 36 CFR part 17.

Section 18.4

Section 18.4 describes the types of determinations NPS must make before it may lease property under this part. Before leasing property under this part, NPS must determine that the lease: (1) Will not result in degradation of the purposes and values of the park area; (2) will not deprive the park area of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration of the park area; (3) contains such terms and conditions as will assure the leased property will be used for an activity and in a manner that is consistent with the purposes established by law for the park area in which the property is located; (4) is compatible with the programs of the National Park Service; (5) is for rent at least equal to the fair market value rent of the leased property as described in Section 18.5; (6) does not authorize activities that are subject to authorization through a concession contract, commercial use authorization or similar instrument; and (7), if the lease is to include historic property, that the lease will adequately insure the preservation of the historic property.

With respect to the first determination, NPS considers the term "degradation" of park area purposes and values (a term which tracks the provisions of Section 802) to provide the same protective standard as the terms "derogation" and "impairment" of park area resources as used in other NPS authorities.

A comment suggested that distinctions be made between the types of determinations necessary for "big" leases and "small" leases. However, NPS considers that the determinations required by this section are necessary for all leases, noting that a "small" lease" may have a significant impact on park area resources.

Section 18.5

Section 18.5 describes the rent NPS must receive for property leased under this part. The rent must be at fair market value, determined after taking into account any restrictions NPS may place on the use of the leased property and any requirements for rehabilitation and maintenance of the leased property. The final regulation has been clarified in this respect. Comments suggested that consideration of year round occupancy, educational or governmental purposes be taken into account when determining fair market value rent. The regulation, however, does not preclude consideration of any relevant factor in determining fair market value. Another comment suggested that the regulation should provide authority for NPS to waive the fair market value rent requirement. NPS does not consider that this is within its leasing authority or otherwise appropriate. However, in response to a comment, NPS notes that cooperative agreements with non-profit organizations otherwise authorized by law may provide for assignment of government property to the cooperator without requiring the payment of fair market value rent. Such agreements are outside the scope of this regulation. A comment asked for examples as to the types of restrictions on use of the property that may reduce its fair market value. Examples are where NPS may not permit a property to be used for industrial purposes or may require that a property be used for educational purposes in the circumstances of a particular park area.

Section 18.6

Section 18.6(a) describes the types of uses that are permissible for property leased under this part. In general, leased property may be used for any lawful purpose subject to the determinations called for in Section 18.4. These uses may include, among others, office or other commercial uses. Innovative uses that are consistent with the requirements of this part are encouraged. Section 18.6(b) states that a lease issued under this part may not authorize the lessee to engage in activities that are subject to authorization through a concession contract, commercial use authorization or similar instrument. Proposed lease activities are subject to authorization under a concession contract if the Director determines in accordance with 36 CFR part 51 and park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a concession contract. Proposed activities are subject to authorization under a commercial use authorization if the Director determines in accordance with park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a commercial use authorization.

Section 18.7

Section 18.7 describes the procedures for leasing property through a public bid process. The bid process may only be used if the amount of rent is the sole criterion for award of a lease. The bid process calls for public notice of the lease opportunity, submission of offers on a date certain, and a public bid opening and selection by NPS. One comment suggested that award of leases under a bid system should be eliminated and another suggested an informal process that does not require publication or the submission of bids. NPS considers that the public bidding procedures of this section are appropriate. Another comment suggested that the bid system should not be used to lease historic property. NPS considers that the bid process will not be not frequently utilized. However, it wishes to retain the flexibility to do so in appropriate circumstances. For example, short-term leases of historic farmland for agricultural purposes may most efficiently be awarded through the bid process. Another comment in effect asked for further guidance on how general federal historic preservation requirements and procedures (e.g., 36 CFR part 800) apply to the leasing of historic property under this part. This is a subject that is beyond the scope of these regulations. However, 36 CFR part 800 discusses these matters in detail. NPS, in response to a comment, has added a financial capability determination as a request for bids requirement.

Section 18.8

Section 18.8 describes the procedures for leasing property through a proposal solicitation process. In general, the proposal solicitation process calls for public issuance of a Request for Proposals ("RFP") that describes the leasing opportunity and the criteria for selection. After submission of proposals, NPS will select the best proposal upon application of established selection criteria. These include the compatibility of the proposal to the park area and its visitors, the experience and financial capability of the offeror, and the ability and commitment of the offeror to conduct its activities in an environmentally enhancing manner.

One comment suggested that the publication period for the solicitation should be reduced to thirty days. However, the regulation permits the sixty-day publication period to be shortened in appropriate circumstances. Another comment suggested that the rent offered be a separate selection factor. NPS does not consider this to be appropriate and that it would difficult to administer. A comment suggested that the "tie-breaker" standard contained in Section 18.8(f) be eliminated. NPS has changed the "tie-breaker" standard to a more general determination as to which proposal is the most beneficial on an overall basis. A comment also suggested that the regulations include a "best and final offer" provision. NPS, however, considers that the process described for proposal amendment is efficient and provides to the extent appropriate an equivalent of a "best and final offer" procedure in the event that two or more proposals are considered as substantially equal. A comment suggested that the "specified" period of time for negotiation of a final lease be changed so as to allow an unlimited period for negotiation, subject to termination by NPS. NPS considers that requiring a specified negotiation period (which is subject to extension by NPS) is a more effective means to conclude the negotiation in a timely manner. Another comment suggested that the regulation reference the ability of NPS to enter into exclusive negotiating agreements with the successful offeror. NPS has included reference to such agreements in Section 18.8(d) in the form of a letter of intent to negotiate.

Section 18.9

Section 18.9 permits NPS to lease property to non-profit organizations and governmental units without competitive procedures if NPS determines that the non-profit or governmental use of the property will contribute to the purposes and programs of the park area. This is a clarification of the proposed regulation that stated that such leases could be entered into when it is in the public interest to do so. NPS considers this authority necessary for appropriate implementation and integration of park area management and leasing program objectives.

A comment suggested that the authority for non-competitive award of leases should only apply when no proposals were received in response to a competitive solicitation. NPS considers this limitation too restrictive in light of NPS program needs and objectives. Another comment suggested that there should be authority to award leases non-competitively with private property owners. NPS, however, does not consider this to be consistent with its general policy of competitive leasing procedures. A comment misunderstood this section as permitting receipt of less than fair market value rent and suggested that "small" leases should be awarded through informal processes. Fair market value rent is required under this section. NPS considers that the formal leasing processes required by this part are necessary for effective implementation of NPS authorities.

Section 18.10

Section 18.10 describes the term of leases to be granted under the authority of this part. The term is to be no more than 60 years. Several comments suggested a longer-term limitation or no limitation at all. However, it has been the experience of NPS that a lease term of sixty years (or less) is sufficient for investment purposes (the maximum sixty year term permits two thirty year mortgage periods) and that a transaction that is seen to need a longer term to be successful is not likely to viable in the first instance. NPS notes the provisions of Title IV of the National Parks Omnibus Management Act of 1998 that limits the term of concession contracts to twenty years (reduced from thirty years under prior legislation) and which states that concession contracts should be for the shortest possible term. NPS considers that this statement of Congressional policy is equally applicable to leases. Another comment suggested specific terms for leases for historic property. NPS does not consider the inclusion of specific terms to be appropriate as the property's historic character will be taken into account when determining the lease term. Other comments suggested that NPS should have the authority to extend leases. However, NPS in general considers extensions to be anti-competitive and that they may result in leases that extend beyond any reasonable period of time to the detriment of the government. NPS, however, has added language to the final regulation that permits leases to be extended for up to one year if required by circumstances beyond the control of NPS. This is consistent with similar provisions contained in the concession contracting provisions of Title IV of the National Parks Omnibus Management Act of 1998 that permit short term extensions of concession contracts in limited circumstances.

Section 18.11

Section 18.11 describes the general terms and conditions that a lease granted under authority of this part must contain. These include provisions that assure use of the property in a manner consistent with the purposes of the applicable park area, and, if applicable, the preservation of historic property that may be leased.

Section 18.12

Section 18.12 describes a number of specific terms and conditions that a lease granted under the authority of this part must contain. These include a termination for cause provision, a clause requiring the lessee to maintain the leased property, provisions regarding the use of the leased property, and, provisions that state that any improvements a lessee may make may only be undertaken with the approval of NPS. 18.12(c). A comment suggested that Section 18.12(c) should be amended to delete the mandatory reference to subleases with respect to financial capability determinations. NPS does not agree with this suggestion as sublessees are, as a practical matter, the lessee of a specified portion of the leased property and therefore should be financially capable to carry out applicable terms of the lease.

18.12(d). NPS deleted reference to the disposition of insurance proceeds in this section. The terms of specific leases will address this subject. It also deleted specific reference to replacement cost insurance in response to a comment.

18.12(g). A comment suggested that fees NPS may collect from lessees for services provided by NPS be referenced in this section. NPS, however, does not consider that reference to such fees is appropriate as such fees, if any, are variable and implemented on a park by basis. Another comment suggested that Section 18.12(g) be amended to delete the reference to lease termination with respect to compensation for improvements. NPS deleted this provision in its entirety from the regulation as unnecessary in light of general legal limitations on the authority of NPS to contractually obligate the expenditure of unappropriated funds.

18.12(h). The provisions regarding lease extensions and renewal rights have been deleted from this subsection as redundant. A comment suggested that the reference in this subsection to the sovereign authority of the government to cancel leases may preclude a lender from obtaining a reinstated lease in the event of foreclosure and thus make the lease unfinancable. However, this subsection does not preclude this right in the event of lease foreclosure.

18.12(i). A comment suggested that leases should permit new construction in park areas. NPS considers that the terms of this subsection, which do permit new construction in park areas in limited circumstances, are necessary in order to avoid impairment of park area resources and values.

18.2(m). A comment suggested modifying the term "obligations" in this subsection by the term "monetary." However, this "subject to availability of appropriated funds" clause is a standard provision contained in government contracts.

Section 18.13

Section 18.13 describes the information collection requirements of the rule. A comment suggested that 40 hours for preparing a large lease proposals seems low. NPS notes that the time estimates are averages only.

Drafting Information

The primary authors of this rule are the members of a task force comprised of NPS officials involved in the leasing of national park system properties.

Compliance With Laws, Executive Orders and Departmental Policy

Regulatory Planning and Review (E.O. 12866)

This rule is a significant rule within the meaning of Executive Order 12866 because of novel policy issues.

a. This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment or other units of government. The rule imposes no obligations on any entity except for persons that may seek to be awarded an NPS lease. It does not apply to existing NPS leases.

b. This rule will not create inconsistencies with other agencies' actions as it only applies to the National Park Service.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. The rule only prescribes policies and procedures for leasing lands of the national park system.

d. This rule raises novel policy issues as it prescribes new policies and procedures for leasing lands of the national park system in accordance with the requirements of Section 802 of Public Law 105–319 and 16 U.S.C. 470h–3.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act as it is not required to be published for comment before adoption by 5 U.S.C. 553 or other law. NPS solicited public comment on this proposed rule as a matter of policy. The Department of the Interior also considers that the final rule will not have a significant effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*). NPS anticipates that less than one hundred leases a year will be awarded under this authority. In addition, the rule is only applicable to prospective lessees. It has no effect on existing NPS leases.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Fairness Enforcement Act. This rule does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual entities, Federal, State, or local government agencies, or geographic regions; and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The primary effect of the proposed rule is to establish policies and procedures for the granting of leases of certain property located within areas of the national park system. Potential lessees will only submit lease proposals if the effects are positive.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this rule does not have significant takings implications as this rule does not apply to private property. A takings assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The rule imposes no requirements on any governmental entity other than NPS.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule (NPS Leasing Regulations—36 CFR part 18) requires an information collection from ten or more parties so a submission under the Paperwork Reduction Act was required. OMB has approved the information collection requirements of this part. OMB Control No. 1024–0223, expiration date 01/31/2004. The information collection requirements of this rule are for the purpose of awarding and administering NPS leases. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Six categories of information collection are contained in the rule: Section 18.7 (Request for Bids); Section 18.8 (Requests for Qualifications/Proposals); Section 18.12(c) (Subletting and Assignment of Leases); Section 18.12(i)–(j) (Approval of Lessee Construction/Demolition); Section 18.12(l) (Approval of Lessee Encumbrances); and Section 18.12(k) (Amendment of Leases). NPS will use the information collected to make administrative decisions with respect to these six categories. The respondents to these collections will be NPS lessees and prospective NPS lessees. NPS anticipates that there will be a total of approximately six hundred respondents per year with respect to Sections 18.7 and 18.8 and a total of approximately twenty-seven respondents per year with respect to the other information collection categories. NPS estimates that the total annual reporting and recordkeeping burden that will result from these collections of information will be 4392 hours, as set forth in the following chart.

Section	Number of responses	Hours per response	Total hours
Section 18.7	200	1	200
Section 18.8—Complex	20	40	800
Section 18.8—Simple	380	8	3040
Section 18.12(c)—Complex	1	40	40
Section 18.12(c)—Simple	4	8	32
Section 18.12(i)–(j)—Complex	2	32	64
Section 18.12(i)–(j)—Simple	8	8	64

Section	Number of responses	Hours per response	Total hours
Section 18.12(k)	2	4	8
Section 18.12(l)—Complex	2	40	80
Section 18.12(l)—Simple	8	8	64
Total	627	7.0	4392

*(average)

Please send comments regarding this burden or estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (with a copy to the Information Collection Officer, National Park Service, 1849 C Street, Washington, DC 20240. information technology).

National Environmental Policy Act

This rule does not constitute a major federal action affecting the quality of the human environment. A detailed statement under the National Environment Policy Act is not required. The rule will not increase public use of park areas, introduce noncompatible uses into park areas, conflict with adjacent land ownerships or land uses, or cause a nuisance to property owners or occupants adjacent to park areas. Accordingly, this rule is categorically excluded from procedural requirements of the National Environmental Policy Act by 516 DM 6, App. 7.4A(10).

Clarity of this Rule

Executive Order 12866 requires federal agencies to write regulations that are easy to understand. Comment is invited on how to make this rule easier to understand, including answers to the following questions: (1) Are the requirements in the rule clearly stated?; (2) Does the rule contain undefined technical language or jargon that interferes with its clarity?; (3) Does the format of the rule (groupings and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity?; (4) Would the rule be easier to understand if it were divided into more but shorter sections?; (5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the proposed rule?; (6) What else could be done to make the rule easier to understand? Please send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW, Washington, DC 20240.

List of Subjects in 36 CFR Part 18

Historic preservation, National parks.

In consideration of the foregoing, 36 CFR part 18 is revised to read as follows:

PART 18—LEASING OF PROPERTIES IN PARK AREAS

Sec.
18.1 What is the authority and purpose for this part?
18.2 What definitions do you need to know to understand this part?
18.3 What property may be leased?
18.4 What determinations must the Director make before leasing property?
18.5 May property be leased without receiving fair market value rent?
18.6 Are there limitations on the use of property leased under this part?
18.7 How are lease proposals solicited and selected if the Director issues a Request for Bids?
18.8 How are lease proposals solicited and selected if the Director issues a Request for Proposals?
18.9 When may the Director lease property without issuing a request for bids or a request for proposals?
18.10 How long can the term of a lease be?
18.11 What general provisions must a lease contain?
18.12 What specific provisions must a lease contain?

Authority: 16 U.S.C. 1 *et seq.*, particularly 16 U.S.C. 1a–2(k), and, 16 U.S.C. 470h–3.

§ 18.1 What is the authority and purpose for this part?

16 U.S.C. 1 *et seq.*, particularly 16 U.S.C. 1a–2(k), and, 16 U.S.C. 470h–3 are the authorities for this part. These authorities allow the Director (or delegated officials) to lease certain federally owned or administered property located within the boundaries of park areas. All leases to be entered into by the Director under these authorities are subject to the requirements of this part, except that, proposed leases that were solicited pursuant to this part prior to January 28, 2002, may be executed in accordance with the terms of the solicitation.

§ 18.2 What definitions do you need to know to understand this part?

In addition to the definitions contained in 36 CFR Part 1, the following definitions apply to this part:

(a) *Associated property* means land and/or structures (e.g., parking lots, retaining walls, walkways, infrastructure facilities, farm fields) related to a building or buildings and their functional use and occupancy.

(b) *Building* means an enclosed structure located within the boundaries of a park area and constructed with walls and a roof to serve a residential, industrial, commercial, agricultural or other human use.

(c) *Commercial use authorization* means a written authorization to provide services to park area visitors issued by the Director pursuant to Section 418 of Public Law 105–391 and implementing regulations.

(d) *Concession contract* has the meaning stated in 36 CFR part 51.

(e) *Fair market value rent* means the most probable rent, as of a specific date, in cash or in terms equivalent to cash, for which the property to be leased, under the terms and conditions of the lease, should rent for its highest and best permitted use after reasonable exposure in a competitive market under all conditions requisite to a fair leasing opportunity, with the lessor and the lessee each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress. Determinations of fair market value rent under this part are to be made taking into account the considerations stated in § 18.5.

(f) *Historic building* means a building or buildings located within the boundaries of a park area if the building is part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(g) *Historic land* means land located within the boundaries of an historic property.

(h) *Historic property* means building(s) and land located within the boundaries of a park area if the building(s) and land are part of a pre-historic or historic district or site

VOL 66 ISS 248 DE 27 2001 UMI

included on, or eligible for inclusion on, the National Register of Historic Places.

(i) *Land* means unimproved real property.

(j) *Lease* means a written contract entered into under the authority of this part through which use and possession of property is granted to a person for a specified period of time.

(k) *Non-historic building* is a building (or buildings) and its associated property located within the boundaries of a park area but not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(l) *Non-historic land* means land located within the boundaries of a park area that is not associated property and is not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(m) *Non-historic property* means building(s) and/or land that are located within the boundaries of a park area but are not part of a pre-historic or historic district or site included on, or eligible for inclusion on, the National Register of Historic Places.

(n) *Park area* means a unit of the national park system.

(o) *Property* means both historic and non-historic property that is located within the boundaries of a park area and is federally owned or administered.

(p) *Request* for bids refers to the lease bid process described in § 18.7.

(q) *Request for proposals* refers to the lease proposal process described in § 18.8.

(r) *Responsive bid or proposal* means a timely submitted bid or proposal that meets the material requirements of a request for bids or a request for proposals.

§ 18.3 What property may be leased?

(a) In general. The Director may lease any property (except non-historic land) under this part if the Director makes the determinations required by § 18.4.

(b) Non-historic land. Non-historic land may not be leased under this part. Certain non-historic land is eligible for leasing under 36 CFR part 17.

§ 18.4 What determinations must the Director make before leasing property?

Before leasing property in a park area under this part, the Director must determine that:

(a) The lease will not result in degradation of the purposes and values of the park area;

(b) The lease will not deprive the park area of property necessary for appropriate park protection, interpretation, visitor enjoyment, or administration of the park area;

(c) The lease contains such terms and conditions as will assure the leased property will be used for activity and in a manner that are consistent with the purposes established by law for the park area in which the property is located;

(d) The lease is compatible with the programs of the National Park Service;

(e) The lease is for rent at least equal to the fair market value rent of the leased property as described in § 18.5;

(f) The proposed activities under the lease are not subject to authorization through a concession contract, commercial use authorization or similar instrument; and

(g) If the lease is to include historic property, the lease will adequately insure the preservation of the historic property.

§ 18.5 May property be leased without receiving fair market value rent?

Property may be leased under this part only if the lease requires payment of rent to the government equal to or higher than the property's fair market value rent. The determination of fair market value rent shall take into account:

(a) Any restrictions on the use of the property or terms of the lease that limit the value and/or the highest and best use of the property; and

(b) Any requirements under the lease for the lessee to restore, rehabilitate or otherwise improve the leased property.

§ 18.6 Are there limitations on the use of property leased under this part?

(a) A lease issued under this part may authorize the use of the leased property for any lawful purpose, subject to the determinations required by § 18.4 and the limitations on activities set forth in paragraph (b) of this section.

(b) Unless otherwise authorized by law, a lease issued under this part may not authorize the lessee to engage in activities that are subject to authorization through a concession contract, commercial use authorization or similar instrument. Proposed lease activities are subject to authorization under a concession contract if the Director determines in accordance with 36 CFR part 51 and park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a concession contract. Proposed activities are subject to authorization under a commercial use authorization if the Director determines in accordance with park area planning documents and related guidelines and policies that the proposed activities meet applicable requirements for issuance of a commercial use authorization.

§ 18.7 How are lease proposals solicited and selected if the Director issues a Request for Bids?

(a) If the amount of the rent is the only criterion for award of a lease, the Director may solicit bids through issuance of a request for bids as described in this section. If historic property is to be leased under the authority of this section, the Director must comply with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation) at an appropriate time during the leasing process.

(b) A request for bids under this section shall be advertised by public notice published at least twice in local and/or national newspapers of general circulation. The notice shall provide at least a thirty (30) day period from the last date of publication for the submission of sealed bids. The notice will provide necessary information to prospective bidders. It may specify a minimum rent and/or require submission of a rent deposit or advance rent payment. Bids will be considered only if timely received at the place designated in the request. Bids must be in the form specified by the Director, or, if no form is specified, a bid must be in writing, signed by the bidder or authorized representative, state the amount of the bid, and refer to the applicable public notice. If the notice requires submission of a rent deposit or advance rent payment, the bids must include the required funds in the form of a certified check, post office money order, bank drafts, or cashier's checks made out to the United States of America. The bid (and payment where applicable) must be enclosed in a sealed envelope upon which the bidder shall write: "Bid on lease of property of the National Park Service" and shall note the date the bids are to be opened.

(c) Bids will be opened publicly by the Director at a time and place specified in the public notice. Bidders or their representatives may attend the bid opening. The bidder submitting a responsive bid offering the highest rent will be selected for award of the lease (subject to a determination of financial capability by the Director). A responsive bid is a bid that meets the material terms and conditions of the request for bids. The Director shall accept no bid in an amount less than the fair market rental value as determined by the Director. If two or more bids are equal, a drawing shall make the lease award by lot limited to the equal responsive bids received.

(d) When a property is to be leased through a request for bids, the bidder that is declared by the Director to be the high bidder shall be bound by his bid and this part to execute the offered lease, unless the bid is rejected. If the declared high bidder fails to enter into the lease for any reason, the Director may choose to enter into the lease with the next highest bidder (if that bidder offered to pay at least the fair market rent value). The Director may reject any and all bids in his discretion and resolicit or cancel a lease solicitation under this part at any time without liability to any person.

§ 18.8 How are lease proposals solicited and selected if the Director issues a Request for Proposals?

(a) When the award of a lease is to be based on selection criteria in addition to or other than the amount of the rent, the Director must, subject to § 18.9, solicit proposals for the lease through issuance of a public Request for Proposals (RFP).

(b) An RFP may be preceded by issuance of a public Request for Qualifications (RFQ). The purpose of an RFQ is to select a "short list" of potential offerors that meet minimum management, financial and other qualifications necessary for submission of a proposal in response to an RFP. If the Director issues an RFQ, only persons determined as qualified by the Director under the terms of the RFQ shall be eligible to submit a proposal under the related RFP.

(c) The Director must provide public notice of the leasing opportunity by publication at least twice in local and/or national newspapers of general circulation and/or through publication in the Commerce Business Daily. The public notice shall contain general information about the leasing opportunity and advise interested persons how to obtain a copy of the RFP (or RFQ where applicable). The RFP (and RFQ where applicable) shall contain appropriate information about the property proposed for lease, including limitations on the uses of the property to be leased, information concerning the leasing process, information and materials that must be contained in a proposal, the time and place for submission of proposals, terms and conditions of the lease, and the criteria under which the Director will evaluate proposals. The RFP may state the fair market value rent as the minimum acceptable rent if determined by the Director at that time. The RFP (and RFQ where applicable) must allow at least sixty (60) days for submission of proposals (or qualifications under an RFQ) unless a shorter period of time is determined to be sufficient in the circumstances of a particular solicitation.

(d) The Director may determine that a proposal is non-responsive and not consider it further. A non-responsive proposal is a proposal that was not timely submitted or fails to meet the material terms and conditions of the RFP. After the submission of offers and prior to the selection of the best overall proposal, the Director may request from any offeror additional information or written clarification of a proposal, provided that proposals may not be amended after the submission date unless all offerors that submitted responsive proposals are given an opportunity to amend their proposals. The Director may choose to reject all proposals received at any time and resolicit or cancel a solicitation under this part without liability to any person.

(e) (1) The criteria to be used in selection of the best proposal are:

(i) The compatibility of the proposal's intended use of the leased property with respect to preservation, protection, and visitor enjoyment of the park;

(ii) The financial capability of the offeror to carry out the terms of the lease;

(iii) The experience of the offeror demonstrating the managerial capability to carry out the terms of the lease;

(iv) The ability and commitment of the offeror to conduct its activities in the park area in an environmentally enhancing manner through, among other programs and actions, energy conservation, waste reduction, and recycling; and

(v) Any other criteria the RFP may specify.

(2) If the property to be leased is an historic property, the compatibility of the proposal with the historic qualities of the property shall be an additional selection criterion. If the RFP requires proposals to include the amount of rent offered, the amount of rent offered also shall be an additional selection criterion.

(f) The Director will evaluate all responsive proposals received. The responsive proposal determined by the Director to best meet on an overall basis the evaluation criteria will be selected for negotiation of the lease. If two or more responsive proposals are determined by the Director to be substantially equal under the evaluation criteria, the Director shall provide an opportunity for those proposals to be amended by their offerors as necessary for the Director to select the best amended proposal. In such circumstances, the Director will provide each offeror that submitted a substantially equal proposal appropriate information as to how their proposals may be amended in order to enhance the possibility of selection as the best amended proposal. If two or more proposals remain as substantially equal after amendment, the Director will select for negotiation of the lease from among these proposals the proposal that the Director determines on an overall basis will be most beneficial to effective management of the park area.

(g) The Director will provide the offeror that submitted the best overall responsive proposal as determined by the Director a specified period of time to negotiate the final terms of the lease (and may enter into a letter of intent to negotiate in this connection). The final terms of the lease must be consistent with the requirements of the RFP. If the negotiations do not result in an executed lease within the specified time period, the Director, in his discretion, may extend the negotiation period, terminate negotiations and negotiate with the offeror that submitted the next best responsive proposal, or, cancel the solicitation.

(h) RFPs may state that the amount of rent to be paid will be negotiated subsequently with the offeror that submitted the best proposal, initially or as amended. The Director may execute a lease only if the Director determines that it requires the lessee to pay at least the fair market value rent of the leased property.

(i) The Director may execute a lease that includes historic property only after complying with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation).

§ 18.9 When may the Director lease property without issuing a request for bids or a request for proposals?

The Director, except as provided in this section, may not lease property without issuing a request for bids or a request for proposals in compliance with § 18.7 or § 18.8. The Director under this part may enter into leases with non-profit organizations (recognized as such by the Internal Revenue Service) or units of government without complying with § § 18.7 or 18.8 if the Director determines that the non-profit or governmental use of the property will contribute to the purposes and programs of the park area. All other requirements of this part are applicable to leases entered into or to be entered into under authority of this section. The Director may enter into leases under this part with a term of sixty (60) days or less without complying with § § 18.7 or 18.8 if the Director determines that to do so is in the best interests of the administration of the park area. If historic land is to be leased under the

VOL 66 ISS 248 DEC 27 2001 UMI

authority of this section, the Director must comply with 36 CFR part 800 (commenting procedures of the Advisory Council on Historic Preservation) before entering into the lease.

§ 18.10 How long can the term of a lease be?

All leases entered into under this part shall have as short a term as possible, taking into account the financial obligations of the lessee and other factors related to determining an appropriate lease term. No lease shall have a term of more than 60 years. Leases entered under the authority of this part may not be extended, except that, leases with an initial term of one (1) year or more may be extended once for a period not to exceed one (1) additional year if the Director determines that an extension is necessary because of circumstances beyond the Director's control.

§ 18.11 What general provisions must a lease contain?

All leases entered into under this part must contain terms and conditions that are determined necessary by the Director to assure use of the leased property in a manner consistent with the purposes of the applicable park area as established by law, and where applicable, to assure the preservation of historic property.

§ 18.12 What specific provisions must a lease contain?

All leases entered into under this part must contain:

(a) A termination for cause or default provision;

(b) Appropriate provisions requiring the lessee to maintain the leased property in good condition throughout the term of the lease;

(c) Appropriate provisions stating that subletting of a portion of the leased property and assignment of a lease, if permissible under the terms of the lease, must be subject to the Director's written approval. Such subleases and assignments shall be approved only of the Director determines, among other relevant matters, that the proposed sub-lessee or assignee is financially and managerially capable of carrying out the terms of the lease. Assignment of a lease for the purpose of effectuating an encumbrance to the lease or the leased property is subject to approval pursuant to the requirements of paragraph (l) of this section;

(d) Appropriate provisions requiring the lessee to secure and maintain from responsible companies liability insurance sufficient to cover losses connected with or occasioned by the use and activities authorized by the lease. Types and amounts of insurance coverage will be specified in writing and periodically reviewed by the Director;

(e) Appropriate provisions, unless the Director determines otherwise in the circumstances of a particular lease, requiring the lessee to obtain from responsible companies casualty insurance (including flood insurance if applicable) in an amount sufficient to protect the interests of the lessee and the government. In the event of casualty, the lessee shall be required to repair or replace damaged or destroyed property unless otherwise determined by the Director;

(f) Appropriate provisions requiring the lessee to save, hold harmless, and indemnify the United States of America and its agents and employees for all losses, damages, or judgments and expenses resulting from personal injury, death or property damage of any nature arising out of the lessee's activities under the lease, and/or the activities of the lessee's employees, subcontractors, sub-lessees, or agents. No lease entered into this part may contain provisions intended to provide indemnification or other assurances to the lessee regarding the conduct or activities of the Director concerning the lease or the administration of the applicable park area. Leases may contain appropriate provisions that commit the Director to accept responsibility for tortious actions of government officials to the extent authorized by the Federal Torts Claim Act or as otherwise expressly authorized by law;

(g) Appropriate provisions requiring the lessee to pay for use of all utilities used by the lessee and to pay all taxes and assessments imposed by federal, state, or local agencies applicable to the leased property or to lessee activities;

(h) Appropriate provisions stating that the lessee has no rights of renewal of the lease or to the award of a new lease upon lease termination or expiration and that the lease is subject to cancellation by the Director in the exercise of the sovereign authority of the United States to the extent provided by applicable law;

(i) Appropriate provisions stating that the lessee may not construct new buildings or structures on leased property, provided that, a lease may contain appropriate provisions that authorize the lessee to construct, subject to the prior written approval of the Director, minor additions, buildings and/or structures determined by the Director to be necessary for support of the authorized activities of the lessee and otherwise to be consistent with the protection and purposes of the park area. Approval by the Director of new construction may only be granted if the Director makes the determinations required by § 18.4;

(j) Appropriate provisions requiring that:

(1) Any improvements to or demolition of leased property to be made by the lessee may be undertaken only with written approval from the Director;

(2) That any improvements to or demolition of historic property may only be approved if the Director determines that the improvements or demolition complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR part 68); and

(3) Any improvements made by a lessee shall be the property of the United States;

(k) Appropriate provisions that describe and limit the type of activities that may be conducted by the lessee on the leased property. The types of activities described in a lease may be modified from time to time with the approval of the Director through an amendment to the lease. The Director may approve modified activities only if the determinations required by § 18.4 remain valid under the proposed modified activities and the proposed activities are otherwise determined appropriate by the Director;

(l) Appropriate provisions, unless the Director determines not to permit pledges or encumbrances in the circumstances of a particular lease, authorizing the lessee to pledge or encumber the lease as security, provided that any pledge or encumbrance of the lease and the proposed holder of the pledge or encumbrance must be approved in writing in advance by the Director and that a pledge or encumbrance may only grant the holder the right, in the event of a foreclosure, to assume the responsibilities of the lessee under the lease or to select a new lessee subject to the approval of the Director. Pledges or encumbrances may not grant the holder the right to alter or amend in any manner the terms of the lease;

(m) Appropriate provisions stating that fulfillment of any obligations of the government under the lease is subject to the availability of appropriated funds. No lease issued under authority of this part shall entitle the lessee to claim benefits under the Uniform Relocation Assistance Act of 1970 (Public Law 91-646) and all leases entered into under the authority of this part shall require the lessee to waive any such benefits; and

(n) Appropriate provisions granting the Director and the Comptroller General access to the records of the lessee as necessary for lease administration purposes and/or as provided by applicable law.

Dated: July 19, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for, Fish and Wildlife and Parks.

[FR Doc. 01–31201 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Chapter 1, Part 3

RIN 2900–AK65

Filipino Veterans' Benefits Improvements

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, which changed the rate of compensation payments to certain Filipino veterans residing in the United States and the Veterans Benefits and Health Care Improvement Act of 2000, which changed the amount of the burial benefit paid to the survivors of certain Filipino veterans who were residing in the United States at the times of their deaths.

DATES: *Effective Date:* December 27, 2001.

Applicability Dates: The provisions of this interim final rule regarding compensation benefits, 38 CFR 3.42, 38 CFR 3.405, and 38 CFR 3.505, apply beginning October 27, 2000. The provision of this interim final rule regarding burial benefits, 38 CFR 3.43, applies when the veteran has died after November 1, 2000.

Comment Date: Comments must be received by VA on or before February 25, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to "RIN 2900–AK65." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Bill Russo, Regulations Staff, Compensation and Pension Service (211A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7211.

SUPPLEMENTARY INFORMATION: The Philippine Islands achieved independence from the United States in 1946. The Philippines was still a commonwealth of the United States when America entered World War II, and President Roosevelt ordered many Filipinos into service. In the years that followed, a variety of VA benefits were provided to Filipinos based on service in different military units. One long-standing provision, 38 U.S.C. 107, gave certain Filipino veterans certain VA benefits at half the rate paid to United States veterans.

I. Compensation Benefits

On October 27, 2000, the President signed into law the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, Pub. L. 106–377, 114 Stat. 1441. Section 501 of Pub. L. 106–377 amended 38 U.S.C. 107 to provide full-rate payments of benefits for Filipino veterans who had "[s]ervice before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States under the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States. * * *" In order to be entitled to full-dollar rate benefits, Pub. L. 106–377 requires that the veteran be "residing in the United States" and also be either a U.S. citizen or an alien lawfully admitted for permanent residence in the U.S. To implement this new law, this document adds new §§ 3.42 and 3.43 to 38 CFR, redesignates §§ 3.8 and 3.9 as §§ 3.40 and 3.41, respectively, and amends § 3.40.

Legislative Intent

By increasing compensation to Filipino veterans residing in the U.S., Congress indicated its recognition that Filipino veterans residing in the U.S. have a higher cost of living than Filipino veterans living in the Philippines. However, Congress did not intend to create a windfall for Filipino veterans who do not actually face the higher cost of living in the U.S. In order to avoid that potential result, Congress required that Filipino veterans be residing in the U.S. and either be citizens of the U.S. or aliens lawfully admitted for permanent residence in the U.S.

Definitions

Although Congress did not define the term "residing in the United States" in Pub. L. 106–377, we believe Congress intended that VA pay Filipino veterans the full-dollar rate for compensation only while they are actually residing in the U.S. We are therefore defining the term to require that the veteran's principal, actual dwelling place must be in the U.S. We have used simple, objective criteria for determining whether a veteran meets that definition: requiring that the veteran be present in the U.S. for at least the majority of each calendar year, beginning with the calendar year in which he or she applies for the full-dollar rate, and continuing in each year in which the veteran receives full-dollar rate benefits; and that the veteran not be absent from the U.S. for more than 60 consecutive days. If a veteran is absent from the U.S. for longer than these periods, it is reasonable to conclude that he or she is not residing in the U.S. In addition, this definition will be understandable to veterans and readily applied by VA employees. This rule will also allow veterans reasonable periods to travel outside of the U.S. for business or personal reasons without having their benefits reduced.

Congress did not define "United States" in Pub. L. 106–377, but we believe that Congress intended to more adequately compensate Filipino veterans for the cost-of-living in the states, territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. Therefore, this rule specifically references the states, territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

Congress did not define the terms "citizen" of the U.S. and "lawfully admitted for permanent residence" in Pub. L. 106–377. However, these terms are well defined by existing federal immigration and naturalization laws found in title 8, United States Code, and we believe that Congress intended for the terms to have the same meaning.

VOL 66 ISS 248 DE 27 2001 UMI

Therefore, we are defining "citizen" of the U.S. to mean any individual who acquires U.S. citizenship through birth in the territorial U.S., birth abroad as provided under title 8, United States Code, or through naturalization, and has not renounced his or her U.S. citizenship, or had such citizenship cancelled, revoked, or otherwise terminated. We are defining "lawfully admitted for permanent residence" to mean lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with title 8, United States Code, such status not having changed.

Evidence of Eligibility

VA has an obligation to ensure that veterans receiving full-dollar rate benefits meet the residency and citizenship/permanent-resident-alien requirements in the law. As proof that the veteran is residing in the U.S., this rule requires satisfactory evidence (which may include, for example, a driver's license, lease agreement, or utility bills) that he or she is residing at a valid street address in the U.S. and receiving mail at that address. Furthermore, this rule provides that VA will not pay benefits at the full rate if the veteran's mailing address is a Post Office box, unless evidence from the U.S. Postal Service shows that it does not deliver mail to the veteran's street address. We believe these provisions will help ensure program integrity and reduce the possibility of fraud.

This rule states that a valid original or copy of one of the following documents is required to prove that a veteran is a natural born citizen of the U.S.:

A valid U.S. passport;

- A birth certificate showing that he or she was born in the U.S.; or
- A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate abroad.

We believe this is a reasonable requirement, since these documents are standardized, reliable means of proving an individual's U.S. citizenship. A U.S. passport is issued only to individuals who have provided acceptable proof of U.S. citizenship to the U.S. Department of State. One of the latter two documents listed above are generally issued at birth.

The U.S. Immigration and Naturalization Service (INS) is the federal agency responsible for granting naturalized citizen status and keeping records on such status. Therefore, this rule states that only verification of that status by INS to VA will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

INS documents all aliens who receive permanent-resident-alien status in the U.S. Therefore, this rule requires that, in order to establish status as a permanent resident alien for purposes of receiving compensation at the full-dollar rate, only verification of that status by INS to VA will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

Continued Eligibility

We believe that Congress intended that Filipino veterans receive an increased rate of benefit payment due to the relatively high cost-of-living in the U.S., if the U.S. is their principal, actual dwelling place. Therefore, we believe it is reasonable to establish limits on how long a veteran may be absent from the U.S. but yet continue to receive benefits at the full-dollar rate. Under this rule, in order to continue receiving benefits at the full-dollar rate under this section, a veteran must be physically present in the U.S. for at least 183 days of each calendar year in which he or she receives payments at the full-dollar rate, and may not be absent from the U.S. for more than 60 consecutive days at a time. If a veteran is absent from the U.S. for longer than these periods, it is reasonable to conclude that the U.S. is not his or her principal, actual dwelling place. However, if a veteran becomes eligible for full-dollar rate benefits on an initial basis, on or after July 1 of any calendar year, the 183-day rule will not apply during that calendar year. Further, VA will not consider a veteran to have been absent from the U.S. if he or she left and returned to the U.S. on the same date. To ensure program integrity, we have included in this rule a requirement that a veteran receiving full-dollar rate benefits must notify VA within 30 days of leaving the U.S.

Also to ensure program integrity, we are requiring that a Filipino veteran receiving benefits at the full-dollar rate must notify VA within 30 days if he or she loses his or her U.S. citizenship or lawful-permanent-resident-alien status. This rule also states that, when a veteran no longer meets the citizenship/permanent-resident-alien eligibility requirements, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under the law.

These requirements will be understandable to veterans and readily applied by VA employees. This rule will also allow veterans reasonable periods to travel outside of the U.S. for business or personal reasons without having their benefits reduced.

In addition, this rule states that a veteran receiving full-dollar rate benefits must provide VA with satisfactory evidence that he or she continues to meet the residency and citizenship/naturalization requirements, whenever VA requests such evidence. This rule incorporates 38 CFR 3.652, which contains VA's procedure for requesting proof of continued eligibility and reducing a benefits award if it is not submitted in a timely manner. Section 3.652 states that VA beneficiaries must provide VA with proof, when requested, that any or all of the eligibility factors which established entitlement continue to exist. This rule specifically restates that requirement and the requirement that VA advise the veteran at the time of the request that the proof must be furnished within 60 days and that failure to do so will result in the reduction of benefits under § 3.652. We believe these concepts from § 3.652 are fair, reasonable and efficient.

To further ensure program integrity, a veteran receiving benefits at the full-dollar rate under this section must notify VA promptly if the veteran changes his or her address. For the same reason, if mail from VA to the veteran is returned as undeliverable, VA will attempt to verify a more current address. If this attempt at verification proves unsuccessful, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under law. We believe this is necessary, since such returned mail may indicate that the veteran no longer resides at the address that was the basis for his or her entitlement to the full-dollar rate benefits.

Effective dates for initial eligibility

We are adding a new § 3.405 containing the effective date rules for the full-dollar rate benefit. Section 501(a) of Pub. L. 106–377 states that the amendments allowing full-dollar rate benefits for certain Filipino veterans "shall take effect on the date of the enactment of this Act and shall apply to benefits paid for months beginning on or after that date." In order to be consistent with congressional intent, for veterans who met the eligibility requirements in § 3.42 on October 27, 2000, and maintained such eligibility continuously from that date to the date of an administrative determination of entitlement, the effective date of awards of compensation at the full-dollar rate will be October 27, 2000. For all other veterans, awards of compensation for Filipino veterans under § 3.42 will be effective on the latest of the following dates, which are consistent with existing effective date rules:

- Date entitlement arose;
- Date on which the veteran first met the residency and citizenship/permanent-resident-alien status requirements in § 3.42, if VA receives

evidence of this within 1 year of that date;

- Effective date of the rating establishing service connection, provided VA receives evidence that the veteran meets the residency and citizenship/permanent-resident-alien status requirements in § 3.42 within 1 year of notification of such rating action.
- Date the veteran returned to the U.S. after absence of more than 60 consecutive days.
- First day of the year following the year in which the veteran was absent from the U.S. for a total of 183 days or more, or the first day after that date that the veteran returns to the U.S.

Effective dates for reductions

As stated above, Pub. L. 106–377 does not address the issue of effective dates for the new full-dollar rate payments, so we will apply existing effective date regulations. We believe this is consistent with congressional intent, and that application of existing rules will avoid unnecessarily complicating the adjudication process.

This rule also gives VA authority to verify continued eligibility for full-dollar rate payments. If VA requests information for this purpose, and the veteran does not provide it within 60 days, the eligibility factor(s) for which certification was requested will, pursuant to § 3.652(a), be considered to have ceased to exist as of the end of the month in which it was last shown by the evidence of record to have existed. Under § 3.652(b), if the required certification is submitted to VA after benefits have been reduced, the benefits will be adjusted in accordance with the facts found. We believe the general rules provided in § 3.652 are fair and easy to administer. Accordingly, we will rely on them in cases of increased rate payments under Pub. L. 106–377; this rule provides that reductions for failure to verify continued eligibility will be as provided in § 3.652.

Under this rule, when a veteran no longer meets the residence or citizenship/permanent-resident-alien eligibility requirements of Pub. L. 106–377, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under the law, effective on the date determined under new § 3.505, discussed below. The rule also states that, if mail from VA to the veteran is returned as undeliverable, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under law, effective on the date determined under § 3.505.

We are adding a new § 3.505 to state that if a veteran receiving benefits at the full-dollar rate under § 3.42 is physically absent from the U.S. for a total of 183 days or more during any calendar year, VA will reduce the payment of any compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 183rd day of absence from the U.S. In addition, it states that, if a veteran receiving benefits at the full-dollar rate under § 3.42 is physically absent from the U.S. for more than 60 consecutive days, VA will reduce his or her compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 61st day of the absence. It further states that a veteran receiving benefits at the full-dollar rate under § 3.42 loses either U.S. citizenship or status as an alien lawfully admitted for permanent residence in the U.S., VA will reduce the compensation to the rate of $0.50 for each dollar authorized under the law, effective on the day he or she no longer satisfies one of these criteria. Finally, it also states that if mail to a veteran receiving benefits at the full-dollar rate under § 3.42 is returned to VA as undeliverable, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under law, effective on the date of the last payment of compensation benefits.

Effective dates for restored eligibility

Under this rule, if a veteran who stopped meeting the residency or citizenship/permanent-resident-alien requirements in Pub. L. 106–377 again meets these requirements, and provides VA with proof of this, VA will restore the veteran's full-dollar rate benefits, effective the date the veteran meets the eligibility requirements in 3.42. However, such increased payments will be retroactive no more than one year prior to the date on which VA receives evidence that he or she meets the requirements again. These rules are consistent with VA's existing effective date regulations. If a veteran's payments are reduced based on an absence from the U.S. of 183 or more days during a calendar year, under no circumstances will VA resume payments at the full-dollar rate before the beginning of the following calendar year. This is consistent with what we believe is Congress' intent that these higher payments be paid only to veterans whose principal, actual dwelling place is in the U.S.

II. Burial Benefits

On November 1, 2000, the President signed into law the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106–419, 114 Stat. 1822. Section 332 of Pub. L. 106–419 authorizes VA to pay burial benefits to the survivors of certain Filipino veterans at the full-dollar rate, instead of the half-dollar rate. It includes the same requirements as Pub. L. 106–377 regarding residency and citizenship and also requires that the deceased veteran must have been receiving compensation or have met the disability and income requirements for pension, on the date of his or her death. (Generally, Filipino veterans are not eligible for pension, see 38 U.S.C. 107.) Specifically, with regard to compensation and pension, the veteran must have been receiving compensation under chapter 11 of title 38 or, if the veteran's service had been deemed to be active military, naval, or air service, he or she would have been entitled to pension under 38 U.S.C. 1521 without denial or discontinuance by reason of 38 U.S.C. 1522's net worth restriction. This rule adds a new 38 CFR 3.43 to implement this new law.

Definitions

Although Congress did not define the term "residing in the United States" in Pub. L. 106–419, we believe that, when Congress enacted Section 332 of Pub. L. 106–419, it intended to more adequately compensate the survivors of Filipino veterans for the cost of burial in the U.S., which is higher than the cost of burial in the Philippines. We believe that, for the purposes of burial benefits, the relevant issues under this statute are whether the deceased veteran was residing in the U.S. on the date of death (regardless of how long he or she was residing in this country) and whether he or she met the citizenship or resident-alien requirements. We believe this standard is consistent with the governing statute, will not impose an undue evidentiary burden on claimants, and will be relatively simple for VA to administer. In addition, VA does not believe Congress intended to exclude from this added benefit the survivors of veterans who resided in the U.S. but happened to die while temporarily out of the U.S., and we have included a sentence to that effect in § 3.43.

Congress did not define "United States," "citizen of the United States," or "lawfully admitted for permanent residence" in Section 332 of Pub. L. 106–419. For the reasons stated in the discussion of compensation benefits above, we are defining these terms in a similar manner, but with minor modifications applicable to burial benefits.

Evidence of Eligibility

VA has an obligation to ensure that claimants receive full-dollar rate benefits only if the deceased veteran met the residency and citizenship/

permanent-resident-alien requirements in the law on the date of death. As proof that the deceased was residing in the U.S., we are requiring that a claimant provide VA with satisfactory evidence (which may include, for example, a driver's license, lease agreement, or utility bills) that the deceased was residing on the date of death at a valid street address in the U.S. We believe these provisions will help ensure program integrity and reduce the possibility of fraud.

For the reasons stated in the discussion of compensation benefits above, this rule states that in claims for full-dollar-rate burial benefits in which the claimant asserts that the deceased veteran was a natural born citizen of the U.S., a valid original or copy of one of the following documents is required:

- A valid U.S. passport;
- A birth certificate showing that he or she was born in the U.S.; or
- A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate abroad.

For the reasons stated in the discussion of compensation benefits above, this rule states that only verification of naturalized citizen or permanent-resident-alien status by INS to VA will be sufficient proof of such status for purposes of eligibility for full-dollar rate benefits.

We are making this document effective on an emergency basis because there is good cause under the provisions of 5 U.S.C. 553 to publish this interim final rule without regard to prior notice and comment and effective date provisions. Compliance with these provisions would be impracticable, unnecessary, and contrary to the public interest. This interim final rule is necessary to implement legislation that provides additional benefits to disabled Filipino veterans and their survivors, most of whom are elderly. Many of these Filipino veterans, and their survivors, have chronic health problems and financial hardships. Publication of this amendment as an interim final rule will enable VA to immediately provide to these beneficiaries the increased benefits they need in order to better cope with the cost of living in the United States.

Scope and Applicability

On October 27, 2000, the President signed into law the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2001, Pub. L. 106–377, 114 Stat. 1441. Section 501 of Pub. L. 106–377 amended 38 U.S.C. 107 to provide full-rate payments of VA compensation benefits for certain Filipino veterans who had "[s]ervice before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States under the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States. . . ." Therefore, the provisions of this interim final rule regarding compensation benefits, 38 CFR 3.42, 38 CFR 3.405, and 38 CFR 3.505, apply beginning October 27, 2000.

On November 1, 2000, the President signed into law the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106–419, 114 Stat. 1822. Section 332 of Pub. L. 106–419 authorizes VA to pay burial benefits to the survivors of certain Filipino veterans at the full-dollar rate (instead of the half-dollar rate), if the veteran died after the date of enactment. Therefore, the provision of this interim final rule regarding burial benefits, 38 CFR 3.43, applies when the veteran has died after November 1, 2000.

Paperwork Reduction Act

Proposed 38 CFR 3.42 and 3.43 contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Section 3.42 deals with the payment of compensation at the full dollar rate under the provisions of Pub. L. 106–377. Section 3.43 deals with the payment of burial benefits at the full dollar rate under the provisions of Pub. L. 106–419. Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The collection of information provisions in this document will not be effective until approved by the OMB and assigned an OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AK65."

Title: Rate of Compensation Payments for Filipino Veterans Residing in the United States.

Summary of collection of information: In proposed 38 CFR 3.42, VA requests information from certain Filipinos ordered into service during World War II to determine their entitlement to VA compensation at the full-dollar rate.

Description of the need for information and proposed use of information: The information is necessary to determine the entitlement of certain Filipinos ordered into service during World War II to VA compensation at the full-dollar rate.

Description of likely respondents: Estimated number of respondents: 800.

Estimated frequency of responses: 1.

Estimated total annual reporting and record keeping burden: 400 hours.

Estimated annual burden per collection: 30 minutes.

Title: Payment Rate of Burial Benefits for certain Filipino veterans of WWII.

Summary of collection of information: In proposed 38 CFR 3.43, VA requests information from survivors of certain Filipinos ordered into service during World War II to determine their entitlement to VA burial benefits at the full-dollar rate.

Description of the need for information and proposed use of information: The information is necessary to determine the entitlement survivors of certain Filipinos ordered into service during World War II to VA burial benefits at the full-dollar rate.

Description of likely respondents: Estimated number of respondents: 250.

Estimated frequency of responses: 1.

Estimated total annual reporting and record keeping burden: 375 hours.

Estimated annual burden per collection: 90 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget Under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, under 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: October 5, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is to be amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§§ 3.8 and 3.9 [Redesignated as §§ 3.40 and 3.41]

2. Sections 3.8 and 3.9 are redesignated as §§ 3.40 and 3.41, respectively, under the undesignated center heading "General".

3. In chapter 1, remove all cross-references to "§ 3.8" and "§ 3.9" and add, in their place, "§ 3.40" and "§ 3.41" respectively.

4. In newly redesignated § 3.40, paragraph (c)(1) the last sentence of paragraph (c)(1) is revised to read as follows:

§ 3.40 Philippine and Insular Forces.

* * * * *

(c) * * *

(1) * * *Except as provided in §§ 3.42 and 3.43, benefits based on service described in this paragraph are payable at a rate of $0.50 for each dollar authorized under the law.

* * * * *

5. A new § 3.42 is added under "General" to read as follows:

§ 3.42 Compensation at the full-dollar rate for certain Filipino veterans residing in the United States.

(a) *Definitions.* For purposes of this section:

(1) *United States* (U.S.) means the states, territories and possessions of the United States; the District of Columbia, and the Commonwealth of Puerto Rico.

(2) *Residing in the U.S.* means that an individual's principal, actual dwelling place is in the U.S. and that the individual meets the residency requirements of paragraph (c)(4) of this section.

(3) *Citizen of the U.S.* means any individual who acquires U.S. citizenship through birth in the territorial U.S., birth abroad as provided under title 8, United States Code, or through naturalization, and has not renounced his or her U.S. citizenship, or had such citizenship cancelled, revoked, or otherwise terminated.

(4) *Lawfully admitted for permanent residence* means that an individual has been lawfully accorded the privilege of residing permanently in the U.S. as an immigrant by the U.S. Immigration and Naturalization Service under title 8, United States Code, such status not having changed.

(b) *Eligibility requirements.* Compensation is payable at the full-dollar rate based on service described in § 3.40(c) or (d) to a veteran who is residing in the United States (U.S.) and is either:

(1) A citizen of the U.S., or

(2) An alien lawfully admitted for permanent residence in the U.S.

(c) *Evidence of eligibility for full-dollar rate benefits.* (1) A valid original or copy of one of the following documents is required to prove that that the veteran is a natural born citizen of the U.S.:

(i) A valid U.S. passport;

(ii) A birth certificate showing that he or she was born in the U.S.; or

(iii) A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate abroad.

(2) Only verification by the U.S. Immigration and Naturalization Service to VA that a veteran is a naturalized citizen of the U.S. will be sufficient proof of such status.

(3) Only verification by the U.S. Immigration and Naturalization Service to VA that a veteran is an alien lawfully admitted for permanent residence in the U.S. will be sufficient proof of such status.

(4) VA will not pay benefits at the full-dollar rate under this section if the veteran's mailing address is a Post Office box, unless evidence from the U.S. Postal Service shows that it does not deliver mail to the veteran's street address. In order to pay benefits at the full-dollar rate, evidence (such as a driver's license, lease agreement, utility bills) must establish that the veteran is residing at a valid street address in the U.S. and receiving mail at that address.

(d) *Continued eligibility.* (1) In order to continue receiving benefits at the full-dollar rate under this section, a veteran must be physically present in the U.S. for at least 183 days of each calendar year in which he or she receives payments at the full-dollar rate, and may not be absent from the U.S. for more than 60 consecutive days at a time. However, if a veteran becomes eligible for full-dollar rate benefits on an initial basis, on or after July 1 of any calendar year, the 183-day rule will not apply during that calendar year. VA will not consider a veteran to have been absent from the U.S. if he or she left and returned to the U.S. on the same date.

(2) A veteran receiving benefits at the full-dollar rate under this section must notify VA within 30 days of leaving the U.S. or within 30 days if he or she loses either his or her U.S. citizenship or lawful permanent resident alien status. When a veteran no longer meets the eligibility requirements of paragraph (a) of this section, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under the law, effective on the date determined under § 3.505. If such veteran regains his or her U.S. citizenship or lawful

VOL 66 ISS 248 DE 27 2001 UMI

permanent resident alien status, VA will restore full-dollar rate benefits, effective the date the veteran meets the eligibility requirements in § 3.42.

(3) When requested to do so by VA, a veteran receiving benefits at the full-dollar rate under this section must verify that he or she continues to meet the residency and citizenship/permanent-resident-alien status requirements of paragraph (b). VA will advise the veteran at the time of the request that the verification must be furnished within 60 days and that failure to do so will result in the reduction of benefits. If the veteran fails to furnish the evidence within 60 days, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized, as provided in § 3.652.

(4) A veteran receiving benefits at the full-dollar rate under this section must promptly notify VA of any change of his or her address. If mail from VA to the veteran is returned to VA by the U.S. Postal Service, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under law, effective on the date determined under § 3.505.

(e) *Effective date for restored eligibility.* In the case of a veteran receiving benefits at the full-dollar rate, if his or her payments are reduced to the rate of $0.50 for each dollar authorized under the law, VA will resume payments at the full-dollar rate, if otherwise in order, effective the first day of the month following the date on which he or she again meets the requirements. However, such increased payments will be retroactive no more than one year prior to the date on which VA receives evidence that he or she again meets the requirements. If payments are reduced based on an absence from the U.S. of 183 or more days during a calendar year, VA will not resume payments at the full-dollar rate before the first day of the following calendar year.

(Authority: 38 U.S.C. 107, 501(a))

6. A new § 3.43 is added to under "General" read as follows:

§ 3.43 Burial benefits at the full-dollar rate for certain Filipino veterans residing in the United States on the date of death.

(a) *Definitions.* For purposes of this section:

(1) *United States* (U.S.) means the states, territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) *Residing in the U.S.* means an individual's principal, actual dwelling place was in the U.S. When death occurs outside the U.S., VA will consider the deceased individual to have been residing in the U.S. on the date of death if the individual maintained his or her principal actual dwelling place in the U.S. until his or her most recent departure from the U.S., and he or she had been physically absent from the U.S. less than 61 consecutive days when he or she died.

(3) *Citizen of the U.S.* means any individual who acquires U.S. citizenship through birth in the territorial U.S., birth abroad as provided under title 8, United States Code, or through naturalization, and has not renounced his or her U.S. citizenship, or had such citizenship cancelled, revoked, or otherwise terminated.

(4) *Lawfully admitted for permanent residence* means that the individual was lawfully accorded the privilege of residing permanently in the U.S. as an immigrant by the U.S. Immigration and Naturalization Service, and on the date of death, still had this status.

(b) *Payment of burial benefits at the full-dollar rate.* VA will pay burial benefits under chapter 23 of title 38, United States Code, at the full-dollar rate, based on service described in § 3.40(c) or (d), when an individual who performed such service dies after November 1, 2000, and was on the date of death:

(1) Residing in the U.S.; and

(2) Either—

(i) A citizen of the U.S., or

(ii) An alien lawfully admitted for permanent residence in the U.S.; and

(3) Either—

(i) Receiving compensation under chapter 11 of title 38, United States Code; or

(ii) Would have satisfied the disability, income and net worth requirements of § 3.3(a)(3) of this part and would have been eligible for pension if the veteran's service had been deemed to be active military, naval, or air service.

(c) *Evidence of eligibility.* (1) In a claim for full-dollar rate burial payments based on the deceased veteran having been a natural born citizen of the U.S., a valid original or copy of one of the following documents is required:

(i) A valid U.S. passport;

(ii) A birth certificate showing that he or she was born in the U.S.; or

(iii) A Report of Birth Abroad of a Citizen of the U.S. issued by a U.S. consulate abroad.

(2) In a claim based on the deceased veteran having been a naturalized citizen of the U.S., only verification of that status by the U.S. Immigration and Naturalization Service to VA will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

(3) In a claim based on the deceased veteran having been an alien lawfully admitted for permanent residence in the U.S., only verification of that status by the U.S. Immigration and Naturalization Service to VA will be sufficient proof for purposes of eligibility for full-dollar rate benefits.

(4) In a claim for burial benefits at the full-dollar rate, evidence (which may include, for example, a driver's license, lease agreement or utility bills) must establish that the deceased veteran was, on the date of death, residing at a valid street address in the U.S.

(Authority: 38 U.S.C. 107, 501(a))

7. A new § 3.405 is added under "Effective Dates" to read as follows:

§ 3.405 Filipino veterans; benefits at the full-dollar rate.

For veterans who met the eligibility requirements in § 3.42 on October 27, 2000, and maintained such eligibility continuously from that date to the date of an administrative determination of entitlement, the effective date of awards of compensation at the full-dollar rate will be October 27, 2000. For all other veterans, awards of compensation for Filipino veterans under § 3.42 will be effective on the latest of the dates stated in this section:

(a) Date entitlement arose;

(b) Date on which the veteran first met the residency and citizenship/permanent-resident-alien status requirements in § 3.42, if VA receives evidence of this within 1 year of that date;

(c) Effective date of the rating establishing service connection, provided VA receives evidence that the veteran meets the residency and citizenship/ permanent-resident-alien status requirements in § 3.42 within 1 year of notification of such rating action;

(d) Date the veteran returned to the United States after absence of more than 60 consecutive days; or

(e) First day of the year following the year in which the veteran was absent from the United States for a total of 183 days or more, or the first day after that date that the veteran returns to the United States.

(Authority: 38 U.S.C. 107)

8. A new § 3.505 is added under "Reductions and Discontinuances" to read as follows:

§ 3.505 Filipino veterans; benefits at the full-dollar rate.

The effective date of discontinuance of compensation for Filipino veterans under § 3.42 will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

(a) If a veteran receiving benefits at the full-dollar rate under § 3.42 is physically absent from the U.S. for a total of 183 days or more during any calendar year, VA will reduce compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 183rd day of absence from the U.S.

(b) If a veteran receiving benefits at the full-dollar rate under § 3.42 is physically absent from the U.S. for more than 60 consecutive days, VA will reduce his or her compensation to the rate of $0.50 for each dollar authorized under the law, effective on the 61st day of the absence.

(c) If a veteran receiving benefits at the full-dollar rate under § 3.42 loses either U.S. citizenship or status as an alien lawfully admitted for permanent residence in the U.S., VA will reduce the compensation to the rate of $0.50 for each dollar authorized under the law, effective on the day he or she no longer satisfies one of these criteria.

(d) If mail to a veteran receiving benefits at the full-dollar rate under § 3.42 is returned to VA by the U.S. Postal Service, VA will reduce his or her payment to the rate of $0.50 for each dollar authorized under law, effective on the date of the last payment of compensation benefits.

(Authority: 38 U.S.C. 107)

[FR Doc. 01–31828 Filed 12–26–01; 8:45 am]

BILLING CODE 6320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval and Promulgation of Implementation Plans

CFR Correction

In Title 40 of the Code of Federal Regulations, part 52 (§ § 52.01 to 52.1018), revised as of July 1, 2001, § 52.120 is corrected by removing paragraph (c)(94)(i)(E).

[FR Doc. 01–55534 Filed 12–26–01; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

Regulation of Fuels and Fuel Additives

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 72 to 80, revised as of July 1, 2001, § 80.81 is corrected by revising paragraph (a) to read as follows:

§ 80.81 Enforcement exemptions for California gasoline.

* * * * *

(a) The requirements of subparts D, E, F and J of this part are modified in accordance with the provisions contained in this section in the case of California gasoline.

* * * * *

[FR Doc. 01–55535 Filed 12–26–01; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 153 and 180

[OPP–301026A; FRL–6813–6]

RIN 2070–AB78

Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance; Rhodamine B; Revocation of Unlimited Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule creates a new subpart E in 40 CFR part 180. This subpart will be titled: Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance. It will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the requirement of a tolerance is needed under the Federal Food, Drug, and Cosmetic Act (FFDCA). The Agency is acting on its own initiative. This document also revokes the unlimited tolerance exemption for the inert ingredient Rhodamine B in 40 CFR 180.1001 (c), and amends by time-limiting the unlimited tolerance exemption for Rhodamine B in 40 CFR 180.1001 (e). These regulatory actions are part of the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions taken in this document, would be counted toward the August 2002 deadline.

DATES: This final rule is effective on December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Kathryn Boyle , Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6304; fax number: (703) 305–0599; e-mail address: boyle.kathryn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The North American Industrial Classification System (NAICS) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select “Laws and Regulations,” “Regulations and Proposed Rules,” and then look up the entry for this document under the “**Federal Register**—Environmental Documents.” You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR parts 153 and 180 are available at: http://www.access.gpo.gov/nara/cfr/cfrhtml_153/Title_40/40cfr153_00.html and http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this

VOL 66 ISS 248 DE 27 2001 UMI

action under docket control number OPP–301026A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background

In the **Federal Register** of August 2, 2001 (66 FR 40170) (FRL–6598–4), EPA issued a proposal pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) to amend 40 CFR by creating a new subpart E, and to revoke two unlimited tolerance exemptions for the inert ingredient Rhodamine B (CAS Reg. No. 81–88–9). New subpart E will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the requirement of a tolerance is needed under the FFDCA. The only chemical included in subpart E at its creation is the inert ingredient Rhodamine B (CAS Reg. No. 81–88–9) when used as a dye for seed treatment. The revocations of the Rhodamine B tolerance exemptions were based on EPA's conclusion that the exemptions are for uses of Rhodamine B that are no longer extant other than the use included in subpart E. Three comments were received in response to the proposed rule.

The comments from both the American Chemistry Council and from Gustafson supported the creation of the new subpart E. Gustafson has also suggested an additional chemical (an active ingredient) that it believes could be appropriately added to the new subpart. The Agency will consider this request, and, if appropriate, initiate such procedures as necessary to add this additional chemical to subpart E. A comment was also received from Boehringer Ingelheim Vetmedica, Inc. (BIVI) informing the Agency that currently there are two animal ear tag products containing Rhodamine B that are being manufactured and distributed. BIVI has agreed to remove the Rhodamine B from their products. To allow time for BIVI to reformulate and then for the ear tags containing Rhodamine B to clear the channels of trade, the Agency will time-limit the Rhodamine B tolerance exemption under 40 CFR 180.1001 (e) to expire in 3 years.

Based on the reasons set forth in the preamble to the proposed rule, and considering the comments received by the Agency in response to the proposed rule, EPA is creating a new subpart E, revoking one unlimited tolerance exemption, and revising one tolerance exemption by time-limiting the exemption to expire in three years.

These regulatory actions are part of the tolerance reassessment requirements of section 408(q) of the FFDCA, as amended by the FQPA of 1996. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. The regulatory actions in this document, the revocation of two tolerance exemptions, would be counted toward the August 2002 deadline.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301026A in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305-5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket*. In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301026A, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

The Agency is acting on its own initiative under FFDCA section 408(e) in revoking these tolerances and in establishing a new subpart E in 40 CFR part 180 that will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the requirement of a tolerance is needed under FFDCA. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note).

This rule simply establishes a new subpart E in 40 CFR part 180 that will contain a list of the pesticide chemicals (including, as appropriate, their limitations and use patterns) for which the Agency has determined that neither a tolerance nor an exemption from the requirement of a tolerance is needed under FFDCA, and only amends an existing unlimited tolerance exemption to make it time limited. The Agency has determined that this action will not result in significant adverse economic impacts. Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances or tolerance exemptions might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. This analysis was published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Taking into account this analysis, the available information concerning the pesticide chemicals listed in this rule, the Agency knows of no extraordinary circumstances that exist as to the present revocation that would change EPA's previous analysis. Therefore, the Agency hereby certifies pursuant to the section 605(b) of the RFA that this rule will not have a significant negative economic impact on a substantial number of small entities.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal

VOL 66 ISS 248 DE 27 2001 UMI

government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 153 and 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 14, 2001.

James Jones,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I be amended as follows:

PART 153—[AMENDED]

1. In part 153:

a. The authority citation for part 153 would continue to read as follows:

Authority: 15 U.S.C. 136 *et seq.*

b. Section 153.155 (c) is revised to read as follows.

§ 153.155 Seed treatment products.

* * * * *

(c) EPA-approved dyes for seed treatment are listed in:

(1) Section 180.1001(c) and (d) if an exemption from the requirement of a tolerance has been established.

(2) Section 180.2010 if EPA has determined that residues of the dye will be present, if at all, at levels that are below the threshold of regulation.

(3) Section 180.2020 if it has been determined that no tolerance or exemption from the requirement of a tolerance is needed as a result of a determination by EPA that the use is unlikely to result in residues in food/feed.

PART 180—[AMENDED]

2. In part 180:

a. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

b. In § 180.1001 the table in paragraph (c) is amended by removing the entry for "Rhodamine B" and in paragraph (e) the table is amended by revising the entry to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* *	* * *	* *
Rhodamine B	Expires December 27, 2004.	Dye for use in ear tags only
* *	* * *	* *

c. By adding new subpart E, consisting of § 180.2000–180.2020, to read as follows:

Subpart E—Pesticide Chemicals Not Requiring a Tolerance or an Exemption from a Tolerance

Sec.

180.2000 Scope.

180.2003 Definitions.

180.2010 Threshold of regulation determinations. [Reserved]

180.2020 Non-food determinations.

§ 180.2000 Scope.

This subpart sets forth the pesticide chemicals for use in agricultural or other food-related settings for which neither a tolerance nor an exemption is deemed to be needed by EPA.

§ 180.2003 Definitions.

(a) Food uses are the uses of a pesticide chemical that are likely to yield residues in food or feed crops, meat, milk, poultry or eggs.

(b) Non-food uses are those uses that are not likely to yield residues in food or feed crops, meat, milk, poultry or eggs.

§ 180.2010 Threshold of regulation determinations. [Reserved]

§ 180.2020 Non-food determinations.

The following pesticide chemical uses do not need a tolerance or exemption from the requirement of a tolerance based on EPA's determination that they are not likely to result in residues in or on food.

Pesticide Chemical	CAS Reg. No.	Limits	Uses
Rhodamine B	81–88–9	Not to exceed 2% by weight of the formulated product and 60 ppm on the treated seed	Dye for seed treatment

[FR Doc. 01–31802 Filed 12–26–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301205; FRL–6817–9]

RIN 2070–AB78

Imazamox; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of imazamox in or on the raw agricultural commodities: alfalfa forage, seed and hay, canola seed, vegetable, legume, group wheat forage, grain, bran, germ, shorts, hay and straw. BASF Corporation, formerly American Cyanamid Company, requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective December 27, 2001. Objections and requests for hearings, identified by docket control number OPP–301205, must be received by EPA on or before February 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301205 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Jim Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations", "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301205. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of March 29, 2000 (65 FR 16594) (FRL–6498–5), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by American Cyanamid Company, P.O. Box 400, Princeton, NJ 08543–0400. This notice included a summary of the petition prepared by American Cyanamid Company, the registrant. There were no comments received in response to the notice of filing. The petition was subsequently transferred to BASF Corporation, P.O. Box 400, Princeton, NJ 08543–0400.

The petition requested that 40 CFR 180.508 be amended by establishing a tolerance for residues of the herbicide imazamox, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid, in or on the raw agricultural commodities: vegetable, legume, group at 0.05 ppm; canola, seed at 0.05 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(hydroxymethyl)-3-pyridinecarboxylic acid in or on the following raw agricultural commodities wheat, grain, forage and hay at 0.3 ppm, wheat, straw at 0.2 ppm, wheat, bran at 1.0 ppm, wheat, shorts at 0.8 ppm, and wheat, germ at 0.6 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (free and conjugated), and AC312622, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3,5-pyridinecarboxylic acid in or on the following raw agricultural commodities: alfalfa, seed at 0.4 ppm, alfalfa, forage at 2.0 ppm and alfalfa, hay at 4.0 ppm respectively.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable

VOL 66 ISS 248 DE 27 2001 UMI

certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for residues of the herbicide imazamox, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid, in or on the raw agricultural commodities: vegetable, legume, group at 0.05 ppm; canola, seed at 0.05 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(hydroxymethyl)-3-pyridinecarboxylic acid in or on the following raw agricultural commodities wheat, grain, forage and hay at 0.3 ppm, wheat, straw at 0.2 ppm, wheat, bran at 1.0 ppm, wheat, shorts at 0.8 ppm, and wheat, germ at 0.6 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (free and conjugated), and AC312622, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3,5-pyridinecarboxylic acid in or on the following raw agricultural commodities: alfalfa, seed at 0.4 ppm, alfalfa, forage at 2.0 ppm and alfalfa, hay at 4.0 ppm respectively. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by imazamox are discussed in the following Table 1 as well as the no observed adverse effect level (NOAEL). There was no lowest observed adverse effect level (LOAEL) in any of the subchronic or chronic toxicity studies reviewed.

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY

Guideline No.	Study Type	Results
870.1100	Acute Oral	LD_{50} > 5,000 mg/kg (limit dose), toxicity category IV
870.1200	Acute Dermal	LD_{50} > 4,000 mg/kg (twice the limit dose), toxicity category III
870.1300	Acute Inhalation	LC_{50} > 6.3 mg/L, toxicity category IV
870.2400	Primary Eye Irritation	moderately irritating, toxicity category III
870.2500	Primary Skin Irritation	Non-irritating, toxicity category IV
870.2600	Dermal Sensitization	Non sensitizer
870.3100	90–Day oral toxicity rodents	NOAEL = 1,661 mg/kg/day, Highest Dose Tested (HDT)
870.3150	90–Day oral toxicity in nonrodents	NOAEL = 1,333 mg/kg/day, HDT
870.3200	21/28–Day dermal toxicity	NOAEL = 1,000 mg/kg/day, HDT
870.3700	Prenatal developmental in rodents	Maternal and Developmental NOAEL = 1,000 mg/kg/day, HDT
870.3700	Prenatal developmental in nonrodents	Maternal and Developmental NOAEL = 900 mg/kg/day, HDT
870.3800	Reproduction and fertility effects	Parental/Systemic, Reproductive and Offspring NOAEL = 1469 mg/kg/day, HDT
870.4100 870.4200	Chronic toxicity and Carcinogenicity rodents.	NOAEL = 1,068 mg/kg/day, HDT; no evidence of carcinogenicity
870.4100	Chronic toxicity dogs	NOAEL = 1,165 mg/kg/day, HDT
870.4300	Carcinogenicity mice	NOAEL = 1,053 mg/kg/day, HDT; no evidence of carcinogenicity
870.5100	Gene Mutation	Negative
870.5375	Cytogenetics	Negative
870.5385	Other Effects	Negative

TABLE 1.—SUBCHRONIC, CHRONIC, AND OTHER TOXICITY—Continued

Guideline No.	Study Type	Results
870.7485	Metabolism and pharmacokinetics	Rapidly excreted primarily in the urine following intravenous administration, and in the urine and feces following oral administration, mainly as unchanged parent.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.508) for the residues of imazamox, in or on the raw agricultural commodity soybeans. Due to low toxicity, it was determined that a dietary risk assessment of imazamox in food is not needed and, therefore, none was conducted.

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. No appropriate endpoint attributable to a single exposure (dose) was identified in the imazamox toxicity database including oral developmental toxicity studies in rats and rabbits.

ii. *Chronic exposure.* There were no observed adverse effects at the highest dose tested (1,000 mg/kg/day or higher) in any of the subchronic or chronic toxicity tests conducted and the August 1998 OPPTS Series 870 Harmonized Test Guidelines for health effects recommend for subchronic and chronic testing the highest dose tested should not exceed 1,000 mg/kg/day using the procedures described for these studies, unless potential human exposure data indicate the need for higher doses. When imazamox was tested up to or above the limit dose, no significant adverse effects were observed. Therefore, it was determined that a chronic dietary risk assessment of imazamox in food is not needed and, therefore, none was conducted.

2. *Dietary exposure from drinking water.* The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS), to produce estimates of pesticide concentrations in an index reservoir. The screening concentration in ground water (SCI-GROW) model is used to predict pesticide concentrations in shallow groundwater. For a screening-level assessment for surface water EPA will use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Based on the FIRST and SCI-GROW models the estimated environmental concentrations (EECs) of imazamox for acute exposures are estimated to be 32 parts per billion (ppb) for surface water and 0.62 ppb for ground water. The EECs for chronic exposures are estimated to be 3.4 ppb for surface water and 0.62 ppb for ground water. These concentrations were compared to the lowest high dose tested in the toxicity studies (900 mg/kg) divided by an uncertainty factor of 100, i.e., 9 mg/kg. For chronic exposure in surface water, the EEC of 3.4 ppb is 5/10,000% of 9 mg/kg. For acute exposure in surface water, the EEC of 32 ppb is 4/1,000% of 9 mg/kg. For chronic and acute exposure in ground water, the EEC of 0.62 ppb is 7/10,000% of 9 mg/kg. Because the concentration of imazamox in drinking water are much smaller than 9 mg/kg, the contribution of consumption of imazamox via drinking water to total dietary consumption of imazamox (food plus water) is not significant.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Imazamox is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether imazamox has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, imazamox does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imazamox has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children.

2. *Prenatal and postnatal sensitivity.* No significant toxicity or pre- or post-natal toxicity was seen in any of the studies conducted with imazamox.

3. *Conclusion.* Due to its low toxicity a risk assessment using a safety factor approach was not conducted for imazamox. For similar reasons, it would not be appropriate to use an additional 10x safety factor to protect infants and children.

E. Aggregate Risks and Determination of Safety

1. *Acute risk.* Since the acute toxicity is low (toxicity categories III and IV) for all tests conducted, the occurrence of an effect of concern as a result of a one day or single exposure is highly unlikely. It

VOL 66 ISS 248 DE 27 2001 UMI

was determined that contribution of additional dietary risk due to drinking water consumption is insignificant as described in section C. 2. above.

2. *Chronic risk.* There were no observed adverse effects at the highest dose tested (1,000 mg/kg/day or higher) in any of the subchronic or chronic toxicity tests conducted and the August 1998 OPPTS Series 870 Harmonized Test Guidelines for health effects recommend for subchronic and chronic testing the highest dose tested should not exceed 1000 mg/kg/day using the procedures described for these studies, unless potential human exposure data indicate the need for higher doses. When imazamox was tested up to or above the limit dose, no significant adverse effects were observed. Therefore, it was determined that a chronic dietary risk assessment of imazamox in food is not needed and, therefore, none was conducted.

3. *Determination of safety.* Based on the low toxicity of imazamox and the rationales described above, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to imazamox residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The method may be requested from Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no established or proposed Codex Maximum Residue Limits (MRLs) for imazamox.

V. Conclusion

Therefore, tolerances are established for residues of the herbicide imazamox, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid, in or on the raw agricultural commodities: vegetable, legume, group at 0.05 ppm; canola, seed at 0.05 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(hydroxymethyl)-3-pyridinecarboxylic acid in or on the following raw agricultural commodities wheat, grain, forage and hay at 0.3 ppm, wheat, straw at 0.2 ppm, wheat, bran at 1.0 ppm, wheat, shorts at 0.8 ppm, and wheat, germ at 0.6 ppm. Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite, AC263284 (free and conjugated), and AC312622, (±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3,5-pyridinecarboxylic acid in or on the following raw agricultural commodities: alfalfa, seed at 0.4 ppm, alfalfa, forage at 2.0 ppm and alfalfa, hay at 4.0 ppm respectively

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301205 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301205, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the

location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 18, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.508 is amended by revising paragraph (a) to read as follows:

§ 180.508 Imazamox; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the herbicide imazamox, (±)2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(methoxymethyl)-3-pyridinecarboxylic acid in or on the raw agricultural commodities:

VOL 66 ISS 248 DE 27 2001 UMI

Commodity	Parts per million
Canola, seed	0.05
Vegetable, legume, group	0.05

(2) Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite AC263284 [(±)2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-5-(hydroxymethyl)-3-pyridinecarboxylic acid in or on the raw agricultural commodities:

Commodity	Parts per million
Wheat, grain	0.30
Wheat, forage	0.30
Wheat, hay	0.30
Wheat, straw	0.20
Wheat, bran	1.0
Wheat, shorts	0.80
Wheat, germ	0.60

(3) Tolerances are established for the combined residues of the herbicide imazamox, and its metabolite AC263284 (free and conjugated), and AC312622, [(±)-2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3,5-pyridinecarboxylic acid in or on the raw agricultural commodities:

Commodity	Parts per million
Alfalfa, seed	0.40
Alfalfa, forage	2.0
Alfalfa, hay	4.0

* * * * *

[FR Doc. 01–31799 Filed 12–26–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301197; FRL–6816–1]

RIN 2070–AB78

Halosulfuron-methyl; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of Halosulfuron-methyl in or on asparagus. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on asparagus. This regulation establishes a maximum permissible level for residues of halosulfuron-methyl in this food commodity. The tolerance will expire and is revoked on December 31, 2003.

DATES: This regulation is effective December 27, 2001. Objections and requests for hearings, identified by docket control number OPP–301197, must be received by EPA on or before February 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301197 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Meredith Laws, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9366; and e-mail address: laws.meredith@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301197. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the herbicide halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino]carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on asparagus at 2.0 parts per million (ppm). This tolerance will expire and is revoked on 12/31/03. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR).

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Halosulfuron-methyl on Asparagus and FFDCA Tolerances

Washington, Idaho and Oregon requested the use of halosulfuron-methyl to control nutsedge infesting asparagus fields. Michigan requested the use of halosulfuron-methyl to control nutsedge and pigweed infesting asparagus fields. In the Pacific Northwest nutsedge has spread throughout the asparagus growing region and has been declared a Class B noxious weed in Washington. Asparagus growers are especially vulnerable to nutsedge because of the difficulty in controlling a perennial monocot weed in a perennial monocot crop. The information provided by the four applicant states indicates that nutsedge is reducing asparagus yields and reducing the life span of the crop. EPA agrees that heavily infested fields can have severe yield losses. Additionally, EPA expects that yield reductions in Michigan due to redroot pigweed could be quite high due to coverage of the crop during the harvest period. EPA has authorized under FIFRA section 18 the use of halosulfuron-methyl on asparagus for control of nutsedge in Washington, Idaho, Oregon and Michigan and also for control of pigweed in Michigan. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of halosulfuron-methyl in or on asparagus. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on asparagus after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether halosulfuron-methyl meets EPA's registration requirements for use on asparagus or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of halosulfuron-methyl by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Washington, Idaho, Oregon and Michigan to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for halosulfuron-methyl, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of halosulfuron-methyl and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of halosulfuron-methyl in or on asparagus at 2.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference

VOL 66 ISS 248 DE 27 2001 UMI

dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety facto is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for halosulfuron-methyl used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR HALOSULFURON-METHYL FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary (Females 13+, Infants and Children)	NOAEL = 50 mg/kg/day UF = 100 Acute RfD = 0.5 mg/kg/day	FQPA SF = 1x aPAD = acute RfD ÷ FQPA SF = 0.5 mg/kg/day	Developmental - rabbit LOAEL = 150 mg/kg/day based on decreased mean litter size, increased resorptions, and increased postimplantation loss.
Acute dietary (Adult male)	None	No appropriate endpoint was selected	A dose and endpoint was not identified for this subpopulation since there were no toxicological effects applicable to adult males and attributable to a single exposure (dose) observed in oral toxicity studies including the developmental toxicity studies in rats and rabbits.
Chronic dietary all populations	NOAEL= 10 mg/kg/day UF = 100 Chronic RfD = 0.1 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD ÷ FQPA SF = 0.1 mg/kg/day	Chronic toxicity - dog LOAEL = 40 mg/kg/day based on decrease in body weight gain and alterations in hematology and clinical chemistry parameters
Short-term dermal (1 to 7 days) (Residential)	Oral study NOAEL= 50 mg/kg/day (dermal absorption rate = 75%)	LOC for MOE = 100 (Residential)	Developmental - rabbit LOAEL = 150 mg/kg/day based on decreased mean litter size, increased resorptions, and increased postimplantation loss
Intermediate-term dermal (1 week to several months) (Residential)	Oral study NOAEL= 10 mg/kg/day (dermal absorption rate = 75%	LOC for MOE = 100 (Residential)	Chronic toxicity - dog LOAEL = 40 mg/kg/day based on decrease in body weight gain during weeks 0–13
Long-term dermal (several months to lifetime) (Residential)	Oral study NOAEL= 10 mg/kg/day (dermal absorption rate = 75% when appropriate)	LOC for MOE = 100 (Residential)	Chronic toxicity - dog LOAEL = 40 mg/kg/day based on decrease in body weight gain and alterations inhematology and clinical chemistry parameters
Inhalation (any time period) (Residential)	None	-	Low toxicity and use pattern do not indicate a need for risk assessment for this route.
Cancer (oral, dermal, inhalation)	-	-	Classified as a "Not-likely" human carcinogen based on the lack of evidence of carcinogenicity in male and female mice and rats.

* The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.479) for the residues of halosulfuron-methyl, in or on a variety of raw agricultural commodities. The established tolerances include tree nuts (crop group 14); sugarcane; corn rice and cotton, and their associated commodities. Additionally, tolerances are established for residues of halosulfuron-methyl and its metabolites determined as 3-chloro-1-methyl-5-sulfamoylpyrazole-4-carboxylic acid (also referred to as CSA, expressed as parent equivalents) in/on meat by-products of cattle, goats, hogs, horses and sheep. Risk assessments were conducted by EPA to assess dietary exposures from halosulfuron-methyl in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A Tier 1 acute dietary exposure analysis was conducted. The assumptions of the Tier 1 analysis were tolerance level residues and 100 percent crop-treated for all commodities for which halosulfuron-methyl tolerances are established and for the section 18 subject crop (asparagus). Percent crop treated and anticipated residues were not used.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: A Tier 1 chronic dietary exposure analysis was conducted. The assumptions of this Tier 1 analysis were tolerance level residues and 100 percent crop-treated for all commodities for which halosulfuron-methyl tolerances are established and for the subject section 18 crop (asparagus). Percent crop treated and anticipated residues were not used.

iii. *Cancer.* There is no evidence of carcinogenicity for halosulfuron-methyl in the mouse or rat. EPA has classified halosulfuron-methyl as a "Not-Likely" human carcinogen.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for halosulfuron-methyl in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of halosulfuron-methyl.

The Agency uses the First Index Reservoir Screening Tool (FIRST) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to produce estimates of pesticide concentrations in an index reservoir. The screening concentration in ground water (SCI-GROW) model is used to predict pesticide concentrations in shallow ground water. For a screening-level assessment for surface water EPA will generally use FIRST (a tier 1 model) before using PRZM/EXAMS (a tier 2 model). The FIRST model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. While both FIRST and PRZM/EXAMS incorporate an index reservoir environment, the PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to halosulfuron-methyl they are further discussed in the aggregate risk sections below.

Based on the FIRST and SCI-GROW models the EECs of halosulfuron-methyl for acute exposures are estimated to be 5.39 parts per billion (ppb) for surface water and 0.049 ppb for ground water. The EECs for chronic exposures based on FIRST and SCI-GROW models are estimated to be 0.245 ppb for surface water and 0.049 ppb for ground water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Halosulfuron-methyl is currently registered for use on the following residential non-dietary sites: Residential turf. The risk assessment was conducted using the following exposure assumptions: Halosulfuron-methyl (trade name: "Manage") is a sulfonylurea herbicide used for control of broadleaf weeds and nutsedge. Manage may be broadcast applied at a rate of 0.031 to 0.062 lb ai/acre. For residential handlers and postapplication activities, short-term to intermediate-term exposures may occur. Chronic exposures (greater than or equal to 6 months of continuous exposure) are not expected. Adults may be dermally exposed after treatment to lawns, and children may be exposed through dermal, hand-to-mouth and incidental oral sources.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether halosulfuron-methyl has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, halosulfuron-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that halosulfuron-methyl has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in

VOL 66 ISS 248 DE 27 2001 UMI

calculating a dose level that poses no appreciable risk to humans.

2. *Developmental toxicity studies.* In a prenatal developmental toxicity study in rats, the NOAEL for maternal toxicity was 250 mg/kg/day and the LOAEL was 750 mg/kg/day based on increased incidence of clinical observations (primarily alopecia and urine stains) and reduced body weight gains, food consumption, and food efficiency. For developmental toxicity, the NOAEL was 250 mg/kg/day and the LOAEL was 750 mg/kg/day based on decreased mean litter size, increased number of resorptions (total and per litter), significantly decreased mean fetal body weight, and increases in fetal and litter incidences of soft tissue (primarily dilation of the lateral ventricles and other anomalies in the development of the fetal nervous system) and skeletal variations (anomalies or delays in ossification in the thoracic vertebrae, sternebrae, and ribs). EPA noted that both the fetal and litter incidences of dilated lateral ventricles of the brain were statistically significant, and appeared to be dose related, since the finding was also observed at the mid-dose in 2 fetuses of 2 litters. Due to the lack of historical control data, it was not possible to evaluate the biological significance of the low incidence of this finding at the mid-dose level. EPA recommends that the study developmental NOAEL and LOAEL as defined by the data evaluation record not be revised at this time.

In a prenatal developmental toxicity study in the rabbit, the NOAEL for maternal toxicity was 50 mg/kg/day and the LOAEL was 150 mg/kg/day based on decreased body weight gain, food consumption, and food efficiency. For developmental toxicity, the NOAEL was 50 mg/kg/day and the LOAEL was 150 mg/kg/day based on decreased mean litter size, increased number of resorptions (total and per dam) and increased postimplantation loss. EPA notes that these developmental findings, while not statistically significant, define a consistent pattern of effect. The developmental NOAEL is 50 mg/kg/day based on decreased mean litter size, increased number of resorptions (total and per dam) and increased postimplantation loss at 150 mg/kg/day (LOAEL). EPA recommends that this dose and effect be used for assessing acute dietary risks for the sub-populations, Females 13+ as well as Infants and Children. Although the endpoint is developmental toxicity occurring *in utero*, and thus may not be suitable for use in risk assessment for Infants and Children, EPA determined that it is appropriate to use for this subpopulation (infants and children) because there is evidence of alteration to the development of the fetal nervous system in the developmental study in rats (see above). Thus, EPA determined that potential effects on functional development mandate the use of this endpoint for females of child bearing age (Females 13+) as well as for infants and children. This endpoint is not applicable for adult males. A dose and endpoint was not identified for this subpopulation since there were no toxicological effects applicable to adult males and attributable to a single exposure (dose) observed in oral toxicity studies including the developmental toxicity studies in rats and rabbits.

3. *Reproductive toxicity study.* In the 2-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

4. *Prenatal and postnatal sensitivity.* There was no evidence of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to halosulfuron-methyl. In the prenatal developmental toxicity studies in rats and rabbits and the 2-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity.

5. *Conclusion.* There is a complete toxicity data base for halosufuron-methyl and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children should be removed. The FQPA factor is removed because there was no indication of increased susceptibility of rats or rabbits to *in utero* and/or postnatal exposure to halosulfuron-methyl. In the prenatal developmental toxicity studies in rats and rabbits and the 2-generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of parental toxicity. EPA determined that the requirement of a developmental neurotoxicity study in rats did not warrant an application of additional safety factors because: (a) The alterations in the fetal nervous system occurred in only one species (in rats and not in rabbits); (b) the fetal effects which will be investigated in the required developmental neurotoxicity study were seen only at a dose of 750 mg/kg/day which is close to the Limit-Dose (1,000 mg/kg/day); (c) there was no evidence of clinical signs of neurotoxicity, brain weight changes, or neuropathology in the subchronic or chronic studies in rats; (d) the developmental neurotoxicity study is required only as confirmatory data to understand what the effect is at a high exposure (dose) level.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to halosulfuron-methyl in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of halosulfuron-methyl on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to halosulfuron-methyl will occupy < 1.0% of the aPAD for females 13 years and older, 1.0% of the aPAD for All Infants, < 1 year old and < 1.0% of the aPAD for Children, 1–6 years old. In addition, despite the potential for acute dietary exposure to halosulfuron-methyl in drinking water, after calculating DWLOCs and comparing them to conservative model EECs of halosulfuron-methyl in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
All infants	0.50	1.0	5.39	0.049	5,000
Females, 13–50 years	0.50	<1.0	5.39	0.049	15,000
Children, 1–6 years	0.50	<1.0	5.39	0.049	5,000

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to halosulfuron-methyl from food will utilize < 1.0% of the cPAD for the U.S. population, < 1.0% of the cPAD for All infants, < 1 year old and < 1.0% of the cPAD for Children, 1–6 years old. Based on the use pattern, chronic residential exposure to residues of halosulfuron-methyl is not expected. In addition, despite the potential for chronic dietary exposure to halosulfuron-methyl in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of halosulfuron-methyl in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3. —AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON- CANCER) EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	cPAD mg/kg/day	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. Population	0.10	< 1.0	0.245	0.049	3,500
All Infants	0.10	< 1.0	0.245	0.049	990
Children, 1–6 years	0.10	< 1.0	0.245	0.049	1,000
Females, 13–50 years	0.10	< 1.0	0.245	0.049	3,000

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Halosulfuron-methyl is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for halosulfuron-methyl. EPA concludes with reasonable certainty that residues of halosulfuron-methyl in drinking water will not contribute significantly to the short-term aggregate human health risk and that the short-term aggregate exposure from halosulfuron-methyl residues in food and drinking water will not exceed the Agency's level of concern (MOE ≤ 100) for short-term aggregate exposure by any population subgroup.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 2,200 for females and 2,900 for children. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. Short-term dermal MOEs for residential handlers are all above 100 and do not exceed EPA's level of concern. Non-occupational postapplication risk was estimated for adults and children.Risk estimates for all residential exposure scenarios and time periods result in MOEs that are 100 or greater, and therefore do not exceed EPA's level of concern. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron-methyl in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Females	2,200	100	0.245	0.049	14,000
Children	2,900	100	0.245	0.049	4,800

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level).

VOL 66 ISS 248 DE 27 2001 UMI

Halosulfuron-methyl is currently registered for use(s) that could result in intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and intermediate-term exposures for halosulfuron-methyl.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,700 for females, 2,000 for males, and 1,000 for children. These aggregate MOEs do not exceed the Agency's level of concern for aggregate exposure to food and residential uses. In addition, intermediate-term DWLOCs were calculated and compared to the EECs for chronic exposure of halosulfuron-methyl in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect intermediate-term aggregate exposure to exceed the Agency's level of concern, as shown in the following Table 5:

TABLE 5.—AGGREGATE RISK ASSESSMENT FOR INTERMEDIATE- TERM EXPOSURE TO HALOSULFURON-METHYL

Population Subgroup	Aggregate MOE (Food + Residential)	Aggregate Level of Concern (LOC)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Intermediate-Term DWLOC (ppb)
Females	1,700	100	0.245	0.049	2,800
Males	2,000	100	0.245	0.049	3,300
Children	1,000	100	0.245	0.049	900

5. *Aggregate cancer risk for U.S. population*. Halosulfuron-methyl is classified as a "not likely" human carcinogen based on a lack of evidence of carcinogenicity in male and female mice and rats. A cancer risk assessment is not required.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to halosulfuron-methyl residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Analytical enforcement methodology for the determination of halosulfuron-methyl in various plant commodities has been sent to the Food and Drug Administration for publication in the Pesticide Analytical Methods, Volume II (PAM II). Quantitation of residues is by gas chromotography with nitrogen specific detection (GC/TSD).

B. International Residue Limits

There are no Codex, Canadian, or Mexican maximum residue limits for halosulfuron-methyl in/on asparagus. Therefore, harmonization is not an issue.

VI. Conclusion

Therefore, the tolerance is established for residues of halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl) amino]carbonylaminosulfonyl-3-chloro-1-methyl-1H- pyrazole-4-carboxylate in or on asparagus at 2.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301197 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request*. Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment*. If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301197, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 14, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.479 is amended by adding text to paragraph (b) to read as follows:

§ 180.479 Halosulfuron; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, in or on asparagus in connection with use of the pesticide under a section 18 exemption granted by EPA. The time-limited tolerance will expire on the date specified in the following table.

Commodity	Parts per million	Expiration/revocation date
Asparagus	2.0	12/31/03

* * * * *

[FR Doc. 01–31800 Filed 12–26–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301180; FRL–6804–1]

RIN 2070–AB78

Pymetrozine; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pymetrozine 1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-[(3-pyridinylmethylene) amino] in or on cotton seed, undelinted at 0.3 parts per million (ppm); cotton gin byproducts at 2.0 ppm; fruiting vegetables at 0.2 ppm; cucurbit vegetables at 0.1 ppm; leafy vegetables (except *Brassica*) at 0.6 ppm; head and stem *Brassica* vegetables at 0.5 ppm; leafy *Brassica* and turnip greens at 0.25 ppm; hops (dried) at 6.0 ppm; and pecans at 0.02 ppm. Syngenta Crop Protection requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective December 27, 2001. Objections and requests for hearings, identified by docket control number OPP–301180, must be received by EPA on or before February 25, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301180 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Daniel Peacock, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5407; and e-mail address: peacock.dan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select “Laws and Regulations”, “Regulations and Proposed Rules,” and then look up the entry for this document under the “**Federal Register**—Environmental Documents.” You can also go directly to the**Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301180. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of July 19, 2001 (66 FR 37677–37681 (FRL–6793–9), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C.

346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by, Syngenta Crop Protection of Greensboro, North Carolina 27419. This notice included a summary of the petition prepared by Syngenta, the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.556 be amended by establishing a tolerance for residues of the insecticide pymetrozine 1,2,4-triazin-3(2H)-one,4,5-dihydro-6- methyl-4-[(3-pyridinylmethylene) amino] in or on cotton seed, undelinted at 0.4 ppm; cotton gin byproducts at 3.0 ppm; fruiting vegetables at 0.2 ppm; cucurbit vegetables at 0.1 ppm; leafy vegetables (except *Brassica*) at 6.0 ppm; head and stem *Brassica* vegetables at 2.0 ppm; leafy *Brassica* greens at 5.0 ppm; hops (dried) at 5.0 ppm; and pecans at 0.02 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue...."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for residues of pymetrozine in or on cotton seed, undelinted at 0.3 ppm; cotton gin byproducts at 2.0 ppm; fruiting vegetables at 0.2 ppm; cucurbit vegetables at 0.1 ppm; leafy vegetables (except *Brassica*) at 0.6 ppm; head and stem *Brassica* vegetables at 0.5 ppm; leafy *Brassica* and turnip greens at 0.25 ppm; hops (dried) at 6.0 ppm; and pecans at 0.02 ppm. EPA's assessment of exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pymetrozine are discussed in this unit and in a previous **Federal Register** notice.

1. *Acute toxicity.* In general, technical pymetrozine has low acute toxicity, being classified as Toxicity Category III for acute dermal and primary eye irritation studies and Toxicity Category IV for acute oral, acute inhalation and primary dermal studies. It is a slight sensitizer.

2. *Subchronic and chronic toxicity.* EPA's September 29, 1999, **Federal Register** notice (64 FR 52438–52450) (FRL–6385–6) summarized the results of the subchronic and chronic toxicity, metabolism, and dermal penetration studies in animals.

B. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological level of concern (LOC). However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intra species differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the LOC. For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q^*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q^* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q^* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a "point of departure" is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure ($\text{MOE}_{\text{cancer}}$ = point of departure/exposures) is calculated. A summary of the toxicological endpoints for pymetrozine used for human risk assessment was discussed in a previous **Federal Register** notice of September 29, 1999 (64 FR 52438–52450) (FRL–6385–6).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Prior to this Rule, the Agency had established tolerances for pymetrozine in or on corm and tuberous vegetables (Crop Subgroup 1-C) at 0.02 ppm, cucurbit vegetables (Crop Group 8) at 0.05 ppm, and fruiting vegetables (Crop Group 9) at 0.05 ppm (40 CFR 180.556). This Rule establishes new tolerances for residues of pymetrozine in or on a variety of raw agricultural commodities: cotton seed, undelinted at 0.3 ppm; cotton gin byproducts at 2.0 ppm; fruiting vegetables at 0.2 ppm;

VOL 66 ISS 248 DEC 27 2001 UMI

cucurbit vegetables at 0.1 ppm; leafy vegetables (except *Brassica*) at 0.6 ppm; head and stem *Brassica* vegetables at 0.5 ppm; leafy *Brassica* and turnip greens at 0.25 ppm; hops (dried) at 6.0 ppm; and pecans at 0.02 ppm. Risk assessments were conducted by EPA to assess dietary exposures from pymetrozine in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments. 100% of the crop were treated, and the residue levels were assumed to be at the tolerance level.

Using these conservative assumptions, the acute dietary (food only) exposure to pymetrozine from all existing and proposed uses (tuberous and corm, fruiting, and cucurbit vegetables; cotton seed (undelinted); cotton gin byproducts; hops, dried; leafy vegetables (except *Brassica*); head and stem *Brassica* vegetables; leafy *Brassica* greens; turnip greens; and pecans will be below EPA's level of concern (100% of the acute Population-Adjusted Dose (aPAD)) and will not occupy more than 5.9% of the aPAD for any population subgroup, including those of infants and children. For the maximum-exposed subgroup, the 95th percentile of exposure (Females 13–50 years old) is predicted to be 5.9% of the aPAD. Due to pymetrozine's lower acute endpoint for females 13–50 years old (0.033 mg/kg) versus that of other population subgroups (0.14 mg/kg for infants and children), the percentage of the aPAD occupied for females 13–50 years old (5.9%) is higher than that estimated for children 1–6 years old. For an exposure analysis based on the assumptions that 100% of the crop is treated and residues are at the tolerance level, EPA considers exposure at the 95th percentile of exposure to be a reasonable estimate of high end of exposure. Even at the 99th percentile of exposure, the acute risk is well below EPA's level of concern.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments. The chronic analysis was a Tier 3 analysis. See Table 1 below. It was necessary to use both projected percent of crop treated (%CT) estimates and anticipated residues in the chronic analysis because when %CT alone was used, one population subgroup exceeded the Agency's level of concern.

The Tier 3 DEEM® chronic analysis indicates that exposure to pymetrozine from tuberous and corm, fruiting, and cucurbit vegetables; cotton seed (undelinted); cotton gin byproducts; hops, dried; leafy vegetables (except *Brassica*); head and stem *Brassica* vegetables; leafy *Brassica* greens; turnip greens; and pecans will occupy less than 3.4% of the cPAD for children ages 1–6 (the most highly exposed population subgroup). Chronic dietary risk to all other subgroups is less than that of children ages 1–6.

TABLE 1.—RESULTS OF CHRONIC DIETARY EXPOSURE ANALYSIS

Subgroup	cPAD (mg/kg/day)	Exposure (mg/kg/day)	% cPAD
U.S. Population (total)	0.0038	0.000034	<1
All Infants (1 year old)	0.0013	0.000018	1.4
Children 1–6 years old	0.0013	0.000045	3.4
Children 7–12 years old	0.0013	0.000040	3.1
Females 13–50	0.0013	0.000029	2.2
Males 13–19	0.0038	0.000024	<1
Males 20+ years old	0.0038	0.000034	<1
Seniors 55+	0.0038	0.000036	<1

iii. *Cancer*. The Agency's level of concern for cancer exposure is 1×10^{-6}. The lifetime risk of developing cancer from pymetrozine exposure is determined for the U.S. population (total) only. The estimated exposure to pymetrozine is 0.000034 mg/kg/day. Applying the $Q_1{}^*$ of 0.0119 (mg/kg/day)$^{-1}$ to the exposure value results in a cancer risk estimate of 4.0×10^{-7}. Therefore, the lifetime risk to the U.S. population of developing cancer from dietary exposure to pymetrozine is below EPA's level of concern.

iv. *Anticipated Residue and Percent Crop Treated Information*. Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent crop treated (PCT) as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The registrant provided projected percent crop treated data for pymetrozine, and the Agency revised them, as shown in the following Table 2.

TABLE 2.—PROJECTED PERCENT CROP TREATED ESTIMATES

Crop	%CT
Broccoli	25
Cabbage	12.2
Cantaloupes	25
Celery	25
Cotton	5
Cucumbers	10
Head Lettuce	25
Leaf Lettuce	25
Peppers	5
Potatoes	20
Pumpkins	10
Spinach	16.4
Squash (winter and summer)	8
Tomatoes	12
Watermelons	20

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, for new and existing uses, the Agency received estimates from Syngenta based upon its analysis of the marketing data that compared all of the potential major pesticides for cost, efficacy, and demand. EPA received these figures and performed its own independent analysis. The Agency examined the registrant's data and assumptions for all these factors. Based on the information that the registrant has provided, together with in-house data and information from outside contacts if necessary, the Agency agreed with the company's estimate of projected PCT for many crops. For some crops, the Agency revised the company's estimates upward.

For existing uses, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the values for the percentage of the food treated, as shown in Table 2 of this preamble, are reasonable and are not likely to be an underestimation.

As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which pymetrozine may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for pymetrozine in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of pymetrozine.

The Agency uses FIRST (FQPA Index Reservoir Screening Tool) or PRZM/EXAMS (Pesticide Root Zone/Exposure Analysis Modeling System) program to predict pesticide concentrations in surface water; and SCI-GROW (Screening Concentration In GROund Water version 1.0) program to predict pesticide concentrations in groundwater.

The 'FIRST' program is a tier I screening model recently developed by EPA. It is used as a coarse screen for estimation of pesticide concentrations based on index agricultural watershed-drinking water reservoir or index reservoir (IR) scenario and percent cropped area (CPA). The FIRST model produces both a peak value (acute) and an annual average (chronic) pesticide concentration, or Estimated Environmental Concentrations (EECs). If the FIRST EECs are within 10% of a DWLOC, EFED will move to the next tier and perform a PRZM/EXAMS assessment.

The PRZM/EXAMS is a tier II model that provides an upper-bound estimate of a pesticide's concentration in a 1 hectare pond resulting from surface water runoff from a 10 hectare field, and is used to refine EECs generate by the lower tier FIRST model. As with FIRST, PRZM/EXAMS incorporates an index reservoir environment and includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin. However, this tier II model also uses NOAA climatological (rainfall) data for a 36–year period that allows for more realistic runoff events. PRZM/EXAMS produces maximum and annual concentrations for each of the 36 years for which there is rainfall data.

The Agency modeled six different scenarios, using the maximum application rate allowed for each crop: cotton, cucurbits, tomatoes, cabbage, pecans; and hops. The surface water concentrations for these crops were estimated using the Pesticide Root Zone Model (PRZM version 3.12) (Carsel et al., 1998) coupled with the Exposure Analysis Modeling System (EXAMS version 2.97.5) (Burns, 1997) adjusted with the appropriate (or default) percent cropped area (PCA) factor. The PCA factor reflects the maximum percentage of a basin planted in the agricultural crop being considered in the risk

VOL 66 ISS 248 DE 27 2001 UMI

assessment. EPA adapted a PCA factor of 0.20 for cotton. However, PCA factors are not available for cucurbits, tomatoes, cabbage, pecans, or hops, and a default value of 0.87 was used. This may result in an overestimation of the surface water concentrations for these crops compared to the cotton crop. The pecan scenario gives the highest estimated surface water concentrations, mainly due to a high level of rainfall in the areas where pecans are grown (sometimes as high as three times the level of other crops considered in this assessment) especially during the summer season. The peak (acute) EEC is 5.23 ppb and the average annual (chronic) EEC is 1.58 ppb.

PRZM is used to simulate pesticide transport as a result of runoff and erosion from an agricultural field. EXAMS estimates environmental fate and transport of pesticides in a receiving water body. For human health risk assessment, simulations were done using the Index Reservoir scenario with the consideration of a PCA factor. Weather and agricultural practices are simulated over 36 years so that the 10-year exceedance probability at the site can be estimated.

The SCI-GROW screening model was also developed by EPA, and is a regression model based upon actual groundwater monitoring data collected for the registration of a number of pesticides. The current version of SCI-GROW appears to provide a realistic estimate of pesticide concentrations in shallow, highly vulnerable ground water sites (i.e., sites with sandy soils and depth to ground water of 10 to 20 feet) for use in both chronic and acute ground water estimates.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to pymetrozine they are further discussed in the aggregate risk sections below.

Based on the FIRST, SCI-GROW, and PRZM/EXAMS models the EECs of pymetrozine for acute exposures are estimated to be 5.23 parts per billion (ppb) for surface water and < 0.02 ppb for ground water. The EECs for chronic exposures are estimated to be 1.58 ppb for surface water and < 0.02 ppb for ground water. See Tables 3 and 4 below.

TABLE 3.—ACUTE DRINKING WATER LEVELS OF COMPARISON FOR AGGREGATED EXPOSURES

Scenario/Population Subgroup	aPAD mg/kg/day	Food Exposure, mg/kg/day	Maximum Water Exposure, mg/kg/day	SCI-GROW (ground-water) ppb	PRZM/EXAMS (surface water) ppb	DWLOC* µg/L
U.S. Population	0.42	0.002119	0.41788	0.02	5.23	15,000
All Infants (<1 year old)	0.14	0.001404	0.13860	0.02	5.23	1,400
Children (1–6 yrs)	0.14	0.003517	0.13648	0.02	5.23	1,400
Children 7–12 years old	0.14	0.002615	0.13739	0.02	5.23	1,400
Females 13–50	0.033	0.001939	0.031061	0.02	5.23	930
Males 13–19	0.42	0.001722	0.41828	0.02	5.23	15,000
Males 20+ years old	0.42	0.001807	0.41819	0.02	5.23	15,000
Seniors 55+	0.42	0.002035	0.41797	0.02	5.23	15,000

* DWLOC = Maximum Water Exposure (mg/kg/day) 1000 µg/mg body weight (70 kg general population/males 13+, 60 kg females 13+, 10 kg infants and children) ÷ Water Consumption (2 L/day adults, 1 L/day infants and children). The acute EEC is 5.23 µg/L.

TABLE 4. CHRONIC DRINKING WATER LEVELS OF COMPARISON FOR AGGREGATED EXPOSURES

Scenario/Population Subgroup	cPAD mg/kg/day	Food Exposure, mg/kg/day	Maximum Water Exposure, mg/kg/day	SCI-GROW (ground-water) ppb	PRZM/EXAMS (surface water) ppb	DWLOC* µg/L
U.S. Population	0.0038	0.000034	0.003766	0.02	1.58	130
All Infants (<1 year old)	0.0013	0.000018	0.001282	0.02	1.58	13
Children (1–6 years old)	0.0013	0.000045	0.001255	0.02	1.58	13
Children 7–12 years	0.0013	0.000040	0.001260	0.02	1.58	13
Females 13–50	0.0013	0.000029	0.001271	0.02	1.58	38

TABLE 4. CHRONIC DRINKING WATER LEVELS OF COMPARISON FOR AGGREGATED EXPOSURES—Continued

Scenario/Population Subgroup	cPAD mg/kg/day	Food Exposure, mg/kg/day	Maximum Water Exposure, mg/kg/day	SCI-GROW (ground-water) ppb	PRZM/EXAMS (surface water) ppb	DWLOC* µg/L
Males 13–19	0.0038	0.000024	0.003776	0.02	1.58	130
Males 20+ years old	0.0038	0.000034	0.003766	0.02	1.58	130
Seniors 55+	0.0038	0.000036	0.003764	0.02	1.58	130

* DWLOC = Maximum Water Exposure (mg/kg/day) 1,000 µg/mg body weight (70 kg general population/males 13+, 60 kg females 13+, 10 kg infants and children) ÷ Water Consumption (2 L/day adults, 1 L/day infants and children). The chronic and cancer EEC is 1.58 µg/L.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Since the current proposed uses do not result in additional residential exposure, the Agency's earlier evaluation of approved residential uses, found in the **Federal Register** of August 9, 2000 (65 FR 48626–48634), will not be repeated here.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

Based on the information available to EPA, there are no other pesticides that have a common mechanism of toxicity with pymetrozine. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pymetrozine does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pymetrozine has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Conclusion.* There is a complete toxicity database for pymetrozine and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures. EPA determined that the 10X safety factor to protect infants and children could be reduced to 3. The FQPA factor is reduced after assessing the potential for additional sensitivity of infants and children to residues of pymetrozine in the following studies: developmental toxicity studies in rabbit and rat and two-generation reproduction study in the rat. There was no evidence of increased susceptibility in these studies. The FQPA safety factor was not reduced to one due to the need for a developmental neurotoxicity study.

E. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water [e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + residential exposure)]. This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the Office of Pesticide Programs (OPP) concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which OPP has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because OPP considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, OPP will reassess the potential impacts of residues of the pesticide in drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* The Tier 1 exposure estimates provided by the acute dietary analysis are based on the assumption that tolerance-level residues are present in/on all commodities on which pymetrozine will be used and that 100% of these commodities are treated. The exposure estimates are therefore conservative ones. As shown in Table 3 of this preamble the acute EECs for pymetrozine are below EPA's level of concern. That is, they are below the DWLOC values calculated for the various population subgroups. Thus, residues of pymetrozine in food and

drinking water do not exceed the EPA's level of concern (100% of the aPAD) for acute aggregate exposure for any of the population subgroups. Based on its assumptions and underlying data, this risk assessment is considered confident, very conservative, and highly protective of human health.

2. *Chronic risk.* The Tier 3 exposure estimates provided by the chronic dietary analysis are based on anticipated residues and projected percent crop treated data. Anticipated residues (average field trial values) were calculated for the crops. The resulting exposure estimates are therefore refined ones. The chronic EECs for pymetrozine are below the Agency's level of concern. That is, as shown in Table 4 of this preamble, they are below the DWLOC values calculated for the various population subgroups. Thus, residues of pymetrozine in food and drinking water do not exceed the Agency's level of concern (100% of the cPAD) for chronic aggregate exposure for any of the population subgroups.

3. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). In aggregating short-term risk, the Agency considered background average dietary exposure and short-term, non-dietary oral exposure. Non-dietary oral exposure may occur with toddlers as hand-to-mouth transfer of residues from ornamental plants or incidental ingestion of treated ornamental plants and/or surrounding soil. The highest estimated exposure via these routes is 0.0046 mg/kg/day which results from hand-to-mouth transfer of residues. Combining this exposure with the chronic dietary exposure estimate of 0.000045 mg/kg/day results in an aggregate exposure of 0.0046 mg/kg/day. In the absence of a short-term oral endpoint, EPA has used the acute dietary endpoint for infants and children (125 mg/kg/day) to estimate aggregate short-term risk. Note that this endpoint is based on a LOAEL and therefore has a 300–fold uncertainty factor associated with it. Combining the exposure estimate with the toxicological endpoint gives an MOE of 27,000. For this scenario, the Agency would be concerned with an MOE of less than 900; thus, this exposure is below EPA's level of concern. Aggregated short-term exposure results in a DWLOC of 1,400 ppb. This value is in excess of the peak EEC of 5.23 ppb for pymetrozine. Therefore, the short-term aggregate risk is below the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). There are no intermediate-term residential exposure scenarios for pymetrozine based on the current uses. Therefore, aggregate intermediate-term risks do not exceed the Agency's level of concern.

5. *Aggregate cancer risk for U.S. population.* As with the chronic dietary exposure analysis, the cancer risk assessment is also based on a Tier 3 estimate of dietary exposure. The cancer aggregate risk consists of chronic dietary exposure as well as non-occupational exposure resulting from pruning and planting treated ornamental plants. The sum of the food and residential exposure is 0.000034 (food) + 0.0000012 (residential) = 3.5×10^{-5} mg/kg/day. Assuming a cancer risk limit of 1×10^{-6}, the cancer dose of concern is 8.4×10^{-5} mg/kg/day ($0.000001/Q_1^* = 0.000001/0.0119$). As 3.5×10^{-5} mg/kg/day is less than 8.4×10^{-5} mg/kg/day, the aggregate food and residential exposure is below the level of concern. With respect to drinking water, the cancer DWLOC is calculated to be 1.7 ppb. The highest EEC for any of the crops in these petitions is 1.6 ppb (pecans). As a result, the aggregate cancer risk resulting from use of pymetrozine is below the Agency's level of concern.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to pymetrozine residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

The Agency's Analytical Chemistry Laboratory has validated an enforcement methodology for pymetrozine (Syngenta Analytical Method AG–643A). It will be available to enforce the tolerance expression. The method may be requested from: Francis D. Griffith, Jr., Analytical Chemistry Branch, BEAD (7503C), 702 mapes Rd., Ft. George Meade, MD 20755–5350; telephone number: (410) 305–2905; e-mail address: griffin.francis@epa.gov.

B. International Residue Limits

There are no established European (CODEX), Canadian, or Mexican Maximum Residue Limits (MRL's) for pymetrozine. There are provisional MRLs in Germany for hops, dried (10 ppm) and potatoes (0.02 ppm). The European Union is currently evaluating a proposed tolerance of 5 ppm on hops, dried. There are proposed tolerances in Canada for tuberous and corm vegetables at 0.02 ppm, fruiting vegetables at 0.2 ppm, head and stem *Brassica* vegetables at 2.0 ppm, leafy *Brassica* vegetables at 5.0 ppm, leafy vegetables at 6.0 ppm, pecans at 0.02 ppm, hops (dried) at 5.0 ppm, citrus at 0.2 ppm, and cucurbits at 0.1 ppm. At this time, international harmonization of residue levels is not an issue.

C. Conditions

The Agency imposed the following conditions on pymetrozine at the time of the original Notices of Registration in the fall of 1999:

1. Storage stability (due December 2000).
2. Corrosion characteristics (due December 2000).
3. Acute estuarine/marine toxicity in shrimp (due October 2000)
4. Photodegradation on soil, 161–3, (due October 2000).
5. Developmental neurotoxicity Study, 870–6300 or 83–6, (due October 2001).
6. Avian reproduction (mallard), 71–4(b), (due October 2001).
7. Drinking water monitoring (originally due October 2002 but the requirement was no longer applicable after Cancer Q* was changed).

V. Conclusion

Therefore, the tolerances are established for residues of pymetrozine in or on cotton seed, undelinted at 0.3 ppm; cotton gin byproducts at 2.0 ppm; fruiting vegetables at 0.2 ppm; cucurbit vegetables at 0.1 ppm; leafy vegetables (except *Brassica*) at 0.6 ppm; head and stem *Brassica* vegetables at 0.5 ppm; leafy *Brassica* and turnip greens at 0.25 ppm, hops (dried) at 6.0 ppm; and pecans at 0.02 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301180 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before February 25, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301180, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any other Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that

VOL 66 ISS 248 DE 27 2001 UMI

have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any tribal implications as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications. Policies that have tribal implications is defined in the Executive Order to include regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 17, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.556 is amended by revising paragraph (a) to read as follows:

§ 180.556 Pymetrozine; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide pymetrozine 1,2,4-triazin-3(2H)-one,4,5-dihydro-6-methyl-4-[(3-pyridinylmethylene) amino] in or on the following raw agricultural commodities. The tolerance level for each commodity is expressed in terms of the parent insecticide only, which serves as an indicator of the use of pymetrozine on these raw agricultural commodities.

Commodity	Parts per million
Brassica, head and stem, subgroup (Crop Subgroup 5-A) ..	0.5
Brassica, leafy greens, subgroup (Crop Subgroup 5-B) ..	0.25
Cotton gin byproducts	2.0
Cotton, undelinted seed	0.3
Hops, dried cones	6.0
Pecans	0.02
Turnip, greens	0.25
Vegetable, fruiting, group (Crop Group 8)	0.2
Vegetable, cucurbit, group (Crop Group 9)	0.1
Vegetable, leafy, execpt brassica, group (Crop Group 4) ...	0.6
Vegetable, tuberous and corm; subgroup (Crop Subgroup 1-C)	0.02

* * * * *

[FR Doc. 01–31801 Filed 12–26–01; 8:45 am]

BILLING CODE 6560–50–S

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 301

[FTR Amendment 99]

RIN 3090–AH51

Federal Travel Regulation; Maximum Per Diem Rates

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR), Amendment 97, published in the **Federal Register** of Friday, August 31, 2001. This final rule updates the table of prescribed maximum per diem rates for the continental United States (CONUS) by revising previous entries and adding new entries.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Joddy P. Garner, Office of Governmentwide Policy (MTT), Washington, DC 20405, telephone 202-501–4857.

SUPPLEMENTARY INFORMATION:

A. Background

The General Services Administration (GSA), after an analysis of additional data, is revising previous entries and adding new entries that were inadvertently omitted from FTR Amendment 97 published as Part II in the **Federal Register** of Friday, August 31, 2001 (66 FR 46070). This final rule revises the key city for Pontiac/Troy, Michigan, and the county and/or other defined locations for Denver, Colorado; Anoka County, Minnesota; Harrisburg and Hershey, Pennsylvania; and Sturgis, South Dakota. This final rule further adds new per diem city/county localities and rates for Dinwiddie County, Hopewell, Petersburg, and Prince George County, Virginia. In addition, this final rule revises footnote four (4) of the per diem rate table.

B. Executive Order 12866

GSA has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Chapter 301

Government employees, Travel and transportation expenses.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5709, 41 CFR chapter 301 is amended as follows:

CHAPTER 301—Temporary Duty (TDY) Travel Allowances

Appendix A to Chapter 301 [Amended]

1. Appendix A to chapter 301 is amended as follows:

a. On the page that includes entries for the State of Colorado, under the State of Colorado, city of Denver, column two (County and/or other defined location) is revised to read "Denver, Adams, and Arapahoe Counties, that portion of Westminster located in Jefferson County, and Lone Tree in Douglas County".

b. On the page that includes entries for the States of Massachusetts and Michigan, under the State of Michigan, in the first column, the last entry, "Pontiac/Troy", is revised to read "Pontiac/Troy/Auburn Hills".

c. On the page that includes entries for the State of Michigan and Minnesota:

i. Under the State of Michigan, the entry for "Auburn Hills" is removed.

ii. Under the State of Minnesota, city of Anoka County, column two (County and/or other defined location) is revised to read "Anoka".

d. On the page that includes entries for the State of Pennsylvania:

i. Under the State of Pennsylvania, city of Harrisburg, column two (County and/or other defined location) is revised to read "Dauphin (except Hershey)".

ii. Under the State of Pennsylvania, city of Hershey, column two (County and/or other defined location) is revised to read "City limits of Hershey (see Dauphin County)".

e. On the page that includes entries for the State of South Dakota, city of Sturgis, column two (County and/or other defined location) is revised to read "Meade".

f. On the page beginning with the entry for Colonial Heights, Virginia:

i. Under the State of Virginia, a new entry is added after the city of Colonial Heights, to read: (column one) "Dinwiddie County"; (column two) "Dinwiddie"; (column three) "77"; (column four) "30"; (column five) "107".

ii. Under the State of Virginia, a new entry is added after the new entry for Dinwiddie County, to read: (column one) "Hopewell"; (column three) "77"; (column four)"30"; (column five) "107".

iii. Under the State of Virginia, a new entry is added after the city of Manassas/Woodbridge, to read: (column one) "Petersburg"; (column three) "77"; (column four) "30"; (column five) "107".

iv. Under the State of Virginia, a new entry is added after the new entry for Petersburg, to read: (column one) "Prince George County"; (column two) "Prince George", (column three) "77"; (column four)"30"; (column five) "107".

g. Note four at the end of the table is revised.

The revised pages containing the amendments to the table set forth above and a new page containing the notes to the table as amended above read as follows:

Appendix A to Chapter 301—Prescribed Maximum Per Diem Rates for CONUS

* * * * *

BILLING CODE 6820-14-P

VOL 66 ISS 248 DEC 27 2001 UMI

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
(October 1-June 14)		63		42		105
Visalia	Tulare	69		38		107
West Sacramento	Yolo	69		30		99
Yosemite National Park	Mariposa					
(May 1-September 30)		114		46		160
(October 1-April 30)		82		46		128
COLORADO						
Aspen	Pitkin					
(January 1-April 30)		145		46		191
(May 1-December 31)		89		46		135
Boulder	Boulder	93		42		135
Colorado Springs	El Paso					
(May 15-September 15)		73		38		111
(September 16-May 14)		59		38		97
Cortez	Montezuma	69		34		103
Crested Butte	City limits of Crested Butte (see Gunnison Co.)					
(November 15-April 15)		97		42		139
(April 16-June 15)		58		42		100
(June 16-November 14)		71		42		113
Denver	Denver, Adams, and Arapahoe Counties, that portion of Westminster located in Jefferson County, and Lone Tree in Douglas County.	112		42		154
Durango	La Plata					
(May 15-September 30)		99		38		137
(October 1-May 14)		70		38		108
Fort Collins	Larimer (except Loveland)	76		34		110
Glenwood Springs	Garfield					
(May 15-October 15)		95		30		125
(October 16-May 14)		55		30		85
Gunnison	Gunnison (except Crested Butte)					
(May 15-September 30)		70		34		104
(October 1-May 14)		55		34		89
Jefferson County	Jefferson	94		34		128
Loveland	City limits of Loveland (see Larimer County)	69		30		99
Montrose	Montrose	69		34		103
Pueblo	Pueblo					
(June 1-September 30)		72		34		106
(October 1-May 31)		58		34		92
Silverthorne/Keystone	Summit	170		38		208
Steamboat Springs	Routt	59		38		97
Telluride	San Miguel					
(December 20-September 30)		147		46		193
(October 1-December 19)		85		46		131
Trinidad	Las Animas	62		30		92
Vail	Eagle					
(December 1-March 31)		200		46		246
(April 1-November 30)		105		46		151
CONNECTICUT						
Bridgeport/Danbury	Fairfield	109		38		147

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Falmouth	City limits of Falmouth					
(June 1-September 30)		105		38		143
(October 1-May 31)		70		38		108
Hyannis	Barnstable	94		38		132
Lowell	City limits of Lowell (except Cambridge) (see Middlesex County)	99		34		133
Martha's Vineyard	Dukes					
(June 1-October 15)		150		46		196
(October 16-May 31)		85		46		131
Nantucket	Nantucket					
(June 15-October 15)		150		46		196
(October 16-June 14)		75		46		121
New Bedford	City limits of New Bedford (see Bristol County)					
(May 15-October 15)		75		34		109
(October 16-May 14)		65		34		99
Northampton	Hampshire	72		34		106
Pittsfield	Berkshire	65		38		103
Plymouth	Plymouth					
(June 15-October 15)		119		34		153
(October 16-June 14)		99		34		133
Quincy	Norfolk	74		38		112
Springfield	Hampden	99		34		133
Taunton	Bristol (except New Bedford)	74		30		104
Worcester	Worcester	79		34		113
MICHIGAN						
Ann Arbor	Washtenaw	75		38		113
Berrien County	Berrien	59		30		89
Charlevoix	Charlevoix					
(June 1-August 31)		105		38		143
(September 1-May 31)		59		38		97
Detroit	Wayne	109		46		155
East Lansing/Lansing	Ingham	65		38		103
Frankenmuth	Saginaw	69		34		103
Frankfort	Benzie	62		34		96
Gaylord	Otsego	65		38		103
Grand Rapids	Kent	62		34		96
Holland	Ottawa	60		34		94
Leland	Leelanau	75		34		109
Mackinac Island	Mackinac	165		46		211
Midland	Midland	72		34		106
Mount Pleasant	Isabella	65		34		99
Muskegon	Muskegon					
(May 1-August 31)		79		30		109
(September 1-April 30)		59		30		89
Ontonagon	Ontonagon	65		30		95
Petoskey	Emmet					
(June 1-October 31)		65		38		103
(November 1- May 31)		55		38		93
Pontiac/Troy/Auburn Hills	Oakland	94		38		132

VOL 66 ISS 248 DE 27 2001 UMI

Per diem locality: Key city[1]	County and/or other defined location [2,3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate[4] (c)
Sault Ste Marie	Chippewa					
(May 15-October 15)		63		34		97
(October 16-May 14)		55		34		89
South Haven	Van Buren	76		34		110
Traverse City	Grand Traverse	125		42		167
Warren	Macomb	79		34		113
MINNESOTA						
Anoka County	Anoka	65		34		99
Dakota County	Dakota	80		34		114
Duluth	St. Louis					
(June 1-October 31)		85		42		127
(November 1-May 31)		56		42		98
Minneapolis/St. Paul	Hennepin County and Fort Snelling Military Reservation and Navy Astronautics Group (Detachment BRAVO), and Ramsey County	95		46		141
Rochester	Olmsted	73		34		107
MISSISSIPPI						
Bay St. Louis	Hancock					
(April 1-October 31)		69		38		107
(November 1-March 31)		55		38		93
Biloxi/Gulfport	Harrison	72		38		110
Robinsonville	Tunica	59		34		93
MISSOURI						
Branson	Taney					
(April 1-December 31)		62		34		96
(January 1-March 31)		55		34		89
Hannibal	Marion	57		30		87
Jefferson City	Cole	60		30		90
Kansas City	Jackson, Clay and Kansas City International Airport	85		42		127
Osage Beach	Camden	89		30		119
Platte	Platte (except Kansas City International Airport)	61		34		95
Springfield	Greene	63		30		93
St. Louis	St. Louis and St. Charles	90		46		136
MONTANA						
Big Sky	Gallatin (except West Yellowstone)	125		46		171
Polson/Kalispell	Lake and Flathead					
(June 1-September 15)		64		30		94
(September 16-May 31)		55		30		85
West Yellowstone	City limits of West Yellowstone (see Gallatin County)					
(June 1-September 30)		92		34		126
(October 1-May 31)		55		34		89

Per diem locality:		Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Key city[1]	County and/or other defined location [2], [3]					
Oklahoma City	Oklahoma	65		38		103
OREGON						
Ashland	Jackson	59		42		101
Beaverton	Washington	59		38		97
Bend	Deschutes					
(June 1-September 30)		69		38		107
(October 1-May 31)		59		38		97
Clackamas	Clackamas	66		34		100
Crater Lake	Klamath	74		38		112
Eugene	Lane (except Florence)	62		38		100
Florence	City limits of Florence (see Lane County)	80		34		114
Gold Beach	Curry	58		30		88
Lincoln City/Newport	Lincoln	65		34		99
Portland	Multnomah	77		38		115
Seaside	Clatsop					
(July 1-August 31)		79		34		113
(September 1-June 30)		59		34		93
PENNSYLVANIA						
Allentown	Lehigh	62		30		92
Chester/Radnor/Essington	Delaware (except Wayne)	75		34		109
Easton	Northampton	69		34		103
Erie	Erie	65		30		95
Gettysburg	Adams					
(May 1-October 31)		82		34		116
(November 1-April 30)		55		34		89
Harrisburg	Dauphin (except Hershey)	79		42		121
Hershey	City limits of Hershey (see Dauphin County)					
(June 1-September 15)		125		42		167
(September 16-May 31)		55		42		97
King of Prussia/Ft. Washington/Bala Cynwyd	Montgomery					
(April 1-November 30)		119		42		161
(December 1-March 31)		99		42		141
Lancaster	Lancaster					
(May 1-October 31)		70		38		108
(November 1-April 30)		60		38		98
Malvern/Downington/Valley Forge	Chester	83		38		121
Mechanicsburg	Cumberland	74		34		108
Philadelphia	Philadelphia	118		46		164
Pittsburgh	Allegheny	79		46		125
Reading	Berks	75		38		113
Scranton	Lackawanna	60		30		90
Warminster	Bucks County; Naval Air Development Center	75		42		117
Wayne	City limits of Wayne (see Delaware County)	100		42		142
RHODE ISLAND						
East Greenwich	Kent County; Naval Construction Battalion Center, Davisville	79		38		117
Newport	Newport					

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a) +	M&IE rate (b) =	Maximum per diem rate [4] (c)
(April 1-December 31)		111	42	153
(January 1-March 31)		79	42	121
North Kingstown	Washington	89	30	119
Providence	Providence	89	42	131
SOUTH CAROLINA				
Aiken	Aiken	65	30	95
Charleston/Berkeley County	Charleston and Berkeley	99	42	141
Columbia	Richland	65	30	95
Greenville	Greenville	65	38	103
Hilton Head	Beaufort			
(March 15-September 30)		95	42	137
(October 1-March 14)		75	42	117
Myrtle Beach	Horry County; Myrtle Beach AFB			
(March 1-November 30)		99	42	141
(December 1-February 28)		59	42	101
SOUTH DAKOTA				
Custer	Custer			
(June 15-August 19)		70	30	100
(August 20-June 14)		55	30	85
Hot Springs	Fall River			
(June 15-October 15)		108	30	138
(October 16-June 14)		79	30	109
Rapid City	Pennington			
(May 15-September 30)		99	34	133
(October 1-May 14)		55	34	89
Sturgis	Meade			
(June 15-August 15)		79	30	109
(August 16-June 14)		55	30	85
TENNESSEE				
Alcoa/Townsend	Blount	63	34	97
Gatlinburg	Sevier			
(May 1-October 31)		78	38	116
(November 1-April 30)		70	38	108
Memphis	Shelby	70	38	108
Murfreesboro	Rutherford	57	30	87
Nashville	Davidson	82	42	124
Williamson County	Willamson	60	30	90
TEXAS				
Amarillo	Potter	57	30	87
Arlington	Tarrant	77	34	111
Austin	Travis	80	38	118
Bryan	Brazos (except College Station)	60	30	90
College Station	City limits of College Station (see Brazos County)	69	34	103
Corpus Christi	Nueces	59	38	97
Dallas	Dallas	89	46	135
El Paso	El Paso	78	38	116

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a)	+	M&IE rate (b)	=	Maximum per diem rate [4] (c)
Colonial Heights*		77		30		107
Dinwiddie County	Dinwiddie	77		30		107
Hopewell		77		30		107
Lynchburg*		64		38		102
Manassas/Woodbridge	Prince William	84		34		118
Petersburg		77		30		107
Prince George County	Prince George	77		30		107
Richmond*	Chesterfield and Henrico Counties, also Defense Supply Center	77		38		115
Roanoke*		59		34		93
Virginia Beach*	Virginia Beach (also Norfolk, Portsmouth and Chesapeake)*					
(April 1-October 31)		109		38		147
(November 1-March 31)		55		38		93
Wallops Island	Accomack					
(June 1-September 5)		89		34		123
(September 6-May 31)		69		34		103
Williamsburg*	Williamsburg (also Hampton, Newport News, York County, Naval Weapons Station, Yorktown)*					
(April 1-October 31)		99		38		137
(November 1-March 31)		59		38		97
Wintergreen	Nelson	125		46		171
*Denotes independent cities.						
WASHINGTON						
Anacortes	Skagit and Island	64		38		102
Bremerton	Kitsap	61		34		95
Everett	Snohomish (except Lynnwood)	59		38		97
Friday Harbor	San Juan					
(May 1-September 30)		95		42		137
(October 1-April 30)		65		42		107
Lynnwood	City limits of Lynnwood (see Snohomish County)	89		34		123
Ocean Shores	Grays Harbor					
(April 1-September 30)		82		38		120
(October 1-March 31)		55		38		93
Olympia/Tumwater	Thurston	58		38		96
Port Angeles	City limits of Port Angeles (see Clallam County)	65		38		103
Port Townsend	Jefferson	79		34		113
Seattle	King	109		46		155
Sequim	Clallam (except Port Angeles)					
(June 29 -September 1)		62		34		96
(September 2 -June 28)		55		34		89
Spokane	Spokane	63		38		101
WEST VIRGINIA						
Berkeley Springs	Morgan	69		34		103
Charleston	Kanawha	78		38		116
Martinsburg/Hedgesville	Berkeley	59		30		89

Per diem locality: Key city[1]	County and/or other defined location [2], [3]	Maximum lodging amount (room rate only—no taxes) (a) +	M&IE rate (b) =	Maximum per diem rate [4] (c)
Morgantown	Monongalia	66	34	100
Shepherdstown	Jefferson	79	38	117
Wheeling	Ohio	71	34	105
WISCONSIN				
Brookfield	Waukesha	66	38	104
Green Bay	Brown	59	34	93
Lake Geneva	Walworth			
(June 1-September 4)		85	38	123
(September 5-May 31)		66	38	104
Madison	Dane	62	38	100
Milwaukee	Milwaukee	95	42	137
Racine	Racine	80	30	110
Sheboygan	Sheboygan	59	30	89
Sturgeon Bay	Door			
(May 15-October 15)		81	34	115
(October 16-May 14)		56	34	90
Wisconsin Dells	Columbia			
(June 1-September 30)		85	38	123
(October 1-May 31)		55	38	93
WYOMING				
Cody	Park			
(May 15-October 15)		98	30	128
(October 16-May 14)		55	30	85
Jackson	Teton			
(November 1-September 15)		115	42	157
(September 16-October 31)		69	42	111

[1] Unless otherwise specified, the per diem locality is defined as "all locations within, or entirely surrounded by, the corporate limits of the key city, including independent entities located within those boundaries."

[2] Per diem localities with county definitions shall include "all locations within, or entirely surrounded by, the corporate limits of the key city as well as the boundaries of the listed counties, including independent entities located within the boundaries of the key city and the listed counties (unless otherwise listed separately)."

[3] When a military installation or Government-related facility (whether or not specifically named) is located partially within more than one city or county boundary, the applicable per diem rate for the entire installation or facility is the higher of the two rates which apply to the cities and/or counties, even though part(s) of such activities may be located outside the defined per diem locality.

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be reviewed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Office of Governmentwide Policy, Attn: Travel and Transportation Management Policy Division (MTT), Washington, DC 20405. Agencies should submit their request to GSA no later than 2/27 for the city to be included in the annual review. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the location.

[5] The standard CONUS rate of $85 ($55 for lodging and $30 for M&IE) applies to all per diem localities in the State of North Dakota.

Note: Recognizing that all locations are not incorporated cities, the term "city limits" has been used as a general phrase to denote the commonly recognized local boundaries of the location cited.

* * * * *

Dated: December 14, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–31776 Filed 12–26–01; 8:45 am]

BILLING CODE 6820–14–C

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2846; MM Docket No. 00–173; RM–9964, RM–10328]

Radio Broadcasting Services; Burgin and Science Hill, KY

AGENCY: Federal Communications Commission

ACTION: Final rule.

SUMMARY: At the request of Vernon R. Baldwin this document allots Channel 290A to Burgin, Kentucky. At the request of Pulaski County Broadcasting, this document also allots Channel 291A to Science Hill, Kentucky. *See* 65 FR 59164, published October 4, 2000. The reference coordinates for the Channel 290A allotment at Burgin, Kentucky, are 37–48–37 and 84–41–30. The reference coordinates for the Channel 291A allotment at Science Hill, Kentucky, are 37–10–36 and 84–29–10.

DATES: Effective January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order* in MM Docket No. 00–173, adopted December 5, 2001, and released December 7, 2001. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Burgin, Channel 290A and by adding Science Hill, Channel 291A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–31830 Filed 12–26–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018–AI19

Endangered and Threatened Wildlife and Plants; Listing the Tumbling Creek Cavesnail as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Emergency rule.

SUMMARY: We, the Fish and Wildlife Service (Service), exercise our authority to emergency list the Tumbling Creek cavesnail (*Antrobia culveri*) as endangered under the Endangered Species Act of 1973, as amended (Act). This species is known to occur in one cave in Missouri. The distribution of this species has decreased in Tumbling Creek by 90 percent since 1974. Although cavesnail numbers fluctuated seasonally and annually between 1996 and 2000, the species was not found in the monitored section of the cave stream during five surveys in 2001. Because the sudden population decline demonstrates a significant and imminent risk to the well-being of the Tumbling Creek cavesnail, we find that emergency listing is necessary to provide Federal protection pursuant to the Act for 240 days. A proposed rule to list the Tumbling Creek cavesnail as endangered is published concurrently with this emergency rule, and can be found in this issue of the **Federal Register** in the proposed rules section.

DATES: This emergency rule becomes effective December 27, 2001 and expires August 26, 2002.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Columbia, Missouri Field Office, 608 E. Cherry St., Room 200, Columbia, Missouri 65201–7712.

FOR FURTHER INFORMATION CONTACT: Paul McKenzie, Ph.D., Columbia, Missouri Field Office, at the address listed above (telephone: 573–876–1911, ext. 107; e-mail: paul_mckenzie@fws.gov; facsimile: 573–876–1914). Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

The Tumbling Creek cavesnail (*Antrobia culveri*) was described as a new species by Hubricht (1971) from specimens taken by David Culver, Thomas Aley, and Leslie Hubricht in 1969 and 1970. *Antrobia culveri* is the type species for the genus *Antrobia*, also described new to science in 1971 by Hubricht. Hershler and Hubricht (1988) examined specimens of *Antrobia culveri* and confirmed the taxonomic placement of this species in the subfamily Littoridininae of the Gastropod family Hydrobiidae. They also noted the apparent close relatedness of the genus *Antrobia* to the genus *Fontigens*, which contains cave-adapted snails found in other Missouri caves and springs. The Tumbling Creek cavesnail is a small, white, blind, aquatic snail (height 2.3 millimeters (mm) (0.09 inches (in); diameter 2.0 mm (0.08 in); aperture height 1.2 mm (0.05 in); aperture diameter 1.1 mm (0.04 in)) with a small, conical, well-rounded, pale-yellow shell containing about 3.5 whorls (Hubricht 1971). The Tumbling Creek cavesnail is restricted to a single cave stream in Tumbling Creek Cave in Taney County, southwestern Missouri.

Greenlee (1974) provided the first information on the habitat of the species. He reported that the species was found primarily on "3 inch gravel substrate" (presumably meaning small stones or cobble of 3-inch diameter), with a few individuals observed using the recesses of a solid rock stream bottom. Greenlee (1974) did not note whether the snails used the upper or lower surface of the 3-inch gravel he observed them on, or whether the species was ever observed using larger rocks within the cave stream. Subsequent surveyors, however, have failed to document *Antrobia culveri* using a solid rock bottom, and the species is usually observed on the undersurface of rocks with a diameter greater than 3 inches (Ashley 2000). Additionally, Greenlee (1974) stated that the Tumbling Creek cavesnail was absent from areas of the stream that contained bat guano. Subsequent observers (McKenzie *in litt.* 1996; Ashley 2000, 2001a, 2001b) have noted *Antrobia culveri* in portions of Tumbling Creek where bat guano occurs. Finally, Greenlee (1974) and subsequent observers have all noted that the species appears to prefer areas of the stream that lack silt.

Although little is known regarding the life history of this cavesnail, Greenlee (1974) postulated that the species feeds on aquatic microfauna. Because Tumbling Creek cavesnails have been concentrated in sections of Tumbling Creek Cave that are usually adjacent to large deposits of bat guano, it has been theorized that *Antrobia culveri* is indirectly dependent upon these deposits for food (Greenlee 1974). Other life history aspects of this species, including its reproductive behavior, are unknown. Although little is known about the longevity or movements of this species, some limited information is available on the frequency of shell sizes within the population across different seasons. Ashley (2000) examined shell length data collected between 1996 and 2000 and noted that the average length of *Antrobia culveri* shells exhibited a slight peak during summer months but further noted that the difference was not statistically significant. Ashley (2000) also analyzed the frequency distribution of cavesnail shell lengths from fall data collected between 1997 and 2000 and noted a decrease in the frequency of smaller shells over that period. Ashley (2000) concluded that both fewer snails and fewer snails in the younger age classes were observed in the more recent fall visits conducted from 1997 through 2000. This suggests that there has been a reduction in recruitment of younger age classes into the population between 1997 and 2000.

Tumbling Creek Cave is a highly diverse cave (Thomas Aley, Ozark Underground Laboratory (OUL), *in litt.* 1978; Cecil Andrus, USDI, *in litt.* 1980). In addition to species included in the Missouri Department of Conservation's (MDC) Checklist of Species of Conservation Concern (Missouri Natural Heritage Program 2001) (e.g., a cave millipede (*Scoterpes dendropus*)), *Antrobia culveri* is associated with at least three, possibly six, species that are new to science but have not yet been formally described: a millipede (*Chaetaspis* sp.), a terrestrial isopod (*Caucasonethes* sp.), an amphipod (*Stygobromus* sp.), a dipluran (*Plusiocampa sp.*), a phalangodid harvestman (*Phalangium* sp.), and a cave spider (*Islandiana* sp.). Tumbling Creek Cave also provides habitat for a large maternity colony of federally listed gray bats (*Myotis grisescens*), with a recent estimated breeding population of 12,400 in 1998 (Dr. William Elliott, MDC, *in litt.* October 9, 2001). Historically, the breeding population included an estimated 50,000 individuals (MDC 1992, Missouri Natural Heritage Program 2000). There have also been historical observations of a very small hibernating population of the federally listed Indiana bat (*Myotis sodalis*). However, the Indiana bat has not been documented at the site since 1989 (Missouri Natural Heritage Program 2000). The Gray Bat Recovery Plan lists Tumbling Creek Cave as a "Priority 1" cave. Priority 1 gray bat caves have the highest level of biological significance for a gray bat maternity site (i.e., a cave deemed to be "absolutely essential" in preventing the extinction of the endangered gray bat) (U.S. Fish and Wildlife Service 1982).

Tumbling Creek Cave is owned by Tom and Cathy Aley of Protem, Missouri. Because of its rich cave fauna, the large maternity colony for the endangered gray bat, and its diverse physical features, Tumbling Creek Cave was designated as a National Natural Landmark and approved for inclusion on the National Registry of Natural Landmarks under the authority of the Historic Sites Act of 1935 (49 Stat. 666; 16 U.S.C. 461 *et seq.*) (Cecil Andrus, USDI, *in litt.*, 1980; 48 FR 8693). Tumbling Creek Cave and approximately 395 acres surrounding the cave were embodied in the designation, including about 140 surface acres owned by the Aleys and about 255 surface acres owned by two adjacent property owners.

Status and Distribution

Antrobia culveri is known only from Tumbling Creek Cave in Taney County, southwestern Missouri. In an extensive survey of publicly and privately owned Missouri caves, no additional populations of this cavesnail were discovered (Gardner 1986). Recent surveys conducted in nearby caves and springs by Dr. David Ashley of Missouri Western State College, St. Joseph, Missouri, have also failed to locate this species at any other sites (David Ashley, *in litt.* November 2001). The fact that no additional populations were found in springs in close proximity to Tumbling Creek Cave supports the long-held contention that Tumbling Creek cave is the only location where this species occurs.

Antrobia culveri was historically known from an estimated area of 1,016 square meters (m^{2}) (10,900 square feet (ft^{2}) or 0.25 acres) (Greenlee 1974) of Tumbling Creek along approximately 229 meters (m) (750 feet (ft)) of the stream in the approximate middle one-third of the lower stream passage in Tumbling Creek Cave (Greenlee 1974). Based on a survey of approximately 630 m^{2} (6,800 ft^{2}) of suitable habitat within the 457 m (1,500 ft) of human-accessible cave-stream habitat, Greenlee (1974) estimated the population of Tumbling Creek cavesnails at 15,118 individuals.

In 1995, we reviewed the status of the species, including the survey methodology originally established by Greenlee (1974), and determined that an inadequate description of the survey methods made it difficult to determine the number of plots taken. Our lack of knowledge on the number of plots sampled by Greenlee made it difficult to interpret his population estimates and impossible to duplicate his survey methods. Therefore, we concluded that a more rigorous statistical survey design would be necessary to establish population trends for the species. Following meetings with Dr. Pam Haverland of the U.S. Geological Survey, Columbia Environmental Research Center in Columbia, Missouri, and Mr. Tom Aley, President of Ozark Underground Laboratory (OUL) and owner of Tumbling Creek Cave, a sampling protocol was established within an approximate 75 m (247 ft) section of Tumbling Creek that was known to be inhabited by *Antrobia culveri* but that would minimize any potential impacts to the federally endangered gray and Indiana bats.

Following the establishment of sampling stations within Tumbling Creek Cave, and an initial September 1996 survey using those stations (McKenzie, *in litt.* 1996), we contracted Dr. David Ashley, of Missouri Western State College, St. Joseph, Missouri, to monitor population trends of the Tumbling Creek cavesnail. Ashley completed 16 separate monitoring trips between September 3, 1997, and August 31, 2001 (Ashley 2000, 2001a, 2001b, 2001c). Ashley (2000, 2001a, 2001b, 2001c) determined that population estimates of *Antrobia culveri* within the monitoring stations fluctuated both seasonally and annually, and ranged from a high of 1,166 individuals on September 3, 1997, to a low of 0 individuals on January 11, March 17, May 8, July 16, and August 31, 2001. Ashley statistically analyzed the data and concluded that a significant decrease in the numbers of cavesnails had occurred between September 9, 1996, and August 31, 2001 (Ashley 2001c).

Although the 2001 surveys failed to document the presence of any cavesnails within the established monitoring stations, 40 individuals were discovered upstream of the sampling stations in March 2001. During March 16–18, 2001, Ashley and others surveyed the entire human-accessible 457 m (1,500 ft) of Tumbling Creek, including a small tributary that has approximately 9 additional meters (30 ft) of accessible habitat. A total of 39 person-hours was expended in searching a total of 1,054 rocks in the 466 m (1,530 ft) of available habitat. A total of 39 cavesnails were located in a 14-m (45-ft) section of the stream upstream from the monitoring stations, and another cavesnail was found in the tributary (Ashley 2001a). Subsequent surveys in May, July, and August 2001 documented the presence of cavesnails only in this 14-m section upstream of the established sampling stations. The small tributary stream was not searched during those subsequent surveys. A more thorough search was not conducted in either the tributary or the area upstream from the sampling stations in order to minimize disturbance to cavesnails in those areas. Observations between March and August 2001 suggest that the numbers of *Antrobia culveri* have declined drastically from estimates obtained by Greenlee (1974); however, differing sampling methods make it impossible to directly compare Ashley's estimates with those of Greenlee.

In addition to Greenlee's 1974 survey and the standardized surveys conducted between 1996 and 2001, other attempts have been made to monitor the species' status and derive estimates of its abundance. A June 1991 survey conducted by Tom Aley, Paul McKenzie (Service, Columbia, Missouri), and Dennis Figg (MDC, Jefferson City, Missouri) located 42 individuals after a 9 person-hour search (McKenzie, pers. obs.). A June 1993 survey conducted by Monty Holder (a high school biology instructor) of Sedalia, Missouri, and three assistants located 21 individuals during 6 person-hours of search effort (Tom Aley, *in litt.* 1993), but the number of plots sampled is unknown. On August 29, 1995, Paul McKenzie and Cathy Aley searched for the species and attempted to estimate the number of cavesnails discovered per $0.3048\ m^2$ (1 ft^2) plot. This survey yielded 6 cavesnails in 22 plots or 0.27 cavesnails per plot (McKenzie, unpubl. data). This compares to an estimated 2.16 cavesnails per plot observed by Greenlee (1974) when equivalent plot sizes were calculated for analysis purposes. Although it is impossible to determine the exact number of plots sampled by Greenlee (1974), he did record the average number of snails per plot, and this can be compared to the same variable measured in 1995. A decrease from 2.16 cavesnails per plot to 0.27 cavesnails per plot would represent an approximate 88 percent decrease in the species' density over the 22-year period between 1974 and 1995.

Previous Federal Action

On January 6, 1989, the Service published an Animal Notice of Review (54 FR 54554–54579) which included the Tumbling Creek cavesnail as a category 2 candidate species for possible future listing as threatened or endangered. Category 2 candidates were those taxa for which information contained in the Service's files indicated that listing may be appropriate but for which additional data were needed to support a listing proposal. On November 21, 1991, the Service published an Animal Candidate Notice of Review (56 FR 58804–58836), which elevated the Tumbling Creek cavesnail to category 1 status. Category 1 candidates were those taxa for which the Service had on file sufficient information on biological vulnerability and threats to support preparation of listing proposals. In the subsequent February 28, 1996, Candidate Notice of Review (61 FR 7596–7613), we indicated that the category 2 candidate species list was being discontinued, and that henceforth the term "candidate species" would be applied only to those taxa that would have earlier fit the definition of the former category 1 candidate taxa, that is, those species for which we had on hand sufficient information to support a listing proposal. The Tumbling Creek cavesnail has remained a candidate species until now.

In 1996, we initiated a 5-year set of standardized surveys designed to better assess and quantify the decline in the species' population that was apparent from the earlier data. In January 2001, Ashley (pers. comm. January 14, 2001) notified the Service that no cavesnails were observed within the established monitoring stations during the January 11 survey. He further reported that an analysis of 5 years of data collected between September 1996 and March 2001 indicated that population numbers of the species had exhibited an alarming decline (Ashley 2001b). Based on this information, the Service determined that it was necessary to more closely monitor the species by having surveys conducted once every two months.

Recognizing the need for prompt additional conservation actions for the species, on January 30, 2001, Region 3 of the Service recommended changing the listing priority number for the Tumbling Creek cavesnail from 7 to 1 based upon the mid-January monitoring that failed to locate any cavesnails (Service 2001). Region 3 also recommended pursuing an emergency listing of the species and simultaneously publishing a proposal for long-term listing as endangered under the Act as soon as funding became available. On October 30, 2001, we published an updated Candidate Species Notice of Review (66 FR 54808) that formally changed the listing priority number for *Antrobia culveri* from 7 to 1, reflecting our increased concern for the survival of the species.

On August 29, 2001, the U.S. Department of the Interior reached an agreement with several conservation organizations regarding a number of listing actions that had been delayed by court-ordered critical habitat designations and listing actions for other species. That agreement was subsequently approved by the U.S. District Court for the District of Columbia. Under the agreement, the Service and the organizations agreed to significantly extend the existing court-approved deadlines for the actions on the other species, thereby making funds available for a number of listing actions judged to be higher priority by the Service. Those higher priority listing actions include the emergency listing of the Tumbling Creek cavesnail.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Tumbling Creek cavesnail warrants classification as an endangered species. We followed procedures found in section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act. We may determine a species to be endangered or threatened due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to the Tumbling Creek cavesnail (*Antrobia culveri*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

Antrobia culveri has exhibited a drastic decline in numbers since the first estimate was made by Greenlee (1974) (see Status and Distribution, above). Systematic sampling conducted at established stations between 1996 and 2001 revealed that a statistically significant decline in population has occurred over that period (McKenzie *in litt.* 1996; Ashley 2000, 2001a, 2001b, 2001c). Additionally, no cavesnails have been located at established monitoring stations during the last five surveys (Ashley 2001a, 2001b, 2001c).

We have also documented a dramatic reduction in the portion of the cave

VOL 66 ISS 248 DE 27 2001 UMI

stream occupied by the cavesnail. *Antrobia culveri* was historically known from an estimated 229 m (750 ft) of Tumbling Creek (Greenlee 1974). The 229 m of occupied habitat in 1974 constituted 50 percent of the 457 m (1,500 ft) of human-accessible cave-stream habitat that is believed to be suitable for the cavesnail. The entire accessible 457 m (1,500 ft) of Tumbling Creek, including a small tributary that has approximately 9 additional meters (30 ft) of accessible suitable habitat, was surveyed in March 2001. Cavesnails were found solely in one small (14-m) (45-ft) section of the stream and in the small tributary (Ashley 2001a). Observations between March and August 2001 suggest that *Antrobia culveri* is now restricted to 23 m of available stream habitat or approximately 5 percent of the 457 m of accessible suitable habitat. These figures indicate that distribution of this species in Tumbling Creek Cave has decreased by 90 percent.

Species such as the Tumbling Creek cavesnail, which spend part or all of their life cycle in subterranean water systems, are highly vulnerable to changes in the quality and quantity of that water. In turn, the quality and quantity of the subsurface water is highly dependent upon conditions and human activities on the land surface from which water feeds into losing streams and sinkholes that drain into underground karst conduits. Surface water moves into the subsurface system by a number of mechanisms, including sinkholes, percolation through sandy or gravelly soils and stream bottoms, and seepage and flowage into crevices. As water moves from the surface to the subsurface system, it carries the chemicals and particulate matter from the surface. The land surface that feeds water into a particular cave stream is referred to as the "recharge area" for that cave stream. Because recharge areas may be large and may consist of all or parts of several surface watersheds, it is critically important to accurately determine the boundaries of the recharge area with reliable hydrogeological methods. Only when the recharge area is accurately delineated can water quality threats be successfully addressed (Aley and Aley 1991).

The recharge area that feeds water into Tumbling Creek Cave has been recently delineated by the cave owner, Mr. Thomas Aley of the OUL, who is also a recognized cave specialist and expert karst hydrogeologist (Aley and Aley 2001). Pending the results of additional recharge delineation studies currently being conducted by Aley on a tract of land recently purchased by him and Cathy Aley (Tom Aley, pers. comm., September 24, 2001), he estimated the recharge area to be approximately 2,349 hectares (5,804 acres or 9.07 square miles). Land ownership based on current data within the recharge area is: (1) Tom and Cathy Aley own approximately 1,550 acres, or 25 percent of the total; (2) employees of Ozark Underground Laboratory and other private individuals who manage their property to protect water quality and benefit the species own approximately 1,268 acres or 22 percent; (3) an estimated 1,300 acres or 23 percent is within Mark Twain National Forest; (4) the U.S. Army Corps of Engineers (CE) owns an estimated 100 acres or 2 percent; and (5) other private landowners whose land use practices and knowledge of the cavesnail are currently unknown to us own approximately 1,636 acres or 28 percent. Thus, within the delineated recharge area for Tumbling Creek Cave, roughly 4,168 acres or approximately 72 percent is either in public or private ownership by entities who can be expected to manage their land to benefit the species. This includes 920 acres recently purchased by Tom and Cathy Aley, or about 22 percent of the total conservation ownership. However, most of this recently purchased land was subject to recent land use practices (e.g., over-grazing and removal of riparian vegetation) that resulted in heavy soil erosion that probably continues to contribute to deteriorating water quality in Tumbling Creek Cave. Remediation and restoration of these lands are planned and will require considerable funds, effort, and time.

The Tumbling Creek cavesnail is likely threatened by habitat degradation through diminished water quality from upstream locations within the unprotected or improperly managed areas within the cave's delineated recharge zone. The dramatic decrease in the population and area occupied by this species is probably attributable to degraded water quality from these sources. In recent years, there has been a noticeable increase in water turbidity in Tumbling Creek; the increased turbidity has probably had an adverse effect on the water quality in the cave's stream (Tom and Cathy Aley, pers. comm., August 30, 2001). Increased silt loads within Tumbling Creek could adversely affect the cavesnail by hampering reproduction and recruitment by suffocating juvenile cavesnails (Ashley 2000). Tom and Cathy Aley have also observed that clay particles within deposited silt have settled between gravel and rocks and cemented them together and to the stream bottom (Tom and Cathy Aley, pers. comm., August 2001). Such cementing decreases habitat available to cavesnails, because they are generally restricted to the undersurface of gravel and rocks. This hypothesis is supported, in part, by the observations of Greenlee (1974), who reported that cavesnails occurred primarily on "3 inch gravel substrate" rather than on the larger rocks the species has been seen using during more recent surveys. Interestingly, Ashley's (2000) results revealed that some older individuals use silt-covered substrates. This is different from the observations made by Greenlee (1974) who noted that cavesnails were not observed in areas of the stream where fine silt was deposited. Ashley's observations may be because of a reduction in the amount of silt-free substrates preferred by cavesnails which could force the species to use less favorable habitats. Although silt has been a component of Tumbling Creek since Greenlee's initial survey in 1974, it has apparently increased significantly since that date (Tom and Cathy Aley, pers. comm., August 2001). Additional research is needed to determine the degree of silt deposition within Tumbling Creek and if the deposition of silt into the cave is adversely impacting the species, especially smaller and younger individuals (Ashley 2000).

Potential sources of silt within the cave's recharge area have been identified on the two tracts recently purchased by Tom and Cathy Aley, including an earthen dam that burst, and severely degraded and eroded pastureland due to overgrazing. In the latter case, soil erosion has been exacerbated in the last six years by the removal of nearly all vegetation within the riparian corridors of all semi-permanent and intermittent streams on one of those parcels. Harvey (1980) concluded that "accelerated erosion and sediment transport" was a problem within drainage basins that have "excessive slopes," and identified "timber cutting and land clearing for raising livestock, extending urban sprawl, and highway building" as potential sources of "accelerated erosion." In addition to these sources, the construction of fire lanes associated with controlled burning on Forest Service property within the recharge area may increase the threat of soil erosion with a resulting decrease in water quality in Tumbling Creek.

Other factors within the recharge area of Tumbling Creek Cave that could contribute to the deterioration of the water quality of Tumbling Creek include: (1) increase in ammonia and nitrate loads from livestock feedlots that could lead to reductions in dissolved oxygen levels, (2) chemicals used for highway maintenance or from accidental spills, and (3) contaminants from different types of trash or hazardous waste materials deposited into sinkholes, ravines, and depressions. Whether these factors are occurring on the parts of the recharge area that are outside of the current "conservation ownership" remains to be determined. Refer to Factor E for a discussion of these potential threats.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Because access to Tumbling Creek Cave is controlled by the cave owners, all collection of and research on *Antrobia culveri* is strictly controlled. Consequently, there is no evidence of overutilization of this species for commercial, recreational, scientific, or educational purposes. There is also no evidence that disturbance associated with conducting regular surveys is adversely affecting the species. Rocks that are examined are carefully replaced in the location from which they were removed, any specimens discovered are disturbed as little as possible and kept moist to reduce stress, and only a small percentage of the available habitat is sampled during each survey.

C. Disease or Predation

The direct effect of disease on the Tumbling Creek cavesnail is not known and such risks to the species have not been determined. Because the Tumbling Creek cavesnail is known from a single location, disease must be considered a potential threat to the survival of the species. Certain species of salamanders have been shown to be adversely impacted by the bacterium *Acinetobacter* that flourished due to increasing levels of nitrogen associated with the overstocking of livestock (Worthylake and Hovingh 1989). Similarly, Lefcort *et al.* (1997) and Kiesecker and Blaustein (1997) found that amphibians exposed to high levels of silt are susceptible to infection by different species of water mold of the genus *Saprolegnia*. *Saprolegnia* spp. are widespread in natural waters and commonly grow on dead organic material (Wise *et al.* 1995). Speer (1995) stated that some species of *Saprolegnia* are parasitic on aquatic invertebrates such as rotifers, nematodes, diatoms, and arthropods. High nitrogen and silt levels from overgrazing or other agricultural or urban runoff may increase the cavesnail's susceptibility to disease and act synergistically with other risk factors (e.g., competition from limpets, discussed below) to jeopardize the survival of the remaining individuals. Whether the Tumbling Creek cavesnail is being adversely affected by bacteria or water molds associated with increased loads of nitrogen or silt into Tumbling Creek is unknown but warrants further investigation.

During the December 6, 1997, survey, a few individuals of an unknown species of limpet (*Ferrissia* sp.) were discovered for the first time on the same substrates used by *Antrobia culveri* within the established monitoring stations (Ashley, pers. comm., September 10, 2001). Limpets were not observed again until the January 11, 2001, survey, after which their numbers began to increase. By the August 31, 2001, survey, limpet numbers had increased explosively, and the presence of many small limpets, as well as larger limpets with visible, developing embryos, indicated that reproduction was taking place (Ashley, pers. comm., September 10, 2001; McKenzie pers. obs.). The reasons why these organisms have appeared and increased in numbers within Tumbling Creek are unknown; it is also unknown whether they compete with the cavesnails for food, breeding substrates, or other necessary resources. Other cave invertebrates (e.g., a troglobitic isopod, *Caecidota antricola*.; a troglobitic amphipod, *Stygobromus* sp.; and a troglophilic amphipod, *Gammarus* sp.) coexist with *Antrobia culveri*, often on the same rocks, but it is unknown if these species compete with the cavesnail in any way. Additional research is needed to determine if local environmental changes have provided a competitive advantage for one or more of these species over the Tumbling Creek cavesnail.

D. The Inadequacy of Existing Regulatory Mechanisms

The primary cause of the decline of the Tumbling Creek cavesnail is unknown but is believed to be associated with factors within the 2,349-hectare (5,804-acre) delineated recharge area that have adversely affected the water quality of Tumbling Creek. Federal, State, and local laws have not been sufficient to prevent past and ongoing impacts to areas within the cave's delineated recharge area. *Antrobia culveri* is listed as critically imperiled globally (G1) by The Nature Conservancy, as well as critically imperiled in the State (S1) on the *Missouri Species of Conservation Concern Checklist* (Missouri Natural Heritage Program 2001). The designation as G1/S1 on this checklist, however, provides no legal authority, but is simply utilized for planning and communication purposes (Missouri Natural Heritage Program 2001). Nonetheless, the species currently receives some protection under the *Wildlife Code of Missouri* (Wildlife Code) (Missouri Department of Conservation 2001) as a "biological diversity element" (Missouri Natural Heritage Program 2001). "Biological diversity elements" are protected under the following general prohibitions of chapter 4 of the Wildlife Code (3CSR10–4.110): "(1) No bird, fish, amphibian, reptile, mammal or other form of wildlife, including their homes, dens, nests and eggs in Missouri shall be molested, pursued, taken, hunted, trapped, tagged, marked, enticed, poisoned, killed, transported, stored, served, bought, imported, exported or liberated to the wild in any manner, number, part, parcel or quantity, at any time, except as specifically permitted by these rules and any laws consistent with Article IV, sections 40–46 of the *Constitution of Missouri*. (2) Except as otherwise provided in this Code, wildlife may be taken only by holders of the prescribed permits and in accordance with prescribed methods. (3) No person, corporation, municipality, county, business or other public or private entity shall cause or allow any deleterious substance to be placed, run or drained into any of the waters of this State in quantities sufficient to injure, stupefy or kill fish or other wildlife which may inhabit such waters."

Under the Section 6 Cooperative Agreement between MDC and the Service, if a species is listed as endangered under the ESA, the Conservation Commission of Missouri shall list the species as State endangered. The protection of all species in Missouri is outlined in Chapter 4 of the Wildlife Code and regulations pertaining to endangered species are listed in section 3CSR10–4.111. Under the Wildlife Code, citizens can possess (but not sell or purchase) up to five individuals of any species without a permit and when not specifically protected elsewhere in the code (3CSR10–9.110). However, when a species is listed as endangered, citizens cannot possess any individuals and can not import, transport, purchase, take or possess without a scientific collecting or special use permit. Although the term "refuge" is not defined under the Wildlife Code, there is also a provision that enables MDC's Director to establish refuges not to exceed 1 square mile for

VOL 66 ISS 248 DE 27 2001 UMI

not more than 60 days to provide essential protection to endangered species. Furthermore, the Wildlife Code states that a species' "home" is protected. The term "home" is not defined in this statute and may provide limited or no protection for the cavesnail's habitat. For instance, the creek where the cavesnail resides and the cave's recharge area would probably not be considered a home and thus receive no protection under the Wildlife Code (Bob White, MDC, Protection Division Chief, pers. comm., October 2, 2001).

The Federal Cave Resources Protection Act of 1988 (18 U.S.C. 4301–4309; 102 Stat. 4546) was passed to "secure, protect, and preserve significant caves on Federal lands * * *" and to "foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, educational, or recreational purposes." Although this statute and a final rule to implement the Federal Cave Resources Protection Act on Forest Service land (59 FR 31152; June 17, 1994) provides protection for caves located on property owned by the Forest Service, they do not provide protection for caves whose recharge areas are within Forest Service boundaries if the caves themselves are under private lands, as is the case with Tumbling Creek Cave.

The protection afforded *Antrobia culveri* from the above-mentioned statutes is limited, does not provide any protections to its habitat, and includes no provisions to protect areas within the delineated recharge area for Tumbling Creek Cave. Therefore, we conclude the most likely threats to the species cannot be addressed by existing regulatory mechanisms.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Several other potential factors, including point and non-point pollution, threats from residential and commercial development, and recent changes to the hydrological cycle within the 2,349-hectare (5,804-acre) delineated recharge area supporting Tumbling Creek Cave may have negative effects on the species. It is possible that the recent decline in cavesnail numbers is attributable to some yet to be identified point or non-point source pollution within the cave's recharge area. Because the Tumbling Creek cavesnail occupies a permanent, flowing stream, it will likely come in contact with any deleterious chemical or other material that enters the cave's recharge system. Silt deposition has been identified as a potential problem, especially to younger cohorts of the cavesnail's population, but additional research is needed to determine if other contaminants are potentially involved. (See Factor A above.)

Non-point source pollution may be a problem in a significant portion of the recharge area that feeds Tumbling Creek Cave. Potential sources of pollution include the drainage of barnyard and feedlot wastes and the discharge of treated sewage into sinkholes and losing streambeds within the cave's recharge area. The water quality of Tumbling Creek is also threatened due to accidental spills into sinkholes or losing stream valleys feeding Tumbling Creek Cave from State and county highways passing through the recharge area. Such sources of pollution have been identified as potential problems for ground water in the Springfield-Salem Plateaus of southern Missouri (including the watershed that encompasses Tumbling Creek and its identified recharge zone) (Harvey 1980). The decline in numbers of the Tumbling Creek cavesnail may be due to one or several sources of pollution that have resulted in a deterioration of water quality within the recharge area for Tumbling Creek as outlined in Factor A. In comparing ground-water quality of sites within the Ozark Plateaus (including SW Missouri) with other National Water-Quality Assessment Program (NAWQA) sites, Petersen *et al.* (1998) documented that: (1) nitrate concentrations in parts of the Springfield Plateau aquifer were higher than in most other NAWQA drinking-water aquifers, and (2) volatile organic compounds were detected more frequently in drinking-water aquifers within the Ozark Plateaus than in most other drinking-water aquifers. Tumbling Creek Cave is within the NAWQA study boundaries; consequently, the cavesnail could be threatened from these contaminants. Although no detailed water analyses have yet been performed on Tumbling Creek, an instrumentation package to measure water quality parameters will be installed in Tumbling Creek cave during the fall of 2001.

Aley (pers. comm., Jan. 19, 2001) postulated that the decline in cavesnail numbers may actually be because of too much gray bat guano that could deplete oxygen levels in Tumbling Creek, especially during periods of reduced flows as occurred during 1999–2001. What importance gray bat guano plays in the life history requirements of the Tumbling Creek cavesnail is yet to be tested experimentally. The instrumentation package mentioned above will provide data on dissolved oxygen levels once it is installed.

Tumbling Creek Cave is approximately 25 to 30 miles southeast of Branson, Missouri, which is one of the most rapidly expanding areas in the State due to tourism, outdoor recreation, and entertainment developments. If recent trends continue, it has been projected that the number of visitors attracted to this area would increase from an estimated level of 6 million in 1992 to11 million by the year 2015. The accompanying growth in entertainment- and recreation-related activities will place even greater demands on this area of the State (Mullen and Keith 1992). Tumbling Creek Cave is 2 to 3 miles northwest of Bull Shoals Lake which is also undergoing additional real estate development. Consequently, it is likely that sections of the recharge zone for Tumbling Creek Cave will be adversely affected by real estate development and related construction and land management activities.

Another potential threat to the species results from the close hydrologic association of Tumbling Creek with nearby Bull Shoals Lake. Occasional high water levels in this CE reservoir are believed to cause water to backup into the cave stream, threatening roosting bats and the cavesnail (Aley, pers. comm., July 16, 2000). The CE is considering raising the conservation pool of the reservoir by 10 feet, which will likely increase the frequency and duration of the backup events in Tumbling Creek Cave.

Climatic changes, especially recent periods of drought, may also be a contributing factor to the decline of the cavesnail. The National Oceanic and Atmospheric Administration's (NOAA) Palmer Drought Severity Index provides a widely recognized and accepted standard measurement of moisture conditions (NOAA 2001). The Index varies roughly from -6.0 (extreme drought) to +6.0 (extremely wet), with –0.49 to 0.49 indicating near normal conditions. Since the 1974 survey by Greenlee, there have been 4 periods in Southwest Missouri where the Index was below normal for 6 months or longer and exceeded an Index value of –2.0 (moderate drought) for some part of that period. These events occurred in 2-year cycles: 1980–1981; 1991–1992; 1995–1996; and 1999–2000. The 1980–1981 drought was the most prolonged and severe, with the Index reaching –5.0 (extreme drought). We further analyzed a 6-year period between 1995 and 2000, which is the approximate period that Ashley conducted his cavesnail monitoring. The Index was below normal for 6 months or more for 4 of these 6 years. The years, number of months the Index was below normal, and the averages for the negative indices are: 1995, 6 months, average Index –1.54; 1996, 7 months, average Index –1.2; 1999, 6 months, average Index –1.29; 2000, 10 months, average Index –1.65. Preliminary data on NOAA's website indicate that below-normal moisture (negative Palmer Index) occurred in this region during the early part of 2001 but precipitation levels are now near normal levels.

According to this climatic data, in 2 recent periods (1995–1996 and 1999–2000) precipitation within the recharge area for Tumbling Creek Cave was below normal for an extended period. The direct or indirect impacts of these droughts on the cavesnail are unknown. Reduced flows in the cave stream, especially when combined with other threats, could hamper essential life history requirements (*e.g.*, reproduction, food availability, water temperature); decrease the flushing of silt, guano, and harmful contaminants from the stream; and create an environment more favorable for competitors (e.g., limpets, isopods, and amphipods).

The small population size and endemism (i.e., restricted to a single site) of *Antrobia culveri* makes it vulnerable to extinction due to genetic drift, inbreeding depression, and random or chance changes to the environment (Smith 1990) that can significantly impact cavesnail habitat. Inbreeding depression can result in death, decreased fertility, smaller body size, loss of vigor, reduced fitness, and various chromosome abnormalities (Smith 1990). Despite any evolutionary adaptations for rarity, habitat loss and degradation increase a species' vulnerability to extinction (Noss and Cooperrider 1994). Numerous authors (*e.g.*, Noss and Cooperrider 1994; Thomas 1994) have indicated that the probability of extinction increases with decreasing habitat availability. Although changes in the environment may cause populations to fluctuate naturally, small and low-density populations are more likely to fluctuate below a minimum viable population (*i.e.*, the minimum or threshold number of individuals needed in a population to persist in a viable state for a given interval; Gilpin and Soule 1986; Shaffer 1981; Shaffer and Samson 1985). Current threats to the habitat of the Tumbling Creek cavesnail may exacerbate potential problems associated with its low population numbers and increase the chances of this species going extinct.

Reason for Emergency Determination

Under section 4(b)(7) of the Act and regulations at 50 CFR 424.20, we may emergency list a species if the threats to the species constitute an emergency posing a significant risk to its well-being. Such an emergency listing expires 240 days following publication in the **Federal Register** unless, during this 240-day period, we list the species following the normal listing procedures. Below, we discuss reasons why emergency listing the Tumbling Creek cavesnail as endangered is necessary. In accordance with the Act, if at any time after we publish this emergency rule, we determine that substantial evidence does not exist to warrant such a rule, we will withdraw it.

In making this determination, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Tumbling Creek cavesnail. *Antrobia culveri* is restricted to one cave and population monitoring conducted between 1996 and 2001 has indicated that a significant and precipitous decline in the population of the species has occurred. This decline has continued to the point that we are no longer finding any cavesnails in a part of the cave where they had always been found prior to 2001 by using the same monitoring methodology. From the discussion under Factor D of this section, it is clear that currently applicable Federal, State, and local laws, regulations and ordinances, individually and collectively, do not provide adequate protection for the Tumbling Creek cavesnail or its habitat or assure that the species will continue to survive.

We believe that the survival of the Tumbling Creek cavesnail now depends on protecting the delineated recharge area of Tumbling Creek Cave from further degradation and restoring and rehabilitating areas within the recharge area to improve the water quality in Tumbling Creek. The few remaining individuals are vulnerable to extinction from ongoing threats, as well as from random natural or human-caused events unless sufficient habitat is protected, water quality improves, and the current small population greatly increases in size. The recent rapid population decline makes it clear that this cavesnail is on the brink of extinction. By this emergency listing as an endangered species, we believe the additional protections, funding, and recognition that immediately become available to the species will greatly increase the likelihood that it can be saved from extinction and can ultimately be recovered.

Critical Habitat

Critical habitat is defined in section 3, paragraph 5(A), of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act and our implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. However, our budget for listing and critical habitat activities is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Listing Antrobia culveri without designation of critical habitat will allow us to concentrate our limited resources on other listing actions that must be addressed, while allowing us to invoke the protections needed for the conservation of this species without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designation when it is essential that such determinations be promptly published. If prudent and determinable, we will prepare a proposed critical habitat designation for *A. culveri* in the future at such time as our available resources and priorities allow.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness and conservation actions by Federal, Tribal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for

VOL
66
ISS
2
4
8
DE
27
2001
UMI

all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed species are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. If a species is listed on an emergency basis, or is listed under a non-emergency listing proposal, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal agency action may adversely affect a listed species or adversely modify its designated critical habitat, the responsible Federal agency must initiate formal consultation with the Service. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Federal agency actions that may affect the Tumbling Creek cavesnail and may require conference and/or consultation with the Service include, but are not limited to, those within the jurisdiction of the U.S. Forest Service, U.S. Army Corps of Engineers, Natural Resources Conservation Service, Environmental Protection Agency, and Federal Highway Administration.

The Act and its implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any such conduct), import or export, ship in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to Service agents and those of State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 and 17.23. For endangered species, such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

As published in the **Federal Register** on July 1, 1994 (59 FR 34272), it is the Service's policy to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range.

We believe that, based on the best available information, the following actions are not likely to result in a violation of section 9, provided these actions are carried out in accordance with any existing regulations and permit requirements:

(1) Possession of a Tumbling Creek cavesnail legally acquired prior to the effective date of this rule;

(2) Actions that may affect the Tumbling Creek cavesnail that are authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by the Service under section 7 of the Act;

(3) Actions that may affect the Tumbling Creek cavesnail that are not authorized, funded, or carried out by a Federal agency, when the action is conducted in accordance with an incidental take permit issued by the Service under section 10(a)(1)(B) of the Act. Applicants design a Habitat Conservation Plan (HCP) and apply for an incidental take permit. These HCPs are developed for species listed under section 4 of the Act and are designed to minimize and mitigate impacts to the species to the greatest extent practicable; and

(4) Actions that may affect the Tumbling Creek cavesnail that are conducted in accordance with the conditions of a section 10(a)(1)(A) permit for scientific research or to enhance the propagation or survival of the species.

We believe that the following actions could result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized possession, collecting, trapping, capturing, killing, harassing, sale, delivery, or movement, including interstate and foreign commerce, or harming, or attempting any of these actions, of Tumbling Creek cavesnails without a permit (research activities where cavesnails are collected will require a permit under section 10(a)(1)(A) of the Endangered Species Act);

(2) Discharges or dumping of toxic chemicals, silt, or other pollutants (point source and non-point source pollution) within the recharge area of Tumbling Creek Cave that alters or degrades the water quality of Tumbling Creek to the point that it results in death or injury to individuals of the species or results in degradation of cavesnail occupied habitat; and

(3) Release of exotic species (including, but not limited to, fish and crayfish) into Tumbling Creek that adversely affect the cavesnail.

Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Columbia, Missouri Field Office (see **ADDRESSES** section).

Requests for copies of the regulations regarding listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, Bishop Whipple Federal Building, 1 Federal Dr., Fort Snelling, MN 55111–4056 (612/713–5343, facsimile 612/713–5292).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act, as amended. The Service published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any collections of information that require additional Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. This rule does not alter that information collection requirement. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permits and associated requirements for endangered wildlife, see 50 CFR 17.21 and 17.22.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Columbia, Missouri Field Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Paul M. McKenzie, Ph.D., U.S. Fish and Wildlife Service, Columbia, Missouri Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons given in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under SNAILS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
SNAILS							
*	*	*	*	*	*	*	
Cavesnail, Tumbling Creek	*Antrobia culveri*	U.S.A. (MO).	NA	E	719	NA	NA

* * * * *

Dated: December 10, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 01–31305 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 011218302–1302–01; 120601A]

RIN: 0648–AP00

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final harvest guideline.

SUMMARY: NMFS announces the annual harvest guideline for Pacific sardine in the exclusive economic zone off the Pacific coast for the fishing season January 1, 2002, through December 31, 2002. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species Fishery Management Plan (FMP), and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Effective January 1, 2002, through December 31, 2002.

ADDRESSES: The report *Stock Assessment of Pacific Sardine with Management Recommendations for 2002* is available from Rodney R. McInnis, Acting Administrator, Southwest Region, (Regional Administrator), NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, 562–980–4036.

SUPPLEMENTARY INFORMATION: The FMP divides managed species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Harvest guidelines for monitored species (jack mackerel, northern anchovy, and market squid), which are underutilized or under the jurisdiction of the State of California, are not based on current biomass estimates, although a constant allowable biological catch (ABC) for each species is based on the long-term yield of each species. If an ABC for a monitored species is reached, it would be designated an actively managed species; at that time, the Pacific Fishery Management Council (Council)would review the condition of the resource and recommend management action.

At a public meeting each year, the biomass for each actively managed species is presented at a public meeting held by the Council's Coastal Pelagic Species Management Team (Team). At that time, the biomass, the harvest guideline, and the status of the fishery is reviewed. Following review and recommendations by the Council, and after hearing all public comments, NMFS publishes the annual harvest guideline in the Federal Register before the beginning of the fishing season.

On October 10, 2001, in accordance with the procedures of the FMP, the biomass report and harvest guideline for Pacific sardine were reviewed at a public meeting of the Team at the offices of the California Department of Fish and Game in Los Alamitos, California. A public meeting between the Team and the Council's Coastal Pelagic Species Advisory Subpanel was held in the same location that afternoon. The Council reviewed the report at its meeting on November 1, 2001, and heard comments from its advisory bodies and the public. No significant comments on the biomass estimate were received; therefore, the Council recommended to NMFS that the biomass and harvest guideline be published as presented.

The sardine population was estimated using a modified version of the integrated stock assessment model called Catch at Age Analysis of Sardine–Two Area Model (CANSAR–TAM). CANSAR–TAM is a forward-casting,

VOL 66 ISS 248 DE 27 2001 UMI

age-structured analysis using fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through 2001. The modification of CANSAR-TAM was developed to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast. Documentation of the 2002 estimate is described in *Stock Assessment of Pacific Sardine with Management Recommendations for 2002* (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. The biomass of age one sardine and above. For 2002, this estimate is 1,057,599 metric tons (mt).
2. The cutoff. This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.
3. The portion of the sardine biomass that is in U.S. waters. For 2002, this estimate is 87 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters.
4. The harvest fraction. This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures. A higher fraction is used for warmer ocean temperatures, which favor the production of Pacific sardine, and a lower fraction is used for cooler temperatures. For 2002, the fraction was 15 percent based on three seasons of sea surface temperature at Scripps Pier, California.

Based on the estimated biomass of 1,057,599 mt and the formula in the FMP, a harvest guideline of 118,442 mt was calculated for the fishery beginning January 1, 2002. The harvest guideline is allocated one-third for Subarea A, which is north of 35° 40′ N. lat. (Pt. Piedras Blancas, CA) to the Canadian border, and two-thirds for Subarea B, which is south of 35° 40′ N. lat. to the Mexican border. Any unused resource in either area will be reallocated between areas to help ensure that the optimum yield will be achieved. The northern allocation is 39,481 mt; the southern allocation is 78,961 mt.

Classification

This action is authorized by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553 (b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the annual harvest guideline is primarily a ministerial act, determined by applying formulas in the FMP. During the comment periods for Amendment 8 to the CPS FMP and its proposed rule, the public was given an opportunity to comment on these formulas. Some of the variables used in the formula (biomass estimate, proportion of biomass in U.S. waters, harvest fraction determination) are developed with input from the Council and its advisory committees. Final input on these items was provided in November, which did not allow sufficient time to publish a proposed rule in the **Federal Register**. Since the harvest guideline should be in place before the fishing year begins on January 1, 2002, it would be impracticable and contrary to the public interest to delay this process further.

Because this final rule merely announces the result of harvest guideline calculations and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. 553 (d)(3) that delaying the effective date of this final rule for 30 days is unnecessary.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 19, 2001.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31835 Filed 12–26–01; 8:45 am]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register
Vol. 66, No. 248
Thursday, December 27, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL ELECTION COMMISSION

11 CFR Part 106

[Notice 2001–20]

Notice of Disposition Regarding Party Committee Transfers of NonFederal Funds for Payment of Allocable Expenses

AGENCY: Federal Election Commission.

ACTION: Notice of disposition.

SUMMARY: The Commission will not issue a statement of enforcement policy regarding party committee transfers of nonfederal funds for payment of allocable expenses. On November 7, 2001, the Commission requested comments on a Draft Statement of Policy. The Draft Statement indicated that in light of the suspension of fundraising activities by some party committees after the terrorist attacks of September 11, 2001, the Commission would consider exercising its prosecutorial discretion by not pursuing *prima facie* violations of the 60 day limit for party committee transfers of nonfederal funds to pay for the nonfederal share of allocable expenses. After receiving and considering public comments, the Commission declined to adopt a final Statement of Policy by a 3–3 vote.

DATES: November 29, 2001.

FOR FURTHER INFORMATION CONTACT: Rosemary C. Smith, Assistant General Counsel, or Richard Ewell, Staff Attorney, 999 E Street, NW, Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission's regulations at 11 CFR 106.1 and 106.5 allow party committees to defray the costs of activities that relate to both federal and nonfederal elections by allocating the costs between their federal and nonfederal accounts, so long as they pay an amount equal to or greater than the federal portion of these expenses with funds that are permissible under the Federal Election Campaign Act, 2 U.S.C. § 431 *et seq.* ["FECA" or "the Act"]. The Commission's regulations provide that party committees, after paying an allocable expense, have a 60 day "window" to transfer funds from a nonfederal account to cover the nonfederal portion of the allocable expense. *See* 11 CFR 106.5(g)(1)(i) and (ii); 11 CFR 106.5(g)(2)(ii)(B).

In many instances, party committees plan and execute allocable activities based, in part, on the expectation that they will subsequently receive nonfederal funds that can be transferred to their federal or allocation accounts before the expiration of the 60-day transfer window in section 106.5(g)(2)(ii)(B). In light of the fact that some party committees temporarily suspended their fundraising activities in the immediate aftermath of the September 11, 2001 terrorist attacks, these party committees may not have sufficient funds in their nonfederal accounts to make transfers to their federal accounts or allocation accounts within the required 60 day transfer window.

Consequently, the Commission sought and received public comment on a draft proposal to exercise its prosecutorial discretion by not pursuing *prima facie* violations of the 60 day time limit for a specified period of time. *See* 66 *FR* 56247 (Nov. 7, 2001). On November 29, 2001, the Commission declined to adopt a final statement of policy by a vote of 3–3. *See* Agenda Document Number 01–61. Because the motion did not receive an affirmative vote of four members of the Commission, the Commission is announcing that no further action on the proposed statement of policy will be taken at this time. *See* 2 U.S.C. 437c(c).

Dated: December 18, 2001.

David M. Mason,

Vice Chairman, Federal Election Commission.

[FR Doc. 01–31616 Filed 12–26–01; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 951

[No. 2001–30]

RIN 3069–AB14

Affordable Housing Program Amendments

AGENCY: Federal Housing Finance Board.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is proposing to amend its regulation governing the operation of the Affordable Housing Program (AHP) to improve the operation and effectiveness of the AHP. The proposed changes include: making the requirements for approval of post-completion project modifications the same as the current requirements for pre-completion project modifications; allowing the Federal Home Loan Banks (Banks) to define "homeless household" for purposes of scoring applications for AHP subsidy to finance housing for such households; allowing the Banks to award scoring points to projects using Federal government properties, regardless of the price at which they are conveyed, and for projects using non-government properties conveyed for an amount significantly below their fair market value; permitting the Banks to allow project sponsors or members to re-use recaptured direct subsidies or unused interest-rate subsidies from prepaid mortgage loans to assist another AHP-eligible household to purchase an owner-occupied unit; permitting a Bank to allocate up to the greater of $3 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's AHP competitive application program; including the Federal Financial Institutions Examination Council as a source of area median income data that may be used to determine household income eligibility; removing the requirement that the amount of AHP subsidies offered by a Bank in each funding period must be comparable; removing the requirement that the Banks must determine the feasibility of projects before their applications may be scored; and allowing the Banks additional time after completion of a rental project to review the

VOL 66 ISS 248 DE 27 2001 UMI

documentation received from the project owner for project compliance.

DATES: The Finance Board will accept written comments on the proposed rule that are received on or before February 25, 2002.

ADDRESSES: Send written comments to: Elaine L. Baker, Secretary to the Board, at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or to *BakerE@fhfb.gov*. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Charles E. McLean, Deputy Director, (202) 408–2537, Melissa L. Allen, Program Analyst, (202) 408–2524, Office of Policy, Research and Analysis; or Sharon B. Like, Senior Attorney-Advisor, (202) 408–2930, Office of General Counsel, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 10(j)(1) of the Federal Home Loan Bank Act (Bank Act) requires each Bank to establish a program to subsidize the interest rate on advances to members of the Bank System engaged in lending for long-term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates. *See* 12 U.S.C. 1430(j)(1). The Finance Board is required to promulgate regulations governing the AHP. *See* 12 U.S.C. 1430(j)(1), (9). The Finance Board's existing regulation governing the operation of the AHP, which made comprehensive revisions to the AHP, was adopted in August 1997 and became effective January 1, 1998. *See* 62 FR 41812 (Aug. 4, 1997) (*codified* at 12 CFR part 951).

Various amendments have been made to the AHP regulation since 1998 in order to clarify AHP requirements and improve the operation and effectiveness of the AHP. The Banks, project sponsors and Finance Board staff have, over the course of implementation of the AHP, identified additional amendments that it is believed would improve the operation and effectiveness of the AHP. The proposed amendments are discussed further below. The Finance Board welcomes written comments on all aspects of the proposed rule.

II. Analysis of Proposed Rule

A. Definitions—Section 951.1

1. Removal of Definition of "Homeless Household"

For the reasons discussed in section F. below, the proposed rule would remove the definition of "homeless household" in § 951.1 of the AHP regulation, and allow each Bank to define the term for purposes of scoring applications for AHP subsidy to finance housing for homeless households under § 951.6(b)(4)(iv)(D).

2. Inclusion of FFIEC in Definition of "Median Income for the Area"

Under the AHP regulation, households are eligible for AHP subsidies if they have an income at or below the targeted income level, expressed as a percentage of median income for the area, specified in the AHP application. *See* 12 CFR 951.6(b)(4)(iv)(C). Section 951.1 of the AHP regulation defines "median income for the area" generally as one or more of the following, as determined by the Bank: (1) The median income for the area, as published annually by the Department of Housing and Urban Development (HUD); (2) the applicable median family income, as determined under 26 U.S.C. 143(f) and published by a state mortgage revenue bond program; (3) the median income for the area, as published by the U.S. Department of Agriculture; or (4) the median income for any definable geographic area, as published by a Federal, state or local government entity for purposes of that entity's housing programs, and approved by the Finance Board, at the request of a Bank, for use under the AHP. *See* 12 CFR 951.1.

The Federal Financial Institutions Examination Council (FFIEC) is a Federal government source that publishes updated median income data for areas, based on existing HUD median income data. Since the FFIEC median income data is derived from existing HUD data, which is a permissible source of area median income data for determining the income eligibility of households under the AHP regulation, the Finance Board believes that the Banks should also be able to use such FFIEC data for determining household income eligibility. This proposed change would be consistent with the Finance Board's recent amendment to the definition of "median income for the area" in its Community Investment Cash Advance (CICA) Programs Regulation to include FFIEC as a source of median income data that may be used to determine income eligibility for projects and households funded under CICA programs. *See* 66 FR 50293 (Oct. 3, 2001) (*codified at* 12 CFR 952.3).

Accordingly, the proposed rule would add new paragraphs (1)(ii) and (2)(ii) to the existing definition of "median income for the area" in § 951.1 to include FFIEC as a data source, and would renumber the remaining paragraphs accordingly.

B. Permitting Banks To Allocate AHP Funds From the Subsequent Year's Required Annual AHP Contribution to the Current Year's Competitive Application Program—Section 951.3(a)(2)

The AHP regulation provides that in cases where the amount of AHP homeownership set-aside funds applied for by members in a given year exceeds the amount available for that year, a Bank may allocate up to the greater of $3 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's homeownership set-aside programs. *See* 12 CFR 951.3(a)(1). The AHP regulation does not allow the Banks to make a similar allocation of AHP funds from the subsequent year's required annual AHP contribution to the current year's AHP competitive application program. *See* 12 CFR 951.3(a)(2).[1]

A number of Banks have indicated that there may be special circumstances in which it would be beneficial to have the flexibility to allocate a portion of the subsequent year's required AHP contribution to fund additional applications in the current year under the competitive application program. Such special circumstances could include natural or man-made disasters or other emergencies, or sudden changes in market conditions or demand caused by significant economic changes, that increase the need for affordable housing in the current year. Another circumstance might be a demand for additional AHP funds for use in conjunction with a special allocation of housing funds made by a Federal, state or local government agency in the current year.

Several Banks also have raised the issue that a change in national accounting standards, contained in Federal Accounting Standard (FAS) 133, could affect the timing of when a Bank recognizes some of its net earnings and thereby cause fluctuations in the Bank's required AHP contributions from year to year. Allowing the Banks to allocate AHP funds from the subsequent year's required AHP contribution to the current year under the competitive application program would give the Banks flexibility to mitigate some of these year-to-year fluctuations in required AHP contributions when the Bank's required AHP contribution under-represents the Bank's actual earnings because of accounting rules. The proposal also would give the Banks flexibility to mitigate the effects on the amount of the Bank's required AHP contribution in a year in which the Bank's actual earnings are otherwise lower than expected or desired.

---

[1] Each Bank is required generally to contribute annually to its AHP 10 percent of its net earnings for the previous year. If the aggregate amount of such annual payments by all of the Banks is not at least $100 million, each Bank must contribute to its AHP its pro rata share of $100 million. *See* 12 U.S.C. 1430(j)(5).

The Finance Board believes that this proposal could be beneficial to the AHP. The Finance Board recognizes that allowing the allocation of AHP funds from the subsequent year's required AHP contribution to the current year may result in less AHP funds available for the subsequent year. However, the overall amount of AHP funds available would not decrease; a portion of the funds would simply be available in the current year rather than in the subsequent year. Moreover, there is no guarantee in any case that the amount of AHP funds available in a given year will be the same as the amount available in the previous year, given fluctuations in Bank net earnings from year to year.

Accordingly, the proposed rule would amend § 951.2(a)(2) to provide that a Bank, in its discretion, may allocate up to the greater of $3 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's competitive application program. The limit of $3 million or 25 percent is the same as the annual limit applicable to the homeownership set-aside programs. *See* 12 CFR 951.3(a)(1). As with the homeownership set-aside programs, the proposed rule would include a Consumer Price Index (CPI) adjustment provision for the maximum dollar limit under the competitive application program.

C. Removal of Requirement That Banks Offer Comparable Amounts of Subsidies in Each Funding Period— Section 951.6(b)(1)

The AHP regulation provides that the amount of AHP subsidies offered by a Bank in each funding period under the competitive application program shall be comparable. See 12 CFR 951.6(b)(1). A number of Banks have suggested that this requirement be removed, in order to give the Banks flexibility to offer different amounts of AHP funds in each funding period to coincide with the funding cycles of other key funding sources in the Bank's district, or with different demands based on market or housing construction cycles. The Finance Board agrees that it would be beneficial for the Banks to have greater flexibility to manage their AHP funding in this way.

Accordingly, the proposed rule would remove the requirement in § 951.6(b)(1) that the amount of AHP subsidies offered in each Bank's funding period must be comparable.

D. Removal of Requirement That Banks Determine Compliance of AHP Applications With Eligibility Requirements Before Scoring Applications—Section 951.6(b)(4)(i)

The AHP regulation provides that projects receiving AHP subsidies pursuant to a Bank's competitive application program must meet the eligibility requirements of the regulation. *See* 12 CFR 951.5(b). The AHP regulation further provides that a Bank shall score only those applications meeting the eligibility requirements of § 951.5(b). *See* 12 CFR 951.6(b)(4)(i). This means that a Bank must first determine whether each application received satisfies all of the regulatory eligibility requirements, including an assessment of each project's financial feasibility, before the Bank may score the application.

Some Banks maintain that, given the high volume of applications received, it is burdensome and time consuming to have to determine the eligibility, and in particular, the financial feasibility, of each application before the application may be scored, especially when many of the applications determined to be eligible end up scoring too low to be awarded AHP funds. These Banks suggest that it would be more efficient to be able to score the applications first, and then determine their eligibility starting with the highest scoring applications and continuing on down the list, until all of the AHP subsidy is committed. The Finance Board agrees that the Banks should have the discretion to determine which approach works best for that Bank. Section 951.5(b) would still require that AHP subsidy may only be awarded to projects meeting the regulatory eligibility requirements, including financial feasibility. *See* 12 CFR 951.5(b).

Accordingly, the proposed rule would amend § 951.6(b)(4)(i) by removing the requirement that the Bank score only those applications meeting the regulatory eligibility requirements.

E. Permitting Banks to Award Scoring Points for Projects Using Properties Conveyed by the Federal Government Regardless of the Amount Charged for Conveyance, and for Projects Using Properties Conveyed by Non-Government Entities for an Amount Substantially Below Their Fair Market Value—Section 951.6(b)(4)(iv)(A)

The AHP regulation includes, as one of nine criteria for scoring AHP applications, the creation of housing using a significant proportion of units or land donated or conveyed for a "nominal" price by the Federal government or any agency or instrumentality thereof, or by any other party. *See* 12 CFR 951.6(b)(4)(iv)(A). A "nominal" price is defined in the regulation as a small, negligible amount, most often one dollar, and may be accompanied by modest expenses related to the conveyance of the property for use by the project. *See* 12 CFR 951.6(b)(4)(iv)(A). Scoring points, therefore, may not be awarded to projects using Federal government or non-government properties that were conveyed for more than a "nominal" price.

In a number of markets throughout the country, there are substantial quantities of foreclosed housing units owned by HUD and other Federal government agencies. Allowing the Banks to award scoring points for projects using units conveyed by the Federal government, regardless of the amounts charged for their conveyance, would be consistent with the Bank Act provisions encouraging the use of AHP funds in projects involving housing owned or held by the Federal government, and coordination of the AHP with other Federal or federally-subsidized affordable housing activities to the maximum extent possible. *See* 12 U.S.C. 1430(j)(3)(B), (j)(9)(G).

Accordingly, the proposed rule would amend § 951.6(b)(4)(iv)(A) to provide that a Bank may award scoring points to projects using a significant proportion of housing units conveyed by the Federal government or any agency or instrumentality thereof, regardless of the amount charged for such conveyance. The proposed rule would retain the current provision allowing the Banks to award scoring points for projects using land donated by the Federal government.

In addition, some Banks maintain that the definition of "nominal" in the regulation may be too restrictive in not recognizing the variety of ways in which properties are being conveyed by non-government entities to affordable housing project sponsors under different

VOL 66 ISS 248 DE 27 2001 UMI

local market conditions in each Bank district. For example, properties may be conveyed to project sponsors for a price of one dollar, for a price that is more than one dollar but significantly below the property's fair market value, or for payment of liens on the property such as back taxes, or the administrative costs of transferring the property, which may be more than one dollar but significantly below the property's fair market value. The Banks suggest that the regulation should explicitly allow scoring points to be awarded for properties conveyed from non-government entities under these circumstances, where the amounts paid for the properties are significantly below their fair market value. The Finance Board agrees that this proposal could be beneficial to the AHP, and that the Banks should have the discretion to define what is an amount significantly below the fair market value of the property, since these amounts may vary depending on local market conditions in each Bank district.

Accordingly, the proposed rule would amend § 951.6(b)(4)(iv)(A) by removing the "nominal price" requirement and adding language clarifying that a Bank may award scoring points for properties conveyed by a non-government entity at an amount that is significantly below their fair market value, as defined by the Bank in its AHP implementation plan. The proposed rule would retain the current provision allowing the Banks to award scoring points for projects using land donated by non-government entities.

F. Removal of Definition of "Homeless Household" for Purposes of the Homeless Households Scoring Criterion—Section 951.6(b)(4)(iv)(D)

The AHP regulation also includes as a scoring criterion the creation of housing for homeless households, as further described in the regulation. *See* 12 CFR 951.6(b)(4)(iv)(D). The term "homeless household" is defined in the regulation as a household made up of one or more individuals, other than individuals imprisoned or otherwise detained pursuant to state or federal law, who:

(1) Lack a fixed, regular and adequate nighttime residence; or

(2) Have a primary nighttime residence that is:

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

See 12 CFR 951.1.

A number of Banks have maintained that this definition of "homeless household" should include persons in certain additional situations who may be viewed as homeless, or at imminent risk of homelessness. For example, although the current definition covers victims of domestic violence living in organized shelters, it does not cover victims of domestic violence in rural areas where there are no organized shelters and the victims may have no alternative but to live in the homes of their abusers. Nor does the definition cover persons living in shared overcrowded housing in extremely cold climates where there is a shortage of organized shelters and it is impossible to survive living on the streets or in cars. Other situations may include children living in foster care who are about to reach the age of 18 and must leave the foster care system, and households facing imminent loss of their homes due to condemnation or eviction. The Finance Board agrees that the Banks should be able to award scoring points for projects serving these additional types of households. The Finance Board believes that the Banks should have the discretion to define what is a "homeless household," since the types of homeless households may vary depending on local conditions in each Bank district. Allowing the Banks to define what is a "homeless household" would be consistent with the discretionary authority the Banks already have under the scoring criteria in the AHP regulation to define and provide preferences for other targeted groups, such as special needs households or first-time homebuyers. *See* 12 CFR 951.6(b)(4)(iv)(F) (*1*), (*3*).

Accordingly, the proposed rule would remove the definition of "homeless household" in § 951.1 and amend § 951.6(b)(4)(iv)(D) to provide that, for purposes of scoring applications that reserve units for "homeless households," a "homeless household" shall have the meaning as defined by the Bank in its AHP implementation plan.

G. Making The Requirements for Post-Completion Modifications The Same as the Current Requirements for Pre-Completion Modifications —Sections 951.7, 951.9

The AHP regulation sets forth different requirements that must be satisfied in order for a Bank to approve, in its discretion, a modification to the terms of a project's application, depending on whether the modification would be made prior to or after the project's completion. The regulation provides that a Bank, in its discretion, may approve a modification request, including requests for additional AHP subsidy, made prior to project completion, provided that:

(1) The project, incorporating any such changes, would meet the regulatory eligibility requirements;

(2) The application, as reflective of such changes, continues to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank; and

(3) There is good cause for the modification.

See 12 CFR 951.7.

A Bank, in its discretion, may approve modification requests, not including requests for additional AHP subsidy, made after project completion, provided that:

(1) The project, incorporating any material changes, would meet the regulatory eligibility requirements;

(2) the application, as reflective of such changes, continues to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank;

(3) the project is in financial distress, or is at substantial risk of falling into such distress (financial distress requirement); and

(4) the project sponsor or owner has made best efforts to avoid noncompliance with the terms of the application for subsidy and the requirements of the regulation.

See 12 CFR 951.9.

Because a Bank may not approve additional AHP subsidy for a post-completion modification of a project, projects seeking additional subsidy have to submit a new application for subsidy in a regular competitive application funding period and score highly enough to be approved in that funding period. Projects may be unable to score successfully in the new funding period because the scoring criteria and priorities in the new funding period may not be the same as those applicable in the funding period when the projects were originally approved. Some Banks have argued that they should be able to approve modifications of completed projects for good cause even when the project is not faced with financial distress. A number of Banks also have indicated that the inability to provide additional subsidy to completed but troubled projects makes it difficult or impossible for the Banks to participate with other funding sources in workout arrangements to help such projects retain their affordable units or forestall financial distress. The projects may then fail to comply with their AHP regulatory requirements or application commitments, subjecting them to possible recapture of the AHP subsidy. *See* 12 CFR 951.12. The Finance Board believes that it would be beneficial for such projects if the Banks had more flexibility to participate in such workouts. Therefore, the proposed rule would allow the Banks, in their discretion, to approve increases in subsidy, would remove the financial distress requirement, and would otherwise make the post-completion modification requirements the same as those currently applicable to pre-completion modifications. The Finance Board will be requesting information from the Banks on how this new authority is being implemented.

A number of Banks and project sponsors also have suggested that the Finance Board consider removing the requirement in § 951.7(a)(2) that a project, as proposed to be modified, must continue to score high enough to have been approved in the funding period in which it was originally scored and approved by the Bank, in order to be approved for a modification. In some cases, the project may need to be modified because of changed market conditions, but the project, as modified, would not continue to score high enough to have been approved in its original funding period. Banks and project sponsors have argued that market conditions may change dramatically over many years, and that it is impractical to hold a project to the same scoring criteria that existed years earlier. While the Finance Board recognizes the points raised by this argument, the Finance Board remains concerned about the potential that modifications offer for an applicant to manipulate the scoring system by making overly optimistic commitments that it knows it cannot reasonably meet, in its AHP application, in order to score successfully, with the anticipation of getting a modification after approval to reduce those commitments. Moreover, the Finance Board has a waiver process that would enable the Finance Board, upon a showing of good cause, to waive the re-scoring requirement for a modification, on a case-by-case basis. *See* 12 CFR 907.2. The proposed rule, therefore, would retain the current re-scoring requirement in § 951.7(a)(2).

In short, the proposed rule would remove § 951.9, and make the requirements of § 951.7 applicable to post-completion, as well as pre-completion, modification requests.

H. Providing the Banks With an Additional 120 Days to Conduct the Initial Monitoring of Completed Rental Projects—Section 951.10(c)(2)

The AHP regulation provides that within the first year after completion of a rental project, the project owner must:

(i) certify to the Bank that the services and activities committed to in the AHP application have been provided in connection with the project; and

(ii) provide a list of actual tenant rents and incomes to the Bank, and certify that the tenant rents and incomes are accurate and in compliance with the rent and income targeting commitments made in the AHP application, and that the project is habitable.

See 12 CFR 951.10(a)(2)(ii).

The regulation further provides that each Bank must take the steps necessary to determine that:

(i) within the first year after completion of a rental project, the services and activities committed to in the AHP application have been provided in connection with the project; and

(ii) the AHP subsidies were used for eligible purposes, the project's actual costs were reasonable and customary in accordance with the Bank's project feasibility guidelines, and the subsidies were necessary for the financial feasibility of the project, as currently structured.

See 12 CFR 951.10(c)(2).

A number of Banks have indicated that if a project owner does not provide its certifications and other documentation to the Bank until late in the first year after project completion, the Bank may not be able to complete its reviews of the documentation and make its determinations of compliance under § 951.10(c)(2) by the end of that year, as prescribed by the regulation. The suggestion has been made that the Banks be given some additional reasonable period of time after receipt of the project owners' documentation to conduct their own review and compliance determinations. This would be consistent with the approach taken in the regulation for Bank reviews of owner-occupied certifications. *See* 12 CFR 951.10(c)(1).

The Finance Board believes that providing the Banks with an additional 120 days after receipt of the project owner documentation would be a reasonable amount of time to complete the compliance reviews. The Finance Board also believes that this requirement should apply not only to the services and activities review, but also to the review of eligible purposes, actual costs and feasibility required under existing § 951.10(c)(2)(ii).

Accordingly, the proposed rule would amend § 951.10(c)(2) to require each Bank to complete the compliance reviews required thereunder within 120 days after receiving the project owner documentation.

I. Permitting the Banks to Allow Re-Use by Project Sponsors or Members of Recaptured Direct Subsidies or Unused Interest-Rate Subsidies From Prepaid Mortgage Loans For Owner-Occupied Projects—Sections 951.12(e), 951.13(c)(3)(iii)

Prior to 1995, sponsors of owner-occupied projects were allowed to re-use recaptured AHP direct subsidies to provide the same kind of direct subsidy assistance to subsequent eligible households in accordance with the sponsor's approved application. A sponsor also could use the unused interest-rate subsidy of a prepaid mortgage loan funded with an AHP subsidized advance to subsidize the interest rate on another mortgage loan to an eligible household that replaced the prepaid mortgage loan in a pool of mortgage loans held by the member.

In 1995, the Finance Board discontinued authorization of these types of re-use of AHP funds in new projects, pending a comprehensive review and revision of the AHP regulation. The current regulation, which went into effect in 1998, continues to prohibit such re-use of AHP funds. Specifically, the AHP regulation provides generally that an owner-occupied unit that is purchased, constructed, or rehabilitated with the proceeds of an AHP direct subsidy must be subject to a deed restriction requiring that the homeowner repay directly to the Bank a pro rata share of the subsidy if the unit is sold to an ineligible household or refinanced prior to the end of the five-year retention period and is no longer subject to a deed restriction. *See* 12 CFR 951.13(d)(1). The Bank may use these recaptured AHP subsidies to fund project modifications, interest-rate increases in approved projects, homeownership set-aside applications, or an approved alternate project if sufficient other funds are available. *See* 12 CFR 951.8(c)(4), 951.12(e), 951.14(a)(2). Where mortgage loans financed by an AHP subsidized advance are prepaid by the project to the member, the AHP regulation provides generally that the member must either repay the advance to the Bank and possibly be subject to a prepayment penalty, or maintain the advance outstanding subject to the Bank resetting the interest rate. *See* 12 CFR 951.13(c)(3).

A number of Banks and project sponsors have requested that the Finance Board allow owner-occupied project sponsors (or members in the case of AHP direct subsidies provided through the homeownership set-aside program) to re-use direct subsidies in the ways described above. The Banks and project sponsors maintain that allowing such re-use of direct subsidies can be an efficient use of AHP subsidies. The amounts recaptured or unused are generally quite small, the sponsor receives no additional subsidy from the Bank, and the re-used subsidy continues to assist AHP-eligible households in accordance with the original application commitments. Any household assisted through the re-use of recaptured or unused direct subsidy would be subject to a new five-year retention agreement. *See* 12 CFR 951.5(a)(5), 951.13(c)(4), 951.13(d)(1). Permitting such re-use of direct subsidies can help those sponsors whose projects are aimed at maintaining a core of homeowners in particular areas to promote neighborhood stabilization and revitalization in those areas.

For the reasons discussed above, the Finance Board believes that the Banks should have the authority to allow the re-use of recaptured or unused direct subsidy. Accordingly, the proposed rule would amend §§ 951.12(e) and 951.13(c)(3) to authorize each Bank, in its discretion, as provided in its AHP implementation plan, to allow project sponsors or members to re-use recaptured or unused direct subsidy, respectively, as further prescribed in the proposed rule. One concern that has been raised is that recaptured or unused direct subsidies might not be re-used quickly and could remain idle, when they otherwise could be made available by the Bank for project modifications or new AHP-eligible projects. The proposed rule would address this concern by requiring the Bank to specify in its AHP implementation plan a time limit by which such subsidy must be re-used by the sponsor. A second concern that has been raised is whether the sponsor could earn interest on the recaptured funds while they remain idle. This would not be possible under the proposed rule, which would retain the current requirement that any recaptured or unused direct subsidy be returned directly to the Bank rather being held by the project sponsors, pending subsequent disbursement by the Bank for re-use by the sponsor.

III. Paperwork Reduction Act

The proposed rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

IV. Regulatory Flexibility Act

The proposed rule would apply only to the Banks, which do not come within the meaning of "small entities," as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 951

Community development, Credit, Federal home loan banks, Housing, Reporting and recordkeeping requirements.

Accordingly, the Finance Board hereby proposes to amend part 951, title 12, chapter IX, Code of Federal Regulations, as follows:

PART 951—AFFORDABLE HOUSING PROGRAM

1. The authority citation for part 951 continues to read as follows:

Authority: 12 U.S.C. 1430(j).

2. Amend § 951.1 by:

a. Removing the definition of "Homeless household"; and

b. In the definition of "Median income for the area", redesignating paragraphs (1)(ii) through (1)(iv) and paragraph (2)(ii) as paragraphs (1)(iii) through (1)(v) and paragraph (2)(iii), respectively; and adding new paragraphs (1)(ii) and (2)(ii).

The revisions read as follows:

§ 951.1 Definitions.

* * * * *

Median income for the area.

(1) * * *

(ii) The median income for the area obtained from the Federal Financial Institutions Examination Council;

* * * * *

(2) * * *

(ii) The median income for the area obtained from the Federal Financial Institutions Examination Council;

* * * * *

3. Revise § 951.3(a)(2) to read as follows:

§ 951.3 Operation of Program and adoption of AHP implementation plan.

(a) * * *

(2) *Competitive application program.* That portion of a Bank's required annual AHP contribution that is not set aside to fund homeownership set-aside programs shall be provided to members through a competitive application program, pursuant to the requirements of this part. A Bank may allocate up to the greater of $3 million or 25 percent of its annual required AHP contribution for the subsequent year to the current year's competitive application program. Beginning in 2002 and for subsequent years, the maximum dollar limit set forth in this paragraph shall be adjusted annually by the Finance Board to reflect any percentage increase in the preceding year's Consumer Price Index (CPI) for all urban consumers, as published by the Department of Labor. Each year, as soon as practicable after the publication of the previous year's CPI, the Finance Board shall publish notice by **Federal Register**, distribution of a memorandum, or otherwise, of the CPI-adjusted limit on the maximum competitive application dollar amount.

* * * * *

4. Amend § 951.6 by:

a. Removing the last sentence in paragraph (b)(1);

b. Removing the first sentence in paragraph (b)(4)(i);

c. Revising paragraph (b)(4)(iv)(A); and

d. Revising paragraph (b)(4)(iv)(D).

The revisions read as follows:

§ 951.6 Procedure for approval of applications for funding.

* * * * *

(b) * * *

(4) * * *

(iv) * * *

(A) *Use of donated or conveyed government-owned or other properties.* The creation of housing using a significant proportion of:

(*1*) Land donated by the Federal government or any agency or instrumentality thereof, or any other party;

(*2*) Units conveyed by the Federal government or any agency or instrumentality thereof, regardless of the amount charged for such conveyance; or

(*3*) Units conveyed by any other party for an amount significantly below the fair market value of the property, as defined by the Bank in its AHP implementation plan.

* * * * *

(D) *Housing for homeless households.* The creation of rental housing, excluding overnight shelters, reserving at least 20 percent of the units for homeless households, the creation of transitional housing for homeless households permitting a minimum of six months occupancy, or the creation of permanent owner-occupied housing reserving at least 20 percent of the units for homeless households. For purposes of this paragraph, the term "homeless households" shall have the meaning as defined by the Bank in its AHP implementation plan.

* * * * *

§ 951.7 [Amended]

5. Amend § 951.7 by:

a. In the section heading, adding the words "or after" between the words "to" and "project"; and

b. In the introductory text of paragraph (a), adding the words "or after" between the words "to" and "final."

§ 951.9 [Removed]

6. Remove § 951.9.

7. Revise § 951.10(c)(2) introductory text and paragraph (c)(2)(i) to read as follows:

§ 951.10 Initial monitoring requirements.

* * * * *

(c) * * *

(2) *Rental projects.* Each Bank must take the steps necessary to determine that, within 120 days after receiving the documentation described in paragraph (a)(2)(ii) of this section:

(i) The services and activities committed to in the AHP application have been provided in connection with the project; and

* * * * *

8. Amend § 951.12 by revising paragraph (e) to read as follows:

§ 951.12 Remedial actions for noncompliance.

* * * * *

(e) *Use of repaid subsidies*—(1) *Use of repaid AHP subsidies in other AHP-eligible projects.* Except as provided in paragraph (e)(2) of this section, amounts of AHP subsidy repaid to a Bank pursuant to this section, including any interest, shall be made available by the Bank for other AHP-eligible projects.

(2) *Re-use of repaid AHP subsidies in same project.* Where AHP direct subsidy has been provided by the project sponsor (or the member in the case of direct subsidy provided through the homeownership set-aside program) as downpayment, closing cost, rehabilitation or interest rate buydown assistance to a household to purchase an owner-occupied unit pursuant to an approved AHP application, amounts of AHP subsidy repaid to the Bank, including any interest, may, if authorized, in the Bank's discretion, in its AHP implementation plan and within the period of time specified by the Bank in such plan, be made available by the project sponsor or member to another AHP-eligible household to purchase an owner-occupied unit in accordance with the terms of the approved AHP application.

* * * * *

9. Amend § 951.13 by adding paragraph headings to paragraph (c)(3)(i) and (c)(3)(ii), and adding paragraph (c)(3)(iii) to read as follows:

§ 951.13 Agreements.

* * * * *

(c) * * *

(3) * * *

(i) *Repayment of advance.* * * *

(ii) *Maintain advance outstanding with reset interest rate.* * * *

(iii) *Loan pool substitution.* If authorized, in the Bank's discretion, in its AHP implementation plan, continue to maintain the advance outstanding without the Bank resetting the interest rate, provided that:

(A) The loan, before its prepayment, was used by a household to purchase an owner-occupied unit pursuant to the project sponsor's approved AHP application;

(B) The loan was purchased by the member from the project sponsor and held by the member as part of a pool of loans financed by subsidized advances or direct subsidies and purchased from the project sponsor;

(C) Within the period of time specified by the Bank in its AHP implementation plan, the member makes the unused AHP subsidy resulting from the prepaid loan available to the project sponsor to reduce the interest rate on a new loan from the project sponsor to another AHP-eligible household to purchase an owner-occupied unit in accordance with the terms of the approved AHP application;

(D) Within the period of time specified by the Bank in its AHP implementation plan, the member purchases the new loan for inclusion in the loan pool; and

(E) After substitution of the new loan for the prepaid loan in the loan pool, the aggregate principal balance of the loan pool is the same as or higher than the original principal balance of the loan pool.

* * * * *

Dated: December 11, 2001.

By the Board of Directors of the Federal Housing Finance Board.

J. Timothy O'Neill,

Chairman.

[FR Doc. 01–31569 Filed 12–26–01; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–61–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney (PW) PW2000 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: This action revises an earlier proposed airworthiness directive (AD), applicable to certain Pratt & Whitney (PW) PW2000 series turbofan engines, that would supersede an existing airworthiness directive (AD) by modifying the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. This action revises the proposed rule by adding the low pressure compressor (LPC) hub assembly, high pressure turbine (HPT) 1st stage disk, and HPT 2nd stage hub to the additional inspection requirements. The regulatory section revises the manufacturer's Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA), and for air carrier operations revises the approved continuous airworthiness maintenance program. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by January 28, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–

VOL 66 ISS 248 DE 27 2001 UMI

61–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "*9-ane-adcomment@faa.gov*." Comments sent via the Internet must contain the docket number in the subject line.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–61–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–61–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Pratt & Whitney (PW) PW2000 series turbofan engines, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on November 1, 2001 (66 FR 55138). That NPRM would have modified the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. That NPRM was prompted by an FAA study of in-service events involving uncontained failures of critical rotating engine parts. That condition, if not corrected, could result in an uncontained engine failure and damage to the airplane.

Since the issuance of that NPRM, the FAA has become aware that the LPC hub assembly, HPT 1st stage disk, and HPT 2nd stage hub were inadvertantly omitted from the list of parts for enhanced inspection, and must be added. This proposal would add to that NPRM, modification of the airworthiness limitations section of the manufacturer's manual and air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Economic Analysis

The FAA estimates that 724 engines installed on airplanes of US registry would be affected by this proposed AD, that it would take approximately 20 work hours per engine to do the proposed actions. The average labor rate is $60 per work hour. The cost effect of the added inspections per engine is approximately $1,200 per year, with the approximate total cost for the U.S. fleet of $868,800 per year.

Regulatory Analysis

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this action does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic effect, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Pratt & Whitney: Docket No. 98–ANE–61–AD. Supersedes AD 2000–21–09, Amendment 39–11914.

Applicability: This airworthiness directive (AD) is applicable to Pratt & Whitney (PW) PW2037, PW2040, PW2037M, PW2240, PW2337, PW2043, PW2643, and PW2143, series turbofan engines, installed on but not limited to Boeing 757 series and Ilyushin IL–96T series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless already done.

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Within 30 days after the effective date of this AD, revise the manufacturer's Time Limits section (TLS) of the manufacturer's engine manual, as appropriate for PW PW2037, PW2040, PW2037M, PW2240, PW2337, PW2043, PW2643, and PW2143 series turbofan engines, and for air carriers revise the approved continuous airworthiness maintenance program, by adding the following:

"MANDATORY INSPECTIONS

(1) Perform inspections of the following parts at each piece-part opportunity in accordance with the instructions provided in PW2000 Engine Manuals 1A6231 and 1B2412:

Nomenclature	Part number	EM manual section	Inspection check	Subtask
Hub, LPC Assembly	ALL	72–31–04	–06.	
Disk, HPT 1st Stage	ALL	72–52–02	FPI entire disk per 72–52–00, Inspection/Check–02.	72–52–02–230–007
Hub, HPT 2nd Stage	ALL	72–52–16	Fpi entire hub per 72–52–00, Inspection/Check–02.	72–52–16–230–007
Hub, HPC Front	ALL	72–35–02	–05.	
Disk, HPC Drum Rotor Assembly (7–15)	ALL	72–35–03	–04	
Disk, HPC Drum Rotor Assembly (16–17)	ALL	72–35–10	–05	
Disk, HPC 16th Stage	ALL	72–35–06	–04	
Disk, HPC 17th Stage	ALL	72–35–07	–04	
LPC Drive Turbine Shaft	ALL	72–32–01	–06	
Hub, Turbine Rear	ALL	72–53–81	–06	
Disk, LPT 3rd Stage	ALL	72–53–31	–01	
Disk, LPT 4th Stage	ALL	72–35–41	–01	
Disk, LPT 5th Stage	ALL	72–32–51	–01	
Disk, LPT 6th Stage	ALL	72–53–61	–01	
Disk, LPT 7th Stage	ALL	72–53–71	–01	

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered completely disassembled when done in accordance with the disassembly instructions in the manufacturer's engine manual to either part number level listed in the table above, and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine."

(b) Except as provided in paragraph (e) of this AD, and notwithstanding contrary provisions in § 43.16 of Federal Aviation Regulations (14 CFR 43.16), these enhanced inspections must be performed only in accordance with the TLS of the appropriate PW2000 series engine manuals.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector (PMI), who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)) of this chapter must maintain records of the mandatory inspections that result from revising the Time Limits section of the Instructions for Continuous Airworthiness (ICA) and the air carrier's continuous airworthiness program. Alternatively, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369 (c) of the Federal Aviation Regulations (14 CFR 121.369 (c)); however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380 (a)(2)(vi) of the Federal Aviation Regulations (14 CFR 121.380 (a)(2)(vi)). All other operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Issued in Burlington, Massachusetts, on December 17, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–31557 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–40–AD]

RIN 2120–AA64

Airworthiness Directives; MD Helicopters, Inc. Model 369D, 369E, 369F, and 369FF Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) for MD Helicopters, Inc. Model 369D, 369E, 369F, and 369FF helicopters with a tailboom modified according to Aerometals supplemental type certificate (STC) SH5055NM or SH4801NM. The AD would require an inspection to identify the part number (P/N) of the bolts that attach the tail rotor gearbox to the tailboom and replacing any bolt of inadequate grip length with an airworthy bolt. This AD would also require determining the number of bolt threads protruding from each nutplate and adding an additional washer if more than four threads protrude. This proposal is prompted by the discovery that bolts of inadequate grip length were specified to attach the tail rotor gearbox to the tailboom. The actions specified by the proposed AD are intended to prevent loss of a tail rotor gearbox due to bolts of inadequate

VOL 66 ISS 248 DE 27 2001 UMI

grip length and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before February 25, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–40–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov*. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aviation Safety Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5228, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this document may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 2001–SW–40–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–40–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes adopting a new AD for MD Helicopters, Inc. Model 369D, 369E, 369F, and 369FF helicopters with a tailboom modified according to either Aerometals STC SH5055NM or SH4801NM. Yehnert Helicopters, Inc. formerly owned both STCs. This proposal is prompted by the discovery that the maintenance instructions supplied to installers of STCs SH5055NM and SH4801NM incorrectly specified the tail rotor gearbox attaching bolt as P/N NAS6204–25, which has an inadequate grip length. This condition, if not corrected, could result in loss of a tail rotor gearbox and subsequent loss of control of the helicopter.

The FAA has reviewed Aerometals Service Bulletin SB–001, dated August 3, 2000, which describes procedures for verifying that the proper attaching bolts are used to install the tail rotor gearbox to the tailboom.

We have identified an unsafe condition that is likely to exist or develop on other MD Helicopters, Inc. Model 369D, 369E, 369F, and 369FF helicopters of the same type design modified by STC SH5055NM or SH4801NM. Therefore, the proposed AD would require the following:

- Inspect the tail rotor gearbox attach bolts to determine the P/N. Replace any bolt for which a P/N cannot be determined and any bolt that is not P/N NAS1304–26 before further flight. After replacing a bolt, inspect for loosening of the bolt torque at a specified interval. Retorque the bolt, reapply the slippage mark, and reinspect the torque between 2 and 10 hours TIS thereafter.
- Remove the tailboom control rod and determine the number of bolt threads protruding from each nutplate on the internal surface of the aft tailboom frame casting. At least one thread must protrude. If more than four threads protrude, add an additional washer under the bolt head.

The FAA estimates that this proposed AD would affect 500 helicopters of U.S. registry. The FAA estimates approximately ½ work hour would be required to determine whether either STC has been installed. For the estimated 40 helicopters that have been modified by either STC, approximately 1 work hour per helicopter will be required to inspect and replace the bolts. The average labor rate is approximately $60 per work hour. Required parts would cost approximately $40 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,000.

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

MD Helicopters, Inc.: Docket No. 2001–SW–40–AD.

Applicability: Model 369D, 369E, 369F, and 369FF helicopters, modified in accordance with Aerometals Supplemental Type Certificate (STC) SH5055NM or SH4801NM, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this

AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the tail rotor gearbox due to attaching bolts of inadequate grip length and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS), conduct the following inspections:

(1) For each tail rotor gearbox attaching bolt (bolt):

(i) Determine the part number (P/N).

(ii) If the P/N cannot be determined or if the bolt is not P/N NAS1304–26, before further flight, replace the bolt with bolt, P/N NAS1304–26.

(iii) Torque the bolt to 100–110 in-lbs and apply a slippage mark.

(2) Remove the tailboom control rod and determine the number of bolt threads protruding from each nutplate on the internal surface of the aft tailboom frame casting, P/N 369D23503, as shown in Figure 1. At least one thread must protrude. If more than four threads protrude, add an additional washer, P/N AN960D416, under the bolt head. Torque the bolt to 100–110 in-lbs., and reapply a slippage mark.

(b) Between 2 and 10 hours TIS after accomplishing the requirements of paragraph (a) of this AD, inspect the torque on each bolt by applying 100 in-lbs. If any bolt movement occurs, retorque the bolt to 100–110 in-lbs. and reapply a slippage mark. Reinspect the torque between 2 and 10 hours TIS thereafter until no bolt movement occurs.

Note 2: Aerometals Service Bulletin SB–001, dated August 3, 2000, pertains to the subject of this AD.

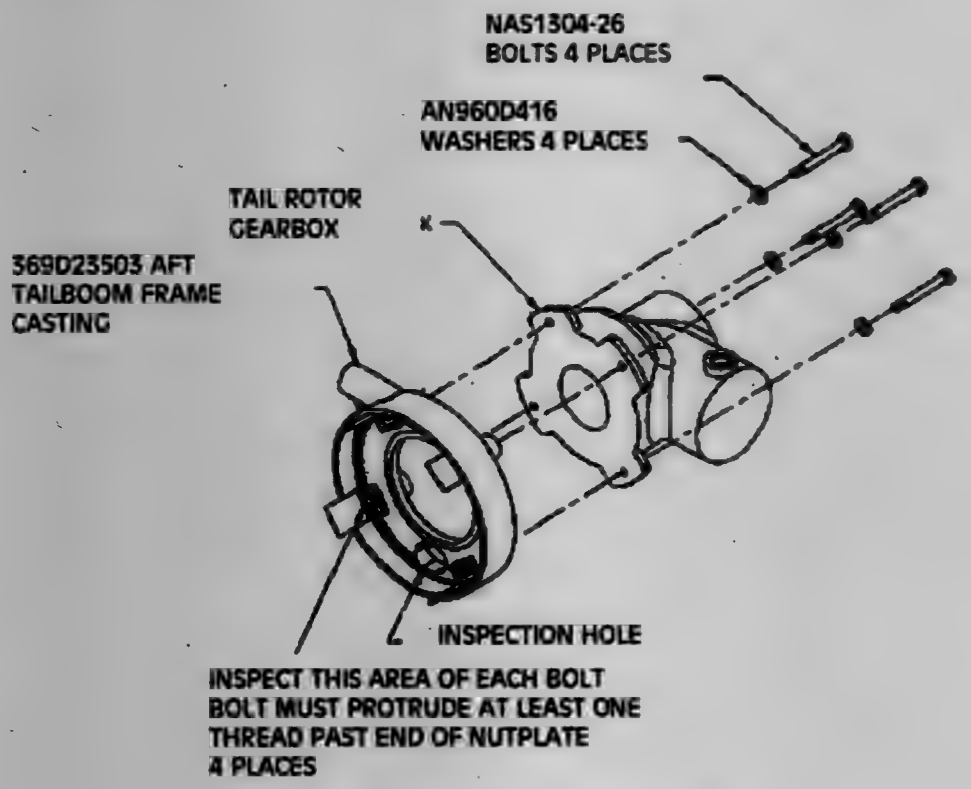


Figure 1 – Inspection Location

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (LAACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, LAACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the LAACO.

(d) Special flight permits will not be issued.

Issued in Fort Worth, Texas, on December 14, 2001.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 01–31556 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–36–AD]

RIN 2120–AA64

Airworthiness Directives; Air Tractor, Inc. AT–400, AT–500, and AT–800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD) 2001–10–04 R1, which lowered the safe life for the wing lower spar cap on

VOL 66 ISS 248 DE 27 2001 UMI

certain Air Tractor, Inc. (Air Tractor) AT–400, AT–500, and AT–800 series airplanes. AD 2001–10–04 R1 resulted from numerous reports of cracks in the ⅜-inch bolthole of the wing lower spar cap on the affected airplanes. This proposed AD would maintain the safe life and add a requirement for you to eddy—current inspect the wing lower spar cap immediately prior to the replacement/modification in order to detect and correct any crack in a bolthole before it extends to the modified center section of the wing and repair that crack or replace the wing section. This proposed AD would also further reduce the safe life for certain AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. The actions specified by this proposed AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally-established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 15, 2002 .

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–36–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893–1420 or (701) 774–0230; facsimile: (701) 572–2602. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATON CONTACT: Direct all questions to:

—For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150: telephone: (817) 222–5102; facsimile: (817) 222–5960; and

—For certain AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California, 90712; telephone: (562) 627-5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–36–AD." We will date stamp and mail the postcard back to you.

Discussion

Has FAA taken any action to this point? Several reports of cracked wing lower spar caps on Air Tractor AT–400, AT–500, and AT–800 series airplanes have caused the manufacturer (Air Tractor) to recalculate the fatigue life of the wing lower spar cap on these airplanes. One report was of an accident where the wing separated from the airplane during flight. The cracks are originating in the outboard ⅜-inch bolthole of the wing lower spar cap.

To address this condition, FAA issued AD 2001–10–04, Amendment 39–12230 (66 FR 27014, May 16, 2001). This AD lowers the safe life for the wing lower spar cap on Air Tractor AT–400, AT–500, and AT–800 series airplanes. This AD also allows for inspection, using eddy current methods, of the wing lower spar cap for airplanes that are at or over the lower safe life and parts are not available. Operation of the airplane is not allowed if cracks are found and inspections must be terminated when parts become available or after performing three repetitive inspections.

AD 2001–10–04 superseded AD 2000–14–51, Amendment 39–11837 (65 FR 46567, July 31, 2000). AD 2000–14–51 required inspection of the wing lower spar cap for cracks on Air Tractor Models AT–501, AT–502, and AT–502A airplanes, and modification or replacement of any cracked wing lower spar cap.

We inadvertently included certain AT–800 series airplanes in the Applicability of AD 2001–10–04. Those AT–800 series airplanes that are equipped with the factory-supplied part number 80540 computerized fire gate should not be affected by AD 2001–10–04. Therefore, we revised this AD to incorporate this change. AD 2001–10–04 R1, Amendment 39–12247, was published in the **Federal Register** on June 4, 2001 (66 FR 29900).

What has happened since AD 2001–10–04 R1 to initiate this action? In response to AD 2001–10–04 R1, FAA received a comment from the National Transportation Safety Board that recommended an eddy-current inspection requirement immediately prior to the accomplishment of the two-part modification described in Snow Engineering Service Letters #197, #202, #203, or #205, all Revised March 26, 2001, as applicable. This is to eliminate the possibility that a crack that exists in a bolt hole prior to the modification is still present after accomplishing the modification. Prior to the modification, any crack present will be larger than it would appear after the outermost bolt holes are enlarged. This makes the crack easier to detect and gives the mechanic an area to concentrate on any post-modification inspections.

Additional analysis also indicates a higher wing root bending moment that could lead to reduction of the safe life for certain AT–400 and AT–500 series airplanes with a certain configuration. Airplanes with this configuration either incorporate or have incorporated Marburger Enterprises, Inc. winglets on the wing lower spar cap. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. We have developed criteria for determining what the new safe life should be for airplanes that either incorporate or have incorporated these winglets.

The FAA's Determination and an Explanation of the Provisions of this Proposed AD

What has FAA decided?

After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

—The unsafe condition referenced in this document exists or could develop on other AT–400, AT–500, and AT–800 series airplanes (specific models as referenced in the AD) of the same type design;

—All airplanes should have the eddy-current inspection accomplished on the wing lower spar cap immediately prior to the replacement/modification in order to detect and correct any crack in a bolthole before it extends to the modified center section of the wing;

—Certain AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets should have the safe life further reduced; and

—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would supersede AD 2001–10–04 R1 with a new AD that would maintain the safe life and would add a requirement for you to eddy-current inspect the wing lower spar cap immediately prior to the replacement/modification in order to detect and correct any crack in a bolthole before it extends to the modified center section of the wing and repair that crack or replace the wing section. The proposed AD would also further reduce the safe life for those AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 1,179 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the proposed inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours at $60 per hour = $120	No parts required for inspection.	$120	$141,480

We estimate the following costs to accomplish the proposed replacement/modification:

Labor cost	Parts cost	Total cost Per Airplane	Total cost on U.S. operators
210 workhours at $60 per hour = $7,200	$11,500	$18,700	$22,047,300

What is the difference between the cost impact of this proposed AD and the cost impact of AD 2001–10–04 R1? AD 2001–10–04 R1 already established the safe life for the lower wing spar cap on the affected airplanes. Therefore, the replacement/modification is already required through that AD. The only difference in the cost impact upon the public of this proposed AD and AD 2001–10–04 R1 is the cost for the eddy-current inspection upon replacement and the further safe life reduction for those AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations(14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–10–04 R1, Amendment 39–12247 (66 FR 29900, June 4, 2001), and by adding a new AD to read as follows:

Air Tractor, Inc.: Docket No. 2001-CE–36–AD; Supersedes AD 2001–10–04 R1, Amendment 39–12247.

(a) *What airplanes are affected by this AD?* Use paragraph (a)(1) of this AD for airplanes that do not incorporate and never have incorporated winglets and use paragraph (a)(2) of this AD for certain AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets.

(1) The following presents airplanes (certificated in any category) that are affected by this AD, along with the new safe life (presented in hours time-in-service (TIS)) of the wing lower spar cap for all airplane models and serial numbers:

VOL 66 ISS 248 DE 27 2001 UMI

Model	Serial Nos.	Safe life
AT–400	all serial numbers beginning with 0416	13,300 hours TIS.
AT–401	0662 through 0951	10,757 hours TIS.
AT–401B	0952 through 1014 and 1016 though 1020	6,948 hours TIS.
AT–401B	1015 and 1021 through 1124	7,777 hours TIS
AT–402	0694 through 0951	7,440 hours TIS.
AT–402A	0738 through 0951	7,440 hours TIS.
AT–402A	0952 through 1020	4,589 hours TIS.
AT–402A	1021 through 1124	5,268 hours TIS.
AT–402B	0966 through 1020	4,589 hours TIS.
AT–402B	1021 through 1124	5,268 hours TIS.
AT–501	0002 through 0061	4,531 hours TIS.
AT–501	all serial numbers beginning with 0062	7,693 hours TIS.
AT–502	0003 through 0236	4,000 hours TIS.
AT–502A	0158 through 0618	3,000 hours TIS.
AT–502B	0187 through 0618	4,000 hours TIS.
AT–503A	all serial numbers beginning with 0067	4,000 hours TIS.
AT–802	0001 through 0059 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,132 hours TIS.
AT–802	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,188 hours TIS.
AT–802	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,163 hours TIS.
AT–802A	0003 through 0059 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,969 hours TIS.
AT–802A	0060 through 0091 except those equipped with the factory-supplied part number 80540 computerized fire gate.	4,531 hours TIS.
AT–802A	0092 through 0101 except those equipped with the factory-supplied part number 80540 computerized fire gate.	8,648 hours TIS.

Note 1: Piston powered aircraft that have been converted to turbine power should use the limits for corresponding serial number turbine-powered aircraft.

(2) The following presents airplanes (certificated in any category) that could incorporate or could have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA. Use the winglet usage factor in the table below, the safe life specified in paragraph (a)(1) of this AD, and the instructions included in the Appendix to this AD to determine the new safe life of these airplanes:

Model	Serial Nos.	Winglet usage factor
AT–401	0662 through 0951	1.6
AT–401B	0952 through 1014 and 1016 though 1020	1.1
AT–401B	1015 and 1021 through 1124	1.1
AT–402	0694 through 0951	1.6
AT–402A	0738 through 0951	1.6
AT–402A	0952 through 1020	1.1
AT–402A	1021 through 1124	1.1
AT–402B	0966 through 1020	1.1
AT–402B	1021 through 1124	1.1
AT–501	0002 through 0061	1.6
AT–501	All serial numbers beginning with 0062	1.6
AT–502	0003 through 0236	1.6
AT–502A	0158 through 0618	1.6
AT–502B	0187 through 0618	1.2

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent fatigue cracks from occurring in the wing lower spar cap before the originally-established safe life is reached. Fatigue cracks in the wing lower spar cap, if not detected and corrected, could result in the wing separating from the airplane during flight.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following actions:

Note 2: The 10-hour time-in-service (TIS) compliance time is maintained from AD 2001–10–04 R1.

Action	Compliance time	Procedures
(1) Modify the applicable aircraft records as follows to show the reduced safe life for the wing lower spar cap (use the information from the table in paragraph (a)(1) of this AD and utilize the information in paragraph (a)(2) of and the Appendix to this AD, as applicable): (i) For the affected Models AT–802 and AT–802A airplanes: update the Owners Manual, Section 6—Airworthiness Limitations, Life Limited Parts. (ii) For all affected airplanes other than the Models AT–802 and AT–802A airplanes: incorporate the following into the Aircraft Logbook "In accordance with this AD, the wing lower spar cap is life limited to ___ (insert the applicable safe life number from the applicable tables in paragraphs (a)(1) and (a)(2) of this AD). (iii) If, as of the time of the logbook all entry requirement of paragraph (d)(1) of this AD, your airplane is over or within 10 hours of the safe life, an additional 10 hours TIS is allowed to accomplish the replacement/modification	Accomplish the logbook entry within the next 10 hours TIS after the effective date of this AD.	The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may modify the aircraft records as specified in paragraphs (d)(1)(i) and (d)(1(ii) of this AD. Make an entry into the aircraft records showing compliance with this portion of the AD in accordance with section 43.9 of Federal the Aviation Regulations (14 CFR 43.9). Accomplish the actual replacement/modification in accordance with Snow Engineering Service Letter #197, #202, #203, or #205, Revised March 26, 2001, as applicable. The owner/operator may not accomplish the replacement/modification.
(2) If you have ordered parts from the factory when it is time to replace the wing lower spar cap (as required per the logbook safe life reduction in paragraph (d)(1) of this AD), but the parts are not available, you may eddy-current inspect the wing lower spar cap. These inspections are allowed until one of the following occurs, at which time the replacement/modification (required when the lower spar cap has reached its safe life) must be accomplished: (i) Crack(s) is/are found; (ii) Parts become available from the manufacturer; or (iii) Not more than three inspections or 1,200 hours TIS go by: the first inspection would have to be accomplished upon accumulating the safe life; the second inspection would have to be accomplished within 400 hours TIS after accumulating the safe life; the third inspection would have to be accomplished 400 hours TIS after the second inspection; and the replacement/modification would have to be accomplished within 400 hours TIS after the third inspection (maximum elapsed time would be 1,200 hours TIS)	Prior to further flight after ordering the parts and thereafter at intervals not to exceed 400 hours TIS until one of the criteria paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this AD is met.	In accordance with the procedures in Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.
(3) Eddy-current inspect the wing lower spar cap in order to detect and correct any crack before it extends to the modified center section of the wing and repair that crack or replace the wing section	Immediately prior to the replacement/modification required when you reach the new safe life. For airplanes that had this replacement/modification accomplished in accordance with either AD 2001–10–04 or AD 2001–10–04 R1, accomplish this inspection and any necessary corrective action within the next 400 hours TIS after the effective date of this AD, unless already accomplished (have the mechanic who accomplished the work mark the logbooks accordingly).	In accordance with the procedures in Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.

(e) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth or Los Angeles Airplane Certification Office (ACO), as applicable, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector. The inspector may add comments before sending it to the Manager, Fort Worth or Los Angeles ACO.

(2) Alternative methods of compliance approved for AD 2001–10–04 and/or AD 2000–14–51 are not considered approved for this AD.

VOL 66 ISS 248 DE 27 2001 UMI

(3) Alternative methods of compliance approved for AD 2001–10–04 R1 are considered approved for this AD.

Note 3: This AD applies to each airplane identified in paragraphs (a)(1) and (a)(2) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Are there any alternative methods of compliance already approved or being considered for this AD?* The FAA may approve, as an alternative method of compliance, inspection of the wing lower spar cap. You must submit the request in accordance with the procedures in paragraph (e) of this AD and adhere to the following:

(1) If you are over or within 10 hours TIS of the safe life for the wing lower spar cap and you have ordered parts and scheduled a date for the replacement/modification, but having the replacement/modification done on this date grounds the airplane, accomplish the following:

(i) Inspect the wing lower spar cap within 10 hours TIS after approval of the alternative method of compliance;

(ii) Reinspect thereafter at intervals not to exceed 400 hours TIS until either cracks are found, the date of the scheduled replacement/modification occurs, or 1,200 hours TIS after the initial inspection are accumulated, whichever occurs first; and

(iii) Accomplish the inspections in accordance with the procedures in Snow Engineering Service Letter #197, #202, #203, or #205, all Revised March 26, 2001, as applicable.

(2) Submit the following to the Fort Worth or Los Angeles ACO, as applicable, using the procedures described in paragraph (e) of this AD:

(i) The airplane model serial number designation, and airplane registration number (N-number);

(ii) The number of hours TIS on the airplane;

(iii) The scheduled date for the replacement/modification; and

(iv) The name and location of the authorized repair shop.

(3) For more information about this issue, contact:

(i) For the airplanes that do not incorporate and never have incorporated Marburger Enterprises, Inc. winglets: Rob Romero, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960; and

(ii) For the airplanes that incorporate or have incorporated winglets: John Cecil, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Boulevard, Lakewood, California, 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD provided that the following is adhered to:

(1) Only operate in day visual flight rules (VFR) only.

(2) Ensure that the hopper is empty.

(3) Limit airspeed to 135 miles per hour (mph) indicated airspeed (IAS).

(4) Avoid any unnecessary g-forces.

(5) Avoid areas of turbulence.

(6) Plan the flight to follow the most direct route.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Air Tractor, Incorporated, P.O. Box 485, Olney, Texas 76374; or Marburger Enterprises, Inc., 1227 Hillcourt, Williston, North Dakota 58801; telephone: (800) 893–1420 or (701) 774–0230; facsimile: (701) 572–2602. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Appendix to Docket No. 2001–CE–36–AD

The following provides procedures for determining the safe life for those AT–400 and AT–500 series airplanes that incorporate or have incorporated Marburger Enterprises, Inc. winglets. These winglets are installed in accordance with Supplemental Type Certificate (STC) SA00490LA.

1. Review your airplane's logbook to determine your airplane's time in service (TIS) with winglets installed per Marburger Enterprises STC SA00490LA. This includes all time spent with the winglets currently installed and any previous installations where the winglet was installed and later removed.

Example: A review of your airplane's logbook shows that you have accumulated 350 hours TIS since incorporating the Marburger STC. Further review of the airplane's logbook shows that a previous owner had installed the STC and later removed the winglets after accumulating 150 hours TIS. Therefore, your airplane's TIS with the winglets installed is 500 hours.

If you determine that the winglet STC has never been incorporated on your airplane, then your safe life is presented in paragraph (a)(1) of this AD. Any future winglet installation would be subject to a reduced safe life per these instructions.

2. Determine your airplane's unmodified safe life from paragraph (a)(1) of this AD.

Example: Your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(1) of this AD, the safe-life of your airplane is 4,000 hours TIS. All examples from hereon will be based on the Model AT–502B, serial number 0292 airplane.

3. Determine the winglet usage factor from paragraph (a)(2) of this AD.

Example: Again, your airplane is a Model AT–502B, serial number 0292. From paragraph (a)(2) of this AD, your winglet usage factor is 1.2.

4. Adjust the winglet TIS to account for the winglet usage factor. Multiply the winglet TIS (result of 1.) by the winglet usage factor (result of 3.).

Example: Winglet TIS is 500 hours X a winglet usage factor of 1.2. The adjusted winglet TIS is 600 hours.

5. Calculate the winglet usage penalty. Subtract the winglet TIS (result of 1.) from the adjusted winglet TIS (result of 4.).

Example: Adjusted winglet TIS is 600 hours—the winglet TIS of 500 hours. The winglet usage penalty is 100 hours TIS.

6. Adjust the safe life of your airplane to account for winglet usage. Subtract the winglet usage penalty (result of 5.) result from the unmodified safe life from paragraph (a)(1) of this AD (the result of 2.).

Example: The unmodified safe life is 4,000 hours TIS − the 100 hours TIS usage penalty = 3,900 hours TIS adjusted safe life.

7. If you remove the winglets from your airplane prior to further flight or no longer have the winglets installed on your airplane, the safe life of your airplane is the adjusted safe life (result of 6.). Enter this number in paragraph (d)(1) of this AD and the airplane logbook.

8. If you keep the current winglet installation on your airplane, you must further reduce the safe life by dividing the adjusted safe life (result of 6.) by the winglet usage factor (result of 3.). Record this result in your airplane's logbook.

Example: Adjusted safe life is 3,900 hours ÷ winglet usage factor of 1.2 = 3,250 hours TIS.

9. If, at anytime in the future, you install or remove the Marburger winglet STC from your airplane, you must repeat the procedures in this Appendix.

Issued in Kansas City, Missouri, on December 17, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31555 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. Models SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to supersede Airworthiness Directive (AD)

2001–20–14, which currently requires you to replace the brake shuttle valves with parts of improved design and install a shield over the hydraulic lines on certain Fairchild Aircraft SA226 and SA227 series airplanes. AD 2001–20–14 also requires you to replace the rubber fuel hose with a metal device for certain SA226 series airplanes. AD 2001–20–14 resulted from a report of a wheel brake system malfunction caused by a faulty brake shuttle valve. The FAA incorrectly referenced Model SA226–T(A) airplanes and inadvertently omitted certain serial numbers of Model SA227–AC airplanes from AD 2001–20–14. This proposed AD would retain the actions of AD 2001–20–14, correct the reference of Model SA226–T(A) airplanes, and would add additional Model SA227–AC airplanes to the Applicability section of the AD. The actions specified by this proposed AD are intended to correct potential brake shuttle valve problems, which could cause the brake assembly to drag and overheat. Hydraulic or fuel line damage could then occur if the overheated brake assembly is retracted into the main wheel well with a consequent fire if the hydraulic or fuel lines ruptured.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before February 19, 2002 .

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–47–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001–CE–47–AD." We will date stamp and mail the postcard back to you.

Discussion

Has FAA taken any action to this point? The FAA received a report of an accident involving a Fairchild Model SA226–TC airplane where the flight crew lost control of the airplane at low altitude during the final approach for landing. Prior to the accident, the flight crew reported a loss of hydraulic pressure and a fire on the left side of the airplane. The report of this accident caused us to issue AD 2001–20–14, Amendment 39–12462 (66 FR 52020, October 12, 2001). This AD requires the following on certain Fairchild Aircraft SA226 and SA227 series airplanes:

- Replace the brake shuttle valves with parts of improved design (except on airplanes with an anti-skid/power brake system);
- Install a shield over the hydraulic lines; and
- Replace the rubber fuel hose with a metal device on certain SA226 series airplanes.

What has happened since AD 2001–20–14 to initiate this action? The FAA incorrectly referenced Model SA226–T(A) airplanes and inadvertently omitted certain serial numbers of Model SA227–AC airplanes from the applicability of AD 2001–20–14. In particular, we referenced serial numbers T(A)249 through T(A)291 as Model SA226–T(A) airplanes. These serial numbers should be T249 through T291, except T276, as Model SA226–T airplanes. We also restricted the applicability of Model SA227–AC airplanes to serial numbers AC406, AC415, AC416, and AC420 through AC599. Any Model SA227–AC airplane incorporating a serial number from AC600 through AC789 should also be affected by the actions of AD 2001–20–14.

Accomplishment of the actions as specified in AD 2001–20–14 is required in accordance with the following documents:

- Fairchild Aircraft Service Bulletin No. 226–26–003, which applies to certain SA226 series airplanes and incorporates the following pages:

Pages	Date
16	Issued: March 1, 2000.
14, 15	Issued: March 1, 2000, Revised: June 27, 2000.
17	Issued: March 1, 2000, Revised: October 2, 2000.
4, 5, 6, 7, 10, 11, 12, and 13.	Issued: March 1, 2000, Revised: January 19, 2001.
1, 2, 3, 8, and 9.	Issued: March 1, 2000, Revised: August 10, 2001 and

- Fairchild Aircraft Service Bulletin No. 227–26–002, which applies to certain SA227 series airplanes and incorporates the following pages:

Pages	Date
1, 2, 8, and 9.	Issued: March 1, 2000.
7	Issued: March 1, 2000, Revised: June 27, 2000.
3, 4, 5, and 6.	Issued: March 1, 2000, Revised: October 2, 2000.

What are the provisions of these service bulletins? These service bulletins include procedures for:

- Replacing each brake shuttle valve with a part number (P/N) MS28767–4 brake shuttle valve;
- Replacing the rubber fuel hose with a metal device; and
- Installing a shield over the hydraulic lines.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on other certain Fairchild Aircraft

VOL 66 ISS 248 DE 27 2001 UMI

SA226 and SA227 series airplanes of the same type design;

- —The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
- —AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would supersede AD 2001–20–14 with a new AD that would retain the actions of AD 2001–20–14, correct the reference to Model SA226–T(A) airplanes, and would include additional Model SA227–AC airplanes in the Applicability section of the AD.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 186 SA226 Series airplanes and 72 SA227 Series airplanes in the U.S. registry for total of 258 affected airplanes.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the proposed replacement and installation:

SA226 SERIES AIRPLANES

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
65 workhours × $60 per hour = $3,900	$3,431	$7,331	$7,331 × 186 = $1,363,566.

SA227 SERIES AIRPLANES

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
55 workhours × $60	$1,369 per hour = $3,300.	$4,669	$4,669 × 72 = $336,168.

The only difference between AD 2001–20–14 and this proposed AD is the expanded applicability of Model SA227–AC airplanes that we inadvertently omitted from the "Applicability" section of AD 2001–20–14. However, the estimated number of total airplanes affected has not changed. The only impact this proposed AD would have over that already required by AD 2001–20–14 is the burden to the owners/operators of the cost of the proposed actions on the additional airplanes.

Compliance Time of this Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is at whichever of the following that occurs later:

- —Within 500 hours time-in-service (TIS) after the effective date of this AD or AD 2001–20–14, as applicable; or
- —Within 6 months after the effective date of this AD or AD 2001–20–14, as applicable.

Why is the compliance time of the proposed AD presented in both hours TIS and calendar time? The affected airplanes are used in both general aviation and commuter operations. Those commuter operators may accumulate 500 hours TIS on the airplane in less than 2 months and many owners have numerous affected airplanes in their fleets. We have determined that the dual compliance time:

- —gives all owners/operators of the affected airplanes adequate time to schedule and accomplish the actions in this proposed AD; and
- —assures that the unsafe condition referenced in this AD will be corrected within a reasonable time period without inadvertently grounding any of the affected airplanes.

Regulatory Impact

Would this proposed AD impact various entities? The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposed rule would not have federalism implications under Executive Order 13132.

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations(14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing Airworthiness Directive (AD) 2001–20–14, Amendment 39–12462 (66 FR 52020, October 12, 2001), and by adding a new AD to read as follows:

Fairchild Aircraft, Inc.: Docket No. 2001–CE–47–AD; Supersedes AD 2001–20–14, Amendment 39–12462.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

(1) Group 1: Fairchild Aircraft Inc. airplanes retained from AD 2001–20–14:

Model	Serial Nos.
SA226–AT	AT001 through AT074.
SA226–T	T201 through T291, except T276.
SA226–T(B)	T(B) 276 and T(B) 292 through T(B) 417.
SA226–TC	TC201 through TC419.

Model	Serial Nos.
SA227–AC	AC406, AC415, AC416, and AC420 through AC599.
SA227–AT	AT421, AT423 through AT631, and AT695.
SA227–TT	TT421 through TT555.
SA227–TT(300)	TT447, TT465, TT471, TT483, TT512, TT518, TT521, TT527, TT529, and 536.

(2) Group 2: Fairchild Aircraft, Inc. airplanes added to the applicability of this AD (not included in AD 2001–20–14):

Model	Serial Nos.
SA227–AC	AC600 through AC789.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes must comply with this AD. The AD applies to any airplane with or without an anti-skid/power brake system installed.

(c) *What problem does this AD address?* The actions specified by this AD are intended to correct potential brake shuttle valve problems, which could cause the brake assembly to drag and overheat. Hydraulic or fuel line damage could then occur if the overheated brake assembly is retracted into the main wheel well, with a consequent fire if the hydraulic or fuel lines ruptured.

(d) *What actions must I accomplish to address this problem for Group 1 airplanes?* To address this problem for Group 1 airplanes, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes, except those equipped with an anti-skid/power brake system, replace each brake shuttle valve with part number (P/N) MS28767–4 brake shuttle valve (or FAA-approved equivalent part number).	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after November 21, 2001 (the effective date of AD 2001–20–14), whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–003, or Fairchild Aircraft Service Bulletin No. 227–26–002, as applicable.
(2) For all affected airplanes, install a shield over the hydraulic lines.	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after November 21, 2001 (the effective date of AD 2001–20–14), whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–003, or Fairchild Aircraft Service Bulletin No. 227–26–002, as applicable.
(3) For all airplane models within the SA226 series replace the rubber fuel hose with a metal device.	Within 500 hours time-in-service (TIS) after November 21, 2001 (the effective date of AD 2001–20–14), or within 6 months after November 21, 2001 (the effective date of AD 2001–20–14), whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 226–26–003.
(4) Do not install any brake shuttle valve that is not a P/N MS28767–4 brake shuttle valve (or FAA-approved equivalent part number) or a fuel hose that is made out of rubber.	As of November 21, 2001 (the effective date of AD 2001–20–14).	Not Applicable.

(e) *What actions must I accomplish to address this problem for Group 2 airplanes?* To address this problem for Group 2 airplanes, you must accomplish the following:

Actions	Compliance	Procedures
(1) For all affected airplanes except those equipped with an anti-skid/power brake system, replace each brake shuttle valve with part number (P/N) MS28767–4 brake shuttle valve (or FAA-approved equivalent part number).	Within 500 hours time-in service (TIS) after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 227–26–002.
(2) For all affected airplanes, install a shield over the hydraulic lines.	Within 500 hours time-in-service (TIS) after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs later.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Fairchild Aircraft Service Bulletin No. 227–26–002.
(3) Do not install any brake shuttle valve that is not a P/N MS28767–4 brake shuttle valve (or FAA-approved equivalent part number) or a fuel hose that is made out of rubber.	As of the effective date of this AD	Not Applicable.

(f) *What revision levels do the affected service bulletins currently incorporate?* The service bulletins required to accomplish these actions incorporate the following pages:

(1) Fairchild Aircraft Service Bulletin No. 226–26–003:

Affected pages	Revision level	Date
16	Original Issue	March 1, 2000.
14, 15	Revision 1	June 27, 2000.
17	Revision 2	October 2, 2000.
4, 5, 6, 7, 10, 11, 12, and 13	Revision 3	January 19, 2001.
1, 2, 3, 8, and 9	Revision 4	August 10, 2001.

(2) Fairchild Aircraft Service Bulletin No. 227–26–002:

Affected pages	Revision Level	Date
1, 2, 8, and 9	Original Issue	March 1, 2000.
7	Revision 1	June 27, 2000.
3, 4, 5, and 6	Revision 2	October 2, 2000.

(g) *Can I comply with this AD in any other way?* (1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

(2) Alternative methods of compliance approved in accordance with AD 2001–20–14, which is superseded by this AD, are approved as alternative methods of compliance with this AD.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(h) *Where can I get information about any already-approved alternative methods of compliance?* Contact Werner Koch, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5133; facsimile: (817) 222–5960.

(i) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(j) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(k) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 2001–20–14, Amendment 39–12462.

Issued in Kansas City, Missouri, on December 14, 2001.

Dorenda D. Baker,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–31554 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ASO–18]

Proposed Establishment of Class E5 Airspace, Andrews, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E5 airspace at Andrews, SC. A Non-Directional Beacon (NDB) Runway (RWY) 36 Standard Instrument Approach Procedure (SIAP) has been developed for Robert F. Swinnie Airport, Andrews SC. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP and other Instrument Flight Rules (IFR) operations at Robert F. Swinnie Airport. The operating status of the airport would change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

DATES: Comments must be received on or before January 28, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 01–ASO–18, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 01–ASO–18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 55, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment of Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E5 airspace at Andrews, SC. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14

CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO SC E5 Andrews, SC [NEW]

Robert F. Swinnie Airport, SC
(Lat. 33°27′06″N, long. 79°31′34″W)
Andrews NDB
(Lat. 33°27′05″N, long. 79°31′38″W)

That airspace extending upward from 700 feet above the surface within a 6.3—mile radius of Robert F. Swinnie Airport and within 4 miles east and 8 miles west of the 174° bearing from the Andrews NDB extending from the 6.3—mile radius to 16 miles south of the airport, excluding that airspace within the Georgetown, SC, Class E airspace area.

* * * * *

Issued in College Park, Georgia, on December 18, 2001.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 01–31726 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 234

[Docket No. OST 2000–8164]

RIN 2139–AA09

Reporting the Causes of Airline Delays and Cancellations

AGENCY: Office of Secretary, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: As required by Federal statute, the Department of Transportation is considering modifying the reporting requirements regarding air carriers' quality of services. We are proposing requiring air carriers that file airline service quality performance reports under the regulations to collect and report the causes of airline delays and cancellations. Currently, there is a lack of data on the specific causes of airline delays and cancellations. The proposed changes are designed to fill the data gaps for airline delays and cancellations and provide this information to the public and other interested parties.

DATES: Comment Deadline: February 25, 2002.

ADDRESSES: Written, signed comments containing the docket number that appears in the heading of this document can be sent to: Docket Clerk, US DOT Dockets, Room PL–401, 400 Seventh Street SW., Washington DC 20590–0001. All comments will be available for examination at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you would like notification that we have received your comment, please include a self addressed stamped envelop or postcard.

FOR FURTHER INFORMATION CONTACT: Bernard Stankus or Clay Moritz, Office of Airline Information, K–25, Bureau of Transportation Statistics, Department of Transportation, 400 Seventh Street, SW., Washington, DC, 20590–0001, (202) 366–4387 or 366–4385, respectively. You can also contact them by e-mail at bernard.stankus@bts.gov or clay.moritz@bts.gov or by fax at (202) 366–3383.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Services at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*. You can also view and download this document by going to the webpage of the Department's Docket Management System (*http://dms.dot.gov/*). On that page, click on "search." On the next page, type the last four digits of the docket number shown in the heading of this document. Then click on "search."

Background

Section 227 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires that we modify our airline data collection system, 14 CFR Part 234—Airline Service Quality Performance Reports, to explain more fully to the public the nature and source of airline delays and cancellations (See Pub. L. 106–181, 114 Stat. 61). AIR–21 also directed that DOT establish a Task Force to review airline delays and cancellations and develop recommendations for the associated reporting criteria. Since the passage of AIR–21, Congress has continued to express concern that DOT needs more accurate data to better understand gate, tarmac and airborne delays. The DOT Office of the Inspector General (OIG) also highlighted the need to examine airline delays and cancellations in its July 25, 2000 report on air carrier flight delays and cancellations. Our own consumer complaint statistics also support regulatory action in this area.

In August 2000, we formed the Air Carrier On-Time Reporting Advisory Committee (the Task Force). The Task Force members were chosen to reflect a balanced cross section of interests. In addition to government representatives, they included representatives from consumer airline groups, air carriers, labor unions and airport operators. On September 25, 2000, the Task Force was chartered as a Federal advisory committee. Its mission was to consider

VOL 66 ISS 248 DE 27 2001 UMI

changes to the current on-time reporting system so that the public would have clear information about the nature and sources of airline delays and cancellations.

In the Fall of 2000 (*i.e.*, October 25 and 26, November 1 and 2, and November 13), the Task Force held several meetings to identify the issues surrounding airline delays and cancellations and to develop reporting criteria. The meetings were announced in the **Federal Register** (65 FR 63285) and were open to the public. We opened a public docket for submission of comments, Docket OST–2000–8164. On November 29, 2000, the Task Force submitted its report to DOT. The Task Force made a number of recommendations, including that we establish a reporting framework for collecting information about the causes of airline delays and cancellations. The Task Force also recommended that, prior to rulemaking, we conduct a pilot program to test the proposed reporting categories. Following up on that recommendation, we contacted a number of air carriers; four air carriers agreed to participate in a voluntary pilot project. The four carriers were American Airlines, Delta Air Lines, Southwest Airlines and United Airlines. Over the past seven months, we met with the four carriers and discussed what causal delay and cancellation information should be collected and how best to report that delay and cancellation data. After the parties agreed on a reporting framework, the carriers began submitting delay and cancellation data to us.

We have used the recommendations from the Task Force, the results of our pilot project and our outreach efforts to form the proposals contained in this NPRM.

Scope of Proposed Rulemaking

We are proposing to amend 14 CFR Part 234 to require that air carriers report the causes of airline delays and cancellations. We are proposing that this new reporting requirement apply only to those air carriers that are already reporting under part 234. Under part 234, a reporting carrier is an air carrier that holds a certificate under 49 U.S.C. 41102 and that accounted for at least one percent of domestic scheduled passenger revenues in the 12 months ending March 31 of each year. We believe that this proposal will provide those air carriers in a position to quickly adopt the new reporting system, that opportunity, but it also would provide a transition period to those air carriers who may face technological obstacles. In taking this approach, we believe that the proposal minimizes the regulatory burden on the industry and yet, provides valuable information to the public.

We are proposing this phased regulatory approach, based on a Task Force recommendation that, after an assessment of the reporting burdens, we consider applying the new reporting requirements to other major and national air carriers and the code-share partners of major carriers. In order to evaluate the Task Force's recommendation on expanding the part 234 reporting requirements to other major and national air carriers and the code-share partners of major carriers and to announce the results of the delay-reporting pilot project, we conducted several outreach efforts with industry representatives.

During an August 10, 2001 meeting with air carriers already reporting under Part 234, several airline representatives indicated that non-reporting airlines would face significant start-up costs, including software changes and computer hardware upgrades. Several representatives voiced the opinion that the non-reporting carriers would face a difficult and lengthy transition period and, from a technological standpoint, were not in a position to comply with the Part 234 reporting requirements in the near term.

During the previous Task Force meetings, the Air Carrier Association of America indicated that expanding the Part 234 reporting requirements to its members would result in each carrier facing additional annual costs of $25,000 to $100,000. The Regional Airline Association also indicated that expanding the reporting requirements to its members would have a significant impact on resources, personnel, and operations. It did not provide, however, an actual cost estimate for its members to report on-time data.

We have reviewed domestic enplanement data. Domestic enplanements include all enplanements for scheduled service operations between two U.S. points. For 2000, the data showed that the 12 air carriers currently reporting under Part 234 accounted for approximately 83% of the domestic passenger enplanements. We also examined the data for "code-sharing partners." Airlines use two-character designator codes to identify themselves in the computer reservation systems. Code-sharing is an arrangement whereby one carrier's designator code is used to identify a flight operated by another carrier. The 2000 data showed that the reporting carrier's code-share partners accounted for approximately 9% of the enplanements. There are also other major and national air carriers that are not code-sharing partners and the enplanement data indicates they handled approximately 5% of the domestic enplanements.

We reviewed data for medium and large regional air carriers. We defined medium and large regional air carriers as those carriers that provide passenger service with aircraft having a passenger capacity of 61 seats or more. Medium regional air carriers have annual operating revenue of $20 million or less. Large regional carriers have annual operating revenue of more than $20 million but less than $100 million. The 42 medium and regional air carriers handled approximately 2% of the domestic enplanements.

We also reviewed data for small air carriers. One definition of small carriers is those certificated or commuter air carriers that do not provide code-share service for a major air carrier, but do provide passenger service with aircraft having passenger capacity of 60 seats or fewer. For our regulatory purposes, the Small Business Administration defines an air carrier as a small business if it has 1500 or fewer employees. We estimate there are approximately 80–90 small air carriers. The 2000 data showed that small carriers accounted for only 1% of the enplanements.

Based on the our review and the feedback we received concerning cost, resource considerations, and the time to implement a reporting system, we are limiting the scope of the NPRM. Based on the small number of enplanements handled by small air carriers, medium and large regional air carriers, and the potential burdens and costs faced by these carriers that are not now required to submit on-time flight performance reports, the NPRM excludes these carriers from the on-time reporting requirements. This decision is being made in recognition of the amount of time and expense required to implement a reporting system as well as the additional potential resource burdens associated with reporting. We are therefore not proposing, at this time, to include code-share partners and other major/national carriers in the Part 234 reporting system. We believe that based on the feedback gathered during the pilot project, we need additional time to examine and estimate the potential burdens. Instead, the inclusion of code-share partners and other major/national carriers in the Part 234 reporting system will be the subject of a future rulemaking.

We recognize that our proposal would not include approximately 17% of the enplanement data in the reporting system and thus, potentially affect the utility of the information available to the public. Accordingly, we are inviting comments on what should be the proper time frame to include the remaining major carriers as well as the national carriers, and the reporting carriers' code-share partners in the part 234 reporting requirements. We are also seeking cost estimates from air carriers on our proposal and input from members of the public on whether they would benefit from expanding the part 234 reporting requirements. After reviewing all the comments, we will determine whether the proposed scope of the rulemaking is appropriate.

Causal Categories and Methodology

By requiring air carriers to report the causes of delays and cancellations, we hope to address two important air transportation issues: (1) identify the causes of flight delays and cancellations for future corrective action and (2) alleviate some of the frustration and anger that airline passengers have expressed concerning delayed and cancelled flights.

The primary purpose for collecting causal data is to categorize delays and cancellations so that system problems can be identified and the appropriate parties can take corrective action. Based on the Task Force's recommendations and our work in the pilot program, we are proposing four categories for reporting delays: (1) Air carrier, (2) extreme weather, (3) National Aviation System (NAS), and (4) late arriving aircraft; and three categories for reporting cancellations: (1) Air carrier, (2) extreme weather, and (3) the NAS.

Air Carrier Delays or Cancellations

Below is a list of examples of causes for delays and cancellations that we believe are within the control of the air carrier. This list should be used as a guide for the type of occurrences that should be reported as an air carrier delay and/or cancellation. It should not be considered a complete list and we welcome comments on additions or deletions.

Aircraft cleaning, Aircraft damage, Awaiting the arrival of connecting passengers or crew, Baggage, Bird strike, Cargo loading, Catering, Computer, outage—carrier equipment, Crew legality (pilot or attendant rest), Damage by hazardous goods, Engineering Inspection, Fueling, Handling disabled passengers, Late Crew, Lavatory Servicing, Maintenance, Oversales, Potable Water Servicing, Removal of unruly passenger, Slow boarding or seating, Stowing carry-on baggage, Weight and balance delays.

During the pilot program, bird strikes were coded as an air carrier caused delay and/or cancellation. Although air carriers generally cannot prevent bird strikes, they are in the best position to take corrective action by having spare aircraft or by repairing damaged parts. However, during our meetings with industry representatives, other carriers, who did not participate in the pilot program, questioned whether this coding designation is the appropriate way to report bird strikes. We request comments on the appropriate coding designation for bird strikes.

Extreme Weather

Extreme weather delays or cancellations are caused by weather conditions (*e.g.*, significant meteorological conditions), actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior delay or cancellation attributable to weather.

National Aviation System (NAS)

Delays and cancellations attributable to NAS refer to a broad set of conditions: weather-non extreme, airport security, airport operations, heavy traffic volume, air traffic control, etc. Recent Congressional legislation will transition passenger screening and other security responsibilities from the air carriers to the Department of Transportation.

Using the available internal data, the FAA will review the delays reported by the air carriers in the NAS category to identify the actual causes of the delays. As stated earlier, air carriers track delays up to the time the aircraft pushes away from the departure gate. Delays that occur after "push-back" are generally assigned to the NAS category. The FAA has various data sets, which would be used to identify delays after "push-back." One of these data sets is FAA's Air Traffic Operations Network (OPSNET) information. This data set provides information on delays incurred by aircraft while under the control of the air traffic system.

In addition, the National Oceanic and Atmospheric Administration provides the FAA with weather information. Airport operators provide the FAA with information on runway closures and other airport incidents. With these data sets, the FAA has the capability to refine the NAS delays into weather-non extreme, volume, equipment outages, runway closures, other or "no match."

Volume delays are those delays that occur because the amount of air traffic exceeds the airport's capacity. These delays or cancellations are assigned to NAS rather than to the air carriers because the heavy traffic volume generally consists of flights from a multitude of carriers. Consistent high volume delays are an indication to airport operators and to state and local governments that there is a need for infrastructure investments and improvements. Equipment outages are failures that involve FAA equipment and do not involve the air carrier's equipment. A "no match" means there was a NAS delay reported, but FAA found nothing in its tracking system that would account for a NAS delay.

Late Arriving Aircraft

Consumers have an interest in knowing if particular flights are consistently late due to late arriving aircraft. Delays reported under the "late arriving aircraft" category demonstrate the ripple effects of an earlier flight delay problem. The cause of the initial delay would have to be addressed to cure the delays associated with late arriving aircraft. Some carriers track the initial causes and use an internal code to identify the initial cause for downline late arriving aircraft. Other carriers do not track the downline effects of earlier delays and only code that the flight was late because of the previous flight's late "turn around." While we would like to collect data that identifies the initial causes of downline delays, we are not proposing that carriers alter their tracking systems to provide the data. Rather, we are proposing to give the carriers the flexibility of reporting a delay caused by previous late arriving aircraft under several reporting codes. Under our proposal, a carrier would use the code D for delays attributed to a previous late arriving aircraft and the initial cause is unknown. Also, carriers may use the codes DA for delays attributed to a previous late arriving aircraft where the initial delay was assigned to the air carrier; DB for delays attributed to a previous late arriving aircraft where the initial delay was caused by extreme weather; and DC for delays attributed to a previous late arriving aircraft where the initial delay was assigned to the NAS.

As a result of our delay reporting pilot program with American Airlines, Delta Air Lines, Southwest Airlines, and United Air Lines, we have discovered that most air carriers only track and code delays up to the time the aircraft pushes away from the gate at the origin airport. After that time, the aircraft is generally under the command of the air traffic control system. Some carriers track delays for each minute of the delay and other carriers track delays only when the delay is five minutes or longer.

One of our aims in developing the causal reporting system is to require minimal change to the air carriers' internal tracking systems, while still collecting useful data. Thus, based on the results of our pilot project, we are proposing to collect the number of minutes for each flight delay category for every flight that arrives 15 minutes or more after the scheduled arrival time. As such, carriers would be required to:

1. Create a bridge or map to translate their internal codes to the BTS assigned categories.

2. Report delay categories when the arrival delay is 15 minutes or more. The proposal would not require carriers to report causal data for flights that are considered Aon-time," meaning the flight arrived less than 15 minutes after its published arrival time.

3. Ensure that the total minutes of causal delays equal the actual minutes of arrival delay.

Since not all carriers track and code departure delays of less than 5 minutes, we are proposing that carriers code the total delay as a NAS delay when there is a departure delay of 4 minutes or less and an arrival delay of 15 minutes or more.

Air carriers track only departure delays. Therefore, whenever the arrival delay is greater than the departure delay, the air carriers will assign NAS minutes to make up the difference between the departure delay and the arrival delay (Departure delay + NAS delay = Arrival delay).

Whenever the departure delay is more than the arrival delay, the en route time savings would be prorated back to the departure delay categories. For example, if a 50 minute departure delay consists of a 15 minute air carrier delay, a 10 minute NAS delay, and a 25 minute late arriving aircraft, then the departure delay would be 30% air carrier, 20% NAS and 50% late arriving aircraft. If the flight arrived 40 minutes late, this would be reported in minutes as 12 minutes air carrier, 8 minutes NAS and 20 minutes late arriving aircraft.

Reporting of Delayed Flights

Carriers use a fixed-length file format to report on-time data. We propose to add four-position numeric fields for each of the seven possible causes of delays. Instead of reporting delay codes, we proposes that carriers report the number of minutes attributed to the cause of delay into the assigned fields for the appropriate cause of delay. There often are multiple reasons for delayed flights, and we propose that air carriers report each category of flight delay as applicable. The proposed fixed-length file format is as follows:

FIELD SPECIFICATIONS FOR FORM 234, ON-TIME PERFORMANCE REPORTS

Field and description	Type	Location	Length	Comments
A—Carrier code	Alpha	1–2	2	
B—Flight number	Num	3–6	4	
C—Origin airport code	Alpha	7–9	3	
D—Destination airport code	Alpha	10–12	3	
E—Date of flight operation	Num	13–20	8	Format yyyymmdd.
F—Day of the week of flight operation	Num	21	1	Mon = 1, Sun = 7.
G—Scheduled departure time per OAG	Num	22–25	4	Local time 24 hour clock.
H—Scheduled departure time per CRS	Num	26–29	4	Local time 24 hour clock.
I—Gate departure time (actual)	Num	30–33	4	Local time 24 hour clock.
J—Scheduled arrival time per OAG	Num	34–37	4	Local time 24 hour clock.
K—Scheduled arrival time per CRS	Num	38–41	4	Local time 24 hour clock.
L—Gate arrival time (actual)	Num	42–45	4	Local time 24 hour clock.
M—Difference between OAG and CRS scheduled departure times.	Num	46–49	4	In minutes (2 hrs = 120 min) Caused-In Minutes.
N—Difference between OAG and CRS scheduled arrival times.	Num	50–53	4	In minutes.
O—Scheduled elapsed time per CRS	Num	54–57	4	In minutes.
P—Actual gate-to-gate time	Num	58–61	4	In minutes.
Q—Departure delay time (actual minutes CRS)	Num	62–65	4	In minutes.
R—Arrival delay time (actual minutes CRS)	Num	66–69	4	In minutes.
S—Elapsed time difference (actual minutes CRS).	Num	70–73	4	In minutes.
T—Wheels-off time (actual)	Num	74–77	4	Local time 24 hour clock.
U—Wheels-on time (actual)	Num	78–81	4	Local time 24 hour clock.
V—Aircraft tail number	Alpha/Num	82–87	6	Left justified, trailing blanks.
W—Cancellation code	Num	88	1	(1, 2, or 3).
X—Minutes late for delay code A	Num	89–92	4	Carrier Caused Delays—In min.
Y—Minutes late for delay code B	Num	93–96	4	Extreme Weather Delays—In minutes.
Z—Minutes late for delay code C	Num	97–100	4	NAS Delays—In minutes.
AA—Minutes late for delay code D	Num	101–104	4	Late Arriving Aircraft Delays—In minutes.
AB—Minutes late for delay code DA	Num	105–108	4	Late Arriving Aircraft—Carrier Caused—In Minutes.
AC—Minutes late for delay code DB	Num	109–112	4	Late Arriving Aircraft—Weather.
AD—Minutes late for delay code DC	Num	113–116	4	Late Arriving Aircraft—NAS Caused—In Minutes.

Cancellation codes	Delay codes
1—Carrier Caused	A—Carrier Caused.
2—Extreme Weather	B—Extreme Weather.
3—National Aviation System	C—National Aviation System.
	D—Late Arriving Aircraft.
	DA—Late Arriving Aircraft—Carrier Caused.

Cancellation codes	Delay codes
	DB—Late Arriving Aircraft—Weather Caused. DC—Late Arriving Aircraft—NAS Caused.

All numeric fields for which data are unavailable will be zero-filled.

All alpha fields for which data are unavailable will be left blank. The data fields in this document are Y2K compliant.

For delays that were caused by a previous late arriving aircraft, the carrier has two options for reporting this delay. Carriers that do not track the initial cause of the late arriving aircraft would report the minute for the late arriving aircraft in Delay Code D, and report zeros for delay codes DA, DB and DC. Carriers that track the initial cause, would assign the minutes to the applicable DA, DB and DC codes, and report a zero for delay code D.

Examples of Delayed Flight Coding

1. A flight received a 20 minute ground hold because of congestion at the destination airport, and the flight was 18 minutes late arriving at the destination airport gate. The delayed flight would be coded 18 minutes for NAS.

2. A flight was 4 minutes late pushing back from the gate and arrived 21 minutes late. The delayed flight would be coded 21 minutes for NAS. Please note in this example that the air carrier delay was less than 5 minutes, and thus, would not be attributed to the air carrier.

3. A flight was delayed 4 minutes to load a handicapped passengers and another 3 minutes to load late-arriving baggage. The flight arrived 15 minutes late. The delayed flight would be coded 7 minutes for air carrier and 8 minutes for NAS. Please note in this example that while no single air carrier caused delay was 5 minutes or more, the sum of the carrier delay was more than 5 minutes and the total delay was 15 minutes and thus, reportable.

4. A flight was delayed 20 minutes waiting for connecting passengers from another flight and arrived 28 minutes late. The delayed flight would be coded 20 minutes for air carrier and 8 minutes for NAS.

5. A flight had a 16 minute ground hold and arrived 14 minutes late. There is no delay coding as the flight is consider on-time.

6. A flight is 20 minutes late because of weather and is coded 20 minutes for weather. The next flight with that aircraft is 15 minutes late leaving the gate and arrives 20 minutes late. The delayed flight would be coded 15 minutes for late arriving aircraft—weather or 15 minutes for late arriving flight, if the carrier did not track the initial delay cause. Please note in this example that the air carrier made up 5 minutes of the initial late arriving aircraft delay, but then experienced a 5 minute en-route delay.

7. A flight was 30 minutes late pushing back from the gate. The 30 minute delay consisted of 10 minutes for a late arriving aircraft and 20 minutes for slow boarding process because of an oversales problem. The flight arrived 24 minutes late. The delayed flight would be coded 8 minutes for late arriving flight and 16 minutes for air carrier. Please note in this example that the 6 minutes gained after push back was prorated back to the two recorded delays. In this example, late arriving aircraft was 33.3% of the original delay and the air carrier delay was 66.6% of the delay. Therefore, late arriving aircraft was computed as 33.3% of 24 which equals 8; and air carrier was computed as 66.6% of 24 which equals 16.

8. A flight was 20 minutes late because of a thunderstorm and 6 minutes late because of a crew problem. The flight arrived 18 minutes late. The delayed flight would be coded 14 minutes for weather and 4 minutes for air carrier. In this example, the air carrier must round the prorated minutes to whole numbers. Carriers should not report fractions or decimals. Also, carriers would report an air carrier delay of less than 5 minutes because the carrier was required to track the crew delay because it was 5 minutes or more.

9. Flight number 234 was 20 minutes late departing the gate because the air carrier substituted a spare aircraft to reduce a known upcoming delay. The flight was scheduled to be operated with an aircraft that, at the time, was experiencing a 3 hour extreme weather delay. Flight number 234 arrived 16 minutes late, and was reported as a 16 minute late arriving aircraft—extreme weather.

Reporting of Cancelled Flights

Carriers use a fixed-length file format to report on-time data. We propose to add a one position numeric field for the cancellations code. The proposed codes are as follows: “1”—Air Carrier, “A2”—Extreme Weather, “3”—NAS (national aviation system).

Examples of Cancelled Flight Coding

1. A flight cancelled because of mechanical problems is code “1” for air carrier.

2. Flight 123, BOS–DCA was cancelled because, overnight, the airport had two feet of snow. The cancellation would be coded “2” for weather.

3. The next segment of Flight 123, DCA—MIA was cancelled because the aircraft that was to be used for this flight is stuck in two feet of snow in Boston. The weather in Washington and Miami is clear. The cancellation would be coded “2” for weather, because the intended aircraft was out of position as a result of a prior cancellation attributed to weather.

4. It's a clear day at O'Hare. However, there is a ground hold for flights to DFW because of severe thunderstorm around the DFW airport. After a 3 hour wait, the weather at DFW has not changed, and the carrier cancels the flight. The cancellation would be coded “2” for weather.

5. It's a rainy, misty day at O'Hare. Operations have been slow all morning. The air carrier receives a call from air traffic control asking that it cancel one of its next five flights to allow the airport to return normal operations. Other carriers receive similar calls. These cancellations would be coded “3” for NAS.

ADP Computer Tape

We are proposing to remove the requirement that carriers must submit on-time data on ADP computer tape. BTS is migrating from the mainframe computer to a mid-tier processing environment. Thus, BTS will be able to accommodate other types of reporting media.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is “significant” under Executive Order 12866 and the regulatory policies and procedures of the Department of Transportation (44 FR 11034), and was reviewed by the Office of Management and Budget. As discussed above, the purpose of the proposed rule is to disclose more fully to the public the nature and source of the delays and cancellations experienced by air travelers. This objective is achieved by amending 14 CFR 234 to require reporting air carriers

VOL 66 ISS 248 DE 27 2001 UMI

to identify and report causes of airline delays and cancellations. Based on information collected during the pilot project, we estimate that the proposed reporting requirements would require each reporting carrier to expend 10–20 hours to reconfigure its data system. Once these initial resources are expended, we estimate that there will be no additional costs or burdens for delay and cancellation reporting. We estimated reprogramming costs of $100.00/hour. Thus, we estimate that for the 12 reporting air carriers, there would be an initial reprogramming costs of $12,000–$24,000. We estimate that the benefits to the traveling public, as well, more accurate information for the allocation of transportation resources outweigh the minimal costs that would be incurred by the reporting air carriers.

Executive Order 12612

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and we have determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Initial Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review its regulations to assess their impact on small entities unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. Unless alternative definitions have been established by the agency in consultation with the Small Business Administration (SBA), the definition of Asmall business' has the same meaning as under the Small Business Act (15 CFR parts 631–657c). For those companies providing scheduled passenger air transportation, the SBA defines a small business as an air carrier that has 1500 employees or fewer (See NAICS Number 48111).

The proposed rule would apply only to those air carriers that meet the part 234 reporting criteria (*i.e.*, carriers that hold a certificate under 49 U.S.C. 41102 and account for at least 1 percent of the domestic scheduled-passenger revenues in the past 12 months). We have reviewed our data base and find that none of the air carriers that report under part 234 have 1500 employees or fewer. In fact, our information indicates that all of these carriers employ more than 3,000 employees. Therefore, we believe that the proposed rule would not apply to any Asmall business' as defined by the SBA.

Thus, based on the above discussion, I certify this proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act

This rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

Environmental Assessment

We believe that the proposed changes to the part 234 reporting system would have no significant impact on the environment. The changes proposed in this NPRM should increase the quality of data collected on the causes of airline delays and cancellations, thus increasing our ability to evaluate potential air traffic problems and allocate the appropriate resources. Thus, the proposed revisions should produce a small net benefit to the environment by improving the data sources used in regulatory development. Therefore, we find that there are no significant environmental impacts associated with this proposed rule.

Initial Paperwork Reduction Act Analysis

The reporting and recordkeeping requirements associated with this proposed rule are being sent to the Office of Management and Budget in accordance with 44 U.S.C. Chapter 35 under OMB NO: 2138–0040. *Administration:* Bureau of Transportation Statistics; *Title:* Airline Service Quality Performance Reports; *Need for Information:* Statistical information on the cause of airline delays and cancellations; *Proposed use of Information:* To disclose more fully to the public the nature and source of the delays and cancellations experienced by air travelers; *Frequency:* Monthly; *Burden Estimate:* 180 hours; Average Annual Burden Hours per Respondent After Final Rule is Issued—No burden. Based on information collected during the pilot project, we estimate that the proposed reporting requirements would require each reporting carrier to expend 10–20 hours to reconfigure its data system. We estimated reprogramming costs of $100.00/hour. Thus, we estimate that for the 12 reporting air carriers, there would be an initial reprogramming costs of $12,000–$24,000. Once these initial resources are expended, we estimate that there would be no additional annual burden. We invite comments on our burden estimates. For further information or to comment on the burden hour estimate contact: The Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attention Desk Office for the Department of Transportation or Bernie Stankus at the address listed under **FOR FURTHER INFORMATION CONTACT.**

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139–AA09 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Regulatory Text

Accordingly, the Bureau of Transportation Statistics, under delegated authority pursuant to 49 CFR part 1, proposes to amend chapter II of 14 CFR, as follows:

List of Subjects in 14 CFR Part 234

Advertising, Air carriers, Consumer protection, Reporting requirements, Travel agents.

PART 234—[AMENDED]

1. The authority citation for Part 234 would be revised to read as follows:

Authority: 49 U.S.C. 329 and chapters 401, 413, 417.

2. Section 234.4 would be amended by adding paragraphs (a)(16) through (a)(23), revising paragraph (b), and adding paragraphs (g), (h) and (i) as follows:

§ 234.4 Reporting of on-time performance.

(a) * * *

(16) Causal code for cancellation, if any.

(17) Minutes of delay attributed to the air carrier, if any.

(18) Minutes of delay attributed to extreme weather, if any.

(19) Minutes of delay attributed to the national aviation system, if any.

(20) Minutes of delay attributed to a previous late arriving aircraft, if any.

(21) Minutes of delay attributed to a previous late arriving aircraft where the original delay was an air carrier delay, if any.

(22) Minutes of delay attributed to a previous late arriving aircraft where the original delay was caused by extreme weather, if any.

(23) Minutes of delay attributed to a previous late arriving aircraft where the

original cause was assigned to the national aviation system, if any.

(b) When reporting the information specified in paragraph (a) of this section for a diverted flight, a reporting carrier shall use the original scheduled flight number and the original scheduled origin and destination airport codes. Carriers are not required to report causal information for diverted flights.

* * * * *

(g) Reporting carriers should use the following codes to identify causes for cancelled flights:

CODE
1—Air Carrier
2—Extreme Weather
3—National Aviation System (NAS).

(1) Air Carrier cancellations are due to circumstances that were within the control of the air carrier (*e.g.*, lack of flight crew, maintenance, etc.).

(2) Extreme weather cancellations are caused by weather conditions (e.g., significant meteorological conditions), actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior cancellation or delay attributable to weather.

(3) NAS cancellations are caused by circumstances within the National Aviation System. This term is used to refer to a broad set of condition: weather-non extreme, airport operations, heavy traffic volume, air traffic control, etc.

(h) Reporting carriers should use the following causes to identify the reasons for delayed flights:

CAUSE
A—Air Carrier
B—Extreme weather
C—NAS
D—Late arriving aircraft
DA—Late arriving aircraft—air carrier
DB—Late arriving aircraft—extreme weather
DC—Late arriving aircraft—NAS.

(1) Air carrier delays are due to circumstances within the control of the air carrier.

(2) Extreme weather delays are caused by weather conditions (e.g., significant meteorological conditions, actual or forecasted at the point of departure, en route, or point of arrival that, in accordance with applicable regulatory standards and/or in the judgment of the air carrier, prevents operation of that flight and/or prevents operations of subsequent flights due to the intended aircraft being out of position as a result of a prior cancellation or delay attributable to weather.

(3) NAS delays are caused by circumstances within the National Aviation System. This term is used to refer to a broad set of conditions: Weather—non extreme, airport operations, heavy traffic volume, air traffic control, etc.

(4) Late arriving aircraft delays are the result of a late incoming aircraft from the previous flights. Reporting carriers should use this code only when they are unable to identify the root cause of the initial delay.

(5) Late arriving aircraft—carrier caused delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was within the air carrier's control.

(6) Late arriving aircraft—extreme weather delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was extreme weather.

(7) Late arriving aircraft—NAS caused delays are the result of a late incoming aircraft from the previous flight, in which the root cause of the late arriving aircraft was a NAS problem.

(i) When reporting causal codes in paragraph (a), reporting carriers are required to code delays only when the arrival delay is 15 minutes or greater; and reporting carriers must report each causal component of the reportable delay when the causal component is 5 minutes or greater.

3. Section 234.5 would be revised to read as follows:

§ 234.5 Form of reports.

Except where otherwise noted, all reports required by this part shall be filed within 15 days of the end of the month for which data are reported. The reports must be submitted to the Office of Airline Information in a format specified in accounting and reporting directives issued by the Assistant Director for Airline Information.

Ashish Sen,

Director, Bureau of Transportation Statistics.

[FR Doc. 01–31725 Filed 12–26–01; 8:45 am]

BILLING CODE 4910-62-P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33–8041; File No. S7–23–01]

RIN 3235–AI25

Defining the Term "Qualified Purchaser" Under the Securities Act of 1933

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission today proposes a definition for the term "qualified purchaser" under the Securities Act of 1933 to implement a provision of the National Securities Markets Improvement Act of 1996. The proposed definition mirrors the definition of accredited investor under Regulation D of the Securities Act. Thus, the new qualified purchaser definition identifies well-established categories of persons we have previously determined to be financially sophisticated and therefore not in need of the protection of state registration when they are offered or sold securities. This proposal should facilitate capital formation, especially for small businesses. It will implement the Congressional intent, impose uniformity in the regulation of transactions to these financially sophisticated persons and reduce burdens on capital formation.

DATES: Public comments are due February 25, 2002.

ADDRESSES: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, and 450 Fifth Street, NW, Washington DC 20549–0609. You may send comment letters electronically to the following e-mail address: Rule-comments@sec.gov. Comment letters should refer to File No. S7–23–01; if you use e-mail, please include the file number on the subject line. We will make all comments available for public inspection and copying in our public reference room at the same address. Comment letters (submitted electronically) will be posted on our Internet site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Marva Simpson, Office of Small Business Policy, at (202) 942–2950, Division of Corporation Finance, U.S. Securities and Exchange Commission,

---

[1] We do not edit personal, identifying information, such as names or electronic mail addresses, from electronic submissions. Submit only information you wish to make publicly available.

VOL 66 ISS 248 DE 27 2001 UMI

450 Fifth St., NW., Washington, DC 20549–0310.

SUPPLEMENTARY INFORMATION: The National Securities Markets Improvement Act of 1996 ("NSMIA")[2] preempts the state registration and review of transactions involving "covered securities." It amended Section 18[3] of the Securities Act of 1933 ("Securities Act")[4] to establish seven classes of "covered securities." All but one of these classes is self-executing. The one that is not—securities offered or sold to qualified purchasers—requires Commission rulemaking to adopt a definition of the term "qualified purchaser."[5] We are proposing for comment a definition to be contained in Rule 146[6] of the Securities Act.

I. Background

A. NSMIA

In NSMIA, Congress realigned the federal and state regulatory partnership governing registration of securities offerings, thus changing the dual system of securities offering registration that has prevailed in this country since the 1930s. While the Commission retains authority to require that securities offerings be registered, the states may not require registration of offerings involving "covered securities."[7] Section 18 of the Securities Act now specifies the classes of covered securities:

- Securities that are listed on the New York Stock Exchange ("NYSE"), American Stock Exchange ("Amex") or Nasdaq National Market System ("Nasdaq NMS");[8]
- Securities issued by an investment company registered under the Investment Company Act of 1940[9] (the "1940 Act");
- Most exempt securities listed in Section 3(a) of the Securities Act;[10]
- Securities issued in exempt transactions under Section 4(1) or (3) of the Securities Act[11] where the issuer files reports under the Securities Exchange Act of 1934 ("Exchange Act");[12]
- Securities issued in exempt transactions under Section 4(4) of the Securities Act;[13]
- Securities issued in exempt offerings under Rule 506 of Regulation D;[14] and
- Any security offered or sold to a "qualified purchaser."[15]

The states retain authority to require the registration of other types of securities offerings, including certain offerings registered with us.[16] They also retain authority to regulate, through registration or exemption, securities offerings made under certain federal exemptions from registration,[17] except to the extent offers or sales are made to qualified purchasers.

Congress authorized us to define the term "qualified purchaser" under the Securities Act to include "sophisticated investors, capable of protecting themselves in a manner that renders regulation by State authorities unnecessary,"[18] thus preempting securities transactions with these persons from state "blue sky" law. Although the states may not require registration of offers and sales of securities to qualified purchasers, offers and sales to those persons must be registered with us under the Securities Act, unless a federal registration exemption is available.

Our proposal is to define "qualified purchaser" to mean an accredited investor as defined in Rule 501(a) of Regulation D.[19] We believe that it is appropriate to equate qualified purchasers with accredited investors because the regulatory and legislative history of both terms are based upon similar notions of the financial sophistication of investors,[20] and accredited investor is a long-standing concept familiar to the small business community and other industry participants. Thus, unifying the definition for financially sophisticated investors simplifies the regulatory structure for issuers and should facilitate the capital formation process. Moreover, our considerable regulatory experience with the use of the term "accredited investor" leads us to believe it strikes the appropriate balance between the necessity for investor protection and meaningful relief for issuers offering securities, especially small businesses.

B. The Development of the Accredited Investor Concept

Transactions that do not involve any public offering are exempt from federal registration under Section 4(2) of the Securities Act.[21] Because the Securities Act does not define these transactions, the Courts and the Commission have interpreted this exemption. Long ago, the U.S. Supreme Court set the basic criteria for the Section 4(2) exemption in *SEC* v. *Ralston Purina Co.*[22] The Court indicated that the application of the non-public offering exemption depended on whether the offerees were able to fend for themselves and had access to the same kind of information that would be disclosed in registration. The Court noted that such persons, by virtue of their knowledge, would not need to rely on the protections afforded by registration.

After the *Ralston Purina* decision, we provided guidance on the Section 4(2) criteria in our rules and interpretations. For instance, former Rule 146, which was rescinded in 1982, provided a test for determining whether persons were financially sophisticated enough to be offered or purchase securities in non-public offerings.[23] That test, however, still required issuers to make a subjective determination concerning the sophistication of each offeree and purchaser. Further, it created uncertainty about whether the exemption was available and thus posed problems for issuers, primarily small issuers, about potential rescission liability should the exemption turn out to be unavailable. In response to these concerns, the accredited investor concept was created in 1979 as a part of former Rule 242.[24] There, specific classes of investors were designated as accredited investors based on their ability to obtain information upon which to make an informed investment decision.[25]

---

[2] Pub. L. 104–290, 11 Stat. 3416 (Oct. 11, 1996).

[3] 15 U.S.C. 77r.

[4] 15 U.S.C. 77a *et seq.*

[5] Section 18(b)(3) [15 U.S.C. 77c(b)(3)].

[6] 17 CFR 230.146.

[7] See the House-Senate Conference Report, H.R. Rep. No. 864, 104th Cong. 2d Sess. at 40 (1996) (the "Conference Report"). In these cases, the states may not prohibit, limit or impose any conditions on the use of any offering document. In addition, they may not prohibit, limit, or impose any conditions on the offer or sale of a covered security based on the merits of the offering or the issuer. See Section 18(a)(2) and (3) of the Securities Act [15 U.S.C. 77r(a)(2) and (3)]. The states retain limited authority over offerings of some covered securities: they may require notice filings and fees. Also, they continue to be able to investigate and bring fraud cases involving securities and securities transactions. See Section 18(c)(1) and (2) of the Securities Act [15 U.S.C. 77r(c)(1) and (2)].

[8] This category also includes securities that are senior, or equal in seniority, to those listed securities. Companies that offer securities listed on these national markets need not register with the states. We have expanded this category to include securities listed on Tier 1 of the Pacific Exchange, Tier I of the Philadelphia Stock Exchange, and the Chicago Board Options Exchange. See Securities Act Rule 146(b) [17 CFR 230.146(b)].

[9] 15 U.S.C. 89a–1 *et seq.*

[10] 15 U.S.C. 77c(a).

[11] 15 U.S.C. 77d(1) and (3).

[12] 15 U.S.C. 78a *et seq.*

[13] 15 U.S.C. 77d(4).

[14] 17 CFR 230.506.

[15] See Section 18(b)(3) [15 U.S.C. 77r(b)(3)].

[16] They may require registration of offerings of securities listed on markets other than the national markets, such as the regional exchanges, the Nasdaq SmallCap market, the NASD's over-the-counter ("OTC") Electronic Bulletin Board and the OTC "pink sheets." The pink sheets are published by the National Quotation Bureau, Inc.

[17] For instance, the states may regulate exempt offerings under Section 3(b) of the Securities Act [15 U.S.C. 77c(b)], including Rule 504 and 505 offerings [17 CFR 230.504 and 230.505] and Regulation A offerings [17 CFR 230.251–263], offerings under Section 4(6) of the Securities Act [17 U.S.C. 77d(6)], and offerings under Section 4(2) of the Securities Act [15 U.S.C. 77d(2)] that do not satisfy the Rule 506 safe harbor requirements.

[18] H.R. Rep. No. 622, 104th Cong. 2d Sess. at 31 (1996) ("House Report"). See also S. Rep. No. 293, 104th Cong. 2d Sess. at 15 (1996) ("Senate Report"). These committee reports relate to bills that were eventually enacted as NSMIA.

[19] 17 CFR 230.501(a). Rule 215 [17 CFR 230.215], along with Section 2(a)(15) of the Securities Act [15 U.S.C. 77b(a)(15)(i)], provides the same definition for accredited investors as Rule 501(a), but for purposes of Section 4(6) of the Securities Act.

[20] See note 18 above. Congress deemed accredited persons as sophisticated and able to protect their financial interests without regulatory assistance. See also the Small Business Investment Incentive Act of 1980, Pub.L. 96–477 (Oct. 21, 1980), and Senate Report at 15 ("based on their level of wealth and sophistication, investors who come within the definition of qualified purchaser do not require the protection of registration.")

[21] 15 U.S.C. 77d(2).

[22] *SEC* v. *Ralston Purina Co.*, 346 U.S. 119 (1953). At the time of the *Ralston Purina* decision, Section 4(1) contained the non-public offering exemption.

Shortly after we adopted Rule 242, Congress added the accredited investor concept to the Securities Act.[26] The statutory definition was similar to Rule 242, although not identical.[27] It defines types of purchasers that, based on objective criteria indicating financial sophistication and ability to fend for themselves, do not require the protections of registration under the federal securities laws.[28] Congress determined that companies offering and selling securities in non-public transactions solely to these investors should be exempt from Securities Act registration.[29]

Congress itself established several categories of accredited investors in Section 2(a)(15)(i) of the Securities Act and in Section 2(a)(15)(ii) authorized us to adopt additional categories based on "such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets under management."[30] This authority has been used to expand the variety and number of persons classified as accredited investors.[31]

The definitions accredit some investors based on their income, net worth, and assets. Natural persons qualify as accredited investors if they meet certain income or net worth tests. Accredited investors, for instance, include natural persons with individual incomes in excess of $200,000 (or joint spousal incomes of $300,000) for the two most recent years, if they reasonably expect to earn at least the same amount in the current year. Natural persons with individual (or joint, with a spouse) net worths over $1 million also are considered to be accredited investors.[32]

Other investors are accredited if they have more than $5 million of assets. These generally include state or ERISA employee benefit plans, charitable organizations or business entities if they were not formed for the specific purpose of investing in the securities offered, and trusts if they were not formed for the specific purpose of acquiring the securities offered and their purchase is directed by a sophisticated person.[33]

The current accredited investor definition also includes investors that are financially sophisticated by their nature. These include various institutional investors and employee benefit plans where sophisticated fiduciaries make investment decisions.[34] Directors, executive officers, and general partners of securities issuers also are accredited, due to their relationship with the issuer, and any entity where all of its equity owners are accredited investors.[35]

C. Possible Alternative Definitions for Securities Act Qualified Purchasers

NSMIA's legislative history indicates that qualified purchasers for purposes of the Securities Act preemption of state regulation should include investors that, by virtue of their financial sophistication and ability to fend for themselves, do not require the protections of registration under the state securities laws.[36] As set forth below, there are a number of existing definitions in the federal securities regulatory framework, other than "accredited investor," concerning financially sophisticated investors that could be used to implement the qualified purchaser concept under the Securities Act. Of course, a wholly new definition could be crafted. Given the legislative intent which looks to simplification, conforming different state standards governing sophisticated investors, eliminating redundancy and working a meaningful preemption in the area of disparate securities registration systems to reduce unnecessary costs to issuers, we believe using "accredited investor" is more appropriate than any of the alternatives. We solicit comment on whether any of the other definitions would be appropriate for purposes of Section 18(b)(3).

1. Qualified Institutional Buyers

In April 1990, as part of Rule 144A under the Securities Act,[37] the Commission created another category of financially sophisticated investors—qualified institutional buyers or QIBs. Rule 144A provides a safe harbor exemption from federal registration requirements for resales of restricted securities to QIBs. QIBs generally are institutions or other entities owning and investing large amounts of securities, ranging from $10 million up to $100 million depending on the type of QIB. These investors would undoubtedly fall within the definition of accredited

---

[23] Rule 506 of Regulation D replaced former Rule 146. See the adopting release for Regulation D, note 31 below.

[24] Rule 505 of Regulation D replaced Rule 242. See the adopting release for Regulation D, note 31 below.

[25] See Release No. 33–6180 (Jan. 17, 1980) [45 FR 6362].

[26] Congress added the accredited investor concept and Section 4(6) to the Securities Act as part of the Small Business Investment Incentive Act of 1980, Pub. L. 96–477 (Oct. 21, 1980).

[27] Rule 242 defined "accredited person" as any bank as defined in Section 3(a)(2) of the Securities Act whether acting individually or as a fiduciary; an insurance company as defined in Section 2(a)(13) of the Securities Act; an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1002] where the plan fiduciary is a bank, insurance company, registered investment company or investment advisor or a licensed small business investment company; any person purchasing $100,000 or more; and any director or executive officer of the issuer. Release No. 33–6180 (Jan. 17, 1980) [45 FR 6362].

[28] Release No. 33–6683 (Jan. 16, 1987) [52 FR 3015].

[29] Section 4(6) of the Securities Act provides issuers an exemption for offers and sales of securities to accredited investors if they offer no more than $5 million of securities and do not engage in general solicitation. The exemption provides for no reasonable belief standard as to investors accreditation. Building on this legislative construction, the Commission created Rules 505 and 506 of Regulation D, which limit the number of unaccredited investors in offerings under these rules to no more than 35. Accredited investors, however, are excluded from the 35-purchaser limit in these exempt offerings. Issuers relying on Rules 505 and 506 also must provide specific disclosure to unaccredited investors. The rules do not require issuers to provide that disclosure to accredited investors.

[30] 15 U.S.C. 77b(a)(15)(i) and (ii).

[31] Regulation D, initially adopted in 1982, contains a definition of accredited investor that includes the statutory categories of accredited investors plus the additional categories the Commission created. See Release No. 33–6389 (Mar. 8, 1982) [47 FR 11251]. The Regulation D definition applies to offerings under Rules 505 and 506 of Regulation D. The definition for purposes of Section 4(6) is contained partly in Section 2(a)(15)(i) of the Securities Act and partly in Securities Act Rule 215. Rule 215 contains the categories of accredited investors adopted by the Commission. Taken together, the accredited investor categories under Section 4(6) are the same as under Regulation D.

[32] Securities Act Rule 501(a)(5) and (6) [17 CFR 230.501(a)(5) and (6)].

[33] Securities Act Rule 501(a)(1), (3) and (7) [17 CFR 230.501(a)(1), (3) and (7)].

[34] Securities Act Rule 501(a)(1), (2) and (3) [17 CFR 230.501(a)(1), (2) and (3)].

[35] Securities Act Rule 501(a)(1), (4) and (8) [17 CFR 230.501(a)(1), (4) and (8)].

[36] See Senate Report at 15 and House Report at 31.

[37] 17 CFR 230.144A. See Release No. 33–6862 (Apr. 23, 1990) [55 FR 17933].

VOL 66 ISS 248 DE 27 2001 UMI

investor and transactions with them would be with qualified purchasers under our proposed definition. Defining qualified purchaser as a QIB would significantly reduce the number of transactions preempted by Section 18(b)(3). Such a high threshold might make this Section 18 preemption less meaningful and thus not consistent with what we see as Congress' intent.

2. 1940 Act Qualified Purchasers

NSMIA also uses the term "qualified purchaser" under Section 3(c)(7) of the 1940 Act.[38] There, the concept is tied to a person owning a certain dollar amount of investments.[39] Congress determined that the level of a person's investments should be used to measure the person's financial sophistication in the context of the 1940 Act. The levels were Congressionally set at $5 million for individuals and $25 million for entities and are consistent with the 1940 Act objective of addressing special risks associated with investments in pooled vehicles. Because of the high dollar levels established in the statute, the specific purpose for the provision and the Congressional reluctance to use them for the securities registration preemption, this alternative is not as appropriate as accredited investor.

3. Investment Advisers Act of 1940 Qualified Clients

Rule 205–3[40] under the Investment Advisers Act of 1940[41] provides a limited exemption from that statute's prohibition on charging performance fees to clients. Such a person is one who has at least $750,000 under management with the adviser or in excess of $1.5 million net worth; or is a "qualified purchaser" as defined for purposes of the 1940 Act or is a highly knowledgeable employee of the adviser. This relief from general prohibitions in the Advisers Act regarding the linking of adviser compensation to the gains or appreciation of the assets under management recognizes that certain clients may want to use performance fees as a technique of dealing with an adviser and that they are sufficiently sophisticated that the prohibitions in the Advisers Act can be modified. We think that these purposes are quite different from those sought to be addressed in our proposed definition of a covered security.

4. Exchange Act Qualified Investors

Recently, the Congress adopted amendments to the Exchange Act[42] definitions of broker[43] and dealer[44] to include a list of specific exceptions from these definitions for banks. Included in this amendment is a new concept of "qualified investor."[45] When a bank participates in the issuance or sale of certain "identified banking products" to qualified investors, the bank is excepted from both the new broker and dealer definitions.[46] Because of the high dollar levels in the provision and the special purpose for the provision, this alternative is not as appropriate as accredited investor.

We solicit comment on these existing standards in our regulations which we use to measure financial sophistication and whether concepts used there might be transposed or modified for purposes of Section 18(b)(3). In particular, we ask whether the value of a person's investments would serve as a basis for who is a "qualified purchaser." If so, what are the appropriate amounts? Are there assets that should be included or excluded from this definition if we were to use this model? For example, how should personal residences, automobiles, and retirement accounts be treated?

II. Proposed Definition

The new qualified purchaser definition would have the same meaning as accredited investor. Offers and sales to these persons would not be subject to state registration.[47] Proposed Rule 146(c) under the Securities Act would refer to Rule 501(a) of Regulation D.[48] We believe that the harmonization of the terms qualified purchaser and accredited investor will simplify the regulation of securities offerings. This uniformity would reduce burdens and costs on the capital formation process, given that state regulation of these transactions would be greatly reduced.[49]

---

[38] 15 U.S.C. 80a–3(c)(7). This section creates an exclusion from the definition of an investment company for privately offered investment companies, such as "hedge funds," owned solely by qualified purchasers.

[39] Section 3(a)(51) of the 1940 Act [15 U.S.C. 80a–3(a)(51)]. The Division of Investment Management has developed a detailed definitional scheme in Commission regulations under the 1940 Act in Rule 2a51–1 [17 CFR 270.2a51–1].

[40] 17 CFR 275.205–3.

[41] 15 U.S.C. 80b–1 et seq.

[42] Gramm-Leach-Bliley Act, Pub. L. No. 106–102, 113 Stat. 1338 (Nov.12, 1999).

[43] 15 U.S.C. 78c(a)(4).

[44] 15 U.S.C. 78c(a)(5).

[45] The definition includes 1940 Act registered investment companies, banks, savings and loan associations, brokers, dealers, business development companies, licensed small business investment companies, certain employee benefit plans, related trusts, certain market intermediaries, associated persons of a broker or dealer other than a natural person, foreign banks, foreign governments, companies or individuals owning and investing on a discretionary basis at least $25 million ($10 million for asset-backed securities), governments or political subdivisions owning or investing on a discretionary basis at least $50 million, and multinational entities. The Commission also was given authority to define "qualified investor" as any other person based upon such factors as the individual's financial sophistication, net worth, knowledge and experience in financial matters. Section 3(a)(54) of the Exchange Act [15 U.S.C. 78c(a)(54)].

[46] Additionally, certain asset-backed securities transactions between the bank and a qualified investor do not make the bank a "dealer." The Commission has adopted interim final regulations. Release No. 34–44291 (May 11, 2001) [66 FR 27760]. The comment period for the interim final regulations was extended from July 17, 2001 until September 4, 2001. The effective date of the statutory amendments, originally set for May 12, 2001, has been extended until May 12, 2002. Release No. 34–44569; 34–44570 (July 18, 2001) [66 FR 38370].

[47] We stress, however, that persons making these offers and sales, or otherwise participating in effecting securities transactions, must continue to consider whether their activities require them to register with the Commission as broker-dealers. Broker-dealer registration generally is required to effect transactions in securities, even if those transactions are exempt from registration under the Securities Act. Release No. 34–42728 (April 28, 2000) [65 FR 25843]. The "exempted securities" for which broker-dealer registration is not required are strictly limited and do not include securities issued under Regulations A, D, or S or privately placed securities that would be "restricted" securities under Securities Act Rule 144. *Id.*

Broker-dealer registration under the Exchange Act provides protections to investors and the securities markets that are not present under the Securities Act. Release No. 34–27017 (July 18, 1989) [54 FR 30013]; see also Release No. 34–30608 (April 20, 1992) [57 FR 18004]. For example, regulations promulgated under the Exchange Act require registered broker-dealers to comply with extensive net capital, recordkeeping, and reporting obligations. In addition, registered broker-dealers must be members of a self-regulatory organization and the Securities Investor Protection Corporation. They are also subject to fiduciary duties and special antifraud rules, as well as the Commission's broad enforcement authority over broker-dealers. Release No. 34–27017.

[48] The eight categories of accredited investors under Rule 501(a) include:

(1) Banks, insurance companies, registered investment companies; business development companies; savings and loan associations and similar institutions; registered broker-dealers purchasing for their own accounts; employee plans subject to ERISA advised by a bank, savings and loan association, insurance company or registered investment advisor; any employee plan subject to ERISA with total assets in excess of $5 million; any self-directed plan where investment decisions are made solely by accredited investors; employee plans established and maintained by governments of the states or their political subdivisions, as well as their agencies and instrumentalities, if they have total assets in excess of $5 million.

(2) Private business development companies meeting the definition in Section 202(a)(22) of the Investment Advisers Act of 1940 [15 U.S.C. 80b–2(a)(22)].

(3) Any organization described as exempt in Section 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)], corporation, Massachusetts or similar business trust, limited partnership, if not formed for the purpose of the offered investment and having total assets in excess of $5 million.

(4) Directors, executive officers and general partners of general partners.

(5) Natural persons whose individual or joint net worth with a spouse exceeds $1 million.

(6) Natural persons with individual income in excess of $200,000 in each of the past two years, or joint income with his or her spouse in excess of $300,000 in each of those years, with the expectation for the same income levels in the current year.

(7) Any trust with total assets in excess of $5 million, if not formed for the offered investment, where a sophisticated person directs the purchase.

The qualified purchaser definition should reduce the regulatory burdens on companies that seek to raise capital, without compromising investor protection. First, the definition should increase issuers' ability to offer and sell securities without state registration. Second, a nationwide, uniform definition of qualified purchaser would override diverse state exemptions for financially sophisticated investors. The federal definition permits issuers to conduct offerings in several states without having to comply with different state exemptions. This uniformity would simplify the securities registration and offering process, and possibly cause more companies to sell their securities to accredited investors because of the smaller burdens upon and costs of capital formation. It also promotes capital formation by permitting issuers to conduct offerings in more states.

Your comments are invited on this proposed approach in defining qualified purchasers. Should the definitions of accredited investor and qualified purchaser under the Securities Act be the same? Are there reasons for us to develop different definitions? If so, what are they?

A. Effects of Proposed Qualified Purchaser Definition

1. State Preemption

With the objective of streamlining the registration process, Congress intended to preempt the states in offers and sales to qualified purchasers in securities offerings registered or exempt from registration under the Securities Act.[50] Accordingly, the qualified purchaser definition would apply in registered offerings and in all exempt offerings.

In April 1997, the North American Securities Administrators Association, Inc. ("NASAA") adopted the Model Accredited Investor Exemption ("MAIE"). Offerings made exclusively to accredited investors, as defined by Rule 501 of Regulation D under limitations and specified conditions established in MAIE, are exempt from state registration.[51] Forty states have adopted the provision or some variation of it exempting accredited investor transactions.[52] As a result, the coordination of the qualified purchaser definition with accredited investor would have little effect on the registration programs of many states and would work to enforce uniformity here by eliminating variations in state provisions.[53] Further, it will implement Congress' intent that states cease the review of registration statements for transactions involving qualified purchasers.

We solicit comment on the potential impact of our proposal on state law. MAIE contains conditions and restrictions not included in our proposed definition. The preemption however would apply to all transactions involving accredited investors. Your comments should address any implications the preemption would have on the states' ability to regulate generally, for example, intrastate offerings and secondary transactions.

Under the proposed definition, issuers would be able to offer and sell securities to qualified purchasers without compliance with state registration requirements and, in the same offering, register with the states or rely on state exemptions in offers and sales to non-qualified purchasers.[54] For example, an issuer whose securities are quoted on the Nasdaq SmallCap market could conduct a private securities offering exempt from federal registration under Section 4(2) of the Securities Act, but not satisfying the Rule 506 safe harbor requirements.[55] At the state level, the issuer could offer and sell securities to qualified purchasers privately in any state it wishes without either registration or reliance upon any state exemption. Also, the issuer could offer and sell securities in the same offering to non-qualified purchasers in any state where the offering satisfies a state exemption, such as a limited offering exemption or isolated purchaser exemption.[56] If the same issuer desired to register a securities offering with the Commission, one not otherwise preempted from state regulation, it could offer and sell to qualified purchasers in any state without registration or exemption. At the same time, if the issuer desired to include non-qualified purchasers in the same offering, it could register or rely on an available state exemption for offers and sales to those purchasers.

Congress preserved the states' authority to investigate and bring enforcement actions for fraud or unlawful conduct by broker-dealers.[57] States also are permitted to require notice filings in certain instances and require filings of consent to service of process. States may also collect any associated fees with such filings.[58]

2. Interaction With Rule 504 Public Offering Exemption

Rule 504 of Regulation D provides an exemption from registration for securities offerings up to $1 million made by non-reporting companies.[59] An offering under Rule 504 may be either public or private in nature. An issuer doing an offering publicly under Rule 504 has two significant advantages: it may generally solicit and advertise in the offering, and the securities it issues are freely tradeable. A Rule 504 public offering depends upon state oversight. In order to enjoy the benefits of a public offering an issuer must register with the states where the offering is conducted, or, in the alternative, the issuer must rely on a state exemption that permits public offerings exclusively to accredited investors. If the issuer neither registers nor relies on the accredited investor exemption at the state level, its Rule 504 offering must be conducted privately. As a result, the issuer cannot generally advertise or

---

(8) Any entity where all of the equity owners are accredited investors.

The rule also covers persons the issuer reasonably believes come within any of the foregoing descriptions at the time of sale.

[49] In keeping with the legislative purpose cited in the Senate Report, the uniformity of these definitions would reduce the confusing and conflicting nature caused by the overlapping and costly federal and state registration processes. See Senate Report at 2.

[50] See Senate Report at 32.

[51] CCH NASAA Reporter Para 361. MAIE restricts subsequent resales for 12 months after issuance, except to other accredited investors. Also, written solicitations may consist of a 25-word description of the issuer's business, but is limited to a kind of "tombstone ad." MAIE is a NASAA guideline; in order to establish a functional exemption, state legislative or regulatory action is necessary.

[52] Therefore, 10 states have no special exemptive provision related to accredited investor purchases.

[53] The Senate Report notes that the bill "codifies another exemption existing in most states—the preemption from state 'blue sky' registration for offers and sales to qualified purchasers." Senate Report at 15.

[54] The House Report states, "the qualified purchaser provision allows State preemption. State exemptions and State registrations to be tacked together to comply with State requirements. Thus, sales to qualified purchasers would qualify for preemption without regard to whether, in the same offering, offers and sales are also made to non-qualified purchasers." House Report at 32.

[55] If the issuer complies with the requirements of the Rule 506 safe harbor in the offering, the securities would be covered securities for that reason alone, and the states would be preempted from regulating the offering.

[56] Of course, to rely on the Section 4(2) exemption federally, the issuer cannot conduct a public offering in any state.

[57] 15 U.S.C. 77r(c)(1).

[58] 15 U.S.C. 77r(c)(2)(A). States may not, however, assess fees for any nationally traded securities. See Section 18(c)(2)(D) [15 U.S.C. 77r(c)(2)(D)].

[59] See Rule 504(A) of Regulation D [17 CFR 230.504(a)].

VOL 66 ISS 248 DE 27 2001 UMI

solicit in the offering and the securities issued in the offering are restricted and not freely tradeable.

We are concerned about one implication of preempting state regulation of transactions involving accredited investors: the accredited investor prong of the Rule 504 public offering exemption may no longer be usable. By preempting transactions with qualified purchasers from state registration requirements, we would make state accredited investor exemptions a nullity.[60] Accordingly, we propose as a first step to rescind Rule 504(b)(1)(iii) if the proposed definition of qualified purchaser is adopted. We ask whether the state accredited investor exemption prong can or should be retained because states use definitions different than the Commission's definition of accredited investor. If the provision should be retained, describe the transactions it would continue to cover.

We are concerned, nonetheless, that if we adopt the proposed definition, issuers, especially small ones, might be disadvantaged in their ability to raise capital under Rule 504 because they would no longer be able to publicly offer securities to accredited investors by relying on the availability of a state exemption. It is not our intention to change the existing ability of issuers to reach investors under Rule 504. Would our proposed definition of qualified purchaser significantly restrict small businesses' access to capital since these issuers could not generally solicit and advertise to find accredited investors?

We are considering two alternative approaches to preserving the ability of issuers to offer and sell to accredited investors without the need to register the offerings—exclude accredited investors purchasing in public Rule 504 offerings from the definition of qualified purchaser, or create a new, uniform federal accredited investor exemption, either with or without conditions. We seek comment on these two approaches and any other approach that preserves this capital-raising mechanism without jeopardizing investor protection.

As a first approach, we ask whether offerees and purchasers in public Rule 504 offerings who fall within the accredited investor exemption(s) of the relevant state(s) should be excluded from the qualified purchaser definition and therefore from the preemption. If we do this, state registration of these offerings would not be preempted for the purpose of Rule 504 and Rule 504 offerings could continue to be made in reliance on the state accredited investor exemptions.[61] The benefits that inure to investors and states from state regulation of public Rule 504 offerings would be unchanged. We solicit comment on whether maintaining this benefit justifies the cost to those raising capital. Would there be new or additional costs and benefits through this approach?

We are also considering a second approach to the interaction between the qualified purchaser definition and public Rule 504 offerings. Under this second approach, the accredited investor prong of Rule 504 would be replaced with a uniform, federal exemption from Securities Act registration that substantially replicates the current state exemptions, as represented, for example, by MAIE.[62] Rule 504 therefore would continue to be available for public offerings and sales to accredited investors, but pursuant to federal rather than state regulation. We want to preserve the ability of small businesses to raise up to $1 million of capital in offerings to accredited investors. We solicit comment on how, in conjunction with defining qualified purchaser as proposed, we can be helpful to small businesses raising capital and not undermine investor protections.

We contemplate that if we adopted this second approach, the exemption could impose conditions similar to those found in MAIE and in typical state accredited investor exemptions. These would include limits on the extent to which general solicitation may be used, for example, not permitting written public communications except for tombstone ads containing a brief description of the issuer's business (25 words or less), name, address, telephone number, brief description of the securities to be sold, type, number and aggregate dollar amount of securities to be sold and the name, address and telephone number of a contact person. Do these conditions make sense for a federal exemption? Are there additional or alternative conditions we should impose? Would a legend indicating that the securities are being offered and sold solely to accredited investors pursuant to an exemption from federal registration requirements be needed? Are other cautionary legends necessary? Should certain types of issuers, in addition to those currently ineligible to use Rule 504, be excluded, such as those within the scope of disqualification provisions like Rule 262[63]? Is it necessary to be this restrictive? Should any free writing be permitted? MAIE also limits the extent to which securities may be resold, not permitting resales within a year except to other accredited investors. Is it necessary to impose resale restrictions, or should securities purchased under the exemption be freely tradeable?

Finally, we solicit comment on the interaction of the qualified purchaser definition with another aspect of Rule 504—the exemption for public offerings that are registered or qualified with the states.[64] The preemption of accredited investor transactions also reaches these offerings to the extent offers and sales involve such investors, raising the same concerns we have with state accredited investor exemptions. The states would no longer be permitted to register or review any accredited investor transactions. We believe, however, that if an issuer registers with a state an offering targeted to both accredited and non-accredited investors, the exemption under Rule 504 should continue to be available. Otherwise, issuers would be unduly restricted in their ability to raise capital in a state-registered offering including accredited investors. In order to make this clear, should the definition of qualified purchaser exclude purchasers in state-registered offerings? Should we also include these accredited investor transactions within any federal exemption we might develop, as suggested above? Would it be appropriate to permit both parts of the Rule 504 public exemption to work in tandem? For example, should a state-registered offering to non-qualified purchasers be permitted contemporaneously with a public tombstone ad solicitation to qualified purchasers?

B. The Proposed Definition and the Legislative History

The legislative history of NSMIA makes it clear that Congress intended to preempt state registration in offers and sales to financially sophisticated investors for the purpose of providing a nationwide, uniform definition, thereby eliminating the variations found among the states.[65]

---

[60] Where state accredited investor exemptions use definitions different from the one contained in Rule 501(a), states could continue to regulate transactions with such investors.

[61] Private Rule 504 offerings would not be affected by the proposed preemption because the availability of the exemption does not depend on state regulation. Therefore, isssuers could continue to make private Rule 504 offerings to accredited investors regardless of the approach adopted with respect to public Rule 504 offerings.

[62] See note 51 above.

[63] These are the so-called "bad body" disqualification provisions used under the Regulation A exemption. 17 CFR 230.262.

[64] Rule 504(b)(1)(i) and (ii).

[65] House Report at 31. ("First, many States currently exempt such securities from registration

The House Commerce Committee gave two other reasons for preempting offers and sales of securities to qualified purchasers from state registration requirements.[66] The Committee noted that certain securities are "fundamentally national in character and generally (though not always) subject to regulation at the Federal level." [67] The Committee said it expected us to define qualified purchaser to include purchasers of these fundamentally national securities. The Committee listed mortgage-backed, asset-backed and other structured securities, and securities issued in connection with project financings as examples of fundamentally national securities. Other language in the House Report makes clear that the primary factor for our consideration in defining qualified purchaser must be the financial sophistication of these investors. The House Report states "[i]n all cases, however, the Committee intends that the Commission's definition be rooted in the belief that "qualified purchasers" are sophisticated investors, capable of protecting themselves in a manner that renders regulation by State authorities unnecessary." [68]

Although Section 18 expressly permits us to define qualified purchaser differently with respect to different categories of securities, the proposal is to define qualified purchaser the same regardless of the nature of the security being offered or sold. For instance, there is no limitation in the proposed definition to only offerees and purchasers of "fundamentally national" securities. We believe that the nature of the investor rather than the investment is the critical feature in the determination of whether transactions with qualified purchasers should be exempt from state registration. Your views and comments are requested on this approach. Should the definition be restricted to include investors in certain securities only? How would a definition of "fundamentally national" securities be formulated, consistent with the direction to limit the definition to financially sophisticated persons? Should only certain kinds of securities be included, such as debt securities, or both debt and equity securities? Please describe the criteria that these securities should meet and explain why these criteria are necessary. Should certain types of securities be excluded? For example, should all securities that are considered "penny stock" under the Exchange Act be excluded? [69] Should securities issued in initial public offerings be excluded? Should certain types of securities registered with the Commission, such as asset-backed ones, and offered and sold pursuant to effective registration statements be deemed to be "covered securities" under the qualified purchaser rubric?

Are there segments of offerings that are so essentially national that they should be construed in a way to preempt state regulation and registration, i.e., the offer but not the sale? For example, under Rule 254 of Regulation A,[70] an issuer is permitted to make a public solicitation to determine whether there would be any interest in a proposed securities offering before incurring the expense of developing the required offering materials. In this way, federal regulation provides an offer exemption pursuant to Regulation A, but regulates, in a different way, other later offers and sales. Could the offer pursuant to this Commission exemption be deemed to be made to qualified purchasers so that it would be preempted from state regulation, even though other later offers and the sale might have to be state qualified? Are there other situations where this approach might be appropriate? [71] Are there particular conditions that should be applicable to deregulate a particular offer but not the sale; or vice versa?

Should issuer requirements be imposed? For example, should the issuer be a reporting company under the Exchange Act that has filed its reports for a specified period of time on a timely basis? Should the issuer meet specified asset or revenue tests? Should certain issuers be disqualified, such as issuers that are "blank check" companies,[72] or that have past securities laws violations?

What criteria should be applied to ensure that investors in these securities are financially sophisticated? Is the nature of these securities such that no additional investor-specific criteria are needed? Should securities be classified in some other manner and then have qualified purchasers defined differently based on those classes? If so, what classifications should be made and why? How should qualified purchasers be defined differently based on those classes?

III. Request for Comment

We request your comments on the proposal and on the matters discussed in Sections IV through VII, including the application of the Paperwork Reduction Act, the preliminary analysis of costs and benefits and effects on competition, and the Initial Regulatory Flexibility Analysis. Comment is solicited from the point of view of both issuers and investors, as well as facilitators of capital formation, such as underwriters and placement agents, and other regulatory bodies, such as state securities regulators.

IV. Paperwork Reduction Act

We have not prepared a submission to the Office of Management and Budget under the Paperwork Reduction Act of 1995 [73] because the proposed rule does not impose recordkeeping or information collection requirements, or other collections of information requiring the approval of the Office of

---

requirements, but the qualification standard can vary from State to State. This provision will result in uniform national rule for qualified purchasers, which should greatly facilitate the ability of issuers to use it.")

In addition to the variations among accredited investor exemptions, many sates provide separate exemptions from registration for offers and sales to institutional investors, such as banks, savings institutions, trust companies, insurance companies, investment companies, pension or profit-sharing trust, and dealers, but the states have various exemptions for other types of financially sophisticated investors.

Most states have adopted the exemption included in the 1956 Uniform Securities Act ("1956 USA"). The 1956 USA is a model state securities law statute drafted by the National Conference of Commissioners on Uniform State Laws. About 37 states have adopted part or all of that Act. Section 402(b)(8) of the 1956 USA exempts offers or sales to "a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity." Some states have adopted a modified version of the 1956 exemption, some states use the exemption contained in the 1985 Revised Uniform Securities Act ("1985 USA"), and other states have unique institutional investor exemptions. The 1985 USA is a revised version of the model state securities law act drafted by the National Conference. It has been adopted in full or in part by nine jurisdictions.

[66] See House Report at 31.

[67] *Id.*

[68] *Id.* The House Report noted that trusts or other special purpose vehicles that offer asset-backed, mortgage-backed or other structured securities generally are unable to list on the national markets. Consequently, their securities would not qualify for state preemption as national market securities. By preempting offers and sales to qualified purchasers, Congress intended to provide these issuers with a way to avoid state securities registration.

[69] See Exchange Act Rule 3a51–1 [17 CFR 240.3a51–1].

[70] 17 CFR 230.254. A free writing is permitted, but it must identify the issuer's chief executive officer and the business and products of the company and must indicate that no money is being solicited and will not be accepted and that the offer involves no obligation or commitment of any kind. The material is subject to the Commission's anti-fraud provisions.

[71] See, e.g., Securities Act Rule 701 [17 CFR 230.701] where offers are exempt and only sales are subject to specified regulatory requirements.

[72] See Section 7(b) of the Securities Act [15 U.S.C 77g(b)]; Securities Act Rule 419(a)(2) [17 CFR 230.419(a)(2)].

[73] 44 U.S.C. 3501 et seq.

VOL 66 ISS 248 DE 27 2001 UMI

Management and Budget. (We note that, if adopted, the definition would reduce the paperwork burden imposed by state registration requirements. We do not impose these requirements and they are not otherwise subject to the Paperwork Reduction Act.)

V. Cost-Benefit Analysis

Congress realigned the federal and state regulatory partnership to promote investment, eliminate duplicative regulation, decrease the cost of capital, and encourage competition, while protecting investors. Consistent with legislative intent and the protection of investors, the proposals would benefit companies and their investors in a number of ways.

We believe that the proposed qualified purchaser definition would reduce costs for issuers by expanding the number of investors to whom issuers may offer and sell securities without complying with state registration requirements. The proposal also would eliminate the need for issuers to comply with different state exemptions for financially sophisticated investors. This nationwide uniform definition would permit issuers to expand the geographic scope of their offerings. These effects should facilitate the capital formation process. These benefits are difficult to quantify.

It appears that a consequence of our proposed definition will be a reduction in state registration and other transaction-related fees. This result is a product of the Congressional directive to include as a "covered security" preempted from state registration, transactions with qualified purchasers.

There also may be a cost to investors through the loss of the benefits of state registration and oversight, although this cost is also difficult to quantify. In addition, we do not think this cost will be significant for the following reasons. The proposed qualified purchaser definition should not reduce investor protection. It is designed to encompass only those financially sophisticated investors who are considered to have access to information and fend for themselves. Transactions with these persons are currently exempt from federal registration under specified conditions as well as many state laws. We are not aware of any diminution in investor protection as a result of our current definition of accredited investor. They do not benefit from state regulation in a way that justifies the costs to the issuers subject to state registration requirements. To fully evaluate the benefits and costs associated with the proposed new qualified purchaser definition and the revised accredited investor definition, we request commenters to provide views and supporting information as to the costs and benefits associated with these proposals. We request comments on any potential costs to the states from adopting this particular definition (being mindful that Congress assumed there would be some cost from preempting transactions with qualified purchasers.)

VI. Initial Regulatory Flexibility Analysis

We have prepared this Initial Regulatory Flexibility Analysis under 5 U.S.C. § 603 concerning the rule proposed today.

A. Reasons for and Objectives of the Proposed Action

The proposed rule would comply with the mandate of NSMIA to preempt from state securities registration and regulation transactions involving qualified purchasers. That Act makes these transactions "covered securities," which are not subject to certain state "blue sky" law provisions. We were delegated the responsibility to determine the meaning of the term "qualified purchaser." In accordance with legislative direction, the proposed definition needs to be based upon the financial sophistication of the investors who should not need the protections offered by state registration and review. We have therefore proposed, for purposes of defining qualified purchasers, our existing definition of accredited investor contained in Rule 501(a), which uses an objective standard and has been in operation for about 20 years.

B. Small Entities Subject to the Rule

The proposed rule addition would exempt small entities from complying with state registration and review requirements in offering securities to qualified purchasers. The proposal would affect small entities that are offering securities under the Securities Act and small entities that invest in securities.

For purposes of the Regulatory Flexibility Act, the Securities Act defines a "small business" issuer, other than an investment company as one that on the last day of its most recent fiscal year had total assets of $5 million or less and is engaged in or proposes to engage in an offering of securities of $5 million or less. When used with respect to an investment company, the term is defined as one with any related investment company having aggregate net assets of $50 million or less at the end of its most recent fiscal year.

We are currently aware of approximately 2,500 reporting companies that are not investment companies with assets of $5 million or less. There are approximately 400 investment companies that satisfy the "small entity" definition. This proposal would only affect these small entities that offer securities in states that do not currently exempt offerings to accredit investors from state registration requirements. We have no reliable way to determine how many businesses may become subject to our reporting obligations in the future, or may otherwise be impacted by the change in state oversight of financing transactions.

"Accredited Investor" also includes broker/dealers, investment advisors and investment companies as investors. Many of them are small. These entities would be accredited investors and would be able to be offered and sold offerings without state registration. We do not know how many of these entities would purchase securities in these transactions.

C. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule would not impose any new reporting, recordkeeping or compliance requirements. In fact, the proposed rule would, pursuant to Congressional directive, remove state law requirements for the registration of offers and sales to certain entities.

D. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish the stated objectives, while minimizing any significant adverse impact on small issuers. In connection with the proposed rule, we considered several alternatives, including:

- Establishing different compliance and reporting requirements or timetables that take into account the resources of small businesses;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rule for small businesses;
- Using performance rather than design standards; and
- Exempting small businesses from all or part of the requirements.

The proposed rule would reduce the burden of complying with state securities laws for both large and small businesses. Because the proposal reduces burdens on securities issuers, we believe it is advantageous to small issuers to include them, rather than exclude them. Further, we are not aware of any alternative that would increase the benefit of this proposal for small entities.

The Securities Act prohibits the states from requiring the registration of securities transactions with qualified purchasers. Consequently, the states may not review or comment on the disclosure provided to qualified purchasers, nor apply standards with respect to the merits of the offering or impose conditions on offerings to qualified purchasers. Removing these costs should facilitate capital raising.

We believe that preempting state regulation of transactions involving qualified purchasers who we define the same as accredited investors may make state accredited investor exemptions a nullity. In this case, the accredited investor prong of the Rule 504 public offering exemption may no longer be usable. We are concerned, however, that as a result, issuers, especially small ones, might be disadvantaged in their ability to raise capital by publicly offering their securities to accredited investors. Consequently, we have invited comment on the issue and to see if it would be better to provide limited relief from our proposed preemption for these public Rule 504 transactions. We also have solicited comment on an alternative approach that would replace the accredited investor prong with a new exemption for offerings to qualified purchasers.

We believe that design standards of objectively defining qualified purchasers add certainty and promote the purposes of the rule. We therefore do not propose performance standards to specify different requirements for small entities. We do not believe that it is feasible to further clarify, consolidate or simplify the proposed rule for small entities.

E. Overlapping or Conflicting Federal Rules

We do not believe any current federal rules duplicate, overlap or conflict with the rule we propose to amend.

F. Solicitation of Comments

We encourage the submission of written comments with respect to any aspect of this initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory flexibility analysis, if the proposed rule amendment is adopted. Persons wishing to submit written comments should follow the instructions contained in the beginning of this release. We particularly seek comment on:

- The number of small entities that would be affected by the proposed rule;
- The expected impact of the proposal;
- How to quantify the number of small entities that would be affected by, and how to quantify the impact of the proposed rule.

We ask commenters to describe the nature of any impact and provide empirical data supporting the extent of the impact.

VII. Promotion of Efficiency, Competition, and Capital Formation

We request your comment on whether the proposed amendment would be a "major rule" for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996. We request comments on whether the proposed amendment is likely to have a $100 million or greater annual effect on the economy. Your comments should provide empirical data to support your views.

We are required to define qualified purchaser consistent with the public interest and the protection of investors. When the public interest is considered, we must determine whether the definition selected would promote efficiency, competition and capital formation, in addition to investor protection.[74] As described in this release, we believe the proposal fosters each of these important goals. We request your comments on how our proposals would affect each of these objectives.

VIII. Statutory Basis

We propose an amendment to Rule 146 under the authority set forth in Sections 2(b), 18(b) and 19 of the Securities Act.

IX. Text of the Amendments

List of Subjects in 17 CFR Part 230

Securities.

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77sss, 77z–3, 78c, 78d, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 230.146 is amended by adding paragraph (c) to read as follows:

§ 230.146 Rules under section 18 of the Act.

* * * * *

(c) *Qualified Purchaser.* A "qualified purchaser" as used in Section 18(b)(3) of the Act (15 U.S.C. 77r(b)(3)) means any accredited investor as defined in § 230.501(a).

3. Section 230.504 is amended by:

a. Adding "or" at the end of paragraph (b)(1)(i);

b. Removing "; or" at the end of paragraph (b)(1)(ii) and adding in its place a period; and

c. Removing paragraph (b)(1)(iii).

By the Commission.

Dated: December 19, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31742 Filed 12–26–01; 8:45 am]

BILLING CODE 8010–01–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 292

RIN 1076–AD93

Gaming on Trust Lands Acquired After October 17, 1988

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule: reopening of comment period.

SUMMARY: This notice reopens the comment period for the proposed rule that was published in the **Federal Register** on September 14, 2000.

EFFECTIVE DATE: Comments must be received on or before February 25, 2002.

ADDRESSES: Mail comments to George Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, 1849 C Street NW, MS 2070–MIB, Washington, DC 20240. Comments may be hand delivered to the same address from 9 a.m. to 4 p.m., Monday through Friday or sent by facsimile to 202–273–3153.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Office of Indian Gaming Management, 202–219–4066.

SUPPLEMENTARY INFORMATION: On September 14, 2000, the Bureau of Indian Affairs published a proposed rule (65 FR 55471) concerning Gaming on Trust Lands Acquired After October 17, 1988. The deadline for receipt of comments was November 13, 2000. Six comments were received after

---

[74] See Section 2(b) of the Securities Act (15 U.S.C. 77b(b)).

VOL 66 ISS 248 DEC 27 2001 UMI

November 13, 2000. Several of these comments raise substantive issues that may result in modification of the proposed rule. The comment period is reopened to allow consideration of the comments received after November 13, 2000, and to allow additional time for comment on the proposed rule. Comments must be received on on before March 27, 2002.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Department Manual 8.1.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary, Indian Affairs.

[FR Doc. 01–31664 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC95

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Document Incorporated by Reference—API 510

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: MMS is proposing to add a document to be incorporated by reference into our regulations governing oil and gas and sulphur operations in the Outer Continental Shelf (OCS). This revision will ensure that lessees use the best available and safest technologies while operating in the OCS. The new document, API 510, is titled "Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration."

DATES: We will consider all comments we receive by February 25, 2002. We will begin reviewing comments then and may not fully consider comments we receive after February 25, 2002.

ADDRESSES: Mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. If you wish to e-mail comments, the e-mail address is: rules.comments@mms.gov. Reference API 510 in your e-mail subject line. Include your name and return address in your e-mail message and mark your message for return receipt.

FOR FURTHER INFORMATION CONTACT: Richard Ensele, Operations Analysis Branch, at (703) 787–1583.

SUPPLEMENTARY INFORMATION: We use standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry for establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows us to incorporate the provisions of technical standards into the regulations without increasing the volume of the Code of Federal Regulations (CFR). The legal effect of incorporation by reference is that the material is treated as if it was published in the **Federal Register**. This material, like any other properly issued regulation, then has the force and effect of law. We hold operators/lessees accountable for complying with the documents incorporated by reference in our regulations. The regulations found at 1 CFR part 51 govern how MMS and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the **Federal Register**. Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to the specific edition or specific edition and supplement or addendum cited in the regulations.

The proposed rule will incorporate by reference into MMS regulations the provisions of API 510.

We have reviewed this document and have determined that the latest edition should be incorporated into the regulations to ensure the use of the best available and safest technologies.

MMS's Review Concerning Pressure Vessels

The MMS documents incorporated by reference currently include three sections of the American Society of Mechanical Engineers (ASME) 1998 Boiler and Pressure Vessel Code:

Section I— Rules for the Construction of Power Boilers;

Section IV—Rules for the Construction of Heating Boilers; and

Section VIII—Rules for the Construction of Pressure Vessels.

Each of these sections provides requirements applicable to the design, fabrication, inspection, testing, and certification of newly constructed boilers and pressure vessels. The ASME Code has been the recognized standard for the construction of new boilers and pressure vessels since the early 1900's. The ASME Code does not, however, address the maintenance inspection, rating, repair, and alteration of pressure vessels after the vessels are placed into service.

MMS has not previously included in its documents incorporated by reference a standard on pressure vessel maintenance inspection, rating, repair, and alteration. Our review of the document proposed for incorporation into MMS regulations, API 510, indicates that it would be beneficial to us and to the offshore industry to clarify requirements on pressure vessel operations, inspections, repairs, and maintenance of the pressure vessels in service on the OCS.

In December 1931, ASME and the American Petroleum Institute (API) created a joint committee to consider safe practices in the design, construction, inspection, and repair of pressure vessels used in the oil and gas industry. The resulting API/ASME Code remained in effect until discontinued in 1956. Since the need for uniform maintenance, inspection, and repair of pressure vessels continued, API published the first edition of API 510 in 1958 to satisfy this need.

Another set of boiler and pressure vessel requirements exists, which is widely used or referenced by many states and municipalities in their regulations. It is the National Board Inspection Code (NBIC). Many elements of the discontinued API/ASME Code have been included in the NBIC since its 1960 edition. It is the intention of both API and NBIC that their respective scopes not overlap. NBIC advises in its scope that "It is recognized that an American Petroleum Institute Inspection Code, API–510, exists covering the maintenance inspection, repair, alteration and re-rating procedures for pressure vessels used by the petroleum and chemical process industries, which is applicable in these special circumstances. It is the intent that this Inspection Code cover installations other than those covered by API–510 unless the jurisdiction rules otherwise."

NBIC is an excellent generic code applicable to boilers and pressure vessels in general industrial uses. API 510 is designed specifically for the petroleum and chemical process industries. Therefore, API 510 is the appropriate document to provide for the safest maintenance inspection, rating, repair, and alteration of pressure vessels in service on the OCS.

Procedural Matters

Public Comments Procedure

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Background

This proposed rulemaking will add a document to those incorporated by reference in the regulations. The addition of API 510, dealing with maintenance inspection, rating, repair, and alteration of the various pressure vessels in use on the OCS, to the documents incorporated by reference in our regulations will have a minor impact on the entire industry. The maintenance and repair of pressure vessels has been an ongoing responsibility of the industry since the OCS program's inception. The inclusion of API 510, first published in 1958, will provide for uniform maintenance and inspection practices.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The rule would have no significant economic impact because the documents do not contain any significant revisions that will cause lessees or operators to change their business practices. The documents will not require the retrofitting of any facilities. The documents may lead to minimal changes in operating practices, but the associated costs will be very minor.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility (RF) Act

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The provisions of this rule will not have a significant economic effect on offshore lessees and operators, including those that are classified as small businesses. The Small Business Administration (SBA) defines small business as having:

- Annual revenues of $5 million or less for exploration service and field service companies.
- Fewer than 500 employees for drilling companies and for companies that extract oil, gas, or natural gas liquids.

Under the North American Industry Classification System Code 211111, Crude Petroleum and Natural Gas Extraction, MMS estimates that a total of 1,380 firms drill oil and gas wells onshore and offshore. The group affected by this rule is the approximately 130 companies that are offshore lessees/operators. According to SBA criteria, 39 companies qualify as large firms, leaving up to 91 companies that may qualify as small firms with fewer than 500 employees. However, because of the extremely high cost and technical complexity involved in exploration and development offshore, the vast majority of lessees/operators that will be affected will be companies with larger revenues.

The API document proposed for incorporation into MMS regulations covers pressure vessels on offshore structures. Offshore structures can cost hundreds of millions of dollars to build and install. The document to be incorporated by this rule has been used by the industry for many years, and the latest edition represents the current state-of-the-art industry practices. Boilers and pressure vessels currently being built are being constructed according to the requirements in the ASME Code. Existing pressure vessel equipment is being inspected and maintained to the requirements of API 510. Additional costs, if any, are already accepted by the industry.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734-3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The proposed rule will not cause any significant costs to lessees or operators. The only costs will be the purchase of the new documents and minor revisions to some operating and maintenance procedures. The minor revisions to operating and maintenance procedures may result in some minor costs or may actually result in minor cost savings.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

Paperwork Reduction Act (PRA) of 1995

There are no information collection requirements associated with this rule. The DOI has determined that this regulation does not contain information collection requirements pursuant to PRA (44 U.S.C. 3501 *et seq.*) We will not be submitting an information collection request to OMB.

Federalism (Executive Order 13132)

According to Executive Order 13132, the rule does not have significant Federalism effects. This rule will not substantially and directly affect the relationship between the Federal and State Governments. This rule will simply add one additional document incorporated by reference to ensure that the industry uses the best and safest technologies. This rule does not impose costs on States or localities. Any costs incurred affect only the oil industry and will be minor.

Takings Implication Assessment (Executive Order 12630)

According to Executive Order 12630, this rule does not have significant Takings implications. A Takings Implication Assessment is not required.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866. The rule does not have a significant effect on energy supply, distribution, or use because it merely adds a new standard to be incorporated by reference that will provide for uniform maintenance and inspection practices. Thus, a Statement of Energy Supply, Distribution, or Use is not required.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Unfunded Mandates Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, and tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*), is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 3, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service proposes to amend 30 CFR Part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In § 250.198, in the table in paragraph (e), a new entry for document API 510 is added in alphanumeric order to read as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
* * * *	* * *
API 510, Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration, Eighth Edition, June 1997, API Stock No. C51008.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
* * * *	* * *

4. In § 250.803, paragraph (b)(1) and the first sentence of paragraph (b)(1)(i) are revised to read as follows:

§ 250.803 Additional production system requirements.

* * * * *

(b) * * *

(1) *Pressure and fired vessels.* Pressure and fired vessels must be designed, fabricated, and code stamped in accordance with the applicable provisions of sections I, IV, and VIII of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Pressure and fired vessels must have maintenance inspection, rating, repair, and alteration performed in accordance with the applicable provisions of the American Petroleum Institute's Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration (API 510).

(i) Pressure safety relief valves must be designed and installed in accordance with the applicable provisions of sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, and must have maintenance inspection, rating, repair, and alteration performed in accordance with the provisions of API 510. * * *

* * * * *

5. In § 250.1629, paragraph (b)(1) and the first sentence of paragraph (b)(1)(i) are revised to read as follows:

§ 250.1629 Additional production and fuel gas system requirements.

* * * * *

(b) * * *

(1) Pressure and fired vessels must be designed, fabricated, and code stamped in accordance with the applicable provisions of sections I, IV, and VIII of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Pressure and fired vessels must have maintenance inspection, rating, repair, and alteration performed in accordance with the provisions of the American Petroleum Institute's Pressure Vessel Inspection Code: Maintenance Inspection, Rating, Repair, and Alteration (API 510).

(i) Pressure safety relief valves must be designed and installed in accordance with the applicable provisions of sections I, IV, and VIII of the ASME Boiler and Pressure Vessel Code, and must have maintenance inspection, rating, repair, and alteration performed in accordance with the applicable provisions of API 510. * * *

* * * * *

[FR Doc. 01–31710 Filed 12–26–01; 8:45 am]

BILLING CODE 4310-MR-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC85

Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS) Fixed and Floating Platforms and Documents Incorporated by Reference

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to amend our regulations to address floating offshore platforms that, until now, have not been expressly covered. These floating production systems (FPSs) are variously described as column-stabilized units (CSUs); floating production, storage and offloading facilities (referred to by industry as "FPSOs"); tension-leg platforms (TLPs); spars, etc. We are also incorporating into our regulations a body of industry standards pertaining to FPSs, and this will save the public the costs of developing separate, and in many cases unnecessarily duplicative, government standards. However, it will increase costs to industry by making certain independent third-party reviews mandatory, particularly by requiring hazards analyses for all new FPSs.

DATES: We will consider all comments we receive by February 25, 2002. We will begin reviewing comments then and may not fully consider comments we receive after February 25, 2002.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail or hand-carry comments (three copies) to the Department of the Interior; Minerals Management Service; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team. You may also comment via e-mail to rules.comments@mms.gov. Please submit e-mail comments as an ASCII file (MS Word) avoiding the use of special characters and any form of encryption. Include your name and return address in your e-mail message and mark your message for return receipt. Show the Rule Identification Number (RIN 1010–AC–85) in your subject line.

Mail or hand-carry comments with respect to the information collection burden of the proposed rule to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–XXXX); 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Anderson, Physical Scientist, at (703) 787–1608; or Joseph Levine, Chief, Operations Analysis Branch, at (703) 787–1033 or FAX (703) 787–1555.

SUPPLEMENTARY INFORMATION: We propose incorporating into our regulations a body of industry standards pertaining to FPSs, and this will save the public the costs of developing Government standards. It will also enhance the efficient exploration and development of the most promising new sources of United States oil and gas supplies in the deepwater areas of the Gulf of Mexico (GOM).

Incorporating the now-voluntary industry standards into our regulations would dictate that respondents comply with the requirements in the incorporated documents. This includes certified verification agent (CVA) reviews and hazards analyses for some areas that current regulations do not require, but the voluntary standards recommend. Thus, the now-voluntary CVA reviews and hazards analyses would become mandatory. This would increase the number of CVA nominations and reports associated with the facilities and require hazards analysis documentation for new floating platforms. (In some of the industry standards, the CVA is referred to as an independent verification agent (IVA)). Also, industry sources estimate that it will cost an average of $1.2 million to apply hazards analysis to each new floating production facility. Requiring the industry hazards analysis standard for all new deepwater floating production platforms will be the most costly element of the proposed rule.

Deepwater areas of the GOM have shown a remarkable increase in oil and gas exploration, development, and production. In part this is due to the development of new technologies that (1) enable drilling and production in deeper waters; and (2) reduce operational costs and risks, such as new geophysical software used to identify highly productive reservoirs. In 1993, deepwater areas of the GOM (water depths greater than 1,000 feet, or 305 meters) accounted for only 12 percent and 2 percent, respectively, of total GOM oil and gas production. Discovery and development of deepwater fields began accelerating in 1994, so that by the end of 1999, deepwater areas of the GOM accounted for 45 percent and 17 percent, respectively, of total GOM oil and gas production. (From 1994 through 1998, deepwater production of oil rose 260 percent.)

To realize just how important the new deepwater areas of the GOM are to United States energy supplies, it is helpful to compare the productivity of deepwater wells to past wells in more shallow waters. Historically, GOM wells generally have produced between 200 and 300 barrels (bbls.) per day. However, at least one existing deepwater well is producing over 30,000 bbls. of oil per day, and several are producing over 20,000 bbls. per day. An existing deepwater platform in the GOM is producing 140,000 bbls. of oil and 140 million cubic feet of gas per day. Success in deepwater is evident in both the high production rates and sustained drilling for new discoveries announced each year. Drilling is expected to move into water depths of 10,000 feet (3,048 meters).

The following discussion is intended to give the reviewer an idea of how fast technological changes are occurring in deepwater oil and gas operations. It is also meant to establish the urgency for MMS to adopt common industry standards so that system designers will know what is acceptable when they plan for floating deepwater platforms. Any of the drilling or production "records" discussed below will likely be exceeded by the time this Notice is published. Several notable examples show how new deepwater exploration and production systems are "leap-frogging" the technical achievements of their recent predecessors.

As of December 2000, there were 40 rigs drilling in water depths greater than 305 meters (1,000 feet), versus 32 for December 1999. This represents a record number of rigs drilling in deepwater. Until now, about 100 deepwater discoveries have been announced for the GOM.

Concerning exploratory drilling in August 1998, Chevron U.S.A. set a GOM water-depth record in 7,718 feet of water (2,352 meters) on Atwater Valley Block 118, 175 miles southeast of New Orleans. But Chevron's record was recently exceeded, (1) in the GOM by Broken Hill Proprietary Petroleum, which drilled an exploratory well in 8,835 feet (2,693 meters) of water in the Walker Ridge area; and (2) offshore Brazil, where PetroBras set a new 9,111-foot (2,777-meter) world record.

Concerning production water-depth records, Petrobras holds the water-depth record for sustained production at their Roncador field in the Campos Basin with the Petrobras 36 column stabilized floating production system installed in 6,079 feet (1,853 meters) of water. Subsea wells tie back to Petrobras 36 in

VOL 66 ISS 248 DE 27 2001 UMI

6,560 feet (1,999 meters) of water, which is a world production depth record.

So far, only 21 permanent development platforms have been installed in waters over 1,000 feet deep (305 meters) in the GOM. Seven of these structures are fixed platforms, three are compliant towers, eight are TLPs, and three are spars. All of these production platforms were approved on a case-by-case basis under existing MMS regulations. However, it would streamline the permitting process and increase the up-front net-present-value of deepwater projects for the offshore industry if MMS had a designated body of standards to specifically deal with the whole new class of floating production platforms. The offshore oil and gas industry has already developed its own body of standards because of the recognized need to streamline the design process for floating platform facilities and their subsystems. In addition to describing the primary platform facilities, the industry standards also govern production and pipeline risers, stationkeeping and mooring systems, flexible pipelines, and hazards analysis.

A discussion of the expense involved in exploring for and developing deepwater oil and gas reserves was presented at the World Petroleum Congress (WPC) in Calgary, Canada, in June 2000. According to the "Oil & Gas Journal," Mr. Luiz Rodolfo Landim Machado of Petroleo Brasileiro SA projected that through 2004, the oil industry would spend about $76 billion in deepwater areas worldwide to explore for and develop about 19 billion barrels of oil equivalent. He indicated that about 27 percent of the reserves would be found in the GOM. ("WPC: Deepwater holds industry's greatest challenges, opportunities," Vol. 98, Issue 26 (June 26, 2000).) Assuming a commensurate expenditure of 27 percent, that would lead to the oil industry spending $20.5 billion in deepwater areas of the GOM through 2004. That represents industry deepwater expenditures of over $4.5 billion per year from June 2000 through 2004.

To provide further background on the potential impact of this proposal, leases lying in water depths of from 400 to 800 meters (from 1,312 to 2,625 feet) have lease terms of 8 years, as opposed to the customary 5-year term. Leases lying in water depth of over 800 meters (2,625 feet) have 10-year terms. These longer lease terms give lessees much longer time horizons to plan their lease development activities. Consequently, the MMS GOM Region estimates that about six FPSs will be approved for installation during any given year. This means that probably much fewer than even half of the approximately 98 companies currently holding leases in deepwater would ever submit development plans for a floating platform before their lease terms expire.

The Purpose of this Rule

The purpose of this proposed rule is to incorporate into our regulations a body of industry standards that will enable us to more efficiently examine plans for and issue permits for floating offshore platforms. Our regulations currently do not specifically cover these facilities. Therefore, this proposal includes a complete rewrite of subpart I of 30 CFR Part 250 to cover floating platforms. Incorporating the voluntary industry standards would save the public the cost of developing government-specific standards. It would also enhance the efficient exploration and development of the most promising new sources of United States oil and gas supplies in the deepwater areas of the GOM in two ways. First, it would provide more certainty to the lessees' design engineers so that they would know in advance what design criteria are acceptable to MMS. Second, it would enhance MMS engineers' efforts in reviewing each new project to ensure structural integrity, operational and human safety, and environmental protection. This is because the proposed regulation would establish a single body of standards on which each new project would be based. These enhancements would streamline the regulatory review process and, thereby, increase the net-present-value of the project to lessees that assume the high financial risks of developing deepwater areas. There can be considerable costs to the industry if revenues from the project are delayed while industry and government engineers haggle over acceptable standards for the project in question.

Under existing MMS regulations, lessees and operators have to use standards that are acceptable to MMS or they will not receive a permit to proceed with their development plans. If they do not choose to use standards that we have already incorporated, they have the option to use equivalent standards, provided they first obtain our approval.

Many industry standards reference "second-tier documents" that we do not directly incorporate into our regulations. Nevertheless, the fact that an industry standard relies on second-tier documents effectively makes them part of the justification for approving a permit. It is incumbent upon MMS and the certified verification agent (CVA) to make certain that referenced standards are properly followed. MMS has operated under this premise for years, and it has worked well. However, the system usually works more efficiently when an industry standard is directly incorporated by reference into our regulations. That way, lessees do not have to go through the steps of obtaining our approval for various standards prior to developing their plans. Also, it saves MMS time, because we do not have to conduct special reviews of certain industry standards with which we may be unfamiliar.

The 1996 National Technology Transfer and Advancement Act (NTTAA) (Pub. L. 104–113) directs Federal agencies to achieve greater reliance on voluntary standards and standards-developing organizations by participating in developing voluntary standards without dominating the process. The NTTAA encourages "the use by Federal agencies of private sector standards, emphasizing where possible the use of standards developed by private, consensus organizations." This is for the purpose of "eliminating unnecessary duplication and complexity in the development and promulgation of conformity assessment requirements and measures" (i.e., standards and regulations). Office of Management and Budget (OMB) Circular A–119 specifies the requirements for Federal agencies to implement the NTTAA. According to Circular A–119, agencies must use domestic and international voluntary consensus standards in their regulatory and procurement activities instead of government standards, unless use of consensus standards would be inconsistent with applicable law or otherwise impractical. Agencies have the discretion to decline to use existing voluntary consensus standards if they determine that such standards are inconsistent with applicable law or otherwise impractical.

In this proposed rulemaking, MMS intends to incorporate eight American Petroleum Institute (API) standards, and one American Welding Society (AWS) standard. In one case, we would be adopting the latest edition of an API standard already incorporated into MMS regulations. We have actively participated in developing several of these standards and believe that we could not write duplicative government regulations that would be either as technically detailed or as broad in their scope as these standards. Moreover, the writing of such duplicative government regulations could neither be done in a timely nor economically efficient way—nor could it be done with the same level of expertise that was involved in the industry effort. We believe that it is entirely within the letter and spirit of the NTTAA that we incorporate these voluntary industry standards into our regulations. Moreover, we believe it is in the public interest that we so adopt these standards.

The nine industry standards proposed for incorporation are as follows:

(1) *API Recommended Practice 2A (API RP 2A)—WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-First Edition, December 2000, API Order No. G2AWSD.* The 19th and 20th editions of this standard are already incorporated by reference into MMS regulations. The 21st edition would simply update and replace these two earlier editions. The 21st edition provides the rationale for revising much of subpart I—Platforms and Structures—in the proposed rulemaking. It deals with bottom-founded structures which, until this rulemaking, have been the primary focus of Subpart I. Upon the effective date of the final rule, the following National Notices to Lessees and Operators (NTLs) related to API RP 2A would be cancelled: (1) NTL No. 98–1N provides interim guidance for applying platform design criteria from API RP 2A; and (2) NTL No. 98–4N provides interim guidance for applying the "Simplified Fatigue Analysis Procedure" from API RP 2A. These two NTLs had been published in cooperation with the API RP 2A workgroup. The workgroup had discovered some insufficient design criteria in both the 19th and 20th editions of RP 2A related to various structures and the water depths in which they were to be constructed. Depending on the type of structure, either the 19th or 20th edition was the correct standard to be used. The NTLs provided guidance on the correct use of the standards.

(2) *API RP 2RD, Design of Risers for Floating Production Systems (FPSs) and Tension-Leg Platforms (TLPs), First Edition, June 1998, API Stock No. G02RD1.* This standard covers drilling, production, and pipeline risers associated with all FPSs, including spars, TLPs, CSUs, and FPSOs. Moreover, it deals with construction of flexible riser systems, which have not been explicitly covered under MMS regulations.

(3) *API RP 2SK, Recommended Practice for Design and Analysis of Stationkeeping Systems for Floating Structures, Second Edition, December 1996, Effective Date: March 1, 1997, API Stock No. G02SK2.* Again, stationkeeping systems for floating platforms have not been explicitly covered under MMS regulations.

(4) *API RP 2T, Recommended Practice for Planning, Designing, and Constructing Tension Leg Platforms, Second Edition, August 1997, API Order No. G02T02.* Over the past 13 years, every application for a TLP installation in the GOM OCS has relied on API RP 2T as the basis for its design. MMS has approved each of these applications on a case-by-case basis. There are now eight such installations in the deepwater areas of the GOM. For all practical purposes, API RP 2T is the de facto industry guideline on the design and construction of TLPs. In some areas, API RP 2T relies very heavily on the analysis contained in API RP 2A, particularly for environmental loading and foundation and anchoring factors. Considered by itself, API RP 2T imposes no new reporting requirements or third-party review requirements.

(5) *API RP 14J, Recommended Practice for Design and Hazards Analysis for Offshore Production Facilities, First Edition, Sept. 1, 1993, API Stock No. 811–07200.* Implementing this standard for all new deepwater floating production platforms will be the most costly element of the proposed rule. This is a standard that has provided much of the early rationale and background for MMS's voluntary Safety and Environmental Management Planning program. During 2000, a consensus was reached within the industry that the complexities and safety issues involved in FPSs warrant the imposition of this standard to all new FPSs, variously described as CSUs, TLPs, spars, and FPSOs, etc. Deepwater FPSs are the most complex systems on the OCS and can include numerous production wells that flow at over 20,000 barrels per day. Therefore, we have concluded that new floating production facilities should be assigned the highest priority for conducting hazards analysis. This analysis should follow one or more of the methods described in API RP 14J. Further, we believe it is most efficient to address potential safety and environmental hazards during the facility design phase. (Hazards analysis is much less useful and less cost-effective when applied to facilities that are already installed.) We would require an analysis of operational hazards to be included as integral parts of all Deepwater Operations Plans. Industry sources estimate that it will cost an average of $1.2 million to apply API RP 14J hazards analysis in the design of each new floating production facility.

(6) *API Specification (Spec) 17J, Specification for Unbonded Flexible Pipe, Second Edition, November 1999, Effective Date: July 1, 2000, API Stock No. G17J02.* For several years MMS has been permitting remote subsea wells that use flexible pipe for deep sea production pipelines. We believe that this standard adequately serves the interests of environmental protection and safety in providing guidance to both regulators and industry in the proper design and construction of flexible pipelines and flowlines. The industry projects that as many as 50 percent of future deepwater wells will be remote subsea wells tied back to existing production platforms. Also, there will be an increasing number of shallow water subsea tie-backs. Therefore, this standard will be essential for future production operations.

(7) *AWS D3.6M:1999, Specification for Underwater Welding.* MMS refers to this document every time we receive an application for an underwater welding repair. This document is analogous and complimentary to the AWS Standard D1.1 (Structural Welding Code-Steel) which is used for above-water welding. Both AWS D1.1 and AWS D1.4 (Structural Welding Code-Reinforcing Steel) have been incorporated into our regulations for over 20 years. Further, MMS was a member of the subcommittee which developed AWS D3.6M. It serves a definite purpose in our reassessment process. Underwater welding is used infrequently because of the expenses involved in making such repairs. However, it has been used with great success over the years to solve several complex underwater repair problems, some in very deep water. We receive applications for underwater welding repairs on an infrequent basis; but AWS D3.6M is the primary document the industry follows for these purposes. We need to incorporate it into our regulations, because we anticipate a growing future need for underwater welding repairs. Considered by itself, AWS D3.6M imposes no new reporting requirements or third-party review requirements.

(8) *API RP 2FPS, Recommended Practice for Planning, Designing, and Constructing Floating Production Systems, First Edition, March 2001, API Order No. G2FPS1.* RP 2FPS serves as an "umbrella document" for all FPSs, except for TLPs (covered by API RP 2T). It incorporates as second-tier standards the requirements of API RP 2RD, API RP 2SK, API RP 14J, API Spec 17J, and those of other standards. Considered by itself, API RP 2FPS imposes no new reporting requirements or third-party review requirements.

(9) *API RP 2SM, Recommended Practice for Design, Manufacture,*

Installation, and Maintenance of Synthetic Fiber Ropes for Offshore Mooring, First Edition, March 2001, API Order No. G02SM1. This is a new API RP that addresses an important component of offshore mooring systems. To date, synthetic fiber ropes have not been used in the mooring systems of floating OCS platforms and have seen only limited use for similar applications worldwide. Therefore, given the lack of long-term experience with the use of synthetic fiber rope, API RP 2SM will serve as the primary MMS document of reference for use in approving applications which propose the use of such mooring systems. MMS was a member of the API subcommittee which developed API RP 2SM.

Regulatory Changes in Addition to Documents Incorporated by Reference

In addition to incorporating new industry documents, the proposed rule would include language specific to FPSs. This language complements the December 16, 1998, Memorandum of Understanding (MOU) between MMS and the U.S. Coast Guard (USCG) that we published in the **Federal Register** on January 15, 1999 (64 FR 2660–2667). The MOU describes our respective and overlapping responsibilities for regulating "Floating Outer Continental Shelf (OCS) Facilities."

In response to issues raised by the International Association of Drilling Contractors (IADC) and Noble Drilling Services, Inc., we propose to insert new language to address our regulatory responsibilities under the MOU. We propose to insert the language into subpart H, at § 250.800(b), and subpart I at proposed § 250.904(e). The IADC and Noble Drilling Services had commented on an MMS **Federal Register** Notice of June 21, 2000 (65 FR 38453). In reviewing our third-party review requirements in that Notice, they expressed concern that we did not adequately clarify the differences between our responsibilities and those of the USCG. MMS and the USCG have overlapping responsibilities under the MOU, so it is not possible to completely eliminate ambiguities in our regulations.

We stated above that the 21st edition of API RP 2A provides the rationale for revising and shortening much of Subpart I—Platforms and Structures—in the proposed rulemaking. With the incorporation of the 21st edition, we can eliminate much of the verbiage in the current subpart I regulations. Therefore, we propose to rename and totally reorganize subpart I.

On July 7, 2000, we published a proposed rule concerning decommissioning activities (65 FR 41892). We assume that the decommissioning rule will be finalized before this rule. Therefore, we have written proposed § 250.913 to correspond to relevant sections of the decommissioning activities proposed rule. If, for any reason, the decommissioning rule does not become final before this rule, § 250.913 will be rewritten in the final rule to correspond to the status of 30 CFR part 250 at the time of publication.

Derivation Table

The following derivation table shows where the proposed requirements originate from in the current 30 CFR 250, subpart I, regulations.

Proposed new section	Current regulation section
§ 250.900 What general requirements apply to fixed and floating platforms?	§ 250.900; New requirement.
§ 250.901 What industry standards must fixed and floating platforms meet?	§ 250.900(g); § 250.907(b), (c), (d); § 250.908 (b), (c), (d), (e); New requirements.
§ 250.902 What must an application to approve a fixed, or floating platform contain?	§ 250.901(a), (b)
§ 250.903 Which of my platforms, associated structures, and major modifications are subject to the Platform Verification Program?	250.902; New requirements.
§ 250.904 If my platform, associated structure, or major modification is subject to the Platform Verification Program, what must I do?	§ 250.902; New requirements.
§ 250.905 What plans must I submit under the Platform Verification Program?	§ 250.902; New requirements.
§ 250.906 When must I resubmit Platform Verification Program plans?	§ 250.902; New requirements.
§ 250.907 When must I combine Platform Verification Program plans?	§ 250.902; New requirements.
§ 250.908 How do I nominate a CVA?	§ 250.902; § 250.903(b).
§ 250.909 What are the CVA's primary responsibilities?	§ 250.903(a).
§ 250.910 What are the CVA's primary duties during the design phase?	§ 250.903(a)(1).
§ 250.911 What are the CVA's primary duties during the fabrication phase?	§ 250.903(a)(2).
§ 250.912 What are the CVA's primary duties during the installation phase?	§ 250.903(a)(3).
§ 250.913 What are the minimum structural fatigue requirements?	§ 250.907(c).
§ 250.914 What records must I keep for all primary structural members?	§ 250.907(a).
§ 250.915 Where must I locate foundation boreholes?	New requirements.
§ 250.916 What in-service inspection requirements must I meet?	§ 250.912(b); New requirements.
§ 250.917 What are the requirements for fixed or floating platform removal and location clearance?	§ 250.913
§ 250.918 What records must I keep?	§ 250.914

Procedural Matters

Public Comment Procedures

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by OMB under Executive Order 12866.

(1) The proposed rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The overall effect of the proposed rule will not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the world marketplace, nor will the proposal adversely affect investment or employment factors locally. (Indeed, of the 98 lessees who hold leases in deepwater and, therefore, could be affected by the proposed rule, 19 are foreign multinational corporations.) The economic analysis prepared for this proposed rule indicates that the estimated regulatory costs would be about $3 million for a "generic" floating platform having 10 production risers, 2 pipeline risers, a mooring system, and 80 miles of pipelines. This represents less than 1 percent of the total cost of the facility. Assuming that plans for 6 such facilities were submitted for approval in any given year, the total annual regulatory cost to the offshore oil and gas industry would be about $18 million [$3,000,000 x 6 = $18 million]. The economic analysis for this proposed rule is available from the Department of the Interior; Minerals Management Service; Operations Analysis Branch; Mail Stop 4022; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Carl W. Anderson.

(2) This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the OCS oil and gas leasing program with other agencies' actions. These relationships are all encompassed in agreements and memorandums of understanding that will not change with this proposed rule.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. There are precedents for actions of this type under past lease stipulations and regulations dealing with oil spill response and oil spill financial responsibility provisions under the OCS Lands Act and the Oil Pollution Act of 1990.

Regulatory Flexibility (RF Act)

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). The economic analysis prepared for this rule concluded that not more than two small deepwater lessees would submit plans for floating platforms in any given year. Most likely, these lessees would join in as partners in a single application for a floating platform. To the extent that these lessees participate in such joint ventures, the costs imposed by the proposed rule on individual operators would be reduced significantly. Therefore, we conclude that the rule would not have a significant economic impact on a substantial number of small entities.

For the purposes of this section a "small entity" is considered to be an individual, limited partnership, or small company, considered to be at "arm's length" from the control of any parent companies, with fewer than 500 employees. Mid-size and large corporations and partnerships under their direct control have access to lines of credit and internal corporate cash flows that are not available to the "small entity." Some of the operators MMS regulates under the OCS oil and gas leasing program would be considered small entities. They are generally represented by the North American Industry Classification System Code 211111, which represents crude petroleum and natural gas extractors.

Of the 98 lessees that have deepwater leases, as many as 26 may be considered to be small. These 26 lessees represent about 33 percent of all small operators on the OCS. Of the 26, only 2 hold 100-percent interest in their deepwater leases. These two lessees have annual revenues such that they would have little difficulty in meeting the requirements of the proposed rule. In all other cases, the small lessees have reduced their deepwater economic risks by being in partnership with other lessees. Sixteen of these lessees hold less than 50-percent interest in their deepwater leases.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. (Of the 98 lessees who hold leases in deepwater and, therefore, could be affected by the proposed rule, 19 are foreign multinational corporations.)

The economic analysis prepared for this rule concluded that not more than two small deepwater lessees would submit plans for floating platforms in any given year. Most likely, these lessees would join in as partners in a single application for a floating platform. To the extent that these lessees participate in such joint ventures, the costs imposed by the proposed rule on individual operators would be reduced significantly. Therefore, we conclude that the rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act (PRA) of 1995

The proposed revisions to sections in subparts A and B of 30 CFR 250 do not affect the information collection (IC) aspects of those regulations. These are currently approved under OMB control numbers 1010–0114 (subpart A) and 1010–0049 (subpart B). We did not submit an information collection request (ICR) to OMB for these sections.

With respect to the proposed revisions in 30 CFR part 250, subparts H, I, and J, we have submitted an ICR (form OMB 83–I) to OMB for review and approval according to section 3507(d) of the PRA. The title of the collection of information is "Proposed Rulemaking—30 CFR part 250, Subparts J, H, and I, Fixed and Floating Platforms and Structures." The ICR covers only the proposed changes to subparts H and J. Because subpart I would be revised in

VOL 66 ISS 248 DE 27 2001 UMI

its entirety, the ICR does cover the burden for all of subpart I.

Potential respondents are approximately 130 Federal OCS lessees and operators and CVAs or other third-party reviewers of fixed and floating platforms. Responses are mandatory. The frequency of response varies by section, but is primarily on occasion or annual. The IC does not include questions of a sensitive nature. We will protect information considered proprietary according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

MMS will use the information collected and records maintained under subpart I to determine the structural integrity of all fixed and floating platforms and to ensure that such integrity will be maintained throughout the useful life of these structures. The information is necessary to determine that platforms and structures are sound and safe for their intended purpose and the safety of personnel and pollution prevention. MMS will use the proposed information collected under subparts H and J to ensure proper construction of production safety systems and pipelines.

Although the proposed regulations would specifically cover floating platforms as well as fixed platforms, this is not a new category of IC. MMS has always permitted floating facilities on a case-by-case basis. Incorporating the new documents provides industry with specific standards by which we will hold them accountable in the design, fabrication, and installation of fixed and floating platforms offshore. Making mandatory these now voluntary standards would dictate that respondents comply with the requirements in the incorporated documents. This includes CVA review for some areas that current regulations do not require, but the voluntary standards recommend. The proposed regulations will increase the number of CVA nominations and reports associated with the facilities and require hazards analysis documentation for new floating platforms.

A separate proposed rulemaking on 30 CFR part 250, subpart Q, Decommissioning Activities (published on July 7, 2000, 65 FR 41892) would relocate the platform and structure removal and site clearance requirements from current subpart I regulations to the new subpart Q. The hour burdens for those paperwork requirements were included in the OMB approval of the IC requirements of that rulemaking (1010–0142) and are not included in this submission.

OMB has approved the IC required by current regulations in subparts H, I, and J under control numbers 1010–0059, 1010–0058 and 1010–0050. We estimate the proposed changes will increase the currently approved hour burdens by:

3,300 hours for subpart H
4,320 hours for subpart I
1,800 hours for subpart J

9,420 total burden hour increase

The proposed rule eliminates the notice requirement currently in § 250.901(e) on transporting the platform to the installation site, and the departure request in § 250.912(a) on platform inspection intervals. This reporting change results in a decrease of 570 annual burden hours.

The following chart details the IC burden for the new requirements in subparts H and J and all of the requirements in subpart I. New subpart I requirements are so noted.

Citation 30 CFR 250 proposed section	Reporting or recordkeeping requirement	Hour burden per response or record (hours)
	Subpart H	
800(b)	Submit CVA documentation under API RP 2RD. (Estimate 60 per year)	50
803(b)(2)(iii)	Submit CVA documentation under API RP 17J. (Estimate 6 per year)	50
	Subpart I	
900(a); 901(b); 902; 903; 905; 907	Submit application to install new fixed or floating platform or significant changes to approved applications, including use of alternative codes, rules, or standards; and Platform Verification Program plans for design, fabrication and installation of new, fixed, bottom-founded, pile-supported, or concrete-gravity platforms and new floating platforms.	24
900(a)(2); 903(c); 906	Submit application for major modification to any platform	24
900(a)(4)	Notify MMS within 24 hours of damage and emergency repairs and request approval of repairs.	16
900(a)(5)	Submit application for the conversion of the use of an existing mobile offshore drilling unit (MODU).	24
901(a)(6), (a)(7), (a)(8)	NEW: Submit CVA documentation under API RP 2RD, API RP 2SK, and API RP 2SM. (Estimate 6 per year).	100
901(a)(10)	NEW: Submit hazards analysis documentation under API RP 14J. (Estimate 6 per year).	500
904(c); 908	Submit nomination and qualification statement for CVA	16
910(c), (d)	Submit interim and final CVA reports and recommendations on design phase	200
911(d), (e), (f)	NEW: Submit interim and final CVA reports and recommendations on fabrication phase, including notice of fabrication procedure changes or design specification modifications. (Estimate 6 per year).	60
912(c), (d), (e)	NEW: Submit interim and final CVA reports and recommendations on installation phase, including notice of any discrepancies or damage to structural members. (Estimate 6 per year).	60
914; 918: See footnote*	Recordkeeping: Record origin and relevant material test results of all primary structural materials; retain records during all stages of construction. Compile, retain, and make available to MMS for the functional life of platform, the as-built drawings, design assumptions/analyses, summary of nondestructive examination records, and inspection results.	50

Citation 30 CFR 250 proposed section	Reporting or recordkeeping requirement	Hour burden per response or record (hours)
916	Develop in-service inspection plan and submit annual (November 1 of each year) report on inspection of fixed or floating platforms, including summary of testing results.	45
900 thru 918	General departure and alternative compliance requests not specifically covered elsewhere in subpart I regulations.	2
	Subpart J	
1002(b)(4); 1007(a)(4)	Submit CVA documentation under API RP 17J. (Estimate 12 per year)	100
1002(b)(5)	Submit CVA documentation under API RP 2RD. (Estimate 12 per year)	50

* The records required are such that respondents would retain them as a usual and customary business practice. The burden would be to make them available to MMS for review.

As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden in the proposed rule. You may submit your comments directly to the Office of Information and Regulatory Affairs, OMB. Please send a copy of your comments to MMS so that we can summarize written comments and address them in the final rule preamble. Refer to the **ADDRESSES** section for mailing instructions.

The PRA provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves the collection of information and assigns a control number, you are not required to respond. The PRA requires OMB to make its decision on the information collection aspects of this proposed rule between 30 to 60 days after publication in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it by January 28, 2002. This does not affect the deadline for the public to comment to MMS on the proposed regulations.

a. We specifically solicit comments on the following questions:

(1) Is the proposed collection of information necessary for MMS to properly perform its functions, and will it be useful?

(2) Are the estimates of the burden hours of the proposed collection reasonable?

(3) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(4) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

b. In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping "non-hour" cost burden resulting from the collection of information. We have not identified any and solicit your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) The total capital and startup cost component, and (2) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of a usual and customary business or private practice.

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have Federalism implications. This rule would not substantially or directly affect the relationship between the Federal and State governments, because it deals strictly with technical standards that the offshore oil and gas industry must use in designing, fabricating, and installing floating offshore facilities. This rule would not impose costs on States or localities, nor would it require any action on the part of States or localities.

Takings Implications Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required. Based on our Paperwork Burden analysis and our economic analysis for this proposed rule, the annual incremental cost of complying with this regulation for approximately 98 businesses will be about $190,000 per business, per year. This incremental cost will be absorbed by an industry sector where (1) operating costs just for a contract drilling unit to drill a single well can exceed $1,750,000 per week, and (2) the cost of a deepwater platform can exceed $1 billion. We do not believe that paying this cost will result in any takings. Thus, the Department of the Interior does not need to prepare a Takings Implication Assessment under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The proposed rule would not take away or restrict a lessee's right to develop an OCS oil and gas lease according to the lease terms.

Energy Supply, Distribution, or Use (Executive Order 13211)

This rule is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 13211. The rule does not have a significant effect on energy supply, distribution, or use, because it would streamline the regulatory review process and, thereby, enhance the development and production of energy resources from deepwater areas of the OCS. It would do this by specifying a single body of approved industry standards so that lessees would know in advance which design criteria are acceptable to MMS for deepwater production operations. The proposed rule would also simplify MMS engineers' efforts in reviewing each new project to ensure structural integrity, operational and human safety, and environmental protection. This would be beneficial for increasing energy

VOL 66 ISS 248 DE 27 2001 UMI

resources and would provide more certainty to OCS lessees who assume the high financial risks of developing deepwater areas.

Clarity of This Regulation (Executive Order 12866)

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections?

(5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the rule? What else can we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We have analyzed this rule under the criteria of the NEPA and 516 Departmental Manual 6, Appendix 10.4C(1). We completed a Categorical Exclusion Review for this action on November 20, 2000, and concluded that "the proposed rulemaking does not represent an exception to the established criteria for categorical exclusion; therefore, preparation of an environmental analysis or environmental impact statement will not be required."

Unfunded Mandate Reform Act (UMRA) of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: December 3, 2001.

J. Steven Griles,

Acting Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, the Minerals Management Service (MMS) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

2. In § 250.105, the definition for "facility," is revised to read as follows:

§ 250.105 Definitions.

* * * * *

Facility means: (1) As used in § 250.130, all installations permanently or temporarily attached to the seabed on the OCS (including manmade islands and bottom-sitting structures). They include mobile offshore drilling units (MODUs) or other vessels engaged in drilling or downhole operations, used for oil, gas or sulphur drilling, production, or related activities. They include all floating production systems (FPSs), variously described as column-stabilized-units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc. They also include facilities for product measurement and royalty determination (e.g. lease Automatic Custody Transfer Units, gas meters) of OCS production on installations not on the OCS. Any group of OCS installations interconnected with walkways, or any group of installations that includes a central or primary installation with processing equipment and one or more satellite or secondary installations is a single facility. The Regional Supervisor may decide that the complexity of the individual installations justifies their classification as separate facilities.

(2) As used in § 250.303, means all installations or devices permanently or temporarily attached to the seabed. They include mobile offshore drilling units (MODUs), even while operating in the "tender assist" mode (i.e. with skid-off drilling units) or other vessels engaged in drilling or downhole operations. They are used for exploration, development, and production activities for oil, gas, or sulphur and emit or have the potential to emit any air pollutant from one or more sources. They include all floating production systems (FPSs), including column stabilized units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc. During production, multiple installations or devices are a single facility if the installations or devices are at a single site. Any vessel used to transfer production from an offshore facility is part of the facility while it is physically attached to the facility.

(3) As used in § 250.417(b), means a vessel, a structure, or an artificial island used for drilling, well completion, well-workover, or production operations.

(4) As used in §§ 250.900 through 250.918, means all installations or devices permanently or temporarily attached to the seabed. They are used for exploration, development, and production activities for oil, gas, or sulphur and emit or have the potential to emit any air pollutant from one or more sources. They include all floating production systems (FPSs), including column stabilized units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc. During production, multiple installations or devices are a single facility if the installations or devices are at a single site. Any vessel used to transfer production from an offshore facility is part of the facility while it is physically attached to the facility.

* * * * *

3. In § 250.198, in the table in paragraph (e), the following changes are made:

A. Remove entries for API RP 2A, 19th Edition; API RP 2A–WSD, 20th

Edition; and API RP 2A–WSD, 20th Edition, Supplement 1.

B. Add entries in alphanumerical order for API RP 2A–WSD, API RP 2FPS; API RP 2RD, API RP 2SK, API RP 2SM; API RP 2T, API RP 14J, API Spec 17J, and AWS D3.6M:1999 as set forth below:

C. Revise entries for ACI Standard 318–95, ACI 357R–84, AISC Standard Specification for Structural Steel Buildings, ASTM Standard C 33–99a, ASTM Standard C 94/C 94M–99, ASTM Standard C 150–99, ASTM Standard C 330–99, ASTM Standard C 595–98, AWS D1.1–96, AWS D1.4–79, NACE Standard MR0175–99 and NACE Standard RP 01–76–94.

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of documents	Incorporated by reference at
* * * *	* * *
ACI Standard 318–95, Building Code Requirements for Reinforced Concrete, plus Commentary on Building Code Requirements for Reinforced Concrete (ACI 318R–95).	§ 250.901(a)(1).
ACI 357R–84, Guide for the Design and Construction of Fixed Offshore Concrete Structures. 1984.	§ 250.901(a)(2).
AISC Standard Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, June 1, 1989, with Commentary.	§ 250.901(a)(3).
* * * *	* * *
API RP 2A—WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000, API Order No. G2AWSD.	§ 250.901(a)(4).
* * * *	* * *
API RP 2FPS, Recommended Practice for Planning, Designing, and Constructing Floating Production Systems, First Edition, March 2001, API Order No. G2FPS1.	§ 250.901(a)(5).
API RP 2RD, Design of Risers for Floating Production Systems (FPSs) and Tension-Leg Platforms (TLPs), First Edition, June 1998, API Stock No.G02RD1.	§ 250.800(b); § 250.901(a)(6); § 250.1002(b)(5).
API RP 2SK, Recommended Practice for Design and Analysis of Stationkeeping Systems for Floating Structures, Second Edition, December 1996, Effective Date: March 1, 1997, API Stock No. G02SK2.	§ 250.800(b); § 250.901(a)(7).
API RP 2SM, Recommended Practice for Design, Manufacture, Installation, and Maintenance of Synthetic Fiber Ropes for Offshore Mooring, First Edition, March 2001, API Order No. G02SM1.	§ 250.901(a)(8).
API RP 2T, Planning, Designing and Constructing Tension Leg Platforms, Second Edition, August 1997, Order No. G02T02.	§ 250.901(a)(9).
* * * *	* * *
API RP 14J, Recommended Practice for Design and Hazards Analysis for Offshore Production Facilities, First Edition, Sept. 1, 1993, API Stock No. 811–07200.	§ 250.800(b); § 250.803(a); § 250.901(a)(10).
* * * *	* * *
API Spec 17J, Specification for Unbonded Flexible Pipe, Second Edition, November 1999, Effective Date: July 1, 2000, API Stock No. G17J02.	§ 250.803(b)(2)(iii); § 250.1002(b)(4); § 250.1007(a)(4).
* * * *	* * *
ASTM Standard C 33–99a, Standard Specification for Concrete Aggregates	§ 250.901(a)(11).
ASTM Standard C 94/C 94M–99, Standard Specification for Ready-Mixed Concrete.	§ 250.901(a)(12).
ASTM Standard C 150–99, Standard Specification for Portland Cement	§ 250.901(a)(13).
ASTM Standard C 330–99, Standard Specification for Lightweight Aggregates for Structural Concrete.	§ 250.901(a)(14).
ASTM Standard C 595–98, Standard Specification for Blended Hydraulic Cements.	§ 250.901(a)(15).
AWS D1.1–96, Structural Welding Code—Steel, 1996, including Commentary	§ 250.901(a)(16).
AWS D1.4–79, Structural Welding Code—Reinforcing Steel, 1979	§ 250.901(a)(17).
AWS D3.6M:1999, Specification for Underwater Welding	§ 250.901(a)(18).
NACE Standard MR0175–99, Sulfide Stress Cracking Resistant Metallic Materials for Oilfield Equipment, Revised January 1999, NACE Item No. 21302.	§ 250.417(p)(2); § 250.901(a)(19).
NACE Standard RP 01–76–94, Standard Recommended Practice, Corrosion Control of Steel Fixed Offshore Platforms Associated with Petroleum Production.	§ 250.901(a)(20).

4. In § 250.204, paragraph (a)(2) is revised to read as follows:

§ 250.204 Development and Production Plan.

(a) * * *

(2) A description of any drilling vessels, fixed or floating platforms, pipelines, or other facilities and operations located offshore which are proposed or known by the lessee (whether or not owned or operated by

the lessee) to be directly related to the proposed development. The description must include the location, size, design, and important safety, pollution prevention, and environmental monitoring features of the facilities and operations. Floating production systems (FPSs) include column-stabilized units (CSUs); floating production, storage, and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc.

* * * * *

5. In § 250.800, the introductory paragraph is redesignated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 250.800 General requirements.

* * * * *

(b) For all new floating production systems (FPSs) (e.g., column-stabilized units (CSUs); floating production, storage and offloading facilities (FPSOs); tension-leg platforms (TLPs); spars, etc.), you, the lessee, must do all of the following:

(1) Comply with API RP 14J;

(2) Meet the drilling and production riser standards of API RP 2RD;

(3) Meet the production-safety systems requirements contained in this subpart;

(4) Design all stationkeeping systems for floating facilities to meet the standards of API RP 2SK, as well as relevant U.S. Coast Guard regulations; and

(5) Design stationkeeping systems for floating facilities to meet structural requirements in subpart I, §§ 250.900 through 250.918 of this part.

6. In § 250.803, paragraph (a) is revised and paragraph (b)(2)(iii) is added to read as follows:

§ 250.803 Additional production system requirements.

(a) For all new floating production platforms, you must comply with API RP 14J. For all production platforms, you must comply with the following production safety system requirements, in addition to the requirements of § 250.802 and the requirements of API RP 14C.

(b) * * *

(2) * * *

(iii) If you are installing flowlines constructed of unbonded flexible pipe on a floating platform, you must comply with the requirements of API Spec 17J, including its third-party review standards for independent verification agents (IVAs). You must submit your IVA reviews for flowlines constructed of unbonded flexible pipe for review by the MMS District Supervisor.

* * * * *

7. Subpart I and its title are revised to read as follows:

Subpart I—Fixed and Floating Platforms and Structures

Sec.

250.900 What general requirements apply to fixed and floating platforms?
250.901 What industry standards must fixed and floating platforms meet?
250.902 What must an application to approve a fixed or floating platform contain?
250.903 Which of my platforms, associated structures, and major modifications are subject to the Platform Verification Program?
250.904 If my platform, associated structure, or major modification is subject to the Platform Verification Program, what must I do?
250.905 What plans must I submit under the Platform Verification Program?
250.906 When must I resubmit Platform Verification Program plans?
250.907 When must I combine Platform Verification Program plans?
250.908 How do I nominate a CVA?
250.909 What are the CVA's primary responsibilities?
250.910 What are the CVA's primary duties during the design phase?
250.911 What are the CVA's primary duties during the fabrication phase?
250.912 What are the CVA's primary duties during the installation phase?
250.913 What are the minimum structural fatigue requirements?
250.914 What records must I keep for all primary structural members?
250.915 Where must I locate foundation boreholes?
250.916 What in-service inspection requirements must I meet?
250.917 What are the requirements for fixed or floating platform removal and location clearance?
250.918 What records must I keep?

Subpart I—Fixed and Floating Platforms and Structures

§ 250.900 What general requirements apply to fixed and floating platforms?

(a) You must design, fabricate, install, inspect, and maintain all fixed and floating platforms, and related structures on the Outer Continental Shelf (OCS) so as to ensure their structural integrity for the safe conduct of drilling, workover, and production operations. In doing this, you must consider the specific environmental conditions at the platform location. You must submit an application under § 250.902 and obtain the approval of the Regional Supervisor before installing any platform or performing any of the other activities described in the following table:

Activity	Conditions to be met for application
(1) Install a platform	You must adhere to the requirements of this subpart, including the industry standards in § 250.901
(2) Make a major modification to any platform	Major modifications are any structural changes that materially alter the approved plan or cause a major deviation from approved operations. They are subject to the requirements of this subpart, including the industry standards in § 250.901
(3) Make a major repair to damage to any platform.	Major repairs of damage are corrective operations involving structural members affecting the structural integrity of a portion or all of the platform. They are subject to the requirements of this subpart, including the industry standards in § 250.901
(4) Make an emergency repair to a primary structural element to restore an existing permitted condition.	Under emergency conditions, you may make repairs to primary structural elements to restore an existing permitted condition without an application or prior approval. You must notify the Regional Supervisor of the damage that occurred within 24 hours, and you must notify the Regional Supervisor of the repairs that were made within 24 hours of completing the repairs
(5) Conversion of the use of an existing mobile offshore drilling unit (MODU).	The Regional Supervisor will determine on a case-by-case basis the requirements for an application for conversion of an existing MODU. Your application must include: (i) The converted MODU's intended location and use; (ii) A demonstration of the adequacy of the design and structural condition of the converted MODU; and (iii) A demonstration that the level of safety for the converted MODU is at least equal to that of reused platforms.

(b) You must design, fabricate, install, inspect, and maintain all new fixed or bottom-founded platforms (e.g., template type, tower type, caisson, gravity-base type, artificial island, etc.) according to all the requirements of this section, § 250.901 (including applicable referenced documents), § 250.902, and §§ 250.913 through 250.918.

(c) Section 250.903 fully describes the facilities that are subject to the Platform Verification Program. In brief, all floating platforms are subject to the Platform Verification Program. Also, all fixed or bottom-founded platforms that meet certain conditions listed in § 250.903(a) are subject to the Platform Verification Program.

§ 250.901 What industry standards must fixed and floating platforms meet?

(a) In addition to the other requirements of this subpart, your plans for fixed or floating platform design, analysis, fabrication, and installation must, as appropriate, conform to:

(1) American Concrete Institute (ACI) Standard 318, Building Code Requirements for Reinforced Concrete, plus Commentary.

(2) ACI 357R, Guide for the Design and Construction of Fixed Offshore Concrete Structures;

(3) American Institute of Steel Construction (AISC) Standard Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design;

(4) American Petroleum Institute (API) Recommended Practice (RP) 2A, Recommended Practice for Planning, Designing, and Constructing Fixed Offshore Platforms;

(5) API RP 2FPS, Recommended Practice for Planning, Designing, and Constructing Floating Production Systems;

(6) API RP 2RD, Design of Risers for Floating Production Systems (FPSs) and Tension-Leg Platforms (TLPs);

(7) API RP 2SK, Recommended Practice for Design and Analysis of Station Keeping Systems for Floating Structures;

(8) API RP 2SM, Recommended Practice for Design, Manufacture, Installation, and Maintenance of Synthetic Fiber Ropes for Offshore Mooring;

(9) API RP 2T, Recommended Practice for Planning, Designing and Constructing Tension Leg Platforms;

(10) API RP 14J, Recommended Practice for Design and Hazards Analysis for Offshore Production Facilities;

(11) American Society for Testing and Materials (ASTM) Standard C 33–99a, Standard Specification for Concrete Aggregates;

(12) ASTM Standard C 94/C 94M–99, Standard Specification for Ready-Mixed Concrete;

(13) ASTM Standard C 150–99, Standard Specification for Portland Cement;

(14) ASTM Standard C 330–99, Standard Specification for Lightweight Aggregates for Structural Concrete;

(15) ASTM Standard C 595–98, Standard Specification for Blended Hydraulic Cements;

(16) AWS D1.1, Structural Welding Code—Steel;

(17) AWS D1.4, Structural Welding Code—Reinforcing Steel;

(18) AWS D3.6M, Specification for Underwater Welding;

(19) NACE Standard MR0175, Sulfide Stress Cracking Resistant Metallic Materials for Oilfield Equipment; and

(20) NACE Standard RP 01–76–94, Standard Recommended Practice, Corrosion Control of Steel Fixed Offshore Platforms Associated with Petroleum Production.

(b) You must follow the requirements contained in the documents listed under paragraph (a) of this section insofar as they do not conflict with other provisions of 30 CFR part 250. You may use applicable provisions of these documents, as approved by the Regional Supervisor, for the design, fabrication, and installation of platforms such as spars, since standards specifically written for such structures do not exist. You may also use alternative codes, rules, or standards, as approved by the Regional Supervisor, under the conditions enumerated in § 250.141, paragraphs (a), (b), and (c) of this part.

(c) For information on all standards mentioned in this section, see § 250.198 of this part.

§ 250.902 What must an application to approve a fixed or floating platform contain?

You must submit to the Regional Supervisor for approval all applications under this subpart and all significant changes or modifications to approved applications. Your application for all new fixed or floating platforms or major modifications must contain all of the following general facility information:

Required documents	Required contents	Other requirements
(a) Application cover letter	Proposed facility designation, lease number, area, name, and block number, and the type of facility (e.g., drilling, production, quarters)..	You must submit three copies.*
(b) Location plat	Latitude and longitude coordinates, Universal Mercator grid-system coordinates, state plane coordinates in the Lambert or Transverse Mercator Projection System, and distances in feet from nearest block lines.	Your plat must be drawn to a scale of 1 inch equals 2,000 feet and include the coordinates of the the lease block boundary lines. You must submit three copies.*
(c) Front, Side, and Plan View drawings.	Platform dimensions and orientation, elevations relative to M.S.L., and pile sizes and penetrations.	Your drawing sizes must not exceed 11" x 17". You must submit three copies.*
(d) Complete set structural drawings		Your drawing sizes must not exceed 11" x 17". You must submit one copy.
(e) Summary of environmental data	A Summary of the environmental data described in the standards referenced under § 250.901(a) and in § 250.198 of this part, where the data is used in the design or analysis of the platform. Examples of relevant data include information on waves, wind, current, tides, temperature, snow and ice effects, marine growth, and water depth.	You must submit one copy.
(f) Summary of the enigneering design data.	Loading information (e.g., live, dead, environmental), structural information (e.g., design-life, material types, cathodic protection systems, design criteria fatigue life, fabrication and installation guidelines), and foundation information (e.g., soil stability, design criteria).	You must submit one copy.

VOL 66 ISS 248 DEC 27 2001 UMI

Required documents	Required contents	Other requirements
(g) Project-specific	All studies pertinent to platform design or installation, e.g., soil and/or oceanographic reports.	You must submit one copy each study.
(h) Description of the loads imposed on the facility.	Loads imposed by production and pipeline risers and mooring and anchoring systems.	You must submit one copy.
(i) A copy of the inservice inspection plan.	This plan is described in §250.916	You must submit one copy.
(j) Certification	The following statement: "The design of this structure has been certified by a recognized classification society, or a registered civil or structural engineer, or equivalent, specializing in the design of offshore structures. The certified design and as-built plans and specifications will be on file at (give location)".	An authorized company must sign the registered statement. You must submit one copy.

*For your facilities subject to Platform Verification Program requirements in §§ 250.903 through 250.912, you must submit one additional copy of these items (four copies total).

§ 250.903 Which of my platforms, associated structures, and major modifications are subject to the Platform Verification Program?

(a) All new fixed or bottom-founded platforms that meet any of the following five conditions are subject to the Platform Verification Program:

(1) Platforms installed in water depths exceeding 400 feet (122 meters);

(2) Platforms having natural periods in excess of 3 seconds;

(3) Platforms installed in areas of unstable bottom conditions;

(4) Platforms having configurations and designs which have not previously been used or proven for use in the area; or

(5) Platforms installed in seismically active areas.

(b) All new floating platforms are subject to the Platform Verification Program. Floating platforms include floating production systems (FPSs) such as column-stabilized units (CSUs); floating production, storage and offloading systems (FPSOs); tension-leg platforms (TLPs); spars, etc. The following structures that may be associated with a floating platform are also subject to the Platform Verification Program:

(1) Drilling and production risers, and riser tensioning systems;

(2) Turrets and turret-and-hull interfaces;

(3) Foundations and anchoring systems; and

(4) Mooring or tethering systems.

(c) Platform Verification Program requirements apply to any major modification to a fixed or floating platform covered under this section.

(d) The applicability of Platform Verification Program requirements to other types of facilities will be determined by MMS on a case-by-case basis.

§ 250.904 If my platform, associated structure, or major modification is subject to the Platform Verification Program, what must I do?

If your platform, associated structure, or major modification meets the criteria in § 250.903, you must:

(a) Design, fabricate, and install your facility, associated structures, or major modification to your facility according to the requirements of §§ 250.900 through 250.918, and the applicable documents listed in § 250.901(a);

(b) Submit for the Regional Supervisor's approval three copies each of the design verification, fabrication verification, and installation verification plans required by § 250.905; and

(c) Include as a part of each verification plan required by § 250.905 your nomination of a Certified Verification Agent (CVA);

(d) Follow the additional requirements in §§ 250.906 through 250.912; and

(e) Prepare and submit for MMS review, plans for ship-shaped FPSs which are modified to address in detail only those items listed in § 250.903(b). For detailed requirements pertaining to the ship-shaped hull and superstructure, you must refer to, and comply with applicable U.S. Coast Guard regulations.

§ 250.905 What plans must I submit under the Platform Verification Program?

If your platform, associated structure, or major modification meets the criteria in § 250.903, you must submit all of the following plans required by this section:

(a) *Design verification plan.* You may submit your design verification plan with or subsequent to the submittal of your Exploration Plan (EP) or Development and Production Plan (DPP). You may not submit your design verification plan before you submit your EP or DPP. Your design verification must be conducted by, or be under the direct supervision of, a registered professional civil or structural engineer or equivalent, with previous experience in directing the design of similar facilities, systems, structures, or equipment. Your design verification plan must include the following:

(1) All design documentation specified in § 250.902;

(2) Abstracts of the computer programs used in the design process; and

(3) A summary of the major design considerations and the approach to be used to verify the validity of these design considerations.

(b) *Fabrication verification plan.* You must submit your fabrication verification plan to the Regional Supervisor, and the Regional Supervisor must approve your fabrication verification plan before you may initiate any related operations. Your fabrication verification plan must include the following:

(1) Fabrication drawings and material specifications for artificial island structures and major members of concrete- and steel-gravity structures;

(2) For jacket and floating structures, all the primary load-bearing members included in the space-frame analysis; and

(3) A summary description of the following:

(i) Structural tolerances;

(ii) Welding procedures;

(iii) Material (concrete, gravel, or silt) placement methods;

(iv) Fabrication standards;

(v) Material quality-control procedures;

(vi) Methods and extent of nondestructive examinations for welds and materials; and

(vii) Quality assurance procedures.

(c) *Installation verification plan.* You must submit your installation verification plan to the Regional Supervisor, and the Regional Supervisor must approve your installation verification plan before you may initiate any related operations. Your installation verification plan must include:

(1) A summary description of the planned marine operations;

(2) Contingencies considered;

(3) Alternative courses of action; and

(4) The inspections to be performed, including an identification of areas to be inspected and the acceptance and rejection criteria to be used.

§ 250.906 When must I resubmit Platform Verification Program plans?

(a) You must resubmit any design verification, fabrication verification, or installation verification plan to the Regional Supervisor for approval if:

(1) The CVA changes;

(2) The CVA's or assigned personnel's qualifications change; or

(3) The level of work to be performed changes.

(b) If only part of a verification plan is affected by one of the changes described in paragraph (a) of this section, you can resubmit only the affected part. You do not have to resubmit the summary of technical details unless you make changes in the technical details.

§ 250.907 When must I combine Platform Verification Program plans?

You must combine fabrication verification and installation verification plans for manmade islands or platforms fabricated and installed in place.

§ 250.908 How do I nominate a CVA?

(a) As part of your design verification, fabrication verification, or installation verification plan, you must nominate a CVA for the Regional Supervisor's approval. You must specify whether the nomination is for the design, fabrication, or installation phase of verification; for two phases; or for all three phases.

(b) For each CVA, you must submit a qualification statement that includes the following:

(1) Previous experience in third-party verification or experience in the design, fabrication, or installation of fixed offshore oil and gas platforms, similar facilities and other structures, floating platforms, manmade islands, other marine structures, and related systems and equipment;

(2) Technical capabilities of the individual or the primary staff to be associated with the CVA functions for the specific project;

(3) Size and type of organization or corporation;

(4) In-house availability of, or access to, appropriate technology, i.e., computer programs and hardware and testing materials and equipment;

(5) Ability to perform the CVA functions for the specific project considering current commitments;

(6) Previous experience with MMS requirements and procedures;

(7) The level of work to be performed by the CVA; and

(8) A list of documents to be furnished to the CVA.

§ 250.909 What are the CVA's primary responsibilities?

(a) The CVA nominated by you and approved by the Regional Supervisor must conduct specified reviews according to §§ 250.910, 250.911, and 250.912.

(b) The CVA must handle all data you provide in the strictest confidence. Other than to MMS, the CVA must not release any data without your consent.

(c) Individuals or organizations acting as CVAs for a particular platform or floating facility must not function in any capacity other than that of a CVA for that specific project whenever the additional activities would create a conflict of interest, or the appearance of a conflict of interest.

§ 250.910 What are the CVA's primary duties during the design phase?

(a) The CVA must conduct the design verification to ensure that the proposed fixed or floating platform or major modification is designed to withstand the maximum environmental and functional load conditions anticipated during the intended service life at the proposed location.

(b) The CVA must consider the applicable provisions of the documents listed in § 250.901(a) and of §§ 250.913 through 250.915 and use good engineering practice in conducting an independent assessment of the adequacy of all proposed:

(1) Planning criteria;

(2) Operational requirements;

(3) Environmental data;

(4) Load determinations;

(5) Stress analyses;

(6) Material designations;

(7) Soil and foundation conditions;

(8) Safety factors; and

(9) Other pertinent parameters of the proposed design.

(c) The CVA must submit interim reports to the Regional Supervisor and to you, as appropriate.

(d) The CVA, upon completion of the design verification, must prepare a final report which summarizes the material reviewed and the CVA's findings. The CVA must submit one copy of the report to the Regional Supervisor. The CVA must make this submittal within 6 weeks of the receipt of the design data or from the date the approval to act as a CVA was issued, whichever is later. The final report must include:

(1) The CVA's recommendation that the Regional Supervisor either accept, request modifications, or reject the proposed design;

(2) The particulars of how, by whom, and when the independent review was conducted; and

(3) Any special comments the CVA may deem necessary.

§ 250.911 What are the CVA's primary duties during the fabrication phase?

(a) The CVA must monitor the fabrication of the fixed or floating platform or major modification to ensure that it has been built according to the approved design plans and specifications and the fabrication plan.

(b) The CVA must make periodic onsite inspections while fabrication is in progress. The CVA must verify the following fabrication items, as appropriate:

(1) Quality control by lessee and builder;

(2) Fabrication site facilities;

(3) Material quality and identification methods;

(4) Fabrication procedures specified in the approved plan and adherence to such procedures;

(5) Welder and welding procedure qualification and identification;

(6) Structural tolerences specified and adherence to those tolerances;

(7) The nondestructive examination requirements and evaluation results of the specified examinations;

(8) Destructive testing requirements and results;

(9) Repair procedures;

(10) Installation of corrosion-protection systems and splash-zone protection;

(11) Erection procedures to ensure that overstressing of structural members does not occur;

(12) Alignment procedures;

(13) Dimensional check of the overall structure, including any turrets, turret and hull interfaces, any mooring line and chain and riser tensioner line segments; and

(14) Status of quality-control records at various stages of fabrication.

(c) The CVA must consider the applicable provisions of the documents listed in § 250.901(a) and of §§ 250.913 through 250.915 and use good engineering practice in conducting the independent assessment of the adequacy of the fabrication of the fixed or floating platform or major modification.

(d) The CVA must submit interim reports to the Regional Supervisor and to you, as appropriate.

(e) If the CVA finds that fabrication procedures are changed or design specifications are modified, the CVA must inform you. If you accept the modifications, then the CVA must so inform the Regional Supervisor.

VOL 66 ISS 248 DE 27 2001 UMI

(f) The CVA must prepare a final report covering the adequacy of the entire fabrication phase. The CVA is not required in the final report to cover aspects of the fabrication already included in interim reports. The CVA must submit one copy of the report to the Regional Supervisor immediately after completion of the fabrication of the fixed or floating platform. In the report the CVA must:

(1) Give details of how, by whom, and when the independent monitoring activities were conducted;

(2) Provide any special comments that the CVA deems necessary;

(3) Describe the CVA's activities during the verification process;

(4) Summarize the CVA's findings

(5) Confirm or deny compliance with the design specifications and the approved fabrication plan; and

(6) Make a recommendation to accept or reject the fabrication.

§ 250.912 What are the CVA's primary duties during the installation phase?

(a) The CVA must perform the following:

(1) Witness the loadout of the jacket, decks, piles, or structures from each fabrication site;

(2) Review the towing records;

(3) Witness the loadout of a floating platform;

(4) Conduct an onsite survey after transportation to the approved location;

(5) Witness the actual installation of the fixed or floating platform or major modification;

(6) For floating platforms, witness the installation of the mooring, tethering, and anchoring systems; and

(7) Determine that the platform has been installed at the approved location according to the approved design and the installation plan.

(b) The CVA must consider the applicable provisions of the documents listed in § 250.901(a) and of §§ 250.913 through 250.915 and use good engineering practice in conducting an independent assessment of the adequacy of the installation activities. The CVA must verify the following parts of the overall installation process, as appropriate:

(1) Loadout and initial flotation operations, if any;

(2) Towing operations to the specified location;

(3) Launching and uprighting operations;

(4) Submergence operations;

(5) Pile or anchor installation;

(6) Installation of mooring and tethering systems; and

(7) Final deck and component installations on fixed and floating offshore facilities.

(c) The CVA must observe the installation activities, spot-check equipment, procedures, and recordkeeping, as necessary, to determine compliance with the applicable documents listed in § 250.901(a) and of §§ 250.913 through 250.915 and the approved plans, and immediately report to you and the Regional Supervisor any discrepancies or damage to structural members. You must obtain approval for modified installation procedures or for major deviations from approved installation procedures from the Regional Supervisor.

(d) The CVA must submit interim reports to you and the Regional Supervisor, as appropriate.

(e) The CVA must prepare a final report covering the adequacy of the entire installation phase and submit one copy of the final report to the Regional Supervisor within 2 weeks of completion of the installation of the platform. In the report, the CVA must:

(1) Give details of how, by whom, and when the independent monitoring activities were conducted;

(2) Provide any special comments that the CVA deems necessary;

(3) Describe the CVA's activities during the verification process;

(4) Summarize the CVA's findings;

(5) Write a confirmation or denial of compliance with the approved installation plan; and

(6) Provide recommendation to accept or reject the installation.

§ 250.913 What are the minimum structural fatigue requirements?

There are numerous circumstances in which it may be necessary to conduct a detailed analysis of cumulative fatigue damage on structural members and joints. The following table provides minimal requirements for structural members and joints which require a detailed analysis of cumulative fatigue damage.

If * * *	Then * * *
(a) There is sufficient structural redundancy to prevent catastrophic failure of the member or join under consideration.	The results of the analysis must indicate a minimum calculated life of twice the design life of the platform.
(b) There is not sufficient structural reduncancy to prevent catastrophic failure of the member or joint.	The results of a fatigue analysis must indicate a minimum calculated life of three times the design life of the platform.
(c) The desirable degree of redundancy is significantly reduced as a result of fatigue damage.	The results of a fatigue analysis must indicate a minimum calculated life of three times the design life of the platform.

§ 250.914 What records must I keep for all primary structural members?

You must record and retain the origin and relevant material test results of all primary structural materials during all stages of construction. Primary material is material that, should it fail, it would lead to a significant reduction in platform safety, structural reliability, or operating capabilities. Items such as steel brackets, deck stiffeners and secondary braces or beams would not generally be considered primary structural members (or materials).

§ 250.915 Where must I locate foundation boreholes?

(a) For fixed or bottom-founded platforms and tension leg platforms, your maximum distance from any foundation pile to a soil boring must not exceed 500 feet.

(b) For deepwater floating platforms which utilize catenary or taut-leg moorings, you must take borings at the most heavily loaded anchor location, at the anchor points approximately 120 and 240 degrees around the anchor pattern from that boring, and, as necessary, other points throughout the anchor pattern to establish the soil profile suitable for foundation design purposes.

§ 250.916 What in-service inspection requirements must I meet?

(a) You must develop an in-service inspection plan. As a minimum, your plan must fulfill the recommendations of the appropriate API documents listed in § 250.901(a). Your plan must specify the type, extent, and frequency of in-place inspections which your contractor will conduct for both the above water and the under water structure of all platforms, and pertinent components of the mooring systems for floating platforms.

(b) You must submit a report annually on November 1 to the Regional Supervisor that must include :

(1) A list of fixed or floating platforms inspected in the preceding 12 months;

(2) The extent and area of inspection;

(3) The type of inspection employed, i.e., visual, magnetic particle, ultrasonic testing; and

(4) A summary of the testing results indicating what repairs, if any, were needed and the overall structural condition of the fixed or floating platform.

§ 250.917 What are the requirements for fixed or floating platform removal and location clearance?

You must remove all structures according to §§ 250.1725 through 250.1730 of Subpart Q—Decommissioning Activities—of this part.

§ 250.918 What records must I keep?

You must compile, retain, and make available to MMS representatives for the functional life of all fixed or floating platforms:

(a) The as-built drawings;

(b) The design assumptions and analyses;

(c) A summary of the fabrication and installation nondestructive examination records; and

(d) The inspection results from the inspections required by § 250.916.

8. In § 250.1002 paragraphs (b)(4) and (b)(5) are added to read as follows:

§ 250.1002 Design requirements for DOI pipelines.

* * * * *

(b) * * *

(4) If you are installing pipelines constructed of unbonded flexible pipe, they must be built according to the standards and the third-party review standards for an independent verification agent (IVA) in API Spec 17J.

(5) You must construct pipeline risers for tension leg platforms and other floating platforms according to the design standards of API RP 2RD.

* * * * *

9. In § 250.1007, a new sentence is added at the end of paragraph (a)(4) to read as follows:

§ 250.1007 What to include in applications.

(a) * * *

(4) * * * If your application involves using unbonded flexible pipe, you must include a review by a third-party IVA according to API Spec 17J.

* * * * *

[FR Doc. 01–31723 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–01–148]

RIN–2115–AE47

Drawbridge Operation Regulations; Chicago River, IL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the operating regulation governing drawbridges over Chicago River waterways. The proposed rule would add Division Street bridge, mile 3.30, over the North Branch of Chicago River, to the current list of bridges not required to open for navigation; remove the requirement for Kinzie Street bridge, mile 1.81 over North Branch of Chicago River, and Cermak Road bridge, mile 4.05 over South Branch of Chicago River, to open on signal for commercial vessels due to the recently accomplished increases in vertical clearances; require a 12-hour advance notice requirement from commercial vessels year-round for City of Chicago moveable bridges; update ownership of certain railroad bridges; specify rush hour times (7 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m.—Monday through Friday, with the exception of Federal holidays) that City of Chicago bridges would not be required to open for any vessels; and generally make the regulation easier to read and understand.

DATES: Comments must be received on or before February 25, 2002.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH, 44199–2060 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (216) 902–6084.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, Ninth Coast Guard District Bridge Branch, at (216) 902–6084.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views or arguments for or against this rule. Persons submitting comments should include names and addresses, identify the rulemaking [CGD09–01–148] and the specific section of this proposal to which each comment applies, and give the reason(s) for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard plans no public hearing. Individuals may request a public hearing by writing to the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentation will aid this rulemaking, we will hold a public hearing at a time and place announced by a subsequent notice in the **Federal Register**.

Background and Purpose

The City of Chicago has requested that Commander, Ninth Coast Guard District, revise the operating regulations for Chicago City operated drawbridges over Chicago River waterways. The primary changes are: (1) Remove the requirements for Kinzie Street bridge over the North Branch and Cermak Road bridge over the South Branch to open on signal for commercial vessels due to restrictive clearances. Both bridges have been raised to provide vertical clearances consistent with other fixed and moveable bridges on the Chicago River system. (2) Add Division Street bridge over the North Branch of Chicago River to the current list of drawbridges not required to open for vessels. (3) Require a 12-hour advance notice requirement for bridge openings from commercial vessels for City of Chicago moveable bridges throughout the year. (4) Clarify rush hour times (7 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m.—Monday through Friday, with the exception of Federal holidays) that City of Chicago bridges would not be required to open for any vessels.

Discussion of Proposed Rule

The current operating regulations for Chicago River bridges are contained in 33 CFR 117.391. This section was last changed on October 6, 1995 (60 FR 52311) to establish opening schedules for recreational vessels. This proposed rule only alters the sections pertaining to recreational vessels by specifying rush hour times (7 a.m. to 10 a.m. and 4 p.m. to 6:30 p.m.—Monday through Friday, with the exception of Federal holidays) that bridges would not be required to open.

The City of Chicago requested that both Kinzie Street bridge over North Branch and Cermak Road bridge over South Branch be granted the same status as all other City of Chicago bridges and

VOL 66 ISS 248 DE 27 2001 UMI

only be required to open for commercial vessels if at least 12-hours advance notice is provided. The bridges have been raised to provide vertical clearances consistent with other fixed and moveable bridges on the Chicago River system.

The City has also requested that Division Street bridge over North Branch not be required to open for vessels. This would place the bridge in the same status as all other City bridges for a vessel proceeding northbound on North Branch above Division Street. There is adequate clearance for commercial vessels equipped with retractable pilothouses to pass under each of these bridges. There are currently no recreational vessel facilities from Division Street northward that require the opening of drawbridges for masted vessels. A marina south of Division Street services masted vessels, therefore, all bridges southward are still required to open in accordance with the articles pertaining to recreational vessels. Bridge opening logs provided by the City indicate that the last request for a bridge opening at Division Street occurred in 1982.

This proposed rule would also update the current ownership of railroad bridges on Chicago River and remove the emergency provisions specifically listed in paragraph (e). These provisions apply to all drawbridges, as noted in 33 CFR 117.31, and need not be re-stated in this regulation.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the current and prospective facilities and needs of all navigation on the Chicago River system.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 people.

The identified small entities operating on Chicago River would not be significantly affected by the proposed rule. Marinas located on the North Branch and South Branch of Chicago River would still have bridge openings during designated times. However, rush hour times, where no openings would be required, have been expanded. These entities do not require openings of bridges from Division Street northward on North Branch. In addition, the three identified commercial tug companies operating on Chicago River do not require openings of Chicago City bridges.

Therefore, the Coast Guard certifies under 5 U.S.C 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* ADDRESSES) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Ninth Coast Guard District, at the address above.

Collection of Information

This proposed rule would call for no new collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 13132, and determined that this rule does not have federalism implications under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibility between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of

Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In § 117.391, revise the introductory text, paragraphs (a)(1), (b)(1)(iv), (b)(2), and (c); and remove paragraphs (d) and (e), to read as follows:

§ 117.391 Chicago River.

The draws of the bridges operated by the City of Chicago over the Main Branch of Chicago River, the bridges on the North Branch of Chicago River from the Main Branch to North Halsted Street, mile 2.65, and bridges on the South Branch of Chicago River from the Main Branch to South Ashland Avenue, mile 4.47, shall operate as follows:

(a) For commercial vessels:

(1) All bridges shall open on signal if at least 12-hours advance notice is provided to the Chicago City Bridge Desk prior to the intended time of passage; except that, from Monday through Friday between the hours of 7 a.m. and 10 a.m., and between the hours of 4 p.m. and 6:30 p.m., except for Federal holidays, the draws need not open for the passage of vessels.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(iv) That draws shall open at times in addition to those listed in paragraphs (b)(1)(i) through (b)(1)(iii) of this section, after notice has been given at least 20 hours in advance requesting passage for a flotilla of at least five vessels. However, the bridges need not open Monday through Friday from 7 a.m. to 10 a.m., and 4 p.m. to 6:30 p.m., except for Federal holidays.

(2) From December 1 through March 31, the draws shall open on signal if at least 48 hours notice is given. However, the bridges need not open Monday through Friday from 7 a.m. to 10 a.m., and 4 p.m. to 6:30 p.m., except for Federal holidays.

* * * * *

(c) The following bridges need not be opened for the passage of vessels: The draws of South Damen Avenue, mile 6.14, over South Branch of Chicago River; all highway drawbridges between South Western Avenue, mile 6.7, and Willow Springs Road, mile 19.4, over Chicago Sanitary and Ship Canal; North Halsted Street, mile 2.85, and Division Street, mile 2.99, over North Branch Canal of Chicago River; and Division Street, mile 3.30, North Avenue, mile 3.81, Cortland Avenue, mile 4.48, Webster Avenue, mile 4.85, North Ashland Avenue, mile 4.90, and Union Pacific Railroad, mile 5.01, over North Branch of Chicago River.

Dated: November 27, 2001.

James D. Hull,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 01–31842 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7122–1]

RIN 2060–AJ76

Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: EPA published a direct final rule on October 31, 2001 that exempts motorcycles with emission control devices that could be affected by the use of leaded gasoline from having to be equipped with gasoline tank filler inlet restrictors. However, we received an adverse comment during the 30 day comment period and are now withdrawing that direct final rule.

DATES: As of December 27, 2001, EPA withdraws the direct final rule published at 66 FR 54955, on October 31, 2001.

FOR FURTHER INFORMATION CONTACT: Richard Babst at (202) 564–9473.

SUPPLEMENTARY INFORMATION: Because EPA received adverse comment, we are withdrawing the direct final rule for "Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption For Motorcycles." We published the direct final rule on October 31, 2001 (66 FR 54955), that exempts motorcycles with emission control devices that could be affected by the use of leaded gasoline from having to be equipped with gasoline tank filler inlet restrictors. We stated in that **Federal Register** document that if we received adverse comment by November 30, 2001, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comment on that direct final rule. We will address the comment in a subsequent final action based on the parallel proposal also published on October 31, 2001 (66 FR 54965). As stated in the parallel proposal, we will not institute a second comment period on this action.

Dated: December 19, 2001.

Jeffrey R. Holmstead,

Assistant Administrator for Office of Air and Radiation.

[FR Doc. 01–31797 Filed 12–26–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2868, MM Docket No. 01–334, RM–10343]

Digital Television Broadcast Service; Green Bay, WI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by CBS Broadcasting Inc., licensee of station WFRV–TV, NTSC channel 5, Green Bay, Wisconsin, requesting the substitution of DTV channel 39 for DTV channel 56 at Green Bay. DTV Channel 39 can be allotted to Green Bay, Wisconsin, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 44–20–01 N. and 87–58–56 W. However, since Green Bay is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained

VOL 66 ISS 248 DE 27 2001 UMI

for this allotment. As requested, we propose to allot DTV Channel 39 to Green Bay with a power of 1000 and a height above average terrain (HAAT) of 364 meters.

DATES: Comments must be filed on or before February 4, 2002, and reply comments on or before February 19, 2002.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Raymond A. White, Assistant General Counsel, CBS Broadcasting Inc., 600 New Hampshire Avenue, Suite 1200, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–334, adopted December 13, 2001, and released December 19, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail qualexint@aol.com.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Wisconsin is amended by removing DTV Channel 56 and adding DTV Channel 39 at Green Bay.

Federal Communications Commission

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–31831 Filed 12–26–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI19

Endangered and Threatened Wildlife and Plants; Listing the Tumbling Creek Cavesnail as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the Fish and Wildlife Service (Service), propose to list the Tumbling Creek cavesnail, *Antrobia culveri*, as endangered pursuant to the Endangered Species Act of 1973, as amended (Act). An emergency rule listing this species as endangered for 240 days is published concurrently in this issue of the **Federal Register**. This species is known to occur in one cave in Missouri. The distribution of this species has decreased in Tumbling Creek by 90 percent since 1974. Although cavesnail numbers fluctuated seasonally and annually between 1996 and 2000, it was not found in the monitored section of the cave stream during five surveys in 2001. A few individuals continue to be found in an upstream area, but the population has declined so drastically that the species is on the verge of extinction. Reasons for the decline are unknown, but are likely caused by activities in Tumbling Creek Cave's surface recharge area that have degraded the stream's water quality. Critical habitat is not being proposed at this time. We solicit additional data, information, and comments from the public that may assist us in making a final decision on this proposed action.

DATES: Comments from all interested parties must be received by February 25, 2002. Public hearing requests must be received by February 11, 2002.

ADDRESSES: Comments and other materials concerning this proposal should be sent to the Field Supervisor, Columbia, Missouri Field Office, U.S. Fish and Wildlife Service, 608 E. Cherry St., Room 200, Columbia, Missouri 65201–7712. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Paul McKenzie at the address listed above (telephone: 573–876–1911, ext. 107; email: paul_mckenzie@fws.gov; facsimile: 573–876–1914; or Mr. Ron Refsnider, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056; telephone: 612–713–5346; email: ron_refsnider@fws.gov; facsimile: 612–713–5292).

SUPPLEMENTARY INFORMATION:

Background

For a discussion of biological background information, previous Federal actions, factors affecting the species, critical habitat, and conservation measures available, consult the emergency rule for the Tumbling Creek cavesnail published concurrently in this issue of the **Federal Register**.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species;

(3) Additional information concerning the range, distribution, and population size of this species;

(4) Current or planned activities in the subject area and their possible impacts on this species; and

(5) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act.

In making any final decision on this proposal we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from this proposal.

The Act requires that a public hearing be held if requested within 45 days of the date of publication of a proposed rule. Such requests must be made in writing and must be addressed to the Field Supervisor of our Columbia, Missouri, Field Office. (*See* **ADDRESSES** section).

National Environmental Policy Act

We have determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section (4)(a) of the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. For additional information concerning permit and associated requirements for endangered species, see 50 CFR 17.21 and 17.22.

Author

The primary author of this proposed rule is Paul McKenzie, Ph.D., of our Columbia, Missouri, Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

For the reasons given in the preamble to the emergency rule listing the Tumbling Creek cavesnail as endangered, published concurrently in this issue of the **Federal Register**, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under SNAILS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
SNAILS							
*	*	*	*	*	*		*
Cavesnail, Tumbling Creek.	*Antrobia culveri*	U.S.A. (MO)	NA	E		NA	NA
*	*	*	*	*	*		*

Dated: December 10, 2001.

Marshall P. Jones Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 01–31306 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–55–P

VOL 66 ISS 248 DE 27 2001 UMI

Notices

Federal Register
Vol. 66, No. 248
Thursday, December 27, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Lassen National Forest; California; Lakes Forest Recovery Project

AGENCY: Forest Service, USDA.

ACTION: Cancellation of Notice of Intent.

SUMMARY: This notice cancels the Notice of Intent to analyze the Lakes Forest Recovery Project on the Lassen National Forest, published in the **Federal Register** on December 13, 2000 (Volume 65, Number 240, 77848–77849). The Lakes Forest Recovery Project was cancelled because the area in which the project was to be implemented has been incorporated into another project known as the Treatment Unit-1 Project.

ADDRESSES: Almanor District Ranger, Lassen National Forest, P.O. Box 767, Chester, CA, 96020.

FOR FURTHER INFORMATION CONTACT: Dominic Cesmat, Interdisciplinary Team Leader, telephone (530) 258–2141.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an environmental impact statement for the Lakes Forest Recovery Project was published in the **Federal Register** on December 13, 2000 (Volume 65, Number 240, 77848–77849). The Lakes Forest Recovery Project was designed to reduce wildland fire hazard, promote forest health and provide economic benefits as described within the Herger-Feinstein Quincy Library Group Forest Recovery Act of October 21, 1998. From the date of that filing, the Lassen National Forest's Land and Resource Management Plan has been amended by the signing of the Record of Decision (January 12, 2001) by the Regional Forester for the Sierra Nevada Forest Plan Amendment (SNFPA) Final Environmental Impact Statement. The Record of Decision made changes to the way Herger-Feinstein Quincy Library Group projects are implemented.

Amongst changes to the Lassen National Forest's Land and Resource Management Plan, the Record of Decision for the SNFPA called for an administrative study to examine the relationship between management-caused changes in vegetation and their effects on California spotted owl habitat and spotted owl population dynamics. One of the proposed administrative study areas, known as Treatment Unit-1, includes a large portion of the Lakes Forest Recovery Project area. Based on the changes to the Land and Resource Management Plan, the planning effort on the Lakes Forest Recovery Project was stopped, and a new planning effort has begun on the Treatment Unit-1 Project.

Dated: December 14, 2001.

Edward C. Cole,

Forest Supervisor.

[FR Doc. 01–31731 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on January 17, 2002. The meeting will begin at 9 a.m., in the Siuslaw River Room, at Siuslaw National Forest Headquarters, 4077 SW Research Way, Corvallis, OR. Agenda items will include: Grand Ronde Stewardship; 2001 in Review; Focus on the Coming Year (theme, projects, topics); and Round Robin Information Sharing. A fifteen-minute public comment period is scheduled at 1:45 p.m. The committee welcomes the publics' written comments on committee business at any time. The meeting should end around 3:00 p.m. Interested citizens are encouraged to attend. Lunch will be on your own in Corvallis.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541/750–7075 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: December 19, 2001.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 01–31739 Filed 12–26–01; 8:45 am]

BILLING CODE 3110–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee (RAC); Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet on January 21, 2002, in Yreka, California. The purpose of the meeting is organizational and will serve as an orientation to RAC committee members regarding the Secure Rural School and Community Self-Determination Act of 2000.

DATES: The meeting will be held January 21, 2002 from 3 p.m. to 8 p.m.

ADDRESSES: The meeting will be held at the Miners Inn and Convention Center, 122 E. Miner Street, Yreka, California.

FOR FURTHER INFORMATION CONTACT: Heidi Perry, Meeting Coordinator, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California, 96097, (530) 841–4468; e-mail *hperry@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda items to be covered include: (1) Roles and Responsibilities for Advisory Committees; (2) Rules, Operational Guides and Conflict of Interests; (3) Project Submittal Process; (4) Project Timelines (5) Public Proposal Workshop (6) Public Comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: December 13, 2001.

Margaret J. Boland,

Forest Supervisor.

[FR Doc. 01–31698 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siuslaw Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siuslaw Resource Advisory Committee (RAC) will meet on January 25, 2002. The meeting will begin at 9:30 a.m., in the Siuslaw Valley Fire & Rescue Station, 2625 Highway 101 N., Florence, OR. Agenda items will include: Federal Advisory Committee Act (FACA) Overview; Roles and Responsibilities for Advisory Committees; Rules/Operational Guides/Bylaws; "The RAC Guidebook;" How to Stay Connected/Means of Communication; Flow of Work (Future Agendas & Meeting Dates); Project Process & Contracting; Election of RAC Chairperson; and Public Forum (at approximately 3:20 p.m.). The meeting is expected to adjourn at 4:00 p.m. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Linda Stanley, Community Development Specialist, Siuslaw National Forest, 541/750–7210 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

Dated: December 19, 2001.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 01–31738 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

EQIP for GPAs, New Mexico

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the U.S. Department of Agriculture, Natural Resources Conservation Service, in New Mexico, gives notice that an environmental impact statement is not being prepared for: Dry Cropland in Parts of Curry, Quay, and Roosevelt Counties, Santa Clara Pueblo Irrigated Lands in Rio Arriba County. Irrigated Cropland in Curry and Roosevelt Counties, Socorro County Irrigated Valley and Rio Cebolla in Rio Arriba County.

FOR FURTHER INFORMATION CONTACT: Rosendo Trevino III, State Conservationist; Natural Resources Conservation Service; 6200 Jefferson, NE; Albuquerque, NM 87109–3734; Telephone (505)761–4400.

Copies of these environmental assessements are available from NRCS in Albuquerque, NM and are also available electronically on the NRCS New Mexico Internet Homepage at: *http://www.nm.nrfcs.usda.gov/techserv/ea.htm.*

SUPPLEMENTARY INFORMATION: The environmental assessments of these federally assisted action indicates that the projects will not cause significant local, regional, or national effects on the human environment. As a result of these findings, Rosendo Trevino III, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for these project. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Rosendo Trevino III.

No administrative action on implementation of the proposed action will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: December 10, 2001.

Rosendo Trevino III,

State Conservationist.

[FR Doc. 01–31744 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICUTURE

Natural Resources Conservation Service

Description of System To Rank and Approve Requests for Assistance for Rehabilitation of Aging Watershed Dams

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of availability.

SUMMARY: Pursuant to Section 14 (f) of the Watershed Protection and Flood Prevention Act (Pub. L. 83–566), as amended (16 U.S.C. 1012); The Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that a system to rank and approve requests for rehabilitation of watershed dams has been prepared for use in implementation of a rehabilitation program.

FOR FURTHER INFORMATION CONTACT: Larry W. Caldwell, National Policy Coordinator for Aging Watershed Infrastructure, Natural Resources Conservation Service, 100 USDA Suite 206, Stillwater, Oklahoma 74074–2655.

SUPPLEMENTARY INFORMATION: Public Law 83–566 was amended by Section 313 of Public Law 106–472. One provision of this amendment directed the Secretary of Agriculture to establish a system of ranking and approving requests for rehabilitation of watershed dams. A description of the system that will be implemented in FY 2002 to establish a priority ranking of all applications for assistance received in a state has been developed. Copies of the description of this ranking and approval system are available upon request at the above address.

Roger L. Bensey,

Director, Watersheds and Wetlands Division.

[FR Doc. 01–31745 Filed 12–26–01; 8:45 am]

BILLING CODE 3410–16–P

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of special public business meeting in Washington, DC.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (Council) gives notice of a special public meeting of the Council. On Friday, January 11, 2002, the Council will hold a Business Meeting from 9:30 a.m.–4 p.m. Eastern Standard Time (EST) during which time the Council members will discuss the various options for restructuring intercity rail passenger service.

During the last Council meeting on December 14, 2001, the Council discussed nine options for restructuring Amtrak. The Council then instructed the Council staff to reduce those options to three, and the Council will discuss those three options at the next Council meeting on January 11, 2002. The Council will determine, either at the January 11th Meeting, in a later meeting, or by a mail ballot, which option or options to adopt. The final recommendation will be submitted to Congress on February 7, 2002.

The Amtrak Reform Council on November 9, 2001 approved a resolution finding that Amtrak would not achieve operational self-sufficiency by December 2, 2002 as required by the Amtrak Reform and Accountability Act of 1997. The Council's finding started a 90-day clock in which the Council must submit an action plan for a restructured and rationalized national intercity rail passenger system to Congress.

DATES: The Business Meeting will be held on Friday, January 11, 2002, from 9:30 a.m.–4 p.m. EST. The event is open to the public.

ADDRESSES: The Business Meeting will take place in the Monet Suite (2nd Floor) in the Loews L'Enfant Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024. The nearest Metro stop is L'Enfant. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW., Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's Finding Resolution, the ARC's Proposed Nine Options for Restructuring Amtrak, the ARC's two Annual Reports, information about ARC Council Members and staff, and much more, you can also visit the Council's website at www.amtrakreformcouncil.gov.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The Reform Act prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC—December 19, 2001.

Thomas A. Till,

Executive Director.

[FR Doc. 01–31793 Filed 12–26–01; 8:45 am]

BILLING CODE 4910-05-P

COMMISSION ON CIVIL RIGHTS

Hearing on Environmental Justice; Sunshine Act Meeting

AGENCY: Commission on Civil Rights.

ACTION: Amendment of notice of hearing.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1994, Section 3, Public Law 103–419, 180 Stat. 4338, as amended, and 45 CFR 702.3., that a public hearing before the U.S. Commission on Civil Rights will take place on Friday, January 11, 2002, at the Hilton Hotel, in the Monroe Room, 1919 Connecticut Avenue, NW., Washington, DC 20009, beginning at approximately 10:00 a.m., immediately following previously scheduled Commission business taking place earlier that morning. The purpose of this hearing is to collect information within the jurisdiction of the Commission, under Public Law 98–183, Section 5(a)(1) and Section 5(a)(5), related particularly to the effect of environmental hazards, including hazardous waste sites and industries located in, or near, low-income communities and communities of color, and the question of whether the civil rights of those communities in question are being violated.

The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR 701.2. The Commission is an independent bipartisan, fact finding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice. Hearing impaired persons who will attend the hearings and require the services of a sign language interpreter, should contact Pamela Dunston, Administrative Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: Les Jin, Office of the Staff Director (202) 376–7700.

Dated: December 20, 2001.

Debra A. Carr,

Deputy General Counsel.

[FR Doc. 01–31914 Filed 12–21–01; 11:29 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Extension of Time Limit for the Final Results of Antidumping Duty New Shipper Review and the Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for the final results of antidumping duty new shipper review and the final results of antidumping duty administrative review.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the new shipper and administrative reviews of the antidumping duty order on fresh garlic from the People's Republic of China. The new shipper review covers one exporter, Clipper Manufacturing Co. Ltd. The period of review is June 1, 2000, through November 30, 2000.[1] The administrative review covers four manufacturers/exporters and the period November 1, 1999, through October 31, 2000. At the request of the petitioner, the two reviews have been aligned and are being conducted simultaneously.

EFFECTIVE DATE: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Edythe Artman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–3931, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act and all citations to the Department of

---

[1] The period of review for the new shipper review was established in accordance with 19 CFR 351.(g)(1)(ii)(B)

Commerce's regulations are to 19 CFR part 351 (2000).

Background

On February 9, 2001, the petitioner submitted a request for alignment of the new shipper and administrative reviews. Clipper Manufacturing Co. Ltd. responded to the Department that it did not object to the petitioner's request. See Memorandum to the File regarding alignment of new shipper and administrative reviews (Feb. 19, 2001). Therefore, we are conducting these two reviews simultaneously.

On August 24, 2001, the Department published the preliminary results of the new shipper and administrative reviews of the antidumping duty order on fresh garlic from the People's Republic of China. See *Fresh Garlic from the People's Republic of China; Preliminary Results of Antidumping New Shipper Review, Preliminary Results of Antidumping Duty Administrative Review, and Partial Rescission of Administrative Review*, 66 FR 44596 (August 24, 2001). We invited parties to comment on our preliminary results. With respect to the new shipper review, we received comments from the petitioner and the new shipper, Clipper Manufacturing Co. Ltd. We received comments from the petitioner and one of the respondents, Fook Huat Tong Kee Pte., Ltd., and Taian Fook Huat Tong Kee Foods Co., Ltd. (collectively FHTK), that pertained to the administrative review. The final results for these reviews are currently due no later than December 22, 2001.

Extension of Time Limits for Preliminary Results for New Shipper and Administrative Reviews

The comments we received concerning our preliminary results present a number of complex factual and legal questions about the assignment of antidumping duty margins. In addition, we have determined that, in the new shipper review, we may need additional information in order to complete our analysis in that review. Therefore, it is not practicable to complete the reviews within the time limits mandated by section 751(a)(3)(A) of the Act. Consequently, we are extending the time limit for the final results of the reviews to February 2, 2002.

Dated: December 18, 2001.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement I.

[FR Doc. 01–31836 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film Sheet, and Strip From Korea; Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of the antidumping duty administrative review.

SUMMARY: On July 23, 2001, in response to requests by Hyosung Corporation (Hyosung) and H.S. Industries (HSI), the Department of Commerce (the Department) published a notice of initiation of antidumping duty administrative review of Polyethylene Terephthalate Film, Sheet and Strip from Korea, for the period June 1, 2000 through May 31, 2001. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 38252 (July 23, 2001). Hyosung has timely withdrawn its request for review; therefore, the Department is rescinding this review with respect to Hyosung in accordance with the withdrawal of their request for review. Furthermore, the Department revoked the order with respect to HSI subsequent to initiating this review. It would be inappropriate for the Department to continue to review entries of the subject merchandise by HSI. Therefore, the Department is rescinding this review with respect to HSI.

EFFECTIVE DATE: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4475 and (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

On June 5, 1991 the Department published the antidumping duty order on polyethylene terephthalate film, sheet and strip from Korea. *See Antidumping Duty Order and Amendment to Final Determination of Less Than Fair Value: Polyethylene Terephthalate Film, Sheet and Strip from the Republic of Korea*, 56 FR 25660 (June 5, 1991). On June 29, 2001, HSI and Hyosung, producers of the subject merchandise, requested that the Department conduct an administrative review of their respective sales for the period June 1, 2001 through May 31, 2001. There were no other requests for review. On July 23, 2001, the Department published a notice of initiation of antidumping duty administrative review of polyethylene terephtalate film, sheet and strip from Korea, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 66 FR 38252 (July 23, 2001). On August 7, 2001, Hyosung withdrew its request for review. On November 15, 2001, we revoked the order with respect to HSI. (*See Polyethylene Terephthalate, Film, Sheet, and Strip from Korea: Final Results of Antidumping Duty Administrative Review and Revocation in Part* 66 FR 57417 (November 15, 2001)).

Rescission of Review

The Department's regulations provide that the Department will rescind an administrative review "if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review." *See* 19 CFR 351.213(d)(1). Hyosung's withdrawal of its request for review was within the 90-day time limit. Therefore, the Department is rescinding this review with respect to Hyosung in accordance with 19 CFR 351.213(d)(1).

As a result of Hyosung's withdrawal of its request for review, the revocation of the order with respect to HSI, and because the Department received no other requests for review, the Department is rescinding the administrative review for the period June 1, 2000 through May 31, 2001, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

VOL 66 ISS 248 DE 27 2001 UMI

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Tariff Act.

Dated: December 19, 2001,

Barbara E. Tillman,

Acting Deputy Assistant Secretary for Import Administration, Group III.

[FR Doc. 01–31837 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Determination with Respect to Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

AGENCY: International Trade Administration, Department of Commerce.

ACTION: The Department has recommended that no modification be made to the 2002 tariff rate quotas.

SUMMARY: The Department of Commerce has determined that the 2002 limitation on the quantity of imports of worsted wool fabrics that may be imported under the tariff rate quotas established by Title V of the Trade and Development Act of 2000 should not be modified.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

BACKGROUND:

Title V of the Trade and Development Act of 2000 (The Act) creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11), the reduction in duty is limited to 2,500,000 square meters per year. For worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS heading 9902.51.12), the reduction is limited to 1,500,000 square meters per year. Both these limitations may be modified by the President, not to exceed 1,000,000 square meters per year for each tariff rate quota.

The Act requires annual consideration of requests by U.S. apparel manufacturers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered.

In Presidential Proclamation 7383, of December 1, 2000, the President authorized the Secretary of Commerce to determine whether the limitations on the quantity of imports of worsted wool fabrics under the tariff rate quotas should be modified and to recommend to the President that appropriate modifications be made.

On January 22, 2001 the Department published regulations establishing procedures for considering requests for modification of the limitations. 66 FR 6459, 15 C.F.R. 340. These procedures include an annual solicitation in the Federal Register of requests to modify the limitations, notice in the Federal Register of any such request(s) and a solicitation of public comments on such request(s).

The regulations provide that not more than 30 days following the close of the comment period, the Department will determine whether the limitations on the quantity of imports under the tariff rate quotas should be modified and recommend to the President that appropriate modifications be made.

On September 14, 2001 the Department published a notice of solicitation of requests for modification of the 2002 tariff rate quotas on the import of certain worsted wool fabric. The Department received four such requests, from Hartmarx Corporation and Hickey-Freeman, on behalf of themselves and the Tailored Clothing Association; Hartz & Company, Inc.; Hugo Boss; and Tom James Company. These requests were for the maximum increase (1,000,000 square meters) in each of the two tariff rate quota limitations (HTS 9902.51.11 and HTS 9902.51.12). On October 24, 2001, the Department solicited comments on the request for a period of 20 days. The Department received comments from seven companies/trade associations. Three of the respondents, the American Apparel and Footwear Association, Corbin Ltd., and Hardwick Clothes, supported the request for modification, and four of the respondents, Burlington Industries, the Northern Textile Association, Victor Forstmann, Inc., and the Warren Corporation, opposed the request for modification.

After reviewing the request, the comments received, and other information obtained, including a report prepared by the U.S. International Trade Commission, and after considering the specific market conditions set forth in the Act, the Department determined that the 2002 limitation on the quantity of imports of worsted wool fabrics that may be imported subject to the tariff rate quotas established by Title V of the Trade and Development Act of 2000 should not be modified. Accordingly, the Department has recommended to the President that no modification be made to the tariff rate quotas.

Dated: December 19, 2001.

D. Michael Hutchinson,

Acting Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries

[FR Doc.01–31701 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 011204291–1291–01]

RIN 0693–ZA47

Small Grants Programs; Availability of Funds

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the following programs are soliciting applications for financial assistance for FY 2002: (1) The Precision Measurement Grants Program; (2) the 2002 Summer Undergraduate Research Fellowship (SURF) in the areas of Electronics and Electrical Engineering, Manufacturing Engineering, Chemical Science and Technology, Physics, Materials Science and Engineering, Building and Fire Research, and Information Technology; (3) the Electronics and Electrical Engineering (EEEL) Grants Program; (4) the Manufacturing Engineering Laboratory (MEL) Grants Program; (5) the Chemical Science and Technology Laboratory Grants Program; (6) the Physics Laboratory Grants Program; (7) the Materials Science and Engineering Grants Program; and (8) the Fire Research Grants Program.

The Precision Measurement Grants Program is seeking proposals for significant, primarily experimental, research in the field of fundamental measurement or the determination of fundamental constants.

The programs "SURFing the Electronics and Electrical Engineering Laboratory," "SURFing the Manufacturing Engineering Laboratory," "SURFing the Chemical Science and Technology Laboratory," "SURFing the Physics Laboratory," "SURFing the Materials Science and Engineering Laboratory," "SURFing the Building and Fire Research Laboratory," and "SURFing the Information Technology Laboratory;," will provide an opportunity for the NIST Electronics and Electrical Engineering Laboratory (EEEL), Manufacturing Engineering Laboratory (MEL), Chemical Science and Technology Laboratory (CSTL) Physics Laboratory (PL), Materials Science and Engineering Laboratory (MSEL), Building and Fire Research Laboratory (BRFL), and Information Technology Laboratory (ITL), and the National Science Foundation (NSF) to join in a partnership to encourage outstanding undergraduate students to pursue careers in science and engineering.

The EEEL program will provide research opportunities with internationally known NIST scientists in the fields of semiconductors (including mainstream silicon, power devices, and compound semiconductors), fundamental electrical measurements, electronic instrumentation, electrical systems, and electronic information. The MEL program will provide research opportunities with internationally known NIST scientists in the fields of intelligent systems, manufacturing petrology, precision engineering, and manufacturing systems integration. The CSTL program will provide research opportunities with internationally known NIST scientists in the fields of chemical characterization of materials, process metrology, chemical and biochemical sensing, nanotechnology, healthcare measurements, environmental measurements, microelectronics, physical property data, chemical and biochemical data, bio-molecules and materials, DNA technologies, and international measurement standards. The PL program will involve students in world-class atomic, molecular, optical (AMO) and radiation physics research with internationally known physicists in the NIST Physics Laboratory. The MSEL program will provide research opportunities with internationally known NIST scientists in the fields of ceramics, solid state chemistry, metallurgy, polymers, neutron condensed matter science, and materials reliability. The BFRL program will provide research opportunities with internationally known NIST scientists in the fields of building materials (concrete, coating), structure (earthquake), building environment (indoor air quality, thermal machinery), and fire science and engineering. The ITL program will provide research opportunities with internationally known NIST scientists in the fields of networking, software quality, security, information access, convergent systems, mathematical science, and statistics. The NIST Program Directors will work with physics, chemistry, materials science, manufacturing engineering, intelligent systems, automated production, precision engineering, information technology, building materials, constructed structures, and other science-related department chairs and directors of multi-disciplinary academic organizations to identify outstanding undergraduates (including graduating seniors) who would benefit from off-campus summer research in an honors academy environment.

The Electronics and Electrical Engineering (EEEL) Grants Program provides grants and cooperative agreements for the development of fundamental electrical metrology and of metrology supporting industry and government agencies in the board areas of semiconductors, electronic instrumentation, radio-frequency technology, optelectronics, magnetics, video, electronic commerce as applied to electronic products and devices; the transmission and distribution of electrical power, national electrical standards (fundamental, generally quantum based physical standards), and law enforcement standards.

The Manufacturing Engineering Laboratory (MEL) Grants Program will provide grants and cooperative agreements in the following fields of research: Dimensional Metrology for Manufacturing, Mechanical Metrology for Manufacturing, Intelligent Systems, and Information Systems Integration for Applications in Manufacturing.

The Chemical Science and Technology Laboratory (CSTL) Grants Program will provide grants and cooperative agreements in the following fields of research: Biotechnology, Process Measurements, Surface and Microanalysis Science, Physical and Chemical Properties, and Analytical Chemistry.

The Physics Laboratory (PL) Grants Program will provide grants and cooperative agreements in the following fields of research: Electron and Optical Physics, Atomic Physics, Optical Technology, Ionizing Radiation, and Time and Frequency.

The Materials Science and Engineering Laboratory (MSEL) Grants Program will provide grants and cooperative agreements in the following fields of research: Ceramics, Metallurgy, Polymer Sciences, Neutron Scattering Research and Spectroscopy.

The Fire Research Grants Program will provide funding for innovative ideas in the fire research area generated by the proposal writer, who chooses the topic and approach, consistent with the program description and objectives of this notice.

SUPPLEMENTARY INFORMATION:

Precision Measurement Grants Program

Dates: Applicants for the Precision Measurement Grants Program must submit an abbreviated proposal for preliminary screening. Based on the merit of the abbreviated proposal, applicants will be advised whether a full proposal should be submitted. The abbreviated proposals must be received at the address listed below no later than the close of business February 1, 2002. Proposals received after this deadline will be returned with no further consideration. The finalists will be notified of their status by March 22, 2002, and will be requested to submit full proposals to NIST by close of business on May 10, 2002. NIST expects to issue awards on or before September 30, 2002.

Addresses: For the Precision Measurement Grants Program, applicants are requested to direct technical questions and submit an abbreviated proposal (original and two (2) signed copies), with a description of their proposed work of no more than five (5) double spaced pages to: Dr. Peter J. Mohr, Manager, NIST Precision Measurement Grants Program, National Institute of Standards and Technology, Bldg. 225, Rm. B161, 100 Bureau Drive, Stop 8401, Gaithersburg, MD 20899–8401, Tel: (301) 975–3217, E-mail: *mohr@nist.gov*, Web site: *http://physics.nist.gov/pmg*.

Although applicants are not required to submit more than three copies of the proposal, the normal review process for the Precision Measurement Grants Program utilizes ten (10) copies. Applicants are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5" x 11"), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally required forms are needed.

Authority: The authority for the Precision Measurement Grants Program

VOL 66 ISS 248 DE 27 2001 UMI

is as follows: As authorized by 15 U.S.C. 272(b) and (c), NIST conducts directly, and supports through grants and cooperative agreements, a basic and applied research program in the general area of fundamental measurement and the determination of fundamental constants of nature.

Program Description and Objectives: The program description and objectives for the Precision Measurement Grants Program are as follows: As part of its research program, since 1970 NIST has awarded Precision Measurement Grants to U.S. universities and colleges so that faculty may conduct significant, primarily experimental research in the field of fundamental measurement or the determination of fundamental constants. NIST sponsors these grants and cooperative agreements primarily to encourage basic, measurement-related research in U.S. universities and colleges and to foster contacts between NIST scientists and those faculty members of U.S. academic institutions who are actively engaged in such work. The Precision Measurement Grants are also intended to make it possible for researchers to pursue new, fundamental measurement ideas for which other sources of support may be difficult to find. There is some latitude in research topics that will be considered under the Precision Measurement Grants Program. The key requirement is that the proposed project support NIST's ongoing work in the field of basic measurement science, which includes:

1. Experimental and theoretical studies of fundamental physical phenomena which test the basic laws of physics or which may lead to new or improved fundamental measurement methods and standards.
2. The determination of important fundamental physical constants.

Although proposals for either experimental or theoretical research will be considered, the former will be given preference because of the more immediate applicability of experimental work to metrology. Proposals from workers at the assistant and associate professor level who have some record of accomplishment are especially encouraged in view of the comparative difficulty researchers have in obtaining funds at the early stages of their careers.

Typical projects which have been funded through the NIST Prevision Measurement Grants Program include:

(1) Development of an atom interferometer gyroscope for tests for general relativity, M. Kasevich, Stanford University.

(2) Spectroscopy of francium: Towards a precise parity nonconservation measurement in a laser trap, Luis A. Orozco, State University of New York at Stony Brook.

(3) Measurement of Newton's constant G using a new method, J.H. Gundlach, University of Washington.

(4) Measurement of the polarization of the cosmic microwave background, S.T. Staggs, Princeton University.

(5) Combining the quantum Hall and AC Josephson effects for electric current metrology, E.A. Gwinn, University of California, Santa Barbara.

(6) A test of CPT symmetry using a new K–^{3}He self-compensating magnetometer, M.V. Romalis, University of Washington.

Eligibility: Eligible applicants are institutions of higher education, other non-profits, commercial organizations, international organizations, state, local and Indian tribal governments and Federal agencies with appropriate legal authority. Applications from non-Federal and Federal applicants will be competed against each other. Proposals selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this notice. Proposals selected for funding from non-NIST Federal agencies will be funded through an interagency transfer. Please Note: Before non-NIST Federal applicants may be funded, they must demonstrate that they have legal authority to receive funds from another federal agency in excess of their appropriation. As this announcement is not proposing to procure goods or services from applicants, the Economy Act (31 U.S.C. 1535) is not an appropriate legal basis.

Funding Availability: For the Precision Measurement Grants Program, the annual budget is approximately $300,000. Two new grants in the amount of $50,000 per year will be awarded; the remaining $200,000 will fund continuing grants. Applicants must propose multi-year projects, not to exceed three (3) years. The scope of work must be clearly severable into annual increments of meaningful work that represent solid accomplishments in case continued funding is not made available to the applicant.

Proposal Review Process: For the Precision Measurement Grants Program, to simplify the proposal writing and evaluation process, the following section procedure will be used: Applicants will initially submit abbreviated proposals, containing a description of the proposed project, including sufficient information to address the evaluation criteria, with a total length of no more than five (5) double spaced pages, to the mailing address given above in the ADDRESSES section. These proposals will be screened to determine whether they address the requirements outlined in this notice. Proposals that do not meet those requirements will not be considered further. Eight independent, objective individuals, at least half of whom are NIST employees, and who are knowledgeable about the scientific areas that the program addresses will conduct a technical review of each proposal, based on the evaluation criteria described in the Evaluation Criteria section for this program. The proposals will then be ranked based on the average of the reviewers' rankings. If non-Federal reviewers are used, the reviewers may discuss the proposals with each other, but ranks will be determined on an individual basis, not a consensus.

The program's selecting official will then select approximately four to eight finalists. In selecting finalists, the program's selecting official will take into consideration the results of the reviewers' evaluations, including rank, and relevance to the program objectives described above.

Finalists will then be asked to submit full proposals containing a description of the proposed project, including sufficient information to address the evaluation criteria, with a total length of no more than ten (10) double spaced pages in addition to the federally mandated forms and certifications, to the mailing address given above in the ADDRESSES section. The same independent reviewers will then evaluate the detailed proposals based on the same evaluation criteria, and the proposals will be ranked as previously described. In selecting proposals that will be recommended for funding, the program's selecting official will take into consideration the results of the reviewers' evaluations, including rank, and relevance to the program objectives described in the Program Description and Objectives section for this program.

Two proposals will be selected for funding by the end of fiscal year 2002. The final approval of selected applications and award of grants or cooperative agreements will be made by the NIST Grants Officer based on compliance with applicant requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible.

Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award.

The decision of the Grants Officer is final.

Evaluation Criteria: The evaluation criteria to be used in evaluating the abbreviated application proposals and full proposals are:

1. The importance of the proposed research—Does it have the potential of answering some currently pressing question or of opening up a whole new area of activity?

2. The relationship of the proposed research to NIST's ongoing work—Will it support one of NIST's current efforts to develop a new or improved fundamental measurement method or physical standard, test the basis laws of physics, or provide an improved value for fundamental constant?

3. The feasibility of the research and the potential impact of the grant—Is it likely that significant progress can be made in a three year time period with the funds and personnel available and that the funding will enable work that would otherwise not be done with existing or potential funding?

4. The qualifications of the applicant—Does the educational and employment background and the quality of the research, based on recent publications, of the applicant indicate that there is a high probability that the proposed research will be carried out successfully?

Each of these factors in given equal weight in the evaluation process.

Award Period: For the Precision Measurement Grants Program, NIST is now accepting applications for two grants in the amount of $50,000 per year to be awarded for the initial period of September 30, 2002 through September 29, 2003. Each award may be continued for up to two additional years; however, future or continued funding will be at the discretion of NIST based on satisfactory performance, continuing relevance to program objectives, and availability of funds.

Matching Requirements: The Precision Measurement Grants Program does not require any matching funds.

Application Kit: For the Precision Measurement Grants Program, an application kit, containing all required applications forms and certifications will be provided to the finalists by Ms. Bonnie Whipp, (301) 975–4750.

EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs

Dates: The EEEL, MEL, CSTL, PL, MSEL, BRFL, and ITL SURF Programs proposals must be received no later than the close of business February 15, 2002.

Addresses: For the PL, MSEL, MEL, ITL, BFRL, EEEL, and CSTL SURF Programs, applicant institutions must submit one signed original and two (2) copies of the proposal to: Attn.: Ms. Anita Sweigert, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8400, Gaithersburg, MD 20899–8400, Tel: (301) 975–4200, e-mail: *anita.sweigert@nist.gov*, Web site: *http://www.surf.nist.gov.*

Technical questions for the EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs should be directed to the following contact persons: for the EEEL SURF Program, Dr. David Newell, Tel: (301) 975–4228, e-mail: *david.newell@nist.gov;* for the MEL SURF Program, Ms. Lisa Jean Fronczek, Tel: (301) 975–6633, e-mail: *lfronczek@nist.gov;* for the CSTL SURF Program, Michael S. Epstein, Tel: (301) 975–8306, e-mail: *michael.epstein@nist.gov;* for the PL SURF Program, Dr. Marc Desrosiers, Tel: (301) 975–5639; e-mail: *marc.desrosiers@nist.gov;* for the MSEL SURF Program, Dr. Terrell A. Vanderah, Tel: (301) 975–5785, e-mail: *terrell.vanderah@nist.gov;* for the BFRL SURF Program, Dr. Chris White, Tel: (301) 975–6016 e-mail: *cwhite@nist.gov,* or Dr. Clarissa Ferraris, Tel: (301) 975–6711, e-mail: *clarissa@nist.gov;* and for the ITL SURF Program, Dr. Larry Reeker, Tel: (301) 975–5147, e-mail: *larry.reeker@nist.gov.*

Authority: The authority for the EEEL, MEL, CSTL, PL, MSEL, BFRL and ITL SURF Programs is as follows: 15 U.S.C. 278g–1 authorizes NIST to fund financial assistance awards to students at institutions of higher learning within the United States. These students must show promise as present or future contributors to the missions of NIST. Cooperative agreements are awarded to assure continued growth and progress of science and engineering in the United States, including the encouragement of women and minority students to continue their professional development.

Program Description and Objectives: The program description and objectives for the EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs are as follows: To build a mutually beneficial relationship between the student, the institution of higher learning, and NIST. This is the tenth year of the PL SURF Program, partially funded by the NSF Physics Division as a Research Experience for Undergraduates (REU) site. This is the fifth year of the MSEL SURF Program funded by the NSF Division of Materials Research (DMR) as a REU site. This is the fourth year of the MEL SURF Program and the second year of the BFRL SURF Program, both funded by the NSF Division of Engineering Education and Centers (EEC) as REU sites. This is the second year of the ITL SURF Program funded by the NSF Division of Experimental and Integrative Activities in the Directorate for Computer and Information Science and Engineering (CISE) as a REU site.

NIST is one of the nation's premiere research institutions for the physical and engineering sciences and, as the lead Federal agency for technology transfer, it provides a strong interface between government, industry and academia. NIST embodies a special science culture, developed from a large and well-equipped research staff that enthusiastically blends programs that address the immediate needs of industry with longer-term research that anticipates future needs. This occurs in few other places and enables the Electronics and Electrical Engineering Laboratory, Physics Laboratory, Materials Science and Engineering Laboratory, Building and Fire Laboratory, and Information Technology Laboratory to offer unique research and training opportunities for undergraduates, providing them a research-rich environment and exposure to state of the art equipment.

NIST's EEEL strives to be the world's best source of fundamental and industrial-reference measurement methods and physical standards for electrotechnology. To be a world-class resource for semiconductor measurements, data, models, and standards focused on enhancing U.S. technological competitiveness in the world market, research is conducted in semiconductor materials, processing, devices, and integrated circuits to provide, through both experimental and theoretical work, the necessary basis for understanding measurement-related requirements in semiconductor technology. To provide the world's most technically advanced and fundamentally sound basis for all electrical measurements in the United States, the EEEL's research projects include maintaining and disseminating the national electrical standards, developing the measurement methods and services needed to support electrical materials, components, instruments, and systems used for the generation, transmission, and application of conducted electrical power, and related activities in support of the electronics industry including research on video technology and electronic product data exchange.

NIST's MEL conducts theoretical and experimental research in length, mass, force, vibration, acoustics, and ultrasonics, as well as intelligent machines, precision control of machine tools, information technology for the integration of all elements of a product's life cycle. Much of this applied research is devoted to overcoming barriers to the next technological revolution, in which manufacturing facilities are spread across the globe. MEL's research and development leads to standards, test methods and data that are crucial to industry's success in exploiting advanced manufacturing technology. Critical components of manufacturing at any level are measurement and measurement-related standards, not just of products, but increasingly of information about products and processes. Thus, MEL programs enhance both physical and information-based measurements and standards. Research projects can be theoretical or experimental, and will range in focus from intelligent machine control, characterizing a manufacturing process or improving product data exchange, to the accurate measurement of an artifact's dimensions.

NIST's CSTL strives to be a world-class research laboratory that is recognized by the Nation as the primary source for the chemical, biochemical, and chemical engineering measurements, data, models, and reference standards that are required to enhance U.S. industrial competitiveness in the world market. CSTL is the primary reference laboratory for chemical measurements, entrusted with developing, maintaining, advancing, and enabling the chemical measurement system for the United States of America, thereby enhancing industry's productivity and competitiveness, establishing comparability of measurements to facilitate equity of global trade, and improving public health, safety, and environmental quality. CSTL's activities include: Chemical Characterization of Materials, Process Metrology, Chemical and Biochemical Sensing, Nanotechnology, Healthcare Measurements, Environmental Measurements, Microelectronics, Physical Property Data, Chemical and Biochemical Data, Bio-Molecules and Materials, DNA Technologies, and International Measurement Standards.

Attending to the long-term needs of many U.S. high-technology industries, NIST's Physics Laboratory conducts basic research in the areas of quantum, electron, optical, atomic, molecular, and radiation physics. To achieve these goals, PL staff develop and utilize highly specialized equipment, such as polarized electron microscopes, scanning tunneling microscopes, lasers, and x-ray and synchrotron radiation sources. Research projects can be theoretical or experimental and will range in focus from computer modeling of fundamental processes through trapping atoms and choreographing molecular collisions, to standards for radiation therapy.

NIST's MSEL conducts basic research in the electronic, magnetic, optical, superconducting, mechanical, thermal, chemical, and structural properties of metals, ceramics, polymers, and composites. Much of this applied research is devoted to overcoming barriers to the next technological revolution, in which individual atoms and molecules will serve as the fundamental building blocks of devices. Preparation of unique materials by atomic level tailoring of multi-layers, perfect single crystals, and nanocomposites are just some of the future technologies being developed and explored in NIST's MSEL. To achieve these goals, staff develop and utilize highly specialized equipment, such as high resolution electron microscopes, atomic force microscopes, neutron scattering instruments, x-ray diffraction sources, lasers, magnetometers, plasma furnaces, melt spinners, molecular beam epitaxy systems, and thermal spray systems. Research projects can be theoretical or experimental and will range in focus from the structural, chemical, and morphological characterization of advanced materials made in the NIST laboratories to the accurate measurement of the unique properties possessed by these special materials.

NIST's BFRL provides technical leadership and participants in developing the measurement and standards infrastructure related to materials critical to U.S. industry, academia, government, and the public. Building and Fire Research programs at NIST cover a full range of materials issues from design to processing to performance. Separate research initiatives address concrete, coating, earthquake resistance of structures, fire science and engineering, the theory and modeling of materials, and materials reliability. Through laboratory-organized consortia and one-on-one collaborations, BFRL's scientists and engineers work closely with industrial researchers, manufacturers of high-technology products, and the major users of advanced materials.

NIST's ITL responds to industry and user needs for objective, neutral tests for information technology. These are enabling tools that help companies produce the next generation of products and services, and that help industries and individuals use these complex products and services. ITL works with industry, research and government organizations to develop and demonstrate tests, test methods, reference data, proof of concept implementations and other infrastrutural technologies. Program activities include: high performance computing and communications systems; emerging network technologies; access to, exchange, and retrieval of complex information; computational and statistical methods; information security; and testing tools and methods to improve the quality of software.

SURF students will have the opportunity to work one-on-one with our nation's top scientists and engineers. It is anticipated that successful SURF students will move from a position of reliance on guidance from their research advisors to one of research independence during the twelve-week period. One goal of this partnership is to provide opportunities for our nation's next generation of scientists and engineers to engage in world-class scientific research at NIST, especially in ground-breaking areas of emerging technologies. This carriers with it the hope of motivating individuals to pursue a Ph.D. in physics, chemistry, materials science, engineering, mathematics, or computer science, and to consider research careers. SURFing the Electronics and Electrical Engineering Laboratory, SURFing the Manufacturing Engineering Laboratory, SURFing the Chemical Science and Technology Laboratory, SURFing the Physics Laboratory, SURFing the Materials Science and Engineering Laboratory, SURFing the Building and Fire Research Laboratory, and SURFing the Information Technology Laboratory will help to forge partnerships with NSF and with post-secondary institutions that demonstrate strong, hands-on undergraduate science curricula especially those with a demonstrated commitment to the education of women, minorities, and students with disabilities.

Eligibility: The EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL, SURF Programs are open to colleges and universities in the United States and it territories with degree granting programs in materials science, chemistry, engineering, computer science, mathematics, or physics. Participating students must be U.S. citizens or permanent U.S. residents.

Funding Availability: For the EEEL SURF Program, the NIST EEEL anticipates receiving funding as a NSF REU Program at the level of $50,000 per year. For the MEL SURF Program, the NIST MEL anticipates receiving funding as a NSF REU Program at the level of $52,000 per year. For the CSTL SURF

Program, the NIST CSTL will commit approximately $50,000 to support these cooperative agreements and will pursue funding as a NSF REU Program at the level of $50,000 per year.

For the PL SURF Program, the NIST PL will commit approximately $50,000 to support these cooperative agreements. The NIST PL's REU Program is anticipating renewal of funding by the NSF at the level of $85,000 per year. The anticipated direct costs for subsidence, travel, lodging, and conference attendance for twenty-two students is about $135,000.

For the MSEL SURF Program, the NIST MSEL anticipates receiving funding as a NSF REU Program at the level of $70,000 per year. It is anticipated that this funding will provide for the costs of subsistence, travel and lodging, and the conference attendance of ten students.

For the BFRL SURF Program, the NIST BFRL anticipates receiving funding as a NSF REU Program at the level of $50,000 per year. For the ITL SURF Program, the NIST ITL anticipates receiving second year funding as a NSF REU Program at the level of $50,000 per year. It is anticipated that the funding for the EEEL, MEL, CSTL, BFRL, and ITL SURF Programs will provide for the costs of subsistence, travel and lodging, and the conference attendance of eight students for each program.

The actual number of awards made under this announcement will depend on the actual costs. For all SURF Programs described in this notice, it is expected that individual awards to institutions will range from approximately $3,000 to $70,000. NIST is negotiating with NSF to determine whether NIST may contract directly with apartment complexes for student housing, or whether funding for student housing will be included in cooperative agreements awarded as a result of this notice. Selected applicants will be informed prior to award whether housing will be provided via the cooperative agreement or provided separately by NIST.

Proposal Review Process: The EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs conduct an initial screening of all proposals received by the deadline for substantially incomplete or non-responsive applications, which will not be considered for funding. All substantially complete proposals will be reviewed and ranked by a panel of three NIST scientists appointed by the Program Directors on the basis of the evaluation criteria. Proposals should include the following:

(A) Student Information:

(1) Student application information cover sheet;

(2) Official transcript for each student nominated for participation (students must have a recommended G.P.A. of 3.0 or better, out of a possible 4.0);

(3) A personal statement from each student and statement of commitment to participate in the 2002 SURF program, including a description of the student's prioritized research interests;

(4) A resume for each student; and

(5) Two letters of recommendation for each student.

(B) Information About the Applicant Institution:

(1) Description of the institution's education and research philosophy, faculty interests, on-campus research program(s) and opportunities, and overlapping research interests of NIST and the institution; and

(2) A statement addressing issues of academic credit and cost sharing.

In recommending applications for funding, the program's selecting official will take into consideration the results of the panel's evaluations, including rank, the program objectives of the NIST laboratories as described above, and the relevance to the goals of the SURF Program. The final approval of selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The decision of the Grants Officer is final.

Evaluation Criteria: for the EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs, the evaluation criteria are:

Evaluation of Student's Academic Ability and Commitment to Program Goals (70%): Includes, but is not limited to, evaluation of the following: completed course work; expressed research interest; prior research experience; grade point average in courses relevant to program; career plans; honors and activities.

Evaluation of Applicant Institution's Commitment to Program Goals (30%): Includes, but is not limited to, evaluation of the following: institution's focus on AMO physics, chemistry, materials science, manufacturing research and all of its components, including but not limited to engineering, computer science, physics, electrical engineering, and mathematics; overlap between research interests of the institution and NIST; emphasis on undergraduate hands-on research; undergraduate participation in research conferences/programs; on-campus research facilities; past participation by students/institution in such programs; and commitment to educate women, minorities, and persons with disabilities.

Award Period: For the EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs, these programs are anticipated to run between May 28 through August 16, 2002; adjustments may be made to accommodate specific academic schedules (e.g., a limited number of 9-week cooperative agreements).

Matching Requirements: The EEEL, MEL, PL, MSEL, BFRL, and ITL SURF Programs encourage, but do not require, cost sharing. In the spirit of a true partnership, successful applicant institutions will be encouraged to contribute some partial support to the program. A suggested level of participation would be direct coverage of (partially or entirely) student travel (one round trip common carrier) or lodging costs (approximately $2,200); total coverage of indirect costs and/or fringe benefits (NIST will authorize funds for indirect costs or fringe benefits); a stated intent to support the participating student(s) at a research conference; and/or award of academic credit for the student research. The level of cost sharing will not be considered in the award decision. Less than ten percent of the associated student subsistence, travel and lodging has been provided in cost sharing by the participating institutions in previous years.

Application Kit: for EEEL, MEL, CSTL, PL, MSEL, BFRL, and ITL SURF Programs, an application kit, containing all required forms and certifications, may be obtained by contacting Ms. Anita Sweigert, (301) 975–4200; websites for each program's application kit may b4 accessed through the following website: http://www.surf.nist.gov.

Electronics and Electrical Engineering (EEEL) Grants Program

Dates: The Electronics and Electrical Engineering Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

Addresses: For the Electronics and Electrical Engineering Grants Program, submit one signed original and two copies of the proposal package to: Electronics and Electrical Engineering Laboratory, Attn.: D.J. Hamilton, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8100, Gaithersburg, MD 20899–8100, Tel.: (301) 975–2227, Fax: (301) 975–4091.

Authority: As authorized by 15 U.S.C. 272(b) and (c), the NIST Electronics and Electrical Engineering Laboratory conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients.

Program Description and Objectives: The Electronics and Electrical Engineering Grants Program solicits proposals in support of the broad program objectives identified below.

The Electronics and Electrical Engineering Grants Program supports the formal mission of the associated Laboratory: The Electronics and Electrical Engineering Laboratory promotes U.S. Economic growth by providing measurement capability of high impact focused primarily on the critical needs of the U.S. electronics and electrical industries, and their customers and suppliers.

More specifically, the Electronics and Electrical Engineering Grants Program solicits proposals to support specific programs in the areas of metrology for semiconductors (including mainstream silicon, power devices, and compound semiconductors), superconductors (including cryoelectronics and bulk superconductors), electronic instrumentation, radio-frequency technology (including microwave and millimeter-wave, antennas, and electromagnetic compatibility/interference), optoelectronics, magnetics (including bulk magnetic materials and magnetic data storage), video (including flat-panel displays), electronic commerce as applied to electronic products and devices, the transmission and distribution of electrical power, national electrical standards (fundamental, generally quantum-based physical standards), and law enforcement (clothing, communication systems, emergency equipment, investigative aids, protective equipment, security systems, vehicles, speed-measuring equipment, weapons, and analytical techniques and standard reference materials used by the public safety community).

For details on these various activities, please see the Electronics and Electrical Engineering Laboratory Web site at *http://www.eeel.nist.gov*. Note that documents describing the current programs for the five technical divisions and two offices are available through the home page.

Technical contacts for these areas are:

Semiconductors

Semiconductor Electronics Division—Division Chief: Dr. David G. Seiler; (301) 975–2054; *david.seiler@nist.gov*

Office of Microelectronics Programs—Director: Dr. Stephen Knight; (301) 975–4400; *stephen.knight@nist.gov*

Superconductors (bulk); Magnetics

Laboratory Acting Deputy Director: Dr. Alan H. Cookson; (301) 975–2220; *alan.cookson@nist.gov*

Superconduтors (cryoelectronics); National electrical standards (Josephson array development)

Electromagnetic Technology Division—Division Chief: Dr. Richard E. Harris; (303) 497–3678; *richard.harris@boulder.nist.gov*

Electronic instrumentation; Video; Electronic commerce; National electrical standards (other than Josephson array development)

Electricity Division—Division Chief: Dr. Bruce F. Field; (301) 975–2400; *bruce.field@nist.gov*

Radio-frequency technology

Radio-Frequency Technology Division—Division Chief: Dr. Dennis S. Friday; (303) 497–3132; Friday@boulder.nist.gov

Optoelectronics

Optoelectronics Division: Office of Optoelectronics Programs—Division Chief and Office Director: Dr. Gordon W. Day; (303) 497–5432; *gwday@boulder.nist.gov*

Law Enforcement

Office of Law Enforcement Standards—Director: Dr. Kathleen Higgins; (301) 975–2757; *kathleen.higgins@nist.gov*

Eligibility: The Electronics and Electrical Engineering Grants Program is open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian tribal governments; foreign governments; organizations under the jurisdiction of foreign governments; and international organizations.

Funding Availability: Over the past three years, the Electronics and Electrical Engineering laboratory funded a total of approximately $1,000,000 in grants and cooperative agreements. The amount available each year fluctuates considerably based on programmatic needs. Individual awards are expected to range between $5,000 and $150,000.

Proposal Review Process: For the Electronics and Electrical Engineering Grants Program, proposals will be distributed to the appropriate Division Chief or Office Director based on technical area by one or more technical professionals familiar with the programs of the Electronics and Electrical Engineering Laboratory. The Divisions and Offices will score proposals based on the evaluation criteria described in the Evaluation Criteria section below.

Reviews will be conducted on a monthly basis during the first quarter, and quarterly thereafter, and all proposals received during the month or quarter will be ranked based on the reviewers' scores. Based on the reviewers' scores, recommendations of the division Chiefs and Office Directors, the availability of funding, and relevance to the objectives of the Electronics and Electrical Engineering Grants Program, as described above, the Laboratory Director will provide recommendations for funding to the NIST Grants Officer. The final approval of selected applications and award of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The decision of the Grants Officer is final. Applicants should allow up to 90 days processing time.

Evaluation Criteria: The Divisions and Offices will score proposals based on the following criteria and weights:

Proposal addresses specific program objectives as described in this notice (25%)
Proposal provides evidence of applicant's expertise in relevant technical area (20%)
Proposal offers innovative approach (20%)
Proposal provides adequate rationale for budget (15%)

Award Period: For the Electronics and Electrical Engineering Grants Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Continuation of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued relevance to the mission of the Electronics and Electrical Engineering Grants Program, and the availability of funds. The multi-year awards must have scopes of work that can be easily separated into annual increments of meaningful work the represent solid accomplishments if prospective funding is not made available to the applicant, (i.e., the scopes of work for each funding period must produce identifiable and meaningful results in and of themselves).

Matching Requirements: The Electronics and Electrical Engineering Grants Program does not require any matching funds.

Application Kit: An application kit, containing all required application forms and certifications is available by contacting: D.J. Hamilton, (301) 975–2227.

Manufacturing Engineering Laboratory (MEL) Grants Program

Dates: The MEL Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds. Each applicant must submit one signed original and two copies of each proposal along with a Grant Application, (Standard Form 424 REV. 7/97 and other required forms).

Addresses: For the MEL Grants Program, submit one signed original and two copies of the proposal, clearly marked to identify the field of research, to: Manufacturing Engineering Laboratory, Attn: Mrs. Barbara Horner, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8200, Building 220, Room B322, Gaithersburg, Maryland 20899–8200, Tel: (301) 975–4345, E-mail: *barbara.horner@nist.gov.*

Authority: As authorized under 15 U.S.C. 272(b) and (c), the MEL conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients.

Program Description and Objectives: All proposals submitted must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Precision Engineering Division, 821—The primary objective is to support laboratory programs in the areas of Engineering Metrology, Large-Scale Metrology, Nanometer-Scale Metrology, and Surface Metrology. The contact person for this division is: Dr. Dennis Swyt, and he may be reached at (301) 975–3463; *dennis.swyt@nist.gov.*

II. Manufacturing Metrology Division, 822—The primary objective is to support laboratory programs in Mechanical Metrology; Advanced Optics Metrology; Predictive Process Engineering; and Metrology and Smart Sensor Systems for Manufacturing Equipment. The contact person for this division is: Dr. E. Clayton Teague, and he may be reached at (301) 975–6600; *clayton.teague@nist.gov.*

III. Intelligent Systems Division, 823—The primary objective is to support laboratory programs in Intelligent Open Architecture Control of Manufacturing Systems, Intelligent Controls of Mobility Systems, and Intelligent Systems. The contract person for this division is: Dr. John M. Evans, and he may be reached at (301) 975–3418; *j.evans@nist.gov.*

IV. Manufacturing Systems Integration Division, 826—The primary objective is to pursue semantics- and ontology-based systems integration technology and standards through support of laboratory programs in Manufacturing Enterprise Integration; Manufacturing Simulation and Visualization; Product Engineering; and Meso-Micro-Nano-Manufacturing. The contact person for this division is: Dr. Steven R. Ray, and he may be reached at (301) 975–3508; *steven.ray@nist.gov.*

Eligibility: The MEL Grants Program is be open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian tribal governments; foreign governments; organizations under the jurisdiction of foreign governments; and international organizations.

Funding Availability: In fiscal year 2002, the Mel Grants Program anticipates funding of approximately $750,000, including new awards and continuing projects. Individual awards are expected to range from approximately $25,000 to $300,000.

Proposal Review Process: Responsive proposals will be reviewed in a two-step process. First, at least three independent, objective individuals knowledgeable about the particular scientific area described in the section above that the proposal addresses will conduct a technical review of proposals, based on the evaluation criteria described below. Reviews will be conducted no less than once per quarter, and all proposals since the last review session will be ranked based on the reviewers' scores. Second, the Division Chief or Laboratory Director will make application selections. In making application selections, the Division Chief or Laboratory Director will take into consideration the results of the reviewers' evaluations, the compatibility of the applicant's proposal with the program objectives of the particular division that the proposal addresses, the availability of funds, and relevance to the objectives of the MEL Grants Program. These objectives are described above in the Program Objectives. The final approval of selected applications and award of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The decision of the Grants Officer is final.

Evaluation Criteria: For the MEL Grants Program, the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. *Rationality.* Reviewers will consider the coherence of the applicant's approach and the extent to which the proposal effectively addresses scientific and technical issues.

2. *Technical Merit of Contribution.* Reviewers will consider the potential technical effectiveness of the proposal and the value it would contribute to the field of manufacturing engineering and metrology research.

3. *Qualifications of Technical Personnel.* Reviewers will consider the professional accomplishments, skills, and training of the proposed personnel to perform the work in the project.

4. *Resources Availability.* Reviewers will consider the extent to which the proposer has access to the necessary NIST or other facilities and overall to accomplish project objectives.

Each of these factors will be given equal weight in the evaluation process.

Award Period: For the MEL Grants Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Continuation of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued relevance to the mission of the MEL program, and the availability of fundings. The multi-year awards must

VOL 66 ISS 248 DE 27 2001 UMI

have scopes of work that can be easily separated into annual increments of meaningful work that represent solid accomplishments if prospective funding is not made available to the applicant, (i.e., the scopes of work for each funding period must produce identifiable and meaningful results in and of themselves).

Matching Requirements: The MEL Grants Program does not require any matching funds.

Application Kit: An application kit, containing all required application forms and certifications is available by electronic mail to: Mrs. Barbara Horner, *barbara.horner@nist.gov*. Alternatively, Mrs. Horner can be contacted at (301) 975–4345.

Chemical Science and Technology Laboratory Grants Program

Dates: The Chemical Science and Technology Laboratory Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

Addresses: For the Chemical Science and Technology Laboratory Grant Program applicants are requested to submit one signed original and two copies of the proposal clearly marked to identify the field of research to: Attn. Dr. William F. Koch, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8300, Gaithersburg, MD. 20899–8300, Tel (301) 975–8301, E-Mail: *william.koch@nist.gov*.

Authority: As authorized under 15 U.S.C. 272 (b) and (c), the Chemical Science and Technology Laboratory conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients.

Program Description and Objectives: All proposals submitted to the Chemical Science and Technology Laboratory Grants Program must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Biotechnology Division, 831—The primary objective is to advance the commercialization of biotechnology by developing the scientific/engineering technical base, reliable measurements, standards, data and models to enable U.S. industry to quickly and economically produce biochemical products with appropriate quality control. The contact person for this division is: Dr. Gary L. Gilliland, and he may be reached at (301) 975–2629.

II. Process Measurements Division, 836—The primary objective is to develop and provide measurement standards and services, measurement techniques, recommended practices, sensing technology, instrumentation, and mathematical models required for analysis, control, and optimization of industrial processes. The Division's research seeks fundamental understanding of, and generates key data pertinent to, chemical process technology. These efforts include the development and validation of data-predictive computational tools and correlation's, computer simulations of processing operations, and provision of requisite chemical, physical, and engineering data. The contact person for this division is: Dr. James R. Whetstone, and he may be reached at (301) 975–2609.

III. Surface and Microanalysis Science Division, 837—The primary objective is to promote U.S. economic growth, safety, health, and environmental quality by working with industry, other government agencies, and standards organizations to develop and apply key technologies, measurements, and standard for spatially and temporally resolved chemical characterization. The contact person for this division is: Dr. Richard R. Cavanagh, and he may be reached at (301) 975–2368.

IV. Physical and Chemical Properties Division, 838—The primary objective is to be the Nation's reference laboratory for measurements, standards, data, and models for, the thermophysical and thermochemical properties of gases, liquids, and solids—both pure materials and mixtures. The rates and mechanisms of chemical reactions in the gas and liquid phases, fluid-based processes and systems, including separations, low-temperature refrigeration, and low-temperature heat transfer and flow. The contact person for this division is: Dr. Mickey Haynes, and he may be reached at (303) 497–3247.

V. Analytical Chemistry Division, 839—The primary objective is to serve as the Nation's reference laboratory for chemical measurements and standards to enhance U.S. industry's productivity and competitiveness, assure equity in trade, and provide quality assurance for chemical measures used for assessing and improving public health, safety, and environment. The contact person for this division is: Dr. Willie E. May, and he may be reached at (301) 975–3108.

Eligibility: The Chemical Science and Technology Laboratory Grants Program is open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian trial governments; foreign governments; organizations under the jurisdiction of foreign governments; and international organizations.

Funding Availability: In fiscal year 2002, the Chemical Science and Technology Laboratory anticipates funding of approximately $1,000,000. Individual awards are expected to range from approximately $5,000 to $100,000.

No funds have been set aside specifically for support of the CSTL Grants Program. The availability of funds depends upon actual authorization of funds and other costs expected to be incurred by incurred by individual divisions within the laboratory. Where funds are identified as available for grants, those funds will be award to highly ranked proposals as determined by the process described in this notice.

Proposal Review Process: For the Chemical Science and Technology Laboratory Grants Program, proposals will be reviewed in two-step process. First, at least three independent, objective individuals knowledgeable about the particular scientific area described in the section above that the proposal addresses will conduct a technical review of each proposal, based on the evaluation criteria described below. Reviews will be conducted on a monthly basis, and all proposals received during the month will be ranked based on the reviewers' scores. Second, the Division Chief will make application selections. In making application selections, the Division Chief will take into consideration the results of the reviews' evaluations, the compatibility of the applicant's proposal with the program objectives of the particular division or center that the proposal addresses, the availability of funds, and relevance to the objectives of the Chemical Science and Technology Laboratory Grants Program. These objectives are described above in the "Program Objectives" section. The final approval of selected applications and award of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The decisions of the Grants Officer are final.

Evaluation Criteria: For the Chemical Science and Technology Laboratory Grants Program, the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. *Rationality.* Reviewers will consider the coherence of the applicant's approach and the extent to which the proposal effectively addresses scientific and technical issues.

2. *Qualifications of Technical Personnel.* Reviewers will consider the professional accomplishments, skills,and training of the proposed personnel to perform the work in the project.

3. *Resources Availability.* Reviewers will consider the extent to which the proposer has access to the necessary NIST or other facilities and overall support to accomplish project objectives.

4. *Technical Merit of Contribution.* Reviewers will consider the potential technical effectiveness of the proposal and the value it would contribute to the field of Chemistry.

Each of these factors will be given equal weight in the evaluation process.

Award Period: For the Chemical Science and Technology Laboratory Grant Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Continuation of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress continued relevance to the mission of the Chemical Science and Technology Laboratory program, and the availability of funds. The multi-year awards must have scopes of work that can be easily separated into annual increments of meaningful work that represent solid accomplishments if prospective funding is not made available to the applicant, (i.e. the scopes of work for each funding period must produce identifiable and meaning results in and of themselves).

Matching Requirements: The Chemical Science and Technology Laboratory Grants Program does not require any matching funds.

Contact: For information on the Chemical Science and Technology Laboratory Grants Program, please contact Dr. William Koch, (301) 975–8301.

Application Kit: For the CSTL Grants Program, an application kit, containing all required application forms and certifications is available by contacting Mr. Neil Alderoty, (301) 975–8303.

Physics Laboratory Grants Program

Dates: The Physics Laboratory Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

Addresses: For the Physics Laboratory Grant Program applicants are requested to submit one signed original and two copies of the proposal clearly marked to identify the field of research to: Attn.: Ms. Anita Sweigert, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8400, Gaithersburg, MD 20899–8400, Tel (301) 975–4200, E-Mail: *anita.sweigert@nist.gov.*

Authority: As authorized under 15 U.S.C. 272(b) and (c), the Physics Laboratory conducts a basic and applied research program directly and through grants and cooperative agreements to eligible recipients.

Program Description and Objectives: All proposals submitted to the Physics Laboratory Grants Program must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Electron and Optical Physics Division, 841—The primary objective is to supplement division activities in characterization of nanometer-scale electronic and magnetic structures, characterization of EUV optical components to support semiconductor lithography and ultraviolet radiometric metrology. The contact person for this division is: Dr. Charles W. Clark and he may be reached at (301) 975–3709.

II. Atomic Division, 842—The primary objective is to support division programs aimed at determining basic atomic properties and developing new metrology techniques in atomic spectroscopy, quantum processes, plasma radiation, laser cooling and trapping and quantum metrology. The contact person for this division is: Dr. Wolfgang L. Wiese and he may be reached at (301) 975–3200.

III. Optical Technology Division, 844—The primary objective is to develop, improve and maintain national standards for radiation thermometry, spectroradiometry, photometry, and spectrophotometry as well as conduct basic theoretical and experimental research on the photophysical and photochemical properties of materials, in radiometric and spectroscopic technique's and instrumentation, and in the application of optical technologies. The contact person for this division is: Dr. Albert C. Parr and he may be reached at (301) 975–2316.

IV. Ionizing Radiation Division, 846—The primary objective is to provide primary standards and measurement methods and technology to support the Division's work in meeting national needs in radiation interactions and dosimetry, neutron interactions, dosimetry and radioactivity including both theoretical/experimental and applied research programs. The contact person for this division is: Dr. Bert M. Coursey and he may be reached at (301) 975–5584.

V. Time and Frequency Division, 847—The primary objective is to supplement division basic and applied research programs in area of phase noise measurements, network synchronization, ion storage, atomic standards and optical frequency measurements in support of future standards, dissemination services, and measurement methods. The contact person for this division is: Dr. Donald B. Sullivan and he may be reached at (303) 497–3772.

Eligibility: The Physics Laboratory Grants Program is open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian tribal governments; foreign governments; organizations under the jurisdiction of foreign governments: and international organizations.

Funding availability: In fiscal year 2002, the Physics Laboratory anticipates funding of approximately $1,400,000, including new awards and continuing projects. Funding availability will be apportioned by quarter. Individual awards are expected to range from approximately $5,000 to $250,000.

Proposal Review Process: For the Physics Laboratory Grants Program, responsive proposals will be considered as follows: First, at least three independent, objective individuals knowledgeable about the particular scientific area described in the section above that the proposal addresses will conduct a technical review of each proposal, based on the evaluation criteria described below. Reviews will be conducted on a monthly basis, and all proposals received during the month will be ranked on the reviewers' scores. If non-Federal reviewers are used, reviewers may discuss the proposals with each other, but scores will be determined on an individual basis, not as a consensus.

Next, the Division Chief will make final application selections, taking into

VOL 66 ISS 248 DE 27 2001 UMI

consideration the results of the reviewers' evaluations, including rank; the compilation of a slate that, when taken as a whole, is likely to best further the program goals described above; and the availability of funds.

The final approval of selected applications and awards of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible.

Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award.

The decisions of the Grants Officer are final.

Evaluation Criteria: For the Physics Laboratory Grants Program, the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. *Rationality:* Reviewers will consider the coherence of the applicants's approach and the extent to which the proposal effectively addresses scientific and technical issues.

2. *Qualifications of Technical Personnel.* Reviewers will consider the professional accomplishments, skills, and training of the proposed personnel to perform the work in the project.

3. *Resources Availability.* Reviewers will consider the extent to which the proposer has access to the necessary NIST or other facilities and overall support to accomplish project objectives.

4. *Technical Merit of Contribution.* Reviewers will consider the potential technical effectiveness of the proposal and the value it would contribute to the field of physics.

Each of these factors will be given equal weight in the evaluation process.

Award Period: For the Physics Laboratory Grant Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year project is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with that award. Continuation of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued relevance to the mission of the Physics Laboratory program, and the availability of funds. The multi-year awards must have scopes of work that can be easily separated into annual increments of meaningful work that represent solid accomplishments if prospective funding is not made available to the applicant, (i.e., the scopes of work for each funding period must produce identifiable and meaningful results in and of themselves).

Matching Requirements: The physics Laboratory Grants Program does not require any matching funds.

Application Kit: For the Physics Laboratory Grants Program, an application kit, containing all required application forms and certifications is available by contacting Ms. Anita Sweigert, (301) 975–4201.

MSEL Grants Program

Dates: The MSEL Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds. Each application must submit one signed original and two copies of each proposal along with a Grant Application, (Standard Form 424 REV. 7/97 and other required forms).

Addresses: For the MSEL Grants Program, submit one signed original and two copies of the proposal, clearly marked to identify the field of research, to: Materials Science and Engineering Laboratory, Attn: Ms. Marlene Taylor, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8501, Building 223, Room A305, Gaithersburg, Maryland 20899–8501, Tel: (301) 975–5653, E-mail: *marlene.taylor@nist.gov.*

Authority: The authority for the MSEL Grants Program is as follows: As authorized under 15 U.S.C. 272 (b) and (c), the MSEL conducts a basic and applied research directly and through grants and cooperative agreements to eligible recipients.

Program Description and Objectives: All proposals submitted to the MSEL Grants Program must be in accordance with the program objectives listed below. The appropriate Program Manager for each field of research may be contacted for clarification of the program objectives.

I. Ceramics Division, 852–The primary objective is to supplement division activities in the area of ceramic processing, tribology, composites, machining, interfacial chemistry, and microstructural analysis. The contact person for this division is: Dr. Ronald Munro and he may be reached at (301) 975–6127 or by e-mail at ronald.munro@nist.gov.

II. Polymers Division, 854—The primary objective is to support division programs in electronics materials, biomaterials, multiphase materials and processing characterization through participation in research on metrology, synthesis, processing and characterization of structure, mechanical, thermal and electrical properties. The contact person for this division is: Dr. Bruno Fanconi and he may be reached at (301) 975–6769 or by e-mail at bruno.fanconi@nist.gov.

III. Metallurgy Division, 855—The primary objective is to develop techniques to predict, measure and control transformation, phases, microstructure and kinetic processes as well as mechanical, physical and chemical properties in metals and their alloys. The contact person for this division is: Dr. Richard J. Fields and he may be reached at (301) 975–5712 or by e-mail at *richard.fields@nist.gov.*

IV. NIST Center for Neutron Research, 856—The primary objective is to develop high resolution cold and thermal neutron scattering research approaches and related physics, chemistry, macromolecular and materials applications. The contact person for this division is: Dr. John J. Rush and he may be reached at (301) 975–6231 or by e-mail at *john.rush@nist.gov.*

Eligibility: The MSEL Grants Program is open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian tribal governments; foreign governments; organizations under the jurisdiction of foreign governments; and international organizations.

Funding Availability: In fiscal year 2002, the MSEL Grants Program anticipates funding of approximately $2,500,000, including new awards and continuing projects. Most grants and cooperative agreements are expected to be in the $25,000 to $100,000 per year range.

Proposal Review Process: For the MSEL Grants Program proposals will be reviewed in a two-step process. First, at least three independent, objective individuals knowledgeable about the particular scientific area described in the section above that the proposal addresses will conduct a technical review of proposals, as they are received on a rolling basis, based on the evaluation criteria. Second, the Division Chief or Center Director will make application selections. In making applications selections, the Division

Chief or Center Director will take into consideration the results of the reviewer's evaluations, the compatibility of the applicant's proposal with the program objectives of the particular division or center that the proposal addresses, the availability of funds, and relevance to the objectives of the MSEL Grants Program. These objectives are described above in the "Program Objectives" section. The final approval of selected applications and award of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The decision of the Grants Officer is final.

Evaluation Criteria: For the MSEL Grants Program, the evaluation criteria the technical reviewers will use in evaluating the proposals are as follows:

1. *Rationality.* Reviewers will consider the coherence of the applicant's approach and the extent to which the proposal effectively addresses scientific and technical issues.
2. *Qualifications of Technical Personnel.* Reviewer will consider the professional accomplishments, skills, and training of the proposed personnel to perform the work in the project.
3. *Resources Availability.* Reviewers will consider the extent to which the proposer has access to the necessary NIST or other facilities and overall support to accomplish project objectives.
4. *Technical Merit of Contribution.* Reviewers will consider the potential technical effectiveness of the proposal and the value it would contribute to the field of materials science and engineering and neutron research.

Each of these factors will be given equal weight in the evaluation process.

Award Period: For the MSEL Grants Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year award is approved, funding will generally be provided for only the first year of the program. If an application is selected for funding, NIST has no obligation to provide any additional funding in connection with the award. Continuation of an award to increase funding or extend the period of performance is at the total discretion of NIST. Funding for each subsequent year of a multi-year proposal will be contingent upon satisfactory progress, continued relevance to the mission of the MSEL program, and the availability of funds. The multi-year awards must have scopes of work that can be easily separated into annual increments of meaningful work and represent solid accomplishment if prospective funding is not made available to the applicant, (i.e., the scopes of work for each funding period must produce identifiable and meaningful results in and of themselves).

Matching Requirements: The MSEL Grants Program does not require any matching funds.

Application Kit: For the MSEL Grants Program, an application kit, containing all required application forms and certifications is available by contacting Ms. Marlene Taylor, (301) 975–5653.

Fire Research Grants Program

Dates: The Fire Research Grants Program proposals must be received no later than the close of business September 30, 2002. Proposals received after June 30, 2002 will continue to be processed and considered for funding but may be funded in the next fiscal year, subject to the availability of funds.

Addresses: For the Fire Research Grants Program submit one signed original and two copies of the proposal to: Building and Fire Research Laboratory (BFRL), Attn.: Ms. Wanda Duffin, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8660, Gaithersburg, Maryland 20899–8660, Tel: (301) 975–6863, E-mail: *wanda.duffin@nist.gov*, Web site: *http://www.bfrl.nist.gov.*

Authority: As authorized by 15 U.S.C. 278f, the NIST Building and Fire Research Laboratory conducts directly and through grants and cooperative agreements, a basic and applied fire research program.

Program Description and Objectives: The program description and objectives for the Fire Research Grants Program are as follows:

A. *Analysis and Prediction:* The objectives are to develop understanding and predictive methods for dynamic fire phenomena to advance fire science and engineering practice and to perform research to understand the heat and mass transfer processes occurring in fires in order to improve predictions of the growth, spread, suppression, and emissions transport form fires of all scales. Experiments and metrology are developed and used to develop, support, and verify advanced computer simulations of fire phenomena, fire hazards, fire protection, and fire fighting. The contact person for this group is: Dr. Anthony Hamins, and he may be reached at (301) 975–6598.

B. *Fire Metrology:* The objective is to apply measurement science in the development and quantification of new and existing measurement methods for studying fire growth, fire-induced flows, flame radiation, smoke formation and dynamics, species production, heat transfer, fire suppression, and fire suppression, and fire detection. The contact person for this group is: Dr. George Mulholland, and he may be reached at (301) 975–6695.

C. *Fire Fighting Technology:* The objectives are to conduct research that enables advances in fire fighter safety, fire ground operations, and effectiveness of the fire service; develop and apply measurements, modeling and technology, and improve the understanding of the behavior, prevention and control of fires to enhance: Fire fighting operations and equipment, fire suppression, fire investigations, and disaster response; and provide input, including experimental data, fire modeling and test protocols, to advance the effectiveness of fire safety standards and codes. The contact person for this group is Mr. Nelson Bryner, and he may be reached at (301) 975–6868.

D. *Integrated Performance Assessment:* The objective is to produce tools utilizing enhanced data and prediction methods to quantify fire events for fire and hazard and risk assessment; for fire fighting operations and training; for fire investigations; and for performance evaluations of fire protection systems in buildings, transportation systems, and vehicles in response to fire. Stakeholders include architects and design engineers; manufacturers of building materials, products, and furnishings; code developers, enforcers, and regulatory authorities; and those exposed to direct risk such as building owners, occupants, the fire service, and the general public. The contact person for this group is: Dr. Kathy Notarianni, and she can be reached at (301) 975–6883.

E. *Materials and Products:* The objective is to perform research enabling the confident development by industry of new, less-flammable materials and products. This capability is based on understanding fundamentally the mechanisms that control the ignition, flame spread and burning rate of materials, as well as and the chemical and physical characteristics that affect these aspects of flammability. This includes: developing methods of measuring the response of a material to fire conditions that enable assured prediction of the full-scale performance of the final product; developing computational molecular dynamics and other mechanistic approaches to understand flame retardant mechanisms and the effects of polymer chemical structure on flammability; characterizing the burning rates of charring and non-charring polymers and composites; and delineating and modeling the enthalpy and mass transfer mechanisms of materials combustion. The contact person for this group is Dr. Jefferey Gilman, and he can be reached at (301) 975–6573.

Eligibility: The Fire Research Grants Program is open to institutions of higher education; hospitals; non-profit organizations; commercial organizations; state, local, and Indian tribal governments; foreign governments; organizations under the jurisdiction of foreign governments; and international organizations.

Funding Availability: For the Fire Research Grants Program, the annual budget is approximately $1.0 million. Because of commitments for the support of multi-year projects, only a portion of the budget is available to initiate new programs in any one year. Most grants and cooperative agreements are in the $10,000 to $100,000 per year range.

Proposal Review Process: Responsive proposals will be assigned, as received on a rolling basis, to the appropriate group leader of the five programs listed above in the program description and objectives. Proposals are evaluated for technical merit based on the evaluation criteria by at least three reviewers chosen from NIST professionals, technical experts from other interested government agencies, and experts from the fire research community at large. When non-Federal reviewers are used, reviewers may discuss the proposals with each other, but scores will be determined on an individual basis, not as a consensus. Group leaders will make funding recommendations to the Division Chief based on the technical evaluation score and the relationship of the work proposed to the objectives of the program.

In making application selections, the Division Chief will take into consideration the results of the evaluations, the scores of the reviewers, the group leader's recommendation, the availability of funds, and relevance to the objectives of the Fire Research Grants Program, as described in the Program Description and Objectives section for this program.

The final approval of selected applications and award of financial assistance will be made by the NIST Grants Officer based on compliance with application requirements as published in this notice, compliance with applicable legal and regulatory requirements, and whether the recommended applicants appear to be responsible. Applicants may be asked to modify objectives, work plans, or budgets and provide supplemental information required by the agency prior to award. The award decision of the Grants Officer is final. Applicants should allow up to 90 days processing time.

Evaluation Criteria: For the Fire Research Grants Program, the technical evaluation criteria are as follows:

a. *Technical quality of the research.* Reviewers will assess the rationality, innovation and imagination of the proposal and the fit to NIST's in-house fire research program. (0–35 points).

b. *Potential impact of the results.* Reviewers will assess the potential impact and the technical application of the results to our in-house programs and the fire safety community. (0–25 points)

c. *Staff and institution capability to do the work.* Reviewers will evaluate the quality of the facilities and experience of the staff to assess the likelihood of achieving the objective of the proposal. (0–20 points)

d. *Match of budget to proposed work.* Reviewers will assess the budget against the proposed work to ascertain the reasonableness of the request. (0–20 points)

Award Period: For the Fire Research Grants Program, proposals will be considered for research projects from one to three years. When a proposal for a multi-year project is approved, funding will initially be provided for only the first year of the program. If an application is selected for funding, DoC has no obligation to provide any additional future funding in connection with that award. Funding for each subsequent year of a multi-year proposal will be contingent on satisfactory progress, continuing relevance to the mission of the NIST Fire Research Program, and the availability of funds.

Matching Requirements: The Fire Research Grants Program does not require any matching funds.

Application Kit: For the Fire Research Grants Program, an application kit, containing all required application forms and certifications is available by contacting Ms. Wanda Duffin, (301) 975–6863, web site: *http://www.bfrl.nist.gov.*

Additional Information: The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917) are applicable to this solicitation. In addition, the following information is applicable to all programs described above.

Funding Availability: For all Financial Assistance programs listed above, awards are contingent on the availability of funds.

Catalog of Federal Domestic Assistance Name and Number: Measurement and Engineering Research and Standards—11.609.

FOR FURTHER INFORMATION CONTACT: All grants related administration questions concerning these programs should be directed to the NIST Grants and Agreements Management Division at (301) 975–6328.

Where websites are referenced within this notice, those without websites may contact the appropriate Program official to obtain information.

Initial Screening of All Applications

All applications received in response to this announcement will be reviewed to determine whether or not they are complete and responsive. Incomplete or non-responsive applications will not be reviewed for technical merit. The Program will retain one copy of each non-responsive application for three years for recordkeeping purposes. The remaining copies will be destroyed.

Fees and/or Profit

It is not the intent of NIST to pay fee or profit for any of the financial assistance awards that may be issued pursuant to this announcement.

Automated Standardized Application for Payment System (ASAP)

During FY 2002 and becoming mandatory in FY 2003, the Department of Commerce will begin using the Department of Treasury's ASAP. NIST began using the ASAP system in July 2001 and continues to establish new accounts in ASAP. Awards made pursuant to this announcement may contain the ASAP payment clause. In order to receive payments for services under these awards, recipients will be required to register with the Department of Treasury and indicate whether or not they will use the on-line voice response method of withdrawing funds from their ASAP established accounts. More information regarding ASAP can be found on-line at http://www.fms.treas.gov/asap/index.html.

Paperwork Reduction Act

The standard forms in the application kit involve a collection of information subject to the Paperwork Reduction Act. The use of Standard Forms 424, 424A, 424B, SF–LLL, and CD–346 have been approved by OMB under the respective

Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Research Projects Involving Human Subjects, Human Tissue, Data or Recordings Involving Human Subjects

Any proposal that includes research involving human subjects, human tissue, data or recordings involving human subjects must meet the requirements of the Common Rule for the Protection of Human Subjects, codified for the Department of Commerce at 15 CFR part 27. In addition, any proposal that includes research on these topics must be in compliance with any statutory requirements imposed upon the Department of Health and Human Services (DHHS) and other federal agencies regarding these topics, all regulatory policies and guidance adopted by DHHS, FDA, and other federal agencies on these topics, and all Presidential statements of policy on these topics.

On December 3, 2000, the U.S. Department of Health and Human Services (DHHS) introduced a new Federalwide Assurance of Protection of Human Subjects (FWA). The FWA covers all of an institution's Federally-supported human subjects research, and eliminates the need for other types of Assurance documents. The Office of Human Research Protections (OHRP) has suspended processing of multiple project assurance (MPA) renewals. All existing MPAs will remain in force until further notice. For information about FWAs, please see the OHRP website at http://ohrp.osophs.dhhs.gov/irbasur.htm.

In accordance with the DHHS charge, NISH will continue to accept the submission of human subjects protocols that have been approved by Institutional Review Boards (IRBs) possessing a current, valid MPA from DHHS. NIST also will accept the submission of human subjects protocols that have been approved by IRBs possessing a current, valid FWA or MPA from DHHS. NIST will not issue a single project assurance (SPA) for any IRB reviewing any human subjects protocol proposed to NIST.

On August 9, 2001, the President announced his decision to allow Federal funds to be used for research on existing human embryonic stem cell lines as long as prior to his announcement (1) The derivation process (which commences with the removal of the inner cell mass from the blastocyst) had already been initiated and (2) the embryo from the which the stem cell line was derived no longer had the possibility of development as a human being. NIST will follow guidance issued by the National Institutes of Health at *http://escr.nih.gov/* for funding such research.

Research Projects Involving Vertebrate Animals

Any proposal that includes research involving vertebrate animals must be in compliance with the National Research Council's "Guide for the Care and Use of Laboratory Animals" which can be obtained from National Academy Press, 2101 Constitution Ave, NW., Washington, DC 20055. In addition, such proposals must meet the requirements of the Animal Welfare Act (7 U.S.C. 2131 *et seq.*), 9 CFR parts 1, 2, and 3, and if appropriate, 21 CFR part 58. These regulations do not apply to proposed research using pre-existing images of animals or to research plans that do not include live animals that are being cared for, euthanased, or used by the project participants to accomplish research goals, teaching, or testing. These regulations also do not apply to obtaining animal materials from commercial processors of animal products or to animal cell lines or tissues from tissue banks.

Matching Funds

Although many of the programs described in this notice do not require cost share, if it is determined that your proposal falls within the authority of 19 U.S.C. 2543–45 cost share will be required as follows:

Pursuant to 19 U.S.C. 2543–45, financial assistance shall not exceed 75 percent of such program or activity, when the primary purpose of such program or activity is—

(1) To increase the awareness of proposed and adopted standards-related activities;

(2) To facilitate international trade through the appropriate international and domestic standards-related activities;

(3) To provide adequate United States representation in international standards-related activities; and

(4) To encourage United States exports through increase awareness of foreign standards-related activities that may affect United States exports.

Type of Funding Instrument

The funding instrument will be a grant or cooperative agreement, depending on the nature of the proposed work. A grant will be used unless NIST is "substantially involved" in the project, in which case a cooperative agreement will be used. A common example of substantial involvement is collaboration between NIST scientist and recipient scientists or technicians. Further examples are listed in section 5.03.d of Department of Commerce Administrative Order 203–26, which can be found at *http://www.osec.doc.gov/bmi/daos/203-26.htm*. NIST will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for contractual arrangements for services and products for delivery to NIST is not available under this announcement.

Indirect Costs

For the EEEL, MEL, CSTL, Physics, MSEL, BFRL, and ITL SURF Programs, no Federal funds will be authorized for Indirect Costs (IDC) nor fringe benefits; however, an applicant may provide for IDC and/or fringe benefits under his/her portion of Cost Sharing.

Classification

This funding notice was determined to be "not significant" for purposes of Executive Order 12866.

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Applications under these programs are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for notices relating to public property, loans, grants, benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice, 5 U.S.C. 601 *et seq.*

Dated: December 18, 2001.

Karen H. Brown,

Deputy Director, NIST.

[FR Doc. 01–31573 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801F]

Marine Mammals; File No. 1019–1657

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Daniel J. Cox, Natural Exposures, 16595 Brackett Creek Road, Bozeman, Montana 59715 has applied in due form for a permit to take Northern elephant seals (*Mirounga angustirostris*) for purposes of commercial/educational photography.

DATES: Written or telefaxed comments must be received on or before January 28, 2002.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Lynne Barre or Jill Lewandowski, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104 (c)(6) of the MMPA provides for photography permits for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a "pilot" application for Level B Harassment of non-listed marine mammals for photographic purposes.

The applicant proposes to take up to 60 Northern elephant seals by close approach during still photography activities for a National Geographic Magazine Photo Essay. Photography is proposed along the coast of California including San Simeon, Piedras Blancas, Ano Nuevo State Reserve, Point Reyes National Seashore and the Farallones and Channel Islands and will take place during January and February of 2002 and in January and February of 2003 as well if additional photos are needed.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: December 19, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–31833 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 120701A]

Marine Mammals; File No. 779–1633–00

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the Southeast Fisheries Science Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, FL 33149 (Principal Investigator: Dr. Keith D. Mullin) has been issued a permit to take marine mammals for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376;

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978) 281–9200; fax (978) 281–9371;

Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432; phone (727) 570–5301; fax (727) 570–5320.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On August 16, 2001, notice was published in the **Federal Register** (66 FR 42997) that a request for a scientific research permit to take marine mammals had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: December 19, 2001.

Ann D. Terbush,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–31834 Filed 12–26–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology Nomination Evaluation Committee (NMTNEC)

AGENCY: Technology Administration, U.S. Department of Commerce.

ACTION: Notice of Recruitment for Additional Members for NMTNEC.

SUMMARY: The Department of Commerce, Technology Administration (TA), requests nominations of individuals for appointment to the National Medal of Technology Nomination Evaluation Committee (NMTNEC). The Committee provides advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711) under the Federal Advisory Committee Act, 5 U.S.C. app. 2. Public Law 105–309; 15 U.S.C. 3711, Section 10, approved by the 105th Congress in 1998, added the National Technology Medal for Environmental Technology.

DATES: Please submit nominations within 30 days of the publication of this notice.

ADDRESSES: Submit nominations to the National Medal of Technology Program Office, Technology Administration, U. S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4226, Washington, DC 20230. Materials may be faxed to 202–501–8153.

FOR FURTHER INFORMATION CONTACT: Mildred Porter, Director, 202–482–5572.

SUPPLEMENTARY INFORMATION: The National Medal of Technology Nomination Evaluation Committee will be rechartered for a period of two years to provide advice to the Secretary on the implementation of Public Law 96–480 (15 U.S.C. 3711) under the Federal Advisory Committee Act, 5 U.S.C. app. 2. The Committee serves as an advisory body to the Under Secretary. Members are responsible for reviewing nominations and making recommendations for the Nation's highest honor for technological innovation, awarded annually by the President of the United States. Members of the Committee have an understanding of, and experience in, developing and utilizing technological innovation and/or they are familiar with the education, training, employment and management of technological human resources.

Under the Federal Advisory Committee Act, membership in a committee constituted under the Act must be balanced. To achieve balance, the Department is seeking additional nominations of candidates from small, medium-sized, and large businesses or with special expertise in the following subsectors of the technology enterprise:

- Biomedical/Pharmaceutical/Health
- Chemistry, product development
- Human Resources/education/technology management
- Other: industry analysts (including manufacturing, environmental technology, transportation, telecommunications)

Typically, Committee members are present or former Chief Executive Officers, former winners of the National Medal of Technology; presidents or distinguished faculty of universities; or senior executives of non-profit organizations. As such, they not only offer the stature of their positions but also possess intimate knowledge of the forces determining future directions for their organizations and industries. The Committee as a whole is balanced in representing geographical, professional, and diversity interests. Nominees must be U. S. citizens, must be able to fully participate in meetings pertaining to the review and selection of finalists for the National Medal of Technology, and must uphold the confidential nature of an independent peer review and competitive selection process.

The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse Committee membership.

Phillip J. Bond,

Under Secretary of Commerce for Technology, Technology Administration.

[FR Doc. 01–31839 Filed 12–26–01; 8:45 am]

BILLING CODE 3510-18-P

COMMISSION OF FINE ARTS

2002 National Capital Arts and Cultural Affairs Program

Notice is hereby given that Public Law 99–190, as amended, authorizing the National Capital Arts and Cultural Affairs Program, has been funded for 2002 in the amount of $7,000,000.00. All requests for information and applications for grants should be received by 31 December 2001 and addressed to: Charles H. Atherton, Secretary, Commission of Fine Arts, National Building Museum, Suite 312, 441 F Street, NW., Washington, DC 20001, Phone: 202–504–2200.

Deadline for receipt of grant applications is March 1, 2002.

This program provides grants for general operating support of organizations whose primary purpose is performing, exhibiting, and/or presenting the arts. To be eligible for a grant, organizations must be located in the District of Columbia, must be non-profit, non-academic institutions of demonstrated national repute, and must have annual incomes, exclusive of federal funds, in excess of one million dollars for each of the past three years.

Charles H. Atherton,

Secretary.

[FR Doc. 01–31693 Filed 12–26–01; 8:45 am]

BILLING CODE 6330-01-M

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 20 December 2001 at 10 am in the Commission's offices at the National Building Museum, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC, 20001–2728. Items of discussion affecting the appearance of Washington, DC, may include buildings, parks and memorials.

Draft agendas are available to the public one week prior to the meeting. Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated: Dated in Washington, DC, November 26, 2001.

Charles H. Atherton,

Secretary.

[FR Doc. 01–31692 Filed 12–26–01; 8:45 am]

BILLING CODE 6330-01-M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Funding Opportunity for AmeriCorps*VISTA Financial Asset Development Projects, Placements of AmeriCorps*VISTA Members, and Supervisory Grants; Correction

AGENCY: Corporation for National and Community Service.

ACTION: Notice; correction.

SUMMARY: The Corporation for National and Community Service published a document in the **Federal Register** of December 14, 2001, concerning its funding opportunity for AmeriCorps*VISTA financial asset development projects, AmeriCorps*VISTA member placements, and supervisory grants. The document contained incorrect information.

FOR FURTHER INFORMATION CONTACT: Mr. David Gurr, (202) 606–5000, Ext. 212.

VOL 66
ISS 248
DE 27 2001
UMI

Correction

In the **Federal Register** of December 14, 2001, in FR Doc. 01–30843, on page 64806, in the second column, under **SUMMARY**, paragraph 4. The entire paragraph is corrected to read as follows:

A total of up to 400 AmeriCorps*VISTA members may be allocated for placement. Applicant organizations will be expected to place no less than three (3) AmeriCorps*VISTA members per site. Under this announcement, small supervision grants for all sponsors selected for a supervisory grant of up to approximately $200,000 total, will be considered based on the size and scope of the project. Short-term, eight-to-ten week summer placements may also be requested under this announcement.

Dated: December 19, 2001.

Matt Dunne,

*Director, AmeriCorps*VISTA.*

[FR Doc. 01–31700 Filed 12–26–01; 8:45 am]

BILLING CODE 6050-$$-P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Notice 02–06: Albert Einstein Distinguished Educator Fellowship Program Administration

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Science of the U.S. Department of Energy (DOE) announces its interest in receiving grant applications for support to administer the Albert Einstein Distinguished Educator Fellowship Program. Applications should be from not-for-profit organizations that have experience in administering national programs. The purpose of the program is designed to provide outstanding elementary and secondary mathematics and science teachers the opportunity to bring to Congress and appropriate branches of the Federal government the insights, extensive knowledge, and practical experience of classroom teachers. As Albert Einstein Fellows, teachers can help to increase the understanding, communication, and cooperation between Congress, the Department of Energy, other Federal Agencies, and the mathematics and science education community.

DATES: To permit timely consideration for awards in FY 2002, formal applications in response to this notice should be received on or before January 30, 2002.

ADDRESSES: Completed formal applications referencing Program Notice 02–06 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 02–06. The above address must also be used when submitting applications by U.S. Postal Service Express, any other commercial mail delivery service or when hand carried by the applicant.

FOR FURTHER INFORMATION CONTACT: Cindy Musick, U.S. Department of Energy, Office of Science, SC–1 (FRSTL), 1000 Independence Avenue, SW., Washington, DC 20585. E-mail: *Cindy.Musick@science.doe.gov.*

SUPPLEMENTARY INFORMATION: The Albert Einstein Distinguished Educator Fellowship Act was signed into law in November 1994. The law gives the Department of Energy responsibility for administering the program of Distinguished Educator Fellowships for elementary and secondary school mathematics and science teachers. Selected teachers spend up to one year in a Congressional Office, the Department of Energy (DOE), or in one of several other participating agencies, including the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA), the National Institutes of Standards and Technology (NIST), the National Institutes of Health (NIH), the Department of Education (ED), or the White House Office of Science and Technology Policy (OSTP).

Administration of the Albert Einstein Distinguished Educator Fellowship program must include, but is not limited to, the following: (1) Advertise and market the program, which may include a website, electronic bulletin boards, educational journals, professional meetings, or through local, state and national alliances; (2) administer the application and review process, including responding to inquiries regarding the application process and conducting the review of all applications; (3) administer the interview process of semi-finalists who come to Washington, including travel and lodging logistics and interview arrangements with all participating agencies; (4) plan and organize the orientation of all new Fellows; (5) provide letters and news releases of Fellow appointments; (6) facilitate the 10-month fellowships, including coordinating all Hill interviews and placements, and planning professional development activities; (7) monitor the quality of each fellowship experience and provide evaluation of the program to the Department; and (8) prepare and submit an annual report to the Department and to the Congress, as directed by the legislation.

It is anticipated that the funding level for FY 2002 will be up to $460,000. Contingent upon the availability of appropriated funds, DOE expects to make one grant in FY 2002 to meet the objectives of this program. Multiple year funding of this grant is expected, ranging from $450,000 to $500,000 per year for up to a five-year project period, with funding provided on an annual basis subject to availability of funds.

Merit Review

Applications will be subjected to a scientific merit review and will be evaluated against the following criteria, which are listed in descending order of importance as set forth in 10 CFR Part 605:

1. Educational benefits of the Project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605 which is available on the World Wide Web at: *http://www.science.doe.gov/production/grants/grants.html*. DOE is under no obligation to pay for any costs associated with the preparation or submission of applications if an award is not made.

The Catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC on December 17, 2001.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–31716 Filed 12–26–01; 8:45 am]

BILLING CODE 6450-02-U

DEPARTMENT OF ENERGY

Office of Science; Office of Biological and Environmental Research; Recommendations for Sequencing Targets in Support of the Microbial Genome Program and the Genomes to Life Program

AGENCY: U.S. Department of Energy (DOE).

ACTION: Recommendations for sequencing targets.

SUMMARY: This **Federal Register** Notice seeks the input and nominations of interested parties for candidate microbes and candidate microbial communities, for draft genomic sequencing in support of the Microbial Genome Program (MGP) and the Genomes to Life (GTL) Program. Candidate microbes and microbial communities should be relevant to DOE mission needs, e.g., microbes involved in environmental processes, including waste remediation, carbon management, energy production, and biodefense. This announcement is not an offer of direct financial support for research on these microbes. Those nominations selected will result in the DNA sequence of selected microbes being determined at a draft level (6–8 X coverage) at the DOE Production Genomics Facility (PGF) at the Joint Genome Institute (JGI), (*http://www.jgi.doe.gov*). This announcement is designed to assist DOE in determining and prioritizing a list of microbes, or microbial consortia that address DOE mission needs. Following merit review, and subject to the availability of funding and programmatic relevance, draft sequencing will be carried out at the PGF.

DATES: To assure consideration, nominations in response to this notice should be received by 4:30 p.m. (EST), March 28, 2002, to be accepted for merit review. It is anticipated that review will be completed early in the summer of 2002 with draft sequencing at the DOE PGF to commence later in 2002, but not before high quality DNA has been provided.

ADDRESSES: Written nominations responding to this notice should be sent to Dr. Daniel W. Drell, Office of Biological and Environmental Research, SC–72, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290; e-mail is acceptable for submitting nominations using the following addresses: *joanne.corcoran@science.doe.gov* and *daniel.drell@science.doe.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, SC–72, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, phone: (301) 903–4742, e-mail: *daniel.drell@science.doe.gov*. The full text of this notice is available via the Internet using the following Web site addresses: *http://doegenomestolife.org* and *http://www.sc.doe.gov/ober/microbial.html*.

SUPPLEMENTARY INFORMATION: The MGP supports key DOE business areas by providing and analyzing microbial DNA sequence information to further the understanding and application of microbiology relating to energy production, chemical and materials production, environmental carbon management, environmental cleanup, and biodefense. The GTL Program builds on the successes of the DOE Human Genome Program (HGP) by seeking to understand biological functioning with emphases on identifying the multi-component protein complexes in cells, characterizing gene regulatory networks, probing the functional capabilities of the environmental microbial repertoire of genes, and beginning to model these processes computationally. A major goal is to support research on microbes that address DOE Office of Biological and Environmental Research (BER) missions and programs. Relevant BER programs may include Terrestrial and Ocean Carbon Sequestration, the Natural and Accelerated Bioremediation Research (NABIR) Program, the Biotechnological Investigation of Ocean Margins Program (BI–OMP), the Microbial Genome Program (MGP), the Genomes to Life (GTL) program, and the National Nuclear Security Administration's Chemical and Biological National Security Program.

These programs are natural outgrowths of past and current BER Programs, including DNA sequencing from the HGP, structural biology studies utilizing BER-supported facilities at synchrotron and neutron sources located at DOE laboratories, and molecular microbiological research supported by BER environmental programs. These programs benefit from, and provide new scientific challenges to, the DOE national laboratories, the DOE and National Institutes of Health (NIH) Human Genome Centers, the U. S. Department of Agriculture (USDA), the National Science Foundation (NSF), the National Center for Biotechnology Information (NCBI) at the NIH, and the capabilities of universities and non-profit organizations.

Over the last 5 years, sequencing of a range of microorganisms that live in a wide diversity of environments has provided considerable information base for scientific research related not only to DOE missions, but also to other federal agency missions and U.S. industry. (*http://www.tigr.org/tdb/mdb/mdbcomplete.html http://www.ornl.gov/microbialgenomes/organisms.html* and *http://www.jgi.doe.gov/JGI_microbial/html/*). Nonetheless, most of our current knowledge of microbiology still is derived from individual species that either cause diseases or grow easily and readily as monocultures under laboratory conditions and are thus easy to study. The preponderance of species in the environment remains largely unknown to science. Most are thought to grow as part of interdependent consortia in which one species supplies a nutrient necessary for the growth of another. Virtually nothing is known of the organization, membership, or functioning of these consortia, especially those involved in environmental processes in which DOE is interested.

A related issue emerging from genome sequence analyses is the need to develop a better understanding of relatedness or phylogeny using genomics as a tool. Genomic analyses of sequenced microbes have suggested that processes such as lateral gene transfers early in the evolutionary history of some microbial "species" have blurred this understanding, and therefore the phylogeny, among microorganisms that had been thought to have known relationships. For this notice, groups of microbes that are thought to have a species relationship can be proposed to explore what the concept of a microbial species entails and how much sequence divergence defines different species.

Genomic analyses of microbial consortia, and of those species that have proven refractory to laboratory culture, but are either plentiful in environments challenged with chemical contamination, metals, and/or radionuclide wastes, or involved in carbon sequestration are badly needed. These are expected to be the most challenging studies. The candidate(s) must mediate or catalyze metabolic events of energy or environmental importance. Priority will be given to studies on those microbes or microbial consortia that can bioremediate metals and radionuclides, that can degrade significant biopolymers such as celluloses and lignins, or that produce potentially useful energy-related materials (H_2, CH_4, ethanol, etc.), or that

VOL 66 ISS 248 DE 27 2001 UMI

are involved in environmental carbon management, e.g., fix or sequester CO_2.

An additional interest of this notice is microbes that are phylogenetically related to potential biowarfare (BW) threat agents. The Centers for Disease Control and Prevention defines three categories of BW threats (see at *http://www.bt.cdc.gov/Agent/Agentlist.asp*). DOE encourages nominations to sequence microbes or groups of microbes related to the category A and B agents.

For this notice, candidate microorganisms, either individual microbes, groups of microbes, or a consortia of microbes, for draft sequencing can comprise archaea, bacteria, fungi or eukaryotic microbes with genome sizes <60 Mbp, or communities made up of these same types of microbes. For a current list of microbes that have been and are being sequenced see *http://www.ornl.gov/microbial genomes/organisms.html.*

Aims: This request for nominations of candidate microbial sequencing targets has two broad foci:

(1) *Single culturable organisms.* The criteria that will be used to evaluate proposed candidates for draft sequencing will include:

(a) The candidate is likely to have significant relevance to the DOE missions noted above;

(b) The genome size and structure are known;

(c) The source of genomic DNA (i.e., strain or isolate, and researcher) is identified;

(d) A brief description of post sequencing follow-up work (e.g., a data use plan and how will data be annotated to enable rapid and open use) is included;

(e) The availability of a DNA/gene transfer system supporting genetic analyses is known;

(f) Biological novelty or uniqueness (i.e., unusual genetically determined characteristics pertinent to DOE missions) is described;

(g) Place in the currently understood, 16s RNA based, "Tree of Life" is identified, e.g., is the proposed candidate in a sparsely populated or more heavily populated section of the tree?

(h) A brief description of the user community is given;

(i) The potential impact on the scientific community is large;

(j) Explicit commitment to data-release policy given below is provided.

(2) *Currently unculturable or hard-to-culture microbes and environmental consortia.* The review criteria that will be used to evaluate proposed candidates for draft sequencing will include most of the criteria listed above for single culturable organisms (with less emphasis on genome size/structure, presence/absence of a genetic system, or position in the "Tree of Life" since it is recognized that few data on these attributes will be available), but in addition, the following considerations will be included:

(a) Some measure of the "complexity" of the target community is proposed, e.g., approximate number of species, size(s) of genomes, and proportions of different community members (it is understood that in most cases, only estimates of these parameters may be available);

(b) Past attempts to cultivate community members are described, e.g., have any members of this community been successfully cultured;

(c) Some spatial/temporal/geochemical characterization of the environment is given, e.g., the physicochemical parameters of the site from which the selected community is derived; a description of the site contaminants; the accessibility of the site for future sampling; the adequacy of site documentation;

(d) If proposed, technical approaches and technology development specific for defining and isolating members of a given community are described;

(e) Some indication of the biological function of the consortial relationships where available along with a discussion of the scientific and programmatic importance of understanding these relationships;

(f) Information where available about the phylogenetic affinities of the members of the consortia and what is known about the closely related organisms.

(g) Available informatics tools and annotation plan (e.g. for annotating genes from a community analysis or grouping identified genes into a putative "community phenotype" within the chosen environment).

Usual and customary practice is for the JGI to put all sequencing data up on its web site (*http://www.jgi.doe.gov/*) at frequent and periodic intervals. DOE expects that the Principal Investigators (PI) will collaborate with the JGI and assist in annotating the draft sequence data. Following data acquisition and annotation, DOE expects that those whose nominations have been sequenced will make good faith efforts to publish in the open scientific literature the results of their subsequent work, including both the genome sequences of microbes sequenced under this notice as well as the annotation. These parties are encouraged to create process- and cost-effective partnerships that will maximize data production and analysis, data dissemination, and progress towards understanding basic biological mechanisms that can further the aims of this effort. Additionally, it must be explicitly understood that DOE will provide an assembled and computationally annotated "draft" (roughly 8 x; carried out in a paired-end sequencing approach) sequence of the microbe(s) selected, but that research using that sequence data should be funded from separate sources and/or separate solicitations. This draft sequence is provided, without use restrictions, to the scientific community at large for any and all subsequent research purposes. (DOE data release requirements, a condition of any award, are available at: *http://www.sc.doe.gov/ober/EPR/data.html*)

Submission Information: Interested parties should submit a brief white paper, consisting of not more than 5 pages of narrative exclusive of attachments (which are discouraged) responding to the criteria set forth above. It is expected that the PI will serve as the main point of contact for additional information on the nominated microbe. Nominations must contain a very short abstract or project summary and a cover page with the name of the applicant, mailing address, phone, fax, and e-mail. The nomination should include 2-page curriculum vitae of the key investigators; letters of intent from collaborators (suggesting the size of the interested community) are permitted.

Nominations will be reviewed relative to the scope and research needs of the BER Microbial Genome and Genomes to Life Programs. A brief response to each nomination will be provided following merit and programmatic reviews.

Other useful web sites include:

Microbial Genome Program Home Page—*http://www.sc.doe.gov/ober/microbial.html*

DOE Joint Genome Institute Microbial Web Page—*http://www.jgi.doe.gov/JGI_microbial/html/*

GenBank Home Page—*http://www.ncbi.nlm.nih.gov/*

Human Genome Home Page—*http://www.ornl.gov/hgmis*

DOE Genomes to Life—*http://DOEGenomestoLife.org*

DOE Natural and Accelerated Bioremediation Research (NABIR) Program—*http://www.lbl.gov/nabir*

Biotechnology Investigations—Ocean Margins Program—*http://www.sc.doe.gov/ober/GC/omp.html*

Chemical and Biological National Security Program— *http://www.nn.doe.gov/cbnp/*

Issued in Washington, DC.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 01–31717 Filed 12–26–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–34–000] and Ameren Energy Resources Company; Notice of Filing

Central Illinois Public Service Company

December 19, 2001.

Take notice that on December 13, 2001, Central Illinois Public Service Company (AmerenCIPS) and Ameren Energy Resources Company (Resources Company) (collectively, the Applicants) filed with the Federal Energy Regulatory Commission an application for an order pursuant to section 203 of the Federal Power Act authorizing AmerenCIPS to transfer to Resources Company its 20% common stock interest in Electric Energy, Inc. (EEInc.).

The Applicants state that the transaction simply involves an internal reorganization within Ameren Corp. and will not have an adverse effect on competition, will not have an adverse effect on rates, and will not have an adverse effect on competition.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-filing" link.

Comment Date: January 9, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31685 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–121–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

December 19, 2001.

Take notice that on December 11, 2001, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain revised tariff sheets listed on Appendix A to the filing, with a proposed effective date of January 1, 2002.

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage services purchased from Columbia Gas Transmission (Columbia) under its Rate Schedules SST and FSS. The costs of the above referenced storage service comprises the rates and charges payable under ESNG's respective Rate Schedule CFSS. This tracking filing is being made pursuant to section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31689 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–122–000]

Kinder Morgan Interstate Gas Transmission, LLC; Notice of Reconciliation Report

December 19, 2001.

Take notice that on December 13, 2001, Kinder Morgan Interstate Gas Transmission, LLC, (KMITG) tendered for filing its annual reconciliation filing pursuant to section 35 (Crediting of Imbalance Revenue) of its General Terms and Conditions of its FERC Gas Tariff, Fourth Revised Volume No. 1–B.

KMIGT states that it has served copies of its filing upon all jurisdictional customers, interested State Commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31690 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–025]

PG&E Gas Transmission, Northwest Corporation; Notice of Negotiated Rates

December 19, 2001.

Take notice that on December 12, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Substitute Seventeenth Revised Sheet No. 7 and Substitute Third Revised Sheet No. 7B. GTN requests that these substitute tariff sheets become effective November 1, 2001.

GTN states that these sheets are being filed to reflect the implementation of one negotiated rate agreement.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31686 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–32–000]

Texas-New Mexico Power Company; Notice of Filing

December 19, 2001.

Take notice that on December 14, 2001, Texas-New Mexico Power Company filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities, whereby Texas-New Mexico Power Company proposes to sell to Tri-State Transmission and Generation Cooperative Association, Inc. 7.06 circuit miles of 115 kV transmission facilities located in Hidalgo County, New Mexico. The proposed sale will be a cash sale.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link.

Comment Date: January 11, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31684 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–120–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

December 19, 2001.

Take notice that on December 11, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which sheets are enumerated in Appendix A attached to the filing. The proposed effective dates of such tariff sheets are indicated on Appendix A.

Transco states that the purpose of the instant filing is to track rate changes attributable to: (1) Storage service purchased from Dominion Transmission, Inc. (Dominion) under its Rate Schedule GSS, the costs of which are included in the rates and charges payable under Transco's Rate Schedules GSS and LSS, and (2) storage service purchased from Texas Eastern Transmission Corporation (TETCO) under its Rate Schedule X–28, the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2. This filing is being made pursuant to tracking provisions under section 3 of Transco's Rate Schedule GSS, section 4 of Transco's Rate Schedule LSS and section 26 of the General Terms and Conditions of Transco's Third revised Volume No. 1 Tariff.

Transco states that included in Appendices B and C attached to the filing are the explanations of the rate changes and details regarding the computation of the revised GSS, LSS and S–2 rates.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31688 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–123–000]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Cash-Out Report

December 19, 2001.

Take notice that on December 14, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing pursuant to Article 9.8(d) of the General Terms and Conditions of its FERC Gas Tariff, its report of net revenue received from cash-outs. Williams proposes to make the refund upon Commission approval of its calculation method as set out in this report.

Williams states that pursuant to the cash-out mechanism in Article 9.8(a)(iv) of its FERC Gas Tariff, Shippers were given the option of resolving their imbalances by the end of the calendar month following the month in which the imbalance occurred by cashing-out such imbalances at 100% of the spot market price applicable to Williams as published in the first issue of Inside FERC's Gas Market Report for the month in which the imbalance occurred. Net monthly imbalances which were not resolved by the end of the second month following the month in which the imbalance occurred and which exceeded the tolerance specified in Article 9.8(b) were cashed-out at a premium or discount from the spot price according to the schedules set forth in Article 9.8(c). Williams is herewith filing its report of net revenue (sales less purchase cost) received from cash-outs.

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before December 26, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31691 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–39–001 and RP00–484–002]

Wyoming Interstate Company, Ltd; Notice of Compliance Filing

December 19, 2001.

Take notice that on December 12, 2001, Wyoming Interstate Company, Ltd (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, the following tariff sheets to become effective November 1, 2000:

First Revised Third Revised Sheet No. 41
First Revised Sheet No. 41A
First Revised Sheet No. 41B

WIC states that the filing is being submitted to revise its imbalance netting and trading tariff provisions and bring its tariff into compliance with the requirements of Order Nos. 587–G and 587–L.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31687 Filed 12–26–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:20 p.m. on Thursday, December 20, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and resolution activities.

In calling the meeting, the Board determined, on motion of Director John M. Reich (Appointive), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Director James E. Gilleran (Director, Office of Thrift Supervision), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the Government in the Sunshine Act, (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: December 21, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–31954 Filed 12–21–01; 1:07 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Fee for Services To Support FEMA's Offsite Radiological Emergency Preparedness (REP) Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: In accordance with regulations FEMA has established a Fiscal Year (FY) 2002 hourly rate of $36.71 for assessing and collecting fees from Nuclear Regulatory Commission (NRC) licensees for services provided by FEMA personnel for FEMA's REP Program.

DATES: This user fee hourly rate is effective for FY 2002 (October 1, 2001, to September 30, 2002).

FOR FURTHER INFORMATION CONTACT: Mr. Russell Salter, Division Director, Technological Hazards Division, Readiness, Response, and Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3030 (phone), or (email) russ.salter@fema.gov.

SUPPLEMENTARY INFORMATION: As authorized by Public Law 105–276, 112 Stat. 2461, FEMA we will charge an hourly user fee rate of $36.71 to NRC licensees of commercial nuclear power plants for all REP Program site-specific related services provided by FEMA personnel as described in 44 CFR Part 354. FEMA will deposit these funds in the REP Program Fund to offset the actual costs by FEMA for its REP Program.

FEMA established the hourly rate on the basis of the methodology set forth in 44 CFR 354.4(b), "Determination of site-specific biennial exercise related component for FEMA personnel," and will use the rate to assess and collect fees for site-specific biennial exercise related services rendered by FEMA personnel. This hourly rate only addresses charges to NRC licensees for services that FEMA personnel provide under the site-specific component, not charges for services FEMA personnel provide under the flat fee component referenced at 44 CFR 354.4(d), nor for services that FEMA contractors provide. We will charge for FEMA contractors' services in accordance with 44 CFR 354.4(c) and (d) for the recovery of appropriated funds obligated for the Emergency Management Planning and Assistance (EMPA) portion of FEMA's REP Program budget.

Kenneth S. Kasprisin,

Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–31702 Filed 12–26–01; 8:45 am]

BILLING CODE 6718–06–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 18, 2002.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. *Signature Bancorp, Inc.*, Toledo, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Signature Bank, National Association, Toledo, Ohio (in formation).

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Macatawa Bank Corporation*, Holland, Michigan; to merge with Grand Bank Financial Corporation, Grand Rapids, Michigan, and thereby indirectly acquire Grand Bank, Grand Rapids, Michigan.

2. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to merge with Richfield State Agency, Inc., Richfield, Minnesota, and thereby indirectly acquire Richfield Bank & Trust Company, Richfield, Minnesota.

C. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Northern Plains Investment, Inc.*, Jamestown, North Dakota; to retain an additional 1.68 percent, for a total of 45.01 percent, of the voting shares of North Star Holding Company, Inc., Jamestown, North Dakota, and thereby indirectly retain additional voting shares of Stutsman County State Bank, Jamestown, North Dakota.

2. *Odin Bancshares, Inc.*, Odin, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Odin State Bank, Odin, Minnesota.

Board of Governors of the Federal Reserve System, December 19, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31695 Filed 12–26–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 011 0057]

Diageo plc, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 21, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Joseph Brownman, FTC, Bureau of Competition, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2605.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to ceas4e and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 19, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/12/index.htm*. A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov*. Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

II. The Parties and the Transaction

Proposed Respondent Diageo is a public limited company organized, existing and doing business under and by virtue of the laws of the United Kingdom with its office and principal place of business located at 8 Henrietta Place, London, England W1A 9AG. In the United States Diageo's operates a distilled spirits business through a wholly-owned subsidiary corporation, GuinnessUDV North America, Inc., whose offices are located at Six Landmark, Square, Stamford, Connecticut 06901.

Proposed Respondent Vivendi is a societe anonyme organized, existing and doing business under and by virtue of the laws of France, with its office and principal place of business located at 42, avenue de Friedland, 75380 Paris Cedex 08, France. In the United States, Respondent Vivendi operates a distilled spirits business through Joseph E. Seagram & Sons, Inc., a wholly-owned subsidiary corporation whose offices are located at 375 Park Avenue, New York, New York 10152–0192.

Third party Pernod Ricard is a societe anonyme organized, existing and doing business under any by virtue of the laws of France, with its office and principal place of business located at 142 Boulevard Haussmann, 75379 Paris, France. In the United States, Pernod Ricard operates a distilled spirits business through Austin, Nichols & Co., Inc., a wholly-owned subsidiary corporation whose offices are located at 156 East 46th Street, New York, New York.

On December 19, 2000, Diageo, Pernod Ricard, and Vivendi entered into an agreement for Diageo and Pernod Ricard jointly to acquire Seagram. The value of the transaction is $8.15 billion. Diageo and Pernod Ricard had previously agreed that if their joint bid to acquire Seagram were successful, they would split the Seagram assets between them. Under their Framework Agreement, Diageo would pay $5 billion for its share of the Seagram assets and Pernod Ricard would pay $3.15 for the remaining share of Seagram.

Among the distilled spirits brands that Diageo and Pernod Ricard agreed would be acquired and held by Diageo were Captain Morgan Original Spiced Rum and Captain Morgan's Parrot Bay Rum. Among the distilled spirits brands that Diageo and Pernod Ricard agreed would be acquired and held by Pernod Ricard were Seagram's Gin, Chivas Regal Scotch, the Glenlivet Scotch, and Martell Cognac.

Under the terms of the proposed transaction, Pernod Ricard will acquire Seagram's Gin, Chivas Regal Scotch, the Glenlivet Scotch, and Martell Cognac brands. These are brands that Diageo should not acquire because doing so would be anticompetitive. Also, Diageo will acquire Joseph E. Seagram & Sons, Inc., which is the Vivendi entity responsible for marketing all the Seagram-owned brands in the United States. For this reason, commercially sensitive information about Segram's Gin, Chivas Regal Scotch, the Glenlivet Scotch, and Martell Cognac—information that Diageo should not acquire for competitive reasons—could remain with Joseph E. Seagram & Sons, Inc. and wind up in Diageo's possession.

Also, under the terms of the proposed transaction, Diageo will continue to operate, for up to one year, a "back office" administrative operation for Pernod Ricard in connection with the Seagram brands that Pernod Ricard will be acquiring. Here too, as the transaction was originally structured by the parties, Diageo could acquire and learn commercially sensitive information about Seagram's Gin, Chivas Regal Scotch, the Glenlivet Scotch, and Martell Cognac. The proposed transaction also provides that for up to one year, under a co-packing arrangement, Diageo will bottle for Pernod some of the Seagram's Gin and Scotch products sold in the United States.

III. The Proposed Complaint

According to the Draft Complaint that the Commission intends to issue, Diageo and Vivendi compete in the United States in connection with the distribution and sale of the following distilled spirits markets: (a) Premium rum, (b) popular gin, (c) deluxe Scotch, (d) single malt Scotch, and (e) Cognac.

The Commission is concerned that the proposed transaction would eliminate substantial competition between Diageo and Vivendi in each relevant market, and result in higher prices. The Commission stated it has reason to believe that the proposed transaction would have anticompetitive effects and violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act.

IV. The Commission's Competitive Concerns

A. Premium Rum

Total United States sales at retail of all premium rum products are about $1 billion. In this market, Bacardi USA, with its Bacardi Light and Bacardi Limon products, is the largest competitor with about a 54% share, Seagram, with its Captain Morgan Original Spiced Rum and Captain Morgan's Parrot Bay Rum products, has about a 33% share, and Diageo, with its Malibu Rum, has about an 8% share. After the proposed acquisition, Diageo and Bacardi USA together would have

VOL 66 ISS 248 DE 27 2001 UMI

a combined market share of about 95% in the premium rum market in the United States. The proposed acquisition will increase the Herfindahl-Hirschman Index ("HHI") (the customary measure of market concentration) in the premium rum market by about 500 points, and result in market concentration of about 4600 points.

B. Popular Gin

Total United States sales of all popular gin products at retail are about $650 million. In this market, Diageo, through its ownership and marketing of Gordon's Gin (and interest in Gilbey's Gin), is the nation's second largest competitor, with about a 34% share, and Vivendi, through its ownership and marketing of Seagram's Gin (and interest in Burnett's White Satin Gin), is the nation's largest competitor, with about a 66% share. After the proposed transaction, Diageo will have access to highly sensitive commercial business information about Seagram's Gin, its principal competitor. Were Diageo actually to acquire Seagram's Gin, it would have a market share of (or have a financial interest in) close to 100% of the popular gin market in the Untied States. Such an acquisition would increase the HHI by about 4500 points, and result in market concentration of about 10,000 points.

C. Deluxe Scotch

Total United States sales of all deluxe Scotch products at retail are about $450 million. In this market, Diageo, with its Johnnie Walker Black Scotch, is the nation's largest competitor, with about a 51% share, and Vivendi, with its Chivas Regal Scotch, is the nation's second largest competitor, with about a 49% share. After the proposed transaction, Diageo will have access to highly sensitive commercial business information about Chivas Regal Scotch, its principal competitor. Were Diageo actually to acquire Chivas Regal Scotch, it would have a market share of close to 100% of the deluxe Scotch market in the United States. Such an acquisition would increase the HHI by about 5,000 points, and result in market concentration of about 10,000 points.

D. Single Malt Scotch

Total United States sales of all single malt Scotch products at retail are about $250 million. In this market, Diageo, with its Oban, Lagavulin, Dalwhinnie, Cardhu, Talisker, Cragganmore, Knocando, Glenkinchie, and Glen Ord brands, is the nation's fourth largest competitor, with about a 6% share, and Vivendi, with it's The Glenlivet Scotch product, is the nation's largest competitor with about a 26% share. After the proposed transaction, Diageo will have access to highly sensitive commercial business information about The Glenlivet Scotch. Were Diageo actually to acquire The Glenlivet Scotch, it would have a market share of about 32% in the single malt Scotch market in the United States. Such an acquisition would increase the HHI by about 300 points, and result in market concentration of about 2,000 points.

E. Cognac

Total United States sales of all Cognac products at retail are about $1 billion. In this market, Diageo, with its Hennessy brand, is the largest competitor with about a 54% share, and Vivendi, with its Martell product, is the third largest competitor with about a 9% share. After the proposed transaction, Diageo will have access to highly sensitive commercial business information about Martell Cognac. Were Diageo actually to acquire Martell Cognac, it would have a market share of about 63% of the Cognac market in the United States. Such an acquisition would increase the HHI by about 900 points, and result in market concentration of about 4,600 points.

V. The Proposed Consent Order

A. The premium rum market

The Proposed Consent Order, if finally issued by the Commission, would settle all of the charges alleged in the Commission's Draft Complaint. Under the terms of the Proposed Consent Order, Diageo will be required to divest its Malibu rum business, worldwide, to an acquirer that is acceptable to the Commission.

Diageo will be required to complete the mandated divestiture within six (6) months from the date it (together with Pernod) acquires Seagram. In the event that Diageo does not complete the required divestiture in the time allowed, the Commission will appoint a trustee to sell the assets. The Proposed Consent Order empowers the trustee to sell such additional assets as may be necessary to assure the marketability, viability, and competitiveness of the businesses that are required to be divested. Pending Diageo's divestiture of the Malibu rum business to a Commission-approved acquirer, and to prevent competitive harm pending the divestiture and to ensure that the assets required to be divested will remain a competitively viable business, the Commission has appointed Theodore F. Martens of PricewaterhouseCoopers LLP as an interim monitor. Among other things, the monitor will ensure that during the period of time that Diageo will own both the Malibu and Captain Morgan rum businesses, it will manage them separately.

B. The popular Gin, deluxe Scotch, single malt Scotch, and Cognac markets

Under the terms of the Proposed Consent Order, Diageo will be prevented from obtaining or using any commercially sensitive business information relating to Seagram's Gin, Chivas Regal Scotch, The Glenlivet Scotch, or Martell Cognac. To ensure that this will not occur, Diageo has agreed to the following procedures.:

First, to ensure that Diageo will not acquire pre-existing competitively sensitive information about Seagram's Gin, Chivas Regal Scotch, The Glenlivet Scotch, and Martell Cognac, Vivendi will hire an independent consultant to identify and segregate those materials. This will prevent Diageo from seeing the competitively sensitive business information in the materials that Diageo will be acquiring.

Second, Diageo will implement a series of firewalls to keep confidential information from the back office operation it will be operating in part for the benefit of Pernod, or confidential information that Diageo will learn because of its co-packing arrangement, from getting into the hands of Diageo marketing personnel.

C. The Order To Hold Separate and Maintain Assets

Accompanying the Proposed Consent Order is an Order to Hold Separate and Maintain Assets. This order requires Diageo to preserve and maintain the Seagram Captain Morgan rum assets as a separate competitive entity pending the divestiture of the Malibu assets. This will ensure that there will be no interim harm to competition pending the divestiture by Diageo of the Malibu assets during the period (maximum of six months) that Diageo will be the owner of both Malibu Rum and Captain Morgan Rum.

The Order to Hold Separate and Maintain Assets also requires Diageo to preserve and maintain the competitive viability of the Malibu assets, pending their divestiture. This will ensure that the competitive value of these assets will be maintained after Diageo acquires the Seagram rum assets but before the Malibu Rum assets are actually divested.

VI. The Opportunity for Public Comment

The Proposed Consent Order has been placed on the public record for thirty (30) days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the Consent Order in the agreement.

By accepting the Proposed Consent Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Draft Complaint will be resolved. The purpose of this analysis is to invite and facilitate public comment concerning the Proposed Consent Order. It is not intended to constitute an official interpretation of the Proposed Consent Order, nor is it intended to modify the terms of the orders in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–31778 Filed 12–26–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 011 0141]

Valero Energy Corporation, et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 18, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments filed in electronic form should be directed to: *consent agreement@ftc.gov,* as prescribed below.

FOR FURTHER INFORMATION CONTACT: Peter Richman, FTC, Bureau of Competition, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, (202) 326–2563.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat, 721, 15 U.S.C. 46(f), and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 18, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/12/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "condfidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consent agreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to aid Public Comment

I. Introduction

The Federal Trade Commission ("Commission" or "FTC") has issued a complaint ("Complaint") alleging that the proposed merger of Valero Energy Corporation ("Valero") and Ultramar Diamond Shamrock Corporation Corporation ("Ultramar") (collectively "Respondents") would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and has entered into an agreement containing consent orders ("Agreement Containing Consent Orders") pursuant to which Respondents agree to be bound by a proposed consent order that requires divestiture of certain assets ("Proposed Consent Order") and a hold separate order that requires Respondents to hold separate and maintain certain assets pending divestiture ("Hold Separate Order"). The Proposed Order remedies the likely anticompetitive effects arising from Respondent's proposed merger, as alleged in the Complaint. The Hold Separate Order preserve competition pending divestiture.

II. Description of the Parties and the Transaction

Valero, headquartered in San Antonio, Texas, is an independent domestic refining company. Valero is engaged in national refining, transportation, and marketing of petroleum products and related petrochemical products. Valero reported 2000 net income of $611 million on revenues of nearly $15 billion. Valero's revenues are generated almost exclusively in the United States from seven fuel refineries.

Ultramar is an independent North American refining and marketing company also headquartered in San Antonio, Texas. It is primarily engaged in the refining, marketing and transportation of petroleum products and petrochemicals. Ultramar reported 2000 net earnings of $444 million on operating of $17.1 billion. Ultramar operates seven refineries in the United States and Canada with a total throughput of 850,000 barrels per day, marketed through a network of over 5,000 branded retail stations.

Pursuant to and agreement an plan of merger dated May 6, 2001, Valero proposed to merge with Ultramar in a transaction valued at approximately $6 billion. Valero intends to acquire 100% of the voting stock of Ultramar. As a result of the merger, Valero will be one of the largest refiners in the United States.

III. The Investigation and the Compliant

The Complaint alleges that the merger of Valero and Ultramar would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by substantially lessening competition in each of the following markets: (1) the refining and bulk supply of CARB 2 and CARD 3 gasoline for sale in Northern California; and (2) the refining and bulk supply of CARB 2 and CARB 3 gasoline in the State of California.

To remedy the alleged anticompetitive effects of the merger, the Proposed Order requires Respondents to divest the Ultramar Golden Eagle refinery located in Avon,

VOL 66 ISS 248 DE 27 2001 UMI

California. Along with refinery assets, Respondents will divest bulk gasoline supply contracts and 70 Ultramar Northern California retail service stations. This will assure the new entrant a consistent CARB gasoline demand to assure that the entrant possesses the same incentives to produce CARB gasoline that Ultramar had pre-merger.

The Commission's decision to issue the Complaint and enter into the Agreement Containing Consent Orders was made after an extensive investigation in which the Commission examined competition and the likely effects of the merger in the markets alleged in the Complaint and in several other markets, including markets for asphalt refining and pipeline transportation, and terminaling or marketing of gasoline or other fuels in sections of the country other than those alleged in the Complaint. The Commission has concluded that the merger is unlikely to reduce competition significantly in markets other than those alleged in the Complaint.

The Commission conducted the investigation leading to the Complaint in collaboration with the Attorneys General of the States of California and Oregon. As part of this joint effort, Respondents have entered into State Decrees with these States settling charges that the merger would violate both state and federal antitrust laws.

The Complaint alleges that the merger would violate the antitrust laws in four product and geographic markets, each of which is discussed below. The analysis applied in each market generally follows the analysis set forth in the FTC and U.S. Dep't of Justice Horizontal Merger Guidelines (1997) ("Merger Guidelines").

Count I—Refining Bulk Supply of CARB 2 and CARB 3 Gasoline for Sale in Northern California

Valero and Ultramar compete in the refining and bulk supply of CARB gasoline for sale in Northern California.[1] Refining and bulk supply of CARB 2 and CARB 3 gasoline are relevant products markets. CARB gasoline meets the specifications of the California Air Resources Board ("CARB"). CARB 2 automotive gasoline meets the current Phase 2 specifications in effect since 1996 and is the only gasoline that can be sold to California gasoline consumers. CARB 3 automotive gasoline meets the proposed Phase 3 specifications that are scheduled to go into effect on January 1, 2003. After that date, CARB 3 will be the only gasoline that can be sold to California gasoline consumers. Thus, there are no substitutes for CARB 2 gasoline today and there will be no substitutes for CARB 3 gasoline. In the current investigation and in past decisions, the Commission concluded that the refining and bulk supply of CARB 2 gasoline is a relevant market.[2]

The North Coast (Northern California and Northwest refineries) constitutes a relevant geographic market for the refining and bulk supply of CARB 2 and CARB 3 gasoline for sale in Northern California. The North Coast refiners can profitably raise prices in Northern California by a small but significant and nontransitory amount without losing significant sales to other bulk suppliers. Five California refiners (Chevron Texaco (Chevron), Equilon (Shell/Texaco), Phillips (Tosco), Ultramar, and Valero) supply more than 94% of the CARB gasoline consumed in Northern California; Kern Oil (Bakersfield, California) and Tesoro (Anacortes, Washington) supply virtually all the remainder during normal market operations. The next closest refineries, located in the Los Angeles area, are unlikely to supply CARB gasoline to Northern California in response to a small but significant and nontransitory increase in price because of the transportation costs to ship from Southern California.

The North Coast market would be highly concentrated following the proposed merger.[3] Based on current CARB refining capacity, the proposed merger would increase concentration for the refining of CARB 2 gasoline by Northern California and Northwest refineries by more than 750 points to an HHI level above 2,700. Based on forecasted CARB 3 refining capacity, the proposed merger would increase concentration for the refining and bulk supply of CARB 3 gasoline by Northern California and Northwest refineries by more than 1,050 points to an HHI level above 3,050.

Entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects arising from the proposed merger. Building a new refinery is extremely unlikely due to the severe environmental constraints and substantial sunk costs. Imports of CARB gasoline from outside California are unlikely because of substantial import barriers, including (1) geographic isolation from potential outside sources; (2) cost and difficulty of producing CARB gasoline; (3) lack of potential customers because of the extensive integration of refining and marketing that has eliminated most independent gasoline marketers and retailers; and (4) price risk stemming from spot market volatility in Northern California.

The efficiency claims of the Respondents, to the extent they relate to these markets, are not cognizable under the Merger Guidelines, are small compared to the magnitude of the potential harm, and would not restore the competition lost by the merger even if the efficiencies were achieved.

The Complaint charges that the proposed merger would likely substantially reduce competition in refining the bulk supply of CARB gasoline for sale in Northern California, thereby increasing wholesale prices of CARB gasoline by (1) eliminating direct competition between Valero and Ultramar; (2) increasing the likelihood that the combined company will unilaterally raise prices, and (3) increasing the ability and likelihood of coordinated interaction between the combined company and its competitors in Northern California. The proposed merger would create a highly concentrated market in Northern California. The combined company would control between 40 and 45% of CARB gasoline refining capacity in Northern California. Under the Merger Guidelines, these figures trigger a presumption that "the merger will create or enhance market power or facilities its exercise * * *." Merger Guidelines § 1.51(c). These anticompetitive effects could result either from unilateral action by the combined firm or from coordinated interaction among the remaining refiners. Valero's post-merger market share supports a presumption under the Merger Guidelines that it would have the ability and incentive to unilaterally reduce supply in Northern California and raise prices. It could do this in a variety of ways, including reducing or eliminating capacity expansions at the Bay Area refineries, running the refineries at below capacity, or exporting gasoline out of the market.

The merger increases the likelihood of coordinate interaction in Northern California by reducing the number of significant refiners in the market from five to four. The market exhibits characteristics that are conducive to coordinated interaction, including (1) homogenous product; (2) small number of market participants; (3) high concentration; (4) recognition by participants that individual output decisions impact the market; (5) difficult entry conditions that insulate the market from outside supply; (6) vertical integration that eliminates potential low-cost competitors and creates a finite and identifiable collusive group; and (7) industry practices and conditions that allow the collusive group to easily detect and punish cheating on the tacit agreement.

---

[1] A bulk supply market consists of firms that have the ability to deliver large quantities of gasoline on a regular and continuing basis, such as pipelines or local refineries.

[2] *Shell Oil Co.*, C–3803 (1998); *Exxon*, C–3907 (2000); (*Chevron*), C–4023 (Proposed Order 2001).

[3] The Commission measures market concentration using the Herfindahl-Hirschman Index ("HHI"), which is calculated as the sum to the squares of the shares of all firms in the market. FTC and Department of Justice Horizontal Merger Guidelines ("Merger Guidelines") § 1.5. Markets with HHIs between 1000 and 1800 are deemed "moderately concentrated," and markets with HHIs exceeding 1800 are deemed "highly concentrated." Merger Guidelines § 1.51.

The merger could raise the costs of CARB gasoline to Northern California consumers substantially; even a one cent per gallon price increase would cost Northern California consumers more than $60 million annually. To remedy the harm, the Proposed Order requires the Respondents to divest Ultramar's Golden Eagle refinery, which refines CARB gasoline, and 70 Ultramar retail service stations supplied from the Golden Eagle refinery, as described more fully below. This divestiture will eliminate the refining and bulk supply overlap in the North Coast market otherwise presented by this merger.

Count II—Refining and Bulk Supply of CARB Phase 2 and CARB Phase 3 Gasoline for Sale in California

Valero and Ultramar compete in refining and bulk supply of CARB gasoline for sale in California. As explained in Count I, only CARB gasoline can be sold legally in California. Refining and bulk supply of CARB 2 and CARB 3 gasoline are relevant product markets.

The West Coast constitutes a relevant antitrust geographic market for refining and bulk supply of CARB 2 and CARB 3 gasoline for sale in California. The West Coast refiners can profitably raise prices by a small but significant and nontransitory amount without losing significant sales to other refiners. Seven California refiners (BP (Arco), Chevron Texaco (Chevron), Equilon (Shell/Texaco), ExxonMobil, Phillips (Tosco), Ultramar, and Valero) supply more than 97% of the CARB gasoline consumed in California; Kern Oil (Bakersfield, California) and Tesoro (Anacortes, Washington) supply virtually all the remainder during normal market operations.

The seven refiner-marketers also account for more than 95% if retail gasoline sales in California through their branded retail stations. One effect of the close integration between refining and marketing in California is that refiners outside the West Coast cannot easily find outlets for imported cargoes of CARB gasoline, since nearly all the outlets are controlled by incumbent refiner-marketers. Likewise, the extensive integration of refining, marketing and bulk storage makes it more difficult for the few non-integrated marketers to turn to imports as a source of supply, since the few remaining independent marketers lack the scale to import cargoes economically and thus must rely on California refiners for their usual supply.

Other than the California refineries and one Washington refinery, no other refineries regularly produce CARB gasoline in significant quantities. The next closest refineries, located in the U.S. Virgin Islands, Texas and Louisiana, do not supply CARB gasoline to California except during significant price spikes caused by supply disruptions at California refineries. These refineries are unlikely to supply CARB gasoline to California except during significant price spikes caused by supply disruptions at California refineries. These refineries are unlikely to supply CARB gasoline to California in response to a small but significant and nontransitory increase in price due to (1) transportation costs from other refineries; (2) limited access to marine and bulk storage facilities; (3) lack of potential customers because of the extensive integration of refining and marketing that has eliminated most independent gasoline marketers and retailers; and (4) price risk stemming from spot market volatility in California.

The West Coast market for the refining and bulk supply of CARB 2 gasoline would be at the upper end of the moderately concentrated range following the proposed merger. Based on current refining capacity, the proposed merger would increase concentration for the refining of CARB 2 gasoline by California and Washington refineries by more than 325 points to an HHI level above 1,750. Based on forecasted CARB 3 refining capacity, the proposed merger would result in a highly concentrated market, increasing concentration for the refining and bulk supply of CARB 3 gasoline by California and Washington refineries by more than 390 points to an HHI level above 1,850.

Entry is difficult and would not be timely, likely, or sufficient to prevent anticompetitive effects arising from the proposed merger. Building a new refinery is unlikely due to the severe environmental constraints and substantial sunk costs. Imports of CARB gasoline from outside California are unlikely because of the substantial import barriers listed above.

The efficiency claims of the Respondents, to the extent they relate to these markets, are not cognizable under the Merger Guidelines, are small compared to the magnitude of the potential harm, and would not restore the competition lost by the merger even if the efficiencies were achieved.

The Complaint charges that the proposed merger would likely reduce competition in refining and bulk supply of CARB gasoline for sale in California, thereby increasing wholesale prices of CARB gasoline by (1) eliminating direct competition between Valero and Ultramar; and (2) increasing the ability and likelihood of coordinated interaction between the combined company and its competitors in California. This market exhibits the same characteristics conducive to coordinated interaction identified in Count I. The proposed merger reduces the number of CARB gasoline refiners in California and increases concentration, thereby increasing the likelihood of coordination.

The merger could raise the costs of CARB gasoline to all California consumers substantially; even a one cent per gallon price increase would cost California consumers more than $150 million annually. To remedy the harm, the Proposed Order requires the Respondents to divest the refining and marketing assets identified above in Count I. This divestiture will eliminate the refining and bulk supply overlap in the West Coast market otherwise presented by this merger.

IV. Resolution of the Competitive Concerns

A. CARB Gasoline Refining and Bulk Supply

The Commission has provisionally entered into the Agreement Containing Consent Orders with Valero and Ultramar in settlement of the Complaint. The Agreement Containing Consent Orders contemplates that the Commission would issue the Complaint and enter the Proposed Order and the Hold Separate Order for the divestiture of certain assets described below. The Commission will appoint R. Shermer & Company, Inc. as the hold separate trustee.

To remedy the lessening of competition in refining and bulk supply of CARB 2 and CARB 3 gasoline alleged in Counts I and II of the Complaint, Paragraph II of the Proposed Order requires Respondents to divest Ultramar's Golden Eagle refinery and 70 Ultramar-owned and operated gas

VOL 66 ISS 248 DE 27 2001 UMI

stations supplied from the Golden Eagle refinery to an acquirer approved by the Commission. (¶ II.A.) The retail divestiture is ordered to maintain the likelihood that the owner of the Golden Eagle refinery will have incentives to produce CARB gasoline and other petroleum products equivalent to Ultramar's pre-merger incentives. The divestiture of Ultramar's Golden Eagle refinery, with associated Ultramar retail assets, will not significantly reduce the amount of gasoline available to non-integrated marketers, since the refinery will likely continue to produce CARB gasoline and other products and will need outlets for its sale.

Divestiture of the Golden Eagle refinery will effectively restore the competitive status quo ante in both markets. Valero and Ultramar are the only major refiners in California with excess capacity above their direct marketing needs. This excess (or "swing") capacity helps to dampen price spikes during shortages resulting from refinery shutdowns. Elimination of this swing production would lead to greater and longer price spikes during refinery outages. The divestiture will eliminate the combined company's ability and incentive to unilaterally reduce production and raise prices. In addition, Valero and Ultramar are the primary suppliers of unbranded wholesale gasoline to independent marketers and, in Northern California, they compete directly for this business. These unbranded marketers provide lower-cost competition to the branded refiner-marketers. The divestiture will insure that the remaining independent marketers have two vigorous competitors for their business, thus helping them to survive and continue to provide a lower-cost alternative for consumers. This competition, in turn, will increase the incentive for Valero and the acquirer to supply more CARB gasoline, thus, increasing swing capacity. The divestiture will complicate the ability of the Northern California refiners to coordinate their production because there will be more refiners than there would be without the divestiture. Valero and the acquirer will likely have different incentives than the integrated refiner-marketers and may be less willing to coordinate output decisions with the refiner-marketers. Although the divestiture will have the most direct effect in Northern California, it will also help competition in California as a whole; since supplies are longer in Northern California, CARB gasoline typically flows north to south. Maintaining production in Northern California will therefore result in more product availability throughout the state.

In considering an application to divest the Ultramar Golden Eagle refinery and associated marketing assets to an acquirer, the Commission will consider the acquirer's ability and incentive to invest and compete in the businesses in which Ultramar was engaged in California. The Commission will consider, *inter alia*, whether the acquirer has the business experience, technical judgment and available capital to continue to invest in the refinery in order to maintain CARB gasoline production even in the event of changing environmental regulation.

B. Other Terms

Paragraphs III–VII of the Proposed Order detail certain general provisions. Pursuant to Paragraph III, if Respondents fail to comply with the divestiture ordered in Paragraph II, the Commission may appoint a trustee to effectuate the divestiture of the Golden Eagle Refinery and the 70 retail stations, or substitute a package containing Ultramar's two California refineries and all of Ultramar's company-operated retail stations. Paragraph IV requires the Respondents to provide the Commission with a report of compliance with the Proposed Order every sixty days until the divestitures are completed.

Paragraph V provides for notification to the Commission in the event of any changes in the corporate Respondents. Paragraph VI requires that Respondents provide the Commission with access to their facilities and employees for the purposes of determining or securing compliance with the Proposed Order. Finally, to avoid conflicts between the Proposed Order and the State consent decrees, Paragraph VII provides that if a State fails to approve any of the divestitures contemplated by the Proposed Order, then the period of time required under the Proposed Order for such divestiture shall be extended for sixty days.

V. Opportunity for Public Comment

The Proposed Order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. The Commission, pursuant to a change in its Rules of Practice, has also issued its Complaint in this matter, as well as a Hold Separate Order. Comments received during this thirty day comment period will become part of the public record. After thirty (30) days, the Commission will again review the Proposed Order and the comments received and will decide whether it should withdraw from the Proposed Order or make final the Proposed Order.

By accepting the Proposed Order subject to final approval, the Commission anticipates that the competitive problems alleged in the Complaint will be resolved. The purpose of this analysis is to invite public comment on the Proposed Order, including the proposed divestitures, and to aid the Commission in its determination of whether it should make final the Proposed Order• contained in the agreement. This analysis is not intended to constitute an official interpretation of the Proposed Order, nor is it intended to modify the terms of the Proposed Order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–31779 Filed 12–26–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), and the Agency for Toxic Substances and Disease Registry (ATSDR) announce the following meeting.

Name: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy (DOE) Sites: Savannah River Site Health Effects Subcommittee (SRSHES).

Times and Dates: 8:30 a.m.–4:45 p.m., January 10, 2002. 8:30 a.m.–12 noon, January 11, 2002.

Place: Charleston Riverview Hotel (formerly Radisson Hotel Charleston) 170 Lockwood Drive, Charleston, South Carolina 29403, telephone (843) 723–3000, fax (843) 723–0276.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Background: Under a Memorandum of Understanding (MOU) signed in December 1990 with DOE, and replaced by MOUs signed in 1996 and 2000, the Department of Health and Human Services (HHS) was given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production use. HHS delegated program responsibility to CDC.

In addition, a memo was signed in October 1990 and renewed in November 1992, 1996, and in 2000, between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or "Superfund"). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

Purpose: This subcommittee is charged with providing advice and recommendations to the Director, CDC, and the Administrator ATSDR, regarding community concerns pertaining to CDC's and ATSDR's public health activities and research at this DOE site. The purpose of this meeting is to provide a forum for community interaction and serve as a vehicle for community concerns to be expressed as advice and recommendations to CDC and ATSDR.

Matters to be Discussed: Agenda items include an update from the National Institute for Occupational Safety and Health (NIOSH); a presentation on toxicity of heavy metals and radionuclides; an update on screening methods for Savannah River Site production workers; and status reports from the SRSHES working groups on Epidemiologic Data, Scenario Screening, and Phase II—Community Summary.

Agenda items are subject to change as priorities dictate.

An administrative delay prevented meeting the 15-day publication requirement.

Contact Person for More Information: Phillip Green, Executive Secretary, SRSHES, Radiation Studies Branch, Division of Environmental Hazards and Health Effects, NCEH, CDC, 1600 Clifton Road, N.E. (E–39), Atlanta, GA 30333, telephone 404/498–1800, fax 404/498–1811.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities for both CDC and ATSDR.

Dated: December 19, 2001.

John Burckhardt,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–31733 Filed 12–26–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a Modified or Altered System

AGENCY: Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) (formerly the Health Care Financing Administration).

ACTION: Notice of modified or altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an SOR titled "Home Health Agency Outcome and Assessment Information Set (HHA OASIS)," System No. 09–70–9002. CMS proposes to add a new routine use authorizing disclosure to national accrediting organizations that have been approved by CMS for deeming authority for Medicare requirements for home health services. Information will be released to these organizations upon specific request, and only for those facilities that they accredit and that participate in the Medicare program by virtue of their accreditation status, *i.e.*, facilities with deemed status. Additionally, disclosures authorized by published routine uses numbers 3 and 4 are similar in scope and as such will be combined into one routine use to allow release of information to "another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations." CMS will also add 2 new routine uses that will permit disclosure of information in this system to combat fraud and abuse in certain Federally funded health care programs.

In addition, the security classification previously reported as "None" will be modified to reflect that the data in this system are considered to be "Level Three Privacy Act Sensitive." We are modifying the language in the remaining routine uses to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purposes of the SOR are to: (1) Study and help ensure the quality of care provided by home health agencies (HHA); (2) aid in administration of the survey and certification of Medicare/Medicaid HHAs; (3) enable regulators to provide HHAs with data for their internal quality improvement activities; (4) support agencies of the state government to determine, evaluate and assess overall effectiveness and quality of HHA services provided in the state; (5) provide for the validation, and refinements of the Medicare Prospective Payment System; (6) aid in the administration of Federal and state HHA programs within the state; and (7) monitor the continuity of care for patients who reside temporarily outside of the state. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) assist another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations; (3) support research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects; (4) support the functions of Peer Review Organizations (PRO); (5) support the functions of national accrediting organizations; (6) support litigation involving the Agency; (7) support constituent requests made to a Congressional representative; and (8) combat fraud and abuse in certain health care programs. We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section for comment period.

EFFECTIVE DATES: CMS filed a modified SOR report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on December 18, 2001. The modified SOR, including routine uses, will become effective 40 days from the publication of this notice, or from the date it was submitted to OMB and the Congress, whichever is later. We may defer implementation of this SOR or one or more of the routine use statements listed below if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Data Liaison and Distribution (DDLD), CMS, Room N2–04–27, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.–3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT: Helene Fredeking, Technical Director, Division of Nursing Homes and Continuing Care Services, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, S2–12–25, Baltimore, Maryland 21244–1850. The telephone number is (410) 786–7304.

SUPPLEMENTARY INFORMATION:

I. Description of the Modified System

A. Background

CMS established a new SOR in 1999 containing data on the physical, mental, functional, and psychosocial status of all patients receiving the services of HHAs that are approved to participate in the Medicare and/or Medicaid programs. Information retained in this system for those individuals who have only non-Medicare and non-Medicaid payment sources will be in a non-patient identifiable format. Notice of this system was published in the **Federal Register** at 64 **Federal Register** (FR) 32992 (June 18, 1999). We published in the **Federal Register**, at 62 FR 11035 (March 10, 1997), a proposed rule with an opportunity for public comment, titled “Medicare and Medicaid Programs: Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies.” Some provisions of this rule were published as a Final Rule in the **Federal Register** at 64 FR 3764 (January 25, 1999) titled “Medicare and Medicaid Program: Comprehensive Assessment and Use of the OASIS as Part of the Conditions of Participation for Home Health Agencies.”

The rule required that all HHAs participating in the Medicare and Medicaid programs be required to complete a standard, valid, patient assessment data set; i.e., the OASIS, as part of their comprehensive assessments and updates when evaluating adult, non-maternity patients as required by section 484.55 of the Conditions of Participation. Also published in the **Federal Register** at 64 FR 3748 (January 25, 1999) was an interim final rule with comment titled “Medicare and Medicaid: Reporting Outcome and Assessment Information Set (OASIS) Data as Part of the Conditions of Participation for Home Health Agencies.” This interim rule established an additional requirement of the Conditions of Participation for HHAs approved to participate in Medicare and/or Medicaid, to encode and report OASIS electronically into a national database. Information retained in this system for those individuals who have only non-Medicare and non-Medicaid payment sources will be in a non-patient identifiable format and will be used only for statistical purposes and to ensure quality of care for all patients. Information on Medicare and Medicaid patients will be identified for quality of care and reimbursement purposes.

B.Statutory and Regulatory Basis for SOR

Sections 1102(a), 1154, 1861(m), 1861(o), 1861(z), 1863, 1864, 1865, 1866, 1871, 1891, and 1902 of the Social Security Act (the Act) authorize the Administrator of CMS to require HHAs participating in the Medicare and Medicaid programs to complete a standard, valid, patient assessment data set; i.e., the OASIS, as part of their comprehensive assessments and updates when evaluating adult, non-maternity patients as required by section 484.55 of the Conditions of Participation.

II. Collection and Maintenance of Data in the System

A. Scope of the Data Collected

The OASIS will be completed on all patients, except those in a category exempted by administrative policies and procedures, who receive services from an HHA certified for Medicare and Medicaid payments. The OASIS data set includes identifiers. It also includes information on: (1) Patient History, (2) Living Arrangements, (3) Supportive Assistance, (4) Sensory Status, (5) Integumentary Status, (6) Respiratory Status, (7) Elimination Status, (8) Neuro/Emotional/Behavioral Status, (9) Activities of Daily Living/Instrumental Activities of Daily Living (ADL/IADL), (10) Medications, (11) Equipment Management, (12) Emergent Care, and (13) Discharge. Identifiers are patient name, social security number, Medicare number and Medicaid number. A masked identifier is one in which an encrypted value is permanently substituted for an identifier to prevent recipients of the information from identifying the individual.

The OASIS information will be submitted by the HHA to the government for all patients, except pre-partum and postpartum patients, patients under 18 years of age, and patients receiving other than personal care or health care services; i.e., housekeeping services and chore services. Identifiers will be included for all patients receiving services paid for by Medicare traditional fee-for-service, Medicaid traditional fee-for-service, Medicare HMO/managed care or Medicaid HMO/managed care. For patients with only a non-Medicare or non-Medicaid payment source, the HHA will submit OASIS information with masked identifiers and will retain the identifier and masked identifier at the HHA. In other words, the patient identifier for non-Medicare and non-Medicaid patients will only be known and retained by the HHA and not by the government.

B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a “routine use.” The government will only release OASIS information that can be associated with an individual HHA patient as provided for under “Section III. Entities Who May Receive Disclosures Under Routine Use.” Both identifiable and non-identifiable data may be disclosed under a routine use. Identifiable data includes individual records with OASIS information and identifiers. Non-identifiable data includes individual records with OASIS information and masked identifiers or OASIS information with identifiers stripped out of the file.

We will only disclose the minimum personal data necessary to achieve the purpose of OASIS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system.

In general, disclosure of information from the SOR will be approved only for the minimum information necessary to accomplish the purpose of the disclosure after CMS:

Determines that the use or disclosure is consistent with the reason that the data is being collected; e.g., study and help ensure the quality of care provided by HHAs, developing and refining payment systems, and monitoring the quality of care provided to patients.

1. Determines that:

a. The purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

b. the purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

c. there is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

2. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. remove or destroy at the earliest time all patient-identifiable information; and

c. agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

3. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the OASIS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this SOR.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. assist Federal/state Medicaid programs within the state.

Other Federal or state agencies (e.g., state survey agencies and state Medicaid agencies) may require OASIS data to contribute to the accuracy of CMS's health insurance operations (payment, treatment and coverage) and/or to support state agencies in the evaluations and monitoring of care provided by HHAs;

Other Federal or state agencies may require OASIS data for purposes of determining, evaluating and/or assessing overall or aggregate cost, effectiveness, and/or the quality of HHA services provided in the state;

Other Federal or state agencies may require OASIS data for developing and operating Medicaid reimbursement systems or for the purpose of administration of Federal/state HHA programs within the state. Data will be released to the state only on those individuals who are either patients under the services of an HHA within the state, or are legal residents of the state, regardless of the location of the HHA in which the patient is receiving services.

State government components in partnership with CMS will use OASIS information to enhance the monitoring of HHAs' performance in providing patient care. States will also use this information to study the cost effectiveness and quality of Medicaid programs. In addition some states will use OASIS information for case mix Medicaid reimbursement systems. States will use OASIS data to monitor the continuity of care delivered to patients who, for whatever reason, temporarily reside in another state and receive HHA services during that stay.

Other state agencies in their administration of a Federal health program may require OASIS information in order to support evaluations and monitoring of quality of care for special populations or special care area, including proper reimbursement for services provided. Releases of information would be allowed if the proposed use(s) for the information proved compatible with the purpose for which CMS collects the information.

3. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

The OASIS data will provide the research, evaluations and epidemiological projects a broader, longitudinal, national perspective of the status of HHA patients. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to HHA patients and the policy that governs the care.

4. To PROs in order to assist the PRO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

PROs will work with HHAs to implement quality improvement programs, provide consultation to CMS, its contractors, and to state agencies. The PROs will provide a supportive role to HHAs in their endeavors to comply with Medicare Conditions of Participation; will assist the state agencies in related monitoring and enforcement efforts; assist CMS and help regional home health intermediaries in home health program integrity assessment; and prepare summary information about the nation's home health care for release to beneficiaries.

5. To national accrediting organizations with approval for deeming authority for Medicare requirements for

VOL 66 ISS 248 DE 27 2001 UMI

home health services (i.e., the Joint Commission on Accreditation of Healthcare Organizations, or the Community Health Accreditation Program). Information will be released to these organizations upon specific request, and only for those facilities that they accredit, and that participate in the Medicare program by virtue of their accreditation (deemed) status.

CMS anticipates providing these national accrediting organizations with OASIS information to enable them to target potential or identified problems during the organization's accreditation review process of that facility.

6. To the Department of Justice (DOJ), court, or adjudicatory body when:

a. The Agency or any component thereof; or

b. any employee of the Agency in his or her official capacity; or

c. any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. the United States Government;

is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

7. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries sometimes request the help of a Member of Congress in resolving some issue relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information to be responsive to the inquiry.

8. To a CMS contractor (including, but not limited to Fiscal Intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse;

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require OASIS information for the purpose of combating fraud and abuse in such Federally funded programs.

B. Additional Circumstances Affecting Routine Use Disclosure

This SOR contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 **Federal Register** FR 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as permitted or required by this HHS regulation "Standards for Privacy of Individually Identifiable Health Information"

In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

The HHA OASIS system will conform to applicable law and policy governing the privacy and security of Federal automated information systems. These include but are not limited to: The Privacy Act of 1984, Computer Security Act of 1987, the Paperwork Reduction Act of 1995, the Clinger-Cohen Act of 1996, and OMB Circular A–130, Appendix III, "Security of Federal Automated Information Resources." CMS has prepared a comprehensive system security plan as required by OMB Circular A–130, Appendix III. This plan conforms fully to guidance issued by the National Institute for Standards and Technology (NIST) in NIST Special Publication 800–18, "Guide for Developing Security Plans for Information Technology Systems." Paragraphs A–C of this section highlight some of the specific methods that CMS is using to ensure the security of this system and the information within it.

A. Authorized Users

Personnel having access to the system have been trained in Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data. In addition, CMS is monitoring the authorized users to ensure against excessive or unauthorized use. Records are used in a designated work area or workstation and the system location is attended at all times during working hours.

To assure security of the data, the proper level of class user is assigned for each individual user as determined at the state agency level. This prevents unauthorized users from accessing and modifying critical data. The system database configuration includes five classes of database users:

- *Database Administrator* class owns the database objects; e.g., tables, triggers, indexes, stored procedures, packages, and has database administration privileges to these objects;
- *Quality Control Administrator* class has read and write access to key fields in the database;
- *Quality Index Report Generator* class has read-only access to all fields and tables;
- *Policy Research* class has query access to tables, but are not allowed to access confidential patient identification information; and

- *Submitter* class has read and write access to database objects, but no database administration privileges. This class is used by the OASIS data submission applications to receive and validate HHA file uploads.

B. Physical Safeguards

All server sites have implemented the following minimum requirements to assist in reducing the exposure of computer equipment and thus achieve an optimum level of protection and security for the HHA OASIS system:

Access to all servers is controlled, with access limited to only those support personnel with a demonstrated need for access. Servers are to be kept in a locked room accessible only by specified management and system support personnel. Each server requires a specific log on process. All entrance doors are identified and marked. A log is kept of all personnel who were issued a security card, key and/or combination that grants access to the room housing the server, and all visitors are escorted while in this room. All servers are housed in an area where appropriate environmental security controls are implemented, which include measures implemented to mitigate damage to Automated Information System resources caused by fire, electricity, water and inadequate climate controls.

Protection applied to the workstations, servers and databases include:

- User Log ons—Authentication is performed by the Primary Domain Controller/Backup Domain Controller of the log on domain.
- Workstation Names—Workstation naming conventions may be defined and implemented at the state agency level.
- Hours of Operation—May be restricted by Windows NT. When activated all applicable processes will automatically shut down at a specific time and not be permitted to resume until the predetermined time. The appropriate hours of operation are determined and implemented at the state agency level.
- Inactivity Lockout—Access to the NT workstation is automatically locked after a specified period of inactivity.
- Warnings—Legal notices and security warnings display on all servers and when servers are accessed by workstations.
- Remote Access Security—Windows NT Remote Access Service (RAS) security handles resource access control. Access to NT resources is controlled for remote users in the same manner as local users, by utilizing Windows NT file and sharing permissions. Dial-in access can be granted or restricted on a user-by-user basis through the Windows NT RAS administration tool.

There are several levels of security found in the HHA OASIS system. Windows NT provides much of the overall system security. The Windows NT security model is designed to meet the C2-level criteria as defined by the U.S. Department of Defense's Trusted Computer System Evaluation Criteria document (DoD 5200.28–STD, December 1985). Netscape Enterprise Server is the security mechanism for all HHA transmission connections to the system. As a result, Netscape controls all HHA information access requests. Anti-virus software is applied at both the workstation and NT server levels. Access to different areas on the Windows NT server are maintained through the use of file, directory and share level permissions. These different levels of access control provide security that is managed at the user and group level within the NT domain. The file and directory level access controls rely on the presence of an NT File System hard drive partition. This provides the most robust security and is tied directly to the file system. Windows NT security is applied at both the workstation and NT server levels.

C. Procedural Safeguards

All automated systems must comply with Federal laws, guidance, and policies for information systems security as stated previously in this section. Each automated information system should ensure a level of security commensurate with the level of sensitivity of the data, risk, and magnitude of the harm that may result from the loss, misuse, disclosure, or modification of the information contained in the system.

V. Effect of the Modified System on Individual Rights

CMS established this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system. CMS has assigned a higher level of security clearance for the information in this system to provide added security and protection of data in this system.

CMS will monitor the collection and reporting of OASIS data. OASIS information on patients is completed by the HHA and submitted to CMS through standard systems located at the state agencies. Accuracy of the data is important since incorrect information could result in the wrong reimbursement for services and a less effective process for assuring quality of services. CMS will utilize a variety of onsite and offsite edits and audits to increase the accuracy of OASIS data. CMS will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights including not collecting patient identifiable data for non-Medicare and non-Medicaid patients. Therefore, CMS anticipates no adverse effect on any of these rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure of identifiable data from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

To secure data that resides in a CMS Privacy Act SOR; to ensure the integrity, security, and confidentiality of information maintained by CMS; and to permit appropriate disclosure and use of such data as permitted by law, CMS and the non-CMS recipient of the data (hereafter termed User), enter into an agreement to comply with the following specific requirements. The agreement addresses the conditions under which CMS will disclose and the User will obtain and use the information contained in the system. The parties mutually agree that CMS retains ownership rights to the data and that the User does not obtain any right, title, or interest in any of the data furnished by CMS. The User represents and warrants further that the facts and statements made in any study or research protocol or project plan submitted to CMS for each purpose are complete and accurate. The User shall not disclose, release, reveal, show, sell, rent, lease, loan, or otherwise grant access to the data disclosed from the SOR to any person. The User agrees that access to the data shall be limited to the minimum number of individuals necessary to achieve the purpose stated in the protocol and to those individuals on a need to know basis only. If CMS determines or has reasonable belief that the User has made an unauthorized disclosure of the data, CMS in its sole discretion may require the User to: (a) Promptly investigate and report to CMS any alleged or actual unauthorized disclosures; (b) promptly resolve any problems identified by the investigation; (c) submit a formal response to any allegation of unauthorized disclosures;

VOL 66 ISS 248 DE 27 2001 UMI

(d) submit a corrective action plan with steps to prevent any future unauthorized disclosures; and (e) return data files to CMS. If CMS determines or has reasonable belief that unauthorized disclosures have taken place; CMS may refuse to release further CMS data to the User for a period of time to be determined by CMS.

The Privacy Act provides criminal penalties for certain violations. The Act provides that "[a]ny officer or employee of an agency, who by virtue of his [or her] employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific materials is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000" (5 U.S.C. 552a (i)(1)). The Act also provides that "[a]ny person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000 (5 U.S.C. 552a (i)(3)). The agency's contractor and any contractor's employees who are covered by 5 U.S.C. 552a (m) (1) are considered employees of the agency for the purposes of these criminal penalties.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: December 4, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

09–70–9002

SYSTEM NAME:

Home Health Agency Outcome and Assessment Information Set (HHA OASIS)

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244–1850. CMS contractors and agents at various locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system of records (SOR) will contain clinical assessment information (OASIS) for all patients receiving the services of a Medicare and/or Medicaid approved HHA, except prepartum and postpartum patients, patients under 18 years of age, and patients receiving other than personal care or health care services; i.e., housekeeping services and chore services. Identifiable information will be maintained in the SOR only for those individuals whose payments come from Medicare or Medicaid.

CATEGORIES OF RECORDS IN THE SYSTEM:

This SOR will contain individual-level demographic and identifying data, as well as clinical status data for patients with the payment sources of Medicare traditional fee for service, Medicaid traditional fee for service, Medicare HMO/managed care or Medicaid HMO/managed care.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1102(a), 1154, 1861(m), 1861(o), 1861(z), 1863, 1864, 1865, 1866, 1871, 1891, and 1902 of the Social Security Act (the Act) authorize the Administrator of CMS to require HHAs participating in the Medicare and Medicaid programs to complete a standard, valid, patient assessment data set; i.e., the OASIS, as part of their comprehensive assessments and updates when evaluating adult, non-maternity patients as required by section 484.55 of the Conditions of Participation.

PURPOSE(S) OF THE SYSTEM:

The primary purposes of the SOR are to: (1) Study and help ensure the quality of care provided by home health agencies (HHA); (2) aid in administration of the survey and certification of Medicare/Medicaid HHAs; (3) enable regulators to provide HHAs with data for their internal quality improvement activities; (4) support agencies of the state government to determine, evaluate and assess overall effectiveness and quality of HHA services provided in the state; (5) provide for the validation, and refinements of the Medicare Prospective Payment System; (6) aid in the administration of Federal and state HHA programs within the state; and (7) monitor the continuity of care for patients who reside temporarily outside of the state. Information maintained in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant; (2) assist another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations; (3) support research, evaluation, or epidemiological projects related to the prevention of disease or disability, or the restoration or maintenance of health, and for payment related projects; (4) support the functions of Peer Review Organizations (PRO); (5) support the functions of national accrediting organizations; (6) support litigation involving the Agency; (7) support constituent requests made to a Congressional representative; and (8) combat fraud and abuse in certain health care programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the OASIS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. In addition, our policy will be to prohibit release even of non-identifiable data, except pursuant to one of the routine uses, if there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

This SOR contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR Parts 160 and 164, 65 **Federal Register** (FR) 82462 (12–28–00), as amended by 66 FR 12434 (2–26–01)). Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as permitted or required by this HHS regulation "Standards for Privacy of Individually Identifiable Health Information." We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To another Federal or state agency, agency of a state government, an agency

established by state law, or its fiscal agent, for evaluating and monitoring the quality of home health care and contribute to the accuracy of health insurance operations to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

3. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment related projects.

4. To Peer Review Organizations (PRO) in order to assist the PRO to perform Title XI and Title XVIII functions relating to assessing and improving HHA quality of care.

5. To national accrediting organizations with approval for deeming authority for Medicare requirements for home health services (i.e., the Joint Commission on Accreditation of Healthcare Organizations, or the Community Health Accreditation Program). Information will be released to these organizations only for those facilities that they accredit, and that participate in the Medicare program by virtue of their accreditation (deemed) status.

6. To the Department of Justice (DOJ), court, or adjudicatory body when:

a. The Agency or any component thereof; or

b. Any employee of the Agency in his or her official capacity; or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee; or

d. The United States Government; is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

7. To a Member of Congress or to a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

8. To a CMS contractor (including, but not limited to Fiscal Intermediaries and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All records are stored on magnetic media.

RETRIEVABILITY:

The Medicare and Medicaid records are retrieved by health insurance claim number, social security number (SSN) or by state assigned Medicaid number.

SAFEGUARDS:

CMS has safeguards for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the HHA OASIS system. For computerized records, safeguards have been established in accordance with HHS standards and National Institute of Standards and Technology guidelines; e.g., security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information Systems Security Program; CMS's Information System Security Policy and Program Handbook; and OMB Circular No. A–130 (revised) Appendix III.

RETENTION AND DISPOSAL:

CMS and the repository of the National Archive and Records Administration will retain identifiable OASIS assessment data for a total period not to exceed fifteen (15) years.

SYSTEM MANAGER AND ADDRESS:

Director, Center for Medicaid and State Operations, CMS, 7500 Security Boulevard, Baltimore, Maryland, 21244–1850.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the system manager who will require the system name, health insurance claim number, and for verification purposes, the subject individual's name (woman's maiden name, if applicable), SSN (furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay), address, date of birth, and sex.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7.)

RECORD SOURCE CATEGORIES:

The Outcome and Assessment Information Set.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 01–31546 Filed 12–26–01; 8:45 am]

BILLING CODE 4120–03–P

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Confirmation of Immigration Status for Recently-Released Indefinite Detainees.

OMB No.: New request.

Description: On June 28, 2001, the U.S. Supreme Court issued its decision in *Zadvydas* v. *Davis.* The case concerned "indefinite detainees" or "lifers," which are terms used to refer to noncitizens who, after having served time for a criminal conviction and being given a final order of removal by the Immigration and Naturalization Service (INS), remain indefinitely in U.S. jails because their home country and no other countries will accept them. In Zadvydas the Supreme Court held that the law limits an "alien's detention to a period reasonably necessary to bring about that alien's removal from the United States, and does not permit indefinite detention." Shortly after the Supreme Court decision, Attorney General John Ashcroft ordered the INS to begin looking into the release of certain indefinite detainees. Some of these individuals already have been release from detention.

In a number of cases, indefinite detainees originally came to the U.S. as refugees or had another status that made them eligible for Office of Refugee Resettlement (ORR)-funded benefits and services.[1] These individuals, upon release from detention, may come to benefit-granting agencies for assistance. Prior to providing benefits or services, benefit-granting agencies must determine status, identity, the date an individual initially became eligible for benefits (i.e., entry date) and, in certain cases, nationality. However, benefit-granting agencies are unable to make these determinations for recently released detainees for a number of reasons including lack of INS documentation showing status and entry date and incomplete and untimely responses from the INS Systematic Alien Verification for Entitlements (SAVE) System.

In this notice, ACF announces that ORR has worked out an agreement with the INS under which benefit-granting agencies will contact ORR and provide as much of the following information as possible for a recently released detainee wishing to access benefits: name, alien registration number, date of birth, social security number, home country, number on the I–94 card, parents' names, driver's license number and copies of any immigration documents. ORR then will relay this information to the INS. INS will tell ORR the individual's original immigration status, such as refugee, and ORR will inform the benefit-granting agency whether or not the individual is eligible for assistance.

Respondents: Individuals, State and local governments, not-for-profit organizations.

Annual Burden Estimates

Number of Respondents: 10.

Number of Responses per Respondent: 10.

Average Burden Hours per Response: 0.25.

Estimated Total Annual Burden Hours: 25 hours.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by December 21, 2001. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Sargis at (202) 690–7275. In addition, a request may be made by sending an e-mail request to: *rsargis@acf.dhhs.gov.*

Comments and questions about the information collection described above should be directed to the following address by December 21, 2001: Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paper Reduction Project, 725 17th Street, NW., Washington, DC 20503.

Dated: December 18, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–31676 Filed 12–26–01; 8:45 am]

BILLING CODE 4184–01–M

---

[1] Individuals with the following statuses are eligible for ORR-funded benefits (see 45 CFR 400.43 and ORR State Letters 00–17 and 01–18): (1) Refugees under § 207 of the Immigration and Nationality Act (INA), (2) asylees whose status was granted under § 208 of the INA, (3) Cuban and Haitian entrants, in accordance with the requirements in 45 CFR part 401, (4) certain Amerasians from Vietnam and (5) victims of severe forms of trafficking.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93D–0398]

Assessment of the Effects of Antimicrobial Drug Residues From Food of Animal Origin on the Human Intestinal Flora; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for comment of draft guidance for industry entitled "Assessment of the Effects of Antimicrobial Drug Residues from Food of Animal Origin on the Human Intestinal Flora." This draft guidance is a revision of the guidance document no. 52 entitled "Microbiological Testing of Antimicrobial Drug Residues in Food," which was implemented in 1996. In this draft guidance, the agency recommends a pathway approach for assessing the microbiological safety of antimicrobial drug residues in food, rather than the approach described in the 1996 version of the guidance. The agency's decision to revise this guidance is based on new information available to the agency.

DATES: You may submit written or electronic comments at any time. However, the agency would like to use these comments during the next meeting of the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) Microbial Safety Task Force meeting. You should submit comments concerning this draft guidance by March 27, 2002 to ensure the incorporation of your comments at that meeting.

Submit written or electronic comments on the collection of information by February 25, 2002.

ADDRESSES: Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. All comments should be identified with the full title of the draft guidance and the docket number found in brackets in the heading of this document.

Submit written requests for single copies of the draft guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

For information regarding the guidance document: Haydee Fernandez, Center for Veterinary Medicine (HFV–150), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20850, 301–827–6981, e-mail: afernand@cvm.fda.gov.

For information regarding information collections and the Paperwork Reduction Act: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1462.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1996 (61 FR 3043), FDA published a notice of availability for a guidance document entitled "Microbiological Testing of Antimicrobial Drug Residues in Food" (guidance no. 52). This guidance document stated that the agency would consider antimicrobial activity as a valid endpoint for establishing tolerances for antimicrobial drugs. The guidance also stated that antimicrobial residues present in food from food-producing animals should not cause any adverse effect on the ecology of the human intestinal microflora of consumers. The guidance identified antimicrobial drugs that would be exempt from additional microbiological testing and those that would warrant testing. The reasons for exempting certain antimicrobial drugs from additional microbiological testing included "very low" residues present in the food, residues with limited antimicrobial activity, and drugs with no adverse effects on the intestinal microflora at therapeutic doses.

Guidance no. 52 stated that "very low" levels of antimicrobials present in food would not perturb the intestinal microflora or select for resistant microorganisms and, therefore, would be "safe" under Section 512 of the Federal Food, Drug, and Cosmetic Act. Based on the best information available at that time, FDA believed that a maximum Acceptable Daily Intake (ADI) of 1.5 milligram (mg)/person/day of microbiologically active residues present in the food qualified as "very low" residues and should not produce adverse effects on the intestinal microflora. After CVM established the maximum ADI of 1.5 mg/person/day in the 1996 version of guidance no. 52, CVM staff publicly (e.g., at a workshop sponsored by FDA on September 20 and 21, 1999, in Rockville, MD) stated that this threshold would need to be re-evaluated when additional information was obtained on the adequacy of this number for different classes of antimicrobial drugs.

The guidance recommended that additional microbiological testing be performed for those antimicrobial drugs for which sponsors were seeking an ADI higher than 1,5 mg/person/day. The guidance document identified the following areas for which antimicrobial residues present a potential public health concern. These endpoints are: (1) Changes in the metabolic activity of the intestinal microflora, (2) changes in antimicrobial resistance patterns of the intestinal microflora, (3) changes in the colonization resistance properties (barrier effect) of the microflora, and (4) changes in the number of microorganisms and composition of the intestinal microflora. The guidance recommended that sponsors characterize the product, identify its microbiological activity, and monitor the appropriate microbiological endpoints in order to establish the antimicrobial no-observed effect level (NOEL). Because no validated model systems were available at that time, FDA announced its intention to validate model systems to evaluate the effect of low levels of antimicrobial drugs on endpoints of public health concern. The guidance also stated that in vitro microbiological inhibitory concentration data should not be submitted to establish the microbiological NOEL, because these data do not predict the level of drug residues that would elicit the potential public health concern. Sponsors were encouraged to consult with CVM to determine appropriate protocols before conducting studies.

In 1995, CVM funded two extramural research contracts to study the dose-response effects of antimicrobial drugs on human intestinal microflora endpoints that could be of public health concern. In a workshop sponsored by FDA on September 20 and 21, 1999, in Rockville, MD, information from the two research contracts was presented. Data on the effect of low doses of different classes of antimicrobials on several microbiological endpoints of the human intestinal microflora were discussed. After reviewing and discussing the data, FDA concluded that the threshold ADI discussed in guidance no. 52 is not appropriate for all classes of antimicrobials. Different classes of antimicrobials affect, to different degrees, microbiological endpoints that could be of public health concern. Therefore, FDA has decided to modify guidance no. 52 to recommend that sponsors use a pathway approach (described in the draft guidance) for addressing human food safety of antimicrobial drug residues, rather than the approach described in the 1996 version of the guidance. The scientific rationale for this decision is provided in the appendix of the draft guidance document.

Guidance no. 52 may be further revised at a later date according to the recommendations from VICH concerning proper tests and model systems and standard protocols for addressing endpoints of public health concern. VICH also needs to address how to calculate ADIs using NOELs obtained from microbiological testing models. However, the agency believes that it is in the best interest of the regulated industry and public health to revise guidance no. 52 now, instead of waiting for the VICH recommendations to be completed.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the agency's current thinking with regard to the approach that should be used to assess the microbiological safety of antimicrobial drug residues in food of animal origin. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed collection of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing a notice of the proposed collection of information set forth in this document.

VOL 66 ISS 248 DE 27 2001 UMI

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Assessment of the Effects of Antimicrobial Drug Residues from Food of Animal Origin on the Human Intestinal Flora

Description: Sponsors of new animal drugs must meet certain statutory requirements for new animal drug approval under section 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b). Among other things, the sponsor must demonstrate that the use of the drug is safe. Thus, when CVM reviews new animal drug applications for drugs that will be used in food-producing animals, it must determine whether residues of the drug that may remain in human food derived from those animals would be harmful to humans. One possible harmful effect of residues of antimicrobial drugs that CVM considers in this determination is the possible effect of residues on human intestinal flora.

This draft guidance document describes the recommended pathway approach for assessing such effects. An assessment of the safety of antimicrobial drug residues in food is a major issue that should be addressed by the sponsor of a new animal drug. For residues determined to have no antimicrobial activity against representatives of the human intestinal flora, an ADI should be calculated based on traditional toxicology studies. The burden hours required are reported and approved under OMB Control No. 0910–0032. However, the draft guidance recommends that additional information be provided for certain drugs. This additional information should be provided if an assessment of microbiological safety determines that a new animal drug produces residues in foods that are microbiologically active in the human colon. The likely respondents to this collection of information are sponsors of antimicrobial new animal drugs that will be used in food-producing animals.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Guidance	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Assessments (including studies) of safety of antimicrobial drug residues that are microbiologically active in the human colon	5	1	5	14,110	70,550

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimates in table 1 of this document resulted from discussions with sponsors of new animal drugs. The estimated burden includes studies, analysis of data, and writing the assessment. The number of respondents provided is based on current experience, however, the number may change in the future.

III. Comments

This draft guidance document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this draft guidance document. Submit written or electronic comments by March 27, 2002 to ensure adequate consideration by the VICH Microbial Safety Task Force and in the development of the final guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Submit written comments concerning the information collection requirements to the Dockets Management Branch by March 27, 2002. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Electronic comments may be submitted electronically on the Internet at http://www.fda.gov/dockets/ecomments. Once on this Internet site, select [Insert Docket Number for this publication] "Assessment of the Effects of Antimicrobial Drug Residues from Food of Animal Origin on the Human Intestinal Flora" and follow the directions. Copies of the draft guidance entitled "Assessment of the Effects of Antimicrobial Drug Residues from Food of Animal Origin on the Human Intestinal Flora" may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm.

Dated: December 18, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31713 Filed 12–26–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Proposed Collection; Comment Request

AGENCY: Indian Health Service, HHS.

ACTION: Request for public comment: 60-day proposed collection; Hoz'ho'nii: An intervention to increase breast and cervical cancer screening among Navajo women.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide a 60-day advance opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) is publishing for comments a summary of a proposed information collection to be submitted to the Office of Management and Budget (OMB) for review.

Proposed Collection: Title: Hoz'ho'nii: An Intervention to Increase Breast and Cervical Cancer Screening Among Navajo Women. Type of Information Collection Request: New. Form Number: None. Need and Use of the Information Collection: The information is needed to evaluate a culturally appropriate education outreach program designed to increase breast and cervical cancer screening among Navajo women ages 20 and older. The purpose is to identify barriers that may prevent Navajo women from participating in breast and cervical cancer screening by comparing changes in knowledge, attitudes, and behaviors of three study groups; educational outreach only, education outreach plus chapter-based clinic, and a control group. Results will be used to assess the impact of the impact of the educational outreach program, improve breast and cervical cancer screening, and to guide the IHS and Tribal health programs in the delivery of culturally appropriate intervention to reduce mortality rates from breast and cervical cancer among Navajo women. Affected Public: Individuals. Type of Respondents: Individuals.

The table below provides the estimated burden response for this information collection:

ESTIMATED BURDEN RESPONSE TABLE

Data collection instrument	Estimated number of respondents	Responses per respondent	Average burden hour per response*	Total annual burden hrs
KAB Pretest	450	1	0.42 hr (25 minutes)	188.0
KAB Post test	450	1	0.42 hr (25 minutes)	188.0
Interviews	30	1	0.25 hr (15 minutes)	8.0
Total	930	1		384.0

* For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report for this information collection.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (1) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests For Further Information: Send your written comments, requests for more information on the proposed collection, or requests to obtain a copy of the data collection instrument(s) and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601, call non-toll free (301) 443–5938, send via facsimile to (301) 443–1522, or send your E-mail requests, comments, and return address to: lhodahkw@hqe.ihs.gov.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: December 14, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01–31712 Filed 12–26–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Director's Consumer Liaison Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Director's Consumer Liaison Group.

Date: January 22, 2001.

Time: 2 p.m. to 4 p.m.

Agenda: To follow up on the Survivorship Forums and receive reports from Working Groups.

Place: National Cancer Institute, 6116 Executive Boulevard, Suite 300C, Room 3068 A, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Elaine Lee, Executive Secretary, Office of Liaison Activities, National Institutes of Health, National Cancer Institute, 6116 Executive Boulevard, Suite 300 C, Bethesda, MD 20892, 301/594–3194.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/dclg/delg.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31704 Filed 12–26–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Review of program project grant application.

Date: January 10, 2002.

Time: 12 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Blvd. Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Virginia P. Wray, PhD, Scientific Review Administrator Grants Review Branch Division of Extramural Activities National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8125, Rockville, MD 20892–7405 301/496–9236.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: December 13, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31709 Filed 12–26–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby give of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: January 10, 2002.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20892.

Contact Person: Andrea Sawczuk, PhD., Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529 301–496–0660.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neuroscience, National Institutes of Health, HHS).

Dated: December 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31705 Filed 12–26–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: December 12, 2001.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gopal M. Bhatnagar, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: December 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31706 Filed 12–26–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: February 7–8, 2002.

Open: February 7, 2002, 9 am to 11 am.

Agenda: Administrative reports and program developments.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: February 7, 2002, 11 am to 5 pm.

VOL 66 ISS 248 DE 27 2001 UMI

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Closed: February 8, 2002, 8:30 am to 2 pm.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, BA, Chief, Bibliographic Services Division, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38A/Room 4N419, Bethesda, MD 20894.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: December 14, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 01–31703 Filed 12–26–01; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Peer Review Oversight Group.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Peer Review Oversight Group.

Date: February 4–5, 2002.

Time: February 4, 2002, 8:30 am to 4 pm.

Agenda: To review and evaluate the agenda for this initial meeting of the Committee will include an update on NIH extramural reinvention activities and a discussion of the NIH peer review system.

Place: 2 Democracy Plaza, 6711 Democracy Boulevard, Conference Center, Salon #2, Bethesda, MD 20892.

Time: February 5, 2002, 8:30 AM to Adjournment.

Agenda: To review and evaluate the agenda for this initial meeting of the Committee will include an update on NIH extramural reinvention activities and a discussion of the NIH peer review system.

Place: 2 Democracy Plaza, 6711 Democracy Boulevard, Conference Center, Salon #2, Bethesda, MD 20892.

Contact Person Tony Demsey, Executive Secretary, Office of Extramural Research, National Institutes of Health, Building 1, Room 152, 9000 Rockville Pike, Bethesda, MD 20892, 301–496–5127.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: grants.nih.gov/grants/peer/peer.htm#prog, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award: 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: December 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31708 Filed 12–26–01; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 17, 2001.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gloria B. Levin, Phd., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, (301) 435–1017, leving@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Emphasis Panel.

Date: January 4, 2002.

Time: 2 pm to 4:30 pm.

Agenda: To review and evaluate grant application.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, richard.marcus@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306, 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.893, National Institutes of Health, HHS)

Dated: December 12, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–31707 Filed 12–26–01; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Letter of Authorization to Take Marine Mammals

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of Letters of Authorization to take marine mammals incidental to oil and gas industry activities.

SUMMARY: In accordance with section 101(a)(5)(A) of the Marine Mammal Protection Act of 1972, as amended, and the U.S. Fish and Wildlife Service implementing regualtions [50 CFRs 18.27(f)(3)], notice is hereby given that the following Letters of Authorization to take polar bears incidental to oil and gas industry exploration activities in the Beaufort Sea and adjacent northern coast of Alaska have been issued to the following companies:

VOL 66 ISS 248 DE 27 2001 UMI

Company	Activity	Location	Date issued
Phillips Alaska, Inc	Exploration	Sunrise #1	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Cirque #3 and #4	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Anfros #1	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Spark #2–#5	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Cayman #1	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Alpine West #1	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Moose's Tooth A&C	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Rendezvous B	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Clover B	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Lookout A	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Sunrise #3	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Sunrise #2	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Callisto #1	Nov. 8, 2001.
Phillips Alaska, Inc	Exploration	Ganymede #1	Nov. 9, 2001.
Phillips Alaska, Inc	Exploration	Nanuq #5	Nov. 9, 2001.
Phillips Alaska, Inc	Exploration	Grandview #1	Nov. 9, 2001.
Phillips Alaska, Inc	Exploration	Lookout #2	Nov. 9, 2001.
Phillips Alaska, Inc	Exploration	Hunter A	Nov. 9, 2001.
Phillips Alaska, Inc	Exploration	Hunter #2	Nov. 9, 2001.
Anadarko Petroleum Corp	Exploration	Whiskey Gulch A and B	Nov. 9, 2001.

CONTACT: Mr. John W. Bridges at the U.S. Fish and Wildlife Service, Marine Mammals Management Office, 1011 East Tudor Road, Anchorage, Alaska 99503, (800) 362–5148 or (907) 786–3810.

SUPPLEMENTARY INFORMATION: The Letter of Authorization is issued in accordance with U.S. Fish and Wildlife Service Federal Rules and Regulations "Marine Mammals; Incidental Take During Specified Activities (65 FR 16828; March 30, 2000)."

Dated: November 26, 2001.

David B. Allen,

Regional Director.

[FR Doc. 01–31711 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petitions for Federal Acknowledgment of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(a) notice is hereby given that the following groups have each filed a letter of intent to petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. Each letter of intent was received by the Bureau of Indian Affairs (BIA) on the date indicated, and was signed by members of the group's governing body.

Lenape Nation, c/o Mr. Robert Ruth, 115 Hancock Avenue, Norristown, Pennsylvania 19401. May 16, 2000.

Avogel Nation of Louisiana, c/o Mr. Terryl M. Francisco, 517 Overton Street, Marksville, Louisiana 71351. November 13, 2000.

Little Owl Band of Central Michigan Indians, c/o Mr. Raymond Dowell, P.O. Box 244, Sidney, Michigan 48885–0244. November 27, 2000.

The Western Pequot Tribal Nation of New Haven, c/o Mr. Samuel Ephraim Thomas, P.O. Box 27219, West Haven, Connecticut 06516. November 27, 2000.

Rappahannock Indian Tribe, Inc., c/o Mr. Nokomis F. Lemons, 6754 Tidewater Terrace, Chance, Virginia 22438. January 31, 2001.

Lower Eastern Ohio Mekojay Shawnee, c/o Mr. Russell Sharp, 2902 U.S. Highway 22 West, Wilmington, Ohio 45177. March 5, 2001.

The Chickamauga Notowega Creeks, c/o Ms. Govinda Sanyal, 85 Regis Drive, Staten Island, New York 10314. March 5, 2001.

Avogel, Okla Tasannuk, Tribe/Nation, c/o Mr. Miburn John Mayeux, P.O. Box 1007, Duson, Louisiana 70529–1007. March 19, 2001.

Schaghticoke Indian Tribe, c/o Mr. Allan Russell, P.O. Box 111, Kent, Connecticut 06757. May 11, 2001.

Calaveras Band of Miwuk Indians, c/o Mr. Charles Wilson, P.O. Box 899, West Point, California 95255. July 31, 2001.

Chickahominy Indians, Eastern Division, Inc., c/o Mr. Marvin D. Bradby, 12111 Indian Hill Lane, Providence Forge, Virginia 23140. September 6, 2001.

Xolon Salinan Tribe, c/o Ms. Donna Haro, P.O. Box 5337, Bay Point, California 94565. September 18, 2001.

Phoenician Cherokee II—Eagle Tribe of Sequoyah, c/o Mr. Albert L. Bynum, 504 Brewton Street, Gadsden, Alabama 35903. September 18, 2001.

Nansemond Indian Tribal Association, c/o Mr. Barry W. Bass, P.O. Box 2095, Portsmouth, Virginia 23702. September 20, 2001.

Schaghticoke Tribe, c/o Ms. Mildred Reed Crosley, 382 Connecticut Avenue, Bridgeport, Connecticut 06607. September 27, 2001.

United Cherokee Intertribal, c/o Ms. Gina Williamson, 5005 Elizabeth Street, Guntersville, Alabama 35976. November 8, 2001.

This is a notice of receipt of these letters of intent to petition and does not constitute notice that the petitions are under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, third parties may submit factual and/or legal arguments in support of or in opposition to each group's petition and may request to be kept informed of all general actions affecting the petition. Third parties should provide copies of their submissions to the petitioner. Any information submitted will be made available on the same basis as other information in the BIA's files. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petitions may be examined, by appointment, in the Department of the Interior, BIA, Branch of Acknowledgment and Research, MS: 4660–MIB, 1849 C Street, NW., Washington, DC 20240; Telephone: (202) 208–3592.

Dated: December 11, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–31682 Filed 12–26–01; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P; F–14940–A]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of modified decision.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the decision approving lands for conveyance to Dinyea Corporation, notice of which was published in the **Federal Register** on December 23, 1996, 61 FR 67573, is modified by changing the uses allowed on site easement EIN 1 D3. Notice of the modified decision will also be published four (4) times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until January 28, 2002 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights. Except as modified, the decision, notice of which was given December 23, 1996, is final.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Christy Favorite, 907–271–5656, or by e-mail at *Christy_Favorite@ak.blm.gov.*

Christy Favorite,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 01–31757 Filed 12–26–01; 8:45 am]

BILLING CODE 4310-$$-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–02–1232–EA, SRP–070–02–06&07]

Closure of Selected Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closure of selected public lands in La Paz County, Arizona, during the operation of the 2002 Whiplash Parker 200 and Parker 400 Desert Races.

SUMMARY: The Bureau of Land Management Lake Havasu Field Office announces the temporary closure of selected public lands under its administration in La Paz County, Arizona. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the official permitted running of the 2002 Whiplash Parker 200 & 400 Desert Races.

DATES: Parker 200, January 19, through January 20, 2002; Parker 400, January 24, through January 26, 2002.

Specific restrictions and closure periods are as follows:

1. The PARKER 200 DESIGNATED COURSE is identical to the Parker 400 designated course, but limited to the area west of the CAP Canal and east of the Colorado River Indian Tribes Reservation boundary. The course is closed to public use from 6:00 p.m. Friday, January 18, 2002, to 6:00 p.m. Sunday, January 20, 2002.

2. The PARKER 400 DESIGNATED COURSE is comprised of BLM lands, roads and ways located two miles either side of:

(a) Shea Road from the eastern boundary of the Colorado River Indian Tribes Reservation to the junction with Swansea Road, and two miles either side of Swansea Road from its junction with Shea Road to the eastern bank of the Central Arizona Project Canal.

(b) Swansea Road from its junction with Shea Road, to the Four Corners intersection continuing to the "Midway" intersection.

(c) "Midway" intersection on the power line road east to Cunningham Wash.

(d) South on the OHV route paralleling Cunningham Wash to the intersection of Graham Well and the unpaved maintained road.

(e) The unpaved maintained road to the Bouse "Y".

(f) The Bouse "Y" paralleling east side of unpaved maintained road to the "Midway" intersection.

(g) The power line road west along the East Cactus Plain Wilderness Area boundary to Osborne Wash.

(h) Osborne Wash west, crossing the CAP Canal, following the Cactus Plain WSA boundary south of Shea Road and the Shea Road Pit Area.

(i) Osborne Wash west to the eastern boundary of the Colorado River Indian Tribes reservation is closed to public use from 6 a.m. Friday, January 25, 2002, to 6 p.m. Sunday, January 27, 2002.

3. The entire designated race course is closed to all vehicles except authorized and emergency vehicles.

4. Vehicle parking or stopping in areas affected by the closure is prohibited except in the designated spectator areas. Emergency parking for brief periods of time is permitted on roads open for public use.

5. Spectator viewing (on public land) is limited to the two designated spectator areas located near the Bouse "Y", and the east side of the unpaved maintained road between the Bouse "Y" and the CAP crossing, four miles north of Bouse, Arizona.

6. The following regulations will be in effect for the duration of the closure. Unless otherwise authorized, no person shall:

a. Camp in any area outside of the designated spectator areas.

b. Enter any portion of the race course or any wash located within the race course, including all portions of Osborne Wash.

c. Spectate or otherwise be located outside of the designated spectator or pit areas.

d. Firearms must be unloaded and cased, and are not to be used during the closure.

e. Fireworks are prohibited.

f. Operate any vehicle (other than registered event vehicles), including an off-highway vehicle (OHV), which is not legally registered for street and highway operation, including operation of such a vehicle in spectator viewing areas, along the race course, and in designated pit areas.

g. Park any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property or feature. Vehicles so parked are subject to citation, removal and impoundment at the owner's expense.

h. Take any vehicle through, around or beyond a restrictive sign, recognizable barricade, fence or traffic control barrier.

i. Fail to keep their site free of trash and litter during the period of occupancy, or fail to remove all personal equipment, trash, and litter upon departure.

j. Violate quiet hours by causing an unreasonable noise as determined by the authorized officer between the hours of 10:00 p.m. and 6:00 a.m. Mountain Standard Time.

k. Allow any pet or other animal in their care to be unrestrained at any time.

Signs and maps directing the public to the designated spectator areas will be provided by the Bureau of Land Management or the event sponsor. The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or La Paz County. Vehicles under permit for operation by event participants must follow the race permit stipulations. Authority for closure of public lands is found in 43 CFR 8340, Subpart 8341; 43 CFR 8360, Subpart 8364.1; and 43 CFR 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $100,000 and/or imprisoned for not more than 12 months.

FOR FURTHER INFORMATION CONTACT: Bryan Pittman, District Law Enforcement Ranger, or Myron McCoy, Outdoor Recreation Planner, BLM Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, (928) 505–1200.

Dated: November 30, 2001.

Donald Ellsworth,

Field Manager, Lake Havasu Field Office.

[FR Doc. 01–31756 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1220–AA]

Emergency Closure Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of trails, Fort Sage Off Highway Vehicles Area.

SUMMARY: Notice is hereby given that effective immediately, certain roads and trails in the Fort Sage Off Highway Vehicle Area are closed to all vehicle use. The affected routes are (1) A 4WD vehicle trail located in Sections 1 and 2, T. 25 N., R. 17 E., M.D.M, traversing easterly-westerly; (2) a 4WD vehicle trail located in Sections 2 and 11, T. 25 N., R. 17 E., M.D.M, traversing easterly-westerly; (3) a motorcycle trail located in Sections 2 and 11, T. 25 N., R. 17 E., and Section 34, T. 26 N., R. 17 E., M.D.M, traversing northerly-southerly; (4) All vehicle trails in Sections 7, 18, 19, and 30 T. 25 N., R. 18 E., M.D.M except the road to Willow Springs. The authorized officer reserves the right to allow administrative access when it is determined to be in the interest of the government (i.e. emergency-search and rescue, fire suppression).

SUPPLEMENTARY INFORMATION: The purpose of this closure is to allow for recovery of lands burned by wildfire in August, 2001. Vehicular use of the area has the potential for causing adverse impacts to soil, vegetation, wildlife, wildlife habitat, scenic, and recreation resources until stabilization of the area has occurred. The closure will remain in effect until vegetation recovery is sufficient to delimit the trails and routes and adjacent soil, vegetation, wildlife, wildlife habitat, scenic, and recreation resources are not at risk of adverse impact from trail use of motorized vehicles. The authority for this closure is 43 CFR 834.12.

FOR MORE INFORMATION CONTACT: James Sippel, Outdoor Recreation Planner, BLM Eagle Lake Field Office (530) 257–0456.

Linda D. Hansen,

Field Manager.

[FR Doc. 01–31753 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–02–1610–DU]

Correction to Notice of Availability and Protest Period of the Proposed Planning Analysis for Arkansas and Louisiana

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Correction to notice of availability and protest period.

SUMMARY: The Bureau of Land Management (BLM) published a notice in the **Federal Register** on November 30, 2001, regarding the availability of the Proposed Planning Analysis and Environmental Assessment (PA/EA) for public domain lands in Arkansas and Louisiana. The notice contains information that is incorrect. The PA/EA became available and the 30-day protest period began on December 14, 2001.

FOR FURTHER INFORMATION CONTACT: Judy Pace, Bureau of Land Management, 411 Briarwood Drive, Suite 404, Jackson, MS 39206; telephone (601) 977–5403.

Correction: In the **Federal Register** of November 30, 2001 (Volume 66, Number 231), in DOCID: fd30no01-11 on page 59811, under the **DATES** caption, change the protest ending date to January 13, 2002.

Dated: December 5, 2001.

Bruce Dawson,

Field Manager.

[FR Doc. 01–31747 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–120–5101 ER–H019, 2–0044]

Notice of Availability for the Draft Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Availability for the Draft Environmental Impact Statement (EIS) on a proposed natural gas pipeline right-of-way.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM), Coos Bay District, directed the preparation of a Draft EIS by Biological Information Specialists, Inc., a third party contractor on the impacts of a proposed natural gas pipeline from near Roseburg in Douglas County, Oregon, to Coos Bay in Coos County, Oregon. BLM received a right-of-way application under Section 501 of the Federal Land Policy and Management Act of October 21, 1976, (43 U.S.C. 1737) on May 17, 2000. The proposed pipeline will cross approximately 60 miles of public and private lands in Coos and Douglas Counties, Oregon. This notice initiates the public review process on the draft EIS. The public is invited to review and comment on the range and adequacy of the draft alternatives and associated environmental effects.

DATES: The comment period will end 60 days after publication of the Environmental Protection Agency's Notice of Availability of this draft environmental impact statement in the **Federal Register**. Comments on the draft EIS should be received on or before the end of the comment period at the address listed below.

Public Participation: Public meetings will be held during the comment period. To ensure local community participation and input, public meetings will be held in Coos Bay, Oregon and at other locations if requested. Early participation by all those interested is encouraged. At least 15 days public notice will be given for activities where the public is invited to attend. All individuals, organizations, agencies, and Tribes with a known interest in this planning effort have been sent a copy of the document for review. Written comments will be accepted at the address shown below. For comments to be most helpful, they should relate to specific concerns or conflicts that are within the legal responsibilities of the BLM. Specific dates and locations of meetings and comment deadlines will be announced through the local news media, newsletters, and the BLM web site (www.or.blm.gov/coosbay) and the Coos County web site (coosproj@att.net).

ADDRESSES: Written comments should be sent to Bob Gunther, Project Coordinator, Coos Bay District, BLM, 1300 Airport Lane, North Bend, OR 97459. Documents pertinent to this proposal may be examined at the Coos Bay District Office in North Bend, Oregon and local libraries. Comments, including names and street addresses of respondents, will be available for public review at the Coos Bay District Office during regular business hours 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the Final EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Bob Gunther, Project Coordinator, at address above or telephone (541-751-4295), fax: 541-751-4303, or e-mail comments to the attention of *Bob Gunther@or.blm.gov*. For Technical Information contained in the EIS contact Brian Cox, Senior Biologist, Biological Information Specialists, Inc., P.O. Box 27, Camas Valley, Oregon 97416, Telephone: (541) 445-2008.

SUPPLEMENTARY INFORMATION: The Coos County Board of Commissioners has applied for a right-of-way proposing to contract construction of a 12-inch natural gas transmission pipeline to be buried within the existing rights-of-ways of the Pacific Corp. (PP&L) and Bonneville Power Administration (BPA) electric transmission lines, and within the existing roadbed of the Coos Bay Wagon Road. The total length of the pipeline is approximately 60 miles, with approximately 3.0 miles located on lands administered by the BLM. The proposed pipeline would connect to the Williams Gas Pipeline at a meter facility southwest of Roseburg, in or near Section 33 Township 27 South, Range 6 West in Douglas County and would terminate at Ocean Boulevard in the city of Coos Bay (Section 27 Township 25 South, Range 13 West).

The natural gas transmission pipeline will deliver gas to distribution facilities built by Northwest Natural Gas in the Coos Bay and North Bend communities. Smaller 6-inch or 4-inch laterals will be built off the mainline to serve the cities of Coquille, Myrtle Point, and perhaps Bandon at a later date. The location of the laterals has not been finalized, but is anticipated to follow the location of existing power line, State highway, or railroad rights-of-way. Locations of the distribution lines within the city limits are not known at this time, but are anticipated to be located within existing road rights-of-way.

The proposed pipeline will fall under the jurisdiction of US Department of Transportation (DOT), as a gas transmission pipeline. It will be built and operated to all current specifications in 49 CFR Part 192 (Natural Gas Pipelines) and other relevant sections. The Oregon Public Utility Commission will administer DOT Pipeline Safety regulations for this pipeline.

The proposed pipeline will be designed with the appropriate design safety factors. The mainline is proposed as a welded steel pipeline with a Maximum Allowable Operating Pressure (MAOP) of 1,000 pounds per square inch (psi). The finished pipeline will be pressure tested to at least 150 percent of MAOP, to detect leakage or failure.

All construction is done during daylight hours. Mainline construction will take about 6 months. Applicant plans to construct in the relatively dry summer months of April through October.

Pipeline construction will require a working space up to 60 feet wide. DOT requires a minimum of 30 inches of cover in normal soils, 18 inches in consolidated rock, 36 inches under roads. The pipe will be installed to a target depth of 48 inches to top of pipe. Some grading will be required to install the pipe, but shall be substantially restored to original grade before revegetation. All earth disturbance operations shall be subject to an erosion control plan to comply with US Environmental Protection Agency (EPA) guidelines.

In sections along electrical transmission lines, the contractor shall be required to have and follow a plan to continuously ground the pipe, to protect workers from shock from induced currents.

Coos County plans to contract pipeline operations with an experienced pipeline operator. The County and its operator are required under DOT to formulate and use an Operations and Maintenance Plan specifically for this pipeline. The Operations and Maintenance Plan includes an Emergency Plan for specific procedures and notifications in case of an emergency.

Coos County plans to provide cathodic protection against corrosion, as required by DOT. Magnesium anodes will be placed at regular intervals along the pipeline, to sacrificially corrode and protect the coated steel pipe. This method normally mitigates most induced alternating current (AC). In sections near electrical transmission lines, supplemental anodes and other measures will be taken as necessary to minimize induced AC on the pipeline.

Long-term pipeline operation will require 40 feet of space to be kept clear of larger brush and trees. Access roads to the BPA corridor will be restored as needed for pipeline construction and access for Operations and Maintenance.

After the initial pipeline construction period, there is no need to ever excavate any particular segment of pipe. Annual maintenance consists of checking depth of pipe in roadways, repairing any soil erosion, controlling brush, replacing line markers, painting and operating block valves, conducting leak surveys, and checking the effectiveness of the corrosion control system.

The BLM considered issues and concerns identified during the scoping process in the preparation of the draft EIS. The issues identified include: socioeconomics impacts associated with the proposed project; soil erosion; water quality; fish, and wildlife; potential impacts to traditional Native American uses of the area, archaeological sites. Those individuals, organizations, and agencies with a known interest in the proposal will be sent a copy of the draft EIS. Persons wishing to be added to the mailing list for the EIS may do so by contacting the Coos Co. Pipeline Project Office, 1309 W. Central Blvd., Coquille, OR 97423. A final environmental impact

VOL 66 ISS 248 DE 27 2001 UMI

statement is expected to be available for public review in early 2002.

Richard Conrad,

Acting District Manager.

[FR Doc. 01–31770 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–1430–01; CACA–40856]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability for an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) considering a Recreational and Public Purposes Act (R&PP) lease for a horse ranch near Trona, California.

SUMMARY: An EA and FONSI are available for public review for a proposed horse ranch R&PP lease near the community of Trona, California. Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), the Bureau of Land Management (BLM) has prepared an EA analyzing impacts of a proposed horse ranch in San Bernardino County, CA. The ranch is proposed to be located on public land, managed by the Bureau of Land Management, Ridgecrest Field Office. Based on the environmental analysis, BLM has made a Finding of No Significant Impact (FONSI). The EA and FONSI are available for public review and comment for 30 days from publication of this notice. A copy of the document can be obtained from the BLM office at 300 S. Richmond Rd, Ridgecrest, CA 93555 or by contacting Peter G. Graves at (760) 384–5429. After consideration of all the public comments, the BLM Field Manager (Authorized Officer) will render a decision selecting the alternative that best meets BLM's Multiple-Use mission.

ADDRESS: Comments should be addressed to Hector A. Villalobos, Field Manager, BLM Ridgecrest Field Office, 300 S. Richmond Rd., Ridgecrest, CA 93555. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Peter Graves, Resource Management Specialist, Ridgecrest Field Office, BLM, 300 South Richmond Road, Ridgecrest, CA 93555, (760) 384–5429.

SUPPLEMENTARY INFORMATION: On June 29, 1999, Rocking "R" Ranch submitted a Recreation and Public Purpose Lease application to the Bureau of Land Management (BLM), Ridgecrest Field Office, in order to construct, develop, operate and maintain a horse ranch on public land near the community of Trona, California. The proposed horse ranch would shelter abused and abandoned horses.

Dated: December 7, 2001.

Linn Gum,

Acting Field Manager.

[FR Doc. 01–31763 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–1310–E1]

Notice of Intent To Prepare Planning Analysis/Environmental Assessments

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to Prepare a Planning Analysis/Environmental Assessment.

SUMMARY: The Jackson Field Offices, Eastern States will prepare a Planning Analysis/Environmental Assessment (PA/EA), in cooperation with the U.S. Army Corps of Engineers to consider leasing Federal mineral estate for oil and gas exploration and development. The lands, managed by the U.S. Army Corps of Engineers, are located in the Blue Mountain Lake Project Area in Logan and Yell Counties, Arkansas. This notice is issued pursuant to Title 40 *Code of Federal Regulations* (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in Title 43 CFR part 1600. The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted for thirty days from the date of this publication. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

ADDRESSES: Send comments to: Bureau of Land Management, Jackson Field Office; 411 Briarwood Drive, Suite 404; Jackson, MS 39206.

FOR FURTHER INFORMATION CONTACT: Clay Moore, Lead for PA/EA Jackson Field Office, (601–977–5400).

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider nominations to lease Federal mineral estate oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EA. Preliminary issues, subject to change as a result of public input, are (1) potential impacts of oil and gas exploration and development on the surface resources and uses by the Corps of Engineers and (2) consideration of restriction on lease rights to protect surface resources and uses by the Corps of Engineers. The lands are located in the below listed townships/sections in Logan and Yell Counties, Arkansas. Total acreage being addressed is approximately 17,000 acres.

T5N, R25W, 5th Meridian
Sections 2, 7–11, 15–20
T5N, R26W, 5th Meridian
Sections 1–19, 24, 27, 28 330
T5N, R27W, 5th Meridian
Sections 1–4, 9–19, 24–26
T5N, R26W, 5th Meridian
Sections 29, 31, 32
T6 N, R.27W, 5th Meridian

Sections 25, 34–36

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Sid Vogelpohl,

Acting Field Manager, Jackson Field Office.

[FR Doc. 01–31749 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–020–02–1310–EI]

Notice of Intent To Prepare Planning Analyses/Environmental Assessments

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare a Planning Analysis/Environmental Assessment.

SUMMARY: The Jackson Field Office, Eastern States will prepare a Planning Analysis/Environmental Assessment (PA/EA), in cooperation with the U.S. Army Corps of Engineers, to consider leasing Federal mineral estate for oil and gas exploration and development. The lands, managed by the U.S. Army Corps of Engineers, are located in the Carr Creek Project Area in Knott County, Kentucky. This notice is issued pursuant to Title 40 *Code of Federal Regulations* (CFR) 1501.7 and Title 43 CFR 1610.2(c). The planning effort will follow the procedures set forth in Title 43 CFR part 1600. The public is invited to participate in this planning process, beginning with the identification of planning issues and criteria.

DATES: Comments relating to the identification of planning issues and criteria will be accepted for thirty days from the date of this publication. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

ADDRESSES: Send comments to: Bureau of Land Management, Jackson Field Office; 411 Briarwood Drive, Suite 404; Jackson, MS 39206.

FOR FURTHER INFORMATION CONTACT: Clay Moore, Lead for PA/EA, Jackson Field Office, (601–977–5400).

SUPPLEMENTARY INFORMATION: The BLM has responsibility to consider nominations to lease Federal mineral estate for oil and gas exploration and development. An interdisciplinary team will be used in the preparation of the PA/EA. Preliminary issues, subject to change as a result of public input, are (1) Potential impacts of oil and gas exploration and development on the surface resources and uses by the Corps of Engineers and (2) consideration of restrictions on lease rights to protect surface resources and uses by the Corps of Engineers. The Carr Creek Project Area is composed of lands acquired in many separate tracts totaling 3,914.64 acres. The Project Area is in Knott County; approximately 20 miles east of Hazard, Kentucky.

Due to the limited scope of this PA/EA process, public meetings are not scheduled.

Bruce E. Dawson,

Field Manager, Jackson Field Office.

[FR Doc. 01–31748 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–030–1020–00]

Notice of Intent To Amend Plans; Corrections

AGENCY: Bureau of Land Management, Interior.

ACTION: Corrections to Notice of intent to Prepare Plan Amendments

---

SUMMARY: The Bureau of Land Management (BLM), Grand Staircase-Escalante National Monument (GSENM) published in the November 30, 2001 issue of the **Federal Register** (FR) a Notice of Intent to Amend the GSENM Management Plan, the Paria Management Framework Plan, and the Escalante Management Framework Plan. As published, the notice contained the following errors: (1) The notice was incorrect and unclear about which plans are associated with the Willow Gulch and Clark Bench grazing allotments; and (2) The notice inadvertently omitted the inclusion of the Willow Gulch grazing allotment in planning criteria number 1.

FOR FURTHER INFORMATION, CONTACT: Monument Manager, Grand Staircase-Escalante National Monument, 190 E Center, Kanab, Utah 84741 (Phone: 435–644–4300).

SUPPLEMENTARY INFORMATION: Correction 1: In the **Federal Register** issue of November 30, 2001 (Volume 66, Number 231), FR Doc. 01–29729, on Page 59812, in the second column, under the "Summary" caption, correct the first sentence to read:

Summary: Pursuant to the Bureau of Land Management (BLM) Planning Regulations (43 CFR 1600) this notice advises the public that the BLM, Grand Staircase-Escalante National Monument (GSENM) is considering amendments to the following plans:

(1) The Grand Staircase-Escalante National Monument (GSENM) Management Plan, and the Paria Management Framework Plan regarding the Clark Bench Allotment; and

(2) The Grand Staircase-Escalante National Monument (GSENM) Management Plan and the Escalante Management Framework Plan regarding the Willow Gulch Allotment.

Correction 2: In the **Federal Register** issue of November 30, 2001 (Volume 66, Number 231), FR Doc. 01–29729, on Page 59812, the third column, under the "Supplementary Information" caption, correct the second paragraph, Item 1 to read:

1. These plan amendments/EAs are initiated in response to the voluntary relinquishment of the sole grazing preference/permit for the Clark Bench grazing allotment and a portion of the grazing preference/permit for the Willow Gulch grazing allotment. These plan amendments will be addressed through two separate EAs. The analyses and decisions will apply only to these allotments.

Dated: December 12, 2001.

Sherry Barnett,

Deputy Assistant Director.

[FR Doc. 01–31764 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NMNM 106570]

Intent To Prepare an Environmental Impact Statement (EIS) for a Proposed Pipeline Right-of-Way Across Federal Land in Lea, Eddy, Chaves, Lincoln, Guadalupe, Torrance, Sandoval, McKinley and San Juan Counties, NM; Ector and Winkler Counties, TX

AGENCY: Bureau of Land Management, New Mexico.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement (EIS) and conduct EIS scoping meetings for the conversion of an existing pipeline and construction of new pipeline and above ground structures for the transportation of refined petroleum products from Odessa, Texas to Bloomfield, New Mexico.

SUMMARY: Equilon Pipeline Company, LLC, proposes a pipeline about 500 miles in length, from Odessa, Texas to Bloomfield, New Mexico, carrying refined petroleum products (gasoline, diesel, aviation fuel). Approximately 400 miles of the 500-mile system uses an existing pipeline formerly used to move crude oil from the Four Corners area to West Texas. Approximately 100 miles of new pipeline will be constructed in two segments; one linking Odessa, Texas to the existing pipeline at Jal, New Mexico, and the other connecting the north end of the existing pipeline near Bisti to

VOL 66 ISS 248 DE 27 2001 UMI

Bloomfield, New Mexico. The existing pipeline will be reconditioned.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, the Bureau of Land Management, New Mexico State Office, will be the lead agency directing the preparation of an EIS on the impacts of proposed transportation of refined petroleum products through pipelines located on public lands in New Mexico and Texas, including BLM, National Forest System and State as well as private lands.

Preliminary Issues

Potential issues identified at this time include: biological and visual resources; soils, water, safety, social and economic concerns in association with refined petroleum products pipeline construction and operation. Other issues and concerns may be identified through scoping and the public participation development of this public notification process.

Responsible Official

The responsible official is Michelle Chavez, the BLM New Mexico State Director, 1474 Rodeo Road, Santa Fe, New Mexico, 87505.

Decisions To Be Made

The purpose of the EIS is to disclose to the public and permitting agencies the environmental impacts of constructing and operating the proposed pipeline. If approved, the BLM, as lead agency, would sign the necessary Record of Decision (ROD) for the issuance of right-of-way grants under the Mineral Leasing Act for the pipeline proposal.

Tentative Project Schedule

The tentative project schedule is as follows:

Begin Public Comment Period
  January 2002
Scoping Meetings
  January 2002
Scoping Comment Period Ends
  February 2002
Publish Draft EIS
  June 2002
Draft EIS Public Meetings
  July 2002
Publish Final EIS
  October 2002
Record of Decision
  November 2002

Public Scoping Meetings

Public Scoping meetings are tentatively scheduled for the week of January 14, 2002 in Moriarty, Jal and Placitas, New Mexico. Open houses will also be held in Odessa, Texas and Bloomfield, NM.

Public Input Requested

Comments concerning the Proposed Action and EIS should address environmental issues to be considered, feasible alternatives to examine, possible mitigation and information relevant to or bearing on the Proposed Action.

Comments, including names and street addresses of respondents, will be available for public review at the BLM Albuquerque Field Office and will be subject to disclosure under the Freedom of Information Act (FOIA). They may be published as part of the EIS and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the FOIA, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety.

ADDRESSES: Comments should be sent to Joseph Jaramillo, Project Manager, Bureau of Land Management, Albuquerque Field Office, 435 Montano Road, NE, Albuquerque, NM 87107-4935.

Dated: December 6, 2001.

Edwin J. Singleton,

BLM, Albuquerque Field Manager.

[FR Doc. 01-31758 Filed 12-26-01; 8:45 am]

BILLING CODE 4310-AG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-350-1220-EA]

Temporary Restriction of Use Order

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary restriction of motor vehicle use, Fort Sage Off Highway Vehicle Area.

SUMMARY: Notice is hereby given that effective 12:00 am April 6 until 6:00 pm April 7, 2002, use of motor vehicles is restricted at the Fort Sage Off Highway Vehicle Area to entrants and officials participating in motorcycle races under permit with the Bureau of Land Management. All roads and trails at the Fort Sage OHV area are closed to all other motor vehicle use on April 6 & 7, 2002, except for County Road 327 (Fort Sage Road), the Fort Sage Trailhead access road, the Widowmaker Trailhead Access road, and the road to the "Land of David" site which remain open without restriction.

SUPPLEMENTARY INFORMATION: The purpose of this restriction is to protect persons and their property, by preventing the potential for collision between race participants and casual road and trail riders. The restriction will also prevent adverse impacts to soil, vegetation, wildlife habitat, and recreation resources by preventing the potential for cross country travel by or congregating of spectators adjacent to or between trails. Search and rescue, medical emergency, law enforcement, and other emergency personal are exempted from these restrictions. BLM personnel are exempted from these restrictions for official administrative purposes. Owners of private lands within or adjacent to the Fort Sage OHV Area are exempted for access to owner's private land. Permitted OHV use remains limited to designated roads and trails as established under the existing OHV designation for the area. The authority for this closure is 43 CFR 8364.1

FOR MORE INFORMATION CONTACT: James Sippel, Outdoor Recreation Planner, BLM Eagle Lake Field Office (530) 257-0456.

Linda D. Hansen,

Field Manager.

[FR Doc. 01-31754 Filed 12-26-01; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-930-1430-ET; NMNM 87650]

Public Land Order No. 7506; Revocation of Public Land Order No. 7052; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 7052 in its entirety as it affects public land and federally reserved mineral interest withdrawn for protection of the unique geological formations of the Tent Rocks Area of Critical Environmental Concern. The land is withdrawn from mining and all forms of disposition other than exchange by Presidential Proclamation No. 7394 which established the Kasha-Katuwe Tent Rocks National Monument.

EFFECTIVE DATE: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM New Mexico

State Office, P.O. Box 27115, Santa Fe, New Mexico 87502, 505–438–7597.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 7052, which withdrew public land and federally reserved mineral interests to protect the unique geological formations of the Tent Rocks Area of Critical Environmental Concern, is hereby revoked in its entirety.

2. The land will be managed in accordance with the laws and regulations pertaining to the Kasha-Katuwe Tent Rocks National Monument.

Dated: December 3, 2001.

J. Steven Griles,

Deputy Secretary.

[FR Doc. 01–31769 Filed 12–26–01; 8:45 am]

BILLING CODE 4310-FB-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–02–1430–ES; AZA–31292]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands are located in Maricopa County, Arizona, and found suitable for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869, *et seq.*). The lands are not needed for federal purposes. Lease or conveyance is consistent with current Bureau of Land Management (BLM) land use planning and would be in the public interest.

The following described lands, located in the City of Phoenix, Maricopa County, and containing approximately 159.32 acres, have been found suitable for lease or conveyance to the City of Phoenix as an addition to the Rio Salado Habitat Restoration Project.

Gila and Salt River Meridian, Arizona

T. 1 N., R. 2 E..
  Section 30, Lot 3, N½SE¼, NE¼SW¼.

The lease or conveyance would be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

3. A right-of-way for ditches and canals constructed by the authority of the United States.

4. Those rights for a 12-inch water pipeline granted to the City of Phoenix by right-of-way number AZA–28612.

5. Those rights for a 150-foot road easement granted to Maricopa County

Department of Transportation by right-of-way number AZA–17221.

SUPPLEMENTARY INFORMATION: Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act. For a period of 45 days from the date of publication of this Notice, interested parties may submit comments regarding the proposed lease, conveyance or classification of the lands to the Field Office Manager, Phoenix Field Office, 21605 North 7th Avenue, Phoenix, Arizona 85027.

Classification Comments: Interested parties may submit comments involving the suitability of the land for the proposed Rio Salado Oeste (West) Project for the City of Phoenix. Comments on the classification are restricted to whether the land is physically suited for the proposals, whether the uses will maximize the future use or uses of the land, whether the uses are consistent with local planning and zoning, or if the uses are consistent with state and federal programs.

Application Comments: Interested parties may submit comments regarding the specific uses proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for proposed uses. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: MarLynn Spears at the Phoenix Field Office, 21605 North 7th Avenue, Phoenix, Arizona, 85027, (623) 580–5606.

Dated: December 5, 2001.

Michael A. Taylor,

Field Manager.

[FR Doc. 01–31755 Filed 12–26–01; 8:45 am]

BILLING CODE 4310-[illegible]-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–180–1430–EU; CACA–42592]

Notice of Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action; Non-competitive sale of public lands, Amador County, California.

SUMMARY: The public lands identified below have been examined and found suitable for disposal pursuant to sections 203 and 209 of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2750–51; 43 U.S.C. 1713, and 90 Stat. 2757–58, 43 U.S.C. 1719), and the Federal Land Transaction Facilitation Act of July 25, 2000 (Pub. L. 106–248), at not less than appraised market value. The potential buyer of the parcel will make application under section 209 of the Federal Land Policy and Management Act of October 21, 1976, to purchase the mineral estate along with the surface.

Mount Diablo Meridian

T. 7 N., R. 13 E.,
  Sec. 20, NE¼NE¼SW¼NE¼,
    E½NW¼NE¼SW¼NE¼; containing 3.75 acres.

The purpose of the proposed sale is to dispose of a parcel of public land that is difficult and uneconomic to manage as part of the public lands of the United States. It is also proposed for sale in order to resolve an inadvertent trespass. The proposed sale is consistent with the Folsom Field Office Sierra Planning Area Management Framework Plan (July 1988), and the public interest will be served by offering the parcel for sale. The parcel will be offered for non-competitive sale to Michael and Kevan Spence, the adjacent landowner.

Pursuant to the Federal Land Transaction Facilitation Act of July 25, 2000 (Pub. L. 106–248), the proceeds from the sale will be deposited into a Federal Land Disposal Account and used to acquire non-federal land within the State of California. The money will be used to purchase lands for the BLM, National Park Service, Forest Service, or Fish and Wildlife Service. Conveyance of the available mineral interests would occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 nonreturnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will reserve the following:

A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments pertaining to this action. The lands will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

ADDRESSES: Written comments concerning the proposed sale should be sent to the Bureau of Land Management, Folsom Field Office, 63 Natoma Street, Folsom, California 95630.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the land sale, including relevant planning and environmental documentation, may be obtained from the Folsom Field Office at the above address. Telephone calls may be directed to Karen Montgomery at (916) 985–4474.

SUPPLEMENTARY INFORMATION: Objections to the sale will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposal will become the final determination of the Department of the Interior. Publication of this notice in the **Federal Register** will segregate the public lands from appropriations under the public land laws, including the mining laws, pending disposition of this action, or 270 days from the date of publication of this notice, whichever occurs first. Pursuant to the application to convey the mineral estate, the mineral interests of the United States are segregated by this notice from appropriation under the public land laws, including the mining laws for a period of two years from the date of filing the application.

Dated: November 26, 2001.

James M. Eicher,

Assistant Folsom Field Office Manager.

[FR Doc. 01–31746 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–0778–1430–ES; IDI–32732]

Notice of Realty Action, Recreation and Public Purpose (R&PP) Act Classification, Idaho

AGENCY: Bureau of Land Management.

ACTION: Notice of realty action.

SUMMARY: The following public lands in Cassia County, Idaho have been examined and found suitable for classification for lease to the State of Idaho, Department of Parks and Recreation under the provisions of the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 *et seq.*). The Idaho Department of Parks and Recreation proposes to use the land as a public campground for the City of Rocks National Reserve.

T. 15 S., R. 24 E., Boise Meridian
  Section 33: E½SW¼NE¼, SE¼NE¼, NE¼SE¼, E½NW¼SE¼

The area described contains 120 acres, more or less, in Cassia County.

The proposed campground would include 89 camping units with 76 of them having water and electrical hookups for recreational vehicles (RV's), two shower and restroom facilities, septic tanks and associated drain fields, a 100 seat amphitheater, and an access road.

The above described lands are not needed for Federal purposes. The lease of these lands is consistent with the Cassia Resource Management Plan and would be in the public interest.

The lease, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.
2. Those rights for access road and buried pipeline purposes granted to the Idaho Department of Parks and Recreation by right-of-way IDI–31531.
3. Those rights for road use purposes reserved to the United States by right-of-way reservation IDI–30770.
4. A right-of-way for ditches and canals constructed by the authority of the United States.
5. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
6. The lease would be issued subject to the proposed campground conceptual design submitted with the application as well as with its attached Schematic Site Plan. Prior to any construction activity, the detailed construction and design plans will be reviewed and approved by the BLM Authorized Officer.
7. Sixty days prior to an abandonment of the campground, the lessee shall contact the BLM authorized officer to arrange a joint inspection of the lease area. This inspection will be held to agree to an acceptable termination (and rehabilitation) plan. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The BLM authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.

Detailed information concerning this action is available for review at the Burley Field Office of the Bureau of Land Management, 15 East 200 South, Burley, Idaho.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms or appropriation under the public land laws, including the general mining laws, except for lease under the Recreation and Public Purpose Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed classification or lease of the lands to the Field Office Manager, Burley Field Office, 15 East 200 South, Burley, Idaho 83318.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the land for a public campground facility for the City of Rocks National Reserve. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public campground facility.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

Dated: October 18, 2001.

Theresa Hanley,

Burley Field Office Manager.

[FR Doc. 01–31762 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1430–ES; N–74496 and N–74570]

Notice of Realty Action: Segregation Terminated, Leases/Conveyances for Recreation and Public Purposes

AGENCY: Bureau of Land Management, interior.

ACTION: Segregation Terminated, Recreation and Public Purposes Leases/Conveyances.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated for exchange purposes on July 23, 1997 under serial numbers N–61855 and N–66364. The exchange segregations on the subject land will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for leases/conveyances for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Clark County School District proposes to use the land for an elementary and a middle school.

Elementary School, N–74496:

Mount Diablo Meridian, Nevada,

T. 20 S., R. 62 E.,
  Sec. 14, W½ of lot 5. approximately 21.86 acres

Middle School, N–74570:

Mount Diablo Meridian, Nevada,

T. 20 S., R. 62 E.,
  Sec. 14, E½ of lot 5. approximately 21.86 acres

Both schools are located near Carey Avenue and Hollywood Boulevard. The land is not required for any federal purpose. The leases/conveyances are consistent with current Bureau planning for this area and would be in the public interest. The leases/patents, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).
2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan.
2. Those rights for water line purposes which have been granted to the Southern Nevada Water Authority by Permit No. N–1521 under the act of December 5, 1924 (43 Stat. 0672).
3. Those rights for gas pipeline purposes which have been granted to Southwest Gas Corporation by Permit No. Nev–061333 under the act of February 25, 1920 (41 Stat. 0437, 30 USC 185 sec. 28).
4. Those rights for telephone line purposes which have been granted to Sprint of Nevada by Permit No. N–75030 under the act of October 21, 1976 (090 Stat. 2776, 43 USC 1761).

Detailed information concerning these actions is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada or by calling (702) 647–5088. Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed leases/conveyances for classification of the land to the Las Vegas Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for an elementary and a middle school. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the applications and plans of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor directly related to the suitability of the land for an elementary and a middle school. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, these realty actions will become the final determination of the Department of the Interior. The classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

The lands will not be offered for leases/conveyances until after the classification becomes effective.

Dated: November 26, 2001.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 01–31759 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–1430–ES; N–36866–C]

Notice of Realty Action: Segregation Terminated, Lease/Conveyance for Recreation or Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Segregation terminated, recreation and public purposes lease/conveyance.

SUMMARY: The following described public land in Logandale, Nevada was segregated for exchange purposes on September 5, 1997 under serial number N–61968. The exchange segregation on the subject land will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes an amendment to N–36866–C to add this acreage to the Logandale Park.

T. 15 S., R. 67 E., M.D.M.
  Section 26, SW¼SW¼NW¼NW¼,
    E½SW¼NW¼NW¼.

Containing 7.5 acres, more or less, located at the corner of Lyman and Frehner Roads.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

VOL 66 ISS 248 DE 27 2001 UMI

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe and will be subject to:

1. Easements in accordance with the Clark County Transportation Plan. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada or by calling (702) 647–5088. Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the land to the Las Vegas Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor directly related to the suitability of the land for a park. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, these realty actions will become the final determination of the Department of the Interior. The classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: November 26, 2001.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 01–31760 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–37116]

Notice of Realty Action: Lease/conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and public purpose lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The City of Las Vegas proposes to use the land for a public park.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.,
  Sec. 8 S½NE¼NW¼NW½,
    N½SE¼NW¼NW¼

Containing 10 acres, more or less.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement 30 feet in width along the East boundary in favor of the City of Las Vegas for road, sewer, public utilities and flood control purposes.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral material disposal laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Field Manager, Las Vegas Field Office, Las Vegas, Nevada 89108.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a public park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a public park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: November 26, 2001.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 01–31761 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–1430–EU, N–51513]

Notice of Penalty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The below listed public land in Lincoln County, Nevada has been determined suitable for disposal. It will be sold under direct sale procedures in accordance with Sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713, 1719, and 1740) at not less that fair market value (FMV).

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Assistant Field Manager, Nonrenewable Resources, Ely Field Office.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, Jeffrey A. Weeks, Assistant Field Manager, HC 33 Box 33500, Ely, Nevada 89301–9408.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including the reservation, sale procedures and conditions, planning and environmental documents, are available at the Ely Field Office of the Bureau of Land Management, at 702 North Industrial Way, Ely, Nevada 89301, or by calling Kevin Finn at (775) 289–1849.

SUPPLEMENTARY INFORMATION: The following described parcel of land situated in Lincoln County, Nevada is being offered at direct sale to resolve a long standing, inadvertent trespass. Sale price of the 1.25 acres is $5000. The parcel is described below.

Mount Diablo Meridian, Nevada

T. 2 S., 68 E., Sec. 6; E1/2E1/2E1/2E1/4SW1/4SE1/4.
1.25 acres, more or less.

The applicant will be required to pay a $50.00 non-refundable filing fee in conjunction with the final payment for processing of the conveyance of the locatable mineral interests. The terms and conditions applicable to the sale are as follows:

1. All leasable and saleable mineral deposits are reserved on land sold; permittees, licenses, and licensees, and lessees, retain the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. All land parcels are subject to all valid and existing rights. Encumbrances of record are available for review during business hours, 7:30 to 4:30 p.m., Monday through Friday, at the Bureau of Management, Ely Field Office, 702 North Industrial Way, Ely, Nevada.

4. The purchaser, by accepting a patent, agrees to indemnify, defend, and hold harmless the United States from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgements of any kind or nature arising from the past, present, and future acts or omissions of the patentee or their employees, agents, contractors, or lessees, or any third party, arising out of, or in connection with, the patentee's use, occupancy, or operations of the patented real property. The indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the patentee and their employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violation of federal, state, and local laws and regulations that are now, or may in the future become, applicable to the real property: (2) Judgements, claims or demands of any kind assessed against the United States: (3) Costs, expenses, or damages of any kind incurred by the United States: (4) or threatened releases of solid or hazardous waste(s) and/or hazardous substance(s), as defined by federal or state environmental laws; off, on, into or under land, property and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by federal and state environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resources damages as defined by federal and state law. This covenant shall be construed as running with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, the general public and interested parties may submit comments to the Assistant Field Manager, Nonrenewable Resources, Ely Field Office, 702 North Industrial, Ely, Nevada 89301. Any adverse comments will be reviewed by the Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the realty action will become the final determination of the Department of the Interior. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, communication of the sale would be fully consistent with FLPMA or other applicable laws or is determined not in the public interest. Any comments received during this process, as well as the commentor's name and address, will be available to the public in the administrative record and/or pursuant to the Freedom of Information Act request. You may indicate for the record that you do not wish your name and/address made available to the public. Any determinations by the Bureau of Land Management to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. A commentor's request to have their name and/or address withheld from public release will be honored to the extent permissible by law. The identified parcel will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Dated: September 21, 2001.

Jeffrey A. Weeks,

Assistant Field Manager, Nonrenewable Resources.

[FR Doc. 01–31771 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(ES–032–1430–BJ) ES–51274, Group 550, Minnesota]

Notice of Filing of Plat of an Island; Minnesota

1. The plat of the survey of an island in Little Kandiyohi Lake, Township 118 North, Range 34 West, Fifth Principal Meridian, Minnesota, accepted on November 29, 2001, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on February 7, 2002. The tract shown below describes the island omitted from the original survey.

Fifth Principal Meridian, Minnesota,

T. 118 N. R. 34 W.,
Tract No. 37.

2. Tract No. 37 is firm land rising 20 ft. above the ordinary high water mark. The soil has evolved from glacial till parent material and is similar to the soil found on the adjacent uplands. Numerous stones were located along the entire shore line at the ordinary high water mark and at the highest points of the island. Tree species consist of ash, basswood, boxelder, elm, hickory and

oak, ranging in size from 3 to 18 inches in diameter, with a maximum age of 120+ years. The ground cover consists of hazel, willow, cattails and native grasses along the entire shore line.

3. The present water level of the lake compares favorably with that of the lake at the time of the original survey; therefore, the elevation and upland character of the island along with the depth and width of the lake between the adjacent upland and the island are considered evidence that the island did exist in 1858, the year Minnesota was admitted to the Union. The original survey in 1857 did not note the presence of this island.

4. Tract No. 37 is more than 50 percent upland in character within the interpretation of the Swamp and Overflow Act of September 28, 1850 (9 Stat. 519) as extended to the State of Minnesota under the Act of March 12, 1860 (12 Stat. 3).

5. The survey was requested by Bureau of Land Management, Milwaukee Field Office, under the authority of section 211 of FLPMA (43 U.S.C. 1721) and the Minnesota Public Lands Improvement Act of 1990, P.L. 101–442 (104 Stat. 1020).

6. Except for valid existing rights, this island will not be subject to application, petition, location or selection under any public law until February 7, 2002.

7. Interested parties protesting the determination that this island is public land of the United States, must present valid proof showing that the island did not exist at the time of statehood or that it was attached to the mainland at the time of the original survey. Such protests must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., February 7, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: November 29, 2001.

Corwyn J. Rodine,

Chief Cadastral Surveyor.

[FR Doc. 01–31750 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(ES–032–1430–BJ) ES–51273, Group 549, Minnesota]

Notice of Filing of Plat of an Island; Minnesota

1. The plat of the survey of an island in Little Kandiyohi Lake, Township 119 North, Range 34 West, Fifth Principal Meridian, Minnesota, accepted on November 29, 2001, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on February 7, 2002. The tract shown below describes the island omitted from the original survey.

Fifth Principal Meridian, Minnesota,

T. 119 N. R. 34 W.,
Tract No. 37.

2. Tract No. 37 is firm land rising 5–8 ft. above the ordinary high water mark. The soil has evolved from glacial till parent material and is similar to the soil found on the adjacent uplands. Numerous stones were located on the highest points of the island. Tree species consist of ash, basswood, boxelder, elm, hickory and oak, ranging in size from 3 to 18 inches in diameter, with a maximum age of 120+ years. The ground cover consists of hazel, willow, cattails and native grasses along the entire shore line.

3. The present water level of the lake compares favorably with that of the lake at the time of the original survey; therefore, the elevation and upland character of the island along with the depth and width of the lake between the adjacent upland and the island are considered evidence that the island did exist in 1858, the year Minnesota was admitted to the Union. The original survey in 1857 did not note the presence of this island.

4. Tract No. 37 is more than 50 percent upland in character within the interpretation of the Swamp and Overflow Act of September 28, 1850 (9 Stat. 519) as extended to the State of Minnesota under the Act of March 12, 1860 (12 Stat. 3).

5. The survey was requested by William T. Burgmeier and the B&P Living Trust, under the authority of section 211 of FLPMA (43 U.S.C. 1721) and the Minnesota Public Lands Improvement Act of 1990, Pub.L. 101–442 (104 Stat. 1020).

6. Except for valid existing rights, this island will not be subject to application, petition, location or selection under any public law until February 7, 2002.

7. Interested parties protesting the determination that this island is public land of the United States, must present valid proof showing that the island did not exist at the time of statehood or that it was attached to the mainland at the time of the original survey. Such protests must be submitted in writing to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., February 7, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: November 29, 2001.

Corwyn J. Rodine,

Chief Cadastral Surveyor.

[FR Doc. 01–31751 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(ES–960–1910–BJ–4377) ES–48651, Group 159, Wisconsin]

Notice of Cancellation of Plat of Survey and Filing of Plat of Survey; Wisconsin

The plat accepted March 14, 1997 published in the **Federal Register** on March 24, 1997, has been cancelled effective November 29, 2001.

The plat of the corrective dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 14, Township 40 North, Range 4 East, Fourth Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on February 4, 2002.

The survey was requested by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., February 4, 2002.

Copies of the plat will be made available upon request and prepayment of the appropriate fee.

Dated: November 29, 2001.

Corwyn J. Rodine,

Chief Cadastral Surveyor.

[FR Doc. 01–31752 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 8, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of

Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by January 11, 2002.

Carol D. Shull,

Keeper of the National Register Of Historic Places.

California

Los Angeles County

McCarty Memorial Christian Church, 4101 W. Adams Blvd., Los Angeles, 01001456

Orange County

Cogged Stone Site—CA–ORA–83, Address Restricted, Huntington Beach, 01001455

San Diego County

El Cortez Apartment Hotel, 702 Ash St., San Diego, 01001458

Santa Barbara County

Goleta Depot, 300 N. Los Carneros Rd., Goleta, 01001457

Shasta County

Cascade Theatre, 1731 Market St., Redding, 01001459

Illinois

Piatt County

South Charter Street Historic District, Roughly bounded by Marion and South Market St.s, Sage Dr., and South State St., Monticello, 01001464

St. Clair County

Spivey Building, 417 Missouri Ave., East St. Louis, 01001462

Iowa

Jones County

St. Luke's Methodist Church, 211 N. Sycamore, Monticello, 01001461

Marshall County

Marshalltown Downtown Historic District, Roughly bounded by 2nd St., State St., 3rd. Ave., and E. Church St., Marshalltown, 01001463

Polk County

Seth Richards Commercial Block, 300–310 Court Ave., Des Moines, 01001460

Louisiana

Caddo Parish Star Cemetery, off 2100 blk of Texas Ave., Shreveport, 01001478

Massachusetts

Berkshire County

Main Street Historic District, 1–57 Main St., 1–2 Pine St., 2 Sergeant St., Stockbridge, 01001466

Middlesex County

Graniteville Historic District, Broadway, Church, Cross, First, Fourth, N. Main, River School, Second, and Third Sts., Westford, 01001467

Norfolk County

Dwight—Derby House, 7 Frairy St., Medfield, 01001465

Mississippi

Yazoo County

Bull Homestead, 13836 MS 16 E, Benton, 01001479

New Mexico

Chaves County

Downtown Roswell Historic District (Boundary Increase), (Roswell New Mexico MRA) Roughly bounded by 8th and 10th Sts., Richardson and Kentucky Aves., Roswell, 01001469

Santa Fe County

New Mexico Supreme Court Building, (New Deal in New Mexico MPS) 237 Don Gaspar Ave., Santa Fe, 01001468

Union County

Eklund Hotel, 15 Main St., Clayton, 01001470

Texas

Galveston County

Denver Court Historic District, Roughly bounded by Aves. S1/2 and U1/2, 43rd and 52nd Sts., Galveston, 01001471

Tarrant County

Central Handley Historic District, Roughly bounded by E. Lancaster Ave., Forest Ave., Kerr St., and Handley Dr., Fort Worth, 01001472

Vermont

Caledonia County

New Discovery State Park, (Religious Buildings, Sites and Structures in Vermont MPS) 4239 VT 232, Peacham, 01001475

Windham County

Bellows Galls Neighborhood Historic District, Atkinson, Westminster, School, Hapgood Sts, Hapgood Pl., Burt St., Henry St., South St., Hadley St., Temple Pl., Rockingham, 01001477

Washington

San Juan County

Tharald Homestead, Hoffman Cove Rd., Shaw Island, 01001473

Wisconsin

Dane County

Stoughton High School, 211 N. Forrest St., Stoughton, 01001476

Trempealeau County

Independence City Hall, 23688 Adams St., Independence, 01001474

A Request for REMOVAL has been made for the following resources:

Iowa

Buchanan County

Otterville Bridge (Highway Bridges of Iowa MPS) Bordner Dam Rd., over Wapisipinicon R. Independence vicinity 9800759

Pennsylvania

Bedford County

Grand View Point Hotel (Lincoln Highway Heritage Corridor Historic Resources MPS) US 30, 17 mi. W of Bedford, Juniata Twnshp Bedford vicinity, 97000219

[FR Doc. 01–31768 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 1, 2001. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 800 N. Capitol St. NW, Suite 400, Washington DC 20002; or by fax, 202–343–1836. Written or faxed comments should be submitted by January 11, 2002.

Carol D. Shull,

Keeper of the National Register of Historic Places.

GEORGIA

Early County

Butler, James And Clara, House, 418 College St., Blakely, 01001430

Meriwether County

Bulloch Family House, Spring St., Warm Springs, 01001429

Schley County

Woodall—Patton House and Post Office, GA 240, 3 mi. W of US19, Ellaville, 01001432

Whitfield County

Western and Atlantic Railroad Tunnel at Tunnel Hill, Western and Atlantic Railroad, Tunnel Hill, 01001431

MAINE

Waldo County

Knowlton, Ebenezer, House, Choate Rd., Montville, 01001433

NEW YORK

Albany County

Bethlehem Grange No. 137, 24 Bridge St., Selkirk, 01001443

Van Der Zee, C., House, NY 143 at Blossom Hill Rd., Coeymans Hollow, 01001434

Bronx County

Lisanti Chapel, 740 E. 215th St., Bronx, 01001447

Cattaraugus County

Pfeiffer—Wheeler American Chestnut Cabin, Lillibridge Rd., Portville, 01001436

Wheeler, William E., House, 29 Maple Ave., Portville, 01001435

Columbia County

St. John's Evangelical Lutheran Church, 923 NY 19, Livingston, 01001437

Kings County

Brooklyn Public Library—Central Building, Grand Army Plaza, Brooklyn, 01001446

Congregation Tifereth Israel, 1320 Eight Ave., Brooklyn, 01001442

New York County

Broadway Synagogue, Old, 15 Old Broadway, New York, 01001440

Queens County

Prospect Cemetery, 159th St. and Beaver Rd., Jamaica, 01001438

Trinity Chapel, 1874 Mott Ave., Far Rockaway, 01001445

Schoharie County

Lasell Hall, 350 Main St., Schoharie, 01001444

Ulster County

Coykendall Lodge, Off Alder Lake Rd., Hardenbergh, 01001441

O & W Railroad Station at Port Ben, Tow Path Rd., Wawarsing, 01001448

Westchester County

Church of St. Joseph of Arimathea, 2172 Saw Mill River Rd., Greenburgh, 01001439

TENNESSEE

Greene County

Earnest Farms Historic District, (Transformation of the Nolichucky Valley MPS) S of Nolichucky R., bounded by Crum Farm and Jim Earnest Farmstead, Chuckey, 01001449

UTAH

Kane County

Dixon, Maynard, and Edith Hamlin House and Studio, UT 89, Mt. Carmel, 01001450

Salt Lake County

Capitol Hill Historic District (Boundary Increase), Roughly bounded by 300 North, 400 West, 800 North, Wall St., and 200 West, Salt Lake City, 01001451

Clark, Isaac C. and Dorothy S., House, 1430 E. Federal Way, Salt Lake City, 01001452

WISCONSIN

Walworth County

Main Street Historic District, Roughly Main St., from Broad St. to Center St., Lake Geneva, 01001453

WYOMING

Teton County

Miller, Grace and Robert, Ranch (Boundary Increase), 1 mi. NE of Jackson, Jackson, 01001454

A Request for REMOVAL has been made for the following resources:

ARKANSAS

Chicot County

Liberto, P. and J.–Rosa Portera Building (Ethnic and Racial Minority Settlement of the Arkansas Delta MPS) Main St., Eudora, 92001346

Clark County

Benjamin Mercantile Building, 410 Main St., Arkadelphia, 90001378

Dallas County

Brewster House (Dallas County MRA), US 79 Fordyce, 83003464

Koonce Building (Dallas County MRA), 3rd St. Fordyce, 83003525

Old Fordyce Post Office (Dallas County MRA), E. 2nd St., Fordyce, 83003530

Princeton Methodist Church (Dallas County MRA), AR 9, Princeton, 83003533

Faulkner County

First Baptist Church (Thompson, Charles L., Design Collection TR), Davis and Robinson Sts., Conway, 82000813

Miller County

First Methodist Church (Thompson, Charles L., Design Collection TR), 100 E. 6th, Tearkana, 82000863

Lightfoot, Dr. J.A., House 422 Pecan St., Texarkana, 95000792

Perry County

Cypress Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 64, over Cypress Creek, Perry vicinity, 90000537

Polk County

Scoggin House, 1215 Port Arthur Ave., Mena, 78000616

Pulaski County

Forrey-Smith Apartments (Thompson, Charles L., Design Collection TR), 1019 W. 4th St., Little Rock, 82000893

Forrey-Smith Apartments (Thompson, Charles L., Design Collection TR), 409 Ringo St., Little Rock, 82000892

Pulaski County Rd., 71D Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 71D over Bayou Meto, Jacksonville, 95000652

Saline River Bridge (Historic Bridges of Arkansas MPS), Co. Hwy. 365, over the Saline River, Benton, 90000529

Sebastian County

Vache Grasse Creek Bridge (Historic Bridges of Arkansas MPS), Co. Rd. 77A over Vache Grasse Cr., Milltown vicinity, 95000563

Sharp County

Metcalfe House (Evening Shade MRA), Gin Dr., Evening Shade, 82002138

White County

Roper House (White County MPS), Hill Street, McRae, 91001346

IOWA

Lee County

Keokuk Union Depot, 200 Exchange St., Keokuk, 99000452

[FR Doc. 01–31773 Filed 12–26–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, including 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States of America and State of Louisiana* v. *City of Baton Rouge and Parish of East Baton Rouge*, Civil Action No. 01–978–B–M–3, was lodged on November 13, 2001, with the United States District Court for the Middle District of Louisiana.

The proposed Consent Decree settles an action brought under Clean Water Act ("CWA") Section 301, 33 U.S.C. 1311, for civil penalties and injunctive relief for violations related to the publically owned treatment works owned and operated by the City/Parish. The Consent Decree resolves all claims in the Complaint and provides for injunctive relief; a civil penalty of $729,500; a $1.125 million supplemental environmental project that will connect certain neighborhoods to the sewage treatment system; and payment of $216,000 in stipulated penalties which accrued under a prior Consent Decree. The injunctive relief will require the City/Parish to implement specified projects including a 13–15 year project to improve its sewage collection system, a Sanitary Sewer Overflow Response Plan to project the public health by responding to overflows, and an extensive preventive maintenance program.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States and Louisiana* v. *Baton Rouge*. No. 01–978–B–M–3 (M.D. La.) DOJ Ref. #90–5–1–1–2769/1.

The proposed Consent Decree may be examined at the office of the United States Attorney, Middle District of Louisiana, 777 Florida St., Baton Rouge, LA 70801 and the office of the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202. A copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. When requesting a copy please refer to *United States and Louisiana* v. *Baton Rouge*. No. 01–978–B–M–3 (M.D. La.), DOJ Ref. # 90–5–1–1–2769/1 and enclose a check in the amount of $67.75 (25 cents per page reproduction costs), payable to the "Consent Decree Library."

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31789 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a consent decree in *United States* v. *Chevron U.S.A. Production Company* Civil Action No. 01–D–1921 (D. CO) was lodged with the District Court for the District of Colorado on September 28, 2001. This notice was previously published in the **Federal Register** on October 15, 2001 and the public was given 30 days to comment. No comments were received. However, because of severe disruption in the mail service, the United States is unable to conclude with certainty that any comments mailed in response to that notice would have been received. As a result, the United States is providing this second opportunity for comment. Any prior commenter should resubmit their comments as directed below.

Under this Consent Decree Chevron shall pay a civil penalty and perform injunctive relief to resolve claims alleging violations of the CWA, 33 U.S.C. 1251 *et seq.* The Compliant asserts claims pursuant to section 301(a) and 311(b)(3) of the CWA, 33 U.S.C. 1311(a) & 1321(b)(3), for spills of produced water and oil from pipelines at Chevron's Rangely Weber Sand Unit and oil exploration and production unit, in Rangely, Colorado. Under the terms of the settlement, Chevron shall pay a $750,000 civil penalty and perform work over the next few years at the Rangely Unit in an effort to achieve compliance with the Act.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be sent via telefax to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, at (202) 616–6583, or, alternatively, mailed to the United States Attorney's Office, District of Colorado, 1225 17th Street, Suite 700, Denver, Colorado 80202 and should refer to *United States* v. *Chevron U.S.A. Production Company* Civil Action No. 01–D–1921 (D. Co), DOJ Ref. #90–5–1–1–4513.

The proposed consent decree may be examined at the Office of United States Attorney, District of Colorado, 1951 Stout St., Suite 1200, Denver Co, 80294 (303) 454–0100. A copy of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $9.00 (25 cents per page reproduction costs, including attachments), payable to the Consent Decree Library.

Bob Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31781 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

In accordance with the policy of the Department of Justice, notice is hereby given that a proposed consent decree in *United States* v. *Clean Harbors Inc., et al.*, Civ. No. C1–01–821, was lodged with the United States District Court for the Southern District of Ohio, on November 28, 2001. That action was brought against defendants pursuant to the Resource Conservation and Recovery (RCRA) seeking civil penalties for certain violations of the State RCRA permit for the facility, which is located in Cincinnati, Ohio. The decree requires defendants to pay $400,000.00 in civil penalties, to change certain procedures at the facility concerning hazardous waste analysis and handling, and to apply to the Ohio Environmental Protection Agency for permit modifications associated with these procedures.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20503. All comments should refer to *United States* v. *Clean Harbors, Inc., et al.*, DJ# 90–7–1–06612.

The proposed consent decree may be examined at the office of the United States Attorney for the Southern District of Ohio, 100 East Fifth Street, 220 Potter Stewart Courthouse, Cincinnati, Ohio 45202; and at the Region V office of the

VOL 66 ISS 248 DE 27 2001 UMI

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed consent decree may be obtained in person or by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $6.00 (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *Clean Harbors, Inc., et al.*, DJ# 90–7–1–06612.

Catherine R. McCabe,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31786 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act and the Clean Air Act

In accordance with 28 CFR § 50.7 and Departmental policy, notice is hereby given that on December 5, 2001, a proposed consent decree in the case captioned *United States* v. *Cohen, et al.*, Civil Action No. 96 C 7801 (N.D. Ill.), was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree relates to the Standard Scrap Metal/Chicago International Exporting Site located at 4004–4020 South Wentworth and 4000–4027 South Wells Streets in Chicago, Illinois. The proposed consent decree would resolve civil claims of the United States for recovery of past response costs under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607 ("CERCLA"), as well as claims for civil penalties under section 104 of CERCLA, and for civil penalties and injunctive relief under section 113 of the Clean Air Act, 42 U.S.C. 7413, against Steven Cohen, Lawrence A. Cohen, Chicago International Chicago, Inc., and Chicago International Exporting ("Settling Defendants"). Under the proposed consent decree, the Settling Defendants paid the United States $500,000 in partial reimbursement of past response costs: $105,000 in civil penalties for violations of section 104 of CERCLA; and $105,000 in civil penalties for violations of the Clean Air Act. The Settling Defendants also certified that they had removed from their property the metal sorting lines and metal shredding lines that were the subject of the CAA violations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed comment decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resource Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Cohen, et al.*, Civil Action No. 96 C 7801 (N.D. Ill.), and DOJ Reference No. 90–11–3–1414A.

The proposed consent decree may be examined at: (1) the Office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn St., Chicago, Illinois, 60604; and (2) the United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. Copies of the proposed consent decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting copies, please refer to the above-referenced case and DOJ Reference Number and enclose a check for $6.50 (25 cents per page reproduction cost) made payable to the Consent Decree Library.

William D. Brighton,

Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 01–31782 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, and consistent with 42 U.S.C. 9622, notice is hereby given that on December 10, 2001, a proposed consent decree in *United States and California Department of Toxic Substances Control* v. *Del Norte County*, Civil Action No. 01–4847 JCS, was lodged with the United States District Court for the Northern District of California. The proposed consent decree resolves claims under Section 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9606 and 9607, regarding the release and/or threat of release of hazardous substances at and from the Del Norte County Pesticide Storage Area Superfund Site near Crescent City, California. The settler is the owner/operator of the site which was centralized storage area for pesticide and herbicide containers. The accumulated containers, exposed to the elements, released hazardous substances.

Pursuant to the proposed settlement, the County shall continue to perform the remaining response action for the Site consisting of groundwater monitoring and implementation of land use restrictions. The County also shall reimburse the United States and the State in the amount of $50,000 apiece for certain past response costs. The settlement amount is based on the County's representation as to its financial condition.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be sent simultaneously to the following: (1) By facsimile (202) 514–2583 and U.S. mail addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044; (2) Charles O'Connor, Assistant U.S. Attorney, 450 Golden Gate Avenue, San Francisco, CA 94102; and (3) Rose Fua, Deputy Attorney General, 1515 Clay Street, Oakland, CA 94612. Comments should refer to *United States and California Dept. of Toxic Substances Control* v. *Del Norte County*, Civil Action No. 01–4847 JCS, D.J. Ref. 90–11–3–836.

The proposed consent decree may be examined at either of the following locations: (1) The Office of the United States Attorney, Northern District of California; or (2) Region 9, Office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California. A copy of the consent decree can be obtained (without attachments) by facsimile request ((202) 514–0997) sent to the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. To receive a copy of the consent decree (without attachments), a party will be required to provide a check in the amount of $15.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Ellen Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31783 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

Consistent with Departmental policy, 28 CFR 50.7 and 38 FR 19029, notice is hereby given that on November 13, 2001, a proposed Consent Decree in *United States* v. *Frederick Gendron, et al.*, Civil Action No. 01–422–JD, was lodged with the United States District Court for the District of New Hampshire. The proposed Consent Decree will resolve the United States' claim under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9607, as amended ("CERCLA"), on behalf of the U.S. Environmental Protection Agency ("EPA") against the defendant relating to the Gendron Junkyard Site located at 11–13 Hobbs Road in Pelham, New Hampshire (the "Site"). The Complaint alleges that the defendants are liable under Section 107 of CERCLA, 42 U.S.C. 9607, for recovery of response costs incurred at or in connection with the release or threatened release of hazardous substances at the Site.

The Consent Decree requires the Settling Defendants to pay to the U.S. EPA Hazardous Substance Superfund $650,000 in reimbursement of past response costs, and includes a covenant not to use by the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resource Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *Frederick Gendron, et al.*, Civil Action No. 01–422–JD, Ref. 90–11–3–07116.

The proposed Consent Decree may be examined at the Office of the United States Attorney, District of New Hampshire, U.S. Department of Justice, 55 Pleasant Street, Room 352, Concord, New Hampshire, 03301–3904, and at U.S. EPA New England (Region 1), One Congress Street, Suite 1100, Boston, Massachusetts, 02114–2023. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $6.00 payable to the Consent Decree Library.

Ronald Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division, U.S. Department of Justice.

[FR Doc. 01–31790 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Agreed Amendments to Consent Decree Pursuant to The Comprehensive Environmental Response, Compensation and Liability Act

In accordance with the policy of the Department of Justice, notice is hereby given that proposed Agreed Amendments to Consent Decree in *United State of America* v. *City of Grand Rapids, Michigan*, Civil Action No. 1:99 CV 388, were lodged with the United States District Court for the Western District of Michigan, Southern Division, on December 10, 2001. The original consent decree, entered by the Court on August 10, 2000, involved the settlement of claims brought by the United States, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, against 53 Settling Defendants for reimbursement of response costs and injunctive relief in connection with the Butterworth No. 2 Landfill Superfund Site ("Site") located in Grand Rapids, Kent County, Michigan. The proposed amendments represent a settlement of claims by the United States against 18 additional Settling Defendants and seeks to add them to the consent decree.

Under this settlement with the United States, the 18 additional Settling Defendants will collectively pay $1,250,000 to the Settling Work Defendants who will then implement the entire remedy for the Site as set forth in the Record of Decision issued by the United States Environmental Protection Agency in March 1992 and as modified by an Explanation of Significant Differences dated October 23, 1998. The 18 additional Settling Defendants will also pay $131,500 to the United States for past response costs incurred in connection with the Site.

The Department of Justice will receive comments relating to the proposed amendments for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Grand Rapids, Michigan, et. al.*, D.J. Ref. 90–11–2–145A.

The proposed Agreed Amendments to Consent Decree may be examined at the office of the United States Attorney for the Western District of Michigan, 330 Ionia Avenue, N.W., Grand Rapids, Michigan 49503; and at the Region 5 office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. A copy of the proposed Agreed Amendments to Consent Decree may be obtained by mail from the Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy of the proposed amendments, please enclose a check in the amount of $3.00 (25 cents per page reproduction cost) payable to the Consent Decree Library and refer to *United States* v. *City of Grand Rapids, Michigan, et. al.*, D.J. Ref. 90–11–2–145A. To obtain a copy of the original Consent Decree, please enclose a check in the amount of $33.75 (25 cents per page reproduction cost) payable to the Consent Decree Library and refer to *United States* v. *City of Grand Rapids, Michigan, et. al.*, D.J. Ref. 90–11–2–145A.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31784 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with 28 CFR 50.7 and section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622, the Department of Justice hereby gives notice that on December 13, 2001, a proposed consent decree in the consolidated actions *United States* v. *International Paper Co., et al.*, Civil Action No. 01–C–693–C and *International Paper Co.* v. *City of Tomah, WI, et al.*, Civil Action No. 00–C–539–C was lodged with the United States District Court for the Western District of Wisconsin.

In this action, the United States, under CERCLA Section 107, seeks reimbursement from International Paper and the City of Tomah, Wisconsin of response costs incurred and to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Tomah Municipal Sanitary Landfill site in Monroe County, Wisconsin ("the Site").

In the consolidated action, International Paper Co., under CERCLA Section 113(f), seeks reimbursement from the City of Tomah, Wisconsin and the United States Department of Veterans Affairs of certain costs International Paper allegedly incurred in response to the release or threatened release of hazardous substances at the site.

The consent decree provides that: (1) International Paper shall complete the remedial action for Operable Unit 1 at the Site, commenced pursuant to a CERCLA Section 106, 42 U.S.C. 9606, unilateral administrative order issued by the U.S. Environmental Protection Agency ("U.S. EPA") to International Paper; (2) the City of Tomah shall pay $16,000 to the United States in reimbursement of the United States' past costs at the Site; and (3) the United States, on behalf of the Department of Veteran Affairs, shall pay $893,651.57 to International Paper to "cash out" the United States' liability for past and future costs at Operable Unit 1.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *International Paper Co., et al.*, D.J. Ref. 90–11–2–1317.

The Consent Decree may be examined at the Office of the United States Attorney, 600 West Washington, Ave., Ste. 200, Madison, WI 53701–1585, and at U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, IL 60604 (contact Timothy Thurlow at (312) 886–6623). A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $24.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31780 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Amendments to Consent Decree

Under 28 CFR 50.7, notice is hereby given that on November 29, 2001, amendments to the Consent Decree filed in *United States* v. *Marine Shale Processors, Inc.*, Civ. No. CV90–1240, were lodged with United States District Court for the Western District of Louisiana. The original Consent Decree was filed on February 19, 1998, and was modified by an Order of the Court dated February 23, 1999, and again on June 13, 2001.

In this action against Marine Shale Processors, Inc., ("MSP") the United States sought to recover civil penalties and enjoin violations to the Resource Conservation and Recover Act ("RCRA"), 42 U.S.C. 6901 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the Clean Air Act 42 U.S.C. 7413. The United States also sought relief under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9604, 9606, and 9607. MSP operated a facility in Morgan City, Louisiana that treated hazardous waste by combustion.

These amendments extend the deadline by which a new company, CTX, Inc. must purchase the assets and liabilities of MSP, and extend the "Continuing Election" provision of the Consent Decree. The amendments to Section IV and V of the Consent Decree provide that these deadlines are extended until January 11, 2002.

The Department of Justice will receive for a period of ten (10) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Marine Shale Processors, Inc.*, D.J. Ref. 90–11–2–204C. In light of recent mail delays, commenters should notify Darlene Lyons, Department of Justice, of the submission of any comments, by telephone at 202–514–1605.

The consent decree amendments may be examined at the Office of the United States Attorney, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130, at U.S. EPA Region VI, 1445 Ross Avenue Dallas, TX 75202–2733, and at the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. A copy of the consent decree amendments may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In requesting a copy, please enclose a check in the amount of $1.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31791 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Monongahela Power Company, Inc. (d/b/a Allegheny Power)*, C.A. No. 1 1:01–CV–6, was lodged on November 9, 2001, with the United States District Court for the Northern District of West Virginia. The consent decree resolves the United States' claims against the defendant, pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 U.S. C. 1251–1387, as amended by the Oil Pollution Act of 1990, Pub. L. 101–380 ("CWA"), and 40 CFR 112.4. Specifically, the consent decree resolves the United States' claim against the defendant for violating Sections 301 and 311 of the CWA, 33 U.S.C. 1311, 1321, with respect to an oil spill that occurred at the defendant's Belmont Substation, located in Pleasants County, West Virginia. Further, the consent decree resolves the United States' claim against defendant for failing to submit a copy of its Spill Prevention Control and Countermeasures ("SPCC") Plan to the Environmental Protection Agency within 60 days after the spill, as required by 40 CFR 112.4.

Under the consent decree, the defendant will pay a total civil penalty in the amount of $252,000 to resolve the violations with respect the discharge and failure to submit its SPCC Plan in a timely manner. In addition, the defendant has agreed to implement agreed-upon injunctive relief measures, which include, *inter alia*, replacement of the transformer that failed and caused the discharge, upgrading containment around certain transformers at the Substation, and adding additional equipment at the Substation that will aid in addressing any future spills. The civil penalty is due to be paid within thirty (30) days after entry of the consent decree by the Court.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Acting Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Monongahela Power Company, Inc.* and DOJ Reference No. 90–5–1–1–06477. The comments should be faxed, not mailed, to the Acting Assistant Attorney General at 202/616–6583. Alternatively, the comments may be mailed to the Office of the United States Attorney, ATTN: Patrick M. Flatley, 1100 Main Street, Suite 200, Wheeling, West Virginia 26003.

The proposed consent decree may be examined at the Office of the United States Attorney, 1100 Main Street, Suite 200, Wheeling, West Virginia 26003; and the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $10.50 (.25 cents per page production costs), payable to the Consent Decree Library.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31787 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of a Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a proposed consent decree in *United States* versus *MRC Holdings, Inc., et al.*, Civil No. 8:01–CV–2289–T–23MSS, was lodged on November 30, 2001, with the United States District Court for the Middle District of Florida, Tampa Division ("MRC Decree"). The propose Consent Decree would resolve certain claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9606 and 9607, as amended, to recover response costs incurred by the Environmental Protection Agency in connection with the release of hazardous substances at the at the MRI Superfund Site ("the Site") in Tampa, Hillsborough County, Florida. The United States alleges that MRC Holdings, Inc., Proler International Corp., and MRI Corporation ("Settling Defendants") are liable as persons who owned and/or operated the Site at the time of the release or threatened release of a hazardous substances. Under the proposed Consent Decree, Settling Defendants have agreed to: (a) Perform the remedy selected by the Environmental Protection Agency to clean up Operable Unit #1 (soil contamination) and the remedial investigation and feasibility study for Operation Unit #2 (groundwater contamination) at the Site; (b) EPA's past response costs in the amount of $700,000.00; and (c) pay future Site costs that EPA may incur. The proposed Decree resolves the liability of Defendants arising out of, and with respect to, the claims for relief asserted in the Complaint fill concomitant with this proposed Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, D.C. 20530, and should refer to *United States* versus *MRC Holdings, Inc., et al.*, M.D. FLA., Civil No. 8:01–CV–2289–T–23MSS, DOJ Ref. #90–11–2–07053.

The Consent Decree may be examined at the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, Atlanta, GA 30303, and at the United States Attorney's Office for the Middle District of Florida, 400 North Tampa Street, Suite 3200, Tampa, Florida c/o Warren A. Zimmerman, Chief, Civil Division, United States Attorney's Office. A copy of the proposed Consent Decree (without attachments) may be obtained by mail from the Consent Decree Library, Post Office Box 7611, Washington, D.C. 20044. In requesting copies please refer to the reference case and enclose a check in the amount of $10.75 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Ellen M. Mahan,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31785 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that, on November 20, 2001, a proposed CONSENT DECREE BETWEEN THE UNITED STATES OF AMERICA AND CITIZENS LEGAL ENVIRONMENTAL ACTION NETWORK, INC. AND PREMIUM STANDARD FARMS, INC. AND CONTINENTAL GRAIN COMPANY, INC. (the Decree) in *CLEAN and United States* v. *PSF*, Civil Action No. 97–6073–CV–SJ–6 (W.D. Mo.), and *CLEAN* v. *Continental*, Civil Action No. 98–6099–CV–W–6 (W.D. Mo.), was lodged with the United States District Court for the Western District of Missouri.

The Decree resolves claims for injunctive relief and civil penalties pursuant to the Clean Water Act, the Clean Air Act, and the reporting requirements of Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act and the Emergency Planning and Community Right to Know Act against Premium Standard Farms, Inc. and Continental Grain Company, Inc. arising out of their operation of concentrated animal feeding operations (CAFOs) with more than 1.25 million pigs in Missouri. Pursuant to the Decree, defendants will implement technological changes to reduce toxics in animal wastes and air emissions from barns, lagoons and land application of wastes; conduct air monitoring; and pay a $350,000 civil penalty (in addition to $650,000 already paid under a prior State settlement).

For thirty (30) days following this publication, the Department of Justice will receive comments relating to the proposed decree. Comments should be addressed to the Assistant Attorney General of the Environmental and Natural Resources Division, United States Department of Justice, Post Office Box 7611, Washington, DC 20044–7611, and should refer to *CLEAN and United States* v. *PSF*, Civil Action No. 97–6073–CV–SJ–6 (W.D. Mo.) and *CLEAN* v. *Continental*, Civil Action No. 98–6099–CV–W–6 (W.D. Mo.) DOJ nos. 90–5–1–1–06806 and 90–5–1–1–06806/1. Alternatively, because of potential mail delays associated with recent events, comments may be sent by facsimile to (202) 514–4180, with attention to the EES-Region VII Group.

The proposed decree may be examined at the offices of the United States Attorney, Western District of

VOL 66 ISS 248 DE 27 2001 UMI

Missouri, Charles Evans Whittaker Courthouse, 400 East 9th Street—5th Floor, Kansas City, Missouri 64106, and the United States Environmental Protection Agency—Region VII, 901 North 5th Street, Kansas City, Kansas 66101. The decree may also be obtained by mail from the United States Department of Justice Consent Decree Library, Post Office Box 7611, Washington, D.C. 20044–7611. In requesting a copy, please enclose a check in the amount of $56.00 (25 cents per page reproduction cost).

Robert E. Maher, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31788 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a third proposed consent decree in *United States* v. *Viacom, Inc. and Schindler Elevator Corporation,* Civil Action No. 1:01–CV–123, was lodged on November 1, 2001, with the United States District Court for the Middle District of Pennsylvania.

The proposed Consent Decree concerns the Westinghouse Elevator Plant Superfund Site ("Site"), which is located on approximately 90 acres, and has its southern boundary adjacent to part of the Gettysburg Battlefield National Park. The Site is located about 1.5 miles north of downtown Gettysburg in Cumberland Township, Adams County, Pennsylvania. Pursuant to the proposed consent decree and section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. 9607(a), the defendants will pay the United States for unreimbursed past costs at the Site, in the amount of $569,000 plus certain interest in connection with the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Viacom, Inc. and Schindler Elevator Corporation,* DOJ Ref. #90–11–3–1004/1.

The proposed consent decree may be examined at the office of the United States Attorney, 228 Walnut Street, Suite 220, Harrisburg, Pennsylvania 17108 and the Region 3 Office of the U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103–2029. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611. (202) 624–0892. In requesting a copy please refer to the referenced case and enclose a check (25 cents per page reproduction costs) in the amount of $5.25 for the consent decree (21 pages), payable to the Consent Decree Library.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–31792 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection; reports of suspicious orders or theft/loss of listed chemicals/machines.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** at Volume 66, Number 201, pages 52777–52778 on October 17, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 28, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Reports of Suspicious Orders or Theft/Loss of Listed Chemical/Machines.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* None. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. The Chemical Diversion and Trafficking Act of 1988 created, and the Domestic Chemical Diversion Control Act of 1993 amended, DEA's chemical reporting requirements to remove the exemption for certain drugs which contain ephedrine. The Comprehensive Methamphetamine Control Act of 1996 removed the exemption for combination ephedrine, pseudoephedrine and phenylpropanolamine drug products. Persons who previously were not required to file reports regarding suspicious orders, thefts and loss of these products now must do so.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 199 respondents with an average 15 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 499 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW., Washington, DC 20004.

Dated: December 18, 20001.

Robert B. Briggs,

Depart Clearance Officer, United States Department of Justice.

[FR Doc. 01–31677 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Extension of a currently approved collection; U.S. official order forms for schedules I and II controlled substances (Accountable Forms), order forms requisition.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 66, Number 201, pages 52778–52779 on October 17, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 28, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* U.S. Official Order Forms for Schedules I and II Controlled Substances (Accountable Forms), Order Form Requisition.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.:* DEA Form 222 and DEA Form 222a Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households, Federal Government, and State, Local or Tribal Government. DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Respondents are DEA registrants desiring to handle these controlled substances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 89,908 respondents with an average 17.5 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 193,508 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20004.

Dated: December 18, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–31678 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: extension of a currently approved collection; ARCOS Transaction Reporting—DEA Form 333.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 66, Number 201, page 52779 on October 17, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 28, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of

VOL 66 ISS 248 DE 27 2001 UMI

information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* ARCOS Transaction Reporting—DEA Form 333.

The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form No.: DEA–333. Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* None.

Necessary for U.S. to meet obligations under two international treaties: Single Convention on Narcotic Drugs and Psychotropic Substances. Treaties require information on the manufacture and consumption of certain substances. Information tracks substances from manufactured to sale to dispensing level.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* 1,126 respondents with an average 1 hour per paper response and 10 minutes per electronic response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,700 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NW, Washington, DC 20004.

Dated: December 18, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–31679 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: extension of a currently approved collection; U.S. official order forms for Schedules I and II controlled substances (ACCOUNTABLE FORMS), order form requisition.

The Department of Justice (DOJ), Drug Enforcement Administration (DEA), has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 66, Number 201, pages 52778–52779 on October 17, 2001, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until January 28, 2002. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriated automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* U.S. Official Order Forms for Schedules I and II Controlled Substances (ACCOUNTABLE FORMS), Order Form Requisition.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form No.: DEA Form 222 and DEA Form 222a Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households, Federal Government, and State, Local or Tribal Government. DEA–222 is used to transfer or purchase Schedule I and II controlled substances and data is needed to provide an audit of transfer and purchase. DEA–222a Requisition Form is used to obtain the DEA–222 Order Form. Respondents are DEA registrants desiring to handle these controlled substances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondents to respond/reply:* 89,908 respondents with an average 17.5 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 193,508 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street NE, Washington, DC 20004.

Dated: December 18, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–31680 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 27, 2001, Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of dextropropoxyphene (9273), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture the listed controlled substance to produce products for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administration, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than February 25, 2002.

Dated: December 18, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31821 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 24, 2001, and published in the **Federal Register** on September 6, 2001, (66 FR 46653), Chattem Chemicals, Inc., 3801 St. Elmo Avenue, Building 18, Chattanooga, Tennessee 37409, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
4-Methoxyamphetamine (7411).	I
2,5-Dimethoxyamphetamine (7396).	I
Difenoxin	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Codeine (9050)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Meperidine (9230)	II
Morphine (9300)	II
Thebaine (9333)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to bulk manufacture the listed controlled substances to produce products for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Chattem Chemicals, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Chattem Chemicals, Inc. to ensure that the company's registration is consistent with the public interest. This investigation included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR §§ 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: December 18, 2001.

Laura M. Nagel,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 01–31822 Filed 12–26–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is unnecessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used:
- Enhance the quality, utility, and clarity of the information to be collected: and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Existing collection without an OMB control number.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Occupational Safety and Health State Plan Information.

OMB Number: 1218–ONEW.

Affected Public: State, Local, or Tribal Government.

Frequency: On occasion, Quarterly, and Annually.

Type of Response: Reporting.

Number of Respondents: 26.

Number of Annual Responses: 1,552.

VOL 66 ISS 248 DE 27 2001 UMI

Estimated Time Per Response: Varies from 61 hours to prepare and submit plan changes to 20 hours to prepare information for monitoring activities.

Total Burden Hours: 9,874.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 18 of the Occupational Safety and Health Act encourages the States to assume responsibility for the development and enforcement of State occupational safety and health standards through the vehicle of an approved State Plan. States choosing to operate OSHA-approved State Plans must provide information to document that their program are, "at least as effective" as the Federal OSHA program.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31814 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 18, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on (202) 693–4129 or E-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Notification of Legal Identity - 30 CFR Section 41.10, 41.11, 41.12, and 41.20.

OMB Number: 1219–0008.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 6,625.

Reporting requirement	Annual responses	Average time per response (hours)	Estimated burden hours
Form 2000–7 (paper/new)	830	.5	415
Form 2000–7 (electronic/new)	45	.33	15
Form 2000–7 (paper/revision)	4,150	.25	1,038
Form 2000–7 (electronic/revision)	1,600	.17	267
Total	6,625		1,735

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $1,693.

Description: Section 109(d) of the Federal Mine Safety and Health Act of 1977 (Pub. L. 91–173 as amended by Pub. L. 95–164), requires each operator of a coal or other mine to file with the Secretary of Labor, the name and address of such mine, the name and address of the person who controls or operates the mine, and any revisions in such names and addresses. Title 30 CFR part 41 implements this requirement and provides for the mandatory use of MSHA Form 2000–7, Legal Identify Report, for notifying MSHA of the legal identity of the mine operator.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31815 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 14, 2001.

The Department Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or Email *Howze-Marlene@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Notice of Controversion of Right to Compensation.

OMB Number: 1215–0023.

Affected Public: Business or other for-profit.

Frequency: On Occasion.

Number of Respondents: 900.

Number of Annual Response: 18,900.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 4,725.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $7,418.25.

Descripton: The Office of Workers' Compensation Programs (OWCP) administers the Longshore and Harbor Workers' Compensation Act. This Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. Pursuant to section 14(d) of the Act, and 20 CFR 702.251, if an employer controverts the right to compensation, he shall file with the district director in the affected compensation district on or before the fourteenth day after he has knowledge of the alleged injury or death, a notice, in accordance with a form prescribed by the Secretary, stating that the right to compensation is controverted.

Form LS–207 is used by insurance carriers and self-insured employers to controvert claims under the act. OWCP district offices use this information to determine the basis for not paying benefits in a case. It also informs the injured claimant of the reason(s) for not paying compensation benefits. If the information were not collected, our district offices and claimants would have no way of knowing the reason(s) for controverting the right to compensation.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31816 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–CF–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 17, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: New collection.

Agency: Employment and Training Administration (ETA).

Title: Workforce Flexibility (Work-Flex) Program.

OMB Number: 1205–ONEW.

Affected Public: State, Local, or Tribal Government.

Frequency: Annually and Quarterly.

Type of Response: Reporting.

Number of Respondents: 5.

Number of Annual Responses: 25.

Estimated Time Per Response: 160 hours to prepare and submit a Work-Flex Plan and 8 hours to prepare and submit quarterly reports.

Total Burden Hours: 960.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: In accordance with requirements specified in section 192 of the Workforce Investment Act (the Act) and 20 CFR 661.420 et seq, States may apply for a 5-year Work-Flex waiver authority to implement reforms to their workforce investment systems in exchange for program improvement. The Act provides that the Secretary may only grant Work-Flex waiver authority in consideration of a Work-Flex Plan submitted by a State. States granted Work-Flex authority are also required to submit quarterly reports that summarize waiver activities in the State.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–31817 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration Apprenticeship Training, Employer and Labor Services; Proposed Collection; Labor Standards for the Registration of Apprenticeship Programs; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the

Employment and Training Administration is soliciting comments concerning the proposed revision of the collection of the registered apprenticeship program under Title 29 CFR part 29 (Labor Standards for the Registration of Apprenticeship Programs).

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before February 25, 2002.

ADDRESSES: Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, 200 Constitution Ave., NW., Room N–4671, Washington, DC 20210; Telephone number: (202) 693–2796 (this is not a toll-free number); E-mail Internet address: *aswoope@doleta.gov;* and Fax number (202) 693–2761.

SUPPLEMENTARY INFORMATION:

I. Background

The National Apprenticeship Act of 1937 authorizes and directs the Secretary of Labor "to formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices, to extend the application of such standards by encouraging the inclusion thereof in contracts of apprenticeship, to bring together employers and labor for the formulation of programs of apprenticeship, to cooperate with State agencies engaged in the formulation and promotion of standards of apprenticeship, and to cooperate with the Secretary of Education ***" (29 U.S.C. 50). Section 50a of the Act authorizes the Secretary of Labor to "publish information relating to existing and proposed labor standards of apprenticeship," and to "appoint national advisory committees * * *" (29 U.S.C. 50a).

Title 29 CFR part 29 sets forth labor standards to safeguard the welfare of apprentices, and to extend the application of such standards by prescribing policies and procedures concerning registration, for certain Federal purposes, of acceptable apprenticeship programs with the U.S. Department of labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services (formerly known as the Bureau of Apprenticeship and Training). These labor standards, policies and procedures cover registration, cancellation, and deregistration of apprenticeship programs and the apprenticeship agreements; the recognition of a State agency as the appropriate agency for registering local apprenticeship programs for certain Federal purposes; and matters relating thereto.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarify of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Recordkeeping and data collection activities regarding registered apprenticeship are by-products of the registration system. Organizations which apply for apprenticeship sponsorship enter into an agreement with the Federal Government or cognizant State government to operate their proposed programs consistent with 29 CFR part 29. Apprenticeship sponsors are not required to file reports regarding their apprentices other than individual registration and update information as an apprentice moves through their program. This revision request includes revisions to the Apprenticeship Agreement Form (ETA 671) as follows:

1. Current format (Apprenticeship Agreement ETA Form 671) Revised February 2000) of sponsor and apprentice inverted. To facilitate and increase efficiency when the apprentice registers and to align the form with current processes and procedures in our program.

2. Revisions on race and ethnicity. To provide uniformity and comparability in collecting this data as mandated by the Office of Management and Budget (OMB) Notice, Standards for the Classification of Federal Data on Race and Ethnicity, in the **Federal Register** (October 30, 1997).

3. Career linkage or Direct Entry. To comply with the U.S. Department of Labor/Employment and Training Administration (USDOL/ETA) and the Office of Management and Budget (OMB). The current Item 16., Apprenticeship School Linkage, has been enhanced to facilitate the tracking of participants from additional USDOL/ETA programs who continue with higher-skills occupational training or direct entry participants from technical training programs that have been reviewed and approved by the sponsor.

4. Apprentice entry hourly wage. To track wage progression more accurately and for Government Performance Results Act (GPRA) purposes.

5. Additional instructions on reverse side of form. To provide instructions on those data elements that are not self-explanatory as requested previously by OMB.

These proposed changes will pose minimal burden on the respondents. The change in burden is due to an increase in the number of apprentice actions from that of the previous PRA submission.

Type of Review: Revision.

Agency: Employment and Training Administration.

Title: Title 29 CFR part 29, Labor Standards for the Registration of Apprenticeship Programs.

OMB Number: 1205–0223 for 29 CFR part 29.

Agency Number: ETA Form 671.

Recordkeeping: Apprenticeship sponsors are required to keep accurate records on recruitment, selection of the applicant and/or apprentice and the employment and training activities related to the apprentice and the qualifications of each applicant/apprentice pertaining to determination of compliance with the regulation. Records must be retained, where appropriate, regarding affirmative action plans and evidence that qualification standards have been validated. State Apprenticeship Councils are also obligated to keep adequate records pertaining to determination of compliance with these regulations. All of the above records are required to be maintained for five years. If this information was not required, there would be no documentation that the apprenticeship programs were being operated in a nondiscriminatory manner. Many apprenticeship programs are 4 years or more in duration; therefore, it is important to maintain the records for at least 5 years.

Affected Public: Apprentices, Sponsors, State Apprenticeship

Councils or Agencies, Tribal Government.

ETA Form 671

Total Respondents: 238,929.
Frequency: 1-time basis.
Total Responses: 238,929.

Average Time per Response: See Chart.

Estimated Total Burden Hours: 47,556.

SUMMARY OF BURDEN FOR 29 CFR PART 29

Sec.	Total respondents	Frequency	Total responses	Average time per responses	Burden hours
29.3	127,421	1-time basis	127,421	¼ hr./app.	31,855
29.6	108,124	1-time basis	108,124	1/12 hr./app.	9,010
29.5	1,674	1-time basis	1,674	2 hrs./spon.	3,348
	1,640	1-time basis	1,640	2 hrs./SAC	3,280
29.7	40	1-time basis	40	1/12 hr./spon.	3
29.12	(30)	1-time basis	(30)	0	0
29.12	(accomplished in 1977; no new state agency expected in 2002)				
29.12	30	1-time basis	30	2 hrs. SAC	60
29.13	0	0	0	0	0
Totals	238,929		238,929		47,556

Totals Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request will be summarized and/or included in the request for office of Management and Budge approval of the information collection request; they will also become a matter of public record.

Dated: December 20, 2001.

Anthony Swoope,

Administrator, Office of Apprenticeship Training, Employer and Labor Services.

[FR Doc. 01–31777 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Settlement Agreement: Occupational Injury and Illness Recording and Reporting

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of settlement agreement.

SUMMARY: The Occupational Safety and Health Administration (OSHA) has entered into a settlement agreement with the National Association of Manufacturers (NAM) to resolve NAM's legal challenge to OSHA's revised regulations in 29 CFR part 1904, Recording and Reporting Occupational Injuries and Illnesses. As part of the agreement, OSHA agreed to publish a copy of the OSHA–NAM settlement agreement in the **Federal Register** within 30 days.

DATES: The settlement agreement was completed on November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Jim Maddux, Occupational Safety and Health Administration, U.S. Department of Labor, Directorate of Safety Standards Programs, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 2001, (66 FR 5916), OSHA published a final rule, revising its Occupational Injury and Illness Recording and Reporting Requirements in 29 CFR Part 1904. The Agency subsequently published an amendment to the final rule on October 12, 2001 (66 FR 35113). After the final rule was published in January, NAM filed a legal challenge to the final rule in the United States District Court for the District of Columbia. On November 16, 2001, OSHA and NAM entered into a settlement agreement to resolve NAM's legal challenge. The parties entered into a revised settlement agreement on November 29, 2001. As part of this revised agreement, OSHA agreed to publish a copy of the revised settlement agreement in the **Federal Register** within 30 days.

Accordingly, the following section of this notice contains the text of the OSHA–NAM revised settlement agreement:

Settlement Agreement

United States District Court for the District of Columbia

National Association of Manufacturers, Plaintiff, v. Elaine L. Chao, Secretary, U.S. Department of Labor, and John Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, Defendants.

[Case No: 1:01CV00575 (GK)]

Revised Settlement Agreement

The Federal Defendants and the National Association of Manufacturers, by and through counsel, hereby agree as follows:

1. On January 19, 2001, the Occupational Safety and Health Administration issued a Final Rule on Occupational Injury and Illness Recording and Reporting Requirements, 29 CFR parts 1904 and 1952 (the Final Rule). 66 FR 5916–6135 (January 19, 2001). On March 23, 2001, the National Association of Manufacturers filed a First Amended Complaint in this Court challenging portions of the Final Rule. The Federal Defendants and the National Association of Manufacturers have settled their differences as provided herein.

2. Secretary of Labor will include the following language in the initial Compliance Directive to be issued on the Final Rule.

A. During the initial period the new recordkeeping rule is in effect, OSHA compliance officers conducting inspections will focus on assisting employers to comply with the new rule rather than on enforcement. OSHA will not issue citations for violations of the recordkeeping rule during the first 120 days after January 1, 2002, provided the employer is attempting in good faith to meet its recordkeeping obligation and agrees to make corrections necessary to bring the records into compliance.

B. Section 1904.5(a) states that "[the employer] must consider an injury or illness to be work-related if an event or exposure in the work environment either caused or contributed to resulting condition or significantly aggravated a pre-existing condition. Work-relatedness is presumed for injuries and

VOL 66 ISS 248 DE 27 2001 UMI

illnesses resulting from events or exposures occurring in the work environment * * *" Under this language, a case is presumed work-related if, and only if, an event or exposure in the work environment is a discernable cause of the injury or illness or of a significant aggravation to pre-existing condition. The work event or exposure need only be one of the discernable causes; it need not be the sole or predominant cause.

Section 1904.5(b)(2) states that a case is not recordable if it "involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment." This language is intended as a restatement of the principle expressed in 1904.5(a), described above. Regardless of where signs or symptoms surface, a case is recordable only if a work event or exposure is a discernable cause of the injury or illness or of a significant aggravation to a pre-existing condition.

Section 1904.5(b)(3) states that if it is not obvious whether the precipitating event or exposure occurred in the work environment or elsewhere, the employer "must evaluate the employee's work duties and environment to decide whether or not one or more events or exposures in the work environment caused or contributed to the resulting condition or significantly aggravated a pre-existing condition." This means that the employer must make a determination whether it is more likely than not that work events or exposures were a cause of the injury or illness, or a significant aggravation to a pre-existing condition. If the employer decides the case is not work-related, and OSHA subsequently issues a citation for failure to record, the Government would have the burden of proving that the injury or illness was work-related.

C. A case is not recordable under 1904.7(b)(4) as a restricted work case if the employee experiences minor musculoskeletal discomfort, a health care professional determines that the employee is fully able to perform all of his or her routine job functions, and the employer assigns a work restriction to that employee for the purpose of preventing a more serious condition from developing.

D. *Question.* Is the employer subject to a citation for violating section 1904.7(b)(4)(viii) if an employee fails to follow a recommended work restriction?

Answer: Section 1904.7(b)(4)(viii) deals with the recordability of cases in which a physician or other health care professional has recommended a work restriction. The section also states that the employer "should ensure that the employee complies with [the recommended] restriction." This language is purely advisory and does not impose an enforceable duty upon employers to ensure that employees comply with the recommended restriction. [**Note:** in the absence of conflicting opinions from two or more health care professionals, the employer ordinarily must record the case if a health professional recommends a work restriction involving the employee's routine job functions].

E. *Question.* Does an employee report of an injury or illness establish the existence of the injury or illness for recordkeeping purposes?

Answer: No. In determining whether a case is recordable, the employer must first decide whether an injury or illness, as defined by the rule, has occurred. If the employer is uncertain about whether an injury or illness has occurred, the employer may refer the employee to a physician or other health care professional for evaluation and may consider the health care professional's opinion in determining whether an injury or illness exists. [**Note:** if a physician or other licensed health care professional diagnoses a significant injury or illness within the meaning of section 1904.7(b)(7) and the employer determines that the case is work-related, the case must be recorded.]

F. *Question.* If an employee is exposed to chlorine or some other substance at work and oxygen is administered as a purely precautionary measure, is the case recordable?

Answer: If oxygen is administered as a purely precautionary measure to an employee who does not exhibit any symptoms of an injury or illness, the case is not recordable. If an employee exposed to a substance at work exhibits symptoms of an injury or illness, the administration of oxygen makes the case recordable.

3. Within 3 business days following issuance of the Compliance Directive containing the language in Paragraph 2 of this agreement, the National Association of Manufacturers (NAM) will file a notice of dismissal of its lawsuit under Fed. R. Civ. P. 41(a)(1)(ii). The notice of dismissal shall state that dismissal is with prejudice, except only that NAM may re-file its complaint if a court of competent jurisdiction determines that any of the provisions of this agreement or of the Department of Labor's October 12, 2001 **Federal Register** Notice (66 FF 52031) are invalid or if any of the provisions of this agreement are withdrawn or revised in a manner inconsistent with the language in this agreement. The Federal Defendants shall not object to the timeliness of such a complaint by NAM on statute of limitations, laches, or other grounds, provided that the complaint is filed within 90 days of the occurrence of an event listed in the preceding sentence. Nothing contained herein shall be construed as affecting Federal Defendants' right to modify or interpret its regulations in the future.

4. The Federal Defendants and the National Association of Manufacturers agree to bear their own fees and expenses incurred at any stage in this litigation.

5. The Federal Defendants agree to publish a copy of this revised settlement agreement, in lieu of the settlement agreement signed on November 16, in the **Federal Register** within thirty days of its effective date.

6. This revised settlement agreement is effective on November 29, 2001.

Respectfully submitted,
Of Counsel:
Jan S. Amundson,
General Counsel,
Quentin Riegel,
Deputy General Counsel, National Association of Manufacturers, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.
Baruch A. Fellner,
D.C. Bar No. 061630,
Jason C. Schwartz,
D.C. Bar No. 465837, Gibson, Dunn & Crutcher, LLP, 1050 Connecticut Avenue, NW., Washington, DC 20036. Counsel for Plaintiff National Association of Manufacturers.
Roscoe C. Howard, Jr.,
D.C. Bar No. 246470, United States Attorney.
Mark E. Nagle,
D.C. Bar. No. 416364, Assistant United States Attorney.
Brian J. Sonfield,
D.C. Bar No. 449098, Assistant United States Attorney, Judiciary Center Bldg. Civil Division, 555 Fourth Street, NW., Washington, D.C. 20001, (202) 514–7143. Counsel for Defendants Elaine L. Chao and John Henshaw.

Authority

This document was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657).

Signed at Washington, D.C., this 20th day of December, 2001.

John L. Henshaw,
Assistant Secretary of Labor.

[FR Doc. 01–31808 Filed 12–26–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL SCIENCE FOUNDATION

Emergency Clearance; Public Information Collection Requirements Submitted to the Office of Management and Budget; Notice

AGENCY: National Science Foundation.

ACTION: Emergency clearance: Public information collection requirements submitted to the Office of Management and Budget (OMB).

SUMMARY: The National Science Foundation (NSF) is announcing plans to request reinstatement and approval of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing an opportunity for public comment on this action.

DATES: Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted below, comments on these information collection and record keeping requirements must be received by the designees referenced below by January 18, 2002.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov,* and Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, D.C. 20503. Attn: Lauren Wittenberg, NSF Desk Officer.

Comments: Written comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information of respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed before the expiration of the normal time limits under OMB's regulations at 5 CFR part 1320.

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Survey of Principal Investigator and Institutional Views on NSF Award Size and Duration

OMB Approval Number: 3145–NEW.

Expiration Date: Not applicable.

Abstract: The National Science Foundation (NSF) plans to conduct two surveys to obtain the views of the U.S. academic research community on NSF award size and duration issues. The surveys will be conducted with principal investigators receiving NSF grants in FY 2001 as well as representatives from the principal investigators' respective institutions. The data collected will provide NSF with information about NSF's impact on the scientific and educational communities and information to assist future planning.

Respondents: Individuals.

Number of Respondents: 6,330.

Burden on the Public: 1,760 hours.

Dated: December 14, 2001.

Suzanne H. Plimpton,

NSF Reports Clearance Officer.

[FR Doc. 01–31772 Filed 12–26–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–368]

Entergy Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–6, issued to Entergy Operations, Inc. (Entergy, or the licensee), for operation of Arkansas Nuclear One, Unit 2 (ANO–2) located in Pope County, Arkansas.

The proposed amendment would allow an increase in the maximum authorized reactor core power level from 2815 megawatts thermal (MWt) to 3026 MWt, which represents a power increase of about 7.5 percent and is considered to be an extended power uprate. The proposed amendment would change the operating license and certain technical specifications (TSs) to provide for implementing uprated power operation. Also, operation at the uprated power requested by the proposed amendment would result in increases in dose consequences for certain postulated accidents considered in the accident analyses in the Safety Analysis Report; however, the doses would remain within the regulatory limits. In addition, although unrelated to the proposed power uprate, the proposed amendment would clarify portions of the control element assembly TSs.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By January 28, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/regs* and click on the hyper-link to the *Government Printing Office.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the

VOL 66 ISS 248 DE 27 2001 UMI

Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition must also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene that must include a list of the contentions that the petitioner seeks to have litigated in the hearing. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or expert opinion that support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing and petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the request for a hearing and the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated December 19, 2000, as supplemented by letters dated May 30, June 20, 26 (two letters), and 28, July 3 and 24 (two letters), August 7, 13, 21, 23, and 30, September 14, October 1, 12 (two letters), 17, 30 (two letters), and 31, November 9, 16 (three letters), and 17, and December 5, 6 (two letters), and 10, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 14th day of December, 2001.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31806 Filed 12–26–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–335 and 50–389]

Florida Power and Light Company, St. Lucie Nuclear Plant, Units 1 and 2; Notice of Receipt of Application for Renewal of Facility Operating License Nos. DPR–67 and NPF–16 for an Additional 20-Year Period

The U.S. Nuclear Regulatory Commission has received the application from Florida Power and Light Company, dated November 29, 2001, filed pursuant to Section 104b and 103 of the Atomic Energy Act of 1954, as amended, and 10 CFR part 54 for renewal of Operating License Nos. DPR–67 and NPF–16, which authorize the applicant to operate St. Lucie Nuclear Plant, Units 1 and 2. The St. Lucie nuclear facility is located about 7 miles southeast of the city of Fort Pierce, Florida, in St. Lucie County. The current operating licenses for St. Lucie Units 1 and 2, expire on March 1, 2016, and April 6, 2023, respectively. For St. Lucie Unit 2, Florida Power and Light requested an exemption to the schedular requirements of 10 CFR 54.17(c) by letter dated October 30, 2000. By letter dated February 27, 2001, the NRC approved the requested schedular exemption. The St. Lucie Units 1 and 2 reactors are Combustion Engineering designed pressurized-water reactors. The acceptability of the tendered application for docketing and other matters, including an opportunity to request a hearing will be the subject of a subsequent **Federal Register** notice.

A copy of the application is available for public inspection at the

Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or on the NRC Web site from the NRC's Agencywide Documents Access and Management System (ADAMS). The ADAMS Public Electronic Reading Room is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

The staff has verified that a copy of the license renewal application for the St. Lucie Nuclear Plant has been provided to the Indian River Community College library.

Dated at Rockville, Maryland, the 19th day of December, 2001.

For the Nuclear Regulatory Commission

Stephen T. Hoffman,

Acting Chief, License Renewal and Standardization Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31807 Filed 12–26–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket 72–20]

U.S. Department of Energy Three Mile Island 2 Independent Spent Fuel Storage Installation, Materials License No. SNM–2508; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC or Commission) is considering issuance of an exemption, pursuant to 10 CFR 72.7, from a specific provision of 10 CFR 72.32(a)(12) to the U.S. Department of Energy (DOE) for the Three Mile Island 2 (TMI–2) Independent Spent Fuel Storage Installation (ISFSI) located in Idaho. The requested exemption would allow DOE to deviate from the requirement of 10 CFR 72.32(a)(12) for a biennial onsite emergency preparedness (EP) exercise. The requested exemption would allow the onsite exercise to be performed prior to June 30, 2002, instead of prior to December 31, 2001, which is the expiration of the biennial period for the conduct of an EP exercise at the TMI–2 ISFSI.

Environmental Assessment (EA)

Identification of Proposed Action: By letter dated November 21, 2001, DOE requested an extension of time in which to perform the next onsite biennial EP exercise required by 10 CFR 72.32(a)(12)(i). Staff has considered an exemption from this provision of 10 CFR 72.32(a)(12). DOE holds Materials License No. SNM–2508, issued March 19, 1999, for operation of the TMI–2 ISFSI located within the Idaho National Engineering and Environmental Laboratory (INEEL).

On March 16, 1999, DOE performed the first onsite EP exercise for the TMI–2 ISFSI. The requirement of 10 CFR 72.32(a)(12) is that onsite EP exercises be conducted biennially, that is every other calendar year. With the last performance of the TMI–2 ISFSI EP exercise on March 16, 1999, the next required performance of the exercise would be prior to December 31, 2001. DOE had scheduled its next biennial exercise for September 12, 2001. However, due to the tragic events of September 11, 2001, the exercise was postponed.

By exempting DOE from the provision of 10 CFR 72.32(a)(12) requiring a biennial exercise, DOE will be authorized to delay performance of the biennial onsite EP exercise at the TMI–2 ISFSI until June 30, 2002. The proposed action before the Commission is whether to grant this exemption under 10 CFR 72.7.

Need for the Proposed Action: Conduct of an exercise of an ISFSI's onsite emergency plan every 2 years is required by 10 CFR 72.32(a)(12). The licensee had initially planned to conduct an exercise of its onsite emergency plan on September 12, 2001, within the required 2-year interval. However, due to heavy demands on INEEL security and emergency preparedness resources pursuant to the tragic events of September 11, 2001, and the prospect of continued terrorist threats against the United States, and the need for those resources to remain focused on assessing the security and emergency preparedness/response posture at INEEL, the licensee decided to postpone the exercise.

Environmental Impacts of the Proposed Action: The proposed action involves an administrative activity (a scheduler change in conducting an exercise) unrelated to ISFSI operations.

The last EP exercise was conducted on March 16, 1999. NRC reviews and inspections since the 1999 exercise have not identified a decline in the effectiveness of DOE's emergency response capability. The postponement should have no impact on the effectiveness of DOE's emergency response capability. Moreover, as DOE points out, the re-scheduled exercise may be of more value after any additional security and/or emergency response measures are put into effect in light of the tragic events of September 11, 2001.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the amounts or types of any effluents that may be released offsite, and there is no increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternative to the Proposed Action: As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are the same.

Agencies and Persons Consulted: On December 19, 2001, Mr. Doug Walker and Ms. Kathleen Trever of the State of Idaho, INEEL Oversight Program, were contacted about the Environmental Assessment for the proposed action. The state officials had no comments related to the appropriateness of issuance of the exemption, or the Staff's basis for issuance of the exemption. The state officials discussed several comments related to additional information in DOE's letter request dated November 21, 2001, that were unrelated to the Staff's basis for issuance of the exemption. The state officials mentioned they will follow up on those concerns with a letter to DOE, and will provide a copy of that letter to the NRC. However, the state officials agreed that issuance of the exemption need not be delayed due to the unrelated concerns.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

The licensee's letter was docketed under 10 CFR part 72, Docket 72–20. For further details with respect to this action, see DOE's request dated November 21, 2001. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 19th day of December, 2001.

Charles L. Miller,

Acting Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–31804 Filed 12–26–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–10, 50–237 and 50–249]

Exelon Generation Company, LLC, Dresden Nuclear Power Station, Units 1, 2, and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the Code of Federal Regulations (10 CFR) Part 50, Appendix E, Item IV.F.2.c to Facility Operating License Nos. DPR–2, DPR–19 and DPR–25, issued to Exelon Generation Company, LLC (the licensee), for operation of the Dresden Nuclear Power Station, Units 1, 2 and 3 (DNPS), located in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow a one-time exemption from the requirements of 10 CFR part 50, Appendix E, Item IV.F.2.c, regarding conduct of a full-participation exercise of the offsite emergency plan every 2 years. Under the proposed exemption, the licensee would reschedule the exercise originally scheduled for September 18, 2001, and complete the exercise requirements by December 31, 2002.

The proposed action is in accordance with the licensee's application for an exemption dated December 18, 2001.

The Need for the Proposed Action

Currently under 10 CFR part 50, Appendix E, Item IV.F.2.c, each licensee at each site is required to conduct a full-participation exercise of its offsite emergency plan every 2 years. Federal agencies, including the Federal Emergency Management Agency, observe these exercises and evaluate the performance of the licensee, state, and local authorities having a role under the emergency plan.

The licensee had initially scheduled a full participation biennial exercise of its onsite and offsite emergency plans for May 26, 2001, within the required 2-year interval. However, due to flooding conditions within the state and the need for state and local officials to address these needs, the exercise was conducted with participation by only the Illinois Department of Nuclear Safety and the licensee. The offsite portion of the exercise was rescheduled for September 18, 2001. However, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled after consultations with the Federal Emergency Management Agency and the Illinois Emergency Management Agency. Future full participation exercises for DNPS will be performed on the existing biennial schedule and are not affected by the requested exemption.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the proposed action involves an administrative activity unrelated to plant operations.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have the potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the "no-action" alternative). Denial of the proposed action would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources different than those previously considered in the Final Environmental Statement for DNPS, dated 1973.

Agencies and Persons Consulted

On December 19, 2001, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the revised proposed action.

For further details with respect to the proposed action, see the licensee's letter dated December 18, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 19th day of December 2001.

For the Nuclear Regulatory Commission.

Anthony J. Mendiola,

Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31805 Filed 12–26–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Meeting Notice

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of December 24, 31, 2001, January 7, 14, 21, 28, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of December 24, 2001

There are no meetings scheduled for the Week of December 24, 2001.

Week of December 31, 2001—Tentative

There are no meetings scheduled for the Week of December 31, 2001.

Week of January 7, 2002—Tentative

There are no meetings scheduled for the Week of January 7, 2002.

Week of January 14, 2002—Tentative

Tuesday, January 15, 2002

9:30 a.m. Briefing on Status of Nuclear Materials Safety (Public Meeting).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of January 21, 2002—Tentative

There are no meetings scheduled for the Week of January 21, 2002.

Week of January 28, 2002—Tentative

Tuesday, January 29, 2002

9:30 a.m. Briefing on Status of Nuclear Reactor Safety (Public Meeting).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Wednesday, January 30, 2002

9:30 a.m. Briefing on Status of OCIO Programs, Performance, and Plans (Public Meeting).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

2:00 p.m. Discussion of Intragovernmental Issues (Closed—Ex. 1&9)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov.*

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: December 19, 2001.

Sandra M. Joosten,

Executive Assistant, Office of the Secretary.

[FR Doc. 01–31919 Filed 12–21–01; 11:40 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Notice of Opportunity To Comment on Model Safety Evaluation on Technical Specification Improvement To Eliminate Post Accident Sampling Requirements for Boiling Water Reactors Using the Consolidated Line Item Improvement Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for comment.

SUMMARY: Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has prepared a model safety evaluation (SE) relating to the elimination of requirements on post accident sampling imposed on licensees through orders, license conditions, or technical specifications. The NRC staff has also prepared a model no significant hazards consideration (NSHC) determination relating to this matter. The purpose of these models is to permit the NRC to efficiently process amendments that propose to remove requirements for the Post Accident Sampling System [or Station] (PASS) for Boiling Water Reactors (BWRs). Licensees of nuclear power reactors to which the models apply could request amendments conforming to the models. In such a request, a licensee should confirm the applicability of the SE and NSHC determination to its reactor and provide the requested plant-specific verifications and commitments. The NRC staff is requesting comments on the model SE and model NSHC determination before announcing their availability for referencing in license amendment applications.

DATES: The comment period expires January 28, 2002. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail.

Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6 D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received may be examined at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

Comments may be submitted by electronic mail to *CLIIP@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: William Reckley, Mail Stop: O–8H1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–1389.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Issue Summary 2000–06, "Consolidated Line Item Improvement Process for Adopting Standard Technical Specification Changes for Power Reactors," was issued on March 20, 2000. The Consolidated Line Item Improvement Process (CLIIP) is intended to improve the efficiency and transparency of NRC licensing processes. This is accomplished by processing proposed changes to the Standard Technical Specifications (STS) in a manner that supports subsequent license amendment applications. The CLIIP includes an opportunity for the public to comment on proposed changes to the STS following a preliminary assessment by the NRC staff and finding that the change will likely be offered for adoption by licensees. This notice is soliciting comment on a proposed change to the STS that removes requirements for the PASS for BWRs. The CLIIP directs the NRC staff to evaluate any comments received for a proposed change to the STS and to either reconsider the change or to proceed with announcing the availability of the change for proposed adoption by licensees. Those licensees opting to apply for the subject change to technical specifications are responsible for reviewing the staff's evaluation, referencing the applicable technical justifications, and providing any necessary plant-specific information.

Each amendment application made in response to the notice of availability would be processed and noticed in accordance with applicable rules and NRC procedures.

This notice involves the elimination of requirements for PASS and related administrative controls in technical specifications for BWRs. This proposed change was proposed for incorporation into the standard technical specifications by the BWR Owners Group (BWROG) participants in the Technical Specification Task Force (TSTF) and is designated TSTF–413. TSTF–413 is supported by the NRC staff's safety evaluation dated June 12, 2001, for the BWROG topical report NEDO–32991, "Regulatory Relaxation for BWR Post Accident Sampling Stations (PASS)," which was submitted to the NRC on November 30, 2000. The BWROG request followed the staff's approval of similar requests for elimination of PASS requirements from the Combustion Engineering Owners Group (CEOG) and the Westinghouse Owners Group (WOG).

Applicability

This proposed change to remove requirements for PASS from technical specifications (and other elements of the licensing bases) is applicable to BWRs.

To efficiently process the incoming license amendment applications, the staff requests each licensee applying for the changes addressed by TSTF–413 using the CLIIP to address the following plant-specific verifications and regulatory commitments. The CLIIP does not prevent licensees from requesting an alternative approach or proposing the changes without the requested verifications and regulatory commitments. Variations from the approach recommended in this notice may, however, require additional review by the NRC staff and may increase the time and resources needed for the review. In making the requested regulatory commitments, each licensee should address: (1) That the subject capability exists (or will be developed) and will be maintained; (2) where the capability or procedure will be described (e.g., severe accident management guidelines, emergency operating procedures, emergency plan implementing procedures); and (3) a schedule for implementation. The amendment request need not provide details about designs or procedures.

Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain):

a. Contingency plans for obtaining and analyzing highly radioactive samples from the reactor coolant system, suppression pool, and containment atmosphere;

b. A capability for classifying fuel damage events at the Alert level threshold (typically this is 300 μCi/ml dose equivalent iodine). This capability may use a normal sampling system or correlations of radiation readings to coolant concentrations; and

c. An I–131 site survey detection capability, including an ability to assess radioactive iodines released to offsite environs, by using effluent monitoring systems or portable sampling equipment.

Public Notices

In a notice in the **Federal Register** dated August 11, 2000 (65 FR 49271), the staff requested comment on the use of the CLIIP to process requests to delete post-accident sampling requirements from plants with Westinghouse and Combustion Engineering designs. Following the disposition of comments, the staff published a notice of availability of the staff's SE and NSHC determination for referencing using the CLIIP (65 FR 65018, October 31, 2000). Each request to eliminate PASS requirements by licensees for Westinghouse and CE plants using the CLIIP has also included notices prior to issuance of the subject license amendments and upon issuance.

This notice requests comments from interested members of the public within 30 days of the date of publication in the **Federal Register**. Following the staff's evaluation of comments received as a result of this notice, the staff may reconsider the proposed change or may proceed with announcing the availability of the change in a subsequent notice (perhaps with some changes to the safety evaluation or proposed no significant hazards consideration determination as a result of public comments). If the staff announces the availability of the change, licensees wishing to adopt the change will submit an application in accordance with applicable rules and other regulatory requirements. The staff will in turn issue for each application a notice of consideration of issuance of amendment to facility operating license(s), a proposed no significant hazards consideration determination, and an opportunity for a hearing. A notice of issuance of an amendment to operating license(s) will also be issued to announce the elimination of the PASS requirements for each plant that applies for and receives the requested change.

Proposed Safety Evaluation

U.S. Nuclear Regulatory Commission

Office of Nuclear Reactor Regulation

Consolidated Line Item Improvement, Technical Specification Task Force (TSTF) Change TSTF–413, Elimination of Requirements for Post Accident Sampling System [or Station] (PASS)

1.0 Introduction

In the aftermath of the accident at Three Mile Island (TMI), Unit 2, the Nuclear Regulatory Commission (NRC) imposed requirements on licensees for commercial nuclear power plants to install and maintain the capability to obtain and analyze post-accident samples of the reactor coolant and containment atmosphere. The desired capabilities of the Post Accident Sampling System [or Station] (PASS) were described in NUREG–0737, "Clarification of TMI Action Plan Requirements." The NRC issued orders to licensees with plants operating at the time of the TMI accident to confirm the installation of PASS capabilities (generally as they had been described in NUREG–0737). A requirement for PASS and related administrative controls was added to the technical specifications (TS) of the operating plants and was included in the initial TS for plants licensed during the 1980s and 90s. Additional expectations regarding PASS capabilities were included in Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants To Assess Plant and Environs Conditions During and Following an Accident."

Significant improvements have been achieved since the TMI accident in the areas of understanding risks associated with nuclear plant operations and developing better strategies for managing the response to potentially severe accidents at nuclear plants. Recent insights about plant risks and alternate severe accident assessment tools have led the NRC staff to conclude that some TMI Action Plan items can be revised without reducing the ability of licensees to respond to severe accidents. The NRC's efforts to oversee the risks associated with nuclear technology more effectively and to eliminate undue regulatory costs to licensees and the public have prompted the NRC to consider eliminating the requirements for PASS in TS and other parts of the licensing bases of operating reactors.

The staff has completed its review of the topical report submitted by the Boiling Water Reactor (BWR) Owners Group (BWROG) that proposed the elimination of PASS. The justifications for the proposed elimination of PASS

VOL 66 ISS 248 DE 27 2001 UMI

requirements center on evaluations of the various radiological and chemical sampling and their potential usefulness in responding to a severe reactor accident or making decisions regarding actions to protect the public from possible releases of radioactive materials. As explained in more detail in the staff's safety evaluations for the topical report, the staff has reviewed the available sources of information for use by decision-makers in developing protective action recommendations and assessing core damage. Based on this review, the staff found that the information provided by PASS is either unnecessary or is effectively provided by other indications of process parameters or measurement of radiation levels. The staff agrees, therefore, with the owners group that licensees can remove the TS requirements for PASS, revise (as necessary) other elements of the licensing bases, and pursue possible design changes to alter or remove existing PASS equipment.

2.0 Background

In its letter dated November 30, 2000, the BWROG submitted for the NRC staff's review Topical Report NEDO–32991, "Regulatory Relaxation for BWR Post Accident Sampling Stations (PASS)," for eliminating PASS requirements from BWRs. The NRC staff's safety evaluation for the BWROG topical report is dated June 12, 2001 (ADAMS Accession Number ML011630016). The BWROG proposed that relaxation of the PASS requirements be incorporated into the standard technical specifications by submitting TSTF–413.

The NRC staff prepared this model safety evaluation (SE) relating to the elimination of requirements on post accident sampling for BWRs and solicited public comment [FR] in accordance with the CLIIP. The use of the CLIIP in this matter is intended to help the NRC to efficiently process amendments that propose to remove the PASS requirements from TS. Licensees of nuclear power reactors to which this model apply were informed [FR] that they could request amendments conforming to the model, and, in such requests, should confirm the applicability of the SE to their reactors and providing the requested plant-specific verifications and commitments.

3.0 Evaluation

The ways in which the requirements and recommendations for PASS were incorporated into the licensing bases of commercial nuclear power plants varied as a function of when plants were licensed. Plants that were operating at the time of the TMI accident are likely to have been the subject of confirmatory orders that imposed the PASS functions described in NUREG–0737 as obligations. The issuance of plant specific amendments to adopt this change, which would remove PASS and related administrative controls from TS, would also supercede the PASS specific requirements imposed by post-TMI confirmatory orders.

The technical evaluations for the elimination of PASS sampling requirements are provided in the safety evaluation dated June 12, 2001, for BWROG topical report NEDO–32991. As described in its safety evaluation for the topical report, the staff finds that the post-accident sampling requirements for the following may be eliminated for BWR plants:

1. Reactor coolant dissolved gases.
2. Reactor coolant hydrogen.
3. Reactor coolant oxygen.
4. Reactor coolant chlorides.
5. Reactor coolant pH.
6. Reactor coolant boron.
7. Reactor coolant conductivity.
8. Radioisotopes in the reactor coolant.
9. Containment hydrogen.
10. Containment oxygen.
11. Radioisotopes in the containment atmosphere.
12. Suppression pool pH.
13. Chlorides in the suppression pool.
14. Boron in the suppression pool.
15. Radioisotopes in the suppression pool.

The staff agrees that sampling of radioisotopes is not required to support emergency response decision making during the initial phases of an accident because the information provided by PASS is either unnecessary or is effectively provided by other indications of process parameters or measurement of radiation levels. Therefore, it is not necessary to have dedicated equipment to obtain this sample in a prompt manner.

The staff does, however, believe that there could be significant benefits to having information about the radioisotopes existing post-accident in order to address public concerns and plan for long-term recovery operations. As stated in the safety evaluation for the topical report, the staff has found that licensees could satisfy this function by developing contingency plans to describe existing sampling capabilities and what actions (e.g., assembling temporary shielding) may be necessary to obtain and analyze highly radioactive samples from the reactor coolant system (RCS), suppression pool, and containment atmosphere. (See item 4.1 under Verifications and Commitments.) The contingency plans for obtaining samples from the RCS, suppression pool, and containment atmosphere may also enable a licensee to derive information on parameters such as hydrogen concentrations in containment and the pH of water in the suppression pool. The staff considers the sampling of the suppression pool to be potentially useful in confirming calculations of pH and confirming that potentially unaccounted for acid sources have been sufficiently neutralized. The use of the contingency plans for obtaining samples would depend on the plant conditions and the need for information by the decision-makers responsible for responding to the accident.

In addition, the staff considers radioisotope sampling information to be useful in classifying certain types of events (such as a reactivity excursion or mechanical damage) that could cause fuel damage without having an indication of a loss of reactor coolant inventory. However, the staff agrees with the topical report's contentions that other indicators of failed fuel, such as radiation monitors, can be correlated to the degree of failed fuel. (See item 4.2 under Verifications and Commitments.)

In lieu of the information that would have been obtained from PASS, the staff believes that licensees should maintain or develop the capability to monitor radioactive iodines that have been released to offsite environs. This information would be useful for decision makers trying to assess a release of and limit the public's exposure to radioactive materials. (See item 4.3 under Verifications and Commitments.)

The staff believes that the changes related to the elimination of PASS that are described in the topical report, related safety evaluation and this proposed change to TS are unlikely to result in a decrease in the effectiveness of a licensee's emergency plan. Each licensee, however, must evaluate possible changes to its emergency plan in accordance with 10 CFR 50.54(q) to determine if the change decreases the effectiveness of its site-specific plan. Evaluations and reporting of changes to emergency plans should be performed in accordance with applicable regulations and procedures.

The staff notes that redundant, safety-grade, containment hydrogen concentration monitors are required by 10 CFR 50.44(b)(1), are addressed in NUREG–0737 Item II.F.1 and Regulatory Guide 1.97, and are relied upon to meet the data reporting requirements of 10 CFR part 50, Appendix E, Section VI.2.a.(ii)(3). The staff concludes that during the early phases of an accident,

VOL 66 ISS 248 DE 27 2001 UMI

the safety-grade hydrogen monitors provide an adequate capability for monitoring containment hydrogen concentration. The staff sees value in maintaining the capability to obtain grab samples for complementing the information from the hydrogen monitors in the long term (i.e., by confirming the indications from the monitors and providing hydrogen measurements for concentrations outside the range of the monitors). As previously mentioned, the licensee's contingency plan (see item 4.1) for obtaining highly radioactive samples will include sampling of the containment atmosphere and may, if deemed necessary and practical by the appropriate decision-makers, be used to supplement the safety-related hydrogen monitors.

Note 1: Each licensee should specify a desired implementation period for its specific amendment request. The implementation period would be that period necessary to develop and implement the items in 4.1 through 4.3 and, as necessary, to make other changes to documentation or equipment to support the elimination of PASS requirements. As an alternative, the licensee may choose to have a shorter implementation period and include the scheduling of items 4.1 through 4.3 as part of the regulatory commitments associated with this amendment request. Amendment requests that include commitments for implementation of the items in Section 4 within 6 months of the implementation of the revised TS will remain within the CLIIP.

Note 2: There may be some collateral changes to the TS as a result of the removal of the administrative controls section for PASS. The following paragraphs address three potential changes that the staff is aware of (editorial changes, mention of PASS as a potential leakage source outside containment, and revision of the bases section for post accident monitoring instrumentation).

(A) The elimination of the TS and other regulatory requirements for PASS would result in additional changes to TS such as [e.g., the renumbering of sections or pages or the removal of references]. The changes are included in the licensee's application to revise the TS in order to take advantage of the CLIIP. The staff has reviewed the changes and agrees that the revisions are necessary due to the removal of the TS section on PASS. The changes do not revise technical requirements beyond that reviewed by the NRC staff in connection with the supporting topical reports or the preparation of the TS improvement incorporated into the CLIIP.

(B) The TS include an administrative requirement for a program to minimize to levels as low as practicable the leakage from those portions of systems outside containment that could contain highly radioactive fluids during a serious transient or accident. The program includes preventive maintenance, periodic inspections, and leak tests for the identified systems. PASS is specifically listed in TS [5.5.2] as falling under the scope of this requirement. The applicability of this specification depends on whether or not PASS is maintained as a system that is a potential leakage path. [Note that several options (see following) exist for handling the impact that eliminating PASS requirements would have on the specification for the program to control leakage outside containment.

(i) The licensee has stated that a plant change would be implemented such that PASS would not be a potential leakage path outside containment for highly radioactive fluids (e.g., the PASS piping that penetrates the containment would be cut and capped). The modification would be made during the implementation period for this amendment such that it is appropriate to delete the reference to PASS in TS [5.5.2]. Requirements in NRC regulations (e.g., 10 CFR part 50, Appendix J) and other TS provide adequate regulatory controls over the licensee's proposed modification to eliminate PASS as a potential leakage path.

(ii) The licensee has stated that a plant change might be implemented such that PASS would not be a potential leakage path outside containment for highly radioactive fluids (e.g., the PASS piping that penetrates the containment might be cut and capped). The modification would not be made during the implementation period for this amendment. The licensee has proposed to add the following phrase to the reference to PASS in TS [5.5.2]:

"(until such time as a modification eliminates the PASS penetration as a potential leakage path)."

The above phrase would make clear that TS [5.5.2] remains applicable to the PASS as long as it is a possible leakage path and reflects that the actual modification of the piping system may be scheduled beyond the implementation period for this amendment. Requirements in NRC regulations (10 CFR part 50, Appendix J) and other TS provide adequate regulatory control over the licensee's modification to eliminate PASS as a potential leakage path. Following the modification to eliminate PASS as a potential leakage path, the licensee may elect (in order to maintain clarity and simplicity of the requirement) to revise TS [5.5.2] to remove the reference to PASS, including the phrase added by this amendment.

(iii) The licensee has stated that the configuration of the PASS will continue to be a potential leakage path outside containment for highly radioactive fluids (e.g., the PASS piping will penetrate the containment with valves or other components in the system from which highly radioactive fluid could leak). The licensee has [not proposed to change TS (5.5.2) or has changed TS (5.5.2) to revise the reference to this system from PASS to ( )]. The staff agrees [that TS 5.5.2 is not affected or that the change to revise the reference from PASS to ( )] is acceptable. A separate amendment request will be required if the licensee, subsequent to this amendment, decides to modify the plant to eliminate this potential leakage path and proposes to change the requirements of TS [5.5.2].

(C) [Note-optional section if licensee provides markup of affected Bases pages] The elimination of PASS requires that the licensee revise the discussion in the Bases section for TS [3.3.3, "Post Accident Monitoring Instrumentation']. The current Bases mention the capabilities of PASS as part of the justification for allowing both hydrogen monitor channels to be out of service for a period of up to 72 hours. Although the licensee's application included possible wording for the revised Bases discussion for TS [3.3.3], the licensee will formally address the change to the Bases in accordance with [the Bases Control Program or its administrative procedure for revising Bases]. The staff does not believe that the Bases change will require prior NRC approval when evaluated against the criteria in 10 CFR 50.59, "Changes, tests, and experiments," and, therefore, agrees that the revision of the Bases to TS [3.3.3] should be addressed separately from this amendment and should be included in a future update of the TS Bases in accordance with [the Bases Control Program or the licensee's administrative controls].

4.0 Verifications and Commitments

As requested by the staff in the notice of availability for this TS improvement, the licensee has addressed the following plant-specific verifications and commitments.

4.1 Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain), contingency plans for obtaining and analyzing highly radioactive samples of reactor coolant, suppression pool, and containment atmosphere.

The licensee has [verified that it has or made a regulatory commitment to develop] contingency plans for obtaining and analyzing highly radioactive samples from the RCS, suppression pool, and containment atmosphere. The licensee has committed to maintain the contingency plans within its [specified document or program]. The licensee has [implemented this commitment or will implement this commitment by (specified date)].

4.2 Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain), a capability for classifying fuel damage events at the Alert level threshold (typically this is 300 µCi/ml dose equivalent iodine). This capability may utilize the normal sampling system and/or correlations of radiation readings to radioisotope concentrations in the reactor coolant.

The licensee has [verified that it has or made a regulatory commitment to develop] a capability for classifying fuel damage events at the Alert level threshold. The licensee has committed to maintain the capability for the Alert classification within its [specified document or program]. The licensee has [implemented this commitment or will implement this commitment by (specified date)].

4.3 Each licensee should verify that it has, and make a regulatory commitment to maintain (or make a regulatory commitment to develop and maintain), an I–131 site survey detection capability, including an ability to assess radioactive iodines released to offsite environs, by using effluent monitoring systems or portable sampling equipment.

The licensee has [verified that it has or made a regulatory commitment to develop] an I–131 site survey detection capability, including an ability to assess radioactive iodines released to offsite environs, by using effluent monitoring systems or portable sampling equipment. The licensee has committed to maintain the capability for monitoring iodines within its [specified document or program]. The licensee has [implemented this commitment or will implement this commitment by (specified date)].

The NRC staff finds that reasonable controls for the implementation and for subsequent evaluation of proposed changes pertaining to the above regulatory commitments are provided by the licensee's administrative processes, including its commitment management program. Should the licensee choose to incorporate a regulatory commitment into the emergency plan, final safety analysis report, or other document with established regulatory controls, the associated regulations would define the appropriate change-control and reporting requirements. The staff has determined that the commitments do not warrant the creation of regulatory requirements, which would require prior NRC approval of subsequent changes. The NRC staff has agreed that NEI 99–04, Revision 0, "Guidelines for Managing NRC Commitment Changes," provides reasonable guidance for the control of regulatory commitments made to the NRC staff. (See Regulatory Issue Summary 2000–17, Managing Regulatory Commitments Made by Power Reactor Licensees to the NRC Staff, dated September 21, 2000 [ADAMS Accession Number ML003741774].) The commitments should be controlled in accordance with the industry guidance or comparable criteria employed by a specific licensee. The staff may choose to verify the implementation and maintenance of these commitments in a future inspection or audit.

5.0 State Consultation

In accordance with the Commission's regulations, the [ ] State official was notified of the proposed issuance of the amendments. The State official had [(1) no comments or (2) the following comments—with subsequent disposition by the staff].

6.0 Environmental Consideration

The amendments change a requirement with respect to the installation or use of a facility component located within the restricted area as defined in 10 CFR part 20 and change surveillance requirements. The NRC staff has determined that the amendments involve no significant increase in the amounts and no significant change in the types of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendments involve no significant hazards consideration, and there has been no public comment on such finding (FR). Accordingly, the amendments meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b) no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendments.

7.0 Conclusion

The Commission has concluded, based on the considerations discussed above, that (1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, (2) such activities will be conducted in compliance with the Commission's regulations, and (3) the issuance of the amendments will not be inimical to the common defense and security or to the health and safety of the public.

Proposed No Significant Hazards Consideration Determination

Description of Amendment Request: The proposed amendments delete requirements from the Technical Specifications (and, as applicable, other elements of the licensing bases) to maintain a Post Accident Sampling System [or Station] (PASS). Licensees were generally required to implement PASS upgrades as described in NUREG–0737, "Clarification of TMI [Three Mile Island] Action Plan Requirements," and Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident." Implementation of these upgrades was an outcome of the lessons learned from the accident that occurred at TMI, Unit 2. Requirements related to PASS were imposed by Order for many facilities and were added to or included in the technical specifications (TS) for nuclear power reactors currently licensed to operate. Lessons learned and improvements implemented over the last 20 years have shown that the information obtained from PASS can be readily obtained through other means or is of little use in the assessment and mitigation of accident conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated.

The PASS was originally designed to perform many sampling and analysis functions. These functions were designed and intended to be used in post accident situations and were put into place as a result of the TMI–2 accident. The specific intent of the PASS was to provide a system that has the capability to obtain and analyze samples of plant fluids containing potentially high levels of radioactivity, without exceeding plant personnel radiation exposure limits. Analytical results of these samples would be used largely for verification purposes in aiding the plant staff in assessing the extent of core damage and subsequent offsite radiological dose projections. The system was not intended to and does not serve a function for preventing

VOL 66 ISS 248 DE 27 2001 UMI

accidents and its elimination would not affect the probability of accidents previously evaluated.

In the 20 years since the TMI–2 accident and the consequential promulgation of post accident sampling requirements, operating experience has demonstrated that a PASS provides little actual benefit to post accident mitigation. Past experience has indicated that there exists in-plant instrumentation and methodologies available in lieu of a PASS for collecting and assimilating information needed to assess core damage following an accident. Furthermore, the implementation of Severe Accident Management Guidance (SAMG) emphasizes accident management strategies based on in-plant instruments. These strategies provide guidance to the plant staff for mitigation and recovery from a severe accident. Based on current severe accident management strategies and guidelines, it is determined that the PASS provides little benefit to the plant staff in coping with an accident.

The regulatory requirements for the PASS can be eliminated without degrading the plant emergency response. The emergency response, in this sense, refers to the methodologies used in ascertaining the condition of the reactor core, mitigating the consequences of an accident, assessing and projecting offsite releases of radioactivity, and establishing protective action recommendations to be communicated to offsite authorities. The elimination of the PASS will not prevent an accident management strategy that meets the initial intent of the post-TMI–2 accident guidance through the use of the SAMGs, the emergency plan (EP), the emergency operating procedures (EOP), and site survey monitoring that support modification of emergency plan protective action recommendations (PARs).

Therefore, the elimination of PASS requirements from Technical Specifications (TS) (and other elements of the licensing bases) does not involve a significant increase in the consequences of any accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated.

The elimination of PASS related requirements will not result in any failure mode not previously analyzed. The PASS was intended to allow for verification of the extent of reactor core damage and also to provide an input to offsite dose projection calculations. The PASS is not considered an accident precursor, nor does its existence or elimination have any adverse impact on the pre-accident state of the reactor core or post accident confinement of radioisotopes within the containment building.

Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety.

The elimination of the PASS, in light of existing plant equipment, instrumentation, procedures, and programs that provide effective mitigation of and recovery from reactor accidents, results in a neutral impact to the margin of safety. Methodologies that are not reliant on PASS are designed to provide rapid assessment of current reactor core conditions and the direction of degradation while effectively responding to the event in order to mitigate the consequences of the accident. The use of a PASS is redundant and does not provide quick recognition of core events or rapid response to events in progress. The intent of the requirements established as a result of the TMI–2 accident can be adequately met without reliance on a PASS.

Therefore, this change does not involve a significant reduction in the margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

Dated at Rockville, Maryland, this 18th day of December 2001.

For the Nuclear Regulatory Commission.

William D. Beckner,

Chief, Technical Specification Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31803 Filed 12–26–01; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

United Postal Service Board of Governors; Sunshine Act Meeting

TIMES AND DATES: 8 a.m., Monday, January 7, 2002; 8:30 a.m., Tuesday, January 8, 2002.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: January 7—8 a.m. (Closed); January 8—8:30 a.m. (Open).

MATTERS TO BE CONSIDERED:

Monday, January 7—8 a.m. (Closed)

1. Personnel Matters and Compensation Issues.
2. Management Compensation Strategy.
3. Financial Performance.
4. Strategic Planning.

Tuesday, January 8—8:30 a.m. (Open)

1. Minutes of the Previous Meetings, December 3–4, and December 13, 2001.
2. Remarks of the Postmaster General and CEO.
3. Consideration of Board Resolution on Capital Funding.
4. Annual Report on Government in the Sunshine Act Compliance.
5. Fiscal Year 2001 Annual Report.

Tuesday, January 8—8:30 a.m. (Open) [continued]

6. Semipostal Stamps.
7. Quarterly Report on Financial Performance.
8. Quarterly Report on Service Performance.
9. Election of Chairman and Vice Chairman of the Board of Governors.
10. Tentative Agenda for the February 4–5, 2002, meeting in Phoenix, Arizona.

CONTACT PERSON FOR MORE INFORMATION: David G. Hunter, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–31965 Filed 12–21–01; 1:34 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25320; 812–12684]

Sensar Corporation; Notice of Application

December 19, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act").

SUMMARY OF APPLICATION: Sensar Corporation ("Applicant") requests an order exempting it from all provisions of the Act until the earlier of one year from the date that the requested order is issued or the date that it no longer may be deemed to be an investment company.

FILING DATES: The application was filed on November 13, 2001, and amended on December 19, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 11, 2002, and should be accompanied by proof of service on applicant, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicant, c/o Stoel Rives LLP, 201 South Main Street, Suite 1100, Salt Lake City, UT 84111.

FOR FURTHER INFORMATION, CONTACT: Stacy L. Fuller, Senior Counsel, at 202–942–0553, or Janet M. Grossnickle, Branch Chief, at 202–942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone 202–942–8090).

Applicant's Representations

1. Applicant is a Nevada corporation whose principal offices are in Utah. Prior to August 1999, Applicant was engaged in the design, development, manufacturing, and marketing of analytical scientific instrumentation. Between March and August 1999, Applicant sold substantially all of its assets related to such business and began to search for an acquisition. In September 1999, Applicant entered into negotiations with Net2Wireless Corporation (now known as Jigami Corporation) ("Jigami") to acquire Jigami, and devoted substantial time in the remainder of 1999 and 2000 to completing the acquisition. On December 1, 2000, Nasdaq informed Applicant that it had determined to deny the listing application for the combined company (or initiate delisting proceedings against Applicant if Jigami merged into Applicant). The proposed merger was abandoned, and on December 4, 2000, Applicant and Jigami entered into a settlement, whereby Applicant received 3,000,000 shares of Jigami stock and a warrant to acquire another 1,000,000 shares, representing approximately 14.1% of the outstanding capital stock of Jigami. As a result of the settlement, on December 4, 2000, Applicant's assets consisted of approximately (a) $3.25 million of cash, (b) $2 million of Jigami securities, and (c) $67,000 of other assets that were not securities.

2. In January 2001, Applicant determined that it might be deemed to be an investment company under section 3(a)(1)(C) of the Act as of the date that it acquired the securities of Jigami. Based on the information available to Applicant at that time, Applicant did not believe that it could alter its investment in Jigami so as to reduce the value of its investment securities to less than 40% of its total assets (exclusive of government securities and cash). Accordingly, Applicant determined that its best alternative was to try to qualify, and make election under section 54 of the Act, to become a business development company, as defined in section 2(a)(48) of the Act ("BDC"). On January 22, 2001, as part of its plan to become a BDC, Applicant purchased 3.5% of the outstanding shares of common stock of a privately held company ("Private Company") for $750,000.

3. At the end of the first quarter of 2001, Applicant wrote down the value of the Jigami investment to zero. As of March 31, 2001, Applicant's assets consisted of approximately (a) $2.35 million of cash, (b) $750,000 of Private Company's securities, and (c) $82,000 of other assets that were not securities. In light of the changes in Applicant's assets, Applicant then began to focus its efforts on a revised strategy of actively attempting to purchase an operating business.

Applicant's Legal Analysis

1. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Section 3(a)(2) of the Act defines "investment securities" to include all securities except government securities, securities issued by employees' securities companies, and securities issued by majority-owned subsidiaries of the owner that are not investment companies and are not relying on the exception from the definition of investment company in section 3(c)(1) or 3(c)(7) of the Act.

2. Applicant states that the Jigami securities acquired on December 4, 2000, and the Private Company securities acquired on January 22, 2001, constitute "investment securities" within the meaning of section 3(a)(2) of the Act. Applicant states that because investment securities have represented substantially all of its non-cash assets since December 4, 2000, Applicant may be deemed to be an investment company within the meaning of section 3(a)(1)(C) of the Act.

3. Section 6(c) of the Act permits the Commission to exempt any person from any provision of the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an exemption under section 6(c) from all provisions of the Act until the earlier of one year from the date that the requested order is issued or the date that Applicant no longer may be deemed to be an investment company. Applicant believes that within the period covered by the requested order, it will be able to complete an acquisition of or a merger with an operating business.

5. Applicant states that its failure to become primarily engaged in a non-investment business or an excepted business within the past year was due to factors beyond its control and that, during the period, its officers tried in good faith to invest Applicant's assets in a non-investment business or excepted business. Specifically, Applicant states that once it realized that it might be deemed to be an investment company under section 3(a)(1)(C), it took steps to comply with the Act, first by pursuing BDC status, and later by pursuing a merger or acquisition. Applicant states that in its pursuit of a suitable merger with or acquisition of an operating business, it has actively investigated 30 companies and completed field due diligence on four such companies. Applicant contends that it has been hampered in its efforts to find a suitable partner or target by the recent economic downturn. Applicant further states that on or about December 13, 2001, Applicant entered into a non-binding letter of intent with VitalStream, Inc.

("VitalStream"), a California-based digital broadcasting company, pursuant to which VitalStream would merge with and into a wholly-owned subsidiary of Applicant. Applicant states that it expects the proposed merger to close in the first or second quarter of 2002. Applicant further states that, in addition to seeking to merge with or acquire an operating business, it has attempted to sell the Private Company securities by convincing Private Company to repurchase the securities, discussing a sale with existing shareholders of Private Company, and contacting other persons who have shown an interest in Private Company. Applicant states that it is continuing to attempt to find a purchaser for its block of Private Company securities. In addition, Applicant states that since determining to pursue operating company status at the end of the first quarter of 2001, it has declined to make additional investments in Private Company and has not acquired any other investment securities. Applicant also states that it will hold its cash assets in federally insured money market or demand accounts. Finally, Applicant notes that on November 7, 2001, the Board formalized the decision to pursue operating company status by adopting a resolution that directs Applicant to abandon its efforts to become a BDC and take whatever steps are necessary to become an operating company.

6. Applicant contends that registration under the Act would involve an unnecessary burden and expense for Applicant and its shareholders and would serve no regulatory purpose. For the reasons discussed above, Applicant asserts that the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Conditions

1. Applicant will not acquire additional investment securities, as defined in section 3(a)(2) of the Act, or engage in the trading of securities for short-term speculative purposes.

2. Applicant will not hold itself out as being engaged in the business of investing, reinvesting, owning, holding or trading in securities.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31740 Filed 12–26–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45166, File No. 4–208]

Joint Industry Plan; Order Approving Amendments To Add Chicago Board Options Exchange, Inc. as Participant to Joint-SRO Plan Under Rule 11Ac1–5

December 18, 2001.

I. Introduction

On July 11, 2001, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission") in accordance with section 11A of the Securities Exchange Act of 1934 ("Act")[1] and rule 11Aa3–2 thereunder,[2] a proposed amendment to the national market system plan establishing procedures under rule 11Ac1–5 ("Joint-SRO Plan" or "Plan").[3] Under the proposed amendment, the CBOE would be added as a participant to the Joint-SRO Plan. Notice of filing and an order granting temporary effectiveness of the proposal through December 19, 2001 was published in the **Federal Register** on August 21, 2001.[4] The Commission did not receive any comments on the proposed amendment. This order approves the amendment on a permanent basis.

II. Discussion

The Joint-SRO Plan establishes procedures for market centers to follow in making their monthly reports required pursuant to rule 11Ac1–5, available to the public in a uniform, readily accessible, and usable electronic format. The current participants to the Plan are the American Stock Exchange LLC, Boston Stock Exchange, Inc., Chicago Stock Exchange, Inc., Cincinnati Stock Exchange, Inc., National Association of Securities Dealers, Inc., New York Stock Exchange, Inc., Pacific Exchange, Inc., and Philadelphia Stock Exchange, Inc.

The amendment adds the CBOE as a participant to the Joint-SRO Plan. Section III(b) of the Joint-SRO Plan provides that a national securities exchange or national securities association may become a party to the Plan by: (1) Executing a copy of the Plan, as then in effect (with the only changes being the addition of the new participant's name in section II(a) of the Plan and the new participant's single-digit code in section VI(a)(1) of the Plan) and (ii) submitting such executed plan to the Commission for approval. The CBOE submitted a signed copy of the Joint-SRO Plan to the Commission in accordance with the procedures set forth in the Plan regarding new participants.

After careful review, the Commission finds that the amendment to the Joint-SRO Plan is consistent with the requirements of the Act and the rules and regulations thereunder. Specifically, the Commission finds that the proposed amendment is consistent with the requirements of section 11A of the Act,[5] and rule 11Aa3–2[6] thereunder. The Plan established appropriate procedures for market centers to follow in making their monthly reports required pursuant to rule 11Ac1–5 available to the public in a uniform, readily accessible, and usable electronic format. The amendment to include the CBOE as a participant in the Joint-SRO Plan should contribute to the maintenance of fair and orderly markets and remove impediments to and perfect the mechanisms of a national market system by facilitating the uniform public disclosure of order execution information by all market centers. The Commission believes that it is necessary and appropriate in the public interest, for the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system to allow the CBOE to become a participant in the Joint-SRO Plan. The Commission finds, therefore, that approving the amendment to the Joint-SRO Plan is appropriate and consistent with section 11A of the Act.[7]

III. Conclusion

It is therefore ordered, pursuant to section 11A(a)(3)(B) of the Act[8] and rule 11Aa3–2 thereunder,[9] that the amendment to the Joint-SRO Plan to add the CBOE as a participant is approved and the CBOE is authorized to act jointly with the other participants to the Joint-SRO Plan in planning, developing, operating, or regulating the Plan as a means of facilitating a national market system.

---

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 240.11Aa3–2.

[3] *See* Securities and Exchange Act Release No. 44177 (April 12, 2001), 66 FR 19814.

[4] *See* Securities and Exchange Act Release No. 44703 (August 15, 2001), 66 FR 43924.

[5] 15 U.S.C. 78k–1.

[6] 17 CFR 240.11Aa3–2.

[7] 15 U.S.C. 78k–1.

[8] 17 CFR 200.30⅓(a)(16).

[9] 17 CFR 240.11Aa3–2.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31697 Filed 12–26–01; 8:45 am]

BILLING CODE 8010–01–M

---

[10] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release 34–45164; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Approving an Extension of Temporary Registration as a Clearing Agency

December 18, 2001.

The Securities and Exchange Commission ("Commission") is publishing this notice and order to solicit comments from interested persons and to extend the Government Securities Clearing Corporation's ("GSCC") temporary registration as a clearing agency through June 30, 2002. On May 24, 1988, pursuant to sections 17A(b) and 19(a) of the Act[1] and rule 17Ab2–1 promulgated thereunder,[2] the Commission granted GSCC registration as a clearing agency on a temporary basis for a period of three years.[3] The Commission subsequently has extended GSCC's registration through December 31, 2001.[4] On December 13, 2001, GSCC requested that the Commission extend GSCC's temporary registration until such time as the Commission is prepared to grant GSCC permanent registration.[5]

The Commission today is extending GSCC's temporary registration as a clearing agency in order that GSCC may continue to act as a clearing agency while the Commission seeks comment on granting GSCC permanent registration as a clearing agency. The Commission expects to publish notice requesting comments on permanent registration as a clearing agency during the first quarter of next year.[6]

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application. Such written data, views, and arguments will be considered by the Commission in granting registration or instituting proceedings to determine whether registration should be denied in accordance with section 19(a)(1) of the Act.[7] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the application for registration and all written comments will be available for inspection at the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549–0102. All submissions should refer to File No. 600–23 and should be submitted by January 17, 2002.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through June 30, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31696 Filed 12–26–01; 8:45 am]

BILLING CODE 8010–01–M

---

[1] 15 U.S.C. 78q–1(b) and 78s(a).

[2] 17 CFR 240.17Ab2–1.

[3] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[4] Securities Exchange Act Release Nos. 25740 (May 24, 1988), 53 FR 19639; 29236 (May 24, 1991), 56 FR 24852; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; 41104 (February 24, 1999), 64 FR 10510; 41805 (August 27, 1999), 64 FR 48682; 42335 (January 12, 2000), 65 FR 3509; 43089 (July 28, 2000), 65 FR 48032; 43900 (January 29, 2001), 66 FR 8988; and 44553 (July 13, 2001), 66 FR 37714.

[5] Letter from Jeffrey Ingber, Managing Director, General Counsel, and Secretary, GSCC (December 11, 2001).

[6] The Commission continues to consider two issues related to GSCC's permanent registration status: (1) GSCC's organizational structure after its integration with The Depository Trust & Clearing Corporation and (2) the appropriate standard of care for GSCC.

[7] 15 U.S.C. 78s(a)(1).

[8] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45165; File No. SR–Amex–2001–102]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in Floor, Membership and Options Trading Fees

December 18, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4[2] thereunder, notice is hereby given that on December 6, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. Amendment No. 1 was filed on December 17, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has proposed to increase floor, membership and option trading fees under SR–Amex–2001–101,[4] which was filed for immediate effectiveness pursuant to section 19(b)(3)(A)(ii) of the act.[5] The Exchange now seeks to impose these increased floor, membership, options trading, and comparison and floor brokerage fees, as set forth in Amex–2001–101 and described below, as of August 1, 2001. In addition, the Exchange proposes to impose the increased license fees and the elimination of the fee cap for options as October 1, 2001.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange proposes to impose floor fees, member fees and options transactions, comparison and Floor brokerage fees as of August 1, 2001, and certain license fees and elimination of the options fee cap as of October 1, 2001. The Exchange filed these fee changes under SR–Amex–2001–101 and requested that they become immediately effective under section 19(b)(3)(A) of the Act.[6]

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Claire P. McGrath, Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated December 14, 2001 ("Amendment No. 1"). In Amendment No. 1, the Amex provided greater detail as to the basis for the proposed rule change.

[4] *See* Securities Exchange Act Release No. 45163 (December 18, 2001) for a description of these increased fees.

[5] 15 U.S.C. 78s(b)(3)(a)(ii).

According to the Exchange, application of the Floor, member, and options fees as of August 1, 2001, will allow it to recoup a portion of costs it incurred during 2001 in providing enhancements to the Floor, which include major improvements in technology, facilities and services. These enhancements included a major expansion of the Amex trading floor in 2001. The Exchange believes that these fee increases better align its fees with the actual cost of delivering services and reduce Exchange subsidization of such services. The Exchange notes that such subsidies have been longstanding and preceded August 1, 2001. Therefore, the Exchange believes that imposing the fee schedule as of August 1, 2001, which followed approval by the Amex Board of Governors on July 25, 2001, is reasonable and appropriate to fund enhancements that benefit all Floor constituencies, including specialists, Options Principal Members, Limited Trading Permit Holders, Associate Members, and employees of member firms on the Floor.

Furthermore, the Exchange proposes to apply the license fees for NDX, MNX and OEF options as of October 1, 2001 because trading in these options on the Exchange began in October 2001. The Exchange notes that, because these fees are transaction based, they would apply only after trading actually began in October. (NDX and MNX began trading on October 12 and OEF began trading and October 11.) The Exchange proposes to eliminate the options fee cap as October 1, 2001 to further reduce Exchange subsidy of facilities and services on the Floor, as discussed above, and because Exchange billing procedures cannot readily accommodate elimination of the fee cap prior to October 1, 2001.

In conclusion, the Exchange states that the increase in options transactions charges is necessitated by the large and increasing costs incurred by the Exchange in implementing options trading technology. Exchange billing of such fees as of August 1, 2001 (for Floor Fees, Member Fees and Options Fees) and October 1, 2001 (for the License Fee and elimination of options fee cap) will assist in compensating the Exchange for costs incurred by the Exchange in delivering specified services to members and for providing options trading technology.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[7] in general and furthers the objectives of section 6(b)(4)[8] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–102 and should be submitted by January 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31741 Filed 12–26–01; 8:45 am]

BILLING CODE 8010-01-M

---

[6] 15 U.S.C. 78(b)(3)(a).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45163; File No. SR–Amex–2001–101]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to an Increase in Floor, Membership and Options Trading Fees

December 18, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4[2] thereunder, notice is hereby given that on November 30, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to increase floor, membership and options trading fees as described herein.[3]

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

Fee Schedule

I. Floor fees

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Under Amex-2001–102, the Exchange seeks to impose the floor, membership, options trading, and comparison and floor brokerage fees, as described in this current proposal, as of August 1, 2001. In addition, the Exchange proposes to impose the License Fees and the elimination of the fee cap for options, as described in this proposal, as of October 1, 2001. *See* Securities Exchange Act Release No. 45165 (December 18, 2001).

Type	Annual fee
Floor Fees:	
(payable monthly)	
Floor Clerk	$[300.00] *900.00 ($75/month).*
Floor Facility—Regular & Options	[1,400.00] *2400.00 ($200/month).*
Principal	
Floor Facility—Limited Trading Permit	[700.00] *2400.00 ($200/month).*
Floor Wire Privilege	[400.00] *800.00 ($66.67/month).*
Post Fee per Podium	750.00
Specialist Registration Fee	[400.00] *800.00 ($66.67/month).*
Technology	[1,200.00] *3000.00 ($250/month).*
No further change.	

II. Member Fees

Membership Dues	Annual fee
+ Associate	$[750.00] *1500.00 ($125/month).*
+ Options Principal (OPM)	[750.00] *1500.00 ($125/month).*
+ Regular	[750.00] *1500.00 ($125/month).*
+ Limited Trading Permit (LTP)	[750.00] *1500.00 ($125/month).*
No further changes.	

III. Options Fees

Type	Firm[2]	Specialist, market maker (ROTs)	Broker/dealer	Customer[3]
I. Options Transaction Fee[1] (per contract side)				
Equity Options	$0.19	$[0.17] *0.26*	$0.19	No Charge.
Index Options	0.11	[0.12] *0.21]*	0.11	$0.10.
II. Options Comparison Fee[1] (per contract side)				
Equity Options	$0.04	$[0.04] *0.05*	$0.04	No Charge.
Index Options	0.04	[0.04] *0.05*	0.04	$0.04.
III. Options Floor Brokerage Fee[1] (per contract side)				
Equity Options	$0.03	$[0.03] *0.05*	$0.03	No Charge.
Index Options	0.03	[0.03] *0.05*	0.03	0.03.
IV. Options Marketing Fee[4] (per contract side)				
Equity Options	No Charge	$0.40	No Charge	No Charge.
V Options Licensing Fee (per contract side)				
MNX, NDX and QQQ	*No Charge*	*$0.10*	*No Charge*	*No Charge.*
OEF	*No Charge*	*0.05*	*No Charge*	*No Charge.*

Notes:

[1] *The increase of $0.09 in transaction fees, of $0.01 in comparison fees, and of $0.02 floor brokerage fees will only be imposed on the first 3,000 contracts executed for the accounts of specialists, registered options traders, and non-member broker dealers as either an accommodation trade (also known as "Cabinet Trades") or part of the following strategies: (a) reversal and conversions; (b) dividend spreads; and (c) box spreads. A Fee Reimbursement Form must be submitted to the Exchange in order to receive a reimbursement of the fee increases charged on contracts in excess of 3,000.*

[There is a cap on the number of options contracts per trade subject to Exchange options charges. Options charges will be imposed on member firm proprietary, specialist, market maker and non-member broker/dealer trades for the first 3,000 contracts. The caps will apply to all three options charge—transaction, comparison, and floor brokerage—and will apply to one day's trades of 100 or more contracts per execution on one side of any series executed by one specialist/trader/broker (for one member firm) and cleared by one clearing firm. The cap will also apply to trades of less than 100 contracts that are multiple per copy contract parties to trades of 100 or more contracts. The same fee schedule and cap provision will apply to LEAPS and FLEX options.]

[2] Customer facilitated orders will continue to be charged a transaction fee of $0.07 per contract side.

[3] Index Options machine delivered ≤ 30 contracts are not assessed a transaction fee.

[4] Excludes options trades between and among Registered Options Traders and Specialists.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange proposes to increase the following Exchange Floor fees:

(1) The Technology fee would be increased from $1200 to $3000 annually ($250 per month); (2) the Floor Facility fee would be increased from $1400 to $2400 annually ($200 per month) for Regular and Options Principal Members. This fee would also be increased from $700 to $2400 annually for holders of Limited Trading Permits; (3) the Floor Clerk fee would be increased from $300 to $900 annually ($75 per month); (4) the Specialist Registration fee would be increased from $400 to $800 annually ($66.67 per month); and (5) the Floor Wire Privilege fee would be increased from $400 to $800 annually ($66.67 per month).

A. Member Fees

Membership Dues would be increased from $750 to $1500 annually ($125 monthly) for all Regular Members, Options Principal Members, Associate Members and holders of Limited Trading Permits.

B. License Fees

In recent years, the Exchange has entered into license agreements with providers of indexes to use such indexes for the trading of options. In an effort to recoup some of the costs of these licenses, the Exchange proposes to establish a licensing fee for specialists and registered options traders. The fee, the amount of which may vary from product to product, would be collected on every transaction in the product in which the specialist or registered options trader is a party. Initially, the fees and products would be as follows: Options on the Nasdaq 100 Index Tracking Stock (symbol: QQQ), Nasdaq 100 Index (symbol: NDX) and Mini NDX (symbol: MNX)—$0.10 per contract side, and options on the S&P 100 iShares (symbol: OEF)—$0.05 per contract side.

C. Options Fees

Transaction, Comparison and Floor Brokerage Fees—For all specialists and registered options trader transactions in both equity and index options, the options fees would be increased as follows: (1) The Options Transaction fee per contract side is increased from $0.17 to $0.26 for equity options and from $0.12 to $0.21 for index options; (2) the options comparison fee is increased from $0.04 to $0.05 per contract side; and (3) the floor brokerage fee per contract side is increased from $0.03 to $0.05.

Elimination of Fee Cap—The Exchange states that currently all three types of options fees—transaction, comparison, and floor brokerage—are subject to a cap on the number of options contracts subject to the charges on a given day. The current cap is set at 3,000 contracts.

The Exchange proposes to eliminate the cap on orders executed for the accounts of specialists, registered options traders, and non-member broker dealers. Thus, transaction, comparison, and floor brokerage fees would apply to all option contracts executed for those accounts on a given day. Notwithstanding the foregoing, the Exchange has determined that accommodation trades (also known as "Cabinet Trades")[4] and trades occurring as part of certain types of strategies would be eligible for the cap on that portion of the transaction, option clearance, and floor brokerage fees that represent the increase in fees established in this filing. Thus, for contracts executed in excess of 3,000 on a given day, the transaction fee increase of $0.09, the options comparison fee increase of $0.01 and the floor brokerage fee increase of $0.02 would be reimbursed as set forth below. Transaction, options comparison, and floor brokerage fees would continue to be charged for only the first 3,000 contracts executed as an accommodation trade or pursuant to one of the following strategies: (1) Reversals and conversion;[5] (2) dividend spreads;[6] and (3) box spreads.[7] The Exchange states that its billing system is unable to distinguish among these types of transactions; therefore, a manual procedure has been developed. Specifically, within thirty calendar days of the particular transaction date, a Fee Reimbursement Form must be completed and submitted to the Exchange. Upon acceptance, the Exchange would delivery to that member's clearing firm a reimbursement check in the amount of the transaction, clearance, and brokerage fee increases (a total of $0.12) charged on contracts in excess of 3,000 executed pursuant to an accommodation trade or one of the strategies described above.

The Exchange states that the Floor and Member Fees would be increased in order to better align the Exchange's fees with the actual cost of delivering the specified services and to reduce Exchange subsidization of such services. The increase in options transactions charges would be necessitated by the large and increasing costs incurred by the Exchange in implementing options trading technology.

(2) Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general and furthers the objectives of Section 6(b)(4)[9] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

---

[4] *See* Annex Rule 959 for a description of an accommodation trade.

[5] The Exchange defines a "conversion" as a strategy in which a long put and a short call with the same strike price and expiration date are combined with long underlying stock to lock in a nearly riskless profit. A "reversal" is a strategy in which a short put and long call with the same strike price and expiration date are combined with short stock to lock in a nearly riskless profit.

[6] The Exchange defines a "dividend spread" as any trade done within a defined time frame in which a dividend arbitrage can be achieved between any two deep-in-money options.

[7] The Exchange defines a "box spread" as a spread strategy that involves a long call and short put at one strike price as well as a short call and long put at another strike price. This is a synthetic long stock position at one strike price and a synthetic short stock position at another strike price.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[10] and rule 19b–4(f)(2)[11] thereunder because it establishes or changes a due, fee, or charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2001–101 and should be submitted by January 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31743 Filed 12–26–01; 8:45 am]

BILLING CODE 8010–01–M

---

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

[Public Notice 3859]

60-Day Notice of Proposed Information Collections

In the matter of: Form DS–2032, Statement of Registration (OMB No. 1405–0002); Form DSP–5, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data (OMB No. 1405–0003); Form DSP–61, Application/License for Temporary Import of Unclassified Defense Articles (OMB No. 1405–0013); Form DSP–73, Application/License for Temporary Export of Unclassified Defense Articles (OMB No. 1405–0023); Form DSP–85, Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data (OMB No. 1405–0022); Form DSP–83, Non-Transfer and Use Certificate (OMB No. 1405-0021); Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services (OMB No. 1405–0025); Form DSP–119, Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data (OMB No. 1405–0092); Form DSP–94, Authority To Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program (OMB No. 1405–0051); Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements (OMB No. 1405–0093); Maintenance of Records by Registrants (OMB No. 1405–0111); Prior Approval for Brokering Activity (New Collection); and Brokering Activity Reports (New Collection)

ACTION: 60-day notice of proposed information collections.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposals submitted to OMB:

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Statement of Registration.

Frequency: Every one to four years.

Form Number: DS–2032.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 10,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.

Frequency: On occasion.

Form Number: DSP–5.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 30,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Import of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP–61.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 4,500 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Temporary Export of Unclassified Defense Articles.

Frequency: On occasion.

Form Number: DSP–73.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 2,500 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

VOL 66 ISS 248 DE 27 2001 UMI

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application/License for Permanent/Temporary Export or Temporary Import of Classified Defense Articles and Classified Technical Data.

Frequency: On occasion.

Form Number: DSP–85.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 1,000.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 250 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Non-Transfer and Use Certificate.

Frequency: On occasion.

Form Number: DSP–83.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 17,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Statement of Political Contributions, Fees, or Commissions in Connection with the Sale of Defense Articles or Services.

Frequency: On occasion.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 1 hour.

Total Estimated Burden: 12,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data.

Frequency: On occasion.

Form Number: DSP–119.

Respondents: Business and non-profit organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 4,500 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Authority to Export Defense Articles and Services Sold under the Foreign Military Sales (FMS) Program.

Frequency: On occasion.

Form Number: DSP–94.

Respondents: Business and foreign government representatives.

Estimated Number of Respondents: 4,500.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 1,250 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements.

Frequency: On occasion.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 10,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Type of Request: Extension of Currently Approved Collection Without Change.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Maintenance of Records by Registrants.

Frequency: On occasion.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 5,000.

Average Hours Per Response: 20 hours per year.

Total Estimated Burden: 100,000 hours.

Type of Request: New Collection.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Prior Approval for Brokering Activity.

Frequency: On occasion.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 200.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 60 hours.

(Total Estimated Burden based on number of requests received per year.)

Type of Request: New Collection.

Originating Office: Bureau of Political-Military Affairs, Office of Defense Trade Controls, PM/DTC.

Title of Information Collection: Brokering Activity Reports.

Frequency: Annual.

Form Number: none.

Respondents: Business organizations.

Estimated Number of Respondents: 200.

Average Hours Per Response: 2 hours.

Total Estimated Burden: 4,000 hours.

(Total Estimated Burden based on number of forms received per year.)

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for the proper performance of the functions of the agency.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

For Additional Information: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, SA–1, Room 13th Floor, H1304, 2401 E Street, NW., Washington, DC 20037 (202) 663–7000.

Dated: November 19, 2001.

Robert W. Maggi,

Acting Deputy Assistant Secretary for Security Operations, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 01–31809 Filed 12–26–01; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 3861]

Culturally Significant Objects Imported for Exhibition Determinations: "Cosme Tura: Painting and Design in Renaissance Ferrara"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibition, "Cosme Tura: Painting and Design in Renaissance Ferrara" imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Isabella Stewart Gardner Museum, Boston, Massachusetts, from on or about January 30, 2002, to on or about May 12, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: December 19, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–31810 Filed 12–26–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3863]

Culturally Significant Objects Imported for Exhibition; Determinations: "Goya: Images of Women"

AGENCY: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition "Goya: Images of Women," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The National Gallery of Art, Washington, DC, from on or about March 10, 2002, to on or about June 2, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6529). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: December 19, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–31812 Filed 12–26–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3862]

Culturally Significant Objects Imported for Exhibition Determinations: "Surrealism: Desire Unbound"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], and Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, I hereby determine that the objects to be included in the exhibition, "Surrealism: Desire Unbound," imported from abroad for temporary exhibition within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about February 4, 2002, to on or about May 12, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: December 19, 2001.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, United States Department of State.

[FR Doc. 01–31811 Filed 12–26–01; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments Concerning Compliance With Telecommunications Trade Agreements

AGENCY: Office of the United States Trade Representative

ACTION: Request for written submissions from the public.

SUMMARY: Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3106) ("Section 1377"), the Office of the United States Trade Representative ("USTR") requests comments on: the operation and effectiveness of the World Trade Organization ("WTO") Basic

Telecommunications Agreement; the telecommunications provisions of the North American Free Trade Agreement ("NAFTA"); and, other telecommunications trade agreements in force with respect to the United States, including those with the Asia Pacific Economic Cooperation ("APEC") members, the European Union ("EU"), the Inter-American Telecommunications Commission ("CITEL"), Japan, Korea, Mexico and Taiwan. The USTR will conclude the review by March 31, 2002.

DATES: Submissions must be received by 12 noon on January 28, 2002.

ADDRESSES: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW. Washington, DC 20508

FOR FURTHER INFORMATION CONTACT: Kenneth Schagrin, Office of Industry and Telecommunications (202) 395–5663; or Demetrios Marantis, Office of the General Counsel (202) 395–7305.

SUPPLEMENTARY INFORMATION: Section 1377 requires the USTR to review annually the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of an economy that has entered into a telecommunications trade agreement with the United States is inconsistent with the terms of such agreement, or otherwise denies to U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities. For the current review, the USTR seeks comments on whether:

(1) any WTO Member is acting inconsistently with commitments under the WTO Basic Telecommunications Agreement (including the WTO Reference Paper) or with other WTO obligations (including the Annex on Telecommunications), in a manner that affects market opportunities for U.S. telecommunications products and services;

(2) Canada or Mexico has failed to comply with NAFTA telecommunications commitments (including under Chapters 11, 12, and 13 of that agreement);

(3) APEC or CITEL members, the EU, Japan, Korea, Mexico or Taiwan have failed to abide by commitments under additional telecommunications agreements with the United States.[1]

(4) outstanding issues remains from the 2000–2001 review conducted under Section 1377.[2]

For further details on these agreements, please see 63 FR 1140 (January 8, 1998).

Public Comment: Requirements for Submissions

The USTR invites submissions concerning the operation and effectiveness of the WTO Basic Telecommunications Agreement; the NAFTA; and other telecommunications trade agreements in force with respect to the United States, including those with APEC members, CITEL members, the EU, Japan, Korea, Mexico and Taiwan.

Interested persons must provide fifteen copies of any submission, in English, to Gloria Blue, Office of the United States Trade Representative, by noon on January 23, 2002. Interested parties must also identify on the first page of the comments the telecommunications trade agreement(s) discussed therein.

All comments will be placed in the USTR Reading Room for inspection shortly after the filing deadline, except business confidential information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential information submitted in accordance with 15 CFR 2003.6, must be clearly marked "BUSINESS CONFIDENTIAL" in a contrasting color ink at the top of each page on each of 15 copies, and must be accompanied by 15 copies of a non-confidential summary of the confidential information. The non-confidential summary will be placed in the USTR Public Reading Room.

An appointment to review the comments may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon, and from 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 3 of 1724 F Street, N.W.

Carmen Suro-Bredie,

Chair, Trade Policy Staff Committee.

[FR Doc. 01–31795 Filed 12–26–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending December 7, 2001

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–11085.

Date Filed: December 3, 2001.

Parties: Members of the International Air Transport Association.

Subject:

PTC COMP 0881 dated 4 December 2001
  Mail Vote 184 Resolution 010p
TC2/12/23/123 Special Passenger Amending Resolution from Lithuania.

Intended effective date: 1 February 2002.

Docket Number: OST–2001–11124.

Date Filed: December 7, 2001.

Parties: Members of the International Air Transport Association.

Subject:

TC23/TC123 Africa—TC3
Africa-South Asian Subcontinent, Africa-South West Pacific
Mail Vote 180—Africa-South East Asia
Mail Vote 181—Africa-Japan/Korea
PTC23 AFR–TC3 0141 dated 2 November 2001
Africa-South Asian Subcontinent Resolutions r1–r12
PTC23 AFR–TC3 0142 dated 2 November 2001
Africa-South West Pacific Resolutions r13–r24
PTC23 AFR–TC3 0138 dated 29 October 2001
Africa-South East Pacific Resolutions r25–r36

---

[1] These agreements include:

- Mutual Recognition Agreements for conformity assessment of telecommunications equipment with the EU (1997), APEC countries (1998), and CITEL countries (1999) and
- Bilateral Agreements with:

Japan: on Nippon Telegraph and Telephone procurement (1999); public sector procurement of telecommunications products and services (1994); international value-added network services (1990–91); open government procurement of all satellites, except for government research and development satellites (1990); network channel terminating equipment (1990); and cellular and third-party radio systems (1989) and cellular radio systems (1994);

Korea: on type approval of telecommunications equipment (1992/1996), transparent standard-setting processes (1992/1997), and non-discriminatory access to Korea Telecommunication's procurement of telecommunications products (1992/1996);

Mexico: on test data acceptance agreements between product safety testing laboratories (1997); and

Taiwan: interconnection pricing for provision of wireless services (1998) and, licensing and provision of wireless services through the establishment of a competitive, transparent and fair wireless market (1996).

[2] See USTR Press Release 01–20 (available at *www.ustr.gov*) for detailed information of the results of the 2000–2001 Section 1377 review, which considered practices of Colombia, Mexico, Japan, South Africa, and Taiwan as well as five EU Member States (France, Germany, Italy, Spain, the United Kingdom).

PTC23 AFR–TC3 0149 dated 23 November 2001 (Affirmative)
PTC23 AFR–TC3 0152 dated 30 November 2001
Africa-Japan/Korea Resolutions r37–r59
MINUTES—PTC23 AFR–TC3 0146 dated 13 November 2001
TABLES—PTC23 AFR–TC3 Fares 0065 dated 13 November 2001
PTC23 AFR–TC3 Fares 0066 dated 13 November 2001
PTC23 AFR–TC3 Fares 0069 dated 23 November 2001
PTC23 AFR–TC3 Fares 0070 dated 7 December 2001.

Intended effective date: 1 April 2002.

Dorothy Y. Beard,
Federal Register Liaison.

[FR Doc. 01–31718 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending December 7, 2001

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's procedural regulations (See 14 CFR 301.201 *et seq.*). The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2001–11092.

Date Filed: December 4, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 26, 2001.

Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. sections 41108, 41102 and subpart B, requesting the issuance of a certificate of public convenience and necessity authorizing it to engage in the scheduled foreign air transportation of persons, property and mail between a point or points in the United States via intermediate points to a point or points in Poland and beyond. Northwest also requests that the Department integrate this certificate authority with all of Northwest's existing certificate and exemption authority to the extent consistent with U.S. bilateral agreements and DOT policy.

Dorothy Y. Beard,
Federal Register Liaison.

[FR Doc. 01–31719 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 24, 2001, pages 48899 and 48900.

DATES: Comments must be submitted on or before January 28, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Flight Data Recorder Resolution Requirements.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0669.

Forms(s): NA.

Affected Public: A total of 50 air carriers and individual aircraft operators.

Abstract: The FAA has issued a special aviation regulation that will provide relief from the flight data recorder requirements of 14 CFR 121.344 and will request information from airplane operators on which and how many planes are not in compliance. The information will be used by the FAA to track compliance with the underlying regulation, and to determine who will be affected by any subsequent FAA action to resolve the problems described by the manufacturer.

Estimated Annual Burden Hours: An estimated 67 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issues in Washington, DC, on December 19, 2001.

Steve Hopkins,
Manager, Standards and Information Division, APF–100.

[FR Doc. 01–31729 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on September 24, 2001, pages 48899 and 48900.

DATES: Comments must be submitted on or before January 28, 2002. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

VOL 66 ISS 248 DE 27 2001 UMI

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: General Operating and Flight Rules—14 CFR part 91.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0005.

Forms(s): NA.

Affected Public: A total of 21,197 individual airmen, state & local governments, and businesses.

Abstract: Part A of Subtitle VII of the Revised Title 49 United States Code authorizes the issuance of regulations governing the use of navigable space. 14 CFR part 91 prescribes regulations governing the general operation and flight of aircraft. The multi-recordkeeping and information collection activities imposed by this regulation are required to determine compliance. Respondents are individual airmen, state or local governments, and businesses.

Estimated Annual Burden Hours: An estimated 231,064 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 17, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 01–31730 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development (R,E&D) Advisory Committee

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of meeting.

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee (REDAC).

Name: Research, Engineering & Development Advisory Committee.

Time and Date: January 16, 2002—9 a.m.–5 p.m.

Place: Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

Purpose: On January 16 the R,E&D Advisory Committee will meet to review a report prepared by the Ad Hoc Security Subcommittee on aviation security. As a result of the tragic events of September 11, 2001, Administrator Jane Garvey reconstituted the Subcommittee on Aviation Security into an Ad Hoc Security Subcommittee to evaluate security related research ideas capabilities resulting from the thousands of solicited and unsolicited recommendations on how to mitigate attempted acts of terrorism received by FAA. These recommendations came from private enterprises, universities, other government agencies, private consultants, citizens and elements within FAA. The AD Hoc Security Subcommittee is comprised of the REDAC Security Subcommittee members, Chairs of the other REDAC subcommittees, four Aviation Security Advisory Committee (ASAC) members, and selected DOD and Boeing representatives.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–8937.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on December 18, 2001.

Herman A. Rediess,

Director, Office of Aviation Research.

[FR Doc. 01–31728 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2001–10578]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 37 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

Thirty-seven individuals petitioned the FMCSA for an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Loa M. Boggs, Anthony Brandano, Jerald D. Davis, Vernon J. Dohrn, Stanley E. Elliott, Elmer E. Gockley, Paul C. Gruenberg, Tommy D. Habben, Glenn T. Hehner, Carl R. Hunt, Shane M. Hunter, Thomas M. Ingebretsen, Lonnie M. Jones, Martin D. Keough, Ricky J. Knutson, Randall B. Laminack, Norman R. Lamy, James A. Lenhart, Dennis L. Lockhart, Sr., Jerry J. Lord, Raymond P. Madron, Ronald S. Mallory, Keith G. McCully, Ernest L. McLendon, Charles J. Morman, Eugene C. Murphy, Jack E. Potts, Jr., Bernard A. Ranly, John E. Rogstad, Jerry W. Russell, Stephen G. Sniffin, John R. Snyder, Darwin J. Thomas, Rene R. Trachsel, Stephen D. Vice, John H. Voigts, and Kendle F. Waggle, Jr.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the FMCSA has evaluated the 37 petitions on their merits and made a determination to grant the exemptions to all of them. On October 24, 2001, the agency published notice of its receipt of applications from these 37 individuals, and requested comments from the public (66 FR 53826). The comment period closed on November 23, 2001. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10)

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 37 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but four of the applicants were either born with their vision impairments or have had them since childhood. The four individuals who sustained their vision conditions as adults have had them for periods ranging from 7 to 16 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 37 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 47 years. In the past 3 years, the 37 drivers had 4 convictions for traffic violations among them. Two of these convictions were for speeding. The other convictions consisted of: "Drive and/or Pass on Shoulder"; and "Failure to Yield Right of Way to Emergency Vehicle." None of the drivers was involved in an accident in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an October 24, 2001, notice (66 FR 53826). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported by the information published at 66 FR 53826.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637).

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 37 applicants receiving an exemption,

VOL 66 ISS 248 DE 27 2001 UMI

we note that cumulatively the applicants have had no accidents and only four traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 37 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

An anonymous responder sympathized with drivers who do not meet the Federal standards for vision, but expressed reservation to exempting them on the basis that they might not continue to drive safely. This concern is addressed under the heading "Basis for Exemption Determination" in this notice.

Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 37 exemption applications in accordance with Rauenhorst v. United States Department of Transportation, Federal Highway Administration, 95 F.3d 715 (8th Cir. 1996), the FMCSA exempts Loa M. Boggs, Anthony Brandano, Jerald D. Davis, Vernon J. Dohrn, Stanley E. Elliott, Elmer E. Gockley, Paul C. Gruenberg, Tommy D. Habben, Glenn T. Hehner, Carl R. Hunt, Shane M. Hunter, Thomas M. Ingebretsen, Lonnie M. Jones, Martin D. Keough, Ricky J. Knutson, Randall B. Laminack, Norman R. Lamy, James A. Lenhart, Dennis L. Lockhart, Sr., Jerry J. Lord, Raymond P. Madron, Ronald S. Mallory, Keith G. McCully, Ernest L. McLendon, Charles J. Morman, Eugene C. Murphy, Jack E. Potts, Jr., Bernard A. Ranly, John E. Rogstad, Jerry W. Russell, Stephen G. Sniffin, John R. Snyder, Darwin J. Thomas, Rene R. Trachsel, Stephen D. Vice, John H. Voigts, and Kendle F. Waggle, Jr. from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: December 19, 2001.

Brian M. McLaughlin,

Associate Administrator, Policy and Program Development.

[FR Doc. 01–31774 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5748 and FMCSA–99–6156 (formerly OMCS–99–5748 and OMCS–99–6156)]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 14 individuals.

DATES: This decision is effective January 3, 2002. Comments from interested persons should be submitted by January 28, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366–1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may see all comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.*

Background

Fourteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Woodrow E. Bohley, Kenneth E. Bross, Charlie F. Cook, Russell W. Foster, Curtis N. Fulbright, Vincent I. Johnson, Richard L. Loeffelholz, Herman C. Mash, Frank T. Miller, Charles E. O'Dell, Martin Postma, Robert G. Rascicot, Jon H. Wurtele, and Walter M. Yohn, Jr. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." Accordingly, the FMCSA has evaluated the 14 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On January 3, 2000, the agency published a notice of final disposition announcing its decision to exempt 40 individuals, including 11 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (65 FR 159). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 54948 (October 8, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (65 FR 159). On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 3 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of the applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petition (64 FR 66962). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are as follows: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for an additional 2-year period. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 14 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 63 FR 66226; 64 FR 16517), and each has requested timely renewal of the exemption. These 14 applicants have submitted evidence showing that the vision in their better eye continues to meet the standard specified at 49 CFR 391.41(b)(10), and that the vision impairment is stable. In addition, a review of their records of safety while driving with their respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Discussion of Comments

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, the AHAS objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by the AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address

VOL 66 ISS 248 DE 27 2001 UMI

these points again here, but refer interested parties to that earlier discussion.

Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Woodrow E. Bohley, Kenneth E. Bross, Charlie F. Cook, Russell W. Foster, Curtis N. Fulbright, Vincent I. Johnson, Richard L. Loeffelholz, Herman C. Mash, Frank T. Miller, Charles E. O'Dell, Martin Postma, Robert G. Rascicot, Jon H. Wurtele, and Walter M. Yohn, Jr., subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Request for Comments

The FMCSA has evaluated the qualifications and driving performance of the 14 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). While comments of this nature will be entertained at any time, the FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by January 28, 2002. All comments will be considered and will be available for examination in the docket room at the above address. The FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Authority: 49 U.S.C. 322, 31136 and 31315; and 49 CFR 1.73.

Issued on: December 19, 2001.

Brian M. McLaughlin,

Associate Administrator, Policy and Program Development.

[FR Doc. 01–31775 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[DOT Docket No. FMCSA–99–5867]

Parts and Accessories Necessary for Safe Operation; Renewal of Fuel Tank Exemptions for Vehicles Manufactured by the Ford Motor Company

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Grant of applications for exemptions.

SUMMARY: The FMCSA is granting the application from the Ford Motor Company (Ford) for a renewal of exemptions for the vehicles specified at the end of this notice from certain fuel tank design and certification labeling requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions enable motor carriers to operate commercial motor vehicles (CMVs) manufactured by Ford, and equipped with fuel tanks that do not meet the FMCSA's requirements that fuel tanks be capable of receiving fuel at a rate of at least 20 gallons per minute, and be labeled or marked by the manufacturer to certify compliance with the design criteria. The FMCSA believes the terms and conditions of the exemptions have ensured a level of safety that is equivalent to the level of safety that would be achieved by complying with the regulations, and that renewing the exemptions would not adversely affect highway safety. The exemptions continue to preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: The exemptions are effective on December 27, 2001. The exemptions expire on December 29, 2003.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, (202) 366-4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments that were submitted to this docket in response to the previous notice by using the universal resource locator (URL) *http://dms.dot.gov*, and by requesting the docket referenced at the beginning of this notice. You can examine and copy this document and all comments received at the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 from 9 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays.

Background

Ford's Applications for Exemptions

Ford applied for exemptions for the vehicles specified at the end of this notice from 49 CFR 393.67(c)(7)(ii), which requires that certain fuel tank systems on CMVs be designed to permit a fill rate of at least 20 gallons (75.7 liters) per minute, and 49 CFR 393.67(f)(2) and (f)(3), which require that liquid fuel tanks be marked with the manufacturer's name and a certification that the tank conforms to all applicable rules in § 393.67, respectively.

On August 10, 1999 (64 FR 43417), the FHWA published a notice of intent to grant Ford's applications. The FHWA requested public comment on Ford's applications and the agency's safety analysis, and presented other relevant information known to the agency. After considering all the comments received, the agency granted the exemptions on December 20, 1999 (64 FR 71184). In that notice (at 71185), the agency noted that the 20 gallon per minute rate referenced in the FMCSA's regulations, while appropriate for diesel fuel-powered vehicles, mandates that fill pipes on gasoline-powered vehicles be capable of receiving fuel at twice the maximum rate gasoline pumps are designed to dispense fuel. The vehicles in question are gasoline-fueled and are capable of receiving fuel at a rate of 17 gallons per minute.

The exemptions covered § 393.67(c)(7)(ii), Construction of liquid fuel tanks; fill pipe, and §§ 393.67(f)(2) and (f)(3)(ii) which require that liquid fuel tanks be marked with the manufacturer's name, and a certification that the tank conforms to all applicable rules in § 393.67, respectively.

On November 2, 2001 (66 FR 55727), the FMCSA published a notice of intent to renew this exemption for the specified vehicles. The FMCSA requested public comment on Ford's applications and the agency's safety analysis.

Discussion of Comments to the Notice of Intent to Renew the Exemptions

The FMCSA received one comment, from Ford. Ford requested that the FMCSA renew its exemption for the fuel tanks covered in the November 2, 2001 notice. Ford also requested extension of exemptions to cover the fuel tanks of additional models of E-series vehicles that were not in production at the time of the original 1999 petition, and for certain F-series vehicles.

FMCSA Decision

The FMCSA considered the comments received in response to the November 2 notice and has decided to renew the exemptions for the vehicles specified in that notice. The commercial motor vehicles covered by the exemptions are still in operation, and the agency is not aware of any information, anecdotal or otherwise, that would suggest that the level of safety for the exempted vehicles is not equivalent to the level of safety that would have been achieved if the vehicles complied with §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii). No interested parties have contacted the FMCSA or submitted comments to the docket since the December 20, 1999, the date the exemption was granted, indicating that any aspects of the exemptions have had an adverse effect on highway safety. Accordingly, the agency is proposing to renew the exemptions that were the subject of the November 2 notice for another two-year period.

In a separate notice in today's **Federal Register**, the FMCSA announces its preliminary determination of intent to grant Ford's application for an exemption to the additional E-class and F-class vehicles.

Terms and Conditions for the Exemption

The FMCSA is continuing to provide exemptions to §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii) for motor carriers operating the vehicles of Ford Econoline-based vehicles specified in the next paragraph. The exemptions are effective upon publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(1) and are valid until December 29, 2003, unless revoked earlier by the FMCSA. Ford, or any of the affected motor carriers, may apply to the FMCSA for another renewal of the exemption. The exemption continues to preempt inconsistent State or local requirements applicable to interstate commerce.

As with the original exemption, the motor carriers operating these specified vehicles are not required to maintain documentation concerning the exemption because the vehicles and fuel tanks have markings that would enable enforcement officials to identify them. The vehicles covered by the exemptions can be identified by their vehicle identification numbers (VINs). The VINs contain E30, E37, E39. E40, or E47 codes in the fifth, sixth, and seventh positions. The fuel tanks are marked with Ford part numbers F3UA–9002–G*, F3UA–9002–H*, F4UA–9002–V*, F4UA–9002–X*, F5UA–9002–V*, F5UA–9002–X*, F6UA–9002–Y*, F6UA–9002–Z*, F7UA–9002–C*, and F7UA–9002D* where the asterisk (*) represents a "wild card" character (any character of the alphabet).

Issued on: December 20, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 01–31735 Filed 12–20–01; 2:51 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[DOT Docket No. FMCSA–99–5867]

Parts and Accessories Necessary for Safe Operation; Fuel Tank Exemptions for Vehicles Manufactured by the Ford Motor Company

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions and intent to grant exemptions; request for comments.

SUMMARY: The FMCSA is announcing its intent to grant exemptions for additional vehicles specified at the end of this notice, in response to an application from the Ford Motor Company (Ford), from certain fuel tank design and certification labeling requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). This exemption would enable motor carriers to continue operating commercial motor vehicles (CMVs) manufactured by Ford, and equipped with fuel tanks that do not meet the FMCSA's requirements that fuel tanks be capable of receiving fuel at a rate of at least 20 gallons per minute, and be labeled or marked by the manufacturer to certify compliance with the design criteria. The FMCSA believes the terms and conditions of the current exemptions have ensured a level of safety that is equivalent to the level of safety that would be achieved by complying with the regulations, and that granting the additional exemptions would not adversely affect highway safety. The additional exemptions, if granted, would continue to preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: Comments must be received on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments electronically at *http://dms.dot.gov.* Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

Background

Ford's Applications for Exemptions

Ford first applied in April 1999 for exemptions from 49 CFR 393.67(c)(7)(ii), which requires that certain fuel tank systems on CMVs be designed to permit a fill rate of at least 20 gallons (75.7 liters) per minute, and 49 CFR 393.67(f)(2) and (f)(3), which require that liquid fuel tanks be marked with the manufacturer's name and a certification that the tank conforms to all applicable rules in § 393.67, respectively.

On August 10, 1999 (64 FR 43417), the FHWA published a notice of intent to grant Ford's applications. The FHWA requested public comment on Ford's

VOL 66 ISS 248 DE 27 2001 UMI

applications and the agency's safety analysis, and presented other relevant information known to the agency. After considering all the comments received, the agency granted the exemptions on December 20, 1999 (64 FR 71184). In that notice (at 71185), the agency noted that the 20 gallon per minute rate referenced in the FMCSA's regulations, while appropriate for diesel fuel-powered vehicles, mandates that fill pipes on gasoline-powered vehicles be capable of receiving fuel at twice the maximum rate gasoline pumps are designed to dispense fuel. The vehicles in question are gasoline-fueled and are capable of receiving fuel at a rate of 17 gallons per minute.

The exemptions covered § 393.67(c)(7)(ii), Construction of liquid fuel tanks; fill pipe, and §§ 393.67(f)(2) and (f)(3)(ii) which require that liquid fuel tanks be marked with the manufacturer's name, and a certification that the tank conforms to all applicable rules in § 393.67, respectively. The exemptions were granted for two years.

On November 2, 2001 (66 FR 55727) the FMCSA published a notice of its intent to renew these exemptions. The FMCSA received one comment, from Ford. Ford requested that the FMCSA renew its exemption for the fuel tanks covered in the November 2, 2001 notice. Ford also requested additional exemptions for the vehicles specified at the end of this notice to cover the fuel tanks of additional models of E-series vehicles that were not in production at the time of the original 1999 petition, and for certain F-series vehicles.

In a separate notice in today's **Federal Register**, the FMCSA has decided to renew the exemption granted for the vehicles specified in Ford's original petition.

Basis for Preliminary Determination To Grant the Additional Exemptions

The FMCSA intends to grant the requested additional exemptions because the commercial motor vehicles covered by the exemptions are substantially similar to those covered by the original exemption. The vehicles that are the subject of Ford's new petition are E-series and F-series vehicles that were not in production at the time of Ford's original petition. Ford states that the exemptions for these vehicles are needed for the same reasons described in their original request. Among other things:

> they are equipped with fuel tanks mounted between the frame rails, use a fill system conforming to Environmental Protection Agency (EPA) fill requirements, and are designed for conformance to FMVSS [Federal Motor Vehicle Safety Standard] 301 performance requirements. Although the vehicles over 10,000 [lbs.] GVWR are not required to meet FMVSS 301, the fill system on these vehicles is based on the design for vehicles conforming to FMVSS 301.

These vehicles are still in operation, and the agency is not aware of any information, anecdotal or otherwise, that would suggest that the level of safety for the exempted vehicles is not equivalent to the level of safety of that would have been achieved if the vehicles complied with §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii). No interested parties have contacted the FMCSA or submitted comments to the docket since the original exemption was granted, on December 20, 1999, indicating that any aspects of the exemptions have had an adverse effect on highway safety. Accordingly, the agency is proposing to grant the exemptions for these additionally specified similar vehicles.

Terms and Conditions for the Exemption

The FMCSA would continue to provide exemptions to §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii) for motor carriers operating additional Ford Econoline-based vehicles, as specified in the next paragraph. The exemption renewal would be effective upon publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(1) and would be valid for two years from the date of approval, unless revoked earlier by the FMCSA. Ford, or any of the affected motor carriers, may apply to the FMCSA for another renewal of the exemption. The exemption would continue to preempt inconsistent State or local requirements applicable to interstate commerce.

As with the original exemption, the motor carriers operating these vehicles would not be required to maintain documentation concerning the exemption because the vehicles and fuel tanks have markings that would enable enforcement officials to identify them. The vehicles covered by the exemptions can be identified by their vehicle identification numbers (VINs). The VINs for the additional E-series vehicles contain E35 or E55 codes in the fifth, sixth, and seventh positions. The fuel tanks are marked with Ford part numbers F3UA–9002–G*, F3UA–9002–H*, F4UA–9002–V*, F4UA–9002–X*, F5UA–9002–V*, F5UA–9002–X*, F6UA–9002–Y*, F6UA–9002–Z*, F7UA–9002–C*, F7UA–9002–D*, YC25–9002–D* (a new fuel tank for E37 series vehicles), or 2C24–9002–E* (a new fuel tank for E55 series vehicles) where the asterisk (*) represents a "wild card" character (any character of the alphabet). The VINs for the F-series vehicles contain an F53 code in the fifth, sixth, and seventh positions. The fuel tanks are marked with part numbers 1C34–9K007–F*, 1C34–9K007–G*, and 1C34–9K007–H* where the asterisk (*) represents a "wild card" character (any character of the alphabet).

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption proposal. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable, but the FMCSA may renew the exemptions at any time after the close of the comment period. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: December 20, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 01–31736 Filed 12–20–01; 2:51 pm]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[DOT Docket No. FMCSA–99–6285]

Parts and Accessories Necessary for Safe Operation; Renewal of Fuel Tank Exemptions for Vehicles Manufactured by the General Motors Corporation

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of intent to renew exemptions; request for comments.

SUMMARY: The FMCSA is announcing its intent to renew exemptions for the vehicles specified at the end of this notice in response to applications from the General Motors Corporation (GM), from certain fuel tank design and certification labeling requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). Renewal of the exemptions would enable motor carriers to continue operating commercial motor vehicles (CMVs) manufactured by GM,

and equipped with fuel tanks that do not meet the FMCSA's requirements that fuel tanks be capable of receiving fuel at a rate of at least 20 gallons per minute, and be labeled or marked by the manufacturer to certify compliance with the design criteria. The FMCSA believes the terms and conditions of the exemptions have ensured a level of safety that is equivalent to the level of safety that would be achieved by complying with the regulations, and that renewing the exemptions would not adversely affect highway safety. The exemptions, if renewed, would continue to preempt inconsistent State and local requirements applicable to interstate commerce.

DATES: Comments must be received on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments electronically at *http://dms.dot.gov*. Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

Background

GM's Application for Exemptions

GM previously applied for exemptions from 49 CFR 393.67(c)(7)(ii), which requires that certain fuel tank systems on CMVs be designed to permit a fill rate of at least 20 gallons (75.7 liters) per minute, and 49 CFR 393.67(f)(2) and (f)(3), which require that liquid fuel tanks be marked with the manufacturer's name and a certification that the tank conforms to all applicable rules in § 393.67, respectively.

On December 20, 1999 (64 FR 71186), the FHWA published a notice of intent to grant GM's applications. The FHWA requested public comment on GM's applications and the agency's safety analysis, and presented other relevant information known to the agency. After considering all the comments received, the agency granted the exemptions on April 26, 2000 (65 FR 24531). In that notice (at 24532–24533), the agency noted that the 20 gallon per minute rate referenced in the FMCSA's regulations, while appropriate for diesel fuel-powered vehicles, mandates that fill pipes on gasoline-powered vehicles be capable of receiving fuel at twice the maximum rate gasoline pumps are designed to dispense fuel. The vehicles in question are gasoline-fueled and are capable of receiving fuel at a rate of approximately 10 gallons per minute.

The exemptions covered the vehicles specified at the end of this notice for § 393.67(c)(7)(ii), Construction of liquid fuel tanks; fill pipe, and §§ 393.67(f)(2) and (f)(3)(ii) which require that liquid fuel tanks be marked with the manufacturer's name, and a certification that the tank conforms to all applicable rules in " § 393.67, respectively.

Reason for Renewing the Exemptions

The FMCSA intends to renew the exemptions because the commercial motor vehicles covered by the exemptions are still in operation, and the agency is not aware of any information, anecdotal or otherwise, that would suggest that the level safety for the exempted vehicles is not equivalent to the level of safety of that would have been achieved if the vehicles complied with §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii). No interested parties have contacted the FMCSA or submitted comments to the docket since the exemption was granted on April 26, 2000, indicating that any aspects of the exemptions have had an adverse effect on highway safety. Accordingly, the agency is proposing to renew the exemptions for another two-year period.

Terms and Conditions for the Exemption Renewal

The FMCSA would continue to provide exemptions to §§ 393.67(c)(7)(ii), 393.67(f)(2), and 393.67(f)(3)(ii) for motor carriers operating GM G–Vans (Chevrolet Express and GMC Savanna) and full-sized C/K trucks (Chevrolet Silverado and GMC Sierra) with gross vehicle weight ratings over 10,000 pounds. The exemption renewal would be effective upon publication in the **Federal Register** pursuant to 5 U.S.C. 553(d)(1) and would be valid for two years from the date of approval, unless revoked earlier by the FMCSA. GM, or any of the affected motor carriers, may apply to the FMCSA for another renewal of the exemption. The exemption would continue to preempt inconsistent State or local requirements applicable to interstate commerce.

As with the original exemption, the motor carriers operating these vehicles would not be required to maintain documentation concerning the exemption because the vehicles have markings that would enable enforcement officials to identify them. The vehicles covered by the exemptions can be identified by their vehicle identification numbers (VINs). The VINs contain either a "J" or a "K" in the forth position of the VIN. IN addition, the seventh position of the VINs on the G–Van would contain a "1."

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption renewal. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable, but the FMCSA may renew the exemptions at any time after the close of the comment period. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: December 20, 2001.

Joseph M. Clapp,

Administrator.

[FR Doc. 01–31737 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2001–11218]

Notice of Request for the Extension of Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

VOL 66 ISS 248 DE 27 2001 UMI

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collection: 49 U.S.C. Section 5335(a) and (b) National Transit Database

DATES: Comments must be submitted before February 25, 2002.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 10:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT:

—Gary Delorme, National Transit Database Manager, Office of Program Management (202) 366–1652.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: 49 U.S.C. Section 5335(a) and (b) (*OMB Number: 2132–0008*).

Background: 49 U.S.C. Section 5335(a) and (b) require the Secretary of Transportation to maintain a reporting system by uniform categories to accumulate mass transportation financial and operating information and a uniform system of accounts and records. Each year, transit authorities that receive FTA funding submit data to the National Transit Database. The data that is submitted is used in statutory formulae to apportion over $4 billion in federal funds back to those agencies. In addition, federal, state, and local governments, transit agencies/boards, labor unions, manufacturers, researchers, consultants and universities use the National Transit Database for making transit related decisions. State and local governments also use the National Transit Database in allocating funds under 49 U.S.C. Section 5307. National Transit Database information is essential for understanding cost, ridership and other national performance trends, including transit's share of urban travel. It would be difficult to determine the future structure of FTA programs, to set policy, and to make funding and other decisions relating to the efficiency and effectiveness of the Nation's transit operations without the National Transit Database.

Respondents: State and local government, business or other for-profit institutions, non-profit institutions, and small business organizations.

Estimated Annual Burden on Respondents: 412 hours for each of the 578 respondents.

Estimated Total Annual Burden: 238,136 hours.

Frequency: Annual.

Issued: December 20, 2001.

Dorrie Y. Aldrich,

Associate Administrator for Administration.

[FR Doc. 01–31840 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 5) (2002–1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the first quarter 2002 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 2002 RCAF (Unadjusted) is 1.076. The first quarter 2002 RCAF (Adjusted) is 0.576. The first quarter 2002 RCAF–5 is 0.551.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1533. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from the Board's contractor, Dā-To-Dā Legal, Suite 405, 1925 K Street, NW, Washington, DC 20006, phone (202) 293–7776. [Assistance for the hearing impaired is available through TDD services 1 (800) 877–8339.]

This action will not significantly affect either the quality of the human environment or energy conservation.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Decided: December 19, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commission Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31765 Filed 12–26–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34135]

The Fulton Railroad Co., Ltd.—Acquisition and Operation Exemption—Cincinnati Railway Company

The Fulton Railroad Co., Ltd. (Fulton), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Cincinnati Railway Company and operate approximately 4,800 feet of track from a beginning point of milepost 0.0 and continuing for 4,800 feet to end of track, in the City of Cincinnati, Millcreek Township, Hamilton County, OH (line).[1]

The transaction is scheduled to be consummated on or about December 15, 2001. The earliest the transaction can be consummated is December 14, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34135 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert L. Calhoun, Esq., Redmon, Peyton & Braswell, LLP, 510 King Street, Suite 301, Alexandria, VA 22314.

---

[1] Fulton states that it will be the operator of the line but that it is engaging in discussions with the Indiana & Ohio Railway Company (IORY) for IORY to assume operations over the line.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: December 14, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31507 Filed 12–26–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34118]

The Athens Line, LLC—Lease and Operation Exemption—Norfolk Southern Railway Company and Central of Georgia Railroad Company

The Athens Line, LLC (ABR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire by lease and to operate adjoining lines of Central of Georgia Railroad Company (CGA) and CGA's parent Norfolk Southern Railway Company (NS) through an operating contract with The Great Walton Railroad Company, Inc. The lines extend between CGA milepost F–75.5 at Madison, GA, to CGA milepost F–106.3 at Athens, GA,[1] and NS milepost NE–39.1 at Athens to NS milepost NE–32.0 at a point designated as Junior State, GA, a distance of approximately 38 miles. The line includes the following stations in Georgia: Bishop, Watkinsville, Whitehall, Athens and Paradise Valley. NS and ABR intend to interchange at either Paradise Valley or Junior State. ABR will grant trackage rights back to NS between NS milepost NE–32.0 and milepost NE–37.4 solely for purposes of interchange. ABR certifies that its projected annual revenues will not exceed $5 million.

The transaction was scheduled to be consummated on or after December 7, 2001, the effective date of the exemption, with ABR's assumption of operations scheduled for December 29, 2001.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34118, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on David C. Reeves, Troutman Sanders LLP, 401 Ninth Street, N.W., Suite 1000, Washington, DC 20004–2134.

Board decisions and notices are available on our web site at "*WWW.STB.DOT.GOV.*"

Decided: December 18, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31766 Filed 12–26–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] ABR states that it understands that the transaction covered by this exemption will not create any residual common carrier obligation for CGA to resume operation of the Madison-Bishop segment of the Madison-Athens line should ABR sometime in the future obtain Board authority to discontinue its operations over that segment. *See Central of Georgia Railroad Company—Discontinuance Exemption—Operations Between Madison and Bishop, GA*, Docket No. AB–290 (Sub-No. 37X) (ICC served Nov. 3, 1988). (CGA received exemption discontinue operations between CGA milepost F–75.5 near Madison and milepost F–91.5 at Bishop). Abandonment of the segment would require further Board action or exemption.

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for Financial Institutions; Notice of Funds Availability (NOFA) Inviting Applications for the First Accounts Program

AGENCY: Office of the Assistant Secretary for Financial Institutions, Department of the Treasury.

ACTION: Notice of Funds Availability (NOFA) inviting applications.

SUMMARY: The Consolidated Appropriations Act, 2001 (Public Law 106–554, 114 Stat. 2763, 2763A–126) and the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346, 114 Stat. 1356, 1356A–44) appropriated funds to the Department of the Treasury ("Treasury") to develop and implement programs to expand access to financial services for low- and moderate-income individuals (the "First Accounts Program"). This NOFA invites grant applications from eligible entities that will either directly, or through one or more insured depository institutions/insured credit unions, provide low-cost electronic, checking, or other types of accounts to low- and moderate-income individuals who currently do not have an account with an insured depository institution or an insured credit union. The paramount goal of the First Accounts Program grants to be awarded under this NOFA is to move a maximum number of "unbanked" low- and moderate-income individuals to a "banked" status with either an insured depository institution or an insured credit union. Treasury intends to award up to $8 million in appropriated funds under this NOFA. Treasury reserves the right to award in excess of $8 million in appropriated funds under this NOFA provided that the funds are available, and Treasury deems it appropriate. Eligible entities include, but are not limited to, insured depository institutions, insured credit unions, financial services electronic networks, employers of unbanked low- and moderate-income individuals, community development financial institutions, nonprofit organizations, States, Local Governments, Indian Tribal Governments, and labor organizations.

DATES: Applications may be submitted at any time, commencing December 27, 2001, and may be submitted by mail or by overnight/express delivery service, or electronically, in the format prescribed by Treasury. (Applications sent by facsimile or delivered by hand will not be accepted). The deadline for receipt of an application is March 20, 2002. Paper applications received in the specific Treasury office designated below after that date will not be considered, except as follows. An application mailed via the United States Postal Service will be considered as having met the application deadline if it is clearly postmarked on or before midnight March 20, 2002. An application sent by overnight/express delivery will be considered as having met the application deadline if it is placed in transit by no later than March 20, 2002 with an overnight/express delivery service. In each such case, it is advisable to obtain documentation from the carrier showing the date the application was placed in transit. A single, clear date stamp will help in determining whether the delivery of a paper application has met the deadline requirements set forth above. Electronic applications received at the specific email address set forth below after March 20, 2002 will not be considered. While Treasury will accept electronic applications, it is currently unable to collect electronic signatures for the First Accounts Program. As a result, an applicant sending an application electronically shall also submit by mail or overnight/express delivery service signed and dated hardcopy signature pages and certifications contained in the First Accounts Program application packet. Such hardcopies must be

VOL 66 ISS 248 DE 27 2001 UMI

received in the specific Treasury office designated below by 6 p.m. EST on April 3, 2002. Hardcopy signature pages and certifications received in the specific Treasury office designated below after that date and time will result in the related application being eliminated from consideration for a grant award.

ADDRESSES: Paper applications shall be sent to: Department of the Treasury, ATTN: First Accounts, Main Treasury Building, Room 5017, Washington, DC 20220. Electronic applications shall be sent to: *first.accounts@do.treas.gov.*

OBTAIN APPLICATIONS: Applications are available on the Treasury website at *www.treas.gov/firstaccounts.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the programmatic requirements for the First Accounts Program may be submitted electronically to Jean Whaley, Director, Office of the Assistant Secretary for Financial Institutions, at *jean.whaley@do.treas.gov.* All questions and accompanying answers will be posted and made available to the public at *www.treas.gov/firstaccounts.*

SUPPLEMENTARY INFORMATION:

I. Background

Without basic financial services, low- and moderate-income individuals may have a reduced ability to manage their finances, and may be limited in planning and saving for the future. Such individuals may have limited access to other financial products such as credit cards, residential mortgages, or automobile loans. Some of the reasons why low- and moderate-income individuals do not have bank accounts are a lack of low-cost account products tailored to meet their needs, previous problems with bank accounts, insufficient convenient access, a lack of consumer education, and a financial services provider perception that such accounts may not be profitable. The Federal Reserve's 1998 Survey of Consumer Finances indicates that nearly one out of ten families in the United States lacks either a checking or savings account. Most of those families had annual incomes below $25,000, and most lived in low- and moderate-income service areas.

To address this disparity, Congress appropriated funds for the First Accounts Program. Specifically, the Consolidated Appropriations Act, 2001 (Public Law 106–554, 114 Stat. 2763, 2763A–126) and the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346, 114 Stat. 1356, 1356A–44) authorized the Department of the Treasury ("Treasury") to develop and implement programs to expand access to financial services for low- and moderate-income individuals. Treasury will implement the First Accounts Program through three related mechanisms: (1) Funding private sector provision of low-cost accounts and access to Automated Teller Machines ("ATMs") to low- and moderate-income individuals who do not currently utilize bank accounts or other financial service opportunities; (2) funding financial education for low- and moderate-income individuals; and (3) conducting research on the financial services needs of low- and moderate-income individuals (this is not the subject of this NOFA). This NOFA invites grant applications from eligible entities that will, either directly or through one or more partners, provide low-cost electronic, checking, or other types of accounts and access to ATMs to low- and moderate-income individuals who currently do not have an account with an insured depository institution or an insured credit union. The paramount goal of the First Accounts Program grants to be awarded under this NOFA is to move a maximum number of "unbanked" low- and moderate-income income individuals to a "banked" status with either an insured depository institution or an insured credit union through the development of financial products and services that can serve as replicable models in meeting the financial services needs of such individuals in other communities without the need for ongoing public subsidies. Additional goals include the provision of financial education to unbanked low- and moderate-income individuals to enhance the sustainability of the new financial relationship. The following contains an illustrative listing of the types of projects that are eligible to be funded under this NOFA:

(1) An insured depository institution/insured credit union partnering with one or more small business enterprises that are employers of unbanked low- and moderate-income individuals to provide such employees with both low-cost electronic accounts, and increased access to ATMs through the placement of one or more ATMs on-site.

(2) An insured depository institution or an insured credit union providing low-cost checking accounts to unbanked low- and moderate-income individuals.

(3) An insured depository institution or an insured credit union providing low-cost electronic accounts to unbanked low- and moderate-income individuals.

(4) A labor organization, whose membership consists of unbanked low- and moderate-income individuals, establishing a low-income designated insured credit union or an insured credit union that will become certified as a community development financial institution.

(5) A faith based nonprofit organization partnering with one or more insured depository institutions/insured credit unions to provide low-cost accounts and financial education for unbanked low- and moderate-income individuals.

(6) An Indian Tribal Government partnering with one or more insured depository institutions and/or insured credit unions to provide unbanked low- and moderate-income tribal members with low-cost electronic accounts, financial education, and increased access to funds through the placement of ATMs on the Indian reservation.

(7) An insured community development financial institution partnering with service industry employers (e.g. fast food restaurant franchisees) to provide unbanked low- and moderate-income employees with free checking accounts, provided a minimum account balance of $100 is maintained.

Treasury intends to award up to $8 million in appropriated funds under this NOFA. Treasury reserves the right to award in excess of $8 million in appropriated funds under this NOFA provided that the funds are available; and Treasury deems it appropriate. Treasury reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA.

II. Eligibility

In order to be eligible to receive funding under this NOFA, an eligible entity shall, at a minimum, propose to provide low-cost electronic, checking or other types of accounts to "unbanked" low- and moderate-income individuals either directly (in the case of an applicant that is an insured credit union or an insured depository institution) or indirectly through one or more insured depository institutions and/or insured credit unions. In addition, only projects that propose new activities or expand existing activities will be considered eligible for funding under this NOFA. Eligible entities include community development financial institutions, depository institution holding companies, employers, financial services electronic networks, Indian Tribal Governments, insured credit unions (as an insured credit union's charter and field of membership allow), insured depository institutions, labor organizations, Local Governments, non-profit organizations, and States. Individuals are not eligible to receive funding under this NOFA. Each application shall identify a single applicant, which must, at the time of application, be a duly organized and validly existing legal entity under the laws of the jurisdiction in which it is incorporated or otherwise established.

III. Application Packet

An applicant under this NOFA must submit the materials described in the application packet in the format prescribed therein. Applications are available on the Treasury website at *www.treas.gov/firstaccounts*.

IV. Definitions

The following definitions shall apply to the terms contained in this NOFA and the application packet:

(a) *Community development financial institution* means an organization that has been certified as such pursuant to 12 CFR § 1805.201 by the Department of the Treasury's Community Development Financial Institutions Fund.

(b) *Depository institution holding company* means a bank holding company or a savings and loan holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(1)).

(c) *Electronic account* means an account at an insured credit union or an insured depository institution that has the following minimum features: (1) Electronic access; and (2) provides the same consumer protections that are available to other account holders at the same institution.

(d) *Eligible entity* means any legal entity including a corporation, partnership, governmental body, agency, or association, other than an agency or instrumentality of the United States.

(e) *Employee* means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors.

(f) *Employer* means a person or entity that engages the services or labor of low- and moderate-income employees to be performed in the United States for wages or other remuneration, but shall not include an agency or instrumentality of the United States.

(g) *Financial services electronic network* means an organization or entity that provides electronic access to an individual's account at an insured credit union or an insured depository institution, including an automated teller machine network, point-of-sale-network, and a provider of such services through the Internet.

(h) *Indian reservation* has the same meaning as in section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)) and, to the extent not already included, shall include lands held by incorporated Native groups, regional corporations, and village corporations, as defined or established pursuant to the Alaska Native Claims Settlement Act; public domain Indian allotments; and former Indian reservations in the State of Oklahoma.

(i) *Indian Tribal Government* means any Indian Tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(j) *Insured credit union* means any credit union, the member accounts of which are insured by the National Credit Union Share Insurance Fund.

(k) *Insured depository institution* means any bank or savings association, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(l) *Labor organization* means an organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(m) *Local Government* means a political subdivision of a State including, without limitation, a county, municipality, city, town, township, local public authority school district, special district, intrastate district, or any agency or instrumentality of any of the foregoing.

(n) *Low- and moderate-income* means a family income that does not exceed—(1) for nonmetropolitan areas, 80 percent of the statewide median family income; or (2) for metropolitan areas, 80 percent of the greater of the statewide median family income or metropolitan area median family income.

(o) *Low- and moderate-income service* area means: (1) An Indian reservation; (2) any population census tract located within a metropolitan area in which the median family income does not exceed 80 percent of the greater of the statewide median family income or the metropolitan median family income; or (3) any population census tract which is not located within a metropolitan area in which the median family income does not exceed 80 percent of statewide median family income.

(p) *Low-income designated credit* union means an insured credit union that meets the criteria contained in 12 CFR 701.34.

(q) *State* means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing.

(r) *Unbanked* means an individual who currently does not have an account at an insured credit union or an insured depository institution.

V. Evaluation

All applications will be reviewed for eligibility and completeness. If determined to be eligible and complete, applications will be evaluated by Treasury on a competitive basis in accordance with the criteria contained in this NOFA.

Phase One—Scoring Review

In conducting its initial substantive review, Treasury will evaluate each application and assign numeric scores using a 100 point scale as follows:

(a) The Likelihood of Success Criterion (the extent to which the project: (1) Will serve a meaningful number of unbanked low- and moderate-income individuals; (2) is shown to be likely to result in the provision of both low-cost electronic, checking or other types of accounts, and expanded access to ATMs, to such individuals; (3) demonstrates that costs to be incurred by low- and moderate-income individuals are the least necessary to achieve goals; and (4) actively involves employers of unbanked low- and moderate-income individuals): 20 points maximum

(b) The Reasonableness of Approach Criterion (the extent to which project activities demonstrate a well-researched and well-reasoned approach toward expanding the provision of financial products and services to unbanked low- and moderate-income individuals): 20 points maximum.

(c) The Self-Sustaining Criterion (the extent to which the project activities can become self-supporting): 15 points maximum.

(d) The Model Qualities Criterion (the extent to which the project demonstrates a replicable framework on a national, regional, State, or local basis): 10 points maximum.

(e) The Timeliness Criterion (the extent of the speed in which the project will be rolled out and begin to achieve measurable, positive results): 10 points.

VOL 66 ISS 248 DE 27 2001 UMI

(f) The Performance Goal Setting Criterion (the extent to which the project has specific, measurable, and relevant performance goals): 10 points.

(g) The Experience/Track Record Criterion (the extent to which the applicant and other participating entities have previous experience on projects of a similar scale and scope, and have a track record of success in carrying out such projects): 10 points.

(h) The Management Capability Criterion (the extent to which the management team has the demonstrated ability to manage projects): 5 points.

In order to be considered eligible to advance to the next phase of substantive review, an applicant must receive a minimum score of 50 points.

Conditional Selection/Second Phase Review

Once the initial evaluation is completed, Treasury will determine which of those applications that received at least 50 points will be conditionally selected based on the Phase One scores and the amount of funds available. In addition, Treasury will seek to conditionally select a group of applicants whose projects are geographically diverse, *e.g.*, covering metropolitan, nonmetropolitan, and rural areas as well as different regions of the United States.

Once Treasury determines which applicants have been conditionally selected, Treasury will contact such applicants and may interview third parties to obtain clarifying or confirming information on each conditionally selected applicant. Once such information has been collected and analyzed, Treasury staff will make a recommendation to the Treasury selecting official who will make a final funding decision based on the applicant's file including, without limitation, Phase One evaluations and Phase Two recommendations, the amount of funds available, and geographic and institutional diversity considerations.

Award Requirements

Each awardee will be required to enter into a grant agreement with Treasury before it may begin project activities and receive a Treasury disbursement of grant funds. The terms and requirements for funding will be set forth in both a Notice of Award and the grant agreement. Some of these requirements are as follows:

(a) Grant funds can only be used for the purposes set forth in the grant agreement.

(b) Each awardee will be responsible for completing the project and expending the grant funds within the time period set forth in the grant agreement.

(c) Each awardee will be required to submit periodic reports and a final report to Treasury.

Authority: Pub. L. 106–554, 114 Stat. 2763, 2763A–126; Pub. L. 106–346, 114 Stat. 1356, 1356A–44; 31 U.S.C. 321.

Dated: December 17, 2001.

Sheila C. Bair,

Assistant Secretary for Financial Institutions.

[FR Doc. 01–31818 Filed 12–26–01; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (collectively, the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. On September 18, 2001, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published a notice in the Federal Register (66 FR 48166) requesting public comment on the extension, without revision, of the currently approved information collection: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks (FFIEC 004). The comment period for this notice expired on November 19, 2001. No comments were received. The agencies are now submitting requests to OMB for approval of the extension, without revision, of the FFIEC 004 report.

DATES: Comments must be submitted on or before January 28, 2002.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments should refer to the OMB control number(s) and will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Public Information Room, Mailstop 1–5, Attention: 1557–0070, Washington, D.C. 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to regs.comments@occ.treas.gov. Comments will be available for inspection and photocopying at the OCC's Public Information Room, 250 E Street, S.W., Washington, D.C. 20219. Appointments for inspection of comments may be made by calling (202) 874–5043.

Board: Comments may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e–mail to regs.comments@federalreserve.gov, or faxing them to the Office of the Secretary at 202–452–3819 or 202–452–3102. Comments addressed to Ms. Johnson may also be delivered to the Board's mail facility in the West Courtyard between 8:45 a.m. and 5:15 p.m., located on 21st Street between Constitution Avenue and C Street, N.W. Members of the public may inspect comments in Room MP–500 between 9:00 a.m. and 5:00 p.m. on weekdays pursuant to 261.12, except as provided in 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand–delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Additional information or a copy of the collection may be requested from:

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

Board: Mary M. West, Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Capria Mitchell (202) 872-4984, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION:

Proposal to extend, without revision, the following currently approved collection of information:

Report Title: Report on Indebtedness of Executive Officers and Principal Shareholders and their Related Interests to Correspondent Banks
Form Number: FFIEC 004
Frequency of Response: Annually (for executive officers and principal shareholders), and on occasion (for national, state member and insured state nonmember banks)
Affected Public: Individuals or households, Businesses or other for-profit
For OCC:
OMB Number: 1557–0070
Number of Respondents: 25,300 (23,000 executive officers and principal shareholders fulfilling recordkeeping burden, 2,300 national banks fulfilling recordkeeping and disclosure burden)
Estimated Average Hours per Response: 2.25 hours
Estimated Total Annual Burden: 56,925 hours
For Board:
OMB Number: 7100–0034
Number of Respondents: 4,955 (3,964 executive officers and principal shareholders fulfilling recordkeeping burden, 991 state member banks fulfilling recordkeeping and disclosure burden)
Estimated Average Hours per Response: 1.12 hours
Estimated Total Annual Burden: 5,551 hours
For FDIC:
OMB Number: 3064–0023
Estimated Number of Respondents: 27,495 (21,996 executive officers and principal shareholders fulfilling recordkeeping burden, 5,499 insured state nonmember banks fulfilling recordkeeping and disclosure burden)
Estimated Average Hours per Response: 1.8 hours
Estimated Total Annual Burden: 49,491 hours

General Description of Report: This information collection is mandatory: 12 U.S.C. 1972(2)(G) (all); 12 U.S.C. 375(a)(6) and (10), and 375(b)(10) (Board); 12 CFR 31.2, 12 U.S.C. 1817(k) and 12 U.S.C. 93a (OCC); 12 CFR 349.3, 12 CFR 349.4, and 12 CFR 304.5(e) (FDIC). Copies of the reports in the possession of the agencies may be exempt from disclosure under sections (b)(4), (6), and (8) of the Freedom of Information Act (5 U.S.C. 552 (b)(4), (6), and (8)).

Abstract: Executive officers and principal shareholders of insured banks must file with the bank the information contained in the FFIEC 004 report on their indebtedness and that of their related interests to correspondent banks. The information contained in the FFIEC 004 report is prescribed by statute and regulation, as cited above. Banks must retain these reports or reports containing similar information and fulfill other recordkeeping requirements, such as furnishing annually a list of their correspondent banks to their executive officers and principal shareholders. Banks also have certain disclosure requirements for this information collection.

Current Actions: The agencies received no comments on their joint proposal to extend, without revision, the FFIEC 004 report, which was published on September 18, 2001 (66 FR 48166). The agencies are now submitting requests to OMB for approval of an extension, without revision, of this report. In their requests, the agencies are requesting an expiration date of March 31, 2004, which corresponds to the Office of Thrift Supervision's expiration date for the FFIEC 004 report.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

December 17, 2001.

Mark J. Tenhundfeld

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency

Board of Governors of the Federal Reserve System, December 19, 2001.

Jennifer J. Johnson

Secretary of the Board

Dated at Washington, D.C., this 14th day of December 12, 2001.
Federal Deposit Insurance Corporation.

Robert E. Feldman

Executive Secretary

[FR Doc. 01–31694 Filed 12–26–01; 8:45 am]

BILLING CODES OCC: 4810–33–S 1/3; Board: 6210–01-S 1/3; FDIC: 6714–01–S 1/3

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0507]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of

VOL
66
ISS
248
DE
27
2001
UMI

Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0507.".

SUPPLEMENTARY INFORMATION:

Title: Medical Information for Reinstatement, VA Form Letter 29–762.

OMB Control Number: 2900–0507.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used by the veteran's attending physician to supply medical information that is required to determine eligibility for reinstatement of insurance and/or Total Disability Income Provision.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 6, 2001, at page 46684.

Affected Public: Individuals or households.

Estimated Annual Burden: 240 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 480.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0507" in any correspondence.

Dated: December 11, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31823 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0105]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 31, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0105."

SUPPLEMENTARY INFORMATION:

Title: Statement of Witness to Accident, VA Form Letter 21–806.

OMB Control Number: 2900–0105.

Type of Review: Extension of a currently approved collection.

Abstract: The form letter is used to gather information to support veterans' claims for disability benefits based on disability(ies) which is/are the result of an accident. The information given by a witness to the accident is used as a source to gather specific data regarding the accident and to obtain from the witness opinions as well as facts based on his or her own knowledge and beliefs regarding the accident. Benefits may be paid if a disability is incurred in the line of duty and is not the result of the veteran's own willful misconduct.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 25, 2001, on page 49068.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,400 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 13,200.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0105" in any correspondence.

Dated: December 11, 2001.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31824 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0153]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov*. Please refer to "OMB Control No. 2900–0153."

SUPPLEMENTARY INFORMATION:

Title: Disability Benefits Questionnaire, VA Forms 29–8313 and 29–8313–1.

OMB Control Number: 2900–0153.

Type of Review: Extension of a currently approved collection.

Abstract: The forms are used by the policyholder to report conditions needed to continue disability insurance benefits. The information is used by VA to determine the insured's continuous entitlement to disability insurance benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on September 17, 2001, at page 48077.

Affected Public: Individuals or households.

Estimated Annual Burden: 15,000 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 60,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0153" in any correspondence.

Dated: December 11, 2001.

By direction of the Secretary

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31825 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0038]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0038."

SUPPLEMENTARY INFORMATION:

Title: Information From Remarried Widow/er, VA Form 21–4103.

OMB Control Number: 2900–0038.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used to determine if a child's income and net worth are within the limits imposed by law. This information is necessary to determine a child's pension eligibility and benefit rates once a surviving spouse remarries.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on July 6, 2001, at pages 35699—35700.

Affected Public: Individuals or households.

Estimated Annual Burden: 3,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 9,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0038" in any correspondence.

Dated: December 13, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31826 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0139]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 et seq.), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to "OMB Control No. 2900–0139."

SUPPLEMENTARY INFORMATION: *Title:* Notice—Payment not Applied (Government Life Insurance), VA Form 29–4499A.

OMB Control Number: 2900–0139.

Type of Review: Extension of a currently approved collection.

Abstract: This notice solicits comments for information needed to determine eligibility to reinstate government life insurance.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 3, 2001, at page 50502.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to "OMB Control No. 2900–0139" in any correspondence.

Dated: December 13, 2001.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 01–31827 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–P

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5(c) of Public Law 94–409 that a meeting of the Rehabilitation Research and Development Service Scientific Merit Review Board will be held at the Crowne Plaza Hotel, 1001 14th Street, NW, Washington, DC on January 23–24, 2002.

The sessions on January 23–24, 2002, are scheduled to begin at 8:00 a.m. and end at 6:30 p.m. The purpose of the meeting is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation and Development Service, regarding their funding.

The meeting will be open to the public for the January 23 session from 8:00 a.m. to 9:00 a.m. for the discussion of administrative matters, the general status of the program, and the administrative details of the review process. On January 23 from 9:00 a.m. through January 24, 2002, the meeting is closed during which the Board will be reviewing research and development applications.

This review involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance and competence of individual research investigators. Disclosure of such information would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts.

Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under Sections 10(d) of Public Law 92–92–463 as amended by Section 5(c) of Public Law 94–409.

Those who plan to attend the open session should write to Ms. Victoria Mongiardo, Program Analyst, Rehabilitation Research and Development Service (122P), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420 (Phone: 202–408–3684) at least five days before the meeting.

Dated: December 17, 2001.

By the Direction of the Secretary.

Nora E. Egan,

Committee Management Officer.

[FR Doc. 01–31829 Filed 12–26–01; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Thursday,
December 27, 2001

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1, et al.
Federal Acquisition Regulations; Final Rules

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Circular 2001–03; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in this Federal Acquisition Circular (FAC) 2001–03. A companion document, the Small Entity Compliance Guide (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.arnet.gov/far.*

DATES: For effective dates and comment dates, see separate documents which follow.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact the analyst whose name appears in the table below in relation to each FAR case or subject area. Please cite FAC 2001–03 and specific FAR case number(s). Interested parties may also visit our Web site at *http://www.arnet.gov/far.*

Item	Subject	FAR case	Analyst
I	Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings.	1999–010 (Stay)	De Stefano.
II	Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation.	2001–014	De Stefano.

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments to these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2001–03 amends the FAR as specified below:

Item I—Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings (FAR Case 1999–010 (Stay))

The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. After further review, the FAR Council published an interim rule in the **Federal Register** at 66 FR 17754, April 3, 2001, staying that rule. This final rule terminates the stay.

Item II—Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings— Revocation (FAR Case 2001–014)

The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 66 FR 17758, April 3, 2001, a proposed rule (April proposed rule) with a request for public comments. The April proposed rule proposed revoking a final rule published in the **Federal Register** at 65 FR 80255, December 20, 2000 (December final rule). The December final rule addressed responsibility and costs incurred in legal and other proceedings. This rule finalizes the April 3, 2001, proposed rule.

Dated: December 14, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–03 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–03 is effective December 27, 2001.

Dated: December 13, 2001.

Deidre A. Lee,

Director, Defense Procurement.

Dated: December 13, 2001.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: December 12, 2001.

Tom Luedtke,

Associate Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 01–31300 Filed 12–26–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 14, 15, 31, and 52

[FAC 2001–03; FAR Case 1999–010 (Stay); Item I]

RIN 9000–AI40

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; termination of stay of final rule.

SUMMARY: The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility, labor relations costs, and costs incurred in legal and other proceedings. After further review, the FAR Council published an interim rule in the Federal Register at 66 FR 17754, April 3, 2001, staying that rule. The FAR Council intended the stay would last for 270 days from April 3, 2001, until December 29, 2001, or until finalization of the proposed rule (entitled "Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation) that was published in the **Federal Register** at 66

FR 17758, April 3, 2001, concurrently with the stay, whichever is sooner.

The FAR Council requested comments on the FAR interim rule-stay on the length of the stay. During the stay, the FAR text was restored to the text as it existed before January 19, 2001. In a separate document published concurrently with the interim rule-stay, the FAR Council published the aforementioned proposed rule, requesting comments under that FAR case on revoking the December 20, 2000, final rule.

This final rule terminates the stay.

DATES: *Effective Date:* December 27, 2001.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 2001–03, FAR case 1999–010 (stay).

SUPPLEMENTARY INFORMATION:

A. Background

1. The Final Rule

The FAR Council published a proposed rule amending FAR Parts 9 and 31 in the **Federal Register** at 64 FR 37360, July 9, 1999. In response to the proposed rule, the FAR Council received more than 1500 letters.

After reviewing the public comments, the FAR Council decided to republish the proposed rule with certain changes. The FAR Council published a revised proposed rule amending FAR Parts 9, 14, 15, 31, and 52 in the **Federal Register** at 65 FR 40830, June 30, 2000. Over 300 public comments were received. The final rule, which was published in the **Federal Register** at 65 FR 80255 on December 20, 2000, had an effective date of January 19, 2001, 30 days from date of publication.

The final rule included the following revisions:

FAR Part 9

Added language stating that a satisfactory record of integrity and business ethics includes satisfactory compliance with the law including tax, labor and employment, environmental, antitrust, and consumer protection laws (FAR 9.104–1(d)). Required contracting officers to consider all relevant credible information but stated that the greatest weight must be given to offenses adjudicated within the past three years.

FAR Part 14 and 15

Directed contracting officers to notify offerors if the offerors were excluded based on a nonresponsibility determination.

FAR Part 31

At FAR 31.205–21, made unallowable those costs incurred for activities that assist, promote, or deter unionization.

At FAR 31.305–47, made unallowable those costs incurred in civil or administrative proceedings brought by a government where the contractor violated, or failed to comply with a law or regulation.

FAR Part 52

At FAR 52.209–5, amended the previous certification to require offerors to certify to additional violations (violations of tax, labor and employment, environmental, antitrust, or consumer protection laws) adjudicated within the last three years. It was a check-the-box certification. An offeror would have to provide additional detailed information only upon the request of the contracting officer.

At 52.212–3(h), made an equivalent change for the certification for commercial items.

2. The Lawsuit

The Business Roundtable, Chamber of Commerce of the United States, National Association of Manufacturers, Associated General Contractors of America, Inc., and Associated Builders and Contractors, Inc., filed a lawsuit in the United States District Court for the District of Columbia on December 22, 2000, seeking to overturn the final rule.

3. Letters

The FAR Council had received letters from major industry associations representing thousands of firms, and from Congressional Representatives, requesting an effective date extension of at least six months. Industry concerns extend especially to contractors' ability to comply with the rule's new certification requirements, which apply to procurements over $100,000.

4. Action

The FAR Council reassessed the advantages and disadvantages of the changes made by the December 20, 2000, final rule, to determine if the benefits of the rule are outweighed by the burdens imposed by the rule. In this regard, it was not clear to the FAR Council that there was a justification for including the added categories of covered laws in the rule and its implementing certification, that the rule provided contracting officers with sufficient guidelines to prevent arbitrary or otherwise abusive implementation, or that the final rule was justified from a cost-benefit perspective. In a proposed rule published concurrently with the interim rule-stay, the FAR Council requested public comments on revoking the final rule. In the interim rule-stay, the FAR Council determined that the 30-day effective date did not give contractors, and the Government, sufficient time to meet the new obligations and responsibilities imposed by the final rule. Government contracting officers did not have sufficient training. Offerors did not have sufficient time to establish a system to track compliance with applicable laws and keep it current, in order to be able to properly fill out the certification. Although there was language in the noncommercial items certification, which assured contractors that no system of records needed to be established to render the certification in good faith, this language is not found in the commercial items certification. There are criminal penalties for a false certification (18 U.S.C. 1001). The FAR Council recognized that it will take more time than it anticipated for businesses to put the systems in place. Therefore, the FAR Council decided to stay the final rule of December 20, 2000. The FAR Council intended the stay to last for 270 days from the date of publication of the interim rule until December 29, 2001, or until finalization of the proposed rule that was published concurrently with the interim rule-stay, whichever is sooner.

The final rule had only been in effect since January 19, 2001. There had not been time for the public to be in a position of reliance upon the rule's existence. The previous FAR sections that were in effect, such as the previous version of the certification, were restored by this interim rule-stay.

The requirement that contractors must be responsible is statutory, and the stay did not relieve offerors of the requirement to have a satisfactory record of integrity and business ethics. Contracting officers continued to have the authority and duty to make responsibility decisions. Agency debarring officials continued to have the authority and duty to make determinations whether to suspend and debar a contractor. The Government still needed the information contained in the previous certifications, which covered such things as whether the contractor or its principals are presently debarred, or had a felony conviction for contract fraud.

The stay was not intended to be a statement that violations of the additional laws discussed in the December 20, 2000, rule could not have

VOL 66 ISS 248 DE 27 2001 UMI

been considered in the past, or could not be considered in the future, by contracting officers or agency debarring officials.

The FAR Council invited comments on the two rules. In the interim rule-stay, FAR Case 1999–010, comments were requested on the length of the stay. Ninety-eight public comments were received. Ninety-one public comments, 93 percent of the public comments, generally supported the interim rule-stay. All comments were considered in the finalization of the interim rule-stay. The FAR Council has determined to finalize the stay to terminate with the publication of the finalization of the accompanying proposed rule revoking the December rule. In an accompanying final rule, FAR case 2001–014, published concurrently with this rule, the final rule revokes the December 2000 rule.

When staying Code of Federal Regulations text, if the previous text is restored, the **Federal Register** requires different numbering from the stayed text. The stayed text uses the numbering that was published in Federal Acquisition Circular 97–21. The revised numbering of the restored text is not a substantive change. Terminating the stay reverses this process and is also not a substantive change.

This is a significant rule and was subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the action terminates stayed FAR revisions implemented under FAR case 1999–010 published in the **Federal Register** on December 20, 2000 (65 FR 80255), that did not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9, 14, 15, 31, and 52

Government procurement.

Dated: December 14, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

Accordingly, the interim rule (stay) published in the **Federal Register** at 66 FR 17754, April 3, 2001, is terminated, and DoD, GSA, and NASA further amend 48 CFR parts 9, 14, 15, 31, and 52 as set forth below:

1. The authority citation for 48 CFR parts 9, 14, 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

9.103 [Amended]

2. Amend section 9.103 by removing paragraph (c); and by redesignating paragraph (d) as paragraph (c).

9.104–1 [Amended]

3. Amend section 9.104–1 by removing paragraph (e); and by redesignating paragraphs (f), (g), and (h) as (e), (f), and (g), respectively.

PART 14—SEALED BIDDING

14.404–2 [Amended]

4. Amend section 14.404–2 by removing paragraph (j); and by redesignating paragraphs (k), (l), and (m) as (j), (k), and (l), respectively.

PART 15—CONTRACTING BY NEGOTIATION

15.503 [Amended]

5. Amend section 15.503 by removing paragraph (a)(2), and by redesignating paragraph (a)(3) as (a)(2).

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–47 [Amended]

6. Amend section 31.205–47 in paragraph (a) by removing the definition "Fraud"; by removing paragraph (b)(3); and by redesignating paragraphs (b)(4), (b)(5), and (b)(6), as (b)(3), (b)(4), and (b)(5), respectively.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209–5 [Amended]

7. Amend section 52.209–5 by removing paragraphs (a)(1)(i)(D) and (a)(1)(i)(E).

52.212–3 [Amended]

8. Amend section 52.212–3 by removing paragraph (i); and by redesignating paragraph (j) as (i).

[FR Doc. 01–31301 Filed 12–26–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 14, 15, 31, and 52

[FAC 2001–03; FAR Case 2001–014; Item II]

RIN 9000–AJ10

Federal Acquisition Regulation; Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 66 FR 17758, April 3, 2001, a proposed rule (April proposed rule) with request for public comment. The April proposed rule proposed revoking a final rule published in the **Federal Register** at 65 FR 80255, December 20, 2000 (December final rule). The December final rule addressed responsibility, labor relations costs, and costs incurred in legal and other proceedings. This rule finalizes the aforementioned April proposed rule.

An interim FAR rule was published in the **Federal Register** at 66 FR 17754, April 3, 2001, concurrently with the April proposed rule. The interim rule immediately stayed the December final rule (under FAR case 1999–010, Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings). During the stay, the FAR text was restored to the text as it existed before January 19, 2001. The FAR Council intended the stay to last for 270 days from April 3, 2001 (December 29, 2001), or until finalization of the April proposed rule, whichever was sooner. In a separate document being published elsewhere in this issue, the FAR Council is terminating the stay.

The FAR Council published in the **Federal Register** at 66 FR 23134, May 7, 2001, an extension of the April

proposed rule public comment period from June 4, 2001, to July 6, 2001, and a notice of a public meeting on the April proposed rule, which was conducted on June 18, 2001.

DATES: *Effective Date:* December 27, 2001.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph De Stefano, Procurement Analyst, at (202) 501–1758. Please cite FAC 2001–03, FAR case 2001–014.

SUPPLEMENTARY INFORMATION:

A. Background

1. The Final Rule

The final rule published in the **Federal Register** at 65 FR 80255 (December final rule) included the following revisions:

FAR Part 9

At FAR 9.104–1(d), added language stating that a satisfactory record of integrity and business ethics includes satisfactory compliance with the law including tax, labor and employment, environmental, antitrust, and consumer protection laws.

At FAR 9.104–3(c), required contracting officers to consider all relevant credible information but stated that the greatest weight must be given to offenses adjudicated within the past three years.

FAR Parts 14 and 15

At 14.404–2(i) and 15.503(a)(1), directed contracting officers to notify offerors if the offerors were excluded based on a nonresponsibility determination.

FAR Part 31

At FAR 31.205–21, made unallowable those costs incurred for activities that assist, promote, or deter unionization.

At FAR 31.305–47, made unallowable those costs incurred in civil or administrative proceedings brought by a government where the contractor violated, or failed to comply with, a law or regulation.

FAR Part 52

At FAR 52.209–5, amended the previous certification to require offerors to certify to additional violations (violations of tax, labor and employment, environmental, antitrust, or consumer protection laws) adjudicated within the last three years. It was a check-the-box certification. An offeror would have to provide additional detailed information only upon the request of the contracting officer.

At 52.212–3(h), made an equivalent change for the certification for commercial items.

2. The Stay

The interim rule published at 66 FR 17754, April 3, 2001, immediately stayed the December final rule and also requested public comment. During the stay, the FAR text was restored to the text, as it existed before January 19, 2001. The FAR Council intended the stay to last for 270 days from April 3, 2001 (December 29, 2001), or until finalization of the April proposed rule, whichever is sooner. In a separate document being published today elsewhere in this issue, the FAR Council is terminating the stay.

The FAR Council determined that the December final rule 30-day effective date did not give contractors, and the Government, sufficient time to meet the new obligations and responsibilities imposed by the final rule. Government contracting officers had not had sufficient training.

Offerors had not had sufficient time to establish a system to track compliance with applicable laws and keep it current, in order to be able to properly fill out the certification. Although there is language in the noncommercial items certification, which assures contractors that no system of records needs to be established to render the certification in good faith, this language was not found in the commercial items certification. There are criminal penalties for a false certification (18 U.S.C. 1001). The FAR Council recognized that it would take more time than it anticipated for businesses to put the systems in place. Ninety-eight comments were received on the stay.

3. Extension of Public Comment Period and Public Meeting

The FAR Council published in the **Federal Register** at 66 FR 23134, May 7, 2001, an extension of the April proposed rule public comment period from June 4, 2001, to July 6, 2001, to ensure potential commentors had adequate time to prepare their comments, and a notice of a public meeting on June 18, 2001, to ensure an open dialogue between the Government and interested parties on the April proposed rule. Twenty-seven individuals and organizations presented at the public meeting.

4. Reconsideration

Under the April proposed rule, the FAR Council reassessed the advantages and disadvantages of the changes made by the December 20, 2000, final rule, to determine if the benefits of the rule are outweighed by the burdens imposed by the rule. In this regard, it was not clear to the FAR Council that there is a justification for including the added categories of covered laws in the rule and its implementing certification, that the rule provided contracting officers with sufficient guidelines to prevent arbitrary or otherwise abusive implementation, or that the final rule was justified from a cost-benefit perspective.

The FAR Council realized that there was a high degree of controversy about the merits of the December final rule (there were 1800 public comments). The typical FAR rule generates about 1 percent of that amount. The two proposed rules that resulted in the December final rule were the most controversial ever published by the FAR Council. Adverse comments were made by individuals within the Government itself, as well as by the public.

After the publication of the December final rule, the FAR Council continued to receive information that the December final rule was not in the best interests of industry or the Government. The FAR Council wanted to be responsive to the needs of the contracting community, and therefore continued a dialog about the rule. Some 4698 public comments were received in response to the April 3, 2001, proposed rule. All comments were considered in the formulation of the final rule (see Section 5 of this preamble). The FAR Council has determined that the December final rule should be revoked in its entirety.

With the revocation of the December final rule, contracting officers will continue to have the authority and duty to make responsibility decisions. Agency debarring officials will continue to have the authority and duty to make determinations whether to suspend and debar a contractor. The requirement that contractors must be responsible is statutory. Offerors must have a satisfactory record of integrity and business ethics.

The FAR Council fully supports the proposition that Government contracts should be awarded to law-abiding entities. Entities whose behavior reflects negatively on their responsibility have always been subject to scrutiny and the possibility of being disqualified for award of Government contracts. In fact, the very last thing a contracting officer must do before awarding a Government contract is determine whether the company is responsible. This requirement has been a long-standing policy and process of Government contracting dating prior to the Civil War. Ferreting out companies who are not responsible has been a responsibility shared by a number of individuals in the Government's contracting process. The FAR Council supports the principle that the Government should do business only with those entities willing and able to comply with the laws enumerated in the December final rule.

After reviewing the public comments submitted in response to the proposed revocation of the December final rule (66 FR 17758, April 3, 2001), it is clear that there is a conviction held by people at many levels and many walks of life that the Government should conduct its business with corporations that adhere to the law. The problem lies in the means to ensure that the entities with which the Government conducts its business are good citizens and adhere to the myriad of regulations and laws. In other words, we support the objective but find the vehicle unworkable and defective.

The FAR Council finds that the current regulations governing suspension and debarment provide adequate protection to address serious threats of waste, fraud, abuse, poor performance, and noncompliance. Any one of these concerns may authorize suspension or debarment under appropriate conditions and circumstances, subject to judicial review.

The FAR Council reminds members of the general public that anyone may submit to an agency debarment official relevant information about the responsibility of a company seeking to do business with the Government. Debarment and suspension provides a means of getting adverse information to appropriate Government officials with appropriate procedures, knowledge, and skills to review and take appropriate action in such matters. This process also provides subjects of those actions with due process procedures that will withstand judicial scrutiny. The outcome of these reviews have Governmentwide applicability within the executive branch.

The existing debarment process provides the authority for at least one official in an executive agency which procures goods or services with appropriated funds under the FAR, to be responsible for reviewing the behavior of contractors to determine whether that company is sufficiently responsible to continue doing business with the Government. That official is the agency debarring official. The agency debarring official is typically located at the agency's headquarters. This individual is typically a senior official of the agency familiar with a variety of issues that affect contractor responsibility and supported by a staff including the agency's general counsel. The debarring official is authorized to consider a company's responsibility at any time, whether the company is a current competitor for a Government contract or not. Should the debarring official determine that the company is not responsible, the debarring official may impose a debarment of the company. This debarment is effective with regard to all Federal agencies and many state and local governments as well who choose to use the debarment list as their own. The suspension and debarment rules contain well established and defined decision-making criteria and due process safeguards, which have evolved through case law precedent and agency practices.

When a question of a company's honesty and integrity is raised, reliance on the debarment and suspension remedies provides effective intervention. This remedy provides consistent application of a determination across the enterprise of Government and will assure that officials with both the training and expertise will consider and resolve these matters. There are some 50 causes upon which entities may be found ineligible to conduct business including business done under nonprocurement transactions under the Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants) rules; otherwise known as the Common Rule for Suspension and Debarment.

5. Summary of Public Comments

Below is a summary of the issues raised in the public comments:

"The Government ought not do business with lawbreakers" was a common thread in the sentiment expressing support for the December final rule. The FAR Council agrees with this statement. Only doing business with law abiding contractors provides a positive incentive for voluntary compliance with tax, environmental, labor, civil rights, and consumer laws, as well as criminal laws involving contracting and certain other kinds of business activities. The debarment regulations provide a highly effective remedy for appropriately excluding those who cannot or will not comply with the law, especially where there is a demonstrated lack of business integrity or honesty.

The December final rule flies in the face of long-standing policy of neutrality in labor-management disputes. Technically, the language in the December final rule does not require a change in the policy of impartiality in labor-management disputes. In practice, the December final rule could undermine the longstanding policy of neutrality in labor-management disputes.

The December final rule requires contracting officers to perform a function, which they lack the experience, procedures, and resources to perform. Contracting officers are not experts in tax laws, labor and employment laws, environmental laws, antitrust laws, and consumer protection laws. This lack of expertise would create a problem rather than solving a problem. Contracting officers are not the appropriate individuals to make decisions regarding satisfactory compliance with the law.

The requirement in the December final rule to consult with legal counsel before finding a prospective contractor nonresponsible does not resolve this issue. Legal counsel may not be an expert in the covered laws under review in the instant fact situation. An agency suspension and debarment authority has the requisite knowledges and skills combined with the required procedures and resources to use the information to support suspension and debarment decisions.

De facto debarment could occur under the December final rule. In some cases, repeated nonresponsibility findings based on the same facts, within the same agency, could be considered a de facto debarment. The suspension and debarment rules contain well established and defined decision-making criteria and due process safeguards, which have evolved through case law precedent and agency practices.

The December final rule's wording is unclear and provides insufficient guidance for contracting officers. There is no guidance to contracting officers to ensure consistent application. Contracting officers could make disparate nonresponsibility determinations. The hierarchy establishing the priority and weight to be given to various types of evidence does not resolve this issue.

Sufficient enforcement regulations already existed before the December final rule. The Government has sufficient regulations to address contractor responsibility. Among other things, debarment rules provide for existing and appropriate remedies with sufficient due process safeguard for addressing conduct adversely reflecting on business honesty and integrity. Also, for example, under statutory schemes, determinations in the area of worker health and safety, failure to pay minimum wages, or violations of other worker protection laws lie within the purview of the Department of Labor. This approach ensures consistency Governmentwide.

The certification under the December final rule is burdensome. The certification is contrary to the intent of the Federal Acquisition Streamlining Act of 1994 and the Clinger-Cohen Act of 1996 because it imposes an unnecessary requirement with little or no offsetting commensurate benefit. Moreover, agencies lack the resources and expertise to effectively use the information received under the certification.

The December final rule undermines competition. Contactors may be unwilling to spend money to submit offers unless they can ascertain the basis by which responsibility determinations will be made with some degree of exactness and objectivity. As stated above, the December final rule's wording is unclear and provides insufficient guidance for contracting officers.

After reviewing the public comments in response to the proposed revocation of the December rule, it is clear that there is a conviction held by people at many levels and many walks of life that the Government should conduct its business with entities that adhere to the law. The FAR Council agrees that the Government should not do business with lawbreakers. The problem lies in the means to ensure that the entities with which the Government conducts business are good corporate citizens and adhere to the myriad of regulations and laws. The FAR Council has determined that the suspension and debarment process is the proper vehicle to accomplish this goal. The suspension and debarment rules contain well-established and defined decision-making criteria and due process safeguards, which have evolved through case law precedent and agency practices.

This rule is a significant rule and was subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule will eliminate FAR revisions implemented under FAR case 1999–010 published in the **Federal Register** on December 20, 2000 (65 FR 80255), that did not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 104–13) applies because the FAR changes to Parts 9 and 52 decrease the information collection requirements that the Office of Management and Budget (OMB) approved under OMB Control Number 9000–0094. un

The FAR Council estimates that the annual reporting burden for OMB Control Number 9000–0094 applies to 89,995 respondents, of which approximately 50,000 would be affected by the modified certification requirement. The 39,995 subcontractors that respond to inquiries from the prime contractor regarding debarment, suspension, or proposed debarment are not affected by the modified certification requirements. The total estimated responses of 500,000 per year are not affected by the modified certification requirements.

The FAR Council estimates that the modified certification requirement would reduce the total burden by 505,000 hours, changing the total from 596,667 to 91,667. This is based on an estimate of 50,000 respondents and 500,000 responses per year. The FAR Council estimates that the modified certification would take an average of 1 hour less for each of the 50,000 initial responses and .3 hours less for each of the 450,000 subsequent responses that year, for a total of 185,000 hours less to respond to the modified certification requirements. The FAR Council further estimates that in many acquisitions, the contracting officer only would have requested additional information if the otherwise apparently successful offeror had certified affirmatively. However, the FAR Council estimates, in some source selections, the contracting officer would have requested such information from all offerors in the competitive range that certified affirmatively. Therefore, we estimate a reduced burden of 140,000 hours for providing additional information. This is based on a burden estimate of 4 hours per initial response and 1 hour per subsequent response, for a total of 140,000 hours for providing additional information. The FAR Council further estimates an additional reduction of 180,000 annual recordkeeping hours based on an estimated average of 6 hours per year for recordkeeping for each of the 30,000 respondents to respond to the request for additional information.

The revised annual reporting burden is estimated as follows:

Respondents: 89,995.

Responses Per Respondent: 12.22.

Total Annual Responses: 1,100,000.

Average Hours Per Response: .083.*

Total Burden Hours: 91,667 hours.

*Average hours per response is calculated by dividing total burden hours by total annual responses.

The Paperwork Reduction Act does not apply to FAR part 31 cost principles changes because the changes do not impose information collection requirements that require Office of Management and Budget approval under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 9, 14, 15, 31, and 52

Government procurement.

Dated: December 14, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 9, 14, 15, 31, and 52 as stayed effective April 3, 2001, as set forth below:

1. The authority citation for 48 CFR parts 9, 14, 15, 31, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 9—CONTRACTOR QUALIFICATIONS

9.103 [Amended]

2. Amend section 9.103 in paragraph (b) by removing the third sentence.

3. Amend section 9.104–1 by revising paragraph (d) to read as follows:

9.104–1 General standards.

(d) Have a satisfactory record of integrity and business ethics;

9.104–3 [Amended]

4. Amend section 9.104–3 by removing paragraph (c); and by redesignating paragraphs (d) and (e) as (c) and (d), respectively.

PART 14—SEALED BIDDING

5. Amend section 14.404–2 by revising paragraph (i) to read as follows:

14.404–2 Rejection of individual bids.

(i) Low bids received from concerns determined to be not responsible pursuant to subpart 9.1 shall be rejected (but if a bidder is a small business

VOL 66 ISS 248 DE 27 2001 UMI

concern, see 19.6 with respect to certificates of competency).

* * * * *

PART 15—CONTRACTING BY NEGOTIATION

6. Amend section 15.503 by revising paragraph (a)(1) to read as follows:

15.503 Notification to unsuccessful offerors.

(a) *Preaward notices*—(1) *Preaward notices of exclusion from competitive range.* The contracting officer shall notify offerors promptly in writing when their proposals are excluded from the competitive range or otherwise eliminated from the competition. The notice shall state the basis for the determination and that a proposal revision will not be considered.

* * * * *

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–21 [Amended]

7. Amend section 31.205–21 by removing the paragraph designation "(a)"; and by removing paragraph (b) in its entirety.

8. Amend section 31.205–47 in paragraph (a) by adding, in alphabetical order, the definition "Fraud" (which was removed in the December 20, 2000, final rule (65 FR 80255) and stayed effective April 3, 2001); and by revising paragraph (b)(2) to read as follows:

31.205–47 Costs related to legal and other proceedings.

(a) * * *

Fraud, as used in this subsection, means—

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents;

(2) Acts which constitute a cause for debarment or suspension under 9.406–2(a) and 9.407–2(a); and

(3) Acts which violate the False Claims Act, 31 U.S.C., sections 3729–3731, or the Anti-Kickback Act, 41 U.S.C., sections 51 and 54.

* * * * *

(b) * * *

(2) In a civil or administrative proceeding, either a finding of contractor liability where the proceeding involves an allegation of fraud or similar misconduct or imposition of a monetary penalty where the proceeding does not involve an allegation of fraud or similar misconduct;

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.209–5 [Amended]

9. In section 52.209–5—

a. Revise the date of the provision to read "(DEC 2001)";

b. In paragraph (a)(1)(i)(B), remove "the three-year" and add "a three-year" in its place; and add "and" at the end of the paragraph;

c. In paragraph (a)(1)(i)(C), at the end of the paragraph, remove "; and" and add a period in its place; and

d. Remove paragraph (a)(1)(ii), and redesignate paragraph (a)(1)(iii) as (a)(1)(ii).

10. Amend section 52.212–3 by revising the date of the provision and paragraph (h) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—COMMERCIAL ITEMS (*Dec 2001*)

(h) *Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549)*. The offeror certifies, to the best of its knowledge and belief, that—

(1) The offeror and/or any of its principals [ ] are, [ ] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency; and

(2) [ ] Have, [ ] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offerors; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and [ ] are, [ ] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

(End of provision)

[FR Doc. 01–31302 Filed 12–26–01; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121). It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2001–03 which amend the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared in accordance with 5 U.S.C. 604. Interested parties may obtain further information regarding these rules by referring to FAC 2001–03 which precedes this document. These documents are also available via the Internet at *http://www.arnet.gov/far*.

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2001–03

Item	Subject	FAR case	Analyst
I	Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings.	1999–010 (stay)	De Stefano.
II	Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation.	2001–014	De Stefano.

Item I—Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings (FAR Case 1999–010 (Stay))

The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 65 FR 80255, December 20, 2000, a final rule addressing contractor responsibility and costs incurred in legal and other proceedings. After further review, the FAR Council published an interim rule in the **Federal Register** at 66 FR 17754, April 3, 2001, staying that rule. This final rule terminates the stay.

Item II—Contractor Responsibility, Labor Relations Costs, and Costs Relating to Legal and Other Proceedings—Revocation (FAR Case 2001–014)

The Federal Acquisition Regulatory Council (FAR Council) published in the **Federal Register** at 66 FR 17758, April 3, 2001, a proposed rule (April proposed rule) with a request for public comments. The April proposed rule proposed revoking a final rule published in the **Federal Register** at 65 FR 80255, December 20, 2000 (December final rule). The December final rule addressed responsibility and costs incurred in legal and other proceedings. This rule finalizes the April 3, 2001, proposed rule.

Dated: December 14, 2001.

Gloria M. Sochon,

Acting Director, Acquisition Policy Division.

[FR Doc. 01–31303 Filed 12–26–01; 8:45 am]

BILLING CODE 6820–EP–P

VOL
66
ISS
2
4
8
DE
27
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Thursday,
December 27, 2001

Part III

Department of Transportation

Research and Special Programs Administration

49 CFR Part 195
Controlling Corrosion on Hazardous Liquid and Carbon Dioxide Pipelines; Final Rule

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA-97-2762; Amdt. 195-73]

RIN 2137-AD24

Controlling Corrosion on Hazardous Liquid and Carbon Dioxide Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: This Final Rule makes changes in some of the corrosion control standards for hazardous liquid and carbon dioxide pipelines. The changes are based on our review of the adequacy of the present standards compared to similar standards for gas pipelines and acceptable safety practices. The changes are intended to improve the clarity and effectiveness of the present standards, and reduce the potential for pipeline accidents due to corrosion.

DATES: This Final Rule takes effect January 28, 2002. The incorporation by reference of the publication listed in the rule is approved by the Director of the Federal Register January 28, 2002.

Compliance dates: Under § 195.563(c), operators of certain effectively coated buried piping in breakout tank areas or pump stations are not required to cathodically protect that piping until December 29, 2003. Under § 195.567(a), operators of cathodically protected pipelines or pipeline segments that lack test leads for external corrosion control are not required to install test leads until December 29, 2004. Under § 195.573(a)(2), operators are not required to determine the circumstances in which a close-interval survey or comparable technology is practicable and necessary until December 29, 2003. Under § 195.573(b), operators of unprotected pipe are not required to reevaluate the need for corrosion control on the pipe at least every 3 years until December 29, 2003.

FOR FURTHER INFORMATION CONTACT: L. M. Furrow by phone at 202-366-4559, by fax at 202-366-4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, or by E-mail at *buck.furrow@rspa.dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

Corrosion causes a significant proportion of hazardous liquid pipelines accidents. Based on this finding, we reviewed the corrosion control standards in 49 CFR part 195 to determine if the standards need to be made clearer, more effective, or consistent with acceptable safety practices. We believe that improving the standards will have the potential to reduce the number of accidents caused by corrosion.

The review began September 8, 1997, when we held a public meeting in Oak Brook, Illinois to discuss how part 195 corrosion control standards and the corrosion control standards for gas pipelines in 49 CFR part 192 might be improved (62 FR 44436; Aug. 21, 1997). We held the public meeting in conjunction with meetings of National Association of Corrosion Engineers International (NACE), a professional technical society dedicated to corrosion control. Participants agreed, universally, that part 192 and part 195 corrosion control standards are largely sufficient, and although some changes may be needed, the standards should remain generally unchanged.

Based on this conclusion, we began to consider whether the more comprehensive part 192 gas standards, possibly with some changes, would be appropriate for part 195's hazardous liquid and carbon dioxide pipelines. We met then, from time to time, with representatives of NACE, the pipeline industry, and state pipeline safety agencies for technical input. At these meetings, we also examined whether the part 192 standards need to be more effective or clearer. The meetings raised various concerns about the effectiveness and clarity of some of the part 192 corrosion control standards and the suitability of applying those standards to hazardous liquid and carbon dioxide pipelines. We also took into account that the National Association of Pipeline Safety Representatives, the Gas Piping Technology Committee, and the National Transportation Safety Board had at various times recommended changes to part 192 and part 195 corrosion control standards. So, to gather public comment on our concerns and the changes these organizations recommended, we held another public meeting on April 28, 1999, in San Antonio, Texas, and invited the public to submit written comments. The comment period remained open until June 30, 1999 (64 FR 16885; April 7, 1999).

Notice of Proposed Rulemaking

Sixty-two persons filed written comments in response to the San Antonio meeting notice. We then summarized these comments in a notice of proposed rulemaking (NPRM) published last year (65 FR 76968; Dec. 8, 2000). The NPRM proposed to add to part 195 a new subpart H called Corrosion Control. Subpart H would prescribe corrosion control standards for all new and existing steel pipelines to which part 195 applies. At this time, we also decided to address the concerns, recommendations, and comments that pertain primarily to the corrosion control standards in part 192 in a separate notice of proposed rulemaking on gas pipelines.

Although there was little support in the record for allowing NACE Standard RP0169-96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems," to serve as an alternative to standards proposed in subpart H, we specifically requested further comment on this issue due to NACE's standing in the field of corrosion. Unfortunately, no one commenting on the NPRM responded to that request, perhaps because of earlier discussions of the issue in Oak Brook and San Antonio. While NACE urged us to reference the entire NACE Standard, not just section 6 as we proposed, NACE did not assert that the NACE Standard could serve as an acceptable alternative to proposed subpart H.

The NPRM discussed each of the standards proposed for inclusion in subpart H. Many of these standards are identical to present corrosion control requirements in part 195, and many of the standards are substantially like the present requirements in part 192. Proposed subpart H also includes standards that, while based on present part 192 requirements, include changes which we think are beneficial improvements.

Discussion of Comments

We received comments from the following entities in response to the NPRM: Alberta Energy Company (AEC), City of Dallas Water Utilities, Enron Transportation Services Company (Enron), Environmental Defense, Equilon Pipeline Company (Equilon), L.A. "Roy" Bash, NACE, Phillips Pipe Line Company (Phillips), State of Iowa Utilities Board (Iowa), State of Washington Utilities and Transportation Commission (WUTC), and Tosco Corporation (Tosco). Most commenters supported the rulemaking, and all but the City of Dallas recommended changes to some of the proposed standards.

The City of Dallas related its experience with a major pipeline spill caused partly by corrosion. Gasoline containing MTBE, a fuel oxygenate which effects the taste and odor of water, entered a lake resulting in a water supply crisis. The City stated that it is critical for DOT to adopt rules to require all pipelines, especially those transporting gasoline with MTBE near a municipal water resource, to be regularly monitored for corrosion, cracks, and leaks; and that any deficiencies found, be timely repaired.

This rulemaking will accomplish what the City of Dallas is seeking with respect to corrosion. In particular, §§ 195.573, 195.579, and 195.583 will require operators to monitor pipelines regularly for corrosion and correct any deficiencies found in corrosion control. Additionally, new § 195.585 specifies corrective action for any harmful corrosion found. The timeliness of correcting corrosion control deficiencies and harmful corrosion is covered by existing §§ 195.401(b) and 195.452(h).

The requirement for operators to patrol their pipelines regularly for signs of failures is longstanding (§ 195.412(a)). However, we recently broadened requirements by publishing standards on integrity management which will require pipelines in or near high-consequence areas, such as drinking water sources, to be internally inspected or pressure tested at regular intervals for corrosion, cracks, and other defects (65 FR 75377; Dec. 1, 2000). These new standards currently apply to operators with 500 or more miles of hazardous liquid pipelines, and we have proposed similar standards for the remaining hazardous liquid operators subject to part 195 (66 FR 15821; Mar. 21, 2001).

The following material, which is organized by sections of final subpart H, summarizes comments on the NPRM. In addition, the material explains how we treated the comments and other considerations in developing final subpart H. If a subsection is not mentioned, no significant comments were received on the corresponding proposed rule and we are adopting the proposed rule as final.

Section 195.551. This informational section provides the content of subpart H. Subpart H contains minimum requirements for protecting steel pipelines against corrosion.

In commenting on proposed § 195.551, Tosco suggested we replace the term "steel" with "metallic" so subpart H would apply to pipelines made of any metal. Indeed, our corrosion control standards for gas pipelines apply to any metallic pipeline (49 CFR 192.451(a)). However, in contrast to gas pipelines, hazardous liquid and carbon dioxide pipelines are almost exclusively made of steel. For this reason, many of the existing standards in part 195, including corrosion control standards, apply only to steel pipelines. Our review of the corrosion control standards did not disclose a need to expand their coverage to include pipelines made of metals other than steel. In commenting on the NPRM, no one, including Tosco, presented information to explain why the coverage should be expanded. Nevertheless, operators are required to provide us an opportunity to review the safety of any pipeline that is to be constructed with a material other than steel (§ 195.8). In the case of a metallic pipeline made from a material other than steel, such as aluminum, our review would include the operator's plan for corrosion control.

Section 195.553. This new section was not in the NPRM. It provides definitions of terms used in subpart H. The definitions of "active corrosion," "electrical survey," and "pipeline environment," proposed in § 195.569(c), drew no adverse comment. Additionally, final § 195.553 establishes definitions of "buried" and "you." The definition of "buried" reflects the common corrosion control practice of treating any portion of pipe in contact with the soil as if that portion were buried. The term "you" has the same meaning as "operator."

Section 195.555. This section, based on proposed § 195.553, keeps in effect the existing qualification standards in § 195.403(c) for corrosion control supervisors. Under § 195.403(c), each operator must require and verify that its supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under § 195.402 for which they are responsible, to insure compliance.

While Tosco and WUTC supported the proposed rule, Phillips objected to it. Phillips believed that part 195 should include qualifications for supervisors of all operation and maintenance activities, not just corrosion control. In the negotiated rulemaking on qualification of pipeline personnel (64 FR 46866; Aug. 27, 1999), we removed the requirements in § 195.403(c) concerning qualifications of supervisors of operations and maintenance activities, effective October 28, 2002. We did so based on the requirement under subpart G of part 195, that on this date, individuals performing regulated operation and maintenance activities must be fully qualified, thus lessening the need to regulate the qualifications of their supervisors. After revising § 195.403(c), our more specific review of the corrosion control standards called attention to the special role that supervisors play in carrying out corrosion control activities. As we explained in the NPRM, individuals qualified to do such activities as taking electrical readings, usually hand the data collected over to supervisors who make critical decisions about corrosion control adequacy and the need for corrective action. None of the commenters, including Phillips, argued that corrosion control supervisors do not need to have the qualifications required by existing § 195.403(c). So given the special role of corrosion control supervisors and the apparent acceptability of the existing supervisor qualification requirements, we continue to believe those requirements should remain in effect after October 28, 2002. This decision does not affect the expiration on October 28, 2002, of qualification requirements for supervisors of other operation and maintenance activities.

Equilon and NACE believed qualifications for supervisors should be no less rigorous than stated in paragraph 1.3 of NACE Standard RP0169–96. These NACE provisions address the need for corrosion control supervisors to have a minimum level of technical competency.[1] In our corrosion control review, we considered this NACE provision as well as 49 CFR 192.453, which provides that gas pipeline corrosion control procedures must be carried out by or under the direction of a person qualified in corrosion control methods. Also, in the San Antonio meeting notice, we asked if more specific standards are needed for individuals who direct corrosion control procedures. Everybody who responded opposed changing § 192.453, and most responders also opposed establishing specific technical qualifications like those in NACE Standard RP0169–96. We expect that individuals who qualify as a supervisor under proposed § 195.553, will have appropriate technical training or experience in corrosion control. Given that neither our review, nor comments on the NPRM disclosed anything in the pipeline industry's safety record to demonstrate the need for more specific technical qualifications, we did not adopt the Equilon and NACE comment.

Sections 195.557, 195.559, and 195.561. These three standards on external coating are based on proposed § 195.555 and 195.557. Collectively, the standards require buried or submerged pipelines to have external coating with particular attributes, and require operators to inspect pipe coating and repair any damage. As stated in proposed § 195.555, the standards are limited to pipelines constructed, relocated, replaced, or otherwise changed after certain effective dates in § 195.401(c); and limited to certain converted pipelines. In final § 195.557, we have clarified that aboveground breakout tank bottoms need not be coated. We determined that such a requirement is impractical and not a customary corrosion control practice.

---

[1] Paragraph 1.3 reads:

The provisions of this standard shall be applied under the direction of competent persons who, by reason of knowledge of the physical sciences and the principles of engineering and mathematics, required by education and related practical experience, are qualified to engage in the practice of corrosion control on buried or submerged metallic piping systems. Such persons may be registered professional engineers or persons recognized as corrosion specialists or cathodic protection specialists by NACE if their professional activities include suitable experience in external corrosion control of buried or submerged metallic piping systems.

In the NPRM, we proposed in § 195.555 to limit the applicability of proposed §§ 195.557 (external coating), 195.559 (cathodic protection), and 195.561 (test leads) to pipelines constructed, replaced, relocated, or otherwise changed after the applicable effective date. We based proposed § 195.555, for the most part, on existing § 195.200, titled Scope, which similarly limits the applicability of corresponding existing §§ 195.238, 195.242, and 195.244. However, we inadvertently omitted from § 195.555 the pipe movement exception included in § 195.200. In this Final Rule, the substance of proposed § 195.555 regarding external coating and cathodic protection is in § 195.557(a), which does include the omitted exception for pipe movement. We addressed the proposed limit on test leads differently, as discussed below under the heading, section 195.567.

Tosco believes it would be helpful to include in subpart H the past effective dates cross-referenced in proposed § 195.555. Tosco believes the dates are not widely known. We did not adopt this comment because the dates are already stated in § 195.401(c) for purposes of indicating the applicability of standards in addition to corrosion control standards, and we do not want to create an unnecessary redundancy in part 195.

Final § 195.557 specifies which pipelines must have external coating. Rather than cross-referencing § 195.5(b) to indicate which converted pipelines must have coating, we transferred to final § 195.557 the coating aspect of § 195.5(b). We transferred the cathodic protection aspect to final § 195.563(b); and the test lead aspect is covered by § 195.567.

Equilon and NACE suggested we establish an additional standard to minimize damage to coating when operators install pipe by boring, driving, directional drilling, or any similar method. Final § 195.559(d) requires external coating to have enough strength to resist damage due to handling and soil stress. We believe this standard is broad enough to cover the potential pipe installation problems raised by these commenters.

Phillips advised against requiring the installation of coating on older existing bare or ineffectively coated pipelines. We believe Phillips may be referencing existing hazardous liquid pipelines constructed before the applicable effective dates stated in § 195.401(c). These pipelines are not subsequently replaced, relocated, or otherwise changed. Final § 195.557 does not require these older pipelines to be coated.

Tosco suggested that § 195.557 should include the dates for which pipelines must have external coating. The final rule accomplishes this objective by cross-referencing § 195.401(c). Restating the dates listed in § 195.401(c) would be unnecessarily redundant since the dates are in § 195.401(c) for purposes other than corrosion control.

Section 195.563. Final § 195.563 combines cathodic protection requirements proposed in §§ 195.555, 195.559, and 195.563. It also cross-references final § 195.573(b), which requires cathodic protection of unprotected pipe found to have active corrosion. As a result, all pipelines that must have cathodic protection under subpart H are identified in a single section.

Final § 195.563(a), which is based on proposed §§ 195.559(a) and (b), requires cathodic protection on each pipeline that must have an external coating under § 195.557(a). The cross-reference to § 195.557(a) limits the cathodic protection requirement to those pipelines constructed, relocated, replaced, or otherwise changed after certain dates, as proposed under § 195.555. Section 195.563(a) does not contain the second sentence of proposed § 195.559(a) which would require operators to have a test procedure to determine whether adequate cathodic protection was achieved. We now believe this sentence is redundant due to the routine monitoring conducted to determine the adequacy of cathodic protection, required by final § 195.573(a). Also, amended § 195.402(c)(3) requires operators to have procedures to carry out § 195.573(a). Although proposed § 195.559(b) only referred to completion of construction as the beginning of the period during which cathodic protection must be installed, final § 195.563(a) reflects the broader applicability indicated by proposed § 195.555.

We proposed in § 195.559(a), which was based on existing § 195.242(a), a requirement that operators install cathodic protection systems on all buried or submerged pipelines "to mitigate corrosion that might result in structural failure." Equilon and NACE suggested this proposed rule would be clearer if we replaced "structural failure" with "structural failure or penetration of pipe or tank wall." In light of their comment, we believe the phrase, "to mitigate corrosion that might result in structural failure," creates confusion. It could be interpreted to require protection only against severe external corrosion. Moreover, since it is clear that existing § 195.242(a) requires cathodic protection against all external corrosion, the phrase seems superfluous. Therefore, we did not use it in final § 195.563(a).

Equilon and NACE also commented on the § 195.559(b) proposed requirement that a cathodic protection system be installed not later than 1 year after completing construction. They believe cathodic protection should be in effective operation at the end of 1 year, to guard against significant corrosion that could be caused by stray currents or galvanic long-line currents. We believe effective operation is implicit in the existing and proposed standards on installation of cathodic protection. Nevertheless, to avoid confusion on this point, in final § 195.563(a) we replaced "installed" with "in operation." This change is consistent with the comparable standard for gas pipelines in § 192.455(a)(2). Under final § 195.571, when the cathodic protection system is placed in operation, it would have to comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2 and 6.3 of NACE Standard RP0169–96. Subsequent electrical tests and other steps required by final § 195.573(a) will assure that adequate protection is maintained.

WUTC raised the concern that under proposed § 195.559(b) corrosion could go uncontrolled on some facilities for up to 2 years. Based on a Washington State administrative rule, WUTC recommended that § 195.559(b) require that facilities be cathodically protected within 90 days after they are buried or submerged. We did not propose to change the currently required time limit (1 year after completing construction) because our review of the corrosion control standards and the comments from the San Antonio meeting did not indicate any need to reduce the installation time limit. After considering

WUTC's comment, we still believe 1 year after construction is acceptable as a generally applicable time limit considering that soil conditions may need time to stabilize in order to support cathodic protection.

Final § 195.563(b) requires cathodic protection on certain converted pipelines. This requirement does not differ substantively from the cathodic protection aspect of the corrosion control requirement of § 195.5(b). Therefore, we are modifying § 195.5(b) to cross-reference the new subpart H standards.

Under final § 195.563(c), which is based on proposed § 195.563, all buried or submerged pipelines, that have an effective external coating must have cathodic protection. This requirement does not apply to breakout tanks. This requirement is substantially the same as existing § 195.414(a), which requires that all effectively coated pipelines must be cathodically protected, except for breakout tank areas and buried pumping station piping.

However, Equilon and NACE each stated it saw no need to except buried piping in breakout tank areas and pumping stations from the requirement to cathodically protect effectively coated pipelines. We agree that the exception seems to lack a sound safety basis. For example, NACE Standard RP0169–96 does not have a similar exception from cathodic protection. Also, we believe it is now common practice in the hazardous liquid pipeline industry to cathodically protect effectively coated buried piping in breakout tank areas and pump stations. So, in view of the Equilon and NACE comments, and our further consideration, we decided to terminate the exception for buried piping in breakout tank areas and pumping stations. Therefore, the final rule keeps the exception in effect only until December 29, 2003. This period will give operators time to install cathodic protection on any effectively coated piping in breakout tank areas and pumping stations where it is not already installed. Also, since no one commented on application of the proposed rule to the bottoms of breakout tanks and there may not be many older breakout tanks that have effectively coated bottoms, the final rule does not change the present exception for breakout tank bottoms.

Initially, we did not propose regulations similar to §§ 195.414(b) and (c), which require cathodic protection in areas of active corrosion found through electrical inspections previously required on bare pipelines, breakout tank areas, and buried pumping station piping. We reasoned that §§ 195.414(b) and (c) are no longer necessary because the inspection deadlines had expired. However, we now recognize that the cathodic protection provisions of §§ 195.414(b) and (c) are continuing requirements, and so we included them in subpart H as final § 195.563(d).

Section 195.565. This section, concerning the installation of cathodic protection on breakout tanks, is the same as proposed § 195.559(c). There were no comments on proposed § 195.559(c).

Section 195.567. In this section concerning test leads, paragraphs (a) and (b) are based on proposed § 195.561 and existing § 195.244. The existing test lead standards in § 195.244 apply to onshore pipelines constructed, replaced, relocated, or otherwise changed after certain past dates; and to onshore converted pipelines if required by § 195.5(b). The NPRM did not propose to vary this application. However, upon further consideration of the importance of test leads in determining the adequacy of cathodic protection, we are applying final § 195.567 to all onshore pipelines that must have cathodic protection under subpart H. This increased coverage will affect pipelines or segments of pipelines that must have cathodic protection under existing §§ 195.414 and 195.416(d) (i.e., effectively coated pipelines and places on bare pipelines, breakout tank areas, and pumping station piping where active corrosion is found through electrical inspection). The increased coverage will also affect converted pipelines that were not substantially in compliance with existing § 195.244 when placed in service, as § 195.5(b) now permits. To ease the burden of compliance on existing cathodically protected pipelines or pipeline segments on which test leads are not now required by existing § 195.244 or § 195.5(b), final § 195.567(a) allows operators 3 years to identify these pipelines or pipeline segments and install test leads as necessary to meet § 195.567(b). On existing unprotected pipelines, any newly identified segment that must have cathodic protection as a result of an electrical survey under final § 195.573(b), must have test leads in time to carry out the annual monitoring test under final § 195.573(a).

Final § 195.567 is consistent with acceptable practices. The practices recommended for test leads in NACE Standard RP0169–96 and in ASME B31.4 are not limited to new, relocated or replaced pipelines. Also, our gas pipeline regulations in 49 CFR 192.469 and 192.471 for test stations and test leads, apply to all gas pipelines that must be cathodically protected under 49 CFR part 192. Moreover, existing § 195.416(a) requires annual testing of each cathodically protected pipeline to determine the adequacy of cathodic protection; and operators normally comply with this requirement by obtaining electrical measurements through test leads. So we believe § 195.567 will have only a minimal impact on hazardous liquid pipeline companies.

Based on existing § 195.244(b)(1), we proposed in § 195.561(b)(1) that operators install test leads with enough looping or slack to prevent the leads from being unduly stressed or broken during backfilling. Equilon and NACE suggested that to assure test lead wires remain effective, we should add the phrase "to remain mechanically secure and electrically conductive." We believe the objective of this phrase is within the purpose of the existing rule, and therefore, added the phrase to final § 195.567(b)(2) for emphasis.

The long term integrity of test leads is also covered by final § 195.567(c). Based on proposed § 195.573, this standard requires maintenance of test leads. There were no comments on the proposed rule, however we edited the final rule for clarity.

Equilon and NACE also commented on testing cathodic protection of offshore pipelines. They contended that test lead readings at platforms or at shore locations may be of little benefit in determining the adequacy of cathodic protection of offshore pipelines. As an alternative to such readings, they suggested we require operators to analyze or inspect each cathodic protection system before the end of its design life. In our experience, test leads for offshore pipelines normally are installed only on platforms or on shore because of the difficulty of accessing leads at underwater locations. For this reason, § 195.567 does not apply to buried or submerged portions of offshore pipelines. Since pipeline corrosion in an offshore environment generally occurs at a uniform rate, we believe readings taken by operators at offshore platforms or on shore are used satisfactorily to determine the adequacy of protection over the entire pipeline. Moreover, this test method is acceptable for offshore gas pipelines under paragraph A862.15 of the ASME B31.8 Code. Because there is no information to support the need to require the use of an alternative testing method, we chose not to take action on the commenters' suggestion.

WUTC commented that because the proposed standard does not prescribe the number or precise location of test leads, government inspectors may disagree with operators over whether

VOL 66 ISS 248 DE 27 2001 UMI

test readings are sufficient to determine the adequacy of cathodic protection. To ameliorate this situation, WUTC suggested that we require operators to conduct close-interval electrical surveys every 5 years. Although final § 195.567 does not specify the number or precise location of test leads, it does provide a performance standard for the location of test leads. Under § 195.567(b)(1) test leads must be installed at sufficiently frequent intervals to obtain electrical measurements indicating the adequacy of cathodic protection. Section 4.5 of NACE Standard RP0169–96, which lists many customary test lead locations, may be used as a guide to comply with § 195.567(b)(1). Additionally, the final rule on monitoring external corrosion control, § 195.573, will require operators to use close-interval surveys in some situations and install additional test leads where warranted.

Section 195.569. This section, which is based on proposed § 195.565, provides that whenever an operator learns that any portion of a buried pipeline is exposed, the exposed portion must be examined for external corrosion if the pipe is bare or has deteriorated coating. Further, if external corrosion requiring remedial action is found, the operator must investigate pipe in the vicinity of the exposed portion (by visual examination, indirect method, or both) to determine if there is any additional external corrosion requiring remedial action.

Phillips requested more flexibility in the proposed requirement to look for additional corrosion. Phillips commented that the extent of further investigation should depend on the type of corrosion found and whether the corrosion could be expected to extend beyond the exposed segment. We do not believe there is a clear understanding of the relationship between the type of corrosion and the likelihood of finding similar corrosion in the vicinity of the exposed pipe to justify limits on the requirement for additional investigation. Pipe and soil conditions are generally too variable to make such predictions with accuracy. Therefore, we did not adopt Phillips' comment.

WUTC believed subpart H should include additional requirements for operators to do more to determine the condition of coating than just visually examine it whenever pipelines are exposed. WUTC stated that the standards should require operators to conduct surveys to identify areas with coating defects and take remedial measures such as re-coating the pipeline. Although the final rules do not specifically require pipe coating surveys, operators must conduct electrical tests periodically to determine the adequacy of corrosion control on their buried pipelines. Low cathodic protection potential readings obtained during these tests often are a sign of coating defects. So, in areas with low potential readings, many operators supplement cathodic protection tests with coating surveys to help them identify places where the pipeline must be excavated to look for corrosion cells or to determine where additional cathodic protection must be applied. The need to mandate the use of coating surveys in addition to electrical tests for corrosion, was not evident from our review of the regulations.

Section 195.571. This standard, proposed as § 195.567, incorporates by reference the criteria and other considerations in section 6 of NACE Standard RP0169–96, as standards for the adequacy of cathodic protection.

Environmental Defense and Iowa argued that because cathodic protection criteria are fundamental to safety, the criteria should be stated in part 195 rather than incorporated by reference. Iowa believed that acquiring and maintaining a separate document is arbitrary and unnecessarily burdensome. In considering these comments, we reviewed OMB Circular A119 and the National Technology Transfer and Advancement Act of 1995. Both documents direct Federal agencies to use consensus standards where practical to meet their policy objectives rather than develop government-unique standards. We also reviewed the rules of the **Federal Register** on incorporation by reference. In light of these Federal policies, we think it is appropriate for us to incorporate the NACE criteria and other considerations by reference, as proposed.

Enron, Environmental Defense, and L. A. (Roy) Bash urged us to adopt the criteria in Appendix D of part 192 instead of the NACE criteria. Enron commented that many operators are successfully using Appendix D for hazardous liquid pipelines; and Environmental Defense viewed Appendix D as more specific and therefore more enforceable. Roy Bash submitted technical documentation in support of two Appendix D criteria, 300 mV shift and E-log-I. In the NPRM we discussed our reluctance to propose Appendix D as the new standard for hazardous liquid pipelines because the Appendix D 300 mV shift and E-log-I criteria are not incorporated in the NACE Standard. Furthermore, we explained that under paragraph 6.2.1 of the NACE Standard, operators may use any criteria which they can demonstrate achieves corrosion control comparable to section 6 criteria. Also, operators may continue to use criteria which they have successfully applied to existing pipelines, on these pipelines. While this provision may satisfy Enron, and should satisfy Roy Bash's concern about the continued use of the 300 mV shift and E-log-I criteria, the lack of specificity in paragraph 6.2.1 may be indicative of Environmental Defense's concern. Yet, we do not believe the performance wording of paragraph 6.2.1 alone is sufficient reason not to reference section 6 of the NACE Standard. On the contrary, we generally favor performance standards over specification standards because they encourage operators to develop and apply better alternatives. If however, an operator chooses to use alternative criteria, we will carefully examine the operator's rationale for determination that the criteria met the "comparable to" or "successfully applied" tests of paragraph 6.2.1 of the NACE Standard.

WUTC was concerned that the criteria in section 6 of the NACE Standard would not be mandatory because paragraph 6.1.1 refers to paragraph 1.2, which states that the Standard is a guide; and also refers to paragraph 1.4, which allows deviations from the Standard. Proposed § 195.567 refers solely to the criteria and other consideration provisions of section 6, which are contained in paragraphs 6.2 and 6.3 of the NACE Standard. We did not intend to allow operators to treat section 6 as a guide or to deviate from the criteria and other considerations in section 6. Therefore, the final rule refers to paragraphs 6.2 and 6.3, instead of section 6.

WUTC was also concerned about special conditions, such as elevated temperatures, disbonded coatings, thermal insulating coatings, shielding, bacterial attack, and unusual contaminants in the electrolyte, which may cause cathodic protection to be ineffective. WUTC believed the rules on coating and cathodic protection should address these special conditions. The theory behind final § 195.571 is that if all external surfaces of a pipeline are cathodically protected according to the criteria and other considerations in paragraphs 6.2 and 6.3 of the NACE Standard, external corrosion will be controlled successfully. In practice, if an operator learns though in-line inspection or other means that because of a special condition external corrosion is not being controlled successfully, the operator must take corrective action. The operator could either remedy the condition or adjust the cathodic protection system to assure the adequacy of cathodic protection in the area of the special condition. We believe this requirement is implicit in final § 195.571. Section 195.573(e) also would require corrective action if the condition is detected by monitoring under § 195.573.

In addition, WUTC was concerned that the proposed rules did not specify how long the cathodic protection current may be shut off when measuring polarization decay under the minimum 100 mV criterion. WUTC suggested that the limit be no more than 48 hours, unless a recording chart shows continuing significant decay beyond that time. To satisfy the100 mV criterion by the decay method, operators must determine that a negative polarization voltage shift of at least 100 mV occurs after the immediate voltage shift caused by shutting off the cathodic protection current. Whether this minimum negative voltage shift occurs in minutes or hours after the current is cut off, it is irrelevant to satisfying the criterion. We recognize that the longer the current remains off, the greater the opportunity for the pipeline to corrode. However, in our experience decay tests have not posed a serious problem in this regard to warrant establishing a time limit.

Finally, WUTC opposed use of the net protective current criterion on bare or ineffectively coated hazardous liquid pipelines. WUTC was concerned about the criterion being applied only at predetermined current discharge points identified through leaks, leak history, or electrical surveys, preventing the pipeline from having complete cathodic protection against corrosion leaks. WUTC suggested that if we allow use of the criterion, we limit its use to pipelines constructed before part 195 went into effect. According to part 195's terms, the net protective current criterion applies only to bare or ineffectively coated pipelines. Because all pipelines subject to part 195 construction standards must be effectively coated, the net protective current criterion will mostly be used on older pipelines constructed before those standards took effect. The effective dates for different groups of pipelines are stated in § 195.401(c).

WUTC's primary concern seems to be that we did not propose a requirement that operators fully cathodically protect bare or ineffectively coated pipelines. We did not propose such action for several practical reasons. To cathodically protect these pipelines over their entire surface area without first coating or recoating them would require very high levels of impressed currents. Cathodic protection systems producing such high current levels would be costly to install, maintain, and operate. Also, to coat all bare or ineffectively coated buried pipelines in order to facilitate cathodic protection could be a costly endeavor. We also considered the possibility that raising pipe sections to coat them would likely create unanticipated stresses and disturb pipe foundations, introducing new risk factors not present in the existing pipelines.

Section 195.573. This section is based on proposed § 195.569. It requires operators to monitor the performance of cathodic protection facilities and monitor unprotected pipe for active corrosion.

Final § 195.573(a) enhances proposed § 195.569 with regard to determinations of the adequacy of cathodic protection. We edited § 195.573(a) to clearly state that operators must conduct tests to determine whether cathodic protection complies with § 195.571 and not whether cathodic protection is adequate, as proposed. In addition, we are concerned that proposed § 195.569 does not provide latitude in monitoring separately protected short segments of bare or ineffectively coated pipelines, as does the corresponding rule for monitoring protected gas pipelines (49 CFR 192.465(a)). The gas rule allows monitoring of short protected segments over a 10-year period where annual monitoring is impractical. We considered adding a similar provision to § 195.573(a) but decided that the 10-year period would add more latitude than circumstances warrant on bare or ineffectively coated hazardous liquid pipelines. Many operators now monitor short protected segments of bare or ineffectively coated lines on the same cycle as adjoining unprotected segments. So, rather than use the gas rule provision, we added a provision that allows monitoring at 3-year intervals which is consistent with the monitoring cycle we are adopting for unprotected sections (see discussion of § 195.573(b) below).

We also addressed the problem of how to test pipelines to determine the adequacy of cathodic protection. In complying with existing § 195.416(a), which was the basis of proposed § 195.569, operators generally conducted electrical surveys. This action involves measuring potentials at pre-established test stations, to determine the adequacy of cathodic protection. In practice, however, this method of compliance has not always been sufficient to assure protection of all pipeline surfaces. Corrosion problems often arise in areas between test stations where there may be interference currents, different environmental conditions, damaged coatings, or malfunctioning anodes. So, in order to check on cathodic protection adequacy in greater detail, many operators augment test station data with periodic close-interval electrical surveys or use newer technologies. As WUTC pointed out in its comments, these more detailed surveys also help operators determine if additional test stations are needed to assure the adequacy of cathodic protection.

Paragraph 10.1.1.3 of NACE Standard RP0169–96 recommends that operators use close-interval surveys where they are practicable and sound engineering judgment indicates they are necessary.[2] For this reason and because we believe the general method of monitoring cathodic protection at established test stations may not always be sufficient, we have referenced the NACE provision in final § 195.573(a)(2). Although the final rule does not prescribe a frequency of close-interval surveys, operators will have to describe in their maintenance procedures the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of the NACE Standard, and then follow those procedures.

In order to provide operators with time to prepare for compliance with the new close-interval survey requirement, the compliance date for existing pipelines will not be mandatory until December 29, 2003.

Final § 195.573(b), which is based on proposed § 195.569(c), requires that operators must reevaluate their unprotected pipe and cathodically protect the pipe where active corrosion is found. Operators must determine if active corrosion exists by electrical survey where practical, or otherwise by a review and analysis of certain maintenance records and the pipeline environment. Proposed definitions of the terms "active corrosion," "electrical survey," and "pipeline environment" are combined with other definitions in final § 195.553. Also, final § 195.573(b) applies to "pipe" rather than "pipelines" as proposed, because we did not intend for the proposed rule to apply to unprotected breakout tank bottoms. Integrity inspection of the bottoms of breakout tanks is covered by existing § 195.432.

---

[2] Paragraph 10.1.1.3 reads: Where practicable and determined necessary by sound engineering practice, a detailed (close-interval) potential survey should be conducted to (a) assess the effectiveness of the cathodic protection system; (b) provide base line operating data; (c) locate areas of inadequate protection levels; (d) identify locations likely to be adversely affected by construction, stray currents, or other unusual environmental conditions; or (e) select areas to be monitored periodically.

VOL 66 ISS 248 DE 27 2001 UMI

Equilon, Environmental Defense, and NACE argued that because unprotected pipelines may deteriorate as they age, operators should reevaluate these pipelines at intervals of less than 5 years, the maximum interval proposed in the NPRM. They suggested that to be consistent with part 192 we set the maximum interval at 3 years, not to exceed 39 months. Like these commenters, Iowa also saw a need to add 3 months to the maximum interval, whether it be 5 or 3 years, to provide scheduling and operational flexibility.

In view of the three comments favoring a 3-year inspection interval and the Technical Hazardous Liquid Pipeline Safety Standards Committee's unanimous recommendation to establish a maximum 3-year interval (see the Advisory Committee Consideration heading below), we reconsidered whether the appropriate maximum inspection interval should be 3 or 5 years. We considered the fact that the relation between relevant risk factors on unprotected pipelines and an appropriate inspection interval is uncertain. As discussed in the NPRM, we are also seeking to make the corrosion control standards for gas and hazardous liquid pipelines consistent wherever reasonable. At present part 192 prescribes a maximum inspection interval of 3 years for unprotected gas pipelines; and part 195 prescribes 5 years. Although there is no evidence in the record to demonstrate conclusively the advantage of a 3-year interval over a 5-year interval, taking into consideration the risk to the public and environment, we believe the more conservative 3-year interval is the prudent choice. Furthermore, we believe this choice is reasonable based on our enforcement experience, as well as, discussions with industry representatives which indicate that many hazardous liquid pipeline operators inspect their unprotected pipelines every 3 years. Therefore, the final rule is changed from the proposed maximum 5-year interval to a maximum 3-year interval.

In order to provide operators with time to prepare for compliance with the new 3-year inspection interval, compliance will not be mandatory until December 29, 2003.

Equilon and NACE suggested that in-line inspection may be a more appropriate alternative to electrical survey than analysis of leak repairs and other matters as proposed in § 195.569(c). However, the proposed rule did not limit an operator's choice of alternatives to an analysis of leak repairs. Rather, where electrical surveys are impractical, we proposed the use of any alternative means of determining whether active corrosion exists, as long as that means includes a review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment. Under the final rule, if operators have in-line inspection data and want to use it as an alternative to electrical surveys where such surveys are impractical, they may do so provided they interpret the data in light of the required review and analysis of other pertinent information.

WUTC suggested we put the following sentence in the final rule: "Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring." We discussed in the NPRM why we did not propose such a requirement. We stated that it is unnecessary to direct such action due to the existing requirements under § 195.401(b). This section requires operators to correct within a reasonable time any condition that could adversely affect safe operation of a pipeline system; and if an immediate hazard exists, to cease operating the affected part of the system until the condition is corrected. In addition, on pipelines that could affect high consequence areas, new § 195.452(h) requires operators to take prompt actions to address integrity issues and to repair certain conditions within specific time limits. However, in light of WUTC's comment, we established § 195.573(e) to draw attention to the remedial action required by existing §§ 195.401(b) and 195.452(h).

WUTC also was concerned that the discretion built into the proposed definition of "active corrosion" would allow operators to ignore corrosion leaks detrimental to public safety or the environment. WUTC suggested we require operators to classify and schedule all corrosion leaks for repair. In response, we believe the purpose of proposed § 195.569(c) is to require operators to look for and cathodically protect certain areas of corrosion before leaks occur. Operator response to leaks, whether due to corrosion or other causes, is not covered by new subpart H. Leak response is governed by existing § 195.401(b) or § 195.452(h), which together require timely corrective action for all unsafe conditions on pipelines subject to Part 195.

Section 195.575. This standard requires electrical isolation to provide for adequate cathodic protection. The standard is based on proposed § 195.571.

Enron expressed support for the proposed rule; however, Tosco believed we should specify the frequency of inspection and electrical tests.

We did not adopt Tosco's comment because the purpose of the proposed inspection and electrical tests is to ensure that electrical isolation is adequate when it is installed. All post-installation inspections and tests of cathodic protection facilities are covered by final § 195.573.

In final paragraph (d), for clarity, we changed the proposed wording "where a combustible atmosphere is anticipated" to read "where a combustible atmosphere is reasonable to foresee." Similarly in paragraph (e), we changed the proposed "where fault currents or unusual risk of lightning may be anticipated" to read "where it is reasonable to foresee fault currents or an unusual risk of lightning."

Section 195.577. The purpose of this standard, which is based on proposed § 195.575, is to minimize the adverse effects of stray currents on pipelines and the effects of impressed currents on adjacent structures. Expressing support for the proposed rule, Tosco stated that the proposed program to identify, test for, and minimize the detrimental effects of stray currents may result in operators participating in corrosion coordinating groups. We agree that such coordination may be necessary for an effective program.

Section 195.579. This standard, proposed as § 195.577, requires operators to investigate the effects of transporting hazardous liquid or carbon dioxide which could corrode the pipeline, and take adequate steps to mitigate corrosion. Tosco suggested that in the final rule we clarify that the investigation may be done by review of operating history. A review of relevant operating history may be a satisfactory investigation in some situations. However, we did not explicitly include this option in final § 195.579. We used the proposed wording because we think it is broad enough to permit operators to use any method of investigation that will provide a sound basis for deciding how to mitigate internal corrosion adequately.

Under proposed § 195.577(d), if operators discover harmful corrosion inside removed pipe, they must investigate further to determine if additional harmful corrosion exists in the vicinity of the removed pipe. Phillips suggested that the extent of further investigation should depend upon the type of corrosion found and whether that corrosion could be expected to extend beyond the exposed segment. We do not believe there is a clear understanding of the relationship between the type of corrosion and the likelihood of finding similar corrosion in the vicinity of removed pipe to justify limits on a requirement for additional investigation. The effect of corrosive liquids on pipe may be too variable to make such predictions with accuracy. Therefore, we did not adopt Phillips' comment.

Section 195.581. This section, based on proposed § 195.579, modifies an existing requirement (§ 195.416(i)) that all pipelines exposed to the atmosphere must be protected against atmospheric corrosion by a suitable coating. Final § 195.581 gives operators flexibility when deciding to coat pipelines where atmospheric corrosion will be limited to a light surface oxide, or will not affect the safe operation of the pipeline before the next scheduled inspection. Splash zones of offshore pipelines and soil-to-air interfaces of onshore pipelines are omitted from this exception.

Iowa opposed allowing pipe with metal loss to remain unprotected or unrepaired. Iowa stated that public safety should not depend on an operator's judgment of whether a corroding pipe will not fail before the next inspection (which could be up to 3 years). Yet under the proposed rule, if an operator chose not to coat, it would have to show that testing, investigation, or experience supports the decision. In other words, safety would not depend solely on an operator's judgment. Also, the need for coating would be reviewed again in 3 years. A 3-year delay in coating a pipeline judged to be safe should not jeopardize public safety, considering that atmospheric corrosion generally progresses at a slow rate. Therefore, we did not adopt Iowa's comment. Nevertheless, mindful of Iowa's concern, we edited the final wording to clarify that any decision not to coat a particular pipeline must be supported by testing, investigation, or experience relevant to that pipeline.

Tosco called the proposed rule "a positive revision." However, Enron recommended that we add "active" as a descriptor of "atmospheric corrosion." It believed the term "active atmospheric corrosion" would clarify that the rule does not apply to harmless corrosion. We did not adopt Enron's comment because we think the proposed exceptions will satisfy Enron's objective. Also, "active atmospheric corrosion" is a term that may not be in general use in the industry.

Section 195.583. Under this section, proposed as § 195.581, operators must periodically inspect exposed pipelines for atmospheric corrosion, giving particular attention to areas such as soil-to-air interfaces. Onshore pipelines must be inspected every 3 years; and offshore pipelines every year. If any inspection reveals atmospheric corrosion, the operator must protect the pipeline against atmospheric corrosion in accordance with § 195.581.

Enron, Equilon, Iowa, and NACE advocated adding a 3 months grace period to the maximum 3-year inspection interval. We agree that this period is useful to allow operators scheduling and operational flexibility, and included it in final § 195.583.

Tosco wanted to make certain that the proposed remedial action would not be required for light surface oxide. By the cross reference to § 195.581, final § 195.583 allows operators latitude when deciding to coat pipelines which exhibit only a light surface oxide.

AEC urged us to allow operators to use means of assessment other than periodic visual inspection. As an example, AEC commented that by using in-line inspection and a corrosion growth model, operators could predict when a pipeline should be reinspected or repaired. This approach, according to AEC, would enable operators to allocate resources for maximum benefits instead of periodically scattering them across entire systems. AEC's comment indicates two things: first, AEC apparently misunderstood the proposed rule to mandate visual inspection; and second, AEC would like operators themselves to decide appropriate inspection frequencies with the aid of a corrosion growth model. As to the first item, the proposed rule would not limit operators to using visual means of inspection. They could use any means capable of detecting atmospheric corrosion, including in-line inspection devices. As to growth models, AEC did not suggest which model, if any, can successfully predict the growth of atmospheric corrosion on exposed pipelines in changing and varied environments. Furthermore, AEC did not suggest how operators would decide when to inspect exposed pipe that has no history of corrosion. Since the record of this rulemaking proceeding lacks information on these important issues, we have adopted the proposed inspection frequencies as final. However, we would welcome receiving more complete information that could possibly serve as a basis for changing the rule as AEC suggests.

AEC also suggested we extend the proposed maximum inspection interval for onshore pipelines from 3 years to 5 years. It believes that extending the time to 5 years is appropriate because atmospheric corrosion rates are low, and exposed pipe is typically located outside high consequence areas where the maximum interval for reevaluation of pipeline integrity is 5 years (see § 195.452(j)(3)). In developing the proposed rule, we considered whether 3 or 5 years would be the appropriate maximum interval. We proposed 3 years primarily because the ASME B31.4 Code, a widely accepted consensus standards code for hazardous liquid pipelines, specifies a minimum 3-year inspection frequency for atmospheric corrosion onshore. Generally, atmospheric corrosion rates are found to be low and therefore, we must assume this factor was considered when the 3-year consensus standard was adopted. However, a low rate by itself does not seem to justify a longer interval. Also, the 5-year interval for integrity reevaluation in high consequence areas is based on various factors besides corrosion rate, including the time needed to carry out in-line inspections or pressure testing on the pipelines involved. Moreover, the 5-year reevaluation applies in addition to other monitoring frequencies required by part 195, such as annual cathodic protection monitoring and biweekly right-of-way inspections. Yet, we did not intend the 5-year period to serve as a yardstick for determining the adequacy of other monitoring frequencies.

Finally, AEC was concerned about the possible adverse consequences of visually inspecting soil-to-air interfaces on pipe spans over creeks and ravines. AEC suggested that if the interface is on a steep bank, the process of visually examining the pipe could accelerate bank erosion causing water pollution and overstress of the pipeline. We believe the proposed inspection requirement is flexible enough to allow operators to take precautions in inspecting soil-to-air interfaces on steep banks to avoid or minimize the disturbance AEC foresees. Should a disturbance occur that affects the safe operation of the pipeline, the operator would have to correct the problem. We did not change the final rule as a result of this comment.

Section 195.585. This section, which is substantively the same as proposed § 195.583, requires operators to take certain actions to correct corroded pipe. If general corrosion reduces pipe wall thickness to less than that required for the maximum operating pressure of the pipeline or if localized corrosion pitting exists to a degree that leakage might result, the operator must: replace the pipe; repair the pipe; or reduce the maximum operating pressure commensurate with the strength of the pipe. We edited the final rule to clarify that it is the "maximum operating pressure" that must be reduced.

VOL 66
ISS 248
DE 27 2001
UMI

Environmental Defense believed this section also should require operators to account for why corrosion has become so advanced. This commenter suggested operators should review their corrosion control systems to ensure that further harmful corrosion will not occur. We believe the combination of cathodic protection criteria under § 195.571 and periodic monitoring under § 195.573 will accomplish the objective of this comment. Whenever an operator discovers a corrosion control deficiency, it must review its corrosion control system and make adjustments as necessary to provide adequate protection against corrosion. If adequate protection cannot be achieved, the pipe involved may have to be replaced.

Section 195.587. This section is based on proposed § 195.585. It authorizes, but does not require, operators to use the widely accepted ASME B31G criteria for determining the remaining strength of corroded steel pipe.

Iowa fully supported the proposed rule. In contrast, WUTC was concerned that because ASME B31G allows wall loss of up to 80 percent without repair or replacement, it does not provide a reasonable measure of strength needed to withstand cyclical stresses, environmental loads, and other combined forces.

Although WUTC is correct, we consider B31G to be a guide to the capability of corroded pipe to withstand internal pressure. Final § 195.587 advises operators that B31G sets limits on use of the criteria. One limitation states that a pipe subject to significant secondary stresses should not be kept in service for the purpose of satisfying the criteria (paragraph 1.2(d)). To ensure that operators consider the effects of secondary stresses, in final § 195.585(a)(1), we added the words "needed for serviceability" immediately following "strength of the pipe." Consequently, as a remedy for generally corroded pipe, operators may reduce maximum pressure commensurate with the pipe strength needed for serviceability. In determining the amount of pressure reduction required, operators may use B31G but also must consider any significant secondary stresses that may affect pipe serviceability.

Section 195.589. Under this section, proposed as § 195.587, operators must to keep current records or maps of the location of cathodically protected pipelines; cathodic protection facilities (including anodes) installed after the Final Rule takes effect; and structures bonded to cathodic protection systems. Additionally, operators must keep records of required maintenance activities including inspections, tests, analyses, checks, demonstrations, examinations, investigations, reviews, and surveys. These records must demonstrate the adequacy of corrosion control measures, or that corrosion requiring control measures does not exist. Operators will have to keep these records for at least 5 years, except that records related to § 195.569 (examination of pipeline when exposed); §§ 195.573(a) and (c) (monitoring external corrosion control); and §§ 195.579(b)(3) and (c) (monitoring internal corrosion control) will have to be kept for as long as the pipeline involved is in service.

Commenting on examinations of exposed pipe, Equilon and NACE believed that there is no need to keep records of good pipe for as long as the pipeline remains in service, and that there is no need to keep records of defective pipe after the latest in-line inspection. Equilon and NACE also contended that old records of internal corrosion monitoring are of little benefit without knowledge of flow rates, upstream pipeline operations, fluid properties, and other information. None of these records are generally available. We did not adopt either comment because the proposed records provide a useful history of pipeline condition and are easy to maintain in electronic form. The records may be helpful in assessing corrosion control needs, and could be used as a comparative base for evaluating in-line inspection data.

We also considered the Equilon and NACE comment that subpart H should not require operators to keep records of maintenance activities that occur before subpart H takes effect. Final § 195.589 specifically states that records must be kept for certain maintenance activities "required by this subpart." For example, final § 195.589 does not require operators to keep records of corrosion control monitoring conducted before subpart H takes effect. However, until subpart H takes effect, § 195.404(c)(3) requires records of corrosion control inspections and tests required by subpart F of part 195. Operators must continue to maintain records established under that section for the retention period prescribed.

Tosco believed we should revise § 195.404(c)(3) to indicate that corrosion control records are required by subpart H. However, no confusion about the application of § 195.404(c)(3) to corrosion control should occur because this section applies only to inspections and tests "required by this subpart," meaning, required by subpart F. After new subpart H goes into effect, Subpart F will no longer require corrosion control inspections and tests.

Phillips argued that the current 2-year retention requirement in § 195.404(c)(3) is adequate for auditing compliance, since 2 years of records show the current state of corrosion control. However, as we explained in the NPRM, 5 years is the minimum retention period that will assure the availability of records for our compliance auditing.

Environmental Defense stated that it would help government inspectors determine the adequacy of cathodic protection systems if we required operators to keep records of the location of existing cathodic protection facilities and not just those facilities installed after subpart H takes effect. While this suggestion has merit, we did not propose to require records of existing facilities due to the difficulty of creating such records, particularly for galvanic anode systems. Also, in our experience the lack of such a requirement has not caused a significant problem due to the number of operators who keep records of the location of existing corrosion control facilities.

Format and Organization

In accordance with **Federal Register** guidelines, we drafted final subpart H in an easier to read and understand format. Section headings are in the form of questions. We minimized passive voice and used the word "you" as a substitute for "operator." Also, a few proposed sections were eliminated, combined with other sections, or separated into two or more sections. This Final Rule also changes §§ 195.5, 195.402, 195.404 and removes §§ 195.236, 195.238, 195.242, 195.244, 195.414, 195.416, 195.418 to account for the new subpart H.

Advisory Committee Consideration

We presented the NPRM for consideration by the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) at a meeting in Washington, DC on February 7, 2001 (66 FR 132; Jan. 2, 2001). The THLPSSC is RSPA's statutory advisory committee for hazardous liquid pipeline safety. The committee has 15 members, representing industry, government, and the public. Each member is qualified to consider the technical feasibility, reasonableness, cost-effectiveness, and practicability of proposed pipeline safety standards. The committee voted unanimously to approve proposed subpart H but unanimously recommended that we require operators of bare or ineffectively coated pipe to inspect the pipe for external corrosion every 3 years. Our treatment of this recommendation is discussed in the Discussion of Comments section under section 195.573. A transcript of the February 7, 2001, meeting is available in Docket No. RSPA–98–4470.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Policies and Procedures. RSPA does not consider this rulemaking to be a significant regulatory action under section 3(f) of Executive Order 12866 (58 FR 51735; Oct. 4, 1993). Therefore, the Office of Management and Budget (OMB) has not received a copy of this rulemaking to review. RSPA also does not consider this rulemaking to be significant under DOT regulatory policies and procedures (44 FR 11034: February 26, 1979).

We prepared a Final Regulatory Evaluation of the final rules and a copy is in the docket. The evaluation states that the rules are, on the whole, comparable either to existing safety standards currently in part 195 for hazardous liquid pipelines or to existing safety standards in part 192 for gas pipelines. The evaluation also states that the information presented at public meetings and meetings with industry and state representatives strongly suggests that imposing gas pipeline safety standards for corrosion control on hazardous liquid pipelines would not require a significant departure from customary safety practices on liquid pipelines.

An important feature of the final rules not found in part 192 or part 195 is the reference to cathodic protection criteria in NACE Standard RP0169–96. The evaluation states that these criteria are well known and widely followed throughout the industry, as indicated by meetings with industry representatives and by the voluntary standards in the ASME B31.4 Code. The evaluation further states that operators who do not now apply the NACE criteria are likely to apply the criteria in appendix D of part 192. The final rules would allow use of appendix D criteria under conditions stated in the NACE Standard. The evaluation concludes that there should be only minimal additional cost, if any, for operators to comply with the final rules.

Final § 195.563(c) (protecting effectively coated pipelines), § 195.567 (test leads), and § 195.573(a)(2) (monitoring cathodic protection by close-interval surveys or comparable technology) are changed from the proposed rules. However, the changes are consistent with industry practices and should not result in more than minimal additional costs.

Regulatory Flexibility Act. The final rules are consistent with customary practices for corrosion control in the hazardous liquid and carbon dioxide pipeline industry. Therefore, based on the facts available about the anticipated impacts of this rulemaking, I certify, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this rulemaking will not have a significant impact on a substantial number of small entities.

Executive Order 13084. The final rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13084, “Consultation and Coordination with Indian Tribal Governments.” Because the rules will not significantly or uniquely affect the communities of the Indian tribal governments and will not impose substantial direct compliance costs, the funding and consultation requirements of Executive Order 13084 do not apply.

Paperwork Reduction Act. Section 195.589 contains minor additional information collection requirements. Operators will be required to record the location of certain newly installed protection facilities, and keep these records for as long as the pipeline concerned is in service. In addition, records of inspections, tests, and other maintenance actions will have to be kept for as long as the pipeline is in service or for 5 years, depending on the nature of the information recorded. The present minimum retention period for records of inspections and tests is 2 years or the prescribed interval of test or inspection, whichever is longer (up to 5 years in some cases).

Hazardous liquid pipeline operators are required to keep records under Information Collection 2137–0047, Transportation of Hazardous Liquids by Pipeline: Record Keeping and Reporting Requirements. Operators already maintain records of the location of their protection facilities for as long as the pipeline is in service. They do so to find the facilities for their own purposes and to carry out existing monitoring requirements in part 195. Also, we believe the burden of retaining inspection, test, and survey records for the longer period will be minimal. These records are largely computerized and maintaining these records in a computer file represents very minimal costs. Because the additional paperwork burdens of this final rule are likely to be minimal, we believe that submitting an analysis of the burdens to OMB under the Paperwork Reduction Act is unnecessary.

Unfunded Mandates Reform Act of 1995. This rulemaking will not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

National Environmental Policy Act. We have analyzed the final rules for purposes of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*). Because the rules parallel present requirements or practices, we have determined they will not significantly affect the quality of the human environment. An environmental assessment document is available for review in the docket. We also made a finding of no significant impact.

Impact on Business Processes and Computer Systems. We do not want to impose new requirements that mandate business process changes when the resources necessary to implement those requirements could otherwise be applied to “Y2K” or related computer problems. The final rules do not mandate business process changes or require modifications to computer systems. Because the rules do not affect the ability of organizations to respond to those problems, we have not delayed the effectiveness of the requirements.

Executive Order 13132. The final rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (“Federalism”). The final rules do not contain any regulation that (1) has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts state law. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply. Nevertheless, during our review of the existing corrosion control standards, representatives of state pipeline safety agencies gave us advice both in private sessions and in the two public meetings we held. In addition, our pipeline safety advisory committees, which include representatives of state governments, were, on two occasions in 1999, briefed on the corrosion control review project.

Executive Order 13211. This rulemaking is not a “Significant energy action” under Executive Order 13211. It is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, this rulemaking has not

VOL 66 ISS 248 DE 27 2001 UMI

been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

List of Subjects in 49 CFR Part 195

Ammonia, Carbon dioxide, Incorporation by reference, Petroleum, Pipeline safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 195 is amended as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53.

2. Section 195.3 is amended by adding paragraphs (b)(8) and (c)(7) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(b) * * *

(8) NACE International, 1440 South Creek Drive, Houston, TX 77084.

(c) * * *

(7) NACE International (NACE):

(i) NACE Standard RP0169–96, "Control of External Corrosion on Underground or Submerged Metallic Piping Systems' (1996).

(ii) [Reserved]

3. Section 195.5(b) is revised to read as follows:

§ 195.5 Conversion to service subject to this part.

* * * * *

(b) A pipeline that qualifies for use under this section need not comply with the corrosion control requirements of subpart H of this part until 12 months after it is placed into service, notwithstanding any previous deadlines for compliance.

* * * * *

4. Section 195.402(c)(3) is revised to read as follows:

§ 195.402 Procedural manual for operations, maintenance, and emergencies.

* * * * *

(c) * * *

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

* * * * *

§ 195.404 [Amended]

5. In § 195.404, paragraph (a)(1)(v) is removed, and paragraphs (a)(1)(vi) through (a)(1)(viii) are redesignated as paragraphs (a)(1)(v) through (a)(1)(vii).

§§ 195.236, 195.238, 195.242, 195.244, 195.414, 195.416, 195.418 [Removed]

6. The following sections are removed and reserved: §§ 195.236, 195.238, 195.242, 195.244, 195.414, 195.416, and 195.418.

7. Subpart H is added to read as follows:

Subpart H—Corrosion Control

Sec.

195.551 What do the regulations in this subpart cover?
195.553 What special definitions apply to this subpart?
195.555 What are the qualifications for supervisors?
195.557 Which pipelines must have coating for external corrosion control?
195.559 What coating material may I use for external corrosion control?
195.561 When must I inspect pipe coating used for external corrosion control?
195.563 Which pipelines must have cathodic protection?
195.565 How do I install cathodic protection on breakout tanks?
195.567 Which pipelines must have test leads and how do I install and maintain the leads?
195.569 Do I have to examine exposed portions of buried pipelines?
195.571 What criteria must I use to determine the adequacy of cathodic protection?
195.573 What must I do to monitor external corrosion control?
195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?
195.577 What must I do to alleviate interference currents?
195.579 What must I do to mitigate internal corrosion?
195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?
195.583 What must I do to monitor atmospheric corrosion control?
195.585 What must I do to correct corroded pipe?
195.587 What methods are available to determine the strength of corroded pipe?
195.589 What corrosion control information do I have to maintain?

Subpart H—Corrosion Control

§ 195.551 What do the regulations in this subpart cover?

This subpart prescribes minimum requirements for protecting steel pipelines against corrosion.

§ 195.553 What special definitions apply to this subpart?

As used in this subpart—

Active corrosion means continuing corrosion which, unless controlled, could result in a condition that is detrimental to public safety or the environment.

Buried means covered or in contact with soil.

Electrical survey means a series of closely spaced pipe-to-soil readings over a pipeline that are subsequently analyzed to identify locations where a corrosive current is leaving the pipeline.

Pipeline environment includes soil resistivity (high or low), soil moisture (wet or dry), soil contaminants that may promote corrosive activity, and other known conditions that could affect the probability of active corrosion.

You means operator.

§ 195.555 What are the qualifications for supervisors?

You must require and verify that supervisors maintain a thorough knowledge of that portion of the corrosion control procedures established under § 195.402(c)(3) for which they are responsible for insuring compliance.

§ 195.557 Which pipelines must have coating for external corrosion control?

Except bottoms of aboveground breakout tanks, each buried or submerged pipeline must have an external coating for external corrosion control if the pipeline is—

(a) Constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c), not including the movement of pipe covered by § 195.424; or

(b) Converted under § 195.5 and—

(1) Has an external coating that substantially meets § 195.559 before the pipeline is placed in service; or

(2) Is a segment that is relocated, replaced, or substantially altered.

§ 195.559 What coating material may I use for external corrosion control?

Coating material for external corrosion control under § 195.557 must—

(a) Be designed to mitigate corrosion of the buried or submerged pipeline;

(b) Have sufficient adhesion to the metal surface to prevent under film migration of moisture;

(c) Be sufficiently ductile to resist cracking;

(d) Have enough strength to resist damage due to handling and soil stress;

(e) Support any supplemental cathodic protection; and

(f) If the coating is an insulating type, have low moisture absorption and provide high electrical resistance.

§ 195.561 When must I inspect pipe coating used for external corrosion control?

(a) You must inspect all external pipe coating required by § 195.557 just prior to lowering the pipe into the ditch or submerging the pipe.

(b) You must repair any coating damage discovered.

§ 195.563 Which pipelines must have cathodic protection?

(a) Each buried or submerged pipeline that is constructed, relocated, replaced, or otherwise changed after the applicable date in § 195.401(c) must have cathodic protection. The cathodic protection must be in operation not later than 1 year after the pipeline is constructed, relocated, replaced, or otherwise changed, as applicable.

(b) Each buried or submerged pipeline converted under § 195.5 must have cathodic protection if the pipeline—

(1) Has cathodic protection that substantially meets § 195.571 before the pipeline is placed in service; or

(2) Is a segment that is relocated, replaced, or substantially altered.

(c) All other buried or submerged pipelines that have an effective external coating must have cathodic protection.[1] Except as provided by paragraph (d) of this section, this requirement does not apply to breakout tanks and does not apply to buried piping in breakout tank areas and pumping stations until December 29, 2003.

(d) Bare pipelines, breakout tank areas, and buried pumping station piping must have cathodic protection in places where regulations in effect before January 28, 2002 required cathodic protection as a result of electrical inspections. See previous editions of this part in 49 CFR, parts 186 to 199.

(e) Unprotected pipe must have cathodic protection if required by § 195.573(b).

§ 195.565 How do I install cathodic protection on breakout tanks?

After October 2, 2000, when you install cathodic protection under § 195.563(a) to protect the bottom of an aboveground breakout tank of more than 500 barrels (79.5m^3) capacity built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), you must install the system in accordance with API Recommended Practice 651. However, installation of the system need not comply with API Recommended Practice 651 on any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of API Recommended Practice 651 is not necessary for the safety of the tank.

§ 195.567 Which pipelines must have test leads and what must I do to install and maintain the leads?

(a) *General.* Except for offshore pipelines, each buried or submerged pipeline or segment of pipeline under cathodic protection required by this subpart must have electrical test leads for external corrosion control. However, this requirement does not apply until December 27, 2004 to pipelines or pipeline segments on which test leads were not required by regulations in effect before January 28, 2002.

(b) *Installation.* You must install test leads as follows:

(1) Locate the leads at intervals frequent enough to obtain electrical measurements indicating the adequacy of cathodic protection.

(2) Provide enough looping or slack so backfilling will not unduly stress or break the lead and the lead will otherwise remain mechanically secure and electrically conductive.

(3) Prevent lead attachments from causing stress concentrations on pipe.

(4) For leads installed in conduits, suitably insulate the lead from the conduit.

(5) At the connection to the pipeline, coat each bared test lead wire and bared metallic area with an electrical insulating material compatible with the pipe coating and the insulation on the wire.

(c) *Maintenance.* You must maintain the test lead wires in a condition that enables you to obtain electrical measurements to determine whether cathodic protection complies with § 195.571.

§ 195.569 Do I have to examine exposed portions of buried pipelines?

Whenever you have knowledge that any portion of a buried pipeline is exposed, you must examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If you find external corrosion requiring corrective action under § 195.585, you must investigate circumferentially and longitudinally beyond the exposed portion (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the exposed portion.

§ 195.571 What criteria must I use to determine the adequacy of cathodic protection?

Cathodic protection required by this subpart must comply with one or more of the applicable criteria and other considerations for cathodic protection contained in paragraphs 6.2 and 6.3 of NACE Standard RP0169–96 (incorporated by reference, see § 195.3).

§ 195.573 What must I do to monitor external corrosion control?

(a) *Protected pipelines.* You must do the following to determine whether cathodic protection required by this subpart complies with § 195.571:

(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.

(2) Identify before December 29, 2003 or not more than 2 years after cathodic protection is installed, whichever comes later, the circumstances in which a close-interval survey or comparable technology is practicable and necessary to accomplish the objectives of paragraph 10.1.1.3 of NACE Standard RP0169–96 (incorporated by reference, see § 195.3).

(b) *Unprotected pipe.* You must reevaluate your unprotected buried or submerged pipe and cathodically protect the pipe in areas in which active corrosion is found, as follows:

(1) Determine the areas of active corrosion by electrical survey, or where an electrical survey is impractical, by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment.

(2) For the period in the first column, the second column prescribes the frequency of evaluation.

Period	Evaluation frequency
Before December 29, 2003.	At least once every 5 calendar years, but with intervals not exceeding 63 months.
Beginning December 29, 2003.	At least once every 3 calendar years, but with intervals not exceeding 39 months.

(c) *Rectifiers and other devices.* You must electrically check for proper performance each device in the first column at the frequency stated in the second column.

---

[1] A pipeline does not have an effective external coating material if the current required to cathodically protect the pipeline is substantially the same as if the pipeline were bare.

VOL 66 ISS 248 DE 27 2001 UMI

Device	Check frequency
Rectifier	At least six times each calendar year, but with intervals not exceeding 2½ months.
Reverse current switch.	
Diode	
Interference bond whose failure would jeopardize structural protection.	
Other interference bond.	At least once each calendar year, but with intervals not exceeding 15 months.

(d) *Breakout tanks.* You must inspect each cathodic protection system used to control corrosion on the bottom of an aboveground breakout tank to ensure that operation and maintenance of the system are in accordance with API Recommended Practice 651. However, this inspection is not required if you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain operation and maintenance provisions of API Recommended Practice 651 is not necessary for the safety of the tank.

(e) *Corrective action.* You must correct any identified deficiency in corrosion control as required by § 195.401(b). However, if the deficiency involves a pipeline in an integrity management program under § 195.452, you must correct the deficiency as required by § 195.452(h).

§ 195.575 Which facilities must I electrically isolate and what inspections, tests, and safeguards are required?

(a) You must electrically isolate each buried or submerged pipeline from other metallic structures, unless you electrically interconnect and cathodically protect the pipeline and the other structures as a single unit.

(b) You must install one or more insulating devices where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

(c) You must inspect and electrically test each electrical isolation to assure the isolation is adequate.

(d) If you install an insulating device in an area where a combustible atmosphere is reasonable to foresee, you must take precautions to prevent arcing.

(e) If a pipeline is in close proximity to electrical transmission tower footings, ground cables, or counterpoise, or in other areas where it is reasonable to foresee fault currents or an unusual risk of lightning, you must protect the pipeline against damage from fault currents or lightning and take protective measures at insulating devices.

§ 195.577 What must I do to alleviate interference currents?

(a) For pipelines exposed to stray currents, you must have a program to identify, test for, and minimize the detrimental effects of such currents.

(b) You must design and install each impressed current or galvanic anode system to minimize any adverse effects on existing adjacent metallic structures.

§ 195.579 What must I do to mitigate internal corrosion?

(a) *General.* If you transport any hazardous liquid or carbon dioxide that would corrode the pipeline, you must investigate the corrosive effect of the hazardous liquid or carbon dioxide on the pipeline and take adequate steps to mitigate internal corrosion.

(b) *Inhibitors.* If you use corrosion inhibitors to mitigate internal corrosion, you must—

(1) Use inhibitors in sufficient quantity to protect the entire part of the pipeline system that the inhibitors are designed to protect;

(2) Use coupons or other monitoring equipment to determine the effectiveness of the inhibitors in mitigating internal corrosion; and

(3) Examine the coupons or other monitoring equipment at least twice each calendar year, but with intervals not exceeding 7½ months.

(c) *Removing pipe.* Whenever you remove pipe from a pipeline, you must inspect the internal surface of the pipe for evidence of corrosion. If you find internal corrosion requiring corrective action under § 195.585, you must investigate circumferentially and longitudinally beyond the removed pipe (by visual examination, indirect method, or both) to determine whether additional corrosion requiring remedial action exists in the vicinity of the removed pipe.

(d) *Breakout tanks.* After October 2, 2000, when you install a tank bottom lining in an aboveground breakout tank built to API Specification 12F, API Standard 620, or API Standard 650 (or its predecessor Standard 12C), you must install the lining in accordance with API Recommended Practice 652. However, installation of the lining need not comply with API Recommended Practice 652 on any tank for which you note in the corrosion control procedures established under § 195.402(c)(3) why compliance with all or certain provisions of API Recommended Practice 652 is not necessary for the safety of the tank.

§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, you need not protect against atmospheric corrosion any pipeline for which you demonstrate by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will—

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

§ 195.583 What must I do to monitor atmospheric corrosion control?

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore	At least once each calendar year, but with intervals not exceeding 15 months.

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

(c) If you find atmospheric corrosion during an inspection, you must provide protection against the corrosion as required by § 195.581.

§ 195.585 What must I do to correct corroded pipe?

(a) *General corrosion.* If you find pipe so generally corroded that the remaining wall thickness is less than that required for the maximum operating pressure of the pipeline, you must replace the pipe. However, you need not replace the pipe if you—

(1) Reduce the maximum operating pressure commensurate with the strength of the pipe needed for serviceability based on actual remaining wall thickness; or

(2) Repair the pipe by a method that reliable engineering tests and analyses show can permanently restore the serviceability of the pipe.

(b) *Localized corrosion pitting.* If you find pipe that has localized corrosion pitting to a degree that leakage might result, you must replace or repair the pipe, unless you reduce the maximum operating pressure commensurate with the strength of the pipe based on actual remaining wall thickness in the pits.

§ 195.587 What methods are available to determine the strength of corroded pipe?

Under § 195.585, you may use the procedure in ASME B31G, "Manual for Determining the Remaining Strength of Corroded Pipelines," or the procedure developed by AGA/Battelle, "A Modified Criterion for Evaluating the Remaining Strength of Corroded Pipe (with RSTRENG disk)," to determine the strength of corroded pipe based on actual remaining wall thickness. These procedures apply to corroded regions that do not penetrate the pipe wall, subject to the limitations set out in the respective procedures.

§ 195.589 What corrosion control information do I have to maintain?

(a) You must maintain current records or maps to show the location of—

(1) Cathodically protected pipelines;

(2) Cathodic protection facilities, including galvanic anodes, installed after January 28, 2002; and

(3) Neighboring structures bonded to cathodic protection systems.

(b) Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§ 195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

Issued in Washington, DC on December 19, 2001.

Ellen G. Engleman,

Administrator.

[FR Doc. 01–31655 Filed 12–26–01; 8:45 am]

BILLING CODE 4910–60–P

VOL
66
ISS
2
4
8
DE
27
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Thursday,
December 27, 2001

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938
Pennsylvania Regulatory Program; Final Rule

VOL 66 ISS 248 DE 27 2001 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–122–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving, with the exceptions noted below, an amendment to the Pennsylvania program. Pennsylvania is amending its Bituminous Mine Subsidence and Land Conservation Act (BMSLCA) and implementing regulations at 25 Pa. Code Chapter 89 to require underground mine operators to repair or compensate landowners for subsidence damage to certain structures and facilities and to restore or replace water supplies adversely impacted by underground mining operations.

EFFECTIVE DATE: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Beverly Brock, Acting Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Submission of the Amendment
III. Director's Findings
  A. Changes to the BMSLCA
  B. Changes to the Regulations at 25 Pa. Code Chapter 89
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Effect of Director's Decision
VII. Procedural Determinations

I. Background on the Pennsylvania Program

Section 503(a) of the Surface Mining Control and Reclamation Act (SMCRA or the Act) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982, **Federal Register** (47 FR 33050). You can find subsequent actions concerning the Pennsylvania program and previous amendments at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Submission of the Amendment

By letter dated July 29, 1998 (Administrative Record Number PA 841.07), the Pennsylvania Department of Environmental Protection (PADEP) submitted an amendment to its approved permanent regulatory program pursuant to the federal regulations at 30 CFR 732.17(b).

We announced the proposed rulemaking in the August 25, 1998, **Federal Register** (63 FR 45199). The rule described Pennsylvania's proposal to modify the BMSLCA through Act 54 and also described Pennsylvania's proposal to make changes to its regulations at 25 Pa. Code Chapter 89, titled "Underground Mining of Coal and Coal Preparation Facilities." The first public comment period closed on September 24, 1998. In response to requests from three people, the comment period was reopened on September 25, 1998, (63 FR 51324). This second comment period closed on October 19, 1998. A public hearing was held on October 13, 1998, at Washington, Pennsylvania (Administrative record numbers PA 841.21, 841.22, and 841.31).

After reviewing the written comments we received, the information received at the public hearing and conducting our own review of the amendment, we sent two letters to Pennsylvania requesting clarification of numerous issues. The letters were sent on June 21, 1999, (Administrative record number PA 841.32) and June 23, 2000, (Administrative record number PA 841.40). Pennsylvania responded to the first letter on June 1, 2000, (Administrative record number PA 841.39) and to the second on July 14, 2000 (Administrative record number PA 841.41). The substance of the issues and Pennsylvania's responses are discussed below.

We reopened the public comment period on December 8, 2000, (65 FR 76954) to seek comment on Pennsylvania's response to our two letters. Two commenters responded to this reopening. Their comments and our response are found in the response to comments section.

III. Director's Findings

Note: Throughout this final rule, unless otherwise indicated, "Director" refers to the Director of OSM.

We have noted throughout this final rule that we are not approving or are requiring amendments to some of Pennsylvania's statute and regulations regarding repair or compensation for structural damage and restoration or replacement of water supplies. We wish to make it clear that any of the sections not approved or required to be amended only apply to structures and water supplies that are protected under EPAct and do not apply to structures or water supplies that are not protected by EPAct.

A. Changes to the BMSLCA

Set forth in the explanation below and the table that follows, pursuant to SMCRA and the federal regulations at 30 CFR 732.15 and 732.17 are the Director's findings concerning the proposed amendments to the BMSLCA. The Director's reasons for approving, conditionally approving, requiring amendments to, or not approving sections of, the BMSLCA are noted. The sections are listed in the order they appear in the BMSLCA for easy reference.

Section 4 (52 P.S. 1406.4). This section was repealed by Act 54. Prior to repeal, the section provided protection from subsidence from bituminous coal mining to certain structures in place as of April 27, 1966. The Director is approving the repeal of this section because it had afforded a level of protection to structures beyond that contained in the federal regulations. The repeal of section 4 means that the BMSLCA affords the same level of protection to structures regardless of when constructed, which is consistent with the federal regulations. Thus, the repeal of this section does not render the Pennsylvania program less effective than the federal program.

Section 5(b) (52 P.S. 1406.5(b)). The full text of section 5(b) prior to modification by Act 54 read, "The department shall require the applicant to file a bond or other security as recited in section 6(b) to insure the applicant's faithful performance of mining or mining operations in accordance with the provisions of section 4." The section was modified by Act 54 to change the reference from section 6(b) to 6(a) and to delete the phrase "in accordance with the provisions of section 4."

The Director is approving the deletion of the phrase "in accordance with the provisions of section 4" because it was made in response to the deletion of section 4, which was approved for the reasons given above. However, the reference to section 6(a) is incorrect because section 6(a) was deleted. The correct reference should have remained section 6(b). The Director is requiring Pennsylvania to correct the reference to the bonding requirements.

Section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)). This section requires that a water supply adversely impacted by an underground mine be replaced "with a permanent alternate source which adequately serves the premining uses of the water supply or any reasonably foreseeable uses of the water supply." The implementing regulations at 25 Pa. Code 89.145a(b) include identical language.

Pennsylvania's implementing regulations at 25 Pa. Code 89.145a(f)(3) also specify that—

A restored or replaced water supply will be deemed adequate in quantity if it meets one of the following:

(i) It delivers the amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses.

(ii) It is established through a connection to a public water supply system which is capable of delivering the amount of water necessary to satisfy the water user's needs and any reasonably foreseeable uses.

(iii) For purposes of this paragraph and with respect to agricultural water supplies, the term reasonably foreseeable uses includes the reasonable expansion of use where the water supply available prior to mining exceeded the farmer's actual use.

The Director is approving paragraph (iii) because it provides for protection for agricultural uses that are not protected under the federal regulations and is in accordance with 505(b) of SMCRA.

By letter dated June 21, 1999, we originally expressed concern with 25 Pa. Code 89.145a(f)(3)(i), stating that:

> Pennsylvania's proposed statute [and rule] appears to be less effective than the federal rules because it allows evaluation of the adequacy of a replacement water supply quantity to be based on use rather than the premining quantity. Through this statute [and rule], Pennsylvania would allow restoration to a level that is adequate for premining use, but this could be significantly less than the premining quantity and quality of the supply.

Pennsylvania responded by letter dated June 1, 2000:

> OSM believes that a replacement water supply must have a yield equal to or greater than the yield of the premining water supply in order to be considered adequate. This position allows no consideration for the quantity of water actually used by the landowner or water user.
>
> In addition, it is important to recognize that Pennsylvania's law requires an accounting of foreseeable uses when determining the adequacy of replacement water supplies. If the water user's premining needs were only 4 gpm but the user had plans that would utilize the full 10 gpm capacity of the well, the replacement supply would have to produce the 10 gpm under the Pennsylvania program.

After reconsidering the preamble to the definition of "replacement of water supply" at 30 CFR 701.5 and our comments and Pennsylvania's responses on the proposed Pennsylvania program, we recognize that the definition of "replacement water supply" does not specify how equivalency is to be determined and that there may be alternate approaches to determining whether a water supply has been appropriately replaced. As discussed more fully below, we considered whether actual and reasonably foreseeable use, including potential uses, would be a means of determining equivalency. We then reviewed the degree to which Pennsylvania's "adequate quantity" standard under 25 Pa. Code 89.145a(f)(3)(i) and (ii) would meet actual and reasonably foreseeable use. Finally, we examined the degree to which the Pennsylvania standard would ensure that the replacement water source would be equivalent to the premining source, and the replacement delivery system would be equivalent to the premining delivery system.

Use as a Standard: The preamble to the definition of "replacement of water supply" at 30 CFR 701.5 contains various analyses as to the scope of the replacement requirement. The following discussion foreclosed basing replacement supply quantity on just the actual premining use:

> Commenters argue that the definition should state that the replacement water supply need only provide the quantity and quality required for actual use. * * * OSM maintains that the provision of water quality and quantity equivalent to that of premining supplies is plainly required by the term "replacement" [in EPAct].

60 FR 16726.

Additional guidance is found in the preamble at 60 FR 16727, which specifies that "[w]here the spring or well also serves other purposes, the quantity of the replacement supply only needs to be equivalent to the premining water supply for drinking, domestic, or residential use." Thus, absolute equality to the premining quantity was not deemed to be required in all instances.

We then find a discussion on the requirement that replacement of the water supply must account for uses by future owners. When we were discussing the option of not replacing the water delivery system, we said that an equivalent water source must be available for development "so that the current owner or his or her successor could *utilize* the water if desired in the future." 60 FR 16727 (emphasis added).

Finally, to harmonize these statements, we look to yet another preamble statement, which appears to endorse consideration of the level of both actual and reasonably foreseeable use as a means of determining equivalency. In discussing the portion of the definition that provides an option under which the permittee would not need to replace the water supply delivery system, the preamble states: "This provision [identification of a suitable alternative water source] would ensure that all coal mining operations must be conducted so that water resources remain to support the existing and proposed use of the land." 60 FR 16727. In the context of the definition, "proposed use" refers to the approved postmining land use. Although the postmining land use requirements of 30 CFR 817.133 generally do not apply to areas overlying underground workings, since those areas usually do not lie within the permit area, the Pennsylvania term "any reasonably foreseeable uses" is the functional equivalent of the term postmining land use for lands outside the permit area. Although this statement was not specifically addressed at the issue of interpreting equivalency, it does indicate contemplation and acceptance of the standard proposed by Pennsylvania.

Since the definition of "replacement of water supply" at 30 CFR 701.5 does not specify how equivalency is to be determined, OSM finds that it can approve a water supply replacement provision that relies on actual and reasonably foreseeable use as a standard as no less effective than the federal rules with respect to water quantity.

The Pennsylvania "Adequate Quantity" Standard: The Pennsylvania statute at section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)), requires that a water supply adversely impacted by an underground mine be replaced "with a permanent alternate source that adequately serves the premining uses of the water supply or any reasonably foreseeable uses of the water supply." The implementing regulations at 25 Pa. Code 89.145a(b) include identical language. As noted above, Pennsylvania's regulations further define a restored or replaced supply as adequate in quantity if (i) it delivers the

VOL 66 ISS 248 DE 27 2001 UMI

amount of water to satisfy the water user's needs and the demands of any reasonably foreseeable uses or (ii) is a public water supply system that delivers the amount of water to satisfy the water user's needs and the demands of any reasonably foreseeable uses. 25 Pa. Code 89.145a(f)(3)(i) and (ii). Pennsylvania limits "public water supply systems" to those defined at 25 Pa. Code 89.5.

Responding to OSM concerns on 25 Pa. Code 89.145a(f)(3)(i), Pennsylvania commented that the replacement water supply "must be capable of satisfying the premining uses * * * and, in addition, any foreseeable uses the landowner or water user had intended to develop." With regard to public water supplies as a possible replacement, Pennsylvania stated that "[a] connection to a public water supply system is a reasonable means of replacement if the public water supply system can satisfy the water user's existing and reasonably foreseeable needs and is adequate for the purposes served." 28 Pennsylvania Bulletin (Pa.B.) 2777.

To the extent that Pennsylvania's letter and the Pennsylvania Bulletin language could be read to indicate that the user must have plans to demonstrate reasonably foreseeable uses of a water supply or is limited to the current user, we disagree with these interpretations. The proper standard is whether there is a reasonably foreseeable use for the premining capacity, not whether actual plans exist or the uses are limited to the current owner. Actual plans or the current owner's uses (existing and foreseeable) are merely two ways to determine foreseeable uses. As previously stated, the replaced water supply must take into account not only the actual use but also any potential uses by a future owner. As a consequence, OSM is approving the language under section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)), and 25 Pa. Code sections 89.145a(b), and 89.145a(f)(3)(i) and (ii), to the extent that Pennsylvania both interprets and implements the provisions consistent with the definition of "replacement of water supply" at 30 CFR 701.5 where an equivalent replacement would be achieved by meeting the premining uses and any reasonably foreseeable uses of the supply. Therefore, OSM is requiring Pennsylvania to amend 89.145a(b) and 89.145a(f)(i) and (ii), if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses' is consistent with our discussion concerning the actual use and the reasonably foreseeable use of the supply.

Equivalent Replacement Source and Delivery System: The definition of "replacement of water supply" at 30 CFR 701.5 and the corresponding preamble make it clear that "replacement includes provision of an equivalent delivery system." 60 FR at 16726. As previously noted, the preamble discussion related to waiving the replacement of delivery systems not needed for the postmining land use require that the permittee must demonstrate the availability of a water source equivalent to premining quality and quantity. 60 FR at 16727. As a consequence, a replacement supply must be equivalent to the premining supply both in terms of a delivery system and in terms of water quantity of the source.

Pennsylvania's proposed requirements do not specifically address EPAct requirements that a replacement supply must include the provision of an equivalent water delivery system and an equivalent water source in terms of quantity. Under 25 Pa. Code sections 89.145a(f)(1) and 89.145a(f)(4), Pennsylvania required that the replacement supply include a delivery system and proposed criteria for determining the adequacy of permanently restored supplies. While the proposed standards would address supply permanence, reliability, maintenance, and owner control and accessibility, we are concerned that those criteria, alone, could still require supply owners to accept water supply delivery systems that are not equivalent to the premining system to compensate for a replacement source that is not equivalent to the quantity of the premining source. A water delivery system equal to the premining system is crucial to protecting the supply owner from the practice of installing an unconventional delivery system to make up for a source that does not provide an equivalent quantity of water. Examples of such systems would be the placement of in-ground storage tanks to offset well or spring yields that, alone, do not provide an equivalent quantity of water, and the development of an elaborate delivery system from multiple low yield wells.

In conclusion, the Director is approving section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)), which requires that a water supply adversely impacted by an underground mine be replaced "with a permanent alternate source which adequately serves the premining uses of the water supply or any reasonably foreseeable uses of the water supply," to the extent that Pennsylvania both interprets and implements the provisions at section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)), 25 Pa. Code 89.145a(b), and 25 Pa. Code 89.145a(f) consistent with the definition of "replacement of water supply" at 30 CFR 701.5 where an equivalent replacement would be achieved by meeting the premining uses and any reasonably foreseeable uses of the supply. Under the Pennsylvania program, an equivalent delivery system or source would be those that adequately serve the premining uses of the water supply or any reasonably foreseeable uses of the water supply. As previously noted above, OSM is requiring Pennsylvania to amend 25 Pa. Code sections 89.145a(b) and 89.145a(f)(3)(i) and (ii), if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses' is consistent with our discussion concerning the actual use and the reasonably foreseeable use of the supply. Finally, OSM will evaluate implementation of the requirements through the oversight process to determine if the processes used by Pennsylvania to determine current owner's needs and demands of any reasonably foreseeable use are consistent with the definition of "replacement of water supply" at 30 CFR 701.5.

With respect to replacement timing, section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) requires restoration of water supplies but does not place an obligation on the permittee to do so promptly. In addition, section 5.2 (52 P.S. 1406.5b) and Pennsylvania regulation 25 Pa. Code 89.146a, as proposed, serve to condition replacement timing based upon supply type, location and property owner notice to the permittee. Section 720(a)(2) requires the prompt replacement of protected water supplies. The federal rules require prompt replacement of a water supply on "both a temporary and permanent basis equivalent to premining quantity and quality." (30 CFR §§ 701.5 and 817.41(j)). To ensure that all supplies are guaranteed prompt replacement consistent with EPAct, the Director is requiring Pennsylvania to amend this section to require the prompt replacement on both a temporary and permanent basis of all protected water supplies. In requiring the amended language under this section, the Director expects that enforcement actions requiring prompt replacement will at a minimum be handled in conformance with chapter 86, subchapter H (Enforcement & Inspection), which requires citation and abatement of violations within a reasonable time.

Section 5.1(a)(2) (52 P.S. 1406.5a(a)(2)). This section and the implementing regulations at 25 Pa. Code 89.145a(f)(2) that include identical language, provides that a restored or replaced water supply will be deemed adequate when it differs in quality from the premining water supply, if it meets the Pennsylvania Safe Drinking Water Act (PSDWA) (35 Pa. Stat. Sections 750.1–750.20), or is comparable to the premining water supply when that water supply did not meet these standards.

By letter dated June 21, 1999, we originally notified Pennsylvania that its statute and regulations were less effective than the federal definition of "replacement of water supply" in 30 CFR 701.5. That definition requires that a replacement supply be "equivalent to premining quantity and quality."

We have reconsidered the position enunciated in our June 21, 1999, letter after reviewing a letter dated March 9, 1999, from then—OSM Director Kathy Karpan to Greg Conrad of the Interstate Mining Compact Commission (IMCC). In that letter, Director Karpan provided guidance for the development and evaluation of State program amendments implementing EPAct.

Our definition of "replacement of water supply" in 30 CFR 701.5 requires that the replacement supply be equivalent in quantity and quality to the premining supply. The federal rules do not define what "equivalent" means with respect to water quality. However, the March letter to the IMCC stated that, with respect to quality, we would consider the equivalency requirement to be met if the replacement water supply was of a "quality suitable for all current and reasonably foreseeable uses." The letter also notes that our regulations do not require replacement of the source of the premining water supply. Thus, the letter implies that "equivalent" does not translate to "identical." Instead, it allows some differences in chemical composition, as long as the replacement supply remains suitable for the uses associated with the premining water supply and any reasonably foreseeable uses.

The preamble to our regulations clearly supports this approach by stating that our regulations do not require restoration of the source of the premining water supply. Instead, according to the preamble, replacement of the water supply may be accomplished through provision of an alternate source such as a public water supply or by pipeline from another location. See 60 FR 16727 and 16733. Since these alternative sources most likely would not be precisely identical to the premining source in terms of water chemistry, the inference is that differences in chemical composition are acceptable as long as the premining and replacement supplies are equivalent in terms of suitability for use.

The Pennsylvania regulations at 25 Pa. Code 89.145a(b), when read in combination with 25 Pa. Code 89.145a(f)(2), require that replacement supplies meet the standards of the PSDWA whenever the quality of the replacement supply differs from that of the premining supply. The only exception occurs when the premining supply does not meet PSDWA standards, in which case the replacement supply must be at least "comparable to the premining water supply." The rules do not specify how comparability will be determined, but 25 Pa. Code 89.145a(a)(1) requires that operators conduct premining water supply surveys prior to mining within 1000 feet of the water supplies. Paragraphs (ii) and (iii) of 25 Pa. Code 89.145a(a)(1), require that the surveys assess the existing and reasonably foreseeable uses of the water supply and the chemical and physical characteristics of the water, including total dissolved solids (or specific conductance), pH, total iron, total manganese, hardness, sulfates, total coliform, acidity, and alkalinity.

The Director finds that Pennsylvania's provisions are no less effective than the federal requirements concerning the quality of replacement water supplies. We are approving Pennsylvania's rules in this regard because we interpret our regulations as meaning that, with respect to water quality, an equivalency determination can be made in terms of suitability for particular uses, rather than requiring that the chemical composition of the replacement supply be identical to that of the premining supply. Pennsylvania's public drinking water systems must meet the requirements of the PSDWA. As Pennsylvania noted in a letter dated June 1, 2000, these requirements are intended to ensure that water delivered by these systems is not only safe, but also palatable and esthetically acceptable. The PSDWA includes maximum contaminant levels for iron, manganese, and sulfates, three parameters that are of major significance in the coalfields.

Of the three types of water supplies protected under EPAct (drinking, domestic, and residential), drinking water requires the highest standards. Since Pennsylvania's regulations require that water supplies that meet PSDWA standards be replaced with supplies of at least that quality, they satisfy the quality aspect of the federal water supply replacement requirements.

Where premining water supplies do not meet PSDWA standards, Pennsylvania's regulation is also no less effective than the federal definition of "replacement of water supply" in 30 CFR 701.5 with respect to water quality because the state rule requires replacement with supplies of comparable quality. "Comparable" is a synonym for "equivalent," which is the standard in the Federal rule.

Section 5.1(a)(3) (52 P.S. 1406.5a(a)(3)). This section deals with the definition of "water supply." Pennsylvania's definition includes any existing source of water used for domestic, commercial, industrial or recreational purposes or for agricultural purposes or which serves any public building or any noncommercial structure customarily used by the public. Pennsylvania's statutory definition is substantively identical to its regulatory definition found at 25 Pa. Code 89.5. The federal definition of "drinking, domestic or residential water supply" at 30 CFR 701.5 includes water received from a well or spring used for "direct human consumption or household use." Clearly, Pennsylvania's definition is not identical to the federal definition. Nonetheless, Pennsylvania's definition includes any existing source used for domestic water, which Pennsylvania has stated would "include all water supplies covered under the Federal program." 28 Pa.B. 2767.

Even though Pennsylvania's definition covers the same water sources, we expressed a concern with the Pennsylvania definition because of preamble language in the Pennsylvania Bulletin that stated that the "Board does not wish to include language which could be interpreted to include investor-owned water transmission and distribution mains which are rightfully classified as utilities. The Board notes that this definition does not limit in any way the duty of an operator to provide pumping equipment and connecting piping * * *" (28 Pa.B. 2767). Since the federal definition of "drinking, domestic or residential water supply" includes "any appurtenant delivery system," we asked Pennsylvania to clarify what is meant by "connecting piping" and "investor-owned water transmission and distribution mains which are rightfully classified as utilities' in our letter dated June 21, 1999. We were concerned about how the Board's intention not to protect investor-owned water transmission and distribution mains, which are rightfully classified as utilities, would affect the replacement of appurtenant delivery systems protected under EPAct.

VOL 66 ISS 248 DE 27 2001 UMI

PADEP replied that the preamble discussion was made to illustrate the difference between connections from a well or spring to a residence and connections made to a water main that is part of a public water supply system. Connections from a well or spring are permanent affixed appurtenant structures that must be repaired by the mine operator if damaged. PADEP further noted that damage to a water main and that part of the connecting piping that is owned by the water company would be covered under its regulation at 25 Pa. Code 89.142a(g) relating to protection of utilities. In this case, the damage is likely to be repaired by the water company pursuant to an agreement with the mine operator. PADEP concluded that if the property owner owns the connecting piping, it would be regarded as a permanently affixed appurtenant structure, which the mine operator would be required to repair.

Based on the preamble language of the Pennsylvania Bulletin and its explanation addressed to our concerns, we find Pennsylvania's definition of water supply no less effective than the federal regulation. The Director is approving this section.

Section 5.1(b) (52 P.S. 1406.5a(b)). This section indicates an operator is not liable for restoration or replacement of a water supply if a landowner's claim of contamination, diminution or interruption is made more than two years after the supply was affected. In our letter to Pennsylvania dated June 23, 2000, we noted that EPAct provides that an operator is responsible for restoration or replacement of all water supplies used for domestic, drinking or residential use. We noted that the proposed changes to the Pennsylvania program are not as effective as the corresponding federal regulations because some water supplies that would be protected under EPAct may be excluded from protection simply because a user does not file a claim within two years. The federal regulations require a permittee to meet all applicable performance standards during the permit term, including the replacement of water.

In its letter to us dated July 14, 2000, Pennsylvania noted that the two-year time limit for reporting water supply impacts is explicitly stated in BMSLCA. Pennsylvania has observed no cases to date where this limitation has been used as a basis for denying water supply restoration or replacement. Additionally, Pennsylvania noted that since federal SMCRA has no statute of limitations, OSM cannot conclude Pennsylvania's provisions are less effective than the federal regulations. Pennsylvania asserts that when a federal statute contains no limitation provisions, the most appropriate statute of limitations provided by state law should be applied unless there is a relevant federal statute of limitations or the state law would frustrate or interfere with the implementation of national policies. Pennsylvania cited a court case (*Sierra Club* v. *Chevron U.S.A., Inc.*, 834 F.2d 1517, 1521 (9th Cir. 1987)) that it believes to be relevant to its position.

Pennsylvania further states that since it notifies property owners above underground mines of their rights and the mine operator's obligations should underground mining adversely affect their water supplies, that people are unlikely to make do without water for two years without making a claim. Pennsylvania believes that this approach serves to ensure that water supply claims will be filed before the statute of limitations expires, which will effectively implement the national policy of requiring underground mine operators to address these impacts.

Finally, Pennsylvania noted that this section of BMSLCA is not contrary to 30 CFR 700.11(d) because that section of the federal regulations is purely discretionary and not required to be part of a state program. Section 700.11(d) authorizes, but does not require, regulatory authorities to terminate jurisdiction over the reclaimed site of a completed surface coal mining and reclamation operation. Federal law defines the term "surface coal mining and reclamation operations" as surface coal mining operations and all activities necessary or incidental to the reclamation of surface coal mining operations. The term "surface coal mining operations" is interpreted by OSM to not include subsidence, etc. resulting from underground coal mining. Consequently, water supplies affected by underground mining as well as restoration or replacement of such water supplies are not activities subject to 700.11(d).

The Director is not approving this portion of the BMSLCA for several reasons. First, even though there have been no cases reported to date where this provision has been used to deny restoration or replacement of affected supplies, it does not mean that it will not happen. If this provision were ever used to deny coverage that would otherwise have been provided under federal regulations, it would be less effective than the federal requirements.

Second, we disagree that the Ninth Circuit case cited by Pennsylvania is applicable. The proposition held by the court of appeals and cited by Pennsylvania states that when a federal statute contains no limitations provisions, an applicable state statute of limitations should be applied, unless there is an analogous federal statute of limitations, or the state law would frustrate or interfere with national policies. The Ninth Circuit case is the general rule applicable to litigation involving private parties. However, this general rule and its exceptions do not control government actions brought to vindicate public interests. See, Dole v. Local 427, International Union of Electrical, Radio and Machine Workers, 894 F.2d 607 (3d Cir. 1990). The general rule that applies to government actions is that "no statute of limitations will be applied in civil actions brought by the Government, unless Congress explicitly imposes such time limitations." Dole, 894 F.2d at 610. The court of appeals in Dole held that no statute of limitations applies to the government so long as a public purpose is served by its action. While section 5.1(b) (52 P.S. 1406.5a(b)) of BMSLCA will benefit a private individual, this is no different than the situation in Dole, where the Department of Labor sued to enforce individual and public rights. The fact that a public suit may benefit a private individual does not change the application of the general rule for government actions. Under the provisions of the BMSLCA, it will be Pennsylvania that will enforce the requirement that the operator replace an affected water supply. The requirement to replace a water supply not only serves a private purpose, it also serves a public purpose as well. The replacement requirement not only protects the current owner but also his or her successor and the community by preserving property values. 60 FR at 16727.

Further, a time limit on water claims is adverse to the general scheme of SMCRA. For example, this section would limit Pennsylvania's ability to take enforcement actions and would interfere with the administrative methods established by sections 517 and 521 of SMCRA since it could be difficult to determine when the supply was initially affected. Since every state could have a different time period, this section is contrary to the public policy of section 102(a) of SMCRA that established a nationwide program and with section 101(g) of SMCRA. It could also preclude some citizen suits because in some situations a citizen wouldn't know that Pennsylvania wasn't taking action until the two years elapsed. Additionally, if a claim for water damage were not made within two years from the date the supply was affected, Pennsylvania would not consider it a violation. Since it is not a violation, this would prevent Pennsylvania from holding operators responsible for damage to a water supply.

We disagree with Pennsylvania that this time limitation is no less effective than the federal rules. It is contrary to section 505(b) of SMCRA, which prohibits any state program from having state laws or regulations that are inconsistent with SMCRA. The statute of limitations would seem to insure that at some point a water supply would not be restored or replaced. Failure to restore or replace a water supply is in direct contrast with the purposes of EPAct and the federal regulations that require, without a time limit, the restoration or replacement of these supplies. Finally, since our decision is based on the above, we feel it is unnecessary to address Pennsylvania's interpretation of the federal regulations describing termination of jurisdiction. As a result, the Director is not approving section 5.1(b) (52 P.S. 1406.5a(b)) of the BMSLCA.

Section 5.2(a)(1) (52 P.S. 1406.5b(a)(1). This section requires a landowner to contact the operator with a claim of water loss or contamination. The section also requires the operator to investigate such claims with reasonable diligence. In our letter to Pennsylvania of June 21, 1999, we noted that this section appeared to be less effective than the federal regulations because the federal rules and statute do not require the landowner or water user to first contact the operator. We asked Pennsylvania to explain how this requirement affects a landowner's or water user's rights or PADEP's responsibilities to initiate action under citizen complaint procedures.

In its response of June 1, 2000, PADEP indicated that requiring the landowner to contact the operator has not been a problem during the first five years of the program's implementation. Pennsylvania believes that requiring the landowner to contact the operator saves time by allowing the owners to describe their problem to the operator and to schedule access to their property for the operator.

The proposal by Pennsylvania to require landowners to notify operators with a claim of water loss was carefully considered by the Director relative to the requirements for water supply replacement (30 CFR 817.41(j)) and the requirements for addressing complaints by citizens (30 CFR part 842). It is important to note that under both the federal and the proposed Pennsylvania requirements, underground mining that results in the contamination, diminution, or interruption of a water supply is not prohibited. Once a water supply is affected, the federal requirements require prompt replacement while Pennsylvania's proposed requirements allow operators to delay permanent replacement for up to at least three years. Specifically at issue under section 5.2(a)(1) (52 P.S. 1406.5b(a)(1)) of the Pennsylvania statute is whether the requirement for landowners to notify operators with a claim of water loss is no less effective than federal requirements.

EPAct and 30 CFR 817.41(j) are silent on how the operator is notified of the water loss. Under section 720 of SMCRA, permittees are responsible for prompt replacement regardless of whether they are contacted by property owners or by the regulatory authority in cases where the property owner failed to do so. Under section 5.2(a)(1) (52 P.S. 1406.5b(a)(1)) of the BMSLCA, Pennsylvania has elected to establish a water loss notification procedure that requires the property owner to contact the operator. The section also requires that the operator shall, with reasonable diligence, investigate the loss. The proposed changes to the Pennsylvania program are silent on any procedures that will be followed in the event that landowners choose to notify the Department rather than the operator. However, under section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) and 25 Pa. Code 89.146a(b), Pennsylvania conditioned its ability to require temporary water within 24 hours of issuance of an order to those cases where the landowner falls within the rebuttable presumption area and notified the operator.

The Director finds section 5.2(a)(1) (52 P.S. 1406.5b(a)(1)) of the BMSLCA is not inconsistent with the requirements of SMCRA and the federal regulations and is approving it. The approval is granted because even though section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) and 25 Pa. Code 89.146a(b) act to limit property owner access to the 24-hour temporary supply standard under section 5.2(a)(2) (52 P.S. 1406.5b(a)(2)), the Director's required amendment of section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) of the BMSLCA will insure the prompt replacement of all adversely affected water supplies (see required amendment discussion under section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)). As a consequence, property owners that do not directly notify the operator may not receive a temporary supply within 24 hours pursuant to section 5.2(a)(2) (52 P.S. 1406.5b(a)(2)). However, they will be guaranteed a prompt replacement consistent with EPAct because of the amendment required by the Director at section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)).

Section 5.2(a)(2) (52 P.S. 1406.5b(a)(2)). This section requires operators to provide a temporary water supply to landowners with water supply problems within the rebuttable presumption area within 24 hours. However, this section does not address temporary water supply requirements for those landowners whose water supplies are outside the presumption area. The federal rules require all protected water supplies to be promptly replaced on both a temporary and permanent basis, regardless of location.

Pennsylvania's response to OSM's issue letter of June 21, 1999, stated (see finding for 25 Pa. Code 89.145a(e)(1)) that section 5.2 of the BMSLCA provided for temporary water replacement if the affected water supply is outside the rebuttable presumption area. Pursuant to 5.2, the operator's responsibility does not begin until after the PADEP issues an order. This is contrary to SMCRA and the federal regulations that indicate there is an obligation on the permittee to replace water on a temporary and permanent basis before there is enforcement by the regulatory authority (see 720(a)(2) of SMCRA and 30 CFR 817.41(j)). As a condition of a permit, a permittee must comply with all the conditions of the permit, all applicable performance standards and the requirements of the regulatory program (see 30 CFR 773.17(c)). The requirement to promptly replace protected water supplies is a performance standard. Once the operator is notified of the water problem (in Pennsylvania, by the landowner or the water user), the operator is obligated to replace the water. This occurs before there is enforcement by the regulatory authority. Enforcement by the regulatory authority commences when there is a violation of the statute, regulations, and/or applicable program. Accordingly, the Director is approving section 5.2(a)(2) (52 P.S. 1406.5b(a)(2)) for those water supplies within the rebuttable presumption area that qualify for the 24-hour temporary supply replacement standard because this portion of the statute is consistent with the federal regulations at 30 CFR 701.5 and 817.41(j) that require prompt replacement of water supplies and with 30 CFR 773.17(c). However, because there is no requirement in BMSLCA to provide temporary water in a prompt manner for those water supplies that lie outside the rebuttable presumption area, or otherwise fail to qualify for the 24-hour temporary supply replacement standard, the Director is requiring Pennsylvania to amend section 5.1(a)(1)

VOL 66 ISS 248 DE 27 2001 UMI

(52 P.S. 1406.5a(a)(1)) requiring the prompt replacement of water supplies, including temporary water, to all landowners whose water supply has been impacted by underground mining.

Section 5.2(a)(3) (52 P.S. 1406.5b(a)(3)). This section provides that if a temporary water supply is not provided within 24 hours, PADEP, after notice by the landowner or water user, shall order the operator to provide temporary water within 24 hours. The operator shall notify the Department of any claim of contamination, diminution or interruption made to it by a landowner or water user and its disposition. This section only applies to those supplies falling within the rebuttable presumption zone as required by section 5.2(c) (52 P.S. 1406.5b(c)).

The Director is approving this section because it provides the Department with specific authority to issue orders to require temporary water within 24 hours for those supplies that meet the requirements of section 5.2(c) (52 P.S. 1406.5b(c)), and where the operator has refused to provide the supply. This is consistent with both 30 CFR 817.41(j), which requires prompt replacement of water supplies, and the enforcement procedures of Part 843. Once an operator refuses to replace a protected water supply, a violation has occurred and the regulatory authority can then enforce this replacement requirement with an order. For those supplies that meet section 5.2(c) (52 P.S. 1406.5b(c)), this enforcement authority will assist the Department in securing prompt replacement. It should be noted that the Director is requiring Pennsylvania to amend section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) to require prompt replacement of all supplies covered by EPAct. In requiring the amended language under section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)), the Director expects that those supplies that do not meet the conditions of section 5.2(a)(2) and (a)(3) (52 P.S. 1406.5b(a)(2) and (3)) will be addressed by the Department consistent with chapter 86, subchapter H (Enforcement & Inspection), which requires citation, and abatement, of violations within a reasonable time.

Section 5.2(b)(1) (52 P.S. 1406.5b(b)(1)). This section provides that a landowner may notify the Department if an alternate source has not been provided or if an operator ceases to provide an alternate source and requests an investigation be conducted. While there is no direct federal counterpart to this section, the Director is approving it because it is not inconsistent with the citizen complaint procedures in the approved Pennsylvania program (see 49 FR 10253–58) or 30 CFR 842.12, which allow citizens to bring their complaints to the regulatory authority.

Section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)). This section provides that within 10 days of notification the Department will investigate claims and within 45 days make a determination if the operator affected the water supply. The Department can then issue orders for replacement. This section also allows three years to pass before orders requiring a permanent water supply are issued. In our letter to Pennsylvania dated June 21, 1999, we indicated that this section appeared to be less effective than the federal rules because it does not require that water supplies be promptly replaced and that it would allow three years to elapse before the Department issues an order to provide a permanent alternate source of water. We further noted that three years is inconsistent with federal SMCRA 720(a)(2) requiring prompt replacement of drinking, domestic or residential water supplies.

In their letter to us dated June 1, 2000, Pennsylvania indicated that the time periods of 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) relate to PADEP actions. Pennsylvania noted that this section only pertains to situations where mine operators are apparently failing to fulfill their obligations. In these cases, PADEP may be required to establish proof of causation and operator liability before taking appropriate action. Pennsylvania believes this section of BMSLCA is more stringent because it requires the regulatory authority to act within specified time periods while the federal regulations set no deadlines for follow up action by the regulatory authority. With regard to the three-year issue, Pennsylvania responded that the three-year period is consistent with scientific literature that indicates if a water supply is going to recover it will usually do so within three years of impact. Finally, Pennsylvania noted that, in some cases, an attempt at permanent restoration in a shorter time may not be prudent because of the potential impacts of additional mining that will take place in the future.

As we stated in the preamble to the federal EPAct rules, "existing citizen complaint procedures are adequate and appropriate to address surface owner complaints of subsidence damage." (60 FR at 16735). While this statement was made in the context of damage to structures, it applies equally to water loss complaints. The proposal by Pennsylvania to provide a water loss claims investigation procedure for affected property owners was carefully considered by the Director relative to the existing requirements for addressing complaints by citizens under 30 CFR Part 842. Currently, the approved Pennsylvania program regarding citizen complaint investigations and enforcement provides that if an inspection is made, the Department will notify the citizen within 10 days of completion of the inspection of the results. If no inspection is made, the Department will notify the citizen within 15 days of receipt of the complaint. Pennsylvania's approved citizen complaint rules are consistent with 30 CFR 842.12 and allow latitude in determining what constitutes the point at which an inspection is complete to allow for the collection of necessary data (see 49 FR 10253–58). The Director recognizes that, in certain cases, citizen complaint inspection duties could be completed prior to the 45 days specified in section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)). Under existing citizen complaint rules, once an inspection is completed, Pennsylvania has 10 days to describe its enforcement action or lack thereof. However, under the proposed provision, the completion of inspection duties may occur in a short time, e.g. two days, but Pennsylvania would have longer than 10 days to notify the citizen of its inspection results, e.g. 43 days. This is inconsistent with Pennsylvania's existing rules and the federal rules regarding time requirements for responding to citizen complaints. To be consistent with the federal rules, Pennsylvania must notify the citizen of its decision within 10 days of completing all the inspection duties. Therefore, the Director is approving this portion of section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) to the extent that it is consistent with, or more timely than, its citizen complaint procedures and is requiring Pennsylvania to amend its program to the extent the time frames are longer than its citizen complaint procedures.

The Director is not approving the portion of this provision that states "* * * where the contamination, diminution or interruption does not abate within three years of the date on which the supply was adversely affected." As noted in the preamble to the federal rules, a permittee should connect the user to a satisfactory permanent water supply within two years of notification (60 FR at 16727). Pennsylvania makes reference to technical guidance that supports its standard that a permanent water supply should be replaced within three years. However, Pennsylvania failed to submit such technical information and OSM knows of no technical guidance to support Pennsylvania's assertion. Section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) allows three years to elapse without issuance of an order requiring permanent restoration or replacement. The process of ordering a permanent restoration or replacement does not start until the three years expired. This means that permanent restoration or replacement could go well beyond three years, which is clearly not envisioned by OSM in drafting the federal rules. Pennsylvania's statute delays permanent replacement by up to 50% over the federal guidelines. Allowing an operator up to three years to replace a water supply is not a "prompt" replacement, thus it is less stringent than 720(a)(2) of SMCRA.

Section 5.2(c) (52 P.S. 1406.5b(c)). This section provides that an underground mine operator is presumed to be responsible for contamination, diminution or interruption of water supplies within a rebuttable presumption area. The operator may successfully rebut the presumption if the landowner denied the operator access to the property to conduct a premining survey of the water supply.

There is no federal regulation that prohibits the state from enacting a rebuttable presumption for water. In fact, by finding that operators are presumed responsible for replacement of water supplies within the presumption area, this portion of the statute will assist in insuring that operators are promptly informed of their obligation to replace affected supplies and will assure they promptly provide emergency and temporary water. Thus, the Director finds that this portion of the program is in accordance with § 720(a)(2) of SMCRA, which requires the prompt replacement of a protected water supply.

Section 5.2(d) (52 P.S. 1406.5b(d)). The full text of the language of this section is as follows.

> Unless the presumption contained in subsection (c) applies, a landowner, the department or any affected user asserting contamination, diminution or interruption shall have the burden to affirmatively prove that underground mining activity caused the contamination, diminution or interruption. Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within ten days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the department, relative to the affected water supply.

The amendment provides that the Department, or a landowner outside the rebuttable presumption area, has the burden of proof in claiming that a water supply has been contaminated, interrupted or diminished. This is consistent with enforcement actions where the regulatory authority has the initial burden, so the Director is approving this language. However, the last sentence of this portion of the amendment requires that the burden of proof for landowners who deny access to an operator to conduct a premining survey, must include premining baseline data as supplied by the landowner or the Department. The portion of the amendment requiring premining baseline data as a condition of establishing burden of proof makes it less effective than the federal regulations at 30 CFR 817.41(j). This section of the federal regulations requires the baseline hydrologic information required in 30 CFR 780.21 and 784.14 to be used to determine the impact of mining activities upon the water supply. Such information is to be supplied by the applicant. The proposed amendment requires the Department, or landowner, to provide data that is to be supplied by the operator in the permit application. Therefore, the following portion of the amendment is less effective than the federal regulations: "Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within 10 days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the Department, relative to the affected water supply." The Director is not approving this language.

Section 5.2(e)(1) (52 P.S. 1406.5b(e)(1)). This section provides that a mine operator can be relieved of liability for affecting a public or private water supply when the contamination, diminution or interruption of the supply existed prior to the mining activity. There is no direct federal counterpart to this provision. However, the federal definition of "replacement of water supply" at 30 CFR 701.5, requires the replacement of protected water supplies whenever the supplies were affected by coal mining operations. If all the contamination, diminution or interruption existed prior to the start of coal mining operations, then the supply was not affected by the coal mining operations. If additional contamination, diminution or interruption occurred after the start of the coal mining operations, then the operator would become liable for the damage caused to the water supply by the coal mining operations. Thus, the Director finds that this subsection is consistent with 30 CFR 701.5 and is approving this portion of Pennsylvania's amendment.

Section 5.2(e)(2) (52 P.S. 1406.5b(e)(2)). This section provides that a mine operator can be relieved of liability for affecting a public or private water supply when the contamination, diminution or interruption occurred more than three years after mining activity occurred. In our letter of June 23, 2000, we indicated to Pennsylvania that the statute of limitations proposed by this section will allow water supplies that otherwise will be protected under federal regulations to continue to be contaminated, diminished or interrupted because mining occurred more than three years prior to the onset of water supply problems. PADEP responded in their letter to OSM dated July 14, 2000, that the same reasoning applied to the statute of limitation issue of section 5.1(b) of BMSLCA was applicable for this section. In addition, Pennsylvania indicated that based on the definition of the term "underground mining activities," the obligation to replace an affected water supply extends from the time a water supply is first undermined until three years after the mine has closed and reclamation has been completed. In essence, the period of liability is equivalent to the liability period under the federal regulations which ends at the time that jurisdiction would be terminated under the federal program. Pennsylvania contends this period should be sufficient to capture virtually all water supply impacts that occur as a result of the underground mining activity.

The Director is not approving this portion of the BMSLCA for several reasons. First, even though there have been no cases reported to date where this provision has been used to deny restoration or replacement of affected supplies, it does not mean that it will not happen. If this provision were ever used to deny coverage that would otherwise have been provided under federal regulations, it would be less effective than the federal requirements. This provision virtually assures that at some point in time, there will be a water supply that would not be restored or replaced because the landowner did not

VOL 66 ISS 248 DE 27 2001 UMI

report the contamination, diminution or interruption within the noted time frame.

Second, for the reasons discussed in our findings for section 5.1(b) (52 P.S. 1406.5a(b)), which are incorporated herein, the Director believes this section to be less effective. Additionally, Pennsylvania's three-year limit is not a normal statute of limitations because it is not tied to an injury. It ignores the legislative history of analogous § 516 of SMCRA, which acknowledges that "[s]ubsidence occurs * * * on a random basis, at least up to 60 years after mining." H.R. Rep. No. 218, 95th Cong., 1st Sess. 126 (1977). Pennsylvania's argument that the net effect of 5.2(e)(2) is the same as the federal termination of jurisdiction rule is erroneous. According to Pennsylvania, it is eliminating an operator's liability three years after the mine has closed and reclamation is completed. However, both the termination of jurisdiction rule (30 CFR 700.11(d)) and the EPAct regulations (30 CFR §§ 701.5 and 817.41(j)) recognize that a regulatory authority's jurisdiction may not end, if at all, until all the performance standards are met. The termination of jurisdiction rule, while consistent with the EPAct regulations, is not applicable since subsidence can occur on a random basis at any time. Thus, an operator's liability extends indefinitely into the future. 60 FR at 16736. With section 5.2(e)(2) (1406.5b(e)(2)), once the three years have passed, there is no recourse for the landowner and no way to force an operator to restore or replace a water supply even though a water supply may be affected long after the three years.

Section 5.2(e)(3) (52 P.S. 1406.5b(e)(3)). This section allows a mine operator to be relieved of liability for affecting a public or private water supply when the contamination, diminution or interruption occurred as the result of some cause other than mining. A commenter noted this section could be construed as allowing an operator who is a contributing cause of the water loss, to escape responsibility for a loss for which the operator shares responsibility with another party. Based on this comment, we asked Pennsylvania in our letter of June 21, 1999, to provide a state Attorney General's opinion that the law assures that wherever the operator is partially or entirely responsible for the water loss, state law imposes liability.

Pennsylvania supplied an opinion from the Bureau of Regulatory Counsel in its letter to us dated June 1, 2000. The opinion indicates that in accordance with the rules of statutory construction, the intent of the Pennsylvania General Assembly was to provide a remedy for water supplies affected by underground mining. This section is construed to relieve an operator of responsibility to restore or replace a water supply only where the contamination, diminution or interruption occurred solely as a result of some cause other than mining. Where mining is partly the cause of the contamination, diminution, or interruption the mine operator will not be relieved of the statutory obligation to restore or replace the affected water supply. The Rules of Practice before the Pennsylvania Environmental Hearing Board also support this intention.

There is no direct federal counterpart to this provision. However, the federal definition of "replacement of water supply" at 30 CFR 701.5, requires the replacement, etc. of protected water supplies whenever the supplies were affected by coal mining operations. Therefore, this section, as explained by the Attorney General's opinion, is consistent with the federal definition. The Director finds Pennsylvania's explanation sufficiently responds to the commenter's concerns, and is approving this portion of the amendment.

Section 5.2(f) (52 P.S. 1406.5b(f)). This section requires operators who obtain water samples in a premining or postmining survey to use a certified laboratory to analyze such samples. The operator must submit copies of the results of such analysis to the Department and to the landowner within 30 days of their receipt. Nothing in this section will prohibit a landowner or water user from using an independent certified laboratory to sample and analyze the water supply. This provision is no less effective than 30 CFR 784.20(a)(3), which requires a permit applicant to pay for a premining survey of the quantity and quality of all protected water supplies and to provide copies of such to the property owner and state regulatory authority. The Director is approving this portion of the amendment.

Section 5.2(g) (52 P.S. 1406.5b(g)). This section indicates that if an affected water supply is not restored or replaced within three years an operator may be relieved of responsibility for replacement or restoration of a water supply by (1) purchase of the property, or (2) making a one-time payment equal to the difference between the property's fair market value before the time the water supply was affected and the time the payment was made. In our letter to Pennsylvania dated June 21, 1999, we indicated that this section appears to be less effective than the federal regulations because EPAct has no provisions for relieving an operator of responsibility for water restoration or replacement. EPAct also does not provide for compensation in lieu of replacement or restoration.

In its response of June 1, 2000, Pennsylvania wrote that it may be cost prohibitive to restore or replace a water supply. This section provides the landowner the option of agreeing to compensation to satisfy the mine operator's obligation to restore or replace the affected water supply. Pennsylvania believes that by affording landowners and water users monetary compensation in situations where it is not reasonably possible to afford them an equitable remedy, its program is consistent with federal law.

The Director is not approving this portion of the BMSLCA because it is less stringent than section 720 of SMCRA, which requires the prompt replacement of a protected water supply. The preamble to the federal regulations at 30 CFR 817.41(j) implementing 720 of SMCRA states:

> A commenter recommended that compensation be available as an option for those limited circumstances where an impacted supply can't be restored. The commenter went on to note that Congress, in enacting the Energy Policy Act, clearly noted that these provisions were not to prohibit, or interrupt underground coal mining operations. Without the compensation option, the commenter asserted that operations would be forced to cease operating if they couldn't replace the water supplies. OSM does not agree. The terms of the Energy Policy Act *unequivocally require replacement*. Further, OSM does not anticipate that underground mining operations will be unable to comply with this *statutory mandate*. For example, if the permittee is unable to restore a spring or aquifer, the permittee should still be able to provide water from an alternative source, such as a public water supply, or by pipeline from another location. 60 FR at 16733 (emphasis added).

Clearly both SMCRA and the federal regulations require restoration, or replacement, and thus compensation in lieu of restoration or replacement is not an option.

Section 5.2(h) (52 P.S. 1406.5b(h)). This section allows a landowner to submit a written request asking PADEP to review an operator's finding that a water supply cannot reasonably be restored or that a permanent alternate source cannot reasonably be provided. In response to the request, the Department will issue an advisory opinion on the validity of the claim within 60 days. In our letter to Pennsylvania dated June 21, 1999, we indicated that this section appears to be less effective than the federal regulations because it allows a finding that a permanent alternate source cannot be provided. EPAct requires a source to be provided without exception.

In its response of June 1, 2000, Pennsylvania reiterated its argument in response to our comments on section 5.2(g) of BMSLCA. Pennsylvania notes that providing an opinion for landowners on whether they should proceed to elect a damage remedy, has done nothing more than provide a means to assure that a landowner does not accept compensation in lieu of "equitable-type" replacement relief unless it is true that a replacement water supply cannot be reasonably provided by the mine operator. Pennsylvania also indicated that BMSLCA addresses a broader array of water supplies than the federal program. The option to compensate represents a reasonable policy choice that provides a flexible approach to the water supply replacement obligation of underground operators. Finally, Pennsylvania noted that § 720 of federal SMCRA provides that the water supply replacement obligation shall not be construed to prohibit or interrupt underground mining. It is entirely possible underground mining conducted under the federal program may result in impacts to water supplies that cannot reasonably be replaced. In these situations the regulatory authority would be faced with accepting some alternative type of settlement that is reasonable and equitable to the mine operator and landowner.

As noted in the Director's decision on section 5.2(g) (52 P.S. 1406.5(b)(g)) of the BMSLCA, SMCRA and the federal regulations require the replacement or restoration of water supplies without exception. The Director is not approving this portion of the BMSLCA because it is connected with section 5.2(g) (52 P.S. 1406.5(b)(g)) that allows compensation in lieu of replacement or restoration. Section 5.2(h) (52 P.S. 1406.5(b)(h)) is not self-sustaining and is unenforceable without section 5.2(g) (52 P.S. 1406.5(b)(g)). Therefore, it is inconsistent with the requirements of SMCRA and the federal regulations.

Section 5.2(i) (52 P.S. 1406.5b(i)). This section defines the term "permanent alternate source" to include any well, spring, municipal water supply system or other supply approved by the Department which is adequate in quantity, quality and of reasonable cost to serve the premining uses of the affected water supply. In our letter to Pennsylvania dated June 21, 1999, we indicated that this section appears to be less effective than the federal rules because it bases the adequacy of a permanent alternate source of water on premining uses of the water supply rather than the premining quality and quantity and that the reasonable cost provision of this section makes it appear to be less effective than federal regulations which require replacement without regard to cost.

In its response to us of June 1, 2000, Pennsylvania noted that our comments were an incorrect characterization of the statutory provision. The requirement that a replacement water supply must be of reasonable cost is intended to protect landowners and water users from being forced to accept water supplies that are unreasonably expensive to operate or maintain. Replacement water supplies with high costs to operate or maintain would only be acceptable if the mine operator provided for payment of the high costs.

The Director is not approving the portion of this provision that requires permanent alternate replacement sources to be of reasonable cost. The definition of the term "replacement of water supply" as found in the federal regulations at 30 CFR 701.5 indicates that replacement includes payment of operation and maintenance costs in excess of customary and reasonable delivery costs of premining water supplies. Pennsylvania's argument that the requirement that a replacement water supply must be of reasonable cost is intended to protect landowners is not tenable because the federal rules require operators to assume the operation and maintenance costs of the replacement delivery systems if they are "beyond those that are customary and reasonable for the premining supply." 60 FR at 16726. Therefore, the Director is not approving the phrase "and of reasonable cost" in this section. However, the Director is approving the remaining portion of this section. For a more complete discussion of the Director's decision regarding quality and quantity standards for replacement or restoration of water supplies, please see the Director's findings for sections 5.1(a)(1) and (a)(2) (52 P.S. 1406.5a(a)(1) and (a)(2)), which are incorporated into this finding.

Section 5.2(j) (52 P.S. 1406.5b(j)). This section requires an operator to describe how water supplies will be replaced. This section also provides that the Department cannot require a mine operator to provide a replacement water supply prior to mining as a condition of securing a permit to conduct underground mining. There is no direct federal counterpart to this section. The Director finds that this portion of the amendment is in accordance with that portion of 720(a)(2) of SMCRA which states that "[n]othing in this section shall be construed to prohibit or interrupt underground coal mining operations." Therefore, the Director approves this portion of the amendment.

Section 5.2(k) (52 P.S. 1406.5b(k)). This section allows any landowner, water user, or mine operator, aggrieved by an order or determination of the department issued under this section, the right to appeal the action to the Environmental Hearing Board within 30 days of receipt of the order. This section allows an appeal right that is found within numerous other sections of Pennsylvania's approved program and therefore is no less effective than the federal regulations at 30 CFR 843.16 (implementing 30 CFR 840.13). The Director approves this section.

Section 5.3(a) (52 P.S. 1406.5c(a)). This section provides that the operator and the landowner may enter into an agreement that establishes the manner and means by which an affected supply will be restored or an alternative supply will be provided or providing compensation for the affected water supply. It also lists what conditions must first be met before the operator will be released from liability. Finally, it prohibits double compensation to the landowner. In our letter of June 21, 1999, to Pennsylvania, we noted that EPAct does not allow compensation for contamination, loss or diminution of water supplies in lieu of replacement. In its response of June 1, 2000, Pennsylvania noted these concerns were the same that we noted in sections 5.2(g) and 5.2(g)(1). Pennsylvania's response for this section is the same as in those sections. In addition, Pennsylvania noted that the decision in *National Mining Assoc. v. U.S. Department of the Interior*, 172 F.3d 906 (D.C. Cir. 1999), recognizes the legitimacy of voluntary agreements for damages under the federal regulatory program.

The Director is approving this provision to the extent that the agreement to replace a water supply or provide an alternative water supply meets the requirements established in the federal definition of "Replacement of Water Supply" found at 30 CFR 701.5. The Director is not approving agreements that provide for replacement of an alternate supply of water to the extent that water supply will not meet the requirements of the federal definition.

The Director is also not approving this provision to the extent that it allows compensation in lieu of restoration or replacement of affected water supplies. The federal rules do not allow operators and landowners to enter into voluntary

VOL 66 ISS 248 DE 27 2001 UMI

agreements for compensation in lieu of restoration or replacement of affected water supplies. As previously noted, in the Director's Finding for section 5.2(g), which is incorporated herein, SMCRA and the federal rules require restoration or replacement. The terms of EPAct *unequivocally require replacement.* 60 FR at 16733 (emphasis added). Therefore, this is less effective than SMCRA and the federal rules. The Director would note that Pennsylvania's reliance on the *National Mining Association* decision is misplaced. The voluntary agreements that are discussed in the court decision are compensation agreements for subsidence damages to any noncommercial building or occupied residential dwelling. The opinion does not extend or recognize compensation agreements for damages to water supplies.

Section 5.3(b) (52 P.S. 1406.5c(b)). This section provides that any agreement made under section 5.3(a) (52 P.S. 1406.5c(a)) must be included in every deed for conveyance of the property covered by the agreement. The Director is not approving this provision to the extent that section 5.3(a) (52 P.S. 1406.5c(a)) has not been approved and hence there will be no agreements providing for compensation in lieu of water supply replacement or restoration. Therefore, section 5.3(b) (52 P.S. 1406.5c(b)) is inconsistent with the requirements of SMCRA and the federal regulations to the extent that section 5.3(a) (52 P.S. 1406.5c(a)) is less effective.

Section 5.3(c) (52 P.S. 1406.5c(c)). This section allows a landowner or water user who claims contamination, diminution or interruption of a water supply to seek any other remedy that may be provided at law or in equity. The section further indicates that in any proceedings in pursuit of remedies other than provided in this Act, the provisions of this act shall not apply and the party or parties against whom liability is sought to be imposed may assert in defense any rights or waivers arising from provisions contained in deeds, leases or agreements pertaining to mining rights or coal ownership on the property in question.

In our letter of June 21, 1999, we asked Pennsylvania to clarify the intent of this section. In particular we wanted to know what was meant by other remedies as used in this section, and if this section allows an operator to assert rights that afford lesser protection than is provided by EPAct.

In its response of June 1, 2000, Pennsylvania indicated that the General Assembly appeared to want to preserve any remedy a landowner or water user had under existing law covering adverse effects to a water supply caused by underground mining. This section gives the landowner or water user the option of pursuing the remedies provided by BMSLCA for water loss, contamination or diminution or pursuing the remedies available at common law or pursuing the remedies available under federal law. Pennsylvania concluded by noting that a mine operator could only assert rights that afford lesser protection than is provided by EPAct if the water user elects to pursue a common law remedy and the mine operator possesses such rights.

This section is inconsistent with § 720(a)(2) of SMCRA and the federal rules to the extent that any state law negates the requirements of, or provides less protection than, EPAct. In a challenge to the federal rules (30 CFR § 817.41(j), 817.121(c)(2) and 701.5), industry plaintiffs asserted that these regulations interfered with state law water rights and that the Energy Policy Act did not preempt state law, thereby allowing a landowner's waiver of water replacement. *National Mining Association* v. *Babbitt,* Civil Action No. 95–0938 (D.D.C. May 29, 1998). The district court agreed with OSM that the federal rules do not interfere with state law water rights. *See also,* 60 FR 16727, 16733 (March 31, 1995). The court went on to hold that the Energy Policy Act "created federal substantive rights that may extend beyond the protections afforded by inconsistent or less protective state laws . . . . Congress did not include limitations in § 720 and instead made *the duty to replace or repair a water supply absolute and without exception." Id.* at 12 (emphasis added). For example, any rights or waivers found in deeds or leases or agreements that waive or reduce the protections of EPAct are less stringent and not approved. However, any Pennsylvania law that exceeds the requirements of EPAct is in accordance with SMCRA. Also, matters involving property rights disputes are beyond the scope of SMCRA (see § 507(b)(9) and 510(b)(6)(C) of SMCRA). Accordingly, the Director is not approving this section to the extent any state law negates or provides less protection than EPAct.

Section 5.4(a) (52 P.S. 1406.5d(a)). This section requires the operator to either repair or compensate owners for damage to certain structures caused by underground mining operations. Compensation is to be made to the owner of structures overlying, or in the proximity of, the mine for the reasonable cost of its repair or the reasonable cost of its replacement where the damage is irreparable. Section 720(a)(1) of SMCRA provides for repair of material damage, which "shall include rehabilitation, restoration, or replacement of the damaged" structure or dwelling or compensation in the full amount of the decrease in value resulting from the subsidence. Pennsylvania's statute, as implemented by its regulation at 25 Pa. Code 89.142a(f)(1), states that the operator shall fully rehabilitate, restore, replace or compensate the owner for material damage. The two standards for repair are substantively identical because they both require the operator to rehabilitate, restore, or replace the damaged structure. However, Pennsylvania's standards for compensation are different than SMCRA's because Pennsylvania's are based on the repair or replacement costs while SMCRA's are based on the decrease in value. Even though the standards are different, OSM believes that Pennsylvania's compensation standard is no less stringent than SMCRA since the standard is based on providing the amount of funds required to repair or fully replace the structure. For example, in one federal enforcement case, the construction estimate to repair the structure significantly exceeded the appraisal of the structure's diminished value. Therefore, the Director finds that Pennsylvania's compensation standard is no less effective than § 720(a)(1) of SMCRA because it provides compensation equal to the amount needed by a property owner to repair a structure or to purchase, or build, another structure.

OSM was concerned with Pennsylvania's use of the phrase "in the proximity of the mine." SMCRA has no distance limitation. Accordingly, we asked PADEP in our letter of June 21, 1999, what the phrase "in the proximity of the mine" meant in regard to the protections afforded by this section. Pennsylvania in its response of June 1, 2000, indicated that while the term was not defined in statute or regulation, it understands the term to mean the structures defined in this section do not have to be directly above the mine workings in order to be covered by repair or compensation requirements, and that the phrase recognizes the fact that subsidence effects often extend outward from points where coal is extracted in a mine. Pennsylvania stated that the phrase is not interpreted to impose any specific distance limitations. We find this explanation does not place any limits on the location of protected structures and find section 5.4(a) (52 P.S. 1406.5d(a)) no less stringent than SMCRA.

While section 5.4(a) (52 P.S. 1406.5d(a)) is no less stringent than SMCRA in terms of definition and coverage of types of structures, the Director is requiring Pennsylvania to amend section 5.4 (52 P.S. 1406.5d) to require the *prompt* repair and compensation for those structures protected under § 720(a)(1) of SMCRA and 30 CFR 817.121(c)(2). The Director is requiring this amended protection because section 5.5 (52 P.S. 1406.5e) of the BMSLCA, and its implementing regulations under 25 Pa. Code 89.143a, proposed a number of subsidence damage investigation and enforcement procedures that do not provide for prompt repair of, or compensation for, covered structures in certain situations. In requiring the added language, the enforcement actions requiring prompt repair and compensation will, at a minimum, be handled in conformance with Chapter 86, Subchapter H (Enforcement & Inspection), which requires citation and abatement of violations within a reasonable time.

Please see the Director's findings for sections 5.4(a)(1) through (3) (52 P.S. 1406.5d(a)(1) through (3)) for further information.

Section 5.4(a)(1) and (a)(2) (52 P.S. 1406.5d(a)(1) and (a)(2)). These sections provide restoration or compensation to owners of buildings that are accessible to the public, including commercial, industrial or recreation buildings and their permanently affixed structures as well as any noncommercial buildings customarily used by the public. The federal rule at 30 CFR 817.121(c)(3) requires that non-commercial buildings must be repaired or the owner compensated. Non-commercial building is defined at 30 CFR 701.5 as a building that is used as a public building or a community or institutional building as that term is defined in 30 CFR 761.5. Buildings used only for commercial, agricultural, industrial, or retail or other commercial enterprises are not protected in the federal rules.

While Pennsylvania's statute protects some buildings not protected by the federal rules, we were concerned that the Pennsylvania statute was not as inclusive of buildings protected by the federal regulations. In our letter to Pennsylvania of June 21, 1999, we asked for clarification. In its response to us dated June 1, 2000, Pennsylvania indicated that the regulations implementing the changes to the act define the term noncommercial building to include any community or institutional building covered by definition in section 25 Pa. Code 86.101. The definition of community or institutional building in section 25 Pa. Code 86.101 includes scientific and correctional facilities and structures used for public services. Pennsylvania stated that its program therefore includes all noncommercial buildings covered under the federal program.

We find that Pennsylvania's explanation is reasonable and find that the approved program does cover the same structures as the federal definition describes in the term "community or institutional buildings" and is no less effective than the federal rules. The Director is approving this portion of the amendment.

Section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)). This section reads in part:

> Restoration or compensation for structures damaged by underground mining—(a) Whenever underground mining operations conducted under this act cause damage to any of the following surface buildings overlying or in the proximity of the mine:
>
> (3) dwellings used for human habitation and permanently affixed appurtenant structures or improvements in place on the effective date of this section or on the date of the first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application; * * * the operator of such coal mine shall repair such damage or compensate the owner of such building for the reasonable cost of its repair or the reasonable cost of its replacement where the damage is irreparable.

In our letter to Pennsylvania of June 21, 1999, we noted that:

> There is no federal requirement that the structure be within the boundary of the entire mine. Pennsylvania does not define "improvements." The Black's Law Dictionary defines improvements as "[a] valuable addition made to property (usually real estate) or an amelioration in its condition, amounting to more than mere repairs or replacement, costing labor or capital, and intended to enhance its value, beauty or utility or to adapt it for new or further purposes. Generally, buildings, but may also include any permanent structure or other development, such as a street, sidewalks, sewers, utilities, etc." Thus, the regulation may be internally inconsistent since it appears that "improvements" and "permanently affixed appurtenant structures," which is defined by Pennsylvania, include some of the same things.

In its response of June 1, 2000, Pennsylvania noted that DEP considers improvements to include "valuable additions" that fall outside the scope of the term *permanently affixed appurtenant structures.* Pennsylvania stated that according to the rules of statutory construction, only improvements must be completely within the boundary of the mine before the operator has a duty to repair or compensate. Pennsylvania also declared that only improvements must be in place on the effective date of the proposed regulations or on the first publishing date of the mine permit.

The federal rules protect structures in place at the time of mining that are installed on, above or below, or a combination thereof, the land surface if that building, structure or facility is used in connection with an occupied residential dwelling (see 30 CFR 817.121(c)(2) and the definition of "occupied residential dwelling and structures related thereto" at 30 CFR 701.5).

Pennsylvania's protection of structures is more limited than the federal requirements because it requires improvements to be in place at the time of permit application or at the time of the five-year renewal and within the boundary of the mine. The federal definition protects improvements that were in place at the time of mining as long as they were related to a structure. Thus, a structure could have been built after the permit application or five-year renewal and still be protected at the time of mining under the federal rules, but not under section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) of the BMSLCA. Additionally, this section of the BMSLCA requires improvements to be located within the boundary of the mine to be protected. The federal rules do not have a similar restriction.

The Director finds that the portion of section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) that states "dwellings used for human habitation and permanently affixed appurtenant structures or improvements" is no less effective than the federal regulations and is approving it. This portion of the amendment provides protections similar to that provided by the federal definition of the term "occupied residential dwelling and structures related thereto" found at 30 CFR 701.5. However, the Director has found the following phrase in section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) to be less effective than the federal regulations in protecting some structures related to residential dwellings: " * * * in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application." The Director is not approving this phrase. For the Director's findings on the term "permanently affixed appurtenant structures" please see the discussion of that term under 25 Pa. Code 89.5.

VOL 66 ISS 248 DE 27 2001 UMI

Section 5.4(a)(4) (52 P.S. 1406.5d(a)(4)). This section provides restoration or compensation of agricultural structures. Pursuant to 30 CFR 817.121(c)(3), repair or compensation for material damage to agricultural structures is required to the extent allowed under state law. The Director is approving this portion of the amendment because it provides for protection for structures that are not protected under the federal regulations and is consistent with 30 CFR 817.121(c)(3).

Section 5.4(b) (52 P.S. 1406.5d(b)). This section allows an operator to replace an irreparably damaged agricultural structure with a structure satisfying the functions and purposes served by the damaged structure before such damage occurred—if the structure was used for a purpose different from that for which it was originally constructed. Pursuant to 30 CFR 817.121(c)(3), repair or compensation for material damage to agricultural structures is required to the extent allowed under state law. The Director is approving this portion of the amendment because it provides for protection for structures that are not protected under the federal regulations and is consistent with 30 CFR 817.121(c)(3).

Section 5.4(c) (52 P.S. 1406.5d(c)). This section indicates the operator will not be required to repair a structure or compensate a structure owner for damage if the operator demonstrates the landowner denied access to the operator to conduct a premining survey. The section requires operators to serve notice on the landowner by certified mail or by personal service of the landowners rights established by sections 5.4, 5.5, and 5.6. In our letter to Pennsylvania dated June 21, 1999, we noted that under the federal rule at 30 CFR 817.121(c)(4)(iii), denial of access does not relieve the operator of its duty to repair or compensate landowners for subsidence damage. In its response to us dated June 1, 2000, Pennsylvania noted that:

> Act 54 imposes a statutory presumption of liability on the coal operator for structural damages and consistent with OSM's rationale, a homeowner who denies access, would preclude the regulatory agency and the operator from determining where the operator's liability should begin and where it should end.
>
> All Pennsylvania has done with respect to the right to assert a claim for compensation is to condition that right; it has not denied anyone their right to seek a repair or compensation remedy in the event their properties are damaged by mine subsidence. The requirement that persons who intend to invoke their rights to repair or compensation allow the potentially responsible mine operator an opportunity to inspect the property prior to mining is a reasonable condition and one which does not render Pennsylvania's program less effective.

The Director finds that section 5.4(c) (52 P.S. 1406.5d(c)) is less effective than the federal regulations because the federal rules requiring repair or compensation for damage to non-commercial buildings and dwellings and related structures (30 CFR 812.121(c)(2)) do not provide exception for any reason when an operator's underground mining operation has caused subsidence damage. Pennsylvania has failed to account for information that the homeowner or the regulatory authority possesses. It is possible that the homeowner may hire someone to conduct a survey. In Pennsylvania's scenario, the homeowner would have no relief under Act 54 even though he had relevant information that showed causation. As a result, the Director is not approving this provision.

Additionally, in the preamble to the March 31, 1995, federal rules on subsidence (60 FR at 16741), OSM discussed the effect of a landowner denying access to a property and concluded that in any enforcement proceeding OSM or the regulatory authority may take the effect of the denial into account in determining what weight, if any, to give to the rebuttable presumption of causation. Even though the federal rules concerning the presumption were suspended, this part of the preamble clearly indicates OSM's intent that enforcement actions would proceed even if landowners denied permission to operators to conduct premining surveys. There are no passages in the preamble or the regulations that relieve operators of their duty to repair or compensate landowners for subsidence damage to covered structures.

Section 5.5(a) (52 P.S. 1406.5e(a)). This section requires owners of buildings described in section 5.4(a) (52 P.S. 1406.5d(a)), who believe removal of coal has caused mine subsidence damage, to notify the operator of the damage. In our letter to Pennsylvania dated June 21, 1999, we noted that this section appears to be less effective than the federal regulations because EPAct does not require landowners to notify operators of damage.

In its response of June 1, 2000, Pennsylvania noted that:

> This is the same concern presented in OSM Statutory Comment 5 regarding [BMSLCA's] water supply replacement provisions. The response to that comment is also applicable here. In making this comment, OSM is failing to consider that in reality there has to be interaction between the operator and the structure owner in order to expedite the repair/compensation process. The sooner this interaction occurs, the sooner claim resolution can begin. The claim resolution procedures set forth in section 5.5 are intended to promote settlements without [PA]DEP involvement. [PA]DEP involvement is intended as a "second tier" of protection for the structure owner.

Similar to the issues discussed under section 5.2(a)(1) (52 P.S. 1406.5b(a)(1)) for water loss notifications, the Director carefully considered Pennsylvania's proposed requirement that landowners notify operators with a claim of subsidence damage. The Director considered the proposal relative to the requirements for subsidence damage protection (30 CFR 817.121) and the requirements for addressing complaints by citizens (30 CFR part 842). As with water loss, it is important to note that under both the federal and the proposed Pennsylvania requirements, material damage resulting from underground mining that employs planned subsidence is not prohibited. Once damage occurs, the federal requirements require prompt repair or compensation, while Pennsylvania's proposed requirements provide for a six-month period where the property owner and the permittee address the damage without PADEP involvement. Specifically at issue under section 5.5(a) (52 P.S. 1406.5e(a)) is whether the requirement for landowners to notify operators of mine subsidence damage is in any way less effective than federal requirements.

EPAct and 30 CFR 817.121(c) are silent on how the operator is notified of structure damage. Under 720 of SMCRA, permittees are responsible for prompt repair or compensation regardless of whether they are contacted by property owners or by the regulatory authority in cases where the property owners fail to do so. Under section 5.5(a) (52 P.S. 1406.5e(a)) of the BMSLCA, Pennsylvania has elected to establish a subsidence damage notification procedure that requires the property owner to contact the operator. The proposed changes to the Pennsylvania program are silent on any procedures that will be followed in the event that landowners choose to notify the Department rather than the operator. However, under section 5.5(b) (52 P.S. 1406.5e(b)), 5.5(c) (52 P.S. 1406.5e(c)), and 25 Pa. Code 89.143(a), Pennsylvania established a specific procedure for investigating and enforcing structure repair and compensation requirements for those landowners that provide notification to the operator.

The Director is approving the portion of section 5.5(a) (52 P.S. 1406.5e(a)) of the BMSLCA that deals with notification of the operator. Because EPAct and the federal rules do not set a federal standard concerning structure damage notification, the proposed Pennsylvania requirement that the property owner contact the operator is not inconsistent with SMCRA and 30 CFR 817.121(c). The Director's required amendment of section 5.4(a) (52 P.S. 1406.5d(a)) will insure the prompt repair and compensation for all structures covered by EPAct whether or not a landowner has contacted the operator as required by section 5.5 (52 P.S. 1406.5e) of BMSLCA or 25 Pa. Code 89.143(a).

However, the Director finds that use of the phrase "removal of coal has caused mine subsidence" when describing suspected causes of subsidence damage is not as effective as SMCRA. Section 720(a) of SMCRA provides that operators are responsible for repairing or compensating landowners for subsidence damages caused by underground coal mining operations. Underground coal mining operations include more activities than just the removal of coal. Consequently, section 5.5(a) (52 P.S. 1406.5e(a)) acts to limit the operator's responsibility for repair or compensation to subsidence damage caused by coal removal. As a result, the Director is requiring Pennsylvania to amend section 5.5(a) (52 P.S. 1406.5e(a)) to make it clear that operators are responsible for subsidence damage from underground mining operations, not just removal of coal. As a result of this amendment, structure owners who suspect subsidence damage was caused by underground coal mining operations would report such damage to the operator.

Section 5.5(b) (52 P.S. 1406.5e(b)). This section provides that landowners may file a claim with the Department if they cannot come to terms with the operator within six months from the date of notice as to the cause of the damage. This section also requires all claims to be filed within two years of the date damage to the building occurred. In our letter to Pennsylvania dated June 21, 1999, we indicated that the portion of this section dealing with the six-month notification period does not appear to be as effective as the federal regulation because it does not require the prompt repair or compensation of subsidence damage. In our letter to Pennsylvania dated June 23, 2000, we indicated that the portion of the statute requiring claims to be filed within two years of the date damage to the building occurs ends or limits the Department's responsibilities if a written claim was filed more than two years after the date of damage to the building. The statute does not allow the Department to conduct required investigations or require operators (via notice of violation) to promptly repair or compensate landowners for damage to structures protected by EPAct, and may not be as effective as the federal regulations. While Pennsylvania does not have a termination of jurisdiction rule, these provisions are contrary to the federal rule at 30 CFR 700.11(d).

In its letter to us dated June 1, 2000, Pennsylvania indicated that section 5.5(b) (52 P.S. 1406.5e(b)) does not necessarily preclude the prompt settlement of structure damage claims, it simply gives mine operators and structure owners six months to come to terms on the means of settlement. With regard to the provision requiring claims to be filed within two years of the date damage to the building occurs, Pennsylvania wrote in its letter to us dated July 14, 2000, that the limitation only pertains to PADEP's responsibility to conduct an investigation and does not release a mine operator from the responsibility to repair or compensate for structure damage. The statute does not prohibit PADEP from becoming involved in the resolution of cases that have gone beyond the two-year claim period. Pennsylvania further noted this section does not end PADEP's responsibilities. Section 5.5(c) (52 P.S. 1406.5e(c)) requires PADEP to issue orders directing the operator to compensate the owner or cause repairs to be made. Section 9 (52 P.S. 1406.9) also authorizes the Department to issue orders necessary to aid in enforcement of BMSLCA, which includes the enforcement of the operator's obligation to compensate the owner or to repair the subsidence. With regard to the comment that this provision is contrary to the federal rule at 30 CFR 700.11(d), Pennsylvania reiterated the argument made in response to our comment on section 5.1(b) (52 P.S. 1406.5a(b)).

The proposal by Pennsylvania to provide a specific claims investigation procedure for affected property owners was carefully considered by the Director relative to the existing requirements for addressing complaints by citizens under 30 CFR part 842 and the approved Pennsylvania program (see 49 FR 10253–58, March 20, 1984). As we stated in the preamble to the federal EPAct rules, "existing citizen complaint procedures are adequate and appropriate to address surface owner complaints of subsidence damage." (60 FR at 16735). Currently, the approved Pennsylvania program contains a citizen complaint investigation and enforcement process consistent with 30 CFR part 842. That process does not prohibit citizen complaints or limit the ability of the Department to take enforcement actions based on whether a landowner has served notice to an operator alleging damage.

Pennsylvania's response with respect to the six-month delay pointed out that "it simply gives mine operators and structure owners six months to come to terms on the means of settlement." The EPAct and implementing rules provide sufficient flexibility to take into account site conditions, potential repair and compensation alternatives, and other relevant factors to judge whether a permittee has met the requirement to promptly repair or compensate for structure damage.

Additionally, section 5.5(b) (52 P.S. 1406.5e(b)) ignores the requirement of 720(a)(1) of SMCRA, which requires the prompt repair of, or compensation for protected structures. It allows six months to pass without operator action even if the operators reach an early impasse with the owners. Section 5.5(b) (52 P.S. 1406.5e(b)) would prohibit Pennsylvania from issuing orders to require repair or compensation before the six months elapsed. As noted under Section 5.4(a) (52 P.S. 1406.5d(a)), the Director is requiring Pennsylvania to amend its program to require prompt repair and compensation in all cases of EPAct-covered structure damage. To ensure that Pennsylvania possesses adequate authority to issue orders requiring the prompt repair and compensation, regardless of whether the structure owner has notified the Department or the permittee, the Director is not approving the portion of this provision that states " * * * within six months of the date of the notice."

Additionally, the section provides that a landowner's right to a Department investigation will expire after two years. We disagree that the Ninth Circuit case cited by Pennsylvania is applicable. The proposition held by the court of appeals and cited by Pennsylvania states that when a federal statute contains no limitations provisions, an applicable state statute of limitations should be applied, unless there is an analogous federal statute of limitations, or the state law would frustrate or interfere with national policies. The Ninth Circuit case is the general rule applicable to litigation involving private parties. However, this general rule and its exceptions do not apply to government

VOL 66 ISS 248 DE 27 2001 UMI

actions brought to vindicate public interests. *Dole* v. *Local 427, International Union of Electrical, Radio and Machine Workers,* 894 F.2d 607 (3d Cir. 1990). The general rule that applies to government actions is that "no statute of limitations will be applied in civil actions brought by the Government, unless Congress explicitly imposes such time limitations." Dole, 894 F.2d at 610. The court of appeals in Dole, held that no statute of limitations applies to the government so long as a public purpose is served. While section 5.5(b) (52 P.S. 1406.5e(b)) of BMSLCA may benefit a private individual, this is no different than the situation in Dole, where the Department of Labor sued to enforce individual and public rights. The fact that a public suit may benefit a private individual does not change the application of the general rule for government actions. Under the provisions of the BMSCLA, it will be Pennsylvania that will enforce the requirement that the operator restore or compensate a protected structure. The requirement to restore a structure or compensate its owner not only serves a private purpose it also serves a public purpose as well. The requirements not only protect private structure owners but buildings owned by the government or that serve as a public building or a community or institutional building.

Further, a time limit on subsidence damage claims is adverse to the general scheme of SMCRA. For example, this section would limit Pennsylvania's ability to take enforcement actions and would interfere with the administrative methods established by 517 and 521 of SMCRA since it could be difficult to determine when the structure was initially affected. Since every state could have a different time period, this section is contrary to the public policy of § 102(a) of SMCRA, which established a nationwide program and with 101(g) of SMCRA. It could also preclude some citizen suits because in some situations, a citizen might not know that Pennsylvania was not taking action until the two years elapsed. Additionally, if a request for an investigation by Pennsylvania of possible subsidence damage was not made within two years from the date of structure damage, Pennsylvania would not consider it a violation, because Pennsylvania would not investigate the claim. Since it would not be a cited violation, this would prevent Pennsylvania from holding operators responsible for subsidence damage to structures.

We disagree with Pennsylvania that this time limitation is no less effective than the federal rules. It is contrary to 505(b) of SMCRA, which prohibits any state program from having state laws or regulations that are inconsistent with SMCRA. Failure to repair or compensate a structure owner is in direct contrast with the purposes of EPAct and the federal regulations that require without a time limit, the repair or compensation of protected structures. This is evidenced by language in the Congressional House report that specifically rejected the Secretary's regulations originally promulgated in 1983. The 1983 regulations only required repair or compensation of structures to the extent allowed under state law. H.R. Rep. No. 474, 102d Cong., 2d Sess, pt. 8 at 132 (1992). This provision is also contrary to citizen complaint investigation standards.

With respect to Pennsylvania's characterization that the limitation only pertains to PADEP's responsibility to conduct an investigation, and does not release a mine operator from the responsibility to repair or compensate for structure damage, the Director observes that the net effect will be the same because the only entity, PADEP, that could enforce the obligation is prohibited from doing so. As stated in section 5.6(c) (52 P.S. 1406.5f(c)), the duty to repair or compensate for subsidence damage is the sole and exclusive remedy for such damage. If the operator refuses to acknowledge responsibility for repair or the amount of compensation, and the structure owner did not request an investigation within two years, the owner has no recourse because the state is prohibited from conducting an investigation. We also assert that Pennsylvania's characterization that the statute does not prohibit PADEP from becoming involved in the resolution of cases that have gone beyond the two-year claim period is misleading. First, Pennsylvania fails to elaborate on how this could occur. OSM interprets the statute to mean that, if the owner asks for an investigation within two years but Pennsylvania's enforcement goes beyond two years, Pennsylvania can continue its enforcement. If the owner fails to ask for an investigation, Pennsylvania is precluded from enforcement. Finally, we disagree with Pennsylvania's statement that section 5.5 (52 P.S. 1406.5e) does not end PADEP's responsibilities because of section 5.5(c) (52 P.S. 1406.5e(c)) of the BMSLCA. Section 5.5(c) (52 P.S. 1406.5e(c)) is completely reliant on section 5.5(b) (52 P.S. 1406.5e(b)). Section 5.5(c) (52 P.S. 1406.5e(c)) states that "[t]he department shall make an investigation of a claim within thirty days of receipt of the claim." Section 5.5(b) (52 P.S. 1406.5e(b)) states if the parties are unable to agree, the owner of the building may file a claim with the Department. Thus, the reference to claim in 5.5(c) (52 P.S. 1406.5e(c)) refers to the claim discussed in 5.5(b) (52 P.S. 1406.5e(b)). Section 5.5(c) (52 P.S. 1406.5e(c)) does not discuss any other options or alternatives. Based on the above rationale, the Director finds this section less effective than the federal rules and is not approving this section.

Finally, since our decision is based on the above, we feel it is unnecessary to address Pennsylvania's interpretation of the federal regulations describing termination of jurisdiction.

Section 5.5(c) (52 P.S. 1406.5e(c)). This section provides that the Department will make an investigation of damage claims within 30 days of receipt of the claim and, within 60 days following the investigation, make a determination in writing whether the damage was caused by subsidence. This section further provides that the Department will issue a written order directing the operator to compensate the structure owner or repair the damaged structure within six months or a longer period. In our letter to Pennsylvania dated June 21, 1999, we indicated that the Department's written determination made within 60 days of the investigation appears to be less effective than the citizen complaint procedures of 30 CFR 842.12(d). The federal rule requires a response within 10 days of the inspection. We further indicated that if the term "written order" means a notice of violation, this section does not appear to be as effective as the federal regulations in that six months exceeds the total time allowed for abatement of a notice of violation. "The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance, except upon a showing * * * [of] one or more of the circumstances in paragraph (f) of this section." 30 CFR 843.12(c).

In its response to us dated June 1, 2000, Pennsylvania wrote that:

> The 60-day period the department is allotted to make a determination cannot be compared with the 10-day period specified in 30 CFR 842.12(d). [This section] requires PADEP to reach a final determination within 60 days of making an investigation, where the federal requirement only relates to communication with the complainant * * *. There is nothing within 30 CFR 842.12(d) that specifically requires OSM to take enforcement action within the 10-day period. [A]lso * * * 30 CFR 842.12(d) establishes no minimum time period in which OSM must conduct its investigation.

With regard to the term "written order" as used in this section, Pennsylvania indicated that the term does not refer to a notice of violation, but rather to an administrative order directing the operator to repair or compensate the structure owner.

As noted in the finding for section 5.2(b)(2), the preamble to the federal EPAct rules states "existing citizen complaint procedures are adequate and appropriate to address surface owner complaints of subsidence damage." (60 FR at 16735). The proposal by Pennsylvania to provide a claims investigation procedure for affected property owners was carefully considered by the Director relative to the existing requirements for addressing complaints by citizens under 30 CFR part 842. Currently, the approved Pennsylvania program regarding citizen complaint investigations and enforcement provides that if an inspection is made, the Department will notify the citizen within 10 days of completion of the inspection of the results. If no inspection is made, the Department will notify the citizen within 15 days of receipt of the complaint. Pennsylvania's approved citizen complaint rules are consistent with 30 CFR 842.12 and allow latitude in determining what constitutes the point at which an inspection is complete to allow for the collection of necessary data (see 49 FR 10253–58). As a result, citizen complaint inspection duties could be completed prior to the 60 days specified in section 5.5(c) (52 P.S. 1406.5e(c)). Under existing citizen complaint rules, once an inspection is completed, Pennsylvania has 10 days to describe its enforcement action or lack thereof. However, under the proposed provision, an inspection may occur in a short time, e.g. two days, but Pennsylvania would have longer than 10 days to notify the citizen of its inspection results, e.g., 60 days. This is inconsistent with Pennsylvania's existing rules and the federal rules regarding time requirements for responding to citizen complaints. To be consistent with the federal rules, Pennsylvania, within 10 days of completing all the inspection duties, must notify the citizen of its decision. Therefore, the Director is approving this portion of section 5.5(c) (52 P.S. 1406.5e(c)) to the extent that it is consistent with, or more timely than, the citizen complaint procedures and is requiring Pennsylvania to amend its program to the extent the time frames are longer than the citizen complaint procedures.

Section 5.5(c) (52 P.S. 1406.5e(c)) also provides that if the Department found that mining caused damage, it shall issue an order directing the operator to compensate or cause repairs to be made within six months or longer. The Director is not approving the use of an administrative order that allows the operator six months or longer to repair damage or compensate landowners. Federal regulations at 30 CFR 843.12(c) provide that "The total time for abatement under a notice of violation, including all extensions, shall not exceed 90 days from the date of issuance, except upon a showing * * * [of] one or more of the circumstances in paragraph (f) of this section." Because the federal rules require Pennsylvania to issue a notice of violation within an abatement date of not more than 90 days, instead of an administrative order with an abatement date of six months or longer, the Director is not approving the following phrase from section 5.5(c) (52 P.S. 1406.5e(c)), " * * * within six months or a longer period if the department finds that the occurrence of subsidence or subsequent damage may occur to the same building as a result of mining." This phrase is not as effective as the federal regulations that call for orders with abatement dates less than 90 days except for the circumstances noted in section 30 CFR 843.12(c).

Finally, the Director finds that Pennsylvania's use of the term "underground coal mining" when making a damage determination is less stringent than section 720 of SMCRA. SMCRA requires underground coal mining *operations* to comply with requirements for damage repair or compensation. The term "underground coal mining operations" is more expansive than Pennsylvania's definition of underground mining, which is defined at 25 Pa. Code 89.5 to be the extraction of coal. Therefore, the Director is requiring Pennsylvania to amend this section to insure that any written damage determinations made by PADEP will take into account subsidence due to underground coal mining operations as required by SMCRA.

Section 5.5(d) (52 P.S. 1406.5e(d)). This section provides that the operator will not be liable for repairs or compensation in an amount exceeding the cost of replacement of the damaged structure. The section also provides that the occupants of a damaged structure shall be entitled to additional payment for reasonable actual expenses incurred for temporary relocation and for other actual reasonable incidental costs agreed to by the parties or approved by the Department. Section 720(a)(1) of SMCRA provides for repair of material damage, which "shall include rehabilitation, restoration, or replacement of the damaged" structure or dwelling or compensation in the full amount of the decrease in value resulting from the subsidence. As previously stated in section 5.4(a) (52 P.S. 1406.5d(a)), the cost of replacement is no less stringent than section 720(a)(1) of SMCRA. There is no federal counterpart to provisions for relocation and incidental expenses provided for in this portion of the statute. However, because these provisions provide additional benefits not required by the federal regulations, the Director finds that they are not inconsistent with the requirements of SMCRA or the federal regulations and is approving this portion of the amendment.

Section 5.5(e) (52 P.S. 1406.5e(e)). This section requires an operator to deposit in escrow, an amount equal to the cost of repair or compensation if the operator appeals an order issued by the Department. In our letter to Pennsylvania dated June 21, 1999, we indicated that this section appears to be less effective than the federal regulations because there is no provision, in cases where the operator has not appealed an order of the Department, to insure that funds are available for the repair or compensation for damage to structures and no financial guarantees for the restoration of water supplies.

Pennsylvania responded in their letter of June 1, 2000, that section 6(b) (52 P.S. 1406.6(b)) of BMSLCA authorizes PADEP to require bonds of appropriate amounts to ensure the applicant's faithful performance of mining or mining operations, in accordance with the provisions of sections 5, 5.4, 5.5, and 5.6 (52 P.S. 1406.5, 1406.5d, 1406.5e, and 1406.5f). These requirements are in addition to the escrow requirements of section 5.5(e) (52 P.S. 1406.5e(e)). These bonds must be posted at the time of permit application and will be in place to ensure the repair of any and all structure damage that occurs during the term of the mining permit. Finally, Pennsylvania noted that the requirements to post escrow under section 5.5(e) (52 P.S. 1406.5e(e)) functions as an additional assurance that repairs or compensation will be provided by mine operators.

OSM agrees that the escrow requirements of section 5.5(e) (52 P.S. 1406.5e(e)) are separate from the requirements of section 6(b) (52 P.S. 1406.6(b)) of BMSLCA. Section 5.5(e) (52 P.S. 1406.5e(e)) allows an appeal right that is found within numerous other sections of Pennsylvania's approved program and is no less

VOL 66 ISS 248 DE 27 2001 UMI

effective than the federal regulations at 30 CFR 843.16 (implementing 30 CFR 840.13). The federal rules do not require an operator to place into escrow the cost of repair or compensation before it can appeal an order. Since an escrow account will serve to protect affected structure owners, the Director finds this section consistent with the federal rules and therefore, approves it.

Section 5.5(f) (52 P.S. 1406.5e(f)). This section provides for Pennsylvania to take enforcement action if an operator fails to repair or compensate for subsidence within six months or longer period as the Department has established or if the operator has failed to perfect an appeal of an order. The section further provides for payment of the escrow deposit if an operator fails to repair or compensate for damage after exhausting its right of appeal.

The Director has found that the escrow accounts provide a level of protection beyond that of the federal requirements and is approving that portion of the amendment. However, the portion of section 5.5(f) (52 P.S.1406.5(e)(f)) allowing six months or longer to pass before the Department takes an enforcement action is less effective than the federal regulations at 30 CFR 843.12(c), which requires abatement of violations within 90 days. As stated in the finding for 5.5(c) (52 P.S. 1406.5e(c)), an operator's failure to repair or compensate for subsidence damage is a violation that must be abated within 90 days. To ensure that Pennsylvania has the ability to enforce the necessary requirements of EPAct consistent with 30 CFR part 843, the Director is not approving the portion of section 5.5(f) (52 P.S. 1406.5e(f)) that states: "* * * within six months or longer or such period as the department has established or fail to perfect an appeal of the department's order directing such repair or compensation." Not approving the portion of the phrase dealing with the six-month period will remove an enforcement impediment to Pennsylvania. As noted, the Director is also not approving language in that phrase that deals with perfecting an appeal of the Department's orders. This phrase prevents Pennsylvania from issuing a cessation order if an operator takes an appeal, thus acting as a stay. This provision is not as effective as the federal regulations at 30 CFR 843.16(b), which indicate that the filing of an application for review and request for a hearing cannot operate as a stay of any notice or order.

Section 5.5(g) (52 P.S. 1406.5e(g)). This section provides that, with the exception of 5.5(f) (52 P.S. 1406.5e(f)), existence of unresolved claims of subsidence damage shall not be used by the Department as a basis for withholding permits from, or suspending review of, permit applications submitted by the mine operator against whom such claims have been made. In our letter to Pennsylvania dated June 21, 1999, we asked Pennsylvania to clarify what is meant by the phrase "existence of unresolved claims."

In response, Pennsylvania indicated that the term is self-explanatory. Structure damage claims often take some time to be resolved and this section simply provides that an operator is not deemed to be in violation of its repair or compensation obligations as long as it is, in good faith, attempting to make appropriate repairs or pay appropriate compensation, or has posted the escrow amount necessary to contest its liability. Finally, Pennsylvania also noted that a claim is only an allegation, not a violation.

The Director is approving this section. The federal regulations at 30 CFR 773.12 and 773.14 prohibit the issuance of a permit if the applicant has outstanding violations unless both the abatement period for the notice of violation has not yet expired and the applicant has certified in the permit application that the violation is being satisfactorily corrected. Pennsylvania's provision is consistent with these regulations since no violation was issued.

Section 5.6(a) (52 P.S. 1406.5f(a)). This section deals with voluntary agreements for repair or compensation for damages to structures caused by underground mining. In our letter of June 21, 1999, to Pennsylvania we noted that several times within this section Pennsylvania refers to "releases" that could be a part of the agreements. We asked Pennsylvania to clarify what is meant by the term "release" as used in this section.

In its letter to us dated June 1, 2000, Pennsylvania responded that BMSLCA does not define release. As the term is used in section 5.6 (52 P.S. 1406.5f), it refers to a written discharge, acquittance or receipt given in exchange for consideration as part of an agreement that establishes the means and methods by which the mine operator will repair or compensate for subsidence damage. Pennsylvania noted that section 5.6(a) (52 P.S. 1406.5f(a)) recognizes that mine operators who have fully met their statutory obligations are entitled to obtain a release that precludes the landowner from seeking multiple recoveries on the same claim.

The Director is approving this portion of the amendment. While there is no direct federal counterpart to this section, agreements were recognized in the preamble to the federal rule, so long as the agreements did not "negate the requirements of the Energy Policy Act." 60 FR at 16735. Since this section provides that "remedies shall be no less than those necessary to compensate the owner of a building for the reasonable cost of its repair," the Director finds this section not inconsistent with the requirements of SMCRA and the federal regulations.

Section 5.6(b) (52 P.S: 1406.5f(b)). This section provides that when a voluntary agreement for repair or compensation is executed between landowners and operators, every deed for conveyance of property covered by the agreement must contain a recital of the agreement and any release contained within the agreement. There is no federal counterpart to this portion of the amendment. Since this section provides notice of the agreement and any release, the Director finds it not inconsistent with the requirements of SMCRA and the federal regulations and is approving it.

Section 5.6(c) (52 P.S. 1406.5f(c)). This section provides:

> The duty created by section 5.5 to repair or compensate for subsidence damage to the buildings enumerated in section 5.4(a) shall be the sole and exclusive remedy for such damage and shall not be diminished by the existence of contrary provisions in deeds, leases or agreements which relieved mine operators from such duty. Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement.

In our letter of June 21, 1999, to Pennsylvania we noted that this section appears to be less effective than the federal regulations because the post-1966 structures may have entered into an agreement that would have provided requirements that are less effective than 30 CFR 817.121(c). OSM has determined that "[a]n underground mining operation has a statutory obligation to repair, which may not be negated by a prior agreement." 60 FR at 16736.

In its response to us dated June 1, 2000, Pennsylvania noted that:

> "Post 1966 structures" or structures built after 4/27/66 had no protection from subsidence damage under BMSLCA until 8/21/94, the effective date of section 5.6. Because BMSLCA did not provide protection to these structures, it is highly unlikely there are any agreements providing for repair or compensation for "post 1966 structures." Pre 1966 dwellings were completely protected;

> they could not be damaged by subsidence. Post 1966 agreements for pre 1966 dwellings would have to have provided the homeowners more than full compensation or repairs otherwise the owner would not have had any reason to enter into an agreement with a mine operator. Accordingly, this provision is at least as effective as 30 CFR 817.121(c).

The Director approves the following language:

> The duty created by section 5.5 to repair or compensate for subsidence damage to the buildings enumerated in section 5.4(a) shall be the sole and exclusive remedy for such damage and shall not be diminished by the existence of contrary provisions in deeds, leases or agreements which relieved mine operators from such duty.

There is no requirement in the federal rules that Pennsylvania have a requirement in addition to the duties enumerated in sections 5.4 and 5.5 (52 P.S. 1406.5d and 1406.5e) of the BMSLCA. If Pennsylvania wishes to eliminate any common law duties, that is within its discretion. Accordingly, this language is not inconsistent with the requirements of SMCRA and the federal regulations. However, the Director does not find Pennsylvania's explanation with regard to the last two sentences of section 5.6(c) (52 P.S. 1406.5f(c)) to be persuasive, because to do so would render that portion of section 5.6(c) (52 P.S. 1406.5f(c)) meaningless. The Director finds that the last two sentences: "Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement" are inconsistent with the federal regulations at 30 CFR 817.121(c) and the Director is not approving this portion of section 5.6(c) (52 P.S. 1406.5f(c)). While OSM recognizes that EPAct and Act 54 are not retroactive, this language seems to provide that private agreements entered into between April 27, 1966 and August 21, 1994, waiving or releasing any duty to repair or compensate for subsidence damage remain effective, including for mining activities beyond the effective date of the protections of EPAct and Act 54, if contemplated by the agreement. Thus, these sentences provide that agreements made after April 1966 and before August 21, 1994, do not have to comply with the provisions of the BMSLCA if they are written contrary to the requirements of section 5.5 (52 P.S. 1406.5e) of BMSLCA. Section 720(a)(1) and 30 CFR 817.121(c)(2) require repair or compensation for affected structures. Agreements are acceptable if the terms of the agreement meet "the requirements under paragraph 817.121(c)(2)." 60 FR at 16735. "Any permittee/owner agreements cannot negate the requirements of the EPAct to repair or compensate for subsidence related material damage to occupied residential dwellings and related structures as well as non-commercial buildings." *Id.* Since this provision negates the requirements of section 5.5 (52 P.S. 1406.5e) of BMSLCA, it is inconsistent with the federal regulations.

Section 5.6(d) (52 P.S. 1406.5f(d)). This section provides that any agreement made under section 5.6(c) (52 P.S. 1406.5f(c)) must be included in every deed for conveyance of the property covered by the agreement. The Director is not approving this provision to the extent that section 5.6(c) has not been approved. Therefore, section 5.6(d) (52 P.S. 1406.5f(d)) is inconsistent with the requirements of SMCRA and the federal regulations to the extent that section 5.6(c) (52 P.S. 1406.5f(c)) is inconsistent.

Section 6 (52 P.S. 1406.6). This section was modified by both removing former subsection (a) and replacing references in subsection (b) to sections 4 and 5 with references to sections 5, 5.4, 5.5 and 5.6. The section now requires applicants to file bonds conditioned upon the applicant's faithful performance of mining or mining operations in accordance with sections 5, 5.4, 5.5 and 5.6. While this section requires submission of bonds at the time of application, there is no requirement similar to that found in 30 CFR 817.121(c)(5), which requires an adjustment of bond amount for subsidence damage to structures or water supplies if repair or replacement is not completed within 90 days of occurrence of damage.

In our letter of June 21, 1999, we indicated that section 5.5(e) (52 P.S. 1406.5e(e)), regarding establishment of escrow accounts appears to be less effective than the federal regulations because there is no provision in cases where the operator has not appealed an order of the Department to insure that funds are available for the repair or compensation for damage to structures and no financial guarantees for the restoration of water supplies. After reviewing Pennsylvania's response to that comment, we found that the escrow provisions of section 5.5(e) (52 P.S. 1406.5e(e)) were separate from the requirements of 30 CFR 817.121(c)(5) to increase the bond in response to subsidence damage. However, by reviewing Pennsylvania's response to our comment in section 5.5(e) (52 P.S. 1406.5e(e)), we found that section 6 was required to be amended to include this provision.

Pennsylvania responded in their letter of June 1, 2000, that:

> Section 6(b) of BMSLCA authorizes PADEP to require bonds of appropriate amounts to ensure the applicant's faithful performance of mining or mining operations, in accordance with the provisions of sections 5, 5.4, 5.5, and 5.6.
>
> These requirements are in addition to the escrow requirements of section 5.5(e). These bonds must be posted at the time of permit application and will be in place to ensure the repair of any and all structure damage that occurs during the term of the mining permit.

As Pennsylvania noted, these bonds will be posted at the time of permit application. However, it is very difficult to predict the amount of subsidence damage that will occur to structures, therefore, it may be necessary to raise the bond amounts after damage has occurred. There is no provision in the Pennsylvania program that requires the state regulatory authority to increase bonds in response to subsidence damages that are not repaired or replaced within 90 days. Pennsylvania's only mechanism for increasing the bond amount is if a party in interest requests such an increase. The federal rules at 30 CFR 817.121(c)(5) require the regulatory authority to increase the bonding amounts for the permittee. Pennsylvania's requirement places the burden on someone other than the state to monitor the bonding amounts. The state regulatory authority is the only appropriate entity to determine when the bonds must be adjusted. In addition, Pennsylvania's program fails to require a bond or a bond increase if damage occurs to the land or water resources. The federal rule at 30 CFR 817.121(c)(5) requires an increase in the performance bond when subsidence related material damage to land occurs, or when a protected water supply is contaminated, diminished or interrupted. Therefore, the Director is requiring Pennsylvania to amend its program to comply with the provisions of 30 CFR 817.121(c)(5).

Section 9.1(a) (52 P.S. 1406.9a(a)). This section requires that if the department determines, and notifies a mine operator, that a proposed mining technique or extraction ratio will result in subsidence that causes an imminent hazard to human safety, the technique or extraction ratio will not be permitted unless the mine operator, prior to mining, takes measures approved by the Department to eliminate the imminent hazard.

VOL 66 ISS 248 DEC 27 2001 UMI

Even though there is no corresponding federal regulation, the Director is approving this section because it is consistent with 30 CFR 817.121(f), which requires the suspension of underground mining if imminent danger to inhabitants of urbanized areas, cities, towns or communities is found.

Section 9.1(b) (52 P.S. 1406.9a(b)). This section provides that a mining technique or extraction ratio that the Department determines will cause irreparable damage to buildings in section 5.4(a)(3) or (4) (52 P.S. 1406.5d(a)(3) or (4)) will not be permitted unless the building owner, prior to mining, consents to such mining or the mine operator, prior to mining, agrees to take measures approved by the Department to minimize or reduce impacts resulting from subsidence to such buildings.

The Director finds that there is no comparable provision in the federal regulations because the federal regulations do not discuss irreparable damage. The irreparable damage standard for this portion of the amendment provides a level of protection to structures threatened with irreparable damage that is not provided for in federal regulations. The Director is approving this portion of the amendment.

Section 9.1(c) (52 P.S. 1406.9a(c)). This section provides that underground mining activities shall not be conducted beneath or adjacent to public buildings and facilities, churches, schools and hospitals, impoundments, or bodies of water with volume of 20 acre-feet or more unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of, such facilities. The Department may limit the percentage of coal extracted under or adjacent to these features or facilities or to any aquifer or body of water that serves as a significant water source for any public water supply system if it finds that it is necessary in order to minimize the potential for material damage. The Director finds that this portion of the amendment is no less effective than the federal regulations at 30 CFR 817.121(d), which have substantially the same requirements.

Section 9.1(d) (52 P.S. 1406.9a(d)). This section provides that nothing in the act shall supersede standards related to the prevailing hydrologic balance contained in federal SMCRA and regulations promulgated by Pennsylvania to obtain or maintain jurisdiction over the enforcement and administration of SMCRA or any standard contained in Pennsylvania's Clean Streams Law. Even though there is no direct federal counterpart, the Director is approving this section because it does not limit or change the rights of landowners or the responsibilities of operators as provided for in federal regulations, nor is it inconsistent with the requirements of SMCRA and the federal regulations.

Section 15 (52 P.S. 1406.15). This section was repealed by Act 54. The section allowed landowners to purchase enough support coal beneath a structure to provide protection from subsidence. There are no similar provisions in the federal regulations. The Director is approving repeal of this section because repealing it does not make Pennsylvania's program less effective than the federal regulations regarding protection of structures.

Section 17.1 (52 P.S. 1406.17a). This section lists various conducts that are unlawful under the BMSLCA. Act 54 changed the section by removing the phrase "to cause land subsidence or injury" as one of the examples of unlawful conduct.

The Director is approving this change to the BMSLCA. The federal rules anticipate that subsidence will occur and provide compensation for, or repair of, damages to homes and other structures as well as replacement of adversely affected water supplies. Subsidence in itself is not unlawful conduct under the federal regulations.

The portion of the amendment that removes injury as unlawful conduct is also approved. The Director finds that the portions of the BMSLCA that require prevention of hazards to human safety and material damage to certain buildings (section 9.1) provide a similar level of protection from injury that the federal regulations provide. The Director is approving the changes to section 17.1 because they are not inconsistent with SMCRA and the federal regulations.

Section 18.1 (52 P.S. 1406.18a). This section requires the Department to compile data in deep mine permit applications, monitoring reports, and other data submitted by operators, and from enforcement actions. The data are to be used to determine the effects of deep mining on subsidence of surface structures and on water resources. A report on the analysis of the data is to be presented to the Governor, the General Assembly, and the Citizen's Advisory Council every five years.

There is no direct federal counterpart to this regulation but the Director is approving this section because it does not limit or change the rights of landowners or the responsibilities of operators as provided for in federal regulations nor is it inconsistent with the requirements of SMCRA and the federal regulations.

Summary Table

The table below summarizes the Director's findings with regard to each section of the BMSLCA.

Sections of the BMSLCA that are approved	Sections of Act 54 that are conditionally approved or that are required to be amended	Sections of Act 54 that are not approved in whole or in part
Repeal of Section 4 (52 P.S. 1406.4))	5(b) (52 P.S. 1406.5(b))	5.1(b) (52 P.S. 1406.5a(b)).
5.1(a)(2) and (3) (52 P.S. 1406.5a(a)(2) and (3)).	5.1(a)(1) (52 P.S. 1406.5a(a)(1))	5.2(b)(2) (52 P.S. 1406.5b(b)(2)).
5.2(a)(1), (2), and (3) (52 P.S. 1406.5b(a)(1), (2), and (3)).	5.4(a) (52 P.S. 1406.5d(a))	5.2(d) (52 P.S. 1406.5b(d)).
5.2(b)(1) (52 P.S. 1406.5b(b)(1))	5.5(a) (52 P.S. 1406.5e(a))	5.2(e)(2) (52 P.S. 1406.5b(e)(2)).
5.2(c) (52 P.S. 1406.5b(c))	6 (52 P.S. 1406.6))	5.2(g), (h), and (i) (52 P.S. 1406.5b(g), (h), and (i)).
5.2(e)(1) and (3) (52 P.S. 1406.5b(e)(1) and (3)).		5.3(a), (b), and (c) (52 P.S. 1406.5c(a), (b), and (c)).
5.2(f) (52 P.S. 1406.5b(f))		5.4(a)(3) (52 P.S. 1406.5d(a)(3)).
5.2(j) (52 P.S. 1406.5b(j))		5.4(c) (52 P.S. 1406.5d(c)).
5.2(k) (52 P.S. 1406.5b(k))		5.5 (b) and (c) (52 P.S. 1406.5e(b) and (c)).
5.4(a)(1), (2) and (4) (52 P.S. 1406.5d(a)(1), (2), and (4)).		5.5(f) (52 P.S. 1406.5e(f)).
5.4(b) (52 P.S. 1406.5d(b))		5.6(c) and (d) (52 P.S. 1406.5f(c) and (d)).

Sections of the BMSLCA that are approved	Sections of Act 54 that are conditionally approved or that are required to be amended	Sections of Act 54 that are not approved in whole or in part
5.5 (d), (e) and (g) (52 P.S. 1406.5e(d), (e) and (g)). 5.6(a) and (b) (52 P.S. 1406.5f(a) and (b)). 9.1(a), (b), (c), and (d) (52 P.S. 1406.9a (a), (b), (c), and (d)). Repeal of Section 15 (52 P.S. 1406.15). 17.1 (52 P.S. 1406.17a). 18.1 (52 P.S. 1406.18a).		

B. Changes to the Regulations at 25 Pa Code Chapter 89

Set forth in the explanation below and the table that follows, pursuant to SMCRA and the federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the regulations at 25 Pa. Code Chapter 89. The Director's reasons for approving, conditionally approving, requiring amendments to, or not approving regulations in 25 Pa. Code Chapter 89 are noted. The sections are listed in the order they appear in Chapter 89 for easy reference.

Section 89.5, definition of the term "de minimis cost increase." This definition is used in section 89.145a relating to water supply replacement performance standards. It states an increase in the cost of providing a restored or replaced water supply is acceptable if the increased cost of operating the replaced or restored water supply is de minimis. This section defines de minimis as either less than 15% of the annual operating and maintenance costs of the previous water supply that is restored or replaced, or is less than $60 per year. In our letter to Pennsylvania dated June 21, 1999, we indicated that there was no counterpart in federal regulations to this definition. However, the preamble to the federal regulations at 60 FR 16726 provides that the payment of replacement water supply operation and maintenance costs in excess of premining costs is a logical aspect of the requirement to replace a water supply. The goal of the provision is to insure that the owner or user of the water supply is made whole, and that no additional costs are passed on to the water supply user after the replacement supply is installed, beyond those that are customary and reasonable for the premining supply. We concluded that the definition appears to be less effective than the federal regulation because it passes costs in excess of premining costs to the landowner or water supply user.

In their June 1, 2000, response to our letter, Pennsylvania indicated that:

> The court decisions in Carlson Mining Co v. DER, EHB 91–547–E, Gioia Coal v. DER, 1986 EHB 82, and Buffy and Landis v. DER, 1990 EHB 1665 defined what constituted an adequate replacement water supply. These Court decisions addressed increased operation and maintenance costs, increased maintenance, control, accessibility, reliability and performance of the replacement water supply. The Court found that a property owner has been made whole if the increase in operating and maintenance costs is de minimis. The Pennsylvania case law is codified in these regulations to facilitate understanding of the law by water supply users and the regulated community.
>
> The Pennsylvania regulations, which incorporated court determinations of what cost increases were more than de minimis and were required to be paid by the operator are as effective as OSM's provision requiring a permittee to "replace any drinking, domestic or residential water supply that is contaminated, diminished or interrupted by underground mining activities." The federal regulations do not establish any specific requirements for operating and maintenance costs * * *

The Director is not approving the definition of de minimis cost increase from 25 Pa. Code 89.5 because it allows some increased costs of operating and maintaining a restored or replaced water supply system to be passed on to the landowner or water user. Depending on the original costs, both a 15% increase as well as a $60 increase could be excessive. The increased costs are still beyond the intent of the federal regulations, that "[t]he owner or user of the water supply is made whole, and that no additional costs are passed on to the water supply user." (60 FR 16726). Only by fully subsidizing all costs associated with the replacement or restored water supply will that intent be realized.

Finally, OSM notes that the cases cited by PADEP were all issued before Act 54 and EPACT was enacted (except Carlson, which was issued 5 days after EPAct's date). Accordingly, these cases could not contemplate EPAct's requirements.

Section 89.5, definition of the term, "dwelling." Pennsylvania is proposing the definition of the term dwelling to be "a building or other structure that, at the time subsidence occurs, is used either temporarily, occasionally, seasonally or permanently for human habitation."

This definition is the same as OSM's definition of the phrase "occupied dwelling and structures related thereto" found in 30 CFR 701.5, except it does not include related structures. The related structure information is found in Pennsylvania's regulations at 25 Pa. Code 89.5 in the definition of "permanently affixed appurtenant structures." The Director finds that Pennsylvania's definition of the term "dwelling" when used in conjunction with the phrase "permanently affixed appurtenant structure" is no less effective than the federal definition of "occupied dwelling and structures related thereto," so long as the limitations on the definition of "permanently affixed appurtenant structure" discussed later in this rulemaking are implemented.

Section 89.5, definition of the term, "fair market value." Pennsylvania's definition of fair market value is the amount at which property would exchange hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. The only place this term is used in Chapter 89 is at 25 Pa. Code 89.152(a)(5)(i) with regard to an operator's purchase of a property to gain relief from the responsibility of water supply replacement. Because that section of the regulations has not been approved and is not self-sustaining, there is no need for the Pennsylvania program to contain the definition of "fair market value." As a result, the Director is not approving the definition of the term "fair market value" found in 25 Pa. Code 89.5.

Section 89.5, definition of the term, "irreparable damage." Through its definition of "irreparable damage," Pennsylvania has created four ways in which a structure can be classified as irreparably damaged. They include: (1) Where the cost of repair would exceed the cost of replacement; (2) the damage is so great that its repair is prohibited by law; (3) it is impossible or impractical to restore the structure to its previous strength; or (4) for structures recognized as historical or architecturally

VOL 66 ISS 248 DE 27 2001 UMI

significant, one of the following: the damage would adversely affect the structures historical or architectural value, or the cost of repair with the same craftsmanship and historically and architecturally equivalent components exceeds the cost of replacement, or it is impossible to repair or restore the historical and architectural value of the structure with the same craftsmanship and historically and architecturally-equivalent components.

There is no federal counterpart to this definition. The federal rules define "material damage" at 30 CFR 701.5 as (1) Any functional impairment; (2) any physical change that has a significant adverse impact on the land; or (3) any significant change in the condition, appearance or utility. Any material damage must be corrected (for structures, the other option is compensation). Pennsylvania's irreparable damage standard, does not contemplate correction. Thus, by creating an irreparable damage standard, Pennsylvania has defined a class of damage that may be more severe than the material damage standard found in federal regulations. As discussed later, there are certain situations, where Pennsylvania does not require protection from material damage. However, the Director is approving the definition of the phrase "irreparable damage" since it is not inconsistent with the federal rules. The Director notes that this approval does not affect the requirements afforded by the material damage standard found in federal regulations.

Section 89.5, definition of the term, "material damage." Pennsylvania's definition is substantially the same as and therefore no less effective than the federal definition of material damage at 30 CFR 701.5. The Director is approving Pennsylvania's definition of the term "material damage."

Section 89.5, definition of the term, "noncommercial building." Pennsylvania's definition is substantially the same as, and therefore no less effective than, the federal definition of noncommercial building at 30 CFR 701.5. The Director is approving Pennsylvania's definition of the term "noncommercial building."

Section 89.5, definition of the term, "permanently affixed appurtenant structures." This term is used in conjunction with structures listed in 25 Pa. Code 89.142a(f)(1)(i) and (iii) relating to subsidence control performance standards. The term is defined as a structure or facility securely attached to the land surface if that structure or facility is adjunct to, and used in connection with, structures listed in 25 Pa. Code 89.142a(f)(1)(i) and (iii).

In our letter to Pennsylvania dated June 21, 1999, we indicated that the federal definition of the term "occupied residential dwelling and structures related thereto" does not require that the appurtenant structure be "securely attached to the land." This is a meaningful difference in coverage for some structures that would be set on the surface but not readily removable, i.e., storage sheds that are not built on a foundation but are set in place on the surface of the ground. We asked Pennsylvania to clarify how the proposed definition will account for damage to appurtenant structures not attached to the land.

In their letter to us of June 1, 2000, Pennsylvania indicated that under Pennsylvania law, those structures which are not permanently affixed appurtenant structures would be generally classified as improvements. Accordingly, these structures would be protected under 25 Pa. Code 89.142a(f) to the extent that they were in place on August 21, 1994, or on the date of first publication of the permit application or permit renewal application and within the boundary of the entire mine as depicted in the permit application. In addition, Pennsylvania noted that structures that are not attached to the ground are less prone to experience subsidence damage. Since these structures do not have foundations, they are not subject to the stresses that result from ground movement.

The Director has found that Pennsylvania's definition of "permanently affixed appurtenant structures" is less effective than the federal regulations. The federal definition of the term "occupied residential dwelling and structures related thereto" at 30 CFR 701.5, lists examples of protected facilities. Pennsylvania has adopted a similar listing of protected facilities in its definition of "permanently affixed appurtenant structures." However, in that definition, Pennsylvania requires that these facilities be "securely attached to the land surface." Pennsylvania's protection of structures is less inclusive than the federal regulations because the federal requirements do not require structures to be attached to the land surface to be protected. This finding is acknowledged by Pennsylvania in its preamble when discussing the definition of "permanently affixed appurtenant structures" by stating that the definition does "not include all structures encompassed by the Federal definition" and it only includes those structures permanently affixed to the ground. 28 Pa.B. 2766.

The Director is not approving the portion of the definition that requires structures to be "securely attached to the land surface." The federal regulations (definition of the term "occupied residential dwelling and structures related thereto" at 30 CFR 701.5) require protection for structures or facilities installed on, above or below, or a combination thereof, the land surface, if that building structure or facility is adjunct to or used in connection with an occupied residential dwelling. There is no requirement that such structures or facilities be securely attached to the land surface. By protecting only structures that are securely attached to the land surface, Pennsylvania is creating a class of facility or structure that will not be afforded the protections of the federal regulations.

Section 89.5, definition of the term, "public buildings and facilities." Pennsylvania defines "public buildings and facilities' as structures that are owned or leased and principally used by a government agency for public business or meetings and anything built, installed, assembled or used by a government agency to provide a public service. Pennsylvania then listed examples of "public buildings and facilities." In the federal program "public building" is defined at 30 CFR 761.5 to mean any structure that is owned or leased, and principally used by a governmental agency for public business or meetings. Pennsylvania's definition of "public buildings and facilities" includes everything in the federal definition. The Director finds that Pennsylvania's definition of "public buildings and facilities" is no less effective than the federal definition of "public building" and is approving the definition.

Section 89.5, definition of the term, "public water supply system." There is no corresponding federal definition to this term. Pennsylvania defines "public water supply system" as a water delivery system which does one of the following; serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents, or provides water to a public building, church, school, hospital or nursing home. Pennsylvania uses this term several times throughout Chapter 89 of its regulations to describe protections to public water supplies. The Director is approving this definition because it is used to protect water supplies that are protected by the federal regulations and it also could be used to protect water supplies that may not be protected under the federal program. Therefore the definition is not inconsistent with the requirements of SMCRA and the federal regulations.

Section 89.5, definition of term, "rebuttable presumption area." Pennsylvania defines "rebuttable presumption area" in the context of water supply replacement, to mean the area in which an operator is presumed responsible for diminishing, contaminating or interrupting a water supply. The area is defined by projecting a 35-degree angle from the vertical from the outside of any area where the operator has extracted coal from an underground mine. There is no federal counterpart to this definition. The Director is approving the definition because landowners and water users will benefit from the presumption through a more rapid response by operators to their complaints. The Director finds that this definition is not inconsistent with the requirements of SMCRA at section 720(a)(2) and the federal regulations at 30 CFR 817.41(j) to provide prompt replacement of protected water supplies.

Section 89.5, definition of the terms, "underground mining," and "underground mining operations." Pennsylvania's definition of "underground mining" is the extraction of coal in an underground mine. The federal definition of the term "underground mining activities" is found at 30 CFR 701.5 and is a combination of two parts: (a) Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed; and (b) Underground operations such as underground construction, operation, and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting. Pennsylvania's proposed definition of "underground mining operations" is substantially the same as (b) of the federal definition of "underground mining activities." Pennsylvania's definition of "underground mining" is consistent with how the term underground mining is used in paragraph (b) of the federal definition of "underground mining activities" since it is an underground operation. The Director finds that the definitions of the terms "underground mining" and "underground mining operations" is consistent with the federal definition of "underground mining activities" and is approving both definitions.

Section 89.5, definition of the term, "water supply." Pennsylvania's definition of "water supply" includes existing sources of water used for domestic, commercial, industrial or recreational purposes or for agricultural uses. It also includes supplies that serve a public building or a noncommercial structure customarily used by the public, including churches, schools and hospitals. This definition differs from the federal definition of the term "drinking, domestic or residential water supply" found at 30 CFR 701.5. Pennsylvania has stated in the preamble to its regulations that "[t]he definition of "water supply" includes all water supplies covered under the federal program, including those which are used for irrigating noncommercial gardens and noncommercial agricultural operations." 28 Pa.B. 2767.

The Pennsylvania term is more inclusive in that it protects agricultural supplies, which the federal regulations do not protect unless they are used for direct human consumption or human sanitation, or domestic use. However, it does not appear to include the appurtenant delivery systems of the federal definition. As stated in our finding to section 5.1(a)(3) (52 P.S. 1406.5a(a)(3)), we expressed this concern to Pennsylvania in our letter of June 21, 1999. Pennsylvania responded by stating "connections from a well or spring are permanent affixed appurtenant structures that must be repaired by the mine operator." Pennsylvania went on to state that damage to a water main and its connecting piping would be regulated under 25 Pa. Code 89.142a(g) if it was owned by the water company. If the connecting piping was owned by the property owner, the mine operator would be required to repair. Additionally, Pennsylvania's proposed performance standards at 25 Pa. Code 89.145a(f)(4) indicate that replacement of a water supply shall include the installation of any piping, pumping equipment and treatment equipment necessary to put the replaced water source into service. This performance standard includes the items contemplated by the appurtenant delivery system requirements of the federal regulations.

Therefore, based on the Pennsylvania Bulletin language, Pennsylvania's explanation, and when used with the performance standards of 25 Pa. Code 89.145a(f)(4), the Director finds that the definition of "water supply" is no less effective than the federal definition of "drinking, domestic, or residential water supply" and is approving this portion of the amendment.

Section 89.33. This section deals with the geologic data requirements of the permit. Pennsylvania made only two minor revisions to this section; the nonsubstantive addition of the metric equivalent of 200 feet (60.96 meters) after the term of "200 feet" in subsection (a)(1), and the requirement that the operation plan include a description of the coal seam thickness (to be added to subsection (a)(1) as item (iii)). The addition of this requirement necessitated designating former section (iii) as (iv) and designating former section (iv) as (v). The federal rule at 30 CFR 784.20(b)(3) requires a subsidence control plan to contain a description of seam thickness. Therefore, this addition is no less effective than the federal regulations and the Director is approving this portion of the amendment.

Section 89.34. Pennsylvania has made two minor changes in this portion of the amendment. Both are found in subsection (a)(1)(i). This section lists the information operators must submit in their application regarding groundwater. The first sentence of subsection (i) formerly read, "The results of a groundwater inventory of existing wells, springs and other groundwater resources, providing information on location, quality, quantity, depth to water and usage for the proposed permit area and potentially impacted offsite areas." The first sentence now reads, "The results of a groundwater inventory of existing wells, springs and other groundwater resources, providing information on location, ownership, quality, quantity, depth to water and usage for the proposed permit area and adjacent area." The Director finds that the changes to this section are no less effective than the requirements for ground water information found in the federal regulations at 30 CFR 784.14(b)(1) since the federal rules also require ownership information on the proposed permit and adjacent areas. The Director is approving the changes to this section.

Section 89.35. This section involves prediction of the hydrologic consequences of mining. The first sentence of the section was modified by adding the phrase "and whether underground mining activities may result in contamination, diminution or interruption of any water supplies within the permit or adjacent area" to the end of the sentence. The sentence now reads, "The operation plan shall include a prediction of the probable hydrologic consequences of the proposed underground mining activities upon the quantity and quality of groundwater and surface water within the proposed permit, adjacent and general areas under seasonal flow conditions, and whether underground mining activities may result in contamination, diminution or interruption of any water supplies within the permit or adjacent area."

The federal regulations regarding this section are found at 30 CFR 784.14(e)(3)(iv). These regulations require the probable hydrologic consequences determination to include findings on whether underground mining activities conducted after October 24, 1992, may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas. The Pennsylvania amendment requires a finding for any water supplies within the permit or adjacent area. This would make the Pennsylvania program more inclusive than the federal regulation, which limits required findings for only those water supplies used for domestic, drinking or residential purposes. Since Pennsylvania's program would require findings for those water supplies covered by the federal program, the Director finds this addition no less effective than 30 CFR 784.14(e)(3)(iv) and is approving this portion of the amendment.

Section 89.36. This section describes the information an operator needs to submit to ensure the protection of the hydrologic balance. Pennsylvania's amendment adds a subsection (c) to this section. Subsection (c) states, "The operation plan shall include a description of the measures which will be taken to replace water supplies which are contaminated, diminished or interrupted by underground mining activities. An operator is not required to provide a replacement water supply prior to mining as a condition for securing a permit."

The federal regulations regarding information to be submitted in a subsidence control plan are found at 30 CFR 784.20. Subsection (b)(8) of the federal rule requires a description of the measures to be taken in accordance with 30 CFR 817.41(j) and 817.121(c) to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures. Pennsylvania's regulation language is substantively identical to and no less effective than the federal regulation with regard to replacement of water supplies. The Director is approving this portion of the amendment.

Section 89.67. Pennsylvania is amending subsection (b) by requiring surface mining activities associated with an underground mine to be conducted in a manner that minimizes damage, destruction or disruption of services provided by oil, gas and water wells; oil, gas and coal-slurry pipelines; railroads; electric and telephone lines; and water and sewage lines that pass over, under or through the permit area, unless otherwise approved by the owner of those surface facilities and the Department. Formerly, this section applied to all underground mining activities instead of surface mining activities associated with an underground mine, as it now reads.

In responding to commenters who favored retention of the existing language at 25 Pa. Code 89.67(b), Pennsylvania stated in the preamble to the proposed regulations that:

> The [Environmental Quality] Board believes that it is appropriate to narrow the scope of this regulation to address only those activities which take place at surface sites associated with an underground mine. There is sufficient authority in Chapter 89, Subchapter F (relating to subsidence control) to regulate those aspects of the underground mining activity which take place underground. Together, these requirements are no less effective than the Federal regulation in 30 CFR 817.180. (28 Pa.B. 2768)

The authority in Chapter 89, Subchapter F of the Environmental Quality Board referred to was 25 Pa. Code 89.142a(g)(1). This section requires underground mining to be planned and conducted in a manner that minimizes damage, destruction or disruption in services provided by the same utilities listed in 25 Pa. Code 89.67. As noted in the Director's findings regarding 25 Pa. Code 89.142a(g)(1), we found that 25 Pa. Code 89.142a(g)(1) did not provide the same level of protection for utilities that is required under the federal regulations at 30 CFR 817.180. The Director is requiring 25 Pa. Code 89.142a(g)(1) to be amended to insure that all underground mining activities are conducted in a manner consistent with 30 CFR 817.180. Please see the Director's finding at 25 Pa. Code 89.142a(g)(1) for more information.

In changing the language of 25 Pa. Code 89.67(b), Pennsylvania has limited protection to utilities from surface mining activities associated with an underground mine where prior to the proposed amendment, protection was extended from underground mining activities. However, because of Pennsylvania's reliance on 25 Pa. Code 89.142a(g)(1) to make 25 Pa. Code 89.67(b) no less effective than the federal regulations, the Director believes that the amendment required at 25 Pa. Code 89.142a(g)(1) will serve to accomplish that goal. As a result, the Director is approving Pennsylvania's amendment to 25 Pa. Code 89.67(b) as not inconsistent with 30 CFR 817.180.

Section 89.141(a). Subsection (a) deals with information operators are required to submit regarding the geology overlying the proposed permit area. Subsection (a) formerly read, "The application shall include a description of the geology overlying the proposed permit area, from the surface down to the first stratum below the coal seam to be mined. For the same strata, a detailed description and cross-section shall be provided from available test borings and core samples. A copy of the information developed for 25 Pa. Code 89.33 (relating to geology) may be submitted to meet the requirement in this subsection."

The subsection now reads, "The application shall include a description of the geology overlying the proposed permit area, from the surface down to the first stratum below the coal seam to be mined. The description shall include geologic conditions which are relevant to the likelihood or extent of subsidence or subsidence related damage. For the same strata, a detailed description and cross-section shall be provided from available test borings and core samples. A copy of the information developed for 25 Pa. Code 89.33 (relating to geology) may be used as appropriate to meet the requirements of this section."

The addition of the language requiring information on geologic conditions that are relevant to the likelihood or extent of subsidence or subsidence related damage makes this section no less effective than the federal regulations at 30 CFR 784.20(b)(3), which require the subsidence control plan to include a description of the physical conditions that affect the likelihood or extent of subsidence and subsidence-related damage. The Director is approving this portion of the amendment.

Section 89.141(d). This subsection requires the permit application to include a subsidence control plan that describes the measures that will be taken to control the subsidence effects from the proposed underground mining. In our letter of June 21, 1999, we also indicated that 25 Pa. Code 89.141(d) did not address the provisions of 30 CFR 784.20(b)(8) that require the subsidence control plan to contain a description of the measures to be taken to replace adversely affected protected water supplies or to mitigate or remedy any subsidence-related material damage to the land and protected structures.

Pennsylvania indicated in its response to us dated June 1, 2000, that its regulations include requirements to describe the measures to be taken to replace adversely affected protected water supplies and mitigate subsidence-related material damage to the land and protected structures. Requirements relating to descriptions of water supply replacement measures are found in 25 Pa. Code 89.36(c). Descriptions of the measures to be used to correct material damage to surface land are required under 25 Pa. Code 89.141(d)(5). Descriptions of measures to prevent irreparable damage to dwellings and agricultural structures are required under 25 Pa. Code 89.141(d)(6). Requirements relating to the protection of public buildings and other specified structures are found in 25 Pa. Code 89.141(d)(3).

We agree with Pennsylvania that the requirements relating to descriptions of measures to remedy contamination, diminution, or interruption of water supplies found within 25 Pa. Code 89.36(c) and that the descriptions to prevent material damage to surface lands found at 25 Pa. Code 89.141(d)(5) are as effective as the requirements found in the federal regulations. However, we have found that Pennsylvania's amendment does not require the subsidence control plan to contain descriptions of measures to mitigate or remedy material damage to non-commercial buildings and residential structures as required by 30 CFR 784.20(b)(8). The Pennsylvania program discusses prevention of damage to structures but does not discuss the measures in the subsidence control plan to be taken once damage has occurred to structures. While the Director is able to approve the general requirements of 25 Pa. Code 89.141(d), subsection (d)(6) is required to be amended to insure that the subsidence control plan contains a description of measures to mitigate or remedy material damage to all protected structures. See the discussion at 25 Pa. Code 89.141(d)(6) for more information regarding the required amendment.

The Director is also requiring 25 Pa. Code 89.141(d) to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.141(d)(2). Pennsylvania deleted all the existing wording of subsection (d)(2) and added the following wording which requires, "A narrative describing whether subsidence, if it is likely to occur, could cause material damage to, or diminish the value or reasonably foreseeable use of, any structures or could contaminate, diminish, or interrupt water supplies."

In our letter to Pennsylvania of June 21, 1999, we indicated that the term "if it is likely to occur" is not the same as the federal narrative requirement of 30 CFR 784.20 (a)(2) "indicating whether subsidence, if it occurred, could cause material damage * * *" We indicated that the federal term requires more information because it would tell the public whether material damage or water loss would occur if subsidence occurred. PADEP regulations would only tell the public whether material damage or water loss would occur if subsidence is likely to occur. We also stated that while 30 CFR 784.20(a)(2) requires the narrative to take into account subsidence effects on "renewable resource lands," 25 Pa. Code 89.141(d)(2) fails to include "renewable resource lands."

In its response of June 1, 2000, Pennsylvania indicated that its regulation at 25 Pa. Code 89.141(d) requires a subsidence control plan for all underground mines without regard to the presence of overlying structures, water supplies or renewable resource lands or whether or not those structures and features could suffer material damage as a result of mine subsidence. In doing so, Pennsylvania noted that its regulations are as effective as 30 CFR 784.20(a)(2). Through these plans, DEP and the general public can see how planned mining interfaces with overlying structures and features.

Pennsylvania further noted that in regard to the terminology, there is no practical difference between the phrase "if it is likely to occur" and "if it occurred" for the purpose of predicting the level of damage. As a practical matter, when full extraction (either longwall mining or pillar extraction during retreat mining) is the principal method of mining, the applicant will always provide information about what will happen when subsidence occurs. In addition, by requiring descriptions of effects in areas where subsidence is "likely to occur," the Pennsylvania regulations provide information that is less speculative. Pennsylvania noted that its regulations provide the general public with more usable information. DEP can predict whether or not subsidence will occur and affect these features. DEP also evaluates the stability of underground mine workings to ensure that subsidence will not occur in locations where it is not planned.

The Director finds that Pennsylvania's explanation is logical and makes this portion of the amendment no less effective than the federal provision at 30 CFR 784.20(a)(2).

Section 89.141(d)(3). This subsection requires that, for each structure and feature, or class of structures and features, described in 25 Pa. Code 89.142a(c) (which include public buildings and facilities, churches, schools and hospitals, certain sized impoundments and bodies of water, and bodies of water or aquifers which serve as a significant source to a public water supply system), there must be a description of the measures to be taken to ensure that subsidence will not cause material damage to, or reduce the reasonably foreseeable uses of, the structures or features. The federal rule at 30 CFR 784.20(b)(5) requires for non-planned subsidence a description of measures that will be taken to prevent or minimize subsidence and subsidence related damage. The federal rule does not limit the descriptions to specific structures or features, while Pennsylvania's regulation does limit the description to specified structures and features. Therefore, the Director finds that to the extent a description is required of some structures and features, this section is no less effective than 30 CFR 784.20(b)(5). However, to the extent that the description is not all inclusive (for example, dwellings, buildings accessible to the public, and noncommercial buildings customarily used by the public would not be included), the Director is requiring that Pennsylvania amend its program to provide the protections of 30 CFR 784.20(b)(5).

Section 89.141(d)(4). This section provides that a subsidence control plan must include a description of the anticipated effects of planned subsidence, if any. The Director finds that this regulation is substantively identical to, and no less effective than, the federal regulation at 30 CFR 784.21(b)(6) and is approving it.

Section 89.141(d)(5). This section requires subsidence control plans to include a description of the measures to be taken to correct any subsidence-related material damage to the surface land. The Director finds that this regulation is substantively identical to, and no less effective than, the portion of the federal regulation at 30 CFR 784.21(b)(8) that requires subsidence control plans to provide a description of measures to be taken to mitigate or remedy any subsidence-related material

VOL 66 ISS 248 DE 27 2001 UMI

damage to the land. The Director is approving this portion of the amendment.

Section 89.141(d)(6). This section requires that the subsidence control plan include a description of measures to be taken to correct any subsidence-related material damage to the structures enumerated in 25 Pa. Code 89.142a(f)(1)(iii)–(v), if the structure owner does not consent to the damage. In our letter to Pennsylvania dated June 21, 1999, we indicated that the federal rules do not have an irreparable damage standard. For occupied dwellings and non-commercial structures, the federal rules apply a no material damage standard for non-planned subsidence and, a minimize damage standard for planned subsidence (unless waived by the owner) [see sections 30 CFR 784.20(b)(7), 817.121(a)(1), and 817.121(a)(2)]. Under OSM regulations for non-planned subsidence, subsidence-related material damage must be prevented (see 30 CFR 817.121(a)(1)) for all structures and features. We indicated that the Pennsylvania regulations do not require the prevention of material damage for occupied dwellings and non-commercial structures (except those specifically protected under 25 Pa. Code 89.142a(c): public buildings and facilities, churches, schools, etc., which is the same as OSM's list at 30 CFR 817.121(d)).

In its response letter to us dated June 1, 2000, Pennsylvania indicated that:

> Section 817.121 does not unequivocally require permittees to prevent material damage to occupied dwellings. It only requires prevention of material damage to the extent technologically and economically feasible. If prevention of material damage is not technologically feasible, the permittee need not prevent material damage. More importantly, the federal regulation provides that material damage need not be prevented if it is not economically feasible. The federal regulation clearly provides for economics to determine whether preventive measures are employed instead of the repair or compensation remedy. Similarly, under Pennsylvania's regulation a permittee will prevent the material damage from occurring if it is more cost effective than paying for repairs or compensation. The Pennsylvania regulation is actually more effective at protecting homes than the federal regulation, because the federal regulation allows for economics to always be the determining factor as to whether any damage prevention measures will be employed by the permittee regardless of the magnitude of damage. The Pennsylvania regulation prohibits economics from being the determinative factor if subsidence will cause irreparable damage. If Pennsylvania determines that the proposed mining will result in irreparable damage to occupied dwellings and appurtenant structures or agricultural structures, it will notify the operator that the proposed mining will not be allowed to occur unless the structure owner consents to the damage or the mine operator agrees to take surface measures to minimize or reduce the level of expected damage. See section 89.141(d)(6) and section 89.142a(d).

The federal regulation at 30 CFR 784.20(b)(5) requires a description of the measures to prevent or minimize subsidence damage to structures. The federal regulation at 30 CFR 784.20(b)(7) requires that, with certain exceptions, when planned subsidence is projected to be used, the subsidence control plan is to contain a description of the methods to be employed to minimize damage from subsidence to non-commercial buildings and occupied residential dwellings. Neither the Pennsylvania statute nor the Pennsylvania regulations state the requirement that an operator must prevent and/or minimize for material damage to occupied residential dwellings and community or institutional buildings not included in 25 Pa. Code 89.141(d)(3) (see Pennsylvania's response to section 9.1(b) and 28 Pa.B. 2768, "[d]wellings * * * are protected against irreparable damage but not against lesser levels of damage.").

The Director is approving 25 Pa. Code 89.141(d)(6) to the extent that it provides a description of measures to prevent irreparable damage. However, to the extent the damage to occupied residential dwellings and structures related thereto and community or institutional buildings are not protected in 25 Pa. Code 89.141(d)(3) and they are materially damaged but not irreparably damaged, the Director is requiring Pennsylvania to amend 25 Pa. Code 89.141(d)(6) to insure that the requirements of 30 CFR 784.20(b)(5) and (b)(7) are met.

Section 89.141(d)(7). This section requires subsidence control plans to contain a description of the monitoring, if any, the operator will perform to determine the occurrence and extent of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct damage.

The Director is approving this portion of the amendment because it is no less effective than 30 CFR 784.20(b)(4), which requires the subsidence control plans to contain a description of monitoring needed to determine the commencement and degree of subsidence so that measures can be taken to prevent, reduce or correct material damage.

Section 89.141(d)(8). This section requires subsidence control plans to contain a description of the measures to be taken to maximize mine stability and maintain the value and reasonably foreseeable use of the surface land.

There is no federal regulation that directly corresponds to this provision. The Director is approving this section because its purpose is in keeping with the federal requirements that a permittee adopt measures that will maximize mine stability and maintain the value and reasonably foreseeable use of surface lands found in 30 CFR 817.121(a)(1). Additionally, the information required in the subsidence control plan by 25 Pa. Code 89.141(d)(8) is consistent with the federal regulation at 30 CFR 784.20(b)(9), which allows the regulatory authority to require information to demonstrate that the operation will be conducted in accordance with 30 CFR 817.121.

Section 89.141(d)(9). Under this subsection, Pennsylvania requires a description of measures, and discussion of the effectiveness of such measures, that will be taken to maintain the value and foreseeable uses of perennial streams that may be impacted by underground mining. The Director is approving this section because it provides information similar to that in previously approved 25 Pa. Code 89.141(d)(2), which required a discussion of perennial streams based on 25 Pa. Code 89.143(d)(1). Section 89.141(d)(9) is also consistent with the requirements of 30 CFR 784.20(b)(8), which calls for the permit subsidence control plan to contain a description of the measures to be taken to mitigate any subsidence-related material damage to the land (including perennial streams). However, the Director is requiring this section to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.141(d)(10). This section requires the subsidence control plan to include a description of the measures to be taken to prevent material damage to perennial streams and aquifers that serve as a significant source to a public water supply system. The Director is approving this section because it provides information similar to that in previously approved 25 Pa. Code 89.141(d)(2), which required a discussion regarding the protection of perennial streams and aquifers that serve as a significant source to a public water supply system based on 25 Pa. Code 89.143(b). The Director also finds 25 Pa. Code 89.141(d)(10) is consistent with the requirements of 30 CFR

817.121(d), which calls for the protection of any aquifer or body of water that serves as a significant water source for a public water supply system.

Section 89.141(d)(11). This section requires subsidence control plans to include a description of utilities and a description of the measures to be taken to minimize damage, destruction, or disruption of utility service. There is no federal regulation that corresponds directly to this portion of Pennsylvania's program. However, it is consistent with 30 CFR 817.180, which requires that all underground mining activities must be conducted in a manner that minimizes damage, destruction or disruption of services provided by wells, pipelines, railroads, electric and telephone lines, and water and sewage lines. It is also consistent with 30 CFR 784.20(b)(9), which requires subsidence control plans to contain information specified by the regulatory authority necessary to demonstrate that the operation will be conducted in accordance with 30 CFR 817.121. The Director is approving this section.

Section 89.142. Pennsylvania is deleting this entire section that required a permittee to submit a general mine map and a six-month map. These provisions have been moved, with some modifications, to 25 Pa. Code 89.154. The modifications include removal of reference to structures in place as of April 27, 1966. Pennsylvania replaced those provisions with requirements that mine maps include the structures listed in 25 Pa. Code 89.142a(f)(1)(i)–(iv) as well as dwellings, public buildings and facilities, churches, schools, and hospitals. The Director is approving the deletion of 25 Pa. Code 89.142 because the deletion of references to April 27, 1966, provides protections no less effective than those found in the federal regulations and because the remaining provisions of 25 Pa. Code 89.142 can be found in 25 Pa. Code 89.154.

Section 89.142a(a). This section requires underground mining to be planned and conducted in accordance with requirements found in subsections (1) through (4). The Director is requiring this section to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.142a(a)(1). This section requires underground mining to be planned and conducted in accordance with the subsidence control plan and the postmining land use requirements in 25 Pa. Code 89.88. There is no direct counterpart in federal regulations to this section. The Director is approving 25 Pa. Code 89.142a(a)(1) because it is consistent with the requirements of 30 CFR 784.20(b), which requires subsidence control plans as part of the permit application if premining surveys show that subsidence damage would occur and 30 CFR 773.11, which requires permits for operators to engage in mining operations.

Section 89.142a(a)(2). This section requires underground mining to be planned and conducted in accordance with the performance standards in subsections (b)–(j). There is no direct federal counterpart to this section. The Director is approving this section because it is consistent with the requirements of 30 CFR 817.121, which provide the subsidence control performance standards to be followed when conducting underground mining.

Section 89.142a(a)(3). This section provides that underground mining will not be authorized beneath structures where the depth of overburden is less than 100 feet unless the subsidence control plans demonstrate that the mine workings will be stable and that overlying structures will not suffer irreparable damage. There is no direct federal counterpart. The Director is approving this portion of the amendment because it is consistent with the federal regulation at 30 CFR 817.121(a)(1) that requires permittees to adopt measures consistent with known technology that prevent subsidence from causing material damage, maximize mine stability and maintain the value and reasonably foreseeable use of surface lands.

Section 89.142a(a)(4). This section requires mine operators to adopt measures to maximize mine stability. This section also states that it does not prohibit planned subsidence or room and pillar mining. Section 817.121(a)(1) of the federal rules requires operators to maximize mine stability. Additionally, § 720(a)(2) of SMCRA states that nothing in § 720 of SMCRA shall prohibit underground coal mining operations. Therefore, this provision is not inconsistent with the requirements of SMCRA and the federal regulations and the Director is approving it.

Section 89.142a(b). This section lists the requirements for conducting surveys of protected structures and the conditions that relieve an operator from conducting a survey. As noted in the December 22, 1999, **Federal Register** (64 FR 71652), OSM suspended the portion of 30 CFR 784.20(a)(3) that required a specific structural condition survey of all EPAct protected structures. We suspended this regulation to make our rules consistent with a decision of the U.S. Court of Appeals for the District of Columbia Circuit [*National Mining Association* v. *Babbitt*, 173 F.3d 906 (1999)]. However, state regulatory authorities have the option of retaining the premining surveys. Pennsylvania has not indicated that it wishes to eliminate the survey requirements. Since there is no federal counterpart and because the survey will provide additional information to the regulatory authority, the Director is approving 25 Pa. Code 89.142a(b) and the related subsections (b)(1)(i)–(v) and (b)(2)(i)–(iii). This section is not inconsistent with the requirements of SMCRA and the federal regulations. The Director does note that Pennsylvania may be required to submit a program amendment to conform with any future federal rules regarding structure surveys.

Section 89.142a(c)(1). This section provides that no underground mining shall be conducted beneath or adjacent to public buildings and facilities, churches, schools and hospitals, impoundments with a storage capacity of 20 acre-feet (2.47 hectare-meters) or more, or bodies of water or aquifers that serve as significant sources to public water supply systems unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the foreseeable use of, the structures. This provision is similar to section 9.1(c) (52 P.S. 1406.9a(c)) of the BMSLCA that the Director approved. However, there is a difference in the language between Pennsylvania's statute and its regulation. The regulation only restricts underground mining beneath or adjacent to the listed facilities, while the statute restricts underground mining *activities* beneath or adjacent to the listed facilities. This is significant because the federal regulations (as noted in the definition of underground mining activities at 30 CFR 701.5) restrict surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining operations are placed. The Pennsylvania regulation would restrict only underground mining which is defined in the Pennsylvania regulations

VOL 66
ISS 248
DE 27
2001
UMI

at 25 Pa. Code 89.5 as the extraction of coal in an underground mine.

However, the Director is approving this section of the regulations because the statutory language of section 9.1(c) (52 P.S. 1406.9a(c)) of the BMSLCA is controlling over the conflicting language of the regulation. Accordingly, the Director finds that 25 Pa. Code 89.142a(c)(1), when read in conjunction with section 9.1(c) (52 P.S. 1406.9a(c)) of the BMSLCA, is no less effective than the federal regulations at 30 CFR 817.121(d).

Section 89.142a(c)(2)(i)–(v). This section lists the measures to be adopted by the operator to comply with 25 Pa. Code 89.142a(c)(1). The requirements include limiting the percentage of coal extracted, specifications on the size and configuration of the support area, backfilling or backstowing of voids, leaving areas in which no coal extraction will occur, and initiating a monitoring program to detect surface movement. The Director is approving subsections 89.142a(c)(2)(i) (A)–(D), (ii), (iii), (iv), and (v) because these requirements are substantively the same or no less effective than the federal requirements at 30 CFR 784.20(b)(5).

Section 89.142a(c)(2)(vi). This subsection requires a monitoring program to detect surface movement resulting from underground mining. The monitors are to be placed sufficiently in advance of the underground mining so that it can be stopped before protected structures or features are damaged.

In our letter to Pennsylvania of June 21, 1999, we indicated that this section appears to be less effective than the federal regulations because it does not require monitoring in conformance with 30 CFR 784.20(b)(4) of occupied dwellings, non-commercial structures and surface lands.

In its response of June 1, 2000, Pennsylvania indicated that:

> 30 CFR 784.20(b)(4) provides that an application shall contain a description of the monitoring, if any, needed to determine the extent of subsidence that may occur so that appropriate mitigation measures can be implemented. It does not, as OSM suggests in its comment, "require" monitoring. In any event, section 89.142a(c)(2)(vi) was not intended to implement the provisions of § 784.20(b)(4). Instead, section 89.141(d)(7) (which virtually mirrors the federal regulation) is designed to do so. Clearly, section 89.141(d)(7) is as effective as § 784.20(b)(4) in regard to the monitoring of occupied dwellings, noncommercial structures and surface land.

There is no direct counterpart in federal regulations to this section. The Director agrees with Pennsylvania's explanation and is approving this section with regard to the monitoring program because the monitoring required will help operators and Pennsylvania to determine if subsidence is likely to affect protected structures and features and is consistent with the federal regulations in providing protection to those structures or features.

Section 89.142a(c)(3). This subsection states that if the measures implemented by the operator cause material damage or reduce the reasonably foreseeable use of structures or features listed in paragraph (1), the department will impose additional measures to minimize the potential for these effects. In our letter to Pennsylvania dated June 21, 1999, we indicated that the federal rule at 30 CFR 817.121(e) states that if there is material subsidence damage to structures listed in 30 CFR 817.121(d), then the regulatory authority may suspend mining under or adjacent to such structures or facilities until the subsidence control plan is modified to ensure prevention of further material damage. Section 30 CFR 784.20(b)(4) requires the subsidence control plan to contain, "A description of the monitoring, if any, needed to determine the commencement and degree of subsidence so that, when appropriate, other measures can be taken to prevent, reduce or correct material damage in accordance with § 817.121(c) of this chapter." When taken together, the EPAct sections mean that the prevention of material damage (and not "minimize the potential") standard is in place. We further indicated to Pennsylvania that this section appears to be less effective than the federal regulations because it does not include the option for Pennsylvania to suspend mining or have the subsidence control plan modified to ensure prevention of further material damage.

In its response to us of June 1, 2000, Pennsylvania indicated that:

> OSM has intertwined various regulatory sections resulting in a misinterpretation of the federal regulations to assert a standard that does not exist and is not supported by the federal regulations. Although the language of section 89.142a(c)(3) differs somewhat from that of 30 CFR 817.121(e), the intended result is the same—increased protection of public buildings, etc. that are susceptible to damage by mine subsidence. Therefore, the Pennsylvania regulation is as effective as the federal regulation. In order for the provisions of section 89.142a(c)(3) to come into play, the measures previously proposed by the operator and approved by DEP must have failed to adequately protect one or more of the structures or features listed in paragraph (c)(1). At that point it is necessary to impose additional restrictions or require additional protective measures to ensure that other protected structures or features will not be materially damaged by subsidence. Since it could be argued that the failed measures were designed to "prevent material damage," a new standard providing greater protection must be targeted. In setting this standard, DEP chose the phrase "minimize the potential for these effects" to clarify that new measures must be proposed and that these measures must be sufficient to further reduce the likelihood of effects similar to those observed.

OSM agrees with Pennsylvania that 25 Pa. Code 89.142a(c)(3) and 30 CFR 817.121(e) increase protection of the structures and surface features at 25 Pa. Code 89.142a(c)(1) and 30 CFR 817.121(d), respectively. However, 30 CFR 817.121(e) imposes on the regulatory authority the obligation to require permittees to modify subsidence control plans to ensure the *prevention* of further material damage in the cases where the initial plan or operator's actions fail. In addition, 30 CFR 817.121(e) provides the authority to suspend mining until such a plan is approved. Pennsylvania's response to OSM did not establish that the regulations at 25 Pa. Code 89.142a(c)(3) allow Pennsylvania the discretion to suspend mining until the operator's subsidence control plan ensures the prevention of further material damage. Pennsylvania's regulation merely requires additional measures to *minimize* the effects, but does not give Pennsylvania the option to stop the mining until Pennsylvania reviews the additional measures and determines that the measures will minimize the effects. The Director is requiring Pennsylvania to amend its regulations to address the requirement.

Section 89.142a(d). This section provides that if the Department determines and notifies a mine operator that a proposed mining technique or extraction ratio will result in irreparable damage to a structure in subsection (f)(1)(iii)–(v), the operator may not use the technique or extraction ratio unless the building owner, prior to mining, consents to the mining or the operator, prior to mining, takes measures approved by the Department to minimize or reduce the impacts resulting from subsidence to these structures. The federal regulations at 30 CFR 817.121(a) require that operations, depending on the type, must either prevent or minimize material damage to occupied residential dwellings and community or institutional buildings. The federal regulations do not provide for an irreparable damage standard. As a result, the provisions of this section are no less effective than the federal regulations regarding structures in danger of being irreparably damaged, but it is less effective in regard to structures that may be materially damaged because it provides no protection for those structures. While this section can be approved for structures in danger of being irreparably damaged, the Director is requiring Pennsylvania to amend its program to insure that structures in danger of being materially damaged are protected also.

Section 89.142a(e). This section requires operators to correct material damage to surface lands resulting from subsidence to the extent technologically and economically feasible. In our letter of June 21, 1999, to Pennsylvania we noted that this section did not require, as 30 CFR 817.121(c)(1) does, the permittee to restore the land "to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage."

In its response to us of June 1, 2000, Pennsylvania stated that the operator is required to correct material damage as defined by 25 Pa. Code 89.5 and that since the definition of "material" includes those components required in 30 CFR 817.121(c)(1), when 25 Pa. Code 89.142a(e) is read in conjunction with 25 Pa. Code 89.5, it is as effective as 30 CFR 817.121(c)(1).

The Director agrees with Pennsylvania's interpretation and is approving this section because when it is read in conjunction with 25 Pa. Code 89.5, it is no less effective than 30 CFR 817.121(c)(1) regarding correction of material damage to surface lands.

Section 89.142a(f)(1). This section requires correction of damage to protected structures from underground mining conducted on or after August 21, 1994. The federal regulations at 30 CFR 817.121(c)(1) and (2) state that the permittee must correct any material damage resulting from *subsidence* caused to surface lands or structures. Pennsylvania's definition of underground mining only relates to extraction of coal, therefore subsidence from other underground mining activities (such as underground construction, operation and reclamation of shafts, adits, underground support facilities, in situ processing, and underground hauling, storage, and blasting) would not be covered. As a result, this portion of the amendment is less inclusive than the federal regulations that require repair of structures damaged by subsidence. The Director is requiring Pennsylvania to amend this section to insure that protected structures damaged by subsidence are repaired. Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Additionally, this section is not as effective as 30 CFR 817.121(c), which requires permittees to *promptly* repair or compensate owners for material damage caused by subsidence. Section 89.142a(f)(1) does not contain any standard requiring operators to show a diligent and timely effort in repairing structures or compensating landowners for subsidence damage. For further information on the standard requiring prompt repair or compensation, see the Director's decision on section 5.4 of the BMSLCA. The Director is requiring this section to be amended to be no less effective than 30 CFR 817.121(c) in requiring prompt repair or compensation to landowners.

Section 89.142a(f)(1)(i) and (ii). These sections list the type of structures that operators are responsible for repairing or providing compensation for damages to landowners when underground mining causes subsidence damage. Subsections (i) and (ii) are nearly identical to the statutory sections of 5.4(a)(1) and (a)(2). Therefore, the findings for 5.4(a)(1) and (a)(2) are incorporated herein by reference and the Director is approving subsection (i) and (ii).

Section 89.142a(f)(1)(iii). This section provides for compensation for damage to dwellings that are used for human habitation and permanently affixed appurtenant structures or improvements in place on August 21, 1994, or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application. This section is similar to section 5.4(a)(3) of the BMSLCA. In section 5.4(a)(3) the Director did not approve the language " * * * in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application." For the same reasons, the Director is not approving the language, " * * * or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application," from 25 Pa. Code 89.142a(f)(1)(iii).

Section 89.142a(f)(1)(iv) and (v). These sections address agricultural structures that are protected under Pennsylvania's program. Pursuant to 30 CFR 817.121(c)(3), repair or compensation for material damage to agricultural structures is required to the extent allowed under state law. The Director is approving these sections because they protect structures not covered under federal regulations and they are consistent with 30 CFR 817.121(c)(3).

Section 89.142a(f)(2)(i). This section provides for compensation to landowners for subsidence damages to structures rather than repair. The federal regulations require the compensation to be in the full amount of the decrease in value of the structure resulting from the subsidence. Pennsylvania's amendment provides that compensation is to be equal to the reasonable cost of repairing the structure or if the structure is determined to be irreparably damaged, the compensation shall be equal to the reasonable cost of its replacement. These standards for compensation are the same as those in 5.4(a) (52 P.S. 1406.5d(a)) of BMSLCA. Therefore, the finding for 5.4(a) (52 P.S. 1406.5d(a)) is incorporated herein by reference and the Director is approving this portion of the regulation.

The Pennsylvania amendment also discusses damage to agricultural structures. Pursuant to 30 CFR 817.121(c)(3), repair or compensation for material damage to agricultural structures is required to the extent allowed under state law. The Director is approving this portion of the amendment because it provides for protection for structures that are not protected under the federal regulations and is consistent with 30 CFR 817.121(c)(3).

However, the Director is requiring this section to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.142a(f)(2)(ii). This section provides for operators to compensate occupants of covered structures for payment of reasonable, actual expenses incurred during temporary relocation. The section further provides that the operator shall also compensate the occupants for other actual reasonable incidental costs agreed to by the parties or approved by the Department.

There is no direct federal counterpart for this regulation. This portion of the amendment affords a benefit to occupants of subsidence-damaged structures that goes beyond the protections in the federal regulations. The Director finds that the section is not inconsistent with the requirements of

VOL 66 ISS 248 DE 27 2001 UMI

SMCRA and the federal regulations and is approving it.

Section 89.142a(g)(1). Subsection (1) provides that underground mining must be planned and conducted in a manner that minimizes damage, destruction or disruption in services provided by utilities. Underground mining is defined in Pennsylvania's regulations as the extraction of coal in an underground mine. The federal rule at 30 CFR 817.180 requires that all underground mining *activities*, not just underground mining, must be planned and conducted in a manner that minimizes damage, destruction or disruption in services provided by utilities. The federal definition of underground mining activities is a combination of two parts. The first includes surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance, are reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas upon which are sited support facilities including hoist and ventilation ducts, areas utilized for the disposal and storage of waste, and areas on which materials incident to underground mining are placed. The second part includes underground operations such as underground construction, operation and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage, and blasting. Thus, the federal rule is more inclusive of the activities that must be conducted in a manner that minimizes damage, destruction or disruption in services.

The Director is approving this section to the extent that underground mining must be planned and conducted in a manner that minimizes damage, destruction or disruption to utilities. However, the Director is requiring Pennsylvania to amend its program to require all underground mining activities be conducted in a manner consistent with 30 CFR 817.180.

Section 89.142a(g)(2). Subsection (2) provides a list of measures an operator may take to minimize damage, destruction or disruption in services from utilities listed in 25 Pa. Code 89.142a(g)(1). There is no direct federal counterpart to this regulation. The Director is approving this section because it lists specific measures operators may implement to insure that utilities can continue to provide their services. These measures are not inconsistent with the requirements of SMCRA and the federal regulations.

Section 89.142a(g)(3). This section provides that a mine owner shall take measures to minimize damage to customer-owned gas and water service connections. In our letter of June 21, 1999, we noted that since customer-owned gas and water service connections are part of a residential dwelling (see definition of "permanently affixed appurtenant structures" at 25 Pa. Code 89.5), Pennsylvania should require the prevention of subsidence from causing material damage to the extent feasible for non-planned subsidence and minimize, repair and compensate for planned subsidence.

In its response to us of June 1, 2000, Pennsylvania noted:

> Under Pennsylvania's program a mine operator must either remove enough coal to induce planned subsidence or leave support that will maximize mine stability. If mining will result in planned subsidence, a mine operator is required to take measures to minimize damage to customer-owned gas and water service connections, unless the property owner does not consent to allow the measure to be taken. If mining will not result in planned subsidence, the workings must be designed to remain stable in accordance with section 89.142a(a)(4), thereby precluding material damage that would result from unplanned subsidence.

The Director is approving this portion of the amendment. The federal rule at 30 CFR 817.121 requires the permittee to prevent (to the extent it is technologically and economically feasible) damage when the mining does not result in unplanned subsidence. The federal rule at 30 CFR 817.121(a)(2) requires minimization of subsidence damage for occupied residential dwellings and structures related thereto, which by definition includes utilities. The exception to this minimization requirement is if the permittee has the written consent of the owner. Since 25 Pa. Code 89.142a(a)(4) prohibits material damage whenever there is unplanned subsidence and 25 Pa. Code 89.142a(g)(3) requires an operator to minimize damage to customer utility connections unless the owner prohibits such measures, these sections together protect customer-owned gas and water service connections to the extent required by the federal regulations and are no less effective than the federal regulations.

Section 89.142a(g)(4). This section requires the Department to suspend or restrict underground mining if it determines that mining beneath or adjacent to a utility will present an imminent hazard to human safety. In our letter to Pennsylvania of June 21, 1999, we indicated that the federal rules at 30 CFR 817.121(f) do not have the option of restricting underground mining but provide only for suspension of underground mining activities in imminent hazard situations. While the federal regulations require suspension of underground mining beneath or adjacent to a utility if it presents an imminent hazard to human safety, the Pennsylvania rules would allow the Department to restrict mining in this situation. The term "restrict" denotes that mining, in some fashion, could continue. By providing the option to allow mining to continue, this section appears to be less effective than the federal regulations.

In its response to us of June 1, 2000, Pennsylvania indicated that in writing its regulations, PADEP decided to use the term "restrict" rather than the term "suspend" in describing the appropriate action to be taken when an imminent hazard is recognized. The term "restrict" can be applied to limit the percentage of coal extracted where there is a need to prevent subsidence that would, in turn, give rise to a hazardous situation. The term "restrict" can also be applied to prevent mining from encroaching into a specified area or delay mining until damage prevention measures are taken at the land surface. By contrast, the term "suspend," as defined by Webster's Dictionary, only seems to imply a temporary cessation of mining. PADEP believes its choice of terms more clearly indicates there must be a final outcome in which there is no imminent hazard to human safety resulting from mining. Irrespective of the term used, PADEP believes that both the Pennsylvania and the federal regulation are applied in the same manner to prevent imminent hazards to human safety.

Based on Pennsylvania's interpretation of the word "restrict," the Director is approving this regulation. In effect, this would give Pennsylvania authority to suspend operations when necessary. In this manner, the Pennsylvania program will be no less effective than the federal program with regard to suspension of operations that could involve imminent harm situations.

Section 89.142a(h)(1) and (2). Section 89.142a(h)(1) formerly appeared at 25 Pa. Code 89.143(d)(1). Section 89.143(d)(1) was deleted by this amendment and its provisions moved, with some modification, to 25 Pa. Code 89.142a(h)(1). The provision read, prior to deletion, "[U]nderground mining activities shall be planned and conducted in a manner which maintains the value and reasonably foreseeable uses of perennial streams, such as aquatic life, water supply and recreation, as they existed prior to mining beneath streams." The provision at 25 Pa. Code 89.142a(h)(1) deletes the word "activities" and changes "mining beneath streams" to "coal extraction beneath streams."

Section 89.142a(h)(2) formerly appeared at 25 Pa. Code 89.143(d)(3). Section 89.143(d)(3) was deleted by this amendment and its provisions moved, with some modifications, to 25 Pa. Code 89.142a(h)(2). The provision read, prior to deletion, "[I]f the Department finds that the measures have adversely affected a perennial stream, the operator shall meet the requirements of [section] 89.145(a) (relating to surface owner protection) and file revised plans or other data to demonstrate that future activities will meet the requirements of paragraph (1)." The section now reads, "[I]f the Department finds that underground mining has adversely affected a perennial stream, the operator shall mitigate the adverse effects to the extent technologically and economically feasible, and, if necessary, file revised plans or other data to demonstrate that future underground mining will meet the requirements of paragraph (1)." As can be seen, there are two changes to this section: (1) the revised regulation defines the operator's responsibility to mitigate adverse effects to perennial streams to the extent technologically and economically feasible, and (2) substituting the phrase "underground mining" for "future activities."

The Director is approving the change in 25 Pa. Code 89.142a(h)(2) regarding the operator's responsibility to mitigate adverse effects to perennial streams. Under federal requirements, perennial streams are a component of surface lands and are regulated relative to planned and unplanned subsidence. See 60 FR at 16725. For unplanned subsidence (30 CFR 784.20(b)(5)), permittees must take measures on the surface to prevent or minimize material damage or diminution in value of the surface. For planned subsidence, material damage does not have to be prevented; however, the permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage (817.121(c)(1)). Since 25 Pa. Code 89.142a(h) requires underground mining to be planned and conducted in a manner that maintains the value and reasonably foreseeable use of perennial streams and for adverse effects to be mitigated to the extent technologically and economically feasible, the Director is approving this portion of the amendment because it is no less effective than the requirements at 30 CFR §§ 784.20(b)(5), 784.20(b)(8) and 817.121(c)(1).

However, the Director is requiring both subsections (h)(1) and (h)(2) to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.142a(i). This section provides situations where the Department will suspend underground mining if the operations present an imminent danger to the public. Pennsylvania's regulations are no less stringent than § 516(c) of SMCRA and 30 CFR 817.121(f) since they both require the suspension of underground mining under urbanized areas, cities, towns, and communities and adjacent to industrial or commercial buildings, major impoundments, or perennial streams. In addition, Pennsylvania extends the same protection to lined solid and hazardous waste disposal areas. However, the Director is requiring subsection (1) to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.142a(j). This section provides that underground mining is prohibited under an area that is not included within a subsidence control plan that has been submitted and approved by the Department. There is no direct corresponding federal regulation to this section. The Director is approving this portion of the amendment because it is not inconsistent with the federal regulations at 30 CFR 784.20 requiring a subsidence control plan as part of the permit application.

Section 89.142a(k). This section provides the steps operators must take when they receive a claim of subsidence damage to a structure or surface feature. There is no direct corresponding federal counterpart to this section. Since this section establishes procedures for operators to contact the regulatory authority and will insure that any complaints that are received by an operator will be forwarded to the regulatory authority in a timely manner, the Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations. The Director is approving this portion of the amendment.

Section 89.142a(l). This section prohibits the Department from adjudicating property rights disputes between mine operators and other parties. Section 507(b)(9) of SMCRA states in part that nothing in SMCRA "shall be construed as vesting in the regulatory authority the jurisdiction to adjudicate property title disputes." The Director finds that this section is in accordance with SMCRA because it does not give PADEP the authority to adjudicate property rights. The Director is approving this section.

Section 89.143(a). This section provided performance standards for operators to follow when conducting underground mining activities. This section has been deleted with provisions (a)(1), (2), and (4) moved, with some minor modifications, to 25 Pa. Code 89.142a(a)(1), (2), and (4) respectively. Section 89.143(a)(3) was modified and moved to 25 Pa. Code 89.142a(a)(3). Section 89.143(a)(3) stated that no underground mining activity will be authorized beneath structures where the depth of overburden is less than 100 feet, with the exception of mine-related openings to the surface such as entries, shafts and boreholes and site specific variances for entry development as approved by the Department. In moving this section, Pennsylvania kept the prohibition of mining beneath structures where the overburden is less than 100 feet, but deleted the exceptions and replaced them with the phrase "unless the subsidence control plan demonstrates to the Department's satisfaction that the mine workings will be stable and that overlying structures will not suffer irreparable damage." The Director is approving the deletion of 25 Pa. Code 89.143 because the requirements of subsections (a)(1), (2), and (4) remain as part of the Pennsylvania program and the modification of subsection (a)(3) as found in 25 Pa. Code 89.142a(a)(3) has been approved. However, the Director is requiring Pennsylvania to amend its program at 25 Pa. Code 89.142a(a) to take into account underground mining operations when describing performance standards for operators to follow.

Section 89.143(b)(1). This section has been deleted with its provisions modified and moved to 25 Pa. Code 89.142a(c)(1). Section 89.143(b)(1) required underground mining activities to be planned and conducted in a manner that prevents subsidence damage to: (i) public buildings and noncommercial structures customarily used by the public, including churches, schools and hospitals, (ii) dwellings, cemeteries, municipal public service

VOL 66 ISS 248 DE 27 2001 UMI

operations and municipal utilities in place on April 27, 1966, (iii) impoundments and other bodies of water with a storage capacity of 20 acre feet or more, (iv) aquifers, perennial streams and bodies of water which serve as a significant source for a public water supply system as defined in the Pennsylvania Safe Drinking Water Act (35 P.S. section 721.1–721.17), and (v) coal refuse disposal areas authorized by permits issued under Chapter 90 (relating to coal refuse disposal).

The section as it was modified and moved to 25 Pa. Code 89.142a(c)(1) now reads, "Unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of the structures and surface features listed in subparagraphs (i)–(v), no underground mining shall be conducted beneath or adjacent to: (i) Public buildings and facilities, (ii) Churches, schools and hospitals, (iii) Impoundments with a storage capacity of 20 acre-feet (2.47 hectare-meters) or more, (iv) Bodies of water with a volume of 20 acre-feet (2.47 hectare-meters) or more, and (v) Bodies of water or aquifers which serve as significant sources to public water supply systems." The Director is approving the deletion of 25 Pa Code 89.143(b)(1) because it provided more comprehensive protections than the federal regulations.

Section 89.143(b)(2). This section was deleted in its entirety. Prior to deletion, this section listed the damages prohibited by this subsection, including the cracking of walls, foundations, and monuments, the draining of aquifers, perennial streams or other bodies of water that serve as a significant source for a public water supply system and the weakening of impoundments and embankments. The section further noted that damage to structures described in paragraph (1)(i) need not be prevented if done with the consent of the current owner. The Director is approving this deletion because under federal rules, such damages may be allowed to occur if the operator promptly repairs or compensates the landowners for the damages or promptly provides alternate water supplies. Deletion of this section will not make the Pennsylvania program less effective than the federal regulations.

Section 89.143(b)(3). This section has been deleted with several of its provisions moved to 25 Pa. Code 89.142a(c)(2). The provisions that were moved, with some minor modifications, were: 25 Pa. Code 89.143(b)(3)(i) (A) through (C). The remaining provisions that were deleted were 25 Pa. Code 89.143(b)(3)(i)(D) and (ii)(A) through (D). Section 89.143(b)(3)(i)(D) provided that more stringent measures may be imposed or mining may be prohibited if the measures fail to prevent subsidence damage. Section (ii) allowed full extraction techniques where the operator demonstrates that the proposed measures are at least as effective in prevention of subsidence damage as those described in this subsection.

The Director is approving the deletion of this section because 25 Pa. Code 89.143(b)(3)(i)(A) through (C) still remain in the approved program and 25 Pa. Code 89.143(b)(3)(i)(D) and (ii)(A) through (D) provided protections beyond that contemplated by the federal regulations. The deletion of 25 Pa. Code 89.143(b)(3) will not make the Pennsylvania program less effective than the federal regulations.

Section 89.143(c)(1). This section has been deleted and the provisions moved to section 25 Pa. Code 89.142a(g)(1). The section discussed protection of utilities and requires underground mining activities to be planned and conducted in a manner that minimizes damage, destruction or disruption in services provided by utilities. When the section was moved to 25 Pa. Code 89.142a(g), Pennsylvania dropped the word "activities" from the phrase "underground mining activities." The Director is approving the deletion of 25 Pa. Code 89.143(c)(1), but is requiring Pennsylvania to amend its program at 25 Pa. Code 89.142a(g)(1) to insure that underground mining activities are planned and conducted in a manner that minimizes damage, destruction or disruption in services provided by utilities. See the Director's decision under 25 Pa. Code 89.142a(g)(1) for further information.

Section 89.143(c)(2). This section was deleted and the provisions moved with some modifications to 25 Pa. Code 89.142a(g)(2). The section originally indicated that the measures adopted to minimize damage, destruction or disruption of utility services protected by this subsection may include, in addition to those measures discussed in 25 Pa. Code 89.141(d), a program for detecting subsidence damage and avoiding disruption in services, and a notification to the owner of the facility that specifies when the mining activity beneath or adjacent to the structure will occur. When Pennsylvania moved the section it changed the phrase "avoiding disruption in services" to "minimizing disruption in services" (see 25 Pa. Code 89.142a(g)(2)(i)). The federal rules at 30 CFR 817.180 require underground mining activities to be conducted in a manner that minimizes damage, destruction, or disruption of services provided by utilities. Therefore, the Director is approving deletion of this section because the provisions appear in 25 Pa. Code 89.142a(g)(2)(i) and (ii) and therefore deleting this section will not make the Pennsylvania program less effective than the federal regulations.

Section 89.143(d)(1). This section was deleted and the provisions moved to 25 Pa. Code 89.142a(h)(1). The provision required, prior to deletion, underground mining activities to be planned and conducted in a manner that maintains the value and reasonably foreseeable uses of perennial streams, such as aquatic life, water supply and recreation, as they existed prior to mining beneath streams. The provision at 25 Pa. Code 89.142a(h)(1) deleted the word "activities" and changed "mining beneath streams" to "coal extraction beneath streams." The Director has approved the deletion of 25 Pa. Code 89.143(d)(1), but is requiring 25 Pa. Code 89.142a(h)(1) to be amended to be as effective as section 720 of SMCRA regarding underground mining operations.

Section 89.143(d)(2). This section was deleted in its entirety. The section, which dealt with perennial streams, read, "The measures to be adopted to comply with this subsection shall be described in the application and include a discussion of the effectiveness of the proposed measures as related to prior mining activities under similar conditions." There is no federal counterpart to this section. The Director finds that deleting this section will not make the Pennsylvania program less effective than the federal regulations.

Section 89.143(d)(3). This section was deleted and the provisions moved, with some modifications, to 25 Pa. Code 89.142a(h)(2). The provision originally read, "If the Department finds that the measures have adversely affected a perennial stream, the operator shall meet the requirements of 25 Pa. Code 89.145(a) (relating to surface owner protection) and file revised plans or other data to demonstrate that future activities will meet the requirements of paragraph (1)." As found in 25 Pa. Code 89.142a(h)(2), the section now reads, "If the Department finds that the underground mining has adversely affected a perennial stream, the operator shall mitigate the adverse effects to the extent technologically and economically feasible, and, if necessary, file revised plans or other data to demonstrate that future underground mining will meet the requirements of paragraph (1)." The Director is approving the deletion of 25 Pa. Code 89.143(d)(3), but is requiring 25 Pa. Code 89.142a(h)(2) to be amended to require operators to mitigate the adverse effects of underground mining operations on perennial streams.

Section 89.143(e). This section requires underground mining activities to be planned and conducted in a manner that maintains the value and reasonably foreseeable use of the overlying surface land prior to mining. This section has been deleted. Pennsylvania has incorporated this provision in the amendment at 25 Pa. Code 89.141(d)(8), which requires the subsidence control plan to contain a description of the measures to be taken to maintain the value and reasonably foreseeable use of the surface land and at 25 Pa. Code 89.142a(e), which requires correction of material damage to surface lands to the extent technologically and economically feasible. The Director is approving deletion of this section because similar provisions that are as effective as the federal regulations in maintaining the value and foreseeable use of surface lands are found elsewhere in the Pennsylvania program.

Section 89.143(f). This section has been deleted and the provisions moved, with some modification, to 25 Pa. Code 89.142a(i)(1). Prior to deletion, this section was titled "Urbanized areas" and indicated that underground mining activities shall be suspended beneath urbanized areas, cities, towns and communities, and adjacent to or beneath industrial or commercial buildings, solid and hazardous waste disposal areas, major impoundments or perennial streams, if the activities presented an imminent danger to the inhabitants of the urbanized areas, cities, towns or communities. Section 89.142a(i)(1) now states the Department will suspend underground mining beneath urbanized areas, cities, towns and communities and adjacent to or beneath industrial or commercial buildings, lined solid and hazardous waste disposal areas, major impoundments of 20 acre-feet (2.46 hectare-meters) or more, or perennial streams, if the operations present an imminent danger to the public. The Director finds that Pennsylvania's deletion of 25 Pa. Code 89.143(f) and moving of its provisions to 25 Pa. Code 89.142a(i)(1) did not make this section less effective than the provisions of SMCRA at section 516(c) and is approving the deletion. However, the Director is requiring 25 Pa. Code 89.142a(i)(1) to be amended to provide for the suspension of underground mining operations as per the requirements of 30 CFR 817.121(f).

Section 89.143(g). This section has been deleted and its provisions moved, with some modification, to 25 Pa. Code 89.142a(j). This section provides that underground mining activities are prohibited under an area that is not included within a subsidence control plan submitted under 25 Pa. Code 89.141(d) and that has been approved by the Department. In moving the provision, Pennsylvania deleted the word "activities" from the phrase "underground mining activities." The Director finds that deletion of this section does not make the Pennsylvania program any less effective than the federal program because the provisions of the deleted section are found elsewhere in the Pennsylvania program (see the Director's finding at 25 Pa. Code 89.142a(j)).

Section 89.143a(a). This provision requires structure owners with subsidence damage to notify operators of the damage. This provision is similar to section 5.5(a) (52 P.S. 1406.5e(a)) of the BMSLCA. The Director is approving this provision for the same reasons as noted in regard to section 5.5(a) (52 P.S. 1406.5e(a)) of the statute found earlier in this rulemaking.

However the Director is requiring this section to be amended because of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.143a(b). This subsection provides that if the operator agrees that mine subsidence damaged the structure, the operator shall fully repair the damage or compensate the owner for the damage under either 25 Pa. Code 89.142a(f) or under a voluntary agreement authorized by section 5.6 (52 P. S. 1406.5f) of the BMSLCA. Since this subsection requires full repair or compensation and merely cross references to other statutory or regulatory provisions, the Director finds this section no less effective than the federal regulations at 30 CFR 817.121, which require repair or compensation of material damage to structures.

Section 89.143a(c). This section provides that if, within six months of the date that the building owner sent the operator notification of subsidence damage, the parties are unable to agree as to the cause of the damage or the reasonable cost of repair or compensation for the structure, the owner may, within two years of the date damage to the structure occurred, file a claim in writing with the Department.

This section is substantively identical to section 5.5(b) (52 P.S. 1406.5e(b)) of the BMSLCA. Both the statute and the regulation provide that a landowner must wait for six months after notifying an operator of subsidence damage before filing a claim with the Department. Section 5.5(b) (52 P.S. 1406.5e(b)) and the proposed regulation further restricts the period of time for a landowner to file a complaint by requiring complaints to be filed within two years of the date damage occurred to a structure. The Director has not approved the portion of section 5.5(b) (52 P.S. 1406.5e(b)) of the statute that states "* * * within six months of the date of the notice." The reasons for not approving that language can be found under section 5.5(b) (52 P.S. 1406.5e(b)) earlier in this rulemaking. The Director is not approving the portion of the 25 Pa. Code 89.143a(c) that states, "* * * within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure * * *" for the same reasons as noted for section 5.5(b) (52 P.S. 1406.5e(b)) of the statute.

Additionally, the Director has not approved the portion of section 5.5(b) (52 P.S. 1406.5e(b)) of the BMSLCA requiring complaints to be filed within two years of the date damage has occurred to a structure. The Director is not approving the phrase "within 2 years of the date damage to the structure occurred * * *" in 25 Pa Code 89.143a(c) for the same reasons as found in section 5.5(b) (52 P.S. 1406.5e(b)) of the statute.

Section 89.143a(d). This section describes the procedures the Department will follow in conducting an investigation into a subsidence damage claim. This regulation is similar to section 5.5(c) (52 P.S. 1406.5e(c)) of the BMSLCA. Both the statute and the regulation require the Department to conduct an investigation within 30 days of receipt the claim and within 60 days of completion of the investigation provide a written response. Additionally, both the statute and regulation provide that, if the Department finds that the operator's underground mining caused the damage, the Department will either issue a written order directing the operator to compensate the structure owner or issue an order directing the operator to repair the damage structure within six months of the date of issuance of the order. More than six months may be allowed if the Department finds that further damage may occur to the same structure as a result of additional subsidence.

The Director approved the portions of section 5.5(c) (52 P.S. 1406.5e(c)) dealing with the time limitations of PADEP's inspection responsibilities. The approval was made to the extent that Pennsylvania recognizes that existing provisions of the Pennsylvania

VOL 66 ISS 248 DE 27 2001 UMI

program regarding responses to citizen complainants could require Pennsylvania to respond to a citizen more quickly than the 60 days allowed in this section. Therefore, the Director is approving 25 Pa. Code 89.143a(d)(1) and (2) to the same extent.

The Director did not approve the provision in 5.5(c) (52 P.S. 1406.5e(c)) of the BMSLCA that allowed written orders with abatement periods of six months or longer to complete repairs or compensate landowners for damages. For the same reasons, the Director is not approving the portion of 25 Pa. Code 89.143a(d)(3) that states, "* * * within 6 months of the date of issuance of the order. The Department may allow more than 6 months if the Department finds that further damage may occur to the same structure as a result of additional subsidence."

Finally, the Director is requiring subsections (d)(1) through (3) to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Section 89.144. This section lists the requirements to notify the landowners of impending underground mining beneath their property. The section was deleted and its provisions moved, with some minor modifications, to 25 Pa. Code 89.155. Because all of the provisions of 25 Pa. Code 89.144 were moved to 25 Pa. Code 89.155, and those provisions were found to be as effective as the federal regulations regarding public notice at 30 CFR 817.122, the Director is approving the deletion of 25 Pa. Code 89.144.

Section 89.144a(a)(1). This provision provides that the operator will not be required to repair a structure or compensate a structure owner for damage to structures if the operator demonstrates that the landowner denied the operator access to the property upon which the structure is located to conduct a premining survey or postmining survey of the structure and surrounding property. This provision is similar to section 5.4(c) (52 P.S. 1406.5d(c)) of the BMSLCA. The Director is not approving this portion of the amendment for the same reasons as given for not approving section 5.4(c) (52 P.S. 1406.5d(c)) of the BMSLCA, as noted earlier in this rulemaking.

Section 89.144a(a)(2). This provision provides that an operator can be granted relief from responsibility to repair a structure or compensate a structure owner for damage to a structure if the operator's underground mining did not cause the damage. The Director is approving this portion of the amendment. There is nothing in the federal regulations requiring operators to compensate owners or repair damage that was not caused by the operator's underground mining activities. Therefore, this provision is not inconsistent with the requirements of SMCRA and the federal regulations.

Section 89.144a(a)(3). This provision provides that an operator can be granted relief from responsibility to repair a structure or compensate a structure owner for damage to a structure if the operator and the landowner entered into a voluntary agreement that satisfies the requirements of section 5.6 (52 P.S. 1406.5f) of the BMSLCA. Section 5.6(a) (52 P.S. 1406.5f(a)) requires agreements to provide for "remedies [that] shall be no less than those necessary to compensate the owner of a building for the reasonable cost of its repair * * *." The Director has approved section 5.6(a) (52 P.S. 1406.5f(a)) of the BMSLCA and is approving 25 Pa. Code 89.144a(a)(3) of the regulations because it is consistent with the federal rules at 30 CFR 817.121, which require permittees to repair damage to structures or compensate the owner.

Section 89.145(a). This section was deleted in its entirety. This section required operators to correct material damage resulting from subsidence to surface lands, including perennial streams, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence. Pennsylvania's program amendment provides for repair of damage to surface lands at 25 Pa. Code 89.142a(e). Please see the discussions of 25 Pa. Code sections 89.142a(e), 89.142a(h), and 89.141(d)(3) for findings on how those sections are no less effective than the federal regulations that require operators to correct material damage to surface lands (including streams) by restoration of the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence. The Director is approving the deletion of 25 Pa. Code 89.145(a) because the provisions of that section are covered by 25 Pa. Code section 89.142a(e) and 89.142a(h).

Section 89.145(b). This section was deleted in its entirety. The section required operators to report claims of subsidence damage to PADEP within 10 days of notification. There is no comparable federal standard requiring operators to notify the regulatory authority of subsidence damage claims. Both the BMSLCA at section 5.5 (52 P.S. 1406.5e) and the implementing regulations at 25 Pa. Code 89.143a describe procedures for reporting subsidence damage claims to PADEP. For the Director's findings on reporting, please see the discussions of those sections. Because there is no federal counterpart to 25 Pa. Code 89.145(b), the Director finds that Pennsylvania's deletion of this section does not impair the effectiveness of its program. The deletion is approved.

Section 89.145a(a)(1). This subsection requires operators to conduct premining water surveys prior to mining within 1000 feet of a water supply. In our letter of June 21, 1999, to Pennsylvania we stated that this section contemplates that the premining water survey would be done after the permit is approved while the federal rule at 30 CFR 784.20(a)(3) requires the completion of the survey prior to permit approval. In addition, OSM's February 9, 1998, policy memorandum provides that:

> State program amendments that would delay the timing of the water supply surveys required under 30 CFR 784.20(a)(3) should not be approved.

In the June 21, 1999, letter we also noted that 25 Pa. Code 89.145a(a)(1) provides that survey information is to be submitted only to the "extent that it can be collected without extraordinary efforts or the expenditure of excessive sums of money" and that the federal rules do not allow for waiving survey information. Finally, we asked Pennsylvania to clarify whether the information required in subsections 25 Pa. Code 89.145a(a)(1)(i) through (vi) will give sufficient information to determine the premining water quality and quantity. As stated in the federal rules, "the survey should incorporate the baseline water quality and quantity information on existing water supplies required under existing rules at 30 CFR 784.14 and 784.22." 60 FR at 16730 (2d col).

Pennsylvania's response of June 1, 2000, noted that its regulations do not waive the requirement to conduct premining surveys and that, as required by 25 Pa. Code 89.145a(a), all water supplies that may be adversely affected by mining must be surveyed by the mine operator. Pennsylvania advised that the only exception is where the property owner will not allow the mine operator access to conduct the survey and that, fundamentally, there is no difference between the federal and state's regulations in terms of ensuring the availability of baseline data against which to measure effects.

Pennsylvania further noted that the survey requirements of 25 Pa. Code 89.145a(a) are designed around Pennsylvania's water supply replacement requirements, which are more inclusive than federal counterpart requirements, and as a result, Pennsylvania's program must include provisions for surveying water supplies that are installed after the time of permit application. Finally, Pennsylvania advised that its program does not postpone the submission of all water supply information until mining operations have begun. Information relating to the quality and quantity of water supplies is presented at the time of permit application in accordance with the requirements of 25 Pa. Code 89.34(a)(1) relating to groundwater information.

The Director addressed this situation in a memorandum to the Regional Directors dated February 9, 1998, titled "Timing of Presubsidence Surveys," and in March 1999 letters to the Interstate Mining Compact Commission and Tri-State Citizens Mining Network (the "March 1999 letters"). Guidance from the Director provides that baseline data collected at the time of permit application must be sufficient to develop the Probable Hydrologic Consequences and Cumulative Hydrologic Investigation Assessment documents and that states may use the regulatory program amendment process to identify what additional information required under 30 CFR 784.20(a)(3) must be submitted at the time of permit application and which, if any, could be collected at a time closer to when mining would actually occur. The Director committed to giving serious consideration to approving state program amendments that identify what water supply information required under 30 CFR 784.20(a) must be submitted at the time of permit application and which, if any, could be collected at a time closer to when mining actually occurs. Finally, the Director required that states must demonstrate, through the regulatory program amendment process for any delayed water supply surveys, that those analyses would be completed sufficiently in advance of mining to avoid any adverse effect to the water supply.

OSM considered Pennsylvania's proposed amendment relative to current program requirements for baseline hydrologic surveys, information in the Pennsylvania Bulletin (28 Pa.B. 2761), and responses to OSM requests for clarification relative to the March 1999 letters. Specifically at issue is whether OSM can approve the Pennsylvania requirement that operators conduct premining water surveys after the permit application is approved and prior to mining within 1000 feet of a water supply. The federal rule at 30 CFR 784.20(a)(3) requires a survey at the time of the permit application of each and every protected water supply, i.e. a survey of individual wells, springs, etc. Pennsylvania advised OSM that its amendment proposal does not postpone the submission of all water supply information until after the permit is approved (see the Director's finding at 25 Pa. Code 89.34(a)(1)). The Director notes that the approved Pennsylvania program at 25 Pa. Code 89.43(a)(1) contains requirements for permittees to collect baseline hydrology information in a manner no less effective than the federal requirements at 30 CFR 784.14(b)(1). The federal rules at 30 CFR 784.14 require sampling of ground water information at the time of the permit application, but there is the option to use modeling to meet the requirements for hydrologic prediction. Modeling means that not every water supply will be sampled. Pennsylvania's existing program also allows for modeling. This introduces uncertainty into predicting the type and extent of information that will be collected on each water supply at the time of the permit application. Additionally, the preamble to the Pennsylvania Bulletin stated that 25 Pa. Code 89.145a(a)(1) provides for Department technical staff to adjust the survey distance (1,000 foot limitation) based on site-specific conditions. Accordingly, it is not clear what parameters Pennsylvania would require to be collected on each individual supply as part of a permit application, and which, if any, would be subject to a delayed survey after permit approval.

Based upon the language contained in the Pennsylvania amendment, Pennsylvania's responses to OSM's comments, Pennsylvania's existing program and the Pennsylvania Bulletin, the Director is not approving the provision that allows for water supply surveys to be delayed until mining advances within 1,000 feet of a supply. Such information must be submitted by the permittee with the application. The Director is requiring Pennsylvania to amend its program to require permittees to submit the information required by 25 Pa. Code 89.145a(a)(1)(i)–(vi) that is necessary to meet the provisions of 30 CFR 784.20(a)(3) at the time of the application for all existing drinking, domestic, or residential water supplies. As part of that amendment, Pennsylvania may submit the information requested in the March 1999 letters to identify what water supply information must be submitted at the time of permit application and which, if any, could be collected at a time closer to when mining actually occurs. Along with any such request, Pennsylvania must demonstrate for any delayed water supply surveys, that those analyses would be completed sufficiently in advance of mining to avoid any adverse effect to the water supply.

Pennsylvania further noted that the proviso that survey information need only be acquired to the extent that it can be collected without extraordinary efforts or expenditures of excessive sums of money is a matter of both practicality and preventing inconvenience to property owners. PADEP noted that this proviso was based on its experience and pertains especially to situations where rigid requirements to obtain quantity information would result in tearing apart a well or digging up the floor of a structure to gain access for measurements. Although the federal regulations do not include a similar proviso, PADEP does not believe that OSM would apply them without exercising similar discretion.

The Director is requiring 25 Pa. Code 89.145a(a)(1) to be amended to include the provision that survey information need only be acquired to the extent that it can be collected without extraordinary efforts or expenditures of excessive sums of money is only applicable when it applies to inconveniencing landowners. The federal regulations require the water supply information to be collected without regard to the cost and effort applied by operators. This provision makes this portion of the Pennsylvania program less effective than the federal program, which does not include limits on efforts, or expense, operators are subjected to in the course of gathering premining survey information.

Section 89.145a(a)(1)(i)–(vi). These six subsections list information operators are required to include in the premining survey and, if one is desired, the postmining survey of all water supplies within the permit and adjacent areas. The Director finds these subsections no less effective than the federal rules and is approving the six subsections for the reasons noted below (please also see our finding concerning 25 Pa. Code 89.145a(a)(1)).

The requirement at subsection (i) for the location and type of water supply is consistent with the federal regulations at 30 CFR 784.20(a)(1) requiring the subsidence control map to show the location and type of drinking, domestic,

VOL 66 ISS 248 DE 27 2001 UMI

and residential water supplies that could be contaminated, diminished, or interrupted by subsidence. The Director is approving this section because it is substantially the same as the requirements found at 30 CFR 784.20(a)(1).

Subsection (ii) requires the water supply surveys to include the existing and reasonably foreseeable uses of the water supply. There is no similar provision in the federal regulations. The Director is approving this provision because requiring the operator to gather more information than is required in the federal regulations does not lessen the protections afforded by the federal regulations. Additionally, this information is essential for implementing the provisions of 25 Pa. Code 89.145a(b) and 89.145a(f).

Subsections (iii) and (iv) provide that the surveys include the chemical and physical characteristics of the water and that a certified laboratory must be used to analyze the samples and the quantity of water. These sections require substantially the same information as is required in the federal regulations at 30 CFR 780.21(b)(1). The Director is approving this portion of the amendment because it is consistent with the federal regulations. Subsection (v) requires the survey to include the physical description of the water supply and subsection (vi) requires the survey to include hydrogeologic data such as the static water level and yield determination. The Director is approving subsections (v) and (vi) because they require information similar to the ground water information required by the federal regulations at 30 CFR 780.21(b)(1).

Section 89.145a(a)(2). This provision requires an operator to submit copies of the results of analyses (described under 25 Pa. Code 89.145a(a)(1)) as well as the results of any quantitative analysis to the Department and the landowner within 30 days of their receipt by the operator. Since the federal regulation at 30 CFR 784.20(a)(3) requires the permit applicant to provide copies of any assessment or evaluation to the property owner and the state regulatory authority, the Director finds that this provision is no less effective than 30 CFR 784.20(a)(3).

Section 89.145a(a)(3). This subsection combined with subsection (a)(1) provides that the operator does not have to conduct a premining and postmining survey if the landowner does not authorize access to the site within 10 days of the operator's intent to conduct a survey.

In our letter of June 21, 1999, to Pennsylvania we noted that federal regulations place no notice requirement on the property owner. The 10-day requirement of Pennsylvania's regulations makes it appear to be less effective than the federal regulation because under EPAct, even though access may initially be denied, the property owner can later decide to allow a survey.

In its response to us dated June 1, 2000, Pennsylvania noted that 25 Pa. Code 89.145a(a)(3) is intended to alert PADEP to situations where property owners have denied mine operators access to conduct premining surveys. This allows PADEP to communicate with the propety owners to further explain the importance of allowing premining surveys or the procedures to be followed in arranging their own surveys. Section 89.145a(a)(3) does not preclude property owners from changing their minds and subsequently authorizing operators to conduct surveys.

The Director is approving this portion of the proposed amendment based on Pennsylvania's interpretation that there is nothing in the amendment precluding a landowner from requesting a water supply survey after initially denying the operator's access to the property. Therefore, it is no less effective than 30 CFR 784.20 since it does not prevent surveys.

Section 89.145a(b). This provision requires operators to restore or replace affected water supplies with a permanent alternate source that adequately serves the premining uses of the water supply or any foreseeable uses of the water supply. This regulation implements section 5.1(a)(1) and 5.1(a)(2) (52 P.S. 1406.5a(a)(1) and (2)) of the BMSLCA. The Director is approving Pennsylvania's standard regarding the quality of restored or replaced water supplies and is conditionally approving its standard regarding the quantity of restored or replaced water supplies. Please see the discussion at section 5.1(a)(1) and 5.1(a)(2) (52 P.S. 1406.5a(a)(1) and (2)) for more information.

However, this section is less effective than 30 CFR 817.41(j), which requires permittees to *promptly* replace drinking, domestic or residential water supplies. Section 89.145a(b) does not contain any standard requiring operators to show a diligent and timely effort in replacing water supplies. For further information on the standard requiring prompt replacing of water supplies, see the Director's decision on section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) of the BMSLCA. The Director is requiring 25 Pa. Code 89.145a(b) to be amended to be no less effective than 30 CFR 817.41(j) in requiring prompt replacement of water supplies.

Section 89.145a(c). This section provides that within 24 hours of an operator's receipt of a claim of water supply contamination, diminution or interruption, the operator shall notify the Department of the claim. There is no corresponding federal counterpart to this section. Since this establishes procedures for operators to contact the regulatory authority and will insure that any complaints that are received by an operator will be forwarded to the regulatory authority in a timely manner, the Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations.

Section 89.145a(d). This section provides that upon receipt of a complaint that a water supply has been contaminated, diminished or interrupted, operators must diligently investigate the complaint and notify the Department in a timely manner of the results of its investigation. There is no direct federal counterpart. Since this establishes procedures for investigations by operators, the Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations.

Section 89.145a(e)(1). This section provides that if an affected water supply is within the rebuttable presumption area and the presumption applies, the operator will provide a temporary water supply within 24 hours. We noted in our letter to Pennsylvania of June 21, 1999, that the proposed amendment only requires the temporary replacement of water supplies if three conditions are met: (1) If the water supply is within the rebuttable presumption area, (2) the presumption applies and, (3) if "the landowner or water user is without a readily available alternate source." The federal rules require the permittee to replace the supply that has been interrupted, etc., regardless of whether there is an available alternate source and where there is no rebuttable presumption. The federal rules do not have a rebuttable presumption standard for water supplies.

In its response of June 1, 2000, Pennsylvania noted that its program

> * * * does provide for the provision of temporary water irrespective of whether the affected water supply lies inside or outside of the rebuttable presumption area. The BMSLCA requires the provision of temporary water within 24 hours if the water supply lies within the rebuttable presumption area. This requirement is reflected in section 89.145a(e). If the affected water supply lies outside the rebuttable presumption area, the responsibility to provide temporary water is

driven directly by section 5.2 of BMSLCA. Procedurally, in cases where a water supply has been affected outside the rebuttable presumption area, the law requires DEP to issue an order before an operator is obligated to provide temporary water. For this reason, the responsibility to provide temporary water in cases where the affected water supply lies outside the rebuttable presumption area is not stated in regulation. The requirements of section 89.145a(e) and the provisions of section 5.2 of BMSLCA act together to ensure the provision of temporary water in cases where water supply impacts occur inside and outside of the rebuttable presumption area. It is further notable that throughout its first five years in enforcing the water supply replacement requirements of BMSLCA, DEP has never had to issue an order to compel the provision of temporary water in any case where the affected water supply was outside the rebuttable presumption area.

In regard to the rebuttable presumption of causation, there is no way in which this provision can be interpreted or construed to render Pennsylvania's program any less effective than the federal program. The rebuttable presumption amounts to nothing more than shifting the burden of proof onto the mine operator.

This section is substantively identical to 5.2(a)(2) (52 P.S. 1406.5b(a)(2)) of BMSLCA. Accordingly, the finding for 5.2(a)(2) (52 P.S. 1406.5b(a)(2)) is incorporated herein by reference and the Director is approving this portion of the regulations to the extent the statutory section was approved and is requiring Pennsylvania to submit an amendment requiring the prompt supply of temporary water to all landowners whose water supply has been impacted by underground mining activities.

Section 89.145a(e)(2). This subsection provides that the temporary water supply shall meet the requirements of paragraph (f)(2) and provide a sufficient amount of water to meet the water supply user's premining needs. In our letter of June 21, 1999, to Pennsylvania we noted that the federal definition for "replacement of water supply" at 30 CFR 701.5 provides for a "* * * water supply on both a temporary and permanent basis equivalent to premining quantity and quality." We noted that this section appears to be less effective than the federal rules, in that it provides for temporary water based on users' needs rather than the premining quality.

In its response of June 1, 2000, Pennsylvania noted that under its program, a temporary water supply is just that, temporary. It is intended to satisfy the water users' needs so that they can carry out their daily activities with minimal disruption. By contrast, a permanent water supply must be adequate to serve not only the water user's premining needs but also any reasonably foreseeable uses of the original water supply.

Finally Pennsylvania also notes the federal terms "drinking, domestic or residential water supply" and "replacement of water supply" are defined to include water delivery systems (i.e., the pumps and piping that deliver water to the point of use). As a general observation, these systems are usually designed based on the existing uses of the water supplies. Pennsylvania believes this factor serves to further align its replacement requirements with those of the federal regulations.

The federal definition of the term "replacement of water supply" at 30 CFR 701.5 requires the provision of both permanent and temporary water supplies that are the equivalent to the premining quantity and quality. In 25 Pa. Code 89.145a(e)(2), Pennsylvania has indicated that temporary water supplies will be restored to the same quality levels as permanent supplies by requiring that temporary water supplies meet the quality requirements of 25 Pa. Code 89.145a(f)(2). However, Pennsylvania has not required temporary water supplies to meet the same quantity requirements of permanent supplies as defined in 25 Pa. Code 89.145a(f)(3)(i) and (ii), i.e., the amount of water necessary to meet the water user's needs and any reasonably foreseeable uses. Instead, Pennsylvania only requires temporary water supplies to provide a sufficient amount of water necessary to meet the water supply user's premining needs. The Director has conditionally approved 25 Pa. Code 89.145a(f)(3)(i) and (ii), as being as effective as the federal regulations regarding quantity of replacement supplies. Therefore, the Director finds that to be consistent with the federal regulations, 25 Pa. Code 89.145a(e)(2) should require the quantity of temporary water supplies to meet the requirements of 25 Pa. Code 89.145a(f)(3)(i) and (ii). Accordingly, the Director is requiring Pennsylvania to amend this section to insure that temporary water supplies are restored to the same levels as are required of permanent water supplies. Please see the discussion in section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) for more information on the Director's conditional approval regarding quantity of replacement water supplies.

Section 89.145a(f)(1)(i)—(iv). This section requires that a permanently restored or replaced water supply shall include any well, spring, municipal water supply system or other supply approved by the Department that meets criteria listed in subsections (1)(i) through (iv). Section 89.145a(f)(1) talks about reliability, cost, maintenance and control. Subsection (i) requires the restored or replaced water supply to be as reliable as the previous water supply. Subsection (ii) requires the restored or replaced water supply to be as permanent as the previous water supply and subsection (iii) requires the supply to not require excessive maintenance. Subsection (iv) requires that the supply provide the owner and the user with as much control and accessibility as exercised over the previous water supply. The Director is approving 25 Pa. Code 89.145a(f)(1)(i) through (iv). There are no direct corresponding federal regulations to these sections. The Director finds that these sections are no less effective than the requirements found in the definition of the term "replacement of water supply" in the federal regulations at 30 CFR 701.5 because it helps return the water supply to its premining status.

Section 89.145a(f)(1)(v). This subsection provides that a restored or replaced water supply must not result in more than a de minimis cost increase to operate and maintain. The operator must pay for increased operating and maintenance costs that exceed a de minimis cost increase. As noted earlier in this rulemaking (see our finding for 25 Pa. Code 89.5, definition of "de minimis cost increase"), the Director has not approved a "de minimis cost increase." The Director does not believe that passing any increased costs to operate or maintain replacement water supply systems to landowners will fulfill the intent of the federal regulations to make the landowner whole. Accordingly the Director is not approving 25 Pa. Code 89.145a(f)(1)(v) to the extent that it passes de minimis cost increases to landowners.

Section 89.145a(f)(2). This section provides that a restored or replaced water supply will be deemed adequate when it differs in quality from the premining water supply if it meets the standards of the Pennsylvania Safe Drinking Water Act or is comparable to the premining water supply when that water supply did not meet those standards. This regulation is comparable to section 5.1(a)(2) (52 P.S. 1406.5a(a)(2)) of the BMSLCA. Please see our discussion regarding section 5.1(a)(2) (52 P.S. 1406.5a(a)(2)) for a discussion of the Director's approval regarding quality of replacement water supplies. The Director is approving this section for the same reasons.

Section 89.145a(f)(3)(i). This subsection provides that a restored or replaced water supply will be deemed adequate in quantity if it delivers the

VOL 66 ISS 248 DE 27 2001 UMI

amount of water necessary to satisfy the water user's needs and the demands of any reasonably foreseeable uses. This section of the regulations implements section 5.1(a)(1) (52 P.S. 1406.5a(a)(1) of the BMSLCA. For a complete discussion of the Director's conditional approval of this section, please see the discussion of section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)). The Director's findings are incorporated herein and this section is approved to the extent that section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) is approved.

Section 89.145a(f)(3)(ii). This subsection provides that a restored or replaced water supply will be adequate in quantity if it is established through a connection to a public water supply system that is capable of delivering the amount of water necessary to satisfy the water user's needs and the demands of any reasonable foreseeable uses.

The Director is conditionally approving this portion of the amendment. For more information on the Director's conditional approval of this section, please see the discussion of section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) of the BMSLCA under the statute section.

Section 89.145a(f)(3)(iii). This subsection defines the term "reasonably foreseeable uses with respect to agricultural water supplies" to include the reasonable expansion of use where the water supply available prior to mining exceeded the farmer's actual use.

The Director is approving this portion of the amendment. For more information on the Director's approval of this section, please see the discussion of section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) of the BMSLCA under the statute section.

Section 89.145a(f)(4). This section of the regulations provides that replacement of a water supply shall include the installation of any piping, pumping equipment and treatment equipment necessary to put the replaced water source into service. The Director is approving this portion of the regulations. This section is no less effective than the requirements found in definition of the term "drinking, domestic, or residential water supply" in the federal regulations at 30 CFR 701.5. This definition provides that the drinking, domestic, or residential water supply includes appurtenant delivery systems. This portion of Pennsylvania's regulations specifies the type of equipment that would be included in appurtenant delivery systems and therefore is consistent with the federal definition and is approved. For more information on standards for delivery systems, please see the Director's findings for section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) of the BMSLCA.

Section 89.146a(a). This section provides the procedures to be used for landowners or water supply users to secure resolution of water supply damage claims. Subsection (a) requires landowners to notify mine operators when they experience contamination, diminution or interruption of a water supply. The requirement for landowners to contact operators is also found in section 5.2(a)(1) of the BMSLCA. The Director has approved that requirement for the reasons noted in the discussion of section 5.2(a)(1). The Director is approving 25 Pa. Code 89.146a(a) for the same reasons.

Section 89.146a(b). This section provides that the Department will order the operator to provide temporary water to the landowner or water supply user within 24 hours of issuance of the order if: (1) No alternate temporary water supply is available to the landowner or water user, (2) the water supply is contaminated, diminished or interrupted, (3) the water supply is located within the rebuttable presumption area and, (4) the owner notified the operator of the water supply problem. These requirements are similar to those found in section 5.2(a)(1) through (3) of the BMSLCA. The Director is approving 25 Pa. Code 89.146a(b)(1) through (4). The requirement to provide temporary water within 24 hours is within guidelines proposed by OSM in the preamble to the federal regulations (60 FR 16727) and is consistent with the federal definition of "replacement of water supply" at 30 CFR 701.5, which requires replacement of protected water supplies on a temporary basis. It is also consistent with the enforcement procedures found in Part 843 of the federal regulations since a failure by the operator to replace the water supply as required under 25 Pa. Code 89.145a(e) is a violation of a performance standard.

Section 89.146a(b)(1), which limits PADEP's ability to issue an order requiring operators to provide temporary water within 24 hours of issuance of an order if an alternate temporary source is available to landowners, is approved based on an explanation provided by Pennsylvania. In its June 1, 2000, response to our June 21, 1999, letter regarding the same subject covered in section 89.145a(e), Pennsylvania noted that, "[PA]DEP does not interpret subsection (1) as imposing any responsibilities on property owners. If plumbing connections are required to establish a temporary water service, they must be provided by the mine operator. [T]he regulation simply provides that if an alternate source exists and the property owner can put it into service with no more than the flip of a switch or a turn of a valve, the mine operator may be relieved of the responsibility to do any thing more in the way of providing temporary water." Since the federal rules do not allow additional costs or burdens to be placed on the water user, the Director finds Pennsylvania's explanation consistent with the federal rules and as previously stated, finds this section is no less effective than the federal regulations in securing temporary water for landowners.

Section 89.146a(b)(4) is similar to section 5.2(a)(1) of the BMSLCA, which also requires landowners to notify operators of water supply problems. The Director is approving 25 Pa. Code 89.146a(b)(4) for the same reasons as section 5.2(a)(1) was approved.

Section 89.146a(c). Section 89.146a(c) provides that a landowner or water user may notify the Department and request an investigation if an alternate water supply has not been provided or if the alternate source is later discontinued. This section is similar to section 5.2(b)(1) of the BMSLCA. The Director has approved section 5.2(b)(1) and for the same reasons is approving 25 Pa. Code 89.146a(c).

The procedures for securing an investigation are provided in 25 Pa. Code 89.146a(c) (1) through (3). These subsections are similar to section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) of the BMSLCA. The Director is approving section 5.2(b)(2) to the extent that Pennsylvania recognizes that the approved program may require a more timely response to complaints than that allowed by that section. The Director is approving 25 Pa. Code 89.146a(c)(1) through (3) to the same extent and with the same requirements as section 5.2(b)(2).

Section 89.152(a)(1). This section provides the circumstances under which an operator may be relieved from liability from water supply replacement. Subsection (1) provides that an operator will not be required to restore or replace a water supply if the contamination, diminution or interruption existed prior to the underground mining activities and the mining activities did not worsen the preexisting condition. The Director is approving this portion of the amendment. The federal regulations at 817.41(j) do not require replacement of water supplies unless contamination, diminution or interruption due to mining activities has occurred, therefore, 25 Pa. Code 89.152(a)(1) is consistent with the federal rules.

Section 89.152(a)(2). This section provides that the operator is not required to restore or replace a water supply if the operator can demonstrate that the contamination, diminution or interruption is due to underground mining activities that occurred more than three years prior to the onset of the water supply contamination, diminution or interruption. This subsection is similar to section 5.2(e)(2) of the BMSLCA. The Director did not approve 5.2(e)(2) because the statute of limitations provision virtually assures that at some point in time, there will be a water supply that will not be restored or replaced because the landowner did not report the contamination, diminution or interruption within the noted time frame. Further discussion on the Director's decision to not approve section 5.2(e)(2) of the BMSLCA can be found earlier in this rulemaking. The Director is not approving this section of the regulations for the same reasons.

Section 89.152(a)(3). This section provides that the operator will not be required to restore or replace a water supply if the contamination, diminution or interruption occurred as the result of some cause other than the underground mining activities. This section of the regulations is similar to the provisions of section 5.2(e)(3) of the BMSLCA. The Director's approval of 5.2(e)(3) can be found earlier in this rulemaking. The Director is approving this section for the same reasons.

Section 89.152(a)(4). This section provides that the operator will not be required to restore or replace a water supply if the claim for contamination, diminution or interruption of the water supply was made more than two years after the water supply was adversely affected by the underground mining activities. This section is similar to section 5.1(b) of the BMSLCA. The Director has not approved section 5.1(b) for the reasons found in the discussion of that section earlier in this rulemaking. The Director is not approving 25 Pa. Code 89.152(a)(4) of the regulations for the same reasons.

Section 89.152(a)(5)(i). This section provides that the operator will not be required to restore or replace a water supply if the operator has purchased the property for a sum equal to the property's fair market value immediately prior to the time the water supply was affected or has made a one-time payment equal to the difference between the property's fair market value prior to the time the water supply was affected and the fair market value determined at the time the payment is made. This section is similar to the provisions of section 5.2(g)(1) and (2) of the BMSLCA. The Director has not approved 5.2(g)(1) and (2) because the federal program does not provide for compensation in lieu of replacement or restoration of water supplies. A complete discussion of the reasons for not approving sections 5.2(g)(1) and (2) can be found earlier in this rulemaking. The Director is not approving 25 Pa. Code 89.152(a)(5)(i) of the regulations for the same reasons.

Section 89.152(a)(5)(ii). This section provides that the operator will not be required to restore or replace a water supply if the landowner and operator have entered into a valid voluntary agreement under section 5.3 of the BMSLCA. This section is similar to a portion of section 5.3(a) of the BMSLCA. We did not approve that portion of section 5.3(a) that allowed compensation in lieu of restoration or replacement of affected water supplies. As the Director previously noted, OSM's policy as set forth in the preamble to the federal EPAct rules, is to require restoration or replacement. The federal rules do not allow operators and landowners to enter into voluntary agreements in lieu of restoration or replacement of affected water supplies. The full discussion of the Director's reasons for not approving a part of section 5.3 of the BMSLCA can be found in the discussion of that section earlier in this rulemaking. Section 89.152(a)(5)(ii) is not approved for the same reasons.

Section 89.152(b). This subsection states that the section does not apply to underground mining activities that are governed by Chapter 87 (relating to surface mining of coal). In our letter of June 21, 1999, to Pennsylvania, we noted that the preamble to the federal definition of "replacement of water supply" states that the "definition is applicable to both underground coal mining operations and surface mining operations that affect water supplies." The preamble to the federal rules indicates that, "The final rule is intended to apply to replacement of water supply under both sections 717(b) and 720(a)(2) of SMCRA." 60 FR at 16726. We asked Pennsylvania to clarify how the Pennsylvania program meets the federal regulations in protecting water supplies affected by both underground and surface mining operations.

In its reply of June 1, 2000, Pennsylvania noted:

> [The] water supply replacement requirements originate in two different statutes. In cases where impacts are due to operations carried out below the surface in the workings of an underground mine, replacement requirements are driven by BMSLCA. In cases where impacts are due to activities at the land surface (i.e., surface mines, surface sites associated with underground mines, coal preparation plants and coal refuse disposal areas), requirements are driven by SMCRA. While replacement requirements are similar under both BMSLCA and SMCRA, there are subtle differences that demand separate treatment. For example, BMSLCA includes a rebuttable presumption provision that is defined by an angular projection from underground mine workings, whereas, the rebuttable presumption provision of SMCRA is defined by a horizontal projection from the area where activities take place at the surface. Due to these differences, effects resulting from surface operations at an underground mine must be treated separately from effects resulting from underground operations. In deciding the appropriate treatment, DEP first decides whether effects are due to activities at a surface site or activities in the underground mine workings. If the effects are due to operations in the underground workings, DEP applies the replacement requirements of 25 Pa Code 89.145a. If the effects are due to operations at a surface activity site, DEP applies the replacement requirements in section 87.119 or section 88.107.

There is no direct federal counterpart. The federal regulations at 30 CFR 817.41(j) require the permittee to replace any affected water supply that is affected by underground mining activities. The federal definition of "underground mining activities" at 30 CFR 701.5 includes surface operations incident to underground coal extraction and underground operations. Section 89.152(b) merely delineates which parts of the Pennsylvania program address the various underground mining activities. Accordingly, it is not inconsistent with the requirements of SMCRA and the federal regulations. The Director notes that Pennsylvania's program amendment regarding water supply replacement provisions of surface mines, including surface operations incident to underground coal extraction, has not yet been approved by OSM.

Section 89.153(a) and (b). This section deals with the relationship between a rebuttable presumption and water supply replacement. The provisions of subsections (a) and (b) are substantively identical to the provisions of section 5.2(c) of the BMSLCA. As we stated previously, there is no federal regulation that prohibits the state from enacting a rebuttable presumption for water supply replacement. In fact, by finding that operators are presumed responsible for replacement of water supplies, these regulations will assist in insuring that operators are promptly informed of their obligation to replace affected supplies and provide emergency and temporary water promptly. Thus, the Director finds that these sections are in accordance with section 720(a)(2) of SMCRA, which requires the prompt replacement of a protected water supply.

Section 89.153(c). This subsection provides that affirmatively proving that an operator was denied access to conduct a premining or postmining survey of a water supply does not relieve the operator of liability for the contamination, diminution or interruption when the landowner, affected water user or the Department proves the operator's underground mining activities caused the contamination, diminution or interruption. There is no direct counterpart to this section in the federal regulations. However, this section is not inconsistent with the requirements of SMCRA and the federal regulations because it does not eliminate an operator's responsibility and it is not inconsistent with enforcement actions where the regulatory authority has the initial burden of going forward with evidence. Therefore, the Director is approving this section.

Section 89.154. This section describes the type and make up of maps to be submitted with the permit application. Subsection (a) describes the general mine map and the elements that are required to be incorporated into the map. Numerous provisions of this section were moved from 25 Pa. Code 89.142, which was previously approved by OSM. Specifically, 25 Pa. Code 89.142(a)(1) through (5) were moved to 25 Pa. Code 89.154. The Director is approving the subsections since they were previously approved by OSM and the federal rules have not changed since that approval.

Section 89.142(a)(6) was also moved to 25 Pa. Code 89.154, with the exception of the deletion of references in subsections (6)(ii) and (iii) to buildings in place as of April 27, 1966, and the deletion of the reference to cemeteries in place as of April 27, 1966, in subsection (6)(iii). These references were deleted in PADEP's rulemaking of May 10, 1997 (27 Pa.B. 2371) that was made in response to Act 54's deletion of protection to structures in place as of April 27, 1966. The May 10, 1997, rulemaking that modified subsections (6)(ii) and (iii) was not submitted to OSM for approval prior to the current amendment. The Director is approving the deletion of 25 Pa. Code 89.154 because the deletion of references to April 27, 1966, provides protections no less effective than those found in the federal regulations. The deletion will not make Pennsylvania's program less effective than the federal program.

In addition, several provisions not previously found in 25 Pa. Code 89.142 were added to 25 Pa. Code 89.154. These include 25 Pa. Code 89.154(6)(iii), (x), (xi), (xix). Section 89.154(a)(6)(iii) requires maps to contain structures or classes of structures listed in 25 Pa. Code 89.142a(f)(1)(i)–(v). Section 89.154(a)(6)(x) requires maps to depict oil, gas and coal slurry pipelines larger than 4 inches in diameter. Section 89.154(a)(6)(xi) requires maps to depict water and sewer main and transmission lines. Section 89.154(a)(6)(xix) requires maps to depict proposed underground workings, including a description of the location and extent of the areas in which planned subsidence mining methods will be used and the identification of all areas where measures will be taken to prevent or minimize subsidence and subsidence-related damage.

The Director is approving these various subsections. The federal rule at 30 CFR 784.20(a)(1) requires a map of the permit and adjacent area showing the location and type of structures, lands and water supplies that could be affected by subsidence. The Pennsylvania rules list such items, therefore they are no less effective than the federal requirements for maps found in 30 CFR 784.20(a)(1). In addition, Pennsylvania's mapping requirements include items which are required under 30 CFR sections 783.24(c), 783.25(a)(1), 783.25(a)(4) and 783.25(a)(5) and are no less effective than these federal regulations.

In our letter of June 21, 1999, to Pennsylvania, we noted that this subsection does not contain a requirement that the general mine map include renewable resource lands or drinking or domestic or residential water supplies as is required by 30 CFR 784.20(a)(1).

In its response to us of June 1, 2000, Pennsylvania noted that:

> Section 89.154(a) does require the *General Mine Map* to include *water supplies* (see subparagraph (6)(vii)). The definition of *water supply* under 25 Pa Code 89.5 includes domestic water supplies and virtually all other types of developed water supplies commonly found in the bituminous coal fields. There is also a general requirement to show all water wells under subparagraph (6)(xiv). These requirements would include all water supplies within the scope of the federal term, "drinking, domestic or residential water supply."
>
> Although secfion 89.154(a) does not include an explicit requirement to show *renewable resource lands* on the map, it does include requirements to map most elements that fall within the scope of the term, *renewable resource lands*. First of all, the *General Mine Map* must include the entire surface area above the proposed mine and additional area beyond the mine boundaries where structures may be damaged and surface lands may suffer material damage. This area would include all *renewable resource lands* that exist above or adjacent to the proposed mine. It would include the recharge area of aquifers that lie above and adjacent to the mine plan. It would also include areas where agricultural operations take place.

The federal definition of "renewable resource lands" found at 30 CFR 701.5 means aquifers and areas for the recharge of aquifers and other underground waters as well as areas for agricultural or silvicultural production, production of food and fiber, and grazing lands. The Director accepts Pennsylvania's position that 25 Pa. Code 89.154 will require the requisite information on aquifers and areas for agricultural production and is approving this section.

Section 89.154(b). This section requires mine maps to be submitted to the Department every six months and also gives the requirements for the objects that are to be included on the maps. There is no federal counterpart to this section. The Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations because it will not limit protection to landowners and water users and will allow them to monitor the progress of underground mining operations. The Director is approving this section.

Section 89.154(c). This section requires the six-month maps to be filed with the recorder of deeds for each county in which underground mining is projected and proof of filing to be submitted to the Department. There is no federal counterpart to this section. The Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations because it will not limit protection to landowners and water users and will assure the progress maps are available to the public. The Director is approving this section.

Section 89.154(d). This section provides that no underground mining may occur until it is shown as projected mining on the maps required by subsection (b) and the maps have been on file with the recorder of deeds office for 10 days. There is no federal counterpart to this section. The Director finds that this section is not inconsistent with the requirements of SMCRA and the federal regulations because it will not limit protection to landowners and water users and will assure mining maps delineating mining progress are available for inspection. The Director is approving this section.

Section 89.155. This section provides for public notice to property owners, utilities, and political subdivisions at least six months, but less than five years, prior to mining beneath the property. It also requires that the notice identify the area where underground mining will occur, the time frames for mining, the location where the maps and applications (which includes the subsidence control plan) may be inspected, and where the owners can submit complaints. These requirements are essentially the same as the requirements of the federal regulations at 30 CFR 817.122. The federal rules require at least six months notice to all owners and occupants. The notice must include the areas to be mined, the time frames and the location where the subsidence control plan may be examined. The Director is approving this public notice portion of the regulation because it is no less effective than the federal regulations at 30 CFR 817.122. However, the Director is requiring this section to be amended because of the use of the term "underground mining." Please see the combined finding regarding use of the term "underground mining" as opposed to "underground mining operations" at the end of the regulation section for more information.

Sections 89.141(d), 89.141(d)(9), 89.142a(a), 89.142a(f)(1), 89.142a(f)(2)(i), 89.142a(h)(1), 89.142a(h)(2), 89.142a(i)(1), 89.143a(a), 89.143a(d)(1), 89.143a(d)(2), 89.143a(d)(3), 89.155(b)(1) and (2), and 89.155(c). The Director has found that these sections of 25 Pa. Code Chapter 89 are less stringent than section 720(a) of SMCRA because of their reference to underground mining. These sections require a description of the impacts of underground mining on surface features, structures and facilities and provide performance standards to remedy those impacts. Section 720(a) of SMCRA requires underground coal mining *operations* to comply with those requirements. The term "underground coal mining operations" is more expansive than Pennsylvania's definition of underground mining, which is defined at 25 Pa. Code 89.5 to be the extraction of coal. The federal definition of underground coal mining activities describes underground operations as underground construction, operation and reclamation of shafts, adits, underground support facilities, in situ processing, and underground mining, hauling, storage and blasting. Thus, under Pennsylvania's proposed sections, the only activity that must meet the environmental requirements of Chapter 89 is coal extraction, while under SMCRA, all underground operations must meet the environmental requirements. The Director is requiring the above noted sections of 25 Pa. Code to be amended to be no less stringent than section 720(a) of SMCRA.

Summary Table

The table below summarizes the Director's findings with regard to each section of 25 Pa. Code Chapter 89.

Sections of the regulations under 25 Pa. Code Chapter 89 that are approved	Sections of the regulations under 25 Pa. Code Chapter 89 that are conditionally approved or are required to be amended	Sections of the regulations under 25 Pa. Code Chapter 89 that are not approved in whole or in part
Section 89.5, the definitions of the following terms: "dwelling," "irreparable damage," "material damage," "noncommercial building," "public buildings and facilities," "public water supply system," "rebuttable presumption area," "underground mining," "underground mining operations," "water supply".	89.141(d), (d)(3), (6), and (9) 89.142a(a) 89.142a(c)(3) 89.142a(d) 89.142a(f)(1) 89.142a(f)(2)(i) 89.142a(g)(1) 89.142a(h)(1) and (2) 89.142a(i)(1) 89.143a(a) 89.143a(d)(1) and (2)	89.5, the definitions of the following terms: "de minimis cost increase," "fair market value," "permanently affixed appurtenant structures". 89.142a(f)(1)(iii). 89.143a(c). 89.143a(d)(3). 89.144a(a)(1). 89.145a(a)(1). 89.145a(f)(1)(v). 89.152(a)(2) and (4).
89.33	89.145a(b)	89.152(a)(5)(i) and (ii).
89.34	89.145a(e)(1) and (2)	
89.35	89.145a(f)(3)(i) and (ii)	
89.36	89.146a(c)	
89.67	89.155(b)(1) and (2), and (c)	
89.141(a)		
89.141(d)(2), (d)(4), (d)(5), (d)(7), (d)(8), (d)(10) and (d)(11)		
Deletion of 89.142		
89.142a(a)(1), (2), (3) and (4)		
89.142a(b)		
89.142a(c)(1) and (2)(i)–(vi)		
89.142a(e)		
89.142a(f)(1)(i), (ii), (iv), and (v)		
89.142a(f)(2)(ii)		
89.142a(g)(2), (3), and (4)		
89.142a(i)(2), (j), (k), and (l)		
Deletion of 89.143(a) through (g)		
89.143a(b)		
Deletion of 89.144		
89.144a(a)(2), and (3)		
Deletion of 89.145(a) and (b)		
89.145a(a)(1)(i)–(vi)		
89.145a(a)(2) and (3)		
89.145a(c)		
89.145a(d)		
89.145a(f)(1)(i)–(iv)		
89.145a(f)(2)		
89.145a(f)(3)(iii)		

Sections of the regulations under 25 Pa. Code Chapter 89 that are approved	Sections of the regulations under 25 Pa. Code Chapter 89 that are conditionally approved or are required to be amended	Sections of the regulations under 25 Pa. Code Chapter 89 that are not approved in whole or in part
89.145a(f)(4) 89.146a(a), and (b) 89.152(a)(1) and (3) 89.152(b) 89.153 (a) through (c) 89.154(a) through (d) 89.155(a), (b)(3) and (4)		

IV. Summary and Disposition of Comments

Federal Agency Comments

On August 5, 1998, we asked for comments from various federal agencies that may have an interest in the Pennsylvania amendment (Administrative Record Number PA 841.08). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the federal regulations.

The U.S. Department of Labor, Mine Safety and Health Administration, Coal Mine Safety and Health, Districts 1 and 2 indicated it had no comments on the proposed amendment.

The U.S. Fish and Wildlife Service (FWS) submitted comments regarding several areas. The first comments were concerned with endangered species. FWS pointed out that Pennsylvania's regulations at 25 Pa. Code, Chapter 89, Subchapters A, D, E, F, and G do not mention endangered species protection. FWS goes on to say that the provision in Subchapter C, section 89.82(e) appears to be less protective than the federal requirement found in 30 CFR 773.15(c) and appears to apply only to reclamation activities. FWS also described the requirements for protection of endangered species found in Subchapter B, section 86.37. FWS concludes its comments on endangered species by indicating it is unclear whether the provisions of Chapter 86.37(a)(15) apply to all portions of Chapter 89, including the less protective section 89.82(e). OSM did not find these comments to be relevant to the amendment submitted by Pennsylvania. Pennsylvania is requesting to change its program to deal with subsidence damage to structures and water supplies. The portions of Chapter 89 dealing with endangered species were not part of the amendment Pennsylvania submitted for approval. Neither section 86.37 nor section 89.82 were requested to be changed by Pennsylvania in this rulemaking. These sections are part of Pennsylvania's approved program and as such it would be inappropriate for OSM to comment on them in the context of the current rulemaking.

FWS also submitted comments regarding streams. FWS noted that Pennsylvania limits subsidence protection for streams to perennial streams, which is a limitation not found in the federal program. FWS asserts that there is no similar limitation in the federal program, which generally protects "streams" or "intermittent and perennial" streams. Presumably, FWS's assertion that Pennsylvania's program provides lesser protection to intermittent and perennial streams was made relative to full extraction mining and on the basis that proposed sections 89.141(d)(9) and (10) under subsidence control application requirements only mention perennial streams.

Two points are relevant to address the FWS's concern. First, the above referenced requirements were previously included in the approved Pennsylvania program. More specifically, sections 89.141(d)(9) and (10) were previously addressed in the approved program under old section 89.141(d)(2). Old section 89.141(d)(2) required a discussion of perennial streams based on 89.143(d) and 89.143(b)(1)(iv), respectively, and addressed the specific topics found at the new 89.141(d)(9) and (10).

Second, the Pennsylvania program requires the same level of subsidence damage prevention and mitigation for streams (perennial and intermittent) that is required under the federal requirements. Federal requirements address full extraction mining impacts to surface lands through a material damage standard. As noted in the preamble to the 1995 federal EPAct rules, "[T]he definition of "material damage" covers damage to the surface and to surface features, such as wetlands, streams, and bodies of water * * *" (60 FR 16724). Under 30 CFR 784.20(b)(8), the permit subsidence control plan must contain a description of the measures to be taken to mitigate any subsidence-related material damage to the land. In addition, under 30 CFR 817.121(c)(1), the permittee must correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence damage.

With regard to Pennsylvania requirements, even prior to the proposed amendment, the approved program required the protection of surface lands (including perennial and intermittent streams) in a manner no less effective than federal standards. More specifically, old section 89.141(d)(2) and subsection (d)(2)(iii) required a description of the measures (both underground and on the surface) taken to prevent, minimize or avoid subsidence from causing damage or lessening the value or reasonably foreseeable use of the surface land. Old performance standards sections 89.143(e) and 89.145(a) required operators to maintain the value and reasonably foreseeable use of surface lands and to correct material damage to surface lands to the extent technologically and economically feasible by restoring the land to a condition capable of maintaining the value or reasonably foreseeable use. The proposed Pennsylvania amendment did not alter that level of protection. Under sections 89.141(d)(8) and 89.142a(e), Pennsylvania still requires operators to provide a description of the measures to be taken to maximize mine stability and maintain the value and reasonably foreseeable use of the surface land, and when damaged by subsidence, to correct material damage to surface lands to the extent technologically and economically feasible. In conclusion, OSM does not agree with FWS that Pennsylvania limits subsidence protection to perennial streams. Rather, Pennsylvania's regulations have in the past and will continue to after this approval, contain more specific language aimed at addressing basic federal requirements for the protection of those streams identified as perennial in nature.

FWS also commented that Pennsylvania has reduced stream protection in Chapter 89 by revising the definition of a perennial stream. While FWS admits the definition of a perennial stream in Chapter 89 closely matches the federal definition of perennial streams found in 30 CFR 701.5, it notes that Pennsylvania's implementing technical guidance document is not adequate. The technical document (TGD 563–2000–655) provides a methodology for proving a stream is not perennial that is not biology based, which could lead to a failure to protect many stream systems. FWS also questioned implementation of technical guidance document TGD 563–2000–655 with regard to evaluating restrictions on mining near streams. In this case FWS asked OSM to conduct a random sampling of streams undermined to evaluate the ability of the TGD to predict subsidence effects on streams before OSM accepts the TGD as part of Pennsylvania's program amendments. Finally FWS indicated TGD 563–2000–655 is inconsistent with SMCRA and the Clean Water Act because it does not adequately address aquatic life issues.

Pennsylvania did not amend its definition of "perennial stream" in this rulemaking. Also Pennsylvania did not submit technical document (TGD 563–2000–655) as part of this program amendment. As a result, OSM did not review it in conjunction with the amendment. Since the definition and the technical document are outside the scope of the amendment, OSM is not required to respond to this comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to solicit comments and obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By letter dated August 5, 1998, we requested comments and concurrence from EPA on the Commonwealth's proposed amendment of the BMSLCA and implementing regulations (Administrative Record Number PA 841.08). EPA responded on April 26, 2001 (Administrative Record Number PA 841.07), that it had no objections or specific comments on the proposed amendments. However, EPA did wish to convey its concerns about the impact of longwall mining operations on streams and noted that it supports continued evaluation of the extent of impacts and the development of solutions for preventing, minimizing, or mitigating objectionable impacts.

OSM solicited, but did not receive, comments from the Advisory Council on Historic Preservation, and the U.S. Department of Agriculture, Soil Conservation Service.

State Agency Comments

The Pennsylvania Fish and Boat Commission (PA FBC) commented that sections 89.34, 89.35 and 89.36 are discussed in the amendment but only in relation to water supply protection. PA FBC believes these sections need to be further revised to include the protection of surface and groundwater to better protect the streams in areas of high extraction mining.

PA FBC is correct in its assertion that sections 89.34, 89.35, and 89.36 were modified to provide additional protection for water supplies. In submitting this amendment, Pennsylvania was responding to the federal rules regarding restoration or replacement of water supplies. These federal rules do not provide additional protection from subsidence to streams. As noted in our response to comments by FWS, Pennsylvania's amendment does not alter the minimum federal requirements with respect to streams.

PA FBC also commented on Pennsylvania's Technical Guidance Document (TGD 563–2000–655) regarding the definition of a perennial stream. PA FBC's comments were similar to the comments provided by FWS on the same subject. Please see the FWS comments regarding TGD 563–2000–655.

OSM solicited, but did not receive, comments from the Pennsylvania Historical and Museum Commission, Bureau of Historic Preservation.

Public Comments

Public comments were received in writing and orally at the public hearing held in Washington, Pennsylvania on October 13, 1998. Sixteen people spoke at the public hearing. Additionally, we received written public comments, before and after the public hearing, from three citizen's groups, and seven private citizens. We also received comment letters from an industry group and four coal companies. In response to our reopening of the public comment period on December 8, 2000, we received comments from a citizen's group and an industry group. We have organized these comments and our response by the section of the BMSLCA or the regulations they pertain to. We also have a section of general comments that did not pertain to any specific portion of the BMSLCA or the regulations.

One commenter incorporated by reference OSM's November 12, 1996 and November 22, 1996 preliminary comments to Pennsylvania on Act 54 and Pennsylvania's not yet finalized regulations. Pennsylvania's regulations were adopted by the Pennsylvania Environmental Quality Board on March 17, 1998, and published in the Pennsylvania Bulletin on June 13, 1998. On July 29, 1998, pursuant to 30 CFR 732.17(b), Pennsylvania submitted Act 54 and the finalized regulations to OSM for its review. Accordingly, the preliminary issues raised by OSM in the 1996 letters were either addressed in the two "issue letters" sent by OSM to Pennsylvania requesting clarification of numerous issues [letters dated June 21, 1999 (Administrative record number PA 841.32) and June 23, 2000 (Administrative record number PA 841.40)] or satisfied by either changes in Pennsylvania's regulations or by Pennsylvania's explanations that were submitted as part of the July 29th submission. Pennsylvania responded to the first issue letter on June 1, 2000 (Administrative record number PA 841.39) and to the second on July 18, 2000 (Administrative record number PA 841.41). The substance of the issue letters and Pennsylvania's responses are discussed in the findings portion of this final rule. Therefore, OSM is not addressing its own preliminary 1996 comments on a separate basis.

Comments on the changes to the BMSLCA:

Section 5.1(a)(1)

Commenters noted that section 5.1(a)(1) of the BMSLCA only requires operators to provide an alternate water source that adequately services in quantity and quality the premining use or the foreseeable uses of the supply, which is contrary to the provisions of section 720(a)(1) of SMCRA. The commenters believe SMCRA requires restoration of water supplies to premining quality and quantity, which could be a higher standard than the use-based standard of the BMSLCA.

Other commenters voiced similar concerns and added that Pennsylvania's "adequate for use" standard, in many cases, would not meet state or federal requirements to maintain the value and use of the land.

The Director has found that Pennsylvania's program regarding the quality of replacement water supplies is as effective as the federal regulations. For an explanation of the reasons behind the Director's decision, please see the discussion regarding section 5.1(a)(2). Regarding quantity, the Director has conditionally approved

VOL 66 ISS 248 DE 27 2001 UMI

Pennsylvania's program to insure that replacement supplies and delivery systems will be of a caliber that will maintain the value and reasonably foreseeable uses of the land.

Section 5.1(a)(2)

Commenters contended that this section sanctions replacement of a marginally acceptable water quality, rather than requiring replacement of equivalent quality, by requiring that the water meet minimum standards defined under the Safe Drinking Water Act.

The Director believes that with respect to water quality, an equivalency determination can be made in terms of suitability for particular uses rather than requiring that the chemical composition of the replacement supply be identical to that of the premining supply. As a result, Pennsylvania's program will insure that water quality of replacement supplies will be equivalent to premining supplies. For more information on the Director's decision to approve this portion of the amendment please see the discussion of section 5.1(a)(2) of the BMSLCA in the Director's findings.

Section 5.1(a)(3)

Commenters alleged that when mining damages investor-owned water supply systems, the added costs of repairs are passed to water users in the form of higher water bills. The commenters believe that operators who cause the damage should pay for the repair of utility lines.

OSM does not agree with this comment. The federal regulation at 30 CFR 817.180 regarding utilities only requires that underground mining activities be conducted in a manner that minimizes damage, destruction or disruption of services provided by utilities. The rules do not require operators to reimburse utilities for damage to utility lines.

Section 5.1(b)

Commenters noted that this section eliminates a mine operator's responsibility for replacement of damaged water supplies if a claim of contamination, diminution or interruption is made more than two years after the supply has been adversely affected. The commenters believe this section is contrary to SMCRA because there is no limitation of action provided under federal law, and that section 509 of SMCRA requires a performance bond that extends for a minimum of five years after reclamation. The commenters believe that the federal rules indicate that wherever and whenever it is shown mining activity caused the loss, the operator is responsible for replacing it.

OSM agrees that this section is less stringent than SMCRA. For the reasons discussed in the finding for section 5.1(b), this section has not been approved by the Director.

Section 5.2

One commenter referenced the November 12, 1996 comments from OSM to Pennsylvania. As stated earlier, OSM is not addressing its own preliminary 1996 comments on a separate basis.

Section 5.2(a)(1)

Commenters noted that this section obligates citizens whose water supply has been damaged to first contact the operator. The commenters were concerned with the part of section 5.2(a)(1) requiring the operator to investigate reported water losses with reasonable diligence because there is no time frame limiting how long the company can take to conduct the investigation nor does the section define reasonable diligence.

The Director recognizes the commenters' concerns regarding timely investigation of citizen complaints and has approved the portion of section 5.2(b)(2) dealing with inspection to the extent that Pennsylvania recognizes that the approved program may require a more timely response to complaints than that required by this section. Additionally, the Director believes the amendment required of section 5.1(a)(1) of the BMSLCA responds to the commenters' concerns regarding the prompt replacement of all adversely affected water supplies.

Section 5.2(b)(2)

A commenter contended that this section allows up to 45 days for investigation of a claim of water loss, which contrasts with the federal law requiring prompt replacement of water supplies. OSM does not fully agree with this comment. In this section, Pennsylvania has placed a cap on the length of time an investigation may continue. There is no federal requirement limiting the length of time of investigations. As noted in the approval of this requirement, the Director is approving this portion of section 5.2(b)(2) to the extent that Pennsylvania recognizes that the approved program may require a more timely response to complaints than that required by this section.

A commenter also claimed that this section is not as effective as the federal regulations because it allows up to three years for permanent water supply replacement whereas the federal law defines prompt replacement as no longer than two years. For the reasons discussed in the finding for section 5.2(b)(2), the Director also agrees that this is less effective. The time frames for water supply replacement in the preamble to the federal regulations (60 FR 16727) are "* * * intended to assist regulatory authorities in deciding if water supplies have been 'promptly' replaced." The guidance indicates a permanent water supply should be provided within two years. Because section 5.2(b)(2) of BMSLCA can allow three years to pass before PADEP is required to issue orders for replacement, the Director has not approved the phrase in this section that reads, "* * * where the contamination, diminution or interruption does not abate within three years of the date on which the supply was adversely affected."

A commenter further alleged that it is unclear whether the term "orders" included in section 5.2(b)(2) contemplates an enforcement order. The Director has found that the Pennsylvania program adequately defines the orders that can be written in response to violations. Section 5.2(b)(2) describes the circumstances that may result in an order, but the approved program already defines the types of orders that Pennsylvania will issue. It is unnecessary to restate the types of orders that can be issued in this section.

Section 5.2(d)

One commenter noted if a landowner fails to allow access for a premining survey, and the landowner has been advised of the rights established by sections 5.1 and 5.3, the operator can escape liability where damage occurs unless the injured party has baseline data relative to the affected water supply. The commenter believes that this section limits the evidence that a water supply user or landowner can introduce in a manner that is improper and inconsistent with federal law. The commenter also asserted that it improperly shifted the burden of collecting hydrologic data to the landowner, that there was inadequate notice, and that the 10 day access period was too short.

Another commenter averred that this section's response to landowners who refuse operators requests to conduct a premining inspection is punitive and not in accordance with the federal regulations.

OSM agrees with these comments. The Director is not approving a portion of section 5.2(d) regarding burden of proof. This action will respond to the commenter's concerns that this section will limit the evidence a water supply user or landowner can introduce to prove the effects of subsidence on a water supply. For a full discussion of the specific language and the reasons for not approving part of section 5.2(d), please see the discussion of that section earlier in this rulemaking.

Section 5.2(e)

Commenters contended that sections 5.2(e)(1), (2) and (3) each attempt to release an operator of responsibility for water loss in ways that are improper under federal law. The commenters believe that subsection (1), which relieves an operator from liability where the premining survey shows that the contamination, diminution or interruption existed prior to mining, appears to grant conclusive effect without allowing inquiry into whether the survey is accurate or sufficient to demonstrate a lack of causation.

The Director does not agree that this section limits the rights of landowners to challenge whether the survey is accurate or sufficient to demonstrate a lack of causation. Pennsylvania responded to a similar question in the preamble to its regulations regarding subsidence damage repair and water supply replacement (28 Pa.B. 2776). Pennsylvania noted that if a landowner disagreed with the premining survey results, he or she could arrange to have a certified laboratory conduct an independent survey at their own expense or ask PADEP to conduct a review of the results of the mine operator's survey and conduct additional testing, if necessary. Clearly, Pennsylvania envisioned that the results of premining sampling could be challenged.

The commenters further noted that subsection (2) relieves the operator of liability after a three-year lapse of time after mining. The commenters were concerned because the time of mining is not directly related to the timing of water loss, and this fails to consider that subsidence may not occur immediately, or that other factors may contribute to the water loss. The commenters further stated that the three-year limit is also arbitrary and inconsistent with the federal act which reserves jurisdiction and allows reassertion of jurisdiction at any time.

Finally, a commenter maintained that bond release should not terminate operator liability.

OSM generally agrees with the commenters. The Director has not approved this section because allowing an operator to be relieved of the liability to restore or replace affected water supplies three years after underground mining activities have ceased is inconsistent with SMCRA and the federal regulations. For a complete discussion of our reasons for not approving this section, see the discussion of section 5.2(e)(2).

With regard to the comment regarding bond release terminating operator liability, we have found that this section of the BMSLCA does not provide for termination of liability at bond release.

Finally, the commenters noted that subsection (3) appears to allow the operator to avoid responsibility by identifying another cause for the water loss. The commenters believed that OSM should seek an attorney general's opinion that the law assures that where the operator is partially or entirely responsible, state law imposes liability.

OSM did seek and receive a legal opinion from Pennsylvania regarding assignment of liability when two or more operators are responsible for water degradation, diminution or interruption. The Assistant Director for the Bureau of Regulatory Counsel wrote a memorandum dated May 15, 2000 (Administrative Record No. PA 841.39 document number 2 of 4), in which he indicated that the General Assembly's intent was to provide a remedy for water supplies affected by underground mining. This section is to be construed to relieve an operator of responsibility only where the contamination, diminution or interruption occurred solely as a result of some cause other than mining. Where mining is partly the cause of the contamination, diminution or interruption, the mine operator will not be relieved of the statutory obligation to restore or replace the affected water supply. The Director found that this opinion effectively answered the commenters' concerns.

Section 5.2(g)

Commenters alleged that section 5.2(g), which allows property purchase as an alternative to water supply replacement, is inconsistent with federal law because federal regulations require the operator to demonstrate that a suitable water source is available and could be feasibly developed. The commenters noted that the preamble to the federal regulations at 60 FR 16727 states that the intent of EPAct is that the current owner or successor could utilize the water if desired in the future. The commenters believe that there is no opportunity under the federal law for a company to avoid demonstrating that a replacement supply could be developed even if a landowner waives replacement.

Additionally, one commenter asserted that absent a demonstration by the operator that water quality and quantity can be protected or alternative supplies provided, a mining permit should not be issued.

OSM agrees with these comments. The Director has not approved section 5.2(g) of the BMSLCA. As noted in the preamble of the federal regulations on subsidence control (60 FR 16733), EPAct requires replacement of water supplies affected by subsidence. Compensation in lieu of replacement is not an option. The intent of the federal rules is to provide a water supply for current and future landowners. Compensation for a water loss or degradation will not allow water supplies to be available for future use.

Additionally, the federal regulation at 30 CFR 784.20(b)(8) requires subsidence control plans to contain a description of the measures to be taken to replace adversely affected protected water supplies if the presubsidence survey shows, or the regulatory authority determines, that diminution, contamination or interruption could occur. Thus, this section requires the permit application to contain information on water supply replacement before the permit is issued. With this information in the permit application, there would be no need for compensation in lieu of replacement, since replacement supplies must be designated before the permit is issued.

Section 5.2(h)

A commenter took exception with PADEP's role in providing advisory opinions. The commenter noted that if it was PADEP's opinion a water supply could be replaced, it should be replaced instead of allowing operators to offer compensation in lieu of replacement.

OSM agrees that this section provides remedies to operators that are inconsistent with the federal rules. The Director has not approved this section because it is connected with section 5.2(g) that allows compensation for damage to water supplies in lieu of replacement or restoration. The Director found that section 5.2(h) is not self-sustaining and is unenforceable without section 5.2(g). Therefore, it is inconsistent with the requirements of SMCRA and the federal regulations.

Section 5.3(c)

A commenter proposed that section 5.3(c), which provides landowners and water users who pursue water replacement through the courts subject themselves to the provisions in their deeds and leases, should be removed from the BMSLCA. The commenter felt that this provision rules out most citizen's rights to pursue justice in the

VOL 66 ISS 248 DE 27 2001 UMI

courts and overrides EPAct's requirement for water supply replacement wherever underground mine operations damage or disrupt water supply.

The Director has found that section 5.3(c) is inconsistent with section 720(a)(2) of SMCRA and the federal implementing rules to the extent that any state law negates the requirements of, or provides less protection than, EPAct. For a complete discussion of the matter, please see the Director's decision with regard to section 5.3(c).

Section 5.4

A commenter claimed that section 5.4 fails to require permittees to be responsible for subsidence damages in addition to operators and the use of the term "proximity" in section 5.4 unreasonably restricts an unqualified obligation to repair or compensate for material damage to non-commercial buildings and dwellings and related structures.

OSM disagrees that section 5.4 fails to make permittees responsible for damages in addition to operators. Under 25 Pa. Code 86.11(a) no person may operate a mine without obtaining a permit. Section 86.11(b) indicates that permits will be issued only to an operator. Since only operators can obtain a permit, Pennsylvania's use of the term "operator" is as effective as the federal definition of "permittee" at 30 CFR 701.5, which defines the term to mean a person holding or required to hold a permit to conduct surface coal mining and reclamation operations.

OSM also disagrees with the commenter on the use of the term "proximity." Section 5.4(a) of the BMSLCA extends the requirements of compensation or restoration to damaged structures that overlie or are in the proximity of the mine. OSM requested that Pennsylvania define what was meant by the term "proximity." Pennsylvania indicated that it understands the term to mean the structures defined in this section do not have to be directly above the mine workings in order to be covered by repair or compensation requirements. The phrase recognizes the fact that subsidence effects often extend outward from points where coal mining activities occur. Pennsylvania noted that the phrase is not interpreted to impose any specific distance limitations. The Director accepted this explanation of section 5.4(a).

A commenter stated that the term "building" does not include appurtenant structures and utilities annexed to those structures such as sewer lines, etc.

OSM disagrees in part with the commenter's assertion that the term "building" does not include appurtenant structures and utilities annexed to those structures such as sewer lines, etc. Pennsylvania's regulatory definition of permanently affixed appurtenant structures includes many of the structures that are within the definition of occupied dwelling and structures related thereto that is found in the federal regulations at 30 CFR 701.5. However, any structures that are not permanently affixed to the ground, Pennsylvania refers to as improvements. As noted in the findings regarding section 5.4, OSM expressed concerns with Pennsylvania's position on improvements and the same are addressed in the discussion thereof.

The same commenter noted that the requirement of "prompt" repair or replacement is absent from section 5.4. It is further alleged that this section fails to assure that the structure owner is paid the full amount of the diminution in value resulting from the subsidence-related damage. Additionally, the commenter contended that sections 5.4 and 5.5, through the use of time limits for filing claims, and agreements on compensation amounts and repair, infringes on the rights of landowners to prompt repair, replacement or compensation in full and to an unqualified right to secure immediate state and/or federal inspection of failures of the operators to provide compensation or repair.

OSM agrees with the comment that Pennsylvania's program fails to include a prompt standard for repair or compensation for subsidence damage. The Director's decision with regard to this issue can be found in the discussion of section 5.5(b).

OSM disagrees with the commenter that the section fails to assure that the structure owner is paid the full amount of the diminution in value resulting from the subsidence-related damage. As discussed in the findings regarding section 5.4(a), the Director believes that this section is consistent with SMCRA and the federal rules.

OSM agrees that the use of time limits for filing claims is less effective than the federal rules. For a complete discussion of this issue, see the Director's findings of this section.

OSM agrees in part that some agreements on compensation amounts or repair are less effective than the federal regulation requirements. As stated more fully in the Director's findings, if the agreements provide for the same protection as SMCRA then they are approvable. However, if the agreements provide for something less than what is required by SMCRA, then they are less effective.

Finally a commenter stated that the BMSLCA should be changed to include repair or compensation for damages to improvements to occupied dwellings.

OSM agrees with this comment. The Director believes that the changes required in this rulemaking to the definition of permanently affixed appurtenant structures and to section 5.4(a)(3) of the BMSLCA will satisfy the commenter's concerns.

Section 5.4 and 5.5

One commenter complained that mining companies only have to place a $10,000 bond to begin to destroy homes and water quality.

To address bonding issues, the Director has required Pennsylvania to submit an amendment to section 6 of the BMSLCA complying with 30 CFR 817.121(c)(5) which requires an adjustment of bond for subsidence damage. This provision requires an increase in bonds for damage to protected structures and water supplies if repair, compensation or replacement takes longer than 90 days.

Another commenter contended that where a homeowner's survey or an expert witness has found that damage to a structure was obviously caused by mining, an operator should be required to repair or compensate the landowner, even if no premining survey was completed.

OSM agrees that, under the federal program, the lack of a premining survey does not limit an operator's liability for repair or compensation. Accordingly, the Director has not approved the portions of the BMSLCA that limit operator's liability in those cases.

Finally, a commenter maintained that private agreements must not be allowed where they limit the protections provided in the federal regulations.

OSM agrees with this comment. The Director has found that nothing in the federal regulations prevents private agreements, however the terms of an agreement cannot diminish the protections afforded by EPAct and the federal regulations.

Section 5.6

One commenter stated that the BMSLCA needs to be changed to prohibit mining agreements that allow less than full compensation for repair of subsidence damage and water supply replacement. The commenter alleged that industry's use of confidential agreements and high-pressure tactics make homeowners feel they will be better off by signing these agreements. The commenter claimed that although

OSM requires full compensation, homeowners are discouraged from bringing these agreements to OSM and that Pennsylvania looks at agreements as a credible resolution and does not normally interfere with them.

As noted in the discussion of section 5.6, the Director approved the use of agreements only to the extent that any release in a voluntary agreement does not limit the protections of EPAct. There is nothing in the federal regulations prohibiting agreements between landowners and mining companies, however any agreement that provides a lesser amount of protection than is afforded by the federal regulations would not preclude enforcement of the regulatory requirements.

Section 5.6(c)

One commenter claimed that structures covered by requirements to repair or compensate for subsidence damage under federal law are exempt under Act 54. The commenter felt that agreements homeowners entered into after April 27, 1966, but prior to the effective date of Act 54, which provide for a waiver or release of the duty to repair or compensate, should not be valid.

OSM agrees with the commenter's concerns involving agreements made after April 27, 1966, but before the effective date of Act 54. The Director has not approved the last two sentences of this portion of the amendment. These sentences state, "Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement." The Director found these statements could validate agreements that are not as protective as the federal regulations and therefore has not approved the language.

Section 6

The Pennsylvania Coal Association (PCA) commented on financial guarantees for subsidence repair. PCA indicated that although the proposed program amendment does not require adjustment of the performance bond amount if subsidence causes damage to protected structures, bond adjustment is authorized by Pennsylvania's primacy regulations at 25 Pa. Code 86.152. PCA notes that while Act 54 does not require adjustment of the bonds for subsidence damage, it mandates use of an escrow mechanism to assure funds are available to mitigate damage. Operators are required to deposit funds in the escrow within six months if they wish to contest the repair obligations, or have not complied with the obligations. PCA asserts that the escrow option guarantees the repair or compensation obligations of section 720 of SMCRA.

Other commenters presented the opposing view that Pennsylvania's current bonding system is not sufficient to assure correction of subsidence-related damage. One commenter opined that the longwall mining regulations must be strengthened to shift the balance of power from the coal companies to a middle ground between coal operators and homeowners. The commenter discussed the disruption subsidence from longwall mining takes on personal and professional lives and felt that the bond posted should be equal to the fair market value of the home.

Two other commenters indicated that Pennsylvania has no provision for bonding for water loss and, in practice, requires only a $10,000 bond for structure repair. The commenters further claimed that homeowners need to be assured that funds are available for complete repairs and for water supplies, which could mean extensive new water lines in some areas.

We agree with the commenter that Pennsylvania does not require a bond for water loss. Additionally, as we noted in our discussion of section 6 of Pennsylvania's statute, the bond amount at the time of application may not be sufficient to repair or compensate for structural damage if the bonds are to be used to reclaim the site as well. While the escrow payments may adequately provide for correction of damage, they are not required unless the operator appeals an order.

Finally, we do not agree with PCA's assertion that 25 Pa. Code 86.152 requires adjustment of bond for subsidence damage. The provision at that section is discretionary on the part of Pennsylvania. Accordingly, there are no provisions in the Pennsylvania program that require the submission of additional bond in the event subsidence damage is not corrected. The Director, therefore, has required Pennsylvania to amend its program to include bonding provisions as effective as those found in 30 CFR 817.121(c)(5).

Section 9.1(b)

A commenter stated that the term "minimize" should mean a reduction in damage to the greatest extent possible. The commenter believes PADEP uses the term "minimize" to mean a reduction of damage in any amount. The commenter further indicated that damage should be minimized to a different level than the irreparable damage level of the Pennsylvania program.

OSM agrees that damage minimization must take place. The federal regulations at 30 CFR 817.121 require minimization of material damage to the extent economically and technically feasible except in certain circumstances. The steps to be taken to minimize damage would vary from case to case and would also depend on a judgment of the economic and technical circumstances surrounding the measures. As a result, the commenter's concern on PADEP's interpretation of the level of minimization would be largely dependent on site-specific circumstances and would have to be evaluated in that respect.

OSM agrees that Pennsylvania must minimize material damage to certain structures. The Director is requiring Pennsylvania to amend its program to require minimization of material damage.

Section 18.1(d)

A commenter contended that this section could be read to prevent data collection required to meet permitting requirements, rather than merely to restrict data collection solely to augment the analysis of deep mine impacts on water resources. The commenter felt that the final phrase, which refers to data collection outside of the context of this section, implies that the language of section subsection (d) is intended to have broader application.

OSM does not agree with the commenter's interpretation of this section. This section requires a compilation of information from deep mine permit applications, monitoring reports and other data submitted by operators, from enforcement actions and from any other appropriate source. As stated on Pennsylvania's website, the purpose of section 18 is to require Pennsylvania to "assess the surface impacts of underground mining on buildings, water supplies and streams every five years." *See*, www.dep.state.pa.us/dep/deputate/minres/bmr/act54/index.html. This section does not seek to limit information already required by the Pennsylvania program. It only requires a compilation of information already required to be submitted. Subsection (d) does not allow PADEP to request additional information (except for water loss incidents or claims) to fulfill these provisions. While there is no direct corresponding federal requirement to this section, the Director found that this

VOL 66 ISS 248 DE 27 2001 UMI

portion of the amendment does not limit the rights and protections of the federal requirements.

Comments on regulation changes at 25 Pa. Code Chapter 89:

Section 89.5(a), Definition of De Minimis Cost Increase

One commenter stated that this section allows the operator to forgo payment of a de minimis cost, which is less than 15% of the operating and maintenance costs or less than $60 a year. The commenter maintained that this is a significant sum to many rural homeowners when paying over a 20 year period and that the federal rules make no such exemption.

OSM agrees with the comment. The Director has found that passing along the cost of a treatment system, even if the increased cost is de minimis, does not make a landowner or water user who has experienced water supply problems as a result of subsidence whole. The federal regulations require operators whose mining operations caused water supply contamination, interruption or diminution to replace or restore water supplies, including the cost of treatment if necessary.

Section 89.141(d)

A commenter noted that this section requires only a description of measures to correct damage to homes—allowing any amount of damage to homes short of irreparable damage, which PADEP must predict. The commenter pointed out the requirements to minimize damage found at 30 CFR 784.20 and 30 CFR 817.121(a)(1) and (2). The commenter felt that OSM must find sound methods for minimizing damage and use the dictionary meaning of minimize, which is to "make the least of" not just lessen or moderate.

OSM agrees that Pennsylvania's program does not contain damage minimization requirements below the irreparable damage level. The Director is requiring Pennsylvania to amend its program to require operators to minimize material damage to homes and non-commercial structures to the extent technologically and economically feasible.

Section 89.142a(f)(1)(ii)

One commenter asserted that non-commercial buildings not used by, or accessible to, the public are covered in the federal rules at 30 CFR 817.121(c) but not covered in Pennsylvania's program.

OSM does not agree with the comment regarding protection of non-commercial buildings. Pennsylvania's definition of non-commercial buildings is substantially the same as the federal definition at 30 CFR 701.5 and section 89.142a(f)(1)(ii) provides protection to non-commercial buildings. More information on this subject can be found in the discussion of section 5.4(a)(1) of the BMSLCA.

Section 89.142a(f)(1)(iii)

A commenter noted that this section provided some exemptions to protections found in federal regulations because it does not provide protection for improvements made after Act 54's effective date or date prior to the operator's next permit renewal. The commenter also stated that the federal rules have a rebuttable presumption of subsidence-related damage for homes with the 30-degree angle of draw from underground mining activities, but Pennsylvania's regulations do not contain a similar presumption for damages to structures.

OSM agrees with the comment regarding limitations on protections being dependent on the date of the operator's next permit renewal. As noted in the discussion in this rulemaking of section 5.4(a)(3) of the BMSLCA, the Director did not approve the phrase "improvements in place on the effective date of this section or on the date of the first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application."

OSM does not agree with the comment regarding angle of draw. As noted elsewhere in this rulemaking, OSM suspended its rules regarding a rebuttable presumption of causation by subsidence (30 CFR 817.121(c)(4)(i) through (iv)) in a December 22, 1999, **Federal Register** notice (64 FR 71652). As a result of the suspension, Pennsylvania does not need to include a counterpart to this regulation in its program.

Section 89.142a(g)

One commenter alleged that Pennsylvania does not intend to hold coal operators responsible for damage to investor-owned utilities, an exemption not included in the federal rules at 30 CFR 817.180. The commenter felt that this lack of conformity to the federal rules would result in higher utility costs to homeowners.

OSM does not agree with this comment. The provision of section 89.142a(g)(1) protects all structures protected by the federal regulations at 30 CFR 817.180. The commenter is apparently referencing remarks made by Pennsylvania in the preamble to the regulations on subsidence damage repair and water supply replacement. In the preamble (28 Pa.B. 2767), Pennsylvania noted that with respect to the definition of the term "water supply" it did not want to include language in that definition that could be interpreted to include investor-owned water transmission utilities. Pennsylvania indicated that the preamble discussion was made to illustrate the difference between connections from a well or spring to a residence and connections made to a water main that is part of a public water supply system. Connections from a well or spring are permanent affixed appurtenant structures that must be repaired by the mine operator if damaged. Damage to a water main and that part of the connecting piping that is owned by the water company would be covered under Pennsylvania regulation section 89.142a(g) relating to protection of utilities.

However, even though section 89.142a(g) protects the same types of utilities as the federal program it does not provide the same level of protection as the federal program. Pennsylvania protects utilities from underground mining while the federal program protects utilities from underground mining activities. The federal definition of underground mining activities includes more activities than the Pennsylvania definition of underground mining, which only pertains to removal of coal. The federal definition of underground mining activities found at 30 CFR 701.5 includes a combination of surface operations incident to underground extraction of coal as well as underground operations. This would include construction, use, maintenance, and reclamation of roads, above-ground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities including hoist and ventilating ducts, areas utilized for the disposal and storage of waste and areas on which materials incident to underground mining operations are placed.

Another commenter suggested that the word "prevent" should be substituted for the word "minimize." Section 89.142a(g) requires underground mining to minimize damage, destruction or disruption of utilities. The federal rules at 30 CFR 817.180 do not require prevention of damage, but rather minimization, the same as the Pennsylvania rule. Therefore, OSM does not agree that the word "minimize" should be changed.

Section 89.142a(h)

A commenter claimed that Pennsylvania's program does not provide for the premining monitoring of flow in perennial streams, which makes it impossible to determine adverse impacts by mining operations since no standard for comparison exists.

OSM does not agree with this comment. The approved Pennsylvania program at 25 Pa. Code 89.34 requires operators to include in their operation plan a description of streams, including quantitative seasonal flow conditions. This information could be used to determine any adverse impacts to perennial streams due to underground mining activities.

Section 89.144a

The Pennsylvania Coal Association (PCA) commented on the provisions of section 89.144a(a)(1) regarding an operator's relief from responsibility for repair or compensation for damages to structures when a landowner refuses access to an operator for conducting a premining survey. PCA contends there is no distinction between the requirements of the federal regulations where a landowner loses a rebuttable presumption of causation if access to an operator for a premining survey is denied and the state regulations that relieve an operator from repair or compensation requirements when access is denied. PCA states a landowner may be able to prove causation of subsidence damage, but that establishing the chain of causation would require extensive technical data and expert testimony. PCA further indicates that without a premining survey, there is no baseline information for determining an operator's liability, which is especially important in Pennsylvania given the extensive history of underground mining that makes damage from subsidence more likely than other states. Finally, PCA claims this portion of the program amendment should be approved because it is as effective as the federal regulations, since both the state and federal regulations are designed to encourage landowners to cooperate in premining surveys and to facilitate collection of baseline information. (Note: CONSOL, Pennsylvania Services Corporation, Maple Creek Mining, Inc. and UMCO Energy, Inc. submitted letters endorsing this and all other comments made by PCA).

OSM suspended the regulations (30 CFR 817.121 (c)(4)(i) through (iv)) regarding a rebuttable presumption in response to a challenge by the National Mining Association (64 FR 71652). As a result, 30 CFR 817.121 (c)(4)(iii), which formerly stated that landowners would lose the rebuttable presumption if they refused to let operators on their property to conduct a premining survey, is no longer valid. OSM also suspended the portion of 30 CFR 784.20(a)(3) that required a specific structural survey of all EPAct protected structures. At this time, there is no requirement that a structural survey be conducted or that a rebuttable presumption will be applied to determine if underground mining is responsible for subsidence damage to structures. However, the federal rules do require that owners of structures damaged by underground mining be compensated for the damages or that the damages be repaired by the operator. The regulations do not relieve an operator from the obligation of repair or compensation for damages caused by subsidence from underground mining. We acknowledge the difficulty of assessing the extent of subsidence damage without a presubsidence survey. But, exempting an operator from liability for repair or compensation for damages because a landowner does not allow access to the property for a premining survey does not comply with the intent of the EPAct provisions. As more fully discussed in our finding for 5.4(c) of the BMSLCA, premining damage surveys do not have to be conducted by an operator to be valid. The surveys can be conducted by independent parties hired by the landowners or even by the landowners themselves. This information can then be used by the regulatory authority to set the amount of compensation or assess the completeness of repairs. As stated earlier, in Pennsylvania's scenario, the homeowner would have no relief under BMSLCA even though he had relevant information that showed causation. Because the Pennsylvania program allowed relief from liability while the federal program does not contain a similar provision, we found that this provision of the Pennsylvania program is not as effective as the federal requirements.

Section 89.144a(a)(1)

One commenter noted that Pennsylvania's rules allow operator's to be relieved of liability for damage repair or compensation if the operator was denied access to a landowner's property for pre- or post-mining surveys. The commenter argued that if the homeowner or PADEP has credible evidence that mining caused the damage, he should not be punished for refusing operator surveys of his property.

OSM agrees with the commenter. The Director is not approving this provision because the federal rules requiring repair or compensation for damage to non-commercial buildings and dwellings and related structures [30 CFR 812.121(c)(2)] does not provide exception for any reason when an operator's underground mining operation has caused subsidence damage.

Section 89.145a(a)(1)

One commenter indicated that Pennsylvania's regulations require underground miners to take a premining survey prior to mining within a 1,000 feet of the water supply. The commenter expressed concern because water supply damage could occur from mining before the 1,000-foot distance from a home is reached.

OSM agrees with the commenter's concerns. The federal regulations at 30 CFR 784.20(a)(3) regarding presubsidence surveys require all drinking, domestic, or residential water supplies to be surveyed at the time of application. As noted in the Director's decision above, the Director is not approving the provision that allows for water supply surveys to be delayed until mining advances within 1,000 feet of a supply and is requiring Pennsylvania to amend its program to require permittees to submit the information required by 25 Pa. Code 89.145a(1)(i)–(v) that is necessary to meet the provisions of 30 CFR 784.20(a)(3) at the time of the application for all existing drinking, domestic, or residential water supplies.

Section 89.152(a)(2)

PCA commented on subsection (2) that provides that an operator can seek relief from responsibility for water supply replacement or restoration if the contamination, diminution or interruption is due to underground mining activities that occurred more than three years prior to the onset of water supply contamination, diminution or interruption. PCA noted that the operator is required to affirmatively prove all of the elements of this defense. The Pennsylvania Environmental Quality Board has interpreted this defense as not arising until three years after the mine has closed and all reclamation is complete. PCA contends this time period is long enough that it should cover all water supplies affected by underground mining. PCA further argued that since Pennsylvania's program provides for a rebuttable presumption that water supplies have been impacted within a thirty-five degree angle of draw, many water supplies will be replaced without

VOL 66 ISS 248 DE 27 2001 UMI

any proof on the part of the landowner. Even after three years have elapsed, the burden remains on the mine operator to affirmatively prove the elements of the defense. PCA proposes that for these reasons, the Pennsylvania program is more effective in some regards and no less effective than the federal regulations.

The Director agrees with PCA's contention that using the angle of draw in determining operator liability is an effective tool to assist regulators in requiring restoration or replacement for those supplies located within the angle of draw. However, the regulation could allow operators to be relieved from liability for replacement of some water supplies whether or not they are within the angle of draw, if more than three years elapsed after mine closing before the water supply is affected. When promulgating the federal regulations requiring replacement or restoration of water supplies, OSM indicated that even in cases where the landowner did not need a restored or replaced water supply to meet the postmining land use, the permittee would still be required to demonstrate the availability of a water source equivalent to premining quantity and quality so that the current owner or his or her successor could utilize the water if desired in the future (60 FR 16727). In making this statement, OSM envisioned that water supplies would be available under all circumstances for both present and future uses. While under section 25 Pa. Code 89.152(a)(2), Pennsylvania has left open the possibility that some water supplies will not replaced or restored, the federal regulation intended restoration or replacement of all water supplies without exception. As more fully discussed in the findings for 5.2(e)(2) of BMSLCA and 25 Pa. Code 89.152(a)(2), which are incorporated herein, the Director has not approved section 25 Pa. Code 89.152(a)(2).

Another commenter asserted that an operator does not have to replace a water supply if the loss occurred more than three years after the mining ceased and that the federal rules do not provide for this exemption. As stated above, OSM agrees.

Section 89.152(a)(4)

PCA commented on the provisions of this section that provide that an operator will not be liable for water supply replacement if the claim is made more than two years after the supply has been adversely affected. PCA argued that in the case of the two-year statute of limitations, the state has adopted an appropriate limitations period from existing state law. The two-year period is the same as that provided for common law water rights claims. PCA contended that federal law would likely assume the same limitations period and cited *DelCostello* v. *International Brotherhood of Teamsters,* 462 U.S. 151, 158 (1983) in support of its position. PCA indicated that this case provides that in the absence of an express limitations period in federal law, the analogous provision from state law should be adopted. Because there is no statute of limitations in SMCRA or EPAct, nor is any apparent federal policy served by a different federal limitation period, PCA asserted that the two-year period of this regulation is appropriate.

As discussed more fully in our finding regarding this section, we disagree that any statute of limitations is applicable. Additionally, the applicability of the two-year statute of limitations (generally used for torts) for water replacement has been rejected by the Commonwealth Court of Pennsylvania in *Carlson Mining Company* v. *Department of Environmental Resources,* 639 A.2d 1332, 1337 (1994). In Carlson, a coal company argued that Pennsylvania's funding mechanism for increased water operation and maintenance costs constituted damages under tort law. The court disagreed, stating that a "water supply replacement order is not a civil action based on a tort; it is based on the Commonwealth's police power." Id. at 1337. While this case involved a surface coal mining operation, OSM believes that the rationale is applicable to underground coal mining operations since any operator who refuses to replace a water supply covered under the provisions of Act 54, would also be issued an order by Pennsylvania. See, 5.2(a)(3) and 5.2(b)(2) of the BMSLCA. Therefore, based on our findings, the Director has not approved section 89.152(a)(4).

Another commenter contended that this section was contrary to the federal rules. As stated above, OSM agrees.

Section 89.152(a)(5)

PCA commented on this provision that allows compensation to landowners in lieu of water supply replacement if an affected water supply is not replaced within three years. PCA claims this option would be rarely used but would give operators and landowners flexibility in dealing with a situation where restoration of water supplies is difficult. PCA proposes that Pennsylvania's regulations generally obligate operators to provide water replacement, but provide fair and reasonable provision for where circumstances make permanent restoration of affected water supplies impossible.

Finally, PCA noted that the buy out provision would not alter a mine operator's obligation to identify the availability of an alternative water source.

The Director does not agree with the comments. In the preamble to the federal regulations, OSM responded to a commenter with a similar viewpoint, i.e., that compensation be available as an option for those limited circumstances where an impacted supply cannot be restored (60 FR 16733). In response, OSM stated, "[t]he terms of the Energy Policy Act unequivocally require replacement. Further, OSM does not anticipate that underground mining operations will be unable to comply with this statutory mandate. For example, if the permittee is unable to restore a spring or aquifer, the permittee should still be able to provide water from an alternative source, such as a public water supply, or by pipeline from another location." The Director has not approved section 89.152(a)(5) because it provides compensation rather than restoration or replacement as required by federal regulations and SMCRA.

Another commenter stated that 25 Pa. Code 89.152(a)(5)(ii) provides for voluntary agreements and payments instead of replacement of a water supply, which is required by the federal rules. OSM agrees for the reasons stated above.

PCA also commented on financial guarantees for subsidence repair. PCA contended that although the proposed program amendment does not require adjustment of the performance bond amount if subsidence causes damage to protected structures, bond adjustment is clearly authorized by Pennsylvania's primacy regulations. PCA noted that while Act 54 does not require adjustment of the bonds for subsidence damage, it does mandate use of an escrow mechanism to assure funds are available to mitigate damage. Operators are required to deposit funds in the escrow within six months if they wish to contest the repair obligations, or have not complied with the obligations. PCA stated that the escrow option guarantees the repair or compensation obligations of section 720 of SMCRA.

Other commenters presented the opposing view that Pennsylvania's current bonding system is not sufficient to assure correction of subsidence related damage. One commenter asserted that the longwall mining regulations must be strengthened to shift the balance of power from the coal companies to a middle ground between coal operators and homeowners. The commenter discussed the disruption subsidence from longwall mining exacts on personal and professional lives and stated that the bond posted should be equal to the fair market value of the home.

Two other commenters indicated that Pennsylvania has no provision to bond for water loss and, in practice, requires only a $10,000 bond for structure repair. The commenters further claimed that homeowners need to be assured that funds are available for complete repairs and for water supplies, which could mean extensive new water lines in some areas.

OSM agrees with the comment regarding the federal requirement for submission of additional bond in the event subsidence related material damage occurs to protected land, structures and facilities or when contamination, diminution, or interruption occurs to protected water supplies.

The Director has required Pennsylvania to amend its program to include bonding provisions as effective as those found in 30 CFR 817.121(c)(5). Please see the Director's findings regarding section 6 of the BMSLCA for more information.

One commenter opined that if a coal operator lacks the means to post an adequate subsidence bond, then the operation should not be permitted.

OSM does not agree with this comment. The federal requirements for posting additional bond come into play only after subsidence damage has occurred and ninety days have elapsed without the operator completing the required repair, compensation, or replacement. The ninety days can be extended to one year under certain circumstances. There is no federal requirement for operators to demonstrate that additional bonds can be obtained prior to subsidence occurring. Even if premining surveys determine that subsidence damage is likely to occur at the time of the application, operators will not need to increase their bond if the repair, compensation or replacement occurs within the allotted time frames.

General Public Comments

A general comment was made regarding imminent danger. A commenter stated that the threat of danger rather than the manifestation of the damage should be sufficient to suspend operations in imminent danger situations.

OSM believes the commenter's concern is addressed by section 9.1(a) of the BMSLCA. This section requires that if the Department determines and notifies a mine operator that a proposed mining technique or extraction ratio will result in subsidence that causes an imminent hazard to human safety, the technique or extraction ratio will not be permitted unless the mine operator, prior to mining, takes measures approved by the Department to eliminate the imminent hazard. The Director found that this section is consistent with 30 CFR 817.121(f), which requires the suspension of underground mining if imminent danger is found to inhabitants of urbanized areas, cities, towns or communities.

A commenter also indicated that OSM should require Pennsylvania to mandate that the protection of 522(e)(5) of SMCRA, regarding prohibiting mining within 300 feet of an occupied dwelling unless waived by the owner, should be applied to underground mining.

On December 17, 1999, OSM published a rule in the **Federal Register** (64 FR 70838) in which we stated that we interpret sections 522(e) and 701(28) of SMCRA and the implementing rules to provide that subsidence due to underground mining is not a surface coal mining operation. Subsidence, therefore, is not prohibited in areas protected under the Act. Neither subsurface activities that may result in subsidence, nor actual subsidence, are prohibited on lands protected by section 522(e).

During the public hearing several commenters expressed dissatisfaction with the longwall mining process in general because of the damage subsidence causes to homes and water supplies. The Director notes that one of the purposes of SMCRA as stated at section 102(k) is to "encourage the full utilization of coal resources through the development and application of underground extraction technologies." The longwall mining process has been proven to be an efficient way to insure the full utilization of coal resources. While damage to structures and water supplies is a regrettable consequence of longwall mining, the Energy Policy Act of 1992 was passed to insure that compensation for, or repair of, damages to structures and replacement of adversely affected water supplies was made. The Director finds that longwall mining is permissible under SMCRA but that operators have an obligation, as noted under the federal regulations, to minimize damage and to repair or compensate landowners for damages that occur.

Two commenters voiced concerns about protection of utilities. One of the commenters alleged that underground mining destroys natural gas wells. The Director has specified that the federal regulations at 30 CFR 817.180 require all underground mining activities to be conducted in a manner that minimizes damage, destruction or disruption of services provided by oil, gas, and water wells, as well as additional utility installations, unless the owner of the utility and the regulatory authority approve otherwise. This regulation was not modified by the passage of EPAct. Thus, impacts to gas wells are allowed if approved by the regulatory authority and the well's owner.

The second commenter noted that a ruling made by Pennsylvania's Environmental Hearing Board concluded that mere notification of intent to longwall mine beneath a public utility installation is insufficient to prevent damage to that installation. The commenter further noted that the standard requiring prevention of damage to a public utility was based on section 4 of the BMSLCA (52 P.S. 1406.4) that has since been repealed, but that Pennsylvania's Environmental Quality Board changed the word "prevent" to "minimize" without public input.

In our review of section 4 of the BMSLCA we found that, prior to its repeal, it provided protection from subsidence to municipal utilities or municipal public service operations (and other structures) in place on April 27, 1966. The Director is approving the repeal of section 4 because the federal regulations do not contain any provisions for protection of structures and utilities in place as of April 27, 1966.

V. Director's Decision

Based on the findings above we are approving the amendments to the Pennsylvania program, except as noted below.

BMSLCA

Section 5(b) (52 P.S. 1406.5(b)) is required to be amended to change the reference to section 6(a) to section 6(b).

Section 5.1(a)(1) (52 P.S. 1406.5a(a)(1)) is required to be amended to require the prompt replacement of all water supplies.

Section 5.1(b) (52 P.S. 1406.5a(b)) is not approved.

At section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) the phrase, "* * * where the contamination, diminution or interruption does not abate within three years of the date on which the supply was adversely affected" is not approved. Additionally this section is approved to the extent that Pennsylvania recognizes that the approved program regarding response to citizen complaints may

VOL 66 ISS 248 DE 27 2001 UMI

require a more timely response to complaints than that required by this section.

At section 5.2(d) (52 P.S. 1406.5b(d)) the sentence stating, "Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within ten days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the department, relative to the affected water supply," is not approved.

Section 5.2(e)(2) (52 P.S. 1406.5b(e)(2)) is not approved.

Section 5.2(g) (52 P.S. 1406.5b(g)) is not approved.

Section 5.2(h) (52 P.S. 1406.5b(h)) is not approved.

At section 5.2(i) (52 P.S. 1406.5b(i)) the phrase "and of reasonable cost" is not approved.

Section 5.3(a) (52 P.S. 1406.5c(a)) is approved to the extent that agreements to replace a water supply or provide an alternative water supply meet the requirements established in the federal definition of "replacement of water supply" found at 30 CFR 701.5. This provision is not approved to the extent it allows compensation in lieu of restoration or replacement of affected water supplies.

Section 5.3(b) (52 P.S. 1406.5c(b)) is not approved to the extent that section 5.3(a) (52 P.S. 1406.5c(a)) is not approved.

Section 5.3(c) (52 P.S. 1406.5c(c)) is not approved to the extent any state law negates or provides less protection than EPAct.

Section 5.4(a) (52 P.S. 1406.5d) must be amended to require the prompt repair and compensation for the structures protected under section 720(a)(1) of SMCRA and 30 CFR 817.121(c)(2).

At section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) the phrase, "in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application" is not approved.

Section 5.4(c) (52 P.S. 1406.5d(c)) is not approved.

Section 5.5(a) (52 P.S. 1406.5e(a)) is required to be amended to make it clear that operators are responsible for repair or compensation to landowners of structures damaged by subsidence from underground mining operations.

Section 5.5(b) (52 P.S. 1406.5e(b)) is not approved.

Section 5.5(c) (52 P.S. 1406.5e(c)) is approved to the extent that Pennsylvania recognizes the approved program regarding response to citizen complaints may require a more timely response to complaints than that required by this section. Additionally, the portion of 5.5(c) that states, "* * * within six months or a longer period if the department finds that the occurrence of subsidence or subsequent damage may occur to the same building as a result of mining," is not approved. Finally, this section is required to be amended to insure that any written damage determinations made by PADEP will take into account subsidence due to underground coal mining operations, as required by SMCRA.

At section 5.5(f) (52 P.S. 1406.5e(f)) the phrase, "* * * within six months or longer or such period as the department has established or fail to perfect an appeal of the department's order directing such repair or compensation" is not approved.

At section 5.6(c) (52 P.S. 1406.5f(c)) the following two sentences are not approved: "Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement."

Section 5.6(d) (52 P.S. 1406.5f(d)) is not approved to the extent that section 5.6(c) is not approved.

Section 6 (52 P.S. 1406.6) must be amended to comply with the provisions of 30 CFR 817.121(c)(5), which requires a permittee to obtain additional performance bond when subsidence related material damage to land or structures occurs, or when a protected water supply is contaminated, diminished or interrupted. The additional bond must be in the amount of the estimated repairs or in the amount of the decrease in value of a protected structure or in the amount of the estimated cost to replace a protected water supply if the repair, compensation or replacement takes longer than 90 days.

The Regulations at 25 Pa. Code Chapter 89

In section 89.5, the definition of "de minimis cost increase" is not approved.

In section 89.5, the definition of "fair market value" is not approved.

In section 89.5, the phrase "securely attached to the land surface" in the definition of "permanently affixed appurtenant structures" is not approved.

Section 89.141(d)(3) is to be amended to require subsidence control plans to provide a description of the measures to be taken to ensure subsidence will not cause material damage to, or reduce the reasonably foreseeable uses of, all the structures or features protected under 30 CFR 784.20(b)(5).

Section 89.141(d)(6) is to be amended to insure the requirements of 30 CFR 784.20(b)(5) and (b)(7) are met when occupied residential dwellings and structures related thereto and community or institutional buildings are not protected by 25 Pa. Code 89.141(d)(3) and they are materially but not irreparably damaged.

Section 89.142a(c)(3) is to [illegible] amended to insure that Penns[illegible] has the discretion to suspend [illegible] in cases where the initial subsidence control plan or the operator's actions fail to prevent material damage, until the operator's subsidence control plan ensures the prevention of further material damage, as required in 30 CFR 817.121(e).

Section 89.142a(d) is required to be amended to insure the prevention or minimization of material damage to occupied residential dwellings and community or institutional buildings.

Section 89.142a(f)(1) is required to be amended to be no less effective than 30 CFR 817.121(c) in requiring prompt repair or compensation to landowners.

In section 89.142a(f)(1)(iii), the portion of the amendment that states, "* * * or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application" is not approved.

Section 89.142a(g)(1) is required to be amended to require all underground mining activities to be conducted in a manner consistent with 30 CFR 817.180.

In section 89.143a(c), the portion that states, "* * * within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure * * *" is not approved. Additionally, the phrase, "within 2 years of the date damage to the structure occurred * * *" is also not approved.

In section 89.143a(d)(3), the portion which states, "* * * within 6 months of the date of issuance of the order. The Department may allow more than 6 months if the Department finds that further damage may occur to the same structure as a result of additional subsidence" is not approved.

Section 89.144a(a)(1) is not approved.

Section 89.145a(a)(1) is required to be amended to include provision that the survey information that need only be acquired to the extent that it can be collected without extraordinary efforts or expenditures of excessive sums of money, is only applicable when it applies to inconveniencing landowners. The amendment must remove the provision that allows for water supply surveys to be delayed until mining advances within 1000 feet of a supply. Finally, this section must also be amended to require permittees to submit the information required by 25 Pa. Code 89.145a(a)(1)(i)–(vi) that is necessary to meet the provisions of 30 CFR 784.20(a)(3) at the time of the application for all existing drinking, domestic, or residential water supplies.

Section 89.145a(b) is required to be amended to be no less effective than 30 CFR 817.41(j) in requiring prompt replacement or restoration of water supplies. Additionally section 89.145a(b) is required to be amended, if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses" is consistent with the actual use and the reasonably foreseeable use of the supply, regardless of whether the current owner has demonstrated plans for the use.

Section 89.145a(e)(1) is required to be amended to assure the prompt supply of temporary water to all landowners whose water supply has been impacted by underground mining, regardless of whether the water supply is within the area of presumptive liability.

Section 89.145a(e)(2) is required to be amended to require the restoration of water quantity in temporary water supplies to the same level as permanent water supplies, as noted in 25 Pa. Code 89.145a(f)(3).

Section 89.145a(f)(1)(v) is not approved to the extent that it passes de minimis cost increases for operation and maintenance of water supplies to landowners.

Sections 89.145a(f)(3)(i) and (ii) are required to be amended, if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses" is consistent with the actual use and the reasonably foreseeable uses.

Section 89.146a(c) is approved to the extent that it is consistent with, or more timely than, the citizen complaint procedures. However, Pennsylvania is required to amend its program to the extent the time frames are longer than the citizen complaint procedures.

Section 89.152(a)(2) is not approved.

Section 89.152(a)(4) is not approved

Section 89.152(a)(5)(i) is not approved.

Section 89.152(a)(5)(ii) is approved to the extent that the agreement to replace a water supply or provide an alternative water supply meets the requirements established in the federal definition of "replacement of water supply" found at 30 CFR 701.5. This section is not approved for agreements that provide for replacement of or an alternate supply of water to the extent that water supply will not meet the requirements of the federal definition. This section is also not approved to the extent that it allows compensation in lieu of restoration or replacement of affected water supplies.

Sections 89.141(d), 89.141(d)(9), 89.142a(a), 89.142a(f)(1), 89.142a(f)(2)(i), 89.142a(h)(1), 89.142a(h)(2), 89.142a(i)(1), 89.143a(a), 89.143a(d)(1), 89.143a(d)(2), 89.143a(d)(3), 89.155(b)(1) and (2), and 89.155(c) are required to be amended to be no less stringent than section 720(a) of SMCRA with regard to the definition of underground mining operations.

We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the state's program demonstrates that the state has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effectively immediately will expedite that process. Additionally, 30 CFR 732.17(h)(12) requires decisions approving or disapproving program amendments to be published in the **Federal Register** and "* * * shall be effective upon publication unless the notice specifies a different effective date."

VI. Effect of Director's Decision

Since July 28, 1995, enforcement of EPAct requirements in Pennsylvania has occurred under 30 CFR 843.25(a)(4) with a combination of state enforcement and direct federal enforcement. This portion of the notice explains how the Director's decision on the proposed amendment affects the regulation of underground mining impacts in Pennsylvania.

Section 2504 of EPAct added section 720 to SMCRA. Section 720(a)(1) required prompt repair or compensation for material damage to non-commercial buildings and occupied residential dwellings and related structures as a result of subsidence due to underground coal mining operations, and section 720(a)(2) required prompt replacement of certain identified water supplies adversely affected by underground coal mining operations. Section 720 also required that these protections be in place immediately for all underground coal mining operations conducted after October 24, 1992.

To implement the water supply replacement and structure damage repair requirements, OSM solicited comments in a March 31, 1995, **Federal Register** notice (60 FR 16750–16751), and on July 28, 1995, OSM decided that initial enforcement of EPAct requirements in Pennsylvania under 30 CFR 843.25(a)(4) would be accomplished through a combination of state and OSM enforcement (60 FR 38685–38689). Under the initial enforcement process, Pennsylvania agreed to investigate all subsidence-related complaints and take remedial action. Pennsylvania advised that it would defer to OSM in those situations where the federal rules provide greater relief for the complainant under 817.41(j), and 817.121(c)(2). Finally, under 30 CFR 843.25(b)(3), direct federal enforcement is to remain in effect in states with approved regulatory programs until OSM approves, under Part 732, provisions consistent with sections 817.41(j) and 817.121(c)(2).

Water Supply Replacement: As discussed in this notice, the Director is approving provisions that are no less effective than EPAct, and several provisions that extend protection beyond the counterpart federal standards. Extended coverage includes a rebuttable presumption for temporary water supplies and protection of agricultural water supplies. However, the Director is not approving several provisions affording less protection than the minimum level required under EPAct. These include provisions that allowed the operator to provide compensation to landowners in lieu of water supply replacement if the water supply is not restored or replaced within three years, time limits on the filing of claims for affected water supplies, and a provision that allowed up to three years to pass before an order for a permanent alternate water supply must be issued. Finally, the Director has required a number of amendments to the Pennsylvania program. The required amendments include the provision of prompt replacement of all adversely affected supplies, and that water supply surveys of existing supplies be submitted at the time of the permit application.

The Director's decision will result in continued case-by-case direct federal enforcement in Pennsylvania to carry out the requirements of 30 CFR 817.41(j)

VOL 66 ISS 248 DE 27 2001 UMI

with respect to water supply replacement provisions. For example, while Pennsylvania's provisions require prompt temporary replacement of an adversely affected supply within the rebuttable presumption zone, the provisions do not address prompt temporary or permanent water supply replacement under any other circumstances. While the Director has required Pennsylvania to submit an amendment to address this issue, the water supply replacement provisions of 30 CFR 817.41(j) will continue to be implemented by PADEP to the extent of its authority and supplemented by direct federal enforcement, as needed on a case-by-case basis to assure prompt replacement of affected supplies. For those water replacement related provisions that are now part of the approved program, OSM will monitor state performance and enforcement though the normal oversight process.

Structure Repair and Compensation: As discussed in this notice, the Director is approving provisions that are no less effective than EPAct, and several provisions extending greater protection than the minimum federal standards. These include structure compensation provisions that provide for reimbursement based upon the cost to repair or replace, reimbursement of associated temporary relocation costs, repair or compensation for certain agricultural structures, and an irreparable damage standard requiring permission of the property owner to proceed with the subsidence related activities. However, the Director is not approving proposed provisions resulting in less protection than that afforded under EPAct. These include the denial of subsidence repair and compensation based upon the refusal of access for pre-subsidence surveys, time limits on the filing of claims for subsidence damage, and a provision that would prevent PADEP from issuing orders requiring repair and compensation until six months after a property owner had notified the permittee of subsidence damage. Finally, the Director has required a number of amendments to the Pennsylvania program, including the provision of prompt repair and compensation for occupied dwellings and non-commercial buildings and the development of subsidence damage bonding requirements consistent with the federal standards.

The Director's decision will result in continued case-by-case direct federal enforcement in Pennsylvania to carry out the requirements of 30 CFR 817.121(c)(2) with respect to structure repair and/or compensation. For example, Pennsylvania's proposed amendment did not require prompt repair and compensation for all structures covered under EPAct, did not cover all underground operations, did not cover certain related structures, and placed conditions on property owners that could limit structure repair and/or compensation to levels below the minimum federal standards. The Director has not approved certain of these provisions and required Pennsylvania to submit amendments to address the aforementioned and other issues. Until such time as the required amendments are approved, the provisions of 30 CFR 817.121(c)(2) will continue to be implemented by PADEP through state provisions supplemented by direct federal enforcement, as needed on a case-by-case basis to assure prompt repair of, and or compensation for, all covered structures. For those structure damage-related provisions that are now part of the approved program, OSM will monitor state performance and enforcement though the normal oversight process.

Finally, Section 503 of SMCRA provides that a state may not exercise jurisdiction under SMCRA unless the state program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any change of an approved state program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved state programs that are not approved by OSM. In the oversight of the Pennsylvania program, we will recognize only the statutes, regulations and other materials we have approved, together with any consistent implementing policies, directives and other materials. We will require Pennsylvania to enforce only approved provisions.

VII. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed state regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the

National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal, which is the subject of this rule, is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on state, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the state submittal, which is the subject of this rule, is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 29, 2001.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 938—PENNSYLVANIA

1. The authority citation for part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2–3. Section 938.12 is added to read as follows:

§ 938.12 State statutory, regulatory, and proposed program amendment provisions not approved.

(a) We are not approving the following provisions or portions of provisions of the proposed program amendment that Pennsylvania submitted on July 29, 1998:

(1) Section 5.1(b) (52 P.S. 1406.5a(b)) of the BMSLCA.

(2) At section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) of the BMSLCA, the phrase, “* * * where the contamination, diminution or interruption does not abate within three years of the date on which the supply was adversely affected.”

(3) At section 5.2(d) (52 P.S. 1406.5b(d)) of the BMSLCA the phrase, “Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within ten days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the department, relative to the affected water supply.”

(4) Section 5.2(e)(2) (52 P.S. 1406.5b(e)(2)) of the BMSLCA.

(5) Section 5.2(g) (52 P.S. 1406.5b(g)) of the BMSLCA.

(6) Section 5.2(h) (52 P.S. 1406.5b(h)) of the BMSLCA.

(7) At section 5.2(i) (52 P.S. 1406.5b(i)) of the BMSLCA the phrase, “and of reasonable cost.”

(8) The portion of section 5.3(a) (52 P.S. 1406.5c(a)) of the BMSLCA that allows agreements for water replacement that do not fully comply with federal requirements for restoration or replacement of water supplies. Additionally, the portion of section 5.3(a) (52 P.S. 1406.5c(b)) that allows compensation in lieu of restoration or replacement of affected water supplies.

(9) Section 5.3(b) (52 P.S. 1406.5c(b)) of the BMSLCA is not approved to the extent that section 5.3(a) (52 P.S. 1406.5c(a)) is not approved.

(10) Section 5.3(c) (52 P.S. 1406.5c(c)) of the BMSLCA is not approved to the extent any state law negates or provides less protection than EPAct.

(11) At section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) the phrase, “in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application.”

(12) Section 5.4(c) (52 P.S. 1406.5d(c)) of the BMSLCA.

(13) Section 5.5(b) (52 P.S. 1406.5e(b)) of the BMSLCA.

(14) At section 5.5(c) (52 P.S. 1406.5e(c)) of the BMSLCA, the phrase, “* * * within six months or a longer period if the department finds that the occurrence of subsidence or subsequent damage may occur to the same building as a result of mining.”

(15) At section 5.5(f) (52 P.S. 1406.5e(f)) of the BMSLCA, the phrase, “* * * within six months or longer or such period as the department has established or fail to perfect an appeal of the department's order directing such repair or compensation.”

(16) At section 5.6(c) (52 P.S. 1406.5f(c)) of the BMSLCA, the following two sentences: “Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement.”

(17) Section 5.6(d) (52 P.S. 1406.5f(d)) of the BMSLCA is not approved to the extent that section 5.6(c) has not been approved.

(18) At 25 Pa. Code 89.5, the definition of “de minimis cost increase.”

(19) At 25 Pa. Code 89.5, the definition of “fair market value.”

(20) At 25 Pa. Code 89.5, the phrase “securely attached to the land surface”

in the definition of "permanently affixed appurtenant structures."

(21) 25 Pa. Code 89.142a(f)(1)(iii) the portion of the amendment that states, "* * * or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application."

(22) At 25 Pa. Code 89.143a(c) the portion which states, "* * * within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure * * *" and the portion which states, "within 2 years of the date damage to the structure occurred."

(23) At 25 Pa. Code 89.143a(d)(3), the portion of the amendment that states, "* * * within 6 months of the date of issuance of the order. The Department may allow more than 6 months if the Department finds that further damage may occur to the same structure as a result of additional subsidence."

(24) 25 Pa. Code 89.144a(a)(1).

(25) The portion of 25 Pa. Code 89.145a(a)(1) that allows for water supply surveys to be delayed until mining advances within 1,000 feet of a supply.

(26) The portion of 25 Pa. Code 89.145a(f)(1)(v) that passes de minimis cost increases for operation and maintenance of water supplies to landowners.

(27) 25 Pa. Code 89.152(a)(2).

(28) 25 Pa. Code 89.152(a)(4).

(29) 25 Pa. Code 89.152(a)(5)(i).

(30) 25 Pa. Code 89.152(a)(5)(ii) is not approved for agreements that provide for replacement of an alternate supply of water to the extent that the water supply will not meet the federal definition of replacement of water supply. The section is also not approved to the extent it allows compensation in lieu of restoration or replacement of affected water supplies.

(b) [Reserved]

4. Section 938.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
July 29, 1998	December 27, 2001	Bituminous Mine Subsidence and Land 2001 Conservation Act: Repeal of Section 4 (52 P.S. 1406.4); 5(b)(partial approval); 5.1(a)(1) (52 P.S. 1406.5a(a)(1) (conditional approval); 5.1(a)(2) and (3) (52 P.S. 1406.5a(a)(2) and (3)); 5.2(a)(1), (2), and (3) (52 P.S. 1406.5b(a)(1), (2), and (3)); 5.2(b)(1) (52 P.S. 1406.5b(b)(1)); 5.2(c) (52 P.S. 1406.5b(c)); 5.2(e)(1) and (3) (52 P.S. 1406.5b(e)(1) and (3)); 5.2(f) (52 P.S. 1406.5b (f); 5.2(j) (52 P.S. 1406.5b(j)); 5.2(k) (52 P.S. 1406.5b(k)); 5.4(a) (52 P.S. 1406.5d(a))(partial approval); 5.4(a)(1), (2) and (4) (52 P.S. 1406.5d(a)(1), (2) and (4)); 5.4(b) (52 P.S. 1406.5d(b)); 5.5(a) (52 P.S. 1406.5e(a))(partial approval); 5.5 (d), (e), and (g) (52 P.S. 1406.5e(d), (e) and (g)); 5.6(a) and (b) (52 P.S. 1406.5f(a) and (b)); 6 (52 P.S. 1406.6))(partial approval); 9.1(a), (b), (c), and (d) (52 P.S. 1406.9a(a), (b), (c), and (d); Repeal of Section 15 (52 P.S. 1406.15); 17.1 (52 P.S. 1406.17a); 18.1 (52 P.S. 1406.18a) 25 Pa. Code Section: 89.5, the definitions of the following terms: "dwelling," "irreparable damage," "material damage," "noncommercial building," "public buildings and facilities," "public water supply system," "rebuttable presumption area," "underground mining," "underground mining operations," and "water supply;" 89.33; 89.34; 89.35; 89.36; 89.141(a); 89.141(d)(2), (4), (5), (7), (8), (10) and (11); 89.141(d), (d)(3), (6), and (9)(partial approval); deletion of 89.142; 89.142a(a) (partial approval) 89.142a(a)(1), (2), (3) and (4); 89.142a(b); 89.142a(c)(1) and (2)(i) " (v); 89.142a(c)(3) (partial approval); 89.142a(d) (partial approval); 89.142a(e); 89.142a(f)(1) (partial approval); 89.142a(f)(1)(i), (ii), (iv), and (v); 89.142a(f)(2)(i) (partial approval); 89.142a(g)(1) (partial approval); 89.142a(g)(2), and (3); 89.142a(h) (1) and (2) (partial approval); 89.142a(i)(1) (partial approval); 89.142a)(i)(2), (j), (k), and (l); deletion of 89.143; 89.143a(a) (partial approval); 89.143a(b); 89.143a(d)(1) and (2) (partial approval);deletion of 89.144; 89.144a(a)(2), and (3); deletion of 89.145; 89.145a(a)(1)(i)–(vi); 89.145a(a)(2) and (3); 89.145a(b)(partial approval); 89.145a(c); 89.145a(d); 89.145a(e)(1) and (2) (partial approval); 89.145a(f)(1)(i)–(iv); 89.145a(f)(2); 89.145a(f)(3)(i) and (ii)(partial approval); 89.145a(f)(3)(iii); 89.145a(f)(4); 89.146a(a) and (b); 89.146a(c) (partial approval); 89.152(a)(1) and (3); 89.152(b); 89.153 (a), (b), and (c); 89.154(a) through (d); 89.155(a), 89.155(b)(1) and (2) (partial approval); 89.155(b)(3) and (4); 89.155(c) (partial approval).

4. Section 938.16 is amended by adding paragraphs (hhhh) through (bbbbbb) to read as follows:

§ 938.16 Required regulatory program amendments.

* * * * *

(hhhh) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 5(b) of the BMSLCA (52 P.S. 1406.5(b)) to delete the reference to section 6(a) of the BMSLCA and replace it with a reference to 6(b) of the BMSLCA.

(iiii) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 5.1(a)(1) of the BMSLCA (52 P.S. 1406.5a(a)(1)) to require the prompt replacement of all water supplies.

(jjjj) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.1(b) of the BMSLCA (52 P.S. 1406.5a(b)).

VOL 66 ISS 248 DE 27 2001 UMI

(kkkk) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to delete the phrase, "* * * where the contamination, diminution or interruption does not abate within three years of the date on which the supply was adversely affected" from section 5.2(b)(2) of the BMSLCA (52 P.S. 1406.5b(b)(2)).

(llll) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to delete the phrase, "Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within ten days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the department, relative to the affected water supply." from section 5.2(d) of the BMSLCA (52 P.S. 1406.5b(d)).

(mmmm) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.2(e)(2) of the BMSLCA (52 P.S. 1406.5b(e)(2)).

(nnnn) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.2(g) of the BMSLCA (52 P.S. 1406.5b(g)).

(oooo) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.2(h) of the BMSLCA (52 P.S. 1406.5b(h)).

(pppp) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the phrase, "and of reasonable cost" from section 5.2(i) of the BMSLCA (52 P.S. 1406.5b(i)).

(qqqq) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to make it clear in section 5.3(a) (52 P.S. 1406.5c(a)) that agreements to replace a water supply or provide an alternative water supply must meet the requirements established in the definition of "replacement of water supply" at 30 CFR 701.5 and that compensation in lieu of restoration or replacement of affected water supplies is prohibited.

(rrrr) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to insure the provisions of section 5.3(b) of the BMSLCA (52 P.S. 1406.5c(b)) reflect the Director's decision on section 5.3(a) (52 P.S. 1406.5c(a)).

(ssss) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to make it clear that section 5.3(c) of the BMSLCA (52 P.S. 1406.5c(c)) cannot negate or provide less protection than EPAct.

(tttt) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 5.4 of the BMSLCA (52 P.S. 1406.5d) to require the prompt repair and compensation for structures protected under section 720(a)(1) of SMCRA and 30 CFR 817.121(c)(2).

(uuuu) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 5.4(a)(3) of the BMSLCA (52 P.S. 1406.5d(a)(3)) to remove the phrase, "in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application."

(vvvv) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.4(c) of the BMSLCA (52 P.S. 1406.5d(c)).

(wwww) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 5.5(a) of the BMSLCA (52 P.S. 1406.5e(a)) to make it clear that operators are responsible for repair or compensation to landowners of structures damaged by subsidence from underground mining operations.

(xxxx) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove section 5.5(b) of the BMSLCA (52 P.S. 1406.5e(b)).

(yyyy) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the following phrase from section 5.5(c) of the BMSLCA (52 P.S. 1406.5e(c)), "* * * within six months or a longer period if the department finds that the occurrence of subsidence or subsequent damage may occur to the same building as a result of mining." Pennsylvania must also amend section 5.5(c) to insure that written damage determinations made by PADEP will take into account subsidence due to underground coal mining operations as required by SMCRA. Finally, Pennsylvania must also amend section 5.5(c) of the BMSLCA to insure the timeframes for investigation of claims of subsidence damage are consistent with citizen complaint procedures.

(zzzz) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the following phrase from section 5.5(f) of the BMSLCA (52 P.S. 1406.5e(f)), "* * * within six months or longer or such period as the department has established or fail to perfect an appeal of the department's order directing such repair or compensation."

(aaaaa) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the following two sentences from section 5.6(c) of the BMSLCA (52 P.S. 1406.5f(c)): "Nothing herein shall impair agreements entered into after April 27, 1966, and prior to the effective date of this section, which, for valid consideration, provide for a waiver or release of any duty to repair or compensate for subsidence damage. Any such waiver or release shall only be valid with respect to damage resulting from the mining activity contemplated by such agreement."

(bbbbb) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to insure the provisions of section 5.6(d) of the BMSLCA (52 P.S. 1406.5f(d)) reflect the Director's decision on not approving

VOL 66 ISS 248 DE 27 2001 UMI

language in section 5.6(c) of the BMSLCA (52 P.S. 1406.5f(c)).

(ccccc) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend section 6 of the BMSLCA (52 P.S. 1406.6) to comply with the provisions of 30 CFR 817.121(c)(5) regarding when, and under what circumstances, the regulatory authority must require permittees to obtain additional performance bond and the amount of such bond.

(ddddd) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the definition of "de minimis cost increase," from 25 Pa. Code 89.5.

(eeeee) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the definition of "fair market value," from 25 Pa. Code 89.5.

(fffff) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the phrase "securely attached to the land surface" in the definition of "permanently affixed appurtenant structures" at 25 Pa. Code 89.5.

(ggggg) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.141(d)(3) to provide the protections of 30 CFR 784.20(b)(5).

(hhhhh) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.141(d)(6) to insure the requirements of 30 CFR 784.20(b)(5) and (b)(7) are met when occupied residential dwellings and structures related thereto and community or institutional buildings are not protected by 25 Pa. Code 89.141(d)(3) and they are materially damaged but not irreparably damaged.

(iiiii) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption amend 25 Pa. Code 89.142a(c)(3) to make it as effective as 30 CFR 817.121(e), which imposes on the regulatory authority the obligation to require permittees to modify subsidence control plans to ensure the *prevention* of further material damage in the cases where the initial plan or operator's actions fail and as effective as 30 CFR 817.121(e) in providing the authority to suspend mining until such a plan is approved.

(jjjjj) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.142a(d) to insure the prevention or minimization of material damage to occupied residential dwellings and community or institutional buildings.

(kkkkk) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.142a(f)(1) to secure prompt repair or compensation to landowners.

(lllll) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the phrase from 25 Pa. Code 89.142a(f)(1)(iii), which states, "* * * or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application."

(mmmmm) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable to amend 25 Pa. Code 89.142a(g)(1) to require all underground mining activities be conducted in a manner consistent with 30 CFR 817.180.

(nnnnn) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the phrase from 25 Pa. Code 89.143a(c) that states, "* * * within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure * * *." Additionally, the amendment must remove the phrase, "within 2 years of the date damage to the structure occurred."

(ooooo) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove the sentences from 25 Pa. Code 89.143a(d)(3) that state, "* * * within 6 months of the date of issuance of the order. The Department may allow more than 6 months if the Department finds that further damage may occur to the same structure as a result of additional subsidence."

(ppppp) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove 25 Pa. Code 89.144a(a)(1).

(qqqqq) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.145a(a)(1) to make it clear that the requirement that survey information need only be acquired to the extent that it can be collected without extraordinary efforts or expenditures of excessive sums of money, is only applicable when it applies to inconveniencing landowners. The amendment must remove the provision that allows for water supply surveys to be delayed until mining advances within 1000 feet of a supply. Finally, this section must also be amended to require permittees to submit the information required by 25 Pa. Code 89.145a(a)(1)(i)–(vi) that is necessary to meet the provisions of 30 CFR 784.20(a)(3) at the time of the application for all existing drinking, domestic, or residential water supplies.

(rrrrr) By February 25, 2002, Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to 25 Pa. Code 89.145a(b) is required to be amended to be no less effective than 30 CFR 817.41(j) in requiring prompt replacement or restoration of water supplies. Additionally, section 89.145a(b) is required to be amended, if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses' is consistent with the actual use and the reasonably foreseeable use of the supply, regardless of whether the current owner has demonstrated plans for the use,

(sssss) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.145a(e)(1) to assure the prompt supply of temporary water to all landowners whose water supply has been impacted by underground mining, regardless of whether the water supply is within the area of presumptive liability.

(ttttt) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.145a(e)(2) to require the restoration of water quantity in temporary water supplies to the same level as permanent water supplies, as noted in 25 Pa. Code 89.145a(f)(3).

(uuuuu) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.145a(f)(1)(v) to make it clear that that de minimis cost increases for operation and maintenance of water supplies are not to be passed to landowners or water users.

(vvvvv) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.145a(f)(3)(i) and (ii), if necessary, to ensure that the phrase "satisfy the water user's needs and the demands of any reasonably foreseeable uses' is consistent with the actual use and the reasonably foreseeable uses.

(wwwww) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.146a(c) to the extent the time frames for the Department's investigation are longer than those in Pennsylvania's approved citizen complaint procedures.

(xxxxx) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove 25 Pa. Code 89.152(a)(2).

(yyyyy) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove 25 Pa. Code 89.152a(4).

(zzzzz) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to remove 25 Pa. Code 89.152a(5)(i).

(aaaaaa) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code 89.152a(5)(ii) to remove that portion of the section allowing compensation in lieu of restoration or replacement of affected water supplies. Additionally the amendment must make it clear that agreements to replace a water supply or provide for replacement of an alternate supply of water must meet the requirements established in the federal definition of "replacement of water supply" at 30 CFR 701.5.

(bbbbbb) By February 25, 2002 Pennsylvania must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption to amend 25 Pa. Code sections 89.141(d), 89.141(d)(9), 89.142a(a), 89.142a(f)(1), 89.142a(f)(2)(i), 89.142a(h)(1), 89.142a(h)(2), 89.142(a)(i)(1), 89.143a(a), 89.143a(d)(1), 89.143a(d)(2), 89.143a(d)(3), 89.155(b)(1) and (2) and 89.155(c) to be no less stringent than section 720(a) of SMCRA.

[FR Doc. 01-31614 Filed 12-26-01; 8:45 am]

BILLING CODE 4310-05-P

Reader Aids

Federal Register

Vol. 66, No. 248

Thursday, December 27, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20
65811–66292	21
66293–66704	26
66705–67068	27

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
6641	66547
6763	66547
7351	66547
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497, 66547
7513	64095
7514	65089
7515	66547
Executive Orders:	
10513 (Revoked by EO 13245)	66268
11274 (Revoked by EO 13243)	66262
11487 (Revoked by EO 13244)	66267
11582 (See EO 13238)	63903
11822 (Revoked by EO 13246)	66270
11880 (Revoked by EO 13242)	66260
11957 (Revoked by EO 13241)	66258
12608 (Revoked in part by EO 13242)	66260
12958 (See Order of December 10, 2001)	64347
12998 (Revoked by EO 13242)	66260
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
13248	66705
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–05 of December 14, 2001	66707
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

213	66709
250	66709
293	66709
294	66709
300	66709
302	63905
315	66709
316	66709
317	63905
330	63905
332	66709
333	63905
335	63905
534	63906
339	66709
351	66709
352	66709
534	66709
550	66709
591	63906
720	66709
732	66709
831	66709
837	66709
841	66709
930	63906, 66709
960	66709
6001	60139
Proposed Rules:	
890	64160

7 CFR

56	66712
70	66712
210	65597
226	65597
301	63151
989	65423
1710	66293
Proposed Rules:	
81	64918
352	63005
1410	63339
1710	66359

8 CFR

103	65811

9 CFR

70	63588
71	65598
78	63910
85	65598
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

10 CFR

20	64737
30	64737

VOL 66
ISS 248
DE 27 2001
UMI

32 ... 64737
34 ... 64737
40 ... 64737
50 ... 64737
51 ... 64737
430 ... 65091
1707 ... 66714

Proposed Rules:
50 ... 65661
54 ... 65141
72 ... 63964

11 CFR

Proposed Rules:
106 ... 66813

12 CFR

5 ... 62914
201 ... 65816
203 ... 66295
226 ... 65604
500 ... 65817
505 ... 65817
506 ... 65817
516 ... 65817
517 ... 65817
541 ... 65817
543 ... 65817
544 ... 65817
545 ... 65817
546 ... 65817
552 ... 65817
556 ... 65817
559 ... 65822
560 ... 65817, 65822
561 ... 65817
563 ... 65817
563d ... 65817
563g ... 65817
565 ... 65817
568 ... 65817
570 ... 65817
573 ... 65817
583 ... 65817
590 ... 65817
700 ... 65622
701 ... 65622, 65625, 65628
712 ... 65622
715 ... 65622
723 ... 65622
725 ... 65622
790 ... 65622
930 ... 66718
932 ... 66718
1773 ... 65097

Proposed Rules:
Ch. VII ... 66359
Ch. IX ... 63008
226 ... 64381
360 ... 65144
584 ... 63517
701 ... 65662
951 ... 66813
1750 ... 65146

13 CFR

120 ... 64739

14 CFR

25 ... 64349
39 ... 60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629, 65827, 65829, 65832, 66296, 66299, 66302, 66304, 66730, 66733, 66734, 66737, 66739
71 ... 63489, 63623, 64909, 64910, 65834, 66741
73 ... 63433
91 ... 63888
93 ... 63294
97 ... 64139, 64141
107 ... 63474
108 ... 63474

Proposed Rules:
39 ... 63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666, 66360, 66819, 66821, 66823, 66828
71 ... 60162, 63517, 66832
93 ... 64778
154 ... 66238
234 ... 66833

15 CFR

4 ... 65631
4a ... 65631
4b ... 65631
744 ... 65836
801 ... 63916, 63918

Proposed Rules:
738 ... 65666
742 ... 65666

16 CFR

3 ... 64142
4 ... 64142
305 ... 63749
1700 ... 65836

17 CFR

Proposed Rules:
15 ... 64383
230 ... 66839

18 CFR

381 ... 63162

Proposed Rules:
35 ... 65858

19 CFR

12 ... 63490

20 CFR

655 ... 63298

Proposed Rules:
404 ... 63634

21 CFR

Ch. 1 ... 66741
1 ... 65429
510 ... 63163, 63164, 63499, 66742
520 ... 63165, 63166
524 ... 63164
556 ... 62916
558 ... 62916, 63499, 63500

Proposed Rules:
500 ... 63519
1310 ... 64173

24 CFR

30 ... 63436

Proposed Rules:
5 ... 65162
202 ... 65162

25 CFR

Proposed Rules:
292 ... 66847
542 ... 66500

26 CFR

1 ... 63920, 66307
301 ... 64351, 64740, 64911
602 ... 64076, 64351, 66307

Proposed Rules:
1 ... 63203, 64385, 64904, 66362, 66376
301 ... 64386
602 ... 64386

28 CFR

Proposed Rules:
97 ... 64934

29 CFR

578 ... 63501
579 ... 63501
580 ... 63501
4022 ... 64744
4044 ... 64744

Proposed Rules:
470 ... 65163
1910 ... 64946
1915 ... 64946
1926 ... 64946
1928 ... 64946

30 CFR

256 ... 60147
915 ... 66743
917 ... 66314
918 ... 64746
938 ... 67010
944 ... 62917

Proposed Rules:
250 ... 66848, 66851
918 ... 66377
936 ... 63968, 65858

31 CFR

211 ... 63623

32 CFR

619 ... 65651

33 CFR

100 ... 63624
110 ... 66747, 66749
117 ... 62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104, 66751
165 ... 60151, 62940, 64144, 64912, 65105, 65838, 66747, 66749, 66753

Proposed Rules:
1 ... 63640
117 ... 66865
147 ... 63642
165 ... 64778, 66380
175 ... 63645
181 ... 63650

34 CFR

Proposed Rules:
Ch. VI ... 63203

36 CFR

18 ... 66755
1202 ... 65652

37 CFR

201 ... 62942, 63920

Proposed Rules:
255 ... 64783

38 CFR

3 ... 66763
17 ... 63446, 63449, 64904
20 ... 60152

Proposed Rules:
3 ... 64174
20 ... 65861

39 CFR

20 ... 64353, 65780

Proposed Rules:
111 ... 65668

40 CFR

8 ... 63454
9 ... 65256
52 ... 63311, 63921, 64146, 64148, 64750, 64751, 66317, 66769
62 ... 63311, 63938, 64151, 64152, 65448
63 ... 63313, 65072, 66321
70 ... 62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
80 ... 66769
81 ... 64751, 66317
122 ... 65256
123 ... 65256
124 ... 65256
125 ... 65256
152 ... 64759
153 ... 66769
156 ... 64759
180 ... 63192, 64768, 65450, 65839, 65850, 66325, 66333, 66769, 66773, 66778, 66786
261 ... 60153, 62973
271 ... 63331, 66340, 66342
300 ... 64357
721 ... 63941

Proposed Rules:
52 ... 63204, 63343, 63972, 63982, 64176, 64783, 66382
60 ... 64176
62 ... 63985, 64207, 64208, 65460
63 ... 65079, 66381
80 ... 60153, 65164, 66867
81 ... 66382
89 ... 65164
90 ... 65164
91 ... 65164
271 ... 66382, 66383
300 ... 64387
1048 ... 65164
1051 ... 65164
1065 ... 65164
1068 ... 65164

41 CFR

Ch. 301 ... 66794
61–250 ... 65452

42 CFR

411 ... 60154

1001....62980, 63749

Proposed Rules:

1001....65460

43 CFR

3600....63334
3610....63334
3620....63334
3800....63334

44 CFR

64....63627
65....65107, 65110
67....65115, 65120

Proposed Rules:

61....60176
67....65668, 65671

46 CFR

Proposed Rules:

67....64784

47 CFR

1....62992
25....63512
36....65856
54....64775, 65856
73....60156, 60157, 63199, 63629, 64776, 64777, 65122, 66346, 66803
76....62992
101....63512

Proposed Rules:

1....64785, 65866
2....64785
51....63651, 64946
73....63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873, 66383, 66384, 66867
87....64785

48 CFR

Ch. 1....65346, 65372, 66984, 66990
2....65349, 65351, 65353
5....65370
8....65367
9....66984, 66986
11....65351
12....65370
14....66984, 66986
15....65351, 65368, 65369, 66984, 66986
19....65370
22....65370
23....65351, 65370
25....65349, 65370
31....66984, 66986
32....65353
39....65371
42....65351
44....65367
52....65349, 65353, 65367, 65370, 66984, 66986
53....65370
202....63334
212....63335
215....63334
217....63336
237....63335
242....63334

Proposed Rules:

1....65792
36....65792
53....65792
235....63348, 65676
1823....64391
1836....64391
1852....64391

49 CFR

195....66994
225....66346
241....63942
571....60157, 64154, 64358, 65376
572....64368

Proposed Rules:

107....63096
171....63096
172....63096
173....63096
177....63096
178....63096
180....63096
219....64000
567....65536
571....65536
573....64078, 64087, 65165
574....65536, 66190
575....65536
576....66190
577....64078, 64087

50 CFR

17....62993, 63752, 66803
222....65658
223....65658
230....64378
600....63199
622....60161
635....63003, 64378
648....63003, 65454, 65660, 66346
660....63199, 63630, 66811
679....64380, 64915

Proposed Rules:

17....63349, 63654, 66384, 66868
20....63665
21....63349, 63665
222....64793, 65873
223....64793, 65676
224....64793, 65676
635....66386
648....63013, 63666, 64392
679....65028, 66390

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 27, 2001

DEFENSE DEPARTMENT

- Federal Acquisition Regulation (FAR):
  - Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 12-27-01
    - Revocation; published 12-27-01

ENVIRONMENTAL PROTECTION AGENCY

- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Halosulfuron-methyl; published 12-27-01
  - Imazamox; published 12-27-01
  - Pymetrozine; published 12-27-01
  - Rhodamine B; published 12-27-01

FEDERAL EMERGENCY MANAGEMENT AGENCY

- Flood insurance program:
  - Flood maps; future-conditions flood hazard information; published 11-27-01

FEDERAL TRADE COMMISSION

- Appliances, consumer; energy consumption and water use information in labeling and advertising:
  - Comparability ranges—
    - Compact dishwashers, etc.; published 9-28-01

GENERAL SERVICES ADMINISTRATION

- Federal Acquisition Regulation (FAR):
  - Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 12-27-01
    - Revocation; published 12-27-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

- Animal drugs, feeds, and related products:
  - Sponsor name and address changes—
    - Phibro Animal Health; published 12-27-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - Iowa; published 12-27-01
  - Pennsylvania; published 12-27-01

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- Federal Acquisition Regulation (FAR):
  - Contractor responsibility, labor relations costs, and costs relating to legal and other proceedings; published 12-27-01
    - Revocation; published 12-27-01

PERSONNEL MANAGEMENT OFFICE

- Federal Personnel Manual abolished and references removed; technical amendments; published 12-27-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Cessna; published 11-15-01
  - SOCATA-Groupe Aerospatiale; published 11-19-01
- Class D airspace; published 9-21-01
- Class E airspace; published 8-29-01
- Class E airspace; correction; published 11-13-01
- Class E5 airspace; published 10-25-01
- IFR altitudes; published 11-7-01
- Restricted areas; published 10-25-01

VETERANS AFFAIRS DEPARTMENT

- Adjudication; pensions, compensation, dependency, etc.:
  - Filipino veterans' benefits improvements; published 12-27-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Raisins produced from grapes grown in—
  - California; comments due by 1-3-02; published 12-19-01 [FR 01-31321]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Exportation and importation of animals and animal products:
  - Bovine spongiform encephalopathy; disease status change—
    - Greece; comments due by 12-31-01; published 10-30-01 [FR 01-27263]
- Plant-related quarantine, domestic:
  - Oriental fruit fly; comments due by 12-31-01; published 11-1-01 [FR 01-27460]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

- Pizza identity standards; elimination; comments due by 1-2-02; published 11-2-01 [FR 01-27542]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Endangered and threatened species:
  - Sea turtle conservation requirements
    - Sea turtle mortality reduction; hearing; comments due by 12-31-01; published 11-19-01 [FR 01-28877]

DEFENSE DEPARTMENT

- Acquisition regulations:
  - Anticompetitive teaming; comments due by 12-31-01; published 11-1-01 [FR 01-27370]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control; new motor vehicles and engines:
  - Nonroad compression-ignition engines, new and in-use; emissions control—
    - Diesel emissions standards; Staff Technical Paper availability; comments due by 1-4-02; published 11-20-01 [FR 01-28856]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27588]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27589]
    - Reformulated gasoline terminal receipt date; comments due by 1-2-02; published 12-3-01 [FR 01-29777]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29774]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29775]
- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29662]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29663]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29656]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:

Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29655]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Indiana; comments due by 12-31-01; published 11-30-01 [FR 01-29649]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Indiana; comments due by 12-31-01; published 11-30-01 [FR 01-29648]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 12-31-01; published 11-30-01 [FR 01-29651]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 12-31-01; published 11-30-01 [FR 01-29650]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Missouri; comments due by 1-4-02; published 12-5-01 [FR 01-30102]

Hazardous waste:

Identification and listing—

Exclusions; comments due by 1-3-02; published 11-19-01 [FR 01-28624]

ENVIRONMENTAL PROTECTION AGENCY

Hazardous waste:

Identification and listing—

Mixture and derived-from rules; treatment, storage, or disposal; comments due by 1-2-02; published 12-3-01 [FR 01-29958]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 12-31-01; published 11-30-01 [FR 01-29552]

ENVIRONMENTAL PROTECTION AGENCY

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 12-31-01; published 11-30-01 [FR 01-29553]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Commercial mobile radio services—

Wireless enhanced 911 service conditions; public safety answering point clarification; Richardson, TX; comments due by 1-2-02; published 11-2-01 [FR 01-27605]

Federal-State Joint Board on Universal Service—

Lifeline and Link-Up service for low-income customers; comments due by 12-31-01; published 10-31-01 [FR 01-27229]

Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services; Multi-Association Group regulatory plan; comments due by 12-31-01; published 11-30-01 [FR 01-29740]

Interconnection—

Unbundled network elements and interconnection; performance measurements and standards; comments due by 12-31-01; published 11-30-01 [FR 01-29746]

Digital television stations; table of assignments:

New Mexico; comments due by 12-31-01; published 11-9-01 [FR 01-28107]

FEDERAL EMERGENCY MANAGEMENT AGENCY

National Flood Insurance Program:

Increased rates for coverage; comments due by 1-2-02; published 12-3-01 [FR 01-29747]

GENERAL SERVICES ADMINISTRATION

Federal Management Regulation:

Annual real property inventories; comments due by 1-2-02; published 11-2-01 [FR 01-27609]

INTERIOR DEPARTMENT

Indian Affairs Bureau

Tribal government:

Certificate of degree of Indian or Alaska Native blood; documentation requirements and filing, processing, and issuing requirements and standards; comments due by 12-31-01; published 6-25-01 [FR 01-15827]

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:

Mining claims under general mining laws; surface management; comments due by 12-31-01; published 10-30-01 [FR 01-27075]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Carson wandering skipper; comments due by 12-31-01; published 11-29-01 [FR 01-29613]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Kansas; comments due by 12-31-01; published 11-30-01 [FR 01-29759]

JUSTICE DEPARTMENT

Prisons Bureau

Inmate control, custody, care, etc.:

National security; prevention of acts of violence and terrorism; comments due by 12-31-01; published 10-31-01 [FR 01-27472]

LABOR DEPARTMENT

Labor-Management Standards Office

Federal contractors and subcontractors:

Employee rights concerning union dues or fees payment

Duplicate copies of comments requested due to mail delivery problems; comments due by 1-2-02; published 12-18-01 [FR 01-31210]

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

Materials delayed due to disruption or suspension of postal or other transportation or communications services; comments due by 1-3-02; published 12-4-01 [FR 01-30013]

INTERIOR DEPARTMENT

National Indian Gaming Commission

Federal claims collection; comments due by 1-4-02; published 11-20-01 [FR 01-28693]

NUCLEAR REGULATORY COMMISSION

Domestic licensing proceedings and issuance of orders; practice rules:

Official records; availability; comments due by 12-31-01; published 10-17-01 [FR 01-26114]

Production and utilization facilities; domestic licensing:

Light-water-cooled power reactors; combustible gas control systems; standards; comments due by 12-31-01; published 11-14-01 [FR 01-28398]

Production and utilization facilities; domestic licensing; and radiation protection standards:

Nuclear power plants decommissioning; entombment options for power reactors; comments due by 12-31-01; published 10-16-01 [FR 01-25958]

Production and utilization facilities; domestic licensing:

Structures, systems, and components; risk-informed treatment; comments due by 12-31-01; published 11-29-01 [FR 01-29584]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 12-31-01; published 11-29-01 [FR 01-29443]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 12-31-01; published 11-29-01 [FR 01-29444]

PERSONNEL MANAGEMENT OFFICE

Absence and leave:

VOL 66 ISS 248 DE 27 2001 UMI

Restored annual leave use due to response to national emergency resulting from terrorist attacks; comments due by 1-2-02; published 11-2-01 [FR 01-27518]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air carrier certification and operations:

Collision avoidance systems; comments due by 12-31-01; published 11-1-01 [FR 01-27340]

Airworthiness directives:

Aerostar Aircraft Corp.; comments due by 1-2-02; published 10-24-01 [FR 01-26714]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 1-4-02; published 12-5-01 [FR 01-30082]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 12-31-01; published 10-31-01 [FR 01-27188]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; comments due by 1-3-02; published 11-19-01 [FR 01-28796]

Eurocopter France; comments due by 12-31-01; published 10-31-01 [FR 01-26964]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Fokker; comments due by 1-4-02; published 12-5-01 [FR 01-30081]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

General Electric Co.; comments due by 12-31-01; published 10-30-01 [FR 01-27191]

Pilatus Britten-Norman Ltd.; comments due by 1-3-02; published 11-27-01 [FR 01-29394]

Pratt & Whitney; comments due by 12-31-01; published 11-1-01 [FR 01-27432]

Class D airspace; comments due by 1-2-02; published 12-3-01 [FR 01-29887]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Child restraint systems—

Labels and instructions; simplification; comments due by 1-2-02; published 11-2-01 [FR 01-27545]

Labels and instructions; simplification; correction; comments due by 1-2-02; published 11-29-01 [FR 01-29637]

TREASURY DEPARTMENT

Privacy Act; implementation; comments due by 12-31-01; published 11-30-01 [FR 01-29710]

VETERANS AFFAIRS DEPARTMENT

Disabilities rating sechedule:

Ankylosis and limitation of motion of fingers and thumb; comments due by 1-2-02; published 11-2-01 [FR 01-27426]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 717/P.L. 107–84

Muscular Dystrophy Community Assistance, Research and Education Amendments of 2001 (Dec. 18, 2001; 115 Stat. 823)

H.R. 1766/P.L. 107–85

To designate the facility of the United States Postal Service located at 4270 John Marr Drive in Annandale, Virginia, as the "Stan Parris Post Office Building". (Dec. 18, 2001; 115 Stat. 831)

H.R. 2261/P.L. 107–86

To designate the facility of the United States Postal Service located at 2853 Candler Road in Decatur, Georgia, as the "Earl T. Shinhoster Post Office". (Dec. 18, 2001; 115 Stat. 832)

H.R. 2299/P.L. 107–87

Department of Transportation and Related Agencies Appropriations Act, 2002 (Dec. 18, 2001; 115 Stat. 833; 42 pages)

H.R. 2454/P.L. 107–88

To redesignate the facility of the United States Postal Service located at 5472 Crenshaw Boulevard in Los Angeles, California, as the "Congressman Julian C. Dixon Post Office". (Dec. 18, 2001; 115 Stat. 875)

H.J. Res. 71/P.L. 107–89

Amending title 36, United States Code, to designate September 11 as Patriot Day. (Dec. 18, 2001; 115 Stat. 876)

Last List December 18, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Would you like to know...

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $35 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $30 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

☐ **YES**, enter the following indicated subscriptions for one year:

____ **LSA (List of CFR Sections Affected)**, (LCS) for $35 per year.
____ **Federal Register Index** (FRUS) $30 per year.

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

The total cost of my order is $ ________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)
May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:
☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66
ISS 248
DE 27 2001
UMI

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be
sent approximately 90 days
before the shown date.

AER SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

A renewal notice will be
sent approximately 90 days
before the shown date.

AFRDO SMITH212J DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5468**

Charge your order. It's Easy! VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $764 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $699 each per year.

The total cost of my order is $_________. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Public Laws

107th Congress, 1st Session, 2001

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 107th Congress, 1st Session, 2001.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara005.html

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

_____ subscriptions to **PUBLIC LAWS** for the 107th Congress, 1st Session, 2001 for $225 per subscription.

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐

☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66
ISS 248
DE 27
2001
UMI

Microfiche Editions Available...

Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

federal registe

Microfiche Subscription Prices:

Federal Register:

One year: $264.00
Six months: $132.00

Code of Federal Regulations:

Current year (as issued): $298.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ **One year at $264 each**
☐ **Six months at $132.00**

_____ **Code of Federal Regulations** (CFRM7) ☐ **One year at $298 each**

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Herbert Hoover
Harry Truman
Dwight D. Eisenhower
John F. Kennedy
Lyndon B. Johnson
Richard Nixon
Gerald R. Ford
Jimmy Carter
Ronald Reagan
George Bush
William J. Clinton

Public Papers of the Presidents of the United States

William J. Clinton

1993 **(Book I)**	**$51.00**
1993 **(Book II)**	**$51.00**
1994 **(Book I)**	**$56.00**
1994 **(Book II)**	**$52.00**
1995 **(Book I)**	**$60.00**
1995 **(Book II)**	**$65.00**
1996 **(Book I)**	**$66.00**
1996 **(Book II)**	**$72.00**
1997 **(Book I)**	**$69.00**
1997 **(Book II)**	**$78.00**
1998 **(Book I)**	**$74.00**
1998 **(Book II)**	**$75.00**
1999 **(Book I)**	**$71.00**
1999 **(Book II)**	**$75.00**
2000–2001 **(Book I)**	**$68.50**

Published by the Office of the Federal Register,
National Archives and Records Administration

Mail order to:
Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA

(Rev. 12/01)

VOL
66
ISS
248
DE
27
2001
UMI

Now Available Online
through
GPO Access
A Service of the U.S. Government Printing Office

Federal Register

Updated Daily by 6 a.m. ET

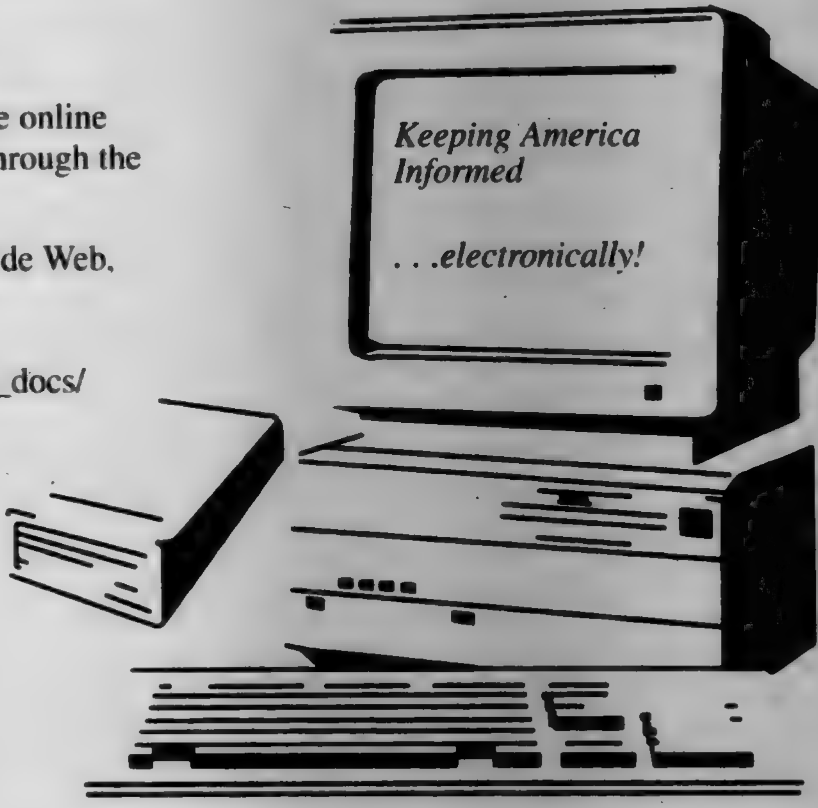
Easy, Convenient,
FREE

Free public connections to the online Federal Register are available through the GPO Access service.

To connect over the World Wide Web, go to the Superintendent of Documents' homepage at http://www.access.gpo.gov/su_docs/

To connect using telnet, open swais.access.gpo.gov and login as guest (no password required).

To dial directly, use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required).



You may also connect using local WAIS client software. For further information, contact the GPO Access User Support Team:

Voice: (202) 512–1530 (7 a.m. to 5 p.m. Eastern time).
Fax: (202) 512–1262 (24 hours a day, 7 days a week).
Internet E-Mail: gpoaccess@gpo.gov

(Rev. 4/23)

VOL
66

ISS
2
4
8

DE
27

2001

UMI

Printed on recycled paper

VOL
66

ISS
2
4
9

DE
28

2001

UMI

UMI

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

United
Gover
Printing
SUPERINTEN
OF DOCU
Washingto
OFFICIAL
Penalty for

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–28–01
Vol. 66 No. 249

Friday
Dec. 28, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

```
******************3-DIGIT    481
A FR   BELLH300B JAN  02   B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR        MI  48106
```

VOL
66
ISS
2
4
9
DE
28
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–28–01
Vol. 66 No. 249
Pages 67069–67476

Friday
Dec. 28, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 66, No. 249

Friday, December 28, 2001

Agricultural Marketing Service
RULES
Pork promotion, research, and consumer information order, 67071–67073
NOTICES
Meetings:
  Microbiological Data Program, 67168–67169

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Food Safety and Inspection Service
See Foreign Agricultural Service
See Forest Service
NOTICES
Tariff-rate quotes:
  Canada; North American Free Trade Agreement (NAFTA); fresh fruit and vegetable import special provisions, 67168

Animal and Plant Health Inspection Service
RULES
Plant protection and Quarantine Treatment Manual; incorporation by reference:
  Limes; hot water treatment, 67071
PROPOSED RULES
Plant-related quarantine, foreign:
  Nursery stock regulations; update, 67123–67134
NOTICES
Environmental statements; availability, etc.:
  Avian encephalomyelitis-fowl pox-mycoplasma gallisepticum vaccine; field testing, 67169–67170

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67178–67182

Centers for Disease Control and Prevention
PROPOSED RULES
Standards and certification:
  Laboratory requirements—
    Medicare, medicaid and CLIA programs; qualification requirements for laboratory director performing high complexity texting, 67163–67165

Centers for Medicare & Medicaid Services
RULES
Standards and certification:
  Medicare and Medicaid programs; emergency recertification for Organ Procurement Organizations (OPOs) coverage, 67109–67111
PROPOSED RULES
Standards and certification:
  Laboratory requirements—
    Medicare, medicaid, and CLIA programs; Qualification requirements for laboratory directors performing high complexity testing, 67163–67165
NOTICES
Medicare:
  Evaluating intermediary, carrier, and durable medical equipment, prosthetics, orthotics, and supplies (FY 2002); criteria and standards, 67257–67266
  Medigap high deductible options (CY 2002); deductible amount, 67266–67267

Children and Families Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  Early Head Start; correction, 67267–67268

Commerce Department
See Census Bureau
See Economic Development Administration
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
  Bahrain, 67229
  China, 67229–67232
  Hong Kong, 67232
  Taiwan, 67232–67234

Economic Development Administration
NOTICES
Trade adjustment assistance eligibility determination petitions:
  Elessar Enterprises, Inc. et al., 67182–67183

Education Department
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67234–67235

Employment Standards Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67319
  Proposed collection; comment request; correction, 67318–67319, 67367
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 67319–67321

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Environmental statements; notice of intent:
  Mercer Ranch Power Project, WA, 67235–67236
Patent licenses; non-exclusive, exclusive, or partially exclusive:
  Woodward Industrial Controls of Fort Collins, CO, 67236–67237

Environmental Protection Agency
RULES
Air programs:
Fuel and fuel additives—
Reformulated and conventional gasoline; standards and requirements modifications, 67098–67108
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Various States, 67096–67098
Hazardous waste:
Solid waste disposal facilities and municipal solid waste landfills; residential lead-based paint waste disposal, 67108
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Various States, 67152
Hazardous waste:
Project XL program; site-specific projects—
Maplewood and King George Landfills; VA, 67152–67162
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67245–67246
Meetings:
Preliminary organophosphate pesticide cumulative risk assessment technical briefing, 67246–67247
Science Advisory Board, 67247–67249
Pesticide programs:
Organophosphorous, preliminary cumulative risk assessment; comment request, 67249–67250

Executive Office of the President
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Airworthiness directives:
Hamilton Sundstrand, 67074–67076

Federal Communications Commission
RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Schools and libraries, internet connections; Alaska; denial of waiver request, 67112–67114
Removal of references to non-existent CFR sections, 67111–67112
Telecommunications relay services; 711 dialing for nationwide access; correction, 67114
Television broadcasting:
Cable television systems—
Multichannel video and cable television service; 1998 biennial review, 67115–67117
PROPOSED RULES
Common carrier services:
Federal-State Joint Board on Universal Service—
Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services; Multi-Association Group regulatory plan; extension, 67165
NOTICES
Agency information collection activities:
Proposed collection; comment request, 67250–67251
Submission for OMB review; comment request, 67251–67252
Meetings:
2003 World Radiocommunication Conference Advisory Committee, 67252
Rulemaking proceedings; petitions filed, granted, denied, etc., 67252

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Electronic filing of Form No. 423, 67076–67078
PROPOSED RULES
Electric utilities (Federal Power Act):
Public utility filing requirements, 67134–67151
NOTICES
Electric rate and corporate regulation filings:
Engage Energy America LLC, et al., 67240–67244
Meetings:
El Dorado Irrigation District, 67244
Practice and procedure:
Electronic filing and public access to information, 67245
Applications, hearings, determinations, etc.:
Dynegy Power Marketing, Inc., et al., 67237
El Paso Natural Gas Co., 67237–67238
Gulf South Pipeline Co., L.P., 67238
KN Wattenberg Transmission L.L.C., 67238
New York State Electric & Gas Corp., 67239
Northern Natural Gas Co., 67239
Southern LNG Inc., 67239

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Placentia and Anaheim, Orange County, CA, 67350

Federal Maritime Commission
NOTICES
Agreements filed, etc., 67252–67253

Federal Reserve System
RULES
Risk-based capital:
Adequacy guidelines, maintenance, recourse treatment, direct credit substitutes and residual interests in asset securitizations; correction, 67074
NOTICES
Banks and bank holding companies:
Change in bank control, 67253
Formations, acquisitions, and mergers, 67253–67254

Federal Trade Commission
NOTICES
Disgorgement as remedy for violations of Hart-Scott-Rodino Act, FTC Act, and Clayton Act; comment request, 67254–67255
Prohibited trade practices:
INA-Holding Schaeffler KG, et al., 67255–67256

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Interest rates:
Renegotiation Board and prompt payment rates, 67366

Fish and Wildlife Service

PROPOSED RULES

Endangered and threatened species:
- Critical habitat designation—
  - Piping plover; northern Great Plains breeding population, 67165–67166

NOTICES

Endangered and threatened species:
- Rio Grande Cutthroat Trout, 67289–67290

Environmental statements; availability, etc.:
- 10 inch normal pipeline for transportation of industral gas, Bayport, TX, 67290
- Incidental take permits—
  - Baldwin County, AL; beach mouse etc., 67290–67292
- Northwestern San Diego County, CA; multiple habitat conservation program plan, 67292–67294

Food and Drug Administration

PROPOSED RULES

Animal drugs, feeds, and related products:
- Imported food products of animal origin; drug residue tolerances
  - Correction, 67152

NOTICES

Meetings:
- Cardiovascular and Renal Drugs Advisory Committee, 67268
- Pulmonary-Allergy Drugs Advisory Committee, 67268–67269

Food Safety and Inspection Service

NOTICES

Meetings:
- Codex Alimentarius Commission—
  - Food Import and Export Inspection and Certification Systems Committee, 67170–67171

Foreign Agricultural Service

NOTICES

Agency information collection activities:
- Submission for OMB review; comment request, 67171–67172

Foreign-Trade Zones Board

NOTICES

Harmonized Tariff Schedule modifications; effect on orders; scope determination, 67183–67184

Applications, hearings, determinations, etc.:
- Georgia, 67183
- Puerto Rico
  - IPR Pharmaceuticals, Inc.; manufacturing facility, 67183

Forest Service

NOTICES

Environmental statements; notice of intent:
- Eldorado National Forest, CA; Star Fire restoration, 67172–67173
- Hiawatha National Forest, MI, 67173–67175
- Modoc National Forest, CA, 67175–67177

Meetings:
- Deschutes Provincial Advisory Committee, 67177
- Forest Counties Payments Committee, 67177
- Ravalli County Resource Advisory Committee, 67177–67178
- San Benardino National Forest; withdrawal and reservation of lands; mineral location and entry, 67178

General Services Administration

NOTICES

Federal buildings and space:
- John M. Shaw U.S. Courthouse; designation of park on federal grounds, 67256–67257

Health and Human Services Department

See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration

Health Resources and Services Administration

NOTICES

Agency information collection activities:
- Proposed collection; comment request, 67269
- Submission for OMB review; comment request, 67269–67270

Housing and Urban Development Department

NOTICES

Agency information collection activities:
- Proposed collection; comment request, 67270–67288
- Reporting and recordkeeping requirements, 67288

Grants and cooperative agreements; availability, etc.:
- Faclities to assist the homeless—
  - Excess and surplus Federal property, 67288–67289

Immigration and Naturalization Service

NOTICES

Immigration:
- Memorandum of understanding for mitigation of fines; transportion of passengers without passports or visas; extension period, 67318

Interior Department

See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service

RULES

Income taxes:
- Stock and other personal property disposition; recognized loss allocation and foreign tax credit limitation computation, 67081–67086

International Trade Administration

NOTICES

Agency information collection activities:
- Proposed collection; comment request, 67184

Antidumping:
- Silicomanganese from—
  - Venezuela, 67185
- Structural steel beams from—
  - China, 67197–67202
  - Germany, 67190–67197
  - Italy, 67185–67189
  - Russia, 67217–67223
  - Spain, 67207–67213
  - Taiwan, 67202–67207
- Structural steel beams from South Africa, 67213–67217
- Structural steel beams from
  - Luxembourg, 67223–67228

International Trade Commission
NOTICES
Import investigations:
  Flooring products, 67302–67304
  Steel products—
    Hearings, 67304–67318

Justice Department
See Immigration and Naturalization Service

Labor Department
See Employment Standards Administration
See Mine Safety and Health Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 67294–67295

Maritime Administration
NOTICES
Meetings:
  Private International Law Advisory Committee, 67349
Merchant Marine Act, 1936:
  Marine War Risk Insurance, 67350

Mine Safety and Health Administration
NOTICES
Mining products; testing, evaluation, and approval; user fee adjustments, 67321

National Aeronautics and Space Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 67323–67325
    31961

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
  Humanities Panel, 67325–67326

National Highway Traffic Safety Administration
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 67351–67353
Grants and cooperative agreements; availability, etc.:
  Commercial Motor Vehicle Crash Data Collection and Analysis Improvement, 67353–67355

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
  Atlantic highly migratory species—
    Large coastal, small coastal, pelagic, blue, and porbeagle sharks, 67118–67121
  Northeastern United States fisheries—
    Atlantic bluefish, 67122
PROPOSED RULES
Meetings:
  New England Fishery Management Council, 67166–67167
NOTICES
Meetings:
  Pacific Fishery Management Council, 67228
Permits:
  Foreign fishing, 67228–67229

National Park Service
NOTICES
Concession contracts and permits:
  Extension of expiring contracts for up to one year, 67295–67302

Nuclear Regulatory Commission
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
  Approved spent fuel casks; list, 67073–67074
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67326
Domestic licensing proceedings and issuance of orders; practice rules:
  Public and environmental protection from catastrophic impact of terrorist attacks on nuclear power plants or spent fuel pools; compensatory measures, 67334–67335
Environmental statements; notice of intent:
  Private Fuel Storage, L.L.C., 67335
Reports and guidance documents; availability, etc.:
  Regulatory Guide Series, drafts; comment request, 67335–67336
Applications, hearings, determinations, etc.:
  AmerGen Energy Co., LLC, 67326–67328
  Calvert Cliffs Nuclear Power Plant, Inc., 67328–67330
  Duke Energy Corp., 67330–67332
  Duke Energy Corp., 67332–67333
  Exelon Generation Co., LCC, 67333–67334

Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67321–67323

Office of United States Trade Representative
See Trade Representative, Office of United States

Patent and Trademark Office
RULES
Patent cases:
  Prior-filed applications; benefit claim under eighteen-month publication of patent applications; requirements, 67087–67096

Personnel Management Office
RULES
Pay administration:
  Locality-based comparability payments, 67069–67070
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67336
Meetings:
  Federal Prevailing Rate Advisory Committee, 67336

Public Debt Bureau
See Fiscal Service

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration

Research and Special Programs Administration

NOTICES
Hazardous materials:
  Applications; exemptions, renewals, etc., 67355–67360
  Exemption applications delayed; list, 67360–67362
Meetings:
  International Standards on the Transport of Dangerous Goods, 67362

Securities and Exchange Commission

NOTICES
Investment Company Act of 1940:
  Exemption applications—
    AXA Premier Funds Trust, et al., 67338–67341
    Robert W. Baird & Co., Inc., 67336–67338
Securities Exchange Act:
  Broker-dealer exemption from sending financial information to customers—
    Securities Industry Assoc., 67341–67342
Self-regulatory organizations; proposed rule changes:
  Municipal Securities Rulemaking Board, 67342–67346
  Pacific Exchange, Inc., 67346–67347

Small Business Administration

NOTICES
Interest rates; quarterly determinations, 67347
Meetings; district and regional advisory councils:
  Maine District Advisory Council, 67347

Social Security Administration

RULES
Supplemental security income:
  Aged, blind, and disabled—
    Recovery of overpayments; disclosure of information to consumer reporting agencies; modifications in regulations, 67078–67081
Ticket to Work and Self-Sufficiency Program; implementation, 67369–67442
NOTICES
Disability determination procedures:
  Testing modifications—
    Disability claims process redesign prototype; test extension, 67347–67348
Meetings:
  Ticket to Work and Work Incentives Advisory Panel, 67348
Youth with disabilities in transition to adulthood, ways to support; request for suggestions, 67442–67443

State Department

NOTICES
Meetings:
  International Telecommunications Advisory Committee, 67348–67349
  Private International Law Advisory Committee, 67349

Surface Mining Reclamation and Enforcement Office

RULES
Permanent program and abandoned mine land reclamation plan submissions:
  West Virginia, 67445–67454
PROPOSED RULES
Permanent program and abandoned mine land reclamation plan submissions:
  West Virginia, 67454–67457

Surface Transportation Board

NOTICES
Railroad operation, acquisition, construction, etc.:
  RailAmerica, Inc., 67362–67363
Railroad services abandonment:
  Burlington Northern & Santa Fe Railway Co., 67363–67364

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States

NOTICES
Trade Policy Staff Committee:
  Steel imports; adjustment actions; comment request, 67349–67350

Transportation Department

See Federal Aviation Administration
See Federal Highway Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
See Surface Transportation Board
See Transportation Statistics Bureau

RULES
Organization, functions, and authority delegations:
  Security, Transportation Security Administration; Under Secretary, 67117–67118

Transportation Statistics Bureau

NOTICES
Reports of motor carriers:
  Exemption request—
    Aulick Leasing Corp, et al., 67364–67365

Treasury Department

See Fiscal Service
See Internal Revenue Service

RULES
Currency and foreign transactions; financial reporting and recordkeeping requirements:
  Bank Secrecy Act; regulations—
    Suspicious transactions; reporting by transmitters, money order, and traveler's check issuers, sellers, and redeemers; reporting requirement guidance, 67086–67087
PROPOSED RULES
Counter money laundering requirements:
  Bank Secrecy Act; implementation—
    Foreign shell banks, correspondent accounts; and foreign banks, correspondent accounts recordkeeping and termination, 67459–67476
NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 67365–67366

Separate Parts In This Issue

Part II

Social Security Administration, 67369–67443

Part III

Interior Department, Surface Mining Reclamation and Enforcement Office, 67445–67457

Part IV
Treasury Department, 67459–67476

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
531.....67069

7 CFR
300.....67071
1230.....67071

Proposed Rules:
300.....67123
319.....67123

10 CFR
72.....67073

12 CFR
208.....67074
225.....67074

14 CFR
39.....67074

18 CFR
141.....67076
385.....67076

Proposed Rules:
2.....67134
35.....67134
37.....67134

20 CFR
411.....67370
416.....67078
422.....67078

21 CFR

Proposed Rules:
500.....67152

26 CFR
1.....67081

30 CFR
948.....67446

Proposed Rules:
948.....67455

31 CFR
103.....67086

Proposed Rules:
104.....67460

37 CFR
1.....67086

40 CFR
62.....67096
80.....67098
257.....67108
258.....67108

Proposed Rules:
62.....67152
258.....67152

42 CFR
486.....67109

Proposed Rules:
493.....67163

47 CFR
1.....67111
43.....67111
54.....67112
63.....67111
64.....67114
76.....67115

Proposed Rules:
54.....67165
69.....67165

49 CFR
1.....67117

50 CFR
635.....67118
648.....67122

Proposed Rules:
17.....67165
648.....67166

VOL

66

ISS

2
4
9

DE

28

2001

UMI

Ru

This se
contain
applica
are key
Federa
50 titles

The Co
the Sup
new bo
REGIS

OFFIC
MANA

5 CFR

RIN: 32

Locali
Payme

AGENC
Manag

ACTION

SUMMA
Manag
to clar
localit
non-Go
approv
to rece
payme
by an
Presid
limitat
The fir
emplo
are tre

EFFECT
effecti

FOR FU
Jeanne
(202) 6
paylea

SUPPLE
24, 200
Manag
propos
the loc
of part
Regula
clarifie
on loca
non-Go
approv
to rece
propos
comm
did no
Theref
rule as

Rules and Regulations

Federal Register
Vol. 66, No. 249
Friday, December 28, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

RIN: 3206–AI01

Locality-Based Comparability Payments

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to clarify and redefine the limitations on locality rates of pay for categories of non-General Schedule employees approved by the President's Pay Agent to receive locality-based comparability payments. This change was prompted by an Executive order that delegated the President's authority to establish such limitations to the President's Pay Agent. The final regulations will ensure that all employees receiving locality payments are treated consistently.

EFFECTIVE DATE: This regulation is effective on December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jeanne Jacobson, (202) 606–2858, FAX: (202) 606–0824, or e-mail: *payleave@opm.gov*.

SUPPLEMENTARY INFORMATION: On March 24, 2000, the Office of Personnel Management (OPM) published a proposed rule (65 FR 15875) to revise the locality pay regulations in subpart F of part 531 of title 5, Code of Federal Regulations. This proposed rule clarified and redefined the limitations on locality rates of pay for categories of non-General Schedule employees approved by the President's Pay Agent to receive locality payments. The proposed rule had a 60-day public comment period, during which OPM did not receive any formal comments. Therefore, we are adopting the proposed rule as final without change.

Background

Locality-based comparability payments are authorized under 5 U.S.C. 5304. By law, locality payments automatically apply to General Schedule (GS) employees. The maximum rate of basic pay (excluding locality payments) for GS employees is the rate for GS–15, step 10, subject to a cap linked to the rate of pay for level V of the Executive Schedule. (See 5 U.S.C. 5303(f).) GS rates of basic pay adjusted by locality payments are capped at the rate of pay for level IV of the Executive Schedule. (See 5 U.S.C. 5304(g)(1).)

The locality pay law provides that the President may extend locality payments to various groups outside the GS pay system, such as members of the Senior Executive Service (SES), administrative law judges (ALJs), and other groups for which basic pay is limited to no more than the rate of pay for level IV of the Executive Schedule. (See 5 U.S.C. 5304(h).) Executive Order 12883 of November 29, 1993, provided that the President's Pay Agent (the Secretary of Labor and the Directors of the Office of Management and Budget and the Office of Personnel Management) may act for the President in exercising the authority to extend locality payments to such non-GS groups.

Section 5304(g)(2)(A) of title 5, United States Code, provides that locality rates approved for certain categories of non-GS employees specified in 5 U.S.C. 5304(h)(1)(A)–(E), including members of the SES and ALJs, are capped at the rate for level III of the Executive Schedule. Section 5304(g)(2)(B) of title 5, United States Code, provides that a level III locality pay cap applies to "any positions under subsection (h)(1)(F) which the President may determine." Subsection (h)(1)(F) is a catch-all category of non-GS positions to which locality pay may be extended. This catch-all category includes Executive agency positions not otherwise listed in the law whose rates of basic pay are limited to not more than the rate for level IV of the Executive Schedule. Section 8 of Executive Order 13106 of December 7, 1998, delegated the President's authority under section 5304(g)(2)(B) of title 5, United States Code, to determine such limitations for categories of positions covered by 5 U.S.C. 5304(h)(1)(F) to the President's Pay Agent.

Final Regulations

These final regulations amend 5 CFR 531.604 by revising paragraph (c) to clarify that a locality rate of pay may not exceed the rate for level III of the Executive Schedule for categories of positions specified in 5 U.S.C. 5304(h)(1)(A)–(E). This includes senior-level, SES, Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) SES, administrative law judge, and contract appeals board positions. This final rule does not change the locality pay cap applicable to members of the SES and other categories of positions specified in 5 U.S.C. 5304(h)(1)(A)–(E). The final rule merely clarifies the level III locality pay cap prescribed in law at 5 U.S.C. 5304(g)(2)(A).

The final rule also amends § 531.604 by revising paragraph (c) to provide that, for categories of non-GS employees under 5 U.S.C. 5304(h)(1)(F) (i.e., the catch-all category of positions previously described), locality rates of pay may not exceed:

(1) The rate for level IV of the Executive Schedule, if the maximum scheduled annual rate of pay for such positions is less than or equal to the maximum payable scheduled annual rate of pay for GS–15, or

(2) The rate for level III of the Executive Schedule, if the maximum scheduled annual rate of pay for such positions exceeds the maximum payable scheduled annual rate of pay for GS–15, but is not more than the rate for level IV of the Executive Schedule.

The final regulations include pay protection for any employee who otherwise would suffer a reduction in his or her locality rate of pay under the locality pay cap provisions. It is possible that the locality pay cap for a group of non-GS employees under 5 U.S.C. 5304(h)(1)(F) could be reduced from level III to level IV of the Executive Schedule as GS rates of basic pay increase. This could occur if the rate of basic pay for GS–15, step 10, becomes equal to or exceeds the maximum scheduled annual rate of pay for a non-GS group. To prevent reductions in pay that would otherwise occur, § 531.606(c)(3) of the final regulations limit an affected employee's locality pay cap to the higher of (1) his or her locality rate on the day before the scheduled annual rate of pay for GS–15, step 10, becomes equal to or exceeds the maximum scheduled annual rate of pay for the group of non-GS employees or (2) the rate for level IV of the Executive Schedule. This means that the employee's locality rate would be frozen until it is exceeded by the rate for level IV of the Executive Schedule.

The final regulations add a new paragraph (d) to § 531.604 to exclude experts and consultants appointed under 5 U.S.C. 3109 from the locality pay limitations. Unless otherwise authorized by law, the aggregate pay (including basic pay, locality pay, and premium pay) for experts and consultants appointed under 5 U.S.C. 3109 may not exceed the daily rate for GS–15, step 10 (excluding locality pay or any other additional pay). (See 5 CFR 304.105.)

The final regulations also clarify the definition of *employee* in § 531.602 to include positions in the FBI and DEA SES under 5 U.S.C. 5304(h)(1)(C) and other non-GS employee categories under 5 U.S.C. 5304(h)(1)(F) for which the President's Pay Agent has authorized locality payments. The regulations also amend paragraph (4) in the definition of *scheduled annual rate of pay* in § 531.602 to include the rates of basic pay for employees in the FBI and DEA SES and other categories of non-GS positions for which the Pay Agent has authorized locality pay. The proposed regulations clarify that the scheduled annual rate of pay for such employees must exclude any locality-based pay adjustments, special basic pay adjustments analogous to special salary rates established under 5 U.S.C. 5305, or other additional pay of any kind.

The President's Pay Agent has reviewed and approved this final rule.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to make these regulations effective in less than 30 days. These regulations must be made effective prior to January 1, 2002. If they become effective after the January 2002 statutory pay adjustments, agencies may be forced in some scenarios to use the pay protection provision to freeze the pay of a few employees whose pay was capped at level III of the Executive Schedule.

Execute Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 531

Government employees, Law enforcement officers, Wages.

Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM is amending part 531 of title 5 of the Code of Federal Regulations as follows:

PART 531—PAY UNDER THE GENERAL SCHEDULE

1. The authority citation for part 531 is revised to read as follows:

Authority: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103–89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101–509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102–378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of FEPCA, Pub. L. 101–509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

Subpart F—Locality-Based Comparability Payments

2. In § 531.602, paragraph (2) of the definition of *employee* and paragraph (4) of the definition of *scheduled annual rate of pay* are revised to read as follows:

§ 531.602 Definitions

* * * * *

Employee means—* * *

(2) An employee in a category of positions described in 5 U.S.C. 5304(h)(1)(A)–(F) for which the President (or designee) has authorized locality-based comparability payments under 5 U.S.C. 5304(h)(2) and whose official duty station is located in a locality pay area.

* * * * *

Scheduled annual rate of pay means—* * *

(4) For an employee in a category of positions described in 5 U.S.C. 5304(h)(1)(A)–(F) for which the President (or designee) has authorized locality-based comparability payments under 5 U.S.C. 5304(h)(2), the rate of basic pay fixed by law or administrative action, exclusive of any locality-based adjustments (including adjustments equivalent to local special rate adjustments under 5 U.S.C. 5305) or other additional pay of any kind.

3. In § 531.604, paragraph (c) is revised and a new paragraph (d) is added to read as follows:

§ 531.604 Determining locality rates of pay.

* * * * *

(c)(1) Locality rates of pay approved by the President (or designee) for employees in a category of positions described in 5 U.S.C. 5304(h)(1)(A)–(E) may not exceed the rate for level III of the Executive Schedule.

(2) Locality rates of pay approved by the President (or designee) for employees in a category of positions described in 5 U.S.C. 5304(h)(1)(F) may not exceed—

(i) The rate for level IV of the Executive Schedule, when the maximum scheduled annual rate of pay (excluding any retained rate) for such positions is less than or equal to the maximum payable scheduled annual rate of pay for GS–15; or

(ii) The rate for level III of the Executive Schedule, when the maximum scheduled annual rate of pay (excluding any retained rate) for such positions exceeds the maximum payable scheduled annual rate of pay for GS–15, but is not more than the rate for level IV of the Executive Schedule.

(3) If application of paragraph (c)(2) of this section would otherwise reduce an employee's existing locality rate of pay, the employee's locality rate of pay will be capped at the higher of—

(i) The amount of his or her locality rate of pay on the day before paragraph (c)(2) of this section is applied, or

(ii) The rate for level IV of the Executive Schedule.

(d) Paragraph (c) of this section does not apply to experts and consultants appointed under 5 U.S.C. 3109 if the pay for those experts and consultants is limited to the highest rate payable under 5 U.S.C. 5332 (i.e., the unadjusted maximum GS–15 rate). Pay limitations for such experts and consultants must be determined in accordance with § 304.105 of this chapter.

[FR Doc. 01–31901 Filed 12–27–01; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 300

[Docket No. 99–081–2]

Hot Water Treatment for Limes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On November 8, 2001, the Animal and Plant Health Inspection Service published a direct final rule. (See 66 FR 56427–56428, Docket No. 99–081–1.) The direct final rule notified the public of our intention to amend the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the regulations, to allow limes that are found to be infested with mealybugs (Pseudococcidae) and other surface pests to be treated with a hot water treatment. We did not receive any written adverse comments or written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as January 7, 2002.

FOR FURTHER INFORMATION CONTACT: Donna L. West, Import Specialist, Phytosanitary Issues Management, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of December 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–31945 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1230

[No. LS–01–02]

Pork Promotion, Research, and Consumer Information Order—Increase in Importer Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 (Act) and the Pork Promotion, Research, and Consumer Information Order (Order) issued thereunder, this final rule increases by seven-hundredths to one-tenth of a cent per pound the amount of the assessment per pound due on imported pork and pork products to reflect an increase in the 2000 average price for domestic barrows and gilts. This final action brings the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals. These changes will facilitate the continued collection of assessments on imported porcine animals, pork, and pork products.

EFFECTIVE DATE: January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 12988 and Regulatory Flexibility Act

The Office of Management and Budget has waived the review process required by Executive Order 12866 for this action.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulation of such activity (other than a regulation or requirement relating to a matter of public health or the provision of State or local funds for such activity) that is in addition to or different from the Act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under § 1625 of the Act, a person subject to an order may file a petition with the Department of Agriculture (USDA) stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with the law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in the district in which a person resides or does business has jurisdiction to review USDA's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (5 United States Code (U.S.C.) 601 *et seq.*). The effect of the Order upon small entities initially was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898). It was determined at that time that the Order would not have a significant effect upon a substantial number of small entities. Many of the estimated 500 importers may be classified as small entities under the Small Business Administration definition (13 CFR 121.201).

This final rule will increase the amount of assessments on imported pork and pork products subject to assessment by seven-hundredths to one-tenth of a cent per pound, or as expressed in cents per kilogram, fifteen-hundredths to twenty-two-hundredths of a cent per kilogram. This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000. The average annual market price increased from $31.46 in 1999 to $42.70 in 2000, an increase of about 36 percent. Adjusting the assessments on imported pork and pork products would result in an estimated increase in assessments of $713,000 over a 12-month period. Assessments collected on imported hogs, pork, and pork products for 2000 were $3,384,096. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact on a substantial number of small entities.

The Act (7 U.S.C. 4801–4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and on imported porcine animals with an equivalent assessment on pork and pork products. However, that rate was increased to 0.35 percent in 1991 (56 FR 51635) and to 0.45 percent effective September 3, 1995 (60 FR 29963). The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, 56 FR 4, 56 FR 51635, 60 FR 29963, 61 FR 29002, 62 FR 26205, 63 FR 45936, and 64 FR

VOL 66 ISS 249 DE 28 2001 UMI

44643) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay U.S. Customs Service (USCS), upon importation, the assessment of 0.45 percent of the animal's declared value and importers of pork and pork products to pay USCS, upon importation, the assessment of 0.45 percent of the market value of the live porcine animals from which such pork and pork products were produced. This final rule will increase the assessments on all of the imported pork and pork products subject to assessment as published in the **Federal Register** as a final rule August 17, 1999, and effective on September 16, 1999 (64 FR 44643). This increase is consistent with the increase in the annual average price of domestic barrows and gilts for calendar year 2000 as calculated by USDA's, AMS, Livestock and Grain Market News (LGMN) Branch. This increase in assessments will make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent increase in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This final rule will not change the current assessment rate of 0.45 percent of the market value.

The methodology for determining the per pound amount of assessments for imported pork and pork products was described in the Supplementary Information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors that are published in USDA's Agricultural Handbook No. 697 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weight by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average market price for barrows and gilts as calculated by LGMN Branch. Finally, the equivalent value is multiplied by the applicable assessment rate of 0.45 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cents per pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

Since 1999 when the last adjustment was made in the amount of the assessment due on live hogs and imported pork and pork products (64 FR 44643), there has been a change in the way LGMN Branch reports hog prices. For calendar year 1998, the annual average price for barrows and gilts was based on the average price for barrows and gilts at five terminal markets. LGMN Branch no longer reports the average price at terminal markets. When the Order was published on September 5, 1986, LGMN Branch reported an annual average price of barrows and gilts based on the seven major markets (East St. Louis, Illinois; Omaha, Nebraska; Peoria, Illinois; St. Joseph, Missouri; South St. Paul, Minnesota; Sioux City, Iowa; and Sioux Falls, South Dakota) and that price was used to calculate the equivalent live animal value of imported pork and pork products. In 1991, one of the seven markets, Peoria, Illinois, closed and LGMN Branch changed its report to include the annual average price from only six markets. Again in 1994, another market, East St. Louis, Illinois, closed and LGMN began reporting the annual average price for barrows and gilts based on five markets. In December 1998, two more of the original seven markets, Sioux City, Iowa, and Omaha, Nebraska, closed and LGMN Branch discontinued reporting market prices based on the three remaining markets because these markets did not have a sufficient volume of sales to accurately reflect a national average price for barrows and gilts.

In 1999, LGMN Branch replaced the five-market report with the Iowa-Southern Minnesota hog report as the source for the national average price for barrows and gilts. This average price, comparable to the former five-market annual average price, was quoted for 49–52 percent lean yield barrows and gilts weighing an average of 240–280 pounds live weight. LGMN Branch reported these prices daily as well as publishing a monthly average price in the "Livestock, Meat and Wool Weekly Summary and Statistics." While LGMN Branch discontinued publishing an annual average price of barrows and gilts in the "Livestock, Meat and Wool Weekly Summary and Statistics," they had calculated the annual average price for barrows and gilts based on the 12 monthly average prices in the Iowa-Southern Minnesota hog reports. This annual average price was used in the calculations for determining the per pound amount of assessments for imported pork and pork products. Further changes are anticipated in the future due to implementation of the Livestock Mandatory Price Reporting program (65 FR 75464) on April 2, 2001.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

The last time the cents per pound assessments for imported pork and pork products listed in the table in § 1230.110(b) were adjusted was for calendar year 1998 (64 FR 44643). The equivalent live animal value of imported pork and pork products was recalculated for calendar year 1999 and when compared to the equivalent live animal value for calendar year 1998, no adjustments in the cents per pound assessments were necessary for imported pork and pork products subject to assessment under the Act and Order. In 1999 the average annual price for barrows and gilts was $31.46 per hundredweight as determined by LGMN Branch based on monthly average prices for barrows and gilts published in the "Livestock, Meat and Wool Weekly Summary and Statistics." The 1998 average price for barrows and gilts was $31.82 per hundredweight. The cents per pound assessments for calendar year 1999 remained the same as calendar year 1998.

The average annual market price increased from $31.46 per hundredweight in 1999 to $42.70 per hundredweight in 2000, an increase of about 36 percent. This increase will result in a corresponding increase in assessments for all Harmonized Tariff Schedule (HTS) numbers listed in the table in § 1230.110(b), 64 FR 44643; August 17, 1999, of an amount equal to seven-hundredths to one-tenth of a cent per pound, or as expressed in cents per kilogram, fifteen-hundredths to twenty-two hundredths of a cent per kilogram. Based on the Department of Commerce's, Bureau of Census, data on the volume of pork and pork products imported during 2000, the increase in assessment amounts will result in an estimated $713,000 increase in assessments over a 12-month period. The assessment rate for imported live hogs is not affected by the change in the cents per pound assessment rate for imported pork and pork products.

On August 13, 2001, AMS published in the **Federal Register** (66 FR 42469) a proposed rule which would increase the per pound assessment on imported pork and pork products consistent with the increase in the 2000 average price of domestic barrows and gilts to provide comparability between imported and domestic assessments. The proposal was published with a request for comments by September 12, 2001. No comments were received.

Accordingly, this final rule establishes the new per-pound and per-kilogram assessments on imported pork and pork products.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products.

For the reasons set forth in the preamble, 7 CFR part 1230 is amended as follows:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. Section 1230.110 is revised to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

(a) The following Harmonized Tariff Schedule (HTS) categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.0000	0.45 percent Customs Entered Value.
0103.91.0000	0.45 percent Customs Entered Value.
0103.92.0000	0.45 percent Customs Entered Value.

(b) The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and Pork Products	Assessment	
	cents/lb	cents/kg
0203.11.0000	.27	.595242
0203.12.1010	.27	.595242
0203.12.1020	.27	.595242
0203.12.9010	.27	.595242
0203.12.9020	.27	.595242
0203.19.2010	.32	.705472
0203.19.2090	.32	.705472
0203.19.4010	.27	.595242
0203.19.4090	.27	.595242
0203.21.0000	.27	.595242
0203.22.1000	.27	.595242
0203.22.9000	.27	.595242
0203.29.2000	.32	.705472
0203.29.4000	.27	.595242
0206.30.0000	.27	.595242
0206.41.0000	.27	.595242
0206.49.0000	.27	.595242
0210.11.0010	.27	.595242
0210.11.0020	.27	.595242
0210.12.0020	.27	.595242
0210.12.0040	.27	.595242
0210.19.0010	.32	.705472
0210.19.0090	.32	.705472
1601.00.2010	.38	.837748
1601.00.2090	.38	.837748
1602.41.2020	.41	.903886
1602.41.2040	.41	.903886
1602.41.9000	.27	.595242
1602.42.2020	.41	.903886
1602.42.2040	.41	.903886
1602.42.4000	.27	.595242
1602.49.2000	.38	.837748
1602.49.4000	.32	.705472

Dated: December 21, 2001.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–32003 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG83

List of Approved Spent Fuel Storage Casks: NAC–UMS Revision; Confirmation of Effective Date

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Nuclear Regulatory Commission (NRC) is confirming the effective date of December 31, 2001, for the direct final rule that appeared in the **Federal Register** of October 16, 2001 (66 FR 52486). This direct final rule amended the NRC's regulations by revising the NAC–UMS Universal Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1015. This document confirms the effective date.

DATES: The effective date of December 31, 2001, is confirmed for this direct final rule.

ADDRESSES: Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These same documents may also be viewed and downloaded electronically via the rulemaking Web site (*http://ruleforum.llnl.gov*). For information about the interactive rulemaking Web site, contact Ms. Carol Gallagher (301) 415–5905; e-mail *CAG@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219 (e-mail: *jmm2@nrc.gov).*

SUPPLEMENTARY INFORMATION: On October 16, 2001 (66 FR 52486), the NRC published in the **Federal Register** a direct final rule amending its regulations in 10 CFR part 72 by revising the NAC–UMS Universal Storage System listing within the list of approved spent fuel storage casks to include Amendment No. 2 to Certificate of Compliance No. 1015. Amendment No. 2 modifies the present cask system design to add miscellaneous spent fuel related components to the approved contents list for the NAC–UMS Universal Storage System and change the required actions in response to a failure of the cask heat removal system. Several other minor administrative changes were made and are discussed in Section 12 of the Safety Evaluation Report. Also, specific changes to were made to Technical Specifications that permit the storage of these components and the other requested changes. Conditions 1b and 6 of the Certificate of Compliance were also changed. In the direct final rule, NRC stated that if no significant adverse comments were

VOL 66 ISS 249 DE 28 2001 UMI

received, the direct final rule would become final on the date noted above. The NRC did not receive any comments that warranted withdrawal of the direct final rule. Therefore, this rule will become effective as scheduled.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 01–31923 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R–1055]

Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance; Capital Treatment of Recourse, Direct Credit Substitutes and Residual Interests in Asset Securitizations

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Final rule; correction

SUMMARY: This document corrects the Federal Reserve's regulatory text of a final rule published in the **Federal Register** of November 29, 2001 (66 FR 59614), regarding the capital treatment of recourse, direct credit substitutes, and residual interests in asset securitizations. This correction rectifies errors made in Attachment II in Appendix A, part 208 and Appendix A, part 225.

DATES: This correction is effective January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas Boemio, 202–452–2982 or Arleen Lustig, 202–452–2987.

SUPPLEMENTARY INFORMATION:

Correction:

In the final rule FR Doc. No. 01–29179, beginning on 66 FR 59614 in the issue of November 29, 2001, make the following corrections.

PART 208—[CORRECTED]

1. In Appendix A to Part 208, Attachment II, on page 59643:

A. In the column for Components, in the fourth entry under Supplementary Capital, replace the word "stocks" with the word "stock."

B. In the column for Minimum requirements, the fourth entry is revised to read, "Banks should avoid using minority interests to introduce elements not otherwise qualifying for tier 1 capital."

C. In the column for Minimum requirements, remove the eleventh entry beginning with "As a general rule * * *" in its entirety.

D. Remove footnote 3 following the table.

PART 225—[CORRECTED]

2. In Appendix A to Part 225, Attachment II, on page 59651:

A. In the column for Minimum requirements, the second entry is revised to read "Organizations should avoid using minority interests to introduce elements not otherwise qualifying for tier 1 capital."

B. In the column for Minimum requirements, in the eleventh entry of the table, replace the word "banks" with "organizations."

By order of the Board of Governors of the Federal Reserve System, December 20, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–31887 Filed 12–27–01; 8:45 am]

BILLING CODE 31887–22–S

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–40–AD; Amendment 39–12569; AD 2001–26–05]

RIN 2120–AA64

Airworthiness Directives; Hamilton Sundstrand Model 247F Propellers

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Hamilton Sundstrand model 247F propellers. This action requires a one-time rework of certain model 247F propellers by removing all four propeller blades from service, replacing those blades with serviceable propeller blades, and marking the propeller with a new part number. This amendment is prompted by nine reports of the blades partially slipping at the bond joint between the blade tulip and the composite blade airfoil interface. The actions specified in this AD are intended to prevent the loss of a propeller blade, which may result in loss of airplane control.

DATES: Effective January 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before February 26, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–40–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: *9-ane-adcomment@faa.gov*. Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from Hamilton Sundstrand, A United Technologies Company, Publications Manager, Mail Stop 2AM–EE50, One Hamilton Road, Windsor Locks, CT 06096. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7158, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The FAA has received nine reports of blades partially slipping at the bond joint between the blade tulip and the composite blade airfoil interface on Hamilton Sundstrand model 247F propellers, part numbers (P/N's) 810610–1 and 815550–1. Investigation reveals that this partial slippage is due to debonding of that interface. This amendment requires, within 30 days of the effective date of this AD as a one-time action, reworking certain model 247F propellers by removing all four existing propeller blades P/N's R810640–1, R810640–2, and R810640–3 from service, replacing those blades with serviceable propeller blades, and marking the propeller with a new part number. To date, no blade has come free from the hub. This condition, if not corrected, could result in the loss of a propeller blade, which may result in loss of airplane control.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of Hamilton Sundstrand Service Bulletin (SB) 247F–61–37, Revision 2, dated September 7, 2001 that describes procedures for propeller blade replacement and propeller marking.

Differences Between This AD and the Manufacturer's Service Information

Although Hamilton Sundstrand SB 247F–61–37, Revision 2, dated September 7, 2001 mandates the affected propeller blade population to be removed from service by December 31, 2001, this amendment requires propeller blade removal from service within 30 days of the effective date of this AD.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Hamilton Sundstrand model 247F propellers of the same type design, this AD requires, within 30 days of the effective date of this AD, as a one-time action, reworking certain model 247F propellers by removing all four existing propeller blades from service, replacing those blades with serviceable propeller blades, and marking the propeller with a new part number. The actions are required to be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001–NE–40–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–26–05 Hamilton Sundstrand Model 247F Propellers: Amendment 39–12569. Docket No. 2001–NE–40–AD.

Applicability: This airworthiness directive (AD) is applicable to Hamilton Sundstrand model 247F propellers. These propellers are installed on, but not limited to Aerospatiale ATR–72 and Xian MA–60 airplanes.

Note 1: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required within 30 days of the effective date of this AD, unless already done.

To prevent the loss of a propeller blade, which may result in loss of airplane control, do the following:

(a) Do the following in accordance with paragraphs 3A. through 3C.(2), of the Accomplishment Instructions, of Hamilton Sundstrand Service Bulletin 247F–61–37, Revision 2, dated September 7, 2001.

(1) Remove from service propeller blades part numbers (P/N's) R810640–1, R810640–2, and R810640–3, within 30 days of the effective date of this AD, and replace with serviceable propeller blades.

(2) Mark propellers P/N 810610–1 as P/N 810610–2, and propellers P/N 815550–1 as P/N 815550–2.

(b) After the effective date of this AD, do not install any propeller blades P/N's R810640–1, R810640–2, and R810640–3 into any propeller, and do not install any propellers P/N's 810610–1 and 815550–1 onto any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ACO.

VOL 66 ISS 249 DE 28 2001 UMI

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(e) The propeller blade replacement and propeller marking must be done in accordance with Hamilton Sundstrand Service Bulletin 247F–61–37, Revision 2, dated September 7, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Hamilton Sundstrand, A United Technologies Company, Publications Manager, Mail Stop 2AM–EE50, One Hamilton Road, Windsor Locks, CT 06096. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 14, 2002.

Issued in Burlington, Massachusetts, on December 14, 2001.

Francis A. Favara,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–31328 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 385

[Docket No. RM00–1–000; Order No. 622]

Electronic Filing of FERC Form No. 423

December 20, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations under the Federal Power Act (FPA) to provide for the electronic filing of its Form No. 423 (Form 423). Commencing with the January 2002 filing, due March 15, 2002, only electronic filings will be accepted; the paper filing requirement will be eliminated. The Commission has developed the capacity to accept such filings electronically and has extensively tested the software and related elements of the electronic filing mechanism. This automation of the Form 423 yields significant benefits to respondents, the Commission and to the electric industry as a whole. These benefits include more timely analysis and publication of the data, increased data analysis capability, reduced cost of data entry and retrieval and an overall reduction in filing burden.

EFFECTIVE DATE: This final rule is effective January 28, 2002.

FOR FURTHER INFORMATION CONTACT:

Patricia W. Morris (Technical Information), Office of Markets, Tariffs and Rates, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–6990, *patricia.morris@ferc.fed.us*
Bolton Pierce (Electronic System), Office of Information Technology, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–1803, *bolton.pierce@ferc.fed.us*
S.L. Higginbottom (Legal Information), Office of General Counsel, FERC, 888 First Street, NE., Washington, DC 20426, (202) 208–2168, *samuel.higginbottom@ferc.fed.us*

SUPPLEMENTARY INFORMATION:

Federal Energy Regulatory Commission

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

[Docket No. RM00–1–000]

Electronic Filing of FERC Form No. 423, Order No. 622; Final Rule

I. Introduction

This Final Rule revises parts 141 and 385 of the Commission's regulations to require the electronic filing of its FERC Form No. 423 "Monthly Report of Cost and Quality of Fuels for Electric Plants" (Form 423).[1] The electronic data to be filed, commencing with reports for the month of January 2002, due no later than March 19, 2002, will replace the nearly 1000 pages of Form 423 information presently filed with the Commission in hard copy every month. There will be no further requirement for a hard copy Form 423 filing. The Commission has throughly tested the software and related elements of the electronic filing mechanism and finds that the methodology and mechanics of the system are ready for industry-wide electronic filing of Form 423.

II. Background

Form 423 information is collected pursuant to sections 205 and 206 of the Federal Power Act (FPA), as amended by section 208 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The Commission collects basic cost and quality of fuels data at electric generating plants on the Form 423 and has used such data to conduct fuel reviews, rate investigations and to track market changes and trends. The Commission's Form 423 filing requirements are found at 18 CFR 141.61

The Form 423 is a monthly submission from approximately 200 electric utilities who sell electric power under traditionally-regulated, cost-based rates from approximately 500 power plants.

III. Discussion

On October 28, 1999, the Commission issued a Notice of Proposed Rulemaking (NOPR) in Docket RM00–1–000, proposing that the Form 423 be filed electronically.[2] Respondents to the NOPR commended the efforts of the Commission in reducing the burden by providing for electronic submissions of the Form 423. Any concerns voiced by respondents to the NOPR now have been addressed and resolved.

The Edison Electric Institute (EEI) was "concerned that the hasty implementation of electronic filing may not provide all the expected benefits and may impose greater transition costs than are necessary." EEI, and also Southern Companies, thus encouraged the Commission to carefully test all software for a minimum of one year with a group of volunteer reporting companies before electronic filing was made compulsory, and to allow electronic filing via the Internet. The Commission has, in fact, done such testing. Testing began with just a few filers over a year ago. Gradually more and more filers were added and the Commission is now receiving over 25% of each month's Form 423 filings electronically; many of those filing are EEI members who volunteered to help develop the system. (Each month respondents update their previous month's data to reflect the current reporting month; only changes to the prior month's data need be made.) In an effort to assist each filer in entering and submitting the most accurate data, numerous checks and balances have been incorporated into the system. Moreover, filings are being transmitted to the Commission via the Internet.

---

[1] The Commission's original Notice of Proposed Rulemaking (NOPR), proposed to make three FERC data collections, Forms 423, 714 and 715, electronic. This Final Rule will require electronic filing of the Form 423, but not yet change the collection of the Forms 714 and 715. Comments received in response to the NOPR indicated that further consideration was warranted before electronic filing of the Forms 714 and 715 is ordered.

[2] Electronic Filing of FERC Form Nos. 423, 714 and 715, Notice of Proposed Rulemaking, 64 FR 60140 (Nov. 4, 1999), FERC Stats. & Regs. ¶ 32,546 (1999).

IV. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[3] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended,[4] and also for information gathering, analysis, and dissemination.[5] This Final Rule does not substantially change the effect of the regulation being amended. In addition, the Final Rule involves information gathering, analysis and dissemination. Therefore, this Final Rule falls within categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.

V. Regulatory Flexibility Act

In *Mid-Tex Elect. Coop.* v. *FERC*, 773 F. 2d 327 (D. C. Cir. 1985), the court found that Congress, in passing the Regulatory Flexibility Act (RFA),[6] intended agencies to limit their consideration "to small entities that would be directly regulated" by proposed rules. *Id.* at 342. The court further concluded that "the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities." *Id.*

This Final Rule will reduce the reporting burden and promote consistent reporting practices for all reporting companies. The Commission received no comments regarding its certification in the NOPR that the Final Rule would not have a significant economic impact on a substantial number of small entities. Moreover, the Commission again finds that most filing entities regulated by the Commission do not fall within the RFA's definition of a small entity[7] and that this Final Rule will not have a significant economic impact on a substantial number of small entities.

VI. Information Collection Statement

The Office of Management and Budget (OMB) regulations require that OMB approve certain reporting and record keeping (collections of information) imposed by an agency. The information collection requirements in this Final Rule are contained in Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants" (OMB approval No. 1902–0024). Form 423 most recently received OMB approval on January 23, 2001 for the period through January 2003. As part of the renewal process, OMB was notified that the Commission was developing and testing a system for electronic submission of the data. This electronic filing initiative is part of the Commission's ongoing program to reduce reporting requirements. As explained below, the shift to electronic filing of the Form 423 will reduce, by about one-third, the burden on regulated companies for maintaining and reporting information under the Commission's Form 423 regulations.

Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 (Attention: Michael Miller, Office of the Chief Information Officer, (202) 208–1415) or from the Office of Management and Budget, Room 10202 NEOB, Washington, DC 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, (202) 395–3087, fax: (202) 395–7285).

The regulated entity shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Title: FERC Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants."

Action: Revision of a Currently Approved Collection.

OMB Control No.: 1902–0024.

Respondents: Every electric power producer having electric generating plants with a rated steam-electric generating capacity of 50 megawatts or greater during the reporting month.

Frequency of Responses: Monthly.

Reporting Burden: At the time of OMB renewal in January 2001, there were monthly filings for approximately 636 electric plants. With an average overall response rate of 1.5 hours per monthly report, the total respondent burden was 11,448 hours (636 x 1.5 x 12). Currently there are 584 monthly filings, a reduction of 52 filings due largely to waivers since granted by the Commission to those utilities operating solely under market-based rates, with a total annual respondent burden of 10,512 hours (584 x 1.5 x 12). These 584 monthly filings will now be submitted electronically, reducing the average burden to 1.0 hour per monthly report, for a total respondent burden of 7,008 hours (584 x 1.0 x 12). This is a reduction of 3,504 respondent burden hours (10,512 hours—7,008 hours), or a reduction of roughly one third.

The burden reduction realized by the Federal government is just as dramatic. Previously the estimated annualized Form 423 cost to the Federal government was stated as $190,000 (approximately 1.6 FTE), however with electronic filing the annual cost is only $29,260 (approximately 0.25 FTE).

The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. These new electronic filing requirements conform to the Commission's plan for efficient information collection, communication and management within the electric power industry. The changes will contribute to well-informed decision-making and streamlined workload processing.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 273–0873, e-mail: *mike.miller@ferc.fed.us*.

For the submission of comments concerning the collection of information and the associated burden estimates, please send your comments to the contact listed above or to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington DC, 20503 (Attention: Desk Officer for the Federal Energy Regulatory Commission, phone (202) 395–3087, fax: (202) 395–7285).

VII. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's home page *(http://www.ferc.gov)* and in FERC's Public Reference Room

---

[3] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[4] 18 CFR 380.4(a)(2)(ii).

[5] 18 CFR 380.4(a)(5).

[6] 5 U.S.C. 601–612.

[7] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

VOL 66 ISS 249 DE 28 2001 UMI

during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE, Room 2A, Washington, DC 20426.

From FERC's home page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the web site during normal business hours from our Help line at (202) 208–2222 (e-mail to *WebMaster@ferc.fed.us*) or the Public Reference Room at (202) 208–1371 (e-mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC web site are available. User assistance is also available.

VIII. Effective Date and Congressional Notification

This Final Rule will take effect January 28, 2002. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a "major rule" within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[8] The Commission will submit the Final Rule to both Houses of Congress and the General Accounting Office.[9]

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure. Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission amends parts 141 and 385, Chapter I, Title 18, of the Code of Federal Regulations, as follows:

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a-828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Section 141.61 is revised, to read as follows:

§ 141.61 FERC Form No. 423, Monthly report of cost and quality of fuels for electric plants.

(a) *Who must file.* Every electric power producer having electric generating plants with a stream-electric generating capacity of 50 megawatts or greater during the reporting month must file with the Federal Energy Regulatory Commission for each such plant the FERC Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants," pursuant to the General Instructions set out in this form.

(b) *When to file and what to file.* This report must be filed on or before the 45th day after the end of each reporting month. This report must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 of this chapter and as indicated in the General Instructions set out in this form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the report required to be submitted for the reporting month of January 2002.

PART 385—RULES OF PRACTICE AND PROCEDURE

3. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C 791a-825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

4. Section 385.2011 is amended by adding paragraph (a)(8), to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

(a) * * *

(8) FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants.

* * * * *

[FR Doc. 01–32006 Filed 12–27–01; 8:45 am]

BILLING CODE 6717–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 416 and 422

RIN 0960–AF31

Supplemental Security Income; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: We are modifying our regulations dealing with the recovery of supplemental security income (SSI) overpayments made under title XVI of the Social Security Act (the Act). The modifications reflect statutory authority for the Social Security Administration (SSA) to selectively refer information about SSI overpayments to consumer reporting agencies and to recover SSI overpayments through administrative offset by the Department of the Treasury against other Federal payments to which the overpaid individual may be entitled. These collection practices would be limited to overpayments made to a person after he or she attained age 18 that are determined to be otherwise unrecoverable under section 1631(b) of the Act after the individual ceases to be a beneficiary under title XVI of the Act.

DATES: These regulations will be effective on January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Patricia Hora, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–7183 or TTY (410) 966–5609 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778 or visit our Internet site, Social Security Online, at *http://www.ssa.gov/.*

SUPPLEMENTARY INFORMATION: Section 1631(b) of the Act prescribes the methods SSA may use to recover SSI overpayments. Until enactment of Pub. L. 106–169 on December 14, 1999, SSA was not authorized to use certain tools found in 31 U.S.C. Chapter 37 to recover title XVI program overpayments. Section 203 of Pub. L. 106–169 amended section 1631(b) of the Act to permit SSA to use for SSI overpayments several of the debt collection practices that have been available for use regarding social security benefit overpayments under title II of the Act. Among other things, these practices include reporting delinquent debts to consumer reporting agencies and recovering debts by administrative offset against other Federal payments to which the overpaid person is entitled. Under section 1631(b) of the Act, these additional practices may be used only if the SSI overpayment was made to a person after he or she attained age 18 and the overpayment has been determined to be otherwise unrecoverable under section 1631(b) of the Act after the overpaid person is no longer entitled to benefits under title XVI of the Act.

---

[8] 5 U.S.C. 804(2).

[9] 5 U.S.C. 801(a)(1)(A).

Before we will refer information to consumer reporting agencies or refer an SSI overpayment to the Department of the Treasury for administrative offset, we will send the overpaid person a notice that explains the individual's statutory rights regarding the referral. Specifically, we will send the overpaid person written notice (or, in the case of an individual for whom we do not have a current address, take reasonable action to locate and send written notice) describing, among other things, the amount and nature of the overpayment, the action that we propose to take, and the overpaid person's rights to request us to review the debt and to inspect or copy our records about the overpayment. We will also explain in the notice that the overpaid person has at least 60 calendar days to present evidence that all or part of the overpayment is not past-due or not legally enforceable, or enter into a written agreement to pay the overpayment.

In these final rules, we set forth our policies on referral of information on title XVI overpayment debts to consumer reporting agencies and referral of such debts to the Department of the Treasury for administrative offset. In the future, as we make the necessary systems changes and develop policies and procedures to enable us to use additional debt collection tools for recovery of SSI overpayments, we will make further modifications to our overpayment recovery rules.

Explanation of Changes to Regulations

We are adding a new § 416.590 to our regulations to explain that we will use the additional tools authorized by section 1631(b) of the Act when the title XVI program overpayments occurred after the individual attained age 18, and the overpayment has been determined to be otherwise unrecoverable under section 1631(b) of the Act after the individual is no longer entitled to benefits under title XVI of the Act. Section 416.590 also contains the criteria under which we determine that an overpayment is otherwise unrecoverable under section 1631(b) of the Act. An overpayment will be determined to be unrecoverable when all of the following conditions are met:

- We completed our billing sequence (i.e., we have sent the overpaid person an initial notice of the overpayment, a reminder notice, and a past-due notice) or suspended or terminated collection activity in accordance with applicable rules, such as the Federal Claims Collection Standards in 31 CFR 903.2 or 903.3;
- There is no installment payment agreement, or the overpaid person has failed to pay in accordance with such an agreement for two consecutive months;
- We cannot collect the overpayment by adjusting benefits payable to individuals other than the overpaid person.

For purposes of § 416.590, if the overpaid person is a member of an eligible couple that is legally separated and/or living apart, we will deem unrecoverable from the overpaid person's spouse that part of the overpayment which the overpaid person's spouse did not receive. Adjustment of benefits will be waived for the overpaid person's spouse when that spouse is without fault (as defined in § 416.552) and waiver is requested under these circumstances. See § 416.554.

In these final rules, we made one change in new § 416.590(b)(1) from the version published in the Notice of Proposed Rulemaking of October 23, 2000 (65 FR 63221). We deleted the terms "the Federal Claims Collection Standards in 4 CFR 104.2 or 104.3" and inserted the terms "applicable rules, such as the Federal Claims Collection Standards in 31 CFR 903.2 or 903.3." The change reflects the revision and relocation of the Federal Claims Collection Standards within the Code of Federal Regulations effective December 22, 2000. See 65 FR 70390–70406 (November 22, 2000). As revised, new § 416.590(b)(1) provides that we will find an SSI overpayment to be "otherwise unrecoverable" under section 1631(b) of the Act if, among other things, we completed our billing system sequence for the overpayment or we suspended or terminated our collection activity under the Federal Claims Collection Standards that applied at the time of the suspension or termination.

As set out in the proposed rules, we are adding to § 416.1403(a) (the list of administrative actions that are not initial determinations) new paragraphs (18) and (19) to include our determinations whether we will refer information about an overpayment to consumer reporting agencies and whether we will refer the overpayment to the Department of the Treasury for offset against other Federal payments due the overpaid person. Administrative actions that are not initial determinations may be reviewed by us, but they are not subject to the administrative review process provided by subpart N of our regulations at 20 CFR part 416, and they are not subject to judicial review under section 1631(c)(3) of the Act.

We are also expanding our existing regulations in subpart D of part 422 to cover SSI overpayments. Specifically, we have revised § 422.301 to add language to specify that the debt collection tools in subpart D may be used to recover title XVI program overpayments the Commissioner has determined, through § 416.590, to be unrecoverable under section 1631(b) of the Act. In § 422.305, we have revised both the section title and paragraph (a). The changes we are making to §§ 422.301 and 422.305 will allow us to apply to overpayments under both title II and title XVI of the Act the rules in subpart D on the referral of information to consumer reporting agencies and collection through administrative offset by the Department of the Treasury.

In addition to the one change noted above, these final rules contain several non-substantive revisions to correct minor typographical errors and to make the regulations easier to read.

Public Comments

On October 23, 2000 we published a Notice of Proposed Rulemaking in the **Federal Register** at 65 FR 63221 and provided a 60-day period for interested individuals and organizations to comment on the proposed rules. We received comments from two organizations. A summary of the comments and our responses to them follow.

Comment: One organization recommended that we include language in the notice advising individuals of

VOL 66 ISS 249 DE 28 2001 UMI

their rights to request that we waive collection of the overpayment. This organization expressed concern that individuals likely to be affected by our new statutory authority to report information on SSI overpayments to consumer reporting agencies and collect such debts through administrative offset by the Department of the Treasury may not realize that they may request waiver at any time.

Response: We agree with the organization. Before we will report information on an SSI overpayment debt to consumer reporting agencies and to the Department of the Treasury for administrative offset, we will send the overpaid individual a notice in accordance with 31 U.S.C. 3711(e) and 3716(a), advising him or her of our plans to take those actions. See 20 CFR 422.305(b) and 422.310(c). In addition to the information required by those provisions, we will include language in the notice advising the individual of his or her right to request that we waive collection of the overpayment. We will inform the individual that if the individual requests waiver within 60 days following the date of the notice, we will not take the actions to report information on the overpayment debt to consumer reporting agencies or to Treasury while we review the matter. Under the usual waiver procedures, the individual has the opportunity for a prerecoupment personal conference before waiver of collection can be denied. If we then decide that waiver of collection is not appropriate, we will refer the overpayment information to consumer reporting agencies and the Department of the Treasury after we notify the individual of our decision on the waiver request. We do not need to change our regulations in order to adopt these practices.

Comment: One organization stated that SSA should not apply the additional debt collection activities in subpart D of part 422 while an appeal of the overpayment decision or waiver decision is pending at any level of appeal. The organization felt that the reviews done by the field offices (reconsideration and waiver) are cursory because of the lack of staff.

Response: When an individual submits a timely request for reconsideration of the initial overpayment decision and/or requests waiver of collection of the overpayment, we are precluded from taking any recovery action until we render a decision affirming the initial determination and/or (after the individual had the opportunity for a prerecoupment personal conference) denying the waiver request. See *Califano* v. *Yamasaki*, 442 U.S. 682 (1979). We are not required to refrain from taking collection action concerning a title XVI overpayment debt after a decision is issued on a request for reconsideration of the initial overpayment determination and/or after a determination is made on a request for waiver of recovery of the overpayment. However, under the process adopted to implement these final regulations we would not select a title XVI overpayment debt for referral to the Department of the Treasury or consumer reporting agencies while an administrative appeal regarding that debt is pending at any level of adjudication on the fact or amount of the overpayment or on waiver.

Comment: One organization asserted that there are problems in our administration of our programs that cause overpayments. Among the concerns are staffing in local offices, training for our employees, and documenting and acting on reports of changes potentially affecting eligibility or benefit amounts.

Response: Overpayments of benefits occur for many reasons. We take our responsibility for stewardship of the programs that we administer very seriously. That is why we constantly track our payment accuracy and strive to minimize overpayments. In addition, we are pursuing several initiatives that address the causes of overpayments and other matters described in the concerns and allegations conveyed by the organization. Notwithstanding the reasons for overpayments, we are responsible for recovering as much of the overpaid money as possible consistent with the law.

Comment: One organization stated that SSA should report information to consumer reporting agencies in accordance with the Fair Credit Reporting Act (FCRA). Specifically, SSA should use the credit reporting industry standard Metro2 format for reporting to consumer reporting agencies former SSI recipients who owe delinquent debts. In addition, SSA should use the automated consumer dispute verification process, which is a credit reporting industry facility for reporting and resolving consumer disputes about the credit report. It also encouraged SSA to meet with members of the organization to ensure the consistent reporting of accurate and complete information.

Response: Although the comment is not directly pertinent to these rules, we agree with the organization. We have been reporting delinquent title II overpayment debts to consumer reporting agencies since 1998. We realize the importance of reporting complete and accurate information to credit repositories. We have always complied with the FCRA. Additionally, SSA has been using both the Metro2 format and the automated consumer dispute verification process suggested by the commenter. In the Fall of 2000, SSA staff met with members of the credit reporting industry at workshops sponsored by them. We also communicate with members of the credit reporting industry throughout the year to remain current on the latest standards.

Regulatory Procedures

Executive Order 12866

The Office of Management and Budget (OMB) has reviewed these proposed rules in accordance with Executive Order (E.O.) 12866.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis, as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final regulations will impose no reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

20 CFR Part 422

Administrative practice and procedure, Organization and functions (Government agencies), Social Security.

Dated: December 19, 2001.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subparts E and N of part 416 and subpart D of part 422 of Chapter III of Title 20 of the Code of Federal Regulations as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND AND DISABLED

1. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3720A.

2. Section 416.590 is added to read as follows:

§ 416.590 Are there additional methods for recovery of title XVI benefit overpayments?

(a) *General.* In addition to the methods specified in §§ 416.560, 416.570 and 416.580, we may recover an overpayment under title XVI of the Act from you under the rules in subpart D of part 422, provided:

(1) The overpayment occurred after you attained age 18;

(2) You are no longer entitled to benefits under title XVI of the Act; and

(3) Pursuant to paragraph (b) of this section, we have determined that the overpayment is otherwise unrecoverable under section 1631(b) of the Act.

(b) *When we consider an overpayment to be otherwise unrecoverable.* We consider an overpayment under title XVI of the Act to be otherwise unrecoverable under section 1631(b) of the Act if all of the following conditions are met:

(1) We have completed our billing system sequence (i.e., we have sent you an initial notice of the overpayment, a reminder notice, and a past-due notice) or we have suspended or terminated collection activity under applicable rules, such as, the Federal Claims Collection Standards in 31 CFR 903.2 or 903.3.

(2) We have not entered into an installment payment arrangement with you or, if we have entered into such an arrangement, you have failed to make any payment for two consecutive months.

(3) You have not requested waiver pursuant to § 416.550 or § 416.582 or, after a review conducted pursuant to those sections, we have determined that we will not waive collection of the overpayment.

(4) You have not requested reconsideration of the initial overpayment determination pursuant to §§ 416.1407 and 416.1409 or, after a review conducted pursuant to § 416.1413, we have affirmed all or part of the initial overpayment determination.

(5) We cannot recover your overpayment pursuant to § 416.570 by adjustment of benefits payable to any individual other than you. For purposes of this paragraph, if you are a member of an eligible couple that is legally separated and/or living apart, we will deem unrecoverable from the other person that part of your overpayment which he or she did not receive.

3. The authority citation for subpart N of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

4. Section 416.1403 is amended by removing the word "and" at the end of paragraph (a)(16), removing the first period in paragraph (a)(17), removing "See" and adding "see" in its place in the parenthetical in paragraph (a)(17), removing the second period at the end of paragraph (a)(17) and adding a semicolon in its place, and adding new paragraphs (a)(18) and (19) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

* * * * *

(18) Determining whether we will refer information about your overpayment to a consumer reporting agency (see §§ 416.590 and 422.305 of this chapter); and

(19) Determining whether we will refer your overpayment to the Department of the Treasury for collection by offset against Federal payments due you (see §§ 416.590 and 422.310 of this chapter).

* * * * *

PART 422—ORGANIZATION AND PROCEDURES

5. The authority citation for subpart D of part 422 is revised to read as follows:

Authority: Secs. 204(f), 205(a), 702(a)(5), and 1631(b) of the Social Security Act (42 U.S.C. 404(f), 405(a), 902(a)(5), and 1383(b)); 31 U.S.C. 3711(e); 31 U.S.C. 3716.

6. Section 422.301(b) is amended by removing the words "title II" and by removing "§ 404.527" and adding "§§ 404.527 and 416.590" in its place.

7. Section 422.305 is amended by removing the reference to "title II" in the heading and in paragraph (a).

[FR Doc. 01–31897 Filed 12–27–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8973]

RIN 1545–AW09

Allocation of Loss With Respect to Stock and Other Personal Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final Tax Regulations which remove temporary regulations relating to the allocation of loss recognized on the disposition of stock and other personal property. The loss allocation regulations primarily will affect taxpayers that claim the foreign tax credit and that incur losses with respect to personal property and are necessary to modify existing guidance with respect to loss allocation.

DATES: *Effective dates:* These regulations are effective January 8, 2002.

Applicability Dates: For dates of applicability, see §§ 1.865–1(f) and 1.865–2(e).

FOR FURTHER INFORMATION CONTACT: David A. Juster, (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On January 11, 1999, final regulations (TD 8805, 1999–1 C.B. 371, the 1999 final regulations) addressing the allocation of loss on the disposition of stock (§ 1.865–2) and amending the foreign tax credit passive limitation grouping rules under § 1.904–4(c) were published in the **Federal Register** (64 FR 1505), together with temporary regulations relating to the allocation of loss on the disposition of personal property other than stock (§ 1.865–1T) and providing a special matching rule with respect to the allocation of certain stock losses (§ 1.865–2T). A notice of proposed rulemaking (REG–106905–98) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (64 FR 1571). No public hearing was requested or held. One written comment responding to the notice of proposed rulemaking was received. After consideration of the comment, the regulations are finalized substantially as proposed, and the corresponding temporary regulations are removed. This Treasury decision also

VOL 66 ISS 249 DE 28 2001 UMI

contains minor clarifying amendments to § 1.865–2 of the 1999 final regulations. The revisions are discussed below.

Explanation of Provisions

Section 1.865–1: Loss With Respect to Personal Property Other Than Stock

Section 1.865–1(a): General Rules

Taxpayers have inquired whether the regulations apply to section 166 bad debt deductions. Section 1.865–1 is intended to apply to all recognized losses with respect to personal property, unless otherwise excepted, whether or not the loss results from an actual sale or disposition. Although section 166 does not use the term *loss* in the context of describing worthless debts giving rise to a deduction under the statute, worthlessness deductions reflect economically sustained losses similar to losses described in section 165(g) with respect to worthless securities. Section 1.865–1(a)(1) of the final regulations clarifies that the loss allocation rules of § 1.865–1 apply to section 166 bad debt deductions, as well as losses on property that is marked-to-market (such as under section 475) and not excluded from the scope of these regulations (as are inventory property and certain derivative contracts).

One commentator requested that the final regulations clarify the proper allocation of a loss from the disposition of a partnership interest. Treasury and the Service do not believe that a special rule is required. Instead, loss on the disposition of a partnership interest is subject to the general rule of § 1.865–1(a) that allocates loss to the class of gross income to which gain from the sale of such property would give rise in the seller's hands, i.e., on a reciprocal-to-gain basis.

Section 1.865–1(b)(2): Contingent Payment Debt Instruments

Section 1.865–1(b)(2), explaining the particular application of the reciprocal-to-gain loss allocation rule to contingent payment debt instruments, provides that loss on an instrument to which § 1.1275–4(b) applies is allocated and apportioned to the class of interest income to which the instrument would give rise. The final regulation adopts the rule of the temporary regulation, reworded to clarify the interaction of this section with § 1.1275–4(b)(9)(iv)(A).

Section 1.865–1(c)(4): Unamortized Bond Premium

Section 1.865–1(c)(4) provides an exception from the general reciprocal-to-gain rule with respect to unamortized bond premium. The final regulations modify the text and add a new *Example 3* in § 1.865–1(e) to clarify that loss on a debt instrument is allocated against interest only to the extent of the amount of bond premium that could have been, but was not, amortized by the taxpayer before the loss was recognized.

Section 1.865–1(c)(6)(iii): Matching Rule

For discussion of modifications to the matching rule in response to comments, see the discussion below in connection with the stock loss matching rule of § 1.865–2(b)(4)(iii).

Section 1.865–1(f): Effective Dates

The final regulations apply to losses recognized on or after January 8, 2002. A taxpayer may apply the regulations, however, to loss recognized in taxable years beginning on or after January 1, 1987, subject to certain conditions.

Section 1.865–2: Loss With Respect to Stock

Section 1.865–2(a)(1): General Rules

A sentence is added to § 1.865–2(a)(1) to clarify that the loss allocation rules of § 1.865–2 apply to loss on stock (other than inventory) that is marked-to-market (such as under section 475).

Section 1.865–2(a)(3)(ii): Bona Fide Residents of Puerto Rico

Under section 933, a U.S. citizen or resident alien that is a bona fide resident of Puerto Rico is generally exempt from U.S. tax with respect to Puerto Rican source income, but remains subject to U.S. tax with respect to income derived from other sources. Consistent with the general rule of the 1999 final regulations allocating losses against gains and taking account of the special source rule of section 865(g)(3), § 1.865–2(a)(3)(ii) provides that a loss recognized by a U.S. citizen or resident alien that is a bona fide resident of Puerto Rico with respect to stock of a corporation that is engaged in a trade or business within Puerto Rico shall be allocated to reduce foreign source income. The final regulation, however, did not specifically state whether the stock loss is allocated against Puerto Rican source income that is exempt from tax under section 933 or against all of the bona fide resident's foreign source income. Section 1.865–2(a)(3)(ii) is clarified to provide that if gain from the sale of such stock would be Puerto Rican source income that is exempt from tax under section 933, the loss with respect to such stock shall be allocated to Puerto Rican source income. Under section 933(1), a loss allocated to Puerto Rican source income that is excluded from gross income under section 933 is not allowed as a deduction. See § 1.933–1(c).

Sections 1.865–1(c)(6)(iii) and 1.865–2(b)(4)(iii): Matching Rule

The temporary regulations provided that, to the extent a taxpayer recognizes foreign source income for tax purposes that results in the creation of a corresponding loss with respect to stock or other personal property, as the case may be, the loss shall be allocated and apportioned against such income. The preamble to the temporary regulations explained that this rule is intended to prevent taxpayers from avoiding the dividend recapture rule of § 1.865–2(b)(1) or from accelerating foreign source income and recognizing an offsetting U.S. loss.

One commenter characterized the rule as overly broad and the examples as unrealistic. The commenter recommended that the matching rule be eliminated from the final regulations or revised to target identified abuses more narrowly.

Taking these considerations into account, §§ 1.865–1(c)(6)(iii) and 1.865–2(b)(4)(iii) are modified to provide that the matching rule will only apply if a taxpayer engages in a transaction or series of transactions with a principal purpose of recognizing foreign source income that results in the creation of a corresponding loss. As an anti-abuse rule, the matching rule targets transactions that are designed to produce an artificial or accelerated recognition of income that directly results in the creation of a corresponding built-in loss. The step-down preferred transactions described in *Examples 4* and *5* of § 1.865–2T(b)(4)(iv) are transactions of this type; however, because those transactions are now expressly addressed by regulations at § 1.7701(l)–3, the final regulations omit *Examples 4* and *5*. In addition, *Example 6* of § 1.865–2T(b)(4)(iv) is revised and redesignated as *Example 6* of paragraph (b)(1)(iv) of § 1.865–2 to illustrate an amendment to the definition of the recapture period in § 1.865–2(d)(3) discussed below.

Section 1.865–2(b)(4)(iii) is also revised to clarify the interaction of the matching rule and the exceptions to the dividend recapture rule for de minimis or passive dividends. In the temporary regulations, the matching rule applied to amounts that otherwise were exempted from the dividend recapture rule under the passive or de minimis exceptions only if the taxpayer held the stock with a principal purpose of producing foreign source income and corresponding loss. Because the final regulations revise the matching rule to incorporate a principal purpose test in all instances, the specific requirement of a principal purpose to apply the matching rule to de minimis or passive dividends is no longer necessary.

Section 1.865–2(d)(3): Recapture Period

The dividend recapture period set forth in § 1.865–2(d)(3) is revised to provide that the 24-month period ends on the date on which a taxpayer recognizes a loss with respect to stock. In addition, in connection with the revisions to the matching rule discussed above, the definition of the recapture period in § 1.865–2(d)(3) is expanded to provide that the recapture period is extended if the assets of the corporation are converted to low-risk investments with a principal purpose of enabling the taxpayer to hold the stock without significant risk of loss until the recapture period has expired. As noted above, *Example 6* of § 1.865–2T(b)(4)(iv) has been redesignated as *Example 6* of § 1.865–2(b)(1)(iv) and revised to illustrate the operation of this change to the definition of the recapture period. Finally, § 1.865–2(d)(3) is revised to clarify that the dividend recapture rule applies to a dividend paid after the date a loss is recognized, if the loss is incurred after the dividend was declared (i.e., when the stock is sold ex-dividend).

Section 1.865–2(e): Effective Dates

The final regulations retain the January 11, 1999 effective date of the identical provisions of the temporary regulations and provide that the amendments made by the final regulations apply to losses recognized on or after January 8, 2002. A taxpayer may apply the regulations, however, to loss recognized in any taxable year beginning on or after January 1, 1987, subject to certain conditions.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. A final regulatory flexibility analysis under 5 U.S.C. 604 has been prepared for the portion of this Treasury decision with respect to regulations issued under section 865 of the Internal Revenue Code. This analysis is set forth below.

Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Small Business Administration for comment on its impact on small business.

Regulatory Flexibility Analysis

It has been determined that a final regulatory flexibility analysis is required under 5 U.S.C. 604 with respect to this Treasury decision issued under section 865 of the Internal Revenue Code. These regulations will affect small entities such as small businesses but not other small entities, such as local government or tax exempt organizations, which do not pay taxes. The IRS and Treasury Department are not aware of any federal rules that duplicate, overlap or conflict with these regulations. The final regulations address the allocation of loss with respect to stock and other personal property. These regulations are necessary primarily for the proper computation of the foreign tax credit limitation under section 904 of the Internal Revenue Code. With respect to U.S. resident taxpayers, the regulations generally allocate losses against U.S. source income. Generally, this allocation simplifies the computation of the foreign tax credit limitation. None of the significant alternatives considered in drafting the regulations would have significantly altered the economic impact of the regulations on small entities. There are no alternative rules that are less burdensome to small entities but that accomplish the purposes of the statute.

Drafting Information

Various personnel from the Office of Associate Chief Counsel (International) within the Office of Chief Counsel, the IRS and Treasury Department participated in developing these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for "1.865–1T" and "1.865–2T", revising the entry for "1.865–2", and adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.861–8 also issued under 26 U.S.C. 882(c). * * *

Section 1.865–1 also issued under 26 U.S.C. 863(a) and 865(j)(1).

Section 1.865–2 also issued under 26 U.S.C. 863(a) and 865(j)(1). * * *

Par. 2. Section 1.861–8 is amended by:

1. Revising paragraphs (e)(7)(iii) and (e)(8).
2. Removing the authority citation at the end of the section.

The revisions read as follows:

§ 1.861–8 Computation of taxable income from sources within the United States and from other sources and activities.

* * * * *

(e) * * *

(7) * * *

(iii) *Allocation of loss recognized in taxable years after 1986.* See §§ 1.865–1 and 1.865–2 for rules regarding the allocation of certain loss recognized in taxable years beginning after December 31, 1986.

(8) *Net operating loss deduction.* A net operating loss deduction allowed under section 172 shall be allocated and apportioned in the same manner as the deductions giving rise to the net operating loss deduction.

* * * * *

Par. 3. Section 1.861–8T is amended as follows:

1. Paragraphs (e)(1) and (e)(3) through (e)(11) are revised.
2. Paragraph (h) is amended by removing the last sentence of the concluding text.
3. The authority citation at the end of the section is removed.

The revisions read as follows:

§ 1.861–8T Computation of taxable income from sources within the United States and for other sources and activities (temporary).

* * * * *

(e) * * *

(1) [Reserved]. For further guidance, see § 1.861–8(e)(1).

* * * * *

(3) through (11) [Reserved]. For further guidance, see § 1.861–8(e)(3) through (e)(11).

* * * * *

Par. 4. Section 1.865–1 is added to read as follows:

§ 1.865–1 Loss with respect to personal property other than stock.

(a) *General rules for allocation of loss*—(1) *Allocation against gain.* Except as otherwise provided in § 1.865–2 and paragraph (c) of this section, loss recognized with respect to personal property shall be allocated to the class of gross income and, if necessary, apportioned between the statutory grouping of gross income (or among the statutory groupings) and the residual grouping of gross income, with respect to which gain from a sale of such property would give rise in the hands of the seller. For purposes of this section, loss includes bad debt deductions under section 166 and loss on property that is marked-to-market (such as under section 475) and subject to the rules of this section. Thus, for example, loss recognized by a United States resident on the sale or worthlessness of a bond generally is allocated to reduce United States source income.

(2) *Loss attributable to foreign office.* Except as otherwise provided in § 1.865–2 and paragraph (c) of this section, and except with respect to loss subject to paragraph (b) of this section, in the case of loss recognized by a United States resident with respect to property that is attributable to an office or other fixed place of business in a foreign country within the meaning of section 865(e)(3), the loss shall be allocated to reduce foreign source income if a gain on the sale of the property would have been taxable by the foreign country and the highest marginal rate of tax imposed on such gains in the foreign country is at least 10 percent. However, paragraph (a)(1) of this section and not this paragraph (a)(2) will apply if gain on the sale of such property would be sourced under section 865(c), (d)(1)(B), or (d)(3).

(3) *Loss recognized by United States citizen or resident alien with foreign tax home.* Except as otherwise provided in § 1.865–2 and paragraph (c) of this section, and except with respect to loss subject to paragraph (b) of this section, in the case of loss with respect to property recognized by a United States citizen or resident alien that has a tax home (as defined in section 911(d)(3)) in a foreign country, the loss shall be allocated to reduce foreign source income if a gain on the sale of such property would have been taxable by a foreign country and the highest marginal rate of tax imposed on such gains in the foreign country is at least 10 percent.

(4) *Allocation for purposes of section 904.* For purposes of section 904, loss recognized with respect to property that is allocated to foreign source income under this paragraph (a) shall be allocated to the separate category under section 904(d) to which gain on the sale of the property would have been assigned (without regard to section 904(d)(2)(A)(iii)(III)). For purposes of § 1.904–4(c)(2)(ii)(A), any such loss allocated to passive income shall be allocated (prior to the application of § 1.904–4(c)(2)(ii)(B)) to the group of passive income to which gain on a sale of the property would have been assigned had a sale of the property resulted in the recognition of a gain under the law of the relevant foreign jurisdiction or jurisdictions.

(5) *Loss recognized by partnership.* A partner's distributive share of loss recognized by a partnership with respect to personal property shall be allocated and apportioned in accordance with this section as if the partner had recognized the loss. If loss is attributable to an office or other fixed place of business of the partnership within the meaning of section 865(e)(3), such office or fixed place of business shall be considered to be an office of the partner for purposes of this section.

(b) *Special rules of application*—(1) *Depreciable property.* In the case of a loss recognized with respect to depreciable personal property, the gain referred to in paragraph (a)(1) of this section is the gain that would be sourced under section 865(c)(1) (depreciation recapture).

(2) *Contingent payment debt instrument.* Loss described in the last sentence of § 1.1275–4(b)(9)(iv)(A) that is recognized with respect to a contingent payment debt instrument to which § 1.1275–4(b) applies (instruments issued for money or publicly traded property) shall be allocated to the class of gross income and, if necessary, apportioned between the statutory grouping of gross income (or among the statutory groupings) and the residual grouping of gross income, with respect to which interest income from the instrument (in the amount of the loss subject to this paragraph (b)(2)) would give rise.

(c) *Exceptions*—(1) Foreign currency and certain financial instruments. This section does not apply to loss governed by section 988 and loss recognized with respect to options contracts or derivative financial instruments, including futures contracts, forward contracts, notional principal contracts, or evidence of an interest in any of the foregoing.

(2) *Inventory.* This section does not apply to loss recognized with respect to property described in section 1221(a)(1).

(3) *Interest equivalents and trade receivables.* Loss subject to § 1.861–9T(b) (loss equivalent to interest expense and loss on trade receivables) shall be allocated and apportioned under the rules of § 1.861–9T and not under the rules of this section.

(4) *Unamortized bond premium.* If a taxpayer recognizing loss with respect to a bond (within the meaning of § 1.171–1(b)) did not amortize bond premium to the full extent permitted by section 171 and the regulations thereunder, then, to the extent of the amount of bond premium that could have been, but was not, amortized by the taxpayer, loss recognized with respect to the bond shall be allocated to the class of gross income and, if necessary, apportioned between the statutory grouping of gross income (or among the statutory groupings) and the residual grouping of gross income, with respect to which interest income from the bond was assigned.

(5) *Accrued interest.* Loss attributable to accrued but unpaid interest on a debt obligation shall be allocated to the class of gross income and, if necessary, apportioned between the statutory grouping of gross income (or among the statutory groupings) and the residual grouping of gross income, with respect to which interest income from the obligation was assigned. For purposes of this section, whether loss is attributable to accrued but unpaid interest (rather than to principal) shall be determined under the principles of §§ 1.61–7(d) and 1.446–2(e).

(6) *Anti-abuse rules*—(i) *Transactions involving built-in losses.* If one of the principal purposes of a transaction is to change the allocation of a built-in loss with respect to personal property by transferring the property to another person, qualified business unit, office or other fixed place of business, or branch that subsequently recognizes the loss, the loss shall be allocated by the transferee as if it were recognized by the transferor immediately prior to the transaction. If one of the principal purposes of a change of residence is to change the allocation of a built-in loss with respect to personal property, the loss shall be allocated as if the change of residence had not occurred. If one of the principal purposes of a transaction is to change the allocation of a built-in loss on the disposition of personal property by converting the original property into other property and subsequently recognizing loss with respect to such other property, the loss shall be allocated as if it were recognized with respect to the original property immediately prior to the transaction. Transactions subject to this paragraph shall include, without limitation, reorganizations within the meaning of section 368(a), liquidations under section 332, transfers to a corporation under section 351, transfers to a partnership under section 721, transfers to a trust, distributions by a partnership, distributions by a trust, transfers to or from a qualified business unit, office or other fixed place of business, or branch, or exchanges under section 1031. A person may have a principal purpose of affecting loss allocation even though this purpose is outweighed by other purposes (taken together or separately).

(ii) *Offsetting positions.* If a taxpayer recognizes loss with respect to personal property and the taxpayer (or any person described in section 267(b) (after application of section 267(c)), 267(e), 318 or 482 with respect to the taxpayer) holds (or held) offsetting positions with respect to such property with a principal purpose of recognizing foreign source income and United States source loss, the loss shall be allocated and apportioned against such foreign source income. For purposes of this paragraph (c)(6)(ii), positions are offsetting if the risk of loss of holding one or more positions is substantially diminished by holding one or more other positions.

(iii) *Matching rule.* If a taxpayer (or a person described in section 1059(c)(3)(C) with respect to the taxpayer) engages in a transaction or series of transactions with a principal purpose of recognizing foreign source income that results in the creation of a corresponding loss with respect to personal property (as a consequence of the rules regarding the timing of recognition of income, for example), the loss shall be allocated and apportioned against such income to the extent of the recognized foreign source income. For an example illustrating a similar rule with respect to stock loss, see § 1.865–2(b)(4)(iv) *Example 3.*

(d) *Definitions*—(1) *Contingent payment debt instrument.* A contingent payment debt instrument is any debt instrument that is subject to § 1.1275–4.

(2) *Depreciable personal property.* Depreciable personal property is any property described in section 865(c)(4)(A).

(3) *Terms defined in § 1.861–8.* See § 1.861–8 for the meaning of *class of gross income, statutory grouping of gross income,* and *residual grouping of gross income.*

(e) *Examples.* The application of this section may be illustrated by the following examples:

Example 1. On January 1, 2000, *A*, a domestic corporation, purchases for $1,000 a machine that produces widgets, which *A* sells in the United States and throughout the world. Throughout *A*'s holding period, the machine is located and used in Country *X*. During *A*'s holding period, *A* incurs depreciation deductions of $400 with respect to the machine. Under § 1.861–8, *A* allocates and apportions depreciation deductions of $250 against foreign source general limitation income and $150 against U.S. source income. On December 12, 2002, A sells the machine for $100 and recognizes a loss of $500. Because the machine was used predominantly outside the United States, under sections 865(c)(1)(B) and 865(c)(3)(B)(ii) gain on the disposition of the machine would be foreign source general limitation income to the extent of the depreciation adjustments. Therefore, under paragraph (b)(1) of this section, the entire $500 loss is allocated against foreign source general limitation income.

Example 2. On January 1, 2002, *A*, a domestic corporation, loans $2,000 to *N*, its wholly-owned controlled foreign corporation, in exchange for a contingent payment debt instrument subject to § 1.1275–4(b). During 2002 through 2004, *A* accrues and receives interest income of $630, $150 of which is foreign source general limitation income and $480 of which is foreign source passive income under section 904(d)(3). Assume there are no positive or negative adjustments pursuant to § 1.1275–4(b)(6) in 2002 through 2004. On January 1, 2005, *A* disposes of the debt instrument and recognizes a $770 loss. Under § 1.1275–4(b)(8)(ii), $630 of the loss is treated as ordinary loss and $140 is treated as capital loss. Assume that $140 of interest income earned in 2005 with respect to the debt instrument would be foreign source passive income under section 904(d)(3). Under § 1.1275–4(b)(9)(iv), $150 of the ordinary loss is allocated against foreign source general limitation income and $480 of the ordinary loss is allocated against foreign source passive income. Under paragraph (b)(2) of this section, the $140 capital loss is allocated against foreign source passive income.

Example 3. (i) On January 1, 2003, *A*, a domestic corporation, purchases for $1,200 a taxable bond maturing on December 31, 2008, with a stated principal amount of $1,000, payable at maturity. The bond provides for unconditional payments of interest of $100, payable December 31 of each year. The issuer of the bond is a foreign corporation and interest on the bond is thus foreign source. Interest payments for 2003 and 2004 are timely made. *A* does not elect to amortize its bond premium under section 171 and the regulations thereunder, which would have permitted *A* to offset the $100 of interest income by $28.72 of bond premium in 2003, and by $30.42 in 2004. On January 1, 2005, *A* sells the bond and recognizes a $100 loss. Under paragraph (c)(4) of this section, $59.14 of the loss is allocated against foreign source income. Under paragraph (a)(1) of this section, the remaining $40.86 of the loss is allocated against U.S. source income.

(ii) The facts are the same as in paragraph (i) of this *Example 3*, except that *A* made the election to amortize its bond premium effective for taxable year 2004 (see § 1.171–4(c)). Under paragraph (c)(4) of this section, $28.72 of the loss is allocated against foreign source income. Under paragraph (a)(1) of this section, the remaining $71.28 of the loss is allocated against U.S. source income.

Example 4. On January 1, 2002, *A*, a domestic corporation, purchases for $1,000 a bond maturing December 31, 2014, with a stated principal amount of $1,000, payable at maturity. The bond provides for unconditional payments of interest of $100, payable December 31 of each year. The issuer of the bond is a foreign corporation and interest on the bond is thus foreign source. Between 2002 and 2006, *A* accrues and receives foreign source interest income of $500 with respect to the bond. On January 1, 2007, *A* sells the bond and recognizes a $500 loss. Under paragraph (a)(1) of this section, the $500 loss is allocated against U.S. source income.

Example 5. On January 1, 2002, *A*, a domestic corporation on the accrual method of accounting, purchases for $1,000 a bond maturing December 31, 2012, with a stated principal amount of $1,000, payable at maturity. The bond provides for unconditional payments of interest of $100, payable December 31 of each year. The issuer of the bond is a foreign corporation and interest on the bond is thus foreign source. On June 10, 2002, after *A* has accrued $44 of interest income, but before any interest has been paid, the issuer suddenly becomes insolvent and declares bankruptcy. *A* sells the bond (including the accrued interest) for $20. Assuming that *A* properly accrued $44 of interest income, *A* treats the $20 proceeds from the sale of the bond as payment of interest previously accrued and recognizes a $1,000 loss with respect to the bond principal and a $24 loss with respect to the accrued interest. See § 1.61–7(d). Under paragraph (a)(1) of this section, the $1,000 loss with respect to the principal is allocated against U.S. source income. Under paragraph (c)(5) of this section, the $24 loss with respect to accrued but unpaid interest is allocated against foreign source interest income.

(f) *Effective date*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, this section is applicable to loss recognized on or after January 8, 2002. For purposes of this paragraph (f), loss that is recognized but deferred (for example, under section 267 or 1092) shall be treated as recognized at the time the loss is taken into account.

(2) *Application to prior periods.* A taxpayer may apply the rules of this section to losses recognized in any taxable year beginning on or after January 1, 1987, and all subsequent years, provided that—

(i) The taxpayer's tax liability as shown on an original or amended tax return is consistent with the rules of this section for each such year for which the statute of limitations does not preclude the filing of an amended return on June 30, 2002; and

(ii) The taxpayer makes appropriate adjustments to eliminate any double benefit arising from the application of this section to years that are not open for assessment.

(3) *Examples.* See § 1.865–2(e)(3) for examples illustrating an applicability date provision similar to the applicability date provided in this paragraph (f).

§ 1.865–1T [Removed]

Par. 5. Section 1.865–1T is removed.

Par. 6. Section 1.865–2 is amended by:

1. Adding a sentence after the first sentence of paragraph (a)(1).
2. Adding two sentences at the end of paragraph (a)(3)(ii).
3. Adding *Example 6* to paragraph (b)(1)(iv).

VOL 66 ISS 249 DE 28 2001 UMI

4. Revising paragraph (b)(4)(iii).

5. Adding *Example 3* to paragraph (b)(4)(iv).

6. Revising paragraphs (d)(3), (e)(1), and (e)(2)(i).

The revisions and additions read as follows:

§ 1.865–2 Loss with respect to stock.

(a)(1) * * * For purposes of this section, loss includes loss on property that is marked-to-market (such as under section 475) and subject to the rules of this section. * * *

*   *   *   *   *

(3) * * *

(ii) * * * If gain from a sale of such stock would give rise to income exempt from tax under section 933, the loss with respect to such stock shall be allocated to amounts that are excluded from gross income under section 933(1) and therefore shall not be allowed as a deduction from gross income. See section 933(1) and § 1.933–1(c).

*   *   *   *   *

(b) * * *

(1) * * *

(iv) * * *

Example 6. (i) On January 1, 1998, *P*, a domestic corporation, purchases *N*, a foreign corporation, for $1,000. On March 1, 1998, *P* causes *N* to sell its operating assets, distribute a $400 general limitation dividend to *P*, and invest its remaining $600 in short-term government securities. *P* converted the *N* assets into low-risk investments with a principal purpose of holding the *N* stock without significant risk of loss until the recapture period expired. *N* earns interest income from the securities. The income constitutes subpart F income that is included in *P*'s income under section 951, increasing *P*'s basis in the *N* stock under section 961(a). On March 1, 2002, *P* sells *N* and recognizes a $400 loss.

(ii) Pursuant to paragraph (d)(3) of this section, the recapture period is increased by the period in which *N*'s assets were held as low-risk investments because *P* caused *N*'s assets to be converted into and held as low-risk investments with a principal purpose of enabling *P* to hold the *N* stock without significant risk of loss. Accordingly, under paragraph (b)(1)(i) of this section the $400 loss is allocated against foreign source general limitation income.

*   *   *   *   *

(4) * * *

(iii) *Matching rule.* If a taxpayer (or a person described in section 1059(c)(3)(C) with respect to the taxpayer) engages in a transaction or series of transactions with a principal purpose of recognizing foreign source income that results in the creation of a corresponding loss with respect to stock (as a consequence of the rules regarding the timing of recognition of income, for example), the loss shall be allocated and apportioned against such income to the extent of the recognized foreign source income. This paragraph (b)(4)(iii) applies to any portion of a loss that is not allocated under paragraph (b)(1)(i) of this section (dividend recapture rule), including a loss in excess of the dividend recapture amount and a loss that is related to a dividend recapture amount described in paragraph (b)(1)(ii) (de minimis exception) or (b)(1)(iii) (passive dividend exception) of this section.

(iv) *Examples.* * * *

Example 3. (i) *Facts.* On January 1, 2002, *P* and *Q*, domestic corporations, form *R*, a domestic partnership. The corporations and partnership use the calendar year as their taxable year. *P* contributes $900 to *R* in exchange for a 90-percent partnership interest and *Q* contributes $100 to *R* in exchange for a 10-percent partnership interest. *R* purchases a dance studio in country *X* for $1,000. On January 2, 2002, *R* enters into contracts to provide dance lessons in Country *X* for a 5-year period beginning January 1, 2003. These contracts are prepaid by the dance studio customers on December 31, 2002, and *R* recognizes foreign source taxable income of $500 from the prepayments (*R*'s only income in 2002). *P* takes into income its $450 distributive share of partnership taxable income. On January 1, 2003, *P*'s basis in its partnership interest is $1,350 ($900 from its contribution under section 722, increased by its $450 distributive share of partnership income under section 705). On September 22, 2003, *P* contributes its *R* partnership interest to *S*, a newly-formed domestic corporation, in exchange for all the stock of *S*. Under section 358, *P*'s basis in *S* is $1,350. On December 1, 2003, *P* sells *S* to an unrelated party for $1050 and recognizes a $300 loss.

(ii) *Loss allocation.* *P* recognized foreign source income for tax purposes before the income had economically accrued, and the accelerated recognition of income increased *P*'s basis in *R* without increasing its value by a corresponding amount, which resulted in the creation of a built-in loss with respect to the *S* stock. Under paragraph (b)(4)(iii) of this section the $300 loss is allocated against foreign source income if *P* had a principal purpose of recognizing foreign source income and corresponding loss.

*   *   *   *   *

(d) * * *

(3) *Recapture period.* A recapture period is the 24-month period ending on the date on which a taxpayer recognized a loss with respect to stock. For example, if a taxpayer recognizes a loss on March 15, 2002, the recapture period begins on and includes March 16, 2000, and ends on and includes March 15, 2002. A recapture period is increased by any period of time in which the taxpayer has diminished its risk of loss in a manner described in section 246(c)(4) and the regulations thereunder and by any period in which the assets of the corporation are hedged against risk of loss (or are converted into and held as low-risk investments) with a principal purpose of enabling the taxpayer to hold the stock without significant risk of loss until the recapture period has expired. In the case of a loss recognized after a dividend is declared but before such dividend is paid, the recapture period is extended through the date on which the dividend is paid.

*   *   *   *   *

(e) *Effective date*—(1) *In general.* This section is applicable to loss recognized on or after January 11, 1999, except that paragraphs (a)(3)(ii), (b)(1)(iv) *Example 6*, (b)(4)(iii), (b)(4)(iv) *Example 3*, and (d)(3) of this section are applicable to loss recognized on or after January 8, 2002. For purposes of this paragraph (e), loss that is recognized but deferred (for example, under section 267 or 1092) shall be treated as recognized at the time the loss is taken into account.

(2) * * *

(i) The taxpayer's tax liability as shown on an original or amended tax return is consistent with the rules of this section for each such year for which the statute of limitations does not preclude the filing of an amended return on June 30, 2002; and

*   *   *   *   *

§ 1.865–2T [Removed]

Par. 7. Section 1.865–2T is removed.

§ 1.904–4 [Amended]

Par. 8. In § 1.904–4, paragraph (c)(2)(ii)(A), remove the language "1.865–1T through 1.865–2T" at the end of the first sentence and add "1.865–1 and 1.865–2" in its place.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 19, 2001.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01–31819 Filed 12–27–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

[FinCEN Issuance 2001–2]

Financial Crimes Enforcement Network; Bank Secrecy Act Regulations—Issuance Concerning the Requirement that Money Transmitters and Money Order and Traveler's Check Issuers, Sellers, and Redeemers Report Suspicious Transactions; Effective Date and Reporting Form

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Guidance on reporting requirement effective date and form.

SUMMARY: This document reminds money transmitters and money order and traveler's check issuers, sellers, and redeemers of the January 1, 2002 effective date for the requirement to report suspicious transactions. In addition, this document explains which form these businesses must use to report suspicious transactions.

FOR FURTHER INFORMATION CONTACT: Patrice Motz, Money Services Business Program, Office of Compliance and Regulatory Enforcement, FinCEN (800) 949–2732; Judith Starr, Chief Counsel or Cynthia L. Clark, Deputy Chief Counsel, FinCEN (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

The statute generally referred to as the "Bank Secrecy Act," Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5331, authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g), to require financial institutions to report suspicious transactions. On March 14, 2000, FinCEN issued a final rule requiring money transmitters, and issuers, sellers, and redeemers of money orders and traveler's checks, to report suspicious transactions. (65 FR 13683).

II. FinCEN Issuance 2001–2

This document, FinCEN Issuance 2001–2, reminds money transmitters and issuers, sellers, and redeemers of money orders and traveler's checks that the requirement to report suspicious transactions applies to transactions occurring on or after January 1, 2002.[1] A report of a suspicious transaction must be filed no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing a report of the suspicious transaction. *See*, 31 CFR 103.20(b)(3).

FinCEN is developing a form to be used solely by money transmitters and issuers, sellers, and redeemers of money orders and traveler's checks to report suspicious transactions. That form, the Suspicious Activity Report—MSB ("SAR–MSB"), will be published in the **Federal Register** for public comment. In the meantime, money transmitters and issuers, sellers, and redeemers of money orders and traveler's checks are to use the existing bank suspicious activity report, Form TD F 90–22.47, to report suspicious activities. Money transmitters and issuers, sellers, and redeemers of money orders and traveler's checks are requested to enter the letters "MSB" in block letters at the top of the form and in the empty space in item 5 of the TD F 90–22.47. Further information about completing the TD F 90–22.47 is available on the general FinCEN Web site at *http://www.treas.gov/fincen* and on the site specific to money services businesses at *http://www.msb.gov.*

Money services businesses are encouraged to continue to use the Financial Institutions Hotline to voluntarily report to law enforcement suspicious transactions that may relate to recent terrorist activity against the United States. The Hotline was established to facilitate the immediate transmittal of this information to law enforcement. The use of the Hotline is voluntary and does not negate the responsibility of a particular money services business to file a TD F 90–22.47.

Dated: December 20, 2001.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 01–31851 Filed 12–27–01; 8:45 am]

BILLING CODE 4820–03–P

---

[1] The information collection in this Issuance has been approved by the Office of Management and Budget ("OMB") in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(d)) under control number 1506–0001.

An agency may not conduct or sponsor, and person is not required to respond to, a collection of information unless it displays a valid control number.

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No.: 010815207–1285–03]

RIN 0651–AB41

Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: In implementing the provisions of the American Inventors Protection Act of 1999 related to the eighteen-month publication of patent applications, the United States Patent and Trademark Office (Office) revised the rules of practice related to requirements for claiming the benefit of a prior-filed application. The Office is now revising the time period for claiming the benefit of a prior-filed application in an application filed under the Patent Cooperation Treaty (PCT), revising the time period for filing an English language translation of a non-English language provisional application, and making other technical corrections to the rules of practice related to eighteen-month publication.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Robert A. Clarke or Joni Y. Chang, Legal Advisors, Office of Patent Legal Administration, by telephone at (703) 308–6906, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231, or by facsimile to (703) 872–9399, marked to the attention of Robert A. Clarke.

SUPPLEMENTARY INFORMATION: The American Inventors Protection Act of 1999 was enacted into law on November 29, 1999. *See* Pub. L. 106–113, 113 Stat. 1501, 1501A–552 through 1501A–591 (1999). The American Inventors Protection Act of 1999 contained a number of changes to title 35, United States Code, including provisions for the publication of pending applications for patent, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under title 35, United States Code ("eighteen-month publication"). The Office implemented the eighteen-month publication provisions of the American Inventors Protection Act of 1999 in a final rule published in September of 2000. *See Changes to Implement Eighteen-Month Publication of Patent*

VOL 66 ISS 249 DE 28 2001 UMI

Applications, 65 FR 57023 (Sept. 20, 2000), 1239 *Off. Gaz. Pat. Office* 63 (Oct. 10, 2000) (final rule).

Section 4503(a) of the American Inventors Protection Act of 1999 amended 35 U.S.C. 119(b) to provide that no application for patent shall be entitled to a right of priority under 35 U.S.C. 119(a)-(d) unless a claim identifying the foreign application is filed at such time during the pendency of the application as required by the Office. Section 4503(b) of the American Inventors Protection Act of 1999 amended 35 U.S.C. 119(e) and 120 to provide that no application shall be entitled to the benefit of a prior-filed application unless an amendment containing the specific reference to the prior-filed application is submitted at such time during the pendency of the application as required by the Office. Section 4503 of the American Inventors Protection Act of 1999 also amended 35 U.S.C. 119 and 120 to permit the Office to establish procedures for accepting an unintentionally delayed claim for the benefit of a prior-filed application. Section 4503 of the American Inventors Protection Act of 1999 applies to applications filed under 35 U.S.C. 111 on or after November 29, 2000, and to applications entering the national stage after compliance with 35 U.S.C. 371 that resulted from international applications filed on or after November 29, 2000. *See* Pub. L. 106–113, § 4508, 113 Stat. at 1501A–566 through 1501A–567. This final rule amends 37 CFR 1.55 and 1.78 to: (1) Revise the requirements for claiming the benefit of a prior-filed application in an application filed under the PCT; (2) revise the time period and requirements for filing an English language translation of a non-English language provisional application; and (3) expressly indicate that the time period requirements which implement the provisions of § 4503 of the American Inventors Protection Act of 1999 do not apply to applications filed before November 29, 2000.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Part 1, is amended as follows:

Section 1.14: Section 1.14(i)(2) is amended to correct its reference to "35 U.S.C. 154(d)(4) (formerly indicated as "35 U.S.C. 154(2)(d)(4)").

Section 1.55: Section 1.55(a)(1)(i) is amended such that the rules of practice expressly indicate that the time periods in § 1.55(a)(1)(i) do not apply in an application under 35 U.S.C. 111(a) if the application is: (1) an application for a design patent; or (2) an application filed before November 29, 2000. The Office indicated that the changes to § 1.55 (and § 1.78) to implement eighteen-month publication applied only to applications filed on or after November 29, 2000. *See Changes to Implement Eighteen-Month Publication of Patent Applications*, 65 FR at 57024, 1239 *Off. Gaz. Pat. Office* at 63. The Office, however, has received enough inquiries about whether the time periods set forth in § 1.55(a)(1)(i) (and § 1.78(a)(2) and § 1.78(a)(5)) apply to particular applications that the Office has decided to place this information in § 1.55 (and § 1.78) itself.

Section 1.55(c) is amended to expressly indicate that a petition under § 1.55(c) to accept the delayed claim must also be accompanied by the claim (*i.e.*, the claim required by 35 U.S.C. 119(a)–(d) and § 1.55) for priority to the prior foreign application, unless previously submitted.

Section 1.78: Section 1.78(a)(1) is amended to Make its provisions applicable to international applications designating the United States of America. The phrase "nonprovisional application" as used in the rules of practice means either an application filed under 35 U.S.C. 111(a) or an international application filed under 35 U.S.C. 363 that entered the national stage after compliance with 35 U.S.C. 371. *See* § 1.9(a)(3). Thus, provisions which apply only to a nonprovisional application (*e.g.*, the requirement in § 1.78(a)(2)(iii) for a specific reference in an application data sheet (§ 1.76) or the specification) do not apply to any international application that does not enter national stage processing under 35 U.S.C. 371. The specific reference requirements of 35 U.S.C. 119(e) and 120 are met in such an international application by a specific reference to the prior-filed application in the international application papers (*e.g.*, in the Request (PCT Rule 4.10 and § 1.434(d)(2)), or a correction or addition in accordance with PCT Rule 26*bis*).

Section 1.78(a)(2) is amended to place its provisions in separate paragraphs (a)(2)(i) through (a)(2)(iv) for clarity. Section 1.78(a)(2) is also amended to make its provisions applicable to international applications designating the United States of America, and to set forth the time period for making a claim (providing the specific reference required by § 1.78(a)(2)(i)) for both an application filed under 35 U.S.C. 111(a) and an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371.

Specifically, if the later-filed application is an application filed under 35 U.S.C. 111(a), the specific reference required by § 1.78(a)(2)(i) must be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If, however, the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, the specific reference required by § 1.78(a)(2)(i) must be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. This reference must, in any event, be submitted during the pendency of the later-filed application. The provisions relating to an application filed under 35 U.S.C. 111(a) do not change the time period for submitting a specific reference in such applications. The provisions relating to an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371, however, do change the time period for submitting a specific reference to any prior-filed application for which a benefit is claimed in such international applications in that the four-month period is measured from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) rather than the actual filing date of the international application under 35 U.S.C. 363.

Section 1.78(a)(2) is also amended to eliminate the requirement that if the application claims the benefit of an international application, the first sentence of the specification must include an indication of whether the international application was published under PCT Article 21(2) in English. The Office is eliminating this requirement because: (1) The Office will not delay publication of the application if this requirement is not met; and (2) this information can be obtained from other sources.

Section 1.78(a)(2) is also amended such that the rules of practice expressly indicate that the time periods in § 1.78(a)(2)(ii) do not apply if the later-filed application is: (1) An application for a design patent; (2) an application filed under 35 U.S.C. 111(a) before November 29, 2000; or (3) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000. The Office indicated that the changes to § 1.78 to implement eighteen-month publication applied only to applications filed on or after November 29, 2000. *See Changes to Implement Eighteen-Month Publication of Patent Applications*, 65 FR at 57024, 1239 *Off. Gaz. Pat. Office* at 63. The Office, however, has received enough inquiries about whether the time periods set forth in § 1.78 apply to particular applications that the Office has decided to place this information in § 1.78 itself.

Section 1.78(a)(2) is also amended to change the sentence "[t]he identification of an application by application number under this section is the specific reference required by 35 U.S.C. 120 to every application assigned that application number" to "[t]he identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number." That is, a continued prosecution application under § 1.53(d) (CPA) does not require any additional identification of or reference to the prior application (or any prior application assigned the application number of such application under § 1.53(d)) under 35 U.S.C. 120 and § 1.78(a)(2) other than the identification of the prior application in the request required by § 1.53(d) for a CPA. *See Changes to Patent Practice and Procedure*, 62 FR 53131, 53144 (Oct. 10, 1997), 1203 *Off. Gaz. Pat. Office* 63, 73 (Oct. 21, 1997) (final rule). The change to this provision clarifies that the other provisions of § 1.78(a)(2) (*e.g.*, that the claim be in the application data sheet or the first sentence of the specification) remain applicable when an application under § 1.53(b) claims the benefit under 35 U.S.C. 120 of a continued prosecution application filed under § 1.53(d).

Section 1.78(a)(3) is amended to expressly indicate that a petition under § 1.78(a)(3) to accept the delayed claim must also be accompanied by the claim (*i.e.*, the reference required by 35 U.S.C. 120 and § 1.78(a)(2)) to the benefit of the prior-filed application, unless previously submitted. Section 1.78(a)(3) is also amended to change "paragraph (a)(2)" to paragraph "(a)(2)(ii)" for consistency with the changes to § 1.78(a)(2).

Section 1.78(a)(3) provides that if the reference required by 35 U.S.C. 120 and § 1.78(a)(2) of this section is presented in a nonprovisional application after the time period provided by § 1.78(a)(2)(ii), the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States may be accepted if the applicant files a petition to accept the delayed claim that is accompanied by: (1) the reference required by 35 U.S.C. 120 and § 1.78(a)(2) to the prior-filed application (unless previously submitted); (2) the surcharge set forth in § 1.17(t); and (3) a statement that the entire delay between the date the claim was due under § 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

If an applicant includes a claim to the benefit of a prior-filed nonprovisional application or international application designating the United States elsewhere in the application but not in the manner specified in § 1.78(a)(2)(i) and (iii) (*e.g.*, if the claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in § 1.78(a)(2)(ii), the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt. This is because the application will have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application within the time period set forth in § 1.78(a)(2)(ii). Of course, the applicant must still submit the claim in the manner specified in § 1.78(a)(2)(i) and (iii) (*i.e.*, by an amendment in the first sentence of the specification or in an application data sheet) to have a proper claim under 35 U.S.C. 120 and § 1.78 to the benefit of a prior-filed application. If, however, an applicant includes such a claim elsewhere in the application and not in the manner specified in § 1.78(a)(2)(i) and (iii), and the claim is not recognized by the Office as shown by its absence on the filing receipt (*e.g.*, if the claim is in a part of the application where priority or continuity claims are not conventionally located, such as the body of the specification), the Office will require a petition (and the surcharge under § 1.17(t)) to correct such claim. This is because the application will not have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application.

Section 1.78(a)(4) is amended to make its provisions applicable to international applications designating the United States of America.

Section 1.78(a)(5) is amended to place its provisions in separate paragraphs (a)(5)(i) through (a)(5)(iv) for clarity. Section 1.78(a)(5) is also amended to: (1) Make its provisions applicable to international applications designating the United States of America; (2) set forth the time period for making a claim (providing the specific reference required by § 1.78(a)(5)) for both an application filed under 35 U.S.C. 111(a) and an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371; and (3) change the time period and requirements for filing an English language translation of a non-English language provisional application.

Specifically, if the later-filed application is an application filed under 35 U.S.C. 111(a), the specific reference required by § 1.78(a)(5)(i) must be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If, however, the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, the specific reference required by § 1.78(a)(5)(i) must be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. This reference must, in any event, be submitted during the pendency of the later-filed application. The provisions relating to an application filed under 35 U.S.C. 111(a) do not change the time period for submitting a specific reference in such applications. The provisions relating to an international application designating the United States of America which entered the national stage after compliance with 35 U.S.C. 371, however, do change the time period for submitting a specific reference to any prior-filed application for which a benefit is claimed in such international applications in that the four-month period is measured from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) rather than the actual filing date of the international application under 35 U.S.C. 363.

Section 1.78(a)(5) is also amended such that the rules of practice expressly indicate that the time periods in § 1.78(a)(5)(ii) do not apply if the later-filed application is: (1) an application filed under 35 U.S.C. 111(a) before November 29, 2000; or (2) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

Section 1.78(a)(5) is also amended to provide that if a provisional application was filed in a language other than

VOL 66 ISS 249 DE 28 2001 UMI

English and an English-language translation of the provisional application and a statement that the translation is accurate were not previously filed in the provisional application or the nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application. Thus, § 1.78(a)(5) no longer provides that if a provisional application was filed in a language other than English, a claim to the benefit of such provisional application is waived if an English language translation of a non-English language provisional application is not submitted within the later of four months from the actual filing date of the nonprovisional application or sixteen months from the filing date of the prior-filed provisional application. In the event that the Office schedules an application that claims the benefit of a provisional application filed in a language other than English for publication without issuing a notice requiring the applicant to file English-language translation of the non-English-language provisional application, the applicant should file the English-language translation of the non-English-language provisional application and a statement that the translation is accurate before the scheduled publication date. This change to § 1.78(a)(5) allows applicant to file an English-language translation of a non-English language provisional application either in the provisional application or in each nonprovisional application that claims the benefit of the provisional application.

Section 1.78(a)(5) is also amended to delete the term "copending," as 35 U.S.C. 119(e) no longer requires copendency between a nonprovisional application and a provisional application for the nonprovisional application to claim the benefit of the filing date of the provisional application under 35 U.S.C. 119(e). 35 U.S.C. 119(e)(1) continues to require that any nonprovisional application claiming the benefit of a provisional application be filed within twelve months after the filing date of the provisional application (or the next succeeding business day if the date that is twelve months after the filing date of the provisional application falls on a Saturday, Sunday, or Federal holiday). *See Request for Continued Examination Practice and Changes to Provisional Application Practice*, 65 FR 50092, 50098 (Aug. 16, 2000), 1238 *Off. Gaz. Pat. Office* 13, 18–19 (Sept. 5, 2000) (final rule) (comment 2 and response).

Section 1.78(a)(6) is amended to expressly indicate that a petition under § 1.78(a)(6) to accept the delayed claim must also be accompanied by the claim (*i.e.*, the reference required by 35 U.S.C. 119(e) and § 1.78(a)(5)) to the benefit of the prior-filed provisional application, unless previously submitted. Section 1.78(a)(6) is also amended to change "paragraph (a)(5)" to paragraph "(a)(5)(ii)" for consistency with the changes to § 1.78(a)(5).

Section 1.78(a)(6) provides that if the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by § 1.78(a)(5)(ii), the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted if the applicant files a petition to accept the delayed claim that is accompanied by: (1) the reference required by 35 U.S.C. 119(e) and § 1.78(a)(5) to the prior-filed provisional application (unless previously submitted); (2) the surcharge set forth in § 1.17(t); and (3) a statement that the entire delay between the date the claim was due under § 1.78(a)(5)(ii) and the date the claim was filed was unintentional.

If an applicant includes a claim to the benefit of a prior-filed provisional application elsewhere in the application but not in the manner specified in § 1.78(a)(5)(i) and (iii) (*e.g.*, if the claim is included in an unexecuted oath or declaration or the application transmittal letter) within the time period set forth in § 1.78(a)(5)(ii), the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt. This is because the application will have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application within the time period set forth in § 1.78(a)(5)(ii). Of course, the applicant must still submit the claim in the manner specified in § 1.78(a)(5)(i) and (iii) (*i.e.*, by an amendment in the first sentence of the specification or in an application data sheet) to have a proper claim under 35 U.S.C. 119(e) and § 1.78 to the benefit of a prior-filed provisional application. If, however, an applicant includes such a claim elsewhere in the application and not in the manner specified in § 1.78(a)(5)(i) and (iii), and the claim is not recognized by the Office as shown by its absence on a filing receipt (*e.g.*, if the claim is in a part of the application where priority or continuity claims are not conventionally located, such as the body of the specification), the Office will require a petition (and the surcharge under § 1.17(t)) to correct such claim. This is because the application will not have been scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application.

Section 1.311: Section 1.311(a) is amended to correct the parenthetical reference to "(§ 1.211(f))" to "(§ 1.211(e))."

Section 1.434: Section 1.434(d)(2) is amended by deleting the term "copending," as the prior national application may be a provisional application and 35 U.S.C. 119(e) no longer requires copendency for a nonprovisional application to claim the benefit of the filing date of a provisional application under 35 U.S.C. 119(e).

Section 1.491: The Office proposed amending § 1.491 such that the regulations set forth the current language of 35 U.S.C. 371(b) that defines when national stage commencement occurs. The Office will adopt that proposed change to § 1.491 in a separate final rule that implements an amendment to PCT Article 22.

Response to Comments

The Office published a notice proposing the above-mentioned changes to the rules of practice. *See Requirements for Claiming the Benefit of Prior-Filed Applications Under Eighteen-Month Publication of Patent Applications*, 66 FR 46409 (Sept. 5, 2001), 1251 *Off. Gaz. Pat. Office* 16 (Oct. 2, 2001) (notice of proposed rulemaking). The Office received seven written comments (from intellectual property organizations, patent practitioners, and the general public) in response to the notice of proposed rulemaking. The comments are available for public inspection at the Office of the Commissioner for Patents, located in Crystal Park 2, Suite 910, 2121 Crystal Drive, Arlington, Virginia, and are also posted on the Office's Internet Web site (address: *http://www.uspto.gov*).

Most of the comments expressed support for the proposed changes. None of the comments opposed the proposed changes, but several comments included additional suggestions. Those comments and the Office's responses follow (comments that generally support the proposed changes are not discussed):

Comment 1: Several comments suggested that the Office make clear that the time period requirements in § 1.78(a)(2)(ii) and § 1.78(a)(5)(ii) (and resulting waiver if these time period requirements are not met) do not apply to applications filed before November 29, 2000. Another comment suggested that the change to § 1.78 be made retroactive to all applications filed on or after November 29, 2000.

Response: Sections 1.55 and 1.78 are now amended to expressly state that the time period requirements of § 1.55(a)(1)(i), § 1.78(a)(2)(ii) and § 1.78(a)(5)(ii) do not apply to applications filed before November 29, 2000. Therefore, there is no waiver of a benefit under 35 U.S.C. 119 or 120 for failure to comply with the time period requirements of § 1.55(a)(1)(i), § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii) in an application filed before November 29, 2000.

Except where the terms of § 1.55 and § 1.78 indicate that a provision of § 1.55 or § 1.78 applies only to applications filed on or after November 29, 2000 (*i.e.*, § 1.55(a)(1)(i), § 1.78(a)(2)(ii), and § 1.78(a)(5)(2)(ii)), the provisions of § 1.55 and § 1.78 as now amended are applicable to applications filed before, on, or after November 29, 2000. For example, both the elimination of the requirement that if the application claims the benefit of an international application, the first sentence of the specification must include an indication of whether the international application was published under PCT Article 21(2) in English (§ 1.78(a)(2)), and the more liberal time period and provisions for filing an English language translation of a non-English language provisional application (§ 1.78(a)(5)), apply to applications filed before, on, or after November 29, 2000. Sections 1.55 and 1.78 as now amended, however, provide that the time period requirements of § 1.55(a)(1)(i), § 1.78(a)(2)(ii) and § 1.78(a)(5)(ii) do not apply to applications filed before November 29, 2000.

Comment 2: Several comments suggested that § 1.78 be amended to state that, if an applicant includes a claim under § 1.78 to the benefit of a prior-filed application elsewhere in the application, but not in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii), within the time period set forth in § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii), respectively, the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt or in the patent application publication.

Response: The Office has adopted the following practice: if an applicant includes a claim under § 1.78 to the benefit of a prior-filed application elsewhere in the application, but not in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii), within the time period set forth in § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii), respectively, the Office will not require a petition (and the surcharge under § 1.17(t)) to correct the claim if the information concerning the claim contained elsewhere in the application was recognized by the Office as shown by its inclusion on a filing receipt (not as shown by its inclusion in the patent application publication). The reason for this practice is to avoid the situation in which an applicant is required to file a petition (and pay the surcharge under § 1.17(t)) even though the application was scheduled for publication on the basis of the information concerning the claim contained elsewhere in the application, but not in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii), within the time period set forth in § 1.78(a)(2)(ii). That is, whether an applicant is required to file a petition (and pay the surcharge under § 1.17(t)) to correct a claim that does not comply with § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) is based upon the effect the informal claim has on the scheduling of the application for publication, and not whether the informal claim is ultimately included in the patent application publication.

The Office's goal is to encourage applicants to provide claims to the benefit of any prior-filed application in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) within the time period set forth in § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii). Amending § 1.78 itself to expressly include the above-stated practice would give tacit approval to providing claim to the benefit of a prior-filed application in a manner that does not comply with § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii). The commentors' proposed amendment to § 1.78 would have an effect contrary to the Office's goal of encouraging applicants to provide claims to the benefit of any prior-filed application in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) within the time period set forth in § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii).

Finally, if a claim under § 1.78 does not comply with § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) (but is stated elsewhere in the application), such claim must eventually be presented in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) (*i.e.*, by an amendment in the first sentence of the specification or in an application data sheet) to be a proper claim under 35 U.S.C. 119(e) or 120 and § 1.78 to the benefit of a prior-filed application.

Comment 3: Several comments suggested that the Office should make it clear that if the requirements of § 1.78(a)(2)(ii) have been met, the applicant has not waived priority or continuity benefits even if the priority or continuity claim is not included in the patent application publication.

Response: If a claim under § 1.78 to the benefit of a prior-filed application is stated in the manner specified in § 1.78(a)(2)(i) and (iii) or § 1.78(a)(5)(i) and (iii) within the time period set forth in § 1.78(a)(2)(ii) or § 1.78(a)(5)(ii), the applicant has not waived the claim regardless of whether the Office includes the claim in the patent application publication. Nothing in § 1.78 suggests that the propriety of claim under § 1.78 is dependent upon its inclusion in the patent application publication.

Comment 4: Several comments suggested that the Office should provide applicants with the greatest possible flexibility in satisfying priority claim requirements, and should avoid adding technical requirements that may result in a loss of patent rights. The comments specifically suggested that since Office employees are familiar with checking the declaration for priority claims, § 1.78(a)(2)(iii) should be further amended to allow the reference required by § 1.78(a)(2)(i) to be included in the declaration.

Response: The Office allows applicants to provide claims under § 1.78 to the benefit of any prior-filed application either in the first line of the specification (where § 1.78 formerly required such a claim to be) or in an application data sheet (§ 1.76). Providing even this level of flexibility hinders the patent application publication and patent printing process when the specification and application data sheet (§ 1.76) contain conflicting information. Providing the oath or declaration under § 1.63 as an additional possible location for claims under § 1.78 to the benefit of any prior-filed application would result in confusion in situations in which: (1) the applicant has submitted multiple oaths or declarations under § 1.63; or (2) information submitted in the oath or declaration conflicts with information submitted in the specification or the application data sheet (§ 1.76). Providing the oath or declaration under § 1.63 as an additional possible location for claims to the benefit of any prior-

VOL 66 ISS 249 DE 28 2001 UMI

filed application would also cause problems in the situation in which it is desirable to delete a claim to the benefit of a prior-filed application (for patent term purposes), in that a substitute oath or declaration not containing the claim would be necessary to eliminate a claim if such claim is made by a statement in the oath or declaration (§ 1.63).

Comment 5: Several comments suggested that the Office should take all steps necessary to ensure that all proper priority or benefit claims are included in the first paragraph of the patent application publication.

Response: The applicant and application information (*i.e.*, inventor names, including order, title, priority/benefit, assignee name) that is in the Office's Patent Application Locating and Monitoring (PALM) system at the time the application content is extracted from the Office's Patent Application Capture and Review (PACR) database for publication will be reflected on the front page of the patent application publication. Thus, if an application is filed without any priority or benefit claim, but a priority or benefit claim is subsequently submitted before the application content has been extracted for publication, the priority or benefit claim will be reflected on the front page of the patent application publication. The application content is currently extracted for publication approximately nine weeks before the projected publication date. The time period in § 1.55(a)(1), § 1.78(a)(2)(ii), and § 1.78(a)(5)(ii) for submitting a priority or continuity claim is four months from the actual filing date of the application or sixteen months from the filing date of the prior-filed application, which does not appear to expire until after the time at which application content is extracted for publication. As a practical matter, however, this time period will expire before the time at which application content is extracted for publication (and, as such, any timely priority or continuity claim should be entered into the Office's PALM system before the time at which application content is extracted for publication) because the failure to state a priority or continuity claim before a publication date is originally calculated will result in projected publication date that is later than the projected publication date would have been if such priority or continuity claim were taken into account.

If an untimely claim under § 1.78 to the benefit of a prior-filed application is accepted under § 1.78(a)(3) or § 1.78(a)(6) after the application content has been extracted for publication purposes, the Office plans to correct its electronic records relating to the patent application publication such that the claim under § 1.78 will be reflected on the Office's electronic records of the patent application publication (the eighteen-month publication process does not involve the creation of paper-based records).

Finally, while priority and continuity claims will be reflected on the front page of the patent application publication, continuity claims under § 1.78 will not additionally be stated on the first line of the specification unless the claim is included in the first line of the specification as originally filed or as filed in a copy of the application submitted by the Office electronic filing system under § 1.215(c). Specifically, claims under § 1.78 will not additionally be stated on the first line of the specification if the claim is included in a preliminary amendment to the specification (*see* § 1.215(c) (the patent application publication will not include any amendments, including preliminary amendments, unless applicant supplies a copy of the application containing the amendment pursuant to § 1.215(c))) or in an application data sheet (*cf. Changes to Implement the Patent Business Goals*, 65 FR 78958, 78959 (Dec. 18, 2000), 1242 *Off. Gaz. Pat. Office* 65 (Jan. 9, 2001) (final rule and correction) ("If continuity data is included in an application data sheet, but not in the first sentence of the specification, the continuity data to be set forth in the application data sheet will not be printed in the first line of the specification in the patent")).

Comment 6: One comment questioned whether there is any mechanism for correcting the absence of a priority claim in an international application if an applicant files the international application designating the United States of America, but subsequently files a continuation application that claims the benefit of the international application and the international application never enters the national stage under 35 U.S.C. 371.

Response: The requirement that a claim to the benefit of a prior-filed provisional application, a prior-filed nonprovisional application, or a prior-filed international application designating the United States be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application does not apply to an international application that never entered the national stage under 35 U.S.C. 371. Therefore, to amend the later-filed international application to add a claim to the benefit of a prior-filed provisional application, a prior-filed nonprovisional application, or a prior-filed international application designating the United States, the applicant need only file a petition under § 1.182 to amend an abandoned application (the later-filed international application) with the claim to the benefit of a prior-filed application (regardless of whether the later-filed international application was filed in the United States Receiving Office).

Comment 7: Several comments supported the proposed change by which the Office would issue a notice in a nonprovisional application claiming the benefit of a non-English language provisional application that sets a time period within which the English translation must be filed, but noted that if the Office fails to issue such a notice and the applicant does not provide such a translation before publication, the burden will fall on applicants against whom the resulting patent application publication is cited as a reference to obtain a translation of the provisional application.

Response: The Office plans to check during the preexamination processing of a nonprovisional application to determine whether the nonprovisional application claims the benefit of a provisional application that was filed in a language other than English and, if so, whether an English-language translation of the provisional application was filed in the provisional application. If the nonprovisional application claims the benefit of a provisional application that was filed in a language other than English and no English-language translation of the provisional application was filed in the provisional application, the Office will issue a notice requiring the applicant to timely file an English-language translation and a statement that the translation is accurate. If the Office schedules an application that claims the benefit of a provisional application filed in a language other than English for publication without issuing a notice requiring the applicant to file an English-language translation of the non-English-language provisional application, the applicant should file the English-language translation of the non-English-language provisional application and a statement that the translation is accurate before the scheduled publication date.

The situation in which a patent application publication results from a nonprovisional application that claims the benefit of a provisional application that was filed in a language other than

English, and no English-language translation of the provisional application was filed in either the provisional application or the nonprovisional application, will not occur unless: (1) The Office fails to issue a notice during the preexamination processing of the nonprovisional application requiring the applicant to timely file an English-language translation of the provisional application; and (2) the applicant fails to provide the English-language translation of the non-English-language provisional application before the publication date of the patent application publication. Once this situation comes to the Office's attention, § 1.78(a)(5)(iv) as now amended provides that the Office may issue a notice requiring the applicant (in the nonprovisional application that resulted in the patent application publication) to provide an English-language translation of the non-English-language provisional application and a statement that the translation is accurate (the Office may also simply obtain its own English-language translation of the non-English-language provisional application if that appears to be the most convenient course of action). Failure to timely provide an English-language translation of the non-English-language provisional application and a statement that the translation is accurate in reply to such a notice will result in abandonment in a pending nonprovisional application, and may jeopardize the claim to the benefit of the provisional application in any situation (since the requirements of § 1.78(a)(5) have not been complied with).

Comment 8: One comment questioned whether a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371 must include a reference under § 1.78 to the underlying international application.

Response: A reference under § 1.78 to the underlying international application is neither necessary nor appropriate in a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371. *See Manual of Patent Examining Procedure* § 1893.03(c) (8th ed. 2001) (a national stage application filed under 35 U.S.C. 371 may not claim benefit of the filing date of the international application of which it is the national stage since its filing date is the date of filing of that international application).

Comment 9: One comment suggested that the surcharge for the unintentionally delayed submission of a priority claim was excessive.

Response: As indicated in the final rule to implement eighteen-month publication, this surcharge amount must be sufficient to provide an incentive for applicant to exercise care to ensure that any desired claim under 35 U.S.C. 119, 120, 121, or 365(a) or (c) is timely presented. As such, the surcharge amount tracks the fee amount for a petition to revive an unintentionally abandoned application (35 U.S.C. 41(a)(7)). *See Changes to Implement Eighteen-Month Publication of Patent Applications*, 65 FR at 57040, 1239 Off. Gaz. Pat. Office at 77 (comment 8 and response).

Comment 10: One comment noted that a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371 has already been published as an international application.

Response: As indicated in the final rule to implement eighteen-month publication, the International Bureau publication of an international application will not be included in the Office's patent application publication search database. The Office must (re)publish international applications that entered the national stage to place these applications into its patent application publication search database. The benefit gained by ensuring that these prior art documents will be included in the Office's patent application publication search database outweighs the cost of (re)publishing these applications. *See Changes to Implement Eighteen-Month Publication of Patent Applications*, 65 FR at 57045, 1239 *Off. Gaz. Pat. Office* at 82 (comment 47 and response).

Classification

Administrative Procedure Act

The changes in this final rule concern only the procedures for filing claims for the benefit of a prior-filed application under 35 U.S.C. 119(e) or 120, the procedures for filing an English language translation of a non-English language provisional application, and technical corrections to the provisions of §§ 1.78, 1.311, and 1.434. Because all of the changes relate to Office practices and procedures, prior notice and an opportunity for public comment was not required pursuant to 5 U.S.C. 553(b)(A) (or any other law), and thirty-day advance publication is not required pursuant to 5 U.S.C. 553(d) (or any other law). However, because the Office desired the benefit of public comment on this topic, the Office voluntarily accepted comments pursuant to a published notice proposing the above-mentioned changes.

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. As such, the regulatory flexibility analysis is not required, and none has been provided. *See* 5 U.S.C. 603.

Executive Order 13132

This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This final rule involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this final rule have been reviewed and previously approved by OMB under the following control numbers: 0651–0021, 0651–0031, 0651–0032, and 0651–0033.

The title, description and respondent description of each of the information collections are shown below with an estimate of each of the annual reporting burdens. Included in each estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Number: 0651–0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101,ANNEX/134/144, PTO–1382, PCT/IPEA/401, PCT/IB/328.

Type of Review: Regular submission (approved through December of 2003).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations.

Estimated Number of Respondents: 331,288.

Estimated Time Per Response: Between 15 minutes and 4 hours.

Estimated Total Annual Burden Hours: 401,083.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the

VOL 66 ISS 249 DE 28 2001 UMI

filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

OMB Number: 0651–0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08/21–27/30–32/35–37/42/43/61/62/63/64/67/68/91/92/ 96/97/PTO–2053/PTO–2055.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 2,247,389.

Estimated Time Per Response: 0.45 hours.

Estimated Total Annual Burden Hours: 1,021,941 hours.

Needs and Uses: During the processing of an application for a patent, the applicant/agent may be required or desire to submit additional information to the United States Patent and Trademark Office concerning the examination of a specific application. The specific information required or which may be submitted includes: Information Disclosure Statements; Terminal Disclaimers; Petitions to Revive; Express Abandonments; Appeal Notices; Petitions for Access; Powers to Inspect; Certificates of Mailing or Transmission; Statements under § 3.73(b); Amendments; Petitions and their Transmittal Letters; and Deposit Account Order Forms.

OMB Number: 0651–0032.

Title: Initial Patent Application.

Form Number: PTO/SB/01–07/13PCT/17–19/29/101–110.

Type of Review: Regular submission (approved through October of 2002).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 319,350.

Estimated Time Per Response: 9.35 hours.

Estimated Total Annual Burden Hours: 2,984,360 hours.

Needs and Uses: The purpose of this information collection is to permit the Office to determine whether an application meets the criteria set forth in the patent statute and regulations. The standard Fee Transmittal form, New Utility Patent Application Transmittal form, New Design Patent Application Transmittal form, New Plant Patent Application Transmittal form, Declaration, and Plant Patent Application Declaration will assist applicants in complying with the requirements of the patent statute and regulations, and will further assist the Office in the processing and examination of the application.

OMB Number: 0651–0033.

Title: Post Allowance and Refiling.

Form Numbers: PTO/SB/13/14/44/50–57; PTOL–85b.

Type of Review: Regular submission (approved through September of 2000).

Affected Public: Individuals or Households, Business or Other For-Profit Institutions, Not-for-Profit Institutions and Federal Government.

Estimated Number of Respondents: 135,250.

Estimated Time Per Response: 0.325 hour.

Estimated Total Annual Burden Hours: 43,893 hours.

Needs and Uses: This collection of information is required to administer the patent laws pursuant to title 35, U.S.C., concerning the issuance of patents and related actions including correcting errors in printed patents, refiling of patent applications, requesting reexamination of a patent, and requesting a reissue patent to correct an error in a patent. The affected public includes any individual or institution whose application for a patent has been allowed or who takes action as covered by the applicable rules. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.14 is amended by revising paragraph (i)(2) to read as follows:

§ 1.14 Patent applications preserved in confidence.

* * * * *

(i) * * *

(2) A copy of an English language translation of an international application which has been filed in the United States Patent and Trademark Office pursuant to 35 U.S.C. 154(d)(4) will be furnished upon written request including a showing that the publication of the application in accordance with PCT Article 21(2) has occurred and that the U.S. was designated, and upon payment of the appropriate fee (§ 1.19(b)(2) or § 1.19(b)(3)).

* * * * *

3. Section 1.55 is amended by revising paragraphs (a)(1)(i) and (c) to read as follows:

§ 1.55 Claim for foreign priority.

(a) * * *

(1)(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time periods in this paragraph do not apply in an application under 35 U.S.C. 111(a) if the application is:

(A) A design application; or

(B) An application filed before November 29, 2000.

* * * * *

(c) Unless such claim is accepted in accordance with the provisions of this paragraph, any claim for priority under 35 U.S.C. 119(a)–(d) or 365(a) not presented within the time period provided by paragraph (a) of this section is considered to have been waived. If a claim for priority under 35 U.S.C. 119(a)–(d) or 365(a) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country (or intellectual property authority), and the day, month, and year of its filing was unintentionally delayed. A petition to accept a delayed claim for priority under 35 U.S.C. 119(a)–(d) or 365(a) must be accompanied by:

(1) The claim under 35 U.S.C. 119(a)–(d) or 365(a) and this section to the prior

foreign application, unless previously submitted;

(2) The surcharge set forth in § 1.17(t); and

(3) A statement that the entire delay between the date the claim was due under paragraph (a)(1) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

4. Section 1.78 is amended by revising paragraph (a) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross references to other applications.

(a)(1) A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:

(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or

(ii) Complete as set forth in § 1.51(b); or

(iii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and include the basic filing fee set forth in § 1.16; or

(iv) Entitled to a filing date as set forth in § 1.53(b) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(f).

(2)(i) Except for a continued prosecution application filed under § 1.53(d), any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (see § 1.14).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed application. These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application for a design patent;

(B) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(C) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) The request for a continued prosecution application under § 1.53(d) is the specific reference required by 35 U.S.C. 120 to the prior-filed application. The identification of an application by application number under this section is the identification of every application assigned that application number necessary for a specific reference required by 35 U.S.C. 120 to every such application assigned that application number.

(3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

(4) A nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim an invention disclosed in one or more prior-filed provisional applications. In order for an application to claim the benefit of one or more prior-filed provisional applications, each prior-filed provisional application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(k) must be paid within the time period set forth in § 1.53(g).

(5)(i) Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number).

(ii) This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance with 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. These time periods are not extendable. Except as provided in paragraph (a)(6) of this section, the failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) to such prior-filed provisional application. The time periods in this paragraph do not apply if the later-filed application is:

(A) An application filed under 35 U.S.C. 111(a) before November 29, 2000; or

(B) A nonprovisional application which entered the national stage after compliance with 35 U.S.C. 371 from an international application filed under 35 U.S.C. 363 before November 29, 2000.

(iii) If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence following the title.

(iv) If the prior-filed provisional application was filed in a language other than English and an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application or the later-filed nonprovisional application, applicant will be notified and given a period of time within which to file an English-language translation of the non-English-language prior-filed provisional application and a statement that the translation is accurate. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application.

(6) If the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii) of this section, the claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application may be accepted during the pendency of the later-filed application if the reference identifying the prior-filed application by provisional application number was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application must be accompanied by:

(i) The reference required by 35 U.S.C. 119(e) and paragraph (a)(5) of this section to the prior-filed provisional application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

* * * * *

5. Section 1.311 is amended by revising paragraph (a) to read as follows:

§ 1.311 Notice of allowance.

(a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in § 1.33. The notice of allowance shall specify a sum constituting the issue fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. The sum specified in the notice of allowance may also include the publication fee, in which case the issue fee and publication fee (§ 1.211(e)) must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three-month period is not extendable.

* * * * *

6. Section 1.434 is amended by revising paragraph (d)(2) to read as follows:

§ 1.434 The request.

* * * * *

(d) * * *

(2) A reference to any prior-filed national application or international application designating the United States of America, if the benefit of the filing date for the prior-filed application is to be claimed.

Dated: December 19, 2001.

James. E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 01–31872 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AZ, CA, HI, NV–066–MSWa; FRL–7122–9]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Negative Declarations; Municipal Waste Combustion; Arizona; California; Hawaii; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending certain regulations to reflect the receipt of negative declarations from Arizona, California, Hawaii, and Nevada. These negative declarations certify that there are no small municipal waste combustion units in these States that would be subject to the control requirements of the federal emission guidelines.

DATES: This direct final rule is effective on February 26, 2002 without further notice, unless EPA receives relevant adverse comments by January 28, 2002. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the letters of negative declaration are available for public inspection at EPA's Region IX office during normal business hours. U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (AIR–4), San Francisco, CA 94105–3901, Telephone: (415) 947–4124.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Clean Air Act (CAA), EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111 but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the CAA) or hazardous air pollutants (HAPs) regulated under section 112 of the CAA. As required by CAA section 111(d), EPA established a process at 40 CFR Part 60, Subpart B, which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates new source performance standards (NSPS) that control a designated pollutant, EPA establishes emission guidelines (EG) applicable to existing sources in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the EG for that source category as well as 40 CFR part 60, subpart B (40 CFR 60.23 through 60.26).

On December 6, 2000, EPA promulgated EG for existing small municipal waste combustion units (MWCs) at 40 CFR part 60, Subpart BBBB, (Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999) (see 65 FR 76378). States are required to submit either a plan to implement and enforce the EG or, if there are no existing small MWCs subject to the EG in the State, a negative declaration letter. A negative declaration letter is a letter from a State authority certifying that there are no designated facilities (MWC units with a capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste) in that State. The negative declaration letter is submitted in lieu of a State plan.

II. EPA Action

The States of Arizona, California, Hawaii, and Nevada have each submitted negative declaration letters certifying that there are no existing small MWCs that are subject to the control requirements of the emission guidelines within their State. The dates that these letters were submitted are identified in the table below.

State agency that submitted the negative declaration	Date of letter to EPA
Arizona Department of Environmental Quality.	March 15, 2001.
California Environmental Protection Agency, Air Resources Board.	July 20, 2001.
State of Hawaii, Department of Health.	March 13, 2001.
State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection.	March 26, 1997.

EPA is amending part 62 to reflect the receipt of negative declaration letters from these States. Amendments are being made to 40 CFR part 62, subparts D (Arizona), F (California), M (Hawaii), and DD (Nevada).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State negative declarations as meeting federal requirements and imposes no additional requirements. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves State negative declarations and does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves negative declarations submitted by States, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing State plan submissions, our role is to approve State choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), we have no authority to disapprove State submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews State submissions, to use VCS in place of State submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 26, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: December 6, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

Title 40, chapter I, part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Subpart D is amended by adding an undesignated center heading and § 62.640 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.640 Identification of plan—negative declaration.

Letter from the Arizona Department of Environmental Quality, submitted on March 15, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

Subpart F—California

3. Subpart F is amended by adding an undesignated center heading and § 62.1125 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.1125 Identification of plan—negative declaration.

Letter from the California Air Resources Board, submitted on July 20, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

4. Part 62 is amended by adding Subpart M to read as follows:

Subpart M—Hawaii

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.2850 Identification of plan—negative declaration.

Letter from the State of Hawaii Department of Health, submitted on March 13, 2001, certifying that there are no small municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

Subpart DD—Nevada

5. Subpart DD is amended by adding an undesignated center heading and § 62.7125 to read as follows:

Emissions From Small Existing Municipal Waste Combustion Units

§ 62.7125 Identification of plan—negative declaration.

Letter from the Nevada Division of Environmental Protection, submitted on March 26, 1997, certifying that there are no existing municipal waste combustion units subject to part 60, subpart BBBB, of this chapter.

[FR Doc. 01–31943 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–7122–5]

RIN 2060–AG76

Regulation of Fuels and Fuel Additives: Modifications to Standards and Requirements for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With today's action EPA is finalizing certain proposed modifications to the reformulated gasoline (RFG) and conventional gasoline regulations. Through the 1990 amendments to the Clean Air Act (CAA), Congress directed EPA to publish rules requiring that gasoline sold in certain areas be reformulated to reduce vehicle emissions of toxic and ozone-forming compounds. Congress also directed EPA to establish rules setting anti-dumping standards for non-reformulated, or "conventional" gasoline. EPA published rules for the certification and enforcement of RFG and provisions for conventional gasoline on February 16, 1994 at 59 FR 7716.

Based on experience gained since the promulgation of these regulations, on July 11, 1997, we proposed a variety of revisions to the regulations relating to emissions standards, emissions models, compliance-related requirements and enforcement provisions. In a final rule published on December 31, 1997, we took final action on several of the proposed revisions. Today's action finalizes certain other of the proposed revisions.

The revisions in this final rule involve both RFG and conventional gasoline. This rule finalizes procedures for combining finished gasoline with other products to produce new blends of gasoline. These procedures allow refiners to use conventional gasoline to produce RFG, and to reclassify RFG with regard to VOC classification, activities which were previously prohibited under the regulations. This rule also identifies procedures and requirements regarding the change of service of gasoline storage tanks. The emissions benefits achieved from the RFG and conventional gasoline programs will not be reduced as a result of this final rule.

On May 17, 2001 the National Energy Policy Development Group (NEPD) recommended that EPA "study opportunities to maintain or improve the environmental benefits of state and local 'boutique' clean fuel programs while exploring ways to increase the flexibility of the fuels distribution infrastructure, improve fungibility, and provide added market liquidity." In response to the NEPD charge, EPA included in its boutique fuel report a series of regulatory actions, including today's action regarding the use of finished gasoline to produce new blends of gasoline, intended to better facilitate seasonal gasoline transition and address gasoline supply and fungibility concerns during periods of low gasoline inventories. We are able to finalize this action now, in advance of other intended EPA actions, because it was previously proposed by EPA. We expect the flexibilities provided via today's action will promote improved availability of fuel meeting the range of environmental and market needs. Action on the other boutique fuel regulatory recommendations targeted at facilitating the transition from winter to summer fuel should be completed in advance of next year's ozone season.

DATES: This rule is effective on December 28, 2001.

ADDRESSES: Materials relevant to this FRM are contained in Public Docket No. A–97–03, Waterside Mall (Room M–1500), Environmental Protection Agency, Air Docket Section, 401 M Street, S.W., Washington, D.C. 20460. Materials relevant to the final rule establishing standards for RFG and anti-dumping standards for conventional gasoline are contained in Public Dockets—A–92–01 and A–92–12, and are incorporated by reference.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Transportation and Regional Programs Division, U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W. (6406J), Washington, D.C. 20460; telephone: (202) 564–8989; FAX (202) 565–2085; e-mail *mbennett@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include those involved with the production and importation of gasoline motor fuel.

The table below gives some examples of entities that may have to comply with the regulations. However, since these are only examples, you should carefully examine these and other existing regulations in 40 CFR part 80. If you have any questions, please call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICSs codes[a]	SIC codes[b]	Examples of potentially regulated parties
Industry	324110	2911	Petroleum refiners.
Industry	422710 422720	5171 5172	Gasoline Marketers and Distributors.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

Access to Rulemaking Documents Through the Internet

Today's notice is available electronically on the day of publication from the Office of the Federal Register Internet Web site listed below. Electronic copies of the preamble, regulatory language and other documents associated with today's final rule are available from the EPA Office of Transportation and Air Quality (OTAQ) Web site listed below shortly after the fuel is signed by the Administrator. This service is free of charge, except any cost that you already incur for connecting to the Internet.

EPA **Federal Register** Web Site: *http://www.epa.gov/docs/fedrgstr/epa-air/*

(Either select desired date or use Search feature)

OTAQ Web Site: *http://www.epa.gov/otaq/*

(Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

Outline of This Preamble

I. Previously Certified Gasoline
II. Changing Service of Gasoline Storage Tanks
III. Public Participation
IV. Administrative Requirements
V. Statutory Provisions and Legal Authority

I. Previously Certified Gasoline

Under 40 CFR 80.65(i) and 80.101(e)(1), refiners are required to exclude from a refinery's compliance calculations gasoline that was not produced at that refinery, and gasoline that was produced at that refinery but was included in the refinery's compliance calculations as part of another gasoline batch. Such gasoline is called "previously certified gasoline," or "PCG." PCG is required to be excluded from compliance calculations to avoid double counting of the gasoline, since PCG is gasoline that was previously accounted for in the refiner's or another refiner's compliance calculations.[1]

Where PCG is combined with blendstock to produce a new blend of gasoline, the blendstock must be included in the refinery's compliance calculations, and the PCG must be excluded. The regulations at § 80.101(g)(3) provide a method for calculating the emissions performance of a blendstock which may be used for purposes of including in compliance calculations a blendstock that is blended with PCG. However, this method only applies to previously certified conventional gasoline that is combined with blendstock to produce a new blend of conventional gasoline. The regulations prior to today's rule did not include provisions for using previously certified conventional gasoline to produce RFG, or previously certified RFG to produce new blends of gasoline.

In the Notice of Proposed Rulemaking (NPRM) issued July 11, 1997, we proposed procedures for excluding PCG from compliance calculations which allow previously certified conventional gasoline or previously certified RFG to be used to produce new blends of gasoline, including RFG. Today's rule finalizes these PCG procedures. The provisions at § 80.101(g)(3) for calculating the emissions performance of a blendstock continue to be available. Under certain circumstances, for example, where a refiner includes oxygenate blended at a downstream terminal in the refinery's anti-dumping compliance calculations, the provisions at § 80.101(g)(3) may provide the most appropriate method for excluding PCG from compliance calculations. See 62 FR 37364 (July 11, 1997), and 62 FR 68196 (December 31, 1997), for further discussion of the provisions at § 80.101(g)(3).

Where the PCG procedures finalized in today's rule are followed, refiners may reclassify conventional gasoline as RFG (or reformulated gasoline blendstock for oxygenate blending—"RBOB"), or reclassify RFG with regard to VOC control. Prior to today's final rule, the regulations allowed previously certified RFG to be reclassified as conventional gasoline for use in non-RFG areas; however, they prohibited refiners from combining RFG that is used in RFG areas with conventional gasoline, or combining RFG of different VOC designations. See § 80.78. These prohibitions had the effect of prohibiting refiners from upgrading conventional gasoline to RFG, or reclassifying RFG with regard to its VOC control category.

At the time the RFG regulations were promulgated, EPA was concerned that the overall quality of the various gasoline pools may be degraded if refiners were able to reclassify conventional gasoline as RFG or reclassify one category of RFG as another category of RFG. For example, a refiner could produce very "clean" conventional gasoline and include it in its anti-dumping compliance calculations, and then reclassify it as RFG with little or no additional blending, thus enabling the refiner to meet the anti-dumping standards using gasoline that, in fact, is used as RFG. This type of activity could result in a degradation of the quality of the conventional gasoline pool, with associated adverse environmental effects. However, the PCG procedures finalized in today's rule include requirements and limitations which allow conventional gasoline to be reclassified as RFG, and RFG to be reclassified with regard to VOC control, without the potential for adverse environmental effects. As a result, today's final rule revises the prohibitions in § 80.78 to allow parties to combine RFG (or RBOB) with conventional gasoline or blendstock if the PCG procedures are followed.

Under the PCG procedures finalized today, reclassifications using PCG may occur only at refineries, including terminal blending facilities registered as refineries. Refiners are required to determine the volume and properties of each batch of PCG used in the refinery operation along with the designation of the gasoline (RFG, RBOB or conventional), and, for RFG or RBOB, the designation relating to VOC control. The volume and properties of each batch of PCG must be reported to EPA as a negative batch under the same designation as the gasoline as it was received or produced by the refinery. The PCG then may be used by the

---

[1] The regulations at 40 CFR 80.2(d) define previously certified gasoline as "gasoline or RBOB that previously has been included in a batch for purposes of complying with the standards for reformulated gasoline, conventional gasoline or gasoline sulfur, as appropriate."

VOL 66 ISS 249 DE 28 2001 UMI

refiner as another blendstock, and the gasoline produced using the PCG is sampled and tested and included in compliance calculations without regard to the PCG content. The gasoline produced using the PCG will not necessarily have the same designation as the original PCG batch. As a result, these procedures allow conventional gasoline to be upgraded to RFG, non-VOC controlled RFG to be reclassified as VOC controlled RFG, and RFG VOC Region 2 gasoline to be reclassified as RFG VOC Region 1 gasoline. Where previously certified RFG is blended with other components to produce conventional gasoline, the refiner must reclassify the RFG as conventional gasoline and follow the procedures for using previously certified conventional gasoline to produce new conventional gasoline.

RFG standards may be met on an annual average basis or on a per-gallon basis. When using PCG, these two situations are handled somewhat differently, as follows:

(1) Where standards are met on average at a refinery, a refiner who uses PCG must meet each average standard based on the net average properties of gasoline in the relevant averaging pool, consisting of the positive volume and properties of all gasoline produced in that averaging pool and the negative volume and properties of all PCG in that averaging pool. Each averaging pool is required to have a net "positive" gasoline volume.

(2) Where a refiner has elected to meet a parameter or emissions performance standard on a per-gallon basis, and a batch of RFG or RBOB is produced using previously certified RFG, for this batch the refiner must meet the more stringent of: (1) The per-gallon standard that applies to the refinery under § 80.41; or (2) the actual value for that parameter or emissions performance measure for the previously certified RFG used to produce the batch. Where previously certified conventional gasoline is used to produce a batch of RFG or RBOB, the gasoline produced must meet the per-gallon RFG standards under § 80.41.

Under the PCG procedures, any gasoline claimed as PCG must actually be used in a refinery's operation. This is to ensure that the PCG procedures will not cause a degradation in gasoline quality. For example, if a refinery receives a batch of "dirty" conventional gasoline and classifies it as PCG, but never uses it as a component for gasoline production, the PCG would be included as a negative batch in the refinery's compliance calculations and the refinery's conventional gasoline pool would appear "cleaner" than it actually is.

The following table summarizes the PCG approach:

Type of previously certified gasoline (PCG)	Type of gasoline produced	Compliance with standards when using PCG	
		Per-gallon	Average
RFG or RBOB	RFG or RBOB	New batch must meet the more stringent of: § 80.41 per gallon standards; or PCG properties.	Include PCG in RFG compliance calculations as negative batch; include new batch in RFG compliance calculations. All RFG pool volumes for standards must be positive.
Conventional gasoline (CG)	RFG or RBOB	New batch must meet § 80.41 per gallon standards.	Include PCG in CG compliance calculations as negative batch; include new batch in RFG compliance calculations. CG pool volume must be positive.
CG (or RFG)[1]	CG	None	Include PCG in CG compliance calculations as a negative batch; include new batch in CG compliance calculations. CG pool volume must be positive.

[1] Includes RFG used to produce CG, because previously certified RFG may be reclassified ("downgraded") as previously certified CG.

We received a number of favorable comments on the proposal regarding PCG. One commenter, however, said that requiring the net volume of gasoline in a refinery's anti-dumping compliance calculations to be positive creates an inconsistency with those parties who have elected to aggregate refineries for purposes of complying with the anti-dumping standards. We agree with the commenter, and today's final rule modifies the proposed regulatory language to clarify that for refiners who have elected to aggregate their refineries for anti-dumping compliance, the requirement for the net volume of gasoline to be positive applies to the anti-dumping compliance calculations of the refiner's aggregation.

Another commenter suggested that EPA clarify that tank heels do not have to be included in the volume accounted for as a negative batch, assuming that proper change of tank service procedures are followed. In the NPRM, we proposed procedures relating to the change of service of gasoline storage tanks. These procedures are also finalized by today's rule. See § 80.78(a)(10), and Section II of this preamble for a discussion of these procedures. Under these procedures, tank heels are allowed to remain in a tank and may be mixed with products that normally are required to be segregated in a situation where a party is changing the service of a gasoline storage tank. The allowances under these provisions are limited specifically to circumstances where the change of service is for a legitimate operational reason and is not for the purpose of combining categories of gasoline that otherwise must be segregated, or for the purpose of combining gasoline with blendstock. Accordingly, these provisions include specific change-of-service requirements, one of which is that the volume of product in the tank must be made as low as possible through normal pumping operations before adding product of a new category. Where all of the requirements of § 80.78(a)(10) are met, a refiner is not required to account for the volume of a PCG tank heel.

Where gasoline is produced at a refinery in a blending tank, a tank heel of PCG must be tested and included in the refinery's compliance calculations as a negative batch in the appropriate category for the PCG. However, if the refiner has test results from the prior batch which included the volume of the heel, and no other PCG product is added to the tank, the test results from the prior batch may be used to fulfill the testing requirements for the PCG heel. In situations where other PCG product in addition to the PCG heel may be present in the blending tank, the entire volume of PCG, including the heel, must be tested and included in the refinery's compliance calculations as a negative batch.

One commenter said that the proposed treatment is appropriate for conventional gasoline that is upgraded at the same refinery where it was originally certified, but not for conventional gasoline that was produced at another refinery. In the latter case, the inclusion of a negative batch in the anti-dumping calculations has the effect of removing a batch of gasoline that was never included in the refiner's pool in the first instance. Where conventional gasoline certified at another refinery is upgraded to RFG or RBOB, the commenter suggested that the negative batch should be applied to the RFG calculations, leaving only the blendstocks combined with it in that refinery's RFG compliance calculations. The commenter said that the proposal as written would make it difficult for refineries that produce close to 100% RFG to upgrade PCG and/or blendstocks from other refineries to RFG, since they may not produce sufficient volumes of conventional gasoline to offset the negative batches. This commenter also suggested that the source of the conventional gasoline (same refinery vs. different refinery) be acknowledged in the negative batch data, which, the commenter believes would preserve the flexibility for all refiners while eliminating the "gaming" that concerns EPA.

As discussed above, the original prohibitions against reclassifying certain products were included in the RFG rule because of a concern that the overall quality of the gasoline pools could be degraded if refiners were able to reclassify conventional gasoline to RFG, or to reclassify certain categories of RFG into other categories of RFG. Therefore, to prevent a degradation of the overall quality of a gasoline pool, we believe that PCG used to produce gasoline of a different category should be included as a negative batch in the refinery's compliance calculations for the category originally designated for the PCG. Although requiring the source of the PCG to be included in the negative batch data may serve to deter persons from using PCG for purposes of "gaming," as the commenter suggested, we believe this alone would not address the problem of degradation of the overall gasoline pool. Unless a refiner is required to include all PCG in compliance calculations as a negative batch, there may be the potential for negative environmental consequences. Moreover, we believe that it would be unreasonable and impractical to require a refiner who sells gasoline that is later used as PCG by another refiner to adjust its compliance calculations to reflect the other refiner's use of the PCG. As a result, we believe that the most appropriate approach is to require the refiner who uses the PCG to produce gasoline of a different category to include the PCG as a negative batch in the refinery's compliance calculations.

We understand that there may be situations where a refiner is unable to avail itself of the flexibility provided by the PCG provisions because of the limitations on this approach, particularly those refiners who wish to upgrade PCG but who produce little or no gasoline of the same category as the PCG to offset the PCG batches. We are interested in extending the flexibility afforded by today's rule to such refiners if it is possible to devise practical and effective procedures for extending this flexibility without compromising the environmental benefits of the RFG/anti-dumping program. As a result, we are requesting comments on how the flexibility afforded in today's rule can be practically extended to refiners in this situation. If, based on the comments we receive, we are able to determine practical and effective procedures for extending this flexibility, we would adopt those procedures through notice and comment rulemaking. In the meantime, we believe that finalizing the previously proposed procedures for using PGC is appropriate as they will provide industry with additional blending flexibility without compromising environmental goals. We believe this additional flexibility will be beneficial to refiners and may ease potential supply problems, particularly with regard to RFG in the summertime.

Several commenters said that the proposed revision of § 80.78(a)(5), which prohibits the combining of RFG with conventional gasoline or blendstock except where a refiner does so under the requirements specified in § 80.65(i), would have the unintended effect of prohibiting the downgrading of RFG to conventional gasoline. We agree this would be an unintended consequence of the revision of § 80.78(a)(5) as proposed. As a result, § 80.78(a)(5) is being finalized as proposed, except for minor word changes and the addition of language which specifically allows RFG to be combined with conventional gasoline or blendstock if the combined product is designated as conventional gasoline.

To ensure effective enforcement of the RFG and conventional gasoline regulations, today's rule includes recordkeeping requirements applicable to the PCG option which require retention of records demonstrating the storage and movement of the PCG from the time it is received at the refinery until it is used in the production of gasoline. Today's rule also includes a requirement to submit information relating to PCG batches in compliance reports to EPA. In addition, today's rule includes attest procedures which require the auditor to verify that PCG was used to produce gasoline at the refinery, and that the PCG batch report to EPA is consistent with both the refiner's sampling and testing of the PCG and the PCG product transfer documents when received at the refinery.

The recordkeeping and reporting requirements in today's rule were included in the NPRM in the case of PCG used to produce RFG, but were inadvertently omitted in the NPRM for PCG used to produce conventional gasoline. We believe these recordkeeping and reporting requirements are necessary enforcement tools for tracking the use of PCG for conventional gasoline as well as RFG, and are a logical outgrowth of the PCG proposal. The recordkeeping and reporting requirements for using PCG to produce conventional gasoline are minimal, as they are for RFG, and any burden associated with these requirements would be more than offset by the additional flexibility provided by the PCG provisions. We received no negative comments on the proposed recordkeeping and reporting requirements for RFG producers under the PCG rule, and we have no reason to believe that there would be any unique burdens associated with the recordkeeping and reporting requirements for conventional gasoline producers under the rule. Consideration of the burdens associated with recordkeeping and reporting for conventional gasoline producers as well as for RFG producers who use PCG was included in the ICR for the proposed rule.

As a result, the recordkeeping and reporting provisions relating to PCG used to produce RFG are being finalized as proposed, except that in some cases the provisions have been reworded or reordered slightly from the proposed rule for purposes of clarity. These modifications do not change the substance of the rule as proposed. The recordkeeping and reporting requirements relating to use of PCG to produce conventional gasoline finalized in today's rule mirror the recordkeeping and reporting requirements for PCG used to produce RFG. We received no negative comments on the attest engagement requirements relating to the

VOL 66 ISS 249 DE 28 2001 UMI

PCG provisions, and these requirements being finalized as proposed.

Section 80.340(c) of today's rule provides that the procedures for using PCG may be applied under the gasoline sulfur regulations in Subpart H. We believe that the PCG procedures in today's rule provide an appropriate alternative method to the existing methods in § 80.340 for demonstrating compliance with the sulfur requirements where PCG is used to produce gasoline. Moreover, we believe that this approach is necessary for purposes of regulatory consistency. Under the gasoline sulfur regulations, parties are required to include in their annual averaging sulfur reports batch information as reported under the RFG/anti-dumping regulations. Where the PCG procedures in today's rule are used, the batch reports submitted under the RFG/anti-dumping regulations will reflect the PCG as a negative batch and the batch of gasoline produced using the PCG as a separate new batch. Therefore, where PCG is used, the method of demonstrating compliance under the gasoline sulfur regulations should relate to the batch reports submitted under the RFG/anti-dumping regulations. While this particular approach was not proposed, we believe that the provisions for allowing use of the PCG procedures under the gasoline sulfur regulations are a necessary and logical outgrowth of the proposal for using PCG.

On May 17, 2001, the National Energy Policy Development Group (NEPD) recommended that EPA "study opportunities to maintain or improve the environmental benefits of state and local 'boutique' clean fuel programs while exploring ways to increase the flexibility of the fuels distribution infrastructure, improve fungibility, and provide added market liquidity." In response to the NEPD charge, EPA included in its boutique fuel report a series of regulatory actions, including today's action regarding PCG, intended to better facilitate seasonal gasoline transition and address gasoline supply and fungibility concerns during periods of low gasoline inventories. We are able to finalize the PCG procedures now, in advance of other intended EPA actions, because they were previously proposed by EPA. We expect that the flexibilities provided in today's action will promote improved availability of fuel meeting the range of environmental and market needs. Action on the other boutique fuel regulatory recommendations targeted at facilitating the transition from winter to summer fuel should be completed in advance of next year's ozone season.

II. Changing Service of Gasoline Storage Tanks

Today's rule finalizes procedures for changing the service of gasoline storage tanks. These procedures were originally issued in Question and Answer guidance documents. See Reformulated Gasoline and Anti-Dumping Questions and Answers, November 21, 1994, February 21, 1995. As discussed below, these procedures may be used for tank turnovers during the transition to VOC controlled gasoline in the spring. We are currently assessing other aspects of the regulatory requirements regarding the transition to the VOC control season. If we determine that additional changes to the regulations relating to the VOC transition period are appropriate, they will be addressed in a subsequent **Federal Register** notice.

Section 80.78(a) requires the segregation of several categories of gasoline. Prior to today's final rule, these segregation requirements prohibited the mixing of *any* amount of the gasolines that must be segregated. As a result, if a refiner wishes to change a tank's service, and the old and new gasolines are types that are required to be segregated, the new gasoline may not be added unless the tank is completely free of any amount of the old gasoline. Moreover, under the regulations prior to today's rulemaking, a party who combines *any* volume of blendstock with RFG or conventional gasoline has produced an additional volume of gasoline which constitutes "refining." For any such action, the refiner must meet all standards and requirements that apply to refiners of RFG or conventional gasoline. As a result, if a refiner were to change a gasoline storage tank's service in a manner that results in some volume of blendstocks being mixed with RFG or conventional gasoline, the refiner would be required to meet all of the standards and requirements for that "batch" of gasoline.

We recognize that when many gasoline storage tanks are pumped as low as possible, a residual volume of gasoline or blendstock remains in the tank (called the tank "heel"), and in the terminal's manifolds and pipes that serve the tank. We believe it is very difficult and impractical to eliminate these residual volumes. As a result, we proposed that, under certain conditions and constraints, where a refiner changes the service of a gasoline storage tank, pipe, or manifold for legitimate business reasons (unrelated to any goal of mixing dissimilar gasolines or blendstock), such refiner would be allowed to mix products that normally must remain segregated.

We also proposed an additional option that would apply to oxygenate blenders. We proposed that this option would be available only where the oxygenate blender is unable to meet the tank transition requirements discussed above. We proposed this option because, in some cases, the requirements for tank transition under the proposed provisions are not feasible without risk that a terminal would have to be closed during at least part of the transition period. For example, where a terminal operator supplies RFG containing MTBE during the summer VOC season, and RFG containing ethanol outside the VOC season, the terminal tank would have to transition from RBOB to RFG in the spring, and from RFG to RBOB in the fall. Under the change-of-service requirements described above, in the spring the storage tank's RBOB content would have to be drawn-down to the minimum level possible through normal pumping operations before any RFG could be added to the tank. However, to meet this requirement, the party may have to take the storage tank out of service if the "minimum level" is reached before new product is available to be transferred into the tank. If the terminal has limited tankage it may be unable to supply gasoline during the time the storage tank remains out of service, which could adversely affect gasoline supplies for some parties. The same difficulty could occur when transitioning from RFG to RBOB in the fall.

To minimize the likelihood that a party would have to take a tank out of service to transition product types, we proposed to allow parties to receive RFG in a tank containing RBOB in the spring prior to the beginning of the VOC season, and receive RBOB in a tank containing RFG in the fall after the end of the VOC season. However, under this option, parties would be required to ensure that all RFG downstream standards, including the oxygen standard, are met during the transition. In addition, the transition must occur outside the period VOC control standards apply at the terminal (i.e., May 1 through September 15 each year). For further discussion, see the Notice of Proposed Rulemaking for this action at 62 FR 37358–59 (July 11, 1997).

We received one comment on the proposal regarding change of service of gasoline storage tanks. The commenter said that the cite to § 80.78(a)(1)(iii) in the change of service provisions appears to be incorrect. We agree with the comment, and the provisions for changing service of gasoline storage tanks are being finalized as proposed, except that the cite to § 80.78(a)(1)(iii) has been deleted.

III. Public Participation

In the NPRM, we solicited comments on the need to take the actions proposed, including the actions finalized today. We have reviewed and considered all written comments on the provisions in today's rule. Responses to comments are contained in the preamble to this rule. All comments received by EPA are located in the EPA Air Docket, Docket A–97–03 (See **ADDRESSES** section of this preamble). Comments solicited at the end of Section I. of this preamble should be submitted to the address listed in the **ADDRESSES** section of this preamble. Please also submit a copy to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

IV. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency is required to determine whether the regulatory action is "significant" and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, we have determined that this final rule is not a "significant regulatory action."

B. Compliance With the Regulatory Flexibility Act

We have determined that this rule would not have a significant impact on a substantial number of small entities, and that it is therefore not necessary to prepare a regulatory flexibility analysis in conjunction with this final rule. This rule would not have a significant impact on a substantial number of small entities because it involves optional provisions intended to promote successful implementation of the RFG and anti-dumping requirements and to afford regulated parties with greater flexibility to blend gasoline and implement tank turnovers. As such, this final rule will be beneficial to industry and may have the potential to ease gasoline supply shortages.

C. Paperwork Reduction Act

The information collection requirements related to the provisions finalized today have been submitted for approval to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) was prepared by EPA (ICR No. 1591.12) and a copy may be obtained from Susan Auby, OIC Collection Strategies Division; U.S. Environmental Protection Agency (mail code 2822); 1200 Penn. Ave NW; Washington, DC 20460, or by calling (202) 260–4901. Insert the ICR title and/or OMB control number in any correspondence. Copies may also be downloaded from the Internet at *http://www.epa.gov.icr.*

Under today's final rule, EPA is requiring refiners to keep certain records associated with the provisions for using PCG to produce gasoline. However, EPA believes that this requirement will be met using documents created and kept for commercial business purposes; i.e., documents that show the movement of PCG to blending tanks and volume and parameter measurements. This requirement, therefore, is not expected to impose additional recordkeeping burdens on regulated parties. This final rule also requires refiners to include information regarding PCG batches in their RFG and anti-dumping compliance reports. However, since the required information regarding PCG batches, such as volume and parameter measurements, will be created for commercial business purposes, including this information in the EPA reports is expected to impose only a minimal additional burden on regulated parties. An estimate of the information collection burden is contained in the ICR for this rule.[2]

Burden means the total time, effort, or financial resources, expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with the previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Chapter 15.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more for any single year. Before promulgating a rule, for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative that is not the least costly, most cost-effective, or least burdensome alternative if EPA provides an

---

[2] There are no new recordkeeping or reporting requirements included in today's final tank change-over provisions. Any recordkeeping obligations associated with the refining or blending activities, and related sampling, described in the new tank change-over provisions are covered by an existing reformulated gasoline ICR. OMB Control #2060.0277. Additionally, to the extent that the new tank change-over provisions allow for activities that would otherwise subject a party to regulation as a refiner, the very limited sampling and testing obligations of today's final rule represent a relaxation of the sampling and testing obligations otherwise applicable to refiners, and therefore a relaxation in any potential recordkeeping and reporting obligations.

VOL 66 ISS 249 DE 28 2001 UMI

explanation in the final rule of why such an alternative was adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government plan pursuant to section 203 of the UMRA. Such a plan must provide for notifying potentially affected small governments, and enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in this final rule would significantly or uniquely affect small governments.

EPA has determined that this rule contains no federal mandates that may result in expenditures of more than $100 million to the private sector in any single year. This action provides refiners with optional procedures for blending gasoline and performing tank turnovers. This action, in fact, is expected to reduce the burden on regulated entities by providing them with this additional flexibility. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

2. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this rule was developed during the period when Executive Order 13084 was still in force, and so Tribal considerations were addressed under Executive Order 13084.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian Tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments. The requirements for private businesses in today's document would have national applicability, and thus would not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of today's document. Thus, EPA's conclusions regarding the impacts from the implementation of today's rule discussed in the other sections of this document are equally applicable to the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

3. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under Section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt state or local law, even if those rules do not have federalism implications (i.e., the rules will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.) Those requirements include providing all affected state and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate state and local officials regarding the conflict between state law and federally protected interests within the Agency's area of regulatory responsibility.

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule allows industry greater flexibility to blend gasoline components in a manner that will not result in any negative effect on air quality. As a result, the effect of this rule on the states, if any, will be positive in that the blending flexibility afforded by this rule may help to ensure that adequate supplies of gasoline are available, particularly in areas that require RFG. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Section 12(d) of Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless it would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's rule includes a provision which requires the testing of gasoline in a storage tank after the service of the tank has been changed. This provision is included in today's rule to ensure that the quality of the gasoline is not compromised through the process of changing the service of the tank. This provision is consistent with the NTTAA since it allows parties to use alternative test methods to fulfill this requirement rather than using the regulatory test methods, provided that the alternative methods are approved by the American Society of Testing and Materials (ASTM), the protocols of the ASTM methods are followed, and the alternative methods are correlated to the regulatory method.

F. Executive Order 13045: Children's Health Protection

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5–501 of the Order directs the Agency to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not an economically significant regulatory action as defined by Executive Order 12866 and it does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. The reformulated gasoline program is designed to reduce vehicle emissions of toxic and ozone-forming substances. This rule will not affect the air quality benefits of the reformulated gasoline program.

G. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must summit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. Although no assessment is required under Executive Order 13211, we believe that today's rule should help to alleviate energy supply or distribution concerns in certain situations, since the additional flexibility provided to refiners under the rule will help to facilitate seasonal gasoline transitions and address gasoline supply and fungibility problems during periods of low gasoline inventories.

V. Statutory Provisions and Legal Authority

Statutory authority for today's final rule comes from sections 211(c) and 211(k) of the CAA (42.U.S.C. 7545(c) and (k)). Section 211(c) allows EPA to regulate fuels that contribute to air pollution which endangers public health or welfare, or which impairs emission control equipment. Section 211(k) prescribes requirements for RFG and conventional gasoline and requires EPA to promulgate regulations establishing these requirements. Additional support for the procedural aspects of the fuels controls in today's rule comes from sections 114(a) and 301(a) of the CAA.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, Gasoline, Imports, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: December 19, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.65 is amended by revising paragraph (i) to read as follows:

§ 80.65 General requirements for refiners, importers, and oxygenate blenders.

* * * * *

(i) *Exclusion of previously certified gasoline.* Any refiner who uses previously certified reformulated or conventional gasoline or RBOB to produce reformulated gasoline or RBOB must exclude the previously certified gasoline for purposes of demonstrating compliance with the standards under § 80.41. This exclusion must be accomplished by the refiner as follows:

(1)(i) Determine the volume and properties of each batch of previously certified gasoline used to produce reformulated gasoline or RBOB using the procedures in paragraph (e)(1) of this section and § 80.66, and the independent analysis requirements in paragraph (f) of this section in the case of previously certified reformulated gasoline.

(ii) In the case of previously certified reformulated gasoline or RBOB determine the emissions performances for toxics and NO_X, and VOC for VOC-controlled gasoline, and the designations for VOC control.

(iii) In the case of previously certified conventional gasoline determine the exhaust toxics and NO_X emissions performances.

(2) Determine the volume and properties, and the emissions performance for toxics and NO_X, and VOC for VOC-controlled gasoline, of any batch of reformulated gasoline or RBOB produced at the refinery using previously certified gasoline and include each batch in the refinery's compliance calculations without regard to the presence of previously certified gasoline in the batch.

(3) In the case of any parameter or emissions performance standard that the refiner has designated for the refinery to meet on a per-gallon basis under paragraph (d)(2)(v) of this section, the per-gallon standard that applies to any batch of reformulated gasoline or RBOB produced by the refinery is as follows:

(i) When using any previously certified reformulated gasoline or RBOB, the more stringent of:

(A) The per-gallon standard that applies to the refinery under § 80.41; or

(B) The most stringent value for that parameter or emissions performance for any previously certified reformulated gasoline or RBOB used to produce the batch.

(ii) When using any previously certified conventional gasoline, the per-gallon standard that applies to the refinery under § 80.41.

VOL 66 ISS 249 DE 28 2001 UMI

(4) In the case of any parameter or emissions performance standard that the refiner has designated for the refinery to meet on average under paragraph (d)(2)(v) of this section, any previously certified gasoline must be excluded from the refinery's compliance calculations as follows:

(i) Where a refiner uses previously certified reformulated gasoline or RBOB to produce reformulated gasoline or RBOB:

(A) The refiner must include the volume and properties of any batch of previously certified reformulated gasoline or RBOB in the refinery's compliance calculations for the standard under § 80.67(g) as a negative batch, by multiplying the term V_i in § 80.67(g)(1)(ii) (i.e., the batch volume) times negative 1; and

(B) The negative batch under paragraph (i)(4)(i)(A) of this section must be included in the averaging categories that correspond to the designation regarding VOC control of the previously certified gasoline batch when received; and

(C) The net volume of gasoline in the refinery's reformulated gasoline compliance calculations must be positive in each of the following categories where the standard is being met on average:

Standard	Gasoline category that must have net positive volume
(*1*) Oxygen	All RFG[1].
(*2*) Benzene	All RFG and RBOB.
(*3*) VOC emissions performance.	(*i*) RFG and RBOB that is VOC-controlled for Region 1. (*ii*) RFG and RBOB that is VOC-controlled for Region 2.
(*4*) Toxics emissions performance.	All RFG and RBOB.
(*5*) NO_X emissions performance.	(*i*) All RFG and RBOB. (*ii*) RFG and RBOB that is VOC-controlled.

[1] "RFG" is an abbreviation for reformulated gasoline.

(ii) Where a refiner uses previously certified conventional gasoline to produce reformulated gasoline or RBOB:

(A) The refiner must include the volume and properties of any batch of previously certified conventional gasoline as a negative batch in the refiner's anti-dumping compliance calculations under § 80.101(g) for the refinery, or where applicable, the refiner's aggregation under § 80.101(h); and

(B) The net volume of gasoline in the refiner's anti-dumping compliance calculations for the refinery, or, where applicable, the refiner's aggregation under § 80.101(h), must be positive.

(5) The refiner must use any previously certified gasoline that the refiner includes as a negative batch under paragraph (i)(4) of this section in its compliance calculations for the refinery, or where appropriate, the refiner's aggregation, as a component in gasoline production during the annual averaging period in which the previously certified gasoline was included as a negative batch in the refiner's compliance calculations.

(6) (i) Any refiner may use the procedures specified in this paragraph (i) to combine previously certified conventional gasoline with reformulated gasoline or RBOB, to reclassify conventional gasoline into reformulated gasoline or RBOB, or to change the designations of reformulated gasoline or RBOB with regard to VOC control.

(ii) The procedures under this section are refinery procedures. Any person who uses the procedures under this section is a refiner who must meet all requirements applicable to refiners under this subpart.

(7) Nothing in this paragraph (i) prevents any party from combining previously certified reformulated gasolines from different sources in a manner that does not violate the prohibitions in § 80.78(a).

3. Section 80.74 is amended by:

a. Removing the word "and" at the end of paragraph (b)(5).

b. Removing the period and adding a semicolon and the word "and" at the end of paragraph (b)(6).

c. Adding paragraph (b)(7).

The addition reads as follows:

§ 80.74 Recordkeeping requirements.

* * * * *

(b)* * *

(7) In the case of any gasoline classified as previously certified gasoline under the terms of § 80.65(i):

(i) Results of the tests to determine the properties and volume of the previously certified gasoline when received at the refinery; and

(ii) Records that reflect the storage and movement of the previously certified gasoline within the refinery to the point the previously certified gasoline is used to produce reformulated gasoline or RBOB.

* * * * *

4. Section 80.75 is amended by:

a. Removing the word "and" at the end of paragraph (a)(2)(vi).

b. Removing the period and adding a semicolon and the word "and" to the end of paragraph (a)(2)(vii).

c. Adding paragraph (a)(2)(viii).

The addition reads as follows:

§ 80.75 Reporting requirements.

* * * * *

(a) * * *

(2) * * *

(viii) In the case of any previously certified gasoline used in a refinery operation under the terms of § 80.65(i), the following information relative to the previously certified gasoline when received at the refinery:

(A) Identification of the previously certified gasoline as such;

(B) The batch number assigned by the receiving refinery;

(C) The date of receipt; and

(D) The volume, properties and designation of the batch.

* * * * *

5. Section 80.78 is amended by:

a. Revising paragraphs (a)(5) and (a)(10).

b. Removing the word "or" at the end of paragraph (a)(7)(i).

c. Removing the period at the end of paragraph (a)(7)(ii) and adding in its place ";or".

d. Adding paragraphs (a)(7)(iii) and (a)(11).

The revisions and additions to read as follows:

§ 80.78 Controls and prohibitions on reformulated gasoline.

* * * * *

(a) * * *

(5) No person may combine any reformulated gasoline with any conventional gasoline or blendstock, except that a refiner may do so at a refinery under the requirements specified in § 80.65(i), or if the combined product is designated as conventional gasoline.

* * * * *

(7) * * *

(iii) Under the terms of paragraph (a)(5) of this section.

* * * * *

(10) The prohibitions against combining certain categories of gasoline under paragraphs (a)(5), (a)(7) and (a)(8) of this section do not apply in the case of a party who is changing the type of gasoline stored in a gasoline storage tank or the type of gasoline transported through a gasoline pipe or manifold within a single facility (a gasoline storage tank, pipe, or manifold change of service), or in the case of a change of service that involves mixing gasoline with blendstock, provided that:

(i) The change of service is for a legitimate operational reason and is not for the purpose of combining the categories of gasoline or of combining gasoline with blendstock;

(ii) Prior to adding product of the new category the volume of product of the old category in the tank, pipe or manifold is made as low as possible through normal pumping operations;

(iii) The volume of product of the new category that is added to the tank, pipe or manifold is as large as possible taking into account the availability of product of the new category; and

(iv) In any case where the new category of product is reformulated gasoline, subsequent to adding the gasoline of the new category, a representative sample from the tank, pipe or manifold is collected and analyzed, and such analysis shows compliance with each standard under § 80.41 that is relevant to the new gasoline category. The analysis for each standard must be conducted using the method specified under § 80.46, or using another method that is approved by the American Society of Testing and Materials (ASTM), provided that the protocols of the ASTM method are followed and the alternative method is correlated to the method specified under § 80.46.

(11) The prohibition against combining reformulated gasoline with RBOB under paragraph (a)(8) of this section does not apply in the case of a party who is changing the type of product stored in a tank from which trucks are loaded, from reformulated gasoline to RBOB, or vice versa, provided that:

(i) The change of service requirements described in paragraph (a)(10) of this section cannot be met without taking the storage tank out of service;

(ii) Prior to adding product of the new category the volume of product of the old category in the tank is drawn down to the lowest point which allows trucks to be loaded during the transition;

(iii) The volume of product of the new category that is added to the tank is as large as possible taking into account the availability of product of the new category;

(iv) When transitioning from RBOB to reformulated gasoline:

(A) If the reformulated gasoline in the storage tank has an oxygen content of less than 1.5 wt%, oxygenate must be blended into the reformulated gasoline at the loading rack such that the reformulated gasoline has a minimum oxygen content of 1.5 wt%;

(B) Subsequent to any oxygenate blending, the reformulated gasoline must meet all applicable standards that apply at the terminal; and

(C) Prior to the date the VOC-control standards apply to the terminal the reformulated gasoline in the storage tank must have an oxygen content of not less than 1.5 wt%;

(v) When transitioning from reformulated gasoline to RBOB:

(A) The oxygen content of the reformulated gasoline produced using the RBOB must be not less than the minimum oxygen amount specified in the RBOB product transfer documents;

(B) Subsequent to any oxygenate blending, the reformulated gasoline produced using the RBOB must meet all applicable standards that apply at the terminal; and

(C) The transition from reformulated gasoline to RBOB may not begin until the date the VOC-control standards no longer apply to the terminal; and

(vi) The party must demonstrate compliance with the requirements specified in paragraphs (a)(11)(iv) and (v) of this section through testing of samples collected from the terminal storage tank and from trucks loaded at the terminal subsequent to each receipt of new product until the transition is complete. The analyses must be conducted using the test method specified under § 80.46, or using another test method that is approved by the American Society of Testing and Materials (ASTM), provided that the protocols of the ASTM method are followed and the alternative method is correlated with the method specified under § 80.46.

* * * * *

6. Section 80.101 is amended by adding paragraph (g)(9) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(g) * * *

(9) *Exclusion of previously certified gasoline and blendstock.* (i) Any refiner who uses previously certified reformulated or conventional gasoline or RBOB, or blendstock that previously has been included in compliance calculations under § 80.102, to produce conventional gasoline at a refinery, must exclude the previously certified gasoline and blendstock for purposes of demonstrating compliance with the standards under paragraph (b) of this section.

(ii) To accomplish the exclusion required in paragraph (g)(9)(i) of this section, the refiner must determine the volume and properties of the previously certified gasoline or previously certified blendstock used at the refinery, and the volume and properties of gasoline produced at the refinery, and use the compliance calculation procedures in paragraphs (g)(9)(iii) and (g)(9)(iv) of this section.

(iii) For each batch of previously certified gasoline or blendstock that is used to produce conventional gasoline the refiner must:

(A) Determine the volume and properties using the procedures in paragraph (i) of this section;

(B) In the case of previously certified gasoline, determine the exhaust toxics and NO_X emissions performance using the summer or winter complex model, as appropriate;

(C) In the case of previously certified blendstock, determine the exhaust toxics and NO_X equivalent emissions performance using the procedures in paragraph (g)(3) of this section;

(D) Include the volume and emissions performance of the previously certified gasoline and/or blendstocks as a negative volume and a negative emissions performance in the refiner's compliance calculations for the refinery, or where applicable, the refiner's aggregation under paragraph (h) of this section, for exhaust toxics and NO_X.

(iv) For each batch of conventional gasoline produced at the refinery using previously certified gasoline or blendstock, the refiner must determine the volume and properties, and exhaust toxics and NO_X emissions performance, and include each batch in the refinery's compliance calculations for exhaust toxics and NO_X without regard to the presence of previously certified gasoline or blendstock in the batch.

(v) The refiner must use any previously certified gasoline that the refiner includes as a negative batch in its compliance calculations for the refinery, or where appropriate, the refiner's aggregation, as a component in gasoline production during the annual averaging period in which the previously certified gasoline was included as a negative batch in the refiner's compliance calculations.

(vi) Notwithstanding the provisions of this paragraph (g)(9), the provisions of paragraph (g)(3) of this section may be used to calculate the exhaust toxics and NO_X emissions performance of a blendstock added to conventional gasoline for purposes of demonstrating compliance with the standards under paragraph (b) of this section.

* * * * *

7. Section 80.104 is amended by adding paragraph (a)(2)(xii) to read as follows:

§ 80.104 Recordkeeping requirements.

* * * * *

(a) * * *

(2) * * *

(xii) In the case of gasoline classified as previously certified gasoline under

VOL 66 ISS 249 DE 28 2001 UMI

the terms of § 80.101(g)(9), the results of the tests to determine the properties and volume of the previously certified gasoline when received at the refinery and records that reflect the storage and movement of the previously certified gasoline to the point the previously certified gasoline is used to produce conventional gasoline.

* * * * *

8. Section 80.105 is amended by adding paragraph (a)(5)(vi) to read as follows:

§ 80.105 Reporting requirements.

(a) * * *

(5) * * *

(vi) In the case of any previously certified gasoline used in a refinery operation under the terms of § 80.101(g)(9), the following information relative to the previously certified gasoline when received at the refinery:

(A) Identification of the previously certified gasoline as such;

(B) The batch number assigned by the receiving refinery;

(C) The date of receipt; and

(D) The volume, properties and designation of the batch.

* * * * *

9. Section 80.131 is added to Subpart F read as follows:

§ 80.131 Agreed upon attest engagement procedures for previously certified gasoline.

The following are the agreed upon procedures which must be carried out pursuant to the attest engagement requirements of § 80.125 where a refiner uses previously certified gasoline under the provisions of § 80.65(i) and § 80.101(g)(9):

(a) Obtain a listing of all previously certified gasoline batches reported to EPA by the refiner. Agree the total volume of previously certified gasoline from the listing of previously certified gasoline received to the volume of previously certified gasoline reported to EPA.

(b) Select a sample, in accordance with the guidelines in § 80.127, from the listing obtained in paragraph (a) of this section, and for each previously certified gasoline batch selected perform the following:

(1) Trace the previously certified gasoline batch to the tank activity records. Confirm that the previously certified gasoline was included in a batch of reformulated or conventional gasoline produced at the refinery.

(2) Obtain the refiner's laboratory analysis and volume measurement for the previously certified gasoline when received and agree the properties and volume listed in the corresponding batch report submitted to the EPA to the laboratory analysis and volume measurements.

(3) Obtain the product transfer documents for the previously certified gasoline when received and agree the designations from the product transfer documents to designations in the corresponding batch report submitted to EPA (reformulated gasoline, RBOB or conventional gasoline, and designations regarding VOC control).

10. Section 80.340 is amended by adding paragraph (c) to read as follows:

§ 80.340 What standards and requirements apply to refiners producing gasoline by blending blendstocks into previously certified gasoline (PCG)?

* * * * *

(c) The procedures in §§ 80.65(i) and 80.101(g)(9) may be applied for purposes of demonstrating compliance with the sulfur standards under this subpart.

[FR Doc. 01–31935 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 257 and 258

[FRL–7122–2]

RIN 2050–AE66

Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Because EPA received an adverse comment, we are withdrawing the direct final rule for Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste. We published the direct final rule on October 23, 2001 (66 FR 53535) to expressly allow residential lead-based paint waste to be disposed of in construction and demolition landfills in addition to municipal solid waste landfill units. We stated in the direct final rule that if we received any adverse comments by November 23, 2001, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received an adverse comment on the direct final rule. We will address those comments in a subsequent final action based on the parallel proposal also published on October 23, 2001 (66 FR 53566).

DATES: As of December 28, 2001, EPA withdraws the direct final rule published at 66 FR 53535 on October 23, 2001.

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). Callers within the Washington Metropolitan Area must dial 703–412–9810 or TDD 703–412–3323 (hearing impaired). The RCRA Call Center is open Monday–Friday, 9 am to 4 pm, Eastern Standard Time. For more information on specific aspects of this withdrawal, contact Paul Cassidy, Office of Solid Waste (mail code 5306W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; (703) 308–7281, *cassidy.paul@epa.gov*.

SUPPLEMENTARY INFORMATION: More information about this action can be found at *http://www.epa.gov/epaoswer/non-hw/muncpl/landfill/pb-paint.htm*. On October 23, 2001, EPA published in the **Federal Register** at 66 FR 53535 a direct final rule for Criteria for Classification of Solid Waste Disposal Facilities and Practices and Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste. This direct final rule was to expressly allow residential lead-based paint waste to be disposed of in construction and demolition landfills in addition to municipal solid waste landfill units. On the same date, EPA published a separate document at 66 FR 53566 to serve as the proposal to Criteria for Municipal Solid Waste Landfills: Disposal of Residential Lead-Based Paint Waste if adverse comments were filed. The rule was scheduled to become effective on January 22, 2002 unless EPA received adverse comments by November 23, 2001. We subsequently received an adverse comment on the direct final rule. Consequently, we are withdrawing the direct final rule and it will not become effective on January 22, 2002.

Dated: December 18, 2001.

Christine Todd Whitman,

Administrator.

Accordingly, the amendments and additions to Part 257 and Part 258 are withdrawn as of December 28, 2001.

[FR Doc. 01–31798 Filed 12–27–01; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 486

[CMS–3064–IFC]

RIN 0938–AK81

Medicare and Medicaid Programs; Emergency Recertification for Coverage for Organ Procurement Organizations (OPOs)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period recertifies the existing designated organ procurement organizations (OPOs) that meet, or have met, the standards for a qualified OPO within a 4 year period ending December 31, 2001 and have current agreements with the Secretary that are scheduled to terminate on July 31, 2002. Those agreements will be extended to July 31, 2006. The Organ Procurement Organization Certification Act of 2000 amended the Public Health Service Act to require CMS to increase the certification cycle for OPOs from 2 years to at least 4 years. We are issuing this interim final rule to establish a 4 year recertification cycle and to permit payments to continue to be made to all 59 OPOs after January 1, 2002.

DATES: Effective date: These regulations are effective on December 28, 2001.

Comment date: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on February 26, 2002.

ADDRESSES: In commenting, please refer to file code CMS–3064–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Mail written comments (one original and three copies) to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3064–IFC, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be timely received in the event of delivery delays.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–16–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:
Jacqueline Morgan, (410) 786–4282.
Marcia Newton (410) 786–5265.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, call telephone number (410) 786–9994.

I. Background

Organ procurement organizations (OPOs) play a crucial role in ensuring that an immensely valuable but scarce resource-transplantable human organs-become available to seriously ill patients who are on waiting lists for organ transplant. OPOs are government contractors for the length of their contract cycle. They are responsible for identifying potential organ donors and for obtaining as many organs as possible from those donors. They are also responsible for ensuring that the organs they obtain are properly preserved and quickly delivered to a suitable recipient awaiting transplantation. OPO performance is therefore a critical element of the organ transplant program. An OPO that is efficient in procuring organs and delivering them to recipients will, quite literally, save more lives than an ineffective OPO. Among other things, Congress has directed the Secretary to establish performance standards for OPOs, to ensure that federal funds go primarily to the most efficient OPOs and to ensure that OPOs have an incentive to achieve higher performance.

In order to be an OPO, an entity must be certified or recertified by CMS as meeting the Public Health Service Act requirements to be a qualified OPO and must meet performance standards specified by the Secretary. In addition, in order to receive payment under the Medicare and Medicaid programs for organ procurement costs, the entity must be designated or redesignated by CMS as the OPO for a defined geographic service area.

There are 59 OPOs that have been certified by CMS and designated for specific geographic service areas. At the conclusion of the most recent performance data cycle (the cycle in which we analyzed OPO performance data generated during the period of January 1, 1998 through December 31, 1999), 56 of the 59 OPOs were found by CMS to have met the performance standards and agreements were made through July 31, 2002. After additional legislation was enacted in November 2000, those three OPOs that did not meet the performance standards were notified by CMS on November 17, 2000 that their agreements were extended through July 31, 2002, based on section 1138(b)(1)(A) of the Social Security Act. Each of these three OPOs had been certified or recertified as meeting the performance standards for the previous 2 year performance period (January 1, 1996 through December 31, 1997.)

We are promulgating these rules to increase the OPO recertification period from 2 years to 4 years, in order to be consistent with the period described in the new statute. We are also recertifying all 59 OPOs and extending agreeements with these OPOs until July 31, 2006. We have chosen July 31, 2006 as the ending date of the agreement because our contracts with designated OPOs have historically ended on July 31.

We will publish a separate notice of proposed rulemaking that, among other things, will set forth proposed outcome and process performance standards for OPOs based on empirical evidence, obtained through reasonable efforts, of organ donor potential and other related factors in each service area.

II. Provisions of the Interim Final Rule

We are establishing a new § 486.309, Recertification for the January 1, 2002 through December 31, 2005 period. This section specifies that OPOs that were certified by CMS in the past and currently have agreements with CMS are recertified. The current agreements will be extended through July 31, 2006.

Additionally, we are amending § 486.301 by adding a new paragraph (b)(4) to reflect this change in the scope of the subpart.

III. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all

VOL 66 ISS 249 DE 28 2001 UMI

comments we receive by the date and time specified in the "DATES" section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Waiver of Proposed Rulemaking and Delayed Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued (5 U.S.C. 553(b)(3)(B)).

Further, we generally provide for final rules to be effective no sooner than 30 days after the date of publication unless we find good cause under 5 U.S.C. 553(d)(3) to waive the delay. The purpose of the 30-day waiting period between publication of an administrative agency final rule and its effective date is to give affected parties reasonable time to adjust their behavior before the final rule takes place. This 30-day delay can be waived for good cause.

Section 701 of Pub. L. 106–505 was enacted on November 13, 2000. Section 701(b) included Congressional findings and section 701(c) amended 42 U.S.C. 273(b)(1) to state that a qualified organ procurement organization for which grants are made under 42 U.S.C 273(a) must meet the other requirements of 42 U.S.C. 273 and has been certified or recertified by the Secretary within the previous 4-year period as meeting the performance standards to be a qualified OPO, through a process that either granted certification or recertification within such 4-year period with such certification or recertification in effect as of January 1, 2001 and remaining in effect through the earlier of January 1, 2002 or the completion of recertification through regulations meeting the requirements of 42 U.S.C. 273(b)(1)(D)(ii) that are promulgated by the Secretary by not later than January 1, 2002. Congress then enacted section 219 of Pub. L. 106–554 on December 21, 2000. Section 219(a)–(b) is identical to the language of section 701(b)–(c) in Pub. L. 106–505.

The statute requires CMS to recertify OPOs and to establish at least a 4-year recertification period by January 1, 2002. Otherwise, OPOs would not be certified and we would be unable to make payments to OPOs (or to hospitals on behalf of OPOs) after that date. As discussed later in this preamble, this would put the nation's organ procurement system in jeopardy.

When the legislation was enacted, CMS had just been briefed (November 15, 2000) on results from the Association of Organ Procurement Organization's (AOPO's) model for estimating organ donation potential in hospitals. CMS was in the process of analyzing a similar model developed by the Partnership for Organ Donation and the Harvard School of Public Health, following the completion of a 1-year contract with Harvard to apply their model nationwide. CMS met with AOPO representatives and researchers from the AOPO Death Record Review (DRR) study twice in late January 2001 for further analysis of the AOPO study results and to discuss possible denominators for the numeric performance standards. AOPO's written recommendations for new performance standards were received in March and April 2001, and CMS staff continued discussions with AOPO through May 2001 to gain additional industry input. Analysis of the Harvard and AOPO models continued throughout this time.

CMS concluded that the time needed to develop accurate new performance standards "based on empirical evidence, obtained through reasonable efforts, of organ donor potential and other related factors" precluded the possibility of completing all of the required rulemaking by the statutory timeframe. Therefore, the agency is publishing an interim final rule with comment that recertifies all 59 OPOs. We are also extending our agreements with all 59 of the current OPOs until July 31, 2006, on the basis of our observations and experience with those OPOs.

According to section 371(b) of the Public Health Service Act, an OPO must be a "qualified" OPO, as determined by the Secretary. According to section 1138 of the Social Security Act, an OPO must be certified or recertified by the Secretary as meeting the standards to be a qualified OPO, must meet performance-related standards prescribed by the Secretary, and must be designated by the Secretary as an OPO in order to receive reimbursement under title XVIII or title XIX. Because section 273(b)(1)(D)(i) would terminate certifications after January 1, 2002, we are issuing this interim final rule to permit all 59 OPOs to continue to function, procure organs and obtain appropriate reimbursement.

The nation's 59 OPOs are responsible for all cadaveric organ recovery in the United States; without OPOs, cadaveric organs will not be recovered. Without recovery of cadaveric organs, very few organ transplants will take place. That is, only organs from living donors would be recovered and transplanted.

As of October 31, 2001, there were 78,518 men, women, and children waiting for an organ transplant. Many of them will die waiting. In fact, every day, more than 15 patients die waiting for an organ. In 2000, there were 17,255 transplants of organs from cadaveric donors, or nearly 47 transplants per day from cadaveric donors. This means that even a 1-day disruption in the nation's organ procurement system could result in the deaths of 47 patients waiting for organs. A 1-week disruption to the nation's organ procurement system could result in the deaths of 329 patients waiting for organs, and a 1-month disruption could result in 1,410 deaths.

Clearly, it is critical that OPOs be recertified by January 1, 2002 in order to continue this work. It would be contrary to the public interest to delay recertifying OPOs until after new outcome and process performance standards were established through notice and comment procedures. Moreover, because OPOs that are currently experienced in providing these services will continue to do so on January 1, 2002, they will not require additional time to prepare to implement these rules. Thus, there is good cause to waive the 30-day delay in effective date established by 5 U.S.C. 553(d). Therefore, we have chosen to publish a final rule with comment recertifying all 59 existing OPOs and establishing a 4-year recertification cycle. Publication as an immediately effective final rule will avert the impending problem that would occur under section 273(b)(1)(D)(i) after January 1, 2002.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day public comment period.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

VI. Regulatory Impact Statement

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). This interim final rule is not a major rule. It does not have any cost or savings impact as it merely recertifies the existing 59 OPOs and does not introduce any new requirements.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $25 million or less annually. For purposes of the RFA, all OPOs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in anyone year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. This rule will not have an effect on the governments mentioned, nor does it have associated private sector costs. This rule does not have any cost or savings impact as it extends the time period for payments under existing agreements and does not introduce any new requirements.

According to section 1138 of the Social Security Act, an OPO must be certified or recertified by the Secretary as meeting the standards to be a qualified OPO, must meet performance-related standards prescribed by the Secretary, and must be designated by the Secretary as an OPO in order to receive reimbursement under title XVIII or title XIX. Because section 273(b)(1)(D)(i) would terminate certifications after January 1, 2002, we are issuing this interim final rule to permit all 59 OPOs to continue to function, procure organs and obtain appropriate reimbursement.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. As stated previously, this rule does not have a substantial effect on State or local governments.

B. Conclusion

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 486

Health professionals, Medicare, Organ procurement, X-rays.

PART 486—CONDITIONS OF COVERAGE OF SPECIALIZED SERVICES FURNISHED BY SUPPLIERS

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services is amending 42 CFR chapter IV as set forth below:

1. The authority citation for part 486 continues to read as follows:

Authority: Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

Subpart G—Conditions of Coverage: Organ Procurement Organizations

2. Section 486.301 is amended by adding paragraph (b)(4) to read as follows:

§ 486.301 Basis and scope.

* * * * *

(b) * * *

(4) The requirements for an OPO to be recertified for the performance data cycle from January 1, 2002 through December 31, 2005.

3. Section 486.309 is added to read as follows:

§ 486.309 Recertification from January 1, 2002 through December 31, 2005.

An OPO will be considered to be recertified for the period of January 1, 2002 through December 31, 2005 if an entity meets, or has met, the standards to be a qualified OPO within a four year period ending December 31, 2001 and has an agreement with the Secretary that was scheduled to terminate on July 31, 2002. Agreements based on this recertification will end on July 31, 2006.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 7, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: December 14, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–31724 Filed 12–21–01; 11:04 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43, and 63

[DA 01–2825]

Removal of References to Sections in the Commission's Rules That No Longer Exist

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Commission amends references to sections that have been removed from the Commission's rules and amends a section heading.

DATES: Effective December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Telecommunications Division, International Bureau, at (202) 418–1499.

SUPPLEMENTARY INFORMATION: We have removed references to sections in the

VOL 66 ISS 249 DE 28 2001 UMI

Commission's rules. Specifically, we amend § 43.61 to remove the reference to former § 64.1002. We amend § 63.24 to remove the reference to paragraph (c) because there is no paragraph (c) in § 63.24. We revise the heading for § 63.52. Finally, we remove § 1.813. The requirements referenced in § 1.813 are no longer necessary.

List of Subjects

47 CFR Parts 1 and 43

Reporting and recordkeeping requirements.

47 CFR Part 63

Communications common carriers.

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 43, and 63 as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

§ 1.813 [Removed]

2. Remove § 1.813.

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

3. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

4. Section 43.61 is amended by revising paragraph (a)(1) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

(a) * * *

(1) The information contained in the reports shall include actual traffic and revenue data for each and every service provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States.

* * * * *

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

5. The authority citation for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

6. Section 63.24 is amended by revising paragraph (b) to read as follows:

§ 63.24 Pro forma assignments and transfers of control.

* * * * *

(b) A *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter (in duplicate to the Secretary), and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one authorization if each authorization is identified by the file number under which it was granted.

7. Section 63.52 is amended by revising the section heading to read as follows:

§ 63.52 Copies required; fees; and filing periods for domestic authorizations.

* * * * *

[FR Doc. 01–31865 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–350]

Federal-State Joint Board on Universal Service; Petition of the State of Alaska for Waiver for the Utilization of Schools and Libraries Internet Point-of-Presence in Rural Remote Alaska Villages Where No Local Access Exists and Request for Declaratory Ruling

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver request granted.

SUMMARY: In this document, the Commission grants the State of Alaska (Alaska) a limited waiver, which requires applicants to certify that the services requested will be used solely for educational purposes, subject to the conditions discussed below. The Commission finds that good cause exists to allow members of rural remote communities in Alaska, where there is no local or toll-free dial-up Internet access, to use excess service obtained through the universal service mechanism for schools and libraries when not in use by the schools and libraries for educational purposes.

DATES: Effective January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Katherine Tofigh, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–1553.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 96–45 adopted on November 29, 2001 and released on December 3, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC, 20554.

I. Introduction

1. In this Order, the Commission grants the State of Alaska (Alaska) a limited waiver of § 54.504(b)(2)(ii) of the Commission's rules, which requires applicants to certify that the services requested will be used solely for educational purposes, subject to the conditions discussed below. The Commission finds that good cause exists to allow members of rural remote communities in Alaska, where there is no local or toll-free dial-up Internet access, to use excess service obtained through the universal service mechanism for schools and libraries when not in use by the schools and libraries for educational purposes.

II. Discussion

2. The Commission grants Alaska a limited waiver of § 54.504(b)(2)(ii), to permit members of rural remote communities in Alaska, where there is no local or toll-free dial-up Internet access, to use excess service obtained through the universal service mechanism for schools and libraries when the services are not in use by the schools and libraries for educational purposes. The Commission grants this waiver subject to the following conditions: (1) There is no local or toll-free Internet access available in the community; (2) the school or library has not requested more services than are necessary for educational purposes; (3) no additional costs will be incurred, i.e., services subject to a waiver must be purchased on a non-usage sensitive basis; (4) any use for noneducational purposes will be limited to hours in which the school or library is not open; (5) and the excess services are made available to all capable service providers in a neutral manner that does not require or take into account any commitments or promises from the service providers.

3. This waiver is dependent on Alaska's implementation of these conditions. The Commission believes that these conditions are appropriately tailored to narrow the scope of waiver to ensure the integrity of the schools and libraries mechanism, yet broad enough to provide relief to rural remote communities in Alaska that are encountering economic and distance-related challenges to receiving telecommunications and advanced services. Maximizing the use of services obtained from the schools and libraries program by permitting such rural remote communities to use the excess service that is available as a result of the non-usage sensitive basis of the service and the limited hours that the service is used for educational purposes will further the goals of universal service, consistent with the Act. If these conditions are satisfied, then the Commission will find that special circumstances have been met and that a waiver is in the public interest.

4. As an initial matter, the Commission concludes that there are no statutory prohibition against our waiving § 54.504(b)(2)(ii) of the Commission's rules. Section 254(h)(1)(B) provides that eligible schools and libraries shall receive discounts on certain services for educational purposes. Pursuant to the Commission's discretion to implement the statute, the Commission narrowly constructed its rule to require schools and libraries to certify that they use such discounted services solely for educational purposes. This rule supports the Commission's efforts to guard against fraud, waste, and abuse. Nothing in section 254(h)(1)(B) prohibits the Commission from granting a waiver of § 54.504(b)(2)(ii) of its rules to expand the use of such services, so long as in the first instance they are used for educational purposes.

5. The Commission's rules, however, may only be waived for good cause shown. As noted by the Court of Appeals for the D.C. Circuit, agency rules are presumed valid. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

6. The Commission finds that Alaska's waiver request satisfies the above-stated conditions. First, Alaska has adequately demonstrated special circumstances. Alaska states that there are approximately 240 communities in the state that lack local or toll-free dial-up access to the Internet. These communities are located in remote areas of the state that are isolated by severe terrain and a harsh climate. Most of these communities are sparsely populated (population under 250), and are reachable only by air or water. As a result, access to information services is minimal and generally cost-prohibitive. In fact, Alaska asserts that start-up costs for an Internet service provider in a village is often more than $20,000, in addition to the monthly cost for a satellite link. Of the communities without local or toll-free dial-up access to the Internet, 135 have available, non-usage sensitive Internet access at local schools or libraries. Given their extreme isolation and the lack of access to affordable Internet services, the Commission believes it is appropriate to allow rural remote areas in Alaska that lack local or toll-free dial up access to the Internet to utilize excess service obtained through the universal service mechanism under the limited circumstances described above.

7. The Commission also concludes that granting Alaska's waiver will serve the public interest. The Commission believes that it is in the public interest to take steps to utilize the excess services obtained through the schools and libraries mechanism. Alaska explains that nearly 75 percent of rural Alaskan communities do not have Internet access via a local dial-up or toll-free connection. In many of these communities, however, schools and libraries have access to information services because of assistance from the schools and libraries mechanism. This waiver will serve the public interest by promoting access to available resources and allowing communities to make use of the excess service. The Commission finds that the waiver is also in the public interest because it is consistent with the Commission's efforts to encourage access to advanced telecommunications and information services.

8. In addition, the Commission believes that each of the conditions imposed with this waiver promotes the public interest by reducing the likelihood of waste, fraud, and abuse, and guarding against additional costs from being imposed on the schools and libraries mechanism. These conditions are discussed separately below.

9. The first condition limits application of the waiver to communities in Alaska where there is no local or toll-free dial-up Internet access. As noted above, many of these communities lack affordable access to the Internet due to their remote nature but also have available, non-usage sensitive connections to the Internet in their schools and libraries. The Commission believes that allowing these communities to access services obtained from the schools and libraries universal service mechanism will serve the public interest by reducing waste and making more efficient use of available resources.

10. Under the second condition, eligible schools and libraries in Alaska are not permitted to request more services than are necessary for educational purposes. Alaska will protect against that possibility by instructing schools and libraries to maintain information documenting the necessity for additional services. This will reduce the likelihood of fraud and abuse by enabling the Schools and Libraries Division of the Universal Service Administrative Company to efficiently assess whether additional requests are associated with educational purposes. As noted above, this waiver only allows for the use of excess service that is incidental to services provided for educational purposes. If there are increases in requests not warranted by educational purposes, we believe that it will be appropriate to reassess the propriety of this waiver.

11. The third condition limits the waiver to communities where the services used by the school are purchased on a non-usage sensitive basis. By limiting implementation of this waiver to communities that pay a flat, non-traffic sensitive rate for services, it reduces wasted resources and it protects against abuse by ensuring that the schools and libraries program does not incur additional costs based on the increased utilization. In addition, the Commission notes that any additional equipment related to the provision of Internet service to the community will not be eligible for support.

12. The fourth condition limits local community usage to hours in which the school or library is not open. By limiting use for non-educational purposes to non-operating hours for the schools and libraries, the Commission guards against abuse by eliminating the possibility that community usage may interfere with usage of services for educational purposes in schools and libraries. In accord with this condition, Alaska will include terms in agreements with ISPs restricting community usage to non-operating hours. Specifically, agreements will include an explicit statement that service is restricted to non-operating hours of the school or library and will designate normal operating hours, along with the anticipated school year calendar. The local Internet service provider will also be required to demonstrate the effectiveness of how it will restrict service to the designated hours.

13. Pursuant to the fifth condition, excess services must be made available to all capable service providers in a neutral manner that does not require or take into account any commitments or promises from the service providers. This condition is consistent with the Act, which prohibits any discounted services or network capacity from "being sold, resold, or transferred by such user in consideration for money or any other thing of value." We believe that this condition will ensure that excess services are not transferred in exchange for any benefit to the school, library, or surrounding community, whether the benefit is a promise of particular services, prices, or other thing of value. This condition will also protect against fraud, waste, and abuse by providing that all public, tribal, non-profit, and commercial entities will be treated equally. We note that there may be circumstances in which demand for the excess services by service providers is greater than the available excess services. In such instances, the school or library may determine priority based on a set of neutral criteria that is consistent with this condition, such as random selection, first-come-first-served, or any other methodology that does not prioritize based on expectations of particular benefits to the institution or surrounding community. The Commission also notes that this condition in no way prohibits schools and libraries from establishing minimal technical requirements to protect the integrity of the institution's network, to ensure that selected providers are actually capable of providing service, or to ensure that selected providers are prepared to offer service.

14. Therefore, because the Commission finds that this waiver is in the public interest and that Alaska has demonstrated special circumstances, we find good cause to grant Alaska's waiver request subject to the provided conditions. The Commission is confident that this waiver will ensure that appropriate steps will be made to ensure the integrity of the schools and libraries universal service mechanism.

III. Ordering Clause

15. Pursuant to sections 1, 4(i), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 254 and 1.3 and 1.925 of the Commission's rules 47 CFR 1.3 and 1.925, the waiver request filed by the State of Alaska on January 29, 2001, is granted, subject to the conditions indicated herein.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31868 Filed 12–27–01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 92–105; FCC 00–257]

Require 711 Dialing for Nationwide Access to Telecommunications Relay Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: The Commission published a document in the **Federal Register** at 66 FR 54165–01 (October 26, 2001) which corrected certain rules of the Federal Communications Commission (Commission) that concern access to telecommunications relay services (TRS). The document should have amended rule § 64.603 to add a third sentence to the undesignated introductory paragraph that reads: "In addition, each common carrier providing telephone voice transmission services shall provide, not later than October 1, 2001, access via the 711 dialing code to all relay services as a toll free call." This document corrects the sentence to provide the correct date of October 1, 2001.

DATES: Effective October 12, 2000.

FOR FURTHER INFORMATION CONTACT: Susan Magnotti, 202/418–0871, fax 202/418–2345, TTY 202/418–0484, *smagnott@fcc.gov*, Network Services Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document correcting rule §§ 64.601 and 64.603 in the **Federal Register**. In FR Doc. 01–26942, published October 26, 2001 (66 FR 54165), make the following correction:

PART 64—[CORRECTED]

1. On page 54165, in the second column, correct the rule amendment in § 64.603 to read as follows:

3. In § 64.603, revise the undesignated introductory text to read as follows:

§ 64.603 Provision of services.

Each common carrier providing telephone voice transmission services shall provide, not later than July 26, 1993, in compliance with the regulations prescribed herein, throughout the area in which it offers services, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. Speech-to-speech relay service and interstate Spanish language relay service shall be provided by March 1, 2001. In addition, each common carrier providing telephone voice transmission services shall provide, not later than October 1, 2001, access via the 711 dialing code to all relay services as a toll free call. A common carrier shall be considered to be in compliance with these regulations:

* * * * *

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31867 Filed 12–27–01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–132; FCC 01–314]

1998 Biennial Review—Multichannel Video and Cable Television Service

AGENCY: Federal Communications Commission.

ACTION: Final rule and clarifications.

SUMMARY: In this document we adopt a Commission rule which provides a limited exception for cable operators with 1000 or more, but fewer than 5000, subscribers. Specifically, such cable systems are relieved from certain recordkeeping requirements associated with maintaining the public file, requiring public file information to be provided only upon request. This action was taken in response to the Commission's 1998 biennial review of the public file and notice requirements concerning cable television. This document also makes a number of clarifications to various part 76 rules.

DATES: Effective January 28, 2002.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Room TW–A–325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Sonia Greenaway-Mickle, Cable Services Bureau, (202) 418–1419.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order ("Second Order"), FCC 01–314, adopted October 22, 2001; released October 31, 2001. The full text of the Commission's Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW, Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036, or may be reviewed via internet at *http://www.fcc.gov/csb/.*

Synopsis of the Second Report and Order

1. In this *1998 Biennial Review—Streamlining of Cable Television Service Part 76 Public File and Notice: Second Report and Order*, the Commission addresses portions of part 76 of the cable television rules pertaining to the public file, notice, recordkeeping, and reporting requirements. First, we reinstate, as a final rule, § 76.1700(a). Second, the Commission clarifies certain provisions in the part 76 rules in order to more clearly set forth the compliance requirements and regulatory process for cable operators, franchising authorities, and the public. Finally, we make non-substantive rule changes to correct errors in the publication of part 76 of the Commission's rules. With this action, we complete the Commission's biennial review of the public file and notice requirements applicable to cable operators under part 76 of the Commission's rules.

2. The part 76 cable television rules contained numerous public file, notice, recordkeeping, and reporting requirements scattered throughout part 76. In connection with the *1998 Biennial Regulatory Review—Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Report and Order*, the Commission revised and streamlined the public file and notice requirements set forth in the Commission's part 76 cable television rules. The *Notice of Proposed Rulemaking* in this proceeding, however, inadvertently was not published in the **Federal Register**. Because the rule changes adopted were deemed to be primarily procedural in nature, the failure of **Federal Register** notice was determined not to impair their effectiveness. In this regard, § 1.412(b)(5) of the Commission's rules, provides that rules involving Commission organization, procedure, or practice are exempt from the requirement of prior notice by publication in the **Federal Register**. Section 76.1700(a), however, was determined to alter the substantive public file requirements for a subset of cable operators and to be subject to the prior public notice requirement. Section 76.1700(a) was published subsequently in the **Federal Register** (65 FR 53610) Sept. 5, 2000, as an "interim rule," and interested parties were afforded an opportunity to comment upon it. No comments were filed.

In this proceeding, we adopt § 76.1700(a) as a final rule.

3. Part 76 rule clarification. We now consider on our own motion, specific rules adopted in part 76 relating to the public file, notice, recordkeeping, and reporting requirements requiring clarification.

4. Section 76.1700(a), entitled, "Records To Be Maintained Locally By Cable System Operators," provides, in part, that cable operators having 1000 or more subscribers but fewer than 5000 subscribers shall, upon request, make public file information available. This provision gives such operators an alternative to maintaining paper files and increases flexibility in complying with the public file maintenance requirements and responding to information requests. Since operators meeting this particular subscriber requirement must produce public file information only upon request, records need not be maintained at a particular local site, provided they are made promptly available once a request is received. Therefore, we clarify the title of § 76.1700 to be more consistent with this particular aspect of the rule. We delete the word "locally" from the title to more accurately depict the fact that records need not be maintained locally where the cable system operator meets the specified subscriber limits, so long as the information can be made available "upon request;" access should not be delayed. Although the title of the rule section changes, with regard to those cable operators that have 5000 or more subscribers and that are required to maintain a public inspection file, we reiterate that documents required to be included in the public inspection file must be available, readily accessible and sited locally.

5. In the *Report and Order* (65 FR 53610) Sept. 5, 2000, we concluded that the Commission would maintain the exemption for small systems serving fewer than 1000 subscribers from the recordkeeping requirements contained in former § 76.305(a), which is redesignated as § 76.1700(a). Therefore, we clarify that § 76.1700(a) totally exempts systems serving fewer than 1000 subscribers from the Commission's recordkeeping requirements contained in §§ 76.1701 (political file); 76.1715 (sponsorship identification); 76.1702 (equal employment opportunity); 76.1703 (commercial records for children's programming); 76.1704 (proof-of-performance tests data); and 76.1706 (signal leakage logs and repair records). These records do not need to be maintained or produced by systems meeting the subscriber limitation.

6. Section 76.1705 provides that each cable system is required to maintain at its local office a current listing of the cable television channels that the system delivers to its subscribers. Although the rule states that channel listing information should be maintained, no mention is made of exactly where such lists should be located at the local office. In implementing this provision, the Commission stated that such information would be useful to consumers. To the extent necessary, we clarify that the operator of each cable television system subject to the public file requirements of § 76.1700(a) shall maintain as part of its public inspection file a current list of the cable television channels that the system delivers to its

VOL 66 ISS 249 DE 28 2001 UMI

subscribers. Cable operators that are exempt from the public file requirement shall maintain the channel lineup information in a location that is readily accessible by the general public.

7. Section 76.1715 requires that whenever sponsorship announcements are omitted, the cable system operator must maintain for public inspection a file listing the name, address, and telephone number of the advertiser of the commercial announcement. The length of time that such information should be retained is not provided. However, pursuant to § 73.1212, a similar collection of information from broadcast stations is required whenever sponsorship announcements are omitted. In the broadcast context such advertiser information must be retained for a period of two years from the date of broadcast. We interpret § 76.1715 in this *Second Order* to operate consistently with § 73.1212. Provided that it retains the required advertiser information for a period of at least two years after the airing of the commercial announcement, a cable operator will be in compliance with the record retention requirement of § 76.1715. This interpretation will ensure that operators have notice of their responsibilities regarding sponsorship announcement recordkeeping while accommodating the public by ensuring access to such information for an adequate period of time.

Final Regulatory Flexibility Analysis

8. As required by section 603 of the Regulatory Flexibility Act ("RFA"), the Commission incorporated an Initial Regulatory Flexibility Analysis ("IRFA") into its *Report and Order.* The Commission sought written public comments on the possible impact of the proposed rule on small entities, including comments on the IRFA. This Final Regulatory Flexibility Analysis ("FRFA") incorporated into the *Second Report and Order* ("*Second Order*") conforms to the RFA.

9. Need for, and Objectives of, the *Second Report and Order.* The Commission adopted the *1998 Biennial Regulatory Review—Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Report and Order* ("*Report and Order*") pursuant to Section 11 of the 1996 Telecommunications Act which requires the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest. Section 76.1700(a) was determined to alter the substantive public file requirements for a subset of cable operators and to be subject to the prior public notice requirement. Section 76.1700(a) was published subsequently in the **Federal Register** (65 FR 53610) Sept. 5, 2000, as an interim rule and interested parties were afforded an opportunity to comment upon it. No comments were filed. The *Second Order* reinstates § 76.1700(a).

10. Summary of Significant Issues Raised by Public Comments in Response to the IRFA. No comments were filed specifically in response to the IRFA.

11. Description and Estimate of the Number of Small Entities To Which the Rule Applies. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rule here adopted. The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction" under Section 3 of the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

12. The *Second Order* adopts § 76.1700(a), a rule that applies to cable operators with 1000 or more, but fewer than 5000, subscribers. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.

13. The Communications Act of 1934, as amended, also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that there are 67,700,000 subscribers in the United States. Therefore, we estimate that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we estimate that the number of cable operators serving 677,000 subscribers or less totals 1,450. We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

14. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements. Section 76.1700(a), adopted in the *Second Order,* will not increase the recordkeeping or information collection requirements for any cable operator. In fact, § 76.1700(a) will decrease certain recordkeeping requirements for cable operators with 1000 or more, but fewer than 5000, subscribers. The rule as adopted eliminates the requirement that cable operators with 1000 or more, but less than 5000, subscribers maintain certain records in their public file. The rule provides that those records need only be provided pursuant to a specific request. Thus, the adopted rule will result in reductions in administrative costs borne by cable operators in connection with reproducing and maintaining certain records in their public files.

15. Steps taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We are adopting a rule that establishes reduced regulatory burdens on small entities with regard to certain recordkeeping requirements. In addition, we sought comment on the proposed rule to ease the recordkeeping requirements for certain small cable operators. No comments were received and we are aware of no alternatives to further reduce burdens on small entities consistent with the important regulatory objectives served by the reporting requirements.

16. Report to Congress. The Commission will send a copy of the *Second Order*, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). The *Second Order* and this FRFA (or summaries thereof) will also be published in the **Federal Register**, *see* 5 U.S.C. 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act

This *Second Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (the "1995 Act") and does not impose new or modified information collection requirements on the public.

OMB Approval Number: 3060–0981.

Title: *1998 Biennial Regulatory Review " Streamlining of Cable Television Services Part 76 Public File and Notice Requirements, Second Report and Order.*

Type of Review: None.

Respondents: Businesses or other for-profit entities.

Needs and Uses: The Commission adopted the *Report and Order* pursuant to Section 11 of the 1996 Telecommunications Act which requires the Commission to conduct a biennial review of regulations that apply to operations and activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer in the public interest. Although Section 11 does not specifically refer to cable operators, the Commission has determined that the first biennial review presented an excellent opportunity for a thorough examination of all of the Commission's regulations. The initial NPRM in this proceeding was not published in the **Federal Register**. The Commission found that, with the exception of one provision, the rules adopted in the *Report and Order* are procedural in nature and subject to the prior notice exemption contained in § 1.412(b)(5) of the Commission's rules. The **Federal Register** notice provided notice of § 76.1700(a), adopted as an interim rule and provided interested parties the opportunity to comment.

List of Subjects in 47 CFR Part 76

Multichannel video and cable television service.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.1700 is amended by revising the section heading and the introductory text of paragraph (a) to read as follows:

§ 76.1700 Records to be maintained by cable system operators.

(a) *Recordkeeping requirements.* The operator of every cable television system having fewer than 1,000 subscribers is exempt from the public inspection requirements contained in § 76.1701 (political file); § 76.1715 (sponsorship identification); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); and § 76.1706 (signal leakage logs and repair records). The operator of every cable television system having 1000 or more subscribers but fewer than 5000 subscribers shall, upon request, provide the information required by § 76.1715 (sponsorship identification); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); and § 76.1706 (signal leakage logs and repair records) but shall maintain for public inspection a file containing a copy of all records required to be kept by § 76.1701 (political file). The operator of every cable television system having 5000 or more subscribers shall maintain for public inspection a file containing a copy of all records which are required to be kept by § 76.1701 (political file); § 76.1715 (sponsorship identification); § 76.1702 (EEO records available for public inspection); § 76.1703 (commercial records for children's programming); § 76.1704 (proof-of-performance test data); and § 76.1706 (signal leakage logs and repair records).

* * * * *

[FR Doc. 01–31869 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 1

[Docket No. OST–1999–6189]

RIN 2105–ZZ04

Organization and Delegation of Powers and Duties to the Under Secretary of Transportation for Security, Transportation Security Administration

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: A new operating administration, the Transportation Security Administration (TSA), headed by the Under Secretary of Transportation for Security, was established within the United States Department of Transportation (DOT) pursuant to the Aviation and Transportation Security Act [Public Law 107–71 (November 19, 2001)]. Accordingly, by this action, the Secretary of Transportation (Secretary) amends Part 1 of title 49, *Code of Federal Regulations*, to reflect this new DOT operating administration and its general responsibilities.

EFFECTIVE DATE: This Final Rule is effective on December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Steven Cohen, Office of the General Counsel, Office of Environmental, Civil Rights, and General Law, Department of Transportation (C–10), 400 Seventh Street, SW., Room 10101, Washington, DC 20590, (202) 366–4684 (voice), (202) 366–9170 (fax) (202) 755–7687 (TDD).

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer, modem, and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.* You can also view and download this document by going to the webpage of the Department's Docket Management System (*http://dms.dot.gov/*). On that page, click on "search." On the next page, type in the four-digit docket number shown on the first page of this document. Then click on "search."

Background

The Aviation and Transportation Security Act (ATSA) amends Chapter 1 of title 49, United States Code, by establishing TSA within DOT. TSA is headed by the Under Secretary of Transportation for Security. Accordingly, this rule amends Part 1 of title 49, Code of Federal Regulations, to reflect the establishment of TSA. Specifically, these amendments (1) Add the Under Secretary of Transportation for Security to the definition of "Administrator;" (2) add TSA to the list of operating elements within DOT that report directly to the Secretary; and (3) set forth TSA's general responsibilities.

This rule is being published as a final rule and made effective on the date signed by the Secretary of Transportation. As the rule relates to departmental organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). This action makes no substantive changes to transportation regulations. In addition, the functions addressed in this rule must be implemented immediately to facilitate the formation of TSA, as created by the Act. Therefore, prior notice and opportunity to comment are unnecessary, and good cause exists to dispense with the 30-day delay in the effective date requirement so that TSA may operate pursuant to the amendments noted above.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

Issued this 20th day of December 2001, at Washington, DC.

Norman Y. Mineta,

Secretary of Transportation.

In consideration of the foregoing, Part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation for Part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101–552, 104 Stat. 2736; Pub L. 106–159, 113 Stat. 1748; Pub. L. 107–71, 115 Stat. 597.

2. In § 1.2, new paragraph (1) is added to read as follows:

§ 1.2 Definitions.

* * * * *

(1) The Under Secretary of Transportation for Security.

3. In § 1.3, new paragraph (b)(12) is added to read as follows:

§ 1.3 Organization of the Department.

* * * * *

(b) * * *

(12) The Transportation Security Administration, headed by the Under Secretary of Transportation for Security.

4. In § 1.4, new paragraph (n) is added to read as follows:

§ 1.4 General responsibilities.

* * * * *

(n) The Transportation Security Administration. Is responsible for:

(1) Security relating to civil aviation and all other modes of transportation within the Department of Transportation, including at transportation facilities;

(2) Federal security screening operations for passenger air transportation and intrastate air transportation;

(3) Managing and carrying out program and regulatory activities, including administering laws and promulgating and enforcing security-related regulations and requirements in all modes of transportation, including at transportation facilities;

(4) Receiving, assessing, coordinating and distributing intelligence information related to transportation security;

(5) Developing, coordinating and carrying out plans to discover, prevent and deal with threats to transportation security;

(6) Identifying and undertaking research and development activities related to enhancing transportation security; and

(7) Coordinating domestic transportation, including aviation, rail, and other surface transportation, and maritime transportation (including port security) and overseeing all transportation related responsibilities of the Federal Government, other than the Department of Defense and the military departments, during a national emergency.

[FR Doc. 01–32021 Filed 12–21–01; 4:27 pm]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 011218303-1303-01; I.D. 110501B]

RIN 0648-AP70

Atlantic Highly Migratory Species; Commercial Shark Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency rule; request for comments; fishing season notification.

SUMMARY: NMFS issues an emergency rule to establish the commercial quotas for large and small coastal sharks at 1,285 metric tons (mt) dressed weight (dw) and 1,760 mt dw, respectively. These regulations are necessary to ensure that the regulations in force are consistent with a court-approved settlement agreement and are based on the best available science. NMFS also notifies eligible participants of the opening and closing dates for the Atlantic large coastal sharks (LCS), small coastal sharks (SCS), pelagic sharks, blue sharks, and porbeagle sharks fishing seasons.

DATES: This emergency rule is effective as of 12:01 a.m., local time, on January 1, 2002, through July 1, 2002.

The fishery opening for LCS is effective January 1, 2002 through 11:30 p.m., local time, April 15, 2002. The LCS closure is effective from 11:30 p.m., local time, April 15, 2002, through June 30, 2002.

The fishery opening for SCS, pelagic sharks, blue sharks, and porbeagle sharks is effective January 1, 2001, through June 30, 2001, unless otherwise modified or superseded through publication of a closure notice in the Federal Register.

Comments on the emergency rule must be received no later than 5 p.m. on March 28, 2002.

ADDRESSES: Written comments on this emergency rule must be mailed to Christopher Rogers, Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301-713-1917. Comments will not be accepted if submitted via email or the Internet. Copies of the Environmental Assessment and Regulatory Impact Review prepared for this emergency rule may be obtained from Margo Schulze-

Haugen or Karyl Brewster-Geisz at the same address.

FOR FURTHER INFORMATION CONTACT: Margo Schulze-Haugen or Karyl Brewster-Geisz at 301-713-2347.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635.

On November 21, 2000, Southern Offshore Fishing Association and other commercial fishermen and dealers (plaintiffs) and NMFS reached a settlement agreement that prescribed actions to be taken by both parties in order to resolve issues raised in two lawsuits brought against NMFS by the plaintiffs. The first lawsuit was filed on May 2, 1997, regarding the LCS quota decrease of 50 percent. The second lawsuit was filed on June 25, 1999, regarding the commercial shark measures in the HMS FMP and its implementing regulations.

On December 7, 2000, Judge Steven D. Merryday of the U.S. District Court for the Middle District of Florida entered an order approving the settlement agreement. The settlement agreement required NMFS to maintain the 1997 commercial LCS quotas and the catch accounting/monitoring procedures pending an independent review of the 1998 LCS stock assessment. The settlement agreement also required NMFS to maintain the 1997 SCS commercial quota pending a new SCS stock assessment. On March 6, 2001, NMFS published in the **Federal Register** an emergency rule implementing the measures in the settlement agreement pending the results of the independent peer review (65 FR 13441). That emergency rule expired on September 4, 2001.

In October 2001, NMFS received from Natural Resources Consultants Inc. the complete peer reviews of the 1998 LCS stock assessment. Three of the four reviews found that the scientific conclusions and scientific management recommendations contained in the 1998 LCS stock assessment were not based on scientifically reasonable uses of the appropriate fisheries stock assessment techniques and on the best available (at the time of the 1998 LCS stock assessment) biological and fishery information relating to LCS. Because of this conclusion, NMFS regards the management recommendations of the 1996 stock assessment to be an appropriate basis for any rulemaking, pending completion of a new stock assessment. Thus, having considered the peer review's overall conclusion, the terms of the settlement agreement, statements by the individual reviewers, and the recommendations of the 1996 stock assessment, NMFS will maintain the 1997 commercial LCS quota level until a new LCS stock assessment that employs improved assessment techniques and addresses the recommendations and comments of the four reviewers can be completed and independently peer reviewed. NMFS anticipates completion of a new LCS stock assessment in early 2002. Additionally, consistent with the court-approved settlement agreement, NMFS will maintain the SCS commercial shark quota at the 1997 level pending a new stock assessment in early 2002.

NMFS initially determined that the settlement agreement is appropriate because it will conserve Atlantic sharks while maintaining a sustainable fishery in the long-term; move the management process for Atlantic sharks forward through quality-controlled scientific assessment and appropriate rulemaking; and promote confidence in the management process and its underlying science. NMFS continues to maintain this view.

This emergency rule is necessary to manage and conserve LCS based on the best scientific information available, pending completion of a new stock assessment and consistent with the terms of the court-approved settlement agreement. At this time, NMFS considers the best available science to be the recommendations of the 1996 stock assessment in combination with current landings data and the independent reviews of the 1998 stock assessment. Without this emergency rule, the reduced LCS and SCS commercial quotas of 816 mt dw and 329 mt dw, respectively, adopted in the HMS FMP and based on the 1998 LCS stock assessment would be in force. However, the independent peer review found that some of the techniques used in the 1998 LCS stock assessment were not appropriate and some of the data used were unreliable. Implementing these quotas prior to completion of a new stock assessment would be inconsistent with both the court-approved settlement agreement and the recommendations of the 1996 stock assessment.

Commercial Management Measures

Pending completion of new LCS and SCS stock assessments, this emergency rule establishes the LCS commercial quota at 1,285 mt dw; establishes the SCS commercial quota at 1,760 mt dw; suspends the regulation on the ridgeback LCS minimum size; suspends the regulation on counting dead discards and state landings after Federal closures against Federal quotas for all sharks; suspends the regulation on season-specific quota adjustments for LCS and SCS; and establishes a regulation that adjusts the LCS or SCS quota based on the previous season's landings. All of the above management measures will be re-evaluated upon completion of the stock assessments and the LCS peer review before they are re-implemented. This emergency rule does not affect commercial management measures for pelagic sharks, except for counting dead discards or state landings against the quota, and does not affect the management measures for prohibited species.

NMFS considered other alternatives including implementing the HMS FMP quotas based on the 1998 stock assessment, implementing the ridgeback LCS minimum size, counting state landings after a Federal closure and dead discards against Federal quotas, and changing the pelagic shark sub-quotas into one pelagic shark quota. However, based on the comments and recommendations of the reviewers, the recommendations of the 1996 stock assessment, current landings data, and the fact that the next stock assessment will consider the efficacy of most of these management measures, NMFS concluded that, for the short duration of this emergency rule (180 days with a possible extension of another 180 days), the management measures implemented would conserve and maintain the shark stocks while having few impacts on the fishery. Upon completion of the new stock assessments and the independent review of the new LCS stock assessment, NMFS will take the appropriate actions based on the additional information to ensure the conservation of Atlantic sharks while rebuilding shark stocks and maintaining a sustainable fishery in the long-term.

NMFS is making one additional adjustment. NMFS will count any overharvest or underharvest in one season against the following season for LCS and SCS. In the past, this accounting method was used only for overharvest and underharvest in the first season; any overharvest in the second season was not counted against the following season's semiannual quota (nor was any underharvest added to the next year). This lack of across-year accounting resulted in the annual quotas being exceeded in several years. This change is to ensure that the fishing mortality is accounted for and does not exceed the fishing mortality

VOL 66 ISS 249 DE 28 2001 UMI

recommended by the 1996 stock evaluation workshop while also ensuring that fishermen have an opportunity to catch the available quota.

Recreational Management Measures

This emergency rule does not change the recreational management measures for Atlantic sharks. NMFS did consider re-instating the 1997 recreational retention limits of two sharks of any species per trip, with no minimum size, and an additional two Atlantic sharpnose sharks per person per trip. However, based on current and past landings data, the recommendation of the 1996 stock assessment, and individual statements of the peer reviewers, NMFS believes that re-instating the 1997 retention limit could result in a level of fishing mortality that is not consistent with the recommendations of the 1996 stock evaluation workshop. Thus, for the duration of this emergency rule, NMFS will maintain the current regulations. NMFS will take appropriate action with respect to recreational fishing regulations at the earliest practicable date upon completion of the new stock assessments and the independent review of the new LCS stock assessment.

Annual Landings Quotas

The 2002 annual landings quotas for LCS and SCS are established at 1,285 mt dw and 1,760 mt dw, respectively. The 2002 quota levels for pelagic, blue, and porbeagle sharks are established at 488 mt dw, 273 mt dw, and 92 mt dw, respectively.

Of the 697 mt dw established for the second 2001 semiannual LCS season (66 FR 33918, June 26, 2001), 604 mt dw was taken. NMFS is adding the remaining 93 mt dw to the available quota for the first 2002 semiannual fishing season. As such, the LCS quota for the first 2002 semiannual season is 735.5 mt dw. The SCS first semiannual quota for 2002 is established at 880 mt dw. The first 2002 semiannual quotas for pelagic, blue, and porbeagle sharks are established at 244 mt dw, 136.5 mt dw, and 46 mt dw, respectively.

NMFS will take appropriate action before July 1, 2002, in order to determine and announce the second 2002 semiannual quotas for Atlantic sharks.

Fishing Season Notification

The first semiannual fishing season of the 2002 fishing year for the commercial fishery for LCS, SCS, and pelagic sharks in the western north Atlantic Ocean, including the Gulf of Mexico and the Caribbean Sea, will open January 1, 2002. To estimate the closure dates of the LCS, NMFS used the average daily catch rates for each species group from the first seasons from the years 1998, 1999, 2000, and 2001 while also considering the reporting dates of permitted shark dealers. Looking at weekly catch rates in recent years, between 92 and 103 percent of the available quota would likely be taken between the first and second weeks of April. The end of the second week of April corresponds with the end of the first of two monthly reporting periods for permitted shark dealers. Accordingly, the Assistant Administrator for Fisheries (AA) has determined that the LCS quota for the first 2002 semiannual season will likely be attained by April 15, 2002. Thus, the LCS fishery will close April 15, 2002, at 11:30 p.m. local time.

When quotas are projected to be reached for the SCS, pelagic, blue, or porbeagle shark fisheries, the AA will file notification of closure at the Office of the Federal Register at least 14 days before the effective date.

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a limited access permit under 50 CFR 635.4. The sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under 50 CFR 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

Catch Limits

The existing prohibited species provisions in 50 CFR part 635 will remain in effect. A list of prohibited shark species can be found in Table 1 of Appendix A to part 635, subpart D. In addition, the limited access provisions for commercial harvests will remain in effect, including trip limits for directed and incidental limited access shark permit holders.

Those vessels that have not been issued a limited access permit under 50 CFR 635.4 may not sell sharks and are subject to the recreational size limits and retention limits specified at 50 CFR 635.20(e) and 635.22(c), respectively. The recreational fishery is not affected by any closure in the commercial fishery.

Comment Period

NMFS is accepting comments regarding this emergency rule for 90 days through March 28, 2002. Comments on these management measures were also requested in an emergency rule published on March 6, 2001 (65 FR 13441). NMFS expects new LCS and SCS stock assessments to be completed in early 2002. Based on these stock assessments and any comments received on this rule, NMFS will modify these regulations through a standard rulemaking process as appropriate.

Classification

These emergency regulations are published under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. The AA has determined that these emergency regulations are necessary to ensure that regulations in force are consistent with the court-approved settlement agreement and with the best available science, which at this time is considered to be the recommendations of the 1996 stock assessment in combination with current landings data and the individual peer reviews of the 1998 stock assessment.

NMFS prepared an Environment Assessment for this emergency rule that describes the impact on the human environment and found that no significant impact on the human environment would result. This emergency rule is of limited duration. The quota levels established in this rule are based on stock assessment results that found these levels were appropriate to maintain the stocks pending implementation of a rebuilding plan. While the most recent 1998 LCS stock assessment indicated that maintaining these quota levels could result in further stock declines, the results of the independent peer review indicate that some of the techniques and data used in the 1998 LCS stock assessment were not appropriate and that models used in earlier stock assessments should have been re-assessed and utilized if appropriate. Thus, applying the results and recommendations of earlier assessments pending new LCS and SCS assessments is the appropriate action to conserve Atlantic sharks, ensure the long-term sustainability of shark fisheries, and ensure management of Atlantic sharks is based on the best available science.

NMFS also prepared a Regulatory Impact Review for this action which assesses the economic costs and benefits of the action. Because the fishing quotas and the catch accounting/ monitoring procedures for the LCS or SCS fisheries, as adopted in the HMS FMP and its implementing regulations, have been thus far enjoined by court order and later by the settlement agreement, maintaining the 1997 management measures for the duration of this emergency rule will not change the current economic benefits or costs associated with the fisheries. Similarly, because the recreational retention limit has been in place since 1999 and because of the relatively short duration of this emergency rule, these management measures will not change the current economic benefits or costs associated with the recreational fisheries.

This emergency rule to establish the 2002 landings quotas and other shark management actions has been determined to be not significant for the purposes of Executive Order 12866.

Additionally, the ancillary action announcing the fishing season is taken under 50 CFR 635.27(b) and is exempt from review under Executive Order 12866.

Because no general notice of proposed rulemaking is required to be published in the **Federal Register** for this emergency rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act do not apply; thus, no Regulatory Flexibility Analysis was prepared.

The AA finds that there is good cause to waive the requirement to provide prior notice and an opportunity for public comment pursuant to authority set forth at 5 U.S.C. 553(b)(B). It would be impracticable to provide prior notice and opportunity for comment because it would prevent the agency from meeting the requirements of a court-approved settlement agreement, and ensuring that management measures in place at the beginning of the 2001 shark fishing season (January 1, 2002) are based on the best available science. If these regulations are not in place at the beginning of the 2001 shark fishing season then more restrictive management measures (e.g. lower annual landings quotas and measures to count dead discards against that lower quota) that could significantly impact the fishery, and that currently lack an adequate scientific basis, would be in place. Comments received on this emergency rule will be considered by NMFS when determining whether to extend this emergency rule for another 180 day period and during development of a new rule. The public will have additional opportunities to comment on these or similar measures during the next rulemaking process expected shortly after completion of the new stock assessments that are anticipated in early 2002.

The AA, under 5 U.S.C. 553(d)(3), also finds that there is good cause to waive the 30-day delay in the effective date of this emergency rule, as is normally required. The AA finds that this measure is necessary to meet the requirements of the court-approved settlement agreement and to achieve the agency's goals, as described herein. Given NMFS's ability to communicate these regulations to fishing interests rapidly through the HMS Fax network, NOAA weather radio, press releases, mailing lists, and the HMS Infoline, the fact that the public has had notice about the settlement agreement and its possible effects since December 2000, and the fact that the management measures implemented in this emergency rule are less restrictive than the management measures currently in effect, the AA believes that affected fishermen and other interested persons will have sufficient and timely notice of this action.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: December 19, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for 50 CFR part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

§ 635.20 [Amended]

2. In § 635.20, paragraph (e)(1) is suspended.

3. In § 635.27, paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iv)(A) and (b)(1)(iv)(C) are suspended, and paragraphs (b)(1)(iv)(D), (b)(1)(v), and (b)(1)(vi) are added to read as follows:

§ 635.27 Quotas.

* * * * *

(b) * * *

(1) * * *

(iv) * * *

(D) NMFS will adjust the next year's corresponding semiannual quota for pelagic sharks to reflect actual landings during any semiannual period. NMFS will adjust the semiannual quota for large coastal and small coastal sharks to reflect actual landings during the previous semiannual period. Such adjustment shall be an increase or decrease equivalent to the amount of underharvest or overharvest. NMFS will file, for publication in the **Federal Register**, notification of any adjustment at least 30 days prior to the start of the next fishing season.

(v) *Large coastal sharks.* The annual commercial quota for large coastal sharks is 1,285 mt dw, divided between two equal semiannual seasons, January 1 through June 30, and July 1 through December 31. The quota for each semiannual large coastal shark season is 642.5 mt dw unless otherwise specified in the **Federal Register** as provided in paragraph (b)(1)(iv) of this section. The length of each large coastal shark season will be determined based on the projected catch rates, available quota, and other relevant factors. NMFS will file, for publication in the **Federal Register**, notification of the length of each season for large coastal sharks at least 30 days prior to the beginning of the season.

(vi) *Small coastal sharks.* The annual commercial quota for small coastal sharks is 1,760 mt dw, divided between two equal semiannual seasons, January 1 through June 30, and July 1 through December 31. The quota for each semiannual small coastal shark season is 880 mt dw unless otherwise specified in the **Federal Register** as provided in paragraph (b)(1)(iv) of this section.

* * * * *

4. In § 635.28, paragraph (b)(1) is suspended, and paragraph (b)(4) is added to read as follows:

§ 635.28 Closures.

* * * * *

(b) * * *

(4) The commercial fishery for large coastal sharks will remain open for fixed semiannual fishing seasons, as specified at § 635.27(b)(1)(v). From the effective date and time of a season closure until additional quota becomes available, the fishery for large coastal sharks is closed, and sharks of that species group may not be retained on board a fishing vessel issued a commercial permit pursuant to § 635.4.

* * * * *

[FR Doc. 01–31832 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–22–S

VOL 66 ISS 249 DE 28 2001 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010208032–1109–02; I.D. 121901B]

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Commercial Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Commercial quota transfer; fishery reopening.

SUMMARY: NMFS announces that the State of Maine, the Commonwealth of Massachusetts, the State of Connecticut, the State of Florida, and the State of Maryland have transferred a total of 434,000 lb (196,859 kg) of commercial bluefish quota to the State of North Carolina from their respective 2001 quotas. NMFS also announces that the Commonwealth of Massachusetts has transferred 100,000 lb (45,359 kg) of commercial bluefish quota to the State of New York from its 2001 quota. NMFS has adjusted the quotas and announces the revised commercial quotas of Atlantic bluefish for each state involved, and announces the reopening of the commercial bluefish fishery in New York. This action is permitted under the regulations implementing the Fishery Management Plan for the Bluefish Fishery (FMP) and is intended to reduce discards and economic impacts in the North Carolina commercial bluefish fishery.

DATES: Effective December 21, 2001 through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Management Specialist, (978) 281–9103, fax (978)281–9135, e-mail Allison.Ferreira@noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through Florida. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.160. The initial total commercial quota for bluefish for the 2001 calendar year was set equal to 9,583,010 lb (4,348,008 kg) (66 FR 23625, May 9, 2001). The resulting quota for North Carolina was 3,072,386 lb (1,394,005 kg), for New York was 995,204 lb (451,417 kg), for Maine was 64,062 lb (29,066 kg), for Connecticut was 121,350 lb (55,059 kg), for Florida was 964,021 lb (437,396 kg), for Virginia was 1,138,412 lb (516,521 kg) and for Maryland was 287,662 lb (130,518 kg).The commercial quota for North Carolina was attained and the fishery closed on May 15, 2001 (May 16, 2001; 66 FR 27043). Through a quota transfer from the State of Maryland, the Commonwealth of Virginia, and the State of Florida, the Atlantic bluefish fishery in North Carolina was reopened on August 2, 2001 (August 7, 2001; 66 FR 41151). As a result of this quota transfer, the revised quotas for the calendar year 2001 were: Maryland, 187,662 lb (85,122 kg); Virginia, 838,412 lb (380,405 kg); Florida, 664,021 (301,195 kg); and North Carolina, 3,772,386 lb (1,711,126 kg).

The commercial quota for the State of New York was adjusted effective November 15, 2001, by means of a quota transfer of 100,000 lb (45,359 kg) from the Commonwealth of Virginia (November 15, 2001; 66 FR 57398). The revised quota for the 2001 calendar year for the State of New York was 1,095,204 lb (496,784 kg), and for Virginia was 738,412 lb (335,045 kg). However, this revised quota was exceeded, and the commercial bluefish fishery in New York closed effective December 3, 2001 (December 4, 2001; 66 FR 63003).

The final rule implementing Amendment 1 to the FMP was published on July 26, 2000 (65 FR 45844), and allows two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), to transfer or combine part or all of their annual commercial quota. The Regional Administrator must consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Maine, Massachusetts, Connecticut, Florida, and Maryland have agreed to transfer 64,000 lb (29,030 kg), 100,000 lb (45,359 kg), 70,000 lb (31,751 kg), 100,000 lb (45,359 kg), and 100,000 lb (45,359 kg) of their respective 2001 commercial quotas to North Carolina. In addition, the Commonwealth of Massachusetts has agreed to transfer 100,000 lb (45,359 kg) of its 2001 commercial quota to New York. The Regional Administrator has determined that the criteria set forth in §648.160(f)(1) have been met, and publishes this notification of quota transfer. The revised quotas for the calendar year 2001 are: Maine 62 lb (28 kg); Massachusetts 443,661 lb (201,241 kg); Connecticut 51,350 lb (23,292 kg); New York, 1,195,204 lb (542,135 kg); Florida, 564,021 lb (255,836 kg); Maryland, 87,662 lb (39,763 kg); and North Carolina 4,206,386 lb (1,907,985 kg).

This action does not alter any of the conclusions reached in the environmental impact statement prepared for Amendment 1 to the FMP regarding the effects of bluefish fishing activity on the human environment. Amendment 1 established procedures for setting an annual coastwide commercial quota for bluefish and a formula for determining the commercial quota for each state. Amendment 1 also established the quota transfer provision. This is a routine administrative action that reallocates commercial quota within the scope of previously published environmental analyses.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 20, 2001.

Jonathan Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01–31966 Filed 12–21–01; 2:27 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 249
Friday, December 28, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 98–062–1]

Update of Nursery Stock Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. This action is necessary to update the existing regulations and make them easier to understand and implement.

DATES: We will consider all comments that we receive by February 26, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 98–062–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–062–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 98–062–1" on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Wayne D. Burnett, Senior Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799; fax (301) 734–5007.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of plant pests. The regulations contained in "Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products," §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict, among other things, the importation of living plants, plant parts, and seeds for propagation.

We are proposing to make several amendments to the regulations. Our proposed amendments are discussed below by topic.

Changes in Taxonomy

Chrysanthemum

The regulations at §§ 319.37–2(a), 319.37–5(c), and 319.37–7 prohibit or restrict the importation of plants of the genus *Chrysanthemum* from several countries and localities due to a disease known as chrysanthemum white rust (CWR), which is caused by the fungus *Puccinia horiana*. The taxonomy of the genus *Chrysanthemum* has recently changed. As a result of this change, only three species of plants are now assigned to the genus *Chrysanthemum*, and none of those species are hosts of CWR. Those plants that formerly belonged to the genus *Chrysanthemum* and that are known hosts of CWR have been assigned to the genera *Ajania, Dendranthema, Leucanthemella,* and *Nipponanthemum*. We are, therefore, proposing to amend the regulations in § 319.37–2(a), § 319.37–5(c), and § 319.37–7 to reflect those changes by removing restrictions on articles of the genus *Chrysanthemum*, and adding restrictions on articles of the genera *Ajania, Dendranthema, Leucanthemella,* and *Nipponanthemum*. These proposed changes are intended only to reflect changes in taxonomy and would not result in any new plant varieties being subject to restrictions on entry.

Datura from Colombia

The regulations at §§ 319.37–2(a) and 319.37–7(a)(3) prohibit or restrict the importation of plants of the genus *Datura* from Colombia because of the existence of the Datura Colombian virus. The taxonomy of *Datura* has recently changed, and the woody *Datura* spp. that are known to host the Datura Colombian virus have been assigned to the genus *Brugmansia*. We are, therefore, proposing to replace the entries for *Datura* spp. from Colombia in the list of prohibited articles in § 319.37–2(a) and the list of restricted articles in § 319.37–7(a)(3) with entries for *Brugmansia* spp. from Colombia. *Datura* spp. from India would still be prohibited importation into the United States due to the existence of Datura distortion (enation mosaic virus) in India.

New and Revised Treatment Conditions

Treatments Performed Outside the United States

Section 319.37–13 specifies conditions and costs associated with the application of treatments performed in the United States. We are proposing to add a new paragraph (c) to § 319.37–13 to specify conditions associated with treatments that are required by our regulations and that are performed outside the United States.

Proposed new paragraph (c) would require treatments performed outside the United States to be monitored and certified by an inspector of the Animal and Plant Health Inspection Service (APHIS) or an official of the plant protection service of the country exporting the regulated articles to the United States. If an official of the exporting country monitors and certifies treatment, paragraph (c) would also require that the official issue a

VOL 66 ISS 249 DE 28 2001 UMI

phytosanitary certificate that includes a declaration that the regulated articles have been treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at § 300.1(a). (If an APHIS inspector monitors and certifies treatment, the inspector would issue a Plant Protection and Quarantine Form 203, "Foreign Site Certificate of Inspection and/or Treatment," to certify the treatment.) In addition, paragraph (c) would require the regulated articles to be stored and handled during the time between treatment and exportation to the United States in a manner that prevents infestation by pests and Federal noxious weeds. The proposed changes would provide a mechanism that allows for the certification of treatment of regulated articles by either APHIS inspectors or plant protection officials of exporting countries. The current regulations only provide for the certification of treatments by APHIS inspectors.

Treatment of Niger Seed

Under the regulations at § 319.37–6(d), seeds of *Guizotia abyssinica* (niger) are required to be heat treated in accordance with the PPQ Treatment Manual for possible infestation with *Cuscuta* spp. (dodder) seeds at the time of arrival at the port of first arrival in the United States. *Cuscuta* spp. are Federal noxious weeds. Niger seed, however, may be contaminated with the seeds of other Federal noxious weeds, including *Asphodelius fistulosus* Linnaeus (onion weed), *Digitaria* spp. (includes African couchgrass), *Oryza* spp. (red rice), *Paspalum scrobiculatum* Linnaeus (kodo millet), *Prosopis* spp. (includes mesquites), *Solanum viarum* Dunal (tropical soda apple), *Striga* spp. (witchweed), and *Urochloa panicoides* Beauvois (liver-seed grass). The currently prescribed treatment is not effective against those additional noxious weed seeds. We are, therefore, proposing to adopt a new treatment for niger seed that has been demonstrated to be effective against these other contaminants. We would amend the PPQ Treatment Manual to provide that imported niger seed must be heat treated at 248 °F (120 °C) for 15 minutes.

We are also proposing to amend the regulations to allow niger seed to be imported into the United States if it is heat treated prior to shipment to the United States in accordance with the PPQ Treatment Manual at a facility that has been approved by APHIS. The facility would be required to operate in compliance with a written agreement with the plant protection service of the exporting country, in which the treatment facility owner agrees to (1) comply with the applicable APHIS regulations and treatment requirements and (2) allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. We would also require that the treatment be conducted in accordance with the conditions described in proposed § 319.37–13(c) which, as noted above, would provide for the certification of treatment and the safeguarding of treated articles when treatments are performed outside the United States.

In order to be approved by APHIS as a niger seed heat treatment facility, facilities would be required to meet the following minimum standards and specifications:

- A minimum of two temperature probes must be situated in the heat treating equipment in such a way as to determine that all niger seed being treated reaches the target temperature.
- The temperature recording chart must show changes in temperature in increments of not less than 0.1 inch for each degree Fahrenheit or 5 mm for each degree Celsius.
- Temperature readings must be recorded on a chart at time intervals not to exceed 4 minutes between each reading.
- Accuracy of the total temperature recording system must be within plus or minus 0.5 °F (0.3 °C) of the actual temperatures as recorded by a certified calibrated thermometer.
- A speed indicator must be present for continuous flow systems.
- All the valves and controls that affect heat flow to the treatment system must be secured to avoid manipulation by unauthorized personnel during the treatment process.
- Heating controls must be automatic and run continuously throughout the treatment process. Manual adjustments are allowed, if necessary.
- Gear systems used to control the niger seed conveyer (if applicable) must be capable of being adjusted as necessary to meet treatment requirements.
- An audible alarm or highly visible light must be installed on burners or other equipment to indicate system failure and/or when the system is not operating properly.
- An action plan must be established to address any pests that may be associated with the storage, treatment, or shipment of niger seed.
- Proper sanitation measures must be implemented to ensure that there are no potential breeding grounds for pests on the premises, and therefore, little risk of reinfestation or cross-contamination.
- Treated seeds must be stored in a location separate from nontreated seeds. The treated and nontreated seeds must be handled in a manner to prevent cross-contamination.
- Seed processing equipment must have the capability to divert for retreatment any nontreated or treated seeds that do not meet treatment standards.

The above standards and specifications would be included in the PPQ Treatment Manual, along with additional specific information regarding treatment procedures and the certification process. We would include a footnote in § 319.37–6(d)(2) stating that the approval criteria may be found in the PPQ Treatment Manual. Interested persons may obtain this additional information by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Treatment of Lilac From The Netherlands

The regulations at § 319.37–5(i) prohibit the importation of plants of the genera *Syringa* (lilac) from The Netherlands unless, at the time of arrival in the United States, the phytosanitary certificate accompanying the plants contains a declaration stipulating that: (1) The plants' parent stock was found free of plant diseases by inspection and indexing, (2) the plants were propagated either by rooting cutting from indexed parent plants or by grafting indexed parent plant material on seedling rootstalks, and (3) the plants were grown in soil that was fumigated with methyl bromide according to certain conditions. The Government of The Netherlands has requested that APHIS provide an alternative to treating the soil with methyl bromide, since methyl bromide is no longer allowed to be used in The Netherlands.

We currently require the soil to be fumigated with methyl bromide to ensure it does not contain live viruliferous nematodes. Soil that does not contain any viruliferous nematodes also would be safe, and we believe this could be determined through microscopic inspection of the soil. Therefore, as an alternative to fumigating the soil with methyl bromide, we are proposing to allow the soil to be certified free of viruliferous nematodes and other plant pests by the plant protection service of The Netherlands. For this certification to be valid, we would require that the soil be sampled and microscopically inspected by the plant protection service of The Netherlands within 12 months preceding the issuance of the certification. We are proposing this requirement because we believe that soil that is sampled and inspected annually would not present a significant risk of being infested with nematodes.

Changes in Pest Distributions

Peanut Stripe Virus

The regulations at § 319.37–2(a) prohibit the importation of seeds of the genus *Arachis* (peanut) from India, Indonesia, Japan, the People's Republic of China, the Philippines, Taiwan, and Thailand due to the existence of peanut stripe virus in those regions. We are proposing to remove the prohibition on the importation of peanuts from all of those regions except India because the peanut stripe virus is now reported to occur in seven of the nine peanut-producing States in the United States, and is widely prevalent in two of those States (Georgia and Virginia). The importation into the United States of peanuts from India would still be prohibited due to the existence of the Indian peanut clump virus in India.

Mango Seed Weevil

The regulations at § 319.37–2(a) prohibit the importation of seeds of *Mangifera* spp. (mango) from certain regions due to the existence of the mango seed weevil, *Sternochetus mangiferae,* in those regions. We are proposing to also prohibit the importation of mango seeds from the British Virgin Islands, Grenada, St. Vincent and the Grenadines, and Trinidad and Tobago due to recent reports that the mango seed weevil exists there. Currently, the mango seed weevil exists in Guam, Hawaii, and the Northern Mariana Islands. Since there is no program in place to control the mango seed weevil in any of those areas, we would not restrict the movement of mango seeds into Guam, Hawaii, and the Northern Mariana Islands.

We are also proposing to allow the importation of mango seeds from Guimaras Island in the Republic of the Philippines due to the fact that neither the mango seed weevil, nor any other quarantine pest of mango seeds, exists on that island.

Watermark Disease of Willow

The regulations at §§ 319.37–2(a) and 319.37–7(a)(3) prohibit or restrict the importation of plants of the genus *Salix* (willow) from the Federal Republic of Germany (West), German Democratic Republic (East), Great Britain, and The Netherlands due to the existence of watermark disease of willow, *Erwinia salicis,* in those regions. We are proposing to also prohibit the importation of willow plants from Belgium and Japan due to recent reports that watermark disease of willow exists in those regions. Currently, watermark disease of willow does not exist in the United States. We are also proposing to remove references to the former East and West Germany and refer instead to Germany.

Citrus Canker

The regulations at § 319.37–6(e) provide that seeds of all species of the plant family *Rutaceae* from certain countries must be treated under certain conditions at the time of arrival at the port of first arrival in the United States for possible infection with citrus canker.

We are proposing to require the same treatment upon arrival for *Rutaceae* seeds from Gabon and Iran because citrus canker is reported to occur in each of those regions. Currently, citrus canker exists in the United States only in a portion of the State of Florida, where there is an eradication program underway.

Postentry Quarantine Regulations

Growing Agreements

The regulations at § 319.37–7(d) require that a person who wishes to grow a restricted article under postentry quarantine must enter into a postentry quarantine growing agreement with APHIS. Under the regulations, growers who enter into such growing agreements may only grow a restricted article or increase from that article on certain premises, under certain conditions, and may only move, propagate, or allow propagation of the restricted articles with the written permission of an APHIS inspector.

We are proposing to amend the regulations to require that growers obtain permission to move, propagate, or allow propagation of a restricted article not from an APHIS inspector, but from the coordinator, Postentry Quarantine Unit, APHIS. We are proposing this change in order to make it clear who gives permission to move or increase plants in postentry quarantine.

States With Growing Agreements

Under the regulations at § 319.37–7(c), articles required to undergo postentry quarantine under § 319.37–7 may only be imported into a State that has entered into a written agreement with APHIS. Paragraph (c)(1)(i) of § 319.37–7 is established as the location for the list of States that have entered into such agreements with APHIS, but does not currently list any States. As of the drafting of this proposed rule, all U.S. States and Territories except the District of Columbia, Guam, Hawaii, and the Northern Mariana Islands have entered into written postentry quarantine agreements with APHIS. Therefore, we are proposing to amend § 319.37–7(c)(1)(i) to indicate that all U.S. States and Territories except those cited in the previous sentence have entered into written postentry quarantine agreements with APHIS.

Requirements for the Importation of Hops

The regulations at § 319.37–7(a) restrict the entry of plants of the genus *Humulus* (hops) from all foreign countries due to the existence of several foreign plant diseases known to affect hops. One such disease is the hops powdery mildew (HPM), which is caused by the fungus *Sphaerotheca macularis.* HPM currently exists in the United States in Idaho, Oregon, and Washington.

We are proposing to add a requirement in § 319.37–7(d)(7)(iii) that a meristem culture of any imported hops plant must be grown and observed for 6 months in an isolated growth chamber in postentry quarantine. After 6 months, once the meristem culture has been established, the original plant would have to be destroyed, and the meristem culture would have to be grown in postentry quarantine for an additional year. This requirement would provide time for any symptoms of disease to become visible to inspectors. We are proposing this action to protect against the introduction of additional strains or biotypes of HPM into the United States.

Arrangement of Plants

The regulations at § 319.37–7(d)(4) require restricted articles that are grown in postentry quarantine to be kept 3 meters (approximately 10 feet) apart from: (1) Any domestic plant or plant product of the same genus and (2) any other imported plant or plant product.

We are proposing to require restricted articles that are grown in postentry quarantine to be kept 3 meters apart from any other plant or plant product, whether domestic or imported, regardless of genus, unless the plants or plant products: (1) Are of the same genus, (2) enter postentry quarantine together, and (3) arrived together in a single shipment from a foreign region. This change would protect against the possibility that pests could spread from one shipment of plants under postentry quarantine to other plants or plant products, regardless of genera, that could host such pests.

VOL 66 ISS 249 DE 28 2001 UMI

Prohibited Articles Listed as Subject to Postentry Quarantine

The regulations in § 319.37–7 require articles of the genus *Ribes* from New Zealand to be grown in postentry quarantine upon entry into the United States. Since the regulations in § 319.37–2(a) currently prohibit the importation of articles of the genus *Ribes* from New Zealand due to the black currant reversion agent, we are proposing to correct the error in § 319.37–7.

Also, the regulations at § 319.37–7(b) list fruits and nuts, including articles of the genus *Phoenix* (date), as articles subject to postentry quarantine. However, *Phoenix* spp. articles are currently listed as prohibited articles in § 319.37–2(a) of the regulations and should not be listed as articles subject to postentry quarantine. Therefore, we are proposing to remove the entry for *Phoenix* from the list in § 319.37–7(b) of fruits and nut articles subject to postentry quarantine.

Labeling Requirements for Greenhouse-Grown Plants From Canada

The regulations at § 319.37–4(c) govern the importation of greenhouse-grown plants from Canada. Among other things, § 319.37–4(c) requires that the Plant Protection Division, Agriculture Canada, issue labels to each grower participating in the program. The labels must bear a unique number identifying the grower and bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by the Plant Protection Division, Agriculture Canada." Under § 319.37–4(c), growers must apply these labels to each carton of plants to be shipped to the United States and to an airway bill, bill of lading, or delivery ticket. Paragraph (c) of § 319.37–4 also requires that the Plant Protection Division of Agriculture Canada ensure that the label is placed on the outside of each container of plants and that the grower's label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles.

We are proposing to remove the requirement that the label be applied to each carton or container of plants. We believe that it is sufficient to place the label containing that information on the airway bill, bill of lading, or delivery ticket accompanying the shipment of plants. We are also proposing to update references to the Plant Protection Division of Agriculture Canada in § 319.37–4(c) to reflect the reorganization of the agency. Agriculture Canada is now the Canadian Food Inspection Agency and the Plant Protection Division is now the Plant Health and Production Division.

Risk Assessments for Plants Established in Growing Media

The regulations at § 319.37–8(g) provide pest risk evaluation standards to be used by APHIS to evaluate requests to allow additional taxa of plants established in growing media to be allowed importation into the United States. These guidelines generally follow the pest risk analysis guidelines established by the International Plant Protection Convention (IPPC) of the United Nations' Food and Agricultural Organization. The IPPC pest risk analysis guidelines are the international standards for conducting pest risk analyses. As an IPPC member country, the United States is obligated to conduct pest risk analyses in accordance with IPPC guidelines.

The existing standards were made effective in February 1995, and have been amended since. Therefore, in order to bring the regulations up to date with current procedure, we are proposing to remove the existing standards in § 319.37–8(g) and add in their place a statement that APHIS will evaluate requests to allow the importation of additional taxa of plants in growing media in accordance with IPPC pest risk analysis guidelines. These guidelines are available by writing to USDA, APHIS, PPQ, Permits and Risk Assessment, Commodity Risk Analysis Branch, 4700 River Road Unit 133, Riverdale, MD 20737, or on the Internet at: *http://www.aphis.usda.gov/ppq/pra/commodity/cpraguide.pdf.*

Commercial Shipments of Bulbs

The regulations at § 319.37–2(a) prohibit the importation of plants of the genera *Crocosmia, Gladiolus,* and *Watsonia* from Africa, Brazil, France, Italy, Malta, Mauritius, and Portugal because of *Uromyces transversalis* (Theum.), commonly known as gladiolus rust, which is known to exist in those countries. However, recent research evaluated by APHIS shows that bulbs of *Crocosmia* spp., *Gladiolus* spp., and *Watsonia* spp. that are commercially packaged and processed prior to shipment to the United States present a low risk of carrying *U. transversalis.* We are, therefore, proposing to remove the prohibition in § 319.37–2(a) on the importation of bulbs of *Crocosmia* spp., *Gladiolus* spp., and *Watsonia* spp. in commercial shipments from Brazil, France, Italy, Malta, Mauritius, and Portugal. The importation into the United States of commercial shipments of bulbs of *Crocosmia* spp., *Gladiolus* spp., and *Watsonia* spp. from Africa would still be prohibited due to the existence of several other varieties of rust in Africa.

Approved Growing Media

The regulations at § 319.37–8(e)(1) list approved growing media for plants that are allowed to be imported in growing media. We are proposing to add coal cinder, coir, Stockosorb superabsorbent polymer, and zeolite to the list of approved growing media in § 319.37–8(e)(1). We have inspected each of these types of growing media and reviewed their respective manufacturers' specifications. Based on our inspection and review of the media's specifications, we have determined that the media are sterile and would not present new pathways for plant pests to enter the United States.

Approved Packing Material

The regulations at § 319.37–9 list approved packing material for imported plants. We are proposing to add stockosorb superabsorbent polymer to the list of approved packing material in § 319.37–9. We have inspected the material and reviewed its manufacturers' specifications. Based on our inspection and review of the material's specifications, we have determined that the material is sterile and would not present a new pathway for plant pests to enter the United States.

Ports of Entry

The regulations at § 319.37–14 list Federal plant inspection stations and ports of entry for plants offered for importation into the United States. Federal plant inspection stations are ports that have the capacity to process importations of restricted articles that are required to be accompanied by a written permit under the regulations in § 319.37–3(a)(1) through (6), as well as any other imported plants or plant products. Other ports of entry cannot process shipments of plants or plant products that are imported under permit as specified above.

We are proposing to remove El Paso, TX, from the list of ports of entry designated as plant inspection stations because the port of El Paso no longer has the facilities or resources necessary to operate as a Federal plant inspection station. The port of El Paso would continue to operate as a port of entry.

Editorial Changes

We are proposing to replace all references to the former "Burma," "Ivory Coast," and "Upper Volta" that are contained in the regulations with references to "Myanmar," "Cote d'Ivoire," and "Burkina Faso," respectively. We would also correct several typographical errors in the regulations.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is set out below, regarding the effects of this proposed rule on small entities. We do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments concerning potential economic effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to regulate the importation of plants, plant products, and other articles to prevent the introduction of injurious plant pests.

We are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. The potential effects of the changes proposed in this document are discussed below, by topic.

Treatment of Niger Seed

We are proposing to amend the regulations to allow niger seed to be imported into the United States if it is treated at a treatment facility that has been approved by APHIS. Under this proposed amendment, niger seed could be treated: (1) At the time of arrival at the port of first arrival in the United States or (2) prior to shipment to the United States at a treatment facility that has been approved by APHIS. Currently, the regulations in § 319.37–6(d) state that imported niger seed must be heat treated upon arrival in the United States.

This proposed change could potentially affect U.S. firms that import and treat niger seed. The treatment firms could suffer a loss in revenue, but we believe that there are only two such firms in the United States, and at least one of those firms is not small in size according to Small Business Administration (SBA) criteria. It is likely that the other treatment firm, whose size is unknown, may not be significantly affected, because niger seed treatment likely accounts for only a small portion of the firm's overall revenues. However, since we are unable to estimate the amount of niger seed that would be treated prior to shipment to the United States, we cannot determine the effect this proposed rule would have on domestic firms that treat niger seed.

As a group, importers in the United States would likely be unaffected by this proposed change, since it would not likely affect the overall volume of niger seed imported into the United States. However, the proposed change could result in new marketing and distribution channels that could benefit some importers at the expense of others. We estimate that there are fewer than 20 importers of niger seed in the United States. However, data on the importers' size are not available, although we expect at least some of the importers are likely to be small according to SBA criteria.

We are also proposing to amend the regulations to revise the heat treatment required for imported niger seed. However, since the revised treatment would only involve a change in the required treatment temperature, and no change in the type or duration of the treatment, we anticipate that existing treatment facilities would not be affected by the proposed new treatment.

Lilac From The Netherlands

This proposed rule would allow the importation of lilac from The Netherlands under new conditions due to The Netherlands' request for an alternative to the use of methyl bromide as a fumigant of soil for lilac to be exported to the United States. This change should have no effect on the volume of lilac imported from the Netherlands since it simply provides a new mechanism for Dutch exporters to ship lilac without fumigating the soil in which it is grown with methyl bromide and, therefore, should have no effect on U.S. entities, whether small or large.

Peanuts From Certain Countries

This proposed rule would allow the importation of peanuts from Indonesia, Japan, the People's Republic of China, the Philippines, Taiwan, and Thailand. The importation of peanuts from those countries has been prohibited due to the existence of the peanut stripe virus. Because the peanut stripe virus is now known to exist in several U.S. peanut-producing States, and is widely prevalent in Georgia and Virginia, we are proposing to remove the restrictions on the entry of peanuts from those countries.

China is the world's largest peanut producer. In the 1996 to 1997 harvest season, China produced about 6 times more peanuts than the United States, which was the world's fourth largest peanut producer during that period (India and Nigeria were the second and third largest producers, respectively). For the year beginning October 1, 1997, the United States imported 141 million pounds of peanuts, equivalent to only 4 percent of domestic peanut production. The United States is a net exporter of peanuts, exporting almost five times as many peanuts as it imports.

This proposed change should have little or no effect on U.S. consumers, producers, or importers because it is unlikely that a significant volume of peanuts would be imported into the United States, since the imported peanuts likely cannot compete with higher quality peanuts produced in the United States.

Mango Seeds From the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines

This proposed rule would prohibit the importation of mango seeds from the British Virgin Islands, Grenada, Trinidad and Tobago, and St. Vincent and the Grenadines due to the risk of introducing the mango seed weevil, *Sternochetus mangiferae*, into the United States. This proposed change should have little or no effect on U.S. consumers, importers, or producers, due to the fact that the United States has historically imported a very small volume of mangoes and mango seeds from those countries. Between September 1, 1997, and May 31, 1998, the value of U.S. imports of fresh mangoes (with seeds intact) from Trinidad and Tobago and Grenada was approximately $20,000, or approximately 1 percent of the value of U.S. fresh mango imports from all countries combined during that period. During the same period, the United States imported no mangoes or mango seeds from St. Vincent and the Grenadines. Data on imports of mango seeds or fruit from the British Virgin Islands are not available. Furthermore, the United States imported no seeds, fruit, or spores for propagation from Trinidad and Tobago in 1997.

Willow From Belgium and Japan

This proposed rule would prohibit the importation of willow plants and plant parts from Belgium and Japan due to the risk of introducing the watermark disease of willow into the United States.

The United States has historically imported a very small volume of willow plants and plant parts from Belgium and Japan. The value of live trees and plants, including willow plants, imported into the United States from Belgium and Japan in 1997 totaled only $3 million, or less than 1 percent of the value of U.S. live tree and plant imports from all countries combined that year. Since willow plants compose only a small fraction of the plants imported from Belgium and Japan, this proposed change should have little or no effect on U.S. consumers, importers, or producers.

Citrus Seeds From Gabon and Iran

This proposed rule would require that seeds of all species of the plant family Rutaceae (citrus) from Gabon and Iran be treated for citrus canker upon arrival in the United States. This proposed change should have no effect on U.S. consumers, producers, or importers, since imports of Rutaceae (citrus) from the two affected countries are nonexistent. Trade data for 1995 to 1997 show no U.S. imports of citrus fruit (fresh or dried) or seeds, fruit, or spores for propagation from either of the two regions.

Growing Requirements for Hops

This proposed rule would require that imported hops plants and plant parts be grown and observed in postentry quarantine in an isolated growth chamber for 6 months, and then transferred to a greenhouse to be grown for an additional year.

Researchers and universities comprise the overwhelming bulk of entities in the United States that grow imported hop plants and plant parts. The proposed change should have little or no effect on researchers, since most already have the equipment and facilities to comply with the proposed rule's requirements. Accordingly, for most of the affected entities, the cost to comply with the proposed requirements should be minimal.

Commercial Shipments of Bulbs

This proposed rule would allow the importation of bulbs of the genera *Crocosmia, Gladiolus*, and *Watsonia* in commercial shipments from Brazil, France, Italy, Malta, Mauritius, and Portugal.

In 1998, the United States imported over $175 million worth of bulbs and tubers. Imports from Brazil, France, Italy, Malta, Mauritius, and Portugal together accounted for less than 1 percent of the total bulb and tuber imports. Data on potential imports of bulbs that would result from this proposed change are not available. However, given the export history of the countries affected, it is unlikely that this change would have a significant impact on domestic bulb producers or bulb importers.

Additional Approved Growing Media and Packing Material

This proposed rule would add stockosorb superabsorbent polymer, zeolite, coir, and coal cinder to the list of growing media approved for the importation of certain plants.

This proposed change is not expected to result in increased U.S. imports of plants in growing media; the expected result is a redistribution of the existing volume of plant imports among a larger number of approved growing media. Accordingly, the proposed addition of these types of growing media should have no economic effect on U.S. consumers, producers, or importers.

This rule would also add stockosorb superabsorbent polymer to the list of approved packing material. We cannot determine what entities could be affected by this proposed change, but we believe that it would not likely have a significant economic effect on any U.S. entities.

List of Ports of Entry

This rule would amend the regulations to reflect that the port of El Paso, TX, no longer operates as a Federal plant inspection station. This port no longer operates as a plant inspection station because it does not have the capacity to perform treatments and provide the other services that are available at Federal plant inspection stations. We believe that this change would not have any significant impact on any U.S. entities, whether small or large.

Other Proposed Changes

We are also proposing to make several other amendments to the regulations, including changes in plant taxonomy, postentry quarantine protocol, labeling requirements, and risk assessment policy, as well as other editorial changes, which would not have any economic effects on U.S. entities, whether small or large.

This proposed rule contains information collection requirements, which have been submitted for approval to the Office of Management and Budget (see "Paperwork Reduction Act" below).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–062–1. Please send a copy of your comments to: (1) Docket No. 98–062–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

In this document, we are proposing to amend the regulations for importing nursery stock to require additional certifications for imported niger seed and lilac, to reflect recent changes in plant taxonomy and pest distributions, and to make various changes to the requirements for postentry quarantine of imported plants. We are also proposing several other amendments to update and clarify the regulations and improve their effectiveness. This action is necessary to update the existing regulations and make them easier to understand and implement.

These changes will necessitate the use of certain information collection activities, including the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.5 hours per response.

Respondents: Importers of nursery stock and foreign governments.

Estimated annual number of respondents: 20.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 20.

Estimated total annual burden on respondents: 10 hours.

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR parts 300 and 319 as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

2. In § 300.1, paragraph (a), the introductory text would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [date], has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

4. In § 319.37–2(a), the table would be amended as follows:

a. By adding, in alphabetical order, entries for "*Ajania* spp.", "*Brugmansia* spp.", "*Chrysanthemum*", "*Crocosmia* spp.", "*Datura* spp. (woody species)", "*Gladiolus* spp.", "*Leucanthemum* spp.", "*Nipponanthemum* spp.", and "*Watsonia* spp." to read as set forth below.

b. By removing the entry for "*Chrysanthemum* spp.".

c. By revising the entries for "*Abelmoschus* spp.", "*Aesculus* spp.", "*Arachis* spp.", "*Blighia sapida*", "*Crocosmia* spp.", "*Datura* spp.", "*Gladiolus* spp.", "*Jasminum* spp.", "*Mangifera* spp.", "*Salix* spp.", "*Sorbus* spp.", and "*Watsonia* spp." to read as set forth below.

d. In the entry for "*Hydragea* spp.", the word "*Hydragea*" would be corrected to read "*Hydrangea*".

§ 319.37–2 Prohibited articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
Abelmoschus spp. (okra)	Africa	Cotton leaf curl agent.
	Brazil	Cotton Anthocyanosis agent.
	Bangladesh, India, Sri Lanka	Bhendi yellow vein mosaic agent.
	Cote d'Ivoire, Nigeria	Okra mosaic virus.
	Iraq	Okra yellow leaf curl agent.
	Papua New Guinea, Trinidad and Tobago	Okra mosaic agents.
* *	* * *	* *
Aesculus spp. (horsechestnut)	Czechoslovakia, Germany, Romania, United Kingdom..	Horsechestnut variegation or yellow mosaic diseases.
* *	* * *	* *
Ajania spp	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	*Puccina horiana* P. Henn. (white rust of chrysanthemum).

VOL 66 ISS 249 DE 28 2001 UMI

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* * *	* * *	* * *
Arachis spp. (peanut) seed only (all other *Arachis* articles are included under Fabaceae).	Burkina Faso, Cote d'Ivoire, Senegal	Peanut clump virus.
	India	Indian peanut clump virus.
* * *	* * *	* * *
Blighia sapida (akee)	Cote d'Ivoire, Nigeria	Okra mosaic virus.
* * *	* * *	* * *
Brugmansia spp	Columbia	Datura Columbia virus.
* * *	* * *	* * *
Chrysanthemum	(See § 319.37–5(c)).	
* * *	* * *	* * *
Crocosmia spp. (montebretia)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Crocosmia spp. (montebretia), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	*U. transversalis* (Thuem.) Wint. (rust).
* * *	* * *	* * *
Datura spp	India	Datura distortion or enation mosaic virus.
Datura spp. (woody species)	(See *Brugmansia* spp.).	
* * *	* * *	* * *
Gladiolus spp. (gladiolus)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Gladiolus spp. (gladiolus), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	*U. transversalis* (Thuem.) Wint. (rust).
* * *	* * *	* * *
Jasminum spp. (jasmine)	Belgium, Germany, Great Britain	Jasmine variegation diseases.
	India	Chlorotic ringspot, phyllody, yellow ring mosaic diseases.
	Philippines	Sampaguita yellow ringspot mosaic diseases.
* * *	* * *	* * *
Leucanthemella spp	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.	*Puccina horiana* P. Henn. (white rust of chrysanthemum).
* * *	* * *	* * *
Mangifera spp. (mango) seed only. (Prohibition not applicable to seeds imported into Guam, Hawaii, and the Northern Mariana Islands.).	All except Guimaras Island (Republic of the Philippines) and North and South America (excluding Barbados, the British Virgin Islands, Dominica, French Guiana, Grenada, Guadeloupe, Martinique, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago).	*Sternochetus mangiferae* F. (mango seed weevil).

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Nipponanthemum spp	Argentina, Brazil, Canary Islands, Chile, Colombia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude..	*Puccina horiana* P. Henn. (white rust of chrysanthemum).
* *	* * *	* *
Salix spp. (willow)	Belgium, Germany, Great Britain, Japan, and The Netherlands.	*Erwinia salicis* (Day) Chester (Watermark disease).
* *	* * *	* *
Sorbus spp. (mountain ash)	Czechoslovakia, Denmark, Germany	Mountain ash variegation or ringspot mosaic disease.
* *	* * *	* *
Watsonia spp. (bugle lily)	Africa	*Puccinia mccleanii* Doidge (rust), *Uredo gladioli-buettneri* Bub. (rust), *Uromyces gladioli* P. Henn. (rust), *U. nyikensis* Syd. (rust).
	Argentina, Uruguay	*U. gladioli* P. Henn. (rust).
Watsonia spp. (bugle lily), except bulbs in commercial shipments.	Africa, Brazil, France, Italy, Malta, Mauritius, Portugal.	*U. transversalis* (Thuem.) Wint. (rust).
* *	* * *	* *

5. In § 319.37–4, paragraph (c) would be amended as follows:

a. By revising the introductory text to read as set forth below.

b. By revising the introductory text of paragraph (c)(1) to read as set forth below.

c. By revising paragraph (c)(1)(iv) to read as set forth below.

d. By revising paragraph (c)(2) to read as follows:

§ 319.37–4 Inspection, treatment, and phytosanitary certificates of inspection.

* * * * *

(c) *Greenhouse-grown plants from Canada.* A greenhouse-grown restricted plant may be imported from Canada if the Plant Health and Production Division of the Canadian Food Inspection Agency (CFIA) signs a written agreement with the Animal and Plant Health Inspection Service allowing such importation, and provided that the following conditions are met:

(1) The Plant Health and Production Division of CFIA shall:

* * * * *

(iv) Issue labels to each grower participating in the program. The labels issued to each grower shall bear a unique number identifying that grower, and shall bear the following statement: "This shipment of greenhouse-grown plants meets the import requirements of the United States, and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency." The Plant Health and Production Division, CFIA, shall also ensure that the label is placed on the airway bill, bill of lading, or delivery ticket accompanying each shipment of articles; and

* * * * *

(2) Each greenhouse grower participating in the program shall enter into an agreement with the Plant Health and Production Division of CFIA in which the grower agrees to:

(i) Maintain records of the kinds and quantities of plants grown in their greenhouses, including the date of receipt and place of origin of the plants; keep the records for at least 1 year after the plants are shipped to the United States; and make the records available for review and copying upon request by either the Plant Health and Production Division of CFIA or an authorized representative of the Secretary of Agriculture;

(ii) Apply to an airway bill, bill of lading, or delivery ticket for plants to be shipped to the United States a label issued by CFIA that includes the identification number assigned to the grower by the Plant Health and Production Division, CFIA, and the following certification statement: "This shipment of greenhouse grown plants meets the import requirements of the United States and is believed to be free from injurious plant pests. Issued by Plant Health and Production Division, Canadian Food Inspection Agency."; and

(iii) Use pest control practices approved by Plant Protection and Quarantine and the Plant Health and Production Division of CFIA to exclude pests from the greenhouses.

6. Section 319.37–5 would be amended by revising paragraphs (c) and (i) to read as follows.

§ 319.37–5 Special foreign inspection and certification requirements.

* * * * *

(c) Any restricted article (except seeds) of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., or *Nipponanthemum* spp. from any foreign place except Europe, Argentina, Brazil, Canada, the Canary Islands, Chile, Colombia, the Republic of South Africa, Uruguay, Venezuela, and all countries and localities located in part or entirely between 90° and 180° east longitude shall, at the time of arrival at the port of first arrival in United States, be accompanied by a phytosanitary

VOL 66 ISS 249 DE 28 2001 UMI

certificate of inspection. The phytosanitary certificate of inspection must contain a declaration that such article was grown in a greenhouse nursery and found by the plant protection service of the country in which grown to be free from white rust of chrysanthemum (caused by the rust fungus *Puccinia horiana* P. Henn.) based on visual examination of the parent stock, the articles for importation, and the greenhouse nursery in which the articles for importation and the parent stock were grown, once a month for 4 consecutive months immediately prior to importation.

* * * * *

(i) Any restricted article of *Syringa* spp. (lilac) from The Netherlands is prohibited as specified in § 319.37–2(a) unless, at the time of arrival at the port of first arrival in the United States, the phytosanitary certificate accompanying the article of *Syringa* spp. (lilac) contains a declaration that stipulates that the parent stock was found free of plant diseases by inspection and indexing and that the Syringa spp. (lilac) to be imported were propagated either by rooting cuttings from indexed parent plants or by grafting indexed parent plant material on seedling rootstocks, and were grown in:

(1) Fumigated soil (fumigated by applying 400 to 870 pounds of methyl bromide per acre and covering the soil with a tarpaulin for 7 days) in a field at least 3 meters from the nearest nonindexed *Syringa* spp. (lilac), or

(2) Soil that has been sampled and microscopically inspected by the plant protection service of The Netherlands within 12 months preceding issuance of the phytosanitary certificate and that has been found free of the viruliferous nematodes capable of transmitting European nepoviruses, including, but not limited to, the Arabis mosaic nepovirus.

* * * * *

7. Section 319.37–6 would be amended as follows:

a. By revising paragraph (d) to read as set forth below.

b. In paragraph (e), by removing the words "Burma," and "Ivory Coast," and by adding, in alphabetical order, the words "Cote d'Ivoire," "Gabon," "Iran," and "Myanmar,".

§ 319.37–6 Specific treatment and other requirements.

* * * * *

(d) Seeds of *Guizotia abyssinica* (niger seed) are allowed entry only if:

(1) They are treated in accordance with the PPQ Treatment Manual at the time of arrival at the port of first arrival in the United States; or

(2) They are treated prior to shipment to the United States at a facility that is approved by APHIS[9] and that operates in compliance with a written agreement between the treatment facility owner and the plant protection service of the exporting country, in which the treatment facility owner agrees to comply with the provisions of this section and allow inspectors and representatives of the plant protection service of the exporting country access to the treatment facility as necessary to monitor compliance with the regulations. Treatments must be certified in accordance with the conditions described in § 319.37–13(c).

* * * * *

8. Section 319.37–7 would be amended as follows:

a. In the table in paragraph (a)(3), by adding, in alphabetical order, entries for "*Ajania* spp.", "*Brugmansia* spp.", "*Chrysanthemum*", "*Datura* spp. (woody species)", "*Leucanthemella* spp.", and "*Nipponanthemum* spp." to read as set forth below.

b. In the table in paragraph (a)(3), by removing the entry for "*Chrysanthemum* spp.".

c. In the table in paragraph (a)(3), by revising the entries for "*Aesculus* spp.", "*Blighia sapida*", "*Datura* spp.", "*Ribes* spp.", and "*Salix* spp." to read as set forth below.

d. In paragraph (b), by removing the entry for "*Phoenix*—date".

e. By revising paragraph (c)(1)(i) to read as set forth below and by adding and reserving paragraph (c)(1)(ii).

f. In paragraph (c)(2)(iv), by removing the words "now know" and adding the words "not known" in their place.

g. In paragraph (d)(1), by removing the words "of an inspector and only to the extent prescribed by the inspector;" and adding the words "of the coordinator, Postentry Quarantine Unit, USDA, APHIS, PPQ, Building 580, BARC-East, Beltsville, MD 20705;" in their place.

h. By revising paragraph (d)(4) to read as set forth below.

i. By revising paragraph (d)(7) to read as set forth below.

j. By removing paragraphs (d)(8) and (d)(9).

k. In paragraph (e), by redesignating footnote 9 and its reference in the text as footnote 10.

§ 319.37–7 Postentry quarantine.

(a) * * *

(3) * * *

Restricted articles (excluding seeds)	Foreign country(ies) or locality(ies) from which imported
*	* * * * * *
Aesculus spp. (horsechestnut)	All except Canada, Czechoslovakia, Germany, Romania, and the United Kingdom.
*	* * * * * *
Ajania spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
*	* * * * * *
Blighia sapida (akee)	All except Canada, Cote d'Ivoire, and Nigeria.
*	* * * * * *
Brugmansia spp	All except Canada and Columbia.
*	* * * * * *
Chrysanthemum	See § 319.37–5(c).

---

[9] Criteria for the approval of niger seed treatment facilities are contained in the PPQ Treatment Manual, which is incorporated by reference at § 300.1 of this chapter.

Restricted articles (excluding seeds)	Foreign country(ies) or locality(ies) from which imported
* *	* * * * *
Datura spp	All except Canada and India.
Datura spp. (woody species)	(See *Brugmansia* spp)
* *	* * * * *
Leucanthemella spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
* *	* * * * *
Nipponanthemum spp	All except Argentina, Brazil, Canary Islands, Chile, Columbia, Europe, Republic of South Africa, Uruguay, Venezuela, and all countries, territories, and possessions of countries located in part or entirely between 90° and 180° east longitude.
* *	* * * * *
Ribes spp	All except Canada, Europe, and New Zealand.
* *	* * * * *
Salix spp. (willow)	All of Europe (except Belgium, Germany, Great Britain, and the Netherlands).
* *	* * * * *

* * * * *

(c) * * * (1) * * *

(i) The following States have entered into a postentry quarantine agreement in accordance with this paragraph: All U.S. States and Territories, except the District of Columbia, Guam, Hawaii, Kansas, and the Northern Mariana Islands.

(ii) [Reserved]

* * * * *

(d) * * *

(4) To keep the article separated from any other plant or plant product by no less than 3 meters (approximately 10 feet) unless such other plant or plant product is of the same genus as the article, entered postentry quarantine with the article, and arrived together with the article in a single shipment from a foreign region;

* * * * *

(7) To grow the article or increase therefrom in postentry quarantine for a period of 2 years unless specified otherwise in the following:

(i) To grow the article or increase therefrom, if an article of *Rubus* spp. (cloudberry, blackberry, boysenberry, dewberry, loganberry, raspberry) from Europe, only in a screenhouse with screening of a minimum of 16 mesh per inch.

(ii) To grow the article or increase therefrom, if an article of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., *Nipponanthemum* spp., or *Dianthus* spp. (carnation, sweet-william), only in a greenhouse or other enclosed building, and to comply with the above conditions for a period of 6 months after importation for an article of *Ajania* spp., *Dendranthema* spp., *Leucanthemella* spp., or *Nipponanthemum* spp., and for a period of 1 year after importation for an article of *Dianthus* spp. (carnation, sweet-william).

(iii) To grow the article or increase therefrom, if an article of *Humulus* spp. (hops), a meristem culture of the imported plant will be observed for 6 months, and the original plant will be destroyed after the meristem culture is established. After the 6-month observation, the meristem culture-generated plant must remain in postentry quarantine for an additional year.

* * * * *

9. In § 319.37–8, the introductory text of paragraph (e) and paragraphs (e)(1) and (g) would be revised to read as follows.

§ 319.37–8 Growing media.

* * * * *

(e) A restricted article of any of the following groups of plants may be imported established in an approved growing medium listed in this paragraph, if the article meets the conditions of this paragraph, and is accompanied by a phytosanitary certificate issued by the plant protection service of the country in which the article was grown that declares that the article meets the conditions of this paragraph: *Alstroemeria, Ananas, Anthurium, Begonia, Gloxinia* (= *Sinningia*), *Nidularium, Peperomia,* Polypodiophyta (= Filicales) (ferns), Rhododendron from Europe, and *Saintpaulia.*[11]

(1) Approved growing media are baked expanded clay pellets, coal cinder, coir, cork, glass wool, organic and inorganic fibers, peat, perlite, phenol formaldehyde, plastic particles, polyethylene, polymer stabilized starch, polystyrene, polyurethane, rock wool, sphagnum moss, ureaformaldehyde, stockosorb superabsorbent polymer, vermiculite, volcanic rock, or zeolite, or any combination of these media. Growing media must not have been previously used.

* * * * *

(g) *Pest risk evaluation standards for plants established in growing media.* The Animal and Plant Health Inspection Service will conduct a pest risk assessment based on pest risk analysis guidelines established by the International Plant Protection Convention of the United Nations' Food and Agriculture Organization in response to each request to allow the importation of additional taxa of plants in growing media. These guidelines are available upon request by writing to USDA, APHIS, PPQ, Permits and Risk Assessment, Commodity Risk Analysis Branch, 4700 River Road Unit 133, Riverdale, MD 20737.

* * * * *

10. In § 319.37–9, the list of approved packing material would be amended by adding, in alphabetical order, a new entry to read as follows:

§ 319.37–9 Approved packing material.

* * * * *

Stockosorb superabsorbent polymer.

* * * * *

11. Section § 319.37–13 would be amended as follows:

---

[11] *Ananas* and *Nidularium* are bromeliads, and if imported into Hawaii, bromeliads are subject to postentry quarantine in accordance with § 319.37–7.

VOL 66 ISS 249 DE 28 2001 UMI

a. The section heading would be revised as set forth below.

b. In paragraph (a), footnote 11 and its reference in the text would be redesignated as footnote 12.

c. A new paragraph (c) would be added to read as follows:

§ 319.37–13 Treatment and costs and charges for inspection and treatment; treatments applied outside the United States.

* * * * *

(c) Any treatment performed outside the United States must be monitored and certified by an APHIS inspector or an official from the plant protection service of the exporting country. If monitored and certified by an official of the plant protection service of the exporting country, then a phytosanitary certificate must be issued with the following declaration: "The consignment of (fill in botanical name) has been treated in accordance with the Plant Protection and Quarantine Treatment Manual." During the entire interval between treatment and export, the consignment must be stored and handled in a manner that prevents any infestation by pests and Federal noxious weeds.

§ 319.37–14 [Amended]

15. In § 319.37–14, paragraph (b), in the list of ports of entry, under the undesignated center heading, "TEXAS", the asterisk immediately before the words "El Paso" would be removed.

Done in Washington, DC, this 18th day of December, 2001.

Richard L. Dunkle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–31602 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 35, and 37

[Docket No. RM01–8–000]

Revised Public Utility Filing Requirements

Issued December 20, 2001.

AGENCY: Federal Energy Regulatory Commission (Commission), DOE.

ACTION: Order seeking comments on proposed data sets.

SUMMARY: As contemplated in the notice of proposed rulemaking issued by the Federal Energy Regulatory Commission (Commission) earlier in this proceeding, *Revised Public Utility Filing Requirements*, (66 FR 40929), FERC Stats. & Regs. ¶ 32,554 (2001) (NOPR), this order invites comment on a proposed set of uniform data elements for public utilities' quarterly electronic filings that would accompany the final rule. Uniform data sets are necessary to ensure that the requested data is reported in a consistent, informative manner by all reporting public utilities.

DATES: Written comments must be received by the Commission by January 28, 2002.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

H. Keith Pierce (Technical Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0525

Barbara D. Bourque (Information Technology Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2338

Gary D. Cohen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 (202) 208–0321

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

Order Seeking Comments on Proposed Data Sets

Issued December 20, 2001.

I. Background

On July 26, 2001, the Commission issued a notice of proposed rulemaking in this proceeding, *Revised Public Utility Filing Requirements*, 66 FR 40929, FERC Stats. & Regs. ¶ 32,554 (2001) (NOPR), proposing to revise the Commission's filing requirements for public utilities. The Commission is currently engaged in reviewing the comments filed in response to the NOPR.

Among other matters, the NOPR stated that "[l]ater in this rulemaking process, we plan to conduct further proceedings to develop the instruction manual to be used to make Index of Customer filings, which will define the data elements to be included in Index of Customers filings." Uniform data sets are necessary to ensure that required data are reported in a consistent, informative manner by all reporting public utilities.

As explained in the NOPR, the Commission is considering requiring public utilities to make quarterly electronic filings when we issue a final rule in this proceeding. As explained in the text of proposed § 35.10b, the filing requirements would pertain to every jurisdictional electric service, under part 35 of the Commission's regulations, 18 CFR Part 35, that was effective some time during the reporting quarter. In this order, we invite comment on a proposed set of uniform data elements for public utilities' quarterly electronic filings that would accompany the final rule.

II. Discussion

A. Suggestion To Postpone Action on Proposed Rulemaking Pending Completion of Comprehensive Review of Market Monitoring Information

As explained above, we are currently engaged in reviewing the comments filed in response to the NOPR and, with one exception, will not address those comments here. The exception is the issue raised in some comments to the NOPR that the Commission should postpone action on the proposals in the NOPR pending completion of the Commission's comprehensive review of the information needed by the Commission for market monitoring purposes.

This argument maintains that, if the Commission's comprehensive review of market monitoring information concludes that the transactional data proposed in the NOPR to be reported in Index of Customers filings are later found to be unnecessary, then issuance of a final rule requiring the electronic filing of that information (and posting of that information on a website) would result in public utilities incurring unnecessary expenses to establish procedures to collect and report these data. The same commenters also argue that it would be wasteful to force public utilities to design and implement procedures to report transactional data for market monitoring purposes, merely to have those reporting requirements withdrawn, once the Commission completes its review of needed market monitoring information.

We find these arguments without merit because, although the Commission has not completed its comprehensive review of market monitoring data, we believe that the information proposed to be reported would be the minimum needed for market monitoring purposes, even if we later determine that additional data also will be necessary. Moreover, as we noted in the NOPR, we believe that the proposed reporting requirements would improve the quality of information reported to the Commission by prescribing that public utilities report information in a consistent, accessible format.

B. Proposed Data Sets

Attached to this order are tables specifying proposed data elements that identify (with greater detail than provided in the NOPR) the information to be reported in Index of Customers filings. The Index of Customers is intended to electronically collect data on all jurisdictional contracts, including, among other matters, data concerning service agreements, bilateral contracts, rate schedules, and interconnection agreements. As such, many different types of jurisdictional services must be accommodated by the data elements. Depending on the service(s) offered by a particular public utility, it may have to submit data for only a certain subset of the data elements identified in the Appendices. The data elements are organized to show what data are required for various types of services.

To aid in identifying the data elements, we have included definitions (in many cases, with examples). We have also identified whether the data elements are to be filed as file identification information, contract data, and/or transactional data. For the sake of clarity, certain data elements that will be system-generated have been omitted from these tables. Some data elements will appear in more than one section; others will be unique to a section. For instance, the "company_name" data element will be used to identify the respondent, filing agent, buyer, or seller, depending on where it is entered into the system.

We received several comments concerned with the appropriate time increment for reporting pricing data for transactions (*i.e.*, whether the pricing data should be reported in hourly or even shorter increments). We are proposing that, if a price changes during a day, then respondents should submit high, low, and (weighted) average prices on a daily basis for those transactions that are shorter than a day. If prices remain unchanged for two days or more, they may be reported as a single datum entry. We invite comments from a computer systems perspective about whether filing pricing data this way would be less burdensome than submitting pricing data for each period of time a unique price is charged (*i.e.*, if a power sale involved five price changes in an hour, it would be filed as five transactions for that hour).

It is our desire to collect Index of Customer information in the least burdensome way. We have tried to follow OASIS standards wherever possible to minimize the introduction of new data elements or formats. If commenters see a way for the proposed data sets to match up better with the OASIS Standards and Communication Protocols Document, version 1.4 (OASIS S&CP Document), they should address this in their comments.

In the attached tables, there are a number of field definitions that include the term {registered} in the list of valid entries. This means that we will allow other terms to be entered into the field, but only after they have been approved by the Commission and entered into the validation tables for that field. The reason for this is to ensure data integrity. If we allowed free form text in these fields, it would hinder our ability to perform meaningful searches of the data because companies do not always use the same name for the same item, or there may be misspellings. We invite respondents to submit other proposed entries for these fields either as part of this NOPR process or at any time in the future.

The first table (Appendix A) is an overview of the types of data we propose to collect, identifying the sections of the data collection: filer identification, contract data, and transaction data. The first three columns indicate which data elements pertain to each section. File Identification Information, designated by an F in the first column, provides information about the identity of the filer and the party on whose behalf the filing is being made (if different). The data must be filed by every public utility filing an Index of Customers report. Contract Data, identified by a C in the second column, include the contract data elements that every public utility filing an Index of Customers must provide to describe its contracts.

Every jurisdictional service that was effective some time during reporting quarter must be included on the Index of Customers. This includes services for which service agreements have already been filed with and approved by the Commission, services for which service agreements conform with filed and approved standard forms of service agreements, rate schedules, and unique services such as individually negotiated bilateral agreements. Transactional Data, shown by a T in the third column of Appendices A and B, identifies the transactional data elements that every public utility filing an Index of Customers must provide to describe its power sales. To the extent that a public utility makes no power sales during the applicable quarter, it is not required to report any transactional data in its Index of Customers filing for that quarter. The NOPR proposed to require transactional data for every electric commodity sale, whether the rate was cost-based, market-based, under a rate schedule, or under a tariff. In addition, if any other services are approved for market-based rates in the future, they will have to be reported in this section.

The second table (Appendix B) is a detailed look at the data elements including their format. Where applicable, we have identified the analogous OASIS data element. We have also included the intended field length and a list of valid entries. This table is intended for computer and technical personnel to review. Respondents are encouraged to comment on these items which will aid the successful development of the system.

The third table, shown in Appendix C, shows which elements will be required for short term transmission contracts and which will be required for long term transmission contracts.

The NOPR proposes that public utilities report in the Index of Customers all of their sales transactions, "including book outs and net outs."[1] A number of parties' comments expressed concern about how the Commission would define the "book outs" and "net outs" that must be reported in the Index of Customers, contending that including "book outs" and "net outs" would be burdensome and that "book outs" are nonphysical transactions that should not be reported.

In industry parlance, a "book out" is the offsetting of opposing buy-sell transactions (*e.g.*, a sale of 100 MW from A to B and a sale of 90 MW from B to A would result in these transactions being booked-out and treated as a 10 MW sale from A to B). A "net out" is similar, but instead concerns the offsetting of dollars rather than MW (*e.g.*, if A owes B $2,700 and B owes A $3,000, the transactions are netted out and treated as a single transaction of $300).

As noted by many parties, the Commission found in *Morgan Stanley Capital Group, Inc.*, 69 FERC ¶ 61,175 at 61,696 (1994), as modified in 72 FERC ¶ 61,082 at 61,435–36 (1995) (*Morgan Stanley*) that we would not extend our power marketer reporting requirements to purely financial transactions[2] and in

---

[1] *See* FERC Stats. & Regs. ¶ 32,554 at 34,071–72.

[2] We note, however, that in Docket No. RM02–3–000 we are proposing to revise the Uniform System of Accounts (USofA) to require reporting on

Continued

VOL 66 ISS 249 DE 28 2001 UMI

New York Mercantile Exchange, 74 FERC ¶ 61,311 at 61,987 (1996) (*NYMEX*), we found that we lack jurisdiction under sections 203 and 204 of the FPA over the trading of electricity futures contracts approved for trading by the Commodity Futures Trading Commission (CFTC). We held, however, that we do have jurisdiction under §§ 205 and 206 of the FPA over transactions that go to physical delivery. Intervenors contend, based on our precedent in *Morgan Stanley* and *NYMEX*, that we should not require the reporting of "book outs" and "net outs" in the Index of Customers.

Subsequent to issuance of *Morgan Stanley*, respondents' quarterly transaction reports have reported their "book outs" and "net outs" of physical transactions on an aggregated basis. Reporting these book outs and net outs of physical transactions is appropriate because the underlying transactions are not purely financial transactions. Our proposal in the NOPR does not rewrite the line we drew in *Morgan Stanley* or in *NYMEX*. The same transactions for which book outs and net outs are currently reported in quarterly transaction reports are to be reported in the Index of Customers. The comments filed in response to the NOPR have not persuaded us to reconsider this issue.

However, to avoid confusion, we will give specific guidance as to which book outs or net outs must be reported under the proposals in the NOPR, as clarified in this order. In *Morgan Stanley* and *NYMEX*, the Commission stated that it has jurisdiction over those transactions that go to physical delivery, and does not have jurisdiction over purely financial transactions. However, commenters suggest that booked-out transactions do not go to physical delivery and, therefore should not have to be reported. We note that, in *Morgan Stanley* and *NYMEX*, the Commission was distinguishing between transactions that were purely financial, *i.e.*, transactions usually performed in the futures market, and physical transactions, *i.e.*, scheduled sale or purchase transactions to meet load. Commenters are not drawing the line between futures transactions and physical transactions, but between physical transactions that are delivered in full and those that are offset either all or in part (*e.g.*, they argue that two offsetting 100 MW sales result in no deliveries; thus nothing need be reported on either transaction despite the fact that the sales were not financial positions but in fact physical power sales that were offset similar to a net interchange between two control areas). Just because a MW for a sale was not used to meet a distant load but instead met a more local load due to scheduling and physics does not change the fact that each individual transaction of such a series of offset transactions is a physical transaction. Accordingly, we clarify that we are proposing that sales of power that are offset through a book out or net out based on the physical characteristics (*i.e.*, location of source and sink) of the transactions must be reported as separate transactions.

Morgan Stanley did not address the issue of whether book outs and net outs are to be reported on an aggregated or disaggregated basis. In the absence of specific guidance on this issue, respondents have elected to file this information on an aggregated basis. To provide the public and Commission with more useful information, we clarify that, under the proposal in the NOPR, public utilities would be required to report book outs and net outs of physical transactions on a disaggregated basis showing each individual leg of the transaction that generated the book out or net out.

D. Additional Discussion on Data Elements

The majority of the data elements are self-explanatory: contact_name, contact_address, contact_email and the like. However, several data elements require additional discussion.

1. Company Identification Data Elements

Appendix A identifies the data elements "company_name," "company_duns" and a series of related data elements necessary to identify a contact person, address and means of contact. These data elements will be used to collect data on the multiple parties related to the filing of the report and the information contain in the report. The data collection anticipates the need to collect information on up to three types of parties: (a) Filing Agent—the company or organization making the filing with the Commission (this could be the public utility itself, or an organization such as a law firm making the filing on the utility's behalf; (b) Seller—the public utility providing services; and (c) Purchaser—the buyer of the public utility's service(s). Not all data elements will be required for all parties. For example, there is no need for a company DUNS[3] number for the filing agent. For the purchaser, the Commission intends to require only company name and the associated DUNS number. No contact data will be required. A separate Index of Customers filing will be required for each public utility. Each filing is required to include the name (contact_name) and location information for at least one contact person. Contacts can be listed for the filing agent and/or the seller.

2. "Contract_service_agreement_id"

The Commission is not proposing any particular method for a utility to create unique contract service agreement identifiers. However, whatever method a utility adopts should be readily relatable to any service or revenue a utility must report (such as in a Form No. 1 filing, rate proceeding, or Commission audit).

3. "Contract commencement _dt" and "begin_ date"

The contract commencement date is the initial date service commenced under the contract. This date, once established, does not change in subsequent quarterly Index of Customers filings.

Electric utility contracts may provide for several unbundled services under a single contract. The purpose of the "begin_date" data element is to identify the initial date an individual service commenced. This date can differ from the date service commenced under a contract, or from other services under a contract. This date, once established, does not change in subsequent quarterly Index of Customers filings.

The distinction between "contract_commencement_date" and "begin_date" can best be illustrated with an example. Power sales or transmission might be provided under a contract before various ancillary services (also provided for under the contract) are commenced. Under this scenario, the date service under the contract commences would be reported under the "contract_commencement_date" data element and the date when each ancillary service commenced would be reported with its own "begin_date."

4. "Contract termination_dt," "cancellation of_contract," "actual_termination_ dt," and "end_date"

The "contract_termination_dt" data element is intended to capture the expected initial contract's termination

---

derivatives, and we are seeking comment on the extent to which marketers should be required to follow the USofA and what information, if any, should be reported by these entities.

[3] DUNS numbers refer to the Data Universal Numbering System, maintained by Dun and Bradstreet.

date. If the contract terminates during the reporting period, then the flag "cancellation_of_contract" should be provided, as well as the actual termination date (*i.e.*, "actual_termination_dt").

Electric utility contracts may provide for several unbundled services under a single contract. The purpose of the "end_date" data element is to identify the date an individual service terminates. This date, once established, does not change in subsequent quarterly Index of Customers filings.

5. "Rate," "rate_min," "rate_max," and "rate_desc."

The first three of these data elements will be used to collect both contract and transaction information. However, the definitions for the required data are different, depending on whether the rate information is applicable to contract data or transactional data.

a. Contractual Rate Data

Appendix A proposes four rate related data elements: "rate," "rate_min," "rate_max" and "rate_desc."[4] The "rate" element is a numeric input that should reflect the stated rate during the reporting period. The "rate_min" and "rate_max" data elements should report the lowest and highest rate for any unit of service received during the reporting period as provided in the contract. For contracts with stated rates, the rate information in all three data elements would be the same. The "rate_desc" data element can be completed as simply as stating "maximum approved rate." However, if a cost-based rate is discounted or negotiated below the FERC-approved maximum rate, then the utility must describe the method by which the rate is calculated. This may be as simple, for example, as "Stated rate," or, if based on some index, an example would be "Fixed cost of $x.xxxx plus 80% of Index Price Y." The rate data element, in this instance, may be left blank. Market-based power sales contracts need not provide any rate information for the contract record. That information will be collected in the transaction record.

b. Transaction Rate Data

Appendix A proposes three rate-related data elements: "rate," "rate_min," and "rate_max." The rates required for these data elements should be solely for the respondent's services or sales under a FERC tariff. As noted above, we are proposing that in lieu of submitting minute-by-minute data, respondents should submit high, low, and weighted average prices on a daily basis for those transactions which are shorter than a day.

Public utilities filing transaction data on power sales will be required to include transaction data for all products and services (whether market-based or cost-based) related under the terms of the contract to the power sale.

The transaction data element "total_transaction_charge" is the total revenue for the transaction period received from the customer for the service or sale under the terms of the contract. This would include revenues received for all services related to a product that is the subject of the transaction report. The "total_transaction_charge" is also to include all other applicable revenue for other services provided under the contract, such as ancillary services or bundled transmission provided by the respondent or others under the contract.

6. "Product_name," "product_type_name," "product_sub type_name," "increment_name," "increment_peaking_ name" and "term_name"

The purpose of these data elements is to identify the service provided (product_name), along with some general characteristics of the service to improve analysis of the data. For example, "product_ name" could be "schedule system control and dispatch;" "product_type" could be "transmission;" and "product_sub_type" could be "ancillary service."

We are proposing to require the data element "term_name" because the Commission often establishes different reporting and other requirements for short-term, as opposed to long-term, contracts. For example, as shown in Appendix C, the standard form of service agreement provided by Order No. 888–B[5] requires significantly less information for short-term transportation as compared to long-term transportation. The Commission does not propose in this NOPR to change the standard form of service agreements.

7. "{Registered}"

Various proposed data elements require the use of codes to identify certain services and other information. The Commission proposes, to the extent possible, to use the codes and definitions already accepted and in use on the OASIS system. For example, for the data element "product_name," the Commission proposes to use SC—Scheduled system control and dispatch, and RV—Reactive supply and vol. control from the OASIS S&CP Document data set.[6] The Index of Customers, however, will require the reporting of more than just the OATT services. Therefore, the OASIS registered codes do not reflect the variety of services offered by utilities under Part 35 of the Commission's regulations.

We invite comments as to whether the same voluntary industry working group(s) that seek industry consensus and periodically recommend revisions to the OASIS S&CP Document would be available to aid the Commission in developing and maintaining the various codes for Index of Customer Data Sets, or whether another approach would be preferable.

8. "Ferc designation"

The "ferc_designation" data element is designed to identify the FERC-approved designation for the tariff or rate schedule that identifies the terms and conditions of service and the applicable rates. These data are the same as required by § 35.9(a) and 35.9(b)(1) of the Commission's regulations. We have revised the OASIS data element for "tariff_designation" because the data element also applies to sales provided under a rate schedule.

9. Identifying Nonconforming Contracts

We invite comment on whether respondents should identify nonconforming contracts as part of their Index of Customers submittals.

E. Electronic Format

The Commission is developing software to capture, manage, and disseminate its data. We invite interested parties who wish to participate in a pilot test of this data collection to contact Barbara Bourque at barbara.bourque@ferc.gov.

III. Public Comment Procedure

This order specifies the data sets that we are considering adopting as part of a final rule in this proceeding. Prior to taking final action on this proposal, we are inviting comments from interested persons on the proposals discussed in this order and fully set out in the attachments. The Commission invites interested persons to submit comments, data, views and other information concerning matters set out in this order.

---

[4] When a split savings price is paid, this would be reported in the "rate_desc." data element.

[5] *See* Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (Order No. 888), *order on reh'g*, Order No. 888–A, 62 FR 12274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997) (Order No. 888–A), *order on reh'g*, Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in part sub nom.*, Transmission Access Policy Study Group, *et al.* v. FERC, 225 F. 3d 667 (D.C. Cir. 2000), *cert. granted in part and denied in part*, 121 S. Ct. 1185 (2001).

[6] OASIS S&CP Document, Appendix A–2, AS_TYPE.

To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their position on the issues raised in this order, including any revisions they would suggest to the proposed data sets (along with the reasons supporting their suggested revisions), along with any related matters or alternative proposals that commenters may wish to discuss. Commenters are requested to identify each specific question posed by this order that their discussion addresses and to use appropriate headings. Commenters should make comments as specific as possible, and when comments address specific data elements or issues, use the same terms as are used in this order. Commenters should separately identify any additional issues they wish to raise. Commenters should double space their comments.

Comments may be filed on paper or electronically via the Internet and must be received by the Commission within 30 days after publication of this order in the **Federal Register**. All comments, whether submitted electronically or in a paper filing, should be preceded by a caption identifying the name (Public Utility Filing Requirements) and docket number (Docket No. RM01–8–000) of this proceeding and should reference that they are being filed in response to this order. Those filing electronically do not need to make a paper filing. For paper filings, the original and 14 copies of such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426.

For the convenience of Commission Staff, we request that paper filings be accompanied by a computer diskette copy in a Commission-prescribed format (*see* discussion immediately below). We request that the accompanying computer diskette should have a label providing the following information: Docket No. RM01–8–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person. Any discrepancies between the paper filing and the accompanying diskette will be resolved by reference to the paper filing.

Comments filed via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *www.ferc.gov* and click on "e-Filing," and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt of comments.

User assistance for electronic filing is available at 202–208–0258 or by E-Mail to *efiling@ferc.fed.us*. Comments should not be submitted to the E-Mail address. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by E-mail to *RimsMaster@ferc.fed.us*.

IV. Document Availability

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be accessed using the CIPS link or the Energy Information Online icon. The full text of this document is available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and/or downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 16, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

User assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help line at (202) 208–2222 (E-Mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

The Commission Orders

Interested persons may file comments on the proposed data sets as discussed in this order and shown in Attachment A to this order within thirty (30) days of the date of publication of this order in the **Federal Register**, as discussed in the body of this order.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

BILLING CODE 6560–50–P

ATTACHMENT A

FEDERAL ENERGY REGULATORY COMMISSION

INDEX OF CUSTOMERS' DATA SETS

Version 1.0

(Date issued)

VOL 66 ISS 249 DE 28 2001 UMI

Appendix A

RM01-8-000
The Standard Electric Contract and Transaction Report

Section			Field Name	Definition
F	C	T	company_name	Name of company (for consistency sake, it must be represented the same as it is listed in the DUNS Report). This field will include filing agent, seller and purchaser.
F	C	T	company_duns	DUNS Number for Company Unique Identification. A lookup table will be necessary to validate this number.
F			company_web_site_address	Respondent's Web Site Address "URL" where the Standard Electric Contract and Transaction Report (SECToR) is located.
F			contact_name	Name of contact for the filing
F			contact_title	Title of contact
F			contact_address	Street address for contact
F			contact_city	Contact city
F			state_fk	Two character state or province abbreviation
F			contact_zip	Contact zip code
F			country_name	Country (USA, Canada, or Mexico) for contact address
F			contact_phone	Phone number of contact
F			contact_email	E-mail address of contact
F			filing_quarter	This is the period the filing is being submitted for. Valid entries are QXYY where X is the number of the quarter filed for and YY is the last two digits of the year.
	C		contract_affiliate	This is a flag to determine if the customer is an affiliate. Set to Yes if the customer is an affiliate of the provider.
	C		ferc_contract_designation	Valid Entries: FERC's designation, e.g., "FERC Electric Tariff, Second Revised Volume No. 5, Schedule 2;" or "FERC Electric Rate Schedule No. 126."
	C		contract_service_agreement_id	Unique identifier for the contract. For example, the ID may contain a string built by concatenating duns, tariff or rate schedule number and company's contract number under tariff.
	C		contract_execution_dt	Date contract was signed by contracting parties
	C		contract_commencement_dt	Date service under the contract commences
	C		contract_termination_dt	Date contract is terminated (specified contract termination date).
	C		cancellation_of_contract	If the contract is terminated in the reporting quarter, flag it as Terminated. T=terminated.
	C		actual_termination_dt	If parties terminate the contract at a date different from that specified in the contract, "contract_termination_dt", then the date must be specified here. The filer must also indicate under "CANCELLATION_OF_CONTRACT" if the contract is terminated during the reporting quarter.
	C	T	class_name	Transmission service class provided as defined in OASIS. Name of class. Valid entries are "Firm", "Non-Firm", "TTC", "Secondary", "N/A", or {registered}.

Appendix A

RM01-8-000
The Standard Electric Contract and Transaction Report

Section			Field Name	Definition
	C	T	quantity	Product quantity for the contract item identified. (Quantity – like number of Megawatts per hour (energy sales) or Number of Megawatts (transmission))
	C	T	rate	Rate charged for this item per unit. Used with contract data when a single rate is designated for a product. Used with transaction data to designate the transaction period's weighted average actual rate.
	C	T	rate_min	Minimum rate to be charged per the contract, if a range is specified. For the transaction report for commodity sales, the minimum rate charged per unit for the transaction period.
	C	T	rate_max	Maximum rate to be charged per the contract, if a range is specified. For the transaction report for commodity sales, the maximum rate charged per unit for the transaction period.
	C		rate_desc	Description of rate. May reference FERC tariff, or, if a discounted or negotiated rate, include algorithm.
	C	T	units	The unit of measurement for the quantity and rates represented. Examples include $/KW, $/MW and $/MWH.
	C	T	point_of_receipt_control_area	Point of receipt control area. Examples include "AEP", "JACK", "FE"." (SAME list of codes – see Point of Delivery above)
	C	T	point_of_deliver_control_area	Point of delivery control area. Examples include "AEP", "JACK", and "FE". (These values will match what is provided for in the OASIS).
	C	T	point_of_receipt_specific_loc	The specific location for the point of receipt (POR) as spelled out in the contract. Do not enter the control area, but rather the POR indicated. Examples include "sub-station" and "generation plant."
	C	T	point_of_delivery_specific_loc	The specific location for the point of delivery (POD) as spelled out in the contract. Do not enter the control area, but rather the POD indicated. Examples include "sub-station" and "generation plant."
	C		begin_date	Beginning date of for the product specified (this should be specified here as explicitly as it is specified in the contract, i.e., yyyy+mo+dd+hh+mm+ss+tz). TZ=time zone.
	C		end_date	Ending date for the product specified (this should be specified here as explicitly as it is specified in the contract, i.e., yyyy+mo+dd+hh+mm+ss+tz). TZ=time zone.
	C		extension_provision_desc	Description of extension provision. This field would contain Text – for example "Automatically renewed until canceled."

VOL 66 ISS 249 DE 28 2001 UMI

Appendix A

RM01-8-000
The Standard Electric Contract and Transaction Report

Section			Field Name	Definition
	C	T	increment_name	Name of increment. The Increment variable refers to both contract and transaction data. For transmission information, the service selected would be one of the following: H = Hourly, D = Daily, W = Weekly, M = Monthly, Y = Yearly (or Annually) or {Registered}. (New items may be included in this list provided they are registered with FERC prior to their inclusion in the filing.) For power sales, this variable refers to type of sale engaged or transacted for.
	C	T	increment_peaking_name	Name for increment peaking. For products, services or transaction that are identified as "P" = on Peak, "OP" = Off-Peak, "FP" = Full Period, "NA" = Not Applicable for this product, service or transaction; or {registered}. (New items may be included in this list provided they are registered with FERC prior to their inclusion in the filing.)
	C	T	product_name	A product is something being bought and sold, a type of service or standard agreement. Examples: Point-To-Point Network Capacity Installed Capacity SC - Scheduled system control and dispatch RV - Reactive supply and vol. control RF - Regulation and freq. response EI - Energy imbalance SP - Spinning reserve SU - Supplemental reserve DT - Dynamic Transfer TL - Real Power Transmission Loss BS - System Black Start Capability Must Run Unit Cost Based Power Sale Economy Power Sale Emergency Power Sale General Purpose Power Sale Unit Power Sales Border Sales Specialized affiliate transactions Interconnection Agreements System Impact and/or Facilities Study Charge(s) Direct Assignment Facilities Charge {registered} (New products may be included in this list provided they are registered with FERC prior to their inclusion in the filing.)

Appendix A

RM01-8-000
The Standard Electric Contract and Transaction Report

Section			Field Name	Definition
	C	T	product_sub_type_name	Name of product sub type, such as: A = Ancillary Service (cost-based), C = Capacity, CB = Cost-Based Power, I = Installed Capacity, M = Market-Based Power, N = Network Transmission, P = Point-To-Point Transmission, or {registered}.
	C	T	product_type_name	The "Product type name" includes: T =Electric Transmission , E = Energy, C = Capacity, S = Services, or {registered}
	C	T	term_name	Name for term. LT = Long-Term (>= one year), ST= Short-Term (< one year).
		T	transaction_end_dt	Transaction end date and time must be after the beginning of the reporting quarter. Date must contain hours, minutes, seconds (MM.DD.YYYY.HH.MM.SS.TZ) where minutes and seconds are not provided, default to zeros. It is critical that all Users have a clear and unambiguous representation of time associated with all information. For this reason, all Data Elements associated with time shall represent "wall clock" times, which are NOT to be confused with other common industry conventions such as "hour ending."
		T	total_transaction_charge	Total revenue for transaction, including for the commodity and all other services related to the commodity sale under the terms of the contract, including bundled ancillary and transmission services provided by the respondent or others. This is in dollars and cents.
		T	transaction_begin_dt	Transaction begin date must be prior to the end of the reporting quarter. Date must contain hours, minutes, seconds (MM.DD.YYYY.HH.MM.SS.TZ) where minutes and seconds are not provided, default to zeros.
		T	transaction_quantity	The quantity of the product in this transaction. This could be a whole number or it could include decimals.

RM01-8-000

The Standard Electric Contract and Transaction Report

Notes:
Section: (F = Filer Identification, C = Contract Data, and T = Transaction Data)
{registered}: This designation makes note that the Commission expects additional variables to be included in the category. Additional entries which the filing parties wish to include must be registered.
Time Frame: It is critical that all Users have a clear and unambiguous representation of time associated with all information. For this reason, all Data Elements associated with time shall represent "wall clock" times, which are NOT to be confused with other common industry conventions such as "hour ending."
Time Zone: The IoC utilizes the OASIS definition for time zone. Valid entres include: AD, AS = Atlantic Time; ED, ES = Eastern Time; CD, CS = Central Time; MD, MS = Mountain Time; PD, PS = Pacific Time; and UT = Universal Time.

Appendix B

RM01-8-000, IoC

The Standard Electric Contract and Transaction Report

Section			Field Name	Corresponding "OASIS" Name or "X" if Not	Field Format: min. characters {type of ASCII}.max. characters	Restricted Values
F	C	T	company_name	PRIMARY_PROVIDER_CODE*, SELLER_NAME*, CUSTOMER_NAME*	1{ALPHANUMERIC}80	Text field generated by DUNS number, where applicable
F	C	T	company_duns	PRIMARY_PROVIDER_DUNS*, CUSTOMER_DUNS SELLER_DUNS	9{NUMERIC}9	Valid DUNS number
F			company_web_site_address	X	1{ALPHANUMERIC}80	Valid Entries: e.g.. "http://web address..."
F			contact_name	X	1{ALPHANUMERIC}25	Free form text
F			contact_title	X	1{ALPHANUMERIC}25	Free form text
F			contact_address	X	Multiple Lines (4) 1{ALPHANUMERIC}25	Address Format
F			contact_city	X	1{ALPHANUMERIC}30	Free form text
F			state_fk	X	2{ALPHANUMERIC}10	Drop down list
F			contact_zip	X	5{ALPHANUMERIC}10	Zip code as either 12345, or 12345-1234
F			country_name	X	2{ALPHA}6	Valid Entries: US, USA, Canada, or Mexico
F			contact_phone	X	14{ALPHANUMERIC}20	Area code and telephone number, plus any extensions: (aaa)-nnn-nnnn xnnnn
F			contact_email	X	1{ALPHANUMERIC}25	Valid Internet E-Mail address
F			filing_quarter	X	4{ALPHANUMERIC}6	Valid entry: Q#YY or Q#YYYY
	C		contract_affiliate	AFFILIATE_FLAG	1{ALPHANUMERIC}4	Valid Values: YES, NO
	C		ferc_contract_designation	X	1{ALPHANUMERIC}50	Valid Entries: FERC's designation, eg. "FERC Electric Tariff, Second Revised Volume No. 5, Schedule 2;" or "FERC Electric Rate Schedule No. 126."
	C		contract_service_agreement_id	X	1{ALPHANUMERIC}30	Free form text

VOL 66 ISS 249 DE 28 2001 UMI

RM01-8-000, IoC

Appendix B

The Standard Electric Contract and Transaction Report

Section			Field Name	Corresponding "OASIS" Name or "X" if Not	Field Format: min. characters {type of ASCII} max. characters	Restricted Values
	C		contract_execution_dt	X	8{ALPHANUMERIC}8	Valid date and time: yyyy+mo+dd
	C		contract_commencement_dt	X	10{ALPHANUMERIC}10	Valid date and time: yyyy+mo+dd+tz
	C		contract_termination_dt	X	10{ALPHANUMERIC}10	Valid date and time: yyyy+mo+dd+tz
	C		cancellation_of_contract	X	1{ALPHANUMERIC}3	Valid Values: YES, NO, {blank} or N/A
	C		actual_termination_dt	X	10{ALPHANUMERIC}10	Valid date and time: yyyy+mo+dd+tz
	C	T	class_name	TS_CLASS *	1{ALPHANUMERIC}80	Valid classes: "Firm", "Non-Firm", "Secondary", or "N/A"
	C	T	quantity	CAPACITY_GRANTED *, CAPACITY_SCHEDULED*, CAPACITY_RESERVED*, CAPACITY_USED*	1{NUMERIC}5 + "." + 2{NUMERIC}4	A positive number with 2 to 4 decimals
	C	T	rate	X	1{NUMERIC}5 + "." + 2{NUMERIC}4	A positive number with 2 to 4 decimals
	C	T	rate_min	X	1{NUMERIC}5 + "." + 2{NUMERIC}4	A positive number with 2 to 4 decimals
	C	T	rate_max	(C) CEILING_PRICE *	1{NUMERIC}5 + "." + 2{NUMERIC}4	A positive number with 2 to 4 decimals
	C		rate_desc	X	1{ALPHANUMERIC}500	Free form text
	C	T	units	ATTRIBUTE_UNITS *	1{ALPHANUMERIC}20	Valid entries include KW, KWH, MW and MWH.
	C	T	point_of_receipt_control_area	CONTROL_AREA *	1{ALPHANUMERIC}20 Only non-numeric and non-alpha character allowed is ".".	Valid name of a control area

RM01-8-000, IoC Appendix B

The Standard Electric Contract and Transaction Report

Section			Field Name	Corresponding "OASIS" Name or "X" if Not	Field Format: min. characters {type of ASCII} max. characters	Restricted Values
	C	T	point_of_deliver_control_area	CONTROL_AREA *	1{ALPHANUMERIC}20, Only non-numeric and non-alpha character allowed is ".".	Valid name of a control area
	C	T	point_of_receipt_specific_loc	POINT_OF_RECEIPT *	1{ALPHANUMERIC}20 * Only non-numeric and non-alpha character allowed is ".".	Unique value within Primary Provider. Only special character allowed is ".", for example, ab.cde.123
	C	T	point_of_delivery_specific_loc	POINT_OF_DELIVERY *	1{ALPHANUMERIC}20 * Only non-numeric and non-alpha character allowed is ".".	Unique value within Primary Provider. Only special character allowed is ".", for example, ab.cde.123
	C		begin_date	X	16{ALPHANUMERIC}16	Valid date and time to seconds, yyyy+mo+dd+hh+mm+ss+tz
	C		end_date	X	16{ALPHANUMERIC}16	Valid date and time to seconds, yyyy+mo+dd+hh+mm+ss+tz
	C		extension_provision_desc	X	1{ALPHANUMERIC}80	Free form text.
	C	T	increment_name	SERVICE_INCREMENT *	1{ALPHANUMERIC}8	Valid increments Hourly, Daily, Weekly, Monthly, Yearly, {Registered}
	C	T	increment_peaking_name	TS_PERIOD *	1{ALPHANUMERIC}15	Descriptions are: "P" = on Peak, "OP = Off-Peak, "FP" = Full Period, "NA" = Not Applicable for this product, service or transaction; or {registered} (new items may be included in this list provided they are registered with FERC prior to their inclusion in the filing.)

VOL 66 ISS 249 DE 28 2001 UMI

RM01-8-000, IoC

Appendix B

The Standard Electric Contract and Transaction Report

Section			Field Name	Corresponding "OASIS" Name or "X" if Not	Field Format: min. characters {type of ASCII} max. characters	Restricted Values
	C	T	product_name	X	1{ALPHANUMERIC}45	There will be a drop down list of products listed.
				Note. This field covers a number of element names, some are separately identified in the OASIS site, such as: TS_TYPE or AS_TYPE. *		Examples include: Point-To-Point Network Capacity Installed Capacity SC - Sched. Sys. control & dispatch RV - Reactive supply and vol. control RF - Regulation and freq. response EI - Energy imbalance SP - Spinning reserve SU - Supplemental reserve DT - Dynamic Transfer TL - Real Power Transmission Loss BS - System Black Start Capability Must Run Unit Cost Based Power Sale Economy Power Sale Emergency Power Sale General Purpose Power Sale Unit Power Sales Border Sales Specialized affiliate transactions Interconnection Agreements System Impact and/or Facilities Study Charge(s) Direct Assignment Facilities Charge {Registered}

RM01-8-000, IoC

Appendix B

The Standard Electric Contract and Transaction Report

Section			Field Name	Corresponding "OASIS" Name or "X" if Not	Field Format: min. characters {type of ASCII} max. characters	Restricted Values
	C	T	product_sub_type_name	X	1{ALPHA}25	A = Ancillary Service, C = Capacity, CB = Cost-Based Power, I = Installed Capacity, M = Market-Based Power, N = Network Transmission, P = Point-To-Point Transmission, or {registered} (a reserved field for expansion).
	C	T	product_type_name	X	1{ALPHA}25	Valid entries are: T =Electric Transmission , E = Energy, C = Capacity, S = Services, or {registered} (a reserved field for expansion).
	C	T	term_name	X	2{ALPHANUMERIC}20	Valid entries are: LT = Long-Term (>= one year), ST= Short-Term (< one year).
		T	transaction_end_dt	X	16{ALPHANUMERIC}16	Valid date and time to seconds, yyyy+mo+dd+hh+mm+ss+tz
		T	total_transaction_charge	X	1{NUMERIC}8 + "." + 0{NUMERIC}2	A positive number with up to 2 decimals
		T	transaction_begin_dt	X	16{ALPHANUMERIC}16	Valid date and time to seconds, yyyy+mo+dd+hh+mm+ss+tz
		T	transaction_quantity	X	1{NUMERIC}5 + "." + 2{NUMERIC}4	A positive number with 2 to 6 decimals

VOL 66 ISS 249 DE 28 2001 UMI

[illegible]
Section: (F = Filer Identification, C = Contract Data, and T = Transaction Data)
* The **asterisk** "*" denotes that the OASIS definition is not a direct match but is comparable for certain contracts or transactions. The Commissions use of this term for the IoC is broader than the term definition used in the OASIS. To the extent that a field is used in both the Contract and Transactions environment, the OASIS definition will be different.
{registered}: This designation makes note that the Commission expects additional variables to be included in the category. Additional entries which the filing parties wish to include must be registered.
Time Frame: It is critical that all Users have a clear and unambiguous representation of time associated with all information. For this reason, all Data Elements associated with time shall represent "wall clock" times, which are NOT to be confused with other common industry conventions such as "hour ending."
Time Zone: The IoC utilizes the OASIS definition for time zone. Valid entres include: AD, AS = Atlantic Time; ED, ES = Eastern Time; CD, CS = Central Time; MD, MS = Mountain Time; PD, PS = Pacific Time; and UT = Universal Time.

Appendix C

RM01-8-000

Distinguishing between Short-Term and Long-Term Transmission Contracts

Data Element:	Firm or Non-Firm Point-To-Point Transmission	
	S-T	L-T
General Information Required:		
Service Agreement Date	X	X
Transmission Provider	X	X
Transmission Customer	X	X
Application Deposit	X	X
Commencement of Service	X	X
Termination of Service	X	X
Service Agreement Execution Date	X	X
Specification's Required:		
Term of Transaction	N/A	X
Start Date of Transaction (Corresponds to Commencement of Service)	N/A	X
Termination Date of Transaction	N/A	X
Description of Capacity and Energy to be transmitted by Transmission Provider including the electric control area in which the transaction originates	N/A	X
Point of Receipt	N/A	X
Delivering Party	N/A	X
Point of Delivery	N/A	X
Receiving Party	N/A	X
Maximum amount of Capacity and Energy to be transmitted (Reserved Capacity).	N/A	X
Designation of party(ies) subject to reciprocal service obligation	N/A	X
Name of any Intervening Systems providing transmission service	N/A	X
Transmission Charge	N/A	X
System Impact and/or Facilities Study Charge(s)	N/A	X
Direct Assignment Facilities Charge	N/A	X
Ancillary Services Charges	N/A	X

Note: Identification From Order 888, Attachment A. General information required from pages 1 & 2 of the standard form; and Specifications required are from 3 & 4 of the standard form.

[FR Doc. 01–32005 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 500

[Docket No. 01N–0284]

Import Tolerances; Extension of Comment Period; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an extension of comment period for an advance notice of proposed rulemaking (ANPRM) that appeared in the **Federal Register** of December 7, 2001 (66 FR 63519). The document gave notice that FDA is extending the comment period for the ANPRM that appeared in the **Federal Register** of August 10, 2001 (66 FR 42167), concerning regulation for establishing import drug residue tolerances for imported food products of animal origin for drugs that are used in other countries, but that are unapproved new animal drugs in the United States. The document was published with an inadvertent error. This document corrects that error.

DATES: The extension of the comment period to March 11, 2002, and this correction were effective on December 7, 2001.

FOR FURTHER INFORMATION CONTACT: Doris B. Tucker, Office of Policy, Planning, and Legislation (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 01–30331, appearing on page 63519 in the **Federal Register** of December 7, 2001, the following correction is made:

1. On page 63519, in the second column under the heading **ADDRESSES**, the mail code for the Dockets Management Branch is corrected to read "HFA–305."

Dated: December 19, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–31877 Filed 12–27–01; 8:45 am]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AZ,CA,HI,NV–066–MSWb; FRL–7123–1]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Negative Declarations; Municipal Waste Combustion; Arizona; California; Hawaii; Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the small Municipal Waste Combustion (MWC) units section 111(d) plan negative declarations submitted by the States of Arizona, California, Hawaii, and Nevada. These negative declarations certify that small MWC units subject to the requirements of sections 111(d) and 129 of the Clean Air Act do not exist in these States.

In the Rules section of this **Federal Register**, EPA is approving each State's negative declaration as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rulemaking based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 28, 2002.

ADDRESSES: Written comments should be addressed to Andrew Steckel, U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the documents relevant to this proposed rule are available for public inspection at EPA's Region IX office during normal business hours.

FOR FURTHER INFORMATION CONTACT: Mae Wang, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street (AIR–4), San Francisco, CA 94105–3901, Telephone: (415) 947–4124.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401 et seq.

Dated: December 6, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 01–31944 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[FRN–7122–4]

RIN 2090–AA30

Project XL Site-Specific Rulemaking for Implementing Waste Treatment Systems at Two Virginia Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a site-specific rule to implement a project under the Project XL program, an EPA initiative which encourages regulated entities to achieve better environmental results at decreased costs at their facilities. Today's proposal would provide regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, at two Virginia landfills: The Maplewood Recycling and Waste Disposal Facility, located in Amelia County, Virginia (Maplewood Landfill); and the King George County Landfill and Recycling Facility, located in King George County, Virginia (King George Landfill). The Maplewood Landfill is owned and operated by USA Waste of Virginia, Inc., and the King George Landfill is owned by King George County and operated by King George Landfills, Inc. USA Waste of Virginia, Inc. and King George Landfills, Inc. are both subsidiaries of Waste Management, Inc., and will be referred to collectively as "Waste Management." Maplewood Landfill and King George Landfill, both of which are municipal solid waste landfills (MSWLFs), will be referred to collectively as the "Virginia Project XL Landfills".

On September 29, 2000, EPA, USA Waste of Virginia, Inc., and King George Landfills, Inc., signed the Final Project Agreement (FPA) for this project, which would allow the addition of liquids to the landfills. This addition of liquids is expected to accelerate the biodegradation of landfill waste, decrease the time it takes for the waste to reach stabilization in the landfill, facilitate the management of leachate and other liquid wastes, and promote

VOL 66 ISS 249 DE 28 2001 UMI

recovery of landfill gas. The principal objectives of this XL project are to demonstrate that the alternative liners installed at the Virginia Project XL Landfills are as protective as the liner prescribed in EPA MSWLF regulations over which leachate recirculation is allowed under existing RCRA regulations, and to assess the effects of applying differing amounts of liquids to landfills. In order to carry out this project, Waste Management will need relief from certain requirements in EPA regulations which set forth design and operating criteria for MSWLFs, requirements which would otherwise preclude the addition of liquids at these landfills. Today's proposed rule would allow the Virginia Landfills to apply collected, non-containerized non-hazardous bulk liquids (including landfill leachate, as further described as follows) to the landfills.

This proposed rule would require compliance with each of the design, monitoring, record keeping, reporting, and operational requirements contained in this proposed rule, as well as MSWLF regulations not affected by this rule. Upon completion of the rulemaking, these requirements and conditions would be enforceable in the same way that current RCRA standards for solid waste landfills are enforceable to ensure that management of non-hazardous solid waste is performed in a manner that is protective of human health and the environment. Today's proposed rulemaking would not affect the provisions or applicability of any other existing or future regulations.

The Virginia XL Project Landfills comprise two of several landfills, located in different geographic and climactic regions across the country, that are testing bioreactor technology under Project XL. The bioreactor approach planned for the King George County Landfill involves application of about twice the quantity of liquid that is applied at the Maplewood Landfill. Other XL projects which are testing bioreactor techniques included the Yolo County, California XL Project (final rule published in the **Federal Register** at 66 FR 42441, August 13, 2001), and the Buncombe County, North Carolina XL Project (final rule published in the **Federal Register** at 66 FR 44061, August 22, 2001).

DATES: Public Comments: Comments on this proposed rule must be received on or before January 28, 2002.

Public Hearing: Commentors may request a public hearing by January 14, 2002 during the public comment period. Commentors must state the basis for requesting the public hearing. If EPA determines there is sufficient reason to hold a public hearing, it will do so no later than January 18, 2002, during the last week of the public comment period. If a public hearing is scheduled, the date, time, and location will be made available through a **Federal Register** notice or may be obtained by contacting Mr. Steven J. Donohue at the EPA Region 3 Office. If a public hearing is held, it will take place in Virginia.

ADDRESSES: Comments: Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please submit an original and two copies of all comments and refer to Docket Number F–2001–WVLP–FFFFF. A copy should also be sent to Ms. Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (1807) Washington DC 20460.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: *walker.sherri@epa.gov*. Electronic comments must be submitted as an ASCII, WordPerfect 5.1/6.1/7/8/9 format file and avoid the use of special characters or any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Request to Speak at Hearing: Requests to speak at a hearing should be mailed to the RCRA Information Center Docket Clerk (5303G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Please send an original and three copies of all comments and refer to Docket Number F–2001–WVLP–FFFFF. A copy should also be sent to Ms. Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (1807) Washington DC 20460.

Viewing Projects Materials: A docket containing the proposed rule, supporting materials, and public comments is available for public inspection and copying at the RCRA Information Center (RIC) located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA Docket Number F–2001–WVLP–FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies are $0.15 per page. Project materials are also available for review on the world wide web at: http://www.epa.gov/projectxl/virginialandfills/index.htm.

A duplicate copy of the docket is available for inspection and copying at the EPA Region 3 Library located at 1650 Arch Street, Philadelphia, PA 19103. Appointments can be scheduled by phoning the Library at (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Donohue at the U.S. Environmental Protection Agency, Region 3, (3EI00), 1650 Arch Street, Philadelphia, Pennsylvania 19103 or Ms. Sherri Walker at the U.S. Environmental Protection Agency, Office of Environmental Policy Innovation, 1200 Pennsylvania Ave. NW. (1807), Washington DC 20460. Mr. Donohue may be contacted at (215) 814–3215. Further information on today's action may also be obtained on the world wide web at *http://www.epa.gov/projectxl/*. Questions to EPA regarding today's action can be directed to Mr. Donohue at (215) 814–3215 *donohue.steven@epa.gov* or Ms. Walker at (202) 260–4295, *walker.sherri@epa.gov*.

SUPPLEMENTARY INFORMATION:

Outline of Today's Document

The information presented in this preamble is arranged as follows:

- I. What is EPA's Legal Authority to promulgate today's proposed rule?
- II. Background
  - A. What is Project XL?
  - B. What are Bioreactor Landfills?
- III. The Virginia Project XL Landfills
  - A. Overview
  - B. Description of the Project
  - C. What Kind of Liner Is Required by Current Federal Regulations?
  - D. How Are the Liners at the Virginia XL Landfills Constructed?
  - E. What Environmental Benefits Would Result from the Proposed Bioreactor Landfill Project Proposal?
  - F. How Have Various Stakeholders Been Involved in this Project?
  - G. How Will this Project Result in Cost Savings and Paperwork Reduction?
  - H. How Long Will this Project Last and When Will it Be Complete?
- IV. What Regulatory Changes will be Necessary to Implement this Project?
  - A. Existing Liquid Restrictions for MSWLFs (40 CFR 258.28)
  - B. Proposed Site-Specific Rule
- V. Additional Information
  - A. How to Request a Public Hearing
  - B. How Does this Rule Comply With Executive Order 12866: Regulatory Planning and Review?
  - C. Is a Regulatory Flexibility Analysis Required?

VOL 66 ISS 249 DE 28 2001 UMI

D. Is an Information Collection Request Required for this Project Under the Paperwork Reduction Act?
E. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?
F. How Does this Rule Comply with Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks?
G. How Does this Rule Comply With Executive Order 13132: Federalism?
H. How Does this Rule Comply with Executive Order 13175: Consultation and Coordination with Indian Tribal Governments?
I. How Does this Rule Comply with the National Technology Transfer and Advancement Act?
J. Does this Rule Comply with Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

I. What Is EPA's Legal Authority To Promulgate Today's Proposed Rule?

This rule is proposed under the authority of Sections 1008, 2002, 4004, and 4010 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6907, 6912, 6945, and 6949a).

II. Background

A. What Is Project XL?

Project XL is an EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—"eXcellence and Leadership"—was announced on March 16, 1995 as a central part of the National Performance Review and EPA's efforts to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Specifically, Project XL gives a limited number of regulated entities the opportunity to develop their own pilot projects and alternative strategies to achieve environmental performance that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other XL projects to determine which specific elements of the projects, if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

Project XL is intended to allow EPA to experiment with new or pilot projects that provide alternative approaches to regulatory requirements, both to assess whether they provide benefits at the specific facility affected, and whether these projects should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site-or state-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project is not an indication that EPA plans to adopt that interpretation as a general matter or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are potentially viable in practice and successful for the particular projects that embody them. These pilot projects are not intended to be a means for piecemeal revision of entire programs.

EPA believes that adopting alternative policy approaches and/or interpretations, on a limited, site-or state-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as EPA acts within the discretion allowed by the statute). Congress recognizes that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions, e.g., § 8001 of RCRA, (42 U.S.C. 6981).

Under Project XL, participants in four categories (facilities, industry sectors, governmental agencies, and communities) are offered the opportunity to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria: (1) Superior environmental performance; (2) cost savings and paperwork reduction; (3) stakeholder involvement and support; (4) test of an innovative strategy; (5) transferability; (6) feasibility; (7) identification of monitoring, reporting, and evaluation methods; and (8) avoidance of shifting risk burden. The project must have full support of affected federal, state, and tribal agencies (where applicable) to be selected, approved and implemented. For more information about the XL criteria, readers should refer to two descriptive documents published in the **Federal Register** (60 FR 27282, published May 23, 1995 and 62 FR 19872, published April 23, 1997) and the document entitled "Principles for Development of Project XL Final Project Agreements," dated December 1, 1995.

Development of an XL Project has four basic phases: The initial pre-proposal phase where the project sponsor comes up with an innovative concept that it would like EPA to consider for the XL program; the second phase where the project sponsor works with EPA and interested stakeholders in developing its XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing the Final Project Agreements (FPA) and legal mechanisms. After the designated participants sign the FPA and after promulgation of the required federal, state and local legal mechanisms, the XL project is implemented and the results are evaluated.

The FPA is a non-binding written agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the proposed project. It addresses the eight Project XL criteria and discusses how EPA expects the project criteria to be met. The FPA identifies performance goals and indicators which will enable the project sponsor to demonstrate superior environmental benefits. The FPA also discusses administration of the agreement, including dispute resolution and conditions for termination of the agreement. On September 29, 2000, EPA Region 3 and Office of Solid Waste, joined by Virginia Department of Environmental Quality, and USA Waste of Virginia, Inc. signed the FPA for the project. The Final Project Agreement is available to the public at the EPA RCRA Docket in Washington, DC and at the EPA Region 3 Library in Philadelphia.

B. What Are Bioreactor Landfills?

A bioreactor landfill is generally defined as a landfill operated to transform and stabilize the readily and moderately decomposable organic constituents of the waste stream by purposeful control to enhance microbiological processes. Bioreactor landfills often employ addition of liquids such as leachate. A byproduct of the waste decomposition process is landfill gas, which includes methane, carbon dioxide, hazardous air pollutants and volatile organic compounds (VOC). Landfill gases are produced sooner in a bioreactor than in a conventional landfill. Therefore, bioreactors typically incorporate state-of-the-art landfill gas collection systems to collect and control landfill gas upon start up of the liquid addition process.

On April 6, 2000, EPA published a notice in the **Federal Register** requesting information on bioreactor landfills, because the Agency is considering whether and to what extent the Criteria for Municipal Solid Waste Landfills, 40 CFR part 258, should be revised to allow for leachate recirculation over alternative liners in MSWLFs (65 FR 18015). EPA is seeking information about liquid additions and leachate recirculation in MSWLFs to the extent currently allowed, i.e., in MSWLFs designed and constructed with a composite liner as specified in 40 CFR 258.40(a)(2).

Proponents of bioreactor technology note that operation of MSWLFs as bioreactors provide a number of environmental benefits, including an increased rate of waste decomposition, which in turn would extend the operating life of the landfill and lessen the need for additional landfill space or other disposal options. Bioreactors also decrease, or at times eliminate, the quantity of leachate requiring treatment and offsite disposal. Several studies have shown that leachate quality improves over time when leachate is recirculated on a regular basis. For all of these reasons bioreactors are expected to decrease potential environmental risks and costs associated with leachate management, treatment and offsite disposal. Additionally, use of bioreactor techniques is expected to shorten the length of time the liner will be exposed to leachate and this should lower the long term potential for leachate migration into the subsurface environment. Bioreactors are also expected to reduce post-closure care costs and risks, due to the accelerated, controlled settlement of the solid waste during landfill operation. Finally, bioreactors provide for greater opportunity for recovery of methane gas for energy production since methane is produced earlier and in a larger quantity than a normal MSWLF.

EPA is implementing several additional related XL pilot projects involving operation of landfills as bioreactors throughout the country. These additional landfill projects will enable EPA to evaluate benefits of different alternative liners and leachate recirculation systems under various climatic and operating conditions. As expressed in the above-referenced April 2000 **Federal Register** notice, EPA is interested in assessing the performance of landfills operated as bioreactors, and these XL projects could contribute valuable data.

The Virginia Project XL Landfills and other XL projects would provide additional information on the performance of MSWLFs when liquids are added to the landfill. The Agency is also interested in assessing how different types of alternative liners perform when liquids are added to the landfill, including maintaining a hydraulic head at acceptable levels.

III. The Virginia Project XL Landfills

A. Overview

The Virginia Project XL Landfills consists of the Maplewood Landfill and the King George Landfill. The Maplewood Landfill is located in Amelia County, Virginia, approximately 30 miles southwest of Richmond, Virginia. The Maplewood Landfill will cover a total area of about 404 acres upon completion. Construction of the first phases started in 1992. Construction of the most recent phase was completed in 1997. The King George County Landfill is located in King George County, Virginia, approximately 50 miles north-northeast of Richmond, Virginia. The King George Landfill will cover a total area of about 290 acres upon completion. The first phase of liner system construction began in 1996. Construction of additional liner system areas has been performed every year since 1996.

The Maplewood Landfill is owned and operated by USA Waste of Virginia, Inc., and the King George Landfill is owned by King George County and operated by King George Landfills, Inc. USA Waste of Virginia, Inc. and King George Landfills, Inc. are both subsidiaries of Waste Management, Inc., and will be referred to collectively hereinafter as "Waste Management." Maplewood Landfill and King George Landfill, both of which are municipal solid waste landfills (MSWLFs), will hereinafter be referred to collectively as the "Virginia Project XL Landfills."

B. Description of the Project

This proposed rule would provide for the addition of liquid wastes to certain areas of the Maplewood Landfill and the King George Landfill.

The goal for the Maplewood Landfill is to recirculate as much leachate as is generated at the facility. Based on facility records, the facility generated approximately 3,000,000 gallons of leachate in 1999 (a relatively dry year). Under this XL project, between 3,000,000 and 4,000,000 gallons of liquid would be applied at the landfill per year. The liquid application rate would be an average of 10,960 gallons per day, based on an application rate of 4,000,000 gallons per year. In order to comply with the requirements of the proposed rule and provide the appropriate test conditions for biodegradation of the waste, the exact liquid application rate will be determined by Waste Management during implementation of the project. The proposed project area in the Maplewood Landfill will be in "Phase Development Areas" 1 and 2 (leachate recirculation areas) and 3, 4, and 11 (monitored control areas without leachate recirculation). The total size of the Phase 1, 2, 3, 4 and 11 Phase Development Areas is approximately 48 acres.

During dry periods of lower or no leachate generation, liquids other than leachate could also be added, including non-hazardous liquids such as storm water and truck wash water. The liquids would be applied in trenches, excavated into the surface of the landfill in the Phases 1 and 2 areas (approximately 10 acres in size). Phases 3, 4, and 11 will be used as control cells—no liquid will be applied to these areas, only rainwater that naturally falls and percolates beneath the landfill surface will enter the waste in these areas or phases.

The goal for the King George County Landfill is to recirculate as much leachate as is generated at the facility and to add sufficient additional liquid to make a total liquids application of between 7,000,000 and 8,000,000 gallons per year. Based on facility records for the past three years, the facility generates approximately 3,500,000 gallons of leachate per year. Based on estimates of storm water runoff quantities and the storage capacity of the storm water management ponds at the site, approximately 8,000,000 gallons or more of storm water is expected to be made available for application to the landfill waste. The liquid application rate would be, on average, about 22,000 gallons per day based on an estimated application rate of 8,000,000 gallons per year. In order to comply with the requirements of the proposed rule and provide the appropriate test conditions for biodegradation of the waste, the exact liquid application rate will be determined by Waste Management during implementation of the project.

The overall study area in the King George Landfill will be established within the Municipal Solid Waste Cells

VOL 66 ISS 249 DE 28 2001 UMI

2, 3, and 4. The total size of Cells 2, 3, and 4 is approximately 59 acres. Liquid will be applied only in Cell 3, approximately 10 acres in size. Cells 2 and 4 will be control cells in which no liquids will be applied. Cell 1 was being filled with waste in July 2001.

As stated earlier, the bioreactor program that would be implemented at the King George County Landfill involves application to the waste of about twice the quantity of liquid that is applied at the Maplewood Landfill. In the bioreactor at this landfill, conditions will be established that are intended to significantly increase the rate of degradation of waste during the operating life of the landfill to achieve the benefits identified in the FPA. Although the process of recirculating leachate provides much of the moisture needed to enhance biological degradation of waste, research reported in "Active Municipal Waste Landfill Operations: A Biochemical Reactor" Reinhart, 1995 (Reinhart 1995) found that the quantity of liquid needed to reach water holding or field capacity of the waste to potentially maximize the rate of biodegradation is typically much greater than the quantity of leachate generated at a MSWLF. The Reinhart 1995 report is available for review in the docket for this proposed rule. As part of the comparison of different rates of liquid addition inherent in this project, sources of liquid other than leachate will be used to supply the additional quantity of liquid needed at the King George Landfill. These sources could include storm water, truck wash water and other non-hazardous liquid waste. For this project, these liquids may be discharged into the landfill leachate storage tanks to supplement the leachate and the resulting mixture would then be distributed over the bioreactor test area.

The liquids application system at both Virginia XL landfills will be constructed using typical trench construction methods and may include other methods developed during the implementation of the program. The construction methods are described in detail in the Application for Project XL Landfill Bioreactor Systems King George County Landfill and Maplewood Recycling and Waste Disposal Facility, submitted to U.S. EPA, prepared by GeoSyntec Consultants, May 30, 2000 (May 2000, GeoSyntec Report). The May 2000, GeoSyntec Report can be found in the docket for this proposed rule.

The liquids infiltration or "application capacity" of each landfill is the amount of liquid that can be expected to flow by gravity from all of the trenches. This quantity has been estimated using the methodology described in "Analysis Procedures for Design of Leachate Recirculation Systems," T.B. Maier in June, 1998. The T.B. Maier report can be found in the docket for this proposed rule. This method involves estimating the moisture content of the waste (typically 15 to 25 percent without liquid application), the hydraulic properties of the waste, the moisture retention capacity (field capacity) of the waste (typically 40 percent), and the head of liquid on the trench. Using this information, the infiltration rate of liquid into the waste from one 400 foot long trench is calculated; the total application capacity equals the combined infiltration rate of all six trenches. As shown in the May 2000, GeoSyntec Report, the total application capacity of the group of six trenches is calculated to be about 110,000 gallons per day, which is much greater than the proposed average application rate of either 10,960 gallons per day or the 22,000 gallons per day for Maplewood and King George Landfills, respectively. The exact number and length of the trenches will be determined during the implementation of the project but at a minimum will be adequate to provide for the proposed average application rates. The May 2000, GeoSyntec Report can be found in the docket for this proposed rule.

EPA's RCRA MSWLF operating criteria require that MSWLFs be designed and constructed with a leachate collection system that can ensure a hydraulic head (leachate layer) above the liner of 30 centimeters (cm) or less, *i.e.*, approximately 12 inches. The operator must monitor the depth of liquid (or thickness of "head") and ensure no more than 30 cm of head is on the liner. The impact of the proposed liquid application activities on the thickness of head on the liner systems was evaluated using the Hydrologic Evaluation of Landfill Performance (HELP) model. This model is in the May 2000, GeoSyntec Report and is available in the docket for this proposed rule. First, the hydrologic evaluation was performed assuming that no liquid is applied; then, the evaluation was performed for the liquid application condition under the assumptions that 4,000,000 and 8,000,000 gallons per year would be recirculated at the Maplewood and King George Landfills, respectively. These calculations show that a head of 30 cm or less is expected on both the Maplewood and the King George liner. The King George Landfill is expected to maintain a lower head than the Maplewood Landfill because the drainage layer material at the King George landfill is approximately 100 times more permeable than the drainage layer material at the Maplewood landfill. This is why King George was selected for an application rate of twice the volume of liquids that will be applied to the Maplewood Landfill.

The primary liner system of both landfills is underlain by a secondary liner and leachate collection system. Sumps are located at the low point of each cell in each system and will be monitored for the depth of liquid on a monthly basis. As needed and required, liquid in the sumps is collected and controlled as leachate. Samples are collected to evaluate the characteristics of the liquids. If the test results from the sampled liquid or the monitoring of the leachate level indicate that there is a potential leak in the primary liner system, then the need for a larger pump will be evaluated and the liquid level in the primary system will be further evaluated and monitored to minimize the liquid depth above the primary liner. The liner leakage rate will be evaluated and the leachate injection rate may be reduced, if necessary, to control the rate of flow into the secondary leachate collection system. Waste Management will monitor the depth of liquid on the liners of both landfills throughout the XL Project period, and will ensure that less than the 30 cm maximum head is maintained, in accordance with regulations. This proposed rule would not alter Waste Management's obligation to maintain less than 30 cm of head on the liners at both Virginia XL landfills.

It is necessary that the on-site leachate storage structures at both the Virginia Project XL Landfills have enough capacity to store the leachate needed for later application to the test areas in the landfills. Liquid will be collected and stored for application when conditions are relatively dry. The storage capacity of the leachate tanks at the Maplewood Landfill is approximately 500,000 gallons, this represents approximately a two months supply of leachate at a application rate of 4 million gallons per year.

During operation of the bioreactor system, leachate storage structures will also be used to temporarily store leachate at times when it is not or cannot be recirculated. As a minimum, the tanks will need to store the quantity of leachate generated over a period of several days. The May 2000, GeoSyntec Report states that the Maplewood Landfill generated approximately 3 million gallons of leachate in 1999. The 500,000 gallon storage at Maplewood Landfill represents over a two month storage capacity of leachate at a generation rate of 3 million gallons per year. Therefore, the facility has adequate leachate storage capacity for operation of the bioreactor system. As a contingency, during times when leachate generation exceeds the rate of recirculation in and storage capacity, leachate could be hauled off-site as is currently being done.

In the May 2000, GeoSyntec Report, Waste Management's consultant evaluated the physical stability of the waste at the Virginia Project XL Landfills under bioreactor operating conditions. GeoSyntec Consultants submitted this engineering evaluation to the Virginia Department of Environmental Quality (VADEQ) as a part of their application for a permit modification for the bioreactor testing at the Virginia Project XL Landfills. A static stability analysis conducted for the slopes of the Virginia XL Landfills shows a factor of safety (FOS) of greater than the minimum value of 1.5 was maintained even with the addition of the liquid application trenches and a phreatic or subsurface leachate/water table surface in the landfill cell associated with the addition of liquids in the trench. The calculated FOS for the existing conditions and under the leachate recirculation scenarios remained unchanged in both the Virginia Project XL Landfills since the critical failure surface is located outside the areas that will be wetted by liquid addition during the bioreactor testing or the added liquid does not change the location of the critical surface. The GeoSyntec stability evaluation can be found in the docket for this proposed rule.

EPA and Waste Management expect that the addition of liquids to the landfills will accelerate the production of landfill gases; indeed, one of the benefits of bioreactor landfills is that the time interval during which landfill gas is generated should be compressed, thereby facilitating its collection and potential conversion to a useful energy source. Landfill gas generation will start sooner and end sooner in landfills where liquids are recirculated. EPA's Standards of Performance for Municipal Solid Waste Landfills, 40 CFR part 60, subpart WWW, requires large landfills that meet the emissions threshold to perform landfill gas monitoring and install a collection and control system as specified in the regulation in areas where wastes are over a certain age. Effective November 1999, Waste Management installed, and is operating, an active (*i.e.* vacuum induced) landfill gas collection system in Phases 1, 2 and 3 at the Maplewood Landfill. An active gas collection system became operational at the King George Landfill on December 10, 2000. In addition, on September 1, 2001 Waste Management signed an agreement with a private energy development company to construct a 9MW power plant fueled by landfill gas at the Maplewood Landfill. Waste Management is currently negotiating a similar gas/energy recovery agreement for the King George Landfill.

This XL Project will comply with the subpart WWW performance standards for MSWLFs under the federal Clean Air Act. Waste Management will continue to provide subpart WWW-compliant landfill gas monitoring, collection and control during and following the application of liquids at the landfills. Waste Management's obligations with respect to landfill gas will be set forth in a Federally Enforceable State Operating Permit (FESOP). The VADEQ is the regulatory agency which, under the federal Clean Air Act, has air permitting authority for both landfills. The VADEQ has issued a New Source Review Permit 9 VAC 5–80–10 (NSR) for the King George Landfill which contains the enforceable parameters and requirements reflecting the New Source Performance Standards (NSPS)—compliant gas collection, control and monitoring. In addition, on July 31, 2001, VADEQ issued a Title V Operating Permit 9 VAC 5–80–50 et. seq. (Title V), for the King George Landfill. Both the Title V permit and the underlying NSR permit issued by VADEQ are considered Federally enforceable. An NSR Permit for the Maplewood Landfill is under development. An NSR Permit will be in place for each landfill prior to the addition of liquids, and will include at least the following provisions:

1. Waste Management will enhance the gas collection and control systems at the landfills (e.g. using additional extraction wells or trenches or by enhancing the cover over affected areas.) This will be done at the discretion of Waste Management, or as directed by VADEQ, if it is determined that there is a potential to exceed the applicable air quality permit requirements or New Source Performance Standards during evaluation of routine monitoring data or if odor problems or air quality problems occur. The system will be expanded as needed (e.g., using additional extraction wells or trenches or by placing additional cover or tarps over affected areas) to ensure compliance with the applicable air quality permit requirements.
2. The performance of the landfill gas extraction systems at the Virginia Project XL Landfills will be documented and assessed by obtaining monitoring data from the gas extraction wells and the landfill surface for parameters such as methane, carbon dioxide, oxygen, non-methane organic compounds (NMOCs) and other constituent concentrations, in accord with 40 CFR part 60, subpart WWW. The gas temperature at the well heads will also be monitored as required by subpart WWW.
3. A baseline round of air monitoring at each landfill will be completed prior to the introduction of liquids, and the monitoring will continue for the duration of the project.
4. Collected landfill gas will be controlled through the use of an active gas control system at both sites.

The site stakeholders, listed in Section F of today's proposed rule, recognize that the increased production of landfill gas may result in an increase in the flow rate of NO_X emissions from any flares or other gas processing equipment installed as part of the project. Air quality permits for these emissions may need to be amended to allow the implementation of the XL Project.

In the FPA Waste Management committed to exploring alternative uses for the collected gas other than flaring. On September 1, 2001 Waste Management signed an agreement with a private energy development company to construct a 9MW power plant fueled by landfill gas at the Maplewood Landfill. Waste Management is currently negotiating a similar agreement for the King George Landfill.

C. What Kind of Liner Is Required by Current Federal Regulations?

Currently, the federal regulations outline two methods for complying with liner requirements for municipal solid waste landfills. The first method is a performance standard set out under 40 CFR 258.40(a)(1). This standard allows installation of any liner configuration provided the liner design is approved by the director of an approved state (defined in § 258.2) and the design ensures that certain constituent concentrations are not exceeded in the uppermost aquifer underlying the landfill facility at the point of compliance.

The second method is set out in 40 CFR 258.40(a)(2) and (b). § 258.40(b) specifies a liner design which consists of two components: (1) An upper component comprising a minimum of 30 mil flexible membrane liner (60 mil if High Density Polyethylene (HDPE) is used); and (2) a lower component comprising at least two feet of compacted soil with a hydraulic

VOL 66 ISS 249 DE 28 2001 UMI

conductivity no greater than 1×10^{-7} cm/sec.

D. How Are the Liners at the Virginia XL Landfills Constructed?

Both the Maplewood Landfill and the King George County Landfill were constructed to meet or exceed the performance standard set forth in 40 CFR 258.40(a)(1). The liner under each landfill was built with a geomembrane double synthetic liner systems, with primary leachate collection and leak detection (secondary collection) layers. The King George County liner and leachate collection system consists, from top to bottom, 1.5 feet of protective cover, leachate drainage material, 16 oz./square yard nonwoven geotextile, 60 mil textured HDPE primary geomembrane liner, a geosynthetic clay liner, geocomposite drainage layer, 60 mil textured HDPE secondary geomembrane liner, geosynthetic clay liner, 40 mil textured HDPE tertiary geomembrane liner and 1 foot of geologic buffer material with a permeability (k) of $<1\times10^{-5}$ cm/sec. The Maplewood Landfill liner and leachate collection system consists of, from top to bottom, 1.5 feet of primary granular drainage layer, 60 mil HDPE geomembrane, geonet layer, 60 mil HDPE geomembrane, bentonite geocomposite, underlain by 1.5 feet of a clayey soil liner with a permeability (k) of $<1\times10^{-5}$ cm/sec. The liner systems for the two landfills are illustrated in Figure 2 of the Final Project Agreement.

The 60 mil HDPE upper liner component of both landfills' liners meets the specified upper membrane liner component under RCRA (40 CFR 258.40(b). However, instead of a lower liner component comprised of at least two feet of compacted soil with a hydraulic conductivity no greater than 1×10^{-7} cm/sec, the Virginia XL Landfills were built with a second geosynthetic 60 mil HDPE layer. Additionally, beneath the double liner system at the King George County is a third 40 mil HDPE liner, underlain by one foot of soil compacted to a permeability (k) of $<1\times10^{-5}$ cm/sec., and the double liner system at the Maplewood Landfill is underlain by 18 inches of soil compacted to a permeability (k) of $<1\times10^{-5}$ cm/sec.

While the landfills do not have a composite liner as specified in the Design Criteria § 258.40 (b), the alternative liner systems meet or exceed the performance requirements for municipal solid waste landfills. Indeed, these landfills' double-liner systems provide a high level of protection to the environment against potential impacts caused by leakage of leachate.

E. What Environmental Benefits Would Result From the Proposed Bioreactor Landfill Project Proposal?

The expected superior environmental benefits from the Virginia Landfills XL Project include: (1) Landfill life extension; (2) minimizing the potential for long-term leachate-associated groundwater and offsite surface water concerns; and (3) increasing landfill gas control, minimizing fugitive methane and VOC emissions and minimizing the duration of gas generation.

1. Landfill Life Extension

The life of a landfill, when operated as a bioreactor, should be extended due to the biodegradation of the waste. This more rapid biodegradation increases the apparent density and decreases the volume of the in place waste remaining in the landfill. Reducing the volume of waste translates into either longer landfill life and/or less need for additional landfill space. Thus, this bioreactor landfill will be able to accept more waste over its working lifetime (subject to applicable State regulatory requirements). Additionally, less landfill space may be needed to accommodate the same amount of waste.

2. Minimizing Leachate/Groundwater-Associated Concerns

Research reported in Reinhart 1995, has shown that bioreactor processes tend to reduce the concentration of many pollutants in leachate, including organic acids and other soluble organic pollutants. Bioreactor operations brings pH to near-neutral conditions and generally, metals are much less mobile under these condition. Reinhart 1995 found that metals were largely precipitated and immobilized in the waste of bioreactor landfills. This report can be found in the docket for this proposed rule. Discussions between Waste Management, the VADEQ, and the host communities for the Maplewood Landfill and the King George County Landfills, indicated that groundwater-related issues are of primary concern to the stakeholders, including minimizing the long-term threat to groundwater quality. This project should provide for accelerated biodegradation of the waste in the landfills and, thereby, minimizing the potential for the waste to present a long-term threat to groundwater quality. Routine groundwater monitoring is, and will continue to be, performed to verify containment. Cleaner leachate also translates into decreased load on the offsite publicly owned treatment works (POTWs) where the leachate from these landfills is now being treated. As described in Section 1.2 of the FPA, both the Maplewood and King George County Landfills were constructed with double-liner systems, which are highly efficient at preventing leakage of leachate from landfills.

3. Maximizing Landfill Gas Control and Minimizing Fugitive Methane and VOC Emissions

Landfill gas contains roughly 50% methane, a potent greenhouse gas. In terms of climate effects, methane is second in importance only to carbon dioxide as a greenhouse gas. Landfill gas also contains volatile organic compounds (VOC's) that are air pollutants of local concern. While the rate of gas generation will be increased by adding liquids to the landfills, the period of post closure landfill gas generation will be compressed. The existing, active gas collection systems in operation at both landfills is expected to efficiently collect and control landfill gas. The system will be maintained and monitored in accordance with the terms of 40 CFR part 60, subpart WWW and all applicable permits. In addition, on September 1, 2001 Waste Management signed an agreement with a private energy development company to construct a 9MW power plant fueled by landfill gas at the Maplewood Landfill. Waste Management is currently negotiating a similar gas/energy recovery agreement for the King George Landfill.

It is also anticipated that the information obtained from this XL Project will provide the EPA and the waste disposal industry with data concerning the use of bioreactor techniques at MSWLF sites throughout the United States, in accord with the Agency' April 6, 2000 Request for Information and Data regarding Alternative Liner Performance, Leachate Recirculation, and Bioreactor Landfills, 65 FR 18014 (April 6, 2000).

F. How Have Various Stakeholders Been Involved in This Project?

Initial public meetings were held on August 1, 2000 (King George County) and August 2, 2000 (Amelia County) to solicit comments from the public on the intent of the sponsors to participate in Project XL. Additional public meetings were also held during the week of September 4, 2000 in King George and Amelia County to discuss the draft FPA with the citizens from these localities. Since both landfills have valid state operating permits, the VADEQ intends to amend the permits to allow the construction and operation of the bioreactor systems as an experimental process. Before VADEQ issues a permit amendment, a public hearing will be held in the locality to solicit comments on the draft permit amendments from concerned citizens. The details of the permit amendments for each landfill are outlined in advertisements along with contact information and document viewing locations. The public hearing is also advertised in a local paper. The VADEQ has a standardized mailing list of state agencies to whom a draft permit or notice of permit amendment can be sent to solicit comments. Conditions may be imposed due to additional state requirements or as a result of public comment.

In accord with VADEQ regulatory requirements, Virginia will hold public meetings and hearings on the proposed amendments to the solid waste construction and operating permits for the Virginia Project XL Landfills. If requested, these public hearings will be supplemented with additional stakeholder meetings. A stakeholder mailing list maintained by Waste Management will be updated as necessary to include private citizens and other interested parties. Periodically, progress reports and other relevant information will be distributed. If requested, Waste Management has also agreed to provide site tours and briefings to better educate any interested citizens or stakeholders. Transcripts and video tape recordings of all public meetings and hearings will be maintained at the repositories. A repository for the project will be maintained by VADEQ at 629 East Main Street, Richmond, VA, 23219 c/o Paul Farrell, (804) 698–4214. Additional copies of the repository records will be maintained in the James Hamner Memorial Library, 16351 Dunn Street Amelia, Virginia 23002 and in the L.F. Smoot Lewis Memorial Library, 9533 Kings Highway, King George, Virginia 22485. A public file on this XL project has been maintained at the website at: *http://www.epa.gov/ProjectXL/virginialandfills/index.htm* Throughout project development, EPA will continue to update the website as the project is implemented. A detailed description of the XL Project and the stakeholder support for this project is included in the Final Project Agreement, which is available through the docket or through EPA's Project XL website on the Internet.

Waste Management will periodically meet with a representative from each local landfill advisory committee or the entire stakeholder group to discuss issues of concern and to disseminate information. To solicit additional stakeholder involvement, Waste Management may do outreach including contacting nationwide professional and citizen groups that may have an interest in bioreactor technology and will attempt to disseminate information to its members, as well as, attend national workshops or seminars.

The following have been identified as VA Project XL Bioreactor Landfill stakeholders:

Direct Participants:
U.S. Environmental Protection Agency
Virginia Department of Environmental Quality
Waste Management, Inc.
King George County Landfill
Maplewood Landfill
Maplewood Recycling Waste Disposal Facility
Commentors:
Members of Local Landfill Advisory Committees

G. How Will This Project Result in Cost Savings and Paperwork Reduction?

As stated earlier, this project is expected to result in cost savings by virtue of assisting in an increased rate of decomposition of the waste placed in certain areas of the two Virginia Project XL Landfills, and to improve the quality of leachate generated in those areas. The increased decomposition rate is, in turn, expected to extend the life of the landfill, and, potentially, result in direct cost savings to Waste Management from its landfills more efficient use and decreased leachate treatment and disposal costs. In addition, the methane generation and recovery operations are expected to yield increased methane recovery over a shorter time period, thereby facilitating the further evaluation and possible use of the methane for energy generation. No appreciable direct reduction in paperwork is anticipated at the Virginia landfills.

H. How Long Will This Project Last and When Will It Be Complete?

As with all XL projects testing alternative environmental protection strategies, the term of this XL Project is limited. Today's proposed rule would be in effect for 10 years. In the event that EPA determines that this project should be terminated before the end of the 10 year period and that the site-specific rule should be rescinded, the Agency may withdraw this rule through a subsequent rulemaking. This would allow all interested persons and entities the opportunity to comment on the proposed termination and withdrawal of regulatory authority. In the event of an early termination of the project term, EPA or the state would establish an interim compliance period, not to exceed six months, such that Waste Management will be returned to full compliance with the existing requirements of 40 CFR part 258. In accordance with 9 VAC 20–80–480.G, VADEQ expects to utilize an experimental permit to provide for operation of the VA Project XL Landfills as bioreactors. If the XL Project proves to be feasible, VADEQ expects to modify the permit for the facility to provide for the ten year XL Project term.

The FPA allows any party to the agreement to withdraw from the agreement at any time before the end of the 10 year period. It also sets forth several conditions that could trigger an early termination of the project, as well as procedures to follow in the event that EPA, the State or local agency seeks to terminate the project (see FPA section 11).

For example, an early conclusion would be warranted if the project's environmental benefits do not meet the Project XL requirement for the achievement of superior environmental results. In addition, new laws or regulations may become applicable during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL Project. Or, during the project duration, EPA may decide to change the federal rule allowing recirculation over alternative liners and the addition of outside bulk liquids for all Subtitle D landfills. In that event, the FPA and site-specific rule for this project would no longer be needed.

IV. What Regulatory Changes Will Be Necessary To Implement This Project?

A. Existing Liquid Restrictions for MSWLFs (40 CFR 258.28)

This proposed site specific regulation would grant regulatory relief from certain requirements of RCRA that restrict application of liquids in these MSWLFs, because as previously described, both the Maplewood and King George landfills were constructed with alternative liners pursuant to 40 CFR 258.40(a)(1). When the FPA for this project was signed, RCRA regulations, 40 CFR 258.28(a) allowed bulk or noncontainerized liquid waste to be added to a MSWLF only if the following two conditions were met:

—The liquids comprise household waste (other than septic waste), or leachate from the landfill itself, or gas condensate derived from the landfill, and

—The MSWLF has been built with a liner designed as prescribed in the design standard set forth in 40 CFR 258.40 (a)(2) (i.e. not the performance standard set forth in 40 CFR 258.40(a)(1)).

Since then, EPA promulgated a site-specific rule for the Yolo County, CA bioreactor landfill project under Project XL, which amended § 258.28(a). The amendment allows bulk liquid wastes to be added to a MSWLF if “the MSWLF unit is a Project XL MSWLF and meets the applicable requirements of § 258.41” 66 FR 42441, 42449 (August 13, 2001). Therefore, the regulatory relief needed for the VA Project XL landfills is a site-specific amendment to 40 CFR 258.41.

B. Proposed Site-Specific Rule

The Maplewood landfill project would provide for addition of liquids primarily consisting of leachate from the landfill, while the King George bioreactor would involve the addition of leachate generated at this facility plus other liquids, including non-containerized liquids such as storm water, truck wash water and other non-hazardous liquid waste. Further information on the liquids proposed for addition to the Maplewood and King George Landfills can be found in the FPA in Section 2.2.2.1 and 2.2.2.2, respectively. Today's proposal would add a new subsection of the rules in § 258.41. New § 258.41(c) would specifically apply to the Maplewood Landfill, in Amelia County, Virginia and the King George Landfill, in King George County, Virginia, and would allow leachate to be applied to these two landfills.

The proposed rule would impose certain minimum monitoring, reporting, and control requirements on Waste Management, which, among other things, will ensure that the project is protective of human health and the environment, and to facilitate EPA's evaluation of the project. The project monitoring and reporting requirements are listed in Sections 2.2.1.4, 2.2.1.5, 2.2.2.4, and 2.2.2.5, Table 6 and 6A of the FPA and would require that Waste Management provide semi-annual reporting of the monitoring data to stakeholders and regulators in order to facilitate project evaluation.

Existing regulation also requires a leachate collection system as specified in § 258.40(a)(2) to ensure that contaminant migration to the aquifer is controlled. (56 FR 50978, 51056 (Oct. 9, 1991)). The proposed rule would not change the requirement in § 258.28(a)(2) that a leachate collection system (as described in § 258.40(a)(2)) be in place in order for leachate to be recirculated in the landfill unit, and Waste Management would still be required to ensure that leachate collection systems at the landfills maintain the leachate head over the liner at a depth of less than 30 cm.

V. Additional Information

A. How To Request a Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding this proposed rulemaking, in accordance with 40 CFR part 25. Persons wishing to make an oral presentation on the proposed site specific rule for the Virginia Project XL Landfills should contact Sherri Walker at the U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (1807) Washington DC 20460. Any member of the public may file a written statement before the hearing or after the hearing to be received by EPA no later than fourteen days after publication of this proposed rulemaking. Written statements should be sent to EPA at the addresses given in the Addresses section in the preamble of this document. If a public hearing is held, a verbatim transcript of the hearing and written statements provided at the hearing will be available for inspection and copying during normal business hours at the EPA addresses for docket inspection given in the Addresses section of this preamble.

B. How Does This Rule Comply With Executive Order 12866: Regulatory Planning and Review?

Because this rule affects only two facilities, it is not a rule of general applicability and therefore not subject to OMB review under Executive Order 12866. In addition, OMB has agreed that review of site specific rules under Project XL is not necessary.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and public comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. The project sponsor, Waste Management Inc., is the regulated entity for this pilot project. They are not a small business. This rule does not apply to small businesses, small not-for-profit enterprises, nor small governmental jurisdictions. Further, it is a site-specific rule with limited applicability to only two landfills in the nation. Therefore, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* It is exempt from OMB review under the Paperwork Reduction Act because it is a site specific rule, directed to fewer than ten persons. 44 U.S.C. 3502(3), (10); 5 CFR 1320.3(c), 1320.4 and 1320.5.

E. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures to State, local, and tribal governments in the aggregate or to the private sector of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposal with significant Federal mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. As used here, "small government" has the same meaning as that contained under 5 U.S.C. 601(5), that is, governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.

As discussed above, this proposed rule would have limited application. It applies only to the Maplewood and King George County Landfills. If adopted, this proposed rule would result in a cost savings for Waste Management when compared with the costs it would have had to incur if required to adhere to the requirements contained in the current rule. EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, or tribal governments, in the aggregate, or the private sector in any one year. Thus, today's proposal is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks?

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant," as defined in Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to potentially effective and feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This proposed rule would allow for the addition of bulk or non-containerized liquid amendments over a liner that does not meet the design requirements in 40 CFR. 258.40(b), however, the liner systems meet or exceed the performance requirements for municipal solid waste landfills. Indeed, these landfills' double-liner systems provide a high level of protection to the environment against potential impacts caused by leakage of leachate. Therefore, no additional risk to public health, including children's health, is expected to result from this proposed rule.

G. How Does This Rule Comply With Executive Order 13132: Federalism?

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." The phrase, "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposal would only affect two local governmental entities and a state, and would provide regulatory flexibility for the state and local governmental entity concerned. Thus, Executive Order 13132 does not apply to this rule.

H. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

I. How Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless such practice is inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, material specifications, test methods, sampling procedures, and business practices) developed or adopted by voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking however, does not involve any voluntary consensus standards.

J. Does This Rule Comply With Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use?

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 258

Environmental protection, Landfill, Solid waste.

Dated: December 19, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth, part 258 of Chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 258—CRITERIA FOR MUNICIPAL SOLID WASTE LANDFILLS—[AMENDED]

1. The authority citation for Part 258 continues to read as follows:

Authority: 33 U.S.C. 1345(d) and (e); 42 U.S.C. 6902(a), 6907, 6912(a), 6944, 6945(c), and 6949a(c).

Subpart D—Design Criteria

2. Amend "258.41 to add a new paragraph (c) to read as follows:

§ 258.41 Project XL Bioreactor Landfill Projects.

* * * * *

(c) *Virginia Landfills XL Project Requirements.* Paragraph (c) of this section applies solely to two Virginia landfills operated by the Waste Management, Inc. or its successors: The Maplewood Recycling and Waste Disposal Facility, located in Amelia County, Virginia ("Maplewood Landfill"); and the King George County Landfill and Recycling Facility, located in King George County, Virginia ("King George Landfill") collectively hereinafter, "the VA Project XL Landfills or landfill." The VA Project XL Landfills are allowed to add non-hazardous bulk or non-containerized liquids including, leachate, storm water and truck wash water, hereinafter, "liquid or liquids", to Cell 3 of the King George Landfill (hereinafter "Cell 3") and Phases 1 and 2 of the Maplewood Landfill (hereinafter "Phases 1 and 2") under the following conditions:

(1) The operator of the landfill shall maintain the liners underlying Cell 3 and Phases 1 and 2, which were designed and constructed with an alternative liner as defined in § 258.40(a)(1) in accord with their current installed design in order to maintain the integrity of the liner system and keep it and the leachate collection system in good operating order. The operator of the landfill shall ensure that the addition of any liquids does not result in an increased leakage rate, and does not result in liner slippage, or otherwise compromise the integrity of the landfill and its liner system, as determined by the State Director. In addition, the leachate collection system shall be operated, monitored and maintained to ensure that less than 30 cm depth of leachate is maintained over the liner.

(2) The operator of the landfill shall ensure that the concentration values listed in Table 1 of § 258.40 are not exceeded in the uppermost aquifer at the relevant point of compliance for the landfill, as specified by the State Director, under § 258.40(d).

(3) The operator of the landfill shall monitor and report whether surface seeps are occurring and determine whether they are attributable to operation of the liquid application system. EPA and VADEQ shall be notified in the semi-annual report of the occurrence of any seeps.

(4) The operator of the landfill shall determine on a monthly basis the leachate quality in test and control areas with and without liquid addition. The operator of the landfill shall collect monthly samples of the landfill leachate and analyze them for the following parameters: pH, Conductivity, Dissolved Oxygen, Dissolved Solids, Biochemical Oxygen Demand, Chemical Oxygen Demand, Organic Carbon, Nutrients (ammonia, total kjeldahl nitrogen, total phosphorus), Common Ions, Heavy Metals and Organic Priority Pollutants.

(5) The operator of the landfill shall determine on a semi-annual basis the total quantity of leachate collected in test and control areas; the total quantity of liquids applied in the test areas and determination of any changes in this quantity over time; the total quantity of leachate in on-site storage structures and any leachate taken for offsite disposal.

(6) Prior to the addition of any liquid to the landfill, the operator of the landfill shall perform an initial characterization of the liquid and notify EPA and VADEQ of the liquid proposed to be added. The parameters for the initial characterization of liquids shall be the same as the monthly parameters for the landfill leachate specified in paragraph (c)(4) of this section. The operator shall annually test all liquids added to the landfill and compare these results to the initial characterization.

(7) The operator of the landfill shall ensure that Cell 3 and Phases 1 and 2 are operated in such a manner so as to prevent any landfill fires from occurring. The operator of the landfill shall monitor the gas temperature at well heads, at a minimum, on a monthly basis.

(8) The operator of the landfill shall perform an annual surface topographic survey to determine the rate of the settlement of the waste in the test and control areas.

(9) The operator of the landfill shall monitor and record the frequency of odor complaints during and after liquid application events. EPA and VADEQ shall be notified of the occurrence of any odor complaints in the semi-annual report.

(10) The operator of the landfill shall collect representative samples of the landfill waste in the test areas on an annual basis and analyze the samples for the following solid waste stabilization and decomposition parameters: Moisture Content, Biochemical Methane Potential, Cellulose, Lignin, Hemi-cellulose, Volatile Solids and pH.

(11) The operator of the landfill shall report to the EPA Regional Administrator and the State Director on the information described in paragraphs (c)(1) through (10) of this section on a semi-annual basis. The first report is due within 6 months after the effective date of this section. These reporting provisions shall remain in effect for the duration of the project term.

(12) Additional monitoring, record keeping and reporting requirements related to landfill gas will be contained in a Federally Enforceable State Operating Permit ("FESOP") for the VA Project XL Landfills issued pursuant to the Clean Air Act, 42 U.S.C. 7401 *et seq.* Application of this site-specific rule to the VA Project XL Landfills is conditioned upon the issuance of such a FESOP.

(13) This section will remain in effect until [10 years after the effective date of the final rule]. By [date 10 years after the effective date of the final rule], the VA Project XL Landfills must return to compliance with the regulatory requirements which would have been in effect absent the flexibility provided through this section. If EPA Region 3's Regional Administrator, the Commonwealth of Virginia and Waste Management agree to an amendment of the project term, the parties must enter into an amended or new Final Project Agreement for any such amendment.

(14) The authority provided by this section may be terminated before the end of the 10 year period in the event of noncompliance with the requirements of paragraph (c) of this section, the determination by the EPA Region 3's Regional Administrator that the project has failed to achieve the expected level of environmental performance, or the promulgation of generally applicable requirements that would apply to all landfill that meet or exceed the performance standard set forth in 40 § 258.40(a)(1). In the event of early termination EPA in consultation with the Commonwealth of Virginia will determine an interim compliance period to provide sufficient time for the operator to return the landfills to compliance with the regulatory requirements which would have been in effect absent the authority provided by this section. The interim compliance period shall not exceed six months.

[FR Doc. 01–31939 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Centers for Disease Control and Prevention

42 CFR Part 493

[CMS–2094–P]

RIN 0938–AK83

Medicare, Medicaid, and CLIA Programs; Qualification Requirements for Directors of Laboratories Performing High Complexity Testing

AGENCY: Centers for Disease Control and Prevention (CDC) and Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise and expand the qualification requirements by which an individual with a doctoral degree may qualify to serve as a director of a laboratory that performs high complexity testing.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 28, 2002.

ADDRESSES: Mail written comments (one original and three copies) to the following addresses:

Centers for Disease Control and Prevention, Department of Health and Human Services, Attention: CMS–2094–P, 4770 Buford Hwy., NE., MS F11, Atlanta, Georgia 30341–3724; and

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2094–P, P.O. Box 8018, Baltimore, MD 21244–8018

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–8018.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code CMS–2094–P.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

For information on ordering copies of the **Federal Register** containing this document and electronic access, *see* the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Rhonda S. Whalen (CDC), (770) 488–8155. Cecelia Hinkel (CMS), (410) 786–3531.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments

Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5–12–17 of the Centers for Medicare & Medicaid Services, 7500 Security Blvd., Baltimore, MD, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. To schedule an appointment to review public comments, phone: (410) 786–9994.

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 (or toll free at 1–888–293–6498) or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Website address is: *http://www.access.gpo.gov/nara/index.html.*

I. Background

On February 28, 1992, we published a final rule with comment period in the **Federal Register** (57 FR 7002). The regulation set forth the requirements for laboratories that are subject to the Clinical Laboratory Improvement Amendments of 1988 (CLIA). The regulation established uniform requirements for all laboratories regardless of location, size, or type of testing performed. In developing the regulation, we included requirements that we believed would ensure the quality of laboratory services and be in the best interest of the public health. We recognized that a rule of this scope required time for laboratories to understand and implement the new requirements. Therefore, certain requirements were given prospective effective dates.

The February 28, 1992 rule extended the timeframe to allow a director of a laboratory performing high complexity testing to be certified by a board approved by the Department of Health and Human Services (HHS). This extension allowed time for laboratory directors who were not board certified to complete the certification requirements and for HHS to review and approve certification boards. Until December 31, 2002, individuals with a doctoral degree and 2 years of laboratory training or experience and 2 years of experience directing or supervising high complexity testing would be qualified to be directors of laboratories performing high complexity testing.

The final rules with comment period published on December 6, 1994 in the **Federal Register** (59 FR 62606), May 12, 1997 in the **Federal Register** (62 FR 25855), October 14, 1998 in the **Federal Register** (63 FR 55031), and December 29, 2000 in the **Federal Register** (65 FR 82941) extended the date by which an individual with a doctoral degree was required to be board certified in order to qualify as a director of a laboratory that performs high complexity testing. These date extensions were established to allow additional time for laboratory directors who were not board certified to complete certification requirements.

Following the publication of the February 28, 1992 rule, many individuals expressed concern about making board certification a mandatory requirement for directors of laboratories performing high complexity testing. In response to the publication of the date extension regulations, we received comments suggesting that we develop alternative provisions to qualify individuals with a doctoral degree on the basis of laboratory training or experience, instead of requiring board certification.

II. Provisions of the Proposed Rule

Upon consideration, we realize that individuals currently serving as laboratory directors are qualified based on training and experience, and have demonstrated the level of competency necessary to direct laboratories performing high complexity testing.

VOL 66 ISS 249 DE 28 2001 UMI

Therefore, we are proposing to revise and expand the qualification requirements at § 493.1443(b)(3). The proposed change provides three alternatives for an individual to meet in order to be qualified to serve as a director of a laboratory performing high complexity testing.

First, an individual who holds an earned doctoral degree and is certified by an HHS-approved board is qualified.

Second, an individual who is or has been the director of a laboratory performing high complexity testing before January 1, 2003, and holds an earned doctoral degree in a chemical, physical, biological, or clinical laboratory science from an accredited institution; and has 2 years of laboratory training or experience, or both; and 2 years experience directing or supervising high complexity testing will be qualified.

Finally, an individual who holds an earned doctoral degree but has never been the director of a laboratory performing high complexity testing must have at least 6 years of laboratory training or experience, or both; including 2 years of experience directing or supervising high complexity testing.

We are particularly interested in receiving comments on the appropriate combination of education and experience needed to ensure competency in directing a laboratory performing high complexity testing in the absence of board certification.

III. Response to Comments

Because of the large number of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble of that document.

IV. Regulatory Impact Statement

Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980, Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). This rule is not a major rule, and we do not anticipate that these provisions will have an impact of $100 million or more in any 1 year.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $10 million or less annually. For purposes of the RFA, all laboratories are considered to be small entities. Individuals and States are not included in the definition of a small entity.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This rule applies only to the qualifications of individuals hired to direct laboratories performing high complexity testing and does not have any direct impact on laboratories. In addition, the rule would allow high complexity laboratory directors who have a doctoral degree and laboratory experience but are not certified by an HHS-approved board two options to maintain their director qualifications. These options would ensure that currently employed laboratory directors including those directors of State public health laboratories would continue their laboratory director services. The essential participation of these public health laboratories in the homeland defense effort would be compromised without the options provided in this rule. In the absence of this proposed change, the experienced individuals who have a doctoral degree without board certification and are serving as directors of laboratories performing high complexity testing would be ineligible to continue serving in their current positions, further exacerbating the existing shortage of qualified personnel in clinical and public health laboratories.

Therefore, we are proposing certifying that this rule will not have significant economic impact on a substantial number of small entities.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $110 million. We do not anticipate these provisions will have an impact of $110 million or more in any 1 year. This proposed rule has no consequential effect on State, local, or tribal governments. Therefore, we have not prepared a regulatory impact analysis.

Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this proposed rule would not have a substantial effect on State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 493

Grant programs—health, Health facilities, Laboratories, Medicaid, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services would amend 42 CFR chapter IV, part 493 as set forth below:

PART 493—LABORATORY REQUIREMENTS

1. The authority citation for part 493 continues to read as follows:

Authority: Sec. 353 of the Public Health Service Act, secs. 1102, 1861(e), and the sentence following sections 1861(s)(11) through 1861(s)(16) of the Social Security Act (42 U.S.C. 263a, 1302, 1395x(e), and the sentence following 1395x(s)(11) through 1395x(s)(16)).

2. In § 493.1443, paragraph (b) introductory text is republished, and paragraph (b)(3) is revised to read as follows:

§ 493.1443 Standard; Laboratory director qualifications.

* * * * *

(b) The laboratory director must—

* * * * *

(3) Hold an earned doctoral degree in a chemical, physical, biological, or clinical laboratory science from an accredited institution and—

(i) On or after January 1, 2003, be certified and continue to be certified by a board approved by HHS;

(ii) Before January 1, 2003, must have served or be serving as director of a laboratory performing high complexity testing and must have at least—

(A) Two years of laboratory training or experience, or both; and

(B) Two years of experience directing or supervising high complexity testing; or

(iii) Have at least 6 years of laboratory training or experience, or both; including 2 years experience directing or supervising high complexity testing.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 23, 2001.

Jeffrey P. Koplan,

Director, Centers for Disease Control and Prevention.

Dated: August 30, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: October 11, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–31722 Filed 12–27–01; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 00–256, 96–45; DA 01–2916]

Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers; Limited Extension of Time for Filing Comments and Replies in Rate-of-Return Access Charge Reform Proceeding

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: In this document, the Commission extends the time by 45 days for filing comments and reply comments in the Rate-of-Return Access Charge Reform proceeding. Certain members of the Multi-Association Group (MAG) requested an extension of time for filing comments. This proceeding seeks additional comment on proposals for incentive regulation, proposed changes to the "all-or-nothing" rule, pricing flexibility for rate-of-return carriers, and merging the Long Term Support mechanism into the new Interstate Common Line Support mechanism.

DATES: Comments are due on or before February 14, 2002, and reply comments are due on or before March 18, 2002.

ADDRESSES: Parties who choose to file comments by paper should send comments to Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th St., SW; TW-A325, Washington, DC 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.*

FOR FURTHER INFORMATION CONTACT: Marvin F. Sacks at (202) 418–2017 (Common Carrier Bureau).

SUPPLEMENTARY INFORMATION: On November, 8, 2001, the Commission released the Second Report and Order and Further Notice of Proposed Rulemaking ("FNPRM") in CC Docket Nos. 00–256 and 96–45, FCC 01–304, published at 66 FR 59761, November 30, 2001. Certain members of the Multi-Association Group (MAG) requested an extension of time for filing comments in the FNPRM. This proceeding seeks additional comment on proposals for incentive regulation, proposed changes to the "all-or-nothing" rule, pricing flexibility for rate-of-return carriers, and merging the Long Term Support mechanism into the new Interstate Common Line Support mechanism. When filing comments and reply comments, parties should reference CC Docket Nos. 00–256 and 96–45, and conform to the filing procedures contained in this FNPRM. The complete text is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW, CY–B402, Washington, DC 20554. The FNPRM is also available via the Internet at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–01–304A1.pdf.*

Federal Communications Commission.

Jack Zinman,

Deputy Division Chief, Competitive Pricing Division.

[FR Doc. 01–31864 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH96

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Northern Great Plains Breeding Population of the Piping Plover; Reopening of Public Comment Period and Notice of Availability of Draft Economic Analysis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of availability of economic analysis.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the draft economic analysis for the proposal to designate critical habitat for the northern Great Plains breeding population of the piping plover (*Charadrius melodus*), under the Endangered Species Act of 1973, as amended. We also are providing notice of the reopening of the public comment period for the proposal to designate critical habitat for this species, and the associated draft environmental assessment, to allow all interested parties to comment. Comments previously submitted need not be resubmitted as they have already been incorporated into the public record and will be fully considered in the final rule. Comments submitted during this comment period also will be incorporated into the public record and will be fully considered in the final rule.

DATES: The comment period is opened and will close on January 28, 2002. Any comments that are received after the closing date may not be considered in the final decision on this proposal.

ADDRESSES: You may submit written comments and information to Piping Plover Comments, South Dakota Ecological Services Field Office, U.S. Fish and Wildlife Service, 420 South Garfield Avenue, Suite 400, Pierre, South Dakota 57501, or by facsimile to 605–224–9974.

You may hand-deliver written comments to our South Dakota Field Office at the address given above.

You may send comments by electronic mail (e-mail) to FW6_PipingPlover@fws.gov. See the Public Comments Solicited section below for file format and other information on electronic filing.

Copies of the draft economic analysis, draft environmental assessment, and proposed rule for designation of critical habitat for the northern Great Plains breeding population of the piping plover are available from the aforementioned address or on the Internet at *http://mountain-prairie.fws.gov/pipingplover.*

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Nell McPhillips, Fish and Wildlife Biologist, at the above address or at 605–224–8693, extension 32.

SUPPLEMENTARY INFORMATION:

Background

We published a proposed rule to designate critical habitat for the northern Great Plains breeding population of the piping plover in the **Federal Register** (66 FR 31760, June 12, 2001). Section 4(b)(2) of the Endangered Species Act (Act) requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impacts, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

The proposed designation includes 11 areas of prairie alkali wetlands and reservoir lakes in 5 counties in Montana, 18 counties in North Dakota, and 1 county at Lake-of-the-Woods, Minnesota, totaling approximately 196,576.5 acres [79,553.1 hectares]. It also includes five areas of portions of four rivers in the States of Montana, North Dakota, South Dakota, and Nebraska, totaling approximately 1,338 miles [2,152.9 kilometers] of river. If this proposal is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency.

Public Comments Solicited

We will accept written comments and information during this comment period. If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (*see* **ADDRESSES**). If you would like to submit comments by electronic format, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include your name and return e-mail address in your e-mail message. Please note that the e-mail address will be closed out at the termination of the public comment period. If you do not receive confirmation from the system that we have received your message, contact us directly by calling our South Dakota Field Office at 605–224–8693.

Comments and materials received, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for public inspection, by appointment, during normal business hours at the above address. Copies of the draft Environmental Assessment are available on the Internet at *http://mountain-prairie.fws.gov/pipingplover* or by writing to Pete Gober, Field Supervisor (*see* **ADDRESSES**).

Author

The primary authors of this notice are the South Dakota Field Office staff (*see* **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 30, 2001.

John A. Blankenship,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 01–31586 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 122001A]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3-day Council meeting on January 15 through 17, 2002, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday, January 15, 16, and 17, 2002. The meeting will begin at 9 a.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Courtyard by Marriott, 1000 Market Street, Portsmouth, NH 03801; telephone (603) 436–2121. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, January 15, 2002

Following introductions, the Council will receive a briefing on the status of the U.S./Canada shared resources agreement. The Enforcement Committee will discuss its recommendations concerning the Council's Enforcement Policy in view of the 9/11 attacks because of United States Coast Guard (USCG) redirection of USCG resources to national security. The Enforcement Committee may possibly discuss Enforcement Committee progress on reviewing Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and Framework Adjustment 1 to the Monkfish FMP. Later in the morning, there will be a Stock Assessment Public Review Workshop during which an advisory report on the status of monkfish, Georges Bank winter flounder, and Loligo squid developed at the 34th Stock Assessment Workshop will be presented. The Council will then begin consideration of monkfish management issues. It intends to approve final action on Framework Adjustment 1 to the Monkfish FMP.

Options under consideration include, but are not limited to: (1) taking no action and allowing the FMP Year 4 default measures to take effect (and eliminating the directed fishery); (2) postponing the Year 4 default measures for one year and adjusting trip limits and days-at-sea allocations to achieve fishing year 2000 landings levels (after accounting for the court-ordered adjustment to the gillnet trip limits) (the preferred alternative); and (3) adjusting management measures to reduce catches to the Years 2 and 3 total allowable catch (TAC) targets. The Council also will consider scoping comments on

Amendment 2 to the Monkfish FMP. Amendment 2 will consider updated scientific information in revising overfishing definitions, rebuilding targets and management measures, as appropriate to rebuild stocks to maximum sustainable levels by 2009; reduce overall FMP complexity; update environmental impact documents; consider modifications to the limited entry program for vessels fishing south of the North Carolina/Virginia border; and update the Essential Fish Habitat components.

Wednesday, January 16, 2002

The meeting will reconvene with reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. A brief period for general comments from the public concerning fisheries management issues will follow. During the Scallop Committee Report the committee will request approval of additional management alternatives to be included in draft Amendment 10 to the Atlantic Sea Scallop FMP and analyzed in the Draft Supplemental Environmental Impact Statement (DSEIS). Primary issues include alternatives to manage effort by vessels with limited access and general category scallop permits, minimize habitat and bycatch impacts, and address monitoring and data collection issues.

Thursday, January 17, 2002

On the final day of the meeting, the Council plans to approve final management measures to be included in the Deep-Sea Red Crab FMP. Measures under consideration include controlled access, days-at-sea and trip limit programs for the directed red crab fishery, and the establishment of a fishing year for management purposes. There will be an update on the initial meeting of the Council's Marine Protected Area Committee followed by a report from the Capacity Committee. The Capacity Committee will discuss and seek Council guidance on capacity reduction proposals to be included in Amendment 13 to the Northeast Multispecies FMP. The Groundfish Committee will provide an update on the development of Amendment 13 as well as Framework 36 to the Northeast Multispecies FMP. Prior to addressing any other outstanding business, the Council will consider the development of an FMP for hagfish and possible approval of a control date to determine future access to the fishery.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

The New England Council will consider public comments at a minimum of two Council meetings before making recommendations to the National Marine Fisheries Service Regional Administrator on any framework adjustment to a fishery management plan. If the Regional Administrator concurs with the adjustment proposed by the Council, the Regional Administrator may publish the action either as proposed or final regulations in the **Federal Register**. Documents pertaining to framework adjustments are available for public review 7 days prior to a final vote by the Council.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (*see* **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: December 21, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service

[FR Doc. 01-31973 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-22-S

VOL 66 ISS 249 DE 28 2001 UMI

Notices

Federal Register

Vol. 66, No. 249

Friday, December 28, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special Provisions for Canadian Fresh Fruit and Vegetable Imports Under the North American Free Trade Agreement

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination of existence of conditions necessary for imposition of temporary duty on potatoes from Canada.

SUMMARY: As required by section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, as amended by the North American Free Trade Agreement Implementation Act ("FTA Implementation Act"), this is a notification that the Secretary of Agriculture has determined that the necessary conditions exist with respect to United States acreage and import price criteria for potatoes classifiable to subheadings 0701.90 of the Harmonized Tariff Schedule of the United States (HTS) imported from Canada to permit the Secretary to consider recommending to the President the imposition of a temporary duty ("snapback duty") by the United States pursuant to section 301(a) of the FTA Implementation Act, implementing Article 702 of the United States-Canada Free-Trade Agreement, Special Provisions for Fresh Fruits and Vegetables, as incorporated by reference and made a part of the North American Free Trade Agreement (NAFTA) pursuant to Annex 702.1, paragraph 1 of NAFTA.

FOR FURTHER INFORMATION CONTACT: Brian Grunenfelder, Horticultural & Tropical Products Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1049 or telephone at (202) 720–3423.

SUPPLEMENTARY INFORMATION: The FTA Implementation Act, in accordance with the NAFTA, authorizes the imposition of a temporary duty (snapback) for a limited group of fresh fruits and vegetables from Canada when certain conditions exist. Potatoes, classified under subheadings 0701.90 of the HTS, is a good subject to the snapback duty provision.

Under section 301(a) of the FTA Implementation Act, two conditions must exist before imposition by the United States of a snapback duty can be considered. First, the import price of a covered Canadian fruit or vegetable, for each of five consecutive working days, must be less than ninety percent of the corresponding five-year average monthly import price. This price for a particular day is the average import price of a Canadian fresh fruit or vegetable imported into the United States from Canada, for the calendar month in which that day occurs, in each of the 5 preceding years, excluding the years with the highest and lowest monthly averages.

Second, the planted acreage in the United States for the like fruit or vegetable must be no higher than the average planted acreage over the preceding five years, excluding the years with the highest and lowest acreage.

From October 2–8, 2001, the price conditions with respect to potatoes were met.

The most recent revision of planted acreage for potatoes shows that this year's planted acreage is below the planted acreage over the preceding five years, excluding the years with the highest and lowest planted acreages.

Issued at Washington, DC the 12th day of December, 2001.

Ann Veneman,

Secretary of Agriculture.

[FR Doc. 01–31949 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. ST–01–05]

Microbiological Data Program; Public Meeting

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a public meeting to provide a forum to discuss the Microbiological Data Program (MDP). Specifically, AMS will present a detailed data collection proposal and seek input from all interested parties on data collection techniques. This notice also sets forth the schedule and proposed agenda for the meeting.

DATES: The public meeting will be held on Thursday, January 10, 2002, from 8:30 a.m. to 1 p.m.

ADDRESSES: The public meeting will be held at the Jamie L. Whitten Federal Building, Room 107–A, United States Department of Agriculture, 12th and Jefferson Drive, SW, Washington DC 20250.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. Epstein, Science and Technology Programs, Agricultural Marketing Service, United States Department of Agriculture, 14th and Independence Avenue, Washington DC, 20250 Telephone number (202) 720–5231 or fax (202) 720–6496.

SUPPLEMENTARY INFORMATION: In the past several years the number of foodborne illness associated with domestic and imported fresh fruits and vegetables has increased. Some microorganisms once thought under control may be adapting to their environments, may be developing resistance to conventional food processing operations, and may be re-emerging with increased pathogenicity. To respond to these concerns, Congress authorized an appropriation of $6.235 million for fiscal year (FY) 2001 and $6.234 million for FY 2002, to fund a microbiological monitoring program for foodborne pathogens and indicator organisms on domestic and imported fruits and vegetables. The program is designed to collect reliable data and develop national estimates of bacterial contamination with regard to selected produce. The MDP is a voluntary data gathering program and not a regulatory or enforcement program. The Federal Food and Drug Administration, Centers of Disease Control and Prevention, USDA's National Agricultural Statistical Service, as well as 10 State Departments of Agriculture, industry and academia have provided assistance and information in formulating program policy and operating procedures. The program will be conducted under the authority of the Agricultural Marketing

Act of 1946 (7 U.S.C. 1621–1627). Congress requested that AMS hold a public meeting to seek input from all interested parties (H.R. No. 275, 107th Congress, 1st session, at 65). Therefore, AMS, is giving notice of a public meeting to allow anyone, especially those who are interested in food safety issues, an opportunity to present their input regarding MDP. This public meeting is scheduled for Thursday, January 10, 2002. The public meeting will begin at 8:30 a.m. and is scheduled to end at 1 p.m. It will be held at the Jamie L. Whitten Federal Building, Room 107–A, United States Department of Agriculture, 12th and Jefferson Drive, SW, Washington DC 20250.

Those parties who wish to speak at the meeting should register on or before January 7, 2002. To register to speak, please e-mail *Robert.Epstein@USDA.gov*, or send a fax to Dr. Robert Epstein at (202) 720–6496. Registrants should include their name, address, and daytime telephone number. Depending on the number of registered speakers, time limits may be imposed on speakers, and speakers who have registered in advance will be given priority if time is limited.

The proposed agenda for the meeting will include discussions of: (1) MDP Overview and Framework, (2) MDP sampling rationale and principles, (3) Public health agencies program needs, and (4) Public recommendations and concerns.

Upon entering the Jamie L. Whitten Federal Building, visitors should inform security personnel that they are attending the MDP Public Meeting. Identification will be required to be admitted to the building. Security personnel will direct visitors to the registration tables located outside of Room 107–A. Registration upon arrival is necessary for all participants, including those who have registered to speak in advance.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

Dated: December 21, 2001.

A. J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 01–31967 Filed 12–21–01; 2:27 pm]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–119–1]

Availability of an Environmental Assessment for Field Testing Avian Encephalomyelitis-Fowl Pox-Mycoplasma Gallisepticum Vaccine, Live Virus, Fowl Pox Vector

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are informing the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed avian encephalomyelitis-fowl pox-mycoplasma gallisepticum vaccine for use in poultry. The environmental assessment, which is based on a risk analysis prepared to assess the risks associated with the field testing of this vaccine, examines the potential effects that field testing this veterinary vaccine could have on the quality of the human environment. Based on the risk analysis, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment and that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing following the close of the comment period for this notice unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a veterinary biological product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and the issuance of a finding of no significant impact and the product meets all other requirements for licensure.

DATES: We invite you to comment on this docket. We will consider all comments we receive that are postmarked, delivered, or e-mailed by January 28, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 01–119–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 01–119–1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and "Docket No. 01–119–1" on the subject line.

Copies of the environmental assessment may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the docket number, date, and complete title of this notice when requesting copies. A copy of the environmental assessment (as well as the risk analysis with confidential business information removed) and any comments that we receive on this docket are available for public inspection in our reading room. The reading room is located in room 1141 of the South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–8245, fax (301) 734–4314.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment.

Based on the risk analysis, APHIS has prepared an environmental assessment (EA) concerning the field testing of the veterinary biological product:

Requester: Biomune Company.

Product: Avian Encephalomyelitis-Fowl Pox-Mycoplasma Gallisepticum Vaccine, Live Virus, Fowl Pox Vector.

Field test locations: Iowa, Minnesota, Nebraska, North Carolina, Pennsylvania, Texas, and Virginia.

The above-mentioned product is a modified live avian encephalomyelitis vaccine in combination with a live, attenuated fowl pox virus that has been genetically modified to express *Mycoplasma gallisepticum* antigens. The vaccine is for use in chickens as an aid in the prevention of avian encephalomyelitis, fowl pox, and *Mycoplasma gallisepticum*.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500-1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial environmental issues are raised in response to this notice, APHIS intends to issue a finding of no significant impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the product license and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test, provided no adverse impacts on the human environment are identified and the product meets all other requirements for licensure.

Authority: 21 U.S.C. 151–159.

Done in Washington, DC, this 20th day of December 2001.

W. Ron Dehaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–31946 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 01–042N]

Codex Alimentarius: 10th Session of the Codex Committee on Food Import and Export Inspection and Certification Systems

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meetings, request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), and the U.S. Department of Health and Human Services (HHS), are sponsoring two public meetings, on January 8 and February 7, 2002, to provide information and receive public comments on agenda items that will be discussed at the Tenth Session of the Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS), which will be held in Brisbane, Australia, February 25 to March 1, 2002. The Under Secretary and FDA recognize the importance of CCFICS, and the need to provide interested parties the opportunity to obtain background information and comment on the Tenth Session.

DATES: The public meetings are scheduled for Tuesday, January 8, 2002 from 1:00 p.m. to 4:00 p.m., and Thursday, February 7, 2002 from 1:00 p.m. to 3:00 p.m.

ADDRESSES: The public meetings will be held in Conference Room 1409, Federal Office Building 8, Food and Drug Administration, 200 C Street, SW., Washington, DC. Submit one original and two copies of written comments to the FSIS Docket Room, Docket #01–042N, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. To receive copies of the documents referenced in this notice, contact the FSIS Docket Room at the above address. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net/ccfics10/fc02 01e.htm*

All comments received in response to this notice will be considered part of the public record to this notice will be considered part of the public record and will be available for viewing in the Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Associate U.S. Manager for Codex, U.S. Codex Office, FSIS, Room 4861, South Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Mr. Patrick J. Clerkin at the above phone number.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in Food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

CCFICS was established to develop principles and guidelines for: food import and export inspection and certification systems; the application of measures by competent authorities of importing and exporting countries to provide assurance that foods comply with essential requirements; the utilization of quality assurance systems; and the format and content of official certificates.

Issues To Be Discussed at the Public Meeting

The following issues and referenced documents will be discussed during the public meetings:

1. Adoption of the Agenda, DOCUMENT CX/FICS 02/1
2. Matters Referred from the Codex Alimentarius Commission and Other Codex Committees, DOCUMENT CX/FICS 02/2
3. Draft Guidelines for Food Import Control Systems—Comments at Step 6, DOCUMENT CL 2001/25–FICS; DOCUMENT *ALINORM 01/30A, Appendix IV;* DOCUMENT CX/FICS 02/3

VOL 66 ISS 249 DE 28 2001 UMI

4. Draft Guidelines on the Judgement of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems—Comments at Step 6, DOCUMENT CL 2001/25–FICS; DOCUMENT *ALINORM 01/30A, Appendix III;* DOCUMENT CX/FICS 02/4

5. Proposed Draft Guidelines on the Judgement of Equivalence of Technical Regulations Associated with Food Inspection and Certification Systems—Comments at Step 3, DOCUMENT *CX/FICS 02/5;* DOCUMENT CX/FICS 02/5–Add.1

6. Proposed Draft Guidelines for the Utilization and Promotion of Quality Assurance Systems to Meet Requirements in Relation to Food—Comments at Step 3, DOCUMENT *CX/FICS 02/6;* DOCUMENT CX/FICS 02/6–Add.1

7. Proposed Draft Revision to the Codex Guidelines for the Exchange of Information in Food Control Emergency Situations—Comments at Step 3, DOCUMENT CX/FICS 02/7; DOCUMENT CX/FICS 02/7–Add.1

8. Other Business and Future Work. In advance of the meetings, the U.S. Delegate to CCFICS will have assigned responsibility for development of U.S. positions on these issues to members of the U.S. government. The individuals assigned responsibility will be named at the meetings and will take comments and develop draft U.S. positions. All interested parties are invited to provide information and comments on the above issues, or on any other issues that may be brought before CCFICS.

Public Meetings

At the January 8th public meeting, the issues will be reviewed and comments will be received. At the February 7th public meeting, the draft United States' positions on the issues will be described and discussed, and attendees will have the opportunity to pose questions and offer comments.

Please state that your comments relate to CCFICS activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of the **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meeting, recalls, and any other types of information that could effect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience.

For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office at (202) 720–5704.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 01–31947 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for a currently approved information collection in support of the Public Law 480, Title I program.

DATES: Comments on this notice must be received by February 26, 2002 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: William Hawkins, Director, Program Administration Division, Foreign Agricultural Service, Room 4077 South Building, Stop 1031, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1031, telephone (202) 720–3241.

SUPPLEMENTARY INFORMATION:

Title: Request for Vessel Approval, Form CCC–105; and Request for Vessel Approval Form CCC–105 (cotton).

OMB Number: 0551–0008.

Expiration Date of Approval: April 30, 2002.

Type of Request: Extension of a currently approved information collection.

Abstract: Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480) authorizes the Commodity Credit Corporation (CCC) to finance the sale and exportation of agricultural commodities on concessional terms. 7 U.S.C. 1701 et seq. Shipping agents or embassies submit pertinent shipping information on Form CCC–105 to facilitate approval by CCC of shipping arrangements. This approval is necessary to assure compliance with cargo preference requirements at the lowest cost to CCC. Agents submit this document in order that USDA can generate the CCC–106, a necessary payment document. Ocean carriers then receive payment for ocean freight.

Estimate of Burden: The public reporting burden is 15 minutes per response for suppliers of ocean transportation reporting details of freight transactions.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5.

Estimated Total Annual Burden of Respondents: 9 hours.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720–2568.

Requests for comments: Comments are requested on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. comments may be sent to William Hawkins, Director, Program Administration Division, Foreign Agricultural Service Room 4077 South Building, Stop 1031, U.S. department of agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1031, telephone (202) 720–2600 (voice and TDD). All responses to this notice will be summarized and included in the request for OMB approval. All

P

comments will become a matter of public record.

Frank Lee,

Acting General Sales Manager, Foreign Agricultural Service and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 01–31948 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Star Fire Restoration; Eldorado National Forest, Placer County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Star Fire burned 16,800 acres in August and September, 2001, on the Tahoe and Eldorado National Forests. Of the total fire, approximately 2,416 acres burned on the Georgetown Ranger District of the Eldorado National Forest. The USDA, Forest Service, Eldorado National Forest will prepare an environmental impact statement (EIS) on a proposal to treat approximately 1650 acres of fire killed and damaged trees in the Star Fire burned area. The fire area is identified in the Sierra Nevada Forest Plan Amendment as old forest emphasis and general forest. The purpose of the project is to enhance the development of old forest conditions over the long term by reducing fuel accumulation and fire hazard, increasing the ability to suppress future wildfire, increasing ground cover to protect soil productivity and improve watershed condition, and recovering the value of wood products to fund reforestation and restoration. The proposed action is also designed to contribute to snag and log needs of wildlife, improve aquatic habitats and stream channel function, and provide for public and forest worker safety. It is believed that watershed condition and the probability of growing old forest conditions over the long term will be improved by this project.

DATES: Comments concerning the scope and implementation of this proposal should be received by January 4, 2002.

ADDRESSES: Send written comments to Patricia Ferrell, Project Leader, Eldorado National Forest, 100 Forni Road, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Patricia Ferrell, at the above address, or call her at 530–642–5146.

SUPPLEMENTARY INFORMATION: The fire caused extensive tree mortality. Field examination indicates that 71% of the project area currently exhibits >75% stand mortality by basal area, 2% of the project area is unburned, 20% of the project area is non forest (rock and barren areas) and plantations, and 7% of the project area currently exhibits 75% mortality by basal area. Additional mortality is likely to become evident next spring and summer as more crowns begin to brown and bark beetles become established. As a result of the fire, much of the project area has reverted from mid to late seral forest conditions to early seral forest. Establishment of old forest requires survival and growth of individual trees and forested stands over the next 250+ years without the occurrence of another stand replacing fire. Preventing another stand replacing fire involves a combination of recurring fuel treatments to modify fire behavior, and effective suppression. Removal of dead trees will reduce future fuel accumulation, improve the ability to effectively suppress future wildfires, and increase the ability to maintain low fuel conditions through prescribed fire. The process of removing dead trees would maintain soil productivity for tree growth by immediately increasing effective ground cover (limbs, twigs, and small boles) to reduce soil erosion. The proposed action would remove dead trees using ground based, skyline, and helicopter logging methods. Trees posing a safety hazard to the public and forest workers would be removed along maintenance level 1, 2, 3, 4, and 5 roads. Roads would be reconstructed to facilitate tree removal and improve watershed condition. Slash and small dead trees would be treated to provide ground cover and reduce long term fuel loading. Protection would be applied to sensitive plants, wildlife species, and cultural resources.

The proposed action is consistent with the 1989 Eldorado National Forest Land and Resource Management Plan as amended by the Sierra Nevada Forest Plan Amendment Record of Decision (2001).

The decision to be made is whether to adopt and implement the proposed action, an alternative to the proposed action, or take no action to remove fire killed and damaged trees in the project area.

Other alternatives will be developed based on significant issues identified during the scoping process for the environmental impact statement. All alternatives will need to respond to the specific condition of providing benefits equal to or better than the current condition. Alternatives being considered at this time include: (1) No Action and (2) the Proposed Action.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from the Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. To facilitate public participation information about the proposed action is being mailed to all who have expressed interest in the proposed action based on publication in the Eldorado National Forest Schedule of Proposed Action and notification of the public scoping period will be published in the Mountain Democrat, Placerville, CA.

Comments submitted during the scoping process should be in writing and should be specific to the proposed action. The comments should describe as clearly and completely as possible any issues the commenter has with the proposal. The scoping process includes:

(a) Identifying potential issues;

(b) Identifying issues to be analyzed in depth.

(c) Eliminating nonsignificant issues or those previously covered by a relevant previous environmental analysis;

(d) Exploring additional alternatives;

(e) Identifying potential environmental effects of the proposed action and alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by January 2002. EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is very important that those interested in the management of the Eldorado National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,*

VOL 66 ISS 249 DE 28 2001 UMI

803f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled to be completed in March 2002. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal.

John Berry, Forest Supervisor, Eldorado National Forest is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR Part 215).

Dated: December 19, 2001.

Susan A. Rodman,

Acting Forest Supervisor.

[FR Doc. 01–31906 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Interior Wetlands Environmental Impact Statement; Hiawatha National Forest, Chippewa County, MI

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of proposed land management activities, and corresponding alternatives, within the Interior Wetlands project area. The project is located on the Sault Ste. Marie Ranger District, Hiawatha National Forest, Chippewa County, Michigan, approximately 35 miles southwest of Sault Ste. Marie, Michigan. The project area is approximately 30,600 acres and management activities are being proposed on less than 15 percent of the area.

Jack pine stands experience a cyclical outbreak of jack pine budworm. Older trees are more susceptible to defoliation which can lead to mortality and dead tops. In the Interior Wetlands project area much of the jack pine is more than 60 years old. The jack pine in the project area experienced budworm defoliation during the 1991/1992 outbreak and is showing some defoliation during the outbreak that began in 2001. The Forest Service is evaluating the options available to develop a more evenly distributed age-class and to improve the vigor of jack pine stands in order to minimize the impacts of budworm defoliation. In addition to proposing jack pine salvage and regeneration in Interior Wetlands, the Forest Service evaluated some other management opportunities within the entire project area to implement the Hiawatha National Forest Land and Resource Management Plan (Forest Plan, 1986). The proposed action includes salvage and regeneration of jack pine, timber harvesting and regeneration of other species, changes to the transportation system, changes to the old growth system, timber stand improvement projects, and wildlife and fisheries habitat improvement projects.

Overall guidance of land management activities on the Hiawatha National Forest is provided by the Forest Plan. In order to meet the objectives and desired future conditions set forth in the Forest Plan, the following purpose and need has been identified for the Interior Wetlands project area: (1) Reduce the impacts of the jack pine budworm by creating a more evenly distributed age-class structure (which also improves habitat for sandhill crane, merlin, northern harrier, and other species), improving vigor, and increasing growth rates in jack pine stands. (2) Regenerate older aspen and mixed balsam fir/aspen/paper birch stands to maintain these forest types; provide habitat for white-tailed deer, ruffed grouse, snowshoe hare, and other species; improve vigor, and increase growth rates. (3) Regenerate older black spruce stands to improve vigor and to increase growth rates. (4) Remove some trees in some jack pine, aspen, balsam fir/aspen/paper birch, northern hardwoods, paper birch, black spruce, red pine, white pine, and cedar to either concentrate growth on the remaining trees or to provide space for new trees to become established. (5) Provide useable wood products to local markets and improve timber age-class distribution, vigor, and growth rates on merchantable stems to ensure a more even flow of wood products in the future. (6) Prepare areas where jack pine and black spruce are being regenerated by reducing the slash and exposing mineral soil for a seedbed. (7) Manage an efficient transportation system through construction, reconstruction, maintenance, and decommissioning of roads. (8) Improve the quality and survival of some white pine stems damaged by white pine weevil and blister rust. (9) Evaluate stands currently in the old growth system and other stands to determine if there is a different arrangement of stands that could provide better existing old growth characteristics and better placement across the landscape. (10) Adjust wildlife opening system by creating openings or maintaining existing openings by removing woody encroachment to provide habitat for sandhill crane, black bear, ruffed grouse, and other species. (11) Improve fish habitat (primarily brook trout) by adding log bank cover and placing spawning gravel. (12) Design projects and/or develop mitigation measures, as appropriate, to minimize impacts to the resources to acceptable levels defined by laws, regulations, or policies.

A roads analysis for the project area will be conducted in conjunction with the EIS. The roads analysis is not a decision document but is necessary to make an informed decision. At a minimum, the roads analysis will identify: needed and unneeded roads; road associated environmental and public safety risks; site-specific priorities and opportunities for road improvements and decommissioning; areas of special sensitivity, unique resource values, or both; and any other information that may be needed to support project-level decisions. Adjacent landowners, citizens groups, State, local, and Tribal governments, and other Federal agencies are invited to comment on the transportation system.

The Draft Environmental Impact Statement (DEIS) will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on National Forest system lands will be considered. The DEIS will disclose the analysis of site-specific mitigation measures and their effectiveness. The DEIS is expected

VOL 66 ISS 249 DE 28 2001 UMI

to be filed with the EPA and available for public review by November 2002.

DATES: Comments concerning the proposed action and scope of the analysis should be received by January 28, 2002 to receive timely consideration in the DEIS. A public meeting about this project will be held on December 4, 2001 at 6:30 pm.

ADDRESSES: Mail written comments to Stevan J. Christiansen, District Ranger, St. Ignace and Sault Ste. Marie Ranger Districts, 1798 West US–2, St. Ignace, MI 49781. The public meeting for this project will be held at the Trout Lake Town Hall on the main street of Trout Lake (M–123).

FOR FURTHER INFORMATION CONTACT: Martha Sjogren, Team Leader, St. Ignace Ranger District. Phone: (906) 643–7900 ext. 133. Email: msjogren@fs.fed.us.

SUPPLEMENTARY INFORMATION: The information presented in this notice is included to help the reviewer determine if they are interested in or potentially affected by the proposed land management activities. The information in this notice is summarized. Contact the person identified in the For Further Information Contact section to obtain additional information about desired future condition, purpose and need, proposed action, design criteria and/or mitigation measures, and maps. The information packet and color maps are also available at: *http://www.fs.fed.us/r9/hiawatha.*

The project area is approximately 30,600 acres and is located near the town of Trout Lake, Chippewa County, Michigan. Proposed activities within the project area include portions of the following areas: T44N, R4W, Sections 19, 31; T44N, R5W, Sections 2–11, 13–27, 35, 36; T44N, R6W, Sections 1–18, 21–24; T45N, R5W, Sections 8–10, 15–17, 19–22, 27–33; T45N, R6W, Sections 23, 25, 26, 31, 32, 34–36.

To meet the purpose and need, this project proposes:

1. To salvage (through clearcut harvest) and regenerate approximately 2,216 acres of mature and overmature jack pine.
2. To harvest (clearcut) and regenerate approximately 289 acres of mature and overmature aspen, balsam fir/aspen/paper birch, and black spruce stands.
3. To harvest (clearcut) and regenerate approximately 119 acres of mature black spruce stands.
4. To harvest some trees (partial removal cuts) on approximately 508 acres in jack pine, aspen, balsam fir/aspen/paper birch, northern hardwoods, black spruce, red pine, white pine, and cedar.
5. To harvest (commercially thin) about 148 acres in northern hardwoods and paper birch.
6. Prepare sites for jack pine regeneration by rollerchopping about 1,400 acres and prescribed burning about 400 acres.
7. To adjust the transportation system by: constructing approximately 1.7 miles of classified roads, 1.5 miles of temporary roads on existing unclassified road corridors and then decommission, and 23.1 miles of temporary roads; changing the classification of approximately 2.8 miles from unclassified to classified; performing road maintenance on approximately 7.8 miles of classified roads, and 2.8 miles unclassified roads changed to classified roads; reconstructing approximately 0.1 mile of classified road; and decommissioning approximately 0.3 miles of classified roads and approximately 3.2 miles of unclassified roads.
8. To prune approximately 40 acres of weevil and blister rust damaged white pine saplings.
9. To adjust the old growth system by removing from the existing system about 348 acres with limited existing old growth conditions or in unfavorable locations and adding to the system about 223 acres with some existing old growth conditions or in more favorable locations.
10. To create wildlife openings on about 9 acres and maintain openings on about 157 acres by removing woody encroachment.
11. To improve fish habitat in Biscuit Creek by adding log bank cover along approximately 750 feet and placing 75 square yards of spawning gravel in the stream.
12. To develop design criteria and/or mitigation measures to reduce the impacts of management activities on resources. Specifically, design projects and/or mitigation measures to control road use; protect threatened, endangered and sensitive species; protect plant habitat; protect wildlife and protect and/or improve scenic integrity; protect heritage resources; provide safe snowmobiling in area of timber harvest; provide good seed source jack pine cones; and protect soil and hydrology.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the "no action" alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes in response to the issues identified during public involvement.

Preliminary Issues

The public has had several previous opportunities to comment on these proposed actions. The original Interior Wetlands EA (circa 1997) was included in the NEPA quarterly, scoping letters were sent out, and public meetings were held. The public commented again during the 30-day public comment period (April 1999), and when the EA was appealed. In September 2000, the Forest Service released the Revised Interior Wetlands Project Set EA for another 30-day public comment period. From the public comments received from 1997–2000, preliminary issues that may be addressed in this EIS are as follows:

1. There is too much timber harvest proposed in the area, there is too much clearcutting proposed, and other resources (e.g. wildlife, wetlands, soils, and hydrology) would be negatively impacted.
2. There is too much road construction to accommodate the timber harvest, there are too many temporary roads proposed, and other resources (e.g. wildlife, wetlands, soils, and hydrology) would be negatively impacted by the construction and by ineffective closure and obliteration of temporary roads.
3. There is too much focus on providing timber products and not enough focus on restoring the ecosystem to more natural conditions.

Decisions To Be Made

The St. Ignace and Sault Ste. Marie District Ranger will decide the following:

1. Whether or not to salvage and harvest timber and if so, the selection and site-specific location of appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation); road construction/reconstruction/maintenance/decommissioning necessary to provide access and protect resources; and appropriate mitigation measures.
2. Whether or not to make adjustments to the old growth system.
3. Whether or not to maintain existing wildlife openings and create new ones.
4. Whether or not to modify fish habitat by adding log bank cover and placing spawning gravel.
5. What, if any, specific project monitoring requirements would be needed to ensure mitigation measures are implemented and effective.

Public Involvement and Scoping

The public is encouraged to attend the public meeting at 6:30 p.m. on December 4, 2001 at the Trout Lake Town Hall. Forest Service officials will be available at that time to present an overview of the purpose and need and proposed action. It is also an opportunity for the public to comment on the project.

Public participation is an important part of the analysis. The public may visit Forest Service officials at any time during the analysis and prior to the decision. Public scoping has been ongoing for the Interior Wetlands project. The Forest Service will be seeking additional information, comments, and assistance from Federal, State, and local agencies, as well as local Native American tribes and other individuals or organizations that may be interested in or affected by the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will:

Identify potential issues.

Identify issues to be analyzed in depth.

Identify alternatives to the proposed action.

Explore additional alternatives that will be derived from issues recognized during scoping.

Identify potential environmental effects of this project and alternatives (e.g. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by November 2002. At that time EPA will publish a Notice of Availability of the DEIS in the **Federal Register**. The comment period on the DEIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by February 2003. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the DEIS and to applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the DEIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

The District Ranger of the St. Ignace and Sault Ste. Marie Ranger Districts, Hiawatha National Forest, 1798 West US–2, St. Ignace, MI 49781, is the Responsible Official. As the Responsible Official, he will decide if the proposed project will be implemented. He will document the decision and reasons for the decision in the Record of Decision.

Authority: National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321–4346); Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); U.S. Department of Agriculture NEPA Policies and Procedures (7 CFR Part 1b).

Dated: November 7, 2001.

Clyde Thompson,

Forest Supervisor, Hiawatha National Forest, 2727 North Lincoln Road, Escanaba, MI 49829.

[FR Doc. 01–31894 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Forest Service

Blue Fire Forest Recovery Project, Lassen and Modoc Counties, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, Modoc National Forest, Warner Mountain Ranger District (Forest Service) will prepare an environmental impact statement (EIS) to disclose the environmental consequences of the proposed Blue Fire Forest Recovery Project, and alternatives to the proposal. The decision to be made, is to select this proposed action or one of the alternatives to this proposal. The alternatives to this proposal will include a no-action alternative.

The Blue Fire Forest Recovery Project area is located approximately 20 miles southeast of Alturas CA and 9 miles east of Likely, CA, within Lassen and Modoc Counties, CA. The total project area is approximately 33,500 acres, all of which are National Forest System lands.

The Forest Service proposes to move wildland resource conditions within the Blue Fire (August 2001) towards the desired conditions described by the Modoc National Forest Land and Resource Management Plan (MLRMP), as amended by the Sierra Nevada Forest Plan Amendment Record of Decision—Jan 2001 (SNROD), and to implement Standards and Guidelines described by MLRMP as amended by SNROD. Within the Blue Fire, but outside the South Warner Wilderness (SWW), and outside of Inventoried Roadless Areas (IRAs), the Forest Service proposes to take actions. The areas where actions are proposed are identified as Old Forest Emphasis Area and General Forest, in the SNROD. Actions proposed within the Old Forest Emphasis Area are designed to benefit landscape conditions for old forest structure and function. Where the Blue Fire has killed at least 75% of the trees in a timber stand, the Forest Service is proposing to provide long-term watershed protection by reestablishing timber stands with appropriate mixes of native tree species and by reducing the threat of catastrophic wildfire losses in these plantations. The Forest Service proposes to remove heavy fuels created by the Blue Fire through implementation of salvage timber sales. Salvage timber sales are the proposed method of fuels removal because now, and for a short time into the future, these heavy fuels have a commercial value that will support the costs of their removal and contribute to subsequent reforestation and environmental restoration work. If these trees are not harvested, they will deteriorate over time, fall down and result in fuel loadings that will not meet Standards and Guidelines of the MLRMP or SNROD. In these timber stands where salvage harvest is proposed, planting and subsequent activities crucial to plantation survival are proposed. Other activities are proposed to meet the direction of MLRMP and SNROD.

Following is a brief summary of activities proposed: (*1*) No salvage harvest will occur in the South Warner

VOL 66 ISS 249 DE 28 2001 UMI

Wilderness nor any of the three Inventoried Roadless Areas; (*2*) no salvage harvest will occur in any timber stands with less than 75% of the trees killed by the Blue Fire, this includes one Great Gray Owl Protected Activity Center (PAC), one complete goshawk PAC and about ½ of another goshawk PAC; (*3*) where salvage harvest occurs, no live trees will be cut; consistent with SNROD, 30 of the largest dead trees per 10 acres will be retained in all treatment areas; consistent with SNROD, 5 logs (min. 20" dia. and 10 ft.) will be left for woody debris; protection for Riparian Conservation Areas (RCAs) will be consistent with SNROD; all dead trees 8" DBH and larger and excess to snag and down log needs will be removed by salvage harvest; all dead trees between 6" and 8" DBH will be removed by subsequent service contracts; ground-based harvest systems with designated skid trails will be used on approximately 9,500 acres and helicopter harvest will occur on approximately 600 acres, whole tree removal (including tops) to landing is required; (*4*) salvage of 2 RCAs is included in the description of activity 3, except that in RCAs the maximum size harvest tree is 24" DBH and both RCAs will be helicopter harvested; (*5*) salvage of the Bald Eagle Management Area is included in the description of activity 3, except that all dead trees within 200 feet of the shoreline of Blue Lake will remain uncut; (*6*) removal and/or rearrangement of dead trees between 1" and 5" DBH within harvest stands is proposed on 292 acres of Urban Wildland Intermix Zones and 250 acres of Strategically Placed Area Treatments; (*7*) Reforest 10,100 acres of harvest units and approximately 200 acres of existing plantations killed by the Blue Fire, by hand planting appropriate mixes of species, periodically removing brush from around planted trees by hand grubbing, controlling gopher populations by underground baiting with strychnine treated pellets as needed to ensure plantation survival and installing biodegradable plastic tubing on tree seedlings to prevent above ground animal damage as needed to ensure plantation survival, wider planting spacing in fuel treatments described in activity 6 will be maintained over time; (*8*) Road activities include: 5 miles of aggregate resurfacing; opening and reusing 28 miles of existing temporary roads, constructing and using 4.4 miles of new temporary roads; and closure of 32.4 miles of temporary roads by pulling culverts, outsloping and water-barring, and in some site-specific cases, seeding, tilling or re-contouring; application of magnesium chloride on system roads to alleviate dusting; and closure of some system roads temporarily during harvest for public safety; (*9*) logs will be placed in designated portions of East Creek to create desired pool/riffle ratios; (*10*) One road (0.4 miles) immediately adjacent to Harvey Creek RCA will be decommissioned; (*11*) As needed, some areas of disturbed soils may be seeded with native grass and shrub species to minimize invasion by noxious weeds, and (*12*) Small Business Administration (SBA) set-aside is currently estimated at 68% of timber sale volume, with SBA sales ranging from 5–10 million board feet (MMBF).

DATES: Comments identifying issues concerning the effects of the proposal should be postmarked on or before January 28, 2002 to receive timely consideration in the draft EIS.

ADDRESSES: Submit written comments to: Douglas Schultz, Team Leader, USDA Forest Service, P.O. Box 220, Cedarville, CA 96104. Send electronic comments to: *dschultz@fs.fed.us.* Please reference the Blue Fire Forest Recovery Project on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you. Comments received, including names and addresses of those who comment, will become part of the public record and may be subject to public disclosure. Any person may request the Agency to withhold a submission from the public record by showing how the Freedom of Information Act permits such confidentiality.

FOR FURTHER INFORMATION CONTACT: Douglas Schultz, Team Leader, at 530–279–6116 or Edith Asrow, District Ranger, Warner Mountain Ranger District, at 530–279–6116.

SUPPLEMENTARY INFORMATION: The information presented in this notice is included to help the reviewer determine if they are interested in or potentially affected by the proposed land management activities. The information presented in this notice is summarized. Those who wish to provide comments, or are otherwise interested in the project, are encouraged to obtain additional information from the contact identified in the **FOR FURTHER INFORMATION CONTACT** section.

Preliminary Issues

Two preliminary issues have been identified:

1. Fuel Treatment—The Forest Service will complete an analysis which will assess the benefits, problems and risks of fuel treatments. That analysis will consider: appropriate fuel levels (tons/ac) to retain on the land; size classes of fuels to remove to attain that level; and most appropriate methods of removing that fuel, including salvage logging and service contracts.
2. Environmental Restoration—The Forest Service will complete an analysis that will assess the benefits, problems and risks of actions which will restore or protect desired environmental conditions, including reforestation and associated activities, decommissioning of 0.4 miles of existing road adjacent to Harvey Creek, depositing woody debris in East Creek to improve pool/riffle ratio, and maintaining wider tree spacing in Urban Intermix and Strategically Placed fuel treatments.

Public Involvement

Additional information concerning the proposal can be accessed on the internet at www.r5.fs.fed.us/modoc/management/nepa/nepa.html.

Process Procedures and Timelines

On October 26, 2001, the Modoc National Forest began a Scoping Period for a proposed Action for the Blue Fire Forest Recovery Project Environmental Assessment. A Legal Notice of the proposed action was published in the Modoc County Record on October 25, 2001, and a Scoping Summary description was mailed to approximately 220 persons or groups. The Scoping Period for this proposed action closed November 26, 2001. Comments were received from 32 commenters.

Since the close of the original scoping period, the Forest Service decided to prepare an Environmental Impact Statement. The original proposed action was slightly modified, and is described above. All comments received from the earlier scoping period will be considered in the EIS, unless respondent submits new comments indicating changes to prior submissions.

The draft EIS is expected to be filed with the Environmental Protection Agency and available for public review by May 2002. The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519 553 (1978)). Also, environmental objection that could be raised at the draft environmental impact statement state but that are not raised until after completion of the final environmental impact statement stage may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 [9th Cir. 1986] and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 [E.D. Wis. 1980]).

Because of the above rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the final environmental impact statement. Comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages, sections, or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. After the comment period ends on the draft EIS, the comments received will be analyzed and considered by the Forest Service in preparing the final EIS.

The final EIS is scheduled to be completed in September, 2002. In the final EIS, the Forest Service is required to respond to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, environmental consequences discussed in the environmental impact statement, and applicable laws, regulations and policies in making a decision regarding this proposal. The responsible official will document the decision and reasons for the decision in a Record of Decision. That decision will be subject to appeal under 36 CFR part 215.

The responsible official is Dan Chisholm, Forest Supervisor, Modoc National Forest, 800 W. 12th St., Alturas CA, 96101.

Dated: December 19, 2001.

Dan Chisholm,

Forest Supervisor.

[FR Doc. 01–31910 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee (PAC) will meet on January 16, 2002 at the Crook County Library, Broughton Room, 200 E. 2nd Street in Prineville, Oregon. A business meeting will begin at 9:00 am and finish at 3:00 pm. Agenda items will include a discussion on the management implications of the Eastside Screens, Litigation Update, ICBEMP update, PAC Recommendations Regarding The Northwest Forest Plan Successes/ Failures, Info Sharing and a Public Forum from 2:30 pm till 3:00 pm. All Deschutes Province Advisory Committee Meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Ft. Rock Ranger District, 1230 N.E. 3rd., Bend, OR 97701, Phone (541) 416–6872.

Leslie A.C. Weldon,

Forest Supervisor.

[FR Doc. 01–31909 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Counties Payments Committee has scheduled a business meeting on January 19–20, 2002, to discuss how it will provide Congress with the information specified in Section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. The meeting will be held from 8:30 a.m. until 5:00 p.m., and is open to the public.

DATES: The meeting will be held on January 19–20, 2002.

ADDRESSES: The meeting will be held at the Pontchartrain Hotel, 2031 Saint Charles Avenue, New Orleans, Louisiana 70140.

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, (202) 208–6574; or via e-mail at *rphillips01@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Section 320 of the 2001 Interior and Related Agencies Appropriations Act (Pub L. 106–291) created the Forest Counties Payments Committee to make recommendations to Congress on a long-term solution for making Federal payments to eligible States and counties in which Federal lands are situated. The Committee will consider the impact on eligible States and counties of revenues from the historic multiple use of Federal lands; evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands; evaluate the expenditures by counties on activities occurring on Federal lands which are Federal responsibilities; and monitor payments and implementation of Pub. L. 106–393, The Secure Rural Schools and Community Self-Determination Act of 2000.

Dated: December 19, 2001.

Elizabeth Estill,

Deputy Chief, Programs and Legislation.

[FR Doc. 01–31873 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Ravalli County Resource Advisory Committee, Hamilton, MT. Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Bitterroot National Forest's Ravalli County Resource Advisory Committee will meet Tuesday, January 22, 2001 in Hamilton Montana for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting in January 22 begins at 6:30 p.m., at the Holiday Inn, 138 Bitterroot Plaza Drive, Hamilton, Montana. Agenda topics will include FACA overview, Charter overview, Process of project identification/ recommendation, election of Chairperson, operating guidelines, and establishment of future meeting schedule.

FOR FURTHER INFORMATION CONTACT: Jeanne Higgins, Stevensville District Ranger and Designated Federal Officer, Phone: (406) 777–5461.

Dated: December 19, 2001.

Rodd Richardson,

Forest Supervisor.

[FR Doc. 01–31908 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Requested Withdrawal From Mineral Location and Mineral Entry, Public Meeting and Extended Comment Period

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting; request for comment.

SUMMARY: The Forest Service has submitted a request to the Bureau of Land Management to withdraw lands under the general mining laws as authorized by the Federal Land Policy and Management Act of 1976. The Forest Service has scheduled a meeting to accept public testimony and identify issues regarding this requested withdrawal from mineral location and mineral entry on lands in the San Bernardino National Forest. Written comments are invited, and the comment period has been extended.

DATES: The meeting will be held on February 20, 2002, from 6 p.m. to 9 p.m. Written comments must be received no later than February 28, 2002.

ADDRESSES: The meeting will take place at the San Bernardino Hilton, 285 East Hospitality Lane, San Bernardino, California 92408. Written comments on this proposal may be sent to Brent Handley, USDA Forest Service, Pacific Southwest Region, Director, Lands and Minerals Management, 1323 Club Drive, Vallejo, California 94592–1110; or electronically to seliason@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Scott Eliason, San Bernardino National Forest, 909–866–3437, extension 3904, seliason@fs.fed.us.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management published a notice of this Forest Service requested withdrawal in the **Federal Register** on October 29, 2001 (FR Vol. 66, No. 209, 54536). In this Forest Service notice, we announce the details of the public meeting and extend the comment period.

Overview

Approximately 44,575 acres on the San Bernardino National Forest are requested to be withdrawn, subject to valid existing rights, from mineral location and mineral entry under the general mining laws of the United States. The authority to make such a withdrawal is delegated to the Secretary of the Interior under the Federal Land Policy and Management Act of 1976, and other statutes. The process by which such withdrawals are made, and the provisions for other agencies (including the Forest Service) to request such withdrawals from the Secretary of the Interior, are provided under 43 CFR 2300.

Purpose

The purpose of the requested withdrawal is to conserve the habitat of species listed under the federal Endangered Species Act, as directed under section 7(a) of this act. The issues raised during the public meeting, and also from written comments, will be used by the Forest Service and the Bureau of Land Management in finalizing the configuration and extent of the final withdrawal request to be forwarded to the Secretary of the Interior. The issues raised will also be used by the Forest Service to analyze and document the effects and impacts of the action, as required under the National Environmental Policy Act.

Agenda

The meeting will begin with a welcome by Forest Supervisor Gene Zimmerman, followed by a brief overview by staff of the requested withdrawal, the regulatory process, and implications to the public. A hearing coordinator will review the process of public testimony. Testimony will then be heard and recorded into the public record. Finally, staff will provide closing remarks.

Dated: December 18, 2001.

Gene Zimmerman,

San Bernardino National Forest Supervisor.

[FR Doc. 01–31972 Filed 12–27–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Census Bureau

Shipper's Export Declaration Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as mandated by Public Law 106–113, Title XII, "Security Assistance," Subtitle E, "Proliferation Prevention Enhancement Act of 1999" and as part of its continuing effort to reduce paperwork and respondent burden, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (U.S.C. 3506(c)(2)(A)), invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Written comments must be submitted on or before February 26, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jerome Greenwell, Foreign Trade Division, U.S. Census Bureau, Room 3125, Federal Office Building No. 3, Washington, DC 20233–0001, 301–457–2238.

SUPPLEMENTARY INFORMATION

I. Abstract:

The Shipper's Export Declaration (SED), Form 7525–V and the electronic equivalent, the Automated Export System (AES) are the basis for the official export trade statistics compiled by the U.S. Census Bureau (Census Bureau) used for determining the balance of trade, a principal economic indicator. Title 13, United States Code, Chapter 9, Sections 301–307 authorizes the collection of these data. Title 15, Code of Federal Regulations, Part 30 contains the regulatory provisions for preparing and filing the SED or the AES record. These data are essential in formulating basic government policy decisions affecting the economy. The U.S. businesses rely heavily on these data to develop export leads, export marketing strategies and assessing the impact of exports on the domestic economy.

The SED/AES records are also used for export control purposes under Title 50, United States Code. The SED/AES records, as official documents or export transactions, enable the U.S. Customs Service (Customs) and the Bureau of Export Administration (BXA) to enforce the Customs and Export Administration Regulations and thereby detect and prevent the export of high technology items or military goods to unauthorized destinations or end users. The Department of State (State Department) uses the SED/AES information to enforce the International Traffic in Arms Regulations (ITAR), Title 22, CFR 120–130, to detect and prevent the export of arms and ammunition to unauthorized destinations.

On November 29, 1999, the President signed H.R. 3194 into law (Public Law 106–113). The short title to this law, as specified in section 1251, is referred to as the "Proliferation Prevention Enhancement Act of 1999." Section 1252 of this law amends Title 13, United States Code, Chapter 9, Section 301, to add Section "(h)" authorizing the Department of Commerce, Census Bureau, to require by regulation mandatory reporting requirements for filing export information through the AES. This Act further specifies that all items on the Department of Commerce' Commerce Control List (CCL) and the State Department's of U.S. Munitions List (USML) be reported through the AES, when an SED is required.

As a result of Pub. L. 106–113, the Census Bureau is planning revisions to AES to meet the requirements of the law. The State Department has requested to have additional data items incorporated into the AES in order to accommodate the requirements of the ITAR. The collection of these additional data items are critical to the mission of the State Department in maintaining control over the export of arms and ammunition. The incorporation of these data items into AES will allow the elimination of the requirement for exporters to submit the paper SED to the State Department. The items mentioned above will not be required for the paper SED since the items on the USML or CCL must be filed through AES. Therefore, the additional data items requested by the State Department will not be incorporated on the paper SED. However, the Census Bureau is requesting one additional data item be added to the paper form to bring it up to date with regulatory changes reflected in the AES. With this submission the Census Bureau is requesting clearance for the reporting of the additional export data items.

II. Method of Collection

A paper SED or electronic AES record is required for all export shipments valued over $2,500 from the United States, Puerto Rico, and the U.S. Virgin Islands. The SED or AES record is also required for all licensed shipments, (*i.e.* State Department or BXA export licenses) regardless of value. The SED program is unique among Census Bureau statistical collections since it is not sent to respondents soliciting responses as is the case in surveys. Filing the SED/AES information is mandatory under Title 13, Chapter 9, United States Code. The Census Bureau has seen a progressive growth in the number of electronic filers, with a comparable decrease in the number of paper SED filers. Exporters can access the AES via the Census Bureau's free Internet-based system, AESDirect or they can integrate the AES into their company's network and file directly with Customs. Exporters can purchase paper SEDs from the Government Printing Office or they may have them privately printed. They can also download the SEDs over the Internet and print them on the required "buff" colored paper.

For exports to Canada, the United States is substituting Canadian import statistics for U.S. export statistics to Canada in accordance with a Memorandum of Understanding (MOU) signed by both Customs and statistical agencies in both countries. Similarly, under this MOU, Canada is substituting U.S. imports statistics for Canadian exports to the United States. This data exchange eliminates the requirement for U.S. exporters to file any information with the U.S. Government for exports of non-licensed shipments to Canada. This results in the elimination of over seven million SEDs annually. However, for exports to Canada that require a license, a SED or AES record must be filed. Also, a SED or AES record is required for exports from the United States through Canada destined to a country other than Canada.

For this submission, the Census Bureau is planning revisions to the paper SED and the AES. The only change to the paper SED includes adding a box to collect the authorized forwarding agent's Employer Identification Number. Revisions to the AES format include: (1) Adding an additional field to collect a registration code assigned by the Department of State's Office of Defense Trade Controls (ODTC), (2) adding a "yes" or "no" indicator for the shipment of ODTC significant military equipment, (3) adding a "yes" or "no" indicator for ODTC eligible party certification, (4) adding an additional field to collect the ODTC USML category code, (5) adding an additional field to collect ODTC USML unit of measure, (6) adding an additional field to collect ODTC USML unit of quantity, and (7) adding an additional field to collect the ODTC export license line number. The AES and the SED currently requires the reporting of an ODTC license number or ODTC (ITAR) exemption citation. These changes will affect only a small portion of the number of AES transactions filed and will have no affect on the overall AES transactions response time of three minutes. Furthermore, because of the significant reduction in the paper filing of SEDs since the last Office of Management and Budget (OMB) clearance approval, the estimated total annual burden hours has decreased.

The U.S. principal party in interests (USPPI) or authorized agents file individual paper SEDs with the exporting carries at the time that each export shipment leaves the United States. For AES, USPPI's or authorized agents file the export data electronically directly with the Census Bureau or Customs, according to the filing provisions established in Title 15, Code of Federal Regulations, part 30, subpart E, Electronic Filing Requirements—Shipper's Export Information." The carriers submit the paper SED documents to Customs officials when the carrier departs the United States and Customs then transmits the SEDs to the Census Bureau on a flow basis for statistical processing.

For AES, the Census Bureau extracts export data files from the Customs AES, for statistical processing. As a result of Pub. L. 106–113, the State Department will extract from AES only those records of exports subject to the ITAR.

In summary, the mandatory filing of USML and CCL shipments through the AES will substantially decrease the number of paper SEDs processed monthly and provide more timely and accurate information to Customs, BXA and the State Department for the purposes of export control.

III. Data

OMB Number: 0607–0152.

Form Number: 7525–V, Automated Export System (AES) submissions.

Type of Review: Regular Submission.

Affected Public: Exporters, Forwarding Agents, Export Carriers.

Estimated Number of Respondents: 200,000.

Estimated Number of Responses: 15,043,756.

Estimated Time Per Response: 11.0 minutes for 7525–V 3.0 minutes for AES Submissions.

Estimated Total Annual Burden Hours: 944,188 (SEDs 264,000)(AES 680,188).

Estimated Total Annual Cost: $14,162,820.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Chapter 9 and Public Law 106–113, Title XII, "Security Assistance," Subtitle E, "Proliferation Prevention Enhancement Act of 1999".

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

VOL 66 ISS 249 DE 28 2001 UMI

agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected: and (d) ways to minimize the burden of the collection of information on respondents.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 20, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31852 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Special Census Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 26, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC, 20230 (or via the Internet at *mclayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to J. Michael Stump or Josephine Ruffin, Bureau of the Census, Room Number 1314, Building #2, Washington, DC, 20746 and 301–457–1429.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Special Census Program is a reimbursable service offered and performed by the Census Bureau for the government of any state; county, city, or other political subdivision within a state; for the government of the District of Columbia; and for the government of any possession or area over which the U.S. exercises jurisdiction, control, or sovereignty, and other governmental units which require current population data between decennial censuses.

Many states distribute funds based on current population statistics. In addition, special census data are used by the local jurisdictions to plan new schools, transportation systems, housing programs, and water treatment facilities.

The Census Bureau will use the following forms to update addresses listed on the Census Bureau's Master Address File and to enumerate populations in special censuses:

- Special Census Enumerator Questionnaire—This interview form will be used to collect special census data at regular housing units (Hus).
- Special Census Special Place Questionnaire—This interview form will be used to collect special census data at group quarters in special places such as hospitals, prisons, boarding and rooming houses, campgrounds, hotels, college dormitories, military facilities, and convents.
- Address Listing Page—This page will include existing addresses from the Census Bureau Master Address File (MAF). Special Census enumerators will update these addresses, if needed, at the time of enumeration.
- Group Quarters Enumeration Control Sheet—This page will be used by Special Census enumerators to list residents/clients at group quarters.
- Housing Unit Add Page—This page will be used by enumerators to add HUs that are observed to exist on the ground and that are not contained on the address listing page.
- Special Place/Group Quarter (SP/GQ) Add Page—This page will be used by enumerators to add special places/group quarters that are observed to exist on the ground and that are not reflected in the address listing page.

The Special Census Program developmental process is in its early stages. Meetings and other planning discussions may require minor changes to the design and content of the forms.

The Special Census Program will operate as a generic OMB clearance including a library of forms and the operational procedures that will be used for the many special censuses we anticipate conducting this decade. The Census Bureau will establish a reimbursable agreement with a variety of potential special census customers that are unknown at this time. Prior to conducting any special census, the Census Bureau will submit documentation to OMB providing the details of the Special Census under consideration. We will also submit for OMB's review and approval, under cover of a change worksheet, any special-purpose questions requested by customers to be added to special census questionnaires.

II. Method of Collection

The Special Census Program will use the Census 2000 Update/Enumerate (U/E) methodology. Enumerators will canvass their assigned areas with an address register that contains addresses obtained from the Census Bureau's Master Address File. Special Census enumerators will update the address information, as needed, based on their observation of HUs and/or SPs/GQs that exist on the ground. Additionally, enumerators will interview households at regular HUs and residents at GQs using the appropriate Special Census questionnaire.

III. Data

OMB Number: None.

Form Number: Not available yet.

Type of Review: Regular.

Affected Public: Individuals or households, business or other for profit entities, not-for-profit institutions.

Estimated Number of Respondents: (September 2002 through early 2008).

Enumerator Questionnaire—848,000 respondents.
Special Place Questionnaire—2000 respondents.
Address Listing Page—848,000 respondents.
Group Quarters Enumeration Control Sheet—375 respondents.
Housing Unit Add Page—1,000 respondents
Special Place/Group Quarters Add Page—150 respondents

Estimated Time Per Response:

Enumerator Questionnaire—about 7 minutes
Special Place Questionnaire—about 5 minutes
Address Listing Page—about one minute
Group Quarters Enumeration Control Sheet—10 minutes
Housing Unit Add Page—about one minute
Special Place/Group Quarters Add Page—about one minute

Estimated Total Annual Burden Hours: Estimated total annual burden hours are 113,527.

Estimated Total Annual Cost: There are no costs to respondents other than that of their time to respond.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Section 196.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 20, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31856 Filed 12–27–01; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Census Bureau

E–Government Survey

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before February 26, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *MClayton@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Stephen Poyta, Chief, Census Management Staff, Governments Division, U.S. Census Bureau, Washington, DC 20233–6800 (301–457–1580).

SUPPLEMENTARY INFORMATION:

I. Abstract

Title 13, section 182, of the United States Code authorizes the Secretary of Commerce to conduct surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the Census of Governments.

The recent development of public services dubbed "Electronic Government," or "E–Government," is a result of the rapid growth of computer access and the Internet. The emergence of electronic technologies has fueled a significant change in the public sector's manner in conducting its business. Current measures of public activity—established in a period before computers—do not provide gauges of this new and important change. The public sector is a major component of the economy, as both a purchaser and deliverer of goods and services. It is important that our Nation measure this development because the potential effects of this new technology include the promise of greater efficiencies in the delivery of public services, more effective communications between the public and its government, and a wider scope of public services available to more people.

The Census Bureau plans to conduct a survey of state governments in order to begin measuring the scope and effects of this new activity. The survey's broad definition of E–Government includes any government process conducted on-line, employing computer enabled electronic devices. Title 13, section 182, of the United States Code authorizes the Secretary of Commerce to conduct surveys deemed necessary to furnish annual and other interim current data on the subjects covered by the Census of Governments. This survey concentrates on three different measurable parts of total Information Technology (IT) and E–Government:

(1) Infrastructure—the costs to governments of providing electronic hardware and software that form the backbone of E–Government, and the personnel and organizational supports for total IT and E-Government;

(2) Processes—the E–Government interactions of citizens, businesses, and other governments with their governments; and

(3) Transactions—measurements for these E–Government processes.

The Census Bureau, as the premier national data collection agency, is uniquely situated to measure E–Government. The current Census Bureau measures of public sector economic activity—used by Federal data analysis agencies such as the Bureau of Economic Analysis and the Federal Reserve Board—provide an important basis for making informed policy decisions. The addition of E-Government information will help governmental leaders at all levels formulate policies that will improve our entire governmental system. Other users of these data will be the State and local governments and related organizations, public interest groups, the academic community, and many business, market and private research organizations.

II. Method of Collection

Basic questionnaires will be sent to the primary technology offices within each state, with additional forms, designed for specific types of departments, agencies, and offices, etc., also incorporated. Information from state governments and the District of Columbia will be compiled by office staff from questionnaire responses collected via standard mail and the Internet.

The Census Bureau will also research the feasibility of developing cooperative data sharing and central collection arrangements with the state governments to minimize respondent burden.

Electronic data collection and dissemination will be developed and incorporated.

OMB Number: None.

Form Number: None.

Type of Review: Regular.

Affected Public: State governments.

Estimated Number of Respondents: 765 (15 agencies per State government).

Estimated Time Per Response: 6 hours.

Estimated Total Annual Burden Hours: 4,590 hours.

Estimated Total Annual Cost: $82,436.40 ($17.96 per hour*).

* Based upon the 2000 Annual Employment Survey—Average hourly rate for state full-time equivalent employees in financial administration.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 United States Code, Section 182.

III. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 20, 2001.

Madeleine Clayton,

Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31857 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD NOVEMBER 21, 2001–DECEMBER 17, 2001

Firm name	Address	Date Petition accepted	Product
Elessar Enterprises, Inc	P.O. Box 3476, Homer, Alaska 99603.	11/26/01	Fresh whole salmon.
H & H Swiss Screw Machine Products Co., Inc	1478 Chestnut Ave., Hillside, NJ 07205.	11/26/01	Precision turned screw machine components, made of primarily of copper, used in cable TV connectors, automotive parts and toggle switches.
Woodbury Box Company, Inc	301 McIntosh Parkway, Thomaston. GA 30286.	11/26/01	Industrial and commercial floor mop frames.
Arnold's Baskets	11354 South Choctaw Dr., Baton Rouge, LA 70815.	12/03/01	Wooden baskets.
Cape Cod Doormats of Distinction, Inc	2 C Hinckley Road, Hyannis, MA 02601.	12/03/01	Hand woven polypropylene doormats.
Kannon Motorcycles, L.L.C.	P.O. Box 761, Ketchum, OK 74349	12/03/01	Motorcycles.
Richmond Industries, Inc	1 Chris Court, Dayton, NJ 08810	12/03/01	Non-ferrous castings of bronze, aluminum or metal.
Control Cable, Inc	7261 Ambassador Road, Baltimore, MD 21244.	12/03/01	Cable and cable assemblies used in the computer industry.
Best Tool & Manufacturing Company, Inc	3515 N.E. 33rd Terrace, Kansas City, MO 64117.	12/04/01	Plastic blow molds for food containers.
Wayne Engineering Corporation	701 Performance Drive, Cedar Falls, IA 50613.	12/04/01	Garbage truck bodies and truck-mounted cranes.
American Circuit Technology, Inc	6330 East Hunter Ave., Anaheim, CA 92807.	12/05/01	Printed circuit boards.
Tool Components, Inc	240 East Rosecrans Ave., Gardena, CA 90248.	12/05/01	Machined metal products for the semiconductor industry, water filtration equipment, and threaded inserts for various other industries.
Midwest Hanger Company	4312 Clary Boulevard, Kansas City, MO 64130.	12/05/01	Wire clothes hangers.
NRL Associates, Inc	112 Log Canoe Circle, Stevensville, MD 21666.	12/07/01	Metal and plastic parts for the hand tools and medical industries.
Stamper Black Hills Gold Jewelry, Inc	7201 S. Highway 16, Rapid City, SD 57701.	12/07/01	Gold Jewelry.
American Electric Cable Co., Inc	181 Appleton Street, Holyoke, MA 01040.	12/12/01	Insulated and coated wire and cables, wire sets and harnesses and cable assemblies.
NMW, Inc	428 North Elm, Nowata, OK 74048	12/13/01	Industrial water filters.
E.H. Hall/Westfield Tanning, Inc	360 Church Street, Westfield, PA 16950.	12/13/01	Leather for shoe and boot soles and saddles for the equestrian industry.
Central Expanded Metal, Inc	1213 North Industrial Road, Chandler, OK 74834.	12/14/01	Expanded metal.
Three M Tool and Machine, Inc	8155 Richardson Road, Walled Lake, MI 48390.	12/14/01	Work holding fixtures, cutting tools and dies.
McCammish Manufacturing Co., Inc	148 Winn Avenue, Winchester, KY 40391.	12/19/01	Wood Products, primarily furniture.
Lake Shore Studios, Inc	4200 Niles Road, St. Joseph, MI 49085.	12/20/01	Lamps, lamp shades and frames.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: December 18, 2001.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 01–31905 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1197]

Expansion of Foreign-Trade Zone 104, Savannah, GA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Savannah Airport Commission, grantee of Foreign-Trade Zone 104, submitted an application to the Board for authority to expand FTZ 104-Site 2 at the Garden city/Ocean Terminals and Site 4 at the SPA Industrial Park, and for authority to include two new sites at the Savannah International Trade and Convention Center (Site 5) and Mulberry Grove (Site 6) in Savannah, Georgia, within the Savannah Customs port of entry (FTZ Docket 47–2000; filed 8/7/00; amended 4/21/01);

Whereas, notice inviting public comment was given in the **Federal Register** (65 FR 50178, 8/17/00; 66 FR 21739, 5/1/01) and the application, as amended, has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal, as amended, is in the public interest;

Now, Therefore, the Board hereby orders:

The application, as amended, to expand FTZ 104 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further subject to the standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 18th day of December 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–31984 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1203]

Approval of Manufacturing Authority; Foreign-Trade Zone 7, IPR Pharmaceuticals, Inc. (Pharmaceuticals), Mayaguez, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Puerto Rico Industrial Development Corporation, grantee of Foreign-Trade Zone 7, on behalf of IPR Pharmaceuticals, Inc., has requested authority to manufacture pharmaceutical products under FTZ procedures within FTZ 7—Site L–164–0–63 (Doc. 39–2001);

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 49162, 9/26/01);

Whereas, pursuant to section 400.32(b)(1) of the FTZ Board regulations (15 CFR 400), the Secretary of Commerce's delegate on the FTZ Board has the authority to act for the Board in making decisions regarding manufacturing activity within existing zones when the proposed activity is the same, in terms of products involved, to activity recently aproved by the Board and similar in circumstances (15 CFR 400.32(b)(1)(i)): and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the request is in the public interest;

Now, Therefore, the Board hereby orders:

The application on behalf of IPR Pharmaceuticals, Inc., to manufacture pharmaceutical products under zone procedures within FTZ 7—Site L–164–0–63, is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, the 14th day of December 2001.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 01–31985 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket A(32(c)–11–2001)]

Scope Determination Regarding the Effect on Foreign-Trade Zone Board Orders Resulting From Modifications to the Harmonized Tariff Schedule of the United States

Summary: Pursuant to section 400.32 (c) of the FTZ Board regulations (15 CFR part 400), it has been determined that the scope of FTZ Board Orders will not be affected by the January 2002 modification of the Harmonized Tariff Schedule of the United States (HTSUS).

As proposed, on January 1, 2002, modifications will take effect that will change the HTSUS classification numbers for certain product categories. Some Foreign-Trade Zone (FTZ) Board Orders, particularly orders relating to oil refinery subzones, contain references to HTSUS numbers. Such references were intended to describe types of products that were either included in or excluded from the scope of Board actions. The scope of FTZ Board Orders will continue to apply to those products as described in the orders and related appendices, even though the HTSUS number describing the product may change. The scope of FTZ Board Orders should be interpreted as applying to the new HTSUS numbers based on the cross reference table published in the International Trade Commission's (ITC) report, "Proposed Modifications to the Harmonized Tariff Schedule of the

VOL 66 ISS 249 DE 28 2001 UMI

United States" (USITC Publication 3430, June 2001). The full report is available on the ITC website: http://www.usitc.gov/332s/332index.htm#SECTION 1205.

Background: In November 1999, the ITC opened investigation No. 1205–5, Proposed Modifications to the Harmonized Tariff Schedule of the United States, in accordance with Section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Under Section 1205, the ITC is charged with reviewing the HTS and recommending modifications when amendments are adopted by the World Customs Organization. The majority of current modifications to the tariff schedule are the result of sessions that took place between October 1993 and May 1999. Any changes to tariff rates are independent of the modification.

The following table provides an example of the HTSUS changes relating to FTZ Board Orders for oil refinery subzones. It is not inclusive.

Current HTS No.	New HTS No.
2710.00.05	2710.99.16
2710.00.05	2710.99.05
2710.00.05	2710.19.05
2710.00.10	2710.99.10
2710.00.10	2710.19.10
2710.00.20	2710.99.21
2710.00.20	2710.19.23
2710.00.25	2710.99.21
2710.00.25	2710.11.25
2710.00.45	2710.99.45
2710.00.45	2710.19.45
2710.00.45	2710.91.00
2710.00.45	2710.11.45

For Further Information Contact: Liz Whiteman or Diane Finver (202–482–2862), Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW, Washington, DC 20230.

Dated: December 17, 2001.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 01–31983 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

User Satisfaction Surveys

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before February 26, 2002.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th & Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *Mclayton@doc.gov.*).

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Joseph English, U.S. & Foreign Commercial Service, Export Promotion Service, Room 2116, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3334, and fax number (202) 482–5398.

SUPPLEMENTARY INFORMATION:

I. Abstract

ITA provides numerous export promotion programs to help U.S. businesses. These programs include information products, services, and trade events. To accomplish its mission effectively, ITA needs ongoing feedback on its programs. These information collection items allow ITA to solicit clients opinions about the use of ITA products, services, and trade events. The information is used for program improvement, strategic planning, allocation of resources, and performance measures.

The surveys are part of ITAs effort to implement objectives of the National Performance Review (NPR) and Government Performance and Results Act (GPRA). Responses to the surveys will meet the needs of ITA performance measures based on NPR and GPRA guidelines. These performance measures will serve as a basis for justifying and allocating human and financial resources.

Survey responses will acquaint ITA managers with firms perceptions and assessments of export-assistance products and services. Also, the surveys will enable ITA to track the performance of overseas posts. This information is critical for improving the programs.

Survey responses are used to assess client satisfaction, determine priorities, and identify areas where service levels and benefits differ from client expectations. Clients benefit because the information is used to improve services provided to the public. Without this information, ITA is unable to systematically determine client perceptions about the quality and benefit of its export-promotion programs.

II. Method of Data Collection

ITA faxes, mails, emails or telephones surveys to clients and is developing electronic delivery and collection methods as well.

III. Data

OMB Number: 0625–0217.

Form Number: ITA–4108P–A1, ITA–4110P, etc.

Type of Review: Revision-regular submission.

Affected Public: ITA clients that purchased products and services.

Estimated Number of Respondents: 20,780.

Estimated Time Per Response: Range from 05–60 minutes.

Estimated Total Annual Burden Hours: 3,298.

Estimated Total Annual Costs: The estimated annual cost for this collection is $197,880.00 ($115,430.00 for respondents and $ 82,450.00 for the federal government).

IV. Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: December 20, 2001.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31845 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–820]

Silicomanganese From Venezuela: Notice of Postponement of Final Determination of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Postponement of final determination of antidumping duty investigation.

EFFECTIVE DATE: December 28, 2001.

SUMMARY: The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of silicomanganese from Venezuela.

FOR FURTHER INFORMATION CONTACT: Deborah Scott at (202) 482–2657 or Robert James at (202) 482–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Postponement of Final Determination and Extension of Provisional Measures

On November 9, 2001, the Department published the affirmative preliminary determination in the investigation of silicomanganese from Venezuela. *See Notice of Preliminary Determination of Sales at Less Than Fair Value; Silicomanganese From Venezuela*, 66 FR 56,635. Pursuant to section 735(a)(2) of the Tariff Act and 19 CFR 351.210(b)(2)(ii) of the Department's regulations, on December 5, 2001, respondent Hornos Electricos de Venezuela, S.A. (Hevensa) requested the Department extend the deadline for the final determination for the full sixty days, as permitted by the statute and regulations. Hevensa also agreed to the extension of provisional measures (*i.e.*, suspension of liquidation) from a four-month period to a period not to exceed six months, pursuant to 19 CFR 351.210(e)(2).

Section 735(a)(2) of the Tariff Act provides that a final determination may be postponed not later than 135 days after the date of publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by petitioner. The Department's regulations, at 19 CFR 351.210(e)(2) require requests by respondents for postponement of a final determination be accompanied by a request for the extension of provisional measures from a four-month period to not more than six months.

In accordance with 19 CFR 351.210(b)(2)(ii), because (i) our preliminary determination is affirmative, (ii) the respondent requesting postponement accounts for a significant proportion of the exports of the subject merchandise, and (iii) no compelling reasons for denial exist, we are granting Hevensa's request and are postponing the final determination to no later than 135 days after publication of the preliminary determination in the **Federal Register**. Suspension of liquidation will be extended accordingly. This notice of postponement is published pursuant to 19 CFR 351.210(g).

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31982 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–831]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at not less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from Italy are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Alysia Wilson or Michael Strollo, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0108 or (202) 482–0629, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) (*Initiation Notice*), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Italy are materially injuring the United States industry (*see* ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

On July 18, 2001, we selected Duferdofin SpA ("Duferdofin"), the largest producer/exporter of structural steel beams from Italy, as the mandatory respondent in this proceeding. For further discussion, see the memorandum to Louis Apple, Director, Office 2, from the Team Regarding: Respondent Selection, dated July 18, 2001. We subsequently issued the antidumping questionnaire to Duferdofin on July 18, 2001.

During the period August through November 2001, the Department received responses to the Department's

VOL 66 ISS 249 DE 28 2001 UMI

original and supplemental questionnaires.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on December 18, 2001, the petitioners requested that, in the event of a negative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In accordance with 19 CFR 351.210(b), because our preliminary determination is negative and no compelling reasons for denial exist, we are granting the petitioners' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**.

Scope of Investigation

The scope of these investigations covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the Initiation Notice, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However,

“* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.” Accordingly, we modified the scope definition to account for this clarification. *See* the “Scope” section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation (“POI”) is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from Italy to the United States were made at less than fair value (“LTFV”), we compared the constructed export price (“CEP”) to the normal value (“NV”), as described in the “Constructed Export Price” and “Normal Value” sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by Duferdofin in the home market during the POI that fit the description in the “Scope of Investigation” section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, we are treating all of Duferdofin’s U.S. sales as CEP sales because they were made in the United States by Duferdofin’s U.S. affiliate on behalf of Duferdofin, within the meaning of section 772(b) of the Act.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We also made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses (*i.e.*, freight from port to warehouse and freight from warehouse to the customer), post-sale warehousing expenses, truck loading expenses, and U.S. barging expenses. For post-sale warehousing expenses, we reallocated this expense to those transactions where the terms of sale indicated that warehousing expenses were incurred. For further discussion, see the Memorandum to the File from Michael Strollo and Alysia Wilson Re: Calculations Performed for Duferdofin S.p.A. (“Duferdofin”) for the Preliminary Determination in the 2000–2001 Antidumping Duty Investigation of Structural Steel Beams (“Beams”) from Italy, dated December 19, 2001 (“Sales Calculation Memorandum”). In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (commissions, imputed credit costs, and bank charges), and indirect selling expenses (including inventory carrying costs).

For those U.S. sales for which Duferdofin did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses. In addition, we recalculated Duferdofin’s reported U.S. indirect selling expenses to include interest expenses. We offset this expense by interest income and imputed credit (up to the amount of interest expense), in accordance with our practice. *See Notice of Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea*, 66 FR 3540 (January 16, 2001) and accompanying issues and decision memorandum at *Comment 1*. For further discussion, also see the Sales Calculation Memorandum. Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Duferdofin and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent’s aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production (“COP”). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COPs (*see Initiation Notice* at 66 FR 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses (“G&A”), including interest expenses, and home market packing costs (*see* “Test of Home Market Sales Prices” section below for treatment of home market selling

VOL 66 ISS 249 DE 28 2001 UMI

expenses). We relied on the COP data submitted by Duferdofin except as noted below.

1. We revised COP to include additional depreciation expense not included in Duferdofin's reported costs.

2. We revised the G&A rate to include foreign exchange gains and losses on accounts payable and miscellaneous expense in the numerator of the calculation. We also excluded the "variation in stocks of products in process, semifinished and finished products," packing expenses and G&A expense from the denominator of the calculation.

3. We revised the financial expense rate to exclude the "increase in work in progress and finished products," packing expense and other personnel expense from the denominator of the calculation.

See Memorandum from Ji Young Oh to Neal Halper, Director, Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination ("Cost Calculation Memorandum").

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Duferdofin's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions,[2] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, Court Nos. 00–1058,–1060 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from Duferdofin regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the Duferdofin for each channel of distribution.

Duferdofin reported home market sales through three channels of distribution and to four customer categories. We examined the chain of distribution and the selling activities associated with sales reported by Duferdofin to each of its customer categories in the home market. The information on the record demonstrates that Duferdofin performs the same selling functions across channels of distribution and customer categories. *See* Appendix A–2 of Duferdofin's response to the Department's supplemental questionnaire, dated November 13, 2001. Specifically, Duferdofin indicated that to all customers, regardless of channel of distribution, it provides: a high level of freight/delivery arrangements, a medium to high level of customer visits and customer approval/credit research, a medium level of inventory maintenance/warehousing and computer services/accounts receivable, a low to medium level of market research and strategic planning, and a low level of pre-sale engineering advice, post sale servicing, rejected merchandise handling, customer solicitation, and transit claims. Because Duferdofin performs the same selling functions with the same intensity for all its customers regardless of their channel of distribution, we preliminarily determine that Duferdofin made home market sales at one LOT during the POI.

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on constructed value ("CV"), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

In the U.S. market, Duferdofin made only CEP sales through its affiliated importer/reseller Duferco Steel Inc. ("DSI"). Duferdofin reported that, for sales to the United States, virtually all selling functions are performed by DSI, with the exception of Italian inventory maintenance and international shipping arrangements, which are performed by Duferdofin.

As set forth in 19 CFR 351.412(f), a CEP offset will be granted where (1) normal value is compared to CEP sales, (2) normal value is determined at a more advanced LOT than the LOT of the CEP, and (3) despite the fact that the party has cooperated to the best of its ability, the data available do not provide an appropriate basis to determine whether the difference in LOT affects price comparability. Duferdofin stated that after CEP adjustments are made, it performs only two selling functions for its U.S. sales to DSI (Italian inventory maintenance and international shipping arrangements) whereas it performs fourteen selling functions in the home market. Since the selling functions performed by Duferdofin for its sales to the United States, after CEP adjustments are made, are substantially less than those performed for Duferdofin's home market sales, we preliminarily determine that Duferdofin's home market sales are being made at a more advanced LOT than those to the United States. Because there is only one level of trade in the home market, the data available do not permit us to determine the extent to which this difference in LOT affects price comparability. Therefore, in accordance with 19 CFR 351.412(f), we are granting Duferdofin a CEP offset.

D. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We made deductions, where appropriate, from the starting price for early payment discounts. We also made deductions for movement expenses, including inland freight (plant to distribution warehouse, plant/warehouse to customer, and affiliated reseller to customer) and warehousing under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses and commissions.

We disallowed Duferdofin's claim for a rebate adjustment because Duferdofin failed to respond to the Department's requests to distinguish between pre- and post-petition rebates. *See* the Sales Calculation Memorandum.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

Exporter/manufacturer	Weighted-average margin percentage
Duferdofin S.p.A	0.57

Because the estimated weighted-average dumping margin for Duferdofin is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of structural steel beams from Italy.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31979 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

VOL 66 ISS 249 DEC 28 2001 UMI

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-831]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value

SUMMARY: We preliminarily determine that structural steel beams from Germany are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Edythe Artman, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0410 or (202) 482–3931, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001) (*Initiation Notice*)), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Germany are materially injuring the United States industry (see ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

On July 26, 2001, we selected the two largest producers/exporters of structural steel beams from Germany as the mandatory respondents in this proceeding. For further discussion, see Memorandum to Susan H. Kuhbach, Senior Director Office 1, from The Team Re: Respondent Selection dated July 26, 2001. We subsequently issued the antidumping questionnaire to Stahlwerk Thüringen GmbH ("SWT") and Salzgitter AG ("Salzgitter") on July 26, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C and D of the Department's original and supplemental questionnaires from SWT. The Department did not receive any responses from Salzgitter.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (See *Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (See *Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 21, 2001, SWT requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) SWT accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of these investigations covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

With respect to SWT, to determine whether sales of structural steel beams from Germany to the United States were made at less than fair value ("LTFV"), we compared the constructed export price ("CEP") to the normal value ("NV"), as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the SWT in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise made in the home market. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: Form; shape/size (section depth); strength/grade; and coating.

SWT reported different forms in the home market for beams that had "special finishing" and it reported different strength/grades in the home market for beams that had different notch-toughness requirements. SWT did not demonstrate that the hot-formed beams with "special finishing" should be distinguished from other hot-formed beams. Neither did SWT demonstrate that the grades that had different notch-toughness requirements should be distinguished from other beams that had the same grade (but not the notch-toughness requirements). Therefore, we did not differentiate the forms either on the basis of "special finishing" or on the basis of notch toughness.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, all U.S. sales of merchandise produced by SWT are made in the United States by TradeARBED Inc. ("TANY"), which is a reseller affiliated with SWT.

We based CEP on the packed FOB or CIF prices to unaffiliated purchasers in the United States. We made adjustments for price-billing errors. We made deductions for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, U.S. inland freight expenses (*i.e.*, freight from port to warehouse), and warehousing expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit costs) and indirect selling expenses (including inventory carrying costs).

For the U.S. sales for which SWT did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by SWT and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

A. Home-Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of home-market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on SWT's sales to affiliates as follows.

We excluded sales to affiliated customers in the home market not made at arm's-length prices from our analysis because we considered them to be outside the ordinary course of trade. See 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. See 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993).

In accordance with 19 CFR 351.403(d), where the respondent's sales to its affiliates constituted at least five percent of the total home-market sales and these sales failed the arm's-length test, we normally use the sales made by the affiliates to unaffiliated customers in our analysis. Because SWT did not report these sales as we requested, we relied on partial adverse facts available in order to estimate the downstream sales prices for the sales of these customers that we match to U.S. sales. See the "Facts Available" section below for a detailed discussion of this use of partial facts available.

C. Cost-of-Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (see *Initiation Notice*, 66 FR at 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and home-market packing costs (*see* "Test of Home-Market Sales Prices" section below for treatment of home-market selling expenses). We relied on the COP data submitted by SWT and TANY, except in specific instances. We revised the consolidated financial expense rate to exclude interest income offsets for dividends and trade receivables. We revised the denominator in the consolidated financial expense rate calculation to reflect cost of goods sold rather than raw materials. *See* Memorandum from Heidi Norris to Neal Halper, Director Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination ("Cost Calculation Memorandum").

2. Test of Home-Market Sales Prices

On a product-specific basis, we compared the weighted-average COP to the home-market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, movement charges, rebates, discounts, direct and indirect selling expenses, and packing expenses. In determining whether to disregard home-market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP during a POI, we determine that the below-cost sales represent "substantial quantities" of sales within an extended period of time, pursuant to section 773(b)(1)(A) of the Act. In such cases, we also determine if such sales were made at prices which permit recovery of all costs within a reasonable period of time, pursuant to 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of SWT's home-market sales were at prices less than the COP and, therefore, the below-cost sales were made within an extended period of time in substantial quantities. In addition, because we compared the price to the weighted-average COP for the POI, we determined that the below-cost sales were not made at prices which permitted the recovery of all costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions,[2] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison-market sales (*i.e.*, NV based on either home-market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc.* v. *United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from SWT regarding the marketing stages involved in making the reported home-market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution. SWT's LOT findings are summarized below.

We examined the chain of distribution and the selling activities associated with sales reported by SWT to distributors in the home market. SWT's sales to different distributors did not differ from each other with respect to selling activities (*e.g.*, market research, advertising and promotion, technical services, sales calls and demonstrations). Based on our overall analysis, we found that all of SWT's sales to distributors constituted one LOT. SWT did not provide any information regarding the selling activities associated with the downstream sales by the distributors in spite of our request for this information. Therefore, we have assumed that SWT and its affiliates performed the same selling activities as SWT performed for sales to distributors and that the LOT of the downstream sales is the same as the LOT of the sales to distributors.

In the U.S. market, SWT reported CEP sales only. Therefore, we treated all of SWT's U.S. sales as sales to an affiliated importer (*i.e.*, at the constructed, or CEP LOT) and found only one LOT. This CEP LOT differed considerably from the home-market LOT in that SWT reported a lower intensity of selling activities associated with market research, advertising, technical service, sales calls and demonstrations, engineering services, and warranties for the CEP LOT than the home-market LOT. Therefore, we found the CEP level of trade to be different from the home-market LOT and to be at less advanced stages of distribution than the home-market LOT. Consequently, we could not match CEP sales at the same LOT in the home market. Furthermore, we have no information that provides an appropriate basis for determining a LOT adjustment.

Because there is only one LOT in the home market, it is not possible to determine if there is a pattern of consistent price differences between the sales on which normal value is based and home market sales at the LOT of the export transaction. Accordingly, because the data available do not form an appropriate basis for making a level-of-trade adjustment but the home-market LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to normal value in accordance with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) The indirect selling expenses on the home-market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

E. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV based on delivered prices in the home market to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We made adjustments for price-billing errors. We made deductions, where appropriate, from the starting price for discounts and rebates. We also made deductions for movement expenses, including inland freight, and inland insurance under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses and warranties.

We also deducted home-market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

F. Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that, if an interested party or any other person: (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the Department shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhat along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine whether in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

According to section 776(b) of the Act, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. See section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a investigation or review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

1. Salzgitter

On July 26, 2001, we issued a questionnaire to Salzgitter. We obtained confirmation from Federal Express that the questionnaire was delivered to Salzgitter on July 30, 2001. On August 10, 2001, we sent a letter of clarification of our questionnaire to Salzgitter. We obtained confirmation from Federal Express that this letter was delivered to Salzgitter on August 13, 2001. Salzgitter did not respond to our questionnaire.

Because Salzgitter did not respond to our questionnaire and therefore withheld information requested by the Department, we find it necessary, under section 776(a)(2) of the Act, to use the facts otherwise available in order to calculate a dumping margin for this company.

We find that, by not responding to our questionnaire, Salzgitter failed to cooperate by not acting to the best of its ability to comply with a request for information. Therefore, pursuant to section 776(b) of the Act, we find it appropriate to use an inference that is adverse to its interests in selecting from among the facts otherwise available. By doing so, we ensure that Salzgitter will not obtain a more favorable result by failing to cooperate than had it cooperated fully.

In selecting from among the facts otherwise available and using an adverse inference, we reviewed the information provided in the petition and in the response submitted by SWT. The petition contained a margin calculation for each of three products sold by Salzgitter. See *Initiation of Antidumping Duty Investigations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 33048 (June 20, 2001), for a review of the methodology used by the petitioner for its calculations of export price and normal value. One of these margins was higher than the margin that we calculated for SWT. Hence, we selected this margin for purposes of corroboration.

We first corroborated the U.S. price from the petition (the same price being provided for all three products) by comparing it to prices of comparable product—product of the same grade and section depth—sold by SWT. We found that SWT made sufficient sales of the comparable product at similar or lower prices in the United States in order to corroborate the price provided in the petition. For the ocean freight and U.S. duty expenses, we likewise found that the petition contained the same expenses for each of the three products and that the percentage of sales by SWT with ocean freight and U.S. duty expenses in excess of these amounts of expenses were sufficient to corroborate the amounts provided in the petition. We were unable to corroborate the port charges from the petition, since these were in excess of those reported by SWT by a significant percentage. Thus, we selected the weighted-average port charges reported by SWT for use in calculating a facts-available margin for Salzgitter.

We then found that SWT made sufficient home-market sales at prices similar to or above the highest home-market price provided in the petition. Thus, we were able to corroborate this price and we selected the home-market prices from the petition for use in calculating the facts-available margin. One COP amount was provided in the petition for each of the three products sold by Salzgitter. We were not able to corroborate this amount, since it exceeded the highest COP reported by SWT for a comparable product. Thus, we selected the highest COP amount reported by SWT to estimate whether Salzgitter's home-market prices were made below the cost of production.

Using the information corroborated and selected, we performed a below-cost test and found that none of the three home-market prices provided in the petition were below the selected COP.

Taking the highest of these prices, we compared it to the export price, based on the U.S. information corroborated and selected, and calculated the margin between the two amounts, as is our practice. See *Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe from Japan*, 66 FR 47172, 47173 (September 11, 2001). This margin of 35.75 percent, based on facts otherwise available and using an adverse inference in selecting from among those facts, is our preliminary margin for Salzgitter. Because it is a preliminary determination, we will consider all of the margins on the record at the time of the final determination in order to determine the most appropriate final margin for Salzgitter.

For a detailed discussion of the calculation of the margin for Salzgitter, see the Decision Memorandum for Salzgitter AG for the Preliminary Results of the Less-Than-Fair-Value Investigation of Structural Steel Beams from Germany for the Period of Investigation April 1, 2000, through March 31, 2001, dated December 19, 2001.

2. SWT

Normally, in accordance with 19 CFR 351.403(d), where a respondent's sales to its affiliates constituted at least five percent of the total home-market sales and these sales failed the arm's-length test, we use the sales made by the affiliates to unaffiliated customers in our analysis. However, in this case, SWT did not report the sales made by the affiliates to unaffiliated customers. Because we do not have the data we need to use our normal methodology, because SWT did not provide the information we requested, and because we find, as described below, that SWT has significantly impeded this proceeding in not providing the information we requested, the use of facts available with regard to these sales is warranted.

In this proceeding, SWT has not complied with our requests for information with regard to downstream sales. We have given SWT two opportunities to remedy or explain the deficiency in its response. As discussed below, SWT has not remedied or adequately explained the deficiency in its response.

We sent a questionnaire to SWT on July 26, 2001. In that questionnaire, we asked that SWT report the resales by affiliated customers to unaffiliated customers instead of the sales by SWT to affiliated customers. SWT did not provide the downstream sales by its affiliated customers in the home market, telling us that it could not do so. See SWT's section A response dated August 30, 2001, at page A–3. SWT stated that its affiliated resellers "co-mingle in their warehouse structural steel beams from all their suppliers" and that "these affiliated resellers will not necessarily record the origin of the product in their sales records." *Id.* SWT further stated that the "situation is further complicated by the fact that part of SWT's inventory systems, while maintained in electronic format, differ throughout the organization. The inability to link data and an inconsistency between database layouts and data codes would make it both time consuming and difficult (and at times impossible) for SWT's affiliated resellers to link downstream sales of structural steel beams to the beams they purchased from SWT." *Id.*

SWT expanded on its explanation in a letter dated October 1, 2001. SWT contends that it would be "impossible" to provide the downstream sales data as the Department requested. However, SWT focused on the difficulty in reporting downstream sales of beams that are of a grade which we do not use in our normal-value comparisons (hereinafter, "Grade B"). With regard to the grade sold in the United States (hereinafter, "Grade A"), SWT stated that "traceability of [Grade A] material is possible" and "for [Grade A] products, the inspection certificate will always go to the end customer. Nevertheless, because the link, in these situations, is not recorded in any retrievable system, and because historical sales records do not provide any information nor provide any basis for permitting retrieval through an electronic format, obtaining the information requested by the Department is impossible." See SWT letter dated October 1, 2001, at pages 4–5. Thus, it appears that SWT could have provided the downstream sales for Grade A beams, but that the operation of assembling this data would have to be done manually.

We reiterated our request for the downstream sales in a supplemental questionnaire on October 17, 2001. In response to our request, SWT submitted documents demonstrating the difficulty or impossibility of gathering downstream sales. However, all documents pertained to Grade B beams. SWT did not submit documentation showing that it could not report information on Grade A beams.

We sent a second supplemental questionnaire to SWT on November 27, 2001, requesting that SWT report only the downstream sales of Grade A beams. We also limited the reporting requirements for SWT so that it only had to report downstream sales for those affiliates that failed the arm's-length test (as identified in our supplemental questionnaire). We asked that SWT explain, if it did not report these limited downstream sales, why it was unable to do so in light of the fact that the sales of this merchandise to these customers accounts for a relatively low quantity of sales.

SWT did not report the downstream sales even on this limited basis. Instead, SWT told us, with respect to Grade A beams sold by two of the affiliates that failed the arm's-length test, that the beams had been sold prior to their being resold to the first unaffiliated party and, therefore, there are no sales records to end-customers. With regard to these customers, SWT stated that, prior to any re-sale from the related purchasers, the products of SWT would have been co-mingled with non-SWT product. SWT further told us that, with regard to one of the customers, some of the beams have not yet been resold and, therefore, there are no downstream sales. Finally, SWT stated that, with regard to a third customer, while obtaining the downstream sales would be possible, it would be "an impracticable effort when viewed in the context of all tonnage that would have to be traced for the reporting of the detailed information on each downstream sale—a significantly impracticable effort in terms of cost and man-hours." See SWT's December 6, 2001, submission at pages 3–4.

We find SWT's explanation unconvincing for the following reasons. First, SWT did not explain why it could not report these sales given the relatively small quantity of sales that would have to be captured. For example, SWT states that obtaining the downstream sales information for the third customer would be "a significantly impracticable effort in terms of cost and man-hours" but it did not explain why that was the case given that the quantity of that customer's sales of Grade A beams is very low.

Second, the fact that some of the merchandise sold to one of the affiliates has not yet been resold does not justify not reporting that merchandise which has been resold. Indeed, the fact that the affiliate was able to report that some of the merchandise was not yet resold suggests that the company was able to trace its inventory to particular purchases from SWT.

Third, SWT states that traceability of the merchandise is complicated due to the co-mingling with non-SWT product and that it would be "impossible" for the reasons explained in the October 1, 2001, letter as described above.

However, the October 1, 2001, letter suggests that Grade A beams *can* be traced and that the problem is that it cannot be done electronically. SWT does not explain why the tracing of sales of Grade A beams could not be done manually given the small quantity of sales in question. Furthermore, if SWT had required more time to obtain the information we requested, it could have asked for an extension of the deadline to respond to our request. Although we have not always granted SWT the entire amount of time it requested when it has requested extensions, we have not denied SWT's requests for additional time to respond to our requests for information.

Finally, SWT claims that there are no sales records to end-customers for some of the merchandise sold by these affiliates. This is not an adequate justification for not reporting these sales. Because the facts of this matter are proprietary, please see the SWT preliminary analysis memorandum dated December 19, 2001, for a full description. Also, this is the first time SWT made the Department aware of this complication. Had SWT made us aware of this circumstance previously, we could have instructed SWT on the proper methodology for reporting such sales.

In sum, we are not convinced that SWT, acting to the best of its ability, could not report the downstream sales of Grade A beams sold to the parties that failed the arm's-length test. Indeed, it appears that SWT has made no attempt to gather the downstream sales information as of this date, even though it had been notified that it should report its downstream sales on July 26, 2001, or, in the alternative, a limited number of downstream sales on November 27, 2001. Furthermore, SWT has not provided us an adequate explanation for why it cannot report the more limited selection of downstream sales identified by the Department in its November 27, 2001, supplemental questionnaire.

Therefore, we find it appropriate to rely on the facts available in order to estimate the downstream sales prices of Grade A beams sold by the parties that failed the arm's-length test. Also, because we have preliminarily determined that SWT has not acted to the best of its ability in reporting these sales, we find that it is appropriate to use an adverse inference in estimating these downstream sales prices.

In the course of performing the arm's-length test, we have calculated customer-specific price ratios. We calculated these ratios on a model-specific basis by dividing the weighted-average price of sales to the affiliate by the weighted-average price of sales to unaffiliated parties. We then weight-averaged the model-specific ratios for each customer. As stated above, where prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length.

As adverse facts available, we have recalculated the prices of Grade A beams sold to the parties that failed the arm's-length test. We recalculated this price by multiplying the reported prices by the highest customer ratio we found among SWT's affiliates and dividing the product by the customer ratio for each affiliate that failed the arm's-length test.

For a detailed discussion of the use of facts otherwise available for affiliated sales, see the SWT Preliminary Determination Analysis Memorandum dated December 19, 2001.

We intend to examine this issue further at verification.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
SWT	6.58
Salzgitter	35.75
All Others	[1] 6.58

[1] Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de mimimis*, or determined entirely on facts available. Because we determined Salzgitter's margin entirely on facts available, we used SWT's margin as the all-others rate.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number;

VOL 66 ISS 249 DE 28 2001 UMI

(2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31980 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Lyn Johnson or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5287 and (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statue and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that structural steel beams from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV for the period of investigation ("POI"), October 1, 2000, through March 31, 2001, are shown in the "Suspension of Liquidation" section of this notice.

Background

On June 20, 2001, the Department of Commerce ("the Department") published in the **Federal Register** the *Notice of Initiation of Antidumping Duty Investigations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan* (66 FR 33048). The Department notified the U.S. Embassy in the PRC of the initiation of this investigation on June 12, 2001.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from the PRC are materially injuring the United States industry (*see* ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

On July 17, 2001, the Department issued its antidumping questionnaire to the Chinese Ministry of Foreign Trade & Economic Cooperation with a letter requesting that it forward the questionnaire to all Chinese exporters of structural steel beams who had shipments during the POI. We also sent courtesy copies of the antidumping questionnaire to the following possible producers/exporters of subject merchandise named in the petition: Chongqing Iron & Steel (Group Co. Ltd.), Fushun Special Steel Co. Ltd., Guangzhou Iron & Steel Holdings Ltd., Hangzhou Iron & Steel Group Co., Hefei Iron & Steel Co., Jinan Iron & Steel Group, Lingyuan Iron & Steel Group Co. Ltd., Maanshan Iron & Steel Co., Ltd ("Maanshan"), Shanghai Pudong Iron & Steel (Group) Co. Ltd., Taiyuan Iron & Steel (Group) Co. Ltd., and Wuhan Iron & Steel Group Co.

During the period August through November 2001, the Department received responses to sections A, C, and D of the Department's original and supplemental questionnaires from Maanshan. We received no other responses to our questionnaire.[1]

On September 6, we requested publicly-available information for valuing the factors of production and comments on surrogate-country selection. We received comments from Maanshan and from the Committee for Fair Beam Imports ("petitioners") on November 29, 2001.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan,* 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan,* 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 13, 2001, Maanshan requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Maanshan accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

---

[1] The Hangzhou Iron & Steel Group and the Jinan Iron & Steel Group notified the Department via facsimile on July 28, 2001, and August 2, 2001, respectively, that they had no shipments of the subject merchandise during the POI. The Department put this information on the administrative record of this proceeding.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983) (*"Diversified"*). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The POI is October 1, 2000, through March 31, 2001.

Non-Market-Economy Country Status

The Department has treated the PRC as a non-market-economy ("NME") country in all past antidumping investigations (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000), and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000)). A designation as an NME remains in effect until it is revoked by the Department (see section 771(18)(C) of the Act). The respondents in this investigation have not requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country.

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below. Furthermore, no interested party has requested that we treat the structural steel beams industry in the PRC as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have preliminarily continued to treat the PRC as an NME.

Separate Rates

It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country a single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Maanshan has provided the requested company-specific separate-rates information and has indicated that there is no element of government ownership or control. Based on Maanshan's claim, we considered whether it is eligible for a separate rate.

The Department's separate-rate test is unconcerned, in general, with macroeconomic/ border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value,* 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value,* 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. *See Silicon Carbide* and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China,* 60 FR 22545 (May 8, 1998).

1. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Manshaan has placed on the record a number of documents to demonstrate absence of de jure control, including the "Foreign Trade Law of the People's Republic of China" and the "Company Law of the People's Republic of China." In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China,* 60 FR 54472, 54474 (October 24, 1995). We have no information in this proceeding which would cause us to reconsider this determination.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide.* Therefore, the Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Maanshan asserted the following: (1) There is no government participation in setting export prices; (2) its managers have authority to bind sales contracts; (3) it does not have to notify any government authorities of its management selection, and (4) there are no restrictions on the use of its export revenue and it is responsible for financing it own losses. Additionally, Maanshan's questionnaire response does not suggest that pricing is coordinated among exporters. Furthermore, our analysis of Maanshan's questionnaire response reveals no other information indicating government control.

The petitioners in this case argue that, because Maanshan is 63 percent owned by a holding company which is, in turn, wholly owned by the Anhui provincial government, and because certain managers of the holding company also serve on the board of directors of Maanshan, the respondent is ineligible for a separate rate due to potential government control. However, the petitioners have not submitted any specific evidence indicating that the conditions for de facto control exist. As stated in the *Silicon Carbide,* 59 FR at 22587, ownership of the company by a state-owned enterprise does not require the application of a single rate. Therefore, based on the information provided, we preliminarily determine that there is an absence of de facto governmental control of Maanshan's export functions. Consequently, we preliminarily determine that the respondent has met the criteria for the application of a separate rate.

The PRC-Wide Rate

In NME cases, it is the Department's policy to make a rebuttal presumption that all exporters located in the NME comprise a single exporter under common control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. All exporters were given the opportunity to respond to the Department's questionnaire. As explained above, we received timely Section A responses from Maanshan. Our review of U.S. import statistics, however, reveals that Maanshan did not account for all imports of subject merchandise into the United States from

VOL 66 ISS 249 DE 28 2001 UMI

the PRC. For this reason, we preliminarily determine that some PRC exporters of structural steel beams failed to respond to our questionnaire. Consequently, we are applying adverse facts available (see below) to determine the single antidumping rate—the PRC-wide rate-applicable to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China*, 65 FR 25706, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from Maanshan.

Use of Facts Otherwise Available

Section 776(a) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides information which cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties. Section 776(a)(2)(B) of the Act requires the Department to use facts available when a party does not provide the Department with information by the established deadline or in the form and manner requested by the Department. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997).

An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act. However, section 776(c) provides that, when the Department relies on secondary information rather than on information obtained in the course of a review, the Department shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA states that the independent sources may include published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. *See* SAA at 870. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In the case of the single Chinese enterprise, as explained above, some exporters of the subject merchandise failed to respond to the Department's request for information. Pursuant to section 776(a) of the Act, in reaching our preliminary determination, we have used total facts available for the PRC-wide rate because certain entities did not respond. Also, the complete failure of these exporters to respond to the Department's requests for information constitutes a failure to cooperate to the best of their ability. Therefore, pursuant to section 776(b) of the Act, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

In selecting from among the facts otherwise available and using an adverse inference, we reviewed the information provided in the petition and in the response submitted by Maanshan. For export price, the petition contained price quotations which the petitioners obtained from a PRC producer of subject merchandise. We corroborated the petitioners' price quotations with data submitted by Maanshan in its questionnaire response. The price quotations fell within the range of export prices reported by Maanshan and are therefore reliable and relevant.

For normal value, we attempted to corroborate the petitioners' factors-of-production data. However, due to different reporting formats and factor groupings by the petitioners and the respondent, we were unable to reconcile the two sets of factors of production for corroboration purposes. Therefore, as facts available we preliminarily used the factors of production reported by Maanshan and applied the valuations which we used to calculate normal value for Maanshan. Using this data we calculated an all-PRC rate of 177.21 percent. *See* the Facts-Available Decision Memo dated December 19, 2001, in Central Records for a comprehensive explanation of how we corroborated this rate.

Fair Value Comparisons

To determine whether sales of structural steel beams to the United States by Maanshan were made at less than fair value, we compared export price to NV, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average export prices. We calculated weighted-average NVs.

Export Price

In accordance with section 772(a) of the Act, we used export price ("EP") because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation and because constructed export price was not otherwise indicated. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NVs. We calculated EP based on prices to unaffiliated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and brokerage and handling. Because certain domestic charges, such as those for foreign inland freight and brokerage and handling, were provided by NME companies, we valued those charges based on surrogate rates from India. *See* the Factors-of-Production Valuation Memorandum, dated December 19, 2001 ("FOP Memorandum").

Normal Value

1. Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. *See* Memorandum from Jeffrey May to Laurie Parkhill, dated August 31, 2001. Customarily, we select an appropriate surrogate based on the availability and reliability of data from these countries. For PRC cases, the primary surrogate has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producer's factors of production, when available and appropriate. We have obtained and relied upon publicly available information wherever possible. *See* FOP Memorandum. In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of this preliminary determination.

2. Factors of Production

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production, reported by respondent, for materials, energy, labor, by-products, and packing. We valued all the input factors using publicly available published information, as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice. In accordance with 19 CFR 351.408(c)(1), where a producer sources an input from a market economy and pays for it in market-economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *See* also *Lasko Metal Products v. United States*, 437 F.3d 1442, 1445–1446 (Fed. Cir. 1994) ("*Lasko*"). Therefore, where Maanshan had market-economy inputs and paid for these inputs in a market-economy currency, we used the actual prices paid for those inputs in our calculations.

3. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. For a detailed description of all surrogate values used for respondents, *see* FOP Memorandum.

Citing *Sebacic Acid from the People's Republic of China, Final Results of Antidumping Duty Administrative Review*, 62 FR 65678 (December 15, 1997), Maanshan argued in its October 9, 2001, surrogate-value submission that the Department should make deductions from domestic prices to ensure that they are exclusive of India's central sales tax, any state sales tax, and any government-imposed statutory levies. However, there were no instances in which we had to use surrogate values that included such taxes or levies.

We added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision in *Sigma Corporation* v. *United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997).

For those Indian Rupee values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics* for India. For those U.S. dollar-denominated values not contemporaneous with the POI, we adjusted for inflation using producer price indices published in the International Monetary Fund's *International Financial Statistics* for the United States.

Except as noted below, we valued raw-material inputs using the weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India*—Volume II—Imports ("Indian Import Statistics") for the time period April 2000, through February 2001. Where POI-specific Indian Import Statistics were not available, we used Indian Import Statistics from an earlier period (*i.e.*, April 1, 1999, through March 31, 2000). Although surrogate-value data or sources to obtain such data were provided by the respondent or the petitioners, in some cases we found that the Indian Import Statistics provided more contemporaneous data.

Maanshan argued that, since it generated its own electricity and produced other energy material inputs during the POI (argon, nitrogen and oxygen) in sufficient quantities to cover its needs in the manufacture of the subject merchandise during the POR, the Department should value these inputs using factors of production for items used by Maanshan in the production of these inputs. The petitioners argued that the Department should reject Maanshan's claim because the Department would have to calculate a number of additional factors to evaluate each upstream factor of production used in subject merchandise correctly. Consistent with our approach in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 49632 (September 28, 2001), we valued the respondent's inputs through the use of surrogate valuation, rather than based on surrogate valuation of the factors going into the production of those inputs. The respondent's methodology would add needless complications to our calculation of NV and lead to potentially erroneous results. Therefore, as the basis for valuing electricity, we have relied on the 1997 data published in the International Energy Agency's publication, *Energy Prices and Taxes*,

VOL 66 ISS 249 DE 28 2001 UMI

Third Quarter, 2000, and adjusted the amount for inflation. As the basis for valuing argon, nitrogen, and oxygen, we have relied on 1999 data from *UN Trade Commodity Statistics (UNTCS),* United Nations. We also valued bentonite and coal tar using the data from the UNTCS.

Furthermore, we used a website (www.indiainfoline.com) providing market prices for natural gas in 2000 to calculate a percentage of Maanshan-produced gas to natural gas and derive a surrogate value for gas. We valued water based on data from the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* (published in 1997).

Maanshan purchased iron ore from market-economy suppliers during the POI, one of which was an affiliate. We compared the price paid to the affiliated supplier with the prices paid to the unaffiliated market-economy suppliers and found that the price from the affiliated supplier was within the same range as those from the unaffiliated market-economy suppliers. Therefore, we used the weighted-average price reported by Maanshan.

The only input Maanshan reported for packing was steel strap. We used Indian Import Statistics data for the POI to value this input.

To value truck rates, we used freight costs based on price quotes obtained by the Department in November 1999 from trucking companies in India. For rail transportation, we valued rail rates using information published by the Indian Railway Conference Association in June 1998, as adjusted for inflation.

To value marine insurance and brokerage and handling we used a publicly summarized version of the average value for marine insurance expenses and brokerage and handling expenses reported in *Certain Stainless Steel Wire Rod from India; Final Results of Antidumping Duty Administrative and New Shipper Reviews,* 64 FR 856 (January 6, 1999).

To value factory overhead, and selling, general and administrative expenses and profit, we used rates based on financial information from an Indian integrated steel producer, Tata, a producer of subject merchandise whose March 2000 financial statement was provided by the petitioners in an October 9, 2001, submission.

For labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate at the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2000 *(see http://ia.ita.doc.gov/wages).* The source of the wage rate data on the Import Administration's web site is the 1999 Year Book of Labour Statistics, International Labor Organization (Geneva: 1999), Chapter 5B: Wages in Manufacturing.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percentage margin
Maanshan Iron & Steel Co., Ltd.	159.60
China-Wide	117.21

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31981 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–838]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from Taiwan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act . In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) (*Initiation Notice*), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Taiwan are materially injuring the United States industry (*see* ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

On July 26, 2001, we selected the two largest producers/exporters of structural steel beams from Taiwan as the mandatory respondents in this proceeding. For further discussion, see Memorandum to Susan H. Kuhbach, Senior Director Office 1, from The Team Re: Respondent Selection. We subsequently issued the antidumping questionnaire to Kuei Yi Industrial Co., Ltd. ("Kuei Yi") and Tung Ho Steel Enterprise Corp. ("Tung Ho") on July 26, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C and D of the Department's original and supplemental questionnaires from Kuei Yi and Tung Ho.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001)). On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001)).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 30 and December 7, 2001, Tung Ho and Kuei Yi, respectively, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) Kuei Yi and Tung Ho account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of these investigations covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner

VOL 66 ISS 249 DE 28 2001 UMI

of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from Taiwan to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") to the normal value ("NV"), as described in the "Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: form; shape/size (section depth); strength/grade; and coating. We also excluded from our comparisons home market sales of structural steel beams manufactured by other producers in accordance with 771(16) of the Act.

With respect to home market sales of non-prime merchandise made by Tung Ho during the POI, in accordance with our past practice, we excluded these sales from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea*, 58 FR 37176, 37180 (July 9, 1993).)

Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, or to an unaffiliated purchaser for exportation to the United States, based on the facts of record. In this case, all sales to the U.S. were EP sales.

For both respondents, we based EP on the packed FOB price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses (freight from the plant to the port of exportation) and foreign brokerage and handling.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Kuei Yi's and Tung Ho's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because both respondents' aggregate volume of home market sales of the foreign like product was greater than five percent of their aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for Kuei Yi and Tung Ho.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on Kuei Yi's and Tung Ho's sales to affiliates as follows.

Sales to affiliated customers in the home market not made at arm's-length prices (if any) were excluded from our analysis because we considered them to be outside the ordinary course of trade. *See* 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing expenses. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. *See* 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993).

In accordance with 19 CFR 351.403(d), where Kuei Yi's sales to its affiliates failed the arm's-length test, we used the sales made by the affiliates to unaffiliated customers in our analysis. For further discussion, see the Preliminary Determination Calculation Memorandum dated December 19, 2001 (*Calculation Memo*).

C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice*, 66 FR at 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and home market packing costs (*see* "Test of Home Market Sales Prices" section below for treatment of home market selling expenses). We relied on the COP data submitted by Kuei Yi and Tung Ho, except as noted below.

We revised Kuei Yi's interest expense ratio to include interest expenses associated with loans covering asset losses incurred during the POI. *See Calculation Memo* for further details of these calculations.

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time, in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether the below-cost sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Kuei Yi's and Tung Ho's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or constructed export price ("CEP"). Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions[2], class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, Court Nos. 00–1058,–1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

VOL 66 ISS 249 DE 28 2001 UMI

practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from Kuei Yi and Tung Ho regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by Kuei Yi and Tung Ho for each channel of distribution. Company-specific LOT findings are summarized below.

Kuei Yi

Kuei Yi reported sales in the home market through two channels of distribution: (1) Fabricators and end-users and (2) stockists. We examined the chain of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Kuei Yi. Specifically, Kuei Yi does not provide inventory maintenance, advertising, or sales support for any of its home market customers. Kuei Yi does incur a high degree of sales activity related to transportation and warranty. Kuei Yi did not indicate that there are any differences with respect to freight and delivery between these channels of distribution or customer categories. Similarly, the sales warranty support provided by Kuei Yi does not vary by channel of distribution or customer category. Based on our overall analysis, we found that the channels of distribution did not differ significantly from each other with respect to selling activities and, therefore, constituted one LOT.

In the U.S. market, Kuei Yi made only EP sales through one channel of distribution: sales to traders shipped directly to the United States. Kuei Yi incurs freight costs in delivering the product to the port as well as brokerage and handling charges. Kuei Yi also provides warranty services in the U.S. market. Similar to the home market LOT, Kuei Yi does not provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, there is only one LOT for U.S. sales.

We compared the EP LOT to the home market LOT and concluded that the selling functions performed for home market customers in this home market LOT are sufficiently similar to those performed for U.S. customers because the same services are offered in both markets. Accordingly, we consider the EP and home market LOTs to be the same. Consequently, we are comparing EP sales to sales at the same LOT in the home market.

Tung Ho

Tung Ho reported sales in the home market through two channels of distribution: (1) Unaffiliated distributors and (2) affiliated and unaffiliated end-users. Tung Ho sold the subject merchandise both out of inventory and on a made-to-order basis to both distributors and end-users. We examined the chain of distribution and the selling activities associated with home market sales through these channels of distribution, and determined that there was little difference in the relevant selling functions provided by Tung Ho. Specifically, Tung Ho provided rebates and warranties to distributors, but not to end-users. Tung Ho did not indicate that there are any differences with respect to freight and delivery or inventory maintenance services between these channels of distribution or customer categories. As we do not consider the existence of rebates and warranties on sales to distributors sufficient to warrant finding a separate channel of distribution for sales to distributors, we find that the home market channels of distribution do not differ significantly from each other with respect to selling activities and, therefore, constitute one LOT.

In the U.S. market, Tung Ho made only EP sales through one channel of distribution: sales to distributors shipped directly to the United States. Tung Ho incurs freight costs in delivering the product to the port as well as brokerage and handling charges. Tung Ho provided no rebates or warranty services in the U.S. market, nor did it provide inventory maintenance, advertising, or sales support in selling to its U.S. customers. Accordingly, there is only one LOT for U.S. sales.

We compared the EP LOT to the home market LOT and concluded that the selling functions performed for home market customers are sufficiently similar to those performed for U.S. customers to warrant considering them the same LOT. Consequently, we are comparing EP sales to sales at the same LOT in the home market.

F. Calculation of Normal Value Based on Comparison Market Prices

Kuei Yi

We calculated NV based on delivered or ex-works prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We made deductions, where appropriate, from the starting price for rebates. We also made deductions for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses and warranties.

Tung Ho

We calculated NV based on delivered or ex-factory prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We added to the starting price interest revenue, where appropriate. We made deductions, where appropriate, from the starting price for billing adjustments and rebates. We also made deductions for inland freight, under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, bank charges, and warranties. For those sales for which Tung Ho did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses.

Furthermore, for both respondents we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Kuei Yi Industrial Co., Ltd. ...	18.01
Tung Ho Steel Enterprise Corporation	4.70
All Others	13.95

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31986 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–811]

Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Not Less Than Fair Value.

SUMMARY: We preliminarily determine that structural steel beams from Spain are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Jennifer Gehr or Mike Strollo, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1779 or (202) 482–0629, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) ("*Initiation Notice*"), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Spain are materially injuring the United States industry (*see* ITC Investigation Nos. 731-TA–935–942 (Publication No. 3438)).

On July 18, 2001, we selected the largest producer/exporter of structural steel beams from Spain as the mandatory respondent in this proceeding. For further discussion, see Memorandum to Lou Apple, Director, Office 2, from The Team Re: Respondent Selection dated July 16, 2001. We subsequently issued the antidumping questionnaire to Aceralia Corporacion Siderurgica, S.A. (Aceralia) on July18, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C and D of the Department's original and supplemental questionnaires from Aceralia. On December 18, 2001, we issued an additional supplemental questionnaire to the respondent.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary*

VOL 66 ISS 249 DE 28 2001 UMI

Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on December 18, 2001, the petitioners requested that, in the event of a negative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In accordance with 19 CFR 351.210(b), because our preliminary determination is negative and no compelling reasons for denial exist, we are granting the petitioners' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties*; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (*see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp. v. United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from Spain to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") or constructed export price ("CEP") to the normal value ("NV"), as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the home market, where appropriate. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

With respect to home market sales of non-prime merchandise made by Aceralia during the POI, in accordance with our past practice, we excluded these sales from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea,* 58 FR 37176, 37180 (July 9, 1993).) In addition, we excluded from our preliminary analysis all home market sales between Aceralia's mills because these sales were made for internal consumption. (For further discussion, see Memorandum to the file from Jennifer Gehr Re: Calculations Performed for Aceralia Corporacion Siderurgica, S.A. (Aceralia) for the Preliminary Determination in the Less Than Fair Value Investigation on Structural Steel Beams from Spain dated December 19, 2001 ("Sales Calculation Memorandum").)

Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight and foreign brokerage and handling.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We based CEP on the packed prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We made deductions for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (freight from port to warehouse) and U.S. storage expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit costs) and indirect selling expenses.

Aceralia did not report rebates on certain sales made during the POI. Because the terms of the rebate agreement provide for the payment of rebates on these sales, we based the per-unit rebate expense for them on the amount reported for other sales to the same customers. In addition, Aceralia reported rebates, as well as certain movement expenses, on a theoretical-weight basis. We adjusted these expenses to state them on an actual-weight basis. (*See* the Sales Calculation Memorandum.)

For those U.S. sales which Aceralia did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses. In addition, we restated the respondent's U.S. interest rate on a 365-day basis (rather than a 360-day basis as reported). (*See* the Sales Calculation Memorandum.)

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Aceralia and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of home market sales to affiliated parties for NV is to determine whether such sales are made at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on Aceralia's sales to affiliates as follows.

To test whether these sales were made at arm's-length prices, we compared, on a model-specific basis, the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of the foreign like product, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's length. Where, for the tested models of the foreign like product, prices to the affiliated party were on average lower than 99.5 percent of the price to the unaffiliated parties, we determined that sales made to the affiliated party were not at arm's length. *See* 19 CFR 351.403(c). *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993).

In accordance with 19 CFR 351.403(d), where the respondent's sales to its affiliates constituted at least five percent of the total home market sales, and these sales failed the arm's-length test, our normal practice would be to use sales made by the affiliates to unaffiliated customers in our analysis. In this case, however, we were unable to do so because Aceralia either: (1) Was unable to provide this information; (2) failed to provide it in response to a specific request; or (3) reported information that was so incomplete that it could not be used for the preliminary determination. Consequently, we disregarded the first category of sales (i.e., those for which Aceralia was unable to provide the downstream information) and, we included the latter two categories in our analysis using adverse facts available.

Regarding the first scenario, Aceralia was unable to report downstream sales data for one customer group that became unaffiliated during the POI. In its November 9, 2001, supplemental questionnaire response, Aceralia demonstrated that: (1) it made numerous attempts to obtain the information from this customer after it became unaffiliated; and (2) the customer refused to provide the relevant data. Based on this information, we have accepted Aceralia's claim, for purposes of the preliminary determination that, even acting to the best of its ability, it could not provide the requested information. For the preliminary determination, we have excluded sales to this customer group from our analysis, because we found that they were not made at arm's-length. For further discussion, see the Sales Calculation Memorandum.

Regarding the latter two scenarios, Aceralia did not report necessary information requested by the Department in its supplemental questionnaire. Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title.[1] Section 776(b) of the Act further provides that adverse inferences may be used when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

In this case, we find that Aceralia withheld downstream information requested by the Department for certain sales and failed to provide complete and usable information on others. Because: (1) We informed Aceralia of the deficiency in its data and provided it an opportunity to remedy it in a supplemental questionnaire (pursuant to section 782(d) of the Act); and (2) Aceralia did not provide the information requested or provide information that was so incomplete that it could not be used (within the meaning of section 782(e) of the Act), we resorted to facts otherwise available. Further, the data that Aceralia claimed it was unable to provide for these transactions was provided for numerous other transactions. Aceralia did not indicate or explain why it was not possible to provide this information for the transactions in question. Therefore, we conclude that Aceralia could have provided the necessary data but chose not to, thereby failing to cooperate to the best of its ability within the meaning of section 776(b) of the Act. Accordingly, we adjusted the prices charged by Aceralia to the affiliated customers in question using adverse facts available. Specifically, we increased the prices charged to these customers by the largest customer-specific ratio calculated in the arm's length test (*i.e.*, the largest average price difference between the prices charged to any affiliated customer and unaffiliated customers). For further discussion of our application of facts available for the preliminary determination, see the Sales Calculation Memorandum.

On December 18, 2001, we issued an additional supplemental questionnaire to Aceralia on this topic. We intend to verify Aceralia's response to this questionnaire and will consider this information, as appropriate, for purposes of the final determination.

C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice*, 66 FR at 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and home market packing costs (*see* "Test of Home Market Sales Prices" section below for treatment of home market selling expenses). We relied on the COP data submitted by Aceralia, except as noted below.

1. We revised the G&A rate to include net foreign exchange losses on accounts payable for the Gijon plant. In addition, we excluded packing expenses from the cost of goods sold denominator of the four individual plant rate calculations.

---

[1] Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, the Department may, subject to section 782(e) of the Act, disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the administering authority" if the information is timely, can be verified, and is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information, if it can do so without undue difficulties.

2. We revised the denominator in the consolidated financial expense rate calculation to include only those offsets for interest income related to allowable short-term interest bearing items. We recalculated the denominator to be based on cost of goods sold rather than raw materials and also to exclude packing expenses.

3. We weight-averaged the revised COP/CV files for the four plants.

See Memorandum from Gina K. Lee to Neal M. Halper, Director, Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for Preliminary Determination ("Cost Calculation Memorandum").

2. Test of Home Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. Regarding home market movement charges, without explanation, Aceralia did not report certain extra freight charges on sales to the Canary Islands, despite our request that it do so.

See Aceralia's November 8, 2001, submission at pages 15 and 16. As adverse facts available, we increased the freight expenses on these sales by the largest additional charge shown on Aceralia's agreement with its freight provider. (*See* the Sales Calculation Memorandum.)

In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Aceralia's home market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[2] including selling functions,[3] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[4]), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, Court Nos. 00–1058,–1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

We obtained information from Aceralia regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution. Because Aceralia claimed business proprietary treatment for this information, we are unable to discuss it here. For a description of these selling functions, see the Sales Calculation Memorandum.

Aceralia reported home market sales through one channel of distribution: direct sales to both affiliated and unaffiliated distributors. As noted in the "Affiliated Party Transactions and Arm's Length Test" section of this notice, we based our preliminary analysis on Aceralia's direct sales (without considering any downstream information). In making our level of trade determination for these sales in the home market, we relied upon the information submitted in Aceralia's section A and supplemental section A responses. Based on our analysis of this business proprietary information, we find that only one level of trade exists in the home market. *See* the Sales Calculation Memorandum.

---

[2] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[3] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services, where applicable.

[4] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

In the U.S. market, Aceralia reported both EP and CEP sales. In its section A response, Aceralia stated that it made EP sales to the United States through Aristrain Hispano Trade Handelsgesellschaft ("AHT"), an affiliated trading company, for which the distribution process was analogous to Aceralia's CEP sales through TradeARBED, Inc. ("TradeARBED"). Because Aceralia did not report information on the selling functions performed by it in connection with AHT's sales to the first unaffiliated customer, we have insufficient information on the record to make a determination on the EP LOT. Nonetheless, given that we have only one LOT in the home market, it is not possible to make a LOT adjustment for EP sales. We have requested additional information on the selling functions/services provided to AHT and by AHT to its ultimate customer; we will re-examine this issue for purposes of the final determination in the event that we find multiple levels of trade in the home market at that time.

Regarding CEP sales, the relevant transaction for U.S. sales, after CEP adjustments are made, is between Aceralia and its affiliated distributor, TradeARBED. Based on the differences in the number and degree to which selling functions are performed in each market, we found the CEP LOT to be different from the home market LOT and to be at a less advanced stage of distribution than the home market LOT. (Because Aceralia claimed business proprietary treatment for this information, we are unable to discuss our analysis here. *See* the Sales Calculation Memorandum.) Consequently, we could not match to sales at the same LOT in the home market, nor could we determine a LOT adjustment based on Aceralia's home market sales. Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment.

Based on the selling functions provided by Aceralia for its sales to the United States, after CEP adjustments are made, we find that these sales are at a marketing stage which is less advanced than for Aceralia's home market sales. In addition, the data available do not permit us to determine the extent to which this difference in LOT affects price comparability. Therefore, in accordance with 19 CFR 351.412(f), we are granting Aceralia a CEP offset.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers, affiliated customers that we determined to be at arm's-length, or certain affiliated customers not determined to be at arm's-length (adjusted as noted in the "Affiliated Party Transactions and Arm's Length Test" section, above). We made deductions, where appropriate, from the starting price for billing adjustments, discounts and rebates. We also made deductions for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. We increased freight expenses to the Canary Islands, as noted in the "Test of Home Market Sales Prices" section, above.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for commissions. Because Aceralia reported commissions on a theoretical-weight basis, we restated these expenses to an actual-weight basis. In addition, we recalculated the commission expenses associated with certain sales in order to assign these expenses to the transactions on which they were incurred. Finally, we disallowed an adjustment for imputed credit expenses because Aceralia's payment data contained numerous inconsistencies. (*See* the Sales Calculation Memorandum.)

In accordance with 19 CFR 351.410(e), we offset the commission incurred in the U.S. market with the indirect selling expenses incurred in the home market by the lesser of the commission or the indirect selling expenses. We reclassified technical service expense incurred in the home market as indirect selling expenses because they are not directly associated with individual sales. In addition, we recalculated these expenses as a single percentage of gross unit price because Aceralia did not explain how the expenses differed by mill. (*See* the Sales Calculation Memorandum.)

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted home market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

Exporter/manufacturer	Weighted-average margin Percentage
Aceralia Corporacion Siderurgica, S.A.	1.21

Because the estimated weighted-average dumping margin for the examined company is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of structural steel beams from Spain.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to section 735(b)(3) of the Act, the ITC will determine within 75 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31987 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–811]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) (*"Initiation Notice"*), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from South Africa are materially injuring the United States industry (*see Certain Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan* (66 FR 37050 (July 16, 2001)).

On July 20, 2001, we selected the largest producer/exporter of structural steel beams from South Africa as a mandatory respondent in this proceeding. For further discussion, see Memorandum to Laurie Parkhill, Director Office 3, from The Team Re: Respondent Selection dated July 20, 2001. We subsequently issued the antidumping questionnaire to Highveld Steel and Vanadium Corporation, Ltd. ("Highveld"), on July 20, 2001.

During the period August through November 2001, the Department received responses to sections A, B, C, and D of the Department's original and supplemental questionnaires from Highveld.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan* (66 FR 56078 (November 6, 2001).)

On October 3, 2001, the petitioners requested that the Department initiate a sales-below-cost investigation with respect to Highveld. We initiated such an investigation on October 29, 2001. (*See* Memorandum to Richard W. Moreland from Laurie Parkhill Re: Initiation of Cost Investigation, dated October 29, 2001, for further details.)

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 14, 2001, Highveld requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) Our preliminary determination is affirmative, (2) Highveld accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed

VOL 66 ISS 249 DE 28 2001 UMI

or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W'shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (see *Antidumping Duties;* Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (see 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice,* interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States,* 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified,* we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from South Africa to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") or constructed export price ("CEP") to the normal value ("NV"), as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the Highveld in the home market during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise made in the home market. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondents in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

With respect to home-market sales of non-prime merchandise made by Highveld during the POI, in accordance with our past practice, we excluded these sales from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POI. (*See, e.g., Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate from Korea,* 58 FR 37176, 37180 (July 9, 1993).)

Export Price

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, or to an unaffiliated purchaser for exportation to the United States, based on the facts of record. We based EP on the packed delivered price to unaffiliated purchasers in the United States. We made deductions, where appropriate, for inland freight expense from plant/warehouse to port of exit in accordance with section 772(c)(2)(A) of the Act. See Antidumping Duty Investigation on Structural Steel Beams from South Africa—Preliminary Determination Analysis Memorandum for Highveld Steel and Vanadium Corporation, Ltd., from J. David Dirstine to File, dated December 19, 2001 (Preliminary Analysis Memorandum).

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

We based CEP on the packed FOB or CIF prices to unaffiliated purchasers in the United States. We made adjustments for price-billing errors. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, domestic inland freight (*i.e.*, inland freight expense from plant/warehouse to port of exit), ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, U.S. wharfage fees, U.S. survey fees, U.S. truck loading fees, U.S. inland freight expenses (*i.e.*, freight from port to warehouse), and warehousing expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*e.g.*, imputed credit costs) and indirect selling expenses (*e.g.*, inventory carrying costs).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Highveld and its affiliate on their sales of the subject merchandise in the United States and the foreign like product in the home market and the profit associated with those sales. See Preliminary Analysis Memorandum.

Normal Value

A. Home-Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent's volume of home-market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.405(b)(2). Because the respondent's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable for the respondent.

B. Cost-of-Production Analysis

Based on our analysis of a sales-below-cost allegation submitted by the petitioners on October 3, 2001, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the home market were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated an investigation of sales-below-cost for Highveld to determine whether sales were made at prices below their respective COP (*see Initiation Notice*, 66 FR at 33048, 33051, and Memorandum to Richard W. Moreland from Laurie Parkhill Re: Initiation of Cost Investigation, dated October 29, 2001, for further details).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses ("G&A"), and interest expenses (*see* "Test of Home Market Sales Prices" section below for treatment of home-market selling expenses). We relied on the COP data submitted by Highveld and its parent company, Anglo American plc., except as noted below.

B. We revised Highveld's G&A rate calculation to exclude freight out and packing expenses from the denominator (cost of sales) of the calculation.

C. We revised Highveld's interest expense rate calculations to exclude freight out, packing expenses, interest expenses and G&A expenses from the denominator (cost of sales) of the calculation.

D. We excluded the vanadium slag offset ("VSLAG") from the total cost of manufacture of each CONNUM.

See Memorandum from Laurens van Houten to Neal Halper, Director, Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination ("Cost Calculation Memorandum").

2. Test of Home Market-Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home-market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable billing adjustments, movement charges, rebates, discounts, direct and indirect selling expenses, and packing expenses. In determining whether to disregard home-market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and 773(b)(2)(C) of the Act, whether such sales were made (1) within an extended period of time, (2) in substantial quantities, and (3) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to sections 773(b)(1)(A) and 773(b)(2)(C) of the Act, where less than

VOL 66 ISS 249 DE 28 2001 UMI

20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with sections 773(b)(1)(A) and 773(b)(2)(B) and (C) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Highveld's home-market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions,[2] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison-market sales (*i.e.*, NV based on either home-market or third-country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, Court Nos. 00–1058, –1060 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV level of trade is more remote from the factory than the CEP level of trade and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value:* Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

We obtained information from Highveld regarding the marketing stages involved in making the reported home-market and U.S. sales, including a description of the selling activities performed by the respondent for each channel of distribution. Highveld's LOT findings are summarized below.

Highveld reported two channels of distribution in the home market. The selling activities associated with all sales were similar (*e.g.*, freight and delivery arrangements, plannings and rollings, and after-sales service) and, based on our analysis of the selling activities, we considered the two channels of distribution to constitute one LOT. Highveld reported two channels of distribution in the U.S. market, one represented by its EP sales and one represented by its CEP sales. Because the selling activities associated with the home-market LOT were similar to those associated with EP sales (*e.g.*, freight and delivery arrangements, plannings and rollings, and aftersale service), we made no LOT adjustment for EP sales. For CEP sales, after making deductions pursuant to section 772(d) of the Act, we found that the selling functions performed by Highveld at the CEP level (*e.g.*, aftersale service and technical advice) were sufficiently different from the selling functions performed at the home-market LOT (*e.g.*, planning of rollings, market research, advertising, and freight and delivery arrangements) to consider the home-market LOT to be different and at a more advanced stage of distribution than the CEP LOT. Because the sole home-market LOT was different from the CEP LOT, we could not match to sales at the same LOT in the home market, nor could we determine a LOT adjustment based on Highveld's home-market sales of merchandise under investigation. Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Accordingly, for Highveld's CEP sales we determined normal value at the sole home-market LOT and made a CEP-offset adjustment to NV in accordance with section 773(a)(7)(B) of the Act.

D. Calculation of Normal Value Based on Comparison-Market Prices

We calculated NV based on delivered prices to unaffiliated customers. We made deductions, where appropriate, from the starting price for rebates. We also made deductions for movement expenses (*i.e.*, inland freight expense from plant/warehouse to customer) under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses.

We also deducted home-market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-Average margin percentage
Highveld	7.22
All Others	7.22[1]

[1] As Highveld was the only respondent that we used in our calculations, we used Highveld's margin as the all-others rate.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, pursuant to 735(b)(2) the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination by no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31988 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–814]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Determination of Sales at Less Than Fair Value.

SUMMARY: We preliminarily determine that structural steel beams from the Russian Federation are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3477 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001) (*Initiation Notice*)), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from the Russian Federation are materially injuring the United States industry (see ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

We issued the antidumping questionnaire to Guryevsk Steel Works, Magnitogorsk Iron and Steel Works, and Nizhny Tagil Iron and Steel Works on July 18, 2001. We only received a questionnaire response from Nizhny Tagil Iron and Steel Works (Tagil).

During the period August through October 2001, the Department received responses to sections A, C, and D of the Department's original and supplemental questionnaires from Tagil.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (See *Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (See *Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001)).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on December 7, 2001, Tagil requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) Our preliminary determination is affirmative, (2) Tagil accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondent's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of this investigation covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: (1) Structural steel beams greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors, or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector, or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (see *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice* (see 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that

"* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. See the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is October 1, 2000, through March 31, 2001.

Non-Market Economy Country Status for the Russian Federation

The Department has treated the Russian Federation as a non-market-economy ("NME") country in all past antidumping duty investigations and administrative reviews. See, *e.g., Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 Fr 49347 (September 27, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Titanium Sponge from the Russian Federation: Final Results of Antidumping Administrative Review*, 64 FR 1599 (Jan. 11, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787 (Nov. 19, 1997); *Notice of Final Determination of Sale at Less Than Fair Value: Pure Magnesium and Alloy Magnesium from the Russian Federation*, 60 FR 16440 (Mar. 30, 1995) *(Magnesium from Russia Original Investigation Final Determination)*. A designation as a NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act.

When the Department is investigating imports from a NME country, section 773(c)(1) of the Act directs us to base normal value ("NV") on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section, below.

No party in this investigation has requested a revocation of Russia's NME status. We have, therefore, preliminarily continued to treat Russia as an NME. However, we are currently evaluating Russia's NME status in another ongoing proceeding. See *Notice of Initiation of Inquiry Into the Status of the Russian Federation as a Non-Market Economy Country Under the Antidumping and Countervailing Duty Laws*, 66 FR 54197 (October 26, 2001).

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Tagil has submitted separate-rates information in its section A responses, it has stated that there is no element of government ownership or control, and it has requested a separate, company-specific rate.

The Department's separate-rate test is unconcerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under the separate-rates criteria, the Department assigns separate rates in NME cases only if the NME respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. See *Silicon Carbide* and *Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22545 (May 8, 1998).

1. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Tagil has placed on the record a number of documents to demonstrate absence of de jure control, including: 1) the Federal Law on Joint Stock Companies (Dec. 26, 1995); 2) the Federal Law No. 158-FZ (Sept. 25, 1998); and 3) the Federal Act No. 3615–1 (October 9, 1992), "Currency control and supervision" (as amended through May 31, 2001).

In prior cases, the Department has analyzed these laws and found that they establish an absence of de jure control. See, *e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 64 FR 61261, 61268 (Nov. 10, 1999); see also *Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139, 1142 (Jan. 7, 2000). We have no new information in this proceeding which would cause us to reconsider this determination.

According to Tagil, structural steel beam exports are not affected by export-licensing provisions or export quotas. Tagil claims to have autonomy in setting the contract prices for sales of pure magnesium through independent price negotiations with its foreign customers without interference from the Russian government. Based on the assertions of Tagil, we preliminarily determine that there is an absence of de jure government control over the pricing and marketing decisions of Tagil with respect to this company's structural steel beam export sales.

2. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

Tagil has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales and uses profits according to its business needs. Additionally, Tagil's questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. This information supports a preliminary finding that there is an absence of de facto governmental control of the export functions of these companies. Consequently, we preliminarily determine that Tagil has met the criteria for the application of separate rates.

Russia-Wide Rate

In all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Tagil has preliminarily qualified for a separate rate. Furthermore, the information on the record of this investigation indicates that Tagil is the only Russian producer and/or exporter of the subject merchandise with sales or shipments to the United States during the POI. Based upon our examination and clarification of Customs data, we have determined that there are no other Russian producers and/or exporters of the subject merchandise and consequently none which were required to respond to our questionnaire. Because Tagil, the only known Russian producer of steel beams, responded to our questionnaire and the evidence indicates that there are no other Russian producers or exporters of subject merchandise during the POI, we have calculated a Russia-wide rate for this investigation based on the weighted-average margin we determined for Tagil. This Russia-wide rate applies to all entries of subject merchandise except for entries of subject merchandise exported by Tagil.

Fair Value Comparisons

To determine whether sales of structural steel beams from the Russian Federation to the United States were made at less than fair value ("LTFV"), we compared the constructed export price ("CEP") to the NV calculated using an NME analysis, as described below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average CEPs to weighted-average NV.

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

In this case, we based CEP on the packed ex-warehouse, or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, ocean freight, marine insurance, U.S. brokerage and handling, international freight, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses (i.e., freight from port to warehouse and freight from warehouse to the customer), truck loading expenses, U.S. barging expenses, and post-sale warehousing expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit costs), and indirect selling expenses (including inventory carrying costs).

In addition, pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. We calculated the CEP-profit ratio for Tagil using the financial data reflected on the income statement of a Turkish producer of steel. For further discussion of the financial statements of this surrogate producer, see the "Normal Value" section of this notice below.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market-economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that Poland, Venezuela, South Africa, Turkey, Colombia, and Tunisia are countries comparable to Russia in terms of overall economic development. See the August 9, 2001, memorandum from Jeffrey May, Director, Office of Policy to Laurie Parkhill, Office Director, Group 1, Office 3 (Policy Memorandum).

According to the available information on the record, we have determined that South Africa meets the statutory requirements for an appropriate surrogate country for Russia. For purposes of the preliminary determination, we have selected, except where noted, South Africa as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using South African values for the Russian producer's factors of production. We have obtained and relied upon publicly available information wherever possible.

2. Factors of Production

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by Tagil for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available South African surrogate values.

For purposes of calculating NV, we valued Russian factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. For a more detailed explanation of the methodology used in calculating various surrogate values, see the "Preliminary Determination Factors Valuation Memorandum from senior analyst to the File," dated December 19, 2001. In accordance with this methodology, we valued the factors of production as follows.

In selecting the surrogate values, we considered the availability, quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to South African surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corporation* v. *United States*, 117 F. 3d 1401, 1407–08 (Fed. Cir. 1997). Where a producer did not report the distance between the material supplier and the factory, we used as facts available the longest distance reported (*i.e.*, the distance between the Russian seaport and the producer's location). To value rail freight rates, we used a rate for aluminum slabs or ingots provided by Spoornet, a South African rail company. As we were unable to identify a surrogate value for freight by truck, we valued trucking freight expenses using the surrogate value for rail freight. For those values not contemporaneous with the POI, we adjusted for inflation using producer price indices or wholesale price indices published in the International Monetary Fund's *International Financial Statistics*.

We valued the following inputs using the Commodity Trade Statistics Section of the United Nation's Harmonized System import data for South Africa: lime/limestone, iron from ore, iron pellets, coal, ferromanganese, and silicomanganese.

We valued the following inputs using the official South African import statistics obtained from the Trade Statistics data service: ferrosilicon, aluminum, magnesium powder, and silicocalcium.

We valued scrap using information based on import data from the *World Trade Atlas*.

In its October 9, 2001, submission, the respondent calculated a scrap value of $33.00 per metric ton based on imports of this input into South Africa. In its October 9, 2001, submission, the petitioners based scrap-value information on exports of steel scrap from South Africa to various market-economy countries.

The petitioners argue in their November 14, 2001, submission that the Department should refrain from using the respondent's scrap value because the per-unit value for scrap is aberrational. According to the petitioners, the figure used by the respondent represents only 1,525 metric tons of imports, which the petitioners argue is an extremely low volume of steel. See petitioners' November 14, 2001, submission at page 2. In contrast, the respondent argues in its October 19, 2001, submission that the Department's practice is to refrain from using export statistics as a basis for calculating surrogate values when other data are available.

We agree with the petitioners that the respondent's scrap value is aberrational because of the extreme low volume of steel imports to South Africa. We also agree with the respondent that our practice is to refrain from using export statistics as a basis for calculating surrogate values when other data are available. Therefore, because we cannot base the scrap value on imports of steel scrap to South Africa, we have determined that it is appropriate to seek information from other steel-producing countries. Specifically, we attempted to seek scrap-value information from the surrogate countries listed in the August 9, 2001, Policy Memorandum.

We examined whether countries listed on the Policy Memorandum such as Poland, Venezuela, Turkey, Colombia, and Tunisia produced structural steel beams. Based on the *Iron and Steel Works of the World*, 13th Edition, we found that Poland is the only country that produces steel beams. Therefore, we attempted to seek scrap-value information based on imports from this country. We were able to find scrap-value information based on imports from Poland. Specifically, we used data from the *World Trade Atlas* to value scrap. Therefore, because Poland is a market economy and is currently at a level of economic development comparable to Russia as demonstrated by its gross national product, we valued scrap using import statistics from Poland.

We valued both natural gas and heavy oil using data from the International Energy Agency. We valued electricity using the POI electricity rate charged to large industrial users by Eskom, a South African electric utility company.

We valued packing costs using the packing-cost factor presented by Highveld Steel and Vanadium Corporation Ltd. ("Highveld Steel") in case A–791–811 in the September 12, 2001, public-version submission at exhibit B–3. Although this value is a ranged value, we find that it is the most indicative factor for packing expenses because Highveld Steel is the sole producer of steel beams in South Africa. The packing-cost factor includes materials, labor, and transport services. Therefore, we did not use any packing material and packing labor amounts submitted by the respondent in our packing-cost calculation.

We valued labor based on a regression-based wage rate in accordance with 19 CFR 351.408(c)(3).

Based on the information submitted by Tagil, we have determined that slag, small coke, waste, and vanadium are by-products. Because they are by-products, we subtracted the sales revenue of slag, coke by-product, waste, and vanadium from the estimated production costs of structural steel beams. This treatment of by-products is consistent with generally accepted accounting principles. See *Cost Accounting: A Managerial Emphasis (1991)* at pages 539–544. We used a South African price quote to value slag, waste, and vanadium and the United Nation's Harmonized System data to value coke by-product.

With respect to the valuation of factory overhead, selling, general and administrative expenses ("SG&A"), and profit, we considered the information on the record submitted by both the petitioners and the respondent for this purpose.

In its October 9, 2001, submission, the petitioners provided a copy of the 2000 annual financial statement of Anglo American plc, the parent company of Highveld Steel, the only South African producer of structural steel beams. In its October 9, 2001, submission, the respondent provided a copy of the 2000 Annual Report of Highveld Steel.

In its October 19, 2001, submission, the respondent argues that the consolidated financial statements of Anglo American should not be used because they do not provide a reasonable basis for evaluating the experience of South African steel beams producers. According to the respondent, there are too many industries included within the Anglo American financial statements. Therefore, for these reasons, the respondent argues that the data in Anglo American's financial statements do not provide an appropriate basis to calculate surrogate ratios for overhead, SG&A, and profit as a reasonable estimate of the steel beam industry in South Africa.

In its November 14, 2001, submission, the petitioners argue that Highveld Steel's financial statement is not a suitable basis for calculating factory overhead, SG&A, and profit ratios because it does not separately identify all SG&A expenses from its cost of sales. According to the petitioners, the inability to separate out SG&A items from employees' remuneration and other cost of sales renders Highveld Steel's financial statement unusable for

VOL 66 ISS 249 DE 28 2001 UMI

purposes of calculating an SG&A ratio. Therefore, for these reasons, the petitioners argue that the Department should rely on Highveld Steel's parent company's financial statements as the basis for calculating factory overhead, SG&A, and profit ratios.

We agree with the respondent that the Anglo American financial statements would not provide a reasonable basis for calculating overhead, SG&A, and profit ratios because the data includes information from businesses and industries dissimilar to the experience of a South African steel beams producer. We also agree with the petitioners that we cannot rely on Highveld Steel's financial statements because it is unclear which elements of Highveld Steel's financial statement constitute SG&A costs. Therefore, since Highveld Steel is the only steel beam producer in South Africa, we have determined that it is appropriate to seek information from other steel-producing countries. Specifically, we attempted to seek financial information from the surrogate countries listed in the Policy Memorandum.

We examined whether countries listed in the memorandum such as Poland, Turkey, Venezuela, Colombia, and Tunisia produced structural steel beams. Based on the *Iron and Steel Works of the World*, 13th Edition, we found that Poland is the only country that produces steel beams. Specifically, we found that Huta Katowice SA is a steel beams producer in Poland. Therefore, we attempted to seek financial information from this company. We were unsuccessful, however, in finding any financial information from this company that would provide an appropriate basis for calculating factory overhead, SG&A, and profit ratios. Because we could not find any financial information concerning production in South Africa or Poland, we have determined that it is appropriate to seek financial information from a steel producer (a non-steel beams producer) in South Africa. Based on the *Iron and Steel Works of the World*, 13th Edition, we found that there are several steel producers in South Africa. We attempted to seek financial information from these steel companies and were unsuccessful in finding any financial information. We then examined whether we could find financial information from steel-producing companies in Poland. We were unsuccessful in finding any financial information from steel producing companies in Poland.

We then examined whether we could find financial information from steel-producing companies in Turkey that would provide the most appropriate base for valuing factory overhead, SG&A, and profit ratios. Based on the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Hot-Rolled, Flat-Rolled, Carbon-Quality Steel Products From the Russian Federation*, 64 FR 9312–9318 (February 25, 1999) (*Hot-Rolled*), we found that, in that case, to value overhead, SG&A expenses, and profit ratios, we used public information reported in the 1997 financial statements of Eregli Demir ve Celik Fabrikalari TAS ("Erdemir"), a Turkish steel producer. Because Turkey is currently at a level of economic development comparable to the Russian Federation as demonstrated by its per-capita GNP and its national distribution of labor, we find it appropriate to use Turkey as a surrogate country to value factory overhead, SG&A, and profit. See Policy Memorandum. Therefore, for purposes of this preliminary determination, we have used this company's financial statements to calculate the factory overhead, SG&A, and profit ratios. However, we welcome interested parties to comment on our determination to use Turkey as a surrogate country and Erdemir's fiscal 1997 financial statements as the basis for calculating factory overhead, SG&A, and profit.

Currency Conversions

We made currency conversions, in accordance with section 773A(a) of the Act, based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Verification

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the CEP, as indicated in the chart below. The suspension-of-liquidation instruction will remain in effect until further notice. The weighted-average dumping margin is as follows:

Exporter/manufacturer	Weighted-average margin percentage
Tagil	165.00
Russia-Wide Rate	165.00

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–31989 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–810]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Structural Steel Beams From Luxembourg

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value.

SUMMARY: We preliminarily determine that structural steel beams from Luxembourg are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. Because we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Margarita Panayi, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–0049, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce ("Department's") regulations are to the regulations at 19 CFR part 351 (April 2001).

Background

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan*, 66 FR 33048 (June 20, 2001)) ("*Initiation Notice*"), the following events have occurred.

On July 9, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of structural steel beams from Luxembourg are materially injuring the United States industry (*see* ITC Investigation Nos. 731–TA–935–942 (Publication No. 3438)).

On July 26, 2001, we selected the largest producer/exporter of structural steel beams from Luxembourg as the mandatory respondent in this proceeding. For further discussion, see Memorandum to Susan H. Kuhbach, Senior Director Office 1, from The Team Re: Respondent Selection dated July 26, 2001. We subsequently issued the antidumping questionnaire to ProfilARBED, S.A. ("ProfilARBED") on July 26, 2001.

We received section A, B, and C questionnaire responses from ProfilARBED during August and September 2001. Based on our analysis of the responses, we determined that the Luxembourg home market was not viable and that sales to Germany, the largest third-country market, should be reported and used for calculating normal value ("NV"). Further, as the Department stated in the *Initiation Notice*, in the event German sales were to be used for NV, a sales-below-cost investigation would be initiated. Therefore, we also requested that ProfilARBED complete a section D questionnaire response (*see* October 10, 2001, supplemental questionnaire and "Home Market Viability" section below).

We issued and received responses to our supplemental questionnaires from October through December 2001.

On September 25, 2001, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination. We granted this request on October 2, 2001, and postponed the preliminary determination until no later than November 30, 2001. (*See Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 51639 (October 10, 2001).) On October 30, 2001, the petitioners made another timely request to postpone the preliminary determination for an additional 19 days. We granted this request on October 31, 2001, and postponed the preliminary determination until no later than December 19, 2001. (*See Notice of Postponement of Preliminary Antidumping Duty Determinations: Structural Steel Beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain and Taiwan*, 66 FR 56078 (November 6, 2001).)

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on November 21, 2001, ProfilARBED requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) ProfilARBED accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting ProfilARBED's request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of Investigation

The scope of these investigations covers doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated, or clad. These structural steel beams include, but are not limited to, wide-flange beams ("W" shapes), bearing piles ("HP" shapes), standard beams ("S" or "I" shapes), and M-shapes. All the products that meet the physical and metallurgical descriptions provided above are within the scope of these investigations unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of these investigations: (1) Structural steel beams

VOL 66 ISS 249 DE 28 2001 UMI

greater than 400 pounds per linear foot, (2) structural steel beams that have a web or section height (also known as depth) over 40 inches, and (3) structural steel beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings; however, if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, and 7228.70.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice (see* 66 FR 33048–33049). Interested parties submitted such comments by July 10, 2001. Additional comments were subsequently submitted by interested parties.

Pursuant to the Department's solicitation of scope comments in the *Initiation Notice*, interested parties in this and the concurrent structural steel beams investigations request that the following products be excluded from the scope of the investigations: (1) Beams of grade A913/65 and (2) forklift mast profiles.

With respect to the scope-exclusion requests for the A913/65 beam and forklift mast profiles, the interested parties rely upon 19 CFR 351.225(k)(2) and reason that, in general, these products differ from the structural steel beams covered by the scope of the investigations in terms of physical characteristics, ultimate uses, purchaser expectations, channels of trade, manner of advertising and display and/or price. They also argue that these products are not produced by the petitioners.

In considering whether these products should be included within the scope of the investigations, we analyzed the arguments submitted by all of the interested parties in the context of the criteria enumerated in the court decision *Diversified Products Corp.* v. *United States*, 572 F. Supp. 883, 889 (CIT 1983) ("*Diversified*"). For these analyses, we relied upon the petition, the submissions by all interested parties, the International Trade Commission's ("ITC") preliminary determination, and other information.

After considering the respondent's comments and the petitioners' objections to the exclusion requests regarding the A913/65 beam, we find that the description of this grade of structural steel beam is dispositive such that further consideration of the criteria provided in their submissions is unnecessary. Furthermore, the description of the merchandise contained in the relevant submissions pertaining to this grade of beam does not preclude this product from being within the scope of the investigations. Accordingly, we preliminarily determine that the A913/65 beam does not constitute a separate class or kind of merchandise and, therefore, falls within the scope as defined in the petition.

With respect to forklift mast profiles, having considered the comments we received from the interested parties and the criteria enumerated in *Diversified*, we find that the profiles in question, being doubly-symmetric and having an I-shape, fall within the scope of the investigations. These profiles also meet the other criteria included in the scope language contained in the petition. While the description by the interested party requesting the exclusion indicates some differences, such as in price, between forklift mast profiles and structural steel beams, these differences are not sufficient to recognize forklift mast profiles as a separate class or kind of merchandise. However, given these differences between forklift mast profiles and structural steel beams, we preliminarily determine that forklift mast profiles should be separately identified for model-matching purposes.

We also received a scope-exclusion request by an interested party for fabricated steel beams. This request was subsequently withdrawn pursuant to an agreement with the petitioners to clarify the scope language by adding that "* * * beams that have additional weldments, connectors or attachments to I-sections, H-sections, or pilings are outside the scope definition." However, "* * * if the only additional weldment, connector or attachment on the beam is a shipping brace attached to maintain stability during transportation, the beam is not removed from the scope definition by reason of such additional weldment, connector or attachment." Accordingly, we modified the scope definition to account for this clarification. *See* the "Scope" section above.

We have addressed these scope-exclusion requests in detail in a Memorandum to Louis Apple and Laurie Parkhill, Directors, AD/CVD Enforcement Group I, Offices 2 and 3, respectively, from The Structural Steel Beams Teams Re: Scope Exclusion Requests, dated December 19, 2001.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of structural steel beams from ProfilARBED to the United States were made at less than fair value ("LTFV"), we compared the constructed export price ("CEP") to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average CEPs to weighted-average NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by ProfilARBED in Germany during the POI that fit the description in the "Scope of Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales made in the third country, where appropriate. Where there were no sales of identical merchandise in the third country made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by ProfilARBED in the following order of importance: form; shape/size (section depth); strength/grade; and coating.

ProfilARBED reported different forms in the home market for beams that had "special finishing" and it reported different strength/grades in the home market for beams that had different notch-toughness requirements. ProfilARBED did not demonstrate that the hot-formed beams with "special finishing" should be distinguished from other hot-formed beams. Neither did ProfilARBED demonstrate that the grades that had different notch-toughness requirements should be distinguished from other beams that had the same grade (but not the notch-toughness requirements). Therefore, we did not differentiate the forms either on the basis of "special finishing" or on the basis of notch toughness.

Constructed Export Price

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. In this case, all U.S. sales of merchandise produced by ProfilARBED are made in the United States by TradeARBED Inc. ("TANY"), which is a seller affiliated with ProfilARBED.

We based CEP on the packed FOB or CIF prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors. We made deductions for rebates, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these expenses included, where appropriate, foreign inland freight, foreign brokerage and handling, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (freight from port to warehouse) and U.S. storage expenses. In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit costs) and indirect selling expenses (including inventory carrying costs).

We recalculated ProfilARBED's indirect selling expenses incurred by its U.S. affiliate to reflect the expense rate for the POI rather than the fiscal year, based on the information provided in ProfilARBED's December 11, 2001, submission. ProfilARBED reported most U.S. sales data on a theoretical-weight basis. We adjusted these data to state them on an actual-weight basis.

For those U.S. sales which ProfilARBED did not report a date of payment, we have used the signature date of the preliminary determination (*i.e.*, December 19, 2001) in the calculation of imputed credit expenses. In addition, we recalculated ProfilARBED's U.S. interest rate on a 365-day basis, rather than the 360-day basis reported, and recalculated the imputed interest expense accordingly. (*See* Memorandum entitled "U.S. Imputed Interest Rate Recalculation" dated December 19, 2001.)

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by ProfilARBED and its U.S. affiliate on their sales of the subject merchandise in the United States and the foreign like product in Germany and the profit associated with those sales.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared ProfilARBED's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

In this case, we determined that ProfilARBED's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Specifically, the vast majority of ProfilARBED's sales were made to an affiliated reseller whose inventory includes products from affiliated and unaffiliated suppliers in other countries, the origin of which cannot be readily identified. Because most of the sales to the affiliated reseller are eventually re-sold to non-Luxembourg customers, and those made to Luxembourg customers cannot be specifically identified as Luxembourg-produced merchandise, ProfilARBED's sales to the affiliated reseller cannot be relied upon for purposes of determining home market viability. Therefore, we used sales to the largest third country ("Germany") as the basis for comparison-market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404 (*see* the Department's October 10, 2001 supplemental questionnaire at pages 1–2).

B. Affiliated-Party Transactions and Arm's-Length Test

The Department's standard practice with respect to the use of third country sales to affiliated parties for NV is to determine whether such sales are at arm's-length prices. Therefore, in accordance with that practice, we performed an arm's-length test on ProfilARBED's sales to affiliates.

Sales to affiliated customers in the third country not made at arm's-length prices are excluded from our analysis because they are made outside the ordinary course of trade. *See* 19 CFR 351.102. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c). In instances where no price ratio could be constructed for an affiliated customer because identical merchandise was not sold to unaffiliated customers, we were unable to determine that these sales were made at arm's-length prices and, therefore, excluded them from our LTFV analysis. *See Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 58 FR 37062, 37077 (July 9, 1993). Where the exclusion of such sales eliminated all sales of the most appropriate comparison product, we made a comparison to the next most similar model.

In accordance with 19 CFR 351.403(d), where the respondent's sales to its affiliates constituted at least five percent of the total home-market sales, and these sales failed the arm's-length test, we normally use the sales made by the affiliates to unaffiliated customers in our analysis. Accordingly, we requested ProfilARBED to report these resales.

As discussed in several of its submissions, particularly its October 1, 2001, and November 28, 2001, submissions, ProfilARBED claims that its record-keeping system used in the ordinary course of business does not permit ProfilARBED to track its downstream resales from the mill to the ultimate unaffiliated purchaser. According to ProfilARBED, the information is not recorded electronically and to track the information manually would be extremely burdensome and time-consuming.

For purpose of the preliminary determination, we have accepted ProfilARBED's claim that, even acting to the best of its ability, it could not provide the requested information for the large number of sales in question in

VOL 66 ISS 249 DE 28 2001 UMI

the time available. Therefore, for the preliminary determination, we have calculated NV based on the sales to unaffiliated customers and affiliated customers which passed the arm's length-test. We will examine ProfilARBED's claim during verification.

The petitioners submitted additional comments regarding this topic on December 12 and 14, 2001. We received these comments too late for consideration in this preliminary determination. We will consider these comments for the final determination.

C. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of structural steel beams in the third country were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice*, 66 FR 33048, 33051).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and third country packing costs (*see* "Test of Third Country Sales Prices" section below for treatment of third country selling expenses). We relied on the COP data submitted by ProfilARBED except in the following instances:

A. We adjusted the values of electricity, capital leasing and natural gas purchased from affiliated parties to reflect the higher of transfer price, market price or the supplier's COP, in accordance with sections 773(f)(2) and (3) of the Act.

B. We revised the G&A rate to include exchange gains and losses on accounts payable in the numerator of the calculation and to exclude packing expenses from the denominator of the calculation.

C. We revised the financial expense rate to exclude short-term interest income offsets for dividends and trade receivables.

D. We revised the denominator in the consolidated financial expense rate calculation to reflect cost of goods sold rather than raw materials.

See Memorandum from Heidi Norris to Neal Halper, Director Office of Accounting, dated December 19, 2001, Re: Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination.

2. Test of Third Country Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the third country sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses. In determining whether to disregard third country market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of the respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI are at prices less than the COP, we disregard those sales of that product, because we determine that in such instances the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of third country sales during the POI were at prices less than the COP and, in addition, the below-cost sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions,[2] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOT for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[3], we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, 243 F.3d 1301 (Fed. Cir. March 7, 2001).

When the Department is unable to find sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affected price comparability (*i.e.* no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common structural steel beams selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

We obtained information from ProfilARBED regarding the marketing stages involved in making the reported third country and U.S. sales, including a description of the selling activities performed by ProfilARBED for each channel of distribution. ProfilARBED's LOT findings are summarized below.

We examined the chain of distribution and the selling activities associated with sales reported by ProfilARBED to distributors in the German market. ProfilARBED's sales to different distributors did not differ from each other with respect to selling activities (*e.g.* market research, advertising and promotion, technical services, sales calls and demonstrations). Based on our overall analysis, we found that all of ProfilARBED's sales to distributors constituted one LOT.

In the U.S. market, ProfilARBED reported CEP sales only. Therefore, we treated all of ProfilARBED's U.S. sales as sales to an affiliated importer (*i.e.*, at the constructed, or CEP, LOT) and found only one LOT. This CEP LOT differed considerably from the German market LOT in that ProfilARBED reported a lower intensity of selling activities associated with market research, advertising, technical service, sales calls and demonstrations, and warranties for the CEP LOT than the German market LOT. We found the CEP LOT to be different from the German market LOT and to be at a less advanced stage of distribution than the German market LOT. Consequently, we could not match CEP sales to sales at the same LOT in the German market, nor could we determine a LOT adjustment based on ProfilARBED's sales to Germany. Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment.

Because there is only one LOT in the German market, it is not possible to determine if there is a pattern of consistent price differences between the sales on which NV is based and German market sales at the LOT of the export transaction. Accordingly, because the data available do not form an appropriate basis for making a LOT adjustment but the German market LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act. The CEP offset is calculated as the lesser of: (1) The indirect selling expenses on the German market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on delivered prices to unaffiliated customers or prices to affiliated customers that we determined to be at arm's-length. We made deductions, where appropriate, from the starting price for discounts and rebates. We also made deductions for movement expenses, including inland freight, under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for warranties. ProfilARBED reported some German sales data on a theoretical-weight basis. We adjusted these data to state them on an actual-weight basis.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted third country packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act. Finally, for comparisons to CEP sales, we made a CEP offset pursuant to section 773(a)(7)(B) of the Act and 19 CFR 351.412(f). We calculated the CEP offset as the lesser of the indirect selling expenses on the comparison-market sales or the indirect selling expenses deducted from the starting price in calculating CEP.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds CEP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-Average margin percentage
ProfilARBED	2.40
All Others	2.40

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted to the Department no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for

Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 19, 2001.

Bernard T. Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01-32000 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121801G]

Pacific Fishery Management Council; Public Meetings and Hearings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings and hearings.

SUMMARY: The Pacific Fishery Management Council (Council) will hold public hearings to receive public comment on the draft fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries. This notice announces the dates and locations of these public hearings. The draft FMP will be available after December 31, 2001.

DATES: Public hearings will be held January 28–February 4, 2002 at seven West Coast locations. See **SUPPLEMENTARY INFORMATION** for specific date and time information.

ADDRESSES: Documents will be available from and written comments should be sent to Dr. Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; phone: 503-326-6352 or fax: 503-326-6831. For specific meeting and hearing locations, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dan Waldeck; phone: 503-326-6352.

SUPPLEMENTARY INFORMATION: Public hearings will be held to receive comments on the draft FMP at the following locations and times:

January 28, 2002, 4 p.m.: Natural Resources Building, 1111 Washington Street, Room 172, Olympia, WA 98501.

January 29, 2002, 7 p.m.: Red Lion Inn, Pacific Room, 400 Industry, Astoria, OR 97103.

January 30, 2002, 7 p.m.: Red Lion Hotel, South Umpqua Room, 1313 N Bayshore Drive, Coos Bay, OR 97420.

January 31, 2002, 7 p.m.: Red Lion Hotel Eureka, Evergreen Room, 1929 Fourth Street, Eureka, CA 95501.

February 1, 2002, 7 p.m.: Moss Landing Community Center, 8071 Moss Landing Road, Moss Landing, CA 95039.

February 2, 2002, 11 a.m.: Hilton Port of Los Angeles/San Pedro, Terrasini Room, 2800 Via Cabrillo Marina, San Pedro, CA 90731.

February 4, 2002, 7 p.m.: Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA 92109.

The public may also provide oral and written comments on the draft FMP during the March 2002 Council meeting, which will be held March 11-15, 2002 at the Red Lion Hotel Sacramento, 1401 Arden Way, Sacramento, CA 95815. At that time, the Council is scheduled to take final action on the HMS FMP.

Although non-emergency issues not contained in this hearing notice may arise for discussion, those issues may not be the subject of formal action during these hearings. Action will be restricted to those issues specifically listed in this document and to any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-326-6352 (voice), or 503-326-6831 (fax) at least 5 days prior to the meeting date.

Dated: December 19, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01-31974 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121901C]

Permits; Foreign Fishing

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of foreign fishing applications.

SUMMARY: NMFS publishes for public review and comment a summary of applications submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone (EEZ) in 2002 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

ADDRESSES: Comments may be submitted to NMFS, Office of Sustainable Fisheries, International Fisheries Division, 1315 East-West Highway, Silver Spring, MD 20910; and/or to the Regional Fishery Management Councils listed here:

Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01905, Phone (978) 465-0492, Fax (978) 465-3116;

Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building, Room 2115, 300 South New Street, Dover, DE 19904, Phone (302) 674-2331, Fax (302) 674-4136.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713-2276.

SUPPLEMENTARY INFORMATION: In accordance with a Memorandum of Understanding with the Secretary of State, NMFS publishes, for public review and comment, summaries of applications received by the Secretary of State requesting permits for foreign fishing vessels to fish in the U.S. EEZ under provisions of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*).

This notice concerns the receipt of two applications from the Government of the Russian Federation requesting authorization to conduct joint venture (JV) operations in 2001 in the Northwest Atlantic Ocean for Atlantic herring and Atlantic mackerel. The stern trawler/processors KAPITAN GORBACHEV, PATROKL and RYBACHIY are identified as the Russian vessels that would receive Atlantic herring and Atlantic mackerel from U.S. vessels in

JV operations. The applications also request allocations totaling 4,500 metric tons (mt) of Atlantic herring and 3,500 mt of Atlantic mackerel for harvest by the named vessels in 2001.

Dated: December 20, 2001.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 01-31975 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-22-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong; Correction

December 20, 2001

In the letter to the Commissioner of Customs published in the Federal Register on December 5, 2001 (66 FR 63219), on page 63220, 2nd column, in the table listing import restraint limits, categories 331pt. and 631pt. were inadvertently omitted from the list of categories covered under Group II. A letter has been sent to the Commissioner of Customs to add these categories to the categories listed under Group II.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01-31888 Filed 12-27-01; 8:45 am]

BILLING CODE 3510-DR-S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China and and Amendment of Export Visa and Certification Requirements for Textiles and Textile Products Integrated into GATT 1994 in the First, Second and Third Stage

December 20, 2001

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing the 2002 limits and amending visa requirements.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927-5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in China and exported during the period January 1, 2002 through December 31, 2002 are based on limits to be notified to the Textiles Monitoring Body pursuant to the World Trade Organization (WTO) Agreement on Textiles and Clothing (ATC).

The ATC provides for the staged integration of textiles and textile products into the General Agreement on Tariffs and Trade (GATT) 1994. For WTO members, the first stage of the integration took place on January 1, 1995 and the second stage took place on January 1, 1998. The products to be integrated in each stage were announced on April 26, 1995 (see 60 FR 21075, published on May 1, 1995 and 63 FR 53881, published on October 7, 1998).

The third stage of the integration will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). The United States will implement the first three stages of integration for China on that date. Accordingly, certain previously restrained categories have been modified and their limits have been revised, and other categories have been eliminated. Integrated products will no longer be subject to quota. This directive implements stages one, two and three of integration and agreed annual growth, but does not apply accelerated growth. CITA will amend China's quotas by applying accelerated quota growth at a later date.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

The United States will not maintain quota and visa requirements on textiles and textile products that were integrated in stages one, two and three, that were produced or manufactured in China and exported on or after December 11, 2001 (for products integrated in stages one and two), and January 1, 2002 (for products integrated in stage three). In the letter published below, the Chairman of CITA directs the Commissioner of Customs to eliminate existing quota and visa requirements for textiles and textile products that were integrated for WTO members on January 1, 1995 and January 1, 1998, and exported on or after December 11, 2001, produced or manufactured in China (see 66 FR 63225, published on December 5, 2001). The letter also directs the Commissioner to eliminate existing quota and visa requirements for textiles and textile products that were integrated on January 1, 2002, and exported on and after that date. The existing quota and visa requirements for China will be maintained for goods exported prior to integration. Goods integrated in stages one, two and three will no longer require exempt certification.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 2001

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in China and exported during the twelve-month period beginning on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

VOL 66 ISS 249 DE 28 2001 UMI

Category	Twelve-month limit
Group I	
200, 218, 219, 226, 237, 300/301, 313–315, 317/326, 331pt. [1], 333–336, 338/339, 340–342, 345, 347/348, 351, 352, 359–C [2], 359–V [3], 360–363, 410, 433–436, 438, 440, 442–444, 445/446, 447, 448, 611, 613–615, 617, 631pt. [4], 633–636, 638/639, 640–643, 644, 645/646, 647, 648, 651, 652, 659–C [5], 659–H [6], 659–S [7], 666pt. [8], 845 and 846, as a group.	1,166,909,854 square meters equivalent.
Sublevels in Group I	
200	806,465 kilograms.
218	11,894,852 square meters.
219	2,615,324 square meters.
226	11,875,471 square meters.
237	2,208,501 dozen.
300/301	2,392,195 kilograms.
313	44,497,362 square meters.
314	53,482,625 square meters.
315	139,869,297 square meters.
317/326	23,574,649 square meters of which not more than 4,510,294 square meters shall be in Category 326.
331pt.	2,182,262 dozen pairs.
333	108,322 dozen.
334	340,681 dozen.
335	394,153 dozen.
336	187,293 dozen.
338/339	2,369,131 dozen of which not more than 1,798,430 dozen shall be in Categories 338–S/339–S [9].
340	811,310 dozen of which not more than 405,653 dozen shall be in Category 340–Z [10].
341	702,993 dozen of which not more than 421,796 dozen shall be in Category 341–Y [11].
342	277,424 dozen.
345	129,808 dozen.
347/348	2,360,641 dozen.
351	616,145 dozen.
352	1,670,292 dozen.
359–C	668,278 kilograms.
359–V	945,532 kilograms.
360	8,568,821 numbers of which not more than 5,844,764 numbers shall be in Category 360–P [12].
361	4,653,809 numbers.
362	7,691,848 numbers.
363	22,606,232 numbers.
410	1,029,319 square meters of which not more than 825,111 square meters shall be in Category 410–A [13] and not more than 825,111 square meters shall be in Category 410–B [14].
433	21,166 dozen.
434	13,533 dozen.
435	24,856 dozen.
436	15,313 dozen.
438	26,797 dozen.
440	38,285 dozen of which not more than 21,876 dozen shall be in Category 440–M [15].
442	40,526 dozen.
443	130,926 numbers.
444	213,186 numbers.
445/446	288,910 dozen.
447	71,682 dozen.
448	22,613 dozen.
611	5,842,402 square meters.
613	8,266,993 square meters.
614	12,990,987 square meters.
615	27,044,876 square meters.
617	18,895,981 square meters.
631pt.	316,495 dozen pairs.
633	61,450 dozen.
634	668,535 dozen.
635	705,188 dozen.
636	569,258 dozen.
638/639	2,510,680 dozen.
640	1,407,471 dozen.
641	1,333,287 dozen.
642	365,581 dozen.
643	541,130 numbers.
644	3,610,330 numbers.
645/646	830,040 dozen.
647	1,618,411 dozen.
648	1,156,344 dozen.
651	829,339 dozen of which not more than 146,011 dozen shall be in Category 651–B [16].
652	3,060,771 dozen.
659–C	439,060 kilograms.
659–H	3,066,720 kilograms.
659–S	672,958 kilograms.
666pt.	514,992 kilograms.
845	2,474,275 dozen.
846	184,534 dozen.
Group II	
332, 359–O [17], 459pt. [18] and 659–O [19], as a group.	40,686,683 square meters equivalent.
Group III	
201, 220, 224–V [20], 224–O [21], 225, 227, 369–O [22], 400, 414, 469pt. [23], 603, 604–O [24], 618–620 and 624–629, as a group.	48,037,946 square meters equivalent.
Sublevel in Group III	
224–V	3,934,899 square meters.
225	6,788,450 square meters.
Group IV	
852	367,732 square meters equivalent.
Levels not in a Group	
369–S [25]	617,516 kilograms.
863–S [26]	8,792,197 numbers.

---

[1] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[5] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[6] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[7] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[8] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

[9] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[10] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[11] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[12] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[13] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[14] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.3030, 5112.11.3060, 5112.11.6030, 5112.11.6060, 5112.19.6010, 5112.19.6020, 5112.19.6030, 5112.19.6040, 5112.19.6050, 5112.19.6060, 5112.19.9510, 5112.19.9520, 5112.19.9530, 5112.19.9540, 5112.19.9550, 5112.19.9560, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[15] Category 440–M: only HTS numbers 6203.21.9030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[16] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[17] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070 (Category 359–V); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[18] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[19] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540.

[20] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[21] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[22] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22 8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.21.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.0020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[23] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[24] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[25] Category 369–S: only HTS number 6307.10.2005.

[26] Category 863–S: only HTS number 6307.10.2015.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products exported during 2001 shall be charged to the applicable category limits for that year (see directive dated December 20, 2000) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive. You are also directed to amend the directive dated December 20, 2000 (65 FR 81846, published on December 27, 2000).

Products to be integrated into the General Agreement on Tariffs and Trade (GATT) 1994 in stage three (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit. Products integrated into GATT 1994 in stages one and two which are exported prior to December 11, 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After that date, should those 2001 limits be filled, such products shall no longer be charged to any limit.

You are further directed to amend the current quota and visa requirements for certain textiles and textile products produced or manufactured in China and exported on or after December 11, 2001 and December 31, 2001.

Effective on January 1, 2002, for goods exported on or after December 11, 2001, quotas will be removed and export visas will not be required for textiles and textile products produced or manufactured in China that were integrated into GATT 1994 on January 1, 1995 and January 1, 1998 (see directive dated November 29, 2001, 66 FR 63225, published on December 5, 2001). Export visas will continue to be required for such products that were exported prior to December 11, 2001. Effective January 1, 2002, for goods exported on or after that date, quotas will be removed and export visas will not be required for textiles and textile products produced or manufactured in China that were integrated into GATT 1994 on January 1, 2002. Export visas will continue to be required by such products that were exported prior to January 1, 2002.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

D. Michael Hutchinson,

Acting Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31860 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bahrain; Correction

December 20, 2001

In the letter to the Commissioner of Customs published in the Federal Register on November 14, 2001 (66 FR 57042), on page 57043, 1st column, in the table listing import restraint limits, categories 845 and 846 were inadvertently omitted from the list of categories covered under Group I. A letter has been sent to the Commissioner of Customs to add these categories to the categories listed under Group I.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31889 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan and Amendment of Export Visa and Certification Requirements for Textiles and Textile Products Integrated into GATT 1994 in the First, Second and Third Stage

December 20, 2001

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits and amending visa requirements.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Taiwan and exported during the period January 1, 2002 through December 31, 2002 are based on limits that will be notified to the Textiles Monitoring Body pursuant to the World Trade Organization (WTO) Agreement on Textiles and Clothing (ATC). Taiwan will accede to the WTO on January 1, 2002.

The ATC provides for the staged integration of textiles and textile products into the General Agreement on Tariffs and Trade (GATT) 1994. For WTO members, the first stage of the integration took place on January 1, 1995 and the second stage took place on January 1, 1998. The products to be integrated in each stage were announced on April 26, 1995 (see 60 FR 21075, published on May 1, 1995 and 63 FR 53881, published on October 7, 1998).

The third stage of the integration will take place on January 1, 2002 (see 60 FR 21075, published on May 1, 1995). The United States will implement the first three stages of integration for Taiwan on that date. Accordingly, certain previously restrained categories have been modified and their limits have been revised. Certain other previously restrained categories have been eliminated. Integrated products will no longer be subject to quota. This directives implements stages one, two and three integration and agreed annual growth, but does not apply accelerated growth. CITA will amend Taiwan's quotas by applying accelerated growth at a later date.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2002 limits.

The United States will not maintain visa requirements on textiles and textile products that were integrated in stage one, two and three, that were produced or manufactured in Taiwan and exported on or after January 1, 2002. In the letter published below, the Chairman of CITA directs the Commissioner of Customs to eliminate existing visa requirements for textiles and textile products that were integrated on January 1, 1995, January 1, 1998 and January 1, 2002, and exported on or after January 1, 2002, produced or manufactured in Taiwan (see 66 FR 63225, published on December 5, 2001). The existing visa requirements for Taiwan will be maintained for goods exported prior to January 1, 2002. Integrated goods no longer require exempt certification. In addition, the Export Certification System (E/C System) for Taiwan is rescinded effective January 1, 2002.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 66 FR 65178, published on December 18, 2001).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 20, 2001

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2002, entry into the

United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Taiwan and exported during the twelve-month period which begins on January 1, 2002 and extending through December 31, 2002, in excess of the following levels of restraint:

Category	Twelve-month limit
Group I	
200–221, 224, 225/317/326, 226, 227, 300/301, 313–315, 360–363, 369–S[1], 369–O[2], 400–414, 469pt[3], 603, 604, 611, 613/614/615/617, 618, 619/620, 623, 624, 625/626/627/628/629 and 666pt[4], as a group.	205,611,995 square meters equivalent.
Sublevels in Group I	
218	23,326,223 square meters.
225/317/326	41,403,983 square meters.
226	7,513,501 square meters.
300/301	1,781,052 kilograms of which not more than 1,494,524 kilograms shall be in Category 300; not more than 1,494,524 kilograms shall be in Category 301.
363	12,329,235 numbers.
611	3,362,222 square meters.
613/614/615/617	20,852,171 square meters.
619/620	15,326,668 square meters.
625/626/627/628/629	19,943,616 square meters.
Group I subgroup	
200, 219, 313, 314, 315, 361, 369–S and 604, as a group.	153,118,428 square meters equivalent.
Within Group I subgroup	
200	753,714 kilograms.
219	17,153,795 square meters.
313	68,671,137 square meters.
314	30,555,457 square meters.
315	23,413,267 square meters.
361	1,514,047 numbers.
369–S	492,487 kilograms.
604	239,325 kilograms.
Group II	
237, 239pt[5], 331pt.[6], 332, 333/334/335, 336, 338/339, 340–345, 347/348, 351, 352/652, 359–C/659–C[7], 659–H[8], 359pt.[9], 433-438, 445/446, 447/448, 459pt.[10], 631pt.[11], 633/634/635, 636, 638/639, 640, 641–644, 645/646, 647/648, 651, 659–S[12], 659pt.[13], 846 and 852, as a group.	621,535,524 square meters equivalent.
Sublevels in Group II	
237	736,389 dozen.
239pt.	1,346,848 kilograms.
331pt.	143,982 dozen pairs.
336	125,460 dozen.
338/339	831,284 dozen.
340	1,123,393 dozen.
345	131,090 dozen.
347/348	1,064,931 dozen of which not more than 1,064,931 dozen shall be in Categories 347–W/348–W[14].
352/652	3,328,576 dozen.
359–C/659–C	1,447,633 kilograms.
659–H	2,069,969 kilograms.
433	15,701 dozen.
434	10,904 dozen.
435	25,889 dozen.
436	5,155 dozen.
438	29,095 dozen.
440	5,636 dozen.
442	43,871 dozen.
443	43,961 numbers.
444	62,611 numbers.
445/446	138,149 dozen.
633/634/635	1,634,440 dozen of which not more than 959,317 dozen shall be in Categories 633/634 and not more than 850,077 dozen shall be in Category 635.
638/639	6,565,058 dozen.
640	1,058,909 dozen of which not more than 281,710 dozen shall be in Category 640–Y[15].
642	777,133 dozen.
643	523,166 numbers.
644	798,870 numbers.
645/646	4,107,691 dozen.
647/648	5,248,544 dozen of which not more than 5,248,544 dozen shall be in Categories 647–W/648–W[16].
659–S	1,601,702 kilograms.
Group II Subgroup	
333/334/335, 341, 342, 351, 447/448, 636, 641 and 651, as a group.	72,524,979 square meters equivalent.
Within Group II Subgroup	
333/334/335	322,771 dozen of which not more than 174,835 dozen shall be in Category 335.
341	345,045 dozen.
342	215,550 dozen.
351	358,605 dozen.
447/448	21,454 dozen.
636	395,136 dozen.
641	733,276 dozen of which not more than 256,646 dozen shall be in Category 641–Y[17].
651	449,715 dozen.
Group III	
Sublevel in Group III	
845	854,623 dozen.

---

[1] Category 369–S: only HTS number 6307.10.2005.

[2] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); and 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9905, 6307.90.9982, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505 (Category 369pt.).

[3] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[4] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9984, 9404.90.8522 and 9404.90.9522.

[5] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[6] Category 331pt.: all HTS numbers except 6116.10.1720, 6116.10.4810, 6116.10.5510, 6116.10.7510, 6116.92.6410, 6116.92.6420, 6116.92.6430, 6116.92.6440, 6116.92.7450, 6116.92.7460, 6116.92.7470, 6116.92.8800, 6116.92.9400 and 6116.99.9510.

[7] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 359pt.: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010 (Category 359–C); 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060, 6505.90.2545.

[10] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[11] Category 631pt.: all HTS numbers except 6116.10.1730, 6116.10.4820, 6116.10.5520, 6116.10.7520, 6116.93.8800, 6116.93.9400, 6116.99.4800, 6116.99.5400 and 6116.99.9530.

[12] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[13] Category 659pt.: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010. 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510, 6406.99.1540.

[14] Category 347–W: only HTS numbers 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.22.3030, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.42.4050, 6203.42.4060, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–W: only HTS numbers 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.22.3050, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.62.4055, 6204.62.4065, 6204.69.6010, 6204.69.9010, 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[15] Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

[16] Category 647–W: only HTS numbers 6203.23.0060, 6203.23.0070, 6203.29.2030, 6203.29.2035, 6203.43.2500, 6203.43.3500, 6203.43.4010, 6203.43.4020, 6203.43.4030, 6203.43.4040, 6203.49.1500, 6203.49.2015, 6203.49.2030, 6203.49.2045, 6203.49.2060, 6203.49.8030, 6210.40.5030, 6211.20.1525, 6211.20.3820 and 6211.33.0030; Category 648–W: only HTS numbers 6204.23.0040, 6204.23.0045, 6204.29.2020, 6204.29.2025, 6204.29.4038, 6204.63.2000, 6204.63.3000, 6204.63.3510, 6204.63.3530, 6204.63.3532, 6204.63.3540, 6204.69.2510, 6204.69.2530, 6204.69.2540, 6204.69.2560, 6204.69.6030, 6204.69.9030, 6210.50.5035, 6211.20.1555, 6211.20.6820, 6211.43.0040 and 6217.90.9060.

[17] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products exported during 2001 shall be charged to the applicable category limits for that year (see directive dated February 15, 2001) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

Taiwanese products integrated into the General Agreement on Tariffs and Trade 1994 in stages one, two and three (listed in the Federal Register notice published on May 1, 1995, 60 FR 21075) which are exported during 2001 shall be charged to the applicable 2001 limits to the extent of any unfilled balances. After January 1, 2002, should those 2001 limits be filled, such products shall no longer be charged to any limit.

The conversion factors are as follows:

Category	Conversion factors (square meters equivalent/category unit)
333/334/335	33.75
352/652	11.3
359–C/659–C	10.1
633/634/635	34.1
638/639	12.5

You are also directed to amend the current visa requirements for certain textiles and textile products produced or manufactured in Taiwan and exported on or after January 1, 2002.

Effective on January 1, 2002, for goods exported on or after January 1, 2002, export visas and exempt certifications will not be required for textiles and textile products produced or manufactured in Taiwan that were integrated into the General Agreement on Tariffs and Trade (GATT) 1994 on January 1, 1995, January 1, 1998 and January 1, 2002 (see directive dated November 29, 2001). Export visas will continue to be required for products integrated on January 1, 2002 from Taiwan that were exported prior to January 1, 2002.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–31859 Filed 12–27–01; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by January 14, 2002.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or electronically mailed to internet address *Lauren.Wittenberg@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: December 21, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Grant Application for the FIPSE Comprehensive Program.

Abstract: The Comprehensive Program is a discretionary grant award program of the Fund for the Improvement of Postsecondary Education (FIPSE). Applications are submitted in two stages—preliminary and final. The Program supports innovative reform projects that hold promise as models for the resolution of important issues and problems in postsecondary education. Grants made under this program are expected to contribute new information in educational practice that can be shared with others. As its name suggests, the Comprehensive Program may support activities in any discipline, program, or student service. Nonprofit institutions and organization offering postsecondary education programs are eligible applicants. The Comprehensive Program has established a record of meaningful and lasting improvement to access and quality in postsecondary education.

Additional Information: Since the public last reviewed these guidelines, the Secretary has proposed to streamline them. You have until January 14 to send your related comments to OMB for their consideration.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,650.

Burden Hours: 19,500.

Requests for copies of the proposed information collection request should be directed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO.RIMG@ed.gov, or should be faxed to 202–708–9346.

Comments regarding burden and/or the collection activity requirements, contact Joseph Schubart at (202) 708–9266 or via his internet address Joe.Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–32024 Filed 12–27–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Mercer Ranch Power Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: This notice announces BPA's intention to prepare a joint National Environmental Policy Act (NEPA)/State Environmental Policy Act (SEPA) EIS in cooperation with the State of Washington Energy Facility Site Evaluation Council (EFSEC) for an electrical interconnection with a proposed power plant. BPA is the lead Federal agency under NEPA and EFSEC is the lead Washington State agency under SEPA. The Mercer Ranch Power Project is an 800-megawatt (MW) generating station proposed by Mercer Ranch Power LLC (MRP) that would be located between the communities of Paterson and Roosevelt in Benton County, Washington. MRP has requested an interconnection to BPA's transmission system that would allow power delivery to customers in the Pacific Northwest. A switchyard will be constructed to integrate power from the generating station into the Federal Columbia River Transmission System (FCRTS). BPA proposes to execute an agreement with MRP to provide the interconnection and transmission of power.

ADDRESSES: To be placed on the project mailing list, including notification of proposed meetings, call toll-free 1–800–622–4520, name this project, and leave your complete name and address. To comment, call toll-free 1–800–622–4519; send an e-mail to the BPA Internet address *comment@bpa.gov*; or send a letter to Communications, Bonneville Power Administration—KC–7, P.O. Box 12999, Portland, Oregon, 97212.

FOR FURTHER INFORMATION, CONTACT: Donald L. Rose, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–3796; or e-mail dlrose@bpa.gov. Additional information can be found at BPA's web site, *www.bpa.gov;* and EFSEC's web site, *www.efsec.wa.gov.*

SUPPLEMENTARY INFORMATION: The EIS will assess the environmental consequences of the proposed project, including:

- The proposed interconnection agreement with MRP;
- The construction and operation of the power plant;
- The construction and operation of less than one-half mile of natural gas pipeline to tie into Northwest Pipeline Corporation (NWP) pipeline;
- The construction and operation of an interconnection to the FCRTS consisting of:
  - Approximately one-half mile of 500-kilovolt (kV) transmission line; and
  - A new 500-kV switchyard (Crow Butte) linking the Mercer Ranch Power Project to one or more BPA 500-kV transmission lines.

Later this winter, one or more EIS scoping meetings will be held by BPA, EFSEC, and MRP to provide information on the project and associated BPA transmission interconnection and upgrades and to identify topics to be addressed in the EIS. A 45-day comment period will be announced, during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. A 30-day notice of the meeting(s), including time and location, will be provided to interested persons. At the meeting(s), BPA and EFSEC will answer questions and accept oral and written comments.

Receiving comments from interested parties will ensure BPA and EFSEC address the full range of issues and potentially significant impacts related to the proposed project in the EIS. When completed, the Draft EIS will be

VOL 66 ISS 249 DE 28 2001 UMI

circulated for review and comment. BPA and EFSEC will hold at least one public comment meeting on the Draft EIS. BPA and EFSEC will consider and respond in the Final EIS to comments received on the Draft EIS.

Proposed Action. MRP proposes to construct the Mercer Ranch Power Project, a new power plant in southwestern Benton County, Washington. The proposed capacity of the plant is nominally 800 MW, which brings the project under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC) for the State of Washington.

The MRP generating facility will be designed for a life of 40 years. The project is proposed to be constructed as a merchant plant for electric power generation, with generated power routed to the FCRTS.

The new power plant will be located on a site consisting of approximately 40 acres, adjacent to approximately 9,000 acres of irrigated cropland owned by Mercer Ranches, Inc. This site is located in unincorporated Benton County, near the border with Klickitat County. It is approximately 12 miles west of the unincorporated town of Paterson, Washington; 17 miles east of the unincorporated town of Roosevelt; and 2.5 miles north of the Columbia River. The project site is approximately 500 feet above sea level and 245 feet above the normal Columbia River elevation.

The sole fuel for the power generation facility will be pipeline-quality natural gas. Gas transportation services will be provided by the NWP natural gas transmission pipeline, which runs through the plant site. It is anticipated that the natural gas tie-in pipeline will be constructed and owned by MRP since it will be on land owned by MRP.

The power plant will include three individual generating units. Each unit will consist of one General Electric PG7241FA combustion turbine generator (CTG), one triple pressure reheat type Heat Recovery Steam Generator (HRSG) with natural gas supplementary firing capabilities, and one reheat Steam Turbine Generator (STG). The CTGs and the HRSG supplemental firing system will burn only natural gas. Additional equipment dedicated to each unit will include generator step-up transformers, electrical distribution gear, and all associated ancillary equipment. The plant will also use air-cooling technologies for condensing low-pressure steam. Water for plant operations will come from the Columbia River via existing surface water rights.

The Mercer Ranch power project would deliver electricity to the regional power grid through an interconnection to one or more BPA 500-kV transmission line near the plant. The interconnection and proposed upgrade to the transmission grid would include less than one-half mile of new 500-kV transmission line (approximately 2 to 3 towers) and a switchyard (Crow Butte) consisting of up to eight bays to be located east of Dead Canyon. The switchyard would connect the power plant to the existing Ashe-Slatt #1 transmission line and may intertie to the Ashe-Marion #2 500-kV transmission line and the proposed John Day-McNary 500-kV transmission line.

Responsibility for construction and operation of the power plant is principally with MRP. MRP would construct and own the interconnecting 500-kV transmission line. BPA would construct and operate the switchyard.

Process to Date. BPA is the lead Federal agency for the joint NEPA/SEPA EIS, and EFSEC is the lead Washington State agency. EFSEC has already held open houses introducing the MRP Project to interested parties in Benton County. MRP will prepare an Application for Site Certification and submit it to EFSEC in January 2002. The application will address the MRP Project in detail. BPA and EFSEC will conduct joint scoping meetings after receipt and preliminary review of the initial submission.

Alternatives Proposed for Consideration. Alternatives thus far identified for evaluation in the EIS are (1) the proposed actions, and (2) no action. Other alternatives may be identified through the scoping process.

Identification of Environmental Issues. EFSEC will prepare an EIS consistent with its responsibilities under Chapter 80.50 of the Revised Code of Washington and Chapter 197-11 of the Washington Administrative Code. BPA must make a decision whether to construct the proposed switchyard and interconnect the proposed power plant to the regional transmission grid. Therefore, BPA and EFSEC intend to prepare a joint NEPA/SEPA EIS addressing both the power plant and the associated electric power interconnection and transmission facilities. The principal issues identified thus far for consideration in the Draft EIS are (1) air quality impacts, (2) aesthetic and visual impacts, (3) socio-economic impacts, (4) wetlands and wildlife habitat impacts, (5) water quality impacts, and (6) cultural resource impacts. These issues, together with any additional significant issues identified through the scoping process, will be addressed in the EIS.

Issued in Portland, Oregon, on December 18, 2001.

Stephen J. Wright,

Acting Administrator and Chief Executive Officer.

[FR Doc. 01-31920 Filed 12-27-01; 8:45 am]

BILLING CODE 6450-01-U

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Intent To Grant Exclusive Patent License

AGENCY: Department of Energy (DOE), National Energy Technology Laboratory (NETL).

ACTION: Notice.

SUMMARY: Notice is hereby given of an intent to grant to Woodward Industrial Controls of Fort Collins, Colorado, an exclusive license to practice the inventions described in U.S. patent applications titled, "Real-Time Combustion Controls and Diagnostics Sensors" and "Flashback Detection Sensor for Lean Premix Fuel Nozzles." The inventions are owned by the United States of America, as represented by the Department of Energy (DOE). The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government, and other terms and conditions to be negotiated.

DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 15 days of publication of this Notice the Technology Transfer Manager, Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507-0880, receives in writing any of the following, together with the supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention, in which applicant states that it already has brought the invention to practical application or is likely to bring the invention to practical application expeditiously.

DATES: Written comments or nonexclusive license applications are to be received at the address listed below no later than fifteen (15) days after the date of this published Notice.

ADDRESSES: Technology Transfer Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507-0880.

FOR FURTHER INFORMATION CONTACT: Diane Newlon, Technology Transfer Manager, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, Morgantown, WV 26507–0880; Telephone (304) 285–4065.

SUPPLEMENTARY INFORMATION: 35 U.S.C. 209(c) provides the Department with authority to grant exclusive or partially exclusive licenses in Department-owned inventions, where a determination can be made, among other things, that the desired practical application of the invention has not been achieved, or is not likely expeditiously to be achieved, under a nonexclusive license. The statute and implementing regulations (37 CFR part 404) require that the necessary determinations be made after public notice and opportunity for filing written objections.

Woodward Industrial Controls of Fort Collins, Colorado, has applied for an exclusive license to practice the inventions and has a plan for commercialization of the inventions.

The proposed license will be exclusive, subject to a license and other rights retained by the U.S. Government, and subject to a negotiated royalty. The Department will review all timely written responses to this notice, and will grant the license if, after expiration of the 15-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued: December 18, 2001.

Rita A. Bajura,

Director, National Energy Technology Laboratory.

[FR Doc. 01–31921 Filed 12–27–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–42–000]

Dynegy Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Mirant California, LLC, and Williams Energy Marketing & Trade, Complainants, v. California Independent System Operator Corporation, Respondent; Notice of Complaint

December 19, 2001.

Take notice that on December 18, 2001, Dynegy Power Marketing, Inc., Mirant Americas Energy Marketing, LP, Mirant California, LLC, and Williams Energy Marketing & Trading Company (Complainants) submitted a complaint against the California Independent System Operator Corporation (CAISO) alleging that the CAISO is acting unlawfully by implementing changes to its operating procedures related to Intra-Zonal Congestion Management and implementing market rule modifications for importers without first seeking authorization under section 205 of the Federal Power Act. Complainants further allege that certain operating procedures violate the terms of the Commission-approved reliability must-run contracts.

Accordingly, Complainants request that the Commission issue an immediate order directing the CAISO to operate under its prior operating procedures until such time as the CAISO has received all Commission authorizations to make these changes. Complainants also request that Commission Staff hold a technical conference to develop a 60-minute market.

Copies of this filing were served upon the CAISO and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before January 7, 2002. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before January 7, 2002. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31991 Filed 12–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–81–001]

El Paso Natural Gas Company; Notice of Tariff Filing

December 20, 2001.

Take notice that on December 18, 2001, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, Substitute Eighth Revised Sheet No. 37, with an effective date of January 1, 2002.

On November 29, 2001 in Docket No. RP02–81–000, EPNG submitted for filing ten revised tariff sheets to be effective on January 1, 2002. EPNG states that it is submitting Substitute Eighth Revised Sheet No. 37 to reflect the same maximum monthly California reservation rate shown on the Sheet No. 22 submitted in the original filing on November 29.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31998 Filed 12–27–01; 8:45 am]

BILLING CODE 6717–01–P

VOL 66 ISS 249 DEC 28 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-90-001]

El Paso Natural Gas Company; Notice of Tariff Filing

December 20, 2001.

Take notice that on December 18, 2001, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1-A, Substitute Ninth Revised Sheet No. 37, with an effective date of January 1, 2002.

On November 30, 2001 in Docket No. RP02-90-000, EPNG submitted for filing thirteen revised tariff sheets to be effective on January 1, 2002. EPNG states that is submitting Substitute Ninth Revised Sheet No. 37 to reflect the same maximum monthly California reservation rate as shown on the Sheet No. 22 submitted in the original filing on November 30.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31999 Filed 12-27-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-125-000]

Gulf South Pipeline Company, LP; Request for Waiver of OFO Penalty Provisions

December 20, 2001.

Take notice that on December 18, 2001, Gulf South Pipeline Company, LP (Gulf South) tendered for filing a request seeking authority to waive certain requirements of sections 10 and 19 of the General Terms and Conditions of its FERC Gas Tariff. Specifically, Gulf South is seeking authority to waive all penalties associated with the Operational Flow Order that was issued on November 24, 2001.

Gulf South states that copies of this filing has been served upon its customers, interested state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed December 31, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31996 Filed 12-27-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-92-001]

K N Wattenberg Transmission Limited Liability Company; Notice of Tariff Filing

December 20, 2001.

Take notice that on December 7, 2001, K N Wattenberg Transmission Limited Liability Company (KN Wattenberg) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, a corrected tariff sheet, to become effective December 1, 2001:

Second Revised Sheet No. 0

On November 30, 2001, KN Wattenberg submitted a filing in Docket No. RP02-92-000 to cancel its tariff. KN Wattenberg sought an effective date of December 1, 2001. KN Wattenberg, however, inadvertently included the wrong effective date on the tariff sheets included in the filing. In this filing, KN Wattenberg has attached a corrected tariff sheet and a corrected marked version of the tariff sheet.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202-208-2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31994 Filed 12-27-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER97–2353–000 and ER97–2353–004]

New York State Electric & Gas Corporation; Notice of Filing

December 20, 2001.

Take notice that on November 30, 2001, New York State Electric & Gas Corporation (NYSEG) tendered for filing an amendment to its September 15, 2001 Compliance Filing in the above docket to supply additional information requested by the Federal Energy Regulatory Commission (Commission) in its October 30, 2001 letter.

Copies of the filing have been served on all parties listed on the official service list.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before the comment date. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's web site at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-filing" link.

Comment Date: December 28, 2001.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31992 Filed 12–27–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–124–000]

Northern Natural Gas Company; Notice of Tariff Filing

December 20, 2001.

Take notice that on December 17, 2001, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, the following tariff sheet, with an effective date of December 6, 2001:

Fifth Revised Volume No. 1

Sixth Revised Sheet No. 3

Original Volume No. 2

68 Revised Sheet No. 1
Second Revised Sheet No. 483

Northern states that the above referenced sheets represent cancellation of Rate Schedule X–33 from Northern's Original Volume No. 2 FERC Gas Tariff, and the associated deletions from the Table of Contents in Northern's Volume Nos. 1 and 2 tariffs.

Northern states that copies of the filing were served upon the company's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31995 Filed 12–27–01; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP99–580–004 and CP99–582–005]

Southern LNG Inc.; Notice of Compliance Filing

December 20, 2001.

Take notice that on December 14, 2001, Southern LNG Inc. (Southern LNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following proposed sheets to become effective December 1, 2001:

Substitute Original Sheet No. 5
Substitute Original Sheet No. 6
Substitute Original Sheet No. 7
Substitute Original Sheet No. 20
Substitute Original Sheet No. 31
Substitute Original Sheet No. 60
Substitute Original Sheet No. 99
Substitute Original Sheet No. 101
Substitute Original Sheet No. 102
Substitute Original Sheet No. 133

Southern LNG states that the filing implements certain directives in the Commission's order issued on November 30, 2001 in the captioned proceeding.

SLNG states that copies of the filing will be served upon its customers and interested state commissions, and upon each party designated on the official service listed compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed on or before December 28, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–31990 Filed 12–27–01; 8:45 am]
BILLING CODE 6717–01–P

VOL 66 ISS 249 DEC 28 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02-35-000, et al.]

Engage Energy America LLC, et al.; Electric Rate and Corporate Regulation Filings

December 20, 2001.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Engage Energy America LLC, and Frederickson Power L.P. and Duke Energy Corporation

[Docket No. EC02-35-000]

Take notice that on December 14, 2001, Engage Energy America LLC (Engage America) and Frederickson Power, L.P. (Frederickson), and Duke Energy Corporation (Duke Energy) filed a joint application pursuant to section 203 of the Federal Power Act for approval of a change in upstream control and the resulting disposition of jurisdictional facilities resulting from the transaction between Westcoast Energy Inc. (Westcoast) and Duke Energy pursuant to the Amended and Restated Combination Agreement made as of September 20, 2001, by and among Duke Energy, 3058368 Nova Scotia Company, 3946509 Canada Inc., and Westcoast.

Comment Date: January 11, 2002.

2. TXU Tradinghouse Company LP

[Docket No. EG02-49-000]

Take notice that on December 18, 2001, TXU Tradinghouse Company LP (TXU Tradinghouse) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

On or about January 1, 2002, TXU Tradinghouse will own the facilities described as follows:

Name and location	Eligible facilities	Net megawatts produced
TXU—Tradinghouse, 1868 Lake Felton Parkway Waco, TX 76705	Tradinghouse No. 1	565
	Tradinghouse No. 2	818

Comment Date: January 10, 2002 The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. TXU DeCordova Company LP

[Docket No. EG02-50-000]

Take notice that on December 18, 2001, TXU DeCordova Company LP (TXU DeCordova) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's Regulations.

Name and location	Eligible facilities	Net megawatts produced
TXU—DeCordova, 4950 Power Plant Court, Granbury, TX 76048	Decordova No. 1	818

Comment Date: January 10, 2002 The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. TXU Mountain Creek Company, LP

[Docket No. EG02-51-000]

Take notice that on December 18, 2001, TXU Mountain Creek Company LP (TXU Mountain Creek) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

On or about January 1, 2001, TXU Mountain Creek will own the facilities described as follows:

Name and location	Eligible facilities	Net megawatts produced
TXU—Mountain Creek, 2233-A Mt. Creek Parkway, Dallas, TX 75211	Mountain Creek No. 2	33
	Mountain Creek No. 3	70
	Mountain Creek No. 6	115
	Mountain Creek No. 7	125
	Mountain Creek No. 8	550

Comment Date: January 10, 2002 The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. TXU Big Brown Company LP

[Docket No. EG02-52-000]

Take notice that on December 18, 2001, TXU Big Brown Company LP (TXU Big Brown) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Name and location	Eligible facilities	Net megawatts produced
TXU—Big Brown, P.O. Box 948, Fairfield, TX 75840	Big Brown Unit No. 1	575

Name and location	Eligible facilities	Net megawatts produced
	Big Brown Unit No. 2	575

Comment Date: January 10, 2002 The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. TXU Handley Company LP

[Docket No. EG02–53–000]

Take notice that on December 18, 2001, TXU Handley Company LP (TXU Handley) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Name and location	Eligible facilities	Net megawatts produced
TXU—Handley, 6604 E. Rosedale, Ft. Worth, TX 76112–7027	Handley No. 1	45
	Handley No. 2	80
	Handley No. 3	400
	Handley No. 4	58
	Handley No. 5	458

Comment Date: January 10, 2002 The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

7. Duke Power Company, a division of Duke Energy Corporation

[Docket No. ER96–110–007]

Take notice that on December 17, 2001, Duke Power Company, a division of Duke Energy Corporation, submitted an updated market power analysis.

Duke Power states that a copy of the filing has been served on the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment Date: January 7, 2002.

8. Portland General Electric Company, Lake Benton Power Partners, LLC, Storm Lake Power Partners I, LLC, Storm Lake Power Partners II, LLC, Enron Energy Services, Inc., Enron Power Marketing, Inc., Clinton Energy Management Services, Inc., Enron Energy Marketing Corp., The New Power Company, Enron Sandhill Limited Partnership, Green Power Partners I, LLC

[Docket No. ER98–1643–004, Docket No. ER97–2904–004, Docket No. ER98–4643–002, Docket No. ER99–1228–002, Docket No. ER98–13–015, Docket No. ER94–24–035, Docket No. ER98–3934–008, Docket No. ER00–2395–001, Docket No. ER00–2535–001, Docket No. ER01–1166–002, and Docket No. ER00–3776–001]

Take notice that on December 14, 2001, Portland General Electric Company (PGE), on behalf of itself and the above-noted PGE affiliates (PGE Affiliates) filed with the Federal Energy Regulatory Commission (Commission) a withdrawal of the notice of change in status with the Commission.

Comment Date: January 4, 2002.

9. PPL EnergyPlus, LLC

[Docket No. ER98–4608–005]

Take notice that on December 17, 2001, PPL EnergyPlus, LLC (PPL EnergyPlus) filed with the Federal Energy Regulatory Commission (Commission) an updated market power analysis pursuant to Ordering Paragraph (J) of the Commission's order in PP&L EnergyPlus Company, 85 FERC ¶ 61,377 (1998).

PPL EnergyPlus has served a copy of this filing on the parties on the Commission's official service list for this docket.

Comment Date: January 7, 2002.

10. Sunlaw Energy Partners I, L.P.

[Docket No. ER99–213–001]

Take notice that on December 14, 2001, Sunlaw Energy Partners I, L.P. (Sunlaw) filed with the Federal Energy Regulatory Commission (Commission) a triennial updated market analysis in compliance with the Commission's December 14, 1998 Order in Docket No. ER99–213–000, which authorized Sunlaw to sell energy and capacity at market-based rates.

Comment Date: January 4, 2002.

11. NYSEG Solutions, Inc.

[Docket No. ER99–220–008]

Take notice that on December 14, 2001, NYSEG Solutions, Inc. (NYSEG Solutions) tendered for filing with the Federal Energy Regulatory Commission (Commission) a letter concerning its triennial market power review pursuant to an order issued by the Commission in Docket No.ER99–220–000 on December 14, 1998 granting NYSEG market-based rate authorization.

Comment Date: January 4, 2002.

12. New York State Electric & Gas Corporation

[Docket No. ER99–221–005]

Take notice that on December 14, 2001, New York State Electric & Gas Corporation (NYSEG) tendered for filing with the Federal Energy Regulatory Commission (Commission) a letter concerning its triennial market power review pursuant to an order issued by the Commission in Docket No.ER98–221–000 on December 14, 1998 granting NYSEG market-based rate authorization.

Comment Date: January 4, 2002.

13. Michigan Electric Transmission Company

[Docket Nos. ER01–2126–005 and ER01–2375–004]

Take notice that on December 14, 2001, Michigan Electric Transmission Company (METC) tendered for filing the following Service Agreements under its FERC Electric Tariff No. 1 in compliance with the November 14, 2001 order issued in these proceedings. Second Substitute Service Agreement Nos. 24 and 25.

The Service Agreements are to have effective dates of April 27 2001, and June 21, 2001, respectively. Copies of the filing were served upon those on the official service lists in these proceedings.

Comment Date: January 4, 2002.

14. New York Independent Systems Operator, Inc.

[Docket Nos. ER97–1523–067, OA97–470–062, ER97–4234–060, and ER01–2230–002]

Take notice that on November 30, 2001 Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Federal Energy Regulatory Commission (Commission) additional information in response to Letter Order dated October 31, 2001.

Copies of this response has been served on all parties of record in the above-referenced docket numbers.

Comment Date: January 3, 2002.

15. Calpine Construction Finance Company, L.P.

[Docket No. ER01–2784–002]

Take notice that on December 12, 2001, Calpine Construction Finance Company, L.P. (CCFC) filed a refund report in compliance with the Commission's order in this proceeding dated September 27, 2001.

Comment Date: January 2, 2002.

16. Public Service Company of Oklahoma

[Docket No. ER01–2857–001]

Take notice that on December 14, 2001, Public Service Company of Oklahoma (PSO) tendered for filing an amendment to its August 16, 2001 filing in this docket. The amendment includes a cost support for the O&M charge to be included as part of the executed Restated and Amended Interconnection Agreement dated July 26, 2001 between PSO and Kiowa Power Partners, LLC (Kiowa). This filing is made in compliance with the October 12, 2001 Deficiency Letter from Michael A. Colemen, Director of Rate and Tariffs West. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6 effective June 15, 2000.

AEP requested an effective date of October 15, 2001. A copy of the filing was served upon the Oklahoma Corporation Commission.

Comment Date: January 4, 2002.

17. USGen New England, Inc.,

[Docket No. ER98–6–008]

Take notice that on December 14, 2001, the subsidiaries of PG&E National Energy Group, Inc. that have been granted market-based rates by the Commission submitted for filing a triennial market power update pursuant to the orders granting them market-based rates and Section 205 of the Federal Power Act.

Comment Date: January 4, 2002.

18. Reliant Energy Seward, LLC, Reliant Energy Hunterstown, LLC

[Docket No. ER01–3035–001 and ER01–3036–001]

Take notice that on December 17, 2001, Reliant Energy Seward, LLC (RE Seward) and Reliant Energy Hunterstown, LLC (RE Hunterstown) filed with the Federal Energy Regulatory Commission (Commission) an amendment to their application dated September 10, 2001 for grant of certain blanket authorizations, waiver of certain of the Commission's Regulations and issuance of an order accepting each of RE Seward's and RE Hunterstown's FERC Electric Tariff, Original Volume No. 1. RE Seward and RE Hunterstown amended their application to provide the requested supporting information needed to determine whether RE Seward and RE Hunterstown satisfy the standards under which the Commission has granted authority to sell at market-based rates.

Comment Date: January 7, 2002.

19. Hardee Power Partners Limited

[Docket No. ER01–3064–001]

Take notice that on November 30, 2001, Hardee Power Partners Limited tendered for filing its filing in compliance with the Commission's October 19, 2001 letter order issued in the above-referenced proceeding.

Copies of the filing were served upon the Official Service List compiled by the Secretary in this proceeding.

Comment Date: January 2, 2002.

20. Kentucky Power Company

[Docket No. ER01–3120–001]

Take notice that on December 17, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing an amended unexecuted Interconnection and Operation Agreement between Kentucky Power Company and Foothills Generating, L.L.C. This filing is made in compliance with the Commission's Order Modifying and Accepting Unexecuted Generator Interconnection Agreement issued in this docket on November 20, 2001, 97 FERC ¶ 61,202 (2001). The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of November 26, 2001. A copy of the filing was served upon the Kentucky Public Service Commission.

Comment Date: January 7, 2002.

21. Appalachian Power Company

[Docket No. ER01–3122–001]

Take notice that on December 17, 2001, the American Electric Power Service Corporation (AEPSC) tendered for filing an amended unexecuted Interconnection and Operation Agreement between Appalachian Power Company and Duke Energy Wythe, LLC. This filing is made in compliance with the Commission's Order Accepting and Rejecting Filing in Part and Establishing Hearing and Settlement Judge Procedures issued in this docket on November 20, 2001, 97 FERC ¶ 61,199 (2001). The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6, effective June 15, 2000.

AEP requests an effective date of November 26, 2001. A copy of the filing was served upon the Virginia State Corporation Commission.

Comment Date: January 7, 2002.

22. Pacific Gas and Electric Company

[Docket No. ER02–4–000]

Take notice that on December 14, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing a Second Request for Deferral of Consideration of its October 1, 2001 filing, Notice of Cancellation of PG&E First Revised Rate Schedule FERC No. 215, Must-Run Service Agreement between PG&E and the California Independent System Operator Corporation for the FMC Synchronous Condenser/ Emergency Gas Turbine, in Docket No. ER02–4–000. PG&E and the ISO are currently discussing PG&E's October 1, 2001 filing. PG&E, therefore, is notifying the Commission that these discussions will not be completed by December 29, 2001.

PG&E requests that the Commission's deferral of consideration be extended for an additional 48 day period, until February 15, 2002. Copies of this filing have been served upon the California Public Utilities Commission and all parties designated on the official service list in this proceeding.

Comment Date: January 4, 2002.

23. Power Resource Group, Inc.

[Docket No. ER02–95–000]

Take notice that on December 17, 2001, Power Resource Group, Inc. (PRG) tendered for filing an amendment to its application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its market-based rate schedule, Rate Schedule FERC No. 1, Original Volume No. 1. PRG proposes that its Rate Schedule FERC No. 1, Original Volume No. 1 become effective October 15, 2001, which is one business day after the date of its original filing in this proceeding.

Comment Date: January 7, 2002.

24. American Electric Power Service Corporation

[Docket No. ER02–544–000]

Take notice that on December 17, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing Firm and Non-Firm Point-to-Point Transmission (PTP) Service Agreements for Dominion Nuclear Marketing II, Inc. These agreements are pursuant to the SEP Companies' Open Access transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit the Revised Service Agreement to be made effective on and after December 1, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment Date: January 7, 2002.

25. Pacific Gas and Electric Company

[Docket No. ER02–545–000]

Take notice that on December 17, 2001, Pacific Gas and Electric Company (PG&E) tendered for filing an annual update filing including revisions to its Reliability Must Run Service Agreements (RMR Agreements) with the California Independent System Operator Corporation (ISO) for Helms Power Plant (Helms), PG&E First Revised Rate Schedule FERC No. 207 and San Joaquin Power Plant (San Joaquin), PG&E First Revised Rate Schedule FERC No. 211. This filing revises portions of the Rate Schedules to adjust the values for Contract Service Limits, Owner's Repair Cost Obligation and Prepaid Start-up information. These changes are expressly required and/or authorized under the RMR Agreements.

Copies of PG&E's filing have been served upon the ISO, the California Electricity Oversight Board, and the California Public Utilities Commission.

Comment Date: January 7, 2002.

26. MidAmerican Energy Company

[Docket No. ER02–546–000]

Take notice that on December 17, 2001, MidAmerican Energy Company (MidAmerican), filed with the Federal Energy Regulatory Commission (Commission) a Firm Transmission Service Agreement and a Non-Firm Transmission Service Agreement, between MidAmerican, as transmission provider, and Exelon Generation Company, LLC, as transmission customer. The Agreements are dated October 19, 2001 and have been entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of October 19, 2001 for the Agreements and seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment Date: January 7, 2002.

27. Virginia Electric and Power Company

[Docket No. ER02–547–000]

Take notice that on December 13, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) tendered for filing the Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Powerex Corp. designated as Service Agreement No. 347 under the Company's FERC Electric Tariff, Second Revised Volume No. 5; and Service Agreement for Non-Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Powerex Corp. designated as Service Agreement No. 348 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

The foregoing Service Agreements are tendered for filing under the Open Access Transmission Tariff to Eligible Purchasers effective June 7, 2000. Under the tendered Service Agreements, Dominion Virginia Power will provide point-to-point service to Powerex Corp. under the rates, terms and conditions of the Open Access Transmission Tariff.

Dominion Virginia Power requests an effective date of November 26, 2001, as requested by the Customer. Copies of the filing were served upon Powerex Corp., the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment Date: January 3, 2002.

28. Commonwealth Edison Company

[Docket No. ER02–549–000]

Take notice that on December 12, 2001 Commonwealth Edison Company (ComEd) submitted for filing one Form of Service Agreement for Firm Point-To-Point Transmission Service between ComEd and Exelon Generation Company, LLC (Exelon) and one Form of Service Agreement for Firm Point-To-Point Transmission Service and the associated Network Upgrade Agreement between ComEd and Wisconsin Electric Power Company (WEPCO) under the terms of ComEd's Open Access Transmission Tariff (OATT). Copies of this filing were served on Exelon and WEPCO.

ComEd requests an effective date of January 1, 2002 for the Service Agreement with Exelon and February 1, 2002 for the Service Agreement with WEPCO, and accordingly seeks waiver of the Commission's notice requirements.

Comment Date: January 2, 2002.

29. Tampa Electric Company

[Docket No. ER02–551–000]

Take notice that on December 17, 2001, Tampa Electric Company (TEC) tendered for filing pursuant to section 205 of the Federal Power Act an executed Interconnection and Operating Agreement between TEC and Calpine as a service agreement under TEC's open access transmission tariff.

Comment Date: January 7, 2002.

30. TransEnergie U.S. Ltd.

[Docket No. ER02–552–000]

Take notice that on December 14, 2001, Transnergie U.S. Ltd., on behalf of its to-be-formed project development subsidiary, Harbor Cable Company, LLC (HCC), submitted for filing, pursuant to section 205 of the Federal Power Act, an application requesting that the Commission (1) grant HCC blanket authority to make sales of transmission rights at negotiated rates, and (2) grant certain waivers, in connection with its proposed Harbor Cable transmission interconnector project.

Comment Date: January 4, 2002.

31. Rolling Hills Generating, L.L.C.

[Docket No. ER02–553–000]

Take notice that on December 14, 2001, Rolling Hills Generating, L.L.C. (Rolling Hills) tendered for filing pursuant to rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1.

Rolling Hills intends to sell electric power at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. The Rolling Hills tariff provides for the sale of electric energy and capacity at agreed prices.

Comment Date: January 4, 2002.

32. Foothills Generating, L.L.C.

[Docket No. ER02–554–000]

Take notice that on December 14, 2001, Foothills Generating, L.L.C. (Foothills) tendered with the Federal Energy Regulatory Commission (Commission) for filing pursuant to rule

VOL 66 ISS 249 DE 28 2001 UMI

205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1.

Foothills intends to sell electric power at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. The Foothills tariff provides for the sale of electric energy and capacity at agreed prices.

Comment Date: January 4, 2002.

33. PECO Energy Company

[Docket No. ER02–555–000]

Take notice that on December 14, 2001, PECO Energy Company (PECO) submitted for filing a second Construction Agreement between PECO and Old Dominion Electric Cooperative (ODEC) related to the Rock Springs Electric Generation Facility, designated as Service Agreement 615 under PJM Interconnection L.L.C.'s (PJM) FERC Electric Tariff Fourth Revised Volume No. 1, to be effective on November 13, 2001. Copies of this filing were served on ODEC and PJM.

Comment Date: January 4, 2002.

34. Reliant Energy Desert Basin, LLC

[Docket No. ER02–557–000]

Take notice that on December 13, 2001, Reliant Energy Desert Basin, LLC (Reliant Energy Desert Basin) tendered for filing a long-term service agreement under its market-based rate tariff.

Comment Date: January 3, 2002.

35. American Transmission Company LLC

[Docket No. ER02–558–000]

Take notice that on December 17, 2001, American Transmission Company LLC (ATCLLC) tendered for filing a Revised Service Agreement No. 79 with technical corrections to the Generation-Transmission Interconnection Agreement for the Point Beach Power Plant between Wisconsin Electric Power Company and ATCLLC. The technical corrections address errors inadvertently overlooked when the Agreement was originally filed.

ATCLLC requests an effective date of December 14, 2001.

Comment Date: January 7, 2002.

36. Michigan Electric Transmission Company

[Docket No. ER02–562–000]

Take notice that on December 13, 2001, Michigan Electric Transmission Company (METC) tendered for filing the following tariff sheets as part of its FERC Electric Tariff, Original Volume No. 1, in order to clarify the reimbursement procedures for certain income tax expenses related to the construction of interconnection facilities under METC's pro forma Generator Interconnection and Operating Agreement, Second Revised Sheet Nos. 140, 167 and 168 and Original Sheet Nos. 140A and 140B.

The sheets are to be effective December 13, 2001. Copies of the filing were served upon the Michigan Public Service Commission.

Comment Date: January 3, 2002.

37. PJM Interconnection, L.L.C.

[Docket No. ER02–563–000]

Take notice that on December 14, 2001, PJM Interconnection, L.L.C. ("PJM") tendered for filing proposed amendments to section 8.6 of the Appendix to Attachment K of PJM's Open Access Transmission Tariff and to Schedule 1 of the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. to conform the provisions of PJM's interregional congestion pilot program between PJM and the New York Independent System Operator, Inc. (NYISO) to the provisions filed by NYISO in Docket No. ER02–194–000. The proposed amendments provide that mandatory emergency energy sales shall accompany each generation adjustment made under the interregional congestion pilot program. PJM requests an effective date of December 15, 2001 for the amendments.

Copies of this filing have been served on all PJM Members, the NYISO, the state electric utility regulatory commissions in the PJM and NYISO control areas, and the parties on the official service lists in Docket Numbers ER01–2528 and ER02–194–000.

Comment Date: January 4, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–32001 Filed 12–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 184–065 California]

El Dorado Irrigation District; Notice of Public Meeting

December 20, 2001.

The Federal Energy Regulatory Commission (Commission) is reviewing the application for a new license for the El Dorado Project (FERC No. 184), which was filed on February 22, 2000. The El Dorado Project, licensed to the El Dorado Irrigation District (EID), is located on the South Fork American River, in El Dorado, Alpine, and Amador Counties, California. The project occupies lands of the Eldorado National Forest.

The EID, several state and federal agencies, and several non-governmental agencies have asked the Commission for time to work collaboratively with a facilitator to resolve certain issues relevant to this proceeding. This meeting is part of that collaborative process. There will be a 3-hour plenary meeting to discuss matters of general interest, followed by a joint meeting of the aquatics/hydrology workgroup and the recreation/socioeconomics/visual resources workgroup. The workgroup meeting will focus on further defining interests and the development of strategies to meet objectives. We invite the participation of all interested governmental agencies, non-governmental organizations, and the general public in this meeting.

The meeting will be held on Monday, January 14 and Tuesday, January 15, 2002, from 9am until 4pm in the Sacramento Marriott, located at 11211 Point East Drive, Rancho Cordova, California.

For further information, please contact Elizabeth Molloy at (202) 208–0771 or John Mudre at (202) 219–1208.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–31993 Filed 12–27–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM95-4-000]

Electronic Filing and Public Access to Information; Notice of Availability of Submission Software for FERC Form Nos. 2 and 2-A: Annual Report of Major Natural Gas Companies and Annual Report of Non-Major Natural Gas Companies

December 20, 2001.

The Federal Energy Regulatory Commission (Commission) hereby gives notice that it is providing software to the major and non-major natural gas pipelines to prepare both the paper and electronic submissions of the FERC Form No. 2 and Form No. 2-A (Form 2 and 2-A). The software is free of charge and all jurisdictional Form 2 and 2-A respondents are *required* to use it starting with the 2001 submissions due on or before March 31, 2002, for the Form No. 2-A and April 30, 2002, for the Form No. 2. The Commission has not modified the forms and the data required on the current schedules have not changed.

The Form 2 and 2-A submission software is Windows 95/98/2000/NT/XP compatible and will provide benefits to the respondent, the Commission and users of the data. The software will facilitate data entry and database loading, improve data integrity, enhance consistency between the paper and electronic filings, and eliminate the requirement to physically submit the electronic file to the Commission on a diskette or CD. Last year a beta version of the software was used successfully by 47 of 110 Form 2 and 2-A respondents to prepare their year 2000 paper submission and to upload the electronic submission to the Commission via the Internet.

Software distribution, set-up, updates, and submission of the electronic filing will all be accomplished via the Internet. In order to disseminate information on the submission software and to keep interested parties aware of any new developments, we are creating a point-of-contact list for companies that file Form 2 and 2-A. Persons who submit FERC Form 2 and 2-A, either for their company, or as an agent for another company, must first register to receive a Personal Identification Number (PIN). The PIN is required for electronic filing.

To register for a PIN, send an E-mail to Bolton Pierce (*bpierce@ferc.fed.us*) containing the exact legal name of the respondent company, the respondent's address, a contact person's name, phone number and E-mail address. A PIN will be assigned and sent by return E-mail. Instructions for downloading and installing the Form 2 and 2A Submission Software are available at *http://rimsweb2.ferc.fed.us/form2/*. Federal and state agencies and others who wish to access and use the Form 2/2A data may download it without restriction from this same web address.

Respondents who submitted their year 2000 filing with the new software need only send in any changes to their point-of-contact information. If you have questions about the new software, please E-mail them to Bolton Pierce at *bpierce@ferc.fed.us*. Respondents with questions concerning the Form Nos. 2 and 2-A may contact James M. Krug at (202) 208-0419 or Craig A. Hill at (202) 208-0621.

The issuance of this software does not change the paper submission requirements for the forms this year. In addition to using the software to upload the electronic submission to the Commission via the Internet, Form 2-A respondents must also submit an original and two conformed paper copies of a completed form by March 31. Form 2 respondents must submit an original and four paper copies of the completed form by April 30. The original paper version is to be produced by the software.

The Commission has also developed, and made available via the Internet, Form 2 and 2-A "viewer" software to allow the public and other interested parties to download, view and print the Form 2 and 2-A data submitted electronically by the respondents for the years 1996 and later. This software was made available on December 19, 2001.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01-31997 Filed 12-27-01; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7122-7]

Agency Information Collection Activities: Proposed Collection; Comment Request; Final Authorization for Hazardous Waste Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Action (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Final Authorization for Hazardous Waste Management, EPA ICR Number 0969.06, OMB Control Number 2050-0041 (expiration date May 31, 2002.) EPA will use the information collected under this ICR to determine whether a State Hazardous Waste program meets the statutory and regulatory requirements for authorization. Before submitting the ICR to OMB for Review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before February 26, 2002.

FOR FURTHER INFORMATION OR A COPY CALL: Tony Terrell at EPA, (703) 308-6496, and refer to EPA ICR No. 969.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-2001-SA3P-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA H), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA address below. Comments may also be submitted electronically through the Internet to: *rcra-docket@epamail.epa.gov* Comments in electronic format should also be identified by docket number F-2001-SA3P-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. The official record for this action will be kept in paper form and place them in the official record, which also include all comments submitted directly in writing. The official record is the paper record maintained in the RCRA Information Center (the RIC address is listed above this section). Commenters should not submit any confidential business information (CBI) electronically. An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5303W), United States Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Mailcode 5303W, Washington, DC, 20460. Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m. Monday through Friday,

VOL 66 ISS 249 DE 28 2001 UMI

excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies are $0.15/page. This notice and the supporting documents that detail the ICR renewal are also available.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Tony Terrell, Office of Solid Waste (5303W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (703) 308–6496/8638, *terrell.tony@epa.gov*.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which are authorized to manage the federal Hazardous waste program.

Title: Final Authorization for Hazardous Waste Management Programs, (OMB Control No. 2050–0041, ICR No. 969.) expiring May 31, 2002.

Abstract: In order for a State to obtain final authorization for a State hazardous waste program or to revise its previously authorized program, it must submit an official application to the EPA Regional office for approval. The purpose of the application is to enable EPA to properly determine whether the State's program meets the requirements of section 3006 of RCRA.

A State with an approved program may voluntarily transfer program responsibilities to EPA by notifying EPA of the proposed transfer, as required by section 271.23. Further, EPA may withdraw a State's authorized program under section 271.23.

State program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. In the event that the State is revising its program by adopting new Federal requirements, the State shall prepare and submit modified revisions of the program description, Attorney General's statement, Memorandum of Agreement, or such other documents as EPA determines to be necessary. The State shall inform EPA of any proposed modifications to its basic statutory or regulatory authority in accordance with section 271.21. If a State is proposing to transfer all or any part of any program from the approved State agency to any other agency, it must notify EPA in accordance with section 271.21 and submit revised organizational charts as required under section 271.6, in accordance with section 271.21. These paperwork requirements are mandatory under § 3006(a). EPA will use the information submitted by the State in order to determine whether the State's program meets the statutory and regulatory requirements for authorization. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automatic electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 632 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information; and transmit or otherwise disclose the information.

Estimated Number of Respondents: 50.

Frequency of Response: 18.

Estimated Total Annual Burden Hours: 11,376 hours.

Estimated Total Annualized Cost Burden: $619,541.

Dated: December 17, 2001.

Elizabeth Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–31941 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34251; FRL–6818–5]

Technical Briefing on the Preliminary Organophosphate Pesticide Cumulative Risk Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing a public technical briefing on January 15, 2002, to discuss the exposure methodologies proposed for use in the organophosphate (OP) cumulative risk assessment for food, drinking water, and residential exposures. The briefing will provide the public with an explanation in non-technical terms of the proposed exposure methodologies. In addition, the briefing will cover how the computer software model calculates and combines these exposure estimates. This briefing follows the August 22, 2001, briefing on the hazard portion of the assessment, the October 3, 2001, briefing on the water exposure methodology, and the November 15, 2001, briefing on the food and residential methodologies. This technical briefing will complete the background briefings on the proposed OP cumulative risk assessment methodology.

DATES: The technical briefing will be held on Tuesday, January 15, 2002, from 9 a.m. to 5 p.m. On Wednesday, January 16, 2002, from 9 a.m. to 4 p.m., EPA and the U.S. Department of Agriculture will hold a public meeting of the CARAT Workgroup on Cumulative Risk Assessment/Public Participation Process.

ADDRESSES: The technical briefing and the CARAT Workgroup Meeting will be held at the Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA. The telephone number for the hotel is (703) 837–0440. The hotel is located across from the King Street Metro Station.

FOR FURTHER INFORMATION CONTACT: By mail: Karen Angulo, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, information about the cumulative process and the preliminary organophosphate cumulative risk assessment documents are found at http://www.epa.gov/pesticides/cumulative.

2. *In person.* The Agency has established an official record under docket control number OPP–34251. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Request to Participate in this Meeting?

This meeting is open to the public. Outside statements by observers are welcome. Oral statements will be limited to 3 to 5 minutes, and it is preferred that only one person per organization present the statement. Any person who wishes to file a written statement may do so immediately before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed in Unit I. of this document.

List of Subjects

Environmental protection, Organophosphate pesticides.

Dated: December 19, 2001.

Lois A. Rossi,

Director, Special Review and Registration Division, Office of Pesticide Programs.

[FR Doc. 01–31937 Filed 12–26–01; 11:01 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7122–6]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Engineering Committee (EEC) of the US EPA Science Advisory Board (SAB) will meet via public teleconference on the dates and times noted below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. *Important Notice:* Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office—information concerning availability of documents from the relevant Program Office (if any) is included below. Subsequent teleconference meetings of the EEC are planned for March 13, 2002, May 1, 2002, July 3, 2002, September 4, 2002 and November 6, 2002. Information concerning these meetings will appear in future **Federal Register** notices.

1. Environmental Engineering Committee (EEC)—January 30, 2002

The Environmental Engineering Committee of the US EPA Science Advisory Board (SAB), will conduct a public teleconference meeting on January 30, 2002 in Room 6450C location, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The meeting will begin at 12:00 pm and adjourn no later than 2:00 pm. The meeting will be coordinated through a conference call connection in Room 6450C, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The public is encouraged to attend the meeting in the conference room noted above, however, the public may also attend through a telephonic link if lines are available. Additional instructions about how to participate in the conference call can be obtained by calling Mary Winston (see contact information below).

Purpose of the Meeting

The primary purpose of this meeting will be to review for approval the reports of the EEC's Surface Impoundments Study Subcommittee and the Risk Reduction Options Selection Subcommittee, if available. If the reports are not available, the time will be used to update the EEC on other activities of the SAB and for planning the committee's FY2002 activities. The Surface Impoundments Study Subcommittee reviewed Industrial Surface Impoundments in the United States for the Office of Solid Waste as announced in **Federal Register** notices 66 FR 30917–30920 June 8, 2001 and 66 FR 9671–49672 September 28, 2001. At the request of the Committee, the Risk Reduction Options Selection Subcommittee has prepared an update of the risk reduction options selection methodology first proposed in the SAB's Toward Integrated Environmental Decision-Making (EPA–SAB–EC–00–011—Please see *http://www.epa.gov/sab/ecirp011.pdf*).

Availability of Review Materials

The availability of Industrial Surface Impoundments in the United States was announced previously in the FRs cited above. The other task is self-initiated and there is no review document.

For Further Information—Please see below.

2. Environmental Engineering Committee (EEC)—January 31, 2002

The Environmental Engineering Committee of the EPA Science Advisory Board (SAB) will conduct a public teleconference meeting on January 31, 2002 between the hours of 12:00 noon and 2:00 pm (Eastern Daylight Time). The meeting(s) will be coordinated through a conference call connection in Room 6450C, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW, Washington, DC 20004. The public is encouraged to attend the meeting in the conference room noted above, however, the public may also attend through a telephonic link if lines are available. Additional instructions about how to participate in the conference call can be obtained by calling Mary Winston (see below).

Purpose of the Meeting

The purpose of this meeting is for staff from EPA's Office of Research and Development to provide background briefings sufficient for the Committee to *plan* the requested review of the Risk Management Evaluation (RME) Protocol. The review will NOT be conducted on this conference call.

The draft RME Protocol document was developed from the lessons learned and success stories from the focused pilot RME program, as well as from a review of the latest developments in risk management, including from outside of EPA. The draft Protocol provides a structure and format for: (a) Compiling state-of-the-science in risk management and assessment associated with a specific risk or set of risks; (b) identifying, evaluating, and prioritizing promising long-term and short-term risk management options to manage these risks (e.g., control technologies, pollution prevention measures, process modifications, remediation, best management practices, market-based incentives, social and behavioral measures); (c) evaluating feasibility, performance (risk reduction potential), cost, and applicability of these risk management strategies; (d) identifying gaps in the available data; (e) recommending future research efforts to reduce these data gaps; and (f) developing and providing tools/models to evaluate, prioritize and optimize these risk management options and reduce uncertainties in the data.

The overriding purpose of the draft RME Protocol is to formalize a foundation, structure and general approach for NRMRL, other ORD laboratories and centers, and others both within and outside of EPA, to identify areas where knowledge in risk management is currently sufficient to effectively manage risks, versus areas where additional research is required. In this way the Protocol will serve as a tool to assist ORD and other research groups in planning and prioritizing risk management research programs, as well as provide an approach to: (a) Analyze sources of potential, perceived or actual risk; (b) evaluate promising risk management options for adapting, preventing, and reducing these risks; and (c) evaluate the availability, cost and effectiveness of the identified options. It is envisioned that the RME Protocol will provide the basis for developing EPA risk management guidance documents.

Charge to the Subcommittee

The tentative charge, which will be the subject of further discussion and negotiation is:

(a) Is the document clear and internally consistent? Is it written at the proper level of technical depth and complexity? Is it adequately and appropriately referenced?

(b) Is the RME Protocol presented in the document logical, complete, and understandable?

(c) Is the RME Protocol an adequate and effective framework and guide for conducting risk management evaluations (RMEs)?

(d) Based on review of the draft RME Protocol and pilots, are risk management evaluations (RMEs) potentially effective and useful tools for enhancing risk management decisions, whether by EPA or others?

Availability of Review Materials

No review is being conducted at this meeting. The document to be eventually reviewed is still in the draft stages and unavailable to both the Committee and the public. When the review dates are set, an announcement will be published in the FR about the meeting and the availability of review materials. A one-page request for the review can be obtained from Ms. White (see below), or on the SAB website (*www.epa.gov/SAB*) prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning either of these teleconference meetings or who wishes to submit brief oral comments (3 minutes or less) must contact Ms. Kathleen White, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564–4559; FAX (202) 501–0582; or via e-mail at *white.kathleen@epa.gov*. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Ms. White no later than noon Eastern Time January 23, 2002. An agenda or information on participation in either of the above teleconference meetings may be obtained from Ms. Mary Winston, Management Assistant, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone: (202) 564–4538, FAX (202) 501–0582; or via e-mail at *winston.mary@epa.gov*.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Ms. White at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: December 18, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–31940 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34250; FRL–6816–5]

Preliminary Organophosphorous Cumulative Risk Assessment; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the preliminary cumulative risk assessment for the organophosphorous pesticides, which was developed as part of EPA's process for tolerance reassessments under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). The Agency is interpreting the results of these analyses, therefore, it is too soon to draw firm conclusions about risks or consider risk management possibilities. By allowing access and opportunity for comment on the preliminary risk assessment, EPA is seeking to strengthen stakeholder involvement and help ensure our decisions under FQPA are transparent and based on the best available information.

DATES: Comments, identified by docket control number OPP–34250, must be received on or before March 8, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34250 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8004; fax number: (703) 308–8005; e-mail address: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to a wide range of stakeholders, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

EPA has made the preliminary cumulative risk assessment available on the Internet at the following address: http://www.epa.gov/pesticides/cumulative/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34250. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34250 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–34250. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or

VOL 66 ISS 249 DE 28 2001 UMI

all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

The preliminary organophosphorous cumulative risk assessment is being made available for comment. The assessment represents a new way of analyzing data about potential exposure to pesticides. The Agency's methods result in measurements of the probability of exposure to more than one organophophorous pesticide and an assessment of such combined exposure. While EPA is interpreting the results of these analyses and the soundness of these methods, it is too soon to draw firm conclusions about risks or consider risk management possibilities. The risk mitigation measures that have already been taken on individual members of this group of pesticides have led to significant reduction in potential risk, and EPA is continuing to address risks as they are identified. The Agency has confidence in the methods used to generate the results given the numerous scientific reviews conducted before completion of this preliminary cumulative risk assessment. Based on this analysis, EPA continues to have confidence in the overall safety of our food supply and emphasizes the importance of eating a varied diet rich in fruits and vegetables. Pesticide residues in drinking water do not appear to be a major contributor to risk. Although most indoor uses of organophophorous pesticides have been eliminated through earlier risk reduction actions, a few remaining uses may be re-evaluated.

List of Subjects

Environmental protection, Agricultural commodities, Chemicals, Pesticides and pests.

Dated: December 19, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–31938 Filed 12–27–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 13, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 23, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to *jboley@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at *jboley@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0391.

Title: Program to Monitor the Impacts of the Universal Service Support Mechanism, CC Docket Nos. 98–2002 and 96–45.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 900 respondents; 1,439 responses.

Estimated Time Per Response: 40 minutes to 1.5 hours.

Frequency of Response: Annual reporting requirement and third party disclosure requirement.

Total Annual Burden: 1,716.

Total Annual Cost: N/A.

Needs and Uses: The Commission has a program to monitor the impacts of the universal service support mechanisms. The program requires periodic reporting by telephone companies and the universal service administrator. The information is used by the Commission, Federal-State Joint Boards, Congress, and the general public to assess the impacts of the decisions of the Commission and Joint Boards. This information collection has been revised because several data elements contained in the monitoring program were eliminated due to access reform.

OMB Control No.: 3060–0823.

Title: Pay Telephone Reclassification, Memorandum Opinion and Order, CC Docket No. 96–128.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Numbers of Respondents: 400.

Estimated Time Per Response: 2 to 35 hours.

Frequency of Response: On occasion reporting requirement; recordkeeping requirement; and third part disclosure requirement.

Total Annual Burden: 400 hours.

Total Annual Cost: $480,000.

Needs and Use: In the Memorandum Opinion and Order issued in CC Docket No. 96–128, the Commission clarified requirements established in the Payphone Orders for the provision of payphone-specific coding digits by LECs and PSPs, to IXCs, beginning October 7, 1997. Specifically, the Order clarified that only FLEX ANI complies with the requirements; required that LECs file tariffs to FLEX ANI as a nonchargeable option to IXCs; required that LECs file tariffs to recover costs associated with implementing FLEX ANI; and grants permission and certain waivers. This is an extension of a currently approved collection. The Commission is seeking approval to extend this collection for three years, as required by the Paperwork Reduction Act.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31863 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

December 12, 2001.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 28, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION

OMB Control Number: 3060–0053.

Title: Application for Consent to Transfer of Control of Corporation Holding Station License.

Form Number: FCC Form 703.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 40.

Estimated Time Per Response: 36 mins.

Frequency of Response: On occasion reporting requirement; Third party disclosure.

Total Annual Burden: 24 hrs.

Total Estimated Cost: $2,000.

Needs and Uses: The Communications Act of 1934, as amended, and 47 CFR 5.59 of FCC Rules require applicants for Experimental Radio Services to submit FCC 703 when they propose to change, via a transfer of stock ownership, the control of a station. This information is used to determine eligibility for licenses, without which, violations of ownership regulations may occur. The FCC has made various revisions to Form 703: (1) Expiration date was deleted; (2) public coast and common carrier Alaska public fixed stations questions were removed; (3) fee multiple was deleted; (4) "FOR FCC USE ONLY" field was removed; (5) fields were added for the transferee's address and contact information to include an "Attention" field; (6) field labeled "FCC Registration Number (FRN)" was added; (7) Internet URL address was added; (8) references to item numbers were changed to match the change in the form numbering; (9) instructions pertaining to FCC Forms 159 and 160 were added; (11) only Experimental Radio Service regular and courier addresses are given; and (12) instructions were revised.

OMB Control Number: 3060–0057.

Title: Application for Equipment Authorization, 47 CFR Sections 2.911, 2.925, 2.932, 2.944, 2.960, 2.1033(a), and 2.1043.

Form Number: FCC 731.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,600.

Estimate of Time Per Response: 24 hrs. (avg.)

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 134,400.

Total Annual Costs: $1,120,000.

Needs and Uses: Under sections of 47 CFR parts 15 and 18 of FCC Rules, regulated equipment must comply with the FCC's technical standards before it is approved for marketing. Rules governing certain equipment operating in the licensed service also require equipment authorization under 47 CFR part 2. On September 13, 2001, the FCC adopted a First Report and Order, ET Docket No. 00–47, that established a "Class III Permissive Change." Manufacturers can now make changes affecting the frequency, power, and modulation parameters of software defined radios without having to file a new equipment authorization application. However, new software can not be loaded into radios until the FCC or a designated Telecommunications Certification Body (TCB) approves the manufacturer's software changes and test data showing compliance with FCC technical standards using the new software. In addition, the FCC now allows "electronic labeling" for software defined radio transmitters'a liquid crystal display or similar screen displays the FCC identification number.

OMB Control Number: 3060–0805.

Title: Section 90.523, Eligibilty; Section 90.527, Regional Plan Requirements, and Section 90.545, TV/DTV Interference Protection Criteria.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and Not-for-profit institutions.

Number of Respondents: 26,656.

Estimated Time per Response: 0.25 hrs. to 10,000 hrs.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 647, 675.

Total Annual Costs: None.

Needs and Uses: The First Report and Order, FCC 98–191, in WT Docket No. 96–86, amended service rules to make the spectrum available for licensing public safety entities. To satisfy local and regional needs and preferences, the FCC has required submission of regional plans drafted by planning committees made up of representatives from the public safety community. Creation of these plans necessarily imposes some burden, both on the eligible entities that make their needs known and on planners who seek to accommodate them.

OMB Control Number: 3060–0934.

Title: Application for Equipment Authorization, 47 CFR Sections 2.925, 2.932, 2.944, 2.960, 2.962, 2.1043, 68.160, and 68.162.

Form Number: FCC TCB 731.

Type of Review: Revision of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 25.

Estimated Time Per Response: 4 hrs.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 6,400 hrs.

Total Annual Cost: $175,000.

Needs and Uses: Under 47 CFR parts 15 and 18 of FCC Rules, certain equipment must comply with FCC technical standards before it can be marketed. Equipment that operates in the licensed service requires FCC authorization under 47 CFR parts 2 and 68. Since its 1998 Report and Order, Docket No. 98–68, the FCC has permitted a private sector firm or "Telecommunications Certification Body" (TCB) to approve equipment for marketing and has also established guidelines for "Mutual Recognition Agreements" with foreign trade partners. Once approved by the accrediting body and "designated" by the FCC, TCBs may accept Form 731 filings and evaluate the equipment's compliance with FCC Rules and technical standards. TCBs submit this information to the FCC via the Internet. On September 13, 2001, the FCC adopted a First Report and Order, ET Docket No. 00–47, that established a "Class III Permissive Change" to permit manufacturers to make changes affecting frequency, power, and modulation parameters of "software defined radios" without having to file a new equipment authorization application. The manufacturer must submit a description of the software changes to the FCC or a designated TCB. The FCC permits "electronic labeling" to be used on software defined radio transmitters.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31862 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Seventh Meeting of the Advisory Committee for the 2003 World Radiocommunication Conference (WRC–03 Advisory Committee)

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the next meeting of the WRC–03 Advisory Committee will be held on January 30, 2002, at the Federal Communications Commission. The purpose of the meeting is to continue preparations for the 2003 World Radiocommunication Conference. The Advisory Committee will consider any preliminary views and/or proposals introduced by the Advisory Committee's Informal Working Groups.

DATES: January 30, 2002; 10:00 am–12:00 noon.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Roytblat, FCC International Bureau, Planning and Negotiations Division, at (202) 418–7501.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission (FCC) established the WRC–03 Advisory Committee to provide advice, technical support and recommendations relating to the preparation of United States proposals and positions for the 2003 World Radiocommunication Conference (WRC–03). In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the seventh meeting of the WRC–03 Advisory Committee. The WRC–03 Advisory Committee has an open membership. All interested parties are invited to participate in the Advisory Committee and to attend its meetings. The proposed agenda for the seventh meeting is as follows:

Agenda

Seventh Meeting of the WRC–03 Advisory Committee, Federal Communications Commission, 445 12th Street, SW., Room TW–C305, Washington, DC 20554

January 30, 2002; 10:00 am–12:00 noon

1. Opening Remarks
2. Approval of Agenda
3. Approval of the Minutes of the Sixth Meeting
4. Reports from regional WRC–03 Preparatory Meetings
5. NTIA Draft Preliminary Views and Proposals
6. IWG Reports and Documents relating to:
   a. Consensus Views and Issue Papers
   b. Draft Proposals
7. Future Meetings
8. Other Business

Federal Communications Commission.

Don Abelson,

Chief, International Bureau.

[FR Doc. 01–31866 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2521]

Petition for Reconsideration of Action in Rulemaking Proceeding

December 17, 2001.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to this petition must be filed by January 14, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of FM Table of Allotment (MM Docket No. 01–107).

Number of Petitions Filed: 1.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–31861 Filed 12–27–01; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the

Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011528–020.

Title: Japan-United States Eastbound Freight Conference.

Parties:

American President Lines, Ltd.
Hapag-Lloyd Container Line GmbH
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
A. P. Moller-Maersk Sealand
Nippon Yusen Kaisha
Orient Overseas Container Line Limited
P & O Nedlloyd B.V.
P & O Nedlloyd Limited
Wallenius Wilhelmsen Lines A.S.

Synopsis: The proposed agreement modification extends the suspension of the conference for another six-month period, until July 31, 2002.

Agreement No.: 011784.

Title: Indamex/TSA Bridging Agreement.

Parties: The Indamex Agreement, and The Transpacific Stabilization Agreement.

Synopsis: The proposed agreement authorizes the parties and their member lines to exchange information and to discuss and reach non-binding agreement on various matters including rates, charges, rules, and equipment in the trade from India, Pakistan, Bangladesh, and Sri Lanka to the United States East Coast. The agreement does not authorize common tariffs or service contracts, but does authorize the parties to discuss and agree on voluntary guidelines related to service contracts.

Agreement No.: 200233–011.

Title: Packer Avenue Lease and Operating Agreement.

Parties: Philadelphia Regional Port Authority, and Astro Holdings, Inc.

Synopsis: The proposed amendment extends the agreement through June 1, 2002.

Dated: December 21, 2001.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 01–31953 Filed 12–27–01; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 10, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. *Estate of Oscar W. Roberts, Jr., Carrollton, Georgia; Louise T. Roberts, Carrollton, Georgia; Antoinette Roberts Goodrich; Marion, Virginia; Heather Roberts, Carrollton, Georgia; Oscar W. Roberts, III; Cleveland, Georgia; Helen T. Roberts, Atlanta, Georgia; Alfred F. Goodrich, Carrollton, Georgia; Bonita J. Roberts; Carrollton, Georgia; Oscar W. Roberts, IV, Carrollton, Georgia; Eleanor R. Goodrich, Carrollton, Georgia; Thomas T. Richards, Carrollton, Georgia; J. Patrick Malloy, Carrollton, Georgia; Sally A. Bobick, Carrollton, Georgia; Mary A. Maierhoffer, Carrollton, Georgia; Cornelia S. Richards, Carrollton, Georgia; Margaret R. Bass, Albany, Georgia; Cornelia L. Richards, New York, New York; Margaret R. Bass Trust, Carrollton, Georgia; Cornelia L. Richards Trust, Carrollton, Georgia; Estate of H.W. Richards, Carrollton, Georgia; Joe W. Walker, Carrollton, Georgia; Jan W. Walker, Carrollton, Georgia; Katherine M. Chewning, Carrollton, Georgia; Nicholas C. Walker, Carrollton, Georgia; Katherine R. Walker, Carrollton, Georgia; Wanda W. Calhoun, Carrollton, Georgia; Madeline A. Chewning, Carrollton, Georgia; Whitney L. Walker, Carrollton, Georgia; Greg W. Walker, Carrollton, Georgia; H. Frederick Walker, Carrollton, Georgia ; and Ross A. Chewning, Carrollton, Georgia;* all to retain voting shares of WGNB Corp., Carrollton, Georgia, and thereby indirectly retain voting shares of West Georgia National Bank of Carrollton, Carrollton, Georgia.

Board of Governors of the Federal Reserve System, December 20, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31876 Filed 12–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 22, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. *South Alabama Bancorporation, Inc.*, Mobile, Alabama; to merge with Gulf Coast Community Bancshares, Inc., Wewahitchka, Florida, and thereby indirectly acquire Wewahitchka State Bank, Wewahitchka, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411

VOL 66 ISS 249 DE 28 2001 UMI

Locust Street, St. Louis, Missouri 63166–2034:

1. *Hardin County Bancorp, Inc.*, Rosiclare, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Rosiclare, Rosiclare, Illinois.

Board of Governors of the Federal Reserve System, December 20, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–31875 Filed 12–27–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Remedial Use of Disgorgement

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Notice; request for comments.

SUMMARY: The Commission is requesting comments on the use of disgorgement as a remedy for violations of the Hart-Scott-Rodino (HSR) Act, FTC Act and Clayton Act.

DATES: Comments must be received by March 1, 2002.

ADDRESSES: Public comments are invited, and may be filed with the Commission in either paper or electronic form. An original and one (1) copy of any comments filed in paper form should be submitted to the Document Processing Section, Office of the Secretary, Room 159–H, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *disgorgementcomment@ftc.gov.*

FOR FURTHER INFORMATION CONTACT: John Graubert, Office of General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2186, *jgraubert@ftc.gov.*

SUPPLEMENTARY INFORMATION: The Commission has considerable experience with the use of monetary equitable remedies in consumer protection cases. In contract, the Commission has considered disgorgement or other forms of monetary equitable relief in fewer competition matters and obtained disgorgement in two recent matters, *FTC* v. *Mylan Laboratories, et al.* and *FTC* v. *The Hearst Trust et al.* The Commission accordingly solicits comments on the factors the Commission should consider in applying this remedy and how disgorgement should be calculated. The Commission is not re-examining its statutory authority to seek disgorgement or other monetary equitable relief in competition cases.

Comments may address any or all of the following questions. However, other, related comments are also welcome:

1. Are there particular violations of the Clayton Act, the HSR Act, the competition provisions of the FTC Act, or final orders of the Commission in competition cases where disgorgement would be especially appropriate or, in contrast, less useful? Should the resort to disgorgement depend on whether, in conjunction with an HSR Act violation or order violation, the underlying transaction or conduct constitutes an illegal acquisition under section 7 of the Clayton Act, or constitutes monopolization or attempted monopolization under section 5 of the Federal Trade Commission Act?

2. How should the Commission calculate the amount of disgorgement appropriate for particular law violations under each of the statutes? For example, if the Commission sought disgorgement for violations of the HSR Act, how should disgorgement be calculated when the unlawful gain includes (or consists solely of) tax savings, stock market profits, or other gain not directly related to antitrust injury? Should disgorgement be calculated to remove all profits earned from the acquisition, all profits attributable to antitrust harm, or some other approach? How should the Commission assess benefits obtained in an unlawful acquisition, or other transaction, that do not flow directly from immediate injury to customers, *e.g.*, where the violator reduces its investments in future technology because of a reduction in the competition it faces? Is the approach used to calculate disgorgement in *S.E.C.* v. *First City Financial Corporation, Ltd.*, 890 F.2d 1215 (D.C. Cir. 1989), appropriate for the Commission's use?

3. What other factors should the Commission consider in determining whether to seek disgorgement? How should the Commission weight and what is the relevance to the Commission of the following factors in determining whether to seek disgorgement: (i) The impact that seeking such a remedy may have on other aspects of any settlement negotiations, *e.g.*, delay in obtaining divestiture or other structural relief; (ii) the adequacy of other forms of relief (including civil penalties); (iii) the egregiousness of the conduct at issue; (iv) the extent of harm to the market generally or to indirect purchasers who may be unable to pursue a claim; (v) the ability of an affected party to secure relief independently of the Commission, *e.g.*, by private actions; (vi) the advantages or disadvantages of litigation in federal court rather than in an administrative proceeding; and (vii) the possible tradeoff between addressing past harm more thoroughly (through disgorgement) and an interest in obtaining relief quickly (through a conduct or structural remedy) so as to limit the effects of a continuing violation?

4. Should pending or potential private litigation, actions by state attorneys general, or civil or criminal prosecution by the Antitrust Division of the Department of Justice, affect the Commission's decision to seek disgorgement? Is this decision any different from the Commission's decision to seek other equitable relief, *e.g.*, divestiture, in cases where other related private or public litigation exists or its possible? Will Commission disgorgement claims encourage or discourage the decision of private parties or states to bring or continue litigation, or settlement negotiations, in such cases? If so, what would the ultimate effect on consumer welfare be under each such scenario?

5. In light of the fact that disgorgement and restitution have distinct theoretical underpinnings and equitable rationales, are there circumstances in competition cases in which one or the other of these remedies is more appropriate? What are the considerations that should inform such decisions?

6. When and how should disgorgement funds recovered by the Commission be distributed as restitution when there is parallel private litigation? For example, should any recovery of disgorgement or restitution by the Commission affect the calculation of or be used to pay attorney's fees in parallel litigation, and, if so, in what way? In any restitution program, how should direct and indirect purchasers be treated? How should the Commission proceed if its own action and parallel private action are not consolidated before a single judge?

The Commission is also interested in learning about parties' experiences in analogous circumstances involving disgorgement with other federal or state agencies and in other enforcement areas.

By direction of the Commission.

Dated: December 19, 2001.

Donald S. Clark,
Secretary.
[FR Doc. 01–31885 Filed 12–27–01; 8:45 am]
BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 021 0002]

INA-Holding Schaeffler KG, et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before January 22, 2002.

ADDRESSES: Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments filed in electronic form should be directed to: *consentagreement@ftc.gov*, as prescribed below.

FOR FURTHER INFORMATION CONTACT: Nick Koberstein, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2743.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34 of the Commission's rules of practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 21, 2001), on the World Wide Web, at *"http://www.ftc.gov/os/2001/12/index.htm."* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Comments filed in paper form should be directed to: FTC/Office of the Secretary, Room 159–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If a comment contains nonpublic information, it must be filed in paper form, and the first page of the document must be clearly labeled "confidential." Comments that do not contain any nonpublic information may instead be filed in electronic form (in ASCII format, WordPerfect, or Microsoft Word) as part of or as an attachment to email messages directed to the following email box: *consentagreement@ftc.gov.* Such comments will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's rules of practice, 16 CFR 4.9(b)(6)(ii)).

Analysis of Agreement Containing Consent Orders To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from INA-Holding Schaeffler KG ("INA") and FAG Kugelfischer Georg Schäfer AG ("FAG"), which is designed to remedy the anticompetitive effects resulting from INA's acquisition of FAG. Under the terms of the Consent Agreement, INA and FAG will be required to divest FAG's cartridge ball screw support bearing ("CBSSB") business. FAG's CBSSB business will be divested to Aktiebolaget SKF ("SKF"), and will take place no later than twenty (20) business days from the date on which INA begins its acquisition of FAG.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make final the Decision and Order.

Pursuant to a cash tender offer announced on September 13, 2001, INA proposes to acquire all of the outstanding shares of FAG. The total value of the transaction is approximately $650 million. The Commission's Complaint alleges that the proposed acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the worldwide market for the research, development, manufacture and sale of CBSSBs.

FAG and INA are the only two suppliers of CBSSBs in the world. CBSSBs are critical components in many industrial machine tools, and are utilized by machine tool original equipment manufacturers ("OEMs") around the world. Machine tools are machines that are used in the production of other equipment, and include grinding machines, milling machines, and laser drilling and cutting systems. Machine tool OEMs utilize CBSSBs to reduce the friction associated with the rotation of a rolling screw. This rotation is used to control linear motion for accurate positioning, and is vital to the proper functioning of certain machine tools. Although other types of bearings can be used to accomplish this purpose, CBSSBs are easier, less expensive, and less time intensive to use than the potential alternatives. CBSSBs also allow end users of machine tools to replace the bearings easily, quickly and without incurring substantial cost. Moreover, once a machine tool is designed with CBSSBs, the process of switching to an alternative type of bearing would require a costly and time consuming redesign of the tool. For these reasons, it is highly unlikely that OEMs, or end users, would switch from CBSSBs to alternative technologies even if CBSSB prices increased significantly.

The global market for CBSSBs is highly concentrated. If the proposed acquisition is consummated, the combined firm would monopolize the worldwide market for CBSSBs. Prior to the acquisition, INA and FAG frequently competed against each other for CBSSB business, and this competition benefitted CBSSB customers. By eliminating competition between the two competitors in this highly concentrated market, the proposed acquisition would allow the combined firm to exercise market power unilaterally, thereby increasing the likelihood that purchasers of CBSSBs would be forced to pay higher prices and that innovation, service levels, and product quality in this market would decrease.

There are significant impediments to new entry into the CBSSB market. A new entrant into the CBSSB market would need to undertake the difficult, expensive and time-consuming process of researching and developing a line of CBSSB products, acquiring the necessary production assets, and developing the expertise needed to

VOL 66 ISS 249 DE 28 2001 UMI

successfully design, manufacture, and market these products. It would take a new entrant over two years to accomplish these steps and achieve a significant market impact. Additionally, new entry into the CBSSB market is unlikely to occur because the costs of entering the market and producing CBSSBs are high relative to the limited sales opportunities available to new entrants.

The Consent Agreement effectively remedies the acquisition's anticompetitive effects in the worldwide market for CBSSBs by requiring INA and FAG to divest FAG's CBSSB business. This business consists of, among other things, FAG's specialized tooling equipment, technical drawings, advertising and training materials, customer lists, and other assets used in the research, development, manufacturing, quality assurance, marketing, customer support and sale of CBSSBs (collectively "CBSSB Assets"). Pursuant to the Consent Agreement, INA and FAG are required to divest the CBSSB Assets to SKF within twenty (20) business days from the date on which INA begins its acquisition of FAG. If the Commission determines that SKF is not an acceptable buyer or that the manner of the divestiture is not acceptable, INA and FAG must rescind the sale to SKF within three (3) business days, and divest the CBSSB Assets to a Commission-approved buyer within three (3) months. If INA and FAG have not divested the CBSSB Assets within the time and in the manner required by the Consent Agreement, the Commission may appoint a trustee to divest these assets and any additional FAG machinery that the trustee deems appropriate, subject to Commission approval.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer of divested assets must not itself present competitive problems. The Commission is satisfied that SKF is a well-qualified acquirer of the divested assets. SKF is a publicly-traded Swedish corporation and the largest supplier of ball and roller bearings worldwide. SKF has been active in the bearings industry since 1907, and currently has production sites in 22 countries around the world and sales activities in almost every country in the world. SKF is also a current producer of ball screw support bearings, the product from which CBSSBs were originally derived. Thus, SKF has the necessary industry expertise to manufacture and sell CBSSBs, and its entry into the CBSSB market will effectively replace the competition being eliminated by INA's acquisition of FAG. Furthermore, SKF does not pose separate competitive issues as the acquirer of the divested assets.

The Consent Agreement includes a number of provisions that are designed to ensure that the divestiture of the CBSSB Assets is successful. The Consent Agreement requires that, for a period of six (6) months, INA and FAG provide SKF with personnel, assistance, and training at no cost to SKF. This provision will ensure that SKF is able to effectively manufacture and market CBSSBs of the same quality as those currently produced by FAG. Additionally, if requested by SKF, INA and FAG are required to provide transitional manufacturing services at variable cost to SKF for up to six (6) months. This will ensure that SKF is able to serve customers in the CBSSB market without delay. In order to further facilitate SKF's entry into the CBSSB market, the Consent Agreement also prohibits INA and FAG from using any catalog numbers currently used by FAG to identify its CBSSBs.

To preserve the competitive viability and independence of the CBSSB Assets pending divestiture, the Consent Agreement includes an Order to Maintain Assets. This Order contains a number of provisions designed to ensure that the viability, competitiveness, and marketability of the CBSSB Assets and other FAG machinery are not diminished. The Order to Maintain Assets also provides that the Commission may appoint one or more monitors to ensure that INA and FAG expeditiously comply with their obligations under the Consent Agreement.

In order to ensure that the Commission remains informed about the status of the pending divestiture, and about efforts being made to accomplish the divestiture, the Consent Agreement requires INA and FAG to file an initial status report with the Commission within ten (10) days of the date the Consent Agreement is executed, and additional reports every thirty (30) days thereafter until the Commission's Decision and Order becomes final. Once the Commission's Order becomes final, INA and FAG have sixty (60) days within which to submit a verified written report detailing the manner in which they have complied, or intend to comply, with the Commission's Order. This reporting requirement continues until INA and FAG have fully complied with the Commission's Order.

In addition to the divestiture outlined above, the Commission's Order also addresses potential competitive issues raised by a possible future joint venture between FAG and NTN Corporation of Japan ("NTN"), another large producer of bearings worldwide. Although no joint activities have taken place to date, a preliminary agreement between FAG and NTN indicates that a wide range of possible joint marketing, joint production and joint sales activities are contemplated by the joint venture between the two companies. INA has publicly asserted that it welcomes the alliance with NTN and is prepared to continue this cooperation with NTN after INA's acquisition of FAG. Given that this scenario creates the possibility of a future global three-firm alliance, and given that such joint venture activities may not otherwise trigger Hart-Scott-Rodino reporting requirements, the Commission's Order requires INA and FAG to provide prior notice to the Commission before entering into any such joint venture activities with NTN affecting North America. This requirement will give the Commission an opportunity to review such activities for potential competitive harm before they take place.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–31912 Filed 12–27–01; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR D–259]

Federal Buildings and Space

This notice contains GSA Bulletin FPMR D–259 which announces the designation of a park on Federal grounds. The text of the bulletin follows:

To: Heads of Federal Agencies

Subject: Designation of Federal Building Grounds

1. *Purpose.* This bulletin announces the designation of a park on Federal grounds.

2. *Expiration date.* This bulletin expires May 11, 2002. However, the Federal building grounds designation announced by this bulletin will remain in effect until canceled or superseded.

3. *Designation.* The grounds directly in front of the John M. Shaw United States Courthouse in Lafayette,

Louisiana, to be used as a park, are designated as follows: Richard J. Putnam Park, on the grounds of the John M. Shaw United States Courthouse, 800 Lafayette Street, Lafayette, LA 70501.

Dated: December 19, 2001.

Stephen A. Perry,

Administrator of General Services.

[FR Doc. 01–31883 Filed 12–27–01; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4021–GNC]

RIN 0938–ZA22

Medicare Program; Criteria and Standards for Evaluating Intermediary, Carrier, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carrier Performance During Fiscal Year 2002

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: General notice with comment period.

SUMMARY: This notice describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries, carriers, and DMEPOS regional carriers in the administration of the Medicare program beginning the first day of the month following publication in the **Federal Register**. The results of these evaluations are considered whenever we enter into, renew, or terminate an intermediary agreement, carrier contract, or DMEPOS regional carrier contract or take other contract actions, for example, assigning or reassigning providers or services to an intermediary or designating regional or national intermediaries. The criteria and standards for DMEPOS regional carriers (also referred to as Durable Medical Equipment Regional Carriers (DMERCs)) were previously published under a separate **Federal Register** notice, but with this release will now be incorporated in the notice of criteria and standards for the intermediaries and carriers. We are requesting public comment on these criteria and standards.

EFFECTIVE DATE: The criteria and standards are effective January 2, 2002.

COMMENTS: Comments will be considered if we receive them at the appropriate address as provided below no later than 5 p.m. (EDT) on January 28, 2002.

ADDRESSES: In commenting, please refer to file code CMS–4021–GNC. Because of staff and resource limitations, we cannot accept comments by facsimile (fax) transmission. Mail written comments (one original and three copies) to the following address: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–4021–GNC, P.O. Box 8016, Baltimore, MD 21244–8016.

If you prefer, you may deliver (by hand or courier) your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, 20201 or

Room C5–16–03, 7500 Security Boulevard, Baltimore, Maryland 21244–8016.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sue Lathroum, (410) 786–7409.

SUPPLEMENTARY INFORMATION

Inspection of Public Comments: Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone (410) 786–7197.

I. Background

A. Part A—Hospital Insurance

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with us. These agencies or organizations, known as fiscal intermediaries, determine whether medical services are covered under Medicare, determine correct payment amounts and then make payments to the health care providers (for example, hospitals, skilled nursing facilities (SNFs), community mental health centers, etc.) on behalf of the beneficiaries. Section 1816(f) of the Act requires us to develop criteria, standards, and procedures to evaluate an intermediary's performance of its functions under its agreement. Evaluations of Medicare fee-for-service performance need not be limited to the current fiscal year (FY), other fixed term basis, or agreement term. We may evaluate performance using a time frame that does not mirror the FY or other fixed term. The evaluation of intermediary performance is part of our contract management process.

B. Part B Medical Insurance

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians, and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the amount payable for the services or supplies, and then make payment to the appropriate party.

Under section 1842(b)(2) of the Act, we are required to develop criteria, standards, and procedures to evaluate a carrier's performance of its functions under its contract. Evaluations of Medicare fee-for-service performance need not be limited to the current FY, other fixed term basis, or contract term. We may evaluate performance using a timeframe that does not mirror the FY. The evaluation of carrier performance is part of our contract management process.

C. Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carriers

In accordance with section 1834(a)(12) of the Act, CMS has entered into contracts with four DMEPOS regional carriers to perform all of the duties associated with the processing of claims for DMEPOS, under Part B of the Medicare program. These DMEPOS regional carriers process claims based on a Medicare beneficiary's principal residence by State. Section 1842(a) of the Act authorizes contracts with carriers for the payment of Part B claims for Medicare covered services and items. Section 1842(b)(2) of the Act requires us to publish in the **Federal Register** criteria and standards for the efficient and effective performance of carrier contract obligations. The criteria and standards to be used for evaluating the performance of DMEPOS regional carriers were first published on June 18, 1992 at 57 FR 27302. The evaluation of DMEPOS regional carrier performance is part of our contract management process.

VOL 66 ISS 249 DE 28 2001 UMI

D. Development and Publication of Criteria and Standards

In addition to the statutory requirements, 42 CFR 421.120 and 421.122 provide for publication of a **Federal Register** notice to announce criteria and standards for intermediaries prior to implementation. Section 421.201 provides for publication of a **Federal Register** notice to announce criteria and standards for carriers prior to implementation. The current criteria and standards for intermediaries and carriers were published in the **Federal Register** on October 31, 2000 at 65 FR 64968 and for DMEPOS regional carriers on January 26, 1996 at 61 FR 2516.

To the extent possible, we make every effort to publish the criteria and standards before the beginning of the Federal FY, which is October 1. If we do not publish a **Federal Register** notice before the new FY begins, readers may presume that until and unless notified otherwise, the criteria and standards that were in effect for the previous FY remain in effect.

In those instances in which we are unable to meet our goal of publishing the subject **Federal Register** notice before the beginning of the FY, we may publish the criteria and standards notice at any subsequent time during the year. If we publish a notice in this manner, the evaluation period for the criteria and standards that are the subject of the notice will be effective on the first day of the first month following publication. Any revised criteria and standards will measure performance prospectively; that is, we will not apply new measurements to assess performance on a retroactive basis.

It is not our intention to revise the criteria and standards that will be used during the evaluation period once this information has been published in a **Federal Register** notice. However, on occasion, either because of administrative action or congressional mandate, there may be a need for changes that have a direct impact on the criteria and standards previously published, or that require the addition of new criteria or standards, or that cause the deletion of previously published criteria and standards. If we must make these changes, we will publish a **Federal Register** notice prior to implementation of the changes. In all instances, necessary manual issuances will be published to ensure that the criteria and standards are applied uniformly and accurately. Also, as in previous years, this **Federal Register** notice will be republished and the effective date revised if changes are warranted as a result of the public comments received on the criteria and standards.

II. Analysis of and Response to Public Comments Received on FY 2001 Criteria and Standards

In response to the October 31, 2000 **Federal Register** general notice with comments, we received comments from 12 entities or individuals. We acknowledge and thank each respondent for submitting comments. All comments were reviewed, but none necessitated our reissuance of the FY 2001 Criteria and Standards. Not all comments submitted pertained specifically to the FY 2001 Criteria and Standards. Medicare program components were advised of the concerns as appropriate. When warranted, revisions have been incorporated in this **Federal Register** notice. We are responding to the following performance evaluation issues:

Comment: We were asked to clarify the time frames of 45 days for Standard 4 and 120 days for Standard 5 under the Customer Service criterion for carriers.

Response: Sections 1842(b)(2)(B)(i) and (ii) of the Act specifies time frames for carriers to complete review determinations and to make hearing decisions. A review determination is to be completed within 45 days after the date of a request. A hearing decision is to be made within 120 days after the date of receipt of a request. The date of receipt is the date the request is received and date stamped in the contractor's mailroom.

Comment: A commenter advised us of their concern about what they feel is the inconsistent manner in which the DMERCs conduct medical review. We were asked to instruct the DMERCs on what constitutes appropriate medical record review regarding suppliers, facilities, and physicians, and to instruct the DMERC to take into account that suppliers are not the appropriate conduits for medical record review. Further, we were asked to develop standards to ensure that DMERCs comply with these instructions.

Response: We must hold the entity receiving Medicare payments accountable for providing documentation that supports that services and equipment are covered by the Medicare program. The law requires physicians or practitioners ordering certain services and equipment to provide suppliers with this information to support claims payments.

Comment: Several commenters advised us that there seemed to be a discrepancy between the All Trunks Busy (ATB) internal rate, under the Customer Service criterion for carriers Standard 1, published in the October 31, 2000 **Federal Register** notice and the ATB internal rate in CMS' FY 2001 Budget and Performance Requirements (BPRs) for contractors. The October 31, 2000 **Federal Register** notice states, "Carriers are to achieve a monthly ATB rate of not more than 10%." In contrast, the FY 2001 BPRs states the monthly ATB rate "shall average 10%."

Response: The BPRs changed during FY 2001. The commenter is correct in noting a difference between the BPRs ATB internal rate and the ATB internal rate published in the **Federal Register**. However, we want to assure the commenter that we conducted Contractor Performance Evaluation (CPE) reviews based on the BPRs. If any contractor was evaluated earlier in the fiscal year on the basis of a BPR requirement that was subsequently changed, CMS subsequently reevaluated its performance against the latest BPR requirements. When necessary, revised CPE reports were issued to reflect our evaluation changes.

Comment: Commenters asked several questions concerning issues under section VII, Action Based on Performance Evaluations of the FY 2001 notice. The questions are as follows: CMS refers to the possibility of contractors (manipulating data in order to receive a "more favorable performance evaluation.)" How does the intermediary or carrier obtain a more favorable evaluation? How will the affected public know whether a contractor "meets the level of performance required?" Will the contractor's annual performance reports, referred to in paragraph three, be made available to the affected public?

Response: Many standards established for contractors, including some mandated ones specified in each year's **Federal Register** notice, rely on data submitted to the CMS Contractor Reporting of Operational and Workload Data Database. If a contractor manipulates data to reflect quicker processing of appeals or changes a claim identified as clean to be one identified as other than clean, the contractor's actions could result in more favorable timeliness data for those workloads. Because we identified only those performance standards, which are mandated by law, regulations, or judicial decision and provide examples of some other possible standards, we believe we have minimized the situations in which contractors are certain of the precise methodology by which we evaluate them.

The public may request CPE review reports through the Freedom of

Information Act, but we do not normally publish information on the findings of our performance evaluations.

Comment: A commenter stated, "We understand that the numerical CPEP requirements of past years, for example, an old requirement that intermediaries find $5.99 to $7.99 in disallowance for every dollar they received to perform medical review and utilization review, have been eliminated." "Clearly something has been substituted for the old "quotas"." "We ask that CMS make this information available to the affected public." "Many providers have the perception that CMS still requires its contractors to meet some sort of numerical ratios and/or that the contractors are free to set up their own quotas and reward system."

Response: CMS does not require contractors to meet savings quotas or targets, nor have reward systems. Instead, CMS assesses contractor activities that support the accomplishment of core performance standards specified in the annual Budget and Performance Requirements for medical review. These activities include, for example, workload management and data analysis.

Comment: One commenter stated that Medicare intermediary workload data from some recent years showed that approximately 35–40 percent of intermediary denials of home health or hospice care were reversed by Administrative Law Judges (ALJs) after reconsideration determinations by intermediaries. The commenter believes that, in light of CMS' definition of an acceptable reversal rate, this past data on reversals is quite disturbing. Home health intermediaries should be held accountable to the standards and criteria established by CMS.

Response: Certain intermediaries have as an amendment to their contract the responsibility to serve as a Regional Home Health Intermediary (RHHI). This means that in addition to processing claims from hospitals and skilled nursing facilities they are also responsible for claims and appeals from home health agencies and hospices. The mandate for intermediaries to have an acceptable ALJ reversal rate of their determinations applies to the full range of claims determinations which may be appealed to the ALJ level. That is, the determination of acceptable is not based solely on ALJ decisions concerning home health claims for intermediaries designated as RHHI's. As a result, the data applicable to only reversals of home health and hospice claims is not reflective of the data CMS uses to evaluate this standard.

Comment: Commenters stated that the use of the verbiage, "criterion may include, but is not limited to * * *" specific items, appears to broaden the scope of CMS' contractor performance evaluation by indicating that the five criteria can be expanded. The commenter believes that in a year of tight contractor funding, CMS should be more focused in its directions to carriers and intermediaries and indicate standards for activities that must be performed regardless of budgeted levels. This will allow contractors to prioritize activities within funding constraints.

Response: In the general criteria and standards we state the goal of the contractor performance evaluation is to ensure that contractors meet their contractual obligations. To ensure that contractors are meeting their contractual obligations we have established criteria and standards that are mandated or authorized by law, regulation, judicial decision, contract, or administration directives. We take into consideration the BPRs, any changes to them, and any abatements. It is not our intention to evaluate performance for which a contractor is not budgeted.

Comment: A commenter noted that in the Actions Based on Performance Evaluations section we state, "In addition, if the cost incurred by the intermediary or carrier to meet its contractual requirements exceeds the amount that we find to be reasonable and adequate to meet the cost that must be incurred by an efficiently and economically operated intermediary or carrier, these high costs may also be grounds for adverse action." The commenter states CMS should identify and ensure that contractors report costs accurately within each activity and ensure that there is consistent performance activities across the contractor community. This will allow effective contractor comparisons.

Response: CMS budget staff, who review contractor cost reporting and budget expenditures, review the overall spending associated with contractors' work. Additionally, CMS' functional components may include in their protocols an evaluation of the appropriateness of spending for the work performed.

Comment: A commenter recommended that until Administrative Law Judges (ALJs) are required to follow CMS manuals, the standard for intermediaries to not have more than 5.0 percent of appeals determinations reversed by ALJs should be removed.

Response: Section 1816 (f)(2)(A)(ii) of the Act requires that CMS evaluate "the extent to which such agency's or organization's determinations are reversed on appeal." In response to this requirement, CMS has defined an acceptable reversal rate by ALJs as one that is at or below 5.0 percent. We recognize that ALJs act independently. As we evaluate this standard we take into consideration whether the ALJ followed Medicare laws, regulations, and/or CMS program manuals.

Comment: Commenters stated that while the preamble mentions provider education as an element for evaluation under the Customer Service criterion it is unclear in the standards whether intermediaries are being evaluated on responsiveness to providers or just to beneficiaries.

Response: We agree that clarification is needed. With this notice we have specified that intermediaries may be evaluated on their responsiveness to providers as well as to beneficiaries.

Comment: One commenter expressed disappointment that the details of the FY 2001 process, while containing a number of objectively measured standards, depended heavily upon the subjective judgements of the individuals who would perform the reviews.

Response: We acknowledge that there were criteria and standards that permitted reviewers to make more subjective determinations concerning acceptableness of performance. We are working to decrease the number of these standards.

Comment: A commenter noted that the background portion of Section I indicated CMS may evaluate contractors' performance using a time frame that does not mirror the fiscal year or other fixed term. This means that the criteria and standards do not necessarily pertain to work performed during FY 2001, but rather to evaluations performed during that time. The concern is that a lack of a uniform time frame for the work being evaluated adds further to the subjectivity, imprecision, and variability that characterize the "rules" by which individual contractors' performance will be judged.

Response: Reviewers use evaluation protocols developed by CMS business function components. The use of standard protocols by all CPE reviewers helps to add greater overall consistency to the evaluation process. Our general focus, is on reviewing the work performed during the current FY, however, there could be situations where review of work conducted in previous years may be appropriate. The criteria and standards that were in effect at the time the work was performed will be used to evaluate work performed in previous years.

Comment: Commenters stated that contractor workloads, overall funding, and funding for specific activities, as well as CMS priorities and instructions to contractors, all fluctuate from year to year. In addition, in any fiscal year contractors often spend several months operating under restricted continuation budgets that do not reflect the full level of funding for the year that CMS eventually authorizes sometimes too late to be spent efficiently. We were told it is important that reviews of contractor performance take these time-related variances into account.

Response: In conducting CPE reviews we take into consideration budgetary restraints and situations experienced by each contractor. Authorizing the full level of funding to contractors is dependent upon the timing of Congressional appropriations.

Comment: A commenter requested that we provide a description of the types of analysis by intermediaries and carriers that we intend to address under the Claims Processing Criterion.

Response: In the October 31, 2000 **Federal Register** notice of criteria and standards we identified analysis and validation of data as additional functions that may be evaluated under the Claims Processing Criterion. However, rather than being functions we may evaluate, they are methods by which we can evaluate the accuracy of data submitted to CMS by intermediaries and carriers. We erred in listing this as a contractor function that could be reviewed. Thus, there was no analysis in this area that we had planned to evaluate.

Comment: A commenter noted that the FY 2001 Payment Safeguards Criterion specifies identifying fraud cases, investigating allegations of fraud, and putting in place effective fraud detection and deterrence programs. In contrast, the same criterion for carriers specifies identifying fraud and abuse cases, investigating fraud and/or abuse cases, and putting into place effective fraud and abuse detection and deterrence programs. We were asked if the failure to mention "abuse" in the criteria and standards for intermediaries meant to imply a distinction between CMS" evaluations of intermediaries and those of carriers, or was this a drafting oversight?

Response: Failing to mention "abuse" under the Payment Safeguards Criterion for intermediaries was indeed a drafting oversight. We have corrected the oversight with this notice.

Comment: We were advised that in section VII, Action Based on Performance Evaluations for the FY 2001 notice, we provided a definition for deficiency and vulnerability but not for "weakness." We have been requested to provide a definition of what constitutes a "weakness."

Response: A weakness may be an observed decline in contractor performance or a shortcoming in an operational process.

III. Criteria and Standards—General

Basic principles of the Medicare program are to pay claims promptly and accurately and to foster good beneficiary and provider relations. Contractors must administer the Medicare program efficiently and economically. The goal of performance evaluation is to ensure that contractors meet their contractual obligations. We measure contractor performance to ensure that contractors do what is required of them by law, regulation, contract, and our directives. We have developed a contractor oversight program for FY 2002 that outlines expectations of the contractor; measures the performance of the contractor; evaluates the performance against the expectations; and, takes appropriate contract action based upon the evaluation of the contractor's performance. We will work to develop and refine measurable performance standards in key areas in order to better evaluate contractor performance. In addition to evaluating performance based upon expectations for FY 2002, we may conduct follow-up evaluations of areas in which contractor performance was out of compliance with laws, regulations, and our performance expectations during FY 2001, thus having required the contractor to submit a Performance Improvement Plan (PIP).

In FY 2001, CMS introduced the Contractor Rebuttal Process as a commitment to continual improvement of CPE. This mechanism provides an opportunity for contractors to submit a written rebuttal of CPE findings of fact. Contractors have 7 calendar days from the CPE exit conference to submit a written rebuttal. The contents of the rebuttal will be considered by the review team prior to the issuance of the final CPE report to the contractor. We will assess the implementation and effectiveness of this new process during the FY 2001 CPE review cycle and, in consultation with the Medicare contractors, will determine if the rebuttal process adequately meets our respective needs.

Throughout this notice, we frequently refer to mandated standards. Mandated standards are those required by law, regulation, or judicial decision. We have reviewed the language of the laws, regulations, and court decisions in which the mandates were presented comparing them to those standards we identified as mandated in the more recent notices that have been published. In so doing, we determined that in some cases we had included requirements that in fact were not mandated, for example, accuracy of review decisions. In this FY 2002 notice of criteria and standards we have corrected those erroneously indicated performance mandates. Those requirements were standards in the Claims Processing Criterion and Customer Service Criterion.

The FY 2002 Contractor Performance Evaluation for intermediaries and carriers is structured into five criteria designed to meet the stated objectives. The first criterion is "Claims Processing," which measures contractual performance against claims processing accuracy and timeliness requirements, as well as activities in handling appeals. Within the Claims Processing Criterion, we have identified those performance standards that are mandated by legislation, regulation, or judicial decision. These standards include claims processing timeliness, the accuracy of Explanations of Medicare Benefits (EMOBs) and Medicare Summary Notices (MSNs), the appropriateness of determinations reversed by Administrative Law Judges (ALJs), the timeliness of intermediary reconsideration cases, the timeliness of carrier reviews and hearings, and the readability of carrier reviews. Further evaluation in the Claims Processing Criterion may include, but is not limited to, the accuracy of claims processing, the percent of claims paid with interest, and the accuracy of reconsiderations, reviews, and hearings.

The second criterion is "Customer Service" which assesses the adequacy of the service provided to customers by the contractor in its administration of the Medicare program. The mandated standards in the Customer Service Criterion include achieving and maintaining the monthly All Trunks Busy rate for beneficiary telephone inquiries; responding timely to beneficiary telephone inquiries; and providing beneficiaries with written replies that are responsive, written with appropriate customer-friendly tone and clarity, and are at the appropriate reading level. Further evaluation of services under this criterion may include, but is not limited to, the timeliness and accuracy of all correspondence both to beneficiaries and providers; monitoring of the quality of responses provided by the contractor's customer service representatives (quality call monitoring); beneficiary and provider education and outreach; and service by contractor's customer service representatives to beneficiaries who come to the contractor's facility (walk-in inquiry service).

The third criterion is "Payment Safeguards," which evaluates whether the Medicare Trust Fund is safeguarded against inappropriate program expenditures. Intermediary and carrier performance may be evaluated in the areas of Benefit Integrity (BI) (referred to in prior **Federal Register** notices as Fraud and Abuse), Medical Review (MR), Medicare Secondary Payer (MSP), Overpayments (OP), and Provider Enrollment (PE). In addition, intermediary performance may be evaluated in the area of Audit and Reimbursement (A&R). Mandated performance standards for intermediaries in the Payment Safeguards criterion are the accuracy of decisions on Skilled Nursing Facility (SNF) demand bills, and the timeliness of processing Tax Equity and Fiscal Responsibility Act (TEFRA) target rate adjustments, exceptions, and exemptions. There are no mandated performance standards for carriers in the Payment Safeguards criterion. Intermediaries and carriers may also be evaluated on any Medicare Integrity Program (MIP) activities if performed under their agreement or contract.

The fourth criterion is "Fiscal Responsibility," which evaluates the contractor's efforts to protect the Medicare program and the public interest. Contractors must effectively manage Federal funds for both the payment of benefits and costs of administration under the Medicare program. Proper financial and budgetary controls, including internal controls, must be in place to ensure contractor compliance with its agreement with HHS and CMS. Additional functions reviewed under this criterion may include, but are not limited to, adherence to approved budget, compliance with the Budget and Performance Requirements (BPRs), and compliance with financial reporting requirements.

The fifth and final criterion is "Administrative Activities," which measures a contractor's administrative management of the Medicare program. A contractor must efficiently and effectively manage its operations. Proper systems security (general and application controls), Automated Data Processing (ADP) maintenance, and disaster recovery plans must be in place. A contractor's evaluation under the Administrative Activities criterion may include, but is not limited to, establishment, application, documentation, and effectiveness of internal controls, which are essential in all aspects of a contractor's operation and the degree to which the contractor cooperates with us in complying with the Federal Managers' Financial Integrity Act of 1982 (FMFIA). Administrative Activities evaluations may also include reviews related to implementation of general CMS instructions and data and reporting requirements.

We have also developed separate measures for evaluating unique activities of Regional Home Health Intermediaries (RHHIs). Section 1816(e)(4) of the Act requires us to designate regional agencies or organizations, which are already Medicare intermediaries under section 1816, to perform claim processing functions with respect to freestanding Home Health Agency (HHA) claims. The law requires that we limit the number of these regional intermediaries (RHHIs) to not more than 10; see 42 CFR 421.117 and the final rule published in the **Federal Register** on May 19, 1988 at 53 FR 17936 for more details about the RHHIs.

We have developed separate measures for RHHIs in order to evaluate the distinct RHHI functions. These functions include the processing of claims from freestanding HHAs, hospital affiliated HHAs, and hospices. Through an evaluation using these criteria and standards, we may determine whether the RHHI functions should be moved from one intermediary to another in order to ensure effective and efficient administration of the program benefit.

Below, we list the criteria and standards to be used for evaluating the performance of intermediaries, RHHIs, carriers, and DMEPOS regional carriers. In several instances, we identify a Medicare manual as a source of more detailed requirements. Medicare fee-for-service contractors have copies of the various Medicare manuals referenced in this notice. Members of the public also have access to our manualized instructions. Medicare manuals are available for review at local Federal Depository Libraries (FDLs). Under the FDL Program, government publications are sent to approximately 1,400 designated public libraries throughout the United States. Interested parties may examine the documents at any one of the FDLs. Some may have arrangements to transfer material to a local library not designated as a FDL. To locate the nearest FDL, individuals should contact any public library.

In addition, individuals may contact regional depository libraries, which receive and retain at least one copy of nearly every Federal government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. Information may also be obtained from the following web site: *www.cms.hhs.gov/pubforms/program.htm*. Some manuals may be obtained from the following web site: *www.cms.gov/pubforms/p2192toc.htm*.

Finally, all of our Regional Offices (RO) maintain all Medicare manuals for public inspection. To find the location of the nearest available CMS RO, you may call the individual listed at the beginning of this notice. That individual can also provide information about purchasing or subscribing to the various Medicare manuals.

IV. Criteria and Standards for Intermediaries

A. Claims Processing Criterion

The Claims Processing criterion contains 4 mandated standards.

Standard 1. 95.0 percent of clean electronically submitted non-Periodic Interim Payment claims paid within statutorily specified time frames. Clean claims are defined as claims that do not require Medicare intermediaries to investigate or develop them outside of their Medicare operations on a prepayment basis. Specifically, clean, non-Periodic Interim Payment electronic claims can be paid as early as the 14th day (13 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 2. 95.0 percent of clean paper non-Periodic Interim Payment claims paid within specified time frames. Specifically, clean, non-Periodic Interim Payment paper claims can be paid as early as the 27th day (26 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 3. 5.0 percent reversal rate by ALJs is acceptable. We have defined an acceptable reversal rate by ALJs as one that is at or below 5.0 percent.

Standard 4. 75.0 percent of reconsiderations are processed within 60 days and 90.0 percent are processed

VOL 66 ISS 249 DE 28 2001 UMI

within 90 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

Additional functions may be evaluated under this criterion. These functions include, but are not limited to, the following:

- Claims processing accuracy.
- Establishment and maintenance of relationship with Common Working File (CWF) Host.
- Accuracy of processing reconsideration cases with determination letters that are clear and have appropriate customer-friendly tone.

B. Customer Service Criterion

There are no mandated standards for this criterion for intermediaries.

Functions that may be evaluated under this criterion include, but are not limited to the following:

- Ensuring that the monthly All Trunks Busy rate for beneficiary and provider inquiries is achieved and maintained.
- Responding timely and accurately to beneficiary and provider telephone inquiries.
- Quality Call Monitoring.
- Ensuring the validity of the call center performance data that are being reported in the Customer Service Assessment and Management System.
- Providing timely and accurate responses to beneficiaries and providers that are responsive and written with appropriate customer-friendly tone and clarity and those written to beneficiaries are at the appropriate reading level.
- Conducting beneficiary and provider education and outreach.
- Walk-in inquiry service.

C. Payment Safeguards Criterion

The Payment Safeguard criterion contains two mandated standards.

Standard 1. Decisions on SNF demand bills are accurate.

Standard 2. TEFRA target rate adjustments, exceptions, and exemptions are processed within mandated time frames. Specifically, applications must be processed to completion within 75 days after receipt by the contractor or returned to the hospitals as incomplete within 60 days of receipt.

Intermediaries may also be evaluated on any MIP activities if performed under their agreement or contract. These functions and activities include, but are not limited to the following:

Audit and Reimbursement

- Performing the activities specified in our general instructions for conducting audit and settlement of Medicare cost reports.
- Establishing accurate interim payments.

Benefit Integrity

- Identifying potential fraud cases that exist within the intermediary's service area and taking appropriate actions to resolve these cases.
- Investigating allegations of potential fraud that are made by beneficiaries, providers, CMS, Office of Inspector General (OIG), and other sources.
- Putting in place effective detection and deterrence programs for potential fraud.

Medical Review

- Applying analytical skills and focusing resources on particular providers or claim types that represent unnecessary or inappropriate care.
- Making accurate and defensible decisions on medical reviews.
- Developing means of addressing any aberrance identified during the analysis of all local and national data.
- Effectively educating and communicating with the provider community.

Medicare Secondary Payer

- Identifying, recovering, and referring mistaken Medicare payments in accordance with appropriate Medicare Intermediary Manual instructions and other pertinent CMS general instructions.
- Accurately reporting savings and following claim development procedures.
- Prioritizing and processing recoveries in compliance with instructions.
- Financial reporting activities.

Overpayments

- Collecting and referring Medicare debts timely.
- Accurately reporting overpayments to CMS.
- Adhering to our instructions for management of Medicare Trust Fund debts.

Provider Enrollment

- Complying with assignment of staff to the provider enrollment function and training the staff in procedures and verification techniques.
- Complying with the operational standards relevant to the process for enrolling providers.

D. Fiscal Responsibility Criterion

While there are no mandated standards in this criterion, we may review the intermediary's efforts to establish and maintain appropriate financial and budgetary internal controls over benefit payments and administrative costs. Proper internal controls must be in place to ensure that contractors comply with their agreements with us.

Additional matters that may be reviewed under the Fiscal Responsibility criterion include, but are not limited to the following:

- Adherence to approved program management and MIP budgets.
- Compliance with the BPRs.
- Compliance with financial reporting requirements.
- Control of administrative cost and benefit payments.

E. Administrative Activities Criterion

While there are no mandated standards in this criterion, we may measure an intermediary's administrative ability to manage the Medicare program. We may evaluate the efficiency and effectiveness of its operations, its system of internal controls, and its compliance with our directives and initiatives. We may measure an intermediary's efficiency and effectiveness in managing its operations. Proper systems security (general and application controls), ADP maintenance, and disaster recovery plans must be in place. An intermediary must also test system changes to ensure the accurate implementation of our instructions.

Our evaluation of an intermediary under the Administrative Activities criterion may include, but is not limited to, reviews of the following:

- Systems security.
- ADP maintenance (configuration management, testing, change management, security, etc).
- Disaster recovery plan.
- Implementation of general CMS instructions.
- Data and reporting requirements implementation.
- Internal controls establishment and use, including the degree to which the contractor cooperates with the Secretary in complying with the FMFIA.

V. Criteria and Standards for Regional Home Health Intermediaries (RHHIs)

The following standards are mandated for the RHHI criterion:

Standard 1. 95.0 percent of clean electronically submitted non-Periodic Interim Payment HHA/hospice claims are paid within statutorily specified time frames. Clean claims are defined as claims that do not require Medicare intermediaries to investigate or develop them outside of their Medicare operations on a prepayment basis. Specifically, clean, non-Periodic Interim Payment electronic claims can be paid as early as the 14th day (13 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 2. 95.0 percent of clean paper non-Periodic Interim Payment HHA/hospice claims are paid within specified time frames. Specifically, clean, non-Periodic Interim Payment paper claims can be paid as early as the 27th day (26 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 3. 75.0 percent of HHA/hospice reconsiderations are processed within 60 days and 90.0 percent are processed within 90 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

We may use this criterion to review a RHHI's performance with respect to handling the HHA/hospice workload. This includes processing HHA/hospice claims timely and accurately; properly paying and settling HHA cost reports; and timely and accurately processing reconsiderations from beneficiaries, HHAs, and hospices, interim rate setting, and accuracy of MR coverage decisions.

VI. Criteria and Standards for Carriers

A. Claims Processing Criterion

The Claims Processing criterion contains six mandated standards.

Standard 1. 95.0 percent of clean electronically submitted claims processed within statutorily specified time frames. Clean claims are defined as claims that do not require Medicare carriers to investigate or develop them outside of their Medicare operations on a prepayment basis. Specifically, clean electronic claims can be paid as early as the 14th day (13 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 2. 95.0 percent of clean paper claims processed within specified time frames. Specifically, clean paper claims can be paid as early as the 27th day (26 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 3. 98.0 percent of EOMBs and MSNs are properly generated.

Standard 4. 95.0 percent of review determinations are completed within 45 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 5. 90.0 percent of carrier hearing decisions are completed within 120 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 6. Responses to beneficiary reviews are written at an appropriate reading level.

Additional functions may be evaluated under this criterion. These functions include, but are not limited to, the following:

- Claims Processing accuracy.
- Establishment and maintenance of relationship with the CWF Host.
- Accuracy of processing review cases.
- Accuracy of processing hearing cases with determination letters that are clear and have appropriate customer-friendly tone.

B. Customer Service Criterion

The Customer Service criterion contains three mandated standards.

CMS' obligation to evaluate performance of these activities was mandated by the court decisions of *Gray Panther* v. *Heckler*, 1985 WL 81770 (D.D.C.) for Standards 1 and 2 and in *David* v. *Heckler*, 591, F. Supp. 1033, (U.S. Dist. Ct. 1984) for Standard 3. Contractors are expected to comply with performance expectations set forth in the court renderings, unless expectations established by CMS are more stringent. In these instances, contractors must meet CMS' performance expectations.

Standard 1. Achieve and maintain the monthly All Trunks Busy rate for beneficiary telephone inquiries.

Standard 2. Respond timely to beneficiary telephone inquiries.

Standard 3. Responses to beneficiary correspondence are responsive, written with appropriate customer-friendly tone and clarity, and are at the appropriate reading level.

Additional functions which may be evaluated under this criterion include, but are not limited to the following:

- Ensuring that the monthly All Trunks Busy rate for provider inquiries is achieved and maintained.
- Responding timely to provider telephone inquiries.
- Quality Call Monitoring.
- Ensuring the validity of the call center performance data that are being reported in the Customer Service Assessment and Management System.
- Providing timely and accurate responses to beneficiaries and providers that are responsive and written with appropriate customer-friendly tone and clarity.
- Conducting beneficiary and provider education and outreach.
- Walk-in inquiry service.

C. Payment Safeguards Criterion

While there are no mandated standards in this criterion, carriers may be evaluated on any MIP activities if performed under their contracts. In addition, other carrier functions and activities that may be reviewed under this criterion include, but are not limited to the following:

Benefit Integrity

- Identifying potential fraud cases that exist within the carrier's service area and taking appropriate actions to resolve these cases.
- Investigating allegations of potential fraud that are made by beneficiaries, providers, CMS, OIG, and other sources.
- Putting in place effective detection and deterrence programs for potential fraud.

Medical Review

- Applying analytical skills and focusing resources on particular providers or claim types that represent unnecessary or inappropriate care.
- Developing effective means of addressing any aberrance identified through analyzing data to target prepay and post-pay review.
- Making accurate and defensible decisions on medical reviews.
- Effectively educating and communicating with physician and/or supplier communities.

Medicare Secondary Payer

- Identifying, recovering, and referring mistaken Medicare payments in accordance with the appropriate Medicare Carriers Manual instructions, and other pertinent CMS general instructions.
- Accurately reporting savings and following claim development procedures.
- Prioritizing and processing recoveries in compliance with instructions.
- Financial reporting activities.

Overpayments

- Collecting and referring Medicare debts timely.
- Accurately reporting overpayments to CMS.
- Compliance with CMS instructions for management of Medicare Trust Fund debts.

Provider Enrollment

- Complying with assignment of staff to the provider enrollment function and training staff in procedures and verification techniques.

- Complying with the operational standards relevant to the process for enrolling providers.

D. Fiscal Responsibility Criterion

While there are no mandated standards in this criterion, we may review the carrier's efforts to establish and maintain appropriate financial and budgetary internal controls over benefit payments and administrative costs. Proper internal controls must be in place to ensure that contractors comply with their contracts.

Additional matters that may be reviewed under the Fiscal Responsibility criterion include, but are not limited to the following:

- Adherence to approved program management and MIP budgets.
- Compliance with the BPRs.
- Compliance with financial reporting requirements.
- Control of administrative cost and benefit payments.

E. Administrative Activities Criterion

While there are no mandated standards in this criterion, we may measure a carrier's administrative ability to manage the Medicare program. We may evaluate the efficiency and effectiveness of its operations, its system of internal controls, and its compliance with our directives and initiatives.

We may measure a carrier's efficiency and effectiveness in managing its operations. Proper systems security (general and application controls), Automatic Data Processing (ADP) maintenance, and disaster recovery plans must be in place. Also, a carrier must test system changes to ensure accurate implementation of our instructions.

Our evaluation of a carrier under this criterion may include, but is not limited to, reviews of the following:

- Systems security.
- ADP maintenance (configuration management, testing, change management, security, etc.).
- Disaster recovery plan.
- Implementation of general CMS instructions.
- Data and reporting requirements implementation.
- Internal controls establishment and use, including the degree to which the contractor cooperates with the Secretary in complying with the FMFIA.

VII. Criteria and Standards for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carriers

The complete list of criteria and standards for evaluating the performance of DMEPOS regional carriers is contained in detail in the DMEPOS' regional carrier statement of work (SOW), which is subject to change due to modifications to the contractor BPRs, as well as legal and administrative changes that have a direct impact on the contractors.

We will use the same six criteria contained in the DMEPOS regional carrier SOW to evaluate the overall performance of DMEPOS regional carriers. They are (1) Quality, (2) Efficiency, (3) Service, (4) Benefit Integrity, (5) National Supplier Clearinghouse, and (6) Statistical Analysis DMEPOS regional carrier.

These six criteria contain a total of nine mandated standards against which all DMEPOS regional carriers must be evaluated as well as examples of other activities for which the DMEPOS regional carriers may also be evaluated. The mandated standards are in the Quality, Efficiency, and Service Criteria.

In addition to being described in these criteria, the mandated standards are also described in Attachment J–37 to the DMEPOS regional carrier SOW.

A. Quality Criterion

The Quality criterion contains one mandated standard.

A DMEPOS regional carrier must pay claims accurately and in accordance with program instructions. The DMEPOS regional carrier is required to:

Standard 1. Properly generate 98.0 percent of MSN's.

The DMEPOS regional carriers must undertake actions to promote effective program administration with respect to DMEPOS regional carrier claims. These activities include, but are not limited to: processing claims accurately, overpayment recovery and offsetting of claims payment; assuring the proper submission of certificates of medical necessity; review of the implementation of fee schedules and reasonable charge updates; medical review activities; implementation of coverage policy; and, analysis of workload to detect patterns of outcomes. We may evaluate the DMEPOS regional carriers in performing these kinds of activities.

B. Efficiency Criterion

The Efficiency criterion contains five mandated standards.

Standard 1. 95.0 percent of clean electronically submitted claims are processed within statutorily specified time frames. Clean claims are defined as claims that do not require Medicare DMEPOS regional carriers to investigate or develop them outside of their Medicare operations on a prepayment basis. Specifically, clean claims can be paid as early as the 14th day (13 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 2. 95.0 percent of clean paper claims are processed within specified time frames. Specifically, clean paper claims can be paid as early as the 27th day (26 days after the date of receipt) and must be paid by the 31st day (30 days after the date of receipt). CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 3. 95.0 percent of review determinations are completed within 45 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 4. 90.0 percent of DMEPOS regional carrier hearing decisions are completed within 120 days. CMS' expectation is that contractors will meet this percentage on a monthly basis.

Standard 5. Letters prepared to respond to beneficiary requests for reviews are written at an appropriate reading level.

Additional functions which may be evaluated under this criterion include, but are not limited to the following:

- Determinations on review and hearing requests are written accurately and clearly.
- Documentation of telephone reviews is accurate and timely.
- Requests for ALJ hearings are processed timely, to include preparation and forwarding to the ALJ of the case files.
- Completed ALJ decisions are reviewed for accuracy.
- Agency referral and case files are submitted timely to the designated CMS Regional Office.
- ALJ decisions are effectuated correctly and within specified timeframes.
- Documentation of completed ALJ decisions is maintained.
- Requests from the Departmental Appeals Board for ALJ case files are processed.

C. Service Criterion

The Service criterion contains three mandated standards.

CMS' obligation to evaluate performance of these activities was mandated by the court decisions of Gray Panther v. Heckler, 1985 WL 81770 (D.D.C.) for Standards 1 and 2 and in David v. Heckler, 597, F. Supp. 1033, (U.S. Dist. Ct. 1984) for Standard 3. Contractors are expected to comply with performance expectations set forth in the court renderings, unless expectations established by CMS are more stringent. In such instances, contractors must meet CMS' performance expectations that beneficiaries and suppliers are served by prompt and accurate administration of the program in accordance with all applicable laws, regulations, the DMEPOS regional carrier statement of work (SOW), and CMS' general instructions.

Standard 1. Achieve and maintain a monthly All Trunks Busy rate for beneficiary telephone inquiries.

Standard 2. Respond timely to beneficiary telephone inquiries.

Standard 3. Responses to beneficiary correspondence are responsive and are written with appropriate customer-friendly tone and clarity, and are at the appropriate reading level. Additional functions which may be evaluated under this criterion include, but are not limited to the following:

- Ensuring that the monthly All Trunks Busy rate for provider inquiries is achieved and maintained.
- Responding timely to provider telephone inquiries.
- Quality Call Monitoring.
- Ensuring the validity of the call center performance data that are being reported in the Customer Service Assessment and Management System.

Providing timely and accurate responses to beneficiaries, providers, and suppliers that are responsive and written with appropriate customer-friendly tone and clarity.

- Conducting beneficiary and provider education and outreach.
- Responding to beneficiary and supplier education and training needs.

D. Benefit Integrity Criterion (referred to in prior Federal Register *notices as Fraud and Abuse)*

While there are no mandated standards in this criterion, other DMEPOS regional carrier functions and activities that may be reviewed under this criterion include, but are not limited to the following:

- Identifying potential fraud cases that exist within the DMEPOS regional carrier's service area and taking appropriate actions to resolve these cases.
- Investigating allegations of potential fraud made by beneficiaries, providers, CMS, OIG, and other sources.
- Putting in place effective detection and deterrence programs for potential fraud.

E. National Supplier Clearinghouse Criterion

(The National Supplier Clearinghouse (NSC) DMEPOS regional carrier function is assigned to one of the DMEPOS regional carriers. It performs the functions measured under this criterion.)

While there are no mandated standards in this criterion, the NSC DMEPOS regional carrier is required to properly administer the NSC.

We review the NSC activities to ensure the NSC DMEPOS regional carrier meets various requirements, such as—processing new and renewal applications for billing numbers, maintaining supplier files, matching OIG sanctioned suppliers, and enforcing supplier standards.

F. Statistical Analysis DMEPOS Regional Carrier Criterion

(The Statistical Analysis DMEPOS regional carrier function is assigned to one of the DMEPOS regional carriers. It performs the functions measured under this criterion.)

While there are no mandated standards in this criterion, the Statistical Analysis DMEPOS regional carrier is required to properly administer the Statistical Analysis DMEPOS regional carrier program.

We review the activities of the Statistical Analysis DMEPOS regional carrier to ensure it meets various requirements such as: analyzing national reports to identify trends, aberrancies, and utilization patterns; generating reports according to our specifications; serving as the Healthcare Common Procedure Coding System (HCPCS) definition resource center; and developing national parental and enteral nutrition pricing as well as oral anti-cancer drugs pricing.

In addition, we evaluate the Statistical Analysis DMEPOS regional carrier's performance in conducting statistical analysis of data to identify potential areas of over utilization, fraudulent or abusive claims practices, and other areas of concern.

VIII. Action Based on Performance Evaluations

We evaluate a contractor's performance against applicable program requirements for each criterion. Each contractor must certify that all information submitted to us relating to the contract management process, including, without limitation, all files, records, documents and data, whether in written, electronic, or other form, is accurate and complete to the best of the contractor's knowledge and belief. A contractor will also be required to certify that its files, records, documents, and data have not been manipulated or falsified in an effort to receive a more favorable performance evaluation. A contractor must further certify that, to the best of its knowledge and belief, the contractor has submitted, without withholding any relevant information, all information required to be submitted with respect to the contract management process under the authority of applicable law(s), regulation(s), contracts, or CMS' manual provision(s). Any contractor that makes a false, fictitious, or fraudulent certification may be subject to criminal and/or civil prosecution, as well as appropriate administrative action. This administrative action may include debarment or suspension of the contractor, as well as the termination or non-renewal of a contract.

If a contractor meets the level of performance required by operational instructions, it meets the requirements of that criterion. When we determine a contractor is not meeting performance requirements, we will use the terms major nonconformance or minor nonconformance to classify our findings. A major nonconformance is a nonconformance that is likely to result in failure of the supplies or services, or to materially reduce the usability of the supplies or services for their intended purpose. A minor nonconformance is a nonconformance that is not likely to materially reduce the usability of the supplies or services for their intended purpose, or is a departure from established standards having little bearing on the effective use or operation of the supplies or services. The contractor will be required to develop and implement a PIP for findings determined to be either a major or minor nonconformance. The contractor will be monitored to ensure effective and efficient compliance with the PIP, and to ensure improved performance when requirements are not met.

The results of performance evaluations and assessments under all criteria applying to intermediaries, carriers, RHHIs and DMEPOS regional carriers will be used for contract management activities and will be published in the contractor's annual Report of Contractor Performance (RCP). We may initiate administrative actions as a result of the evaluation of contractor performance based on these performance criteria. Under sections 1816 and 1842 of the Act, we consider the results of the evaluation in our determinations when:

- Entering into, renewing, or terminating agreements or contracts with contractors.
- Deciding other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These decisions are made on a case-by-case basis and depend primarily

VOL 66 ISS 249 DE 28 2001 UMI

on the nature and degree of performance. More specifically, they depend on the following:

- Relative overall performance compared to other contractors.
- Number of criteria in which nonconformance occurs.
- Extent of each major nonconformance.
- Relative significance of the requirement for which major nonconformance occurs within the overall evaluation program.
- Efforts to improve program quality, service, and efficiency.
- Deciding the assignment or reassignment of providers and designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the effective and efficient administration of the Medicare program.

In addition, if the cost incurred by the intermediary, RHHI, carrier, or DMEPOS regional carrier to meet its contractual requirements exceeds the amount that we find to be reasonable and adequate to meet the cost that must be incurred by an efficiently and economically operated intermediary or carrier, these high costs may also be grounds for adverse action.

IX. Response to Public Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are unable to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble of that document.

X. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). Since this notice only describes criteria and standards for evaluating FI's, Carriers and DMEPOS carriers and has no economic or social impact on the program, its beneficiaries or providers or suppliers, this is not a major notice.

The RFA requires agencies to analyze options for regulatory relief of small businesses. This notice does not affect small businesses, individuals and States are not included in the definition of a small business entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This notice does not affect small rural hospitals.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This notice does not require an impact analysis because it does not have an economic impact on small entities, small rural hospitals, or State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

XI. Federalism

We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism. We have determined that the notice does not significantly affect the rights, roles, and responsibilities of States.

XII. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 13, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–31720 Filed 12–27–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2135–N]

RIN: 0938–AL34

Medicare Program; Deductible Amount for Medigap High Deductible Options for Calendar Year 2002

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the annual deductible amount of $1,620 for the Medicare supplemental health insurance (Medigap) high deductible options for 2002. High deductible policy options are those with benefit packages classified as "F" or "J" that have a high deductible feature. The deductible amount represents the annual out-of-pocket expenses (excluding premiums) that a beneficiary who chooses one of these options must pay before the policy begins paying benefits.

EFFECTIVE DATE: January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Kathryn McCann, (410) 786–7623.

SUPPLEMENTARY INFORMATION:

I. Background

A. Medicare Supplemental Insurance

A Medicare supplemental, or Medigap, policy is the principal type of private health insurance that a beneficiary may purchase to cover certain costs that Medicare does not cover. The beneficiary is responsible for deductibles and coinsurance amounts for both Part A (hospital insurance) and Part B (supplementary medical insurance) of the Medicare program. In addition, Medicare generally does not cover custodial nursing home care, eyeglasses, dental care, and most outpatient prescription drugs. A beneficiary must either pay the full cost of these services, or he or she may purchase additional private health insurance to help pay these costs. Medigap policies offer coverage for some or all of the deductibles and coinsurance amounts required by Medicare. Additionally, Medigap policies may provide coverage for some services that are not covered under the Medicare program.

Section 1882 of the Social Security Act (the Act) establishes, among other things, minimum standards for Medigap policies. No Medigap policy may be issued in a State unless the policy complies with State laws that conform to section 1882(b)(1) of the Act.

The Omnibus Budget Reconciliation Act of 1990 (OBRA 90) amended the Act by standardizing Medigap benefits and requiring that no more than 10 Medigap benefit packages, Plans "A" through "J," be offered nationwide. Three States (Wisconsin, Minnesota, and Massachusetts) experimented with standardizing benefits before the enactment of Federal standards. These States were permitted to keep their alternative forms of Medigap standardization and are referred to as the "waivered States."

Plan "A" is the basic benefit package. It covers Medicare Part A hospital coinsurance plus coverage for 365 additional days after Medicare benefits end, over the beneficiary's lifetime, Medicare Part B coinsurance (generally 20 percent of the Medicare-approved amount or, in the case of hospital outpatient department services under a prospective payment system, the applicable copayment), and coverage for the first 3 pints of blood per year. Medigap Plans "B" through "J" contain this basic benefit package, as well as different combinations of additional benefits. Plans "F" and "J" contain:

- Medicare Part A inpatient hospital deductible.
- Skilled-nursing facility coinsurance.
- Part B deductible.
- Foreign travel health emergencies.
- 100% of Medicare Part B excess charges.

In addition, Plan "J" includes:

- At-home recovery.
- Some prescription drug coverage.
- Preventive care.

B. High Deductible Medigap Policies

Section 4032 of the Balanced Budget Act of 1997 (BBA) authorized high deductible versions of Plans "F" and "J" and their closest counterparts in the waivered States. Unlike the regular versions of Plans "F" and "J," the high deductible versions of these policies do not begin paying benefits until the deductible amount is met. Out-of-pocket expenses that can be applied toward this deductible are expenses that would ordinarily be paid by the policy, including Medicare deductibles for Parts A and B, emergency foreign travel expenses in the case of both high deductible policies, and outpatient prescription drug costs in the case of the high deductible version of Plan J. The Plan "F" deductible does not include the separate foreign travel emergency deductible of $250. The Plan "J" deductible does not include the plan's separate $250 prescription drug deductible or the plan's separate $250 deductible for foreign travel emergencies. Even though foreign travel emergency expenses and prescription drug expenses may be applied toward meeting the plan's overall deductible, these types of expenses can only be paid after the separate $250 deductible for the benefit has been met.

II. Provisions of This Notice

The high deductible amount is determined in accordance with section 1882(p)(11)(C)(i) of the Act. That provision prescribed a deductible of $1500 for 1998 and 1999, and directed that the amount increase each subsequent year by the percent increase in the Consumer Price Index for all urban consumers (CPI–U), all items, U.S. city average. For 2001, the high deductible amount was $1,580. For 2002, the high deductible amount is increased by the percent increase in the CPI–U for the 12-month period ending August 2001. As reported by the Bureau of Labor Statistics, Department of Labor, the CPI–U index was 172.7 in August 2000 and 177.5 in August 2001, resulting in a 2.78 percent increase for the 12-month period ending August 2001. A 2.78 percent increase in $1,580.00 is $1,623.92. Section 1882(p)(11)(C)(ii) of the Act stipulates that this amount be rounded to the nearest multiple of $10. After rounding $1,623.92 to the nearest $10 multiple, the 2002 deductible for the Medigap high deductible options is $1,620.

III. Regulatory Impact Statement

We have examined the impacts of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980 Public Law 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more annually). The aggregate impact of this notice on beneficiaries is negligible, therefore, this is not a major notice.

The RFA requires agencies to analyze options for regulatory relief of small businesses. This notice does not effect small businesses, individuals and States are not included in the definition of a small business entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This notice does not effect small rural hospitals.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This notice does not require an impact analysis because it does not have an economic impact on small entities, small rural hospitals, or State, local, or tribal governments.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Authority: Section 1882 of the Social Security Act. (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance, and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 21, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 01–31721 Filed 12–27–01; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF–PA–HS–02–01B

Discretionary Announcement of the Availability of Funds and Request for Applications for Select Service Areas of Early Head Start; Correction

AGENCY: Administration for Children, Youth and Families, ACF, DHHS.

ACTION: Correction.

SUMMARY: This document contains a correction to the Notice that was published in the **Federal Register** on September 20, 2001.

On page 48474, Appendix A, Part I, in the State of Washington, in the State

VOL 66 ISS 249 DE 28 2001 UMI

and county column, delete "King", in the FY 2002 funding level column delete "805,124" and in the Service area column delete "City of Seattle: Yesler Terrace, Holly Park, High Point and Ranier Vista Public Housing Districts".

On page 48476, Appendix A, Part II, in the State of Washington, in the State and county Column delete "None" and add the county of "King", in the FY 2002 funding level column add "805,124", and in the Service area column add "City of Seattle: Yesler Terrace, Holly Park, High Point, and Ranier Vista Public Housing Districts".

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center at 1–800–351–2293 or send an email to *ehs@lcgnet.com*. You can also contact Sherri Ash, Early Head Start, Head Start Bureau at (202) 205–8562.

Dated: December 20, 2001.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 01–31884 Filed 12–27–01; 8:45 am]

BILLING CODE 4184-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Cardiovascular and Renal Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 17 and 18, 2002, from 8:30 a.m. to 4:30 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact: Jaime Henriquez, Center for Drug Evaluation and Research, (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001 or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12533. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 17, 2002, the committee will discuss new drug application (NDA) 20–757/S–021, AVAPRO (irbesartan), Sanofi-Synthelabo (c/o Bristol-Myers Squibb), for the treatment of hypertensive patients with type 2 diabetic renal disease. On January 18, 2002, the committee will discuss NDA 21–387, pravastatin/aspirin, Bristol-Myers Squibb, co-package, for long-term management to reduce the risk of death, nonfatal myocardial infarction, myocardial revascularization procedures, and ischemic stroke in patients with clinically evident coronary heart disease.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 7, 2002. Oral presentations from the public will be scheduled each day between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 7, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 14, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–31879 Filed 12–27–01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Pulmonary-Allergy Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Pulmonary-Allergy Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 17, 2002, from 8 a.m. to 5 p.m., and January 18, 2002, from 8 a.m. to 3 p.m.

Location: Holiday Inn, The Ballrooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: Kimberly L. Topper, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12545. Please call the Information Line for up-to-date information on this meeting.

Agenda: On January 17, 2002, the committee will discuss the use of two new drug applications (NDAs): NDA 20–833, Flovent Diskus, and NDA 21–077, Advair Diskus, GlaxoSmithKline, as maintenance therapy in patients with chronic obstructive pulmonary disease (COPD). On January 18, 2002, the meeting will be open to the public from 8 a.m. to 9 a.m., unless public participation does not last that long; from 9 a.m. to 3 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information.

Procedure: On January 17, 2002, from 8 a.m. to 5 p.m. and on January 18, 2002, from 8 a.m. to 9 a.m., the meeting will be open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by January 11, 2002. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on January 17, 2002, and between approximately 8 a.m. and 9 a.m. on January 18, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before January 11, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On January 18, 2002, from 9 a.m. to 3 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)).

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 19, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–31878 Filed 12–27–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1891.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Implement performance standards for Special Projects of Regional or National Significance (SPRANS), Community Integrated Service Systems (CISS) projects, and other grant programs administered by MCHB.

The Health Resources and Services Administration (HRSA) proposes to modify reporting requirements for SPRANS projects, CISS projects, and other grant programs administered by the Maternal and Child Health Bureau (MCHB) to include national performance measures being developed in accordance with the requirements of the "Government Performance and Results Act (GPRA) of 1993" (Public Law 103–62). This act requires the establishment of measurable goals for Federal programs that can be reported as part of the budgetary process, thus linking funding decisions with performance. Performance measures for States have already been established under the block grant provisions of Title V. Performance measures for other MCHB-funded grant programs are currently being finalized, and will be sent to the Office of Management and Budget for approval.

There are approximately 30 proposed new performance measures. However, some measures are specific to certain types of programs, and will not apply to all grantees. Furthermore, the measures are expected to be based primarily on existing data. Thus, response burden associated with this proposed requirement will be minimal. The estimated response burden is as follows:

Type of form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Application and Annual Report	750	1	8	6,000

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 11–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: December 20, 2001.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–31898 Filed 12–27–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Ryan White CARE Act Dental Reimbursement Program (OMB No. 0915–0151)—Revision

The Dental Reimbursement Program (DRP) under Part F of the Ryan White CARE Act offers grants to accredited dental schools and programs that provide non-reimbursed oral health care to patients with HIV disease. The Ryan White CARE Act Amendments of 2000 expanded eligibility of this program to accredited schools of dental hygiene, in addition to previously funded schools of dentistry and post-doctoral dental education programs.

HRSA requests a revision to the DRP Application that schools and programs use to apply for funding of non-reimbursed costs incurred in providing oral health care to patients with HIV. Awards are authorized under section 776(b) of the Public Health Service Act (42 U.S.C. 294n). The 2001 DRP Application is intended to collect data in three different areas: program information, patient demographics and services, and reimbursement and funding. It also requests applicants to provide narrative descriptions of their services and facilities, as well as their links and collaboration with community-based providers of oral health services.

The primary purpose of collecting this information annually, as part of the DRP Application, is to verify eligibility and determine the reimbursement amount each applicant should receive. This information also allows HRSA to learn about (1) the extent of the involvement of dental schools and programs in treating patients with HIV, (2) the number and characteristics of clients who receive CARE Act-supported oral health services, (3) the types and frequency of the provision of these services, (4) the non-reimbursed costs of oral health care provided to patients with HIV, and (5) how applicants intend to use DRP funds once they are received. In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, information collected in the DRP

VOL 66 ISS 249 DE 28 2001 UMI

Application is critical for HRSA, State and local grantees, and individual providers, to help assess the status of existing HIV-related health service delivery systems.

The reporting burden for reviewing the DRP Application Instructions and completing the Application Form is estimated as:

Form	Number of respondents	Hours per application	Total burden hours
Application	125	19	2,375

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Morrall, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: December 19, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–31880 Filed 12–27–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–19]

Notice of Proposed Information Collection for Public Comment for Model Form of Agreement Between Owner and Design Professional; Contract Provisions Required by Federal Law or Owner Contract With the Department of Housing and Urban Development

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 26, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–0614, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Model Form of Agreement Between Owner and Design Professional; Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development.

OMB Control Number: 2577–0015.

Description of the need for the information and proposed use: The contractual agreements between a HUD grantee (housing agency (HA), and an architect/engineer (A/E) for design and construction services establish responsibilities of both parties pursuant to the contract. The HA and A/E are not required by the contract to submit any materials to HUD. These contractural agreements are required by Federal Law 85.36. Signing of the contracts is required to obtain or retain benefits.

Agency form number: HUD–51915, HUD–51915–A.

Members of affected public: State, Local Government, Business or other for-profit.

Estimation of the total number of hours needed to prepare the information collection including number of respondents; frequency of response, and hours of response: 2,630 projects (respondents), one A/E contract per project, two hours per contract, 5,260 hours includes signing the contracts and preparation of the contracts using the model form of agreement. 657 total annual recordkeeping burden (2,630 projects × .25 hours/contract).

Status of the proposed information collection: Extension.

Authority: Section 3506 of the paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 18, 2001.

Michael Liu,

Assistant Secretary, for Public and Indian Housing.

BILLING CODE 4210–33–C

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0015 (exp.3/31/2002)

Model Form of Agreement Between Owner and Design Professional

VOL 66 ISS 249 DE 28 2001 UMI

Model Form of Agreement Between Owner and Design Professional

U. S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0015
(exp. 3/31/2002)

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

These contracts between a HUD grantee (housing agency (HA)) and an architect/engineer (A/E) for design and construction services do not require either party to submit any materials to HUD. The forms provide a contractual agreement for the services to be provided by the A/E and establishes responsibilities of both parties pursuant to the contract. The regulatory authority is 24 CFR 85.36. These contractual agreements are required by Federal law or regulation pursuant to 24 CFR Part 85.36. Signing of the contracts is required to obtain or retain benefits. The contracts do not lend themselves to confidentiality.

Table of Contents

Page
Introduction 3
- Article A: Services 4
- A. 1.0 **Design Professional's Basic Services** 4
- A. 1.1 Areas of Professional's Basic Services 4
- A. 1.2 Phases and Descriptions of Basic Services 4
  - A. 1.2.1 Schematic Design/Preliminary Study Phase 4
  - A. 1.2.2 Design Development Phase 4
  - A. 1.2.3 Bidding, Construction and Contract Document Phase 4
  - A. 1.2.4 Bidding and Award Phase 4
  - A. 1.2.5 Construction Phase 5
  - A. 1.2.6 Post Completion/Warranty Phase 5
- A. 1.3 Time of Performance 5
- A. 2.0 **Design Professional's Additional Services** 5
- A. 2.1 Description of Additional Services 5
- A. 2.2 Written Addendum or Contract Amendment 5

Article B: Compensation and Payment 6
- B. 1.0 **Basic Services** 6
- B. 1.1 Fixed Fee for Basic Services 6
- B. 1.2 Payment Schedule 6
- B. 2.0 **Reimbursables** 6
- B. 2.1 Reimbursable Expenses 6
  - B. 2.1.1 Travel Costs 6
  - B. 2.1.2 Long-Distance Telephone Costs 6
  - B. 2.1.3 Delivery Costs 6
  - B. 2.1.4 Reproduction Costs 6
  - B. 2.1.5 Additional Reimbursables 6
- B. 3.0 **Additional Services** 6
- B. 3.1 Payment for Additional Services 6
- B. 4.0 **Invoicing and Payments** 6
- B. 4.1 Invoices 6
- B. 4.2 Time of Payment 6

Article C: Responsibilities 6
- C. 1.0 **Design Professional's Responsibilities** 6
- C. 1.1 Basic Services 6
- C. 1.2 Additional Services 6
- C. 1.3 General Responsibilities 6
- C. 1.4 Designing within Funding Limitations 7
- C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations 7
- C. 1.6 **Seal** 7
- C. 1.7 Attendance at Conferences 7
- C. 2.0 **Owner's Responsibilities** 7
- C. 2.1 Information 7
- C. 2.2 Notice of Defects 7
- C. 2.3 Contract Officer 7

Previous editions are obsolete

C. 2.4 Duties to Furnish 7
  C. 2.4.1 Survey and Property Restrictions 7
  C. 2.4.2 Existing Conditions 7
  C. 2.4.3 Waivers 7
  C. 2.4.4 Minimum Wage Rates 7
  C. 2.4.5 Tests 7
  C. 2.4.6 Contract Terms 7

Article D: Contract Administration 8
D. 1.0 **Prohibition of Assignment** 8
D. 1.1 Ownership of Documents 8
D. 1.2 Substitutions 8
D. 1.3 Suspension 8
D. 1.4 Subcontracts 8
D. 1.5 Disputes 8
D. 1.6 Terminations 8
D. 1.7 Insurance 8
D. 1.8 Retention of Rights 8

Article E: Additional Requirements 8
E. 1.0 **Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development** 8
E. 1.1 Contract Adjustments 8
E. 1.2 Additional Services 9
E. 1.3 Restrictive Drawings and Specifications 9
E. 1.4 Design Certification 9
E. 1.5 Retention and Inspection of Records 9
E. 1.6 Copyrights and Rights in Data 9
E. 1.7 Conflicts of Interest 9
E. 1.8 Disputes 9
E. 1.9 Termination 9
E. 1.10 Interest of Members of Congress 9
E. 1.11 Limitation of Payments to Influence Certain Federal Transactions 10
E. 1.12 Employment, Training and Contracting Opportunities for Low income Persons, Section 3, HUD Act of 1968 10
E. 1.13 Reserved 10
E. 1.14 Clean Air and Water (Applicable to Contracts in excess of $100,000) 11
E. 1.15 Energy Efficiency 11
E. 1.16 Prevailing Wages 11
E. 1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts 11
E. 1.18 Prohibition Against Liens 11

Article F: Other Requirements (If any) 11

Execution of Agreement 11

Addendum (If any) 1

VOL 66 ISS 249 DE 28 2001 UMI

Introduction to Agreement

Agreement
made as of the ______________ day of _________________ in the year (yyyy) of ______

Between the **Owner** (Name & Address)

and the **Design Professional** (Name, Address and Discipline)

For the following **Project** (Include detailed description of Project, Location, Address, Scope and Program Designation)

The Owner and Design Professional agree as set forth below.

Article A: Services

A 1.0 Design Professional's Basic Services

A. 1.1 Areas of Professional's Basic Services. Unless revised in a written addendum or amendment to this Agreement, in planning, designing and administering construction or rehabilitation of the Project, the Design Professional shall provide the Owner with professional services in the following areas:

- Architecture
- Site Planning
- Structural Engineering
- Mechanical Engineering
- Electrical Engineering
- Civil Engineering
- Landscape Architecture
- Cost Estimating
- Construction Contract Administration

A 1.2 Phases and Descriptions of Basic Services.

A. 1.2.1 Schematic Design/Preliminary Study Phase. After receipt of a Notice to Proceed from the Owner, the Design Professional shall prepare and deliver Schematic Design/Preliminary Study Documents. These documents shall consist of a presentation of the complete concept of the Project, including all major elements of the building(s), and site design(s), planned to promote economy both in construction and in administration and to comply with current program and cost limitations. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. Additionally, the Design Professional shall make an independent assessment of the accuracy of the information provided by the Owner concerning existing conditions. Documents in this phase shall include:

- Site plan(s)
- Schedule of building types, unit distribution and bedroom count
- Scale plan of all buildings, and typical dwelling units
- Wall sections and elevations
- Outline specifications
- Preliminary construction cost estimates
- Project specific analysis of codes, ordinances and regulations
- Three dimensional line drawings

A. 1.2.2 Design Development Phase. After receipt of written approval of Schematic Design/Preliminary Study Documents, the Design Professional shall prepare and submit to the Owner Design Development Documents. The Design Professional shall revise these documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. These documents shall include the following:

- Drawings sufficient to fix and illustrate project scope and character in all essential design elements
- Outline specifications
- Cost estimates and analysis
- Recommendations for phasing of construction
- Site plan(s)
- Landscape plan
- Floor plans
- Elevations, building and wall sections
- Updated three dimensional line drawings
- Engineering drawings

A. 1.2.3 Bidding, Construction and Contract Document Phase. After receipt of the Owner's written approval of Design Development Documents, the Design Professional shall prepare Construction Documents. After consultation with the Owner and Owner's attorney, if requested by the owner, the Design Professional shall also prepare and assemble all bidding and contract documents. The Design Professional shall revise these Bidding, Construction and Contract documents consistent with the requirements and criteria established by the Owner to secure the Owner's written approval. They shall, include in a detailed, manner all work to be performed; all material; workmanship; finishes and equipment required for the architectural, structural, mechanical, electrical, and site work; survey maps furnished by Owner; and direct reproduction of any logs and subsurface soil investigations. These documents shall include:

- Solicitation for Bids
- Form of Contract
- Special Conditions
- General Conditions
- Technical Specifications
- Plans and drawings
- Updated cost estimates

A. 1.2.4 Bidding and Award Phase. After written approval of Bidding, Construction and Contract Documents from the Owner, the Design Professional shall assist in administering the bidding and award of the Construction Contract. This shall include:

- Responding to inquires
- Drafting and issuing addendum approved by Owner
- Attending prebid conference(s)
- Attending public bid openings
- Reviewing and tabulating bids
- Recommending list of eligible bids
- Recommending award
- Altering drawings and specifications as often as required to award within the Estimated Construction Contract Cost

VOL 66 ISS 249 DE 28 2001 UMI

A. 1.2.5 Construction Phase. After execution of the Construction Contract, the Design Professional shall in a prompt and timely manner administer the Construction Contract and all work required by the Bidding, Construction and Contract Documents. The Design Professional shall endeavor to protect the Owner against defects and deficiencies in the execution and performance of the work. The Design Professional shall:

- Administer the Construction Contract.
- Conduct pre-construction conference and attend dispute resolution conferences and other meetings when requested by the Owner.
- Review and approve contractor's shop drawings and other submittals for conformance to the requirements of the contract documents.
- At the Owner's written request, and as Additional Service, procure testing from qualified parties.
- Monitor the quality and progress of the work and furnish a written field report ☐ weekly, ☐ semi monthly, ☐ monthly, or ☐ ____________________. This service shall be limited to a period amounting to 110% of the construction period as originally established under the construction contract unless construction has been delayed due to the Design professional's failure to properly perform its duties and responsibilities. The Owner may direct additional monitoring but only as Additional Services.
- Require any sub-consultant to provide the services listed in this section where and as applicable and to visit the Project during the time that construction is occurring on the portion of the work related to its discipline and report in writing to the Design Professional.
- Review, approve and submit to Owner the Contractor Requests for Payment.
- Conduct all job meetings and record action in a set of minutes which are to be provided to the Owner.
- Make modifications to Construction Contract Documents to correct errors, clarify intent or to accommodate change orders.
- Make recommendations to Owner for solutions to special problems or changes necessitated by conditions encountered in the course of construction.
- Promptly notify Owner in writing of any defects or deficiencies in the work or of any matter of dispute with the Contractor.
- Negotiate, prepare cost or price analysis for and countersign change orders.
- Prepare written punch list, certificates of completion and other necessary construction close out documents.
- Prepare a set of reproducible record prints of Drawings showing significant changes in the work made during construction, including the locations of underground utilities and appurtenances referenced to permanent surface improvements, based on marked-up prints, drawings and other data furnished by the contractor to the Design Professional.

A. 1.2.6 Post Completion/Warranty Phase. After execution of the Certificate of Completion by the Owner, the Design Professional shall:

- Consult with and make recommendations to Owner during warranties regarding construction, and equipment warranties.
- Perform an inspection of construction work, material, systems and equipment no earlier than nine months and no later than ten months after completion of the construction contract and make a written report to the Owner. At the Owner's request, and by Amendment to the Additional Services section of this contract, conduct additional warranty inspections as Additional Services.
- Advise and assist Owner in construction matters for a period up to eighteen months after completion of the project, but such assistance is not to exceed forty hours of service and one nonwarranty trip away from the place of business of the Design Professional.

A. 1.3 Time of Performance. The Design Professional's schedule for preparing, delivering and obtaining Owner's approval for Basic Services shall be as follows:

- Schematic Design/Preliminary Study Documents within _______ calendar days for the date of the receipt of a Notice to Proceed.
- Design Development Documents within ________ calendar days from the date of receipt of written approval by the Owner of Schematic Design/Preliminary Study documents.
- Bidding, Construction and Contract Documents within ________ calendar days from the date of receipt of written approval by the Owner of Design Development Documents.

A. 2.0 Design Professional's Additional Services

A. 2.1 Description of Additional Services. Additional Services are all those services provided by the Design Professional on the Project for the Owner that are not defined as Basic Services in Article A, Section 1.2 or otherwise required to be performed by the Design Professional under this Agreement. They include major revisions in the scope of work of previously approved drawings, specifications and other documents due to causes beyond the control of the Design Professional and not due to any errors, omissions, or failures on the part of the Design Professional to carry out obligations otherwise set out in this Agreement.

A. 2.2 Written Addendum or Contract Amendment. All additional services not already expressly required by this agreement shall be agreed to through either a written addendum or amendment to this Agreement.

Article B: Compensation and Payment

B. 1.0 Basic Services

B. 1.1 Fixed Fee for Basic Services. The Owner will pay the Design Professional for Basic Services performed as defined by A.1.2, a Fixed Fee (stipulated sum) of $ ____________________ plus Reimbursable Expenses identified in Article B.2.0. Such payment shall be compensation for all Basic Services required, performed, or accepted under this Contract.

B. 1.2 Payment Schedule. Progress payments for Basic Services for each phase of work shall be made in proportion to services performed as follows:

Phase	Amount
Schematic Design/Preliminary Study Phase	$ ___________
Design Development Phase	$ ___________
Bidding, Construction & Contract Document Phase	$ ___________
Bidding & Award Phase	$ ___________
Construction Phase	$ ___________
Post Completion/ Warranty Phase	$ ___________
Total Basic Services	$ ___________

B. 2.0 Reimbursables

B. 2.1 Reimbursable Expenses. The Owner will pay the Design Professional for the Reimbursable Expenses listed below up to a Maximum Amount of $ ___________________. Reimbursable Expenses are in addition to the Fixed Fee for Basic Services and are for certain actual expenses incurred by the Design Professional in connection with the Project as enumerated below.

B. 2.1.1 Travel Costs. The reasonable expense of travel costs incurred by the Design Professional when requested by Owner to travel to a location that lies outside of a 45 mile radius of either the Project site, Design Professional's office (s), and Owner's office.

B. 2.1.2 Long Distance Telephone Costs. Long distance telephone calls and long distance telefax costs.

B. 2.1.3 Delivery Costs. Courier services and overnight delivery costs.

B. 2.1.4 Reproduction Costs. Reproduction and postage costs of required drawings, specifications, Bidding and Contract documents, excluding the cost of reproductions for the Design Professional or Subcontractor's own use.

B. 2.1.5 Additional Reimbursables. The Design Professional and Owner may agree in an addendum or amendment to this Agreement to include certain other expenses not enumerated above as Reimbursable Expenses. These Reimbursables shall not be limited by the Maximum Amount agreed to above. A separate Maximum Amount for these Reimbursables shall be established.

B .3.0 Additional Services

B. 3.1 Payment for Additional Services. The Owner will pay the Design Professional only for Additional Services agreed to in an addendum or amendment to this Agreement executed by the Owner and the Design Professional pursuant to A.2. Payment for all such Additional Services shall be in an amount and upon the terms set out in such amendment or addendum and agreed upon by the parties. Each such amendment or addendum shall provide for a fixed price or, where payment for such Additional Services is to be on an hourly basis or other unit pricing method, for a maximum amount; each such amendment or addendum shall also provide for a method of payment, including, at a minimum, whether payment will be made in partial payments or in lump sum and whether it will be based upon percentage of completion or services billed for.

B. 4.0 Invoicing and Payments

B. 4.1 Invoices. All payments shall require a written invoice from the Design Professional. Invoices shall be made no more frequently than on a monthly basis. Payments for Basic Services shall be in proportion to services completed within each phase of work. When requesting such payment, the invoice shall identify the phase and the portion completed. All invoices shall state the Agreement, name and address to which payment shall be made, the services completed and the dates of completion, and whether the invoice requests payment for Basic Services, Reimbursable or Additional Services. Invoices seeking payment for Reimbursable or Additional Services must provide detailed documentation.

B. 4.2 Time of Payment. Upon the Design Professional's proper submission of invoices for work performed or reimbursable expenses, the Owner shall review and, if the work is in conformance with the terms of the Agreement, make payment within thirty days of the Owner's receipt of the invoice.

Article C: Responsibilities

C. 1.0 Design Professional's Responsibilities

C. 1.1 Basic Services. The Design Professionals shall provide the Basic Service set out in Article A.1.0.

C. 1.2 Additional Services. When required under this Agreement or agreed to as set out in A.2.0, the Design Professional shall provide Additional Services on the Project.

C. 1.3 General Responsibilities. The Design Professional shall be responsible for the professional quality, technical accuracy, and coordination of all designs, drawings, specifications, and other services, furnished by the Design Professional under this Agreement. The Owner's review, approval, acceptance of, or payment for Design Professional services shall not be construed as a waiver of any rights under this Agreement or of any cause of action for damages caused by Design Professional's negligent performance under this Agreement. Furthermore, this Agreement does not restrict or limit any rights or remedies otherwise afforded the Owner or Design Professional by law.

C. 1.4 Designing Within Funding Limitations. The Design Professional shall perform services required under this Contract in such a manner so as to cause an award of a Construction Contract(s) that does not exceed (1) $ ____________________ or (2) an amount to be provided by the Owner in writing to the Design Professional prior to the commencement of Design Professional services. This fixed limit shall be called the Maximum Construction Contract Cost. The amount may be increased by the Owner, but only with written notice to the Design Professional. If the increase results in a change to the scope of work, an amendment to this Agreement will be required. The Design Professional and the Owner may mutually agree to decrease the Maximum Construction Contract Cost, but only by signing a written amendment to this Agreement. Should bids for the Construction Contract(s) exceed the Maximum Construction Contract Cost, the Owner has the right to require the Design Professional to perform redesigns, rebids and other services necessary to cause an award of the Construction Contract within the Maximum Construction Contract Cost without additional compensation or reimbursement.

C. 1.5 Compliance with Laws, Codes, Ordinances and Regulations. The Design Professional shall perform services that conform to all applicable Federal, State and local laws, codes, ordinances and regulations except as modified by any waivers which may be obtained with the approval of the Owner. If the Project is within an Indian reservation, tribal laws, codes and regulations shall be substituted for state and local laws, codes, ordinances and regulations. However, on such a Native American Projects, the Owner may additionally designate that some or all state and local codes shall apply. In some of these circumstances, a model national building code may be selected by the Indian or Native American Owner. The Design Professional shall certify that Contract Documents will conform to all applicable laws, codes, ordinances and regulations. The Design Professional shall prepare all construction documents required for approval by all governmental agencies having jurisdiction over the project. The Design professional shall make all changes in the Bidding and Construction Documents necessary to obtain governmental approval without additional compensation or reimbursement, except in the following situations. If subsequent to the date the Owner issues a notice to proceed, revisions are made to applicable codes or non-federal regulations, the Design Professional shall be entitled to additional compensation and reimbursements for any additional cost resulting from such changes. The Design Professional, however, is obligated to notify the Owner of all significant code or regulatory changes within sixty (60) days of their change, and such notification shall be required in order for the Design Professional to be entitled to any additional compensation or reimbursement.

C. 1.6 Seal. Licensed Design Professionals shall affix their seals and signatures to drawings and specifications produced under this Agreement when required by law or when the project is located on an Indian Reservation.

C. 1.7 Attendance at Conferences. The Design Professional or designated representative shall attend project conferences and meetings involving matters related to basic services covered under this contract. Attendance at community wide meetings shall be considered an additional service.

C. 2.0 Owner's Responsibilities

C. 2.1 Information. The Owner shall provide information regarding requirements for the project, including a program that shall set forth the Owner's objectives and schedule. The Owner shall also establish and update the Maximum Construction Cost. This shall include the Owner's giving notice of work to be performed by the Owner or others and not included in the Construction Contract for the Project. The Design Professional, however, shall be responsible to ascertain and know federal requirements and limitations placed on the Project.

C. 2.2 Notice of Defects. If the Owner observes or otherwise becomes aware of any fault or defect in the construction of the project or nonconformance with the Construction Contract, the Owner shall give prompt written notice of those faults, defects or nonconformance to the Design Professional.

C.2.3 Contract Officer. The Owner shall designate a Contract Officer authorized to act on its behalf with respect to the design and construction of the Project. The Contract Officer shall examine documents submitted by the Design Professional and shall promptly render decisions pertaining to those documents so as to avoid unreasonably delaying the progress of the Design Professional's work.

C. 2.4 Duties to Furnish. The Owner shall provide the Design Professional the items listed below.

C. 2.4.1 Survey and Property Restrictions. The Owner shall furnish topographic, property line and utility information as and where required. The Owner may at its election require the Design Professional to furnish any of these items as an Additional Service.

C. 2.4.2 Existing Conditions. The Owner shall provide the Design Professional any available "as built" drawings of buildings or properties, architect surveys, test reports, and any other written information that it may have in its possession and that it might reasonably assume affects the work.

C. 2.4.3 Waivers. The Owner shall provide the Design Professional information it may have obtained on any waivers of local codes, ordinances, or regulations or standards affecting the design of the Project.

C. 2.4.4 Minimum Wage Rates. The Owner shall furnish the Design Professional the schedule of minimum wage rates approved by the U.S. Secretary of Labor for inclusion in the solicitation and Contract Documents.

C. 2.4.5 Tests. When expressly agreed to in writing by both the Owner and the Design Professional, the Owner shall furnish the Design Professional all necessary structural, mechanical, chemical or other laboratory tests, inspections and reports required for the Project.

C. 2.4.6 Contract Terms. The Owner or its legal counsel may provide the Design Professional text to be incorporated into Bidding and Construction Contract Documents.

Article D: Contract Administration

D. 1.0 Prohibition of Assignment. The Design Professional shall not assign, subcontract, or transfer any services, obligations, or interest in this Agreement without the prior written consent of the Owner. Such consent shall not unreasonably be withheld when such assignment is for financing the Design Professional's performance.

D. 1.1 Ownership of Documents. All drawings, specifications, studies and other materials prepared under this contract shall be the property of the Owner and at the termination or completion of the Design Professional's services shall be promptly delivered to the Owner. The Design Professional shall have no claim for further employment or additional compensation as a result of exercise by the Owner of its full rights of ownership. It is understood, however, that the Design Professional does not represent such data to be suitable for re-use on any other project or for any other purpose. If the Owner re-uses the subject data without the Design Professional's written verification, such re-use will be at the sole risk of the Owner without liability to the Design Professional.

D. 1.2 Substitutions.

A. The Design Professional shall identify in writing principals and professional level employees and shall not substitute or replace principals or professional level employees without the prior approval of the Owner which shall not unreasonably be withheld.

B. The Design Professional's personnel identified below are considered to be essential to the work effort. Prior to diverting or substituting any of the specified individuals, the Design Professional shall notify the Owner reasonably in advance and shall submit justification, including proposed substitutions, in sufficient detail to permit evaluation of the impact on the contract. No diversion or substitution of such key personnel shall be made by the Design professional without the prior written consent of the Owner.

D. 1.3 Suspension. The Owner may give written notice to the Design Professional to suspend work on the project or any part thereof. The Owner shall not be obligated to consider a claim for additional compensation if the Design Professional is given written notice to resume work within 120 calendar days. If notice to resume work is not given within 120 calendar days, the Design Professional shall be entitled to an equitable adjustment in compensation.

D. 1.4 Subcontracts. The Design Professional will cause all applicable provisions of this Agreement to be inserted in all its subcontracts.

D. 1.5 Disputes. In the event of a dispute arising under this Agreement, the Design Professional shall notify the Owner promptly in writing and submit its claim in a timely manner. The Owner shall respond to the claim in writing in a timely manner. The Design Professional shall proceed with its work hereunder in compliance with the instructions of the Owner, but such compliance shall not be a waiver of the Design Professional's rights to make such a claim. Any dispute not resolved by this procedure may be determined by a court of competent jurisdiction or by consent of the Owner and Design Professional by other dispute resolution methods.

D. 1.6 Termination. The Owner may terminate this Agreement for the Owner's convenience or for failure of the Design Professional to fulfill contract obligations. The Owner shall terminate by delivering to the Design Professional a Notice of Termination specifying the reason therefore and the effective date of termination. Upon receipt of such notice, the Design Professional shall immediately discontinue all services affected and deliver to the Owner all information, reports, papers, and other materials accumulated or generated in performing this contract whether completed or in process. If the termination is for convenience of the Owner, the Owner shall be liable only for payment for accepted services rendered before the effective date of termination.

D. 1.7 Insurance. The Design professional shall carry Commercial or Comprehensive General Liability Insurance, Professional Liability Insurance (for a period extending two years past the date of completion of construction), and other insurance as are required by law, all in minimum amounts as set forth below. The Design Professional shall furnish the Owner certificates of insurance and they shall state that a thirty day notice of prior cancellation or change will be provided to the Owner. Additionally, the Owner shall be an additional insured on all Commercial or Comprehensive General liability policies.

Insurance	Limits or Amount

D. 1.8 Retention of Rights. Neither the Owner's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the Design Professional shall be and remain liable to the Owner in accordance with the applicable law for all damages to the Owner caused by the Design professional 's negligent performance of any of the services furnished under this contract.

Article E: Additional Requirements

E. 1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

E. 1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

E. 1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (f) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

E. 1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

E. 1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235), the Design Professional shall provide such a certification to the Owner.

VOL 66 ISS 249 DE 28 2001 UMI

E. 1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

E. 1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

E. 1.7 Conflicts of Interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his or her immediate family,

(iii) His or her partner, or

(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

No member, officer, or employee of the Owner, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

E. 1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

E. 1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of $10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

E. 1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, no member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit to arise from it.

E. 1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered Federal actions: the awarding of any federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

E. 1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. Reserved.

H. Reserved.

E. 1.13 Reserved.

E. 1.14 Clean Air and Water. (Applicable to contracts in excess of $100,000). Because of 24 CFR 85.36(i)(12) and Federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of $100,000.

E. 1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

E. 1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

E. 1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex, national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe's powers of self-government.

E. 1.18Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the Owner's property. This prohibition shall be placed in all design professional subcontracts.

Article F: Other Owner Requirements (if any)

(Continue on additional pages as necessary)

VOL 66 ISS 249 DE 28 2001 UMI

This Agreement is entered into as of the day and year first written above.

Owner	Design Professional
(Housing Authority)	(Firm)
(Signature)	(Signature)
(Print Name)	(Print Name)
(Print Title)	(Print Title)

Addendum (If any)
(Additional Services and other modifications)

This is an Addendum to a Standard Form of Agreement between Owner and Design Professional signed and dated the _________ day of ___________ in the year (yyyy) of ______ between the Owner ______________________________________ and Design Professional ______________________________________ on Project ______________________________. The parties to that Agreement agree to modify the Agreement by the above delineated Additional Services and modifications.

This Addendum is dated this __________ day of ________________ in the year (yyyy) of ______.

Owner	**Design Professional**
______________________________	______________________________
(Housing Authority)	(Firm)
______________________________	______________________________
(Signature)	(Signature)
______________________________	______________________________
(Print Name)	(Print Name)
______________________________	______________________________
(Print Title)	(Print Title)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0015 (exp.7/31/98)

Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development

Previous editions are obsolete

form HUD-51915-A (8/95)
ref. Handbooks 7417.1, 7450.1 & 7460.8

Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development

U. S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collecton displays a valid OMB control number.

1.0 Contract Provisions Required by Federal Law or Owner Contract with the U.S. Department of Housing and Urban Development (HUD).

1.1 Contract Adjustments. Notwithstanding any other term or condition of this Agreement, any settlement or equitable adjustment due to termination, suspension or delays by the Owner shall be negotiated based on the cost principles stated at 48 CFR Subpart 31.2 and conform to the Contract pricing provisions of 24 CFR 85.36 (f).

1.2 Additional Services. The Owner shall perform a cost or price analysis as required by 24 CFR 85.36 (F) prior to the issuance of a contract modification/amendment for Additional Services. Such Additional Services shall be within the general scope of services covered by this Agreement. The Design Professional shall provide supporting cost information in sufficient detail to permit the Owner to perform the required cost or price analysis.

1.3 Restrictive Drawings and Specifications. In accordance with 24 CFR 85.36(c)(3)(i) and contract agreements between the Owner and HUD, the Design Professional shall not require the use of materials, products, or services that unduly restrict competition.

1.4 Design Certification. Where the Owner is required by federal regulations to provide HUD a Design Professional certification regarding the design of the Projects (24 CFR 968.235, 905.260 and 905.639), the Design Professional shall provide such a certification to the Owner.

1.5 Retention and Inspection of Records. Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other subgrantees make final payments and all other pending matters are closed.

1.6 Copyrights and Rights in Data. HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfil the requirements of the construction contract.

1.7 Conflicts of Interest. Based in part on federal regulations (24 CFR 85.36(b)) and Contract agreement between the Owner and HUD, no employee, officer, or agent of the Owner (HUD grantee) shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

Such a conflict would arise when:

(i) The employee, officer or agent,

(ii) Any member of his or her immediate family,

(iii) His or her partner, or

(iv) An organization that employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from Contractors, or parties to sub-agreements. Grantees and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents or by Contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

Neither the Owner nor any of its contractors or their subcontractors shall enter into any Contract, subcontract, or agreement, in connection with any Project or any property included or planned to be included in any Project, in which any member, officer, or employee of the Owner, or any member of the governing body of the locality in which the Project is situated, or any member of the governing body of the locality in which the Owner was activated, or in any other public official of such locality or localities who exercises any responsibilities or functions with respect to the Project during his/her tenure or for one year thereafter has any interest, direct or indirect. If any such present or former member, officer, or employee of the Owner, or any such governing body member or such other public official of such locality or localities involuntarily acquires or had acquired prior to the beginning of his/her tenure any such interest, and if such interest is immediately disclosed to the Owner and such disclosure is entered upon the minutes of the Owner, the Owner, with the prior approval of the Government, may waive the prohibition contained in this subsection: Provided, That any such present member, officer, or employee of the Owner shall not participate in any action by the Owner relating to such contract, subcontract, or arrangement.

No member, officer, or employee of the Owner, no member of the governing body of the locality in which the project is situated, no member of the governing body of the locality in which the Owner was activated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the project, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

1.8 Disputes. In part because of HUD regulations (24 CFR 85.36(i)(1)), this Design Professional Agreement, unless it is a small purchase contract, has administrative, contractual, or legal remedies for instances where the Design Professional violates or breaches Agreement terms, and provide for such sanctions and penalties as may be appropriate.

1.9 Termination. In part because of HUD regulations (24 CFR 85.36(i)(2)), this Design Professional Agreement, unless it is for an amount of $10,000 or less, has requirements regarding termination by the Owner when for cause or convenience. These include the manner by which the termination will be effected and basis for settlement.

1.10 Interest of Members of Congress. Because of Contract agreement between the Owner and HUD, no member of or delegate to the Congress of the United States of America or Resident Commissioner shall be admitted to any share or part of this Contract or to any benefit to arise from it.

1.11 Limitation of Payments to Influence Certain Federal Transaction. The Limitation on Use of Appropriated Funds to Influence Certain Federal Contracting and Financial Transactions Act, Section 1352 of Title 31 U.S.C., provides in part that no appropriated funds may be expended by recipient of a federal contract, grant, loan, or cooperative agreement to pay any person, including the Design Professional, for influencing or attempting to influence an officer or employee of Congress in connection with any of the following covered Federal actions: the awarding of any federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

1.12 Employment, Training, and Contracting Opportunities for Low-Income Persons, Section 3 of the Housing and Urban Development Act of 1968.

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

H. Pursuant to 24 CFR 905.170(b), compliance with Section 3 requirements shall be to the maximum extent consistent with, but not in derogation of compliance with section 7(b) of the Indian Self-Determination and Education Assistance, 25 U.S.C. section 450e(b) when this law is applicable.

1.13 Indian Preference in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.165 and Federal law, the Design Professional shall provide Indian Preference in its contracting, training, and employment practices when this contract is with an Indian Housing Authority and shall incorporate the following language into all of its subcontracts:

(i) The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises.

(ii) The parties to this contract shall comply with the provisions of said section 7(b) of the Indian Self-determination and Education Assistance Act (25 U.S.C. 450e(b)) and all HUD requirements adopted pursuant to section 7(b).

(iii) In connection with this contract, the parties shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned Economic Enterprises, and preferences and opportunities for training and employment to Indians.

(iv) This section 7(b) clause shall be incorporated into every subcontract in connection with the project.

(v) Upon a finding by the IHA or HUD that any party to the contract is in violation of the section 7(b) clause, said party shall at the direction of the IHA, take appropriate remedial action pursuant to the contract.

1.14 Clean Air and Water. (Applicable to contracts in excess of $100,000). Because of 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and subgrants of amounts in excess of $100,000.

1.15 Energy Efficiency. Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

1.16 Prevailing Wages. In accordance with Section 12 of the U.S. Housing Act of 1937 (42 U.S.C. 1437j) the Design Professional shall pay not less than the wages prevailing in the locality, as determined by or adopted (subsequent to a determination under applicable State or local law) by the Secretary of HUD, to all architects, technical engineers, draftsmen, and technicians.

1.17 Non-applicability of Fair Housing Requirements in Indian Housing Authority Contracts. Pursuant to 24 CFR section 905.115(b) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4), which prohibits discrimination on the basis of race, color or national origin in federally assisted programs, and the Fair Housing Act (42 U.S.C. 3601-3620), which prohibits discrimination based on race, color, religion, sex , national origin, handicap, or familial status in the sale or rental of housing do not apply to Indian Housing Authorities established by exercise of a Tribe's powers of self-government.

1.18 Prohibition Against Liens. The Design professional is Prohibited from placing a lien on the Owner's property. This prohibition shall be placed in all design professional subcontracts.

[FR Doc. 01–31853 Filed 12–27–01; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4655–N–25]

Notice of Proposed Information Collection: Comment Request; Application and Re-certification Procedures for FHA Inspectors

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 26, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451—7th Street SW, Washington, DC 20410, telephone (202) 708–5221, (this is not a toll-free number), for copies of the proposed forms and other information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility, (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application and Re-certification Procedures for FHA Inspectors.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: This is a new information collection, which includes the use of a previously approved form, Form HUD–92563. The information collection is essential to the Department's efforts to ensure that compliance inspectors who determine if the quality of construction of property accepted as security for FHA insured loans possess the prerequisite knowledge and skills to make these determinations. The Department also wishes to standardize this procedure throughout the country. Inspectors seeking to be placed on FHA's Inspection roster must submit an application to be considered acceptable as an inspector in HUD's single family housing programs. The uses of qualified compliance inspectors are viewed as critical to minimizing the placement of FHA mortgage insurance on poorly constructed dwellings.

Agency form numbers, if applicable: Form HUD–92563.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents are estimated to be 3,000, an average of 5,250 annual burden hours are estimated, and the frequency of responses is estimated to be once.

Status of the proposed information collection: This is a new information collection for which OMB approval is requested.

Authority: The Paperwork Reduction act of 1995, 44 U.S.C. 35, as amended.

Dated: December 12, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–31881 Filed 12–27–01; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4652–N–18]

Announcement of OMB Approval Number for the Procedure for Obtaining Certificates of Insurance for Capital Program Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of OMB approval number.

SUMMARY: The purpose of this notice is to announce the OMB approval number for the collection of information pertaining to the requirement for the consolidated public housing certificate of completion.

FOR FURTHER INFORMATION CONTACT: Arthur Methvin, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0614, extension 4037. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice advises that OMB has responded to the Department's request for approval of the information collection pertaining to the requirement for the consolidated public housing certificate of completion. The approval number for this information collection is 2577–0046, which expires 10/31/2004.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Dated: December 18, 2001.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 01–31882 Filed 12–27–01; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–52]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless.

Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: December 20, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

[FR Doc. 01–31854 Filed 12–27–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Status of the Rio Grande Cutthroat Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to initiate a status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service) announce our intent to initiate a candidate status review for the Rio Grande cutthroat trout (*Oncorhynchus clarki virginalis*) to determine if candidate status is warranted. The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we identify species of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. Through the Federal rulemaking process, we add these species to the List of Endangered and Threatened Wildlife at 50 CFR 17.11 or the List of Endangered or Threatened Plants at 50 CFR 17.12. As part of this program, we maintain a list of species that we regard as candidates for listing. A candidate is one for which we have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened but for which preparation and publication of a proposal is precluded by higher-priority listing actions. On or before June 4, 2002, we will make a determination concerning the results of this review for the Rio Grande cutthroat trout and, shortly thereafter, we will publish this determination in the **Federal Register**.

DATES: Comments and information from all interested parties for our use in the status review and preparing a revised finding will be accepted until February 26, 2002.

ADDRESSES: Questions and comments concerning this status review should be sent to Joy Nicholopoulos, Field Supervisor, U.S. Fish and Wildlife Service, 2105 Osuna Rd. NE, Albuquerque, NM 87113. Comments can be provided via e-mail to R2FWE_AL@fws.gov. Comments and materials received will be available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Anna Maria Muñoz, Fish and Wildlife Biologist (see **ADDRESSES** section), telephone (505) 346–2525.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 1998, we received a petition from Kieran Suckling, of the Southwest Center for Biological Diversity requesting that the Service add the Rio Grande cutthroat trout (*Onchorynchus clarki virginalis*) to the list of threatened and endangered species. The petition addressed the range-wide distribution of the Rio Grande cutthroat trout that included populations in Colorado and New Mexico.

The Rio Grande cutthroat trout is the southernmost of 14 subspecies of cutthroat trout (Behnke 1967, 1972, 1992; Sublette et al. 1990). There are two phenotypic forms of the subspecies, one in the Rio Grande and one in the Pecos River (Behnke 1992). The species derives its name from the distinctive red or orange slashes beneath the lower jaw. The general body coloration is yellowish green to grayish brown; the abdomen is creamy white. Variably-sized black spots cover the upper body and are more numerous posteriorly; dorsal, adipose, and caudal fins carry black spots (Koster 1957, Behnke 1992, Sublette et al. 1990). Although the historical distribution of the Rio Grande cutthroat trout is not known with certainty, it is likely that the subspecies occurred not only in all waters in the upper Rio Grande, Pecos, and Canadian River Basins that are currently capable of supporting trout, but also in other stream reaches within these watersheds that formerly provided the habitat requisites of coldwater species.

Section 4(b)(3)(B) of the Act requires that we make a finding on whether a petition to list, delist or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action is—(a) not warranted; (b) warranted; or (c) warranted but precluded from immediate proposal by other pending listing proposals of higher priority. We subsequently published a notice of a 90-day finding in the **Federal Register** (63 FR 49062) on September 14, 1998. In the 90-day finding we concluded that the petition did not present substantial information indicating that listing of the Rio Grande cutthroat trout may be warranted.

Our finding recognized that livestock grazing, road construction, and logging were primary factors in the constriction of the Rio Grande cutthroat trout's historical range, and continue to impact streams and riparian habitats where measures to limit those impacts are lacking. The Service concluded that the management objectives of both States, set forth in respective management plans formulated for the Rio Grande cutthroat, would provide for the continued management, conservation, and stability of this subspecies and its habitats.

On June 9, 1999, a complaint was filed by the Southwest Center for Biological Diversity challenging the September 14, 1998, 90-day petition finding as violating the Act and the Administrative Procedures Act. Recently, while the litigation was pending, we received some information (particularly related to the presence of whirling disease in hatchery fish in the wild) that led us to believe that further review of the status of the species was warranted.

On November 8, 2001, a settlement agreement executed by both parties (the Service and the Center for Biological Diversity) was filed with the court. The settlement stipulates that we will initiate a candidate status review for the Rio Grande cutthroat trout. The settlement also stipulates that on or before June 4, 2002, we will make a determination concerning the results of this review and, shortly thereafter, we will publish our determination in the **Federal Register**. The agreement also states that we will not vacate our previous determination in the interim.

VOL 66 ISS 249 DE 28 2001 UMI

Request for Information

Our determination of candidate status for the Rio Grande cutthroat trout shall be based upon the best available scientific and commercial data, as required under section 4(b)(1)(A) of the Act. We request you submit any further information on the Rio Grande cutthroat trout. We are particularly interested in any information concerning the following:

(1) Current population numbers and trends for each of the populations of the Rio Grande cutthroat trout;

(2) Whether there are documented increases in those populations or their habitat;

(3) The status of remaining habitat areas;

(4) The current threats and future threats to those populations and remaining habitat areas; and

(5) Other regulatory mechanisms that address those threats; and the success of those mechanisms to date.

References Cited

A complete list of all references cited is available upon request from the New Mexico Ecological Services Field Office (see **ADDRESSES** section).

Author

The primary author of this document is New Mexico Ecological Services Field Office staff (see **ADDRESSES** section).

Authority: The authority for this action is section 4(b)(1)(A) of the Endangered Species Act, 16 U.S.C. 1533.

Dated: November 23, 2001.

Nancy Kaufman,

Regional Director.

[FR Doc. 01–31911 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Industrial Gas Pipeline Right-of-Way Permit Application Crossing Fish and Wildlife Service National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) advises the public that Air Products, L.P., of Houston, Texas, has submitted an application to install a 10-inch nominal pipeline for transportation of industrial gas from Bayport, Texas, to Freeport, Texas, containing approximately 52.7 miles in length and crossing portions of Harris, Galveston, and Brazoria Counties, Texas. The pipeline will be within an existing 300-foot wide pipeline right-of-way corridor that crosses the Brazoria National Wildlife Refuge, in Brazoria County, Texas. The portion that will cross the Service land is approximately 165.11 rods and will utilize a 12-foot by 55-foot surface site, in Brazoria County, Texas. The pipeline will consist of 10¾ inches O.D. steel line pipe, 0.365-inch wall thickness, API specification 5L Grade X–42, coated with fusion bonded epoxy, and cathodically protected, and will be buried at a minimum of 5 feet. An Environmental Analysis and Cultural Resources Review has been prepared and is on file.

This notice informs the public that the Service will be proceeding with the processing of the application, the compatibility determination and the approval processing which includes the preparation of the terms and conditions of the permit.

DATES: Written comments should be received on or before January 28, 2002 to receive consideration by the Service.

ADDRESSES: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, Division of Realty, Attention: Lena V. Marie, Realty Specialist, P.O. Box 1306, Albuquerque, New Mexico 87103–1306, telephone number 505–248–7411 or fax number 505–248–6803.

SUPPLEMENTARY INFORMATION: The Refuge Manager for the Brazoria National Wildlife Refuge has approved the route of the pipeline that lies within an existing 300-foot wide right-of-way corridor.

Right-of-Way applications for pipelines are to be filed in accordance with Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C.), as amended by the Act of November 16, 1973, (37 Stat. 576, Public Law 93–153).

Dated: November 26, 2001.

Esther M. Pringle,

Acting Regional Director.

[FR Doc. 01–31858 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Applications for Incidental Take Permits by Gulf Highlands LLC and Fort Morgan Paradise Joint Venture in Alabama

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; Reopening of public comment period.

We, the U.S. Fish and Wildlife Service (Service), announce the availability of an Environmental Assessment and receipt of applications for incidental take permits for residential development in Alabama. We also provide notice that the public comment period for the proposal is reopened to allow all interested parties to submit written comments on the proposed incidental take permits. Comments previously submitted need not be resubmitted. The original public notice, 66 FR 54020–54022, opened the comment period from October 25 through December 10, 2001.

Gulf Highlands LLC and Fort Morgan Paradise Joint Venture (Applicants) seek incidental take permits (ITP) from the Fish and Wildlife Service (Service) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed take would be incidental to otherwise lawful activities, including construction of residential condominiums, commercial facilities, and recreational amenities on adjoining tracts of land owned by the Applicants. The proposed action would involve approval of the Habitat Conservation Plan (HCP) jointly developed by the Applicants, as required by section 10(a)(2)(B) of the Act, to minimize and mitigate for incidental take of the Federally-listed, endangered Alabama beach mouse (*Peromyscus polionotus ammobates*)(ABM), the endangered Kemp's ridley sea turtle (*Lepidochelys kempii*), the threatened green sea turtle (*Chelonia mydas*), and the threatened loggerhead sea turtle (*Caretta caretta*). The subject permits would authorize take of ABM and the three sea turtles along 2,844 linear feet of coastal dune habitat fronting the Gulf of Mexico in Baldwin County, Alabama. The Applicants' properties total 180.5 acres, but only 62 acres would be developed. Additionally, about 16 acres of platted road rights-of-way are encompassed by the project and bring the total area to 196.4 acres. A more detailed description of the mitigation and minimization measures to address the effects of the Project to the ABM and sea turtles is provided in the Applicants' HCP, the Service's Environmental Assessment (EA), and in the **SUPPLEMENTARY INFORMATION** section below.

The Service announces the availability of an Environmental Assessment (EA) and Habitat Conservation Plan/Applications for Incidental Take. The permit applications incorporate the Applicants' HCP as the proposed action for evaluation in the Service's EA. Copies of the EA on compact disk and the HCP

may be obtained by making a request to the Regional Office (see ADDRESSES). Requests must be in writing to be processed. This notice also advises the public that the Service has not made a preliminary determination of whether issuance of the ITPs would be a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA). The Service must decide whether issuance of the proposed ITPs constitutes a major Federal action and whether to prepare a Finding of No Significant Impact based on the EA and public comment, or if preparation of an Environmental Impact Statement (EIS) is appropriate. The final determination will be made no sooner than the close of the comment period. This notice is provided pursuant to section 10 of the Act and NEPA regulations (40 CFR 1506.6).

The Service specifically requests information, views, and opinions from the public via this Notice on the Federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's ITP issuance criteria found in 50 CFR Parts 13 and 17.

If you wish to comment, you may submit comments by any one of several methods. Please reference permit numbers TE007985–0 and TE031307–0 in such comments. You may mail comments to the Service's Regional Office (see ADDRESSES). You may also comment via the internet to *"david_dell@fws.gov"*. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message.

Due to Court order, the Department of Interior has temporarily lost use of our internet capability, and likely will not regain it by the time this notice is published. We encourage the public to submit comments by mail or express courier, or to call (see FURTHER INFORMATION) to confirm whether our internet capability has been restored.

If you do not receive a confirmation from the Service that we have received your internet message, contact us directly at either telephone number listed below (see FURTHER INFORMATION). Finally, you may hand deliver comments to either Service office listed below (see ADDRESSES). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

DATES: The original comment period closed December 10, 2001. The comment period is hereby reopened through January 4, 2002. Written comments on the ITP application, EA, and HCP should be sent to the Service's Regional Office (see ADDRESSES).

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain an electronic copy on compact disk by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), Ecological Services Field Office, 1208–B Main Street, Daphne, Alabama 36526, or Bon Secour National Wildlife Refuge, 12295 State Highway 180, Gulf Shores, Alabama 35603. Written data or comments concerning the application or HCP should be submitted to the Regional Office. Please reference permit numbers TE007985–0 and TE031307–0 in requests for the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (see ADDRESSES above), telephone: 404/679–7313, facsimile: 404/679–7081; or Ms. Celeste South, Fish and Wildlife Biologist, Daphne Field Office, Alabama (see ADDRESSES above), telephone: 251/441–5181.

SUPPLEMENTARY INFORMATION: The ABM is one of eight subspecies of the oldfield mouse restricted to coastal dunes. The Service estimates that ABM historically occupied approximately 45 km (28 mi) of shoreline. By 1987, the total occupied linear, shoreline habitat for the ABM, Choctawhatchee, and Perdido Key beach mice was estimated at less than 35 km (22 mi). Monitoring (trapping and field observations) of the ABM population on other private lands that hold, or are under review for, an ITP during the last five years indicates the Fort Morgan Peninsula remains occupied (more or less continuously) by ABM along its primary and secondary dunes while ABM use interior habitats intermittently. The current occupied coastline for the ABM extends approximately 37 km (23 miles).

ABM habitat on the Applicants' properties consists of approximately 38 acres of primary/secondary dunes, 21.7 acres of escarpment, 21.8 acres of adjacent scrub and 90 acres of interior scrub. The total area of designated critical habitat among these habitats is 32.4 acres, consisting of open beach dunes and swales within the southern portions of the properties, extending from the mean high water line of the Gulf of Mexico northward for 500 feet.

The green turtle has a circumglobal distribution and is found in tropical and sub-tropical waters. The Florida population of this species is federally listed as endangered; elsewhere the species is listed as threatened. Primary nesting beaches in the southeastern United States occur in a six-county area of east-central and southeastern Florida, where nesting activity ranges from approximately 350–2,300 nests annually. The Service's turtle nesting surveys of the Fort Morgan Peninsula, from Laguna Key west to Mobile Point, for the period 1994–2001 have not confirmed any green turtle nests, though some crawls were suspected in 1999 and 2000.

The loggerhead turtle is listed as a threatened species throughout its range. This species is circumglobal, preferring temperate and tropical waters. In the southeastern United States, 50,000 to 70,000 nests are deposited annually, about 90 percent of which occur in Florida. Most nesting in the Gulf outside of Florida appears to be in the Chandeleur Islands of Louisiana; Ship, Horn and Petit Bois Islands in Mississippi; and the outer coastal sand beaches of Alabama. The Service's nesting surveys of the Fort Morgan Peninsula, from Laguna Key to Mobile Point, for the 2001 report included over 70 loggerhead turtle nests, four of which were found on shoreline beaches along the Applicants' properties.

The Kemp's ridley sea turtle is an endangered species throughout its range. Adults are found mainly in the Gulf of Mexico. Immature turtles can be found along the Atlantic coast as far north as Massachusetts and Canada. The species' historic range is tropical and temperate seas in the Atlantic Basin and in the Gulf of Mexico. Nesting occurs

VOL 66 ISS 249 DE 28 2001 UMI

primarily in Tamaulipas, Mexico, but occasionally also in Texas and other southern states, including an occasional nest in North Carolina. The Service's nesting surveys of the Fort Morgan Peninsula, from Laguna Key to Mobile Point, for the period 1994–2001 report no nests of the Kemp's ridley sea turtle on beaches along the Applicants' properties. In 1999, a Kemp's ridley sea turtle nested on Bon Secour National Wildlife Refuge and another along the Gulf Island's National Seashore in Perdido Key Florida. In 2001, two dead Kemp's ridley sea turtle hatchlings were recovered, one on Bon Secour National Wildlife Refuge, and the second in Gulf Shores, Alabama.

The two projects, Gulf Highlands Condominiums (GHC) and Beach Club West (BCW), are separate developments but are being considered together at the request of Gulf Highlands LLC and Fort Morgan Paradise Joint Venture, the respective Applicants. The two Applicants have joined together to produce a single Habitat Conservation Plan (HCP), as required by the Endangered Species Act, for their projects. The Applicants hope to obtain their permits and jointly implement the provisions of the HCP.

The EA considers the effects of six project alternatives, including a no-action alternative that would result in no new construction on the Project site, and a single family home alternative that would result in build out of the properties as originally platted. Neither of these alternatives would be economically feasible for the applicants. The remaining four alternatives involve various arrangements of high-rise condominiums. The important differences among these four alternatives relate to the amount of beach front developed, the width and placement of an undeveloped ABM "corridor" to allow ABM movements to and from the dune and escarpment habitats, and the placement of the condominium towers. One of these alternatives was suggested by the Service as a "less-take" alternative and would move the development approximately 300 feet north of the escarpment. The applicants have cited legal and economical reasons for why the less-take alternative could not be implemented.

In the Applicant's preferred alternative, the two projects involve construction of large condominium developments near the Gulf of Mexico on approximately 62 of the total 180.5 acres of wet beach, coastal dune, escarpment, wetlands, and scrub habitats owned by the applicants. An additional 16 acres of platted road rights-of-way, owned by Baldwin County, exist within the project boundary. The project area therefore encompasses about 196.4 acres. Applicant land holdings extend from the Gulf to Alabama Highway 180. Only part of this acreage would actually be developed, totaling about 62.7 acres of ABM habitat. The remaining area, some of which is ABM habitat, would be conserved in perpetuity. Six 20-story condominium towers (two for BCW and four for GHC), thirteen single family units, and a commercial development including about 20 housing units on the upper level would be constructed. Collectively this development would contain 973 living units. Other facilities would include parking lots, access roads, swimming pools, tennis courts, patios, a club house, shops, a proposed medical facility, sidewalks, landscaped areas, small freshwater lakes-detention ponds, trails, and dune walkovers for access to the Gulf of Mexico. The condominium structures would be oriented on an east-west alignment starting approximately 660 to 730 feet north of the Gulf of Mexico. The applicants own approximately 2,844 feet of Gulf frontage. As proposed in the Applicants' preferred alternative, 1,835 feet of that frontage would be developed and 909 feet conserved in perpetuity. The area south of the structures would be sloped by the applicants and native vegetation planted.

All proposed alternatives include measures designed to avoid or minimize take. In addition to these measures, in the applicant's preferred alternative, a planned development adjoining the western boundary of the project, the French Caribbean, would not be constructed and would remain undeveloped as an ABM conservation area. Fort Morgan Paradise Joint Venture owns the French Carribean development, and has offered to forego its construction. As this development has received a Corps of Engineers wetland permit, and was subject to review under section 7 of the Endangered Species Act, there is no ITP required for it.

Based on trapping data and other research, the ABM uses portions (some on a permanent basis, others episodically) of the entire tract of land, except for wetlands, heavily vegetated areas, and northern sections that lack suitable soil for burrowing. The proposed project would adversely impact the ABM population directly by killing individuals in the construction areas via crushing or entombment and indirectly by introduction of house pets (cats), introduction of competitors (house mice), attraction of predators, permanent human disturbances and fragmentation of habitat and ABM populations. Occupation of the proposed structures could adversely affect sea turtle nesting by disorienting nesting females and misorienting hatchlings by excess artificial lighting, trampling nests, and trapping or disorienting nesting females and emerging hatchlings among tire ruts or beach equipment left after dark.

Under section 9 of the Act and its implementing regulations, "taking" of endangered and threatened wildlife is prohibited. However, the Service, under limited circumstances, may issue permits to take such wildlife if the taking is incidental to and not the purpose of otherwise lawful activities. The Applicants have prepared an HCP as required for the incidental take permit application, and as described above as part of the proposed project.

As stated above, the Service has not made a preliminary determination whether the issuance of the ITPs is a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. This determination will be made incorporating public comment received in response to this notice and will be based on information contained in the EA and HCP.

The Service will also evaluate whether the issuance of section 10(a)(1)(B) ITPs complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: December 20, 2001.

Sam D. Hamilton,

Regional Director.

[FR Doc. 01–31907 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Draft Multiple Habitat Conservation Program Plan and Draft Environmental Impact Statement/Environmental Impact Report for Northwestern San Diego County

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: In anticipation of receiving an application for an incidental take permit for the Multiple Habitat Conservation

Program (MHCP) pursuant to section 10 (a)(1)(B) of the Federal Endangered Species Act of 1973, as amended, the U.S. Fish and Wildlife Service (Service) is requesting public comment on all four volumes of the draft MHCP Plan and a draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) prepared jointly by the Service and San Diego Association of Governments.

The draft MHCP Plan is intended to inform the public of our proposed action to provide a comprehensive multiple-jurisdictional planning program designed to create, manage, and monitor an ecosystem preserve in northwestern San Diego County, California. Local governments within this area have a need for an incidental take permit from the Service to accommodate lawful development projects outside of the preserve system and to accommodate monitoring and maintenance projects within the preserve system that are associated with the MHCP. Our issuance of such a permit is a Federal action that requires documentation under the National Environmental Policy Act.

The analysis provided in the draft EIS/EIR is intended to inform the public of our proposed action and alternatives; address public comments received during the scoping period; disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and indicate any irreversible commitment of resources that would result from implementation of the proposed action.

DATES: We must receive your written comments on or before April 29, 2002.

ADDRESSES: Send comments to Mr. Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. You also may submit comments by facsimile to (760) 431–9618.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Ann Carranza, Fish and Wildlife Supervisory Biologist, at the above address; telephone (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may request copies of the documents by contacting the office above. You may view the documents, by appointment, during normal business hours (8 a.m. to 5 p.m.), Monday through Friday at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**). Copies are also available for viewing at the office of the San Diego Association of Governments, 401 B Street, Suite 800, San Diego, California; and on the world wide web at *http://www.sandag.org*.

Background

Section 9 of the Act and Federal regulation prohibit the "take" of fish and wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. Harm includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c). Under limited circumstances, the Service may issue permits to authorize incidental take; i.e. take that is incidental to, and not the purpose of, otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The MHCP is intended to protect viable populations of native plant and animal species and their habitats in perpetuity through the creation of a preserve system, while accommodating continued economic development and quality of life for residents of northwestern San Diego County. The MHCP is one of several large, multiple-jurisdictional habitat planning efforts in San Diego County, each of which constitutes a "subregional" plan under the State of California's Natural Community Conservation Planning (NCCP) Act of 1991. The MHCP encompasses 175 square miles comprised of the following seven incorporated cities: Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista.

All four volumes of the MHCP Plan and a draft EIS/EIR prepared jointly by the Service and San Diego Association of Governments are being made available for a 120-day public comment period. The MHCP is described in the Public Review Draft MHCP Plan Volume 1 (November 2000). The scientific methods used to prepare the MHCP are provided in the Public Review Draft MHCP Plan Volume II (November 2000). Volume III of the Public Review Draft MHCP Plan is comprised of five draft Subarea Plans for the cities of Carlsbad, Encinitas, Escondido, Oceanside and San Marcos; these subarea plans are analyzed in the draft EIS/EIR. Volume IV of the Public Review Draft MHCP Plan describes the biological monitoring program associated with managing the MHCP preserve system to ensure that all of the species covered by the MHCP will survive into perpetuity.

As described in Volumes I and II of the Public Review Draft MHCP Plan (November 2000) and the draft EIS/EIR, the MHCP would create a preserve system that protects, manages, and monitors 66 percent of coastal sage scrub, 66 percent of chaparral, 80 percent of coastal sage/chaparral mix, and 100 percent of riparian and estuarine habitats in perpetuity. A major component of the preserve is the conservation of 400 to 500 acres of contiguous coastal sage scrub centered around the cities of Carlsbad, Encinitas, and the extreme southwest portion of San Marcos, which supports 16 to 23 pairs of the federally threatened coastal California gnatcatcher (*Polioptila californica californica*). In addition, 338 acres of coastal sage scrub would be restored in key locations within the preserve area. Overall, 19,871 acres (66 percent) of the natural habitats found in the total MHCP study area would be conserved. As a result, coverage for 60 different listed and non-listed species is being requested under the MHCP.

The MHCP is designed to be implemented through individual Subarea Plans prepared by participating cities. Five of the seven cities (Carlsbad, Encinitas, Escondido, Oceanside, and San Marcos) within the MHCP planning area have prepared draft Subarea Plans which describe the specific mechanisms their respective city will use to implement the MHCP. The City of Vista has not completed their plan; when completed it will require a separate environmental analysis. The City of Solana Beach does not need to prepare a Subarea Plan at this time since they do not anticipate impacting any of the species or habitats covered in the MHCP.

The EIS/EIR considers three alternatives in addition to the preferred alternative/proposed project described above: a reduced preservation alternative, an increased preservation alternative, and a no action alternative.

Under the reduced preservation alternative, the preserve system would be similar to the proposed project, however, the following conservation actions would not occur: preservation of the 400 to 500 acres of contiguous coastal sage scrub in the coastal California gnatcatcher core area and the restoration of 338 acres of coastal sage scrub habitat throughout the MHCP planning area. Overall, 19,371 acres (65 percent) of the habitat in the total MHCP study area would be conserved under this alternative.

Under the increased preservation alternative, all large contiguous areas of habitat, all areas supporting major and critical species populations or habitat areas, and all important functional linkages and movement corridors between them would be conserved. Conservation levels include 89 percent coastal sage scrub, 93 percent chaparral, 95 percent coastal sage/chaparral mix, and 100 percent riparian and estuarine habitats. Overall, 25,031 acres (84 percent) of the habitat in the total MHCP study area would be conserved under this alternative.

Under the no project alternative, only listed species and habitat occupied by such listed species would receive protection. It was estimated that conservation levels would include 19 percent coastal sage scrub, 31 percent chaparral, and 18 percent coastal sage/chaparral mix. Overall, 8,969 acres (30 percent) of natural habitats in the MHCP study area would be conserved under this alternative.

Once the MHCP program and draft documents are finalized and the participating cities are ready to implement the program and create the preserve system, the participating cities will need to apply for incidental take permits from the Service and California Department of Fish and Game to accommodate lawful development projects outside of the preserve system and monitoring and maintenance projects within the preserve system. At this time, the Service will publish in the **Federal Register** separate notices announcing the receipt of an Incidental Take Permit Application and draft Implementing Agreement for each city when they submit applications. The subregional MHCP and associated Subarea Plans for each city are designed to serve as a multiple species Habitat Conservation Plan (HCP) pursuant to section 10 (a)(1)(B) of the federal Endangered Species Act of 1973, as amended and to meet the requirements of section 2800 of the California Endangered Species Act and the NCCP Act.

The Service invites the public to comment on the draft MHCP Plan and draft EIS/EIR during a 120-day comment period. All comments received, including names and addresses, will become part of the administrative record and may be made available to the public. This notice is provided pursuant to section 10(a) of the Endangered Species Act and regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6).

Dated: December 11, 2001.

John Engbring,

Acting Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 01–31199 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–320–1330–PB–24 1A]

OMB Approval Number 1004–0103; Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On August 1, 2001, the BLM published a notice in the **Federal Register** (66 FR 39787) requesting comments on this proposed collection. The comment period ended on October 1, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the proposed collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0103), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Mineral Materials Disposal (43 CFR 3600, 3601, and 3602).

OMB Approval Number: 1004–0103.

Bureau Form Number: 3600–9.

Abstract: The Bureau of Land Management proposes to extend the currently approved collection of information for the disposal of mineral materials on public lands through sales (sand, gravel, and petrified wood). BLM uses the information the applicants provide to:

(1) Determine if the sale of the mineral materials is in the public interest;

(2) Mitigate any environmental impacts associated with the mineral development;

(3) Get fair market value for the materials sold; and

(4) Prevent the trespass removal of the resource.

Frequency: annually (sometimes monthly for some contracts).

Description of Respondents: Operators desiring sand, gravel, stone, and other mineral materials from public lands under BLM jurisdiction.

Estimated Completion Time: Varies from 15 minutes to several days for large projects, with an average of 30 minutes.

Annual Responses: 4,400.

Application Fee Per Response: 0. There is no filing fee.

Annual Burden Hours: 2,200.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: December 11, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–31933 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1020–PB–24 1A]

Information Collection Submitted to the Office of Management and Budget Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On July 31, 2001, the BLM published a notice in the **Federal Register** (66 FR 39526) requesting comments on this proposed collection. The comment period ended on October 1, 2001. The BLM received no comments from the public in response to that notice. You may obtain copies of the proposed collection of information and related forms and explanatory material by contacting the BLM Information Collection Clearance

Officer at the telephone number listed below.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk officer (1004–0041), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Information Collection Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: Automated Grazing Application (formerly Grazing Preference Statement) (43 CFR 4130).

OMB Approval Number: 1004–0041.

Bureau Form Number: 4130–3a.

Abstract: The Bureau of Land Management uses the information to provide the opportunity for grazing operators to apply for changes to the grazing schedules in their BLM authorized grazing leases or permits. Also, BLM uses the information to compute grazing fee bills and to determine whether lessees and permittees are complying with the terms and conditions of their leases or permits.

Frequency: annually.

Description of Respondents: Holders of BLM-issued grazing leases and permits.

Estimated Completion Time: Varies from 5 to 30 minutes, with an average of 14 minutes.

Annual Responses: 7,689.

Application Fee Per Response: 0. There is no filing fee.

Annual Burden Hours: 1,794.

Bureau Clearance Officer: Michael Schwartz, (202) 452–5033.

Dated: December 11, 2001.

Michael H. Schwartz,

BLM Information Collection Clearance Officer.

[FR Doc. 01–31934 Filed 12–27–01; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits: Extension of Expiring Contracts for Up To One Year

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to the terms of existing concession permits, with the exception of construction on National Park Service lands, public notice is hereby given that the National Park Service intends to provide visitor services under the authority of a temporary concession contract with a term of up to one year from the date of permit expirations.

SUPPLEMENTARY INFORMATION: The permits listed below have been extended to the maximum allowable under 36 CFR 51.23. Under the provisions of current concession permits, with one exception, and pending the development and solicitation of a prospectus for a new concession permit, the National Park Service authorizes continuation of visitor services under a temporary concession contract for a period of up to one year from the expiration of the current concession permit. The exception precludes construction on National Park Service lands, regardless of whether the current permit authorizes such activity, the temporary contract does not affect any rights with respect to selection for execution of a new concession contract.

Concessioner ID No.	Concessioner name	Park
ACAD010	National Park Tours & Acadia National Park Transportation, Inc.	Acadia National Park.
ADAD011	Oli's Trolley	Acadia National Park.
ACAD012	Edward Winterberg	Acadia National Park.
ADAD013	Carriages in the Park, Inc	Acadia National Park.
BICA003	The Marina at Horseshoe Bend	Big Horn Canyon National Recreation Area.
BICA007	Lucon Corporation	Big Horn Cancoy National Recreation Area.
BISC002	Biscayne National Underwater Park, Inc	Biscayne National Park.
BISO002	Eastern National	Big South Fork National Recreation Area.
BISO005	Bernard Terry Station Camp Equine	Big South Fork National Recreation Area.
BISO006	Bernard Terry Bear Creek Equine	Big South Fork National Recreation Area.
BLCA001	Rim House	Black Canyon of the Gunnison National Park.
BLRI009	Parkway Inn, Inc	Blue Ridge Parkway.
CANY008	Canyonlands Natural History Association	Canyonlands National Park.
CANY022	Oars Canyonlands, Inc	Canyonlands National Park.
CANY024	Nixhanen & Jones (Tag a Long Tours)	Canyonlands National Park.
CANY025	NAVTEC Expansions, Inc	Canyonlands National Park.
CANY026	Nixhansen & Jones (Tag a Long Tours)	Canyonlands National Park.
CANY027	3 D River Visions, Inc (Tex's Riverways)	Canyonlands National Park.
CARE003	Capital Reef Natural History Association	Capital Reef National Monument.
COLO003	Period Designs	Colonial National Historic Site.
COLO004	Yorktown Arts Foundation	Colonial National Historic Site.
CHOH002	Swain's Lock	Chesapeake & Ohio Canal National Historic Park.
DEWA002	Dingman's Campground	Delaware Water Gap National Recreation Area.
DINO010	Faron & Wayne Wilkins	Dinosaur National Park.
DINO013	Dinosaur Nature Association	Dinosaur National Park.

VOL 66 ISS 249 DE 28 2001 UMI

Concessioner ID No.	Concessioner name	Park
GATE008	John Maggi	Gateway National Recreation Area.
GLAC004	Belton Chalets	Glacier National Park.
GLAC006	Glacier Wilderness Guide	Glacier National Park.
GLAC010	Edward Desrosier (Sun Tours)	Glacier National Park.
GLCA021	Samaritan Health Service	Glen Canyon National Recreation Area.
GOGA002	Council of American Youth Hostels Fort Mason	Golden Gate National Recreation Area.
GOGA003	Council of American Youth Hostels Fort Barry	Golden Gate National Recreation Area.
GOGA006	Giant Camera	Golden Gate National Recreation Area.
GOSP001	McFarland Distributing	Golden Spike National Historic Site.
GRSA003	Great Sand Dunes Oasis	Great Sand Dunes National Monument.
GRSM007	Smokemont Riding Stables	Great Smokey Mountains National Park.
GRSM008	Smoky Mountains Riding Stables	Great Smoky Mountain National Park.
GRSM011	Lon Nations Deep Creek Riding Stable	Great Smoky Mountains National Park.
GRTE005	American Alpine Club	Grand Teton National Park.
GRTE006	Barker Ewing Scenic Tour	Grand Teton National Park.
GRTE008	Jack Dennis Fishing Trip	Grand Teton National Park.
GRTE010	Fort Jackson Float Trip	Grand Teton National Park.
GRTE011	Heart 6 Ranch Float Trip	Grand Teton National Park.
GRTE012	Jackson Hole Mountain Guide	Grand Teton National Park.
GRTE014	Cresent H Ranch	Grand Teton National Park.
GRTE015	National Park Float Trip	Grand Teton National Park.
GRTE017	OARS Inc	Grand Teton National Park.
GRTE020	Solitude Float Trips	Grand Teton National Park.
GRTE022	Teton Boating Co	Grand Teton National Park.
GRTE034	Wilderness Ventures	Grand Teton National Park.
GRTE038	Teton Valley Ranch Camps	Grand Teton National Park.
GRTE040	Lost Creek Ranch	Grand Teton National Park.
GRTE041	Jackson Hole Trail Rides	Grand Teton National Park.
GRTE043	Boy Scouts of America	Grand Teton National Park.
GRTE045	R Lazy Ranch	Grand Teton National Park.
INDU003	Michiana Industries	Indiana Dunes National Recreation Area.
JODR003	Cache Creek Snowmobile	John D. Rockefeller, Jr. Memorial Parkway.
JODR004	Heart 6 Snowmobile	John D. Rockefeller, Jr. Memorial Parkway.
JODR005	Hidden Basin (Old Faithful Snowmobile)	John D. Rockefeller, Jr. Memorial Parkway.
JODR006	High Country Snowmobile	John D. Rockefeller, Jr. Memorial Parkway.
JODR007	Mountain High Adventures	John D. Rockefeller, Jr. Memorial Parkway.
JODR008	Best Adventures	John D. Rockefeller, Jr. Memorial Parkway.
JODR009	Jackson Hole Snowmobile	John D. Rockefeller, Jr. Memorial Parkway.
JODR010	National Park Adventures	John D. Rockefeller, Jr. Memorial Parkway.
JODR012	Tugwotee Mountain Lodge	John D. Rockefeller, Jr. Memorial Parkway.
JODR013	Rocky Mountain Tours	John D. Rockefeller, Jr. Memorial Parkway.
JODR014	Yellowstone Snowmobile	John D. Rockefeller, Jr. Memorial Parkway.
MORA004	John P. Squires	Mount Rainier National Park.
OLYM048	Wildwater River Tours	Olympic National Park.
OLYM057	Olympic Raft and Guide Service	Olympic National Park.
OZAR037	Aker's Ferry Tude Rental	Ozark National Scenic Riverway.
PORE001	Drakes Beach Snack Bar	Point Reyes National Seashore.
PORE002	Five Brooks Stables	Point Rayes National Seashore.
REDW001	American Youth Hostels, Inc	Redwoods National Park.
ROMO003	Andrews, Bicknell & Crothers LLC	Rocky Mountain National Park.
ROMO004	Silver Peaks Enterprises	Rocky Mountain National Park.
ROMO008	Wild Basin Lodge	Rocky Mountain National Park.
ROMO009	Meeker Park Lodge	Rocky Mountain National Park.
ROMO010	Silver Lane Enterprises	Rocky Mountain National Park.
ROMO011	YMCA of the Rockies	Rocky Mountain National Park.
ROMO012	Aspen Lodge & Guest Ranch	Rocky Mountain National Park.
ROMO013	Wind River Ranch	Rocky Mountain National Park.
ROMO016	National Park Village Livery	Rocky Mountain National Park.
ROMO017	Sombrero Ranches, Inc	Rocky Mountain National Park.
ROMO018	Winding River Resort	Rocky Mountain National Park.
ROMO019	Cheley Colorado Camp	Rocky Mountain National Park.
ROMO021	Lane Guest Ranch	Rocky Mountain National Park.
ROMO022	Mountain Prairie Girl Scout Council	Rocky Mountain National Park.
ROMO023	Colorado Outward Bound	Rocky Mountain National Park.
ROMO025	Overland Travel, Inc	Rocky Mountain National Park.
ROMO026	The Road Less Traveled	Rocky Mountain National Park.
ROMO027	Young Life Wilderness	Rocky Mountain National Park.
SAAN001	Los Compadres de San Antonio	San Antonio Mission Historic Park.
SERO001	Eastern National	Southeast Regional Office.
SHEN002	Potomac Appalachian Trail Club	Shenandoah National Park.
USAR001	Division of Vocational Rehabilitation	U.S.S. Arizona Memorial.
VIIS008	Caneel Bay, Inc	Virgin Islands National Park.
VICA002	Black Hills Parks Association	Wind Cave National Park.

Concessioner ID No.	Concessioner name	Park
YUCH001	Eric Arneson E.A. Adventures	Yukon-Charley Rivers National Preserve.

EFFECTIVE DATE: January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone, 202/565–1210.

Dated: December 7, 2001.

Richard G. Ring,

Associate Director, Park Operations and Education.

[FR Doc. 01–31890 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits: Extension of Expiring Contracts for Up to One Year

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.23; public notice is hereby given that the National Park Service proposes to extend the following expiring concession contracts for a period of up to one year, or until such time as a new contract is executed, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2001. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new long-term concession contracts covering these operations.

Concessioner ID No.	Concessioner name	Park
ANIA903	Katmai Guide Service	Aniakchak National Monument and Preserve.
ANIA904	King Guiding Service	Aniakchak National Monument and Preserve.
ANIA906	Cinder River Lodge	Aniakchak National Monument and Preserve.
ARO001	Alaska Natural Hist Assn	Alaska Regional Office.
BADL001	Oglala Sioux Tribe (Cedar Pass Lodge)	Badlands National Park.
BAND001	Bandelier Trading, Inc	Badlands National Monument.
BEOL001	Bent's Old Fort Historical Assn	Bent's Old Fort National Historic Site.
BISC002	Biscayne National Underwater Park, Inc	Biscayne National Park.
BISO001	LeConte Lodge Limited Partnership	Big South Fork National Recreation Area.
BISO003	Bobby Gene & Gretta York	Big South Fork National Recreation Area.
BISO005	Bernard Terry, The View Station Camp	Big South Fork National Recreation Area.
BISO006	Bernard Terry, The View Bear Creek	Big South Fork National Recreation Area.
BRCA001	Bryce Canyon Natural History Assn	Bryce Canyon National Park.
BUFF002	Lost Valley C & L	Buffalo National River.
BUFF003	Bennett's Canoe Rental	Buffalo National River.
BUFF004	Gordon Motel, Inc	Buffalo National River.
BUFF005	Silver Hill Canoe	Buffalo National River.
BUFF007	Buffalo River Outfitters	Buffalo National River.
BUFF009	Buffalo Outdoor Center	Buffalo National River.
BUFF010	Buffalo River Outfitters	Buffalo National River.
BUFF011	Riverview Motel Canoe	Buffalo National River.
BUFF012	Buffalo Ridge Canoe Rental	Buffalo National River.
BUFF014	Crockett's Canoe Rental	Buffalo National River.
BUFF015	Buffalo Camp and Canoe	Buffalo National River.
BUFF016	Dillard's Ozark Outfitters	Buffalo National River.
BUFF018	Keller's Canoes	Buffalo National River.
BUFF019	Dirst Canoe Rental	Buffalo National River.
BUFF022	Wild Bill's Outfitter	Buffalo National River.
BUFF026	Rose Trout Dock	Buffalo National River.
BUFF027	Cotter Trout Dock	Buffalo National River.
BUFF028	Buffalo River Outfitters	Buffalo National River.
BUFF030	Sportsman's Resort	Buffalo National River.
BUFF031	Newland Float Trips	Buffalo National River.
BUFF032	Wild Bill's Outfitter	Buffalo National River.
BUFF033	Woodsman's Fishing	Buffalo National River.
BUFF035	Stanley Canoes Inc	Buffalo National River.
BUIS001	Southern Seas, Inc	Buck Island Reef National Monument.
BUIS006	Terero, Inc	Buck Island Reef National Monument.
BUIS008	Llewellyn Westerman	Buck Island Reef National Monument.
BUIS014	Francis J. Waters	Buck Island Reef National Monument.
BUIS015	Milemark, Inc	Buck Island Reef National Monument.
BUIS019	Carl Punzenberger	Buck Island Reef National Monument.
CACO002	The Benz Corporation	Cape Cod National Seashore.
CACO006	Hosteling International	Cape Cod National Seashore.
CAHA001	Avon-Thornton Limited Partnership	Cape Hatteras National Seashore.
CAHA002	Cape Hatteras Fishing Pier, Inc	Cape Hatteras National Seashore.
CAHA004	Oregon Inlet Fishing Center, Inc	Cape Hatteras National Seashore.

Concessioner ID No.	Concessioner name	Park
CALO003	Morris Marina, Kabin Kamps & Ferry Svc	Cape Lookout National Seashore.
CALO005	Alger G. Willis Fishing Camps, Inc	Cape Lookout National Seashore.
CHAM001	My Other Squeeze	Chamizal National Monument.
CHAM003	Triple L Rolling Restaurant	Chamizal National Monument.
CHAM004	Donut Factory	Chamizal National Monument.
CHAM005	Party Time Ice Cream	Chamizal National Monument.
CHAM006	Senor Elote	Chamizal National Monument.
CHAM007	Coronado Prime Meats	Chamizal National Monument.
CHAM008	Mama's Papas	Chamizal National Monument.
CHAM009	Mando's Concessions	Chamizal National Monument.
CHAT001	Chattahoochee Outdoor Center, Inc	Chattahoochee River National Recreation Area.
CHIS002	Channel Islands Aviation, Inc	Channel Islands National Park.
COLM001	Colorado National Monument Assn	Colorado National Monument.
COLO005	Eastern National	Colonial National Historic Park.
COLO001	Yorktown Shoppe	Colonial National Historical Park.
CUVA001	American Youth Hostels	Cuyahoga Valley.
DENA030	Kantishna Air Taxi	Denali National Park and Preserve.
DENA005	Rainier Mountaineering, Inc	Denali National Park and Preserve.
DENA006	Mountain Trip, Inc	Denali National Park and Preserve.
DENA008	Alaska Mountaineering School	Denali National Park and Preserve.
DENA009	Fantasy Ridge Alpinism, Inc	Denali National Park and Preserve.
DENA010	American Alpine Institute	Denali National Park and Preserve.
DENA011	National Outdoor Leadership School	Denali National Park and Preserve.
DENA013	Wallace and Jerryne Cole (CampDenali and North Face Lodge.	Denali National Park and Preserve.
DENA015	Kantishna Roadhouse Company	Denali National Park and Preserve.
DENA016	Denali Backcountry Lodge, Inc	Denali National Park and Preserve.
DEWA004	Pepsi Cola Company	Delaware Water Gap National Recreation Area.
DINO001	Adventure Bound, Inc	Dinosaur National Monument.
DINO002	American River Touring Association	Dinosaur National Monument.
DINO003	Colorado Outward Bound School	Dinosaur National Monument.
DINO005	Holiday River Expeditions, Inc	Dinosaur National Monument.
DINO006	Don Hatch River Expeditions, Inc	Dinosaur National Monument.
DINO008	Dinosaur River Expeditions, Inc	Dinosaur National Monument.
DINO009	OARS, Inc	Dinosaur National Monument.
DINO011	National Outdoor Leadership School, Inc	Dinosaur National Monument.
DINO012	Sheri Griffith River Expeditions, Inc	Dinosaur National Monument.
DINO014	Eagle Outdoor Sports	Dinosaur National Monument.
DINO016	Adrift Adventures, Inc	Dinosaur National Monument.
FOFR001	Fort Frederican Assn	Fort Frederica National Monument.
FOLA001	Fort Laramie Natural History Association	Fort Laramie National Historic Site.
GUMO001	Carlsbad Caverns Association	Guadalupe Mountains National Monument.
FOMC001	Evelyn Hill, Inc	Fort McHenry National Monument and Historic Site.
FOSU001	Fort Sumter Tours, Inc	Fort Sumter National Monument.
GAAR001	Richard Guthrie, Reg. Guide	Gates of the Arctic National Park and Preserve.
GAAR002	Highlander Guide Service	Gates of the Arctic National Park and Preserve.
GEWA001	George Washington Birthplace Assn	George Washington National Monument.
GLAC003	Muleshoe Outfitters	Glacier National Park.
GLAC004	Belton Chalets	Glacier National Park.
GLAC004A	Glacier Wilderness Guides, Inc	Glacier National Park.
GLBA001	Glacier Bay Park Concessions	Glacier Bay National Park and Preserve.
GLBA008	Alaska Discovery, Inc	Glacier Bay National Park and Preserve.
GLBA009	Alaska Discovery, Inc	Glacier Bay National Park and Preserve.
GLBA010	Gary C. Gray, Reg. Guide	Glacier Bay National Park and Preserve.
GLBA011	Chilkat Guides	Glacier Bay National Park and Preserve.
GLBA012	Colorado River/Trail Exp., Inc	Glacier Bay National Park and Preserve.
GLBA013	James Henry River Journeys	Glacier Bay National Park and Preserve.
GLBA014	Mountain Travel/Sobek	Glacier Bay National Park and Preserve.
GLBA015	Chicagaof Charters	Glacier Bay National Park and Preserve.
GLBA016	Grand Pacific Charters	Glacier Bay National Park and Preserve.
GLBA017	Wilderness River Outfitters	Glacier Bay National Park and Preserve.
GLBA018	Glacier Guides	Glacier Bay National Park and Preserve.
GLBA019	Marine Adventure Sailing Tours	Glacier Bay National Park and Preserve.
GLBA020	Northern Lights Haven	Glacier Bay National Park and Preserve.
GLBA021	Seawind Charters	Glacier Bay National Park and Preserve.
GLBA025	Princeton Hall, Ltd	Glacier Bay National Park and Preserve.
GLBA026	Lisianski Charters	Glacier Bay National Park and Preserve.
GLBA027	Gustavus Marine	Glacier Bay National Park and Preserve.
GLBA028	Elfin Cove Sportfishing Lodge	Glacier Bay National Park and Preserve.
GLBA029	Johnny's East River Lodge	Glacier Bay National Park and Preserve.
GLBA030	Dolphin Charters	Glacier Bay National Park and Preserve.
GLBA031	Glacier Bay Country Inn	Glacier Bay National Park and Preserve.
GLBA032	Sea Wolf Wilderness Adventures	Glacier Bay National Park and Preserve.
GLBA033	Gary C. Gray, Reg. Guide	Glacier Bay National Park and Preserve.

Concessioner ID No.	Concessioner name	Park
GLBA035	Glacier Bay Sea Kayaks	Glacier Bay National Park and Preserve.
GLBA037	Clipper Cruise Line	Glacier Bay National Park and Preserve.
GLBA038	Special Expeditions	Glacier Bay National Park and Preserve.
GLBA039	Alaska Sightseeing/Cruise West	Glacier Bay National Park and Preserve.
GLBA041	Glacier Bay Park Concessions	Glacier Bay National Park and Preserve.
GLBA044	Glacier Bay Adventures	Glacier Bay National Park and Preserve.
GLBA901	Gary C. Gray, Reg. Guide	Glacier Bay National Park and Preserve.
GLBA902	John H. Latham, Reg. Guide	Glacier Bay National Park and Preserve.
GLCA017	Arizona Dept. of Economic Security	Glen Canyon National Recreation Area.
GLCA020	High Desert Adventures	Glen Canyon National Recreation Area.
GRSM001	Cades Cove Campground Store, Inc	Great Smoky Mountains National Park.
GRSM003	Tammy Shular	Great Smoky Mountains National Park.
GRSM004	Cades Cove Riding Stables, Inc	Great Smoky Mountains National Park.
GRSM005	Cherokee Boys Club	Great Smoky Mountains National Park.
GRSM006	McCarter's Riding Stables, Inc	Great Smoky Mountains National Park.
GRSM007	Smokemont Riding Stables, Inc	Great Smoky Mountains National Park.
GRSM008	Smoky Mountain Riding Stables, Inc	Great Smoky Mountains National Park.
GRSM011	Lon Nations (Deep Creek Riding Stables)	Great Smoky Mountains National Park.
GRSM010	Great Smoky Mountains Natural History Assn	Great Smoky Mountains National Park.
GRTE003	Rex G. & Ruth G. Maughan (Signal Mountain Lodge)	Grand Teton National Park.
GUIS001	Dudley Food & Beverage, Inc	Gulf Islands National Seashore.
GUIS003	Pan Isles, Inc	Gulf Islands National Seashore.
HAVO002	Hawaii Natural History Assn	Hawaii Volcanoes National Park.
HOSP001	City of Hot Springs Advertising and Promotions Comm	Hot Springs National Park.
ISRO001	The Royale Line, Inc	Isle Royale National Park.
ISRO006	Isle Royale Seaplane Service, Inc	Isle Royale National Park.
ISRO007	Grand Portage-Isle Royale Transportation, Line	Isle Royale National Park.
JEFF001	Compass Group USA	Jefferson National Expansion Memorial.
JEFF002	Jefferson National Expansion Historical Assn	Jefferson National Expansion Memorial.
KALA001	Molokai Mule Ride, Inc	Kalaupapa National Historical Park.
KATM002	No See Um Lodge	Katmai National Park.
KATM004	Shaska Ventures Inc	Katmai National Park.
KATM005	Branch River Air Service	Katmai National Park.
KATM006	Bristol Bay Sportfishing	Katmai National Park.
KATM007	Mike Cusack's King Salmon Lodge	Katmai National Park.
KATM901	Rainbow River Lodge	Katmai National Park and Preserve.
KATM902	King Guiding Service	Katmai National Park and Preserve.
LABE001	Lava Beds Natural History Assn	Lave Beds National Monument.
LACL002	Alaska Wilderness Trips	Lake Clark National Park.
LACL901	Northward Bound	Lake Clark National Park.
LAME001	Forever Resorts, Inc (Cottonwood Cove Resort)	Lake Mead National Recreation Area.
LAME005	Forever Resorts, Inc (Callville Bay Resort)	Lake Mead National Recreation Area.
LAME007	Lake Mohave Resort	Lake Mead National Recreation Area.
LIBI003	Institute for Micro Business	Little Bighorn National Monument.
MEVE001	Mesa Verde Company (Aramark)	Mesa Verde National Park.
MORA001	Rainier Mountaineering	Mount Rainier National Park.
MORU001	Amfac Recreational Services, Inc	Mount Rushmore National Memorial.
MWRRO001	Eastern NP & Monuments	Midwest Regional Office.
NATR001	Little Mountain Service Center, Inc	Natchez Trace Parkway.
NATR004	Craftsmen's Guild of Mississippi, Inc	Natchez Trace Parkway.
NERO001	Eastern National	Northeast Regional Office.
NOAT901	Midnight Sun Adventures	Noatak National Preserve.
NOAT904	Arctic Rivers Guide Service	Noatak National Preserve.
NOAT906	Mountain Monarchs of Alaska	Noatak National Preserve.
OZAR002	Jack's Fork Canoe Rental	Ozark National Scenic Riverway.
OZAR005	Wild River Canoe	Ozark National Scenic Riverway.
OZAR007	Silver Arrow Canoe Rental	Ozark National Scenic Riverway.
OZAR008	Round Spring Canoe	Ozark National Scenic Riverway.
OZAR010	Deer Run Campground	Ozark National Scenic Riverway.
OZAR011	Current River Canoe	Ozark National Scenic Riverway.
OZAR013	Eminence Canoe Rental	Ozark National Scenic Riverway.
OZAR014	Windy's Canoe Rental	Ozark National Scenic Riverway.
OZAR015	Big Spring Lodge	Ozark National Scenic Riverways.
OZAR018	Two Rivers Canoe	Ozark National Scenic Riverway.
OZAR020	Jadwin Canoe Rental	Ozark National Scenic Riverway.
OZAR023	Hawthorne Canoe Rental	Ozark National Scenic Riverway.
OZAR024	The Landing Canoe	Ozark National Scenic Riverway.
OZAR025	Big Spring Canoe Rental	Ozark National Scenic Riverway.
OZAR028	Running River Canoe	Ozark National Scenic Riverway.
OZAR036	Maggard Canoe Rental	Ozark National Scenic Riverway.
OZAR040	Carr's Tube Rental	Ozark National Scenic Riverway.
OZAR049	Smalley's Motel Tube	Ozark National Scenic Riverway.
OZAR050	Big Spring River Camp	Ozark National Scenic Riverway.
REDW001	American Youth Hostels, Inc	Redwoods National Park.

Concessioner ID No.	Concessioner name	Park
ROLA003	Ross Lake Resort, Inc	Ross Lake National Recreation Area.
ROMO005	Rockey Mounain Nature Assn	Rocky Mountain National Park.
SLBE005	Manitou Island Transit	Sleeping Bear Dunes National Lakeshore.
SLBE008	Blough Firewood	Sleeping Bear Dunes National Lakeshore.
USAR001	Division of Vocational Rehabilitation	U.S.S. Arizona Memorial.
VAFO001	Romano's School Bus Service, Inc	Valley Forge National Historic Site.
VIIS007	Maho, Inc	Virgin Islands National Park.
WHSA001	White Sands Souvenirs	White Sands National Monument.
WICA001	State of South Dakota, Dept. of Human Res	Wind Cave National Park.
WRBR001	Kitty Hawk Aero Tours, Inc	Wright Brothers National Monument.
YELL102	Beardsley Outfitting and Guilding Service	Yellowstone National Park.
YELL103	Triangle X Ranch	Yellowstone National Park.
YELL104	Horse Creek Ranch	Yellowstone National Park.
YELL105	Bear Paw Outfitters	Yellowstone National Park.
YELL106	Jackson Hole Llamas	Yellowstone National Park.
YELL107	Wyoming Wilderness Outfitters	Yellowstone National Park.
YELL108	Fox Creek Pack Station	Yellowstone National Park.
YELL110	Diamond J. Ranch	Yellowstone National Park.
YELL113	7D Ranch	Yellowstone National Park.
YELL114	Wilderness Connection	Yellowstone National Park.
YELL115	Gary Fales Outfitting	Yellowstone National Park.
YELL117	Mountain Trails Outfitters	Yellowstone National Park.
YELL118	Yellowstone Mountain Guides	Yellowstone National Park.
YELL120	Slough Creek Outfitters	Yellowstone National Park.
YELL121	Yellowstone Llamas	Yellowstone National Park.
YELL122	Sheep Mesa Outfitters	Yellowstone National Park.
YELL123	Castle Creek Outfitters & Guide Service	Yellowstone National Park.
YELL124	Jake's Horses	Yellowstone National Park.
YELL125	Big Bear Lodge, Inc	Yellowstone National Park.
YELL126	Heimer Outfitting	Yellowstone National Park.
YELL127	Medicine Lake Outfitters	Yellowstone National Park.
YELL128	North Yellowstone Outfitters	Yellowstone National Park.
YELL130	Skyline Guest Ranch	Yellowstone National Park.
YELL131	Hell's A Roarin' Outfitters	Yellowstone National Park.
YELL132	Nine Quarter Circle Ranch	Yellowstone National Park.
YELL134	John Henry Lee Outfitters	Yellowstone National Park.
YELL137	Wilderness Pack Trips	Yellowstone National Park.
YELL138	Rendezvous Outfitters	Yellowstone National Park.
YELL140	Black Otter Guide Service	Yellowstone National Park.
YELL141	Lost Fork Ranch	Yellowstone National Park.
YELL144	Lone Mountain Ranch	Yellowstone National Park.
YELL145	Thorofare Outfitting	Yellowstone National Park.
YELL146	K Bar Z Guest Ranch	Yellowstone National Park.
YELL147	Press Stephens	Yellowstone National Park.
YELL148	Teton Ridge Ranch	Yellowstone National Park.
YELL149	Tom Toolson	Yellowstone National Park.
YELL156	John R. Winter Outfitter and Guide	Yellowstone National Park.
YELL157	Beartooth Plateau Outfitters	Yellowstone National Park.
YELL158	Wilderness Trails	Yellowstone National Park.
YELL159	Bear Track Outfitters	Yellowstone National Park.
YELL160	MJ Outfitters	Yellowstone National Park.
YELL162	Grizzly Ranch	Yellowstone National Park.
YELL164	Gallatin Way Ranch	Yellowstone National Park.
YELL165	Gunsel Horse Adventures	Yellowstone National Park.
YELL166	Elkhorn Ranch	Yellowstone National Park.
YELL168	Llamas of West Yellowstone	Yellowstone National Park.
YELL169	Shoshone Lodging Outfitters	Yellowstone National Park.
YELL170	Diamond K Outfitters	Yellowstone National Park.
ZION004	Zion Natural History Association	Zion National Park.

EFFECTIVE DATE: January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/565–1210.

Dated: November 29, 2001.

Cynthia Orlando,

Concession Program Manager, Park Operations and Education.

[FR Doc. 01–31891 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contracts and Permits: Extension of Expiring Contracts for Up to One Year

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Pursuant to terms of existing concession contracts, public notice is hereby given that the National Park Service intends to request a continuation of visitor services for a period not-to-exceed one year from the date of contract expiration.

SUPPLEMENTARY INFORMATION: All contracts listed below have been extended to the maximum allowable under 36 CFR 51.23. Under the provisions of current concession contracts and pending the development and public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed one year under the terms and conditions of current contracts as amended. The continuation of operations does not affect any rights with respect to selection for execution of a new concession contract.

Concessioner Id No.	Concessioner name	Park
ACAD001	The Acadia Corporation	Acadia National Park.
AMIS002	Lake Amistad Resort	Amistad National Recreation Area.
BISO002	Eastern National	Big South Fork National Recreation Area.
AMIS003	Rough Canyon Marina	Amistad National Recreation Area.
BLRI001	Southern Highland Guild	Blue Ridge Parkway.
BLRI002	Northwest Trading Post	Blue Ridge Parkway.
BLRI009	Parkway Inn, Inc	Blue Ridge Parkway.
CACA001	The Cavern Supply Co	Carlsbad Caverns National Park.
CACO003	Town of Truro	Cape Cod National Seashore.
CACO004	Charles W. Silva	Cape Cod National Seashore.
CAHA003	Hatteras Island Hotel	Cape Hatteras National Seashore.
CHOH001	Fletcher's Boat House	Chesapeake & Ohio Canal National Historic Park.
CUIS001	Lang Seafood, Inc	Cumberland Island National Seashore.
CURE001	Elk Creek Marina, Inc	Curecanti National Recreation Area.
DEVA001	Amfac Hotels & Resorts	Death Valley National Park.
DEVA002	Amfac Hotels & Resorts	Death Valley National Park.
EVER001	TW Recreational Services	Everglades National Park.
EVER002	Everglades Boat Company	Everglades National Park.
FIIS001	Howard T. Rose	Fire Island National Seashore.
FIIS004	Davis Park Ferry	Fire Island National Seashore.
GATE001	Jamaica Bay Riding Co	Gateway National Recreation Area.
GATE002	Shields and Dean	Gateway National Recreation Area.
GATE013	Shields and Dean	Gateway National Recreation Area.
GLAC001	Glacier Park Boat Co	Glacier National Park.
GLCA001	Aramark (Wilderness River Adv)	Glen Canyon National Recreation Area.
GLCA003	Aramark (Wahweap Lodge)	Glen Canyon National Recreation Area.
GOGA001	Blue & Gold Fleet, LP	Golden Gate National Recreation Area.
GOGA002	Council of American Youth Hostels (Fort Mason)	Golden Gate National Recreation Area.
GOGA003	Council of American Youth Hostels (Fort Barry)	Golden Gate National Recreation Area.
GOGA008	Louis' Restaurant	Golden Gate National Recreation Area.
GRCA001	Amfac Hotels and Resorts	Grand Canyon National Park.
GRCA004	Grand Canyon Trail Rides Verkamps, Inc	Grand Canyon National Park.
GRCA005	Grand Canyon Trail Rides Verkamps, Inc	Grand Canyon National Park.
GRSM002	LeConte Lodge LP	Great Smoky Mountains National Park.
GRTE009	Exum Mountain Guides	Grand Teton National Park.
GWMP003	Belle Haven Marina	George Washington Memorial Parkway.
HOSP004	Libbey Memorial	Hot Springs National Park.
LAME002	Lakeshore Trailer Village	Lake Mead National Recreation Area.
LAME003	Seven Resorts, Inc. (Lake Mead Resort)	Lake Mead National Recreation Area.
LAME006	Las Vegas Boat Harbor	Lake Mead National Recreation Area.
LAME008	Overton Beach Resort	Lake Mead National Recreation Area.
LAME010	Seven Resorts, Inc. (Echo Bay Resort)	Lake Mead National Recreation Area.
LAMR002	Marina at Lake Meredith	Lake Meredith National Recreation Area.
MACA001	Miss Green River Boat	Mammoth Cave National Park.
MUWO001	ARAMARK Leisure Services, Inc	Muir Woods National Monument.
NACE003	Buzzard's Point Boatyard	National Capital Parks East.
OLYM001	ARAMARK Corp	Olympic National Park.
OLYM005	Crescent West, Inc	Olympic National Park.
OLYM008	Sol Duc Hot Springs	Olympic National Park.
OZAR001	Alley Spring Canoe	Ozark National Scenic Riverway.
OZAR012	Aker's Canoe Rental	Ozark National Scenic Riverway.
PAIS001	Padre Island Park Co	Padre Island National Seashore.
PEFO001	Amfac Hotel & Resorts	Petrified Forest National Park.
PRWI001	Prince William Travel Trailer Village	Prince William Forest Park.
ROCR003	Golf Course Specialists	Rock Creek National Park.
ROMO001	Rex and Ruth Maughan (Trail Ridge Store)	Rocky Mountain National Park.
ROMO002	Hi Country Stables	Rocky Mountain National Park.
SERO	Eastern National	Southeast Regional Offices.
TICA001	Carl and Betsy Wagner	Timpanogos Cave National Monument.
VIIS001	Caneel Bay, Inc	Virgin Islands National Park.
VIIS008	Caneel Bay, Inc	Virgin Islands National Park.
WHIS001	Oak Bottom Marina	Whiskeytown National Park.
YELL002	Hamilton Stores, Inc	Yellowstone National Park.

VOL 66 ISS 249 DE 28 2001 UMI

Concessioner Id No.	Concessioner name	Park
ZION001	Bryce/Zion Trail Rides	Zion National Park.

EFFECTIVE DATE: January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC, 20240, Telephone 202/565–1210.

Dated: November 28, 2001.

Richard G. Ring,

Associate Director, Park Operations and Education.

[FR Doc. 01–31892 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–443]

Certain Flooring Products; Notice of Commission Decisions to Review Portions of a Final Initial Determination and to Extend by 30 Days the Target Date for Completion of the Investigation; Schedule for Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant Roysol's motion to join the November 30, 2001, motion to strike and alternative motion to reply of Unilin and Pergo; to grant complainants' motion to respond to the November 30, 2001, motion of Unilin and Pergo; to grant Unilin and Pergo's motion to reply; to deny Unilin and Pergo's motion to strike; to extend the target date for completion of the investigation by 30 days to March 7, 2002; and to review portions of a final initial determination (ID) of the presiding administrative law judge (ALJ) finding no violation of section 337 of the Tariff Act of 1930, as amended, in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Clara Kuehn, Esq., or David Wilson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3012 and (202) 708–2310, respectively. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Copies of the public version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000.

SUPPLEMENTARY INFORMATION: The Commission ordered the institution of this investigation on December 27, 2000, based on a complaint filed on behalf of Alloc, Inc., Racine, Wisconsin; Berry Finance N.V., Oostrozebeke, Belgium; and Välinge Aluminum AB, Viken, Sweden (collectively "complainants"). 66 FR 1155 (2001). The notice of investigation was published in the **Federal Register** on January 5, 2001. *Id.* The complaint, as supplemented, alleged violations of section 337 in the importation, the sale for importation, and the sale within the United States after importation of certain flooring products by reason of infringement of claims 1–3, 5–6, 8–12, 14–15, 17–36, and 38–41 of U.S. Letters Patent 5,860,267 ("the '267 patent") and claims 1–14 of U.S. Letters Patent 6,023,907 ("the '907 patent"). *Id.* The Commission named seven respondents: Unilin Décor N.V., Wielsbeke, Belgium; BHK of America, Inc., Central Valley, NY; Meister-Leisten Schulte GmbH, Rüthen, Germany (collectively, Unilin); Pergo, Inc., Raleigh, NC ("Pergo"); Akzenta Paneele + Profile GmbH, Kaisersesch, Germany ("Akzenta"); Tarkett, Inc., Whitehall, PA; and Roysol, Saint-Florentin, France ("Roysol").

On March 5, 2001, the ALJ issued an ID (ALJ Order No. 8) granting complainants' motion to amend the complaint and notice of investigation to add allegations of infringement of claims 1, 8, 13–14, 21, 26–27, 34, 39–41, and 48 of U.S. Letters Patent 6,182,410 ("the '410 patent"). On July 10, 2001, the ALJ issued an ID (ALJ Order No. 26) granting complainants' motion for summary determination on the economic prong of the domestic industry requirement. Those IDs were not reviewed by the Commission. An evidentiary hearing was held from July 26, 2001, through August 1, 2001. The ALJ heard closing arguments on October 16, 2001. On October 19, 2001, the ALJ issued an ID (ALJ Order No. 30) granting complainants' unopposed motion to terminate the investigation with respect to claims 1–3, 5–6, 8–12, 14–15, 17–18, 20–22, 24–36, 38, and 40–41 of the '267 patent; claims 4–14 of the '907 patent; and claims 8, 13–14, 21, 27, 34, and 40 of the '410 patent. On October 25, 2001, the ALJ issued an ID (ALJ Order No. 31) terminating the investigation as to respondent Tarkett, Inc. Those IDs were not reviewed by the Commission. The only asserted claims remaining in the investigation are claims 19, 23, and 39 of the '267 patent, claims 1–3 of the '907 patent, and claims 1, 26, 39, 41, and 48 of the '410 patent.

The ALJ issued his final ID on November 2, 2001, concluding that there was no violation of section 337, based on the following findings: (a) Complainants have not established that any of the asserted claims are infringed by any of the respondents; (b) respondents have failed to establish that the asserted claims of each of the '267, '907, and '410 patents are not valid; (c) no domestic industry exists that exploits any of the '267, '907, and '410 patents; and (d) it has not been established that complainants misused any of the patents in issue. The ALJ also made recommendations regarding remedy and bonding in the event the Commission concludes there is a violation of section 337.

On November 15, 2001, complainants and the Commission investigative attorney ("IA") petitioned for review of the ID. On November 23, 2001, respondents Unilin, Pergo, Roysol, and Akzenta, and complainants filed responses to the petitions for review. On November 30, 2001, Unilin and Pergo moved to strike portions of complainants' response of November 23, 2001, and in the alternative moved for leave to reply to complainants' response. On December 4, 2001, Respondent Roysol moved to join the motion to strike. On December 10, 2001, complainants responded to the motion to strike. The Commission has determined to grant Roysol's motion to join, to grant Unilin and Pergo's motion to reply and complainants' motion to respond, and to deny the motion to strike.

Having examined the record in this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review:

(1) The ID's construction of the asserted claims of the '410 patent;

(2) The ID's construction of the asserted claims of the '267 and '907 patents, except not to review the ID's construction of those claims apart from 35 U.S.C. 112, ¶6;

(3) The ID's infringement conclusions with respect to the '410, '267, and '907 patents, except not to review the ID's conclusions that (a) the asserted claims of the '267 and '907 patents are not infringed when those claims are construed apart from 35 U.S.C. 112, ¶6 and (b) complainants have not established that there are no substantial noninfringing uses for the accused products and hence there is no contributory infringement;

(4) The ID's validity conclusions with respect to the '267, '410, and '907 patents, except not to review the ID's validity conclusions when the asserted claims of the '267 and '907 patents are construed apart from 35 U.S.C. 12, ¶6;

(5) The ID's conclusions with respect to the technical prong of the domestic industry requirement with respect to the '410, '267, and '907 patents, except not to review the ID's conclusions that complainants have failed to establish the technical prong of the domestic industry requirement when the asserted claims of the '267 and '907 patents are construed apart from 35 U.S.C. 112, ¶6.

The Commission has also determined to review the procedural question of whether complainants waived the issue of whether the accused products infringe the asserted claims of the patents in controversy to the extent that the asserted claims are construed under 35 U.S.C, 112, ¶6 to cover equivalents of the structure disclosed in the specification, *viz.*, equivalents of a mechanical joint with play, by failing to raise the issue before the ALJ.

The Commission has determined not to review the remainder of the ID, including the ID's conclusions with respect to patent misuse.

On review, the Commission requests briefing based on the evidentiary record on all issues under review and is particularly interested in receiving answers to the following questions, with all answers cited to the evidentiary record. For purposes of focusing the briefing, the questions present tentative resolution of some claim construction issues (*e.g.*, applicability of 35 U.S.C. 112, ¶6 and identification of claimed functions associated with means-plus-function limitations).

1. Have complainants waived the issue of whether, if the asserted claims of the '907, '267, or

> '410 patents are construed under 35 U.S.C. 112, ¶6 to require "play," flooring panels without play are "equivalent" for purposes of 112, ¶6 to flooring panels with "play" by failing to raise the issue before the ALJ?

2. Assuming for purposes of this question that 35 U.S.C. 112, ¶6 applies to the limitation "the

two panels are * * * mechanically locked to each other in a second direction, that is at right angles to said first direction and to the adjacent joint edges, as a result of a first locking member disposed at one of the adjacent edges being connected to a second locking member disposed at the other one of the adjacent edges, and * * * being displaceable in relation to each other in the direction of the adjacent joint edges" in claim 1 of the '907 patent (and dependent claims 2 and 3), and that the function of the "first locking member" and "second locking member" is that when the locking members are connected, "the two panels are * * * mechanically locked to each other" in the horizontal direction at right angles to the adjacent joint edges and the two panels are "displaceable in relation to each other in the direction of the adjacent joint edges":

What are the corresponding structure(s) disclosed in the specification that perform the function identified above?

Construing the limitation under 35 U.S.C. 112, ¶6 using the above-stated function and the corresponding structure(s) that you identified, please answer the following questions: (In your response, please address the 35 U.S.C. 112, ¶6 equivalents to the corresponding structures)

(a) Do respondents infringe any of the three claims?

(b) Are the claims invalid?

(c) Do complainants meet the technical prong of the domestic industry requirement as to claims 1, 2, or 3?

3. Assuming that 35 U.S.C. 112, ¶6 applies to the "locking means" of claim 1 of the '410 patent, and that the function of the claimed "locking means" is (a) "Forming a first mechanical connection for locking said adjacent edges to each other in a vertical direction," (b) "forming a second mechanical connection for locking said adjacent edges to each other in a horizontal direction at right angles to said edges," (c) "operat[ing] as a one-way snap lock in said horizontal direction," and (d) "enabl[ing] said adjacent panels," when connected by the first and second connections, to be rotated "so as to move the locking element out of the locking groove in order to unlock said one-way snap lock":

What are the corresponding structure(s) disclosed in the specification that perform the function identified above?

Construing the limitation under 35 U.S.C. 112, ¶6 using the above-stated function and the corresponding structure(s) that you identified, please answer the following questions: (In your response, please address the 35 U.S.C. 112, ¶6 equivalents to the corresponding structures)

(a) Do respondents' products infringe claim 1?

(b) Is claim 1 invalid?

(c) Do complainants meet the technical prong of the domestic industry requirement as to claim 1?

4. Assuming for purposes of this question that 35 U.S.C. 112, ¶6 applies to the "locking means" of claim 26 of the '410 patent, and that the function of the claimed "locking means" is (a) "releasably locking," (b) "forming a first mechanical connection for locking said adjacent first edges to each other in a vertical direction," (c) "forming a second mechanical connection for locking said adjacent short edges to each other in a horizontal direction at right angles to said first edges," and (d) "operat[ing] as a one-way snap lock in said horizontal direction":

What are the corresponding structure(s) disclosed in the specification that perform the function identified above?

Construing the limitation under 35 U.S.C. 112, ¶6 using the above-stated function and the corresponding structure(s) that you identified, please answer the following questions: (In your response, please address the 35 U.S.C. 112, ¶6 equivalents to the corresponding structures)

(a) Do respondents' products infringe claim 26?

(b) Is claim 26 invalid?

(c) Do complainants meet the technical prong of the domestic industry requirement as to claim 26?

5. Assuming for purposes of this question that 35 U.S.C. 112, ¶6 applies to the "*means for* mechanically locking * * *" limitation of claim 39 of the '410 patent:

What is the function recited in claim 39 for this means?

What are the corresponding structure(s) disclosed in the specification that perform the function?

Are there other means-plus-function limitations in claim 39? If so, for each limitation identify the recited function and corresponding structure(s) disclosed in the specification that perform the function.

Construing the limitation under 35 U.S.C. 112, ¶6 using the function(s) and

VOL 66 ISS 249 DE 28 2001 UMI

the corresponding structure(s) that you identified, please answer the following questions: (In your response, please address the 35 U.S.C. 112, ¶6 equivalents to the corresponding structures)

Do respondents' products infringe claim 39?

Is claim 39 invalid?

Please repeat the above analysis for dependent claims 41 and 48.

Do complainants meet the technical prong of the domestic industry requirement as to claim 39?

6. Assuming for purposes of this question that 35 U.S.C. 112, ¶6 does *not* apply to the "*means for* mechanically locking * * *" limitation of claim 39 or to any other means-plus-function limitations that you identified for this claim in the previous question:

How should claims 39, 41, and 48 be construed?

So construed, do respondents' products infringe claims 39, 41, or 48?

So construed, are claims 39, 41, or 48 invalid?

So construed, do complainants meet the technical prong of the domestic industry requirement as to claim 39?

7. Have complainants established that respondents possessed specific intent to encourage another's infringement, *i.e.*, have complainants shown (1) that each respondent's actions induced infringing acts and (2) that each respondent knew or should have known his actions would induce actual infringements?

Each party is requested to provide citations to the record for evidentiary support. *E.g.*, in particular a citation is requested for the following exhibits referenced in the parties' petitions for review and responses: the June 21, 2000, opinion letter from Akzenta and Tarkett's counsel (IA's petition at 29) and Roysol's patent and flooring panels (Roysol's response at 16).

In connection with the final disposition of this investigation, the Commission may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry that either are adversely affecting it or are likely to do so. For background information, see the Commission Opinion, *In the Matter of Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337–TA–360.

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) The public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond, in an amount to be determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues under review. The submission should be concise and thoroughly referenced to the record in this investigation, including references to exhibits and testimony. Additionally, the parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the ALJ's November 2, 2001, recommended determination on remedy and bonding. Complainant and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. The written submissions and proposed remedial orders must be filed no later than the close of business on January 10, 2002. Reply submissions must be filed no later than the close of business on January 17, 2002. No further submissions will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file with the Office of the Secretary the original and 14 true copies thereof on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment is granted by the Commission will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.42–.45 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–210.45).

Issued: December 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–31978 Filed 12–27–01; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–73]

Steel; Import Investigations

Determination

On the basis of information developed in the subject investigation, the United States International Trade Commission—

(1) Determines pursuant to section 202(b) of the Tariff Act of 1974, that certain steel products [1] are being

---

[1] The Commission made affirmative determinations with regard to certain carbon and alloy steel, including (1) slabs, (2) plate, (3) hot-rolled steel, (4) cold-rolled steel, (5) coated steel, (6) hot bar, (7) cold bar, (8) rebar, (9) welded tubular products other than OCTG, and (10) fittings; and stainless steel (11) bar and (12) rod.

The Commission was equally divided in its determination with regard to (1) carbon and alloy steel tin mill products, (2) tool steel, (3) stainless steel wire, and (4) stainless steel fittings. Pursuant to section 330(d)(1) of the Tariff Act of 1930, where the Commission is equally divided, the determination of either group of Commissioners may be considered by the President to be the determination of the Commission.

The Commission made negative determinations with regard to carbon and alloy steel (1) GOES, (2) ingots, (3) rails, (4) wire, (5) rope, (6) nails, (7) shapes, (8) fabricated structural units, (9) seamless tubular products other than OCTG, (10) seamless OCTG, and (11) welded OCTG; and stainless steel (12) slabs/ingots, (13) plate, (14) cloth, (15) rope, (16) seamless tubular products, and (17) welded tubular products.

Descriptions of the products covered by the investigation and their corresponding subheadings under the Harmonized Tariff Schedule (HTS) is presented in appendix A.

imported into the United States in such increased quantities as to be a substantial cause of serious injury or the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles; and

(2) Finds pursuant to section 311(a) of the North American Free-Trade Agreement (NAFTA) Implementation Act, that imports of carbon and alloy steel hot bar, cold bar, welded tubular products,[2] and fittings, and stainless steel bar and fittings from Canada account for a substantial share of the total imports and contribute importantly to the serious injury or threat thereof caused by imports.[3] With regard to imports from Mexico, the Commission finds that imports of certain carbon and alloy flat-rolled steel (slabs, plate, hot-rolled steel, cold-rolled steel, and coated steel), carbon and alloy steel fittings, and stainless steel fittings from Mexico account for serious injury or threat thereof caused by imports.[4]

Recommendations With Respect to Remedy

The Commission[5] Recommends a Four-Year Program of Tariffs and Tariff-Rate Quotas

Plate, hot-rolled sheet, cold-rolled sheet, coated sheet, hot-rolled bar, cold-finished bar and stainless steel rod: An additional 20 percent *ad valorem* duty in the first year of relief, to be reduced to a 17 percent *ad valorem* duty in the second year of relief, 14 percent *ad valorem* duty in the third year of relief, and 11 percent *ad valorem* duty in the fourth year of relief;

Stainless steel bar: An additional 15 percent *ad valorem* duty in the first year of relief, to be reduced to a 12 percent *ad valorem* duty in the second year of relief, 9 percent *ad valorem* duty in the third year of relief, and 6 percent *ad valorem* duty in the fourth year of relief;

Carbon and alloy steel fittings and flanges:[6] An additional 13 percent *ad valorem* duty in the first year of relief, to be reduced to a 10 percent *ad valorem* duty in the second year of relief, 7 percent *ad valorem* duty in the third of relief, and 4 percent *ad valorem* duty in the fourth year of relief;

Rebar: An additional 10 percent *ad valorem* duty in the first year of relief, to be reduced to an 8 percent *ad valorem* duty in the second year of relief, 6 percent *ad valorem* duty in the third year of relief, and 4 percent *ad valorem* duty in the fourth year of relief;

Slabs:[6] A tariff-rate quota with an additional 20 percent *ad valorem* duty on imports in excess of 7.0 million short tons in the first year of relief, 17 percent *ad valorem* duty on imports in excess of 7.5 million short tons in the second year of relief; 14 percent *ad valorem* duty on imports in excess of 8.0 million short tons in the third year of relief; and 11 percent *ad valorem* duty on imports in excess of 8.5 million short tons in the fourth year of relief;

Welded tubular products other than OCTG:[6] A tariff-rate quota with an additional 20 percent *ad valorem* duty on imports in excess of year 2000 U.S. imports,[7] 17 percent *ad valorem* duty on imports in excess of the quantities noted in the second year, 14 percent *ad valorem* duty on imports in excess of the quantities noted for the third year, and 11 percent *ad valorem* duty in imports in excess of the quantities noted below.

The Commission further recommends that the additional tariffs or tariff-rate quotas on slabs, plate, hot-rolled, cold-rolled and coated products be applied to imports from Mexico but not imports from Canada; that the additional tariffs on cold-finished bar and stainless steel bar be applied to imports from Canada but not imports from Mexico; that the additional tariffs on rebar and stainless steel rod not apply to imports from either Canada or Mexico; that the additional tariffs on carbon and alloy fittings and flanges apply to imports from both Mexico[8] and Canada;[9] and that the additional tariffs on hot-rolled bar apply to imports from Canada but not imports from Mexico.[10] With respect to welded tubular products other than OCTG, the Commission recommends that the additional tariff-rate quota not be applied to imports from Mexico, and was evenly split regarding Canada.[11] The Commission further recommends that none of the additional tariffs or tariff-rate quotas apply to imports from Israel, or to any imports entered duty-free from beneficiary countries under the Caribbean Basin Economic Recover Act or the Andean Trade Preference Act.[12]

The Commission also recommends that the remedy on welded tubular products other than OCTG not apply to certain large diameter welded line pipe products.

The Commission also recommends that the President continue to pursue international negotiations with the governments of all the countries that supply these steel products aimed at reducing inefficient global overcapacity to produce these steel products.

The Commission further encourages the President to consider other appropriate action to facilitate the efforts of the domestic industry to rationalize and consolidate and thus make a positive adjustment to import competition.

The Commission's remedy recommendation and the individual remedy recommendations of the Commissioners are summarized in the tabulation at Appendix C.

Commissioner Bragg recommends the following:

(1) *A duty*, in addition to the current rate of duty, for a *four-year period* on imports of *carbon and alloy steel imports* and for a *three-year period* on

---

A tabulation showing the individual votes of each Commissioner is presented in appendix B.

[2] The Commission was equally divided, 3–3, in its finding with regard to carbon and alloy steel welded tubular products other than OCTG from Canada.

[3] The Commission made a negative finding with regard to imports from Canada of certain carbon and alloy steel, including (1) slabs, (2) plate, (3) hot-rolled steel, (4) cold-rolled steel, (5) coated steel, (6) tin mill products, and (7) rebar; (8) tool steel; and stainless steel (9) rod and (10) wire.

[4] The Commission voted in the negative regarding imports from Mexico of carbon and alloy steel (1) tin-mill products, (2) hot bar, (3) cold bar, (4) rebar, and (5) welded tubular products other than OCTG; (6) tool steel; and stainless steel (7) bar, (8) rod, and (9) wire.

[5] Pursuant to section 330(d)(2) of the Tariff Act of 1930 (19 U.S.C. § 1330(d)(2)), the remedy recommendation of Chairman Koplan and Commissioners Miller and Hillman in this investigation is to be treated as the remedy finding of the Commission for purposes of section 203 of the Trade Act.

[6] Vice Chairman Okun joins in this recommended remedy for the first three years of relief only.

[7] Chairman Koplan and Commissioner Miller made affirmative determinations under Section 311 of the NAFTA with respect to imports of welded tubular products from both Canada and Mexico and therefore recommend that the additional tariffs apply to imports in excess of 2,600,000 short tons in the first year, 2,680,000 short tons in the second year, 2,760,000 short tons in the third year and 2,840,000 short tons in the fourth year.

Vice Chairman Okun and Commissioner Hillman made negative determinations under section 311 of the NAFTA with respect to imports of welded tubular products from Canada and Mexico and therefore recommend that the additional tariffs not apply to those countries and that the tariffs apply to imports in excess of 1,400,443 short tons in the first year, 1,442,456 short tons in the second year, 1,485,730 short tons in the third year, and (Commissioner Hillman only) 1,530,302 short tons in the fourth year.

[8] Chairman Koplan, Vice Chairman Okun and Commissioner Miller determined that the additional duties on fittings and flanges should apply to imports from Mexico.

[9] Vice Chairman Okun and Commissioners Miller and Hillman determined that the additional duties on fittings and flanges should apply to imports from Canada.

[10] Chairman Koplan and Commissioner Miller recommend that the additional duties apply to imports of hot-rolled bar from Mexico.

[11] Chairman Koplan and Commissioner Miller recommend that the additional tariff-rate quota apply to imports from Mexico.

[12] To the extent that the U.S.-Jordan Free Trade Area Implementation Act applies to this investigation, the Commission further recommends that none of the additional tariffs be applied to imports from Jordan.

VOL 66 ISS 249 DE 28 2001 UMI

imports of *stainless and tool steel* that are within the scope of this investigation, as follows:

Flat Products (including slabs, cut-to-length plate, hot-rolled sheet and strip, cold-rolled sheet and strip, corrosion resistant flat products, and tin mill products): 40 percent *ad valorem* in the first year of relief; 38 percent *ad valorem* in the second year of relief; 36 percent *ad valorem* in the third year of relief; and 31 percent *ad valorem* in the fourth year of relief.

Long Mill Products (including hot bar, cold bar, and rebar): 35 percent *ad valorem* in the first year of relief; 33 percent *ad valorem* in the second year of relief; 31 percent *ad valorem* in the third year of relief; and 26 percent *ad valorem* in the fourth year of relief.

Tubular Products (including welded tubular other than OCTG, and fittings, flanges, and tool joints): 30 percent *ad valorem* in the first year of relief; 28 percent *ad valorem* in the second year of relief; 26 percent *ad valorem* in the third year of relief; and 21 percent *ad valorem* in the fourth year of relief.

Stainless and Tool Steel Flat and Long Products (including stainless bar, stainless rod, and tool steel): 25 percent *ad valorem* in the first year of relief; 20 percent *ad valorem* in the second year of relief; and 15 percent *ad valorem* in the third year of relief.

Stainless Wire: 15 percent *ad valorem* in the first year of relief; 10 percent *ad valorem* in the second year of relief; and 5 percent *ad valorem* in the third year of relief.

Stainless Fittings and Flanges: 30 percent *ad valorem* in the first year of relief; 25 percent *ad valorem* in the second year of relief; and 20 percent *ad valorem* in the third year of relief.

(2) Based on her negative injury findings under section 311(a) of the NAFTA Implementation Act, with respect to imports from Canada of carbon and alloy flat products, carbon and alloy long products, stainless flat and long products, and stainless wire products, as well as imports from Mexico of carbon and alloy long products, carbon and alloy welded tubular other than OCTG, stainless and tool steel flat and long products, and stainless wire, Commissioner Bragg recommends that such imports not be subject to the increased duties.

(3) Based on her affirmative injury findings under section 311(a) of the NAFTA Implementation Act, with respect to imports from Canada of carbon and alloy welded tubular other than OCTG, carbon and alloy fittings, flanges, and tool joints, and stainless fittings and flanges, as well as imports from Mexico of carbon and alloy flat products, carbon and alloy fittings, flanges, and tool joints, and stainless fittings and flanges, Commissioner Bragg recommends that such imports be subject to the increased duties.

(4) Commissioner Bragg also recommends that the increased duties not apply to imports of covered steel entered duty-free from beneficiary countries under the Caribbean Basin Economic Recovery Act, the Andean Trade Preference Act, the U.S.-Israel Free Trade Agreement Act, or the U.S.-Jordan Free Trade Area Implementation Act.

(5) In the consideration of administrative efficiency and past Commission experience, these remedy recommendations do not address the issue of specific product exclusions. Nonetheless, Commissioner Bragg recommends that the President review the record regarding the issues presented by the interested parties to the U.S. Trade Representatives' Trade Policy Staff Committee.[13] Her remedy recommendation for tariffs applies across a broad category of products; tariffs, unlike quotas and tariff-rate quotas, do not operate to exclude products or to encourage circumvention or product shifting.

(6) Commissioner Bragg also indicates her support for the President's pursuit of international negotiations to address the underlying causes of the increase in imports, such as global overcapacity and production, as well as implement any other action authorized under law that is likely to facilitate positive adjustment to import competition, including Trade Adjustment Assistance to aid the numerous dislocated workers of the U.S. steel industries.

Vice Chairman Okun Recommends a Three-Year Program of Quotas, Tariff-Rate Quotas, and Tariffs

Plate, hot-rolled sheet, cold-rolled sheet, coated sheet, hot-rolled bar, cold-finished bar, rebar, stainless steel bar, and stainless steel rod: Quantitative restrictions on imports of the following categories, in the following amounts in the first year, to be increased by three percent in each subsequent year that the action is in effect: Plate—1,232,260 short tons, hot-rolled sheet—4,928,712 short tons, cold-rolled sheet—2,796,196 short tons, and coated sheet—1,683,282 short tons, hot-rolled bar—1,961,648 short tons, cold-finished bar—246,033 short tons, rebar—1,054,266 short tons, stainless steel bar—109,440 short tons, and stainless steel rod—62,573 short tons;

Slab:[14] A tariff-rate quota with an additional 20 percent *ad valorem* tariff on imports in excess of 7.0 million short tons in the first year of relief, an additional 17 percent *ad valorem* tariff on imports in excess of 7.5 million short tons in the second year of relief; and an additional 14 percent *ad valorem* tariff on imports in excess of 8.0 million short tons in the third year of relief;

Welded tubular products other than OCTG:[14] A tariff-rate quota with an additional 20 percent *ad valorem* tariff on imports in excess of 1,400,443 short tons in the first year of relief, an additional 17 percent *ad valorem* tariff on imports in excess of 1,442,456 shot tons in the second year, and an additional 14 percent *ad valorem* tariff on imports in excess of 1,485,730 short tons in the third year of relief;

Carbon and alloy steel fittings and flanges:[14] An additional 13 percent *ad valorem* tariff in the first year of relief, to be reduced to an additional 10 percent *ad valorem* tariff in the second year of relief, and to be reduced to an additional 7 percent *ad valorem* tariff in the third year of relief.

Vice Chairman Okun recommends that the quotas or tariff-rate quotas on slab, plate, hot-rolled sheet, cold-rolled sheet and coated sheet products be applied to imports from Mexico but not imports from Canada; that the quotas on hot-rolled bar, cold-finished bar and stainless steel bar be applied to imports from Canada but not imports from Mexico; that the quotas on rebar, welded tubular products and stainless steel rod not apply to imports from either Canada or Mexico; that the additional tariffs on carbon and alloy fittings and flanges apply to imports from both Canada and Mexico. Vice Chairman Okun further recommends that none of the import restrictions applies to imports from Israel, or to any imports entered duty-free from beneficiary countries under the Caribbean Basin Economic Recover Act or the Andean Trade Preference Act.[15]

Vice Chairman Okun does not recommend that these remedies apply in their entirety to certain large diameter welded line pipe, nor to tool joints included within the fittings and flanges category.

---

[13] Although I have reviewed each of the numerous exclusion requests for specialty products, I make no recommendation on this issue. I note that the Office of the U.S. Trade Representative has established a mechanism to consider product exclusion requests. 66 FR 208, at 54,321–24 (Oct. 26, 2001).

[14] Vice Chairman Okun joins the Commission's recommended remedy for the first three years of relief only.

[15] To the extent that the U.S.-Jordan Free Trade Area Implementation Act applies to this investigation, Vice Chairman Okun further recommends that none of the import restrictions applies to imports from Jordan.

Vice Chairman Okun also recommends that the President administer quotas and tariff-rate quotas on a quarterly basis, with country-specific allocations, and a short-supply mechanism, with the exception of welded tubular products (recommending that the President administer the remedy globally, on an annual basis, with a partial product exclusion).

Vice Chairman Okun also recommends that the President continue to pursue international negotiations with the governments of all the countries that supply these steel products aimed at reducing global inefficient or excess capacity to produce these steel products.

Vice Chairman Okun also recommends that the President utilize all trade adjustment assistance programs.

Vice Chairman Okun further urges the President to consider solutions to address legacy costs and other impediments to the rationalization and consolidation of the domestic industries producing steel.

Commissioner Devaney recommends:

As to Carbon and Alloy Flat Products:

(1) I recommend that the President impose a duty, in addition to the current rate of duty, for a four-year period, on all imports of flat products that are the subject of the remedy phase of this investigation as follows: 40 percent *ad valorem* in the first year of relief; 38 percent *ad valorem* in the second year of relief; 36 percent *ad valorem* in the third year of relief and 31 percent *ad valorem* in the fourth year of relief;

(2) Having made negative findings with respect to imports of flat products from both Mexico and Canada under section 311(a) of the NAFTA Implementation Act, I recommend that such imports not be subject to the recommended increase in the duty;

(3) I recommend that the increase in duty described above apply to imports of flat products from beneficiary countries under the Caribbean Basin Economic Recovery Act, but not apply to imports of flat products from beneficiary countries under the Andean Trade Preference Act, imports from Jordan or imports from Israel.

As to Carbon and Alloy Long Products:

(1) I recommend that the President impose a duty, in addition to the current rate of duty, for a four-year period, on all imports of carbon bar and rebar as follows: 35 percent *ad valorem* in the first year of relief; 33 percent *ad valorem* in the second year of relief; 31 percent *ad valorem* in the third year of relief and 26 percent *ad valorem* in the fourth year of relief;

(2) Having made negative findings with respect to imports of carbon bar and rebar from both Mexico and Canada under section 311(a) of the NAFTA Implementation Act, I recommend that such imports not be subject to the recommended increase in the duty;

(3) I recommend that the increase in duty described above apply to imports of carbon bar and rebar from beneficiary countries under the Caribbean Basin Economic Recovery Act, but not apply to imports of long products from beneficiary countries under the Andean Trade Preference Act, imports from Jordan or imports from Israel.

As to Carbon and Alloy Tubular Products: (1) I recommend that the President impose a duty, in addition to the current rate of duty, for a four year period, on all imports of tubular products that are the subject of the remedy phase of this investigation as follows: 30 percent *ad valorem* in the first year of relief, 28 percent *ad valorem* in the second year of relief, 26 percent *ad valorem* in the third year of relief, and 21 percent *ad valorem* in the fourth year of relief;

(2) Having made negative findings with respect to imports of tubular products from both Mexico and Canada under section 311(a) of the NAFTA Implementation Act, I recommend that such imports not be subject to the recommended increase in the duty;

(3) I recommend that the increase in duty described above apply to imports of tubular products from beneficiary countries under the Caribbean Basin Economic Recovery Act, but not apply to imports of tubular products from beneficiary countries under the Andean Trade Preference Act, imports from Jordan or imports from Israel.

As to Stainless Steel Products except Fittings and Flanges:

(1) I recommend that the President impose quotas in the amount equal to the respective average quantities during the period 1996 to 1998, which I find to be the most recent representative period, on imports of stainless steel bar, stainless steel rod, tool steel, and stainless steel wire for a three year period. In addition, I recommend that during the first year of the quotas, a 15 percent *ad valorem* duty be placed on these products. I recommend that the quota be administered on a quarterly and country-by-country basis;

(2) Having made a negative finding with respect to these products from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, I recommend that such imports not be subject to the recommended quotas and duty increases;

(3) I recommend that this quota and duty increase apply to stainless bar imports from beneficiary countries under the Carribean Basin Recovery Act, but not apply to imports entered from beneficiary countries under the Andean Trade Preference Act, imports from Jordan, or imports from Israel. These quotas and duty increases should not apply to imports of stainless steel rod, tool steel or stainless steel wire from Israel, Jordan, beneficiary countries under the Carribean Basin Recovery Act, or beneficiary countries under the Andean Trade Preference Act.

As to Stainless Steel Fittings and Flanges: (1) I recommend that the President impose a quota in the amount equal to the average quantity during the period 1996 to 1998, which I find to be the most recent representative period, on imports of stainless steel fittings and flanges for a four year period. I recommend that the quota be administered on a quarterly and country-by-country basis;

(2) Should the President determine that the Commission reached an affirmative determination with respect to stainless steel fittings and flanges from Canada and Mexico under section 311(a) of the NAFTA Implementation Act, I recommend that such imports be subject to the quota recommended.

(3) I recommend that this quota not apply to imports from Israel, Jordan, beneficiary countries under the Caribbean Basin Recovery Act, or beneficiary countries under the Andean Trade Preference Act.

Further, the Commission has taken large amounts of evidence on exclusion requests over the course of this investigation, and the United States Trade Representative has gathered information regarding such requests. I therefore believe it helpful to the President and USTR to make a recommendation regarding these requests. I have determined that several specialty or niche products should be excluded from the remedy recommended for the product category to which they belong.

Background

Following receipt of a request from the United States Trade Representative on June 22, 2001, the Commission instituted investigation No. TA–201–73, Steel, under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) to determine whether certain steel

VOL 66 ISS 249 DE 28 2001 UMI

products[16] are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.[17]

Notice of the institution of the Commission's investigation was given by posting a copy of the notice on the Commission's web site (www.usitc.gov), and by publishing the notice in the **Federal Register** of July 3, 2001 (66 FR 35267). The public hearings in connection with the injury phase of the investigations were held between September 17, 2001 and October 5, 2001 in Washington, DC and Merrillville, IN. The public hearings in connection with the remedy phase of the investigations were held between November 6, 2001 and November 9, 2001 in Washington, DC.

Issued: December 20, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

Appendix A

Carbon and Alloy Steel Flat Products

Slabs

A slab is a semifinished steel product produced by continuous casting or by hot-rolling or forging. Slabs of carbon steel have a rectangular cross-section with a width at least two times the thickness. Slabs of other alloy steel have a width at least four times the thickness. Carbon and alloy steel slabs are provided for in the following HTS subheadings: 7207.12.0010, 7207.12.0050, 7207.20.0025, 7207.20.0045, and 7224.90.0055.

Plate

This category includes both cut-to-length ("CTL") plate and clad plate. CTL plate is a flat-rolled product of rectangular cross-section, having a thickness of 4.75 mm or more and a width which exceeds 150 mm and measures at least twice the thickness. It is flat, i.e., not in coil,[1] and may be of any shape (rectangular, circular, or other). It may have patterns-in-relief derived directly from rolling (floor plate). It may be perforated, corrugated, or polished. Plate may also have been subjected to heat-treatment and may have been descaled or pickled. Clad plate is a flat-rolled product of more than one metal layer, of which the predominating metal is non-alloy steel, and the layers are joined by molecular interpenetration of the surfaces in contact. The metal other than non-alloy steel used for clad plate may be stainless steel, titanium, or any other metal. The clad plate may be in the form of a flat plate or a coiled plate, may be of any thickness, and may be either hot- or cold-rolled. Products in this category are provided for in the following HTS subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.90.0000, 7210.90.1000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.3005, 7225.40.3050, 7225.50.6000, and 7226.91.5000.

Hot-Rolled Steel

Products in this category are hot-rolled sheet and strip, as well as plate in coils. These are carbon and alloy steel flat-rolled products of rectangular cross-section, produced by hot-rolling on hot-strip (continuous) mills, reversing mills, or Steckel mills. If the product is in coils, it may be of any thickness. If it is in straight lengths, it must be of a thickness of less than 4.75 mm and a width measuring at least 10 times the thickness. It may have patterns-in-relief derived directly from rolling (floor plate). It may be perforated, corrugated, or polished. It may be either unpickled or pickled. It may have been subjected to various processing steps after hot reduction, including pickling or descaling, rewinding, flattening, temper rolling, or heat treatment, and it may have been cut into shapes other than rectangular. Products in this category are provided for in the following HTS subheadings: 7208.10.1500, 7208.10.3000, 7208.10.6000, 7208.25.3000, 7208.25.6000, 7208.26.0030, 7208.26.0060, 7208.27.0030, 7208.27.0060, 7208.36.0030, 7208.36.0060, 7208.37.0030, 7208.37.0060, 7208.38.0015, 7208.38.0030, 7208.38.0090, 7208.39.0015, 7208.39.0030, 7208.39.0090, 7208.40.6030, 7208.40.6060, 7208.53.0000, 7208.54.0000, 7211.14.0090, 7211.19.1500, 7211.19.2000, 7211.19.3000, 7211.19.4500, 7211.19.6000, 7211.19.7530, 7211.19.7560, 7211.19.7590, 7225.30.3005, 7225.30.3050, 7225.30.7000, 7225.40.7000, 7226.91.7000, and 7226.91.8000.

Cold-Rolled Steel

Products in this category include cold-rolled sheet and strip other than GOES. These are carbon and alloy steel flat-rolled products of rectangular cross-section, produced by cold-rolling. If the product is in coils, it may be of any thickness. If it is in straight lengths, it must be of a thickness of less than 4.75 mm and a width measuring at least 10 times the thickness. The product may have patterns-in-relief derived directly from rolling. It may be perforated, corrugated, or polished. It may have been subjected to various processing steps after cold reduction, including flattening, temper rolling, or heat treatment, and it may have been cut into shapes other than rectangular. Products in this category are provided for in the following HTS subheadings: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0090, 7209.17.0030, 7209.17.0060, 7209.17.0090, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2550, 7209.18.6000, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6075, 7211.23.6085, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7225.19.0000, 7225.50.7000, 7225.50.8010, 7225.50.8015, 7225.50.8085, 7226.92.7050, 7226.92.8005, 7226.92.8050, 7226.19.1000, 7226.19.9000, 7226.92.5000, and 7226.92.7005.

GOES

Grain-oriented electrical steel ("GOES") includes low-carbon, silicon-iron alloys with a silicon content of approximately 3.2 percent, in which low core loss and high permeability in the direction of rolling have been achieved by appropriate metallurgical processing. It is a flat-rolled cold-rolled steel product sold in sheet or strip form and has a grain structure that permits it to conduct a magnetic field with a high degree of efficiency. Products in this category are provided for in the following HTS subheadings: 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060.

Coated Steel

Products in this category include corrosion-resistant and other coated sheet and strip. These products are flat-rolled products of carbon or alloy steel with a metallic or nonmetallic coating, other than tin mill products, and other than clad. The category includes steel that is galvanized (i.e., coated with zinc), aluminized, coated with zinc-aluminum alloy, galvannealed (heat-treated after coating), coated with a mixture of lead and tin (i.e., terne plate and terne coated sheets), painted, and coated with plastic. Products in this category are provided for in the following HTS subheadings: 7210.20.0000, 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.3000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7225.91.0000, 7225.92.0000, 7225.99.0010, 7225.99.0090, 7226.93.0000, 7226.94.0000, and 7226.99.0000.

Tin Mill Products

Tin mill products are flat-rolled products of carbon or alloy steel, plated or coated with tin or with chromium oxides or with chromium and chromium oxides (tin-free steel). The products may be either in coils or in straight lengths. Tin products are made by electrolytically coating flat-rolled steel with tin or chromium. Products in this category are provided for in the following HTS subheadings: 7210.11.0000, 7210.12.0000, 7210.50.0000, and 7212.10.0000.

Carbon and Alloy Steel Long Products

Ingots

This category includes ingots, blooms, and billets. Ingots are the primary form into which molten steel is cast when produced by other than continuous casting. Blooms and billets are semifinished products of rectangular cross-section with a width less than two times the thickness if of carbon steel, or less than four times the thickness if of other alloy steel. This category includes other products of solid section, which have not been further worked than subjected to primary hot-rolling or roughly shaped by forging, including tube rounds and blanks for angles, shapes, or sections. Ingots are provided for in the following HTS subheadings: 7206.10.0000, 7206.90.0000, 7207.11.0000, 7207.19.0030, 7207.19.0090, 7207.20.0075, 7207.20.0090, 7224.10.0005, 7224.10.0075, 7224.90.0005, 7224.90.0045, 7224.90.0065, and 7224.90.0075.

---

[16] The June 22, 2001, request letter from the United States Trade Representative and the accompanying annexes listing the covered products by HTS categories are on the Commission's web site (http://www.usitc.gov).

[17] On July 26, 2001, the Commission received a resolution from the Committee on Finance of the United States Senate for an investigation of the same scope. Pursuant to section 603 of the Trade Act, the Commission consolidated the investigation requested by the Committee with the ongoing investigation.

[1] Plate in coil, which is not included in this category, is included in the hot-rolled category.

Hot Bar

Carbon and alloy hot-rolled bar and light shapes ("hot bar") are products which have a solid cross-section in the shape of circles, segments of circles, ovals, triangles, rectangles (including squares), or other convex polygons including flattened circles and modified rectangles of which two opposite sides are convex arcs and the other two sides are straight, of equal length, and parallel. This category includes the following: Bars of a diameter of 19 mm or more in irregularly wound coils; free-machining carbon steel and high-nickel alloy steel bars and rods of any diameter; angles, shapes, and sections (such as U, I, or H sections) not further worked than hot-rolled, hot-drawn, or extruded, of a height of less than 80 mm; and hollow drill bars and rods of which the greatest external dimension of the cross-section exceeds 15 mm but does not exceed 52 mm, and of which the greatest internal dimension does not exceed one half of the greatest external dimension. This category excludes carbon and alloy (including free-machining alloy steel) wire rod having a diameter of 5 mm or more but less than 19 mm (which are covered by a section 201 relief on wire rod) and hollow bars and rods of iron or steel not conforming to this definition (which are included in the pipe and tubing product categories). Hot bars are provided for in the following HTS subheadings: 7213.20.0000, 7213.99.0060, 7213.99.0090, 7214.10.0000, 7214.30.0000, 7214.91.0015, 7214.91.0060, 7214.91.0090, 7214.99.0015, 7214.99.0030, 7214.99.0045, 7214.99.0060, 7214.99.0075, 7214.99.0090, 7215.90.1000, 7215.90.5000, 7216.10.0010, 7216.10.0050, 7216.21.0000, 7216.22.0000, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7227.20.0000, 7227.20.0010, 7227.20.0090, 7227.90.1030, 7227.90.2030, 7227.90.6005, 7227.90.6058, 7228.20.1000, 7228.30.2000, 7228.30.8005, 7228.30.8050, 7228.40.0000, 7228.60.1030, 7228.60.6000, 7228.70.3020, 7228.70.3040, 7228.70.3060, 7228.70.3080, 7228.70.6000, and 7228.80.0000.

Cold Bar

Carbon and alloy cold-finished bar ("cold bar") are products defined by shape in the hot bar category, not in coils, which have been subjected to a cold-finishing operation such as cold-rolling, cold-drawing, grinding, or polishing. Cold bars are provided for in the following HTS subheadings: 7215.10.0000, 7215.50.0015, 7215.50.0060, 7215.50.0090, 7215.90.3000, 7228.20.5000, 7228.50.1010, 7228.50.5005, 7228.50.5050, and 7228.60.8000.

Rebar

Carbon and alloy rebar are hot-rolled steel products which have a solid cross-section (as described for hot bars) and contain indentations, ribs, grooves, or other deformations produced during the rolling process or by twisting after rolling, for the purpose of improving the bond with concrete. Rebar is provided for in HTS subheadings 7213.10.0000 and 7214.20.0000.

Rails

Carbon and alloy rails and railway products are railway and track construction material including rails, check-rails and rack-rails, sleepers (cross-ties), fish-plates, and sole-plates (base plates). The bulk of the products in this category are produced in dedicated facilities. Rails are provided for in the following HTS subheadings: 7302.10.1010, 7302.10.1015, 7302.10.1025, 7302.10.1035, 7302.10.1045, 7302.10.5020, 7302.10.1055, 7302.20.0000, and 7302.40.0000.

Wire

Carbon and alloy wire are cold-formed products in coils, of any uniform solid cross-section along their entire length, which do not conform to the definition of flat-rolled products. Wire is provided for in the following HTS subheadings: 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.4030, 7217.10.4090, 7217.10.5030, 7217.10.5090, 7217.10.6000, 7217.10.7000, 7217.10.8010, 7217.10.8020, 7217.10.8025, 7217.10.8030, 7217.10.8045, 7217.10.8060, 7217.10.8075, 7217.10.8090, 7217.10.9000, 7217.20.1500, 7217.20.3000, 7217.20.4510, 7217.20.4520, 7217.20.4530, 7217.20.4540, 7217.20.4550, 7217.20.4560, 7217.20.4570, 7217.20.4580, 7217.20.6000, 7217.20.7500, 7217.30.1530, 7217.30.1560, 7217.30.3000, 7217.30.4510, 7217.30.4520, 7217.30.4530, 7217.30.4540, 7217.30.4550, 7217.30.4560, 7217.30.4590, 7217.30.6000, 7217.30.7500, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7229.20.0000, 7229.90.1000, 7229.90.5015, 7229.90.5030, 7229.90.5050, and 7229.90.6000.

Rope

Carbon and alloy strand, rope, cable, and cordage ("rope") are stranded wire (two or more wires twisted closely together), ropes, and cables, not electrically insulated. Rope is provided for in the following HTS subheadings: 7312.10.3005, 7312.10.3010, 7312.10.3012, 7312.10.3020, 7312.10.3045, 7312.10.3065, 7312.10.3070, 7312.10.3074, 7312.10.3080, 7312.10.8000, 7312.10.9030, 7312.10.9060, and 7312.10.9090.

Nails

Carbon and alloy nails, staples, and woven cloth ("nails") are woven cloth of carbon or alloy steel wire and nails, tacks, drawing pins, corrugated nails, staples, and similar articles of iron or steel, whether or not with heads of other material, but excluding such articles with heads of copper. Nails are provided for in the following HTS subheadings: 7314.19.0000, 7317.00.5504, 7317.00.5506, 7317.00.5510, 7317.00.5520, 7317.00.5530, 7317.00.5540, 7317.00.5550, 7317.00.5560, 7317.00.5570, 7317.00.5580, 7317.00.5590, 7317.00.6530, 7317.00.6560, 7317.00.7500, and 8305.20.0000.

Shapes

Carbon and alloy heavy structural shapes and sheet piling ("shapes") are angles, shapes, and sections (such as U, I, or H sections) of a height equal to or more than 80 mm. The markets for shapes include distributors, fabricators, and end users. Shapes are provided for in the following HTS subheadings: 7216.31.0000, 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.40.0010, 7216.40.0050, 7301.10.0000, 7301.20.1000, and 7301.20.5000.

Fabricated Structural Units

Carbon and alloy fabricated structural units are structures (excluding prefabricated buildings) and parts of structures (i.e., bridges and bridge sections, lock gates, towers, lattice masts, roofs, roofing frameworks, pillars, and columns) made from iron or steel plates, rods, angles, shapes, sections, tubes, and the like. This category includes sheet-metal roofing, siding, flooring, and roofing drainage equipment and excludes doors, windows, their frames and thresholds, and architectural and ornamental work. Fabricated products are provided for in the following HTS subheadings: 7308.10.0000, 7308.20.0000, 7308.40.0000, 7308.90.3000, 7308.90.6000, 7308.90.7000, 7308.90.9530, and 7308.90.9590.

Carbon and Alloy Steel Tubular Products

Seamless Tubular Products Other Than OCTG

Carbon and alloy seamless tubular products are tubular products that have no joint, whether welded or not, along the longitudinal axis of the product. OCTG and cast iron pipe, tube, hollow profiles, hollow drill bars, fittings, flexible tubing, and insulated electrical conduit tubing are excluded from this category. Seamless tubular products are provided for in the following HTS subheadings: 7304.10.1020, 7304.10.1030, 7304.10.1045, 7304.10.1060, 7304.10.1080, 7304.10.5020, 7304.10.5050, 7304.10.5080, 7304.31.3000, 7304.31.6010, 7304.31.6050, 7304.39.0002, 7304.39.0004, 7304.39.0006, 7304.39.0008, 7304.39.0016, 7304.39.0020, 7304.39.0024, 7304.39.0028, 7304.39.0032, 7304.39.0036, 7304.39.0040, 7304.39.0044, 7304.39.0048, 7304.39.0052, 7304.39.0056, 7304.39.0062, 7304.39.0068, 7304.39.0072, 7304.39.0076, 7304.39.0080, 7304.51.1000, 7304.51.5005, 7304.51.5015, 7304.51.5045, 7304.51.5060, 7304.59.1000, 7304.59.2030, 7304.59.2040, 7304.59.2045, 7304.59.2055, 7304.59.2060, 7304.59.2070, 7304.59.2080, 7304.59.6000, 7304.59.8010, 7304.59.8015, 7304.59.8020, 7304.59.8025, 7304.59.8030, 7304.59.8035, 7304.59.8040, 7304.59.8045, 7304.59.8050, 7304.59.8055, 7304.59.8060, 7304.59.8065, 7304.59.8070, 7304.59.8080, 7304.90.1000, 7304.90.3000, 7304.90.5000, and 7304.90.7000.

Seamless OCTG

Carbon and alloy seamless oil country tubular goods ("seamless OCTG") are produced by the seamless processes described above but are used below ground in the drilling and completion of oil or gas wells. Seamless OCTG consist of casing, which is the structural retainer for the walls of oil and gas wells; tubing, which is used within casing to convey oil or gas to ground level; and drill pipe, which is used to convey power to a rotary drilling tool below ground level. Seamless OCTG are provided for in the following HTS subheadings: 7304.21.3000, 7304.21.6030, 7304.21.6045, 7304.21.6060, 7304.29.1010, 7304.29.1020, 7304.29.1030, 7304.29.1040, 7304.29.1050, 7304.29.1060, 7304.29.1080, 7304.29.2010, 7304.29.2020, 7304.29.2030, 7304.29.2040, 7304.29.2050, 7304.29.2060, 7304.29.2080, 7304.29.3010, 7304.29.3020, 7304.29.3030, 7304.29.3040, 7304.29.3050, 7304.29.3060, 7304.29.3080, 7304.29.4010, 7304.29.4020, 7304.29.4030, 7304.29.4040, 7304.29.4050, 7304.29.4060, 7304.29.4080, 7304.29.5015, 7304.29.5030, 7304.29.5045, 7304.29.5060, 7304.29.5075, 7304.29.6015, 7304.29.6030, 7304.29.6045, 7304.29.6060, 7304.29.6075, and 8431.43.8040.

Welded Tubular Products Other Than OCTG

Carbon and alloy welded tubular products are produced by bending flat-rolled steel products to form a hollow product with overlapping or abutting seams. These products are then fastened along the seam by welding, although clipping, riveting, and forging are also used to fasten a seam. The seam produced by the fastening method may run either longitudinally or spirally along the length of the product. The welded tubular goods covered in this category do not include OCTG and carbon quality steel welded line pipe of an outside diameter that does not exceed 406.7 mm (the latter product is covered by a prior section 201 relief request on line pipe (see Circular Welded Carbon Quality Line Pipe, Inv. No. TA–201–70, publication No. 3261, December 1999). Welded tubular products are provided for in the following HTS subheadings: 7305.11.1030, 7305.11.1060, 7305.11.5000, 7305.12.1030, 7305.12.1060, 7305.12.5000, 7305.19.1030, 7305.19.1060, 7305.19.5000, 7305.31.2000, 7305.31.4000, 7305.31.6000, 7305.39.1000, 7305.39.5000, 7305.90.1000, 7305.90.5000, 7306.30.1000, 7306.30.3000, 7306.30.5010, 7306.30.5015, 7306.30.5020, 7306.30.5025, 7306.30.5032, 7306.30.5035, 7306.30.5040, 7306.30.5055, 7306.30.5085, 7306.30.5090, 7306.50.1000, 7306.50.3000, 7306.50.5010, 7306.50.5030, 7306.50.5050, 7306.50.5070, 7306.60.1000, 7306.60.3000, 7306.60.5000, 7306.60.7060, 7306.90.1000, and 7306.90.5000.

Welded OCTG

Carbon and alloy welded oil country tubular goods ("welded OCTG") are produced by forming a flat-rolled product into a tubular shape and then welding the seam. Welded OCTG are used below ground in the drilling and completion of oil or gas wells, and consist of casing, which is the structural retainer for the walls of oil and gas wells, and tubing, which is used within the casing to convey oil or gas to ground level. Welded OCTG do not include drill pipe. Welded OCTG are provided for in the following HTS subheadings: 7305.20.2000, 7305.20.4000, 7305.20.6000, 7305.20.8000, 7306.20.1030, 7306.20.1090, 7306.20.2000, 7306.20.3000, 7306.20.4000, 7306.20.6010, 7306.20.6050, 7306.20.8010, and 7306.20.8050.

Fittings

Carbon and alloy fittings and flanges ("fittings") are generally used for connecting the bores of two or more pipes or tubes together, or for connecting a pipe or tube to some other apparatus, or for closing the tube aperture. This category also includes tool joints for welding onto lengths of unfinished drill pipe to produce finished drill pipe. Fittings do not include valves or articles used for installing pipes and tubes but which do not form an integral part of the bore, e.g., hangers, stays, and similar supports, clamping or tightening bands, or collars used for clamping flexible tubing or hose to rigid piping, taps, connecting pieces, etc. Fittings are provided for in the following HTS subheadings: 7307.91.5010, 7307.91.5030, 7307.91.5050, 7307.91.5070, 7307.92.3010, 7307.92.3030, 7307.92.9000, 7307.93.3000, 7307.93.6000, 7307.93.9030, 7307.93.9060, 7307.99.5015, 7307.99.5045, 7307.99.5060, and 8431.43.8020.

Stainless and Tool Steel Products

Slabs/Ingots

Slabs, blooms, billets, and ingots ("slabs/ingots") are the most common forms of semi-finished stainless steel. Following the production of molten steel with the desired properties, the stainless steel is cast into a form that can enter the rolling process. This category includes other products of solid section that have not been further worked than primary hot-rolling or roughly shaped by forging, including tube rounds. Slabs/ingots are provided for in the following HTS subheadings: 7218.10.0000, 7218.91.0015, 7218.91.0030, 7218.91.0060, 7218.99.0015, 7218.99.0030, 7218.99.0045, 7218.99.0060, and 7218.99.0090.

Plate

The production of stainless steel CTL plate is commonly achieved by the uncoiling of flat-rolled stainless steel and cutting it to a desired length. It may be of any shape (rectangular, circular, or other) and be produced by rolling on a sheared-plate mill or by flattening and cutting to length from a coiled plate. It may be perforated, corrugated, or polished; subjected to heat-treatment; and descaled or pickled. Plate in coil form is included if under 600 mm in width and 4.75 mm or more in thickness. Plate is provided for in the following HTS subheadings: 7219.21.0005, 7219.21.0020, 7219.21.0040, 7219.21.0060, 7219.22.0005, 7219.22.0015, 7219.22.0020, 7219.22.0025, 7219.22.0035, 7219.22.0040, 7219.22.0045, 7219.22.0070, 7219.22.0075, 7219.22.0080, 7219.31.0050, and 7220.11.0000.

Bar

Stainless steel bars are articles of stainless steel in straight lengths having a uniform solid cross-section in the shape of circles, segments of circles, ovals, rectangles, squares, triangles, or other convex polygons. Also included are angles, shapes, and sections (such as U, I, or H sections) not further worked than hot-rolled, hot-drawn, or extruded and concrete rebar, which has indentations, ribs, grooves, or other deformations produced during the rolling process. Bar is provided for in the following HTS subheadings: 7221.00.0045, 7222.11.0005, 7222.11.0050, 7222.19.0005, 7222.19.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, 7222.30.0000, 7222.40.3025, 7222.40.3045, 7222.40.3065, 7222.40.3085, and 7222.40.6000.

Rod

Stainless steel rod is an intermediate stainless steel product that is produced in a wide variety of sizes and grades with a solid cross-section. Rod covered by this investigation includes rod of circular cross-section having a diameter of less than 19 mm and if containing alloy then containing 24 percent or more of nickel, by weight, or of a shape other than circular, may be of any size. Rod is provided for in the following HTS subheadings: 7221.00.00.05, 7221.00.00.15, 7221.00.00.30, and 7221.00.00.75.

Tool Steel

Tool steel includes tool steel in all product forms. Tool steel is provided for in the following HTS subheadings: 7224.10.0045, 7224.90.0015, 7224.90.0025, 7224.90.0035, 7225.20.0000, 7225.30.1000, 7225.30.5060, 7225.40.1090, 7225.40.5060, 7225.50.1060, 7226.20.0000, 7226.91.0500, 7226.91.1560, 7226.91.2560, 7226.92.1060, 7226.92.3060, 7227.10.0000, 7227.90.1060, 7227.90.2060, 7228.10.0010, 7228.10.0030, 7228.10.0060, 7228.30.4000, 7228.30.6000, 7228.50.1020, 7228.50.1040, 7228.50.1060, 7228.50.1080, 7228.60.1060, and 7229.10.0000.

Wire

Stainless steel wire is a cold-formed product in coils, of any uniform solid cross-section along its whole length, which does not conform to the definition of flat-rolled products. Wire is provided for in the following HTS subheadings: 7223.00.1015, 7223.00.1030, 7223.00.1045, 7223.00.1060, 7223.00.1075, 7223.00.5000, and 7223.00.9000.

Cloth

Woven cloth of stainless steel wire is an article of stainless steel in which wire is interwoven to produce a fabric. Cloth is provided for in the following HTS subheadings: 7314.14.1000, 7314.14.2000, 7314.14.3000, 7314.14.6000, and 7314.14.9000.

Rope

Stainless steel rope includes stranded wire (two or more wires twisted closely together), ropes, cables, and cordage which are not electrically insulated. Wire strand is two or more wires twisted together precisely around a center so that all the wires in the strand can move in unison in order to equally distribute load and bending stresses. Rope is provided for in the following HTS subheadings: 7312.10.1030, 7312.10.1050, 7312.10.1070, 7312.10.6030, and 7312.10.6060.

Seamless Tubular Products

Stainless steel seamless tubular products have no joint, whether welded or not, along the longitudinal axis of the product and may be formed by several methods, including hot-rolling, hot-extrusion, deep drawing of a disc, forging, and casting. Seamless tubular products are provided for in the following HTS subheadings: 7304.41.3005, 7304.41.3015, 7304.41.3045, 7304.41.6005, 7304.41.6015, 7304.41.6045, 7304.49.0005, 7304.49.0015, 7304.49.0045, and 7304.49.0060.

Welded Tubular Products

Stainless steel welded tubular products are produced by bending flat-rolled steel products to form a hollow product with overlapping or abutting seams. The seam is then generally fastened together by welding, although clipping, riveting, and forging are also used to fasten a seam. The seam may run either longitudinally or spirally along the length of the product. Welded tubular products are provided for in the following HTS subheadings: 7306.40.1010, 7306.40.1015, 7306.40.1090, 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5042, 7306.40.5044, 7306.40.5062, 7306.40.5064, 7306.40.5080, 7306.40.5085, 7306.40.5090, and 7306.60.7030.

Fittings

Stainless steel flanges and fittings are generally used for connecting the bores of two or more pipes or tubes together, or for connecting a pipe or tube to some other apparatus, or for closing the tube aperture. This category does not include valves or articles used for installing pipes and tubes but which do not form an integral part of the bore, e.g., hangers, stays, and similar supports, clamping or tightening bands, or collars (hose clips) used for clamping flexible tubing or hose to rigid piping, taps, connecting pieces, etc. Fittings are provided for in the following HTS subheadings: 7307.21.1000, 7307.21.5000, 7307.22.1000, 7307.22.5000, 7307.23.0000, 7307.29.0030, and 7307.29.0090.

BILLING CODE 7020-02-P

VOL 66 ISS 249 DE 28 2001 UMI

Appendix B

Commissioner	Carbon & Alloy Flat Products							Carbon & Alloy Long Products										Carbon & Alloy Tubular Products					Stainless & Tool Steel Products										
	Slabs	Plate	Hot-rolled	Cold-rolled	GOES	Coated	Tin	Ingots	Hot bar	Cold bar	Rebar	Rails	Wire	Rope	Nails	Shapes	Fabricated units	Seamless	Seamless OCTG	Welded	Welded OCTG	Fittings	Slabs/ingots	Plate	Bar	Rod	Tool steel	Wire	Cloth	Rope	Seamless pipe	Welded pipe	Fittings
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
Koplan	A	A	A	A	N	A	N	N	A	A	A	N	N	N	N	N	N	N	N	A	N	A	N	N	A	A	A	A	N	N	N	N	A
Canada	N	N	N	N		N			A	A	N									A		N			A	N	N	N					N
Mexico	A	A	A	A		A			A	N	N									A		A			N	N	N	N					N
Okun	A	A	A	A	N	A	N	N	A	A	A	N	N	N	N	N	N	N	N	A	N	A	N	N	A	A	N	N	N	N	N	N	N
Canada	N	N	N	N		N			A	A	N									N		A			A	N							
Mexico	A	A	A	A		A			N	N	N									N		A			N	N							
Bragg	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	A	A	A	A	A	A	A	A	A	A	A	N	A	N	N	A
Canada	N	N	N	N	N	N	N	N	N	N	N	N	A	A	A	N		N	N	A	A	A	N	N	N	N	N	N		N			A
Mexico	A	A	A	A	A	A	A	N	N	N	N	N	A	A	A	N		N	N	N	A	A	N	N	N	N	N	N		N			A
Miller	A	A	A	A	N	A	A	N	A	A	A	N	N	N	N	N	N	N	N	A	N	A	N	N	A	A	N	N	N	N	N	N	N
Canada	N	N	N	N		N	A		A	A	N									A		A			A	N							
Mexico	A	A	A	A		A	N		A	N	N									A		A			N	N							

Continued on next page

Commissioner	Carbon & Alloy Flat Products							Carbon & Alloy Long Products										Carbon & Alloy Tubular Products					Stainless & Tool Steel Products										
	Slabs	Plate	Hot-rolled	Cold-rolled	GOES	Coated	Tin	Ingots	Hot bar	Cold bar	Rebar	Rails	Wire	Rope	Nails	Shapes	Fabricated units	Seamless	Seamless OCTG	Welded	Welded OCTG	Fittings	Slabs/ingots	Plate	Bar	Rod	Tool steel	Wire	Cloth	Rope	Seamless pipe	Welded pipe	Fittings
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33
Hillman	A	A	A	A	N	A	N	N	A	A	A	N	N	N	N	N	N	N	N	A	N	A	N	N	A	A	N	N	N	N	N	N	N
Canada	N	N	N	N		N			A	A	N									N		A			A	N							
Mexico	A	A	A	A		A			N	N	N									N		N			N	N							
Devaney	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	N	A	A	A	A	A	A	A	A	A	A	A	N	A	N	N	A
Canada	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		N	N	N	N	N	N	N	N	N	N	N		N			A
Mexico	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N		N	N	N	N	N	N	N	N	N	N	N		N			A
Commission	A	A	A	A	N	A	TIE	N	A	A	A	N	N	N	N	N	N	N	N	A	N	A	N	N	A	A	TIE	TIE	N	N	N	N	TIE
Canada	N	N	N	N		N	N		A	A	N									TIE		A			A	N	N	N					A
Mexico	A	A	A	A		A	N		N	N	N									N		A			N	N	N	N					A

Note:—With regard to welded tubular products other than OCTG, Chairman Koplan, Vice Chairman Okun, Commissioner Miller, and Commissioner Hillman made an affirmative determination based on threat of serious injury. With regard to carbon and alloy wire, rope, and nails and stainless wire and rope, Commissioner Bragg made affirmative determinations based on threat of serious injury.

Appendix C

Product	Commissioner/Remedy Recommendation		Year 1	Year 2	Year 3	Year 4	Special Findings[1]
Carbon and alloy steel slabs	Koplan, Okun, Miller, Hillman[2]	Tariff-rate quota	20% tariff on covered imports in excess of 7,000,000 short tons	17% tariff on covered imports in excess of 7,500,000 short tons	14% tariff on covered imports in excess of 8,000,000 short tons	11% tariff on covered imports in excess of 8,500,000 short tons[3]	Mexico
	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[4] CBERA[5]
Carbon and alloy steel plate	Koplan, Miller, Hillman[2]	Tariff	20%	17%	14%	11%	Mexico
	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[4] CBERA[5]
	Okun	Quota	1,232,260 short tons	1,269,227 short tons	1,307,304 short tons		Mexico
Carbon and alloy steel hot-rolled flat products	Koplan, Miller, Hillman[2]	Tariff	20%	17%	14%	11%	Mexico
	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[4] CBERA[5]
	Okun	Quota	4,928,712 short tons	5,076,573 short tons	5,228,871 short tons		Mexico
Carbon and alloy steel cold-rolled flat products	Koplan, Miller, Hillman[2]	Tariff	20%	17%	14%	11%	Mexico
	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[4] CBERA[5]
	Okun	Quota	2,796,196 short tons	2,880,082 short tons	2,966,485 short tons		Mexico
Carbon and alloy steel coated products	Koplan, Miller, Hillman[2]	Tariff	20%	17%	14%	11%	Mexico
	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[4] CBERA[5]
	Okun	Quota	1,683,282 short tons	1,733,781 short tons	1,785,794 short tons		Mexico

---

[1] Imports from Canada, Mexico, Israel, Jordan, and beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) and the Andean Trade Preference Act are excluded unless specifically noted in this column.

[2] Pursuant to section 330(d)(2) of the Tariff Act of 1930, this remedy recommendation is to be treated as the remedy finding of the Commission.

[3] Chairman Koplan and Commissioners Miller and Hillman only.

[4] Commissioner Bragg only.

[5] Commissioner Devaney only.

Product	Commissioner/Remedy Recommendation		Year 1	Year 2	Year 3	Year 4	Special Findings
Carbon and alloy steel tin products	Bragg, Devaney	Tariff	40%	38%	36%	31%	Mexico[6] CBERA[7]
	Miller	Tariff	20%	17%	14%	11%	Canada
Carbon and alloy steel hot-rolled bar	Koplan, Miller, Hillman[8]	Tariff	20%	17%	14%	11%	Canada Mexico[9]
	Bragg, Devaney	Tariff	35%	33%	31%	26%	CBERA[7]
	Okun	Quota	1,961,648 short tons	2,020,497 short tons	2,081,112 short tons		Canada
Carbon and alloy steel cold-finished bar	Koplan, Miller, Hillman[8]	Tariff	20%	17%	14%	11%	Canada
	Bragg, Devaney	Tariff	35%	33%	31%	26%	CBERA[7]
	Okun	Quota	246,033 short tons	253,414 short tons	261,016 short tons		Canada
Carbon and alloy steel rebar	Koplan, Miller, Hillman[8]	Tariff	10%	8%	6%	4%	
	Bragg, Devaney	Tariff	35%	33%	31%	26%	CBERA[7]
	Okun	Quota	1,054,266 short tons	1,085,894 short tons	1,118,470 short tons		
Carbon and alloy steel welded tubular products other than OCTG	Koplan, Miller	Tariff-rate quota	20% tariff on covered imports in excess of 2,600,000 short tons	17% tariff on covered imports in excess of 2,680,000 short tons	14% tariff on covered imports in excess of 2,760,000 short tons	11% tariff on covered imports in excess of 2,840,000 short tons	Canada Mexico
	Okun, Hillman	Tariff-rate quota	20% tariff on covered imports in excess of 1,400,443 short tons	17% tariff on covered imports in excess of 1,442,456 short tons	14% tariff on covered imports in excess of 1,485,730 short tons	11% tariff on covered imports in excess of 1,530,302 short tons[10]	
	Bragg, Devaney	Tariff	30%	28%	26%	21%	Canada[6] CBERA[7]

---

[6] Commissioner Bragg only.

[7] Commissioner Devaney only.

[8] Pursuant to section 330(d)(2) of the Tariff Act of 1930, this remedy recommendation is to be treated as the remedy finding of the Commission.

[9] Chairman Koplan and Commissioner Miller only.

[10] Commissioner Hillman only.

Product	Commissioner/Remedy Recommendation		Year 1	Year 2	Year 3	Year 4	Special Findings
Carbon and alloy steel fittings and flanges	Koplan, Okun, Miller, Hillman[11]	Tariff	13%	10%	7%	4%[12]	Canada[13] Mexico[14]
	Bragg, Devaney	Tariff	30%	28%	26%	21%	Canada[15] Mexico[15] CBERA[16]
Stainless steel bar	Koplan, Miller, Hillman[11]	Tariff	15%	12%	9%	6%	Canada
	Okun	Quota	109,440 short tons	112,724 short tons	116,106 short tons		Canada
	Bragg	Tariff	25%	20%	15%		
	Devaney	Quota and tariff	Average quantity of imports during 1996-98 plus 15%	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98		CBERA
Stainless steel rod	Koplan, Miller, Hillman[11]	Tariff	20%	17%	14%	11%	
	Okun	Quota	62,573 short tons	64,451 short tons	66,385 short tons		
	Bragg	Tariff	25%	20%	15%		
	Devaney	Quota and tariff	Average quantity of imports during 1996-98 plus 15%	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98		
Tool steel	Koplan	Tariff	10%	8%	6%	4%	
	Bragg	Tariff	25%	20%	15%		
	Devaney	Quota and tariff	Average quantity of imports during 1996-98 plus 15%	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98		

---

[11] Pursuant to section 330(d)(2) of the Tariff Act of 1930, this remedy recommendation is to be treated as the remedy finding of the Commission.

[12] Chairman Koplan and Commissioners Miller and Hillman only.

[13] Vice Chairman Okun and Commissioners Miller and Hillman only.

[14] Chairman Koplan, Vice Chairman Okun, and Commissioner Miller only.

[15] Commissioner Bragg only.

[16] Commissioner Devaney only.

VOL 66 ISS 249 DE 28 2001 UMI

Product	Commissioner/Remedy Recommendation		Year 1	Year 2	Year 3	Year 4	Special Findings
Stainless steel wire	Koplan	Tariff	8%	7%	6%	5%	
	Bragg	Tariff	15%	10%	5%		
	Devaney	Quota and tariff	Average quantity of imports during 1996-98 plus 15%	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98		
Stainless steel fittings and flanges	Koplan	Tariff	15%	12%	9%	6%	
	Bragg	Tariff	30%	25%	20%		Canada Mexico
	Devaney	Quota	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98	Average quantity of imports during 1996-98	Canada Mexico

VOL 66 ISS 249 DE 28 2001 UMI

[FR Doc. 01–31794 Filed 12–27–01; 8:45 am]
BILLING CODE [illegible]-C

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2150–01]

Extension of Memorandum of Understanding for Fines Mitigation Under Section 273 of the Immigration and Nationality Act

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: Air and sea transportation companies (carriers) may enter into a memorandum of Understanding (MOU) with the Immigration and Naturalization Service (Service). This MOU provides for mitigation of fines imposed under section 273 of the Immigration and Nationality Act (Act) related to transporting passengers without passports or visas. By signing the MOU, the carrier agrees to perform certain measures aimed at intercepting improperly documented aliens at foreign ports-of-embarkation. These MOUs expired on September 30, 2001. This notice services to extend the expiration date until September 30, 2002.

DATES: This notice is effective December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Una Brien, National Fines Office, Immigration and Naturalization Service, 1525 Wilson Blvd., Suite 425, Arlington, VA 22209, telephone (202) 305–7018.

SUPPLEMENTARY INFORMATION:

Under What Authority Can the Service Reduce Fines?

Pursuant to section 273(e) of the Act, a violation for section 273(1) of the Act may be reduced, refunded, or waived in cases in which a carrier demonstrates that it screened all passengers on the vessel or aircraft in accordance with procedures prescribed by the Attorney General, or circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver.

The Service published a final rule in the **Federal Register** at 63 FR 23643 (April 30, 1998) establishing procedures that carriers must undertake for the proper screening of passengers at the ports-of-embarkation to become eligible for a reduction, refund, or waiver of a fine imposed under section 273 of the Act.

The final rule provided that carriers that voluntarily signed at MOU with the Service would receive an automatic reduction, refund, or waiver of fines imposed under section 273 of the Act. By signing the MOU, the carrier agrees in writing to meet passenger screening standards stated in 8 CFR 273.3, to train employees in documentary requirements, and to pay fines and user fees promptly. The Service agrees to provide document training and information guides to carriers and to mitigate fines as appropriate.

How Does the Service Measure the Carrier's Screening Performance?

The numerical standard, or Acceptable Performance Level (APL), is calculated by adding the total number of section 273(a)(1) violations involving nonimmigrants for all carriers, divided by the total number of nonimmigrants transported by all carriers, multiplied by 1,000. Each carrier is then rated against the APL using individual Performance Levels (PL). A carrier's individual PL is calculated by applying the same formula used to calculate the APL.

Carriers that meet or exceed the APL may be eligible for automatic fines reductions if the carrier entered into an MOU with the Service.

If a carrier's PL is not at or better than the APL, the carrier may still receive an automatic fine reduction of 25 percent if it is signatory to and in compliance with the MOU.

In order to provide carriers with additional incentives to screen documents, a second reduction factor (APL2) was developed. The APL2 uses the same formula but only uses the number of violations and total passenger counts for carriers who PL falls between 0 and the APL. These carriers will automatically receive an additional 25 percent reduction.

Why Is the Service Extending the Expiration Date for MOUs?

The Service is not contemplating any amendments to the current MOU before September 30, 2002. In this light, an extension of all existing MOUs will benefit both the Service and the carriers by avoiding the administrative costs that would result had the Service required that a new MOU be executed for each carrier. Carriers will remain eligible for automatic fine reductions during the extended period of the MOUs validity as long as the signatory carrier is in compliance with screening standards, training requirements, and payment requirements enumerated in the MOUs.

Will the Measurements for Screening Performance Be Changed?

The measurement for screening performance set forth in the **Federal Register** at 63 FR 23643 (April 30, 1998) will continue to remain in effect. The Service will inform carriers of any plans to change the methods used to calculate a carrier's screening performance by publishing a notice in the **Federal Register.**

Can a Carrier Sign Up For the MOU After September 30, 2001?

A carrier can apply to be signatory to the MOU at any time. A carrier must meet all requirements before its MOU will be approved. Generally, a carrier must have a PL either at or better than the Service's APL and must be current in its payment of all administrative fines, liquidated damages, and user fees. If a carrier does not have a PL or does not have a PL that meets the Service's APL, the carrier must submit evidence to demonstrate that it has screening procedures in place to prevent transporting improperly documented aliens to the United States. Once an MOU is approved, violations that occurred on or after the date of the MOU signing will receive the automatic reductions.

How Does a Carrier or the Service Terminate an Existing MOU?

Either party may terminate an MOU upon 30 days via written notice.

Dated: September 28, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–31913 Filed 12–27–01; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request; Correction

ACTION: Correction.

SUMMARY: In **Federal Register** Volume 66, Number 244, beginning on page 65513 in the issue of Wednesday, December 19, 2001, under Current Actions, under Average hours per response, make the following corrections: On page 65513, **SUPPLEMENTARY INFORMATION,** Background, third sentence, reads "This information collection contains all recordkeeping and reporting requirements which are derived from the implementing regulations found at Title 41 of the Code of Federal Regulations, Chapter 60." Strike the word "all". On page 65514, the Average hours per response for the Standard Form 100 was previously listed as 3.8

hours. This should be changed to 3.7 hours.

Dated: December 20, 2001.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31962 Filed 12–27–01; 8:45 am]

BILLING CODE 4510-CM-M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the following information collection: (1) 29 CFR part 825, The Family and Medical Leave Act of 1993.

DATES: Written comments must be submitted to the office listed in the addressee section below by February 26, 2002.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451, E-mail: *pforkel@fenix2.dol-esa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Family and Medical Leave Act of 1993 (FMLA), Public Law 103–3, 107 Stat. 6, 29 U.S.C. 2601, which became effective on August 5, 1993, requires private sector employers of 50 or more employees, and public agencies, to provide up to 12 weeks of unpaid, job-protected leave during any 12-month period to eligible employees for certain family and medical reasons. Leave must be granted to eligible employees because of the birth of a child and to care for the newborn child, because of placement of a child with the employee for adoption or foster care, because the employee is needed to care for a family member (child, spouse, or parent) with a serious health condition, or because the employee's own serious health condition makes the employee unable to perform any of the essential functions of his or her job. This information collection contains all recordkeeping and notification requirements associated with the Act and regulations. Two optional forms are included in this information collection request. The Certification of Health Care Provider (WH–380) may be used to certify a serious health condition under FMLA. The Employer Response to Employee Request for Family or Medical Leave (WH–381) may be used by an employer to respond to a leave request under FMLA. Both forms are third-party notifications and are sent to the employee; they are not submitted to the Department of Labor.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks approval for the extension of this information collection in order to ensure that both employers and employees are aware of and can exercise their rights and meet their respective obligations under FMLA; and in order for the Department of Labor to carry out its statutory obligation under FMLA to investigate and ensure employer compliance.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: 29 CR part 825, The Family and Medical Leave Act of 1993.

OMB Number: 1215–0181.

Agency Numbers: WH–380, WH–381.

Affected Public: Individuals or households; Businesses or other for-profit; Not-for-profit Institutions; Farms, State, Local or Tribal Government.

Frequency: On occasion (recordkeeping, third-party disclosure).

Total Respondents: 4.7 million.

Total Responses: 10.107 million.

Time per Record: 1 to 10 minutes.

Estimated Total Burden Hours: 718,529.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 7, 2001.

Margaret J. Sherrill,

Chief, Branch of Management, Review, and Internal Control, Chief, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 01–31963 Filed 12–27–01; 8:45 am]

BILLING CODE 4510-27-P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersede as decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3014, Washington, DC 20210.

Modification to General Wage Determination Decisions

The number of decisions listed to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

- Maine
  - ME010001 (Mar. 2, 2001)
  - ME010002 (Mar. 2, 2001)
  - ME010008 (Mar. 2, 2001)
  - ME010009 (Mar. 2, 2001)
  - ME010012 (Mar. 2, 2001)
- New York
  - NY010002 (Mar. 2, 2001)
  - NY010003 (Mar. 2, 2001)
  - NY010007 (Mar. 2, 2001)

Volume II

- Maryland
  - MD010002 (Mar. 2, 2001)
- Virginia
  - VA010003 (Mar. 2, 2001)
  - VA010005 (Mar. 2, 2001)
  - VA010006 (Mar. 2, 2001)
  - VA010015 (Mar. 2, 2001)
  - VA010018 (Mar. 2, 2001)
  - VA010022 (Mar. 2, 2001)
  - VA010023 (Mar. 2, 2001)
  - VA010033 (Mar. 2, 2001)
  - VA010034 (Mar. 2, 2001)
  - VA010035 (Mar. 2, 2001)
  - VA010036 (Mar. 2, 2001)
  - VA010039 (Mar. 2, 2001)
  - VA010046 (Mar. 2, 2001)
  - VA010055 (Mar. 2, 2001)
  - VA010069 (Mar. 2, 2001)
  - VA010076 (Mar. 2, 2001)
  - VA010084 (Mar. 2, 2001)

Volume III

- Mississippi
  - MS010003 (Mar. 2, 2001)
  - MS010050 (Mar. 2, 2001)
  - MS010055 (Mar. 2, 2001)
  - MS010057 (Mar. 2, 2001)

Volume IV

None

Volume V

- Arkansas
  - AR010001 (Mar. 2, 2001)
  - AR010003 (Mar. 2, 2001)
  - AR010008 (Mar. 2, 2001)
  - AR010023 (Mar. 2, 2001)
- Iowa
  - IA010005 (Mar. 2, 2001)
  - IA010008 (Mar. 2, 2001)
  - IA010047 (Mar. 2, 2001)
- Kansas
  - KS010008 (Mar. 2, 2001)
- Missouri
  - MO010001 (Mar. 2, 2001)
  - MO010002 (Mar. 2, 2001)
  - MO010011 (Mar. 2, 2001)
  - MO010042 (Mar. 2, 2001)
  - MO010050 (Mar. 2, 2001)
  - MO010054 (Mar. 2, 2001)
  - MO010057 (Mar. 2, 2001)
  - MO010058 (Mar. 2, 2001)

Volume VI

- Alaska
  - AK010001 (Mar. 2, 2001)
  - AK010002 (Mar. 2, 2001)
  - AK010003 (Mar. 2, 2001)
  - AK010006 (Mar. 2, 2001)
- Colorado
  - CO010001 (Mar. 2, 2001)
  - CO010008 (Mar. 2, 2001)
  - CO010009 (Mar. 2, 2001)
- Oregon
  - OR010001 (Mar. 2, 2001)
- Washington
  - WA010001 (Mar. 2, 2001)
  - WA010002 (Mar. 2, 2001)
  - WA010003 (Mar. 2, 2001)
  - WA010007 (Mar. 2, 2001)

Volume VII

- California
  - CA010001 (Mar. 2, 2001)
  - CA010002 (Mar. 2, 2001)
  - CA010004 (Mar. 2, 2001)
  - CA010007 (Mar. 2, 2001)
  - CA010009 (Mar. 2, 2001)
  - CA010027 (Mar. 2, 2001)
  - CA010028 (Mar. 2, 2001)
  - CA010029 (Mar. 2, 2001)
  - CA010030 (Mar. 2, 2001)
  - CA010031 (Mar. 2, 2001)
  - CA010033 (Mar. 2, 2001)
  - CA010035 (Mar. 2, 2001)
  - CA010036 (Mar. 2, 2001)
  - CA010037 (Mar. 2, 2001)
  - CA010038 (Mar. 2, 2001)
  - CA010039 (Mar. 2, 2001)
  - CA010040 (Mar. 2, 2001)
  - CA010041 (Mar. 2, 2001)
- Nevada
  - NV010003 (Mar. 2, 2001)
  - NV010005 (Mar. 2, 2001)
  - NV010007 (Mar. 2, 2001)
  - NV010009 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*.

They are also available electronically by subscription to the Davis-Bacon

Online Service (*http://davisbacon.fedworld.gov)of* the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 20th day of December 2001.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–31950 Filed 12–27–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Fee Adjustments for Testing, Evaluation, and Approval of Mining Products

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of fee adjustments.

SUMMARY: This notice revises the user fees for MSHA's Approval and Certification Center (A&CC). Fees compensate MSHA for the costs incurred for testing, evaluating, and approving certain products for use in underground mines. The 2002 fees are based on MSHA's actual expenses for fiscal year 2001. The fees reflect changes both in MSHA's approval processing operations and in the costs to process approval actions.

DATES: This fee schedule is effective from January 1, 2002 through December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Steven J. Luzik, Chief, Approval and Certification Center (A&CC), 304–547–2029 or 304–547–0400.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 1987 (52 FR 17506), MSHA published a final rule, 30 CFR Part 5—Fees for Testing, Evaluation, and Approval of Mining Products. The rule established specific procedures for calculating, administering, and revising user fees. MSHA has revised its fee schedule for 2001 in accordance with the procedures of that rule. This new fee schedule is included below. For approval applications postmarked before January 1, 2002, MSHA will continue to calculate fees under the previous (2001) fee schedule, published on December 28, 2000.

Fee Computation

In general, MSHA computed the 2002 fees based on fiscal year 2001 data. We calculated a weighted-average, direct cost for all the services provided during fiscal year 2001 in the processing of requests for testing, evaluation, and approval of certain products for use in underground mines. From this cost, we calculated a single hourly rate to apply uniformly across all of the product approval categories during 2002.

Signed in Arlington, Virginia, this 19th day of December, 2001.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

FEE SCHEDULE EFFECTIVE JANUARY 1, 2002

[Based on FY 2001 data]

Action title	Hourly rate
Fees for Testing, Evaluation, and Approval of all Mining Products[1]	$57
Retesting for Approval as a Result of Post-Approval Product Audit[2]	....
30 CFR PART 15—EXPLOSIVES TESTING	
Permissibility Tests for Explosives:	
Weigh-in	462
Physical Exam: First size	325
Chemical Analysis	1,977
Air Gap—Minimum Product Firing Temperature	460
Air Gap—Room Temperature	352
Pendulum Friction Test	163
Detonation Rate	352
Gallery Test 7	7,436
Gallery Test 8	5,533
Toxic Gases (Large Chamber)	805
Permissibility Tests for Sheathed Explosives:	
Physical Examination	128
Chemical Analysis	1,044
Gallery Test 9	1,944
Gallery Test 10	1,944
Gallery Test 11	1,944
Gallery Test 12	1,944
Drop Test	648
Temperature Effects/Detonation	672
Toxic Gases	500

[1] Full approval fee consists of evaluation cost plus applicable test costs.

[2] Fee based upon the approval schedule in effect at the time of retest.

Note: When the nature of the product requires that we test and evaluate it at a location other than our premises, you must reimburse us for the traveling, subsistence, and incidental expenses of our representative in accordance with standardized government travel regulations. This reimbursement is in addition to the fees charged for evaluation and testing.

[FR Doc. 01–31855 Filed 12–27–01; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0150(2002)]

Standard on the Control of Hazardous Energy sources (Lockout/Tagout) (29 CFR 1910.147); Extension of the Office of Management and Budget's (OMB) Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA solicits comment concerning its proposal to decrease the existing burden-hour estimates for, and to extend OMB approval of, the information-collection requirements of the Standard on the Control of Hazardous Energy Sources (Lockout/Tagout) (29 CFR 1910.147)[1] This standard regulates control of hazardous energy sources using lockout or tagout procedures while employees service, maintain, or repair machines or equipment if activation, start up, or release of energy from the energy source is possible. The paperwork requirements of the standard specify that employers must ensure that employees use these energy-control procedures effectively and safely,

---

[1] Based on its assessment of the paperwork requirements contained in this standard, the Agency estimates that the total burden hours decreased compared to its previous burden-hour estimate. Under this notice, OSHA is *not* proposing to revise these paperwork requirements in any substantive manner, only to decrease its estimate of the burden hours imposed by the existing paperwork requirements.

VOL 66 ISS 249 DE 28 2001 UMI

thereby preventing death and serious injury caused by uncontrolled release of hazardous energy.

DATES: Submit written comments on or before February 26, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0150(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the information collections specified by the standard is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222, or Todd Owen at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov*, and select "*Information Collection Requests.*"

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

OSHA's Standard on the Control of Hazardous Energy (Lockout/Tagout) (29 CFR 1910.147; the "Standard") contains the following paperwork requirements:

- *Paragraph (c)(4).* Employers must document the procedures used to isolate from its energy source, and render inoperative, any machine or equipment prior to servicing, maintenance, or repair by employees. These procedures are necessary if activation. start up, or release of stored energy from the energy source is possible, and such release could cause injury to the employees. The required documentation must clearly and specifically outline the scope, purpose, authorization, rules, and techniques employees are to use to control hazardous energy, and the means to enforce compliance, and include a number of elements specified by this paragraph.

The employer will use the information in this document as the basis for informing and training employees about the purpose and function of the energy-control procedures, and the safe application, use, and removal of energy controls. In addition, this information enables employers to effectively identify operations and processes in the workplace that require energy-control procedures.

- *Paragraph (c)(6)(ii).* The Standard requires employers to conduct inspections of energy-control procedures at least annually. An authorized employee (other than an authorized employee using the energy-control procedure that is the subject of the inspection) is to conduct the inspection and correct any deviations or inadequacies identified. For procedures involving either lockout or tagout, the inspection must include a review, between the inspector and each authorized employee, of that employee's responsibilities under the procedure; for procedures using tagout systems, the review is to assess the employee's knowledge of the training elements required for these systems. Under paragraph (c)(6)(ii), employees must certify the inspection by documenting the date of the inspection, and identifying the machine or equipment inspected and the employee who performed the inspection.

The inspection records provide employers with assurance that employees can safely and effectively service, maintain, and repair machines and equipment covered by the Standard. These records also provide the most efficient means for an OSHA compliance officer to determine that an employer is complying with the Standard, and that the machines and equipment are safe for servicing, maintenance, and repair.

- *Paragraph (c)(7)(iv).* Under this paragraph, employers must certify that employees completed the required training, and that this training is up-to-date; the certification is to contain each employee's name and the training date. The training program is to enable employees to understand the purpose and function of the energy-control procedures, and provides them with the knowledge and skills necessary for the safe application, use, and removal of energy controls. It specifies a number of elements that employers are to include in the training program for authorized and affected employees, and other employees who work, or may work, near operations using the energy-control procedure. If the employer uses a tagout system, the training program must inform employees of the limitations of tagging systems specified by the Standard. Employers must retrain authorized and affected employees if: A change occurs in their job assignments, the machines, equipment, or processes such that a new hazard is present; the employer revises the energy-control procedures; employers have reason to believe, or the periodic inspection required under paragraph (c)(6) indicates, that deviations and inadequacies exist in an employee's knowledge or use of energy-control procedures.

Training provides employees with the knowledge and skills necessary for implement safe application, use, and removal of energy controls, and enables them to prevent serious accidents by using appropriate control procedures in a safe manner to isolate these hazards. In addition, written certification of the training assures the employer that employees receive the training specified by the Standard, and that retraining occurs as necessary. These records also provide the most efficient means for an OSHA compliance officer to determine whether or not an employer performed the required training at the necessary and appropriate frequencies.

- *Paragraph (c)(9).* This provision requires the employer or authorized employee to notify affected employees prior to applying, and after removing, a lockout or tagout device from a machine or equipment. Such notification informs employees of the impending interruption of the normal production operation, and serves as a remainder of the restrictions imposed on them by the energy-control program. In addition, this requirement ensures that employees do not attempt to reactivate a machine or piece of equipment after an authorized employees isolated its energy source and rendered it inoperative. Notifying employees after removing an energy-control device alerts them that the machines and equipment are no longer safe for servicing, maintenance, and repair.
- *Paragraph (f)(2).* If an onsite employer uses an offsite employer (e.g., contractor) to perform the activities covered by the scope and application of the Standard, the two employers must inform each other regarding their respective lockout or tagout procedures. Onsite employers must ensure their employees understand and comply with the restrictions and prohibitions of the offsite employers' energy-control

programs. This provision provides employees of onsite employers with information about the unique energy-control procedures used by an offsite employer; this information prevents any misunderstanding by either plant employees or outside service personnel regarding the use of lockout or tagout procedures in general, and the use of specific lockout or tagout devices selected or a particular application.

II. Special Issues for Comment

OSHA has a particular interests in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information-collection and -transmission techniques.

III. Proposed Actions

OSHA is proposing to decrease the existing burden-hour estimate for, and to extend OMB's approval of, the paperwork requirements specified by the Standard. The Agency is proposing to reduce the total burden-hour estimate from 1,236,149 hours to 1,109,637 hours, a total decrease of 126,512 hours. This decrease in burden hours results in large part from reducing the number of establishments required to update energy-control programs and to inspect energy-control procedures. In addition, capital costs are rising from $0 to $14,582,134 because OSHA is accounting for the cost of purchasing new, and replacing worn or damaged, locks and tags, as well as replacing the means of attaching tags to an energy source (e.g., nylon cable ties). The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approved information-collection requirement.

Title: Standard on the Control of Hazardous Energy Sources (Lockout/Tagout) (29 CFR 1910.147).

OMB Number: 1218–0150.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal government; State, local, or tribal governments.

Number of Respondents: 2,351,014.

Frequency of Recordkeeping: On occasion; annually; other (initially).

Average Time per Response: Varies from five seconds (.001 hour) to notify an employer after removing a lockout or tagout device, to two and one-half hours (2.50 hours) to develop and document an energy-control procedure.

Total Annual Hours Requested: 1,109,637.

Total Annual Costs (O&M): $14,582,134.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (62 FR 50017).

Signed at Washington, DC, on December 21th, 2001.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 01–31964 Filed 12–27–01; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–162]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This collection provides NASA with information necessary for the effective management of government property.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Property in the Custody of Contractors.

OMB Number: 2700–0017.

Type of Review: Extension.

Need and Uses: NASA is required to account for Government-owned/contractor-held property in accordance with SFFAS #6. NASA Form 1018 provides for the annual collection of summary data from these records to ensure the accurate reflection of Agency assets and related depreciation on the financial statements and essential property management information.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 860.

Responses Per Respondent: 1.

Annual Responses: 1.

Hours Per Request: 8.

Annual Burden Hours: 7000.

Frequency of Report: Annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31955 Filed 12–27–01: 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–161]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). The financial recordkeeping information and reports obtained through this collection are used by NASA to ensure proper accountability for and use of NASA-provided funds.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Financial Monitoring and Control, Grants.

OMB Number: 2700–0049.

Type of review: Extension.

Need and Uses: Information is used by NASA to effectively maintain an appropriate internal control system for

VOL 66 ISS 249 DE 28 2001 UMI

grants and cooperative agreements with institutions of higher education and other non-profit organizations, and to comply with statutory requirements on the accountability of public funds.

Affected Public: Not-for-profit institutions.

Number of Respondents: 7,149.

Responses Per Respondent: 5.

Annual Responses: 37,696.

Hours Per Request: 7½ hrs.

Annual Burden Hours: 284,792.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31956 Filed 12–27–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–160]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is used by NASA to effectively maintain an appropriate internal control system for equipment and property provided or acquired under grants or cooperative agreements with institutions of higher education and other non-profit organizations.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC. 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, Office of the Chief Information Officer, (202) 358–1372.

Title: Property Management and Controls, Grants.

OMB Number: 2700–0047.

Type of review: Extension.

Need and Uses: Collection is required to ensure proper accounting of Federal property provided under grants and cooperative agreements with institutions of higher education and to satisfy external requirements of internal control of property provided by NASA or acquired with NASA funds.

Affected Public: Not-for-profit institutions.

Number of Respondents: 7,149.

Responses Per Respondent: 4.

Annual Responses: 28,596.

Hours Per Request: 4 hrs.

Annual Burden Hours: 114,384.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31957 Filed 12–27–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–159]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This collection is required to document changes to NASA contracts and ensure that they are made quickly and in a cost-effective manner.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Contract Modifications, NASA FAR Supplement Part 18–43.

OMB Number: 2700–0054.

Type of Review: Extension.

Need and Uses: NASA procurement and technical personnel use the information obtained by this collection to manage each contract, and to ensure that the Agency can obtain the best goods and services at the best prices.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 88.

Responses Per Respondent: 2.

Annual Responses: 176.

Hours Per Request: 45.

Annual Burden Hours: 7,920.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31958 Filed 12–27–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–158]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). The information obtained through this collection is used by NASA management and contracting offices to assess progress toward meeting statutory goals for small businesses/small disadvantaged businesses.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Small Business and Small Disadvantaged Business Concerns and Related Contract Provisions, NASA FAR Supplement Part 18–19, SF 295.

OMB Number: 2700–0073.

Type of Review: Extension.

Need and Uses: NASA requires reporting of small disadvantaged business subcontract awards in order to meet its Congressionally mandated goals.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 225.

Responses Per Respondent: 2.

Annual Responses: 450.

Hours Per Request: 12.

Annual Burden Hours: 5,400.

Frequency of Report: Semi-annually.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31960 Filed 12–27–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 01–157]

Notice of Agency Report Forms Under OMB Review

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is used by NASA contracting officers to ensure that projected contract cost savings are being realized.

DATES: Comments on this proposal should be received by January 28, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Cost Reduction Proposals under the NASA FAR Supplement Shared Savings Clause.

OMB Number: 2700–0094.

Type of Review: Extension.

Need and Uses: This program provides an incentive for contractors to propose and implement, with NASA approval, significant cost reduction initiatives on current and follow-on contracts.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government.

Number of Respondents: 9.

Responses Per Respondent: 1.25.

Annual Responses: 11.25.

Hours Per Request: 45.

Annual Burden Hours: 506.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–31961 Filed 12–27–01; 8:45 am]

BILLING CODE 7510–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* January 7, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Collaborative Research in Editions II, submitted to the Division of Research Programs at the September 1, 2001 deadline.

2. *Date:* January 10, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Collaborative Research in Philosophy and Social Thought, submitted to the Division of Research Programs at the September 1, 2001 deadline.

3. *Date:* January 11, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Collaborative Research in European Studies, submitted to the Division of Research Programs at the September 1, 2001 deadline.

4. *Date:* January 11, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education Programs at the October 15, 2001 deadline.

5. *Date:* January 14, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Humanities-Based Projects in After-School Programs, submitted to the Division of Education Programs at the November 1, 2001 deadline.

6. *Date:* January 15, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education Programs at the October 1, 2001 deadline.

7. *Date:* January 15, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: M–07.
Program: This meeting will review applications for Fellowship Programs at Independent Research Institutions, submitted to the Division of Research Programs at the September 1, 2001 deadline.

8. *Date:* January 17, 2002.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Schools for a New Millennium, submitted to the Division of Education Programs at the October 1, 2001 deadline.

9. *Date:* January 18, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Exemplary Education Projects, submitted to the Division of Education Programs at the October 15, 2001 deadline.

10. *Date:* January 24, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: Library of Congress, Jefferson Building.
Program: This meeting will review applications for Library of Congress John W. Kluge Fellowships Program, submitted to the Division of Research Programs at the October 15, 2001 deadline.

11. *Date:* January 25, 2002.
Time: 9:00 a.m. to 5:00 p.m.
Room: Library of Congress, Jefferson Building.
Program: This meeting will review applications for Library of Congress John W. Kluge Fellowships Program, submitted to the Division of Research

Programs at the October 15, 2001 deadline.

Laura S. Nelson,

Advisory Committee Management Officer.

[FR Doc. 01–31874 Filed 12–27–01; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 64, "Travel Voucher (Part 1)" NRC Form 64A, "Travel Voucher (Part 2)" NRC Form 64B, "Optional Travel Voucher (Part 2)".
2. *Current OMB approval number:* 3150–0192.
3. *How often the collection is required:* On occasion.
4. *Who is required or asked to report:* Contractors, consultants and invited NRC travelers who travel in the course of conducting business for the NRC.
5. *The number of annual respondents:* 100.
6. *The number of hours needed annually to complete the requirement or request:* 100.
7. *Abstract:* As a part of completing the travel process, the traveler must file travel reimbursement vouchers and trip reports. The respondent universe for the above forms includes consultants and contractors and those who are invited by the NRC to travel, e.g., prospective employees. Travel expenses that are reimbursed are confined to those expenses essential to the transaction of official business for an approved trip.

Submit, by February 28, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site (*http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC, 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at *BJS1@NRC.GOV*.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–31924 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

AmerGen Energy Company, LLC (Oyster Creek Nuclear Generating Station); Exemption

I

AmerGen Energy Company (AmerGen or the licensee) is the holder of Facility Operating License No. DPR–16, which authorizes operation of the Oyster Creek Nuclear Generating Station at power levels not to exceed 1930 megawatts thermal. The facility consists of one boiling-water reactor located at the licensee's site in Ocean County, New Jersey. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC or Commission) now or hereafter in effect.

II

Section IV.F.2.b of Appendix E to Title 10 of the Code of Federal Regulations (10 CFR) part 50 requires each licensee at each site to conduct an exercise of its onsite emergency plan every 2 years and indicates the exercise may be included in the biennial exercise required by paragraph 2.c. Paragraph 2.c requires offsite plans for each site to be exercised biennially with participation by each offsite authority having a role under the plan.

During such biennial exercises, the NRC evaluates onsite emergency preparedness activities and the Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities. The licensee successfully conducted a full-participation exercise for Oyster Creek on October 5, 1999. By letter dated October 8, 2001, the licensee requested an exemption from Section IV.F.2.c of Appendix E regarding the conduct of a full-participation exercise originally scheduled for October 16, 2001. Specifically, the licensee proposed rescheduling the exercise originally scheduled for October 16, 2001, to sometime before the end of 2002. However, the next exercise will continue to be scheduled biennially from 2001.

AmerGen is among several licensees requesting exercise exemptions in the wake of the National Emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security directly after the National Emergency. The State of New Jersey was initially involved with the recovery response to the National Emergency and the Federal Emergency Management Agency (FEMA) Region II is deeply involved with recovery efforts in New York City. Further, New Jersey has been deeply involved with the response to mail-based terrorism in the weeks that followed the National Emergency. Considering the extraordinary circumstances, a schedular exemption was expected and is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full-participation exercise as soon as practical to demonstrate (and maintain) readiness.

The licensee is faced with a difficult task to coordinate and schedule an exercise that involves multiple governmental agencies at the Federal, State, and local level. Many local response organizations depend on volunteers. In order to accommodate this difficult task, the NRC has allowed licensees to schedule full-participation exercises at any time during the calendar biennium. This gives the licensee the flexibility to schedule the exercise within a 12- to 36-month window and still meet the biennial requirement specified in the regulations.

The licensee requested relief from section IV.F.2.c of Appendix E to 10 CFR part 50. Although the intent of the request is clear, i.e., the need to postpone the biennial exercise, the citation of regulations to accomplish that intent may not be complete. Section IV.F.2.b of Appendix E to 10 CFR part 50 may also be cited for completeness. The Commission's analysis encompassed the technical issues necessary to grant a schedular exemption from sections IV.F.2.b and c for the conduct of the biennial exercise.

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

III

The licensee requests a one-time change in the schedule for the next biennial exercise for Oyster Creek. Subsequent biennial exercises for Oyster Creek would be scheduled at no greater than 2-year intervals in accordance with 10 CFR part 50, Appendix E, section IV.F.2.c. Accordingly, the exemption would provide only temporary relief from that regulation, in that the next biennial exercise is scheduled to take place in 2003.

As indicated in the licensee's request for an exemption of October 8, 2001, the licensee had originally scheduled a full-participation exercise for October 16, 2001. As further set forth in that letter, however, AmerGen requested a schedular exemption as a result of the national security threat in the United States, and the response, recovery, and other activities associated with the September 11, 2001, attacks on the World Trade Center. AmerGen is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security directly after the national emergency. However, in this period of continued heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the exercise as soon as practical to demonstrate and maintain readiness.

The staff completed its evaluation of the licensee's request for an exemption. The State of New Jersey was initially involved with the recovery response to the national emergency and the Federal Emergency Management Agency (FEMA) Region II is deeply involved with recovery efforts in New York City. Further, New Jersey has been deeply involved with the response to mail-based terrorism in the weeks that followed the national emergency. The staff considered the schedule and resource issues resulting from the national emergency, and the fact that AmerGen conducted the previous Oyster Creek full participation exercise on October 5, 1999.

Oyster Creek successfully conducted a full-participation exercise in October 5, 1999, which was evaluated by the NRC (Inspection Report No. 50–219/99–06) and FEMA (Final Exercise Report Oyster Creek December 29, 2000). The licensee was scheduled to conduct a biennial full participation exercise on October 16, 2001. The requested exemption is to postpone that exercise and conduct it during 2002. The interval between biennial exercises could be as long as 39 months, if the exercise were conducted in December of 2002. This is a bit outside the normal parameters of exercise conduct, in which a period of 36 months is acceptable, as long as the sequential exercises are conducted within the calender biennium. However, given the circumstances and the fact that other 2001 exercises in NRC Region I will be rescheduled for 2002, this time frame is acceptable. To reschedule this exercise, AmerGen will have to coordinate with local and State supporting agencies as well as NRC Region I and FEMA Region II. This effort will be complicated by the fact that NRC and FEMA will have to support the normally scheduled exercises in addition to the rescheduled exercises during 2002. The increased flexibility requested by the licensee may be necessary for scheduling of Federal resources more so than local or utility resources.

The licensee provided a description of recently completed drills and training evolutions, as well as the planned training and drill schedule for the next year. The previous Oyster Creek full-participation exercise was conducted on October 5, 1999. The results of this exercise determined that the overall performance of the emergency response organization demonstrated that onsite emergency plans are adequate and that the organization is capable of implementing these plans (reference NRC Inspection Report No. 50–219/99–06.) One exercise weakness involving technical support center communications was identified and the licensee stated that prompt corrective actions were implemented. The State of New Jersey and local governments fully participated in the October 5, 1999 exercise. The licensee stated that corrective actions are complete for the only area requiring corrective action, which involved a facsimile machine problem.

Subsequent to the October 5, 1999 full participation exercise, Oyster Creek conducted emergency response drills on March 29, 2000, May 11, 2000, May 17, 2000, May 18, 2000, and an annual exercise on September 20, 2000. The May 11, 17, and 18, 2000, drills were specifically conducted as proficiency enhancing drills for new emergency response team personnel. The September 20, 2000, annual exercise included active participation by the New Jersey Office of Emergency Management. These drills and the self-evaluated annual exercise satisfy the drill requirements of 10 CFR part 50, Appendix E, section IV.F.2.b. Overall performance throughout these drills and exercises demonstrated successful implementation of the Emergency Plan and its Implementing Procedures. AmerGen stated that issues identified during these drills, exercises, and associated critiques are being resolved under the Oyster Creek corrective action program. AmerGen has determined that there will be no decrease in safety as a result of this exemption. Additionally, Oyster Creek conducted a training drill on July 11, 2001, a pre-exercise drill on September 4, 2001, and an additional pre-exercise drill on September 24, 2001. The State of New Jersey and local governments have maintained radiological emergency preparedness by participating in the September 4, 2001, drill. Offsite agencies have completed, without issue, all of the out-of-sequence exercise demonstrations, encompassing FEMA Objective Nos. 15, 16, 17, 18, 19, 20, 21, and 22, in conjunction with the previously planned October 16, 2001, full-participation exercise. Completion of these exercise demonstrations provides added assurance of emergency response preparedness.

AmerGen has stated that, on a continuing basis, measures will be taken to maintain emergency preparedness at Oyster Creek. The existing training and drill schedule currently in place for emergency response activities will remain in place and adjusted as necessary to ensure the readiness of

VOL 66 ISS 249 DE 28 2001 UMI

both onsite and offsite emergency response personnel. This includes annual training, requalification, and participation drills for onsite emergency responders. It appears that these measures will maintain an adequate level of emergency preparedness during this period.

Licensee representatives meet routinely with State and local emergency management and have discussed rescheduling of the biennial exercise with these groups. K. Hayden, Captain, Acting Commanding Officer of the New Jersey State Police Emergency Management Section, has submitted a similar exemption request to FEMA RII.

The national emergency of September 11, 2001, rendered the conduct of a nuclear power plant exercise in the previously scheduled time frame inappropriate. Application of the applicable regulation would not serve the underlying purpose of the rule, in that diversion of public agency attention from recovery from the national emergency and management of the mail based terrorist events in New Jersey would not contribute to public health and safety. Postponement of exercise conduct is a benefit to public health and safety that compensates for any decrease in safety that may result. Additionally, the licensees drill program includes offsite agency participation and is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that AmerGen has committed to conduct the exercise during the next calendar year (2002). AmerGen made a good faith effort to conduct the exercise and comply with regulations. The circumstances dictating the request for exemption are beyond the licensee's control. The regulations of this part do allow for the postponement of exercises and the regulations have been invoked for appropriate circumstances. This being the case, the occasional need to postpone exercises was considered as a potential circumstance. The NRC staff has determined that conduct of the full-participation exercise as early as practical in 2002 is prudent even though the licensee is expected to conduct another full-participation exercise in 2003. Accordingly, the licensee made a good faith effort to comply with the schedule requirements of Appendix E for full-participation exercises. The staff finds the request acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR part 50, Appendix E, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, the Commission has determined, pursuant to 10 CFR 50.12(a), that special circumstances of 10 CFR 50.12(a)(v) are applicable in that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the Commission hereby grants AmerGen a one-time schedular exemption from the requirements to conduct an exercise of its onsite and offsite (with full-participation by each offsite authority having a role under the plan) emergency plans every 2 years as required by sections IV.F.2.b and c of Appendix E to 10 CFR part 50. This conclusion is based on AmerGen's commitment to conduct the postponed exercise in 2002. The staff recommends that AmerGen schedule the exercise as early as practical in 2002, but the exemption is not predicated on AmerGen following this recommendation.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 65520).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31932 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317 and 50–318]

Calvert Cliffs Nuclear Power Plant, Inc. (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2); Exemption

I

Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI or the licensee) is the holder of Facility Operating License Nos. DPR–53 and DPR–69, which authorizes operation of the Calvert Cliffs Nuclear Power Plant (CCNPP), Unit Nos. 1 and 2 at power levels not to exceed 2700 megawatts thermal. The facility consists of two pressurized-water reactors located at the licensee's site in Calvert County, Maryland. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix E, section IV.F.2.b requires each licensee at each site to conduct an exercise of its onsite emergency plan every 2 years and indicates the exercise may be included in the full participation biennial exercise required by paragraph 2.c of the same section. In addition, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Paragraph 2.c requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. Normally during such biennial full participation exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

By letter dated September 28, 2001, the licensee requested an exemption from section IV.F.2.c of Appendix E regarding the conduct of a full-participation exercise originally scheduled for September 25, 2001. Specifically, the licensee proposed rescheduling the exercise originally scheduled for September 25, 2001, to sometime prior to December 31, 2002. However, the next full-participation exercise will continue to be scheduled biennially from 2001.

CCNPPI is among several licensees requesting schedular exemptions for emergency exercises in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. Considering the extraordinary circumstances, a schedular exemption is appropriate. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full-participation exercise as soon as practical to demonstrate and maintain readiness.

The licensee is faced with a difficult task to coordinate and schedule an exercise that involves multiple governmental agencies at the Federal, State, and local level. Many local response organizations depend on volunteers. In order to accommodate this difficult task, the NRC has allowed licensees to schedule full participation exercises at any time during the calendar biennium. This gives the licensee the flexibility to schedule the exercise within a 12- to 36-month window and still meet the biennial requirement specified in the regulations.

It should be noted that the licensee requested relief from 10 CFR part 50, Appendix E, section IV.F.2.c. While the intent of the request is clear, the NRC staff determined that a schedular exemption from the onsite exercise requirements of 10 CFR part 50, Appendix E, section IV.F.2.b, was also necessary. The following evaluation addresses the technical issues necessary to grant a schedular exemption from requirements in 10 CFR part 50, Appendix E, sections IV.F.2.b and c, to conduct an evaluated biennial exercise.

Pursuant to 10 CFR 50.12, the NRC may grant exemptions from the requirements of its regulations which, pursuant to 10 CFR 50.12(a), are (1) authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security and (2) present special circumstances. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation.

III

The licensee was scheduled to conduct a biennial full participation exercise on September 25, 2001. The requested exemption is to postpone that exercise and conduct it during 2002. The interval between biennial exercises could be as long as 38 months, if the exercise were conducted in December of 2002. However, given the circumstances and the fact that other 2001 exercises in NRC Region I will be rescheduled for 2002, this time frame is acceptable. To reschedule this exercise, the licensee will have to coordinate with local and State supporting agencies as well as NRC Region I and FEMA Region III. This effort will be complicated by the fact that NRC and FEMA will have to support the normally scheduled exercises in addition to the rescheduled exercises during 2002. The increased flexibility requested by the licensee may be necessary for scheduling of Federal resources more so than local or utility resources.

CCNPPI successfully conducted a full-participation exercise in October 1999, which was evaluated by the NRC (NRC Inspection Report Nos. 50–317/99–10 and 50–318/99–10) and FEMA (Final Exercise Report CCNPP, March 14, 2000.) The results of this exercise determined that the overall performance of the emergency response organization demonstrated that onsite emergency plans are adequate and that the organization is capable of implementing these plans.

The licensee provided a description of recently completed drills and training evolutions, as well as the planned training and drill schedule for the next year. CCNPPI had previously conducted one full-participation emergency preparedness exercise on August 23, 2001. Additionally, a site-wide non-state participation drill was conducted on May 24, 2001. Although these drills were not evaluated by NRC and FEMA, the May and August 2001 drill results were critiqued by the emergency response organization and the Nuclear Plant Assessment Department. Issues identified during the drill critiques are being resolved under the corrective action program.

CCNPPI stated that emergency preparedness has been maintained in accordance with the Emergency Response Plan. The requirements for semi-annual health physics drills were met by the conduct of the May 24 and August 23, 2001, drills. The requirement for a post-accident sampling drill was met on June 7, 2001. The annual requirement for an environmental sampling drill was met on September 4, 2001. Dose assessment office drills were conducted on January 17, 2001, and May 29, 2001. The annual requirement for a severe accident management drill was met in the May 24 and August 23 drills.

The State of Maryland and local governments have maintained radiological emergency preparedness by fully participating in the August 23, 2001 drill. Additionally, the State agencies participated in the federally-evaluated Peach Bottom Atomic Power Station exercise on August 15, 2000. Calvert County Public Safety, Calvert Memorial Hospital, and local rescue squads participated in a simulated contaminated injury drill at CCNPP on November 16, 2000. Dorchester County successfully demonstrated corrective action for a deficiency noted in the CALVEX 99 FEMA exercise report.

CCNPPI has stated that between September 2001 and December 2002, measures will be taken to maintain emergency preparedness at CCNPP. The existing training and drill schedule currently in place for emergency response activities will remain in place and be adjusted as necessary to ensure the readiness of both onsite and offsite emergency response personnel. For onsite emergency responders, this includes annual training and participation in drills. CCNPPI will conduct quarterly combined functional and/or activation drills and a self-evaluated annual exercise. These drills and the self-evaluated annual exercise satisfy the drill requirements of 10 CFR part 50, Appendix E, IV.F.2.b. Offsite agencies in Maryland are routinely invited to, and actively participate in, these drills and exercises as a training activity for offsite response personnel. Local response groups conduct annual training and participate in emergency operations center drills. The biennial medical support (MS–1) drill conducted in conjunction with Calvert Memorial Hospital and Calvert County took place in October 2001.

These activities satisfy the drill and exercise requirements of 10 CFR part 50, Appendix E, IV.F.2.b. CCNPPI stated that it meets routinely with State and local emergency management and support groups, has discussed rescheduling of the biennial exercise with these groups, and that these groups support the exercise postponement.

For this exemption request, the special circumstances described in section 50.12(a)(2)(v) of 10 CFR part 50 are present. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The licensee made a good faith effort to conduct the exercise and comply with regulations. The circumstances dictating the request for exemption are beyond the licensee's control. The regulations of this part allow for the postponement of exercises and the regulations have been invoked for appropriate circumstances.

Based upon the consideration of the public health and safety, schedule, and resource issues resulting from the national emergency of September 11, 2001, the staff concludes that the request for exemption is acceptable. The staff has determined that conduct of the full-participation exercise as early as practical in 2002 is prudent even though the licensee is expected to conduct another full-participation exercise in 2003.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and is otherwise in the public interest. Further, the Commission has determined, pursuant to 10 CFR 50.12(a)(v), that special circumstances

VOL 66 ISS 249 DE 28 2001 UMI

are present, in that the exemption would only provide temporary relief from the applicable regulations, and the licensee has made a good faith effort to comply with the regulation. Therefore, the Commission hereby grants CCNPPI a one-time schedular exemption from the requirements to conduct an exercise of its onsite and offsite emergency plans every 2 years as required by 10 CFR part 50, Appendix E, section IV.F.2.b and c. This conclusion is based on the licensee's commitment to conduct the postponed exercise in 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 64063).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31931 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–269, Docket No. 50–270, Docket No. 50–287, Docket No. 72–040, Docket No. 72–004, Renewed License No. DPR–38, Renewed License No. DPR–47, Renewed License No. DPR–55, and License No. SNM–2503]

Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2 and 3 and Oconee Independent Spent Fuel Storage Installation); Order Approving Transfer of Operating Authority and Conforming Amendments

Duke Energy Corporation (Duke Energy, or DEC) is the holder of Renewed Facility Operating Licenses Nos. DPR–38, DPR–47, and DPR–55, which authorize operation of the Oconee Nuclear Station, Units 1, 2 and 3 and Materials License No. SNM–2503, which authorizes operation of the Oconee Independent Spent Fuel Storage Installation (ISFSI). The Oconee Nuclear Station (Oconee or the Facility) and ISFSI are located in Oconee County, South Carolina.

By application dated July 10, 2001, as supplemented by letters dated October 31, November 1 and 26, and December 10, 2001, (collectively referred to herein as "the application" unless otherwise indicated) the Commission was informed that DEC, the licensed operator of the Oconee units and the ISFSI, proposes to enter into an Operation and Maintenance Services Agreement with Duke Energy Nuclear, LLC (Duke Nuclear), and transfer operating authority under the licenses to Duke Nuclear. Under the proposed transaction, Duke Nuclear, which will be a wholly owned indirect subsidiary of DEC, will become a new licensee exclusively authorized to operate Oconee and the ISFSI in accordance with the terms and conditions of the licenses. The transaction involves no change in full ownership of the Facility and the ISFSI by DEC. DEC requested approval of the proposed transfer of operating authority under the Oconee facility renewed operating licenses to Duke Nuclear pursuant to 10 CFR 50.80 and requested approval of conforming amendments pursuant to 10 CFR 50.90 to reflect the transfer. DEC requested approval of the proposed transfer of operating authority under the Oconee ISFSI License SNM–2503 to Duke Nuclear pursuant to 10 CFR 72.50 and requested approval of conforming amendments pursuant to 10 CFR 72.56 to reflect the transfer. The proposed amendments would add Duke Nuclear to the licenses and reflect that Duke Nuclear is exclusively authorized to operate Oconee and the ISFSI. Duke Nuclear will also become a general licensee for storage of spent fuel in certified dry casks at Oconee pursuant to 10 CFR 72.210.

Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on September 25, 2001 (66 FR 49049). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. In addition, pursuant to 10 CFR 72.50, no license shall be transferred through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information in the application, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Duke Nuclear is qualified to hold the operating authority under the licenses, and that the transfer of the operating authority under the licenses to Duke Nuclear is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated December 20, 2001.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80 and 10 CFR 72.50, it is hereby ordered that the transfer of operating authority under the licenses, as described herein, to Duke Nuclear is approved, subject to the following conditions:

(1) Duke Nuclear shall, prior to completion of the transfer of operating authority for Oconee, provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Duke Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of operating authority to Duke Nuclear, DEC and Duke Nuclear shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 2 business days prior to the date of closing. If the transfer is not completed by December 31, 2002, this Order shall become null and void, provided however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject transfer of operating authority are approved. The amendments shall be issued and made effective at the time the proposed transfer is completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated July 10, 2001, the supplemental letters dated October 31, November 1 and 26, and December 10, 2001, and the Safety Evaluation dated December 20 , 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–31925 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–413, Docket No. 50–414, License No. NPF–35, and License No. NPF–52]

Duke Energy Corporation, North Carolina Electric Membership Corporation, Saluda River Electric Cooperative, Inc., North Carolina Municipal Power Agency No. 1, Piedmont Municipal Power Agency, (Catawba Nuclear Station, Units 1 and 2); Order Approving Transfer of Operating Authority and Conforming Amendments

Duke Energy Corporation (Duke Energy, or DEC), the North Carolina Electric Membership Corporation, and the Saluda River Electric Cooperative, Inc. are the holders of Facility Operating License No. NPF–35, which authorizes operation of the Catawba Nuclear Station, Unit 1. DEC, the North Carolina Municipal Power Agency No. 1, and the Piedmont Municipal Power Agency are the holders of Facility Operating License No. NPF–52, which authorizes operation of the Catawba Nuclear Station, Unit 2. The Catawba Nuclear Station (Catawba or the facility) is located in York County, South Carolina.

By application dated July 10, 2001, as supplemented by letters dated October 31, November 1 and 26, and December 10, 2001, (collectively referred to herein as "the application" unless otherwise indicated), the Commission was informed that DEC, the sole licensed operator of both Catawba units, proposes to enter into an Operation and Maintenance Services Agreement with Duke Energy Nuclear, LLC (Duke Nuclear), and transfer operating authority under the licenses to Duke Nuclear. Under the proposed transaction, Duke Nuclear, which will be a wholly owned indirect subsidiary of DEC, will become a new licensee, exclusively authorized to operate Catawba in accordance with the terms and conditions of the licenses. The transaction involves no change in facility ownership, which is as follows: DEC owns 25%, the North Carolina Membership Corporation owns 56.25%, and the Saluda River Electric Cooperative owns 18.75% of Catawba Unit 1, and the North Carolina Municipal Power agency No. 1 owns 75% and Piedmont Municipal Power Agency owns 25% of Catawba Unit 2.[1]

DEC requested approval of the proposed transfer of operating authority under the Catawba licenses to Duke Nuclear pursuant to 10 CFR 50.80. The application also requested approval of conforming amendments pursuant to 10 CFR 50.90 to reflect the transfer. The proposed amendments would add Duke Nuclear to the licenses and reflect that Duke Nuclear is exclusively authorized to operate Catawba.

Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on September 25, 2001 (66 FR 49050). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Duke Nuclear is qualified to hold the operating authority under the licenses, and that the transfer of the operating authority under the licenses to Duke Nuclear is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated December 20, 2001.

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, it is hereby ordered that the transfer of operating authority under the licenses, as described herein, to Duke Nuclear is approved, subject to the following conditions:

(1) Duke Nuclear shall, prior to completion of the transfer of operating authority for Catawba, provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Duke Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of operating authority to Duke Nuclear, DEC and Duke Nuclear shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 2 business days prior to the date of closing. If the transfer is not completed by December 31, 2002, this Order shall become null and void, provided however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject transfer of operating authority are approved. The amendments shall be issued and made effective at the time the proposed transfer is completed.

---

[1] DEC does not have an ownership interest in Catawba Unit 2, but nonetheless is a holder of the Unit 2 license in connection with the operating authority granted to DEC under that license.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated July 10, 2001, the supplemental letters dated October 31, November 1 and 26, and December 10, 2001, and the Safety Evaluation dated December 20, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.*

Dated at Rockville, Maryland, this 20th day of December, 2001.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31926 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–369, Docket No. 50–370, License No. NPF–9, and License No. NPF–17]

Duke Energy Corporation (McGuire Nuclear Station, Units 1 and 2); Order Approving Transfer of Operating Authority and Conforming Amendments

Duke Energy Corporation (Duke Energy, or DEC), is the holder of Facility Operating Licenses Nos. NPF–9 and NPF–17, which authorize operation of the McGuire Nuclear Station, Units 1 and 2 (McGuire or the facility). The McGuire Nuclear Station is located in Mecklenburg County, North Carolina.

By application dated July 10, 2001, as supplemented by letters dated October 31, November 1 and 26, and December 10, 2001, (collectively referred to herein as "the application" unless otherwise indicated), the Commission was informed that DEC, owner of the facility, proposes to enter into an Operation and Maintenance Services Agreement with Duke Energy Nuclear, LLC (Duke Nuclear), and transfer operating authority under the licenses to Duke Nuclear. Under the proposed transaction, Duke Nuclear, which will be a wholly owned indirect subsidiary of DEC, will become a new licensee, exclusively authorized to operate McGuire in accordance with the terms and conditions of the licenses. The transaction involves no change in facility ownership. Duke Nuclear will not own any portion of the facility.

DEC requested approval of the proposed transfer of operating authority under the McGuire licenses to Duke Nuclear pursuant to 10 CFR 50.80. The application also requested approval of conforming amendments pursuant to 10 CFR 50.90 to reflect the transfer. The proposed amendments would add Duke Nuclear to the licenses and reflect that Duke Nuclear is exclusively authorized to operate McGuire. Duke Nuclear will also become a general licensee for storage of spent fuel in certified dry casks at McGuire pursuant to 10 CFR 72.210.

Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on September 25, 2001 (66 FR 49048). No hearing requests or written comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that Duke Nuclear is qualified to hold the operating authority under the licenses, and that the transfer of the operating authority under the licenses to Duke Nuclear is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter 1; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated December 20, 2001.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, it is hereby ordered that the transfer of operating authority under the licenses, as described herein, to Duke Nuclear is approved, subject to the following conditions:

(1) Duke Nuclear shall, prior to completion of the transfer of operating authority for McGuire, provide the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Duke Nuclear has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of operating authority to Duke Nuclear, DEC and Duke Nuclear shall inform the Director of the Office of Nuclear Reactor Regulation in writing of such receipt within 5 business days and of the date of the closing of the transfer no later than 2 business days prior to the date of closing. If the transfer is not completed by December 31, 2002, this Order shall become null and void, provided however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject transfer of operating authority are approved. The amendments shall be issued and made effective at the time the proposed transfer is completed.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated July 10, 2001, the supplemental letters dated October 31, November 1 and 26, and December 10, 2001, and the Safety Evaluation dated December 20, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public

Electronic Reading Room on the Internet at the NRC Web site, http://www.nrc.gov/reading-rm/adams.html.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31927 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC, Limerick Generating Station, Units 1 and 2; Exemption

1.0 Background

Exelon Generation Company, LLC (Exelon or the licensee), is the holder of Facility Operating Licenses Nos. NPF–39 and NPF–85, which authorize operation of the Limerick Generating Station (LGS), Units 1 and 2. The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located at the licensee's site in Montgomery County, Pennsylvania.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix E, Section IV.F.2.b requires each licensee at each site to conduct an exercise of its onsite emergency plan every two years and indicates the exercise may be included in the full-participation biennial exercise required by paragraph 2.c. of the same section. In addition, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Paragraph 2.c. requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. Normally during such biennial full-participation exercises, the NRC evaluates onsite, and the Federal Emergency Management Agency (FEMA) evaluates offsite, emergency preparedness activities.

By letter dated October 16, 2001, Exelon requested an exemption from the requirements of 10 CFR part 50, Appendix E, Sections IV.F.2.c, regarding the conduct of a full-participation exercise at LGS. The exemption would allow the licensee to postpone the biennial full-participation exercise up to the end of 2002. However, the next full-participation exercise will continue to be scheduled biennially from 2001.

Exelon is among several licensees requesting exercise exemptions in the wake of the national emergency of September 11, 2001. It is recognized that it was not appropriate to conduct an exercise during the period of disruption and heightened security after the national emergency. The State of Pennsylvania was initially involved with the recovery response to the national emergency and continues to respond to heightened security needs. Considering the extraordinary circumstances, a schedular exemption is acceptable. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full-participation exercise as soon as practical to demonstrate and maintain readiness.

The licensee is faced with a difficult task to coordinate and schedule an exercise that involves multiple governmental agencies at the Federal, State, and local level. Many local response organizations depend on volunteers. In order to accommodate this task, the NRC has allowed licensees to schedule full-participation exercises at any time during the calendar biennium. This gives the licensee the flexibility to schedule the exercise within a 12- to 36-month window and still meet the biennial requirement specified in the regulations.

It should be noted that the licensee requested relief from 10 CFR part 50, appendix E, section IV.F.2.c. While the intent of the request is clear, the NRC staff determined that a schedular exemption from the onsite exercise requirements of 10 CFR part 50, appendix E, section IV.F.2. b, was also necessary. The following evaluation addresses the technical issues necessary to grant a schedular exemption from the requirements of 10 CFR part 50, appendix E, sections IV.F.2.b and c, to conduct an evaluated biennial exercise.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(v) special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

The licensee was scheduled to conduct a biennial full-participation exercise on November 1, 2001. The requested exemption is to postpone that exercise and conduct it during 2002. The interval between biennial exercises could be as long as 39 months, if the exercise were conducted in December of 2002. However, the licensee stated that the rescheduled exercise is expected to take place in the first or second quarter of 2002. If the licensee does conduct the exercise within the second quarter of 2002, the period between exercises would be about 33 months and within the normal parameters of exercise conduct, in which a period of 36 months is acceptable as long as the sequential exercises are conducted within the calender biennium. However, given that other 2001 exercises in NRC Region I will be rescheduled into 2002, the licensee may have difficulty finalizing the schedule by the end of the second quarter. To reschedule this exercise, the licensee will have to coordinate with local and State supporting agencies as well as NRC Region I and FEMA Region III. This effort will be complicated by the fact that NRC and FEMA will have to support the normally scheduled exercises in addition to the rescheduled exercises during 2002. Increased flexibility may be necessary for scheduling of Federal resources more so than local or utility resources. This being the case, a schedular exemption for conduct of the exercise within calendar year 2002 is appropriate, with the understanding that the licensee will conduct the exercise as soon as practicable.

LGS successfully conducted a full-participation exercise on September 14, 1999, which was evaluated by the NRC (Inspection Report No. 50–352;353/99–06) and FEMA (Final Exercise Report LGS 03/01/00.) The results of this exercise determined that the overall performance of the emergency response organization demonstrated that onsite emergency plans are adequate and that the organization is capable of implementing these plans. No violations of NRC requirements or exercise weaknesses were identified and the licensee stated that performance issues identified in the critique were entered into the corrective action process and addressed.

The licensee stated that subsequent to the September 14, 1999, full-

VOL 66 ISS 249 DE 28 2001 UMI

participation exercise, LGS conducted emergency response training drills on June 14, 2000, June 21, 2000, October 18, 2000, November 15, 2000, December 12, 2000, February 15, 2001, May 12, 2001, and June 20, 2001. A pre-exercise drill was also conducted on September 27, 2001. The licensee stated that there was at least partial offsite participation in the June 21, 2000, November 15, 2000, December 12, 2000, June 20, 2001, and September 27, 2001, drills. In addition, emergency response training drills involving control room staff were conducted on January 20, 2000, January 27, 2000, February 3, 2000, February 10, 2000, February 17, 2000, January 12, 2001, January 19, 2001, January 26, 2001, February 2, 2001, and February 9, 2001. The licensee stated that these drills satisfy the drill requirements of 10 CFR Part 50, Appendix E, Section IV.F.2.b. The licensee stated that drill critiques verified that the emergency plan and its implementing procedures were successfully implemented. Issues identified during these drills, exercises, and associated critiques are being resolved under the station's corrective action program.

The licensee stated that compensating measures will be taken to maintain emergency preparedness at LGS until the postponed exercise is conducted. The existing training and drill schedule currently in place for emergency response activities will remain in place and be adjusted as necessary to ensure the readiness of both onsite and offsite emergency response personnel. This includes annual training, requalification, and participation drills for onsite emergency responders. The licensee stated that these measures will be implemented to maintain an acceptable level of emergency preparedness during this period.

The Pennsylvania Emergency Management Agency (PEMA) has requested that FEMA postpone the exercise into 2002. The licensee and PEMA stated that offsite local, State, and Federal government agencies that are required to participate in the LGS biennial exercise are directly participating in the response, recovery, and other continuing activities associated with the September 11, 2001, national emergency.

The staff examined the licensee's rationale to support the exemption request and concluded that granting the exemption would provide only temporary relief from the applicable regulation and that the licensee had made a good faith effort to comply with the regulation. The national emergency of September 11, 2001, and the subsequent recovery and security responses required that State and local resources expected to be available for the previously scheduled biennial exercise be applied to agency missions. Offsite agencies were not able to dedicate the appropriate level of resources, as it would divert public agency resources from the national emergency recovery efforts. Additionally, the licensee's drill program includes offsite agency participation and is a compensating measure contributing to the justification of the exemption.

The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002) and has not requested any permanent changes in future exercise scheduling. The licensee made a good faith effort to conduct the exercise and comply with regulations. The circumstances dictating the request for exemption are beyond the licensee's control. The regulations of this part do allow for the postponement of exercises and the regulations have been invoked for appropriate circumstances. This being the case, the occasional need to postpone exercises was considered as a potential circumstance. The staff has determined that conduct of the full-participation exercise as early as practical in 2002 is prudent even though the licensee is expected to conduct another full-participation exercise in 2003.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present pursuant to 10 CFR 50.12(a)(2)(v), in that the exemption would only provide temporary relief from the applicable regulations, and the licensee has made a good faith effort to comply with the regulation. Therefore, the Commission hereby grants Exelon a one-time schedular exemption from the requirements to conduct an exercise of its onsite and offsite (with full-participation by each offsite authority having a role under the plan) emergency plans every 2 years as required by 10 CFR part 50, appendix E, sections IV.F.2.b and c. This conclusion is based on the licensee's commitment to conduct the postponed exercise in 2002. The staff notes that the licensee expects to conduct the exercise in the first or second quarter of 2002. The staff recommends that the licensee schedule the exercise as early as practical in 2002, but the exemption is not predicated on the licensee following this recommendation.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 65231).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31928 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

The UNPLUG Salem Campaign, the National Whistleblower Center and Mr. Randy Robarge Riverkeeper, Inc., et al.; Receipt of Requests for Action Under 10 CFR 2.206

Notice is hereby given that by the following three petitions, the Nuclear Regulatory Commission (NRC) was requested to take immediate corrective actions to protect the public against the possibility of terrorists seizing control of a large commercial jetliner and crashing into a nuclear power plant in the United States.

1. From Mr. Norm Cohen, on behalf of the UNPLUG Salem Campaign, dated September 17, 2001.
2. From Mr. Michael D. Kohn, on behalf of the National Whistleblower Center and Randy Robarge, dated October 24, 2001.
3. From Messrs. Alex Matthiessen, and Karl Coplan, on behalf of the Riverkeeper, Inc., et al, dated November 8, 2001.

The petitioners requested that the NRC staff take certain specified compensatory measures, to protect the public and environment from the catastrophic impact of a terrorist attack on a nuclear power plant or a spent fuel pool.

These requests are being treated pursuant to 10 CFR 2.206 of the Commission's regulations. These requests have been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on these petitions within a reasonable time.

Since the subject of these petitions involves safeguards matters, the NRC has decided not to make the petitions public or publicly discuss the petitions to avoid disclosure of potentially sensitive security information.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–31930 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–22–ISFSI, ASLBP No. 97–732–02–ISFSI]

Private Fuel Storage, L.L.C.; Notice of Reconstitution

Pursuant to 10 C.F.R. 2.721, the Atomic Safety and Licensing Board in the above captioned *Private Fuel Storage, L.L.C.* proceeding is hereby reconstituted by appointing a Licensing Board consisting of Administrative Judge Michael C. Farrar, Chairman; Administrative Judge Jerry R. Kline; and Administrative Judge Peter Lam, which shall have jurisdiction over all pending and future matters in this proceeding,[1] with the exception of those matters relating to contention Utah E/Confederated Tribes F, Financial Assurance, contention Utah S, Decommissioning, and/or contention Security-J, Law Enforcement. With respect to pending or future matters regarding contention Utah E/Confederated Tribes F, contention Utah S, and/or contention Security-J, the Licensing Board consisting of Administrative Judge G. Paul Bollwerk, III, Chairman, and Administrative Judges Kline and Lam will retain jurisdiction for all purposes.

In accordance with 10 C.F.R. 2.701, all correspondence, documents, and other material relating to any matter in this proceeding should continue to be served on Judges Kline and Lam. All correspondence, documents and, other material relating to any matter other than contention Utah E/Confederated Tribes F, contention Utah S, and/or contention Security-J shall be served on Administrative Judge Farrar as follows: Administrative Judge Michael C. Farrar, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Hereafter, only correspondence, documents, and other material relating to any matter concerning contention Utah E/Confederated Tribes F, contention Utah S, and/or contention Security-J should continue to be served on Administrative Judge Bollwerk.

Issued at Rockville, Maryland, this nineteenth day of December 2001.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 01–31922 Filed 12–27–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guides; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment four draft guides in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guides all pertain to licensees' use of Code Cases of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, and the guides are being developed to provide updated guidance on the use of Code Cases. Code Cases provide alternatives that have been developed and approved by ASME or they explain the intent of existing Code requirements. The proposed Revision 32 of combined Regulatory Guides 1.84 and 1.85, temporarily identified by its task number, DG–1090 (which should be mentioned in all correspondence concerning this draft guide), is "Design, Fabrication, and Materials Code Case Acceptability, ASME Section III." This draft guide provides guidance that is acceptable to the NRC staff for licensees on the use of ASME Section III Code Cases.

Draft Regulatory Guide DG–1091, "Inservice Inspection Code Case Acceptability, ASME Section XI, Division 1," is the proposed Revision 13 of Regulatory Guide 1.147, which provides guidance that is acceptable to the NRC staff for licensees on the use of ASME Section XI Code Cases.

Draft Regulatory Guide DG–1089, "Operation and Maintenance Code Case Acceptability, ASME OM Code," is being developed to provide guidance that is acceptable to the NRC staff for licensees on the use of ASME OM Code Cases.

Draft Regulatory Guide DG–1112, "ASME Code Cases Not Approved for Use," is being developed to provide guidance to licensees on the ASME Code Cases that have not been approved by the NRC. The reasons the Code Cases were not approved are also stated.

These draft guides have not received complete staff approval and do not represent an official NRC staff position.

Comments may be accompanied by relevant information or supporting data. Written comments may be submitted to the Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Comments will be most helpful if received by March 25, 2002.

Comments may also be provided via the NRC's interactive rulemaking web site through the NRC homepage (*http://www.nrc.gov*). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail *CAG@NRC.GOV*. For information about the draft guides, contact Mr. W.E. Norris at (301) 415–6796; e-mail WEN@NRC.GOV.

Although a time limit is given for comments on these draft guides, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the NRC's Public Document Room, 11555 Rockville Pike, Rockville, MD; the PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415–4737 or (800) 397–4205; fax (301) 415–3548; e-mail *PDR@NRC>GOV*. Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Reproduction and Distribution Services Section; or by e-mail to *DISTRIBUTION@NRC.GOV*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

---

[1] At the request of the Licensing Board chaired by Judge Bollwerk, Judge Farrar has been reviewing pending matters in this proceeding in conjunction with Judges Kline and Lam. The Licensing Board of which Judge Farrar is Chairman anticipates issuing a number of rulings on pending matters in the near future.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of December 2001.

For the Nuclear Regulatory Commission.

Michael E. Mayfield,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 01–31929 Filed 12–27–01; 8:45 am]

BILLING CODE 7590-01-P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 25–37

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of an information collection. Form RI 25–37, Evidence to Prove Dependency of a Child, is designed to collect sufficient information for OPM to determine whether the surviving child of a deceased Federal employee is eligible to receive benefits as a dependent child.

Approximately 250 forms are completed annually. We estimate it takes approximately 60 minutes to assemble the needed documentation. The annual burden is 250 hours.

Comments are particularly invited on: whether this information is necessary for the proper performance of functions of OPM, and whether it will have practical utililty; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov*. Please include a mailing address with you request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349A, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 01–31900 Filed 12–27–01; 8:45 am]

BILLING CODE 6325-50-P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee Open Committee Meetings

According to the provisions of section 10 of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, January 10, 2002,
Thursday, January 24, 2002, and
Thursday, February 7, 2002.

The meetings will start at 10:00 a.m. and will be held in Room 5H09, Office of Personnel Management Building, 1900 E Street NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chair, five representatives from labor unions holding exclusive bargaining rights for blue-collar Federal employees, and five representatives from Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, of title 5, United States Code, as amended, and from time to time advise the Office of Personnel Management. The scheduled meetings will start in open session with both labor and management representatives attending. During the meetings either the labor members or the management members may caucus separately with the Chair to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Public Law 92–463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of a meeting.

Annually, the Chair compiles a report of pay issues discussed and recommendations made. These reports are available to the public upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chair on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on this meeting may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 5538, 1900 E Street NW., Washington, DC 20415, (202) 606–1500.

Dated: December 14, 2001.

Mary M. Rose,

Chair, Federal Prevailing Rate, Advisory Committee.

[FR Doc. 01–31902 Filed 12–27–01; 8:45 am]

BILLING CODE 6325-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25321; 812–12472]

Robert W. Baird & Co. Incorporated; Notice of Application

December 19, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for permanent order of exemption under the Investment Company Act of 1940 (the "Act").

SUMMARY OF THE APPLICATION: Applicant seeks an order ("Amended Order") that would amend a prior permanent order that exempts it from the provisions of section 9(a) of the Act to relieve it from any ineligibility resulting from applicant's employment of an individual who is subject to a securities-related injunction ("Prior Order").[1]

FILING DATES: The application was filed on March 13, 2001 and amended on December 17, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 14, 2002, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

---

[1] Robert W. Baird & Co. Incorporated, Investment Company Act Release No. 18457 (Dec. 24, 1991) (permanent order); *see also* Robert W. Baird & Co. Incorporated, Investment Company Act Release No. 18424 (Nov. 27, 1991) (temporary order and notice of application for permanent order).

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicant, 777 East Wisconsin Avenue, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. Robert W. Baird & Co. Incorporated ("Baird") is a broker-dealer registered under the Securities Exchange Act of 1934 (the "Exchange Act") and an investment adviser registered under the Investment Advisers Act of 1940. Baird is an indirect majority-owned subsidiary of the Northwestern Mutual Life Insurance Company and acts as investment adviser, subadviser, depositor or principal underwriter to a number of registered investment companies.

2. On December 24, 1991, the Commission issued the Prior Order under section 9(c) of the Act granting Baird an exemption from section 9(a) of the Act to permit Baird to continue to serve or act in certain capacities for registered investment companies while employing George J. Gaspar, who is subject to a disqualification under section 9(a) of the Act. In 1985, Mr. Gaspar was permanently enjoined (the "1985 Injunction") from future violations of certain federal securities laws.[2]

3. Baird currently employs Mr. Gaspar as a managing director of petroleum research. Mr. Gaspar's responsibilities include the publication of a newsletter reporting on the oil and gas industry and supervising a team of research analysts in the preparation of that newsletter and investment research reports on energy-related companies. Mr. Gaspar has no other direct supervisory or management responsibilities. In addition, at various times between 1981 and 1996, Mr. Gaspar served as a member of Baird's board of directors.[3]

4. The Amended Order would amend the Prior Order by modifying certain conditions to remove certain requirements that apply to a number of other Baird employees (the "Other Baird Personnel"). The Other Baird Personnel include portfolio managers, Baird employees working under Mr. Gaspar's supervision, and all senior employees of Baird and any investment companies for which Baird acts as investment adviser or subadviser.

Applicant's Legal Analysis

1. Section 9(a)(2) of the Act, in pertinent part, disqualifies any person from acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company, if such person is, by reason of any misconduct, permanently or temporarily enjoined from acting as an underwriter, broker, dealer, or investment adviser, or as an affiliated person or employee of an investment company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security. A company with an employee or other affiliated person ineligible to serve in any of these capacities under section 9(a)(2) is similarly ineligible by reason of section 9(a)(3) of the Act. As a result of the 1985 Injunction, Mr. Gaspar is subject to this bar, as is Baird, his employer.

2. Section 9(c) of the Act provides that, upon application, the Commission shall grant an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to an applicant, are unduly or disproportionately severe or that the conduct of such person has been such that it would not be against the public interest or protection of investors to grant such application.

3. Applicant believes that the requested relief satisfies the standard for relief in section 9(c). The requested amendments to the Prior Order would remove notice and certification requirements with respect to the Other Baird Personnel that currently impose a significant administrative burden on Baird. Applicant believes that it would not be against the public interest or protection of investors to remove these requirements. Applicant states that since the entry of the 1985 Injunction, Mr. Gaspar has not been subject to or involved in any disciplinary matters. In addition, applicant states that it has significantly expanded its legal and compliance activities, which reduces the likelihood of any activity that could give rise to a section 9 disqualification. Applicant believes that these factors demonstrate that it would not be against the public interest or the protection of investors to grant the Amended Order.

Applicant's Conditions

Applicant agrees that any order amending the Prior Order will be subject to the following conditions:

1. Mr. Gaspar will not be involved in Baird's business of serving as investment adviser, subadviser, depositor, or principal underwriter to registered investment companies. Applicant will develop procedures designed reasonably to assure compliance with this condition.

2. Baird has taken the necessary steps to confirm that no other employee is subject to a statutory disqualification.

3. Baird's general counsel has attested that he has reviewed Baird's compliance procedures designed to screen for and detect statutory disqualifications, reasonably believes such compliance

---

[2] *See* Securities & Exchange Commission *v.* George J. Gaspar & Eugene L. Hall, 1985 U.S. Dist. LEXIS 20698, Fed. Sec. L. Rep. (CCH) 92,004 (Apr. 16, 1985). The court found that Mr. Gaspar had violated sections 10(b) and 14(e) of the Exchange Act and rule 10b-5 thereunder and permanently enjoined him from future violations of these provisions. The alleged misconduct involved the communication of certain material, nonpublic information relating to the proposed acquisition of Clark Oil and Refining Corporation by a private placement organization.

[3] Currently, Baird does not expect that Mr. Gaspar will be attending any board meetings in any capacity. However, in the event that Mr. Gaspar rejoins the board of directors or attends meetings of the board of directors in another capacity, Baird will abide by the following procedures, which would replace conditions 6 and 7 to the Prior Order:

a. Mr. Gaspar will not attend meetings of Baird's board of directors where the operations of any registered investment company for which Baird acts as investment adviser, subadviser, depositor, or principal underwriter are on the agenda.

b. Mr. Gaspar will be excused from all meetings of Baird's board of directors where the operations of any registered investment company for which Baird acts as investment adviser, subadviser, depositor, or principal underwriter are proposed to be discussed prior to any such discussion.

procedures have been fully implemented, and that such procedures are reasonable and appropriate to prevent persons subject to a statutory disqualification from becoming affiliated with Baird in the future.

4. Baird's general counsel or chief executive officer will certify on an annual basis that Baird and Mr. Gaspar have complied with the conditions to the requested order.

5. The certifications and procedures required by the conditions to the requested order will be maintained as part of the records of Baird and will be available for inspection by the Commission and its staff at any reasonable time.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31915 Filed 12–27–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25323; 812–12348]

AXA Premier Funds Trust, et al.; Notice of Application

December 20, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application under: (a) Section 6(c) of the Investment Company Act of 1940 (the "Act") requesting an exemption from sections 12(d)(3) and 17(e) of the Act and rule 17e–1 under the Act; (b) sections 6(c) and 17(b) of the Act requesting an exemption from section 17(a) of the Act; and (c) section 10(f) of the Act requesting an exemption from section 10(f) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain registered open-end management investment companies advised by several investment advisers to engage in principal and brokerage transactions with a broker-dealer affiliated with one of the investment advisers and to purchase securities in certain underwritings. The transactions would be between a broker-dealer and a portion of the investment company's portfolio not advised by the adviser affiliated with that broker-dealer. The order also would permit these investment companies not to aggregate certain purchases from an underwriting syndicate in which an affiliated person of one of the investment advisers is a principal underwriter. Further, applicants request relief to permit a portion of an investment company's portfolio to purchase securities issued by a broker-dealer which is an affiliated person of an investment adviser to another portion, subject to the limits in rule 12d3–1 under the Act.

APPLICANTS: AXA Premier Funds Trust, AXA Premier VIP Trust, EQ Advisors Trust (collectively, the "Trusts") and The Equitable Life Assurance Society of the United States ("Equitable" or the "Manager").

FILING DATES: The application was filed on December 6, 2000, and amended on December 19, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 15, 2002, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, 1290 Avenue of the Americas, New York, NY 10104.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Senior Counsel, at (202) 942–0634, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Trusts, each a Delaware business trust, are registered under the Act as open-end management investment companies and are comprised of multiple series (each series of the Trusts, a "Fund"). Shares of the Funds of EQ Advisors Trust and AXA Premier VIP Trust are only offered for sale to insurance companies to fund variable insurance products and employee investment plans.

2. The Manager is registered under the Investment Advisers Act of 1940 ("Advisers Act") and serves as investment adviser to each of the Funds. The assets of certain Funds ("Multi-Advised Funds") are allocated by the Manager among two or more subadvisers ("Subadvisers"). Each Subadviser is registered under the Advisers Act or is exempt from registration. Each Subadviser has discretion to purchase and sell securities for a discrete portion of a Multi-Advised Fund's assets. The Manager pays each Subadviser a fee out of the advisory fee received by the Manager from the Multi-Advised Fund. Equitable or a Subadviser controlling, controlled by, or under common control with Equitable (an "Equitable Affiliate") may directly advise a discrete portion of a Multi-Advised Fund.

3. Applicants request relief to permit: (a) A broker-dealer registered under the Securities Exchange Act of 1934 that serves as a Subadviser or is an affiliated person of a Subadviser (the broker-dealer, an "Affiliated broker-Dealer" the Subadivser, and "Affiliated Subadviser") to engage in principal transactions with a discrete portion of a Multi-Advised Fund that is advised by another Subadviser that is not an affiliated person of the Affiliated Broker-Dealer or Affiliated Subadviser (the discrete portion, an "Unaffiliated Portion," the Subadviser, and "Unaffiliated Subadviser"); (b) an Affiliated Broker-Dealer to provide brokerage services to an Unaffiliated Portion, and the Unaffiliated Portion to utilize such brokerage services, without complying with rule 17e–1(b) and (d) under the Act; (c) an Unaffiliated Portion to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Subadviser, or a person of which an Affiliated Subadviser is an affiliated person ("Affiliated Underwriter"); (d) a discrete portion of the Multi-Advised Fund advised by an Affiliated Subadviser ("Affiliated Portion") to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, in accordance with the conditions of rule 10f–3, except that paragraph (b)(7) of the rule would not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion; and (e) an Unaffiliated Portion to purchase securities issued by an Affiliated Subadviser, or an affiliated person of an Affiliated Subadviser, that is involved in securities-related activities

("Securities Affiliate"), subject to the limits in rule 12d3–1 under the Act.[1]

4. Applicants request that the exemptive relief apply to the Trusts and any existing or future registered open-end management investment company or series thereof that is (a) advised by Equitable or an Equitable Affiliate and (b) advised by more than one Subadviser. The relief also would apply to any existing or future entity that serves as an Affiliated Subadviser, Affiliated Broker-Dealer, or Affiliated Underwriter to a Multi-Advised Fund. Any investment company that currently intends to rely on the order is named as an applicant. Any other existing or future entity that relies on the order will comply with the terms and conditions of the application.

Applicants' Legal Analysis

A. Principal Transactions Between an Unaffiliated Portion and an Affiliated Broker-Dealer

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person of, promotor of, or principal underwriter for such company, or any affiliated person of an affiliated person, promoter, or principal underwriter ("second-tier affiliate"). Section 2(a)(3)(E) of the Act defines an affiliated person to be any investment adviser of an investment company, and section 2(a)(3)(C) of the Act defines an affiliated person of another person to include any person directly or indirectly controlling, controlled by, or under common control with such person. Applicants state that an Affiliated Subadviser would be an affiliated person of a Multi-Advised Fund, and an Affiliated Broker-Dealer would be either an Affiliated Subadviser or an affiliated person of the Affiliated Subadviser, and thus a second-tier affiliate of a Multi-Advised Fund, including the Unaffiliated Portion. Accordingly, applicants state that any principal transactions to be effected by an Unaffiliated Subadviser on behalf of an Unaffiliated Portion of a Multi-Advised Fund with an Affiliated Broker-Dealer are subject to the prohibitions of section 17(a).

2. Applicants seek relief under sections 6(c) and 17(b) to exempt principal transactions prohibited by section 17(a) because an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion soley because an Affiliated Subadviser is the Subadviser to another discrete portion of the same Multi-Advised Fund. The requested relief would not be available if the Affiliated Broker-Dealer (except by virtue of serving as a Subadviser) is an affiliated person or a second-tier affiliate of (a) Equitable; (b) the Unaffiliated Subadviser making the investment decision with respect to the Unaffiliated Portion of the Multi-Advised Fund; (c) any principal underwriter or promoter of the Multi-Advised Fund; or (d) any officer, trustee or employee of the Multi-Advised Fund.

3. Section 17(b) of the Act authorizes the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act. Section 6(c) of the Act permits the SEC to exempt any person or transaction from any provision of the Act if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

4. Applicants contend that section 17(a) is intended to prevent persons who have the power to control an investment company from using that power to the person's own pecuniary advantage. Applicants assert that when the person acting on behalf of an investment company has no direct or indirect pecuniary interest in a party to a principal transaction, the abuses that section 17(a) is designed to prevent are not present. Applicants state that if an Unaffiliated Subadviser purchases securities on behalf of an Unaffiliated Portion in a principal transaction with an Affiliated Broker-Dealer, any benefit that might inure to the Affiliated Broker-Dealer would not be shared by the Unaffiliated Subadviser. In addition, applicants state that Subadvisers are paid on the basis of a percentage of the value of the assets allocated to their management. The execution of a transaction to the disadvantage of the Unaffiliated Portion would disadvantage the Unaffiliated Subadviser to the extent that it diminishes the value of the Unaffiliated Portion. Applicants further submit that the Manager's power to dismiss Subadvisers or to change the portion of a Multi-Advised Fund allocated to each Subadviser reinforces a Subadviser's incentive to maximize the investment performance of its discrete portion of a Multi-Advised Fund.

5. Applicants state that each Subadviser's contract assigns it responsibility to manage a discrete portion of a Multi-Advised Fund. Each Subadviser is responsible for making independent investment and brokerage allocation decisions. Applicants represent that the Manager will not dictate brokerage allocation or investment decisions to any Multi-Advised Fund advised by a Subadviser nor will it have the contractual right to do so, except with respect to any portion of a Multi-Advised Fund that the Manager may advise directly. Applicants contend that, in managing a discrete portion of a Multi-Advised Fund, each Subadviser acts for all practical purposes as though it is managing a separate investment company.

6. Applicants state that the proposed transactions will be consistent with the policies of the Multi-Advised Fund, since each Unaffiliated Subadviser is required to manage the Unaffiliated Portion in accordance with the investment objectives and related investment policies of the Multi-Advised Fund as described in its registration statement. Applicants also assert that permitting the transactions will be consistent with the general purposes of the Act and in the public interest because the ability to engage in the transactions increases the likelihood of a Multi-Advised Fund achieving best price and execution on its principal transactions, while giving rise to none of the abuses that section 17(a) was designed to prevent.

B. Payment of Brokerage Compensation by an Unaffiliated Portion to an Affiliated Broker-Dealer

1. Section 17(d)(2) of the Act prohibits an affiliated person or a second-tier affiliate of a registered investment company from receiving compensation for acting as broker in connection with the sale of securities to or by the investment company if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1 sets forth the conditions under which an affiliated person or a second-tier affiliate of an investment company may receive a commission which would not exceed the "usual and customary broker's

---

[1] The terms "Unaffiliated Subadviser," "Subadviser" and "Unaffiliated Portion" include Equitable or an Equitable Affiliate and the discrete portion of a Multi-Advised Fund directly advised by Equitable or an Equitable Affiliate, respectively, provided that Equitable or the Equitable Affiliate manages its portion of the Multi-Advised Fund independently of the portions managed by the other Subdvisers to the Multi-Advised Fund, and Equitable or the Equitable Affiliate does not control or influence any other Subadviser's investment decisions for its portion of the Multi-Advised Fund. [FN3, p.6]

"commission" for purposes of section 17(d)(2). Rule 17e–1(b) requires the investment company's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the Act, to adopt certain procedures and to determine at least quarterly that all transactions effected in reliance on the rule compiled with the procedures. Rule 17e–1(d) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

2. As discussed above, applicants state that an Affiliated Broker-Dealer is either an affiliated person (as Subadviser to another discrete portion of a Multi-Advised Fund) or a second-tier affiliate of an Unaffiliated Portion and thus subject to section 17(e). Applicants request an exemption under section 6(c) from section 17(e) and rule 17e–1 to the extent necessary to permit an Unaffiliated Portion to pay brokerage compensation to an Affiliated Broker-Dealer acting as broker in the ordinary course of business in connection with the sale of securities to or by such Unaffiliated Portion, without complying with the requirements of rule 17e–1(b) and (d). The requested exemption would apply only where an Affiliated Broker-Dealer is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion solely because an Affiliated Subadviser is the Subadviser to another discrete portion of the same Multi-Advised Fund. The requested relief would not be available if the Affiliated Broker-Dealer (except by virtue of serving as a Subadviser) is an affiliated person or a second-tier affiliate of (a) Equitable; (b) the Unaffiliated Subadviser making the investment decision with respect to the Unaffiliated Portion of the Multi-Advised Fund; (c) any principal underwriter or promoter of the Multi-Advised Fund; or (d) any officer, trustee or employee of the Multi-Advised Fund.

3. Applicants believe that the proposal brokerage transactions involve no conflicts of interest or possibility of self-dealing and will meet the standards of section 6(c). Applicants assert that the interests of an Unaffiliated Subadviser are directly aligned with the interests of the Unaffiliated Portion it advises, and an Unaffiliated Subadviser will enter into brokerage transactions with Affiliated Broker-Dealers only if the fees charged are reasonable and fair as required by rule 17e–1(a). Applicants also note that an Unaffiliated Subadviser has a fiduciary duty to obtain best price and execution for the Unaffiliated Portion.

C. Purchases of Securities From Offerings With Affiliated Underwriters

1. Section 10(f) of the Act, in relevant part, prohibits a registered investment company from knowingly purchasing or otherwise acquiring, during the existence of any underwriting or selling syndicate, any security (except a security of which the company is the issuer) a principal underwriter of which is an officer, director, member of an advisory board, investment adviser or employee of the company, or an affiliated person of any of these persons. Section 10(f) also provides that the SEC may exempt by order any transaction or classes of transactions from any of the provisions of section 10(f), if and to the extent that such exemption is consistent with the protection of investors. Rule 10f–3 under the Act exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Paragraph (b)(7) of rule 10f–3 limits the securities purchased by the investment company, or by two or more investment companies having the same investment adviser, to 25% of the principal amount of the offering of the class of securites.

2. Applicants state that each Subadviser, although under contract to manage only a discrete portion of a Multi-Advised Fund, is considered an investment adviser to the entire Multi-Advised Fund. As a result, applicants believe that all purchases of securities by an Unaffiliated Portion from an underwriting syndicate a principle underwriter of which is an Affiliated Underwriter would be subject to section 10(f).

3. Applicants request relief under section 10(f) from that section to permit an Unaffiliated Portion to purchase securities during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Underwriter. Applicants request relief from section 10(f) only to the extent those provisions apply solely because an Affiliated Subadviser is an investment adviser to the Multi-Advised Fund. The requested relief would not be available if the Affiliated Underwriter (except by virtue of serving as a Subadviser) is an affiliated person or a second-tier affiliate of (a) Equitable; (b) the Unaffiliated Subadviser making the investment decision with respect to the Unaffiliated Portion of the Multi-Advised Fund; (c) any principal underwriter or promoter to the Multi-Advised Fund; or (d) any officer, trustee or employee of the Multi-Advised Fund. Applicants also seek relief from section 10(f) to permit an Affiliated Portion to purchase securities during the existence of an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, provided that the purchase will be in accordance with the conditions of rule 10f–3, except that paragraph (b)(7) of the rule will not require the aggregation of purchases by the Affiliated Portion with purchases by an Unaffiliated Portion.

4. Applicants state that section 10(f) was adopted in response to concerns about the "dumping" of otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from its underwriting affiliate, or by forcing or encouraging the investment company to purchase the securities from another member of the syndicate. Applicants submit that these abuses are not present in the context of the Multi-Advised Funds because a decision by an Unaffiliated Subadviser to purchase securities from an underwriting syndicate, a principal underwriter of which is an Affiliated Underwriter, involves no potential for "dumping." In addition, applicants assert that aggregating purchases would serve no purpose because there is no collaboration among Subadvisers, and any common purchases by an Affiliated Subadviser and an Unaffiliated Subadviser would be coincidence.

D. Purchases of Securities Issued by Securities Affiliates

1. Section 12(d)(3) of the Act, in relevant part, generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting (collectively, "securities-related activities"). Rule 12d3–1 under the Act exempts certain transactions from the prohibitions of section 12(d)(3) if specified conditions are met. One of these conditions, paragraph (c) of rule 12d3–1, generally provides that the exemption provided by the rule is not available when the issuer of the securities is the investment company's investment adviser, promoter, or principal underwriter, or an affiliated person of the investment company's investment adviser, promoter, or principal underwriter.

2. Applicants state that each Subadviser is considered to be an affiliated person of an entire Multi-Advised Fund. Thus, an Unaffiliated Portion may not purchase securities of a Securities Affiliate in reliance on rule 12d3–1 because of paragraph (c). Applicants request relief under section 6(c) from section 12(d)(3) to permit an Unaffiliated Portion of a Multi-Advised

Fund to acquire securities of a Securities Affiliate within the limits of rule 12d3–1. The requested exemption would apply only where a Securities Affiliate is deemed to be an affiliated person or a second-tier affiliate of an Unaffiliated Portion within the meaning of Rule 12d3–1(c) solely because an Affiliated Adviser is the Adviser to another portion of the same Multi-Advised Fund.

3. Applicants state that their proposal does not raise the conflicts of interest that rule 12d3–1(c) was designed to address because of the nature of the affiliation between a Securities Affiliate and the Unaffiliated Portion. Applicants submit that each Subadviser acts independently of the other Subadvisers in making investment decisions for the assets allocated to its portion of the Multi-Advised Fund. Further, applicants submit that prohibiting the Unaffiliated Portions from purchasing securities issued by Securities Affiliates could harm the interests of a Fund's shareholders by preventing the Unaffiliated Subadviser from achieving optimal investment results.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each Multi-Advised Fund relying on the requested order will be advised by an Affiliated Subadviser and at least one Unaffiliated Subadviser and will be operated in the manner described in the application.

2. No Affiliated Subadviser, Affiliated Broker-Dealer, Securities Affiliate or Affiliated Underwriter (except by virtue of serving as Subadviser to a discrete portion of a Multi-Advised Fund) will be an affiliated person or a second-tier affiliate of: (a) Equitable or any Equitable Affiliate; (b) any Unaffiliated Subadviser; (c) any principal underwriter or promoter of a Multi-Advised Fund; or (d) any officer, trustee or employee of a Multi-Advised Fund.

3. No Affiliated Subadviser will directly or indirectly consult with any Unaffiliated Subadviser concerning allocation of principal or brokerage transactions.

4. No Affiliated Subadviser will participate in any arrangement whereby the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Subadviser.

5. With respect to purchases of securities by an Affiliated Portion during the existence of any underwriting or selling syndicate a principal underwriter of which is an Affiliated Underwriter, the conditions of rule 10f–3 will be satisfied except that paragraph (b)(7) will not require the aggregation of purchases by the Affiliated Portion with purchases by Unaffiliated Portions.

6. With respect to purchases by an Unaffiliated Portion of securities issued by a Securities Affiliate, the conditions of rule 12d3–1 will be satisfied except for paragraph (c) to the extent such paragraph is applicable solely because such issuer is an Affiliated Adviser or an affiliated person of an Affiliated Adviser.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31916 Filed 12–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934, Release No. 45179/December 20, 2001]

Secutities Industry Association 1401 Eye Street, NW., Washington, DC 20005–2225; Order Extending Broker-Dealer Exemption From Sending Financial Information to Customers

The Securities and Exchange Commission ("Commission") is extending its temporary Order issued December 10, 1999[1] under Section 17(e) of the Securities Exchange Act of 1934 ("Exchange Act") exempting broker-dealers from Exchange Act Section 17(e)(1)(B) and Rule 17a–5(c). These sections require a broker-dealer to send each of its customers semi-annually its balance sheet with appropriate footnotes prepared in accordance with generally accepted accounting principles ("GAAP") and a footnote disclosing the firm's net capital and required net capital. To take advantage of the exemption, a broker-dealer must semi-annually send the net capital footnote to its customers, must send its balance sheet and appropriate footnotes to customers upon request via a toll-free number, and must place its balance sheet and appropriate footnotes on its Web site.

The Commission's temporary Order established a pilot program which expires on December 31, 2001. During the pilot program, a broker-dealer taking advantage of the exemption was required, among other things, to report to the Commission the number of times its balance sheet was viewed on its Web site and the number of requests for paper copies received via its toll-free number. In a letter dated December 11, 2001, the Securities Industry Association ("SIA") stated that it supported an extension of the exemption.

The Commission has determined, on the basis of information set forth in the SIA's letter and information reported by broker-dealers taking advantage of the exemption, that extending the exemption for one year is consistent with the public interest and the protection of investors. The Commission intends to propose a rule amendment shortly which would make the relief permanent.

A broker-dealer exempted under this Order must comply with each of the following requirements:

(1) The broker-dealer semi-annually sends its customers, at the times it otherwise would have sent its customers its balance sheet in accordance with Rule 17a–5(c), a statement which includes: (a) The amount of the broker-dealer's net capital and its required net capital in accordance with Rule 15c3–1, (b) to the extent required under Rule 17a–5(c)(2)(ii), a description of the effect on the broker-dealer's net capital and required net capital of subsidiaries consolidated pursuant to Appendix C of Rule 15c3–1 (jointly the "Net Capital Disclosure"), and (c) any statements otherwise required by Rule 17a–5(c)(2)(iii)–(iv).[2]

(2) The above statement is given prominence in the materials sent to its customers and includes an appropriate caption stating that customers may obtain the broker-dealer's balance sheet (in the case of the annual balance sheet, audited and with the auditor's certification) at no cost, by accessing the broker-dealer's Web site or calling the broker-dealer's stated toll-free number. The statement must provide the specific Internet Universal Research Locator (URL) at which the broker-dealer's balance sheet is located.

(3) The broker-dealer publishes a balance sheet prepared in accordance with GAAP, including footnotes and the Net Capital Disclosure, accessible through each of the following Internet locations:

(a) The broker-dealer's Website homepage, containing a hyperlink providing a direct link to the broker-dealer's balance sheet;

(b) Each page at which a customer can log-on to the broker-dealer's Website, containing a hyperlink providing a

---

[1] Exchange Act Release No. 42222.

[2] A broker-dealer may comply with this requirement by: (a) delivering the statements to its customers in paper copy form or (b) transmitting the statements to its customers electronically.

VOL 66 ISS 249 DE 28 2001 UMI

direct link to the broker-dealer's balance sheet; and

(c) If the Websites for two or more broker-dealers can be accessed from the same home page, a hyperlink directing the Internet user to the home page of each broker-dealer. Upon reaching the broker-dealer's home page, the home page contains a hyperlink providing a direct link to the particular broker-dealer's balance sheet.

Each of the above hyperlinks is placed on the broker-dealer's Website, in either textual or button format, as a separate, prominent link, in a manner that is clearly visible.[3]

(4) The broker-dealer maintains a toll-free number that customers can call to request a paper or electronic copy of its balance sheet.

(5) If a customer requests a paper or electronic copy of the broker-dealer's balance sheet, the firm sends it promptly at no cost to the customer.

(6) If the broker-dealer's net capital falls below the early warning levels of Rule 17a–11 and the broker-dealer fails to cure the relevant deficiency within 24 hours, or if the broker-dealer's auditors determine that a material inadequacy exists with regard to any of the financial disclosures contained in the audited financial statements or in the broker-dealer's internal controls, the firm returns to sending its balance sheet as required under Rule 17a–5(c), including footnotes, by the next date that financial disclosures are required, until the deficiency or material inadequacy is cured.

(7) The broker-dealer submits to the Commission, addressed to Division of Market Regulation, United States Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–1001, no later than 60 days after each distribution of its published statement containing the Net Capital Disclosure:

(a) A report on the number of requests that the broker-dealer has received for copies of its balance sheet via its toll-free number and the number of times its balance sheet has been viewed on its Website. The report contains the number of requests received in the month following its Website publishing of its recent balance sheet and, except in the case of the first Website publishing, in the preceding six months; and

(b) Written investor complaints regarding the exemption received by the broker-dealer in the preceding six months.

Accordingly,

It is ordered, under Exchange Act Section 17(e)(1)(C) and Rule 17a–5(l)(3), that the exemption from Exchange Act Section 17(e)(1)(B) and Rule 17a–5(c) granted in Exchange Act Release No. 42222 is extended to December 31, 2002.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31918 Filed 12–27–01; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45174; File No. SR–MSRB–2001–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Minimum Denominations

December 19, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 19b–4 thereunder,[1] notice is hereby given that on October 16, 2001, Municipal Securities Rulemaking Board ("MSRB") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MSRB–2001–07) (the "proposed rule change") described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB is filing a proposed rule change concerning minimum denominations consisting of an amendment to its rule G–15, on confirmation, clearance and settlement of transactions with customers, an amendment to its rule G–8, on books and records to be made by brokers, dealers and municipal securities dealers, and an interpretation of its rule G–17, on conduct of municipal securities activities.

The text of the proposed rule change follows.[2]

G–15 Confirmation, Clearance, [and] Settlement [of] *and Other Uniform Practice Requirements with Respect to* Transactions with Customers

(a) through (e) No change.

(f) *Minimum Denominations*

(i) *Except as provided in this section (f), a broker, dealer or municipal securities dealer shall not effect a customer transaction in municipal securities issued after June 1, 2002 in an amount lower than the minimum denomination of the issue.*

(ii) *The prohibition in subsection (f)(i) of this rule shall not apply to the purchase of securities from a customer in an amount below the minimum denomination if the broker, dealer or municipal securities dealer determines that the customer's position in the issue already is below the minimum denomination and that the entire position would be liquidated by the transaction. In determining whether this is the case, a broker, dealer or municipal securities dealer may rely either upon customer account information in its possession or upon a written statement by the customer as to its position in an issue.*

(iii) *The prohibition in subsection (f)(i) of this rule shall not apply to the sale of securities to a customer in an amount below the minimum denomination if the broker, dealer or municipal securities dealer determines that the securities position being sold is the result of a customer liquidating a position below the minimum denomination, as described in subsection (f)(ii) of this rule. In determining whether this is the case, a broker, dealer or municipal securities dealer may rely upon customer account records in its possession or upon a written statement provided by the party from which the securities are purchased. A broker, dealer or municipal securities dealer effecting a sale to a customer under this subsection (iii) shall at or before the completion of the transaction, give or send to the customer a written statement informing the customer that the quantity of securities being sold is below the minimum denomination for the issue and that this may adversely affect the liquidity of the position unless the customer has other securities from the issue that can be combined to reach the minimum denomination. Such written statement may be included on the customer's confirmation or may be*

---

[3] This Order exempts certain firms from the delivery requirement under Rule 17a–5(c), in part, based on the protections afforded by the Commission's financial responsibility rules. The condition that a broker-dealer makes its balance sheet available on its Website is not an alternative method of delivering this information to customers under Rule 17a–5(c).

[1] 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4 thereunder.

[2] Italics indicates additions; brackets denote deletions.

provided on a document separate from the confirmation.

Rule G–8. Books and Records To Be Made by Brokers, Dealers and Municipal Securities Dealers

(a) Description of Books and Required to be Made

(i) through (viii) No change.

(ix) Copies of Confirmation, Periodic Statements and Certain Other Notices to Customers. A copy of all confirmation of purchase or sale of municipal securities, of all periodic written statements disclosing purchases, sales or redemptions of municipal fund securities pursuant to rule G–15(a)((viii), *of written disclosures to customers, if any, as required under rule G–15(f)(iii)* and, in the case of a broker, dealer or municipal securities dealer other than a bank dealer, of all other notices sent to customers concerning debits and credits to customer accounts, or, in the case of a bank dealer, notices of debts and credits for municipal securities, cash and other items with respect to transactions in municipal securities.

Rule G–17. Conduct of Municipal Securities Activities

Notice of Interpretation of Rule G–17 Concerning Minimum Denominations

Muncipal securities issuers sometimes set a relatively high minimum denomination, typically $100,000, for certain issues. This may be done so that the issue can qualify for one of several exemptions from Securities Exchange Act Rule 15c2–12, meaning that the issue would not be subject to certain primary market or continuing disclosure requirements. In other situations, issuers may set a high minimum denomination even though the issue is subject to Securities Exchange Act Rule 15c2–12. This may be because of the issuer's (or the underwriter's) belief that the securities are not an appropriate investment for those retail investors who would be likely to purchase securities in relatively small amounts.

Several issuers have expressed concern to the MSRB upon discovering that their issuers with high minimum denotations were trading in the secondary market in transaction amount much lower than the stated minimum denomination.[1] *Based on information obtained from the MSRB Transactions Reporting Program, it appears that there are significant numbers of these types of transactions. In the past, brokers, dealers and municipal securities dealers (collectively "dealers") effecting such transactions likely would have had the problem brought to their attention when attempting to make delivery of a certificate to the customer. This is because the transfer agent would not have been able to honor a request for a certificate with a par value below the minimum denomination. Today, however, increased use of book-entry deliveries and safekeeping arrangements for retail customers largely preclude the need for individual certificates for customers and there is no other systemic screening to identify transactions that are in below-minimum denomination amounts.*

Rule G–17 states: "In the conduct of its municipal securities activities, each broker, dealer, and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice." The MSRB has interpreted this rule to mean, among other things, that dealers are required to disclose, at or before a transaction in municipal securities with a customer, all material facts concerning the transaction, including a compete description of the security. The MSRB has proposed an amendment to rule G–15 that would prohibit transactions in below-minimum denomination amounts for municipal securities issued after June 1, 2002, with certain limited exceptions.[2] *The MSRB anticipates that some transaction in below-minimum denomination amounts may continue to occur for issues prior to June 1, 2002, as well as under the limited exception to the proposed amendment to rule G–15.*[3] *In either case, the MSRB believes that any time a dealer is selling to a customer a quantity of municipal securities below the minimum denomination for the issue, the dealer should consider this to be a material fact about the transaction. The MSRB believes that a dealers's failure to disclose such a material fact to the customer, and to explain how this could affect the liquidity of the customer's position, generally would constitute a violation of the dealer's duty under rule G–17 to disclose all material facts about the transaction to the customer.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Official documents for municipal securities issues sometimes state a "minimum denomination" larger than the normal $5,000 par value. An issuer may state a high minimum denomination (typically $100,000) to qualify for one of several exemptions from Exchange Act Rule 15c2–12, the rule designed to ensure production of certain disclosure documents in the primary and secondary markets. Aside from this rule, an issuer may also sometimes set high minimum denominations for issues because of a concern that the securities may not be appropriate for those retail investors who would be likely to purchase securities in relatively small amounts.

Several issuers have expressed concern to the MSRB upon discovering that their issues with high minimum denominations were trading in the secondary market in transaction amounts much lower than the stated minimum denomination. Based on information obtained from the MSRB Transaction Reporting Program, it appears that there are significant numbers of these types of transactions. In the past, brokers, dealers and municipal securities dealers (collectively "dealers") effecting such transactions likely would have had the problem brought to their attention when attempting to make delivery of a certificate to the customer. This is because the transfer agent would not have been able to honor a request for a certificate with a par value below the minimum denomination. Today, however, increased use of book-entry deliveries and safekeeping arrangements for retail customers largely preclude the need for individual certificates for customers and there is no other systemic screening to identify transactions that are in below-minimum denomination amounts. However, since municipal securities today predominantly stay in a book-entry environment, with ownership recorded on the books and records of depositories and other nominees, a restriction on the par value of certificates does not effectively restrict the size of transactions.

---

[1] *Occasionally, bond documents may state a minimum transaction amount that applies only to primary market transactions, but with a clear indication by the issuer that transactions may occur at lower amounts in the secondary market. The MSRB is not aware of non-authorized transaction amounts occurring for issuers of these types. In general, however, bond documents describing a minimum "denomination" would appear to the intended to apply to both primary and secondary market transactions.*

[2] *Proposed rule change SR–MSRB–2001–07, filed with the Securities and Exchange Commission on October 16, 2001.*

[3] Even for municipal securities issued after June 1, 2002, below-minimum denomination transactions may need to be effected in compliance with proposed MSRB rule G–15(f) to liquidate below-minimum denomination positions created through the exercise of a will, division of a martial estate, as a result of an investor giving a portion of a position as a gift, etc. In addition, the exercise of a sinking fund or other partial redemption by an issuer can sometimes result in customers holding below-minimum denomination amounts.

The purpose of the proposed rule change is to help ensure that dealers observe the minimum denominations stated in the official documents of municipal securities issues. As discussed below, the MSRB received nine comments from issuer and dealer organizations urging that any prohibition on below-minimum denomination trading be prospective in its application with respect to currently outstanding versus future issues of municipal securities. The MSRB agrees that it is appropriate for the rule to be prospective in this manner so that issuers, dealers and other market participants will be aware of the secondary market implications of high minimum denominations at the time the decision is made to incorporate them into an issue's terms. Accordingly, the proposed rule change includes an amendment to MSRB rule G–15 that, for securities issued after June 1, 2002, would prohibit transactions in below-minimum denomination amounts, with two limited exceptions.

The general prohibition of the rule G–15 amendment is designed to prevent dealers from effecting transactions that break up securities positions into amounts below the issue's denomination. The two exceptions in the amendment to rule G–15 are designed to help preserve liquidity of customer's below-minimum denomination positions that may occur through actions other than a dealer effecting transactions in below-minimum denomination amounts.[3] First, a dealer may purchase a below-minimum denomination position from a customer provided that the customer liquidates his/her entire position. Second, a dealer may sell such a liquidated position to another customer but would be required to provide written disclosure, either on the confirmation or separately, to the effect that the security position is below the minimum denomination and that liquidity may be adversely affected by this fact.

Under MSRB rule G–8, on books and records, customer confirmations must be kept for three years in a dealer's books and records. To ensure consistency in the recordkeeping requirements for separate written disclosures given to a customer under the rule G–15 amendment and the recordkeeping requirements for customer confirmations, the proposed rule change includes an amendment to rule G–8 that would require dealers to keep a record of these separate written disclosures for a minimum of three years.

Although certain written disclosures would be required, after the trade, for those transactions done under the second exemption to the rule G–15 amendment, the MSRB also seeks to address a more general need for time-of-trade disclosure in the proposed rule change. Rule G–17 states: "In the conduct of its municipal securities activities, each broker, dealer, and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice." The MSRB has interpreted this rule to mean, among other things, that dealers are required to disclose, at or before the sale of municipal securities to a customer, all material facts concerning the transaction, including a complete description of the security. The proposed rule change includes an interpretation of rule G–17 stating that any time a dealer is selling to a customer a quantity of municipal securities below the minimum denomination for the issue, the dealer should consider this to be a material fact about the transaction. The MSRB believes that a dealer's failure to disclose such a material fact to the customer, and to explain how this could affect the liquidity of the customer's position, generally would constitute a violation of the dealer's duty under rule G–17 to disclose all material facts about the transaction of the customer.

While the rule G–15 amendment applies only to municipal securities issued after June 1, 2002, the interpretation of rule G–17 applies to all transactions in municipal securities regardless of the date of issuance of the security traded. This helps ensure that all future investors are made aware at or prior to the time of trade that the securities position they are about to purchase is below the minimum denomination and that the liquidity of that position may be adversely affected by this fact.

2. Basis

The MSRB believes the proposed rule change is consistent with Section 15(b)(2)(C) of the Exchange Act, which provides that the MSRB's rules:

> . . . be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade . . . and to protect investors and the public interest . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will impose any burden on competition in that it applies equally to all dealers in municipal securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Member, Participants, or Others

On March 14, 2001, the MSRB published a notice seeking comment on an exposure draft of the proposed rule change ("March 2001 draft amendment")[4] the terms of which substantially were the same as the rule G–15 amendment. The March 2001 draft amendment differed from the one in the proposed rule change in that it would have restricted transactions in all municipal securities, while the one in the proposed rule change applies only to municipal securities issued after June 1, 2002. In addition, the proposed rule change includes an interpretation of rule G–17 and a rule G–8 recordkeeping requirement, while the March 2001 draft amendment did not.

The MSRB received comments on the March 2001 draft amendment from the following fifteen commentators: A.G. Edwards & Sons, Inc. ("A.G. Edwards"); Association for Investment Management and Research ("AIMR"); Colorado Health Facilities Authority ("Colorado HFA"); First Miami Securities, Inc. ("First Miami"); Idaho Health Facilities Authority ("Idaho HFA"); Indiana Health Facility Financing Authority ("IHFFA"); Maryland Health and Higher Educational Facilities Authority ("Maryland HHEFA"); MEK Securities LLC ("MEK Securities"); National Council of Health Facilities Finance Authorities ("NCHFFA"); New Jersey

---

[3] A below-minimum denomination position may be created, for example, by call provisions that allow calls in amounts less than the minimum denomination, investment advisors who may split positions they purchase among several clients or the division of an estate as a result of a death or divorce. Such below-minimum denomination positions also may be created as a result of a gift.

[4] "Minimum Denominations," *MSRB Reports*, Vol. 21, No. 1 (May 2001) at 15.

Health Care Facilities Financing Authority ("NJHCFFA"); Regional Municipal Operations Association ("RMOA"); Securities Operations Division—Securities Industry Association ("SIA Operations Division"); Stoever Glass and Co. ("Stoever Glass"); The Bond Market Association ("TBMA"); and Wisconsin Health and Educational Facilities Authority ("Wisconsin HEFA").

Among these commentators there was general though not unanimous support. All six municipal securities issuers who commented ("Six Issuers")[5] and the NCHFFA stated "the draft amendment strikes an appropriate balance between enforcing the bondholder protections contained in the bond documents and not unduly impairing the liquidity of bonds currently held in unauthorized denominations by unsuspecting bondholders." AIMR stated that they "view the MSRB's attempt to hold dealers accountable for complying with set minimum denominations as a positive step in reinforcing certain safeguards for existing and potential investors." A.G. Edwards also supported the March 2001 draft amendment because "it will provide a level of comfort and certainty for customers and member firms when dealing with such situations, which usually are not of their own making." The SIA Operations Division stated that it "supports the intent of the MSRB to ensure compliance with issuer guidelines relating to minimum denominations in transactions effected for customers."

Some commentators, however, expressed basic disagreement over the use of minimum denominations as a means to restrict purchasers to certain types of investors. Stoever Glass stated that a "minimum purchase requirement does not properly address the intended purpose, if the purpose is to limit the purchase of such securities to sophisticated accredited investors." First Miami stated, "Since many investors will increase their purchase to the $100,000 minimum, they will be taking on more risk than they are normally inclined to. If they don't want to invest the minimum $100,000, they are then unfairly denied access to these securities."

The TBMA emphasized the burden that the March 2001 draft amendment would place on dealers and on investors currently holding below-minimum denomination positions. The RMOA emphasized the operational difficulties that the March 2001 draft amendment would impose on dealers. Several commentators noted the potential loss of liquidity of current below-minimum denomination positions[6] and the fact that below-minimum denomination positions can be created by a variety of factors other than dealer action.[7]

1. Prospective Application

The MSRB agrees with those commentators who noted that, even with the two exceptions, the proposed restrictions would made it more difficult for dealers to transact in below-minimum denomination positions.[8] to use the exceptions, a dealer must: (a) establish that a proposed transaction fits into one of the exceptions; and (b) provide separate written disclosure to any customer buying into a below-minimum denomination position. These requirements would likely make below-minimum denomination positions currently held by investors more difficult for dealers to sell.

Because of the effect that the March 2001 draft amendment's trading restriction would have placed on below-minimum denomination positions, nine commentators suggested that the draft amendment apply only to securities issued after some date in the future.[9] The MSRB adopted this suggestion and believes it will help to minimize the negative effect on liquidity for existing bondholders with below-minimum denomination positions and allow issuers, dealers and information vendors to change their current practices and systems if necessary to accommodate the proposed rule change.[10] The MSRB views this as a significant cost to vendors and dealers, but not a major one.[11] The MSRB believes that June 1, 2002 would be an appropriate effective date for such a rule so that issues issued after that date would be covered by the rule.

2. Confirmation Disclosure or Separate Written Disclosure

For those securities issued after the effective date, the March 2001 draft amendment would have required a dealer to provide a separate written disclosure to a customer purchasing a below-minimum denomination position. RMOA suggested that it would be easier for the dealer in this case simply to provide confirmation disclosure. The MSRB concluded that confirmation disclosure would be easier for some dealers, but noted that other dealers may find it easier to send a separate written document rather than to change their automated systems that produce customer confirmations. Since either form of written disclosure should serve the same purpose, the MSRB chose to give dealers the option of providing written disclosure on a separate written document or on a trade confirmation.

3. Institutional Customers

A proposal was made by Stoever Glass to limit sales of below-minimum denomination positions to accredited investors, in lieu of the restrictions proposed by the March 2001 draft amendment. The MSRB considered whether it would be possible to restrict sales of below-minimum denomination positions to "institutional accounts," as defined under MSRB rule G-8(a)(xi), without a separate written disclosure. While this exemption probably would fit within the issuer's objective, it would be inconsistent with the approach taken in the Exchange Act Rule 15c2–12 and the MSRB did not adopt it.

4. Customer Ability To Sell Part of Below-Minimum Denomination Position Instead of Whole Position Liquidated

A.G. Edwards, TBMA and SIA Operations Division stated that they believe it is unfair to the investor holding a below-minimum denomination position to be required to sell the entire position at one time. The MSRB believes that allowing partial sales by the customer in these cases would act against the basic purpose of the rule. For example, an institutional investor holding a position of $95,000 could sell out the position at $5,000 or $10,000 per transaction, effectively reaching the retail market with the securities and creating a number of below-minimum denomination positions where there was once only one. The MSRB also notes that, with the prospective application of the rule,

---

[5] Colorado HFA, Idaho HFA, IHFFA, Maryland HHEFA, NJHCFFA, and Wisconsin HEFA.

[6] Six Issuers, NCHFFA, SIA Operations, Stoever Glass and TBMA.

[7] A.G. Edwards, RMOA and TBMA.

[8] MEK Securities, RMOA, SIA Operations and TBMA. The proposed rule change would not, as suggested in the A.G. Edwards letter and TBMA letter, restrict inter-dealer transactions since rule G–15 applies only to customer transactions.

[9] Six Issuers and NCHFFA, RMOA and TBMA.

[10] The accuracy of vendor information on minimum denominations was called into question in the comment letters of A.G. Edwards and TBMA. MEK Securities suggested an enhancement to the MSRB's web site that would include a list of CUSIP numbers and their respective minimum denominations. Since private vendors have been active in collecting descriptive information on municipal securities for a number of years, the MSRB believes that information generally is available, even though, as in any information database there may be errors. The MSRB does not believe that it should explore undertaking this information function itself unless the vendor response to the proposed rule change is shown to be ineffective.

[11] Based on representations from the three major information vendors, each has a field for minimum denominations.

VOL 66 ISS 249 DE 28 2001 UMI

current investors would not be affected and that future investors in issues issued after June 1, 2002 will have notice of the effect of minimum denominations on their municipal securities positions.

5. Other Suggestions

A.G. Edwards and TBMA both recommended that dealers should be able to correct an erroneous transaction done in a below-minimum denomination amount. If a dealer mistakenly sells a below-minimum denomination position to a customer, such a correction generally would be possible under the second exception in the proposed rule change.[12] Other commentators suggested that the rule should not apply if the issuer failed to state the purpose of its denomination restriction in bond documents or if a below-minimum denomination position was created by an action of the issuer, such as by a partial call. The MSRB notes that issuers do not generally state the purpose of the denominations they choose. Moreover, Rule 15c2–12 provides disclosure exemptions that apply to an issue regardless of whether the issuer states the purpose of its minimum denomination in bond documents or exercises calls that take an investor's authorized position into a below-minimum denomination amount. Therefore, the MSRB has not adopted these suggestions.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) by order approve such proposed rule change, or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are inviting to submit written data, views, and arguments concerning the forgoing, including whether the proposed rule change is consistent with the Act. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the MSRB's principal offices. All submissions should refer to File SR–MSRB–2001–07 and should be submitted by January 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31917 Filed 12–27–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45167; File No. SR–PCX–2001–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Changes in Marketing Fees

December 18, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2001, the Pacific Exchange, Inc. ("PCX") filed with the Security and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which the PCX has prepared. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to change its marketing fee for certain options and to declare a marketing fee for recently listed options. A copy of the proposed new Schedule of Fees and Charges for Exchange Services is available at the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of the statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The PCX recently adopted a payment-for-order-flow program under which it charges a marketing fee ranging from $0 to $1.00 per contract on a per-issue basis.[3] The PCX segregates the funds from this fee by trading post and makes the funds available to Lead Market Makers for their use in attracting orders in the options traded at the posts. The PCX charges the marketing fees in the amounts set forth in its Schedule of Fees and Charges for Exchange Services, hereinafter referred to as the "Schedule of Rates."

The PCX proposes to amend its Schedule of Rates in order to change the marketing fee that it charges for certain options and to adopt new marketing fees for newly listed options, beginning with the start of the December trade month and continuing until further notice. Only the amount of the fee is being changed.[4] The PCX believes that the proposed rule change has been designed to enable the PCX to compete with other markets in attracting options business, and that the proposed rule change is therefore reasonable and equitable.

---

[12] There may be unique situations when dealers effect transactions in violation of the rule and cannot reverse the transactions under the second exception. For example, a dealer may unintentionally sell an unauthorized amount of securities to a customer already holding an authorized amount. The transaction would be a violation of the rule, albeit an unintentional one. The MSRB believes the enforcement agencies have enough flexibility that they are not required to further penalize the dealer if the dealer corrects the situation by reversing the transaction.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44830 (September 21, 2001), 66 FR 49728 (September 28, 2001) (SR–PCX–2001–37).

[4] The PCX proposes to change only the amounts of the fees that it charges for transactions in the options that are included in the proposed amended Schedule of Rates. Any fees currently being charged for transactions in options that are not listed in this amendment to the Schedule of Rates would not be affected by the proposed rule change. Telephone conversation between Mai Shiver, Senior Attorney, PCX, and Patrick Joyce, Special Counsel, Division of Market Regulation, Commission, on December 10, 2001.

2. Basis

The PCX believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] particularly Section 6(b)(4) of the Act,[6] in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The PCX neither solicited nor received any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the PCX has designated the foregoing as a fee change pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(2) thereunder,[8] the proposal has become effective immediately upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–49 and should be submitted by January 18, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–31871 Filed 12–27–01; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.625 (4 ⅝) percent for the January–March quarter of FY 2002.

LeAnn M. Oliver,

Deputy Associate Administrator for Financial Assistance.

[FR Doc. 01–31951 Filed 12–27–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region 1—Maine District Advisory Council; Public Meeting

The U.S. Small Business Administration Augusta, Maine District Advisory Council, will hold a public meeting at 10:00 a.m. February 5th, 2002 at 68 Sewall Street, Room 510, Augusta, Maine to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Mary MaAleney, in writing by letter or fax no later than January 25th, 2002, in order to be put on the agenda. Please direct questions to Mary McAleney, District Director, U.S. Small Business Administration, 68 Sewall Street, Room 512, Augusta, Maine 04330, (201) 622–8386 phone, (207) 622–8277 fax. For further information, write or call Mary McAleney, District Director, U.S. Small Business Administration, 68 Sewall Street, Room 512, Augusta, Maine 04330, (207) 622–8386 phone, (207)622–8277 fax.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–31952 Filed 12–27–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Modifications to the Disability Determination Procedures; Extension of Disability Claims Process Redesign Prototype and Test of Single Decisionmaker Model

AGENCY: Social Security Administration.

ACTION: Notice of the extension of two tests involving modifications to the disability determination procedures.

SUMMARY: We are announcing the extension of two tests of modifications to our disability determination procedures that we are conducting under the authority of current rules codified at 20 CFR 404.906 and 416.1406. These rules provide authority to test several modifications to the disability determination procedures that we normally follow in adjudicating claims for disability insurance benefits under title II of the Social Security Act (the Act) and for supplemental security income payments based on disability under title XVI of the Act. We have decided to extend selection of cases for six months while we identify the most positive elements of the tests for rollout, and to enable us to address transition issues.

DATES: We are extending our selection of cases to be included in these tests from December 31, 2001 until no later than June 28, 2002. If we decide to continue selection of cases for these tests beyond this date, we will publish another notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Phil Landis, Director, Disability Process Redesign Staff, Office of Disability, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland, 21235, 410–965–5388.

SUPPLEMENTARY INFORMATION: Current regulations at 20 CFR 404.906 and 416.1406 authorize us to test, individually or in any combination, several different modifications to the disability determination procedures. We

---

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

VOL 66 ISS 249 DE 28 2001 UMI

have conducted several tests under the authority of these rules, including a prototype that incorporates a number of modifications to the disability determination procedures that the State agencies use. We also have conducted tests involving the use of a single decisionmaker who may make the initial disability determination in most cases without requiring the signature of a medical consultant. We are now announcing the extension of these two tests.

Extension of Test of Prototype Process

On August 28, 1999, we published in the **Federal Register** a notice announcing that we would test a new disability claims process in 10 States (64 FR 47218). In that notice, we stated that selection of cases to be included in the prototype would begin on or about October 1, 1999, and would be concluded on or about December 31, 2001. We also stated that, if we decided to continue the prototype beyond that date, we would publish another notice in the **Federal Register**. That is one of the purposes of this notice. We have decided to extend selection of cases for the prototype process beyond December 31, 2001, while we identify the most positive elements of the tests for rollout, and to enable us to address transition issues. We expect that our selection of cases under the prototype will end on or before June 28, 2002.

This extension also applies to the locations in the State of New York that we added to the test in a notice published in the **Federal Register** on December 26, 2000 (65 FR 81553).

Extension of Test of Single Decisionmaker Model

On December 23, 1999, we published a notice in the **Federal Register** (65 FR 72134) extending through December 31, 2001, the period during which we would select cases to be included in a test of the single decisionmaker feature. We have decided to extend selection of cases for the test of the single decisionmaker beyond December 31, 2001, to allow time for us to make decisions about this feature. We expect that our selection of cases for the test of the single decisionmaker will end on or before June 28, 2002.

Dated: December 19, 2001.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

[FR Doc. 01–31895 Filed 12–27–01; 8:45 am]

BILLING CODE 4191–02–U

SOCIAL SECURITY ADMINISTRATION

Ticket to Work and Work Incentives Advisory Panel Teleconference

AGENCY: Social Security Administration (SSA).

ACTION: Notice of teleconferences.

DATES: January 23, 2002 and January 24, 2002.

ADDRESSES: Ticket to Work and Work Incentives Advisory Panel Office, Social Security Administration, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.

TELECONFERENCES: Wednesday, January 23, 2002, 3 p.m. to 6 p.m.; Thursday, January 24, 2002. 1 p.m. to 4 p.m.:

Ticket to Work and Work Incentives Advisory Panel Conference Calls. Call-in number for both days: 1–888–793–1765. Pass code for both days: 12211. Leader/Host: Sarah Wiggins Mitchell.

SUPPLEMENTARY INFORMATION:

Type of meeting: These teleconference meetings are open to the public. The interested public is invited to participate by coming to the address listed above or calling into the teleconferences. Public testimony will not be taken.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces these teleconference meetings of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Public Law 106–170 establishes the Panel to advise the Commissioner of SSA, the President, and the Congress on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Agenda: The Panel will deliberate on the implementation of TWWIIA, conduct committee activities and administrative business. Topics of discussion may include the Panel's annual report and the Social Security Administration's adequacy of incentive study and $1 for $2 research. The agendas for these meetings will be posted on the Internet at *http://www.ssa.gov/work/panel/* one week prior to the teleconferences or can be received in advance electronically or by fax upon request.

Contact Information: Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff by:

- Mail addressed to Ticket to Work and Work Incentives Advisory Panel Staff, Social Security Administration, 400 Virginia Avenue, SW., Suite 700, Washington, DC, 20024;
- Telephone contact with Kristen Breland at (202) 358–6430;
- Fax at (202) 358–6440; or
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: December 19, 2001.

Deborah M. Morrison,

Designated Federal Officer.

[FR Doc. 01–31896 Filed 12–27–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice #3834]

Notice of Meetings; United States International Telecommunication Advisory Committee, Telecommunication Sector

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee. The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union (ITU).

The ITAC will meet from 9:30 to 12:30 on Tuesday. January 3, 2002 to continue preparations for the ITU Plenipotentiary Conference (PP02). This meeting will be held in the IRAC Room (Room 1605) of the Department of Commerce, 14th and Constitution Avenue, Washington, DC. Individuals from the private sector who desire to attend should advise the State Department (*jillsonad@state.gov*) by name and affiliation. The ITAC PP02 meeting previously scheduled for January 15 has been cancelled.

The ITAC will meet as the ITAC-T from 9:30 to noon on Wednesday, January 9, 2002 to debrief the November 2001 Telecommunication Sector Advisory Group (TSAG) meeting and to start preparations for the next TSAG in June 2002. This meeting will be held at the Telecommunications Industry Association, 1300 Pennsylvania Avenue, Suite 350, Washington, DC.

The ITAC will meet as US Study Group B from about noon to 4:00 on Friday, January 11, 2002 to prepare for meetings of ITU Study Groups 13 and 16. This meeting will be held at the Hyatt Regency Savannah, 2 West Bay Street, Savannah, GA 31401.

The ITAC will meet as US Study Group D from 9:30 to 3:30 on Wednesday, January 16, 2002 to prepare for meetings of ITU Study Groups 16 and 17. This meeting will be held at the Telecommunications Industry Association, 1300 Pennsylvania Avenue, Suite 350, Washington, DC. If preparations for SG17 are not completed at this meeting, they will be continued via email from February 6–13, 2002. Directions for joining the Study Group D email reflector for this e-mail meeting can be provided by the Secretariat (see below).

Members of the general public may attend these meetings. Directions to meeting location and actual room assignments may be determined by calling the ITAC Secretariat at 202 647–0965 or e-mail to *minardje@state.gov*.

Attendees may join in the discussions, subject to the instructions of the Chair. Admission of participants will be limited to seating available.

Dated: December 20, 2001.

Doreen F. McGirr,

Director, Telecommunications Development, U.S. Department of State.

[FR Doc. 01–31970 Filed 12–27–01; 8:45 am]

BILLING CODE 4710–45–P

DEPARTMENT OF STATE

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Public Notice 3833]

[Docket No. MARAD–2001–11135]

Secretary of State's Advisory Committee on Private International Law; Study Group on International Carriage of Goods by Sea; Meeting Notice

There will be a public meeting of a study group of the Secretary of State's Advisory Committee on Private International Law on Wednesday, January 9, 2002, to consider the draft instrument on the International Carriage of Goods by Sea, as prepared by the Comité Maritime International (CMI) for the United Nations Commission on International Trade Law (UNCITRAL). The meeting will be held from 9:30 a.m. to 5:00 p.m. in rooms 3200–3204 of the Nassif building at the Department of Transportation, 400 Seventh Street, SW, Washington, DC.

The purpose of the Study Group meeting is to assist the Departments of State and Transportation in determining the U.S. negotiating position for the first session of the UNCITRAL Working Group on this draft instrument, to be held in New York from April 15 to 26, 2002.

The text prepared by CMI at the request of UNCITRAL will constitute the basic working document of the UNCITRAL Working Group. A copy of the preliminary draft convention should shortly be available on UNCITRAL's website, *www.uncitral.org*. Persons interested in the work of the study group may also request copies from Ms. Rosalia Gonzales by fax at 202–776–8482, by telephone at 202–776–8420 (you may leave your request, name, telephone number, e-mail, or mailing address on the answering machine), or by e-mail at *gonzaler@ms.state.gov*. E-mail is the most efficient way to transmit the documents.

The Study Group meeting is open to the public up to the capacity of the meeting room. Persons wishing to attend should contact Ms. Gonzales by telephone, fax, or e-mail, providing their name, affiliation, telephone and fax number, and e-mail address. Persons who wish to have their views considered are encouraged to submit written comments in advance of the meeting. Comments should refer to docket number MARAD–2001–11135. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.s.t., Monday through Friday, except federal holidays. An electronic version of this document along with all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

Mary Helen Carlson,

Attorney-Adviser, Office of the Assistant Legal Adviser For Private International Law, U.S. Department of State.

Edmund T. Sommer, Jr.,

Chief, Division of General and International Law, Office of the Chief Counsel, Maritime Administration, U.S. Dept. of Transportation.

[FR Doc. 01–31971 Filed 12–27–01; 8:45 am]

BILLING CODE 4710–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Extension of Deadline for the Submission of Written Comments on What Action, If Any, the President Should Take Under Section 203 of the Trade Act of 1974 With Regard to Imports of Certain Steel and Responses to Such Comments

AGENCY: Office of the United States Trade Representative.

ACTION: Extension of deadline for submission of comments and responses.

SUMMARY: The Trade Policy Staff Committee ("TPSC") is extending the deadline for the submission of written comments on what action, if any, the President should take under section 203 of the Trade Act of 1974 (19 U.S.C. 2253) ("Trade Act") with regard to imports of certain steel and responses to such written comments, which were requested in a **Federal Register** notice of October 26, 2001. *See* 66 FR 54321 ("Notice").

DATES: The deadline for written comments on what action, if any, the President should take under section 203 of the Trade Act is being extended to January 4, 2002, and the deadline for responses to such written comments is being extended to January 15, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representative, 600 17th Street, NW., Room 501, Washington, DC 20508. Telephone (202) 395–5656.

SUPPLEMENTARY INFORMATION: On October 26, 2001, the TPSC published in the **Federal Register** a request for written public comments on what action the President should take under section 203 of the Trade Act to facilitate efforts by the domestic industries producing certain steel products to make a positive adjustment to import competition and provide greater economic and social benefits than costs. *See* 66 FR 54321 ("Notice"). According to the Notice, the deadline for the submission of written comments on what action, if any, the President should take under section 203 of the Trade Act is December 28, 2001, and the deadline for responses to such written comments is January 8, 2002. The TPSC is extending the deadline for written comments until not later than January 4, 2002, and the deadline for responses to written comments until not later than January 15, 2002. Parties should refer to the Notice, as modified by the TPSC's **Federal Register** notice of November 29, 2001 (66 FR 59599), for

VOL 66 ISS 249 DE 28 2001 UMI

instructions for the submission of written comments.

Donald Eiss,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 01–32002 Filed 12–27–01; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Orange County, California

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a series of proposed grade separations within the Orangethorpe Rail Corridor (a section of the Burlington Northern Santa Fe rail line) located within the Cities of Placentia and Anaheim in Orange County, California.

FOR FURTHER INFORMATION CONTACT: Tay Dam, Senior Transportation Engineer, Federal Highway Administration—Los Angeles Metro Office, 201 N. Figueroa Street, Suite 1460, Los Angeles, CA 90012. Telephone: (213) 202–3954.

SUPPLEMENTARY INFORMATION: The Burlington Northern Santa Fe (BNSF) rail line through Orange County is one of three main rail freight routes out of the Los Angeles area. International cargo comes into and out of the Ports of Los Angeles and Long Beach. The BNSF rail line serves those ports via the Alameda Corridor, a joint use line serving both the Union Pacific and BNSF railway companies, connects to the Hobart Yard outside downtown Los Angeles, and proceeds southeast through Pico Rivera and Santa Fe Springs. The line then continues through northern Orange County, the City of Corona, San Bernardino County, and, ultimately, the Gulf States and eastern United States. This proposed project is a part of the regional traffic congestion relief project called the Orange County Gateway (OCG) which is located within the limits of the Cities of Placentia, Fullerton, Anaheim, Yorba Linda, and the County of Orange.

The FHWA, as a federal lead agency, in cooperation with the Federal Railroad Administration, the California Department of Transportation, and the City of Placentia/Orange North American Trade Rail Access Corridor Authority (On Trac), will prepare an Environmental Impact Statement (EIS) on a proposal to (1) Reduce traffic congestion; (2) eliminate or reduce the current and potential hazards posed by the existing at-grade crossings; (3) accommodate currently planned railroad expansion; (4) and implement transportation strategies to increase the efficiency of moving people and goods throughout the Orangethorpe Rail Corridor area.

Alternatives under consideration include (1) A no build option; (2) a series of grade separations option; and (3) a railroad trench option within the Orangethorpe Rail Corridor between Placentia Avenue and Imperial Highway in northern Orange County, California.

These basic alternatives will have additional design variations and other engineering details. A final selection of study alternatives and their subset variations will not be made until all public and agency comments are reviewed following the Scoping process.

Note: As required by the National Environmental Policy Act (NEPA) of 1969, all other reasonable alternatives will be considered. These alternatives may be refined, combined with various different alternative elements, or be removed from further consideration, as more analysis is conducted on the project alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public scoping meetings will be held on January 22 and 24, 2002 in the City of Placentia prior to preparation of the draft EIS. Public notice will be given of the time and place of these meetings.

Public hearing(s) will be held after the draft EIS is completed. Public notice will be given of the time and place of the hearing(s). The draft EIS will be available for public and agency review and comment prior to the formal public hearing(s).

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: December 19, 2001.

Jeffrey W. Kolb,

Chief, District Operations-South, Sacramento, California.

[FR Doc. 01–31904 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Presidential Memorandum of December 12, 2001; Marine War Risk Insurance Under Title XII of the Merchant Marine Act, 1936

On December 12, 2001, President George W. Bush approved the provision of vessel war risk insurance by memorandum for the Secretary of State and the Secretary of Transportation. The text of this memorandum reads:

> By virtue of the authority vested in me by the Constitution and laws of the United States, including 3 U.S.C. 301 and section 1202 of the Merchant Marine Act, 1936, as amended (the "Act"), 46 U.S.C. App. 1282, I hereby:
>
> Approve the provision by the Secretary of Transportation of insurance or reinsurance of vessels (including cargoes and crew) entering the Middle East region against loss or damage by war risks in the manner and to the extent approved in title XII of the Act, 46 U.S.C. App. 1281, *et seq.*, for purposes of responding to the recent terrorist attacks, whenever, after consultation with the Department of State, it appears to the Secretary of Transportation that such insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States. The approval is effective for 6 months.
>
> I hereby delegate to the Secretary of Transportation, in consultation with the Secretary of State, the authority vested in me by section 1202 of the Act, to approve the provision of insurance or reinsurance for these purposes after the expiration of 6 months.

The Secretary of Transportation is directed to bring this approval to the immediate attention of all operators and to arrange for its publication in the **Federal Register**.

By Order of the Maritime Administrator.

Dated: December 21, 2001.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 01–32019 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Barbara Williams at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–01), 202–366–4327. 400 Seventh Street, SW, Room 5319, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 556, Petitions for Inconsequentiality.

OMB Number: 2127–0045.

Type of Request: Reinstatement, without change, of a previously approved collection for which has expired.

Abstract: The National Highway Traffic Safety Administration's statue at 49 U.S.C. 30113 General exemptions at subsection (b) Authority to exempt and procedures, authorizes the Secretary of Transportation upon application of a manufacturer, to exempt the applicant from the notice and remedy requirements of 49 U.S.C. Charter 301, if the Secretary determines that the defect or noncompliance is inconsequential as it relates to motor vehicle safety. The notice and remedy requirements of Chapter 301 are set forth in 49 U.S.C. 30120 Remedies for defects and noncompliance. Those sections require a manufacturer of motor vehicles or motor vehicle equipment to notify distributors, dealers, and purchasers if any of the manufacturer's products are determined either to contain a safety-related defect or to fail to comply with an applicable Federal motor vehicle safety standard. The manufacturer is under a concomitant obligation to remedy such defects or noncompliance. NHTSA exercised this statutory authority to excuse inconsequential defects or noncompliance when it promulgated 49 CFR part 556, Petitions for Inconsequentiality-this regulation establishes the procedures for manufacturers to submit such petitions to the agency will use in evaluating those petitions. Part 556 allows the agency to ensure that petitions filed under 15 U.S.C. 30113 (b0 are both properly substantiated and efficiently processed.

Affected Public: Business or other-for-profit.

Estimated Total Annual Burden: 30.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on December 21, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–32012 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The Federal Register Notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Jonathan White at the National Highway Traffic Safety Administration, Office of Defects & Recall Information Analysis (NSA–11), 202–366–5227. 400 Seventh Street, SW, Room 5319, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Names and Addresses First Purchasers of Motor Vehicles.

OMB Number: 2127–0044.

Type of Request: Reinstatement, with change, of a previously approved collection for which has expired.

Abstract: 49 U.S.C. 30117 Providing information to, and maintaining records on, purchasers at subparagraph (b) Maintaining purchaser records and procedures states in part: A manufacturer of motor vehicle or tire (except a retreaded tire) shall maintain a record of the name and address of the first purchasers of each vehicle or tire it produces and, to the extent prescribed by regulations of the Secretary, shall maintain a record of the name and address of the first purchaser of replacement equipment (except a tire) that the manufacturer produces. This agency has no regulation specifying how the information is to be collected or maintained. When NHTSA's authorizing statue was enacted in 1966, Congress determined that an efficient recall of defective or noncomplying motor vehicles required the vehicle manufacturers retain an accurate record of vehicle purchasers, By virtue of quick and easy access to this information, the manufacturer is able to quickly notify vehicle owners in the event of the of a recall. Experience with this statutory provision has shown that manufacturers have retained this information in a manner sufficient to enable them to expeditiously notify vehicle purchasers in case of a recall. Based on this experience, NHTSA has determined that no obligation is needed. Without this type of information readily available, manufacturers would either need to spend more time or money to notify purchasers of a recall.

VOL 66 ISS 249 DE 28 2001 UMI

Affected Public: Business or other-for-profit.

Estimated Total Annual Burden: 950,000.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC on December 21, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–32013 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The Federal Register Notice with a 60-day comment period was published on August 16, 2001, 66 FR 43037.

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Heidi L. Coleman at the National Highway Traffic Safety Administration, Office of Chief Counsel, NCC–30, 202–366–1834, 400 Seventh Street, SW., Room 5219, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration (NHTSA)

Title: 49 CFR Part 512, Confidential Business Information.

OMB Number: 2127–0025.

Type of Request: Extension of a currently approved collection.

Abstract: NHTSA's statutory authority under title 49 of the United States Code prohibits the agency, with certain exceptions, from making public confidential information which it obtains. On the other hand, the Administrative Procedure Act requires all agencies to make public all non-confidential information upon request (5 U.S.C. 552) and all agency rules to be supported by substantial evidence in the public record (5 U.S.C. 705). It is therefore important for the agency to determine promptly whether or not information it obtains should be accorded confidential treatment.

NHTSA promulgated 49 CFR part 512, Confidential Business Information, to establish the procedure by which NHTSA will consider claims that information submitted to the agency, or which it otherwise obtains, is confidential business information. Because of part 512, both NHTSA and the submitters of information for which confidential treatment is requested are able to ensure that confidentiality requests are properly substantiated and expeditiously processed.

Affected Public: Business and other for-profit, individuals or households.

Estimated Total Annual Burden: 1064 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Dated: Washington, DC, November 29, 2001.

John Womack,

Acting Chief Counsel.

[FR Doc. 01–32014 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period was published on February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Jonathan White at the National Highway Traffic Safety Administration, Office of Defects & Recall Information Analysis (NSA–11), 202–366–5227, 400 Seventh Street, SW., Room 5319, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration.

Title: 49 CFR part 566 Manufacturer's Identification.

OMB Number: 2127–0043.

Type of Request: Reinstatement, with change, of a previously approved collection for which has expired.

Abstract: The National Highway Traffic Safety Administration's statute at 49 U.S.C. 30118 Notification of defects and noncompliance requires manufacturers to determine if the motor vehicle or item or replacement equipment contains a defect related to motor vehicle safety or fails to comply with an applicable Federal Motor Vehicle Safety Standard. Following such determination, the manufacturer is required to notify the Secretary of Transportation, owners, purchasers and dealers of motor vehicles or replacement equipment, of the defect or noncompliance and to remedy the defect or noncompliance without charge to the owner. With this determination, NHTSA issued 49 CFR part 566, Manufacturer Identification. Part 566 requires every manufacturer of motor vehicles and/or replacement equipment to file with the agency on a one time basis, the required information specified in part 566.

Affected Public: Business or other-for-profit.

Estimated Total Annual Burden: 25.

ADDRESS: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on December 21, 2001.

Delmas Johnson,

Acting Associate Administrator for Administration.

[FR Doc. 01–32015 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Commercial Motor Vehicle Crash Data Collection and Analysis Improvement

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of availability—discretionary grants to assist states in improving or revising their commercial vehicle crash data collection procedures.

SUMMARY: This notice solicits proposals from States for projects to improve traffic records, specifically data collection and analysis on commercial motor vehicle crashes. Where deficiencies in reporting or recording of such crashes are identified, a state may seek funding to develop new or revised systems or procedures and/or policies to improve its reporting and recording procedures. The NHTSA will provide grant funds to selected States to carry out the projects for improvements in data collection and analysis, in accordance with section 225 of Public Law 106–159.

DATES: Proposals must be received at the office designated below by 3 p.m. on or before February 26, 2002.

ADDRESSES: Proposals must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), Attn: Mr. Joe Comella, 400 7th Street SW., Room 5301, Washington, DC 20590. All applications must include a reference to NHTSA Program Number DTNH22–01–G–07083.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Comella, National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30). All questions and requests for copies may be directed by e-mail to *jcomella@nhtsa.dot.gov* or by telephone at 202–366–9568. Those desiring notification of receipt of their proposal submission must include a self-addressed, stamped envelope or postcard. Technical questions relating to this program should be directed to either Kenneth Rutland (*Kenneth.rutland@nhtsa.dot.gov*) NHTSA, Room 6213 (NRD–33) 400 7th Street SW., Washington, DC 20590, 202–493–0055, or to John Brophy (*John.Brophy@nhtsa.dot.gov*) NHTSA, Room 6125 (NRD–33) 400 7th Street SW., Washington, DC 20590, 202–366–0328.

SUPPLEMENTARY INFORMATION:

Background

In 1999, reports from the General Accounting Office and the United States Department of Transportation Inspector General recommended that improvements be made in the Federal Motor Carrier Safety Administration (FMCSA) crash and enforcement data. The existing FMCSA crash database, the Motor Carrier Management Information System (MCMIS) crash file, is intended to be a census of all large commercial truck and bus crashes that result in a fatality, injury, or towed vehicle. However, many truck and bus crashes do not reach the MCMIS data processing unit, and many of the reports received are not complete. To address this situation, section 225 of Public Law 106–159 [H.R. 3419] (49 U.S.C. 31100 note) directs the Secretary of Transportation to carry out a program to improve the collection and analysis of data on crashes involving commercial motor vehicles, administered through the National Highway Traffic Safety Administration (NHTSA) in cooperation with the FMCSA. Section 225 requires the NHTSA to enter into agreements with the States to collect data and report it electronically to a central repository. In accordance with this requirement, this notice makes funds available to the states in the form of grants for improvements in data collection and analysis of commercial motor vehicle involved crashes.

Project Goal

The goal is to improve the quality, completeness, timeliness and quantity of data collected by the States about commercial motor vehicle crashes. This data will be used to evaluate program effectiveness, identify problems and trends, target spending, and the like. In addition, this data will be used to support FMCSA's enforcement programs. By capturing more complete and accurate data, drivers and carriers of commercial motor vehicles can appropriately be subjected to reviews of their operations and cited for violations.

The FMCSA and NHTSA seek to improve timeliness, completeness, accuracy and overall quality of data collected on commercial motor vehicle involved crashes. These improvements will facilitate the identification of problem drivers and carriers and provide a solid foundation of data on which safety analyses and program evaluation can be based. A State seeking to participate in this effort must be willing to explore and test new and proven methodologies and protocols, allowing for rapid electronic exchange of crash data. The State's proposal should seek to enhance the accuracy, speed and completeness of commercial motor vehicle crash information among the various components of the records system, including enforcement, driver licensing agencies, vehicle registration agencies, State departments of transportation, the courts, both within States and across State boundaries.

The scope of potential projects or plans need not be limited to system development, changes or enhancements. A State may have a system that is technically sound but hampered by State procedures, policies, laws, or legislation preventing the State from utilizing its system in the most efficient and effective manner. Therefore, the NHTSA will entertain proposals that may not involve the system directly, but would meet the project goals through indirect effects.

Project Requirements

Grant proposals submitted by the States must meet certain criteria. The grant proposal criteria are designed to

VOL 66 ISS 249 DE 28 2001 UMI

assure maximum flexibility while ensuring that key State agencies and organizations participate in approved grant activities. A thorough evaluation design is another key requirement. Proposals must meet the following items to be considered:

1. Identify a lead Agency for the project.

2. Identify an interdisciplinary working group within the State, including but not limited to the state motor vehicle licensing agency, the crash records department, the vehicle registration agency, State law enforcement, Governor's Highway Safety Representative, and Motor Carrier Safety Assistance Program (MCSAP) representative.

3. Provide an analysis of existing systems or procedures, including discussion of the completeness, timeliness, quality and accuracy of the existing data collected in the MCMIS program.

4. Provide an estimate of the total number of reportable Commercial Motor Vehicle Crashes involving a fatality, injury, or towed vehicle, the total number reported to police enforcement (documented on PAR's and/or PAR Supplement Forms) and the total number of Commercial Motor Vehicle crashes that are entered into MCMIS. This is the gap (crash occurrence versus crashes entered into MCMIS) that this Grant funding targets for reduction.

5. Define new or improved system requirements to be implemented with funding under this Grant, including project scope, whether new technologies would be tested, and methods of gathering, integrating, and facilitating data exchange between various users. If the project is not system related, describe existing procedures, the problems they generate, proposed new procedures, anticipated outcome, and the means to measure the success or impact of the project or program.

6. Provide and submit a project evaluation plan and timelines for completion.

7. Define, analyze, and document user procedures, including projected barriers to project success.

8. Define the methodology for implementing the system or procedures.

9. Provide plans for preparing a final report, including the evaluation findings and recommendations for other States regarding the strengths and weaknesses of this project or program.

10. Provide a budget for the project.

11. Provide Monthly Progress Reports. The Grantee shall submit monthly progress reports to the COTR during the period of performance of this grant.

Eligibility Requirements

The grantee must be a state agency of one of the fifty States or the District of Columbia and involved with highway traffic safety, such as a State Highway Safety Office, Department of Transportation or other State agency with demonstrated activities in the highway traffic safety area, to ensure active involvement by highway traffic safety stakeholders.

Only one application should be submitted for a state. Because this Grant program requires extensive collaboration among the data owners in order to achieve the program objectives, it is envisioned that the grantee agency may need to actively involve the data owners in the development of the formal application.

A single organization within any state or area may not have all of the required data capabilities; the application should demonstrate methods to improve collaborative agreements with the data owners to facilitate the collection of commercial motor vehicle crash data.

This Grant is a parallel effort with the NHTSA's Commercial Vehicle Analysis Reporting System (CVARS) pilot effort with certain states. Those States that have been selected to participate in the CVARS pilot effort are ineligible for this Grant award.

Submission of Proposals

Proposals responding to this notice must remain valid for 90 days from the due date for submission of proposals, and may be funded at any time during that period. Submit one original and two copies of your application package to: The National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), Attn: Joe Comella, 400 7th Street SW., Room 5301, Washington, DC 20590. Applications must be typed on one side of page only.

An additional two (2) copies will facilitate the review process, but are not required. Only complete application packages received on or by 3 p.m. on February 26, 2002, will be considered.

Application Contents

The application package must be submitted with OMB Standard Form 424 REV. 7–97, including 424A and 424B), Application for Federal Assistance, with the required information filled in and assurances signed (SF 424B). While the Form 424A deals with budget information and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs (direct labor, including labor category, level of effort, and rate; direct materials including itemized equipment; travel and transportation, including projected trips and number of people traveling; subcontractors/subgrants, with similar detail, if known; and overhead), as well as any costs the applicant proposes to contribute or obtain from other sources in support of the project.

Evaluation of Proposals and Award

Initially, all application packages will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all of the items specified in the Project Requirement and Application Content section of this announcement. Each complete application from an eligible recipient will then be evaluated by an Evaluation committee comprised of representatives from the NHTSA, FMCSA, and other traffic records experts. The panel will evaluate each proposal, based on the following factors:

1. The technical competency of the proposal and the likeliness of reducing the gap between the number of CMV crashes occurring and number entered into MCMIS and the amount of the reduction. (50%)

2. The reasonableness and adequacy of the cost and personnel resources proposed to complete the requirements in a timely manner. (30%)

3. The potential for this state (and potentially the portability of this improvement to other states) to utilize the improvements in the full-scale CVARS project. (20%)

Project Funding

NHTSA's intent is to provide up to $2,600,000 funding in FY 2002. States are invited to submit proposals outlining their projects to the NHTSA. This program will not require matching funds. However, States are encouraged to explore other funding sources in both the private and public sectors to implement improved data collection and analysis of commercial motor vehicle involved crashes and traffic records in general. NHTSA contemplates making eight to fifteen multiple awards from the proposals submitted.

Terms and Conditions of the Award

Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation Government-wide Debarment and Suspension (Non-procurement) and Government wide Requirements for Drug Free Workplace (Grants).

During the effective performance period of Cooperative Agreements awarded as a result of this announcement, the agreement shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements.

Reporting Requirements and Deliverables

1. Detailed Action Plan and Schedule. Within 30 days after award, the grantee shall deliver a detailed action plan which details the existing state procedures for reporting CMV crash data; and a schedule outlining the methods that will be employed to improve reporting. This detailed action plan will be subject to the approval of NHTSA.

2. Monthly progress reports. During the performance, the grantee will provide letter-type written reports to the NHTSA COTR. These reports will compare what was proposed in the Plan of Action with actual accomplishments during the past month; what commitments have been generated; what follow-up and state-level support is expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the next reporting period. These reports will be submitted ten days after the end of each month.

3. Project Report. The grantee shall deliver to NHTSA, at the end of the project, a final report that describes the results of activities undertaken to improve CMV crash data collection. This report should include: the initial state of CMV reporting at the state level; methods, procedures, or technologies employed to improve reporting, obstacles encountered, improvements initiated, evaluation findings and recommendations for other States regarding the strengths and weaknesses of this project or program. The grantee shall supply the NHTSA COTR one camera read versions of the documents, as printed and one copy on appropriate media (diskette, Syquest disk, etc.) of the document in the original program format that was used for the printing process. Each of these component parts should be available on disk, properly labeled with the program format and the file names. A complete version of the assembled document shall be provided in portable document format (PDF) for placement of the report on the World Wide Web (WWW). This will be a file usually created with the Adobe Exchange program of the complete assembled document. The document must be completely assembled with all colors, charts, sidebars, photographs, and graphics. This shall be delivered to NHTSA on appropriate media. The grantee shall provide four additional hard copies of the final document.

An electronic copy of this document may be downloaded by accessing the Federal Register home page at *http://www.nara.gov/nara/fedreg* and the Government Printing Office database at *http://www.access.gpo.gov/su_docs*

Issued on: December 20, 2001.

Raymond R. Owings,

Associate Administration for Research and Development.

[FR Doc. 01–32022 Filed 12–27–01; 8:45 am]

BILLING CODE 4910-12-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Actions on Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of actions on exemption applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in SEPTEMBER–DECEMBER 2000. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions. It should be noted that some of the sections cited were those in effect at the time certain exemptions were issued.

Issued in Washington, DC, on December 21, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		MODIFICATION EXEMPTIONS		
3187–M	DOT–E 3187	PPG Industries, Inc., Pittsburgh, PA.	49 CFR 173.21(f), 173.225(b)(6), 173.225(b)(7), 173.225(d)(2).	To authorize alternative packaging and the use of common carriers in exclusive use for the transportation of Division 5.2 materials.
8299–M	DOT–E 8299	Pacific Scientific, Duarte, CA.	49 CFR 173.304(a)(1), 175.3, 178.44.	To modify the exemption to increase the service life limit to 24 years of the non-DOT specification pressure vessels for the transportation of certain Division 2.2 compressed gases.
8757–M	DOT–E 8757	YZ Systems, Inc., Conroe, TX.	49 CFR 173.302(a)(1), 173.304(a)(1), 173.302(b)(1), 175.3, 178.42.	To modify the exemption to allow for the transportation of additional Division 2.3 and Class 3 materials in non-DOT specification stainless steel cylinders; editorial corrections to paragraph 6 of the exemption.
9149–M	DOT–E 9149	Ethyl Corporation, Richmond, VA.	49 CFR 173.354, 174.63(b), 178.245.	To modify the exemption to authorize the transportation of Class 3 and additional division 6.1 materials in non-DOT specification IMO Type I portable tanks.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9847–M	DOT–E 9847	FIBA Technologies, Inc., Westboro, MA.	49 CFR 173.302(c)(2), (3), (4), 173.34(e), Part 107, Subpart B, Appendix B.	To modify the exemption to eliminate the requirement for an initial qualifying test; to allow for Division 2.3 materials; correct language in paragraphs 7a. thru e. of the exemption.
10921–M	DOT–E 10921	The Procter & Gamble Company, Cincinnati, OH.	49 CFR Parts 100–199	To modify the exemption to authorize shipments of solutions containing ethyl alcohol in inner packagings not exceeding 50 ounces each and that the total contents of the package not exceed 300 fluid ounces.
10977–M	DOT–E 10977	Federal Industries Corporation, Plymouth, MN.	49 CFR 172.400, 172.402(a)(2), 172.504(a), 173.25(a), 173.3, 175.3, Table 1.	To modify the exemption to include polypropylene blankets as a cushioning and absorbent, and a fibre tube to protect the closure for limited quantities of hazardous materials required to be labeled poison, KEEP AWAY FROM FOOD, flammable liquid, flammable solid, corrosive, oxidizer or DANGEROUS WHEN WET.
10985–M	DOT–E 10985	Georgia-Pacific Corporation, Atlanta, GA.	49 CFR 174.67(i), (j)	To modify the exemption to authorize the transportation of Class 8 materials in tank cars which remain standing with unloading connections attached when no product is being transferred.
11379–M	DOT–E 11379	TRW Automotive Occupant Restraint Systems, Washington, MI.	49 CFR 173.301(h), 173.302.	To modify the exemption to authorize a design change of the pressure vessel to increase the maximum fill pressure to 7,500 psi charged with non-toxic, non-liquefied gases, or mixtures thereof.
11506–M	DOT–E 11506	OEA Inc., Denver, CO	49 CFR 173.301(h), 173.302.	To modify the exemption to authorize a design change using a welded flange and laser etching on the exterior of non-DOT specification pressure vessels for use as components of automobile vehicle safety systems.
11967–M	DOT–E 11967	Savage Industries Incorporated, Pottstown, PA.	49 CFR 174.67(i), (j)	To modify the exemption to allow for the transportation of additional Class 3, Class 8 and Division 5.1 materials in tank cars to remain connected during unloading.
12056–M	DOT–E 12056	U.S. Department of Defense (MTMC), Falls Church, VA.	49 CFR 173.226, 173.336	To modify the exemption to eliminate the private carrier provision and provide for an additional movement location for the transportation of Dinitrogen tetroxide, liquefied and Division 6.1 materials in propellant tanks designed to a military specification.
12065–M	DOT–E 12065	International Flavors & Fragrances, Inc., Union Beach, NJ.	49 CFR 173.120(c)(ii)	To modify the exemption to waive the weight limit requirements for flammable liquids determined by a specially designed flashpoint device.
12494–M	DOT–E 12494	American Reclamation Group, LLC, Anchorage, AK.	49 CFR 172.101 (col. 9) ..	To reissue the exemption originally issued on an emergency basis for the transportation of certain Division 5.1 materials by cargo aircraft only when aircraft is the only means of reaching destination.
12499–M	DOT–E 12499	M & M Service Company, Carlinville, IL.	49 CFR 173.315(k)(6)	To reissue the exemption originally issued on an emergency basis for the transportation of liquefied petroleum gas in a non-DOT specification cargo tank.
12504–M	DOT–E 12504	Radian International Research Triangle Park, NC.	49 CFR 177.834(1)(2)(i) ..	To reissue the exemption originally issued on an emergency basis authorizing the use of temperature controlled equipment for the transportation of Class 3 and Division 2.1 materials.
12509–M	DOT–E 12509	Department of Defense (MTMC) Alexandria, VA.	49 CFR 172.101 col 10A	To reissue the exemption originally issued on an emergency basis authorizing certain Division 4.2 materials to be stowed as palletized cargo in an under-deck forecastle location.
12540–M	DOT–E 12540	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 178.245	To reissue the exemption originally issued on an emergency basis authorizing the transportation of hydrogen fluoride, anhydrous in DOT Specification 51 portable tanks which do not have the relieving capacity requirements.
		NEW EXEMPTIONS		
12148–N	DOT–E 12148	Eastman Kodak Company, Rochester, NY.	49 CFR 172.320, 173.3, 173.52, 173.54, 173.60, 174.3, 175.3, 177.801.	To authorize the transportation in commerce of not more than 25 grams of explosives and pyrotechnic material in a specially designed container (modes 1, 3, 4).

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12155–N	DOT–E 12155	S&C Electric Co	49 CFR 172.301(c), 173.304.	To authorize the transportation in commerce of specially designed non-DOT specification packaging containing compressed sulfur hexafluoride, Division, 2.2 (modes 1, 2, 3, 4).
12277–N	DOT–E 12277	The Indian Sugar & General Engineering Corp., ISGE Haryana, TX.	49 CFR 173.3, 173.304	To authorize the manufacture, marking and sale of non-DOT specification cylinders (pressure vessel) for use in transporting Chlorine, Division 2.3 material (modes 1, 2).
12332–N	DOT–E 12332	Automotive Occupant Restraints Council, Lexington, KY.	49 CFR 173.166(c) & (e)	To authorize the transportation in commerce of air bag modules or seat belt pre-tensioners that have been removed from motor vehicles for disposal to be transported without required markings (mode 1).
12351–N	DOT–E 12351	Nalco/Exxon Energy Chemicals, L.P., Freeport, TX.	49 CFR 177.834 (i)(3)	To authorize an electronic monitoring system without the physical presence of an unloader within 25 feet of cargo tanks during loading operations (mode 1).
12391–N	DOT–E 12391	Airgas Mgmt., Inc., Cheyenne, WY.	49 CFR 172.203(a), 173.34(e)(16), 173.34(e)(16)(i)(A)).	To authorize the transportation in commerce of certain Division 2.1 and 2.2 gases in DOT Specification 3A or 3AA cylinders manufactured on or before December 31, 1945, and which have been retested at least every 10 years (modes 1, 2, 3, 4, 5).
12392–N	DOT–E 12392	Consani Engineering, Elsies River, SA.	49 CFR 178.245	To authorize the transportation in commerce of non-DOT specification steel portable tanks permanently fixed within ISO frames, which are similar to DOT 51 portable tanks for use in transporting all hazardous materials presently authorized (modes 1, 2, 3).
12397–N	DOT–E 12397	Astaris, LLC (formerly FMC Corp.), Philadelphia, PA.	49 CFR 172.203(a), 180.509(1)(2).	To authorize the use of an alternative requalification method for certain DOT specification 111A100W6 tank cars used to transport Class 8 hazardous materials (mode 2).
12401–N	DOT–E 12401	DG Supplies, Inc., Hamilton, NJ.	49 CFR 172.400, 172.402, 172.504, 173.150–154, 173.201–203, 173.211–213, 173.25, 175.3.	To authorize the manufacture, marking and sale of specially-designed combination packaging for use in transporting liquid and solid hazardous materials with relief from labeling and placarding requirements (modes 1, 2, 4, 5).
12405–N	DOT–E 12405	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.304(a)(2), 173.304(b).	To authorize an increase in filling density to the cylinder test pressure for the transportation of Division 2.1, 2.2 and 2.3 hazardous materials (modes 1, 3, 4, 5).
12413–N	DOT–E 12413	CP Industries, Inc., McKeesport, PA.	49 CFR 17.34(e)(3), 173.302(c)(2); 173.302(c)(3);, 173.302(c)(4);, 173.302(c)(5), 173.34(e), 173.34(e)(1)(i)&(ii), 173.34(e)(4), 173.34(e)(5), 173.34(e)(6), 173.34(e)(7).	To authorize acoustic emission and ultrasonic retest to DOT–3AA, 3AAX or 3T cylinders for use in transporting presently authorized hazardous materials (modes 1, 2, 3, 4).
12427–N	DOT–E 12427	Chubb Fire Ltd., England	49 CFR 173.301(j)	To authorize the transportation in commerce of non-DOT specification cylinders for use in transporting non-flammable compressed gas, Division 2.2, to UL facility for testing (mode 4).
12457–N	DOT–E 12457	Arch Chemicals, Inc., Norwalk, CN.	49 CFR 172.101(i)(3) Col. 8C.	To authorize the transportation in commerce of dry calcium hypochlorite mixture, Division 5.1, in DOT specification flexible intermediate bulk containers (mode 1).
12468–N	DOT–E 12468	Connecticut Yankee Atomic Power Co., East Hampton, CT.	49 CFR 173.403, 173.427(a)(1), 173.427(b) or (c).	To authorize the transportation in commerce of a reactor vessel containing low-level radioactive waste, Class 7 (modes 1, 2).
12474–N	DOT–E 12474	Department of Defense (DOD), Falls Church, VA.	49 CFR 171.12, 172.204, 173.301(i) & (j).	To authorize the transportation in commerce of two types of non-DOT specification compressed gas cylinders containing Division 2.2 materials (mode 1).
12481–N	DOT–E 12481	Trac Regulator Co., Inc., Mt. Vernon, NY.	49 CFR 173.306	To authorize the transportation in commerce of an actuator and valve assembly for use in transporting various classes of hazardous materials (modes 1, 2).

VOL 66 ISS 249 DE 28 2001 UMI

Application No	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12491–N	DOT–E 12491	PPG Industries, Inc., Pittsburgh, PA.	49 CFR 171.12(b)(5), SP T17.	To authorize the transportation in commerce of dichlorophenyl isocyanate, Division 6.1 in IM 101 portable tanks (modes 1, 3).
12521–N	DOT–E 12521	Airgas Inc., Madison, CT	49 CFR 173.301(j)	To authorize the transportation in commerce of non-DOT specification cylinders manufactured in the U.S. for export with valving and relief device requirements of the country that the cylinders will be exported to for use in transporting various compressed gases (mode 1).
12526–N	DOT–E 12526	Aeronex, Inc, San Diego, IL.	49 CFR 173.212, 173.213	To authorize the manufacture, marking and sale of non–DOT specification cylinders for use in transporting Division 4.1 and 4.2 hazardous materials (modes 1, 2, 3, 4).
12533–N	DOT–E 12533	Adams Healthcare Ltd., Garforth, Leeds, EN.	49 CFR 173.306(a)(3)(v)	To authorize alternative testing criteria for aerosol containers meeting DOT specification 2Q for use in transporting Division 2.1 material (modes 1, 3).
12534–N	DOT–E 12534	MODcol Corp., Sunnyvale, CA.	49 CFR 173.302, 178.602–178.606.	To authorize the manufacture, marking, sale and use of a composite package containing limited quantities of Class 3 material with fiberboard or plywood overpack (modes 1, 2, 3, 4).
12537–N	DOT–E 12537	Noranda-Dupont LLC, Wilmington, DE.	49 CFR 172.203(a), 180.509(1)(2).	To authorize an alternative retest criteria for DOT specification 111A100W tank cars used in sulfuric acid service (mode 1).
12539–N	DOT–E 12539	Edlow International Company Washington, DC.	49 CFR 173.420(a)(2)(i)	To authorize the one-time transportation of 19 model 30B cylinders, which deviate from the ANSI 14.1 standards, containing uranium hexafluoride, Class 7 (modes 1, 3).
12540–N	DOT–E 12540	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 178.245	To authorize the transportation in commerce of DOT 51 similar to a multi-unit tank car tank equipped with pressure relief devices for use in transporting hydrogen fluoride, anhydrous, Class 8 (modes 1, 2).
12541–N	DOT–E 12541	Rotonics Manufacturing, Inc., Gardena, CA.	49 CFR 172.101 Col 8b and 8C, 173.197.	To authorize the manufacture, marking, sale and use of a 200 gallon, high density polyethylene, rotationally molded roll on/roll off container as an outer packaging for use in transporting regulated medical waste, Division 6.2 (mode 1).
12542–N	DOT–E 12542	United States Enrichment Corporation (USEC), Bethesda, MD.	49 CFR 173.420(a)(2)(i)	To authorize the transportation in commerce of one model 48X cylinder, which deviated from the ANSI 14.1 standards, containing uranium hexafloride, Class 7 (modes 1, 2).
12561–N	DOT–E 12561	Rhodia Inc., Cranbury, NJ	49 CFR 172.203(a), 173.31, 179.23.	To authorize the transportation in commerce of DOT Specification 111S100W–2 tank cars that exceed the maximum gross weight limit for use in transporting Class 8 material (mode 2).
12585–N	DOT–E 12585	JCI Jones Chemicals, Barerton, OH.	49 CFR 173.24(b)	Request for an emergency exemption to transport a leaking ton cylinder that has been fitted with an emergency B kit to prevent leaking during transportation (mode 1).
EMERGENCY EXEMPTIONS				
EE 11836–M	DOT–E 11836	Pioneer Chemical, Inc. (NACD) Member), Mesquite, TX.	49 CFR 173.203, 173.24	To authorize additional specification packagings (mode 1).
EE 12395–M	DOT–E 12395	Pennzoil Quaker State Co., Houston, TX.	49 CFR 173.306	Emergency request for modification and extension of the expiration date (mode 1).
EE 12494–N	DOT–E 12494	American Reclamation Group LLC, Anchorage, AK.	49 CFR 172.101 (col. 9)	Request for an emergency exemption to transport certain material by air, which is forbidden to the HMR (mode 4).
EE 12501–M	DOT–E 12501	Northland Services, Inc., Seattle, WA.	49 CFR 178.245–4(e)	Request for extension of the expiration date to permit a one-time transportation of portable tanks (mode 3).
EE 12504–N	DOT–E 12504	Carrier Corp., Research Triangle Park, NC.	49 CFR 177.834(1)(2)(i)	Request for an emergency exemption to use cargo hearters when transporting flammable liquids or flammable gases (mode 1).
EE 12506–N	DOT–E 12506	The Boeing Company, Huntington Beach, CA.	49 CFR 172.101	Request for an emergency exemption to transport fire extinguishers by commercial aircraft (modes 4, 5).
EE 12523–N	DOT–E 12523	US Department of Defense, Alexandria, VA.	49 CFR 173.212	Request for emergency exemption to transport a certain material in a non-spec. package (mode 1).
EE 12540–M	DOT–E 12540	Air Products and Chemicals, Allentown, PA.	49 CFR 178.245	Requesting amendment of the relief device capacity specified in the exemptions (modes 1, 2).

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 12545–N	DOT–E 12545	Pacific Northwest Equipment, Inc., Seattle, WA.	49 CFR not given	Request for an emergency exemption for a one-time exemption to ship 21 IM–102 tanks containing blasting agent by barge from Alaska Marine lines terminal in Seattle WA to the State of Alabama (mode 3).
EE 12546–N	DOT–E 12546	Allied Universal Corp., Miami, FL.	49 CFR 173/24	Request for an emergency exemption to transport a leaking ton cylinder that has been fitted with a "B" kit to prevent leakage during transportation (mode 1).
EE 12553–M	DOT–E 12553	DPC Industries, Inc., Houston, TX.	49 CFR 173.34(d)	Request for an emergency exemption to transport a leaking cylinder that has been fitted with an emergency A kit to prevent leakage during transportation (mode 1).
EE 12555–N	DOT–E 12555	Airgas Intermountain, Colorado Springs, CO.	49 CFR 173.34	Request for an emergency exemption to transport a leaking cylinder that has been fitted with an emergency A Kit (mode 1).
EE 12556–N	DOT–E 12556	Florida Gas Transportation Company, Tallahassee, FL.	49 CFR 172.101	To authorize emergency transportation in commerce of natural gas in MC–331 cargo tanks (mode 1).
EE 12558–N	DOT–E 12558	JCI Jones Chemicals, Inc., Barberton, OH.	49 CFR 173.34	Authorize the shipment of a leaking ton tank container that has been fitted with an emergency B kit to prevent leakage (mode 1).
EE 12559–N	DOT–E 12559	Cook Inlet Pipe Line Co., Anchorage, AK.	49 CFR 1, 172.101	Request for an emergency exemption to exceed the quantity limitations for materials transported by cargo aircraft (mode 4).
EE 12560–N	DOT–E 12560	Phillips Alaska, Inc., Alaska, AK.	49 CFR 172.101 col. 9(b)	Request for an emergency exemption to transport hazmat by cargo air that exceed quantity limitations (mode 4).
EE 12565–N	DOT–E 12565	Allied Universal Corp. Miami, FL.	49 CFR 173.24	Request for an emergency exemption to transport a leaking container that has been fitted with an emergency B kit to prevent leakage during transportation (mode 1).
EE 12569–N	DOT–E 12569	Alaska Pacific Powder Company, Olympia, WA.	49 CFR 175.320(a)	Request for an emergency exemption to ship high explosives by air (mode 4).
EE 12570–N	DOT–E 12570	JCI Jones Chemicals, Torrance, CA.	49 CFR 173.34(d)	Request for an emergency exemption to transport a leaking ton container that has been fitted with an emergency A kit to prevent leakage during transportation (mode 1).
EE 12575–N	DOT–E 12575	Carrib Supply of St. Croix, Inc., Christiansted, VI.	49 CFR 173.318	Request for an emergency exemption to use portable tanks that meet the design criteria for an MC 338 but are not classified as cargo tanks. These portable tanks would be used to transport liquid oxygen (mode 1).
EE 12577–N	DOT–E 12577	JCI Jones Chemicals, Inc., Merrimack, NH.	49 CFR 173.24(b) etc	Request for an emergency exemption to transport a leaking tank car fitted with a B kit (mode 1).
EE 12578–N	DOT–E 12578	Allied Universal Corp., Miami, FL.	49 CFR 173.24(b)	Emergency exemption for the one-time transportation of a leaking ton cylinder that has been fitted with an emergency A chemical kit to prevent leakage during transportation (mode 1).
EE 12579–N	DOT–E 12579	Alexander Chemical Corp., LaPorte, IN.	49 CFR 173.24(b)	Emergency exemption for a leaking cylinder with an A kit to prevent leakage (mode 1).
EE 12580–N	DOT–E 12580	Matheson-Tri-Gas East Rutherford, NJ.	49 CFR 173.301(j)	Request for an emergency exemption to use a cylinder that is not authorized in the HMR for tungsten hexafluoride (mode 1).
EE 12581–N	DOT–E 12581	Ball Aerospace & Technologies Corp., Boulder, CO.	49 CFR 173	Request for an emergency exemption to ship helium in a non-DOT specification packaging (mode 1).
EE 12582–N	DOT–E 12582	Michigan State Police, East Lansing, MI.	49 CFR 173.25, 175.85	Request for an emergency exemption to authorize the transportation of first aid/trauma kits containing 2.2 gas in a passenger carrying aircraft (mode 4).
EE 12583–N	DOT–E 12583	Alexander Chemical Corp., LaPorte, IN.	49 CFR 173.24(b)	Request for an emergency exemption for a one-time transportation of a leaking ton cylinder that has been fitted with a B kit to prevent leakage during transportation. The cylinder contains Chlorine (mode 1).
EE 12584–N	DOT–E 12584	JCI Jones Chemicals, Inc., Jacksonville, FL.	49 CFR 173.24(b)	Request for an emergency exemption to transport a leaking ton cylinder that has been fitted with an A kit to prevent leakage during transportation (mode 1).
EE 12595–N	DOT–E 12595	Marsulex, Inc., Toledo, OH.	49 CFR 172.540	Request for an emergency exemption to authorize the transportation in commerce of sulfur dioxide in a tank car using international placards for 2.3 material (mode 2).

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 12596–N	DOT–E 12596	Hci Worth Chemical Co., Chatanooga, TN.	49 CFR 173.24(b)	Request for emergency exemption to transport a leaking ton cylinder that has been fitted with an emergency B kit to prevent leakage (mode 1).
EE 12597–N	DOT–E 12597	Firestone Tire and Rubber Company, Savannah, GA.	49 CFR 178.245–4(e)	Request for an emergency exemption to transport anhydrous ammonia in certain DOT spec. 51 portable tanks (modes 1, 3).
EE 12598–N	DOT–E 12598	Lawrence Berkeley National Laboratory Berkely, CA.	49 CFR 173.150(b)	Request for an emergency exemption to permit packaging that are not authorized for a class 3, pkg. III material (mode 1).
EE 12601–N	DOT–E 12601	Great Lakes Chemical Corp., Indianapolis, IN.	49 CFR 172.301(c), 173.24(e), 173.226(c).	Request for emergency exemption to authorize the one-time transportation in commerce of a 6.1 material in plastic bottles that have not passed certain performance tests required by the HMR (mode 1).
EE 12602–N	DOT–E 12602	Allied Universal Corp., Maimi, FL.	49 CFR 173.24(b)	Request for an emergency exemption to transport a leaking ton container fitted with an emergency B kit (mode 1).
EE 12603–N	DOT–E 12603	JCI Jones Chemical Milford, VA.	49 CFR 173.24(b)	Request for an emergency exemption to transport a leaking ton container fitted with an emergency B kit to prevent leakage during transportation (mode 1).
EE 12604–N	DOT–E 12604	Allied Universal Miami, FL	49 CFR 173.23(b)	Request for an emergency exemption for a tank car fitted with a B kit (mode 1).

DENIALS

8556–M	Request by Gardner Cryogenics Lehigh Valley, PA to modify the exemption to provide for design changes of the non-DOT specification portable tank manufactured in accordance with ASME Code criteria; add a new 4830 gallon liquid helium tank design denied November 17, 2000.
9232–X	Request by U.S. Department of Defense Alexandria, VA to authorize the shipment of explosives and other hazardous materials forbidden or in quantities greater than those prescribed by commercial air carriers activated under the Civil Reserve Air Fleet during a contingency airlift or national emergency denied November 22, 2000.
9323–X	Request by U.S. Department of Defense Falls Church, VA to authorize the shipment only by the U.S. Department of Defense of gasoline and JP–4 and JP–5 fuel, Class 3 liquids, in non-DOT specification collapsible, fabric reinforced rubber drums of 500-gallon capacity denied November 22, 2000.
10880–X	Request by St. Lawrence Explosives Corp. Adams Center, NY to authorize the use of reusable, flexible Intermediate Bulk Container (IBC) type 12H3 or 13H4 conforming to Subpart N and O of Part 178 with replaced liners having a capacity not over 1000kg (2206 pounds) and top and bottom outlets, for shipment of ammonium nitrate-fuel oil mixture ANFO denied October 20, 2000.
10880–X	Request by St. Lawrence Explosives Corporation Adams Center, NY to authorize the use of reusable, flexible Intermediate Bulk Container (IBC) type 12H3 or 13H4 conforming to Subpart N and O of Part 178 with replaced liners having a capacity not over 1000kg (2206 pounds) and top and bottom outlets, for shipment of ammonium nitrate-fuel oil mixture ANFO denied October 20, 2000.
12343–N	Request by City Machine & Welding, Inc. of Amarillo, Amarillo, TX to authorize acoustic emission retesting of DOT–3AAX and 3T cylinders for use in transporting various hazardous materials classed in Division 2.1, 2.2 and 2.3 denied November 29, 2000.
12525–N	Request by ICO Worldwide, Inc. Houston, TX to authorize the transportation in commerce of a specially designed device (mobile pipe inspection unit pulled by a tractor) containing radioactive material, Type A, transported with obscured markings denied November 22, 2000.

[FR Doc. 01–32016 Filed 12–27–01; 8:45 am]

BILLING CODE [illegible]

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Delays in Processing of Exemption Applications

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications delayed more than 180 days.

SUMMARY: In accordance with the requirements of 49 U.S.C. 5117(c), RSPA is publishing the following list of exemption applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

FOR FURTHER INFORMATION CONTACT: J. Suzanne Hedgepeth, Director, Office of Hazardous Materials, Exemptions and Approvals, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4535.

Key to "Reasons for Delay"

1. Awaiting additional information from applicant
2. Extension public comment under review
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis
4. Staff review delayed by other priority issues or volume of exemption applications

Meaning of Application Number Suffixes

N—New application

M—Modification request

PM—Party to application with modification request

Issued in Washington, DC, on December 21, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTION APPLICATIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
11862–N	The BOC Group, Murray Hill, NJ	4	01/31/2002
11927–N	Alaska Marine Lines, Inc., Seattle, WA	4	01/31/2002
12353–N	Monson Companies, South Portland, ME	4	01/31/2002
12381–N	Ideal Chemical & Supply Co., Memphis, TN	4	01/31/2002
12406–N	Occidental Chemical Corporation, Dallas, TX	4	01/31/2002
12412–N	Great Western Chemical Company, Portland, OR	4	01/31/2002
12434–N	Salmon Air, Salmon, ID	4	01/31/2002
12440–N	Luxfer, Inc., Riverside, CA	4	01/31/2002
12456–N	Baker Hughes, Houston, TX	4	01/31/2002
12571–N	Air Products & Chemicals, Inc., Allentown, PA	4	01/31/2002
12586–N	Wilsonart International Inc., Temple, TX	4	01/31/2002
12588–N	El Dorado Chemical Co., Creve Ceour, MO	4	01/31/2002
12629–N	Western Sales & Testing of Amarillo, Inc., Amarillo, TX	4	01/31/2002
12630–N	Chemetall GmbH Gesellschaft, Langelsheim, DE	4	01/31/2002
12634–N	Norman International, Los Angeles, CA	4	01/31/2002
12648–N	Stress Engineering Services, Inc., Houston, TX	4	01/31/2002
12650–N	Coleman Powermate, Inc., Kearney, NE	4	01/31/2002
12661–N	United Parcel Service (UPS), Atlanta, GA	4	01/31/2002
12674–N	G&S Aviation, Donnelly, ID	4	01/31/2002
12690–N	Air Liquide America Corporation, Houston, TX	4	02/28/2002
12696–N	Phibro-Tech, Inc., Fort Lee, NJ	4	02/28/2002
12701–N	Fuel Cell Components & Integrators, Inc., Hauppauge, NY	4	02/28/2002
12702–N	Los Crespos Cylinders, Anasco, PR	4	01/31/2002
12706–N	Raufoss Composites AS, Raufoss, NO	4	02/28/2002
12716–N	Air Liquide America Corporation, Houston, TX	4	01/31/2002
12718–N	Weldship Corporation, Bethlehem, PA	4	01/31/2002
12724–N	E.I. DuPont de Nemours & Co., Inc., Wilmington, DE	4	02/28/2002
12741–N	Thunderbird Cylinder Inc., Phoenix, AZ	4	02/28/2002
12751–N	Defense Technology Corporation, Casper, WY	4	02/28/2002
12753–N	Praxair, Inc., Danbury, CT	4	02/28/2002
12755–N	Air Canada, Ottawa, ON	4	02/28/2002

MODIFICATIONS TO EXEMPTIONS

Application No.	Applicant	Reason for delay	Estimated date of completion
4453–M	Dyno Nobel, Inc., Salt Lake City, UT	4	01/31/2002
4884–M	Matheson Tri-Gas, East Rutherford, NJ	4	01/31/2002
6805–M	Air Liquide America Corporation, Houston, TX	4	01/31/2002
7060–M	Federal Express, Memphis, TN	4	01/31/2002
7277–M	Structural Composites Industries, Pomona, CA	4	01/31/2002
7954–M	Voltaix, Inc., North Branch, NJ	4	01/31/2002
8308–M	Tradewind Enterprises, Inc., Hillsboro, OR	4	01/31/2002
8308–M	American Courier Express Corporation, Miramar, FL	4	01/31/2002
8554–M	Orica USA, Inc., Englewood, CO	4	01/31/2002
8554–M	Dyno Nobel, Inc., Salt Lake City, UT	4	01/31/2002
8723–M	Dyno Nobel, Inc., Salt Lake City, UT	4	01/31/2002
9401–M	Societe Nationale de Wagon-Reservoirs, 79009 Paris, FR	4	02/28/2002
9421–M	Taylor-Wharton (Harsco Corporation), Harrisburg, PA	4	01/31/2002
10019–M	Structural Composites Industries, Pomona, CA	4	02/28/2002
10832–M	Autoliv ASP, Inc., Ogden, UT	4	02/28/2002
11244–M	Aerospace Design & Development, Inc., Longmont, CO	4	01/31/2002
11379–M	TRW Automotive Occupant Safety Systems, Washington, MI	4	02/28/2002
11537–M	JCI Jones Chemicals, Inc., Milford, VA	4	01/31/2002
11769–M	Great Western Chemical Company, Portland, OR	4	01/31/2002
11769–M	Great Western Chemical Company, Portland, OR	4	02/28/2002
11769–M	Hydrite Chemical Company, Brookfield, WI	4	01/31/2002
11911–M	Transfer Flow, Inc., Chico, CA	4	01/31/2002
12065–M	Petrolab Company, Latham, NY	4	02/28/2002
12084–M	Honeywell International, Inc., Morristown, NJ	4	01/31/2002
12449–M	Chlorine Service Company, Inc., Kingwood, TX	4	02/28/2002

MODIFICATIONS TO EXEMPTIONS—Continued

Application No.	Applicant	Reason for delay	Estimated date of completion
12676–M	Environmental Management, Inc., Guthrie, OK	4	02/28/2002

[FR Doc. 01–32017 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meetings

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting to discuss the outcome of the twentieth session of the United Nation's Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE) held December 5–11, 2001 in Geneva, Switzerland.

DATES: January 16, 2002, 9:30 a.m.–12 p.m., Room 3328.

ADDRESSES: The meeting will be held at DOT Headquarters, Nassif Building, Room 3328, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bob Richard, International Standards Coordinator, Office of Hazardous Materials Safety, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: The primary purpose of the meeting will be to discuss outcomes of proposals presented to the twentieth session of UNSCOE. Topics to be covered during the public meeting will include (1) Criteria for Environmentally Hazardous Substances, (2) Intermodal requirements for the transport of solids in bulk containers, (3) Harmonized requirements for compressed gas cylinders, (4) Portable tank requirements, (5) Classification of individual substances, (6) Requirements for packagings used to transport hazardous materials, (7) Requirements for infectious substances, and (8) Hazard communication requirements.

The public is invited to attend without prior information.

Documents

Copies of documents for the UNSCOE meeting may be obtained by downloading hem from the United Nations Transport Division web site at *http://www.unece.org/trans/main/dgdb/dgsubc/c3doc_2001.html.* Information concerning UN dangerous goods meetings including agendas can be downloaded at *http://www.unece.org/trans/main/dgdb/dgsubc/c3.html.* These sites may also be accessed through the international section of RSPA's Hazardous Materials Safety website at *http://hazmat.dot.gov/intstandards.htm.* RSPA's site provides information regarding the UNSCOE and the Globally Harmonized System of Classification and Labeling for Chemicals, a summary of decisions taken at the 21st session of the UN Committee of Experts, meeting dates and summary of the primary topics which are to be addressed in the 2001–2002 biennium.

Issued in Washington, DC, on December 21, 2001.

Robert A. McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 01–32011 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34129]

RailAmerica, Inc.—Control Exemption—StatesRail Acquisition Corp. and StatesRail, Inc.

RailAmerica, Inc. (RailAmerica), a noncarrier, has filed a verified notice of exemption to continue in control of StatesRail Acquisition Corp. (Acquisition), and to obtain control of StatesRail, Inc. (StatesRail), a holding company that controls Arizona Eastern Railway Company, Eastern Alabama Railway, Kyle Railroad Company, San Joaquin Valley Railroad Company, and SWKR Operating Co., all Class III railroads, upon the acquisition of all of the stock of StatesRail by Acquisition.

The transaction is scheduled to be consummated on or after January 1, 2002.

On November 15, 2001, RailAmerica also filed a motion for protective order under CFR 1104.14, and the motion was granted.[1]

RailAmerica states that, as of its filing of the notice of exemption, it controls one Class II and 23 Class III rail common carriers operating in 23 states.[2] However, in *ParkSierra, infra,* RailAmerica is acquiring control of a second Class II carrier.

RailAmerica also states that: (i) These railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier.[3] Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because RailAmerica will control more than one Class II rail carrier, the transaction will be made subject to the labor protection conditions described in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d)

---

[1] *See RailAmerica, Inc.—Control Exemption—StatesRail Acquisition Corp. and StatesRail, Inc.,* STB Finance Docket No. 34129 (STB served Dec. 5, 2001).

[2] On December 7, 2001, RailAmerica also filed: (1) A notice of exemption in STB Finance Docket No. 34128, *RailAmerica, Inc.—Control Exemption—New StatesRail Holdings, Inc. and Alabama & Gulf Coast Railway L.L.C.,* to acquire from StatesRail, L.L.C., all of the outstanding stock of New StatesRail Holdings, Inc. (New StatesRail), and through New StatesRail to acquire control of its wholly owned subsidiary, the Alabama & Gulf Coast Railway, L.L.C.; and (2) a petition for exemption in STB Finance Docket No. 34130, *RailAmerica, Inc.—Control Exemption—Kiamichi Holdings, Inc. and Kiamichi Railroad L.L.C.,* to acquire control of Kiamichi Holdings, Inc., and its subsidiary Kiamichi Railroad L.L.C.

[3] RailAmerica has invoked the Board's class exemption procedures to acquire control of Class II rail carrier ParkSierra Corp. (ParkSierra) in *RailAmerica, Inc.—Control Exemption—ParkSierra Acquisition Corp. and ParkSierra Corp.,* STB Finance Docket No. 34100 (STB served Dec. 20, 2001) (*ParkSierra*). RailAmerica indicates that ParkSierra's rail properties do not connect with those of Alabama & Gulf Coast or those of RailAmerica's other rail subsidiaries.

VOL 66 ISS 249 DE 28 2001 UMI

may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34129, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on (1) Gary A. Laakso, Esq., 5300 Broken Sound Blvd., NW., Second Floor, Boca Raton, FL 33487, and (2) Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 20, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–32008 Filed 12–27–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34128]

RailAmerica, Inc.-Control Exemption-New StatesRail Holdings, Inc. and Alabama & Gulf Coast Railway L.L.C.[1]

RailAmerica, Inc. (RailAmerica), a noncarrier, has filed a verified notice of exemption to acquire from StatesRail, L.L.C. (StatesRail) all of the outstanding stock of New StatesRail Holdings, Inc. (New StatesRail), and, through New StatesRail, to acquire control of its wholly owned subsidiary, the Alabama & Gulf Coast Railway, L.L.C. (Alabama & Gulf Coast), a Class III carrier.

The transaction is scheduled to be consummated on or after January 1, 2002.

On November 15, 2001, RailAmerica also filed a motion for protective order under CFR 1104.14, and the motion was granted.[2]

RailAmerica states that, as of its filing of the notice of exemption, it controls one Class II and 23 Class III rail common carriers operating in 23 states.[3] However, in *ParkSierra, infra,* RailAmerica is acquiring control of a second Class II carrier.

RailAmerica also states that: (i) these railroads do not connect with each other; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier.[4] Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because RailAmerica will control more than one Class II rail carrier, the transaction will be made subject to the labor protection conditions described in *New York Dock Ry.-Control-Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34128, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on (1) Gary A. Laakso, Esq., 5300 Broken Sound Blvd. NW., Second Floor, Boca Raton, FL 33487, and (2) Louis E. Gitomer, Esq., Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Website at *www.stb.dot.gov.*

Decided: December 20, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–32009 Filed 12–27–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] On December 5, 2001, a protective order was issued in this proceeding. The title reflected the expected participation of West Texas and Lubbock Railroad Company, Inc. (West Texas). Because West Texas will not, in fact, be a party to the transaction, the above title has been revised to reflect that fact.

[2] *See RailAmerica, Inc. and West Texas and Lubbock Railroad Company, Inc.-Control Exemption-New StatesRail Holdings, Inc. and Alabama & Gulf Coast Railway L.L.C.*, STB Finance Docket No. 34128 (STB served Dec. 5, 2001).

[3] On December 7, 2001, RailAmerica also filed: (1) a notice of exemption in STB Finance Docket No. 34129, *RailAmerica, Inc.-Control Exemption-StatesRail Acquisition Corp. and StatesRail, Inc.*, to continue in control of StatesRail Acquisition Corp. (Acquisition), and to obtain control of StatesRail, a holding company that controls Arizona Eastern Railway Company, Eastern Alabama Railway, Kyle Railroad Company, San Joaquin Valley Railroad Company, and SWKR Operating Co., all Class III railroads, upon the acquisition of all of the stock of StatesRail by Acquisition; and (2) a petition for exemption in STB Finance Docket No. 34130, *RailAmerica, Inc.-Control Exemption-Kiamichi Holdings, Inc. and Kiamichi Railroad L.L.C.*, to acquire control of Kiamichi Holdings, Inc., and its subsidiary Kiamichi Railroad L.L.C.

[4] RailAmerica has invoked the Board's class exemption procedures to acquire control of Class II rail carrier ParkSierra Corp. (ParkSierra) in *RailAmerica, Inc.-Control Exemption-ParkSierra Acquisition Corp. and ParkSierra Corp.*, STB Finance Docket No. 34100 (STB served Dec. 20, 2001) (*ParkSierra*). RailAmerica indicates that ParkSierra's rail properties do not connect with those of Alabama & Gulf Coast or those of RailAmerica's other rail subsidiaries.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub–No. 390X)]

The Burlington Northern and Santa Fe Railway Company—Abandonment Exemption—Between Loving and Pecos Junction, NM, and Between Pecos Junction, NM, and Rustler Springs, TX

The Burlington Northern and Santa Fe Railway Company (BNSF) has filed a verified notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a line of railroad between BNSF milepost 196.00 near Loving, NM, and milepost 217.20 near Pecos Junction, NM, and between milepost 0.00 near Pecos Junction, NM, and milepost 25.34 near Rustler Springs, TX, a total distance of 46.54 miles. The line traverses United States Postal Service Zip Codes 88256, 88263, and 79855.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 29, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 9, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 22, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Michael Smith, Freeborn & Peters, 311 S. Wacker Dr., Suite 3000, Chicago, IL 60606–6677. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 4, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), BNSF shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by BNSF's filing of a notice of consummation by December 28, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Website at *www.stb.dot.gov.*

Decided: December 18, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31767 Filed 12–27–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket No. BTS–2001–11069]

Reports of Motor Carriers; Notice of Requests for Exemptions From Public Release; Request for Comments

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: This Notice announces BTS' receipt of exemption requests from the motor carriers listed below and invites public comments on the exemption requests. Class I and Class II for-hire motor carriers of property and household goods, with gross annual operating revenue of $3 million or more, are required to file annual reports with the BTS and Class I motor carriers must also file quarterly reports. As provided by statute, carriers may request that their reports be withheld from public release. BTS has opened a public docket and is inviting comments on the exemption requests from motor carriers listed below.

DATES: Comments must be submitted by February 26, 2002.

ADDRESSES: Send comments to the U. S. Department of Transportation, Dockets Management System (DMS). You may submit your comments by fax, Internet, in person or via the U.S. mail to the Docket Clerk, Docket No. BTS–2001–11069, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590–0001. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (the Internet, fax, or professional delivery service) to submit comments to the docket and ensure their timely receipt at U.S. DOT. You may fax your comments to the DMS at (202) 493–2251. If you have provided any correspondence related to any exemption request listed below, please call (202) 366–5685 to verify receipt at U.S. DOT.

If you wish to file comments using the Internet, you may use the DOT DMS website at *http://dms.dot.gov.* Please follow the online instructions for submitting an electronic comment. Comments should identify the docket number and be submitted in duplicate. If you would like the Department to acknowledge receipt of your comments, you must submit a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS–2001–11069. The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Russell B. Capelle, Jr., K–13, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–5685; fax: (202) 366–3364; e-mail: *russ.capelle@bts.gov* or Robert A. Monniere, K–2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–5498; fax: (202) 366–3640; e-mail: *robert.monniere@bts.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 14123 and its implementing regulations at 49 CFR part 1420, BTS collects financial and operating information from for-hire motor carriers of property and household goods. The data are collected on annual Form M, filed by Class I and Class II carriers, and quarterly Form QFR, filed only by Class I carriers. The data are used by the Department of Transportation, other federal agencies, motor carriers, shippers, industry analysts, labor unions, segments of the insurance industry, investment analysts, and the consultants and data vendors that support these users. Among the uses of the data are: (1) Developing financial and operating performance indicators to better measure the trucking industry and the motor carriers' role in the economy; (2) Implementing performance-based government policies; (3) Developing benchmark data for competitive analysis of trucking companies and the basis for industry policies; and (4) Research and analysis by educational institutions.

Generally, all data are made publicly available. A motor carrier can, however, request that its report be withheld from public release, as provided for by statute, 49 U.S.C. 14123(c)(2), and its implementing regulations, 49 CFR

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

1420.9. BTS will grant a request upon a proper showing that the carrier is not a publicly held corporation or that the carrier is not subject to financial reporting requirements of the Securities and Exchange Commission, and that the exemption is necessary to avoid substantial competitive harm and to avoid the disclosure of information that qualifies as trade secret or privileged or confidential information under 5 U.S.C. 552(b)(4). The carrier must submit a written request containing supporting information. The request must be received or postmarked by the report's due date unless there are extenuating circumstances. Requests covering the quarterly reports must be received by the due date of the annual report that relates to the prior year.

Motor carriers are reminded that an exemption from public release is valid for a period of three years from the date the report was due to BTS, 49 CFR 1420.9(g). After a date three years from the report's due date, unless otherwise required by law, BTS will make these reports available to the public.

In accordance with our regulations, after the due date of each annual report, we will publish a notice in the **Federal Register** requesting comments on the requests we have received for an exemption from public release. After considering the merits of each request and any public comments, we will make a decision to grant or deny each exemption request. While a decision is pending, we will not publicly release the motor carrier's annual and/or quarterly report(s), except as allowed under 49 CFR 1420.10(c).

II. Request for Comments

BTS invites comments on the following requests for exemption from public release. These requests cover the 1999 & 2000 annual reports and some also cover the 2000 & 2001 quarterly reports. The comments should be made within the context of the governing regulations at 49 CFR 1420.9. For additional information concerning these regulations, the public is encouraged to review the BTS final rule published in March 23, 1999 edition of the **Federal Register** (64 FR 13916).

The following motor carriers have submitted a request for an exemption from public release and we invite your comments:

Aulick Leasing Corp. (MC# 167541)
B & T Express, Inc. (MC# 194598)
Barr Transportation Corp. (MC# 141335)
Bernard D. Harner & Son, Inc. (MC# 142525)
Bullet Freight System, Inc. (MC# 240746)
C.R. England, Inc. (MC# 124679)
CZ Cartage, Inc. (MC# 272644)
Central States Trucking Co. (MC# 152337)
Central Trucking, Inc. (MC# 155550)
Chickasaw Container Services, Inc. (MC# 176391)
Chuck Foster Trucking, Inc. (MC# 252061)
Comcar Industries, Inc. and its six affiliated companies *
- * Coastal Transport, Inc. (MC# 121654)
- * Commercial Carrier, Corp. (MC# 115491)
- * CTL Distribution, Inc. (MC# 129326)
- * MD Transport Systems, Inc. (MC# 136123)
- * Midwest Coast Transport, Inc. (MC# 111812)
- * Willis Shaw Express, Inc. (MC# 117119)

Coosada Trucking Co., Inc. (MC# 183165)
Cowan Systems, LLC (MC# 271882)
Crewe Transfer, Inc. (MC# 36222)
D & A Truck Line, Inc. (MC# 147545)
Ee-Jay Motor Transports, Inc. (MC# 119422)
H.O. Wolding, Inc. (MC# 142310)
Harry Owen Trucking, Inc. (MC# 160454)
Harvey D. Bailey, Inc. d/b/a Cross Country Cartage (MC# 190669)
Hartwick & Hand, Inc. (MC# 197217)
Hornady Truck Line, Inc. (MC# 121664)
Illinois Armored Car Corporation d/b/a United Armored Services (MC# 157414)
Indiana Western Express (MC# 212622)
Industrial Transfer & Storage, Inc. (MC# 183132)
J & S Transport, Inc. (MC# 178215)
J L J Trucking, Inc. (MC# 200833)
Laris Shelman & Sons Trucking (MC# 222645)
Laura Kopetsky Tri-Ax, Inc. (MC# 259667)
Martin Transport, Inc. (MC# 164594)
McLeod, Inc. (MC# 239540)
Olson Carriers, Inc. (MC# 173716)
Riverton Truckers, Inc. (MC# 250963)
S-J Transportation Company (MC# 150546)
Schneider National and its five affiliated companies *
- * Schneider National Carriers, Inc. (MC# 133655)
- * Schneider National Bulk Carriers, Inc. (MC# 143594)
- * Schneider Specialized Carriers, Inc. (MC# 113855)
- * Schneider Tank Lines, Inc. (MC# 110988)
- * Schneider Transport, Inc. (MC# 051146)

Security Armored Car Service, Inc. (MC# 134009)
Shelton Trucking Service, Inc. (MC# 124887)
Southern Pride Trucking Company, Inc. (MC# 149343)
T & M Express, Inc. (MC# 269387)
Thomas H. Ireland, Inc. (MC# 244166)
Transportation Services, Inc. (MC# 147039)
Truck Air of Carolinas, Inc. (MC# 167209)
W-H Transportation Co., Inc. (MC# 146329)
Wesco, Inc. (MC# 152643)

If you wish to read the exemption requests and the comments that are submitted in response to this Notice, you must use the DOT Dockets Management System. The DMS is located at the Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. Internet users can access the DMS at *http://dms.dot.gov*. Please follow the instructions online for more information and help. You must also use the DMS if you wish to comment on one or more exemption requests. Please follow the instructions listed above under the section **ADDRESSES.**

Russell B. Capelle, Jr.,
Assistant BTS Director for Motor Carrier Information.

[FR Doc. 01–32023 Filed 12–27–01; 8:45 am]

BILLING CODE 4910–FE–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 18, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before January 28, 2002 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0098.
Form Number: ATF F 5520.2.
Recordkeeping Requirement ID Number: ATF REC 5520/1.

VOL 66 ISS 249 DEC 28 2001 UMI

Type of Review: Extension.

Title: Annual Report of Concentrate Manufacturers and Usual and Customary Business Records—Volatile Fruit-Flavor Concentrate.

Description: Manufacturers of volatile fruit-flavor concentrate must provide reports as necessary to insure the protection of the revenue. The report accounts for all concentrates manufactured, removed, or treated so as to be unfit for beverage use. The information is required to verify that alcohol is not being diverted thereby jeopardizing tax revenues.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 91.

Estimated Burden Hours Per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 30 hours.

OMB Number: 1512–0532.

Recordkeeping Requirement ID Number: ATF REC 5210/13.

Type of Review: Extension.

Title: Marks and Notices on Packages of Tobacco Products.

Description: ATF requires that tobacco products be identified by statements of information on packages, cases and containers of tobacco products. ATF uses this information to validate the receipt of excise tax revenue, the determination of tax liability and the verification of claims.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 120.

Estimated Burden Hours Per Recordkeeper: 0 hours.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

OMB Number: 1512–0546.

Form Number: None.

Type of Review: Extension.

Title: Certification on Agency Letterhead Authorizing Purchase of Firearm for Official Duties of Law Enforcement Officer.

Description: This letter is used by a law enforcement officer to purchase handguns to be used in his/her official duties from a licensed firearm dealer anywhere in the country. The letter shall state that the firearm is to be used in the official duties of the officer and that he/she has not been convicted of a misdemeanor crime of domestic violence.

Respondents: State, Local or Tribal Government.

Estimated Number of Recordkeepers: 50,000.

Estimated Burden Hours Per Recordkeeper: 5 seconds.

Frequency of Response: Other (5 years).

Estimated Total Recordkeeping Burden: 389 hours.

Clearance Officer: Frank Bowers (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports Management Officer.

[FR Doc. 01–31886 Filed 12–27–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning January 1, 2002 and ending on June 30, 2002 the prompt payment interest rate is 5.500 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Eleanor Farrar, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328. A copy of this Notice will be available to download from *http://www.publicdebt.treas.gov.*

DATES: This notice announces the applicable interest rate for the January 1, 2002 to June 30, 2002 period.

FOR FURTHER INFORMATION CONTACT: Frank Dunn, Manager, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5170; Eleanor Farrar, Team Leader, Borrowings Accounting Team, Office of Public Debt Accounting, Bureau of the Public Debt, (304) 480–5166; Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8692; or Mary C. Schaffer, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–8685.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971, section 2, Pub. L. 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978, section 12, Pub. L. 95–563, 92 Stat. 2389 and indirectly, the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury for the Renegotiation Board under Pub. L. 92–41.

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable, for the period beginning January 1, 2002 and ending on June 30, 2002, is 5.500 per centum per annum. This rate is determined pursuant to the above-mentioned sections for the purpose of said sections.

Dated: December 20, 2001.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–31893 Filed 12–27–01; 8:45 am]

BILLING CODE 4810–35–M

Corrections

Federal Register
Vol. 66, No. 249
Friday, December 28, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

Correction

In notice document 01–31212 beginning on page 65513 in the issue of December 19, 2001, make the following correction:

On page 65513, in the third column, under the heading "DATES", "December 19, 2001" should read "February 19, 2002".

[FR Doc. C1–31212 Filed 12–27–01; 8:45 am]

BILLING CODE 1505–01–D

VOL
66
ISS
2
4
9
DE
28
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 28, 2001

Part II

Social Security Administration

20 CFR Part 411
The Ticket to Work and Self-Sufficiency Program; Final Rule
Request for Public Suggestions on Ways to Support Youth With Disability in Transition to Adulthood; Notice

VOL 66 ISS 249 DE 28 2001 UMI

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 411

RIN 0960–AF11

The Ticket to Work and Self-Sufficiency Program

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are publishing final regulations implementing the Ticket to Work and Self-Sufficiency Program (Ticket to Work program) authorized by the Ticket to Work and Work Incentives Improvement Act of 1999. The Ticket to Work program provides beneficiaries with disabilities with expanded options for access to employment services, vocational rehabilitation services, or other support services. We will pay the providers of those services after the beneficiaries achieve certain levels of work.

DATES: These regulations are effective January 28, 2002.

FOR FURTHER INFORMATION CONTACT: Georgia E. Myers, Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, E-mail to *regulations@ssa.gov*, or telephone (410) 965–3632 or TTY (410) 966–5609 for information about these regulations. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet Web site, SSA Online, at *www.ssa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The National Organization on Disability/Harris Survey of 1998 found that only 29 percent of individuals with disabilities were working full- or part-time. From calendar year 1986 to calendar year 1999, the number of individuals receiving disability benefits rose 80 percent, with about half receiving Social Security disability benefits and half Supplemental Security Income (SSI) benefits. Among the factors contributing to this increase were outreach efforts of the Social Security Administration (SSA) and the aging of the work force. The Federal government spent $51.3 billion on Social Security disability benefits in calendar year 1999, and $22.9 billion on SSI. Many States use State funds to supplement the benefits of SSI beneficiaries.

According to the U.S. General Accounting Office, less than one percent of Social Security disability and SSI beneficiaries leave the Social Security and SSI rolls each year as a result of paid employment. Of those who leave, about one-third return within three years. If just one-half of one percent of the current Social Security disability and SSI beneficiaries were to cease receiving benefits as a result of engaging in self-supporting employment, savings in cash benefits would total $3.5 billion over the work-life of those individuals.

These final regulations are intended to expand the options available for Social Security disability beneficiaries and disabled or blind SSI beneficiaries to access vocational rehabilitation (VR) services, employment services, and other support services that are necessary for such beneficiaries to obtain, regain or maintain employment that reduces their dependency on cash benefits. We expect that the expansion of these options and the creation of new work incentives in the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170) will remove some of the disincentives that many beneficiaries with disabilities face when they attempt to work or, if already working, continue working or increase their work effort. If more beneficiaries with disabilities engage in self-supporting employment, the net result will be a reduction in the Social Security and SSI disability rolls and savings to the Social Security Trust Fund and general revenues.

Ticket to Work and Work Incentives Improvement Act of 1999

On December 17, 1999, the *Ticket to Work and Work Incentives Improvement Act of 1999* (Public Law 106–170) became law.

In section 2(b) of Public Law 106–170, the Congress states that this legislation has the following four basic purposes:

- To provide health care and employment preparation and placement services to individuals with disabilities that will enable those individuals to reduce their dependence on cash benefit programs.
- To encourage States to adopt the option of allowing individuals with disabilities to purchase Medicaid coverage that is necessary to enable such individuals to maintain employment.
- To provide individuals with disabilities the option of maintaining Medicare coverage while working.
- To establish a "Ticket to Work and Self-Sufficiency Program" that allows Social Security disability and disabled or blind SSI beneficiaries to seek the employment services, vocational rehabilitation services, and other support services needed to obtain, regain, or maintain employment and reduce their dependence on cash benefit programs.

Section 101(a) of Public Law 106–170 amended Part A of title XI of the Social Security Act (the Act) by adding a new section 1148, The Ticket to Work and Self-Sufficiency Program (Ticket to Work program). The purpose of the Ticket to Work program is to expand the universe of service providers available to beneficiaries with disabilities who are seeking employment services, vocational rehabilitation services, and other support services to assist them in obtaining, regaining and maintaining self-supporting employment.

The Social Security Administration is required to develop the regulations necessary to implement section 1148 of the Act, as well as certain other amendments to the Act made by Public Law 106–170, and to provide details regarding the Ticket to Work program. Section 101(e) of Public Law 106–170 requires the Commissioner of Social Security (the Commissioner) to prescribe such regulations as are necessary to implement the amendments made by section 101. We are prescribing these regulations to address a number of areas where specific policy decisions were left to the discretion of the Commissioner.

Under the Ticket to Work program, the Commissioner may issue tickets to Social Security disability beneficiaries and disabled and blind SSI beneficiaries. Each beneficiary will have the option of using his or her ticket to obtain services from a provider known as an employment network (EN). The beneficiary will choose the EN, and the EN will provide employment services, vocational rehabilitation services, and other support services to assist the beneficiary in obtaining, regaining and maintaining self-supporting employment. ENs will also be able to choose whom they serve. Beneficiaries issued a ticket also will have the option of taking the ticket to their State vocational rehabilitation agency for services.

The Commissioner's intent in publishing these final regulations for the Ticket to Work program is to allow service providers that have traditionally provided employment services, vocational rehabilitation services and other support services, as well as other types of entities, to qualify as ENs and serve beneficiaries with disabilities under the program. The expansion of options available to obtain these services will provide beneficiaries with real choices in getting the services they need to obtain, regain, or maintain employment.

Public Education Forums and Conferences

Immediately following passage of Public Law 106–170, we began working with the U.S. Departments of Health and Human Services, Education, and Labor, as well as the Presidential Task Force on the Employment of Adults with Disabilities, the President's Committee on Employment of People with Disabilities, and the National Council on Disability. These Federal partners joined together to plan and conduct a series of public education forums. The purpose of the forums was to increase the awareness of public disability programs and programs designed to help individuals with disabilities start or return to work among individuals with disabilities, their families and representatives, service providers, advocates and State agencies. The forums focused on Federal and State employment-related policies and programs for people with disabilities.

Forums were held in eleven major cities across the country. Those cities were Baltimore, Maryland (December 12, 1999); Kansas City, Missouri (February 2, 2000); Durham, North Carolina (March 9, 2000); Phoenix, Arizona (March 30, 2000); New York, New York (April 6, 2000); Austin, Texas (May 17, 2000); Seattle, Washington (June 13, 2000); Worcester, Massachusetts (June 26, 2000); Chicago, Illinois (August 1, 2000); Harrisburg, Pennsylvania (August 15, 2000); and Denver, Colorado (September 13–14, 2000).

Representatives from many national and community-based organizations participated in these forums, including the SSI Coalition, Virginia Commonwealth University, Disability Rights Education and Defense Fund, the National Brain Injury Association, Consortium for Citizens with Disabilities, Robert Wood Johnson Foundation, National Council on Independent Living, Capstone Group, as well as State representatives from the Developmental Disabilities Councils, the State Independent Living Councils, and the Governors' Committees on Employment of People with Disabilities.

The forums provided participants with both information and an opportunity for discussion. Topics included: SSA customer services and work incentives; State health care systems and models; and employment initiatives of the Departments of Education, Labor, and Health and Human Services.

The forums were also used as an opportunity to share information about Public Law 106–170 and conduct exploratory discussions about policy issues relating to the implementation of the provisions in the legislation that were left to the Commissioner to interpret. New models where State and local systems are working together to serve their common customers with disabilities were highlighted.

SSA representatives were also involved in meetings and conferences on the national, regional, State, and local levels. These included SSA-sponsored forums in Chicago, San Francisco, Dallas, Denver, and Philadelphia conducted in January and February 2000, which focused on the Ticket to Work program. At these meetings and conferences, SSA representatives made presentations on Public Law 106–170, facilitating discussion and obtaining recommendations that were considered in developing the provisions of the Ticket to Work program that were addressed in our proposed rules.

SSA's Programs for Rehabilitation Services Prior to Implementation of the Ticket to Work Program

In titles II and XVI of the Social Security Act, Congress provided that we promptly refer individuals applying for or determined eligible for Social Security disability benefits or SSI benefits based on disability or blindness to State vocational rehabilitation (VR) agencies for necessary rehabilitation services. Under the statute and by regulations, if a State VR agency does not serve a beneficiary whom we referred, we may use other public or private agencies, organizations, institutions or individuals to provide services. Under our regulations, these other providers of services are known as alternate participants. We are authorized under the Act to pay State VR agencies and alternate participants for the reasonable and necessary costs of services provided to Social Security disability beneficiaries and disabled and blind SSI beneficiaries under specific circumstances. The most frequent circumstance permitting payment under the Act is when the services provided result in the beneficiary performing substantial gainful activity (SGA) for a period of at least nine continuous months. These programs for referral and reimbursement for VR services are provided for in sections 222(a) and (d) and sections 1615(a), (d), and (e) of the Act.

Section 101(b) of Public Law 106–170 makes a number of conforming amendments to the Act, which require amendments to existing regulations that implement these statutory provisions. As we gradually implement the Ticket to Work program in States selected by the Commissioner, the provisions of the Act for referring beneficiaries to State VR agencies will cease to be in effect in those States as provided in sections 101(b), (c) and (d) of Public Law 106–170. Additionally, the use of alternate participants under the title II and title XVI vocational rehabilitation reimbursement programs will be phased out in the States as the Ticket to Work program is implemented, as authorized under section 101(d)(5) of Public Law 106–170.

Section 101(b) of Public Law 106–170 also repealed sections 222(b) and 1615(c) of the Act, under which the Commissioner was authorized to impose sanctions (i.e. make deductions from Social Security disability benefits or suspend SSI benefits) with respect to any beneficiary who refused, without good cause, to accept rehabilitation services made available by a State VR agency or an alternate participant.

The proposed rules to implement these statutory changes will be published in the **Federal Register** at a later date.

Section 101(b) of Public Law 106–170 also amends sections 225(b) and 1631(a)(6) of the Act under which SSA is authorized to continue disability or blindness benefit payments to individuals who recover medically while participating in a program of vocational rehabilitation services approved by the Commissioner if the Commissioner determines that continuation in or completion of the program will increase the likelihood that the individual will be permanently removed from the disability or blindness benefit rolls. Section 101(b) of Public Law 106–170 amends these sections of the Act by striking "a program of vocational rehabilitation services" and inserting "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services". The proposed rules to implement this expanded definition will be published in the **Federal Register** at a later date.

We will also publish at a later date in the **Federal Register** the rules for implementing section 112 of Public Law 106–170, Expedited Reinstatement of Disability Benefits.

General Goals of the Ticket to Work Program

The Ticket to Work program will enhance the range of choices available

VOL 66 ISS 249 DE 28 2001 UMI

to Social Security disability and disabled and blind SSI beneficiaries when they are seeking employment services, VR services and other support services to obtain, regain or maintain self-supporting employment. The coordinated and interrelated public policy embodied in various provisions of Public Law 106–170 will remove several disincentives to employment faced by beneficiaries with disabilities. The Ticket to Work program will increase beneficiaries' access to public and private providers to obtain employment services, VR services, and other support services. As a result, the Ticket to Work program, together with other provisions of Public Law 106–170, should increase the number of beneficiaries who increase their work effort and leave the Social Security or SSI disability rolls due to income from employment.

In addition to providing the increased opportunity for these beneficiaries to obtain services when they seek employment, Public Law 106–170 may result in substantial savings for the Federal government and State governments. Not only should there be an increase in the number of beneficiaries leaving the Social Security and SSI disability rolls due to work or earnings, some individuals will secure work with employers who offer group health coverage, thereby reducing Medicaid and Medicare expenses. Earned income should also yield tax receipts while reducing expenses in Social Security disability and disabled and blind SSI benefits, food stamps, HUD housing rent subsidies, and certain veterans benefits. Improved employment rates of individuals with disabilities should increase the independence of such individuals and strengthen our communities and workforce.

Ticket to Work Program

Section 1148 of the Act, which was added by section 101(a) of Public Law 106–170, directs the Commissioner of Social Security to establish a Ticket to Work and Self-Sufficiency Program. Section 1148(b) of the Act authorizes the Commissioner to issue a ticket to disabled beneficiaries. Beneficiaries may choose among public or private service providers that have been approved by SSA to function as ENs under the program to obtain employment services, vocational rehabilitation services, or other support services to assist them in obtaining, regaining or maintaining employment that will reduce their dependence on cash benefits. Beneficiaries will also have the option of choosing to obtain services from their State VR agency. The overall purpose of the Ticket to Work program is to expand the universe of options available to beneficiaries with disabilities for obtaining such services.

Section 101(d) of Public Law 106–170 requires the Commissioner to implement the Ticket to Work program in graduated phases at phase-in sites selected by the Commissioner. This is to permit a thorough evaluation of the program and ensure that the most effective methods are in place for full implementation of the program. This section also provides that the Ticket to Work program should be available in every State not later than 2004.

SSA has decided that the Ticket to Work program will be implemented in the following manner:

During Phase I of the Ticket to Work program, we will distribute tickets to eligible beneficiaries in the following States: Arizona, Colorado, Delaware, Florida, Illinois, Iowa, Massachusetts, New York, Oklahoma, Oregon, South Carolina, Vermont and Wisconsin. We intend to implement this phase upon the effective date of these regulations.

During Phase II of the Ticket to Work program, we will distribute tickets to eligible beneficiaries in the following States: Alaska, Arkansas, Connecticut, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, South Dakota, Tennessee, Virginia and in the District of Columbia. We intend to implement this phase in calendar year 2002.

During Phase III of the Ticket to Work program, we will distribute tickets to eligible beneficiaries in the following States: Alabama, California, Hawaii, Idaho, Maine, Maryland, Minnesota, Nebraska, North Carolina, Ohio, Pennsylvania, Rhode Island, Texas, Utah, Washington, West Virginia, Wyoming, as well as in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the Virgin Islands. We intend to implement this phase in calendar year 2003.

Section 1148(d)(1) of the Act authorizes the Commissioner to conduct a competitive bidding process and enter into an agreement with one or more organizations to serve as a Program Manager (PM) to assist SSA in administering the Ticket to Work program.

The PM will recruit and recommend for selection by the Commissioner ENs for service under the program; monitor all ENs serving in the geographic areas covered under the PM's agreement to ensure that adequate choices of services are made available to beneficiaries; assure that payment by the Commissioner to ENs is warranted; facilitate access by beneficiaries to ENs; ensure the availability of adequate services; and ensure that sufficient ENs are available and that each beneficiary under the program has reasonable access to employment services, vocational rehabilitation services, and other support services.

Section 1148(d)(4) of the Act directs the Commissioner to select and enter into agreements with service providers that are willing to function as ENs and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, and other support services to beneficiaries with disabilities under the Ticket to Work program. A beneficiary with a ticket may assign his or her ticket to any provider that is serving as an EN under the Ticket to Work program and is willing to accept the assignment. Beneficiaries who are issued a ticket also will have the option of taking the ticket to their State VR agency for services.

Section 101(e) of Public Law 106–170 requires the Commissioner to prescribe such regulations as are necessary to implement the amendments made by section 101 of this legislation. These final regulations address those areas which must be regulated in order to implement the Ticket to Work program. Additional regulations necessary for the ongoing implementation of the program will be published as proposed rules in the **Federal Register** at a later date. For example, proposed performance measures to be used in conducting periodic reviews as necessary to provide for effective quality assurance in the provision of services by ENs will need to be developed and published in the **Federal Register** for comment.

Notice of Proposed Rulemaking

We published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on December 28, 2000 (65 FR 82844) proposing rules to implement the Ticket to Work program. We provided the public 60 days to submit comments. The comment period closed February 26, 2001. We received comments from over 400 commenters. We discuss the comments we received on the NPRM and provide our responses to the comments later in this preamble under "Public Comments on the Notice of Proposed Rulemaking." A summary of the public comments is available on the Internet at the SSA Office of Employment Support Programs' Work Site at http://www.ssa.gov/work.

UMI

As we explain below, in these final regulations, we are making a number of changes from the proposed rules in response to public comments. As suggested in a number of these comments, we are also making other changes in the interest of improved clarity, consistency, and improved organization.

Final Regulations

We are adding a new part 411 to chapter III of title 20 of the Code of Federal Regulations to provide the regulations for the Ticket to Work program. The new part 411 is divided into the following subparts.

Subpart A—Introduction

Subpart A of these regulations provides an introduction to the regulations in the new part 411. Section 411.100 provides an overview of the regulations in part 411. Section 411.105 describes the purpose of the Ticket to Work program. Section 411.110 explains that the Ticket to Work program will be implemented in graduated phases in sites around the country as required by section 101(d) of Public Law 106–170. Section 411.115 provides definitions of terms used in part 411. In the final rules, we have reorganized the definitions of terms in § 411.115 to place the terms in alphabetical order. In final § 411.115(m) (proposed § 411.115(i)), we have clarified the definition of State vocational rehabilitation agency to indicate that in those States that have one agency that provides VR services to non-blind individuals and another agency that provides services to blind individuals, the term "state vocational rehabilitation agency" or "state VR agency" refers to either State agency. In addition, we have expanded § 411.115 in the final rules to provide definitions of the terms "employment network" or "EN," "individual work plan" or "IWP," "individualized plan for employment" or "IPE," "program manager" or "PM," and "ticket."

Subpart B—Tickets Under the Ticket to Work Program

Subpart B of these regulations describes what a ticket is and explains who is eligible to receive a ticket.

Section 411.120 explains that a ticket is a document that provides evidence of the Commissioner's agreement to pay an EN or State VR agency to which a beneficiary's ticket is assigned for providing services to the beneficiary under the Ticket to Work program if certain conditions are met. As required by section 101(e)(2)(B) of Public Law No. 106–170, we have added a complete description of the format and the wording of the ticket to this section.

Section 411.125 states the following requirements, among others, for eligibility to receive a ticket: a title II beneficiary must be age 18 to 64, and a title XVI beneficiary must be age 18 to 64 and be eligible for disability payments under the disability standard for adults; a beneficiary must be in current pay status for monthly cash benefits based on disability under title II of the Act or monthly Federal cash benefits based on disability or blindness under title XVI of the Act; and a beneficiary's case must either (1) have a permanent impairment or a nonpermanent impairment (i.e. an impairment for which medical improvement is possible but cannot be predicted), or (2) have an impairment that is expected to improve and have undergone at least one continuing disability review (CDR).

In developing requirements for ticket eligibility under these regulations, we considered, but decided not to extend eligibility for a ticket to three additional groups of individuals.

The first group consists of beneficiaries who have impairments that are expected to improve and for whom we have not yet conducted at least one continuing disability review. Because these beneficiaries have conditions that are expected to medically improve in a relatively short period of time, they could be expected to return to work without the need for services under the Ticket to Work program. Continuing disability reviews for this category of beneficiaries are scheduled for 6–18 months after the initial disability determination. Under these rules, if we determine in the first continuing disability review that the beneficiary remains disabled, we would then issue a ticket, provided that the beneficiary met the other ticket eligibility criteria. This approach would ensure that beneficiaries whose conditions do not improve as anticipated have the opportunity to benefit from services under the Ticket to Work program within a relatively short period of time after the initial determination.

The second group consists of individuals who have not attained age 18. Beneficiaries in this group generally are in school, still pursuing completion of their formal elementary and secondary education. For this group, participation in an employment plan under the Ticket to Work program could interfere with their pursuit of an education, completion of which many believe should be the primary focus and goal for school-age youth.

The third group consists of those who received title XVI payments prior to attaining age 18 (i.e. under the disability standard for children) and have since attained age 18, but for whom we have not yet conducted a redetermination of their eligibility under the disability standard for adults. Because ongoing eligibility has not yet been determined for these beneficiaries, we believe that it is premature to issue a ticket to them immediately. Under the final rules, if we establish in the redetermination that a beneficiary in this group is eligible for disability payments under the disability standard for adults, we would then issue a ticket, provided that the beneficiary met the other ticket eligibility criteria.

We plan to review periodically our policy regarding ticket eligibility, including whether it would be prudent to extend eligibility to the groups discussed above. In addition, we are interested in exploring various approaches to assist youth under age 18 to transition to independence, further education, and careers in the workforce. Therefore, we are publishing a Notice elsewhere in today's **Federal Register** in which we are seeking suggestions from the public to assist us in designing for beneficiaries in the second and third groups an approach that could complement the Ticket to Work program.

In response to public comments, in these final rules we have added § 411.125(c) to explicitly state that individuals whose entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or whose eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act, will be eligible to receive another ticket in the first month he or she is entitled to reinstated benefits, as long as the beneficiary meets certain other requirements for eligibility for a ticket. Sections 223(i) and 1631(p) of the Act were added by section 112 of Public Law 106–170.

Section 411.130 explains that SSA will distribute tickets in graduated phases.

Section 411.135 explains that participation in the Ticket to Work program is voluntary. This section explains that if beneficiaries want to participate in the program, they may take their tickets to any entity serving under the program.

Section 411.140 explains that a beneficiary may assign his or her ticket to any EN or State VR agency that is willing to provide services, and that the

VOL 66 ISS 249 DE 28 2001 UMI

beneficiary may discuss his or her rehabilitation and employment plans with as many entities as he or she wishes. This section explains that the beneficiary can obtain a list of the approved ENs in his or her area. This section also explains certain requirements that must be met in order for a beneficiary to assign a ticket. Section 411.140 provides that an individual will be eligible to assign a ticket to an EN or State VR agency only during a month in which the individual meets the requirements of § 411.125(a)(1) and (a)(2). In general, this means the individual must be age 18–64 and must be either a title II disability beneficiary in current pay status who is not receiving benefit payments under 20 CFR 404.316(c), 404.337(c), 404.352(d) or 404.1597a, or a title XVI disability beneficiary whose Federal SSI cash benefits are not suspended and who is not receiving disability or blindness benefit payments under 20 CFR 416.996 or 416.1338.

Section 411.140 also provides that beneficiaries and ENs must agree to and sign an individual work plan (IWP) (or, in the case of a State VR agency, an individualized plan for employment (IPE)) before a ticket can be assigned. In response to public comments, in these final rules we are revising § 411.140(a) to indicate that individuals may assign their ticket to a State VR agency if they are eligible to receive VR services according to 34 CFR 361.42. We are making a similar change to § 411.150 regarding reassignment of a ticket to a State VR agency. Also in response to comments, we are revising §§ 411.140 and 411.150 to indicate that a representative of the State VR agency must agree to and sign the IPE. We also have modified §§ 411.140 and 411.150 of the final rules to provide that in order for a ticket to be assigned or reassigned to a State VR agency, the beneficiary and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in § 411.385(a)(1), (2) and (3) of these final regulations.

We are also making changes to § 411.140(d) and (e) and § 411.150(b) and (c) in these final rules to clarify that a copy of the signed IWP developed by the beneficiary and the EN, or the completed and signed form required for assignment or reassignment of a ticket to a State VR agency under § 411.385(a) and (b), must be submitted to and received by the PM in order for a ticket to be assigned or reassigned to the EN or State VR agency. If the IWP or required form has been submitted to and received by the PM, and if the other requirements for assignment or reassignment of a ticket are met, we will consider the ticket assigned or reassigned to the EN or State VR agency, effective as of the first day on which such other requirements are satisfied.

Section 411.145 describes the conditions under which a beneficiary may take a ticket back after it has been assigned to an EN or State VR agency. It also describes other conditions under which a ticket that is assigned can be taken out of assignment. In response to public comments, we are revising § 411.145(b) to state that a State VR agency may ask the PM to take a ticket out of assignment if the State VR agency stops providing services because the individual has been determined to be ineligible for VR services under 34 CFR 361.42, and to provide a cross-reference to the reassignment rules in § 411.150.

Section 411.150 explains the beneficiary's right to reassign a ticket, if the beneficiary chooses. In response to public comments, we have revised § 411.150(b) to state that the beneficiary and a representative of the State VR agency must agree to and sign an Individualized Plan for Employment if the beneficiary wishes to reassign his or her ticket to a State VR agency. Also, as discussed above, we have modified this provision in the final rules to provide that in order for a ticket to be reassigned to a State VR agency, the beneficiary and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in § 411.385(a)(1), (2) and (3). We also are modifying § 411.150(b) to clarify that one of the conditions for reassigning a ticket is that the ticket must be unassigned. We explain that if the ticket currently is assigned to an EN or State VR agency, the beneficiary must first tell the PM in writing that he or she wants to take the ticket out of assignment as provided under § 411.145. In addition, as written, proposed § 411.150(b)(2) potentially could have prevented certain individuals who were working with ENs or State VR agencies from reassigning their ticket, thus unnecessarily limiting their ability to take full advantage of the provisions of the Ticket to Work program.

Accordingly, we have modified the requirements in § 411.150(b) to provide exceptions to the general rule that in order to reassign a ticket, an individual must be age 18–64 and either a title II disability beneficiary in current pay status or a title XVI disability beneficiary whose Federal SSI cash benefits are not suspended. Final § 411.150(b)(3) provides that an individual does not have to satisfy these requirements if the individual and a representative of the new EN sign an IWP, or if the individual and a representative of the State VR agency sign both an IPE and the required form, within certain time periods. The time periods begin from the effective date on which the ticket was no longer assigned to the previous EN or State VR agency. The applicable time period depends on whether the individual's ticket is or is not in use under the rules in § 411.170 *et seq.* For an individual whose ticket is not in use, the specified time period is 30 days from the effective date the ticket no longer was assigned to the previous EN or State VR agency. For an individual whose ticket is in use, the specified time period is the three-month period that begins with the first month the ticket no longer was assigned to the previous EN or State VR agency. This three-month period is the extension period described in § 411.220.

The requirements that an individual be age 18–64 and be either a title II disability beneficiary in current pay status or a title XVI disability beneficiary whose Federal SSI cash benefits are not suspended are two of the basic requirements specified in § 411.125(a)(1) and (2) which an individual must meet in order to be eligible to receive a ticket under that section. In these final rules, an individual must meet these same requirements in order to be eligible to reassign a ticket under § 411.150, unless one of the conditions specified in § 411.150(b)(3) is met.

In addition, final § 411.150(a) provides that an individual will not be eligible to reassign a ticket if he or she is receiving title II disability benefits under 20 CFR 404.316(c), 404.337(c), 404.352(d) or 404.1597a, or is receiving title XVI disability or blindness benefit payments under 20 CFR 416.996 or 416.1338. This rule was reflected in proposed § 411.150(b)(2). We are retaining this rule in final § 411.150(a). This rule applies regardless of whether one of the conditions specified in § 411.150(b)(3) is met.

Other changes which we are making in final § 411.150(b) and (c) are explained above in our discussion of the revisions to § 411.140. Because of these changes, proposed § 411.150(d) is deleted in these final rules.

Section 411.155 explains when a beneficiary's ticket terminates and eligibility for participation in the Ticket to Work program ends. Once a ticket terminates, a beneficiary may not assign or reassign it to an EN or State VR agency. Under these regulations, a ticket will terminate when: (1) entitlement to Social Security disability benefits ends for reasons other than the individual's work activity or earnings, or when eligibility for SSI benefits based on disability or blindness terminates for reasons other than the individual's work activity or earnings, whichever is later; (2) a Social Security disabled widow(er) beneficiary attains age 65; or (3) a disabled or blind SSI beneficiary reaches age 65 and may qualify for SSI benefits based on age.

In order to provide clarity regarding all of the circumstances under which a ticket will terminate and an individual's eligibility for participation in the Ticket to Work program ends, we also are expanding § 411.155 to add a description of the events that terminate the ticket after the beneficiary's entitlement to title II benefits based on disability or eligibility for title XVI benefits based on disability or blindness terminated because of work or earnings. After such termination of entitlement or eligibility (and, in the case of a concurrent title II/title XVI disability beneficiary, the termination of entitlement/eligibility under the other program), a ticket will terminate in any of the following months: (1) the month we make a final determination or decision that an individual is not entitled to have title II benefits based on disability reinstated under section 223(i) of the Act or not eligible to have title XVI benefits based on disability or blindness reinstated under section 1631(p) of the Act; (2) the month in which we make a final determination or decision that an individual is not entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness based on the filing of an application for benefits; (3) the month in which a beneficiary reaches retirement age (as defined in section 216(l) of the Act); (4) the month in which the beneficiary dies; (5) the month in which a beneficiary becomes entitled to a title II benefit that is not based on disability or eligible for a title XVI benefit that is not based on disability or blindness; and (6) the month in which the beneficiary again becomes entitled to title II benefits based on disability, or eligible for title XVI benefits based on disability or blindness, based on filing a new application.

In addition, consistent with the modification to § 411.125, we are modifying § 411.155 to indicate that when a beneficiary is eligible to receive another ticket as a result of benefit reinstatement under section 223(i) or 1631(p) of the Act, the ticket that the beneficiary received in connection with the previous period of entitlement or eligibility will terminate in the month the beneficiary is eligible for the new ticket.

We have deleted reference to payment of 60 outcome payments to an EN that was described in proposed § 411.155(d), since this event properly refers to the period of using a ticket (see § 411.171(d) and (e)).

Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket

Under section 221(i) of the Act and under the authority granted by sections 1631 and 1633 of the Act, we conduct periodic reviews to ensure that beneficiaries continue to meet the definition of disability under sections 223(d) and 1614(a) of the Act. These reviews are called continuing disability reviews (CDRs). Public Law 106–170 amends the Act to add section 1148(i), which states that SSA may not initiate a CDR during any period in which a beneficiary is using a ticket. The statute states:

> "During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221."

The definition of using a ticket is to be determined by the Commissioner of Social Security. Subpart C outlines our definition of using a ticket.

In developing our definition of using a ticket, we considered two key factors. First, the intent of the Ticket to Work program is to allow beneficiaries with disabilities to seek the services they need to work and to reduce or eliminate dependence on Social Security disability and SSI benefits. However, anecdotal evidence suggests that some beneficiaries are afraid that working, or even receiving vocational rehabilitation services, may increase the likelihood that their benefits will be terminated by a CDR. Therefore, using a ticket should be defined in a way that minimizes this employment disincentive for beneficiaries participating in the Ticket to Work program. In order to maintain the integrity of the disability programs, it is also important that beneficiaries who have medically improved and who no longer meet the definition of disability under sections 223(d) and 1614(a)(3) of the Act do not continue to receive disability benefits for an undue length of time.

Our definition seeks to balance these concerns by ensuring that CDRs are suspended only during the period in which beneficiaries are making timely progress toward reducing or eliminating dependence on Social Security disability or SSI benefits, while at the same time recognizing that progress toward that goal may not always be rapid or continuous.

Under our definition of using a ticket, a beneficiary will be considered to be using a ticket during the period in which he or she was making progress toward the goal of reducing or eliminating dependence on disability benefits within reasonable time frames. Under this approach, beneficiaries will be allowed a limited period to prepare for work. At the end of this period, they will need to show that they were progressing toward self-sufficiency by demonstrating increasing levels of employment.

An important advantage of this definition of using a ticket is that it increases employment incentives by "rewarding" beneficiaries who work and progress toward self-sufficiency with continued suspension of CDRs. However, requiring beneficiaries to demonstrate increasing levels of employment within a defined time frame results in a fairly complex regulation. The complexity arises from our attempt to balance the concerns discussed above and, to the extent possible, to accommodate the diverse employment needs of a wide range of beneficiaries. While some level of complexity is unavoidable, we have attempted wherever possible to simplify the regulation and to make it straightforward to implement.

Based on the comments that we received regarding the complexity and difficulty of this subpart, we are revising and reorganizing the content to increase clarity wherever possible.

Sections 411.160 and 411.165 introduce this subpart. In response to a comment on proposed § 411.160 noting a confusion in the use of the term "continuing disability review" for both medical and work reviews, we are clarifying the language in paragraph (b) to reference our rules on when we may conduct a CDR to determine whether an individual remains eligible for disability-based benefits. In response to recommendations that we clarify proposed § 411.165 to explain when the period of using a ticket begins and ends, we are expanding § 411.165 to include cross-references to §§ 411.170 and 411.171.

We are adding § 411.166 in response to comments on our proposed rules regarding the use of new terms. This

VOL 66 ISS 249 DE 28 2001 UMI

section provides a glossary of the following terms: "active participation in your employment plan," "extension period," "inactive status," "initial 24-month period," "progress review," "timely progress guidelines," "12-month progress review period," and "using a ticket."

In our proposed rules, we used the terms "work review" or "work review period" when referring to the requirements for making timely progress toward self-supporting employment. In response to comments that these terms caused confusion with existing terms used to describe "work CDR," we are now referring to "progress review" or "progress review period," which are included in the glossary of terms in § 411.166.

Sections 411.170 and 411.171 describe when the period of using a ticket begins and ends. The period of using a ticket begins when the ticket is first assigned to an EN or State VR agency. The primary purpose of the suspension of CDRs is to ensure that Ticket to Work program participants are not inhibited in their attempts to work or pursue an employment plan by the fear that such activities will increase the likelihood that their benefits will be terminated in a medical review. Prior to the assignment of the ticket, a beneficiary is not participating in these activities under the Ticket to Work program.

We are revising § 411.171 to clarify that the period of using a ticket ends with the earliest of the following (1) the occurrence of one of the events listed in § 411.155, which describes the events that will result in termination of the ticket; (2) when the beneficiary is determined to be no longer making timely progress toward self-supporting employment according to our guidelines (see §§ 411.180 through 411.200); (3) when the extension period expires if the beneficiary has not reassigned the ticket within the period; or (4) when we have made 60 outcome payments to an EN, including a State VR agency functioning as an EN, under subpart H. In instances where the beneficiary assigned a ticket to a State VR agency which selected the cost reimbursement payment system, the period of using a ticket also will end with the 60th month for which an outcome payment would have been made had the State VR agency chosen to function as an EN with respect to the beneficiary.

Section 411.175 describes our rules when a beneficiary assigns a ticket after a CDR has begun. A beneficiary may assign the ticket and receive services under the Ticket to Work program. We will, however, complete the CDR.

Sections 411.180, 411.185, 411.190 and 411.191 describe our guidelines for timely progress toward self-supporting employment.

After assigning a ticket, beneficiaries will be allowed up to two years to prepare for employment. This two-year period is referred to in the final rules as the initial 24-month period. After two years, we will consider that beneficiaries are continuing to use a ticket, and are therefore eligible to receive the protection in Section 1148(i) of the Act regarding non-initiation of CDRs, if they work at progressively higher levels of employment. Such a progression would allow beneficiaries time to improve their employment capacities.

We are reordering certain paragraphs in § 411.180 to provide a more appropriate placement for the definitions of terms we use to describe the guidelines we use to determine if an individual is making timely progress toward self-supporting employment. We are also clarifying that, for purposes of counting the 24 months comprising the initial 24-month period, we will not count any month in which the ticket is not assigned or not in use.

Under our timely progress guidelines, in the 24-month progress review conducted by the PM, beneficiaries must demonstrate that their employment plan has a goal of at least three months of work, as defined in § 411.185, by the time of the first 12-month progress review. The PM also must find that beneficiaries can reasonably be expected to reach this goal. In response to public comments, we are revising § 411.180(c)(1) to allow beneficiaries to use months worked during the initial 24-month period to meet these requirements of the 24-month progress review, as long as the work was at the level applicable to the work requirements for the first 12-month progress review period under § 411.185. In the third year of participation in the Ticket to Work program (referred to in the final rules as the first 12-month progress review period), beneficiaries would be required to work at least three months at a specified level. In response to public comment, we are revising § 411.180(c)(2) to allow beneficiaries to use months worked during the initial 24-month period to meet this requirement as well, as long as the work was at the required level as described in § 411.185. We are revising § 411.185(a)(1), (b)(1) and (c)(1) to reference the rules in § 411.180(c)(1) and (c)(2) on when months of work performed during the initial 24-month period may be used to meet certain requirements of the 24-month progress review and the work requirements of the first 12-month progress review period.

In the fourth year of participation in the program, beneficiaries will be required to work at least six months at the SGA level. In the fifth and succeeding years, in order to be considered to be using a ticket, they will be required to work at least six months in each year and have earnings in each such month that are sufficient to eliminate the payment of Social Security disability benefits and Federal SSI benefits.

In developing these guidelines, we recognized that progress toward self-sufficiency is not always continuous, and some beneficiaries may not attain full self-sufficiency. Many beneficiaries have disabilities with cycles of relapse and remission. In addition, some beneficiaries may need to try more than one job before finding a situation that suits their abilities and needs. The requirement that beneficiaries need only work three months out of 12 in the third year and six months out of 12 in succeeding years recognizes that some beneficiaries may not be able to work on a continuous basis.

Section 411.185 provides levels of earnings that an individual must have in order to be considered to be using a ticket. It defines when an individual will be considered to be working for purposes of meeting the timely progress guidelines. Under this definition, the required earnings level will increase over time. In the third and fourth years of participation in the Ticket to Work program (i.e. the first and second 12-month progress review periods), both Social Security disability beneficiaries and concurrent Social Security and SSI beneficiaries will be required to work at the SGA level applicable to non-blind beneficiaries for the specified number of months. This means that the beneficiary must have monthly earnings from employment or self-employment, after any applicable deductions under 20 CFR 404.1572 through 404.1576, that are more than the SGA threshold amount for non-blind beneficiaries.

The SGA threshold amount is set by regulation under 20 CFR 404.1574(b)(2), and is currently $740 a month for non-blind beneficiaries. Social Security disability beneficiaries, including concurrent Social Security and SSI beneficiaries, who are in a trial work period or who are statutorily blind will be deemed to have met the requirement to work at the SGA level applicable to non-blind beneficiaries if their gross earnings from employment, before any exclusions, are more than the SGA threshold amount for non-blind beneficiaries, or if their net earnings from self-employment, before any exclusions, are more than the SGA threshold amount for non-blind beneficiaries.

Under the definition of work for purposes of the first and second 12-month progress review periods, SSI disability and blindness beneficiaries will be considered to be working in a month in which the beneficiary has gross earnings from employment, before any exclusions, that are more than the SGA threshold amount for non-blind beneficiaries, or has net earnings from self-employment, before any exclusions, that are more than the SGA threshold amount for non-blind beneficiaries.

Earnings at the levels established in § 411.185 for the third and fourth years of participation in the program may not be sufficient to eliminate the payment of all disability benefits. The amount of earnings needed to eliminate the payment of disability benefits depends on a variety of factors, including whether the beneficiary receives Social Security or SSI benefits, or both, whether the beneficiary is blind, and whether the beneficiary has impairment-related work expenses or is eligible for other income exclusions. The earnings requirement for the third and fourth years are set at levels that allow beneficiaries time to work toward the higher levels of earnings that may be required to eliminate the payment of disability benefits for the required months in subsequent years of program participation.

In the fifth and subsequent years of participation in the program, both Social Security and SSI beneficiaries will be required to work for at least six months with earnings in each such month that are sufficient to eliminate payment of Social Security disability and Federal SSI cash benefits in a month. The requirement that individuals using a ticket eventually attain this level of earnings is consistent with the payment structure of the Ticket to Work program, in which ENs receive outcome payments only when Federal disability benefit payments are eliminated. It also reflects that one of the purposes of the Ticket to Work program is to produce savings in benefit payments. Since the suspension of CDRs for individuals using a ticket means that it is possible that some beneficiaries who no longer meet the definition of disability will continue to be eligible for benefits, it is important that the suspension of CDRs not continue for an undue length of time without a significant reduction in benefit payments due to earnings.

In § 411.190, we discuss how it will be determined if a beneficiary is meeting the timely progress guidelines. To place the rules in a more logical order according to the sequence of events and actions they discuss, we are expanding § 411.190 to incorporate the rules for placing a ticket in inactive status, as well as other rules relating to the initial 24-month period, that were previously set out in proposed §§ 411.192 and 411.220. (In the final rules, § 411.192 has been deleted, and proposed § 411.225 has been redesignated § 411.220.) During the initial 24-month period following assignment of a ticket, the PM will give beneficiaries the option of placing the ticket in inactive status if they are unable to participate in their employment plan for a significant period of time for any reason. Beneficiaries may decide to exercise this option because any months during which the ticket is in inactive status will not count toward the time limitations (i.e. the initial 24-month period) under the timely progress guidelines. The PM will explain, however, that since the ticket will not be in use during the period in which it is in inactive status, the beneficiary will be subject to a CDR, should one become due.

A beneficiary will be subject to initiation of a CDR during any period for which the beneficiary's ticket is considered to be not in use. A ticket is considered to be not in use during any month during which the ticket is in inactive status as described in § 411.190 or during which the ticket is unassigned following the close of the three-month extension period described in § 411.220. A ticket also is considered to be not in use after the period of using a ticket ends as described in § 411.171.

We are modifying the summary table in § 411.191 to reflect the rule we are adding to § 411.180(c)(2) which will allow beneficiaries to use months worked during the initial 24-month period to meet the work requirements of the first 12-month progress review if the work was at the requisite level. We also are making changes to the table in these final rules to clarify certain entries in the table, to reflect changes we are making to other sections of the final rules in subpart C, and to provide a more accurate description of the level of earnings required for SSI-only beneficiaries during the first and second 12-month progress review periods.

In §§ 411.195, 411.200 and 411.205, we discuss how the PM will conduct periodic progress reviews to ensure that beneficiaries are meeting the timely progress guidelines. The first review will be a 24-month progress review occurring at the end of the initial 24-month period. This will be followed by 12-month progress reviews. After successfully completing a progress review, the beneficiary will be considered to be meeting the timely progress guidelines until the next review is completed. If a beneficiary disagrees with the PM's decision in any review, the beneficiary will have the right to ask SSA to review the PM's decision. The Commissioner or the Commissioner's designee will review the decision. The criteria for the 24-month progress review and the 12-month progress reviews are designed to be as clear-cut as possible. This feature, combined with the PM's responsibility for conducting the reviews should allow for rapid processing of reviews and decrease the administrative burden on both the beneficiary and SSA.

In response to public comments, we are adding a sentence to § 411.195(a)(1) to indicate that the activities outlined in the employment plan during the initial 24-month period may include employment.

In § 411.210, we explain that a determination that a beneficiary is not making timely progress toward self-supporting employment will result in our finding that the beneficiary no longer is using a ticket. The beneficiary would be allowed to continue in the Ticket to Work program, and the beneficiary's EN or State VR agency would be eligible for any payments that became due. In response to public comments, we are modifying § 411.210(a) to indicate that these payments would include not just outcome payments, but also milestone payments (or, for a State VR agency electing payment under the cost reimbursement payment system, payments under the cost reimbursement payment system) for which the ENs or State VR agencies are eligible. These beneficiaries, however, would once again be subject to CDRs.

This section also provides that a beneficiary who fails to meet the timely progress guidelines will have the opportunity to be considered to be using a ticket later if the beneficiary actively participates in the employment plan or works for a specified number of months. The requirements which a beneficiary must meet in order to re-enter in-use status (including the number of months, type of participation, and earnings level required) vary depending on how far the beneficiary had progressed when he or she failed to meet the timely progress guidelines.

We are providing this method of allowing a beneficiary to be considered again to be using a ticket because, as previously stated, we recognize that due to the nature of disability, progress toward increased self-sufficiency is not always direct. Beneficiaries may make unsuccessful attempts before reaching their employment goals, and these unsuccessful attempts should not deprive them of the supports that they need to make renewed efforts.

In response to a public comment, we are adding a new § 411.210(b)(1) to provide that a beneficiary who fails to meet the timely progress guidelines during the initial 24-month period may re-enter in-use status by demonstrating three consecutive months of active participation in the employment plan. This new provision is more consistent with the requirements of active participation during this period under the timely progress guidelines under § 411.190(a). In new § 411.210(b)(1)(iii) we explain that for a beneficiary who is reinstated to in-use status after having failed to meet the timely progress guidelines during the initial 24-month period, the next review will be the 24-month progress review. We also have added a new § 411.210(b)(2) to provide a separate provision on re-entering in-use status for a beneficiary who failed to meet the timely progress guidelines in the 24-month progress review. In new § 411.210(b)(2)(i), we explain that, consistent with the proposed rules, a beneficiary who fails to meet the timely progress guidelines in the 24-month progress review may re-enter in-use status by completing three months of work (as defined in § 411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. We have modified this provision (which was formerly a part of proposed § 411.210(b)(1)) to provide that the beneficiary also must satisfy the test of § 411.200(a)(2) regarding the anticipated level of the beneficiary's work during the ensuing 12-month progress review period that would begin if the beneficiary were reinstated to in-use status. We also clarify in new § 411.210(b)(2)(i) and (iii) that the work requirements for this 12-month progress review period will be the work requirements that are applicable during the second 12-month progress review period.

To accommodate new § 411.210(b)(1) and (b)(2), we have renumbered the remaining numbered paragraphs that were included under proposed § 411.210(b). In § 411.210(b)(3), (b)(4) and (b)(5) of the final rules, we have added provisions to the rules on re-entering in-use status to provide that, in addition to completing the work requirements, the beneficiary also must satisfy the test of § 411.200(a)(2) regarding the anticipated level of the beneficiary's work during the ensuing 12-month progress review period that would begin if the beneficiary were reinstated to in-use status. This change is consistent with the two-step process for the 12-month progress reviews under § 411.200(a).

For further clarification of the process of re-entering in-use status, we are adding § 411.210(c), and revising § 411.210(b), to describe the process for requesting reinstatement to in-use status, to explain that the PM will decide whether the beneficiary has satisfied the requirements for re-entering in-use status, and to provide that a beneficiary may ask us to review the PM's decision that the beneficiary has not satisfied the requirements for re-entering in-use status. These sections explain that a beneficiary must submit a written request to the PM asking that he or she be reinstated to in-use status. If the PM decides that the beneficiary has not satisfied the requirements for re-entering in-use status, the beneficiary may request that we review the decision.

Final § 411.220 was § 411.225 in the proposed rules. Final § 411.220 explains that beneficiaries who are using a ticket are eligible for an extension period of up to three months to reassign a ticket that previously was assigned to an EN or State VR agency and no longer is assigned. We have revised this section to indicate that the ticket must be in use for the beneficiary to be eligible for the extension period. During this period, we will consider that the ticket still is in use, and the beneficiary will not be subject to CDRs. In response to public comments, we are modifying this section to show the beneficiary's moving to an area not served by the previous EN or State VR agency as a reason the ticket may no longer be assigned. We also have explained in § 411.220(e) of the final rules that a beneficiary whose extension period began during the initial 24-month period will have a new initial 24-month period when the beneficiary reassigns a ticket during the extension period to an EN or State VR agency, other than the one to which the ticket previously was assigned.

We are adding a new § 411.225 to describe the circumstance of a beneficiary reassigning a ticket after the end of the extension period. This section concerns a situation that was not discussed in the proposed rules. This section explains that a beneficiary may reassign a ticket after the end of the extension period under the conditions described in § 411.150. Section 411.225(c) explains that if the extension period began during the initial 24-month period, a beneficiary will have a new initial 24-month period when the beneficiary reassigns a ticket to an EN or State VR agency, other than the one to which the ticket previously was assigned. The reason for providing a new initial 24-month period at this time is because the beneficiary may have to reassign his or her ticket due to no fault of his or her own. For example, the EN may have gone out of business or be no longer approved to participate in the Ticket to Work program, or the beneficiary may have to relocate or may have a relapse in his or her medical condition. Section 411.225(d) explains that if the extension period began during any 12-month progress review period, the period comprising the remaining months in that review period will begin with the first month beginning after the day on which reassignment of the ticket is effective.

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket To Work Program

Section 1148(d)(1) of the Act requires the Commissioner to enter into an agreement with one or more organizations to serve as a PM to assist the Commissioner in administering the Ticket to Work program. Section 101(e)(2)(E) of Public Law 106–170 identified specific regulations that SSA must promulgate regarding the terms of the agreements to be entered into with a PM. Three items are specifically required:

(1) the terms by which a PM would be precluded from direct participation in the delivery of services;

(2) standards which must be met by quality assurance measures and methods of recruitment of ENs; and

(3) the format under which dispute resolution will operate under section 1148(d)(7) of the Act.

Among other things, section 1148(d)(7) requires the Commissioner to provide a mechanism for resolving disputes between PMs and ENs, and between PMs and providers of services.

Subpart D of these regulations explains that SSA will contract with one or more organizations to serve as a PM and assist SSA in administering the Ticket to Work program.

Section 411.230 explains that SSA will conduct a competitive bidding process to select one or more private organizations to perform the PM's functions.

Section 411.235 describes the minimum qualifications required of a PM.

Section 411.240 describes certain limitations that are placed on a PM regarding the direct provision of services under the Ticket to Work program.

Section 411.245 identifies key responsibilities that a PM must assume to assist SSA in administering the program, including ensuring that information provided to beneficiaries is in alternate formats, meaning media appropriate to beneficiaries' impairments. We are revising paragraph (b)(2) of § 411.245 to remove the word "medical" from the term "medical impairment" used in defining "accessible format," as recommended by one commenter, because not all impairments are medical. We are also revising paragraph (c)(2) of § 411.245, as recommended by a number of commenters, to make it clear that the PM will be responsible for making determinations regarding the allocation of outcome or milestone payments when the beneficiary has been served by more than one EN.

Section 411.250 explains how SSA will evaluate a PM.

Subpart E—Employment Networks

Section 1148(d)(4)(A) of the Act requires the Commissioner to select and enter into agreements with ENs to provide services under the Ticket to Work program. Section 1148(f)(1)(A) states that each EN serving under the Ticket to Work program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the program to beneficiaries assigning tickets to it.

These ENs are in addition to State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), known as State VR agencies, that will also be serving beneficiaries with disabilities under the Ticket to Work program. State VR agencies will have the option of serving beneficiaries with tickets either as an EN (that is, to be paid under one of the EN payment systems described in subpart H of these regulations) or under the existing cost reimbursement payment system authorized in sections 222(d) and 1615(d) of the Act. The Commissioner is also directed to enter into an agreement with any alternate participant operating under the authority of section 222(d)(2) of the Act in any State where the Ticket to Work program is being implemented if the alternate participant chooses to serve as an EN. An EN may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 *et seq.*).

Section 1148(f) of the Act requires that entities seeking to participate in the Ticket to Work program as ENs meet certain qualifications. The Commissioner has discretion in determining the qualifications that an entity must meet to be approved to serve as an EN. We are providing requirements for ENs that are not unduly burdensome and that are intended to permit both traditional as well as other types of entities to qualify. The Commissioner's intent is to ensure that non-traditional service providers are not prohibited from being approved as ENs, while still requiring evidence that all ENs meet certain minimum qualifications such as licensure, accreditation, academic qualifications, or experience. This inclusive approach is critically important to ensure that beneficiaries with disabilities have a real choice in services necessary to obtain, regain and maintain employment.

Section 1148(f) of the Act also addresses requirements for ENs under the Ticket to Work program. It requires each EN to serve a prescribed service area and ensure that employment services, VR services, and other support services are provided under appropriate IWPs.

Sections 411.300 and 411.305 of these regulations explain what an EN is and what entities are eligible to apply to serve as ENs.

Section 411.310 explains how public or private entities will apply to us to be approved as ENs and how we will determine whether an entity qualifies to be an EN. We are changing the heading of § 411.310 to make it clear that this section is not applicable to State VR agencies and that State VR agencies do not apply to be ENs.

We are revising the first sentence of § 411.310(a) to make it clear that a State VR agency does not have to respond to our request for proposals (RFP) to function as an EN.

We are adding paragraph (c) to this section to § 411.310 to provide a cross-reference to § 411.360 on how a State VR agency begins to participate as an EN in the Ticket to Work program.

Section 411.315 describes the minimum qualifications for an EN under the Ticket to Work program. In response to public comments, we are adding language to paragraph (a)(2) of § 411.315 to provide examples of what we mean by programmatically accessible.

We are revising section 411.315(b)(2) to make it clear that ENs are not required to provide medical or related health services or be licensed to provide such services, but that the EN should take reasonable steps to assure that if any medical and related health services are provided, such medical and health related services are provided under the formal supervision of persons licensed to prescribe or supervise the provision of these services.

Section 411.315 provides that an EN must have applicable certificates, licenses, or other credentials if State law in the entity's State requires such documentation to provide VR services, employment services or other support services in the State.

Section 411.320 describes the major responsibilities of an entity serving as an EN.

Section 411.321 explains the conditions under which we will terminate an agreement with an EN for inadequate performance. We have clarified that we will terminate an agreement with an EN for non-compliance in any of the three areas cited in this section.

Section 411.325 lists the reporting requirements placed on an entity serving as an EN. We are adding a new paragraph (e) to require that ENs submit information to assist the PM conducting the reviews necessary to determine whether a beneficiary is making timely progress towards self-supporting employment. This requirement is necessary to obtain information for determining whether a beneficiary will continue to receive CDR protection. It will make the EN reporting requirement consistent with the reporting requirement of State VR agencies regarding timely progress reviews. As a result of adding a new paragraph (e), we are redesignating the proposed paragraphs (e) through (i) as paragraphs (f) through (j) in the final rules. We are deleting the requirement from paragraph (g) in the proposed rules (redesignated as paragraph (h) in the final rules) to submit a financial report that shows the percentage of the EN's budget that was spent on serving beneficiaries with tickets, including the amount spent on beneficiaries who return to work and those who do not return to work. We are making this change because of many public comments indicating that this would be a burdensome reporting requirement.

Section 411.330 explains how we will evaluate an EN's performance.

VOL 66 ISS 249 DE 28 2001 UMI

Subpart F—State Vocational Rehabilitation Agencies' Participation

Section 1148(c) of the Act addresses participation by State VR agencies in the Ticket to Work program. In general, this section gives each State VR agency the opportunity to determine, on a case-by-case basis, whether it will participate in the Ticket to Work program as an EN or under the cost reimbursement payment system authorized under sections 222(d) and 1615(d) of the Act (see 20 CFR §§ 404.2101 *et seq.* and 416.2201 *et seq.*). The State VR agency must elect either the outcome payment system or the outcome-milestone payment system to be used when it functions as an EN when serving a beneficiary with a ticket. The Commissioner is directed to provide for periodic opportunities to exercise this election.

Generally, under the Ticket to Work program, State VR agencies will continue to operate as they do today. For example, when a State VR agency functions as an EN, it will provide services in accordance with the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), and a client will complete an individualized plan for employment with the State VR agency. If a State VR agency has a dispute over a payment under the cost reimbursement payment system, the State VR agency will use the dispute resolution procedures already in place under 20 CFR 404.2127 and 416.2227. The new functions and responsibilities for State VR agencies under the Ticket to Work program include checking with the PM if the State VR agency wants to see if a disabled beneficiary who is seeking services from the State VR agency has a ticket that is available for assignment or reassignment, submitting information to the PM required to assign or reassign a beneficiary's ticket to the State VR agency, routing EN payment dispute questions through the PM, submitting preliminary and post-employment data to the PM, and providing reports regarding the outcomes achieved by beneficiaries assigning tickets to the State VR agency in those cases where the State VR agency functioned as an EN.

Subpart F of these regulations establishes that the cost reimbursement payment system is a payment option under the Ticket to Work program for State VR agencies, subject to certain limitations described in § 411.585(a) and (b) of subpart H of these final rules.

Section 411.350 explains that a State VR agency must participate in the Ticket to Work program if it wishes to receive payment from SSA for serving disabled beneficiaries who are issued a ticket. We have clarified this section by adding the words "who are issued a ticket".

Section 411.355 describes the different payment options available to the State VR agencies. Section 411.355 explains that, subject to the limitations in § 411.585 of subpart H, State VR agencies, on a case-by-case basis, may participate in the Ticket to Work program either as an EN or under the cost reimbursement payment system. This section also explains that the State VR agency must use the EN payment system it elected when serving a beneficiary as an EN. We have modified the language and structure of this section for added clarity.

Section 411.360 explains what a State VR agency must do to function as an EN under the Ticket to Work program with respect to a beneficiary and explains that a State VR agency may choose, on a case-by-case basis, to seek payment from SSA under the cost reimbursement payment system or its elected EN payment system. Paragraph (a) of § 411.360 describes the method SSA will use to communicate with State VR agencies about implementation of the Ticket to Work program in States. Paragraph (b) includes a reference to the limitations on payment in § 411.585. We have made these changes to this section to add clarity.

Section 411.365 describes how a State VR agency will select an EN payment system for use when functioning as an EN. In these final rules, we are modifying § 411.365 to eliminate the requirement that the Governor or Governor's designated representative must sign the letter advising SSA of which EN payment system the State VR agency will use when it functions as an EN with respect to a beneficiary who has a ticket. We are revising this section to provide that the director of the State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), or the director's designee must sign the letter advising SSA of the State VR agency's election of an EN payment system. We are making this change to the final rules to respond to comments that the director or his or her designee is in a better position to make the payment election decision.

Section 411.370 explains that a State VR agency generally may choose to be paid under the cost reimbursement payment system when serving beneficiaries with tickets, subject to the limitation in § 411.585(b) of subpart H of these final rules.

Section 411.375 explains that State VR agencies must continue to provide services to beneficiaries with tickets under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Section 411.380 describes how a State VR agency can determine if a disabled beneficiary seeking services has been issued a ticket and, if so, the status of the ticket. We have made changes to this section in the final rules to provide a more accurate description of the information the State VR agency can obtain from the PM regarding a beneficiary's ticket status.

Section 411.385 explains that once the State VR agency determines that a beneficiary is eligible for vocational rehabilitation services, the beneficiary and a representative of the State VR agency must agree to and sign an IPE. In these final rules, we are revising the provisions of § 411.385(a) to conform to the changes we are making to §§ 411.140 and 411.150 regarding the requirements that must be met in order for a beneficiary to assign or reassign a ticket. We explain that the parties must agree to and sign an IPE in order for the beneficiary to assign or reassign his or her ticket to the State VR agency. We explain that §§ 411.140(d) and 411.150(a) and (b) describe the other requirements which must be met for a ticket to be assigned or reassigned, respectively. Final § 411.385(a) explains that in order for a beneficiary's ticket to be assigned or reassigned to the State VR agency, the State VR agency must submit the information described in § 411.385(a)(1)–(a)(3) to the PM. This information includes the method of payment which the State VR agency is selecting for a particular beneficiary.

We are revising § 411.385(b) to change the designation of the person in the State VR agency who is required to sign the completed form which the State VR agency must submit to the PM in order for a ticket to be assigned or reassigned to the State VR agency. We are revising this section to permit "a representative of the State VR agency" to sign the form as this provides greater flexibility to the State VR agency than our proposed requirement that the form be signed by "the State VR agency representative working with the beneficiary."

Section 411.390 describes what a State VR agency should do when a beneficiary already receiving services under an approved IPE becomes eligible for a ticket that is available for assignment and decides to assign the ticket to the State VR agency. We are modifying this section in the final rules to provide a more accurate description

UMI

of the circumstances in which an individual who is already receiving services from the State VR agency under an IPE may become eligible for a ticket. We also are adding a provision to clarify that the State VR agency must submit the completed and signed form described in § 411.385(a) and (b) to the PM in order for the beneficiary's ticket to be assigned to the State VR agency. In addition, we explain that § 411.140(d) describes the other requirements which must be met in order for the beneficiary to assign a ticket.

Section 411.395 explains that each State VR agency will be required to provide periodic reports to the PM on the specific outcomes achieved with respect to the services provided to beneficiaries under the Ticket to Work program in cases where the State VR agency functioned as an EN.

Section 1148(c)(3) of the Act requires State VR agencies and ENs to enter into agreements regarding the conditions under which services will be provided when an EN that has been assigned the beneficiary's ticket refers the beneficiary to a State VR agency for services.

Sections 411.400 and 411.405 explain that an EN may refer a beneficiary that it is serving under the Ticket to Work program to a State VR agency for services only if such an agreement is in place prior to the EN making the referral.

Section 411.410 explains that these agreements should be broad-based and apply to all beneficiaries who may be referred by an EN to a particular State VR agency. In the final rules, we are modifying § 411.410 to indicate that the general guideline that the agreements should be broad-based and apply to all beneficiaries who may be referred by an EN to a State VR agency is not intended to preclude an EN and a State VR agency from entering into an individualized agreement to meet the needs of a single beneficiary if both the EN and State VR agency wish to do so.

Section 411.415 explains that the PM will verify the establishment of such agreements based on the EN's submission of a copy of the agreement to the PM.

Section 411.420 provides guidance and examples of what could be included in these agreements.

Section 411.425 explains what a State VR agency should do if an EN attempts to refer a beneficiary being served under the Ticket to Work program to the State VR agency without having established such an agreement.

Section 411.430 explains what the PM should do when notified that a referral has been attempted in the absence of an agreement.

Section 411.435 establishes procedures for resolving disputes arising under these agreements between ENs and State VR agencies. We are revising this section by replacing the word "should" in § 411.435(a) and (b) with "must," to establish the regulatory policy as a requirement to be followed in the dispute resolution process.

Subpart G—Requirements for Individual Work Plans

Section 1148(g) of the Act requires each EN to ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under IWPs. The minimum requirements for an IWP are spelled out in this section.

Subpart G of these regulations establishes the requirements for the IWP that must be developed when an EN and a beneficiary with a ticket agree to work together under the Ticket to Work program. Beneficiaries who are clients of the State VR agencies will continue to use the IPE rather than an IWP.

Section 411.450 explains what an IWP is. In response to comments on the proposed rule, we are revising this section to spell out "individual work plan" for clarity, and to add the words "(other than a State VR agency)" to clarify that IWPs would not be a requirement for State VR agencies.

Section 411.455 explains the purpose of the IWP and explains that the EN must develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal.

Section 411.460 explains that the beneficiary and the EN share the responsibility for determining the content of the IWP.

Section 411.465 describes the specific information that must be included in each IWP.

Section 411.470 describes when an IWP becomes effective. In the final rules, we are revising § 411.470 to conform to the changes we are making to §§ 411.140 and 411.150 concerning the requirements which must be met in order for a beneficiary to assign or reassign his or her ticket. We are also revising § 411.470(b) to make the effective date of an IWP consistent with the effective date of the assignment or reassignment of the beneficiary's ticket.

Subpart H—Employment Network Payment Systems

Section 1148(h) of the Act provides that the Ticket to Work program shall provide for payment authorized by the Commissioner to ENs under either an outcome payment system or an outcome-milestone payment system. Each EN must elect which payment system it will use.

The outcome payment system and the outcome-milestone payment system are defined in § 411.500. This section also defines certain other terms we use in this subpart relating to the EN payment systems.

The first term we define in § 411.500 is the "payment calculation base." This term relates to the amount we will pay an EN (including a State VR agency choosing to be paid as an EN) under either EN payment system. We will pay an EN for specific milestones or outcomes that a beneficiary who assigns the ticket to the EN achieves, not for the costs of specific services that the EN provides. We base milestone and outcome payments upon the prior calendar year's national average disability benefit payable under title II or title XVI, not upon the specific benefit payment payable to a beneficiary with a ticket. We call the national average benefit payment the payment calculation base. In § 411.500(a)(1), we define the payment calculation base applicable in connection with a title II or concurrent title II/title XVI disability beneficiary. In § 411.500(a)(2), we define the payment calculation base applicable in connection with a title XVI disability beneficiary, who is not concurrently a title II disability beneficiary.

In § 411.500(b), we define the term "outcome payment period." Both EN payment systems provide for a payment to an EN for each month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of the performance of substantial gainful activity (SGA) or by reason of earnings from work activity. Each beneficiary who is issued a ticket has one outcome payment period in connection with that ticket. In § 411.500(b), we explain that an individual's outcome payment period begins with the first month, ending after the date on which the ticket was first assigned, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual due to SGA or earnings. We also explain that the outcome payment period ends with the 60th month, consecutive or otherwise, ending after such date, for which such benefits are not payable due to SGA or earnings.

In these final rules, we are modifying the definition of the "outcome payment system" in § 411.500(c) to clarify that this payment system provides for a schedule of payments to an EN for each

VOL 66 ISS 249 DE 28 2001 UMI

month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. We are also expanding § 411.500 in these final rules to include definitions of "outcome payment" and "outcome payment month." In final § 411.500(d), we explain that "outcome payment" means a payment for an outcome payment month. In final § 411.500(e), we explain that "outcome payment month" means a month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. Final § 411.500(e) also explains that the maximum number of outcome payment months for each ticket is 60. This provision appeared in § 411.500(c) of the proposed rules. We are moving the provision to § 411.500(e) of the final rules where we explain what we mean by an outcome payment month.

Final § 411.500(f), which we proposed as § 411.500(d), provides a general description of the term "outcome-milestone payment system." This payment system provides a schedule of payments to an EN that includes, in addition to payments during the outcome payment period, payment for completion by a beneficiary of up to four milestones directed toward the goal of permanent employment. In these final rules, we are increasing the number of milestones for which payment may be made under the outcome-milestone payment system from the two milestones we proposed in the NPRM to four milestones. This is one of four major changes we are making to the outcome-milestone payment system in response to public comments, all of which we discuss more fully below.

In addition, in these final rules we are modifying final § 411.500(f) to clarify that the milestones for which payment may be made must occur prior to the beginning of an individual's outcome payment period. We are also clarifying that the payments which may be made to an EN under the outcome-milestone payment system consist of milestone payments which may be made for any milestones occurring prior to the individual's outcome payment period, as well as any outcome payments which may be made for months during the individual's outcome payment period. We deleted the last sentence in proposed section 411.500(d) that compared the total payments under the outcome-milestone payment system, because this is stated in section 411.525(a).

Section 1148(c) of the Act permits each State VR agency to participate in the program as an EN with respect to a disabled beneficiary. When the State VR agency elects to participate in the Ticket to Work program as an EN with respect to a disabled beneficiary, we will pay the State VR agency in accordance with its elected EN payment system. If the State VR agency chooses not to participate as an EN with respect to a disabled beneficiary, we will pay the State VR agency for services provided to that beneficiary in accordance with the cost reimbursement payment system under sections 222(d) and 1615(d) and (e) of the Act. Our regulations concerning this cost reimbursement payment system are at 20 CFR 404.2101 through 404.2127 and 416.2201 through 416.2227. Payments to State VR agencies under the Ticket to Work program are discussed in §§ 411.510 and 411.585.

Each provider will elect, in writing, the EN payment system which it will be paid under when it agrees to become an EN. Similarly, each State VR agency will notify us in writing regarding which EN payment system it will use when it chooses to function as an EN for a beneficiary with a ticket. We will periodically offer each EN (including each State VR agency) the opportunity to change its elected payment system. If the EN (or State VR agency) does change its elected payment system, the change will apply only to tickets assigned to the EN (or State VR agency) after SSA is notified about the change in the elected payment system. These provisions, including the frequency of opportunity for an EN to change its payment system, are discussed in §§ 411.505 through 411.520.

In the final rule, we are making a number of changes to §§ 411.505 through 411.520. These changes correct grammatical errors and clarify our intentions, but do not change the intent of the proposed sections.

- In final § 411.505 we are combining the first two sentences concerning an EN's choice of payment systems into one sentence.
- In final § 411.510(b) we are placing a new parenthetical sentence between the two sentences we proposed. The first sentence of this paragraph explains that a State VR agency must communicate its decision to serve a beneficiary to the PM. The new second sentence provides a reference to that portion of the final rule where we discuss the PM and its role in the Ticket to Work program.
- In final § 411.515(a) we are making some editorial changes to the second sentence and clarifying the third sentence to note what day in the month an EN's payment system election becomes effective. Also, we are adding a new sentence to the end of this paragraph which clarifies that a State VR agency may also change its elected EN payment system.
- In final § 411.515(b) we are making some editorial changes and expanding the explanation of when the 12-month period for making a change in an EN payment system for any reason ends. We had proposed that the period would end with the 12th month following the month in which the EN first elects an EN payment system. The final rule adds an alternative month, the 12th month after the month we implement the Ticket to Work program in the State in which the EN (or State VR agency) operates, if it is later.
- In final § 411.515(c) we are correcting grammatical errors and deleting the date in the last sentence because it is unnecessary. This sentence notes that we will offer ENs the opportunity to make a change in their elected payment systems at least every 18 months.
- In final § 411.520 we are correcting grammatical errors in the title and text and clarifying that the rule applies to State VR agencies as well as to ENs.

Sections 411.525 through 411.565 provide our rules for computing payments to ENs under the two EN payment systems. They also describe what payments may be made and when, and discuss allocating payments to multiple ENs to whom the ticket was assigned at different times.

Sections 1148(h)(2) and (h)(3) of the Act provide that the outcome payment system and the outcome-milestone payment system shall provide for a schedule of payments to an EN, in connection with a beneficiary who assigns a ticket to the EN, for each month, during the individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits based on disability or blindness are not payable to the individual because of work or earnings. There can be a maximum of 60 outcome payment months and, therefore, a maximum of 60 monthly outcome payments. In § 411.525(a), we explain that we will calculate payments for outcome payment months under both EN payment systems using the payment calculation base as defined in § 411.500(a)(1) or (a)(2). We deleted the second sentence in proposed § 411.525(a). The proposed sentence referred to the fact that the payment calculation base we use to compute the value of payments for outcome months attained in one calendar year is based on the preceding calendar year's national average disability benefit payment information. This is simply a restatement of the definition of the payment calculation base that is found in the references cited in the first sentence of § 411.525(a), which we did not change.

Section 411.525(a)(1)(i) discusses payments under the outcome payment system, explaining that an EN is eligible for a monthly outcome payment for each month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. This section also provides that monthly payments under the outcome payment system will be 40 percent of the payment calculation base. This percentage is the maximum the law allows at the beginning of the program. Under the outcome payment system, each monthly outcome payment is the same during a calendar year. At the end of each calendar year, we will refigure the payment calculation base for the next year. For clarity, we combined the last two sentences of proposed § 411.525(a)(1)(i) and added a reference to § 411.550. We also noted that we will round our computation of the outcome payment to the nearest whole dollar.

Section 411.525(a)(1)(ii) provides criteria for determining whether a month occurring after the month in which a beneficiary's entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates due to work activity or earnings will be considered to be an outcome payment month. We are making two changes to the rules we proposed. First, in final § 411.525(a)(1)(ii), we are substituting the word "with" for the word "in" to clarify that the months we are talking about are those after the month "with" which such entitlement ends or eligibility terminates. Second, in § 411.525(a)(1)(ii)(A), we are clarifying that the level of earnings required must be more than the SGA threshold amount specified in 20 CFR 404.1574(b)(2) (or 20 CFR 404.1584(d) for individuals who are statutorily blind). We had proposed that earnings could be at or above the SGA dollar amount, but this is ambiguous in that earnings at the dollar amount specified in 20 CFR 404.1574(b)(2) and 404.1584(d) are not indicative of SGA, while earnings above the SGA threshold amounts in the referenced rules are. It was our intent in this section, as well as in proposed § 411.535, to require that earnings exceed the monthly SGA threshold amount.

As a result of these changes, final § 411.525(a)(1)(ii) provides two criteria for us to use when determining whether we will consider any month after the month with which disability entitlement ends or eligibility terminates because of work or earnings to be an outcome payment month. First, the individual must have gross earnings from employment (or net earnings from self-employment) in that month that are more than the SGA threshold dollar amount in 20 CFR 404.1574(b)(2) (for an individual who is not statutorily blind) or in 20 CFR 404.1584(d) (for an individual who is statutorily blind). Second, the individual cannot be entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

Section 411.525(a)(2) explains what payments we can make to an EN under the outcome-milestone payment system. This system provides payments to an EN when the beneficiary achieves milestones directed toward the goal of permanent employment. Payments for the milestones achieved come before, and are in addition to, outcome payments made during the outcome payment period. For clarity, we inserted a new sentence after the first one we proposed. It notes that milestones must occur prior to the beginning of the beneficiary's outcome payment period and meet the requirements of § 411.535. Also, consistent with changes we are making elsewhere in these final rules, we are amending the first sentence of § 411.525(a)(2) to state that we may pay an EN for up to four milestones achieved by a beneficiary who assigned his or her ticket to the EN.

Section 411.525(b) explains the provision in section 1148(h)(3)(C) of the Act concerning the limitation on total payments to an EN under the outcome-milestone payment system. The Act requires us to design the outcome-milestone payment system so that an EN's total payments with respect to each beneficiary is less than, on a net present value basis, the total amount the EN would receive if paid under the outcome payment system. In the second sentence of § 411.525(b) we explain that an EN's total potential payments under the outcome-milestone payment system will be about 85 percent of the total that would be payable under the outcome payment system for the same beneficiary.

Section 411.525(c) explains that we will pay an EN to whom a ticket has been assigned only for milestones or outcomes that are achieved prior to the month in which an individual's ticket terminates, as described in § 411.155. We will not pay milestone or outcome payments based on an individual's work activity or earnings in or after the month a ticket terminates.

Sections 411.530 through 411.545 provide our rules for computing payments to ENs under the outcome-milestone payment system. In response to the public comments, we are making four major changes to this EN payment system.

- First, we are adding two milestones. We describe them in § 411.535.
- Second, we are doubling the total value of the potential milestone payments. We provide these payment amounts in § 411.540.
- Third, we are spreading, over 60 months as opposed to 12, the outcome payment reductions made on account of milestone payments received. We discuss this reduction in § 411.530.
- Fourth, we are substituting a flat outcome payment rate of 34 percent for the graduated monthly outcome payments we proposed. We discuss how we calculate the payment amounts for outcome payment months under the outcome-milestone payment system in § 411.545.

Section 411.530 describes how we will reduce outcome payments under the outcome-milestone payment system when an EN receives milestone payments. In the NPRM, we proposed to reduce the first 12 outcome payments by the amount paid out as milestone payments. However, in response to public comments, we are extending the reduction period over the full 60 months of the outcome payment period. In addition, we are clarifying two points in final § 411.530. First, we explain that an EN's outcome payments will be reduced due to the milestone payments received by that EN, not due to milestone payments paid to another EN. Second, we are broadening the language in the final rule by deleting the word "already" from the language we proposed. This change allows for adjustments should we make a retroactive payment for a milestone that a beneficiary achieved before the outcome payment period began.

Section 411.535 provides the milestone requirements. We are making three changes to this section. First, we are clarifying that the milestones occur after the date on which the ticket was first assigned and the beneficiary starts to work. Just as the outcome payment period cannot begin until after the date the beneficiary first assigns a ticket, a beneficiary cannot begin to attain a milestone until after he or she first assigns the ticket. Second, as we explained in the changes we are making

VOL 66 ISS 249 DE 28 2001 UMI

to § 411.525(a)(1)(ii)(A), we are clarifying that the level of a beneficiary's monthly earnings required for a milestone must be more than the SGA threshold amount. Third, we are including two additional milestones. The first milestone we are adding is met when a beneficiary works for one calendar month and has gross earnings from employment (or net earnings from self-employment) for that month that are more than the SGA threshold amount. The other milestone we are adding, which is the fourth milestone, is met when a beneficiary works for 12 calendar months within a 15-month period and has gross earnings from employment (or net earnings from self-employment) for each of the 12 months that are more than the SGA threshold amount. As a result of these additions, we are renumbering proposed milestones one and two as final milestones two and three. These milestones also require work at more than the SGA threshold amount for three and seven months, respectively, within a 12-month period. Additionally, in § 411.535 we are providing that any of the work months used to meet the first, second, or third milestone may be used to meet a subsequent milestone.

Section 411.540 provides how we will calculate the payment for each milestone. In the proposed rules we provided for the payment of two milestones and based their calculation on a percentage of the payment calculation base that together represented approximately 10 percent of the total payments possible under the outcome-milestone payment system. In final § 411.540 we are not changing our method of computing milestone payments or revising the payment percentages for the two milestones we proposed, but we are adding two more milestones and the net effect is a doubling of the total value of the milestone payments. The value of the first additional milestone payment is equal to 34 percent of the payment calculation base, and the value of the other additional milestone payment is equal to 170 percent of the payment calculation base. The total value of the additional milestone payments is equal to approximately 10 percent of the potential payments possible under the outcome-milestone payment system. When combined with the total value of the milestone payments we originally proposed and which we are retaining in these final rules, the total value of the four potential milestone payments under the outcome-milestone payment system is equal to approximately 20 percent of the total possible payments available under the outcome-milestone payment system.

We are also making four other changes to final § 411.540. First, we are stating that after we multiply the applicable milestone percentage by the payment calculation base, we will round the resulting milestone payment computation to the nearest whole dollar. Second, we are adding two paragraphs that identify the attainment month for each of the two additional milestones. This month is important because we use the payment calculation base for the calendar year in which the attainment month occurs when computing the milestone payment. Third, we are redesignating proposed paragraphs (a) and (b) as paragraphs (b) and (c) and proposed paragraphs (c) and (d) as paragraphs (f) and (g). These paragraphs discuss the payment calculations and attainment months for the two milestones we proposed. Fourth, we are deleting the second sentence we proposed in paragraphs (a) and (b), now final paragraphs (b) and (c). The sentence referred to the two proposed milestone payments as being equal to two and four outcome payments, respectively. Technically, this is an incorrect statement because outcome payments under the outcome-milestone payment system will vary depending on how much has been paid in milestone payments.

Section 411.545 states how, under the outcome-milestone payment system, we will calculate the amount of the outcome payment. We had proposed graduated monthly outcome payments. However, in response to public comments, we are substituting a flat outcome payment rate for the one we proposed. This rate is 34 percent of the payment calculation base for the calendar year in which the outcome payment month occurs, rounded to the nearest whole dollar, and then reduced, if necessary, as described in § 411.530. This flat rate makes the total potential payments under the outcome-milestone payment system about 85 percent of the total potential payments that could be made under the outcome payment system. We did not change the rate differential between the two EN payment systems as many commenters suggested and explain our reasons for this in the responses to the public comments below.

Section 411.550 provides the payment amounts for outcome payment months under the outcome payment system. An outcome payment under the outcome payment system is equal to 40 percent of the applicable payment calculation base. Consistent with clarifications we are making in §§ 411.540 and 411.545, we are modifying § 411.550 to state that we will round our computation of the outcome payment to the nearest whole dollar.

Section 411.555 provides that an EN may generally keep the milestone and outcome payments it receives under its elected EN payment system, even if the beneficiary does not sustain work for all 60 outcome payment months. The proposed rules for this section, by reference to § 411.560, indicated that retroactive adjustments to payments already received by ENs may occur when we allocate a prior payment with another EN. In the final rules, we expand § 411.555. We placed the general rule allowing ENs to keep the milestone and outcome payments for which they are eligible in paragraph (a) and added paragraphs (b) and (c). Paragraph (b) discusses the adjustments we may have to make should we determine that we paid an EN an incorrect amount. Paragraph (c) refers to the EN notification and dispute resolution process we have for overpayments and underpayments.

Sections 411.560 and 411.565 explain that it is possible to pay more than one EN for the same milestone or outcome payment month. In this situation, the payment will be allocated among the ENs that qualify for payment. Section 1148(e)(3) of the Act provides that the PM will determine the allocation based on the services provided by each EN. It also is possible to pay more than one EN for different milestones or outcome payment months on the same ticket. When more than one EN is eligible for payment with respect to a ticket, we will pay each EN in accordance with its elected payment system at the time the ticket was assigned to each EN.

In response to public comments, we are expanding the discussion in the last sentence of proposed § 411.560 to clarify how the PM will make a payment allocation determination when more than one EN qualifies for a payment. The PM will base its determination on the contribution of services provided by each EN toward the achievement of the outcomes or milestones. Also, outcome and milestone payments will not be increased because the payments are shared between two ENs. In addition to these changes, we are correcting grammatical errors in the title of § 411.565.

Section 411.570 provides that the Act prohibits an EN from requesting or accepting compensation from a beneficiary for the EN's services.

Section 411.575 describes how an EN will request payment for either a milestone payment or an outcome payment month. The EN will make a written request to the PM for payment for each milestone. The request will be accompanied by evidence showing that the milestone was achieved. We do not have to stop a beneficiary's monthly cash payment in order to pay a milestone payment to an EN.

For outcome payments under either EN payment system, an EN must also submit a written request for payment to the PM. Since outcome payments cannot be made unless the beneficiary has sufficient work or earnings to reduce the Federal cash benefits to zero, we are retaining the general requirement we proposed for an EN's payment request to be accompanied by evidence of the beneficiary's work or earnings. However, in response to public comments, we are making three changes to § 411.575(b). First, we are providing an exception to the general requirement for evidence of a beneficiary's work or earnings in order to cover those situations in which the EN requesting the payment does not currently hold the ticket because it is unassigned or reassigned to another EN. Second, we are allowing the EN to submit its request for payment and evidence of work or earnings on a quarterly basis, rather than on a monthly or bimonthly basis as we proposed. Third, we are incorporating the rules we proposed in §§ 411.575(b)(3) through (5) in § 411.575(b)(3), and deleting §§ 411.575(b)(3) through (5).

In addition to these changes, we are making other clarifying changes to § 411.575. We are adding three new paragraphs at § 411.575(a)(1)(ii), (iii) and (iv) to discuss the requirements for an EN to receive a milestone payment. These requirements are: (1) The milestone must occur prior to the outcome payment period as defined in § 411.500(b), (2) the provisions in § 411.535 must be satisfied, and (3) the milestone cannot occur in or after the month in which the ticket terminates as defined in § 411.155. We also are modifying the language in final § 411.575(a)(1)(i), which was proposed as § 411.575(a)(1). The revised language clarifies that we will pay an EN for milestones only if the EN's elected payment system in effect at the time the beneficiary assigned the ticket to the EN was the outcome-milestone payment system. The wording we proposed had suggested that the payment system election and ticket assignment had to occur simultaneously and this was incorrect. Finally, we added paragraph (b)(1)(iii) to final § 411.575 to clarify that in addition to the other requirements listed, we will pay an EN for an outcome payment month only if the ticket has not terminated for any of the reasons listed in § 411.155.

Section 411.580 explains that an EN must first have had the ticket assigned to it before it can be eligible to receive milestone or outcome payments.

As a beneficiary is free to choose where to assign a ticket, the opening paragraph of § 411.585 explains that a State VR agency and an EN can both be eligible for payment on a ticket if the State VR agency elects to be paid as an EN. Each entity can be paid as an EN under its respective EN payment system. If the State VR agency chooses to serve a beneficiary with a ticket and to be paid under the cost reimbursement payment system, then we will pay the State VR agency under the cost reimbursement payment system if it meets the criteria for reimbursement and if we have not first paid an EN under its elected payment system with respect to the same beneficiary and ticket. For each ticket, a payment either under the cost reimbursement payment system or under an elected EN payment system will exclude any payment under the other payment system. Absent this restriction, it would be possible to pay separately under both the cost reimbursement payment system and under the EN payment systems such amounts as, when combined, would exceed the statutory limitation of one or both of these payment systems for serving the same beneficiary under the same ticket.

In response to a public comment, we are cross-referring § 411.560 in the opening paragraph of § 411.585. Section 411.560 explains how the PM will make a determination of payment allocation should more than one entity qualify for payment as an EN.

Section 411.587 is a new section that we are adding in response to a comment. It explains which provider we will pay if, with respect to the same ticket, we receive two requests for payment and one request is from a provider that elected an EN payment system and the other request is from a State VR agency that elected payment under the cost reimbursement payment system.

Section 411.590 describes what an EN or State VR agency serving as an EN can do if either disagrees with our decision on a payment request it submits. This section also explains that an EN cannot appeal our determination about a beneficiary's right to benefits even when that determination affects the payment to an EN. In the final rules, we are broadening paragraph (d) of § 411.590 to clarify that any determination we make about a beneficiary's right to disability cash benefits, not just a determination that a beneficiary appeals, could affect an EN's payment or result in an adjustment to payments already made to an EN. In addition, we made some editorial changes throughout this section.

Section 411.595 identifies various methods we will use to monitor the EN payment systems for financial integrity. Section 411.597 states that we will periodically review the conditions affecting payment under the two EN payment systems to determine if these payment systems are providing adequate incentives and appropriate economies for ENs to assist beneficiaries to enter the workforce.

Subpart I—Ticket to Work Program Dispute Resolution

Section 1148(d)(7) of the Act requires us to provide for a mechanism for resolving disputes between beneficiaries and ENs, between ENs and PMs, and between PMs and service providers. As part of this process, we are required to provide a party to a dispute a reasonable opportunity for a full and fair review of the matter in dispute. Finally, beneficiaries and State VR agencies may have disputes. The various dispute resolution mechanisms are discussed below.

PM and EN Disputes With SSA

Since PMs and ENs, other than State VR agencies functioning as ENs, will operate under contracts with SSA, disputes between SSA and PMs and between SSA and ENs that are not State VR agencies will be subject to the dispute resolution procedures contained in the contracts with SSA.

Disputes between Beneficiaries and ENs That Are Not State VR Agencies

There is a three-step process for resolving disputes between beneficiaries and ENs that are not State VR agencies. This three-step process will ensure that both beneficiaries and ENs have the opportunity to resolve disputes using informal means.

As a first step in the dispute resolution process, each EN is required to have an internal grievance procedure whereby beneficiaries have the opportunity to work with representatives of the EN to try to resolve any disputes arising during the implementation or amending of an IWP. If the dispute is not resolved using the EN's internal grievance procedures, both the beneficiary and the EN will have the option of contacting the PM for assistance in resolving the dispute. Upon request, the PM will conduct a full review of the matter in dispute and

VOL 66 ISS 249 DE 28 2001 UMI

make a recommendation to the beneficiary and the EN as to how the dispute might be resolved (see § 411.615). This second step is intended to provide the parties to the dispute the opportunity to present their case before an impartial third party, the PM. The third step involves bringing the dispute to SSA.

Section 411.605 explains the responsibilities of an EN that is not a State VR agency regarding this dispute resolution process, including informing beneficiaries of the availability of assistance from the State Protection and Advocacy (P&A) system at every step in the dispute resolution process. Section 411.610 identifies specific points in the rehabilitation process when an EN that is not a State VR agency must inform beneficiaries about the procedures for resolving disputes.

Section 411.615 describes how a disputed issue will be referred to the PM, including what information should be submitted. Section 411.620 tells how long the PM has to provide a written recommendation on how to resolve the dispute. Section 411.625 explains that if the parties to the dispute do not agree with the PM's recommendation and the dispute continues to be unresolved, either the beneficiary or the EN that is not a State VR agency has the option of bringing the dispute to the attention of SSA for resolution.

Section 411.625 also describes the information that must be submitted to SSA to facilitate our review of the dispute. Section 411.630 explains that SSA's decision is final.

Section 411.635 explains that a beneficiary has the right to be represented in the dispute resolution process under the Ticket to Work program and that the State P&A system is available to provide assistance and advocacy services to beneficiaries seeking or receiving services from ENs operating under the Ticket to Work program.

Disputes Between ENs and PMs

Section 411.650 explains that a dispute between an EN that is not a State VR agency and the PM, that does not involve an EN's payment request, will be resolved using the procedures for resolving disputes developed by the PM. If the matter cannot be resolved using these procedures, it will be forwarded to SSA for resolution. Section 411.655 explains how a PM will refer disputes to us. Section 411.660 explains that SSA's decision on a dispute between an EN that is not a State VR agency and a PM is final.

A dispute over a payment request submitted by an EN, including a State VR agency serving as an EN, will be resolved using the dispute resolution procedures contained in § 411.590.

Disputes Between Service Providers and PMs

We are required to provide a mechanism for resolving disputes between service providers and PMs. Most service providers approved to serve beneficiaries under the Ticket to Work program will be serving as ENs. Disputes between ENs and PMs over payments are discussed in subpart H. Other disputes between ENs and PMs are discussed above, and in §§ 411.650, 411.655, and 411.660. State VR agencies that choose not to serve beneficiaries with tickets as ENs will be the only other service providers having a relationship with a PM under the Ticket to Work program. Disputes between a State VR agency that is not functioning as an EN and a PM, that involve issues related to ticket assignment and do not involve a request for payment or other reimbursement issue, will be handled in accordance with the PM's dispute resolution procedures. A dispute over a payment request submitted by a State VR agency which is serving a beneficiary with a ticket under the vocational rehabilitation cost reimbursement system (see sections 222(d) and 1615(d) of the Social Security Act) will be resolved under existing regulations governing the resolution of disputes regarding a payment request (see 20 CFR §§ 404.2127(a) and 416.2227(a)).

Disputes Between Beneficiaries and State VR Agencies

Section 411.640 explains that the dispute resolution procedures in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), apply to any dispute arising between a disabled beneficiary and a State VR agency, regardless of whether the services are being provided under one of the EN payment systems or under the cost reimbursement payment system authorized under sections 222(d) and 1615(d) of the Social Security Act.

In response to comments on the proposed rules, we are revising rules in subpart I (§§ 411.600, 411.605, 411.610, 411.615, 411.625, 411.630, 411.635, 411.640, and 411.650) to clarify whether they refer to ENs that are not State VR agencies, or those that are State VR agencies.

Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs for Payments for Vocational Rehabilitation Services

Section 101(d) of Public Law 106–170 provides for a graduated implementation of the Ticket to Work Program. By January 1, 2004, the program will be operating in all States and U.S. territories.

Section 1148(d)(4)(B) of the Act requires the Commissioner, in any State where the Ticket to Work program is implemented, to enter into agreements with any alternate participant that is operating under the authority of section 222(d)(2) of the Act in the State as of the date of enactment of Public Law 106–170 if the alternate participant chooses to serve as an EN under the program.

Subpart J of these regulations describes how implementation of the Ticket to Work program affects the current alternate participant payment programs under 20 CFR 404.2101 *et seq.* and 416.2201 *et seq.* Section 411.700 explains what an alternate participant is. Sections 411.705 and 411.710 explain that an approved alternate participant has the option of becoming an EN when the Ticket to Work program is implemented in a State and tells an alternate participant what it must do to become an EN. Sections 411.715 through 411.730 describe how the transition process will occur for alternate participants who choose to become ENs. These sections explain how SSA will handle payments related to beneficiaries who were being served by alternate participants under existing employment plans prior to the Ticket to Work program being implemented in the State and the alternate participant becoming an EN. These sections also provide that SSA will not provide reimbursement for any services provided to a beneficiary under the alternate participant payment system after December 31, 2003.

Public Comments on the Notice of Proposed Rulemaking

When we published the NPRM in the **Federal Register** on December 28, 2000 (65 FR 82844), we provided interested parties 60 days to submit comments. We received comments from over 400 commenters, including national, State and community-based agencies and private organizations serving people with disabilities, beneficiaries, and other individuals. We considered carefully the comments we received on the proposed rules in publishing these final regulations. The comments we received and our responses to the comments are set forth below. Although we condensed, summarized, or paraphrased the comments, we believe that we have expressed the views accurately and have responded to all of the relevant issues raised.

Comments and Responses

Subpart B—Tickets Under the Ticket to Work Program

Comment: Several commenters indicated that we should delay the issuance of tickets until these final regulations were published.

Response: After consideration of the public comments on our proposed rules as well as other views on the best time to begin the release of the tickets, we have decided to delay releasing tickets until after these final regulations are effective. These regulations are effective 30 days after the date of their publication in the **Federal Register**. We believe that this will allow for the development of an infrastructure of public and private sector employment networks to serve beneficiaries who receive a ticket. We also believe that it is critical to issue tickets as soon as possible after these regulations are effective.

Section 411.120 What Is a Ticket Under the Ticket to Work Program

Comment: One commenter suggested that, in the interest of making these regulations user-friendly, we add a cross-reference from § 411.120, regarding what is a ticket under the Ticket to Work Program, to § 411.140, which describes when an individual can assign the ticket.

Response: We are not adopting this comment. However, we agree that this section requires clarification to include a more complete description of the format and wording of the ticket, as provided by section 101(e)(2) of Public Law 106–170. Accordingly, we have expanded § 411.120 in the final rules to include a fuller description of the format and wording of the ticket.

Section 411.125 Who is Eligible To Receive a Ticket Under the Ticket to Work Program?

Comment: We received many comments in response to proposed § 411.125(a)(1) which provided that an individual will be eligible to receive a ticket in a month in which he or she is age 18 or older and has not attained age 65. Some commenters agreed that it would not be appropriate to provide transitional youth with tickets, as it might interfere with their pursuit of an education. The majority of commenters, though, indicated that we should allow individuals under age 18 access to a Ticket, to try to ensure that they do not begin a life-long dependency on public benefits.

Response: As we indicated in the Preamble to the proposed rules, as we gain experience with the Ticket to Work program, we plan, at a later time, to explore the possibility of expanding the age criteria for receiving a ticket to include those SSI beneficiaries age 16 and older who are eligible for disability benefit payments based on the childhood disability standard. While we are not adopting the recommendation to provide these individuals with tickets in these final rules, we are publishing a separate notice in this issue of the **Federal Register** to request public input for our consideration in developing possible approaches to serve the needs of transition-age youth with disabilities who are receiving payments under programs we administer under the Act.

Comment: Proposed § 411.125(a)(3)(i) and (ii) provide that an individual will only be eligible for a ticket in a month in which our records show that the individual's case has not been designated as a medical improvement expected (MIE) diary review case, or that we have conducted at least one continuing disability review (CDR) on such an individual and have made a final determination or decision that disability continues. Many commenters stated that we should provide tickets to beneficiaries regardless of whether they have been designated as a medical improvement expected diary review case. They stated that the MIE categorization is an administrative convenience to determine the frequency of CDRs, and is not a sufficiently precise tool to deny beneficiaries immediate access to a ticket. Others indicated that SSA should examine, on a disability-by-disability basis, which people whose cases have been designated as a MIE diary case are likely to remain on the rolls after initial CDR, and issue those people a ticket. Other commenters indicated that the majority of individuals designated as MIE remain on the rolls after the first CDR, and that we would, therefore, needlessly be delaying the opportunity to participate in the Ticket to Work program for these individuals.

Response: We are not adopting this comment. As we indicated in the Preamble of the proposed rules, "Because these beneficiaries have conditions that are expected to medically improve in a relatively short period of time, they could be expected to return to work without the need for services under the Ticket to Work program." Moreover, we do not believe, as some commenters stated, that the MIE classification is merely an "administrative convenience" and that it, therefore, has no relevance for determining who gets a ticket.

We also believe that using a medical improvement diary system to help identify beneficiaries who should receive tickets is the most administratively feasible approach currently available to us. We believe that the approach outlined in the proposed rules, and provided in these final rules, strikes the proper balance between equitable treatment of disability beneficiaries and ensuring, to the extent possible, that the resources that will be available in the Ticket to Work program are distributed in the most effective and efficient manner.

We believe that the use of the medical improvement diary system is the most practical and efficient means available to identify those beneficiaries with impairments that are expected to improve within a relatively short period of time so as to permit the individual to engage in SGA. However, we believe that it may be possible to find ways to improve that system for its use in connection with the Ticket to Work program. Therefore, we plan to conduct an evaluation of the methodology for the existing MIE category within the CDR classification system to assess possible ways to improve the system for use in identifying those beneficiaries for whom near-term medical improvement should preclude the immediate receipt of a Ticket.

Comment: Many commenters indicated that there should not be a limit on the number of tickets a person can receive in a lifetime, as long as a person is not using more than one ticket at a time. Other commenters added that a person should be eligible for another ticket when the cash value of the first one has been exhausted. They cited potential inequities involving beneficiaries (1) Whose benefits are reinstated under the provisions of section 223(i) or 1631(p) of the Act (as added by section 112 of Public Law 106–170); (2) who retain eligibility under section 1619(b) of the Act; and (3) who receive services from the State VR agency that elects payment under the cost reimbursement payment system.

Response: As in the proposed rules, § 411.125(b) of the final rules does not limit the total number of tickets that an individual may be eligible to receive during his or her lifetime under the Ticket to Work program. Rather, consistent with section 1148 of the Act, the regulation limits the number of tickets an individual may receive during any period during which the individual is either a title II disability beneficiary or a title XVI disability beneficiary and his or her title XVI eligibility has not terminated. If an individual's entitlement to title II benefits based on disability or eligibility for title XVI benefits based on disability or blindness terminates, and the individual again becomes entitled to or eligible for benefits, the individual may be eligible to receive a new ticket.

Section 411.125(b) of the final regulations provides that an individual will not be eligible to receive more than one ticket during any period during which the individual is either: (1) Entitled to title II benefits based on disability; or (2) eligible for title XVI benefits based on disability or blindness and the eligibility has not terminated. This rule is based on section 1148 of the Act, which authorizes the Commissioner to issue "a ticket" to disabled beneficiaries for participation in the Ticket to Work program. The Act defines "disabled beneficiary" for purposes of this section to mean "a title II disability beneficiary or a title XVI disability beneficiary." Section 1148 of the Act also provides that an individual is a title II disability beneficiary for each month for which the individual is entitled to title II benefits based on disability as described in that section. This section also indicates that an individual is a title XVI disability beneficiary for each month for which the individual is eligible for a Federal cash benefit under section 1611 or 1619(a) of the Act based on disability or blindness.

In addition, section 1148 of the Act indicates that an individual may be issued only one ticket while he or she is a disabled beneficiary. That section provides that the limitation on the total number of outcome payments that may be paid to an EN applies with respect to each beneficiary. Section 1148 also authorizes the Commissioner to pay an outcome payment to an EN, "in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits . . . are not payable. * * *" This section indicates that each individual who is a beneficiary has one outcome payment period, consisting of 60 months. Thus, under section 1148 of the Act, the Commissioner is authorized to pay a maximum of 60 outcome payments to an EN with respect to each individual who is a beneficiary. Accordingly, the final regulations provide that an individual may not receive more than one ticket during any period during which the individual is either a title II disability beneficiary or a title XVI disability beneficiary and his or her title XVI eligibility has not terminated.

We are adding a provision to § 411.125 in these final rules to clarify that individuals whose entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or whose eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act, will be eligible to receive another ticket in the first month he or she is entitled to or is eligible for reinstated benefits, as long as the beneficiary meets certain other requirements for eligibility for a ticket.

Comment: Many commenters stated that SSA must address issues specifically related to individuals who are entitled to child's insurance benefits as disabled adult children (DACs). They indicated that our title II program regulations should allow these beneficiaries to move on and off the title II program (in other words, to have their benefits reinstated) to the same extent that other beneficiaries with disabilities are allowed to do so. Otherwise, they argue, the purpose of the Ticket program will be thwarted.

Response: Section 202(d)(1)(B) of the Act provides that an individual who is an adult child (18 years old or older) of an insured person who is entitled to old-age or disability benefits, or who has died, is eligible for benefits if the individual is unmarried and has a disability that began before the individual is 22 years old. Under the provisions of section 202(d)(6) of the Act, an individual whose entitlement to child's insurance benefits based on disability has terminated may again become entitled to such benefits if he or she has not married and he or she is under a disability which began before the end of the 84th month following the month in which his or her most recent entitlement to child's insurance benefits terminated because he or she ceased to be under a disability. Therefore, these individuals would be eligible to receive another ticket in the first month they again become entitled to benefits, as long as they meet all other requirements for eligibility for a ticket.

Further, such individuals whose benefits are reinstated under section 223(i) of the Act also will be eligible to receive another ticket in the first month they are entitled to reinstated benefits, as long as they meet certain other requirements for eligibility for a ticket.

Comment: Several commenters stated that we should eliminate the requirement in proposed § 411.125(a)(2) that a beneficiary be in current pay status in order to be eligible to receive a ticket. They stated that this provision would disadvantage individuals who are in overpayment, extended period of eligibility or 1619(b) status.

Response: The rule which provides that a disabled or blind title XVI beneficiary may be eligible to receive a ticket only in a month in which his or her Federal SSI cash benefits are not suspended is based on section 1148 of the Act. Under section 1148, the Commissioner is authorized to issue a ticket to a title XVI disability beneficiary for participation in the Ticket to Work program. This section also provides that an individual is a title XVI disability beneficiary for each month for which the individual is eligible for a Federal cash benefit under section 1611 or 1619(a) of the Act based on disability or blindness. If payment of an individual's monthly Federal SSI cash benefits is suspended under 20 CFR 416.1321–416.1330 due to ineligibility, such individual is not a title XVI disability beneficiary for that month for purposes of section 1148 of the Act since he or she is not eligible for Federal SSI cash benefits.

We are providing a similar requirement regarding current pay status for title II disability beneficiaries to make the criteria for issuing a ticket the same for title II beneficiaries as for title XVI beneficiaries. This will provide consistent and equitable treatment of beneficiaries under the two programs with respect to the issuance of tickets. We also believe that limiting the issuance of tickets to title II disability beneficiaries who are receiving cash benefits is consistent with the purpose of the Ticket to Work program, which is to enable beneficiaries to seek the services they need to return to work and reduce their dependency on cash benefits. In addition, we believe that providing tickets only to title II disability beneficiaries who are receiving title II cash benefits is consistent with Congress' expectation regarding who would be eligible to participate in the Ticket to Work program. In its report on the legislation to establish the Ticket to Work program, the House of Representatives Committee on Ways and Means explained that the legislation would "define 'disabled beneficiary' for purposes of Program participation to include SSI disability benefits recipients and Social Security beneficiaries receiving disability insurance, disabled widow's, and childhood disability benefits." (H.R. Rep. No. 393, 106th Cong., 1st Sess. 41 (1999).)

Section 411.140 When Can I Assign My Ticket and How?

Comment: One commenter indicated that we should revise proposed § 411.140(b) to clarify that individuals may assign the ticket to a State VR agency if they are eligible to receive VR services according to 34 CFR 361.42. The commenter also indicated that we should revise § 411.145(b) to clarify that a State VR agency does not have discretion on when it will or will not serve an individual. Rather, they indicated, Title I of the Rehabilitation Act provides that a VR agency must cease providing services to individuals who are no longer eligible for VR services. They further suggested that we revise both § 411.140(c) and 411.150(b) to reflect that the VR counselor must agree to and sign an Individualized Plan for Employment.

Response: We agree, and we have made the appropriate changes to §§ 411.140, 411.145 and 411.150.

Section 411.150 Can I Reassign My Ticket to a Different EN or to the State VR Agency?

Comment: Some commenters indicated that we should limit, in § 411.150, the reasons a beneficiary can reassign a ticket. They also suggested that we impose limits as to how many times a beneficiary will be allowed to reassign a ticket.

Response: Section 1148(e)(3) of the Act provides that the PM will ensure that beneficiaries are allowed changes in ENs without being deemed to have rejected services under the program. Therefore, we are not adopting this comment.

Comment: We received a comment which we decided to group with the comments on this section because it most closely related to reassigning a ticket to a different EN or State VR agency. The commenter asked if, from a State VR agency's perspective, a legal guardian's decisions with regard to the Ticket to Work program would be controlling. For example, would we require a legal guardian's permission before the ticket could be taken back from one EN and reassigned to another?

Response: We assume that the commenter is referring to a court-appointed legal guardian of an individual who has been declared legally incompetent. In such a case, the legal guardian is responsible for making decisions on behalf of the individual and for exercising any rights of such individual. In the Ticket to Work program, the court-appointed legal guardian of a beneficiary who is legally incompetent would be responsible for exercising the beneficiary's rights under the program, including deciding whether the beneficiary's ticket should be assigned or reassigned to an EN. In such circumstances, in order for the beneficiary's ticket to be assigned or reassigned, the IWP under which services are provided to the beneficiary by an EN must be agreed to and signed by the beneficiary's court-appointed legal guardian. According to the Rehabilitation Services Administration, the same would be true for approval of an IPE under which services are provided by a State VR agency. In the case of a beneficiary who is a legally competent adult, it is up to the beneficiary to decide whether to assign or reassign his or her ticket.

Section 411.155 When Does My Ticket Terminate?

Comment: One commenter stated that we should revise § 411.155 to indicate that we will pay a State VR agency after the month in which a ticket terminates if the VR agency has elected and is eligible to claim payment under the cost reimbursement payment system authorized under sections 222(d) and 1615(d) and (e) of the Social Security Act. This modification would clarify, according to the commenter, that if a state VR agency chooses current law reimbursement, which is possible on a case-by-case basis, the use of a ticket is not relevant, and the VR agency can be paid for services.

Response: We do not agree with this recommendation to revise the final rules because it is unnecessary. The final rules provide that we will make payment to a State VR agency under the cost reimbursement payment system if all of the following conditions exist: (1) the beneficiary's ticket is assigned to the State VR agency under the rules in subpart F; (2) the cost reimbursement payment system is the State VR agency's payment system with respect to that beneficiary; (3) we have not made payment to an EN or a State VR agency functioning as an EN under one of the EN payment systems with respect to the ticket, as discussed in § 411.585; and (4) the requirements of sections 222(d) and 1615(d) of the Act and applicable regulations relating to cost reimbursement are met.

Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket

Section 411.160 What Does This Subpart Do?

Comment: One commenter noted that the Ticket to Work program exempts beneficiaries who are using a ticket from medical reviews, but not work reviews. The commenter indicated that the language in § 411.160(b) would confuse beneficiaries and would not allay beneficiary fears about continuing disability reviews (CDRs) because SSA uses the term continuing disability reviews in the context of the disability programs when referring to the process of conducting both medical and work reviews. The commenter suggested that we establish a different process for work reviews.

Response: We did not establish a different process for work reviews because programmatically they are a type of CDR. However, in response to this comment, we clarified the language in final § 411.160(b). The revised language references our rules on when we may conduct a CDR (i.e. 20 CFR 404.1589, 416.989, and 416.989a) to determine whether an individual remains eligible for disability-based benefits. It then explains that, for purposes of subpart C, the term continuing disability review includes the medical reviews we conduct when determining if a beneficiary's medical condition has improved, as described in 20 CFR 404.1594 and 416.994, but does not include the CDRs we do under 20 CFR 404.1594(d)(5) to determine whether a title II beneficiary's work activity demonstrates the ability to engage in SGA. In light of this clarification, we removed the parenthetical reference to §§ 404.1594 and 416.994 that we included in proposed § 411.165.

Section 411.165 How Does Being in the Ticket to Work Program Affect My Continuing Disability Reviews?

Comment: Two commenters recommended that we clarify proposed § 411.165 by referencing the specific sections that explain when the period of using a ticket begins (§ 411.170) and ends (§ 411.171).

Response: We concur with the recommendation and are adding these cross-references to final § 411.165.

Comment: Another commenter, referencing proposed § 411.165, expressed concern that if a beneficiary places his or her ticket into inactive status (e.g. due to health reasons) we would be able to consider the activities he or she engaged in while actively participating in the Ticket to Work program when we conduct a subsequent medical CDR. The commenter said that our consideration of such activities would create a significant disincentive for beneficiaries to participate in the Ticket to Work program and recommended that we amend final § 411.165 to assure beneficiaries that we

VOL 66 ISS 249 DE 28 2001 UMI

would not consider these activities when we conduct subsequent medical CDRs.

Response: Section 1148 of the Act does not specifically address the factors we consider when we conduct medical CDRs and thus we are not amending § 411.165 in the final rules in the manner suggested. However, we will address this issue when we implement section 111 of Public Law 106–170, Work Activity Standard as a Basis for Review of an Individual's Disabled Status, which becomes effective on January 1, 2002. In general, this section amends section 221 of the Act to provide that, with regard to individuals who are entitled to title II benefits based on disability, and have received these benefits for at least 24 months, we will not schedule a CDR solely as a result of work activity, and we will not use work activity engaged in by the individual as evidence that the individual is no longer disabled.

Comment: A commenter asked what happens to those beneficiaries who are eligible to use a ticket, but are already working with a provider who is not an EN. The commenter notes that these beneficiaries, unlike those who are using a Ticket, have to undergo CDRs even though they may already be making progress towards fuller employment.

Response: In order for CDRs to be suspended for an individual under section 1148(i) of the Act, the beneficiary must be using a ticket as defined by the Commissioner of Social Security. In the situation described by the commenter, the beneficiary may wish to encourage his or her current provider to become an EN.

Section 411.166 Glossary of Terms Used in This Subpart

Comment: Several comments suggested that we define the terms we use in subpart C in a central location in order to assist with the clarity and flow of the subpart.

Response: We agree and have added new § 411.166 to provide a glossary of key terms which we use in Subpart C. In new § 411.166 we explain the following eight terms:

- active participation in your employment plan
- extension period
- inactive status
- initial 24-month period
- progress review
- timely progress guidelines
- 12-month progress review period,
- using a ticket

In the proposed rules we called the "12-month progress review period" the "12-month work review period" and a "progress review" a "work review." We renamed these concepts in these final rules to distinguish these progress reviews from the "work reviews" we conduct for title II beneficiaries, following the completion of their trial work periods, to determine whether their work and earnings demonstrate the ability to engage in SGA. When we do a work review under the title II disability program, we make a determination about whether an individual is no longer disabled because of work and earnings. When we do a progress review under the rules in subpart C, we are simply deciding whether a Ticket is "in use" so that we can determine whether an individual is exempt from periodic medical reviews.

Section 411.171 When Does the Period of Using a Ticket End?

Comment: One commenter stated we should ensure that the events cited in proposed § 411.171(b) and (c), that would signify that the period of using a ticket has ended, are not beyond the control of the individual. Proposed § 411.171(b), which is redesignated in the final rules as § 411.171(e), provides that, if a beneficiary has assigned a ticket to a State VR agency which selects the cost reimbursement payment system, the period of using a ticket will end with the 60th month for which an outcome payment would have been made had the State VR agency chosen to serve the beneficiary as an EN. Proposed § 411.171(c), which is redesignated in the final rules as § 411.171(b), provides that the period of using a ticket will end the day before the effective date of a decision under § 411.192 (which has been incorporated in final § 411.190), § 411.195, § 411.200 or § 411.205 that an individual no longer is making timely progress toward self-supporting employment.

Response: Section 1148(h)(4)(B) of the Act provides that we will make up to 60 outcome payments to an EN based on a ticket. Final § 411.171 (d) and (e), therefore, provide that the period of using a ticket will terminate at the same point, with reference to potential outcome payment months, regardless of whether a State VR agency elects to serve a beneficiary as an EN or elects to be paid under the cost reimbursement payment system. In order for the period of using a ticket to terminate in this situation, a beneficiary will have had to work 60 months with monthly earnings sufficient to preclude the payment of Social Security disability benefits and Federal SSI cash benefits.

The rules described in §§ 411.190, 411.195, 411.200 and 411.205 contemplate that the beneficiary will have the opportunity to participate in the decision-making process before the PM or SSA makes a decision that the beneficiary is no longer making timely progress toward self-supporting employment.

Comment: One commenter recommended that we add a provision to the section of the rules regarding when the period of using a ticket ends to assure that the State VR agency will receive payment for services furnished to a beneficiary when a beneficiary applies and seeks services from the State VR agency after his or her period of using a ticket has ended.

Response: The determination regarding ticket use affects whether a CDR may be initiated with respect to a beneficiary. The conduct of a CDR could affect payment to providers if the beneficiary's entitlement to or eligibility for benefits is determined to have ended for reasons other than work or earnings. The specific determination as to whether the period of using a ticket has ended for a particular beneficiary is not relevant to the determination of whether or not a State VR agency can be paid under either the cost reimbursement payment system or its elected EN payment option. Unless the restrictions on payment described in § 411.585 apply, we will pay the State VR agency if all requirements for payment are met, even if the beneficiary's ticket is not in use.

Section 411.175 What if I Assign My Ticket After a Continuing Disability Review Has Begun?

Comment: We received two comments suggesting that we add a statement to this section to indicate that, if a beneficiary chooses to have benefits continued pending an appeal of a medical cessation determination and does not prevail in the appeal, he or she may be required to repay the benefits received during this period.

Response: While we understand the concern of the commenters, we did not adopt the recommendation to add this statement to § 411.175 in these final regulations, since this section provides appropriate cross-references to §§ 404.1597a and 416.996, which provide this statement.

Comment: Two commenters indicated that, since no other individuals have CDRs conducted while they are receiving services with a ticket, we should suspend CDRs when a beneficiary assigns the ticket after a CDR has begun. The commenters suggested that allowing the individual to continue to receive services and supports through an established EN should be consistent with the legislative intent to help ensure access and entry into improved work opportunities. They concluded that SSA has more to gain in terms of positive outcomes by allowing suspension of such reviews and having the person continue with their individual work plan.

Response: Section 1148(i) of the Act precludes the initiation of a CDR for a beneficiary who is using a ticket as defined by the Commissioner. Section 411.175 deals with the situation where a CDR is initiated before the beneficiary assigns and begins using the ticket. Mere receipt of a ticket does not preclude the conduct of a CDR. Further, § 411.175 does not preclude the beneficiary from receiving services if he or she assigns a ticket after a CDR has begun.

Section 411.180 What Is Timely Progress Toward Self-Supporting Employment?

General: By far, the overwhelming number of comments received relating to subpart C of the NPRM related to this section on timely progress toward self-supporting employment and other sections which specify the guidelines for timely progress. We have divided these comments into five topic areas. These topic areas are:

(1) Allowing the individual and the EN or State VR agency to define what timely progress is in the IWP/IPE;

(2) "Banking" of work performed in the initial 24-month period;

(3) Allowing enough time in the time frames for the completion of college degrees and/or other post-secondary education;

(4) Allowing for consideration of relapses, setbacks, and episodes of illness in setting time frames; and

(5) Miscellaneous, such as the complexity of the timely progress guidelines and the contention that the timely progress guidelines are more lenient than the EN payment rules.

1. Allowing the Individual and the EN or State VR Agency To Define What Timely Progress Is in the IWP/IPE

Comment: We received a large number of specific comments from various individuals and organizations recommending that we allow the individual and the EN or State VR agency to define what timely progress is in the beneficiary's IWP or IPE. In general, these commenters stated that people with disabilities have unique needs and, consequently, that the measurement of timely progress should be flexible and individualized.

Response: There appears to have been some misunderstanding that beneficiaries must meet the timely progress guidelines in order to participate in the Ticket to Work program. Therefore, we believe that it is appropriate to restate here that the timely progress guidelines are only used to determine whether a beneficiary is using a ticket for purposes of protection against initiation of a CDR as provided under section 1148(i) of the Act. Beneficiaries who do not meet the timely progress guidelines may still participate in the Ticket to Work program, receive services and generate outcome and milestone payments to ENs. However, these beneficiaries may be subject to CDRs.

With reference to the specific recommendation, we appreciate that individuals with disabilities have unique needs, and we believe that there is sufficient flexibility in our timely progress rules to accommodate these needs. Further, if we allowed the individual and the EN or State VR agency to define timely progress, it would not be possible to develop a consistent and standardized method to determine timely progress for program administration and integrity purposes. Absent these consistent standards, our ability to measure the effectiveness of the Ticket to Work program would be significantly hampered.

2. "Banking" of Work in the Initial 24-Month Period

Comment: There were a large number of commenters who recommended improving the timely progress guidelines by providing for "banking" months of work completed in the initial 24-month period. These commenters noted that many beneficiaries have disabilities that are episodic and intermittent. While some people may not be able to work right away, others might be able to work sooner but may experience difficulties later. The commenters considered that it would be more equitable if we allowed those who can work earlier than the time frames described in the proposed rules to receive credit for their work effort.

These commenters recommended that a beneficiary should be allowed to "bank" work months in the first two years of a beneficiary's participation in the program to count towards the work requirements in later years. They further recommended that, in year 5 and beyond, work in excess of the six-month requirement should count toward the next year's work requirements. Finally, these commenters recommended that increasing amounts of work or earnings, even if below SGA, should be evaluated as meeting the requirements for progress reviews.

Response: As a result of these recommendations, we are modifying § 411.180 and other appropriate sections to allow a beneficiary who has worked in months during the initial 24-month period to use those months of work to meet the work requirements of the first 12-month progress review period if the work was at the requisite level. However, we did not adopt the recommendations to allow for "banking" of work to satisfy the requirements of progress review periods beyond the first 12-month progress review period, or to consider increasing amounts of work or earnings that are below the SGA level for non-blind beneficiaries as meeting the requirements for progress reviews. These recommendations would be inconsistent with the intent of the timely progress guidelines, which is to require that beneficiaries demonstrate an increasing ability to work at levels which will reduce their dependence on cash benefits.

3. Allowing Enough Time in the Time Frames for the Completion of College Degrees and/or Other Post-Secondary Education

Comment: We received a large number of comments that indicated that the timely progress guidelines we proposed do not allow enough time for an individual to prepare for employment by pursuing a college degree and/or post-secondary education.

Response: We understand the concerns of the commenters and agree that a college degree and/or post-secondary education may enhance employment outcomes for individuals with disabilities. We anticipate that the provision we are adding in response to recommendations to allow for "banking" months of work will provide many beneficiaries with additional time for the pursuit of college and/or post-secondary education, while suspending CDRs for them. Further, as we have stated, the timely progress guidelines are only intended to determine whether a beneficiary will be considered to be using a ticket for purposes of suspending initiation of CDRs. Therefore, a beneficiary pursuing post-secondary education can continue to participate in the Ticket to Work program, receive services and remain in the education program. However, if the beneficiary does not meet the timely progress guidelines, he or she would be subject to CDRs.

VOL 66 ISS 249 DE 28 2001 UMI

4. Allowing for Consideration of Relapses, Setbacks and Episodes of Illness in Setting Time Frames

Comment: We received a substantial number of comments stating that the proposed timely progress guidelines would not allow for relapses, setbacks and episodes of illness.

Response: We have built into the timely progress guidelines several mechanisms that will allow for the episodic nature of many impairments. These mechanisms include the provision allowing a beneficiary to place a ticket in inactive status during the initial 24-month period; the progressive nature of the work requirements; the fact that we do not require that work activity has to be continuous to satisfy the timely progress guidelines, even in the fifth and subsequent years; and the modification that we are making in the final regulation to allow a beneficiary who has worked in months during the initial 24-month period to use those months to meet the requirements of the first 12-month progress review if the work was at the requisite level. Further, as we have stated, these guidelines are only used to determine whether a beneficiary will be considered to be using a ticket for purposes of suspension of initiation of CDRs, not to determine whether the beneficiary can participate in the Ticket to Work program.

5. Miscellaneous Comments

Comment: We received several comments from Federal and State VR agencies indicating that the active participation requirement during the initial 24-month period should be eliminated because it is not consistent with principles set forth in title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), which governs the Federal/State VR program. The commenters noted that, in contrast with our proposed requirements, the Rehabilitation Act does not set a time period for achieving an employment outcome as long as the terms of the IPE are being met.

Response: The Ticket to Work program under section 1148 of the Act is not intended to mirror the Federal/State program for rehabilitation services under title I of the Rehabilitation Act. Rather, the purpose of the Ticket to Work Program is to provide Social Security or SSI beneficiaries who are disabled or blind the opportunity to choose from a variety of providers to obtain the services and supports that they need to become self-supporting. As we have stated, the timely progress guidelines are only used to determine whether a beneficiary will be considered to be using a ticket for purposes of suspending initiation of CDRs. They are not designed to measure overall success of the program or a beneficiary's ability to participate in the program. In this context, we must establish consistent standards that would apply to both beneficiaries receiving services from ENs and to beneficiaries receiving services from State VR agencies.

Comment: One commenter remarked that the timely progress guidelines that we proposed in § 411.180 and in succeeding sections were more generous than the payment requirements that we proposed in subpart H of these rules. The commenter noted that a beneficiary could keep the CDR protection afforded by the ticket by working for as little as nine months at the SGA level over a four-year period, while an EN working with such a beneficiary may receive only nine payments. The commenter said such a funding scheme was unrealistic for those providers who do not have additional funding sources.

Response: The timely progress guidelines and the rules governing milestone and outcome payments are not designed for the same purpose. As we have stated, the timely progress guidelines only are used to determine whether a beneficiary will be considered to be using a ticket for purposes of the protection against initiation of a CDR as provided in section 1148(i) of the Act. The rules for determining if an EN or State VR agency will be eligible to receive a payment under the EN payment systems under the Ticket to Work program measure the ability of the service provider to assist beneficiaries in their efforts to become self-supporting. See subpart H for a further discussion of the EN payment systems.

Comment: Several commenters remarked that there appears to be no incentive for either an EN or a State VR agency to maintain a case open in the initial 24-month period because the regulations do not provide any financial payment for providing services to an individual in this status. These commenters predicted that if we do not change our regulations that ENs and State VR agencies will not serve beneficiaries with significant disabilities or will be quick to terminate individuals who do not make progress towards achieving SGA.

Response: The Ticket to Work program is an outcome-based program, and provides for milestone payments when a beneficiary starts to work, and/or outcome payments when Federal disability benefits are not payable to a beneficiary due to work or earnings. While there is no requirement that a beneficiary work during the initial 24-month period in order to be making timely progress, there is no penalty for or prohibition against work. In fact, we have modified the timely progress rules to specifically respond to comments that some beneficiaries can and do work early in their period of rehabilitation. In addition, enhancements to the outcome-milestone payment system described in subpart H of these rules make it possible for an EN to receive a milestone payment if a beneficiary works for only one month and has gross earnings from employment (or net earnings from self-employment) for that month that are more than the SGA threshold amount. Therefore, payment to ENs is possible during the initial 24-month period if they serve beneficiaries who work during this period.

Comment: We received three related questions about proposed §§ 411.185 and 411.190. They were: (a) What will happen to beneficiaries whose disabilities incapacitate them to the point that they remain on the disability benefit rolls after fully utilizing the ticket? (b) How much time does a consumer have to keep the ticket in inactive status? and (c) Will the beneficiary have a penalty?

Response: We will make outcome payments to ENs to which beneficiaries have assigned a ticket only if monthly cash benefits are not payable because of the performance of SGA or by reason of earnings from work. Generally, by the time 60 outcome payment months have occurred, entitlement to title II benefits based on disability or eligibility for title XVI benefits based on disability or blindness will have terminated because of work or earnings for most beneficiaries. However, these beneficiaries may be entitled to have their benefits reinstated under section 223(i) or section 1631(p) of the Act. As we explain in § 411.125 of the final rules, beneficiaries whose entitlement to or eligibility for benefits is reinstated under these sections of the Act would be eligible to receive another ticket if they meet certain other requirements for eligibility for a ticket.

The option of placing a ticket in inactive status is available to beneficiaries only during the initial 24-month period following the assignment of the ticket. During this period there is no penalty or time limit for keeping the ticket in inactive status, per se. What happens is that the clock stops and the ensuing months during which the ticket is in inactive status do not count towards the initial 24-month period. However, the ticket is considered to be not in use and the beneficiary is subject to continuing disability reviews during this time.

Section 411.185 How Much Do I Need To Earn To Be Considered To Be Working?

Comment: One commenter questioned whether the earnings guidelines we proposed in § 411.185(a)(1) and (b)(1) for meeting the timely progress requirements during the first and second 12-month work reviews would lessen the effect of existing work incentive provisions.

Response: The earnings guidelines we proposed only deal with determining whether a beneficiary meets timely progress requirements for purposes of suspending medical CDRs. The guidelines do not affect any of the existing work incentive provisions.

Section 411.190 How is it Determined if I am Meeting the Timely Progress Guidelines?

Comment: One commenter was concerned that proposed § 411.190 may conflict with other Federal regulations governing a State VR agency's use and release of confidential information (see 34 CFR 361.38). This commenter suggested that we modify our final rule by adding a new paragraph that would require a State VR agency or an EN to satisfy all applicable Federal and State confidentiality requirements before sharing any personal information about the beneficiary with the PM.

Response: We do not believe that such a modification is necessary. Nothing in this rule overrides Federal and State confidentiality rules. We provide in 20 CFR Part 401 a description of SSA's policies and procedures related to the Privacy Act of 1974, and section 1106 of the Social Security Act concerning disclosure of information about individuals. ENs, as SSA's contractors, are subject to these rules. Similarly, § 411.375 states that State VR agencies are required to provide VR services under a plan approved under title I of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 720 *et seq.*), even when functioning as an EN. This includes the confidentiality requirement that a State VR agency must follow.

Section 411.191 Table Summarizing the Guidelines for Timely Progress Toward Self-Supporting Employment

Comment: One commenter, referencing the table in proposed § 411.191, suggested that we have one SGA level for all beneficiaries and that it be the one that currently applies to those who are blind. The commenter said the higher level would support the Ticket program's goal of transitioning beneficiaries from benefits to self-sufficiency and would encourage more beneficiaries to participate in the Ticket to Work program.

Response: We did not adopt this suggestion because the SGA level for individuals who are not blind is not the subject of these rules. The rules relating to the SGA levels for those who are not blind can be found in 20 CFR 404.1574 and 416.974, and the rules relating to the SGA levels for those who are blind can be found in 20 CFR 404.1584.

Section 411.192 What if My EN, the State VR Agency, or I Report That I Am Not Actively Participating in My Employment Plan?

Comment: One commenter suggested that we add a third choice to the two we proposed in § 411.192(a) (§ 411.190(a)(1) in the final regulations) for beneficiaries who are not actively participating in their employment plans during the initial 24-month period. It would allow them to reassign their tickets to a different EN.

Response: We did not adopt this suggestion because we state in another section of these final rules that beneficiaries will have the right to reassign their tickets to other ENs or to a State VR agency (see § 411.150(a)). Such reassignments can occur regardless of whether the beneficiaries are making timely progress toward self-supporting employment.

Section 411.195 How Will the PM Conduct My 24-Month ProgressReview?

Comment: One commenter stated that the timely progress reviews we proposed in § 411.195 did not take into consideration the fact that beneficiaries may not be able to obtain or retain employment due to circumstances beyond their control. Reasons cited included a downward turn in the economy that increases competition for available jobs, an employment goal that requires more than two years to obtain, and a lack of transportation to look for jobs. This commenter indicated that it was unfair to subject beneficiaries to medical CDRs if they fail to obtain employment through no fault of their own.

Response: The timely progress review to which this commenter referred is the 24-month progress review, which does not contain a specific requirement for work within the first 24 months after the beneficiary assigns a ticket. However, the 12-month progress reviews, which come after the 24-month progress review, contain a work requirement. We did not modify those requirements because we believe that they are sufficiently generous and flexible enough to accommodate individual needs. They do not require work in every month. They require work in three months for the first 12-month progress review period and in six months for subsequent 12-month progress review periods.

We believe these rules are consistent with the intent of the Ticket to Work program, which is to allow beneficiaries to choose from a variety of providers to obtain the services and supports that they need to become self-supporting. While beneficiaries may be subject to a CDR if they do not successfully complete the 12-month progress reviews, the Ticket does not terminate and beneficiaries may later qualify for CDR protection.

Comment: One commenter recommended rewording § 411.195(a)(1) so that it does not sound like work is not an expectation within the initial 24-month period.

Response: We agree with the comment and have reworded § 411.195 consistent with this recommendation.

Comment: We received one comment about § 411.195(a)(3). The commenter stated that the EN or State VR agencies, rather than the PM, should determine if the beneficiary can reasonably be expected to reach the goal of at least three months of work during the next 12-month work review period. The commenter continued that if we do not make this change, then this section should be deleted.

Response: We have not adopted this comment. Under the law, we had to define what it means to be using a ticket for purposes of receiving protection against initiation of a CDR. We have chosen to use clear standards (active participation in the employment plan during the first 24 months, then months of work activity at a certain level during succeeding 12-month periods). We believe it is better to have the PM, who is charged with helping us to administer the program, use the criteria we have established to help us determine whether a beneficiary will be considered to be using a ticket for purposes of CDR protection. We believe having a single entity perform these reviews will lead to more fair and efficient administration of the program.

Section 411.200 How Will the PM Conduct My Annual Work Review?

Comment: We received six comments that questioned the ability of the PM to accurately anticipate and assess timely progress for individuals whose tickets are assigned to ENs or State VR agencies.

VOL 66 ISS 249 DE 28 2001 UMI

Response: We believe that we have developed clear standards for determining whether a beneficiary is making timely progress toward self-supporting employment for purposes of being considered to be using a ticket. We further believe that it is better to have the PM, who is charged with helping us to administer the program, use these criteria to help us to determine whether a beneficiary is using a ticket for purposes of CDR protection. We believe that having a single entity perform these reviews, with significant input from ENs and State VR agencies, will lead to more fair and efficient administration of the program.

Section 411.210 What Happens if I Do Not Make Timely Progress Toward Self-Supporting Employment?

Comment: Four commenters asked us to clarify the proposed rules in § 411.210(a) to indicate whether a State VR agency would be able to receive payment under the cost-reimbursement payment system if a beneficiary, who is found to be no longer using a ticket for CDR protection purposes, continues to participate in the Ticket to Work program. Also, another commenter asked us whether a State VR agency or an EN would still be eligible for the payment option it selected should the beneficiary work but not meet the requirements for re-entering in-use status.

Response: In these final rules, we made changes to § 411.210(a) to indicate that a State VR agency which selects the cost reimbursement payment system may be eligible for payment under that system even though the beneficiary is determined to be no longer using a ticket. We also made changes to indicate that an EN or State VR agency serving a beneficiary as an EN may receive milestone or outcome payments for which it is eligible even though the beneficiary is considered to be no longer using a ticket. The proposed rules had referred only to outcome payments. Under the final rules, beneficiaries who do not meet the timely progress guidelines may continue to receive services from their service providers.

Comment: One commenter was concerned that an EN that first serves a beneficiary might not receive its appropriate share of any future EN payments if a beneficiary puts a ticket in inactive status or switches ENs when seeking to re-enter in-use status. This commenter recommended that we amend proposed § 411.210(b)(1)(ii) to provide that when a beneficiary completes the required three months of work at the requisite level for reinstatement, he/she may re-enter in-use status, provided the ticket is reassigned to the previous EN or State VR agency.

Response: We did not adopt this commenter's suggestion. We initially note that under the situation described in this section, the ticket does not have to be "reassigned" if it has never been taken out of assignment. This section merely provides that for a beneficiary to re-enter in-use status, his or her ticket must be assigned to an EN or State VR agency. We further believe that we do not have authority under section 1148 of the Act to restrict the beneficiary's choices regarding assigning a ticket in the manner suggested. With regard to this commenter's concerns about a former EN sharing in any future EN payments, our rules in § 411.560 allow us to allocate a payment to more than one EN when the ENs request payment for the same milestone or outcome and the beneficiary has assigned the ticket to them at different times.

Comment: A comment referenced § 411.210 and suggested adding a new provision to the regulations to indicate that if SSA determined that individuals were not using a ticket, and, after a CDR, determined that they no longer were disabled, they still could continue to receive benefits if they meet the requirements in section 225(b) of the Social Security Act.

Response: We are not adopting this recommendation to add a section to the Ticket to Work program regulations concerning the provisions for continuation of benefits. The rules for continuation of benefit payments to persons who recover medically while participating in a rehabilitation program are in 20 CFR 404.316(c), 404.337(c), 404.352(d), and 416.1338. As previously stated, we plan to publish proposed rules to amend those sections of the regulations to take account of the amendments made by section 101(b) of Public Law 106–170 to sections 225(b) and 1631(a)(6) of the Act.

Comment: This commenter also indicated that § 411.210(b)(1)(i) should be revised to make the requirement for re-entering in-use status during the initial 24-month period or in the 24-month progress review consistent with the actual requirements for this phase, in other words, actively participating in the activities outlined in the IWP/IPE, rather than completing three months of work at the prescribed level. The commenter indicated that this provision is not consistent with the purpose, as explained in the preamble and the proposed rules themselves, for the first 24-month period. The commenter further recommended that the requirements for reinstatement after subsequent work reviews also should be consistent with the requirements of that phase of timely progress.

Response: We have revised the requirements for re-entering in-use status during the initial 24-month period in § 411.210(b)(1). We have not changed the requirements for re-entering in-use status after failing to meet the timely progress guidelines in the 24-month progress review or in the 12-month progress reviews because these requirements are consistent with the requirements of the reviews.

Section 411.220 What if I Am Temporarily Unable To Participate in My Employment Plan?

Comment: We received five comments about proposed § 411.220(a). All of these comments indicated that we should allow use of the "inactive status" (as defined in proposed §§ 411.192(b) and § 411.220(a)) not only in the initial 24-month period, but throughout the life of the ticket as long as the ticket is in use.

Response: To improve the organization of the rules in subpart C, the rules that were set out in proposed §§ 411.192 and 411.220 have been incorporated in § 411.190 in the final regulations. We did not adopt the suggestion to expand the scope of the rules to allow the placement of a ticket in inactive status after, as well as during, the initial 24-month period. While the placement of a ticket in inactive status is only permitted during the initial 24-month period in these final rules, the work requirements in subsequent progress review periods are designed to allow for intermittent employment (that is, three months of work out of 12, or six months of work out of 12) and to take into account relapses in health.

Comment: We received a comment regarding proposed § 411.220(b)(1) that indicated a belief that an individual would not be eligible to receive services from an EN or State VR agency if the individual chooses to place the ticket in inactive status. This commenter indicated that State VR agencies must continue to provide services to their clients under the terms of the IPE.

Response: Section 411.190 of these regulations indicates that the option of placing a ticket in inactive status is designed to accommodate individuals who temporarily are unable to participate or are not actively participating in their employment plan. This presumes that these individuals will not be receiving services under an IPE during this period of inactivity.

Comment: We received a comment suggesting that we modify proposed § 411.220(d) to include reassignment of the ticket as one of the options that the PM will offer a beneficiary who is not actively participating in his or her employment plan. This option would be in addition to the options of resuming active participation or placing the ticket in inactive status.

Response: We are not making this change because the rules in proposed § 411.220(d), which have been moved to § 411.190(a)(1) in the final regulations, concern the timely progress guidelines. In §§ 411.145 and 411.150 of the final rules, we explain that a beneficiary has the option of taking a ticket out of assignment and then reassigning the ticket. We will ensure that beneficiaries are advised of their options regarding ticket reassignment by providing public information materials, notices, operating instructions and procedures to the PM.

Section 411.225 What if My Ticket Is No Longer Assigned to an EN or State VR Agency?

Comment: We received two comments about this section (which is § 411.220 in the final regulations) which allows the individual an extension period of up to three months, during which the individual will be considered to be using a ticket even though the ticket is no longer assigned, to give the individual time to find another EN willing and able to serve the individual. One commenter expressed support for the provision and did not recommend any changes. The other commenter suggested adding a numbered paragraph to § 411.225(a) as follows: "You have relocated to an area not served by your previous EN or State VR agency."

Response: We agree with the suggested change to this section, with a modification. We are adding language to § 411.220(a)(1) of the final rules (formerly proposed § 411.225(a)(1)), instead of adding another numbered paragraph, to indicate that a beneficiary may have retrieved the ticket because the beneficiary relocated to an area not served by the beneficiary's previous EN or State VR agency.

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

Section 411.230 What Is a PM?

Comments: The comments on proposed § 411.230 generally questioned the ability of a PM to administer a program as large and complex as the Ticket to Work program. One of the commenters expressed concern about the selection of a private organization as PM and recommended that the program be administered only by a designated State agency. The commenter indicated that there is a proven history of State administration of Federal programs to support their recommendation. Other issues included the PM's ability to provide sufficient access for beneficiaries with disabilities, to deal with the diversity issues of persons with disabilities, and to coordinate the program equitably nationwide.

Response: Section 1148(d)(1) of Public Law 106–170 specifically provides that PM(s) can be either private or public sector organizations. Therefore, the selection of the PM cannot be restricted to only State agencies as recommended in the comments. All organizations, both public and private, must be considered under the competitive bidding process as stated in § 411.230. The Commissioner may terminate a PM for inadequate performance. Public and private entities that serve as a PM for us will be held to the same level of accountability.

While the regulation provides general information about the PM's administration of the Ticket to Work program, specific details regarding program administration are provided in the PM contract. The contract contains a comprehensive business plan, a listing of specific tasks required of the PM, and a delivery schedule for completion of the required tasks. We believe that the questions raised about access and diversity are sufficiently addressed in the contract. For example, the Business Plan in the contract requires the PM to operate a toll-free Text Telephone Communication Service and provide Spanish language services. Further, the Business Plan designates the hours of service to be provided across the country and requires that inquiries be monitored on a State-by-State basis to ensure that the program is successfully implemented nationwide.

In September 2000, we contracted with MAXIMUS, Inc., to serve as the PM for the Ticket to Work program. Specific information about their duties and responsibilities as the PM can be obtained through their toll-free number at 1–866–968–7842, or TTY 1–866–833–2967.

Section 411.245 What Are the PM's Responsibilities Under the Ticket to Work Program?

Comment: The majority of comments on proposed subpart D of the regulation addressed the provisions of § 411.245. Several of the comments on proposed § 411.245(a) questioned the PM's ability to recruit sufficient numbers of ENs. Specifically, the commenters expressed concern about whether enough ENs would be recruited in all States and all areas to provide beneficiaries with EN choices. To address this issue, one commenter recommended that a formal referral process be created for the beneficiaries to refer service providers to the PM as potential ENs. Another commenter wanted the evaluation of the PM as described in proposed § 411.250 to specifically identify "the recruitment of sufficient ENs" as one of the assessment criteria.

Another comment addressed the issue of beneficiary options from a different perspective. The commenter recommended that the PM provide each EN with a list of ticket holders in their area that had not yet assigned their ticket. Each EN could then contact the beneficiaries and discuss with them services the EN could offer. Through this process, beneficiaries would be provided a variety of options from which to choose when assigning their ticket.

Response: As we indicated previously, the regulation provides general information regarding the responsibilities of the PM. The PM contract gives much greater detail about the PM's responsibilities, including the marketing activities that the PM will undertake.

While the contract does not specifically identify a referral program for beneficiaries as part of their recruitment efforts, it does require the PM to use a variety of resources in their recruitment efforts. Since neither the regulation nor the PM contract precludes the beneficiary as a source for potential EN referrals, we do not believe a formal referral process specifically for beneficiaries is needed in order for the PM to use this source when appropriate. We do not believe that it is necessary to identify "recruitment of sufficient ENs" as a separate assessment criterion in the regulation. The regulation provides assessment criteria such as quality of services and customer satisfaction. We believe that these criteria can be used in determining whether or not the PM recruited sufficient ENs to provide beneficiaries with choices in the assignment of their tickets. In addition to the assessment criteria listed in the regulations, the PM's contract identifies the enrollment of sufficient ENs as a performance standard required under the Government Performance and Results Act.

The process for the PM to provide ENs with information about beneficiaries eligible to receive tickets is addressed in the Business Plan of the PM's contract. We will provide the PM with a list of all ticket-eligible beneficiaries by geographic area and disability impairment. The PM will provide, within the limitations of the Privacy Act, the ENs with information from this list for beneficiaries eligible to receive tickets in their area. The PM will encourage the ENs to use the lists to market their services with the beneficiaries.

Comment: Several comments on proposed § 411.245(b) addressed the issue of providing information in accessible formats. The language in the proposed regulation defined accessible format as "media that is appropriate to a particular beneficiary's medical impairment(s)". Other commenters were concerned that all information about the Ticket to Work program should be provided in an accessible format and that the beneficiary's preference should be taken into consideration. One commenter requested that "medical" be removed from the term "medical impairment," in defining "accessible format" in paragraph (b)(2).

Response: The Business Plan of the PM contract identifies certain requirements that address accessibility issues. The PM is required to operate a toll-free Text Telephone Communication Service for people with hearing and speech impairments+ to provide service through their toll-free telephone number. In addition, the website operated by the PM will be fully accessible to visitors with disabilities via software-based assistive technologies such as screen readers, screen magnifiers, speech synthesizers, and voice input software that operate in conjunction with graphical desktop browsers. Informational materials will be made available to beneficiaries in Braille format upon request. We agree with the comment regarding the word "medical," as not all impairments are "medical" in nature. We have changed the language in the final regulations to omit the word "medical".

Comment: Comments on proposed § 411.245(b) and (d) recommended adding time frames to the regulation. One was a fifteen-day time frame for the PM to respond to the beneficiaries about the reassignment of their tickets. The second was a ten-day time frame for the PM to respond to the EN about the assignment of a beneficiary's ticket. In both instances, the commenters were concerned about the delays that beneficiaries and ENs might experience if the PM did not respond timely.

Response: In both of the situations addressed in the comments, there is an assumption that services to the beneficiary cannot begin until a formal notice is received from the PM about the assignment or reassignment of a Ticket. This is not the case. The Business Plan of the PM contract outlines the process the PM will use for assigning or reassigning a ticket. When a beneficiary brings the Ticket to an EN, the EN will verify that the beneficiary has a ticket eligible for assignment. If the beneficiary and EN agree to work together, they develop an individual work plan. At this time, the beneficiary and the EN may begin working together. Therefore, there is no delay in service as anticipated by the comments. When the PM receives the plan signed by both the beneficiary and EN, the PM will verify that the ticket is eligible for assignment, update the database to show the ticket has been assigned, and notify the appropriate parties.

Comment: Comments on proposed § 411.245(c)(2) and § 411.245(d) requested that additional language be included to clarify the PM's involvement in certain dispute resolution situations. Commenters wanted both sections to identify the PM's responsibility to resolve payment disputes between two or more ENs when a ticket is re-assigned and multiple ENs have provided services to the same beneficiary.

Response: We agree and we are revising § 411.245(c)(2) to clarify that the PM will be responsible for making determinations regarding the allocation of outcome or milestone payments when the beneficiary has been served by more than one EN. We believe that the changes to § 411.245(c)(2) address the commenter's concerns and additional changes in § 411.245(d) are not needed.

Comment: We received several comments on proposed § 411.245(d) from State VR agencies regarding the PM's review of individual work plans and individualized plans for employment. The commenters wanted the regulation to clarify that the PM could review only individual work plans and not individualized plans for employment. They stressed that the PM had no authority to review an individualized plan for employment submitted by a State VR agency serving as an EN. The comments cited 34 CFR 361.45 and 361.46 as the only authority for the content and the development of individualized plans for employment.

Response: Section 411.245(d) of the regulation does not require the PM to review individualized plans for employment or amendments to those plans. We have revised this section, as recommended, to state that the PM will not review individualized plans for employment developed by beneficiaries and State VR agencies. Section 411.385 of the regulation describes how an individualized plan for employment is used in the Ticket to Work program. Section 411.385 does not require these plans to be submitted to the PM in connection with the assignment of a ticket to a State VR agency, and we did not intend for the PM to review individualized plans for employment.

Comment: Several comments on proposed § 411.245(d) discussed the PM's oversight of referrals between the ENs and the State VR agencies. Commenters requested additional language that would clarify the PM's responsibility when an EN that chooses not to take a beneficiary's ticket makes a referral to a State VR agency. The commenters wanted the regulation to reflect the PM's lack of jurisdiction regarding such referrals.

Response: While a referral to the State VR agency in this situation is possible, the referral would be outside the parameters of the Ticket to Work program and the PM's authority. So, we do not believe that we need to clarify the PM's lack of authority to oversee such referrals.

Section 411.250 How Will SSA Evaluate a PM?

Comment: We received many comments about the evaluation process for the PM. The commenters wanted to ensure that evaluation included input from a variety of stakeholders. Several commenters recommended that we solicit input from ENs and beneficiaries as part of the evaluation process for the PM. In addition, one commenter urged that we submit the evaluation to the Ticket to Work and Work Incentives Advisory Panel for comment and recommendations.

Response: The evaluation will gather input from parties served by the PM including beneficiaries and ENs. We agree that such input is a valuable resource. We also agree that it is appropriate for the Ticket to Work and Work Incentives Advisory Panel to receive and review a copy of the evaluation. However, we do not believe that these regulations need to address this issue as the evaluation process is outlined in detail in the PM's contract.

Comment: Other comments on proposed § 411.250 were directed at specific elements of the evaluation process. One commenter requested that the regulation specify that an evaluation would be performed at least annually. Another commenter wanted to know about the qualifications of the Project Officer and the Contracting Officer to review a contract for disability-related programs.

Response: We believe that these elements of the evaluation process should not be addressed in this regulation as they are already described in other Federal regulations including the Federal Acquisition Regulations (FAR) at 48 CFR Chapter 1. The procedures regarding the review of the PM's performance are spelled out in the FAR at 48 CFR subpart 42.15. Qualifications for project officers and contracting officers are established in the FAR at 48 CFR 1.102–4 and 1.602–1. In addition, the Project Officer is on staff at SSA's Office of Employment Support Program and is knowledgeable about programs serving persons with disabilities.

Subpart E—Employment Networks

Section 411.300 What is an EN?

Comment: Some commenters suggested that the definition of an EN should be included in its entirety in the "Definitions" section of the final rule. They indicated this definition should include a complete list of the services that the ENs are responsible for providing or arranging and noted that we should include the scope of services that may be needed to enable an individual with a disability to prepare for work. Some other commenters indicated that ENs should be required to provide a minimum range of services and that we should specify what is meant by "substantial expertise and experience" as contained in section 1148(f)(1)(C) of the Act.

Response: We have defined employment network, or EN, at § 411.115(e). We are not providing a more complete listing of services because such a listing would not encompass all the services or other assistance a beneficiary might need. Instead we are specifying only employment services, vocational rehabilitation services or other support services to provide flexibility to ENs and thus not specifically include or exclude some services. Section 411.245(b)(3) contains examples of the services an EN may provide. The types of services an EN will provide in a specific case will be detailed in the work plan an EN will sign with a beneficiary. SSA does not want to limit or describe what specific services should be included in this plan. The phrase "substantial expertise and experience" is found in section 1148(f)(1)(C) of the Act, which states that no EN "may serve under the Program unless it meets and maintains compliance with both general selection criteria (such as professional and educational qualifications, where applicable) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports)." We have not further defined that phrase in the regulations. The general and specific selection criteria for ENs are contained in § 411.315 of the final rules.

Section 411.305 Who Is Eligible To Be an EN?

Comment: Many commenters recommended that family or friends who wish to serve an individual be considered eligible to be an EN. Some commenters also suggested that we permit a beneficiary to be his or her own EN.

Response: The law provides that any entity willing to assume responsibility for the coordination and delivery of services under the Ticket to Work program may qualify as an EN. Our regulation states that any qualified entity willing to assume responsibility for the coordination and delivery of employment services, VR services, or other support services to beneficiaries who have assigned their tickets to an EN are eligible to be ENs. This does not rule out family or friends who meet the qualifications to be an EN and are willing to assume this responsibility. We therefore do not see any need to specifically cite family or friends. However, the statute does not allow a beneficiary to serve as his or her own EN. As § 1148(b)(3) of the Social Security Act and § 411.120 explain, a ticket under the Ticket to Work program is a document which provides evidence of the Commissioner's agreement to pay an EN or State VR agency for providing services to a beneficiary.

Comment: Some commenters questioned why State VR and one-stop delivery systems should be automatic ENs. Another commenter requested inclusion of the Department of Veterans Affairs as an EN. Another commenter wanted to know whether an employer could become an EN.

Response: Section 1148(f)(1) of the Act states that an EN may be an agency or instrumentality of a State (or political subdivision thereof) or a private entity. It does not allow Federal agencies to serve as ENs. Section 1148(c) of the Act allows each State VR agency to elect to participate in the Ticket to Work program as an EN with respect to a disabled individual. While the law specifically cites one-stop delivery systems as eligible to become ENs, it does not make them ENs automatically. Section 411.305(g) lists employers as eligible to be ENs.

Comment: One commenter wanted to know whether American Indian Projects may become ENs and whether such projects can become ENs if their State has not been chosen as a site.

Response: Section 411.305(e) lists organizations administering VR Services Projects for American Indians with Disabilities authorized under section 121 of part C of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), as one of the entities eligible to be ENs. American Indian Projects under section 121 can apply to be ENs only within the States where the Ticket to Work program has been implemented, or if they are qualified to provide services within such a State.

Section 411.310 How Does an Entity Apply To Be an EN and Who Will Determine Whether an Entity Qualifies as an EN?

Comment: Some commenters wanted to know how an entity applies to be an EN, who will determine whether an entity qualifies, and requested that our final rule reflect the differences in application between State VR agencies and other entities.

Response: Section 411.310 explains that an entity applies to be an EN by responding to our Request for Proposal (RFP), that the PM will conduct a preliminary review of responses to the RFP, and that the Commissioner will decide which applicants will be approved to serve as ENs. Sections 411.360 and 411.365 explain that we will notify the State VR agency in writing about the payment systems available under the Ticket to Work program, and that the State agency must respond in writing. We have revised § 411.310 to clarify that this section applies to entities other than State VR agencies which are applying to be ENs.

Comment: One commenter suggested that since the PM is charged with the responsibility to ensure that there are a sufficient number of ENs nationally, the PM should be charged with the responsibility to evaluate the qualifications because they are more qualified. The commenter also stated that the PM, not the Commissioner, should decide which applicants to select as ENs.

Response: The PM will play a strong role in evaluating applicants' qualifications and in recommending applicants for selection as ENs. SSA will consider the PM's evaluations and recommendations. However, since SSA will be entering into agreements with ENs, will be making payments to ENs, and ultimately will be responsible for the success of the Ticket to Work program, SSA must remain the final authority for evaluating EN

VOL 66 ISS 249 DE 28 2001 UMI

qualifications and determining which applicants will become ENs.

Comment: Several commenters suggested that we change § 411.310 to indicate that it applies to entities other than State VR agencies and that State VR agencies must comply with § 411.360 which discusses how a State VR agency becomes an EN.

Response: We have modified § 411.310 to indicate that it applies to entities other than State VR agencies and added a part (c) to explain that § 411.360 describes how State VR agencies participate as ENs in the Ticket to Work program.

Section 411.315 What Are the Minimum Qualifications Necessary To Be an EN?

Comment: One commenter suggested switching the order of some of the qualifications listed in § 411.315(a) and deleting the example in § 411.315 of using staff with a college degree in a related field.

Response: The order of qualifications listed in § 411.315(a) does not imply that the first one listed is of more importance than subsequent qualifications. Items (1) through (6) in this listing are of equal weight and there is no rationale for rearranging the listing. The use of staff with degrees in a related field as a qualification for ENs ensures that we do not unduly restrict qualified entities from becoming ENs and thus limit the options of our beneficiaries seeking services, because it provides another way for an entity to demonstrate that it meets one of the qualifications to serve as an EN.

Comment: Several commenters believed that our requirements for ENs should require all ENs to be licensed, certified, accredited or registered to provide services or to be able to arrange for other qualified entities to provide these services. Other commenters felt that our requirements were too stringent and that we should delete entirely § 411.315(c), which requires that potential ENs have applicable licenses, or certificates if required by State law.

Response: We have tried to strike a balance between ensuring that ENs are qualified by licensing or certification, while also providing an opportunity for non-traditional providers to qualify as ENs by demonstrating that they have obtained education or experience in providing the relevant services. Section 1148(f) of the Act provides that ENs must meet general selection criteria such as professional and educational qualifications where applicable and specific selection criteria such as substantial expertise and experience in providing relevant employment services and supports. Section 1148(f) did not limit us to requiring that all ENs be licensed, certified, or accredited, or registered to provide services or to arrange for other qualified entities to provide these services. However, where State law requires such documentation, the requirements of State law will apply.

Comment: Many commenters noted that the proposed rules appeared to require that ENs have relevant certification, accreditation, or license, even when the EN is not directly involved in the provision of services. They specifically expressed concern that we were requiring ENs to be qualified to provide medical and health-related services. Commenters suggested that our final rule clarify that an EN would not need certification, accreditation, or licensing unless it was directly providing the relevant services, but that the EN must be able to arrange for an entity with the applicable certification, accreditation, or license to provide the services.

Response: Section 411.315 of the proposed rules did not require certification, licensing or registration per se. Section 411.315(b) of the rules requires ENs to have qualified staff. One way to meet this requirement is by using staff that are properly credentialed. Section 411.315(c) of the rules requires ENs to comply with whatever State laws may apply to them; ENs are not relieved of their obligation to comply with State law simply by virtue of participating in the Ticket to Work program. Based on the comments, we revised § 411.315(b)(2) to clarify that if any medical and related health services are provided, the EN should take reasonable steps to assure that such services are provided under the formal supervision of persons licensed to prescribe or supervise the provision of such services. We did not intend to give the impression in the proposed rules that all ENs must be licensed to provide medical services.

Comment: A few commenters noted that required certificates and licenses would vary on a State-to-State basis and asked what measures would be taken to address the quality assurance of State requirements.

Response: SSA has no authority or interest in determining the validity of State licensing requirements or to encroach on State laws regarding these requirements. Section 411.315(c) states that potential ENs must comply with other laws that they may be subject to in order to provide employment services, vocational rehabilitation services, and other support services. Their potential participation in the Ticket to Work program does not eliminate their duty to comply with other State laws that may govern their activities.

Comment: One commenter suggested that our qualifications for ENs should include alternative demonstrations of competency and allow for special circumstances under which an individual can choose as their provider an entity with no demonstrated qualifications or experience subject to individual approval and periodic review of progress by the PM. Some commenters indicated that to meet the goal of expanding the universe of service providers, we should include those family members, friends, or other persons who have the greatest personal investment in the individual's self-sufficiency including formally established circles of support or incorporated trust/guardianship boards and to allow for our experience requirement to include experience in life planning and community support.

Response: Section 1148(f)(1) of the Act requires that ENs meet and maintain compliance with both general selection criteria (such as professional and educational qualifications) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports). The Act thus requires some level of education, experience, or expertise in providing employment related services and does not permit us to use, as an EN, providers with no demonstrated qualifications or experience in providing or arranging for these types of services. Friends, family members, or other persons must meet these requirements to qualify as ENs.

Comment: Several commenters questioned whether our requirement of applicable licenses, if such licenses are required by State law, would prevent entities specializing in certain impairments, such as deafness or blindness, from qualifying as ENs. Other commenters suggested our licensing requirement is too restrictive and will prevent organizations with national licenses or certifications from qualifying as ENs. Still other commenters indicated that § 411.315(a)(3) should be modified to include nondiscrimination on the basis of disability as a requirement to be an EN.

Response: We do not believe the requirement in § 411.315(c) that ENs follow State law will prevent ENs from specializing in certain impairments. Section 411.315(c) merely provides that ENs must follow the State laws that are applicable to them. SSA has no authority to encroach on State laws in instances where licenses, certification, or accreditation are required to provide specific services, including licenses to serve deaf or hard of hearing individuals. We do not believe the requirement in § 411.315(c) will prevent organizations with national licenses or certificates from qualifying as ENs. Presumably, these organizations are already complying with State laws applicable to them. We are not adopting the comment to modify § 411.315(a)(3) to require nondiscrimination on the basis of disability. The RFP for ENs requires applicants to indicate the impairment categories they serve and demonstrate that they have experience and expertise in serving people within those impairment categories. We envision that ENs will serve individuals in different impairment categories and have expertise and experience in serving specific groups.

Comment: Some commenters believed the proposed rule placed a higher value on education than on experience. Other commenters questioned what constitutes "substantial expertise and experience."

Response: The rules do not place a higher value on education than on experience. Our requirements to qualify as an EN are found at § 411.315. They include general criteria such as systems requirements, being accessible, and having adequate resources to perform the required activities, among other items. They also include specific criteria. The phrase "substantial expertise and experience" is used in section 1148(f)(1)(C) of the Act as an example of what may be used as specific selection criteria to be an EN. With respect to the specific selection criteria we use in § 411.315(b), we require ENs to have qualified staff. Potential ENs may show they have qualified staff by demonstrating that their staff are certified, licensed or meet certain standards. Potential ENs may also show they have qualified staff by demonstrating that their staff have education or experience to provide the services that the EN wants to provide to beneficiaries.

Comment: One commenter suggested that we require all ENs to develop an expertise in small business development and self-employment assistance services. The commenter stated that access to competent and available self-employment and small business development services are critical to successful employment outcomes.

Response: Expertise in small business development and self-employment assistance could be a valuable tool for ENs in providing services to beneficiaries. However, we do not believe we should require all ENs to have this expertise. We intend these rules to encourage a variety of entities with different skills and expertise to become ENs, and do not want to limit a beneficiary's range of choices by requiring that all ENs possess a specific expertise.

Comment: One commenter suggested that SSA implement a vigorous review process for any entity that wishes to become an EN to assure that each approved EN is adequately staffed by educated and certified professionals who are experienced in the areas of rehabilitation and disability. Other commenters indicated that we failed in the proposed rules to require specific qualifications for EN staff that would ensure a high level of knowledge in serving many disabilities.

Response: The RFP for ENs requires that entities submit documentation of their qualifications to serve as ENs. SSA will not enter into agreements with entities that do not meet this requirement. Further, § 411.315 provides criteria that an entity must meet to qualify as an EN. The staffing requirements outlined in this section should ensure that ENs have staff with a high level of knowledge to serve our beneficiaries. An EN is not required to serve all disability categories but can specialize. The RFP asks applicants to indicate the impairment categories they serve and demonstrate their qualifications to serve people within those impairment categories.

Comment: Some commenters stated that we should specify the range of services ENs must provide.

Response: We want to encourage as many qualified entities as possible to serve as ENs. We do not believe we should require all ENs to provide the same set of particular services, as beneficiaries may find a wide variety of services helpful in their return to work efforts. In addition, some ENs may not necessarily provide certain services, but only coordinate the delivery of services.

Comment: One commenter requested we permit providers who qualified as alternate participants under our reimbursement program to be automatically eligible as ENs. The commenter also suggested that other entities which already contract with State VR agencies should readily qualify as ENs.

Response: With respect to alternate participants, in any State where the Ticket to Work program is implemented, each alternate participant whose service area is in that State will be asked if it wants to participate in the program as an EN. See section 1148(d)(4)(B) of the Social Security Act and § 411.705 of these final rules. With respect to entities that have contracts with State VR agencies, section 1148(f)(1) of the Act requires that all entities must meet and maintain compliance with both general and specific selection criteria. Entities which have already contracted with State VR agencies are required to submit proposals in response to our RFP and indicate that they will comply with all requirements of the Ticket to Work program.

Comment: One commenter recommended that we presumptively deem one-stop delivery systems established under title I of the Workforce Investment Act of 1998 as meeting the qualifications to be an EN. Another commenter asked whether an independent living center might qualify as an EN. Another asked what policies would be put in place for people such as artists whose work does not fall into a category represented by an EN. This commenter expressed a concern that SSA did not see the arts as a valid career choice.

Response: Section 1148(f) of the Act does not permit us to presumptively deem any entity as qualified as an EN, although State VR agencies and alternate participants are the only entities that do not have to follow the standard application process to become an EN. All other potential ENs must respond to the RFP for ENs and indicate that they understand and meet the requirements to serve as ENs. An independent living center may qualify as an EN if it meets the requirements spelled out in these regulations and in the RFP for ENs. Our regulation does not state what is appropriate work or prohibit potential ENs from specializing in certain career fields*Comment:* Section 411.315(a)(2) of the proposed rules states that the general criteria for EN qualification include "being accessible, both physically and programmatically, to beneficiaries seeking or receiving services." Some commenters suggested that we need to define "programmatic accessibility."

Response: We agree and have revised § 411.315(a)(2) in the final rules to include some examples of what it means to be programmatically accessible.

Section 411.320 What Are an EN's Responsibilities as a Participant in the Ticket to Work Program?

Comment: One commenter recommended that we establish clear standards for ENs to use in providing information to ticket holders regarding the services provided and expected outcomes.

Response: ENs are required to provide information sufficient for beneficiaries to make an informed choice regarding services and vocational goals and to then agree to and sign an IWP regarding these services and the vocational goal. Section 1148(f)(4) of the Act requires that ENs prepare periodic reports on at least an annual basis itemizing outcomes achieved with respect to services provided by the EN. Each EN must provide a copy of its latest report to each beneficiary that it agrees to work with under the Ticket to Work program. The PM is required to ensure that these reports are available to the public.

Comment: One commenter indicated that this section should specify who prescribes an EN's service area.

Response: When responding to the RFP for ENs, an applicant indicates the geographic area(s) in which it proposes to provide services to beneficiaries.

Comment: Several commenters indicated that we should reflect the State VR agency's obligation to follow the law as outlined in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Response: Section 411.375 in subpart F states that "The State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even when functioning as an EN." Section 411.385 indicates that the State VR agencies are required to follow the law as outlined in the Rehabilitation Act which requires the use of an individualized plan for employment (IPE).

Comment: Several commenters stated that we should use the term "individualized plan for employment" as well as IWP.

Response: Sections 411.115(f), (i), and (j) explain that *employment plan* means an individual work plan under which an EN (other than a State VR agency) provides services to a disabled beneficiary under the Ticket to Work program or an individualized plan for employment under which a State VR agency provides services. We use IWP to identify the employment plan developed and implemented by an EN and beneficiary, and IPE to describe the employment plan agreed to and signed by a State VR agency and beneficiary.

Comment: Several commenters stated that we should require ENs to serve any client living in the geographic area they indicate they serve. The commenters indicated that allowing ENs to choose would prevent those with the most severe disabilities from getting any services and ENs would take only the easiest clients.

Response: The Ticket to Work program provides for a voluntary relationship between the beneficiary and the EN. While an EN may not discriminate in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin, an EN may select the beneficiaries to whom it will offer services based on factors such as its assessment of the needs of the beneficiary and of its ability to help the individual. Requiring the EN to serve all clients in their geographic area would eliminate the voluntary nature of this relationship and reduce the number of entities who would choose to serve beneficiaries as ENs.

Whether there are under-served populations will be assessed as part of the ongoing evaluations of the Ticket to Work program. Section 101(d)(4) of Public Law 106–170 requires the Commissioner of Social Security to provide for independent evaluations to assess the effectiveness of the Ticket to Work program, including evaluation of "the characteristics of individuals in possession of tickets under the Program who are not accepted for services and, to the extent reasonably determinable, the reasons for which such beneficiaries were not accepted for services." The Commissioner is required to provide periodic reports to the Congress on these evaluations, setting forth the Commissioner's evaluation "of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how the Program should be modified." Section 1148(h)(5)(C) of the Social Security Act also requires the Commissioner to report to Congress no later than 36 months after the date of the enactment of Public Law 106–170 with recommendations for a method or methods to adjust EN payment rates that would ensure adequate incentives for the provision of services by ENs of:

- Individuals with a need for ongoing support and services;
- Individuals with a need for high-cost accommodations;
- Individuals who earn a subminimum wage; and
- Individuals who work and receive partial cash benefits.

Based on these evaluations, the Commissioner may recommend modifications of the program to the Congress, or make other necessary changes within the Commissioner's authority under the Social Security Act.

Comment: One commenter expressed concern about what would happen to a beneficiary who refused to work with an EN and faced the possibility of sanctions.

Response: Section 101(b) of Public Law 106–170 repealed sections 222(b) and 1615(c) of the Act, which provided for the sanctions for VR refusal.

Comment: Some commenters stated that the requirements in the NPRM will restrict many private businesses from becoming ENs and do not offer any incentives to an employer to participate or even become an EN.

Response: The requirements in the NPRM are intended to strike a balance between assuring the participation of qualified ENs including non-traditional providers while protecting beneficiaries by requiring a certain level of competence by the entities that will serve them. The incentives provided in section 1148 of the Act for the ENs are the milestone and outcome payments for achieving results. While no special incentives are provided in this legislation for employers, we are confident that employers are qualified to serve as ENs, and that they will be able to assist beneficiaries to obtain and maintain employment.

Section 411.321 Under What Conditions Will SSA Terminate an Agreement With an EN Due to Inadequate Performance?

Comment: One commenter recommended that we delete the phrase "self-supporting employment and leaving the benefit rolls" as the goals of our performance standards for ENs.

Response: Enabling beneficiaries to achieve self-supporting employment and leave the benefit rolls is the goal of the Ticket to Work program. It is a critical performance standard for ENs and essential to our evaluation of ENs.

Comment: One commenter expressed concern about the standards SSA will use to evaluate ENs and whether we will have different standards for rehabilitation agencies and for ENs.

Response: We will develop appropriate standards to ensure the capability of ENs to provide the needed services and to achieve outcomes. For State VR agency performance, SSA will defer to the standards required by the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). As indicated in section 411.375, the State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even while functioning as an EN.

Section 411.325 What Reporting Requirements Are Placed on an EN as a Participant in the Ticket to Work Program?

Comment: Several commenters objected to having to provide a financial report showing the percentage of the EN's budget that was spent on serving beneficiaries with tickets including the amount of time that was spent on beneficiaries who return to work and those who do not return to work. They indicated that this percentage reporting would be an extensive process and would require reporting on time spent working with an individual for which they would not be compensated. Other commenters felt that the reporting of ticket acceptance and of the IWP is unnecessary and represents too much reporting on process as opposed to reporting on beneficiary outcomes. Another commenter asked for a definition of outcomes to be reported. One commenter suggested that we include a requirement that the State VR agency submit an IPE to the PM in § 411.325(b) and (c).

Response: We agree with the commenters that the reporting requirement regarding percentage of time working with beneficiaries would place an undue burden on ENs and are eliminating this specific requirement in our final rule. However, we are required to obtain information regarding ticket acceptance and the IWP to ensure that beneficiaries are using their tickets and thus are eligible for continuing disability review protection, and to determine EN eligibility for payments under the EN payment systems. We will develop a national report model, which will define outcomes. We will use the information we receive from EN reports to identify changes we must make to the Ticket to Work program in the future. We did not require, in § 411.325 or elsewhere, the State VR agency to send a copy of the IPE to the PM, because of concerns expressed by the Rehabilitation Services Administration and other commenters about the privacy and confidentiality of client information required by the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Comment: One commenter recommended that we add language to § 411.325(h) indicating that the EN will collect and record such data as we shall require by written contractual agreement.

Response: The requirement to collect and record such data as we shall require will be in our written agreements with ENs. There is no need to specify "by contractual agreement" in § 411.325.

Section 411.330 How Will SSA Evaluate an EN's Performance?

Comment: Some commenters requested information regarding the specific performance standards SSA will develop to evaluate ENs and from whom SSA will obtain input for such evaluations. Another commenter asked whether this evaluation should be the responsibility of the PM.

Response: SSA will develop appropriate performance standards and will consider input from providers, beneficiaries, and other interested parties in developing these standards. The PM will assist SSA in evaluating EN performance. However, SSA is responsible for the final evaluation because SSA has entered into contractual agreements with ENs and bears the ultimate responsibility for EN performance and the Ticket to Work program's success.

Subpart F—State Vocational Rehabilitation Agencies' Participation

General Comments and Responses

Comment: Several commenters stated that the State VR agency and the EN are the same entity in instances in which the VR agency participates as an EN. These commenters requested that, throughout the final regulations, whenever reference is made to an EN, such reference indicate that an EN includes a State VR agency functioning as an EN.

Response: We did not adopt the commenters' recommendation. Some rules in these final regulations, such as most of the rules in subparts E and G, apply to entities, other than State VR agencies, which have entered into agreement with SSA (or wish to do so) to serve as ENs under the Ticket to Work program. Where necessary, various sections of the final rules include references to both an EN and a State VR agency to specify the scope of a particular rule or rules. For the rules in subpart H which describe the two EN payment systems, references to an EN generally are intended to encompass a State VR agency functioning as an EN, unless the context requires otherwise or there is a specific mention of the State VR agency.

Section 411.350 Must a State VR Agency Participate in the Ticket to Work Program?

Comment: Several commenters requested that we modify § 411.350, "Must a State VR agency participate in the Ticket to Work program?" They indicated that as written this section indicates that a VR agency must participate as an EN in order to receive payment for services. They indicated that sections 222(d) and 1615(d) and (e) of the Social Security Act do not require VR agencies to become ENs.

Response: Section 411.350 has been clarified as follows: "Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), must participate in the Ticket to Work program if it wishes to receive payments from SSA for serving disabled beneficiaries who are issued a ticket." Section 411.370, Does a State VR agency ever have to function as an EN?, states that: "A State VR agency does not have to function as an EN when serving a beneficiary with a ticket if the ticket has not previously been assigned to an EN or State VR agency or if it has been previously assigned, we have not made payment under an EN payment system with respect to that ticket." (See § 411.355(a).) Conversely, a State VR agency does have to function as an EN when it elects one of the EN payment systems for a beneficiary, on a case-by-case basis. (See § 411.355(b).) However, as described in § 411.585(b), a State VR agency is precluded from being paid under the cost reimbursement payment system if an EN or a State VR agency serving a beneficiary as an EN has been paid by SSA under one of the EN payment systems with respect to the same ticket. However, even if the State VR agency is not serving as an EN, it still must tell the PM whenever a beneficiary with a ticket is accepted for services.

Section 411.355 What Payment Options Does a State VR Agency Have Under the Ticket to Work Program?

Comment: One commenter stated that it does not make sense to allow the State VR agencies to determine on a case-by-case basis how they will be paid for serving a beneficiary, because that could encourage VR agencies to seek out the easiest beneficiaries to serve and get them to employment. The commenter noted that this is the opposite of the State VR agencies' traditional mandate, which is to give priority to serving the most severely disabled.

Response: We are not adopting this comment. The Ticket to Work program does not in any way affect the State VR agency's traditional mandate to serve the most severely disabled. It merely provides the State VR agency with an additional payment option in serving beneficiaries with disabilities who are issued a ticket and who seek services from the State VR agency rather than from an EN serving under the program.

Comment: One commenter asked if there would be any changes to the present process for State VR agencies seeking cost reimbursement payments.

Response: Under § 411.585(a) of the final rule, if a State VR agency is paid by SSA under the cost reimbursement payment system with respect to a ticket,

VOL 66 ISS 249 DE 28 2001 UMI

such payment precludes any subsequent payment by SSA under one of the EN payment systems based on the same ticket. Under § 411.585(b) of the final rules, if an EN or a State VR agency serving a beneficiary as an EN is paid by SSA under one of the EN payment systems with respect to a ticket, such payment precludes subsequent payment to a State VR agency under the cost reimbursement payment system based on the same ticket. Public Law 106–170 repealed sections 222(b) and 1615(c) of the Act, effective January 1, 2001. Therefore, sanctions for refusing VR services without good cause are eliminated. Because the sanctions are eliminated, cases in which such sanctions are imposed are eliminated and no longer one of the categories of cases for which State VR agencies can seek reimbursement. As noted in the preamble, SSA intends to publish proposed rules in the **Federal Register** at a later date to amend the affected regulations to reflect the change in the law.

Comment: One commenter stated that these regulations should state that the VR reimbursement system continues to operate as a program available to all beneficiaries with disabilities who are eligible for VR services. In the commenter's view, as these regulations read now, reimbursement seems to apply only to ticket holders. State VR agencies have and will continue to serve many beneficiaries who will not receive tickets.

Response: We are not adopting this comment. Section 411.355(c) states that: "When serving a beneficiary who was not issued a ticket, the State VR agency may seek payment only under the cost reimbursement payment system."

Section 411.365 How Does a State VR Agency Notify SSA About Its Choice of a Payment System for Use When Functioning as an EN?

Comment: Several commenters stated that § 411.365(a) should be revised to reflect that the State Agency must respond in writing only if it intends to function as an EN to make it clear that a State VR agency does not have to function as an EN.

Response: We are not adopting this recommendation. Under § 411.585(b) of the final rules, if an EN or a State VR agency serving a beneficiary as an EN is paid by us under one of the EN payment systems with respect to a ticket, such payment precludes subsequent payment to a State VR agency under the cost reimbursement payment system based on the same ticket. The only payment system available to a State VR agency under this rule would be the EN payment system elected in response to the letter identified in § 411.365(a).

Comment: Some commenters stated that § 411.365(b) should be revised to allow for the appropriate administrative authority other than the Governor to sign the letter reflecting the State VR agency's preferred payment method when functioning as a EN.

Response: We agree, and have revised § 411.365(b) in the final rules to indicate that "[t]he director of the State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720, *et seq.*) or the director's designee must sign the State VR agency's letter."

Section 411.370 Does a State VR Agency Ever Have To Function as an EN?

Comment: Several commenters noted that proposed § 411.370 provides that "even if the State VR agency is not serving as an EN, it still must tell the program manager whenever a beneficiary with a ticket is accepted for services to ensure that the beneficiary's ticket is assigned to that agency." The commenters stated that this provision would appear to indicate that all a VR agency needs to do to have a ticket assigned to it is to tell the PM that they are working with the individual. They noted that § 411.370 seems to be contradicted by § 411.385, which states that the State VR agencies must have beneficiaries sign a form when they wish to assign their Ticket to Work to a VR agency.

Response: Proposed sections 411.370 and 411.385 are not in conflict. In the final rules, however, we have made changes to clarify § 411.370. Section 411.370 explains that State VR agencies may choose on a case-by-case basis to function as an EN when serving a beneficiary with a ticket, or they may serve beneficiaries under the cost reimbursement system, subject to the limitations described in § 411.585. In either situation, State VR agencies must tell the PM that a beneficiary has been accepted for services in order for the ticket to be assigned to that agency. If a beneficiary with a ticket decides to seek services from the State VR agency, then the beneficiary will in effect be using the ticket for those services, even if the State VR agency chooses to be reimbursed rather than being paid under one of the EN payment systems. The process that the State VR agency will use to inform the PM is provided in § 411.385(a) and (b).

Section 411.385 What Does a State VR Agency Do if a Beneficiary Who Is Eligible for VR Services Has a Ticket That Is Available for Assignment?

Comment: Several commenters noted that, under proposed § 411.385, when a beneficiary signs an Individualized Plan for Employment (IPE) as defined under the Rehabilitation Act, the beneficiary automatically has assigned the ticket to the State VR agency, regardless of whether the VR agency elects to participate as an EN with respect to the beneficiary. These commenters believe that § 411.385 negates beneficiary choice, which, as they state, is the hallmark of the Ticket to Work program. They noted that disability beneficiaries are presumptively eligible for State VR services without the ticket. They further indicated that if the State VR agency receives payment under the cost reimbursement payment system, § 411.585 provides that we cannot make payment to an EN. They argued that this would deny beneficiaries the use of their tickets at a later time.

Response: The Ticket to Work program increases beneficiary choice by expanding the options available for disability beneficiaries to access employment services, vocational rehabilitation services, and other support services that are necessary for them to find and retain employment and reduce dependency on cash benefit programs. Beneficiaries can choose to receive services from either the State VR agency or other service providers approved to participate as ENs. Beneficiaries with a ticket that can be assigned who decide to work with an EN other than a State VR agency will agree to and sign an individual work plan. Similarly, beneficiaries with a ticket that can be assigned who decide to work with the State VR agency will agree to and sign an IPE required under the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). In both circumstances, the beneficiaries have decided to participate in the Ticket to Work program by working with a provider to receive services necessary to help them go to work. Further, beneficiaries who are not satisfied with the services they receive from their chosen providers are able to reassign their ticket if they meet the requirements of § 411.150. See the comment and response section of subpart H for a discussion of the conditions that must be met to allow a State VR agency and EN to both receive payment for serving a beneficiary based on the same ticket.

Comment: Two commenters requested that § 411.385(a) be rewritten to clarify that the individual must be determined eligible prior to developing an IPE and that both the individual and the VR counselor must sign the IPE.

Response: Section 411.385(a) has been revised to indicate that once the State VR agency determines that a beneficiary is eligible for VR services, the beneficiary and a representative of the State VR agency must agree to and sign the IPE, and that the requirements of § 411.140(d) or § 411.150(a) and (b) also must be met.

Comment: Several commenters recommended that we delete the phrase "working with the beneficiary" from § 411.385(b) because it is overly specific and limits who can sign the information being provided to the PM by the State VR agency.

Response: We agree and are revising § 411.385(b) to delete "working with the beneficiary."

Section 411.390 What Does a State VR Agency Do if a Beneficiary to Whom it Is Already Providing Services Has a Ticket That Is Available for Assignment?

Comment: Several commenters identified a conflict between proposed §§ 411.390 and 411.510(c) regarding a State VR agency's payment election options with respect to a beneficiary already receiving VR services under an IPE before the beneficiary receives a ticket and assigns it to the State VR agency.

Response: We are revising § 411.390 to remove the provision that conflicted with § 411.510(c). Section 411.510(c) of the final rules provides that for each beneficiary who already is a client of the State VR agency prior to receiving a ticket, the State VR agency will notify the PM of its payment system election at the time the beneficiary decides to assign the ticket to it.

Comment: Some commenters stated that proposed § 411.390 should be revised to provide that the State VR agency should automatically be considered as the holder of the ticket for current clients unless and until the beneficiary opts to change providers.

Response: We are not adopting this comment. Beneficiaries who are receiving services from the State VR agency under an existing IPE when they receive their ticket should have the opportunity to make an informed choice regarding their participation in the Ticket to Work program. Beneficiaries will be able to decide whether or not they wish to assign their ticket to the State VR agency. This includes beneficiaries who are determined eligible for a ticket upon implementation of the Ticket to Work program in a State and beneficiaries who are determined ineligible for a ticket when the Ticket to Work program is implemented in a State but later become eligible for a ticket.

Section 411.395 Is a State VR Agency Required To Provide Periodic Reports?

Comments: One commenter stated that § 411.395 should prescribe how periodic reports on outcomes should be transmitted, and that an electronic infrastructure should be in place and operational prior to implementation of the Ticket to Work program.

Response: We are not adopting this recommendation to regulate the process for transmitting reports between a State VR agency and the PM. The PM will contact each State VR agency in States where the Ticket to Work program has been implemented to address the process for collecting information.

Comment: Several commenters stated that SSA should accept reports submitted by State VR agencies to the Rehabilitation Services Administration rather than creating additional reporting requirements for these agencies. Their concern is that reporting will be excessive and may duplicate or conflict with existing requirements under the Rehabilitation Act of 1973, as amended and the Workforce Investment Act of 1998, as amended.

Response: Reports that State VR agencies provide to the Department of Education's Rehabilitation Services Administration (RSA) may be used to meet the reporting requirements in section 411.395. However, at this time, we cannot say whether these existing reports will provide us with all of the information we need to fulfill our reporting requirements. The periodic outcomes reports discussed in section 411.395(a) are required by section 1148(f)(4) of the Social Security Act. They are a new reporting requirement for State VR agencies functioning as ENs. The reports discussed in section 411.395(b) are required so beneficiaries may take advantage of the new protection in section 1148(i) of the Social Security Act which prevents us from initiating a continuing disability review when the beneficiaries are using a ticket. We will work with RSA to share information whenever possible and avoid duplication of State VR agencies' existing reporting burden.

Comment: One commenter indicated that § 411.395 should be written to reflect confidentiality issues as outlined in the Rehabilitation Act of 1973, as amended.

Response: We have not adopted this suggestion. The contract that the PM and ENs sign with SSA includes the requirement that access to confidential information must be restricted and that such information must be protected. Section 411.375 states that State VR agencies are required to provide VR services under a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even when functioning as an EN. This includes the confidentiality requirement that a State VR agency must follow.

Comment: One commenter noted that § 411.395 involves the State VR agencies in conducting reviews necessary to ensure that the beneficiary is making timely progress towards self-supporting employment while the same is not true for ENs. The commenter questioned why the EN wouldn't be able to validate that beneficiaries are making timely progress.

Response: Section 411.190 states that the PM will be using information provided by the EN or State VR agency in making the determination that a beneficiary is actively participating in his or her employment plan. Section 411.395(b) requires the State VR agency to submit this information. We are revising § 411.325 to require the same information from an EN.

Comment: This commenter also stated that the wording in § 411.395(b) should be changed from: "The State VR agency must also submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews" to: "The State VR agency must also submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to ensure a beneficiary is not using a ticket to avoid continuing disability reviews."

Response: We are not adopting this comment. The purpose of the PM's review is to determine whether a beneficiary's active participation qualifies for CDR suspension under section 1148(i) of the Act. As long as a beneficiary is meeting the guidelines for timely progress toward self-supporting employment, the CDR suspension applies.

Section 411.405 When Does an Agreement Between an EN and the State VR Agency Have To Be in Place?

Comment: Commenters stated that § 411.400 (Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?) and § 411.405 should state that the agreements between ENs and

State VR agencies need to conform to the requirements of the Rehabilitation Act of 1973, as amended (29 U.S.C 720 *et seq.*)

Response: We have not adopted this suggestion. Section 1148(c)(3) of the Act, Agreements between State Agencies and Employment Networks, does not require that the State VR agency and EN agreement must conform to the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Comment: Several commenters stated that there is no mention of ENs being able to enter into agreements with one-stop delivery systems established under the Workforce Investment Act of 1998.

Response: Section 1148(c)(3) of the Act provides that State agencies and ENs shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State agency for services. Section 411.320 regulates the responsibilities of an EN in the Ticket to Work program. Section 411.320(c) provides that an EN may enter into agreements with other entities to provide employment services, vocational rehabilitation services, or other support services to a beneficiary.

On a related point, section 1148(f)(1)(B) of the Act states that an EN serving under the Ticket to Work program may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998, as amended. This provision is reflected in § 411.305(c) of these final regulations. As indicated in § 411.320(c), discussed above, a one-stop delivery system that is serving as an EN can enter into agreements as necessary to provide services to a beneficiary. As required of all non-State VR agency ENs, a one-stop delivery system that is an EN must have an agreement in place with a State VR agency before it can refer a beneficiary to the State VR agency for services.

Comment: One commenter stated that the regulations or preamble should clarify that the regulations do not require a separate agreement and may be satisfied by a local Memorandum of Understanding (MOU) established under title I of the Workforce Investment Act of 1998, or a modification to such MOU that contains the specified information.

Response: Section 1148(c)(3) of the Act does not specify the format of the agreements required between the State VR agencies and ENs. Any agreement must adhere to the requirements of § 411.400, which specifies that the agreement must be in writing and signed by the State VR agency and the EN prior to the EN referring any beneficiary to the State VR agency for services. If a MOU satisfies these requirements, it would constitute a valid agreement.

Section 411.410 Does Each Referral From an EN to a State VR Agency Require Its Own Agreement?

Comment: Another commenter noted that § 411.410 indicates that agreements between ENs and State VR agencies should be broad-based and apply to all beneficiaries who may be referred to the State VR agency for services. The commenter stated that broad-based agreements ignore the uniqueness of each case and may prohibit an individual from receiving specialized services that are necessary in order to return to competitive employment. The commenter also noted that there is no mention of whether the agreement between the EN and State VR agency can be terminated. The commenter recommended that, in addition to broad-based agreements, ENs and State VR agencies might also create distinct agreements based on the specific needs of the individual being served, and that both the EN and the State VR agencies should have the ability to terminate their agreement if the needs of the individual are not being served.

Response: We agree with the commenter's first recommendation. We are adding language to § 411.410 to indicate that the general guideline that the agreement should be broad-based and apply to all beneficiaries who may be referred by an EN to a State VR agency is not intended to preclude an EN and a State VR agency from entering into an individualized agreement to meet the needs of a single beneficiary if both the EN and the State VR agency wish to do so. What is agreed to in the agreement concerning the conditions for providing VR services to beneficiaries referred by an EN and the process for terminating the agreement must be negotiated between the State VR agency and the EN.

Section 411.420 What Information Should Be Included in an Agreement Between an EN and a State VR Agency?

Comment: Several commenters stated that SSA should not be establishing the terms of the agreement between the State VR agency and the EN in the regulations. Other commenters indicated that we should modify § 411.420 to provide minimum requirements for these agreements. One commenter stated that we should specify when the State VR agency will pay the ENs for services. Another commenter stated that the State VR agency would be in a position to negotiate terms of the agreement wholly favorable to its own interests. The commenter recommended that the rules should stipulate that each party to the agreement share reimbursement equitably, and that the rules to be applied by the PM in cases where disputes arise should be clearly defined prior to implementation.

Response: We are not establishing the terms of any agreement entered into between a State VR agency and an EN. Section 1148(c)(3) of the Act states that: "State agencies and employment networks shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an employment network to a State agency for services. The Commissioner shall establish by regulations the time frame within which such agreements must be entered into and the mechanisms for dispute resolution between State agencies and employment networks with respect to such agreements." The Act does not provide SSA with the authority to set minimum standards or to regulate payment or fee schedules for these agreements. The introductory text of § 411.420 paraphrases the language in the Act regarding the basic nature of the agreements and paragraphs (a) through (d) of that section provide examples only of the types of information that could be included in any agreement. These regulations place no requirements on what should be included in an agreement.

Comment: Several commenters stated that, regardless of whether there is an agreement in place when a beneficiary is referred to a State VR agency, recently published Department of Education regulations, 34 CFR part 361, require State VR agencies to process all applications for services. The commenters noted that the State VR agencies will not be expected to expend program funds on services that are comparable to the services the individual is already receiving from the EN to which the individual's ticket is assigned. The commenters noted that further clarification is needed concerning a State VR agency's responsibility to provide additional needed services without a signed agreement with the EN.

Response: The Department of Education's, Rehabilitation Services Administration is the entity responsible for administering the State VR program. State VR agencies should contact the Rehabilitation Services Administration for guidance on expending State VR program funds on beneficiaries where no agreement exist with an EN.

Comment: Several commenters stated that §§ 411.405 to 411.430 do not address instances where individuals might have assigned their ticket to an EN, yet decide on their own to come to the State VR agency for additional services. In these instances, the EN is not making the referral, and an agreement may not be in place between the EN and the State VR agency. This may create a situation where a beneficiary is being served by both an EN and the State VR agency outside of the governance of an agreement. The commenters suggested expanding the rules in these sections to require that agreements will be in place between all ENs and State VR agencies, to ensure that all ticket holders are covered by an agreement.

Response: We are not adopting the commenters' suggestion. Section 1148(c)(3) of the Act requires agreements between State VR agencies and ENs regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services. SSA does not have the authority to require an EN to enter into an agreement with a State VR agency unless the EN is going to make a referral of beneficiaries to a State VR agency for services.

Section 411.435 How Will Disputes Arising Under the Agreements Between ENs and State VR Agencies Be Resolved?

Comment: One commenter recommended a change to § 411.435(c)(2), to provide a time frame within which SSA must decide the matter in dispute between an EN and a State VR agency in a case where either party makes a timely request for SSA review following receipt of the PM's recommended resolution to the dispute. The commenter recommended adding a provision to provide that SSA will have 20 days to determine a resolution to the dispute.

Response: We do not agree that these regulations should establish a time frame for us to resolve disputes. We agree that we must resolve disputes as quickly as possible. However, a rigid time frame would be inadvisable due to the potential complexity of disputes involved.

Comment: One commenter noted that the rules do not mention the State VR agency's legal obligation to serve eligible individuals whether an agreement with an EN is in place. The commenter said it is essential that State VR agencies retain the ability to be paid under the cost reimbursement system.

Response: Under the Ticket to Work program, we will pay a State VR agency for providing services to a beneficiary who is issued a ticket and assigns or reassigns the ticket to the State VR agency if certain conditions are met. Section 411.355(a) of the final regulation states that State VR agencies may choose to participate either as an EN or under the cost reimbursement payment system, subject to the limitations in § 411.585. The section further states that the State VR agency makes this choice on a case-by-case basis. Section 411.370 states that a State VR agency generally is not restricted in making its choice of participating either as an EN or under the cost reimbursement payment system, with the exception of the rule under § 411.585.

Comment: One commenter questioned how a beneficiary who chooses an EN other than a State VR agency would access the State VR agency for assistance with assistive technology for employment purposes. The commenter observed that a person with a disability who needs assistive technology in order to work can request assistance from the State VR Agency. The commenter asks if this can be done under the Ticket to Work program without the beneficiary reassigning his or her ticket to the State VR Agency.

Response: If the EN to whom the beneficiary has assigned his or her ticket has a signed agreement with the State VR agency, the EN could refer the beneficiary to the State VR agency to secure the services needed. If the beneficiary's EN has not entered into an agreement with the State VR agency, the beneficiary's EN would be required to enter into an agreement with the State VR agency before the EN could refer the beneficiary to the State VR agency for services.

Comment: One commenter stated that the regulations suggest that there is only one State VR agency per State. The commenter noted that this is not true for all States. In some States, there is a separate blind services unit. The commenter asked whether two separate agreements have to be in place between the EN and the two VR entities in the State in such an instance.

Response: The configuration of the State VR agencies within the State government's organizational structure would determine if an EN would need to enter into an agreement with one or two State VR agencies in a particular State. We are clarifying the definition of State vocational rehabilitation agency in final § 411.115(m) to reflect that some States have more than one agency that provides VR services.

Subpart G—Requirements for Individual Work Plans

Section 411.450 What Is an IWP?

Comment: One commenter was of the opinion that State VR agencies would have to complete an IWP and an IPE based on this regulation.

Response: In accordance with 1148(c)(2) of the Act, the State VR agency will continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) when providing services as an EN. The State VR agencies continue to prepare an Individualized Plan for Employment (IPE) for all clients served. We are clarifying § 411.450 so that it does not give the impression that a State VR agency is required to complete an IWP. In the first sentence of § 411.450 we added in parenthesis "(other than a State VR agency)" to clarify that State VR agencies are not required to complete an IWP.

Comment: A few commenters suggested that we add the definition of IWP in its entirety in the definition section of the rules.

Response: This suggestion was adopted. The IWP and many other new terms now are included in final § 411.115.

Comment: A few commenters wrote that whenever possible the regulations should encourage that the IWP and similar life/work planning instruments such as the IPE or individualized service delivery plan be used interchangeably.

Response: Other employment plans that are developed based on specific guidelines and laws may not be used as a substitute for the IWP unless they satisfy the requirements of the IWP in § 411.465.

Section 411.455 What Is the Purpose of an IWP?

Comment: One commenter suggested alternate language to describe the purpose of an IWP. The commenter suggested that the wording be changed to read "Both parties should develop and implement the IWP in partnership in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal." The commenter also suggested using the term "define" in place of the term "outline" when naming services that will be provided under an IWP.

Response: The wording that was used in describing the purpose of the IWP was taken from the law. Section 1148(g)(1)(B) of the Act requires that "[e]ach employment network shall * * * develop and implement each such individual work plan, in partnership with each beneficiary." The intent of the IWP is to outline, not define, the services that have been mutually agreed to by the EN and the beneficiary.

Section 411.460 Who Is Responsible for Determining What Information Is Contained in the IWP?

Comment: One commenter stated that a beneficiary could not exercise informed choice if the EN was not required to provide the beneficiary with a comprehensive list of the services available to support and facilitate an IWP.

Response: Section 1148(g)(1)(B) of the Act requires the IWP to be developed in partnership with the beneficiary and the EN. ENs will offer services themselves, or coordinate the delivery of services by others, or both. The services that any individual beneficiary may require will present different opportunities for an EN to meet. Given the varied nature of the beneficiaries that an EN may serve and the services that an EN may provide or coordinate, we do not believe that a requirement to provide a comprehensive list of such services would be meaningful.

Comment: We received several comments noting that our proposed § 411.465 stated that an EN may not request or receive compensation from the beneficiary for the services they provide, even though the Rehabilitation Act and other programs allow and sometimes require beneficiaries to financially participate in the cost of their plan.

Response: Section 1148(b)(4) of the Act states that "An employment network may not request or receive compensation for such services from the beneficiary." However, the Act does not prohibit an EN from requesting a beneficiary who has assigned his or her ticket to it to participate in the cost of achieving the employment outcomes agreed to in the IWP. Section 1148(c)(2) of the Act states that State VR agencies are to provide services under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) when providing services as an EN. Therefore, section 1148 of the Act does not relieve a beneficiary from financially participating in the cost of an individualized plan for employment, if this is required by the Rehabilitation Act.

Comment: We received one comment noting that our proposed § 411.465 provided that an EN shall provide a statement of remedies available to the individual, including information about the availability of the advocacy services through the State P&A system. The commenter went on to discuss other regulations outside of the Ticket to Work program such as the Client Assistance Program (CAP) for resolving disputes. The commenter recommended that § 411.465 be revised to reflect services available to individuals who use the public VR system, such as the CAP.

Response: State VR agencies continue to provide services based on the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). Therefore, the CAP would continue to be used by State VR agencies in resolving disputes between the State VR agency and the beneficiary. Section § 411.465 covers a beneficiary who signs an IWP with an EN other than a State VR agency.

Comment: One commenter suggested that the minimum requirements of the IWP specifically state that an EN use comparable benefits whenever available.

Response: We are not adopting this comment. The definition of "comparable" benefits is found in 34 CFR 361.53 and applies to State VR agencies. Section 1148 of the Act does not require ENs to determine whether comparable benefits are available when providing services to a beneficiary.

Comment: One individual expressed concerns that a beneficiary who assigns his or her ticket would lose the ticket if the beneficiary did not do what the EN requested.

Response: Participation in the Ticket to Work program is voluntary. An EN cannot take the beneficiary's ticket away for failure to comply with an EN's request. The beneficiary remains free to reassign his or her ticket to another EN.

Comment: A commenter suggested that the minimum requirement for an IWP include a statement about the beneficiary's responsibility to not reassign his or her ticket without good cause.

Response: We are not adopting this comment. Section 1148 of the Act does not require that the beneficiary have good cause for reassigning his or her ticket to another EN.

Comment: Several commenters suggested that time frames be identified for providing specific services.

Response: We are not adopting this comment. The IWP developed for an individual with a disability will vary based on the needs of the individual, their ability to progress based on the disability, and the employment goal that is established. Regulating time frames for providing services at such an early stage may be intimidating for some individuals or ENs. If the beneficiary and the EN feel comfortable with establishing time frames, they have the flexibility to do so under these regulations.

Comment: One commenter stated that within the requirements of an IWP there is a provision that the individual has a right of privacy without any further definition or clarification of the term privacy. The commenter expressed concern that an individual's decision not to share relevant information with an EN could be critical to the success of the individual's rehabilitation. The commenter recommended that the term "privacy" be removed or adequately defined. Another commenter asked what the requirements were for an EN to obtain medical information for the IWP and what the requirements were before the EN could share that information.

Response: Section 411.465(a)(8) requires that an IWP must include "A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability." The EN's contract with SSA will include the requirement that the EN protect an individual's privacy and confidentiality. Personal and medical information must be obtained through the beneficiary. Once the information is obtained from the beneficiary, the EN's contract requires the EN to preserve the privacy and confidentiality of these records.

Section 411.470 When Does an IWP Become Effective?

Comment: One commenter said that our description in the proposed rule of when an IWP becomes effective was unclear.

Response: We have revised § 411.470 to clarify when an IWP becomes effective.

Subpart H—Employment Network Payment Systems

General

Comment: Many commenters recommended that we redesign the proposed outcome-milestone payment system so that it would be more supportive of small-to-mid-sized providers. They said that smaller providers, unlike State VR agencies and other large service providers, do not have the reserves to absorb the risk of providing services over an extended period of time or when they are expensive. The commenters said that, if the outcome-milestone payment system fails to provide enough up-front financial incentives and it takes a substantial amount of time before ENs can claim reimbursement, the Ticket to Work program would restrict the pool of

VOL 66 ISS 249 DE 28 2001 UMI

providers and undermine consumer choice. Some said that the proposed rules offered little improvement over the alternative participant program for payment for VR services that was intended to expand beneficiary access under the traditional VR cost reimbursement program. The commenters were concerned that the rules, as proposed, would not enhance beneficiary access to services and would not be flexible enough to help ENs serve the diverse needs of the disabled beneficiary population. Also, they predicted that the proposed payment system would encourage providers to "cream" the easier-to-serve clients, place many in "any" job, as opposed to developing the sort of career opportunities that are likely to result in permanent gains for both consumers and SSA, and that providers would not serve those with more severe disabilities.

Response: In response to these comments, we made four changes to the outcome-milestone payment system we proposed. First, we added two milestones. Second, we doubled the total value of the potential milestone payments. Third, we spread, over 60 months as opposed to 12, the outcome payment reductions made on account of milestone payments received. Fourth, we substituted a flat outcome payment rate of 34 percent for the graduated monthly outcome payments we proposed. We did not narrow the gap between the two payment systems, as recommended by many commenters.

These changes are discussed further below, in response to specific comments.

Section 411.500 Definitions of Terms Used in This Subpart

Comment: A few commenters said that the sample payment calculation bases we provided in the preamble to the proposed rule (65 FR 82853) seemed low. They suggested that, when we compute the actual payment calculation bases, we include only the average cash benefits of beneficiaries eligible for tickets. These commenters and another commenter also suggested that we consider increasing the payment calculation bases, and therefore the potential payments to ENs, by taking into account the additional program revenues (e.g., FICA taxes) and other savings (e.g., reduced Medicare/Medicaid costs resulting from employer-provided health insurance plans) that are generated by having a beneficiary go to work.

Two other commenters said that using the average Federal payment amount for title XVI only beneficiaries as a payment calculation base was inflexible because it did not include State supplementation payments. The commenters said that the proposed calculations would not adequately compensate ENs that provide services in States where there are higher service costs or serve those who are the most disabled.

Response: We did not and can not modify these final rules with regard to the calculation of the payment calculation bases as the commenters suggested because section 1148(h)(4) of the Act provides specific requirements on how to calculate them. When we calculate the payment calculation bases, the law does not allow us to exclude the average benefit payable to non-ticket holders or to account for any FICA taxes or other benefit savings. In addition, section 1148(h)(4)(A)(ii) of the Act specifically directs us to exclude the State supplementation payment from the title XVI payment calculation base computation.

Comment: One commenter suggested that we expand proposed § 411.500(b) and (c) to explain that outcome payments can be affected by a beneficiary's impairment related work expenses (IRWEs) or the application of the provisions in section 1619(a) of the Act. Another commenter asked that we explain the effect of a beneficiary's trial work period (TWP) on the 60-month outcome payment period.

Response: We did not expand the final rules as the commenters suggested. The effect that employment support provisions can have on the disability benefits of those who work can vary depending on the individual case facts. To the extent that employment support provisions allow a beneficiary to receive a Federal cash benefit, they will prohibit us from making outcome payments with respect to the beneficiary. For example, the trial work period allows beneficiaries who receive title II disability benefits to test their ability to work for at least nine months. During this period they can receive full benefits regardless of how high their earnings might be so long as they have a disabling impairment. As long as the beneficiaries are in their TWP and receiving Federal cash disability benefits, their ENs would not qualify for outcome payments. We have a publication, A Summary Guide to Employment Support Available to People with Disabilities under the Social Security Disability Insurance and Supplemental Security Income Programs, SSA Pub. No. 64–030, that provides a general description of the employment supports available to beneficiaries with disabilities. This publication is available on our website at *http://www.ssa.gov/work/ResourcesToolkit/redbook_page.html.*

Section 411.515 Can the EN Change Its Elected Payment System?

Comment: Two commenters expressed concern that the 18-month time frame in proposed § 411.515(c) for offering ENs the opportunity to change their elected payment system was too long. According to one commenter, this long a period would hinder recruitment of potential ENs because providers will be looking for flexibility to help ease their apprehension over the risks associated with their participation. The other commenter suggested that we allow ENs to change their elections at least quarterly.

Response: We did not adopt these comments because we believe that the language in final § 411.515(b) and (c) is flexible enough to address these commenters concerns. Section 411.515(b) offers ENs the opportunity to change their elected payment system at any time during the 12 months following the later of the month they first elect an EN payment system or the month we implement the Ticket to Work program in their State. In addition, § 411.515(c) states that we will offer an open election period to ENs "at least every 18 months." This language allows us to offer an open election period more frequently, if we believe it is warranted.

Section 411.525 How Are the EN Payments Calculated Under Each of the Two EN Payment Systems?

Comment: A few commenters urged us to relate the EN payment systems more to the cost of services, especially for those with more extensive service needs. Along these lines, one commenter suggested that we consider making the VR cost reimbursement payment system available to ENs. This commenter also suggested that we make payments whenever ENs establish that they provided significant efforts and services to assist beneficiaries because this commenter believes that improving the vocational skills of beneficiaries will ultimately lead to the reduction or elimination of benefits. We also received a recommendation for paying a stipend to vocational trainers and beneficiaries in lieu of 60 months of outcome payments.

Response: We did not adopt these suggestions because the Ticket to Work program is an outcome-based program and the law does not provide authority for the types of payments identified by the commenters. We therefore cannot design a payment system around the cost of services, even for those with

VOL 66 ISS 249 DE 28 2001 UMI

more extensive service needs, or to make stipend payments in lieu of outcome payments. We do not have the authority to extend the VR cost reimbursement program to ENs that are not State VR agencies.

Comment: One commenter believed that the outcome payments we proposed were too low. Based on experiences in welfare reform, this commenter did not believe that the proposed payment system would attract a wide variety of service providers. The commenter expressed the belief that the Ticket to Work program would be viewed as risky for providers because they lack the experiential data with which to estimate beneficiary work efforts. The commenter also believed that the proposed payment system would not attract smaller service providers because of the cash-flow concerns that such providers would have. Agreeing that an outcome based payment system was fiscally responsible, this commenter suggested we "front-load" the outcome payments in the first year, paying as much as 100% of the saved benefits. Then, in subsequent years, we could reduce payments some, but leave enough to encourage the ENs to provide for follow-up support services.

Response: We did not adopt this comment. Section 1148(h)(2)(C) of the Act limits payments under the outcome payment system to 40 percent of the payment calculation base.

Comment: We received several comments about the two substantial gainful activity (SGA) dollar thresholds in proposed §§ 411.525(a)(1)(ii)(A) and 411.535(a). The commenters were concerned that ENs might be discouraged from serving beneficiaries who are statutorily blind because the SGA threshold amount for them (currently $1,240) is higher than it is for those who are not statutorily blind (currently $740). Thus, the commenters recommended that we use the lower SGA threshold amount when we determine whether to pay an EN, regardless of the beneficiary's disability.

Response: We did not adopt this suggestion because we do not believe it appropriate to have a threshold amount for outcome or milestone purposes for beneficiaries who are blind that is not equal to the blind SGA threshold amount for benefit determination purposes. Individuals who are blind have several protections, including a higher earnings threshold. Thus, we believe that payments due an EN should reflect this higher limit.

Comment: Many commenters had two concerns about the proposed differences in the payments for title II and title XVI beneficiaries. The first is that the proposed payment levels for title XVI only beneficiaries would be substantially lower than for title II (including concurrent) beneficiaries. The second is that since section 1619(a) of the Act allows for a gradual reduction of title XVI benefits, it may take longer for title XVI recipients to achieve outcome payments than it would for title II beneficiaries. For example, a title XVI recipient who receives the maximum SSI benefit would need to earn $1,145 in order to reduce benefits to zero and generate an outcome payment, while a title II beneficiary who is not blind would need to earn just over $740 in a month to reduce benefits to zero and generate an outcome payment. The commenters contended that SSI recipients are likely to have more severe disabilities, less education and work history, and require more intensive and extensive supports. The commenters said that the lack of a uniform income level to trigger outcome payments made the Ticket to Work program confusing. They predicted that the differences will discourage ENs from serving title XVI recipients. Also, they said that our proposed formula overlooked the additional cost savings from reduced reliance on title XVI benefits and increased employment taxes paid by working beneficiaries. The commenters recommended that we increase the payment levels to ENs for serving title XVI only beneficiaries, with some suggesting we pay ENs the same amount regardless of whether they serve a title XVI only or a title II beneficiary. The commenters also recommended that we establish a uniform income level as a trigger for outcome payments and allow for outcome payments based on a partial reduction of title XVI Federal cash benefits.

Response: We cannot adopt the commenters' recommendations to make outcome payments for title XVI only beneficiaries richer or to let an alternative event, such as the partial reduction in benefits, trigger outcome payments. The law is very specific about how we are to calculate payment levels and what events trigger outcome payments. However, the law also provides for us to study and report to Congress on the extent to which the Ticket to Work program has been successful and what further modifications should be made. Specifically, section 1148(h)(5)(C) of the Act requires us to evaluate and report on the adequacy of the incentives for ENs to serve four specific groups of individuals. They are individuals with a need for ongoing support and services, individuals with a need for high-cost accommodations, individuals who earn a sub-minimum wage and individuals who work and receive partial cash benefits. Also, section 101(d)(4) of Public Law 106–170 requires a broader evaluation and report on the success of the Ticket to Work program. Therefore, we will be studying how effective the program is in serving title XVI beneficiaries.

We based our proposal for the payment levels on section 1148(h)(2)(C) and 1148(h)(4)(A) of the Act. Under section 1148(h)(2)(C) of the Act, we have to base outcome payments on a fixed percentage of the payment calculation base for the calendar year in which the month occurs. With respect to the payment calculation base, section 1148(h)(4)(A) of the Act provides for two payment calculation bases. The first is based on the average monthly title II disability insurance benefit payable for months during the preceding calendar year. We must use it in connection with a title II beneficiary. The second payment calculation base is based on the average monthly payment of title XVI benefits based on disability (excluding State supplementation) payable for months during the preceding calendar year to beneficiaries aged 18 through 64. We must use this second payment calculation base in connection with a title XVI beneficiary who is not concurrently a title II beneficiary.

We based our proposal to limit outcome payments to situations in which monthly Federal SSI cash benefits to a title XVI disability beneficiary stop due to work or earnings on sections 1148(h)(2)(B), (k)(4), and (k)(5) of the Act. Under section 1148(h)(2)(B) of the Act, an outcome payment month is a month, during an individual's outcome payment period, "for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual because of work or earnings." With respect to a title XVI disability beneficiary, the benefits described in section 1148(k)(4) of the Act are "supplemental security income benefits under title XVI" based on blindness or disability. The term "supplemental security income benefit under title XVI" is defined in section 1148(k)(5) of the Act to mean "a cash benefit under section 1611 or 1619(a)," excluding any State supplementary payment. Thus, in formulating the proposed rules on outcome payments for a title XVI beneficiary, we considered an outcome payment month to be one "for which [a cash benefit under section 1611 and a cash benefit under section 1619(a)]

* * * are not payable to the individual because of work or earnings."

Comment: Many commenters were concerned that proposed § 411.525(b) set the payment rate for the outcome-milestone payment system at about 85 percent of what would be payable under the outcome payment system for the same beneficiary. They said that this difference was too great to attract small or specialized providers that do not have the financial resources to pay for all of the up-front cost of services. The commenters predicted that the difference would discourage the use of the outcome-milestone payment system, impede the delivery of services to those with more severe disabilities, and undermine the Ticket to Work program's goal of increasing consumer choice.

The commenters recommended that we close the gap between the two payment systems to create an incentive for as many providers as possible to participate in the Ticket to Work program. Many suggested that we narrow the gap to the bare minimum possible under the law; with two commenters saying that a one dollar difference would meet the letter of the law. Others suggested specific rate differentials ranging from 95 to 99 percent.

Response: We did not adopt these commenters' suggestions to close the gap between the two payment systems. We believe that if we close the gap too much, there would be no incentive for ENs to choose the outcome payment system and, by default, we would have one rather than two EN payment systems, and that one system would be the outcome-milestone payment system. Under the law, we are to offer providers two EN payment systems and we are to make the outcome-milestone payment system the less financially rewarding of the two. In return for the opportunity to receive up-front milestone payments, providers choosing the outcome-milestone payment system receive a smaller total potential payment amount than under the outcome payment system. If there is not a meaningful difference to the total payments available under the two systems, all providers would choose the outcome-milestone payment system because it offers payments earlier. Such a result could jeopardize the success of the program as a whole because the outcome-milestone payment system, by offering payments to providers before SSA has achieved any program savings, increases the risk that government outlays in the form of milestone payments will not be subsequently offset with savings from the nonpayment of benefits. As we begin to implement the Ticket to Work program, we will collect data and use it to determine if we should continue to apply the same rate differential between the two systems.

Comment: One commenter asked if an EN would be entitled to the remainder of the 60 months of outcome payments if an individual dies or turns age 65 first.

Response: No. In final §§ 411.155(a) and 411.525(c) we state that we will not pay an EN for milestone or outcomes achieved in or after the month in which a beneficiary's ticket terminates. The events that cause a ticket to terminate are listed in § 411.155.

In all cases, death is an event that would cause a ticket to terminate. It is a terminating event for benefit entitlement/eligibility purposes, and thus is covered by the provisions in § 411.155(a)(1). Also, we refer to death in § 411.155(c)(4) of the final rules as a ticket-terminating event for those whose entitlement/eligibility to disability benefits have ended/terminated because of work or earnings.

In most cases, a beneficiary's ticket will also terminate when the individual attains age 65 or, where appropriate, full retirement age. Attaining full retirement age is a terminating event for workers who are entitled to Social Security disability benefits, and thus is covered by the provisions in § 411.155(a)(1). We also refer to full retirement age, or to age 65, in § 411.155(a)(2), (a)(3), and (c)(3) of the final rules as a ticket-terminating event.

The only instance in which attainment of age 65 or retirement age, would not cause disability benefits, and hence the ticket, to terminate is if the individual is still entitled to childhood disability benefits. However, we will not pay an EN for any of the remainder of the 60 months of the outcome payment period in such a case unless the rules in § 411.525(a)(1)(i) are met. They provide that an EN may receive a monthly outcome payment only for months in which no benefits are payable because of work or earnings.

Section 411.530 How Will the Outcome Payments Be Reduced When Paid Under the Outcome-Milestone Payment System?

Comment: Many commenters were critical of our proposal in § 411.530 to reduce the first 12 outcome payments under the outcome-milestone payment system by the total amount that we had already paid for milestone payments. They said that such a short reduction period would discourage smaller, less well-capitalized ENs from participating in the Ticket to Work program. Referring to this proposal as "back loading," they noted that it would mean that the fifth year of monthly outcome payments would be three times higher than the payments in the first year. They were concerned that an EN might lose the bulk of the payments available should a beneficiary leave them shortly after beginning to work. The commenters recommended that we reduce all 60 outcome payments equally, rather than just the first 12 outcome payments, to account for milestone payments already made.

Response: We agree with these comments and revised § 411.530. In the outcome-milestone payment system, we will reduce each outcome payment that an EN receives by an amount equal to $^{1}/_{60}$th of the milestone payments already made to that EN based on a ticket.

With regard to the commenters' concerns about the loss of payments when a beneficiary leaves an EN shortly after beginning to work, an EN may make a claim for payment for any future milestones or outcomes the beneficiary achieves. Final § 411.560 provides that payments can be split among ENs which have had a beneficiary's ticket assigned to them.

Comment: Many commenters said that having milestones based on the SGA threshold amount was an inappropriate standard for title II beneficiaries who previously used up most or all of their trial work period before getting their tickets. Their concern was that ENs might not receive milestone payments if the beneficiaries reached the outcome payment period before achieving any milestones.

Response: In response to this comment we are modifying final § 411.530 to make clear that under the outcome-milestone payment system we will reduce only outcome payments based on the amount of milestone payments an EN receives. If we do not make milestone payments to an EN with respect to a particular ticket, we will not reduce the EN's outcome payments.

This had been our intent when we proposed this rule, but we were not clear on two points. First, we did not identify whose outcome payments we would reduce when more than one EN receives outcome payments based on the same ticket and one receives milestone payments and the other does not. Our intent is to reduce the outcome payments of the EN that actually receives the milestone payments. Second, the proposed rules indicated that we would reduce outcome payments by milestone payments already made. In the final rules we deleted the word "already" because

VOL 66 ISS 249 DE 28 2001 UMI

there may be situations in which we make a retroactive payment for a milestone that a beneficiary achieved before the outcome payment period began. In such a case, we will have to make an adjustment for any outcome reductions we did not take before we made the retroactive milestone payment, and we will reduce any future outcome payments by an amount equal to 1/60th of all milestone payments we made to that EN.

Section 411.535 What Are the Milestones for Which an EN Can Be Paid?

Comment: Many commenters suggested that we add one or more pre-employment milestones to the outcome-milestone payment system we proposed to ensure that ENs can provide adequate pre-employment services to disability beneficiaries. Some suggested milestones at specific times, for example, when ENs make vocational assessments, when beneficiaries and ENs sign IWPs, when ENs purchase assistive devices for beneficiaries, or when ENs place beneficiaries in jobs. Others suggested that we make the milestones more flexible, for example, tie them to a measurable goal in the IWP, such as the completion of an educational goal or the acquisition of specified job skills.

These commenters were concerned about the two milestones we proposed, the first of which would not occur until after beneficiaries work for at least three months at the SGA threshold amount. They believed these milestones would not occur early enough in the service period and would not allow payment for the substantial early costs incurred in providing individuals with significant disabilities the necessary services that are directly related to achieving the goal of permanent employment. While the commenters acknowledged that paying for an employment outcome is a worthy goal, they said that we should have balanced that goal against the ability to recruit and retain ENs. Most small-to-mid sized ENs, they explained, simply do not have the capital to wait, potentially, six months to a year or more to receive their first payments from SSA, especially when one considers the staff time and cost of pre-employment services required to serve individuals with significant disabilities. They believe that the lack of a more flexible and front-loaded outcome-milestone payment system may discourage providers from participating and thereby significantly limit beneficiary choice.

The commenters also said that the milestones were supposed to be a method of risk sharing between SSA and providers, but that the two we proposed would delay and otherwise limit cash flow and force ENs to assume all of the risk. One community-based agency said it was unfair of SSA to ask currently under-funded, community-based organizations to accept yet another burden of providing services without compensation. In a similar vein, a State agency expressed concern that since their State funds many programs involving providers that could become ENs, the milestones, as proposed, would have the effect of shifting up-front funding costs to the State, unless and until the providers receive Federal payments.

Response: We did not adopt any of the commenters' suggestions for establishing pre-employment milestones. Our major concern with offering them is that of projected costs. The events associated with pre-employment milestones occur so early in the process of moving a beneficiary to independence that we project a significant number of beneficiaries who would achieve them would not eventually leave the disability rolls because of work or earnings. Accordingly, there would not be sufficient savings from the eventual nonpayment of benefits to offset the initial cost outlays associated with having pre-employment milestones. For this reason, we tied the milestones in these final rules to beneficiary work activity, when there is an increased likelihood of permanent employment and of achieving outcomes.

Comment: Many commenters urged us to add to and modify the post-employment milestones we proposed. Among the suggestions we received were those to link the milestones to length of job retention only (e.g., three, six, and nine months), without regard to the amount earned. Also, there were suggestions to have a milestone system that steps up to the SGA threshold amount for the final payment because many beneficiaries ease into their work and gradually increase their earnings. Others suggested that we substitute the recently raised trial work period amount (i.e. $530) for the higher SGA threshold amount (i.e. $740 for those who are not statutorily blind and $1,240 for those who are statutorily blind). In addition, we received suggestions to have specific title XVI milestones based on a percentage of reduction in cash benefits and to add a milestone for 12 months of employment at the SGA dollar amount.

Response: In response to these comments we amended final § 411.535 to add two milestones to the two that we originally proposed. The first additional milestone is met when the beneficiary works for one calendar month and has gross earnings from employment (or net earnings from self-employment) for that month that are more than the SGA threshold amount. The other additional milestone, which is actually the fourth milestone, is met when the beneficiary works for 12 calendar months within a 15-month period and has gross earnings from employment (or net earnings from self-employment) for each of the 12 months that are more than the SGA threshold amount. In making these changes, we renumbered the two milestones we originally proposed as the second and third milestones. Also, we provide that any of the work months used to meet the first, second, or third milestones may be used to meet a subsequent milestone.

We do not anticipate that the changes we are making to the milestones in these final rules will be the only ones that we will make. Section 1148(h)(5)(B) of the Act directs us to periodically review the number and amount of the milestone payments, and authorizes us to make alterations, if necessary, to ensure that they allow for adequate incentives for ENs to serve beneficiaries with disabilities. Thus, as we begin to implement the Ticket to Work program in the 13 initial States, we will continue to consider the various suggestions that we received with regard to milestone payments.

At this time, however, we do not support the recommendations for a milestone system based solely on length of job retention or on lower levels of earnings so that beneficiaries can ease into their work. While length of job retention can be an important factor in determining whether benefits continue, so is the level of earnings, and we believe that that level ought to at least exceed the SGA threshold amount. This amount is a gross dollar amount, not the net earnings that remain after we deduct the various employment supports an individual may receive. Also, we do not favor the recommendations to structure SSI milestones on a percentage of reduction in cash benefits. Many factors (e.g., unearned income and impairment-related work expenses, to name a few) go into making SSI payment decisions. Thus, it would be difficult to know whether a given percentage reduction in cash benefits is due to work or to other factors, such as unearned income, without carefully examining each SSI payment calculation.

Comment: A few commenters urged us to build incentives into the EN payment systems to reward ENs for each additional client they move into the workforce and for each client they help to get better jobs, i.e. jobs that include benefits and provide a livable wage. Along these lines, many commenters urged us to adopt milestones provisions that would encourage ENs to serve those who need more costly or more extensive services to become work ready. Some suggested that we have individualized milestone criteria for those who need ongoing support services or high-cost accommodations when working, earn subminimum wages, or work but still receive partial cash benefits (e.g., section 1619(a) recipients). Other commenters suggested that we adopt a two-tiered milestone system like the ones used by some States that administer supported employment programs. Under such a system those in the second tier would get customized milestones when, due to the nature of their disabilities, the pre-defined milestones in tier one are unworkable. In addition, many suggested that we consult with providers who have experience in milestone payment systems and redesign our system.

Response: We did not adopt these recommendations because it is impracticable for us to implement them at this time, given the size of the ticket population and its diversity. Like these commenters, we want the design of our EN payment systems to increase the number of ENs serving our beneficiaries. However, we have a responsibility to see that our expenditures under the program do not exceed program savings. As we gather experiential data, we will carefully look at who is being served and what design changes we can propose to broaden the number of beneficiaries being served and increase the number of those finding employment that will firmly establish their self-sufficiency. We will consult with experts in the field, as needed, and consider the effects of these suggestions in terms of beneficiary needs, program operations, and costs. Further, section 1148(h)(5)(C) of the Act requires us to submit a report to Congress on the adequacy of the incentives in the Ticket to Work program for four groups of individuals. They are those with a need for ongoing support and services, those with a need for high-cost accommodations, those who earn a subminimum wage, and those who work and receive partial cash benefits.

Section 411.540 What Are the Payment Amounts for Each of the Milestones?

Comment: Many commenters told us that the payments we proposed to offer as milestones (i.e. approximately 10 percent of potential payments under the outcome-milestone payment system) are inadequate and urged us to increase the amounts so as to encourage more small-to-mid-sized providers to participate in the Ticket to Work program. Some of these commenters suggested that we use a graduated fee system and pay based on the level of earnings a beneficiary receives. Others suggested that we base the milestone payments on a percentage of the true cost of services an EN provides. Still others suggested that we allow the PM to negotiate a fixed fee with each EN. We also received many recommendations for specific fees as well as many recommendations for a total package of milestone payments that ranged from $3,500 to $7,500.

Response: We agree with the commenters that some increase in the total milestone package would help to encourage more providers to serve as ENs. Therefore, in these final rules, we doubled the total value of the milestones that ENs may receive to approximately 20 percent of the potential payments possible under the outcome-milestone payment system. In terms of the 2001 payment amounts this equates to milestone payments totaling $3,096 for title II (including concurrent) beneficiaries and $1,874 for title XVI only beneficiaries.

To accomplish this increase in the milestone payments, we modified final § 411.540. We provided that the two milestones we added—the first and fourth milestones—would equal 34 percent and 170 percent of the payment calculation base for the calendar year in which each occurs. This represents approximately 10 percent of the potential payments possible under the outcome-milestone payment system. In addition, in final paragraphs (e) and (h) we explain the term "month of attainment" for the new milestones.

We do not believe that it is administratively practicable to adopt a graduated fee system, to set individual fees, or to have the PM negotiate fees with each EN. Also, we believe a $7,500 milestone package is excessive when there is no guarantee that individuals who achieve milestones will also achieve outcomes that result in program savings.

Section 411.545 What Are the Payment Amounts for Outcome Payment Months Under the Outcome-Milestone Payment System?

Comment: Several commenters suggested that we offer a flat payment rate for outcome months under the outcome-milestone payment system. They found the graduated monthly outcome payments we proposed in § 411.545 to be unnecessarily complex and predicted they would be more difficult to manage.

Response: We have adopted this suggested change and have modified the rules. Final § 411.545 provides that the payment for an outcome payment month under the outcome-milestone payment system is equal to 34 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar, and reduced for milestone payments made, as required by the rules in § 411.530.

Section 411.555 Can the EN Keep the Milestone and Outcome Payments Even if the Beneficiary Does Not Achieve All 60 Outcome Months?

Comment: One commenter asked whether an EN would be responsible for paying back any payments it receives if a beneficiary stops working and goes back on the benefit rolls.

Response: An EN may keep each milestone or outcome payment for which the EN is eligible, even if the beneficiary subsequently stops working and returns to the benefit rolls. In some instances, however, we may find it necessary to adjust a milestone or outcome payment that the EN receives.

In proposed § 411.555, by reference to proposed § 411.560, we provided for such adjustment when another EN, to which the beneficiary assigned the ticket, requests payment for the same milestone or outcome. As we drafted these final rules, we realized that there may be other instances in which an adjustment may be necessary, and thus we expanded final § 411.555, to explain these other instances.

Paragraph (a) of final § 411.555 provides a general statement that ENs may keep those milestone and outcome payments for which they are eligible. Paragraph (b) of final § 411.555 discusses the EN payment adjustments we may make if we determine that we paid more or less than the correct amount due. This paragraph also provides two examples of situations requiring such an adjustment. One example refers to the aforementioned adjustments for payment allocations required by § 411.560. The other is an example of an adjustment described in § 411.590(d) that results from a corresponding determination or decision that we make about a beneficiary's right to benefits. Finally, paragraph (c) of final § 411.555 explains that we will notify ENs of any revised payment decisions. It also references our payment dispute rules in § 411.590(a) and (b).

VOL 66 ISS 249 DE 28 2001 UMI

Section 411.560 Is It Possible To Pay a Milestone or Outcome Payment to More Than One EN?

Comment: We received two comments about the consequences of a beneficiary reassigning the ticket to another EN. One commenter said that the proposed rules were not clear with regard to whether we would pay the first EN. The other commenter was concerned with the repercussions of expecting ENs to absorb the cost of the resources expended on those who reassign their tickets. This commenter predicted that concern over beneficiaries reassigning a ticket would cause some providers to decline to participate in the Ticket to Work program, and others who decide to be ENs would serve only those beneficiaries with the greatest potential for success in the timeliest fashion.

Response: We can pay an EN after a beneficiary reassigns the ticket to another EN. Final § 411.560 states we can pay more than one EN and the PM will determine how much to allocate to each EN based upon the services provided. Additionally, final § 411.565 provides that if two or more ENs qualify for payment on the same ticket, we will pay each according to its elected EN payment system.

If we receive a claim from one EN that we determine is payable, we will make a reasonable attempt to notify any other EN that has held the beneficiary's ticket and still has an agreement with us to serve under the program of its opportunity to claim a share of the payment. Similarly, if we receive a claim from the beneficiary's current EN that we determine is payable, we also will make a reasonable attempt to notify any State VR agency that previously held the beneficiary's ticket and had chosen to be paid as an EN based on that ticket, of the opportunity to claim a share of the payment.

Comment: A few commenters suggested that we provide additional rules to further define the provisions of proposed § 411.560 regarding how the PM will determine payment allocation to more than one EN. These commenters were concerned that the Ticket to Work program is intended to pay ENs based on employment outcomes and the last sentence in this proposed section said that the PM would make payment allocations based "upon the services provided by each EN."

Response: We agree that the proposed wording was unclear. The fourth sentence of final § 411.560 now says that the PM will base the payment allocation determination upon the contribution of the services provided by each EN toward the achievement of the outcomes or milestones. In addition, we added a fifth sentence to the final rules to clarify that outcome and milestone payments will not be increased because the payments are shared between two or more ENs.

Section 411.570 Can an EN Request Payment From the Beneficiary Who Assigned a Ticket to the EN?

Comment: One commenter questioned the use of the term "compensation" in proposed § 411.570. This section prohibits an EN from requesting or receiving compensation from the beneficiary for the services it provides. The commenter hoped that this section would not prevent a beneficiary from purchasing items at any retail establishment the EN may operate just because the EN holds the beneficiary's ticket.

Response: We believe that in the context of these regulations it is clear that the EN may not charge a beneficiary for the employment, vocational rehabilitation, or support services it provides. This regulation does not prohibit a beneficiary from purchasing items unrelated to the services the EN is providing to the beneficiary in any retail establishment the EN may have.

Comment: One commenter asked whether an EN could receive funding from another agency, other than a State VR agency, while serving a beneficiary with a ticket.

Response: ENs may receive funding elsewhere. Other than payments we will make to ENs, the Ticket to Work program does not address how ENs are funded.

Section 411.575 How Does the EN Request Payment for Milestones or Outcome Payment Months Achieved by a Beneficiary Who Assigned a Ticket to the EN?

Comment: Many commenters objected to the rules in proposed § 411.575(b)(2) that would require ENs to submit evidence of beneficiary earnings when they request outcome payments because the commenters believe that the task of tracking such earnings is the Social Security Administration's responsibility. Some commenters simply recommended that we not involve ENs in the process. Others recommended that we partner with the Internal Revenue Service (IRS) to develop a reliable means of receiving earnings information. Still others recommended that we assign the PM the responsibility of acquiring and validating earnings documentation from IRS or another source. There were also suggestions to use the earnings data posted to our own earnings records and the earnings information which working beneficiaries are required to report to us.

Response: We did not adopt these suggestions. Our goal in proposing that ENs submit evidence of monthly beneficiary earnings in order to receive outcome payments was to facilitate the EN payment process. Under the Ticket to Work program, we cannot make outcome payments for any month for which a beneficiary receives a Federal cash disability payment from us. Accurately and expeditiously tracking earnings and adjusting monthly benefits is a difficult task. Beneficiaries are responsible for telling us when work occurs. For various reasons, this does not always happen, or does not happen on a timely basis. We currently use earnings reports that we receive from the IRS and other sources to alert us to unreported earnings situations. However, the reports we get can be a year old, are in annual or quarterly formats, and are not always primary sources of earnings. As a result, we must undertake extensive development to verify monthly earnings and employment supports before adjusting benefits. Thus, we continue to believe that ENs, which will be working with and helping beneficiaries get and retain employment, will be able to supply documentation of earnings and this will speed up the benefit adjustment, and hence, the EN payment process.

Comment: Some commenters suggested that rather than requiring ENs to submit evidence of earnings, we develop a system or mechanism to notify ENs when a beneficiary's disability benefits stop. Then, ENs will know when to file requests for outcome payments.

Response: We did not adopt this suggestion. We do not presently have the systems interface capability to automatically notify ENs when a beneficiary's benefits stop on account of work or earnings. Further, based on the rules in §§ 411.525(a)(1)(ii)(A) and 411.575(b)(1)(i)(B), once an individual's entitlement to Social Security disability benefits ends or eligibility for SSI benefits based on disability or blindness terminates because of work or earnings, we still need evidence that the individual had gross earnings in a month that are more than the SGA threshold amount in order to make an outcome payment.

Comment: Many commenters, representing both large and small service providers, objected to the provisions in proposed § 411.575(b)(2), (b)(4), and (b)(5) that would require ENs to submit evidence of beneficiary earnings on a monthly or bimonthly basis. They said that the proposed rules were complex, expensive, and excessively burdensome on both ENs and employers. Also, many predicted that the rules would deter providers from participating in the Ticket to Work program.

The commenters expressed concern with the costs and feasibility of establishing a tracking system that could monitor the monthly earnings of multiple beneficiaries over an extended period of time, especially when beneficiaries switch employers, are not continuously employed, or move to areas the EN does not serve. Some commenters also said that ENs would not be able to obtain monthly earnings information on an ongoing basis from those who assign their tickets to other ENs, achieve independent employment, or leave the disability rolls and no longer have an incentive to cooperate with their EN. Even commenters who said that they presently have access to State records of employment wages pointed out that such records would not be a good source of evidence under our proposed rules. That is because these are quarterly, not monthly, wage reports, and they can be over a year old. Another commenter said that the proposed requirement to report earnings at least every two months would be difficult for State VR agencies, especially once they close a beneficiary's case.

Many commenters suggested that we allow ENs to submit evidence of quarterly, rather than monthly, earnings and to do so on a quarterly or semi-annual basis, as opposed to a monthly or bimonthly basis. There were also suggestions to pay ENs in the event that ticket holders do not provide the needed earnings information and to assist ENs in documenting earnings when beneficiaries reassign their tickets to other ENs.

Response: In response to these comments, we consolidated the earnings documentation requirements for outcome payments into one paragraph and made two changes. First, final § 411.575(b)(2) now requires ENs to submit their payment requests, along with evidence of beneficiary work or earnings, on at least a quarterly basis. Second, this paragraph includes an exception to this general rule to provide for those situations in which the ticket is no longer assigned to the EN that files the request for payment. In such cases, the EN is not required to submit evidence of beneficiary work or earnings, although of course any evidence submitted in these cases will help to expedite our processing of the payment request.

Comment: One commenter said that we should not place a mandatory earnings-reporting requirement on ENs. Instead, this commenter suggested that we require ENs to request a time-limited release for earnings information from each beneficiary. Then, if the beneficiary signs the release, we should require the EN to report earnings information to us, to the extent that the beneficiary continues to cooperate with the EN.

Response: We did not adopt this suggestion. We believe that the method ENs use to collect earnings information from beneficiaries does not need to be regulated by us. Rather, it is something that both parties should discuss and reach an agreement on before the ticket is assigned. For example, they may decide to reference the agreed-to collection method in the IWP.

Comment: Commenters were concerned that the second sentence of proposed § 411.575(b)(2) was burdensome. It would require ENs to submit "sufficient" proof of work or earnings for us to determine whether we can stop the beneficiary's monthly Federal cash benefits due to work or earnings. One of these commenters pointed out that this sentence was inconsistent with how we actually evaluate a beneficiary's work or earnings because there was no mention of our work incentive provisions. For example, payroll records may show "sufficient" earnings to stop benefits, but we may decide to continue benefits because a beneficiary is in a trial work period, has an impairment related work expense or a plan for achieving self-support, or receives a subsidy.

Response: We agree with the commenters and removed this sentence from final § 411.575(b)(2).

Comment: Many commenters were concerned with the last sentence in proposed § 411.575(b)(2). It stated that wage evidence for employees is "best obtained from the employer or the employer's designated payroll preparer." Some commenters said that this sentence poses significant confidentiality issues, especially for beneficiaries who have not disclosed their disability to their employers. Two commenters noted that an EN could just as easily obtain this same information from the beneficiary's pay stubs and one of these commenters suggested that we permit ENs to submit photocopied, as opposed to original, pay stubs. Another commenter said the information could be retrieved from State wage records, and one commenter suggested we allow for the use of Unemployment Insurance wage records. In addition to these comments, many said that having ENs collect earnings information from any source might violate the right of beneficiaries to keep such information confidential and private from ENs, if they so choose.

Some of these commenters recommended that we specify what other types of earnings documentation we would consider acceptable and indicate where ENs could obtain them. One commenter suggested that we allow for the use of payroll records retrieved from State taxation departments.

Response: In response to these comments, we included two additional examples of the types of evidence that ENs may submit with their payment requests in the second sentence of final § 411.575(b)(2). They are an unaltered copy of the beneficiary's pay stub and an unaltered copy of the beneficiary's estimated tax return if self-employed. These are not the only sources of evidence we will accept, and the PM, in its EN training material, will discuss what other types of evidence that ENs may submit.

We retained the example of a statement from the employer or the employer's designated payroll preparer because we consider this evidence to be of high probative value. However, we would not expect an EN to request this information or, for that matter, an employer to provide it without a beneficiary's signed consent.

Comment: With respect to proposed § 411.575, one commenter asked how an EN's ability to collect payments would be affected by a delay in our stopping disability benefits to a working beneficiary.

Response: In most situations, an EN's eligibility for a payment will depend on SSA's determination about a beneficiary's right to payment. Briefly, there are three different payment scenarios, two of which are related to outcome payments, and the other concerns milestone payments.

- The first scenario relates to when we are asked to make an outcome payment under either the outcome payment system or the outcome-milestone payment system while the beneficiary is still entitled under title II or eligible under title XVI. (It is possible for a beneficiary to be entitled or eligible, but to not receive cash benefits.) Before we can make an outcome payment to the EN, we must determine whether the payment of Social Security disability benefits and Federal SSI cash benefits to an otherwise entitled or eligible beneficiary is precluded because of work or earnings.
- The second payment scenario relates to when we are asked to make

VOL 66 ISS 249 DE 28 2001 UMI

payment to an EN in connection with an individual whose entitlement or eligibility for disability benefits has terminated due to work or earnings. In such a situation, payment to an EN will depend on whether the individual has earnings for a month that meet the earnings requirements in § 411.525(a)(1)(ii)(A), and whether the requirement in § 411.525(a)(1)(ii)(B) is satisfied.

- The third payment scenario involves an EN's request for a milestone payment. Our determination regarding a milestone payment will depend on whether the requirements concerning duration of work and level of earnings for attainment of a particular milestone are met and whether attainment of the milestone occurs before the start of the individual's outcome payment period. As noted in § 411.500(b), the outcome payment period begins with the first month, ending after the date on which the ticket was first assigned, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual due to work or earnings. If the start of the outcome payment period is an issue with regard to a request for a milestone payment, then we may have to make a determination about a beneficiary's right to payment.

Comment: We received suggestions not to recover any overpayments to ENs or beneficiaries that result from the earnings reporting system we use and a suggestion to provide for a specific payment time frame to ensure ENs of prompt payment following the submission of accurately documented payment claims. Along similar lines, many commenters suggested that SSA institute a 90-day payment processing rule. Under such a rule, the PM would have 30 days to submit EN reported earnings to us and then SSA would have 60 days to stop or adjust a beneficiary's check. Should we fail to stop or adjust benefits within this time frame, these commenters recommended that we pay the EN's claim immediately, as though benefits had stopped, and not hold the beneficiary liable for any overpayment.

Response: We did not adopt the suggestions to not recover or not hold beneficiaries liable for overpayments because, except in the case of milestone payments, the statute does not allow us to pay an EN and the beneficiary for the same month. Therefore, in order for us to pay one party, we must recover any overpayments we may have made to the other party.

Also, we did not incorporate any payment time frames into these final rules. The earnings documentation that ENs submit will help us to make more timely decisions. However, we must still develop all relevant issues and adhere to strict due process guidelines before we adjust or stop a beneficiary's benefits. Additionally, in SSI cases, we must offer to continue benefits should a beneficiary appeal our determination to stop benefits.

Comment: Two commenters discussed the outcome payment system and how a beneficiary's use of work incentive provisions such as plan for achieving self-support (PASS) and impairment-related work expenses (IRWE) could prevent some ENs from getting paid. Their concern was that those beneficiaries with more intensive service needs would not be served. One of these commenters said that ENs might not fully disclose or explain to beneficiaries that beneficiaries have these other work incentives available, and that ENs may rush beneficiaries to benefit suspension, in order to generate outcome payments for the EN.

Response: We hope that all beneficiaries who want to work will receive services, and that, when they begin to work, they will avail themselves fully of all of the various work incentive provisions of the Act. We will monitor any complaints about ENs discouraging beneficiaries from using the work incentive provisions. In addition, to eliminate any possibility of a conflict of interest, in these final rules we deleted the provision in proposed § 411.575(b)(3) that encouraged ENs to submit beneficiary-completed Work Activity Reports (Form SSA–821s) with their requests for outcome payments. Usually, Social Security field personnel request beneficiaries to complete and return this form when work activity is reported and assist beneficiaries when needed. We originally thought it would speed our determinations about work or earnings if ENs obtained this form and submitted it to us with their payment requests. However, the form contains questions about special working conditions and payments and impairment-related work expenses. In light of these comments, we believe the beneficiaries should obtain the form from Social Security field personnel, and should complete it with their assistance, not the EN's.

Beneficiaries have many sources of information about our other work incentives such as PASS and IRWE. Section 1149 of the Act, as added by section 121 of Public Law 106–170, requires that SSA establish a corps of work incentives specialists within SSA who will specialize in disability work incentives and who will disseminate accurate information on work incentives to disability beneficiaries and to benefit applicants. We have created a new position called the employment support representative to fulfill this requirement to create a corps of work incentives specialists. These specialists will also assist organizations awarded funds by SSA to provide information about work incentives.

Section 1149 of the Act requires us to establish a program of grants, cooperative agreements, or contracts for State or private agencies or organizations to provide benefits planning and assistance to beneficiaries with disabilities. Under this program, we have awarded funds to organizations in every State and U.S. territory in order to disseminate accurate information about the various work incentives provisions available to title II and title XVI disability beneficiaries. The organizations receiving funds from SSA will provide information, guidance, and planning to beneficiaries with disabilities on the availability and interrelation of Federal and State work incentives programs, on health coverage, and on the availability of protection and advocacy services and how to access such services.

Under a program authorized by section 1150 of the Act, we are awarding grants to State protection and advocacy systems in every State, in the District of Columbia, in five U.S. territories, and to the protection and advocacy system for Native Americans. These grants will allow the protection and advocacy systems to assist beneficiaries with disabilities in obtaining information and advice about receiving vocational rehabilitation and employment services, as well as advocacy and other services that a disabled beneficiary may need to secure or regain gainful employment.

We believe that these programs and our efforts will ensure that disability beneficiaries are more fully informed about all of the work incentives provisions available to them.

Comment: One commenter asked about the consequences for an EN if we deny an EN's claim for payment due to inaccurate wage information or other reasons.

Response: Generally, the only consequence is that the claim will be denied and the EN will not receive payment. However, if we believe that the issue of inaccurate wage reporting involves the possibility of fraud, we will investigate the issue fully and take appropriate action.

Of course, if an EN disagrees with our decision on a payment request, we will follow the rules in § 411.590(a) to resolve the dispute. Similarly, if a State VR agency, serving a beneficiary as an EN, disagrees with our decision on a payment request under an EN payment system, we will follow the rules in § 411.590(b) to resolve the dispute.

Section 411.585 Can a State VR Agency and an EN Both Receive Payment for Serving the Same Beneficiary?

Comment: One commenter, referring to the introductory text of proposed § 411.585, suggested that the final rules provide guidance on how a shared payment to an EN and a State VR agency that decides to serve a beneficiary as an EN would be calculated.

Response: We amended the introductory text of final § 411.585 to provide a cross-reference to final § 411.560, which explains how a PM will make a shared payment EN determination.

Comment: We received a number of comments, from both inside and outside of the State VR system, about the proposal in § 411.585 (a) and (b) to preclude payment under one of the EN payment systems if a State VR agency first receives payment under the cost reimbursement payment system, and vice-versa. Several of these commenters questioned the legal basis for this provision. They said that they found nothing in the legislative history or statute that would prohibit payments under both systems. Further, they argued that our proposal would negate beneficiary choice and ultimately harm those with significant disabilities who could benefit from services under both the VR cost reimbursement and EN payment systems.

Some of the commenters also said that our proposal seems to assume that the EN payment systems and the cost reimbursement payment system pay for identical services. Their interpretation of the EN payment systems is that they provide for long-term supports that help beneficiaries maintain productive employment over 60 months. These commenters view the cost reimbursement payment system as one that allows State VR agencies to close cases after 90 days of employment and collect payment when beneficiaries achieve a continuous 9-month period of SGA.

Those who commented on § 411.585 recommended that we revise it. They believe that the Ticket to Work program should accommodate both the EN and the cost reimbursement payments systems for serving the same beneficiary.

Response: We did not revise final § 411.585 to allow for payment with respect to a ticket under both the traditional cost reimbursement system and an EN payment system because we believe to do so would be contrary to how we believe Congress intended for the two programs to operate together, and to do so could undermine the Ticket to Work program's goal of realizing program savings while moving beneficiaries to independence. The first two sentences of section 1148(c)(1) of the Act provide State VR agencies with the option of electing to participate in the Ticket to Work program as an EN with respect to a beneficiary. The third sentence of section 1148(c)(1) of the Act allows State VR agencies the additional option of choosing, on a case-by-case basis, to be paid under the cost reimbursement payment system when serving a beneficiary with a ticket. Had Congress intended to allow for payments under both the cost reimbursement payment system and the EN payment systems with respect to the same individual with a ticket, there would have been no need for the third sentence of 1148(c)(1). The authority to reimburse State VR agencies under the cost reimbursement payment system already existed under sections 222(d) and 1615(d) and (e) of the Act. We believe that Congress included the third sentence in section 1148(c)(1) of the Act to make the securing of services by a beneficiary with a ticket from a State VR agency electing cost reimbursement a mutually exclusive alternative to a beneficiary's obtaining services from an EN. This view of section 1148(c)(1) of the Act is shared by the Congressional Budget Office (CBO) in the cost estimates it submitted to the Senate Committee on Finance (Senate Report No. 106–37, March 26, 1999, page 41) and the House Committee on Commerce (House Report No. 106–220, July 1, 1999, page 19). In their reports the CBO stated that the Ticket to Work program would "partially displace the current" cost reimbursement program.

Another provision of the enabling legislation that supports our regulatory limitation on payments in § 411.585 is section 1148(e)(3) of the Act. It provides that a beneficiary may change ENs without being deemed to have rejected services under the Ticket to Work program; that, when such a change occurs, the PM shall reassign the ticket based on the choice of the beneficiary; and that, "[u]pon the request of the employment network, the program manager shall make a determination of the allocation of the outcome or milestone-outcome payments based on the services provided by each employment network." These provisions do not contemplate a beneficiary switching providers or having SSA or the PM allocate payments among providers in a case where one of the providers is a State VR agency that has chosen to be paid under the cost reimbursement payment system.

Section 1148(h) of the Act also supports the regulatory limitation on payments in § 411.585. This section limits the total number of outcome payments that we can make on a ticket under either EN payment system to 60 payments. Once this limit is reached, the ticket ceases to have any further value for purposes of making payments under either EN payment system. Since the third sentence of section 1148(c)(1) of the Act gives State VR agencies the option of being paid under the cost reimbursement payment system instead of being paid under one of the EN payment systems (not in addition to being paid under the EN payment systems), we believe that once we pay a State VR agency under this system for having served a beneficiary, the ticket ceases to have value for purposes of making payments thereafter under either EN payment system.

Comment: One commenter expressed concern that the rules in § 411.585 did not address how State VR agencies would be paid for the cost of the services they provide to beneficiaries whose tickets are held by an EN. On one hand the State VR agencies cannot limit the services they provide to eligible individuals. On the other hand, an EN that holds the ticket of a beneficiary who requires expensive technological services to work could not be expected to reimburse a State VR agency for the cost of such services from the monies the EN would receive under the Ticket to Work program.

Response: The authorizing legislation of the Ticket to Work program does not give us the authority to decide how or whether State VR agencies will be reimbursed by ENs for the services they provide to beneficiaries whose tickets are held by ENs. Section 1148(c)(3) of the Act provides that State VR agencies shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services. Our rules in § 411.400 through 411.435 address the agreements between State VR agencies and EN and how disputes will be resolved.

Comment: Some commenters expressed concern that the provisions in § 411.585 could lead to abuses should ENs actively recruit beneficiaries who are near the end of their employment plans after State VR agencies have put substantial resources into serving them.

Response: We understand these concerns, however, we believe that State

VOL 66 ISS 249 DE 28 2001 UMI

VR agencies and ENs will use the provisions in the Ticket to Work program to work together to serve our beneficiaries in ways that give the beneficiaries expanded access to employment, vocational rehabilitation, and support services. We will make every effort to ensure that beneficiaries can make informed choices about the providers available to them, the nature of the services they offer, and how a provider's payment system election may affect the beneficiary's future use of the ticket.

Comment: One commenter suggested that we make provision for State VR agencies to share their cost reimbursement payments with ENs, with the PM resolving any disputes.

Response: We do not have the statutory authority to adopt this suggestion. Section 1148(e)(3) of the Act provides for the PM to make determinations about allocating outcome and milestone payments. However, there is no similar provision for allocating cost reimbursement payments between a State VR agency and an EN that serve the same beneficiary.

Section 411.587 Which Provider Will SSA Pay if, With Respect to the Same Ticket, SSA Receives a Request for Payment From an EN or a State VR Agency That Elected Payment Under an EN Payment System and a Request for Payment From a State VR Agency That Elected Payment Under the Cost Reimbursement Payment System?

Comment: One commenter suggested that, if we did not revise § 411.585 to allow for payment under both the cost reimbursement and the EN payment systems with respect to the same ticket, we specify the criteria we would use when deciding which provider to pay.

Response: In response to this comment, we added § 411.587 to these final rules. This section clarifies which provider we will pay if, with respect to the same ticket, we receive a request for payment from a provider that elected an EN payment system and one from a State VR agency that elected the cost reimbursement payment system. Paragraph (a) of § 411.587 explains that we will pay the claim of the provider that first meets the requirements for payment under its elected payment system applicable to the beneficiary who assigned the ticket. Paragraph (b) of this section explains which provider we will pay should both meet the payment requirements in the same month. In such a case, we will pay the claim of the provider to which the beneficiary's ticket is currently assigned. If the ticket is not currently assigned to either provider, we will pay the claim of the provider to which the ticket was most recently assigned.

Section 411.590 What Can an EN Do if the EN Disagrees With Our Decision on a Payment Request?

Comment: Many commenters found two issues troubling in proposed § 411.590(d) concerning what an EN can do if it disagrees with a revised determination which we make about a beneficiary's right to benefits following a beneficiary's appeal of a determination which is unfavorable to the beneficiary and which affects the beneficiary's entitlement, eligibility, or right to a benefit payment. First, commenters believed that the proposed section highlights the possibility of an EN having to return payments following a beneficiary's successful appeal, which the commenters said would act as a disincentive for providers to serve as ENs. Second, they disliked the provision which permits an EN to furnish any evidence it has which may be relevant to the beneficiary's appeal. The commenters said this rule would create an adversarial situation and harm the relationship between beneficiaries and ENs.

Response: We understand the concerns that these commenters have about the disability determination and payment process and resulting effect it can have on the EN payment process. That is why we decided to refer to this process, which we call the administrative review process, in proposed § 411.590(d). Also, we do not want the process to create an adversarial relationship between beneficiaries and ENs. That is why we clearly state in § 411.590(c) and (d) that an EN cannot appeal a determination we make about a beneficiary's right to benefits, but they may furnish evidence in support of their claims for payment.

Sections 404.900 *et seq.* and 416.1400 *et seq.* explain the administrative review process we have under title II and title XVI of the Act. Determinations we make about a beneficiary's right to disability cash benefits are administrative actions that are subject to review. Generally, if beneficiaries are dissatisfied with a determination we make, they have a 60-day period in which to request further administrative review, and ultimately court review. Additionally, if they do not request a review within these time frames, they may request that we reopen and revise a determination we previously made about a beneficiary's right to cash benefits, or we may decide to this on our own initiative. Since the EN payment systems are inherently linked to the determinations we make about a beneficiary's right to cash benefits, there will be situations in which we make, amend, or otherwise revise a determination relating to a beneficiary's right to cash benefits, and that determination will result in an EN having to return a payment we previously made to them. However, we are hopeful that our efforts to educate beneficiaries and ENs about the various employment support provisions in the Act and to remind them of their reporting responsibilities will increase understanding of how work may affect a beneficiary's right to cash benefits, which in turn will help us to minimize the number of instances in which we must revise EN payment decisions.

As we reviewed the provisions we proposed to respond to these comments, we realized that the rules we proposed in § 411.590(d) did not cover all of the possible administrative actions that we might make about a beneficiary's right to disability cash benefits. Therefore, we reorganized and broadened the language in the final rules so that they refer to all determinations we may make about a beneficiary's right to benefits, not just those determinations that a beneficiary may appeal. In addition, we referenced our rules in § 411.555 concerning the adjustment of EN payments when we determine we paid more or less than the correct amount.

Section 411.597 Will SSA Periodically Review the Outcome Payment System and the Outcome-Milestone Payment System for Possible Modifications?

Comment: Many commenters suggested that we initiate, as soon as possible, the research needed for the Report on the Adequacy of the Incentives provided in the Ticket to Work program, as required by section 1148(h)(5)(C) of the Act. They said that they had identified the report as a key initiative to assure that those with severe disabilities are able to participate fully in the Ticket to Work program. Thus, they urged us to begin collecting the information as soon as possible and suggested that we collect data on matters such as the reasons ENs decline to offer services to one or more groups of the four groups specifically identified in the law.

Response: We agree with the commenters that the information gathered for this report will play a key role in the development of future policies and proposals for possible legislative changes to assist beneficiaries participate more fully in the Ticket to Work program. As soon as the Ticket to Work program is operational, we will begin collecting data on all four groups mentioned in the statute, including data on the reasons ENs may decline to serve them.

Comment: Many commenters suggested that we use our demonstration authority to test various payment options and funding schemes in the initial rollout States. Some recommended that we test three or four varying milestone and payment amounts to determine which would best attract appropriate ENs for hard to serve populations. One specific recommendation was that we test offering outcome payments for reduced cash benefits when, due to the nature of a beneficiary's condition, the beneficiary can achieve only lower levels of employment. Another recommendation was that we test making outcome and milestone payments richer for cases involving SSI beneficiaries and encourage States to contribute a portion of the saved SSI State supplementation payment. In addition, there was a suggestion to test up-front capitalization funding via matching Federal and State dollars.

Response: We will consider all of these interesting demonstration ideas as we continue to explore the best ways to serve beneficiaries with disabilities and reduce their barriers to work and self-sufficiency.

Subpart I—Ticket to Work Program Dispute Resolution

Public comments on subpart I of the proposed rules raised a number of issues relating to the dispute resolution processes. An overall theme in the comments was that review and appeal mechanisms should be more elaborate than required by the legislation. The Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), provides a process for resolution of disputes between beneficiaries and ENs that are State VR agencies. The Commissioner has developed a different 3-step process for resolving disputes between beneficiaries and ENs that are not State VR agencies.

The rules for this 3-step dispute resolution process provide common sense guidelines that give both parties to the dispute several opportunities to be heard. The rules permit disputants to resolve quickly, easily, and fairly issues that arise between them. The 3-step dispute resolution process for resolving disputes between beneficiaries and ENs that are not State VR agencies affords a full and fair review of issues in dispute. A discussion of specific issues raised in the public comments and our responses follow.

Comment: Some commenters stated that we should provide beneficiaries and ENs that are not State VR agencies an opportunity for a face-to-face hearing. Several recommended that the administrative and judicial review process for appeal of initial determinations (§§ 404.900 through 404.999 and 416.1400 through 416.1499) be used for the dispute resolution process. One commenter suggested that beneficiaries should be entitled to the rights customary to evidentiary hearings, including the right to be provided notice, the right to request discovery, the right to present evidence, the right to defend oneself, the right to cross-examine witnesses, the right to a written decision, and the opportunity to appeal. Another commenter stated that the time frame for appeal of a decision should be 60 days to be consistent with time frames in our administrative review process.

Response: Section 1148(d)(7) of the Act requires, among other things, that the Commissioner provide a mechanism for resolving disputes between beneficiaries and ENs. The Commissioner is required to afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute. The Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), provides a process for resolution of disputes between beneficiaries and ENs that are State VR agencies. The Commissioner has developed a different process for resolving disputes between beneficiaries and ENs that are not State VR agencies.

We believe that the dispute resolution process we have created provides the parties with a reasonable opportunity to have a full and fair review of the matter in dispute. Section 1148(d)(7) does not require the Commissioner to afford a face-to-face hearing. The legislation did not allocate funding to support this type of process. Disputes between beneficiaries and ENs relate to aspects of the rehabilitation process, such as proposed changes in the vocational goal and the Individual Work Plan, the nature and duration of education and training, and the type and availability of equipment provided. Multiple disputes may arise between a beneficiary and the EN at different points in the rehabilitation process, and each dispute will require quick resolution to maintain ongoing rehabilitation efforts. Submission of these types of disputes to the administrative and judicial review process reserved for critical payment issues would impose unacceptable administrative and financial burdens on the Agency. This would also disrupt the rehabilitation process while relatively minor issues could remain unresolved during a lengthy appeal process.

We are retaining the 3-step process set forth in the proposed rules, because this process meets the statutory mandate for a full and fair review of disputes between beneficiaries and ENs that are not State VR agencies. It provides the parties several opportunities to be heard, allows both parties to the dispute to present their case before an impartial third party, the PM, and expedites dispute resolution.

Comment: Many commenters questioned whether the 3-step process for resolving disputes between beneficiaries and ENs that are not State VR agencies provides a full and fair review. Several commenters proposed that we establish a single, standard grievance model at step one for use by all ENs that are not State VR agencies. Other commenters said that we should provide beneficiaries clear information about the dispute resolution process, including defined "next steps," impose reasonable time frames, and inform disputants of the right to be represented and the right to provide evidence at each step of the dispute resolution process. In addition, one commenter said that the PM should be required to provide all the evidence, not just relevant evidence, when a dispute is referred to us at step 3.

Response: The 3-step process in subpart I provides for expedient resolution of disputes between beneficiaries and ENs, and a full and fair review of the disputed issues. Requiring ENs that are not State VR agencies to implement a standard grievance model of our design at the first step of the 3-step dispute resolution process would impose unfair burdens on them. ENs are voluntary participants in the Ticket to Work program, and some ENs might choose to withdraw from this program if required to implement a new process distinct from internal grievance procedures already in place.

In subpart I, we require that:

At step one, the EN that is not a State VR agency is required: to have grievance procedures that a beneficiary can use to seek a resolution to a dispute under the Ticket to Work program; to give each beneficiary seeking services a copy of its internal grievance procedures; to inform each beneficiary seeking services of the right of either party to refer a dispute first to the PM for a review, and then to us for a final decision; and to inform each beneficiary of the availability of assistance from the State P&A system.

At step two, if the beneficiary or the EN that is not a State VR agency asks the PM to review a disputed issue, the PM is to contact the EN to submit all relevant information and evidence

VOL 66 ISS 249 DE 28 2001 UMI

within 10 days, including a description of the disputed issue, a summary of the beneficiary's and the EN's positions related to each disputed issue, and a description of any solutions proposed by the EN, including the reasons the beneficiary rejected each proposed solution. The PM has 20 days to provide a written recommendation resolving the dispute, and explaining the reasoning for the proposed resolution.

At step three, if the beneficiary or the EN requests SSA to review the PM's recommended resolution of the dispute, this request must be made within 15 working days of the receipt of the PM's recommendation. The PM has 10 working days to refer the request to us for a review, including with the request a copy of the beneficiary's IWP, information and evidence related to the disputed issues, and the PM's conclusions and recommendations. Our decision on the resolution of the dispute will be final.

Comment: Some commenters suggested that the process for resolving disputes between beneficiaries and ENs that are not State VR agencies should provide for optional mediation or an external appeals process to ensure the beneficiary an unbiased resolution of the dispute. Several commenters said that the Dispute Resolution Board mentioned in the preamble to the proposed rules for this process should have non-SSA employees. Another commenter stated that the third step should be eliminated and the final decision delegated to the PM at step two.

Response: In developing these rules, we considered making outside mediation part of the dispute resolution process, but we rejected this option, in part, because we believe using an outside mediator would not achieve expedient dispute resolution. We also believe that it is not necessary to establish any external appeals process for dispute resolution, because we believe the three-step process provides for a full and fair review. We have deleted any reference to a dispute resolution board, as the proposed rules did not provide for it, but it was only mentioned in the preamble to the proposed rules. At step three, disputes will be referred to SSA rather than to a formal board. We do not agree that step three should be eliminated from the dispute resolution process and that the PM should make the final dispute decision. An appeal to SSA affords the beneficiary an additional opportunity to be heard and to receive the Commissioner's opinion on the issue.

Comment: Some commenters stated that the dispute resolution process for disputes between beneficiaries and ENs that are not State VR agencies should be the same as the process that is used for those disputes between beneficiaries and ENs that are State VR agencies.

Response: State VR agencies that are serving as ENs have dispute resolution procedures in place already. The dispute resolution process used by State VR agencies provides an opportunity for beneficiaries and State agencies to resolve disputes by formal mediation, an impartial hearing, or civil action. The dispute resolution process that the State VR agencies are required to follow fulfills and exceeds the requirement of section 1148(d)(7) of the Social Security Act for a full and fair review of the matter in dispute.

We recognize that beneficiaries who choose to work with State VR agencies will have a different dispute resolution process than those who choose to work with non-State agency ENs. However, the 3-step process described in the regulations provides these beneficiaries with a full and fair review, in an expeditious and cost-efficient manner.

Comment: Several commenters pointed out that our proposed rules were not clear with respect to whether they addressed both ENs that are not State VR agencies and those that are. Several others stated that the regulations should indicate when the provisions of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), relating to opportunities for mediation, an impartial hearing, and court action apply.

Response: We are revising the rules in subpart I to clarify whether they referred to ENs that are not State VR agencies, or those that are State VR agencies.

Comment: One commenter stated that services and supports provided to a beneficiary should not be suspended or reduced while the beneficiary is involved in the dispute resolution process. Another asked if the timely progress guidelines would be suspended immediately when a dispute is not solved.

Response: Participation of ENs in the Ticket to Work program is voluntary. We believe that requiring ENs to continue providing supports or services until disputes are resolved would not be consistent with these aspects of the program. The timely progress guidelines will not be suspended when a dispute remains unsolved.

Comment: Several commenters stated that we should provide beneficiaries the names and addresses of P&A services and representatives. One commenter suggested we should notify P&A services of all disputes and the names of disputants, unless the beneficiaries specifically objected. Another commenter stated that we should ensure all representatives are expert in all aspects of benefits. And, several commenters suggested that legal services for beneficiaries involved in disputes be paid for.

Response: Section 411.605(d) requires ENs that are not State VR agencies to inform beneficiaries of the availability of P&A services to assist them in the dispute resolution process. We will not release any information to a P&A service about the beneficiary unless we are authorized to do so, in accord with our regulations governing disclosure of official records and information (20 CFR 401.100 ff.). We will require ENs to inform beneficiaries of the right to be represented at each step of the dispute resolution process. We do not have the authority to pay such representatives. We are not establishing standards of expertise for representatives, because this would impair the beneficiary's ability to choose non-attorneys to help them with their disputes (e.g., family members, clergy, members of the rehabilitation community). The ability to use non-attorneys to represent beneficiaries in minor disputes is especially important because many beneficiaries may not be able to pay for representation.

Comment: Several commenters suggest we require disputants to adhere to our final recommendations for resolving issues between them.

Response: Because the Ticket to Work program is voluntary in nature, the good will and commitment of both parties to the rehabilitation effort is critical to its successful outcome. The three-step dispute resolution process should promote positive and productive communication between these parties. We do not believe that mandating participants to adhere to our recommendations for dispute resolution would further the rehabilitation partnership.

Youth in Transition to Adulthood

Section 411.125 of these final regulations states that an individual will be eligible to receive a ticket in a month in which he or she is age 18 or older and has not attained age 65, provided the individual has qualified for title II benefits based on disability or qualified for title XVI benefits based on disability under the adult standard or based on blindness.

When we published the proposed rules on December 28, 2000, we included the following: "As we gain experience with the Ticket to Work program, we plan, at a later time, to explore the possibility of expanding the age criteria for receiving a ticket to include those SSI beneficiaries age 16 and older who are eligible for disability benefit payments based on the childhood disability standard."

In these final rules, we have decided not to issue a ticket to those recipients under age 18 and those who have attained age 18, but for whom we have not yet conducted a redetermination of their eligibility under the disability standard for adults. However, we are interested in exploring various approaches to assist youth beneficiaries to transition to independence, further education, and careers in the workforce. Therefore, we are publishing a Notice elsewhere in today's **Federal Register** in which we are seeking suggestions from the public to assist us in designing for these beneficiaries an approach that could complement the Ticket to Work program.

Electronic Version

The electronic version of this document is available on the Internet at *http://www.access.gpo.gov/su_docs/aces/aces140.html*. It is also available on the Internet site for SSA at *http://www.ssa.gov*.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules meet the criteria for a significant regulatory activity under Executive Order (E.O.) 12866. Thus, OMB has reviewed these final rules. For the five-year period from fiscal year 2002 through 2006, the effects on the Old Age, Survivors and Disability Insurance benefit payments range from minimal in fiscal year 2002 to costs of $27 million in fiscal year 2006. For the same period, the effects on Federal Supplemental Security Income payments range from savings of $1 million in fiscal year 2002 to savings of $6 million in fiscal year 2006. We expect that the effects on expenditures of the Medicare and Medicaid programs during that time period would be negligible. As the costs and savings from fiscal year 2002 through 2006 are not expected to exceed $100 million in any one year, these final rules are neither economically significant under E.O. 12866, nor "major" under the provisions of 5 U.S.C. 801 *et seq.*

However, we believe there may be additional "benefits" to society that will result from these rules. While these benefits are difficult to quantify, we can present some general elements of these benefits.

We believe the Ticket to Work program offers potential benefits to society on several levels. For example, the Ticket to Work program may increase opportunities for individuals who receive disability benefits to access training, employment and placement services, including opportunities to create their own businesses and widen their exposure to the employment market. The program may provide new funding streams for existing providers of vocational services and give them access to new clients, as well as allow them to forge relationships with employers interested in job placement of these clients. It may also encourage the establishment of new providers of vocational services. For employers, the program may provide access to a new base of potential employees as individuals who receive disability benefits attempt to enter the employment market under the terms of the Ticket to Work program.

As required by the Ticket to Work and Work Incentives Improvement Act of 1999, we must evaluate the Ticket to Work program after it is implemented. As part of that evaluation, we plan to use various qualitative measures to determine the effects on society.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities because they would primarily affect only individuals, and those entities that voluntarily enter into a contractual agreement with us. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Although a regulatory flexibility analysis is not required, we have made every effort to consider the effects these rules might have on small entities that might choose to participate in the Ticket to Work program. As we mentioned earlier in this preamble, we sponsored and participated in many public forums, presentations, and discussions leading up to the development of these final rules. At these forums, we discussed with service providers their concerns about participating in the Ticket to Work program. These final rules reflect our efforts to make these rules as inclusive as possible; that is, to allow for the participation in the program of many different types of vocational service providers, including small entities, that can provide a wide range of services. For example, we increased the number and total amount of milestone payments, from what we had earlier proposed, to help smaller or lesser-capitalized entities to participate in the program. We also considered the effects on small entities in determining the level of credentials a service provider must have to participate in the program. At the same time, we must also consider our stewardship responsibilities in protecting the public funds and in assuring that individuals receiving disability benefits who choose to participate in the Ticket to Work program also receive quality services from the providers to whom they assign their tickets. We believe these final rules reflect our efforts to achieve a balance between providing opportunities for small entities, and protecting public funds and assuring that individuals receiving disability benefits receive quality services.

Federalism

We have reviewed these final rules under the threshold criteria of E.O. 13132, "Federalism," and determined that they do not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The Ticket to Work and Work Incentives Improvement Act of 1999 established the Ticket to Work program that will complement the existing State vocational rehabilitation program.

Although we have determined that these final rules do not trigger the requirements of E.O. 13132, we have consulted with State vocational rehabilitation agencies and their national organization throughout our development of these rules. As mentioned earlier in the preamble to these rules, we sponsored and participated in numerous educational forums throughout the country in order to stimulate discussion about the Ticket to Work program. We employed our long-standing relationship with the State vocational rehabilitation agencies through a variety of meetings, forums and other conversations to gain insight as to how to develop these rules. Furthermore, we have consulted on a regular basis with those States selected for the first round of the Ticket to Work rollout, and the Department of Education's Rehabilitation Services Administration in preparing these rules. These final rules reflect, to the extent practicable, our efforts to respond to the issues raised by the States during these consultations.

In addition, we note that the Old-Age, Survivors and Disability Insurance program is exempt from the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This final rule contains new reporting (Rpt), recordkeeping (Rec) and disclosure (Dis) requirements in the sections listed below. These burden requirements have been cleared under OMB Number 0960–0644. The clearance expires on December 31, 2004.

TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM ANNUAL BURDEN CALCULATION CHART

Section No. and requirements	Number of respondents	Frequency of response	Average burden per response (in minutes)	Estimated annual burden hrs.
411.140(c) Rpt—X-refer sections 411.145, 411.150, 411.325 (a), (b), (c), (d) & 411.320 (f).	31,450	One time	270	141,525
411.325(e) Rpt—X-refer section 411.395 (b)	10,328	Quarterly	120	20,656
411.325(f) Dis—X-refer section 411.395(a)	45,000	Occasional	5	3,750
411.190(a) Rpt—X-refer section 411.195	1,000	One time	30	500
411.220(b)(1) Rpt—	1,000	One time	30	500
411.220(c)(1) Rpt—	500	One time.	5	42
441.245(b)(1) Rec—	12,000	One time	1	200
411.325(d) Rpt—	1,800	One time	480	14,400
411.365 Rpt—	82	One time	240	328
411.575 Rpt—X-refer section 411.500	13,000	Daily	30	6,500
411.605(b) Dis—X-refer section 411.610	45,000	Occasional	5	3,750
411.435(c) Rpt—	2,582	One time	60	2,582
411.615 Rpt—	3,000	One time	60	3,000
411.625 Rpt—	1,500	One time	60	1,500
411.210(b) Rpt—	3,145	One time	30	1,573
411.590(b) Rpt—	813	One time	60	813
411.655 Rpt—	1	30-per year	120	60
411.200 Rpt—	1		1	1
Total Annual Respondents				172,202
Total Annual Burden Hours				201,680

X-Refer—Burden for these sections has been accounted for under title section cited.
411.200—Reflects a one hour places holder pending implementation and program experience.

The below chart represents burden associated with forms SSA–1365, State Agency Ticket Assignment Form; SSA–1366, State Vocational Rehabilitation Ticket to Work Information Sheet, and SSA–1367, Individual Work Plans (IWP) Information Work Sheet, that have been cleared under OMB–0641. The clearance expires on April 30, 2002.

Forms	Respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden hours
SSA–1365	21	4,048	3	4,250
SSA–1366	21	132	2	92
SSA–1367	31,450	1	3	1,573
Total burden				5,915

(Catalog of Federal Domestic Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; and 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 411

Administrative practice and procedure; Blind, Disability benefits; Old-Age, Survivors, and Disability Insurance; Reporting and recordkeeping requirements; Social Security; Supplemental Security Income; Public Assistance programs; Vocational Rehabilitation.

Dated: December 18, 2001.

Jo Anne B. Barnhart,

Commissioner of Social Security.

For the reasons set forth in the preamble, we are adding a new part 411 to chapter III of title 20 of the Code of Federal Regulations to read as follows:

PART 411—The Ticket to Work and Self-Sufficiency Program

Subpart A—Introduction

Sec.
411.100 Scope.
411.105 What is the purpose of the Ticket to Work program?
411.110 How is the Ticket to Work program implemented?
411.115 Definitions of terms used in this part.

Subpart B—Tickets Under the Ticket to Work Program

411.120 What is a ticket under the Ticket to Work program?
411.125 Who is eligible to receive a ticket under the Ticket to Work program?
411.130 How will SSA distribute tickets under the Ticket to Work program?
411.135 What do I do when I receive a ticket?
411.140 When can I assign my ticket and how?
411.145 Once my ticket has been assigned to an EN or State VR agency, can it be taken out of assignment?
411.150 Can I reassign my ticket to a different EN or the State VR agency?
411.155 When does my ticket terminate?

Subpart C—Suspension of Continuing Disability Reviewsfor Beneficiaries Who are Using a Ticket

Introduction

411.160 What does this subpart do?
411.165 How does being in the Ticket to Work program affect my continuing disability reviews?
411.166 Glossary of terms used in this subpart.

Definition of Using a Ticket

411.170 When does the period of using a ticket begin?
411.171 When does the period of using a ticket end?
411.175 What if I assign my ticket after a continuing disability review has begun?

Guidelines for Timely Progress Toward Self-Supporting Employment

411.180 What is timely progress toward self-supporting employment?
411.185 How much do I need to earn to be considered to be working?
411.190 How is it determined if I am meeting the timely progress guidelines?
411.191 Table summarizing the guidelines for timely progress toward self-supporting employment.
411.195 How will the PM conduct my 24-month progress review?
411.200 How will the PM conduct my 12-month progress reviews?
411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?

Failure To Make Timely Progress

411.210 What happens if I do not make timely progress toward self-supporting employment?

The Extension Period

411.220 What if my ticket is no longer assigned to an EN or State VR agency?
411.225 What if I reassign my ticket after the end of the extension period?

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

411.230 What is a PM?
411.235 What qualifications are required of a PM?
411.240 What limitations are placed on a PM?
411.245 What are a PM's responsibilities under the Ticket to Work program?

Evaluation of Program Manager Performance

411.250 How will SSA evaluate a PM?

Subpart E—Employment Networks

411.300 What is an EN?
411.305 Who is eligible to be an EN?
411.310 How does an entity other than a State VR agency apply to be an EN and who will determine whether an entity qualifies as an EN?
411.315 What are the minimum qualifications necessary to be an EN?
411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?
411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?
411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?
411.330 How will SSA evaluate an EN's performance?

Subpart F—State Vocational Rehabilitation Agencies' Participation

Participation in the Ticket to Work Program

411.350 Must a State VR agency participate in the Ticket to Work program?
411.355 What payment options does a State VR agency have under the Ticket to Work program?
411.360 How does a State VR agency become an EN?
411.365 How does a State VR agency notify SSA about its choice of a payment system for use when functioning as an EN?
411.370 Does a State VR agency ever have to function as an EN?
411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), when functioning as an EN?

Ticket Status

411.380 What does a State VR agency do if the State VR agency wants to determine whether a person seeking services has a ticket?
411.385 What does a State VR agency do if a beneficiary who is eligible for VR services has a ticket that is available for assignment or reassignment?
411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?
411.395 Is a State VR agency required to provide periodic reports?

Referrals by Employment Networks to State VR Agencies

411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?

Agreements Between Employment Networks and State VR Agencies

411.405 When does an agreement between an EN and the State VR agency have to be in place?
411.410 Does each referral from an EN to a State VR agency require its own agreement?
411.415 Who will verify the establishment of agreements between ENs and State VR agencies?
411.420 What information should be included in an agreement between an EN and a State VR agency?
411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?
411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?

Resolving Disputes Arising Under Agreements Between Employment Networks and State VR Agencies

411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?

Subpart G—Requirements for Individual Work Plans

411.450 What is an Individual Work Plan?
411.455 What is the purpose of an IWP?
411.460 Who is responsible for determining what information is contained in the IWP?
411.465 What are the minimum requirements for an IWP?
411.470 When does an IWP become effective?

Subpart H—Employment Network Payment Systems

411.500 Definitions of terms used in this subpart.
411.505 How is an EN paid by SSA?
411.510 How is the State VR agency paid under the Ticket to Work program?
411.515 Can the EN change its elected payment system?
411.520 How are beneficiaries whose tickets are assigned to an EN affected by a change in that EN's elected payment system?
411.525 How are the EN payments calculated under each of the two EN payment systems?
411.530 How will the outcome payments be reduced when paid under the outcome-milestone payment system?
411.535 What are the milestones for which an EN can be paid?
411.540 What are the payment amounts for each of the milestones?
411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?
411.550 What are the payment amounts for outcome payment months under the outcome payment system?
411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all 60 outcome months?
411.560 Is it possible to pay a milestone or outcome payment to more than one EN?
411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected different EN payment systems?
411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?
411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?
411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?
411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?
411.587 Which provider will SSA pay if, with respect to the same ticket, SSA receives a request for payment from an EN or a State VR agency that elected

VOL
66
ISS
249
DE
28
2001
UMI

payment under an EN payment system and a request for payment from a State VR agency that elected payment under the cost reimbursement payment system?
411.590 What can an EN do if the EN disagrees with our decision on a payment request?
411.595 What oversight procedures are planned for the EN payment systems?
411.597 Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

Subpart I—Ticket to Work Program Dispute Resolution

Disputes Between Beneficiaries and Employment Networks

411.600 Is there a process for resolving disputes between beneficiaries and ENs that are not State VR agencies?
411.605 What are the responsibilities of the EN that is not a State VR agency regarding the dispute resolution process?
411.610 When should a beneficiary receive information on the procedures for resolving disputes?
411.615 How will a disputed issue be referred to the PM?
411.620 How long does the PM have to recommend a resolution to the dispute?
411.625 Can the beneficiary or the EN that is not a State VR agency request a review of the PM's recommendation?
411.630 Is SSA's decision final?
411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?

Disputes Between Beneficiaries and State VR Agencies

411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), apply to beneficiaries seeking services from the State VR agency?

Disputes Between Employment Networks and Program Managers

411.650 Is there a process for resolving disputes between ENs that are not State VR agencies and PMs, other than disputes on a payment request?
411.655 How will the PM refer the dispute to us?
411.660 Is SSA's decision final?

Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs for Payments for Vocational Rehabilitation Services

411.700 What is an alternate participant?
411.705 Can an alternate participant become an EN?
411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?
411.715 If an alternate participant becomes an EN, will beneficiaries for whom an employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?
411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?
411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?
411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?

Authority: Sec. 1148 of the Social Security Act (42 U.S.C. 1320b–19); sec. 101(b)–(e), Pub. L. 106–170, 113 Stat. 1860, 1873 (42 U.S.C. 1320b–19 note).

Subpart A—Introduction

§ 411.100 Scope.

The regulations in this part 411 relate to the provisions of section 1148 of the Social Security Act which establishes the Ticket to Work and Self-Sufficiency Program (hereafter referred to as the "Ticket to Work program"). The regulations in this part are divided into ten subparts:

(a) Subpart A explains the scope of this part, explains the purpose and manner of implementation of the Ticket to Work program, and provides definitions of terms used in this part.

(b) Subpart B contains provisions relating to the ticket under the Ticket to Work program.

(c) Subpart C contains provisions relating to the suspension of continuing disability reviews for disabled beneficiaries who are considered to be using a ticket.

(d) Subpart D contains provisions relating to the use of one or more program managers to assist us in the administration of the Ticket to Work program.

(e) Subpart E contains provisions relating to employment networks in the Ticket to Work program.

(f) Subpart F contains provisions relating to State vocational rehabilitation agencies' participation in the Ticket to Work program.

(g) Subpart G contains provisions relating to individual work plans in the Ticket to Work program.

(h) Subpart H contains provisions establishing employment network payment systems.

(i) Subpart I contains provisions that establish a procedure for resolving disputes under the Ticket to Work program.

(j) Subpart J contains provisions explaining how the implementation of the Ticket to Work program affects alternate participants under the programs for payments for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

§ 411.105 What is the purpose of the Ticket to Work program?

The purpose of the Ticket to Work program is to expand the universe of service providers available to individuals who are entitled to Social Security benefits based on disability or eligible for Supplemental Security Income (SSI) benefits based on disability or blindness in obtaining the services necessary to find, enter and retain employment. Expanded employment opportunities for these individuals also will increase the likelihood that these individuals will reduce their dependency on Social Security and SSI cash benefits.

§ 411.110 How is the Ticket to Work program implemented?

We are implementing the Ticket to Work program in graduated phases at phase-in sites around the country. We are implementing the program at sites on a wide enough scale to allow for a thorough evaluation and ensure full implementation of the program on a timely basis.

§ 411.115 Definitions of terms used in this part.

As used in this part:

(a) *"The Act"* means the Social Security Act, as amended.

(b) *"Commissioner"* means the Commissioner of Social Security.

(c) *"Cost reimbursement payment system"* means the provisions for payment for vocational rehabilitation services under subpart V of part 404 and subpart V of part 416 of this chapter.

(d) *"Disabled beneficiary"* means a title II disability beneficiary or a title XVI disability beneficiary.

(e) *"Employment network" or "EN"* means a qualified public or private entity that has entered into an agreement with us to serve under the Ticket to Work program and that assumes responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries assigning tickets to it. The rules on employment networks are described in subpart E of this part (§§ 411.300–411.330). A State vocational rehabilitation agency may choose, on a case-by-case basis, to function as an employment network with respect to a beneficiary under the Ticket to Work program. The rules on State vocational rehabilitation agencies' participation in the Ticket to Work program are described in subpart F of this part (§§ 411.350–411.435).

(f) *"Employment plan"* means an individual work plan described in paragraph (i) of this section, or an individualized plan for employment described in paragraph (j) of this section. When used in subpart J of this part, "employment plan" also means a "similar document" referred to in §§ 404.2114(a)(2) and 416.2214(a)(2) of this chapter under which an alternate participant under the programs for payments for vocational rehabilitation services (described in subpart V of part 404 and subpart V of part 416 of this chapter) provides services to a disabled beneficiary under those programs.

(g) *"Federal SSI cash benefits"* means a "Supplemental Security Income benefit under title XVI" based on blindness or disability as described in paragraphs (n) and (r) of this section.

(h) *"I"*, *"my"*, *"you"*, or *"your"* means the disabled beneficiary.

(i) *"Individual work plan" or "IWP"* means an employment plan under which an employment network (other than a State vocational rehabilitation agency) provides services to a disabled beneficiary under the Ticket to Work program. An individual work plan must be developed under, and meet the requirements of, the rules in subpart G of this part (§§ 411.450–411.470).

(j) *"Individualized plan for employment"* or *"IPE"* means an employment plan under which a State vocational rehabilitation agency provides services to individuals with disabilities (including beneficiaries assigning tickets to it under the Ticket to Work program) under a State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). An individualized plan for employment must be developed under, and meet the requirements of, 34 CFR 361.45 and 361.46.

(k) *"Program manager" or "PM"* means an organization in the private or public sector that has entered into a contract with us to assist us in administering the Ticket to Work program. The rules on the use of one or more program managers to assist us in administering the program are described in subpart D of this part (§§ 411.230–411.250).

(l) *"Social Security disability benefits"* means the benefits described in paragraph (q) of this section.

(m) *"State vocational rehabilitation agency"* or *"State VR agency"* means a State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*). In those States that have one agency that provides VR services to non-blind individuals and another agency that provides services to blind individuals, this term refers to either State agency.

(n) *"Supplemental Security Income benefit under title XVI"* means a cash benefit under section 1611 or 1619(a) of the Act, and does not include a State supplementary payment, administered Federally or otherwise.

(o) *"Ticket"* means a document described in § 411.120 which the Commissioner may issue to disabled beneficiaries for participation in the Ticket to Work program.

(p) *"Ticket to Work program"* or *"program"* means the Ticket to Work and Self-Sufficiency Program under section 1148 of the Act.

(q) *"Title II disability beneficiary"* means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 of the Act based on such individual's disability as defined in section 223(d) of the Act. (See § 404.1505 of this chapter.) An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

(r) *"Title XVI disability beneficiary"* means an individual eligible for Supplemental Security Income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2) of the Act) (see §§ 416.981 and 416.982 of this chapter) or disability (within the meaning of section 1614(a)(3) of the Act) (see § 416.905 of this chapter). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

(s) *"We"* or *"us"* means the Social Security Administration.

Subpart B—Tickets Under the Ticket to Work Program

§ 411.120 What is a ticket under the Ticket to Work program?

(a) A ticket under the Ticket to Work program is a document which provides evidence of the Commissioner's agreement to pay, under the rules in subpart H of this part, an employment network (EN) or a State VR agency to which a disabled beneficiary's ticket is assigned, for providing employment services, vocational rehabilitation services, and other support services to the beneficiary.

(b) The ticket is a red, white and blue document approximately 6″ by 9″ in size. The left side of the document includes the beneficiary's name, ticket number, claim account number and the date we issued the ticket. The ticket number is 12 characters and comprises the beneficiary's own social security number, the letters "TW" and a number 1, 2, etc. A number 1 in the last position would signify that this is the first ticket the beneficiary has received, consistent with § 411.125(b).

(c) The right side of the ticket includes the signature of the Commissioner of Social Security, and the following language:

> This ticket is issued to you by the Social Security Administration under the Ticket to Work and Self-Sufficiency Program. If you want help in returning to work or going to work for the first time, you may offer this ticket to an Employment Network of your choosing or take it to your State vocational rehabilitation agency for services. If you choose an Employment Network and it agrees to take your ticket, or if you choose your State agency and you qualify for services, these providers can offer you the services you may need to go to work.
>
> An Employment Network provides the services at no cost to you. The Social Security Administration will pay the Employment Network if you assign your ticket to it, and the Employment Network helps you to go to work and complies with other requirements of the Program. An Employment Network serving under the Program has agreed to abide by the rules and regulations of the Program under the terms of its agreement with the Social Security Administration for providing services under the Program. Your State agency can tell you about its rules for getting services.

§ 411.125 Who is eligible to receive a ticket under the Ticket to Work program?

(a) You will be eligible to receive a Ticket to Work in a month in which—

(1) You are age 18 or older and have not attained age 65;

(2)(i)(A) You are a title II disability beneficiary (other than a beneficiary receiving benefit payments under § 404.316(c), § 404.337(c), § 404.352(d), or § 404.1597a of this chapter); and

(B) You are in current pay status for monthly title II cash benefits based on disability (see subpart E of part 404 of this chapter for our rules on nonpayment of title II benefits); or

(ii)(A) You are a title XVI disability beneficiary (other than a beneficiary receiving disability or blindness benefit payments under § 416.996 or § 416.1338 of this chapter);

(B) If you are an individual described in § 416.987(a)(1) of this chapter, you are eligible for benefits under title XVI based on disability under the standard for evaluating disability for adults following a redetermination of your eligibility under § 416.987 of this chapter; and

(C) Your monthly Federal cash benefits based on disability or blindness under title XVI are not suspended (see subpart M of part 416 of this chapter for our rules on suspension of title XVI benefit payments); and

(3) Our records show that—

(i) Your case is not designated as a medical improvement expected diary review case (see §§ 404.1590 and 416.990 of this chapter for what we mean by a medical improvement expected diary review); or

(ii) Your case is designated as a medical improvement expected diary review case, and we have conducted at least one continuing disability review in your case and made a final determination or decision that your disability continues (see subpart J of part 404 or subpart N of part 416 of this chapter for when a determination or decision becomes final).

(b) You will not be eligible to receive more than one ticket during any period during which you are either—

(1) Entitled to title II benefits based on disability (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter for when entitlement to title II disability benefits ends); or

(2) Eligible for title XVI benefits based on disability or blindness and your eligibility has not terminated (see subpart M of part 416 of this chapter for our rules on when eligibility for title XVI benefits terminates).

(c) If your entitlement to title II benefits based on disability ends and/or your eligibility for title XVI benefits based on disability or blindness terminates as described in § 411.155(b)(1) or (2), you will be eligible to receive a new ticket in a month in which—

(1) Your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act; and

(2) You meet the requirements of paragraphs (a)(1) and (2) of this section.

§ 411.130 How will SSA distribute tickets under the Ticket to Work program?

(a) We will distribute tickets in graduated phases at phase-in sites selected by the Commissioner, to permit a thorough evaluation of the Ticket to Work program and ensure that the most effective methods are in place for full implementation of the program. (See § 411.110.)

(b) We will distribute a ticket to you when we distribute tickets in your State, if you are eligible to receive a ticket under § 411.125.

§ 411.135 What do I do when I receive a ticket?

Your participation in the Ticket to Work program is voluntary. When you receive your ticket, you are free to choose when and whether to assign it (see § 411.140 for information on assigning your ticket). If you want to participate in the program, you can take your ticket to any EN you choose or to your State VR agency.

§ 411.140 When can I assign my ticket and how?

(a) You may assign your ticket only during a month in which you meet the requirements of § 411.125(a)(1) and (a)(2). You may assign your ticket to any EN which is serving under the program and is willing to provide you with services, or you may assign your ticket to a State VR agency if you are eligible to receive VR services according to 34 CFR 361.42. You may not assign your ticket to more than one provider of services (i.e. an EN or a State VR agency) at a time. Once you have assigned your ticket to an EN or State VR agency, you may take your ticket out of assignment for any reason under the rules in § 411.145(a). Also, you may reassign your ticket under the rules in § 411.150.

(b)(1) In determining which EN you want to work with, you may discuss your rehabilitation and employment plans with as many ENs in your area as you wish. You also may discuss your rehabilitation and employment plans with the State VR agency.

(2) You can obtain a list of the approved ENs in your area from the program manager (PM) we have enlisted to assist in the administration of the Ticket to Work program. (See § 411.115(k) for a definition of the PM.)

(c) If you choose to work with an EN serving under the program, both you and the EN of your choice need to agree upon an individual work plan (IWP) (see § 411.115(i) for a definition of an IWP). If you choose to work with a State VR agency, you must develop an individualized plan for employment (IPE) and your State VR counselor must agree to the terms of the IPE, according to the requirements established in 34 CFR 361.45 and 361.46. (See § 411.115(j) for a definition of an IPE.) The IWP or IPE outlines the services necessary to assist you in achieving your chosen employment goal.

(d) In order for you to assign your ticket to an EN or State VR agency, all of the following requirements must be met:

(1)(i) If you decide to work with an EN, you and a representative of the EN must agree to and sign an IWP; or

(ii) If you decide to work with a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in § 411.385(a)(1), (2) and (3).

(2) You must be eligible to assign your ticket under the rules in paragraph (a) of this section.

(3) A representative of the EN must submit a copy of the signed IWP to the PM or a representative of the State VR agency must submit the completed and signed form (as described in § 411.385(a) and (b)) to the PM.

(4) The PM must receive the copy of the IWP or receive the required form, as appropriate.

(e) If all of the requirements in paragraph (d) of this section are met, we will consider your ticket assigned to the EN or State VR agency. The effective date of the assignment of your ticket will be the first day on which the requirements of paragraphs (d)(1) and (2) of this section are met. See §§ 411.160 through 411.225 for an explanation of how assigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

§ 411.145 Once my ticket has been assigned to an EN or State VR agency, can it be taken out of assignment?

(a) If you assigned your ticket to an EN or a State VR agency, you may take your ticket out of assignment for any reason. You must notify the PM in writing that you wish to take your ticket out of assignment. The ticket will be no longer assigned to that EN or State VR agency effective with the first day of the month following the month in which you notify the PM in writing that you wish to take your ticket out of assignment. You may reassign your ticket under the rules in § 411.150.

(b) If your EN goes out of business or is no longer approved to participate as an EN in the Ticket to Work program, the PM will take your ticket out of assignment with that EN. The ticket will be no longer assigned to that EN effective on the first day of the month following the month in which the EN goes out of business or is no longer approved to participate in the Ticket to Work program. You will be sent a notice informing you that your ticket is no longer assigned to that EN. In addition, if your EN is no longer willing or able to provide you with services, or if your State VR agency stops providing services to you because you have been determined to be ineligible for VR services under 34 CFR 361.42, the EN or State VR agency may ask the PM to take your ticket out of assignment with that EN or State VR agency. The ticket will be no longer assigned to that EN or State VR agency effective on the first day of the month following the month in which the EN or State VR agency makes a request to the PM that the ticket be taken out of assignment. You will be sent a notice informing you that your ticket is no longer assigned to that EN or State VR agency. You may reassign your ticket under the rules in § 411.150.

(c) For information about how taking a ticket out of assignment may affect medical reviews that we conduct to determine if you are still disabled under our rules, see §§ 411.171(c) and 411.220.

§ 411.150 Can I reassign my ticket to a different EN or the State VR agency?

(a) Yes. If you previously assigned your ticket and your ticket is no longer assigned (see § 411.145) or you wish to change the assignment, you may reassign your ticket, unless you are receiving benefit payments under § 404.316(c), § 404.337(c), § 404.352(d) or § 404.1597a of this chapter, or you are receiving disability or blindness benefit payments under § 416.996 or § 416.1338 of this chapter (the provisions of paragraph (b)(3) of this section notwithstanding). If you previously assigned your ticket to an EN, you may reassign your ticket to a different EN which is serving under the program and is willing to provide you with services, or you may reassign your ticket to the State VR agency if you are eligible to receive VR services according to 34 CFR 361.42. If you previously assigned your ticket to the State VR agency, you may reassign your ticket to an EN which is serving under the program and is willing to provide you with services or to another State VR agency if you are eligible to receive services according to 34 CFR 361.42.

(b) In order for you to reassign your ticket to an EN or State VR agency, all of the following requirements must be met:

(1) Your ticket must be unassigned. If your ticket is assigned to an EN or a State VR agency, you must first tell the PM in writing that you want to take your ticket out of assignment (see § 411.145).

(2)(i) You and a representative of the new EN must agree to and sign a new IWP; or

(ii) If you wish to reassign your ticket to a State VR agency, you and a representative of the State VR agency must agree to and sign both an IPE and a form that provides the information described in § 411.385(a)(1), (2) and (3).

(3) You must meet the requirements of § 411.125(a)(1) and (2) on or after the day you and a representative of the new EN sign your IWP or you and a representative of the State VR agency sign your IPE and the required form, except if—

(i) Your ticket is not in use (see § 411.170 *et seq.*) and the requirements of paragraph (b)(2) of this section are met within 30 days of the effective date your ticket no longer was assigned to the previous EN or State VR agency (see § 411.145); or

(ii) Your ticket is in use (see § 411.170 *et seq.*) and the requirements of paragraph (b)(2) of this section are met before the end of the 3-month extension period described in § 411.220.

(4) A representative of the EN must submit a copy of the signed IWP to the PM or a representative of the State VR agency must submit the completed and signed form (as described in § 411.385(a) and (b)) to the PM.

(5) The PM must receive the copy of the IWP or received the required form, as appropriate.

(c) If all of the requirements in paragraphs (a) and (b) of this section are met, we will consider your ticket reassigned to the new EN or State VR agency. The effective date of the reassignment of your ticket will be the first day on which the requirements of paragraphs (a) and (b)(1), (2) and (3) of this section are met. See §§ 411.160 through 411.225 for an explanation of how reassigning your ticket may affect medical reviews that we conduct to determine if you are still disabled under our rules.

§ 411.155 When does my ticket terminate?

(a) Your ticket will terminate if and when you are no longer eligible to participate in the Ticket to Work program. If your ticket terminates, you may not assign or reassign it to an EN or State VR agency. We will not pay an EN (including a State VR agency) for milestones or outcomes achieved in or after the month in which your ticket terminates (see § 411.525(c)). Your eligibility to participate in the Ticket to Work program will end, and your ticket will terminate, in the earliest of the following months:

(1) The month in which your entitlement to title II benefits based on disability ends for reasons other than your work activity or earnings, or the month in which your eligibility for benefits under title XVI based on disability or blindness terminates for reasons other than your work activity or earnings, whichever is later;

(2) If you are entitled to widow's or widower's insurance benefits based on disability (see §§ 404.335 and 404.336 of this chapter), the month in which you attain age 65; or

(3) If you are eligible for benefits under title XVI based on disability or blindness, the month following the month in which you attain age 65.

(b) The rules in paragraph (c) of this section apply in determining when your eligibility to participate in the Ticket to Work program will end and your ticket will terminate if—

(1) You were not a concurrent title II/title XVI disability beneficiary, and your entitlement to title II benefits based on disability ends or your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings; or

(2) You were a concurrent title II/title XVI disability beneficiary and—

(i) Your entitlement to title II benefits based on disability ends because of work activity or earnings and your eligibility for title XVI benefits based on disability or blindness terminates for any reason; or

(ii) Your eligibility for title XVI benefits based on disability or blindness terminates because of your work activity or earnings and your entitlement to title II benefits based on disability ends for any reason.

(c) For purposes of paragraph (b) of this section, the ticket which you received in connection with the previous period during which you were either entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness (as described in § 411.125(b)) will terminate, and your eligibility to participate in the Ticket to Work program based on that ticket will end, in the earliest of the following months:

(1) If we make a final determination or decision that you are not entitled to have title II benefits based on disability reinstated under section 223(i) of the Act or eligible to have title XVI benefits based on disability or blindness reinstated under section 1631(p) of the Act, the month in which we make that determination or decision;

(2) If we make a final determination or decision that you are not entitled to title II benefits based on disability or eligible for title XVI benefits based on disability or blindness after you file an application for benefits, the month in which we make that determination or decision;

(3) The month you attain retirement age (as defined in section 216(l) of the Act);

(4) The month in which you die;

(5) The month in which you become entitled to a title II benefit that is not based on disability or eligible for a title XVI benefit that is not based on disability or blindness;

(6) The month in which you again become entitled to title II benefits based on disability, or eligible for title XVI benefits based on disability or

VOL 66 ISS 249 DE 28 2001 UMI

blindness, based on the filing of an application for such benefits; or

(7) If your entitlement to title II benefits based on disability is reinstated under section 223(i) of the Act, or your eligibility for title XVI benefits based on disability or blindness is reinstated under section 1631(p) of the Act, the month in which you are eligible to receive a new ticket under § 411.125(c).

Subpart C—Suspension of Continuing Disability Reviews for Beneficiaries Who Are Using a Ticket

Introduction

§ 411.160 What does this subpart do?

(a) This subpart explains our rules about continuing disability reviews for disability beneficiaries who are participating in the Ticket to Work program.

(b) Continuing disability reviews are reviews that we conduct to determine if you are still disabled under our rules (see §§ 404.1589, 416.989 and 416.989a of this chapter for the rules on when we may conduct continuing disability reviews). For the purposes of this subpart, continuing disability reviews include the medical reviews we conduct to determine if your medical condition has improved (see §§ 404.1594 and 416.994 of this chapter), but not any review to determine if your disability has ended under § 404.1594(d)(5) of this chapter because you have demonstrated your ability to engage in substantial gainful activity (SGA), as defined in §§ 404.1571–404.1576 of this chapter.

§ 411.165 How does being in the Ticket to Work program affect my continuing disability reviews?

We periodically review your case to determine if you are still disabled under our rules. However, if you are in the Ticket to Work program, we will not begin a continuing disability review during the period in which you are using a ticket. Sections 411.170 and 411.171 describe when the period of using a ticket begins and ends. You must meet certain requirements for us to consider you to be using a ticket.

§ 411.166 Glossary of terms used in this subpart.

(a) *Active participation in your employment plan* means you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the employment plan.

(b) *Extension period* is a period of up to three months during which you may reassign a ticket without being subject to continuing disability reviews. You may be eligible for an extension period if the ticket is in use and no longer assigned to an Employment Network (EN) or State VR agency (see § 411.220).

(c) *Inactive status* is a status in which you may place your ticket if you are temporarily unable to participate or not actively participating in your employment plan. You may place a ticket in inactive status only during the initial 24-month period. Months during which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment. You may keep your ticket in inactive status as long as you choose. However, because the ticket is not in use during months in which it is in inactive status, you will be subject to continuing disability reviews during these months.

(d) *Initial 24-month period* means the 24-month period that begins with the month following the month in which you first assigned your ticket. We do not count any month in which the ticket is not assigned to an EN or State VR agency, as described in § 411.145, or any month during which the ticket is not in use because it is in inactive status (see § 411.190(a)(2)) or because you were determined to be no longer making timely progress toward self-supporting employment under § 411.190(a)(3) or § 411.205.

(e) *Progress review* means the reviews the program manager (PM) conducts to determine if you are meeting the timely progress guidelines described in these regulations. (See § 411.115(k) for a definition of the PM.) The method for conducting the 24-month progress review is explained in § 411.195 and the method for conducting 12-month progress reviews is explained in § 411.200.

(f) *Timely progress guidelines* means the guidelines we use to determine if you are making timely progress toward self-supporting employment. In general, we determine if you are making timely progress toward self-supporting employment using two distinct criteria with defined time frames. These criteria are active participation in your employment plan during the initial 24-month period and increased work and earnings during subsequent 12-month progress review periods (see § 411.180 to § 411.190, § 411.195 and § 411.200).

(g) *12-month progress review period* means the 12-month period that begins either following the end of the initial 24-month period or following the previous 12-month progress review period. We do not count any month during which your ticket is not assigned to an EN or State VR agency, as described in § 411.145.

(h) *Using a ticket* means that you have assigned a ticket to an EN or State VR agency and are making timely progress toward self-supporting employment. (See § 411.171 for a discussion of when the period of using a ticket ends.)

Definition of Using a Ticket

§ 411.170 When does the period of using a ticket begin?

The period of using a ticket begins on the effective date of the assignment of your ticket to an EN or State VR agency under § 411.140.

Note: If your period of using a ticket ends because you have previously failed to meet the timely progress guidelines under §§ 411.180 through 411.190, the period of using a ticket will resume if you satisfy the requirements for re-entering in-use status. (See § 411.210.)

§ 411.171 When does the period of using a ticket end?

The period of using a ticket ends with the earliest of the following—

(a) The month before the month in which the ticket terminates as a result of one of the events listed in § 411.155;

(b) The day before the effective date of a decision under § 411.190; § 411.195, § 411.200, or § 411.205 that you are no longer making timely progress toward self-supporting employment;

(c) The close of the three-month extension period which begins with the first month in which your ticket is no longer assigned to an EN or State VR agency (see § 411.145), unless you reassign your ticket within the three-month extension period (see § 411.220 for an explanation of the three-month extension period);

(d) The 60th month for which an outcome payment is made to your EN (including a State VR agency) under subpart H of this part; or

(e) If you have assigned your ticket to a State VR agency which selects the cost reimbursement payment system, the 60th month for which an outcome payment would have been made had the State VR agency chosen to serve you as an EN.

§ 411.175 What if I assign my ticket after a continuing disability review has begun?

(a) If we begin a continuing disability review before the date on which you assign a ticket, you may still assign the ticket and receive services under the Ticket to Work program. However, we will complete the continuing disability review. If in this review we determine that you are no longer disabled, in most cases you will no longer be eligible to receive benefit payments. However, if you assigned your ticket before we determined that you are no longer disabled, in certain circumstances you may continue to receive benefit payments (see §§ 404.316(c), 404.337(c), 404.352(d), and 416.1338 of this chapter). If you appeal the decision that you are no longer disabled, you may also choose to have your benefits continued pending reconsideration and/or a hearing before an administrative law judge on the cessation determination (see §§ 404.1597a and 416.996 of this chapter).

(b) The date on which we begin the continuing disability review is the date on the notice we send you that tells you that we are beginning to review your disability case.

Guidelines for Timely Progress Toward Self-Supporting Employment

§ 411.180 What is timely progress toward self-supporting employment?

(a) *General.* The purpose of the Ticket to Work program is to provide you with the services and supports you need to work and reduce or eliminate your dependence on Social Security disability benefits and/or SSI benefits based on disability or blindness. We consider you to be making timely progress toward self-supporting employment when you show an increasing ability to work at levels which will reduce or eliminate your dependence on these benefits.

(b) *Definitions.* As used in this subpart—

(1) *Initial 24-month period* means the 24-month period that begins with the month following the month in which you first assigned your ticket. (See §§ 411.220(e) and 411.225(c) for when a new initial 24-month period may be established for you.) We do not count any month during which the ticket is not assigned to an EN or State VR agency, as described in § 411.145, or any month during which the ticket is not in use because it is in inactive status (see § 411.190(a)(2)) or because you were determined to be no longer making timely progress toward self-supporting employment under § 411.190(a)(3) or § 411.205.

(2) *12-month progress review period* means the 12-month period that begins either following the end of the initial 24-month period or following the previous 12-month progress review period. We do not count any month during which your ticket is not assigned to an EN or State VR agency, as described in § 411.145.

(c) *Guidelines.* We will determine whether you are making timely progress toward self-supporting employment by using the following guidelines:

(1) During the initial 24-month period after you assign your ticket, you must be actively participating in your employment plan. "Actively participating in your employment plan" means that you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the employment plan. These activities may include employment, if agreed to in the employment plan. At the end of the initial 24-month period, you must successfully complete the 24-month progress review, as described in § 411.195. If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work referred to in § 411.195(a)(2) and § 411.195(a)(3) for purposes of meeting the requirements of those sections regarding a goal of three months of work during the first 12-month progress review period.

(2) During your first 12-month progress review period, you must work (as defined in § 411.185) for at least three of these 12 months. The three months do not need to be consecutive. If you worked one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work required for the first 12-month progress review period.

(3) During your second 12-month progress review period, and in later 12-month progress review periods, you must work (as defined in § 411.185) for at least six of these 12 months. The six months do not need to be consecutive.

§ 411.185 How much do I need to earn to be considered to be working?

For the purpose of determining if you are meeting the timely progress requirements for continued ticket use, we will consider you to be working in each month in which you have earnings at the following levels:

(a) *For title II disability beneficiaries:*

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries, as defined in §§ 404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see § 404.1592 of this chapter), or if you are statutorily blind as defined in § 404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any deductions for impairment related work expenses under § 404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any deductions for impairment related work expenses under § 404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter.

Note to paragraph (a)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (a)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in § 411.180(c)(1) and the work requirements for the first 12-month progress review period as explained in § 411.180(c)(2).

(2) During your third 12-month progress review period, and during later 12-month progress review periods, we will consider you to be working in a month for which Social Security disability benefits are not payable to you because of your work or earnings.

(b) *For title XVI beneficiaries:*

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have—

(i) Gross earnings from employment, before any SSI income exclusions, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any SSI income exclusions, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter.

Example to paragraph (b)(1): If you earn $750 in January 2001, but exclude $200 of this income in a Plan for Achieving Self-Support (see §§ 416.1180–416.1182 of this chapter), you would still be considered to be working in that month.

Note to paragraph (b)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (b)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in § 411.180(c)(1) and the work requirements for the first 12-month progress review period as explained in § 411.180(c)(2).

VOL 66 ISS 249 DE 28 2001 UMI

(2) During your third 12-month progress review period, and during any later 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment that are sufficient to preclude the payment of Federal SSI cash benefits for a month.

(c) *For concurrent title II and title XVI beneficiaries:*

(1) During your first and second 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment at the SGA level for non-blind beneficiaries as defined in §§ 404.1572 through 404.1576 of this chapter. For a month in which you are in a trial work period (see § 404.1592 of this chapter), or if you are statutorily blind as defined in § 404.1581 of this chapter, we will consider the following as fulfilling this requirement—

(i) Gross earnings from employment, before any SSI income exclusions or deductions for impairment related work expenses under § 404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter; or

(ii) Net earnings from self-employment (as defined in § 416.1110(b) of this chapter), before any SSI income exclusions or deductions for impairment related work expenses under § 404.1576 of this chapter, that are more than the SGA threshold amount for non-blind beneficiaries in § 404.1574(b)(2) of this chapter.

Note to paragraph (c)(1): If you worked in one or more months during the initial 24-month period at the level of work described in paragraph (c)(1) of this section, those months of work may be used to meet certain requirements of the 24-month progress review as explained in § 411.180(c)(1) and the work requirements for the first 12-month progress review period as explained in § 411.180(c)(2).

(2) During your third 12-month progress review period, and during later 12-month progress review periods, we will consider you to be working in a month in which you have earnings from employment or self-employment sufficient to preclude the payment of Social Security disability benefits and Federal SSI cash benefits for a month.

§ 411.190 How is it determined if I am meeting the timely progress guidelines?

(a) *During the initial 24-month period.*

(1) *General.* During the initial 24-month period after you assign your ticket, you must be actively participating in your employment plan, as defined in § 411.180(c)(1). Active participation in your employment plan will be presumed unless you or your EN or State VR agency tell the program manager (PM) that you are not actively participating. (See § 411.115(k) for a definition of the PM.) If you or your EN or State VR agency report to the PM that you are temporarily unable to participate or are not actively participating in your employment plan during the initial 24-month period after you assign your ticket, the PM will give you the choice of placing your ticket in inactive status or resuming active participation in your employment plan.

(2) *Inactive status.* If you choose to place the ticket in inactive status, your ticket will be placed in inactive status beginning with the first day of the month following the month in which you make your request. You are not considered to be using a ticket during months in which your ticket is in inactive status. Therefore, you will be subject to continuing disability reviews during those months. The months in which your ticket is in inactive status do not count toward the time limitations for making timely progress toward self-supporting employment. You may not place your ticket in inactive status after the initial 24-month period.

(i) To place a ticket in inactive status, you must submit a written request to the PM asking that your ticket be placed in inactive status. The request must include a statement from your EN or State VR agency that you will not be participating in your plan or receiving services from them during the period of inactive status.

(ii) If your ticket is still assigned to an EN or State VR agency, you may reactivate your ticket and return to in-use status at any time by submitting a written request to the PM. Your ticket will be reactivated beginning with the first day of the month following the month in which the PM receives your request.

(3) *Resuming active participation.* If you choose to resume active participation in your employment plan, you will be allowed three months to demonstrate this active participation to the PM. During this period, you will be considered to be making timely progress toward self-supporting employment, and these months will count toward your initial 24-month period. The PM will contact your EN or State VR agency after the three months to determine whether you have been actively participating in your employment plan during these three months. If the EN or State VR agency reports that you have been actively participating in your employment plan during these three months, you will continue to be considered to be making timely progress toward self-supporting employment. If the EN or State VR agency reports that you have not been actively participating in your employment plan during these three months, the PM will find that you are no longer making timely progress toward self-supporting employment. The PM will send a written notice of this decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will become effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

(b) *After the initial 24-month period.*

(1) After the initial 24-month period, the PM will conduct progress reviews to determine if you are meeting the timely progress guidelines for continuing to be considered to be using a ticket.

(2) The PM will conduct a 24-month progress review at the end of the initial 24-month period. (See § 411.195.)

(3) If you successfully complete your 24-month progress review, the PM will then conduct 12-month progress reviews at the end of each 12-month progress review period. (See § 411.200.)

§ 411.191 Table summarizing the guidelines for timely progress toward self-supporting employment.

You may use the following table as a general guide to determine what you need to do to meet the guidelines for timely progress toward self-supporting employment. For more detail, refer to §§ 411.180–411.190, and §§ 411.195 and 411.200.

If you:	You are in this period:	You must work:	With this level of earnings:	At the end of the period we will conduct your:
(a) First assigned your ticket less than 24 months ago (not counting any months during which your ticket was unassigned or was not in use).	Initial 24-month period	No work requirement. Must be actively participating in employment plan.	Not applicable	24-month progress review.
(b) First assigned your ticket 25 to 36 months ago, not counting certain months [1].	First 12-month progress review period.	3 months out of 12 [2] ..	Earnings at the SGA level for non-blind beneficiaries; [3] or if you are an SSI-only beneficiary, gross earnings from employment or net earnings from self-employment which, before SSI income exclusions, are more than the SGA threshold amount for non-blind beneficiaries.	First 12-month progress review.
(c) First assigned your ticket 37 to 48 months ago, not counting certain months [1].	Second 12-month progress review period.	6 months out of 12	Earnings at the SGA level for non-blind beneficiaries; [2] or if you are an SSI-only beneficiary, gross earnings from employment or net earnings from self-employment which, before SSI income exclusions, are more than the SGA threshold amount for non-blind beneficiaries.	Second 12-month progress review.
(d) First assigned your ticket 49 to 60 months ago, not counting certain months [3].	Third 12-month progress review period.	6 months out of 12	Earnings sufficient to preclude Social Security disability and Federal SSI cash benefits for a month.	Third 12-month progress review.

Note to table: In later 12-month progress review periods, the work and earnings requirements are the same as in the third 12-month progress review period.

[1] In counting the 24 months which make up the initial 24-month period that begins after you assign your ticket, we do not count any months during which your ticket was unassigned or was not in use (see § 411.180(b)(1)). In counting the 12 months which make up any subsequent 12-month progress revieww period, we do not count any months during which your ticket was unassigned (see § 411.180(b)(2)).

[2] If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work required for the first 12-month progress review period (see § 411.180(c)(2)).

[3] For an explanation of how we determine if you meet this requirement if you are in a trial work period or if you are blind, see § 411.185(a)(1) or (c)(1).

§ 411.195 How will the PM conduct my 24-month progress review?

(a) In this review the PM will consider the following:

(1) Are you actively participating in your employment plan? By "actively participating in your employment plan," we mean that you are engaging in activities outlined in your employment plan on a regular basis and in the approximate time frames specified in the plan. These activities may include employment, if agreed to in the employment plan.

(2) Does your employment plan have a goal of at least three months of work (as defined in § 411.185) by the time of your first 12-month progress review?

(3) Given your current progress in your employment plan, can you reasonably be expected to reach this goal of at least three months of work (as defined in § 411.185) at the time of your first 12-month progress review?

Note to paragraph (a): If you worked in one or more months during the initial 24-month period at the level of work applicable to the work requirement for the first 12-month progress review period, each such month of work may be used to reduce by one month the number of months of work referred to in paragraphs (a)(2) and (3) of this section and the number of months of work required for the first 12-month progress review period (see § 411.180(c)(1) and (2)).

(b) If the answer to all three of these questions is yes, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your first 12-month progress review.

(c) If the answer to any of these questions is no, the PM will find that you are not making timely progress toward self-supporting employment. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

VOL 66 ISS 249 DE 28 2001 UMI

§ 411.200 How will the PM conduct my 12-month progress reviews?

(a) The 12-month progress review is a two step process:

(1) *Step one—Retrospective review.* Did you complete the work requirements (as specified in § 411.180 and § 411.185) in the just completed 12-month progress review period?

(i) If you have not completed the work requirements, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If you have completed the work requirements, the PM will go to step two.

(2) *Step two—Anticipated work level.* Do both you and your EN or State VR agency expect that you will work at the level required during the next 12-month progress review period?

(i) If not, the PM will find that you are not making timely progress toward self-supporting employment.

(ii) If so, the PM will find that you are making timely progress toward self-supporting employment. We will consider you to be making timely progress toward self-supporting employment until your next 12-month progress review.

(b) If the PM finds that you are not making timely progress toward self-supporting employment, the PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. The decision will be effective 30 days after the date on which the PM sends the notice of the decision to you, unless you request that we review the decision under § 411.205.

§ 411.205 What if I disagree with the PM's decision about whether I am making timely progress toward self-supporting employment?

If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will consider you to be making timely progress toward self-supporting employment until we make a decision. We will send a written notice of our decision to you at your last known address. If we decide that you are no longer making timely progress toward self-supporting employment, our decision will be effective on the date on which we send the notice of the decision to you.

Failure To Make Timely Progress

§ 411.21 What happens if I do not make timely progress toward self-supporting employment?

(a) *General.* If it is determined that you are not making timely progress toward self-supporting employment, we will find that you are no longer using a ticket. If this happens, you will once again be subject to continuing disability reviews. However, you may continue participating in the Ticket to Work program. Your EN (including a State VR agency which is serving you as an EN) also may receive any milestone or outcome payments for which it is eligible under § 411.500 *et seq.* If you are working with a State VR agency which elected payment under the cost reimbursement payment system, your State VR agency may receive payment for which it is eligible under the cost reimbursement payment system (see subparts F and H of this part).

(b) *Re-entering in-use status.* If you failed to meet the timely progress guidelines for continuing to use a ticket, you may re-enter in-use status. If you believe that you meet the requirements for re-entering in-use status described in paragraph (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this section, you may request that you be reinstated to in-use status. You must submit a written request to the PM asking that you be reinstated to in-use status. The PM will decide whether you have satisfied the applicable requirements for re-entering in-use status. The requirements for re-entering in-use status depend on how far you progressed before you failed to meet the timely progress guidelines.

(1) *If you failed to meet the timely progress guidelines during the initial 24-month period.*

(i) If you failed to meet the timely progress guidelines during the initial 24-month period, you may re-enter in-use status by demonstrating three consecutive months of active participation in your employment plan (see § 411.166(a)).

(ii) When you have satisfied this requirement, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next review will be the 24-month progress review described in § 411.195.

(2) *If you failed to meet the timely progress guidelines in your 24-month progress review.*

(i) If you failed to meet the timely progress guidelines in your 24-month progress review, you may re-enter in-use status by completing three months of work (as defined in § 411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test of § 411.200(a)(2) regarding the anticipated level of your work during the 12-month progress review period that may begin under paragraph (b)(2)(iii) of this section. The work requirements for this 12-month progress review period will be the work requirements applicable during the second 12-month progress review period.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, the second 12-month progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in § 411.185(a)(1), (b)(1) or (c)(1)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(3) *If you failed to meet the timely progress guidelines in your first 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in your first 12-month progress review, you may re-enter in-use status by completing three months of work (as defined in § 411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test of § 411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(3)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in

§ 411.185(a)(1), (b)(1) or (c)(1)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(4) *If you failed to meet the timely progress guidelines in your second 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in your second 12-month progress review, you may re-enter in-use status by completing six months of work (as defined in § 411.185(a)(1), (b)(1) or (c)(1)) within a rolling 12-month period. The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test of § 411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(4)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month progress review period will begin. During this 12-month progress review period, you will be required to work (as defined in § 411.185(a)(2), (b)(2) or (c)(2)) at least six months. The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(5) *If you failed to meet the timely progress guidelines in any progress review after your second 12-month progress review.*

(i) If you failed to meet the timely progress guidelines in any progress review after your second 12-month progress review, you may re-enter in-use status by completing six months of work within a rolling 12-month period with earnings in each of the six months at the level specified in § 411.185(a)(2), (b)(2) or (c)(2). The rolling 12-month period must begin after the effective date of the decision that you failed to meet the timely progress guidelines. You also must satisfy the test in § 411.200(a)(2) regarding the anticipated level of your work during the next 12-month progress review period that may begin under paragraph (b)(5)(iii) of this section.

(ii) When you have satisfied these requirements, you will be reinstated to in-use status, provided that your ticket is assigned to an EN or State VR agency. See paragraph (c) of this section for when your reinstatement to in-use status will be effective.

(iii) After you are reinstated to in-use status, your next 12-month progress review period will begin. During this 12-month progress review period, you will be required to work at least six months with earnings at the level specified in § 411.185(a)(2), (b)(2) or (c)(2). The PM will conduct a 12-month progress review at the end of this 12-month progress review period to determine if you have met this requirement. After this, the PM will conduct 12-month progress reviews in the usual manner.

(c) *Decisions on whether you have satisfied the requirements for re-entering in-use status.*

(1) After you have submitted a written request to the PM asking that you be reinstated to in-use status, the PM will decide whether you have satisfied the applicable requirements in this section for re-entering in-use status. The PM will send a written notice of the decision to you at your last known address. The notice will explain the reasons for the decision and inform you of the right to ask us to review the decision. If the PM decides that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency), you will be reinstated to in-use status effective with the date on which the PM sends the notice of the decision to you. If the PM decides that you have not satisfied the requirements for re-entering in-use status, you may request that we review the decision under paragraph (c)(2) of this section.

(2) If you disagree with the PM's decision, you may request that we review the decision. You must make the request before the 30th day after the date on which the PM sends the notice of its decision to you. We will send you a written notice of our decision at your last known address. If we decide that you have satisfied the requirements for re-entering in-use status (including the requirement that your ticket be assigned to an EN or State VR agency), you will be reinstated to in-use status effective with the date on which we send the notice of the decision to you.

The Extension Period

§ 411.220 What if my ticket is no longer assigned to an EN or State VR agency?

(a) If your ticket was once assigned to an EN or State VR agency and is no longer assigned, you are eligible for an extension period of up to three months to reassign your ticket. You are eligible for an extension period if your ticket is in use and no longer assigned because—

(1) You retrieved your ticket because you were dissatisfied with the services being provided (see § 411.145(a)) or because you relocated to an area not served by your previous EN or State VR agency; or

(2) Your EN went out of business, is no longer approved to participate as an EN in the Ticket to Work program, or is no longer willing or able to provide you with services as described in § 411.145(b), or your State VR agency stopped providing services to you as described in § 411.145(b).

(b) During the extension period, the ticket will still be considered to be in use. This means that you will not be subject to continuing disability reviews during this period.

(c) Time spent in the extension period will not count toward the time limitations for the timely progress guidelines.

(d) The extension period—

(1) Begins on the first day on which the ticket is no longer assigned (see § 411.145); and

(2) Ends three months after it begins or when you assign your ticket to a new EN or State VR agency, whichever is sooner.

(e) If your extension period began during the initial 24-month period, and you reassign your ticket to an EN or State VR agency (other than the EN or State VR agency to which the ticket was previously assigned), you will have a new initial 24-month period when you reassign your ticket. This initial 24-month period will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

(f) If you do not assign your ticket by the end of the extension period, the ticket will no longer be in use and you will once again be subject to continuing disability reviews.

§ 411.225 What if I reassign my ticket after the end of the extension period?

(a) *General.* You may reassign your ticket after the end of the extension period under the conditions described in § 411.150. If you reassign your ticket after the end of the extension period, you will be reinstated to in-use status beginning on the day on which the reassignment of your ticket is effective under § 411.150(c).

(b) *Time limitations for the timely progress guidelines.* Any month during which your ticket is not assigned, either during or after the extension period,

VOL 66 ISS 249 DE 28 2001 UMI

will not count toward the time limitations for the timely progress guidelines. See § 411.180(b)(1) and (2).

(c) *If your extension period began during the initial 24-month period.* If your extension period began during the initial 24-month period, and you reassign your ticket to an EN or State VR agency (other than the EN or State VR agency to which the ticket was previously assigned), you will have a new initial 24-month period when you reassign your ticket. This initial 24-month period will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

(d) *If your extension period began during any 12-month progress review period.* If your extension period began during a 12-month progress review period and you reassign your ticket after the end of the extension period, the period comprising the remaining months in that 12-month progress review period (see § 411.180(b)(2)) will begin with the first month beginning after the day on which the reassignment of your ticket is effective under § 411.150(c).

Subpart D—Use of One or More Program Managers To Assist in Administration of the Ticket to Work Program

§ 411.230 What is a PM?

A program manager (PM) is an organization in the private or public sector that has entered into a contract to assist us in administering the Ticket to Work program. We will use a competitive bidding process to select one or more PMs.

§ 411.235 What qualifications are required of a PM?

A PM must have expertise and experience in the field of vocational rehabilitation or employment services.

§ 411.240 What limitations are placed on a PM?

A PM is prohibited from directly participating in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets in the PM's designated service delivery area. A PM is also prohibited from holding a financial interest in an employment network (EN) or service provider that provides services under the Ticket to Work program in the PM's designated service delivery area.

§ 411.245 What are a PM's responsibilities under the Ticket to Work program?

A PM will assist us in administering the Ticket to Work program by conducting the following activities:

(a) *Recruiting, recommending, and monitoring ENs.* A PM must recruit and recommend for selection by us public and private entities to function as ENs under the program. A PM is also responsible for monitoring the ENs operating in its service delivery area. Such monitoring must be done to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries with tickets. A PM may not limit the number of public or private entities being recommended to function as ENs.

(b) *Facilitating access by beneficiaries to ENs.* A PM must assist beneficiaries with tickets in accessing ENs.

(1) A PM must establish and maintain lists of the ENs available to beneficiaries with tickets in its service delivery area and make these lists generally available to the public.

(2) A PM must ensure that all information provided to beneficiaries with tickets about ENs is in accessible formats. For purposes of this section, accessible format means by media that is appropriate to a particular beneficiary's impairment(s).

(3) A PM must take necessary measures to ensure that sufficient ENs are available and that each beneficiary under the Ticket to Work program has reasonable access to employment services, vocational rehabilitation services, and other support services. The PM shall ensure that services such as the following are available in each service area, including rural areas: case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and other services that we may require in an agreement with a PM.

(4) A PM must ensure that each beneficiary with a ticket is allowed to change ENs. When a change in the EN occurs, the PM must reassign the ticket based on the choice of the beneficiary.

(c) *Facilitating payments to ENs.* A PM must facilitate payments to the ENs in its service delivery area. Subpart H explains the EN payment systems and the PM's role in administering these systems.

(1) A PM must maintain documentation and provide regular assurances to us that payments to an EN are warranted. The PM shall ensure that an EN is complying with the terms of its agreement and applicable regulations.

(2) Upon the request of an EN, the PM shall make a determination of the allocation of the outcome or milestone payments due to an EN based on the services provided by the EN when a beneficiary has been served by more than one EN.

(d) *Administrative requirements.* A PM will perform such administrative tasks as are required to assist us in administering and implementing the Ticket to Work program. Administrative tasks required for the implementation of the Program may include, but are not limited to:

(1) Reviewing individual work plans (IWPs) submitted by ENs for ticket assignment. These reviews will be conducted to ensure that the IWPs meet the requirements of § 411.465. (The PM will not review individualized plans for employment developed by State VR agencies and beneficiaries.)

(2) Reviewing amendments to IWPs to ensure that the amendments meet the requirements in § 411.465.

(3) Ensuring that ENs only refer an individual to a State VR agency for services pursuant to an agreement regarding the conditions under which such services will be provided.

(4) Resolving a dispute between an EN and a State VR agency with respect to agreements regarding the conditions under which services will be provided when an individual is referred by an EN to a State VR agency for services.

Evaluation of Program Manager Performance

§ 411.250 How will SSA evaluate a PM?

(a) We will periodically conduct a formal evaluation of the PM. The evaluation will include, but not be limited to, an assessment examining the following areas:

(1) Quality of services;
(2) Cost control;
(3) Timeliness of performance;
(4) Business relations; and
(5) Customer satisfaction.

(b) Our Project Officer will perform the evaluation. The PM will have an opportunity to comment on the evaluation, and then the Contracting Officer will determine the PM's final rating.

(c) These performance evaluations will be made part of our database on contractor past performance to which any Federal agency may have access.

(d) Failure to comply with the standards used in the evaluation may result in early termination of our agreement with the PM.

Subpart E—Employment Networks

§ 411.300 What is an EN?

An employment network (EN) is any qualified entity that has entered into an agreement with us to function as an EN under the Ticket to Work program and assume responsibility for the coordination and delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries who have assigned their tickets to that EN.

§ 411.305 Who is eligible to be an EN?

Any qualified agency or instrumentality of a State (or political subdivision thereof) or a private entity that assumes responsibility for the coordination and delivery of services under the Ticket to Work program to disabled beneficiaries is eligible to be an EN. A single entity or an association of or consortium of entities combining their resources is eligible to be an EN. The entity may provide these services directly or by entering into an agreement with other organizations or individuals to provide the appropriate services or other assistance that a beneficiary with a ticket may need to find and maintain employment that reduces dependency on disability benefits. ENs may include, but are not limited to:

(a) Any public or private entity, including charitable and religious organizations, that can provide directly, or arrange for other organizations or entities to provide, employment services, vocational rehabilitation services, or other support services.

(b) State agencies administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) may choose, on a case-by-case basis, to be paid as an EN under the payment systems described in subpart H of this part. For the rules on State VR agencies' participation in the Ticket to Work program, see subpart F of this part. The rules in this subpart E apply to entities other than State VR agencies.

(c) One-stop delivery systems established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2841 *et seq.*).

(d) Alternate participants currently operating under the authority of section 222(d)(2) of the Social Security Act.

(e) Organizations administering Vocational Rehabilitation Services Projects for American Indians with Disabilities authorized under section 121 of part C of title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 750 *et seq.*).

(f) Public or private schools that provide VR or employment services, conduct job training programs, or make services or programs available that can assist students with disabilities in acquiring specific job skills that lead to employment. This includes transition programs that can help students acquire work skills.

(g) Employers that offer job training or other support services or assistance to help individuals with disabilities obtain and retain employment or arrange for individuals with disabilities to receive relevant services or assistance.

§ 411.310 How does an entity other than a State VR agency apply to be an EN and who will determine whether an entity qualifies as an EN?

(a) An entity other than a State VR agency applies by responding to our Request for Proposal (RFP), which we published in the Commerce Business Daily and which is available online through the Federal government's electronic posting system (*http://www.eps.gov*). This RFP also is available through SSA's website, *http://www.ssa.gov/work*. Since recruitment of ENs will be an ongoing process, the RFP is open and continuous. The entity must respond in a format prescribed in the RFP announcement. In its response, the entity must assure SSA that it is qualified to provide employment services, vocational rehabilitation services, or other support services to disabled beneficiaries, either directly or through arrangements with other entities.

(b) The PM will solicit service providers and other qualified entities to respond to the RFP on an ongoing basis. (See § 411.115(k) for a definition of the PM.) The PM will conduct a preliminary review of responses to the RFP from applicants located in the PM's service delivery area and make recommendations to the Commissioner regarding selection. The Commissioner will decide which applicants will be approved to serve as ENs under the program.

(c) State VR agencies must comply with the requirements in subpart F of this part to participate as an EN in the Ticket to Work program. (See §§ 411.360ff).

§ 411.315 What are the minimum qualifications necessary to be an EN?

To serve as an EN under the Ticket to Work program, an entity must meet and maintain compliance with both general selection criteria and specific selection criteria.

(a) The general criteria include:

(1) having systems in place to protect the confidentiality of personal information about beneficiaries seeking or receiving services;

(2) being accessible, both physically and programmatically, to beneficiaries seeking or receiving services (examples of being programmatically accessible include the capability of making documents and literature available in alternate media including Braille, recorded formats, enlarged print, and electronic media; and insuring that data systems available to clients are fully accessible for independent use by persons with disabilities);

(3) not discriminating in the provision of services based on a beneficiary's age, gender, race, color, creed, or national origin;

(4) having adequate resources to perform the activities required under the agreement with us or the ability to obtain them;

(5) complying with the terms and conditions in the agreement with us, including delivering or coordinating the delivery of employment services, vocational rehabilitation services, and other support services; and

(6) implementing accounting procedures and control operations necessary to carry out the Ticket to Work program.

(b) The specific criteria that an entity must meet to qualify as an EN include:

(1)(i) Using staff who are qualified under applicable certification, licensing, or registration standards that apply to their profession including certification or accreditation by national accrediting or certifying organizations; or

(ii) Using staff that are otherwise qualified based on education or experience, such as by using staff with experience or a college degree in a field related to the services the EN wants to provide, such as vocational counseling, human relations, teaching, or psychology; and

(2) Taking reasonable steps to assure that if any medical and related health services are provided, such medical and health related services are provided under the formal supervision of persons licensed to prescribe or supervise the provision of these services in the State in which the services are performed.

(c) Any entity must have applicable certificates, licenses or other credentials if such documentation is required by State law to provide vocational rehabilitation services, employment services or other support services.

(d) We will not use the following as an EN:

(1) any entity that has had its license, accreditation, certification, or registration suspended or revoked for reasons concerning professional

VOL 66 ISS 249 DE 28 2001 UMI

competence or conduct or financial integrity;

(2) any entity that has surrendered a license, accreditation, certification, or registration with a disciplinary proceeding pending; or

(3) any entity that is precluded from Federal procurement or non-procurement programs.

§411.320 What are an EN's responsibilities as a participant in the Ticket to Work program?

An EN must—

(a) Enter into an agreement with us.

(b) Serve a prescribed service area. The EN must designate the geographic area in which it will provide services. This will be designated in the EN's agreement with us.

(c) Provide services directly, or enter into agreements with other entities to provide employment services, vocational rehabilitation services, or other support services to beneficiaries with tickets.

(d) Ensure that employment services, vocational rehabilitation services, and other support services provided under the Ticket to Work program are provided under appropriate individual work plans (IWPs).

(e) Elect a payment system at the time of signing an agreement with us (see § 411.505).

(f) Develop and implement each IWP in partnership with each beneficiary receiving services in a manner that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal. Each IWP must meet the requirements described in § 411.465.

§411.321 Under what conditions will SSA terminate an agreement with an EN due to inadequate performance?

We will terminate our agreement with an EN if it does not comply with the requirements under §§ 411.320, § 411.325, or the conditions in the agreement between SSA and the EN, including minimum performance standards relating to beneficiaries achieving self-supporting employment and leaving the benefit rolls.

§411.325 What reporting requirements are placed on an EN as a participant in the Ticket to Work program?

An EN must:

(a) Report to the PM each time it accepts a ticket for assignment;

(b) Submit a copy of each signed IWP to the PM;

(c) Submit to the PM copies of amendments to a beneficiary's IWP;

(d) Submit to the PM a copy of any agreement the EN has established with a State VR agency regarding the conditions under which the State VR agency will provide services to beneficiaries who are referred by the EN under the Ticket to Work program;

(e) Submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress towards self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see subpart C of this part);

(f) Report to the PM the specific outcomes achieved with respect to specific services the EN provided or secured on behalf of beneficiaries whose tickets it accepted for assignment. Such reports shall conform to a national model prescribed by us and shall be submitted to the PM at least annually;

(g) Provide a copy of its most recent annual report on outcomes to each beneficiary considering assigning a ticket to it and assure that a copy of its most recent report is available to the public while ensuring that personal information on beneficiaries is kept confidential;

(h) Meet our financial reporting requirements. These requirements will be described in the agreements between ENs and the Commissioner, and will include submitting a financial report to the program manager on an annual basis;

(i) Collect and record such data as we shall require, in a form prescribed by us; and

(j) Adhere to all requirements specified in the agreement with the Commissioner and all regulatory requirements in this part 411.

§411.330 How will SSA evaluate an EN's performance?

(a) We will periodically review the results of the work of each EN to ensure effective quality assurance in the provision of services by ENs.

(b) In conducting such a review, we will solicit and consider the views of the individuals the EN serves and the PM which monitors the EN.

(c) ENs must make the results of these periodic reviews available to disabled beneficiaries to assist them in choosing among available ENs.

Subpart F—State Vocational Rehabilitation Agencies' Participation

Participation in the Ticket to Work Program

§411.350 Must a State VR agency participate in the Ticket to Work program?

Yes. Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), must participate in the Ticket to Work program if it wishes to receive payments from SSA for serving disabled beneficiaries who are issued a ticket.

§411.355 What payment options does a State VR agency have under the Ticket to Work program?

(a) The Ticket to Work program provides different payment options that are available to a State VR agency for providing services to disabled beneficiaries who have a ticket. A State VR agency participates in the program in one of two ways when providing services to a particular disabled beneficiary under the program. On a case-by-case basis, subject to the limitations in § 411.585, the State VR agency may participate either—

(1) As an employment network (EN); or

(2) Under the cost reimbursement payment system (see subpart V of part 404 and subpart V of part 416 of this chapter).

(b) When the State VR agency serves a beneficiary with a ticket as an EN, the State VR agency will use the EN payment system it has elected for this purpose, either the outcome payment system or the outcome-milestone payment system (described in subpart H of this part). The State VR agency will have periodic opportunities to change the payment system it uses when serving as an EN.

(c) The State VR agency may seek payment only under its elected EN payment system whenever it serves as an EN. When serving a beneficiary who was not issued a ticket, the State VR agency may seek payment only under the cost reimbursement payment system.

(d) A State VR agency can choose to function as an EN or to receive payment under the cost reimbursement payment system each time that a ticket is assigned or reassigned to it if payment has not previously been made with respect to that ticket. If payment has previously been made with respect to that ticket, the State VR agency can receive payment only under the payment system under which the earlier payment was made.

§411.360 How does a State VR agency become an EN?

(a) As the Ticket to Work program is implemented in States, we will notify the State VR agency by letter about payment systems available under the program. The letter will ask the State VR agency to choose a payment system to use when it functions as an EN.

(b) When serving a beneficiary holding a ticket, the State VR agency may choose, on a case-by-case basis, to seek payment under its elected EN payment system or under the cost reimbursement payment system, subject to the limitations in § 411.585.

§ 411.365 How does a State VR agency notify SSA about its choice of a payment system for use when functioning as an EN?

(a) When the State VR agency receives our letter described in § 411.360(a) regarding implementation of the Ticket to Work program, the State VR agency must respond by sending us a letter telling us which EN payment system it will use when it functions as an EN with respect to a beneficiary who has a ticket.

(b) The director of the State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), or the director's designee must sign the State VR agency's letter described in paragraph (a) of this section.

§ 411.370 Does a State VR agency ever have to function as an EN?

A State VR agency does not have to function as an EN when serving a beneficiary with a ticket if the ticket has not previously been assigned to an EN or State VR agency or, if it has been previously assigned, we have not made payment under an EN payment system with respect to that ticket. However, as described in § 411.585(b), a State VR agency is precluded from being paid under the cost reimbursement payment system if an EN or a State VR agency serving a beneficiary as an EN has been paid by us under one of the EN payment systems with respect to the same ticket.

§ 411.375 Does a State VR agency continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), when functioning as an EN?

Yes. The State VR agency must continue to provide services under the requirements of the State plan approved under title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*), even when functioning as an EN.

Ticket Status

§ 411.380 What does a State VR agency do if the State VR agency wants to determine whether a person seeking services has a ticket?

A State VR agency can contact the Program Manager (PM) to determine if a person seeking VR services has a ticket and, if so, whether the ticket may be assigned to the State VR agency (see § 411.140) or reassigned to the State VR agency (see § 411.150). (See § 411.115(k) for a definition of the PM.)

§ 411.385 What does a State VR agency do if a beneficiary who is eligible for VR services has a ticket that is available for assignment or reassignment?

(a) Once the State VR agency determines that a beneficiary is eligible for VR services, the beneficiary and a representative of the State VR agency must agree to and sign the individualized plan for employment (IPE) required under section 102(b) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(b)). This requirement must be met in order for a beneficiary to assign or reassign his or her ticket to the State VR agency. Section 411.140(d) describes the other requirements which must be met in order for a beneficiary to assign a ticket. Section 411.150(a) and (b) describe the other requirements which must be met in order for a beneficiary to reassign a ticket. Under § 411.140(d)(3) and § 411.150(b)(4), the State VR agency must submit the following information to the PM in order for the beneficiary's ticket to be assigned or reassigned to the State VR AGENCY:

(1) A statement that the beneficiary has decided to assign or reassign the ticket to the State VR agency and that an IPE has been agreed to and signed by both the beneficiary and a representative of the State VR agency;

(2) A statement of the vocational goal outlined in the beneficiary's IPE; and

(3) A statement of the State VR agency's selection of the payment system (either the cost reimbursement payment system or the previously elected EN payment system) under which the State VR agency will seek payment for providing services to the beneficiary.

(b) This information must be submitted to the PM in a format prescribed by us and must include the signatures of both the beneficiary, or a representative of the beneficiary, and a representative of the State VR agency.

§ 411.390 What does a State VR agency do if a beneficiary to whom it is already providing services has a ticket that is available for assignment?

If a beneficiary who is receiving services from the State VR agency under an existing IPE becomes eligible for a ticket that is available for assignment and decides to assign the ticket to the State VR agency, the State VR agency must submit the information required in § 411.385(a)(1)–(3) and (b) to the PM. This requirement must be met in order for the beneficiary to assign his or her ticket to the State VR agency. Section 411.140(d) describes the other requirements which must be met in order for a beneficiary to assign a ticket.

§ 411.395 Is a State VR agency required to provide periodic reports?

(a) For cases where a State VR agency provided services functioning as an EN, the State VR agency will be required to prepare periodic reports on the specific outcomes achieved with respect to the specific services the State VR agency provided to or secured for disabled beneficiaries whose tickets it accepted for assignment. These reports must be submitted to the PM at least annually.

(b) Regardless of the payment method selected, a State VR agency must submit information to assist the PM conducting the reviews necessary to assess a beneficiary's timely progress toward self-supporting employment to determine if a beneficiary is using a ticket for purposes of suspending continuing disability reviews (see §§ 411.190, 411.195 and 411.200).

Referrals by Employment Networks to State VR Agencies

§ 411.400 Can an EN to which a beneficiary's ticket is assigned refer the beneficiary to a State VR agency for services?

Yes. An EN may refer a beneficiary it is serving under the Ticket to Work program to a State VR agency for services. However, a referral can be made only if the State VR agency and the EN have an agreement that specifies the conditions under which services will be provided by the State VR agency. This agreement must be in writing and signed by the State VR agency and the EN prior to the EN referring any beneficiary to the State VR agency for services.

Agreements Between Employment Networks and State VR Agencies

§ 411.405 When does an agreement between an EN and the State VR agency have to be in place?

Each EN must have an agreement with the State VR agency prior to referring a beneficiary it is serving under the Ticket to Work program to the State VR agency for specific services.

§ 411.410 Does each referral from an EN to a State VR agency require its own agreement?

No. The agreements between ENs and State VR agencies should be broad-based and apply to all beneficiaries who may be referred by the EN to the State VR agency for services, although an EN and a State VR agency may want to

VOL 66 ISS 249 DE 28 2001 UMI

enter into an individualized agreement to meet the needs of a single beneficiary.

§ 411.415 Who will verify the establishment of agreements between ENs and State VR agencies?

The PM will verify the establishment of these agreements. Each EN is required to submit a copy of the agreement it has established with the State VR agency to the PM.

§ 411.420 What information should be included in an agreement between an EN and a State VR agency?

The agreement between an EN and a State VR agency should state the conditions under which the State VR agency will provide services to a beneficiary when the beneficiary is referred by the EN to the State VR agency for services. Examples of this information include-

(a) Procedures for making referrals and sharing information that will assist in providing services;

(b) A description of the financial responsibilities of each party to the agreement;

(c) The terms and procedures under which the EN will pay the State VR agency for providing services; and

(d) Procedures for resolving disputes under the agreement.

§ 411.425 What should a State VR agency do if it gets an attempted referral from an EN and no agreement has been established between the EN and the State VR agency?

The State VR agency should contact the EN to discuss the need to establish an agreement. If the State VR agency and the EN are not able to negotiate acceptable terms for an agreement, the State VR agency should notify the PM that an attempted referral has been made without an agreement.

§ 411.430 What should the PM do when it is informed that an EN has attempted to make a referral to a State VR agency without an agreement being in place?

The PM will contact the EN to explain that a referral cannot be made to the State VR agency unless an agreement has been established that sets out the conditions under which services will be provided when a beneficiary's ticket is assigned to the EN and the EN is referring the beneficiary to the State VR agency for specific services.

Resolving Disputes Arising Under Agreements Between Employment Networks and State VR Agencies

§ 411.435 How will disputes arising under the agreements between ENs and State VR agencies be resolved?

Disputes arising under agreements between ENs and State VR agencies must be resolved using the following steps:

(a) When procedures for resolving disputes are spelled out in the agreement between the EN and the State VR agency, those procedures must be used.

(b) If procedures for resolving disputes are not included in the agreement between the EN and the State VR agency and procedures for resolving disputes under contracts and interagency agreements are provided for in State law or administrative procedures, the State procedures must be used to resolve disputes under agreements between ENs and State VR agencies.

(c) If procedures for resolving disputes are not spelled out in the agreement or in State law or administrative procedures, the EN or the State VR agency may request that the PM recommend a resolution to the dispute.

(1) The request must be in writing and include:

(i) a copy of the agreement;

(ii) information on the issue(s) in dispute; and

(iii) information on the position of both the EN and the State VR agency regarding the dispute.

(2) The PM has 20 calendar days after receiving a written request to recommend a resolution to the dispute. If either the EN or the State VR agency does not agree with the PM's recommended resolution to the dispute, the EN or the State VR agency has 30 calendar days after receiving the PM's recommendation to request a decision by us on the matter in dispute.

Subpart G—Requirements For Individual Work Plans

§ 411.450 What is an Individual Work Plan?

An individual work plan (IWP) is a required written document signed by an employment network (EN) (other than a State VR agency) and a beneficiary, or a representative of a beneficiary, with a ticket. It is developed and implemented in partnership when a beneficiary and an EN have come to a mutual understanding to work together to pursue the beneficiary's employment goal under the Ticket to Work program.

§ 411.455 What is the purpose of an IWP?

The purpose of an IWP is to outline the specific employment services, vocational rehabilitation services and other support services that the EN and beneficiary have determined are necessary to achieve the beneficiary's stated employment goal. An IWP provides written documentation for both the EN and beneficiary. Both parties should develop and implement the IWP in partnership. The EN shall develop and implement the plan in a manner that gives the beneficiary the opportunity to exercise informed choice in selecting an employment goal. Specific services needed to achieve the designated employment goal are discussed and agreed to by both parties.

§ 411.460 Who is responsible for determining what information is contained in the IWP?

The beneficiary and the EN share the responsibility for determining the employment goal and the specific services needed to achieve that employment goal. The EN will present information and options in a way that affords the beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal.

§ 411.465 What are the minimum requirements for an IWP?

(a) An IWP must include at least—

(1) A statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;

(2) A statement of the services and supports necessary for the beneficiary to accomplish that goal;

(3) A statement of any terms and conditions related to the provision of these services and supports;

(4) A statement that the EN may not request or receive any compensation for the costs of services and supports from the beneficiary;

(5) A statement of the conditions under which an EN may amend the IWP or terminate the relationship;

(6) A statement of the beneficiary's rights under the Ticket to Work program, including the right to retrieve the ticket at any time if the beneficiary is dissatisfied with the services being provided by the EN;

(7) A statement of the remedies available to the beneficiary, including information on the availability of advocacy services and assistance in resolving disputes through the State Protection and Advocacy (P&A) System;

(8) A statement of the beneficiary's rights to privacy and confidentiality regarding personal information, including information about the beneficiary's disability;

(9) A statement of the beneficiary's right to seek to amend the IWP (the IWP can be amended if both the beneficiary and the EN agree to the change); and

(10) A statement of the beneficiary's right to have a copy of the IWP made

available to the beneficiary, including in an accessible format chosen by the beneficiary.

(b) The EN will be responsible for ensuring that each IWP contains this information.

§ 411.470 When does an IWP become effective?

(a) An IWP becomes effective if the following requirements are met—

(1) It has been signed by the beneficiary or the beneficiary's representative, and by a representative of the EN;

(2)(i) The beneficiary is eligible to assign his or her ticket under § 411.140(a); or

(ii) The beneficiary is eligible to reassign his or her ticket under § 411.150(a) and (b); and

(3) A representative of the EN submits a copy of the signed IWP to the PM and the PM receives the copy of the IWP.

(b) If all of the requirements in paragraph (a) of this section are met, the IWP will be effective on the first day on which the requirements of paragraphs (a)(1) and (a)(2) of this section are met.

Subpart H—Employment Network Payment Systems

§ 411.500 Definitions of terms used in this subpart.

(a) *Payment Calculation Base* means for any calendar year—

(1) In connection with a title II disability beneficiary (including a concurrent title II/title XVI disability beneficiary), the average monthly disability insurance benefit payable under section 223 of the Act for months during the preceding calendar year to all beneficiaries who are in current pay status for the month for which the benefit is payable; and

(2) In connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average monthly payment of Supplemental Security Income (SSI) benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who—

(i) Have attained age 18 but have not attained age 65;

(ii) Are not concurrent title II/title XVI beneficiaries; and

(iii) Are in current pay status for the month for which the payment is made.

(b) *Outcome Payment Period* means a period of 60 months, not necessarily consecutive, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of the performance of substantial gainful activity (SGA) or by reason of earnings from work. This period begins with the first month, ending after the date on which the ticket was first assigned, for which such benefits are not payable due to SGA or earnings. This period ends with the 60th month, consecutive or otherwise, ending after such date, for which such benefits are not payable due to SGA or earnings.

(c) *Outcome Payment System* is a system providing a schedule of payments to an employment network (EN) for each month, during an individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings.

(d) *Outcome Payment* means the payment for an outcome payment month.

(e) *Outcome Payment Month* means a month, during the individual's outcome payment period, for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings. The maximum number of outcome payment months for each ticket is 60.

(f) *Outcome-Milestone Payment System* is a system providing a schedule of payments to an EN that includes, in addition to any outcome payments which may be made during the individual's outcome payment period, payment for completion by a beneficiary of up to four milestones directed toward the goal of permanent employment. The milestones for which payment may be made must occur prior to the beginning of the individual's outcome payment period.

§ 411.505 How is an EN paid by SSA?

An EN can elect to be paid under either the outcome payment system or the outcome-milestone payment system. The EN will elect a payment system at the time the EN enters into an agreement with SSA. (For State VR agencies, see § 411.365.) The EN may periodically change its elected payment system as described in § 411.515.

§ 411.510 How is the State VR agency paid under the Ticket to Work program?

(a) The State VR agency's payment choices are described in § 411.355.

(b) The State VR agency's decision to serve the beneficiary must be communicated to the program manager (PM). (See § 411.115(k) for a definition of the PM.) At the same time, the State VR agency must notify the PM of its selected payment system for that beneficiary.

(c) For each beneficiary who is already a client of the State VR agency prior to receiving a ticket, the State VR agency will notify the PM of the payment system election for each such beneficiary at the time the beneficiary decides to assign the ticket to the State VR agency.

§ 411.515 Can the EN change its elected payment system?

(a) Yes. Any change by an EN in its elected EN payment system will apply to beneficiaries who assign their ticket to the EN after the EN's change in election becomes effective. A change in the EN's election will become effective with the first day of the month following the month in which the EN notifies us of the change. For beneficiaries who already assigned their ticket to the EN under the EN's earlier elected payment system, the EN's earlier elected payment system will continue to apply. These rules also apply to a change by a State VR agency in its elected EN payment system for cases in which the State VR agency serves a beneficiary as an EN.

(b) After an EN (or a State VR agency) first elects an EN payment system, the EN (or State VR agency) can choose to make one change in its elected payment system at any time prior to the close of which of the following is later:

(1) The 12th month following the month in which the EN (or State VR agency) first elects an EN payment system; or

(2) The 12th month following the month in which we implement the Ticket to Work program in the State in which the EN (or State VR agency) operates.

(c) After an EN (or a State VR agency) first elects a payment system, as part of signing the EN agreement with us (for State VR agencies, see § 411.365), the EN (or State VR agency) will have the opportunity to change from its existing elected payment system during times announced by us. We will offer the opportunity for each EN (and State VR agency) to make a change in its elected payment system at least every 18 months.

§ 411.520 How are beneficiaries whose tickets are assigned to an EN affected by a change in that EN's elected payment system?

A change in an EN's (or State VR agency's) elected payment system has no effect upon the beneficiaries who have assigned their ticket to the EN (or State VR agency).

VOL 66 ISS 249 DE 28 2001 UMI

§ 411.525 How are the EN payments calculated under each of the two EN payment systems?

(a) For payments for outcome payment months, both EN payment systems use the payment calculation base as defined in § 411.500(a)(1) or (a)(2), as appropriate.

(1)(i) Under the outcome payment system, we can pay up to 60 monthly payments to the EN. For each month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings, the EN is eligible for a monthly outcome payment. Payment for an outcome payment month under the outcome payment system is equal to 40 percent of the payment calculation base for the calendar year in which such month occurs, rounded to the nearest whole dollar. (See § 411.550.)

(ii) If a disabled beneficiary's entitlement to Social Security disability benefits ends (see §§ 404.316(b), 404.337(b) and 404.352(b) of this chapter) or eligibility for SSI benefits based on disability or blindness terminates (see § 416.1335 of this chapter) because of the performance of SGA or by reason of earnings from work activity, we will consider any month after the month with which such entitlement ends or eligibility terminates to be a month for which Social Security disability benefits and Federal SSI cash benefits are not payable to the individual because of work or earnings if—

(A) The individual has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) in that month that are more than the SGA threshold amount in § 404.1574(b)(2) of this chapter (or in § 404.1584(d) of this chapter for an individual who is statutorily blind); and

(B) The individual is not entitled to any monthly benefits under title II or eligible for any benefits under title XVI for that month.

(2) Under the outcome-milestone payment system, we can pay the EN for up to four milestones achieved by a beneficiary who has assigned his or her ticket to the EN. The milestones for which payment may be made must occur prior to the beginning of the beneficiary's outcome period and meet the requirements of § 411.535. In addition to the milestone payments, monthly outcome payments can be paid to the EN during the outcome payment period.

(b) The outcome-milestone payment system is designed so that the total payments to the EN for a beneficiary are less than the total amount to which payments would be limited if the EN were paid under the outcome payment system. Under the outcome-milestone payment system, the EN's total potential payment is about 85 percent of the total that would have been potentially payable under the outcome payment system for the same beneficiary.

(c) We will pay an EN to whom the individual has assigned a ticket only for milestones or outcomes achieved in months prior to the month in which the ticket terminates (see § 411.155). We will not pay a milestone or outcome payment to an EN based on an individual's work activity or earnings in or after the month in which the ticket terminates.

§ 411.530 How will the outcome payments be reduced when paid under the outcome-milestone payment system?

Under the outcome-milestone payment system, each outcome payment made to an EN with respect to an individual will be reduced by an amount equal to 1/60th of the milestone payments made to the EN with respect to the same individual.

§ 411.535 What are the milestones for which an EN can be paid?

(a) Under the outcome-milestone payment system, there are four milestones for which the EN can be paid. The milestones occur after the date on which the ticket was first assigned and after the beneficiary starts to work. The milestones are based on the earnings levels that we use when we consider if work activity is SGA. We will use the SGA threshold amount in § 404.1574(b)(2) of this chapter for beneficiaries who are not statutorily blind, and we will use the SGA threshold amount in § 404.1584(d) of this chapter for beneficiaries who are statutorily blind. We will use these SGA threshold amounts in order to measure if the beneficiary's earnings level meets the milestone objective.

(1) The first milestone is met when the beneficiary has worked for one calendar month and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for that month that are more than the SGA threshold amount.

(2) The second milestone is met when the beneficiary has worked for three calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for each of the three months that are more than the SGA threshold amount. The month used to meet the first milestone can be included in the three months used to meet the second milestone.

(3) The third milestone is met when the beneficiary has worked for seven calendar months within a 12-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for each of the seven months that are more than the SGA threshold amount. Any of the months used to meet the first two milestones can be included in the seven months used to meet the third milestone.

(4) The fourth milestone is met when the beneficiary has worked for 12 calendar months within a 15-month period and has gross earnings from employment (or net earnings from self-employment as defined in § 416.1110(b) of this chapter) for each of the 12 months that are more than the SGA threshold amount. Any of the months used to meet the first three milestones can be included in the 12 months used to meet the fourth milestone.

(b) An EN can be paid for a milestone only if the milestone is attained after a beneficiary has assigned his or her ticket to the EN. See § 411.575 for other milestone payment criteria.

§ 411.540 What are the payment amounts for each of the milestones?

(a) The payment for the first milestone is equal to 34 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(b) The payment for the second milestone is equal to 68 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(c) The payment for the third milestone is equal to 136 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(d) The payment for the fourth milestone is equal to 170 percent of the payment calculation base for the calendar year in which the month of attainment of the milestone occurs, rounded to the nearest whole dollar.

(e) The month of attainment of the first milestone is the first month in which the individual has the required earnings as described in § 411.535.

(f) The month of attainment of the second milestone is the 3rd month, within a 12-month period, in which the individual has the required earnings as described in § 411.535.

(g) The month of attainment of the third milestone is the 7th month, within a 12-month period, in which the individual has the required earnings as described in § 411.535.

(h) The month of attainment of the fourth milestone is the 12th month, within a 15-month period, in which the individual has the required earnings as described in § 411.535.

§ 411.545 What are the payment amounts for outcome payment months under the outcome-milestone payment system?

The amount of each monthly outcome payment under the outcome-milestone payment system is equal to 34 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar, and reduced, if necessary, as described in § 411.530.

§ 411.550 What are the payment amounts for outcome payment months under the outcome payment system?

Under the outcome payment system, the payment for an outcome payment month is equal to 40 percent of the payment calculation base for the calendar year in which the month occurs, rounded to the nearest whole dollar.

§ 411.555 Can the EN keep the milestone and outcome payments even if the beneficiary does not achieve all 60 outcome months?

(a) Yes. The EN can keep each milestone and outcome payment for which the EN is eligible, even though the beneficiary does not achieve all 60 outcome months.

(b) Payments which we make or deny to an EN or State VR agency serving a beneficiary as an EN may be subject to adjustment (including recovery, as appropriate) if we determine that more or less than the correct amount was paid. This may happen, for example, because we determine that the payment determination was in error or because of—

(1) An allocation of a payment under § 411.560; or

(2) A determination or decision we make about an individual's right to benefits which causes the payment or denial of a payment to be incorrect (see § 411.590(d)).

(c) If we determine that an overpayment or underpayment has occurred, we will notify the EN or State VR agency serving a beneficiary as an EN of the adjustment. Any dispute which the EN or State VR agency has regarding the adjustment may be resolved under the rules in § 411.590(a) and (b).

§ 411.560 Is it possible to pay a milestone or outcome payment to more than one EN?

Yes. It is possible for more than one EN to receive payment based on the same milestone or outcome. If the beneficiary has assigned the ticket to more than one EN at different times, and more than one EN requests payment for the same milestone or outcome payment under its elected payment system, the PM will make a determination of the allocation of payment to each EN. The PM will make this determination based upon the contribution of the services provided by each EN toward the achievement of the outcomes or milestones. Outcome and milestone payments will not be increased because the payments are shared between two or more ENs.

§ 411.565 What happens if two or more ENs qualify for payment on the same ticket but have elected different EN payment systems?

We will pay each EN according to its elected EN payment system in effect at the time the beneficiary assigned the ticket to the EN.

§ 411.570 Can an EN request payment from the beneficiary who assigned a ticket to the EN?

No. Section 1148(b)(4) of the Act prohibits an EN from requesting or receiving compensation from the beneficiary for the services of the EN.

§ 411.575 How does the EN request payment for milestones or outcome payment months achieved by a beneficiary who assigned a ticket to the EN?

The EN will send its request for payment, evidence of the beneficiary's work or earnings and other information to the PM.

(a) *Milestone payments.* (1) We will pay the EN for milestones only if—

(i) The outcome-milestone payment system was the EN's elected payment system in effect at the time the beneficiary assigned a ticket to the EN;

(ii) The milestones occur prior to the outcome payment period (see § 411.500(b));

(iii) The requirements in § 411.535 are met; and

(iv) The ticket has not terminated for any of the reasons listed in § 411.155.

(2) The EN must request payment for each milestone achieved by a beneficiary who has assigned a ticket to the EN. The request must include evidence that the milestone was achieved, and other information as we may require, to evaluate the EN's request. We do not have to stop monthly benefit payments to the beneficiary before we can pay the EN for milestones achieved by the beneficiary.

(b) *Outcome payments.* (1) We will pay an EN an outcome payment for a month if—

(i)(A) Social Security disability benefits and Federal SSI cash benefits are not payable to the individual for that month due to work or earnings; or

(B) The requirements of § 411.525(a)(1)(ii) are met in a case where the beneficiary's entitlement to Social Security disability benefits has ended or eligibility for SSI benefits based on disability or blindness has terminated because of work activity or earnings; and

(ii) We have not already paid for 60 outcome payment months on the same ticket; and

(iii) The ticket has not terminated for any of the other reasons listed in § 411.155.

(2) The EN must request payment for outcome payment months on at least a quarterly basis. Along with the request, the EN must submit evidence of the beneficiary's work or earnings (e.g. a statement of monthly earnings from the employer or the employer's designated payroll preparer, an unaltered copy of the beneficiary's pay stub). *Exception:* If the EN does not currently hold the ticket because it is unassigned or assigned to another EN, the EN must request payment, but is not required to submit evidence of the beneficiary's work or earnings.

§ 411.580 Can an EN receive payments for milestones or outcome payment months that occur before the beneficiary assigns a ticket to the EN?

No. An EN may be paid only for milestones or outcome payment months that are achieved after the ticket is assigned to the EN.

§ 411.585 Can a State VR agency and an EN both receive payment for serving the same beneficiary?

Yes. It is possible if the State VR agency serves the beneficiary as an EN. In this case, both the State VR agency serving as an EN and the other EN may be eligible for payment based on the same ticket (see § 411.560).

(a) If a State VR agency is paid by us under the cost reimbursement payment system with respect to a ticket, such payment precludes any subsequent payment by us based on the same ticket to an EN or to a State VR agency serving as an EN under either the outcome payment system or the outcome-milestone payment system.

(b) If an EN or a State VR agency serving a beneficiary as an EN is paid by us under one of the EN payment systems with respect to a ticket, such payment precludes subsequent payment to a State VR agency under the cost

VOL 66 ISS 249 DE 28 2001 UMI

reimbursement payment system based on the same ticket.

§ 411.587 Which provider will SSA pay if, with respect to the same ticket, SSA receives a request for payment from an EN or a State VR agency that elected payment under an EN payment system and a request for payment from a State VR agency that elected payment under the cost reimbursement payment system?

(a) We will pay the provider that first meets the requirements for payment under its elected payment system applicable to the beneficiary who assigned the ticket.

(b) In the event that both providers first meet the requirements for payment under their respective payment systems in the same month, we will pay the claim of the provider to which the beneficiary's ticket is currently assigned or, if the ticket is not currently assigned to either provider, the claim of the provider to which the ticket was most recently assigned.

§ 411.590 What can an EN do if the EN disagrees with our decision on a payment request?

(a) If an EN other than a State VR agency has a payment dispute with us, the dispute shall be resolved under the dispute resolution procedures contained in the EN's agreement with us.

(b) If a State VR agency serving a beneficiary as an EN has a dispute with us regarding payment under an EN payment system, the State VR agency may, within 60 days of receiving notice of our decision, request reconsideration in writing. The State VR agency must send the request for reconsideration to the PM. The PM will forward to us the request for reconsideration and a recommendation. We will notify the State VR agency of our reconsidered decision in writing.

(c) An EN (including a State VR agency) cannot appeal determinations we make about an individual's right to benefits (e.g. determinations that disability benefits should be suspended, terminated, continued, denied, or stopped or started on a different date than alleged). Only the beneficiary or applicant or his or her representative can appeal these determinations. See § 404.900 *et seq.* and 416.1400 *et seq.* of this chapter.

(d) Determinations or decisions which we make about an individual's right to benefits may affect an EN's eligibility for payment, and may cause payments which we have already made to an EN (or a denial of a payment to an EN) to be incorrect, resulting in an overpayment or underpayment to the EN. If this happens, we will make any necessary adjustments to the payments (see § 411.555). While an EN cannot appeal our determination about an individual's right to benefits, the EN may furnish any evidence the EN has which relates to the issue(s) to be decided on appeal if the individual appeals our determination.

§ 411.595 What oversight procedures are planned for the EN payment systems?

We use audits, reviews, studies and observation of daily activities to identify areas for improvement. Internal reviews of our systems security controls are regularly performed. These reviews provide an overall assurance that our business processes are functioning as intended. The reviews also ensure that our management controls and financial management systems comply with the standards established by the Federal Managers' Financial Integrity Act and the Federal Financial Management Improvement Act. These reviews operate in accordance with the Office of Management and Budget Circulars A–123, A–127 and Appendix III to A–130. Additionally, our Executive Internal Control Committee meets periodically and provides further oversight of program and management control issues.

§ 411.597 Will SSA periodically review the outcome payment system and the outcome-milestone payment system for possible modifications?

(a) Yes. We will periodically review the system of payments and their programmatic results to determine if they provide an adequate incentive for ENs to assist beneficiaries to enter the work force, while providing for appropriate economies.

(b) We will specifically review the limitation on monthly outcome payments as a percentage of the payment calculation base, the difference in total payments between the outcome-milestone payment system and the outcome payment system, the length of the outcome payment period, and the number and amount of milestone payments, as well as the benefit savings and numbers of beneficiaries going to work. We will consider altering the payment system conditions based upon the information gathered and our determination that an alteration would better provide for the incentives and economies noted above.

Subpart I—Ticket to Work Program Dispute Resolution

Disputes Between Beneficiaries and Employment Networks

§ 411.600 Is there a process for resolving disputes between beneficiaries and ENs that are not State VR agencies?

Yes. After an IWP is signed, a process is available which will assure each party a full, fair and timely review of a disputed matter. This process has three steps.

(a) The beneficiary can seek a solution through the EN's internal grievance procedures.

(b) If the EN's internal grievance procedures do not result in an agreeable solution, either the beneficiary or the EN may seek a resolution from the PM. (See § 411.115(k) for a definition of the PM.)

(c) If either the beneficiary or the EN is dissatisfied with the resolution proposed by the PM, either party may request a decision from us.

§ 411.605 What are the responsibilities of the EN that is not a State VR agency regarding the dispute resolution process?

The EN must:

(a) Have grievance procedures that a beneficiary can use to seek a resolution to a dispute under the Ticket to Work program;

(b) Give each beneficiary seeking services a copy of its internal grievance procedures;

(c) Inform each beneficiary seeking services of the right to refer a dispute first to the PM for review, and then to us for a decision; and

(d) Inform each beneficiary of the availability of assistance from the State P&A system.

§ 411.610 When should a beneficiary receive information on the procedures for resolving disputes?

Each EN that is not a State VR agency must inform each beneficiary seeking services under the Ticket to Work program of the procedures for resolving disputes when—

(a) The EN and the beneficiary complete and sign the IWP;

(b) Services in the beneficiary's IWP are reduced, suspended or terminated; and

(c) A dispute arises related to the services spelled out in the beneficiary's IWP or to the beneficiary's participation in the program.

§ 411.615 How will a disputed issue be referred to the PM?

The beneficiary or the EN that is not a State VR agency may ask the PM to review a disputed issue. The PM will contact the EN to submit all relevant information within 10 working days. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the beneficiary's position, prepared by the beneficiary or a representative of the beneficiary, related to each disputed issue;

(c) A summary of the EN's position related to each disputed issue; and

(d) A description of any solutions proposed by the EN when the beneficiary sought resolution through the EN's grievance procedures, including the reasons the beneficiary rejected each proposed solution.

§ 411.620 How long does the PM have to recommend a resolution to the dispute?

The PM has 20 working days to provide a written recommendation. The recommendation should explain the reasoning for the proposed resolution.

§ 411.625 Can the beneficiary or the EN that is not a State VR agency request a review of the PM's recommendation?

(a) Yes. After receiving the PM's recommendation, either the beneficiary or the EN may request a review by us. The request must be in writing and received by the PM within 15 working days of the receipt of the PM's recommendation for resolving the dispute.

(b) The PM has 10 working days to refer the request for a review to us. The request for a review must include:

(1) A copy of the beneficiary's IWP;
(2) Information and evidence related to the disputed issue(s); and
(3) The PM's conclusion(s) and recommendation(s).

§ 411.630 Is SSA's decision final?

Yes. Our decision is final. If either the beneficiary or the EN that is not a State VR agency is unwilling to accept our decision, either has the right to terminate its relationship with the other.

§ 411.635 Can a beneficiary be represented in the dispute resolution process under the Ticket to Work program?

Yes. Both the beneficiary and the EN that is not a State VR agency may use an attorney or other individual of their choice to represent them at any step in the dispute resolution process. The P&A system in each State and U.S. Territory is available to provide assistance and advocacy services to beneficiaries seeking or receiving services under the Ticket to Work program, including assistance in resolving issues at any stage in the dispute resolution process.

Disputes Between Beneficiaries and State VR Agencies

§ 411.640 Do the dispute resolution procedures of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 et seq.), apply to beneficiaries seeking services from the State VR agency?

Yes. The procedures in the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*) apply to any beneficiary who has assigned a ticket to a State VR agency. ENs that are State VR agencies are subject to the provisions of the Rehabilitation Act. The Rehabilitation Act requires the State VR agency to provide each person seeking or receiving services with a description of the services available through the Client Assistance Program authorized under section 112 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 732). It also provides the opportunity to resolve disputes using formal mediation services or the impartial hearing process in section 102(c) of the Rehabilitation Act of 1973, as amended (29 U.S.C. 722(c)). ENs that are not State VR agencies are not subject to the provisions of Title I of the Rehabilitation Act of 1973, as amended (29 U.S.C. 720 *et seq.*).

Disputes Between Employment Networks and Program Managers

§ 411.650 Is there a process for resolving disputes between ENs that are not State VR agencies and PMs, other than disputes on a payment request?

Yes. Under the agreement to assist us in administering the Ticket to Work program, a PM is required to have procedures to resolve disputes with ENs that do not involve an EN's payment request. (See § 411.590 for the process for resolving disputes on EN payment requests.) This process must ensure that:

(a) The EN can seek a solution through the PM's internal grievance procedures; and

(b) If the PM's internal grievance procedures do not result in a mutually agreeable solution, the PM shall refer the dispute to us for a decision.

§ 411.655 How will the PM refer the dispute to us?

The PM has 20 working days from the failure to come to a mutually agreeable solution with an EN to refer the dispute to us with all relevant information. The information should include:

(a) A description of the disputed issue(s);

(b) A summary of the EN's and PM's position related to each disputed issue; and

(c) A description of any solutions proposed by the EN and PM when the EN sought resolution through the PM's grievance procedures, including the reasons each party rejected each proposed solution.

§ 411.660 Is SSA's decision final?

Yes. Our decision is final.

Subpart J—The Ticket to Work Program and Alternate Participants Under the Programs For Payments For Vocational Rehabilitation Services

§ 411.700 What is an alternate participant?

An alternate participant is any public or private agency (other than a participating State VR agency described in §§ 404.2104 and 416.2204 of this chapter), organization, institution, or individual with whom the Commissioner has entered into an agreement or contract to provide VR services to disabled beneficiaries under the programs described in subpart V of part 404 and subpart V of part 416 of this chapter. In this subpart J, we refer to these programs as the programs for payments for VR services.

§ 411.705 Can an alternate participant become an EN?

In any State where the Ticket to Work program is implemented, each alternate participant whose service area is in that State will be asked to choose if it wants to participate in the program as an EN.

§ 411.710 How will an alternate participant choose to participate as an EN in the Ticket to Work program?

(a) When the Ticket to Work program is implemented in a State, each alternate participant whose service area is in that State will be notified of its right to choose to participate as an EN in the program in that State. The notification to the alternate participant will provide instructions on how to become an EN and the requirements that an EN must meet to participate in the Ticket to Work program.

(b) An alternate participant who chooses to become an EN must meet the requirements to be an EN, including—

(1) Enter into an agreement with SSA to participate as an EN under the Ticket to Work program (see § 411.320);
(2) Agree to serve a prescribed service area (see § 411.320);
(3) Agree to the EN reporting requirements (see § 411.325); and
(4) Elect a payment option under one of the two EN payment systems (see § 411.505).

§ 411.715 If an alternate participant becomes an EN, will beneficiaries for whom an employment plan was signed prior to implementation be covered under the Ticket to Work program payment provisions?

No. When an alternate participant becomes an EN in a State in which the

Ticket to Work program is implemented, those beneficiaries for whom an employment plan was signed prior to the date of implementation of the program in the State, will continue to be covered for a limited time under the programs for payments for VR services (see § 411.730).

§ 411.720 If an alternate participant chooses not to become an EN, can it continue to function under the programs for payments for VR services?

Once the Ticket to Work program has been implemented in a State, the alternate participant programs for payments for VR services begin to be phased-out in that State. We will not pay any alternate participant under these programs for any services that are provided under an employment plan that is signed on or after the date of implementation of the Ticket to Work program in that State. If an employment plan was signed before that date, we will pay the alternate participant, under the programs for payments for VR services, for services provided prior to January 1, 2004 if all other requirements for payment under these programs are met. We will not pay an alternate participant under these programs for any services provided on or after January 1, 2004.

§ 411.725 If an alternate participant becomes an EN and it has signed employment plans, both as an alternate participant and an EN, how will SSA pay for services provided under each employment plan?

We will continue to abide by the programs for payments for VR services in cases where services are provided to a beneficiary under an employment plan signed prior to the date of implementation of the Ticket to Work program in the State. However, we will not pay an alternate participant under these programs for services provided on or after January 1, 2004. For those employment plans signed by a beneficiary and the EN after implementation of the program in the State, the EN's elected EN payment system under the Ticket to Work program applies.

§ 411.730 What happens if an alternate participant signed an employment plan with a beneficiary before Ticket to Work program implementation in the State and the required period of substantial gainful activity is not completed by January 1, 2004?

The beneficiary does not have to complete the nine-month continuous period of substantial gainful activity (SGA) prior to January 1, 2004, in order for the costs of the services to be payable under the programs for payments for VR services. The nine-month SGA period can be completed after January 1, 2004. However, SSA will not pay an alternate participant under these programs for the costs of any services provided after December 31, 2003.

[FR Doc. 01–31567 Filed 12–27–01; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Request for Public Suggestions on Ways To Support Youth With Disabilities in Transition to Adulthood

AGENCY: Social Security Administration (SSA).

ACTION: Notice with request for suggestions.

SUMMARY: We are requesting suggestions from the public on ways to support youth with disabilities that would help them in the transition to adulthood.

DATES: The comment period ends February 26, 2002.

ADDRESSES: Comments should be submitted:

- In writing, to the Office of Employment Support Programs, Social Security Administration, 6401 Security Boulevard, 107 Altmeyer Building, Baltimore, MD 21235–6401;
- By E-mail to TTWWIIA@ssa.gov; or
- By telefax to (410) 966–1278.
- By web site entry to SSA's Public Policy Information Site at *http://policy.ssa.gov*. Click on public comment. Click on open discussions. The direct link is *http://policy.ssa.gov/si/ttwwiia.nsf*.

FOR FURTHER INFORMATION CONTACT: Christa Bucks Camacho, Social Security Administration, Office of Employment Support Programs, 6401 Security Boulevard, 107 Altmeyer Building, Baltimore, MD 21235–6401; Phone: (410) 966–5147 or TTY 1 (800) 988–5906; or through E-mail to christa.bucks@ssa.gov.

SUPPLEMENTARY INFORMATION: We are publishing final rules for the Ticket to Work and Self-Sufficiency program (Ticket to Work program) in today's **Federal Register**. Under this program, qualified disability beneficiaries will be issued tickets they can use to access vocational rehabilitation services, employment services and other support services from approved providers. SSA will pay the service providers if the beneficiaries achieve certain outcomes.

In the final rules for the Ticket to Work program, we have decided not to issue tickets to those beneficiaries under age 18 or to those who have attained age 18, but for whom we have not yet conducted a redetermination of their eligibility under the disability standard for adults. We are interested in exploring various approaches to assist youth with disabilities who receive payments from us under one of the programs we administer. Therefore, we are seeking suggestions from the public to help us develop new programs that will assist these beneficiaries make the transition to independence, further education, and enhance careers in the workforce and that will complement the Ticket to Work program.

During the comment period for the proposed rules for the Ticket to Work program, we received suggestions from the public on ways to provide alternative tools to assist young beneficiaries. We invite the public to submit additional opinions and suggestions on alternative options to support the transition of young beneficiaries to adulthood. To assist you in preparing your response, we offer the following questions as a guide. However, we welcome any suggestions you may have.

- What approaches could benefit these beneficiaries in preparing for future employment?
- What types of services might be useful to help these beneficiaries?
- The successful completion of a transition plan at the high school or post-secondary level is an essential part of preparing students with disabilities for independence as adults. What events or steps in the transition process could we establish for these beneficiaries that would demonstrate progress through their plan towards independence, education, and employment?
- What incentives would be appropriate to encourage providers, educational facilities, employers and others to provide assistance toward successful employment outcomes?
- Would it be appropriate and useful to expand the Ticket age limits to include disability beneficiaries 16 and 17 years old? How would the Ticket program assist these individuals?

Dated: December 11, 2001.

Jo Anne B. Barnhart,

Commissioner of Social Security.

[FR Doc. 01–31568 Filed 12–27–01; 8:45 am]

BILLING CODE 4191–02–P

VOL
66
ISS
2
4
9
DE
28
2001
UMI

Federal Register

Friday,
December 28, 2001

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948
West Virginia Regulatory Program; Final Rule and Proposed Rule

VOL 66 ISS 249 DE 28 2001 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–093–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving a proposed amendment to the West Virginia surface coal mining regulatory program (the West Virginia program) authorized under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment consists of changes to the Code of West Virginia (W. Va. Code) as contained in Enrolled Senate Bill 5003. The amendment creates a Special Reclamation Fund Advisory Council and increases the special reclamation tax rate on coal to provide additional revenues for the West Virginia Special Reclamation Fund.

EFFECTIVE DATE: December 28, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301. Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Background on West Virginia's Alternative Bonding System
III. Submission of the Amendment
IV. OSM's Findings
V. Summary and Disposition of Comments
VI. OSM's Decision
VII. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Background on West Virginia's Alternative Bonding System (ABS)

On January 21, 1981, the Secretary conditionally approved West Virginia's ABS. The ABS has two basic components: the site-specific or incremental bond posted by the permittee and the Special Reclamation Fund (the Fund), comprised of a special reclamation tax, civil penalty assessments, and interest earned on the revenues, which is intended to cover any reclamation costs in excess of the site-specific or incremental bond.

At the time of approval, the Secretary required that the State provide an actuarial study of the Fund demonstrating that the amount of money going into the Fund would cover the demands to be placed on it, along with any program changes needed to redress any deficiencies identified by the actuarial study (46 FR 5956).

The State submitted an actuarial study on October 29, 1982 (Administrative Record No. WV–456). The study concluded that the Fund was solvent, in part because it contained a funding mechanism (the special reclamation tax) to provide for the cost of future reclamation. On March 1, 1983 (41 FR 8447), we subsequently found that the State's alternative bonding provisions were in accordance with section 509(c) of SMCRA and the Federal criteria for approval of alternative bonding systems at 30 CFR 806.11(b), which has since been recodified as 30 CFR 800.11(e). Consequently, we removed the condition (25) relating to our approval of the State's ABS.

By 1988–89, our oversight evaluations indicated that the Fund lacked sufficient revenue to reclaim all outstanding bond forfeiture sites. In addition, the cash balance in the Fund ceased earning interest because of losses suffered by the State's Consolidated Investment Fund. On October 1, 1991, we notified the State, pursuant to 30 CFR 732.17(c) and (e), that a program amendment was necessary because the Fund no longer met the requirements of 30 CFR 800.11(e).

In a series of amendments beginning in 1993, West Virginia revised portions of its program in an attempt to resolve some of our concerns. For example, the State increased its special reclamation tax from one cent to three cents per ton of coal mined and adopted site-specific bonding regulations. In addition, Deloitte and Touche, an accounting and consulting company, completed an actuarial study of the Fund in March 1993. The study concluded that the Fund had an accrual deficit position as of June 30, 1992, but that the Fund would realize gradual improvement over the next five years.

On October 4, 1995 (60 FR 51900), we announced our partial approval of the State's amendments. However, as specified in 30 CFR 948.16 (jjj), (kkk), and (lll), we also required the State to amend certain statutory provisions to fully eliminate the deficit in the Special Reclamation Fund and to provide for treatment of pollutional discharges from bond forfeiture sites.

OSM and the State conducted additional studies that were completed in September 1997 and June 1999 to assess the financial condition of the Fund. The studies found that the Fund could eventually be solvent if its responsibilities were limited to land reclamation. However, the studies also determined that treatment of pollutional discharges from forfeited sites required additional revenue.

By letter dated September 29, 2000, we informed the West Virginia Department of Environmental Protection (WVDEP) that Federal corrective action would be taken, unless the Legislature adopted the necessary changes to the Fund to resolve the identified deficiencies (Administrative Record No. WV–1181). However, the Legislature adjourned without enacting the proposed changes.

On April 18, 2001, WVDEP requested additional time to develop and obtain approval of statutory and regulatory changes to the State's bonding provisions (Administrative Record No. WV–1206). In addition, WVDEP requested that we conduct an informal review of a report entitled "The Mountain State Clean Water Trust Fund." Under a plan that was based on the report, WVDEP intended to bifurcate the Fund into two distinct accounts, one for land reclamation and one for water treatment.

In a letter dated June 29, 2001, we initiated corrective action under 30 CFR 733.12(b). In that letter, which is known as a Part 733 notification, we notified the State that it must initiate certain remedial measures by July 27, 2001, to satisfy the outstanding required amendments at 30 CFR 948.16 (kkk), (jjj), and (lll) and that it must submit the necessary, fully-enacted and adopted statutory and regulatory revisions no later than 45 days after the end of the 2002 regular session of the Legislature (Administrative Record No. WV–1218). As stated in the letter, if West Virginia failed to take these measures, we intended to recommend that the Secretary partially withdraw approval of the State program and implement a partial Federal regulatory program.

On July 27, 2001, WVDEP submitted draft statutory and regulatory revisions in response to our Part 733 notification (Administrative Record No. WV–1231). The draft changes are commonly referred to as the 20/20 Plan.

By e-mail message dated August 8, 2001, WVDEP provided us with additional draft legislative changes for informal review (Administrative Record No. WV–1233A). The proposed revisions are commonly called the 7–Up Plan.

On August 9 and August 28, 2001, we provided WVDEP our informal review of the proposed statutory revisions that were submitted on August 8 (Administrative Record Nos. WV–1233 and WV–1235). Under the draft legislation, the special reclamation tax would be increased from 3 cents to 14 cents per ton of clean coal mined for 39 months and reduced to 7 cents thereafter with biennial review by an advisory council.

By letter dated August 13, 2001, WVDEP provided us with a schedule for submitting statutory and regulatory revisions to the Legislature in response to our Part 733 notification (Administrative Record No. WV–1234). The letter specified that the State would formally submit the program amendment to us by April 30, 2002. The letter also indicated that the statutory changes could be presented to a special session of the Legislature before that date.

We released our financial analysis of the State's draft legislation on September 7, 2001 (Administrative Record No. WV–1236). In that report, we concluded that the proposal would generate sufficient revenues for about 9 years, but future adjustments would have to be made to meet long-term needs of the Fund.

On September 15, 2001, a special session of the West Virginia Legislature passed Senate Bill 5003, which is intended to eliminate the deficit in the Fund and provide for water treatment at bond forfeiture sites. The Governor of West Virginia (Governor) signed Enrolled Senate Bill 5003 on October 4, 2001. The effective date of the bill is October 4, 2001, but none of the provisions could be implemented without OSM approval. WVDEP submitted the legislation as a program amendment on September 24, 2001 (Administrative Record No. WV–1238).

III. Submission of the Amendment

By letter dated September 17, 2001 (Administrative Record Number WV–1237), the WVDEP notified us of the legislation that was approved during a special session of the West Virginia Legislature. By letter dated September 24, 2001 (Administrative Record Number WV–1238), the WVDEP formally submitted the legislation as a proposed program amendment.

As discussed in Section II of this preamble, the amendment, consisting of statutory revisions, was submitted in response to our Part 733 notification of June 29, 2001, and certain outstanding required program amendments. In accordance with our Part 733 notification, the State informed us on November 30, 2001, that it is developing regulatory changes that will be submitted to the Legislature during the upcoming regular legislative session that begins on January 9, 2002 (Administrative Record Number WV–1253).

The amendment being considered today consists only of changes to the W.Va. Code, as amended by Enrolled Senate Bill 5003. The amendment adds W.Va. Code section 22–1–17, which establishes the Special Reclamation Fund Advisory Council (Advisory Council). The amendment also revises W.Va. Code 22–3–11 by increasing the special reclamation tax rate and revises W.Va. Code 22–3–12 by deleting certain site-specific bonding provisions.

We announced receipt of the proposed amendment on October 24, 2001 (66 FR 53749). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment (Administrative Record Number WV–1243). While the amendment consists of Enrolled Senate Bill 5003, we also made Engrossed Senate Bill 5003 available for public review and comment. With a few exceptions, Engrossed Senate Bill 5003 is substantively identical to Enrolled Senate Bill 5003. However, the engrossed bill clearly shows, via underscoring and strikethroughs, most of the statutory language that has been added to or deleted from the W.Va. Code as a result of the enactment of Senate Bill 5003. We quoted the new and revised provisions in their entirety in the October 24, 2001, **Federal Register** notice in which we asked for public comment on the amendment. We did not hold a public hearing or meeting on the amendment because no one requested one. The public comment period closed on November 23, 2001.

We received comments on this amendment from the U.S. Department of Labor, Mine Safety and Health Administration, and the U.S. Environmental Protection Agency. In addition, we received comments from the West Virginia Highlands Conservancy (WVHC); Morgan Worldwide Mining Consultants, Inc., consultant for the WVHC; and the West Virginia Coal Association, Inc.

On November 6, the WVHC requested that the comment period on the amendment be extended through December 14, 2001 (Administrative Record No. WV–1245). On November 9, 2001, we denied the request (Administrative Record Number WV–1245). See Section V., "Public Comments" Item 4, "Alleged abuse of discretion by failing to grant an extension to the comment period," below.

IV. OSM's Findings

This section contains our findings on the amendment.

As stated above in Section II, we notified the State in accordance with 30 CFR 733.12(b) that it must submit fully-enacted and adopted statutory and regulatory revisions to fix its ABS within 45 days after the close of the 2002 regular legislative session. We estimate this deadline will occur about April 23, 2002. This rule announces our decision to approve the amendment, based on the findings in this section of the preamble. However, because of the complexity of the issues concerning the long-term solvency of the ABS, we are deferring decision on the broader issue of whether the State has fully fixed its ABS. We will use the time remaining between now and the deadline mentioned above to conduct further analysis and to allow all interested parties the necessary time to complete a comprehensive review. We will publish a separate notice in the **Federal Register** soliciting further comments on the effect these amendments have on the ABS and whether additional measures are needed to restore full consistency with Federal ABS requirements.

Under 30 CFR 732.17(h)(10), we must use the applicable criteria in 30 CFR 732.15 in approving or disapproving State program amendments. Because this amendment pertains only to performance bonds, the applicable criteria are those in 30 CFR 732.15(b)(6). That paragraph provides that the State regulatory authority must have the authority under State laws and regulations—and the State program must include provisions—to "[i]mplement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirements of subchapter J of [30 CFR Chapter VII]." As discussed in Section II of this preamble, the Secretary made the finding required by 30 CFR 732.15(b)(6) when he conditionally approved the West Virginia ABS on January 21, 1981, with full approval following on March 1, 1983.

The relevant provisions of subchapter J are those in 30 CFR 800.11(e), which establishes criteria for approval of an ABS as part of a State or Federal program. Therefore, our findings focus on those provisions of the amendment relevant to the criteria in 30 CFR 800.11(e). We do not necessarily discuss changes that are not pertinent to those criteria.

OSM Directive STP–1 interprets the requirements of 30 CFR 800.11(e) as they pertain to State program amendment approval. Appendix 12 of Directive STP–1 specifies that, once the Secretary approves an ABS, we may approve subsequent revisions to the ABS through the State program amendment process as long as those revisions do not adversely impact previous findings. The directive further states that, when a proposed amendment concerns an ABS that no longer meets the criteria in 30 CFR 800.11(e), we may approve the amendment even if it does not fully remedy all deficiencies, provided we find that the amendment does not adversely affect the solvency of the ABS. Based upon this rationale, we may approve any amendment that improves the ABS, even as we defer on the question of whether the amendment fully restores solvency or compliance with the other requirements of 30 CFR 800.11(e).

We find that this amendment will improve the solvency of the ABS by adding approximately $1.9 million per month to the Special Reclamation Fund, beginning January 1, 2002. However, because this tax rate increase cannot take effect without our approval, we believe that delaying a decision on these funding enhancements until we decide the broader question of whether the amendment fully satisfies 30 CFR 948.16(lll), as a commenter advocates, would be counterproductive. Our findings do not attempt to determine whether the ABS as revised by this amendment would be fully consistent with the criteria in 30 CFR 800.11(e). Instead, we conclude that the amendment improves the ability of the ABS to comply with those criteria. As discussed above, we will separately determine, after opportunity for further comment, whether this amendment has satisfied all outstanding requirements or whether additional measures are needed.

See Section II above, for a review of the history of our approval of West Virginia's ABS and the circumstances that preceded the State's submittal of this amendment.

1. W.Va. Code 22–1–17 Special Reclamation Fund Advisory Council

This new section creates the Advisory Council.

Purpose and Operation of the Advisory Council

Senate Bill 5003 creates the Advisory Council to ensure "the effective, efficient and financially stable operation of the special reclamation fund." As required by W.Va. Code 22–1–17, the Advisory Council must "study the effectiveness, efficiency, and financial stability of the special reclamation fund with an emphasis on development of a financial process that ensures the long-term stability of the special reclamation program." The Advisory Council must submit an annual report to the West Virginia Legislature and the Governor on the adequacy of the special reclamation tax (see Finding 2) and the fiscal condition of the Fund. The report must include recommendations as to whether any adjustments to the special reclamation tax should be made, considering the cost, timeliness and adequacy of bond forfeiture reclamation, including water treatment.

The Advisory Council will consist of eight members, including the Secretary of the WVDEP (or designee), the Treasurer of the State of West Virginia (or designee), and the Director of the National Mine Land Reclamation Center at West Virginia University. In addition, the Governor will appoint five members: four representing the interests of the coal industry, environmental protection organizations, coal miners, and the general public; and one who, by training and profession, is an actuary or economist.

The Federal regulations at 30 CFR 800.11(e)(1) require that an ABS ensure that the regulatory authority has sufficient money to complete the reclamation plan for any areas which may be in default at any time. We find that the Advisory Council, which has a statutory mandate to study the effectiveness, efficiency, and financial stability of the Fund, should prove useful in helping the ABS comply with 30 CFR 800.11(e). Therefore, we are approving the addition of W.Va. Code 22–1–17 to the West Virginia program.

2. W.Va. Code 22–3–11 Bonds; Amount and Method of Bonding; Bonding Requirements; Special Reclamation Tax and Fund; Prohibited Acts; Period of Liability

a. Incremental Bonding—Bond Amount

In W.Va. Code 22–3–11(a), the State has increased the amount of the penal bond from one thousand dollars per acre to not less than one thousand dollars nor more than five thousand dollars for each acre or fraction thereof. This revision clarifies that incremental bonding is subject to the same per-acre bonding rate range as found in W.Va. Code 22–3–12(b)(1), which pertains to site-specific bonding of an entire permit area.

We find that this change would improve the ability of the West Virginia ABS to comply with 30 CFR 800.11(e). Therefore, we are approving it.

b. Use of Funds

As amended, W.Va. Code 22–3–11(g) provides that moneys accrued in the Fund are reserved for the purposes set forth in W.Va. Code 22–3–11, which concerns bonds, and W.Va. Code 22–1–17, which concerns the Advisory Council. The Legislature also added language to prohibit the expenditure of moneys from the Fund to reclaim lands that are "eligible for abandoned mine land (AML) reclamation funds under article two of this chapter."

The latter change is apparently related to section 402(g)(4)(B) of SMCRA. As enacted on November 5, 1990, that provision authorizes use of AML reclamation funds to perform land reclamation on, and treat pollutional discharges of water from, (1) unreclaimed sites that were mined after August 4, 1977, under a program other than a permanent regulatory program approved by the Secretary, and (2) permanent program bond forfeiture sites with surety bonds for which the surety became insolvent on or before November 5, 1990. In both cases, SMCRA authorizes use of AML reclamation funds only if funds available from the bond or other form of financial guarantee or from any other source are not sufficient to provide adequate reclamation or abatement.

West Virginia revised its Abandoned Mine Lands and Reclamation Act and its AML Plan in response to the addition of section 402(g)(4)(B) to SMCRA.

However, as discussed in the March 26, 1993, **Federal Register** (58 FR 16353, 16354), we deferred a decision on the State's proposed revisions because they were not fully consistent with the Federal provisions.

Because of our deferral, addition of the phrase "where the land is not eligible for abandoned mine land reclamation funds under article two of this chapter" to W.Va. Code 22–3–11(g) does not preclude use of moneys from the Fund to reclaim any site for which a bond is required under 30 CFR Part 800 and section 509 of SMCRA. Therefore, we find that this revision to W.Va. Code 22–3–11(g) is not inconsistent with the bonding requirements of 30 CFR Part 800 and section 509 of SMCRA, and we are approving it.

c. Water Treatment Expenditures

The State has deleted a provision in W.Va. Code 22–3–11(g) that limited spending from the Fund for water treatment systems to 25 percent of the annual amount of the fees collected. This provision restricted expenditures for water treatment purposes, without regard to the amount needed to adequately treat such sites and ensure compliance with applicable effluent limitations and water quality standards. The deletion of this provision is necessary to provide for the complete abatement or treatment of pollutional discharges of water from bond forfeiture sites.

The deletion of the 25 percent limitation partially satisfies the requirement codified at 30 CFR 948.16(jjj). However, to fully satisfy this requirement, the State must also delete the 25-percent limitation in its regulations at Code of State Regulations (CSR) 38–2–12.5(d). Under 30 CFR 948.16(jjj) the State must revise W.Va. Code 22–3–11(g) and CSR 38–2–12.5(d) to remove the limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites. As mentioned above, WVDEP is in the process of further revising its regulations. The State has said that it plans to delete the 25-percent limitation in its regulations at CSR 38–2–12.5(d) during the upcoming regular legislative session.

In addition, revised subsection 22–3–11(g) states that the Secretary "may," rather than "shall," "use the special reclamation fund for the purpose of designing, constructing and maintaining water treatment systems when they are required for a complete reclamation of the affected lands * * *." Ordinarily, the use of the word "may" implies discretion. However, the West Virginia Supreme Court of Appeals has determined that the WVDEP has a mandatory duty to use bond moneys for acid mine drainage treatment. *State ex rel. Laurel Mountain* v. *Callaghan*, 418 S.E.2d 580 (1990). Moreover, in a subsequent decision, the Court held that W.Va. Code 22A–3–11(g), now codified as 22–3–11(g), imposes upon the WVDEP "a mandatory, nondiscretionary duty to utilize moneys from the SRF [Special Reclamation Fund] * * *, to treat AMD [acid mine drainage] at bond forfeiture sites when the proceeds of the forfeited bonds are less than the actual cost of reclamation." *State ex rel. West Virginia Highlands Conservancy, Inc.* v. *West Virginia DEP*, 447 S.E.2d 920, 925 (1994).

Nevertheless, we have previously found that the word "may," in subsection (g), could not be approved because it provides the WVDEP with the discretion not to use Fund moneys for water treatment. (60 FR at 51902, October 4, 1995.) Therefore, we are requiring that the State amend its program to specify that moneys from the Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. Otherwise, we find that these amendments would improve the ability of the West Virginia ABS to comply with 30 CFR 800.11(e) and that they are not inconsistent with that regulatory provision. As such, we are approving them. For the reasons discussed above, we are revising 30 CFR 948.16(jjj) to reflect the statutory changes and to require the State to amend its program to specify that the Fund must be used, where needed, to pay for water treatment on bond forfeiture sites.

d. Administrative Expenses

In W. Va. Code 22–3–11(g), the State deleted a reference to Articles 2 and 4 of W. Va. Code Chapter 22. The revised provision now only allows the WVDEP to expend up to 10 percent of the total annual assets in the Fund to implement and administer the provisions of W. Va. Code 22–3 and, to the extent that they apply to the Surface Mine Board, W. Va. Code 22B–1 and 4. This revision is intended to prohibit the expenditure of special reclamation funds for administrative activities under Article 2, Abandoned Mine Lands Reclamation Act, and Article 4, Surface Mining and Reclamation of Minerals Other Than Coal.

Given the current deficit in the Fund, we encouraged the State to modify this language to limit expenditures from the Fund for administrative expenses relating only to the special reclamation program. Furthermore, as discussed in the March 20, 1986, **Federal Register** and codified at former 30 CFR 948.15(i), before making any withdrawals to cover administrative expenses unrelated to bond forfeitures, West Virginia must request and receive OSM concurrence for such withdrawals (54 FR 9649). To assist in restoring and maintaining the financial solvency of the Fund, this requirement will continue to apply to any withdrawals that are not related to bond forfeiture reclamation administrative expenses.

For the reasons discussed above, we find that these revisions to W. Va. Code 22–3–11(g) would improve the ability of the West Virginia ABS to comply with 30 CFR 800.11(e). Therefore, we are approving them.

e. Special Reclamation Tax Rates/Financial Analysis

New W. Va. Code 22–3–11(h) increases the permanent special reclamation tax rate from 3 cents per ton of clean coal mined to 7 cents per ton of clean coal mined. This subsection also levies an additional tax of 7 cents per ton of clean coal mined for a period not to exceed 39 months. Collection of both taxes will begin on or after January 1, 2002. Coal refuse reprocessing operations that require a surface mining permit must pay the tax on the clean coal obtained by these mining methods.

Subsection 22–3–11(h) provides that the 7-cent permanent tax rate may not be reduced until the Fund has sufficient moneys to meet the State's reclamation responsibilities under W. Va. Code 22–3–11. Furthermore, this tax rate will be reviewed and, if necessary, adjusted annually by the Legislature upon recommendation of the Advisory Council (see Finding 1 above).

The increased per-ton tax assessments are intended to eliminate the existing Fund deficit and assure that the Fund will have sufficient moneys to meet the State's long-term water treatment responsibilities and complete the reclamation plans of existing and future bond forfeiture sites.

On September 7, 2001, we completed a financial analysis of a draft version of a legislative submission that would have increased the special reclamation tax rate (Administrative Record Number WV–1236). At that time, we informed the State that based on our analysis, it appeared that a proposed tax rate of 14 cents for up to 39 months and 7 cents thereafter would allow the WVDEP to eliminate the current Fund deficit and meet land reclamation and water treatment needs for several years. Our projections also indicated that, following the period of surplus, the

VOL 66 ISS 249 DE 28 2001 UMI

liabilities of the Fund would exceed its assets in about nine years and that future adjustments of the special reclamation tax rate would be necessary to maintain a positive balance to meet future land reclamation and water treatment needs.

However, as amended, the W. Va. Code provides several mechanisms intended to prevent the Fund from deteriorating to a point where its liabilities exceed its assets. First, W. Va. Code 22–3–11(h) provides that the 7-cent permanent special reclamation tax rate may not be reduced until the Fund has sufficient moneys to meet the State's reclamation responsibilities established by law. Second, W. Va. Code 22–1–17 establishes the Advisory Council to "ensure the effective, efficient and financially stable operation of the Fund." If the Advisory Council fulfills its obligations, the West Virginia Legislature and the Governor will have the information and data they need to make sound decisions and effective adjustments to the special reclamation tax rate so that the Fund will maintain a positive balance to meet existing and future land and water reclamation obligations.

In addition, W. Va. Code 22–1–17(f)(6) provides that the Advisory Council must "[s]tudy and recommend to the Legislature alternative approaches to the current funding scheme of the special reclamation fund, considering revisions which will assure future proper reclamation of all mine sites and continued financial viability of the state's coal industry." Because reclamation of mine sites includes meeting water treatment obligations, and because subsection 22–1–17(f)(6) provides a mechanism that, if properly implemented, could help assure proper future reclamation, we believe this provision will greatly assist in ensuring that the State is able to adequately address the Fund's long-term bond forfeiture reclamation obligations.

For the reasons discussed above, we find that the addition of W. Va. Code 22–3–11(h) would improve the ability of the West Virginia ABS to comply with 30 CFR 800.11(e). Therefore, we are approving it.

However, we are not deciding today whether the amendments satisfy the outstanding required amendment pertaining to the financial adequacy of the State's ABS at 30 CFR 948.16(lll). 30 CFR 948.16(lll) requires that the State eliminate the deficit in the ABS and ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites. Commenters on the proposed amendments have expressed concern that the Fund, as currently financed by these amendments, may not maintain a positive cash balance to meet existing and future land reclamation and water treatment needs. Commenters provided information that we wish to more fully consider in our decision as to whether the amendment fully satisfies the requirements of 30 CFR 948.16(lll). Therefore, we will publish separately a new notice in the **Federal Register**, soliciting further comments on this issue.

f. Funding Mechanism

In W. Va. Code 22–3–11(k), the State eliminated language providing that the special reclamation tax must be collected whenever the reclamation liabilities of the State exceed the accrued amount in the Fund. This provision, in effect, allowed the accrued monies in the Fund to sink below the level of its reclamation and water treatment obligations. The deletion of this provision, in concert with the addition of the new provision at subsection 22–3–11(h) that prohibits the special reclamation tax rate from being reduced until the Fund has a positive balance, together with the creation of the Advisory Council at section 22–1–17, is designed to help assure that the Fund maintains a positive balance to meet the State's land reclamation and water treatment responsibilities.

The deletion of this language from W. Va. Code 22–3–11(k) satisfies the requirement codified at 30 CFR 948.16(kkk) which provides that the State must remove the provision at (former) W. Va. Code 22–3–11(g) that allows collection of the special reclamation tax only when the Fund's liabilities exceed its assets. For the reasons discussed above, we are approving the deletion of the language and we are removing 30 CFR 948.16(kkk).

g. Implementation of Amendments

New W. Va. Code 22–3–11(n) provides that the modifications to W. Va. Code 22–3–11 will become effective upon approval by the appropriate Federal agency or official. This provision is consistent with the Federal regulations at 30 CFR 732.17(g), which provide that no changes to State laws or regulations may take effect for purposes of the State program until approved as an amendment. Therefore, we are approving this subsection.

3. W. Va. Code 22–3–12 Site-specific Bonding

This amendment deletes W. Va. Code 22–3–12(b), which contained provisions requiring the formulation of legislative rules to implement site-specific bonding requirements on an interim basis. West Virginia subsequently developed and adopted those rules in November 1992. Those rules remained in effect until April 1993, at which time the State adopted final legislative rules. Therefore, W. Va. Code 22–3–12(b) is no longer relevant.

This amendment also deletes W. Va. Code 22–3–12(f), which required the WVDEP to report every 90 days on the progress in developing and implementing the site-specific bonding requirements of W. Va. Code 22–3–12. Final legislative rules, which are codified at CSR 38–2–11.6, were adopted by the Legislature in 1993 and subsequently approved by OSM in 1995.

Neither of the deleted subsections has a Federal counterpart. We find that their deletion will not have an adverse impact on the ability of the West Virginia ABS to meet the criteria in 30 CFR 800.11(e). Therefore, we are approving their removal from the West Virginia program.

V. Summary and Disposition of Comments

Public Comments

In response to our request for comments from the public on the proposed amendment (see Section III of this document), we received comments from the WVHC; Morgan Worldwide Mining Consultants, Inc., a consultant for the WVHC; and the West Virginia Coal Association, Inc. (WVCA). Our summary and disposition of those comments appears below.

1. Criteria for Approving State Program Amendments

a. The WVHC alleged that we have no authority to approve the amendment because the amendment does not fully satisfy all outstanding requirements concerning the ABS. In particular, the WVHC argued against use of the rationale that the amendment would incrementally improve the effectiveness of the bonding system as a basis for approval of the amendment. According to the WVHC, approval of the amendment on that basis would be illegal because the ABS would remain in noncompliance with federal law. The WVHC argued that use of this rationale "would eviscerate the requirements for an adequate alternative bonding system in 30 CFR 800.11(e) and 30 CFR 948.16(lll), and would allow incremental improvements over a long period of time that never achieved those requirements." The WVHC further stated that deferral of an analysis of whether the ABS as revised by the amendment would satisfy the requirements of 30 CFR 948.16(lll) would cause an unreasonable delay in remedying the inadequacies of the ABS.

Neither SMCRA nor the Federal regulations prohibit us from approving a proposed amendment that improves a deficient State program. It would be counterproductive for us to do otherwise. As discussed in Finding 2 above, we believe the amendment will greatly assist in ensuring that the West Virginia ABS is able to comply with the Federal ABS requirements at 30 CFR 800.11(e). Therefore, we are approving it.

However, we are deferring our decision as to whether these changes allow us to remove the language at 30 CFR 948.16(lll), which requires that West Virginia submit an amendment to eliminate the ABS deficit and "to ensure that sufficient money will be available to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites." As also discussed in Finding 2, we will open a new comment period to provide all interested parties with the opportunity to fully assess and comment on the impact that the amendment will have on the State's ABS and comment on whether the amendment is sufficient to justify removal of the required amendment at 30 CFR 948.16(lll). When that comment period closes, we will address all comments received in response to that comment period as well as all comments received in response to the comment period for this amendment that we have not responded to in this preamble.

b. The WVCA alleged that the amendment is inconsistent with Federal law and regulations because "SMCRA neither addresses the need to bond for potential discharges of polluting water, nor does it create a special fund to supplement site specific bonds to aid in that reclamation." However, the WVCA argued that we must nonetheless approve the amendment because "[t]he provisions of § 505(b) of SMCRA expressly provide that a State law that imposes requirements not found in SMCRA, or ones more stringent than those required by the federal program are not legally defective by reason of that inconsistency."

We disagree with the commenter on both points. As discussed in Finding A.1.b. in the October 4, 1995, **Federal Register** (60 FR 51900, 51901–02), which concerns a different West Virginia ABS amendment, both SMCRA and the Federal regulations effectively require that the bond cover the cost of completing the reclamation plan in the event of forfeiture, including the expense of treating any postmining pollutional discharges that develop. And section 509(c) of SMCRA expressly provides for the development of alternative bonding systems such as the one in place in West Virginia. Each ABS must meet the criteria established in 30 CFR 800.11(e).

With respect to the commenter's second argument, section 505(a) of SMCRA prohibits us from superseding a State law or regulation "except insofar as such State law or regulation is inconsistent with the provisions of this Act." Section 505(b) provides that we may not construe State laws or regulations that provide for more stringent land use and environmental controls as inconsistent with SMCRA. It also provides that any provision of State law or regulation "for which no provision is contained in this Act shall not be construed to be inconsistent with this Act." In other words, section 505 precludes us from superseding a State statutory or regulatory provision merely because the State provision is more stringent or has no Federal equivalent. However, contrary to the commenter's assertion, section 505 places no affirmative duty on us to approve the pertinent provision as part of the State program. Furthermore, we would not approve a State provision that has no direct SMCRA counterpart if we determined that the State provision would conflict with a SMCRA-related requirement.

2. Reclamation Cost Estimates

The WVHC stated that we misled the public and State Legislature by claiming that the amendment would solve the State's decades-long ABS deficit. Specifically, the WVHC stated that our September 7, 2001, financial analysis of the draft version of this amendment grossly misrepresents the ability of the amendment to raise sufficient revenues to make the fund solvent, and provide an adequate reserve to promptly reclaim future forfeiture sites. We disagree.

We note that the commenters on the amendment widely disagree on the effectiveness of the amendment to solve the financial problems of the ABS. However, our September 7, 2001, financial analysis represents our best estimate of the effect that the draft version of the amendment would have on the ABS, given the information available to us at the time. By giving commenters and ourselves more time, during the new comment period referenced above, to study the potential impacts of the proposed changes, we will assure a well reasoned decision as to whether the amendment fully rectifies the long-term financial problems of the ABS.

3. Requirement to Bond for Treatment of Pollutional Discharges

The WVCA stated that SMCRA does not address the need to bond for potential discharges of polluting water and that our authority to impose that requirement at 30 CFR 948.16(lll) remains in question. The WVCA noted that the National Mining Association has filed suit in Federal court in Tennessee to have a similar program requirement there declared illegal. For these reasons, the WVCA asserted, our reference to 30 CFR 948.16(lll) is inappropriate.

The litigation referred to by WVCA (*National Mining Association* v. *Norton, Civil Action No. :00–0549, E.D. Tenn.*) has no current impact on the validity of the mandate imposed by OSM at 30 CFR 948.16(lll). Indeed, the court in that litigation has not yet decided whether SMCRA requires operators to post bonds to cover the costs of pollutional discharge treatment. Moreover, for the reasons stated in that litigation, and in our response to comments in this rulemaking in Item 1.b. above, we believe that SMCRA clearly does require operators to treat pollutional discharges during and after mining and reclamation until all applicable effluent limitations and water quality standards are met, and that, therefore, bonds must be posted to cover the costs of such treatment. We have stated this principle in several documents, including our decision on a prior West Virginia amendment as announced in the October 4, 1995, **Federal Register** (60 FR 51900, 51902), and our March 31, 1997, "Policy Goals and Objectives on Correcting, Preventing and Controlling Acid/Toxic Mine Drainage." For these reasons, we disagree with WVCA's assertion that the requirement in 30 CFR 948.16(lll) is inappropriate.

4. Alleged Abuse of Discretion by Failing to Grant an Extension to the Comment Period

In a letter dated November 6, 2001 (Administrative Record Number WV–1245), the WVHC requested an extension of the public comment period on the State program amendment. By letter dated November 9, 2001 (Administrative Record Number WV–1246), we denied the request. WVHC stated in its comments to this amendment that we abused our discretion by denying its request.

We declined to reopen the comment period for two reasons. One, an extension would delay our decision on

VOL 66 ISS 249 DE 28 2001 UMI

the amendment, which could result in a loss of badly needed revenues, possibly $1.9 million per month, to the Fund. Two, we agree with WVHC that, because of the complexity and the volume of material related to questions about how the amendment will affect the West Virginia program, additional time is needed by all interested parties to assess the effect of the amendment. Consequently, we have decided to open a new comment period on the broader question of whether the amendment fully satisfies the requirement at 30 CFR 948.16(lll) concerning the adequacy of the State's ABS. The new comment period will allow WVHC and all interested parties, including OSM, valuable additional time needed to thoroughly review those materials and assess whether the changes fully correct the deficiencies in the State's ABS.

Comments submitted in response to the comment solicitation for the amendment that we are approving today need not be resubmitted. All comments submitted on the current amendment that we have not addressed in this preamble will be addressed in full following the closure of the new comment period.

5. Other WVHC Comments

The WVHC stated that the proposed amendment satisfies 30 CFR 948.16(kkk), but not 30 CFR 948.16(jjj) nor (lll). We agree that the amendment satisfies 30 CFR 948.16(kkk). See Finding 2.f. However, as we state in Finding 2.c., the amendment partially satisfies 30 CFR 948.16(jjj). To fully satisfy 30 CFR 948.16(jjj), the State must also delete the 25-percent limitation for water treatment in its regulations at CSR 38–2–12.5(d).

As we state in Finding 2.e., we are deferring our decision as to whether the amendment satisfies 30 CFR 948.16(lll) regarding the adequacy of the ABS. We will open a comment period in the near future to solicit comments on whether the amendment satisfies 30 CFR 948.16(lll).

6. Morgan Worldwide Mining Consultants, Inc. Comments

All of the comments submitted by this commenter pertain to our September 7, 2001, financial analysis of the draft version of the amendment submitted by the State. As we discussed above, we will address all comments relating to our September 7, 2001, financial analysis at a later date. We will open a new comment period to ask for comments relating to 30 CFR 948.16(lll).

7. Other WVCA Comments

This WVCA expressed support for the amendment and urged us to approve the amendments. As noted above in the findings, we are approving the amendments.

The WVCA complimented the WVDEP and the State Legislature for developing comprehensive legislation that, it said, will address the question of proper funding for bond forfeiture sites. In response, we note that although we are approving the amendments, we are not deciding today the broader question of whether the amendment satisfies 30 CFR 948.16(lll), regarding the adequacy of the ABS. We will open a new comment period to ask for comments relating to 30 CFR 948.16(lll).

The remaining comments submitted by this commenter pertain to our September 7, 2001, financial analysis of the draft version of the amendment submitted by the State. We will address all comments relating to our September 7, 2001, financial analysis in a decision we will ultimately render on the broader issue of whether the amendment satisfies the requirements of 30 CFR 948.16(lll).

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the West Virginia program (Administrative Record Number WV–1239). The U. S. Department of Labor, Mine Safety and Health Administration (MSHA) responded and stated that it finds no issues or impact upon miner's health and safety with the State amendment (Administrative Record Number WV–1248).

Environmental Protection Agency (EPA) Comments

Under 30 CFR 732.17(h)(11)(i) and (ii), we are required to get a written concurrence from EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that West Virginia made in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA for its concurrence on this amendment.

Under 30 CFR 732.17(h)(11)(i), by letter dated September 28, 2001(Administrative Record No. WV–1239), we requested comments from EPA on this amendment (Administrative Record Number WV–1238). The EPA responded by letter dated November 13, 2001 (Administrative Record Number WV–1247). The EPA commended the State for eliminating the 25-percent expenditure limitation for water treatment. As we noted in Finding 2.c. above, the deletion of the 25-percent limitation only partially satisfies the required program amendment codified at 30 CFR 948.16(jjj). The State still needs to revise its regulations to conform with the statutory changes.

The EPA also recommended eliminating the 39-month limit on the temporary tax. According to the EPA, this restriction could result in insufficient funds for possible future acid mine drainage treatment needs. The EPA stated that the State Legislature would always have the option on an annual basis to adjust the tax rate downward when the Fund is determined to have sufficient resources.

As discussed in Finding 2.e. above, the legislation provides that the permanent 7-cent tax rate "may not be reduced until the special reclamation fund has sufficient moneys to meet the reclamation responsibilities. * * *"

In addition, as noted in that finding, the amendment provides an appropriate mechanism, via the Advisory Council, to effectively manage and monitor the financial condition of the Fund and the adequacy of the special reclamation tax. Therefore, we are approving the amendment. However, we plan to solicit further comments to determine if the State's ABS provides for the amount of financial resources and kinds of assurances that EPA feels is necessary if the State is to meet long-term water treatment needs at bond forfeiture sites.

VI. OSM's Decision

Based on the above findings, we are approving the amendment submitted by West Virginia on September 24, 2001. In addition, we are removing the required program amendment at 30 CFR 948.16(kkk).

We are also revising 30 CFR 948.16(jjj) to reflect the statutory changes and to require the State to amend its program to specify that moneys from the Fund must be used, where needed, to pay for water treatment on bond forfeiture sites. We are also taking this opportunity to update obsolete information at 30 CFR 948.10 and 948.20. The changes to 30 CFR 948.10 and 948.20 are technical revisions that do not require public comment.

To implement this decision, we are amending the Federal regulations at 30 CFR part 948, which codify decisions concerning the West Virginia program. Our regulations at 30 CFR 732.17(h)(12) specify that all decisions approving or disapproving amendments will be published in the **Federal Register** and that they will be effective upon publication, unless the notice specifies a different date. We are making this final rule effective immediately to expedite the State program amendment process and to assist the State in making its program conform with the Federal standards as required by the Act.

VII. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 13, 2001.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 948 is amended as set forth below:

PART 948—WEST VIRGINIA

1. The authority citation for Part 948 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 948.10 is revised to read as follows:

§ 948.10 State regulatory program approval.

The West Virginia program, as submitted on March 3, 1980, as clarified on July 16, 1980, and as resubmitted on December 19, 1980, is conditionally approved, effective January 21, 1981. Beginning on that date and continuing until July 11, 1985, the Department of Natural Resources was deemed the regulatory authority in West Virginia for all surface coal mining and reclamation operations and all exploration operations on non-Federal and non-Indian lands. Beginning on July 11, 1985, the Department of Energy was deemed the regulatory authority

VOL 66 ISS 249 DE 28 2001 UMI

pursuant to the program transfer provisions of Enrolled Committee Substitute for House Bill 1850, as signed by the Governor of West Virginia on May 3, 1985. Beginning on October 16, 1991, the Division of Environmental Protection was deemed the regulatory authority pursuant to Enrolled Committee Substitute for House Bill 217 that was signed by the Governor on October 25, 1991. On December 3, 1991, OSM found that it was not necessary to amend the State program to effect the redesignation of the regulatory authority from the Division of Energy to the Division of Environmental Protection (58 FR 42904, August 12, 1993). Beginning on April 14, 2001, the Department of Environmental Protection was deemed the regulatory authority pursuant to Enrolled Committee Substitute for House Bill 2218. The bill, which was signed by the Governor on April 30, 2001, transferred programs and redesignated the Division of Environmental Protection as the Department of Environmental Protection within the executive branch. Copies of the conditionally approved program, as amended, are available at:

(a) Office of Surface Mining, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301–2816. Telephone: (304) 347–7158.

(b) West Virginia Department of Environmental Protection, Division of Mining and Reclamation, 10 McJunkin Road, Nitro, West Virginia 25143–2506. Telephone: (304) 759–0510.

3. Section 948.15 is amended by adding a new entry to the table in chronological order by "Date of final publication" to read as follows:

§ 948.15 Approval of West Virginia regulatory program amendments.

* * * * *

Original amendment submission date	Date of publication of final rule	Citation/description of approved provisions
* *	* *	* * *
September 24, 2001	December 28, 2001	W. Va. Code 22–1–17; 22–3–11(a), (c), (d), (g) through (n); 22–3–12(a) through (f).

4. Section 948.16 is amended by removing and reserving paragraph (kkk) and revising paragraph (jjj) to read as follows:

§ 948.16 Required regulatory program amendments.

* * * * *

(jjj) By March 28, 2002, West Virginia must submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise CSR 38–2–12.5(d) to remove the 25-percent limitation on the expenditure of funds for water treatment or to otherwise provide for the treatment of polluted water discharged from all bond forfeiture sites. In addition, the State must amend its program to specify that moneys from the Special Reclamation Fund must be used, where needed, to pay for water treatment on bond forfeiture sites.

* * * * *

5. Section 948.20 is revised to read as follows:

§ 948.20 Approval of State abandoned mine land reclamation plan.

The West Virginia Abandoned Mine Reclamation Plan as submitted on October 29, 1980, and as amended on December 12, 1980, is approved effective February 23, 1981. Copies of the approved plan are available at the following locations:

(a) Office of Surface Mining, Charleston Field Office, 1027 Virginia Street East, Charleston, West Virginia 25301–2816. Telephone: (304) 347–7158.

(b) West Virginia Department of Environmental Protection, Abandoned Mine Lands and Reclamation, 10 McJunkin Road, Nitro, West Virginia 25143–2506. Telephone: (304) 759–0521.

[FR Doc. 01–31612 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–094–FOR]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; opening of public comment period and opportunity for public hearing on an amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM) are announcing the opening of a public comment period and an opportunity for public hearing or meeting on the effectiveness of a recently approved amendment to the West Virginia surface mining regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to satisfy the Federal requirements regarding an alternative bonding system (ABS). We announced approval of an amendment to the West Virginia program concerning the State's ABS in a final rule document that appears elsewhere in this **Federal Register** issue. The amendment consisted of changes to the Code of West Virginia (W. Va. Code) as contained in Enrolled Senate Bill 5003, and: established the Special Reclamation Fund Advisory Council; increased the special reclamation tax rate to provide additional revenue for the reclamation of bond forfeiture sites; and deleted language that limited expenditures from the State's ABS for water treatment.

We are opening this comment period to provide all interested parties additional time to review the relevant materials and to submit comments on whether the State amendment, as submitted on September 24, 2001, and approved by OSM elsewhere in this **Federal Register** issue fully resolves all ABS deficiencies and satisfies the required program amendment codified at 30 CFR 948.16(lll). That requirement provides that the State must eliminate the deficit in its ABS and ensure that sufficient money will be available in the future to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites. We are seeking comment on whether the State's amendment provides a permanent, long-term solution to the State's ABS problems.

Comments previously submitted in response to our October 24, 2001 (66 FR 53749), **Federal Register** notice on the State's amendment need not be resubmitted.

This document gives the times and locations that the State's amendment and other relevant documents are available for your inspection, the comment period during which you may submit written comments on whether the amendment fully satisfies all outstanding requirements concerning West Virginia's ABS, and the procedures that we will follow for the public hearing or meeting, if one is requested.

DATES: We will accept written comments until 4:30 p.m. (local time), on March 28, 2002. If requested, we will hold a public hearing or meeting on the amendment on March 25, 2002. We will accept requests to speak at the hearing until 4:30 p.m. (local time), on March 18, 2002.

ADDRESSES: You may mail or hand-deliver written comments and requests to speak at the hearing to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

You may review copies of the West Virginia program, the recently approved amendment, a listing of any scheduled public hearings, and all written comments received in response to both this document and the recently approved amendment at the addresses below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the State's amendment, our **Federal Register** notice approving the amendment, our Financial Analysis on the amendment, and comments submitted in response to the State's amendment by contacting OSM's Charleston Field Office.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158.

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510. The approved amendment is posted at the Division of Mining and Reclamation's Internet Web page: *http://www.dep.state.wv.us/mr.*

In addition, you may review copies of the approved amendment, our **Federal Register** notice approving the amendment, our Financial Analysis on the amendment, and comments submitted in response to the State's amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801,Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Background on West Virginia's Alternative Bonding System
III. Description of the Issues Being Considered
IV. Public Comment Procedures
V. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Background on West Virginia's Alternative Bonding System (ABS)

You can find background information on West Virginia's ABS in Section II of the final rule document that appears elsewhere in this **Federal Register** issue.

III. Description of the Amendment and Issues Being Considered

By letter dated September 24, 2001 (Administrative Record Number WV–1238), the WVDEP sent us a proposed amendment to its program under SMCRA. The amendment was submitted in response to our 30 CFR part 733

VOL 66 ISS 249 DE 28 2001 UMI

notification of June 29, 2001 (Administrative Record Number WV–1218). The program amendment added new W. Va. Code section 22–1–17 which established the Special Reclamation Fund Advisory Council (Advisory Council). The amendment also revised the provisions of W. Va. Code sections 22–3–11 by increasing the special reclamation tax rate from 3 cents to 14 cents per ton of clean coal mined for 39 months and reducing it to 7 cents thereafter, and modified section 22–3–12 by deleting certain site-specific bonding provisions.

We announced receipt of the amendment on October 24, 2001 (66 FR 53749), and we approved the amendment in the final rule document that appears elsewhere in this **Federal Register** issue.

Why We Are Asking For Your Comments Now

In our approval of the State's amendment elsewhere in this **Federal Register** issue, we announced that we were deferring our decision on the broader question of whether the amendment fully satisfies the requirement at 30 CFR 948.16(lll), concerning the adequacy of the State's ABS. We need the additional time to fully evaluate the long-term solvency of the State's ABS. This is a complex issue requiring not only a review of known reclamation costs at existing bond forfeiture sites, but also a projection of future reclamation costs associated with perpetual water treatment and additional forfeitures. It also requires an evaluation of ABS revenue estimates, given the increased special reclamation tax rate, and of whether the new rate is sufficient to meet existing and future bond forfeiture reclamation demands.

As provided by State law, the Advisory Council is required to study and recommend to the Legislature alternative approaches to the current funding scheme of the ABS. In addition, the Advisory Council must study the effectiveness, efficiency and financial stability of the ABS with an emphasis on the development of a financial system that ensures the long-term stability of the State's special reclamation program. We are interested in receiving public comments on whether the State's current ABS, with its reliance on a coal production tax and a monitoring board, will fully satisfy the Federal requirement at 30 CFR 948.16(lll), which provides that the State must eliminate the deficit in its ABS and ensure that sufficient money will be available in the future to complete reclamation, including the treatment of polluted water, at all existing and future bond forfeiture sites.

Other related issues that must be considered and for which we are seeking public comment include, but are not limited to: accuracy of bond forfeiture rates; accuracy of land reclamation and water treatment cost estimates; accuracy of State and Federal bond forfeiture acid mine drainage (AMD) inventories; accuracy of coal production projections; compliance with reclamation plans; timeliness of bond forfeiture reclamation and bond forfeiture collections; adequacy of the increased special reclamation tax rate; and adequacy and effectiveness of bond forfeiture reclamation.

Additional time is also needed by all interested parties, including OSM, to complete a comprehensive review of all documents that have been generated as a result of this amendment and submitted in response to our earlier request for public comments. These comments, together with any additional comments that we may receive in response to this notice, will help us determine if the State's ABS amendment fully satisfies the outstanding required amendment at 30 CFR 948.16(lll), or if additional measures are needed by the State to ensure consistency with Federal ABS requirements.

IV. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the State's September 24, 2001, amendment that we have approved and appears elsewhere in this **Federal Register** issue renders the West Virginia ABS sufficient and fully satisfies the requirements of 30 CFR 948.16(lll). We are interested in receiving additional comments on those bonding related issues identified above in Section III to assist us in determining whether or not the State's amendment fully satisfies the outstanding required amendment at 30 CFR 948.16(lll). Comments previously submitted in response to our October 24, 2001 (66 FR 53749), **Federal Register** notice on the State's amendment need not be resubmitted.

Written Comments

Send your written comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendation(s). In the final rulemaking, we will not necessarily consider or include in the administrative record any comments received after the time indicated under **DATES** or at locations other than the Charleston Field Office.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during our normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their names or address from public review, except for the city or town, must state this prominently at the beginning of their comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:30 p.m. (local time), on March 18, 2002. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold the hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

If you are disabled and need special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of the meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

V. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulations.

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowable by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations "consistent with" regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse affect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, geographic regions or Federal, State, or local government agencies; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: December 13, 2001.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 01–31613 Filed 12–27–01; 8:45 am]

BILLING CODE 4310–05–P

VOL
66
ISS
2
4
9
DE
28
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Friday,
December 28, 2001

Part IV

Department of the Treasury

31 CFR Part 104

Departmental Offices; Counter Money Laundering Requirements—Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks; Proposed Rule

VOL 66 ISS 249 DE 28 2001 UMI

DEPARTMENT OF THE TREASURY

31 CFR Part 104

RIN 1505–AA87

Departmental Offices; Counter Money Laundering Requirements—Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts for Foreign Banks

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Treasury (Treasury) is issuing a proposed rule to implement new provisions of the Bank Secrecy Act that: Prohibit certain financial institutions from providing correspondent accounts to foreign shell banks; require such financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks are not being used to indirectly provide banking services to foreign shell banks; require certain financial institutions that provide correspondent accounts to foreign banks to maintain records of the ownership of such foreign banks and their agents in the United States designated for service of legal process for records regarding the correspondent account; and require the termination of correspondent accounts of foreign banks that fail to turn over their account records in response to a lawful request of the Secretary of the Treasury (Secretary) or the Attorney General of the United States (Attorney General).

DATES: Written comments on the proposed rule may be submitted to the Treasury Department on or before February 11, 2002.

ADDRESSES: Submit comments (preferably an original and three copies) to Office of the Assistant General Counsel (Enforcement), Attention: Official Comment Record, Room 2000, Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220. Comments will be available for public inspection by appointment only at the Reading Room of the Treasury Library by advance arrangement. To make appointments, call (202) 622–0990 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Gary W. Sutton, Senior Banking Counsel, Office of the Assistant General Counsel (Banking & Finance), (202) 622–1976, or William Langford, Attorney-Advisor, Office of the Assistant General Counsel (Enforcement), (202) 622–1932 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Public Law 107–56) (the Act). Title III of the Act makes a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (BSA), which is codified in subchapter II of chapter 53 of title 31, United States Code. These amendments are intended to make it easier to prevent, detect, and prosecute international money laundering and the financing of terrorism. Two of these provisions become effective on December 26, 2001.

First, section 313(a) of the Act adds a new subsection (j) to 31 U.S.C. 5318 that prohibits a "covered financial institution" from providing "correspondent accounts" in the United States to foreign banks without a physical presence in any country (shell banks) and requires those financial institutions to take reasonable steps to ensure that correspondent accounts provided to foreign banks are not being used to indirectly provide banking services to foreign shell banks. The Department of the Treasury expects that covered financial institutions, as required by 31 U.S.C. 5318(j), will immediately terminate all correspondent accounts with any foreign bank that it knows to be a shell bank that is not a regulated affiliate as defined in the proposed rule, and will terminate any correspondent account with a foreign bank that it knows is being used to indirectly provide banking services to a foreign shell bank.

Second, section 319(b) of the Act adds a new subsection (k) to 31 U.S.C. 5318 that requires any covered financial institution that provides a correspondent account to a foreign bank to maintain records of the foreign bank's owners and agent in the United States designated to accept service of legal process for records regarding the correspondent account. Subsection (k) also authorizes the Secretary and the Attorney General to issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and to request records relating to such account, including records maintained outside the United States relating to the deposit of funds into the foreign bank. If a foreign bank fails to comply with or contest the summons or subpoena, any covered financial institution with which the foreign bank maintains a correspondent account must terminate the account upon notice from the Secretary or the Attorney General.

Under the Act, Treasury is authorized to interpret and administer these provisions. On November 20, 2001, Treasury issued Interim Guidance to banks, savings associations, and other depository institutions to assist them in meeting their compliance obligations under sections 5318(j) and (k).[1] The Interim Guidance, published in the **Federal Register** on November 27, 2001 (66 FR 59342), included definitions of key terms in sections 5318(j) and (k) and a model certification that depository institutions may use as an interim means to assist them in meeting their obligations related to dealing with foreign shell banks under section 5318(j) and recordkeeping under section 5318(k). In issuing the Interim Guidance, Treasury stated that it may be relied upon by financial institutions until superseded by regulations or a subsequent notice. Treasury now is proposing to codify the Interim Guidance, with some modifications, as regulatory standards, and proposing standards applicable to securities brokers and dealers.

When issuing the Interim Guidance, Treasury deferred addressing the compliance obligations of securities brokers and dealers with respect to the requirements of sections 5318(j) and (k), because the Act requires Treasury to define by regulation, after consultation with the Securities and Exchange Commission (SEC), the types of accounts maintained by brokers and dealers for foreign banks that are similar to correspondent accounts that depository institutions maintain for foreign banks. As further discussed below, Treasury is proposing to apply the requirements of sections 5318(j) and (k)(3)(B)(i) to brokers and dealers in the same manner that they apply to other covered financial institutions.

The proposed rule also carries forward from the Interim Guidance, with some modifications, the model certification that covered financial institutions may use to assist them in meeting the requirements of sections 5318(j) and (k). Use of the model certification (Appendix A to part 104) will provide a covered financial institution with a safe harbor for purposes of compliance with those sections. Treasury is proposing that covered financial institutions must verify the information provided by a foreign bank, or otherwise relied upon for purposes of sections 5318(j) and (k), every two years or at any time a covered financial institution has reason to believe that the previously provided information is no longer accurate. The proposed rule also includes a model recertification (Appendix B to part 104), which also will provide a covered financial institution with a safe harbor in connection with the verification of previously provided information.

---

[1] Treasury issued the interim guidance after consultation with the Department of Justice, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the staff of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and the Securities and Exchange Commission. Treasury also consulted with these agencies in preparing this proposed rule.

Proposed section 104.40(f) provides special rules and safe harbors for a covered financial institution that, consistent with the Interim Guidance or this notice of proposed rulemaking, requests information from a foreign bank before the effective date of the final rule and receives such information not later than the date that is 90 days after the publication of the final rule. Such information will be deemed to satisfy the covered financial institution's obligations for purposes of the final rule until such time as the information must be verified.

As an administrative matter, the proposed rule also establishes a new part 104 of title 31 of the Code of Federal Regulations. Part 104 eventually will include other regulations implementing the anti-money laundering provisions of the Act for which Treasury is authorized or required to issue regulations. At this point, most of part 104 has been reserved for these future regulations.

II. Description of the Proposed Rule

A. Limitations on Correspondent Accounts for Foreign Shell Banks

Section 5318(j) provides that a "covered financial institution" shall not establish, maintain, administer, or manage a "correspondent account" in the United States for, or on behalf of, a shell bank that is not a regulated affiliate (as described below). In addition, a covered financial institution must take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by the covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to a foreign shell bank that is not a regulated affiliate.

1. What Is a Covered Financial Institution?

For purposes of section 5318(j), the term "covered financial institution" is defined as: (1) Any insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h))); (2) a commercial bank or trust company; (3) a private banker; (4) an agency or branch of a foreign bank in the United States; (4) a credit union; (5) a thrift institution; or (6) a broker or dealer registered with the SEC under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). *See* 31 U.S.C. 5318(j)(1), 5312(a)(2). The proposed rule incorporates this statutory definition. Covered financial institutions include insured banks organized in U.S. territories, Puerto Rico, Guam, American Samoa, and the Virgin Islands, and corporations organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

2. What Is a Correspondent Account?

Section 5318(j) applies to any "correspondent account" established, maintained, administered, or managed by the covered financial institution in the United States for a foreign bank. For purposes of section 5318(j), "correspondent account" is defined with respect to banking institutions as "an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution." *See* 31 U.S.C. 5318A(e)(1)(B). The Act also defines the term "account" as "a formal banking or business relationship established to provide regular services, dealings, and other financial transactions [and] includes a demand deposit, savings deposit, or other transaction or asset account and a credit account or other extension of credit." *See* 31 U.S.C. 5318A(e)(1)(A).

Treasury, after consultation with the SEC, is required under the Act to define the types of accounts that come within the definition of "correspondent account" for purposes of securities brokers' and dealers' compliance with section 5318(j). *See* 31 U.S.C. 5318A(e)(2). In addition, Treasury may further define the terms "correspondent account" and "account" as the Secretary deems appropriate. *See* 31 U.S.C. 5318A(e)(4). Treasury intends to maintain parity in treatment between accounts provided to foreign banks by banks and broker-dealers, and to treat functionally equivalent accounts, whether maintained by banks or broker-dealers, in the same manner.

The statutory definition of "correspondent account" is broadly worded; it is not limited to any particular type of account. The proposed rule incorporates the statutory definition of "correspondent account." It includes, for example, any account that falls within the definition of "transaction account" under Regulation D of the Board of Governors of the Federal Reserve System (Federal Reserve).[2] It also includes clearing and settlement accounts (which may also fall within the definition of "transaction account"). Such accounts are typically used by foreign banks for remittance of funds in settlement of U.S. dollar transactions with parties other than the U.S. bank at which the account is maintained. In addition, foreign banks maintain fiduciary accounts with U.S. banks for the benefit of such foreign banks or their customers, including custody and escrow accounts. U.S. banks also establish time deposit accounts for foreign banks that are used by foreign banks primarily as funding mechanisms, as well as money market deposit accounts ("MMDAs") that share limited use for transactions processing. In addition, U.S. banks engage in transactions with foreign banks in securities, derivatives, repurchase agreements, foreign exchange, and other instruments. To the extent that these transactions involve an account, they would be covered by the definition of "correspondent account."

In light of the broad statutory definitions of "correspondent account" and "account" for banking institutions, Treasury is proposing to apply the same definition for purposes of the types of broker-dealer accounts that are covered by section 5318(j). Thus, under the proposed rule, brokers and dealers must comply with section 5318(j) with respect to any account they provide in the U.S. to a foreign bank that permits the foreign bank to engage in securities transactions, funds transfers, or other financial transactions through that account. Such accounts would include, for example, the following: (1) Accounts to purchase, sell, lend or otherwise hold securities, either in a proprietary account or an omnibus account for trading on behalf of the foreign bank's customers on a fully disclosed or non-disclosed basis; (2) prime brokerage accounts that consolidate trading done at a number of firms; (3) accounts for trading foreign currency; (4) various forms of custody accounts for the foreign bank and its customers; (5) over-the-counter derivatives accounts; and (6) futures accounts to purchase futures, which would be maintained primarily by broker-dealers that are dually registered as futures commission merchants.

Treasury requests comments on the breadth of the definition of

---

[2] 12 CFR 204.2(e).

"correspondent account" as applied to accounts maintained by depository institutions and brokers and dealers for foreign banks. Comments are requested on the extent to which different types of accounts may be used to provide financial services directly or indirectly to foreign shell banks. Comments are requested on the extent to which different types of accounts may be used to facilitate money laundering, terrorist financing, or other criminal transactions, including the extent to which different types of accounts may be used to disguise the nature, location, source, ownership, or control of the proceeds of unlawful activity. Treasury also seeks comments on whether particular types of accounts pose so little vulnerability to criminal transactions as to merit exclusion from the broad definition of "correspondent account," together with the reasons therefor. Comments also are requested on the adverse business implications for covered financial institutions, if any, of adopting a broad definition of "correspondent account" for purposes of section 5318(j).

Covered financial institutions may through their foreign branches establish, maintain, administer, or manage correspondent accounts for foreign banks. Because these foreign branches legally are part of covered financial institutions, Treasury considers these correspondent accounts to be maintained in the United States for purposes of section 5318(j). In addition, Treasury has broad authority under the Act to establish anti-money laundering standards for U.S. financial institutions and their foreign branches. *See* 31 U.S.C. 5318(h). Therefore, the proposed rule applies to any correspondent accounts provided by a foreign branch of a covered financial institution to a foreign bank. Treasury requests comments on the extent to which such accounts are in fact established, maintained, administered or managed in the United States, as well as whether imposing this requirement on foreign branches of covered financial institutions is commensurate with the size, location, and activities of such institutions.

3. What Is a Foreign Bank?

The Act does not define "foreign bank." For purposes of the proposed rule, "foreign bank" is any organization that (1) is organized under the laws of a foreign country, (2) engages in the business of banking, (3) is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations, (4) and receives deposits in the regular course of its business. A "foreign bank" also includes a branch of a foreign bank located in a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands. A "foreign bank" does not include an agency or branch of a foreign bank located in the United States or an insured bank organized in a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands. Those entities are "covered financial institutions" under the statute. In addition, a foreign central bank or foreign monetary authority that functions as a central bank is not a "foreign bank." Comments are requested on whether the term "foreign bank" should be defined more specifically.

4. What Is a Foreign Shell Bank?

For purposes of section 5318(j), a foreign shell bank is a foreign bank without a physical presence in any country. *See* 31 U.S.C. 5318(j)(1). "Physical presence" means a place of business that is maintained by a foreign bank and is located at a fixed address, other than solely a post office box or an electronic address, in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank: (1) Employs one or more individuals on a full-time basis; (2) maintains operating records related to its banking activities; and (3) is subject to inspection by the banking authority that licensed the foreign bank to conduct banking activities. *See* 31 U.S.C. 5318(j)(4)(B).

5. What Is a Regulated Affiliate?

The limitations on the direct and indirect provision of correspondent accounts to foreign shell banks do not apply to a foreign shell bank that is a "regulated affiliate." A regulated affiliate is a foreign shell bank that: (1) Is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and (2) is subject to supervision by a banking authority in the country regulating such affiliated depository institution, credit union, or foreign bank. An affiliate is a foreign bank that is controlled by or is under common control with a depository institution, credit union, or foreign bank. *See* 31 U.S.C. 5318(j)(3).

6. What Steps Must a Covered Financial Institution Take To Comply With Section 5318(j)?

In order to comply with the limitations on the direct and indirect provision of correspondent accounts to foreign shell banks, a covered financial institution must ensure that each foreign bank to which it provides a correspondent account is not a shell bank, and take reasonable steps to ensure that correspondent accounts provided to such foreign banks are not being used to indirectly provide banking services to foreign shell banks. Although the proposed rule does not prescribe the manner in which a covered financial institution must satisfy its obligations under section 5318(j), it does provide a safe harbor if a covered financial institution uses the model certifications in Appendix A and Appendix B for these purposes. A covered financial institution that does not obtain, from a foreign bank or otherwise, the information necessary to fulfill its obligations under section 5318(j) within the prescribed time periods must terminate its correspondent account relationship with the concerned foreign bank.

The Department of the Treasury expects that covered financial institutions, as required by 31 U.S.C. 5318(j), will immediately terminate all correspondent accounts with any foreign bank that it knows to be a shell bank that is not a regulated affiliate, and will terminate any correspondent account with a foreign bank that it knows is being used to indirectly provide banking services to a foreign shell bank. Because some correspondent accounts, at the time of termination, may contain open securities or futures positions, a covered financial institution may exercise its commercially reasonable discretion in liquidating such open positions (including, but not limited to, following its ordinary practices upon the default of a client). However, a covered financial institution must take reasonable steps to ensure that an account that is in the process of being terminated is not permitted to establish new positions.

B. Recordkeeping and Termination Requirements for Correspondent Accounts of Foreign Banks

Under 31 U.S.C. 5318(k), as added by section 319(b) of the Act, any covered financial institution that maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying: (1) the owner(s) of such foreign bank; and (2) the name and address of a person (as defined in 31 CFR 103.11(z)) who resides in the United States and is authorized to accept service of legal process for records regarding the correspondent account.

Section 5318(k) authorizes the Secretary and the Attorney General to issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank. The summons or subpoena may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

A covered financial institution must terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General (in each case, after consultation with the other) that the foreign bank has failed either: (1) to comply with the summons or subpoena issued; or (2) to initiate proceedings in a United States court contesting such summons or subpoena. *See* 31 U.S.C. 5318(k)(3)(C).

If a covered financial institution fails to terminate the correspondent relationship upon receiving notice from the Secretary or the Attorney General, it is subject to a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated. A covered financial institution is not liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with section 5318(k).

1. What Is a Covered Financial Institution?

There is no statutory definition of "covered financial institution" for purposes of section 5318(k). For the following reasons, Treasury believes that "covered financial institution" in section 5318(k) should be read to have the same meaning as the identical term in section 5318(j), which includes brokers and dealers.

Both sections 5318(j) and (k) deal with anti-money laundering efforts related to correspondent relationships between U.S. financial institutions and foreign banks. Congress expressly included brokers and dealers in the category of "covered financial institutions" under section 5318(j) and required Treasury to identify the types of accounts that brokers and dealers maintain for foreign banks that are similar to correspondent accounts. In addition, Congress provided that the same definition of "correspondent account" applies in both sections 5318(j) and (k).

Excluding brokers and dealers from the category of "covered financial institutions" subject to the recordkeeping requirements and account termination safeguards under section 5318(k) would be inconsistent with the statutory scheme and would not reflect a comprehensive approach to implementing the Act's anti-money laundering requirements. In addition, Treasury has broad authority under the Act to establish anti-money laundering standards for securities brokers and dealers. *See* 31 U.S.C. 5318(h). Consequently, under the proposed rule, brokers and dealers are covered financial institutions subject to section 5318(k).

2. What Accounts Are Covered?

Section 5318(k) applies to "correspondent accounts," which has the same meaning as in section 5318(j), *i.e.*, an account established to receive deposits from, make payments on behalf of a foreign financial institution, or handle other financial transactions related to such institution. In light of the Act's use of the same definition of correspondent account in both sections 5318(j) and (k), Treasury believes that both sections should be read as coextensive in the types of accounts to which they apply.

3. Who Is an Owner of a Foreign Bank?

Section 5318(k) does not define "owner" for purposes of the requirement that a covered financial institution maintain records of the owners of foreign banks to which it provides correspondent accounts. Treasury is proposing to define an "owner" as any person who is a "large direct owner," an "indirect owner," and a "reportable small direct owner." The proposed definition of each of these terms is discussed below. For purposes of these definitions, "person" means any individual, bank, corporation, partnership, limited liability company, or any other legal entity, except that members of the same family [3] shall be considered one person, and each family member who has an ownership interest in the foreign bank must be identified. "Voting shares or other voting interests" means shares or other interests that entitle the holder to vote for or select directors (or individuals exercising similar functions).

The definition of "owner" applies only with respect to the provisions of section 5318(k), which are designed to facilitate the service of legal process. No inference may be drawn as to the applicability of this definition to other provisions of the Act, including the enhanced due diligence requirements of 31 U.S.C. 5318(i) (as added by section 312 of the Act), which sets forth different standards for reporting ownership information.

Foreign banks that maintain U.S. branches or agencies are required by the Federal Reserve to file an Annual Report (FR Y–7), which lists the foreign bank's agent for service of process in the U.S. and information on the ownership of the foreign bank. The current FR Y–7 generally requires the reporting of persons who own, directly or indirectly, 5 percent or more of any class of the voting shares of a foreign bank. A U.S. branch or agency of a foreign bank or other covered financial institution may use the relevant portions of a current FR Y–7 filed by the foreign bank to meet its recordkeeping obligations under section 5318(k) with respect to a correspondent account the U.S. branch or agency or other covered financial institution maintains for the foreign bank.

The definition of "owner" in the proposed rule is intended to minimize reporting burdens by focusing on those persons who are likely to have the ability to exert influence over the operations of a foreign bank. The proposed definition necessarily reflects the complexity of ownership relationships, including those that can be used or structured to obscure controlling or influential owners of a foreign bank. The Department recognizes that the reporting regime of FR Y–7 is significantly simpler that the proposed definition, but believes that it would be more burdensome for foreign banks. Comments are specifically requested concerning whether the Treasury should use the ownership criteria of FR Y–7 in lieu of the definition of "owner" in the proposed rule.

a. Who Is a Small Direct Owner of a Foreign Bank?

A "small direct owner" of a foreign bank is a person who owns, controls, or has power to vote less than 25 percent of the voting shares or other voting interests of the foreign bank. The identity of a small direct owner is not subject to reporting unless such person is a "reportable small direct owner."

A "reportable small direct owner" is: (1) Each of two or more small direct owners that in the aggregate own 25 percent or more of any class of the voting shares or other voting interests of the foreign bank and are majority-owned by the same person, or by a chain of majority-owned persons; or (2) each of any one or more small direct owners that are majority-owned by another small direct owner and in the aggregate all such small direct owners own 25 percent or more of the voting shares or other voting interests of the foreign bank. In determining who is a "reportable small direct owner," a small direct owner that owns or controls less than 5 percent of the voting shares or other voting interests of the foreign bank need not be taken into account.

---

[3] The same family means parents, spouses, children, siblings, uncles, aunts, grandparents, grandchildren, first cousins, second cousins, stepchildren, stepsiblings, parents-in-law and spouses of any of the foregoing.

b. Who Is a Large Direct Owner of a Foreign Bank?

A "large direct owner" of a foreign bank is a person who: (1) Owns, controls, or has power to vote 25 percent or more of any class of voting shares or other voting interests of the foreign bank; or (2) controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of the foreign bank. A covered financial institution must obtain the identity of each large direct owner of a foreign bank.

c. Who Is an Indirect Owner of a Foreign Bank?

An indirect owner is any person in the ownership chain of any large direct owner or a reportable small direct owner who is not majority-owned by another person. In determining who is an "indirect owner," a small direct owner that owns or controls less than 5 percent of the voting shares or other voting interests of the foreign bank need not be taken into account. A covered financial institution must obtain the identity of each indirect owner of a foreign bank.

For example, if any two or more small direct owners of a foreign bank (1) in the aggregate own, control, or have power to vote 25 percent or more of any class of voting securities or other voting interests of the foreign bank, and (2) are majority-owned by the same person, or by the same chain of majority-owned persons, the "indirect owner" is any person in the ownership chain of those small direct owners who is not majority-owned by another person.

Similarly, if one or more small direct owners of a foreign bank is majority-owned by another small direct owner and in the aggregate all such small direct owners own, control, or have power to vote 25 percent or more of any class of voting shares or other voting interests of the foreign bank, the "indirect owner" is (1) the small direct owner that is the majority-owner of the other small direct owner(s), *or* (2) any person in the ownership chain of the small direct owner that is the majority-owner of the other small direct owner(s) that is not majority-owned by another person.

Examples of reportable owners.

Example 1. FB–1 is a foreign bank. Voting securities of FB–1 are owned by Person C (15 percent), Person D (35 percent), Person E (10 percent), Person F (20 percent), and Person G (20 percent).

Persons C and G are both majority-owned by Person X, which is majority-owned by Person Y, which is majority-owned by Person Z, which is not majority-owned by another person.

Person D is majority-owned by Person V, which is majority-owned by Person W; which is not majority-owned by another person.

Persons E and F are not owned by another person.

Persons C, E, F, and G are small direct owners because each owns less than 25 percent of the voting securities of FB–1. The identities of Persons C and G are reportable small direct owners because: (1) In the aggregate they own more than 25 percent of the voting securities of FB–1; and (2) they are majority-owned by the same indirect owner Z. The identities of Persons E and F are not subject to reporting.

Person D is a large direct owner because it owns 25 percent or more of the voting securities of FB–1. The identity of Person D is subject to reporting.

Person W is an indirect owner because it is a majority-owner of Person V, which is a majority-owner of Person D. The identity of Person W is subject to reporting. The identity of Person V is not subject to reporting.

Person Z is an indirect owner because it is a majority-owner of Person Y, which is a majority-owner of Person X, which is a majority-owner of Persons C and G, which are small direct owners that in the aggregate own 25 percent or more of the voting securities of FB–1. The identity of Person Z is subject to reporting. The identities of Persons Y and X are not subject to reporting.

Example 2. FB–2 is a foreign bank. Voting securities of FB–2 are owned by Person K (20 percent) and Person L (10 percent). Person K is majority-owned by Person L. Person L is not majority-owned by another person. Persons K and L are small direct owners. However, Person L is also an indirect owner subject to reporting because: (1) Person L is a majority-owner of Person K; and (2) in the aggregate Persons K and L own more than 25 percent of the voting securities of FB–2. Person K is a reportable small direct owner for the same reason.

Example 3. Same facts as in Example 2, except that Person L is majority-owned by Person M, who is majority-owned by Person N, who is not majority-owned by another person. In this example, Person N is an indirect owner subject to reporting because Person N is the person in the ownership chain of small direct owner Person L and is not majority-owned by another person. Persons K and L are reportable small direct owners. The identity of Person M is not subject to reporting.

Example 4. FB–3 is a foreign bank. 30 percent of the voting securities of FB–2 are owned by 6 members of the same family (as defined in the proposed rule) in amounts ranging from 2 percent to 10 percent. The 6 family members are considered to be one person who is a large direct owner of the bank. The identity of each of the 6 family members is subject to reporting. Other family members who do not own voting securities in FB–3 are not subject to reporting.

4. What Steps Must a Covered Financial Institution Take To Comply With Section 5318(k)(3)(B)(i)?

Although the proposed rule does not prescribe the manner in which a covered financial institution must obtain information concerning the identity of owners of foreign banks and their agents in the U.S. authorized to receive service of legal process, it does provide a safe harbor if a covered financial institution uses the model certifications in Appendix A and Appendix B for these purposes. A covered financial institution that does not obtain, from a foreign bank or otherwise, the information necessary to fulfill its obligations under section 5318(k)(3)(B)(i) must terminate its correspondent account relationship with the concerned foreign bank.

III. Submission of Comments

All comments will be available for public inspection and copying, and no material in any comments, including the name of any person submitting comments, will be recognized as confidential. Material not intended to be disclosed to the public should not be submitted.

IV. Regulatory Flexibility Act

It is hereby certified that this proposed rule is not likely to have a significant economic impact on a substantial number of small entities. Covered financial institutions that are subject to the recordkeeping requirements in the statute and the proposed rule tend to be large institutions. Moreover, any economic consequences that might result from the prohibition on dealings with foreign shell banks, or from the failure of a foreign bank to provide the information necessary for a covered financial institution to fulfill its recordkeeping obligations, flow directly from the underlying statute. Accordingly, the analysis provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

V. Executive Order 12866

This proposed rule is not a "significant regulatory action" as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

VI. Paperwork Reduction Act

The collections of information contained in Appendix A to proposed 31 CFR part 104 rulemaking have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and assigned OMB Control Number 1505–0184.

The collection of information contained in Appendix B to proposed 31 CFR part 104 and the recordkeeping requirement in proposed 31 CFR 104.40(e) have been submitted to OMB for review in accordance with the requirements of the Paperwork Reduction Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments concerning the collection of information should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, New Executive Office Building, Washington, DC 20503, and to the Department of the Treasury at the address previously specified in the **ADDRESSES** portion of this preamble. Any such comments should be submitted not later than February 26, 2002.

Comments are specifically requested concerning:

Whether the collection of information is necessary for the proper performance of the functions of the Department of the Treasury, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the collection of information (see below), which was developed in part on the basis of discussions with industry representatives. The Department is particularly interested in comments concerning the number of covered financial institutions and the number of foreign banks for which correspondent accounts are maintained.

How to enhance the quality, utility, and clarity of the information to be collected;

How to minimize the burden of complying with the collection of information, including the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

This information will enable financial institutions to comply with the requirements of sections 31 U.S.C. 5318(j) and (k), and will be used by Federal agencies to verify compliance by covered financial institutions with these provisions. The respondents are foreign banks that establish or maintain correspondent accounts with U.S. financial institutions. The reporting of this information by foreign banking institutions is voluntary; however failure to provide the information may preclude the establishment or the continuation of correspondent accounts with U.S. financial institutions. The recordkeepers are covered financial institutions. The recordkeeping requirement concerning owners and agents of foreign banks is required by statute.

Estimated total annual reporting burden for Appendix B: 45,000 hours.

Estimated number of respondents (foreign banks): 9,000.

Estimated average annual reporting burden per respondent: 5 hours.

Estimated frequency of responses: Once every 2 years.

Estimated total annual recordkeeping burden: 18,000 hours.

Estimated number of recordkeepers (covered financial institutions): 2000.

Estimated average annual recordkeeping burden per recordkeeper: 9 hours.

List of Subjects in 31 CFR Part 104

Banks, banking, Brokers, Counter money laundering, Counter-terrorism, Currency, Foreign banking, Reporting and recordkeeping requirements.

Dated: December 19, 2001.

David D. Aufhauser,

General Counsel.

Authority and Issuance

For the reasons set forth in the preamble, the Treasury is proposing to amend 31 CFR subtitle B, chapter I by adding part 104 to read as follows:

PART 104—COUNTER MONEY LAUNDERING REQUIREMENTS

Subpart A—Definitions

Sec.
104.10 Definitions.

Subpart B—Anti Money Laundering Programs [Reserved]

Subpart C—Special Due Diligence for Correspondent Accounts and Private Banking Accounts

104.40 Records concerning owners of foreign banks and agents designated to receive service of legal process; prohibition on correspondent accounts for foreign shell banks.
104.50 [Reserved]

Subpart D—Law Enforcement Access to Foreign Bank Records

104.60 Summons or subpoena of foreign bank records.
104.70 Termination of correspondent relationship.

Subpart E—Cooperative Efforts to Deter Money Laundering [Reserved]

Appendix A to Part 104—Certification Regarding Correspondent Accounts
Appendix B to Part 104—Recertification Regarding Correspondent Accounts

Authority: 31 U.S.C. 5318, 5318A; title III, secs 311, 313, 319, 352, Pub. L. 107–56, 115 Stat. 298, 306, 311, 322.

Subpart A—Definitions

§ 104.10 Definitions.

For purposes of subparts C and D of this part:

(a) *Attorney General* means the Attorney General of the United States.

(b) *Correspondent account* means an account established to receive deposits from, make payments on behalf of a foreign bank, or handle other financial transactions related to such bank.

(c) *Covered financial institution* means:

(1) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any foreign branch of an insured bank;

(2) A commercial bank or trust company;

(3) A private banker;

(4) An agency or branch of a foreign bank in the United States;

(5) A credit union;

(6) A thrift institution;

(7) A corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*); and

(8) A broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

(d) *Foreign bank.* (1) The term *foreign bank* means any organization that:

(i) Is organized under the laws of a foreign country;

(ii) Engages in the business of banking;

(iii) Is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations; and

(iv) Receives deposits in the regular course of its business.

(2) For purposes of this definition:

(i) The term *foreign bank* includes a branch of a foreign bank in a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(ii) The term *foreign bank* does not include:

(A) A U.S. agency or branch of a foreign bank;

(B) An insured bank organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(C) A foreign central bank or foreign monetary authority that functions as a central bank; and

(D) The African Development Bank, Asian Development Bank, Bank for International Settlements, European Bank for Reconstruction and Development, Inter-American Development Bank, International Bank for Reconstruction and Development (the World Bank), International Finance Corporation, International Monetary Fund, North American Development Bank, African Development Bank, International Development Association, Multilateral Investment Guarantee Agency, and similar international financial institutions of which the United States is a member or as otherwise designated by the Secretary.

(e) *Foreign shell bank* means a foreign bank without a physical presence in any country.

(f) *Majority-owned* means a person who is owned 50 percent or more by another person.

(g) *Owner* means any large direct owner, indirect owner, and reportable small direct owner. For purposes of this definition:

(1) *Large direct owner* means a person who:

(i) Owns, controls, or has power to vote 25 percent or more of any class of voting shares or other voting interests of the foreign bank; or

(ii) Controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of the foreign bank.

(2) *Small direct owner* means a person who owns, controls, or has power to vote less than 25 percent of any class of voting shares or other voting interests of the foreign bank.

(3) *Reportable small direct owner.* (i) Subject to paragraph (g)(3)(ii) of this section, the term *reportable small direct owner* means:

(A) Each of two or more small direct owners who in the aggregate own 25 percent or more of any class of voting shares or other voting interests of the foreign bank and are majority-owned by the same person, or by the same chain of majority-owned persons; and

(B) Each of one or more small direct owners who are majority-owned by another small direct owner and in the aggregate all such small direct owners own 25 percent or more of any class of voting shares or other voting interests of the foreign bank.

(ii) In determining who is a reportable small direct owner for purposes of paragraph (g)(3)(i) of this section, a small direct owner who owns or controls less than 5 percent of the voting shares or other voting interests of the foreign bank need not be taken into account.

(4) *Indirect owner.* (i) The term *indirect owner* means:

(A) Any person in the ownership chain of any large direct owner who is not majority-owned by another person.

(B) Any person, including a small direct owner who is a majority-owner as described in paragraph (g)(3)(i)(B) of this section, in the ownership chain of any reportable small direct owner who is not majority-owned by another person.

(ii) A person who is a reportable small direct owner as defined in paragraph (g)(3) of this section need not also be reported as an indirect owner under this paragraph (g)(4).

(5) *Person* means any individual, bank, corporation, partnership, limited liability company, or any other legal entity. For purposes of this definition:

(i) Members of the same family shall be considered to be one person.

(ii) The term *same family* means parents, spouses, children, siblings, uncles, aunts, grandparents, grandchildren, first cousins, second cousins, stepchildren, stepsiblings, parents-in-law and spouses of any of the foregoing.

(iii) Each member of the same family who has an ownership interest in a foreign bank must be identified if the family is an owner because of the aggregate ownership interests of the members of the family. In determining the ownership interests of the same family, any voting interest of any family member shall be taken into account.

(6) *Voting shares or other voting interests* means shares or other interests that entitle the holder to vote for or select directors (or individuals exercising similar functions).

(h) *Person.* Except with respect to paragraph (g) of this section, the term *person* shall have the same meaning as provided in § 103.11(z) of this chapter.

(i) *Physical presence* means a place of business that:

(1) Is maintained by a foreign bank;

(2) Is located at a fixed address (other than solely an electronic address or a post-office box) in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank:

(i) Employs 1 or more individuals on a full-time basis; and

(ii) Maintains operating records related to its banking activities; and

(3) Is subject to inspection by the banking authority that licensed the foreign bank to conduct banking activities.

(j) *Regulated affiliate.* (1) The term *regulated affiliate* means a foreign shell bank that:

(i) Is an affiliate of a depository institution, credit union, or foreign bank that maintains a physical presence in the United States or a foreign country, as applicable; and

(ii) Is subject to supervision by a banking authority in the country regulating such affiliated depository institution, credit union, or foreign bank.

(2) For purposes of this definition:

(i) *Affiliate* means any company that controls, is controlled by, or is under common control with another company.

(ii) *Control* means:

(A) Ownership, control, or power to vote 25 percent or more of any class of voting shares or other voting interests of another company; or

(B) Control in any manner the election of a majority of the directors (or individuals exercising similar functions) of another company.

(k) *Secretary* means the Secretary of the Treasury.

Subpart B—Anti Money Laundering Programs [Reserved]

Subpart C—Special Due Diligence for Correspondent Accounts and Private Banking Accounts

§ 104.40 Records concerning owners of foreign banks and agents designated to receive service of legal process; prohibition on correspondent accounts for foreign shell banks.

(a) *Requirements for covered financial institutions*—(1) *Records of owners and agents.* A covered financial institution that maintains a correspondent account in the United States for a foreign bank shall maintain records in the United States identifying the owners of each such foreign bank and the name and address of a person who resides in the United States and is authorized, and has agreed to be an agent to accept service of legal process for records regarding each such account. For purposes of this section, any correspondent account maintained by a foreign branch of a covered financial institution for a foreign bank shall be deemed to be maintained in the United States.

(2) *Prohibition on correspondent accounts for foreign shell banks.* (i) A covered financial institution shall not establish, maintain, administer, or manage a correspondent account in the United States for, or on behalf of, a foreign shell bank.

(ii) A covered financial institution shall take reasonable steps to ensure that any correspondent account established, maintained, administered, or managed by that covered financial institution in the United States for a foreign bank is not being used by that foreign bank to indirectly provide banking services to a foreign shell bank.

(iii) Nothing in this paragraph (a)(2) prohibits a covered financial institution from providing a correspondent account or banking services to a regulated affiliate.

(iv) For purposes of this paragraph (a)(2), any correspondent account established, maintained, administered, or managed by a foreign branch of a covered financial institution shall be deemed to be established, maintained, administered, or managed in the United States.

(b) *Safe harbor.* Subject to paragraph (d) of this section, a covered financial institution will be deemed to be in compliance with the requirements of paragraph (a) of this section with respect to a foreign bank if the covered financial institution obtains from the foreign bank the certification described in Appendix A to this part (including all annexes thereto).

(c) *Verification requirements*—(1) *Biennial verification.* At least once every 2 years, a covered financial institution shall verify the information previously provided by each foreign bank for which it maintains a correspondent account, or otherwise relied upon by the covered financial institution for purposes of this section.

(2) *Interim verification.* If at any time a covered financial institution has reason to believe that any information provided by a foreign bank or otherwise relied upon by the covered financial institution for purposes of this section is no longer correct, the covered financial institution shall request that the foreign bank verify such information.

(3) *Safe harbor.* Subject to paragraph (d) of this section, a covered financial institution will be deemed to continue to be in compliance with the requirements of this paragraph (c) and paragraph (a) of this section if the covered financial institution obtains from the foreign bank:

(i) A revised Appendix A certification (including all annexes thereto); or

(ii) The recertification described in Appendix B to this part.

(d) *Closure of correspondent accounts*—(1) *Accounts existing on [the date that is 30 days after the date of publication of the final rule in the* ***Federal Register****].* In the case of a foreign bank with respect to which a covered financial institution maintains a correspondent account that was in existence on [the date that is 30 days after the date of publication of the final rule in the **Federal Register**], the covered financial institution shall close all correspondent accounts with such foreign bank not later than [the date that is 90 days after the date of publication of the final rule in the **Federal Register**] if the covered financial institution has not obtained, from the foreign bank or otherwise, the information described in Appendix A to this part (including all annexes thereto).

(2) *Accounts established after [the date that is 30 days after the date of publication of the final rule in the* ***Federal Register****].* In the case of a foreign bank with respect to which a covered financial institution establishes a correspondent account after [the date that is 30 days after the date of publication of the final rule in the **Federal Register**], the covered financial institution shall close such account if the covered financial institution has not obtained, from the foreign bank or otherwise, the information described in Appendix A to this part (including all annexes thereto), or the information described in Appendix B to this part, not later than the date that is:

(i) In the case of an account established before January 1, 2003, 60 calendar days after the date the account is established; or

(ii) In the case of an account established after December 31, 2002, 30 calendar days after the date the account is established.

(3) *Verification of previously provided information.* In the case of a foreign bank from which a covered financial institution requests a verification of information or with respect to which the covered financial institution otherwise undertakes to verify information pursuant to paragraph (c)(1) or (2) of this section, the covered financial institution shall close all correspondent accounts with such foreign bank if the covered financial institution has not obtained, from the foreign bank or otherwise, the information described in Appendix A to this part (including all annexes thereto) or the information described in Appendix B to this part, not later than the date that is:

(i) In the case of a verification initiated before January 1, 2003, 90 calendar days after the date of the request or otherwise undertaking the verification; or

(ii) In the case of a verification initiated after December 31, 2002, 60 calendar days after the date of the request or otherwise undertaking the verification.

(4) *Reestablishment of closed accounts and establishment of new accounts.* A covered financial institution shall not reestablish any account closed pursuant to this paragraph, and shall not establish any other correspondent account with the concerned foreign bank, until it obtains, from the foreign bank or otherwise, the information described in Appendix A to this part (including all annexes thereto) or the information described in Appendix B to this part, as appropriate.

(5) *Limitation on liability.* A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with this paragraph (d).

(e) *Recordkeeping requirement.* A covered financial institution shall retain the original of any document provided by a foreign bank, and the original or a copy of any document otherwise relied upon by the covered financial institution, for purposes of this section, for at least 5 years after the date that the covered financial institution no longer maintains any account for such foreign bank. A covered financial institution shall retain such records with respect to any foreign bank for such longer period as the Secretary may direct.

(f) *Special rules concerning information requested prior to [the date that is 30 days after the date of publication of the final rule in the* ***Federal Register****]*—(1) *Definition.* For purposes of this paragraph (f) the term "Interim Guidance" means:

(i) The Interim Guidance of the Department of the Treasury dated November 20, 2001 [1] and published in the **Federal Register** on November 27, 2001; or

(ii) The provisions of this part as published in the **Federal Register** on December 28, 2001.

(2) *Safe harbors.* (i) For purposes of paragraph (b) of this section, a covered financial institution that requested a foreign bank to provide the information described in the Interim Guidance prior to [the date that is 30 days after the date of publication of the final rule in the **Federal Register**] will be deemed to be in compliance with the requirements of paragraph (a) of this section with respect to such foreign bank if the foreign bank provides such information to the covered financial institution on or before [the date that is 90 days after the date of publication of the final rule in the **Federal Register**].

(ii) Nothing in this section shall be construed to cause any information obtained pursuant to the Interim Guidance to be considered incorrect for

---

[1] The November 20, 2001 Interim Guidance may be found on the Treasury Internet site at *http://www.treas.gov/press/releases/po813.htm*

VOL 66 ISS 249 DE 28 2001 UMI

purposes of paragraph (c)(2) of this section if such information was obtained pursuant to a request to a foreign bank made prior to [the date that is 30 days after the date of publication of the final rule in the **Federal Register**] and received on or before [the date that is 90 days after the date of publication of the final rule].

(iii) For purposes of paragraph (d)(1) of this section, the reference in paragraph (d)(1) of this section to "the information described in Appendix A to this part (including all annexes thereto)" shall be deemed to refer to such information as described in the Interim Guidance if such information was obtained pursuant to a request to a foreign bank made prior to [the date that is 30 days after the date of publication of the final rule in the **Federal Register**] and received on or before [the date that is 90 days after the date of publication of the final rule].

(3) *Verification of information*. For purposes of paragraph (c)(1) of this section, information obtained pursuant to a request to a foreign bank made prior to [the date that is 30 days after the date of publication of the final rule in the **Federal Register**] and received on or before [the date that is 90 days after the date of publication of the final rule] shall be verified in accordance with the definitions and requirements of this section.

(4) *Recordkeeping requirement*. Paragraph (e) of this section shall apply to any document provided by a foreign bank, or otherwise relied upon by a covered financial institution, for purposes of the Interim Guidance.

§ 104.50 [Reserved]

Subpart D—Law Enforcement Access to Foreign Bank Records

§ 104.60 Summons or subpoena of foreign bank records.

(a) *Issuance to foreign banks*. The Secretary or the Attorney General may issue a summons or subpoena to any foreign bank that maintains a correspondent account in the United States and request records related to such correspondent account, including records maintained outside of the United States relating to the deposit of funds into the foreign bank. The summons or subpoena may be served on the foreign bank in the United States if the foreign bank has a representative in the United States, or in a foreign country pursuant to any mutual legal assistance treaty, multilateral agreement, or other request for international law enforcement assistance.

(b) *Issuance to covered financial institutions*. Upon receipt of a written request from a Federal law enforcement officer for information required to be maintained by a covered financial institution under § 104.40, the covered financial institution shall provide the information to the requesting officer not later than 7 days after receipt of the request.

§ 104.70 Termination of correspondent relationship.

(a) *Termination upon receipt of notice*. A covered financial institution shall terminate any correspondent relationship with a foreign bank not later than 10 business days after receipt of written notice from the Secretary or the Attorney General (in each case, after consultation with the other) that the foreign bank has failed:

(1) To comply with a summons or subpoena issued under § 104.60(a); or

(2) To initiate proceedings in a United States court contesting such summons or subpoena.

(b) *Limitation on liability*. A covered financial institution shall not be liable to any person in any court or arbitration proceeding for terminating a correspondent relationship in accordance with paragraph (a) of this section.

(c) *Failure to terminate relationship*. Failure to terminate a correspondent relationship in accordance with this section shall render the covered financial institution liable for a civil penalty of up to $10,000 per day until the correspondent relationship is so terminated.

Subpart E—Cooperative Efforts To Deter Money Laundering [Reserved]

Appendix A to Part 104—Certification Regarding Correspondent Accounts

BILLING CODE 4810-02-P

CERTIFICATION FOR PURPOSES OF SECTIONS 5318(j) AND 5318(k) OF TITLE 31, UNITED STATES CODE

[OMB Control Number 1505-0184]

The information contained in this Certification is sought pursuant to Sections 5318(j) and 5318(k) of Title 31 of the United States Code, as added by sections 313 and 319(b) of the USA PATRIOT Act of 2001 (Public Law 107-56).

The undersigned financial institution,

______________________________ (a "Foreign bank" as defined in

31 CFR 104.10(d)), has established one or more accounts with ______________________

______________________________ (a "Covered Financial Institution")

to receive deposits from, make payments on behalf of, or handle other financial transactions related to Foreign Bank (the "correspondent accounts"). Foreign Bank hereby certifies, by an individual authorized to make such certification, as follows:

1. Foreign Bank (check appropriate box and complete Annex I):

☐ (a) Maintains a place of business that (i) is located at a fixed address (other than solely an electronic address or a post office box) in a country in which Foreign Bank is authorized by such country to conduct banking activities, at which location Foreign Bank employs one or more individuals on a full-time basis and maintains operating records related to its banking activities; and (ii) is subject to inspection by the banking authority that licensed Foreign Bank to conduct banking activities (hereinafter referred to as a **"physical presence"**);

☐ (b) Does not have a **physical presence** in any country, but the Foreign Bank (i) is an affiliate of a U.S. depository institution, U.S. credit union, or a Foreign bank that maintains a **physical presence** in a country; and (ii) is also subject to supervision by the same banking authority in the country that regulates such affiliated depository institution, credit union, or foreign bank (the Foreign Bank is thus a **"regulated affiliate"**); or

☐ (c) Does not have a **physical presence** in a country and is not a **regulated affiliate**.

VOL 66 ISS 249 DE 28 2001 UMI

2. Foreign Bank does not use any correspondent account with the Covered Financial Institution to indirectly provide banking services to any foreign bank that does not have a **physical presence** in any country, and that is not a **regulated affiliate**.

3. Foreign Bank has no **owner(s)** (as defined below) except as set forth in Annex II. For purposes of this Certification, an **owner** means any **large direct owner**, any **indirect owner**, and any **reportable small direct owner** as these terms are defined 31 CFR 104.10(g). Generally:

A **large direct owner** is a **person** who: (1) owns, controls, or has power to vote 25 percent or more of any class of voting shares or other voting interests of the foreign bank: or (2) controls in any manner the election of a majority of the directors (or individuals exercising similar functions) of the foreign bank.

A **small direct owner** is a **person** who owns, controls, or has power to vote less than 25 percent of any class of voting shares or other voting interests of the foreign bank. A small direct owner need not be reported on Annex II unless it is a reportable small direct owner.

A **reportable small direct owner** means: (1) each of two or more small direct owners who in the aggregate own 25 percent or more of any class of voting shares or other voting interests of the foreign bank and are majority-owned by the same indirect owner; or (2) each of any one or more small direct owners who are majority-owned by another small direct owner and in the aggregate all such small direct owners own 25 percent or more of any class of voting shares or other voting interests of the foreign bank. In determining who is a reportable small direct owner, a small direct owner that owns or controls less than 5 percent of the voting shares or other voting interests of the foreign bank need not be taken into account.

An **indirect owner** means: Any person in the ownership chain of any large direct owner or reportable small direct owner who is not majority-owned by another person.
For purposes of this Certification, (i) **"person"** means any individual, bank, corporation, partnership, limited liability company or any other legal entity; (ii) **voting securities** or **other voting interests** means securities or other interests that entitle the holder to vote for or select directors (or individuals exercising similar functions); and (iii) members of the same family* shall be considered one **person**.

4. The individual or entity ("Agent") identified in Annex III, resident in the United States at the address (not a post office box) set forth in Annex III, is authorized to accept service of legal process from the Secretary of the Treasury or the Attorney General of the United States pursuant to Section 5318(k) of title 31, United States Code.

---

* The same family means parents, spouses, children, siblings, uncles, aunts, grandparents, grandchildren, first cousins, second cousins, stepchildren, stepsiblings, parents-in-law and spouses of any of the foregoing. In determining the ownership interests of the same family, any voting interest of any family member shall be taken into account. Each family member with an ownership interest must be reported.

5. **Foreign Bank shall notify in writing within 30 calendar days each financial institution in the United States at which it maintains a correspondent account of any change in** facts or circumstances as reported in this Certification and the Annexes hereto.

6. Foreign Bank understands that each financial institution in the United States at which it maintains a correspondent account may provide a copy of this Certification to the Secretary of the Treasury and the Attorney General of the United States.

I, ______________________________ (name), certify that I have read and understand this Certification and the Annexes hereto and that the statements made in this Certification and the Annexes hereto are true and correct.

This Certification is made on behalf of ___________________________________ (name of Foreign Bank), a banking institution organized under the laws of ____ (specify country).

I understand that the statements contained in this Certification and the Annexes hereto may be transmitted to one or more departments or agencies of the United States of America for purpose of fulfilling such departments and agencies governmental functions.

____
[Signature]

____
[Title]

Executed on this ______ day of _________, 200__.

Received, reviewed and accepted by:

Name: ________________________________
Title: ________________________________
For:

____
[Name of Covered Financial Institution]

____
Date

Annex I

1. To be completed if Foreign Bank checked paragraph 1(a) of the Certification:

(A) Foreign Bank maintains a place of business at

____
[Street Address]

in ____________________
[Country]

(B) The banking authority that has the right to inspect the place of business referred to in (A) is

____________________.
[Name of Banking Authority]

2. To be completed if Foreign Bank checked paragraph 1(b) of the Certification:

(A) Foreign Bank's affiliate that is regulated is

____________________, which maintains a physical presence at
[Name of Affiliate]

____
[Street Address]

in ____________________.
[Country]

(B) The banking authority that supervises both the Foreign Bank and its affiliate is

____________________.
[Name of Banking Authority]

Annex II

Name and Address
of Owner(s)

Name	Address (No Post Office Boxes)

Attach Additional Sheets if Necessary

VOL 66 ISS 249 DE 28 2001 UMI

Annex III

Name and Address
of Agent Designated to Accept Service of Legal Process

Name	Address (No Post Office Boxes)	Phone No.	Fax No.	E-mail Address

FOR PURPOSES OF SECTIONS 5318(j) AND 5318(k) OF TITLE 31, UNITED STATES CODE

[OMB CONTROL NUMBER 1505-____]

The information contained in this Certification is sought pursuant to Sections 5318(j) and 5318(k) of Title 31 of the United States Code, as added by sections 313 and 319(b) of the USA PATRIOT Act of 2001 (Public Law 107-56).

The undersigned financial institution, ____

____(a "Foreign Bank"

as defined in 31 CFR 104.10(d)), has established one or more accounts with ______________

____

(a "Covered Financial Institution") to receive deposits from, make payments on behalf of, or

handle other financial transactions related to Foreign Bank (the "correspondent accounts").

Foreign Bank hereby certifies, by an individual authorized to make such certification, as follows:

☐ The information contained in the certification to the Covered Financial Institution dated ______________________________ remains true and correct.

☐ The information contained in the certification to the Covered Financial Institution dated ____________________________ is revised by the information provided with this certification (attach a statement describing the information that is no longer correct and indicating the correct information).

I, ____________________________________ (name), certify that I have read and understand this Certification and that the statements made in this Certification is true and correct.

VOL 66 ISS 249 DE 28 2001 UMI

This Certification is made on behalf of ______________________________

______________________________ (name of Foreign Bank), a

banking institution organized under the laws of ______________________________.
(Specify Country)

I understand that the statements contained in this Certification may be transmitted to one or more departments or agencies of the United States of America for purpose of fulfilling such departments and agencies governmental functions.

____
[Signature]

____
[Title]

Executed on this ______ day of __________, 200__.

Received, reviewed and accepted by:

Name: ______________________________
Title: ______________________________
For:

____
[Name of Covered Financial Institution]

____
Date

[FR Doc. 01–31849 Filed 12–27–01; 8:45 am]
BILLING CODE 4810–25–C

Reader Aids

Federal Register

Vol. 66, No. 249

Friday, December 28, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20
65811–66292	21
66293–66704	26
66705–67068	27
67069–67476	28

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
6641	66547
6763	66547
7351	66547
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497, 66547
7513	64095
7514	65089
7515	66547
Executive Orders:	
10513 (Revoked by EO 13245)	66268
11274 (Revoked by EO 13243)	66262
11487 (Revoked by EO 13244)	66267
11582 (See EO 13238)	63903
11822 (Revoked by EO 13246)	66270
11880 (Revoked by EO 13242)	66260
11957 (Revoked by EO 13241)	66258
12608 (Revoked in part by EO 13242)	66260
12958 (See Order of December 10, 2001)	64347
12998 (Revoked by EO 13242)	66260
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
13248	66705
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–05 of December 14, 2001	66707
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

213	66709
250	66709
293	66709
294	66709
300	66709
302	63905
315	66709
316	66709
317	63905
330	63905
332	66709
333	63905
335	63905
531	67069
534	63906
339	66709
351	66709
352	66709
534	66709
550	66709
591	63906
720	66709
732	66709
831	66709
837	66709
841	66709
930	63906, 66709
960	66709
6001	60139
Proposed Rules:	
890	64160

7 CFR

56	66712
70	66712
210	65597
226	65597
300	67071
301	63151
989	65423
1230	67071
1710	66293
Proposed Rules:	
81	64918
300	67123
319	67123
352	63005
1410	63339
1710	66359

8 CFR

103	65811

9 CFR

70	63588
71	65598
78	63910
85	65598
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

VOL 66 ISS 249 DE 28 2001 UMI

10 CFR

20 64737
30 64737
32 64737
34 64737
40 64737
50 64737
51 64737
72 67073
430 65091
1707 66714

Proposed Rules:

50 65661
54 65141
72 63964

11 CFR

Proposed Rules:

106 66813

12 CFR

5 62914
201 65816
203 66295
208 67074
225 67074
226 65604
500 65817
505 65817
506 65817
516 65817
517 65817
541 65817
543 65817
544 65817
545 65817
546 65817
552 65817
556 65817
559 65822
560 .... 65817, 65822
561 65817
563 65817
563d 65817
563g 65817
565 65817
568 65817
570 65817
573 65817
583 65817
590 65817
700 65622
701 .... 65622, 65625, 65628
712 65622
715 65622
723 65622
725 65622
790 65622
930 66718
932 66718
1773 65097

Proposed Rules:

226 64381
360 65144
584 63517
Ch. VII 66359
701 65662
Ch. IX 63008
951 66813
1750 65146

13 CFR

120 64739

14 CFR

25 64349
39 .... 60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629, 65827, 65829, 65832, 66296, 66299, 66302, 66304, 66730, 66733, 66734, 66737, 66739, 67074
71 .... 63489, 63623, 64909, 64910, 65834, 66741
73 63433
91 63888
93 63294
97 .... 64139, 64141
107 63474
108 63474

Proposed Rules:

39 .... 63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666, 66360, 66819, 66821, 66823, 66828
71 .... 60162, 63517, 66832
93 64778
154 66238
234 66833

15 CFR

4 65631
4a 65631
4b 65631
744 65836
801 .... 63916, 63918

Proposed Rules:

738 65666
742 65666

16 CFR

3 64142
4 64142
305 63749
1700 65836

17 CFR

Proposed Rules:

15 64383
230 66839

18 CFR

141 67076
381 63162
385 67076

Proposed Rules:

2 67134
35 .... 65858, 67134
37 67134

19 CFR

12 63490

20 CFR

411 67370
416 67078
422 67078
655 63298

Proposed Rules:

404 63634

21 CFR

Ch. 1 66741
1 65429
510 .... 63163, 63164, 63499, 66742
520 .... 63165, 63166
524 63164
556 62916
558 .... 62916, 63499, 63500

Proposed Rules:

500 .... 63519, 67152
1310 64173

24 CFR

30 63436

Proposed Rules:

5 65162
202 65162

25 CFR

Proposed Rules:

292 66847
542 66500

26 CFR

1 .... 63920, 66307, 67081
301 .... 64351, 64740, 64911
602 .... 64076, 64351, 66307

Proposed Rules:

1 .... 63203, 64385, 64904, 66362, 66376
301 64386
602 64386

28 CFR

Proposed Rules:

97 64934

29 CFR

578 63501
579 63501
580 63501
4022 64744
4044 64744

Proposed Rules:

470 65163
1910 64946
1915 64946
1926 64946
1928 64946

30 CFR

256 60147
915 66743
917 66314
918 64746
938 67010
944 62917
948 67446

Proposed Rules:

250 .... 66848, 66851
918 66377
936 .... 63968, 65858
948 67455

31 CFR

103 67086
211 63623

Proposed Rules:

104 67460

32 CFR

619 65651

33 CFR

100 63624
110 .... 66747, 66749
117 .... 62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104, 66751
165 .... 60151, 62940, 64144, 64912, 65105, 65838, 66747, 66749, 66753

Proposed Rules:

1 63640
117 66865
147 63642
165 .... 64778, 66380
175 63645
181 63650

34 CFR

Proposed Rules:

Ch. VI 63203

36 CFR

18 66755
1202 65652

37 CFR

1 67086
201 .... 62942, 63920

Proposed Rules:

255 64783

38 CFR

3 66763
17 .... 63446, 63449, 64904
20 60152

Proposed Rules:

3 64174
20 65861

39 CFR

20 .... 64353, 65780

Proposed Rules:

111 65668

40 CFR

8 63454
9 65256
52 .... 63311, 63921, 64146, 64148, 64750, 64751, 66317, 66769
62 .... 63311, 63938, 64151, 64152, 65448, 67096
63 .... 63313, 65072, 66321
70 .... 62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
80 .... 66769, 67098
81 .... 64751, 66317
122 65256
123 65256
124 65256
125 65256
152 64759
153 66769
156 64759
180 .... 63192, 64768, 65450, 65839, 65850, 66325, 66333, 66769, 66773, 66778, 66786
257 67108
258 67108
261 .... 60153, 62973
271 .... 63331, 66340, 66342
300 64357
721 63941

Proposed Rules:

52 .... 63204, 63343, 63972,

63982, 64176, 64783, 66382
60....64176
62....63985, 64207, 64208, 65460, 67152
63....65079, 66381
80....60153, 65164, 66867
81....66382
89....65164
90....65164
91....65164
258....67152
271....66382, 66383
300....64387
1048....65164
1051....65164
1065....65164
1068....65164

41 CFR

Ch. 301....66794
61–250....65452

42 CFR

411....60154
486....67109
1001....62980, 63749
Proposed Rules:
493....67163
1001....65460

43 CFR

3600....63334
3610....63334
3620....63334
3800....63334

44 CFR

64....63627
65....65107, 65110
67....65115, 65120
Proposed Rules:
61....60176
67....65668, 65671

46 CFR

Proposed Rules:
67....64784

47 CFR

1....62992, 67111
25....63512
36....65856
43....67111
54....64775, 65856, 67112
63....67111
64....67114
73....60156, 60157, 63199, 63629, 64776, 64777, 65122, 66346, 66803
76....62992, 67115
101....63512
Proposed Rules:
1....64785, 65866
2....64785
51....63651, 64946
54....67165
69....67165
73....63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873, 66383, 66384, 66867
87....64785

48 CFR

Ch. 1....65346, 65372, 66984, 66990
2....65349, 65351, 65353
5....65370
8....65367
9....66984, 66986
11....65351
12....65370
14....66984, 66986
15....65351, 65368, 65369, 66984, 66986
19....65370
22....65370
23....65351, 65370
25....65349, 65370
31....66984, 66986
32....65353
39....65371
42....65351
44....65367
52....65349, 65353, 65367, 65370, 66984, 66986
53....65370
202....63334
212....63335
215....63334
217....63336
237....63335
242....63334
Proposed Rules:
1....65792
36....65792
53....65792
235....63348, 65676
1823....64391
1836....64391
1852....64391

49 CFR

1....67117
195....66994
225....66346
241....63942
571....60157, 64154, 64358, 65376
572....64368
Proposed Rules:
107....63096
171....63096
172....63096
173....63096
177....63096
178....63096
180....63096
219....64000
567....65536
571....65536
573....64078, 64087, 65165
574....65536, 66190
575....65536
576....66190
577....64078, 64087

50 CFR

17....62993, 63752, 66803
222....65658
223....65658
230....64378
600....63199
622....60161
635....63003, 64378, 67118
648....63003, 65454, 65660, 66348, 67122
660....63199, 63630, 66811
679....64380, 64915
Proposed Rules:
17....63349, 63654, 66384, 66868, 67165
20....63665
21....63349, 63665
222....64793, 65873
223....64793, 65676
224....64793, 65676
635....66386
648....63013, 63666, 64392, 67166
679....65028, 66390

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 28, 2001

COMMERCE DEPARTMENT

Patent and Trademark Office

- Patent cases:
  - Prior-filed applications; benefit claim under eighteen-month publication of patent applications; requirements; published 12-28-01

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuel and fuel additives—
    - Reformulated and conventional gasoline; standards and requirements modifications; published 12-28-01

FEDERAL COMMUNICATIONS COMMISSION

- Common carrier services:
  - Removal of references to non-existent CFR sections; published 12-28-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

- Standards and certification:
  - Medicare and Medicaid programs; emergency recertification for Organ Procurment Organizations (OPOs) coverage; published 12-28-01

INTERIOR DEPARTMENT

Fish and Wildlife Service

- Endangered and threatened species:
  - Vermilion darter; published 11-28-01

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - West Virginia; published 12-28-01

PERSONNEL MANAGEMENT OFFICE

- Pay administration:
  - Locality-based comparability payments; published 12-28-01

TRANSPORTATION DEPARTMENT

- Organization, functions, and authority delegations:
  - Security, Transportation Security Administration; Under Secretary; published 12-28-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - GARMIN International; published 12-3-01

TREASURY DEPARTMENT

Internal Revenue Service

- Income taxes:
  - Stock and other personal property disposition; recognized loss allocation and foreign tax credit limitation computation; published 12-28-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Raisins produced from grapes grown in—
  - California; comments due by 1-3-02; published 12-19-01 [FR 01-31321]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Exportation and importation of animals and animal products:
  - Bovine spongiform encephalopathy; disease status change—
    - Greece; comments due by 12-31-01; published 10-30-01 [FR 01-27263]
- Plant-related quarantine, domestic:
  - Oriental fruit fly; comments due by 12-31-01; published 11-1-01 [FR 01-27460]

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

- Pizza identity standards; elimination; comments due by 1-2-02; published 11-2-01 [FR 01-27542]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Endangered and threatened species:
  - Sea turtle conservation requirements
    - Sea turtle mortality reduction; hearing; comments due by 12-31-01; published 11-19-01 [FR 01-28877]

DEFENSE DEPARTMENT

- Acquisition regulations:
  - Anticompetitive teaming; comments due by 12-31-01; published 11-1-01 [FR 01-27370]

ENVIRONMENTAL PROTECTION AGENCY

- Air pollution control; new motor vehicles and engines:
  - Nonroad compression-ignition engines, new and in-use; emissions control—
    - Diesel emissions standards; Staff Technical Paper availability; comments due by 1-4-02; published 11-20-01 [FR 01-28856]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27588]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Composition of additives certified under Gasoline Deposit Control Program; variability requirements revisions; comments due by 1-4-02; published 11-5-01 [FR 01-27589]
    - Reformulated gasoline terminal receipt date; comments due by 1-2-02; published 12-3-01 [FR 01-29777]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29774]

ENVIRONMENTAL PROTECTION AGENCY

- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29775]
- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29662]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29663]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29656]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Illinois; comments due by 12-31-01; published 11-30-01 [FR 01-29655]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Indiana; comments due by 12-31-01; published 11-30-01 [FR 01-29649]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Indiana; comments due by 12-31-01; published 11-30-01 [FR 01-29648]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Missouri; comments due by 12-31-01; published 11-30-01 [FR 01-29651]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Missouri; comments due by 12-31-01; published 11-30-01 [FR 01-29650]

ENVIRONMENTAL PROTECTION AGENCY

- Air quality implementation plans; approval and promulgation; various States:
  - Missouri; comments due by 1-4-02; published 12-5-01 [FR 01-30102]
- Hazardous waste:
  - Identification and listing—
    - Exclusions; comments due by 1-3-02; published 11-19-01 [FR 01-28624]

ENVIRONMENTAL PROTECTION AGENCY

- Hazardous waste:
  - Identification and listing—
    - Mixture and derived-from rules; treatment, storage, or disposal; comments due by 1-2-02; published 12-3-01 [FR 01-29958]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-31-01; published 11-30-01 [FR 01-29552]

ENVIRONMENTAL PROTECTION AGENCY

- Superfund program:
  - National oil and hazardous substances contingency plan—
    - National priorities list update; comments due by 12-31-01; published 11-30-01 [FR 01-29553]

FEDERAL COMMUNICATIONS COMMISSION

- Common carrier services:
  - Commercial mobile radio services—
    - Wireless enhanced 911 service conditions; public safety answering point clarification; Richardson, TX; comments due by 1-2-02; published 11-2-01 [FR 01-27605]
  - Federal-State Joint Board on Universal Service—
    - Lifeline and Link-Up service for low-income customers; comments due by 12-31-01; published 10-31-01 [FR 01-27229]
    - Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services; Multi-Association Group regulatory plan; comments due by 12-31-01; published 11-30-01 [FR 01-29740]
  - Interconnection—
    - Unbundled network elements and interconnection; performance measurements and standards; comments due by 12-31-01; published 11-30-01 [FR 01-29746]
- Digital television stations; table of assignments:
  - New Mexico; comments due by 12-31-01; published 11-9-01 [FR 01-28107]

FEDERAL EMERGENCY MANAGEMENT AGENCY

- National Flood Insurance Program:
  - Increased rates for coverage; comments due by 1-2-02; published 12-3-01 [FR 01-29747]

GENERAL SERVICES ADMINISTRATION

- Federal Management Regulation:
  - Annual real property inventories; comments due by 1-2-02; published 11-2-01 [FR 01-27609]

INTERIOR DEPARTMENT

Indian Affairs Bureau

- Tribal government:
  - Certificate of degree of Indian or Alaska Native blood; documentation requirements and filing, processing, and issuing requirements and standards; comments due by 12-31-01; published 6-25-01 [FR 01-15827]

INTERIOR DEPARTMENT

Land Management Bureau

- Minerals management:
  - Mining claims under general mining laws; surface management; comments due by 12-31-01; published 10-30-01 [FR 01-27075]

INTERIOR DEPARTMENT

Fish and Wildlife Service

- Endangered and threatened species:
  - Carson wandering skipper; comments due by 12-31-01; published 11-29-01 [FR 01-29613]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

- Permanent program and abandoned mine land reclamation plan submissions:
  - Kansas; comments due by 12-31-01; published 11-30-01 [FR 01-29759]

JUSTICE DEPARTMENT

Prisons Bureau

- Inmate control, custody, care, etc.:
  - National security; prevention of acts of violence and terrorism; comments due by 12-31-01; published 10-31-01 [FR 01-27472]

LABOR DEPARTMENT

Labor-Management Standards Office

- Federal contractors and subcontractors:
  - Employee rights concerning union dues or fees payment
    - Duplicate copies of comments requested due to mail delivery problems; comments due by 1-2-02; published 12-18-01 [FR 01-31210]

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

- Copyright office and procedures:
  - Materials delayed due to disruption or suspension of postal or other transportation or communications services; comments due by 1-3-02; published 12-4-01 [FR 01-30013]

INTERIOR DEPARTMENT

National Indian Gaming Commission

- Federal claims collection; comments due by 1-4-02; published 11-20-01 [FR 01-28693]

NUCLEAR REGULATORY COMMISSION

- Domestic licensing proceedings and issuance of orders; practice rules:
  - Official records; availability; comments due by 12-31-01; published 10-17-01 [FR 01-26114]
- Production and utilization facilities; domestic licensing:
  - Light-water-cooled power reactors; combustible gas control systems; standards; comments due by 12-31-01; published 11-14-01 [FR 01-28398]
- Production and utilization facilities; domestic licensing; and radiation protection standards:
  - Nuclear power plants decommissioning; entombment options for power reactors; comments due by 12-31-01; published 10-16-01 [FR 01-25958]
- Production and utilization facilities; domestic licensing:
  - Structures, systems, and components; risk-informed treatment; comments due by 12-31-01; published 11-29-01 [FR 01-29584]

NUCLEAR REGULATORY COMMISSION

- Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
  - Approved spent fuel storage casks; list; comments due by 12-31-01; published 11-29-01 [FR 01-29443]

NUCLEAR REGULATORY COMMISSION

- Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
  - Approved spent fuel storage casks; list; comments due by 12-31-01; published 11-29-01 [FR 01-29444]

PERSONNEL MANAGEMENT OFFICE

- Absence and leave:
  - Restored annual leave use due to response to national emergency resulting from terrorist attacks; comments due by 1-2-02; published 11-2-01 [FR 01-27518]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Air carrier certification and operations:
  - Collision avoidance systems; comments due by 12-31-01; published 11-1-01 [FR 01-27340]
- Airworthiness directives:
  - Aerostar Aircraft Corp.; comments due by 1-2-02; published 10-24-01 [FR 01-26714]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Airbus; comments due by 1-4-02; published 12-5-01 [FR 01-30082]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:

VOL 66 ISS 249 DE 28 2001 UMI

Boeing; comments due by 12-31-01; published 10-31-01 [FR 01-27188]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Boeing; comments due by 1-3-02; published 11-19-01 [FR 01-28796]
- Eurocopter France; comments due by 12-31-01; published 10-31-01 [FR 01-26964]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Fokker; comments due by 1-4-02; published 12-5-01 [FR 01-30081]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- General Electric Co.; comments due by 12-31-01; published 10-30-01 [FR 01-27191]
- Pilatus Britten-Norman Ltd.; comments due by 1-3-02; published 11-27-01 [FR 01-29394]
- Pratt & Whitney; comments due by 12-31-01; published 11-1-01 [FR 01-27432]

Class D airspace; comments due by 1-2-02; published 12-3-01 [FR 01-29887]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
- Child restraint systems—
  - Labels and instructions;
    - simplification; comments due by 1-2-02; published 11-2-01 [FR 01-27545]
  - Labels and instructions; simplification; correction; comments due by 1-2-02; published 11-29-01 [FR 01-29637]

TREASURY DEPARTMENT

Privacy Act; implementation; comments due by 12-31-01; published 11-30-01 [FR 01-29710]

VETERANS AFFAIRS DEPARTMENT

Disabilities rating sechedule:
- Ankylosis and limitation of motion of fingers and thumb; comments due by 1-2-02; published 11-2-01 [FR 01-27426]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 10/P.L. 107–90

Railroad Retirement and Survivors' Improvement Act of 2001 (Dec. 21, 2001; 115 Stat. 878)

H.R. 1230/P.L. 107–91

Detroit River International Wildlife Refuge Establishment Act (Dec. 21, 2001; 115 Stat. 894)

H.R. 1761/P.L. 107–92

To designate the facility of the United States Postal Services located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building". (Dec. 21, 2001; 115 Stat. 898)

H.R. 2061/P.L. 107–93

To amend the charter of Southeastern University of the District of Columbia. (Dec. 21, 2001; 115 Stat. 899)

H.R. 2540/P.L. 107–94

Veterans' Compensation Rate Amendments of 2001 (Dec. 21, 2001; 115 Stat. 900)

H.R. 2716/P.L. 107–95

Homeless Veterans Comprehensive Assistance Act of 2001 (Dec. 21, 2001; 115 Stat. 903)

H.R. 2944/P.L. 107–96

District of Columbia Appropriations Act, 2002 (Dec. 21, 2001; 115 Stat. 923)

H.J. Res. 79/P.L. 107–97

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 21, 2001; 115 Stat. 960)

H.J. Res. 80/P.L. 107–98

Appointing the day for the convening of the second session of the One Hundred Seventh Congress. (Dec. 21, 2001; 115 Stat. 961)

S. 494/P.L. 107–99

Zimbabwe Democracy and Economic Recovery Act of 2001 (Dec. 21, 2001; 115 Stat. 962)

S. 1196/P.L. 107–100

Small Business Investment Company Amendments Act of 2001 (Dec. 21, 2001; 115 Stat. 966)

S.J. Res. 26/P.L. 107–101

Providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution. (Dec. 21, 2001; 115 Stat. 973)

Last List December 21, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

Printed on recycled paper

VOL
66
ISS
2
5
0
DE
31
2001
UMI

U·M·I

THE PAPER AND INK USED IN THE ORIGINAL PUBLICATION MAY AFFECT THE QUALITY OF THE MICROFORM EDITION.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–31–01
Vol. 66 No. 250

Monday
Dec. 31, 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

```
******************3-DIGIT     481
A FR   BELLH300B JAN   02   B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR     MI   48106
```

VOL
66

ISS
2
5
0

DE
31

2001

UMI

ANN ARBOR MI 48106

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

12–31–01
Vol. 66 No. 250
Pages 67477–67702

Monday
Dec. 31, 2001

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202–512–1800
Assistance with public subscriptions	512–1806
General online information	202–512–1530; 1–888–293–6498
Single copies/back copies:	
Paper or fiche	512–1800
Assistance with public single copies	512–1803
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523–5243
Assistance with Federal agency subscriptions	523–5243

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 66, No. 250

Monday, December 31, 2001

Agriculture Department

See Forest Service

Centers for Disease Control and Prevention

NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67532–67533
  Submission for OMB review; comment request, 67533–67534

Centers for Medicare & Medicaid Services

RULES
Medicare:
  Hospital outpatient services; prospective payment system
    Effective date delay, 67494–67495
NOTICES
Medicaid:
  State plan amendments, reconsideration; hearings—
    Ohio, 67534–67535

Coast Guard

RULES
Ports and waterways safety:
  Seabrook Nuclear Power Plant, Seabrook, NH; security zone, 67487–67489
NOTICES
Drug testing; covered crewmembers random testing rate, 67616–67617
Meetings:
  Chemical Transportation Advisory Committee, 67617
  Commercial Fishing Industry Vessel Advisory Committee, 67617–67618
  Great Lakes pilotage, 67618–67619
  Towing Safety Advisory Committee, 67619–67620

Commerce Department

See International Trade Administration
See National Oceanic and Atmospheric Administration

Customs Service

RULES
Air commerce:
  Passenger flights in foreign air transportation to the United States; passenger and crew manifests requirements, 67482–67485

Education Department

NOTICES
Agency information collection activities:
  Submission for OMB review; comment request, 67516

Employment and Training Administration

NOTICES
Labor surplus area classification:
  Annual list, 67639–67649

Energy Department

See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission

Energy Efficiency and Renewable Energy Office

NOTICES
Consumer products; energy conservation program:
  Federal purchasing of energy-efficient standby power devices, 67517

Environmental Protection Agency

RULES
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  Clethodim, 67489–67494
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
  California, 67497–67499
NOTICES
Environmental statements; availability, etc.:
  Agency statements—
    Comment availability, 67518
    Weekly receipts, 67517
Meetings:
  Good Neighbor Environmental Board, 67518–67519
Pesticide, food, and feed additive petitions:
  Gustafson LLC, 67522–67524
Pesticide registration, cancellation, etc.:
  Eco Soil Systems, Inc., 67519–67520
  Gustafson LLC, 67520–67522
Reports and guidance documents; availability, etc.:
  Ozone; research needed to improve health and ecological risk assessment, 67524–67525
  Ozone and related photochemical oxidants; project work plan for revised air quality criteria, 67524
Toxic and hazardous substances control:
  New chemicals—
    Receipt and status information, 67525–67528

Federal Aviation Administration

RULES
Airworthiness directives:
  Rolls-Royce plc., 67477–67479
PROPOSED RULES
Class B airspace, 67631–67638
NOTICES
Commercial air flights:
  Firearms, less-than-lethal weapons, and emergency services; comment request, 67620–67621
Meetings:
  Aviation Rulemaking Advisory Committee, 67621

Federal Energy Regulatory Commission

RULES
Practice and procedure:
  Off-the-Record Communications, 67480–67482
NOTICES
Meetings; Sunshine Act, 67517

Federal Motor Carrier Safety Administration

RULES
Motor carrier safety standards:
  Parts and accessories necessary for safe operations—
    Manufactured home tires, 67689–67695

VOL 66 ISS 250 DE 31 2001 UMI

Federal Railroad Administration

NOTICES

Agency information collection activities:
  Proposed collection; comment request, 67621–67623
Alcohol/drug post-accident blood testing procedures; temporary regulations, 67623–67624

Federal Trade Commission

NOTICES

Meetings:
  Factors that affect prices of refined petroleum products; public conference, 67528–67532

Fish and Wildlife Service

NOTICES

Agency information collection activities:
  Submission for OMB review; comment request, 67537–67541
Endangered and threatened species permit applications, 67541
Meetings:
  Aquatic Nuisance Species Task Force Western Regional Panel, 67541

Food and Drug Administration

RULES

Human drugs:
  Sunscreen products (OTC); final monograph; partial stay, 67485–67487

NOTICES

Meetings:
  Brussels, Belgium; Harmonisation International Conference; common technical document implementation progress, 67535

Forest Service

NOTICES

Meetings:
  Deschutes and Ochoco National Forests Resource Advisory Committee, 67500
  Southwest Idaho Resource Advisory Committee, 67500

Geological Survey

NOTICES

Grants and cooperative agreements; availability, etc.:
  Devvon Energy Corp., 67541–67542
  OptiQuest Technologies, LLC, 67542
  Sequoia Scientific, Inc., 67542

Health and Human Services Department

See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service

NOTICES

Meetings:
  President's Council on Bioethics, 67532

Health Resources and Services Administration

NOTICES

Grants and cooperative agreements; availability, etc.:
  Children's Hospitals Graduate Medical Education Payment Program, 67536

Indian Health Service

NOTICES

Agency information collection activities:
  Submission for OMB review; comment request, 67536–67537

Interior Department

See Fish and Wildlife Service
See Geological Survey
See Minerals Management Service

RULES

Indian trust estates; probate, 67651–67667

Internal Revenue Service

RULES

Income taxes:
  Financial transactions and nonfinancial trades or businesses currency transactions; information reporting to IRS and Financial Crimes Enforcement Network, 67686–67688

International Trade Administration

NOTICES

Antidumping:
  Circular welded carbon-quality steel pipe from—
    China, 67500–67507
  Corrosion-resistant carbon steel flat products from—
    Japan, 67507–67509
  Folding metal tables and chairs from—
    China, 67509–67510
  IQF red raspberries from—
    Chile, 67510–67513
  Stainless steel sheet and strip in coils from—
    Korea, 67513–67516

International Trade Commission

NOTICES

Import investigations:
  Folding gift boxes from—
    China, 67547

Justice Department

See Justice Programs Office

Justice Programs Office

NOTICES

Census of publicly funded forensic crime laboratories (2002); data collection agent solicitation, 67547–67548

Labor Department

See Employment and Training Administration
See Mine Safety and Health Administration

NOTICES

Agency information collection activities:
  Submission for OMB review; comment request, 67549–67550

Maritime Administration

NOTICES

Coastwise trade laws; administrative waivers:
  SOVEREIGN OF MALAHIDE, 67624–67625

Minerals Management Service

NOTICES

Environmental statements; availability, etc.:
  Gulf of Mexico OCS—
    Floating, production, storage and offloading (FPSO) systems, 67542–67543

Outer Continental Shelf operations :
  Alaska region—
    Oil and gas lease sales, 67543–67546

Mine Safety and Health Administration
NOTICES
Petitions for safety standard modifications; summary of affirmative decisions, 67550–67552

National Highway Traffic Safety Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
  Child passenger protection programs, 67625–67628

National Oceanic and Atmospheric Administration
RULES
Endangered and threatened species:
  Sea turtle conservation—
    Sea turtle handling and resuscitation regulation; amendments, 67495–67496

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67552–67553
Meetings:
  Nuclear Waste Advisory Committee, 67560–67561
Applications, hearings, determinations, etc.:
  Advanced Medical Imaging and Nuclear Services, 67553–67554
  Entergy Operations, Inc., 67555–67556
  J.L.Sheperd & Associates, 67556–67557
  Southern California Edison Co., 67559–67560
  South Texas Project Nuclear Operation Co. et al., 67557–67559

Nuclear Waste Technical Review Board
NOTICES
Meetings:
  Nuclear Waste Technical Review Board, 67561–67562

Personnel Management Office
RULES
Pay administration:
  Compensation; miscellaneous changes
    Correction, 67477
NOTICES
Excepted service:
  Schedules A, B, and C; positions placed or revoked—
    Update, 67562–67565

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See Indian Health Service

Securities and Exchange Commission
NOTICES
Investment Company Act of 1940:
  Exemption applications—
    Greenwich Street Employees Fund, L.P. et al., 67575–67580
    One Fund, Inc. et al., 67580–67582
Self-regulatory organizations; proposed rule changes:
  American Stock Exchange LLC, 67582–67586
  National Association of Securities Dealers, Inc., 67586–67606
  Pacific Exchange, Inc., 67606–67609
  Philadelphia Stock Exchange, Inc., 67609–67615
Applications, hearings, determinations, etc.:
  Plains Resources, Inc., 67565
  Public utility holding company filings, 67565–67575

Social Security Administration
NOTICES
Agency information collection activities:
  Proposed collection; comment request, 67615–67616

Surface Transportation Board
NOTICES
Railroad services abandonment:
  Norfolk Southern Railway Co., 67628–67630

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See Maritime Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
See Transportation Security Administration

Transportation Security Administration
RULES
Passenger civil aviation security service fees; imposition and collection, 67697–67702

Treasury Department
See Customs Service
See Internal Revenue Service
RULES
Currency and foreign transactions; financial reporting and recordkeeping requirements:
  Bank Secrecy Act; implementation—
    Nonfinancial trades or businesses; reporting requirements, 67679–67684
PROPOSED RULES
Currency and foreign transactions; financial reporting and recordkeeping requirements:
  Bank Secrecy Act; implementation—
    Nonfinancial trades or businesses; reporting requirements, 67684–67686
  Bank Secrecy Act; regulations—
    Suspicious transactions; reporting by brokers and dealers, 67669–67677

Veterans Affairs Department
NOTICES
Inventions, Government-owned; availability for licensing, 67630

Separate Parts In This Issue

Part II
Department of Transportation, Federal Aviation Administration, 67631–67638

Part III
Department of Labor, Employment and Training Administration, 67639–67649

Part IV
Department of the Interior, 67651–67667

Part V
Department of Treasury, 67669–67677

Part VI
Department of Treasury; Internal Revenue Service, 67679–67688

Part VII
Department of Transportation, Federal Motor Carrier Safety Administration, 67689–67695

Part VIII
Department of Transportation, Transportation Security Administration, 67697–67702

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
550....................................67477

14 CFR
39.......................................67477

Proposed Rules:
71.......................................67632

18 CFR
385....................................67480

19 CFR
122....................................67482
178....................................67482

21 CFR
352....................................67485

26 CFR
1...67687

31 CFR
103....................................67680

Proposed Rules:
103 (2 documents) 67670, 67695

33 CFR
165....................................67487

40 CFR
180....................................67489

Proposed Rules:
52.......................................67497

42 CFR
413....................................67494
419....................................67494
489....................................67494

43 CFR
4...67652

49 CFR
393....................................67690
Chapter XII 67698
1510..................................67698

50 CFR
223....................................67495
224....................................67495

VOL
66
ISS
2
5
0
DE
31
2001
UMI

Rul

This sec
contains
applicab
are key
Federal
50 titles

The Co
the Sup
new boo
REGIST

**OFFIC
MANA**

5 CFR

Pay Ac

AGENC
Manag

ACTION

SUMMA
technic
regulat
Federa
This ar
the CF

DATES:
Decem

FOR FU
Jacquli

SUPPLE
Decem
Office
publis
§ 550.3
amend
"§ 550
§ 550.3

Regula

I cer
have a
a subst
becaus
Federa

List of

Adm
proced
emplo

Offic

Jacquli
Federal

Acce
part 5

Rules and Regulations

Federal Register
Vol. 66, No. 250
Monday, December 31, 2001

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Technical amendment.

SUMMARY: This document contains a technical amendment to the final regulation that was published in the **Federal Register** on January 9, 1981. This amendment removes a reference to the CFR that is no longer available.

DATES: This amendment is effective on December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jacquline D. Carter, (202) 606–1973.

SUPPLEMENTARY INFORMATION: On Friday, December 10, 1999, (64 FR 69176) the Office of Personnel Management published a Final rule removing § 550.342 from 5 CFR Part 550. This amendment removes the reference "§ 550.342" from subpart C, § 550.311(a)(3).

Regulatory Flexibility Act

I certify that these changes will not have a significant economic impact on a substantial number of small entities because the regulations pertain only to Federal employees and agencies.

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

Office of Personnel Management.

Jacquline D. Carter,
Federal Register Liaison Officer.

Accordingly, OPM is amending 5 CFR part 550 as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

1. The authority citation for subpart C of part 550 continues to read as follows:

Authority: 5 U.S.C. 5527, E.O. 10982, 3 CFR 1959–1963 Comp., p. 502.

§ 550.311 [Amended]

2. In § 550.311 paragraph (a) (3), remove the first "§ ", and the phrase "and 550.342".

[FR Doc. 01–31903 Filed 12–28–01; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–33–AD; Amendment 39–12575; AD 2001–26–11]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce, plc RB211 Trent 800 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that is applicable to Rolls-Royce, plc RB211 Trent 800 series turbofan engines. That AD currently requires initial and repetitive ultrasonic inspections of low pressure compressor (LPC) fan blade roots for cracks, and replacement, if necessary, with serviceable parts. This amendment requires initial inspections at modified thresholds and repetitive inspections at reduced intervals from the current AD using new LPC fan blade inspection criteria, and requires renewal of dry film lubricant on removed blades. This amendment is prompted by reports that an in-service engine experienced LPC fan blade root cracking at a lower life than previously forecast, and, the manufacturer's further investigation that has led to a better understanding of the causes of fan blade root cracking. The actions specified in this AD are intended to prevent LPC fan blade failure due to cracking, which could result in multiple fan blade release, uncontained engine failure, and possible damage to the airplane.

DATES: Effective January 30, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 30, 2002.

Comments for inclusion in the Rules Docket must be received on or before March 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–33–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: "9-ane-adcomment@faa.gov". Comments sent via the Internet must contain the docket number in the subject line. The service information referenced in this AD may be obtained from Rolls-Royce plc, Technical Publications Department, PO Box 31, Derby, England DE248BJ; telephone 44 1332 242424, fax, 1332 249936. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Keith Mead, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7744; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On November 30, 2000, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 2000–24–26, Amendment 39–12033 (65 FR 77778, December 13, 2000), applicable to Rolls-Royce, plc RB211 Trent 875, RB211 Trent 877, RB211 Trent 884, RB211 Trent 892, and RB211 Trent 892B series turbofan engines, to require initial and repetitive ultrasonic inspections of low pressure compressor (LPC) fan blade roots for cracks, and replacement, if necessary, with serviceable parts. This AD requires initial inspections at modified thresholds and repetitive

VOL 66 ISS 250 DE 31 2001 UMI

inspections at reduced intervals from the current AD using new LPC fan blade inspection criteria, and requires renewal of dry film lubricant on removed blades.

Since AD 2000–24–26 was issued, the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), advises that an in-service engine experienced LPC fan blade root cracking at a lower life than previously forecast. The manufacturer's analysis of this new event has produced an improved understanding of the relationship between engine climb and takeoff speeds, and their effect on the crack initiation mechanism. These changes are the result of an improved understanding of the crack propagation mechanism and the latest service operational data.

Manufacturer's Service Information

Rolls-Royce, plc has issued Service Bulletin (SB) No. RB.211–72–C445, Revision 7, dated May 10, 2001, that specifies initial inspections at modified thresholds and repetitive inspections at reduced intervals from the current AD using new LPC fan blade inspection criteria, and requires renewal of dry film lubricant on removed blades. The CAA classified this service bulletin as mandatory and issued AD 003–04–98, dated May 10, 2001, in order to assure the airworthiness of these Rolls-Royce, plc engines in the UK.

Bilateral Airworthiness Agreement

This engine model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Although none of these affected engine models are used on any airplanes that are registered in the United States, the possibility exists that the engine models could be used on airplanes that are registered in the United States in the future. Since an unsafe condition has been identified that is likely to exist or develop on other Rolls-Royce, plc RB211 Trent 875, RB211 Trent 877, RB211 Trent 884, RB211 Trent 892, and RB211 Trent 892B series turbofan engines of the same type design, this AD is being issued to prevent LPC fan blade failure, which could result in multiple fan blade release, uncontained engine failure, and possible damage to the airplane. This AD requires initial inspections at modified thresholds and repetitive inspections at reduced intervals from the current AD using new LPC fan blade inspection criteria, and requires renewal of dry film lubricant on removed blades. The actions are required to be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption ADDRESSES. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination, by appointment, by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–33–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–12033 (65 FR 77778 December 13, 2000) and by adding a new airworthiness directive, Amendment 39–12575, to read as follows:

2001–26–11 Rolls-Royce, plc: Amendment 39–12575. Docket No. 98–ANE–33–AD. Supersedes AD 2000–24–26, Amendment 39–12033.

Applicability

This airworthiness directive (AD) is applicable to Rolls-Royce plc (RR) RB211 Trent 875, RB211 Trent 877, RB211 Trent

884, RB211 Trent 892, and RB211 Trent 892B series turbofan engines, with low pressure compressor (LPC) fan blades, part numbers (P/N's) FK23750, FK25975, FK25548, or FK26757 installed. These engines are installed on, but not limited to Boeing 777 series airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent LPC fan blade failure due to cracking, which could result in multiple fan blade release, uncontained engine failure, and possible damage to the airplane, do the following:

Initial Inspection

(a) Ultrasonically inspect the dovetail roots of LPC fan blades for cracks, in accordance with Appendix 1 (Method A) of RR Service Bulletin (SB) RB.211–72–C445, Revision 7, dated May 10, 2001, at the Initial Inspection Threshold cyclic times listed in the following Table 1 of this AD:

TABLE 1.—INSPECTION SCHEDULE

Engine model (rating)	Initial inspection threshold, cycles-since-new (CSN)	Inspection intervals, cycles-since-last inspection (CSLI)	Part life threshold, CSN
(1) Trent 875	3,000	400	4,200
(2) Trent 877	2,000	350	3,050
(3) Trent 884	1,500	350	2,200
(4) Trent 892 and Trent 892B	900	200	1,300

Dry Film Lubricant Renewal

(b) Apply an approved dry film lubricant to LPC fan blade roots of blades inspected by Method A. Procedures for renewing the dry film lubricant on the blade roots are specified in the AMM task 72–31–11–300–801–R00 (Repair Scheme FRS A031 by air spray method only) or engine manual 72–31–11–R001 (Repair Scheme FRS A028). For purposes of this AD, approved lubricants are Dow Corning 321R (Rolls-Royce (RR) Omat item 4/52), Rocol Dry Moly Spray (RR Omat item 4/52), Molydag 709 (RR Omat item 444), or PL.237/R1 (RR Omat item 4/43).

Repetitive Inspections

(c) Except for the first inspection after exceeding the Part Life Threshold listed in Table 1 of this AD, ultrasonically inspect the dovetail roots of LPC fan blades for cracks and renew dry film lubricant when specified in accordance with Appendix 1 (Method A) or Appendix 2 (Method B) of RR SB RB.211–72–C445, Revision 7, dated May 10, 2001, and the Inspection Intervals listed Table 1 of this AD.

First Inspection After Exceeding Part Life Threshold

(d) For the first inspection after exceeding the Part Life Threshold listed in Table 1 of this AD, ultrasonically inspect the dovetail roots of LPC fan blades for cracks in accordance with Appendix 1 (Method A) of RR SB RB.211–72–C445, Revision 7, dated May 10, 2001. Thereafter, the repetitive inspections may be done using either Appendix 1 (Method A) or Appendix 2 (Method B), as specified in paragraph (c) of this AD.

Fan Blades Exceeding Initial Inspection Threshold

(e) For blades that have, on the effective date of the AD, more cycles since installation than the initial compliance criteria in Table 1, inspect blades within 100 cycles in service after the effective date of this AD.

Engine Rating Changes

(f) For an engine that has changed its rating, inspect fan blades at the correct cycle time as follows:

(1) From higher rating to lower rating, inspect fan blades before further flight, as specified in this AD and reinspect at the interval applicable to the lower rating.

(2) From lower rating to higher rating, inspect fan blades at intervals applicable to the higher rating.

Method A Acceptance Criteria

(g) For Method A, replace blades that do not meet the acceptance criteria in Appendix 1 of RR SB RB.211–72–C445, Revision 7, dated May 10, 2001.

Method B Acceptance Criteria

(h) For Method B, for blades that do not meet the acceptance criteria in Appendix 2 of RR SB RB.211–72–C445, Revision 7, dated May 10, 2001, remove blades and ultrasonically inspect the dovetail roots for cracks in accordance with Appendix 1 (Method A) of RR SB RB.211–72–C445, Revision 7, dated May 10, 2001.

Alternative Methods of Compliance

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(j) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(k) The inspection must be done in accordance with Rolls-Royce plc Service Bulletin(SB) No. RB.211–72–C445, Revision 7, dated May 10, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Rolls-Royce plc, Technical Publications Department, PO Box 31, Derby, England DE248BJ; telephone 44 1332 242424, fax, 1332 249936. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Civil Aviation Authority airworthiness directive AD 003–04–98, issued on May 10, 2001.

Effective Date

(l) This amendment becomes effective on January 30, 2002.

Issued in Burlington, Massachusetts, on December 17, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–31699 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–13–P

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM02–5–000; Order No. 623]

Amendment to Rules Governing Off-the-Record Communications; Final Rule

December 21, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations governing off-the-record communications. The revisions ensure that the regulations do not impede the Commission's ability to quickly address issues relating to national security which may arise within the context of pending proceedings and its ability to maintain the confidentiality of sensitive security-related information.

EFFECTIVE DATE: This final rule is effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Moira Notargiacomo, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 208–1079.

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

I. Background

The September 11, 2001 terrorist attacks have prompted the Commission to reexamine its rules governing prohibited off-the-record communications at 18 CFR 385.2201 (Rule 2201). Specifically, the Commission has determined that in the interest of national security, Rule 2201 should be amended so as not to impede the Commission from immediately addressing issues related to national security where that would require discussions, in particular with other government entities, off-the-record. The need to change Rule 2201 recently became apparent when the Commission was called upon to assess the national security implications of certificating an expansion to and reactivating the operations of the Cove Point LNG facilities in Calvert County, Maryland. *See* Cove Point LNG Limited Partnership, 97 FERC ¶ 61,181 (2001). In that situation, the rule frustrated the Commission's ability to talk to persons, including parties in the case, as quickly as desired, without violating the existing prohibition on off-the-record communications. As a result, the Commission convened a technical conference to which it invited all parties and non-party state and Federal agencies that share jurisdiction or regulatory responsibilities over security matters that could be implicated by the Commission's actions in the proceeding. *See* 97 FERC ¶ 61,834–35. Subsequently, a transcript of the conference was placed in the non-public decisional file in the case. Access to that transcript was limited to the parties, on the condition that they sign a non-disclosure agreement. *See* "Notice to Parties," in Docket No. CP01–76, et al., issued November 21, 2001.

II. Discussion

The communications dilemma which the Commission faced in the Cove Point proceeding was due in large part to the current structure of Rule 2201, which prohibits any off-the-record communication between a Commission decisional employee and any person outside the Commission on the merits of any issue in a contested on-the-record proceeding. *See* 18 CFR 385.2201(b). Rule 2201 exempts certain off-the-record communications from this prohibition, subject to disclosure and notice.[1] As relevant here, Rule 2201 exempts an off-the-record communication from anyone related to any emergency. *See* 18 CFR 385.2201(e)(1)(ii). The emergency exemption, however, was intended to cover events like earthquakes, floods, severe weather conditions, fires, or explosions that damage or threaten to damage FERC-regulated facilities, i.e. emergencies affecting a regulated entity's ability to deliver energy. *See* Regulations Governing Off-the-Record Communications, Order No. 607, FERC Stats. & Regs. ¶ 31,079 at 30,885 (Sept. 15, 1999). At that time, neither the Commission nor anyone commenting on the proposed rule contemplated the vulnerability of the nation's energy infrastructure to terrorist attacks as part of the concept of "emergency" in Rule 2201. Indeed, Order No. 607's requirement of prompt notice and disclosure of such off-the-record communications indicates that the Commission did not consider that some of the information could be sensitive. As a separate matter, Rule 2201 also exempts, subject to disclosure and notice, written communications from non-party members of Congress (*See* 18 CFR 385.2201(e)(1)(iv)) and any communications from a non-party Federal, state, local or Tribal agency over a matter which the Commission and the other agency shares jurisdiction (*See* 18 CFR 385.2201(e)(1)(v)).

Thus, as currently structured and as relevant here, Rule 2201 prohibits all off-the-record communications relating to emergencies with national security implications, oral off-the-record communications with non-party members of Congress, all off-the-record communications with State and Federal agencies with shared responsibilities and members of Congress who are parties in a proceeding, and all other persons, including licensees and certificate holders and their security personnel.

The Commission finds that the current scope of Rule 2201 is inadequate to enable it to carry out its licensing and other responsibilities under its organic statutes, to address possible breaches of national security through critical infrastructure vulnerabilities. In particular, we find that to the extent such circumstances require us to communicate with other government employees or anyone with whom we deem communication appropriate, we need to be able to do so without the restriction of the prohibition against off-the-record communications in Rule 2201. Therefore, we determine that Rule 2201 needs to be amended to treat all communications involving critical energy infrastructure matters as exempt communications, subject to a limited form of disclosure and notice. As explained below, while the communications may be with anyone, its disclosure will be limited to parties in a proceeding who sign non-disclosure statements. In our view, this amendment to Rule 2201 strikes the proper balance between maintaining the fairness of our proceedings and enabling us to protect sensitive information.

III. Analyses of the Amendments to Rule 2201

As explained above, in the interests of national security, we will amend Rule 2201 in two respects. First, we will expand the exemptions to prohibited off-the-record communications by adding a new paragraph (viii) to 18 CFR 385.2201(e)(1), to permit any person to discuss off-the-record with the Commission and its decisional staff their concerns about any national security-related issue in a proceeding regarding a facility regulated by the Commission or a facility that provides Commission-regulated services. This exemption recognizes that the public interest favors a free flow of information involving the security of our nation, especially among Federal employees with a shared responsibility to protect our nation.

---

[1] The notice and disclosure procedure works as follows. Any decisional employee who makes or receives a prohibited or an exempt off-the-record communication is obligated promptly to deliver to the Office of the Secretary (OSEC) a copy of the communication, if written, or a summary of the substance of any oral communication. Next, OSEC places the written communication or summary of an oral communication in the non-decisional record (if a prohibited communication) or in the decisional record (if an exempt communication). Every 14 days OSEC publishes a notice in the **Federal Register** identifying both types of communications, to which parties then have an opportunity to respond. *See* 18 CFR 385.2201 (f)–(h).

Second, we will amend the disclosure requirements under 18 CFR § 385.2201(g) by adding a new paragraph (3), which will treat national security-related communications as confidential, unless the Commission determines that such protection is unnecessary. Accordingly, this new paragraph requires that any such document, or the summary of the substance of any oral communication, be submitted to the Secretary and placed in the relevant non-public decisional file and made available only to parties to the proceeding in which the communications were made, subject to the parties' signing a non-disclosure agreement. Any responses to such off-the-record communications will also be placed in the non-public decisional file and held confidential. Should the Commission determine that the information is not sensitive national security information, it will place the information, if written, or a summary of it, if oral, in the public record. This amendment to the disclosure requirements protects sensitive security-related communications so that they do not compromise public safety. At the same time, the amendment ensures that such communications do not undermine the procedural rights of the parties or the integrity of the Commission's decisional record by allowing the parties to rebut the information and to discern the basis of the Commission's decision by viewing actual information obtained through off-the-record communications with any person and relied upon by the Commission in reaching its decision.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act[2] requires rulemakings either to contain a description and analysis of the impact the rules will have on small entities or a certification that the rule will not have a substantial economic impact on a substantial number of small entities. The Commission certifies promulgating this rule does not represent a major Federal action having a significant economic impact on a substantial number of small entities. Therefore, no regulatory flexibility analysis is required.

V. National Environmental Policy Act Analysis

The Commission concludes that promulgating this Final Rule does not represent a major Federal action having a significant adverse effect on the human environment under the Commission's regulations implementing the National Environment Policy Act (*see* 18 CFR Part 380). This rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required. See 18 CFR 380.4(a)(1).

VI. Paperwork Reduction Act Statement

The Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 109 Stat. 163 (1995)) and the Office of Management and Budget's (OMB's) regulations (5 CFR Part 1320) require that OMB approve certain information collection requirements imposed by agency rule. However, this rule contains no information collection requirements and therefore is not subject to OMB approval.

VII. Administrative Procedure Act

Administrative Procedure Act (APA), 5 U.S.C. 551, *et seq.*, requires rulemakings to be published in the **Federal Register**. The APA generally mandates that an opportunity for comment be provided when an agency promulgates regulations. Notice and comment are not required, however, where a rule relates to (1) agency personnel or agency organization, procedure or practice or (2) when the "agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest. *See* 5 U.S.C. 553 (b)(A) and (B). The Commission finds that notice and comment are unnecessary for this rulemaking because the rule relates to Commission's rules of practice and procedure. Furthermore, the September 11 terrorist attacks and concerns raised regarding the Cove Point LNG facilities indicate that it would be contrary to the public interest to delay implementing regulations which would protect the country's critical infrastructure to give notice and seek comment.

VIII. Effective Date and Congressional Notification

The APA generally mandates that publication or service of a substantive rule not be made less than 30 days before its effective date. This waiting period is not required, however, for interpretative rules and statements of policy or as otherwise provided by the agency for good cause found. For the same reasons stated above, the Commission, therefore, finds good cause in accordance with 5 U.S.C. 553(d)(3) to make these rules effective upon less than 30 days' notice. This Final Rule, therefore, will be made effective upon publication in the **Federal Register**.

The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates. *See* 5 U.S.C. 801. That reporting requirement does not apply to this Final Rule because it does not substantially affect the rights or obligations of non-agency parties, and therefore falls within a statutory exception for rules relating to agency procedures or practices that do not substantially affect the rights or obligations of non-agency parties.[3]

IX. Availability of Documents

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.fed.us*) and in FERC's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street, N.E., Room 2A, Washington, DC 20426.

From FERC's Home Page on the Internet, this information is available in both the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS).

—CIPS provides access to the texts of formal documents issued by the Commission since November 14, 1994.

—CIPS can be assessed using the CIPS link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 8.0 format for viewing, printing, and or/downloading.

—RIMS contains images of documents submitted to and issued by the Commission after November 16, 1981.

---

[2] 5 U.S.C. 601–12 (1994).

[3] 5 U.S.C. 804(3)(C).

Documents from November 1995 to the present can be viewed and printed from FERC's Home Page using the RIMS link or the Energy Information Online icon. Descriptions of documents back to November 18, 1981, are also available from RIMS-on-the-Web; requests for copies of these and other older documents should be submitted to the Public Reference Room.

Users assistance is available for RIMS, CIPS, and the Website during normal business hours from our Help Line at (202) 208–2222 (E-mail to *WebMaster@ferc.fed.us*) or the Public Reference at (202) 208–1371 (E-Mail to *public.referenceroom@ferc.fed.us*).

During normal business hours, documents can also be viewed and/or printed in FERC's Public Reference Room, where RIMS, CIPS, and the FERC Website are available. User assistance is also available.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, and Reporting and recordkeeping requirements.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

In consideration of the foregoing, the Commission amends part 385, Chapter I, Title 18, *Code of Federal Regulations*, as follows.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

§ 385.2201 Rules governing off-the-record communications. (Rule 2201).

* * * * *

2. In § 385.2201 paragraphs (e)(1)(viii) and (g)(3) are added to read as follows:

(e) *Exempt off-the-record communications.* (1) * * *

(viii) An off-the-record communication from any person related to any national security-related issue concerning a facility regulated by the Commission or a facility that provides Commission-regulated services.

* * * * *

(g) *Disclosure of exempt off-the-record communications.* * * *

(3) Any document, or a summary of the substance of any oral communications, obtained through an exempt off-the-record communication under paragraphs (e)(1)(viii) of this section, will be submitted promptly to the Secretary and placed in a non-public decisional file of the relevant Commission proceeding and made available to parties to the proceeding, subject to their signing a non-disclosure agreement. Responses will also be placed in the non-public decisional file and held confidential. If the Commission determines that the communication does not contain sensitive national security-related information, it will be placed in the decisional file.

* * * * *

[FR Doc. 01–32068 Filed 12–28–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 122 and 178

[T.D. 02—01]

RIN 1515—AC99

Passenger and Crew Manifests Required for Passenger Flights in Foreign Air Transportation to the United States

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document amends the Customs Regulations, on an interim basis, in order to implement a provision of the Aviation and Transportation Security Act which requires that each air carrier, foreign and domestic, operating a passenger flight in foreign air transportation to the United States electronically transmit to Customs in advance of arrival a passenger and crew manifest that contains certain specified information. The submission of this information to Customs is required for purposes of ensuring aviation safety and protecting national security.

DATES: Interim rule is effective December 31, 2001. Comments must be received on or before March 1, 2002.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For legal matters: Larry L. Burton, Office of Regulations and Rulings, 202–927–1287; For operational matters: James Jeffers, Office of Field Operations,202–927–4444.

SUPPLEMENTARY INFORMATION:

Background

On November 19, 2001, the President signed into law the Aviation and Transportation Security Act (Act), Public Law 107–71. Section 115 of that law amended 49 U.S.C. 44909, to add a new paragraph (c) in order to provide that, not later than 60 days after the date of enactment of the Act, each air carrier, foreign and domestic, operating a passenger flight in foreign air transportation to the United States must electronically transmit to Customs a passenger and crew manifest containing certain information in advance of arrival. Under this statutory provision, the transmission of passenger and crew manifest information will be required even for flights where the passengers and crew have already been pre-inspected or pre-cleared at the foreign location for admission to the United States.

Specifically, under 49 U.S.C. 44909(c)(2)(A)-(E), for each passenger and crew manifest relating to a passenger flight in foreign air transportation to the United States, the following information is required to be submitted to Customs: The full name of each passenger and crew member; the date of birth and citizenship of each passenger and crew member; the gender of each passenger and crew member; the passport number and country of issuance of the passport of each passenger and crew member if a passport is required for travel; and the United States visa number or resident alien card number of each passenger and crew member, as applicable.

In addition, under 49 U.S.C. 44909(c)(2)(F), such other information concerning passenger and crew manifests may be required to be transmitted to Customs, as may be determined to be reasonably necessary to ensure aviation safety.

Moreover, the statute provides that the electronic transmission of a passenger and crew manifest required for a covered flight must be received by Customs in advance of the aircraft landing in the United States in such manner, time and form as Customs may prescribe (49 U.S.C. 44909(c)(4)).

Passenger Manifest; Crew Manifest

This document amends the Customs Regulations to implement 49 U.S.C. 44909(c)(2)(A)-(E) in a new § 122.49a. This section requires air carriers, for each flight subject to the statute, to transmit to Customs, by means of an electronic data interchange system that is approved by Customs, a passenger manifest and, by way of a separate transmission using the same system, a crew manifest. (The system currently in effect for this purpose is called the Advance Passenger Information System (APIS)). Furthermore, the air carrier must transmit each manifest so that the crew manifest is received by Customs electronically in advance of departure from the last foreign port or place, and the passenger manifest is received not later than 15 minutes after the departure of the aircraft from the last foreign port or place (after the wheels are up on the aircraft and the aircraft is directly en route to the United States). To distinguish the two manifests transmitted for a given flight, the crew manifest must have the alpha character "C" included in the transmission to denote that the manifest information pertains to the crew members for the flight.

Required Data Elements for the Manifests

The following data elements comprising the passenger and crew manifests for each flight under 49 U.S.C. 44909(c) must be electronically transmitted to Customs:

(1) The International Air Transport Authority (IATA) airline code; the flight number (followed by the alpha character "C" in the case of the message transmitting the crew manifest for the flight); the departure location IATA code; the U.S. arrival location(s) IATA code(s); the date of flight arrival; and whether each passenger and crew member on the flight is destined for the U.S. or in transit through the U.S.;

(2) The full name of each passenger and crew member; the date of birth and citizenship of each passenger and crew member; the gender of each passenger and crew member; the passport number and country of issuance of the passport of each passenger and crew member if required for travel; and the United States visa number or resident alien card number of each passenger and crew member, as applicable; and

(3) The foreign airport where each passenger began his air transportation to the United States; for each passenger and crew member destined for the United States, the airport in the United States where the passenger and crew member will process through Customs and Immigration formalities; and for each passenger and crew member transiting through the United States and not clearing through Customs and Immigration formalities, the foreign airport of final destination for the passenger and crew member.

Many of the data elements contained in item "2" above describing each passenger and crew member on a flight are contained in travel documents that air carriers review prior to the boarding of the passenger. Air carriers are to transmit the data elements listed in item "2" above, by transmitting electronically to Customs one, and only one, travel document, selected in the following order of preference: U.S. Alien Registration Card; U.S. Border Crossing Card; U.S. non-immigrant visa; a U.S. Refugee Travel Document or Re-Entry Permit; U.S. Passport; or non-U.S. passport.

Even though Customs recognizes that the travel document information being transmitted to Customs by the air carrier may not contain all the informational elements required by the statute and set forth in the regulations, Customs' timely receipt of the electronic transmission of the preferred travel document pertaining to each passenger or crew member for a particular flight will at the present time be considered as constituting full compliance with the informational requirements of 49 U.S.C. 44909(c)(2)(A)-(E). Air carriers will be required to transmit any informational elements required by the statute and this regulation which are not contained in transmitted travel documents by a date that will be announced in a future **Federal Register** document.

It is further observed that the data elements contained in passenger and crew manifests for flights subject to 49 U.S.C. 44909(c)(1) that are received by Customs electronically may, upon request, be shared with other Federal agencies for the purpose of protecting national security (49 U.S.C. 44909(c)(5)).

Lastly, it is noted that the requirement in 49 U.S.C. 44909(c)(3) that carriers make passenger name record information available to Customs upon request will be the subject of a separate document published in the **Federal Register**.

Comments

Before adopting this interim regulation as a final rule, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Administrative Procedure Act, Executive Order 12866 and the Regulatory Flexibility Act

This interim regulation has been determined to be critically necessary for purposes of ensuring aviation safety and protecting national security. Further, Congress has directed air carriers to comply no later than 60 days from enactment of the Aviation and Transportation Security Act. For these reasons, Customs finds that good cause exists in this case for dispensing with the notice and public comment procedures of the Administrative Procedure Act (5 U.S.C. 553) as being contrary to the public interest pursuant to 5 U.S.C. 553(b)(B), and, in this connection, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required. Because this document is not subject to the requirements of 5 U.S.C. 553, as noted, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor does the interim regulation result in a "significant regulatory action" under E.O. 12866.

Paperwork Reduction Act

This interim regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this interim regulation has been reviewed and, pending the receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1515–0232. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

The collection of information required in this document is contained in § 122.49a. This information is required in connection with passenger flights in foreign air transportation to the United States. The likely respondents and/or recordkeepers are business organizations, specifically air carriers, including foreign air carriers.

Estimated total annual reporting and/or recordkeeping burden: 2,380 hours.

Estimated average annual burden per respondent/recordkeeper: .0028 hours.

VOL 66 ISS 250 DE 31 2001 UMI

Estimated number of respondents and/or recordkeepers: 200.

Estimated annual frequency of responses: 850,000.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229. Comments should be submitted within the same time frame that comments are due regarding the substance of the interim regulation.

Comments are invited on: (a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Part 178, Customs Regulations (19 CFR part 178), containing the list of approved information collections, is appropriately revised to make provision for this information collection.

List of Subjects

19 CFR Part 122

Air carriers, Aircraft, Airports, Air transportation, Customs duties and inspection, Entry procedure, Reporting and recordkeeping requirements, Security measures.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

Parts 122 and 178, Customs Regulations (19 CFR parts 122 and 178), are amended as set forth below.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for part 122 continues to read, and a specific sectional authority citation is added to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a.

§ 122.49a also issued under 19 U.S.C. 1431 and 49 U.S.C. 44909(c).

2. Subpart E of part 122 is amended by adding § 122.49a to read as follows:

§ 122.49a Passenger and crew manifests.

(a) *General requirement.* Each air carrier, foreign and domestic, operating a passenger flight in foreign air transportation to the United States, including flights where the passengers and crew have already been pre-inspected or pre-cleared at the foreign location for admission to the United States, must transmit to Customs a passenger manifest and a crew manifest containing the information set forth in paragraph (c) of this section, as required by 49 U.S.C. 44909(c)(1). The electronic transmission of manifest information must be effected through an electronic data interchange system approved by Customs. This information must be transmitted to the U.S. Customs Data Center, Customs Headquarters.

(b) *Passenger and crew manifests separately transmitted; advance receipt by Customs.* For each flight subject to paragraph (a) of this section, the air carrier must separately transmit to Customs the passenger manifest and the crew manifest. The crew manifest must be received in advance of departure from the last foreign port or place. The passenger manifest must be received by Customs no later than 15 minutes after the flight has departed from the last foreign port or place (after the wheels are up on the aircraft and the aircraft is en route directly to the United States).,

(c) *Information required*—(1) *Airline and flight information.* For each passenger manifest and crew manifest relating to a flight falling within the scope of paragraph (a) of this section, the following airline and flight information must be electronically transmitted to Customs: the airline IATA (International Air Transport Authority) code; the flight number (followed by the alpha character "C" in the case of the crew manifest for the flight); the departure location IATA code; the U.S. arrival location(s) IATA code(s); the date of flight arrival in the United States; and whether each passenger and crew member on the flight is destined for the U.S. or in transit through the U.S.

(2) *Identifying information for each passenger or crew member.* In the manner prescribed in paragraph (c)(3) of this section, for each passenger manifest and crew manifest, as applicable, that relates to a flight falling within the scope of paragraph (a) of this section, the following information that identifies each passenger and crew member on the flight must be electronically transmitted to Customs: The full name of each passenger and crew member; the date of birth and citizenship of each passenger and crew member; the gender of each passenger and crew member; the passport number and country of issuance of the passport of each passenger and crew member if a passport is required for travel; and the United States visa number or resident alien card number of each passenger and crew member, as applicable (49 U.S.C. 44909(c)(2)(A)–(E)).

(3) *Use of travel document to obtain data.* Air carriers are to provide the data elements set out in paragraph (c)(2) of this section that describe each passenger and crew member on a flight subject to paragraph (a) of this section by transmitting to Customs one, and only one, travel document per passenger or crew member, selected in the following order of preference: U.S. Alien Registration Card; U.S. Border Crossing Card; U.S. non-immigrant visa; U.S. Refugee Travel Document or Re-Entry Permit; U.S. Passport; or non-U.S. passport. Customs timely receipt of the electronic transmission of the preferred travel document pertaining to a passenger or crew member for a covered flight will be considered as constituting full compliance with the informational requirements of 49 U.S.C. 44909(c)(2)(A)–(E), subject to paragraph (c)(5) of this section.

(4) *Additional information required; travel itinerary of each passenger and crew member.* In addition, for each passenger manifest and crew manifest, as applicable, that relates to a flight falling within the scope of paragraph (a) of this section, air carriers are required to transmit for each passenger and crew member, the foreign airport where they began their air transportation to the United States. Also, for passengers and crew members destined for the United States, the air carrier must designate the airport in the United States where the passenger will be processed through Customs and Immigration formalities. Likewise, for passengers and crew members that are transiting through the United States and not clearing Customs and Immigration formalities, the air carrier bringing them into the United States must transmit the foreign airport of ultimate destination.

(5) *Receipt of all required data elements.* Air carriers will be required to transmit any informational elements required by paragraph (c) of this section which are not contained in the transmitted travel documents by a date

that will be announced in the **Federal Register**.

(d) *Carrier responsibility for comparing information collected with travel document.* The carrier collecting the information described in paragraph (c)(2) of this section is responsible for comparing this information with the related travel document under paragraph (c)(3) of this section, in order to ensure that the information is correct, that the document appears to be valid for travel to the United States, and that the passenger or crew member, as applicable, is the person to whom the travel document was issued.

(e) *Sharing of manifest information with other Federal agencies.* Information contained in passenger and crew manifests for flights subject to paragraph (a) of this section (49 U.S.C. 44909(c)(1)) that is received by Customs electronically may, upon request, be shared with other Federal agencies for the purpose of protecting national security (49 U.S.C. 44909(c)(5)).

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding the following in appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control no.
* * *	*	*
§ 122.49a	Passenger and crew manifests.	1515–0232
* * *	*	*

Approved: December 21, 2001.

Robert C. Bonner,

Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–32034 Filed 12–28–01; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 352

[Docket No. 78N–0038]

RIN 0910–AA01

Sunscreen Drug Products for Over-the-Counter Human Use; Final Monograph; Partial Stay; Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; partial stay.

SUMMARY: The Food and Drug Administration (FDA) is staying the final monograph for over-the-counter (OTC) sunscreen drug products that published in the **Federal Register** of May 21, 1999 (64 FR 27666). The final monograph established conditions under which OTC sunscreen drug products are generally recognized as safe and effective and not misbranded. This stay of effective date applies to all OTC sunscreen drug products that would be regulated under part 352 (21 CFR part 352). This action does not stay the effective date for products that would be regulated under parts 310 and 700 (21 CFR parts 310 and 700). This action is being taken because the agency will be amending part 352 to address formulation, labeling, and testing requirements for both ultraviolet A (UVA) radiation protection and ultraviolet B (UVB) radiation protection. This action is part of FDA's ongoing review of OTC drug products.

DATES: This rule is effective January 30, 2002. Part 352, added at 64 FR 27666 at 27687, is stayed until further notice. Written or electronic comments by April 1, 2002.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

FOR FURTHER INFORMATION CONTACT: Gerald M. Rachanow, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2307.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of May 21, 1999, FDA published a final rule in the form of a final monograph for OTC sunscreen drug products in part 352. The monograph included 16 active ingredients, required labeling for products that contain one or more of these active ingredients, a standardized test for measuring sun protection factor (SPF) values, and standard methods for measuring the water resistant properties of sunscreens. The labeling and test methods covered products intended to provide UVB radiation protection. The monograph did not, however, address active ingredients, labeling, and test methods for products intended to provide UVA protection. The final rule also included related nonmonograph conditions in § 310.545(a)(29) (21 CFR 310.545(a)(29)) and new § 700.35 (21 CFR 700.35), which addressed labeling for cosmetic products that contain sunscreen active ingredients for nontherapeutic, nonphysiologic uses (e.g., as a color additive or to protect the color of the product). The agency set a 2-year effective date (May 21, 2001) for part 352 and for §§ 310.545(a)(29) and 700.35.

In the **Federal Register** of June 8, 2000 (65 FR 36319), the agency extended the effective date for all OTC sunscreen drug and cosmetic products that would be regulated under parts 310, 352, and 700 to December 31, 2002. The agency stated that this extension would be in the public interest as the agency developed a comprehensive sunscreen final monograph that addresses formulation, labeling, and testing requirements for both UVB and UVA radiation protection under part 352. The agency stated in this notice that it intended to move forward and publish a proposed rule for a comprehensive final monograph, receive comments on that proposal, and issue a final rule by December 31, 2001. That final rule would then have a 1-year effective date of December 31, 2002.

II. Stay of Part 352

The June 8, 2000, extension of effective date also included a reopening of the administrative record to allow for comment on specific information the agency requested in that document. The comment period closed on September 6, 2000. Since that time, the agency has been developing a proposed amendment to part 352 that addresses both UVB and UVA radiation protection.

The agency expects to publish the proposal to amend part 352 next year. Following that publication, there will be a comment period and then the agency will prepare an amended final monograph for publication in a future issue of the **Federal Register**. Because the agency has not yet published the proposed amendment to part 352, it is not possible for manufacturers of OTC sunscreen drug products to relabel and test their products in accord with an amended final monograph by the current effective date of December 31, 2002.

Accordingly, the agency is staying part 352 until further notice is provided in a future issue of the **Federal Register**. The agency will propose a new effective date for part 352 within the proposed amendment. The agency anticipates that this new effective date will not be before January 1, 2005.

This stay of effective date does not apply to parts 310 or 700, because the amendment of the monograph in part 352 has no effect on the requirements in these parts. The agency has already extended the effective dates for parts 310 and 700 to December 31, 2002, and finds there is no reason to further extend that date.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. (553(b)(3)(A). Alternatively, the agency's implementation of this action without opportunity for public comment comes within the good cause exceptions in 5 U.S.C. 553(b)(3)(B) and (d)(3) in that obtaining public comment is impracticable, unnecessary, and contrary to the public interest. The agency is staying part 352 because the agency has determined that it is not possible for manufacturers of OTC sunscreen drug products to relabel and test their products in accord with an amended final monograph by the current effective date of December 31, 2002. The agency intends to publish a proposal to amend part 352 next year in order to develop a comprehensive sunscreen monograph that addresses formulation, labeling, and testing requirements for both UVB and UVA radiation protection. This amendment will propose a new effective date for part 352. Thus, there will be an opportunity for public comment on the new effective date within the proposed amendment to part 352. In accordance with 21 CFR 10.40(e)(1), FDA is providing an opportunity for comment on whether this partial stay should be modified or revoked.

III. Analysis of Impacts

The economic impact of the final monograph was discussed in the final rule (64 FR 27666 at 27683). The economic impact of the extension of the effective date of the monograph until December 31, 2002, was discussed in the final rule extending that date (65 FR 36319 at 36323). This stay of the effective date provides additional time for companies to relabel and retest products, eliminates a second relabeling of sunscreen drug products when UVA labeling is included in the monograph, and reduces label obsolescence, as there will be additional time to use up more existing labeling. Thus, staying the effective date will significantly reduce the economic impact on industry.

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Under the Regulatory Flexibility Act, if a rule has a significant economic impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of the rule on small entities. Section 202(a) of the Unfunded Mandates Reform Act requires that agencies prepare a written statement of anticipated costs and benefits before proposing any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency concludes that this final rule is consistent with the regulatory philosophy and principles set out in the Executive order and in these two statutes. The final rule is not a significant regulatory action as defined by the Executive order and so is not subject to review under the Executive order. FDA has determined that the final rule does not have a significant economic impact on a substantial number of small entities. The Unfunded Mandates Reform Act does not require FDA to prepare a statement of costs and benefits for the final rule, because the final rule is not expected to result in any 1-year expenditure that would exceed $100 million adjusted for inflation.

The purpose of this final rule is to stay the effective date of the final monograph for OTC sunscreen drug products in part 352. This will provide additional time for manufacturers to relabel and retest products and to use up existing product labeling. The agency encourages manufacturers who use up their existing product labeling before the amended final monograph is issued to prepare new labeling in accord with the existing final monograph in part 352 in the format set forth in § 201.66 (21 CFR 201.66). Accordingly, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Environmental Impact

The agency has determined under 21 CFR 25.31(a) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VII. Request for Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments regarding this rule by April 1, 2002. Three copies of all written comments are to be submitted. Individuals submitting written comments or anyone submitting electronic comments may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This final rule (partial stay) is issued under sections 201, 501, 502, 503, 505, 510, and 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, and 371) and under authority delegated to the Commissioner of Food and Drugs.

Dated: December 21, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–32086 Filed 12–28–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–207]

RIN 2115–AA97

Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone around the Seabrook Nuclear Power Plant in Seabrook, New Hampshire. The security zone will close off public access to all land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant. This action is necessary to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

DATES: This rule is effective from December 7, 2001 until June 15, 2002.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–01–207 and are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. The Seabrook Nuclear Power Plant is open to possible attack from waters adjacent to nearby Hampton Harbor. Due to the potential catastrophic effect an exposure of radiation from the nuclear processes at the plant would have on the surrounding area, this rulemaking is urgently required to prevent potential future terrorist strikes against the Seabrook Nuclear Power Plant. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render people and facilities within and adjacent to the Seabrook Nuclear Power Plant property vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures implemented in this rule are intended to prevent possible terrorist attacks against the Seabrook Nuclear Power Plant and are needed to protect the facility, persons at the facility, the public and the surrounding community from potential sabotage or other subversive activity, sabotage and terrorist attacks, either from the water or by access to the facility by utilizing public trust lands between the low water and high water tide lines. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

This zone should have minimal impact on the users of Hampton Harbor, New Hampshire and the surrounding waters as vessels are able to pass safely outside the zone. Public notifications will be made to the maritime community via local notice to mariners and signs posted to inform the public of the boundaries of the zone.

Background and Purpose

In light of terrorist attacks on New York City and Washington D.C. on September 11, 2001 a security zone is being established to safeguard the Seabrook Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Seabrook Nuclear Power Plant presents a possible target of terrorist attack due to the catastrophic impact a release of nuclear radiation would have on the surrounding area. This security zone prohibits entry into or movement within the specified areas.

This rulemaking establishes a security zone in all land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant in Seabrook, New Hampshire bounded by a line beginning at position 42°53′58″ N, 070°51′06″ W, then running along the Seabrook Nuclear Power Plant property boundaries, ending at position 42°53′46″ N, 070°51′06″ W. The area along the Plant property boundaries is an area delineated by a fence, and runs east around the easternmost point of the property boundaries of Seabrook Nuclear Power Plant, then turns west to the point of termination. This security zone also closes all land within the zone to prevent access along areas traditionally reserved for public use between the mean low water tide line and the mean high water tide line. This rulemaking is necessary to provide complete protection of the waterfront areas of the Seabrook Nuclear Power Plant.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

Regulatory Evaluation

This temporary final rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The effect of this regulation will not be significant for several reasons: The protected area is not regularly navigated; there is ample room for vessels to navigate around the security zone; notifications will be made to the local maritime community; and signs

VOL 66 ISS 250 DE 31 2001 UMI

will be posted informing the public of the boundaries of the zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Hampton Harbor. For the reasons enumerated in the Regulatory Evaluation section above, this security zone will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) Wade W. Gough, Marine Safety Office Portland, Maine, at (207) 780–3251. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph 34 (g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administer of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01—207 to read as follows:

§ 165.T01—207 Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire.

(a) *Location*. The following area is a security zone: All land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant identified as follows: beginning at position 42°53′58″ N, 070°51′06″ W then running along the property boundaries of Seabrook Nuclear Power Plant to its position 42°53′46″ N, 070°51′06″ W.

(b) *Effective dates*. This section is effective from December 7, 2001 until June 15, 2002.

(c) *Regulations*.

(1) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Portland, Maine or designated on-scene U. S. Coast Guard patrol personnel. On-

scene Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters within the boundaries of the security zone unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

Dated: December 7, 2001.

M. P. O'Malley,

Commander, U.S. Coast Guard Captain of the Port, Portland, Maine.

[FR Doc. 01–32119 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301202; FRL–6817–1]

RIN 2070–AB78

Clethodim; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of clethodim and its metabolites and their sulphoxides and sulphones in or on tall fescue forage and tall fescue hay. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on tall fescue. This regulation establishes a maximum permissible level for residues of clethodim in these food commodities. The tolerances will expire and are revoked on June 30, 2004.

DATES: This regulation is effective December 31, 2001. Objections and requests for hearings, identified by docket control number OPP–301202, must be received by EPA on or before March 1, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301202 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–6463; and e-mail address: Madden.Barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301202. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the herbicide clethodim, [(*E*)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on tall fescue forage at 10 parts per million (ppm) and tall fescue hay at 20 ppm. These tolerances will expire and are revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the

VOL 66 ISS 250 DE 31 2001 UMI

FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Clethodim on Tall Fescue and FFDCA Tolerances

Missouri is the second leading State in beef cows and grass hay production. These cows are predominantly raised on tall fescue (*Festuca arundinacea*) forage and hay because of its adaptation to the environmental conditions in Missouri. Tall fescue is susceptible to an endopyte-fungus *Acremonium coenophialum* which produces peptide ergot alkaloids that are toxic to cattle. Over the last decade a great deal of information has been developed about the causal relationship of the fungal endophyte-fescue relationship and the true nature of the toxic interactions. This increased awareness was aided by the identification of the primary toxic compound of *A. coenophialum* called ergovaline which is found in the highest concentration in the seedhead and seed of tall fescue. Therefore control of these reproductive structures will help reduce the overall concentration of ergovaline.

The toxic effects of ergovaline include: reproductive problems, summer syndrome (weight loss), staggers, reduced milk production, and fescue foot (poor circulation leading to loss of hind feet). The reproductive problems include reduction in pregnancy rates from 86 to 91% in endophyte-free pastures down to 67 to 72% in endophyte-infected pastures (a 22% reduction). Decreased milk production has been demonstrated with beef cattle showing a 25% reduction in milk production and Polled Hereford cows showing a 40% reduction in milk production. This reduced milk production will directly reduce calf survival. Another related syndrome is a hyperthermia response. This is believed to be a peripheral vasoconstriction associated with the endophyte. This leads to a reduced temperature in the legs and tail, an increase temperature in the core body, increased respiration, open mouthed breathing, and reduced average daily weight gain.

Currently, there are no pesticides registered for control of tall fescue seedheads in pasture or hay fields. Tests of vaccines and use of anthelmintics (anti-parasitoids) have provided only short-term relief (days) to cattle from the problem. Non-chemical control methods include pasture renovation and reseeding to non-endophytic fescue, rotation to non-fescue pastures, dilution with legumes, supplementing the feed with grain to reduce the amount of toxin ingested, controlled grazing (heavy foraging reduces seedhead formation), ammoniate hay to neutralize the toxic effects of ergovaline, and mechanically removing the seedheads with mowing. Taken singly or together these cultural methods do not provide an effective, economic long-term relief from the problem. Pasture renovation or dilution with legumes does not stop the reintroduction of endophyte-fescue. Rotation to non-fescue pastures is difficult because other pasture grasses do not grow as well therefore, there are very few non-fescue pastures. Supplementing grazing with other grains is expensive due to the cost of the grain, and the equipment to feed it. Controlled heavy grazing to remove seedheads is difficult because of the heavy flush of vegetative growth coincides with seedhead formation in the spring. Ammoniating hay is not effective in a pasture situation. Mechanical mowing to remove seedheads requires mowing the fields two to four times during the season and is costly in terms of time and money. EPA has authorized under FIFRA section 18 the use of clethodim on tall fescue to suppress stem and seedhead formation in tall fescue pasture or hay to reduce toxin producing endophyte-fungus in Missouri. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of clethodim in or on tall fescue forage and tall fescue hay. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on June 30, 2004, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on tall fescue forage and tall fescue hay after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether clethodim meets EPA's registration requirements for use on tall fescue or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of clethodim by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Missouri to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for clethodim, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of clethodim and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of clethodim in or on tall fescue forage at 10 ppm and tall fescue hay at 20 ppm.

No fescue residue data were submitted for this specific emergency exemption request. The proposed use rate of clethodim for tall fescue is approximately one-eighth of the rate registered for use on alfalfa and clover. Therefore, the use of alfalfa and clover was translated to tall fescue for this section 18 use. The established tolerances for meat and milk are adequate to cover this section 18 use. According to Table 1 of OPPTS 860.1000 and the recommended and established tolerances for clethodim, the maximum theoretical dietary burdens were determined for beef and dairy cattle. Based on previous feeding studies, the secondary residues in meat and milk will not exceed the established tolerances as a result of this section 18 use.

Residues of clethodim in or on tall fescue are not expected to increase dietary exposure. Since tall fescue is not consumed by humans, any exposure to residues of clethodim from this emergency exeption will result from the consumption of meat or milk. The use of clethodim on tall fescue is not expected to result in exceedances of the tolerances that already exist for meat and milk. Therefore, establishing the tall fescue tolerance will not increase the most recent estimated aggregate risks resulting from use of clethodim, as discussed in the September 17, 2001 **Federal Register** (66 FR 47971, FRL–6800–9) final rule establishing tolerances for combined residues of clethodim in or on green onion, leaf lettuce, the Brassica head and stem subgroup, flax seed, flax meal, mustard seed, canola seed and canola meal, because in that prior action, risk was estimated assuming all meat and milk products contained tolerance level residues. Refer to the September 17, 2001 **Federal Register** document for a detailed discussion of the aggregate risk assessments and determination of safety. EPA relies upon that risk assessment and the findings made in the **Federal Register** document in support of this action. Below is a brief summary of the aggregate risk assessment.

An endpoint for acute dietary exposure was not identified since no effects were observed in oral toxicity studies that could be attributable to a single dose. Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Clethodim is not registered for use on any sites that would result in residential exposure. Therefore, short-term and intermediate-term aggregate risks were not assessed. Clethodim has been classified as a group E carcinogen. Therefore, clethodim is not expected to pose a cancer risk to humans. Therefore, the only exposure scenario the Agency assessed is for chronic (non-cancer) exposures to clethodim.

Using the Dietary Exposure Evaluation Model (DEEM™), an analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to clethodim for each commodity. The following assumptions were made for the chronic exposure assessments: The 3–day average of consumption for each sub-population is combined with residues to determine average exposure as milligram/kilogram/day (mg/kg/day). The chronic analysis was performed using tolerance level residues for all crops and livestock commodities. The projected percent crop treated (PCT) data (2% for lettuce, broccoli and cauliflower, 15% for cabbage, 25% for onion, and 1% for brussels sprouts), weighted average PCT treated data for existing registrations, and 100% crop treated (CT) data for all other uses.

Using the exposure assumptions described above, EPA has concluded that exposure to clethodim from food will utilize less than 1% of the chronic population adjusted dose (cPAD) for the U.S. population, less than 1% of the cPAD for females (13-50 years) and less than 1% of the cPAD for children 1-6 years old. There are no residential uses for clethodim that result in chronic residential exposure to clethodim. In addition, there is potential for chronic dietary exposure to clethodim in drinking water. After calculating drinking water levels of comparision (DWLOCs) and comparing them to the estimated environmental concentration (EECs) for surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 1:

TABLE 1.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO CLETHODIM

Population Subgroup	cPAD (mg/kg)	% cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population (total)	0.01	0.0030	6.1	0.08	250
Children 1-6 years	0.01	0.0061	6.1	0.08	40
Females 13-50 years	0.01	0.0023	6.1	0.08	230

Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to clethodim residues.

V. Other Considerations

A. Analytical Enforcement Methodology

As discussed in the September 17, 2001 **Federal Register** document (66 FR 47971), an adequate enforcement methodology is available to enforce the tolerance expression. The methods may be requested from: Francis Griffith, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Road, Fort George G. Mead, Maryland, 20755–5350; telephone number: (410) 305–2905; e-mail address: griffith.francis@epa.gov.

B. International Residue Limits

There are no established Codex maximum residue limits for residues of clethodim in or on tall fescue forage or hay. Therefore, there are no questions with respect to Codex/U.S. tolerance compatibility.

C. Conditions

One application may be made. A maximum of 0.031 pound active ingredient may be applied per acre. Clethodim is not to be applied within 15 days of grazing, feeding, or harvesting (cutting) forage or hay.

VI. Conclusion

Therefore, the tolerance is established for combined residues of clethodim, [(*E*)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on tall fescue forage at 10 ppm and tall fescue hay at 20 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301202 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before March 1, 2002.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301202, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time-limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That*

Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 19, 2001.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.458 is amended by adding paragraph (b) to read as follows:

§ 180.458 Clethodim; tolerances for residues.

* * * * *

(b)*Section 18 emergency exemptions*. Time-limited tolerances are established for the combined residues of clethodim, [(*E*)-(±)-2-[1-[[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. These tolerances will expire and are revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Fescue, tall, forage	10	6/30/04
Fescue, tall, hay	20	6/30/04

VOL 66 ISS 250 DE 31 2001 UMI

* * * * *

[FR Doc. 01–32105 Filed 12–28–01; 8:45 am]

BILLING CODE 6560-50-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 413, 419, and 489

[CMS–1159–F3]

RIN 0938–AL35

Medicare Program; Prospective Payment System for Hospital Outpatient Services; Delay in Effective Date of Calendar Year 2002 Payment Rates and the Pro Rata Reduction on Transitional Pass-Through Payments

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of the payment rates announced for Medicare hospital outpatient services paid under the prospective payment system for calendar year 2002. These rates were announced in a November 30, 2001 final rule (66 FR 59856). In addition, this document delays the effective date of the uniform reduction to be applied to each of the transitional pass-through payments for CY 2002. Certain provisions of the November 30, 2001 rule, as discussed in the **SUPPLEMENTARY INFORMATION** section, are not delayed.

DATES: The effective date of the amendments to 42 CFR published at 66 FR 59856 (November 30, 2001) remains January 1, 2002, except that the effective date for § 419.32(b)(1)(iii) is delayed indefinitely. Also, the effective date for § 419.62(d), added at 66 FR 55865, published on November 2, 2001, is delayed indefinitely. The effective date of the payment rates announced for Medicare hospital outpatient services paid under the prospective payment system for calendar year 2002, published in the preamble and addenda of the November 30, 2001 final rule, and the uniform reduction to be applied to each of the transitional pass-through payments for CY 2002, published in the preamble and addenda of the November 30, 2001 final rule, is delayed until no later than April 1, 2002. These rates were announced in a November 30, 2001 final rule (66 FR 59856). We will publish a document in the **Federal Register** announcing the new effective date for the rates and for § 419.32(b)(1)(iii) and § 419.62(d).

FOR FURTHER INFORMATION CONTACT: James L. Hart, (410) 786–0378.

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through GPO Access, a service of the U.S. Government Printing Office. The Website address is: *http://www.access.gpo.gov/nara/index.html*.

I. Background

On November 30, 2001, we published a final rule announcing the final ambulatory payment classification (APC) groups, relative weights, and payment rates under the hospital outpatient prospective payment system (OPPS) for calendar year 2002 (66 FR 59856). As discussed in detail in that document, in setting the APC relative weights, we incorporated 75 percent of the estimated costs for devices eligible for transitional pass-through payments in 2002 into the costs of the APC groups associated with the use of the devices (66 FR 59906).

After the publication of the November 30 final rule, we discovered that the final rule reflects several inadvertent technical errors in which we incorrectly associated specific devices approved for transitional pass-through payments with particular procedures. The effects of the errors we have identified are of a magnitude significant enough to affect not only the estimate of total transitional pass-through payments and the uniform reduction percentage to be applied to transitional pass-through payments in 2002, but also the payment rates for all APCs. Using rates that reflect these errors would result in inappropriate, uneven effects on payments to hospitals. Thus, we believe it would be inappropriate to proceed to make the payment rates published on November 30 effective without further changes.

In order to thoroughly assess the accuracy of the data files containing these errors and to assure that they do not contain further errors that might also have significant implications, an intensive review of the data will be necessary. Because of the time needed for this review, we cannot complete this review and recalculate the rates before the previously published effective date of January 1, 2002. We will, therefore, continue to pay for services covered under the OPPS after January 1 and until no later than April 1, 2002 under the rates in effect on December 31, 2001. We will also continue until no later than April 1, 2002 to make transitional pass-through payments for drugs and devices without applying the uniform reduction announced on November 30, 2001.

Once our review has been completed and the rates corrected, we will publish a final rule with revised rates and a revised calculation of the uniform reduction in transitional pass-through payments. We will announce the effective date of these changes in that rule.

II. List of OPPS Provisions That Are Not Delayed

This document does not delay the following provisions:

- Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 coinsurance limit.
- Limitation of coinsurance amount to inpatient hospital deductible amount.
- Changes in services covered within the scope of OPPS.
- Categories of hospitals subject to, and excluded from, the OPPS.
- Criteria for new technology APCs.
- Provider-based issues.
- Change to the definition of "single-use devices" for transitional pass-through payments.

III. Waiver of Notice of Proposed Rulemaking and the 30-Day Delay in the Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We normally provide a delay of 30 days in the effective date of a final rule. However, if adherence to this procedure would be impracticable, unnecessary, or contrary to the public interest, we may waive the delay in the effective date. We find that a 30-day delay in the effective date of this regulation would be both impracticable and contrary to the public interest. In addition, although this is an ongoing final rule proceeding, we nevertheless have good cause to waive notice and comment. As we have discussed above, the rates that are scheduled to go into effect on January 1, 2002 reflect inadvertent technical errors that have major consequences. We, therefore, do not believe it is appropriate to implement the new rates on January 1, 2002. To proceed with making payments on the basis of significantly incorrect rates would be imprudent and contrary to the public interest. These errors were discovered within 30 days of the January 1, 2002 effective date. Therefore, there is an urgent need to proceed with a delay in the effective date of the 2002 rates, and there is not sufficient time to provide notice of proposed rulemaking and a 30-day notice of the delay.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 18, 2001.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: December 21, 2001.

Tommy G. Thompson,

Secretary.

[FR Doc. 01–32091 Filed 12–27–01; 8:55 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No.010607150–1264–02; I.D.091200F]

RIN 0648–AN64

Sea Turtle Conservation; Restrictions Applicable to Fishing and Scientific Research Activities

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is amending the sea turtle handling and resuscitation regulation. Recent scientific and technical information indicates that the current procedures need to be updated. This measure is necessary to improve the handling of sea turtles that are incidentally captured during scientific research or fishing activities.

DATES: This rule is effective December 31, 2001.

ADDRESSES:

FOR FURTHER INFORMATION CONTACT: Therese A. Conant (301) 713–1401.

SUPPLEMENTARY INFORMATION: The taking of sea turtles is governed by regulations implementing the Endangered Species Act (ESA) at 50 CFR parts 222 and 223 (see 64 FR 14051, March 23, 1999, final rule consolidating and reorganizing ESA regulations). Generally, the taking of sea turtles is prohibited. However, the incidental take of turtles during shrimp and summer flounder fishing in areas of the Atlantic Ocean and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement to have a NMFS-approved turtle excluder device (TED) installed in each net rigged for fishing. Other exceptions to the taking prohibition include incidental take that is authorized for ESA scientific research permits, incidental take permits, and section 7 incidental take statements. All take excepted from the prohibitions requires safe handling and resuscitation of incidentally caught sea turtles as specified at 50 CFR 223.206 (d)(1).

Sea turtles are air breathers and may drown under conditions of forced submergence. To minimize the impact of forced submergence, NMFS developed protocols to handle comatose turtles (FR 43 32801, July 28, 1978) and subsequently updated the protocols (57 FR 57354, December 4, 1992). New scientific and technical information has been collected since the last update. For example, the practice of stepping on the plastron to revive the turtle may actually do more harm than good. Plastral pumping may cause the airway to block, thus prohibiting air from entering the lungs. Pumping the plastron while a turtle is on its back also causes the viscera to compress the lungs which are located dorsally, thereby hindering lung ventilation. Recent physiological studies on the effects of trawl capture on small sea turtles show that high stress levels are developed during short-duration forced submergences and that the turtles may require from 3.5 up to 24 hours to recover from the stress effects. Resuscitation techniques have been refined over the years as biologists have developed effective ways to test for reflexes in order to determine the status of the turtle.

NMFS published a proposed rule (66 FR 32787, June 18, 2001) requesting comment on the following proposed changes: Eliminate stepping on the plastron as a method for resuscitation; provide a more defined criteria to determine dead versus comatose turtles; increase the minimum elevation of the hindquarters; add carapace movement and a reflex test to the resuscitation methods; and add several minor changes to clarify the guidance for keeping a turtle moist. No comments were received. The proposed changes are adopted as final.

Classification

The AA has determined that this final rule is consistent with the ESA and with other applicable law.

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA prepared an environmental impact statement (EIS) for the 1978 listing determination, establishing the handling and resuscitation requirements and prepared an environmental assessment (EA) for the 1992 updated of the requirements. The proposed rule was determined to be a Categorical Exclusion under the National Environmental Policy Act since the changes did not constitute a new action and individually or cumulatively have a significant impact on the quality of the human environment.

A memorandum was prepared for the Chief Counsel for Regulation of the Department of Commerce who certified to the Chief Counsel for Advocacy of the Small Business Administration stating that the proposed rule would not have significant economic impact on a substantial number of small entities. None of the changes will result in additional economic effects, since NMFS already requires fishermen and scientific researchers to safely handle and attempt resuscitation on sea turtles as necessary. The changes are limited to protocols for monitoring the turtle and make minor changes to the treatment that would require no additional material beyond what is already generally available onboard a vessel (e.g. elevating the sea turtles' hindquarters can be done with a tackle box or bumper). No comments were received regarding this certification. Thus, the

VOL 66 ISS 250 DEC 31 2001 UMI

factual basis for the certification has not changed. As such, a final regulatory flexibility analysis is not required, and none has been prepared.

This final rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This final rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

Dated: December 20, 2001.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 223 and 224 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531-1543; subpart B; 16 U.S.C. 1361 *et seq.et seq.*

2. In § 223.206, paragraph (d)(1) is revised to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles

* * * * *

(d) * * *

(1) *Handling and resuscitation requirements.* (i) Any specimen taken incidentally during the course of fishing or scientific research activities must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are actively moving or determined to be dead as described in paragraph (d)(1)(i)(C) of this section must be released over the stern of the boat. In addition, they must be released only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose, or inactive, as determined in paragraph (d)(1) of this section, by:

(*1*) Placing the turtle on its bottom shell (plastron) so that the turtle is right side up and elevating its hindquarters at least 6 inches (15.2 cm) for a period of 4 up to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Periodically, rock the turtle gently left to right and right to left by holding the outer edge of the shell (carapace) and lifting one side about 3 inches (7.6 cm) then alternate to the other side. Gently touch the eye and pinch the tail (reflex test) periodically to see if there is a response.

(*2*) Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance be placed into a container holding water. A water-soaked towel placed over the head, carapace, and flippers is the most effective method in keeping a turtle moist.

(*3*) Sea turtles that revive and become active must be released over the stern of the boat only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Sea turtles that fail to respond to the reflex test or fail to move within 4 hours (up to 24, if possible) must be returned to the water in the same manner as that for actively moving turtles.

(C) A turtle is determined to be dead if the muscles are stiff (rigor mortis) and/or the flesh has begun to rot; otherwise the turtle is determined to be comatose or inactive and resuscitation attempts are necessary.

(ii) Notwithstanding the provisions of paragraph (d)(1)(i) of this section, a person aboard a pelagic longline vessel in the Atlantic issued an Atlantic permit for highly pelagic species under 50 CFR 635.4, must follow the handling and resuscitation requirements in 50 CFR 635.21.

(iii) Any specimen taken incidentally during the course of fishing or scientific research activities must not be consumed, sold, landed, offloaded, transshipped, or kept below deck.

* * * * *

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

3. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C.1531–1543 and 16 U.S.C.1361 *et seq.*

4. Section 224.104 is revised by adding a new paragraph (d) to read as follows:

§ 224.104 Special requirements for fishing activities to protect endangered sea turtles.

* * * * *

(d) Special handling and resuscitation requirements are specified at § 223.206 (d)(1).

[FR Doc. 01–31976 Filed 12–28–01; 8:45 am]

BILLING CODE 3510-22-S

Proposed Rules

Federal Register
Vol. 66, No. 250
Monday, December 31, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 071–0298; FRL–7123–8]

Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing a full approval of a revision to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California SIP concerning PM–10 emissions from industrial processes. We are proposing action on a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by January 30, 2002.

ADDRESSES: Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rule revisions and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1135.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to EPA.

Table of Contents

I. The State's Submittal
  A. What rule did the State submit?
  B. Are there other versions of this rule?
  C. What are the changes in the submitted rule?
II. EPA's Evaluation and Action
  A. How is EPA evaluating the rule?
  B. Does the rule meet the evaluation criteria?
  C. Previous proposed action and public comment
  D. Present proposed action and public comment
III. Background information
  Why was this rule submitted?
IV. Administrative Requirements

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule proposed for full approval with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SJVUAPCD	4201	Particulate Matter Concentration	12/17/92	11/18/93

On December 27, 1993, we determined that the submittal of Rule 4201 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved the following versions of submitted SJVUAPCD Rule 4201 into the portions of the California SIP applicable to each of the eight counties that were unified and now comprise the SJVUAPCD:

- Fresno County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Kern County Rule 404, Particulate Matter Concentration—Valley Basin, approved on August 22, 1977 (42 FR 42219).
- Kings County Rule 404, Particulate Matter, approved on August 4, 1978 (43 FR 34468).
- Madera County Rule 403, Particulate Matter Emissions from the Incineration of Combustible Refuse, approved on April 16, 1991 (56 FR 15286).
- Merced County Rule 404, Particulate Matter Concentration, June 14, 1978 (43 FR 25689).
- San Joaquin County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Stanislaus County Rule 404, Particulate Matter Concentration, approved on August 22, 1977 (42 FR 42219).
- Tulare County Rule 404, Particulate Matter, approved on August 22, 1977 (42 FR 42219).

C. What Are The Changes In The Submitted Rule?

Submitted SJVUAPCD Rule 4201 changes are as follows:

- The rules of eight former indiviual county air districts that unified into SJVUAPCD are combined. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How is EPA Evaluating the Rule?

We evaluated the rule for consistency with the CAA as amended in 1990 and with 40 CFR part 51. The following guidance documents were used for reference:

- PM–10 Guideline Document, EPA–452/R093–008).
- Memorandum, Review of State Regulation Recodifications, OAQPS (February 12, 1990).

VOL 66 ISS 250 DE 31 2001 UMI

Sections 172(c)(1) and 189(a) of the CAA require moderate PM–10 nonattainment areas to implement reasonably available control measures (RACM), including reasonably available control technology (RACT) for existing stationary sources of PM–10. Section 189(b) requires that serious PM–10 nonattainment areas, in addition to meeting the RACM/RACT requirements, implement best available control measures (BACM), including best available control technology (BACT) for existing stationary sources of PM–10. SJVUAPCD is a serious PM–10 nonattainment areas and is required to implement BACM/BACT.

However, we have not reviewed the substance of the rules relative to BACM/BACT requirements at this time. The rules were approved into the SIP in previous rulemakings. We are now merely approving the combining of the individual rules into a single equivalent rule submitted by the State. Our administrative approval at this time does not imply any position with respect to the approvablility of the substance of the rules. To the extent that we have issued any SIP calls to the State with respect to the adequacy of any of the rules subject to this action, we will continue to require the State to correct any such rule deficiencies despite our present approval.

B. Does the Rule Meet the Evaluation Criteria?

The rule is largely consistent with relevant policy and guidance. The adoption of SJVUAPCD Rule 4201 improves the SIP by simplifying the eight SIP rules into one rule in the unified District.

C. Previous Proposed Action and Public Comment

We previously proposed a limited approval and limited disapproval for Rule 4201 on December 15, 2000 (65 FR 78434). The deficiencies were as follows:

- The rule does not meet the requirements of BACM/BACT. Other serious PM–10 nonattainment areas have lower particulate matter emission limits.
- The rule does not have periodic monitoring requirements.
- The rule does not require recordkeeping for at least two years.

EPA's proposed action provided a 30-day public comment period. During this period, we received a comment from the following party:

Mark Boese, SJVUAPCD; letter dated January 11, 2001 and received January 16, 2001.

The comment and our response are summarized below.

Comment I: SJVUAPCD notes the following points concerning the proposed limited approval and limited disapproval of Rule 4201, Particulate Matter Concentration, for not meeting the requirements of BACM/BACT and not having monitoring and recordkeeping requirements:

- It is a holdover from an earlier regulatory era that regulated Total Suspended Particulates (TSP) instead of PM–10.
- It is somewhat valuable for assuring that existing equipment maintains TSP emission controls.
- It is a generic rule not intended to fulfill BACM/BACT requirements for regulating PM–10. Specific, focused BACM/BACT determinations are or will be made elsewhere.
- Overall, Rule 4201 is of similar stringency to South Coast Air Quality Management District (SCAQMD) Rule 404.
- No PM–10 reductions have been attributed to the rule in the current PM–10 Plan submittal.
- Rule 4202, which covers sources similar to Rule 4201, does not have monitoring and recordkeeping requirements and was approved by EPA as meeting the requirements of RACM/RACT.
- SJVUAPCD encourages EPA to either approve Rule 4201 as a BACM/BACT rule or approve Rule 4201 as a RACM/RACT rule as was done for Rule 4202.

Response: We have evaluated these points and determined the following:

- Rules 4201 and 4202 are old TSP rules from a past regulatory era, when similar rules did not have monitoring and recordkeeping requirements. We recommend such requirements for a future revision of these rules.
- SJVUAPCD is a serious PM–10 nonattainment area and therefore must meet the requirements of BACM/BACT for source categories that are not insignificant or have major sources. We believe the source category for Rules 4201 and 4202 is not insignificant. Therefore, Rules 4201 and 4202 must meet the requirements of BACM/BACT. However, we will do an administrative approval of the eight individual county SIP rules without evaluating the substance of the rules at this time. Since our proposed action represents an administrative approval only, we may in the future require substantive changes to those SJVUAPCD rules, such as Rules 4201 and 4202, that regulate PM–10 emissions from existing stationary sources to address concerns related to BACM/BACT or to the attainment demonstration. Also, over the long-term, SJVUAPCD Rule 4201 may need to be revised to address deficiencies in enforceability prior to our approval of any redesignation to attainment.

D. Present Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, EPA is proposing a full approval of SJVUAPCD Rule 4201 to improve the SIP. We will accept comments from the public on the proposed full approval for the next 30 days.

III. Background Information

Why Was This Rule Submitted?

PM–10 harms human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control PM–10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM–10 rules.

TABLE 2.—PM–10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM–10). 52 FR 24672.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671*q*.
November 15, 1990	PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM–10 emissions in order to achieve the attainment dates specified in section 188(c).

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this proposed action is also not subject to Executive Order 32111, "*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*" (66 FR 28355, May 22, 2001). This proposed action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, "*Protection of Children from Environmental Health Risks and Safety Risks*" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 23, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–32104 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 66, No. 250

Monday, December 31, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes and Ochoco National Forests Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes and Ochoco National Forests Resource Advisory Committee will meet on Tuesday, January 15, 2002, at the Central Oregon Intergovernmental Council building, main conference room, 2363 SW Glacier Place, Redmond, Oregon. The meeting will begin at 9 a.m. and continue until 3 p.m. Committee members will review projects proposed under Resource Advisory Committee consideration under Title II of the Secure Rural Schools and Community Self-Determination Act of 2000. All Deschutes and Ochoco National Forests Resource Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Leslie Weldon, Designated Federal Official, USDA, Deschutes National Forest, 1634 Highway 20 East, Bend, Oregon 97702, 541–383–5512.

Dated: December 21, 2001.

Leslie A.C. Weldon,

Forest Supervisor, Deschutes National Forest.

[FR Doc. 01–32053 Filed 12–28–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Resource Advisory Committee Meeting

AGENCY: Southwest Idaho Resource Advisory Committee, Boise, ID; USDA, Forest Service Agriculture.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Public Law 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law 106–393) the Boise and Payette National Forests' Southwest Idaho Resource Advisory Committee will meet Wednesday, January 16, 2001 in Boise, Idaho for a business meeting. The meeting is open to the public.

SUPPLEMENTARY INFORMATION: The business meeting on January 16, begins at 10:30 AM, at the Bureau of Reclamation Office, 1150 North Curtis Road, Boise, Idaho. Agenda topics will include development of committee operating guidelines, and process for soliciting project proposals, reviewing project proposals and recommending project proposals for approval.

FOR FURTHER INFORMATION CONTACT: Randy Swick, McCall District Ranger and Designated Federal Officer, at (208) 634–0400.

Dated: December 19, 2001.

David F. Alexander,

Forest Supervisor.

[FR Doc. 01–32055 Filed 12–28–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–870]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Amy Ryan, Alex Villanueva, and Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0961, (202) 482–6412, and (202) 482–3434, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Preliminary Determination

We preliminarily determine that certain circular welded carbon-quality steel pipe ("pipe") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

This investigation was initiated on June 13, 2001. *See Notice of Initiation of Antidumping Duty Investigation: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China*, 66 FR 33227 (June 21, 2001) ("*Notice of Initiation*"). The Department set aside a period for all interested parties to raise issues regarding product coverage. *See Notice of Initiation* at 33228. We did not receive comments regarding product coverage.

On July 13, 2001, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the subject merchandise from the PRC, which was published in the **Federal Register** on July 13, 2001. *See Circular Welded Non-Alloy Steel Pipe from China, Indonesia, Malaysia, Romania, and South Africa*, 66 FR 36801 (July 13, 2001).

On June 22, 2001, the Department issued a questionnaire to numerous known producers/exporters of the subject merchandise requesting volume and value of U.S. sales information. On July 3, 2001, Tai Feng Qiao Metal Products Co., ("Tai Feng Qiao"); WeiFang East Steel Pipe Co., Ltd. ("WeiFang"); PanGang Group BeiHai Steel Pipe Corp.; Northern Steel Pipe Co., Ltd.,; Zhejiang JingZhou HuaLong Petroleum Corrosion-Resistant Steel Pipe Co., Ltd.; Tianjin Shuang Jie Steel Pipe Co., Ltd. ("Tianjin Shuang Jie"); Walsall Steel Pipe Co., Ltd/China MinMetals ZhuHai Co., Ltd; XuZhou

GuangHuan Steel Tube Co., Ltd.; and Guangzhou Pearl River Steel Pipe Factory submitted responses to the Department's questionnaire seeking volume and value of U.S. sales information. On July 9, 2001, Baosteel Group International Trade Corporation ("Baosteel International") and Tianjin Shuang Jie, submitted responses to the Department's questionnaire seeking volume and value of U.S. sales information.

On July 17, 2001, the Department issued its respondent selection memorandum, selecting Baosteel International, Tianjin Shuang Jie, and WeiFang to be investigated (*see Selection of Respondents* section below). On July 19, 2001, Tai Feng Qiao requested the Department to reconsider its respondent selection and include Tai Feng Qiao as a mandatory respondent. On July 23, 2001, China MinMetals ZhuHai Co. ("ZhuHai") submitted its response to the Department's questionnaire seeking volume and value of U.S. sales information.

On July 25, 2001, the Department issued a letter to interested parties providing an opportunity to comment on the Department's proposed product characteristics criteria. On August 1, 2001, we received comments from Tianjin Shuang Jie on the Department's proposed product characteristics criteria.

On July 18, 2001, the Department issued its Section A antidumping duty questionnaire to Baosteel International, Tianjin Shuang Jie, and WeiFang. On August 7, 2001, the Department received extension requests from parties for responding to the Department's Section A antidumping duty questionnaire. Additionally, on August 7, 2001, the Department issued the remaining portion (i.e., Sections C & D) of its antidumping duty questionnaire to Baosteel International, Tianjin Shuang Jie, and WeiFang. On August 15, 2001, we received Section A responses from Baosteel International, Tianjin Shuang Jie, and WeiFang.

On August 1, 2001, ZhuHai and Walsall Steel Pipe Industrial Co., Ltd ("Walsall") requested the Department to reconsider its respondent selection and include ZhuHai and Walsall as mandatory respondents. On August 6, 2001, Zhejiang Kingland Group, Inc. ("Jinzhou") requested to be included in the investigation as a voluntary respondent. On August 8, 2001, Tai Feng Qiao requested the Department to reconsider its respondent selection and include Tai Feng Qiao as a mandatory respondent. On August 16, 2001, ZhuHai and Walsall requested to be allowed to participate in this investigation as mandatory respondents.

On August 8, 2001, the Department received a Section A response from Walsall. On August 15, 2001, the Department received Section A responses from Baosteel International, Tianjin Shuang Jie, WeiFang, Tai Feng Qiao, and ZhuHai. On August 22, 2001, the Department received Section A response from Pangang Group International Economic and Trade Corporation ("Pangang International"). On August 31, 2001, the Department received a Section A and volume and value response from Jinzhou.

On August 24, 2001, the Department issued its supplemental Section A questionnaire to Baosteel International. On September 5, 2001, the Department received Baosteel International's Section C and D response. On September 7, 2001, the Department received Baosteel International's supplemental Section A response. On September 28, 2001, the Department issued its supplemental Section C and D questionnaire to Baosteel International. On October 12, 2001, the Department received Baosteel International's supplemental Section C and D response. On October 12, 2001, the Department issued its second supplemental Section A questionnaire to Baosteel International. On October 19, 2001, the Department received Baosteel International's second supplemental Section A response. On October 29, 2001, the Department issued its second supplemental Section C and D questionnaire to Baosteel International. On November 5, 2001, the Department received Baosteel International's second supplemental Section C and D response. On November 14, 2001, the Department issued its third supplemental Section C and D questionnaire to Baosteel International. On November 20, 2001, the Department received Baosteel International's third supplemental Section C and D response. On November 28, 2001, the Department requested that Baosteel International provide answers to two additional questions. *See Memorandum to the File from Robert Bolling,* dated November 28, 2001. On November 29, 2001, the Department received Baosteel International's response to the two questions.

On August 21, 2001, the Department issued its supplemental Section A questionnaire to Tianjin Shuang Jie. On September 5, 2001, the Department received Tianjin Shuang Jie's Section C and D questionnaire response and Tianjin Shuang Jie's Section A supplemental questionnaire response. On September 28, 2001, the Department issued its Section A, C and D supplemental questionnaire. On October 12, 2001, the Department received Tianjin Shuang Jie's supplemental Section A, C and D response. On October 29, 2001, the Department issued its second Section C and D supplemental questionnaire. On November 5, 2001, the Department received Tianjin Shuang Jie's second Section C and D supplemental questionnaire response. On November 7, 2001, the Department issued its third Section C and D supplemental questionnaire to Tianjin Shuang Jie. On November 8, 2001, the Department received Tianjin Shuang Jie's third Section C and D supplemental questionnaire response. On November 29, 2001, the Department issued its fourth Section C and D questionnaire to Tianjin Shuang Jie. On December 1, 2001, the Department received Tianjin Shuang Jie's fourth Section C and D supplemental questionnaire response. On December 5, 2001, the Department received a submission from Tianjin Shuang Jie regarding the valuation of hot-rolled coil and others factors that it thought the Department should use in its preliminary determination. On December 17, 2001, Tianjin Shuang Jie, requested an extension of the Department's final determination.

On August 22, 2001, the Department issued its supplemental Section A questionnaire to WeiFang. On September 5, 2001, the Department received WeiFang's supplemental Section A response. On September 17, 2001, the Department issued its supplemental Sections A, C and D questionnaires to WeiFang. On October 12, 2001, the Department received WeiFang's supplemental Sections A, C and D responses. On November 6, 2001, the Department issued its second supplemental Section C and D questionnaires to WeiFang.

On October 26, 2001, the Department published a notice of postponement of its preliminary antidumping duty determination. *See Notice of Postponement of Preliminary Antidumping Duty Investigation of Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China,* 66 FR 54198, October 26, 2001.

On November 7, 2001, the Department issued supplemental Section A questionnaires to Zhuhai, Pangang International, Tai Feng Qiao, Walsall, and Jinzhou, exporters of the subject merchandise requesting a separate rate. On November 13, 2001, Pangang International requested a two-day extension for filing its supplemental Section A response. On November 14, 2001, the Department received supplemental Section A responses from

VOL 66 ISS 250 DE 31 2001 UMI

Zhuhai, Tai Feng Qiao, Walsall, and Jinzhou. Additionally, on November 16, 2001, the Department received a supplemental Section A response from Pangang International.

On December 10, 2001, petitioners submitted preliminary determination comments to the Department regarding the valuation of hot-rolled coil and other factors. On December 13, 2001, Tianjin Shuang Jie responded to petitioners comments, however Baosteel International and WeiFang did not respond.

Period of Investigation

The period of investigation (“POI”) is October 1, 2000 through March 31, 2001. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (May 24, 2001). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are certain welded carbon-quality steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inches (9.45 mm) or more, but not more than 16 inches (406.4 mm), regardless of wall thickness, surface finish (black, galvanized, or painted), end finish (plain end, beveled end, grooved, threaded, or threaded and coupled), or industry specification (ASTM, proprietary, or other), generally known as standard pipe and structural pipe.

Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses. Standard pipe may carry liquids at elevated temperatures but may not be subject to the application of external heat. It may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells, and for structural applications in general construction. It primarily is made to American Society for Testing and Materials (ASTM) A–53, A–135, and A–795 specifications, but can also be made to the British Standard (BS)–1387 specification.

Structural pipe is intended for use in the construction of bridges and buildings, and general structural applications. It also can be used for making steel scaffolding and for piling applications. It primarily is made to ASTM A–500 and A–252 specifications.

Hence, specifically included within the scope of these petitions are products stenciled to the ASTM standards A–53, A–135, A–795, A–120, A–500, A–252, or their equivalents. Standard and structural pipe products may also be produced to proprietary specifications rather than to industry standard. This is often the case with fence tubing, for example.

The scope does not include boiler tubes, pressure tubing, mechanical tubing, finished conduit, oil country tubular goods (OCTG), and line pipe. However, with regard to these excluded products, if petitioners or other interested parties provide to the Department reasonable grounds to believe or suspect that the products are being used in a standard or structural application, the Department may instruct the U.S. Customs Service to require end-use certifications. In addition, line pipe meeting the American Petroleum Institute (API) line pipe is excluded from the scope of these investigations, and any resultant antidumping duty order, if covered by the scope of another antidumping duty order from the same country.

The standard pipe products that are the subject of these investigations are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.30.10 and 7306.30.50. This petition also covers dual-certified A–53/API or single certified pipe that enters the United States if its is used in, or intended for use in, standard pipe or structural pipe applications. Such certified pipe may include API–5L or API–5L X–42 pipe. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the written description of the merchandise under investigation is dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters/producers, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either: (1) A sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection; or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. After consideration of the complexities expected to arise in this proceeding and the resources available to the Department, we determined that it was not practicable in this investigation to examine all known producers/exporters of subject merchandise. Instead, we limited our examination to the exporters and producers accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. The three PRC producers/exporters, Baosteel International, Tianjin Shuang Jie, WeiFang (collectively, “respondents”), accounted for the majority of all exports of the subject merchandise from the PRC during the POI, and were therefore selected as mandatory respondents. *See Memorandum from James Doyle to Edward Yang: Selection of Respondents: Antidumping Duty Investigation of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* July 17, 2001. We note that ZhuHai, Walsall, and Tai Feng Qiao requested that the Department consider each as mandatory respondents (see background section above). However, the respondents' submissions provided no new evidence that would convince the Department to reconsider its selection of respondents. Thus, we have continued to determine that due to the complexities of this investigation, the producers/exporters that the Department chose to investigate as mandatory respondents are appropriate.

Nonmarket Economy Country Status

The Department has treated the PRC as a non-market economy (“NME”) country in all past antidumping investigations *see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China,* 65 FR 33805 (May 25, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China,* 65 FR 19873 (April 13, 2000) (“*Apple Juice*”). A designation as an NME remains in effect until it is revoked by the Department (*see* section 771(18)(C) of the Act). No party to this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value (“NV”) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Factor Valuations" section, below.

Furthermore, no interested party has requested that the pipe industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the pipe industry in the PRC as a market-oriented industry in this investigation.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. The three companies that the Department selected to investigate (*i.e.*, Baosteel International, Tianjin Shuang Jie, WeiFang), and the PRC companies that were not selected as mandatory respondents by the Department for this investigation, but which have submitted separate rates responses (*i.e.*, Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou) have provided company-specific separate rates information and have each stated that they met the standards for the assignment of separate rates.

We considered whether each PRC company is eligible for a separate rate. The Department's separate rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See, *e.g.*, *Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as amplified by, *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2,1994) ("*Silicon Carbide*"). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See* Sparklers.

All eight PRC companies seeking separate rates reported that the subject merchandise was not subject to any government list regarding export provisions or export licensing, and was not subject to export quotas during the POI. Each company also submitted a copy of its Certificate of Approval for the Establishment of Enterprises with Foreign Investment. We found no inconsistencies with the exporters' claims of the absence of restrictive stipulations associated with an individual exporter's business and export licenses. Each exporter also submitted copies of the legislation of the People's Republic of China or documentation demonstrating the statutory authority for establishing the *de jure* absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of *de jure* absence of governmental control based on: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; and (2) the applicable legislative enactments decentralizing control of the companies.

1. Absence of De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See, Silicon Carbide*, 59 FR at 22586–87; *see, also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See, Silicon Carbide*, 56 FR at 22587. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Regarding whether each exporter sets its own export prices independent of the government and without the approval of a government authority, each exporter reported that it determines its prices for sales of the subject merchandise. *See*, Memorandum from Robert Bolling to Edward Yang, *Separate Rates Analysis for the Preliminary Determination*, dated December 20, 2001 ("*Separate Rates Memo*"). Each exporter stated that it negotiates prices directly with its customers. Also, each exporter claimed that its prices are not subject to review or guidance from any governmental organization. Regarding whether each exporter has authority to negotiate and sign contracts and other agreements, our examination of the record indicates that each exporter reported that it has authority to negotiate and sign contracts and other agreements. Also, each exporter claimed that its negotiations are not subject to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the negotiation of contracts.

Regarding whether each exporter has autonomy in making decisions regarding the selection of management, our examination of the record indicates that each exporter reported that it has autonomy in making decisions regarding the selection of management. Also, each exporter claimed that its selection of management is not subject

VOL 66 ISS 250 DE 31 2001 UMI

to review or guidance from any governmental organization. There is no evidence on the record to suggest that there is any governmental involvement in the selection of management by the exporters.

Regarding whether each exporter retains the proceeds from its sales and makes independent decisions regarding its disposition of profits or financing of losses, our examination of the record indicates that each exporter reported that it retains the proceeds of its export sales, using profits according to its business needs. Also, each exporter reported that the allocation of profits is determined by its top management. There is no evidence on the record to suggest that there is any governmental involvement in the decisions regarding disposition of profits or financing of losses.

Therefore, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that: (1) Each exporter sets its own export prices independent of the government and without the approval of a government authority; (2) Each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) Each exporter has the authority to negotiate and sign contracts and other agreements; and (4) Each exporter has autonomy from the government regarding the selection of management.

The evidence placed on the record of this investigation by Baosteel International, Tianjin Shuang Jie, WeiFang, Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou demonstrates an absence of government control, both in law and in fact, with respect to each of the exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of this preliminary determination, we are granting separate, company-specific rates to each of the eight responding exporters which shipped pipe to the United States during the POI. For a full discussion of this issue, see the memorandum from Robert Bolling to Edward Yang, *Separate Rates Analysis for the Preliminary Determination*, dated December 20, 2001 ("*Separate Rates Memo*").

PRC-Wide Rate

As discussed above (*see* "Separate Rates"), all PRC producers/exporters that do not qualify for a separate rate are treated as a single enterprise. As noted above in "Case History," all producers/exporters were given the opportunity to respond to the Department's questionnaire regarding volume and value of U.S. sales. As explained above, we received timely responses from Baosteel International; Tianjin Shuang Jie; WeiFang; Tai Feng Qiao; WeiFang, PanGang Group BeiHai Steel Pipe Corp.; Northern Steel Pipe Co., Ltd.,; ZheJiang JingZhou HuaLong Petroleum Corrosion-Resistant Steel Pipe Co., Ltd.; Walsall; ZhuHai; XuZhou GuangHuan Steel Tube Co., Ltd.; and Guangzhou Pearl River Steel Pipe Factory. The Department did not receive responses from the following companies: Anshan Iron & Steel (Group) Co.; Benxi Iron & Steel Co.; Dalian Steel Mill Pipe Plant; Zhongshan Huari Steel Pipe Co. Ltd./Wah Chit Ent Co. Ltd.; Hengyang Steel Tube Group Co. Ltd.; Hubei Hanchuan County Steel Tube Factory; Hubei Province Xianning District Galvanized Steel Plant; Hunan Province Linli County Steel Pipe Plant; Jilin Tonghua Iron & Steel Group—Jilin Tonghua Xianxin Enterprise Gourp; Jinxi (ASP) Steel Pipe Co.,; Shanghai Just-Huahai Metal Products Co. Ltd.; Shanghai Laodong Steel Pipe Plant; Shoudu Iron & Steel Co.; Sichuan Chuanton Changcheng Special Steel Group; Sichuan Daduhe Iron & Steel Co., Ltd.; Sichuan Province Chongxian Hi-FQ ERW Plant; Sichuan Province Jiangyou City Hi-FQ Welding Pipe Plant; Sichuan Province Shenfang Welding Pipe Plant; Suyang City Iron & Steel Plant; Wuhan Changlong Steel Pipe Plant; and Yangqun Steel Pipe Plant. The Department notes that import data from the United States Customs Service shows that imports of pipe from the PRC during the POI are higher than the volume and value of U.S. sales reported by exporters that responded to our request for this information (*see Respondent Selection Memorandum from James Doyle to Edward Yang*, July 17, 2001). Therefore, the Department preliminarily determines that there were exports of the merchandise under investigation from the single PRC entity, and that the single entity failed to respond to the Department's request for information.

As set forth above, section 776(b) of the Act provides that, in selecting from among the facts available, the Department may employ adverse inferences if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See also "Statement of Administrative Action" accompanying the URAA, H.R. Rep. No. 103–316, 870 (1994) ("SAA"). The Department finds that exporters (*i.e.*, the single PRC entity) who did not respond to our request for information have failed to cooperate to the best of their ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate. Consistent with Department practice in cases where a respondent is considered uncooperative, as adverse facts available, we have applied 124.50 percent, the highest rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department). *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Germany*, 63 FR 10847 (March 5, 1998).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See SAA* at 870. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *See id*. The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id*. As noted in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) ("TRBs"), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

In order to determine the probative value of the initiation margin for use as facts otherwise available for the purposes of this determination, we examined evidence supporting the initiation calculations. We have now corroborated the information in the petition, with some small changes. *See Memorandum from Edward Yang to Joseph Spetrini: Preliminary Determination in the Antidumping Investigation of Circular Welded Carbon Quality Steel Pipe ("pipe") from the People's Republic of China: Total Facts Available Corroboration Memorandum for All Others Rate,* dated December 20, 2001.

Consequently, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters in the PRC based on our presumption that those respondents who failed to demonstrate entitlement to a separate rate constitute a single enterprise under common control by the Chinese government. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China,* 65 FR 25706, 25707 (May 3, 2000) ("Synthetic Indigo"). The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from Baosteel International, Tianjin Shuang Jie, WeiFang, Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou.

Because this is a preliminary margin, the Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate final PRC-wide margin. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation,* 65 FR 1139(January 7, 2000).

Margins for Cooperative Exporters Not Selected

The exporters who responded to Section A of the Department's antidumping questionnaire but were not selected as respondents in this investigation (Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou) have applied for separate rates, and provided information for the Department to consider for this purpose. Although the Department is unable, due to administrative constraints (see Respondent Selection Memo), to calculate for each of these named parties who are exporters a rate based on their own data, these companies cooperated in providing all the information that the Department requested of them. For Zhuhai, Tai Feng Qiao, Walsall, Pangang International, and Jinzhou, we have calculated a weighted-average margin based on the rates calculated for those exporters that were selected to respond in this investigation, excluding any rates that are zero, *de minimis* or based entirely on adverse facts available. Companies receiving this rate are identified by name in the "Suspension of Liquidation" section of this notice. *See Notice of Preliminary Determination of Sales at Less Than Fair Value; Honey from the People's Republic of China,* 64 FR 24101 (May 11, 2001).

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country; and (2) are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Indonesia, Sri Lanka and the Philippines are countries comparable to the PRC in terms of economic development. *See Memorandum from Jeffrey May to James Doyle: Antidumping Duty Investigation on Antidumping Duty Investigation of Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* dated September 19, 2001. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See Surrogate Country Selection Memorandum to The File from Robert Bolling,* dated December 20, 2001, ("*Surrogate Country Memorandum*").

We used India as the primary surrogate country and, accordingly, we have calculated NV using Indian prices to value the PRC producers' factors of production, when available and appropriate. *See Surrogate Country Memorandum.* We have obtained and relied upon publicly available information wherever possible. *See Factor Valuation Memorandum to The File from Case Analysts,* dated December 20, 2001 ("*Factor Valuation Memorandum*").

In accordance with section 351.301(c)(3)(i) of the Department's regulations, for the final determination in an antidumping investigation, interested parties may submit publicly available information to value factors of production within 40 days after the date of publication of this preliminary determination.

Fair Value Comparisons

To determine whether sales of pipe to the United States by Baosteel International, Tianjin Shuang Jie, and WeiFang were made at less than fair value, we compared export price ("EP") to normal value ("NV"), as described in the "Export Price and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c).

We calculated EP for Baosteel International, Tianjin Shuang Jie, and WeiFang based on delivered prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation, and brokerage and handling.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We calculated NV based on factors of production, reported by each respondent, for materials, energy, labor, by-products, and packing. Where applicable, we deducted from each respondent's normal value the cost of by-products sold during the POI. For a further discussion, see the Analysis Memo for each respondent. We valued the majority of input factors using

VOL 66 ISS 250 DE 31 2001 UMI

publicly available published information as discussed in the "Surrogate Country" and "Factor Valuations" sections of this notice.

Factor Valuations

The Department will normally use publicly available information to value factors of production. However, in accordance with 19 CFR 351.408(c)(1), the Department's regulations also provide that where a producer sources an input from a market economy and pays for it in market economy currency, the Department employs the actual price paid for the input to calculate the factors-based NV. *Id.; see also, Lasko Metal Products* v. *United States, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994)* ("*Lasko*"). Respondents Baosteel International and WeiFang reported that some of their inputs were sourced from market economies and paid for in a market economy currency. *See Factor Valuation Memorandum,* dated December 20, 2001 for a listing of these inputs.

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by respondents for the POI. To calculate NV, the reported per-unit factor quantities were multiplied by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added surrogate freight costs to Indian import surrogate values using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see *Factor Valuation Memorandum.*

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the *Monthly Trade Statistics of Foreign Trade of India—Volume II—Imports* ("*Indian Import Statistics*") for the time period April 2000–February 2001. As appropriate, we adjusted rupee-denominated values for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics and excluded taxes. We valued Baosteel International's hot-rolled steel sheet and hot-rolled steel strip at market-economy prices, because the PRC producers, Company A and Company B, of the subject merchandise purchased their hot-rolled steel sheet and hot-rolled steel strip from a market-economy country (Country Y). Although one of the producers also purchases certain hot-rolled steel sheet from another market-economy country (*i.e.,* Country X), we have disregarded these prices because that country's hot-rolled steel exporters have benefitted from countervailable subsidies. Thus, for this preliminary determination, we have used the market-economy prices that Company A and Company B paid to suppliers in Country Y only to value the hot-rolled sheet. We recognize that the hot-rolled sheet from Country Y was purchased by Company A outside of the POI. However, these prices are the appropriate market-economy prices to use to value hot-rolled coil in this investigation because evidence on the record indicates that the majority of Company A's pipe production during the POI was based on the hot-rolled sheet obtained from Country Y. For further discussion, please see the *Memorandum from Robert Bolling to the File: Analysis for the Preliminary Determination of Certain Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Baosteel International,* dated December 20, 2001. WeiFang reported that it purchased a significant portion of its major input of hot-rolled steel coil from a market economy, and the remainder from a company within the PRC. In those instances where a significant portion of the factor is purchased from a market economy supplier and the remainder from a non-market economy supplier, the Department normally will value the factor using the price paid to the market economy supplier. Therefore, pursuant to section 351.408(c)(1) of our regulations, we used a simple average of the prices paid by WeiFang for the market-economy purchases of hot-rolled coil. *See Factor Valuation Memorandum* at page 2.

To value electricity, we used data reported as the average Indian domestic prices within the category "Electricity for Industry," published in the International Energy Agency's publication, *Energy Prices and Taxes,* Second Quarter, 2000. Because the data from this source was not contemporaneous with the POI, we adjusted the rate for inflation. *See Factor Valuation Memorandum* at page 5.

To value water, we used data reported as the average water tariff rate as reported in the Asian Development Bank's *Second Water Utilities Data Book: Asian and Pacific Region* published in 1997. Because the data from this source was not contemporaneous with the POI, we adjusted the rate for inflation. *See Factor Valuation Memorandum* at page 5.

We used Indian transport information to value transport for raw materials. For domestic inland freight (truck), we used a price quote from an Indian trucking company (from Financial Express), adjusted for inflation through the POI. For domestic inland freight (rail), we used rail rates as quoted from Indian Railway Conference Association price lists, adjusted for inflation through the POI. *See Factor Valuation Memorandum* at page 3.

To value factory overhead, selling, general and administrative expenses ("SG&A"), and profit, we calculated simple-average rates based on financial information from five Indian pipe producers. *See Factor Valuation Memorandum* at page 6.

For labor, consistent with section 351.408(c)(3) of the Department's regulations, we used the PRC regression-based wage rate at Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2001 (*see http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's Web site can be found in the *Yearbook of Labour Statistics 2000,* International Labor Office (Geneva: 2000), Chapter 5B: Wages in Manufacturing.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify all company information relied upon in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of subject merchandise, except for merchandise produced and exported by Baosteel International or WeiFang, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

CERTAIN CIRCULAR WELDED CARBON-QUALITY STEEL PIPE

Producer/manufacturer/exporter	Weighted-average margin (percent)
Baosteel International	0
Tianjin Shuang Jie	16.65
WeiFang	0
Tai Feng Qiao	16.65
ZhuHai	16.65
Pangang International	16.65
Jinzhou	16.65
Walsall	16.65
PRC-Wide	36.42

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than fifty days after the date of publication of this notice, and rebuttal briefs, limited to issues raised in case briefs, no later than fifty-five days after the date of publication of this preliminary determination. *See* 19 CFR 351.309(c)(1)(i); 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, any hearing will be held fifty-seven days after publication of this notice at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. *See* 19 CFR 351.310(c).

If this investigation proceeds normally, we will make our final determination no later than 75 days after the date of the preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32114 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review of the Antidumping Order, and Intent To Revoke Order In Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty review, and intent to revoke order in part.

SUMMARY: In accordance with 19 CFR 351.216(b), Dana Glacier Daido America, LLC ("Dana") filed a request for a changed circumstances review of the antidumping order on certain corrosion-resistant carbon steel flat products from Japan with respect to the carbon steel flat products described below. Domestic producers of the like product have affirmatively expressed no interest in continuation of the order with respect to these particular carbon steel flat products. In response to Dana's request, the Department of Commerce ("the Department") is initiating a changed circumstances review with respect to this request and issuing a notice of intent to revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act"), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR Part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

On November 21, 2001, Dana requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Dana requested that the Department revoke the order with respect to imports meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10 mm to a maximum of and including 4.90 mm in overall thickness, a minimum of and including 76.00 mm to a maximum of and including 250.00 mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet. Dana is an importer of the products in question.

Scope of Review

The products covered by the antidumping duty order include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths

VOL 66 ISS 250 DE 31 2001 UMI

which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been beveled or rounded at the edges.

Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.

Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness.

Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

Also excluded from this order are certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) Widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Also excluded from this order are carbon steel flat products measuring 1.84 millimeters in thickness and 43.6 millimeters or 16.1 millimeters in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also excluded from this order are carbon steel flat products measuring 0.97 millimeters in thickness and 20 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% PTFE, 3% to 5% molybdenum disulfide and less than 2% other materials.

Also excluded from this order are doctor blades meeting the following specifications: carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 millimeters (0.006 inches), a width between 31.75 millimeters (1.25 inches) and 50.80 millimeters (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900–990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron.

Also excluded from this order are products meeting the following specifications: carbon steel flat products measuring 1.64 millimeters in thickness and 19.5 millimeters in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also, excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10 mm to a maximum of and including 4.90 mm in overall thickness, a minimum of and including 76.00 mm to a maximum of and including 250.00 mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet.

Initiation of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to sections 751(d)(1) and 782(h)(2) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review) where the Department determines that "producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order." Section 782(h)(2) of the Act. *See, e.g., Certain Cold-Rolled Carbon Steel Flat Products From the Netherlands: Initiation and Preliminary Results of Changed Circumstances Review*, 66 FR 57415, 57416 (November 15, 2001). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances sufficient to warrant revocation exist. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with sections 751(d)(1) and 782(h)(2) of the Act, and 19 CFR 351.216 and 351.222(g), based on affirmative statements by domestic producers of the like product, Bethlehem Steel Corporation; LTV Steel Company, Inc.; National Steel Corporation; and U.S. Steel Group LLC ("Domestic Producers"), no further interest exists in continuing the order with respect to certain corrosion-resistant carbon steel flat products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10mm to a maximum of and including 4.90mm in overall thickness, a minimum of and including 76.00mm to a maximum of and including 250.00mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet. *See* Domestic Producers' November 29, 2001 letter to the Department. Therefore, we are initiating this changed circumstances administrative review.

Furthermore, because domestic producers have expressed a lack of interest, we determine that expedited action is warranted, and we preliminarily determine that continued application of the order with respect to certain corrosion-resistant carbon steel flat products falling within the description above is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order with respect to imports of certain corrosion-resistant carbon steel flat products meeting the above-mentioned specifications from Japan.

If the final revocation in part occurs, we intend to instruct the U.S. Customs Service ("Customs") to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated above, not subject to final results of administrative review as of the date of publication in the **Federal Register** of the final results of this changed circumstances review in accordance with 19 CFR 351.222. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties on certain corrosion-resistant carbon steel flat products meeting the above specifications will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceedings may request a hearing within 14 days of publication. Any hearing, if requested, will be held no later than two days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than five days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32113 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–868]

Notice of Postponement of Final Antidumping Duty Determination: Folding Metal Tables and Chairs From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or John Drury at (202) 482–0405 and (202) 482–0195, respectively, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Background

This investigation was initiated on May 17, 2001. See Initiation of Antidumping Duty Investigation: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 28728 (May 24, 2001). The period of investigation (POI) is October 1, 2000 through March 31, 2001. On December 3, 2001, the Department published its preliminary determination. See Notice of Preliminary Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China, 66 FR 60185.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. On December 3, 2001, the petitioner, Meco Corporation, requested a 60-day postponement of the final determination to allow sufficient time for the Department to conduct its verifications, issue verification reports, and establish a briefing and hearing schedule that would allow the petitioner a full opportunity to review and comment on the issues in this investigation. On December 5, 2001, respondent Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd. ("Feili Group") asked the Department to reject petitioner's request on the grounds that the preliminary determination was affirmative. On December 10, 2001, respondent Shin Crest Pte. Ltd. ("Shin Crest") requested that the Department postpone the final determination and extend the period that the provisional measures may remain in effect from four months to not more than six months.

In accordance with section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) Shin Crest accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the postponement request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination in the **Federal Register**. We are also extending the provisional measures, from four months to six months, in accordance with 19 CFR 351.210(e)(2). Therefore, the final determination would now be due on April 17, 2002. Suspension of liquidation will be extended accordingly.

This notice is published in accordance with section 735(a)(2) of the Act.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32115 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–337–806]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: IQF Red Raspberries From Chile

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary determination of sales at less than fair value and postponement of final determination.

SUMMARY: We preliminarily determine that individually quick frozen ("IQF") red raspberries from Chile are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended. The estimated dumping margins are shown in the "Suspension of Liquidation" section of this notice.

Interested parties are invited to comment on this preliminary determination (*see* the "Public Comment" section of this notice).

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Annika O'Hara, Cole Kyle, or Blanche Ziv, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3798, (202) 482–1503, or (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department") regulations are to 19 CFR Part 351 (April 2001).

Background

Since the initiation of this investigation (*see Initiation of Antidumping Duty Investigation: IQF Red Raspberries from Chile*, 66 FR 34407 (June 28, 2001) ("*Initiation Notice*")), the following events have occurred:

On July 9 and 10, 2001, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. Interested parties filed comments from July 18, 2001 through August 3, 2001.

On July 16, 2001, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of IQF red raspberries from Chile are materially injuring the United States industry (66 FR 38740 (July 25, 2001)).

On July 19, 2001, we selected the three largest producers/exporters of IQF red raspberries from Chile as the mandatory respondents in this proceeding. *See* Memorandum to Susan Kuhbach from Annika O'Hara entitled "Respondent Selection" which is on file in the Central Records Unit ("CRU") in room B–099 of the main Department building.

We issued antidumping questionnaires to Comercial Fruticola ("Comfrut"), Exportadora Frucol ("Frucol"), and Fruticola Olmue ("Olmue") on August 3, 2001. We received responses to Section A of the questionnaire on August 31, 2001 and responses to Sections B, C, and D on September 25, 2001. We issued supplemental questionnaires between October 16 and November 30, 2001, to which we received responses in November and December 2001. We received comments from the petitioners on each of the respondents' questionnaire responses. Subsequently, we received comments from the respondents on the petitioners' comments concerning the respondents' questionnaire responses.

On October 12, 2001, the petitioners made a timely request to postpone the preliminary determination pursuant to 19 CFR 351.205(e). On October 18, 2001, we postponed the preliminary determination until no later than December 12, 2001. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile*, 66 FR 53775 (October 24, 2001).

On December 12, 2001, the Department further postponed the preliminary determination in this investigation pursuant to section 351.205(b)(2) of the regulations and section 733 (c)(1)(B)(i)(II) of the Act due to several novel costs issues involved in this investigation. *See Notice of Postponement of Preliminary Antidumping Duty Determination: IQF Red Raspberries from Chile*, 66 FR 65177 (December 18, 2001).

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act, on December 12, 2001, Comfrut, Frucol, and Olmue, requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**, and extend the provisional measures to not more than six months. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative, (2) Comfrut, Frucol, and Olmue account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

The products covered by this investigation are imports of IQF whole or broken red raspberries from Chile, with or without the addition of sugar or syrup, regardless of variety, grade, size or horticulture method (*e.g.*, organic or not), the size of the container in which packed, or the method of packing. The scope of the investigation excludes fresh red raspberries and block frozen red raspberries (*i.e.*, puree, straight pack, juice stock, and juice concentrate).

The merchandise subject to this investigation is classifiable under 0811.20.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Comments on the Scope

On August 30, 2001, the respondents filed a letter with the Department seeking confirmation that frozen raspberries known as "dirty crumbles" are not covered by the scope of this investigation. On September 12, 2001, the petitioners submitted a letter opposing the respondents' interpretation of the scope. The parties' arguments are summarized in a September 26, 2001, memorandum to Susan Kuhbach from the Team, in which the Department determined that "dirty crumbles" are included in the scope of this investigation. This memorandum is on file in the CRU.

Period of Investigation

The period of investigation ("POI") is April 1, 2000, through March 31, 2001.

Fair Value Comparisons

To determine whether sales of IQF red raspberries from Chile to the United States were made at less than fair value ("LTFV"), we compared the export price ("EP") to the normal value, as described in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs to NVs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondents in the comparison market during the POI that fit the description in the "Scope of the Investigation" section of this notice to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales to sales of identical merchandise in the comparison market made in the ordinary course of trade, where possible. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. To determine the appropriate product comparisons, we considered the following physical characteristics of the products in order of importance: grade; variety; form; cultivation method; and additives.

Export Price

For all respondents, we calculated EP, in accordance with section 772(a) of the Act, because the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States, or to an unaffiliated purchaser for exportation to the United States. We based EP on the packed ex-factory, C&F, FOB, or delivered price to the unaffiliated purchasers in the United States. We made deductions from the starting price for movement expenses, including inland freight, warehousing, marine insurance, brokerage and handling, and international freight, in accordance with section 772(c)(2)(A) of the Act, where appropriate. We increased EP, where appropriate, for duty drawback in accordance with section 772(c)(1)(B) of the Act.

Normal Value

A. Home Market Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Comfrut, Frucol, and Olmue reported that their home market sales of IQF red raspberries during the POI were less than five percent of their sales of IQF red raspberries in the United States. Therefore, none of the three respondents had a viable home market for purposes of calculating normal value. Comfrut and Frucol reported that the United Kingdom was their largest viable third country market, and Olmue reported that France was its largest viable third country market. Accordingly, Comfrut and Frucol reported their sales to the United Kingdom and Olmue reported its sales to France for purposes of calculating normal value.

B. Cost of Production Analysis

Based on our analysis of an allegation contained in the petition, we found at the initiation of this investigation that there were reasonable grounds to believe or suspect that the respondents' sales of the subject merchandise in their respective comparison markets were made at prices below their cost of production ("COP"). Accordingly, pursuant to section 773(b) of the Act, we initiated a country-wide sales-below-cost investigation (*see Initiation Notice*, 66 FR 34409).

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication of the foreign like product, plus an amount for general and administrative expenses ("G&A"), interest expenses, and comparison market packing costs (*see* the "Test of Comparison Market Sales Prices" section below for treatment of comparison market selling expenses). We relied on the COP data submitted by the respondents, except where noted below:

Comfrut:

a. We revised Comfrut's interest expense to include the current portion of the net loss on monetary correction.

b. We revised Comfrut's affiliated processor's reported costs for two items. First, we revised the affiliate's interest expense to include the current portion of the net loss on monetary correction. Second, we weight-averaged the affiliated processor's revised COP. We then increased Comfrut's costs to include the higher of the transfer price or cost of the major input, processing services. *See* December 20, 2001, Calculation Memorandum for Comfrut, for further information.

Frucol:

a. We increased the per-unit conversion costs using the correct total quantity of raspberries processed. Also, we increased the total cost of manufacturing to include all of the affiliated processor's expenses shown on its tax return. We used the tax return as the basis of costs for the affiliated processor because it does not prepare any financial statements.

b. We revised the combined general and administrative ("G&A") expenses to include land rent associated with the processing plant and general expenses.

VOL 66 ISS 250 DE 31 2001 UMI

We increased the cost of goods sold used in the denominator of the rate calculation to include the additional expenses shown on the affiliated processor's tax return.

c. We revised the combined interest expense to include the current portion of the net loss on monetary correction. We increased the cost of goods sold used in the denominator of the rate calculation to include the additional expenses shown on the affiliated processor's tax return.

See Memorandum from Aleta Habeeb to Neal Halper, Director Office of Accounting, dated December 19, 2001, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination."

Olmue:

We revised Olmue's interest expense to include the current portion of the net loss on monetary correction. *See* December 20, 2001, Calculation Memorandum for Olmue for further information.

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the comparison market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, billing adjustments, commissions, warranty expenses, and other direct and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(1), where less than 20 percent of a respondent's sales of a given product during the POI are at prices less than the COP, we do not disregard any below-cost sales of that product, because we determine that in such instances the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the POI are at prices less than the COP, we determine that the below-cost sales represent "substantial quantities" within an extended period of time, in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determine whether such sales were made at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that for each respondent, for certain specific products, more than 20 percent of the comparison market sales were at prices less than the COP and thus the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1).

For Comfrut and Olmue's U.S. sales of subject merchandise for which there were no comparable comparison market sales in the ordinary course of trade (*e.g.*, sales that passed the cost test), we compared those sales to constructed value ("CV"), in accordance with section 773(a)(4) of the Act.

C. Calculation of Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. Accordingly, for Comfrut and Olmue, when sales of comparison products could not be found, either because there were no sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on CV.

In accordance with section 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the subject merchandise, plus amounts for selling expenses, G&A, including interest, profit and U.S. packing costs. We made the same adjustments to the CV costs as described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

D. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade ("LOT") as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent) 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the "chain of distribution"),[1] including selling functions,[2] class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices[3]), we consider the starting prices before any adjustments. *See Micron Technology, Inc.* v. *United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001) (affirming this methodology).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data show that the difference in LOT affects price comparability, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

Comfrut and Frucol have reported that they sell to distributors in both the comparison market and in the United States. Olmue has reported that it sells to trading companies and end users in the comparison market and to trading companies and distributors in the United States. Each respondent has reported a single channel of distribution and a single level of trade in each market, and has not requested a level of trade adjustment. We examined the information reported by the respondents regarding their marketing processes for making the reported home market and U.S. sales, including the type and level of selling activities performed and customer categories. *See* December 19 and 20, 2001, Calculation Memorandum for Comfrut, Frucol, and Olmue for further information. As Comfrut, Frucol, and Olmue have reported, we found a single level of trade in the United States, and a single, identical level of trade in the comparison market. Thus, it was unnecessary to make any LOT adjustment for comparison of EP and third country prices.

---

[1] The marketing process in the United States and comparison markets begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale appears to occur.

[2] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Other selling functions unique to specific companies were considered, as appropriate.

[3] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-factory or delivered prices to unaffiliated customers in the comparison market. We made adjustments to the starting price for interest revenue and billing adjustments, where appropriate. We made deductions for movement expenses, including inland freight, warehousing, brokerage and handling expenses, and international freight, under section 773(a)(6)(B)(ii) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for imputed credit expenses, commissions, warranties, and other direct selling expenses, where appropriate.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted comparison market packing costs and added U.S. packing costs in accordance with section 773(a)(6)(A) and (B) of the Act.

F. Calculation of Normal Value Based on Constructed Value

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act. We made adjustments to CV for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. In addition, we added U.S. packing costs.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as reported by the Dow Jones.[4]

Verification

As provided in section 782(i) of the Act, we will verify all information relied upon in making our preliminary determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise (except for entries of Comfrut or Frucol because these companies have *de minimis* and zero margins, respectively) that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Comercial Fruticola	0.31 (*de minimis*)
Exportadora Frucol	0.00
Fruticola Olmue	5.54
All Others	5.54

Pursuant to section 735(c)(5)(A), we have excluded from the calculation of the all-others rate margins which are zero or *de minimis*.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities relied upon, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Section 774 of the Act provides that the Department will hold a public hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

We will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32112 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–834]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Notice of Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

---

[4] We normally make currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. In this case, where costs and expenses were reported in Chilean pesos, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as reported by the Dow Jones because the Federal Reserve Bank does not track the Chilean peso-to-dollar exchange rate.

VOL 66 ISS 250 DE 31 2001 UMI

ACTION: Notice of preliminary results of changed circumstances antidumping duty administrative review.

SUMMARY: On October 1, 2001, the Department of Commerce ("Department") published a notice of initiation in the above-named case. As a result of this review, the Department preliminarily finds for the purposes of this proceeding that INI Steel Company is the successor-in-interest to Inchon Iron and Steel Co., Ltd.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Cheryl Werner or Laurel LaCivita, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2667 and (202) 482–4243, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

SUPPLEMENTARY INFORMATION:

Background

In an August 6, 2001, letter to the Department, INI Steel Company ("INI"), formerly Inchon Iron and Steel Co., Ltd. ("Inchon"), notified the Department that as of August 1, 2001, Inchon's corporate name had changed to INI Steel Company. INI requested that the Department conduct an expedited changed circumstances review to confirm that INI is the successor-in-interest to Inchon. Since the Department had insufficient information on the record concerning this corporate name change, the Department concluded that it would be inappropriate to conduct an expedited changed circumstances review and issue a preliminary results concurrent with the initiation of a changed circumstance review. Thus the Department published only a notice of initiation. (*See Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review*, 66 FR 49927 (October 1, 2001) ("*Notice of Initiation*"). On October 17, 2001, the Department sent a questionnaire to INI requesting more information. On November 7, 2001, the Department received INI's response to the questionnaire. INI provided documentation on the name change requested by the Department consisting of: The minutes of Inchon's July 27, 2001 shareholders' meeting where the name change was approved; the Inchon District Court's official certification of the name change registered on July 31, 2001; INI's Business Registration Certificate issued on August 1, 2001 by the Inchon Tax Office; organization charts before and after the corporate name change; a list of the Board of Directors before and after the corporate name change; and a customer list before and after the name change. INI provided documentation regarding its acquisition of Sammi Steel Co., Ltd. ("Sammi") including: Notification of Stock Receipt; Notification of Capital Increase with 3rd Party Consideration; Notification of Intent to Participate in Sammi's Capital Increase; Inchon's Shareholders Equity Ratio and Number of Outstanding Stocks as of 2000; Official Notification of Sammi's Graduation from Court Receivership by Bankruptcy Court; Sammi's Board of Directors (At the End of First Half of 2001); Former Inchon Employees Currently Employed by Sammi.

Scope of the Review

For purposes of this changed circumstances review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this review is classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81,[1] 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTSUS subheadings are provided for convenience and Customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this review are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat-rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, "Additional U.S. Note" 1(d).

The Department has determined that certain additional specialty stainless steel products are also excluded from the scope of this review. These excluded products are described below.

Flapper value steel is excluded from this review. Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

---

[1] Due to changes to the HTSUS numbers in 2001, 7219.13.0030, 7219.13.0050, 1719.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this review. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron-chromium-cobalt alloy stainless strip is also excluded from the scope of this review. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as "Arnokrome III."[2]

Certain electrical resistance alloy steel is also excluded from the scope of this review. This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials ("ASTM") specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as "Gilphy 36."[3]

Certain martensitic precipitation-hardenable stainless steel is also excluded from the scope of this review. This high-strength, ductile stainless steel product is designated under the Unified Numbering System ("UNS") as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as "Durphynox 17."[4]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this review. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[5] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as "GIN4 Mo." The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is "GIN5" steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, "GIN6".[6]

Preliminary Results

In making successor-in-interest determinations, the Department examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See e.g., Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20461 (May 13, 1992). While no single factor, or combination of factors, will necessarily be dispositive, the Department will generally consider the new company to be the successor to its predecessor company if the resulting operations are essentially the same as the predecessor company. *E.g, id.* and *Industrial Phosphoric Acid from Israel; Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994). Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as its predecessor, the Department will treat the new company as the successor-in-interest to the predecessor.

Based on the information submitted by INI during the course of this changed circumstances review, we preliminarily find that INI is the successor-in-interest to Inchon because we preliminarily find that the company's organizational structure, senior management, production facilities, supplier relationships, and customers have remained essentially unchanged after the name change with respect to the subject merchandise. Furthermore, INI has provided sufficient internal and public documentation of the name change. If there are no changes in the final results of the changed circumstances review, INI shall retain the antidumping duty deposit rate assigned to Inchon by the Department in the most recent administrative review of the subject merchandise.

---

[2] "Arnokrome III" is a trademark of the Arnold Engineering Company.

[3] "Gilphy 36" is a trademark of Imphy, S.A.

[4] "Durphynox 17" is a trademark of Imphy, S.A.

[5] This list of uses is illustrative and provided for descriptive purposes only.

[6] "GIN4 Mo," "GIN5" and "GIN6" are the proprietary grades of Hitachi Metals America, Ltd.

Based on the information submitted by INI in reference to its acquisition of Sammi, we preliminarily find that INI and Sammi have not merged and remain separate legal entities. INI stated that it owns 68.42 percent of Sammi's equity, there is only one overlapping member on INI's and Sammi's boards of directors (and is a non-standing director of Sammi), and very few former employees of Inchon are now employed by Sammi. INI also stated that there are no changes at INI in terms of production facilities, production capacity, production lines, facilities or personnel, nor has it acquired or any plans to acquire, production facilities as a result of its acquisition of Sammi's shares. Thus, the Department will continue to treat INI and Sammi as two separate legal entities.

Public Comment

Pursuant to 19 CFR 351.310, any interested party may request a hearing within 10 days of publication of this notice. Case briefs and/or written comments from interested parties may be submitted no later than 21 days after the date of publication of this notice. Rebuttal briefs and rebuttals comments, limited to the issues raised in those case briefs or comments, may be filed no later than 28 days after the publication of this notice. All written comments must be submitted and served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Any hearing, if requested, will be held no later than 30 days after the date of publication of this notice, or the first working day thereafter. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish in the **Federal Register** a notice of final results of this changed circumstances antidumping duty administrative review, including the results of its analysis of any issues raised in any written comments.

During the course of this changed circumstances review, we will not change any cash deposit instructions on the merchandise subject to this changed circumstances review, unless a change is determined to be warranted pursuant to the final results of this review.

We are issuing and publishing this finding and notice in accordance with sections 751(b) and 777(i)(1) of the Act and 19 CFR 351.221(c)(3) and 19 CFR 351.216.

Dated: December 20, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–32116 Filed 12–28–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 30, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: December 26, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Applications for Assistance (Sections 8002 and 8003) Impact Aid Program.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs; Federal Government.

Reporting and Recordkeeping Hour Burden:

Responses: 1,061,320.

Burden Hours: 531,211.

Abstract: A local educational agency must submit an application to the Department to receive Impact Aid payments under Sections 8002 or 8003 of the Elementary and Secondary Education Act (ESEA), and a State requesting certification under Section 8009 of the ESEA must submit data for the Secretary to determine whether the State has a qualified equalization plan and may take Impact Aid payments into consideration in allocating State aid.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO.RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (540) 776–7742 or via her internet address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–32056 Filed 12–28–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy

Federal Energy Management Program; Federal Purchasing of Energy-Efficient Standby Power Devices

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of availability of a preliminary list of standby power products and testing guidelines.

SUMMARY: The Department of Energy (DOE or Department) is publishing a preliminary standby product list and testing guidelines on its website as part of the implementation of Executive Order 13221, which directs government agencies to purchase devices with minimal standby power—at or below one watt where available. Manufacturers will continue to submit self-certified data for the standby power levels of their products. The list of products which includes computer and office, video, audio, telecommunications, and other products, will regularly be updated with these new voluntary manufacturer submittals. The list, guidelines, and instructions on submitting product data can be found on the DOE website at: *http://www.eren.doe.gov/femp/procurement*

ADDRESSES: Copies of this notice may be read at the Freedom of Information Reading Room, U.S. Department of Energy, Forrestial Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday and Friday, except Federal holidays. Additional information on standby power, federal purchasing, and Executive Order 13221 can be found on the DOE website at: *http://www.eren.doe.gov/femp/procurement*

FOR FURTHER INFORMATION CONTACT: Ms. Alison Thomas, Program Manager, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE–90, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–2099, email *alison.thomas@ee.doe.gov*

SUPPLEMENTARY INFORMATION: On July 31, 2001, President Bush signed Executive Order 13221, directing government agencies to purchase devices with minimal standby power—at or below one watt where available. He further ordered the Department of Energy (DOE), in consultation with the General Services Administration (GSA), the Defense Logistics Agency (DLA) and others, to develop a list of products that comply with this requirement. DOE is required to revise the list annually but will be updating the list as new manufacturer data is received.

Douglas L. Faulkner,

Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy.

[FR Doc. 01–32093 Filed 12–28–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 12/17/2001 66 FR 64969.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: December 19, 2001 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Nos. and Company have been added to Item E–70 of the Commission Meeting of December 19, 2001.

Item No.: E–70.

Docket No. and Company: ER00–2998–001, ER00–2999–001, ER00–3000–001, and ER00–3001–001, Southern Company Services, Inc.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–32143 Filed 12–26–01; 4:24 pm]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6624–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed December 17, 2001

Through December 21, 2001 Pursuant to 40 CFR 1506.9.

Due to the Closing of the U.S. Federal Government on Monday December 24, 2001, any EISs filed on Friday December 21, 2001 will APPEAR in the **Federal Register** on Friday January 4, 2002, with the 45-Day Comment Period and 30-Day Wait Period Calculated from Friday December 21, 2001.

EIS No. 010532, Draft EIS, AFS, IL, Natural Area Trails Project, Construction, Reconstruction, Maintenance and Designation of Trails for Hikers and Equestrian Use, Approval of Site-Specific Mitigation and/or Monitoring Standards, Shawnee National Forest, Jackson, Pope, Johnson, Union, Hardin and Saline Counties, IL, Comment Period Ends: February 11, 2001, *Contact:* Richard Johnson (618) 658–2111.

EIS No. 010533, Final EIS, AFS, MT, Keystone-Quartz Ecosystem Management, Implementation, Beaverhead-Deerlodge National Forest, Wise River Ranger District, Beaverhead County, MT, *Wait Period Ends:* January 28, 2002, *Contact:* Peri Suenram (406) 683–3967.

EIS No. 010534, Draft EIS, AFS, CA, Los Padres National Forest Oil and Gas Leasing Management, Implementation, Kern, Los Angeles, Monterey, Santa Barbara and San Luis Obispo Counties, CA, *Comment Period Ends:* February 15, 2002, *Contact:* Al Hess (Ext. 311) (805) 646–4348.

EIS No. 010535, Draft EIS, AFS, MT, White Pine Creek Project, Timber Harvest, Prescribe Fire Burning, Watershed Restoration and Associated Activities, Implementation, Kootenai National Forest, Cabinet Ranger District, Sanders County, MT, *Comment Period Ends:* February 11, 2002, *Contact:* John Head (406) 827–3533.

EIS No. 010536, Final EIS, AFS, MT, Kelsey-Beaver Fire Recovery Project, Fuel Reduction and Salvage of Fire-Killed Trees within Roderick South, Kelsey Creek and Upper Beaver Areas, Implementation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT , *Wait Period Ends:* January 28, 2002, Contact: Mike Giesey (406) 295–4693.

EIS No. 010537, Draft EIS, SFW, CA, Multiple Habitat Conservation Program for Threatened and Endangered Species Due to the Urban Growth within the Planning Area, Adoption and Incidental Take Permits Issuance, San Diego County, CA, *Comment Period Ends:* April 28, 2002, *Contact:* Lee Ann Carranza (760) 431–9440.

Dated: December 21, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–32037 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–U

VOL 66 ISS 250 DE 31 2001 UMI

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-6625-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564-7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27647).

Draft EISs

ERP No. D-BIA-K03026-CA Rating EC2, Teayawa Energy Center, Construction and Operation of a 600 megawatt (MW)(nominal output), Natural-Gas-Fired, Combined-Cycle Energy Center, On Indian Trust Land, Torres Martinez Desert Cahuilla Indians Tribe, Coachella Valley, Riverside County, CA.

Summary: EPA expressed environmental concerns and requested additional information regarding potential impacts to air quality, water resources, and other alternatives considered.

ERP No. D-BLM-K81027-NV Rating EC2, Nevada Test and Training Range Resource Management Plan, (formerly Known as the Nellis Air Force Range (NAFR)), Implementation, Clark, Nye and Lincoln Counties, NV.

Summary: EPA expressed environmental concerns regarding the protection of water quality and biological resources, especially those dependent on water quality, and asked that the Bureau of Land Management incorporate pollution prevention practices in the resource planning area.

ERP No. D-COE-E36180-MS Rating EC2, Yalobusha River Watershed, Demonstration Erosion Control Project, Construction of Six Floodwater-Retarding Structures, Yazoo Basin, Webster, Calhoun and Chickasaw Counties, MS.

Summary: EPA expressed environmental concerns about the long-terms effects of the preferred channelization and reservoir alternative and whether this was the best means to achieve project objectives.

ERP No. D-FHW-E40791-SC Rating EO2, James E. Clyburn Connector Project, Construction of a Two-Lane Rural Roadway Northeast of Orangeburg and Southwest of Sumter, Funding and US Army COE Section 404 Permit Issuance, Calhoun, Claredon and Sumter Counties, SC.

Summary: EPA expressed environmental objections to the project as proposed because of the potential impacts to waters of the U.S., noise, and habitat; and requested additional information regarding these potential impacts.

ERP No. D-NPS-E65058-GA Rating LO, Fort Frederica National Monument General Management Plan, Implementation, Saint Simons Island, Glynn County, GA.

Summary: EPA review did not identify any potential environmental impacts requiring substantive changes to the proposal.

ERP No. D-NPS-G61041-AR Rating LO, Little Rock Central High School National Historic Site General Management Plan, Future Management and Use, Implementation, Little Rock, AR.

Summary: EPA has no objection to the selection of the preferred alternative.

ERP No. D-UAF-G11041-OK Rating EC2, Altus Air Force Base (AFB), Proposed Airfield Repairs, Improvements, Adjustments to Aircrew Training, and Installation of an Instrument Landing System (ILS) and a Microwave Landing System (MLS), Jackson County, OK.

Summary: EPA has identified environmental concerns regarding the need to provide more balance in the impact analysis and mitigation measures.

ERP No. DS-FHW-H40088-IA Rating EC2, IA-100 Extension Around Cedar Rapids, Edgewood Road to US 30, Reevaluation of the Project Corridor and Changes in Environmental Requirements, Funding and US Army COE Section 404 Permit Issuance, Linn County, IA.

Summary: EPA expressed environmental concerns that the project as proposed will affect the Rock Island Preserve both as a park and as habitat for the Byssus Skipper, a state threatened species of butterfly. EPA requested additional information regarding the design of the preferred alternative so impacts to the Preserve, the butterfly, wetlands and floodplains may be minimized.

Final EISs

ERP No. F-COE-G39033-LA West Bay Sediment Diversion Channel Construction Project, Funding, Plaquemines Parish, LA.

Summary: EPA has no further comments to offer on the Final EIS and has no objections to the selection of the lead agency's preferred alternative.

ERP No. F-FHW-F40223-MN I-494 Reconstruction Corridor Study, I-394 on the west to the Minnesota River, Funding and US Army COE Section 404 Permit Issuance, Hennepin County, MN.

Summary: EPA expressed environmental objections that the final EIS does not present an adequate wetland mitigation plan and that wetland impacts have increased substantially. Until an adequate wetland mitigation plan is developed, EPA would object to the issuance of a Clean Water Act (CWA) Section 404 Permit for the Preferred Alternative identified in the FEIS.

ERP No. F-FHW-K40239-CA Interstate 215 (I-215) Transportation Improvements, from the short segments of CA-60 and CA-91 in the Cities of Riverside andMoreno Valley, Funding, Riverside County, CA.

Summary: EPA expressed continuing environmental concerns that the project will provide only marginal relief to congestion while compounding the poor air quality in the region. EPA requested additional air quality information be included in the ROD.

ERP No. F-NPS-K61151-CA Lassen Volcanic National Park General Management Plan, Implementation, Lassen, Plumas, Shasta and Tehama Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: December 20, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01-32038 Filed 12-28-01; 8:45 am]

BILLING CODE 6560-50-U

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7123-6]

Good Neighbor Environmental Board Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The next meeting of the Good Neighbor Environmental Board, a federal advisory committee that reports to the President and Congress on environmental and infrastructure projects along the U.S. border with Mexico, will take place in Washington, DC on January 23 and 24, 2002. It is open to the public. The meeting will be preceded by a new member orientation session on January 22.

DATES: On January 23, a day-long strategic planning session will begin at 8:30 a.m. and end at 5:30 p.m. On January 24, a special half-day session called Forecast 2002 will begin at 8 a.m. and end at 12 noon. The pre-meeting orientation session for new members will take place from 4–6 p.m. on January 22.

ADDRESSES: The meeting site is the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008. The closest metro is Woodley Park-Zoo on Connecticut Avenue.

FOR FURTHER INFORMATION CONTACT: Elaine M. Koerner, Designated FederalOfficer for the Good Neighbor Environmental Board, Office of Cooperative Environmental Management, Office of the Administrator, USEPA, MC1601A, 1200 Pennsylvania Ave. NW, Washington, DC 20004, (202) 564–1484, *koerner.elaine@epa.gov.*

Meeting Access: Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the Designated Federal Officer at least five business days prior to the meeting so that appropriate arrangements can be made.

SUPPLEMENTARY INFORMATION:

Agenda

The strategic planning session, scheduled for all day on January 23, is the Board's annual routine planning session in which it determines priorities and processes for the coming year. The Forecast 2002 session, scheduled for the morning of January 24, will consist of substantive briefings from senior-level border region specialists and a public comment session.

Public Attendance

The public is welcome to attend all portions of the meeting. Members of the public who plan to file written statements and/or make brief (suggested 5-minute limit) oral statements at the public comment session are encouraged to contact the Designated Federal Officer for the Board prior to the meeting.

Background

The Good Neighbor Environmental Board meets three times each calendar year at different locations along the U.S.-Mexico border and also holds an annual strategic planning session. It was created by the Enterprise for the Americans Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The U.S. Environmental Protection Agency gives notice of this meeting of the Good Neighbor Environmental Board pursuant to the Federal Advisory Committee Act (Public Law 92–463).

Elaine M. Koerner,

Designated Federal Officer.

[FR Doc. 01–32102 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30462A; FRL–6815–2]

Pesticide Product Registrations; Conditional Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications submitted by Eco Soil Systems, Inc., to conditionally register the pesticide product AtEzeTM containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8717; e-mail address: ball.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access a fact sheet which provides more detail on this registration, go to the Home Page for the Office of Pesticide Programs at http://www.epa.gov/pesticides/, and select "fact sheet."

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30462A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which

VOL 66 ISS 250 DE 31 2001 UMI

includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, Arlington, VA (703) 305–5805. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460. Such requests should: Identify the product name and registration number and specify the data or information desired.

A paper copy of the fact sheet, which provides more detail on this registration, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7, that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Pseudomonas* chlororaphis strain 63–28, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Pseudomonas chlororaphis* strain 63–28 during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

III. Conditionally Approved Registrations

EPA issued a notice, published in the **Federal Register** of November 25, 1998 (63 FR 65202) (FRL–6038–8), which announed that Agrium Inc., 402–15 Innovation Blvd., Saskatoon, Saskatchewan Canada S7N 2X8, had submitted an application to register the pesticide product AtEze™, (EPA file symbol 70724–E), containing the active ingredient *Pseudomonas chlororaphis* strain 63–28 at 1.15% an ingredient not included any previously registered product. The current registrant for this product is Eco Systems, Inc., 10740 Thornmint Rd., San Diego, CA 92127. This product is limited for use as a direct application.

The application was approved on September 28, 2001, as AtEze™ (EPA Registration No. 70688–2) for use as a soil drench of contained plants for greenhouse ornamental and vegetable crops.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 19, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–32108 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30518; FRL–6813–7]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments, identified by the docket control number OPP–30518, must be received on or before January 30, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30518 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Mailing address	Telephone number and e-mail address	File symbol
Anne Ball	1200 Pennsylvania Ave., NW., Washington, DC 20460	(703) 308–8717; Ball.Anne@epa.gov	7501–ROE and 7501–ROR
Susanne Cerrelli	Do.	(703) 308–9525; cerrelli.susanne@epa.gov	74200–E and 74200–R

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–30518. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30518 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30518. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Registration Applications

EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the application.

Products Containing Active Ingredients Not Included in any Previously Registered Products

1. File symbol: 7501-ROE. Applicant: Gustafson LLC, 1400 Preston Road, Suite 400, Plano, TX 75093. Product name: GB34 Technical Biological Fungicide. Product type: Fungicide. Active ingredient: *Bacillus pumilus* GB34 at 13.8%. Proposed classification/Use: For reformulating into end-use products by formulators in the manufacture of agricultural fungicide products.

2. File symbol: 7501-ROR. Applicant: Gustafson LLC, 1400 Preston Road., Suite 400, Plano, TX 75093. Product name: GB34 Concentrate Biological

VOL 66 ISS 250 DE 31 2001 UMI

Fungicide. Product type: Fungicide. Active ingredient: *Bacillus pumilus* strain GB34 at 0.28%. Proposed classification/Use: For use as a seed treatment for soybeans for supression of root diseases caused by *Rhizoctonia* and Fusarium.

3. File symbol: 74200-E. Applicant: Mycologic Incorporated, Department of Biology, University of Victoria, P.O. Box 3020, Victoria, BC Canada V8W. Product name: Chontrol TM Paste. Product type: Herbicide. Active ingredient: Chondrostereum purpureum isolate PFC 2139 at 0.67%. Proposed classification/Use: Biological herbicide for control of alders, aspen, and other hardwoods in rights of way and forests.

4. File symbol: 74200-R. Applicant: Mycologic Incorporated, Department of Biology, University of Victoria, P.O. Box 3020, Victoria, BC Canada V8W. Product name: CP-PFC 2139 Manufacturing Use Product. Product type: Herbicide. Active ingredient: Chondrostereum purpureum isolate PFC 2139 at 1.68%. Proposed classification/ Use: Manufacturing use.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: December 17, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 01–32106 Filed 12–28–01; 8:45am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

[PF–1062; FRL–6813–8]

Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket control number PF–1062, must be received on or before January 30, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1062 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Anne Ball, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8717; e-mail address: ball.anne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number PF–1062. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–1062 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic

submissions will be accepted in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number PF–1062. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 14, 2001.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

Summary of Petition

The petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petition summary verbatim without editing it in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Gustafson LLC

PP 1F6344

EPA has received a pesticide petition (PP 1F6344) from Gustafson LLC, 1400 Preston Road, Suite 400, Plano, TX 75093, proposing pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for the microbial pesticide *Bacillus pumilus* GB34 when used as a seed treatment in or on all raw agricultural commodities and on all food commodities after harvest.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Gustafson LLC has submitted the following summary of information, data, and arguments in support of their pesticide petition. This summary was prepared by Gustafson LLC and EPA has not fully evaluated the merits of the pesticide petition. The summary may have been edited by EPA if the terminology used was unclear, the summary contained extraneous material, or the summary unintentionally made the reader conclude that the findings reflected EPA's position and not the position of the petitioner.

A. Product Name and Proposed Use Practices

The active ingredient *Bacillus pumilus* GB34 is formulated into the technical product, GB34 Technical Biological Fungicide and the end use product GB34 Concentrate Biological Fungicide. GB34 concentrate contains bacteria which colonize the developing root system of soybeans suppressing disease organisms such as *Rhizoctonia and Fusarium* that attack root systems. GB34 concentrate is used as a seed treatment before planting.

B. Product Identity/Chemistry

1. *Identity of the pesticide and corresponding residues. Bacillus pumilus* GB34 is a naturally occurring isolate from the soil.

2. *Magnitude of residue at the time of harvest and method used to determine the residue.* Two processing studies with soybeans were conducted. The studies showed no uptake of *Bacillus pumilus* GB34 beyond the seed hull. No residues were found in meal, oil, soymilk, or tofu.

3. *A statement of why an analytical method for detecting and measuring the levels of the pesticide residue are not needed.* An analytical method for enumeration of microorganisms is available but is not required since the petitioner is requesting an exemption from the requirement of a tolerance.

C. Mammalian Toxicological Profile

Bacillus pumilus GB34 was not found to be toxic or pathogenic from acute intravenous administration of 1.1 x 10^7 cfu of technical grade material. The oral LD_{50} of GB34 technical was greater than 5,000 milligrams/kilograms (mg/kg) of body weight. GB34 technical was classified non-irritating to the skin and mildly irritating to the eye in primary skin irritation and eye irritation studies. The oral LD_{50} of GB34 concentrate was greater than 5,000 mg/kg of body weight. GB34 concentrate was classified as non-irritating to the skin and minimally irritating to the eye in primary skin irritation and eye irritation studies. An avian oral pathogenicity and toxicity study in northern Bobwhite showed no evidence of pathogenicity during gross necropsy. The no observed adverse effect level (NOAEL) was approximately 3.4 x 10^{11} cfu/kg/day for 5 days.

D. Aggregate Exposure

1. *Dietary exposure—*i. *Food. Bacillus pumilus* GB34 does not exhibit any

VOL 66 ISS 250 DE 31 2001 UMI

mammalian toxicity. Therefore, any dietary exposure would not be harmful to humans. Also *Bacillus pumilus* GB34 is a naturally occurring, ubiquitous microorganism indigenous to the United States.

ii. *Drinking water. Bacillus pumilus* is found in the soil and the use rate of GB34 concentrate is 0.1 ounces per 100 pounds of seed, equivalent to 1.7 grams per acre. *Bacillus pumilus* GB34 is unlikely to leach from the treated seed and would not be distinguishable from other naturally occurring *Bacillus pumilus*.

2. *Non-dietary exposure.* As a commercial seed treatment for soybeans, the general population, including infants and children, will have a very low possibility of exposure. Occupational exposure will be limited to employees in commercial facilities handling the seed treatment product. Commercial seed treating equipment minimizes occupational exposure. Wearing protective equipment will also minimize occupational exposure. Non-dietary exposure would not be expected to pose a quantifiable risk.

E. Cumulative Exposure

The product strain belongs to the bacterial genus of *Bacillus. Bacillus pumilus* GB34 may have a similar mode of action in mammals as *Bacillus subtilis* that has been shown to be non-toxic and non-pathogenic in mammalian species. A similar mode of action of *Bacillus pumilus* GB34 and *Bacillus subtilis* would not be expected to result in an increased adverse effect since both were shown to be non-toxic and non-pathogenic in intravenous toxicity and pathogenicity studies.

F. Safety Determination

1. *U.S. population.* Based on the low treating rate of seed treatment use, little evidence of toxicity or pathogenicity and limited exposure potential, Gustafson LLC believes there is a reasonable certainty of no harm to the U.S. population in general from aggregate exposure to *Bacillus pumilus* GB34 residue from all anticipated dietary and non-dietary exposures.

2. *Infants and children.* Based on the lack of toxicity and low exposure there is a reasonable certainty that no harm to infants, children or adults will result from aggregate exposure to *Bacillus pumilus* GB34.

G. Effects on the Immune and Endocrine Systems

Gustafson LLC has no information to suggest that *Bacillus pumilus* GB34 will have any effect on the immune and endocrine systems.

H. Existing Tolerances

There are no existing tolerances for *Bacillus pumilus* GB34.

I. International Tolerances

Gustafson LLC is not aware of any international tolerances, exemptions from tolerance or maximum residue levels for *Bacillus pumilus* GB34.

[FR Doc. 01–32109 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7123–4]

Project Work Plan for Revised Air Quality Criteria for Ozone and Related Photochemical Oxidants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of external review draft.

SUMMARY: This notice announces the availability of the External Review Draft of a document, Project Work Plan for Revised Air Quality Criteria for Ozone and Related Photochemical Oxidants, NCEA–R–1068, prepared by the Office of Research and Development of the U.S. Environmental Protection Agency (EPA). The purpose of this document is to describe the managerial procedures for revising EPA's Air Quality Criteria for Ozone and Related Photochemical Oxidants, EPA/600/P–93/004aF,bF,cF, July 1996. This External Review Draft of the Project Work Plan will be reviewed by the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board and will be revised in light of CASAC's review and comments received from the general public. Information on the date and location of the CASAC public review meeting (likely in March 2002) will be published in a future **Federal Register** notice. The plan may be modified and amended from time to time, as necessary, to reflect actual project requirements and progress. As a result, any proposed schedules and outlines, or any lists of technical coordinator assignments, authors, or reviewers are subject to change.

DATES: Anyone who wishes to comment on this document may do so in writing by February 15, 2002.

ADDRESSES: To obtain a copy of the Project Work Plan for Revised Air Quality Criteria for Ozone and Related Photochemical Oxidants (External Review Draft), NCEA–R–1068, contact Diane H. Ray, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–3637; facsimile: 919–541–1818; E-mail: ray.diane@epa.gov. Internet users may obtain a copy from the EPA's National Center for Environmental Assessment (NCEA) home page. The URL is http://www.epa.gov/ncea/.

Send the written comments to the Project Manager for Ozone Project Work Plan, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Mr. James Raub, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–4157; facsimile: 919–541–1818; E-mail: raub.james@epa.gov.

Dated: December 20, 2001.

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–32089 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7123–5]

Research Needed To Improve Health and Ecological Risk Assessment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of external review draft.

SUMMARY: This notice announces the availability of the Second External Review Draft of a document, Research Needed to Improve Health and Ecological Risk Assessment for Ozone, EPA/600/R–98/031B, prepared by the Office of Research and Development of the U.S. Environmental Protection Agency (EPA). The purpose of this document is to identify the scientific areas in which research is most needed to improve health and ecological risk assessment in the process of setting National Ambient Air Quality Standards for ozone. Many of the research needs identified and discussed in this document became apparent during preparation of the Air Quality Criteria for Ozone and Related Photochemical Oxidants, EPA/600/P–93/004aF,bF,cF, July 1996. The First External Review Draft of this research needs document was reviewed by the Clean Air Scientific Advisory Committee (CASAC)

of EPA's Science Advisory Board, on November 16, 1998, in Chapel Hill, NC. This Second External Review Draft has been prepared in light of CASAC's comments at that time and will be reviewed by CASAC (likely in March 2002), with date and location of the CASAC public review meeting to be announced in a future **Federal Register** notice. This document is intended to serve as a general guide to planning and conducting needed research on ambient ozone. The document intentionally makes no attempt to recommend specific research studies or programs.

DATES: Anyone who wishes to comment on this document may do so in writing by February 15, 2002.

ADDRESSES: To obtain a copy of the Research Needed to Improve Health and Ecological Risk Assessment for Ozone (External Review Draft) 2001, EPA/600/R–98/031B, contact Diane H. Ray, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–3637; facsimile: 919–541–1818; E-mail: ray.diane@epa.gov. Internet users may obtain a copy from the EPA's National Center for Environmental Assessment (NCEA) home page. The URL is http://www.epa.gov/ncea/.

Send the written comments to the Project Manager for Ozone Research Needs, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Chapman, National Center for Environmental Assessment-RTP Office (MD–52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: 919–541–4492; facsimile: 919–541–1818; E-mail: chapman.robert@epa.gov.

Dated: December 20, 2001,

George W. Alapas,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 01–32090 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51980; FRL–6817–2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from November 9, 2001 to November 30, 2001, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

DATES: Comments identified by the docket control number OPPTS–51980 and the specific PMN number, must be received on or before January 30, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51980 and the specific PMN number in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select "Laws and Regulations"," Regulations and Proposed Rules, and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–51980. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, any test data submitted by the Manufacturer/Importer is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–51980 and the specific PMN number in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. The DCO is

VOL 66 ISS 250 DE 31 2001 UMI

open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

3. *Electronically*. You may submit your comments electronically by e-mail to: "oppt.ncic@epa.gov," or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–51980 and the specific PMN number. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from November 8, 2001 to November 30, 2001, consists of the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs

This status report identifies the PMNs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available. The "S" and "G" that precede the chemical names denote whether the chemical idenity is specific or generic.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 33 PREMANUFACTURE NOTICES RECEIVED FROM: 11/09/01 TO 11/30/01

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0072	11/14/01	02/12/02	CBI	(S) Industrial uv coatings and inks	(G) Acrylate ester
P–02–0073	11/13/01	02/11/02	CBI	(G) Pressure sensitive adhesive	(G) Acrylic copolymer
P–02–0074	11/14/01	02/12/02	CBI	(G) Open non-dispersive use	(G) Polyacrylic resin, based on methyl methacrylate
P–02–0075	11/14/01	02/12/02	Dow Corning Corporation	(S) Coating base polymer; sealant base polymer	(G) Polyalkylene-vinyldimethoxymethylsilane polymer
P–02–0076	11/14/01	02/12/02	CBI	(G) An ingredient in polyurethane finishes	(G) Polyurethane prepolymer
P–02–0077	11/09/01	02/07/02	BASF Corporation	(S) Processing aid for leather tanning	(G) Counter ion of vegetable oil, oxidized and sulfited
P–02–0078	11/13/01	02/11/02	CBI	(G) Resin coating	(G) Polyester resin
P–02–0081	11/14/01	02/12/02	CBI	(G) Polymeric binder	(G) Styrene-methacrylate copolymer
P–02–0086	11/14/01	02/12/02	CBI	(G) Chemical intermediate	(G) Polyester polyol
P–02–0087	11/09/01	02/07/02	Quest International Fragrances Co.	(S) Fragrance raw material	(S) Cyclopentanol, 2-cyclopentylidene*
P–02–0088	11/15/01	02/13/02	Dow Corning Corporation	(S) Silicone textile treatment	(G) Alkyl silsesquioxane
P–02–0089	11/15/01	02/13/02	Dow Corning Corporation	(S) Silicone textile treatment	(G) Alkyl silsesquioxane
P–02–0090	11/15/01	02/13/02	FMC Corporation	(G) Open non-dispersive use	(G) Mixed metal oxide

I. 33 Premanufacture Notices Received From: 11/09/01 to 11/30/01—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–02–0091	11/19/01	02/17/02	Dow Corning Corporation	(S) Uv curable coating	(G) Vinylalkoxysilyl-terminated polyisobutylene
P–02–0092	11/13/01	02/11/02	CBI	(G) Open, non-dispersive use as an emulsifying agent.	(S) Poly(oxy-1,2-ethanediyl), alpha-(2-ethylhexyl)-omega-hydroxy-, 2-hydroxy-1,2,3-propanetricarboxylate
P–02–0093	11/13/01	02/11/02	CBI	(G) Open, non-dispersive use as an emulsifying agent.	(S) Poly(oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy-, mono-C_{10-16}-alkyl ethers, citrates
P–02–0094	11/13/01	02/11/02	CBI	(G) Open, non-dispersive use as an emulsifying agent.	(S) Poly(oxy-1,2-ethanediyl), alpha-hydro-omega-hydroxy-, mono-C_{16-18}-alkyl ethers, citrates
P–02–0095	11/09/01	02/07/02	CBI	(G) Photo acid generator	(G) Substituted pyridine
P–02–0096	11/19/01	02/17/02	CBI	(G) Open, non-dispersive use.	(G) Acid functional acrylic polymer
P–02–0097	11/19/01	02/17/02	CBI	(G) Additive for coatings, inks, adhesives and composites.	(G) Metallic diacrylate
P–02–0098	11/19/01	02/17/02	CBI	(G) Chemical intermediate	(G) Cyclohexene-carboxylic acid, [(dipropenylamino)carbonyl]-, (1r, 6r)-rel-
P–02–0099	11/20/01	02/18/02	CBI	(G) Open, non-dispersive use.	(G) Polyester resin
P–02–0100	11/20/01	02/18/02	CIBA Specialty Chemicals Corporation	(S) Antioxidant for polymers	(G) Substituted o-cresol
P–02–0101	11/20/01	02/18/02	CBI	(G) Chemical process intermediate (a destructive use)	(G) Substituted pyridinedicarboxylic acid
P–02–0102	11/27/01	02/25/02	CBI	(G) Petroleum lubricant additive	(G) Alkylbenzene sulfonate
P–02–0103	11/28/01	02/26/02	CBI	(G) Colorant for printing inks	(G) Polyimide terminated, polyester / polyamide graft to styrene / acrylic polymer
P–02–0104	11/28/01	02/26/02	Arteva Specialties S.A.R.L. d/b/a Kosa	(S) Structural material for production of textile fiber	(G) Modified polyester
P–02–0105	11/28/01	02/26/02	BASF Corporation	(S) Protective colloid	(S) 1,3-benzenedicarboxylic acid, 5-sulfo-, monosodium salt, polymer with 1,3, benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, 1,2-ethanediol, 2,2′-[1,2-ethanediylbis(oxy)]bis[ethanol] and 2,2′-oxybis[ethanol]
P–02–0106	11/30/01	02/28/02	CBI	(G) Open, non-dispersive(catalyst)	(G) Amino alkanol ester
P–02–0107	11/29/01	02/27/02	CBI	(G) Dewaxing aid	(G) Alkyl methacrylates, alkyl acrylates copolymer
P–02–0108	11/30/01	02/28/02	CBI	(S) Polyurethane adhesive	(G) Aromatic polyester polyurethane
P–02–0109	11/30/01	02/28/02	CBI	(G)	(G) Quaternary salt
P–02–0110	11/30/01	02/28/02	CBI	(S) Manufacturing of semiconductors	(S) Tantalum, tris(n-ethylethanaminato)[2-methyl-2-propanaminato(2-)]-, (t-4)-

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 14 Notices of Commencement From: 11/09/01 to 11/30/01

Case No.	Received Date	Commencement/Import Date	Chemical
P–00–0355	11/13/01	10/17/01	(S) Acetic acid, chloro-, sodium salt, compound with 4-ethenylpyridine homopolymer
P–00–0902	11/30/01	11/14/01	(G) Epoxy polyamine adduct
P–00–0985	11/21/01	10/31/01	(G) Aliphatic polyether polyurethane
P–01–0007	11/27/01	11/03/01	(G) Aliphatic polycarboxylic acid, metal salt
P–01–0167	11/30/01	11/20/01	(G) Substituted piperidinamine
P–01–0465	11/19/01	10/18/01	(G) Cycloalkene-1-alkanal tetramethyl
P–01–0499	11/19/01	11/05/01	(G) Mercaptoalkyl alcohol
P–01–0500	11/19/01	11/05/01	(G) Distillation residues from reaction product of alkyl alcohol with hydrogen sulfide
P–01–0535	11/14/01	11/03/01	(G) Acrylic copolymer
P–01–0677	11/09/01	10/08/01	(G) Polyalkoxylated intermediate

II. 14 NOTICES OF COMMENCEMENT FROM: 11/09/01 TO 11/30/01—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–01–0693	11/14/01	11/01/01	(G) Polyester resin
P–01–0696	11/19/01	10/26/01	(G) Blocked aromatic isocyanate
P–01–0747	11/26/01	10/24/01	(G) Silicone polymer
P–98–0098	11/13/01	02/05/98	(G) Blocked urethane prepolymer

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: December 18, 2001.

Deborah A. Williams,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 01–32107 Filed 12–28–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL TRADE COMMISSION

Second Public Conference: Factors That Affect Prices of Refined Petroleum Products

AGENCY: Federal Trade Commission.

ACTION: Notice announcing public conference and requesting analytical and empirical papers and public comment.

SUMMARY: The Federal Trade Commission ("FTC" or "Commission") will hold a second public conference on May 6–9, 2002, to examine issues concerning prices of refined petroleum products in the United States. The Commission held its first conference on August 2, 2001, where it heard from numerous interested parties about issues in this area that merit further examination. The further conference announced in this notice will enable the Commission to study in greater depth issues identified in the first public conference. The Commission also seeks analytical and empirical papers and public comment to inform this examination. The Commission invites experts from market participants, trade associations, consumer groups, academia, and other organizations to submit analysis and empirical research on the topics discussed in this notice. For any submitted empirical analysis or quantitative research, papers should include, if possible, the underlying data and reference or include any software programs used to generate results.

DATES: The public conference will be held on May 6–9, 2002. Sessions will be open to the public, without fee, and advance registration is not required. Seats in the conference room will be available on a first-come, first-served basis; limited overflow seating will be available to view the conference via closed-circuit television. Speakers will be by invitation only. Due to the expected high level of interest in this inquiry, speakers will be limited to brief presentations, with extensive questions and discussion with Commissioners and staff to follow. Further information regarding the agenda for the public conference will be posted on the FTC website.

Interested parties must submit analytical and empirical papers and comments by April 19, 2002.

ADDRESSES: The public conference will be held in Room 432 of the Federal Trade Commission Headquarters Building, 600 Pennsylvania Avenue, NW., Washington, DC 20580. All interested parties are invited to attend.

Any interested party may submit an analytical or empirical paper or comment relevant to the Commission's inquiry on or before April 19, 2002. To facilitate efficient review, each paper or comment should, if possible, be filed in electronic form (as a WordPerfect, Word, or ASCII text file), by attaching it to an e-mail message sent to the following e-mail box: *refinedpetroleumproducts@ftc.gov*. The email message to which the paper or comment is attached should include the caption "Presentation on Factors that Affect Prices of Refined Petroleum Products;" the name of the presenter; and the name and version of the word processing program used to create the comment. Papers or comments which are instead filed in paper form should include the same caption and the name of the presenter, and should be addressed to Donald S. Clark, Office of the Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James Mongoven, Office of Policy and Evaluation, Bureau of Competition, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Room 390, Washington, DC 20580; (202) 326–2879 (telephone); *jmongoven@ftc.gov*. (email). A detailed agenda and additional information relating to the public conference will be posted on the Commission's website, *http://www.ftc.gov/bc/gasconf/index.htm*, in advance of the conference.

SUPPLEMENTARY INFORMATION: Both crude oil and refined petroleum products prices have been volatile in recent years. The level and volatility of prices of refined petroleum products have resulted in increased public concern. In addition, the oil industry has experienced a number of significant changes in the 1990s, including substantial restructuring through mergers and joint ventures, changes in business practices, increased dependency on foreign crude sources, and new governmental regulations.

The Commission has extensive law enforcement authority with respect to the oil and refined petroleum products industries. Within the past year, the Commission has concluded two investigations into gasoline prices on the West Coast and in a number of Midwestern states. The Commission has also conducted antitrust investigations of a number of recent oil industry mergers, and, where appropriate, has issued orders requiring substantial divestitures to preserve competition.

Because of the importance to the American economy of issues raised in these investigations, the Commission has broadened its focus beyond law enforcement to study in more detail the central factors that can affect the level and volatility of refined petroleum products prices in the United States. The purpose of the two public conferences on this topic is to increase the transparency of competitive and other factors affecting the prices of refined petroleum products industries. Increased transparency will better inform consumers and policy-makers in the executive and legislative branches about factors affecting the level and volatility of prices for refined petroleum products. The Commission's efforts in this area will complement those of other government agencies, such as the U.S. Environmental Protection Agency ("EPA"), which recently released a report and a white paper studying the relationship of boutique fuel requirements to gasoline prices.

The Commission's public conference on August 2, 2001 served as a valuable first step. During the initial conference, participants identified the issues that they found to be the most significant and that merit further study by the FTC. A transcript of and presentations to the initial conference are available on the Commission's website, *http://www.ftc.gov/bc/gasconf/index.htm*. This information has assisted the Commission in structuring the second public conference to focus in a comprehensive manner on the most relevant and important issues.

The Commission anticipates that the information gathered through these public conferences, analytical and empirical papers and comments received, and additional research, will lead to insights of importance to public policy concerning the level and volatility of prices of refined petroleum products. The Commission expects to summarize and discuss these insights in a public report.

Specific Questions To Be Addressed

Listed below is a series of questions about which the Commission seeks public comment. The list is not exhaustive, and it is not necessary to respond to each question.

Supply and Transportation of Crude Oil

1. How has the crude oil supply market changed since 1985?[1] How has the demand for crude oil changed since 1985? What is the level of proven reserves? Has the growth of proven reserves kept pace with increased demand? What has been the trend in domestic production? What are the pricing trends for domestic oil sources? To what extent do changes in domestic crude production contribute to changes in levels and volatility of refined product prices?

2. How has OPEC managed its supply? How do domestic oil companies and state-owned companies in OPEC countries interact? To what extent have the output policies of OPEC affected refined product prices in recent years? Has there been increased dependence on foreign sources of crude oil since 1985? To what extent, if any, has increased dependence on foreign crude sources by U.S. refineries contributed to increased levels and volatility of refined product prices? Have regulatory or other factors affected the costs or ability to import crude oil?

3. What is the relationship between crude oil prices (cost of feedstock) and prices for refined products at the wholesale and retail levels? Does this relationship vary by region of particular refineries? What happens to refined petroleum product prices when crude oil prices/inventories increase or decrease? How do inventories of crude oil affect the prices of refined petroleum products?

4. What is the empirical evidence since 1985 on the trends in the inflation-adjusted levels and volatility of crude oil prices?

5. What have been the trends in the costs and risks of developing new crude sources, either domestically or abroad? To what extent have changes in the costs and risks affected refined product prices? Has there been an increase in the absolute or relative difficulty of obtaining financing to support the development of new crude sources? Has there been a change in the relative risk/cost relationship of developing new crude sources? How has this affected the ability to obtain financing?

6. Have different types of crudes become more or less substitutable by U.S. refineries over time, and if so, has this affected refined product prices? Have crude oil markets become more or less regionalized over time, and have any such changes had an impact on refined product prices?

7. Are recent proposed/final environmental regulations (e.g., TIER II gasoline, low sulfur diesel) likely to affect the types of crude used by refiners and reduce refiner flexibility on the types of crude processed? If so, are existing refineries able to achieve compliance with these regulations? If not, what kind of capital investment will be needed to achieve compliance?

8. In any stage of crude oil supply, either domestically or abroad, is there any exercise of significant market power (other than the OPEC cartel) currently being observed? To what extent has any such exercise of significant market power affected refined product prices?

9. What is the effect of the Jones Act on transportation of crude oil? Does the Jones Act affect the price of crude oil to refiners? If so, what is the effect?

10. Have infrastructure investments in crude pipelines or marine transport of crude by either barge or ship kept pace with growth in demand? If not, why not? Are there policies that can be implemented that will create or reinforce incentives for efficient investment in pipeline or marine transport infrastructure to maintain adequate capacity, including reserve capacity in the event of a supply disruption?

11. What is the empirical evidence since 1985 on the trends of the inflation-adjusted levels and volatility in the prices of pipeline or marine transport of crude oil? Are these trends similar or dissimilar in various parts of the nation?

12. To what extent have changes in the cost or prices of pipeline or marine transport services of crude oil affected the prices of refined petroleum products at the wholesale or retail level?

13. Do we observe the exercise of significant market power in either the pipeline or marine transport of crude oil in any geographic area? To what extent has the exercise of significant market power affected the prices of refined products?

Refining

1. What factors have had the greatest effect on refining production costs and the price of refined petroleum products since 1985? Which such factors have been most responsible for any increase in the level or volatility of refined product prices?

2. How has the structure of the refining industry changed since 1985? Why did these changes occur? How have these changes affected capacity, utilization, production costs, prices for refined petroleum products, and overall competition in the industry? How has the role and quantity of imported refined petroleum products changed during this time? What has contributed to any such change?

3. What is the empirical evidence on the trends of the inflation-adjusted levels and volatility of refined product prices (for example, spot prices) at the bulk supply level? Are these trends similar or dissimilar in various parts of the nation? Are the trends similar for different refined products (e.g. diesel, gasoline, heating oil, jet fuel)?

4. Have infrastructure investments kept pace with growth in demand? If not, why not? Are there policies that can be implemented that will create or reinforce incentives for refiners to make efficient investments in infrastructure to maintain adequate capacity, including reserve capacity in the event of a supply disruption? Would such incentives vary as a function of size, capitalization, or debt level? How has the age of the industry infrastructure contributed to the need for and cost of the capital improvements?

5. In light of EPA's report and white paper, how have changes in environmental regulations affected refinery production in ways that have potential impacts on the prices of refined products? What has been the actual and historical effect of such regulations? Have changes in fuel specifications, both past and prospective, affected the competitiveness, fungibility, cost, and

---

[1] The Commission has chosen the 1985 date so it can update data received/obtained in conjunction with earlier Commission reports in this industry.

VOL 66 ISS 250 DE 31 2001 UMI

price stability of the gasoline and distillate fuel pools?

6. What capital investments have been needed to produce refined petroleum products (e.g., reformulated gasoline) in compliance with federal and state environmental and other regulations implemented since 1985? Have any refineries shut down because they found the needed capital improvements would be uneconomical? What capital investments will be needed to comply with federal and state regulations scheduled to take effect in the future?

7. How have environmental regulations affected refinery capacity for motor gasoline and other refined products? What effect have these regulations had on refinery utilization and the product slate, including the types and quantities of motor gasoline produced? How have these regulations affected production schedules, lead time, and the ability to respond to supply disruptions (e.g., alter product slates)?

8. What new motor gasoline transportation and storage issues have arisen due to new environmental regulations since 1985?

9. What effect has the increase in the number of different grades of motor gasoline (with varying emissions specifications and oxygenates) had on product markets and geographic markets for refined petroleum products? Are there specific grades of gasoline that are produced by just a few refiners? How has this affected the industry's ability to respond to supply disruptions? How rapidly do refined product prices typically react to changes in supply? Are there implications that one can draw from the response speed regarding the nature of competition in the market? What are the consequences and associated costs of producing an off-specification motor gasoline?

10. Are current environmental regulations, or those that are scheduled to take effect in the future, affecting refinery ownership? That is, are companies that own refineries making decisions to divest because of the regulations and the cost to comply? Is there a pattern of such sales and are the purchasers comparable to the sellers in terms of ability to raise capital to comply with environmental requirements and to expand capacity?

11. What factors explain the closure of several smaller refineries in the United States over the past decade? Why have some major oil firms sold refining capacity? Has the closure of smaller refineries changed the regional composition of refining capacity? If so, has this created infrastructure bottlenecks and affected price volatility?

12. Is there any exercise of significant market power currently being observed in particular aspects or geographic areas of the domestic refining industry? If so, to what extent has such exercise of significant market power affected prices of refined products?

13. Why is refinery capacity utilization at such high rates and are these rates likely to continue for a number of years into the future? What are the primary causes?

14. To what extent have refiners instituted just-in-time inventory of crude oil and/or refined products? What are the likely price effects of any changesin inventory behavior?

Pipelines and Marine Bulk Transport

1. How has the structure of the refined products pipeline industry changed since 1985? Why did these changes occur? How have these changes affected capacity, utilization, costs, and tariffs? What new geographic markets are being served?

2. Have infrastructure investments in product pipelines or marine bulk transport of refined product kept pace with growth in demand? If not, why not? Are there policies that can be implemented that will create or reinforce incentives for efficient investment in pipeline or marine transport infrastructure to maintain adequate capacity, including reserve capacity in the event of a supply disruption?

3. What is the empirical evidence since 1985 on the trends of the inflation-adjusted levels and volatility in the prices of pipeline or marine transport of refined petroleum product? Are these trends similar or dissimilar in various parts of the nation?

4. To what extent have changes in the cost or prices of pipeline or marine transport services affected the prices of refined petroleum products at the wholesale or retail level?

5. Is there any exercise of significant market power currently being observed in particular aspects of the domestic pipeline or marine transport industry? If so, to what extent has such distortion affected the prices of refined products at the wholesale or retail level?

6. What capital investments has the industry made in response to the 1990 Clean Air Act amendments for motor gasoline? What changes have been made to the infrastructure, including the pipelines and terminal/storage units? Why were these changes made and at what cost?

7. What are the impacts of the proliferation of different types of gasoline required by the EPA and the states on pipelines and bulk transport? Has competition been impacted in certain areas or regions and, if so, how? How have environmental regulations for motor gasoline during the last several years affected pipeline nomination procedures, lead time, batch configuration, batch sizes, and the number of products that must be shipped on a segregated basis? What effect have these changes had on the number, frequency, and length of shipment cycles? What effect have these changes had on a shipper's ability to substitute different products (e.g., conventional gasoline for diesel fuel) or different grades of the same product (e.g., 7.8 RVP conventional gasoline for 9.0 RVP conventional gasoline) for its nomination cycle? How (and why) do these effects differ for proprietary versus common carrier pipelines?

8. Has the pipeline industry experienced other problems or difficulties in connection with the 1990 Clean Air Act amendments for motor gasoline? How were these resolved and at what cost?

9. What regulations, other than environmental, have affected pipelines over the last decade?

10. Do any answers with respect to pipelines change depending on whether the pipeline is proprietary or a common carrier?

Distribution and Marketing

1. To what extent, and if so, why do variations in each of the following dimensions explain differences in wholesale or retail prices of gasoline or other refined petroleum products among different geographic markets?

a. market concentration;

b. share of market held by independent/unbranded marketers;

c. ownership/contractual arrangements (e.g., refiner-owned and-operated stations versus lessee-dealers or jobber-controlled outlets);

d. penetration of non-traditional gasoline retail outlets (e.g., gasoline sales at fast-food outlets and hypermarkets or "super jobbers");

e. consumer demographics;

f. perceptions of brand quality or other factors, such as ease of credit card use, amenities or the sales of products or services other than fuel at gasoline stations;

g. proximity to refining centers and sources of bulk supply;

h. labor, real estate or other local costs;

i. regulatory requirements, including local zoning ordinances, state or local laws affecting retail sales of gasoline, or environmental regulations affecting grades of gasoline offered.

2. What is the empirical evidence since 1985 on the trends of the inflation-adjusted levels and volatility in wholesale and retail prices for refined petroleum product? Are these trends similar or dissimilar in various parts of the nation? Are the trends similar for different refined products (e.g. diesel, gasoline, heating oil, jet fuel)?

3. Have infrastructure investments in terminals, wholesaling and retailing kept pace with growth in demand? If not, why not? Are there policies that can be implemented that create or reinforce the incentive for efficient investment in terminals, wholesaling and retailing infrastructure to maintain adequate capacity, including reserve capacity in the event of a supply shock?

4. To what extent have changes in the costs of providing terminaling, wholesaling, or retailing services affected the prices of refined petroleum products at the wholesale or retail level?

5. Have EPA regulations had any impact on refiners' inventory practices-for example, EPA fuel changeover policies? If so, have there been effects on retail prices?

6. To what degree do regulations-for example, environmental or zoning-affect the costs of providing wholesaling, terminaling or retailing services? What are the costs and difficulties of complying with regulations?

7. Have major distributors changed their geographic coverage significantly over the past two decades? Is there a trend toward greater or lesser regionalization of brands and, if so, what are the competitive implications of the trend?

8. Is there any exercise of significant market power currently being observed at either the terminal, wholesale or retail level in any geographic market? Are there significant impediments to terminal access and, if so, why? To what extent has the exercise of significant market power affected the prices of refined products at the wholesale or retail level?

9. Has the volatility and local dispersion (i.e. station-to-station or neighborhood-to-neighborhood) of gasoline prices increased in recent years, and if so, what are the causes, competitive and consumer implications of such increased volatility? Have premiums attributed to brands changed over time?

10. What are the competitive implications of the increasing scope, timeliness, and detail of micro data on retail prices and demand sensitivities (elasticities) that are available to gasoline wholesalers or retailers?

11. What is the competitive significance of refiners preventing jobbers to whom they sell from competing with the refiners to supply branded gasoline to independent dealers in localized geographic areas, a practice sometimes known as redlining? What is the competitive significance of refiners setting uniform wholesale prices for branded gasoline to company-operated and leased stations and independent open dealer stations in localized geographic areas, (a practice sometimes known as zone-pricing)? How, if at all, do these practices enhance efficiency? What is their effect, if any, on competition?

12. Do gasoline retailers engage in price discrimination? If so, how, and what is the overall effect of this practice? Do retailer margins vary among products (e.g., premium versus regular gasoline) or class of service (full-serve versus self-serve)? If so, why does this occur? To what extent (if any) does the ability of retailers or wholesalers to engage in price discrimination affect overall prices?

13. Have changes in retail formats produced important implications for the level or volatility of retail gasoline prices? For example, have the trends towards fewer, but larger service stations or the entry by non-traditional outlets such as those associated with mass merchandisers or grocery or convenience stores affected the degree of competition in retail gasoline markets? Have these format changes significantly affected the extent to which upstream price changes at the refinery level are translated into retail prices? Have these format trends and possible effects on retail prices been more pronounced in some geographic areas than others, and if so, what accounts for these differences? Has the increasing importance of convenience store and other non-fuel items typically sold by gasoline retailers affected pricing or other marketing decisions relating to gasoline sales? Have the changes in format and product mix at retail affected consumer loyalty to individual gasoline brands to any significant degree?

14. To what extent do wholesalers' inventory management practices affect gasoline price changes, especially in a volatile market? To what extent are inventory management practices themselves a reaction to market volatility?

15. What is the effect of each of the following categories of gasoline marketing regulation, and to what extent does each explain observed differences in gasoline prices among different markets?

a. retail divorcement;

b. self-service bans;

c. minimum markup requirements;

d. location/zoning restrictions;

e. Petroleum Marketing Practices Act; and

f. environmental requirements.

Vertical Integration, Demand Side, Joint Arrangements and Other

1. What is the degree of vertical integration across the various functional levels of the industry? For example, how extensively are refiners of crude integrated into the production or transport of crude, or how extensive is the integration of wholesaling and retailing of gasoline? What are quantitative measures of the degree of vertical integration in this industry?

2. Has the degree of vertical integration in the industry changed since 1985? If so, which functional levels are more likely or less likely to be combined under common ownership? Has the degree of vertical integration varied in different parts of the country or for different refined products?

3. To what extent does a desire to minimize costs explain integration or changes in the degree of integration? To what extent does vertical integration have an anticompetitive motivation, implementing, for example, strategies to foreclose competitors or to raise rivals' costs?

4. How can the effects of vertical integration upon unintegrated competitors be clearly distinguished from the effects upon ultimate consumers?

5. To what extent have changes in the degree of vertical integration since 1985 affected the level or volatility of refined product prices, particularly prices paid by ultimate consumers? In what ways do vertically-integrated firms have different incentives in responding to changes in input cost or demand, and to what extent do these different incentives manifest themselves to produce observable effects on gasoline prices?

6. Can the direction of causation between price and vertical integration be clearly distinguished? For example, if greater vertical integration is correlated with higher prices, is vertical integration one response to tight input supply and higher prices or, alternatively, are higher prices a result of integration?

7. To what extent can price spikes or price discontinuities be predicted? What are their costs to consumers? Are buffer stocks or maximum price movement rules needed? What are appropriate policy responses?

8. What factors characterize gasoline demand and demand elasticity? In what ways, if any, do gasoline demand and

demand elasticity vary among markets? How do short-run and long-run gasoline demand differ?

9. What is the role of joint ventures, or other cooperative arrangements such as product exchanges, at different functional levels? Has their use been associated with any significant market distortions at any functional level?

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–32052 Filed 12–28–01; 8:45 am]

BILLING CODE 5750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the President's Council on Bioethics

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: The President's Council on Bioethics will hold its first meeting, to discuss its agenda and future activities.

DATES: Meetings will be held on Thursday, January 17, 2002, from 9 a.m. to 6 p.m., and Friday, January 18, 2002, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will take place in Washington, DC. The exact location will be announced at a later date and will posted at http://aspe.hhs.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah McMahon, President's Council on Bioethics, Sixth Floor, 1801 Pennsylvania Avenue, NW., Washington, DC 20036, 202–296–4694.

SUPPLEMENTARY INFORMATION: The agenda of the meeting will include discussion of the future activities of the President's Council on Bioethics, a presidential advisory committee established by executive order to, among other things, conduct fundamental inquiry into the moral and human meaning of developments in biomedical science and technology. The meeting will include a period for comments from the public and any required administrative discussions and executive sessions.

Dated: December 21, 2001.

Dean Clancy,

Executive Director, President's Council on Bioethics.

[FR Doc. 01–32111 Filed 12–28–01; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–02–20]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDCAssistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Evaluation of the ACT (Adults and Children Together) Against Violence Community Training Program—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The goal of the ACT Against Violence Community Training Program is to make early violence prevention a central and ongoing part of a community's violence prevention efforts. The program involves a training curriculum developed by child development and violence prevention experts. The curriculum is designed to help communities: (1) Disseminate information and skills on violence prevention to adults who raise, care for, and teach young children; (2) identify and select early violence prevention programs, materials, and resources; (3) work in collaborative efforts established among community-based organizations; and (4) develop early childhood violence prevention action plans.

The purpose of the evaluation is to assess pilot implementations of the ACT Community Training Program in three communities: Monterey, CA; Randolph, NJ; and Kansas City, MO. The objectives of the evaluation are to (1) assess whether the Community Training Program is being successfully disseminated and implemented; (2) examine factors that affect successful dissemination, adoption, and implementation of the training program; (3) compare findings across the three sites; and (4) assess the involvement of the public health sector in each of the three sites.

Data collected for the evaluation will provide much-needed information on the dissemination and implementation of one of the successful strategies summarized in the Best Practices of Youth Violence Prevention. The results of the evaluation will assist the Division of Violence Prevention and the National Center for Injury Prevention and Control in carrying out CDC's mission of protecting the health of the United States public by providing leadership in preventing and controlling injuries through research, surveillance, implementation of programs, and communication. The evaluation will include semi-structured interviews with local and national program stakeholders (Forms 1 and 2), focus groups with a subset of ACT trainees ("facilitators") during a site visit (Form 3), and a half-hour telephone survey with the universe of ACT trainees at 6 months with e-mail follow-ups at 2 months and 12 months (Form 4). In addition, we will follow-up with a small subset of "adult community members" reached by ACT trainees with a half-hour telephone survey (Form 5). Presented below is the estimated respondent burden for the telephone surveys, semi-structured interviews, and focus groups, respectively. There are no costs to respondents.

Form	Type of respondent	Number of respondents	Number of reponses per respondent	Average Burden per response (in hrs.)	Total burden in hours
1	Local program stakeholders	30	1	1	30
2	National program stakeholders	10	1	1	10
3	Subset of ACT Trainees	24	1	90/60	36
4	Universe of ACT Trainees (professionals who work with families and children and have attended an ACT training).	225	3	30/60	338
5	Adult community members reached by ACT trainees	30	1	30/60	15
Total					429

Dated: December 20, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–32054 Filed 12–28–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–12–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: Key Informant Interviews to Identify the Barriers to the Implementation of the New Targeted Testing and Treatment of Latent TB Infection Recommendations—NEW—Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCSHTP). In April 2000, the Centers for Disease Control and Prevention (CDC) and the American Thoracic Society (ATS) issued new recommendations for targeted tuberculin testing and treatment regimens for persons with latent tuberculosis infection (LTBI.) CDC proposes to collect data to identify potential barriers to the acceptance, implementation, and adherence to targeted testing and treatment of LTBI guidelines.

The specific purpose of this research is:

A. Identify barriers to acceptance, implementation, and adherence to the new targeted testing and treatment of LTBI recommendations.

B. Identify possible education and communication messages, materials, and behavior change strategies to overcome those barriers.

C. Identify acceptable dissemination and media channels.

Approximately, one hundred key-informant telephone interviews with physicians who evaluate tuberculin skin test results and make treatment decisions for individuals with LTBI will be conducted. The target group will include physicians who work in the private sector and public sector in urban and rural areas from throughout the United States. The total burden hours for this data collection are 89 hours.

Respondents	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Office staff (screening)	480	1	5/60
Physicians (interviews)	100	1	30/60
Physicians (verification)	10	1	5/60

Dated: December 19, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–32045 Filed 12–28–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–11–02]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Survey of Family Growth, Cycle 6 Main Study—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). The National Survey of Family Growth has been conducted periodically since 1973 by the National Center for Health Statistics, CDC. The first five cycles of the NSFG were based on interviews with women 15–44 years of age, to measure factors related to birth and pregnancy rates and maternal and infant health. In Cycle 6, both women and men will be interviewed. The interviews with males 15–44 will address (1) Factors that affect entry into marriage, cohabitation, and fatherhood; (2) factors that affect the spread of Sexually Transmitted Diseases (STDs) and HIV (Human Immunodeficiency Virus, the virus that causes AIDS); and (3) factors that affect men's ability and willingness to carry out their fatherhood roles, including child support.

In 2002, the NSFG will interview a nationally representative sample of 11,500 women and 7,500 men 15–44 years of age. Black, Hispanic, and 15–24-year-old men and women will be sampled at a higher rate than others. A pretest has been conducted. All participation is completely voluntary and confidential. NSFG data help measure the demographics, health status, and behavior of the population of reproductive age (as well as those responsible for most STDs). The NSFG data from the 1995 survey have already been published in more than 60 published NCHS reports and articles in scientific journals. Besides NCHS, users of NSFG data include the Department of Health and Human Services (HHS) Office of Population Affairs, the National Institute for Child Health and Human Development, the CDC HIV/AIDS Prevention program, the CDC's Division of Reproductive Health, the Office of the Assistant Secretary for Planning and Evaluation (OASPE), and the Children's Bureau. Other users include Congress (for Section 905 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, among others); the Healthy People 2000 and 2010 initiatives; private researchers in demography, public health, maternal and child health, and state governments. The total annual burden for this data collection is 27,624 hours.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)
Survey: screener	55000	1	5/60
Survey: males	7500	1	1
Survey: females	11500	1	80/60
Verification	2500	1	5/60

Dated: December 19, 2001.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–32046 Filed 12–28–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services (CMS)

Notice of Hearing: Reconsideration of Disapproval of Ohio State Plan Amendment 98–020

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to reconsider the decision to disapprove Ohio State Plan Amendment (SPA) 98–020, on February 21, 2002, at 10:00 a.m., Chicago Regional Office Federal Building; Fifth Floor; Minnesota Room; 233 North Michigan Avenue; Chicago, Illinois 60601.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the presiding officer by January 15, 2002.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Office of Hearings, CMS Suite L, 2520 Lord Baltimore Drive, Baltimore, Maryland 21244–2670, Telephone: (410)–786–2055.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider CMS's decision to disapprove Ohio SPA 98–020.

Section 1116 of the Social Security Act (the Act) and 42 CFR, part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. The Centers for Medicare & Medicaid Services (CMS) is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice. Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 day after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curia* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The issue is whether the claiming methodology Ohio proposed for determining allowable administrative costs is consistent with the requirements of the Social Security Act (the Act) and implementing regulations, including the issue of whether the methodology would adequately document such claims. As discussed below in more detail, the disapproval was based on findings that the proposed claiming methodology would permit the development of unallowable claims for Federal financial participation (FFP) primarily because it was based on time study that did not reflect Medicaid requirements.

Ohio submitted SPA 98–020 on December 24, 1998. This amendment contains an interagency agreement between the Ohio Department of Job and Family Services and the Ohio Department of Education through which the State would claim FFP under the Medicaid program for the costs of administrative activities performed by local education agencies in the State of Ohio. The CMS was unable to approve Ohio Medicaid SPA 98–020 because the methodology that would serve as the basis for the development of Medicaid administrative claims is flawed.

After review of the information and materials in the December 24, 1998, SPA submission and the June 25, 2001, response to our request for additional information, CMS determined that the requirements for administrative claiming in schools were not met. The primary basis for this conclusion is that the administrative claiming methodology was based on a time study that would permit development of unallowable Medicaid claims. The time study developed as part of this methodology includes: (1) Education-related activities that are not allowed under Medicaid; (2) activities at the enhanced FFP rate, which do not meet the requirements for Skilled

Professional Medical Personnel claiming; and (3) an activity code structure that does not meet the requirement to account for all the activities performed by time study participants. As a result, CMS found that SPA 98–020 did not comply with applicable Medicaid requirements, including those related to methods of administration under section 1902(a)(4) of the Act and implementing CMS regulations.

The CMS found that the flawed methodology means that the claim which would be authorized by SPA 98–020 are not reasonable and necessary for the proper and efficient administration of the State plan. This conclusion is based on the CMS review of the proposed activity code definitions, sampling methodology, documentation requirements, interagency agreement, and indirect cost rate. Therefore, after consulting with the Secretary as required by Federal regulation, CMS informed Ohio of its decision to disapprove this amendment.

The notice to Ohio announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: December 11, 2001.

Thomas A. Scully,

Administrator, Center for Medicare & Medicaid Services.

[FR Doc. 01–32110 Filed 12–28–01; 8:45 am]

BILLING CODE 4165-15-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0580]

Preparation for ICH Meetings in Brussels, Belgium, Including Progress on Implementation of the Common Technical Document; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration is announcing a public meeting entitled "Preparation for ICH Meetings in Brussels, Belgium, Including Progress on Implementation of the Common Technical Document (CTD)" to solicit information and receive comments on the International Conference on Harmonisation (ICH) as well as the upcoming meetings in Brussels, Belgium. The purpose of the public meeting is to solicit public input prior to the next Steering Committee and Expert Working Group meetings in Brussels, Belgium, February 4 through 7, 2002, at which discussion of the implementation of the CTD and the future of ICH will continue.

Date and Time: The public meeting will be held on January 17, 2002, from 10:30 a.m. to 2 p.m.

Location: The public meeting will be held in the Center for Drug Evaluation and Research, Advisory Committee Conference Room, at 5630 Fishers Lane, rm. 1066, Rockville, MD 20857.

Contact: Kimberly Topper, Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, FAX 301–827–6801, e-mail: Topperk@cder.fda.gov.

Registration and Requests for Oral Presentations: Send registration information (including name, title, firm name, address, telephone, and fax number), and written material and requests to make oral presentations, to the contact person by January 10, 2002.

If you need special accommodations due to a disability, please contact Kimberly Topper (address above) at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

SUPPLEMENTARY INFORMATION: The ICH of Technical Requirements for the Registration of Pharmaceuticals for Human Use was established in 1990 as a joint regulatory/industry project to improve, through harmonization, the efficiency of the process for developing and registering new medicinal products in Europe, Japan, and the United States without compromising the regulatory obligations of safety and effectiveness.

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for medical product development among regulatory agencies. ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. ICH is concerned with harmonization among three regions: The European Union, Japan, the United States. The six ICH sponsors are the European Commission, the European Federation of Pharmaceutical Industries Associations, the Japanese Ministry of Health, Labor and Welfare, the Japanese Pharmaceutical Manufacturers Association, the Centers for Drug Evaluation and Research and Biologics Evaluation and Research, FDA, and the Pharmaceutical Research and Manufacturers of America. The ICH Secretariat, which coordinates the preparation of documentation, is provided by the International Federation of Pharmaceutical Manufacturers Associations. The ICH Steering Committee includes representatives from each of the ICH sponsors and Canadian Therapeutics Programme, and the European Free Trade Area. The ICH process has achieved significant harmonization of the technical requirements for the approval of pharmaceuticals for human use in the three ICH regions. The current ICH process and structure can be found on the Internet at http://www.ifpma.org/ich1.html.

Interested persons may present data, information, or views orally or in writing, on issues pending at the public meeting. Oral presentations from the public meeting will be scheduled between approximately 11:30 a.m. and 1 p.m. Time allotted for oral presentations may be limited to 10 minutes. Those desiring to make oral presentations should notify the contact person by January 10, 2002, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses, phone number, fax, and e-mail of proposed participants, and an indication of the approximate time requested to make their presentation.

The agenda for the public meeting will be made available on January 10, 2002, under Docket Number 01N–0580 at the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 26, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–32123 Filed 12–26–01; 3:36 pm]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Children's Hospitals Graduate Medical Education (CHGME) Payment Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Children's Hospitals Graduate Medical Education (CHGME) Payment Program conference calls.

SUMMARY: This document announces scheduled CHGME Payment Program conference calls for calendar year 2002. The purpose for these conference calls is to provide technical assistance related to the CHGME Payment Program.

DATES: The conference calls will be held on Friday, January 25, 2002, from 1:30 p.m. to 3:30 p.m. EST; Friday, April 26, 2002, from 1:30 p.m. to 3:30 p.m. EST; and Friday, October 25, 2002, from 1:30 p.m. to 3:30 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Ayah E. Johnson, Ph.D., telephone: (301) 443–1058; Division of Medicine and Dentistry, Bureau of Health Professions, Room 9A–27, ParklawnBuilding, 5600 Fishers Lane, Rockville, Maryland 20857; or by e-mail at: *ajohnson@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The CHGME Payment Program, as authorized by section 340E of the Public Health Service (PHS) Act (the Act) (42 U.S.C. 256e), provides funds to children's hospitals to address disparity in the level of Federal funding for children's hospitals (as opposed to other teaching hospitals) that result from Medicare funding for graduate medical education (GME). Pub. L. 106–310 amended the CHGME statute to continue the program until Federal fiscal year (FY) 2005.

The statute authorized $280 million for both direct and indirect medical education payments in FY 2000, $285 million in FFY 2001, and for each of the FFY 2002 through FFY 2005 such sums as necessary. In FFY 2000, Congress appropriated $40 million for the program and $235 million in FY 2001. These funds have supported over 4,000 residents receiving training in children's teaching hospitals in 31 States.

The agenda for the conference calls will include but not be limited to: (1) Welcome and opening comments; (2) news releases/updates; (3) reminders; and (4) "on the horizon" topics of interest. Time will also be available for a question and answer period. Agenda items will be determined as priorities dictate. Participating children's hospitals will be queried for relevant agenda issues/topics. Individuals are expected to register for participation in the conference call(s). Information about the Children's Hospitals Graduate Medical Education Payment Program can be found on the CHGME Web site (*bhpr.hrsa.gov/childrenshospitalgme*).

Prior to a scheduled conference call, a notification letter with detailed information for participation in the call and a registration form will be sent to representatives of participating hospitals. Other interested parties may obtain details for participating in the conference call by accessing the CHGME Web site.

Dated: December 21, 2001.

James J. Corrigan,

Associate Administrator for Management and Program Support.

[FR Doc. 01–32041 Filed 12–28–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Submission for OMB Review; Comment Request

AGENCY: Indian Health Service, DHHS.

ACTION: Information collection request for public comment: 30-day notice proposed collection: Stakeholder satisfaction with IHS tribal consultation.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed information collection projects, the Indian Health Service (IHS) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection project was previously published in the **Federal Register** (66 FR 52774) and allowed 60 days for public comment. No public comment was received in response to the notice. The purpose of this notice is to allow 30 days for public comment to be submitted to OMB.

Proposed Collection

A voluntary survey will be conducted of elected leaders representing federally recognized tribes, and any board member or executive director authorized to represent a tribal organization or an urban Indian health program to assess the level of customer (stakeholder) satisfaction with the agency's tribal consultation process.

Title: Stakeholder Satisfaction with IHS Tribal Consultation.

Type of Information Collection Request: New collection.

Form Number(s): None.

Need and Use of Information Collection: The information gathered will be used by management and staff to establish baseline data, to identify strengths and weaknesses in the current consultation process, to assess how well the processes are working, to make improvements that are practical and feasible, and to provide feedback to local tribal officials, health boards, tribal organizations, urban Indian health programs, and community members regarding stakeholder satisfaction with the agency's tribal consultation process.

Frequency: Annually.

Affected Public: Individuals, not-for-profit institutions and State, local or Tribal Government.

Number of Respondents: 605.

Annual Number of Responses per Respondents: 1.

Total Annual Responses: 605.

Average Burden per response: 20 minutes.

Total Annual Hours Requested: 202.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report for this collection of information.

Request for Comment

Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the IHS processes the information collection in a useful and timely fashion; (c) the accuracy of the public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Desk Officer for IHS. To request more information on the proposed collection or to obtain a copy of the data collection plan(s) and/or instruction(s), contact: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852.1601, call non-toll free (301) 443–5938, or send via facsimile to (301) 443–2613, or E-mail requests, comments, and return address to: *lhodahkwen@hqe.ihs.gov*.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: December 21, 2001.

Michael E. Lincoln,

Deputy Director.

[FR Doc. 01–32087 Filed 12–28–01; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Being Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act of 1995 (PRA)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: New Information Collection—State Certification of Expenditures.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has submitted the information collection requirement described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995 (PRA). The Service is soliciting comment and suggestions on the requirement as described below.

DATES: Interested parties must submit comments on or before January 30, 2002. OMB has 60 days to approve or disapprove an information collection, but may respond after 30 days. Therefore to ensure maximum consideration, OMB should receive public comments by the above date.

ADDRESSES: Interested parties should send comments and suggestions on the requirement to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Interior Desk Officer, New Executive Office Building, 725 17th Street, Washington, DC 20503, and they should send a copy of the comment to: Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203 or *Rebecca Mullin@fws.gov* e-mail.

FOR FURTHER INFORMATION CONTACT: Tim Hess, (703) 358–1849, fax (703) 358–1837, or *Tim_Hess@fws.gov* e-mail.

SUPPLEMENTARY INFORMATION:

Title of Forms: Certification of Spending.

Service Form Number: 3–2197a.

This form currently has no OMB Control Number. The Service may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Description and Use: The Service administers grant programs authorized by the Federal Aid in Wildlife and Sport Fish Restoration Acts. The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 requires that States certify annually in writing that their expenditure of these Federal grant funds was in accordance with the appropriate Act. The Service must forward these certifications to Congress annually by December 31st each year.

The Service invited comments over a 60 day period in the **Federal Register** (Volume 66, Number 184, Page 48700–48703) starting September 21, 2001. No comments were received.

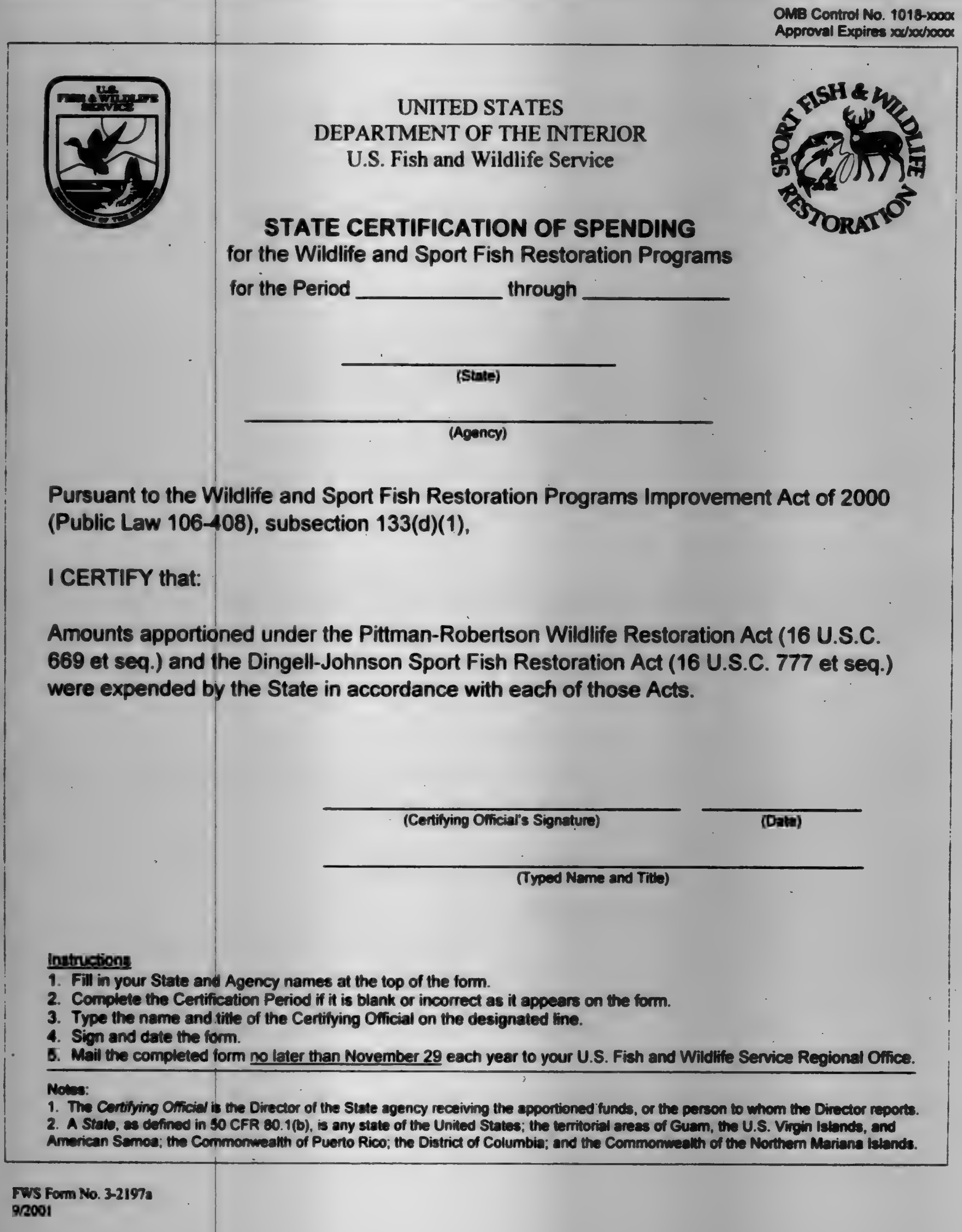
The Service submitted the following information collection requirements to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are again invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Frequency: Annually.

Description of Respondents: States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the U.S. Virgin Islands, and American Samoa.

BILLING CODE 4310–55–M

VOL 66 ISS 250 DEC 31 2001 UMI



OMB Control No. 1018-xxxx
Approval Expires xx/xx/xxxx

UNITED STATES
DEPARTMENT OF THE INTERIOR
U.S. Fish and Wildlife Service

STATE CERTIFICATION OF SPENDING

for the Wildlife and Sport Fish Restoration Programs

for the Period ____________ through ____________

____
(State)

____
(Agency)

Pursuant to the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Public Law 106-408), subsection 133(d)(1),

I CERTIFY that:

Amounts apportioned under the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.) were expended by the State in accordance with each of those Acts.

________________________ ____________
(Certifying Official's Signature) (Date)

____
(Typed Name and Title)

Instructions

1. Fill in your State and Agency names at the top of the form.
2. Complete the Certification Period if it is blank or incorrect as it appears on the form.
3. Type the name and title of the Certifying Official on the designated line.
4. Sign and date the form.
5. Mail the completed form no later than November 29 each year to your U.S. Fish and Wildlife Service Regional Office.

Notes:

1. The *Certifying Official* is the Director of the State agency receiving the apportioned funds, or the person to whom the Director reports.
2. A *State*, as defined in 50 CFR 80.1(b), is any state of the United States; the territorial areas of Guam, the U.S. Virgin Islands, and American Samoa; the Commonwealth of Puerto Rico; the District of Columbia; and the Commonwealth of the Northern Mariana Islands.

FWS Form No. 3-2197a
9/2001

Paperwork Reduction Act and the Privacy Act – Notices

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.) and the Privacy Act of 1974 (5 U.S.C. 552a), please be advised that:

1. The gathering of information on fish and wildlife restoration expenditures is authorized by:
   - Pub. L. 106-408, Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Section 133(d)(1)).

2. Submission of requested information is required and authorized under the above authority. Response is not required unless a currently valid Office of Management and Budget (OMB) control number is displayed.

3. There will be no routine annual publication of certification forms in the Federal Register under this program. However, the Fish and Wildlife Service may make the form available on its Federal Aid Web site.

4. Routine use disclosures may also be made:
   (a) to the U.S. Department of Justice when related to litigation or anticipated litigation,
   (b) as information indicating a violation or potential violation of a statute, regulation, rule, policy, or Court order to appropriate Federal, State, or local agency responsible for investigation or prosecuting such violation, or for enforcing or implementing the statute, regulation, rule, policy, or order,
   (c) in response to a request from a congressional office, or
   (d) in conjunction with audit of State records.

5. No personal information such as home address and telephone number, financial date, and personal identifiers (Social Security Number, birth date, etc.) are part of this certification form.

6. The public reporting burden for this information collection is 30 minutes. This burden estimate includes time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Service Information Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222, Arlington Square, U.S. Department of the Interior, 1849 C Street N.W., Washington, D.C. 20240.

Freedom of Information Act - Notice

There is no confidential information collected on this form. All information on this form may be made available to the public under FOIA [43 CFR 2].

Certification Processing Fee

There is no certification form processing fee.

Completion Time and Annual Response Estimate:

Form name	Completion time per form	Annual response	Annual burden (in hours)
State Certification of Expenditures	½ Hour	60 Forms	30

Dated: December 11, 2001.

Rebecca Mullin,

Fish and Wildlife Service, Information Collection Clearance Officer.

[FR Doc. 01–32092 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection for Monitoring Species After Delisting Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The collection of information described below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Information Collection Clearance Officer of the U.S. Fish and Wildlife Service at the address and/or phone numbers listed below (see **ADDRESSES**).

DATES: OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, you must submit comments on or before January 30, 2002.

ADDRESSES: Send your comments on specific requirements to the Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW, Washington, DC 20503, and to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Mail Stop 222-ARLSQ; 4401 N. Fairfax Drive, Arlington, VA 22203, 703/358–2287.

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection approval request, explanatory information and related forms, contact Rebecca A. Mullin, Information Collection Clearance Officer (see **ADDRESSES**). Questions related to the Endangered Species Act requirements for monitoring of recovered species may be directed to Renne Lohoefener, Chief, Division of Consultation, Habitat Conservation Plans, Recovery, and State Grants, 703/358–2171.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OMB regulations at 5 CFR 1320.3(c) define the collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, record-keeping, or disclosure requirements imposed on 10 or more persons. Furthermore, 5 CRF 1320.3(c)(4) specifies that "10 or more persons" refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For the purposes of this definition, employees of the Federal government are not included in the definition of "persons." Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Section 4(g) of the Endangered Species Act (ESA) requires that all species that are recovered and removed from the lists of endangered and threatened species (delisted) be monitored for a period of not less than 5 years. The purpose of this requirement is to detect any failure of a recovered species to sustain itself without the protections of the ESA. We, the U.S. Fish and Wildlife Service (Service) work with relevant State agencies and other species experts to develop appropriate plans and procedures for systematically monitoring recovered wildlife and plants. In many cases, collections of information from monitoring of recovered species will not require approval by OMB under the Paperwork Reduction Act because monitoring will require collection of information from less than 10 non-Federal persons per 12-month period.

We submitted the following information collection requirements to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. A previous 60-day notice on this information collection requirement was published in the **Federal Register** on October 10, 2001, (66 FR 51681) inviting public comment for 60 days. The comment period expired on December 10, 2001, and no comments were received. This notice provides an additional 30 days in which to comment on the following information. We are requesting that OMB grant a 3-year term of approval for these information collection activities. The information collection requirements in this submission implement the regulatory requirements of the Endangered Species Act (16 U.S.C. 1539).

On October 17, 1998, OMB approved information collection relative to monitoring of the American peregrine falcon. OMB control number 1018–0101, Information Collection Requirements for Monitoring Peregrine Falcons Once the Species is Delisted, estimated that we would request 20 responses per year, requiring 12 annual burden hours on the part of respondents. The American peregrine falcon was removed from the list of Endangered and Threatened Wildlife on August 25, 1999, but formal collection of monitoring data under section 4(g) of the ESA has not yet commenced. OMB approval under control number 1018–0101 expires on December 31, 2001.

We have consolidated its information collection requirements pursuant to the monitoring of all recovered species, including the American peregrine falcon, that will require identical questions posed to 10 or more non-Federal persons per 12-month period, thereby streamlining fulfillment of monitoring requirements for recovered species. Information collection meeting these criteria will usually be limited to species with large geographic ranges that include substantial amounts of non-Federal land. Although the ESA requires that monitoring of recovered species be conducted for not less than 5 years, the life history of some species will make it appropriate to monitor the species for a longer period of time in order to meaningfully evaluate whether the recovered species continues to maintain itself. In such cases, collection of monitoring data may occur on a multi-year interval (for example, data may be collected every second year, totaling eight information collections over a 15-year period). Information collection will commonly include data on species abundance, reproduction rates, and, in some cases, impacts of potential threats to the species. Data compilation and preparation of responses will generally be performed by professional biologists employed by Federal and State agencies and other organizations that have been involved in past species conservation efforts. Information requests may vary by respondent, and both requests and responses will primarily be in written format. Forms are not appropriate for this type of information collection, as effective requests and responses must accommodate variability in species across their geographic range and allow respondents latitude for full and accurate communication of the data.

We expect that, in addition to the American peregrine falcon, three to four other species may be removed from the list of threatened and endangered species due to recovery and will require collection of post-delisting monitoring information from 10 or more persons within a 12-month period before the end of 2004. Therefore, we are requesting a change to the currently approved information collection for the American peregrine falcon to include these additional species.

Annual burden estimates for collection of monitoring data for all recovered species pursuant to section 4(g) of the ESA, between January 1, 2002, and December 31, 2004, and requiring OMB approvals under the Paperwork Reduction Act are summarized below. Annual variation reflects monitoring of the American peregrine falcon in 2002 only (the next monitoring period for this species will occur in 2005) and anticipated increases in the number of other recovered species:

Year	Estimated number of respondents per year	Estimated average time required per report (in hours)	Average total annual burden hours
2002	95	2	190
2003	110	2	220
2004	135	2	270

Comments are invited on (1) whether the collection of information described in this notice is necessary for the proper performance of monitoring of recovered species as prescribed in section 4(g) of the ESA, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program will be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: December 18, 2001.

Rebecca A. Mullin,

Fish and Wildlife Service, Information Collection Clearance Officer.

[FR Doc. 01–32122 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Ronald L. Schauer, Danville, CA, PRT–051011

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Omaha's Henry Doorly Zoo, Omaha, NE, PRT–051046.

The applicant requests a permit to export semen samples from captive born Western lowland gorilla (*Gorilla gorilla*) to the University of Sydney, Australia, for the purpose of enhancement of the survival of the species through scientific research.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: December 14, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–32057 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Western Regional Panel

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of workshop and meeting.

SUMMARY: This notice announces a meeting of the Aquatic Nuisance Species (ANS) Task Force Western Regional Panel and an Invasive Species Screening Process workshop. The meeting topics and workshop agenda are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Invasive Species Screening Process workshop will be held from 8:30 a.m. to 4:30 p.m., Tuesday, January 8, 2002, and 9 a.m. to noon, Wednesday, January 9, 2002. The Western Regional Panel will meet from 1:00 p.m. to 5:00 p.m., Wednesday, January 9, 2002, and 9 a.m. to 4:30 p.m., Thursday, January 10, 2002.

ADDRESSES: The Invasive Species Screening Process workshop and the Western Regional Panel meeting will be held at the Hotel San Remo, 115 East Tropicana Avenue, Las Vegas, Nevada 89109. Phone 800–522–7366.

FOR FURTHER INFORMATION CONTACT: Tina Proctor, Aquatic Nuisance Species Coordinator, at 303–236–7862 ext 260 or by e-mail at bettina_proctor@fws.gov; or Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2308 or by e-mail at sharon_gross@fws.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Western Regional Panel and an Invasive Species Screening Process workshop. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16U.S.C. 4701–4741). The purpose of the Invasive Species Screening Process workshop is to discuss methods for screening nonindigenous invasive species imported for sale or introduced into natural water bodies. A goal of the workshop is to bring affected parties together to discuss cooperative options to prevent the introduction of invasive species. Topics to be covered during the workshop include shipping industry perspective for the importation of invasive species; perspectives from nursery, pet, and aquaculture industries; Australia's invasive species screening program; Federal screening process and under development by the National Invasive Species Council and the ANS Task Force; an overview of screening programs in Washington, Oregon, and Hawaii; and a panel discussion on developing an invasive species screening process. The Western Regional Panel will discuss several topics including: Facilitation of State Aquatic Nuisance Species Management Plans; development of a rapid response plan; and development of a brochure and display; an update on aquatic nuisance species activities from individual states; a summary of the Invasive Species Screening Process workshop; a review of the new work plan and budget; NISA reauthorization; and updates on West Coast ballast water 100th Meridian initiative, and Lewis and Clark activities.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622 and will be available for public inspection during regular business hours, Monday through Friday.

Dated: December 17, 2001.

Cathleen I. Short,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries and Habitat Conservation.

[FR Doc. 01–32096 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act 1986; Notice

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating

VOL 66 ISS 250 DE 31 2001 UMI

entering into a Cooperative Research and Development Agreement (CRADA) with Devon Energy Corporation to develop information on coal bed methane resources in North Central Louisiana.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact Peter Warwick, 12201 Sunrise Valley Drive, MS 956, Reston, VA 21092, phone: (703) 648–6469.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in Survey Manual Chapter 500.20.

December 5, 2001.

P. Patrick Leahy,

Associate Director for Geology.

[FR Doc. 01–32067 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986; Notice

AGENCY: U.S. Geological Survey.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with OptiQuest Technologies, LLC to develop a water quality model and automated systems for quality control and visualization.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact: Paul A. Conrads, USGS South Carolina District, Stephenson Center Suite, 129 720 Gracern Road, Columbia, SC 29210 phone: (803) 750–6140.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in Survey Manual Chapter 500.20.

Dated: December 7, 2001.

Robert M. Hirsch,

Associate Director for Water.

[FR Doc. 01–32065 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986; Notice

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research & Development Agreement (CRADA) Negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with Sequoia Scientific, Inc. for development of a laser sensor system for collecting fluvial sediment data in rivers.

Inquiries: If any other parties are interested in similar activities with the USGS, please contact: John R. Gray, USGS Office of Surface Water, 415 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192; phone (703) 648–5318.

SUPPLEMENTARY INFORMATION: This notice is submitted to meet the USGS policy requirements stipulated in survey Manual Chapter 500.20.

Dated: December 7, 2001.

Robert M. Hirsch,

Associate Director for Water.

[FR Doc. 01–32066 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Record of Decision (ROD) for the Environmental Impact Statement (EIS) on the Proposed Use of Floating, Production, Storage, and Offloading (FPSO) Systems on the Gulf of Mexico Outer Continental Shelf, Western and Central Planning Areas

AGENCY: Minerals Management Service, Interior.

ACTION: ROD on the use of FPSO systems.

SUMMARY: The MMS has completed a ROD for the EIS on the proposed use of FPSO systems in the deepwater areas (generally beyond 650 feet or 200 meters water depth) of the Western and Central Planning Areas of the Gulf of Mexico Outer Continental Shelf.

ADDRESSES: The ROD has been posted on the MMS website http://www.mms.gov. Copies of the ROD are available upon request from the Public Information Office (MS 5034), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

FOR FURTHER INFORMATION CONTACT: Questions regarding the ROD should be directed to Ms. Deborah Cranswick, Leasing and Environment, at (504) 736–2744. The mailing address is Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

SUPPLEMENTARY INFORMATION: The MMS has examined the concept of allowing the use of FPSOs in the Central and Western GOM Planning Areas and found no compelling environmental reason why development and production plans proposing to use this method of production should not be submitted by the oil and gas industry for evaluation by the agency. The EIS prepared for MMS under contract found that FPSO systems do not pose a greater threat to the environment than do currently accepted development and production systems, given that proper mitigation measures, keyed to the specific proposed operations and location, be applied. Further technical and environmental evaluation will be required for specific FPSO proposals. The MMS will evaluate the potential emissions and impacts of any proposed use of an FPSO within 100 km of the Breton NWA, and will impose emission restrictions and mitigation requirements to ensure that no significant air quality impacts to the Class I area occurs from any proposed FPSO operations. Any proposed FPSO operations that are not within the range of operations evaluated in the programmatic EIS will require more extensive technical and environmental review to demonstrate equivalence to what was investigated by the EIS.

The MMS will defer to U.S. Coast Guard (USCG) jurisdiction and will not accept proposals for the use of FPSOs within the Lightering Prohibited Areas established by USCG (33 CFR Part 156 Subpart C) for 2 years. The 2-year period will allow additional discussions with USCG on the potential use and impacts of FPSO operations within the Lightering Prohibited Areas. The time will allow for a fuller discussion of what measures might be necessary to protect the environment should FPSOs be considered for use within the Lightering Prohibited Areas, and review of the applicability of the environmental assessment completed 10 years ago by USCG in support of the rulemaking that established the Lightering Prohibited Areas. The MMS will continue to work with USCG to delineate jurisdictional issues based on the Memorandum of Understanding between the two agencies.

The ROD is the last step in the National Environmental Policy Act process. The ROD summarizes the proposed action and the alternatives evaluated in the EIS, the conclusions of the EIS impact analyses, and other information considered in reaching the decision.

Dated: December 13, 2001.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 01–32094 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Alaska Region, Cook Inlet, Oil and Gas Lease Sales 191 and 199 for Years 2004 and 2006

AGENCY: Minerals Management Service, Interior.

ACTION: Call for Information and Nominations and Notice of Intent (CALL/NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Secretary's preliminary decision to consider two sales in the Cook Inlet area in the Proposed OCS Oil and Gas Leasing Program for 2002–2007 provides for the first sale to be held in 2004, with a second sale in 2006. The MMS has modified its prelease planning and decision process for proposed Cook Inlet sales included in the proposed program. This Call/NOI reflects that change and is in keeping with the Secretary's preliminary decision to analyze these two sales in a multi-sale EIS. The Secretary's preliminary decision is to offer only the Cook Inlet portion of the Cook Inlet/Shelikof Strait planning area as the program area for this 5-year program. The sale process for this first sale will require a minimum of 2½ years to complete. In order to meet the requirements of that schedule, we are issuing this Call/NOI at this time, recognizing that the final decision on the 2002–2007 5-year program has not been made and final delineation of the program areas and number of sales may change from that included in the proposed program.

The multi-sale review process is based on over 25 years of leasing in the Cook Inlet/Shelikof Strait area. The process will incorporate planning and analysis for two sales: Sales 191 and 199. From the initial step in the process (the Call for Information and Nominations) through the final EIS/Consistency Determination (CD) step, this process will cover multiple sale proposals. However, there will also be complete National Environmental Policy Act (NEPA), OCS Lands Act, and Coastal Zone Management Act coverage for each sale after the first sale—either an Environmental Assessment or Supplemental EIS, CD, and a proposed and final Notice of Sale. The environmental analysis and the CD for the subsequent sale, Sale 199, will focus primarily on new issues or changes in the State of Alaska's federally-approved coastal management plan.

This process will:

—Focus the environmental analysis by making impact types and levels that change between sales more easily recognizable for all reviewers,
—Result in new issues being more easily highlighted for the public,
—Eliminate issuance and public review of repetitive, voluminous EIS's for each sale a practice that has resulted in "review burnout" in Federal, state, local and tribal governments, and the public,
—Result in a more efficient and responsive application of NEPA.

This Call does not indicate a preliminary decision to lease in the area described below. Final delineation of the areas for possible leasing will be made at a later date in the presale process for each sale in compliance with the final 5-year program and with applicable laws including all requirements of the NEPA and the OCS Lands Act.

DATES: Nominations and comments must be received on or before February 14, 2002 in envelopes labeled "Nominations for Proposed 2002–2007 Lease Sales in the Cook Inlet," or "Comments on the Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Cook Inlet," as appropriate.

FOR FURTHER INFORMATION CONTACT: Please call Tom Warren at (907) 271–6691 in MMS's Alaska OCS Region regarding questions on the Call/NOI.

SUPPLEMENTARY INFORMATION:

Call for Information and Nominations

1. Authority

This Call is published pursuant to the OCS Lands Act as amended (43 U.S.C. 1331–1356, (1994)), and the regulations issued thereunder (30 CFR 256); and in accordance with the Proposed OCS Oil and Gas Leasing Program 2002 to 2007.

2. Purpose of Call

The purpose of the Call is to gather preliminary information for the following tentatively scheduled OCS Oil and Gas Lease Sales in the Cook Inlet area:

Sale No.	Tentative sale date
191	May 2004.
199	May 2006.

Information and nominations on oil and gas leasing, exploration, and development and production within the Cook Inlet area are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCS Lands Act and regulations at 30 CFR 256.

Responses are requested relative to all sales included herein. This Call/NOI is being issued in accordance with the Proposed OCS Oil and Gas Leasing Program 2002 to 2007 released on October 26, 2001. The proposed program offers three options for leasing in the Cook Inlet area in the 2002–2007 5-year program: two sales, one sale, or no sales.

3. Description of Area

The area that is the subject of this Call is located offshore the State of Alaska in Cook Inlet as depicted on the map that accompanies this Call. This area consists of approximately 517 whole and partial blocks (about 2.5 million acres). A page size map of the area accompanies this Notice. A large scale Call map showing the boundaries of the area on a block-by-block basis is available without charge from the Records Manager at the address given below, or by telephone request at (907) 271–6438 or 1–800–764–2627. Copies of Official Protraction Diagrams (OPDs) are also available for $2 each.

Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska, 99508–4302, *akwebmaster@mms.gov*

4. Instructions on Call

The Call for Information Map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, at the above address.

The Call map delineates the area that is the subject of this Call. Respondents are requested to indicate interest in and comment on any or all of the Federal

VOL 66 ISS 250 DE 31 2001 UMI

acreage within the boundaries of the Call area that they wish to have included in each of the proposed sales in the Cook Inlet Call area.

If you wish to comment, you may submit your comments by any one of the following methods:

- You may mail comments to the Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4302.
- You may also comment via e-mail to *CookInletMulti-Sale@mms.gov.* Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: Comments on Call for Information and Nominations for Proposed 2002–2007 Lease Sales in the Cook Inlet" and your name and return address in your Internet message.
- Finally, you may hand-deliver comments to the Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

A. *Areas of Interest to the Oil and Gas Industry.* Specific nominations are being sought regarding the oil and gas industry area(s) of interest. The MMS is soliciting nominations of blocks that are of significant industry interest for exploration and development and production.

Nominations must be depicted on the Call map by outlining the area(s) of interest along block lines. Nominators are asked to submit a list of whole and partial blocks nominated (by OPD and block number) to facilitate correct interpretation of their nominations on the Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are proprietary information.

Nominators also are requested to rank blocks nominated according to priority of interest (*e.g.*, priority 1 (high), or 2 (medium)). Blocks nominated that do not indicate priorities will be considered priority 3 (low). Nominators must be specific in indicating blocks by priority and be prepared to discuss their range of interest and activity regarding the nominated area(s). The telephone number and name of a person to contact in the nominator's organization for additional information should be included in the response. This person will be contacted to set up a mutually agreeable time and place for a meeting with the Alaska OCS Regional Office to present their views regarding the company's nominations.

B. *Relation to Coastal Management Plans (CMP).* Comments also are sought on potential conflicts with approved local coastal management plans that may result from the proposed sale and future OCS oil and gas activities. These comments should identify specific CMP policies of concern, the nature of the conflicts foreseen, and steps that MMS could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular blocks of concern. Commenters are requested to list block numbers or outline the subject area on the large-scale Call map.

5. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. Responses will be used to:

Help identify areas of potential oil and gas development
Identify environmental effects and potential use conflicts
Assist in the scoping process for the EIS
Develop possible alternatives to the proposed action
Develop lease terms and conditions/mitigating measures
Identify potential conflicts between oil and gas activities and the Alaska CMP

6. Existing Information

The MMS has acquired a substantial amount of information, including that gained through the use of traditional knowledge, on the issues and concerns related to oil and gas leasing in the Cook Inlet area.

An extensive environmental, social, and economic studies program has been underway in this area since 1975. The emphasis has been on geologic mapping, environmental characterization of biologically sensitive habitats, endangered whales and marine mammals, physical oceanography, ocean-circulation modeling, and ecological and socio-cultural effects of oil and gas activities.

Information on the studies program, completed studies, and a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, by telephone request at (907) 271–6577, or by written request at the address stated under Description of Area. A request may also be made via the Alaska Region website at *www.mms.gov/alaska/ref/pubindex/pubsindex.htm.*

7. Tentative Schedule

The following is a list of tentative milestone dates applicable to sales covered by this Call:

MULTI-SALE PROCESS MILESTONES FOR PROPOSED 2002–2007 COOK INLET SALES

Call/NOI published	December 2001.
Comments due on Call/NOI.	February 2002.
Area Identification	March 2002.
Draft EIS published	November 2002.
Public Hearings	January 2003.
Final EIS/Consistency Determination/Proposed Notice of Sale issued.	November 2003.
Governor's Comments due (Sale 191).	January 2004.
Final Notice of Sale published (Sale 191).	April 2004.
Sale 191	May 2004.

SALE-SPECIFIC PROCESS MILESTONES FOR PROPOSED 2002–2007 COOK INLET SALE 199

Request for Information to Begin Sale 199 Process.	December 2004.
Area Identification	February 2005.
NEPA Review published	October 2005.
Proposed Notice and Consistency Determination.	December 2005.
Governor's Comments due (Sale 199).	February 2006.
Final Notice of Sale published	April 2006.
Tentative Sale 199	May 2006.

Notice of Intent To Prepare an Environmental Impact Statement

1. Authority

The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.* (1988)).

2. Purpose of Notice of Intent

Pursuant to the regulations (40 CFR 1501.7) implementing the procedural provisions of the National Environmental Policy Act of 1969 (42

U.S.C. 4321 *et seq.*), MMS is announcing its intent to prepare a multi-sale EIS on the tentatively scheduled oil and gas lease sales in the Cook Inlet area off Alaska for the 5-year program period of July 2002 through June 2007. The EIS analysis will focus on the potential environmental effects of two sales, and exploration and development and production of the areas defined in the Area Identification procedure as the proposed areas of the Federal actions. Alternatives to the proposals which may be considered for each individual sale are to delay the sale, modify the sale, or cancel the sale. These and any additional alternatives developed through the process for each individual sale will be considered in the sale-specific decision process. This NOI also serves to announce the initiation of the scoping process for this EIS. Throughout the scoping process, Federal, State, tribal, and local governments and other interested parties aid MMS in determining the significant issues and alternatives to be analyzed in the EIS and the possible need for additional information.

3. New EIS Procedure

The MMS is proposing to prepare a single EIS for two proposed Cook Inlet sales tentatively scheduled with the first sale to be held in 2004 and the second sale in 2006. The resource estimates and scenario information on which the EIS analysis are based will be presented as a range of resources and activities that would encompass either of the two proposed sales in the Cook Inlet.

This proposal will provide several benefits. It will focus the NEPA process by making impact types and levels that change between sales more easily recognizable. New issues will be more easily highlighted for the decisionmakers and the public. The NEPA regulations at 40 CFR 1502.4 require federal agencies, as appropriate, to employ tiering and other methods to relate broad and narrow actions and "to avoid duplication and delay." The regulations further define broad actions at § 1502.4(c) as actions that relate geographically, including actions occurring in the same general location, and generically, including actions which have relevant similarities such as impacts, alternatives, methods of implementation, media, or subject matter. Further guidance is given at 40 CFR 1502.20 which encourage agencies to tier their EIS's to "eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review."

The proposed actions analyzed in the EIS will be the two sales on the proposed 5-year schedule for the Cook Inlet area. The EIS will include an analysis of the environmental effects of holding two sales. The scenario will cover a range of resources and activities that will encompass both proposed actions. The second sale can then be compared to the initial analysis in an Environmental Assessment or supplemental EIS. Formal consultation with the public will be initiated for the second sale to obtain input to assist in the determination of whether or not the information and analyses in the original multi-sale EIS are still valid. A sale-specific Request for Information will be issued that will specifically describe the action for which we are requesting input. If the Secretary chooses to hold only one sale in Cook Inlet as part of the 5-year decision in June 2002, then the draft and final EIS's will be modified to evaluate a single sale.

4. Instructions on Notice of Intent

Federal, State, tribal, and local governments and other interested parties are requested to send their written comments on the Scope of the EIS, significant issues that should be addressed, and alternatives that should be considered to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the address stated under Instructions on Call above. Comments should be enclosed in an envelope labeled "Comments on the Notice of Intent to Prepare an EIS on Proposed Cook Inlet Lease Sales included in the 5-Year Program, 2002–2007." Comments are due no later than 45 days from publication of this Notice. Scoping meetings will be held in appropriate locations to obtain additional comments and information regarding the scope of this EIS.

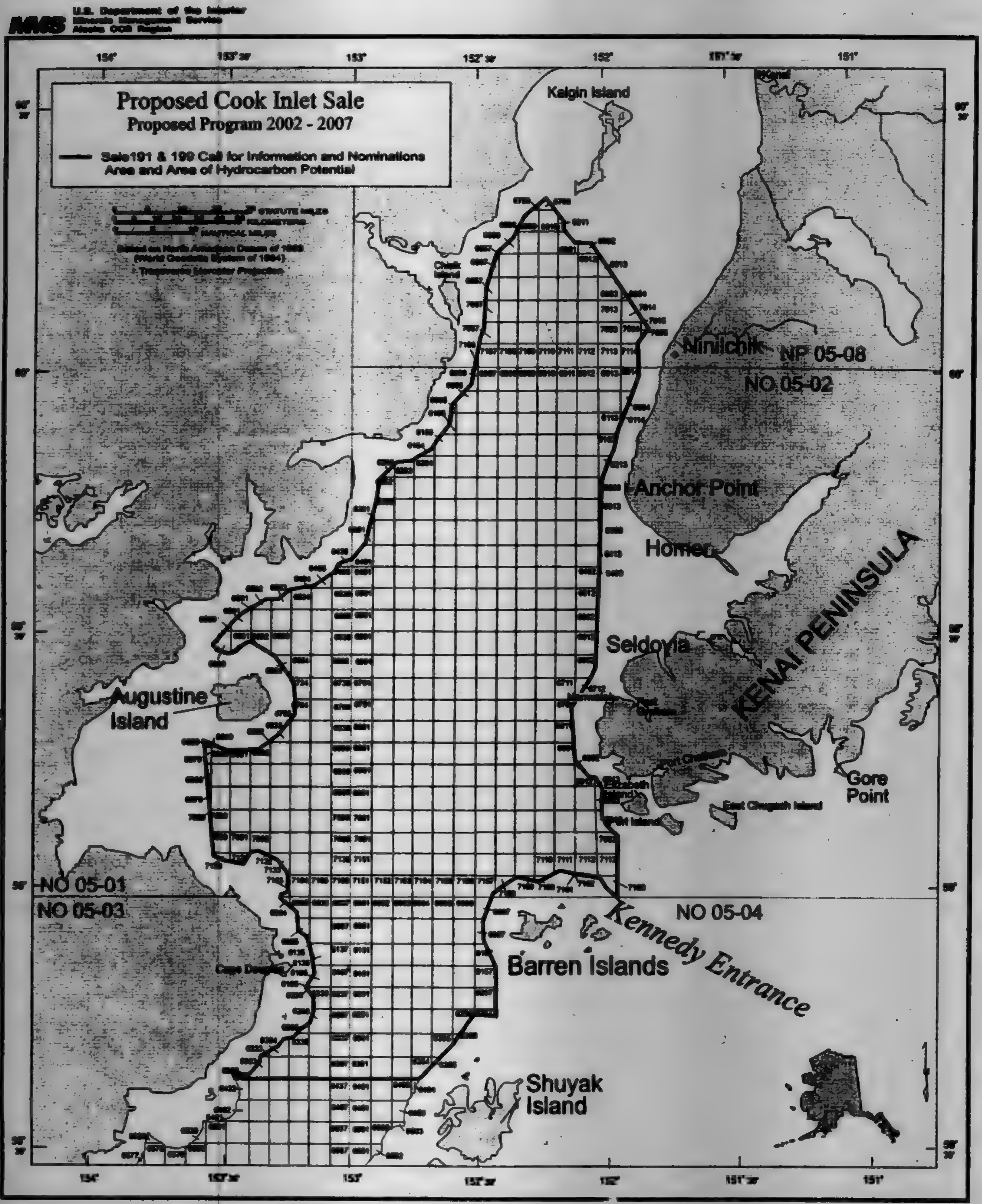
Dated: December 17, 2001.

Lucy Querques Denett,

Acting Director, Minerals Management Service.

BILLING CODE 4310-MR-P

VOL 66 ISS 250 DE 31 2001 UMI


MMS
U.S. Department of the Interior
Minerals Management Service
Alaska OCS Region
Proposed Cook Inlet Sale
Proposed Program 2002 - 2007
Sale191 & 199 Call for Information and Nominations Area and Area of Hydrocarbon Potential
STATUTE MILES
KILOMETERS
NAUTICAL MILES
Based on North American Datum of 1983
(World Geodetic System of 1984)
Transverse Mercator Projection
154°
153° 30'
153°
152° 30'
152°
151° 30'
151°
60° 30'
60°
59° 30'
59°
58° 30'
Kalgin Island
Kenai
Chisik Island
Ninilchik
NP 05-08
NO 05-02
Anchor Point
Homer
KENAI PENINSULA
Seldovia
Augustine Island
Port Graham
Port Chatham
Elizabeth Island
Perl Island
East Chugach Island
Gore Point
NO 05-01
NO 05-03
NO 05-04
Kennedy Entrance
Barren Islands
Cape Douglas
Shuyak Island

[FR Doc. 01–32095 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–MR–C

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–921 (Final)]

Folding Gift Boxes From China

Determination

On the basis of the record[1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China of folding gift boxes, provided for in subheadings 4819.20.00 and 4819.50.40 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 20, 2001, following receipt of a petition filed with the Commission and Commerce by Harvard Folding Box Company, Inc., Lynn, MA, and Field Container Company, L.P., Elk Grove, IL. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by Commerce that imports of folding gift boxes from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 30, 2001 (66 FR 45864). The hearing was held in Washington, DC, on November 15, 2001, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 21, 2001. The views of the Commission are contained in USITC Publication 3480 (December 2001), entitled Folding Gift Boxes from China: Investigation No. 731–TA–921 (Final).

By order of the Commission.

Issued: December 21, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–32085 Filed 12–28–01; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

[OJP (BJS)–1342]

2002 Census of Publicly Funded Forensic Crime Laboratories

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The purpose of this notice is to announce a public solicitation to obtain a data collection agent for the 2002 Census of Publicly Funded Forensic Crime Laboratories.

DATES: Proposals must be received at the Bureau of Justice Statistics (BJS) on or before 5 p.m. EST, February 8, 2002 or be postmarked on or before February 8, 2002.

ADDRESSES: Proposals should be mailed to Application Coordinator, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, DC 20531; (202) 616–3497.

FOR FURTHER INFORMATION CONTACT: Greg W. Steadman, Statistician, Bureau of Justice Statistics, 810 Seventh Street, NW, Washington, DC 20531; Phone (202) 616–3284 [This is not a toll free number]; E-mail: *Greg.Steadman@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

Statutory Authority

The awards made pursuant to this solicitation will be funded by the Bureau of Justice Statistics consistent with the provisions of 42 U.S.C. 3732.

Program Goals

The purpose of this award is to provide funding to administer the 2002 Census of Publicly Funded Forensic Crime Laboratories. The survey will obtain baseline information about the workload and operations of the approximately 400 forensic crime laboratories in the United States. Special emphasis will be made to identify the specific activities and resources to support forensic analysis within each laboratory including: personnel, budget, workload, and agencies for which analyses are performed and results reported. The initial draft survey instrument and roster of agencies list will be provided by BJS.

BJS anticipates making the award for a 12 month period under this solicitation. A total of up to $250,000 will be made available to complete the project pending OMB clearance and availability of FY 2002 appropriations.

Background

The implementation of the 2002 Census of Publicly Funded Forensic Crime Laboratories is part of a continuing effort by BJS to expand statistical activities related to forensic crime laboratories. With the many recent advances in analysis and use of deoxyribonucleic acid (DNA) evidence by law enforcement agencies, attention has been focused on the improvement of DNA capabilities. The U.S. Department of Justice is now expanding crime laboratory support to all forensic disciplines beyond DNA that constitute the vast majority of physical evidence submitted for analysis in our nation's public laboratories.

Though information is available through previous surveys such as BJS' Survey of DNA Crime Laboratories, 1998 and Federal Bureau of Investigation's CODIS Survey of DNA Laboratories, that information is primarily limited to laboratories performing DNA analyses. The American Society of Crime Lab Directors (ASCLD) also collects information limited to their membership with an annual management survey. Baseline information about all publicly funded forensic crime laboratories has not been collected on a national level.

The goal of this survey is to provide baseline statistical information on the operations and workload of publicly funded forensic crime laboratories operating in the United States in order to improve the Nation's understanding of the level of work performed and resources committed to criminal forensic science analyses. The information will be useful for Federal, State and local governments to assess the areas in which additional resources for development, improvement or expansion of forensic capabilities are necessary. The information will also assist State and local laboratories in identifying technology disparities across laboratories and targeting equipment, supplies, training and technical assistance to such labs from programs such as the Crime Laboratory Improvement Program (CLIP) administered by the National Institute of Justice (NIJ).

Eligibility Requirements

Both profit making and nonprofit organizations may apply for funds. Consistent with OJP fiscal requirements, however, no fees may be charged against the project by profit-making organizations.

---

[1] The record is defined in sec. 207.2(f) of the commission's rules of practice and procedure (19 CFR 207.2(f)).

Scope of Work

The objective of this project is to complete data collection for the 2002 Census of Publicly Funded Forensic Crime Laboratories. This includes extensive follow up, data verification, coding and data entry, and delivery of a final dataset and documentation. The initial survey instrument and respondent list will be provided by BJS. Specifically, the recipient of funds will:

1. Develop a detailed timetable for each task in the project. Data collection should begin within three months of the project start and be completed within nine months. After the BJS project manager has agreed to the timetable, all work must be completed as scheduled.
2. Provide a final review of the survey instrument drafted by BJS for form and content.
3. Verify the names, addresses, and appropriate contact from the respondent list provided by BJS. The most current American Society of Crime Lab Directors list will comprise the respondent list for this project.
4. Conduct a pre-test of the survey instrument in a minimum of four sites to assure that survey items are perceived by respondents as intended and can be provided in a timely manner.
5. Mail surveys to respondents and provide extensive follow up to respondents that require help, clarification, or encouragement to complete the survey. This may involve multiple follow up telephone calls, re-mailing or re-faxing surveys, email correspondence, and site visits where necessary.
6. Implement and maintain an automated tracking system to provide ongoing status of each survey respondent, complete documentation, and an inventory of follow up communication and procedures for each case. This automated tracking system should be current and be accessible to the BJS project monitor at all times.
7. Identify techniques necessary to achieve a 100% survey item response rate. The data collection agent will have routine contact with the laboratories and must be knowledgeable of the various areas of forensic science analysis, laboratory organization and relations with various components of the criminal justice system.
8. Deliver to BJS electronic versions of the survey data, and documentation on diskette and in ASCII file format. Survey documentation should include, but is not limited to, a comprehensive codebook detailing variable positions, data coding, variable name and value labels, any recoding implemented during the data cleaning process, methods used for dealing with missing data, any data allocations, imputation, or non-response adjustments, and copies of all program code used to generate data or published statistics. All data and documentation from this survey will be posted on the BJS website, and data archived at the Inter-University Consortium for Political and Social Research (ICPSR).

Award Procedures and Evaluation Criteria

Proposals should describe the plan and implementation strategies outlined in the Scope of Work. Information on staffing levels and qualifications should be included for each task and descriptions of experience relevant to the project. Resumes of the proposed project director and key staff should be enclosed with the proposal.

Applications will be reviewed competitively with the final award decision made by the Director of BJS. The applicant will be evaluated on the basis of:

1. Demonstrated knowledge of applied survey research, including survey construction, interview techniques, data collection, data coding, entry and verification, and the production of public use data files. This includes availability of an adequate computing environment, knowledge of standard social science data processing software, and demonstrated ability to produce SPSS readable data files for analysis and report production.

2. Demonstrated ability and experience in collecting data in criminal justice departments and offices at State and local government levels.

3. Availability of subject matter expert with knowledge of the areas of forensic science analyses, forensic laboratory operational and legal issues, and logistical impediments to implementing surveys in publicly funded laboratories. Applicants must demonstrate the ability to collect data from both centralized laboratory systems, with a single office responsible for administration of multiple laboratories, and decentralized systems with administrative units within the various facilities.

4. Demonstrated fiscal, management, staff, and organizational capacity to provide sound management for this project. Applicant should include detailed staff resources and other costs by project tasks.

Application and Award Process

- An original and two (2) copies of the full proposal must be submitted including:
- Standard Form 424, Application for Federal Assistance
- OJP Form 7150/1, Budget Detail Worksheet
- OJP Form 4000/3, Program Narrative and Assurances
- OJP Form 4061/6, Certification regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters; Drug Free Workplace requirements
- OJP Form 7120–1, Accounting System and Financial Capability Questionnaire (to be submitted by applicants who have not previously received Federal Funds from the Office of Justice Programs).

These forms can be obtained online from *www.ojp.usdoj.gov/forms.htm*.

In addition, fund recipients are required to comply with regulations designed to protect human subjects and ensure confidentiality of data. In accordance with 28 CFR Part 22, a Privacy Certificate must be submitted to BJS. Furthermore, a Screening Sheet for Protection of Human Subjects must be completed prior to the award being issued. Questions regarding Protection of Human Subjects and/or Privacy Certificate requirements can be directed to the Human Subjects Protection Officer (HSPO) at (202) 616–3282 [This is not a toll free number].

Proposals must include a project description and detailed budget. The project narrative should describe activities as discussed in the Scope of Work and address the evaluation criteria. The project narrative should contain a detailed timeline for project activities, a description of the survey methodology to be used including defined geographic boundaries, data collection method, data entry, and data documentation procedures. The detailed budget must provide detailed cost including salaries of staff involved in the project and the portion of those salaries to be paid from the award, fringe benefits paid to each staff person, travel costs, supplies required for the project, sub-contractual agreements, and other allowable costs. The grant will be made for a period of 12 months.

Dated: December 20, 2001.

Lawrence A. Greenfeld,

Acting Director, Bureau of Justice Statistics.

[FR Doc. 01–32035 Filed 12–28–01; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 20, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-Mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Mine Safety and Health Administration (MSHA).

Title: Rock Burst Control Plan (pertains to Underground Metal/Nonmetal Mines)—30 CFR 57.3461.

OMB Number: 1219–0097.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Type of Response: Reporting.

Number of Respondents: 2.

Number of Annual Responses: 2.

Estimated Time Per Response: 12 hours.

Total Burden Hours: 24.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: 30 CFR 57.3461 requires underground metal and nonmetal mine operators to develop a rock burst plan within 90 days after a rock burst has been experienced. Stress data is normally recorded on gages and plotted on maps. This information is used for work assignments to assure miner safety and to schedule correction work.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–32071 Filed 12–28–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 20, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693–4129 or E-mail: *King-Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Labor Exchange Reporting System.

OMB Number: 1205–0240.

Affected Public: State, Local, or Tribal Government and Individuals or households.

Type of Response: Reporting and Recordkeeping.

Number of Respondents: 27,054.

Requirement	Frequency	Annual responses	Average time per response (hours)	Estimated burden hours
Forms:				
ETA 9002A	Quarterly	216	1	216
ETA 9002B	Quarterly	216	1	216
ETA 9002C	Quarterly	216	3	648
ETA 9002D	Quarterly	216	3	648
ETA 9002E	Quarterly	216	.75	162
VETS 200A	Quarterly	212	1	212
VETS 200B	Quarterly	212	1	212
VETS 200C	Quarterly	212	1	212
Customer Satisfaction Survey:				
State Agency Survey Administration	On-going	54	340	18,360
State Survey Overhead	On-going	54	77	4,158

Requirement	Frequency	Annual responses	Average time per response (hours)	Estimated burden hours
Customer Satisfaction Survey	On occasion (once per contact).	27,000	.083	2,250
Total:		28,824		27,294

Total Annualized Capital/Startup Costs: $819,000.

Total Annual Costs (operating/maintaining systems or purchasing services): $10,000,000.

Description: The ET Handbook No. 406 (ETA 9002 Data Preparation Handbook) provides instructions for completing the ETA 9002 Reports. The ETA 9002 Reports collect information on the activities administered by the public labor exchange in each State and on the outcomes attributable to these activities. The VETS 200 Report and Specifications collect information on the labor exchange activities provided to veterans by Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVER's) within the public labor exchange in each State. We are revising the ET Handbook No. 406 (ETA 9002 Data Preparation Handbook) and VETS 200 Report and Specifications to reflect current federal reporting requirements and to provide for the reporting of performance outcome information derived using the labor exchange performance measures.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01-32072 Filed 12-28-01; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

December 20, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King on (202) 693-4129 or E-Mail: *King_Darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Type of Review: Extension of a currently approved collection.

Agency: Veterans' Employment and Training Service (VETS).

Title: Eligibility Data Form: Uniformed Services Employment and Reemployment Rights Act and Veteran's Preference.

OMB Number: 1293-0002.

Affected Public: Individuals or households.

Frequency: On occasion.

Number of Respondents: 1,500.

Number of Annual Responses: 1,500.

Estimated Time Per Response: 15 minutes.

Total Burden Hours: 375.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (Operating/maintaining systems or purchasing services): $0.

Description: The Form VETS/USERRA/VP-1010 is used to file complaints with the Department of Labor's Veterans' Employment and Training Service under either the Uniformed Services Employment and Reemployment Rights Act or laws and regulations related to veteran's preference in Federal employment.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01-32073 Filed 12-28-01; 8:45 am]

BILLING CODE 4510-79-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Elk Run Coal Company, Inc.

[Docket No. M-2001-109-C]

Elk Run Coal Company, Inc., P.O. Box 497, Sylvester, West Virginia 25193 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Black King I North Portal Mine (I.D. No. 46-08553) located in Boone County, West Virginia. The petitioner proposes to establish weekly evaluations at three monitoring stations using hand-held gas detection devices and anemometers. The petitioner states that these monitoring stations will be immediately outby survey station 2915 and designated S-1, at the punch-out designated as S-2, and at the punch-out designated S-3; that the evaluations points will be evaluated weekly by a certified person and the results of the examination will be recorded in the examination books. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

2. Apollo Coal Company

[Docket No. M-2001-110-C]

Apollo Coal Company, P.O. Box 503, Staffordsville, Kentucky 41256 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its Mine #3 (I.D. No. 15-18075) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking device on mobile battery-powered machines instead of using padlocks to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

3. Straight Fork Mining, Inc.

[Docket No. M–2001–111–C]

Straight Fork Mining, Inc., P.O. Box 249, Stanville, Kentucky 41659 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its No. 3 Mine (I.D. No. 15–18441) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking device on mobile battery-powered machines instead of using padlocks to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

4. Clas Coal Company, Inc.

[Docket No. M–2001–112–C]

Clas Coal Company, Inc., P.O. Box 35, Deane, Kentucky 41812 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) and 30 CFR 18.41(f) (plug and receptacle-type connectors) to its E–3 Mine (I.D. No. 15–18392) located in Knott County, Kentucky. The petitioner proposes to use permanently installed, spring-loaded locking device on mobile battery-powered machines instead of using padlocks to prevent unintentional loosening of battery plugs from battery receptacles to eliminate the hazards associated with difficult removal of padlocks during emergency situations. The petitioner asserts that application of the existing standard would result in a diminution of safety to the miners and that the proposed alternative method would provide at least the same measure of protection as the existing standard.

5. Centralia Mining

[Docket No. M–2001–113–C]

Centralia Mining, RD #2 Box 665, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 49.2(b) (mine rescue teams) to its Skidmore Slope (I.D. No. 36–09001) located in Columbia County, Pennsylvania. The petitioner requests a modification of the standard to permit the reduction of two mine rescue teams with five members and one alternate each, to two mine rescue teams of three members with one alternate for either team. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

6. Centralia Mining

[Docket No. M–2001–114–C]

Centralia Mining, RD #2 Box 665, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1100–2(a) (quantity and location of firefighting equipment) to its Skidmore Slope (I.D. No. 36–09001) located in Columbia County, Pennsylvania. The petitioner requests a modification of the standard to permit use of portable fire extinguishers only to replace existing requirements where rock dust, water cars, and other water storage equipped with three, ten quart pails is not practical. The petitioner proposes to use two (2) fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face for equivalent fire protection for the mine. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

7. Centralia Mining

[Docket No. M–2001–115–C]

Centralia Mining, RD #2 Box 665, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1200(d) and (i) (mine maps) to its Skidmore Slope (I.D. No. 36–09001) located in Columbia County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope; and to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible. The petitioner further asserts that use of cross-sections in lieu of contour lines has been practiced since the late 1800's thereby providing critical information relative to the spacing between veins and proximity to other mine workings which fluctuate considerably. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

8. Centralia Mining

[Docket No. M–2001–116–C]

Centralia Mining, RD #2 Box 665, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 1202 and 30 CFR 75.1202–1(a) (temporary notations, revisions, and supplements) to its Skidmore Slope (I.D. No. 36–09001) located in Columbia County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months as required, and to update maps daily by hand notations. The petitioner also proposes to conduct surveys prior to commencing retreat mining and whenever either a drilling program under 30 CFR 75.388 or plan for mining into inaccessible areas under 30 CFR 75.389 is required. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

9. Centralia Mining

[Docket No. M–2001–117–C]

Centralia Mining, RD #2 Box 665, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Skidmore Slope (I.D. No. 36–09001) located in Columbia County, Pennsylvania. The petitioner proposes to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead use increased rope strength and secondary safety rope connection in place of such devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

10. Blue Diamond Coal Company

[Docket No. M–2001–118–C]

Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763–0047 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Mine #77 (I.D. No. 15–09636) located in Perry County, Kentucky. The petitioner

VOL 66 ISS 250 DE 31 2001 UMI

proposes to use air coursed through conveyor belt entries to ventilate working places. The petitioner proposes to install and maintain a carbon monoxide monitoring system as an early warning fire detection system in all belt entries used to course intake air to a working place. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

11. BSE Mining, Inc.

[Docket No. M–2001–119–C]

BSE Mining, Inc., P.O. Box 267, Hager Hill, Kentucky 41222 has filed a petition to modify the application of 30 CFR 75.800 (high-voltage circuits; circuit breakers) to its No. 1 Mine (I.D. No. 15–18343) located in Morgan County, Kentucky. The petitioner proposes to use a contactor on high-voltage systems instead of using circuit breakers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

12. White County Coal, LLC

[Docket No. M–2001–120–C]

White County Coal, LLC, 1343 County Road 1450E, Carmi, Illinois 62821 has filed a petition to modify the application of 30 CFR 75.901 (protection of low- and medium-voltage three-phase circuits used underground) to its Pattiki II Mine (I.D. No. 11–03058) located in White County, Illinois. The petitioner proposes to use a 200KW, 480-volt, diesel powered generator set with an approved diesel drive engine to power electrical equipment that will only move equipment in, out, and around the mine and to perform work in areas outby section loading points where equipment is not required to be maintained as permissible. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

13. New South Resources, d.b.a. Black Hawk Mining

[Docket No. M–2001–121–C]

New South Resources, d.b.a. Black Hawk Mining, P.O. Box 2594, Beckley, West Virginia 25802–2594 has filed a petition to modify the application of 30 CFR 75.1102 (slippage and sequence switches) to its Mine No. 1 (I.D. No. 46–08809) located in Raleigh County, West Virginia. The petitioner proposes to install and maintain an electrical switch that stops the belt when the coal in the bin reaches a predetermined level near the top of the bin. The petitioner states that activation of the electrical switch by the rising coal level will prevent coal from overflowing the bins and spilling or being carried back on the conveyor belt; and that the No. 2 Belt will stop until the bin begins to empty and the coal level drops below the predetermined level previously mentioned and the feeders which feed coal from the bins onto the No. 1 Belt are sequenced so that the feeders are stopped automatically whenever the No. 1 Belt stops operating. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to *comments@msha.gov*, or on a computer disk along with an original hard copy to the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 30, 2002. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 21st day of December, 2001.

David L. Meyer,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 01–32036 Filed 12–28–01; 8:45 am]

BILLING CODE 4510–43–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 54, "Requirements for Renewal of Operating Licenses for Nuclear Power Plants."

2. *Current OMB approval number:* 3150–0155.

3. *How often the collection is required:* One-time submission with application for renewal of an operating license for a nuclear power plant and occasional collections for holders of renewed licenses.

4. *Who is required or asked to report:* Commercial nuclear power plant licensees who wish to renew their operating licenses.

5. *The number of annual respondents:* 6 respondents annually based on an estimate of the receipt of 19 new renewal applications over three years.

6. *The number of hours needed annually to complete the requirement or request:* Approximately 432,333 hours (405,333 hours one-time reporting burden and 27,000 hours recordkeeping burden).

7. *Abstract:* 10 CFR Part 54 of the NRC regulations, "Requirements for Renewal of Operating Licensees for Nuclear Power Plants," specifies the procedures, criteria, and standards governing nuclear power plant license renewal, including information submittal and recordkeeping requirements, so that the NRC may make determinations that extension of the license term will continue to ensure the health and safety of the public.

Submit, by March 1, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: *http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by

Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 20th day of December 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–32060 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 536, "Operator Licensing Examination Data".
2. *Current OMB approval number:* 3150–0131.
3. *How often the collection is required:* Annually.
4. *Who is required or asked to report:* All holders of operating licenses or construction permits for nuclear power reactors.
5. *The number of annual respondents:* 80.
6. *The number of hours needed annually to complete the requirement or request:* 80.
7. *Abstract:* NRC is requesting renewal of its clearance to annually request all commercial power reactor licensees and applicants for an operating license to voluntarily send to the NRC: (1) Their projected number of candidates for operator licensing initial examinations; (2) the estimated dates of the examinations; (3) information on whether the examination will be facility developed or NRC developed; and (4) the estimated number of individuals that will participate in the Generic Fundamentals Examination (GFE) for that calendar year. Except for the GFE, this information is used to plan budgets and resources in regard to operator examination scheduling in order to meet the needs of the nuclear industry.

Submit, by March 1, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E6, Washington, DC 20555–0001, by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 21st day of December 2001.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–32064 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–35994, License No. 37–30603–01,EA–01–313]

In the Matter of Advanced Medical Imaging and Nuclear Services Easton, PA 18045; Order Suspending License (Effective Immediately)

I

Advanced Medical Imaging and Nuclear Services (Licensee) is the holder of Byproduct Nuclear Material License No. 37–30603–01 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35. License No. 37–30603–01 authorizes possession and use of certain byproduct material identified in 10 CFR 35.100 and 35.200 for any uptake, dilution, excretion, imaging and localization procedures approved in those parts. The license was issued on February 16, 2001, and is due to expire on February 28, 2011.

II

On November 30, 2001, the NRC commenced an inspection at the Licensee's facility in Easton, Pennsylvania. Based on the findings of the inspection to date, the NRC identified violations of requirements. The violations identified during the inspection involved the possession and use of radioactive materials (including the diagnostic administration to patients) from June 2001 to November 2001, even though the licensee did not have an authorized user (AU) and/or a Radiation Safety Officer (RSO) as required by the regulations and the license. The individual named on the license as the RSO and AU between February 16, 2001, and December 10, 2001, had neither been hired by the licensee's organization nor had ever acted as the RSO or AU for the licensee.

After these violations were identified, the NRC issued a Confirmatory Action Letter to the licensee on December 3, 2001, which in part, confirmed the Licensee's commitment to immediately place all byproduct material in its possession in secured storage, and cease all licensed activities until the Licensee retained an AU and RSO, and received approval from the NRC for the changes requiring a license amendment to bring the licensee's program into full compliance with 10 CFR Part 35. The licensee submitted an amendment request, and on December 11, 2001, NRC issued an amendment to the license, to reflect the new AU and RSO. The Licensee subsequently conducted activities without the supervision of the AU as required by 10 CFR 35.25. Specifically, shortly after the license amendment was issued, byproduct materials were ordered during the evening hours of December 11, 2001, and subsequently were received, possessed, and used for administration to patients on December 12, 2001, by an individual who had not received the required instructions from, and who was not under the supervision of, an AU. The individual was not provided instructions from the AU in the principles of radiation appropriate to the individual's use of byproduct materials, including, but not limited to, appropriate use of dosimetry, doses to be administered to patients, and procedures for radiation safety as required by 10 CFR 35.25. This constitutes an additional violation.

These violations are particularly significant because (1) The individual originally listed on the license as the AU/RSO was never employed by Advanced Medical Imaging and Nuclear Services, (2) a Licensee consultant informed the Licensee, as a result of an audit he conducted in October 2001, that certain documents (such as linearity tests, leak tests, quarterly inventory, survey results, and the prescribed dose schedule), had not been signed by the RSO listed on the license, as required, and (3) even after the Licensee had committed to the NRC to make the changes necessary to bring its program into full compliance, as documented in the referenced Confirmatory Action Letter, the Licensee continued to conduct activities without the required supervision by an AU.

III

The NRC must be able to rely on the Licensee and its employees to comply with NRC requirements. It is important that licensed material be used by, or under the supervision of, an AU, and that radiation safety aspects of the Licensee's program are being performed in accordance with approved procedures and regulatory requirements, as verified by a RSO. In this regard, it appears that the Licensee has repeatedly failed to comply with NRC requirements, as indicated herein. These actions by the Licensee have raised serious doubt as to whether the Licensee can be relied upon in the future to comply with NRC requirements.

Consequently, given these findings, as well as the fact that NRC was notified on or about December 13, 2001, by the Licensee's Vice-President that the AU currently listed on the license is no longer the AU, I lack the requisite reasonable assurance that the Licensee's current operations can be conducted under License No. 37–30603–01 in compliance with the Commission's requirements, and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the health, safety and interest of the public require that License No. 37–30603–01 be suspended. Furthermore, pursuant to 10 CFR 2.202, I find that, given the safety significance of conducting licensed activities without an AU/RSO, and the conduct of such activities without the supervision of the AU designated in the amended license, the public health, safety, and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 30 and 35, IT IS HEREBY ORDERED, *EFFECTIVE IMMEDIATELY*, THAT LICENSE No. 37–30603–01 IS SUSPENDED AS FOLLOWS, pending further Order.

A. All NRC-licensed material in the Licensee's possession shall be placed in secured storage.

B. All activities under License No. 37–30603–01 to use licensed material shall be suspended. All other requirements of the license remain in effect.

C. No material authorized by the license shall be ordered, purchased, received, or transferred by the Licensee while this Order is in effect.

D. All records related to licensed activities shall be maintained in their original form and must not be removed or altered in any way.

The Director of the Office of Enforcement, the Director of the Office of Nuclear Materials Safety and Safeguards, or the Regional Administrator, Region I, may, in writing, relax or rescind this order upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for an extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued.

Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Services Section, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, and to the Licensee if the hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the individual's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or a written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

Dated this 14th day of December, 2001.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 01–32063 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–416]

Entergy Operations, Inc., (Grand Gulf Nuclear Power Station, Unit 1); Exemption

I

Entergy Operations, Inc. (EOI or the licensee) is the holder of Facility Operating License No. NPF–29, which authorizes operation of the Grand Gulf Nuclear Station, Unit 1 (GGNS) at power levels not to exceed 3833 megawatts thermal.

The facility consists of one boiling-water reactor located at the licensee's site in Claiborne County, Mississippi. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II

Section IV.F.2.b of Appendix E to Title 10 of the Code of Federal Regulations (10 CFR) part 50, requires that each licensee at each site conduct an exercise of its onsite emergency plan every 2 years, and indicates the exercise may be included in the full-participation biennial exercise required by paragraph 2.c.

In summary, licensees are to take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills. Appendix E, section IV.F.2.c. to 10 CFR part 50 requires offsite plans for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. During such biennial full-participation exercises, the NRC evaluates onsite emergency preparedness activities, and the Federal Emergency Management Agency evaluates offsite emergency preparedness activities. The licensee successfully conducted a full-participation exercise for GGNS on June 23, 1999. By letter dated September 18, 2001, as supplemented by letter dated December 3, 2001, the licensee requested an exemption from 10 CFR part 50, Appendix E, section IV.F.2.c., regarding the conduct of a full-participation exercise originally scheduled for the week of September 17, 2001. Specifically, the licensee proposed rescheduling the exercise originally scheduled for the week of September 17, 2001, to the week of March 4, 2002. While the licensee requested an exemption from the requirements of 10 CFR part 50, Appendix E, section IV.F.2.c., to exercise their offsite emergency plan, the NRC staff has determined that an exemption from the requirements in 10 CFR part 50, Appendix E, section IV.F.2.b., to exercise their onsite emergency plan simultaneously with the offsite emergency plan exercise, was also necessary.

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

III

The licensee requests a one-time change in the schedule for the next full-participation exercise for GGNS. Subsequent full-participation exercises for GGNS would be scheduled at no greater than 2-year intervals in accordance with 10 CFR part 50, Appendix E, section IV.F.2.c. Accordingly, the exemption would provide only temporary relief from that regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002), and has not requested any permanent changes in future exercise scheduling. As a result, subsequent to the re-scheduled full-participation exercise to be conducted in 2002, the licensee is expected to conduct another full-participation exercise of onsite and offsite emergency plans in 2003.

As indicated in the licensee's request for an exemption, as supplemented, the licensee had originally scheduled a full-participation exercise for the week of September 17, 2001. As further set forth in the request, however, due to the national emergency of September 11, 2001, heightened security at GGNS resulted in increased monitoring of people and equipment, and additional controls on maintenance activities. Conducting an emergency preparedness exercise during that period of heightened security would have increased the security risk, because exercise activities may have presented an unwarranted distraction of nuclear security officers as well as local law enforcement officials. Conducting the full participation exercise at that time could also have created undue public alarm with the potential to create a public safety concern. These circumstances resulting in the licensee's request for exemption were beyond the licensee's control. Accordingly, the licensee made a good faith effort to comply with the schedule requirements of 10 CFR part 50, Appendix E, for full-participation emergency plan exercises.

The staff examined the licensee's rationale to support the exemption request, and concluded that granting the exemption would meet the underlying purpose of 10 CFR part 50, because the exemption would provide only temporary relief from the applicable regulation and the licensee made a good faith effort to comply with the regulation. Furthermore, the exemption would result in benefit to the public health and safety. The national emergency of September 11, 2001, and the subsequent recovery and security responses required that licensee, State, and local resources, expected to be available for the previously scheduled biennial exercise, be applied to agency missions. Offsite agencies were not able to dedicate the appropriate level of resources, as it would have detracted from their response to the security needs at that time. Postponement of the exercise resulted in a benefit to public health and safety that compensated for any decrease in public health and safety that may have resulted from delaying the exercise. Additionally, since the June 23, 1999, full-participation exercise, the licensee has maintained emergency preparedness by conducting ten emergency preparedness drills, each requiring the full activation of all GGNS emergency facilities, which is a compensating measure contributing to justification of the exemption. The exemption only provides temporary relief from the applicable regulation, in that the licensee has committed to conduct the exercise during the next calendar year (2002), and has not requested any permanent changes in future exercise scheduling.

Based upon consideration of the public health and safety, schedule, and resource issues resulting from the national emergency of September 11, 2001, the staff concludes that the request for exemption is acceptable. However, in this period of continued heightened security concerns regarding nuclear plant vulnerability it is prudent to conduct the exercise as soon as practical to demonstrate and maintain readiness.

VOL 66 ISS 250 DE 31 2001 UMI

The safety evaluation may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room).

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present pursuant to 10 CFR 50.12(a)(2)(v), in that the exemption would provide only temporary relief from the applicable regulations, and the licensee has made good faith efforts to comply with the regulations. Therefore, the Commission hereby grants EOI, specifically for GGNS, a one-time scheduler exemption from the requirements to conduct an exercise of its onsite and offsite emergency plans every 2 years with full-participation by each offsite authority having a role under the plan as required by 10 CFR part 50, Appendix E, sections IV.F.2.b. and c. To allow flexibility, should it be necessary, the exemption is granted to permit conduct of the full-participation exercise before the end of the third quarter of 2002, with the understanding that it should be conducted as close as practical to the licensee's proposed date of the week of March 4, 2002.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 64480).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 20th day of December, 2001.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–32058 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Docket No. 71–0122, Approval No. 0122,EA–01–164]

In the Matter of J.L. Shepherd & Associates San Fernando, CA; Confirmatory Order Relaxing Order (Effective Immediately)

I

J. L. Shepherd & Associates (JLS&A or Approval Holder) was the holder of Quality Assurance (QA) Program Approval for Radioactive Material Packages No. 0122 (Approval No. 0122), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 71, subpart H. The approval was previously issued pursuant to the QA requirements of 10 CFR section 71.101. QA activities authorized by Approval No. 0122 include: design, procurement, fabrication, assembly, testing, modification, maintenance, repair, and use of transportation packages subject to the provisions of 10 CFR part 71. Approval No. 0122 was originally issued January 17, 1980. Revision No. 6 was issued December 6, 2001, with an expiration date on November 30, 2006. In addition to having a QA program approved by the NRC to satisfy the provisions of 10 CFR part 71, subpart H, to transport or deliver for transport licensed material in a package, JLS&A is required by 10 CFR part 71, subpart C, to have and comply with the package's Certificate of Compliance (CoC) issued by the NRC. Based on the JLS&A failure to comply with 10 CFR part 71, QA Program Approval No. 0122 was withdrawn by an immediately effective NRC Order, dated July 3, 2001.

II

By letter dated August 17, 2001, JLS&A responded to the U. S. Nuclear Regulatory Commission's July 2001 Order. In a August 16, 2001, response, appended to the August 17, 2001, letter, JLS&A requested that provisions of the Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief from the July 2001 Order based on JLS&A's proposed Near-Term Corrective Action Plan (NTCAP), to allow 68 shipments to 16 customers, in Department of Transportation specification packaging designated as 20WC. The NRC staff reviewed JLS&A's relief request to determine, among other things, whether the requested relief would be consistent with assurances that public health and safety are maintained. As a result the NRC issued a Confirmatory Order Relaxing Order dated September 19, 2001, which relaxed the July 3, 2001, Order to grant interim relief to allow 68 shipments to 16 customers in 20WC packages in accordance with JLS&A's NTCAP, through March 2002, provided certain commitments were completed.

A condition of the September 19, 2001,Order was that JLS&A hold all shipments until NRC has completed an inspection which confirms JLS&A's satisfactory completion of the identified commitments. Subsequent to certifications under oath and affirmation from both J. L. Shepherd and the independent auditor that the conditions of the Confirmatory Order have been completed, the NRC conducted an inspection at the JLS&A facility on November 13–15, 2001. As a result of the inspection findings, the inspection team authorized JLS&A to commence the shipments in accordance with the Confirmatory Order. By letter dated November 20, 2001, NRC staff provided a written confirmation of the inspection teams authorization.

III

By letters dated December 7 and 11, 2001, JLS&A again requested that provisions of the July 3, 2001, Order be relaxed based on a showing of good cause. Specifically, JLS&A requested interim relief to ship an irradiator to Surry Nuclear Power Station and return the replaced unit to JLS&A's facility in California. JLS&A's proposed to use the NTCAP specified in the September 19, 2001, Confirmatory Order to allow these two shipments in the Department of Transportation specification packaging designated as 20WC. These shipments are necessary for Surry Power Station to continue to provide adequate quality control on instrumentation used for all required radiation surveys in support of plant operations. Therefore, the two shipments are in the best interest of public health and safety.

With respect to the substantive concerns identified by the staff in the July 2001 Order, on December 7 and 11, 2001, JLS&A agreed to take the following corrective actions listed below, before it makes any of the proposed shipments to or from Surry Power Station in accordance with the NTCAP:

1. a. JLS&A will use the implementing procedures for the 1995 QA program plan, as revised, and the NTCAP to complete an inspection of the 20WC packages involved in the Surry shipment. The inspection will confirm that the packages are in conformance with 49 CFR 178.362, "Specification 20WC Wooden Protective Jacket." Each inspection will include, at a minimum,

actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QA Program Plan and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

2. JLS&A will use only JLS&A's staff, contractors, and sub-contractors, trained in the NTCAP, the revised QAPP and implementing procedures for conducting the inspections listed in the above condition; and,

3. JLS&A will not make the initial shipment without certification by the independent auditor that the two conditions listed above have been completed. JLS&A will provide NRC with this certification prior to any shipment.

By its letter of December 11, 2001, JLS&A consented to issuance of this Confirmatory Order granting interim relief from the July 2001 Order subject to the commitments, (as described in Section IV below), agreed that this Confirmatory Order is to be effective upon issuance, and agreed to waive its right to a hearing on this action. Implementation of these commitments will provide assurance that sufficient resources will be applied to the QA program, and that the program will be conducted safely and in accordance with NRC requirements.

I find that JLS&A's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that JLS&A's commitments be confirmed by this Confirmatory Order. Based on the above and JLS&A's consent, this Confirmatory Order is effective immediately upon issuance.

IV

Accordingly, pursuant to Sections 62, 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Section 2.202 and 10 CFR Parts 71, IT IS HEREBY ORDERED, EFFECTIVE IMMEDIATELY, THAT THE JULY 3, 2001, ORDER IS RELAXED TO GRANT INTERIM RELIEF TO ALLOW A SHIPMENT TO, AND A SHIPMENT FROM, SURRY POWER STATION IN 20 WC PACKAGES IN ACCORDANCE WITH JLS&A'S NTCAP, AS REQUESTED BY LETTERS DATED DECEMBER 7 and 11, 2001, PROVIDED:

1. a. JLS&A will use the implementing procedures for the 1995 QA program plan, as revised, and the NTCAP to complete an inspection of the 20WC packages involved in the Surry shipment. The inspection will confirm that the packages are in conformance with 49 CFR 178.362, "Specification 20WC Wooden Protective Jacket." Each inspection will include, at a minimum, actual physical measurements, and visual inspections for damage, corrosion, or other potentially unacceptable conditions;

b. JLS&A will document the results of each inspection in separate reports approved by the QA Administrator and prepared in accordance with the revised QAPP and implementing procedures. The report will include the list of attributes verified, the acceptance criteria, and the results for each attribute;

2. JLS&A will use only JLS&A's staff, contractors, and sub-contractors, trained in the NTCAP, the revised QAPP and implementing procedures for conducting the inspections listed in the above condition; and,

3. JLS&A will not make the initial shipment without certification by the independent auditor that the two conditions listed above have been completed. JLS&A will provide NRC with this certification prior to any shipment.

The Director, Office of Enforcement or Office of Nuclear Material Safety and Safeguards, may in writing, relax or rescind this Confirmatory Order upon demonstration of good cause by the Approval Holder.

V

In accordance with 10 CFR section 2.202, any person, other than JLS&A, adversely affected by this Confirmatory Order may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Director, Office of Nuclear Material Safety and Safeguards at the same address, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, and to the Approval Holder. If such person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR section 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section IV above shall be final 20 days from the date of this Confirmatory Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section IV shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this confirmatory order.

Dated this 13th day of December, 2001.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

[FR Doc. 01–32062 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499; License Nos. NPF–76 and NPF–80]

South Texas Project Nuclear Operating Company et al., (South Texas Project Electric Generating Station, Unit Nos. 1 and 2); Order Approving Transfer of Licenses and Conforming Amendments

I

Reliant Energy Incorporated (Reliant),[1] the City Public Service Board of San Antonio (CPS), Central Power and Light Company (CPL), and the City of Austin, Texas (COA) are the licensed owners, and South Texas Project Nuclear Operating Company (STPNOC)

---

[1] Reliant was formerly known as Houston Lighting & Power Company (HL&P). HL&P changed its name to Reliant Energy Incorporated in 1999.

VOL 66 ISS 250 DE 31 2001 UMI

is the exclusive licensed operator, of South Texas Project Electric Generating Station, Units 1 and 2 (STPEGS), and in regard thereto, hold Facility Operating License Nos. NPF–76 and NPF–80. STPEGS (the facility) is located in Matagorda County, Texas.

II

By application dated May 31, 2001, as supplemented by letters dated June 14, August 13, October 16, and November 7, 2001 (collectively the application), STPNOC, on behalf of Reliant, requested the consent of the U.S. Nuclear Regulatory Commission (NRC or Commission) to a proposed indirect transfer of control of the 30.8 percent undivided ownership interest of Reliant in STPEGS under Facility Operating License Nos. NPF–76 and NPF–80, to CenterPoint Energy, Inc., a newly-formed company that will be the new parent holding company of Reliant, and, to the extent an indirect transfer would result, Reliant's 30.8 percent interest in STPNOC, the licensed operator of STPEGS under the licenses, to CenterPoint Energy, Inc. The application also requested the consent of the Commission to a proposed direct transfer of Reliant's 30.8 percent ownership interest in STPEGS to Texas Genco LP, which will be indirectly wholly-owned by CenterPoint Energy, Inc., and to the indirect transfer of Reliant's 30.8 percent interest in STPNOC to Texas Genco LP, to the extent that the transfer of Reliant's ownership interest in STPNOC will result in an indirect transfer of the STPNOC licenses. According to the application, the proposed direct transfer may occur contemporaneously with CenterPoint Energy, Inc. becoming the parent holding company of Reliant or some time thereafter. The application further requested the approval of conforming license amendments to reflect the direct transfer of the licenses.

The proposed conforming license amendments would replace references to HL&P in the licenses with references to Texas Genco LP, as appropriate, and make other administrative changes to reflect the proposed direct transfer.

The application requested approval of the direct transfer of the facility operating licenses, conforming license amendments, and indirect license transfers pursuant to 10 CFR 50.80 and 10 CFR 50.90. The staff published a notice of the request for approval and an opportunity for a hearing in the **Federal Register** on September 28, 2001 (66 FR 49711). The October 16 and November 7, 2001, supplemental information did not expand the scope of the application as originally noticed in the **Federal Register**. The Commission received no comments or requests for hearing pursuant to the notice.

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information in the application, and relying upon the representations and agreements contained in the application, the NRC staff has determined that the proposed corporate restructuring resulting in CenterPoint Energy Inc. becoming the parent holding company of Reliant will not affect the qualifications of Reliant to hold a 30.80 percent ownership interest in the facility operating licenses for STPEGS or have any effect on the qualifications of STPNOC to the extent held by Reliant, and that the indirect transfer of the licenses for STPEGS and of STPNOC's licenses to the extent effected by the proposed corporate restructuring, is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission, subject to the applicable conditions set forth herein. The NRC staff has also determined that Texas Genco LP is qualified to be a holder of the facility operating licenses for STPEGS, and to the extent that the transfer of Reliant's interest in STPNOC to Texas Genco LP results in an indirect transfer of the STPNOC license, the transfer will not affect the qualifications of STPNOC to be the licensed operator, and that the transfer of the licenses is otherwise consistent with applicable provisions of law, regulations, and Orders issued by the Commission, subject to the conditions set forth herein. The NRC staff has further found that the application for the proposed license amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facilities will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendments can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendments will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendments will be in accordance with 10 CFR part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation dated December 20, 2001.

III

Accordingly, pursuant to sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, it is hereby ordered that the indirect transfer of the licenses as described herein to CenterPoint Energy, Inc., and the direct transfer of the licenses as described herein to Texas Genco LP are approved, subject to the following conditions:

(1) Texas Genco LP shall, prior to the completion of the direct transfer, provide to the Director of the Office of Nuclear Reactor Regulation satisfactory documentary evidence that Texas Genco LP has obtained the appropriate amount of insurance required of licensees under 10 CFR part 140 of the Commission's regulations.

(2) Reliant shall continue to provide decommissioning funding assurance, to be held in decommissioning trusts for STPEGS, from the date of the indirect transfer until the date of any direct transfer to Texas Genco LP. Texas Genco LP shall provide decommissioning funding assurance, to be held in decommissioning trusts for STPEGS upon the direct transfer of the STPEGS licenses to Texas Genco LP, in an amount equal to or greater than the balance in the STPEGS decommissioning trusts immediately prior to the transfer. In addition, Texas Genco LP shall ensure that all contractual arrangements referred to in the application to obtain necessary decommissioning funds for STPEGS through a non-bypassable charge are executed and will be maintained until the decommissioning trusts are fully funded, or shall ensure that other mechanisms that provide equivalent assurance of decommissioning funding in accordance with the Commission's regulations are maintained.

(3) The master decommissioning trust agreement for STPEGS, at the time the direct transfers are effected and thereafter, is subject to the following:

a. The decommissioning trust agreement must be in a form acceptable to the NRC.

b. With respect to the decommissioning trust funds, investments in the securities or other obligations of CenterPoint Energy, Inc., or its affiliates, successors, or assigns, shall be prohibited. Except for investments in funds tied to market indices or other non-nuclear sector mutual funds, investments in any entity owning one or more nuclear power plants are prohibited.

c. The decommissioning trust agreement must provide that the trustee, investment advisor, or anyone else directing the investments made in the trusts shall adhere to the standards for such investments established by the Public Utility Commission of Texas (e.g., 16 Texas Administration Code § 25.301).

d. The decommissioning trust agreement must provide that except for ordinary administrative expenses, no disbursements or payments from the trusts shall be made by the trustee unless the trustee has first given the NRC 30 days prior written notice of such disbursement or payment. The decommissioning trust agreement shall further contain a provision that no disbursements or payments from the trusts shall be made if the trustee receives prior written notice of an objection from the Director, Office of Nuclear Reactor Regulation.

e. The decommissioning trust agreement must provide that the agreement cannot be modified in any material respect without 30 days prior written notification to the Director, Office of Nuclear Reactor Regulation.

(4) Reliant and Texas Genco LP shall take all necessary steps to ensure that the decommissioning trusts are maintained in accordance with the application, the requirements of this Order, and the related safety evaluation.

(5) Texas Genco LP shall provide the Director, Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from CenterPoint Energy, Inc., or its subsidiaries, to a proposed direct or indirect parent, or to any other affiliated company, facilities for the production of electric energy having a depreciated book value exceeding ten percent (10%) of such licensee's consolidated net utility plant, as recorded on Texas Genco LP's book of accounts.

(6) Texas Genco LP shall inform the Director of the Office of Nuclear Reactor Regulation of the date of the closing of the direct transfer no later than two business days prior to such date. If the direct and indirect transfers of the licenses approved by this Order are not completed by December 31, 2002, this Order shall become null and void, provided, however, upon written application and for good cause shown, such date may in writing be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), license amendments that make changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the licenses to reflect the subject direct license transfers are approved. The amendments shall be issued and made effective at the time the proposed direct license transfers are completed. It is hereby noted that the staff is also considering approving a transfer of the licenses to the extent held by CPL. Should the transfer of the licenses to the extent held by CPL take place prior to issuance of the amendments in the current case, the amendments approved here should reflect any conforming amendments approved and issued in connection with the CPL transfer.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated May 31, 2001, the supplemental submittals dated June 14, August 13, October 16, and November 7, 2001, and the safety evaluation dated December 20, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov*.

Dated at Rockville, Maryland this 20th day of December, 2001.

For the Nuclear Regulatory Commission.

Brian W. Sheron,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–32059 Filed 12–28–01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–361 and 50–362]

In the Matter of Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3); Exemption

I

Southern California Edison Company (the licensee) is the holder of Facility Operating License Nos. NPF–10 and NPF–15, which authorize operation of the San Onofre Nuclear Generating Station, Units 2 and 3, (SONGS) at power levels not to exceed 3438 megawatts thermal. The facility consists of two pressurized-water reactors located at the licensee's site in San Diego County, California. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

II

Section IV.F.2.b of Appendix E to Title 10 of the Code of Federal Regulations (10 CFR) part 50 requires each licensee at each site to conduct an exercise of its onsite emergency preparedness plan (EPP) every 2 years and indicates the exercise may be included in the full participation biennial exercise of the offsite EPP required by paragraph 2.c. Paragraph 2.c requires the offsite EPP for each site to be exercised biennially with full participation by each offsite authority having a role under the plan. During such biennial full participation exercises, the NRC evaluates onsite emergency preparedness activities and the Federal Emergency Management Agency (FEMA) evaluates offsite emergency preparedness activities. The licensee successfully conducted an NRC/FEMA-evaluated full participation exercise for SONGS on October 27, 28, and 29, 1999.

By letter dated September 18, 2001, the licensee requested an exemption from Sections IV.F.2.b and c of Appendix E regarding the conduct of a full participation onsite and offsite exercise originally scheduled for September 12, 2001. Specifically, the licensee requested a one-time exemption, in accordance with 10 CFR 50.12, "Specific exemptions," from the requirements in 10 CFR Part 50, Appendix E, Items IV.F.2.b and c to perform a biennial exercise of the onsite and offsite EPPs with full participation of each offsite authority having a role under the plan (*i.e.*, a full participation EPP exercise), for SONGS. A full participation onsite and offsite exercise had been scheduled for SONGS for September 12, 2001; however, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. The licensee requested that the biennial exercise for 2001 not be conducted as required by Appendix E, and the next full participation exercise be conducted in 2003 and every two years thereafter.

The licensee has provided the Commission with copies of letters from five local authorities that would participate in the full participation EPP exercise at SONGS, requesting relief from FEMA to cancel the 2001 SONGS full participation exercise. The letters were to the Governor's Office of Emergency Services, State of California, which in its letter dated December 13,

VOL 66 ISS 250 DE 31 2001 UMI

2001, to FEMA, requested the cancellation from FEMA for the State and the five local authorities. The State requested that the next biennial full participation exercise to be held at SONGS with NRC/FEMA participation be conducted in 2003. Although the requests from the State and local authorities do not come under the responsibility and authority of the Commission, the Commission realizes that the full participation exercise required by Appendix E would require the participation of the State and these local authorities. The State's letter is addressed in the safety evaluation dated December 21, 2001.

Based on the safety evaluation dated December 21, 2001, the Commission concludes that the licensee's request for an exemption should be denied. However, because the scheduled 2001 full participation exercise to meet the regulations was canceled for good cause; there is insufficient time before January 1, 2002, when the licensee would be in violation of the regulations, to prepare and conduct the exercise; and the licensee has provided sufficient information for a one-year schedular extension to the requirements in the regulations, the Commission concludes that such a schedular exemption to the biennial exercise requirements in Sections IV.F.b and c of Appendix E to 10 CFR Part 50 should be granted to SONGS.

The Commission, pursuant to 10 CFR 50.12(a)(1), may grant exemptions from the requirements of 10 CFR Part 50 that are authorized by law, will not present an undue risk to public health and safety, and are consistent with the common defense and security. The Commission, however, pursuant to 10 CFR 50.12(a)(2), will not consider granting an exemption unless special circumstances are present. Under 10 CFR 50.12(a)(2)(v), special circumstances are present whenever the exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation.

III

The revised exemption is a one-time postponement of the 2001 full participation exercise for SONGS. The full participation exercise may be conducted in 2002. It is requested that the exercise be conducted as soon as practical, but the challenges of rescheduling the exercise are recognized and the exemption is not predicated on the early conduct of the exercise. Subsequent full participation exercises for SONGS would be scheduled at no greater than 2-year intervals in accordance with 10 CFR part 50, appendix E, Section IV.F.2.c. The calendar biennium for SONGS would not be affected by this schedular exemption and the next full participation exercise would be required to be performed in 2003. Accordingly, the exemption would provide only temporary relief from that regulation.

As indicated in the licensee's request for an exemption of September 18, 2001, the licensee had originally scheduled a full participation exercise for September 12, 2001. As further set forth in that letter, as a result of the national security events occurring in the United States on September 11, 2001, this exercise was canceled. Accordingly, the licensee made a good faith effort to comply with the schedular requirements of Appendix E for full participation exercises.

The NRC staff has completed its evaluation of the revised exemption. The NRC staff, having considered the schedule and resource issues resulting from this schedular exemption and the fact that the licensee successfully conducted the last full participation exercise for SONGS on October 27, 28, and 29, 1999, which was evaluated by the NRC and FEMA, and conducted a full participation "dress rehearsal" exercise on August 8, 2001, in preparation for the September 12, 2001, exercise that was canceled, finds the request for a schedular exemption for rescheduling the 2001 biennial full participation exercise acceptable. The inspection/evaluation by NRC and FEMA indicated that the performance demonstrated during the 1999 exercise was a satisfactory test of the EPP. In its letter, the licensee stated that it successfully conducted the "dress rehearsal" exercise on August 8, 2001, with the same emergency planning elements that were planned for the September 12, 2001, exercise. The NRC staff also recognizes that it was not appropriate to conduct an exercise during the period of disruption and heightened security directly after the national emergency of September 11, 2001. However, in this period of heightened security concerns regarding nuclear plant vulnerability, it is prudent to conduct the full participation exercise as soon as practical to demonstrate and maintain readiness.

IV

The Commission has determined that, pursuant to 10 CFR Part 50, Appendix E, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security, and is otherwise in the public interest. Further, the Commission has determined, pursuant to 10 CFR 50.12(a), that special circumstances of 10 CFR 50.12(a)(v) are applicable in that the exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation. Therefore, the Commission hereby grants a one year schedular exemption from Sections IV.F.2.b and c of Appendix E to 10 CFR Part 50.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (66 FR 66000).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 21st day of December 2001.

For the Nuclear Regulatory Commission

Ledyard B. Marsh,

Acting Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–32061 Filed 12–28–01; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Revised

The 131st ACNW meeting scheduled to be held on January 8–10, 2002, has been *changed to a two-day meeting, which will be held on January 8–9, 2002.* The ACNW meeting with the NRC Commissioners scheduled to be held between 9:30 and 11:30 a.m. on January 9, 2002 has been canceled, and will be rescheduled for March 20, 2002. Notice of this meeting was previously published in the **Federal Register** on Wednesday, December 19, 2001, (66 FR 65522). A revised agenda is provided below.

Tuesday, January 8, 2002

A. *8:30—10:45 A.M.: Opening Statement/Planning and Procedures* (Open)—The Chairman will open the meeting with brief opening remarks. The Committee will then review items under consideration at this meeting and consider topics proposed for future ACNW meetings.

B. *11:00—12:00 Noon: Proposed Amendment to 10 CFR Part 63* (Open)—The staff will provide an information briefing on the proposed amendment to 10 CFR Part 63, that would clarify the types of features, events, and processes that must be considered in performance analyses of human intrusion and groundwater protection at the Yucca Mountain repository.

C. *1:00—4:45 P.M.: Preparation of ACNW Reports* (Open)—The Committee will discuss proposed reports on the following topics:

- ACRS/ACNW November 14, 2001 Joint Subcommittee Meeting on Risk-Informed Regulation in NMSS
- Annual Research Report to the Commission
- Proposed Rule on Probability of an Unlikely Event
- Conservatism

D. *5:00—6:00 P.M.: Planning for ACNW Retreat* (Open)—The Committee will finalize plans for its February 27–28—March 1, 2002 retreat.

Wednesday, January 9, 2002

E. *8:30—8:35 A.M.: Opening Remarks by the ACNW Chairman* (Open)—The ACNW Chairman will make opening remarks regarding the conduct of the meeting.

F. *8:35—3:00 P.M.: Discussion of Key Technical Issue (KTI) Status* (Open)—The Committee will be briefed on the status of the KTIs for the proposed repository at Yucca Mountain, NV.

G. *3:00—6:00 P.M.: ACRS/ACNW Office Retreat* (Open)—The Committee will meet with the ACNW technical and operational staffs to discuss issues arising from the ACRS/ACNW Office retreat held on September 19–21, 2001.

H. *6:00—6:15 P.M.: Miscellaneous* (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Note: The 132nd ACNW Meeting scheduled for February 7, 2002, has been tentatively rescheduled for February 5–7, 2002.

For further information contact: Mr. Howard J. Larson, ACNW (Telephone 301/415–6805), between 8:00 A.M. and 4:00 P.M. EST.

Dated: December 21, 2001.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 01–32050 Filed 12–28–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting: January 29–30, 2002—Pahrump, Nevada: The Nuclear Waste Technical Review Board Will Hold a Meeting To Discuss Issues Related to the Department of Energy's (DOE) Characterization of a Potential Repository Site at Yucca Mountain, Nevada. A Program Overview and Scientific Updates Will Be Presented. Other Topics Included recently Issued DOE Documents Related to Site Recommendation and Analyses of the DOE's Total System Performance Assessment

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, on Tuesday, January 29, and Wednesday, January 30, 2002, the Nuclear Waste Technical Review Board (Board) will hold a meeting in Pahrump, Nevada, to discuss the status of U.S. Department of Energy (DOE) efforts to characterize a site at Yucca Mountain, Nevada, as the possible location of a permanent repository for spent nuclear fuel and high-level radioactive waste. Among other things, representatives of the DOE and other agencies and groups will present scientific updates on research related to Yucca Mountain and on the results of recently issued studies related to the technical basis for a decision by the Secretary of Energy on whether to recommend Yucca Mountain for repository development. The meeting is open to the public, and opportunities for public comment will be provided. The Board is charged by Congress with reviewing the technical and scientific validity of DOE activities related to managing spent nuclear fuel and high-level radioactive waste.

The meeting will be held at the Bob Ruud Community Center, 150 North Highway 160, Pahrump, Nevada 89048. The pay-phone number for the community center is (775) 727–9991. The meeting sessions will begin at 8:30 a.m. on both days.

The full-day session on Tuesday will begin with a general overview of the DOE program and a briefing on the regulatory framework for a site recommendation. These presentations will be followed by scientific updates in several areas, including fluid inclusions, chlorine-36 studies, saturated zone modeling, and other scientific investigations. Discussions of findings of the U.S. Geological Survey, and comments on the DOE's Total System Performance Assessment by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Nuclear Waste, an international peer review group, and others, will follow.

On Wednesday, discussions will continue on recently released documents, including a report by the DOE on uncertainty and the DOE's Technical Update Information Letter Report. Following these presentations, representatives of the NRC will comment on the NRC's "sufficiency" review. The meeting is scheduled to adjourn at approximately 12:30 p.m.

Opportunities for public comment will be provided before lunch on Tuesday and before adjournment on both days. Those wanting to speak during the public comment periods are encouraged to sign the "Public Comment Register" at the check-in table. A time limit may have to be set on individual remarks, but written comments of any length may be submitted for the record. Interested parties also will have the opportunity to submit questions in writing to the Board. As time permits, the questions will be answered during the meeting. In addition, on Wednesday, from 7:30 a.m. to 8:15 a.m., Board members will host a "coffee and donuts" get together for members of the public attending the meeting at the Bob Ruud Community Center.

A detailed agenda will be available approximately one week before the meeting. Copies of the agenda can be requested by telephone or obtained from the Board's Web site at *www.nwtrb.gov.* Beginning on March 4, 2002, transcripts of the meeting will be available on the Board's Web site, via e-mail, on computer disk, and on a library-loan basis in paper format from Davonya Barnes of the Board staff.

A block of rooms has been reserved at the Best Western Pahrump Station, 1101 South Highway 160, Pahrump, Nevada 89048; (tel) 775–751–5100; (fax) 775–751–1325. When making a reservation, please state that you are attending the Nuclear Waste Technical Review Board meeting.

For more information, contact the NWTRB; Karyn Severson, External Affairs; 2300 Clarendon Boulevard, Suite 1300; Arlington, VA 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) *info@nwtrb.gov.*

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987. The Board's purpose is to evaluate the technical and scientific validity of activities undertaken by the Secretary of Energy related to managing the disposal of the nation's spent nuclear fuel and high-level radioactive waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, to determine its suitability as the location of a potential repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

Dated: December 21, 2001.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 01–32025 Filed 12–28–01; 8:45 am]

BILLING CODE 6820–AM–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 November 19, 2001 (66 FR 57992). Individual authorities established or revoked under Schedule C October 1, 2001, through October 31, 2001, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 has been published.

Schedule C

The following Schedule C authorities were established during November 2001:

Broadcasting Board of Governors

Confidential Assistant to the Director, Office of Cuba Broadcasting. Effective October 10, 2001.

Chief of Staff to the Director, Office of Cuba Broadcasting. Effective October 10, 2001.

Department of Agriculture

Confidential Assistant to the Deputy Secretary. Effective October 8, 2001.

Confidential Assistant to the Secretary of Agriculture. Effective October 10, 2001.

Confidential Assistant to the Under Secretary for Rural Development. Effective October 12, 2001.

Confidential Assistant to the Director of Communications. Effective October 19, 2001.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective October 25, 2001.

Confidential Assistant to the Administrator for Risk Management Agency. Effective October 26, 2001.

Confidential Assistant to the Secretary of Agriculture. Effective October 26, 2001.

Department of the Air Force (DOD)

Confidential Assistant to the Secretary of the Air Force. Effective October 8, 2001.

Department of Commerce

Speechwriter to the Director, Office of Public Affairs. Effective October 1, 2001.

Confidential Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective October 2, 2001.

Confidential Assistant to the Chief of Staff. Effective October 2, 2001.

Legislative Affairs Specialist to the Under Secretary for International Trade, International Trade Administration. Effective October 2, 2001.

Special Assistant to the Assistant Secretary for Trade Development, International Trade Administration. Effective October 2, 2001.

Special Assistant to the Assistant Secretary for Communications and Information, National Telecommunications and Information Administration. Effective October 5, 2001.

Senior Advisor to the Assistant Secretary for Communications and Information. Effective October 10, 2001.

Senior Advisor to the Director, Minority Business Development Agency. Effective October 12, 2001.

Director of Communications to the Assistant Secretary for Trade Development, International Trade Administration. Effective October 12, 2001.

Director, Congressional and Public Affairs to the Under Secretary for Export Administration, Bureau of Export Administration. Effective October 15, 2001.

Executive Assistant to the Assistant Secretary for Trade Development. Effective October 15, 2001.

Deputy Communications Director to the Assistant Secretary for Trade Development. Effective October 22, 2001.

Special Assistant to the Under Secretary for Export Administration, Bureau of Export Administration. Effective October 22, 2001.

Chief Of Protocol to the Chief of Staff. Effective October 26, 2001.

Confidential Assistant to the Deputy Assistant Secretary for Export Promotion services. Effective October 26, 2001.

Confidential Assistant to the Director of External Affairs. Effective October 30, 2001.

Department of Defense

Personal and Confidential Assistant to the Under Secretary of Defense (Personnel And Readiness). Effective October 2, 2001.

Personal and Confidential Assistant to the Secretary of Defense. Effective October 8, 2001.

Confidential Assistant to the Special Assistant to the Secretary of Defense (White House Liaison). Effective October 8, 2001.

Special Assistant to the Principal Deputy Assistant Secretary of Defense (Legislative Affairs). Effective October 22, 2001.

Special Assistant to the Deputy Under Secretary of Defense (International Technology Security). Effective October 25, 2001.

Personal and Confidential Assistant to the Secretary of Defense. Effective October 25, 2001.

Defense Fellow to the Special Assistant to the Secretary of Defense (White House Liaison). Effective October 26, 2001.

Special Assistant for White House Liaison to the Special Assistant to the Secretary of Defense (White House Liaison). Effective October 30, 2001.

Speechwriter to the Director, Directorate for Editorial Services. Effective October 31, 2001.

Department of Education

Confidential Assistant to the Director, White House Initiative on Hispanic Education. Effective October 2, 2001.

Confidential Assistant to the Deputy Assistant Secretary for Regional Services. Effective October 2, 2001.

Special Assistant to the Secretary of Education. Effective October 15, 2001.

Special Assistant to the Senior Advisor to the Secretary. Effective October 19, 2001.

Confidential Assistant to the Director of Scheduling and Briefing. Effective October 19, 2001.

Deputy Assistant Secretary for Regional Services to the Assistant Secretary, Office of Intergovernmental and Interagency Affairs. Effective October 22, 2001.

Special Assistant to the Director, White House Initiatives on Hispanic Education. Effective October 22, 2001.

Deputy Assistant Secretary for Intergovernmental, Constituent Relations and Corporate Liaison to the

VOL 66 ISS 250 DE 31 2001 UMI

Assistant Secretary, Office for Intergovernmental and Interagency Affairs. Effective October 22, 2001.

Special Assistant to the Director, Faith Based and Community Initiatives Center. Effective October 22, 2001.

Special Assistant to the Chief of Staff. Effective October 22, 2001.

Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective October 22, 2001.

Special Assistant to the Deputy Assistant Secretary for Regional Services. Effective October 22, 2001.

Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective October 24, 2001.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective October 24, 2001.

Special Assistant to the Deputy Assistant Secretary for Intergovernmental, Constituent Relations and Corporate Liaison. Effective October 24, 2001.

Confidential Assistant to the Counselor to the Secretary. Effective October 24, 2001.

Special Assistant to the Deputy Secretary. Effective October 24, 2001.

Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective October 24, 2001.

Special Assistant to the Chief of Staff. Effective October 29, 2001.

Confidential Assistant to the Deputy Assistant Secretary for Enforcement. Effective October 30, 2001.

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective October 30, 2001.

Special Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective October 30, 2001.

Secretary's Regional Representative, Region VIII to the Deputy Assistant Secretary for Regional Services. Effective October 30, 2001.

Confidential Assistant to the Director, Office of Bilingual and Minority Languages Affairs. Effective October 31, 2001.

Department of Energy

Special Assistant to the Assistant Secretary for Environment, Safety and Health. Effective October 12, 2001.

Special Assistant to the Director, Office of Scheduling and Advance. Effective October 16, 2001.

Assistant Secretary for International Affairs. Effective October 24, 2001.

Daily Scheduler to the Director of Scheduling and Advance. Effective October 24, 2001.

Deputy Director of Advance to the Director of Scheduling and Advance. Effective October 26, 2001.

Executive Assistant to the Under Secretary. Effective October 26, 2001.

Staff Assistant to the Deputy Assistant Secretary for Natural Gas and Petroleum Technology. Effective October 26, 2001.

Senior Policy Advisor to the Secretary. Effective October 26, 2001.

Confidential Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 26, 2001.

Department of Health and Human Services

Confidential Assistant to the Executive Secretary. Effective October 2, 2001.

Special Assistant to the Deputy Secretary of Health and Human Services. Effective October 5, 2001.

Special Assistant to the Administrator, Human Resources and Services Administration. Effective October 17, 2001.

Executive Director, President's Council on Physical Fitness and Sports to the Assistant Secretary for Health. Effective October 24, 2001.

Special Assistant to the General Counsel. Effective October 26, 2001.

Director, Correspondence Control Center to the Executive Secretary. Effective October 26, 2001.

Department of Housing and Urban Development

Staff Assistant to the Director of Scheduling. Effective October 8, 2001.

Staff Assistant to the Assistant Secretary for Administration. Effective October 12, 2001.

Special Assistant to the Assistant Secretary for Community Planning and Development. Effective October 12, 2001.

Staff Assistant to the Assistant Secretary for Community Planning and Development. Effective October 15, 2001.

Staff Assistant to the Deputy Assistant Secretary for Intergovernmental Relations. Effective October 18, 2001.

Special Assistant to the Assistant Secretary for Housing-Federal Housing Commissioner. Effective October 22, 2001.

Advance Coordinator to the Director, Executive Scheduling. Effective October 26, 2001.

Special Assistant (Speech Writer) to the Assistant Secretary for Public Affairs. Effective October 26, 2001.

Special Assistant to the Secretary. Effective October 29, 2001.

Department of the Interior

Special Assistant to the Assistant Secretary, Policy Management and Budget. Effective October 2, 2001.

Special Assistant to the Assistant Secretary, Indian Affairs. Effective October 30, 2001.

Department of Justice

Senior Policy Advisor to the Assistant Attorney General, Office of Legal Policy. Effective October 2, 2001.

Attorney Advisor to the Assistant Attorney General, Civil Rights Division. Effective October 2, 2001.

Assistant to the Attorney General. Effective October 2, 2001.

Special Assistant to the Deputy Attorney General. Effective October 2, 2001.

Staff Assistant to the Assistant Attorney General, Office of Justice Programs. Effective October 2, 2001.

Chief of Staff to the Director, Bureau of Justice Assistance, Office of Justice Programs. Effective October 19, 2001.

Special Assistant to the Assistant Attorney General, Office of Justice Programs. Effective October 25, 2001.

Special Assistant to the Solicitor General. Effective October 26, 2001.

Special Assistant to the Director, Office of Intergovernmental Affairs. Effective October 26, 2001.

Department of Labor

Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 1, 2001.

Secretary's Representative, Chicago, Illinois to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 2, 2001.

Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 12, 2001.

Staff Assistant to the Assistant Secretary for Mine Safety and Health. Effective October 16, 2001.

Chief of Staff to the Assistant Secretary for Policy. Effective October 22, 2001.

Staff Assistant to the Secretary of Labor. Effective October 22, 2001.

Speechwriter to the Assistant Secretary for Public Affairs. Effective October 22, 2001.

Research Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 22, 2001.

Special Assistant to the Deputy Assistant Secretary, Office of Federal Contract Compliance Programs, Employment Standards Administration. Effective October 22, 2001.

VOL 66 ISS 250 DE 31 2001 UMI

Special Assistant to the Assistant Secretary for Public Affairs. Effective October 22, 2001.

Associate Deputy Secretary to the Deputy Secretary. Effective October 22, 2001.

Senior Policy Analyst to the Assistant Secretary for Policy. Effective October 22, 2001.

Deputy Assistant Secretary to the Assistant Secretary, Veterans Employment and Training. Effective October 22, 2001.

Staff Assistant to the Director, Office of Labor Management Standards. Effective October 22, 2001.

Staff Assistant to the Director, 21st Century Workforce. Effective October 22, 2001.

Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 22, 2001.

Special Assistant to the Assistant Secretary for Veterans' Employment and Training. Effective October 22, 2001.

Special Assistant to the Director, 21st Century Workforce. Effective October 22, 2001.

Special Assistant to the Assistant Secretary for Public Affairs. Effective October 22, 2001.

Senior Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective October 22, 2001.

Secretary's Representative to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective October 31, 2001.

Department of State

Program Support Assistant to the Foreign Affairs Officer. Effective October 3, 2001.

Staff Assistant to the Assistant Secretary. Effective October 8, 2001.

Special Assistant to the Under Secretary. Effective October 8, 2001.

Member, Policy Planning Staff to the Director, Policy Planning Staff. Effective October 8, 2001.

Special Assistant to the Assistant Secretary for Public Affairs. Effective October 8, 2001.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 8, 2001.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 8, 2001.

Staff Assistant to the Deputy Assistant Secretary. Effective October 8, 2001.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 9, 2001.

Member, Policy Planning Staff to the Director, Policy Planning Staff. Effective October 9, 2001.

Executive Assistant to the Deputy Secretary of State. Effective October 9, 2001.

Special Assistant to the Senior Advisor to the Secretary, White House Liaison. Effective October 9, 2001.

Special Assistant to the Under Secretary for Arms Control and International Security. Effective October 9, 2001.

Special Assistant to the Assistant Secretary for Legislative Affairs. Effective October 9, 2001.

Legislative Analyst to the Assistant Secretary for Legislative Affairs. Effective October 9, 2001.

Special Assistant to the Assistant Secretary for Political-Military Affairs. Effective October 9, 2001.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective October 9, 2001.

Special Assistant to the Assistant Secretary, Bureau of East Asian and Pacific Affairs. Effective October 9, 2001.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective October 9, 2001.

Member, Policy Planning Staff to the Director, Policy Planning Staff. Effective October 9, 2001.

Special Assistant to the Director, White House Liaison Staff. Effective October 9, 2001.

Attorney Advisor to the Assistant Secretary for Civil Rights. Effective October 10, 2001.

Legislative Analyst to the Assistant Secretary for Legislative Affairs. Effective October 12, 2001.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective October 12, 2001.

Special Assistant to the Assistant Secretary for European Affairs. Effective October 16, 2001.

Staff Assistant to the Director, White House Liaison Staff. Effective October 16, 2001.

Staff Assistant to the Assistant Secretary for International Narcotics and Law Enforcement Affairs. Effective October 16, 2001.

Special Assistant to the Deputy Secretary of State. Effective October 16, 2001.

Special Advisor to the Assistant Secretary, Bureau of East Asian and Pacific Affairs. Effective October 16, 2001.

Supervisory Foreign Affairs Officer to the Under Secretary for Global Affairs. Effective October 18, 2001.

Staff Assistant to the Director, White House Liaison Staff. Effective October 19, 2001.

Staff Aide to the Assistant Secretary for Civil Rights. Effective October 19, 2001.

Special Assistant to the Assistant Secretary for African Affairs. Effective October 19, 2001.

Staff Assistant to the Under Secretary for Arms Control and International Security. Effective October 19, 2001.

Special Assistant to the Assistant Secretary for Educational and Cultural Affairs. Effective October 19, 2001.

Staff Assistant to the Director, Policy Planning Staff, Office of the Secretary. Effective October 19, 2001.

Staff Assistant to the Under Secretary for Arms Control and International Security. Effective October 19, 2001.

Supervisory Management Analyst to the Deputy Assistant Secretary for Buildings Operations. Effective October 19, 2001.

Legislative Management Officer to the Assistant Secretary for Legislative Affairs. Effective October 19, 2001.

Senior Policy Advisor to the Assistant Secretary for Legislative Affairs. Effective October 19, 2001.

Special Assistant to the Assistant Secretary for African Affairs. Effective October 22, 2001.

Legislative Management Officer to the Assistant Secretary, Bureau of Legislative Affairs. Effective October 23, 2001.

Program Officer (Director of Press Center) to the Assistant Secretary for Public Affairs. Effective October 24, 2001.

Senior Advisor to the Under Secretary for Arms Control and International Security. Effective October 24, 2001.

Department of Transportation

Special Assistant to the Administrator, Maritime Administration. Effective October 2, 2001.

Special Assistant to the Administrator, Research and Special Programs Administration, Office of the Administrator. Effective October 5, 2001.

Special Assistant to the Director of Scheduling and Advance. Effective October 10, 2001.

Special Assistant to the Secretary of Transportation. Effective October 10, 2001.

Executive Assistant to the Assistant to the Secretary and Director of Public Affairs. Effective October 19, 2001.

Department of Veterans Affairs

Special Assistant (Deputy White House Liaison) to the Deputy Assistant Secretary for Public Affairs. Effective October 3, 2001.

Special Assistant to the Special Assistant (Supervisory Regional Veterans Service Liaison Officer). Effective October 24, 2001.

Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs. Effective October 24, 2001.

Export-Import Bank of the United States

Special Assistant to the Vice President Congressional and External Affairs. Effective October 1, 2001.

Federal Emergency Management Agency

Policy Advisor for Congressional and Intergovernmental Affairs to the Division Director, Congressional and Intergovernmental Affairs Division. Effective October 18, 2001.

Federal Trade Commission

Deputy Director to the Director, Office of Public Affairs. Effective October 1, 2001.

General Services Administration

Congressional Relations Officer to the Associate Administrator for Congressional and Intergovernmental Affairs. Effective October 2, 2001.

White House Liaison to the Chief of Staff. Effective October 29, 2001.

Office of Personnel Management

Special Assistant to the Director, Office of Communications. Effective October 3, 2001.

Special Assistant to the Director, Office of Congressional Relations. Effective October 22, 2001.

Special Assistant to the Chief of Staff. Effective October 22, 2001.

Scheduling and Briefing Coordinator to the Chief of Staff. Effective October 22, 2001.

Special Assistant to the Director, Office of Congressional Relations. Effective October 26, 2001.

Office of the United States Trade Representative

Confidential Assistant to the Deputy U.S. Trade Representative. Effective October 18, 2001.

Deputy Assistant U.S. Trade Representative for Congressional Affairs to the Assistant U.S. Trade Representative for Congressional Affairs. Effective October 31, 2001.

Confidential Assistant to the Chief of Staff. Effective October 31, 2001.

Overseas Private Investment Corporation

Confidential Assistant to the Chief of Staff. Effective October 2, 2001.

Small Business Administration

Special Assistant to the Administrator. Effective October 2, 2001.

Assistant Administrator for Public Communications to the Associate Administrator for Communications and Public Liaison. Effective October 2, 2001.

Senior Advisor for International Trade to the Assistant Administrator for International Trade. Effective October 2, 2001.

Regional Administrator, Region IX, San Francisco to the Administrator, Small Business Administration. Effective October 4, 2001.

Regional Administrator, Region V, Chicago, IL to the Associate Administrator for Field Operations. Effective October 19, 2001.

Assistant Scheduler to the Scheduler for the Administrator. Effective October 22, 2001.

Special Assistant to the Associate Administrator for Communications and Public Liaison. Effective October 22, 2001.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958, Comp., p. 218

Kay Coles James,

Director, Office of Personnel Management.

[FR Doc. 01–31899 Filed 12–28–01; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Plains Resources, Inc., Common Stock, $.10 Par Value), File No. 1–10454

December 21, 2001.

Plains Resources, Inc. a Delaware corporation ("Issuer"), has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act")[1] and rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.10 par value ("Security"), from listing and registration on the American Stock Exchange LLC ("Amex").

The Issuer has stated in its application that it has complied with the rules of the Amex by complying with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

On November 6, 2001, the Board of Directors of the Issuer unanimously approved a resolution to withdraw its Security from listing on the Amex and to list it on the New York Stock Exchange, Inc. ("NYSE"). In its application, the Issuer stated that trading in the Security on the Amex ceased on December 20, 2001, and trading in the Security is expected to begin on the NYSE at the opening of business on December 21, 2001. In making the decision to withdraw the Security from listing on the Exchange, the Issuer represents that it seeks to avoid the direct and indirect costs and division of the market resulting from dual listing on the Amex and the NYSE.

The Issuer's application relates solely to the Security withdrawal from listing on the Amex and shall affect neither its approval for trading on the NYSE nor its obligation to be registered under section 12(g) of the Act.[3]

Any interested person may, on or before January 16, 2002 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–32080 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27482; International Release Series No. 1253]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

December 21, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

---

[1] 15 U.S.C. 78l(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78l(g).

[4] 17 CFR 200.30–3(a)(1).

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by January 17, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After January 17, 2002, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

E.ON AG, et al. (70–9961)

E.ON AG ("E.ON"), a German holding company exempt from registration by rule 5 under the Act, located at E.ON-Platz 1, 40479 Düsseldorf, Germany, and Powergen plc ("Powergen"), a U.K. registered holding company located at City Point, 1 Ropemaker Street, London ECY 9HT, United Kingdom, together with subsidiaries of Powergen listed below, have filed a joint application-declaration, as amended, ("Application") under sections 2(a)(8), 4, 5, 6(a), 7, 9(a)(2), 10, 13, 14, 15, 32 and 33 of the Act and rules 42, 45(a), 52, 53, 54, 80 through 91, 93 and 94 under the Act.

The Application seeks authorizations in connection with E.ON's proposed acquisition of the outstanding voting securities of Powergen (the "Acquisition").[1] Authorization is required under sections 9(a)(2) and 10 of the Act because the Acquisition would result in E.ON's indirect acquisition of Powergen's indirect subsidiary LG&E Energy Corp. ("LG&E Energy"), a Kentucky holding company exempt from registration under section 3(a)(1) of the Act, and LG&E Energy's public-utility subsidiary companies, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU").[2] Following the Acquisition, E.ON would register as a holding company under the Act. The other applicants, all registered holding companies, are direct and indirect wholly owned subsidiaries of Powergen: Powergen US Holdings Limited, Powergen US Investments, Powergen Luxembourg sarl, Powergen Luxembourg Holdings sarl, Powergen Luxembourg Investments sarl, Powergen US Investments Corp. ("PUSIC") (collectively, the "Powergen Intermediate Holding Companies," and, together with E.ON and Powergen, "Applicants"), all at City Point, 1 Ropemaker Street, London EC2Y 9HT, United Kingdom.

I. Summary

E.ON seeks authorization to acquire all of the issued and outstanding common stock of Powergen. Through the acquisition, E.ON would indirectly acquire LG&E Energy and its direct and indirect subsidiary companies, including its electric utility subsidiary companies, LG&E and KU.[3] E.ON seeks to retain LG&E Energy as a public-utility holding company subsidiary exempt from registration under section 3(a)(1) of the Act. E.ON will register as a holding company following the Acquisition.

In addition, E.ON requests authorization:

(1) To issue loan notes and make certain guarantees in connection with the Acquisition;

(2) To own its existing utility operations as foreign utility companies ("FUCOs"), as defined in section 33 of the Act, and certain nonutility businesses and other businesses to be acquired;

(3) To invest the proceeds from a planned divestiture of certain of its existing nonutility businesses, which may total approximately $35 billion, in exempt wholesale generators ("EWGs"), as defined in section 32 of the Act, and FUCOs;

(4) To obtain bridge loans to finance those EWG and FUCO investments pending receipt of divestiture proceeds;

(5) To issue securities in an amount up to $25 billion for the purpose of making additional investments in EWGs and FUCOs;

(6) To invest up to $5.5 billion in the nonutility businesses that E.ON plans to divest during the three to five years over which E.ON plans to effect their divestiture;

(7) To retain, and continue to make, investments held as reserves against long-term liabilities regarding pensions and nuclear plant decommissioning as being "in the ordinary course of business" under section 9(c)(3), in accordance with German corporate practice;

(8) For E.ON and its subsidiaries, Powergen and its subsidiaries and LG&E Energy and its subsidiaries to engage in intrasystem service transactions, subject to certain conditions;

(9) To exempt from the at-cost requirements of section 13 of the Act certain intrasystem service transactions; and

(10) To make certain corporate structure changes in a restructuring after the Acquisition without having to seek specific authority for each change, subject to certain conditions.

In addition, Applicants request the Commission:

(1) To issue an order under section 2(a)(8) of the Act declaring Ruhrgas AG, a partially owned German subsidiary of E.ON, not to be a subsidiary of a registered holding company *viz.*, E.ON;

(2) To disregard certain intermediate holding companies for purposes of the analysis under section 11(b)(2) of the Act; and

(3) To grant an exemption from rule 26(a)(1) under the Act regarding the maintenance of financial statements in conformance with Regulation S–X for any subsidiary of E.ON organized outside the U.S.

II. Parties

A. E.ON

E.ON is an Aktiengesellschaft, the equivalent of a U.S. stock corporation, under the laws of the Federal Republic of Germany. E.ON's shares are traded on all German stock exchanges, the Swiss Stock Exchange and as American Depository Receipts ("ADRs") on the New York Stock Exchange. E.ON was formed in June 2000 as a result of the merger of German conglomerates VEBA AG ("Veba") and VIAG AG ("Viag"), which trace their roots to the 1920s. As of December 31, 2000, E.ON was Germany's third largest industrial group, with a market capitalization of approximately Euro 39.5 billion (approximately $35.7 billion) as of April 6, 2001, the last business day before the announcement of the Acquisition.

For the nine months ended September 30, 2001, E.ON had revenues of Euro 64.3 billion ($58.7 billion) and net income of Euro 1.0 billion ($0.9 billion). As of September 30, 2001, E.ON had net assets of Euro 23.2 billion ($21.2 billion) and a market capitalization of approximately Euro 43.4 billion ($39.6 billion).

---

[1] E.ON has also filed a separate application with the Commission for approval of its proposed external financing program (File No. 70–9985, "Financing Application").

[2] The Commission authorized Powergen to acquire LG&E Energy by order dated December 6, 2000. *See PowerGen plc*. Holding Co. Act Release No. 27291 ("Powergen Order").

[3] Through the Acquisition, E.ON would also indirectly acquire the common stock that LG&E and KU own (4.9% and 2.5%, respectively) of Ohio Valley Electric Corp. ("OVEC"), an electric utility. OVEC in turn has one wholly owned electric utility subsidiary, Indiana-Kentucky Electric Corp. ("IKEC").

E.ON's corporate subsidiaries are currently organized into eight separate business divisions: Energy, chemicals, real estate, oil, telecommunications, distribution/logistics, aluminum and silicon wafers. E.ON and all its direct and indirect subsidiaries are referred to as the "E.ON Group." Each business division is responsible for managing its own day-to-day business, while E.ON provides strategic management for E.ON Group members and coordinates E.ON Group activities. E.ON also provides centralized controller, treasury, risk management and service functions to group members, as well as functions relating to communications, capital markets and investor relations.

1. E.ON Energie (Proposed FUCO)

E.ON's energy division, which accounts for 54% of E.ON's total investments, is headed by its wholly owned subsidiary, E.ON Energie AG ("E.ON Energie"). E.ON Energie was formed in July 2000, following completion of the merger between VEBA and VIAG, when E.ON merged the two major energy divisions of those companies. E.ON Energie's core business consists of the ownership and operation of power generation facilities, and the transmission and distribution of electric power, gas and heat and energy-related businesses, including the supply of water and water-related services. At the time of, or prior to, the Acquisition, E.ON intends to qualify E.ON Energie as a "foreign utility company" ("FUCO") as defined in section 33 of the Act.

E.ON Energie conducts its retail energy business through a number of mostly majority-owned subsidiaries and its utility distribution and supply business through a number of majority-owned subsidiaries in Germany.[4] E.ON Energie supplied about one-third of the electricity consumed in Germany in 2000. In 2000, E.ON Energie sold 125.9 billion kWh of electricity in western Germany and 24.1 billion kWh in eastern Germany and exported 19.9 billion kWh.[5] E.ON Energie also conducts a marketing and energy trading business through its wholly owned subsidiary, E.ON Trading GmbH.

Applicants state that E.ON is committed to retain and expand its multi-utility business, which under prevailing European industry practice, includes not only electric and gas service but also water, waste management and other services. Privatized utility functions that E.ON has acquired from municipalities have often included electric, gas, heat and water as part of a bundled service.

E.ON Energie holds stakes in various regional electricity and gas distributors and in municipal utilities ("Stadtwerke"). For historical and political reasons, E.ON Energie rarely owns 100% of the regional utilities or Stadtwerke.

E.ON Energie's principal water-related activities are centered in the German stock exchange-listed company Gelsenwasser, the largest privately held water utility in Germany (based on volume of water deliveries). Gelsenwasser also provides gas utility services. E.ON Energie holds an 80.5% equity interest through its wholly owned subsidiary E.ON Aqua GmbH.

In 2000, E.ON Energie had total revenues of approximately Euro 11 billion ($9.7 billion). Gas and electricity revenues (including district heating) accounted for 89% of these revenues. Of the remaining revenues, 2% were attributable to water activities and 9% were derived from other sales.

2. Gelsenberg AG (Proposed FUCO)

On July 16, 2001, E.ON and BP plc announced that they had reached an agreement to reorganize their oil and gas business. As part of this reorganization and the related transactions, British Petroleum and E.ON have agreed that E.ON will acquire, after January 1, 2002, 51% of Gelsenberg AG ("Gelsenberg"), currently a wholly owned subsidiary of British Petroleum, by means of a capital increase.[6] Beginning on January 1, 2002, British Petroleum will have the option to sell its remaining 49% interest in Gelsenberg to E.ON.

Gelsenberg directly and indirectly owns 25.5% of Ruhrgas AG ("Ruhrgas"), Germany's largest natural gas transmission, storage, distribution and import company, with total sales of approximately 50 billion cubic meters of gas.[7] These operations account for 88% of Ruhrgas' total revenues of Euro 7.3 billion ($6.4 billion). Most of Ruhrgas' remaining revenues of are generated by activities that support the import and transport of gas.

Ruhrgas owns a high-pressure grid that covers nearly all of western Germany. In addition, it owns stakes in regional gas transmission companies, local gas distributors and Stadtwerke in Germany and elsewhere in Europe. Stadtwerke frequently also sell electricity, water and other services. Ruhrgas owns minor stakes of 5% to 9% in four gas fields and a 5% stake in its main gas supplier, the Russian gas company, Gazprom. Ruhrgas supplies gas to E.ON, among others. Ruhrgas also manufactures equipment for the gas industry, such as meters, to assist its customers in their use of Ruhrgas gas and to strengthen its relationship with those customers.

Ruhrgas owns a U.S. manufacturer of metering equipment, American Meter Company of Horsham, Pennsylvania. Applicants state that Ruhrgas is also engaged in gas-related engineering activities in the United States of the type permitted to be acquired under rule 58(b)(1)(vii).

Applicants state that Gelsenberg will certify as a FUCO after the completion of the VEBA Oel divestiture transactions discussed below.

3. Other Nonutility Interests Proposed To Be Retained

a. *Cellular Telephone Providers.* Through two intermediate holding companies, E.ON Telecom GmbH (formerly VEBA Telecom) and VIAG Telecom Beteiligungs GmbH, E.ON holds interests in telecommunications and cellular phone providers in Austria (50.1%) and France (17.5%). E.ON has disposed of most of its telecommunications business activities during 1999 and 2000, but currently intends to retain the cellular phone providers. Exhibit G–1 to the application states that these two companies will apply to the Federal Communications Commission for status as "exempt telecommunications companies" under section 34 of the Act.

---

[4] These companies are identified in Exhibit G–1 to the Application.

[5] E.ON Energie's power transmission grid is located in the German states of Schleswig-Holstein, Lower Saxony, North Rhine-Westphalia, Hesse, Bavaria and Mecklenburg-Western Pomerania and reaches from Scandinavia to the Alps. The grid is interconnected with the western European power grid with links to the Netherlands, Austria, Switzerland and eastern Europe. With a system length of over 37,000 km (23,000 miles) and a coverage area of nearly 170,000 square km (66,000 square miles), the grid covers more than one-third of the surface area of Germany.

E.ON Energie owns interests in and operates electric power generation facilities with a total installed capacity of more than 37,000 MW, its attributable share of which is approximately 29,000 MW (not including mothballed, shut down or inactive power plants). On July 12, 2001, E.ON Energie and Verbund, an Austrian utility company, signed a Memorandum of Understanding concerning the establishment of a combined company for hydroelectric power production. To form European Hydro Power ("EHP"), E.ON Energie will contribute its subsidiary, E.ON Wasserkraft GmbH, and Verbund will contribute its stake in Austrian Hydro Power. E.ON Energie will have a 40% share in EHP and Verbund will own the remaining 60%. The new company will own some 200 hydroelectric power plants with a capacity of 9,600 MW. EHP is expected to commence operations by January 1, 2002.

[6] E.ON will acquire Gelsenberg as part of a transaction with BP plc by which E.ON will divest its subsidiary Veba Oel, as described below.

[7] E.ON currently owns less than a 1% interest in Ruhrgas. E.ON also indirectly holds an additional 18% interest in Ruhrgas through E.ON's interest in RAG AG, discussed below. E.ON's indirect interests in Ruhrgas participate in a voting pool that includes 59% of the voting power of Ruhrgas.

b. *RAG AG.* E.ON directly and indirectly owns 39.2 % of the shares of RAG AG ("RAG"), a unique entity created under the auspices of the German government to own all operating coal mines in Germany.[8] RAG owns 18% of Ruhrgas, described above. E.ON proposes to retain its ownership interest in RAG after becoming a registered holding company and requests an order of the Commission under section 2(a)(8) of the Act declaring RAG not to be a subsidiary company of E.ON under the Act.

c. *E.ON North America Inc. and Fidelia Inc.* E.ON North America Inc. ("E.ON NA"), a wholly owned subsidiary of E.ON, has served in the past as the holding company for certain of E.ON's activities in North America, handling certain finance, legal, tax and other service functions. E.ON NA owns Fidelia Inc. ("Fidelia"), a finance company subsidiary organized under Delaware law. Fidelia lends money exclusively to E.ON Group companies in the U.S., including the U.S. subsidiaries of Degussa AG, one of E.ON's to-be-divested subsidiaries, discussed below.

Applicants state that it would be efficient from an operations, tax and financing perspective to integrate E.ON NA and Fidelia under the E.ON U.S. corporate structure post-Acquisition. The proposed restructuring is discussed in section III, infra.

4. Nonutility Subsidiaries To Be Divested ("TBD Subsidiaries")

E.ON intends to divest certain nonutility subsidiaries and their respective subsidiaries following the Acquisition as part of E.ON's general divestiture program. E.ON explains that its goal is to become a leading global integrated energy and utility company. The TBD Subsidiaries are indicated in E.ON's list of subsidiaries included in Exhibit G–1 to the Application. The activities of the TBD Subsidiaries include chemicals (Degussa AG), real estate (Viterra AG), oil (VEBA Oel), distribution and logistics (Stinnes AG) and aluminum (VAW aluminium AG).[9]

The divestiture of such significant components of E.ON's current business is a major undertaking. Consequently, E.ON proposes to divest Degussa AG and Viterra AG within five years of the date of registration of E.ON as a holding company, and VEB Oel, Stinnes AG and VAW aluminium AG within three years of that date.[10]

Pending divestiture, E.ON proposes to continue to invest in the TBD Subsidiaries to preserve and protect shareholder value and to prevent any diminution in the value or the prospects of the business, until such time as a sale or other exit strategy can be implemented, consistent with the requested order. Accordingly, E.ON intends to redeploy the proceeds of the divestitures in other TBD Subsidiaries and in E.ON's core utility business. E.ON proposes to limit its investments in the TBD Subsidiaries to up to $5.5 billion over the 3–5 year time frame for the contemplated divestitures.

B. Powergen

Powergen is an international integrated energy company with its principal operations in the U.K. and the U.S. Powergen's ordinary shares are listed on the London Stock Exchange and its American Depositary Shares ("ADSs") are listed on the New York Stock Exchange. Powergen, including its predecessor company, has been a reporting company under the Securities Exchange Act of 1934, as amended (the "1934 Act"), since 1995 and has filed reports with the Commission in accordance with the requirements of the 1934 Act applicable to foreign private issuers.

For the year ended December 31, 2000, Powergen had revenues of *4,191 million ($6,268 million) and net income under US GAAP of £430 million ($643 million). As at December 31, 2000, Powergen had net assets of £2,286 million ($3,419 million) and a market capitalization of approximately £4.6 billion ($6.9 billion). For the nine months ended September 30, 2001, Powergen had revenues of £4,230 million ($6,210 million) and net income under U.S. GAAP of £152 million ($223 million). As at September 30, 2001, Powergen had net assets of £2,332 million ($3,423 million) and a market capitalization of approximately £4.8 billion ($7 billion).[11] Powergen and all of its direct and indirect subsidiary companies are referred to below as the Powergen Group.[12]

Powergen's two principal subsidiaries are Powergen Group Holdings and Powergen US Holdings Ltd. ("Powergen US Holdings"), both UK companies. Powergen Group Holdings, a FUCO, is the holding company for Powergen's U.K. and international businesses. Powergen Group Holding's wholly owned subsidiary, Powergen UK plc ("Powergen UK") is one of the UK's leading integrated electricity and gas businesses. As of March 31, 2001, Powergen UK owned or operated approximately 8,200 MW of core generation capacity (of which approximately 7,400 MW is wholly owned and the balance held through joint ventures), and served over three million customer accounts. Powergen's operations in the UK include marketing electricity, gas, telecommunications and other essential services to domestic and business customers; asset management in electricity production and distribution; and energy trading to support those activities. Through Powergen International Ltd, Powergen holds interests in power projects in India and the Asia Pacific Region.

Powergen US Holdings, a registered holding company, is the holding company for Powergen's U.S. business, and is the indirect parent, via the chain of the Powergen Intermediate Holding Companies, of LG&E Energy, which Powergen acquired on December 11, 2000, in accordance with the Powergen Order. PUSIC, one of the Powergen Intermediate Holding Companies, holds all of the outstanding voting securities of LG&E Energy.

LG&E Energy is a holding company exempt by order under section 3(a)(1) of the Act.[13] It is engaged, through its subsidiaries, in power generation and project development; retail gas and electric utility services; and asset-based energy marketing. Its public-utility subsidiary companies, LG&E and KU (the "Utility Subsidiaries"), serve in the aggregate approximately 857,000 electricity customers and 299,000 gas customers over a transmission and

---

[8] E.ON has a 37.1% direct interest in RAG; E.ON also has a 2.1% indirect interest in RAG, through its 21% interest in Montan-Verwaltungsgesellschaft mbH, which owns 10% of RAG. RAG owns, indirectly through a subsidiary, RAG Coal International AG, certain coal mines in the Appalachian, Midwestern, and Mountain western regions of the United States that supply certain electric generating units.

[9] Effective October 16, 2001, E.ON sold Klöckner & Co. AG, a wholly owned subsidiary and leading European metal distributor with locations throughout Europe and North America to Balli group of London. Effective November 13, 2001, E.ON sold MEMC Electric Materials Inc., a 71.8% U.S. based-owned subsidiary and a leading worldwide manufacture of silicon wafers.

[10] As part of the reorganization of their oil and gas businesses agreed to by E.ON and BP plc, BP plc will become VEBA Oel's majority shareholder (51%) by subscribing to a capital increase after January 1, 2002. Beginning April 1, 2002, E.ON will have the option to sell its remaining interest in VEBA Oel (49%) to BP plc. Upon completion of this transaction (*i.e.*, after exercising the put option), E.ON will have divested its oil businesses completely.

[11] Amounts originally in pounds were converted at $1.4955:1 pound.

[12] A complete list of the subsidiaries of Powergen and a description of their respective businesses are contained in Exhibit G–2 to the Application.

[13] *See* Powergen Order, *supra* note 2. *See also LG&E Energy Corp.*, Holding Co. Act Release No. 26886 (Apr. 30, 1998) (confirming the exemption).

VOL 66 ISS 250 DE 31 2001 UMI

distribution network covering some 27,000 square miles.[14] LG&E Energy also is engaged through subsidiaries in a variety of nonutility businesses, including independent power generation, foreign utility operations, energy services, and commercial and industrial energy consulting.[15] LG&E Energy and all of its direct and indirect subsidiary companies are referred to below as the LG&E Energy Group.

LG&E engages in the generation, transmission, and distribution of electricity to approximately 364,000 customers in Louisville and 16 surrounding counties. LG&E also purchases, distributes and sells natural gas to approximately 299,000 customers within this service area and in limited additional areas.[16] For the twelve months ended December 31, 2000, LG&E had electric operating revenues of $711.0 million (net of provision for rate refunds), gas operating revenues of $272.5 million, electric operating income of $131.5 million and gas operating income of $17.4 million. For the nine months ended September 30, 2001, LG&E had electric operating revenues of $557.9 million (net of provision for rate refunds), gas operating revenues of $216.1 million, electric operating income of $50.8 million and a gas operating loss of $7.7 million. LG&E is subject to regulation by the Federal Energy Regulatory Commission ("FERC") and the Kentucky Public Service Commission (the "Kentucky Commission").

KU engages in the generation, transmission, and distribution of electricity to approximately 464,000 customers in over 600 communities and adjacent suburban and rural areas in 77 counties in central, southeastern and western Kentucky, and to approximately 29,000 customers in five counties in southwestern Virginia.[17] In Virginia, KU operates under the name Old Dominion Power Company. KU also sells electric energy at wholesale for resale to twelve Kentucky municipalities and one Pennsylvania municipality. In addition, KU owns and operates a small amount of electric utility property in one county in Tennessee. For the year ended December 31, 2000, KU had electric operating revenues of $851.9 million and operating income of $128.1 million. For the nine months ended September 30, 2001, KU had electric operating revenues of $647.5 million and operating income of $58.4 million. KU is subject to regulation by the FERC, the Kentucky Commission, the Virginia State Corporation Commission (the "Virginia Commission") and the Tennessee Regulatory Authority (the "Tennessee Commission").

III. The Proposed Acquisition

Applicants state that acquisitions of U.K. public companies are normally effected by way of tender offer. There is no statutory merger concept in U.K. law. Tender offers for U.K. public companies are regulated by the U.K. City Code on Takeovers and Mergers (the "City Code") administered by the Panel on Takeovers and Mergers (the "Panel").[18] Although Applicants cannot satisfy the timetable required for tender offers by the City Code, the City Code provides that the Panel may permit the offeror to make a pre-conditional offer announcement, under which the offeror will commence its tender offer only if and when specified conditions, such as receipt of regulatory clearances, are met. In this case, the Panel agreed to the making of a pre-conditional offer announcement by E.ON, under which E.ON will commence its tender offer for Powergen only if and when the relevant United States, European Community and U.K. regulatory approvals have been obtained.[19]

E.ON has, in its announcement of the Acquisition, reserved the right to elect, with the agreement of the Board of Powergen, to acquire the Powergen shares under an alternative U.K. legal procedure known as a "Scheme of Arrangement." This procedure would involve the acquisition of all the outstanding Powergen shares by virtue of an order of the English court under the Companies Act 1985 of the United Kingdom (excluding Northern Ireland), given following approval at a Powergen shareholders' meeting by a majority in number, representing 75% or more in value present and voting, either in person or by proxy, of the Powergen shares. The Scheme of Arrangement would be implemented on the same terms, as applicable, as those that apply to the offer.

Although the timetable for a Scheme of Arrangement is somewhat different from that for a tender offer, Applicants state that similar issues arise in relation to the timing of the approval of the SEC: The court will not grant its order if there are significant conditions outstanding and it may not sanction the Scheme of Arrangement if there has been a substantial passage of time between the date of the shareholders' meeting and the date of the court hearing.

E.ON expects, therefore, that some steps in the Acquisition process would not occur until after an order by the SEC authorizing the Application has been issued. There would be no guarantee, therefore, that the acquisition of Powergen would be consummated following the receipt of the requested order of the Commission, as the shareholders of Powergen may determine that they will not accept the terms offered by E.ON.[20] Applicants state, however, that it is extremely rare for shareholders of a U.K. public company not to accept an offer that has been recommended by their board.

---

[14] As noted previously, LG&E and KU own 4.9% and 2.5%, respectively, of the common stock of OVEC, which in turn has one wholly owned subsidiary, IKEC. *See supra* note 2. LG&E and other public utilities organized OVEC and IKEC in 1952 to supply the entire power requirements of the U.S. Department of Energy's gaseous diffusion plant in Pike County, Ohio. All of the electricity sold by OVEC and IKEC is sold either to the U.S. Department of Energy or to the owners of the stock of OVEC (or their subsidiaries, all of which are utility companies). *See Ohib Valley Electric Corp.*, 34 S.E.C. 323 (Nov, 7, 1952). Applicants state that, for each of the three years ended December 31, 1998–2000, LG&E and KU each derived less than 0.2% of net income from their share of the earnings of OVEC.

[15] The Commission approved Powergen's ownership of LG&E Energy's nonutility businesses in the Powergen Order.

[16] The Commission approved Powergen's ownership of LG&E's gas utility business in the Powergen Order.

[17] KU was formerly an exempt holding company by reason of its partial ownership of Electric Energy Inc. ("EEI"). On August 1, 2000, EEI was granted EWG status. *See* 92 F.E.R.C. ¶62,079. Consequently, under section 32(e) of the Act, EEI is no longer a public-utility company and KU is no longer a holding company under the Act.

[18] Applicants state that the City Code has no statutory basis but is, in practice, adhered to by parties to takeovers of U.K. public companies.

[19] Requisite approvals include:

(1) A decision by the European Commission not to initiate proceedings under Article 6(1)(c) of the Council Regulation (EEC) 4064/89 (as amended), which governs market concentration and competition in the European Economic Community, or, if such proceedings are initiated, a finding that the concentration is compatible with the common market. (On November 26, 2001 theEuropean Commission authorized the Acquisition.):

(2) An indication by the Director General of the Office of Gas and Electricity Markets in the U.K. that he will not seek modifications to any of the Powergen Group's licenses under the Electricity Act 1989 or the Gas Act 1986 as amended by the Gas Act 1995 and subsequent legislation, including the Utilities Act 2000; that he will not seek undertakings or assurances from any member of the E.ON Group or the Powergen Group except, in each case, on terms acceptable to E.ON acting reasonably; and that in connection with the acquisition by E.ON of Powergen, he will give such consents and/or directions (if any) and/or seek or agree to such modifications (if any) as are, in the reasonable opinion of E.ON, necessary in connection with such licenses;

(3) The expiration of applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976;

(4) The termination of the review and investigation of the offer under the Exon-Florio Amendment to the Defense Production Act of 1950: and

(5) The approval of the Kentucky Commission, the Virginia Commission and the Tennessee Commission under applicable state utility law, the approval of the FERC under the Federal Power Act, and the approval of this Commission under the Act. (All three states and the FERC have approved the Acquisition.).

The Boards of E.ON and Powergen have agreed to the terms of a recommended pre-conditional cash offer to be made by Goldman Sachs International on behalf of E.ON for the capital stock of Powergen.[21] Applicants state that the Board of Powergen intends to recommend to Powergen's shareholders that they accept the offer. There are a number of conditions precedent to the offer.[22]

E.ON proposes to offer £7.65 for each Powergen share and £30.60 for each Powergen ADS (representing four Powergen shares).[23] The offer values the whole of Powergen's capital stock at approximately £5.1 billion ($7.3 billion) (assuming the exercise in full of all outstanding options under Powergen's employee benefit plans). E.ON will acquire Powergen, including its outstanding debt, as at closing. On the basis of the Powergen debt outstanding as at December 31, 2000 of £4.5 billion ($6.4 billion) adjusted for divestitures and announced by Powergen prior to the date of the Agreement, the total value of the proposed acquisition would be £9.6 billion ($13.7 billion).[24]

The offer will extend to all existing issued Powergen shares and to any Powergen shares which are unconditionally allotted or issued prior to the date on which the offer closes (or such earlier date as E.ON may, subject to the City Code, decide), including Powergen shares issued in accordance with the exercise of options under Powergen's employee benefit plans or otherwise. In conjunction with the offer for the Powergen shares, an offer will be made to holders of Powergen ADSs to tender the Powergen shares underlying their ADSs into the offer.

If more than 90% of Powergen shares and Powergen ADSs are tendered or otherwise acquired, E.ON would be able to rely on applicable U.K. law to acquire compulsorily any remaining shares, thus enabling E.ON to acquire 100% of Powergen. If more than 50% of Powergen shares and Powergen ADS, are tendered or otherwise acquired, it would be E.ON's option to declare the offer unconditional, even if E.ON had not acquired the 90% tender that is necessary to implement compulsory acquisition of the dissenting minority.

When the offer becomes unconditional in all respects, Powergen will apply to the London and New York stock exchanges for the Powergen securities to be de-listed. It is anticipated that the cancellation of Powergen's listing on the London Stock Exchange will take effect no earlier than 20 business days after the offer becomes or is declared unconditional in all respects.

To effect the Acquisition, E.ON has established a wholly owned subsidiary, E.ON UK Verwaltungs GmbH ("E.ON UK"), a corporation organized under German law. E.ON UK in turn owns all the outstanding shares of an acquisition vehicle, E.ON UK plc, a corporation organized under the laws of England and Wales, that will acquire all of the outstanding Powergen shares either by tender offer or Scheme of Arrangement, as discussed previously. E.ON UK plc would survive the Acquisition. E.ON would register as a holding company. Powergen would remain a registered holding company, and E.ON UK and E.ON UK plc would also register as holding companies.[25] LG&E and KU would remain first-tier subsidiaries of LG&E Energy and keep their names and headquarters locations. Applicants state that this corporate structure will take into account international tax regulations and clearly separate the domestic utility operations of LG&E and KU from the other businesses of E.ON and Powergen.

As a subsidiary of E.ON UK and E.ON UK plc, Powergen will remain the immediate parent company of Powergen Group Holdings Ltd., the current "umbrella" FUCO in the Powergen Group. Powergen will remain responsible for the development and operation of LG&E Energy, LG&E and KU and, in this manner, develop E.ON's Anglo-American energy and utility business in the context of E.ON's overall group strategy. Although Powergen will cease to own any public-utility companies, Powergen will remain a registered holding company due to its continuing role regarding the LG&E Energy Group.

---

[20] Applicants request the Commission to issue an order authorizing the Acquisition before Powergen's shareholders have indicated whether or not they will accept E.ON's tender offer. Applicants state that they will provide prominent disclosure in the relevant solicitation material distributed to Powergen shareholders that the Commission's authorization of the Acquisition is not an endorsement of the Acquisition or a recommendation by the Commission that Powergen shareholders accept the Tender offer or approve the Scheme of Arrangement.

[21] In connection with the offer, E.ON and Powergen have entered into a letter agreement dated April 8, 2001 (the "Agreement"), which, among other things, provides that Powergen will not solicit competing proposals and describes the steps that are to be taken to satisfy the preconditions to the offer. Under the Agreement, certain fees may be payable by either E.ON or Powergen to the other in certain circumstances. The Agreement will terminate (and the obligations of the parties, including E.ON's obligation to make the offer, will lapse) if the preconditions are not satisfied by July 9, 2002.

[22] Applicants state that the offer is subject to various conditions (all set forth in Exhibit B–1 to the Application) typical of acquisitions in Europe and the U.S. The conditions include the receipt of acceptances representing at least 90% (or such lesser percentage as E.ON may decide in excess of 50%) in nominal value of the Powergen shares or, in the event the offer is effected through a Scheme of Arrangement, rather than a tender offer, approval at a court-ordered meeting of the Powergen shareholders by a majority in number, representing 75% or more in value present and voting, either in person or by proxy, of the holders of the Powergen shares. In addition, the offer contains standard conditions restricting Powergen and its subsidiaries from issuing additional securities, paying dividends, bonuses or distributions, transferring assets not in the ordinary course of business, changing loan capital, making capital expenditures and other transactions of a long-term, onerous or unusual nature, changing director remuneration, repurchasing shares, changing constitutive documents, instituting bankruptcy and similar proceedings or entering into agreements to effect any of the above transactions, matters or events, subject to certain conditions.

The conditions also contain standard provisions regarding developments material to the Powergen Group, taken as a whole, including adverse changes in the assets, business, financial or trading position or profits of the Powergen Group; legal proceedings having been threatened, announced or instituted by or against or remaining outstanding against any member of the Powergen Group; contingent or other liabilities having arisen; and steps having been taken which are likely to result in the withdrawal, cancellation, termination or modification of any license held by any member of the Powergen Group which is necessary for the proper carrying on of its business.

[23] Applicants state that for U.K. tax purposes, some shareholders of Powergen may prefer to receive a loan note rather than cash from E.ON in return for their Powergen shares. Under U.K. tax law, such shareholders can defer recognition of any capital gains from the sale of their Powergen shares until they redeem the loan notes. In the event the loan notes are used, accepting shareholders of Powergen shares would receive £1 nominal of loan notes for every £1 of cash consideration. The loan notes would be unsecured, and would not exceed in aggregate principal amount issued, $7.3 billion. They have not been, and will not be, registered under the Securities Act of 1933, and will not be offered to U.S. investors. If E.ON elects to make the offer through another member of the E.ON Group, E.ON would guarantee the loan notes. E.ON requests authorization to maintain the loan notes and any associated guarantee in connection with the Acquisition.

[24] Before taking into account future dividends payable to Powergen shareholders, the offer represents a premium of 8.4% over the price of Powergen shares as at the close of business on April 6, 2001 (the last trading day prior to the announcement of the Acquisition); 25.8% over the closing price of Powergen shares on January 16, 2001, the last business day before the announcement of preliminary talks between E.ON and Powergen in relation to the offer) and 35.2% over the average price of Powergen shares over the 6 months ended January 16, 2001.

[25] Applicants state that the German and European utility regulations that affect the E.ON Group apply only to its German and European operating companies and not to the parent holding company, which will register; therefore, there is no conflict between the regulatory scheme under the Act and German or European regulation. Similarly, U.K. utility regulation affecting Powergen (and E.ON following its acquisition of Powergen) would apply only to the U.K. operating companies and not directly to the parent registered holding company. Therefore, there also will be no conflict between the regulatory scheme under the Act and U.K. regulation. As noted previously, in addition to the U.S. Federal and state approvals, the transaction has been reviewed by the European Commission and will be reviewed by the U.K. Office of Gas and Electricity Markets.

Powergen will continue to hold an indirect voting equity interest in LG&E Energy through the Powergen Intermediate Holding Companies for a short period of time, not to exceed six months after the Acquisition.[26] This will allow time for E.ON to accomplish a reorganization whereby the ownership of PUSIC, the immediate parent of LG&E Energy, will be transferred to E.ON US Verwaltungs GmbH ("E.ON US"), a wholly owned E.ON subsidiary company. Applicants request authorization to effect the reorganization.

After the Acquisition and the reorganization, E.ON will hold all the outstanding voting stock of LG&E Energy through PUSIC and E.ON U.S. (the "Intermediate Companies").[27] PUSIC will remain a registered holding company under the Act and E.ON and E.ON US will register as such. The Powergen Intermediate Holding Companies will cease to own voting securities directly or indirectly in PUSIC or LG&E Energy, although certain arrangements made to finance Powergen's acquisition of LG&E Energy and the operations of LG&E Energy, will remain in place.

Because the Powergen Intermediate Holding Companies will cease to hold direct or indirect voting interests in LG&E Energy, they request that the Commission unconditionally approve their deregistration under section 5(d) of the Act. Applicants further request that the Commission reserve jurisdiction over the proposed deregistration until after the reorganization has been effected and the record is complete in this regard.

Applicants state that maintaining an efficient post-Acquisition structure may require a rapid response to changes in matters such as tax and accounting rules, including by making appropriate revisions after consummation of the Acquisition to add or subtract an intermediate holding company between E.ON and LG&E Energy. They assert that such changes to the "upper structure" would not have any material impact on the financial condition or operations of LG&E Energy or its subsidiaries. Applicants request authorization to make such changes after consummation of the Acquisition, subject to the condition that no change (i) will result in the introduction of any third part interests in the upper structure, (ii) will introduce a non-European Union or non-U.S. entity into the upper structure, or (iii) will have any material impact on the financial condition or operations of E.ON or LG&E Energy and its subsidiaries.

Applicants request that, for purposes of the analysis under section 11(b)(2) of the Act, the Commission disregard the Intermediate Companies (PUSIC and E.ON US), neither of which will issue securities to third parties. Applicants assert that these companies are special purpose entities created for the sole purpose of capturing economic efficiencies that might otherwise be lost in a cross-border transaction.

Applicants request that Powergen, E.ON UK and E.ON UK plc also be disregarded for the purposes of the analysis under section 11(b)(2) of the Act. As noted above, all three will be registered holding companies under the Act after the Acquisition. E.ON UK and Powergen will not issue securities to third parties, but will serve merely as financial conduits. E.ON UK plc, however, may issue and sell debt securities, in particular, bonds, to third parties to finance the authorized or permitted activities of the Powergen Group. Bonds issued by E.ON UK plc may be guaranteed by E.ON. Applicants state that financing the Powergen Group through bonds issued by E.ON UK plc is expected to be more cost effective due to tax considerations than financing capital needs through E.ON or another E.ON subsidiary and then lending the funds to E.ON UK plc.

Applicants state that any third party debt issued by E.ON UK plc would be consolidated into E.ON's consolidated financial statements and would count against the financing limits for E.ON's external financing program set forth in the application that E.ON has filed with the Commission in File 70–9985 for approval of its proposed financings (the "Financing Application"). The debt issued by E.ON UK plc would be reflected in E.ON's consolidated financial statements, and in the Financing Application. E.ON will commit to a minimum 30% equity to total capitalization level. Applicants assert that in effect, especially in the case where such debt is backed by an E.ON guarantee, E.ON UK plc would function as a financing subsidiary for E.ON, and the debt of E.ON UK plc should be treated as E.ON debt for purposes of determining compliance with section 11(b)(2) of the Act. In other words, Applicants assert that E.ON UK plc, together with E.ON UK and Powergen, should be viewed as financing conduits that may be "looked through" for purposes of determining compliance with section 11(b)(2).

As discussed in section II.A.3.c., *supra*, Applicants propose that, following the Acquisition, E.ON NA and Fidelia will be integrated under the E.ON U.S. corporate structure. In addition, Fidelia, which holds the cash proceeds of certain divestitures of E.ON's nonutility businesses in the U.S. will continue to hold such funds for use in future U.S. acquisitions, as permitted or authorized by the Commission. Further, Fidelia may lend funds to other companies in the E.ON Group, except as prohibited under the Act.[28] This would avoid repatriating the funds to Germany and exposure to the risks of currency value fluctuations. To effect the restructuring, E.ON would transfer the E.ON NA shares to E.ON U.S., which, in turn, would transfer the shares to PUSIC. For tax reasons, debt of E.ON NA to E.ON may be cancelled, or E.ON may contribute assets to E.ON NA, in connection with the restructuring transactions.

IV. Financing of the Acquisition

E.ON proposes to finance the Acquisition with cash on hand, the proceeds of liquidating certain readily marketable assets, funds from E.ON's existing lines of credit or the issuance and sale of long-term or short-term debt securities or bank lines of credit. Powergen, LG&E Energy and its subsidiaries, including LG&E and KU, will not borrow or issue any security, incur any debt or pledge any assets to finance any portion of the purchase price paid by E.ON for Powergen shares.

---

[26] As a result of Powergen's acquisition of LG&E Energy, Powergen and the Powergen Intermediate Holding Companies registered as public-utility holding companies under Section 5 of the Act. The Powergen Intermediate Holding Companies are Powergen US Holdings Limited and Powergen US Investments, corporations organized under the laws of England and Wales, Powergen Luxembourg sarl and Powergen Luxembourg Holdings sarl, corporations organized under the laws of Luxembourg, and Powergen US Investments Corp., a Delaware corporation ("PUSIC"). PUSIC currently holds all of the outstanding voting securities of LG&E Energy, and will continue to do so after the Acquisition.

[27] Applicants state that this ownership structure is preferable from a tax law perspective because it avoids holding a U.S. asset through another foreign jurisdiction. They state that current German tax regulations with regard to controlled foreign corporations discourage German corporations from holding assets through multi-tier subsidiaries located in multiple jurisdictions.

[28] Applicants' filing in SEC File No. 70–9985 (the "Financing Application") describes the proposed financing plan for the E.ON Group, including Fidelia, in greater detail.

VOL 66 ISS 250 DE 31 2001 UMI

V. EWG/FUCO Financings and Investments

Applicants seek authorization (i) to retain existing investments in FUCOs[29] and energy-related businesses; (ii) to invest the proceeds from divestitures (including any divestitures occurring since the June 2000 merger of Veba and Viag, as well as future divestitures), which may total approximately $35 billion, in exempt wholesale generator ("EWG") and FUCO activities without including those investments in E.ON's Aggregate EWG/FUCO Financing Limitation (as defined below);[30] and (iii) to enter into transactions to finance additional investments in EWGs and FUCOs in an amount up to $25 billion.

The authorization requested in (ii), above, would also include authorization for E.ON to issue and sell securities to finance EWG and FUCO investments pending the receipt of divestiture proceeds ("Bridge Loans"); provided that upon the receipt of such proceeds, the Bridge Loans or securities with an equivalent principal amount are retired, redeemed or otherwise paid down such that the aggregate EWG and FUCO investment under the authorization requested in (ii) does not exceed the cash proceeds from divestitures. The $35 billion Bridge Loan authorization, plus the $25 billion additional investment amount referred to in (iii) above, are referred to in the aggregate as the "Aggregate EWG/FUCO Financing Limitation."

A. Reinvestment of Proceeds From Divestitures

As discussed previously, E.ON intends to divest significant nonutility assets. E.ON requests authorization to reinvest the proceeds of those divestitures, estimated to be $35 billion in eligible EWG and FUCO assets. Applicants state that eligible FUCO assets will include non-U.S. electric and gas utilities as well as energy-related and other related activities and assets. Because the receipt of divestiture proceeds will not always coincide with the opportunity to invest in additional EWG or FUCO assets, Applicants also request authorization for E.ON to enter into bridge financing arrangements and to make Bridge Loans of up to $35 billion. In this way, attractive investment opportunities can be pursued pending the ultimate receipt of divestiture proceeds. Upon receipt of the divestiture proceeds, E.ON would retire, redeem or otherwise pay down the Bridge Loans or securities with an equivalent principal amount, so that E.ON's aggregate EWG and FUCO investment under the authorization to reinvest divestiture proceeds does not, in fact, exceed the proceeds from the divestitures.

B. Additional Investment in EWGs and FUCOs

In addition to retention of E.ON's existing FUCO and energy-related investments and the reinvestment of the proceeds of divestitures, Applicants request authorization to finance additional EWG/FUCO investments in an aggregate amount of up to $25 billion. These financings may include the issue or sale of a security for purposes of financing the acquisition or operations of an EWG or FUCO, or the guarantee of a security of an EWG or FUCO.[31] Applicants state that E.ON will not issue additional debt securities to finance EWG or FUCO acquisitions if upon original issuance E.ON's senior debt obligations are not rated investment grade by at least two of the major rating agencies (*i.e.*, Standard & Poor's Corporation, Fitch Investor Service and Moody's Investor Service). E.ON, LG&E and KU will also each maintain a capital structure in which common equity comprises at least 30% of consolidated capitalization.

As of December 31, 2000, E.ON had an "aggregate investment," as the term is defined in rule 53(a) under the Act, in EWGs and FUCOs of $6.009 billion.[32] This investment represents 44% of E.ON's *pro forma* consolidated retained earnings of $13.805 billion as of December 31, 2000, as adjusted for the Acquisition and determined in accordance with U.S. GAAP.[33] In addition, the combined LG&E Energy Group and Powergen aggregate investment in EWGs and FUCOs as of December 31, 2000 is $1.048 billion. The combined E.ON, Powergen and LG&E Energy aggregate investment ($7.057 billion) represents approximately 51% of E.ON's *pro forma* consolidated retained earnings.

On a pro forma basis to reflect the Acquisition and the reinvestment of the estimated proceeds of divestitures ($35 billion) in FUCO investments, E.ON's "aggregate investment" in EWGs and FUCOs as of December 30, 2000 would be approximately $42.057 billion, or approximately 305% of E.ON's pro forma consolidated retained earnings at December 31, 2000, calculated in accordance with U.S. GAAP. Additional investments in EWGs and FUCOs in an amount up to $25 billion, would result in total aggregate investment of approximately $67.057 billion, or 486% of E.ON's pro forma consolidated retained earnings at December 31, 2000.

VI. Investments in Portfolio Securities

E.ON Group companies, particularly E.ON Energie, hold significant investments as reserves against long-term liabilities, specifically, pension and, for E.ON Energie only, nuclear decommissioning obligations. These investments, which currently total approximately Euro 9 billion ($7.9 billion), include publicly traded common stocks of other companies. Large parts of the investments are held through investment funds. Applicants request that the Commission authorize E.ON and its FUCO and nonutility subsidiaries located in Germany to retain these investments under section 9(c)(3) of the Act as being "in the ordinary course of business" of a German company. The requested relief would not apply to the Powergen Group or the LG&E Energy Group.

Applicants state that German law does not require, and German companies, including E.ON, do not, in practice, segregate the investments and funds they hold with respect to these kinds of liabilities. To ensure that the relief requested is appropriately matched to a continuing need in the ordinary course of business, E.ON proposes to make equity investments for the purposes of funding future employee benefit and nuclear decommissioning expenditures only if, at the time of investment, the actuarial value of the prospective obligations exceeds the aggregate amount of the investments that will be held by E.ON immediately after the investment has been made. Further, E.ON will not accumulate an affiliate interest in the equity of any company purchased to fund the reserves. During the year 2002, E.ON will divest shares held in companies in which E.ON holds an affiliate interest to reduce E.ON's interest below 5%.[34] Furthermore, on a going forward basis, E.ON's additional net investments in its reserves will be limited to 25% common stocks.[35] E.ON's annual report on Form U5S will include a statement reconciling the reserve investments with the related long-term liabilities. The statement will indicate the asset class breakdown of the reserves.

---

[29] For purposes of this discussion, "FUCOs" is deemed to include all foreign businesses which qualify for FUCO status but for the fact that the appropriate notice has not yet been provided to the Commission. E.ON states that it intends to provide all such notices to the Commission at the time of the consummation of the Acquisition.

[30] Although the proceeds of divestitures could be invested in EWGs and FUCOs, they would not be limited to such uses and could be used to finance the activities of the E.ON Group generally, as authorized or permitted under the Act.

[31] The specific types of financings are described in the Financing Application.

[32] Currently, E.ON has no EWG investments and its FUCO investment is in E.ON Energie only. E.ON's aggregate investment in E.ON Energie reflects the book value of E.ON's investment, including loans, in E.ON Energie as of December 31, 2000. As of September 30, 2001, E.ON's aggregate investment in E.ON Energie was $6.147 billion.

[33] E.ON's *pro forma* solidated retained earnings would be $13.805 billion as of December 31, 2000. As of September 30, 2001, E.ON's pro forma consolidated retained earnings would be $11.679 billion.

VII. Intrasystem Provision of Services

A. LG&E Services and the LG&E Energy Group

In the Powergen Order, the Commission found that LG&E Services, Inc.("LG&E Services") met the requirements of section 13(b) of the Act. LG&E Services will remain a first-tier wholly owned subsidiary of LG&E Energy, will become the service company under section 13 of the Act for the E.ON Group upon completion of the Acquisition, and will continue to provide services to the members of the LG&E Energy Group. Except as otherwise authorized, the operation of LG&E Services will conform to the authorization granted in the Powergen Order.

B. Services Provided by Members of the Powergen Group and Members of the E.ON Group

Applicants state that, after the Acquisition, Powergen and other members of the Powergen UK Group (Powergen Group Holdings and all of its direct and indirect subsidiaries) will continue to provide services to the LG&E Energy Group. For example, members of the Powergen UK Group will provide management services in the areas of internal audit, tax and treasury; and consultation regarding engineering, research and development projects and transmission best practices. Applicants also expect that E.ON and other members of the E.ON Group, especially E.ON Energie, will provide services to LG&E Services and other members of the LG&E Energy Group after the Acquisition.[36] Those services would generally be limited to high-level management, administrative and technical services.

Applicants state that E.ON does not intend to render services to its subsidiaries at a charge and will not allocate to the LG&E Energy Group companies, or charge them for, any general overhead costs incurred at the E.ON or Powergen level.[37] Applicants state that, to the extent that costs for services provided by members of the Powergen UK Group or the E.ON Group (other than E.ON and Powergen) can be attributed to a specific member of the LG&E Energy Group, that member will be charged such cost directly. Billing and coordination of services would be performed by LG&E Services, as described below. The costs for the service will be directly assigned, distributed or allocated by activity, project, program, work order or other appropriate basis. The service provider will use appropriate policies and procedures to assure that all costs are identified and attributed to particular projects, programs or work orders for purposes of direct cost allocation. As required by rule 91 under the Act, the costs allocated across the businesses served by any service provider will represent the total true cost of providing the corporate service. The costs considered in the allocation will include: (1) Total payroll and associated costs; (2) materials and consumable costs; (3) building and facilities costs; (4) information systems infrastructure costs; and (5) other departmental costs. Records related to services provided by any service provider to the LG&E Energy Group companies will be made available to the Commission staff for review.

Applicants state that, to the extent that any services cannot be directly attributed to a specific LG&E Energy Group company, members of the LG&E Energy Group will pay a share of the costs of services that benefit them. The portion of the costs attributable to the LG&E Energy Group companies will be determined using measures that reflect the relevant contribution and size of the individual businesses. With respect to costs incurred at the Powergen Group level, allocation of group costs will by done using four measures (revenues, operating profit, employee numbers and net assets) and group costs will be allocated equally across the four measures. Revenues are adjusted to exclude the income resulting from sales of purchased power within the LG&E Energy Group. Powergen will use figures from the latest published accounts to calculate the percentage of revenues, operating profit, employee numbers and net assets on an annualized basis, and these four percentages will be averaged to calculate the group allocation.

Applicants state that LG&E Services will generally act as the gatekeeper or coordinator for services flowing to and from the LG&E Energy Group. Applicants expect that the majority of costs billed by members of the Powergen Group to the LG&E Energy Group will be paid initially by LG&E Services, which will then charge the appropriate service recipient. LG&E Services will allocate the costs of service among the LG&E Energy Group using one of several methods. The method of cost allocation varies based on the department rendering the service. The cost allocation methods used by LG&E Energy Services are described in Exhibit J–1 to the Application.

Applicants state that, except as otherwise authorized by the Commission, all services provided by members of the E.ON Group and/or the Powergen Group to LG&E Services and the other members of the LG&E Energy Group will be billed at cost and in accordance with fair allocation methods, in accordance with section 13 of the Act and the related rules. If a service provider provides services for the benefit of a specific LG&E Energy Group company, the charge applicable to that company will be specifically identified in the invoice. Otherwise, the service provider's charges will be allocated to individual LG&E Energy Group companies through LG&E Services' allocation procedures.

C. Exemptions for Transactions with Nonutility Companies

Each member of the E.ON Group, the Powergen Group and the LG&E Energy Group (including LG&E Services) requests authorization under section 13(b) of the Act to provide services and sell goods to nonutility companies in the LG&E Energy Group, the Powergen Group and the E.ON Group, at fair market prices determined without regard to cost, and requests an exemption under section 13(b) of the Act from the cost standards of rules 90 and 91 as applicable to these transactions, in any case in which the nonutility subsidiary purchasing these goods or services is:

---

[34] E.ON holds an interest above 5% in a company, which it plans to divest in 2002 by either selling the stock or issuing a bond that would be exchangeable for the stock of the company or cash. Applicants state that the terms of the exchange offer, including when the exchange would be triggered, have not yet been determined.

[35] This limit will be applied over the course of E.ON's fiscal year and will be based on the value of the investments at the time they were made.

[36] Applicants do not expect that significant services or goods would be provided by members of the E.ON Group other than E.ON and E.ON Energie to LG&E Services or other companies in the LG&E Energy Group.

[37] Applicants state that, if in the future E.ON seeks to charge its costs for general administrative services relating to its corporate-wide objectives, policies and activities, including costs of senior management, shareholder services, investor relations, corporate affairs, strategic planning and business development, E.ON will file an application setting forth allocation methods and describing the proposed transactions in further detail.

VOL 66 ISS 250 DE 31 2001 UMI

(1) A FUCO or foreign EWG which derives no part of its income, directly or indirectly, from the generation, transmission, or distribution of electric energy for sale within the United States;

(2) An EWG which sells electricity at market-based rates which have been approved by the FERC, provided that the purchaser is not a public-utility company in the LG&E Energy Group;

(3) A "qualifying facility" ("QF") within the meaning of the Public Utility Regulatory Policies Act of 1978, as amended ("PURPA"), that sells electricity exclusively (a) at rates negotiated at arms" length to one or more industrial or commercial customers purchasing the electricity for their own use and not directly for resale, and/or (b) to an electric utility company other than a public utility in the LG&E Energy Group at the purchaser's "avoided cost" as determined in accordance with PURPA regulations;

(4) A domestic EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser is not a public-utility company in the LG&E Energy Group; or

(5) A subsidiary engaged in rule 58 activities or any other nonutility subsidiary that (a) is partially owned by a member of the LG&E Energy Group, the Powergen UK Group or the E.ON Group, (b) is engaged solely in the business of developing, owning, operating and/or providing services or goods to the non-utility subsidiaries described in clauses (1) through (4) immediately above, or (c) does not derive any part of its income from a public-utility company within the LG&E Energy Group.

VIII. Reporting

Applicants state that under German law, E.ON must prepare and publish consolidated financial information at least semi-annually. Applicants propose to provide rule 24 certificates on a semiannual basis, consistent with the frequency of financial reporting required in Germany. The rule 24 certificates will be provided to the Commission within 180 days after the end of E.ON's fiscal year and within 60 days of the end of its second fiscal quarter and will contain paper copies of E.ON's filings of Form 20–F and reports to shareholders. The semiannual reports provided to the Commission in rule 24 filings under this Application will be organized so that all columns showing amounts in Euros in financial statements or tables are accompanied by parallel columns showing U.S. dollar amounts.

Applicants state that they will file Form U5S annually within 180 days of the close of E.ON's fiscal year. In addition, as required by the 1934 Act, and the Securities Act of 1933, as amended, respectively, E.ON will file Form 20–F and reports on Form 6–K containing material announcements as made. To maintain a consistent presentation of financial information, the Applicants propose that the Form U5S filing will contain: (1) U.S. GAAP financial statements for all the LG&E Energy Group companies; and (2) U.S. GAAP financial statements or financial statements in the format required by Form 20–F for (a) E.ON, on a consolidated basis, and (b) any intermediate holding companies. The reporting requirements imposed by the Commission will enable the Commission to oversee the operations of the E.ON companies, including intrasystem transactions. All amounts expressed in Euros shall be converted to U.S. dollars. Form U5S filings will state amounts in U.S. dollars.

E.ON also will report annually, as a supplement to the Form U5S, service transactions among the E.ON system companies. That report will contain the following information:

(1) A narrative description of the services rendered by members of the E.ON Group or the Powergen Group for the LG&E Energy Group, by the members of the LG&E Group for the E.ON Group or the Powergen Group, and by the members of the LG&E Energy Group for each other (other than as reported on Form U–13–60);

(2) Disclosure of the dollar amount of services rendered according to category or department;

(3) Identification of companies rendering services and recipient companies; and

(4) Disclosure of the number of LG&E Energy Group employees engaged in rendering services to other E.ON system companies on an annual basis, stated as an absolute and as a percentage of total employees.

Applicants also request an exemption from rule 26(a)(1) under the Act, regarding the maintenance of financial statements in conformance with Regulation S–X, for any subsidiary of E.ON organized outside the U.S. Applicants state that E.ON will comply with Rule 53(a)(2)(ii), which requires each majority-owned FUCO subsidiary of a registered holding company to maintain its books, records and financial statements in conformity with U.S. GAAP and requires the registered holding company to provide the Commission with access to such books and records. For each non-majority owned FUCO subsidiary, Applicants state that E.ON will endeavor to comply with Rule 53(a)(2)(iii), which requires either U.S. GAAP books, records and financial statements or, upon request, for E.ON to provide a description and quantification of material variations from U.S. GAAP if another comprehensive body of accounting principles is followed.

Applicants also will report annually, as a supplement to the Form U–13–60 filed by LG&E Services, service transactions among E.ON system companies (excepting the LG&E Energy Group) and the LG&E Energy Group. The report will contain the following information:

(1) A narrative description of the services rendered by individual E.ON system companies (excepting the LG&E Energy Group) to the LG&E Energy Group and by the LG&E Energy Group to other E.ON system companies

(2) Disclosure of dollar amount of services rendered according to category or department;

(3) Identification of companies rendering service and recipient companies, including disclosure of the allocation of services costs among the companies of the LG&E Energy Group; and

(4) Disclosure of the number of LG&E Energy Group employees engaged in rendering services to other E.ON system companies on an annual basis, stated as an absolute and as a percentage of total employees.

With regard to its investments in EWGs and FUCOs, E.ON proposes to report the following information in its semiannual rule 24 certificates:

(1) A calculation of the ratio of E.ON's aggregate investment in EWGs and FUCOs to E.ON's average consolidated retained earnings (both as determined in accordance with Rule 53(a));

(2) A statement of aggregate investment as a percentage of the following: total capitalization, net utility plant, total consolidated assets and market value of common equity, all as of the end of that semiannual period;

(3) A statement of E.ON's authorized EWG and FUCO investment limit and the amount of unused investment authority based on the aggregate investment as of the date of the report;

(4) Consolidated capitalization ratios as of the end of that semiannual period;

(5) The market-to-book ratio of E.ON's common stock at the end of that semiannual period;

(6) An analysis of the growth in consolidated retained earnings, which segregates total earnings growth attributable to EWGs and FUCOs from

that attributable to other E.ON subsidiaries; and

(7) A statement of revenues and net income of each of E.ON's EWGs and FUCOs for the twelve months ended as of the end of that semiannual period, with an indication of which EWGs and FUCOs were acquired during the reporting period.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32074 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25324; 813–202]

Greenwich Street Employees Fund, L.P., et al.; Notice of Application

December 21, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 ("Act") exempting applicants from all provisions of the Act and the rules and regulations under the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (except for certain provisions of paragraphs (a), (b), (e), and (h)), and section 36 through 53, and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited partnerships and other entities (each a "Partnership") formed for the benefit of key employees of Citigroup Inc. and its affiliates from certain provisions of the Act. Each Partnership will be an "employees" securities company" within the meaning of section 2(a)(13) of the Act.

Applicants: Greenwich Street Employees Fund, LP ("Initial Partnership"); Citigroup Inc.; Citigroup Employee Fund of Funds I, LP; Citigroup Employee Fund of Funds (US–UK) I, LP; Citigroup Employee Fund of Funds (Cayman) I, LP; Citigroup Employee Fund of Funds (DE–UK) I, LP; SSB Capital Partners I, LP; SSB Capital Partners (US–UK) I, LP; SSB Capital Partners (Cayman) I, LP; and SSB Capital Partners (DE–UK) I, LP.

FILING DATES: The application was filed on February 10, 1999 and amended on August 18, 1999, October 31, 2000, April 16, 2001 and December 20, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 399 Park Avenue, New York, New York 10043.

FOR FURTHER INFORMATION CONTACT: John L. Sullivan, Senior Counsel, at (202) 942–0681, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Citigroup Inc. is a financial holding company whose businesses provide a broad range of financial services. Citigroup Inc. and its affiliates (as defined under rule 12b–2 under the Securities Exchange Act of 1934 ("Exchange Act")) ("Citigroup") have organized and will organize Partnerships primarily for the benefit of eligible current and former employees, officers, directors, and persons on retainer of Citigroup (an "Eligible Employee"). The Partnerships are part of a program designed to create capital building opportunities that are competitive with those at other financial services firms and to facilitate the recruitment of high caliber professionals. Participation in a Partnership is voluntary.

2. A Partnership will be a limited partnership, a limited liability company, business trust or other entity organized under the laws of Delaware or another state. Citigroup also will form Partnerships organized under the laws of jurisdictions outside the United States to create the same investment opportunities for Eligible Employees who are not U.S. residents. The Partnerships will be operated in accordance with their respective limited partnership agreements or other organizational documents (each, a "Partnership Agreement"). Each Partnership will be formed as an "employees' securities company" within the meaning of section 2(a)(13) of the Act and will operate as a closed-end management investment company, which may be diversified or non-diversified.

3. Each Partnership will be managed, operated and controlled by its general partner, managing member or other similar entity ("General Partner"). Each General Partner, with the exception of the Initial General Partner (as defined below), will be a Citigroup entity. The General Partner or another entity will serve as investment adviser ("Investment Adviser") to a Partnership. The Investment Adviser will be (a) registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act"), (b) exempt from Advisers Act registration requirements by virtue of section 203(b)(3) of the Advisers Act, or (c) excluded from the definition of investment adviser under the Advisers Act because it is a bank or a bank holding company (as defined in the Bank Holding Company Act of 1956). Any entity serving as Investment Adviser to any Partnership (other than the Initial Partnership as described below) will be a Citigroup entity.

4. The Initial Partnership is a limited partnership that first offered interests (as defined below) in Feburary 1999. The Initial Partnership invests concurrently with Greenwich Street Capital Partners II, LP ("Fund II") and other investors organized or managed by Citigroup or its designees that generally co-invest with Fund II ("Fund II Co-Investors"). Pursuant to their respective limited partnership agreements, the Initial Partnership, Fund II and Fund II Co-Investors must each, to the extent possible, make investments in securities of portfolio companies on a *pari passu* basis with each other on the same terms and at the same times and dispose of such securities at the same time, on the terms and conditions no more favorable than the terms and conditions of any other such disposition by any other such party. Both the Initial Partnership and Fund II are advised by GSCP (NJ), LP ("Initial Investment Adviser"). The Initial Investment Adviser is wholly owned by individuals who are managing members of Greenwich Street Investments II, L.L.C., which is the general partner of the Initial Partnership ("Initial General Partner") and the

VOL 66 ISS 250 DE 31 2001 UMI

general partner of Fund II. At the time the Initial Partnership was formed, the Initial General Partner was a Citigroup entity. In June 1999, Citigroup restructured its interest in the Initial General Partner as a condition to an order of the Federal Reserve Board prompted by the merger of Citicorp and Travelers Group Inc. The restructuring involved (a) a reduction in the voting interest of The Travelers Insurance Company ("Travelers Insurance") and certain of its affiliates in the Initial General Partner to 24.9%, (b) Travelers Insurance ceasing to be a managing member of the Initial General Partner, and (c) the management and employees of the Initial Investment Adviser ceasing to be employed by Citigroup. When the restructuring occurred, 42.5% of the Initial Partnership's capital had been invested or committed for investment. Citigroup continues to own a 50% economic interest in the equity of the Initial General Partner.

5. Interests in the Partnerships ("Interests") will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the "Securities Act"), Regulation D or Regulation S under the Securities Act, and will be sold only to Eligible Employees, and other "Qualified Participants," each as defined below, (collectively, the "Limited Partners"). Prior to offering Interests to an Eligible Employee or Eligible Family Member (as defined below), the General Partner must reasonably believe that such individual has such knowledge, sophistication and experience in business and financial matters to be capable of evaluating the merits and risks of participating in the Partnership, is able to bear the economic risk of such investment, and is able to afford a complete loss of such investment. Each Eligible Employee will meet the standards of an "accredited investor" as defined in rule 501(a)(5) or 501(a)(6) of Regulation D under the Securities Act (an "Accredited Investor") or be one of 35 or fewer employees of Citigroup who meets certain other requirements ("Other Investors").

6. Each Other Investor will be an Eligible Employee who (a) is a "knowledgeable employee," as defined in rule 3c–5 under the Act, of the Partnership (with the Partnership treated as though it were a "Covered Company" for purposes of the rule), or (b) has a graduate degree in business, law or accounting, has a minimum of five years of consulting, investment banking, legal or similar business experience, and has a reportable income from all sources in each of the two calendar years immediately preceding the Other Investor's participation in the Partnership of at least $100,000 and has a reasonable expectation of reportable income of at least $140,000 per year in each year in which the Other Investor will be committed to make investments in a Partnership. An Other Investor qualifying under (b) above will not be permitted to invest in any year more than 10% of such person's income from all sources for the immediately preceding year in the aggregate in a Partnership and in all other Partnerships in which that Other Investor has previously invested.

7. A Qualified Participant is an Eligible Employee, Eligible Family Member, Eligible Investment Vehicle, or Citigroup. An "Eligible Family Member" is a spouse, parent, child, spouse of child, brother, sister, or grandchild of an Eligible Employee, and must be an Accredited Investor. An "Eligible Investment Vehicle" is a trust or other investment vehicle established solely for the benefit of an Eligible Employee or Eligible Family Members. An Eligible Investment Vehicle must be either (a) an Accredited Investor or (b) an entity for which an Eligible Employee or Eligible Family Member (each, an "Eligible Individual") is a settlor and principal investment decision-maker.[1] Any member of Citigroup that acquires an Interest will be an Accredited Investor.

8. The specific investment objectives and strategies for a particular Partnership will be set forth in a private placement memorandum relating to the Interests offered by the Partnership, and each Qualified Participant will receive a copy of the private placement memorandum before making an investment in the Partnership. The terms of a Partnership will be disclosed to each Eligible Employee at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send audited financial statements to the Limited Partners as soon as practicable after the end of its fiscal year. In addition, a report will be sent to each Limited Partner setting forth the information with respect to his or her share of income, gains, losses, credits and other items for federal income tax purposes, resulting from the operation of the Partnership during that year.

9. Interests in a Partnership will be non-transferable except with the express consent of the General Partner. No person will be admitted into a Partnership unless the person is a Qualified Participant. No fee of any kind will be charged in connection with the sale of Interests.

10. The General Partner may have the right, but not the obligation, to repurchase or cancel the Interest of an Eligible Employee who ceases to be an employee, officer, director or current consultant of any member of Citigroup for any reason.

11. A Partnership will not acquire any security issued by a registered investment company if immediately after the acquisition, the Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

12. An Investment Adviser may be paid a management fee for its services to a particular Partnership, which may be determined as a percentage of aggregate commitments. In addition, a General Partner may be entitled to a performance-based fee or "carried interest."[2] If the General Partner is registered as an investment adviser under the Advisers Act, any carried interest will be charged only if permitted by rule 205–3 under the Advisers Act. Except for the Initial Partnership, if the General Partner is not registered under the Advisers Act, the carried interest will comply with section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a business development company solely for the purpose of that section).[3] Certain of the Partnerships may not pay a management fee or a carried interest but will pay a fee for administrative services to a Citigroup entity.

13. A Partnership will not borrow from any person if the borrowing would

---

[1] A limited number of Eligible Employees who were Accredited Investors invested in the Initial Partnership through estate planning vehicles that may or may not have been Accredited Investors. There were significantly fewer than 35 such vehicles investing in the Initial Partnership, all of which were established for the exclusive benefit of Eligible Individuals.

[2] A "carried interest" is an allocation to the General Partner based on the net gains in addition to the amount allocable to the General Partner that is in proportion to its capital contributions.

[3] The management fee and carried interest payable to the Initial Investment Adviser and Initial General Partner, respectively, by the Limited Partners in the Initial Partnership are on the same terms in all material respects as the management fee and carried interest payable to the investment adviser and general partner, respectively, of Fund II, as negotiated by Citigroup for its own account and by other institutional investors. In calculating the carried interest payable to the Initial General Partner, unrealized capital depreciation is taken into account as periodically determined by the Initial General Partner in its discretion. The Partnership Agreement for the Initial Partnership Agreement contains a "clawback" provision that requires the Initial General Partner to return to a Limited Partner any amount retained by the Initial General Partner and attributable to the Limited Partner that is in excess of 20% of distributions payable to that Limited Partner.

cause any person not named in section 2(a)(13) of the Act to own securities of the Partnership (other than short-term paper). If Citigroup makes loans to any Partnership, the lender will be entitled to receive interest at a rate that is permissible under applicable banking or tax regulations, provided that the rate will be no less favorable to the borrower than the rate obtainable on an arm's length basis. Any indebtedness of the Partnership will be the debt of the Partnership and without recourse to the Limited Partners.

14. Eligible Employees may be able to defer compensation under a deferred compensation plan established in connection with the Partnerships and receive a return on such deferred compensation determined by reference to the performance of a Partnership. The deferred compensation plans and/or an Eligible Employee's interest in such plans: (a) Will be subject to the applicable terms and conditions of the application;[4] (b) will only be offered to Eligible Employees who are current employees, officers, directors, or persons on retainer of Citigroup; (c) will have restrictions on transferability, including prohibitions on assignment or transfer except in the event of the Eligible Employee's death or as otherwise required by law; and (d) will provide information to participants equivalent to that provided to investors and prospective investors in the corresponding Partnership, including, without limitation, disclosure documents and audited financial information.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits investment companies that are not registered under section 8 of the Act from selling or redeeming their securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under section 6(b) and 6(e) of the Act exempting the Partnerships from all provisions of the Act and the rules and regulations under the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g), and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53 of the Act, and the rules and regulations under those sections.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit: (a) A Citigroup entity or a Third Party Fund (as defined below), or any affiliated person of such entity or Third Party Fund, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by such Partnership; (b) a Partnership to invest in or engage in any transaction with any entity, acting as principal (i) in which the Partnership, any company controlled by the Partnership, or any Citigroup entity or Third Party Fund has invested or will invest or (ii) with which the Partnership, any company controlled by the Partnership, or any Citigroup entity or Third Party Fund is or will otherwise become affiliated; and (c) a Third Party Investor (as defined below), acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by such Partnership. The term "Third Party Fund" refers to an investment fund or separate account that is organized for the benefit of investors who are not affiliated with Citigroup over which a Citigroup entity will exercise investment discretion. The term "Third Party Investor" refers to any person or entity that is not a Citigroup entity or affiliated with Citigroup and is a partner or other investor in a Third Party Fund.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and the purposes of the Partnerships. Applicants state that the Limited Partners in each Partnership will be informed of the possible extent of the Partnership's dealings with Citigroup and of the potential conflicts of interest that may exist. Applicants also assert that the community of interest among the Limited Partners and Citigroup will serve to reduce any risk of abuse in transactions involving a Partnership and Citigroup or the respective affiliates of Citigroup. With respect to the Initial Partnership, applicants state that a sufficient community of interest exists between the Limited Partners of that Partnership and Citigroup, despite the fact that the Initial General Partner and Initial Investment Adviser are no longer Citigroup entities. The Initial Partnership operates according to terms that Citigroup negotiated with the Initial General Partner when the Initial General Partner was still a Citigroup entity. A significant amount of the Initial Partnership's committed capital was invested by the Initial General Partner while it was still a Citigroup entity, and all of the Partnership's investments are made in lockstep with Fund II, in which Citigroup is the largest investor.

5. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from participating in any joint enterprise, or other joint arrangement, with the company, unless approved by the Commission. Applicants request relief to permit affiliated persons of each Partnership, or affiliated persons of such persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the Partnership or an company controlled by the Partnership is a participant.

6. Applicants submit that it is likely that suitable investments will be brought to the attention of a Partnership because of its affiliation with Citigroup or Citigroup's large capital resources and its experience in structuring complex transactions. Applicants also submit that the types of investment

---

[4] For purposes of the application, a Partnership will be deemed to be formed with respect to each deferred compensation plan and each reference to "Partnership," "capital contribution," "General Partner," "Limited Partner," and "Interest" in the application will be deemed to refer to the deferred compensation plan, the notional capital contribution to the deferred compensation plan, Citigroup, a participant of the deferred compensation plan, and participation rights in the deferred compensation plan, respectively.

VOL 66 ISS 250 DE 31 2001 UMI

opportunities considered by a Partnership often require each investor to make funds available in an amount that may be substantially greater than what a Partnership may make available on its own. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in these opportunities may be to co-invest with other persons, including its affiliates. Applicants note that each Partnership will be primarily organized for the benefit of Eligible Employees as an incentive for them to remain with Citigroup and for the generation and maintenance of goodwill. Applicants believe that, if co-investments with Citigroup are prohibited, the appeal of the Partnerships would be significantly diminished. Applicants assert that Eligible Employees wish to participate in co-investment opportunities because they believe that (a) the resources of Citigroup enable it to analyze investment opportunities to an extent that individual employees would not be able to duplicate, (b) investments made by Citigroup will not be generally available to investors even of the financial status of the Eligible Employees, and (c) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by Citigroup and a Partnership might lead to less advantageous treatment of the Partnership should be mitigated by the fact that Citigroup will be acutely concerned with its relationship with the investors in the Partnership and the fact that senior officers and directors of Citigroup entities will be investing in the Partnership. In addition, applicants assert that strict compliance with section 17(d) would cause the Partnership to forego investment opportunities simply because a Limited Partner, the General Partner or any other affiliated person of the Partnership (or any affiliate of the affiliated person) made a similar investment.

8. Co-investments with Third Party Funds, or by a Citigroup entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3 below. Applicants note that it is common for a Third Party Fund to require that Citigroup invest its own capital in Third Party Fund investments and that Citigroup investments be subject to substantially the same terms as those applicable to the Third Party Fund. Applicants believe it is important that the interests of the Third Party Fund take priority over the interests of the Partnerships and that the Third Party Fund not be burdened or otherwise affected by activities of the Partnership. In addition, applicants assert that the relationship of a Partnership to a Third Party Fund is fundamentally different from a Partnership's relationship to Citigroup. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by Citigroup in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships *vis-à-vis* a Third Party Fund.

9. Section 17(e) of the Act and rule 17e–1 under the Act limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a Citigroup entity (including the General Partner) acting as agent or broker, to receive placement fees, advisory fees or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that the fees or other compensation are deemed "usual and customary." Applicants state that for the purposes of the application, fees or other compensation that are charged or received by a Citigroup entity will be deemed "usual and customary" only if (a) the Partnership is purchasing or selling securities with other unaffiliated third parties, including Third Party Funds, (b) the fees or compensation being charged to the Partnership are also being charged to the unaffiliated third parties, including Third Party Funds, and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and unaffiliated third parties, including Third Party Funds. Applicants assert that, because Citigroup does not wish to appear to be favoring the Partnerships, compliance with section 17(e) would prevent a Partnership from participating in transactions where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a Citigroup entity will be the same as those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) requires that a majority of directors who are not "interested persons" (as defined by section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees, or other remuneration. Rule 17e–1(c) requires that a majority of the directors not be interested persons, that those directors select and nominate other disinterested directors and that any person who acts as legal counsel for the disinterested directors be an independent legal counsel. Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not interested persons take actions and make determinations as set forth in paragraph (b) of the rule and without having to satisfy the standards set forth in paragraph (c) of the rule. Applicants state that because all of the directors of a General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. Applicants state that each Partnership will comply with rule 17e–1(b) by having a majority of the board of directors of the General Partner take actions and make approvals as set forth in rule 17e–1. Applicants state that each Partnership will otherwise comply with rule 17e–1.

11. Section 17(f) of the Act provides that the securities and similar investments of a registered management investment company must be placed in the custody of a bank, a member of a national securities exchange, or the company itself in accordance with Commission rules. Rule 17f–1 under the Act specifies the requirements that must be satisfied when the custodian is a member of a national securities exchange. Rule 17f–2 under the Act specifies the requirements that must be satisfied for a registered management investment company to act as a custodian of its own investments.

Applicants request an exemption from section 17(f) and subsections (a), (b) (to the extent such subsection refers to contractual requirements) (c) and (d) of rule 17f–1 to the extent necessary to permit a Citigroup entity to act as custodian for a Partnership without a written contract. Additionally, applicants request an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicants believe that, because of the community of interest between a Partnership and Citigroup, compliance with these requirements would be unnecessarily burdensome and expensive. Applicants will otherwise comply with the provisions of rule 17f–1.

Applicants also request an exemption from rule 17f–2 to permit the following exceptions from the requirements of rule 17f–2: (a) A Partnership's investments may be kept in the locked files of the General Partner; (b) for purposes of paragraph (d) of the rule, (i) employees of the General Partner will be deemed to be employees of the Partnerships, (ii) officers or managers of the General Partner of a Partnership will be deemed to be officers of the Partnership and (iii) the General Partner of a Partnership or its board of directors will be deemed to be the board of directors of the Partnership and (c) in place of the verification procedure under paragraph (f) of the rule, verification will be effected quarterly by two employees of the General Partner. Applicants expect that many of the Partnerships' investments will be evidenced only by partnership agreements, participation agreements or similar documents, rather than by negotiable certificates that could be misappropriated. Applicants assert that these instruments are most suitably kept in the files of the General Partner, where they can be referred to as necessary.

12. Section 17(g) of the Act and rule 17g–1 under the Act generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. The rule also requires that a majority of the directors not be interested persons, that those directors select and nominate other disinterested directors and that any person who acts as legal counsel for the disinterested directors be an independent legal counsel. Applicants request exemptive relief to permit the General Partner's board of directors, who may be deemed interested persons, to take actions and make determinations as set forth in the rule. Applicants state that, because all directors of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the General Partner's directors take actions and make determinations as are set forth in rule 17g–1. Applicants also state that each Partnership will otherwise comply with rule 17g–1.

13. Section 17(j) of the Act and paragraph (b) of rule 17j–1 under the Act make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicant requests an exemption from the provisions of rule 17j–1, except for the antifraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b) and 30(e) of the Act, and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Limited Partners. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners. Applicants also request an exemption from section 30(h) of the Act to the extent necessary to exempt the General Partner of each Partnership, members of the General Partner or any board of managers or directors or committee of Citigroup employees to whom the General Partner may delegate its functions, and any other persons who may be deemed to be members of an advisory board of a Partnership, from filing Forms 3, 4, and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicants' Conditions

1. Each proposed transaction involving a Partnership otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 under the Act to which a Partnership is a party (the "Section 17 Transactions") will be effected only if the General Partner determines that (a) the terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners of the Partnership and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned and (b) the transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents and the Partnership's reports to its Limited Partners. In addition, the General Partner of the Partnership will record and preserve a description of all Section 17 Transactions, the General Partner's findings, the information or materials upon which the findings are based, and the basis therefore. All such records will be maintained for the life of the Partnership and at least two years thereafter and will be subject to examination by the Commission and its staff.[5] With respect to the Initial Partnership, the findings required by this condition will be made by Citigroup or a designated senior officer(s) of Citigroup. The records relating to these findings will be prepared and preserved by Citigroup in accordance with this condition and will be subject to examination by the Commission and its staff.

2. In connection with the Section 17 Transactions, the General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnership or any affiliated person of such person, promoter or principal underwriter.

3. The General Partner of each Partnership will not invest the funds of the Partnership in any investment in which an "Affiliated Co-Investor" (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, and where the investment transaction involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and an Affiliated Co-Investor are participants, unless any such Affiliated Co-Investor, prior to disposing of all or part of its investment, (a) gives the General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Affiliated Co-Investor. The term "Affiliated Co-Investor" with respect to any Partnership means any person who is (a)

---

[5] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

an "affiliated person" (as such term is defined in the Act) of the Partnership (other than a Third Party Fund), (b) Citigroup, (c) an officer or director of Citigroup or (d) an entity (other than a Third Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, shall not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor (a) to its direct or indirect wholly owned subsidiary, to any company (a "Parent") of which the Affiliated Co-Investor is a direct or indirect wholly owned subsidiary, or to a direct or indirect wholly owned subsidiary of its Parent, (b) to immediate family members of the Affiliated Co-Investor or a trust or other investment vehicle established for any Affiliated Co-Investor or any such family member or (c) when the investment comprises securities that are (i) listed on a national securities exchange registered under section 6 of the Exchange Act, (ii) national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 thereunder, (iii) government securities as defined in section 2(a)(16) of the Act or other money market instruments or (iv) listed or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and its General Partner will maintain and preserve, for the life of the Partnership and at least two years thereafter, such accounts, books and other documents constituting the record forming the basis for the audited financial statements that are to be provided to the Limited Partners in the Partnership, and each annual report of the Partnership required to be sent to the Limited Partners, and agree that all such records will be subject to examination by the Commission and its staff.[6]

5. The General Partner of each Partnership will send to each Limited Partner having an interest in any capital account of the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make or cause to be made a valuation of all of the assets of the Partnership as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of the Partnership, the General Partner will send a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Limited Partner of his, her or its federal and state income tax returns and a report of the investment activities of the Partnership during that fiscal year.

6. Whenever a Partnership makes a purchase from or sale to an entity affiliated with the Partnership by reason of a 5% or more investment in the entity by a Citigroup director, officer or employee, such individual will not participate in the General Partner's determination of whether or not to effect such purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32075 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–P

---

[6] Each Partnership will preserve the accounts, books, and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25325; 812–12288]

One Fund, Inc., Ohio National Fund, Inc., Dow Target Variable Fund LLC, and Ohio National Investments, Inc.; Notice of Application

December 21, 2001.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the "Act") for an exemption from section 15(a) of the Act and rule 18f–2 under the Act.

SUMMARY OF APPLICATION: Applicants, ONE Fund, Inc. ("ONE Fund") (each a "Fund" and, collectively, the "Funds"), and Ohio National Investments, Inc. (the "Adviser"), request an order that would permit applicants to enter into and materially amend subadvisory agreements without shareholder approval.

FILING DATES: The application was filed on September 29, 2000, and amended on December 14, 2001.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 15, 2002, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, One Financial Way, Montgomery, Ohio 45242.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 942–0574 or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. ONE Fund and ON Fund are Maryland corporations registered under the Act as open-end management investment companies. ON Fund offers its shares only to separate accounts of The Ohio National Life Insurance Company ("ONLI") and Ohio National Life Assurance Corporation ("ONLAC"), as the underlying investments for variable annuities issued by ONLI and variable life insurance contracts issued by ONLAC. Dow Fund is an Ohio limited liability company registered under the act as an open-end management investment company. Dow Fund presently sells its interests only to separate accounts of ONLI as a funding option to support certain benefits under variable annuity contracts issued by ONLI. Each Fund is comprised of multiple series ("Portfolios"), each with its own investment objectives and policies.[1]

---

[1] Applicants also request relief with respect to all registered open-end investment companies and

2. The Adviser, an Ohio corporation, serves as investment adviser to each of the Portfolios, and is registered under the Investment Advisers Act of 1940 (the "Advisers Act"). The Adviser is a wholly-owned subsidiary of ONLI.

3. The Adviser serves as investment adviser to the Portfolios pursuant to investment advisory agreements between the Adviser and the Funds that were approved by each Fund's board of directors ("Board"), including a majority of the Directors who are not "interested persons," as defined in section 2(a)(19) of the Act, of the Fund or the Adviser ("Independent Directors"), and by the shareholders of each Fund (the "Investment Advisory Agreements"). Under the terms of the Investment Advisory Agreements, the Adviser administers the business and affairs of the Funds. The Adviser has overall general supervisory responsibility for the investment program of the Portfolios. The Adviser also selects, contracts with, and compensates subadvisers ("Managers") to manage the investment and re-investment of the assets of the Portfolios. Each Manager is an investment adviser registered under the Advisers Act, or exempt from registration under the Advisers Act, and performs services pursuant to a written agreement with the Adviser ("Portfolio Management Agreement"). As compensation for its services, the Adviser receives a fee from the Funds computed separately for each of the Portfolios. Managers' fees are paid by the Adviser out of these fees from the Portfolios.

4. The Adviser selects Managers based on the continuing quantitative and qualitative evaluation of their skills and proven abilities in managing assets pursuant to a specific investment style. The Adviser monitors the compliance of Managers with the investment objectives and related policies of each Portfolio and reviews the performance of each Manager in order to assure continuing quality of performance. The Adviser may recommend to the Board reallocation of Portfolio assets among Managers, if necessary, or recommend that the Fund employ or terminate particular Managers, to the extent the Adviser deems appropriate to achieve the overall objectives of a particular Portfolio.

5. Applicants request relief to permit the Adviser subject to the oversight of the Board to enter into and materially amend Portfolio Management Agreements without shareholder approval. The requested relief will not extend to a Manager that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Fund or the Adviser, other than by reason of serving as a Manager to one or more of the Portfolios (an "Affiliated Manager".)

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transactions or any class or classes of persons, securities, or transactions from any provision of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an exemption under section 6(c) of the Act from section 15(a) of the Act and rule 18f–2 under the Act to permit them to enter into and materially amend Portfolio Management Agreements without shareholder approval.

3. Applicants state that investment companies such as the Funds that use an adviser/subadviser structure divide responsibility for general management and investment advice between the Adviser and one or more Managers. Applicants assert that shareholders rely on the Adviser to select and monitor Managers best suited to achieve a Portfolio's investment objectives. Applicants content that from the perspective of the investor, the role of the Managers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants contend that requiring shareholder approval of Portfolio Management Agreements would impose expenses and unnecessary delays on the Portfolios, and may preclude the Adviser from promptly acting in a manner considered advisable by the Board. Applicants note that the Investment Advisory Agreements will remain fully subject to the requirements of section 15(a) of the Act and rule 18f–2 under the Act, including the requirements for shareholder approval.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. No Portfolio will enter into a Portfolio Management Agreement with an Affiliated Manager without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the Portfolio (or, if the Portfolio serves as an investment medium for any sub-account of a registered separate account, pursuant to voting instructions by the unitholders of the sub-account.)

2. At all times, a majority of the Board will be Independent Directors, and the nomination of new or additional Independent Directors will be at the discretion of the then existing Independent Directors.

3. When a Manager change is proposed for a Portfolio with an Affiliated Manager, the Board, including a majority of the Independent Directors, will make a separate finding, reflected in the Fund's Board minutes, that the change is in the best interests of the Portfolio and its shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, in the best interests of the Portfolio and the unitholders of any sub-account) and that the change does not involve a conflict of interests from which the Adviser or Affiliated Manager derives an inappropriate advantage.

4. Before a Portfolio may rely on the order, the operation of the Portfolio in the manner described in the application will be approved by a majority of the Portfolio's outstanding voting securities (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, pursuant to voting instructions provided by the unitholders of the sub-account), as defined in the Act, or, in the case of a Portfolio or Future Fund whose public shareholders (or variable contract owners through a separate account) purchased shares on the basis of a prospectus(es) containing the disclosure contemplated by Condition 6 below, by the sole initial shareholder(s) before the shares of such Portfolio or Future Fund are offered to the public (or the variable contract owners through a separate account.)

5. The Adviser will provide general management services to the Funds and their Portfolios, including overall

---

their series that in the future are advised by the Adviser or any entity controlling, controlled by, or under common control (within the meaning of section 2(a)(9) of the Act) with the Adviser that are managed in a manner consistent with the application, and comply with the terms and conditions in the application ("Future Funds"). All registered open-end management investment companies that currently intend to rely on the requested order are named as applicants. If the name of any Portfolio contains the name of a manager, as defined below, the Manager's name will be preceded by the name of the Adviser.

VOL 66 ISS 250 DE 31 2001 UMI

supervisory responsibility for the general management and investment of each Portfolio's securities portfolio, and subject to review and approval by the Board, will (a) set the Portfolio's overall investment strategies; (b) evaluate, select, and recommend Managers to manage all or part of a Portfolios assets; (c) when appropriate, allocate and reallocate a Portfolio's assets among multiple Managers; (d) monitor and evaluate the performance of Managers; and (e) implement procedures reasonably designed to ensure that the Managers comply with the relevant Portfolio's investment objectives, policies, and restrictions.

6. Each Portfolio relying on the requested relief will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, any such Portfolio will hold itself out as employing the Adviser/Manager structure described in the application. The prospectus will prominently disclose that the Adviser has ultimate responsibility to oversee the Managers and recommend their hiring, termination and replacement.

7. No Director or officer of the Funds or officer or director of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that director or officer) any interest in a Manager except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either a Manager or an entity that controls, is controlled by cr is under common control with a Manager.

8. Within 90 days of the hiring of any new Manager, the Adviser will furnish shareholders (or, if the Portfolio serves as a funding medium for any sub-account of a registered separate account, the Adviser will furnish the unitholders of the sub-account) with respect to the appropriate Portfolio all information about the new Manager that would be included in a proxy statement. Such information will include any changes caused by an addition of a new Manager. To meet this condition, the Adviser will provide shareholders (or, if the Portfolio serves as a funding medium for any sub-account) with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32076 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45176; File No. SR–Amex–2001–105]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC, Relating to a Six-Month Extension of Automatic Execution for Exchange Traded Funds

December 20, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 13, 2001, the American Stock Exchange LLC ("Amex" or "Exchange"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The proposed rule change has been filed by the Amex as a "non-controversial" rule change under rule 19b–4(f)(6)[3] under the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex seeks a six-month extension of Amex Rule 128A to continue its pilot program for the automatic execution of orders for Exchange Traded Funds ("ETFs"). The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On June 19, 2001, the Commission approved the Exchange's proposal, adopted as Amex Rule 128A, to permit the automatic execution of orders for Exchange Traded Funds ("ETFs") on a six-month pilot program basis.[4] The Exchange now seeks to extend the pilot program for another six months.

Since 1986, the Exchange has had an automatic order execution feature ("Auto-Ex") for eligible orders in listed options. The Chicago Board Options Exchange, Philadelphia Stock Exchange, and Pacific Exchange established similar automatic option order execution features at about the same time as the Amex, and the newest options exchange, the International Securities Exchange, also features automatic order execution. Auto-Ex, accordingly, has been a standard feature of the options markets for a number of years.

In 1993, the Amex commenced trading Standard and Poor's Depositary Receipts® ("SPDRs®"), the first ETF to be listed and traded on the Exchange. ETFs are individual securities that represent a fractional, undivided interest in a portfolio of securities. Currently, approximately 100 ETFs are listed on the Amex. Like an option, an ETF is a derivative security, and, according to the Amex, its price is a function of the value of the portfolio of securities underlying the ETF. Thus, as is the case with options, the Exchange asserts that it is not the price discovery market for ETFs, and that the price discovery market is the market or markets where the underlying securities trade.

The Exchange is now proposing to extend its current Auto-Ex technology to ETFs listed under Amex Rules 1002, 1002A, and 1202 for an additional six months. The Amex represents that this will provide investors that send eligible orders to the Exchange with faster executions than they otherwise would receive. The Exchange believes that many investors desire rapid executions in trading securities that are priced derivative since the value of the underlying instruments may fluctuate during order processing. The Amex, moreover, will continue under the pilot extension to incorporate a price improvement algorithm into Auto-Ex for ETFs, and thus to provide investors with better execution prices on their orders. The price improvement algorithm works in the following manner:

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* Securities Exchange Act Release No. 44449 (June 19, 2001), 66FR 33724 (June 25, 2001)("June Release"), approving File No. SR–Amex–2001–29.

When the Amex establishes the National Best Bid or Offer ("NBBO"),[5] Auto-Ex is programmed to execute eligible incoming ETF orders at the Amex Published Quote ("APQ") plus a programmable number of trading increments with respect to the Amex bid, and less a programmable number of trading increments in the case of the Amex offer. For example, if the APQ were 90.10 to 90.20, and the APQ constituted the NBBO, incoming sell orders might be automatically executed at 90.12 (the Amex bid plus two ticks) and incoming buy orders might be executed at 90.18 (the Amex offer less two ticks).

If the Amex does not establish the NBBO, Auto-Ex is programmed to execute eligible incoming ETF orders at or better than the NBBO up to a specified number of trading increments relative to the APQ.[6] Auto-Ex executes an eligible order at the improved price relative to the APQ unless such execution would result in a trade-through with respect to the price of an away market that is a participant in the Intermarket Trading System ("ITS"). If a trade-through would result, the order is routed to the specialist for electronic processing through the Amex Point of Sale ("POS") Book.[7]

For example, assume that Auto-Ex is programmed to execute the order at the Amex bid plus two ticks. If the Amex bid were 90, and an away ITS market were bidding 90.01, an incoming sell order would be automatically executed on the Amex at 90.02. Continuing with this example, if the away market were bidding 90.02, an incoming sell order would be automatically executed on the Amex at 90.02 (matching the away market). If the away market were bidding 90.03, the incoming sell order would not be automatically executed. Instead, it would be routed to the specialist for electronic processing through the Amex POS Book.

The amount of price improvement that the system provides—both when the Amex establishes the NBBO and when it does not—is determined by the Auto-Ex Enhancements Committee ("Committee") upon the request of a specialist, and may differ among ETFs. The Committee consists of the Exchange's four Floor Governors and the Chairmen (or their designees) of the Specialists Association, Options Market Makers Association and the Floor Brokers Association, respectively. The Exchange anticipates that the amount of price improvement will vary among securities based upon such factors as the width of the spread, the volatility of the basket of securities underlying the ETF, and liquidity of available hedging vehicles. The amount of price improvements may be adjusted intra-day by the Committee.

As detailed in Amex Rule 128A, Auto-Ex for ETFs with price improvement is unavailable when the spread is at a specified minimum and maximum variation, which may be adjusted security to security. The Committee will determine, upon the request of a specialist, the minimum and maximum spreads at which Auto-Ex is unavailable. As further provided in the rule, Auto-Ex is also unavailable with respect to incoming sell orders when the Amex bid is for 100 shares, and similarly unavailable with respect to incoming buy orders when the Amex offer is for 100 shares.

Orders that are otherwise Auto-Ex eligible orders are also routed to the specialist, and not automatically executed, in situations where the specialist in conjunction with a Floor Governor or two Floor Officials determine that quotes are not reliable and the Exchange is experiencing communications or systems problems, "fast markets," or delays in the dissemination of quotes. Members and member organizations are notified when the Exchange has determined that quotes are not reliable prior to disengaging Auto-Ex.

Specialists and Registered Options Traders ("ROTS") that sign onto the system are automatically allocated the contra side of Auto-Ex trades for ETFs. Due to the automatic price improvement feature, the specialist and ROTs that sign onto Auto-Ex for ETFs are deemed to be on parity for purposes of allocating the contra side of ETF Auto-Ex trades. Amex Rule 128A incorporates the following methodology for the allocation of the contra side to Auto-Ex ETF trades:

Number of ROTs signed on to Auto-Ex in a crowd	Approximate number of trades allocated to the specialist throughout the day ("target ratio") (percent)	Approximate number of trades allocated to ROTs signed on to Auto-Ex throughout the day ("target ratio") (percent)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

At the start of each trading day, the sequence in which trades are to be allocated to the specialist and ROTs signed onto Auto-Ex is randomly determined. Auto-Ex trades then are automatically allocated in sequence on a rotating basis to the specialist and to the ROTs that have signed onto the system so that the specialist and the crowd achieve their "target ratios" over the course of a trading session. If an Auto-Ex eligible order is greater than 100 shares, Auto-Ex divides the trade into lots of 100 shares each. Each lot is considered a separate trade for purposes of determining target ratios and allocating trades within Auto-Ex.

Round lot orders delivered to the post electronically for 2,000 shares or less are eligible for Auto-Ex for ETFs. Orders for an account in which a market maker in ETFs registered as such on another market has an interest are ineligible for Auto-Ex for ETFs. If orders for such market makers were eligible for Auto-Ex with price improvements, the Exchange represents, Amex specialists and ROTs would be unable to make markets with the proposed liquidity for other investors. (Orders fro Amex Registered Trade are ineligible for Auto-Ex for ETFs pursuant to Commentaries .04 and .05 to Rule 111 and Amex Rule 950(c).)

Amex Rule 128A also stipulates that Auto-Ex eligible orders for any account in which the same person is directly or indirectly interested may be entered only at intervals of 30 seconds or more between the entry of each such order in an ETF. The Exchange indicates that Amex specialists and ROTs are willing to provide Auto-Ex with price improvement for orders of a certain size. If persons were allowed to enter more than one Auto-Ex eligible order for an account in which they had a direct or indirect interest at intervals of less than

---

[5] The term "establish" as used in this context of Amex Rule 128A means that the APQ is currently at the NBBO, regardless of whether or not the Amex was the first exchange to be at that price. *See* June Release.

[6] The number of trading increments designated for price improvement when the Amex establishes the NBBO may be different than the number of increments designated for price improvement when the Amex does not establish the NBBO. *Id.*

[7] Once an order that is Auto-Ex eligible is sent to the Exchange, the person that initiated the order has no control over its execution. This is the case regardless of whether the order is executed by Auto-Ex or is executed by the specialist because Auto-Ex is unavailable. If the order is routed to the specialist for handling because Auto-Ex is unavailable, the specialist does not know if the order is for the account of a broker-dealer or for the account of a customer. This information is in the Exchange's order processing system and is unavailable to the specialist.

30 seconds, according to the Exchange, Amex specialists and ROTs would be unable to make markets with the proposed liquidity for all investors. Under Rule 128A, members and member organizations are responsible for establishing procedures to prevent orders for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 30 seconds with respect to an ETF.

The specialist may request the Exchange to increase the maximum size of Auto-Ex eligible orders. Under Amex Rule 128A, such requests are reviewed by the Committee, which approves, disapproves, or conditionally approves such requests. The rule directs the Committee to balance the interests of investors, the specialist, ROTs in the crowd, and the Exchange in determining whether to grant a request to increase the size of Auto-Ex eligible orders.

The Committee also may consider requests from the specialist or ROTs to reduce the size of Auto-Ex eligible orders, balancing the same interests that it would consider in reviewing a request to increase the size of Auto-Ex eligible orders. The Committee is not permitted, however, to reduce the size of Auto-Ex eligible orders below 2,000 shares.

In addition, under Rule 128A the Committee may delegate its authority to one or more Floor Governors. The rule provides, however, that the Committee must meet promptly to review a Floor Governor's decision in the event that a Floor Governor acts pursuant to delegated authority.

Amex Rule 128A further provides that in the event of system problems or unusual market conditions, a Floor Governor is permitted to reduce the size of Auto-Ex eligible orders below 2,000 shares or increase the size of Auto-Ex eligible orders up to 5,000 shares. Any such change is temporary and lasts only until the end of the unusual market condition or the correction of the system problem. Members and member organizations will be notified when the size of Auto-Ex eligible orders is adjusted due to the system problems or unusual market conditions.

Rule 128A also provides that the Chairman and Vice Chairman of the Exchange, acting jointly, determine which ETFs are eligible for Auto-Ex.

2. *Statutory Basis*

The Exchange believes that the proposed rule change is consistent with the provisions of section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engage in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The proposed rule change will allow the Auto-Ex for ETFs pilot program to continue for an additional six months. The proposal also facilitates the comparison and settlement of trades since Auto-Ex transactions result in "locked-in" trades. Auto-Ex for ETFs, moreover, automatically provides investors with price improvement on their orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

That Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposal, if fact, will enhance competition among markets and market makers and thereby benefit investors by allowing the Exchange to continue to provide Auto-Ex for ETFs with price improvement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate. In addition, the Amex provided the Commission with notice of its intent to file the proposed rule change within a time designated by the Commission.[8] The proposed rule change has therefore become effective pursuant to section 19(b)(3)(A) of the Act[9] and rule 19b-4(f)(6) thereunder.[10]

The Amex has requested that the Commission waive the usual pre-operative waiting period. The Commission believes the pilot program provides beneficial services to investors, and finds it consistent with the protection of investors and the public interest to accelerate the operative date so that the pilot can continue uninterrupted and those benefits do not lapse. Thus, the Commission designates December 20, 2001, as the operative date of the proposed rule change.[11] The pilot extension will expire June 19, 2002.

At any time within 60 days of the filing of this proposal rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protecton of investors, or otherwise in furtherance of the purposes of the Act.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether it is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-2001-105, and should be submitted by January 22, 2002.

---

[8] The Commission has granted Amex's request to designate a time period shorter than five days prior to filing for notice of its intent to file.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b-4(f)(6).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 240.19b-4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32082 Filed 12–28–01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45180; File No. SR–Amex–2001–65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC Relating to the Implementation of Quick Trade

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 22, 2001, the American Stock Exchange LLC ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On October 19, 2001, and December 4, 2001, respectively, the Amex filed Amendment Nos. 1 and 2 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to implement Quick Trade, an enhancement to the Amex Order File and Amex Options Display Book.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, for orders executed through the specialist's book (known as the Amex Order Display Book or AODB) in which registered options traders are some or all of the contra-parties, the specialist or his clerk must manually allocate the contracts to those participating registered options traders. For option classes with large trading crowds, this can be a very time consuming process that can delay the processing of trades. As the Exchange continues to develop a number of competitive initiatives to further enhance the processing of customer option orders, it is now proposing to develop and implement Quick Trade, an enhancement to the Amex Order File (AOF) and AODB that will automate the process of allocating trades to participating registered options traders.

Quick Trade would provide for the efficient allocation of executed contracts as set forth below. Registered options traders would be able to log onto the Quick Trade ("QT") wheel through AOF. While registered options would not be required to participate in QT, they would be encouraged to sign on and remain on QT throughout the trading day. Each registered options trader signed on to QT would have the ability to advise the specialist prior to the usage of QT on any given trade that he does not want to receive an allocation through QT. In such a situation and in the situation where a registered options trader not signed on to QT wishes to participate in a given trade, the specialist would be unable to use QT to allocate the trade and the allocation would occur using the same manual process used today.

At the opening and throughout the trading day the QT wheel[4] would be activated to allocate contracts among registered options traders and the specialist in accordance with specific ratios set forth below.

ALLOCATION RATIO

Number of traders on Quick Trade	Approximate number of contracts allocated to the specialist (In percent)	Approximate number of contracts allocated to the traders (as a group) (In percent)
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

The QT wheel would provide for the automatic allocation of contracts to the specialist and registered options traders at various times during the trading day when QT is used for the following four AODB features. Registered options traders who have signed on to QT would be allocated trades whenever QT is used for any of these four AODB functions:[5]

- Quick Opening for pre-opening quantity allocations by class;
- Block Window for post-opening quantity allocations by series;
- The Auto-Match feature for executions when there is an imbalance; and
- Sweep of the Book allocation of contracts from multiple order executions.

Quick Openings

A specialist opens trading in each option series by establishing an opening price for that series and executing all market and marketable limit orders at this price. If after all opening orders have been executed an imbalance exists, QT would automatically allocate the imbalance of executed contracts to the specialist and the registered options traders signed on to QT in accordance with the ratios set forth above.

Block Window

The Block Window permits a specialist, in situations when there are limit orders on the book at various prices, to execute such limit orders at a single price. For example, the specialist has limit orders on the book to sell at

---

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposal was originally filed pursuant to Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A) and Rule 19b–4(f)(5) thereunder, 17 CFR 240.19b–4(f)(5). Amendment No. 1 converted the filing to a proposal submitted pursuant to Section 19(b)(2) under the Act, 15 U.S.C. 78s(b)(2). Amendment No. 2 made various clarifying changes to the proposal that are incorporated in the description herein.

[4] A rotational wheel is necessary because the allocation of the contracts in a trade exactly according to the percentages set forth in the accompanying table is not always possible, as in the case, for example, where the percentages would yield a fractional value for each trader. Telephone conversation between Claire P. McGrath, Vice President and Special Counsel, Amex, and Ira L. Brandriss, Special Counsel, Division of Market Regulation ("Division"), Commission, on October 17, 2001.

[5] As indicated above, the specialist would have the ability to determine on a trade-by-trade basis whether to use QT or to allocate the contracts manually. However, once QT was turned on, it would be assumed to remain on, and would be used to allocate contracts in all four of the functions designated below unless the specialist informed the crowd that he was turning it off. Telephone conversation between Claire P. McGrath, Amex, and Ira L. Brandriss, Division, Commission, on November 21, 2001.

VOL 66 ISS 250 DEC 31 2001 UMI

$5.00, $5.05, $5.10, $5.15, and $5.20; in aggregate these orders represent 50 contracts. The specialist has determined to buy all 50 contracts at $5.20. The contracts would be allocated by QT to the specialist and registered traders in accordance with the ratios set forth above.

Auto-Match

The Auto-Match feature currently in AODB, which automatically matches and executes market and marketable limit orders that have by-passed the Exchange's automatic execution system ("Auto-Ex") with limit orders on the AODB, would be modified to include registered trader participation when an imbalance exists.[6] Imbalances would be distributed among the specialist and registered traders according to the above allocation ratio. For example, the best bid is represented by a limit order to buy 10 contracts in an option class whose Auto-Ex eligible size is 20 contracts. A market order of 20 contracts to sell by-passes Auto-Ex and is routed to the AODB; 10 contracts are matched and executed with the limit order. The remaining 10 contracts would be allocated through QT to the specialists and registered traders.

Sweep of the Book

The Sweep of the Book function allows a specialist to simultaneously execute orders in multiple series at the quoted market. Following implementation of Quick Trade, contracts executed through the Sweep of the Book function would be automatically allocated by QT on a per series basis to the specialist and registered traders in accordance with the above allocation ratio.[7]

The Exchange believes that implementation of Quick Trade would increase the Exchange's competitiveness while furthering the efficient processing of customer option orders. Further, the Exchange believes that Quick Trade would enhance the fair and orderly allocation of orders executed on the Exchange especially during times of high trading volume by automating the allocation process.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[8] in general and furthers the objectives of Section 6(b)(5) of the Act[9] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Amex. All submissions should refer to File No. SR–Amex–2001–65 and should be submitted by January 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32084 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45181; File No. SR–NASD–00–12]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. Concerning Amendments to Rules Governing Member Communications with the Public

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2000, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation.[3] On August 8, 2001, NASD Regulation filed Amendment No. 1 to the proposed rule change.[4] On December 12, 2001, NASD Regulation filed Amendment No. 2 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 2210 and the Interpretive Materials thereunder, promulgate new Rule 2211, and renumber existing Rule 2211, of the National Association of Securities Dealers, Inc. ("NASD" or "Association"). Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

---

[6] *See* Securities Exchange Act Release No. 42652 (April 7, 2000) 65 FR 20235 (April 14, 2000).

[7] QT would allocate the order(s) for each series separately. Telephone conversation between Claire P. McGrath, Amex, and Ira L. Brandriss, Division, Commission, on December 5, 2001.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

2200. Communications With Customers and The Public

2210. Communications with the Public

(a) Definitions [Communications with the public shall include] For purposes of this Rule and any interpretation thereof, "communications with the public" consist of:

(1) "Advertisement." [For purposes of this Rule and any interpretation thereof, "advertisement" means material] *Any material, other than an independently prepared reprint and institutional sales material, that is* published, or designed for use in, *any electronic or other public media, including any Web site,* [a] newspaper, magazine or other periodical, radio, television, telephone or tape recording, videotape display, signs or billboards, motion pictures, *or* telephone directories (other than routine listings), [electronic or other public media].

(2) "Sales Literature." [For purposes of this Rule and any interpretation thereof, "sales literature" means any] *Any* written or electronic communication, *other than an advertisement, independently prepared reprint, institutional sales material and correspondence, that is generally* distributed or made generally available to customers or the public, [which communication does not meet the foregoing definition of "advertisement." Sales literature includes, but is not limited to], *including* circulars, research reports, market letters, performance reports or summaries, form letters, telemarketing scripts, seminar texts, [and] reprints *(that are not independently prepared reprints)* or excerpts of any other advertisement, sales literature or published article, *and press releases concerning a member's products or services.*

(3) "Correspondence" [For purposes of this Rule and any interpretation thereof, "correspondence" means any written or electronic communication prepared for delivery to a single current or prospective customer, and not for dissemination to multiple customers or the general public.] *as defined in Rule 2211(a)(1).*

(4) "Institutional Sales Material" as defined in Rule 2211(a)(2).

(5) "Public Appearance." Participation in a seminar, forum (including an interactive electronic forum), radio or television interview, or other public appearance or public speaking activity.

(6) "Independently Prepared Reprint."

(A) Any reprint or excerpt of any article issued by a publisher, provided that:

(i) the publisher is not an affiliate of the member using the reprint or any underwriter or issuer of a security mentioned in the reprint;

(ii) neither the member using the reprint nor any underwriter or issuer of a security mentioned in the reprint has commissioned the reprinted article; and

(iii) the member using the reprint has not materially altered its contents except as necessary to make the reprint consistent with applicable regulatory standards or to correct factual errors;

(B) Any report concerning an investment company registered under the Investment Company Act of 1940, provided that:

(i) the report is prepared by an entity that is independent of the investment company, its affiliates, and the member using the report (the "research firm");

(ii) the report's contents have not been materially altered by the member using the report except as necessary to make the report consistent with applicable regulatory standards or to correct factual errors;

(iii) the research firm prepares and distributes reports based on similar research with respect to a substantial number of investment companies;

(iv) the research firm updates and distributes reports based on its research of the investment company with reasonable regularity in the normal course of the research firm's business;

(v) neither the investment company, its affiliates nor the member using the research report has commissioned the research used by the research firm in preparing the report; and

(vi) if a customized report was prepared at the request of the investment company, its affiliate or a member, then the report includes only information that the research firm has already compiled and published in another report, and does not omit information in that report necessary to make the customized report fair and balanced.

(b) Approval and Recordkeeping

[(1) Each item of advertising and sales literature shall be approved by signature or initial, prior to use or filing with the Association, by a registered principal of the member. This requirement may be met, only with respect to corporate debt and equity securities that are the subject of research reports as that term is defined in Rule 472 of the New York Stock Exchange, by the signature or initial of a supervisory analyst approved pursuant to Rule 344 of the New York Stock Exchange.]

[(2) A separate file of all advertisements and sales literature, including the name(s) of the person(s) who prepared them and/or approved their use, shall be maintained for a period of three years from the date of each use.]

(1) Registered Principal Approval for Advertisements, Sales Literature and Independently Prepared Reprints

A registered principal of the member must approve by signature or initial and date each advertisement, item of sales literature and independently prepared reprint before the earlier of its use or filing with the Association's Advertising Regulation Department ("Department"). With respect to debt and equity securities that are the subject of research reports as that term is defined in Rule 472 of the New York Stock Exchange, this requirement may be met by the signature or initial of a supervisory analyst approved pursuant to Rule 344 of the New York Stock Exchange.

(2) Record-Keeping

(A) Members must maintain all advertisements, sales literature, and independently prepared reprints in a separate file for a period of three years from the date of last use. The file must include the name of the registered principal who approved each advertisement, item of sales literature, and independently prepared reprint and the date that approval was given.

(B) Members must maintain in a file information concerning the source of any statistical table, chart, graph or other illustration used by the member in communications with the public.

(c) Filing Requirements and Review Procedures

[(1) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts) not included within the requirements of paragraph (c)(2), and public direct participation programs (as defined in Rule 2810), and advertisements concerning government securities (as defined in Section 3(a)(42) of the Act) shall be filed with the Association's Advertising/Investment Companies Regulation Department (Department) within 10 days of first use or publication by any member. The member must provide with each filing the actual or anticipated date of first use. Filing in advance of use is recommended. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. Any member filing any investment company advertisement or sales literature pursuant to this paragraph (c) that includes or incorporates rankings or comparisons of the investment company with other investment companies shall include a copy of the ranking or comparison used in the advertisement or sales literature.]

(1) Date of First Use and Approval Information

The member must provide with each filing under this paragraph the actual or anticipated date of first use, the name and title of the registered principal who approved the advertisement or sales literature, and the date that the approval was given.

(2) Requirement to File Certain Material

Within 10 business days of first use or publication, a member must file the following advertisements and sales literature with the Department:

(A) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts, continuously offered closed-end funds, and unit investment trusts) not included within the requirements of paragraph (c)(3). The filing of any advertisement or sales literature that includes or incorporates a performance ranking or performance comparison of the investment company with other investment companies must include a copy of the ranking or comparison used in the advertisement or sales literature.

(B) Advertisements and sales literature concerning public direct participation programs (as defined in Rule 2810).

(C) Advertisements concerning government securities (as defined in Section 3(a)(42) of the Act).

[(2) Advertisements concerning collateralized mortgage obligations, and advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts) that include or incorporate rankings or comparisons of the investment company with other investment companies where the ranking or comparison category is not generally published or is the creation, either directly or indirectly, of the investment company, its underwriter or an affiliate, shall be filed with the Department for review at least 10 days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by the Association, shall be withheld from publication or circulation until any changes specified by the Association have been made or, if expressly disapproved, until the advertisement has been refiled for, and has received, Association approval. The member must provide with each filing the actual or anticipated date of first use. Any member filing any investment company advertisement or sales literature pursuant to this paragraph shall include a copy of the data, ranking or comparison on which the ranking or comparison is based.]

(3) Requirement to File Certain Material Prior to Use

At least 10 business days prior to first use or publication (or such shorter period as the Department may allow), a member must file the following communications with the Department and withhold them from publication or circulation until any changes specified by the Department have been made:

(A) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts, continuously offered closed-end funds and unit investment trusts) that include or incorporate performance rankings or performance comparisons of the investment company with other investment companies when the ranking or comparison category is not generally published or is the creation, either directly or indirectly, of the investment company, its underwriter or an affiliate. Such filings must include a copy of the data on which the ranking or comparison is based.

(B) dvertisements concerning collateralized mortgage obligations.

[(3)] 4 Requirement for Certain Members to File Material Prior to Use

(A) Each member [of the Association] *that* [which] has not previously filed advertisements with the [Association] *Department* (or with a registered securities exchange having standards comparable to those contained in this Rule) [shall] *must* file its initial advertisement with the Department at least [ten] *10 business* days prior to use and shall continue to file its advertisements at least [ten] *10 business* days prior to use for a period of one year. [The member must provide with each filing the actual or anticipated date of first use.]

[(B) Except for advertisements related to exempted securities (as defined in Section 3(a)(12) of the Act), municipal securities, direct participation programs or investment company securities, members subject to the requirements of paragraph (c)(3)(A) of this Rule may, in lieu of filing with the Association, file advertisements on the same basis, and for the same time periods specified in that subparagraph, with any registered securities exchange having standards comparable to those contained in this Rule.]

[(4) (A)] *(B)* Notwithstanding the foregoing provisions, the Department, upon review of a member's advertising and/or sales literature, and after determining that the member has departed [and there is a reasonable likelihood that the member will again depart] from the standards of this Rule, may require that such member file all advertising and/or sales literature, or the portion of such member's material *that* [which] is related to any specific types or classes of securities or services, with the Department, at least [ten] *10 business* days prior to use. [The member must provide with each filing the actual or anticipated date of first use.] [(B)] The Department [shall] *will* notify the member in writing of the types of material to be filed and the length of time such requirement is to be in effect. [The requirement shall not exceed one year, however, and shall not take effect until 30 days after the member receives the written notice, during which time the member may request a hearing under Rule 9514, and any such hearing shall be held in reasonable conformity with the hearing and appeal procedures of the Rule 9510 Series.] *Any filing requirement imposed under this paragraph will take effect 30 calendar days after the member receives the written notice, during which time the member may appeal pursuant to the hearing and appeal procedures of the Code of Procedure contained in the Rule 9510 Series.*

(5) Filing of Television or Video Advertisements

If a member has filed a draft version or "story board" of a television or video advertisement pursuant to a filing requirement, then the member also must file the final filmed version within 10 business days of first use or broadcast.

[(5) In addition to the foregoing requirements, every member's advertisements and sales literature shall be subject to a routine spot-check procedure. Upon written request from the Department, each member shall promptly submit the material requested. Members will not be required to submit material under this procedure which has been previously submitted pursuant to one of the foregoing requirements and, except for material related to exempted securities (as defined in Section 3(a)(12) of the Act), municipal securities, direct participation programs or investment company securities, the procedure will not be applied to members who have been, within the Association's current examination cycle subjected to a spot-check by a registered securities exchange or other self-regulatory organization using procedures comparable to those used by the Association.]

(6) Spot-Check Procedures

In addition to the foregoing requirements, each member's written and electronic communications with the public may be subject to a spot-check procedure. Upon written request from the Department, each member must submit the material requested in a spot-check procedure within the time frame specified by the Department.

[(6)] *(7) Exclusions from Filing Requirements*

The following types of material are excluded from the [foregoing] filing requirements and (except for [research reports under] *the material in* paragraphs (G) *through (J))* the foregoing spot-check procedures:

(A) Advertisements and sales literature that previously have been filed and that are to be used without material change.

[(A)] *(B)* Advertisements [or] *and* sales literature solely related to *recruitment or* changes in a member's name, personnel, [location,] *electronic or postal address,* ownership, offices, business structure, officers or partners, telephone or teletype numbers, or concerning a merger with, or acquisition by, another member[;].

[(B)] *(C)* Advertisements [or] *and* sales literature [which] *that* do no more than identify the Nasdaq *or a national securities exchange* symbol of the member [and/or of a security in] *or identify a security for* which the member is a Nasdaq registered market maker[;].

[(C)] *(D)* Advertisements [or] *and* sales literature that [which] do no more than identify the member [and/]or offer a specific security at a stated price[;].

[(D) Material sent to branch offices or other internal material that is not distributed to the public;]

(E) Prospectuses, preliminary prospectuses, *fund profiles,* offering circulars and similar documents [used in connection with an offering of securities which has been registered or] *that have been* filed with the *Securities and Exchange* Commission *(the "SEC")* or any state, or [which] *that* is exempt from such registration, except that an investment company prospectus published pursuant to SEC Rule 482 under the Securities Act of 1933 [shall] *will* not be considered a prospectus for purposes of this exclusion[;].

(F) Advertisements prepared in accordance with Section 2(10)(b) of the Securities Act of 1933, as amended, or any rule thereunder, such as SEC Rule 134, *and announcements as a matter of record that a member has participated in a private placement,* unless [such] *the* advertisements are related to direct participation programs or securities issued by registered investment companies.

[(G) Any research report concerning an investment company registered under the Investment Company Act of 1940, provided that:]

[(i) the report is prepared by an entity that is independent of the investment company, its affiliates, and the member using the report (the "research firm");]

[(ii) the report's contents have not been materially altered by the member using the report except as necessary to make the report consistent with applicable regulatory standards or to correct factual errors;]

[(iii) the research firm prepares and distributes reports based on similar research with respect to a substantial number of investment companies;]

[(iv) the research firm updates and distributes reports based on its research of the investment company with reasonable regularity in the normal course of the research firm's business;]

[(v) neither the investment company, its affiliates nor the member using the research report has commissioned the research used by the research firm in preparing the report; and]

[(vi) if a customized report was prepared at the request of the investment company, its affiliate or a member, then the report includes only information that the research firm has already compiled and published in another report, and does not omit information in that report necessary to make the customized report fair and balanced.]

(G) Press releases that are made available only to members of the media.

(H) Independently prepared reprints.

(I) Correspondence.

(J) Institutional sales material.

Although [research reports meeting the above requirements are] *the material described in paragraphs (c)(7)(G) through (J) is* excluded from the foregoing filing requirements, [they] *investment company communications described in those paragraphs* shall be deemed filed with the Association for purposes of Section 24(b) of the Investment Company Act of 1940 and Rule 24b–3 [of the Securities and Exchange Commission] thereunder.

[(7)] *(8)* Material [which] *that* refers to investment company securities, [or] direct participation programs, or exempted securities (as defined in Section 3(a)(12) of the Act) solely as part of a listing of products [and/]or services offered by the member, is excluded from the requirements of [sub]paragraphs [(1) and (2)] *(c)(2) and (c)(3).*

[(8) Exemptions.] *(9)* Pursuant to the Rule 9600 Series, the Association may exempt a member or person associated with a member from the pre-filing requirements of this paragraph *(c)* for good cause shown.

(d) *Content* Standards [Applicable to Communications With the Public]

(1) [General] Standards *Applicable to All Communications With the Public*

(A) All member communications with the public shall be based on principles of fair dealing and good faith, *must be fair and balanced,* and [should] *must* provide a sound basis for evaluating the facts in regard to any particular security [or securities] or type of security, industry [discussed] or service [offered]. No *member may omit any* material fact or qualification [may be omitted] if the omission, in the light of the context of the material presented, would cause the communications to be misleading.

(B) [Exaggerated, unwarranted or misleading statements or claims are prohibited in all public communications of members. In preparing such communications, members must bear in mind that inherent in investment are the risks of fluctuating prices and the uncertainty of dividends, rates of return and yield, and no] *No member may make any false, exaggerated, unwarranted or misleading statement or claim in any communication with the public. No* member [shall, directly or indirectly,] *may* publish, circulate or distribute any public communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading.

[(C) When sponsoring or participating in a seminar, forum, radio or television interview, or when otherwise engaged in public appearances or speaking activities which may not constitute advertisements, members and persons associated with members shall nevertheless follow the standards of paragraphs (d) and (f) of this Rule.]

[(D) In judging whether a communication or a particular element of a communication may be misleading, several factors should be considered, including but not limited to:]

[(i) the overall context in which the statement or statements are made. A statement made in one context may be misleading even though such a statement could be appropriate in another context. An essential test in this regard is the balance of treatment of risks and potential benefits.]

[(ii) the audience to which the communication is directed. Different levels of explanation or detail may be necessary depending on the audience to which a communication is directed, and the ability of the member given the nature of the media used, to restrict the audience appropriately. If the statements made in a communication would be applicable only to a limited audience, or if additional information might be necessary for other audiences, it should be kept in mind that it is not always possible to restrict the readership of a particular communication.]

[(iii) the overall clarity of the communication. A statement or disclosure made in an unclear manner can result in a lack of understanding of the statement, or in a serious misunderstanding. A complex or overly technical explanation may be more confusing than too little information. Likewise material disclosure relegated to legends or footnotes may not enhance the reader's understanding of the communication.]

(C) Information may be placed in a legend or footnote only in the event that such placement would not inhibit an investor's understanding of the communication.

(D) Communications with the public may not predict or project performance, imply that past performance will recur or make any exaggerated or unwarranted claim, opinion or forecast. A hypothetical illustration of mathematical principles is permitted, provided that it does not predict or project the performance of an investment or investment strategy.

(E) If any testimonial in a communication with the public concerns a technical aspect of investing, the person making the testimonial must have the knowledge and experience to form a valid opinion.

(2) [Specific] Standards *Applicable to Advertisements and Sales Literature*

[In addition to the foregoing general standards, the following specific standards apply:]

[(A) Necessary Data. Advertisements and sales literature shall contain the name of the member, unless such advertisements and sales literature comply with paragraph (f). Sales literature shall contain the name of the person or firm preparing the material, if other than the member, and the date on which it is first published, circulated or distributed. If the information in the material is not current, this fact should be stated.]

[(B) Recommendations.]

[(i) In making a recommendation in advertisements and sales literature, whether or not labeled as such, a member must have a reasonable basis for the recommendation and must disclose any of the following situations which are applicable:]

[a. that the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, or that the member or associated persons will sell to or buy from customers on a principal basis;]

[b. that the member and/or its officers or partners own options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;]

[c. that the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last three years.]

[(ii) The member shall also provide, or offer to furnish upon request, available investment information supporting the recommendation. Recommendations on behalf of corporate equities must provide the price at the time the recommendation is made.]

[(iii) A member may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by a member within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which or the price range within which the recommendation was to be acted upon, and indicate the general market conditions during the period covered.]

[(iv) Also permitted is material which does not make any specific recommendation but which offers to furnish a list of all recommendations made by a member within the past year or over longer periods of consecutive years, including the most recent year, if this list contains all the information specified in subparagraph (iii). Neither the list of recommendations, nor material offering such list, shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a follow-up research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.]

[(C) Claims and Opinions. Communications with the public must not contain promises of specific results, exaggerated or unwarranted claims or unwarranted superlatives, opinions for which there is no reasonable basis, or forecasts of future events which are unwarranted, or which are not clearly labeled as forecasts.]

[(D) Testimonials. In testimonials concerning the quality of a firm's investment advice, the following points must be clearly stated in advertisements or sales literature:] *(A) Advertisements or sales literature providing any testimonial concerning the investment advice or investment performance of a member or its products must prominently disclose the following:*

(i) The *fact that the* testimonial may not be representative of the experience of other clients.

(ii) The *fact that the* testimonial is no guarantee of future performance or success.

(iii) If more than a nominal sum is paid, the fact that it is a paid testimonial [must be indicated].

[(iv) If the testimonial concerns a technical aspect of investing, the person making the testimonial must have knowledge and experience to form a valid opinion.]

[(E) Offers of Free Service. Any statement in communications with the public to the effect that any report, analysis, or other service will be furnished free or without any charge must not be made unless such report, analysis or other service actually is or will be furnished entirely free and without condition or obligation.]

[(F) Claims for Research Facilities. No claim or implication in communications with the public may be made for research or other facilities beyond those which the member actually possesses or has reasonable capacity to provide.]

[(G) Hedge Clauses. No cautionary statements or caveats, often called hedge clauses, may be used in communications with the public if they are misleading or are inconsistent with the content of the material.]

[(H) Recruiting Advertising. Advertisements in connection with the recruitment of sales personnel must not contain exaggerated or unwarranted claims or statements about opportunities in the investment banking or securities business and should not refer to specific earnings figures or ranges which are not reasonable under the circumstances.]

[(I) Periodic Investment Plans. Advertisements and sales literature should not discuss or portray any type of continuous or periodic investment plan without disclosing that such a plan does not assure a profit and does not protect against loss in declining markets. In addition, if the material deals specifically with the principles of dollar-cost averaging, it should point out that since such a plan involves continuous investment in securities regardless of fluctuating price levels of such securities, the investor should consider his financial ability to continue his purchases through periods of low price levels.]

[(J) References to Regulatory Organizations. Communications with the public shall not make any reference to membership in the Association or to registration or regulation of the securities being offered, or of the underwriter, sponsor, or any member or associated person, which reference could imply endorsement or approval by the Association or any federal or state regulatory body. References to membership in the Association or Securities Investors Protection Corporation shall comply with all applicable By-Laws and Rules pertaining thereto.]

[(K) Identification of Sources. Statistical tables, charts, graphs or other illustrations used by members in advertising or sales literature should disclose the source of the information if not prepared by the member.]

[(L) Claims of Tax Free/Tax Exempt Returns. Income or investment returns may not be characterized in communications with the public as tax free or exempt from income tax where tax liability is merely postponed or deferred. If taxes are payable upon redemption, that fact must be disclosed in advertisements and sales literature. References in advertisements and sales literature to tax free/tax exempt current income must indicate which income taxes apply or which do not unless income is free from all applicable taxes. For example, if income from an investment company investing in municipal bonds may be subject to state or local income taxes, this should be stated, or the illustration should otherwise make it clear that income is free from federal income tax.]

[(M) Comparisons. In making a comparison in advertisements or sales literature, either directly or indirectly, the member must make certain that the purpose of the comparison is clear and must provide a fair and balanced presentation, including any material differences between the subjects of comparison. Such differences may include investment objectives, sales and management fees, liquidity, safety, guarantees or insurance, fluctuation of principal and/or return, tax features, and any other factors necessary to make such comparisons fair and not misleading.]

[(N) Predictions and Projections. In communications with the public, investment results cannot be predicted or projected. Investment performance illustrations may not imply that gain or income realized in the past will be repeated in the future. However, for purposes of this Rule, hypothetical illustrations of mathematical principles are not considered projections of performance; e.g., illustrations designed to show the effects of dollar cost averaging, tax-free compounding, or the mechanics of variable annuity contracts or variable life policies.]

(B) Any comparison in advertisements or sales literature between investments or services must disclose all material differences between them, including (as applicable) investment objectives, costs and expenses, liquidity, safety, guarantees or insurance, fluctuation of principal or return, and tax features.

(C) All advertisements and sales literature must:

(i) prominently disclose the name of the member and may also include a fictional name by which the member is commonly recognized or which is required by any state or jurisdiction;

(ii) reflect any relationship between the member and any non-member or individual who is also named; and

(iii) if it includes other names, reflect which products or services are being offered by the member.

This paragraph (C) does not apply to so-called "blind" advertisements used to recruit personnel.

(e) [Application] *Violation* of [SEC] *Other* Rules

[In addition to the provisions of paragraph (d) of this Rule, members' public communications shall conform to all applicable rules of the Commission, as in effect at the time the material is used.] *Any violation by a member of any rule of the SEC, the Securities Investor Protection Corporation or the Municipal Securities Rulemaking Board applicable to member communications with the public will be deemed a violation of this Rule 2210.*

[(f) Standards Applicable to the Use and Disclosure of the Association Member's Name]

[(1) In addition to the provisions of paragraph (d) of this Rule, members' public communications shall conform to the following provisions concerning the use and disclosure of member names. The term "communication" as used herein shall include any item defined as either "advertising" or "sales literature" in paragraph (a). The term "communication" shall also include, among other things, business cards and letterhead.]

[(2) General Standards]

[(A) Any communication used in the promotion of a member's securities business must clearly and prominently set forth the name of the Association member. This requirement shall not apply to so-called "blind" advertisements used for recruiting personnel or to those communications meeting the provisions of paragraph (f)(3).]

[(B) If a non-member entity is named in a communication in addition to the member, the relationship, or lack of relationship, between the member and the entity shall be clear.]

[(C) If a non-member entity is named in a communication in addition to the member and products or services are identified, no confusion shall be created as to which entity is offering which products and services. Securities products and services shall be clearly identified as being offered by the member.]

[(D) If an individual is named in a communication containing the names of the member and a non-member entity, the nature of the affiliation or relationship of the individual with the member shall be clear.]

[(E) Communications that refer to individuals may not include, with respect to such individuals, references to nonexistent or self-conferred degrees or designations, nor may such communications make reference to bona fide degrees or designations in a misleading manner.]

[(F) If a communication identifies a single company, the communication shall not be used in a manner which implies the offering of a product or service not available from the company named.]

[(G) The positioning of disclosure can create confusion even if the disclosures or references are entirely accurate. To avoid confusion, a reference to an affiliation (e.g., registered representative) shall not be placed in proximity to the wrong entity.]

[(H) Any reference to membership (e.g., NASD, SIPC, etc.) shall be clearly identified as belonging to the entity that is the actual member of the organization.]

[(3) Specific Standards]

[The foregoing standards set forth in subparagraphs (1) and (2) shall apply to all communications unless at least one of the following special circumstances exists, in which case the standards set forth herein would supersede the standards in subparagraphs (1) and (2).]

[(A) Doing Business As. An Association member may use a fictional name in communications provided that the following conditions are met:]

[(i) Non-Required Fictional Name. A member may voluntarily use a fictional name provided that the name has been filed with the Association and the Commission, all business is conducted under that name and it is the only name by which the firm is recognized.]

[(ii) Required Fictional Name. If a state or other regulatory authority requires a member to use a fictional name, the following conditions shall be met:]

[a. The fictional name shall be used to conduct business only within the state or jurisdiction requiring its use.]

[b. If more than one state or jurisdiction requires a firm to use a fictional name, the same name shall be used in each, wherever possible.]

[c. Any communication shall disclose the name of the member and the fact that the firm is doing business in that state or jurisdiction under the fictional name, unless the regulatory authority prohibits such disclosure.]

[(B) Generic Names. An Association member may use an "umbrella" designation to promote name recognition, provided that the following conditions are met:]

[(i) The name of the member shall be clearly and prominently disclosed;]

[(ii) The relationship between the generic name and the member shall be clear; and]

[(iii) There shall be no implication that the generic name is the name of a registered broker/dealer.]

[(C) Derivative Names. An Association member may use a derivative of the firm name to promote certain areas of the firm's business, provided that the name of the member is clearly and prominently disclosed. Absent such disclosure, the following conditions must be met:]

[(i) The name used to promote a specific area of the firm's business shall be a derivative of the member name; and]

[(ii) The derivative name shall not be misleading in the context in which it is being used.]

[(D) "Division of." An Association member firm may designate an aspect of its business as a division of the firm, provided that the following conditions are met:]

[(i) The designation shall only be used by a bona fide division of the member. This shall include:]

[a. a division resulting from a merger or acquisition that will continue the previous firm's business; or]

[b. a functional division that conducts or will conduct one specialized aspect of the firm's business.]

[(ii) The name of the member shall be clearly and prominently disclosed.]

[(iii) The division shall be clearly identified as a division of the member firm.]

[(E) "Service of/Securities Offered Through." An Association member firm may identify its brokerage service being offered through other institutions as a service of the member, provided that the following conditions are met:]

[(i) The name of the member shall be clearly and prominently disclosed.]

[(ii) The service shall be clearly identified as a service of the member firm.]

[(F) Telephone Directory Line Listings, Business Cards and Letterhead. All such listings, cards or letterhead shall conform to the provisions of Rule 3010(g)(2).]

[IM–2210–1. Communications With the Public About Collateralized Mortgage Obligations (CMOs)]

[(a) General Considerations]

[For purposes of the following guidelines, the term "collateralized mortgage obligation" (CMO) refers to a multiclass bond backed by a pool of mortgage pass-through securities or mortgage loans. CMOs are also known as "real estate mortgage investment conduits" (REMICs). As a result of the 1986 Tax Reform Act, most CMOs are issued in REMIC form to create certain tax advantages for the issuer. The term CMO and REMIC are now used interchangeably. In order to prevent advertisements and sales literature regarding CMOs from being false or misleading, there are certain factors to be considered, including, but not limited to, the following:]

[(1) Product Identification]

[In order to assure that investors understand exactly what security is being discussed, all communications concerning CMOs should clearly describe the product as a "collateralized mortgage obligation." Member firms should not use the proprietary names for CMOs as they do not adequately identify the product. To prevent confusion and the possibility of misleading the reader, communications should not contain comparisons between CMOs and any other investment vehicle, including Certificates of Deposit.]

[(2) Educational Material]

[In order to ensure that customers are adequately informed about CMOs members are required to offer to customers educational material which covers the following matters:]

[(A) A discussion of CMO characteristics as investments and their attendant risks;]

[(B) An explanation of the structure of a CMO, including the various types of tranches;]

[(C) A discussion of mortgage loans and mortgage securities;]

[(D) Features of CMOs, including: credit quality, prepayment rates and average lives, interest rates (including effect on value and prepayment rates), tax considerations, minimum investments, transactions costs and liquidity;]

[(E) Questions an investor should ask before investing; and]

[(F) A glossary of terms that may be helpful to an investor considering an investment.]

[(3) Safety Claims]

[A communication should not overstate the relative safety offered by the CMO. Although CMOs generally offer low investment risk, they are subject to market risk like all investment securities and there should be no implication otherwise. Accordingly, references to liquidity should be balanced with disclosure that, upon resale, an investor may receive more or less than his original investment.]

[(4) Claims About Government Guarantees]

[(A) Communications should accurately depict the guarantees associated with CMO securities. For example, in most cases it would be misleading to state that CMOs are "government guaranteed" securities. A government agency issue could instead be characterized as government agency backed. Of course, private-issue CMO advertisements should not contain references to guarantees or backing, but may disclose the rating.]

[(B) If the CMO is offered at a premium, the communication should clearly indicate that the government agency backing applies only to the face value of the CMO, and not to any premium paid. Furthermore, communications should not imply that either the market value or the anticipated yield of the CMO is guaranteed.]

[(5) Simplicity Claims]

[CMOs are complex securities and require full, fair and clear disclosure in order to be understood by the investor. A communication should not imply that these are simple securities that may be suitable for any investor seeking high yields. All CMOs do not have the same characteristics and it is misleading to indicate otherwise. Even though two CMOs may have the same underlying collateral, they may differ greatly in their prepayment speed and volatility.]

[(6) Claims About Predictability]

[A communication would be misleading if it indicated that the anticipated yield and average life of a CMO were assured. It should disclose that the yield and average life will fluctuate depending on the actual prepayment experience and changes in current interest rates.]

[(b) Print Advertising]

[(1) Educational advertising, discussing generally the features of CMOs, can be a very useful and informative tool in explaining these securities to the investing public. However, such "generic" advertising should not contain anticipated yield or coupon rates.]

[(2) Advertising relating to CMOs must be filed with the Association's Advertising/Investment Companies Regulation Department for review at least ten days prior to use, pursuant to requirements in Rule 2210.]

[(3) The Association has developed a standardized CMO advertisement that provides information deemed necessary to prevent the communication from being misleading. Members must file the standardized CMO advertisement, ten days prior to its first use, with the Association's Advertising/Investment Companies Regulation Department.]

[(4) Members are not required to use the standardized CMO advertisement. If firms do not elect to use the standardized CMO advertisement, they should ensure that their advertising contains the same information and meets the same conditions as the standardized CMO advertisement. Members using a non-standardized format must file the advertisement ten days prior to first use.]

[(5) After an advertisement has been filed prior to initial use, subsequent use of the identical advertisement, changed only to reflect the updated information for the security being advertised, does not require re-filing with the Association. Such advertisements must be approved by a principal (or designee) and maintained in the member firm's files as required by the Association's Rules.]

[(6) Standardized CMO Advertisement]

[(A) The standardized CMO advertisement contains four sections, each of which must be given an equal portion of space in the advertisement. The information in Sections 1 and 2 is required to be included in advertising for CMOs. The information suggested for Section 3 is optional; therefore, the member may elect to include any, all or none of this information in the advertisement. The information in Section 4 may be tailored to the member's preferred signature. An example of the standardized CMO advertisement may be found at the end of these guidelines.]

[Section 1 Title Collateralized Mortgage Obligations
Coupon Rate
Anticipated Yield/Average Life
Specific Tranche—Number & Class
Final Maturity Date
Underlying Collateral]

[Section 2 Disclosure Statement: "The yield and average life shown above consider prepayment assumptions *that may or may not be met*. Changes in payments may significantly affect yield and average life. Please contact your representative for information on CMOs and how they react to different market conditions."]

[Section 3 Product Features (Optional):
Minimum Denominations
Rating Disclosure
Agency/Government Backing
Income Payment Structure
Generic Description of Tranche (e.g., PAC, Companion)]

[Section 4 Company Information: Name, Address, Telephone Number, Representative's Name, Memberships]

[(B) If this standardized CMO advertisement is used, the following conditions must also be met:]

[(i) All figures in Section 1 must be in equal type size.]

[(ii) The disclosure language in Section 2 may not be altered and must be given equal prominence with Section 1.]

[(iii) The prepayment assumption used to determine the advertised yield and average life must either be obtained from a nationally recognized service (e.g., Bloomberg, Telerate) or the member firm must be able to justify the assumption used. A copy of either the service's listing for the CMO or the firm's justification must be attached to the copy of the advertisement that is maintained in the firm's advertising files in order to verify that the prepayment scenario advertised is reasonable and to satisfy the conditions for waiving the pre-use filing requirement.]

[(iv) If a member intends to impose a sales charge, a reasonable sales charge should be reflected in the anticipated yield.]

[(v) The advertisement must include language stating that the security is "offered subject to prior sale and price change." This language may be included in any one of the four sections.]

[(vi) If the bond advertised is an accrual bond, the following language should be included in Section 1: "This is an accrual bond and may not currently pay principal and interest."]

[(vii) If the bond is being offered at par, the advertisement may include the yield to maturity in Section 1.]

[(C) No additional information may be included in the standardized advertisement.]

[(c) Radio/Television Advertising]

[(1) Radio and television advertising alternatives are too varied to attempt to provide standardized formats for either medium. Such advertisements must be filed with the Association at least ten days prior to first use. The storyboard or other description should accompany the filing of a television advertisement.]

[(2) If an advertisement is filed with the Association prior to its initial use, it is not necessary to subsequently refile the advertisement if the only changes are to update the information relating to the security being advertised. A copy of each advertisement should be approved by a principal (or designee) and should be maintained, along with a copy of the listing for the CMO or the firm's justification, in the member firm's files in accordance with Association Rules.]

[(3) The following guidelines should be followed when developing radio and television advertisements:]

[(A) The advertisements must be preceded by the following oral disclaimer: "The following is an advertisement for Collateralized Mortgage Obligations. Contact your representative for information on CMOs and how they react to different market conditions."]

[(B) The advertisements must disclose the information contained in Section 1 of the standardized CMO advertisement above:][Coupon Rate, Anticipated Yield, Average Life, Final Maturity Date, Initial Issue Tranche (Number and Class), and Underlying Collateral.]

[(C) The advertisements must contain the following oral disclosure statement:]

["The yield and average life consider prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life."]

[(D) The advertisements must state that the CMO is "offered subject to prior sale and price change."]

[(E) If a member intends to impose a sales charge, a reasonable sales charge should be reflected in the anticipated yield.]

VOL 66 ISS 250 DE 31 2001 UMI

[(F) If the bond advertised is an accrual bond, the following language should be included:]

["This is an accrual bond and may not currently pay principal and interest."]

[(G) If the bond is being offered at par, the advertisement may include the yield to maturity.]

[Example of Standardized CMO Advertisement (See IM–2210–1.)]

[Collateralized Mortgage Obligations]

[8.50% Coupon
8.75% Anticipated Yield to 10-Year Average Life
FNMA 9532X, Final Maturity March 2010
Collateral 100% FNMA 8.50%]

[The yield and average life shown above consider prepayment assumptions *that may or may not be met.* Changes in payments may significantly affect yield and average life. Please contact your representative for information on CMOs and how they react to different market conditions.]

[$5.000 Minimum
Income Paid Monthly
Implied Rating/Volatility Rating
U.S. Gov't Agency Backed
Generic Description (e.g., PAC, Companion, Sequential Pay Bonds)]

[Company Name
Contact Person
Address
City, State, ZIP Code
Phone Number]

[Offered subject to prior sale and price change.]

[Member SIPC]

IM–2210–1. Guidelines To Ensure That Communications With the Public Are Not Misleading

Every member is responsible for determining whether any communication with the public, including material that has been filed with the Department, complies with all applicable standards, including the requirement that the communication not be misleading. In order to meet this responsibility, member communications with the public must conform with the following guidelines. These guidelines do not represent an exclusive list of considerations that a member must make in determining whether a communication with the public complies with all applicable standards.

(1) Members must ensure that statements are not misleading within the context in which they are made. A statement made in one context may be misleading even though such a statement could be appropriate in another context. An essential test in this regard is the balanced treatment of risks and potential benefits. Member communications should be consistent with the risks of fluctuating prices and the uncertainty of dividends, rates of return and yield inherent to investments.

(2) Members must consider the nature of the audience to which the communication will be directed. Different levels of explanation or detail may be necessary depending on the audience to which a communication is directed. Members must keep in mind that it is not always possible to restrict the audience that may have access to a particular communication with the public. Additional information or a different presentation of information may be required depending upon the medium used for a particular communication and the possibility that the communication will reach a larger or different audience than the one initially targeted.

(3) Member communications must be clear. A statement made in an unclear manner can cause a misunderstanding. A complex or overly technical explanation may be more confusing than too little information.

(4) In communications with the public, income or investment returns may not be characterized as tax-free or exempt from income tax when tax liability is merely postponed or deferred, such as when taxes are payable upon redemption.

(5) In advertisements and sales literature, references to tax free or tax exempt income must indicate which income taxes apply, or which do not, unless income is free from all applicable taxes. For example, if income from an investment company investing in municipal bonds is subject to state or local income taxes, this fact must be stated, or the illustration must otherwise make it clear that income is free only from federal income tax.

(6) Recommendations

(A) In making a recommendation in advertisements and sales literature, whether or not labeled as such, a member must have a reasonable basis for the recommendation and must disclose any of the following situations which are applicable:

(i) that the member usually makes a market in the securities being recommended, or in the underlying security if the recommended security is an option, or that the member or associated persons will sell to or buy from customers on a principal basis,

(ii) that the member and/or its officers or partners own options, rights or warrants to purchase any of the securities of the issuer whose securities are recommended, unless the extent of such ownership is nominal;

(iii) that the member was manager or co-manager of a public offering of any securities of the recommended issuer within the last three years.

(B) The member shall also provide, or offer to furnish upon request, available investment information supporting the recommendation. Recommendations on behalf of corporate equities must provide the price at the time the recommendation is made.

(C) A member may use material referring to past recommendations if it sets forth all recommendations as to the same type, kind, grade or classification of securities made by a member within the last year. Longer periods of years may be covered if they are consecutive and include the most recent year. Such material must also name each security recommended and give the date and nature of each recommendation (e.g., whether to buy or sell), the price at the time of the recommendation, the price at which or the price range within which the recommendation was to be acted upon, and indicate the general market conditions during the period covered.

(D) Also permitted is material that does not make any specific recommendation but which offers to furnish a list of all recommendations made by a member within the past year or over longer periods of consecutive years, including the most recent year, if this list contains all the information specified in subparagraph (C). Neither the list of recommendations, nor material offering such list, shall imply comparable future performance. Reference to the results of a previous specific recommendation, including such a reference in a follow-up research report or market letter, is prohibited if the intent or the effect is to show the success of a past recommendation, unless all of the foregoing requirements with respect to past recommendations are met.

IM–2210–2. Communications With the Public About Variable Life Insurance and Variable Annuities

The standards governing communications with the public are set forth in Rule 2210. In addition to those standards, the following guidelines must be considered in preparing advertisements and sales literature about variable life insurance and variable annuities. The guidelines are applicable to advertisements and sales literature as defined in Rule 2210, as well as individualized communications such as personalized letters and computer generated illustrations, whether printed or made available on-screen.

(a) General Considerations

(1) Product Identification

In order to assure that investors understand exactly what security is being discussed, all communications must clearly describe the product as either a variable life insurance policy or a variable annuity, as applicable. Member firms may use proprietary names in addition to this description. In cases where the proprietary name includes a description of the type of security being offered, there is no requirement to include a generalized description. For example, if the material includes a name such as the "XYZ Variable Life Insurance Policy," it is not necessary to include a statement indicating that the security is a variable life insurance policy. Considering the significant differences between mutual funds and variable products, the presentation must not represent or imply that the product being offered or its underlying account is a mutual fund.

(2) Liquidity

Considering that variable life insurance and variable annuities frequently involve substantial charges and/or tax penalties for early withdrawals, there must be no representation or implication that these are short-term, liquid investments. Presentations regarding liquidity or ease of access to investment values must be balanced by clear language describing the negative impact of early redemptions. Examples of this negative impact may be the payment of contingent deferred sales loads and tax penalties, and the fact that the investor may receive less than the original invested amount. With respect to variable life insurance, discussions of loans and withdrawals must explain their impact on cash values and death benefits.

(3) Claims About Guarantees

Insurance companies issuing variable life insurance and variable annuities provide a number of specific guarantees. For example, an insurance company may guarantee a minimum death benefit for a variable life insurance policy or the company may guarantee a schedule of payments to a variable annuity owner. Variable life insurance policies and variable annuities may also offer a fixed investment account which is guaranteed by the insurance company. The relative safety resulting from such a guarantee must not be overemphasized or exaggerated as it depends on the claims-paying ability of the issuing insurance company. There must be no representation or implication that a guarantee applies to the investment return or principal value of the separate account. Similarly, it must not be represented or implied that an insurance company's financial ratings apply to the separate account.

(b) Specific Considerations

(1) Fund Performance Predating Inclusion in the Variable Product

In order to show how an existing fund would have performed had it been an investment option within a variable life insurance policy or variable annuity, communications may contain the fund's historical performance that predates its inclusion in the policy or annuity. Such performance may only be used provided that no significant changes occurred to the fund at the time or after it became part of the variable product. However, communications may not include the performance of an existing fund for the purposes of promoting investment in a similar, but new, investment option (i.e., clone fund or model fund) available in a variable contract. The presentation of historical performance must conform to applicable Association and SEC standards. Particular attention must be given to including all elements of return and deducting applicable charges and expenses.

(2) Product Comparisons

A comparison of investment products may be used provided the comparison complies with applicable requirements set forth under Rule 2210. Particular attention must be paid to the specific standards regarding "comparisons" set forth in [Rule 2210(d)(2)(M)] *Rule 2210(d)(2)(B)*.

(3) Use of Rankings

A ranking which reflects the relative performance of the separate account or the underlying investment option may be included in advertisements and sales literature provided its use is consistent with the standards contained in IM-2210-3.

(4) Discussions Regarding Insurance and Investment Features of Variable Life Insurance

Communications on behalf of single premium variable life insurance may emphasize the investment features of the product provided an adequate explanation of the life insurance features is given. Sales material for other types of variable life insurance must provide a balanced discussion of these features.

(5) Hypothetical Illustrations of Rates of Return in Variable Life Insurance Sales Literature and Personalized Illustrations

(A) (i) Hypothetical illustrations using assumed rates of return may be used to demonstrate the way a variable life insurance policy operates. The illustrations show how the performance of the underlying investment accounts could affect the policy cash value and death benefit. These illustrations may not be used to project or predict investment results as such forecasts are strictly prohibited by the Rules. The methodology and format of hypothetical illustrations must be modeled after the required illustrations in the prospectus.

(ii) An illustration may use any combination of assumed investment returns up to and including a gross rate of 12%, provided that one of the returns is a 0% gross rate. Although the maximum assumed rate of 12% may be acceptable, members are urged to assure that the maximum rate illustrated is reasonable considering market conditions and the available investment options. The purpose of the required 0% rate of return is to demonstrate how a lack of growth in the underlying investment accounts may affect policy values and to reinforce the hypothetical nature of the illustration.

(iii) The illustrations must reflect the maximum (guaranteed) mortality and expense charges associated with the policy for each assumed rate of return. Current charges may be illustrated in addition to the maximum charges.

(iv) Preceding any illustration there must be a prominent explanation that the purpose of the illustration is to show how the performance of the underlying investment accounts could affect the policy cash value and death benefit. The explanation must also state that the illustration is hypothetical and may not be used to project or predict investment results.

(B) In sales literature which includes hypothetical illustrations, member firms may provide a personalized illustration which reflects factors relating to the individual customer's circumstances. A personalized illustration may not contain a rate of return greater than 12% and must follow all of the standards set forth in subparagraph (A), above.

(C) In general, it is inappropriate to compare a variable life insurance policy with another product based on hypothetical performance as this type of presentation goes beyond the singular purpose of illustrating how the performance of the underlying investment accounts could affect the policy cash value and death benefit. It is permissible, however, to use a

VOL 66 ISS 250 DEC 31 2001 UMI

hypothetical illustration in order to compare a variable life insurance policy to a term policy with the difference in cost invested in a side product. The sole purpose of this type of illustration would be to demonstrate the concept of tax-deferred growth as a result of investing in the variable product. The following conditions must be met in order to make this type of comparison balanced and complete:

(i) the comparative illustration must be accompanied by an illustration which reflects the standards outlined in subparagraph (A), above;

(ii) the rate of return used in the comparative illustration must be no greater than 12%;

(iii) the rate of return assumed for the side product and the variable life policy must be the same;

(iv) the same fees deducted from the required prospectus illustration must be deducted from the comparative illustration;

(v) the side product must be illustrated using gross values which do not reflect the deduction of any fees; and,

(vi) the side product must not be identified or characterized as any specific investment or investment type.

IM–2210–3. Use of Rankings in Investment Companies Advertisements and Sales Literature

(a) Definition of "Ranking Entity"

For purposes of the following guidelines, the term "Ranking Entity" refers to any entity that provides general information about investment companies to the public, that is independent of the investment company and its affiliates, and whose services are not procured by the investment company or any of its affiliates to assign the investment company a ranking.

(b) General Prohibition

Members [shall] *may* not use [in] investment company *rankings in any* advertisement[s,] *or item of* sales literature [or general promotional material any investment company rankings] other than [those developed and produced by entities that meet the definition of "Ranking Entity," and which conform to the requirements of the guidelines herein] *(1) rankings created and published by Ranking Entities or (2) rankings created by an investment company or an investment company affiliate but based on the performance measurements of a Ranking Entity. Rankings in advertisements and sales literature also must conform to the following requirements.*

(c) Required Disclosures

(1) Headlines/Prominent Statements

[(A)] A headline or other prominent statement must not state or imply that an investment company *or investment company family* is the best performer in a category unless it is actually ranked first in the category.

[(B) Prominent disclosure of the investment company's ranking, the total number of investment companies in the category, the name of the category, and the period on which the ranking is based (i.e., the length of the period and the ending date; or, the first day of the period and the ending date), must appear in close proximity to any headline or other prominent statement that refers to a ranking.]

(2) Required Prominent Disclosure

All advertisements and sales literature containing an investment company ranking must disclose *prominently*[, with respect to the ranking]:,

(A) the name of the category (e.g., growth);

(B) the number of investment companies *or, if applicable, investment company families,* in the category;

(C) the name of the Ranking Entity *and, if applicable, the fact that the investment company or an affiliate created the category or subcategory;*

(D) the length of the period [and the ending date,] (or[,] the first day of the period) and [the] *its* ending date; *and*

(E) criteria on which the ranking is based *(e.g., total return, risk-adjusted performance).*[:]

(3) Other Required Disclosure

All advertisements and sales literature containing an investment company ranking also must disclose:

(A) the fact that past performance is no guarantee of future results;

[(F)] *(B)* for investment companies [which] *that* assess front-end sales loads, whether the ranking takes *those loads* into account [sales charges];

[(G)] *(C)* if the ranking is based on total return or the current SEC standardized yield, *and* fees have been waived or expenses advanced during the period on which the ranking is based and the waiver or advancement had a material effect on the total return or yield for that period, a statement to that effect; [and]

(D) the publisher of the ranking data (e.g., "ABC Magazine, June *1999* [1993]")[. The disclosure required by subparagraph (A) through (D) above, must be set forth prominently in the body of the advertisement or sales literature.]*; and*

[(3)] (E) [If] *if* the [investment company] ranking consists of a symbol (e.g., a star system) rather than a number, [the advertisement or sales literature also must disclose] the meaning of the symbol (e.g., a four-star ranking indicates that the fund is in the top 30% of all investment companies).

[(4) All advertisements and sales literature containing an investment company ranking must disclose that past performance is no guarantee of future results.]

(d) Time Periods

(1) *Current Rankings*

Any investment company ranking *included* [set forth] in an [advertisement or] *item of* sales literature must be, at a minimum, current to the most recent calendar quarter ended *prior to use. Any investment company ranking included in* [, in the case of] an advertisement *must be, at minimum, current to the most recent calendar quarter ended* prior to the submission for publication[, or, in the case of sales literature, prior to use]. *If no ranking that meets this requirement is available from the Ranking Entity, then a member may only use the most current ranking available from the Ranking Entity unless use of the most current ranking would be misleading, in which case no ranking from the Ranking Entity may be used.*

(2) Rankings Time Periods; Use of Yield Rankings

Except for money market mutual funds:

(A) advertisements and sales literature [must not use any rankings other than rankings based on yield, based on a period of less than one year] *may not present any ranking that covers a period of less than one year, unless the ranking is based on yield*;

(B) an investment company ranking based on total return must be accompanied by rankings based on total return for a one year period for investment companies in existence for at least one year; one and five year periods for investment companies in existence for at least five years, and one, five and ten year periods for investment companies in existence for at least ten years supplied by the same Ranking Entity, relating to the same investment category, and based on the same time period; provided that, if rankings for such one, five and ten year time periods are not published by the Ranking Entity, then rankings representing short, medium and long term performance must be provided in place of rankings for the required time periods; and

(C) an investment company ranking based on yield may be based only on the current SEC standardized yield *and* *must be accompanied by total return rankings for the time periods specified in paragraph (d)(2)(B).* [An investment company ranking based on the current SEC standardized yield must be accompanied by rankings based on total return for a one year period for investment companies in existence for at least one year; one and five year periods for investment companies in existence for at least five years; and one, five and ten year periods for investment companies in existence for at least ten years supplied by the same Ranking Entity, relating to the same investment category, and based on the same time period; provided that, if rankings for such, one, five and ten year time periods are not published by the Ranking Entity, then rankings representing short, medium and long term performance must be provided in place of rankings for the required time periods.]

(e) Categories

(1) The choice of category (including a subcategory of a broader category) on which the investment company ranking is based must be one that provides a sound basis for evaluating the performance of the investment company.

(2) [Subject to the standards below, an] *An* investment company ranking must be based only on (A) a category or subcategory created and published by a Ranking Entity or (B) a category or subcategory created by an investment company or an investment company affiliate but based on the performance measurements of a Ranking Entity.

[(3) When the investment company ranking is based on a subcategory, the advertisement or sales literature must disclose the name of the full category and the investment company's ranking and the number of investment companies in the full category. This requirement does not apply if the subcategory is (A) based solely on the investment objectives of the investment companies included and (B) created by a Ranking Entity. This disclosure could be included in a footnote.]

[(4) The] *(3) An* advertisement or sales literature may not use any category or subcategory that is based upon the [investment company's] asset size *of an investment company or investment company family,* [(]whether or not it has been created by a Ranking Entity[)].

[(5) If an advertisement uses a category created by the investment company or an investment company affiliate, including a "subcategory" of a category established by a Ranking Entity, the advertisement must prominently disclose:]

[(A) the fact that the investment company or its affiliate has created the ranking category;]

[(B) the number of investment companies in the category;]

[(C) the basis for selecting the category; and]

[(D) the Ranking Entity that developed the research on which the ranking is based.]

[(6) An advertisement or sales literature containing a headline or other prominent statement that proclaims an investment company ranking created by an investment company or its affiliate must indicate, in close proximity to the headline or statement, that the investment company ranking is based upon a category created by the investment company or its affiliate.]

(f) Multiple Class/Two-Tier Funds

Investment company rankings for more than one class of investment company with the same portfolio must be accompanied by prominent disclosure of the fact that the investment companies or classes have a common portfolio.

(g) Investment Company Families

Advertisements and sales literature may contain rankings of investment company families, provided that these rankings comply with the guidelines above, and further provided that no advertisement or sales literature for an individual investment company may provide a ranking of an investment company family unless it also prominently discloses the various rankings for the individual investment company supplied by the same Ranking Entity, as described in paragraph (d)(2)(B). For purposes of this IM–2210–3, the term "investment company family" means any two or more registered investment companies or series thereof that hold themselves out to investors as related companies for purposes of investment and investor services.

IM–2210–4. Limitations on Use of Association's Name

(a) *Statements of Membership* [Use of Association Name]

Members may indicate membership in the Association in conformity with Article XV, Section 2 of the NASD By-Laws in the following ways:

[(1) A member may indicate membership in the Association in recognized trade directories or other similar types of business listings.]

[(2) A member may indicate membership in the Association in the member's advertisements and sales literature if such use is:]

[(A) separate from the regular text of the advertisement or sales literature;

[(B) in a smaller type size and with less emphasis than that used for the member's name; and]

[(C) carries no direct or implied indication of Association approval of any security or service discussed in the advertisement or sales literature.]

(1) in any communication with the public, provided that the communication complies with the applicable standards of Rule 2210 and neither states nor implies that the Association or any other regulatory organization endorses, indemnifies, or guarantees the member's business practices, selling methods, the class or type of securities offered, or any specific security;

[(3) A] *(2) in a* confirmation *statement* [form] for an over-the-counter transaction *that states* [may include the following statement]: "This transaction has been executed in conformity with the Uniform Practice Code of the National Association of Securities Dealers, Inc."

[(4) A member may indicate membership in the Association on the door or entrance way of a member's principal office or a registered branch office in the following manner: "Member, National Association of Securities Dealers, Inc." or "Member of the National Association of Securities Dealers, Inc.".]

(b) Certification of Membership

Upon request to the Association, a member [shall] *will* be entitled to receive an appropriate certification of membership, which may be displayed in the principal office or a registered branch office of the member. The certification shall remain the property of the Association and [shall] *must* be returned by the member upon request of the NASD Board or the Chief Executive Officer of the Association.

[(c) Fraudulent or Misleading Use Prohibited]

[A member or person associated with a member shall not use the name of the Association in a fraudulent or misleading manner in connection with the promotion or sale of any security or in connection with any other aspect of the member's business or imply orally, visually, or in writing that the Association endorses, indemnifies, or guarantees a member's business practices, selling methods, or class or type of securities offered.]

[(d) Violation of Rule 2110]

[An improper, fraudulent, or misleading use of the Association's name by a member or person associated with a member shall be deemed conduct inconsistent with high standards of commercial honor and just and equitable principles of trade in violation of Rule 2110.]

IM–2210–5 Requirements for the Use of Bond Mutual Fund Volatility Ratings

(No changes to text.)

IM–2210–6. Presentation of Mutual Fund Related Performance Information

(Text to reflect final rule changes of SR–NASD–98–11 if approved by the Commission.)[5]

IM–2210–7 Communications With the Public About Collateralized Mortgage Obligations (CMOs)

(a) Definition

For purposes of the following guidelines, the term "collateralized mortgage obligation" (CMO) refers to a multiclass debt instrument backed by a pool of mortgage pass-through securities or mortgage loans, including real estate mortgage investment conduits (REMICs) as defined in the Tax Reform Act of 1986.

(b) Disclosure Standards and Required Educational Material

(1) Disclosure Standards

All advertisements, sales literature and correspondence concerning CMOs:

(A) Must include within the name of the product the term "Collateralized Mortgage Obligation";

(B) May not compare CMOs to any other investment vehicle, including a bank certificate of deposit;

(C) Must disclose, as applicable, that a government agency backing applies only to the face value of the CMO and not to any premium paid; and

(D) Must disclose that a CMO's yield and average life will fluctuate depending on the actual rate at which mortgage holders prepay the mortgages underlying the CMO and changes in current interest rates.

(2) Required Educational Material

Before the sale of a CMO to any person other than an institutional investor, a member must offer to the customer educational material that includes the following:

(A) A discussion of:

(i) Characteristics and risks of CMOs including credit quality, prepayment rates and average lives, interest rates (including their effect on value and prepayment rates), tax considerations, minimum investments, transaction costs and liquidity;

(ii) The structure of a CMO, including the various types of tranches that may be issued and the rights and risks pertaining to each (including the fact that two CMOs with the same underlying collateral may be prepaid at different rates and may have different price volatility); and

(iii) The relationship between mortgage loans and mortgage securities;

(B) Questions an investor should ask before investing; and

(C) A glossary of terms.

(c) Promotion of Specific CMOs

In addition to the standards set forth above, advertisements, sales literature and correspondence that promote a specific security or contain yield information must conform to the standards set forth below. An example of a compliant communication appears at the end of this section.

(1) The advertisement, sales literature or correspondence must present the following disclosure sections with equal prominence. The information in Sections 1 and 2 must be included. The information in Section 3 is optional; therefore, the member may elect to include any, all or none of this information. The information in Section 4 may be tailored to the member's preferred signature.

Section 1 Title—Collateralized Mortgage Obligations

Coupon Rate
Anticipated Yield/Average Life
Specific Tranche—Number & Class
Final Maturity Date
Underlying Collateral

Section 2 Disclosure Statement:

"The yield and average life shown above consider prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life. Please contact your representative for information on CMOs and how they react to different market conditions."

Section 3 Product Features (Optional):

Minimum Denominations
Rating Disclosure
Agency/Government Backing
Income Payment Structure
Generic Description of Tranche (e.g., PAC, Companion)
Yield to Maturity of CMOs Offered at Par

Section 4 Company Information:

Name, Memberships
Address
Telephone Number
Representative's Name

(2) Additional Conditions

The following conditions must also be met:

(A) All figures in Section 1 must be in equal type size.

(B) The disclosure language in Section 2 may not be altered and must be given equal prominence with the information in Section 1.

(C) The prepayment assumption used to determine the yield and average life must either be obtained from a nationally recognized service or the member firm must be able to justify the assumption used. A copy of either the service's listing for the CMO or the firm's justification must be attached to the copy of the communication that is maintained in the firm's advertising files in order to verify that the prepayment scenario is reasonable.

(D) Any sales charge that the member intends to impose must be reflected in the anticipated yield.

(E) The communication must include language stating that the security is "offered subject to prior sale and price change." This language may be included in any one of the four sections.

(F) If the security is an accrual bond that does not currently distribute principal and interest payments, then Section 1 must include this information.

(3) Radio/Television Advertisements

(A) The following oral disclaimer must precede any radio or television advertisement in lieu of the Title information set forth in Section 1:

"The following is an advertisement for Collateralized Mortgage Obligations. Contact your representative for information on CMOs and how they react to different market conditions."

(B) Radio or television advertisements must contain the following oral disclosure statement in lieu of the legend set forth in Section 2:

"The yield and average life reflect prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life."

(4) Standardized CMO Communication Example

Collateralized Mortgage Obligations
7.50% Coupon
7.75% Anticipated Yield to 22-Year Average Life
FNMA 9532X, Final Maturity March 2023
Collateral 100% FNMA 7.50%

The yield and average life shown above reflect prepayment assumptions that may or may not be met. Changes in payments may significantly affect yield and average life. Please contact your

---

[5] SR–NASD–98–11 was published for comment in the **Federal Register** on November 8, 2000. See Securities Exchange Act Release No. 43507 (November 2, 2000), 65 FR 67025.

representative for information on CMOs and how they react to different market conditions.

$5,000 Minimum
Income Paid Monthly
Implied Rating/Volatility Rating
Principal and Interest Payments Backed by FNMA
PAC Bond

Offered subject to prior sale and price change.

Call Mary Representative at (800)555-1234, Your Company Securities, Inc., Member SIPC, 123 Main Street, Anytown, State 12121.

2211. Institutional Sales Material and Correspondence

(a) Definitions

For purposes of Rule 2210, this Rule, and any interpretation thereof:

(1) "Correspondence" consists of any written letter or electronic mail message distributed by a member to:

(A) one or more of its existing retail customers; and

(B) fewer than 25 prospective retail customers within any 30 calendar-day period.

(2) "Institutional Sales Material" consists of any communication that is distributed or made available only to institutional investors.

(3) "Institutional Investor" means any:

(A) person described in Rule 3110(c)(4), regardless of whether that person has an account with an Association member;

(B) governmental entity or subdivision thereof;

(C) qualified plan, as defined in Section 3(a)(12)(C) of the Act, that has at least 100 beneficiaries;

(D) Association member or registered associated person of such a member; and

(E) person acting solely on behalf of any such institutional investor.

No member may treat a communication as having been distributed to an institutional investor if the member has reason to believe that the communication or any excerpt thereof will be forwarded or made available to any person other than an institutional investor.

(4) "Existing Retail Customer" means any person for whom the member or a clearing broker or dealer on behalf of the member carries an account, or who has an account with any registered investment company for which the member serves as principal underwriter, and who is not an institutional investor. "Prospective Retail Customer" means any person who has not opened such an account and is not an institutional investor.

(b) Approval and Recordkeeping

(1) Registered Principal Approval

(A) Correspondence. Correspondence need not be approved by a registered principal prior to use, but is subject to the supervision and review requirements of Rule 3010(d).

(B) Institutional Sales Material. Each member shall establish written procedures that are appropriate to its business, size, structure, and customers for the review by a registered principal of institutional sales material used by the member and its registered representatives. Such procedures should be in writing and be designed to reasonably supervise each registered representative. Where such procedures do not require review of all institutional sales material prior to use or distribution, they must include provision for the education and training of associated persons as to the firm's procedures governing institutional sales material, documentation of such education and training, and surveillance and follow-up to ensure that such procedures are implemented and adhered to. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Association upon request.

(2) Record-Keeping

(A) Members must maintain all institutional sales material in a file for a period of three years from the date of last use. The file must include the name of the person who prepared each item of institutional sales material.

(B) Members must maintain in a file information concerning the source of any statistical table, chart, graph or other illustration used by the member in communications with the public.

(c) Spot-Check Procedures

Each member's correspondence and institutional sales literature may be subject to a spot-check procedure under Rule 2210. Upon written request from the Advertising Regulation Department (the "Department"), each member must submit the material requested in a spot-check procedure within the time frame specified by the Department.

(d) Content Standards Applicable to Institutional Sales Material and Correspondence

(1) All institutional sales material and correspondence are subject to the content standards of Rule 2210(d)(1) and the applicable Interpretive Materials under Rule 2210.

(2) All correspondence (which for purposes of this provision includes business cards and letterhead) must:

(A) prominently disclose the name of the member and may also include a fictional name by which the member is commonly recognized or which is required by any state or jurisdiction;

(B) reflect any relationship between the member and any non-member or individual who is also named; and

(C) if it includes other names, reflect which products or services are being offered by the member.

(3) Members may not use investment company rankings in any correspondence other than rankings based on (A) a category or subcategory created and published by a Ranking Entity as defined in IM-2210-3(a) or (B) a category or subcategory created by an investment company or an investment company affiliate but based on the performance measurements of a Ranking Entity.

(e) Violation of Other Rules

Any violation by a member of any rule of the SEC, the Securities Investor Protection Corporation or the Municipal Securities Rulemaking Board applicable to institutional sales material or correspondence will be deemed a violation of this Rule and Rule 2210.

[2211] *2212.* Telemarketing

(No change to rule text.)

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

a. Background

The proposed rule change would modernize and clarify the rules governing member communications with the public. Among other provisions, the proposed rule change would exclude all communications to institutional investors from member pre-use approval and NASD Regulation filing requirements and from many of the content standards. Form letters and group e-mail to existing retail customers and fewer than 25 prospective retail customers also would be eligible for these exclusions, provided that a member developed appropriate policies and procedures to supervise and review such communications. Additionally, the proposed rule change would exclude independently prepared reprints from the filing and many of the content standards, and would exclude certain press releases from the filing requirements. The proposed rule change would simplify the content standards applicable to member communications.[6]

As discussed in greater detail below, the proposed rule change reflects many of the comments and suggestions received by NASD Regulation in response to Notice to Members 99–79 ("NTM 99–79"). In NTM 99–79, NASD Regulation requested comment from members and other interested parties on an earlier version of the proposed rule change ("NTM Version"). The comment period on NTM 99–79 closed on October 29, 1999. NASD Regulation received 72 comment letters in response to NTM 99–79. In developing the proposed rule change, NASD Regulation also consulted with five of its member committees, its district committees, and its National Adjudicatory Council, and considered comments received to Notice to Members 98–81, which requested comment generally on how the NASD rules and By-Laws could be modernized.

b. Description

1. Reorganization of Rule 2210

The proposed rule change would create new Rule 2211, which would apply to institutional sales material and correspondence. The creation of a separate rule for institutional sales material and correspondence should facilitate a reader's ability to determine how the advertising rules apply to those communications. In order to further simplify this process, the proposed rule change would provide cross-references between Rule 2210 and Rule 2211 in appropriate places. Existing Rule 2211, concerning telemarketing, would be renumbered as Rule 2212.

2. Definition of "Public Appearance"

Existing Rule 2210(d)(1)(C) provides that members who engage in public appearances or speaking activities must follow the content standards of Rule 2210(d) and (f). Consequently, public appearances already are subject to strict content requirements.

The proposed rule change would clarify the application of Rule 2210 to public appearances by defining "public appearance" as a type of communication with the public. Public appearances would include participation in a seminar, forum (including an interactive electronic forum), radio or television interview, or other public appearance or public speaking activity.

The proposed rule change also would provide members with more flexibility than they have today, by subjecting public appearances only to some, but not all of the content standards of Rule 2210. Several commenters to NTM 99–79 argued that none of the content standards should apply to public appearances. These commenters asserted that by subjecting public appearances to any of the content standards, the proposed rule change would impose impractical constraints on television and other public appearances by members.

NASD Regulation disagrees with the suggestion that statements made in public appearances should be excluded from all of the content standards. While some accommodation of the practical concerns raised by commenters may be necessary, leaving investors virtually unprotected from public statements that are misleading, unbalanced or unwarranted is not an acceptable solution. Therefore, the proposed rule change would subject public appearances to some of the content standards, while providing members with more flexibility than they have today to provide useful information in their public appearances.

In addition, by defining "public appearance" to include an interactive electronic forum, the proposed rule change would codify the NASD Regulation staff's position that Internet chat rooms constitute public appearances rather than advertisements or sales literature for purposes of Rule 2210.

3. Institutional Sales Material

Currently, Rule 2210 does not distinguish between retail and institutional sales material. Moreover, the rule currently defines "sales literature" to include any "form letter," which NASD Regulation has interpreted to mean written communications, including e-mail messages, sent to at least two persons. Consequently, any communication sent to two or more institutional investors is deemed "sales literature," must comply with the content standards of Rule 2210, must be pre-approved by a registered principal, and may have to be filed with the Advertising/Investment Companies Regulation Department of NASD Regulation (the "Department") if it concerns certain types of products, such as registered investment companies.

The proposed rule change would eliminate the pre-use approval and filing requirements applicable to communications that are distributed or made available only to institutional investors. Institutional sales material would be subject to new supervision and review requirements that are modeled on those in Rule 3010, which apply to correspondence. Moreover, institutional sales material would continue to be subject to the recordkeeping requirements and some, but not all, of the content standards in Rule 2210.[7]

Under the proposed rule change, no member could treat a communication as having been distributed to an institutional investor if the member has reason to believe that the communication or any excerpt thereof will be forwarded or made available to any person other than an institutional investor. For example, if a member had reason to believe that such a communication would be forwarded or made available to 401(k) plan participants or other beneficiaries of institutional accounts, it would be treated as retail sales material. NASD Regulation believes that plan participants and other beneficiaries of institutional accounts should receive the same protections under the advertising rules as other retail investors. Similarly, an advertisement in a publication designed for broker/dealers or other institutional investors may not be treated as institutional sales material if the member has reason to believe that the publication will be made available to any person other than an institutional investor.

The proposed rule change would define "institutional investor" as any:

(1) Person described in Rule 3110(c)(4), regardless of whether that

---

[6] NASD member broker/dealers that are dually registered as investment advisers will remain subject to the advertising standards of the Investment Advisers Act of 1940 and Commission rules thereunder, to the extent that their sales material promotes advisory products or services.

[7] The proposed rule change would revise the content standards to specifically indicate which type of communication is subject to each standard. Therefore, standards that apply only to "advertisements" or "sales literature" would not apply to institutional sales material. For example, the ranking guidelines in proposed IM–2210–3 would apply only to advertisements and sales literature and therefore would not apply to institutional sales material.

person has an account with an Association member;[8]

(2) governmental entity or subdivision thereof;

(3) qualified plan, as defined in Section 3(a)(12)(C) of the Act, that has at least 100 beneficiaries;

(4) Association member or registered associated person of such a member,[9] and

(5) person acting solely on behalf of any such institutional investor.

Several elements of this definition were amended as a result of comments to NTM 99–79. First, the definition was amended to include governmental entities and their subdivisions. Second, the definition would apply to qualified plans with at least 100 beneficiaries. NASD Regulation believes that qualified plans with at least 100 beneficiaries generally have the level of sophistication and expertise to justify their treatment as institutional investors under the advertising rules. Various statutory provisions similarly distinguish these qualified plans from smaller ones.[10]

Third, the proposed rule change would define "institutional investor" to include any person acting solely on behalf of any institutional investor. Several commenters urged NASD Regulation to define "institutional investor" to include pension consultants and others acting on behalf of institutional investors. Rather than establishing a new category based upon a person's occupation, NASD Regulation has determined to include any person acting on behalf of an institutional investor.

Fourth, in response to one commenter, NASD Regulation would clarify that the term "institutional investor" includes only associated persons who are registered with an NASD member. The "broker/dealer-only" exception, which would become a part of the institutional investor definition, recognizes the special expertise that NASD members have with respect to brokerage products and services. While registered persons should have this expertise, as demonstrated by their completion of the qualifications process, there can be no assurance that other associated persons would.

Fifth, as previously mentioned, the definition would clarify that no member may treat a communication as having been distributed to an institutional investor if the member has reason to believe that the communication or any excerpt thereof will be forwarded *or made available to* any person other than an institutional investor. Thus, for example, if a member has reason to believe the employer sponsor of a retirement plan will make sales material available for inspection by the plan beneficiaries, then the member may not treat the sales material as having been distributed only to an institutional investor.

The definition of "institutional investor" would include persons described in Rule 3110(c)(4), which defines "institutional account" to include any entity with total assets of at least $50 million. Several commenters asserted that this threshold level is too high in light of the purposes of the proposed rule change, and recommended that NASD Regulation reduce it to a level such as $5 million, a level used in Regulation D under the Securities Act of 1933.

NASD Regulation has determined that the $50 million threshold is appropriate, particularly in light of the significant effect that the definition of "institutional investor" would have on the filing, pre-approval and content requirements. Moreover, the amendment to include qualified plans with at least 100 beneficiaries should address many of the concerns expressed by those who proposed a reduction in the asset size threshold.

4. Form Letters and Group Electronic Mail

Rule 2210 currently treats any letter or e-mail sent to more than one person as "sales literature" subject to the panoply of content standards applicable to all other sales literature, and to the member pre-use approval and NASD Regulation filing requirements. The use of group electronic mail has become commonplace in many firms. For example, registered representatives may provide customers with information concerning their accounts, changes in market conditions, or current economic conditions. Given the volume of form letters and group e-mail that members and their associated persons may send, and the speed with which this material can be dispatched to customers, a pre-use approval requirement may be less practical than supervisory procedures that are more specifically tailored to these forms of communication.

The proposed rule change would define "correspondence" to include form letters and group e-mail sent to existing retail customers and to fewer than 25 prospective retail customers within any 30 calendar-day period ("Group Correspondence"), as well as written and electronic communications prepared for delivery to a single retail customer. The proposed rule change would subject Group Correspondence to the strict supervisory procedures in Rule 3010(d), which governs the approval and review of correspondence, and to those content standards that apply to correspondence. Form letters and group e-mail sent to 25 or more prospective retail customers within any 30 calendar-day period would be subject to the pre-use approval, filing, and record-keeping requirements of Rule 2210, and to all of the content standards applicable to sales literature.[11]

NASD Regulation believes that Rule 3010(d) provides the most effective means of supervising form letters and group e-mail sent to existing and a limited number of prospective retail customers. Rule 3010(d) requires members to adopt written procedures for the review of correspondence by registered principals. Any member that does not pre-approve all correspondence must educate and train

---

[8] Rule 3110(c)(4), defines "institutional account" to mean the account of a bank, savings and loan, insurance company, registered investment company, or registered investment adviser. It also includes the amount of any other entity or natural person with total assets of at least $50 million. For purposes of Rule 2210 and Rule 2211, the term "institutional investor" would include trust companies organized under state law that come within the definition of "bank" in Article I(b) of the NASD By-Laws. In addition, the proposed rule change is not intended to require a member to verify that an investment adviser that is required to register with the SEC or a state has in fact done so, in order for the member to treat this investment adviser as an "institutional investor."

[9] Some commenters expressed concern about the proposal to include broker/dealer-only material within the definition of institutional sales material. These commenters asserted that currently broker/dealer-only material is excluded from the content standards of Rule 2210, and that by treating it as institutional sales material and subjecting it to some of the content standards, the proposed rule change would reduce the flexibility that members now have to place various types of information in broker/dealer-only material.

This comment reflects an apparent misunderstanding about the current scope of the content standards. Today all content standards of Rule 2210 apply to advertisements and sales literature sent only to members or their registered persons. By including this material within the definition of institutional sales material, and subjecting it only to those standards applicable to institutional sales material, the proposed rule change would provide members with more flexibility to include various information in broker/dealer-only material.

[10] *See, e.g.,* ERISA § 103(a)(3)(A) (auditing requirements) and 104(a)(2)(A) (annual reporting).

[11] The proposed rule change would permit members to treat form letters or group e-mail sent to a *combination* of existing customers and fewer than 25 prospective retail customers within any 30 calendar-day period as correspondence. Of course, members could not "sanitize" an advertisement or item of sales literature by enclosing it with Group Correspondence. For example, an item that a member has distributed as sales literature would remain sales literature for purposes of Rule 2210 when the member encloses it in Group Correspondence.

VOL 66 ISS 250 DE 31 2001 UMI

associated persons as to NASD rules governing communications with the public and the firm's procedures, must document this training, and must monitor adherence to these procedures. Members must retain all correspondence of registered representatives related to the member's investment banking or securities business.

Notice to Members 98–11 provides guidance to members concerning Rule 3010(d). The Notice makes clear that, at a minimum, a member must develop procedures for the review of some of each registered representative's correspondence with the public relating to the member's investment banking or securities business, tailored to its structure and the nature and size of its business and customers.

The Notice provides that members must:

- Specify in writing the firm's policies and procedures for reviewing different types of correspondence;
- Identify what types of correspondence will be pre- or post-reviewed by a registered principal; and
- Periodically re-evaluate the effectiveness of the firm's procedures for reviewing public correspondence and consider any necessary revisions.

These procedures must be reasonably designed to ensure that a member's correspondence complies with the content standards of the applicable advertising rules.

In order to ensure that its review of Group Correspondence meets these standards, a member would be expected to review its procedures to ensure that they adequately address potential concerns with the distribution of Group Correspondence. Members should consider whether to adopt stricter procedures that require registered principal pre-use approval and filing with NASD Regulation of Group Correspondence that presents a higher risk to investors. This determination should be based upon such factors as the content, purpose and targeted audience of the Group Correspondence. Thus, for example, members may wish to consider adopting procedures requiring pre-use principal review and filing as appropriate with NASD Regulation of Group Correspondence that promotes a new investment product or strategy that is sent to existing retail customers. In addition, members should strongly consider requiring pre-use principal review of Group Correspondence sent by a registered representative that has been disciplined in the past for advertising or sales practice violations.

The NTM Version would have applied a 90-day rather than a 30-day period to the determination of whether form letters and group e-mail have been sent to fewer than 25 prospective retail customers. One commenter questioned the feasibility of monitoring the issuance of form letters and group e-mail to prospective customers over a rolling 90-day period. The proposed rule change would reduce this period to 30 calendar days, to make the monitoring responsibility more manageable.

The term "existing retail customer" has been modified in response to comments to NTM 99–79. "Existing retail customer" would be defined as any person, other than an institutional investor, for whom the member or a clearing broker or dealer on behalf of the member carries an account, or who has an account with any registered investment company for which a member serves as principal underwriter. The new language would make clear that a person who has opened an account with an investment company or with a transfer agent for such an investment company could qualify as an existing retail customer. NASD Regulation also has amended the language to make it more consistent with existing Rule 2211(d).

5. Article Reprints

Rule 2210 currently defines "sales literature" to include "reprints or excerpts of any . . . published article." Article reprints thus may have to be filed with the Department, depending upon their content, such as whether they pertain to registered investment companies. For some time, NASD Regulation has received comments that third-party article reprints should not be subject to the filing requirements of Rule 2210. Some have argued that reprints often are available to the public through large-circulation periodicals published by firms that are not NASD members, and that it makes little sense to require members to file reprints, especially when they have no control over the content of these articles. In NTM 99–79, NASD Regulation therefore proposed to exclude article reprints from the filing requirements. Several commenters to NTM 99–79 argued that article reprints also should be exempt from most of the content standards of Rule 2210.

In response to these comments, the proposed rule change would define a new type of communication with the public, an "independently prepared reprint," and exclude independently prepared reprints from the filing and most of the content standards. An independently prepared reprint would consist of any article reprint that meets certain standards that are designed to ensure that the reprint was issued by an independent publisher and was not materially altered by the member. In response to comments to NTM 99–79, the proposed rule change would provide that a member may alter the contents of an independently prepared reprint in a manner necessary to make it consistent with applicable regulatory standards or to correct factual errors.

An article reprint would qualify as an "independently prepared reprint" under Rule 2210(a)(6)(A) only if, among other things, its publisher is not an affiliate of the member using the reprint or any underwriter or issuer of the security mentioned in the reprint. For purposes of this provision, "affiliate" has the same meaning as that term is defined in NASD Rule 2720(b)(1)(A) and (B). The term "affiliate" as used in Rule 2210(a)(6)(B) (regarding investment company research reports) also has this meaning.

Some, but not all, content standards would apply to independently prepared reprints. For example, Rule 2210(d)(1) would impose various content standards on all communications with the public, including independently prepared reprints.

The proposed rule change also would include certain investment company research reports within the definition of independently prepared reprints. Rule 2210 was recently amended to exclude these research reports from the filing requirements. Because these research reports present essentially the same issues as independently prepared reprints, the proposed rule change would subject these research reports to the same content and other requirements that apply to independently prepared reprints.

Independently prepared reprints would continue to be subject to the pre-use approval and record-keeping requirements of Rule 2210. Moreover, article reprints and research reports that do not meet the definition of "independently prepared reprint" would continue to constitute sales literature that would have to meet all of the requirements applicable to sales literature.

6. Press Releases

Rule 2210 defines "sales literature" to include "any written or electronic communication distributed or made generally available to customers or the public," which the Department has interpreted to include press releases. The proposed rule change would codify this interpretation by amending the definition of "sales literature" to include press releases concerning a member's product or service. The proposed rule change would exclude from the filing requirements press releases that are made available only to members of the media.[12] This exclusion would recognize the time-sensitive nature of these press releases, and the fact that press releases generally do not raise significant concerns in the filing process.

Some commenters to NTM 99–79 recommended that NASD Regulation exclude press releases from most of the content standards, or even exclude press releases from Rule 2210 entirely. Some of these commenters asserted that press releases are not part of a member's effort to market its products and services, and therefore need not be subject to Rule 2210. In fact, press releases often announce the availability of new products or services and members frequently circulate press releases to their customers with other marketing material. While NASD Regulation recognizes that the media may substantially edit a press release or even refrain from using the press release at all, we disagree with the assertion that press releases concerning a member's products or services have little to do with its marketing efforts. Consequently, the proposed rule would exempt from the filing requirements those press releases that are made available only to members of the media, but would subject them to the content, pre-use approval and record-keeping requirements of Rule 2210.

7. Television and Video Advertisements

The proposed rule change would require members that have filed a draft version or "story board" of a television or video advertisement pursuant to a filing requirement also to file the final filmed version within ten business days of first use or broadcast. This rule change would codify an existing Department policy regarding television and video sales material. Rule 2210 would impose a filing fee only when the draft version or story board is filed. No additional fee would be assessed when the final filmed version is filed.

8. Approval and Record-Keeping

The proposed rule change would make three additional modifications to the pre-use approval and record-keeping requirements in response to comments to NTM 99–79. First, it would clarify that the pre-use approval requirement could be met with respect to a research report concerning any debt or equity security, including non-corporate securities, by signature or initial of a supervisory analyst under New York Stock Exchange Rule 344. Second, the proposed rule change would clarify that members must maintain a file with the name of the registered principal who approved any advertisement or sales literature. Members would not be required to maintain a file with the name of the person who prepared those items, however.[13] Third, the proposed rule change would clarify that members must maintain a file with information concerning the source, but not necessarily the data, of any statistical table, chart, graph or other illustration.

9. Filing Requirements

The proposed rule change would retain the existing provision concerning the obligation of a member that has not filed an advertisement with the Department, to pre-file its advertisements for a one-year period. The NTM Version appeared to cause some confusion concerning this pre-filing obligation. The proposed rule change would modify the existing language slightly, to make it more clear and consistent with standards of plain English.

Rule 2210 does not require members who are subject to this pre-filing requirement to await completion of the Department's review of its advertisements before using them. Nevertheless, NASD Regulation encourages these members to do so, in order to better ensure that their advertisements reflect the Department's comments and that these members do not incur the expense of revising advertisements already in use.

The proposed rule change also has been modified from the NTM Version to clarify that advertisements and sales literature for continuously offered closed-end funds must be filed with the Department. This clarification codifies a long-standing position of the Department.[14] The proposed rule change would clarify that members need not file advertisements and sales literature that previously have been filed and that are to be used without material change. This provision would codify existing practice, which excludes from the filing requirement material that has been filed previously, but in which performance data is updated or there are other changes that are not material for purposes of the filing requirement. Members are encouraged to file material that is particularly aged, to ensure that the material has not fallen out of compliance due to changes in rules or other circumstances.

In response to comments received on NTM 99–79, the proposed rule change would specifically list institutional sales material as one type of communication that need not be filed. The proposed rule change also would list correspondence, independently prepared reprints, and certain press releases as other types of communications that need not be filed. In addition, the proposed rule change would state that when these items concern investment companies, then they will be deemed filed with the Association for purposes of Section 24(b) of the Investment Companies Act of 1940 and Rule 24b–3 thereunder. Based on our conversations with the SEC staff, we understand that this provision would eliminate the need to file this material with the SEC.

The proposed rule change also would exclude from the filing requirement announcements as a matter of record that a member has participated in a private placement.

Several commenters to NTM 98–81 and NTM 99–79 argued that investment company annual and semi-annual reports should be excluded from the filing requirements. These commenters note that shareholder reports are already subject to specific content requirements under SEC rules and are filed with the SEC, and argue that these requirements should address any investor protection concerns.

Members are not required to file shareholder reports that only consist of statistical reporting information such as financial statements and portfolio holdings. However, members must file the management's discussion of fund performance ("MDFP") portion of a report (as well as any supplemental sales material attached to or distributed with the report) with the Department. In the Department's experience, members frequently use the MDFP or other supplemental information as marketing material that goes far beyond the SEC regulatory requirements for shareholder reports. While NASD Regulation carefully considered the comments

---

[12] The proposed rule change, unlike the NTM Version would exclude all press releases made available only to members of the media, without limiting the exclusion to press releases concerning investment companies. Some commenters to NTM 99–79 state that the limitation might create confusion concerning whether other press releases that must be filed under existing Rule 2210, such as those concerning variable products, would be similarly excluded.

[13] Proposed Rule 2211 would require members to maintain all institutional sales material in a file that includes the name of the person who prepared each item.

[14] *See, e.g.*, NASD Regulatory and Compliance Alert (April 1995) at p. 9.

VOL 66 ISS 250 DE 31 2001 UMI

suggesting an exemption for shareholder reports, we have decided not to propose such an exclusion from the filing requirement.

Several commenters to NTM 98–81 and NTM 99–79 also requested that NASD Regulation eliminate the requirement that members file a copy of the ranking or comparison used in sales material that contains rankings. These comments appear to assume that the filing is pro forma because the ranking or comparison information is reflected in the sales material itself, or that the ranking or comparison information is readily available to the Department. In fact, it is not unusual for the Department to comment on sales material that presents a ranking or comparison in a manner inconsistent with the backup ranking information. Additionally, sales material often contains rankings or comparisons that are not readily available. Because the Department relies on the backup filings when reviewing sales material that contains rankings or comparisons, elimination of this requirement could significantly delay completion of the staff's review. Accordingly, while NASD Regulation carefully considered the comments suggesting an exclusion for backup material, the proposed rule change would not eliminate this filing requirement.

Several commenters to NTM 98–81 and 99–79 also recommended that NASD Regulation eliminate the requirement to file generic mutual fund advertisements that comply with Rule 135a under the Securities Act of 1933. Members rarely file generic advertisements. To the extent the Department has received generic advertisements, however, it has found that members sometimes misunderstand the content requirements of Rule 135a, and sometimes misclassify advertising that falls under other rules as generic advertisements. We are concerned that an exclusion for generic advertisements could lead some members not to file investment company sales material that should be filed due to their misunderstanding of Rule 135a. Accordingly, NASD Regulation does not propose to exclude generic fund advertisements from the filing requirements.

10. Standards Applicable to Member Communications

The proposed rule change would substantially shorten and simplify the standards applicable to communications with the public that are contained in Rule 2210(d). The proposed rule change would relocate certain standards from Rule 2210(d) to a new Interpretive Material 2210–1, Guidelines to Ensure that Communications Are Not Misleading.[15] New proposed IM–2210–1 would make clear that members have the primary responsibility to ensure that their communications with the public are not misleading, and would rewrite many standards to make them more clear and consistent with the principles of plain English.

Proposed IM–2210–1 would not contain certain of the specific standards currently in Rule 2210. Partially in response to comments received to NTM 98–81, the proposed rule change would eliminate the specific standards regarding non-existent or self-conferred degrees or designations, offers of free service, claims for research facilities, hedge clauses, recruiting advertising, and periodic investment plans. To the extent that these provisions prohibit statements that are misleading, unbalanced, or inaccurate regarding particular types of communications, the rule already prohibits the use of such statements. Moreover, certain required disclosures, such as those currently applicable to statements concerning periodic investment plans, may not be necessary depending upon the context in which they are made.

Proposed IM–2210–1(4) in the NTM Version has been turned into new paragraphs (4) and (5) to clarify which guidelines concerning references to tax free or tax exempt income apply to all communications with the public, and which guidelines apply only to advertisements or sales literature.

11. Legends and Footnotes

Rule 2210 cautions members concerning the placement of footnotes, and in the filing review process the Department has insisted that members adopt an appropriate use of footnotes. The NTM Version would have required that material information appear in the main text of a communication and not be relegated to footnotes. Commenters expressed concern that the NTM Version would eliminate much of the flexibility that members now have concerning the placement of footnotes in specific items of sales material. Moreover, commenters noted that a requirement to include all "material" information in the text might have unintended litigation consequences.

The proposed rule change would attempt to balance these concerns with the need to ensure that Rule 2210 provides clear direction to members concerning their responsibility to avoid inappropriate reliance on legends and footnotes. Consequently, the proposed rule change would provide that information may be placed in a legend or footnote only in the event that such placement would not inhibit an investor's understanding of the communication. Thus, for example, footnotes in especially small type in an advertisement might be deemed to inhibit an investor's understanding of the advertisement. Similarly, an advertisement that presents bold claims that are supposedly "balanced" only with footnote disclosure might not comply with this content standard.

12. Hypothetical Illustrations

The NTM Version would have deleted from Rule 2210 the statement that "a hypothetical illustration of mathematical principles is not considered a prediction or projection of performance." Commenters objected to this change, arguing that this provision has permitted members to provide educational information in their sales material, and that its elimination might interfere with presentations such as a mutual fund cost calculator.

In proposed Rule 2210(d)(1)(D), NASD Regulation would insert language similar to the existing language. Under the proposed rule change, a member could present a hypothetical illustration of mathematical principles, provided that the illustration does not predict or project the performance of an investment or investment strategy and is not used in such a manner. The proposed rule change thus would permit the use of mutual fund cost calculators and other hypothetical illustrations that are permitted by existing Rule 2210.

13. Testimonials

The NTM Version would have applied specific standards to testimonials concerning "a member's products and services." Commenters indicated that this change would cause confusion about whether the testimonial standards would apply even when the testimonial concerns matters other than investment performance, such as the member's general services. In order to clarify this matter, the proposed rule change would apply the testimonial standards to advertisements or sales literature concerning the investment advice or investment performance of a member or its products.

14. Recommendations

The NTM Version would have clarified certain aspects of the existing standards governing recommendations. Some commenters argued that the proposal went too far, and that it would inhibit legitimate discussion about the prospects for various investments. Nevertheless, NASD Regulation continues to share the concerns of the SEC staff and others about the need to provide investors with adequate disclosure about the financial interests that research analysts, other associated persons, or their firms may have in securities that they recommend. NASD Regulation has determined to consider this issue separately, and recently issued NTM 01–45 seeking comment on this matter. Pending the separate resolution of this rulemaking initiative, the proposed rule change would make no amendment to the existing standards governing recommendations.

---

[15] The current IM–2210–1 concerning collateralized mortgage obligations would be redesignated as IM–2210–7.

15. Use and Disclosure of a Member's Name

The proposed rule change would dramatically simplify the provisions concerning disclosure of member names. In addition, the proposed rule change would make clear that the requirement to disclose the member's name applies to advertisements, sales literature, and correspondence, which for purposes of this provision would include business cards and letterhead.[16] In response to comments to NTM 99–79, the provision would clarify that the advertisement, sales literature or correspondence must "reflect" (rather than disclose) any relationship between the member and the other named person and the products and services offered by the member. This change would help ensure that members do not mislead investors concerning these relationships and offerings, but would not mandate disclosure that may be unnecessary to achieve this objective.

16. Ranking Guidelines

The proposed rule change would modify the ranking guidelines in several respects. First, the proposed rule change would make clear that no advertisement, item of sales literature or correspondence may present a ranking other than rankings (1) created and published by a Ranking Entity, which the ranking guidelines define to include certain independent entities, or (2) created by an investment company or an investment company affiliate but based on the performance measurements of a Ranking Entity.[17] Second, the proposed rule change would make clear that the ranking guidelines in IM–2210–3 apply only to advertisements and sales literature.

Third, the proposed rule change would permit the use of investment company family rankings even in sales material that advertises only one investment company in the family. Several commenters to NTM 99–79 urged NASD Regulation to permit the use of investment company family rankings. These types of rankings are not currently permitted under the Rule 2210, due to concern that sales material that presents a family ranking might confuse investors about the true ranking of the advertised investment company. The proposed rule change attempts to strike a balance between the interest in presenting some form of family ranking, and the need to ensure that presentations of family rankings do not mislead investors about the ranking of an individual investment company. The proposed rule change thus would permit the presentation of investment company family rankings, provided that when a particular investment company is being advertised, the individual rankings for that investment company also must be presented. The definition of "investment company family" is substantially similar to the definition of "group of investment companies" in Section 12(d)(1)(G) of the Investment Company Act of 1940. Of course, as with all performance rankings, use of an investment company family ranking would have to comply with the other applicable requirements of Rule 2210.

The proposed rule change would retain existing language concerning the required ranking periods. The NTM Version would have required rankings only for short, medium and long-term periods. Commenters to NTM 99–79 suggested that this provision would allow members to "cherry pick" ranking periods, to the detriment of investors. The proposed rule change would retain the existing language, but with some modifications to clarify the language and make it more consistent with principles of plain English.

The proposed rule change also would eliminate the requirement that certain disclosures appear in "close proximity" to any headline or other prominent statement that refers to a ranking. The subjective nature of this requirement has complicated the Department's administration of the ranking guidelines without providing meaningful additional protection to investors. The proposed rule change would eliminate certain disclosure requirements applicable to investment company rankings that are based on subcategories of funds or categories created by an investment company or its affiliate.

17. Limitations on Use of the Association's Name

The proposed rule change would simplify and shorten the requirements in IM–2210–4 concerning the use of the NASD's name. The proposed rule change also would delete current Rule 2210(d)(2)(J) concerning references to regulatory organizations.

18. Communications About Collateralized Mortgage Obligations

The proposed rule change would rewrite existing IM–2210–1 (the CMO Guidelines), which governs communications about collateralized mortgage obligations and renumber it as IM–2210–7. The current CMO Guidelines may give the impression that different standards apply to educational material, advertisements and "communications." The proposed rule change would simplify, shorten and reorganize the CMO Guidelines to provide a more straightforward and uniform list of disclosure requirements.

The proposed rule change would modify the NTM Version in several respects. First, the proposed rule change would eliminate prohibitions of certain statements concerning the safety, liquidity, potential guarantees, and simplicity of CMOs. The content standards of Rule 2210, in their current form and as they would be amended, already prohibit a member from making these statements in any communication with the public. Second, the proposed rule change would make clear that paragraphs (b)(1) and (c) apply only to advertisements, sales literature and correspondence. Third, the proposed rule change would clarify that paragraph (b)(2) does not apply to the sale of a CMO to an institutional investor.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[18] NASD Regulation believes that the proposed rule change will more appropriately address the issues related to member communications with the public, will promote the safety and soundness of member firms, and will further investor protection.

---

[16] The requirement thus would not apply to institutional sales material.

[17] The application of this limitation to correspondence would appear in new Rule 2211(d)(3) rather than in IM–2210–3.

[18] 15 U.S.C. 78k–1(b)(6).

VOL 66 ISS 250 DE 31 2001 UMI

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

See discussion of comment letters in Item II(A)(1) above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 30 days after the expiration of the comment period following publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 14, 2002.[19]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32077 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45188; File No. SR–PCX–2001–33]

Self-Regulatory Organizations; Notice of filing of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. To Adopt Procedures for the Transfer of Options Positions

December 21, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 10, 2001, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCS. The Exchange amended the proposed rule change on December 11, 2001.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to establish procedures for the transfer of options positions. The text of the proposed rule change, as amended, is below. Proposed new language is italicized.

Rule 6.78 (a)–(c) No change.

Transfer of Positions

(d) Transfer of Positions off the Floor. "Transfer of positions off the floor" is defined as moving a member's ownership interest in securities from its account to an account of another member or person in a manner other than trading on the floor of a securities exchange.

(1) Transfers off the Floor. Notwithstanding the prohibition set forth in subsection (a), an Exchange member may transfer positions off the floor if the transfer involves one or more of the following events: (i) The dissolution of a joint account in which the remaining member assumes the positions of the joint account; (ii) the dissolution of a corporation or partnership in which a former nominee of that corporation or partnership assumes the positions; (iii) positions transferred as part of a member's capital contribution to a new joint account, partnership, or corporation; (iv) the donation of positions to a not-for-profit corporation; (v) the transfer of positions to a minor under the Uniform Gifts to Minors Act; (vi) a merger or acquisition resulting in a continuity of ownership or management; or (vii) consolidation of accounts within a member organization.

(2) Written Request. No member or member organization may effect a transfer of positions off the floor in any security listed on the Exchange without the prior submission of a completed written request to the Exchange. This requirement applies regardless of whether the transfer is permitted under subsection (d)(1) or (f).

(e) Transfer of Positions Offered on the Floor. "Transfer of positions offered on the floor" is defined as moving a member's ownership interest in securities from its account to an account of another member or person in circumstances other than those set forth in subsection (d)(1).

(1) Transfer Procedure for Positions Offered on the Floor. A member seeking a transfer must offer the positions on the floor in the following manner:

(A) A member or member organization seeking to transfer positions on the floor ("Transferor") must specify the securities positions to be transferred that are traded on the Exchange or at another securities exchange ("Transfer Positions"). In offering Transfer Positions to the floor, the Transferor must offer a set of options or other financial products being offered by the Transferor as a package ("Transfer Package"), to be bid upon at a net debit or credit for the entire Transfer Package. A single Transfer Package must include no more than one option issue listed on the Exchange, but may also include stock or other securities. A Transferor may offer multiple Transfer Packages on the floor at the same time or on the same day. These offers must be made in a form

---

[19] The NASD requested a 45 day comment period and has consented to the extension of the time for Commission action on this filing until 30 days after the end of the comment period. *See* Section III.

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter dated December 10, 2001 from Cindy Sink, Senior Attorney, Regulatory Policy, PCX, to Joe Morra, Special Counsel, Division of Market Regulation, Commission and attachments ("Amendment No. 1"). In Amendment No. 1, the PCX: (1) Clarified the intent of the rule that after the proper request has been completed, a transfer will be automatically permitted when the transfer satisfies one of the specified categories set forth in proposed Rule 6.78(d)(1); (2) revised Item 8 to state that the proposed rule change is based, in part, on Chicago Board Options Exchange Rule 6.49A; and (3) made technical changes to the rule text.

and manner prescribed by the Exchange.

(F) Acceptance of the best bid or offer ("BBO") creates a binding contract under Rule 6.77. The Transferor is not obligated to accept the BBO. If the Transferor does not accept the BBO, the Transferor may request an exemption pursuant to paragraph (f) of this Rule, or may offer the Transfer Package(s) (or the Transfer Positions in any other allowable combination) on the floor the next day pursuant to the procedures in this Rule. If the Transferor decides not to accept a BBO on a second day, the Transferor must request permission of two Floor Officials to offer the Transfer Positions on any subsequent day(s).

(G) The "Request Response Time" for a "Request for Quotes" for Transfer Packages is two hours. The transferor may apply to two Floor Officials to have a Request Response Time for a transfer procedure that is less than two hours, where the Transfer Package is not complicated, or that is greater than two hours, where the complexity of the particular Transfer Package warrants the additional time.

(H) A Request for Quotes that is to be submitted later than 11:00 a.m. Pacific Time must have the approval of two Floor Officials. In no event may a Request for Quotes be submitted to the floor later than 12:30 p.m. Pacific Time.

(I) The Transferor may accept a bid or offer for one or more of the Transfer Packages he/she has offered on the floor, if the accepted bid or offer for the combination of the Transfer Packages is equal to or better than the total of the individual BBOs for the particular Transfer Package combination and equal to or greater than any bid or offer for the same combination of Transfer Packages.

(J) All transactions (including stock positions or other positions that must be transacted on another exchange) required to be completed in order to effectuate the transfer of the Transfer Package must be completed in time for the option portion to be transacted by the end of the trading day.

(K) If equal bids or offers are received for a Transfer Package at a price accepted by the Transferor, the Transfer Package will be divided equally among all members submitting the bids or offers to the extent possible unless the parties submitting the bids or offers agree to a division in another manner. Two Floor Officials will resolve Transfer Package division disputes.

(f) Exemptions. The Exchange's Chief Executive Officer or designee thereof may grant an exemption from the requirements of subsection (e), upon that person's own motion or upon application of a Transferor, when, in the judgment of the Chief Executive Officer or designee, the market value of the Transferor's business will be compromised by having to comply with subsection (e) or when, in the judgment of the Chief Executive Officer or designee market conditions make position transfer offers on the floor impractical. The Chief Executive Officer or designee will consider effects on open interest and other factors deemed necessary to ensure fair and orderly market conditions.

Commentary:

.01 No change.

.02 Acquisitions and dissolutions which all or substantially all of the assets of one member or member organization are required by another or, where there remains no continuity of ownership or management are examples of situations that normally would be required to be subjected to the transfer process set forth in subsections (e) and (f). This list is not meant to be exhaustive, however, and there may be other situations in which there is a discontinuation of ownership or management of the positions that may require that the positions be brought to the floor for transfer. Questions on whether a transfer should be brought to the floor may be directed to the Exchange's Options Surveillance Department.

.03 To the extent applicable, all other Exchange rules, including Rule 6.49, Solicited Transactions, will apply to the transfer procedure set forth in subsections (d) through (f). The following Rules do not apply to transfer procedures: 6.71 (Meaning of Premium Bids and Offers); 6.74 (Bids and Offers in Relation to Units of Trading); 6.75 (Priority of Bids and Offers); 6.76 (Priority of Split Price Transactions); 6.47 ("Crossing" Orders and Stock/Option Orders); and 7.9 (Meaning of Premium Bids and Offers, Index Options).

.04 The procedure established by subsections (d) through (f) may also be used by Market Makers who, for reasons other than a forced liquidation, such as an extended vacation, wish to liquidate their entire, or nearly their entire position in a single set of transactions. However, this procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish which position transfers may occur off the floor and which position transfers must be offered to the floor.[4] All transfers require a written request to the Exchange. To initiate transfers, the member submits a written request to the Financial and Operational Compliance Department ("FOCD").

(1) *Transfer of Positions off the Floor.* Transfers involving the following will be approved by the FOCD:

(A) Joint account dissolution with remaining member assuming the positions;

(B) Business dissolution with a former nominee assuming the positions;

(C) Positions transferred as capital contribution to a new joint account, partnership, or corporation;

(D) Donation of positions to a not-for-profit corporation;

(E) Transfer to a minor under the Uniform Gifts to Minors Act;

(F) Merger or acquisition with continuity of ownership or management; or

(G) Accounts consolidation within a member organization.

Transfers that fall under one or more of these seven categories ((A) through (G)) that submit the proper request information qualify for transfer off the Floor. However, the transferor may elect to present to the floor.

(2) *Transfer of Positions Offered on the Floor.* Transfers not involving one of the above seven categories ((1)(A) through (G)) will be sent to the Options Surveillance Department (OSD") by the FOCD for assistance in offering the transfer to the floor. When a transfer is offered to the floor, the procedure detailed in proposed subsection (e) applies. Specifically, a member or member organization seeking to transfer positions on the floor ("Transferor") must specify the securities positions to be transferred that are traded on the Exchange or at another securities

---

[4] The rule is based, in part, on the Chicago Board Options Exchange Rule 6.49A.

VOL 66 ISS 250 DE 31 2001 UMI

exchange ("Transfer Positions"). In offering Transfer Positions to the floor, the Transferor must offer a set of options or other financial products being offered by the Transferor as a package ("Transfer Package"), to be bid upon at a net debit or credit for the entire Transfer Package. A single Transfer Package must include no more than one option issue listed on the Exchange, but may also include stock or other securities. A Transferor may offer multiple Transfer Packages on the floor at the same time or on the same day. These offers must be made in a form and manner prescribed by the Exchange.

A Transfer Package consisting solely of positions in one option issues and no other securities will be offered by the Transferor at the post at which that option issue is traded ("Post-Specific Transfer Packages"). Post-Specific Transfer Package must be individually priced and reported. Post-Specific Transfer Packages are subject to the ordinary procedures for trading options, and not those set forth in proposed subsection (e), unless a bid or offer is made for a combination of Transfer Packages pursuant to proposed subsection (e)(1)(I).

A Transfer Package consisting of positions in an option issue and other financial instruments must be offered at the FLEX Post. In addition, notice must be given to the order book official ("OBO") of each post (or the lead market maker for the particular issue, as appropriate) where a component of the Transfer Package trades. The OBO will announce the pending transfer of positions prior to the offer being made at the FLEX post.

A member submitting a Transfer Package must designate a member of the Exchange ("Transferor Designeer") to represent the order on the floor. The Transferor Designee must be available to answer questions regarding the Transfer Package during the entire Request Response Time (as defined in proposed subsection (e)(1)(G)).

To the extent applicable and as modified by proposed subsection (e), Transfer Packages offered at the FLEX post will be subject to the procedures set forth in PCX Rule 8.103 (FLEX Trading Procedures and Principles) paragraphs (a) through (c).

Acceptance of the best bid or offer ("BBO") creates a binding contract under PCX Rule 6.77. The Transferor is not obligated to accept the BBO. If the Transferor does not accept the BBO, the Transferor may request an exemption pursuant to proposed subsection (f), or may offer the Transfer Package(s) (or the Transfer Positions in any other allowable combination) on the floor the next day pursuant to the procedures in proposed subsection (d). If the Transferor decides not to accept a BBO on a second day, the Transferor must request permission of two Floor Officials to offer the Transfer Positions on any subsequent day(s).

The "Request Response Time" for a "Request for Quotes" for Transfer Packages is two hours. The Transferor may apply to two Floor Officials to have a Request Response Time for a transfer procedure that is less than two hours, where the Transfer Package is not complicated, or that is greater than two hours, where the complexity of the particular Transfer Package warrants the additional time.

A Request for Quotes that is to be submitted later than 11:00 a.m. Pacific Time must have the approval of two Floor Officials. In no event may a Request for Quotes be submitted to the floor later than 12:30 p.m. Pacific Time.

The Transferor may accept a bid or offer for one or more of the Transfer Packages he/she has offered on the floor, if the accepted bid or offer for the combination of the Transfer Package is equal to or better than the total of the individual BBOs for the particular Transfer Package combination and equal to or greater than any bid or offer for the same combination of Transfer Packages.

All transactions (including stock positions or other positions that must be transacted on another exchange) required to be completed in order to effectuate the transfer of the Transfer Package must be completed in time for the option portion to be transacted by the end of the trading day.

If equal bids or offers are received for a Transfer Package at a price accepted by the Transferor, the Transfer Package will be divided equally among all members submitting the bids or offers to the extent possible unless the parties submitting the bids or offers agree to a division in another manner. Two Floor Officials will resolve Transfer Package division disputes.

The Exchange's Chief Executive Officer or designee thereof may grant an exemption from the requirement of proposed subsection (e), upon that person's own motion or upon application of a Transferor, when, in the judgment of the Chief Executive Officer or designee, the market value of the Transferor's business will compromised by having to comply with proposed subsection (e) or when, in the judgment of the Chief Executive Officer or Designee market conditions make position transfer offers on the floor impractical. The Chief Executive Officer or designee will consider effects on open interest and other factors deemed necessary to ensure fair and orderly market conditions.

2. Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the PCX consents, the Commission will:

(A) By order approve the proposed rule change, as amended, or

(B) Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2001–33 and should be submitted by January 22, 2002.

---

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32083 Filed 12–28–01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45182; File No. SR–PHLX–2000–20]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to the Trading of Nasdaq Securities on the Floor of the Exchange

December 20, 2001.

I. Introduction

On November 16, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] a proposed rule change regarding the trading of Nasdaq securities on the floor of the Exchange, pursuant to unlisted trading privileges ("UTP"). Notice of the proposed rule change was published in the **Federal Register** on December 14, 2000.[3] On May 14, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] Amendment No. 1 was published in the **Federal Register** on July 16, 2001.[5] On June 22, 2001, the Exchange submitted Amendment No. 2 to the proposed rule change.[6] The Commission received two comment letters on the proposed rule change and a response from Phlx.[7] This order approves the proposed rule change, as amended.

II. Description of the Proposal

The Phlx proposes to reinstate trading in certain over-the-counter ("OTC") securities, *i.e.*, Nasdaq National Market Securities ("Nasdaq/NM Securities"), on the floor of the Exchange, pursuant to UTP under section 12(f) of the Act.[8] Therefore, Phlx seeks reinstatement of the pilot program and accompanying rules to permit the trading of Nasdaq/NM Securities on the Exchange pursuant to UTP ("Phlx OTC/UTP Pilot Program" or "Pilot").[9] Generally, the Exchange proposes to make only minor changes to the Phlx rules that specifically govern trading of Nasdaq/NM Securities, such as to revise the term "Nasdaq/NM Securities." The Phlx has, however, proposed a new allocation procedure for Nasdaq/NM Securities. The Phlx has proposed to reinstate its Pilot to trade Nasdaq/NM Securities on a six-month pilot basis.

III. Summary of Comments

The Commission received two comments on the proposed rule change and a response from Phlx.[10] One commenter, Knight, opposed the proposal. In its letter, Knight argued that the proposal should not be approved because: (1) Phlx has failed to demonstrate how permitting Phlx specialists to trade certain Nasdaq/NM Securities pursuant to the Pilot will maintain fair and orderly markets (as required by section 12(f)(1)(E)(i) of the Act[11]) (of particular concern to Knight is the fact that members of regional UTP exchanges will be held to the less stringent rules of regional exchanges than NASD market maker members); (2) members of regional UTP exchanges trading Nasdaq/NM Securities currently act in a manner inconsistent with the SEC Rule 11Ac1–1[12] (the "Firm Quote Rule"), by failing to execute transactions at prices that were displayed in the Nasdaq Montage; and (3) members of regional UTP exchanges trading Nasdaq/NM Securities currently act in a manner inconsistent with NASD's Locked/Crossed Market Rule[13] and Trade-or-Move Rule.[14]

The Phlx responded to the Knight Letter. In its response letter, the Phlx countered each of Knight's arguments by contending that: (1) The SEC has already determined that permitting regional exchanges and their specialists and dealers to trade Nasdaq/NM Securities pursuant to the OTC/UTP Plan[15] is consistent with fair and orderly markets; (2) the Knight Letter offers no evidence that members of regional UTP exchanges routinely violate the Firm Quote Rule; and (3) even through regional exchange specialists are not bound by the NASD's Locked/Crossed Market and Trade-or-Move Rules, regional specialists on a voluntary basis routinely comply with Trade-or-Move messages received by them pre-opening. Moreover, the Phlx noted that it does not intend to trade or quote during the pre-opening session.

The other commenter, Ashton, supported the proposal. Ashton operates the eVWAP trading system ("eVWAP") as a facility of the Phlx through its Universal Trading Technologies Corporation subsidiary. eVWAP is a pre-opening order matching session for the electronic execution of large-sized stock orders at a standardized volume weighted average price. Ashton noted that the Phlx soon will be filing amendments to Phlx Rule 237 (The eVWAP Morning Session) to expand eligibility of certain Nasdaq/NM

---

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 43692 (Dec. 8, 2000), 65 FR 78240.

[4] *See* Form 19b–4 dated May 14, 2001 ("Amendment No. 1").

[5] Securities Exchange Act Release No. 44533 (July 10, 2001), 66 FR 37083.

[6] *See* letter from Diana Tenenbaum, Phlx, to Nancy J. Sanow, Senior Special Counsel [sic], Division of Market Regulation, SEC, dated June 21, 2001 ("Amendment No. 2"). In Amendment No. 2, the Exchange corrected a citation to SEC "Rule 11Ac1–1" on page 22 of the amended Form 19b–4, deleted a reference to subsection "(ii)" on page 25 of the amended Form 19b–4, and changed all references to "issue" and "issues" in the proposed Rule 516 to read "security" and "securities," respectively.

[7] *See* letters to Jonathan G. Katz, Secretary, SEC, from Michael T. Dorsey, Senior Vice President and General Counsel, Knight Trading Group, Inc., dated December 19, 2000 ("Knight Letter"); William W. Uchimoto, Executive Vice President and General Counsel, Ashton Technology Group, Inc., dated February 23, 2001 ("Ashton Letter"); and Edith Hallahan, Deputy General Counsel, Phlx, dated April 2, 2001 ("Phlx Letter").

[8] 15 U.S.C. 78l(f).

[9] The Commission notes that the Phlx began trading Nasdaq/NM Securities pursuant to the Pilot in February 1993. *See* Securities Exchange Act Release No. 31672 (Dec. 30, 1992), 58 FR 3054 (Jan. 7, 1993). The effectiveness of the Pilot was extended four times before the Phlx decided to cease trading such securities pending reorganization of its OTC/UTP Pilot Program as a whole. *See* Securities Exchange Act Release No. 36087 (Aug. 10, 1995), 60 FR 42637, 42638 (Aug. 16, 1995). The Phlx OTC/UTP Pilot Program expired on February 12, 1996. *Id.*

[10] *See* note 7 *supra*.

[11] 15 U.S.C. 78l(f)(1)(E)(i).

[12] 17 CFR 240.11Ac1–1.

[13] NASD Rule 4613(e).

[14] NASD Rule 4613(b)(2).

[15] The OTC/UTP Plan refers to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis. The participants of the OTC/UTP Plan are the American Stock Exchange LLC, the Chicago Stock Exchange, Inc., the Cincinnati Stock Exchange, Inc., the National Association of Securities Dealers, Inc., the Pacific Exchange, Inc., and the Philadelphia Stock Exchange, Inc.

VOL 66 ISS 250 DE 31 2001 UMI

Securities to eVWAP. Ashton stated that many eVWAP participants have requested the addition of Nasdaq issues for eVWAP matching.

Ashton also responded to the Knight Letter. In the Ashton Letter, Ashton counters two of Knight's arguments by contending that: (1) The SEC has already determined that UTP trading of Nasdaq/NM securities is in furtherance of fair and orderly markets; and (2) the federal statutory and regulatory scheme dictates that self-regulatory organizations' rules govern their own members (Ashton questions whether Knight is requesting a complete overhaul of the Act to impose a single self-regulatory, NASDR, over all market participants trading Nasdaq/NM Securities).

IV. Discussion

The Commission finds that the proposed rule change, as needed, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of section 6(b)(5) of the Act.[16] The Commission believes that Phlx has proposed rules that should ensure that trading in Nasdaq/NM Securities on its floor occurs in an orderly fashion,[17] consistent with the requirements of the Act. The Commission, therefore, believes that the proposal should remove impediments to and perfect the mechanism of a free and open market in a manner that is consistent with the protection of investors and the public interest.[18] The Commission also notes that Phlx's response to the comments raised in the Knight Letter were sufficient.[19]

Furthermore, the proposed rule change is consistent with section 12(f)(2) of the Act,[20] which grants the Commission explicit authority to approve UTP in OTC securities. Section 12(f)(2) of the Act requires the Commission, before approving UTP, to determine that the granting of UTP is consistent with the maintenance of fair and orderly markets and the protection of investors. The Commission believes that the proposed rule change is consistent with these goals and thus, the Commission is approving the proposed rule change, subject to the Phlx complying with the requirements of the OTC/UTP Plan.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[21] that the proposed rule change (SR–Phlx–2000–20), as amended, is approved on a pilot basis effective for a six month period beginning on the date trading begins.[22]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32031 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45178; File No. SR–PHLX–00–68]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment Nos. 1, 2, and 3 by the Philadelphia Stock Exchange, Inc. Related to Generic Listing Standards Applicable to Trust Shares Pursuant to Rule 19–4(e) Under the Securities Exchange Act of 1934

December 20, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 7, 2000, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PHLX. The PHLX filed Amendment Nos. 1, 2, and 3 to the proposal on September 7, 2000,[3] September 12, 2001,[4] and December 18, 2001,[5] respectively. The Commission is publishing this notice to solicit comments on the proposed rule change and on Amendment Nos. 1, 2, and 3 from interested persons and to approve the proposal, as amended, on an accelerated basis.

---

[16] 15 U.S.C. 78f(b)(5).

[17] The Commission notes that trading in Nasdaq/NM Securities will occur on the Phlx's equity floor, which is separate from the Phlx's options floor. Therefore, Phlx's proposal does not raise any side-by-side trading concerns. In addition, Phlx Rule 1014, which prohibits Registered Options Traders ("ROTs") from executing proprietary options transactions in Phlx-listed options on OTC securities, if, during the preceding hour, the ROT was physically at the trading post where such OTC security trades, will apply during the Pilot.

[18] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] The Commission notes that the Phlx's rules regarding short sales do not require an exemption from the Commission's short sale rule, Rule 10a–1, since Nasdaq securities currently are excluded from the Rule. *See* CFR 240.10a–1(a)(ii). However, Nasdaq has applied to become a national securities exchange. *See* Securities Exchange Act Release No. 44396 (June 7, 2001), 66 FR 31952 (June 13, 2001). If Nasdaq becomes a registered exchange, Nasdaq securities will be exchange-listed and the exemption in subparagraph (ii) of Rule 10a–1 will no longer be available. Accordingly, trading in Nasdaq securities would be subject to Rule 10a–1 unless Phlx obtains an exemption from the Rule. The Commission notes that Nasdaq has requested an exemption from Rule 10a–1.

[20] 15 U.S.C. 78l(f)(2).

[21] 15 U.S.C. 78s(b)(2).

[22] Phlx has advised the Commission that it expects to begin trading in January 2002.

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, PHLX, to Nancy Sanow, Division of Market Regulation ("Division"), Commission, dated September 26, 2000 ("Amendment No. 1"). In Amendment No. 1, the PHLX indicated that in the event the PHLX proposes to list and trade a series of Trust Shares that do not satisfy the generic criteria provided in the proposal, the PHLX will submit to the Commission a proposed rule change pursuant to Rule 19b–4 with respect to the series.

[4] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, PHLX, to Yvonne Fraticelli, Special Counsel, Division, Commission, dated September 12, 2001 ("Amendment No. 2"). Amendment No. 2 indicates that: (1) The PHLX currently does not list any Trust Shares, although it trades shares of the Nasdaq 100 Trust pursuant to unlisted trading privileges ("UTP"); (2) the PHLX is amending PHLX Rule 803(i)(11)(e) to indicate that the minimum trading increment for a series of Trust Shares will be $0.01; (3) the PHLX will issue a circular to members for each Trust Shares series listed pursuant to Rule 19b–4(e) under the Act, which will describe the unique characteristics and risks of Trust Shares, and inform members of any obligation to deliver a written product description or prospectus, as applicable to purchasers of Trust Shares, and inform members of their responsibilities under PHLX Rules 746, "Diligence as to Accounts," and 747, "Approval of Accounts," in connection with customer transactions in Trust Shares; (4) Trust Shares are subject to, among others, the PHLX's general agency-auction rules, trading rules, clearance and settlement rules, equity margin rules, priority, parity, and precedence rules, rules governing the responsibilities of specialists, trading halt rules and procedures, and account opening requirements; (5) any series of Trust Shares traded pursuant to the standards in PHLX Rule 803(i)(11) must meet the eligibility criteria in PHLX Rule 803(i)(11) as of the date of the initial deposit of securities and cash into the trust; (6) the initial deposit of a specified portfolio of securities in connection with the issuance of shares of a series of Trust Shares must be made before the start of trading on the PHLX; (7) unless the PHLX maintains an index, the current index value will be disseminated every 15 seconds over the Consolidated Tape Association's ("CTA") Network B by or through the primary exchange or an entity working with that exchange; and (8) Trust Shares are subject to PHLX Rules 133, "Trading Halts Due to Extraordinary Market Volatility," and 136, "Trading Halts in Certain Exchange Traded Funds."

[5] *See* letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, PHLX, to Yvonne Fraticelli, Special Counsel, Division, Commission, dated December 17, 2001 ("Amendment No. 3"). In Amendment No. 3, the PHLX revised the text of PHLX Rule 803(i)(11) to indicate: (1) that the provisions of PHLX Rule 803(i)(11) apply to Trust Shares listed or traded pursuant to UTP; and (2) that the minimum trading increment for Trust Shares will be $0.01. In addition, in Amendment No. 3 the PHLX represented that it will use its existing surveillance procedures for Trust Shares to monitor trading in Trust Shares traded pursuant to Rule 19b–4(e). Amendment No. 3 also stated that the PHLX will issue a circular to members for each Trust Shares series listed or traded on a UTP basis pursuant to Rule 19b–4(e) under the Act, and reiterated the

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to amend PHLX Rule 803(i), "Trust Shares," by adopting PHLX Rule 803(i)(11), which will provide standards to permit the trading, whether by listing or pursuant to UTP, of Trust Shares pursuant to Rule 19b–4(e) under the Act.[6]

The text of the proposed rule change is available at the PHLX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PHLX included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The PHLX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

PHLX Rule 803(i) accommodates the trading on the PHLX of Trust Shares, which represent interests in a unit investment trust ("Trust") that operates on an open-end basis and holds a portfolio of securities. Each Trust is designed to provide investors with an instrument that closely tracks the underlying securities portfolio, trades like a share of common stock, and pays to holders of Trust Shares periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less expenses, as described in the applicable Trust prospectus.

The PHLX proposes to amend PHLX Rule 803(i) by adopting proposed PHLX Rule 803(i)(11), which will provide standards to permit the listing and trading, including trading on a UTP basis, of Trust Shares pursuant to rule 19b–4(e) under the Act. Rule 19b–4(e) states that the listing and trading of a new derivative securities product by a SRO shall not be deemed a proposed rule change if the Commission has approved, pursuant to Section 19(b) of the Act,[7] the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivative securities product and the SRO has a surveillance program for the product class.[8]

The PHLX adopted PHLX Rule 803(i) to permit the listing and trading of Trust Shares.[9] Under PHLX Rule 803(i), the PHLX had anticipated filing proposed rule changes pursuant to Rule 19b–4 under the Act for each series of Trust Shares to be traded on the PHLX. The PHLX now believes, however, that the adoption of proposed PHLX Rule 803(i)(11) will further the intent of PHLX Rule 803(i) by facilitating the commencement of trading in Trust Shares, subject to the generic standards for Trust Shares in proposed PHLX Rule 803(i)(11), without the need for notice and comment and Commission approval under Section 19(b) of the Act. The PHLX believes that this has the potential to reduce the time frame for bringing Trust Shares to market.

The PHLX proposes that Trust Shares listed or traded on a UTP basis pursuant to Rule 19b–4(e) be subject to the specific generic criteria set forth in proposed PHLX Rule 803(i)(11). The PHLX notes that all other provisions of PHLX Rule 803(i) would continue to apply to such securities.

Proposed PHLX Rule 803(i)(11) sets forth generic listing criteria that are intended to ensure that a substantial portion of the weight of an index or portfolio underlying Trust Shares is accounted for by stocks with substantial market capitalization and trading volume. Proposed PHLX Rule 803(i)(11) provides that, upon the initial listing of a series of Trust Shares pursuant to Rule 19b–4(e), the component stocks that in the aggregate account for at least 90% of the weight of the index or portfolio must have minimum market value of at least $75 million. In addition, the component stocks in the index or portfolio must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares for stocks representing at least 90% of the weight of the index or portfolio.

The most heavily weighted component stock in an underlying index cannot exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks cannot exceed 65% of the weight of the index or portfolio. The underlying index or portfolio must include a minimum of 13 stocks, which is the minimum number to permit qualification as a regulated investment company under subchapter M of the Internal Revenue Code. All securities in an underlying index or portfolio must be listed on a national securities exchange or the Nasdaq Stock Market (including the Nasdaq SmallCap Market).

Any series of Trust Shares traded pursuant to the standards in proposed PHLX Rule 803(i)(11) must meet the eligibility criteria in proposed PHLX Rule 803(i)(11) as of the date of the initial deposit of securities and cash into the trust.[10] The PHLX will request issuers of a series of Trust Shares listed under PHLX Rule 803(i)(11) to represent to the PHLX that the index or portfolio of securities underlying the series will comply with the applicable eligibility criteria as of the date of the initial deposit.[11]

Proposed PHLX Rule 803(i)(11) provides that the underlying index will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar, or modified equal-dollar weighting methodology. In addition, if the index is maintained by a broker-dealer, the broker-dealer must erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index, and the index shall be calculated by a third party who is not a broker-dealer. The current index value must be disseminated every 15 seconds over the CTA's Network B.[12]

The Reporting Authority[13] will disseminate for each series of Trust

---

statements made in Amendment No. 2 concerning the information that the circular will provide.

[6] 17 CFR 240.19b–4(e). Rule 19b–4(e) under the Act permits self-regulatory organizations ("SROs") to list and trade new derivatives products that comply with existing SRO trading rules, procedures, surveillance programs and listing standards without submitting a proposed rule change under section 19(b) of the Act. *See* Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998) ("1998 Release").

[7] 15 U.S.C. 78s(b).

[8] *See* 1998 Release, *supra* note 6.

[9] *See* Securities Exchange Act Release No. 43717 (December 13, 2000), 65 FR 80976 (December 22, 2000) (order approving File No. SR–PHLX–00–54) ("Trust Shares Order"). The PHLX currently does not list any Trust Shares. The PHLX trades shares of the Nasdaq 100 Trust on a UTP basis pursuant to the Trust Shares Order. *See* Amendment No. 2, *supra* note 4.

[10] *See* Amendment No. 2, *supra* note 4.

[11] *See* Amendment No. 2, *supra* note 4.

[12] Unless the PHLX maintains the index, the PHLX understands that the primary exchange or another entity working with that exchange will disseminate the current value of the index. *See* Amendment No. 2, *supra* note 4.

[13] The Reporting Authority with respect to a series of Trust Shares is the PHLX, a wholly-owned subsidiary of the PHLX, an institution (including the Trustee for Trust Shares), or a reporting service designated by the PHLX or its subsidiary or by the

Continued

VOL 66 ISS 250 DE 31 2001 UMI

Shares an estimate, updated every 15 seconds, of the value of a share of each series. This may be based, for example, upon the index value or upon current information regarding the required deposit of securities and cash to permit creation of new shares of the series.

Proposed PHLX Rule 803(i)(11)(d) provides that a minimum of 100,000 shares of a series of Trust Shares must be outstanding at the start-up of trading.[14] The PHLX believes that this minimum number will be sufficient to establish a liquid PHLX market at the start of trading.

The minimum trading increment for a series of Trust Shares will be $0.01.[15]

The original listing fee for each series of Trust Shares will be $7,500, with an annual maintenance listing fee of $1,250.

The PHLX represents that it will implement written surveillance procedures for Trust Shares and that it will use its existing surveillance procedures for Trust Shares to monitor trading in Trust Shares traded pursuant to Rule 19b–4(e).[16] In addition, the PHLX states that it will comply with all of the recordkeeping requirements of Rule 19b–4(e) and that it will file Form 19b–4(e) for each series of Trust Shares listed under Rule 19b–4(e) within five business days of the commencement of trading.

The provisions of PHLX Rule 803(i)(11) will apply to all series of Trust Shares listed or traded on a UTP basis pursuant to Rule 19b–4(e). In addition to the requirements of proposed PHLX Rule 803(i)(11), Trust Shares also will be subject to other PHLX rules. Specifically, the PHLX notes that dealings in Trust Shares on the PHLX are conducted pursuant to the PHLX's general agency-auction trading rules.[17] In addition, Trust Shares are subject to, among others, the general dealing and settlement rules of the PHLX, including the PHLX's rules on clearance and settlement of securities transactions and the PHLX's equity margin rules; the PHLX's rules governing priority, parity, and precedence of orders; the PHLX's rules regarding responsibilities of the specialist; and the PHLX's account opening requirements.[18]

Trust Shares also are subject to PHLX Rule 133, "Trading Halts due to Extraordinary Market Volatility," and PHLX Rule 136, "Trading Halts in Certain Exchange Traded Funds."[19] In exercising discretion under PHLX Rule 136, PHLX officials may consider a variety of factors, including the extent to which trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks, and whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[20]

The PHLX will issue a circular to members for each series of Trust Shares listed, or traded on a UTP basis, pursuant to Rule 19b–4(e).[21] The circular will describe the unique characteristics and risks of Trust Shares and will inform members of any obligation to deliver a written product description or prospectus, as applicable, to purchasers of Trust Shares.[22] The circular will inform members of their responsibilities under PHLX Rule 746, "Diligence as to Accounts," and PHLX Rule 747, "Approval of Accounts," in connection with customer transactions in Trust Shares.[23]

(2) Basis

The PHLX believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment Nos. 1, 2, and 3 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to file number SR–PHLX–00–68 and should be submitted by January 22, 2002.

IV. Commission Findings and Order Granting Accelerated Approval of Proposed Rule Change

The PHLX has asked the Commission to approve the proposal on an accelerated basis because the PHLX has proposed standards for Trust Shares that are substantially similar to those adopted by the American Stock Exchange, LLC ("Amex") for the listing and trading of Portfolio Depository Receipts ("PDRs") pursuant to Rule 19b–4(e).[24] The PHLX does not believe that its proposal presents any new investor protection issues that were not addressed during the notice and comment period for the Amex's

---

exchange that lists a particular series of Trust Shares (if the PHLX is trading a series of Trust Shares pursuant to UTP) as the official source for calculating and reporting information relating to the series, including any current index or portfolio value; the current value of the portfolio of securities required to be deposited to the Trust in connection with the issuance of Trust Shares; the amount of any dividend equivalent payment or cash distribution to holders of Trust Shares, net asset value or other information relating to the creation, redemption, or trading of Trust Shares. *See* PHLX Rule 803(i)(1)(ii).

[14] The initial deposit of a specified portfolio of securities in connection with the issuance of the minimum of 100,000 shares of a series of Trust Shares must be made before the start of trading on the PHLX. *See* Amendment No. 2, *supra* note 4.

[15] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[16] *See* Amendment No. 3, *supra* note 5.

[17] *See* Amendment No. 2, *supra* note 4.

[18] *See* Amendment No. 2, *supra* note 4.

[19] *See* Amendment No. 2, *supra* note 4.

[20] *See* Amendment No. 2, *supra* note 4.

[21] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[22] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[23] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[24] *See* Amex Rule 1000, Commentary .03. *See also* Securities Exchange Act Release No. 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (order approving File No. SR–Amex–00–14) ("Amex Order"). The Amex Order also approved standards to permit the listing and trading of Index Fund Shares pursuant to the Rule 19b–4(e).

proposal to provide standards to permit the listing and trading of PDRs pursuant to Rule 19b–4(e).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)(5) of the Act[25] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest.[26]

Trust Shares are securities that are interests in a Trust that holds a portfolio of securities linked to an index. Each Trust is designed to provide investors with an instrument that closely tracks the underlying portfolio of securities, trades like a share of common stock, and pays holders of the instrument periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the Trust prospectus.[27]

As noted above, the Commission previously approved a PHLX proposal that permits the listing and trading, or trading pursuant to UTP, of Trust Shares on the PHLX.[28] In approving these securities of trading, the Commission considered the structure of these securities, their usefulness to investors and to the markets, and the PHLX rules that govern their trading. The Commission's approval of the current proposal, which establishes generic listing standards for Trust Shares, will allow series of Trust Shares that satisfy the generic listing standards in PHLX Rule 803(i)(11) to begin trading under Rule 19b–4(e) without the need for notice and comment and Commission approval. As noted above, Rule 19b–4(e) provides that the listing and trading of a new derivative securities product by a SRO shall not be deemed a proposed rule change pursuant to Rule 19b–4(c)(1) if the Commission has approved, pursuant to Section 19(b) of the Act, the SRO's trading rules, procedures and listing standards for the product class that includes the new derivative securities product class, and the SRO has a surveillance program for the product class.[29] The PHLX's ability to rely on Rule 19b–4(e) for Trust Shares potentially reduces the time frame for bringing Trust Shares to the market or for permitting the trading of Trust Shares pursuant to UTP, and thus enhances investors' opportunities. The Commission notes that while the proposal will reduce the PHLX's regulatory burden, the Commission maintains regulatory oversight over any products listed under the generic standards through regular inspection oversight.

The Commission also finds that the proposal contains adequate rules and procedures to govern the trading of Trust Shares under rule 19b–4(e). All series of Trust Shares listed under the generic standards will be subject to the full panoply of PHLX rules and procedures that would govern the trading of Trust Shares listed on the PHLX or traded pursuant to UTP. Accordingly, any series of Trust Shares listed and traded, or traded on a UTP basis, under rule 19b–4(e) would be subject to the PHLX rules governing the trading of equity securities including, among others, rules and procedures governing trading halts, disclosures to members, responsibilities of the specialist, account opening and customer suitability requirements, and margin.[30]

In addition, the PHLX has developed specific listing criteria for series of Trust Shares qualifying for rule 19b–4(e) treatment that will help to ensure that a minimum level of liquidity will exist to allow for the maintenance of fair and orderly markets. The Commission believes that the proposed generic listing standards ensure that the securities composing the indexes and portfolios underlying Trust Shares are well capitalized and actively traded. These capitalization and liquidity criteria should serve to prevent fraudulent or manipulative acts involving Trust Shares.

In addition, all series of Trust Shares listed or traded under the generic standards will be subject to the PHLX's existing continuing listing criteria. This requirement will allow the PHLX to consider the suspension of trading and the delisting of a series if an event occurs that makes further dealing in such securities inadvisable. The Commission believes that this will give the PHLX flexibility to delist Trust Shares if circumstances warrant such action.

The PHLX will use its existing surveillance procedures for Trust Shares to monitor trading in Trust Shares traded pursuant to Rule 19b–4(e).[31] The Commission believes that these surveillance procedures are adequate to address concerns associated with listing and trading Trust Shares under the generic standards. In addition, the PHLX represents that it will file Form 19b–4(e) with the Commission within five business days of the commencement of trading a series under the generic standards, and will comply with all Rule 19b–4(e) recordkeeping requirements.

The Commission also notes that certain concerns are raised when a broker-dealer is involved in both the development and the maintenance of a stock index upon which a product such as Trust Shares is based. The proposal provides that, in such circumstances, the broker-dealer must have procedures in place to prevent the misuse of material, non-public information regarding changes and adjustments to the index and that the index value must be calculated by a third party who is not a broker-dealer. The Commission believes that these requirements should help to address concerns raised by a broker-dealer's involvement in the management of such an index.

Finally, the Commission believes that the PHLX's rules will ensure that investors have information that will allow them to be apprised adequately of the terms, characteristics, and risks of trading Trust Shares. The PHLX will require members and member organizations to provide all purchasers of Trust Shares with a written description of the terms and characteristics of Trust Shares, to include this written description in sales materials provided to customers or the public, to include a specific statement relating to the availability of the description in other types of materials distributed to customers or the public, and to provide a copy of the prospectus when requested by a customer.[32] A PHLX member or member organization carrying an omnibus account for a non-member broker-dealer must inform a non-member that the execution of an order to purchase a series of Trust Shares for such omnibus account will be deemed to constitute an agreement by the non-member to make the written description available to its customers.[33]

The Commission also notes that upon the initial listing, or trading pursuant to UTP, of any Trust Shares under the generic standards, the PHLX will issue a circular to its members explaining the

---

[25] 15 U.S.C. 78f(b)(5).

[26] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[27] *See* Trust Shares Order, *supra* note 9.

[28] *See* Trust Shares Order, *supra* note 9.

[29] *See* 1998 Release, *supra* note 6.

[30] *See* Amendment No. 2, *supra* note 4.

[31] *See* Amendment No. 3, *supra* note 5.

[32] *See* PHLX Rule 803(i)(3).

[33] *See* PHLX Rule 803(i)(3).

VOL 66 ISS 250 DE 31 2001 UMI

unique characteristics and risks of this type of security.[34] The circular also will note the PHLX members' prospectus or product description delivery requirements, and highlight the characteristics of purchases in a particular series of Trust Shares.[35] The circular also will inform members of their responsibility under PHLX Rules 746 and 747 in connection with customer transactions in Trust Shares.[36] The Commission believes that these requirements will help to ensure adequate disclosure to investors about the terms and characteristics of a particular series of Trust Shares.

The Commission finds good cause for approving the proposed rule change and Amendment Nos. 1, 2, and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that the proposed rule change is based on the generic listing standards in Amex Rule 1000 *et seq.*, which the Commission approved after soliciting public comment pursuant to Section 19(b)(1) of the Act.[37] The Commission does not believe that the PHLX's proposal raises novel regulatory issues that were not addressed previously. Accordingly, the Commission believes it is appropriate to permit investors to benefit from the flexibility afforded by these new instruments by trading them as soon as possible. Amendment No. 1 strengthens the PHLX's proposal by indicating that the PHLX will file a proposed rule change pursuant to rule 19b–4 if the PHLX proposes to list and trade a series of Trust Shares that do not satisfy the proposed generic criteria. Amendment No. 2 strengthens the PHLX's proposal by clarifying, among other things, that the PHLX will distribute an information circular to members for each series of Trust Shares describing the characteristics and risks of Trust Shares and by indicating that Trust Shares will be subject to PHLX rules governing the trading of equity securities, including, among others, rules and procedures governing trading halts, responsibilities of specialists, account opening requirements, and margin. Amendment No. 3 clarifies the text of PHLX Rule 803(i)(11) and indicates that the PHLX will use its existing surveillance procedures for Trust Shares to monitor trading in Trust Shares traded pursuant to Rule 19b–4(e). Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act,[38] to approve the proposal and Amendment Nos. 1, 2, and 3 to the proposal on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PHLX–00–68), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32032 Filed 12–28–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45185; File No. SR–Phlx–2001–113]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Increasing the Equity Option Transaction Charge for Broker-Dealer

December 21, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposed to amend its schedule of dues, fees, and charges to increase its equity option transaction charge on members for off-floor broker-dealer orders[3] routed to the Exchange from $0.20 to $0.25. The Exchange intends to implement this fee on transactions settling on or after January 2, 2002.[4]

The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Currently, the Exchange imposes a fee on its members for off-floor broker-dealer orders routed to the Exchange. This category includes ROTs that trade from off-floor and broker-dealers that route orders through firm, customer, or market maker accounts carried by a member clearing firm. This category does not include firm/proprietary orders.[5] The Exchange states that all other equity option transaction charges will remain unchanged.

The Exchange states that the purpose of the proposed rule change is to generate additional revenue by increasing the fee imposed on members for off-floor broker-dealer orders routed to the Exchange. Thus, the broker-dealer option transaction charge will be increased from $0.20 to $0.25.

---

[34] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[35] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[36] *See* Amendment Nos. 2 and 3, *supra* notes 4 and 5.

[37] *See* Amex Order, *supra* notes 24.

[38] 15 U.S.C. 78f(b)(5) and 78s(b)(2).

[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For purposes of the equity option transaction charge, the Exchange defines the term "broker-dealer charge" as a charge that is applied to members for orders, entered from other than the floor of the Exchange, for any account (i) in which the holder of beneficial interest is a member or non-member broker-dealer or (ii) in which the holder of beneficial interest is a person associated with or employed by a member or non-member broker-dealer. This includes orders for the account of a Registered Options Trader ("ROT") entered from off-floor. *See* Securities Exchange Act Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (SR–Phlx–00–85).

[4] The Exchange states that this fee will continue to be eligible for the monthly credit of up to $1,000 to be applied against certain fees, dues and charges and other amounts owed to the Exchange by certain members. *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (SR–Phlx–2001–49).

[5] According to the Exchange, a firm/proprietary transaction or comparison charge applies to members for orders for the proprietary account of any member or non-member broker-dealer that derives more than 35 percent of its annual, gross revenues from commissions and principal transactions with customers. *See* Securities Exchange Release No. 43558 (November 14, 2000), 65 FR 69984 (November 21, 2000) (SR–Phlx–00–85).

(2) Statutory Basis

The exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[6] in general, and furthers the objectives of section 6(b)(4),[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members. The Exchange believes the proposal is equitable and reasonable because the proposed broker-dealer equity option transaction charge is not substantially higher than other fees.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore has become effective upon filing pursuant to rule 19(b)(3)(A)(ii) of the Act[8] and rule 19b–4(f)(2) hereunder.[9] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act. The Exchange has stated that it intends to implement this fee on transactions settling on or after January 2, 2002.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–Phlx–2001–113 and should be submitted by January 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–32081 Filed 12–28–01; 8:45 am]

BILLING CODE 8010-01-P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses:

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503

(SSA)

Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. *Authorization To Obtain Earnings Data For The Social Security Administration–0960–0602.* The information requested on Form SSA–581 is necessary only for identification of the earnings record, verification of the signature authorizing access to the earnings record and for disposition of the response. The respondents are individuals and various private/public organizations/agencies that need detailed earnings information.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 2,000 hours.

2. *Statement Regarding Contributions–0960–0020.* Form SSA–783 is used to make a determination and obtain information about the source of support for a child applicant who must meet a dependency requirement for entitlement to benefits. The respondents are persons giving information about child's sources of support for entitlement to child's benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 17 minutes.

Estimated Annual Burden: 8,500 hours.

3. *Credit Card Payment Acknowledgement Form—0960–NEW.* SSA will use the information collected on Form SSA–324 to process payments from separating and former employees who have outstanding debts owed to the agency. This form has been developed as a convenient method for respondents to satisfy such debts. The respondents are former employees who have debts still owed to the agency.

Number of Respondents: 6,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 500 hours.

4. *Online Authentication Information Collection Form—TEST—0960–NEW.*

Background

The Government Paperwork Elimination Act (GPEA) of 1998 directed federal agencies to develop electronic service delivery instruments

---

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78(s)(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

VOL 66 ISS 250 DE 31 2001 UMI

as an alternative to traditional paper based methods. The Social Security Administration plans to expand Internet services for all its applications to enable citizens to complete the application process as well as to process their requests for post-entitlement transactions online. A major requirement for filing applications and for processing transactional requests is SSA's ability to adequately authenticate the citizen. SSA cannot disclose information unless it is under the provisions of the FOIA and the Privacy Act of 1974. Because these transactions will be taking place online, SSA must authenticate citizens by asking for information that would positively identify the requester of the information as the proper party. This information will be validated against identifying information residing in databases outside of SSA. As a result SSA will conduct a test of the Treasury Department's Pay.Gov authentication engine as a possible tool for out-of-band authentication.

The Collection

The Social Security Administration will use the data collected on the Online Authentication Information Collection Form—TEST, to evaluate the Treasury Department's "Pay.Gov" authentication engine as a possible tool for SSA to validate out-of-band online applicants. The respondents for this test are members of the general public who elect to complete the form for testing.

Number of Respondents: 161.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 13 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance package by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. *Railroad Employment Questionnaire—0960–0078.* The Social Security Administration (SSA) uses Form SSA–671 to secure sufficient information to effect the required coordination with the Railroad Retirement Board for Social Security claims processing. It is completed whenever claimants give indications of having been employed in the railroad industry. The respondents are applicants for Social Security benefits, who have had railroad employment, or dependents of railroad workers.

Number of Respondents: 125,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 10,417 hours.

2. *Employer Report of Special Wage Payments—0960–0565.* SSA gathers the information on Form SSA–131 to prevent earnings related overpayments to employees and to avoid erroneous withholding. The respondents are employers who provide special wage payment verification.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Annual Burden: 10,000.

3. Request for Address Information from Motor Vehicles Records, SSA-L711; Request for Address Information from Employment Commissions Records, SSA-L712—0960–0341. SSA sends the SSA–L711 to State Motor Vehicle Adminstrations to obtain the last known address from driver's license and vehicle registration records. SSA sends the SSA–L712 to State Employment Commissions to obtain last known address from State unemployment/employment wage records. SSA uses the information to locate debtors to arrange for payment of a debt. The respondents are State Motor Vehicle Administrations and State Employment Commissions.

	SSA–L711	SSA–L712
Number of Respondents	1,300	1,100
Frequency of Response	1	1
Average Burden Per Response	2 minutes	2 minutes
Estimated Annual Burden	43 hours	37 hours

Dated: December 20, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 01–32027 Filed 12–28–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11220]

Random Drug Testing Rate for Covered Crewmembers

AGENCY: Coast Guard, DOT.

ACTION: Notice of minimum random drug testing rate.

SUMMARY: The Coast Guard has set the calendar year 2002 minimum random drug testing rate at 50 percent of covered crewmembers. An evaluation of the 2000 Management Information System (MIS) data collection forms submitted by marine employers determined that random drug testing on covered crewmembers for the calendar year 2000 resulted in positive test results 1.81 percent of the time. Based on this percentage, we will maintain the minimum random drug testing rate at 50 percent of covered crewmembers for the calendar year 2002.

DATES: The minimum random drug testing rate is effective January 1, 2002 through December 31, 2002. You must submit your 2001 MIS reports no later than March 15, 2002.

ADDRESSES: You must mail your annual MIS report to Commandant (G–MOA), U.S. Coast Guard Headquarters, 2100 Second Street SW, Room 2403, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Lieutenant Commander Scott Budka, Project Manager, Office of Investigations and Analysis (G–MOA), U.S. Coast Guard Headquarters, telephone 202–267–2026.

SUPPLEMENTARY INFORMATION: Under 46 CFR 16.230, the Coast Guard requires marine employers to establish random drug testing programs for covered crewmembers on inspected and uninspected vessels. All marine employers are required to collect and maintain a record of drug testing program data for each calendar year, January 1 through December 31. You must submit this data by 15 March of the following year to the Coast Guard in an annual MIS report (Form CG–5573 found in Appendix B of 46 CFR 16). You may either submit your own MIS report or have a consortium or other employer representative submit the data in a consolidated MIS report. The chemical drug testing data is essential to analyze our current approach for deterring and detecting illegal drug abuse in the maritime industry.

Since 2000 MIS data indicates that the positive random testing rate is greater than one percent industry-wide (1.81 percent), the Coast Guard announces that the minimum random drug testing rate is set at 50 percent of covered employees for the period of January 1, 2002 through December 31, 2002 in accordance with 46 CFR 16.230(e).

Each year we will publish a notice reporting the results of the previous calendar year's MIS data, and the minimum annual percentage rate for random drug testing for the next calendar year.

Dated: December 17, 2001.

Paul J. Pluta,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–32044 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11226]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Subcommittees of the Chemical Transportation Advisory Committee (CTAC) on Prevention Through People (PTP) and Vessel Cargo Tank Overpressurization will meet to continue their work on their Subcommittee Task Statements. The PTP Subcommittee will meet to review its draft of the Marine Operations Risk Assessment Guide and to continue its work with the Ovepressurization Subcommittee in conducting a risk assessment for purging operations. The Vessel Cargo Tank Overpressurization Subcommittee will meet to continue developing recommendations for CTAC in an effort to prevent cargo tank overpressurization during inerting, padding, purging, line clearing, and railcar transfer operations. These meetings will be open to the public.

DATES: The PTP Subcommittee will meet on Thursday, January 17, 2002, from 9 a.m. to 4 p.m. The Vessel Cargo Tank Overpressurization Subcommittee will meet on Friday, January 18, 2002, from 9 a.m. to 3:30 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before January 14, 2002. Requests to have a copy of your material distributed to each member of the Subcommittee should reach the Coast Guard on or before January 14, 2002.

ADDRESSES: The Subcommittees will meet at Stolt-Nielsen Transportation Group Ltd., 15635 Jacintoport Blvd., Houston, Texas. Send written material and requests to make oral presentations to Lieutenant Greg Herold or Lieutenant Michael McKean, Coast Guard Technical Representatives for the Subcommittees, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Lieutenant Greg Herold, the Coast Guard Technical Representative for the PTP Subcommittee, telephone 202–267–0084, fax 202–267–4570, or Lieutenant Michael McKean, the Coast Guard Technical Representative for the Vessel Cargo Tank Overpressurization Subcommittee, telephone 202–267–0087, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The agenda of the CTAC Subcommittee on PTP includes the following:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Review and discuss the Marine Operations Risk Assessment Guide.

(4) Discuss case studies and ways to enhance the Assessment Guide.

(5) Discuss the marketing and distribution of the Assessment Guide.

The agenda of the CTAC Subcommittee on Vessel Cargo Tank Overpressurization includes the following:

(1) Introduction of Subcommittee members and attendees.

(2) Brief review of Subcommittee tasking and desired outcome.

(3) Finish risk analysis of purging operation using the PTP Marine Operations Risk Assessment Guide.

(4) Continue work to complete long-term task.

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business is finished. All attendees at the meetings are encouraged to fully review the Subcommittee's past work prior to the meetings. Copies of the Subcommittee's past work can be obtained from Lieutenant Greg Herold or Lieutenant Michael McKean, telephone 202–267–0084 or 0087, respectively, fax 202–267–4570. Information is also available from the CTAC Internet Website at: *www.uscg.mil/hq/g-m/advisory/ctac.* At the discretion of the Subcommittee Chairs, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at one of the meetings, please notify the Coast Guard Technical Representative to that Subcommittee and submit written material on or before January 14, 2002. If you would like a copy of your material distributed to each member of a Subcommittee in advance of a meeting, please submit 25 copies to the Coast Guard Technical Representative to that Subcommittee no later than January 14, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact the Coast Guard Technical Representative for the Subcommittee as soon as possible.

Dated: December 21, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–32028 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11228]

Commercial Fishing Industry Vessel Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Commercial Fishing Industry Vessel Advisory Committee (CFIVAC) will meet to discuss various issues relating to commercial vessel safety in the fishing industry. The meetings are open to the public.

DATES: CFIVAC will meet on Wednesday, February 6, 2002, from 9 a.m. to 5 p.m. and February 7, 2002, from 9 a.m. to 5 p.m. The meeting may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before January 16, 2002. Written material for distribution at the meeting should reach the Coast Guard on or before January 23, 2002. Requests to

VOL 66 ISS 250 DE 31 2001 UMI

have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before January 9, 2002.

ADDRESSES: CFIVAC will meet in the Nassif Building, Department of Transportation Building, Room 3328, 400 7th Street, SW., Washington, DC, 20593. Send written material and requests to make oral presentations to Captain Jon Sarubbi, Commandant (G–MOC), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Captain Jon Sarubbi, Executive Director of CFIVAC, or David Beach, Assistant to the Executive Director, telephone (202) 267–0505, fax (202) 267–0506.

SUPPLEMENTARY INFORMATION: Notice of the meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda includes the following:

(1) Introduction, recognition of newly appointed committee members, and approval of last meeting's minutes.

(2) Status report from the Coast Guard on legislative change proposal process and regulatory projects with respect to mandatory exams, training requirements, stability requirements, and immersion suit requirements.

(3) Status report from the Coast Guard on casualty data, statistics, and the Coast Guard's new database for Marine Safety.

(4) Presentation by the Society of Naval Architects and Marine Engineers (SNAME) on their ad hoc committee to improve fishing vessel operator understanding of vessel stability and watertight integrity.

(5) Discussions of industry roles and concerns under the new national security posture.

(6) Discussions and working group sessions by the committee on mandatory exams, security requirements, stability requirements, and regionalization issues.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Executive Director no later than January 16, 2002. Written material for distribution at the meeting should reach the Coast Guard no later than January 23, 2002. If you would like a copy of your material distributed to each member of the committee in advance of the meeting, please submit 25 copies to the Executive Director no later than January 9, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the Executive Director as soon as possible.

Dated: December 21, 2001.

Paul J. Pluta,

Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 01–32029 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11219]

Reform of Pilotage on the Great Lakes

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard's Office of Great Lakes Pilotage is holding a public meeting to discuss ways of improving the safety, reliability, and efficiency of pilotage on the Great Lakes. We will also discuss issues brought to our attention during the meeting of January 30, 2001, and comments submitted to the docket for that meeting. We encourage interested parties to attend the meeting announced by this notice and submit comments for discussion during it. We also seek comments to the docket, especially from any party unable to attend the meeting.

DATES: We will hold the public meeting on January 31, 2002, from 12 p.m. to 5 p.m. We may end the meeting early, if we have covered all the topics on the agenda and if the people attending have no further comments.

Comments to the Docket: The Docket Management Facility must receive your comments on or before January 22, 2002.

ADDRESSES: We will hold the public meeting in room B1, the Federal Building, 1240 East 9th Street, Cleveland, Ohio 44199.

Comments to the Docket: Look in the first column of the table to select *one* of the four means of submitting your comments. Then, use the address or number in the second column to submit them:

If you are using this means	Please use this address or fax number
(1) Internet	*http://dms.dot.gov*
(2) In Person	Room PL–401, on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC: Hours: 9 a.m. to 5 p.m., Monday through Friday. Closed on Federal holidays. *Telephone number:* 202–366–9329.
(3) By mail	Docket Management Facility, (USCG–1999–6635), U.S. Department of Transportation room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.
(4) Fax	Docket Management Facility: 202–493–2251.

In choosing among these means, please give due regard to the recent difficulties with delivery of mail by the U.S. Postal Service to Federal facilities.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or the public meeting, write or call Mr. Tom Lawler, Chief Economist, Office of Great Lakes Pilotage (G–MW), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20590, telephone 202–267–1241. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

How Do I Participate in This Action?

The Coast Guard encourages you to participate by submitting comments and related material, and by attending the public meeting. If you submit comments, please include—

- Your name and address;
- The docket number for this notice [USCG–2001–11219];

- The specific section of this notice to which each comment applies; and
- The reason for each comment.

You may electronically submit, deliver, mail, or fax your comments and attachments to the Docket Management Facility, using an address or fax number listed under **ADDRESSES.** Please do not submit the same comment or attachment by more than one means. If you mail or deliver your comments, they must be on 8½-by-11 inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments, and you would like to know whether the Facility received them, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

How Can I Get More Information, Including Copies of This Notice or Related Documents?

The Docket Management Facility maintains the public docket for this notice. The number of the docket is USCG–2001–11219. Comments, and other documents related to this notice will become part of this docket and will be available for inspection or copying as follows:

- *In person:* You may see the docket in room PL–401, on the Plaza Level of the Nassif Building at the same address, between 9 a.m. and 5 p.m., Monday through Friday. The facility is closed on Federal holidays.
- *Electronically:* You may read the docket on the Internet at *http://dms.dot.gov.*

Where Can I Get Information on Service for Individuals With Disabilities?

To obtain information on facilities or services for individuals with disabilities or to ask that we provide special assistance at the public meeting, please notify Mr. Tom Lawler as soon as possible. You will find his address and phone number under **FOR FURTHER INFORMATION CONTACT.**

Why Is the Coast Guard Holding This Public Meeting?

Annually the Coast Guard holds a meeting to respond to requests for a comprehensive review of pilotage on the Great Lakes aimed at improving safety, reliability, and efficiency. Requests for these annual meetings come from all parts of the marine industry operating on the Lakes.

What Issues Should I Discuss at the Meeting or Address in Comments to the Docket?

The public meeting on January 31, 2002, will provide a forum for members of the public to discuss ways to improve the safety, reliability and efficiency of pilotage on the Great Lakes. You may discuss or comment on means to these ends. Interested parties should submit issues for discussion at the public meeting to the docket by January 22, 2002.

What Is the Agenda for the Public Meeting?

Agenda

The agenda for the meeting on January 31, 2002, is as follows:

- 12 p.m.–12:15 p.m. Introduction and Overview.
- Review of Items from the 30 January 2001 Public Meeting, including: Standards for hours on bridges, Status of Great Lakes Pilotage Advisory Committee, Status of plan for training on Automatic Identification System, Report of water levels in ports on Great Lakes, Review of Applicant pilots' application, Reporting of status of problems on vessels,Source Forms, Policy on Recuperative Rest, Review of designated waters, and
- Discussion of issues submitted to the docket.

Dated: December 18, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–32043 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–11225]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meetings.

SUMMARY: The Towing Safety Advisory Committee's (TSAC) Working Group for Crew Alertness, and its Working Group for the Review of a Report from the Gulf Coast Mariner's Association (GCMA), will meet to discuss alertness risk factors on towing vessels and a variety of concerns expressed by the association in the GCMA report. The meetings are open to the public.

DATES: The Working Groups will meet on Wednesday, January 16, 2002, from 1 p.m. to 5 p.m., and on Thursday, January 17, 2002, from 8 a.m. to 12 noon. These meetings may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before January 15, 2002.

ADDRESSES: The Working Groups will meet in room 6103 of U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. Send written materials and requests to make oral presentations to Mr. Gerald P. Miante, Commandant (G–MSO–1), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001. This notice and the Gulf Coast Mariners Association Report #R–276 are available in docket USCG–2001–11225, which is on the Internet at *http://dms.dot.gov.*

Security notice: All non-military/government participants MUST first go to the security office at Headquarters' Second Street entrance with a photo ID (driver's license) and sign in. You will then receive a pass for the day and be provided an escort. This exercise must be repeated on the second day of the meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald P. Miante, Assistant Executive Director, TSAC, telephone 202–267–0229, fax 202–267–4570, or e-mail at: *gmiante@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meetings

The agenda for the Crew Alertness Working Group includes evaluating the criticality of those risk factors identified in distinct towing vessel operating environments, drafting recommendations for measures consistent with the non-regulatory philosophy of the Prevention through People (PTP) program and the Crew Alertness campaign, and making recommendations on the best way to communicate these recommendations to the appropriate audiences. The agenda for the Review Working Group is limited to a review of the issues contained in GCMA report #R–276 and the drafting of recommendations. See the **ADDRESSES** paragraph above for information on viewing the report, #R–276. Products from both working groups will be presented to the full Committee for approval and transmittal to the Coast Guard at a later date.

Procedural

These meetings are open to the public. Please note that the meetings may close early if all business is finished. Members of the public may make presentations, oral or written, at either meeting. If you would like to make an oral presentation at either meeting, please notify the Assistant Executive Director on or before January 15, 2002.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Director as soon as possible.

Dated: December 21, 2001.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 01–32030 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2001–111229]

Firearms, Less-Than-Lethal Weapons, and Emergency Services on Commercial Air Flights

ACTION: Request for comments.

SUMMARY: The FAA is requesting comments on issues related to pilots carrying firearms into the cockpit and flight deck crewmembers carrying less-than-lethal weapons on aircraft providing air transportation or intrastate air transportation. We are also requesting comments on issues related to provision of emergency services on commercial air flights during emergencies by law enforcement officers, firefighters, and emergency medical technicians. This action is part of an effort to develop recommendations for possible future action by the Department of Transportation.

DATES: Send you comments to reach us on or before February 14, 2002.

ADDRESSES: Mail your comments to—Public Docket Office, Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590–0001.

Or send your comments through the Internet to—*http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kent Stephens, Manager, Air Carrier Operations Branch, AFS–220, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9518.

SUPPLEMENTARY INFORMATION:

Your Comments Are Welcome

We invite your comments on the issues described in this notice. The most useful comments are those that are specific and related to issues raised by the notice. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the issues and determining what future actions we should undertake.

To ensure consideration, you must identify the Rules Docket number in your comments, and you must submit comments to one of the addresses specified under the ADDRESSES section of this preamble. We will consider all communications received on or before the closing date for comments. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. We will file in the Rules Docket a report that summarizes each public contact related to the substance of this notice.

You may review the public docket containing comments on this notice in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the address specified in the ADDRESSES section. Also, you may review the docket on the Internet at *http://dms.dot.gov.*

If you want us to acknowledge receipt of your comments submitted in response to this notice, you must include with your comments a self-addressed, stamped postcard on which you identify the Rules Docket number of this notice. We will date stamp the postcard and return it to you.

Availability of Documents

You can get an electronic copy of this notice using the Internet through FAA's web page at *http://www.faa.gov/avr/arm/nprm/nprm.htm* or through the Federal Register's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.htm*

You can get a paper copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number of this rulemaking.

Background

As a result of the events of September 11, 2001, Congress passed and the President signed the Aviation and Transportation Security Act (ATSA), a comprehensive measure designed to protect the security of the Nation's air transportation system. See Pub. L. 107–71, 115 Stat. 597, November 19, 2001. The Department of Transportation is this notice is seeking public comment to assist it in developing recommendations for possible future actions to implement the following three sections of ASTA.

Sec. 126 of ATSA amends section 44903 of Title 49 of the United States Code to provide in part that the Secretary of Transportation, after receiving recommendations from the National Institute of Justice, may authorize members of flight deck crews on aircraft providing air transportation or intrastate air transportation to carry a less-than-lethal weapon. If the Secretary grants authority to carry a less-than-lethal weapon, the Secretary must—

- Prescribe rules requiring that any such crew member be trained in the proper use of the weapon, and
- Prescribe guidelines setting forth the circumstances under which such weapons may be used.

Sec. 128 of ATSA provides that the pilot of a passenger aircraft operated by an air carrier in air transportation or intrastate air transportation is authorized to carry a firearm into the cockpit if—

- The Under Secretary for Transportation Security approves;
- The air carrier approves;
- The firearm is approved by the Under Secretary; and
- The pilot has received proper training for the use of the firearm, as determined by the Under Secretary.

Sect. 131 of ATSA, in part, provides that the Under Secretary for Transportation Security must carry out a program to permit law enforcement officers, firefighters, and emergency medical technicians to provide emergency services on commercial air flights during emergencies. To carry out the program, the Under Secretary for Transportation Security must establish requirements for qualifications and training of providers of emergency services. If one of these individuals meets such qualifications and training requirements, ASTA provides that he or she may not be held liable for damages.

As noted above, he FAA plans to develop a set of recommendations to the Department of Transportation for carrying out these portions of ATSA. As a preliminary step, we are asking for public comment on a number of issues that we have identified as potentially being addressed in the recommendations. We plan to consider any comments we receive in response to this request for comments in developing specific recommendations. If the Department of Transportation conducts rulemaking on these issues, there will be another round of public comment. We invite the public to send us information and comments relating to the following issues:

1. Whether pilots and other flight crew members should carry firearms of less-than-lethal weapons, and if so, whether it should be on a voluntary basis;
2. Whether and how the weapons should be stored on the aircraft or carried on board;
3. The types and numbers of less-than-lethal weapons that should be carried on aircraft for use by qualified flight deck crew members;
4. The types of restraining devices or other kinds of equipment that should be on aircraft;
5. The types and numbers of firearms that should be carried on aircraft for use by qualified pilots and the types of ammunition;
6. The amount and type of weapons training that we should require, including whether there should be initial and recurrent training.
7. How the less-than-lethal weapons and firearms should be carried, stored, maintained (if necessary), and accessed on the aircraft.
8. What types of aircraft modifications we should require when aircraft are equipped with less-than-lethal weapons or firearms, such as modifications to ventilation or avionics systems;
9. Whether the qualifications for using less-than-lethal weapons or firearms should be integrated into the existing systems for establishing and maintaining airman qualifications, such as pilot certificates and ratings;
10. The circumstances under which less-than-lethal weapons may be used;
11. How to identify individuals who are willing to provide emergency services on commercial flights;
12. Whether to maintain a registry of some or all of these individuals;
13. The minimum qualifications of those who would provide emergency services on commercial air flights; and
14. The type of training providers of emergency services on commercial air flights should have.

We invite the public to raise any additional issues or concerns related to these issues, including any other factors that we should consider addressing in our recommendations.

Issued in Washington, DC, on December 21, 2001.

James J. Ballough,

Director, Flight Standards Service.

[FR Doc. 01–32040 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Air Carrier and General Aviation Maintenance Issues

AGENCY: Federal Aviation Administration (FAA) (DOT).

ACTION: Notice of public meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Aviation Rulemaking Advisory Committee to discuss Air Carrier and General Aviation Maintenance Issues. Specifically the committee will discuss two tasks concerning quality assurance and ratings for aeronautical repair stations.

DATES: The meeting will be held on January 9, 2002, from 9 a.m. to 5 p.m. Arrange for teleconference capability and presentations by January 3, 2002.

ADDRESSES: The meeting will be held at the General Aviation Manufacturers Association, 1400 K Street, NW., Suite 801, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Vanessa R. Wilkins, Federal Aviation Administration, Office of Rulemaking (ARM–207), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8029; fax (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to discuss air carrier and general aviation maintenance issues to be held on January 9, 2002, from 9 a.m. to 5 p.m. at the General Aviation Manufacturers Association, 1400 K Street, NW., Suite 801, Washington, DC 20005.

Meeting Agenda

- Opening remarks and committee administration
- Discussion of quality system elements relating to a quality assurance program
- Break
- Discussion of current regulatory requirements relating to quality system elements
- Lunch
- Discussion of quality assurance/system elements missing from current regulatory requirements
- Break
- Discussion of repair station ratings
- Adjourn

Attendance is open to the interested public, but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive notification by January 3, 2002. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by January 3, 2002, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested by January 3, 2002. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on December 20, 2001.

David E. Cann,

Assistant Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–32039 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than March 1, 2002.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Dian Deal, Office of

VOL 66 ISS 250 DE 31 2001 UMI

Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130–0544. Alternatively, comments may be transmitted via facsimile to (202) 493–6265 or (202) 493–6170, or E-mail to Mr. Brogan at *robert.brogan@fra.dot.gov*, or to Ms. Deal at *dian.deal@fra.dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of three currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Passenger Equipment Safety Standards.

OMB Control Number: 2130–0544.

Abstract: The information gained from daily inspections is used to detect and correct equipment problems so as to prevent collisions, derailments, and other occurrences involving railroad passenger equipment that cause injury or death to railroad employees, railroad passengers, or the general public; and to mitigate the consequences of any such occurrences, to the extent they can not be prevented. The information provided promotes passenger train safety by ensuring requirements are met for railroad passenger equipment design and performance; fire safety; emergency systems; the inspection, testing, and maintenance of passenger equipment; and other provisions for the safe operation of railroad passenger equipment.

Affected Public: Railroads.

Respondent Universe: 685 railroads.

Frequency of Submission: On occasion; annually, recordkeeping.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
216.14—Special Notice for Repairs.	14 Railroads	9 Forms	5 minutes	1	$34
238.1—Scope	14Railroads	11 Notifications	45 minutes	8	272
238.7—Waivers	14 Railroads	9 Waivers	2 hours/25 hours	54	2,176
238.11—Penalties	14 Railroads	1 False Report	15 minutes	25	8
238.15—Pass Equip.—Detective en route.	14 Railroads	1,000 Tags/cards	3 minutes	50	2,250
—Auto Tracking Sys	14 Railroads	288 Tags/cards	3 minutes	14	630
—Conditional Reqmnt	14 Railroads	144 Notifications	3 minutes	7	315
238.17—Usual Limitations Pass Equip—Defects.	14 Railroads	200 Tags/cards	3 minutes	10	300
—Safety App Defects	14 Railroads	76 Tags/cards	3 minutes	4	120
Notifications	14 Railroads	38 Notifications	30 seconds	.32	10
238.19—List of Brake Repair Points.	14 Railroads	1 List	2 hours	2	68
—Subsequent Yrs	14 Railroads	1 Update	1 hour	1	34
238.21—Spec. Approval Proced.	14 Railroads	1 Petition	16 hours	16	544
—Alt. Compliance	14 Railroads	1 Petition	120 hours	120	4,080
—Service Test Plan	14 Railroads	2 Plans	40 hours	80	2,720
—Comments	14 Railroads	8 Comments	1 hour	8	440
238.103—Fire Saf	14 Railroads	4 Equip Designs	540 hours	2,160	110,400
—Subsequent Orders	14 Railroads	4 Equip Designs	60 hours	240	24,000
238.107—Insp. Test & Main Plan.	14 Railroads	14 Reviews	60 hours	840	28,560

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
238.109—Employee Training ..	14 Railroads	3,900 Employees	2 hours	7,800	232,500
—Recordkeeping	14 Railroads	2,500 Records	3 minutes	125	4,250
238.111—Pre-Rev. Service Test Plan.	10 Equip Man.	4 Plans	16 hours	64	4,288
—Pre-Rev. Service Test Plan.	10 Equip Man	4 Plans	200 hours	800	69,440
Subsequent Orders	10 Equip Plan	4 Plans	60 hours	240	18,720
238.203—Static End Strength	14 Railroads	1 Petition	100 hours	100	5,500
—Comments	14 Railroads	6 Comments	20 hours	120	6,600
238.237—Auto Monitoring	14 Railroads	14 Documents	2 hours	28	952
—Tags	14 Railroads	100 Tags	3 minutes	5	225
238.303—MU Locos Insp. Brakes.	14 Railroads	50 Tags/cards	3 minutes	3	135
—Conv. Locomotive	14 Railroads	50 Tags/cards	3 minutes	3	135
—Written Notices	14 Railroads	25 Written Notices	3 minutes	1	34
—Records	14 Railroads	2,017,756 Records	1 minute	33,629	1,143,386
238.305—Int. Calendar Day Insp.	14 Railroads	480 Tags	1 minute	8	288
—Records	14 Railroads	1,866,904 Records	1 minute	31,115	1,057,910
238.307—Periodic Mech Insp.—p/cars.	14 Railroads	5 Notifications	3 hours	25	850
—Records	14 Railroads	56,462 Records	2 minutes	941	63,988
—Detailed Docs	14 Railroads	5 Documents	100 hours	500	17,000
238.311—Single Car Test	14 Railroads	25 Tags	3 minutes	1	36
238.315—Class IA—Brake Pressure.	14 Railroads	365,000 Communications	3 seconds	304	0
—Comm Signal Sys	14 Railroads	365,000 Tests	15 seconds	1,521	0
238.317—Class II Brake Test	14 Railroads	365,000 Communications	3 seconds	304	0
—Signal Sys	14 Railroads	365,000 Tests	15 seconds	1,521	50
238.431—Brake System	14 Railroads	1 Analysis	40 hours	40	1,360
238.437—Emerg Communication.	3 Car Manuf	3 instr. Sets/2250 decals	25 hours/10 min	117	3,810
238.441—Emerg. Roof Entrance Loc.	3 Car Manuf	3 instr. Sets/250 placards	25 hours/1 hour	325	10,050
238.445—Auto. Monitoring	1 Railroad	10,000 Alerts	10 seconds	28	0
—Self-Test Feature	1 Railroad	21,900 Notification	20 seconds	122	0

Total Responses: 5,442,514.

Estimated Total Annual Burden: 83,417 hours.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Kathy A. Weiner,

Director, Office of Information Technology and Support Systems,Federal Railroad Administration.

[FR Doc. 01–32018 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. 2001–11212, Notice No. 1]

RIN 2130–AA81

Alcohol/Drug Regulations: Temporary Post-Accident Blood Testing Procedures

AGENCY: Federal Railroad Administration (FRA)

ACTION: Notice.

SUMMARY: Some of the existing FRA post-accident toxicology testing (PATT) kits contain blood tubes with expiration dates ranging from December 2001 to May 2002. These expiration dates refer only to the vacuum used in the tubes to draw blood. The replacement blood tubes that are currently available will also expire in a few months. For this reason, FRA will delay replacement of the expiring tubes until completely new lots of 18–24 month blood tubes become available in early 2002.

This notice explains the procedures to be followed until the replacement of these expiring blood tubes is complete. These temporary procedures will not compromise either the quality or integrity of any test results.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager (RRS–11), Office of Safety, FRA, 400 7th Street, SW, Washington, DC 20590 (Telephone: (202) 493–6313) or Patricia V. Sun,Trial Attorney (RCC–11), Office of Chief Counsel, FRA, 400 7th Street, SW, Washington, DC 20590 (Telephone: (202) 493–6060).

Background

Since 1986, FRA has included Vacutainer brand 10 milliliter (mL) evacuated blood collection tubes, manufactured by Becton Dickinson (Becton), in its post-accident toxicology testing (post-accident) kits. Each of the three individual post-accident kits in a post-accident toxicology testing box contains two Vacutainer brand "grey-top" glass tubes. These tubes, which have no interior coating, contain silicone, a rubber stopper lubricant; sodium fluoride, an antibacterial agent and mild anticoagulant; and potassium oxalate, an anticoagulant. As explained below, grey-top tubes are the only commercial blood collection tubes generally available that contain sodium fluoride in the preferred concentration and are FRA's tubes of choice for FRA post-accident testing.

On each tube, Becton has printed an expiration date, the date until which it warrants that the tube has sufficient vacuum to draw blood. Becton normally releases its blood tubes in lots which expire within 18–24 months of manufacture.

Many of the post-accident kits that have been distributed to railroads contain blood tubes that will expire in the next few months from November 2001 to May 2002. The replacement blood tube lots that are now available have only a few months remaining before their warranted vacuum capability expires. FRA has therefore decided to delay tube replacement until newly prepared 18–24 month blood tubes become available in early 2002.

Interim Procedures

Until the current inventory of blood tubes in the field is replaced in early 2002, FRA authorizes railroads to instruct local medical personnel to replace the expired tubes with their own stock of unexpired 10 mL, preferably grey-top, tubes. Substituted tubes must be 10 mL, not the 5 mL type, to ensure sufficient blood for analysis. This action is requested, but not required, and need only be considered when expired tubes are discovered *during an actual post-accident collection*. Medical facilities maintain supplies of grey-top and other color top vacuum tubes for clinical purposes. Tube replacement is always preferred to using expired tubes, but, if tube replacement is not possible, railroads are authorized to complete the post-accident collection using the expired blood tubes.

This procedure will *not* lead to an employee being subject to venipuncture more than once during a post-accident collection procedure. To draw blood specimens, a phlebotomist uses a single needle system that permits filling of more than one tube from the same needle unit. Use of an older grey-top tube may result in collecting a smaller specimen amount in that particular tube, but only if the vacuum in the tube, which is the differential between the tube's internal pressure and the atmospheric pressure, has been significantly reduced. If this should happen, the blood collector will simply replace that blood tube with a new tube; no new puncture is necessary.

Scientific and Technical Issues

Although FRA's interim procedures require railroads to replace expired blood tubes with unexpired tubes if possible, the use of an expired blood tube will not adversely affect employee rights or impact the validity of post-accident test results. FRA's post-accident testing program incorporates testing and analysis protocols designed to protect employees from unwarranted accusations of alcohol or drug use.

Discussed below are the two primary scientific and technical issues concerning the use of expired tubes: (1) The integrity of the vacuum present in the tube to draw blood properly, and (2) the potency of the chemical additives.

Evacuated blood tubes that have recently expired (i.e., within the past several months) are not expected to show a dramatic decrease in tube vacuum. Until its expiration date, each grey-top blood tube is warranted by Becton to have 90% or more of its vacuum remaining at an estimated deterioration rate of no greater than 5% per year. This loss of vacuum would affect only the efficiency of the medical professional's ability to draw a blood specimen. If a particular tube draws inefficiently due to lack of vacuum, a medical professional would ordinarily discard it and use another grey-top (or other color top) tube.

Since they are inorganic compounds, the preservatives found in the tubes, sodium fluoride and potassium oxalate, oxidize very slowly and even in a vacuum-decreasing environment, are unlikely to deteriorate significantly for many years. More importantly, there is *no possibility* that a "false positive" for any drug or its metabolites could occur because of an expired blood tube either from vaccum problems or from deteriorated preservatives.

The presence or absence of the chemical additives contained in grey-top tubes does not affect the detection of any of the drugs tested for in FRA's post-accident testing panel, with the exception of parent cocaine. Sodium fluoride in the grey-top tube contributes to the detectability of parent cocaine in blood, by helping to stabilize the spontaneous conversion of the parent drug in vitro to cocaine metabolites. The concentration (or absence) of parent cocaine is helpful principally in detecting recency of use.

Grey-top tubes are also helpful in conducting the alcohol analysis. Sodium fluoride is widely established as an effective antimicrobial agent in retarding endogenous alcohol production. The production of ethyl alcohol in the body is a well known phenomenon, especially in post-mortem samples. In the presence of certain contaminating microorganisms and extreme conditions, alcohol identical to that found in alcoholic beverages may be created by the body after death, causing alcohol to appear in certain body fluids and/or tissues without having been ingested. Obviously, endogenous production of alcohol is of concern in the post-accident alcohol testing of both surviving and deceased crew members.

In FRA's post-accident testing, there have been several cases where, given severe trauma and the correct environmental factors, alcohol was produced post-mortem in detectable amounts, even in the presence of fully potent sodium fluoride. Using grey-topped tubes helps in this determination, but FRA has taken and will continue to take whatever scientific and technical steps are necessary to protect post-accident specimen donors from an incorrect interpretation of a positive test result. Among the procedures used by FRA to rule out an alcohol positive on a deceased employee as coming from endogenous production are: examining other tissues or fluids (i.e. urine, brain, vitreous) which may have been protected from trauma or decomposition; determining that the distribution of alcohol in the various body fluids and tissues is inconsistent with that expected in a living person; detecting the presence of other volatiles or physiological byproducts which can sometimes also be present during post-mortem decomposition; repeating analyses of a specimen kept at room temperature to determine if the alcohol concentration is increasing; and determining the identity of any microorganisms present to assess whether they have alcohol-producing capability.

Authority: 49 U.S.C. 20103, 20107, 20111, 20112, 20113, 20140, 21301, 21304, and 49 CFR 1.49(m).

Issued in Washington, DC on December 21, 2001.

George A. Gavalla,

Associate Administrator for Safety.

[FR Doc. 01–32048 Filed 12–28–01; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Docket Number MARAD–2001–11241Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Sovereign of Malahide.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. The vessel currently has permission to operate in Southeast Alaska under a small vessel waiver granted pursuant to actions in Docket MARAD–2001–10780. The current application involves a new operating area. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before January 30, 2002.

ADDRESSES: Comments should refer to docket number MARAD–2001–11241. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW, Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW, Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-build Requirement

(1) Name of vessel and owner for which waiver is requested.Name of vessel: *Sovereign of Malahide.* Owner: Timothy B. White.

(2) Size, capacity and tonnage of vessel. According to the applicant: "L.O.A. 64 ft; Displacement 80 tons ± Actual weight"

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:"Crewed Charter Vessel." "California and Washington State."

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1973. Place of construction: Dublin, Ireland.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: "It is my opinion if waiver status granted it will not significantly impact other operators. In my extensive research I have not encountered any opposition and have been encouraged by numerous charter companies to obtain proper documentation due to the significant demand for vessels such as the subject vessel. Other operators have expressed an interest and desire to utilize this vessel."

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: "The vessel will not impact U.S. shipyards. The Vessel has been undergoing extensive refit, repair and updating over the past 24 months. Much of the work was performed by Sovereign Marine Services Inc., located in La Conner WA. Many other U.S. Subcontractors and suppliers were also used. The cost of such is in excess of $1,000,000.00. All documentation of such work and repairs is available for review should you require."

Dated: December 26, 2001.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–32097 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Child Passenger Protection Education Grants

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of grants for child passenger protection education.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a grant program under Section 2003(b) of the Transportation Equity Act for the 21st Century (TEA–21) to implement child passenger protection programs that are designed to prevent deaths and injuries to children, educate the public concerning the proper installation of child restraints, and train child passenger safety personnel concerning child restraint use. This notice solicits applications from the States, the District of Columbia, Puerto Rico, the U.S. Territories and the Indian Tribes through the Secretary of the Interior.

DATES: Applications must be received by the office designated below on or before January 31, 2002.

ADDRESSES: Applications must be submitted to the appropriate National Highway Traffic Safety Administration Regional Administrator.

FOR FURTHER INFORMATION CONTACT: For program issues contact Ms. Marlene Markison, State and Community Services, NSC–01, NHTSA, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2121. For legal issues contact Mr. John Donaldson, Office of the Chief Counsel, NCC–30, NHTSA, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION:

Background

Motor vehicle crashes remain the leading cause of unintentional injury-related deaths among children for every age from 4 to 14 years, despite an 11 percent decline in the motor vehicle occupant death rate for children under age 15 from 1988 to 2000. During the same time period, the motor vehicle occupant nonfatal injury rate among children under age 15 has increased by 7 percent. Motor vehicle injuries and fatalities occur when children ride unrestrained or are improperly restrained. This grant program is intended to help reduce injuries and deaths by educating the public about the importance of correctly installing and using child safety seats, booster seats and seat belts.

1. Children Riding Unrestrained

Approximately 20–25 percent of children ages 1 through 15 years ride unrestrained. Child safety seats reduce the risk of fatal injury in a crash by 71 percent for infants (less than 1 year old) and by 54 percent for toddlers (1–4 years old). In 2000, there were 529 passenger vehicle occupant fatalities among children under 5 years of age. Of those 529 fatalities, where restraint use is known, 240 (47.4 percent) were totally unrestrained. The problem of riding unrestrained is not limited to infants and young children. From 1975 through 2000, the lives of an estimated 4,816 children were saved by the use of child restraints (child safety seats or adult safety belts). Among children under age 15 who were killed as occupants in motor vehicle crashes, where restraint use was known, in 2000, 56 percent were not using safety restraints at the time of the collision.

Examination of the demographics of children killed in motor vehicle crashes (for which the most complete data available is 1999) shows that safety restraint use differs markedly by race. For example, while somewhat less than half (46.5 percent) of white children up to age 9 riding in passenger motor vehicles were using safety restraints at the time of their deaths, that was true of less than one-third (30.4 percent) of black children. Native American children under age 15 have a motor vehicle occupant death rate twice that of white children. (Injury and fatality data for other minority groups is currently being collected.) Restraint use is also lower in rural areas and low-income communities. Lack of access to affordable child safety seats and booster seats contributes to a lower usage rate among low-income families. However, research shows that 95 percent of low-income families who own a child safety seat use it. Improving access to affordable child restraint systems and educating parents and caregivers about proper installation and use are key components to improving use rates in these communities.

2. Misuse of Child Safety Seats and Improper Seating Positions

In 2000, 95 percent of infants (children under age 1) were restrained while riding in motor vehicles, as were 91 percent of children ages 1 to 5. However, it is estimated that approximately 80 percent of children who are placed in child safety seats are improperly restrained. Furthermore, adult safety belts do not adequately protect children ages 4 to 8 (about 40 to 80 pounds) from injury in a crash. Although car booster seats are the best way to protect them, only 6 percent of booster-age children are properly restrained in car booster seats.

In addition, there is a high risk of severe injury or fatality to children riding in the front seat of vehicles equipped with a passenger side air bag, due to the deployment force of the air bag. However, even if the air bag is shut off or there is no air bag, the back seat is the safest place for children to ride. Under no circumstances should a parent place a rear-facing infant seat in front of an air bag. It is estimated that children ages 12 and under are 36 percent less likely to die in a crash if seated in the rear seat of a passenger vehicle.

Furthermore, children are not cargo; they should not ride in the rear of pickup trucks. In 2000, 135 people died as a result of riding in the cargo area of pickup trucks. Nearly half of these were children and teenagers.

Child passenger safety professionals, educators, emergency personnel and others need to be adequately trained on all aspects of child restraint use in order to help reduce the problems of misuse and encourage the safest seating positions for children riding in motor vehicles. In addition, parents and caregivers need easily accessible locations where they can receive information on choosing the correct child safety seat for their child, and identifying which child safety seats are compatible with various types of passenger motor vehicles. Parents and caregivers also need to know how to properly install a child safety seat, how to properly secure their child into that seat, and that the safest position in a vehicle is the back seat, away from front passenger air bags and not in the cargo area of pick-up trucks.

With these concerns in mind, the Transportation Equity Act for the 21st Century (TEA–21), which the President signed into law on June 9, 1998, established a grant program under Section 2003(b), to promote child passenger protection education and training and authorized $7.5 million each year for fiscal years 2000 and 2001. In the DOT Appropriation Act of 2002, Congress provided $7.5 million to fund the Child Passenger Protection Education grant program for fiscal year 2002.

Grants for Child Passenger Protection

Section 2003(b) provides Federal funds to States for activities that are designed to prevent deaths and injuries to children; educate the public concerning the design, selection, placement, and installation of child restraints; and train and retrain child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use. A State may expend the funds itself or elect to distribute some or all of the funds to carry out the public education and training activities as grants to political subdivisions of the State or appropriate private entities. States are encouraged to direct funds obtained through this grant program to organizations that can deliver training and education to ensure positive impact in minority and low-income communities where lack of child passenger protection is especially severe. Section 2003(b) provides that the Federal share of the cost of a program carried out with the grant funds is not to exceed 80 percent. A State that receives a grant must submit a report describing the program activities carried out with the funds.

Application Procedures

1. Use of Funds

To be eligible for funding under Section 2003(b), a State must submit an application that addresses how the State will implement child passenger protection programs that meet each of the three requirements listed below. For the education and training components, the grant application must identify expected program accomplishments, such as the estimated number of public education messages to be distributed (e.g. public service announcements or printed materials) and the type of audience to be targeted by these messages (e.g. minority or low-income communities); the estimated number of and type of training classes conducted and the individuals or groups to be trained (e.g. representing minority, rural or low-income communities); the number of child safety seat clinics or check-ups performed; and the number of inspection stations established. A State is encouraged to identify the proposed locations of child safety seat clinics, check-ups and inspection stations, specifying the target population to be served. Specifically, the State must implement a child passenger protection program that:

(a) Is designed to prevent deaths and injuries to children. The State should provide a statement describing how its program supports efforts to prevent deaths and injuries to children.

(b) Educates the public on all aspects of child passenger safety. The public education program may include strategies that emphasize the four steps to child restraint use: Infant seats for babies, forward facing child safety seats for toddlers, booster seats for young children, and seat belts for older children. It may also include strategies that increase use of appropriate restraints and proper seating positions among targeted populations (e.g., minority, rural, low-income, or special needs populations), or develop and implement child safety seat clinics and/or permanent locations where consumers can have child safety seats and booster seats inspected. Additional information under public education may be included relevant to proper use of child restraint systems, booster seats, proper seating positions relative to air bag safety and cargo areas of pick-up trucks, and Federal Motor Vehicle Safety Standard 225—a standardized child safety seat system known as Lower Anchors and Tethers for Children (LATCH).

At a minimum, the public education program must:

(1) Provide a summary of the information that the State intends to include or develop in the public education program. The information must address at least the following topics:

- All aspects of proper installation of child restraints using standard seat belt hardware, supplemental hardware, and modification devices (if needed), including special installation techniques;
- Appropriate child restraint design, selection, and placement [NHTSA interprets this to include instruction about proper seating positions for children in air bag equipped vehicles]; and
- Harness threading and harness adjustment on child restraints.

(2) Include a description of the public education information methods that the State intends to employ, how these messages will be delivered to the target population, and expected accomplishments. The methods could include billboards, public service announcements, and published materials. It is also important to deliver this information in the language of the targeted group.

(c) Trains and retrains child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use. At a minimum, States should include in the application a description of or reference to the curricula that the State will use to train and retrain child passenger safety experts to reach the targeted population and expected accomplishments.

All persons selected for training and retraining as child passenger safety professionals should achieve and maintain at least some minimum standards of expertise. In collaboration with several partners, NHTSA has developed several model curricula including: "Mobilizing America to Buckle Up Children" and "Operation Kids" for law enforcement officers; and the "Standardized Child Passenger Safety Training Program" for child passenger safety professional candidates. States are not restricted to using only these curricula, but States are encouraged to incorporate the learning objectives of these courses into the training and retraining provided to child passenger safety experts. Funding for this grant program is intended to help States develop and sustain adequate cadres of persons with technical expertise in child passenger protection who will directly serve the public through child safety seat clinics, checkpoints, workshops, inspection stations and other training and educational opportunities.

2. Certification

The State must submit certifications that: (i) It will use the funds awarded under this grant program exclusively to implement a child passenger protection program in accordance with the requirements of Section 2003(b) of P.L. 105–178 (TEA–21); (ii) It will administer the funds in accordance with 49 CFR Part 18; and (iii) It will provide to the NHTSA Regional Administrator no later than 15 months after the grant award a report of activities carried out with grant funds and accomplishments to date.

3. Eligibility Requirements

Eligibility is limited to the 50 States, the District of Columbia, Puerto Rico, the U.S. Territories (which include the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) through their Governor's Office of Highway Safety, and Indian Tribes through the Secretary of the Interior.

Award Procedures

The amount available for this program in fiscal year 2002 is $7,500,000. In FY 2000, NHTSA awarded $7.5 million to 47 States, the District of Columbia, Puerto Rico, 4 U.S. Territories and the Indian Nations. In FY 2001, NHTSA awarded $7.5 million to 48 States, the District of Columbia, Puerto Rico, 4 U.S. Territories and the Indian Nations. A new application is required to seek an award of fiscal year 2002 funds. Awards to applicants meeting the requirements of this notice will be made based upon the formula used for Section 402 apportionment, subject to the availability of funds. The amount awarded to each State qualifying under this program shall be determined by multiplying the amount appropriated for this grant program for the fiscal year by the ratio that the amount of funds apportioned to each such State under 23 U.S.C. 402 for the fiscal year bears to the total amount of funds apportioned to all such States under Section 402 for such fiscal year. Applicants will be required to submit to NHTSA within 30 days of notification that an award is made, a program cost summary (HS Form 217) obligating the Section 2003(b) funds to child passenger protection education programs. The Federal funding share may not exceed 80 percent of the program cost, and States should clearly identify their share in the program cost summary (HS Form 217).

Each State must submit one original and two copies of the application package to the appropriate NHTSA Regional Administrator. Only complete application packages submitted by a Governor's Highway Safety Representative and received on or before January 31, 2002, will be considered for funding in fiscal year 2002.

Report Requirements

A State that receives a grant must submit a report describing the activities carried out with the grant funds and the accomplishments to date. The report must be submitted to the NHTSA Regional Administrator no later than 15 months after the grant is awarded.

At a minimum, the report must contain the following:

1. A description of how the State's child passenger protection program is supporting efforts to prevent deaths and injuries to children.

2. For the education component:

- A summary of the public education methods developed and how programs were delivered to the targeted population.
- The number of public education messages distributed (e.g. public service announcements or printed materials) and the type of audience targeted by those messages (e.g. minority or low-income communities);
- The number of child safety seat clinics or check-ups performed, and the number of inspection stations established. A State must also include

VOL 66 ISS 250 DE 31 2001 UMI

the locations of child safety seat clinics, check-ups and inspection stations, specifying the target population served.

3. For the training component:

- The number of and type of training classes conducted and the individuals or groups trained (e.g. representing minority, rural or low-income communities);

NHTSA Publications Available To Support Public Education

A number of NHTSA publications are available through the *Traffic Safety Materials Catalog* that address child passenger safety program topics, including targeted education messages such as "Four Steps for Kids;" "Boost 'em Before You Buckle 'em;" "Sálvele la Vida a Su Bebé," and "Kids Aren't Cargo." These materials may be ordered from the NHTSA web site at >HTTP://WWW.NHTSA.DOT.GOV< or contacting the Media and Marketing Division, NTS–21 by fax at (202) 493–2062.

* * * * *

Issued on: December 21, 2001.

Jeffrey W. Runge,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 01–32026 Filed 12–28–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 218X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Buchanan County, VA

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* tc abandon a 0.63-mile line of railroad between milepost KP–0.0 and KP–0.63 at Kopp, Buchanan County, VA. The line traverses United States Postal ZIP Code 24066.

NSR has certified that: (1) No local or overhead traffic has moved over the line for at least 2 years; (2) any overhead traffic that might have moved on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 30, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 10, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 22, 2002, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC, 20423–0001.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510. If the verified notice contains false or misleading information, the exemption is void ab initio.

NSR has filed a separate environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 10, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historical preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 31, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.DOT.GOV.*

Decided: December 19, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–32010 Filed 12–28–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by a $1000 filing fee. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 232X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Fayette County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a 2.8-mile line of railroad between milepost OH–0.0 at Oak Hill and milepost OH–2.8 at Carlisle, in Fayette County, WV. The line traverses United States Postal Service Zip Code 25901.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 31, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 10, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 22, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by January 4, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by NSR's filing of a notice of consummation by December 31, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "*WWW.STB.DOT.GOV.*"

Decided: December 18, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31646 Filed 12–28–01; 8:45 am]

BILLING CODE 4915–00–P

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,000. See 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–290 (Sub–No. 224X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Pike County, KY

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 1.01 miles of its line of railroad between milepost FC–0.0 at Flanary and milepost FC–1.01 at Apache Coal, in Pike County, KY. The line traverses United States Postal Service Zip Code 41501.

Applicant has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 30, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 10, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 21, 2002, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: James R. Paschall, Esq., Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. SEA will issue an environmental assessment (EA) by January 4, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by December 31, 2002, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

---

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

VOL 66 ISS 250 DE 31 2001 UMI

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: December 17, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–31647 Filed 12–28–01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF VETERANS AFFAIRS

Research and Development Office; Government-Owned Inventions for Licensing

AGENCY: Research and Development Office, VA.

ACTION: Notice of government-owned inventions available for licensing.

SUMMARY: The inventions listed below by the U.S. Government, as represented by the Department of Veterans Affairs, are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of Federally-funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by Writing to: Mindy Aisen, MD, Department of Veterans Affairs, Director, Technology Transfer Program, Research and Development Office, 810 Vermont Avenue, NW., Washington, DC 20420; Fax: (202) 275–7228; e-mail at *mindy.aisen@mail.va.gov.*

Any request for information should include the number and title for the relevant inventions as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20031.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

PCT/US00/11943 "Surgical (IJAT) Tools;"

PCT/US01/10443 "A Novel Specific Inhibitor of the Cyclin Kinase Inhibitor p21 Waf/Cip1 and Methods of Using the Inhibitor," and

PCT/US01/18071 "Method of Treating Gastrointestinal Diseases Associated with Species of Genus Clostridium."

Dated: December 19, 2001.

Anthony J. Principi,

Secretary, Department of Veterans Affairs.

[FR Doc. 01–32069 Filed 12–28–01; 8:45 am]

BILLING CODE 8320-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 31, 2001

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Modification of the Cincinnati/ Northern Kentucky International Airport Class B Airspace Area; KY; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2001–10912; Airspace Docket No. 00–AWA–6]

RIN 2120–AA66

Proposed Modification of the Cincinnati/Northern Kentucky International Airport Class B Airspace Area; KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the current Cincinnati/Northern Kentucky International Airport (CVG) Class B airspace area. Specifically, this action proposes to expand the lateral limits of Area C; reduce the lateral limits of Area F; eliminate Area G; and raise the upper limit of the entire Class B airspace area from 8,000 feet mean sea level (MSL) to 10,000 feet MSL. The FAA is proposing this action to enhance safety, reduce the potential for midair collisions, and to improve the management of air traffic operations in the CVG terminal area. Further, this effort supports the FAA's National Airspace Redesign project goal of optimizing terminal and enroute airspace areas to reduce aircraft delays and improve system capacity.

DATES: Comments must be received on or before March 1, 2002.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify both docket numbers, FAA–2001–10912/Airspace Docket No. 00-AWA–6, at the beginning of your comments.

You may also submit comments through the Internet to *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, ASO–500, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337.

FOR FURTHER INFORMATION CONTACT: Paul Gallant, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both airspace docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Nos. FAA–2001–10912/Airspace Docket No. 00–AWA–6." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the internet at *http://dms.dot.gov*. Internet users may reach the FAA's web page at *http://www.faa.gov* or the **Federal Register**'s web page at *http://www.access.gpo.gov/nara* for access to recently published rulemaking documents.

Any person may also obtain a copy of this NPRM by submitting a request to the FAA, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA, Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Related Rulemaking Actions

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of Terminal Control Airspace (TCA) areas (now known as Class B airspace areas).

On June 21, 1988, the FAA published the Transponder With Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 nautical miles (NM) of any designated TCA (now known as Class B airspace areas) primary airport from the surface up to 10,000 feet MSL. This rule excluded those aircraft that were not originally certificated with an engine-driven electrical system (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the Terminal Control Area Classification and Terminal Control Area Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, requires the pilot-in-command of a civil aircraft operating within a Class B airspace area to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65638). This rule discontinued the use of the term "Terminal Control Area" and replaced it with the designation "Class B airspace area." This change in terminology is reflected in the remainder of this NPRM.

Petitions

On April 28, 1999, Sportsman's Market, Inc., (herein after referred to as "the petitioner" or "Sporty's") petitioned the FAA for a modification to the current CVG Class B airspace area by raising the upper limit and modifying the lateral dimensions of certain sub-areas. Specifically, the petitioner requested that the FAA raise the upper limit of the CVG Class B airspace area from 8,000 feet MSL to 8,400 feet MSL, lower the floor of area F and change its lateral boundaries on the western side to include part of area G, and eliminate the rest of area G. The petitioner is of the opinion that the existing CVG Class B rule causes significant adverse economic effects to businesses located at Clermont County Airport because the airport is located under, but not in, an area of Class B airspace. Essentially, the petitioner contended in part that the 25 NM outer ring impedes access to Clermont County Airport. However, as the floor of the Class B airspace area is 6,000 feet MSL in the vicinity of the airport, the airport is located outside of, and beneath the Class B airspace area. This configuration provides access to the airport, and businesses located at the airport, for pilots not desiring to participate in Class B services.

On May 12, 1999, the Aircraft Owners and Pilots Association (AOPA) petitioned the FAA to reconsider the dimension of the current Class B airspace area. Specifically, AOPA requested that the outer ring of the airspace be reduced to 20 NM from 25 NM and that the reference point for the Class B airspace area be centered on the very high frequency omnidirectional radio range/tactical air navigational aid (VORTAC).

This rulemaking proposal will address the concerns and substance of both the Sportsman's Market, Inc., and the AOPA petitions which will be discussed later in the document. Although AOPA's petition stated that it was a request for reconsideration, the relief sought by AOPA could not be accomplished without rulemaking.

Related Rulemaking

The TCA (now Class B airspace) program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carriers or military aircraft, and another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of these airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to proved aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

The standard configuration of these areas contains three concentric circles centered on the primary airport extending to 10, 20, and 30 NM, respectively. The standard vertical limit of these airspace areas normally should not exceed 10,000 feet above MSL, with the floor established at the surface in the inner area and at levels appropriate to the containment of operations in the outer areas. However, variations if this configuration may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

On November 30, 1998 the FAA published a final rule establishing the CVG Class B airspace area and revoking the existing Class C airspace area (63 FR 65972). The new Class B airspace area, implemented on July 15, 1999, consisted of that airspace within a 25-NM radius of the CVG International Airport, from the surface or higher up to and including 8,000 feet above MSL.

Pre-NPRM Public Input

FAA policy requires a biennial evaluation of existing Class B airspace areas to ensure that the airspace is configured to enhance safety and that it is being used efficiently. Based on a need for this evaluation, an Ad Hoc Committee, representing a cross section of aviation users, was formed to determine if the dimensions of the CVG Class B airspace area were meeting the original intent and, if needed, to develop recommendations for modifications to that airspace. The Committee held a series of meetings between November 1999 and April 2000.

As announced in the **Federal Register** on June 28, 2000 (65 FR 39979) pre-NPRM informal airspace meetings were held on August 16 and 17, 2000, in Cincinnati, OH, to allow local interested airspace users an opportunity to present input on planned modifications to the CVG Class B airspace area and recommendations from the Ad Hoc group. The proposed modifications discussed in this notice were developed as a result of an FAA airspace analysis completed in accordance with the agency's policy to periodically review Class B airspace area designations, and the recommendations submitted by the Ad Hoc Committee. All comments received during the informal airspace meetings and the subsequent comment period were considered and are addressed in this NPRM.

Discussion

What follows is a discussion of the proposal, analysis of the comments received during the pre-NPRM stage, and petitions received.

Vertical Dimension Modification

Seven commenters expressed opposition to the proposed raising of the CVG Class B airspace area ceiling to 10,000 MSL. Reasons for this opposition included: the impact on the ability of VFR traffic to fly over the top of the Class B airspace area (without the need for supplemental oxygen); the fact that other, apparently busier, Class B terminals have ceilings below 10,000 feet MSL; and, that air carrier aircraft operating above 8,000 feet do not need expanded Class B airspace because the existing Mode C veil requirements and the equipage of air carrier aircraft with the Traffic Alert and Collision Avoidance System (TCAS) already provide adequate protection.

The FAA does not agree with these comments. The proposed increase in the Class B airspace area ceiling would not deny VFR aircraft access to the airspace between 8,000 feet and 10,000 feet MSL. It is anticipated that the proposed higher ceiling would not have a significant adverse impact on VFR traffic based on a finding by the Ad Hoc Committee that, over a 60-day period, only 70 VFR flight tracks were observed between 8,000 and 10,000 feet, within 25 miles of CVG. The FAA believes that the proposed 10,000-foot ceiling would, in fact, enhance the safety of VFR operations in that stratum as these altitudes currently contain a significant volume of turbojet-powered air carrier, general aviation, and cargo aircraft that are climbing rapidly to 10,000 feet to accelerate above 250k; or are descending to 10,000 feet for speed reduction prior to further descent. While TCAS certainly enhances safety, it should be noted that the TCAS requirement does not currently apply to cargo aircraft. A sizeable percentage of CVG's traffic volume consists of large turbojet-powered cargo aircraft. In a separate regulatory action, the FAA issued a Notice of Proposed Rulemaking on November 1, 2001, proposing to add collision avoidance system requirements for certain cargo airplanes (66 FR 55506). Notwithstanding the outcome of that effort, the higher ceiling would augment the safety benefits of the Mode C veil and TCAS by ensuring that ATC has communications with all aircraft operating in that stratum. This would not only reduce controller

VOL 66 ISS 250 DE 31 2001 UMI

workload by enabling ATC to ascertain VFR pilot intentions, route of flight, and destination, but would also allow controllers to offer assistance to such VFR aircraft in avoiding the heavy concentrations of traffic transitioning vertically through these altitudes.

Additionally, although other terminals may have Class B airspace area ceilings below 10,000 feet, the design of each Class B airspace area is unique, site specific, and is based on a variety of factors such as airspace complexity and ATC operational requirements. Operational requirements were in part factors in the development of this proposal. Another factor is that the Cincinnati/Northern Kentucky terminal airspace is bounded by Restricted Areas R–3403A and R–3404B on the west, and the Buckeye military operations area on the east. These areas limit ATC's flexibility in assigning arrival and departure tracks in two quadrants of the terminal area. Also, other terminal areas near CVG have ATC delegated airspace up to 10,000 feet MSL. The proposed raising of the CVG Class B ceiling would simplify terminal area ATC procedures by reducing coordination requirements and frequency changes because, for example the CVG air traffic controller could have the ability to transfer a departing aircraft directly to the center controller without a requirement for the pilot to contact the adjacent terminal facility controller. Indianapolis Air Route Traffic Control (ARTCC) currently delivers aircraft inbound to CVG at 11,000 feet MSL via one of four arrival transition areas (ATA) located northwest, northeast, southeast, or southwest of the airport. Once in the terminal area, these airport arrivals are generally descended to 10,000 feet; while the departures normally climb up to 8,000 or 9,000 feet. When the departures have been laterally separated from the arrivals by ATC, the departures are issued a climb to 13,000 feet and handed off to Indianapolis ARTCC. Concurrently, once this lateral separation is established, the arrivals are given a descent to a lower altitude. This generally cannot occur until the arrivals are abeam the airport, on a downwind leg. With the existing 8,000 feet ceiling, traffic arriving at CVG often must fly 30–35 NM outside of the Class B airspace, depending on the runway in use and the direction of arrival into the terminal area. For example, when the airport is using Runways 18L and 18R for landings (approximately 86 percent of the time), aircraft arriving through the southeast or southwest ATAs are required to travel about 30 flying miles at 10,000 feet or 11,000 feet, above the existing CVG Class B airspace area, before reaching a point abeam the airport where they can be descended into the Class B airspace area. A similar situation exists for aircraft arriving through the northwest and northeast ATAs when Runways 36L and 36R are in use.

The Ad Hoc Committee did not reach a consensus regarding the issue of raising the Class B airspace area ceiling to 10,000 feet MSL. However, the FAA believes that the airspace analysis supports the increase and is including the proposal in this notice to obtain additional comment on the matter before any final decision is made. If the FAA keeps the Class B ceiling at a lower altitude (i.e., 8,000 feet MSL), more departing aircraft will be required to level off prior to reaching an altitude where they can accelerate above 250 knots. This is not cost effective and does not contribute to system efficiency. Raising the altitude to 10,000 feet MSL decreases the chances that ATC will need to require a departing aircraft to level off prior to cruise altitude. The FAA believes that raising the altitude of the area would lessen economic impacts and increase system efficiency for aircraft operating into and out of CVG. Raising the Class B ceiling to 8,400 feet MSL as requested by Sporty's, would not provide sufficient Class B airspace needed to contain those arriving aircraft that must currently travel a significant distance above Class B airspace as discussed above. For the original establishment of the CVG Class B airspace area, the FAA's analysis indicated that an 8,000 feet MSL ceiling would be sufficient. Operational experience with this configuration since the July 15, 1999 implementation indicates that a 10,000 feet MSL ceiling would benefit safety and efficiency in the CVG terminal area.

Lateral Dimension Modification

Several commenters contended that the 25–NM ring of the Class B airspace area is excessively large and that the outer ring of the Class B airspace area should be reduced to 20 NM. Conversely, two commenters expressed concern about whether the proposed reduction of the outer ring from 25 miles to 20 miles would still ensure that aircraft are contained within the Class B airspace area throughout all phases of the approach.

In this action, the FAA is proposing to reduce the limit of the outer ring in the east and west quadrants (i.e., portions of area G and area F) to 20 NM. During the rulemaking process to revoke the Class C airspace area and implement a Class B airspace area at CVG, several commenters recommended reducing the size of the proposed area to a 15- to 20-mile radius rather than at that time the proposed 25-mile radius. At that time, the FAA concluded that, because of the high volume of arrival and departure aircraft at the primary airport, it was necessary to use the area between 20–25 NM, including areas F and G. The Class B airspace area became effective on July 15, 1999 (64 FR 17934) with the outer ring set at 25 NM. After the implementation of the Class B airspace area, modifications were made to local ATC procedures to improve the management of aircraft operations into and out of CVG. Over the past 3 years, the FAA has been studying aircraft operations in the CVG terminal area to assess airspace use and air traffic control procedures and requirements, particularly in light of the conversion of CVG terminal airspace from Class C to Class B. As part of this effort, FAA representatives met on numerous occasions with local pilots, user groups, and airport officials seeking feedback on the effectiveness of the terminal area airspace configuration. These feedback sessions, along with the internal ongoing review, were conducted to determine whether the Class B airspace area was configured to ensure the most efficient use of airspace, and to ensure the safe, orderly, and expeditious flow of traffic. Based on its review, the FAA determined that, based on procedural changes, arrival aircraft are not now being directed into the airspace to the east and west of CVG. Further, operational experience also revealed that departure aircraft on the east and west sides have already reached an altitude between 11,000 to 12,000 feet MSL by the time they pass the 20 NM Class B airspace ring. Another factor that the FAA evaluated is the proximity to special use airspace to the CVG Class B airspace area. On the west side, restricted areas R–3404A and B are situated less than 10 NM west of the current 25 NM Class B boundary. This allows only a small corridor for VFR pilots transiting north and south between the restricted areas and the CVG Class B airspace area who elect not to participate in Class B services. Reducing the outer ring to 20 NM in this area would provide additional airspace for pilots transiting north and south or choosing to circumnavigate the Class B area. Similarly, on the east side, the Buckeye military operations area (MOA) is located approximately 10 NM east of the Class B airspace boundary. Reducing the outer ring to 20 NM in this area would also provide VFR aircraft with a wider corridor to circumnavigate the Class B airspace area and remain clear of the Buckeye MOA. Additionally, the airspace analysis revealed that the current airspace north and south of CVG is necessary to accommodate arrival traffic and provide needed airspace for simultaneous parallel ILS approaches. A third runway is scheduled to become operational at CVG in 2005. When operational, the third runway is expected to provide a 26% capacity improvement at CVG through the introduction of simultaneous triple ILS approaches.

In their petitions, both Sporty's and AOPA requested adjustments to the outer limits of the CVG Class B airspace area. The retention of the outer ring at 25 NM on the north and south sides will ensure that sufficient Class B airspace is available to contain those procedures and accommodate the projected increase in traffic at CVG. Based on the operational experience gained since the inception of the Class B airspace area and the recommendations of the Ad Hoc committee, the FAA believes that Class B airspace is not required between the 20 NM and 25 NM rings to the east and west of CVG and that the modification of the outer ring as described above would enhance the efficient use of airspace without adversely affecting safety.

Other Comments

One commenter suggested that a corridor be developed through the Class B airspace area, within which the Mode C veil requirement would not apply.

The FAA does not have the latitude to exclude areas within a 30–NM radius of the Class B airspace primary airport from the requirement for an altitude encoding transponder (this area is commonly referred to as the "Mode C Veil"). The Mode C veil requirement originated from several Congressional mandates (Public Law 100–202, etc.) that the FAA issue regulations requiring that all aircraft operating in certain terminal airspace areas be equipped with a transponder with Mode C. On June 21, 1988, the FAA issued a rule requiring that, as of July 1, 1989, all aircraft, with certain exceptions, operating within 30 miles of any designated terminal control area (now Class B airspace area) primary airport must be equipped with a transponder with Mode C (53 FR 23368). However, the commenter is advised that FAA included provisions in 14 CFR 91.215(d) to allow for ATC-authorized deviations from this requirement, under certain conditions, to accommodate non-transponder operations to, from, or within the Mode C veil.

One commenter stated that the FAA should use physical features instead of radials to describe the boundaries of the Class B airspace area. In its petition, AOPA requested that the reference point for the Class B airspace area be centered on the Cincinnati VORTAC as opposed to the airport.

The Class B airspace area description proposed in this notice is based on the recommendations of the Ad Hoc Committee and represents only minor changes to the existing format used to describe the lateral dimensions of the area. The current and proposed boundary descriptions consist of a mix of prominent landmarks, latitude/longitude coordinates, radials from the Cincinnati VORTAC, and arcs of the airport. Considering the availability of landmarks in the area, the FAA believes that this mix of descriptors should effectively assist pilots in identifying the lateral boundaries of the Class B airspace area. The FAA will consider the addition of a very high frequency omnidirectional radio range radial/Distance Measuring Equipment (DME) cross-reference table to the Cincinnati terminal area chart, similar to the tables found on the Los Angeles and San Diego terminal area charts, to define various points of the CVG Class B airspace area. This table would provide radial/DME references to further assist pilots in navigating in the Cincinnati area.

Two commenters recommended that the FAA establish VFR corridors through the Class B airspace area and one commenter recommended the establishment of a VFR/IFR corridor to facilitate transiting the Cincinnati area.

The FAA does not agree with the recommendation to establish VFR corridors because the establishment of such corridors could interfere with safe and efficient operations in the CVG Class B airspace area. Low altitude VFR transition routes have been published on the reverse side of the Cincinnati VFR Terminal area chart to assist pilots since the original inception of the Class B airspace area. If the proposed modifications are implemented, the transition routes will basically remain the same except for minor adjustments to the suggested altitudes in Area D, to the north and south of the airport. Regarding the recommendation to establish a VFR/IFR corridor, there would be no operational advantage to be gained over the services currently provided by ATC to assist both VFR and IFR overflights in avoiding the high concentrations of IFR traffic.

The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the CVG Class B airspace area. Specifically, this action (depicted on the attached chart) proposes to expand the lateral limits of Area C to the north and south of the airport; modify the lateral limits of Area F on the east and west sides of the Class B area; eliminate Area G; and raise the upper limit of the Class B airspace area from 8,000 feet MSL to 10,000 feet MSL. These modifications would better accommodate nonparticipating aircraft operations by providing both easier access to satellite airports, and additional airspace on the east and west sides for aircraft desiring to circumnavigate the CVG Class B airspace area. In addition, these modifications would improve the management of air traffic operations in the CVG terminal area, and enhance safety by extending Class B airspace protection to a significant volume of aircraft currently operating between 8,000 feet MSL and 10,000 feet MSL. This proposed action supports various efforts to enhance the efficiency and capacity of the National Airspace System, such as the National Airspace Redesign and the Operational Evolution Plan.

Area A and Area B. The FAA is not proposing any changes to the lateral dimensions of Area A or Area B.

Area C. The FAA proposes to modify Area C by expanding the boundaries of Area C to the north and south of the airport. This modification would incorporate into Area C, two segments of the Class B airspace area that are currently contained within Area D. Specifically, to the north of the airport, the FAA proposes to extend Area C northward to incorporate that part of Area D airspace that lies west of the extended instrument landing system (ILS) localizer course for Runway 18L, between the 20– and 25–NM arcs of the airport. To the south of the airport, the FAA proposes to extend Area C southward to incorporate that portion of Area D that lies west of the extended ILS localizer course for Runway 36R, between the 20– and 25–NM arcs of the airport. The effect of extending Area C as described, would be to lower the floor of Class B airspace in the affected segments from the current 3,500 feet MSL to 3,000 feet MSL. The reason for this change is to provide additional airspace needed to ensure that the required 1,000 feet vertical separation is maintained while multiple aircraft are being radar vectored for simultaneous ILS approaches.

Area D. The FAA proposes to modify Area D to the north and south of the airport as a result of the expansion of Area C as described above. This modification would reduce the size of

VOL 66 ISS 250 DE 31 2001 UMI

the Area D segments located to the north and south of the airport. The Area D segments located to the east and west of the airport would not be changed by this proposal.

Area E. No changes are proposed to the lateral dimensions of Area E.

Area F. The FAA proposes to reduce the overall size of Area F by eliminating certain portions of Area F, between 20 NM and 25 NM, located to the west and east of the airport. On the west side, the portion of Area F that lies within an area bounded by the 20– and 25–NM arcs of the airport, and between the CVG VORTAC 247° radial clockwise to the CVG VORTAC 297° radial, would be eliminated. To the east of the airport, the portion of Area F bounded by the 20– and 25–NM arcs of the airport, and between the CVG VORTAC 056° radial clockwise to the CVG VORTAC 116° radial, would also be eliminated. The FAA proposes to further modify Area F by incorporating two small sections of Area G. Specifically, Area F would absorb small segments of airspace in the western-most point and the southern tip of the existing Area G. The proposed Area F modifications would benefit nonparticipating VFR operations by accommodating easier access to satellite airports and by providing a larger area for circumnavigation between the Class B airspace area and Restricted Area R–3403 on the west side; and between the Class B airspace area and the Buckeye military operations area to the east of the CVG terminal area.

Area G. The FAA proposes to eliminate most of Area G (i.e., that airspace from 6,000 feet MSL to and including 8,000 feet MSL, along the eastern edge of the Class B airspace area), except for two small sections at the western-most and southern-most points in Area G that would be incorporated into Area F, as described above. Three years ago, the FAA believed that it was necessary to have Class B airspace out to 25 NM to the west and to the east of CVG. The FAA believed this was necessary in order to accommodate departure profiles and to provide for the optimum use of the airspace. After two years of operational experience, the FAA now believes that the proposed cutouts to the east and to the west will adequately accommodate the departure profiles. This modification would better accommodate GA operations at satellite airports and allow easier access/transition by nonparticipating aircraft. This would also provide aircraft not desiring to participate in Class B services with additional airspace for circumnavigation of the Class B airspace area on the east side.

The FAA further proposes to raise the upper limit of the Class B airspace area from the current 8,000 feet MSL to 10,000 feet MSL.

This proposal to modify the CVG Class B airspace area would enhance safety and improve the flow of air traffic in the CVG terminal area. In addition, it would better accommodate VFR operations by improving access to satellite airports and providing additional airspace for circumnavigation of the CVG Class B airspace area. The modifications proposed in this notice support the National Airspace Redesign project and the FAA's Operational Evolution Plan.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency proposing or adopting a regulation to first make a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this act requires agencies to consider international standards, and use them where appropriate as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs and benefits and other effects of proposed and final rules. An assessment must be prepared only for rules that impose a Federal mandate on State, local or tribal governments, or on the private sector, likely to result in a total expenditure of $100 million or more in any one year (adjusted for inflation.)

In conducting these analyses, FAA has determined: (1) This rule has benefits that justify its costs. This rulemaking does not impose costs sufficient to be considered "significant" under the economic standards for significance under Executive Order 12866 or under DOT's Regulatory Policies and Procedures. Due to public interest, however, it is considered significant under the Executive Order and DOT policy. (2) This rule would not have a significant impact on a substantial number of small entities. (3) This rule has no affect on any trade-sensitive activity. (4) This rule does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

The proposed rule would expand the lateral limits of Area C; reduce the lateral limits of Area F; eliminate Area G; and raise the upper limit of the entire Class B airspace area from 8,000 feet MSL to 10,000 feet MSL.

This NPRM would enhance safety in the CVG terminal area and would result in a more efficient use of the airspace. Additionally, this NPRM would generate cost savings to nonparticipating VFR operations by providing a larger area for circumnavigation. Thus, the FAA has determined that this proposed rule would be cost-beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation." To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide-range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. If the determination is that it would, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

In view of the minimal cost impact of the rule, the FAA has determined that this proposed rule would not have significant economic impact on a substantial number of small entities. Consequently, the FAA certifies that the rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

In accordance with the above statute, the FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of $100 million or more (when adjusted annually for inflation) in any one year by State, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments in the aggregate of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for these small governments to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this proposed rule.

Conclusion

In view of the minimal or zero cost of compliance of the proposed rule and the enhancements to operational efficiency that do not reduce aviation safety, the FAA has determined that the proposed rule would be cost-beneficial.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 3000—Subpart B—Class B Airspace.

* * * * *

ASO KY B Cincinnati/Northern Kentucky International Airport, KY [Revised]

Cincinnati/Northern Kentucky International Airport (Primary Airport)
(Lat. 39°02′46″N., long. 84°39′44″ W.)
Cincinnati VORTAC (CVG)
(Lat. 39°00′57″ N., long. 84°42′12″ W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL within a radius of 5 miles from the Cincinnati/Northern Kentucky International Airport.

Area B. That airspace extending upward from 2,100 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 5-mile arc of the airport and the Kentucky bank of the Ohio River northeast of the airport; thence northeast along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence clockwise along the 10-mile arc to the Kentucky bank of the Ohio River southwest of the airport; thence north along the Kentucky bank of the Ohio River to the Indiana-Ohio State line (long. 84°49′00″ W); thence north along the State line to Interstate 275; thence northeast along Interstate 275 to Interstate 74; thence east along Interstate 74 to the CVG VORTAC 040° radial; thence southwest along the CVG VORTAC 040° radial to the 5-mile arc of the airport; thence counterclockwise on the 5-mile arc to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of Interstate 275 and the Indiana-Ohio State line (long. 84°49′00″ W); thence north along the Indiana-Ohio State line, to intersect the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to intersect the extended Runway 18L ILS localizer course; then south along the extended Runway 18L ILS localizer course to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to long. 84°30′00″ W.; thence south along long. 84°30′00″ W. to the 10-mile arc of the airport; thence clockwise on the 10-mile arc to the Kentucky bank of the Ohio River; thence west along the Kentucky bank the Ohio River to the 5-mile arc of the airport; thence counterclockwise along the 5-mile arc to the CVG VORTAC 040° radial; thence northeast along the CVG VORTAC 040° radial to Interstate 74; thence west along Interstate 74 to Interstate 275; thence west along Interstate 275 to the point of beginning. That airspace beginning at the intersection of the 10-mile arc southeast of the airport and long. 84°30′00″ W.; thence south along long. 84°30′00″ W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to intersect the Runway 36R ILS localizer course; thence south along the Runway 36R ILS localizer course to the 20-mile arc of the airport, thence clockwise along the 20-mile arc to long. 84°49′00″ W.; thence north along long. 84°49′00″ W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning.

Area D. That airspace extending upward from 3,500 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of lat. 39°09′18″ N. and the 10-mile arc northeast of the airport; thence east to the 15-mile arc of the airport; thence clockwise on the 15-mile arc to lat. 38°56′15″ N.; thence west along lat. 38°56′15″ N. to intersect the 10-mile arc of the airport; thence counterclockwise along the 10-mile arc to the point of beginning.

That airspace beginning at the intersection of the Kentucky bank of the Ohio River and lat. 38°56′15″ N. southwest of the airport; thence west along lat. 38°56′15″ N. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to lat. 39°09′18″ N.; thence east along lat. 39°09′18″ N. to the Indiana-Ohio State line; thence South along the Indiana-Ohio State line to the Kentucky bank of the Ohio River; thence south along the Kentucky bank of the Ohio River to point of beginning. That airspace beginning at the intersection of the 15-mile arc of the airport and the ILS Runway 18L localizer course; thence north along the extended ILS Runway 18L localizer course to the 20-mile arc of the airport; thence clockwise along the 20-mile arc to long. 84°30′00″ W.; thence south along long. 84°30′00″ W. to the 15-mile arc of the airport; thence counterclockwise along the 15-mile arc to the point of beginning. That airspace beginning at the intersection of the 15-mile arc south of the airport and the ILS Runway 36R localizer course; thence south along the extended ILS Runway 36R localizer to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to long. 84°30′00″ W.; thence north along long. 84°30′00″ W. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc to the point of beginning.

Area E. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 20-mile arc of the airport and the Indiana-Ohio State line; thence north along the Indiana-Ohio State line to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°30′00″ W.; thence south along long. 84°30′00″ W. to the 20-mile arc of the airport; thence counterclockwise on the 20-mile arc to the point of beginning. That airspace beginning at the intersection of the 20-mile arc of the airport and long. 84°30′00″ W. southeast of the airport; thence south along long. 84°30′00″ W. to the 25-mile arc of the airport; thence clockwise along the 25-mile arc to long. 84°49′00″ W.; thence north along long. 84°49′00″ W. to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc to the point of beginning.

Area F. That airspace extending upward from 5,000 feet MSL to and including 10,000 feet MSL within the area bounded by a line beginning at the intersection of the 25-mile arc north of the airport and long. 84°30′00″ W.; thence clockwise along the 25-mile arc of the airport to the CVG VORTAC 056° radial; thence southwest along the CVG VORTAC 056° radial to the 20-mile arc of the airport; thence clockwise along the 20-mile arc of the airport to the CVG VORTAC 116° radial; thence southeast along the CVG VORTAC 116° radial to the 25-mile arc of the airport; thence clockwise along the 25-mile arc of the airport to long. 84°30′00″ W. south of the airport; thence north along long. 84°30′00″ W. to the intersection of the 10-mile arc of the airport and lat. 38°56′15″ N.; thence east along lat. 38°56′15″ N. to the 15-mile arc of the airport; thence clockwise along the 15-mile arc of the airport to lat. 39°09′18″ N.; thence west along lat. 39°09′18″ N. to the intersection of the 10-mile arc of the airport and long. 84°30′00″ W; thence north along long. 84°30′00″ W. to the point of beginning. That airspace beginning at the intersection of the 25-mile arc of the airport and the Indiana-Ohio State line; thence counterclockwise along the 25-mile arc to the CVG VORTAC 297° radial; thence southeast along the CVG VORTAC 297° radial to the 20-mile arc of the airport; thence counterclockwise along the 20-mile arc of the airport to the CVG VORTAC 247° radial; thence southwest along the CVG VORTAC 247° radial to the 25-mile arc of the airport; thence counterclockwise along the 25-arc of the airport to long. 84°49′00″ W. south of the airport; thence north along long. 84°49′00″ W. to the Kentucky bank of the Ohio River; thence north along the Kentucky bank of the Ohio River to lat. 38°56′15″ N.; thence west along lat. 38°56′15″ N. to the 15-mile arc of the airport; thence clockwise on the 15-mile arc of the airport to lat. 39°09′18″ N.; thence east along lat. 39°09′18″ N. to the Indiana-Ohio State line; thence north along the Indiana-Ohio State line to the point of beginning.

Area G. [Revoked]

* * * * *

Issued in Washington, DC, on December 21, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–32007 Filed 12–21–01; 3:43 pm]

BILLING CODE 4910-13-P

VOL 66 ISS 250 DE 31 2001 UMI

National Archives and Records Administration
1985

Federal Register

Monday,
December 31, 2001

Part III

Department of Labor

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582

ACTION: Notice.

EFFECTIVE DATE: The annual list of labor surplus areas is effective October 1, 2001, for all States.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year 2002.

FOR FURTHER INFORMATION CONTACT: Gay Gilbert, Division Chief, U.S. Employment Service, Employment and Training Administration, 200 Constitution Avenue, NW., Room C 4512, Washington, DC 20210. Telephone: (202) 693–3046.

SUPPLEMENTARY INFORMATION: The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR part 654, subparts A and B. These regulations require the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is hereby publishing the annual list of labor surplus areas.

In addition, the regulations provide an exceptional circumstance criteria for classifying labor surplus areas when catastrophic events, such as natural disasters, plant closings, and contract cancellations are expected to have a long-term impact on labor market area conditions, discounting temporary or seasonal factors. The FY 2002 Labor Surplus Area list includes Whiteside County, Illinois, an area approved through the exceptional circumstances criteria.

Dated: December 12, 2001.

Emily Stover DeRocco,

Assistant Secretary of Labor.

Eligible Labor Surplus Areas

Procedures for Classifying Labor Surplus Areas

Labor surplus areas are classified on the basis of civil jurisdictions rather than on a metropolitan area or labor market area basis. Under the basic labor surplus area program procedures, area classifications are made on the basis of civil jurisdictions. Under the program's exceptional circumstance procedures, labor surplus area classifications can be made on the basis of civil jurisdictions, Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas.

Civil jurisdictions are now defined as all cities with a population of at least 25,000 and all counties. Townships of 25,000 or more population are also considered as civil jurisdictions in 4 states (Michigan, New Jersey, New York, and Pennsylvania). In Connecticut, Massachusetts, Puerto Rico, and Rhode Island, where counties have very limited or no government functions, the classifications are done for individual towns.

A civil jurisdiction is classified as a labor surplus area when its average unemployment rate was at least 20 percent above the average unemployment rate for all states (including the District of Columbia and Puerto Rico) during the previous 2 calendar years. During periods of high national unemployment, the 20 percent ratio is disregarded and an area is classified as a labor surplus area if its unemployment rate during the previous 2 calendar years was 10 percent or more. This 10 percent ceiling concept comes into operation whenever the 2-year average unemployment rate for all states was 8.3 percent or above (i.e., 8.3 percent times the 1.20 ratio equals 10.0 percent). Similarly, a "floor" concept of 6.0 percent is used during periods of low national unemployment in order for an area to qualify as a labor surplus area. The 6 percent "floor" comes into effect whenever the average unemployment rate for all states during the 2-year reference period was 5.0 percent or less.

The classification procedures also provide for the designation of labor surplus areas under exceptional circumstance criteria. These procedures permit the regular classification criteria to be waived when an area experiences a significant increase in unemployment which is not temporary or seasonal and which was not adequately reflected in the data for the 2-year reference period. In order for an area to be classified as a labor surplus area under the exceptional circumstance criteria, the State Workforce Agency must submit a petition requesting such classification to the Department of Labor's Employment and Training Administration.

The current conditions for exceptional circumstance classification are: an area unemployment rate of at least 6.0 percent for each of the 3 most recent months; projected unemployment rate of at least 6.0 percent for each of the next 12 months; and documented information that the exceptional circumstance event has already occurred. The State Workforce Agency may file petitions on behalf of civil jurisdictions, as well as Metropolitan Statistical Areas of Primary Metropolitan Statistical Areas, as defined by the Office of Management and Budget. The addresses of State Workforce Agencies are available at the end of this description.

The Department of Labor issues the labor surplus area listing on a fiscal year basis. The listing becomes effective each October 1 and remains in effect through the following September 30. During the course of the fiscal year, the annual listing is updated on the basis of exceptional circumstances petitions submitted by State Workforce Agencies and approved by the Employment and Training Administration. The reference period used in preparing the current list was January 1999 through December 2000. The national average unemployment rate during this period (including data for Puerto Rico) fell below 5.0 percent. As a result, the 6.0 percent "floor" rate explained in paragraph number three, went into effect for the Fiscal Year 2002 labor surplus area classifications. Areas are therefore included on the current annual labor surplus area listing because their average unemployment rate during the reference period was 6.0 percent or above.

Labor Surplus Area List

The Fiscal Year 2002 labor surplus area list, which follows, contains 1,091 areas in 49 States, the District of Columbia, and Puerto Rico. The list only includes those states and jurisdictions with designated labor surplus areas. All of the qualifying areas in the Nation are listed in the alphabetical order by State or State equivalent. The Fiscal Year 2002 classifications will be in effect through September 30, 2002.

The FY 2002 list also includes Whiteside County, Illinois, an area that was certified under the exceptional circumstances criteria.

State Workforce Agencies

Alabama—Department of Industrial Relations, 649 Monroe St., Montgomery 36130

Alaska—Department of Labor & Workforce Development, P.O. Box 25509, Juneau, 99802

Arizona—Arizona Department of Economic Security, 1717 W. Jefferson, Phoenix 85005

Arkansas—Employment Security Department, Department of Labor, P.O. Box 2981, Little Rock 72203

California—Employment Development Department, 800 Capitol Mall, Sacramento 95814

Colorado—Department of Labor and Employment, 1515 Arapahoe Street, Denver 80202–2117
Connecticut—Connecticut Labor Dept., Employment Security Division, 200 Folly Brook Blvd., Wethersfield 06109
Delaware—Delaware Department of Labor, Division of Employment & Training, 820 French St., Wilmington 19809
District of Columbia—Department of Employment Services, 609 H Street, NE., Washington, DC 20002
Florida—Agency for Workforce Innovation, Commerce Industrial Ctr., Marpan Lane, Tallahassee 32311–0902
Georgia—Georgia Department of Labor, 148 International Blvd, NE, Atlanta 30303
Guam—Department of Labor, Government of Guam, P.O. Box 23548 GMF, Agana 96921
Hawaii—Department of Labor and Industrial Relations, 830 Punchbowl St., Honolulu 96813
Idaho—Department of Labor, 317 Main St., P.O. Box 35, Boise 83735
Illinois—Department of Employment Security, 401 South State St., Chicago 60605–1289
Indiana—Department of Employment and Training Services, 10 North Senate Ave., Indianapolis 46204
Iowa—Iowa Workforce Development, 1000 Grand Ave., Des Moines 50319
Kansas—Dept of Human Resources, Division of Employment, 401 Topeka Ave., Topeka 66603
Kentucky—Department of Employment Services, 275 East Main St., Frankfort 40621
Louisiana—Department of Labor, P.O. Box 94094, Baton Rouge 70804–9094
Maine—Department of Labor, Bureau of Employment Services, 20 Union St., P.O. Box 309, Augusta 04330
Maryland—Department of Economic and Employment Development, 1100 N. Eutaw St., Baltimore 21201
Massachusetts—Division of Employment and Training, 19 Stanford St., Charles F. Hurley Bldg., Boston, 02114
Michigan—Department of Career Development, Employment Service Agency, Victor Office Center, 201 N. Washington Square, 5th Floor, Lansing 48913
Minnesota—Department of Economic Security, 390 North Robert St., St. Paul 55101
Mississippi—Employment Security Commission, 1520 W. Capital St., P.O. Box 1699, Jackson 39205
Missouri—Dept. of Labor & Industrial Relations, Division of Employment Security, 421 E. Dunklin St., P.O. Box 59, Jefferson City 65101
Montana—Dept. of Labor & Industry, Employment Security Division of Montana, P.O. Box 1728, Helena 59624
Nebraska—Dept. of Labor, Div of Employment, 550 South 16th St., P.O. Box 94600, State House Station, Lincoln 68509
Nevada—Employment Security Department, 500 East 3rd St., Carson City 89713
New Hampshire—Department of Employment Security, 32 S. Main St., Room 204, Concord 03301
New Jersey—Department of Labor, John Fitch Plaza, Trenton 08625
New Mexico—Department of Labor, 401 Broadway, N.E., P.O. Box 1928, Albuquerque 87103
New York—Department of Labor, State Campus, Building 12, Albany 12240
North Carolina—Employment Security Commission of North Carolina, 700 Wade Ave., P.O. Box 25903, Raleigh 27611
North Dakota—Job Service North Dakota, 1000 E. Divide Ave., P.O. Box 5507, Bismarck, 58506–5507
Ohio—Bureau of Employment Services, 145 South Front St., P.O. Box 1618, Columbus 43216
Oklahoma—Employment Security Commission, 200 Will Rogers Memorial Office Bldg., Oklahoma City 73105
Oregon—Employment Department, Dept of Human Resources, 875 Union St., N.E., Salem 97311
Pennsylvania—Department of Labor & Industry, 1720 Labor & Industry Bldg. Harrisburg 17121
Puerto Rico—Department of Labor & Human Resources, 505 Munoz Rivera Ave., Hato Rey 00918
Rhode Island—Department of Labor & Training, 101 Friendship St., Providence 01903–3740
South Carolina—Employment Security Commission, P.O. Box 995, Columbia 29202
South Dakota—Department of Labor, 700 Governors Drive, Pierre 57501–2277
Tennessee—TN Department of Labor & Workforce Development, Division of Employment Security, 500 James Robertson Parkway 12th Floor, Davy Crockett Tower, Nashville 37245–1700
Utah—Department of Workforce Services, 140 East 300 South, PO Box 45249, Salt Lake City 84145–0249
Vermont—Department of Employment & Training, P.O. Box 488, 5 Green Mountain Drive, Montpelier 05601–0488
Virgin Islands—Department of Labor, 2203 Church Street Christiansted, St. Croix 00820
Virginia—Virginia Employment Commission, 703 East Main Street, Richmond 23219
Washington—Employment Security Department, P.O. Box 9046, Olympia 98507–9046
West Virginia—Bureau of Employment Programs, 112 California Ave., Charleston 25305–0112
Wisconsin—Department of Workforce Development, 201 East Washington Avenue, Room 400X, Madison 53707
Wyoming—Department of Employment, PO Box 2760, Casper 82602

LABOR SURPLUS AREAS

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Alabama	
Anniston City	Anniston City in Calhoun County.
Bibb County	Bibb County.
Bullock County	Bullock County.
Butler County	Butler County.
Choctaw County	Choctaw County.
Clarke County	Clarke County.
Clay County	Clay County.
Colbert County	Colbert County.
Conecuh County	Conecuh County.
Covington County	Covington County.
Crenshaw County	Crenshaw County.
Dallas County	Dallas County.
Fayette County	Fayette County.
Florence City	Florence City in Lauderdale County.
Franklin County	Franklin County.
Gadsden City	Gadsden City in Etowah County.
Geneva County	Geneva County.
Greene County	Greene County.
Hale County	Hale County.
Jackson County	Jackson County.
Lamar County	Lamar County.
Lowndes County	Lowndes County.
Macon County	Macom County.
Marion County	Marion County.
Monroe County	Monroe County.
Perry County	Perry County.
Pickens County	Pickens County.
Pike County	Pike County.
Prichard City	Prichard City in Mobile County.
Sumter County	Sumter County.
Walker County	Walker County.
Washington County	Washington County.
Wilcox County	Wilcox County.
Winston County	Winston County.
Alaska	
Aleutian Island West Census Area.	Aleutian Island West Census Area.
Bethel Census Area	Bethel Census Area.
Bristol Bay Borough Div.	Bristol Bay Borough Div.
Denali Borough	Denali Borough.
Dillingham Census Area.	Dillingham Census Area.

VOL 66
ISS 250
DE 31 2001
UMI

LABOR SURPLUS AREAS—Continued
[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Fairbanks City	Fairbanks City in Fairbanks North Star Borough.
Haines Borough	Haines Borough.
Kenai Pennsula Borough.	Kenai Pennsula Borough.
Ketchikan Gateway Borough.	Ketchikan Gateway Borough.
Kodiak Island Borough.	Kodiak Island Borough.
Lake and Penninsula Borough.	Lake and Penninsula Borough.
Matanuska-Susitina Borough.	Matanuka-Sustina Borough.
Nome Census Area	Nome Census Area.
North Slope Borough	North Slope Borough.
Northwest Arctic Borough.	Northwest Arctic Borough.
Prince of Wales Outer Ketchikan.	Prince of Wales Outer Ketchikan.
Skagway-Hoonah-Angoon Cen Area.	Skagway-Hoonah-Angoon Cen Area.
Southeast Fairbanks Census Area.	Southeast Fairbanks Census Area.
Valdez Cordova Census Area.	Valdez CorDova Census Area.
Wade Hampton Census Area.	Wade Hampton Census Area.
Wrangell-Petersburg Census Area.	Wrangell-Petersburg Census Area.
Yakutat Borough	Yakutat Borough.
Yukon-Koyukuk Census Area.	Yukon-Koyukuk Census Area.
Arizona	
Apache County	Apache County.
Balance of Coconino County.	Cocinino County less Flagstaff City.
Gila County	Gila County.
Graham County	Graham County.
Greenlee County	Greenlee County.
La Paz County	LaPaz County.
Navajo County	Navajo County.
Santa Cruz County	Santa Cruz County.
Yuma City	Yuma City in Yuma County.
Balance of Yuma County.	Yuma County less Luma City.
Arkansas	
Ashley County	Ashley County.
Bradley County	Bradley County.
Calhoun County	Calhoun County.
Chicot County	Chicot County.
Clay County	Clay County.
Conway County	Conway County.
Cross County	Cross County.
Dallas County	Dallas County.
Desha County	Desha County.
Drew County	Drew County.
Jackson County	Jackson County.
Lafayette County	Lafayette County.
Lawrence County	Lawrence County.
Lee County	Lee County.
Mississippi County	Mississippi County.
Monroe County	Monroe County.
Ouachita County	Ouachita County.
Perry County	Perry County.
Phillips County	Phillips County.
Pine Bluff City	Pine Bluff City in Jefferson County.
Randolph County	Randolph County.
Searcy County	Searcy County.
St. Francis County	St. Francis County.
Woodruff County	Woodruff County.
California	
Alpine County	Alpine County.
Azusa City	Azusa City in Los Angeles County.
Bakersfield City	Bakersfield City in Kern County.
Baldwin Park City	Baldwin Park City in Los Angeles County.
Banning City	Banning City in Riverside County.
Bell City	Bell City in Los Angeles County.
Bell Gardens City	Bell Gardens City in Los Angeles County.
Balance of Butte County.	Butte County less Chico City, Paradise City.
Calaveras County	Calaveras County.
Calexico City	Calexico City in Imperial County.
Ceres City	Ceres City in Stanislaus County.
Chico City	Chico City in Butte County.
Clovis City	Clovis City in Fresno County.
Colton City	Colton City in San Bernardino County.
Colusa County	Colusa County.
Compton City	Compton City in Los Angeles County.
Del Norte County	Del Norte County.
Delano City	Delano City in Kern County.
El Centro City	El Centro City in Imperial County.
El Monte City	El Monte City in Los Angeles County.
Eureka City	Eureka City in Humboldt County.
Fresno City	Fresno City in Fresno County.
Balance of Fresno County.	Fresno County less Clovis City, Fresno City.
Glenn County	Glenn County.
Hanford City	Hanford City in Kings County.
Hemet City	Hemet City in Riverside County.
Holister City	Holister City in San Benito County.
Balance of Humboldt County.	Humboldt County less Eureka City.
Huntington Park City	Huntington Park City in Los Angeles County.
Balance of Imperial County.	Imperial County less Calexico City, El Centro City.
Indio City	Indio City in Riverside County.
Inglewood City	Inglewood City in Los Angeles County.
Balance of Kern County.	Kern County less Bakersfield City, Delano City, Ridgecrest City.
Balance of Kings County.	Kings County less Hanford City.
La Puente City	La Puente City in Los Angeles County.
Lake County	Lake County.
Lake Elsinore City	Lake Elsinore City in Riverside County.
Lassen County	Lassen County.
Lodi City	Lodi City in San Joaquin County.
Los Angeles City	Los Angeles City in Los Angeles County.
Lynwood City	Lynwood City in Los Angeles County.
Madera City	Madera City in Madera County.
Balance of Madera County.	Madera County less Madera City.
Manteca City	Manteca City in San Joaquin County.
Marina City	Marina City in Monterey County.
Mariposa County	Mariposa County.
Maywood City	Maywood City in Los Angeles County.
Mendocino County	Mendocino County.
Merced City	Merced City in Merced County.
Balance of Merced County.	Merced County less Merced City.
Modesto City	Modesto City in Stanislaus County.
Modoc County	Modoc County.
Mono County	Mono County.
Balance of Monterey County.	Monterey County less Marina City, Monterey City, Salinas City, Seaside City.
Oxnard City	Oxnard City in Ventura County.
Paramount City	Paramount City in Los Angeles County.
Perris City	Perris City in Riverside County.
Pico Rivera City	Pico Rivera City in Los Angeles County.
Plumas County	Plumas County.
Pomona City	Pomona City in Los Angeles County.
Porterville City	Porterville City in Tulare County.
Redding City	Redding City in Shasta County.
Ridgecrest City	Ridgecrest City in Kern County.

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Rosemead City	Rosemead City in Los Angeles County.
Salinas City	Salinas City in Monterey County.
San Bernardino City	San Bernardino City in San Bernardino County.
San Jacinto City	San Jacinto City in Riverside County.
Balance of San Joaquin County.	San Joaquin County less Lodi City, Manteca City, Stockton City, Tracey City.
San Pablo City	San Pablo City in Contra Costa County.
Santa Paula City	Santa Paula City in Ventura County.
Seaside City	Seaside City in Monterey County.
Balance of Shasta County.	Shasta County less Redding City.
Sierra County	Sierra County.
Siskiyou County	Siskiyou County.
South Gate City	South Gate City in Los Angeles County.
Balance of Stanislaus County.	Stanislaus County less Ceres City, Modesto City, Turlock City.
Stockton City	Stockton City in San Joaquin County.
Balance of Sutter County.	Sutter County less Yuba City.
Tehama County	Tehama County.
Tracey City	Tracey City in San Joaquin County.
Trinity County	Trinity County.
Tulare City	Tulare City in Tulare County.
Balance of Tulare County.	Tulare County less Porterville City, Tulare City, Visalia City.
Tuolumne County	Tuolumne County.
Turlock City	Turlock City in Stanislaus County.
Victorville City	Victorville City in San Bernardino County.
Visalia City	Visalia City in Tulare County.
Watsonville City	Watsonville City in Santa Cruz County.
Yuba City	Yuba City in Sutter County.
Yuba County	Yuba County.
Colorado	
Conejos County	Conejos County.
Costilla County	Costilla County.
Dolores County	Dolores County.
Rio Grande County	Rio Grande County.
Saguache County	Saguache County.
San Juan County	San Juan County.
District of Columbia	
Washington DC City	Washington, DC City in District of Columbia.
Florida	
Delray Beach City	Delray Beach City in Palm Beach County.
Fort Pierce City	Fort Pierce City in St. Lucie County.
Glades County	Glades County.
Gulf County	Gulf County.
Hamilton County	Hamilton County.
Hardee County	Hardee County.
Hendry County	Hendry County.
Highlands County	Highlands County.
Indian River County	Indian River County.
Miami Beach City	Miami Beach City in Miami-Dade County.
North Miami City	North Miami City in Miami-Dade County.
Okeechobee County	Okeechobee County.
Panama City	Panama City in Bay County.
Port St. Lucie City	Port St. Lucie City in Bay County.
Riviera Beach City	Riviera Beach City in Palm Beach County.
Balance of St. Lucie County.	St. Lucie County less Fort Pierce City, Fort St. Lucie City.
Taylor County	Taylor County.
West Palm Beach City.	West Palm Beach City in Palm Beach County
Georgia	
Albany City	Albany City in Dougherty County.
Appling County	Appling County.
Atkinson County	Atkinson County.
Bacon County	Bacon County.
Baker County	Baker County.
Ben Hill County	Ben Hill County.
Berrien County	Berrien County.
Brantley County	Brantley County.
Burke County	Burke County.
Calhoun County	Calhoun County.
Chattahoochee County	Chattahoochee County.
Clay County	Clay County.
Colquitt County	Colquitt County.
Crisp County	Crisp County.
Dooly County	Dooly County.
Early County	Early County.
Elbert County	Elbert County.
Emanuel County	Emanuel County.
Grady County	Grady County.
Greene County	Greene County.
Hancock County	Hancock County.
Heard County	Heard County.
Jeff Davis County	Jeff Davis County.
Jefferson County	Jefferson County.
Johnson County	Johnson County.
La Grange City	La Grange City in Troup County.
Lamar County	Lamar County.
Laurens County	Laurens County.
Balance of Liberty County.	Liberty County less Hinesville City.
Lincoln County	Lincoln County.
Macon City	Macon City in Bibb County, Jones County.
Macon County	Macon County.
McDuffie County	McDuffie County.
Mitchell County	Mitchell County.
Montgomery County	Montgomery County.
Randolph County	Randolph County.
Richmond County	Richmond County.
Screven County	Screven County.
Stewart County	Stewart County.
Talbot County	Talbot County.
Tattnal County	Tattnal County.
Telfair County	Telfair County.
Terrell County	Terrell County.
Toombs County	Toombs County.
Treutlen County	Treutlen County.
Turner County	Turner County.
Twiggs County	Twiggs County.
Upson County	Upson County.
Valdosta City	Valdosta City in Lowndes County.
Warren County	Warren County.
Washington County	Washington County.
Wayne County	Wayne County.
Wheeler County	Wheeler County.
Wilkinson County	Wilkinson County.
Worth County	Worth County.
Hawaii	
Hawaii County	Hawaii County
Kauai County	Kauai County.
Idaho	
Adams County	Adams County.
Benewah County	Benewah County.
Boise County	Boise County.
Bonner County	Bonner County.
Boundary County	Boundary County.
Caribou County	Caribou County.
Cassia County	Cassia County.
Clearwater County	Clearwater County.
Custer County	Custer County.
Elmore County	Elmore County.
Fremont County	Fremont County.
Gem County	Gem County.
Idaho County	Idaho County.
Balance of Kootenai County.	Kootenai County less Coeur D Alene City.
Lemhi County	Lemhi County.
Lewis County	Lewis County.
Minidoka County	Minidoka County.
Balance of Nez Perce County.	Nez Perce County less Lewiston City.
Payette County	Payette County.
Power County	Power County.
Shoshone County	Shoshone County.

VOL 66 ISS 250 DE 31 2001 UMI

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Valley County	Valley County.
Washington County	Washington County.
Illinois	
Alexander County	Alexander County.
Alton City	Alton City in Madison County.
Belleville City	Belleville City in St. Clair County.
Carpentersville City	Carpentersville City in Kane County.
Carroll County	Carroll County.
Chicago Heights City	Chicago Heights City in Cook County.
Cicero City	Cicero City in Cook County.
Clay County	Clay County.
Crawford County	Crawford County.
Danville City	Danville City in Vermilion County.
De Witt County	De Witt County.
Dolton Village	Dolton Village in Cook County.
East St. Louis City	East St. Louis City in St. Clair County.
Fayette County	Fayette County.
Franklin County	Franklin County.
Freeport City	Freeport City in Stephenson County.
Fulton County	Fulton County.
Gallatin County	Gallatin County.
Granite City	Granite City in Madison County.
Grundy County	Grundy County.
Hamilton County	Hamilton County.
Hardin County	Hardin County.
Harvey City	Harvey City in Cook County.
Jasper County	Jasper County.
Johnson County	Johnson County.
Joliet City	Joliet City in Will County.
Kankakee City	Kankakee City in Kankakee County.
La Salle County	La Salle County.
Lawrence County	Lawrence County.
Marion County	Marion County.
Mason County	Mason County.
Maywood Village	Maywood Village in Cook County.
Mercer County	Mercer County.
Montgomery County	Montgomery County.
North Chicago City	North Chicago City in Lake County.
Perry County	Perry County.
Pope County	Pope County.
Pulaski County	Pulaski County.
Richland County	Richland County.
Rockford City	Rockford City in Winnebago County.
Saline County	Saline County.
Union County	Union County.
Wabash County	Wabash County.
Waukegan City	Waukegan City in Lake County.
Wayne County	Wayne County.
Whiteside County	Whiteside County.
Williamson County	Williamson County.
Indiana	
East Chicago City	East Chicago City in Lake County
Gary City	Gary City in Lake County.
Greene County	Greene County.
Marion City	Marion City in Grant County.
Orange County	Orange County.
Perry County	Perry County.
Pulaski County	Pulaski County.
Switzerland County	Switzerland County.
Kansas	
Brown County	Brown County.
Geary County	Geary County.
Kansas City Kn	Kansas City Kn in Wyandotte County.
Linn County	Linn County.
Kentucky	
Adair County	Adair County.
Ballard County	Ballard County.
Bath County	Bath County.
Boyd County	Boyd County.
Breathitt County	Breathitt County.
Breckinridge County	Breckinridge County.
Carter County	Carter County.
Casey County	Casey County.
Clay County	Clay County.
Crittenden County	Crittenden County.
Cumberland County	Cumberland County.
Elliott County	Elliott County.
Floyd County	Floyd County.
Fulton County	Fulton County.
Green County	Green County.
Hancock County	Hancock County.
Harlan County	Harlan County.
Hopkins County	Hopkins County.
Johnson County	Johnson County.
Knott County	Knott County.
Lawrence County	Lawrence County.
Letcher County	Letcher County.
Lewis County	Lewis County.
Magoffin County	Magoffin County.
Martin County	Martin County.
McCreary County	McCreary County.
McLean County	McLean County.
Menifee County	Menifee County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Muhlenberg County	Muhlenberg County.
Nicholas County	Nicholas County.
Ohio County	Ohio County.
Perry County	Perry County.
Pike County	Pike County.
Russell County	Russell County.
Taylor County	Taylor County.
Wayne County	Wayne County.
Webster County	Webster County.
Wolfe County	Wolfe County.
Louisiana	
Acadia Parish	Acadia Parish.
Alexandria City	Alexandria City in Rapides Parish.
Allen Parish	Allen Parish.
Assumption Parish	Assumption Parish.
Avoyelles Parish	Avoyelles Parish.
Beauregard Parish	Beauregard Parish.
Bienville Parish	Bienville Parish.
Caldwell Parish	Caldwell Parish.
Catahoula Parish	Catahoula Parish.
Claiborne Parish	Claiborne Parish.
Concordia Parish	Concordia Parish.
De Sotto Parish	De Sotto Parish.
East Carroll Parish	East Carroll Parish.
Franklin Parish	Franklin Parish.
Grant Parish	Grant Parish.
Balance of Iberia	Iberia Parish less New Iberia City.
Iberville Parish	Iberville Parish.
Jefferson Davis Parish.	Jefferson Davis Parish.
La Salle Parish	La Salle Parish.
Lake Charles City	Lake Charles City in Calcasieu Parish.
Madison Parish	Madison Parish.
Morehouse Parish	Morehouse Parish.
New Iberia City	New Iberia City in Iberia Parish.
Pointe Coupee Parish	Point Coupee Parish.
Red River Parish	Red River Parish.
Richland Parish	Richland Parish.
St. James Parish	St. James Parish.
St. John Baptist Parish.	St. John Baptist Parish.
St. Landry Parish	St. Landry Parish.
St. Martin Parish	St. Martin Parish.
St. Mary Parish	St. Mary Parish.
Tangipahoa Parish	Tangipahoa Parish.
Tensas Parish	Tensas Parish.
Vermilion Parish	Vermilion Parish.
Washington Parish	Washington Parish.
Webster Parish	Webster Parish.
West Carroll Parish	West Carroll Parish.
Winn Parish	Winn Parish.
Maine	
Franklin County	Franklin County
Oxford County	Oxford County.
Piscataquis County	Piscataquis County.
Somerset County	Somerset County.
Washington County	Washington County.
Maryland	
Allegany County	Allegany County.
Baltimore City	Baltimore City.
Dorchester	Dorchester County.
Garrett County	Garrett County.
Somerset County	Somerset County.
Worcester County	Worcester County.
Massachusetts	
Gay Head Town	Gay Head Town in Dukes County.
Lawrence City	Lawrence City in Essen County.
New Bedford City	New Bedford City in Bristol County.

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Phillipston Town	Phillipston Town in Worcester County.
Provincetown Town	Provincetown Town in Barnstable County.
Truro Town	Truor Town in Barnstabale County.
Michigan	
Alcona County	Alcona County.
Alpena County	Alpena County.
Antrim County	Antrim County.
Arenac County	Arenac County.
Baraga County	Baraga County.
Bay City	Bay City in Bay County.
Burton City	Burton City in Genesee County.
Cheboygan County	Cheboygan County.
Chippewa County	Chippewa County.
Clare County	Clare County.
Crawford County	Crawford County.
Delta County	Delta County.
Detroit City	Detroit City in Wayne County.
Emmet County	Emmet County.
Flint City	Flint City in Genesee County.
Gladwin County	Gladwin County.
Gogebic County	Gogebic County.
Highland Park City	Highland Park City in Wayne County.
Iosco County	Iosco County.
Iron County	Iron County.
Kalkaska County	Kalkaska County.
Keweenaw County	Keweenaw County.
Lake County	Lake County.
Luce County	Luce County
Mackinac County	Mackinac County.
Manistee County	Manistee County.
Montmorency County	Montmorency County.
Mount Morris Township.	Mount Morris Township in Genesee County.
Muskegon City	Muskegon City in Muskegon County.
Newaygo County	Newaygo County.
Oceana County	Oceana County.
Ogemaw County	Ogemaw County.
Ontonagon County	Ontonagon County.
Oscoda County	Oscoda County.
Pontiac City	Pontiac City in Oakland County.
Presque Isle County	Presque Isle County.
Roscommon County	Roscommon County.
Saginaw City	Saginaw City in Saginaw County.
Sanilac County	Sanilac County.
Schoolcraft County	Schoolcraft County.
Wexford County	Wexford County.
Minnesota	
Aitkin County	Aitkin County.
Becker County	Becker County.
Cass County	Cass County.
Clearwater County	Clearwater County.
Grant County	Grant County.
Itasca County	Itasca County.
Kanabec County	Kanabec County.
Kittson County	Kittson County.
Koochiching County	Koochiching County.
Mahnomen County	Mahnomen County.
Marshall County	Marshall County.
Mille Lacs County	Mille Lacs County.
Morrison County	Morrison County.
Pennington County	Pennington County.
Pine County	Pine County.
Red Lake County	Red Lake County.
Mississippi	
Adams County	Adams County.
Attala County	Attala County.
Benton County	Benton County.
Bolivar County	Bolivar County.
Carroll County	Carroll County.
Chickasaw County	Chickasaw County.
Choctaw County	Choctaw County.
Claiborne County	Claiborne County.
Clarke County	Clarke County.
Clay County	Clay County.
Coahoma County	Coahoma County.
Columbus City	Columbus City in Lowndes County.
Copiah County	Copiah County.
Franklin County	Franklin County.
George County	George County.
Greene County	Greene County.
Greenville City	Greenville City in Washington County.
Holmes County	Holmes County.
Humphreys County	Humphreys County.
Issaquena County	Issaquena County.
Jefferson County	Jefferson County.
Jefferson Davis County.	Jefferson Davis County.
Kemper County	Kemper County.
Lawrence County	Lawrence County.
Leake County	Leake County.
Leflore County	Leflore County.
Marion County	Marion County.
Marshall County	Marshall County.
Meridian City	Meridian City in Lauderdale County.
Monroe County	Monroe County.
Montgomery County	Montgomery County.
Newton County	Newton County.
Noxubee County	Noxubee County.
Panola County	Panola County.
Perry County	Perry County.
Quitman County	Quitman County.
Sharkey County	Sharkey County.
Stone County	Stone County.
Sunflower County	Sunflower County.
Tallahatchie County	Tallahatchie County.
Tishomingo County	Tishomingo County.
Tunica County	Tunica County.
Walthall County	Walthall County.
Balance of Washington County.	Washington County less Greenville City.
Wayne County	Wayne County.
Wilkinson County	Wilkinson County.
Winston County	Winston County.
Yalobusha County	Yalobusha County.
Yazoo County	Yazoo County.
Missouri	
Benton County	Benton County.
Dent County	Dent County.
Hickory County	Hickory County.
Iron County	Iron County.
Linn County	Linn County.
Madison County	Madison County.
Pemiscot County	Pemiscot County.
Pulaski County	Pulaski County.
Reynolds County	Reynolds County.
Shelby County	Shelby County.
St. Louis City	St. Louis City.
St. Francois County	St. Francois County.
Stone County	Stone County.
Taney County	Taney County.
Texas County	Texas County.
Washington County	Washington County.
Wayne County	Wayne County.
Montana	
Anaconda-Deer Lodge County.	Anaconda-Deer Lodge County.
Big Horn County	Big Horn County.
Blaine County	Blaine County.
Flathead County	Flathead County.
Glacier County	Glacier County.
Granite County	Granite County.
Lake County	Lake County.
Lincoln County	Lincoln County.
Meagher County	Meagher County.
Mineral County	Mineral County.
Musselshell County	Musselshell County.
Phillips County	Phillips County.
Richland County	Richland County.
Roosevelt County	Roosevelt County.
Rosebud County	Rosebud County.
Sanders County	Sanders County.
Nebraska	
Johnson County	Johnson County.
Richardson County	Richardson County.
Thurston County	Thurston County.
Nevada	
Churchill County	Churchill County.
Esmeralda County	Esmeralda County.
Lander County	Lander County.
Lincoln County	Lincoln County.
Lyon County	Lyon County.
Mineral County	Mineral County.
North Las Vegas City	North Las Vegas City in Clark County.
New Jersey	
Atlantic City	Atlantic City in Atlantic County.
Camden City	Camden City in Camden County.
Cape May County	Cape May County.
Balance of Cumberland County.	Cumberland County less Millville City, Vineland City.

VOL 66 ISS 250 DE 31 2001 UMI

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
East Orange City	East Orange City in Essex County.
Elizabeth City	Elizabeth City in Union County.
Jersey City	Jersey City in Hudson County.
Long Branch City	Long Branch City in Monmouth County.
Millville City	Millville City in Cumberland County.
New Brunswick City	New Brunswick City in Middlesex County.
Newark City	Newark City in Essex County.
Passaic City	Passaic City in Passaic County.
Paterson City	Paterson City in Passaic County.
Perth Amboy City	Perth Amboy City in Middlesex County.
Plainfield City	Plainfield City in Union County.
Trenton City	Trenton City in Mercer County.
Union City	Union City in Hudson County.
Vineland City	Vineland City in Cumberland County.
West New York Town	West New York Town in Hudson County.
New Mexico	
Carlsbad City	Carlsbad City in Eddy County.
Catron County	Catron County.
Balance of Chaves County.	Chaves County less Roswell City.
Cibola County	Cibola County.
Balance of Dona Ana County.	Dona Ana County less Las Cruces City.
Balance of Eddy County.	Eddy County less Carlsbad City.
Grant County	Grant County.
Guadalupe County	Guadalupe County.
Hidalgo County	Hidalgo County.
Hobbs City	Hobbs City in Lea County.
Las Cruces City	Las Cruces City in Dona Ana County.
Balance of Lea County.	Lea County less Hobbs City.
Luna County	Luna County.
McKinley County	McKinley County.
Mora County	Mora County.
Balance of Otero County.	Otero County less Alamogordo City.
Rio Arriba County	Rio Arriba County.
Roswell City	Roswell City in Chaves County.
Balance of San Juan County.	San Juan County less Farmington City.
San Miguel County	San Miguel County.
Taos County	Taos County.
New York	
Allegany County	Allegany County.
Auburn City	Auburn City in Cayuga County.
Bronx County	Bronx County.
Buffalo City	Buffalo City in Erie County.
Cattaraugus County	Cattaraugus County.
Cortland County	Cortland County.
Elmira City	Elmira City in Chemung County.
Essex County	Essex County.
Franklin County	Franklin County.
Fulton County	Fulton County.
Hamilton County	Hamilton County.
Balance of Jefferson County.	Jefferson County less Watertown City.
Kings County	Kings County.
Lewis County	Lewis County.
Lockport City	Lockport City in Niagara County.
Montgomery County	Montgomery County.
Newburgh City	Newburgh City in Orange County.
Niagara Falls City	Niagara Falls City in Niagara County.
Oswego County	Oswego County.
Rochester City	Rochester City in Monroe County.
St. Lawrence County	St. Lawrence County.
Watertown City	Watertown City in Jefferson County.
Wyoming County	Wyoming County.
North Carolina	
Anson County	Anson County.
Ashe County	Ashe County.
Beaufort County	Beaufort County.
Bertie County	Bertie County.
Cherokee County	Cherokee County.
Columbus County	Columbus County.
Balance of Edgecombe County.	Edgecombe County less Rocky Mount City.
Graham County	Graham County.
Halifax County	Halifax County.
Hoke County	Hoke County.
Hyde County	Hyde County.
Kinston City	Kinston City in Lenoir County.
Martin County	Martin County.
Northampton County	Northampton County.
Richmond County	Richmond County.
Robeson County	Robeson County.
Rocky Mount City	Rocky Mount City in Edgecombe County, Nash County.
Rutherford County	Rutherford County.
Scotland County	Scotland County.
Swain County	Swain County.
Tyrrell County	Tyrrell County.
Vance County	Vance County.
Warren County	Warren County.
Washington County	Washington County.
Wilson City	Wilson City in Wilson County.
North Dakota	
Benson County	Benson County.
McLean County	McLean County.
Mercer County	Mercer County.
Mountrail County	Mountrail County.
Pembina County	Pembina County.
Rolette County	Rolette County.
Sheridan County	Sheridan County.
Sioux County	Sioux County.
Ohio	
Adams County	Adams County.
Canton City	Canton City in Stark County.
Cleveland City	Cleveland City in Cuyahoga County.
Dayton City	Dayton City in Montgomery County.
East Cleveland City	East Cleveland City in Cuyahoga County.
Gallia County	Gallia County.
Guernsey County	Guernsey County.
Harrison County	Harrison County.
Hocking County	Hocking County.
Huron County	Huron County.
Jackson County	Jackson County.
Jefferson County	Jefferson County.
Lawrence County	Lawrence County.
Lima City	Lima City in Allen County.
Lorain City	Lorain City in Lorain County.
Mansfield City	Mansfield City in Richland County.
Meigs County	Meigs County.
Mercer County	Mercer County.
Monroe County	Monroe County.
Morgan County	Morgan County.
Noble County	Noble County.
Ottawa County	Ottawa County.
Perry County	Perry County.
Pike County	Pike County.
Sandusky City	Sandusky City in Erie County.
Scioto County	Scioto County.
Vinton County	Vinton County.
Warren City	Warren City in Trumbull County.
Youngstown City	Youngstown City in Mahoning County.
Zanesville City	Zanesville City in Muskingum County.
Oklahoma	
Choctaw County	Choctaw County.
Haskell County	Haskell County.
Hughes County	Hughes County.
Balance of Kay County.	Kay County less Ponca City.
Latimer County	Latimer County.
McCurtain County	McCurtain County.
Okmulgee County	Okmulgee County.
Seminole County	Seminole County.

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Oregon	
Albany City	Albany City in Linn County.
Baker County	Baker County.
Coos County	Coos County.
Crook County	Crook County.
Curry County	Curry County.
Balance of Deschutes County.	Deschutes County less Bend City.
Douglas County	Douglas County.
Grant County	Grant County.
Harney County	Harney County.
Hood River County	Hood River County.
Balance of Jackson County.	Jackson County less Medford City.
Jefferson County	Jefferson County.
Josephine County	Josephine County.
Klamath County	Klamath County.
Lake County	Lake County.
Lincoln County	Lincoln County.
Lincoln County	Lincoln County.
Balance of Linn County.	Linn County less Albany City.
Malheur County	Malheur County.
Morrow County	Morrow County.
Umatilla County	Umatilla County.
Wallowa County	Wallowa County.
Wasco County	Wasco County.
Wheeler County	Wheeler County.
Pennsylvania	
Armstrong County	Armstrong County.
Bedford County	Bedford County.
Balance of Cambria County.	Cambria County less Johnstown City.
Cameron County	Cameron County.
Carbon County	Carbon County.
Chester City	Chester City in Delaware County.
Clearfield County	Clearfield County.
Elk County	Elk County.
Fayette County	Fayette County.
Forest County	Forest County.
Greene County	Greene County.
Hazleton City	Hazleton City in Luzerne County.
Huntingdon County	Huntingdon County.
Indiana County	Indiana County.
Jefferson County	Jefferson County.
Johnstown City	Johnstown City in Cambria County.
McKeesport City	McKeesport City in Allegheny County.
New Castle City	New Castle City in Lawrence County.
Philadelphia City	Philadelphia City in Philadelphia County.
Schuylkill County	Schuylkill County.
Williamsport City	Williamsport City in Lycoming County
Puerto Rico	
Adjuntas Municipio	Adjuntas Municipio.
Aguada Municipio	Aguada Municipio.
Aguadilla Municipio	Aguadilla Municipio
Agus Buenas Municipio.	Agus Buenas Municipio.
Aibonito Municipio	Aibonito Municipio.
Anasco Municipio	Anasco Municipio.
Arecibo Municipio	Arecibo Municipio.
Arroyo Municipio	Arroyo Municipio.
Barceloneta Municipio	Barceloneta Municipio.
Barranquitas Municipio.	Barranquitas Municipio.
Bayamon Municipio	Bayamon Municipio.
Cabo Rojo Municipio	Cabo Rojo Municipio.
Caguas Municipio	Caguas Municipio.
Camuy Municipio	Camuy Municipio.
Canovanas Municipio	Canovanas Municipio.
Carolina Municipio	Carolina Municipio.
Catano Municipio	Catano Municipio.
Cayey Municipio	Cayey Municipio.
Ceiba Municipio	Ceiba Municipio.
Ciales Municipio	Ciales Municipio.
Cidra Municipio	Cidra Municipio.
Coamo Municipio	Coamo Municipio.
Comerio Municipio	Comerio Municipio.
Corozal Municipio	Corozal Municipio.
Dorado Municipio	Dorado Municipio.
Fajardo Municipio	Fajardo Municipio.
Florida Municipio	Florida Municipio.
Guanica Municipio	Guanica Municipio.
Guayama Municipio	Guayama Municipio.
Guayanilla Municipio	Guayanilla Municipio.
Gurabo Municipio	Gurabo Municipio.
Hatillo Municipio	Hatillo Municipio.
Hormigueros Municipio.	Hormigueros Municipio.
Humacao Municipio	Humacao Municipio.
Isabela Municipio	Isabela Municipio.
Jayuya Municipio	Jayuya Municipio.
Juana Diaz Municipio	Juana Diaz Municipio.
Juncos Municipio	Juncos Municipio.
Lajas Municipio	Lajas Municipio.
Lares Municipio	Lares Municipio.
Las Marias Municipio	Las Marias Municipio.
Las Piedras Municipio	Las Piedras Municipio.
Loiza Municipio	Loiza Municipio.
Luquillo Municipio	Luquillo Municipio.
Manati Municipio	Manati Municipio.
Maricao Municipio	Maricao Municipio.
Maunabo Municipio	Maunabo Municipio.
Mayaguez Municipio	Mayaguez Municipio.
Moca Municipio	Moca Municipio.
Morovis Municipio	Morovis Municipio.
Naguabo Municipio	Naguabo Municipio.
Naranjito Municipio	Naranjito Municipio.
Orocovis Municipio	Orocovis Municipio.
Patillas Municipio	Patillas Municipio.
Penuelas Municipio	Penuelas Municipio.
Ponce Municipio	Ponce Municipio.
Quebradillas Municipio.	Quebradillas Municipio.
Rincon Municipio	Rincon Municipio.
Rio Grande Municipio	Rio Grande Municipio.
Sabana Grande Municipio.	Sabana Grande Municipio.
Salinas Municipio	Salinas Municipio.
San German Municipio.	San German Municipio.
San Juan Municipio	San Juan Municipio.
San Lorenzo Municipio.	San Lorenzo Municipio .
San Sebastian Municipio.	San Sebastian Municipio.
Santa Isabel Municipio.	Santa Isabel Municipio.
Toa Alta Municipio	Toa Alta Municipio.
Toa Baja Municipio	Toa Baja Municipio.
Trujillo Alto Municipio	Trujillo Alto Municipio.
Utuado Municipio	Utuado Municipio.
Vega Alta Municipio	Vega Alta Municipio.
Vega Baja Municipio	Vega Baja Municipio.
Vieques Municipio	Vieques Municipio.
Villalba Municipio	Villalba Municipio.
Yabucoa Municipio	Yabucoa Municipio.
Yuco Municipio	Yuco Municipio.
Rhode Island	
New Shoreham Town	New Shoreham Town.
South Carolina	
Allendale County	Allendale County.
Bamberg County	Bamberg County.
Barnwell County	Barnwell County.
Calhoun County	Calhoun County.
Chester County	Chester County.
Chesterfield County	Chesterfield County.
Clarendon County	Clarendon County.
Darlington County	Darlington County.
Dillon County	Dillon County.
Fairfield County	Fairfield County.
Georgetown County	Georgetown County.
Greenwood County	Greenwood County.
Lee County	Lee County.
Marion County	Marion County.
Marlboro County	Marlboro County.
McCormick County	McCormick County.
Orangeburg County	Orangeburg County.
Union County	Union County.
Williamsburg County	Williamsburg County.
South Dakota	
Buffalo County	Buffalo County.
Corson County	Corson County.
Day County	Day County.
Dewey County	Dewey County.
Jackson County	Jackson County.
Mellette County	Mellette County.
Shannon County	Shannon County.
Todd County	Todd County.
Ziebach County	Zieback County.
Tennessee	
Benton County	Benton County.
Campbell County	Cambell County.
Carroll County	Carroll County.
Clay County	Clay County.
Cocke County	Cocke County.
Decatur County	Decatur County.
Fentress County	Fentress County.
Gibson County	Gibson County.
Hardeman County	Hardeman County.
Hardin County	Hardin County.
Haywood County	Haywood County.

VOL 66 ISS 250 DE 31 2001 UMI

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Henry County	Henry County.
Houston County	Houston County.
Humphreys County	Humphreys County.
Jackson County	Jackson County.
Johnson County	Johnson County.
Lauderdale County	Lauderdale County.
Lawrence County	Lawrence County.
Lewis County	Lewis County.
Meigs County	Meigs County.
Morgan County	Morgan County.
Perry County	Perry County.
Scott County	Scott County.
Sevier County	Sevier county.
Stewart County	Stewart County.
Unicoi County	Unicoi County.
Wayne County	Wayne County.
Texas	
Andrews County	Andrews County.
Beaumont City	Beaumont City in Jefferson County.
Balance of Brazoria County.	Brazoria County less Lake Jackson City, Pearland City.
Brooks County	Brooks County.
Brownsville City	Brownsville City in Cameron County.
Balance of Cameron County.	Cameron County less Brownsville City, Harlingen City.
Camp County	Camp County.
Cass County	Cass County.
Cochran County	Cochran County.
Corpus Christi City	Corpus Christi City in Nueces County.
Crane County	Crane County.
Crockett County	Crockett County.
Culverson County	Culberson County.
Del Rio City	Del Rio City in Valverde County.
Dimmit County	Dimmit County.
Duval County	Duval County.
Eagle Pass City	Eagle Pass City in Maverick County.
Balance of Ector County.	Ector County less Odessa City.
Edinburg City	Edinburg City in Hidalgo County.
El Paso City	El Paso City in El Paso County.
Balance of El Paso County.	El Paso County less El Paso City, Socorro City.
Floyd County	Floyd County.
Frio County	Frio County.
Galveston City	Galveston City in Galveston County.
Balance of Galveston County.	Galveston County less Friendswood City, Galveston City, League City, Texas City.
Gray County	Gray County.
Balance of Gregg County.	Gregg County less Longview City.
Grimes County	Grimes County.
Hardin County	Hardin County.
Harlingen City	Harlingen City in Cameron County.
Balance of Harrison County.	Harrison County less Longview City.
Balance of Hidalgo County.	Hidalgo County less Edinburg City, McAllen City, Mission City, Pharr City, Weslaco City.
Hutchinson County	Huthinson County.
Jasper County	Jasper County.
Jim Hogg County	Jim Hogg County.
Jim Wells County	Jim Wells County.
Kingsville City	Kingsville City in Kleberg County.
Kinney County	Kinney County.
LaSalle County	LaSalle County.
Lamb County	Lamb County.
Laredo City	Laredo City in Webb County.
Liberty County	Liberty County.
Longview City	Longview City in Gregg County, Harrison County.
Loving County	Loving County.
Marion County	Marion County.
Matagorda County	Matagorda County.
Balance of Maverick County.	Maverick County less Eagle Pass City.
McAllen City	McAllen City in Hidlgo County.
Balance of Midland County.	Midland County less Midland City.
Mission City	Mission City in Hidalgo County.
Morris County	Morris County.
Newton County	Newton County.
Balance of Nueces County.	Nueces County less Corpus Christi City.
Odessa City	Odessa City in Ector County.
Orange County	Orange County.
Panola County	Panola County.
Paris City	Paris City in Lamar County.
Pecos County	Pecos County.
Pharr City	Pharr City in Hidalgo County.
Port Arthur City	Port Arthur City in Jefferson County.
Presidio County	Presidio County.
Reagan County	Reagan County.
Reeves County	Reeves County.
Sabine County	Sabine County.
San Patrico County	San Patricio County.
Scurry County	Scurry County.
Shelby County	Shelby County.
Socorro City	Socorro City in El Paso County.
Somervell County	Somervell County.
Starr County	Starr County.
Terry County	Terry County.
Texarkana City Tex	Texarkana City Tex in Bowie County.
Texas City	Texas City in Galveston County.
Tyler County	Tyler County.
Upton County	Upton County.
Uvalde County	Uvalde County.
Balance of Val Verde County.	Val Verde County less Del Rio City.
Ward County	Ward County.
Balance of Webb County.	Webb County less Laredo City.
Weslaco City	Weslaco City in Hidalgo County.
Willacy County	Willacy County.
Winkler County	Winkler County.
Yoakum County	Yoakum County.
Zapata County	Zapata County.
Zavala County	Zavala County.
Utah	
Carbon County	Carbon County.
Duchesne County	Duchesne County.
Emery County	Emery County.
Garfield County	Garfield County.
Grand County	Grand County.
Ogden City	Ogden City in Weber County.
San Juan County	San Juan County.
Vermont	
Orleans County	Orleans County.
Virginia	
Buchanan County	Buchanan County.
Carroll County	Carroll County.
Covington City	Covington City.
Dickenson County	Dickenson County.
Grayson County	Grayson County.
Halifax County	Halifax County.
Henry County	Henry County.
Lancaster County	Lancaster County.
Lee County	Lee County.
Martinsville City	Martinsville City.
Northumberland County.	Northumberland County.
Norton City	Norton City.
Russell County	Russell County.
Surry County	Surry County.
Tazewell County	Tazewell County.
Wise County	Wise County.
Washington	
Adams County	Adams County.
Bremerton City	Bremerton City in Kitsap County.
Chelan County	Chelan County.
Clallam County	Clallam County.
Columbia County	Columbia County.
Balance of Cowlitz County.	Cowlitz County less Longview City.
Douglas County	Douglas County.
Everett City	Everett City in Snohomish County.
Ferry County	Ferry County.
Grant County	Grant County.
Grays Harbor County	Grays Harbor County.
Kennewick City	Kennewick City in Benton County.
Klickitat County	Klickitat County.
Lakewood City	Lakewood City in Pierce County.

LABOR SURPLUS AREAS—Continued

[October 1, 2001 through September 30, 2002]

Eligible labor surplus	Civil jurisdictions included
Lewis County	Lewis County.
Longview City	Longview City in Cowlitz County.
Mason County	Mason County.
Okanogan County	Okanogan County.
Pacific County	Pacific County.
Pasco City	Pasco City in Franklin County.
Pend Oreille County	Pend Oreille County.
Skagit County	Skagit County.
Skamania County	Skamania County.
Spokane City	Spokane City in Spokane County.
Stevens County	Stevens County.
Wahkiakum County	Wahkiakum County.
Walla Walla City	Walla Walla City in Walla Walla County.
Yakima City	Yakima City in Yakima County.
Balance of Yakima County.	Yakima County less Yakima City.
West Virginia	
BarBour County	BarBour County.
Boone County	Boone County.
Braxton County	Braxton County.
Calhoun County	Calhoun County.
Clay County	Clay County.
Fayette County	Fayette County.
Gilmer County	Gilmer County.
Grant County	Grant County.
Greenbrier County	Greenbrier County.
Harrison County	Harrison County.
Huntington City	Huntington City in Cabell County.
Jackson County	Jackson County.
Lewis County	Lewis County.
Lincoln County	Lincoln County.
Logan County	Logan County.
Marion County	Marion County.
Balance of Marshall County.	Marshall County less Wheeling City.
Mason County	Mason County.
Mc Dowell County	Mc Dowell County.
Mineral County	Mineral County.
Mingo County	Mingo County.
Nicholas County	Nicholas County.
Parkersburg City	Parkersburg City in Wood County.
Pendleton County	Pendleton County.
Pleasants County	Pleasants County.
Pocahontas County	Pocahontas County.
Raleigh County	Raleigh County.
Randolph County	Randolph County.
Ritchie County	Ritchie County.
Roane County	Roane County.
Summers County	Summers County.
Taylor County	Taylor County.
Tucker County	Tucker County.
Tyler County	Tyler County.
Upshur County	Upshur County.
Webster County	Webster County.
Wetzel County	Wetzel County.
Wirt County	Wirt County.
Wyoming County	Wyoming County.
Wisconsin	
Ashland County	Ashland County.
Bayfield County	Bayfield County.
Beloit City	Beloit City in Rock County.
Florence County	Florence County.
Iron County	Iron County.
Juneau County	Juneau County.
Menominee County	Menominee County.
Milwaukee City	Milwaukee City in Milwaukee County.
Price County	Price County.
Racine City	Racine City in Racine County.
Wyoming	
Big Horn County	Big Horn County.
Fremont County	Fremont County.
Balance of Natrona County.	Natrona County less Casper County.
Uinta County	Uinta County.

[FR Doc. 01–31977 Filed 12–28–01; 8:45 am]

BILLING CODE 4510–30–M

VOL
66
ISS
2
5
0
DE
31
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 31, 2001

Part IV

Department of the Interior

Office of Hearings and Appeals

43 CFR Part 4

Trust Management Reform: Probate of Indian Trust Estates; Final Rule

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

RIN 1090–AA78

Trust Management Reform: Probate of Indian Trust Estates

AGENCY: Office of Hearings and Appeals, Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior, Office of Hearings and Appeals (OHA), is revising its regulations regarding hearings and appeals involving the probate of property and funds held in trust or restricted status for individual Indians and Alaska Natives. The revisions make OHA's probate regulations consistent with those published on January 22, 2001, by the Bureau of Indian Affairs (BIA) to accommodate BIA's re-assumption of responsibility for some probate cases. OHA's revisions will ensure that BIA and OHA apply the same standards and criteria for determining heirs and paying claims, and that they coordinate their procedures to expedite the probate process for Indian decedents' estates. This final rule reflects comments OHA received on the interim rule it published on June 18, 2001.

DATES: This rule is effective January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone 703–235–3810.

SUPPLEMENTARY INFORMATION:

I. Background
II. Section-by-Section Analysis and Response to Comments
III. Procedural Requirements
  A. Review Under Executive Order 12866 (Regulatory Planning and Review)
  B. Review Under Executive Order 12988 (Civil Justice Reform)
  C. Review Under the Regulatory Flexibility Act
  D. Review Under Small Business Regulatory Enforcement Fairness Act of 1996
  E. Review Under the Paperwork Reduction Act
  F. Review Under Executive Order 13132 (Federalism)
  G. Review Under the National Environmental Policy Act
  H. Review Under the Unfunded Mandates Reform Act of 1995
  I. Review Under Executive Order 12630 (Takings Implication Assessment)
  J. Review under Executive Order 13175 (Tribal Consultation)
  K. Review under Executive Order 13211 (Energy Impacts)
IV. List of Subjects

I. Background

On June 18, 2001, the Office of Hearings and Appeals (OHA) published an interim rule amending several sections of its Indian probate regulations at 43 CFR part 4, subpart D. 66 FR 32884; see also 66 FR 33740 (June 25, 2001) (corrections). These regulatory changes, which were made immediately effective, were designed to make OHA's regulations consistent with the new 25 CFR part 15 that had been published by the Bureau of Indian Affairs (BIA) on January 22, 2001. 66 FR 7068 (effective March 23, 2001). Additional information concerning the background of the present rulemaking is found in the preamble to OHA's interim rule.

OHA requested comments on its interim rule, and several comments were received during the comment period that ended August 17, 2001. Commenters included the Office of Personnel Management (OPM), the Governmental Affairs Office of the American Bar Association (ABA), the Federal Administrative Law Judges Conference (FALJC), the FORUM of United States Administrative Law Judges (FORUM), and a number of individuals. On September 17, 2001, OHA officials met with Raymond Limon, Acting Deputy Assistant Director of OPM's Office of Administrative Law Judges, who requested the meeting to reiterate the concerns expressed in OPM's written comments. This final rule makes additional changes to 43 CFR part 4, subpart D in response to the comments OHA received. A discussion of the specific comments received and OHA's response thereto is included in the Section-by-Section Analysis below.

As explained in the interim rule, OHA is using the current rulemaking process (including the interim and final rules) to adopt those changes to its previous regulations that are necessary to avoid inconsistencies in the processing of Indian probate cases between BIA and OHA deciding officials. However, these changes are not intended to serve as the Department's final word on the Indian probate process. BIA and OHA are both contemplating further revisions to improve the probate process and make the regulations easier to understand, and the two organizations will work together on such changes over the coming months.

II. Section-by-Section Analysis and Response to Comments

As explained above, the purpose of the changes to 43 CFR part 4, subpart D, is to make the policies and procedures that OHA uses to probate an Indian decedent's trust estate consistent with those adopted by BIA earlier this year, to ensure uniformity of treatment within the Department. The various provisions of subpart D address the purpose and scope of the Indian probate procedures; the mechanics of initiating the probate process; the disposition of claims against an estate; the ultimate distribution of the decedent's assets to the determined heirs or beneficiaries; and an appeals process to follow should disputes arise during any stage of the probate process. For reasons explained below, this final rule repromulgates all provisions of 43 CFR part 4, subpart D dealing with the Indian probate process, including the provisions revised in the interim rule.

The interim rule was effective upon publication, on June 18, 2001. One commenter requested clarification as to whether the effective date meant that the new provisions of the rule applied to all pending cases or only to new cases. The commenter noted that, to the extent any new provisions of the interim or final rule might alter the substantive rights of affected parties, applying those provisions to pending cases could raise concerns over retroactivity, which the law generally disfavors. See *Landgraf* v. *USI Film Products*, 511 U.S. 244 (1994); *Bowen* v. *Georgetown University Hospital*, 488 U.S. 408 (1988). To avoid such concerns, OHA will apply any new substantive provisions of either the interim or final rule only to cases arising after their respective effective dates, i.e., to cases in which the decedent died after the effective date of the rule.

Section 4.200 Scope of Regulations

By way of a technical amendment, this section is revised to clarify that the probate procedures in subpart D do not apply to the restricted property of deceased members of the Five Civilized Tribes and deceased Osage Indians. The probate procedures do apply, however, to any funds or property that may be held in trust for such decedents. This revision makes § 4.200 consistent with BIA's regulations at 25 CFR 15.3.

Section 4.201 Definitions

This section is revised from the interim rule to delete the definition of "administrative law judge" and to add a definition of "OHA deciding official." Within OHA, Indian probate cases are handled either by administrative law judges, who are appointed under 5 U.S.C. 3105, or by Indian probate judges, who are senior attorney-advisers appointed pursuant to specific congressional authority to handle these cases. See Pub. L. 106–113, App. C, Sec.

124, 113 Stat. 1501A–160 (Nov. 29, 1999); Pub. L. 106–291, Sec. 117, 114 Stat. 943 (Oct. 11, 2000).

In the interim rule, OHA was revising only 12 out of 63 sections within subpart D dealing with the Indian probate process, since only those 12 sections had provisions that potentially conflicted with the new BIA regulations at 25 CFR part 15. However, all of the relevant sections within subpart D referred to the OHA deciding official for probate cases as "the administrative law judge." Rather than revise all of subpart D in the interim rule to add references to Indian probate judges, OHA decided to revise its definition of "administrative law judge," for purposes of subpart D only, to include both judges appointed under 5 U.S.C. 3105 and other OHA deciding officials designated by the Director. OHA explained in the preamble that it would consider revising all of subpart D in the future to use a longer phrase such as "administrative law judge or other OHA deciding official" wherever the term "administrative law judge" appeared in subpart D.

OPM, ABA, FALJC, and FORUM all submitted comments objecting to the revised definition of "administrative law judge" in the interim rule. As explained by these commenters, the term "administrative law judge" is a term of art used in the Administrative Procedure Act and other statutes and regulations, where its meaning is limited to judges appointed under 5 U.S.C. 3105. OHA's inclusion of Indian probate judges in the subpart D definition of "administrative law judge," the commenters argued, could confuse the public as to the identity of the OHA deciding official handling any particular case, i.e., whether he or she had been selected through OPM's competitive process for hiring administrative law judges and was covered by the statutory and regulatory protections designed to ensure the independence of administrative law judges.

In response to these comments, OHA has decided to delete the expanded definition of "administrative law judge" in the interim rule and instead use the phrase "OHA deciding official" wherever the regulations previously used the phrase "administrative law judge." Other options that were considered included "administrative law judge or other OHA deciding official" and "administrative law judge or Indian probate judge," but OHA chose "OHA deciding official" as shorter and less awkward than those alternatives. "OHA deciding official" is also more consistent with the usage adopted by BIA in its probate rule. In this final rule, a definition of "OHA deciding official" has been added to include both administrative law judges and Indian probate judges.

In addition to revising § 4.201, this final rule repromulgates all provisions of 43 CFR part 4, subpart D dealing with the Indian probate process, to substitute the phrase "OHA deciding official" for the previous term "administrative law judge."[1]

Section 4.201 has also been revised to clarify the treatment of restricted property in the definitions of "probate" and "restricted property," consistent with the change to § 4.200 discussed above.

Section 4.210 Commencement of Probate

One commenter suggested that OHA add a reference to 25 CFR 15.104 in the second sentence of this section, along with the current reference to 25 CFR 15.202, to more fully describe the documents that must be included in the probate package referred to OHA. OHA agrees with the commenter and has added the suggested reference.

The commenter also suggested that OHA restore certain provisions from its previous version of 43 CFR 4.210, namely former paragraphs (b)(3) and (c), to cover documents that may be useful in the probate process but that are not specifically listed in 25 CFR 15.104 and 15.202. The commenter recommended that BIA should likewise add these provisions to its regulations. OHA believes the new version of 43 CFR 4.210 in this final rule is adequate to cover these documents, given the reference to "any other relevant information"; but OHA will consult with BIA on whether the information covered by former 4.210(b)(3) and (c) should be added specifically to BIA's regulations in a subsequent rulemaking.

Section 4.243 Appeals From BIA

The interim rule added a new section 4.243 to set forth procedures to be followed when a probate matter is appealed from the decision of a BIA deciding official to an OHA deciding official. The last sentence of the section provided that the BIA deciding official "must forward [to OHA] the entire file upon which the BIA deciding official's decision was based." One commenter suggested that the phrase "the entire file" be changed to "all documents or other evidence" upon which the BIA deciding official's decision was based, since "the entire file" may contain unnecessary documents such as cover memorandums, status notes, and driving directions. OHA has accepted the suggestion, but has used the slightly different phrase "all documents and other evidence" in place of "the entire file."

Section 4.250 Filing and Proof of Creditor Claims; Limitations

The interim rule revised paragraph (a) of this section to provide that all claims against the estate of a deceased Indian held by creditors chargeable with notice of the decedent's death must be filed within 60 days from the date BIA receives verification of the decedent's death, in accordance with 25 CFR 15.303(c). The previous rule had provided that claims had to be filed prior to the conclusion of the first hearing, typically within 20 days of the notice provided under § 4.211. Commenters raised two issues concerning this revision to § 4.250(a).

The first issue raised by the commenters is what happens if a creditor is not chargeable with notice of the decedent's death until near the end of or after the expiration of the 60-day period from the date BIA received verification of the death. The commenters pointed out that the only provision in the regulations for notice to creditors is § 4.211, which requires the posting of notice of the hearing at least 20 days in advance thereof and service on known parties in interest. By the time the hearing is set and notice is provided, the commenters observed, the 60-day period from the date BIA received verification of the death is likely to be long over.

OHA agrees that there is likely to be a significant hiatus between the end of the 60-day period in 25 CFR 15.303(c) and the posting and service of the hearing notice under § 4.211. However, many if not most creditors will have notice of the decedent's death when it occurs or shortly thereafter. Such creditors would typically include any relatives and friends of the decedent who may have claims against the estate; the tribe; anyone with claims for medical expenses of the last illness, nursing home or other care facility expenses, or funeral expenses; and other creditors in the decedent's community. Many of these creditors will have notice of the death even before BIA receives any verification of the death.

In addition, BIA has informed OHA that it intends to provide public notice,

---

[1] These provisions of subpart D have also been revised to be more inclusive in their use of personal pronouns. Thus "he" has become "he or she"; "him" has become "him or her"; and "his" has become "his or her." Minor other editorial changes have also been made for improved clarity, such as changing some plural subjects and verbs to singular and changing the auxiliary verb "shall" to "must," "will," or "may," depending on the context.

VOL 66 ISS 250 DE 31 2001 UMI

comparable to that required by § 4.211, when BIA has received verification of the death. Thus other creditors may also be chargeable with notice much sooner than the posting and service of the hearing notice. In many if not most instances, therefore, application of the 60-day provision of § 4.250(a) will not work any hardship on the creditors.

The commenters may still be right, however, that at least some creditors will not be chargeable with notice until near the end of or after the expiration of the 60-day period from the date BIA received verification of the death. Because the intent of the previous OHA rule was to give creditors at least 20 days from the date of actual or constructive notice of the death to submit their claims, this final rule further revises § 4.250(a) to provide that all claims must be filed with the agency (i) within 60 days from the date BIA receives a certified copy of the death certificate or other verification of the decedent's death under 25 CFR 15.101 or (ii) within 20 days from the date the creditor is chargeable with notice of the decedent's death, whichever of these dates is later.

Determination of the date on which a creditor was chargeable with notice will have to be made on a case-by-case basis by the OHA deciding official. BIA and OHA are considering adopting a regulation requiring BIA to publish a notice once BIA has verified the decedent's death, and requiring creditors to file all claims within 60 days from the date of publication. This approach would provide a uniform filing deadline for all creditors' claims and would simplify the determination required of the OHA deciding official. Because this proposal is beyond the scope of the interim rule, it will be considered in connection with a future rulemaking by BIA and OHA.

The second issue noted by the commenters is a potential conflict between the 60-day limitation in § 4.250(a) and the provisions of § 4.250(d), which provided that individual Indians could present claims against the estate by oral evidence at the hearing.

As explained previously in this preamble and more fully in the preamble to the interim rule, the intent of this rulemaking is to harmonize OHA's Indian probate rules with BIA's, which were the product of a lengthy process of analysis within the Department and consultation with tribes and tribal organizations. One of the policy decisions that resulted from that process was a decision to set certain limits on the filing and allowance of claims so as to preserve more of the trust estate for the benefit of the decedent's heirs or beneficiaries. In deference to this policy decision, this final rule deletes § 4.250(d). As a result, individual Indians chargeable with notice of the decedent's death must file any claims they may have against the estate within the applicable 60- or 20-day period provided in § 4.250(a), as revised.

Paragraph (c) of this section has also been revised so that the procedural requirements for filing claims are applicable to all claimants, since the alternative procedures previously available to individual Indian claimants under former paragraph (d) have been eliminated.

Section 4.251 Priority of Claims

One commenter observed that revised § 4.251 does not specifically mention the claims of federal agencies, such as those of the Farm Services Agency, the Social Security Administration, and the Internal Revenue Service. The commenter asked if such agencies would need to file their claims in tribal court before the claims could be allowed against the estate. Under § 4.251(b)–(c), federal agency claims that have been reduced to judgment by a court of competent jurisdiction would be entitled to priority, while federal agency claims that have not been reduced to judgment would be treated as general claims.

The commenter also asked what would happen to BIA-approved mortgages against trust property and any assignment of income the decedent had executed with the mortgage. These regulations do not affect the mortgage interest held by the lending agency, which would have a range of options available to it, including filing a claim against the trust estate for the unpaid loan balance, foreclosing on the mortgage, and/or making some arrangement for repayment with the decedent's heirs or beneficiaries. This final rule does not make any substantive changes to this section.

In addition to these comments, questions have been raised concerning § 4.251(e)–(f), specifically, at what point in time the OHA deciding official is to determine the amount of money in the decedent's individual Indian money (IIM) account. Section 4.252 provides that "all trust moneys of the deceased on hand or accrued at the time of death * * * may be used for the payment of claims," which may indicate that the time of death should be used to determine the amount in the IIM account for purposes of § 4.251(e)–(f). On the other hand, § 4.251(g) provides that "claims will not be enforceable against the estate after the estate is closed," which indicates that funds deposited in the IIM account after the date of death are available to pay claims, up until the time the estate is closed.

Section 4.252 is unchanged from the previous version of the OHA probate regulations, published in 1971. Under § 4.251(d) of those regulations, estates could be held open for up to 7 years to allow the payment of some claims. Thus it is clear that § 4.252 was never intended to limit the funds available for the payment of claims to those accrued at the time of the decedent's death. In the interim rule, OHA revised § 4.251 to be consistent with the new BIA rules at 25 CFR 15.305–15.309, and deleted the provision allowing estates to remain open for up to 7 years for the payment of claims. But consistent with 25 CFR 15.308, funds deposited in the IIM account during the probate process itself are available to pay claims.

Section 4.251(e)–(f) both refer to the order issued by the OHA deciding official governing the payment of claims. That order is based on the record made at the hearing, and it is that order that BIA and OTFM will follow in distributing the estate under § 4.273. It appears from these provisions, therefore, that the OHA deciding official should determine the amount of money available in the IIM account as of the date of the hearing, and base his or her determinations under § 4.251(e)–(f) on that amount. This final rule revises § 4.251(e) and (f) to clarify this point.

Section 4.273 Distribution of Estates

The interim rule renumbered and revised this section to provide that, unless the Superintendent has received a copy of a petition for rehearing filed pursuant to § 4.241(a) or a copy of a notice of appeal filed pursuant to § 4.320(b), he or she must initiate the payment of claims, distribution of the estate, and other actions required by the final order of the OHA deciding official. One commenter suggested adding a reference to the 60-day period allowed for filing a petition for rehearing or a notice of appeal. That suggestion has been adopted in this final rule, although the time period has been set at 75 days to reflect the additional 15-day grace period provided in 25 CFR 15.312.

Section 4.301 Valuation Report

By way of a technical amendment, § 4.301 is revised to change the term "appraisal" to "valuation." Depending upon the circumstances, BIA uses various approaches or methodologies to determine the appropriate value of property. A formal appraisal is one of these approaches, but is not required in every case. Therefore, the more general term "valuation" is substituted for "appraisal" in § 4.301. The same change has been made to §§ 4.236, 4.302, 4.305, and 4.306.

III. Procedural Requirements

A. Review Under Executive Order 12866 (Regulatory Planning and Review)

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Department must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rule describes how the federal government will administer its trust responsibility in probating the trust and restricted property interests of individual Indians. Thus, the impact of the rule is confined to the federal government and Indian trust beneficiaries and does not impose a compliance burden on the economy generally. Accordingly, it has been determined that this rule is not a "significant regulatory action" from an economic standpoint and that it does not otherwise create any inconsistencies or budgetary impacts on any other agency or federal program.

B. Review Under Executive Order 12988 (Civil Justice Reform)

With respect to both the review of existing regulations and the promulgation of new regulations, subsection 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction.

With regard to the review of new regulations, subsection 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulations (1) clearly specify the preemptive effect, if any; (2) clearly specify any effect on existing Federal law or regulation; (3) provide a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specify the retroactive effect, if any; (5) adequately define key terms; and (6) address other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Subsection 3(c) of Executive Order 12988 requires agencies to review new regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The Department has determined that this rule meets the relevant standards of Executive Order 12988.

C. Review Under the Regulatory Flexibility Act

This rule was also reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities.

This rule streamlines the Department's policies and procedures that apply to certain Indian trust resources. Indian tribes are not small entities under the Regulatory Flexibility Act. Any impacts on identified small entities affected by this rulemaking are minimal, as they would concern a small number of farmers, ranchers, and individuals doing business on Indian lands (e.g., convenience stores, gasoline stations, sundry shops). Accordingly, the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

D. Review Under the Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more. The revised subpart represents programs that are ongoing within the Department, and no new monies are being introduced into the stream of commerce. This rule will not result in a major increase in costs or prices. The effect of this rulemaking will be to streamline ongoing policies, procedures, and management operations of the Department in probating individual Indian trust and/or restricted property. No increase in costs for administration will be realized, and no prices would be affected through these minor revisions to existing practice.

This rule will not result in any significant adverse effects on competition, employment, investment, productivity, or innovation, nor on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. The impact of the rule will be realized primarily by individual Indians having a protected trust resource. These administrative revisions to departmental policy and procedure will not otherwise have a significant impact any small businesses or enterprises.

E. Review Under the Paperwork Reduction Act

This rule is exempt from the requirements of the Paperwork Reduction Act, since it applies to the conduct of agency administrative proceedings involving specific individuals and entities. 44 U.S.C. 3518(c); 5 CFR 1320.4(a)(2). An OMB form 83–1 is not required.

F. Review Under Executive Order 13132 (Federalism)

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. While this rule may be of interest to tribes, there is no Federalism impact on the trust relationship or balance of power between the United States government and the various tribal governments affected by this rulemaking. Therefore, in accordance with Executive Order 13132, it is determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

G. Review Under the National Environmental Policy Act of 1969

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental

VOL 66 ISS 250 DE 31 2001 UMI

Impact Statement is necessary for this rule.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the Act, the Department generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

I. Review Under Executive Order 12630 (Takings)

In accordance with Executive Order 12630, this rule does not have significant takings implications. This rule does not involve the "taking" of private property interests.

J. Review Under Executive Order 13175 (Tribal Consultation)

The Department determined that, because revisions to 43 CFR part 4, subpart D could have tribal implications, it would consult with tribal governments on this rulemaking. These consultations were in keeping with Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments." In promulgating its own probate regulations, BIA had consulted extensively with tribal governments. Because OHA was effectively incorporating certain BIA regulations into its regulations, tribal governments were aware of the substance of the OHA regulations even prior to publication of the interim rule. However, the Department undertook an additional consultation process by providing a draft of the interim rule to all the tribes and to the National Congress of American Indians and by soliciting their comments. No comments were received from any tribe or tribal organization during this pre-proposal comment period.

In addition, tribal governments were notified of the substance of this rulemaking through the publication of the interim rule in the **Federal Register** and through a direct mailing to tribal leaders. These steps enabled tribal officials and the affected tribal constituency throughout Indian Country to have meaningful and timely input in the development of the final rule.

K. Review Under Executive Order 13211 (Energy Impacts)

The Department has determined that this rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 18, 2001), because it is not a significant regulatory action under Executive Order 12866 (as discussed above), nor is it likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 43 CFR Part 4, Subpart D

Administrative practice and procedure, Estates, Hearing and appeal procedures, Indians, Probate.

Dated: December 17, 2001.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior, Office of Hearings and Appeals, amends 43 CFR part 4, subpart D as follows:

1. The authority citation for part 4, subpart D continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b, 410; 100 Stat. 61, as amended by 101 Stat. 886 and 101 Stat. 1433, 25 U.S.C. 331 note.

2. Revise §§ 4.200 through 4.323 to read as follows:

Scope of Regulations; Definitions; General Authority of OHA Deciding Officials

§ 4.200 Scope of regulations.

Included in §§ 4.200 through 4.202 are general rules applicable to all proceedings in subpart D of this part. Included in §§ 4.203 through 4.282 and §§ 4.310 through 4.323 are procedural rules applicable to the settlement of trust estates of deceased Indians who die possessed of trust property; however, these rules do not apply to the restricted property of deceased Indians of the Five Civilized Tribes, deceased Osage Indians, and members of any tribe organized under 25 U.S.C. 476, to the extent that the constitution, by-laws or charter of each tribe may be inconsistent with this subpart. Included within §§ 4.300 through 4.308 are supplemental procedural rules applicable to determinations as to tribal purchase of certain property interests of decedents under special laws applicable to particular tribes. Included within §§ 4.330 through 4.340 are procedural rules applicable to appeals to the Board of Indian Appeals from administrative actions or decisions issued by the Bureau of Indian Affairs as set forth in § 4.330. Except as limited by the provisions herein, the rules in subparts A and B of this part apply to these proceedings.

§ 4.201 Definitions.

As used in this subpart:

Agency means the agency office or any other designated office in BIA having jurisdiction over trust or restricted property and money. This term also means any office of a tribe which has contracted or compacted the BIA probate function under 25 U.S.C. 450f or 458cc.

Attorney decision maker means an attorney with BIA who reviews a probate package, determines heirs, approves wills and beneficiaries of the will, determines creditors' claims, and issues a written decision to the extent authorized by 25 CFR part 15.

Beneficiary means any individual who receives trust or restricted property or money in a decedent's will.

BIA means the Bureau of Indian Affairs within the Department of the Interior.

BIA deciding official means the official with the delegated authority to make a decision on a probate matter pursuant to 25 CFR part 15, and may include a BIA regional director, agency superintendent, field representative, or attorney decision maker.

Board means the Board of Indian Appeals in the Office of Hearings and Appeals, Office of the Secretary, authorized by the Secretary to hear, consider, and determine finally for the Department appeals taken by aggrieved parties from actions by OHA deciding officials on petitions for rehearing or reopening, and allowance of attorney fees, and from actions of BIA officials as provided in § 4.1(b)(2).

Child or *children* includes an adopted child or children.

Commissioner includes the Deputy Commissioner of Indian Affairs and his or her authorized representatives.

Day means a calendar day, unless otherwise stated.

Decedent means a person who is deceased.

Department means the Department of the Interior.

Estate means the trust cash assets and restricted or trust property owned by the decedent at the time of his or her death.

Heir means any individual who receives trust or restricted property or money from a decedent in an intestate proceeding.

IIM account means funds held in an individual Indian monies account by OTFM or a tribe performing this function under a contract or compact.

Intestate means the decedent died without a will.

Minor means an individual who has not reached the age of majority as defined by the applicable tribal or state law.

OHA deciding official means an employee of the Office of Hearings and Appeals with the authority to make a decision on a probate matter pursuant to this subpart. The OHA deciding official may be either an administrative law judge appointed pursuant to the Administrative Procedure Act, 5 U.S.C. 3105, or an Indian probate judge.

OTFM means the Office of Trust Funds Management within the Office of the Special Trustee for American Indians, Department of the Interior, or its authorized representative.

Party in interest means any presumptive or actual heir, any beneficiary under a will, any party asserting a claim against a deceased Indian's estate, and any Tribe having a statutory option to purchase interests of a decedent.

Probate means the legal process by which applicable tribal law, state law, or federal law that affects the distribution of the decedent's estate is applied to:

(1) Determine the heirs,

(2) Approve wills and determine beneficiaries, and

(3) Transfer any funds or property held in trust by the Secretary for a decedent, or any restricted property of the decedent, to the heirs, beneficiaries, or other persons or entities.

Probate specialist means a BIA or tribal employee who is trained in Indian probate matters.

Restricted property means real or personal property held by an Indian which he or she cannot alienate or encumber without the consent of the Secretary or his or her authorized representative. In this subpart, restricted property is treated as if it were trust property. Except with respect to § 4.200, the term "restricted property" as used in this subpart does not include the restricted lands of the Five Civilized Tribes or Osage Tribe of Indians.

Secretary means the Secretary of the Interior or his or her authorized representative.

Solicitor means the Solicitor of the Department of the Interior or his or her authorized representative.

Superintendent means the BIA Superintendent or other BIA officer having jurisdiction over an estate, including area field representatives or one holding equivalent authority.

Testate means the decedent executed a will before his or her death.

Trust property means real or personal property, or an interest therein, which the United States holds in trust for the benefit of an individual Indian.

Will or *last will and testament* means a written testamentary document, including any properly executed written changes, called codicils, which was signed by the decedent and was attested by two disinterested adult witnesses, that states who will receive the decedent's trust or restricted property.

§ 4.202 General authority of OHA deciding officials.

An OHA deciding official will, except as otherwise provided in § 4.205(b) and 25 CFR 15.203 and 15.206, determine the heirs of any Indian who dies intestate possessed of trust property; approve or disapprove the will of a deceased Indian disposing of trust property; accept or reject any full or partial renunciation of interest in both testate and intestate proceedings; allow or disallow creditors' claims against the estate of a deceased Indian; and decree the distribution of trust property to heirs and devisees, including the partial distribution to known heirs or devisees where one or more potential heirs or devisees are missing but not presumed dead, after attributing to and setting aside for such missing person or persons the share or shares such person or persons would be entitled to if living. An OHA deciding official will determine the right of a tribe to take any inherited interest and the fair market value of the interest taken in appropriate cases as provided by statute. He or she will review each case de novo, hold hearings as necessary or appropriate, and issue decisions in matters appealed from decisions of BIA deciding officials. Administrative law judges will also hold hearings and issue recommended decisions in matters referred to them by the Board in the Board's consideration of appeals from administrative actions of BIA officials.

Determination of Heirs; Approval of Wills; Settlement of Indian Trust Estates

§ 4.203 Determination as to nonexistent persons and other irregularities of allotments.

(a) An OHA deciding official will hear and determine whether trust patents covering allotments of land were issued to nonexistent persons, and whether more than one trust patent covering allotments of land had been issued to the same person under different names and numbers or through other errors in identification.

(b) If an OHA deciding official determines under paragraph (a) of this section that a trust patent issued to an existing person and/or that separate persons received the allotments under consideration and any one of them is deceased, without having had his or her estate probated, the OHA deciding official must proceed as provided in § 4.202.

(c) If an OHA deciding official determines under paragraph (a) of this section that a person did not exist or that more than one allotment was issued to the same person, the OHA deciding official must issue a decision to that effect, giving notice thereof to parties in interest as provided in § 4.240(b).

§ 4.204 Presumption of death.

(a) An OHA deciding official will receive evidence on and determine the issue of whether any person, by reason of unexplained absence, is to be presumed dead.

(b) If an OHA deciding official determines that an Indian person possessed of trust property is to be presumed dead, the OHA deciding official must proceed as provided in § 4.202.

§ 4.205 Escheat.

An OHA deciding official will determine whether any Indian holder of trust property died intestate without heirs and—

(a) With respect to trust property other than on the public domain, order the escheat of such property in accordance with 25 U.S.C. 373a.

(b) With respect to trust property on the public domain, submit to the Board of Indian Appeals the records thereon, together with recommendations as to the disposition of said property under 25 U.S.C. 373b.

§ 4.206 Determinations of nationality or citizenship and status affecting character of land titles.

In cases where the right and duty of the Government to hold property in trust depends thereon, an OHA deciding official will determine the nationality or citizenship, or the Indian or non-Indian status, of heirs or devisees, or whether Indian heirs or devisees of U.S. citizenship are of a class as to whose property the Government's supervision and trusteeship have been terminated in current probate proceedings or in completed estates after reopening such estates under, but without regard to the 3-year limit set forth in § 4.242.

VOL 66 ISS 250 DE 31 2001 UMI

§ 4.207 Compromise settlement.

(a) If during the course of the probate of an estate it develops that an issue between contending parties is of such nature as to be substantial, and it further appears that such issue may be settled by agreement preferably in writing by the parties in interest to their advantage and to the advantage of the United States, such an agreement may be approved by the OHA deciding official upon findings that:

(1) All parties to the compromise are fully advised as to all material facts;

(2) All parties to the compromise are fully cognizant of the effect of the compromise upon their rights; and

(3) It is in the best interest of the parties to settle rather than to continue litigation.

(b) In considering the proposed settlement, the OHA deciding official may take and receive evidence as to the respective values of specific items of property. Superintendents and irrigation project engineers must supply all necessary information concerning any liability or lien for payment of irrigation construction and of irrigation operation and maintenance charges.

(c) Upon an affirmative determination as to all three points specified, the OHA deciding official will issue such final order of distribution in the settlement of the estate as is necessary to approve the same and to accomplish the purpose and spirit of the settlement. Such order will be construed as any other order of distribution establishing title in heirs and devisees and will not be construed as a partition or sale transaction within the provisions of 25 CFR part 152. If land titles are to be transferred, the necessary deeds must be prepared and executed at the earliest possible date. Upon failure or refusal of any party in interest to execute and deliver any deed necessary to accomplish the settlement, the OHA deciding official will settle the issues and enter an order as if no agreement had been attempted.

(d) OHA deciding officials are authorized to approve all deeds or conveyances necessary to accomplish a settlement under this section.

§ 4.208 Renunciation of interest.

Any person 21 years or older, whether of Indian descent or not, may renounce intestate succession or devise of trust or restricted property, wholly or partially (including the retention of a life estate), by filing a signed and acknowledged declaration of such renunciation with the OHA deciding official prior to entry of the final order by the OHA deciding official. No interest in the property so renounced is considered to have vested in the heir or devisee and the renunciation is not considered a transfer by gift of the property renounced, but the property so renounced passes as if the person renouncing the interest has predeceased the decedent. A renunciation filed in accordance herewith will be considered accepted when implemented in an order by an OHA deciding official and will be irrevocable thereafter. All disclaimers or renunciations heretofore filed with and implemented in an order by an OHA deciding official are hereby ratified as valid and effective.

Commencement of Probate Proceedings

§ 4.210 Commencement of probate.

The probate of a trust estate before an OHA deciding official will commence when the probate specialist or BIA deciding official files with the OHA deciding official all information shown in the records relative to the family of the deceased and his or her property. The information must include the complete probate package described in 25 CFR 15.104 and 15.202 and any other relevant information. The agency or BIA deciding official must promptly transmit to the OHA deciding official any creditor's or other claims that are received after the case is transmitted to the OHA deciding official, for a determination of their timeliness, validity, priority, and allowance under §§ 4.250 and 4.251.

§ 4.211 Notice.

(a) An OHA deciding official may receive and hear evidence at a hearing to determine the heirs of a deceased Indian or probate his or her will only after the OHA deciding official has caused notice of the time and place of the hearing to be posted at least 20 days prior to the hearing date in five or more conspicuous places in the vicinity of the designated place of hearing, and the OHA deciding official may cause postings in such other places and reservations as he or she deems appropriate. A certificate showing the date and place of posting must be signed by the person or official who performs the act.

(b) The OHA deciding official must serve or cause to be served a copy of the notice on each party in interest known to the OHA deciding official and on each attesting witness if a will is offered:

(1) By personal service in sufficient time in advance of the date of the hearing to enable the person served to attend the hearing; or

(2) By mail, addressed to the person at his or her last known address, in sufficient time in advance of the date of the hearing to enable the addressee served to attend the hearing. The OHA deciding official must cause a certificate, as to the date and manner of such mailing, to be made on the record copy of the notice.

(c) All parties in interest, known and unknown, including creditors, will be bound by the decision based on such hearing if they lived within the vicinity of any place of posting during the posting period, whether they had actual notice of the hearing or not. As to those not within the vicinity of the place of posting, a rebuttable presumption of actual notice will arise upon the mailing of such notice at a reasonable time prior to the hearing, unless the said notice is returned by the postal service to the office of the OHA deciding official unclaimed by the addressee.

(d) Tribes to be charged with notice of death and probate. When a record reveals that a Tribe has a statutory option to purchase interests of a decedent, such Tribe must be notified of the pendency of a proceeding by the the OHA deciding official having probate jurisdiction in such proceeding, and the certificate of mailing of notice of probate hearing or of a final decision in probate to the Tribe at its record address will be conclusive evidence for all purposes that the Tribe had notice of decedent's death and notice of the pendency of the probate proceedings.

§ 4.212 Contents of notice.

(a) In the notice of hearing, the OHA deciding official must specify that at the stated time and place the OHA deciding official will take testimony to determine the heirs of the deceased person (naming him or her) and, if a will is offered for probate, testimony as to the validity of the will describing it by date. The notice must name all known presumptive heirs of the decedent, and, if a will is offered for probate, the beneficiaries under such will and the attesting witnesses to the will. The notice must cite this subpart as the authority and jurisdiction for holding the hearing, and must inform all persons having an interest in the estate of the decedent, including persons having claims or accounts against the estate, to be present at the hearing or their rights may be lost by default.

(b) The notice must state further that the hearing may be continued to another time and place. A continuance may be announced either at the original hearing by the OHA deciding official or by an appropriate notice posted at the announced place of hearing on or prior to the announced hearing date and hour.

Depositions, Discovery, and Prehearing Conference

§ 4.220 Production of documents for inspection and copying.

(a) At any stage of the proceeding prior to the conclusion of the hearing, a party in interest may make a written demand, a copy to be filed with the OHA deciding official, upon any other party to the proceeding or upon a custodian of records on Indians or their trust property, to produce for inspection and copying or photographing, any documents, papers, records, letters, photographs, or other tangible things not privileged, relevant to the issues which are in the other party's or custodian's possession, custody, or control. Upon failure of prompt compliance, the OHA deciding official may issue an appropriate order upon a petition filed by the requesting party. At any time prior to closing the record, the OHA deciding official upon his or her own motion, after notice to all parties, may issue an order to any party in interest or custodian of records for the production of material or information not privileged, and relevant to the issues.

(b) Custodians of official records will furnish and reproduce documents, or permit their reproduction, in accordance with the rules governing the custody and control thereof.

§ 4.221 Depositions.

(a) *Stipulation.* Depositions may be taken upon stipulation of the parties. Failing an agreement therefor, depositions may be ordered under paragraphs (b) and (c) of this section.

(b) *Application for taking deposition.* When a party in interest files a written application, the OHA deciding official may at any time thereafter order the taking of the sworn testimony of any person by deposition upon oral examination for the purpose of discovery or for use as evidence at a hearing. The application must be in writing and must set forth:

(1) The name and address of the proposed deponent;

(2) The name and address of that person, qualified under paragraph (d) of this section to take depositions, before whom the proposed examination is to be made;

(3) The proposed time and place of the examination, which must be at least 20 days after the date of the filing of the application; and

(4) The reasons why such deposition should be taken.

(c) *Order for taking deposition.* If after examination of the application the OHA deciding official determines that the deposition should be taken, he or she will order its taking. The order must be served upon all parties in interest and must state:

(1) The name of the deponent;

(2) The time and place of the examination which must not be less than 15 days after the date of the order except as stipulated otherwise; and

(3) The name and address of the officer before whom the examination is to be made. The officer and the time and place need not be the same as those requested in the application.

(d) *Qualifications of officer.* The deponent must appear before the OHA deciding official or before an officer authorized to administer oaths by the law of the United States or by the law of the place of the examination.

(e) *Procedure on examination.* The deponent must be examined under oath or affirmation and must be subject to cross-examination. The testimony of the deponent must be recorded by the officer or someone in the officer's presence. An applicant who requests the taking of a person's deposition must make his or her own arrangements for payment of any costs incurred.

(f) *Submission to witness; changes; signing.* When the testimony is fully transcribed, the deposition must be submitted to the deponent for examination and must be read to or by him or her, unless such examination and reading are waived by the deponent or by all other parties in interest. Any changes in form or substance which the deponent desires to make must be entered upon the deposition by the officer with a statement of the reasons given by the deponent for making them. The deposition must then be signed by the deponent, unless the parties in interest by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the deponent, the officer must sign it and state on the record the fact of the waiver, or of the illness or absence of the deponent or the fact of the refusal to sign together with the reason, if any, given therefor; the deposition may then be used as fully as though signed, unless the OHA deciding official holds that the reason given for refusal to sign requires rejection of the deposition in whole or in part.

(g) *Certificates by officer.* The officer must certify on the deposition that the deponent was duly sworn by the officer and that the deposition is a true record of the deponent's testimony. The officer must then securely seal the deposition, together with two copies thereof, in an envelope and must personally deliver or mail the same by certified or registered mail to the OHA deciding official.

(h) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section may be used in a hearing if the OHA deciding official finds that the witness is absent and that his or her presence cannot be readily obtained, that the evidence is otherwise admissible, and that circumstances exist that make it desirable in the interest of fairness to allow the deposition to be used. If a deposition has been taken, and the party in interest on whose application it was taken refuses to offer the deposition, or any part thereof, in evidence, any other party in interest or the OHA deciding official may introduce the deposition or any portion thereof on which he or she wishes to rely.

§ 4.222 Written interrogatories; admission of facts and documents.

At any time prior to a hearing and in sufficient time to permit answers to be filed before the hearing, a party in interest may serve upon any other party in interest written interrogatories and requests for admission of facts and documents. A copy of such interrogatories and requests must be filed with the OHA deciding official. Such interrogatories and requests for admission must be drawn with the purpose of defining the issues in dispute between the parties and facilitating the presentation of evidence at the hearing. Answers must be served upon the party propounding the written interrogatories or requesting the admission of facts and documents within 30 days from the date of service of such interrogatories or requests, or within such other period of time as may be agreed upon by the parties or prescribed by the OHA deciding official. A copy of the answer must be filed with the OHA deciding official. Within 10 days after written interrogatories are served upon a party, that party may serve cross-interrogatories for answer by the witness to be interrogated.

§ 4.223 Objections to and limitations on production of documents, depositions, and interrogatories.

The OHA deciding official, upon motion timely made by any party in interest, proper notice, and good cause shown, may direct that proceedings under §§ 4.220, 4.221, and 4.222 may be conducted only under, and in accordance with, such limitation as he or she deems necessary and appropriate as to documents, time, place, and scope. The OHA deciding official may act on his or her own motion only if undue delay, dilatory tactics, and unreasonable demands are made so as to delay the orderly progress of the proceeding or cause unacceptable hardship upon a party or witness.

§ 4.224 Failure to comply with orders.

In the event of the failure of a party to comply with a request for the production of a document under § 4.220; or on the failure of a party to appear for examination under § 4.221 or on the failure of a party to respond to interrogatories or requests for admissions under § 4.222; or on the failure of a party to comply with an order of the OHA deciding official issued under § 4.223 without, in any of such events, showing an excuse or explanation satisfactory to the OHA deciding official for such failure, the OHA deciding official may:

(a) Decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with the claims of the other party in interest or in accordance with other evidence available to the OHA deciding official; or

(b) Make such other ruling as the OHA deciding official determines just and proper.

§ 4.225 Prehearing conference.

The OHA deciding official may, upon his or her own motion or upon the request of any party in interest, call upon the parties to appear for a conference to:

(a) Simplify or clarify the issues;

(b) Obtain stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;

(c) Limit the number of expert or other witnesses in avoidance of excessively cumulative evidence;

(d) Effect possible agreement disposing of all or any of the issues in dispute; and

(e) Resolve such other matters as may simplify and shorten the hearing.

Hearings

§ 4.230 Authority and duties of the OHA deciding official.

The authority of the OHA deciding official in all hearings in estate proceedings includes, but is not limited to authority:

(a) To administer oaths and affirmations;

(b) To issue subpoenas under the provisions of 25 U.S.C. 374 upon his or her own initiative or within his or her discretion upon the request of any party in interest, to any person whose testimony he or she believes to be material to a hearing. Upon the failure or refusal of any person upon whom a subpoena has been served to appear at a hearing or to testify, the OHA deciding official may file a petition in the appropriate U.S. District Court for the issuance of an order requiring the appearance and testimony of the witness:

(c) To permit any party in interest to cross-examine any witness;

(d) To appoint a guardian ad litem to represent any minor or incompetent party in interest at hearings;

(e) To rule upon offers of proof and receive evidence;

(f) To take and cause depositions to be taken and to determine their scope; and

(g) To otherwise regulate the course of the hearing and the conduct of witnesses, parties in interest, and attorneys at law appearing therein.

§ 4.231 Hearings.

(a) All testimony in Indian probate hearings must be under oath and must be taken in public except in those circumstances which in the opinion of the OHA deciding official justify all but parties in interest to be excluded from the hearing.

(b) The proceedings of hearings must be recorded verbatim.

(c) The record must include a showing of the names of all parties in interest and of attorneys who attended such hearing.

§ 4.232 Evidence; form and admissibility.

(a) Parties in interest may offer at a hearing such relevant evidence as they deem appropriate under the generally accepted rules of evidence of the State in which the evidence is taken, subject to the OHA deciding official's supervision as to the extent and manner of presentation of such evidence.

(b) The OHA deciding official may admit letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, the weight to be attached to evidence presented in any particular form being within the discretion of the OHA deciding official, taking into consideration all the circumstances of the particular case.

(c) Stipulations of fact and stipulations of testimony that would be given by witnesses were such witnesses present, agreed upon by the parties in interest, may be used as evidence at the hearing.

(d) The OHA deciding official may in any case require evidence in addition to that offered by the parties in interest.

§ 4.233 Proof of wills, codicils, and revocations.

(a) *Self-proved wills.* A will executed as provided in § 4.260 may, at the time of its execution, be made self-proved, and testimony of the witnesses in the probate thereof may be made unnecessary by the affidavits of the testator and attesting witnesses, made before an officer authorized to administer oaths, such affidavits to be attached to such will and to be in form and contents substantially as follows:

State of ___________ County of ___________ ss. I, ___________, being first duly sworn, on oath, depose and say: That I am an ____ (enrolled or unenrolled) member of the ___________ Tribe of Indians in the State of ___________; that on the ____ day of ______, 19____, I requested ___________ to prepare a will for me; that the attached will was prepared and I requested ___________ and ___________ to act as witnesses thereto; that I declared to said witnesses that said instrument was my last will and testament; that I signed said will in the presence of both witnesses and they signed the same as witnesses in my presence and in the presence of each other; that said will was read and explained to me (or read by me), after being prepared and before I signed it and it clearly and accurately expresses my wishes; and that I willingly made and executed said will as my free and voluntary act and deed for the purposes therein expressed.

Testator/Testatrix

We, ___________ and ___________, each being first duly sworn, on oath, depose and state: That on the ____day of ______, 19____, ________ a member of the ________ Tribe of Indians of the State of ________, published and declared the attached instrument to be his/her last will and testament, signed the same in the presence of both of us and requested both of us to sign the same as witnesses; that we, in compliance with his/her request, signed the same as witnesses in his/her presence and in the presence of each other; that said testator/testatrix was not acting under duress, menace, fraud, or undue influence of any person, so far as we could ascertain, and in our opinion was mentally capable of disposing of all his/her estate by will.

____

Witness

____

Witness

Subscribed and sworn to before me this_____ day of_____, 19___,by _________testator/testatrix, and by

VOL 66 ISS 250 DE 31 2001 UMI

_________and _________; attesting witnesses.

____

____

(Title)

If uncontested, a self-proved will may be approved and distribution ordered thereunder with or without the testimony of any attesting witness.

(b) *Self-proved codicils and revocations*. A codicil to, or a revocation of, a will may be made self-proved in the same manner as provided in paragraph (a) of this section with respect to a will.

(c) *Will contest*. If the approval of a will, codicil thereto, or revocation thereof is contested, the attesting witnesses who are in the reasonable vicinity of the place of hearing and who are of sound mind must be produced and examined. If none of the attesting witnesses resides in the reasonable vicinity of the place of hearing at the time appointed for proving the will, the OHA deciding official may admit the testimony of other witnesses to prove the testamentary capacity of the testator and the execution of the will and, as evidence of the execution, the OHA deciding official may admit proof of the handwriting of the testator and of the attesting witnesses, or of any of them. The provisions of § 4.232 are applicable with respect to remaining issues.

§ 4.234 Witnesses, interpreters, and fees.

Parties in interest who desire a witness to testify or an interpreter to serve at a hearing must make their own financial and other arrangements therefor, and subpoenas will be issued where necessary and proper. The OHA deciding official may call witness and interpreters and order payment out of the estate assets of per diem, mileage, and subsistence at a rate not to exceed that allowed to witnesses called in the U.S. District Courts. In hardship situations, the OHA deciding official may order payment of per diem and mileage for indispensable witnesses and interpreters called for the parties. In the order for payment he or she must specify whether such costs are to be allocated and charged against the interest of the party calling the witness or against the estate generally. Costs of administration so allowed will have a priority for payment greater than that for any creditor claims allowed. Upon receipt of such order, the Superintendent must immediately initiate payment of such sums from the estate account, or if such funds are insufficient, then out of funds as they are received in such account prior to closure of the estate, with the proviso that such costs must be paid in full with a later allocation against the interest of a party, if the OHA deciding official has so ordered.

§ 4.235 Supplemental hearings.

After the matter has been submitted but prior to the time the OHA deciding official has rendered his or her decision, the OHA deciding official may upon his or her own motion or upon motion of any party in interest schedule a supplemental hearing if he or she deems it necessary. The notice must set forth the purpose of the supplemental hearing and must be served upon all parties in interest in the manner provided in § 4.211. Where the need for such supplemental hearing becomes apparent during any hearing, the OHA deciding official may announce the time and place for such supplemental hearing to all those present and no further notice need be given. In that event the records must clearly show who was present at the time of the announcement.

§ 4.236 Record.

(a) After the completion of the hearing, the OHA deciding official will make up the official record containing:

(1) A copy of the posted public notice of hearing showing the posting certifications;

(2) A copy of each notice served on interested parties with proof of mailing;

(3) The record of the evidence received at the hearing, including any transcript made of the testimony;

(4) Claims filed against the estate;

(5) Will and codicils, if any;

(6) Inventories and valuations of the estate;

(7) Pleadings and briefs filed;

(8) Special or interim orders;

(9) Data for heirship finding and family history;

(10) The decision and the notices thereof; and

(11) Any other material or documents deemed material by the OHA deciding official.

(b) The OHA deciding official must lodge the original record with the designated Land Titles and Records Office in accordance with 25 CFR part 150. A duplicate copy must be lodged with the Superintendent originating the probate. A partial record may also be furnished to the Superintendents of other affected agencies. In those cases in which a hearing transcript has not been prepared, the verbatim recording of the hearing must be retained in the office of the OHA deciding official issuing the decision until the time allowed for rehearing or appeal has expired. In cases in which a transcript is not prepared, the original record returned to the Land Titles and Records Office must contain a statement indicating no transcript was prepared.

Decisions

§ 4.240 Decision of the OHA deciding official and notice thereof.

(a) The OHA deciding official must decide the issues of fact and law involved in the proceedings and must incorporate the following in his or her decision:

(1) In all cases, the names, birth dates, relationships to the decedent, and shares of heirs with citations to the law of descent and distribution in accordance with which the decision is made; or the fact that the decedent died leaving no legal heirs.

(2) In testate cases, (i) approval or disapproval of the will with construction of its provisions, (ii) the names and relationship to the testator of all beneficiaries and a description of the property which each is to receive;

(3) Allowance or disallowance of claims against the estate;

(4) Whether heirs or devisees are non-Indian, exclusively alien Indians, or Indians whose property is not subject to Federal supervision.

(5) A determination of any rights of dower, curtesy or homestead which may constitute a burden upon the interest of the heirs.

(b) When the OHA deciding official issues a decision, he or she must issue a notice thereof to all parties who have or claim any interest in the estate and must mail a copy of said notice, together with a copy of the decision to the Superintendent and to each party in interest simultaneously. The decision will not become final and no distribution may be made thereunder until the expiration of the 60 days allowed for the filing of a petition for rehearing by aggrieved parties as provided in § 4.241.

§ 4.241 Rehearing.

(a) Any person aggrieved by the decision of the OHA deciding official may, within 60 days after the date on which notice of the decision is mailed to the interested parties, file with the OHA deciding official a written petition for rehearing. Such petition must be under oath and must state specifically and concisely the grounds upon which it is based. If the petition is based on newly-discovered evidence, it must be accompanied by affidavits or declarations of witnesses stating fully what the new testimony is to be. It must also state justifiable reasons for the failure to discover and present that evidence, tendered as new, at the hearings held prior to the issuance of the decision. The OHA deciding official, upon receiving a petition for rehearing, must promptly forward a copy to the Superintendent. The Superintendent must not initiate payment of claims or distribute the estate while such petition is pending, unless otherwise directed by the OHA deciding official.

(b) If proper grounds are not shown, or if the petition is not filed within the time prescribed in paragraph (a) of this section, the OHA deciding official will issue an order denying the petition and must set forth therein his or her reasons therefor. The OHA deciding official must furnish copies of such order to the petitioner, the Superintendent, and the parties in interest.

(c) If the petition appears to show merit, the OHA deciding official must cause copies of the petition and supporting papers to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. The OHA deciding official must allow all persons served a reasonable, specified time in which to submit answers or legal briefs in opposition to the petition. The OHA deciding official will then reconsider, with or without hearing as he or she may determine, the issues raised in the petition; he or she may adhere to the former decision, modify or vacate it, or make such further order as is warranted.

(d) Upon entry of a final order the OHA deciding official must lodge the complete record relating to the petition with the title plant designated under § 4.236(b), and furnish a duplicate record thereof to the Superintendent.

(e) Successive petitions for rehearing are not permitted, and except for the issuance of necessary orders nunc pro tunc to correct clerical errors in the decision, the jurisdiction of the OHA deciding official terminates upon the issuance of a decision finally disposing of a petition for rehearing. Nothing herein will be construed as a bar to the remand of a case by the Board for further hearing or rehearing after appeal.

(f) At the time the final decision is entered following the filing of a petition for rehearing, the OHA deciding official must direct a notice of such action with a copy of the decision to the Superintendent and to the parties in interest and must mail the same by regular mail to the said parties at their addresses of record.

(g) No distribution may be made under such order for a period of 60 days following the mailing of a notice of decision pending the filing of a notice of appeal by an aggrieved party as herein provided.

§ 4.242 Reopening.

(a) Within a period of 3 years from the date of a final decision issued by an OHA deciding official or by the Board but not thereafter except as provided in §§ 4.203 and 4.206, any person claiming an interest in the estate who had no actual notice of the original proceedings and who was not on the reservation or otherwise in the vicinity at any time while the public notices of the hearing were posted may file a petition in writing for reopening of the case. Any such petition must be addressed to the OHA deciding official and filed at his or her office. A copy of such petition must be furnished also by the petitioner to the Superintendent. All grounds for the reopening must be set forth fully. If based on alleged errors of fact, all such allegations must be under oath and supported by affidavits.

(b) If the OHA deciding official finds that proper grounds are not shown, he or she will issue an order denying the petition and setting forth the reasons for such denial. Copies of the OHA deciding official's decision must be mailed to the petitioner, the Superintendent, and to those persons who share in the estate.

(c) If the petition appears to show merit, the OHA deciding official must cause copies of the petition and all papers filed by the petitioner to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition. Such persons may resist such petition by filing answers, cross-petitions, or briefs. Such filings must be made within such reasonable time periods as the OHA deciding official specifies. The OHA deciding official will then reconsider, with or without hearing as he or she may determine, prior actions taken in the case and may either adhere to, modify, or vacate the original decision. Copies of the OHA deciding official's decision must be mailed to the petitioner, to all persons who received copies of the petition, and to the Superintendent.

(d) To prevent manifest error an OHA deciding official may reopen a case within a period of 3 years from the date of the final decision, after due notice on his or her own motion, or on petition of a BIA officer. Copies of the OHA deciding official's decision must be mailed to all parties in interest and to the Superintendent.

(e) The OHA deciding official may suspend distribution of the estate or the income therefrom during the pendency of reopening proceedings by order directed to the Superintendent.

(f) The OHA deciding official must lodge the record made in disposing of a reopening petition with the title plant designated under § 4.236(b) and must furnish a duplicate record thereof to the Superintendent.

(g) No distribution may be made under a decision issued pursuant to paragraph (b), (c), or (d) of this section for a period of 60 days following the mailing of the copy of the decision as therein provided, pending the filing of a notice of appeal by an aggrieved party.

(h) If a petition for reopening is filed more than 3 years after the entry of a final decision in a probate, it will be allowed only upon a showing that a manifest injustice will occur; that a reasonable possibility exists for correction of the error; that the petitioner had no actual notice of the original proceedings; and that petitioner was not on the reservation or otherwise in the vicinity at any time while the public notices were posted. A denial of such petition may be made by the OHA deciding official on the basis of the petition and available BIA records. No such petition will be granted, however, unless the OHA deciding official has caused copies of the petition and all other papers filed by the petitioner to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition, and after allowing such persons an opportunity to resist such petition by filing answers, cross petitions or briefs as provided in paragraph (c) of this section.

Appeals From Decisions of BIA Deciding Officials

§ 4.243 Appeals from BIA.

Any appeal filed pursuant to 25 CFR part 15, subpart E, will be referred to an OHA deciding official pursuant to § 4.210. The OHA deciding official will review the merits of the case de novo and conduct a hearing as necessary or appropriate pursuant to the regulations in this subpart. The BIA deciding official must forward to the OHA deciding official all documents and other evidence upon which the BIA deciding official's decision was based.

Claims

§ 4.250 Filing and proof of creditor claims; limitations.

(a) All claims against the estate of a deceased Indian must be filed with the agency

(i) Within 60 days from the date BIA receives a certified copy of the death certificate or other verification of the decedent's death under 25 CFR 15.101 or

(ii) Within 20 days from the date the creditor is chargeable with notice of the decedent's death, whichever of these dates is later.

(b) No claim will be paid from trust or restricted assets when the OHA deciding official is aware that the decedent's non-trust estate may be available to pay the claim.

(c) All claims must be filed in triplicate, itemized in detail as to dates and amounts of charges for purchases or services and dates and amounts of payments on account. Such claims must show the names and addresses of all parties in addition to the decedent from whom payment might be sought. Each claim must be supplemented by an affidavit, in triplicate, of the claimant or someone in his or her behalf that the amount claimed is justly due from the decedent, that no payments have been made on the account which are not credited thereon as shown by the itemized statement, and that there are no offsets to the knowledge of the claimant.

(d) Claims for care may not be allowed except upon clear and convincing evidence that the care was given on a promise of compensation and that compensation was expected.

(e) A claim based on a written or oral contract, express or implied, where the claim for relief has existed for such a period as to be barred by the State laws at date of decedent's death, cannot be allowed.

(f) Claims sounding in tort not reduced to judgment in a court of competent jurisdiction, and other unliquidated claims not properly within the jurisdiction of a probate forum, may be barred from consideration by an interim order from the OHA deciding official.

(g) Claims of a State or any of its political subdivisions on account of social security or old-age assistance payments will not be allowed.

§ 4.251 Priority of claims.

(a) Upon motion of the Superintendent or a party in interest, the OHA deciding official may authorize payment of the costs of administering the estate as they arise and prior to the allowance of any claims against the estate.

(b) After the costs of administration, the OHA deciding official may authorize payment of priority claims as follows:

(1) Claims for funeral expenses (including the cemetery marker);

(2) Claims for medical expenses for the last illness;

(3) Claims for nursing home or other care facility expenses;

(4) Claims of an Indian tribe; and

(5) Claims reduced to judgment by a court of competent jurisdiction.

(c) After the priority claims, the OHA deciding official may authorize payment of all remaining claims, referred to as general claims.

(d) The OHA deciding official has the discretion to decide that part or all of an otherwise valid claim is unreasonable, reduce the claim to a reasonable amount, or disallow the claim in its entirety.

(1) If a claim is reduced, the OHA deciding official will order payment only of the reduced amount.

(2) An OHA deciding official may reduce or disallow both priority claims and general claims.

(e) If, as of the date of the hearing, there is not enough money in the IIM account to pay all claims, the OHA deciding official will order payment of allowed priority claims first, either in the order identified in paragraph (b) of this section or on a pro rata (reduced) basis.

(f) If, as of the date of the hearing, less than $1,000 remains in the IIM account after payment of priority claims is ordered, the general claims may be ordered paid on a pro rata basis or disallowed in their entirety.

(g) The unpaid balance of any claims will not be enforceable against the estate after the estate is closed.

(h) Interest or penalties charged against either priority or general claims after the date of death will not be paid.

§ 4.252 Property subject to claims.

Claims are payable from income from the lands remaining in trust. Further, except as prohibited by law, all trust moneys of the deceased on hand or accrued at time of death, including bonds, unpaid judgments, and accounts receivable, may be used for the payment of claims, whether the right, title, or interest that is taken by an heir, devisee, or legatee remains in or passes out of trust.

Wills

§ 4.260 Making of a will; review as to form; revocation.

(a) An Indian 18 years of age or over and of testamentary capacity, who has any right, title, or interest in trust property, may dispose of such property by a will executed in writing and attested by two disinterested adult witnesses.

(b) When an Indian executes a will and submits the same to the Superintendent, the Superintendent must forward it to the Office of the Solicitor for examination as to adequacy of form, and for submission by the Office of the Solicitor to the Superintendent of any appropriate comments. The will, codicil, or any replacement or copy thereof, may be retained by the Superintendent at the request of the testator or testatrix for safekeeping. A will must be held in absolute confidence, and no person other than the testator may admit its existence or divulge its contents prior to the death of the testator.

(c) The testator may, at any time during his or her lifetime, revoke his or her will by a subsequent will or other writing executed with the same formalities as are required in the case of the execution of a will, or by physically destroying the will with the intention of revoking it. No will that is subject to the regulations of this subpart will be deemed to be revoked by operation of the law of any State.

§ 4.261 Anti-lapse provisions.

When an Indian testator devises or bequeaths trust property to any of his or her grandparents or to the lineal descendant of a grandparent, and the devisee or legatee dies before the testator leaving lineal descendants, such descendants will take the right, title, or interest so given by the will per stirpes. Relationship by adoption is equivalent to relationship by blood.

§ 4.262 Felonious taking of testator's life.

No person who has been finally convicted of feloniously causing the death or taking the life of, or procuring another person to take the life of, the testator, may take directly or indirectly any devise or legacy under deceased's will. All right, title, and interest existing in such a situation will vest and be determined as if the person convicted never existed, notwithstanding § 4.261.

Custody and Distribution of Estates

§ 4.270 Custody and control of trust estates.

The Superintendent may assume custody or control of all tangible trust personal property of a deceased Indian, and the Superintendent may take such action, including sale thereof, as in his or her judgment is necessary for the benefit of the estate, the heirs, legatees, and devisees, pending entry of the decision provided for in 25 CFR 15.311 or in §§ 4.240, 4.241, or 4.312. All expenses, including expenses of roundup, branding, care, and feeding of livestock, are chargeable against the estate and may be paid from those funds of the deceased that are under the Department's control, or from the proceeds of a sale of the property or a part thereof. If an OHA deciding official or BIA deciding official has been assigned to adjudicate the estate, his or her approval is required prior to such payment.

VOL 66 ISS 250 DE 31 2001 UMI

§ 4.271 Omitted property.

(a) When, subsequent to the issuance of a decision under § 4.240 or § 4.312, it is found that trust property or interest therein belonging to a decedent has not been included in the inventory, the inventory can be modified to include such omitted property for distribution pursuant to the original decision. Such modification may be made either administratively by the Commissioner or by a modification order prepared by him or her for the approval and signature of the OHA deciding official. Copies of such modifications must be furnished to the Superintendent and to all those persons who share in the estate.

(b) When the property to be included takes a different line of descent from that shown in the original decision, the Commissioner must notify the OHA deciding official who will proceed to hold a hearing if necessary and will issue a decision under § 4.240. The record of any such proceeding must be lodged with the title plant designated under § 4.236(b).

§ 4.272 Improperly included property.

(a) When, subsequent to a decision under § 4.240 or § 4.312, it is found that property has been improperly included in the inventory of an estate, the inventory must be modified to eliminate such property. A petition for modification may be filed by the Superintendent of the Agency where the property is located, or by any party in interest.

(b) The OHA deciding official will review the record of the title upon which the modification is to be based, and enter an appropriate decision. If the decision is entered without a hearing, the OHA deciding official must give notice of his or her action to all parties whose rights are adversely affected allowing them 60 days in which to show cause why the decision should not then become final.

(c) Where appropriate the OHA deciding official may conduct a hearing at any stage of the modification proceeding. Any such hearing must be scheduled and conducted in accordance with the rules of this subpart. The OHA deciding official will enter a final decision based on his or her findings, modifying or refusing to modify the property inventory, and his or her decision will become final at the end of 60 days from the date it is mailed unless a notice of appeal is filed by an aggrieved party within such period. Notice of entry of the decision must be given in accordance with § 4.240(b).

(d) A party aggrieved by the OHA deciding official's decision may appeal to the Board pursuant to the procedures in §§ 4.310 through 4.323.

(e) The record of all proceedings must be lodged with the title plant designated under § 4.236(b).

§ 4.273 Distribution of estates.

(a) Seventy-five days after a final order has been issued, unless the Superintendent has received a copy of a petition for rehearing filed pursuant to the requirements of § 4.241(a) or a copy of a notice of appeal filed pursuant to the requirements of § 4.320(b), he or she must initiate payment of allowed claims, distribution of the estate, and all other actions required by the OHA deciding official's final order.

(b) The Superintendent must not initiate the payment of claims or distribution of the estate during the pendency of proceedings under § 4.241 or § 4.242, unless the OHA deciding official orders otherwise in writing. The Board may, at any time, authorize the OHA deciding official to issue interim orders for payment of claims or for partial distribution during the pendency of proceedings on appeal.

Miscellaneous

§ 4.281 Claims for attorney fees.

(a) Attorneys representing Indians in proceedings under these regulations may be allowed fees therefor by the OHA deciding official. At the discretion of the OHA deciding official, such fees may be chargeable against the interests of the party thus represented, or where appropriate, they may be taxed as a cost of administration. Petitions for allowance of fees must be filed prior to the close of the last hearing and must be supported by such proof as is required by the OHA deciding official. In determining attorney fees, consideration must be given to the fact that the property of the decedent is restricted or held in trust and that it is the duty of the Department to protect the rights of all parties in interest.

(b) Nothing herein prevents an attorney from petitioning for additional fees to be considered at the disposition of a petition for rehearing and again after an appeal on the merits. An order allowing an attorney's fees is subject to a petition for rehearing and to an appeal.

§ 4.282 Guardians for incompetents.

Minors and other legal incompetents who are parties in interest must be represented at all hearings by legally appointed guardians, or by guardians ad litem appointed by the OHA deciding official.

Tribal Purchase of Interests Under Special Statutes

§ 4.300 Authority and scope.

(a) The rules and procedures set forth in §§ 4.300 through 4.308 apply only to proceedings in Indian probate which relate to the tribal purchase of a decedent's interests in trust and restricted land as provided by:

(1) The Act of December 31, 1970 (Pub. L. 91–627; 84 Stat. 1874; 25 U.S.C. 607 (1976)), amending section 7 of the Act of August 9, 1946 (60 Stat. 968), with respect to trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951);

(2) The Act of August 10, 1972 (Pub. L. 92–377; 86 Stat. 530), with respect to trust or restricted land within the Warm Springs Reservation or within the area ceded by the Treaty of June 25, 1855 (12 Stat. 37); and

(3) The Act of September 29, 1972 (Pub. L. 92–443; 86 Stat. 744), with respect to trust or restricted land within the Nez Perce Indian Reservation or within the area ceded by the Treaty of June 11, 1855 (12 Stat. 957).

(b)(1) In the exercise of probate authority, an OHA deciding official will determine:

(i) The entitlement of a tribe to purchase a decedent's interests in trust or restricted land under the statutes;

(ii) The entitlement of a surviving spouse to reserve a life estate in one-half of the surviving spouse's interests which have been purchased by a tribe; and

(iii) The fair market value of such interests, including the value of any life estate reserved by a surviving spouse.

(2) In the determination under paragraph (b)(1) of this section of the entitlement of a tribe to purchase the interests of an heir or devisee, the issues of

(i) Enrollment or refusal of the tribe to enroll a specific individual and

(ii) Specification of blood quantum, where pertinent, will be determined by the official tribal roll which is binding upon the OHA deciding official. For good cause shown, the OHA deciding official may stay the probate proceeding to permit an aggrieved party to pursue an enrollment application, grievance, or appeal through the established procedures applicable to the tribe.

§ 4.301 Valuation report.

(a) In all probates, at the earliest possible stage of the proceeding before issuance of a probate decision, the BIA must furnish a valuation of the decedent's interests when the record reveals to the Superintendent:

(1) That the decedent owned interests in land located on one or more of those reservations designated in § 4.300 and

(2) That any one or more of the probable heirs or devisees, who may become a distributee of such interests upon completion of the probate proceeding, is not enrolled in or does not have the required blood quantum in the tribe of the reservation where the land is located to hold such interests against a claim thereto made by the tribe. If there is a surviving spouse whose interests may be subject to the tribal option, the valuation must include the value of a life estate based on the life of the surviving spouse in one half of such interests. The valuation must be made on the basis of the fair market value of the property, including fixed improvements, as of the date of decedent's death.

(b) BIA must submit the valuation report in the probate package submitted to the OHA deciding official. Interested parties may examine and copy, at their expense, the valuation report at the office of the Superintendent or the OHA deciding official.

§ 4.302 Conclusion of probate and tribal exercise of statutory option.

(a) Conclusion of probate; findings in the probate decision. When a decedent is shown to have owned land interests in any one or more of the reservations mentioned in the statutes enumerated in § 4.300, the probate proceeding relative to the determination of heirs, approval or disapproval of a will, and the claims of creditors will first be concluded as final for the Department in accordance with §§ 4.200 through 4.282 and §§ 4.310 through 4.323. This decision will be referred to herein as the "probate decision." At the probate hearing a finding must be made on the record showing those interests in land, if any, which are subject to the tribal option. The finding must be reduced to writing in the probate decision setting forth the apparent rights of the tribe as against affected heirs or devisees and the right of a surviving spouse whose interests are subject to the tribal option to reserve a life estate in one-half of such interests. If the finding is that there are no interests subject to the tribal option, the decision must so state. A copy of the probate decision, to which must be attached a copy of the valuation report, must be distributed to all parties in interest in accordance with §§ 4.201 and 4.240.

(b) Tribal exercise of statutory option. A tribe may purchase all or a part of the available interests specified in the probate decision within 60 days from the date of the probate decision unless a petition for rehearing or a demand for hearing has been filed in accordance with § 4.304 or 4.305. If a petition for rehearing or a demand for hearing has been filed, a tribe may purchase all or a part of the available interests specified in the probate decision within 20 days from the date of the decision on rehearing or hearing, whichever is applicable. A tribe may not, however, claim an interest less than the decedent's total interest in any one individual tract. The tribe must file a written notice of purchase with the Superintendent, together with the tribe's certification that copies thereof have been mailed on the same date to the OHA deciding official and to the affected heirs or devisees. Upon failure to timely file a notice of purchase, the right to distribution of all unclaimed interests will accrue to the heirs or devisees.

§ 4.303 Notice by surviving spouse to reserve a life estate.

When the heir or devisee whose interests are subject to the tribal option is a surviving spouse, the spouse may reserve a life estate in one-half of such interests. The spouse must file a written notice to reserve with the Superintendent within 30 days after the tribe has exercised its option to purchase the interest in question, together with a certification that copies thereof have been mailed on the same date to the OHA deciding official and the tribe. Failure to timely file a notice to reserve a life estate will constitute a waiver thereof.

§ 4.304 Rehearing.

Any party in interest aggrieved by the probate decision may, within 60 days from the date of the probate decision, file with the OHA deciding official a written petition for rehearing in accordance with § 4.241.

§ 4.305 Hearing.

(a) *Demand for hearing.* Any party in interest aggrieved by the exercise of the tribal option to purchase the interests in question or the valuation of the interests as set forth in the valuation report may, within 60 days from the date of the probate decision or 60 days from the date of the decision on rehearing, whichever is applicable, file with the OHA deciding official a written demand for hearing, together with a certification that copies thereof have been mailed on the same date to the Superintendent and to each party in interest; provided, however, that an aggrieved party will have at least 20 days from the date the tribe exercises its option to purchase available interests to file such a demand. The demand must state specifically and concisely the grounds upon which it is based.

(b) *Notice; burden of proof.* The OHA deciding official will, upon receipt of a demand for hearing, set a time and place therefor and must mail notice thereof to all parties in interest not less than 30 days in advance; provided, however, that such date must be set after the expiration of the 60-day period fixed for the filing of the demand for hearing as provided in § 4.305(a). At the hearing, each party challenging the tribe's claim to purchase the interests in question or the valuation of the interests as set forth in the valuation report will have the burden of proving his or her position.

(c) *Decision after hearing; appeal.* Upon conclusion of the hearing, the OHA deciding official will issue a decision which determines all of the issues including, but not limited to, a judgment establishing the fair market value of the interests purchased by the tribe, including any adjustment thereof made necessary by the surviving spouse's decision to reserve a life estate in one-half of the interests. The decision must specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§ 4.310 through 4.323. The OHA deciding official must lodge the complete record relating to the demand for hearing with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

§ 4.306 Time for payment.

A tribe must pay the full fair market value of the interests purchased, as set forth in the valuation report or as determined after hearing in accordance with § 4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

§ 4.307 Title.

Upon payment by the tribe of the interests purchased, the Superintendent must issue a certificate to the OHA deciding official that this has been done and file therewith such documents in support thereof as the OHA deciding official may require. The OHA deciding official will then issue an order that the United States holds title to such interests in trust for the tribe, lodge the complete record, including the decision, with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

§ 4.308 Disposition of income.

During the pendency of the probate and up to the date of transfer of title to the United States in trust for the tribe in accordance with § 4.307, all income received or accrued from the land interests purchased by the tribe will be credited to the estate.

General Rules Applicable to Proceedings on Appeal Before the Interior Board of Indian Appeals

§ 4.310 Documents.

(a) *Filing.* The effective date for filing a notice of appeal or other document with the Board during the course of an appeal is the date of mailing or the date of personal delivery, except that a motion for the Board to assume jurisdiction over an appeal under 25 CFR 2.20(e) will be effective the date it is received by the Board.

(b) *Service.* Notices of appeal and pleadings must be served on all parties in interest in any proceeding before the Interior Board of Indian Appeals by the party filing the notice or pleading with the Board. Service must be accomplished upon personal delivery or mailing. Where a party is represented in an appeal by an attorney or other representative authorized under 43 CFR 1.3, service of any document on the attorney or representative is service on the party. Where a party is represented by more than one attorney, service on any one attorney is sufficient. The certificate of service on an attorney or representative must include the name of the party whom the attorney or representative represents and indicate that service was made on the attorney or representative.

(c) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed or answered was served or the day of any other event after which a designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays, and other nonbusiness days are excluded in the computation.

(d) *Extensions of time.* (1) The time for filing or serving any document except a notice of appeal may be extended by the Board.

(2) A request to the Board for an extension of time must be filed within the time originally allowed for filing.

(3) For good cause the Board may grant an extension of time on its own initiative.

(e) *Retention of documents.* All documents received in evidence at a hearing or submitted for the record in any proceeding before the Board will be retained with the official record of the proceeding. The Board, in its discretion, may permit the withdrawal of original documents while a case is pending or after a decision becomes final upon conditions as required by the Board.

§ 4.311 Briefs on appeal.

(a) The appellant may file an opening brief within 30 days after receipt of the notice of docketing. Appellant must serve copies of the opening brief upon all interested parties or counsel and file a certificate with the Board showing service upon the named parties. Opposing parties or counsel will have 30 days from receipt of appellant's brief to file answer briefs, copies of which must be served upon the appellant or counsel and all other parties in interest. A certificate showing service of the answer brief upon all parties or counsel must be attached to the answer filed with the Board.

(b) Appellant may reply to an answering brief within 15 days from its receipt. A certificate showing service of the reply brief upon all parties or counsel must be attached to the reply filed with the Board. Except by special permission of the Board, no other briefs will be allowed on appeal.

(c) The BIA is considered an interested party in any proceeding before the Board. The Board may request that the BIA submit a brief in any case before the Board.

(d) An original only of each document should be filed with the Board. Documents should not be bound along the side.

(e) The Board may also specify a date on or before which a brief is due. Unless expedited briefing has been granted, such date may not be less than the appropriate period of time established in this section.

§ 4.312 Decisions.

Decisions of the Board will be made in writing and will set forth findings of fact and conclusions of law. The decision may adopt, modify, reverse or set aside any proposed finding, conclusion, or order of a BIA official or an OHA deciding official. Distribution of decisions must be made by the Board to all parties concerned. Unless otherwise stated in the decision, rulings by the Board are final for the Department and must be given immediate effect.

§ 4.313 Amicus Curiae; intervention; joinder motions.

(a) Any interested person or Indian tribe desiring to intervene or to join other parties or to appear as amicus curiae or to obtain an order in an appeal before the Board must apply in writing to the Board stating the grounds for the action sought. Permission to intervene, to join parties, to appear, or for other relief, may be granted for purposes and subject to limitations established by the Board. This section will be liberally construed.

(b) Motions to intervene, to appear as amicus curiae, to join additional parties, or to obtain an order in an appeal pending before the Board must be served in the same manner as appeal briefs.

§ 4.314 Exhaustion of administrative remedies.

(a) No decision of an OHA deciding official or a BIA official, which at the time of its rendition is subject to appeal to the Board, will be considered final so as to constitute agency action subject to judicial review under 5 U.S.C. 704, unless made effective pending decision on appeal by order of the Board.

(b) No further appeal will lie within the Department from a decision of the Board.

(c) The filing of a petition for reconsideration is not required to exhaust administrative remedies.

§ 4.315 Reconsideration.

(a) Reconsideration of a decision of the Board will be granted only in extraordinary circumstances. Any party to the decision may petition for reconsideration. The petition must be filed with the Board within 30 days from the date of the decision and must contain a detailed statement of the reasons why reconsideration should be granted.

(b) A party may file only one petition for reconsideration.

(c) The filing of a petition will not stay the effect of any decision or order and will not affect the finality of any decision or order for purposes of judicial review, unless so ordered by the Board.

§ 4.316 Remands from courts.

Whenever any matter is remanded from any federal court to the Board for further proceedings, the Board will either remand the matter to an OHA deciding official or to the BIA, or to the extent the court's directive and time limitations will permit, the parties will be allowed an opportunity to submit to the Board a report recommending procedures for it to follow to comply with the court's order. The Board will enter special orders governing matters on remand.

§ 4.317 Standards of conduct.

(a) *Inquiries about cases.* All inquiries with respect to any matter pending before the Board must be made to the Chief Administrative Judge of the Board or the administrative judge assigned the matter.

(b) *Disqualification.* An administrative judge may withdraw from a case in accordance with standards found in the recognized canons of judicial ethics if the judge deems such action appropriate. If, prior to a decision of the Board, a party files an affidavit of personal bias or disqualification with substantiating facts, and the administrative judge concerned does not withdraw, the Director of the Office of Hearings and Appeals will determine the matter of disqualification.

§ 4.318 Scope of review.

An appeal will be limited to those issues which were before the OHA deciding official upon the petition for rehearing, reopening, or regarding tribal purchase of interests, or before the BIA official on review. However, except as specifically limited in this part or in title 25 of the Code of Federal Regulations, the Board will not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

Appeals to the Board of Indian Appeals in Probate Matters

§ 4.320 Who may appeal.

(a) A party in interest has a right to appeal to the Board from an order of an OHA deciding official on a petition for rehearing, a petition for reopening, or regarding tribal purchase of interests in a deceased Indian's trust estate.

(b) Notice of appeal. Within 60 days from the date of the decision, an appellant must file a written notice of appeal signed by appellant, appellant's attorney, or other qualified representative as provided in 43 CFR 1.3, with the Board of Indian Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. A statement of the errors of fact and law upon which the appeal is based must be included in either the notice of appeal or in any brief filed. The notice of appeal must include the names and addresses of parties served. A notice of appeal not timely filed will be dismissed for lack of jurisdiction.

(c) Service of copies of notice of appeal. The appellant must personally deliver or mail the original notice of appeal to the Board of Indian Appeals. A copy must be served upon the OHA deciding official whose decision is appealed as well as all interested parties. The notice of appeal filed with the Board must include a certification that service was made as required by this section.

(d) Action by the OHA deciding official; record inspection. The OHA deciding official, upon receiving a copy of the notice of appeal, must notify the Superintendent concerned to return the duplicate record filed under §§ 4.236(b) and 4.241(d), or under § 4.242(f) of this part, to the Land Titles and Records Office designated under § 4.236(b) of this part. The duplicate record must be conformed to the original by the Land Titles and Records Office and will thereafter be available for inspection either at the Land Titles and Records Office or at the office of the Superintendent. In those cases in which a transcript of the hearing was not prepared, the OHA deciding official will have a transcript prepared which must be forwarded to the Board within 30 days from receipt of a copy of the notice of appeal.

§ 4.321 Notice of transmittal of record on appeal.

The original record on appeal must be forwarded by the Land Titles and Records Office to the Board by certified mail. Any objection to the record as constituted must be filed with the Board within 15 days of receipt of the notice of docketing issued under § 4.332 of this part.

§ 4.322 Docketing.

The appeal will be docketed by the Board upon receipt of the administrative record from the Land Titles and Records Office. All interested parties as shown by the record on appeal must be notified of the docketing. The docketing notice must specify the time within which briefs may be filed and must cite the procedural regulations governing the appeal.

§ 4.323 Disposition of the record.

Subsequent to a decision of the Board, other than remands, the record filed with the Board and all documents added during the appeal proceedings, including any transcripts prepared because of the appeal and the Board's decision, must be forwarded by the Board to the Land Titles and Records Office designated under § 4.236(b) of this part. Upon receipt of the record by the Land Titles and Records Office, the duplicate record required by § 4.320(c) of this part must be conformed to the original and forwarded to the Superintendent concerned.

[FR Doc. 01–32051 Filed 12–28–01; 8:45 am]

BILLING CODE 4310–79–P

VOL
66
ISS
2
5
0
DE
31
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 31, 2001

Part V

Department of the Treasury

31 CFR Part 103
Financial Crimes Enforcement Network; Proposed Amendment to the Bank Secrecy Act Regulations—Requirement of Brokers or Dealers in Securities to Report Suspicious Transactions; Proposed Rule

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA21

Financial Crimes Enforcement Network; Proposed Amendment to the Bank Secrecy Act Regulations—Requirement of Brokers or Dealers in Securities to Report Suspicious Transactions

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: FinCEN is proposing to amend the Bank Secrecy Act regulations to require brokers or dealers in securities ("broker-dealers") to report suspicious transactions to the Department of the Treasury. This is the fourth proposal to be issued by FinCEN concerning the reporting of suspicious transactions by the major categories of financial institutions operating in the United States, as a part of the counter-money laundering program of the Department of the Treasury.

DATES: Written comments on all aspects of the proposal are welcome and must be received on or before March 1, 2002.

ADDRESSES: Written comments should be submitted to: Office of Chief Counsel, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 1618, Vienna, Virginia 22183–1618, *Attention:* NPRM—Suspicious Transaction Reporting—Brokers or Dealers in Securities. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.treas.gov*, again with a caption, in the body of the text, "*Attention:* NPRM—Suspicious Transaction Reporting—Brokers or Dealers in Securities." For additional instructions on the submission of comments, see **SUPPLEMENTARY INFORMATION** under the heading "Submission of Comments."

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: Peter G. Djinis, Executive Assistant Director for Regulatory Policy, FinCEN, at (703) 905–3930; Cynthia L. Clark, Deputy Chief Counsel, FinCEN, at (703) 905–3590; Judith R. Starr, Chief Counsel, FinCEN, at (703) 905–3534.

SUPPLEMENTARY INFORMATION:

I. Background

A. General Statutory Provisions

The Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5331, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5330) appear at 31 CFR part 103. The authority of the Secretary to administer the Bank Secrecy Act has been delegated to the Director of FinCEN.

B. Suspicious Transaction Reporting

The Secretary of the Treasury was granted authority in 1992, with the enactment of 31 U.S.C. 5318(g),[2] to require financial institutions to report suspicious transactions. Subsection (g)(1) states generally:

> The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

Subsection (g)(2) provides further:

> A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

Subsection (g)(3) provides that neither a financial institution, nor any director, officer, employee, or agent of any financial institution

> that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority * * * shall * * * be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

Finally, subsection (g)(4) requires the Secretary of the Treasury, "to the extent practicable and appropriate," to designate "a single officer or agency of the United States to whom such reports shall be made."[3] The designated agency is in turn responsible for referring any report of a suspicious transaction to "any appropriate law enforcement or supervisory agency." *Id.*, at subsection (g)(4)(B).

In the USA Patriot Act, Congress specifically addressed the issue of suspicious transaction reporting by broker-dealers. Section 356 of the USA Patriot Act requires Treasury, after consultation with the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System, to publish proposed regulations before January 1, 2002, requiring broker-dealers to report suspicious transactions under 31 U.S.C. 5318(g). Section 356 requires final regulations to be issued by July 2, 2002.[4]

---

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (the "USA Patriot Act"), Public Law 107–56.

[2] 31 U.S.C. 5318(g) was added to the Bank Secrecy Act by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act (the "Annunzio-Wylie Anti-Money Laundering Act"), Title XV of the Housing and Community Development Act of 1992, Public Law 102–550; it was expanded by section 403 of the Money Laundering Suppression Act of 1994 (the "Money Laundering Suppression Act"), Title IV of the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, to require designation of a single government recipient for reports of suspicious transactions.

[3] This designation does not preclude the authority of supervisory agencies to require financial institutions to submit other reports to the same agency or another agency "pursuant to any other applicable provision of law." 31 U.S.C. 5318(g)(4)(C).

[4] The Congressional mandate to extend suspicious transaction reporting to broker-dealers reflects the concern of other governmental and international bodies about the need for an appropriate suspicious transaction reporting regime in the securities industry. For example, one of the central recommendations of the Financial Action Task Force ("FATF"), an inter-governmental body whose purpose is development and promotion of policies to combat money laundering, is that:

> If financial institutions suspect that funds stem from a criminal activity, they should be required to report promptly their suspicions to the competent authorities.

Financial Action Task Force Annual Report (June 28, 1996), Annex 1 (Recommendation 15). The recommendation applies equally to broker-dealers as to banks. *See also*, the European Community's *Directive on prevention of the use of the financial system for the purpose of money laundering. EC Directive*, O.J. Eur. Comm. (No. L 166) 77 (1991), Article 6. *Accord, the Model Regulations Concerning Laundering Offenses Connected to Illicit Drug Trafficking and Related Offenses of the Organization of American States*, OEA/Ser. P. AG/Doc. 2916/92 rev. 1 (May 23, 1992), Article 13, section 2.

The International Organization of Securities Commissions ("IOSCO") recommended in 1992 that member states consider "together with their national regulators charged with prosecuting money

C. Anti-Money Laundering Programs

The provisions of 31 U.S.C. 5318(h), also added to the Bank Secrecy Act in 1992 by section 1517 of the Annunzio-Wylie Anti-Money Laundering Act, authorize the Secretary of the Treasury "[i]n order to guard against money laundering through financial institutions * * * [to] require financial institutions to carry out anti-money laundering programs." 31 U.S.C. 5318(h)(1). Those programs may include "the development of internal policies, procedures, and controls"; "the designation of a compliance officer"; "an ongoing employee training program"; and "an independent audit function to test programs." 31 U.S.C. 5318(h)(A–D).

Section 352 of the USA Patriot Act amended section 5318(h) to mandate compliance programs for all financial institutions defined in 31 U.S.C. 5312(a)(2). Section 352 of the USA Patriot Act is effective April 24, 2002.

D. Broker-dealer Regulation and Money Laundering

Broker-dealer operations are keyed primarily to the purchase and sale of securities both for customers and for their own accounts. Broker-dealers do not usually expect to receive from or disburse to customers significant amounts of currency, and they are not direct participants in the payment system. However, despite the limited use of currency in the normal course of broker-dealer business generally, there are broker-dealers that accept small amounts of currency or that accept currency transactions approved by a legal or compliance department.[5] In addition, while broker-dealers are not direct participants in the payment system, they do facilitate transfers or transmittals of funds for their customers.

Money laundering occurs through broker-dealers, as it does through all categories of financial institutions.[6] Although the known experience of depository institutions with significant money laundering is greater than the known experience of the securities industry with money laundering, this difference may reflect the fact that criminal funds enter broker-dealer accounts at a later stage in the laundering process, when those funds are less immediately identifiable than at the placement stage. Past investigative attention, however, has focused more intensively on the "placement" stage of money laundering (especially the suspicious placement into the financial system of large amounts of currency) than on transfers or conversions of illicit funds once they are already in the financial system. In addition, there may be reason to fear a potential increased use of broker-dealers for laundering purposes in the wake of the growth of the broker-dealer industry and as criminals develop new ways to launder money. The attention previously given to the prevention of money laundering through banks reflects the central role of banking institutions in the global payments system and the global economy. But broker-dealers also play a global role and their array of financial services is increasingly competitive with that of banks, for example, for high net worth individuals.

The regulation of the securities industry in general and of broker-dealers in particular relies on both the Securities and Exchange Commission and the registered securities associations and national securities exchanges (so-called self-regulatory organizations or "SROs"). Broker-dealers have long reported possible securities law violations through existing relationships with law enforcement, the Securities and Exchange Commission and the SROs. Any effective system of suspicious transaction reporting needs to consider the existing broker-dealer regulatory structure, particularly existing procedures for reporting violations of securities laws. Both the Securities and Exchange Commission and the SROs have taken measures to address money laundering concerns at broker-dealers.[7] The Securities and Exchange Commission adopted rule 17a–8 in 1981 under the Securities and Exchange Act of 1934 ("Exchange Act"), which enables the SROs, subject to Securities and Exchange Commission oversight, to examine for Bank Secrecy Act compliance. Accordingly, both the Securities and Exchange Commission and SROs will address broker-dealer compliance with this rule.

Finally, certain broker-dealers have been subject to suspicious transaction reporting since 1996. In particular, broker-dealers that are affiliates or subsidiaries of banks or bank holding companies have been required to report suspicious transactions by virtue of the application to them of rules issued by the federal bank supervisory agencies. In April 1996, banks, thrifts, and other banking organizations became subject to a requirement to report suspicious transactions pursuant to final rules issued by FinCEN[8], under the authority contained in 31 U.S.C. 5318(g). In collaboration with FinCEN, the federal bank supervisors (the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration) concurrently issued suspicious transaction reporting rules under their own authority. *See* 12 CFR 208.62 (Federal Reserve Board); 12 CFR 21.11 (OCC); 12 CFR 353.3 (FDIC); 12 CFR 563.180 (OTS); and 12 CFR 748.1 (NCUA). The bank supervisory agency rules apply to banks, to non-depository

---

laundering offenses, the appropriate manner in which to address the identification and reporting of suspicious transactions" and "the appropriate means to ensure that securities and futures firms maintain monitoring and compliance procedures designed to deter and detect money laundering." IOSCO Report on Money Laundering, Conclusions 3 and 5, May 1992.

[5] Report to the Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, Anti-Money Laundering Efforts in the Securities Industry, GAO–02–111, October 2001 ("the GAO Report"). In addition, there are broker-dealers that accept cashier's checks, money orders, and traveler's checks. Of those broker-dealers that accept such financial instruments, 70 percent accept cashier's checks, nearly 40 percent accept money orders, and approximately 20 percent accept traveler's checks. See, the GAO Report at 26.

[6] *See, e.g., United States* v. *Kneeland*, 148 F.3d 6 (1st Cir. 1998) (funds obtained in "advance fee" fraud transferred from corporate to defendant's personal bank accounts, and from there to defendant's brokerage account, from brokerage account to commodities broker, and from commodities broker back to personal bank account); *United States* v. *Sabbath*, 125 F.Supp. Lexis 18999 (E.D.N.Y. 2000) (owner of failing company withdrew funds from corporation in months preceding bankruptcy, transferring those funds to a brokerage account in wife's maiden name, with mother-in-law's address, and a false social security number; money from corporation routed through several bank accounts before its final transfer to brokerage account); *United States* v. *Taylor*, 984 F.2d 298 (9th Cir. 1993) (funds received upon fraudulent export sale of cellular telephones laundered through brokerage account). *See also*, the GAO Report at 68–69.

[7] For example, in April 2001, the Director of the Office of Compliance Inspections and Examinations at the Securities and Exchange Commission announced that the Commission would undertake compliance sweeps of broker-dealers in the fall of 2001. *See* Money Laundering: It's on the SEC's Radar Screen, Remarks at the Conference on Anti-Money Laundering Compliance for Broker-Dealers Securities Industry Association (May 8, 2001) (transcript available at www.sec.gov/news/speech/spch486.htm). BSA compliance with non-SAR related provisions has been included in the SEC's examination and enforcement programs since the 1970s, and in the SROs' programs since 1982. The New York Stock Exchange and the National Association of Securities Dealers have both issued statements going back to 1989 regarding the importance of suspicious activity reporting to avoid money laundering charges. *See* the GAO Report at 22.

[8] See 31 CFR 103.18. The suspicious transaction reporting rules under the BSA for banking organizations previously appeared at 31 CFR 103.21 before that section was renumbered as 31 CFR 103.18. *See* 65 FR 13683, 13692 (March 14, 2000).

VOL 66 ISS 250 DE 31 2001 UMI

institution affiliates and subsidiaries of banks and bank holding companies (including broker-dealers), and to bank holding companies (including bank holding companies that are themselves broker-dealers).[9] The rule proposed today is intended to apply to all broker-dealers, without regard to whether they are affiliates or subsidiaries of banks or bank holding companies.[10]

Developing suspicious activity reporting rules appropriate to broker-dealers industry-wide involves taking into consideration many important issues. Appropriate suspicious transaction reporting by broker-dealers can provide significant information for criminal law enforcement, tax and regulatory authorities about potential criminal activity (as well as about previously undetected money laundering).

E. Suspicious Transaction Reporting by Broker-Dealers—General Issues

This notice of proposed rulemaking would generally require broker-dealers to report suspicious transactions to the Department of the Treasury. Several general issues cut across specific proposed provisions, and it may be helpful to note those issues at the outset.

1. *Definition of Broker-Dealer.* In light of the definition of "broker or dealer in securities" in 31 CFR 103.11(f), reporting would be required by any:

> broker or dealer in securities, registered or required to be registered with the Securities Exchange Commission under the Securities Exchange Act of 1934.[11]

Insurance companies or their affiliates that are registered broker-dealers simply to permit the sale of variable annuities treated as securities under the Securities Exchange Act of 1934 would be subject, under the proposed rule, to suspicious transaction reporting obligations. This treatment represents a change from prior treatment of insurance companies required to register as broker-dealers in order to sell variable annuities. In 1972, Treasury exempted from the provisions of 31 CFR 103 persons required to register with the Securities and Exchange Commission as broker-dealers solely in order to offer and sell variable annuity contracts issued by life insurance companies. 37 FR 248986 (November 23, 1972). The exemption is inapplicable, however, if such a registered broker-dealer at any time offers and sells other types of securities in addition to variable annuities. FinCEN anticipates that this exemption will be withdrawn on the effective date of the final rule based on this notice of proposed rulemaking. Once the exemption is withdrawn, persons required to register as broker-dealers in order to offer and sell variable annuity contracts issued by life insurance companies will be required to comply with all applicable BSA requirements.

2. *Use of Suspicious Transaction Reports—Centralized Data Base.* As is the case with reporting by other categories of financial institutions subject to the Bank Secrecy Act, reports of suspicious activity made by broker-dealers under the proposed rule would be maintained in an automated data base containing information from all broker-dealer filings. The data base will permit rapid dissemination to appropriate agencies and self-regulatory organizations registered with the Securities and Exchange Commission of reports within their jurisdiction,[12] more thorough analysis and tracking of those reports, and, in time, the provision to the financial community of information about trends and patterns gleaned from the information reported, all as contemplated by the Congress.

II. Specific Provisions

A. 103.11(ii)—Transaction

The definition of "transaction" in the Bank Secrecy Act regulations for purposes of suspicious transaction reporting conforms generally to the definition Congress added to 18 U.S.C. 1956 when it criminalized money laundering in 1986. *See* Public Law 99–570, Title XIII, 1352(a), 100 Stat. 3207–18 (Oct. 27, 1986). This notice proposes to amend that definition explicitly to include transactions involving any instrument that falls within the definition of "security" in section (3)(a)(10) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10), and to add a corresponding definition of "security" to 31 CFR part 103. These changes are necessary so that the reporting rules will conform to the definition of broker or dealer in securities in 31 CFR 103.11(f) and cover all activity that should be reported under the proposed rule.

B. 103.19—Reports of Suspicious Transactions

General. Proposed section 103.19 contains the rules setting forth the obligation of broker-dealers to report suspicious transactions that are conducted or attempted by, at, or through a broker-dealer and involve or aggregate at least $5,000 in funds or other assets. It is important to recognize that transactions are reportable under this rule and 31 U.S.C. 5318(g) whether or not they involve currency.[13]

The obligation extends to transactions conducted or attempted by, at, or through, the broker-dealer. However, paragraph (a) also contains language designed to encourage the reporting of transactions that appear relevant to violations of law or regulation, even in cases in which the rule does not explicitly so require, for example in the case of a transaction falling below the $5,000 threshold in the rule.

Paragraph (a)(1) contains the general statement of the obligation to file. To clarify that the proposed rule creates a uniform reporting requirement for broker-dealers and banking organizations, the language of the reporting obligation incorporates language from suspicious activity reporting rules contained in both Title 12 and Title 31. Thus, the rule requires the reporting of all activity "relevant to a possible violation of law or regulation," including "any known or suspected violation of Federal law, or a suspicious transaction related to a money laundering activity or a violation of the Bank Secrecy Act". It is anticipated that, when this proposed rule becomes effective, the federal bank supervisors will amend or repeal, as appropriate, any duplicative suspicious activity reporting requirements for broker-dealers.

---

[9] For example, 12 CFR 225.4(f) subjects non-bank subsidiaries of bank holding companies to the suspicious transaction reporting requirements of Regulation H of the Board of Governors at 12 CFR 208.62. Broker-dealers to which the bank supervisory agency rules for suspicious transaction reporting currently apply represent approximately half of the business of the broker-dealer industry, though in terms of numbers, they are only a small percentage of the approximately 8,300 broker-dealers in the United States.

[10] Money transmitters, issuers, sellers, and redeemers of money orders, and issuers, sellers, and redeemers of traveler's checks will become subject to a similar reporting requirement pursuant to a final rule published in the **Federal Register** on March 14, 2000. *See* 31 CFR 103.20. Under that rule, reporting will be required for suspicious transactions involving or aggregating at least $2,000 in general or at least $5,000 in the case of issuers of money orders and traveler's checks to the extent the transactions to be reported are identified from a review of clearance records and similar documents. Finally, FinCEN has proposed a rule that would require casinos and card clubs to report suspicious transactions involving or aggregating at least $3,000. *See* 63 FR 27230 (May 18, 1998).

[11] The definitions of "broker," "dealer," and "security," for purposes of the Securities Exchange Act of 1934 appear in sections 3(a)(4) ("broker"), 3(a)(5) ("dealer"), and 3(a)(10) ("security") of that Act, 15 U.S.C. 78c(a)(4), (5), and (10).

[12] See 31 U.S.C. 5319, as amended by the USA Patriot Act.

[13] Many currency transactions are *not* indicative of money laundering or other violations of law, a fact recognized both by Congress, in authorizing reform of the currency transaction reporting system, and by FinCEN in issuing rules to implement that system (*See* 31 U.S.C. 5313(d) and 31 CFR 103.22(d), 63 FR 50147 (September 21, 1998)). But many non-currency transactions, (for example, funds transfers) *can* indicate illicit activity, especially in light of the breadth of the statutes that make money laundering a crime. *See* 18 U.S.C. 1956 and 1957.

Paragraph (a)(2) specifically describes two categories of transactions that require reporting. The first category, described in proposed paragraph (a)(2)(i), would require broker-dealers to report any known or suspected Federal criminal violation, committed or attempted against, or through, a broker-dealer. This language is intended to clarify the fact that broker-dealers must report all suspicious transactions that are relevant to a possible violation of law or regulation. Similar language appears in the suspicious activity reporting rules imposed by the federal bank supervisors under Title 12.

The second category of reportable transactions is contained in proposed paragraph (a)(2)(ii), which would require broker-dealers to report to the Treasury Department a transaction if the broker-dealer knows, suspects, or has reason to suspect that it is one of three classes of transactions (described more fully below) requiring reporting. The "knows, suspects, or has reason to suspect" standard incorporates a concept of due diligence in the reporting requirement.

The first class, described in proposed paragraph (a)(2)(ii)(A), includes transactions involving funds derived from illegal activity or intended or conducted in order to hide or disguise funds or assets derived from illegal activity. The second class, described in proposed paragraph (a)(2)(ii)(B), involves transactions designed, whether through structuring or other means, to evade the requirements of the Bank Secrecy Act. The third class, described in proposed paragraph (a)(2)(ii)(C), involves transactions that appear to serve no business or apparent lawful purpose, and for which the broker-dealer knows of no reasonable explanation after examining the available facts relating to the transaction and the parties.

It should be noted that the standard of reporting for the second reporting category differs from that of the first. Under the first reporting category, the broker-dealer must report "known or suspected" criminal activity. In contrast, the second category of reportable activity requires reporting if a broker-dealer "knows, suspects, *or has reason to suspect*" (emphasis added) that a transaction should be reported under the rule. The inclusion of two distinct reporting standards in the proposed rule is consistent with the suspicious activity reporting regime to which banking organizations are currently subject.[14]

A determination as to whether a report is required must be based on all the facts and circumstances relating to the transaction and customer of the broker-dealer in question. Different fact patterns will require different types of judgments. In some cases, the facts of the transaction may indicate the need to report. For example, frequent and large-scale usage of wire transfer facilities within a brokerage, with nominal or nonexistent securities purchases or sales may be indicative of suspicious activity. Similarly, the fact that a customer refuses to provide information necessary for the broker-dealer to make reports or keep records required by this Part or other regulations, provides information that a broker-dealer determines to be false, or seeks to change or cancel a transaction *after* such person is informed of currency transaction reporting or information verification or recordkeeping requirements relevant to the transaction would all indicate that a Suspicious Activity Report-BD (SAR–BD)[15] should be filed. (Of course, as the proposed rule makes clear, the broker-dealer may not notify the customer that it intends to file or has filed a suspicious transaction report with respect to the customer's activity.)

In other situations a more involved judgment may need to be made to determine whether a transaction is suspicious within the meaning of the rule. Transactions that raise the need for such judgments may include, for example, (i) transmission or receipt of funds transfers without normal identifying information or in a manner that indicates an attempt to disguise or hide the country of origin or destination or the identity of the customer sending the funds or of the beneficiary to whom the funds are sent; or (ii) repeated use of an account as a temporary resting place for funds from multiple sources without a clear business purpose therefor. The judgments involved will also extend to whether the facts and circumstances and the institution's knowledge of its customer provide a reasonable explanation for the transaction that removes it from the suspicious category.

31 U.S.C. 5318(g)(1) authorizes Treasury to require suspicious transaction reporting not only by financial institutions but by "any director, officer, employee, or agent of any financial institution." This proposed rule addresses reporting by broker-dealers, but not by individual employees of a broker-dealer who are "associated persons" of that broker-dealer. FinCEN does not intend to reduce in any way the obligations of broker-dealer employees or agents, within the context of a broker-dealer's general regulatory or specific Bank Secrecy Act compliance programs, but simply to avoid at this time creating an obligation on the part of broker-dealer employees and agents *independent* of those general obligations.

The means of commerce and the techniques of money launderers are continually evolving, and there is no way to provide an exhaustive list of suspicious transactions. FinCEN hopes to continue its dialogue with the securities industry about the manner in which a combination of government guidance, training programs, and government-industry information exchange can smooth the way for operation of the new suspicious activity reporting system in as flexible and cost-efficient a way as possible.

Reporting Threshold. The proposed rule requires the reporting of suspicious transactions of at least $5,000.[16] FinCEN is aware of concern on the part of some broker-dealers that the threshold would operate mechanically to require broker-dealers to establish programs to examine every transaction occurring at the threshold level.[17] The suspicious transaction reporting rules, however, are not intended to operate (and indeed cannot properly operate) in a mechanical fashion. Rather, the suspicious transaction reporting requirements are intended to function in such a way as to have financial institutions evaluate customer activity and relationships for money laundering risks.[18]

---

[14] *See, e.g.*, 12 CFR 208.62(c) and 31 CFR 103.18(a)(2).

[15] The term "BD" is an abbreviation for "broker or dealer in securities" and is used to distinguish the form from forms for reporting by other non-bank institutions.

[16] Broker-dealers covered by the bank supervisory rules for suspicious transaction reporting already comply with a $5,000 threshold for suspicious transactions relating to money laundering, BSA violations, and other criminal violations with respect to which a suspect can be identified. However, under those rules, a $25,000 reporting threshold applies to other criminal violations with respect to which a suspect cannot be identified. The proposed rule does not adopt this two-tiered approach.

[17] The GAO report includes information, based on a survey conducted by the GAO, regarding the average size of transactions for retail customers of broker-dealers. The report concludes that the average dollar size of individual transactions (those involving securities trades) was $22,306 (with $5,000 as the most frequent size transaction). The report cautions, however, that GAO was not able to develop meaningful estimates for the entire industry because of the low number of firms that provided information and the wide range of responses.

Section 352 of the USA Patriot Act will require broker-dealers to develop and implement programs designed to guard against money laundering.[19] FinCEN anticipates that these changes to section 5318 will be further addressed in a separate rulemaking prior to that date. Current securities self-regulatory organization rules will also require broker-dealers to have compliance programs for suspicious transaction reporting.[20] It is important to note however, that a risk-based approach to developing compliance procedures that can be reasonably expected to promote the detection and reporting of suspicious activity should be the focus of a broker-dealer's anti-money laundering compliance program. A compliance program that captures for review only those transactions that are above a threshold set at a mechanically high level, regardless of the money laundering or other risks such transactions may involve, and regardless of the money laundering or other risks that transactions at a lower dollar threshold may involve, would likely not be a satisfactory program. Of course, the particular contents or size of a compliance program must vary, as it does at banking organizations, to reflect the size and nature of a particular broker-dealer's operations.

Filing Procedures. Paragraph (b) sets forth the filing procedures to be followed by broker-dealers making reports of suspicious transactions. Within 30 days after a broker-dealer becomes aware of a suspicious transaction, the business must report the transaction by completing a SAR–BD and filing it in a central location, to be determined by FinCEN. The SAR–BD will resemble the SAR used by banks to report suspicious transactions, and a draft form will be made available for comment by publication in the **Federal Register**.

Supporting documentation relating to each SAR–BD is to be collected and maintained separately by the broker-dealer and made available to law enforcement, regulatory agencies, and SROs as permitted in paragraph (g) of the rule, upon request. Special provision is made for situations requiring immediate attention, in which case broker-dealers are to telephone the appropriate law enforcement authority and the SEC in addition to filing a SAR–BD.

Exceptions. The proposed rule would create two exceptions from reporting. The first exception deals with the reporting of lost, stolen, missing or counterfeit securities; that reporting is to occur in accordance with existing Securities and Exchange Commission rules. The second exception permits the reporting of a violation of federal securities laws (or rules of an appropriate SRO) by an employee or other registered representative of a broker-dealer, under existing industry procedures rather than through a SAR–BD. The second exception does not apply, however, if the securities law or SRO rule violation is a possible violation of 17 CFR 240.17a–8 or 17 CFR 405.4. These exceptions are designed to permit the reporting of those potential violations according to present procedures and modes in the securities industry.

Retention of Records. Paragraph (d) provides that filing broker-dealers must maintain copies of SAR–BDs and the original related documentation for a period of five years from the date of filing. As indicated above, supporting documentation is to be made available to FinCEN, the SEC, other appropriate law enforcement and regulatory authorities, and, as explained below, to SROs as permitted in paragraph (g) of the rule, on request.

Non-Disclosure. Paragraph (e) reflects the statutory bar against the disclosure of information filed in, or the fact of filing, a suspicious activity report (whether the report is required by the proposed rule or is filed voluntarily). *See* 31 U.S.C. 5318(g)(2) and 31 CFR 103.18(e)(for depository institutions). Thus, the paragraph specifically prohibits persons filing SAR–BDs from making any disclosure, except to law enforcement and regulatory agencies, and, as explained below, to SROs as permitted in paragraph (g) of the rule, about either the reports themselves or supporting documentation.

Safe Harbor from Civil Liability. 31 U.S.C. 5318(g), as amended by the USA Patriot Act, provides protection from liability for making reports of suspicious transactions, and for failures to disclose the fact of such reporting, contained in 31 U.S.C. 5318(g), as amended by the USA Patriot Act. Section 351 of that Act clarifies that the safe harbor applies to the voluntary reporting of suspicious transactions, and the proposed rule reflects this clarification.

The USA Patriot Act clarifies that the safe harbor is available in the arbitration of securities industry disputes. In this regard, FinCEN recognizes that disputes between broker-dealers and their customers most typically are resolved through arbitration. It is therefore anticipated that disputes arising out of suspicious transaction reporting by broker-dealers generally will be resolved through arbitration.

The safe harbor provision of 31 U.S.C. 5318(g) clearly protects any financial institution from civil liability for reporting suspicious activity.[21] While the applicable law in this area is unambiguous, FinCEN understands that arbitration, unlike litigation, is an equitable forum where the decision makers have some degree of flexibility in resolving the disputes before them. FinCEN further understands that, as a practical matter, it may be difficult to overturn an arbitration award, even where an arbitrator did not correctly apply the law.

The specific reference to arbitration in the safe harbor provision of the proposed rule clarifies that the mere switch in venue from the courts to arbitration for many securities industry disputes does not alter the effect of the safe harbor from liability for suspicious transaction reporting. In doing so, the proposed rule reflects the recent amendment to section 5318(g) by the USA Patriot Act, which clarifies that the safe harbor for suspicious transaction reporting shall apply in arbitration. Section 351 of the USA Patriot Act states that a financial institution that reports suspicious activity shall not be liable for filing such a report "under any law or regulation of the United States, any constitution, law or regulation of any State or political subdivision of any State, or under any contract or other legally enforceable agreement (*including any arbitration agreement*)." (Emphasis added.) FinCEN intends to work with the SEC, SROs, and industry representatives to ensure that appropriate educational materials are delivered to compliance and litigation personnel.

---

[18] Thus, for example, transactions involving securities trades by the pension fund of a publicly traded corporation, even though involving a large dollar amount, would likely require a more limited scrutiny than less typical transactions such as those involving customers who wish to deposit currency in their brokerage account or to open a brokerage account using money orders even though the dollar amounts in those latter cases may be relatively small.

[19] *See* 31 U.S.C. 5318(h). Section 312 of that Act amends section 5318 by adding a new paragraph (i) requiring financial institutions to establish enhanced due diligence procedures for certain private banking accounts and correspondent accounts, including reasonable steps to guard against money laundering and report suspicious activity involving these accounts.

[20] Existing securities law and self-regulatory organization rules will ensure that broker-dealers have suspicious activity reporting rule compliance programs in place. In particular, Section 19(g) of the Exchange Act provides that "Every self-regulatory organization shall comply with the provisions of this title, the rules and regulations thereunder, and its own rules, and . . . absent reasonable justification or excuse enforce compliance." To give effect to Section 19(g), both the National Association of Securities Dealers and the New York Stock Exchange promulgated compliance program rules. *See* NASD Rule 3010 and NYSE Rule 342, including Supplemental Material .30. Rule 17a–8 of the Exchange Act requires broker-dealers to comply with applicable BSA rules. Accordingly, broker-dealers will be required under existing rules to develop compliance programs for the broker-dealer SAR rule proposed in this document.

[21] *See Lee* v. *Bankers Trust Co.*, 166 F.3d 540, 544 (2nd Cir. 1999) (stating that in enacting 31 U.S.C. 5318(g), the Congress "broadly and unambiguously provide[d] * * * immunity from any law (except the federal Constitution) for any statement made in a SAR by anyone connected to a financial institution").

It must be noted that, while the proposed rule reiterates and clarifies the broad protection from liability for making reports of suspicious transactions and for failures to disclose the fact of such reporting, contained in the statutory safe harbor provision, the regulatory provisions do not extend the scope of either the statutory prohibition or the statutory protection. Inclusion of safe harbor language in the proposal is in no way intended to suggest that the safe harbor can override the non-disclosure provisions of the law and regulations. The prohibition on disclosure (other than as required by the proposed rule) applies regardless of any protection from liability. This means, for example, that during an arbitration proceeding, a broker-dealer cannot give a SAR–BD, or disclose that one was filed, to any participant in the proceeding, including the arbitrator.

Examination and Enforcement. Paragraph (g) notes that compliance with the obligation to report suspicious transactions will be examined, and provides that failure to comply with the rule may constitute a violation of the Bank Secrecy Act and the Bank Secrecy Act regulations. This paragraph also makes clear that a broker-dealer must provide access to SAR–BDs that the broker-dealer has filed pursuant to this requirement, to SROs registered with the Securities and Exchange Commission that have jurisdiction to examine a broker-dealer for compliance with this rule. In examining any particular failure to report a transaction as required by this section, FinCEN and the SEC may take into account the relationship between the particular failure to report and the adequacy of the implementation and operation of a broker-dealer's compliance procedures.

Proposed Effective Date. Finally, paragraph (h) provides that the new suspicious activity reporting rule would be effective 180 days after the date on which the final regulations to which this notice of proposed rulemaking relates are published in the **Federal Register**.

III. Submission of Comments

An original and four copies of any written hard copy comment (but not of comments sent via E-Mail), must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

IV. Regulatory Flexibility Act

FinCEN certifies that this proposed regulation would not have a significant economic impact on a substantial number of small entities. All broker-dealers, regardless of their size, are currently subject to the Bank Secrecy Act. Procedures currently in place at broker-dealers to comply with existing Bank Secrecy Act rules should help broker-dealers identity suspicious transactions. In addition, the limited use of currency in the broker-dealer industry will likely reduce the number of suspicious activity reports required to be filed. Finally, certain small broker-dealers may have an established and limited customer base whose transactions are well-known to the broker dealer.

V. Executive Order 12866

The Department of the Treasury has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VI. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this proposal provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

VII. Paperwork Reduction Act

Recordkeeping Requirements of 31 CFR 103.20. The collection of information contained in this notice of proposed rulemaking is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, with copies to FinCEN at Department of the Treasury, Financial Crimes Enforcement Network, Post Office Box 39, Vienna, Virginia 22183. Comments on the collection of information should be received by March 1, 2002. In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information as required by 31 CFR 103.19 is presented to assist those persons wishing to comment on the information collection.

FinCEN anticipates that this proposed rule, if adopted as proposed, would result in the annual filing of a total of 2,000 Suspicious Activity Report-BD forms. This result is an estimate extrapolated from the number of suspicious activity reports currently being filed by the broker-dealer industry either on a mandatory basis under the bank supervisory agency rules or voluntarily.

Description of Respondents: Brokers or dealers in securities registered or required to be registered with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934.

Estimated Number of Respondents: 8,300.

Frequency: As required.

Estimate of Burden: The reporting burden of 31 CFR 103.19 will be reflected in the burden of the form, Suspicious Activity Report-BD. The recordkeeping burden of 31 CFR 103.19 is estimated as an average of 3 hours per form, which includes internal review of records to determine whether the activity requires reporting.

Estimate of Total Annual Recordkeeping Burden on Respondents: Recordkeeping burden estimate = 6,000 hours.

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the

VOL 66 ISS 250 DE 31 2001 UMI

proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR Part 103 is proposed to be amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5330.

2. In § 103.11, paragraph (ii)(1) is revised and new paragraph (ww) is added to read as follows:

§ 103.11 Meaning of terms.

* * * * *

(ii) *Transaction.* (1) Except as provided in paragraph (ii)(2) of this section, transaction means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or security, purchase or redemption of any money order, payment or order for any money remittance or transfer, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

* * * * *

(ww) *Security.* Security means any instrument or interest described in section 3(a)(10) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(10).

3. In Subpart B, add new § 103.19 to read as follows:

§ 103.19 Reports by brokers or dealers in securities of suspicious transactions.

(a) *General.* (1) Every broker or dealer in securities (for purposes of this section, a "broker-dealer") shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. This includes any known or suspected violation of Federal law, or a suspicious transaction related to a money laundering violation or a violation of the Bank Secrecy Act. A broker-dealer may also file with the Treasury Department a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section. A voluntary filing does not relieve a broker-dealer from the responsibility of complying with any other reporting requirements imposed by the Securities and Exchange Commission or a self-regulatory organization ("SRO") (as defined in section 3(a)(26) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(26)).

(2) A transaction requires reporting under the terms of this section if it is conducted or attempted by, at, or through a broker-dealer, it involves or aggregates funds or other assets of at least $5,000, and:

(i) The broker-dealer detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against the broker-dealer or involving a transaction or transactions conducted through the broker-dealer, where the broker-dealer was either an actual or potential victim of a criminal violation, or series of criminal violations or that the broker-dealer was used to facilitate a criminal transaction. (If it is determined prior to filing this report that the identified suspect or group of suspects has used an "alias," then information regarding the true identity of the suspect or group of suspects, as well as alias identifiers, such as drivers' licenses or social security numbers, addresses and telephone numbers, must be reported); or

(ii) the broker-dealer knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):

(A) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any federal law or regulation or to avoid any transaction reporting requirement under federal law or regulation;

(B) Is designed, whether through structuring or other means, to evade any requirements of this part or of any other regulations promulgated under the Bank Secrecy Act, Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or

(C) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the broker-dealer knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

(b) *Filing procedures*—(1) *What to file.* A suspicious transaction shall be reported by completing a Suspicious Activity Report—Brokers or Dealers in Securities("SAR-BD"), and collecting and maintaining supporting documentation as required by paragraph (d) of this section.

(2) *Where to file.* The SAR–BD shall be filed with FinCEN in a central location, to be determined by FinCEN, as indicated in the instructions to the SAR–BD.

(3) *When to file.* A SAR–BD shall be filed no later than 30 calendar days after the date of the initial detection by the reporting broker-dealer of facts that may constitute a basis for filing a SAR–BD under this section. If no suspect is identified on the date of such initial detection, a broker-dealer may delay filing a SAR–BD for an additional 30 calendar days to identify a suspect, but in no case shall reporting be delayed more than 60 calendar days after the date of such initial detection. In situations involving violations that require immediate attention, such as ongoing money laundering schemes, the broker-dealer shall immediately notify by telephone an appropriate law enforcement authority and the Securities and Exchange Commission in addition to filing a SAR–BD.

(c) *Exceptions.* (1) A broker-dealer is not required to file a SAR–BD to report:

(i) Lost, missing, counterfeit, or stolen securities with respect to which it files a report pursuant to the reporting requirements of 17 CFR 240.17f–1; or

(ii) A possible violation of any of the federal securities laws or rules of a self-regulatory organization ("SRO") (as defined in section 3(a)(26) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(26)), by the broker-dealer or any of its officers, directors, employees or other registered representatives, other than a possible violation of 17 CFR 240.17a–8 or 17 CFR 405.4, so long as such violation is appropriately reported to the Securities and Exchange Commission or an SRO.

(2) A broker-dealer may be required to demonstrate that it has relied on an exception in paragraph (c)(1)(ii) of this section, and must maintain records of its determinations to do so for the period specified in paragraph (d) of this section. To the extent that a Form RE–3, Form U–4, or Form U–5 concerning the transaction is filed consistent with the self-regulatory organization rules, a copy of that form will be a sufficient record for purposes of this paragraph (c)(2).

(3) For the purposes of this paragraph (c) the term "federal securities laws" means the "securities laws," as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(47), and the rules and regulations promulgated by the Securities and Exchange Commission under such laws.

(d) *Retention of records.* A broker-dealer shall maintain a copy of any SAR–BD filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of filing the SAR–BD. Supporting documentation shall be identified as such and maintained by the broker-dealer, and shall be deemed to have been filed with the SAR–BD. A broker-dealer shall make all supporting documentation available to FinCEN, any other appropriate law enforcement agencies or federal or state securities regulators, and an SRO registered with the Securities and Exchange Commission in accordance with paragraph (g) of this section, upon request.

(e) *Confidentiality of reports.* No financial institution, and no director, officer, employee, or agent of any financial institution, who reports a suspicious transaction under this part, may notify any person involved in the transaction that the transaction has been reported. Thus, any person subpoenaed or otherwise requested to disclose a SAR–BD or the information contained in a SAR–BD, except where such disclosure is requested by FinCEN, the Securities and Exchange Commission, or another appropriate law enforcement or regulatory agency, or an SRO registered with the Securities and Exchange Commission in accordance with paragraph (g) of this section, shall decline to produce the SAR–BD or to provide any information that would disclose that a SAR–BD has been prepared or filed, citing this paragraph and 31 U.S.C. 5318(g)(2), and shall notify FinCEN of any such request and its response thereto.

(f) *Limitation of liability.* A broker-dealer, and any director, officer, employee, or agent of such broker-dealer, that makes a report of any possible violation of law or regulation pursuant to this section or any other authority (or voluntarily) shall not be liable to any person under any law or regulation of the United States (or otherwise to the extent also provided in 31 U.S.C. 5318(g)(3), including in any arbitration proceeding) for any disclosure contained in, or for failure to disclose the fact of, such report.

(g) *Examination and enforcement.* Compliance with this section shall be examined by the Department of the Treasury, through FinCEN or its delegees under the terms of the Bank Secrecy Act. Reports filed under this section shall be made available to an SRO registered with the Securities and Exchange Commission examining a broker-dealer for compliance with the requirements of this section. Failure to satisfy the requirements of this section may constitute a violation of the reporting rules of the Bank Secrecy Act and of this part.

(h) *Effective date.* This section is effective [date that is 180 days after the date on which the final regulation to which this notice of proposed rulemaking relates is published in the **Federal Register**].

Dated: December 20, 2001.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 01–31850 Filed 12–28–01; 8:45 am]

BILLING CODE 4820–03–P

VOL
66
ISS
2
5
0
DE
31
2001
UMI

Federal Register

Monday,
December 31, 2001

Part VI

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

31 CFR Part 103

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Nonfinancial Trades or Businesses Report Certain Currency Transactions; Interim Rule, Final and Proposed Rules

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA25

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Nonfinancial Trades or Businesses Report Certain Currency Transactions

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Interim rule.

SUMMARY: This document contains an interim rule amending the Bank Secrecy Act regulations to require that persons who, in the course of conducting a nonfinancial trade or business, receive more than $10,000 in coins or currency in one transaction (or two or more related transactions), file a report of such transaction with the Treasury Department.

DATES: This interim rule is effective as of January 1, 2002.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark, Deputy Chief Counsel, or Laurence J. Levine, Attorney-Advisor, Office of Chief Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document adds, as an interim rule, a new section 31 CFR 103.30. The Interim Rule is adopted to implement the terms of 31 U.S.C. 5331, which was added to the Bank Secrecy Act by section 365 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56 (October 26, 2001).

II. Statutory Provisions

The Bank Secrecy Act, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311, *et seq.*, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311, *et seq.*), appear at 31 CFR Part 103. The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

Under 31 U.S.C. 5331, any person who is engaged in a trade or business and who, in the course of such trade or business, receives more than $10,000 in coins or currency in one transaction (or two or more related transactions) is required to file a report with respect to such transaction (or related transactions) with the Treasury Department. Reporting under section 5331 does not apply to amounts received in a transaction reported under 31 U.S.C. 5313 and the accompanying regulations.

For purposes of section 5331, currency includes foreign currency, and to the extent provided in regulations, any monetary instrument, whether or not in bearer form, with a face amount of not more than $10,000. Such monetary instruments shall not include any check drawn on the account of the writer in a financial institution referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), or (S) of 31 U.S.C. 5312 (a)(2).

Reports required under section 5331 must be in such form as the Secretary may prescribe. The reports must contain: (1) the name, address, and such other identification information as the Secretary may require, of the person from whom the coins or currency was received; (2) the amount of coins or currency received; (3) the date and nature of the transaction; and (4) such other information, including the identification of the person filing the report, as the Secretary may prescribe.

III. Interim Rule

With a minor exception, section 5331 requires reporting of the same transaction that must be reported to the Internal Revenue Service ("IRS") under section 6050I of title 26, United States Code, and 26 CFR 1.6050I–1. Section 5331 does not require reporting of currency received by clerks of court. *Cf.* 26 U.S.C. 6050I(g). Further, section 5331 does not require the person making a report under section 5331 to furnish to the person whose name is required to be set forth on the report a statement concerning the report. *Cf.* 26 U.S.C. 6050I(e).

Because section 5331 is substantially similar to 26 U.S.C. 6050I, the Interim Rule provides that persons required to report a transaction under section 5331 must make that report by filing a joint FinCEN/IRS form with the IRS. Under this dual-reporting regime, only one form is required to be filed for a transaction subject to both section 5331 and section 6050I of title 26. Thus, the Interim Rule imposes no new reporting or record-keeping burden on persons required to report certain transactions under section 5331.

Because of the similarity between the provisions, FinCEN believes it is appropriate for the Interim Rule to adopt the same rules for multiple payments, monetary instruments, and designated reporting transactions as appear in the regulations under section 6050I. Thus, for example, the Interim Rule requires that recipients aggregate an initial payment and subsequent payments such that a report is required if the aggregation exceeds $10,000 within one year of the initial payment. In addition, the Interim Rule, like 26 CFR 1.6050I–1, includes within the definition of currency monetary instruments such as cashiers' checks, bank drafts, traveler's checks or money orders, not having a face amount of more than $10,000, when such monetary instruments are received in a "designated reporting transaction," i.e., certain retail sales as defined in the regulation.

IV. Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this Interim Rule because FinCEN was not required to publish a notice of proposed rulemaking under 5 U.S.C. 553 or any other law.

V. Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed under the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(j)) and approved by the Office of Management and Budget (OMB) under control number 1506–0018. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

To submit comments concerning the collection of information described in this Interim Rule, please refer to the companion Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register**.

---

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the USA PATRIOT Act of 2001.

VI. Executive Order 12866

The Department of the Treasury has determined that this Interim Rule is not a significant regulatory action under Executive Order 12866.

VII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this proposal provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

VIII. Administrative Procedure Act

Because the Interim Rule implements the statute, imposes no additional burden on the public, and addresses the collection of records that may be integral in ongoing antiterrorism and other criminal and regulatory investigations or proceedings, it is found to be impracticable, unnecessary, and contrary to the public interest to comply with notice and public procedure under 5 U.S.C. 553(b). For these reasons, the Interim Rule is made effective before 30 days have passed after its publication date. *See* 5 U.S.C. 553(d).

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth above in the preamble, 31 CFR Part 103 is amended as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for part 103 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5331.

2. A new § 103.30 is added to subpart B to read as follows:

§ 103.30 Reports relating to currency in excess of $10,000 received in a trade or business.

(a) *Reporting requirement*—(1) *Reportable transactions*—(i) *In general.* Any person (solely for purposes of section 5331 of title 31, United States Code and this section, "person" shall have the same meaning as under 26 U.S.C. 7701 (a)(1)) who, in the course of a trade or business in which such person is engaged, receives currency in excess of $10,000 in 1 transaction (or 2 or more related transactions) shall, except as otherwise provided, make a report of information with respect to the receipt of currency. This section does not apply to amounts received in a transaction reported under 31 U.S.C. 5313 and § 103.22.

(ii) *Certain financial transactions.* Section 6050I of title 26 of the United States Code requires persons to report information about financial transactions to the IRS, and 31 U.S.C. 5331 requires persons to report similar information about certain transactions to the Financial Crimes Enforcement Network. This information shall be reported on the same form as prescribed by the Secretary.

(2) *Currency received for the account of another.* Currency in excess of $10,000 received by a person for the account of another must be reported under this section. Thus, for example, a person who collects delinquent accounts receivable for an automobile dealer must report with respect to the receipt of currency in excess of $10,000 from the collection of a particular account even though the proceeds of the collection are credited to the account of the automobile dealer (*i.e.,* where the rights to the proceeds from the account are retained by the automobile dealer and the collection is made on a fee-for-service basis).

(3) *Currency received by agents*—(i) *General rule.* Except as provided in paragraph (a)(3)(ii) of this section, a person who in the course of a trade or business acts as an agent (or in some other similar capacity) and receives currency in excess of $10,000 from a principal must report the receipt of currency under this section.

(ii) *Exception.* An agent who receives currency from a principal and uses all of the currency within 15 days in a currency transaction (the "second currency transaction") which is reportable under section 5312 of title 31, or 31 U.S.C. 5331 and this section, and who discloses the name, address, and taxpayer identification number of the principal to the recipient in the second currency transaction need not report the initial receipt of currency under this section. An agent will be deemed to have met the disclosure requirements of this paragraph (a)(3)(ii) if the agent discloses only the name of the principal and the agent knows that the recipient has the principal's address and taxpayer identification number.

(iii) *Example.* The following example illustrates the application of the rules in paragraphs (a)(3)(i) and (ii) of this section:

Example. B, the principal, gives D, an attorney, $75,000 in currency to purchase real property on behalf of B. Within 15 days D purchases real property for currency from E, a real estate developer, and discloses to E, B's name, address, and taxpayer identification number. Because the transaction qualifies for the exception provided in paragraph (a)(3)(ii) of this section, D need not report with respect to the initial receipt of currency under this section. The exception does not apply, however, if D pays E by means other than currency, or effects the purchase more than 15 days following receipt of the currency from B, or fails to disclose B's name, address, and taxpayer identification number (assuming D does not know that E already has B's address and taxpayer identification number), or purchases the property from a person whose sale of the property is not in the course of that person's trade or business. In any such case, D is required to report the receipt of currency from B under this section.

(b) *Multiple payments.* The receipt of multiple currency deposits or currency installment payments (or other similar payments or prepayments) relating to a single transaction (or two or more related transactions), is reported as set forth in paragraphs (b)(1) through (b)(3) of this section.

(1) *Initial payment in excess of $10,000.* If the initial payment exceeds $10,000, the recipient must report the initial payment within 15 days of its receipt.

(2) *Initial payment of $10,000 or less.* If the initial payment does not exceed $10,000, the recipient must aggregate the initial payment and subsequent payments made within one year of the initial payment until the aggregate amount exceeds $10,000, and report with respect to the aggregate amount within 15 days after receiving the payment that causes the aggregate amount to exceed $10,000.

(3) *Subsequent payments.* In addition to any other required report, a report must be made each time that previously unreportable payments made within a 12-month period with respect to a single transaction (or two or more related transactions), individually or in the

VOL 66
ISS 250
DE 31 2001
UMI

aggregate, exceed $10,000. The report must be made within 15 days after receiving the payment in excess of $10,000 or the payment that causes the aggregate amount received in the 12-month period to exceed $10,000. (If more than one report would otherwise be required for multiple currency payments within a 15-day period that relate to a single transaction (or two or more related transactions), the recipient may make a single combined report with respect to the payments. The combined report must be made no later than the date by which the first of the separate reports would otherwise be required to be made.)

(4) *Example.* The following example illustrates the application of the rules in paragraphs (b)(1) through (b)(3) of this section:

Example. On January 10, Year 1, M receives an initial payment in currency of $11,000 with respect to a transaction. M receives subsequent payments in currency with respect to the same transaction of $4,000 on February 15, Year 1, $6,000 on March 20, Year 1, and $12,000 on May 15, Year 1. M must make a report with respect to the payment received on January 10, Year 1, by January 25, Year 1. M must also make a report with respect to the payments totaling $22,000 received from February 15, Year 1, through May 15, Year 1. This report must be made by May 30, Year 1, that is, within 15 days of the date that the subsequent payments, all of which were received within a 12-month period, exceeded $10,000.

(c) *Meaning of terms.* The following definitions apply for purposes of this section—

(1) *Currency.* Solely for purposes of 31 U.S.C. 5331 and this section, *currency* means—

(i) The coin and currency of the United States or of any other country, which circulate in and are customarily used and accepted as money in the country in which issued; and

(ii) A cashier's check (by whatever name called, including "treasurer's check" and "bank check"), bank draft, traveler's check, or money order having a face amount of not more than $10,000—

(A) Received in a designated reporting transaction as defined in paragraph (c)(2) of this section (except as provided in paragraphs (c)(3), (4), and (5) of this section), or

(B) Received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid the reporting of the transaction under section 5331 and this section.

(2) *Designated reporting transaction.* A designated reporting transaction is a retail sale (or the receipt of funds by a broker or other intermediary in connection with a retail sale) of—

(i) A consumer durable, (ii) A collectible, or

(iii) A travel or entertainment activity.

(3) *Exception for certain loans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument constitutes the proceeds of a loan from a bank. The recipient may rely on a copy of the loan document, a written statement from the bank, or similar documentation (such as a written lien instruction from the issuer of the instrument) to substantiate that the instrument constitutes loan proceeds.

(4) *Exception for certain installment sales.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument is received in payment on a promissory note or an installment sales contract (including a lease that is considered to be a sale for Federal income tax purposes). However, the preceding sentence applies only if—

(i) Promissory notes or installment sales contracts with the same or substantially similar terms are used in the ordinary course of the recipient's trade or business in connection with sales to ultimate consumers; and

(ii) The total amount of payments with respect to the sale that are received on or before the 60th day after the date of the sale does not exceed 50 percent of the purchase price of the sale.

(5) *Exception for certain down payment plans.* A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section if the instrument is received pursuant to a payment plan requiring one or more down payments and the payment of the balance of the purchase price by a date no later than the date of the sale (in the case of an item of travel or entertainment, a date no later than the earliest date that any item of travel or entertainment pertaining to the same trip or event is furnished). However, the preceding sentence applies only if—

(i) The recipient uses payment plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers; and

(ii) The instrument is received more than 60 days prior to the date of the sale (in the case of an item of travel or entertainment, the date on which the final payment is due).

(6) *Examples.* The following examples illustrate the definition of "currency" set forth in paragraphs (c)(l) through (c)(5) of this section:

Example 1. D, an individual, purchases gold coins from M, a coin dealer, for $13,200. D tenders to M in payment United States currency in the amount of $6,200 and a cashier's check in the face amount of $7,000 which D had purchased. Because the sale is a designated reporting transaction, the cashier's check is treated as currency for purposes of 31 U.S.C. 5331 and this section. Therefore, because M has received more than $10,000 in currency with respect to the transaction, M must make the report required by 31 U.S.C. 5331 and this section.

Example 2. E, an individual, purchases an automobile from Q, an automobile dealer, for $11,500. E tenders to Q in payment United States currency in the amount of $2,000 and a cashier's check payable to E and Q in the amount of $9,500. The cashier's check constitutes the proceeds of a loan from the bank issuing the check. The origin of the proceeds is evident from provisions inserted by the bank on the check that instruct the dealer to cause a lien to be placed on the vehicle as security for the loan. The sale of the automobile is a designated reporting transaction. However, under paragraph (c)(3) of this section, because E has furnished Q documentary information establishing that the cashier's check constitutes the proceeds of a loan from the bank issuing the check, the cashier's check is not treated as currency pursuant to paragraph (c)(1)(ii)(A) of this section.

Example 3. F, an individual, purchases an item of jewelry from S, a retail jeweler, for $12,000. F gives S traveler's checks totaling $2,400 and pays the balance with a personal check payable to S in the amount of $9,600. Because the sale is a designated reporting transaction, the traveler's checks are treated as currency for purposes of section 5331 and this section. However, because the personal check is not treated as currency for purposes of section 5331 and this section, S has not received more than $10,000 in currency in the transaction and no report is required to be filed under section 5331 and this section.

Example 4. G, an individual, purchases a boat from T, a boat dealer, for $16,500. G pays T with a cashier's check payable to T in the amount of $16,500. The cashier's check is not treated as currency because the face amount of the check is more than $10,000. Thus, no report is required to be made by T under section 5331 and this section.

Example 5. H, an individual, arranges with W, a travel agent, for the chartering of a passenger aircraft to transport a group of individuals to a sports event in another city. H also arranges with W for hotel accommodations for the group and for admission tickets to the sports event. In payment, H tenders to W money orders which H had previously purchased. The total amount of the money orders, none of which individually exceeds $10,000 in face amount, exceeds $10,000. Because the transaction is a designated reporting transaction, the money orders are treated as currency for purposes of section 5331 and this section. Therefore, because W has received more than $10,000 in currency with respect to the transaction, W must make the report required by section 5331 and this section.

(7) *Consumer durable.* The term *consumer* durable means an item of tangible personal property of a type that is suitable under ordinary usage for personal consumption or use, that can reasonably be expected to be useful for at least 1 year under ordinary usage, and that has a sales price of more than $10,000. Thus, for example, a $20,000 automobile is a consumer durable (whether or not it is sold for business use), but a $20,000 dump truck or a $20,000 factory machine is not.

(8) *Collectible.* The term collectible means an item described in paragraphs (A) through (D) of section 408 (m)(2) of title 26 of the United States Code (determined without regard to section 408 (m)(3) of title 26 of the United States Code).

(9) *Travel or entertainment activity.* The term *travel or entertainment activity* means an item of travel or entertainment (within the meaning of 26 CFR 1.274–2(b)(1)) pertaining to a single trip or event where the aggregate sales price of the item and all other items pertaining to the same trip or event that are sold in the same transaction (or related transactions) exceeds $10,000.

(10) *Retail sale.* The term *retail sale* means any sale (whether for resale or for any other purpose) made in the course of a trade or business if that trade or business principally consists of making sales to ultimate consumers.

(11) *Trade or business.* The term trade or business has the same meaning as under section 162 of title 26, United States Code.

(12) *Transaction.* (i) Solely for purposes of 31 U.S.C. 5331 and this section, the term *transaction* means the underlying event precipitating the payer's transfer of currency to the recipient. In this context, transactions include (but are not limited to) a sale of goods or services; a sale of real property; a sale of intangible property; a rental of real or personal property; an exchange of currency for other currency; the establishment or maintenance of or contribution to a custodial, trust, or escrow arrangement; a payment of a preexisting debt; a conversion of currency to a negotiable instrument; a reimbursement for expenses paid; or the making or repayment of a loan. A transaction may not be divided into multiple transactions in order to avoid reporting under this section.

(ii) The term *related transactions* means any transaction conducted between a payer (or its agent) and a recipient of currency in a 24-hour period. Additionally, transactions conducted between a payer (or its agent) and a currency recipient during a period of more than 24 hours are related if the recipient knows or has reason to know that each transaction is one of a series of connected transactions.

(iii) The following examples illustrate the definition of paragraphs (c)(12) (i) and (ii) of this section:

Example 1. A person has a tacit agreement with a gold dealer to purchase $36,000 in gold bullion. The $36,000 purchase represents a single transaction under paragraph (c)(12)(i) of this section and the reporting requirements of this section cannot be avoided by recasting the single sales transaction into 4 separate $9,000 sales transactions.

Example 2. An attorney agrees to represent a client in a criminal case with the attorney's fee to be determined on an hourly basis. In the first month in which the attorney represents the client, the bill for the attorney's services comes to $8,000 which the client pays in currency. In the second month in which the attorney represents the client, the bill for the attorney's services comes to $4,000, which the client again pays in currency. The aggregate amount of currency paid ($12,000) relates to a single transaction as defined in paragraph (c)(12)(i) of this section, the sale of legal services relating to the criminal case, and the receipt of currency must be reported under this section.

Example 3. A person intends to contribute a total of $45,000 to a trust fund, and the trustee of the fund knows or has reason to know of that intention. The $45,000 contribution is a single transaction under paragraph (c)(12)(i) of this section and the reporting requirement of this section cannot be avoided by the grantor's making five separate $9,000 contributions of currency to a single fund or by making five $9,000 contributions of currency to five separate funds administered by a common trustee.

Example 4. K, an individual, attends a one day auction and purchases for currency two items, at a cost of $9,240 and $1,732.50 respectively (tax and buyer's premium included). Because the transactions are related transactions as defined in paragraph (c)(12)(ii) of this section, the auction house is required to report the aggregate amount of currency received from the related sales ($10,972.50), even though the auction house accounts separately on its books for each item sold and presents the purchaser with separate bills for each item purchased.

Example 5. F, a coin dealer, sells for currency $9,000 worth of gold coins to an individual on three successive days. Under paragraph (c)(12)(ii) of this section the three $9,000 transactions are related transactions aggregating $27,000 if F knows, or has reason to know, that each transaction is one of a series of connected transactions.

(13) *Recipient.* (i) The term *recipient* means the person receiving the currency. Except as provided in paragraph (c)(13)(ii) of this section, each store, division, branch, department, headquarters, or office ("branch") (regardless of physical location) comprising a portion of a person's trade or business shall for purposes of this section be deemed a separate recipient.

(ii) A branch that receives currency payments will not be deemed a separate recipient if the branch (or a central unit linking such branch with other branches) would in the ordinary course of business have reason to know the identity of payers making currency payments to other branches of such person.

(iii) *Examples.* The following examples illustrate the application of the rules in paragraphs (c)(13)(i) and (ii) of this section:

Example 1. N, an individual, purchases regulated futures contracts at a cost of $7,500 and $5,000, respectively, through two different branches of Commodities Broker X on the same day. N pays for each purchase with currency. Each branch of Commodities Broker X transmits the sales information regarding each of N's purchases to a central unit of Commodities Broker X (which settles the transactions against N's account). Under paragraph (c)(13)(ii) of this section the separate branches of Commodities Broker X are not deemed to be separate recipients; therefore, Commodities Broker X must report with respect to the two related regulated futures contracts sales in accordance with this section.

Example 2. P, a corporation, owns and operates a racetrack. P's racetrack contains 100 betting windows at which pari-mutuel wagers may be made. R, an individual, places currency wagers of $3,000 each at five separate betting windows. Assuming that in the ordinary course of business each betting window (or a central unit linking windows) does not have reason to know the identity of persons making wagers at other betting windows, each betting window would be deemed to be a separate currency recipient under paragraph (c)(13)(i) of this section. As no individual recipient received currency in excess of $10,000, no report need be made by P under this section.

(d) *Exceptions to the reporting requirements of 31 U.S.C. 5331—(1) Receipt of currency by certain casinos having gross annual gaming revenue in excess of $1,000,000*—(i) *In general.* If a casino receives currency in excess of $10,000 and is required to report the receipt of such currency directly to the Treasury Department under §§ 103.22 (a)(2) and 103.25 and is subject to the recordkeeping requirements of § 103.36, then the casino is not required to make a report with respect to the receipt of such currency under 31 U.S.C. 5331 and this section.

(ii) *Casinos exempt under § 103.55(c).* Pursuant to § 103.55, the Secretary may exempt from the reporting and recordkeeping requirements under §§ 103.22, 103.25 and 103.36 casinos in

VOL 66 ISS 250 DE 31 2001 UMI

any state whose regulatory system substantially meets the reporting and recordkeeping requirements of this part. Such casinos shall not be required to report receipt of currency under 31 U.S.C. 5331 and this section.

(iii) *Reporting of currency received in a nongaming business.* Nongaming businesses (such as shops, restaurants, entertainment, and hotels) at casino hotels and resorts are separate trades or businesses in which the receipt of currency in excess of $10,000 is reportable under section 5331 and these regulations. Thus, a casino exempt under paragraph (d)(1)(i) or (ii) of this section must report with respect to currency in excess of $10,000 received in its nongaming businesses.

(iv) *Example.* The following example illustrates the application of the rules in paragraphs (d)(2) (i) and (iii) of this section:

Example. A and B are casinos having gross annual gaming revenue in excess of $1,000,000. C is a casino with gross annual gaming revenue of less than $1,000,000. Casino A receives $15,000 in currency from a customer with respect to a gaming transaction which the casino reports to the Treasury Department under §§ 103.22(a)(2) and 103.25. Casino B receives $15,000 in currency from a customer in payment for accommodations provided to that customer at Casino B's hotel. Casino C receives $15,000 in currency from a customer with respect to a gaming transaction. Casino A is not required to report the transaction under 31 U.S.C. 5331 or this section because the exception for certain casinos provided in paragraph (d)(1)(i) of this section ("the casino exception") applies. Casino B is required to report under 31 U.S.C. 5331 and this section because the casino exception does not apply to the receipt of currency from a nongaming activity. Casino C is required to report under 31 U.S.C. 5331 and this section because the casino exception does not apply to casinos having gross annual gaming revenue of $1,000,000 or less which do not have to report to the Treasury Department under §§ 103.22(a)(2) and 103.25.

(2) *Receipt of currency not in the course of the recipient's trade or business.* The receipt of currency in excess of $10,000 by a person other than in the course of the person's trade or business is not reportable under 31 U.S.C. 5331. Thus, for example, F, an individual in the trade or business of selling real estate, sells a motorboat for $12,000, the purchase price of which is paid in currency. F did not use the motorboat in any trade or business in which F was engaged. F is not required to report under 31 U.S.C. 5331 or this section because the exception provided in this paragraph (d)(2) applies.

(3) *Receipt is made with respect to a foreign currency transaction*—(i) *In general.* Generally, there is no requirement to report with respect to a currency transaction if the entire transaction occurs outside the United States (the fifty states and the District of Columbia). An entire transaction consists of both the transaction as defined in paragraph (c)(12)(i) of this section and the receipt of currency by the recipient. If, however, any part of an entire transaction occurs in the Commonwealth of Puerto Rico or a possession or territory of the United States and the recipient of currency in that transaction is subject to the general jurisdiction of the Internal Revenue Service under title 26 of the United States Code, the recipient is required to report the transaction under this section.

(ii) *Example.* The following example illustrates the application of the rules in paragraph (d)(3)(i) of this section:

Example. W, an individual engaged in the trade or business of selling aircraft, reaches an agreement to sell an airplane to a U.S. citizen living in Mexico. The agreement, no portion of which is formulated in the United States, calls for a purchase price of $125,000 and requires delivery of and payment for the airplane to be made in Mexico. Upon delivery of the airplane in Mexico, W receives $125,000 in currency. W is not required to report under 31 U.S.C. 5331 or this section because the exception provided in paragraph (d)(3)(i) of this section ("foreign transaction exception") applies. If, however, any part of the agreement to sell had been formulated in the United States, the foreign transaction exception would not apply and W would be required to report the receipt of currency under 31 U.S.C. 5331 and this section.

(e) *Time, manner, and form of reporting*—(1) *In general.* The reports required by paragraph (a) of this section must be made by filing a Form 8300, as specified in 26 CFR 1.6050I–1(e)(2). The reports must be filed at the time and in the manner specified in 26 CFR 1.6050I–1(e)(1) and (3) respectively.

(2) *Verification.* A person making a report of information under this section must verify the identity of the person from whom the reportable currency is received. Verification of the identity of a person who purports to be an alien must be made by examination of such person's passport, alien identification card, or other official document evidencing nationality or residence. Verification of the identity of any other person may be made by examination of a document normally acceptable as a means of identification when cashing or accepting checks (for example, a driver's license or a credit card). In addition, a report will be considered incomplete if the person required to make a report knows (or has reason to know) that an agent is conducting the transaction for a principal, and the return does not identify both the principal and the agent.

(3) *Retention of reports.* A person required to make a report under this section must keep a copy of each report filed for five years from the date of filing.

Dated: December 20, 2001.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 01–31846 Filed 12–28–01; 8:45 am]

BILLING CODE 4820-03-P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA25

Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement That Nonfinancial Trades or Businesses Report Certain Currency Transactions

AGENCY: Financial Crimes Enforcement Network ("FinCEN"), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Bank Secrecy Act regulations to require that persons who, in the course of conducting a nonfinancial trade or business, receive more than $10,000 in coins or currency in one transaction (or two or more related transactions), file a report of such transaction with the Treasury Department.

DATES: Written comments on all aspects of the proposed rule are welcome and must be received on or before March 1, 2002.

ADDRESSES: Written comments should be submitted to: Cash Reporting-Section 5331 Comments, P.O. Box 1618, Vienna, VA 22183–1618. Comments may also be submitted by electronic mail to the following Internet address: *regcomments@fincen.treas.gov* with the caption in the body of the text, "*Attention:* Proposed Rule—Cash Reporting-Section 5331." For additional instructions on the submission of comments, see **SUPPLEMENTARY INFORMATION** under the heading "Submission of Comments."

Inspection of comments: Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Clark, Deputy Chief Counsel, or Laurence J. Levine, Attorney-Advisor, Office of Chief Counsel, FinCEN, (703) 905–3590.

SUPPLEMENTARY INFORMATION:

I. Introduction

Published elsewhere in this issue of the **Federal Register** is an interim rule adding a new section 31 CFR 103.30. The text of the interim rule is the same as the text of this notice of proposed rulemaking.

This document proposes a new section 31 CFR 103.30 in order to implement 31 U.S.C. 5331, as added to the Bank Secrecy Act by section 365 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56 (October 26, 2001).

II. Statutory Provisions

The Bank Secrecy Act, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311, *et seq.*, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities, to protect against international terrorism, and to implement counter-money laundering programs and compliance procedures.[1] Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311, *et seq.*), appear at 31 CFR part 103. The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

Under 31 U.S.C. 5331, any person who is engaged in a trade or business and who, in the course of such trade or business, receives more than $10,000 in coins or currency in one transaction (or two or more related transactions) is required to file a report with respect to such transaction (or related transactions) with the Treasury Department. Reporting under section 5331 does not apply to amounts received in a transaction reported under 31 U.S.C. 5313 and the accompanying regulations.

For purposes of section 5331, currency includes foreign currency, and to the extent provided in regulations, any monetary instrument, whether or not in bearer form, with a face amount of not more than $10,000. Such monetary instruments shall not include any check drawn on the account of the writer in a financial institution referred to in subparagraph (A), (B), (C), (D), (E), (F), (G), (J), (K), (R), or (S) of 31 U.S.C. 5312 (a)(2).

Reports required under section 5331 must be in such form as the Secretary may prescribe. The reports must contain: (1) The name, address, and such other identification information as the Secretary may require, of the person from whom the coins or currency was received; (2) the amount of coins or currency received; (3) the date and nature of the transaction; and (4) such other information, including the identification of the person filing the report, as the Secretary may prescribe.

III. Proposed Rule

With a minor exception, section 5331 requires reporting of the same transaction that must be reported to the Internal Revenue Service ("IRS") under section 6050I of title 26, United States Code, and 26 CFR 1.6050I–1. Section 5331 does not require reporting of currency received by clerks of court. *Cf.* 26 U.S.C. 6050I(g). Further, section 5331 does not require the person making a report under section 5331 to furnish to the person whose name is required to be set forth on the report a statement concerning the report. *Cf.* 26 U.S.C. 6050I(e).

Because section 5331 is substantially similar to 26 U.S.C. 6050I, the proposed rule provides that persons required to report a transaction under section 5331 must make that report by filing a joint FinCEN/IRS form with the IRS. Under this dual-reporting regime, only one form is required to be filed for a transaction subject to both section 5331 and section 6050I of title 26. Thus, the proposed rule imposes no new reporting or record-keeping burden on persons required to report certain transactions under section 5331.

Because of the similarity between the provisions, FinCEN believes it is appropriate that the proposed rule adopt the same rules for multiple payments, monetary instruments, and designated reporting transactions as appear in the regulations under section 6050I. Thus, for example, the proposed rule would require that recipients aggregate an initial payment and subsequent payments such that a report is required if the aggregation exceeds $10,000 within one year of the initial payment. In addition, the proposed rule, like 26 CFR 1.6050I–1, includes within the definition of currency monetary instruments such as cashiers' checks, bank drafts, traveler's checks or money orders, not having a face amount of more than $10,000, when such monetary instruments are received in a "designated reporting transaction," *i.e.*, certain retail sales as defined in the regulation.

IV. Submission of Comments

An original and four copies of any comment (other than one sent electronically) must be submitted. All comments will be available for public inspection and copying, and no material in any such comments, including the name of any person submitting comments, will be recognized as

---

[1] Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by Section 358 of the USA Patriot Act of 2001.

VOL 66 ISS 250 DE 31 2001 UMI

confidential. Accordingly, material not intended to be disclosed to the public should not be submitted.

V. Regulatory Flexibility Act

It is hereby certified that the proposed rule is not likely to have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the proposed rule applies only to persons already required to report information concerning transactions under the Internal Revenue Code and imposes no new reporting or recordkeeping requirements on those persons. Accordingly, an initial regulatory flexibility analysis is not required by the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

VI. Paperwork Reduction Act

The collection of information contained in this regulation has been submitted to the Office of Management and Budget (OMB) for review under the requirements of the Paperwork Reduction Act (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Alexander T. Hunt, Office of Information and Regulatory Affairs, New Executive Office Building, Room 3208, Washington, DC 20503, with copies to FinCEN at Post Office Box 39, Vienna, VA 22183. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

FinCEN specifically invites comments on (a) Whether the proposed collection of information is necessary for the proper performance of the mission of FinCEN, including whether the information shall have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information (see below); (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Desciption of Respondents: Persons receiving cash payments greater than $10,000 in the course of a trade or business.

Estimated Number of Respondents: 46,800.

Frequency: As required.

Estimate of Burden: None. Because this information is already required to be reported to the Internal Revenue Service pursuant to 26 U.S.C. 6050I, and is subject to IRS recordkeeping requirements, there is no burden associated with this collection of information. This regulation does not impose any requirement on any person that is not already required by 26 U.S.C. 6050I.

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

VII. Executive Order 12866

The Department of the Treasury has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

VIII. Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act), March 22, 1995, requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 202 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. FinCEN has determined that it is not required to prepare a written statement under section 202 and has concluded that on balance this proposal provides the most cost-effective and least burdensome alternative to achieve the objectives of the rule.

List of Subjects in 31 CFR Part 103

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

For the reasons set forth above in the preamble, FinCEN proposes to amend 31 CFR Part 103 as follows:

PART 103—FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

1. The authority citation for Part 103 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5331.

2. The text of proposed § 103.30 is the same as the text of 31 CFR 103.30 set out in an interim rule rule published elsewhere in this issue of the **Federal Register**.

Dated: December 20, 2001.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 01–31847 Filed 12–28–01; 8:45 am]

BILLING CODE 4820-03-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8974]

RIN 1545–BA48

Amendment to Section 6050I Cross-Referencing Section 5331 of Title 31 Relating to Reporting of Certain Currency Transactions by Nonfinancial Trades or Businesses Under the Bank Secrecy Act

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final amendments to the Income Tax Regulations under section 6050I of the Internal Revenue Code which requires persons to report information about financial transactions to the IRS, and section 5331 of title 31 which requires persons to report similar information about certain transactions to the Financial Crimes Enforcement Network. These regulations provide that this information shall be reported on the same form as prescribed by the Secretary.

DATES: *Effective Date:* These regulations are effective December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, contact Tiffany P. Smith at (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document amends the Income Tax Regulations (26 CFR part 1) under section 6050I of the Internal Revenue Code (Code). These final regulations address the related reporting requirements of section 6050I of the Code and section 5331 of title 31.

The Bank Secrecy Act, Titles I and II of Public Law 91–508 (84 Stat. 1116) as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311, *et seq.*, authorizes the Secretary of the Treasury, inter alia, to issue regulations requiring financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, and to implement counter-money laundering programs and compliance procedures. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311, *et seq.*), appear at 31 CFR part 103.

Section 365 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA PATRIOT Act), Public Law 107–56 (115 Stat. 272) amended the Bank Secrecy Act by adding section 5331. Under 31 U.S.C. 5331, any person who is engaged in a trade or business and who, in the course of such trade or business, receives more than $10,000 in coins or currency in one transaction (or two or more related transactions), is required to file a report with respect to such transaction (or related transactions) with the Treasury Department. Reporting under section 5331 does not apply to amounts received in a transaction reported under 31 U.S.C. 5313 and the accompanying regulations.

The reporting requirement under section 5331 of title 31 is analogous to the reporting requirement administered by the IRS, under section 6050I of title 26, United States Code, and 26 CFR 1.6050I–1. Inasmuch as section 6050I of title 26 requires persons to report information about financial transactions to the IRS, and section 5331 of title 31 requires persons to report similar information about certain transactions to the Financial Crimes Enforcement Network, these final regulations provide that this information shall be reported on the same form as prescribed by the Secretary.

Effective Date of Regulations

These regulations are effective as of the date of publication in the **Federal Register**.

Special Analyses

Because this regulation merely advises taxpayers that information reported under section 6050I is, with one exception, also reported under 31 U.S.C. 5331, and imposes no requirement on any person, notice and public procedure are unnecessary pursuant to 5 U.S.C. 553(b)(B). For this reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3)

It has been determined that this final regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Code, this final regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these final regulations is Tiffany P. Smith, Office of the Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Final Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.6050I–0 is amended by revising the entry for § 1.6050I(a)(1) and adding entries to the table for § 1.6050I–1(a)(1)(i) and (a)(1)(ii) to read as follows:

§ 1.6050I–0 Table of contents.

* * * * *

§ 1.6050I–1 Returns relating to cash in excess of $10,000 received in a trade or business.

(a) * * *

(1) Reportable transaction.

(i) In general.

(ii) Certain financial transactions.

* * * * *

Par. 3. Section 1.6050I–1 is amended by:

1. Redesignating paragraph (a)(1) as paragraph (a)(1)(i).

2. Adding a new paragraph heading for (a)(1).

3. Adding paragraph (a)(1)(ii).

The additions read as follows:

§ 1.6050I–1 Returns relating to cash in excess of $10,000 received in a trade or business.

(a) *Reporting requirement*—(1) *Reportable transaction*—(i) *In general.* * * *

(ii) *Certain financial transactions.* Section 6050I of title 26 of the United States Code requires persons to report information about financial transactions to the Internal Revenue Service, and section 5331 of title 31 of the United States Code requires persons to report similar information about certain transactions to the Financial Crimes Enforcement Network. This information shall be reported on the same form as prescribed by the Secretary.

* * * * *

VOL 66 ISS 250 DE 31 2001 UMI

Approved: December 20, 2001.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

Mark Weinberger,
Assistant Secretary of the Treasury.

[FR Doc. 01–31848 Filed 12–28–01; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 31, 2001

Part VII

Department of Transportation

Federal Motor Carrier Safety Administration

49 CFR Part 393
Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires; Final Rule

VOL 66 ISS 250 DE 31 2001 UMI

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA–97–2341]

Parts and Accessories Necessary for Safe Operation; Manufactured Home Tires

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; denial of petitions for rulemaking and for extension of deadline.

SUMMARY: The FMCSA is amending its tire regulation to reflect the expiration of a provision allowing the overloading of tires used for the transportation of manufactured homes. The agency is also denying petitions from the Manufactured Housing Institute (MHI) for rulemaking and for an extension of the expiration date of the overloading provision, and from Multinational Legal Services, PLLC (Multinational Legal Services), for rescission of an earlier extension of the expiration date. Currently, tires used in the transportation of manufactured homes may be loaded up to 18 percent over the load rating marked on the sidewall of the tires, or in the absence of such a marking, 18 percent above the load rating specified in publications of certain organizations specializing in tires. The rule was scheduled to expire—thus prohibiting tire overloading—on November 21, 2000, unless extended by joint agreement of FMCSA and the Department of Housing and Urban Development (HUD). The expiration date was delayed until December 31, 2001, to give the agency enough time to complete its review of the MHI's petition to allow 18-percent overloading on a permanent basis. Denial of all petitions means motor carriers are prohibited from transporting manufactured homes built on or after January 1, 2002, in interstate commerce on overloaded tires.

DATES: The effective date for this final rule is December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

On February 18, 1998, the Federal Highway Administration (FHWA) and the Department of Housing and Urban Development (HUD) jointly published a final rule amending, respectively, the Federal Motor Carrier Safety Regulations (FMCSRs) and an interpretation of the Manufactured Home Construction and Safety Standards (see 63 FR 8330). The FHWA and HUD actions reduced the amount of tire overloading allowed (at the time up to 50 percent above the tire manufacturer's load rating) on tires used to transport manufactured homes. As a result of the rulemaking, the maximum amount of loading on a manufactured home tire could not exceed the manufacturer's load rating by more than 18 percent. Manufactured homes transported on tires overloaded by 9 percent or more could not be operated at speeds exceeding 80 kilometers per hour (km/hr) (50 mph). The final rule allowed 18-percent overloading for a two-year period. The two-year period began on November 16, 1998, the effective date of the final rule, and was scheduled to end on November 20, 2000.

In publishing the final rule and interpretative bulletin, the agencies indicated there was sufficient data to support the premise that overloading tires may be potentially unsafe. The agencies also indicated that unless both of them were persuaded by the end of the two-year period that 18-percent overloading did not pose a risk to the traveling public, or have an adverse impact on safety or the ability of motor carriers to transport manufactured homes, any overloading of tires beyond their design capacity would be prohibited.

MHI Petition for Rulemaking

On August 7, 2000, the MHI filed a petition for rulemaking with the FMCSA and HUD to initiate a joint rulemaking to amend the agencies' rules concerning manufactured home tires to enable the manufactured home industry to continue to exceed the tire manufacturer's load rating by up to 18 percent, indefinitely. The MHI requested that (1) the FMCSA amend 49 CFR 393.75(g); and (2) HUD revise Interpretative Bulletin J–1–76 to 24 CFR part 3260. MHI recognized that it would be difficult, if not impossible, for the FMCSA and HUD to act on the petition and, if granted, complete the rulemaking before November 20, 2000. Therefore, the MHI also petitioned the FMCSA and HUD to provide interim regulatory relief from the November 20, 2000, deadline until the agencies acted on the petition for rulemaking. A copy of the MHI's petition for rulemaking and request for an exemption are included in the docket referenced at the top of this document.

FMCSA and HUD Preliminary Responses to the MHI Petition

On November 21, 2000, the FMCSA published a final rule delaying the termination date of the rule allowing overloading of manufactured home tires (65 FR 70218). The FMCSA indicated that it had met with officials from HUD to discuss the MHI's request. Both agencies believed that MHI's petition and its supporting documentation warranted a thorough review, but because relevant staff were otherwise committed, neither was able to complete such an analysis before November 20, 2000, the termination date established by the 1998 final rule. On November 21, 2000, HUD amended Interpretative Bulletin J–1–76 to remove a paragraph that referenced the November 20, 2000, termination date.

Multinational Legal Services Petition

On January 16, 2001, Multinational Legal Services filed a petition with the FMCSA and HUD requesting that the FMCSA and HUD rescind their regulatory actions relating to overloading of manufactured home tires. A copy of Multinational Legal Services' petition is included in the docket referenced at the beginning of this document. Multinational Legal Services argued that the FMCSA and HUD actions delaying the termination date are contrary to both Federal law and the public interest. Multinational Legal Services claimed that the FMCSA violated 5 U.S.C. 553(b) by publishing the final rule without prior notice and request for public comment. It said the agencies could have requested public comment when the MHI submitted its preliminary data on July 7, 2000. Multinational Legal Services argued that the "good cause" exception to the requirement for requesting public comment prior to issuing a final rule should not apply in this case.

In addition, Multinational Legal Services asserted that the delay in the termination date was issued in violation of the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113, 110 Stat. 775) which requires that Federal agencies use standards established by voluntary consensus standards organizations unless the adoption of the voluntary standards would be impractical or inconsistent with law.

FMCSA Notice of Intent To Deny the Petitions for Rulemaking

On April 20, 2001 (66 FR 20345), the FMCSA published a notice announcing the agency's intent to deny MHI's and Multinational Legal Services' petitions for rulemaking. The agency explained that the data submitted by MHI in August, 2000, did not provide an adequate basis on which to allow continued 18-percent overloading of tires. FMCSA requested comments from all interested parties, and encouraged commenters to discuss any of the specific issues mentioned in the notice, as well as other issues they believed to be relevant.

Discussion of Comments

The FMCSA received eight comments in response to its notice of intent to deny the petitions. The commenters were: the California Manufactured Housing Institute; Fleetwood Enterprises, Inc. (Fleetwood); Greenball Corporation (Greenball); the Manufactured Housing Institute (MHI); Mobile Home Materials, Inc.; Multinational Business Services, Inc. (Multinational Business Services); the Oregon Manufactured Housing Association; and TJT, Inc.

The California Manufactured Housing Institute, Fleetwood, MHI, the Oregon Manufactured Housing Association, and TJT, Inc. opposed the FMCSA's proposal to deny MHI's petition to allow overloading of tires on a permanent basis. Greenball, Mobile Home Materials, and Multinational Business Services supported the FMCSA's proposal. A discussion of the major issues raised by the commenters appears below, followed by the FMCSA's response.

Comments Opposed to FMCSA's Proposal

TJT, Inc. indicated that it supported the February 18, 1998 final rule that established a schedule for phasing out the practice of overloading of tires used in the transportation of manufactured homes. However, TJT believes that MHI's data concerning tire failure rates justify a rule to allow 18 percent overloading on a permanent basis.

> We believe that the imposition of this rule revision was necessary and well thought out, and implementation has been relatively uneventful. However, it would seem that we have now reached the point of rapidly diminishing return[s]. If this rule is allowed to "sunset," and allowable tire loading is further reduced to 100 percent of the sidewall rating, transport of the homes would require either the use of an "F" rated tire, which is substantially more expensive and currently unavailable in quantity, or the addition of more axles. Many home sections currently use five and six axles to meet the tire loading requirements. Addition of even more axles would severely impact the ability to turn the unit, and would place greater strain on all of the running gear components when turning, increasing the potential for failure. Reducing the length of each section and increasing the number of sections is an option that, while making it possible to meet further load restrictions safely, would greatly add to the cost.

TJT believes the 18-percent overloading currently allowed is achieving the desired result of reduced tire failure and the accompanying benefits of lessened traffic obstruction, transporter downtime, and transit damage. TJT states:

> To further restrict tire loading would be counter productive, in that any further potential reductions in tire failure would be minimal, and offset by major cost implications and the possible creation of additional safety risks. The rule, as it currently exists should be extended indefinitely or made permanent.

MHI argues that FMCSA's observations and conclusions "gloss over" the existence and the significance of the data MHI presented with its petition. MHI stated:

> By focusing just upon the data gleaned from the study of the 53 shipments, showing individual wheel weights and possible causes of tire failure, FMCSA suggests the existence of a correlation between tire overloading and tire failure and, more importantly, between tire overloading and unreasonable risks to the traveling public and the safe transportation of the manufactured homes. MHI has never accepted the validity of either correlation. The litmus test is whether tire failures that manufactured housing transporters have experienced have resulted in accidents involving property damage or personal injury. Only if they have is there a need to engage in the second inquiry, whether the tire failures causing the accidents are the result of tire overloading.

MHI believes that the FMCSA was unrealistic to have expected them to "scientifically authenticate" the percentage of tire failures attributable to 18-percent overloading. MHI also argues that FMCSA does not address the potential effects that denial of the petition would have on the manufactured housing industry. They believe the potential effects are material and stem from denying the petition without allowing sufficient time for a transition to upgraded tires.

Comments in Support of FMCSA's Proposal

Mobile Home Materials believed the FMCSA should not allow overloading of tires and that the new tires necessary to comply with the prohibition on overloading would be available in sufficient quantity. Mobile Home Materials stated:

> With regard to availability of the 8–14.5 F12 (2,790 lbs carry capacity) or equivalent tire: This tire is made from the same molds as the 8–14.5 E10 tire. This was not the case for the change from 7–14.5 D8 to 8–14.5 E10 tires in 1998. There is adequate capacity for there to be no disruption in supply to the industry for a January 1, 2002 implementation date if you issue a final ruling by August 2001. The additional cost to the industry will be significantly less than the change from the 50 percent overload to the current [18-percent] overload.

Greenball stated:

> We are supporting the denial of the petitions concerning the overloading of mobile home tires of 118 [percent]. We have developed a tire for the industry that has a load carrying capacity of 3070 lbs at normal highway speeds. This tire is the same size as the industry is currently using but in a LRG rating. We feel this tire will perform to the standards set forth and will thus eliminate the need to overload the units as is now being done.

FMCSA Response to Comments

MHI Petition

The FMCSA has carefully considered the views of the commenters in favor of MHI's petition but continues to believe that there is no basis for allowing the manufactured home industry to continue its practice of overloading tires. None of the commenters' arguments negate the fact that exceeding tire manufacturers' load ratings reduces significantly the margin of safety between the maximum load that the tires are designed to support under normal circumstances (e.g., normal inflation pressures, operating speeds and temperatures, etc.), and the maximum load the tires can withstand before they fail. There is no technical reason for allowing such operating practices when tires of greater load carrying capacity could be purchased by the producers of manufactured homes, but would not be purchased by most of these producers until the Federal government mandates the use of such tires.

As for MHI's argument that FMCSA had unrealistic expectations about the data submitted with their petition, we never indicated that we were in search of scientifically flawless data. We recognize the realities of data collection and analysis in the real world in general, and in the transportation industry in particular. However, data should be of such quality and quantity that a statistically meaningful analysis could be conducted. This was not the case for the data submitted by MHI.

As we indicated in our notice of intent to deny MHI's petition, data from the industry indicates that in 1999, the manufactured housing industry shipped 122,926 single-section and 225,745 multi-section homes for a total of 582,498 sections transported. However, the MHI provided data concerning on-the-road performance, including the amount of tire loading, for only 53 shipments of manufactured homes. Therefore, any inferences made from MHI's data would be based on a sample size of approximately 0.0091 percent [100 x (53/582,498)] of all shipments transported in 1999. The agency continues to believe this sample size is entirely too small to make any valid judgment about the on-the-road performance of tires overloaded by 18 percent.

Some commenters supported continued tire overloading because they claimed it has not been shown to contribute to accidents, injuries, or fatalities. The lack of such evidence is not surprising—the causes of accidents are often hard to determine—but the absence of accident data does not, in and of itself, serve as proof that there have not been accidents attributable in whole, or in part, to tire overloading. FMCSA does not believe that regulatory action should necessarily be foreclosed by the lack of specific accident-causation data. Tire failures can and do lead to secondary accidents by blocking part of the roadway or shoulder, disrupting traffic flow, or even creating the conditions for a severe crash if an inattentive driver fails to recognize that a vehicle just ahead has slowed dramatically or stopped. There is no reason to believe that tire failures on manufactured homes could not cause similar events. The agency's mission is to prevent or reduce accidents. Regularly loading tires beyond the maximum weight limit designated by the manufacturer is almost by definition a likely cause of tire failure. And a reduction in tire failures—whatever the cause of those failures—is likely to prevent accidents in the long run.

The April 23, 1996, notice of proposed rulemaking requested public comments concerning the costs and benefits associated with the rule to end the practice of overloading tires used in the transportation of manufactured homes (61 FR 18014). The comments were considered and appropriate revisions to the estimates were included in the preamble for the February 18, 1998, final rule setting conditions for phasing out the overloading of tires. The analysis demonstrated that the benefits of the rule exceed the costs (see 63 FR 8330). Neither the MHI nor any of the other commenters responding to the April 20, 2001, notice of intent provided a detailed analysis to refute the analysis presented in the preamble of the final rule, or identified deficiencies in the methodology used to generate the estimates.

Some of the commenters suggested that the industry needed at least six months' warning of any final decision to prohibit tire overloading. FMCSA announced its preliminary intent to do so on April 20, 2001, and explained its reasoning in detail. FMCSA encouraged commenters to "discuss any of the specific issues mentioned" in that document and said that "[d]epending on the comments received, the agency will issue a notice denying the MHI's and Multinational's petitions." While the notice of intent to deny MHI's petition was not a definitive response to the petition, it was a clear indication that we did not intend to initiate a rulemaking to allow tire overloading after the December 31, 2001, expiration date unless the industry could present evidence clearly demonstrating the safety of 18-percent overloading or arguments casting significant doubt upon the agency's reasoning.

Multinational Legal Services' Petition To Rescind the November 21, 2000, Final Rule

With regard to Multinational Legal Services' petition to rescind the November 21, 2000, final rule extending the deadline for compliance with the prohibition on tire overloading, none of the commenters discussed the issues raised in that petition.

We continue to believe that the period between MHI's submission of its August 7, 2000, petition for rulemaking, and the November 20, 2000, expiration date for the overloading provision was not long enough to allow the agency, occupied with a wide variety of prior commitments, to prepare a notice that discussed the issues in meaningful detail, review the public comments submitted, and issue a final decision. Our actions were necessary and consistent with the requirements of the Administrative Procedure Act given the impracticability of publishing a notice requesting public comments on the MHI petition prior to the expiration date.

We also continue to believe that our actions concerning overloaded tires are not inconsistent with the National Technology Transfer and Advancement Act of 1995, or the Office of Management and Budget's Circular No. A–119, which provides executive direction to Federal agencies in implementing the statutory requirements. We did not establish a government-unique standard for the design of manufactured home tires, or a government-unique standard concerning the use of such tires. Furthermore, our actions did not ignore a private sector "consensus standard" as defined in OMB's Circular No. A–119.

We carefully examined the Tire and Rim Association's "Year Book"—the only private-sector publication that appears to be relevant to the current debate—and determined that it is not a consensus standard applicable to overloaded manufactured home tires. The Tire and Rim Association publication provides information on interchangeability standards for tires and rims—the ability to replace components, parts, or equipment of one manufacturer with those of another, without losing function or suitability. Furthermore, the organization disclaimed all responsibility or involvement with respect to the use or performance of any tire. Since the only private-sector standard we are aware of is not a consensus standard applicable to overloaded manufactured home tires, we did not violate the National Technology Transfer and Advancement Act of 1995.

MHI's Petition for Postponement of the December 31, 2001, Deadline

On October 10, 2001, MHI petitioned the FMCSA to extend the deadline for compliance with the prohibition on tire overloading until 180 days after the date the agency publishes its decision on MHI's August 7, 2000, petition. They argued that it is virtually impossible for the manufactured housing industry to fully comply with the rule by January 1, 2002, if the agency denies the petition to allow 18-percent overloading on a permanent basis. A copy of the petition is in the docket referenced at the beginning of this notice.

In addition, MHI noted that "[p]rior to the 118 Percent Rule, the provisions of 49 CFR 393.75(f) were applicable to the movement of manufactured homes. In the event the 118 Percent Rule is sunsetted, the provisions of 49 CFR 393.75(f) will again be applicable."

The Manufactured Housing Association for Regulatory Reform (MHARR) and Multinational Business Services submitted comments to the docket in response to MHI's petition for postponement of the January 1, 2002, deadline.

MHARR supports MHI's petition because it believes Congress has given HUD primary jurisdiction over the construction of manufactured housing and HUD had not participated in FMCSA's notice-and-comment proceedings concerning MHI's petition to allow 18-percent overloading on a permanent basis. MHARR stated that manufacturers would be left with two conflicting tire loading standards if the FMCSA does not extend the deadline and that no action should be taken without HUD's full participation.

Multinational Business Services submitted comments in opposition to the MHI's October 10, 2001, petition. Multinational Business Services argues that the MHI's petition indicates a willful disregard for Federal regulatory deadlines. Multinational Business Services believes MHI has been provided with ample time to comply with the regulation and that MHI is responsible for overlooking the plain meaning of the notices terminating tire overloading.

FMCSA Response to MHI's October 10, 2001, Petition

The FMCSA has reviewed MHI's petition and the comments of MHARR and Multinational Business Services and determined that § 393.75(g) should not be amended to provide an additional 180 days from the date of publication of the agency's final decision on MHI's August 7, 2000, petition for the industry to comply with the prohibition on the overloading of tires. The agency agrees with Multinational Business Services that MHI has been provided ample time to comply with the rule and that MHI should have recognized the meaning of the FMCSA's **Federal Register** notices in response to the August 7, 2000, petition for rulemaking.

MHI pointed out that § 393.75(f) would still allow tire overloading at the option of each State, even if § 393.75(g) were sunsetted. It was not the intention of FMCSA and HUD that the general provision concerning tire loading for commercial motor vehicles be applicable to tire loading for manufactured homes after the expiration date. While the regulatory language adopted in the February 18, 1998, final rule did not express our intent as clearly as we intended, the preamble to the rulemaking was explicit. The Summary section of the February 18, 1998, final rule states:

> Because the agencies have sufficient data indicating that overloading is potentially unsafe, unless both agencies are persuaded that 18 percent overloading does not pose a risk to the traveling public, or have an adverse impact on safety or the ability of motor carriers to transport manufactured homes, *any overloading of tires beyond their design capacity will be prohibited at the end of this two-year period* (63 FR 8330, emphasis added).

The agency clearly indicated that the expiration date was to be the deadline for the industry to discontinue the practice of overloading tires. By codifying all of the overloading rules applicable to manufactured homes in § 393.75(g), the agency narrowed the scope of § 393.75(f) to effectively exclude manufactured homes.

This final rule makes a technical amendment to the rule only for the purpose of clarifying the applicability of the requirements for homes built before and after December 31, 2001, now that we have reached the expiration date for the tire overloading provision. Section 393.75(f) has been amended slightly to ensure that it will remain inapplicable to manufactured homes, and § 393.75(g)(2) clearly bars tire overloading for manufactured homes labeled on or after January 1, 2002.

With regard to MHARR comments, FMCSA agrees that while HUD has primary authority over the construction of manufactured housing, FMCSA has primary authority over highway transportation by commercial motor vehicle. Therefore, FMCSA's action of today will effectively end any permissibility of overloading.

FMCSA worked closely with HUD in conjunction with issuing the 1998 final rule, and the November 21, 2000, extension of the compliance date. We notified HUD prior to our publication of the April 20, 2001, notice of intent to deny the petitions and we notified the agency prior to the publication of this final rule. Section 393.75(g) explicitly states that the 18-percent overloading provision will expire unless extended by mutual consent of the FMCSA and the Department of Housing and Urban Development.

FMCSA Decision

For the reasons given above, the FMCSA is denying MHI's August 7, 2000, and October 10, 2001, petitions, and Multinational Legal Services' January 16, 2001, petition. The agency has worked with HUD to require the manufactured housing industry to alter its practice of overloading tires by up to 50 percent above the tire manufacturer's load rating. The agencies have reduced the amount of overloading to 18 percent presently, and through the denial of the MHI's petitions, transporters of manufactured homes must discontinue the practice of overloading tires.

Rulemaking Analysis and Notices

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), an agency may waive the normal notice and comment requirements if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest.

In this case, additional notice and comment are unnecessary. We jointly completed a rulemaking with HUD in 1998 that established the process for phasing out the overloading of tires. The process included a two-year period during which the industry could gather data and other information to support its contention that overloading tires by 18 percent was not potentially unsafe. The industry submitted a petition on August 7, 2000, requesting that the agencies allow 18-percent overloading on a permanent basis. Although we were under no obligation to respond to the petition given the short amount of time between its submission and the November 20, 2000, expiration date, we extended the expiration date until December 31, 2001, and subsequently published a notice requesting public comment on the petition. Our notice requesting public comment included a detailed discussion of (1) the operational data submitted by MHI in August 2000; (2) the inadequacy of that data as a justification for continued tire-overloading after the expiration date of the current rule; (3) our intent to deny MHI's petition to make overloading permanent; and (4) our response to the petition from Multinational Legal Services for rescission of the extension of the original expiration date from November 20, 2000, to December 31, 2001. This final rule is a technical amendment to 49 CFR 393.75(f) and (g) to reflect the expiration of the provision allowing 18-percent overloading on December 31, 2001. The final rule does include a substantive change to the rule.

For the same reasons, the FMCSA finds, pursuant to 5 U.S.C. 553(d)(3), that there is good cause for making the final rule effective upon publication. The final rule is a technical amendment to reflect the December 31, 2001, expiration date, and to clarify the applicability of the rules to the transportation of manufactured homes built before and after the December 31, 2001, expiration date. The final rule does not change the substance of the rule.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. The final rule amends § 393.75 to clarify the applicability of the rules to the transportation of manufactured homes built before and after the December 31, 2001, deadline for compliance.

VOL 66 ISS 250 DE 31 2001 UMI

Although the 1998 final rule establishing the current requirements was a significant regulatory action under section 3(f) of Executive Order 12866, the Office of Management and Budget (OMB) does not consider this amendment of the final rule to be a significant action.

Regulatory Flexibility Act

This action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The original rule did not have a significant effect on a substantial number of small entities, and this rule simply amends § 393.75 to reflect the expiration of the provision allowing 18-percent overloading on December 31, 2001.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Unfunded Mandates Reform Act of 1995

This rule does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*) that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FMCSA has determined that this action does not affect any requirements under the PRA.

National Environmental Policy Act

FMCSA is a new administration within the Department of Transportation (DOT). We are striving to meet all of the statutory and executive branch requirements on rulemaking. The FMCSA is currently developing an agency order that will comply with all statutory and regulatory policies under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). We expect the draft FMCSA Order to appear in the **Federal Register** for public comment in the near future. The framework of the FMCSA Order is consistent with and reflects the procedures for considering environmental impacts under DOT Order 5610.1C. The FMCSA analyzed this final rule under the NEPA and DOT Order 5610.1C. Since the final rule only clarifies the existing rule to reflect the expiration of the tire-overloading provision in 49 CFR 393.75(g), we believe it would be among the type of regulations that would be categorically excluded from any environmental assessment.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because it is not economically significant and will not have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 393

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

For the reasons discussed in the preamble, the FMCSA amends title 49, Code of Federal Regulations, chapter III, part 393 as follows:

PART 393—[AMENDED]

1. The authority citation for part 393 continues to read as follows:

Authority: Sec. 1041(b) of Public Law 102–240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.73.

2. Amend § 393.75 to revise paragraphs (f) and (g) to read as follows:

§ 393.75 Tires.

* * * * *

(f) *Tire loading restrictions (except on manufactured homes).* No motor vehicle (except manufactured homes, which are governed by paragraph (g) of this section) shall be operated with tires that carry a weight greater than that marked on the sidewall of the tire or, in the absence of such a marking, a weight greater than that specified for the tires in any of the publications of any of the organizations listed in Federal Motor Vehicle Safety Standard No. 119 (49 CFR 571.119, S5.1(b)) unless:

(1) The vehicle is being operated under the terms of a special permit issued by the State; and

(2) The vehicle is being operated at a reduced speed to compensate for the tire loading in excess of the manufacturer's rated capacity for the tire. In no case shall the speed exceed 80 km/hr (50 mph).

(g)(1) *Tire loading restrictions for manufactured homes built before January 1, 2002.* Manufactured homes that are labeled pursuant to 24 CFR 3282.362(c)(2)(i) before January 1, 2002, must not be transported on tires that are loaded more than 18 percent over the load rating marked on the sidewall of the tire or, in the absence of such a marking, more than 18 percent over the load rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b)). Manufactured homes labeled before January 1, 2002, transported on tires overloaded by 9 percent or more must not be operated at speeds exceeding 80 km/hr (50 mph).

(2) *Tire loading restrictions for manufactured homes built on or after January 1, 2002.* Manufactured homes that are labeled pursuant to 24 CFR 3282.362(c)(2)(i) on or after January 1, 2002, must not be transported on tires loaded beyond the load rating marked on the sidewall of the tire or, in the absence of such a marking, the load

rating specified in any of the publications of any of the organizations listed in FMVSS No. 119 (49 CFR 571.119, S5.1(b)).

Issued on: December 26, 2001.

Julie Anna Cirillo,

Assistant Administrator, Chief Safety Officer.

[FR Doc. 01–32173 Filed 12–27–01; 1:12 pm]

BILLING CODE 4910–EX–P

VOL
66
ISS
2
5
0
DE
31
2001
UMI

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

Monday,
December 31, 2001

Part VIII

Department of Transportation

Transportation Security Administration

49 CFR Chapter XII and Part 1510
Imposition and Collection of Passenger Civil Aviation Security Service Fees; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR Chapter XII and Part 1510

[Docket No. TSA–2001–11120]

RIN 2110–AA01

Imposition and Collection of Passenger Civil Aviation Security Service Fees

AGENCY: Transportation Security Administration, DOT.

ACTION: Interim final rule.

SUMMARY: The Transportation Security Administration (TSA) announces the imposition of a security service fee in the amount of $2.50 per enplanement on passengers of domestic and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States. Passengers will not be charged for more than two enplanements per one-way trip or four enplanements per round trip. The security service fee will apply to passengers using frequent flyer awards for air transportation, but may not be imposed on other nonrevenue passengers. Direct air carriers and foreign air carriers must collect the security service fees on air transportation sold on or after February 1, 2002. The direct air carriers and foreign air carriers must remit the fees imposed during each month to TSA by the last calendar day of the following month.

DATES: This interim final rule is effective on December 31, 2001. Although the imposition of the security service fees is statutorily exempted from the rulemaking notice and comment procedures set forth in the Administrative Procedure Act, comments received on or before March 1, 2002 will be reviewed and considered.

ADDRESSES: Submit written, signed comments to TSA Docket No. 2001–11120, the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard on which the following statement is made: "Comments to Docket No. TSA–2001–11120. The post card will be date stamped and mailed to the sender. Comments also may be sent electronically to the Dockets Management System (DMS) at: *http://dms.dot.gov* at any time. Those who wish to file comments electronically should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: For guidance involving technical matters: A. Thomas Park, Acting Deputy Chief Financial Officer, Department of Transportation, Office of the Secretary, Office of the Assistant Secretary for Budget and Programs, 400 Seventh St., SW., Room 10101, Washington, DC 20590; telephone (202) 366–9192. For legal interpretation or guidance: Rita M. Maristch, Department of Transportation, Office of the General Counsel, Office of Environmental, Civil Rights and General Law, 400 Seventh St., SW., Room 10102, Washington, DC 20590; telephone (202) 366–9161. Office hours are from 9:00 a.m. to 5:30 p.m., e.t. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Availability of the Interim Final Rule and Comments Received

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Boards Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov.*

Internet users can access this document and all comments received by TSA through DOT's docket management system web site, *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. However, because TSA was just established on November 19, 2001, pursuant to Aviation and Transportation Security Act, Public Law 107–71, it does not yet have the infrastructure or personnel to provide such information and guidance. Until such time that it does, the Office of the Secretary of Transportation will handle all SBREFA inquiries. Accordingly, any small entity that has a question regarding this document may contact the individuals listed under the caption **FOR FURTHER INFORMATION CONTACT.**

Background

The September 11 Terrorist Attacks and the Aviation and Transportation Security Act

The September 11, 2001 terrorist attacks as well as the potential for future attacks led Congress to enact the Aviation and Transportation Security Act, Public Law 107–71 (ATSA), November 19, 2001, which established TSA as an administration within the U.S. DOT. TSA will be headed by a Presidential appointee to a newly established position, the Under Secretary of Transportation for Security (Under Secretary). Pursuant to section 101(g)(5) of the ATSA, the Secretary of Transportation has delegated to the Deputy Secretary of Transportation the authority to carry out the functions of the Under Secretary as they relate to aviation security on an interim basis. These duties will be assumed by the Under Secretary when he takes office.

Section 118 of ATSA, which added section 44940 to Title 49, U.S.C., requires that within 60 days of ATSA's enactment, or as soon as possible thereafter, TSA impose uniform security service fees on passengers of domestic and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States. ATSA also requires that notice of the imposition of these fees be published in the **Federal Register**. However, the statute exempts the imposition of the fees from the procedural rulemaking requirements of 5 U.S.C. 553 and the user fee requirements of 31 U.S.C. 9701. The fees are to pay the costs of providing Federal civil aviation security services, which are described in section 44940 as:

(1) The salary, benefits, overtime, retirement and other costs of screening personnel, their supervisors and managers, and Federal law enforcement personnel deployed at airport security screening locations;

(2) The costs of training such personnel and the acquisition, operation, and maintenance of equipment used by these personnel;

(3) The costs of performing background investigations of personnel;

(4) The costs of the Federal air marshals program;

(5) The costs of performing civil aviation security research and development under Title 49, U.S.C.;

(6) The costs of Federal Security Managers; and

(7) The costs of deploying Federal law enforcement personnel.

According to section 44940(a)(1), the Under Secretary is responsible for determining the amount of the costs of providing these civil aviation security services. Section 44940(b) and (c) provides that the passenger security service fee must be reasonably related to the costs of providing civil aviation security services, but may not exceed $2.50 per enplanement or $5.00 per one-way trip. Section 44940(a)(1) also provides that the cost determinations by the Under Secretary are conclusive and are not subject to judicial review.

According to section 44940(d) and (e), an air carrier or foreign air carrier that sells a ticket for transportation is responsible for collecting the security service fees. The security service fee imposed is not considered to be part of the amount paid for taxable transportation under 26 U.S.C. 4261. Air carriers and foreign air carriers must remit the total amount of fees collected during a calendar month to TSA by the last calendar day of the following month. Any security service fees imposed on, but not collected from, an air carrier's or foreign air carrier's passengers as required by this part, are the air carrier's or foreign air carrier's responsibility and must be included with its monthly remittance. Although the law requires air carriers and foreign air carriers to remit the total amount of the fees collected each month to TSA, carriers may retain the interest that accrues on the principal between the time of collection and remittance in accordance with section 44940(e)(3). Section 44940(e)(4) permits the Under Secretary to require air carriers and foreign air carriers to provide any information necessary to verify that the security service fees have been collected and remitted in accordance with law and regulation.

The Interim Final Rule

Pursuant to delegated authority, the Deputy Secretary has determined that the security service fee to be paid by passengers will be $2.50 per enplanement. Passengers may not be charged for more than two enplanements per one-way trip or more than four enplanements per round trip.

For purposes of this interim final rule, we have determined that a direct air carrier or foreign air carrier that provides or offers to provide air transportation and has control over the operational functions performed in providing that transportation is considered to be the selling carrier. If a passenger's air transportation includes travel on two or more carriers, or if the passenger's air transportation is otherwise on an aircraft not operated by the selling carrier, the carrier selling the air transportation is responsible for remitting the security service fees imposed.

The Under Secretary has the authority to exempt a passenger enplaning at airports in the United States from paying the security service fee in circumstances where the passenger does not receive screening services pursuant to section 44901. Under this interim final rule, the security service fee is imposed only on passengers who enplane the following direct air carriers and foreign air carriers: (1) A scheduled passenger or public charter passenger operation with an aircraft having passenger seating configuration of more than 60 seats; (2) a scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of less than 61 seats when passengers are enplaned from or deplaned into a sterile area. We invite comment to address when and whether security service fees should be imposed on additional direct air carriers and foreign air carriers.

Security service fees will not be imposed on passengers enplaning on flight segments outside the United States, but will be imposed on all flight segments originating in the United States.

Direct air carriers and foreign air carriers must collect the security service fees imposed on air transportation sold on or after February 1, 2002. The security service fee imposed by this interim final rule applies to passengers using frequent flyer awards for air transportation, but is not applicable to other nonrevenue passengers. Air carriers and foreign air carriers must identify the security service fees imposed by this part as "September 11th Security Fee" in all its advertisements and solicitations for air transportation.

Each direct air carrier and foreign air carrier is responsible for paying to TSA the security service fees imposed by this rule regardless of whether it collects the fees. Each direct air carrier and foreign air carrier is required to remit all security service fees imposed during February 2002 to TSA by March 31, 2002. For subsequent months, security service fees must be remitted by the last calendar day of the following month. Specific instructions concerning remittance will be provided directly to the direct air carriers and foreign air carriers and will be posted on the DOT web site at *www.dot.gov* in the near future.

The fee is set at the maximum amount permitted by ATSA because the costs of providing civil aviation security services, as determined by the Deputy Secretary, are greater than the amount that would be recovered by the collection of fees that are reasonably related to these costs. Specifically, the Deputy Secretary has determined that the costs of providing civil aviation security services under section 44940 not already funded from other sources will conservatively exceed $1 billion in fiscal year 2002 and that fees collected at the statutory maximum would yield less than $1 billion in fiscal year 2002, assuming that collections begin on February 1, 2002. It should be noted that DOT expects revenues from security service fees to fall short of the amount required to cover civil aviation security service costs. In such a case, ATSA requires that air carrier fees be assessed in order to cover the shortfall. This assessment will be accomplished through a separate notice published in the **Federal Register** during fiscal year 2002.

Under this rule, direct air carriers and foreign air carriers must establish an accounting system to properly track the amount of the security service fees imposed, collected, refunded and remitted as well as the airports at which the passengers enplaned. Direct air carriers and foreign air carriers are required to submit quarterly reports to TSA that provide an accounting of fees imposed, collected, refunded and remitted. Specific instructions concerning the submission of the quarterly reports will be provided directly to the direct air carriers and foreign air carriers and will be posted on the DOT web site at *www.dot.gov* in the near future.

Each direct air carrier and foreign air carrier that collects security service fees from more than 50,000 passengers annually must provide for an audit of its security service fee accounts and activities by an independent certified public accountant on an annual basis. The accountant must include in the audit an opinion on whether (1) the direct air carrier's or foreign air carrier's procedures for collecting, holding, and remitting the fees are fair and reasonable; and (2) whether the quarterly reports fairly represent the net transactions in the security service fee accounts. The reports, which are due to the Under Secretary on the last calendar day of the month following the quarter in which the fees were imposed, must provide an accounting of the fees imposed, collected, refunded and remitted. The reports must specifically identify the carrier involved, the total security service fees imposed, collected, refunded and remitted, the number of enplanements for which the fee was collected, the total number of frequent flyer and nonrevenue passengers, the

VOL 66 ISS 250 DE 31 2001 UMI

total number of passenger enplanements for which the fee was imposed but not collected, and the reasons that the fee was not collected in such circumstances.

This rule requires direct air carriers and foreign air carriers to allow certain authorized Federal representatives to review and audit any of the carrier's books and records and provide other information to verify that the security service fees were properly collected and remitted.

The rule's enforcement provision states that direct air carriers and foreign air carriers who fail to comply with the requirements of 49 U.S.C. 44940 or this regulation may be found to be engaging in unfair and deceptive practices in violation of 49 U.S.C. 41712. The rule also provides notice that the United States may seek collection of any funds due it by the direct air carrier or foreign air carrier in accordance with 49 CFR part 89. These remedies are in addition to any others provided by law.

Requests for Waiver

Although not legally bound to do so, air carriers and foreign air carriers may wish to identify the security service fee on a ticket they issue for air transportation. Because ATSA requires that the security service fees be collected as soon as possible, there may be insufficient time to reconfigure the ticket to allow for such a fee category. Therefore, DOT will entertain an air carrier's or foreign air carrier's request that it be permitted to combine the amount of the security service fee with the amount of the passenger facility charges (PFC) identified in the PFC category on the ticket for a transitional period not to exceed six months. DOT will also entertain a request for a waiver of any DOT and Federal Aviation Administration requirement that it believes may conflict with the security service fee as imposed by this part. The request for a waiver must be in writing, explain the conflict in detail, and be directed to TSA Docket No. 2001–11120, the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. DOT will address requests for a waiver on a case-by-case basis.

Good Cause for Immediate Adoption

Section 44940(d)(1) of title 49, U.S.C., explicitly exempts the imposition of the civil aviation security service fees authorized in section 44940 from the procedural rulemaking notice and comment procedures set forth in 5 U.S.C. 553. Apart from that exemption, it would be impractical and contrary to the public interest to provide for notice and comment before issuing this rule. Immediate action is necessary to begin collecting the security service fees provided for by the statute. However, TSA will consider all comments received on or before the closing date for comment, including comments received before the issuance of this rule. We will also consider comments filed late to the extent practicable. We may amend this rule in light of the comments we receive.

Paperwork Reduction Act

TSA has determined that this interim final rule will impose new collection of information burdens within the meaning of the Paperwork Reduction Act of 1995 (PRA). TSA is required to submit this proposed collection of information to Office of Management and Budget (OMB) for review and approval and, accordingly, seeks public comments. Interested parties are invited to send comments regarding any aspect of the information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of TSA, including whether the information has practical utility; (2) the accuracy of the estimated burden that DOT has provided to OMB; (3) ways to enhance the quality, utility, and clarity of the collection of information, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

Pursuant to 5 CFR 1320.13, *Emergency processing,* TSA has asked OMB for temporary emergency approval for this collection. We will publish a **Federal Register** notice with the OMB number when it is approved.

Economic Analyses

This rulemaking action is taken in an emergency situation within the meaning of Section 6(a)(3)(D) of Executive Order 12866, Regulatory Planning and Review. It also is considered an emergency regulation under Paragraph 11g of the Department's Regulatory Policies and Procedures. In addition, it is a significant rule within the meaning of the Executive Order and Department's policies and procedures because it may impose significant costs on air carriers and foreign air carriers. An assessment in accordance with the Executive Order will be conducted in the future. No additional regulatory analysis or evaluation accompanies this rule. TSA has not assessed whether this rule will have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980. When no notice of proposed rulemaking has first been published, the Regulatory Flexibility Act does not apply.

The current security threat requires that direct air carriers and foreign air carriers comply with the necessary actions to ensure the safety and security of passengers and operations. Therefore consistent with section 44940, the security service fee imposed will be $2.50 per passenger. Passengers will not be charged for more than two enplanements per one-way trip or four enplanements per round trip. Direct air carriers and foreign air carriers are responsible for collecting these fees on or after February 1, 2002. OMB has reviewed this rule under the provisions of section 6(a)(3)(D) Executive Order 12866.

Executive Order 13132, Federalism

The TSA has analyzed this rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we have determined that this final rule does not have federalism implications.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

The requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply when rulemaking actions are taken without the issuance of a notice of proposed rulemaking. Accordingly, the TSA has not prepared a statement under the Act.

Environmental Review

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this rule has been assessed in accordance with the

Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended. (42 U.S.C. 6362). It has been determined that this rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1510

Accounting, Auditing, Air carriers, Air transportation, Enforcement, Federal oversight, Foreign air carriers, Reporting and recordkeeping requirements, Security measures.

Issued in Washington, DC, on December 26th, 2001.

Michael P. Jackson,
Deputy Secretary.

For the reasons set forth in the preamble, the Transportation Security Administration establishes a new chapter XII consisting of part 1510 in Title 49 of the Code of Federal Regulations to read as follows:

Chapter XII—Transportation Security Administration, Department of Transportation

PART 1510—PASSENGER CIVIL AVIATION SECURITY SERVICE FEES

Sec.

1510.1 Applicability and purpose.
1510.3 Definitions.
1510.5 Imposition of security service fees.
1510.7 Air transportation advertisements and solicitations.
1510.9 Collection of security service fees.
1510.11 Handling of security service fees.
1510.13 Remittance of security service fees.
1510.15 Accounting and auditing requirements.
1510.17 Reporting requirements.
1510.19 Federal oversight.
1510.21 Enforcement.

Authority: 49 U.S.C. 44940.

§ 1510.1 Applicability and purpose.

This part prescribes a uniform fee to be paid by passengers of direct air carriers and foreign air carriers in air transportation, foreign air transportation, and intrastate air transportation originating at airports in the United States to pay for the costs of providing civil aviation security services as described in 49 U.S.C. 44940.

§ 1510.3 Definitions.

The following definitions apply in this part:

Air carrier means a citizen of the United States who undertakes directly to engage in or provide air transportation.

Air transportation means intrastate, interstate or foreign air transportation.

Aircraft means a device that is used or intended to be used for flight in the air.

Airport means any landing area used regularly by aircraft for receiving or discharging passengers or cargo.

Direct air carrier and foreign air carrier means a selling carrier.

Foreign air carrier means any person other than a citizen of the United States who undertakes directly to engage in or provide air transportation.

Foreign air transportation means the carriage by aircraft of persons for compensation or hire between a place in the United States and any place outside of the United States.

Frequent flyer award means a zero-fare award of air transportation that a domestic air carrier or foreign air carrier provides to a passenger in exchange for accumulated travel mileage credits in a customer loyalty program, whether or not the term frequent flyer is used in the definition of that program.

Interstate air transportation means the carriage by aircraft of persons for compensation or hire within the United States.

Intrastate air transportation means the carriage of persons for compensation or hire wholly within the same State of the United States.

Nonrevenue passenger means a passenger receiving air transportation from an air carrier or foreign air carrier for which the air carrier or foreign air carrier does not receive remuneration.

One-way trip means any trip that is not a round trip.

Origin point means the location at which a trip on a complete air travel itinerary begins.

Passenger enplanement means a person boarding in the United States in scheduled or nonscheduled service on aircraft in intrastate, interstate, or foreign air transportation.

Principal means the aggregate amount of all passenger security services fees due to be remitted to the Transportation Security Administration by an air carrier as required by this part.

Round trip means a trip on an air travel itinerary that terminates at the origin point.

Selling carrier means an air carrier or foreign air carrier that provides or offers to provide air transportation and has control over the operational functions performed in providing that air transportation.

Under Secretary means the Under Secretary of Transportation for Security or the Under Secretary's designee.

§ 1510.5 Imposition of security service fees.

(a) The security service fee will be $2.50 per passenger enplanement. The security service fee is imposed only on passengers of direct air carriers and foreign air carrier described in § 1510.9(a). Passengers may not be charged for more than two enplanements per one-way trip or four enplanements per round trip.

(b) The security service fee will be imposed on all flight segments originating at an airport in the United States.

(c) The security service fee must be imposed on passengers who obtained the ticket for air transportation with a frequent flyer award, but may not be imposed on any other nonrevenue passengers.

(d) Passengers enplaning a flight segment outside of the United States are not subject to the security service fee for that enplanement.

§ 1510.7 Air transportation advertisements and solicitations.

A direct air carrier and foreign air carrier must identify the security service fee imposed by this part as "September 11th Security Fee" in all its advertisements and solicitations for air transportation.

§ 1510.9 Collection of security service fees.

(a) The following direct air carriers and foreign air carriers must collect security service fees from passengers enplaning:

(1) A scheduled passenger or public charter passenger operation with an aircraft having passenger seating configuration of more than 60 seats.

(2) A scheduled passenger or public charter passenger operation with an aircraft having a passenger seating configuration of less than 61 seats when passengers are enplaned from or deplaned into a sterile area.

(b) Direct air carriers and foreign air carriers must collect from each passenger, to the extent provided in § 1510.5, a security service fee on air transportation sold on or after February 1, 2002. The security service fee must be based on the air travel itinerary at the time the air transportation is sold. Any changes by the passenger to the itinerary that alter the number of enplanements are subject to additional collection or refund of the security service fee by the direct air carrier or foreign air carrier as appropriate. Direct air carriers and foreign air carriers are solely liable to TSA for additional security service fees imposed because of involuntary enplanement changes to the itinerary.

(c) Whether or not the security service fee is collected as required by this part, the direct air carrier or foreign air carrier selling the air transportation is solely liable to TSA for the fee and must remit the fee as required in § 1510.13.

VOL 66 ISS 250 DE 31 2001 UMI

(d) Direct air carriers and foreign air carriers may not collect security service fees not imposed by this part.

§ 1510.11 Handling of security service fees.

(a) Direct air carriers and foreign air carriers are responsible for the safekeeping of all security service fees from the time of collection to remittance.

(b) Security service fees collected by a direct air carrier or foreign air carrier are held in trust by that direct carrier for the beneficial interest of the United States in paying for the costs of providing civil aviation security services described in 49 U.S.C. 44940. The direct air carrier or foreign air carrier holds neither legal nor equitable interest in the security service fees except for the right to retain any accrued interest on the principal amounts collected pursuant to § 1510.13(b).

(c) Direct air carriers and foreign air carriers must account for security service fees separately, but the fees may be commingled with the carriers' other sources of revenue.

(d) Direct air carriers and foreign air carriers must disclose in their financial statements the existence and the amount of security service fee held in trust.

§ 1510.13 Remittance of security service fees.

(a) Each direct air carrier and foreign air carrier must remit all security service fees imposed each calendar month to TSA, as directed by the Under Secretary, by the last calendar day of the month following the imposition.

(b) Direct air carriers and foreign air carriers may retain any interest that accrues on the principal amounts collected between the date of collection and the date the fee is remitted to TSA in accordance with paragraph (a) of this section.

(c) Direct air carriers and foreign air carriers are prohibited from retaining any portion of the principal to offset the costs of collecting, handling, or remitting the passenger security service fees.

(d) Security service fees are payable to the "Transportation Security Administration" in U.S. currency and drawn on a U.S. bank.

(1) Fees of $1,000 or more must be remitted by electronic funds transfer.

(2) Fees under $1,000 may be remitted by electronic funds transfer, check, money order, wire transfer, or draft.

(e) Direct air carriers and foreign air carriers are responsible for paying any bank processing charges on the security service fees collected or remitted under this part when such charges are assessed on the U.S. government.

§ 1510.15 Accounting and auditing requirements.

(a) Direct air carriers and foreign air carriers must establish and maintain an accounting system to account for the security service fees imposed, collected, refunded and remitted. The accounting records must identify the airports at which the passengers were enplaned.

(b) Each direct air carrier and foreign air carrier that collects security services fees from more than 50,000 passengers annually must provide for an audit at least annually of its security service fee activities or accounts.

(c) Audits pursuant to paragraph (b) of this section must be performed by an independent certified public accountant and may be of limited scope. The accountant must express an opinion on the fairness and reasonableness of the direct air carrier's and foreign air carrier's procedures for collecting, holding, and remitting the fees. The opinion must also address whether the quarterly reports required in § 1510.17 fairly represent the net transactions in the security service fee accounts.

§ 1510.17 Reporting requirements.

(a) Each direct air carrier and foreign air carrier collecting security service fees must provide TSA with quarterly reports that provide an accounting of fees imposed, collected, refunded and remitted.

(b) Quarterly reports must state the direct air carrier or foreign air carrier involved, the total security service fee imposed, collected, refunded and remitted, the number of enplanements for which a fee was collected, the total number of frequent flyer and nonrevenue passengers, and the total number of enplanements for which the fee was not collected. The reports must explain why any fee imposed under this part was not collected.

(c) The report must be filed by the last day of the calendar month following the quarter in which the fees were imposed.

§ 1510.19 Federal oversight.

Direct air carriers and foreign air carriers must allow any authorized representative of the Under Secretary, the Secretary of Transportation, the Inspector General of the Department of Transportation, or the Comptroller General of the United States to audit or review any of its books and records and provide any other information necessary to verify that the security service fees were properly collected and remitted consistent with this part.

§ 1510.21 Enforcement

A direct air carrier's or foreign air carrier's failure to comply with the requirements 49 U.S.C. 44940 or the provisions of this part may be considered to be an unfair and deceptive practice in violation of 49 U.S.C. 41712 and may also result in a claim due the United States by the carrier collectable pursuant to 49 CFR part 89. These remedies are in addition to any others remedies provided by law.

[FR Doc. 01–32254 Filed 12–28–01; 11:17 am]

BILLING CODE 4910–62–P

Reader Aids

Federal Register
Vol. 66, No. 250
Monday, December 31, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–3447**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.nara.gov/fedreg**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, DECEMBER

60139–62906	3
62907–63148	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63904	10
63905–64094	11
64095–64348	12
64349–64734	13
64735–64908	14
64909–65090	17
65091–65422	18
65423–65596	19
65597–65810	20
65811–66292	21
66293–66704	26
66705–67068	27
67069–67476	28
67477–67702	31

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:	
6641	66547
6763	66547
7351	66547
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497, 66547
7513	64095
7514	65089
7515	66547
Executive Orders:	
10513 (Revoked by EO 13245)	66268
11274 (Revoked by EO 13243)	66262
11487 (Revoked by EO 13244)	66267
11582 (See EO 13238)	63903
11822 (Revoked by EO 13246)	66270
11880 (Revoked by EO 13242)	66260
11957 (Revoked by EO 13241)	66258
12608 (Revoked in part by EO 13242)	66260
12958 (See Order of December 10, 2001)	64347
12998 (Revoked by EO 13242)	66260
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
13248	66705
Orders:	
Order of December 10, 2001	64347
Administrative Orders:	
Presidential Determinations:	
No. 02–05 of December 14, 2001	66707
No. 02–07 of November 21, 2001	63487
Memorandums:	
December 7, 2001	64735

5 CFR

213	66709
250	66709
293	66709
294	66709
300	66709
302	63905
315	66709
316	66709
317	63905
330	63905
332	66709
333	63905
335	63905
531	67069
534	63906
339	66709
351	66709
352	66709
534	66709
550	66709, 67477
591	63906
720	66709
732	66709
831	66709
837	66709
841	66709
930	63906, 66709
960	66709
6001	60139
Proposed Rules:	
890	64160

7 CFR

56	66712
70	66712
210	65597
226	65597
300	67071
301	63151
989	65423
1230	67071
1710	66293
Proposed Rules:	
81	64916
300	67123
319	67123
352	63005
1410	63339
1710	66359

8 CFR

103	65811

9 CFR

70	63588
71	65598
78	63910
85	65598
88	63588
94	62913, 63910, 63911
Proposed Rules:	
94	63633

VOL 66 ISS 250 DE 31 2001 UMI

10 CFR

20	64737
30	64737
32	64737
34	64737
40	64737
50	64737
51	64737
72	67073
430	65091
1707	66714

Proposed Rules:

50	65661
54	65141
72	63964

11 CFR

Proposed Rules:

106	66813

12 CFR

5	62914
201	65816
203	66295
208	67074
225	67074
226	65604
500	65817
505	65817
506	65817
516	65817
517	65817
541	65817
543	65817
544	65817
545	65817
546	65817
552	65817
556	65817
559	65822
560	65817, 65822
561	65817
563	65817
563d	65817
563g	65817
565	65817
568	65817
570	65817
573	65817
583	65817
590	65817
700	65622
701	65622, 65625, 65628
712	65622
715	65622
723	65622
725	65622
790	65622
930	66718
932	66718
1773	65097

Proposed Rules:

226	64381
360	65144
584	63517
Ch. VII	66359
701	65662
Ch. IX	63008
951	66813
1750	65146

13 CFR

120	64739

14 CFR

25	64349
39	60140, 60143, 60144, 60145, 62915, 63154, 63157, 63159, 63307, 63621, 63912, 63913, 63915, 64097, 64099, 64100, 64102, 64104, 64105, 64107, 64109, 64112, 64114, 64116, 64117, 64119, 64121, 64124, 64125, 64128, 64129, 64132, 64133, 64135, 64138, 64739, 65102, 65426, 65427, 65629, 65827, 65829, 65832, 66296, 66299, 66302, 66304, 66730, 66733, 66734, 66737, 66739, 67074, 67477
71	63489, 63623, 64909, 64910, 65834, 66741
73	63433
91	63888
93	63294
97	64139, 64141
107	63474
108	63474

Proposed Rules:

39	63009, 63010, 63341, 64925, 64928, 64931, 65663, 65666, 66360, 66819, 66821, 66823, 66828
71	60162, 63517, 66832, 67632
93	64778
154	66238
234	66833

15 CFR

4	65631
4a	65631
4b	65631
744	65836
801	63916, 63918

Proposed Rules:

738	65666
742	65666

16 CFR

3	64142
4	64142
305	63749
1700	65836

17 CFR

Proposed Rules:

15	64383
230	66839

18 CFR

141	67076
381	63162
385	67076, 67480

Proposed Rules:

2	67134
35	65858, 67134
37	67134

19 CFR

12	63490
122	67482
178	67482

20 CFR

411	67370
416	67078
422	67078
655	63298

Proposed Rules:

404	63634

21 CFR

Ch. 1	66741
1	65429
352	67485
510	63163, 63164, 63499, 66742
520	63165, 63166
524	63164
556	62916
558	62916, 63499, 63500

Proposed Rules:

500	63519, 67152
1310	64173

24 CFR

30	63436

Proposed Rules:

5	65162
202	65162

25 CFR

Proposed Rules:

292	66847
542	66500

26 CFR

1	63920, 66307, 67081, 67687
301	64351, 64740, 64911
602	64076, 64351, 66307

Proposed Rules:

1	63203, 64385, 64904, 66362, 66376
301	64386
602	64386

28 CFR

Proposed Rules:

97	64934

29 CFR

578	63501
579	63501
580	63501
4022	64744
4044	64744

Proposed Rules:

470	65163
1910	64946
1915	64946
1926	64946
1928	64946

30 CFR

256	60147
915	66743
917	66314
918	64746
938	67010
944	62917
948	67446

Proposed Rules:

250	66848, 66851
918	66377
936	63968, 65858
948	67455

31 CFR

103	67086, 67680
211	63623

Proposed Rules:

103	67670, 67685
104	67460

32 CFR

619	65651

33 CFR

100	63624
110	66747, 66749
117	62935, 62936, 62938, 62939, 62940, 63626, 63627, 65104, 66751
165	60151, 62940, 64144, 64912, 65105, 65838, 66747, 66749, 66753, 67487

Proposed Rules:

1	63640
117	66865
147	63642
165	64778, 66380
175	63645
181	63650

34 CFR

Proposed Rules:

Ch. VI	63203

36 CFR

18	66755
1202	65652

37 CFR

1	67086
201	62942, 63920

Proposed Rules:

255	64783

38 CFR

3	66763
17	63446, 63449, 64904
20	60152

Proposed Rules:

3	64174
20	65861

39 CFR

20	64353, 65780

Proposed Rules:

111	65668

40 CFR

8	63454
9	65256
52	63311, 63921, 64146, 64148, 64750, 64751, 66317, 66769
62	63311, 63938, 64151, 64152, 65448, 67096
63	63313, 65072, 66321
70	62945, 62946, 62949, 62951, 62954, 62961, 62967, 62969, 63166, 63168, 63170, 63175, 63180, 63184, 63188, 63318, 63503
80	66769, 67098
81	64751, 66317
122	65256
123	65256
124	65256
125	65256
152	64759
153	66769
156	64759
180	63192, 64768, 65450, 65839, 65850, 66325, 66333, 66769, 66773, 66778, 66786, 67489
257	67108
258	67108
261	60153, 62973
271	63331, 66340, 66342

300 ... 64357
721 ... 63941
Proposed Rules:
52 ... 63204, 63343, 63972, 63982, 64176, 64783, 66382, 67497
60 ... 64176
62 ... 63985, 64207, 64208, 65460, 67152
63 ... 65079, 66381
80 ... 60153, 65164, 66867
81 ... 66382
89 ... 65164
90 ... 65164
91 ... 65164
258 ... 67152
271 ... 66382, 66383
300 ... 64387
1048 ... 65164
1051 ... 65164
1065 ... 65164
1068 ... 65164

41 CFR

Ch. 301 ... 66794
61–250 ... 65452

42 CFR

411 ... 60154
413 ... 67494
419 ... 67494
486 ... 67109
489 ... 67494
1001 ... 62980, 63749
Proposed Rules:
493 ... 67163
1001 ... 65460

43 CFR

4 ... 67652
3600 ... 63334
3610 ... 63334
3620 ... 63334
3800 ... 63334

44 CFR

64 ... 63627
65 ... 65107, 65110
67 ... 65115, 65120
Proposed Rules:
61 ... 60176
67 ... 65668, 65671

45 CFR

Proposed Rules:
67 ... 64784

47 CFR

1 ... 62992, 67111
25 ... 63512
36 ... 65856
43 ... 67111
54 ... 64775, 65856, 67112
63 ... 67111
64 ... 67114
73 ... 60156, 60157, 63199, 63629, 64776, 64777, 65122, 66346, 66803
76 ... 62992, 67115
101 ... 63512
Proposed Rules:
1 ... 64785, 65866
2 ... 64785
51 ... 63651, 64946
54 ... 67165
69 ... 67165
73 ... 63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873, 66383, 66384, 66867
87 ... 64785

48 CFR

Ch. 1 ... 65346, 65372, 66984, 66990
2 ... 65349, 65351, 65353
5 ... 65370
8 ... 65367
9 ... 66984, 66986
11 ... 65351
12 ... 65370
14 ... 66984, 66986
15 ... 65351, 65368, 65369, 66984, 66986
19 ... 65370
22 ... 65370
23 ... 65351, 65370
25 ... 65349, 65370
31 ... 66984, 66986
32 ... 65353
39 ... 65371
42 ... 65351
44 ... 65367
52 ... 65349, 65353, 65367, 65370, 66984, 66986
53 ... 65370
202 ... 63334
212 ... 63335
215 ... 63334
217 ... 63336
237 ... 63335
242 ... 63334
Proposed Rules:
1 ... 65792
36 ... 65792
53 ... 65792
235 ... 63348, 65676
1823 ... 64391
1836 ... 64391
1852 ... 64391

49 CFR

1 ... 67117
195 ... 66994
225 ... 66346
241 ... 63942
393 ... 67690
Chapter XII ... 67698
571 ... 60157, 64154, 64358, 65376
572 ... 64368
1510 ... 67698
Proposed Rules:
107 ... 63096
171 ... 63096
172 ... 63096
173 ... 63096
177 ... 63096
178 ... 63096
180 ... 63096
219 ... 64000
567 ... 65536
571 ... 65536
573 ... 64078, 64087, 65165
574 ... 65536, 66190
575 ... 65536
576 ... 66190
577 ... 64078, 64087

50 CFR

17 ... 62993, 63752, 66803
222 ... 65658
223 ... 65658, 67495
224 ... 67495
230 ... 64378
600 ... 63199
622 ... 60161
635 ... 63003, 64378, 67118
648 ... 63003, 65454, 65660, 66348, 67122
660 ... 63199, 63630, 66811
679 ... 64380, 64915
Proposed Rules:
17 ... 63349, 63654, 66384, 66868, 67165
20 ... 63665
21 ... 63349, 63665
222 ... 64793, 65873
223 ... 64793, 65676
224 ... 64793, 65676
635 ... 66386
648 ... 63013, 63666, 64392, 67166
679 ... 65028, 66390

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT DECEMBER 31, 2001

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Prunes (fresh) grown in—
  - Washington and Oregon; published 11-30-01

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Exportation and importation of animals and animal products:
  - Horses from contagious equine meritis (CEM)-affected countries—
    - Rhode Island; stallions and mares; receipt authorization; published 11-1-01

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

- Meat and poultry inspection:
  - Transglutaminase enzyme and pork collagen use as binders; published 10-31-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

- Endangered and threatened species:
  - Sea turtle conservation—
    - Sea turtle handling and resuscitation regulation; amendments; published 12-31-01

EDUCATION DEPARTMENT

- Grants:
  - Direct grant programs; discretionary grants; application review process; published 11-30-01

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

- Practice and procedure:
  - Off-the-Record Communications; published 12-31-01

ENVIRONMENTAL PROTECTION AGENCY

- Air programs:
  - Fuels and fuel additives—
    - Motorcycle fuel inlet restrictor exemption; gasoline containing lead or lead additives; prohibition for highway use; published 10-31-01
- Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  - Puerto Rico; published 10-30-01
- Air quality implementation plans; approval and promulgation; various States:
  - Arizona; published 11-30-01
  - District of Columbia; published 11-1-01
  - Maryland; published 11-15-01
  - Texas; published 10-30-01
- Air quality implementations plans; approval and promulgation:
  - Oregon; published 11-1-01
- Hazardous waste:
  - State underground storage tank program approvals—
    - Minnesota; published 11-30-01
- Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
  - Clethodim; published 12-31-01

FEDERAL COMMUNICATIONS COMMISSION

- Common carrier services:
  - Federal-State Joint Board on Universal Service—
    - Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services; Multi-Association Group regulatory plan; published 11-30-01
- Radio stations; table of assignments:
  - North Dakota; published 12-3-01
  - Various States; published 12-10-01
- Television stations; table of assignments:
  - Idaho; published 11-19-01

FEDERAL ELECTION COMMISSION

- Compliance procedures:
  - Administrative fines; reporting requirements violations; civil money penalties; expiration date extension; published 11-30-01
- Reports by political committees:
  - Election cycle reporting by authorized committees; correction; published 11-30-01

GOVERNMENT ETHICS OFFICE

- Standards of ethical conduct for Executive Branch employees; published 11-30-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

- Medicare:
  - Physician fee schedule (2002 CY); payment policies and relative value units five-year review and adjustments; published 11-1-01

INTERIOR DEPARTMENT

Land Management Bureau

- Minerals management:
  - Mining claims under general mining laws; surface management; published 10-30-01

NUCLEAR REGULATORY COMMISSION

- Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
  - Approved spent fuel casks; list; published 12-28-01
  - Approved spent fuel storage casks; list; published 10-16-01

PERSONNEL MANAGEMENT OFFICE

- Pay administration:
  - Compensation; miscellaneous changes
    - Correction; published 12-31-01

SMALL BUSINESS ADMINISTRATION

- Business loans:
  - Loan guaranty and amounts, minimum guaranteed dollar amount of 7(a) loans, financing percentages, etc.; published 11-14-01

TRANSPORTATION DEPARTMENT

Coast Guard

- Anchorage regulations and ports and waterways safety:
  - Lake Michigan—
    - Chicago Harbor, IL; safety zone; published 12-27-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

- Airworthiness directives:
  - Boeing; published 11-26-01
  - Saab; published 11-26-01

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

- Motor carrier safety standards:
  - Parts and accessories necessary for safe operations—
    - Manufactured home tires; published 12-31-01

TREASURY DEPARTMENT

Comptroller of the Currency

- Fees assessment; published 11-16-01
  - Correction; published 11-23-01

TREASURY DEPARTMENT

Customs Service

- Air commerce:
  - Passenger flights in foreign air transportation to the United States; passenger and crew manifests requirements; published 12-31-01
- Financial and accounting procedures:
  - Harbor Maintenance Fee refunds and other claims against Customs; time limitation; published 7-2-01

TREASURY DEPARTMENT

Internal Revenue Service

- Income taxes:
  - Financial transactions and nonfinancial trades or businesses currency transactions; information reporting to IRS and Financial Crimes Enforcement Network; published 12-31-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

- Oranges, grapefruit, tangerines, and tangelos grown in—
  - Florida; comments due by 1-8-02; published 11-9-01 [FR 01-28201]
- Tomatoes grown in—
  - Florida; comments due by 1-8-02; published 11-9-01 [FR 01-28203]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

- Plant-related quarantine, domestic:

Asian longhorned beetle; comments due by 1-7-02; published 11-8-01 [FR 01-28068]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
  Caribbean, Gulf, and South Atlantic fisheries—
    South Atlantic golden crab; comments due by 1-11-02; published 11-27-01 [FR 01-29494]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):
  Architect-engineer contractors; new consolidated form for selection; comments due by 1-8-02; published 12-20-01 [FR 01-31304]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):
  Standard generator interconnection agreements and procedures; comments due by 1-11-02; published 12-21-01 [FR 01-31442]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:
  Testing and monitoring provisions; amendments; comments due by 1-11-02; published 12-12-01 [FR 01-30367]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30738]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30739]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30736]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Iowa; comments due by 1-11-02; published 12-12-01 [FR 01-30737]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Vermont; comments due by 1-10-02; published 12-11-01 [FR 01-30583]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
  Vermont; comments due by 1-10-02; published 12-11-01 [FR 01-30584]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
  Illinois; comments due by 1-11-02; published 12-12-01 [FR 01-30581]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
  Illinois; comments due by 1-11-02; published 12-12-01 [FR 01-30582]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
  Kansas; comments due by 1-11-02; published 12-12-01 [FR 01-30579]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
  Kansas; comments due by 1-11-02; published 12-12-01 [FR 01-30580]
  Maine; comments due by 1-7-02; published 12-6-01 [FR 01-30271]
Water programs:
  Pollutants analysis test procedures; guidelines—
    Whole effluent toxicity test methods; comments due by 1-11-02; published 11-23-01 [FR 01-29270]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:
  Interconnection—
    Interstate special access services; performance measurements and standards; comments due by 1-9-02; published 12-10-01 [FR 01-30434]
  Terminal equipment, connection to telephone network—
    Hearing aid compatibility with public mobile service phones; comments due by 1-11-02; published 11-23-01 [FR 01-29293]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
  Architect-engineer contractors; new consolidated form for selection; comments due by 1-8-02; published 12-20-01 [FR 01-31304]

HEALTH AND HUMAN SERVICES DEPARTMENT

Vaccines:
  National Vaccine Injury Compensation Program; Vaccine Injury Table revisions and additions; comments due by 1-9-02; published 7-13-01 [FR 01-16814]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
  Critical habitat designations—
    Purple amole (two varieties); comments due by 1-7-02; published 11-8-01 [FR 01-28042]

INTERIOR DEPARTMENT

Minerals Management Service

Outer Continental Shelf; oil, gas, and sulphur operations:
  Procedures for dealing with sustained casing pressure; comments due by 1-8-02; published 11-9-01 [FR 01-28221]

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:
  Louisiana; comments due by 1-10-02; published 12-26-01 [FR 01-31615]
  Oklahoma; comments due by 1-10-02; published 12-11-01 [FR 01-30578]

LABOR DEPARTMENT

Occupational Safety and Health Administration

State plan changes; review and approval; submission process; comments due by 1-7-02; published 11-6-01 [FR 01-27728]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
  Architect-engineer contractors; new consolidated form for selection; comments due by 1-8-02; published 12-20-01 [FR 01-31304]

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records management:
  Electronic text documents; comments due by 1-8-02; published 10-10-01 [FR 01-24783]

PERSONNEL MANAGEMENT OFFICE

Allowances and differentials:
  Cost-of-living allowances (nonforeign areas)—
    Commissary/exchange rates, survey frequency, and gradual reductions; comments due by 1-8-02; published 11-9-01 [FR 01-28057]

PERSONNEL MANAGEMENT OFFICE

Allowances and differentials:
  Cost-of-living allowances (nonforeign areas)—
    Methodology changes; comments due by 1-8-02; published 11-9-01 [FR 01-28058]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Air traffic operating and flight rules, etc.:
  Criminal history records checks; comments due by 1-7-02; published 12-6-01 [FR 01-30282]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
  Boeing; comments due by 1-11-02; published 11-27-01 [FR 01-29426]

VOL 66 ISS 250 DE 31 2001 UMI

Rockwell Collins; comments due by 1-11-02; published 11-5-01 [FR 01-27665]

Rolls-Royce Corp.; comments due by 1-7-02; published 11-8-01 [FR 01-28025]

SOCATA-Groupe AEROSPATIALE; comments due by 1-11-02; published 12-17-01 [FR 01-30953]

Class B airspace; comments due by 1-7-02; published 11-7-01 [FR 01-27999]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Child restraint systems—

Safety rating program; consumer information; comments due by 1-7-02; published 11-6-01 [FR 01-27546]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Consolidated return regulations—

Intercompany transactions; timing rules; comments due by 1-7-02; published 11-7-01 [FR 01-27970]

TREASURY DEPARTMENT

Thrift Supervision Office

Savings and loan holding companies:

Authority to engage in financial activities; comments due by 1-10-02; published 12-7-01 [FR 01-30306]

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:

Persian Gulf War veterans; undiagnosed illnesses compensation; comments due by 1-8-02; published 11-9-01 [FR 01-28158]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html.* Some laws may not yet be available.

H.R. 10/P.L. 107–90
Railroad Retirement and Survivors' Improvement Act of 2001 (Dec. 21, 2001; 115 Stat. 878)

H.R. 1230/P.L. 107–91
Detroit River International Wildlife Refuge Establishment Act (Dec. 21, 2001; 115 Stat. 894)

H.R. 1761/P.L. 107–92
To designate the facility of the United States Postal Services located at 8588 Richmond Highway in Alexandria, Virginia, as the "Herb Harris Post Office Building". (Dec. 21, 2001; 115 Stat. 898)

H.R. 2061/P.L. 107–93
To amend the charter of Southeastern University of the District of Columbia. (Dec. 21, 2001; 115 Stat. 899)

H.R. 2540/P.L. 107–94
Veterans' Compensation Rate Amendments of 2001 (Dec. 21, 2001; 115 Stat. 900)

H.R. 2716/P.L. 107–95
Homeless Veterans Comprehensive Assistance Act of 2001 (Dec. 21, 2001; 115 Stat. 903)

H.R. 2944/P.L. 107–96
District of Columbia Appropriations Act, 2002 (Dec. 21, 2001; 115 Stat. 923)

H.J. Res. 79/P.L. 107–97
Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Dec. 21, 2001; 115 Stat. 960)

H.J. Res. 80/P.L. 107–98
Appointing the day for the convening of the second session of the One Hundred Seventh Congress. (Dec. 21, 2001; 115 Stat. 961)

S. 494/P.L. 107–99
Zimbabwe Democracy and Economic Recovery Act of 2001 (Dec. 21, 2001; 115 Stat. 962)

S. 1196/P.L. 107–100

Small Business Investment Company Amendments Act of 2001 (Dec. 21, 2001; 115 Stat. 966)

S.J. Res. 26/P.L. 107–101

Providing for the appointment of Patricia Q. Stonesifer as a citizen regent of the Board of Regents of the Smithsonian Institution. (Dec. 21, 2001; 115 Stat. 973)

Last List December 21, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1195.00 domestic, $298.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1]Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1, 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4]Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4]Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1, 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1, 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1, 2001
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	26.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date
200-End	(869-044-00097-1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869-044-00098-9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0-99	(869-044-00100-4)	45.00	July 1, 2001
100-499	(869-044-00101-2)	14.00	[6]July 1, 2001
500-899	(869-044-00102-1)	47.00	[6]July 1, 2001
900-1899	(869-044-00103-9)	33.00	July 1, 2001
1900-1910 (§§ 1900 to 1910.999)	(869-044-00104-7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869-044-00105-5)	42.00	July 1, 2001
1911-1925	(869-044-00106-3)	20.00	[6]July 1, 2001
1926	(869-044-00107-1)	45.00	July 1, 2001
1927-End	(869-044-00108-0)	55.00	July 1, 2001
30 Parts:			
1-199	(869-044-00109-8)	52.00	July 1, 2001
200-699	(869-044-00110-1)	45.00	July 1, 2001
700-End	(869-044-00111-7)	53.00	July 1, 2001
31 Parts:			
0-199	(869-044-00112-8)	32.00	July 1, 2001
200-End	(869-044-00113-6)	56.00	July 1, 2001
32 Parts:			
1-39, Vol. I		15.00	[2] July 1, 1984
1-39, Vol. II		19.00	[2] July 1, 1984
1-39, Vol. III		18.00	[2] July 1, 1984
1-190	(869-044-00114-4)	51.00	[6]July 1, 2001
191-399	(869-044-00115-2)	57.00	July 1, 2001
400-629	(869-044-00116-8)	35.00	[6]July 1, 2001
630-699	(869-044-00117-9)	34.00	July 1, 2001
700-799	(869-044-00118-7)	42.00	July 1, 2001
800-End	(869-044-00119-5)	44.00	July 1, 2001
33 Parts:			
1-124	(869-044-00120-9)	45.00	July 1, 2001
125-199	(869-044-00121-7)	55.00	July 1, 2001
200-End	(869-044-00122-5)	45.00	July 1, 2001
34 Parts:			
1-299	(869-044-00123-3)	43.00	July 1, 2001
300-399	(869-044-00124-1)	40.00	July 1, 2001
400-End	(869-044-00125-0)	56.00	July 1, 2001
35	(869-044-00126-8)	10.00	[6]July 1, 2001
36 Parts			
1-199	(869-044-00127-6)	34.00	July 1, 2001
200-299	(869-044-00128-4)	33.00	July 1, 2001
300-End	(869-044-00129-2)	55.00	July 1, 2001
37	(869-044-00130-6)	45.00	July 1, 2001
38 Parts:			
0-17	(869-044-00131-4)	53.00	July 1, 2001
18-End	(869-044-00132-2)	55.00	July 1, 2001
39	(869-044-00133-1)	37.00	July 1, 2001
40 Parts:			
1-49	(869-044-00134-9)	54.00	July 1, 2001
50-51	(869-044-00135-7)	38.00	July 1, 2001
52 (52.01-52.1018)	(869-044-00136-5)	50.00	July 1, 2001
52 (52.1019-End)	(869-044-00137-3)	55.00	July 1, 2001
53-59	(869-044-00138-1)	28.00	July 1, 2001
60 (60.1-End)	(869-044-00139-0)	53.00	July 1, 2001
60 (Apps)	(869-044-00140-3)	51.00	July 1, 2001
61-62	(869-044-00141-1)	35.00	July 1, 2001
63 (63.1-63.599)	(869-044-00142-0)	53.00	July 1, 2001
63 (63.600-63.1199)	(869-044-00143-8)	44.00	July 1, 2001
63 (63.1200-End)	(869-044-00144-6)	56.00	July 1, 2001
64-71	(869-044-00145-4)	26.00	July 1, 2001
72-80	(869-044-00146-2)	55.00	July 1, 2001
81-85	(869-044-00147-1)	45.00	July 1, 2001
86 (86.1-86.599-99)	(869-044-00148-9)	52.00	July 1, 2001
86 (86.600-1-End)	(869-044-00149-7)	45.00	July 1, 2001
87-99	(869-044-00150-1)	54.00	July 1, 2001
100-135	(869-044-00151-9)	38.00	July 1, 2001
136-149	(869-044-00152-7)	55.00	July 1, 2001
150-189	(869-044-00153-5)	52.00	July 1, 2001
190-259	(869-044-00154-3)	34.00	July 1, 2001
260-265	(869-044-00155-1)	45.00	July 1, 2001
266-299	(869-044-00156-0)	45.00	July 1, 2001
300-399	(869-044-00157-8)	41.00	July 1, 2001
400-424	(869-044-00158-6)	51.00	July 1, 2001
425-699	(869-044-00159-4)	55.00	July 1, 2001
700-789	(869-044-00160-8)	55.00	July 1, 2001
790-End	(869-044-00161-6)	44.00	July 1, 2001
41 Chapters:			
1, 1-1 to 1-10		13.00	[3] July 1, 1984
1, 1-11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3-6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10-17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1-5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6-19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20-52		13.00	[3] July 1, 1984
19-100		13.00	[3] July 1, 1984
1-100	(869-044-00162-4)	22.00	July 1, 2001
101	(869-044-00163-2)	45.00	July 1, 2001
102-200	(869-044-00164-1)	33.00	July 1, 2001
201-End	(869-044-00165-9)	24.00	July 1, 2001
42 Parts:			
1-399	(869-042-00162-1)	53.00	Oct. 1, 2000
400-429	(869-042-00163-0)	55.00	Oct. 1, 2000
*430-End	(869-044-00168-3)	58.00	Oct. 1, 2001
43 Parts:			
1-999	(869-044-00169-1)	45.00	Oct. 1, 2001
*1000-end	(869-044-00170-5)	56.00	Oct. 1, 2001
44	(869-044-00171-3)	45.00	Oct. 1, 2001
45 Parts:			
1-199	(869-044-00172-1)	53.00	Oct. 1, 2001
200-499	(869-044-00173-0)	31.00	Oct. 1, 2001
500-1199	(869-044-00174-8)	45.00	Oct. 1, 2001
1200-End	(869-044-00175-6)	55.00	Oct. 1, 2001
46 Parts:			
1-40	(869-044-00176-4)	43.00	Oct. 1, 2001
41-69	(869-044-00177-2)	35.00	Oct. 1, 2001
*70-89	(869-044-00178-1)	13.00	Oct. 1, 2001
90-139	(869-042-00175-3)	41.00	Oct. 1, 2000
140-155	(869-044-00180-2)	24.00	Oct. 1, 2001
*156-165	(869-044-00181-1)	31.00	Oct. 1, 2001
166-199	(869-044-00182-9)	42.00	Oct. 1, 2001
200-499	(869-044-00183-7)	36.00	Oct. 1, 2001
500-End	(869-044-00184-5)	23.00	Oct. 1, 2001
47 Parts:			
0-19	(869-042-00181-8)	54.00	Oct. 1, 2000
20-39	(869-044-00186-1)	43.00	Oct. 1, 2001
40-69	(869-042-00183-4)	41.00	Oct. 1, 2000
70-79	(869-042-00184-2)	54.00	Oct. 1, 2000
80-End	(869-042-00185-1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1-51)	(869-042-00186-9)	57.00	Oct. 1, 2000
1 (Parts 52-99)	(869-044-00191-8)	45.00	Oct. 1, 2001
2 (Parts 201-299)	(869-044-00192-6)	53.00	Oct. 1, 2001
3-6	(869-042-00189-3)	40.00	Oct. 1, 2000
7-14	(869-044-00194-2)	51.00	Oct. 1, 2001
15-28	(869-044-00195-1)	53.00	Oct. 1, 2001
29-End	(869-044-00196-9)	38.00	Oct. 1, 2001
49 Parts:			
1-99	(869-044-00197-7)	55.00	Oct. 1, 2001
100-185	(869-044-00202-7)	26.00	Oct. 1, 2001
*186-199	(869-044-00199-3)	18.00	Oct. 1, 2001
200-399	(869-042-00196-6)	57.00	Oct. 1, 2000
400-999	(869-044-00201-9)	58.00	Oct. 1, 2001
1000-1199	(869-044-00202-7)	26.00	Oct. 1, 2001

Title	Stock Number	Price	Revision Date
1200-End	(869-042-00199-1)	21.00	Oct. 1, 2000
50 Parts:			
1-199	(869-042-00200-8)	55.00	Oct. 1, 2000
*200-599	(869-044-00205-1)	36.00	Oct. 1, 2001
600-End	(869-042-00202-4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869-044-00047-4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

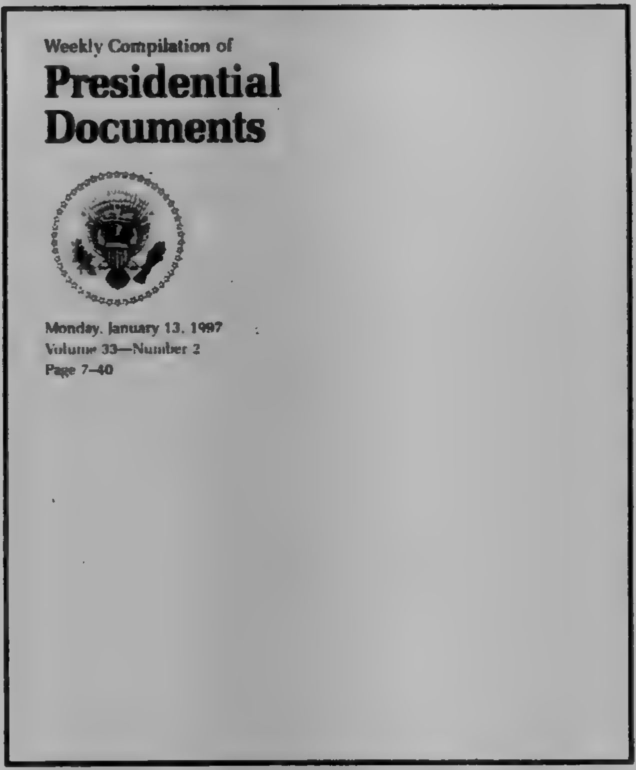
[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..

VOL 66
ISS 250
DEC 31 2001
UMI

The authentic text behind the news . . .

The Weekly Compilation of **Presidential Documents**



Weekly Compilation of
Presidential Documents

Monday, January 13, 1997
Volume 33—Number 2
Page 7–40

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue includes a Table of Contents, lists of acts approved by the President, nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements. Indexes are published quarterly.

Published by the Office of the Federal Register, National Archives and Records Administration.

Superintendent of Documents **Subscription** Order Form

Charge your order. It's Easy! MasterCard VISA

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

Order Processing Code:
*** 5420**

☐ **YES**, please enter _____ one year subscriptions for the **Weekly Compilation of Presidential Documents** (PD) so I can keep up to date on Presidential activities.

☐ $151.00 First Class Mail ☐ $92.00 Regular Mail

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 4/00

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Would you like to know. . .

if any changes have been made to the Code of Federal Regulations or what documents have been published in the Federal Register without reading the Federal Register every day? If so, you may wish to subscribe to the *LSA (List of CFR Sections Affected)*, the *Federal Register Index*, or both.

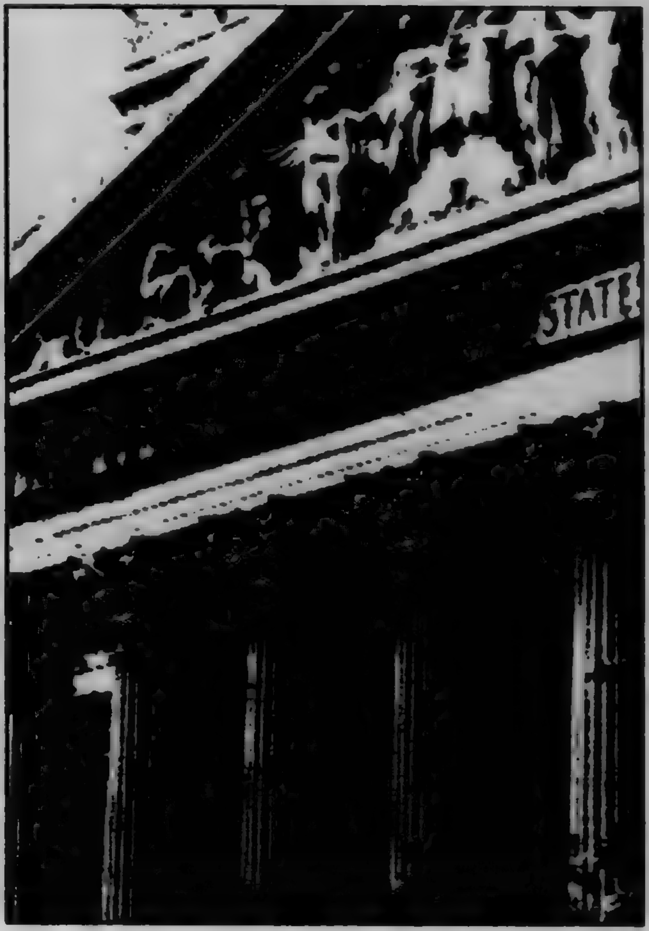
LSA • List of CFR Sections Affected

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. The LSA is issued monthly in cumulative form. Entries indicate the nature of the changes—such as revised, removed, or corrected. $35 per year.

Federal Register Index

The index, covering the contents of the daily Federal Register, is issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references. $30 per year.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.



Superintendent of Documents **Subscription** Order Form

Order Processing Code:
*** 5421**

Charge your order. ***It's Easy!***
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscriptions for one year:

——— **LSA (List of CFR Sections Affected)**, (LCS) for $35 per year.
——— **Federal Register Index** (FRUS) $30 per year.

The total cost of my order is $ ________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)
May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing Signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66
ISS 250
DE 31
2001
UMI

INFORMATION ABOUT THE SUPERINTENDENT OF DOCUMENTS' SUBSCRIPTION SERVICE

Know when to expect your renewal notice and keep a good thing coming. To keep our subscription prices down, the Government Printing Office mails each subscriber *only one renewal notice*. You can learn when you will get your renewal notice by checking the number that follows month/year code on the top line of your label *as shown in this example:*

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFR SMITH212J                DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

A renewal notice will be sent approximately 90 days **before the shown date.**

```
AFRDO SMITH212J              DEC97 R 1
JOHN SMITH
212 MAIN STREET
FORESTVILLE MD 20704
```

To be sure that your service continues without interruption, please return your renewal notice promptly. If your subscription service is discontinued, simply send your mailing label from any issue to the Superintendent of Documents, Washington, DC 20402–9372 with the proper remittance. Your service will be reinstated.

To change your address: Please SEND YOUR MAILING LABEL, along with your new address to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To inquire about your subscription service: Please SEND YOUR MAILING LABEL, along with your correspondence, to the Superintendent of Documents, Attn: Chief, Mail List Branch, Mail Stop: SSOM, Washington, DC 20402–9373.

To order a new subscription: Please use the order form provided below.

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5468**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **Federal Register (FR);** *including* the daily Federal Register, monthly Index and List of CFR Sections Affected (LSA), at $764 each per year.

_____ subscriptions to **Federal Register**, *daily only* (FRDO), at $699 each per year.

The total cost of my order is $_________. **Price includes regular domestic postage and handling**, and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐ – ☐

☐ VISA ☐ MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

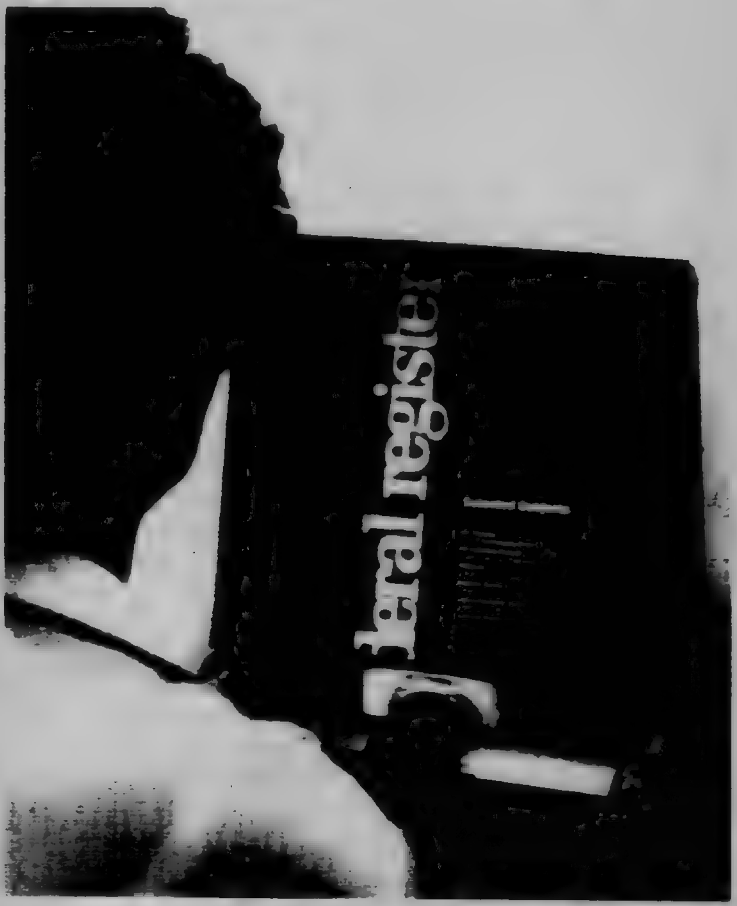
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

Microfiche Editions Available...



Federal Register

The Federal Register is published daily in 24x microfiche format and mailed to subscribers the following day via first class mail. As part of a microfiche Federal Register subscription, the LSA (List of CFR Sections Affected) and the Cumulative Federal Register Index are mailed monthly.

Code of Federal Regulations

The Code of Federal Regulations, comprising approximately 200 volumes and revised at least once a year on a quarterly basis, is published in 24x microfiche format and the current year's volumes are mailed to subscribers as issued.

Microfiche Subscription Prices:

Federal Register:

One year: $264.00
Six months: $132.00

Code of Federal Regulations:

Current year (as issued): $298.00

Superintendent of Documents **Subscription** Order Form

Order Processing Code
*** 5419**

Charge your order. It's Easy!

To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter the following indicated subscription in 24x microfiche format:

_____ **Federal Register** (MFFR) ☐ **One year at $264 each**
☐ **Six months at $132.00**

_____ **Code of Federal Regulations** (CFRM7) ☐ **One year at $298 each**

The total cost of my order is $_____. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)
Additional address/attention line
Street address
City, State, ZIP code
Daytime phone including area code
Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you for your order!

Authorizing signature 10/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL
66
ISS
250
DE
31
2001
UMI

Public Laws

107th Congress, 1st Session, 2001

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 107th Congress, 1st Session, 2001.

Individual laws also may be purchased from the Superintendent of Documents, U.S. Government Printing Office. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws or access the online database at http://www.access.gpo.gov/nara005.html

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code
*** 6216**

Charge your order. It's Easy!
To fax your orders (202) 512–2250
Phone your orders (202) 512–1800

☐ **YES**, enter my subscription(s) as follows:

_____ subscriptions to **PUBLIC LAWS** for the 107th Congress, 1st Session, 2001 for $225 per subscription.

The total cost of my order is $ _________. **Price includes regular domestic postage and handling** and is subject to change. International customers please add 25%.

Company or personal name (Please type or print)

Additional address/attention line

Street address

City, State, ZIP code

Daytime phone including area code

Purchase order number (optional)

May we make your name/address available to other mailers? YES ☐ NO ☐

Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA ☐ MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date) ***Thank you for your order!***

Authorizing signature 9/01

Mail To: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

VOL 66
ISS 2 5 0
DE 31 2001
UMI

Printed on recycled paper

JL

2001

UMI

UMI

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

Code of Federal Regulations

LSA

List of CFR Sections Affected

July 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

July 2001

Title 1–16
Changes January 2, 2001
through July 31, 2001

Title 17–27
Changes April 2, 2001
through July 31, 2001

Title 28–41
Changes July 2, 2001
through July 31, 2001

Title 42–50
Changes October 2, 2000
through July 31, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41—as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999, 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869–044–00002–4)	36.00	[1]Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1, 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4]Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4]Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1, 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1, 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–042–00098–6)	43.00	July 1, 2000
43-end	(869-042-00099-4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–042–00101–0)	14.00	July 1, 2000
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–042–00114–1)	51.00	July 1, 2000
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	July 1, 2000
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	26.00	July 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	56.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–042–00153–2)	29.00	July 1, 2000
400–424	(869–042–00154–1)	57.00	July 1, 2000
425–699	(869–042–00155–9)	48.00	July 1, 2000
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	Price	Revision Date
Federal Register:		
Yearly subscription (with FR Index and LSA)	697.00	
Yearly subscription (without FR Index and LSA)	638.00	
Individual copies	9.00	daily

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 1—GENERAL PROVISIONS

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

7208 *See* Proc. 7445	30053
7214 *See* Proc. 7445	30053
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403

Executive Orders

10000 Amended by EO 13207	18399
12002 *See* EO 13206	18397
12170 *See* Notice of Mar. 13, 2001	15013
12214 *See* EO 18397	18397
12543 Continued by Notice of Jan. 4, 2001	1251
12544 Continued by Notice of Jan. 4, 2001	1251
12808 *See* Notice of May 24, 2001	29007
12810 *See* Notice of May 24, 2001	29007
12831 *See* Notice of May 24, 2001	29007
12834 Revoked by EO 12834	867
12836 Revoked by EO 13202	11225
12846 *See* Notice of May 24, 2001	29007
12871 Revoked by EO 13203	11227

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 3 Executive Orders—Con.

12924 Revoked by EO 13206	18397
12933 Revoked by EO 13204	11228
12934 *See* Notice of May 24, 2001	29007
12938 *See* EO 13206	18397
12947 *See* Notice of Jan. 19, 2001	7371
12957 *See* Notice of Mar. 13, 2001	15013
12959 *See* Notice of Mar. 13, 2001	15013
12981 *See* EO 13206	18397
12983 Revoked by EO 13203	11227
13035 Amended by EO 13215	30285
13047 Continued by Notice of May 15, 2001	27443
13059 *See* Notice of Mar. 13, 2001	15013
13088 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13092 *See* EO 13215	30285
13099 *See* Notice of Jan. 19, 2001	7371
13111 Amended by EO 13188	5419
Amended by EO 13218	33627
13113 *See* EO 13215	30285
13121 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13125 Amended by EO 13216	31373
13156 Revoked by EO 13203	11227
13174 Amended by EO 13218	33627
13178 Amended by EO 13196	7395
13182 Corrected	10057
13183 Amended by EO 13209	22105
13184	697
13185	701
13186	3853
13187	3857
13188	5419
13189	5421
13190	5425
13191	7271
13192	7379
See Notice of May 24, 2001	29007
13193	7387
13194	7389
See EO 13213	28829
13195	7391
13196	7391
13197	7853
13198	8497
13199	8499
13200	10183
See EO 13215	30285
13201	11221
13202	11225
Amended by EO 13208	18717
13203	11227
13204	11228
13205	15011
13206	18397
13207	18399
13208	18717
13209	22105
13210	22895
13211	28355
13212	28357
13213	28829
13214	29447
13215	30285
13216	31373
13217	33155
13218	33627
13219	34777
13220	35527

Administrative Orders

Memorandums:

June 5, 1997 (Revoked by EO 13202)	11225
Oct. 28, 1999 (Revoked by EO 13203)	11227
Mar. 3, 2000	3851
Mar. 5, 2001	14453
Mar. 28, 2001	17303
Apr. 12, 2001	20725
May 30, 2001	30629
May 31, 2001	31833
June 5, 2001	30799
July 11, 2001	37105

Notices:

Jan. 4, 2001	1251
Jan. 19, 2001	7371
Feb. 27, 2001	12841
Mar. 13, 2001	15013
May 15, 2001	27443
May 24, 2001	29007
June 11, 2001	32207
June 30, 2001	35363

Presidential Determinations:

No. 96-7 of Dec. 27, 1995 *See* Notice of May 24, 2001	29007
No. 2001-05 of Dec. 15, 2000	223
No. 2001-06 of Dec. 15, 2000	225
No. 2001-07 of Dec. 19, 2000	1013
No. 2001-08 of Dec. 27, 2000	1561
No. 2001-09 of Jan. 3, 2001	2193
No. 2001-10 of Jan. 17, 2001	8501
No. 2001-11 of Jan. 19, 2001	8503
No. 2001-12 of Mar. 1, 2001	14454

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

No. 2001-13 of Apr. 17, 2001	20585
No. 2001-14 of Apr. 30, 2001	27825
No. 2001-15 of May 11, 2001	27827
No. 2001-16 of June 1, 2001	30631
No. 2001-17 of June 1, 2001	30633
No. 2001-18 of June 8, 2001	34353
No. 2001-19 of June 11, 2001	34355
No. 2001-20 of July 2, 2001	37109
No. 2001-21 of July 4, 2001	37111

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 2001.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

330 Authority citation revised	6428; 29896
330.301—330.307 (Subpart C) Removed; interim	29896
330.603 Removed; interim	29896
330.610 Removed; interim	29896
330.702 Removed; interim	29896
330.710 Removed; interim	29896
330.1101 Revised; interim	6428
330.1102 Revised; interim	6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim	6429
330.1105 Revised; interim	6429
330.1106 Heading, (a) and (b) revised; interim	6429
332.314 Removed; interim	29896
351.807 (f) revised; interim	29896
353.110 (b) revised	29897
537 Added	2791
Regulation at 66 FR 2791 eff. date delayed	9187
537.101 Revised	39406
537.102 Amended	39406
537.110 Heading revised; existing text designated as (a); (b) added	39406
575.102 (a)(5) and (6) amended; (a)(7) added	37883
575.202 (a)(5) and (6) amended; (a)(7) added	37883
575.302 (a)(5) and (6) amended; (a)(7) added	37783
731 Regulation at 65 FR 82243 eff. date delayed	7863
731.301 (b) corrected	11100
731.304 Corrected	11100
792.207 Revised	705
792.230 Revised	705
792.234 Revised	705
831 Authority citation revised	15608, 38524
831.205 Added; interim	15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim	15608
831.303 (d) added; interim	15608
831.902 Amended; interim	38524
831.908 (a) revised; interim	38524
831.910 Revised; interim	38524
831.912 Undesignated center heading and section added; interim	38524
839 Added; interim	15609
841 Authority citation revised	15618
841.604 (c) added; interim	15618
842 Authority citation revised	38525
842.802 Amended; interim	38525
842.807 Revised; interim	38525
842.810 Undesignated center heading and section added; interim	38525
846 Authority citation revised	15618
846.204 (b)(2)(i) revised; (e) added; interim	15618

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended	30635
1201 Appendix I revised	30635

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised	22089
1601 Revised	22093
1605.4 (a)(3) amended	14448
1605.6 Revised	14448
1605.8 Revised	14448

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended	3439
2604.301 (a) and (b)(2) amended	3439
2604.302 (a) and (d) amended	3439
2604.303 (a), (b) introductory text and (2) amended	3439
2604.304 (a) amended	3439

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 5 Chapter XVI—Con.

2604.305 (a)(1) and (2) amended 3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended 3439

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised 8506
3101.109 (c)(1) and (3) revised 8506

Proposed Rules:

537 15202
575 5491
1600 16411
1601 16415
1604 21693
1605 20090
1606 20090
1650 36494

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

1.29 (a)(3) added 36907
1.130—1.151 (Subpart H) Authority citation revised 36908
1.131 (a) amended 36908
2 Authority citation revised..........16593
2.17 (a)(21)(xi) revised 31107
2.25 (a)(2) and (6) corrected 8149
2.45—2.49 (Subpart G) Heading revised..........31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added..........16593
2.48 (a)(27) added..........31107
2.49 (a)(1)(i) revised..........16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised 21047
20 Appendix 1 amended..........38527
28.909 (b) revised 29216
28.911 (a) amended 29216
29.123 (b) revised; interim 28361
29.9251 Amended; interim 28361
54.1001—54.1034 (Subpart C) Added..........1198
59 Regulation at 65 FR 75514 eff. date delayed..........8151
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected 15619

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed 38349
215 Authority citation revised 2201
215.2 (aa) redesignated as (bb); (i–1), (k–1) and new (aa) added; interim 2201
215.13a (f) and (g) added; interim 2201
220.8 (c) heading correctly revised; CFR correction..........33631
Regulation at 65 FR 36317 confirmed..........38349
225.2 Amended; interim..........2202
225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202
226.2 Amended; interim..........2203
226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203
245 Authority citation revised 2205
245.2 (a–3), (f–1), (k) and (l) redesignated as (a–4), (f–2), (l) and (m); new (a–3), (f–1) and (k) added; interim 2205
245.6 (a)(1) revised; (f) added; interim..........2205
246.2 Regulation at 65 FR 83277 eff. date delayed..........8885
246.3 Regulation at 65 FR 83277 eff. date delayed..........8885
246.4 Regulation at 65 FR 83277 eff. date delayed..........8885
246.7 Regulation at 65 FR 83278 eff. date delayed..........8885
246.12 Regulation at 65 FR 83278 eff. date delayed..........8885
246.13 Regulation at 65 FR 83286 eff. date delayed..........8885
246.14 Regulation at 65 FR 83286 eff. date delayed..........8885
246.18 Regulation at 65 FR 83286 eff. date delayed..........8885
246.19 Regulation at 65 FR 83288 eff. date delayed..........8885

246.23 Regulation at 65 FR 83288 eff. date delayed....8885
246.26 Regulation at 65 FR 83288 eff. date delayed....8885
271.2 Amended....2799
Regulation at 66 FR 2799 eff. date delayed....8885, 18869
272.1 (c)(1)(vii) and (g)(165) added....4463
Regulation at 66 FR 4463 eff. date delayed....8886, 29661
272.2 (d)(1)(xiii) added....4464
Regulation at 66 FR 4464 effective date delayed in part....8886, 29661
273.1 (b)(7)(viii) through (xii) added....4464
Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added....4464
Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added....4464
Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.12 (a)(1)(viii) added....4468
Regulation at 66 FR 4468 eff. date delayed....8886, 29661
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii)....4468
Regulation at 66 FR 4468 eff. date delayed....8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added....4469
Regulation at 66 FR 4469 eff. date delayed....8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi); new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended....2799
Regulation at 66 FR 2799 eff. date delayed....8885, 18869
278.6 (a) and (g)(3) amended....2800
Regulation at 66 FR 2800 eff. date delayed....8885, 18869

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised....21050
300.1 (c) and (d) added....37400
301 Authority citation revised....21050, 32717
301.38 Footnote 1 amended....21050
301.45 (a) amended....21050
(a) amended; interim....37114
301.45-3 (a) amended; interim....37114
301.45-9 Amended....21050
301.48 (a) amended....21050
301.48-5 Amended....21051
301.50 Footnote 1 amended....21051
301.50-3 Regulation at 65 FR 37842 confirmed....20186
(c) amended; (d) illustration revised....37403
301.50-5 (a)(3) and (b)(2) revised....21051
301.51-5 (a)(2) and (b)(2) revised....21051
301.52-8 Amended....21051
301.64 Footnote 1 amended....21051
301.64-1 Amended....21051
301.64-5 (a)(2) and (b)(2) revised....21051
301.74 Footnote 1 amended....21051
301.75-1 Amended....32717
301.75-16 Added....32717
(c) corrected....33740
301.78 Footnote 1 amended....21051
301.78-5 (a)(3) and (b)(2) revised....21051
301.80 (a) revised....21052
301.80-1 Amended....21052
301.80-8 Amended....21052
301.81-3 Regulation at 65 FR 66489 confirmed....20186
301.81-5 (a)(2) and (b)(2) revised....21052
301.85 (a) revised....21052
301.85-1 Amended....21052

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 7 Chapter III—Con.

301.85-8 Amended	21052
301.87 Heading, footnote 1 and (a) revised	21052
301.87-1 Amended	21052
301.87-5 (a)(2) and (b)(2) revised	21053
301.89-3 Amended; interim	32210
(f) amended; interim	37576
301.89-6 (a)(2) and (c)(2) revised	21053
301.91 Heading amended	21053
301.91-1 Amended	21053
301.91-5 (a)(2) and (b)(2) revised	21053
301.93 Footnote 1 amended	21053
301.93-5 (a)(2) and (b)(2) revised	21053
301.97 Footnote 1 amended	21053
301.97-5 (a)(3) and (b)(2) revised	21053
301.98-3 (c) revised; interim	33632
301.98—301.98-10 (Subpart) Added; interim	6433
301.98—1 Corrected	20186
302 Added; interim	1016
302 Authority citation revised	21054
318 Authority citation revised	21054
318.13 (a) revised	21054
318.13-12 (a) amended	21054
318.30 (b) revised	21054
318.47 (b) revised	21054
318.58 (a) revised	21054
318.60 (b) revised	21054
318.82 (a) revised	21054
319 Authority citation revised	21054
Policy statement	38137
319.8 Amended	21054
319.8-1 Amended	21055
319.8-2 Authority citation removed	21055
319.8-4 Authority citation removed	21055
319.8-5 Authority citation removed	21055
319.8-26 Amended	21055
319.15 (a) revised	21055
319.24 (b) revised	21055
319.24-1 Authority citation removed	21055
319.24-3 Authority citation removed	21055
319.24-4 Authority citation removed	21055
319.28 (a) revised	21055
319.37-1 Amended	21055
319.37-3 (c) and (f) revised; authority citation removed	21055
319.37-5 Authority citation removed	21056
319.37-7 (f)(4) amended; authority citation removed	21056
319.37-8 Authority citation removed	21056
319.37-10 Authority citation removed	21056
319.37-11 Authority citation removed	21056
319.40-4 (c) revised	21056
319.40-9 (a)(4)(1) amended	21056
319.41 (b) and (c) revised	21056
319.41-2 Authority citation removed	21056
319.41-4 Authority citation removed	21056
319.41-6 Authority citation removed	21056
319.55 (b) and (c) revised	21056
319.55-2 Authority citation removed	21056
319.55-5 Authority citation removed	21056
319.55-7 Authority citation removed	21056
319.56 (b) and (c) revised	21056
319.56-2j Authority citation removed	21056
319.56-2ii Added	32213
319.56-3 Authority citation removed	21056
319.56-5 Authority citation removed	21056
319.59—319.59-2 (Subpart) Authority citation removed	21056
319.59 (a) revised; (b) amended	21056
319.59-1 Amended	21057
319.75 (b) amended	21057
319.75-1 Amended	21057
319.75-3 (c) revised; authority citation removed	21057
319.75-5 Authority citation removed	21057
319.75-6 Authority citation removed	21057
319.76 (b) amended	21057
319.76-1 Amended	21057
319.76-3 (c) revised	21057
319.77-5 Amended	21057
322 Authority citation revised	21057
330 Authority citation revised	21058
330.100 Amended	21058
330.102 Revised	21058

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

330.106 (a) amended 21058
330.205 Amended 21058
330.207 Amended 21058
330.208 Amended 21058
330.210 Amended 21058
330.211 Heading and (c) revised 21058
330.400 (f) revised 21058
340 Authority citation revised 21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised 21058
340.3 (b)(1) amended 21058
351 Authority citation revised 21058
351.1 Revised 21059
352 Authority citation revised 21059
352.1 (b) amended 21059
352.2 (a), (b) and (c)(1) revised 21059
352.3 (a) revised 21059
352.5 (d) amended 21059
352.6 Authority citation removed 21059
352.7 Authority citation removed 21059
352.10 (a), (b)(1) and (2) amended 21059
352.13 Amended 21059
353 Auhority citation revised 21059
353.1 Amended 21059, 37400
  Amended; interim 371176
353.7 (e)(4) revised; interim 37116
353.8 Amended (OMB number) 37400
353.9 Added 37400
354 Authority citation revised 21060
354.1 Authority citation removed 21060
354.3 (a) amended 21060
355 Footnotes 1 and 2 removed; authority citation revised 21060
355.1 Revised 21060
355.11 Footnote 3 revised 21060
356 Authority citation revised 21060
360 Authority citation revised 21060
360.200 Heading and introductory text revised 21060
360.300 Authority citation removed 21060
  Regulation at 65 FR 41009 confirmed 32217
361 Authority citation revised 21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv) redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added 21060
372 Authority citation revised 21060
380 Authority citation revised 21060
380.1 Revised 21061

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

760.1—760.34 (Subpart) Authority citation revised 2801
761 Authority citation revised 7566
761.8 Added 7566
762 Authority citation revised 7567
762.102 Amended 7567
762.105 (c)(1) revised; (c)(2)(iii) removed 7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d) 7567
762.125 (a)(2), (3), (6) and (8) revised 7567
762.142 (d)(8) revised 7567
762.145 (b)(6)(iv) revised 7567
762.146 (e)(9) revised 7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised 7567
770 Added 1567
  Regulation at 66 FR 1567 eff. date delayed 8886

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 35753
  (a) Table 1 corrected 36834
868.90 (a) revised 17777
868.91 Revised 17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.306 (c) and (d) revised 229
916.115 Revised; interim 17484
916.160 (c) revised; interim 39409
916.350 (d) revised; interim 17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text

and (6) introductory text revised; interim....17484
917.150 Revised; interim....17485
917.178 (c) revised; interim....39409
917.442 (d) revised; interim....17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim....17486
920.155 Removed....39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v)....39270
928.150 Stayed; interim....29219
928.152 Stayed; interim....29219
928.160 (a)(1) revised; interim....29219
928.313 Stayed; interim....29219
929.104 (a)(4) revised....34351
929.107 Removed....34351
929.110 (d) added....34351
929.125 Revised....34351
929.148 Removed....34351
929.149 Revised....34351
929.158 Revised....34351
929.251 Added....34352
930.16 Revised....35896
930.50 (a) revised....35896
930.54 (a) stayed in part; interim....232
Regulation at 66 FR 232 confirmed....21273
930.59 (b) suspended in part; interim....39413
930.120 Added; interim....35889
930.154 Added; eff. 5-2-01 through 6-30-01....21842
930.162 (a), (b)(3) and (c)(3) revised; interim....39413
930.163 Added; interim....35889
930.200 Revised; interim....235
Regulation at 66 FR 235 confirmed....21276
930.252 Added; eff. 5-2-01 through 6-30-01....21842
932 Marketing order....16593
932.230 Revised; interim....13391
Regulation at 66 FR 13391 confirmed....30291
944.106 (c) revised....229
946.104 Regulation at 65 FR 70463 confirmed....18721
946.120 Regulation at 65 FR 70463 confirmed....18721
946.336 Regulation at 65 FR 70463 confirmed....18721
955.209 Revised....16841
956.142 Regulation at 65 FR 61083 confirmed....13393
956.180 Regulation at 65 FR 61083 confirmed....13393
959.237 Revised; interim....16597
966.323 Regulation at 65 FR 66495 confirmed....13396
981.442 (a)(3) amended; (a)(5) revised....39273
982 Marketing percentages....13399
985.220 Added; eff. through 5-31-02....30296
989.156 (t) added; interim....708
Regulation at 66 FR 708 eff. date confirmed....16599
989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added....39277
993.408 Added; eff. 8-1-01 through 7-31-02....30646

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1210.501 Revised....13402
1218.3 Amended....37118
1218.23 Amended....37118
1218.40 Undesignated center heading revised....37118
Amended....37119
1218.41 Amended....37119
1218.42 Amended....37119
1218.43 Amended....37119
1218.44 Amended....37119
1218.45 Amended....37119
1218.46 Amended....37119
1218.47 Amended....37119
1218.48 Amended....37119
1218.50 Amended....37119
1218.51 Amended....37119
1218.52 Amended....37119
1218.53 Amended....37119
1218.54 Amended....37119
1218.55 Amended....37119
1218.56 Amended....37119
1218.60 Amended....37119
1218.62 Amended....37119
1218.70 Amended....37119
1218.73 Amended....37119

- 1218.75 Amended 37119
- 1240 Heading and authority citation revised 21829
- 1240.1—1240.67 (Subpart A) Heading added 21829
- 1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2....................21829
- 1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised 21829
- 1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised 21829
- 1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14 21829
- 1240.5 Redesignated as 1240.12; new 1240.5 added 21829
- 1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11 21829
- 1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20 21829
- 1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised....................21829
- 1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8....................21829
- 1240.10 Redesignated as 1240.13; new 1240.10 redesignated from 1240.4; new 1240.10 revised 21829
- 1240.11 Redesignated as 1240.6; new 1240.11 added....................21829
- 1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5 21829
- 1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised 21829
- 1240.14 Redesignated as 1240.4 21829
  - Added 21830
- 1240.16 Redesignated as 1240.3 21829
  - Added 21830
- 1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22 21829
- 1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3....................21829
- 1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21 21829
  - Revised....................21830
- 1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6....................21829
- 1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9....................21829
- 1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12 21829
- 1240.23 Added 21830
- 1240.24 Added 21830
- 1240.25 Redesignated from 1240.13 21829
  - Revised....................21830
- 1240.26 Redesignated from 1240.1 21829
- 1240.27 Redesignated from 1240.19 21829
- 1240.28 Redesignated from 1240.17 21829
- 1240.30 Revised....................21830
- 1240.31 Revised....................21830
- 1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added 21830
- 1240.33 Added 21831
- 1240.34 (a) and (b) revised; (c) amended 21831
- 1240.35 (a) revised....................21832
- 1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised....................21832
- 1240.39 Undesignated center heading and text revised 21832
- 1240.40 (a) and (b) revised....................21832
- 1240.41 Revised....................21833
- 1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised....................21833
- 1240.43 Removed; new 1240.43 redesignated from 1240.44....................21829
- 1240.44 Redesignated as 1240.43....................21829
  - Added 21833
- 1240.50 Revised....................21834
- 1240.51 Revised....................21834
- 1240.52 Revised....................21834
- 1240.61 Revised....................21834
- 1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised....................21834

TITLE 7 Chapter XI—Con.

1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added 26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised 23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised 15176
1400.1 (g) table amended 15176
1410.12 Added 22099
1421 Authority citation revised 13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised 15176
1421.300—1421.307 (Subpart) Added 13404
1427 Authority citation revised 15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised 15176
1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176
1430.500 Amended 15176
1430.502 Amended 15177
1430.503 Amended 15177
1430.510 Revised 15177
1430.511 Added 15177
1434 Added 15177
1435.2 Amended 15182
1435.100 (a) amended 15182
1435.102 Removed; new 1435.102 redesignated from 1435.103 15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104 15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3) 15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated from 1435.106; (c) and (d)(4) revised 15182
1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107 15182
(b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised 15183
1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108 15182
1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109 15182
1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110 15182
1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111 15182
1435.111 Redesignated as 1435.110 15182
1436 Revised 4612
1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11) 17073
1439.101—1439.109 (Subpart B) Revised 15542
1439.301—1439.357 (Subpart D) Revised 15544
1439.901 Revised 15547
1439.906 (a) amended 15547
1446.102 (c) amended 1810
1446.103 Amended 1810
1446.307 (g) removed 1810
Correctly designated 10353
1469 Authority citation revised 13841
1469.201—1469.214 (Subpart C) Added 13841
1470 Added 13843
1476 Added 15183
1480 Added 14979
1481 Added 14481
1481.3 Corrected 18869
1482 Added; interim 30802

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1773 Authority citation revised 27830, 27835
1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835

Regulation at 66 FR 27835 confirmed 37405
1773.2 Amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.3 (b) revised; (c) amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C), new (5)(ii) and new (6)(ii) amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.6 (a)(1), (4) and (7) amended 27835
Heading and (a) introductory text revised 27836
Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.7 (b) and (c)(4) revised 27836
Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.8 (a)(2) and (c) amended 27835
(a)(1) and (c) table revised 27836
Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.9 Heading, (a), (b) and (c) introductory text revised 27836
Regulation at 66 FR 27836 confirmed 37405
1773.20—1773.29 (Subpart C) Heading revised 27836
Regulation at 66 FR 27836 confirmed 37405
1773.20 (a), (b) and (c)(6) amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.21 (a) and (b) amended 27835
Heading revised; (e) added 27836
Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.30 (b) amended 27835
(a) revised 27836
Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.31 Revised 27836
Regulation at 66 FR 27836 confirmed 37405
1773.32 Inroductory text, (a) through (d) and (f) note revised 27836
Regulation at 66 FR 27836 confirmed 37405
1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added 27830
Regulation at 66 FR 27830 confirmed 37405
1773.38 (b) amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773 Appendices A through D removed 27837
Regulation at 66 FR 27837 confirmed 37405
1779 Added 23138
1780.10 (b)(4) amended 23151
1786 Second (c) correctly removed; CFR correction 15785

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1901 Authority citation revised 7568
1901.1—1901.5 (Subpart A) Removed 7568
1902 Authority citation revised 1569
1902.15 (c) amended 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1910.1 (f) added; interim 1572
1910.4 (b) amended; (c) through (k) redesignated as (d) through (l); new (c) added; interim 1572
1941.16 Introductory paragraph revised; interim 1573

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 7 Chapter XVIII—Con.

1941.29 Heading and (b) revised; (d) removed	7568
1942 Authority citation revised	27014
1942.304 Amended; interim	27014
1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c)	7568
1943.79 Removed	7568
1945 Authority citation revised	7568
1945.154 (a) amended	7568
1945.163 (e) amended	7568
1951.201 Amended	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1951.221 (b) amended	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1951.222 (a)(11) removed	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1951.230 (b)(5) and (6) amended; (b)(7) removed	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1955.10 (a)(1)(ii) removed	7568
1955.104 (c) removed	7568
1956.101 Amended	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1956.105 (k) removed	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1956.137 (k) removed	1569
Regulation at 66 FR 1569 eff. date delayed	8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2)	7568
1965.27 (a) removed	7568
1980.1—1980.100 (Subpart A) Removed	23151
1980.801—1980.900 (Subpart I) Removed	23151

Proposed Rules:

26	21608
27—209 (Ch. I)	13267
28	20408
29	21888
80	19099, 27045
201	16015
274	36495
300	6488, 37425
301	3505, 20204, 32268
318	37425
319	6488, 19892, 20208, 29735, 34584, 36892, 39121
400	36951
610	34584
800—899 (Ch. VIII)	13267
800	17817, 19608
905	39459
920	26810
923	13447, 18573
929	2838, 24291
930	1909, 26813
955	1915, 21288
956	21107
981	21888, 31850
985	20615
989	16621
993	13454
1030	31185
1210	21596, 21602
1219	36870, 36886
1410	15048
1439	13679
1710	20759
1721	1604
1773	27912
1944	29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3 Authority citation revised	37123
3.1 (d)(2)(iii) amended	6445
3.3 (b) amended	6445
3.43 Revised; interim	37123
3.44 Added	6445
(f) corrected	8149
100.4 (e) amended; interim	29672
103 Authority citation revised	32143
103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim	32144
103.2 (a)(7)(i) amended; intrim	29672
(f) added; interim	29685
103.7 (b)(1) amended; interim	29672
(b)(1) amended; (c)(1) revised; interim	29685
103.12 Regulation at 65 FR 82255 eff. date delayed	7863
208.8 Regulation at 65 FR 82255 eff. date delayed	7863

210.4 Regulation at 65 FR 82255 eff. date delayed....7863
212 Authority citation revised....236
212.1 (e)(3)(i) amended; interim....236
  (f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised....1018
  Regulation at 66 FR 1018 eff. date delayed....8743
  (f)(2) eff. 4-6-01) and (3) amended, interim....17322
  (f)(2) amended; interim....32530
212.3 (g) added....6446
212.5 Regulation at 65 FR 82255 eff. date delayed....7863
212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim....3444
214.1 (a)(2) table and (c)(1) amended; interim....31112
214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim....31112
235.3 Regulation at 65 FR 82256 eff. date delayed....7863
235.4 Regulation at 65 FR 82256 eff. date delayed....7863
236.14 (a) amended; interim....29672
240.15 Amended....6446
240.21 (c) amended....6446
240.53 (a) amended....6446
241 Authority citation revised....29451
241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim....29451
241.33 Regulation at 65 FR 82256 eff. date delayed....7863
244.1 Regulation at 64 FR 4781 confirmation delayed....7863
244.6 Regulation at 64 FR 4781 confirmation delayed....7863
244.10 Regulation at 64 FR 4782 confirmation delayed....7863
244.12 Regulation at 64 FR 4782 confirmation delayed....7863
244.15 Regulation at 64 FR 4782 confirmation delayed....7863
244.18 Regulation at 64 FR 4782 confirmation delayed....7863
245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim....16388
245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as (c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim....29451
245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i); (e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim....29452
245.20 Added; interim....27448
245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim....29673
245a.2 Regulation at 65 FR 82256 eff.date delayed....7863
245a.4 Regulation at 65 FR 82256 eff. date delayed....7863
245a.30—245a.37 (Subpart C) Added; interim....29673
248.3 (a) amended; interim....31114
255a.10—245a.29 (Subpart B) Added; interim....29673
274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim....29681
299.1 Table amended; interim....29681, 29686, 31114
299.5 Table amended; interim....29682, 29686
310 Authority citation revised....32144
310.3 (b) amended; interim....32144
320 Added; interim....32144
322 Revised; interim....32145
334 Authority citation revised....32146
334.1 Amended; interim....32147
334.2 (a) amended; interim....32147
337 Authority citation revised....32147
337.9 (b) removed; interim....32147

TITLE 8 Chapter I—Con.

338 Authority citation revised........32147
338.4 Removed; interim....................32147
341 authority citation revised 32147
341.2 (a)(1) introductory text revised; interim 32147
341.7 (b) removed; interim 32147

Proposed Rules:

211..37429
212.......................................1053, 37429

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised...........21061
2 Authority citation revised 239, 21061
2.129 (c) revised; (d) added 239
Regulation at 66 FR 239 eff. date delayed..............................8743
3.101 Revised 251
Regulation at 66 FR 251 eff. date delayed..............................8744
3.104 (a) revised.....................................252
Regulation at 66 FR 252 eff. date delayed..............................8744
3.105 Revised 252
Regulation at 66 FR 252 eff. date delayed..............................8744
3.107 Revised 253
Regulation at 66 FR 253 eff. date delayed..............................8744
3.108 Revised 253
Regulation at 66 FR 253 eff. date delayed..............................8744
3.109 Revised 253
Regulation at 66 FR 253 eff. date delayed..............................8744
3.110 Revised 253
Regulation at 66 FR 253 eff. date delayed..............................8744
3.112 Revised 254
Regulation at 66 FR 254 eff. date delayed..............................8744
3.113 Revised 255
Regulation at 66 FR 255 eff. date delayed..............................8744
3.114 Revised 255
Regulation at 66 FR 255 eff. date delayed..............................8744
3.115 Revised 256
Regulation at 66 FR 256 eff. date delayed..............................8744
3.116 Revised 256
Regulation at 66 FR 256 eff. date delayed..............................8744
3.117 Revised 256
Regulation at 66 FR 256 eff. date delayed..............................8744
3.118 Revised 257
Regulation at 66 FR 257 eff. date delayed..............................8744
11 Authority citation revised 21061
49 Authority citation revised 21061
50 Authority citation revised 21061
50.3 Authority citation removed 21061
50.16 (a)(4) revised...........................21061
51 Authority citation revised 21061
51.1 Amended; authority citation removed...21061
52 Authority citation revised 21061
53 Authority citation revised 21061
54 Authority citation revised 21061
54.1 Amended 21061
70 Authority citation revised 21061
71 Authority citation revised 21061
72 Authority citation revised 21061
72.6 Revised 21061
72.13 (a) Footnote 4 revised.............21062
73 Authority citation revised 21062
73.2 Authority citation removed 21062
73.3 Authority citation removed 21062
73.5 Authority citation removed 21062
73.6 Authority citation removed 21062
73.12 Authority citation removed 21062
74 Authority citation revised 21062, 37128
74.1 Revised 37128
75 Authority citation revised 21062
75.4 Amended 21062
78.41 Regulation at 65 FR 75582 confirmed 19847
(a) and (b) amended; interim 20900, 32894
79 Authority citation revised 21062
79.2 (a)(2) Footnote 1 revised 21062
79.3 (b) Footnote 2 amended 21062
80 Authority citation revised 21062
82 Authority citation revised 21062
82.30 Amended 21062
82.32 Footnote 2 amended 21062

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

82.33 (a)(2) Footnote 4 amended 21062
82.37 Footnote 7 amended 21062
85 Authority citation revised 21063
85.1 Amended 21063
89 Authority citation revised 21063
91 Authority citation revised 21063
92 Authority citation revised 21063
93.301 Regulation at 65 FR 78899 eff. date delayed 8887
  Regulation at 65 FR 78899 confirmed 11101
93.400 Amended 20189
93.406 (a) and (c) revised 20190
93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised 20190
94 Technical correction 18357
  Authority citation revised 21063
94.1 (a)(2) amended; interim 9643, 14826, 29659, 36697
  (a)(1) amended; interim 29699
94.4 (a) and (b) amended; interim 29699
94.5 (e)(2) revised 21063
94.11 (a) amended; interim 9643, 14826, 29659
  (a) amended; interim 36697
94.18 (a)(1) and (2) amended; interim 22426
  (a)(2) amended; interim 29900
94.21 Removed; interim 29699
95 Authority citation revised 21063
96 Authority citation revised 21063
97 Authority citation revised 21063
98 Authority citation revised 21063
99 Authority citation revised 21063
101 Authority citation revised 21063
102 Authority citation revised 21063
103 Authority citation revised 21063
103.2 Authority citation removed 21063
104 Authority citation revised 21063
105 Authority citation revised 21063
106 Authority citation revised 21063
107 Authority citation revised 21064
108 Authority citation revised 21064
109 Authority citation revised 21064
112 Authority citation revised 21064
113 Authority citation revised 21064
114 Authority citation revised 21064
115 Authority citation revised 21064
116 Authority citation revised 21064
116.1 Authority citation removed 21064
116.2 Authority citation removed 21064
116.3 Authority citation removed 21064
116.4 Authority citation removed 21064
116.6 Authority citation removed 21064
117 Authority citation revised 21064
118 Authority citation revised 21064
122 Authority citation revised 21064
123 Authority citation revised 21064
124 Authority citation revised 21064
145 Authority citation revised 21064
147 Authority citation revised 21064
151 Authority citation revised 21064
156 Authority citation revised 21064
160 Authority citation revised 21064
161 Authority citation revised 21064
162 Authority citation revised 21064
166 Authority citation revised 21064
166.1 Authority citation removed 21064
166.2 Authority citation removed 21064
166.10 Authority citation removed 21064
167 Authority citation revised 21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

331.2 Table amended 2207
331.6 Table amended 2207
362 Authority citation revised 21637, 22905
362.1 Revised; interim 21637, 22905
362.2 Revised; interim 21637, 22905
381.1 (b) amended; eff. 1-9-02 1770
  (b) corrected 19714
  (b) amended; interim 21637, 22905
381.36 (b) amended; interim 21637, 22905
381.65 Revised; eff. 1-9-02 1771
  (e) correctly revised; (f) correctly added 19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1-9-02 1771
  (c)(1) corrected 19714
  (b) heading, (c) heading and (d)(1) revised; interim 21637, 22905
381.67 Introductory text revised; table amended; interim 21637, 22906
381.70 Existing text designated as (a); (b) added; interim 21638, 22906

TITLE 9 Chapter III—Con.

381.71 Existing text designated as (a); (b) through (f) added; interim 21638, 22906
381.72 Revised; interim 21638, 22906
381.76 (b)(1) introductory text revised; interim 21638, 22906
381.96 Revised; interim 21638, 22906
381.221 Table amended 2207
381.224 Table amended 2207
441 Added; eff. 1-9-02 1771

Proposed Rules:

1 6491
93 ....19898, 20211, 29921
101 19899
113 37194
145 37919
147 37919
301 ....12590, 19102, 35112
303 ....12590, 19102, 35112
317 ....4970, 12590, 19102, 20213, 35112
318 ....12590, 19102, 35112
319 ....12590, 19102, 35112
320 ....12590, 19102, 35112
325 ....12590, 19102, 35112
331 ....12590, 19102, 35112
381 ....4970, 8178, 12590, 19102, 20213, 35112
417 ....12590, 19102, 35112
430 ....12590, 19102, 35112

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction 33013
2.1001 Amended 29465
2.1003 (a) introductory text, (2) introductory text and (xv) revised 29465
2.1009 (b) revised 29466
2.1010 (a)(2) revised 29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added 29466
2.1012 (a) revised 29466
5 Appendix A added 709
9.35 (a)(1) revised 22907
34.47 Regulation at 65 FR 63751 confirmed 1573
34.83 Regulation at 65 FR 63752 confirmed 1573
36.55 Regulation at 65 FR 63752 confirmed 1573
36.81 Regulation at 65 FR 63752 confirmed 1573
39.65 Regulation at 65 FR 63752 confirmed 1573
50.47 (b)(10) revised 5440
50.55a (b)(2)(xv)(C)(*1*) 16391
51.10—51.125 (Subpart A) Appendix B amended 39278
70.38 (e) introductory text revised 24049
72 Technical corrections 33013, 38528
72.48 (c)(2)(iii) and(vii) revised 11527
72.214 Regulation at 65 FR 60342 confirmed 1573
  Amended 3448, 12437, 13409, 14486, 34525
  Corrected 8150
  Regulation at 65 FR 76898 confirmed 10569
  Regulation at 65 FR 12437 confirmed 23537
  Regulation at 66 FR 13409 confirmed 27449
  Regulation at 66 FR 14486 confirmed 28641
72 Regulation at 65 FR 75855 confirmed 10569
150 Technical correction 35529
150.20 (b)(1) amended 5443
  (b)(2) revised 32469
170 Authority citation revised 32469
170.2 (s) added 32469
170.3 Amended 32469
170.12 (a) revised 32469
170.20 Revised 32469
170.21 Introductory text and table amended 32469
  Table corrected 35529
170.31 Revised 32470
170.41 Revised 32474
171 Authority citation revised 32474
171.5 Amended 32474
171.15 (b) through (e) revised 32474
171.16 (c), (d) and (e) revised 32474
171.19 (b) and (d) revised 32478
171 Appendix A corrected 35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement 8745, 19714
  Technical correction 11635
430.2 Amended 7199
  Regulation at 66 FR 7199 eff. date delayed 8745, 20191
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1-20-04; Appendix J amended 3330

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

Appendix E amended; eff. 1-20-04 4497
Appendix J amended 8745
Regulation at 66 FR 3330 eff. date delayed 8744
430.32 (g) revised; eff. 1-20-04 3332
(d) revised 4497
(c) revised 7199
Regulation at 66 FR 7199 eff. date delayed 8745, 20191
431.701—431.704 (Subpart Q) Added 3354
Regulation at 66 FR 3354 eff. date delayed 8745
Regulation at 66 FR 3354 confirmed 27853
490 Authority citation revised 2210
490.703 (b) revised 2210
Regulation at 66 FR 2210 eff. date delayed 8746
Regulation at 66 FR 2210 confirmed 21851
490.705 (a) and (b) revised; (d) added 2210
Regulation at 66 FR 2210 eff. date delayed 8746
Regulation at 66 FR 2210 confirmed 21851
600 Authority citation revised 34784
600.6 (c)(8) revised 34784

Chapter III—Department of Energy (Parts 700—999)

719 Added 4621
Regulation at 66 FR 4621 eff. date delayed 8746
Policy statement 19717
830 Regulation at 65 FR 60308 confirmed; revised 1818
Regulation at 66 FR 1818 eff. date delayed 8746
Policy statement 19717

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised 4630
Policy statement 18721
1040.1 Existing text designated as (a); (b) and (c) added 4630
Regulation at 66 FR 4630 eff. date delayed 8747
1040.21—1040.57 (Subpart C) Removed 4630
Regulation at 66 FR 4630 eff. date delayed 8747
1042 Added 4630
Regulation at 66 FR 4630 eff. date delayed 8747
Policy statement 18721
1044 Added; interim 4642
Regulation at 66 FR 4642 eff. date delayed 8747
Regulation at 66 FR 4642 confirmed 23833

Proposed Rules:

1 .....19610, 27045
2 .....19610, 27045, 29741
20 36502
30 .....20099, 29243
34 29243
35 .....20214, 29243
36 29243
39 .....13858, 29243
40 29243
50 .....3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432
51 .....10834, 19610, 27045, 29251
52 .....19610, 27045
54 .....19610, 27045
60 .....19610, 27045
61 29251
70 .....19610, 27045, 29243, 29251
72 .....9055, 12439, 13459, 14503, 29243, 29251, 34580
73 .....10839, 19610, 27045, 29251
74 29251
75 .....19610, 29251
76 .....10839, 19610, 27045, 29243, 29251
95 10839
110 .....19610, 27045
150 .....16982, 20035, 29251
170 .....16982, 20035
171 .....16982, 20035
255 13860
430 .....6768, 15203, 32914, 36960, 38822
600 23197
733 19900
1008 32272

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5-9-01 23537
100.23 Regulation at 65 FR 76146 eff. 5-9-01 23537

TITLE 11 Chapter I—Con.

109.1 Regulation at 65 FR 76146 eff. 5-9-01 23537
110.14 Regulation at 65 FR 76146 eff. 5-9-01 23537

Proposed Rules:

100 ....13681, 23628, 38576
104 ....23628, 38576
109 23628
113 38576

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction 36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised 34791
5.26 (e)(5) revised 34797
7 Authority citation revised 34791
  Technical correction 36834
7.1021 Added 34791
7.3000 (b) amended 34791
7.4001 (a) amended 34791
7.4002 revised 34791
7.4006 Added 34791
8 Heading and authority citation revised 23153
8.2 (a)(7) and (b)(5) removed; (c) and (d) added 29893
8.6 Heading and (a) revised 23153
  (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added 29894
9.2 (g) amended; (j) and (k) added 34797
9.3 (b) revised; (c) added 34798
9.7 Added 34798
9.14 (b) revised 34798
14 Regulation at 65 FR 75839 eff. date delayed 15345
23 Technical correction 36834
23.21 (a)(2) revised 34792
30 Authority citation revised 8633
30.1 Revised 8633
30.2 Amended 8633
30.3 (a) revised 8633
30 Appendix B revised 8633
  Appendix C removed 8634
32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added 31120
32.3 (c)(5) revised 31120
32.7 Added 31120
35 Added 2085

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised 2211, 9907, 18185, 20901, 29009, 35530
202.4 Revised; interim 17785
202.9 (h) added; interim 17785
202.17 Added; interim 17785
202 Supplement I amended; interim 17786
205 Authority citation revised 15192
205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim 17793
205.7 (b)(11) added 13412
205.16 Added 13412
205.17 Added; interim 17793
205 Supplement I and Appendix A amended 13412
  Supplement I amended 15192
  Appendix A amended; interim 17793
  Supplement I amended; interim 17794
207 Added 2092
208 Authority citation revised 8634
208.3 (d)(1) revised 8634
208.71 (c) revised 8749
208.77 (e) revised 8749
208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed 15345
208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed 15345
208 Appendix D-2 revised 8634
211 Authority citation revised 8636
211.9 Added 8636
211.24 (i) added 8636
213.3 (a)(5) added; interim 17328
213.6 Added; interim 17328
213 Supplement I amended; interim 17328
220 OTC margin stock lists 11101
225 Authority citation amended 414, 8636
225.1 (c)(9) added 414
  (c)(10) revised 8484
  (c)(16) added 8636
225.2 (r)(2) and (s) revised; (t) added 414

225.4 (h) added....8636
225.14 (c)(2)(i) revised....415
225.23 (c)(2)(i) revised....415
225.81—225.94 (Subpart I) Revised....415
225.86 (e) added; interim....260
  (d) and (e) added; interim....19081
225.170—225.177 (Subpart J) Revised....8484
225 Appendix F added....8636
226.5 (a)(5) added; interim....17338
226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim....17338
226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim....17338
226.15 (b) introductory text amended; interim....17338
226.16 (c) revised; interim....17338
226.17 (a)(3) added; (g) introductory text revised; interim....17338
226.23 (b)(1) amended; interim....17338
226.24 (d) revised; interim....17338
226.27 Revised; interim....17339
226.31 (b) revised; interim....17339
226.36 (Subpart F) Added; interim....17339
226 Supplement I amended; interim....17339
230.3 (a) revised; (g) added; interim....17802
230.4 (a)(1) and (2)(i) revised; interim....17802
230.6 (c) removed; interim....17802
230.10 Added; interim....17803
230 Supplement I amended; interim....17803
250 Authority citation revised....24233
250.243 Added....24229
250.244 Added....24299
250.245 Added....24229
250.246 Added....24225
250.247 Added; interim....24233
250.248 Added; interim....24233
261a.13 (b)(9) revised; (c)(11) added....19718
  Corrected....20863
263 Authority citation revised....8637
263.302 (a) revised....8637
268 Revised; interim....7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.120 Regulation at 65 FR 15529 confirmed; revised....1027
303.121 Regulation at 65 FR 15529 confirmed....1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended....1027
303.123 Regulation at 65 FR 15530 confirmed....1027
303.141 (b)(1)(ii) revised....1028
303.142 (a), (b) and (c) amended....1028
308 Authority citation revised....8638, 9189
308.101 (b) revised....9189
308.132 (c)(3)(xv) revised....9189
308.302 (a) revised....8638
308.500—308.546 (Subpart T) Added....9189
337.4 Removed....1028
337.6 (e) removed....17622
343 Regulation at 65 FR 75843 eff. date delayed....15348
346 Added....2099
346.9 (a)(1) corrected....14071
346.11 (j)(2)(iv) corrected....14071
362 Authority citation revised....1028
362.1 (c) revised....1028
362.2 (r) revised....1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised....1028
362.5 (b)(1), (2) and (3) removed....1028
362.6 Revised....1028
362.7 (a) and (b) revised....1028
362.8 Revised....1028
362.10 (a) revised....1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended....1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised....1029
364 Authority citation revised....8638
364.101 (b) revised....8638
364 Appendix B revised....8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

502.20 Revised....33159
506.1 (b) amended; interim....15017
  (c)(1)(iii) revised....15020
  Regulation at 66 FR 15017 confirmed....37407
516.1—516.3 (Subpart A) Removed....13000
516.1 Added....13000

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

TITLE 12 Chapter V—Con.

516.5 Added 13000
516.10 Added 13000
516.15—516.47 (Subpart A) Added 13000
516.55 Added 13002
516.110 Amended 13003
516.120 Revised 13003
516.130 Revised 13003
516.140 Revised 13003
516.150 Revised 13003
516.185 Added 13003
516.190 Revised 13003
516.200—516.280 (Subpart E) Added 13003
517.6 (b) revised 13005
533 Added 2106
536 Regulation at 65 FR 75845 eff. date delayed 15345
543.9 (a) revised 13005
544.2 (c) amended 13005
544.5 (c)(1)(ii) revised 13006
  (c)(1)(iii) revised 15020
545.92 (b) and (d)(2) revised; (f) amended 13006
550.80 Revised 13006
550.260 (b)(2) amended 13006
550.530 Amended 13006
552.2-6 Amended 13006
  Existing text designated as (a); (b) added 23154
  Regulation at 66 FR 37407 confirmed 37408
552.4 (d) amended 13006
552.5 (b)(1)(ii) revised 13006
  (b)(1)(iii) revised 15020
555.310 (a) introductory text amended 13006
556.347 Revised 19854
559.3 (e)(2)(i) and (ii) amended 13006
559.4 Introductory text amended 13007
559.11 Amended 13007
559.13 (b) revised 13007
560.30 Table amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
560.32 (c) amended 13007
560.35 (d)(3) revised 13007
560.93 (d)(3)(iii) amended 13007
560.160 (a)(1) revised 13007
562.4 (b)(1) revised 13007
  (c)(3) correctly added; CFR correction 33632
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised 13007
563.41 (e)(2)(ii)(A) revised 13008
563.81 (a)(1), (2) and (c) amended 13008
563.143 Heading revised; (a)(1) amended 13008
563.161 (a) revised; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
563.171 (b)(4) revised 13008
563.180 (d)(11) revised 13008
563.183 (c)(1) revised 13008
563.555 Amended 13008
563.565 Revised 13009
563b.27 (e) footnote 1 amended 13009
563f.6 (a) amended 13009
565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended 13009
566 Removed; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
567.3 (d)(2)(i) introductory text amended 13009
  (a)(2) correctly removed; CFR correction 33632
567.4 (a)(3)(i) amended 13009
567.7 (f) revised 13009
568 Authority citation revised 8639
568.1 (a) revised 8639
568.5 Added 8639
570.1 (a) and (b) amended 8639
570.2 (a) revised 8639
570 Appendix B revised 8640
574.4 (f)(2) amended 13009
574.6 (f)(4) amended 13009
575.3 (b)(2) introductory text revised 13009
575.13 (a)(1), (b), (c)(2) and (e) amended 13010
584.2-1 (a) and (c)(1) amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
584.2-2 (b) amended 13010

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised 16843
  Regulation at 66 FR 16843 eff. 5-14-01 26785
613.3020 (c) added 28643
  Regulation at 66 FR 28643 confirmed 36906
613.3030 (a)(1) and (2) amended 28643
  Regulation at 66 FR 28643 confirmed 36906
615.5220 (a)(3) revised 16844

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

Regulation at 66 FR 16844 eff. 5–14–01 26785
615.5250 (c)(2) amended 16844
Regulation at 66 FR 16844 eff. 5–14–01 26785
620.2 (h)(1) and (2) revised 14301
Regulation at 66 FR 14301 confirmed 21064
620.4 (b) revised 14301
Regulation at 66 FR 14301 confirmed 21064
620.5 (a)(10) added 14301
Regulation at 66 FR 14301 confirmed 21064
650 Authority citation revised 19064
650.20—650.31 (Subpart B) Added 19065
Regulation at 66 FR 19064 eff. 5–23–01 28361

Chapter VII—National Credit Union Administration (Parts 700—799)

701.1 Revised; interim 15621
705.10 Regulation at 65 FR 80299 confirmed 20902
707.3 (a) revised; (g) added 33162
707.4 (a)(1) and (2)(i) revised 33163
707.6 (c) removed 33163
707.10 Added 33163
707 Appendix C amended 33163
709.0 Amended; interim 11230
709.12 Added; interim 11230
748 Heading and authority citation revised 8161
748.0 (b) revised 8161
748 Appendix A added 8161

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised 8307
915.4 Revised 8307
915.5 Revised 8308
915.6 (a)(3) revised 8308
915.7 (b)(2) amended 8308
917 Authority citation revised 8308
917.3 (b)(1) revised 8308
917.9 Existing text designated as (a); (b) added 8308
918.7 Revised; interim 24264
925.24 Revised 8308
925.25 Removed 8309
925.26 Revised 8309
925.27 Revised 8309
925.28 Removed 8310
925.29 Revised 8310
925.30 Revised 8310
930 Added 8310
931 Added 8310
932 Added 8310
933 Added 8310
956 Authority citation revised 8320
956.1 Amended 8320
956.3 (b) amended 8320
956.5 Added 8320
956.6 Added 8321
966.8 (d) added 8321

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised 8489
1501.2 Redesignated as 1501.3; new 1501.2 added; interim 260
1501.3 Redesignated from 1501.2; interim 260
Revised 8750

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1701 Added 18039
1780 Authority citation revised 711, 18043
1780.1 Revised 18043
1780.80—1780.81 (Subpart E) Revised 711

Proposed Rules:

1 8178
3 10212
7 ..... 8178, 19901, 34855
8 ..... 17821, 21045
23 8178
25 ..... 18411, 37602
37 19901
41 16624
200—299 (Ch. II) 27912
208 ..... 10212, 18411
222 16624
223 ..... 24186, 33649
225 ..... 307, 10212, 12440
228 37602
303 20102
325 10212
334 16624
345 37602

TITLE 12 *Proposed Rules:—Con.*

369	18411
500—599 (Ch. V)	31186
502	21288
552	23198
563e	37602
567	15049
571	16624
611	10639, 15814
618	10639, 15814
620	10639, 15814
700	33211
701	20945, 33211
712	11125, 33211
715	33211
722	15055
723	33211
725	33211
742	15055
749	11239
790	33211
915	14093
917	14093
925	14093
930	14093
931	14093
932	13688, 14093
933	14093
950	36715
951	23864
952	36715
956	14093
966	14093
1501	307, 12440
1710	18709, 20217
1777	18694

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised	30647
108 Added; interim	7224
Regulation at 66 FR 7224 eff. date delayed	10811
Regulation at 66 FR 7224 eff. date delayed	20530
Regulation at 66 FR 7224 withdrawn	28602
Added	28609
Authority citation corrected	32894
108.150 (c) introductory text corrected	32894
108.2010 (b) corrected	32394

115 Authority citation revised	30804
115.12 (e)(1) and (3) amended	30804
115.19 (a) amended	30804
115.31 (d) amended	30804
115.60 (a)(1) amended	30804
115.61 Amended	30804
115.68 Amended	30804
119 Added	29013
121 Waiver	19381
121.201 Table amended	30647
Table corrected	32416
121.301 (b) and (c) revised	30648
123 Authority citation revised	38530
123 Undesignated center headings designated as Subparts A through E	38530
123.500—123.512 (Supart F) Added	38530
126 Authority citation revised	4645
126.101 (c) added	4645
126.103 Amended	4645
126.204 Revised	4645
126.206 Revised	4645
126.601 (d) revised	4645

Proposed Rules:

108	20531
121	10842, 14865

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition	29416
21 SFAR No. 88 added	23129
Comment disposition	29416
21.183 (d)(2)(iv) amended	21065
21.197 (c) introductory text and (1) amended	21066
21.213 (b) amended	21066
21.329 (c) amended	21066
21.337 (e) amended	21066
23 Special FAA conditions	18186, 30649, 37120
25 Special FAA conditions	261, 8162, 11527, 12843, 15020, 17804, 19847, 22426, 22428, 26972, 32717, 36697, 37406, 39085
Comment disposition	29416
25.473 (d) revised	27394
25.723 Revised	27394
25.725 Removed	27394

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

25.727 Removed 27394
25.981 Revised 23129
25.1435 (a), (b) and (c) revised..........27402
25.1516 Added 34024
25.1527 Revised....................34024
25.1583 (c) and (f) revised 34024
25.1585 Revised....................34024
25.1587 Revised....................34024
25 Appendix H amended....................23130
27.397 (b)(2) amended....................23538
29.397 (b)(2) amended....................23538
39 Technical correction 13635, 37271
39.13.........1, 4, 6, 8, 264, 265, 266, 268, 1032, 1254, 1256, 1828, 1830, 2213, 3450, 3860, 4647, 4648, 4650, 4653, 4655, 4657, 4659, 6447, 6450, 6452, 6453, 6455, 7573, 7575, 7577, 8078, 8080, 8082, 8083, 8088, 8166, 8168, 8506, 8751, 8753, 8755, 8757, 8759, 9028, 9030, 9033, 9909, 10186, 10189, 10355, 10356, 10358, 10359, 10362, 10571, 10572, 10953, 10954, 10956, 10959, 10961, 10963, 10964, 11104, 11106, 12724, 12726, 12728, 12731, 13011, 13228, 13231, 13233, 13413, 13415, 13417, 13420, 13423, 13425, 14302, 14305, 14307, 14309, 14311, 14828, 15023, 15025, 15622, 15624, 15788, 16104, 16107, 16109, 16113, 16115, 16118, 16600, 16845, 16847, 17343, 17346, 17349, 17489, 17491, 17494, 17497, 17498, 17503, 17507, 17808, 18047, 18049, 18522, 18524, 18526, 18528, 18722, 18872, 19383, 19385, 19388, 19719, 19851, 20193, 20195, 20378, 20380, 20382, 20385, 20388, 20734, 20736, 20738, 20903, 20905, 20909, 20911, 20913, 20915, 20916, 20918, 20919, 20921, 21068, 21070, 21072, 21074, 21076, 21080, 21082, 21085, 21277, 21279, 21852, 21854, 21858, 21861, 22431, 22434, 22909, 22912, 22914, 22915, 23540, 23542, 23835, 23837, 23839, 23843, 24051, 27686, 27688, 27016, 27018, 27450, 27591, 27596, 27855, 28363, 28365, 28645, 28647, 28650, 28653, 29468, 29471, 29690, 29902, 30298, 30301, 30304, 30306, 31122, 31127, 31131, 31133, 31140, 31142, 31145, 31526, 31529, 31835, 31837, 31838, 32531, 32532, 32535, 32537, 32729, 32730, 32895, 32897, 33014, 33015, 33017, 33018, 33020, 33165, 33167, 33169, 33172, 33460, 33461, 34084, 34087—34090, 34093, 34095, 34097, 34099, 34101, 34102, 34104, 34105, 34107, 34109, 34529, 34531, 34532, 34799, 34801, 34805, 35077, 35079, 35372, 35531, 35533, 35534, 35536, 35537, 35539, 35897, 36146, 36148, 36150, 36151, 36153, 36155, 36442, 36444, 36446, 36448, 36449, 36451, 36452, 36454, 36455, 36457, 36700, 37131, 37885, 38140, 38143, 38144, 38146, 38353, 38356, 38359, 38361, 38364, 38366, 38532, 38534, 38536, 38538, 38891, 38894, 38898, 39414, 39417, 39422, 39425, 39427, 39430, 39432, 39434
Corrected............1574, 3861, 9635, 15326, 17506, 18521, 23155, 28651, 30307
43.1 (a)(2) amended....................21066
43.3 (f) and (g) amended 21066
43.7 (e) amended....................21066
43.9 (b) amended 21066
43.13 (c) amended 21066
43.16 Amended 21066
45.22 (c)(3) amended 21066
61 Technical correction 31145
63 Technical correction....................31145
65 Technical correction....................31145
65.95 (a)(1) amended 21066
65.111 (a) and (b) revised 23553
65.125 (a)(2) and (b)(2) revised 23553
71.1 ....1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20309, 20587, 20588, 21281, 23558–23561, 28369, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147–38149, 38368, 38369, 38539, 39435
Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560
Regulation at 66 FR 11532 eff. date delayed 21639
73.32 34809
73.63 16392
91 SFAR No. 50–2 reinstated and amended....................1003
SFAR No. 50–2 revised 16584
Policy statement....................30310
91.23 (b)(1)(i) amended 21066
91.175 (f) amended 21066
91.207 (f)(1) corrected 16316

TITLE 14 Chapter I—Con.

91.215 (a) amended 21066
91.307 (b) revised 23553
91.401 (b) amended 21066
91.403 (c) amended 21066
91.409 (c)(2) and (f)(1) amended 21066
91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
91.413 (a) and (c)(2) amended 21066
93.301 Regulation at 65 FR 17742 eff. date delayed 1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed 1005
  Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
  Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed 1005
  Regulation at 65 FR 17743 eff. date delayed 16584
95 .... 9914, 18530, 30057
97.21—97.35 .... 2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090
105 Revised 23553
107 Revised; eff. 11-14-01 37317
108 Technical correction 31145
  Revised; eff. 11-14-01 37357
119.1 (e)(6) revised 23557
121 SFAR No. 50–2 reinstated and amended 1003
  SFAR No. 50–2 revised 16584
  Policy statement 27548, 30310
  Technical correction 28036, 28037, 28369, 29888, 31145, 31146
121.303 (b) and (d)(2) revised; eff. 5–12–04 19043
121.309 (d) removed; eff. 5–12–04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5–12–04 19043
121.325 Introductory text revised; eff. 5–12–04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
121.415 (a)(3) revised; eff. 5–12–04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5–12–04 19043
121.427 (b)(2) revised; eff. 5–12–04 19043
121.703 Regulation at 65 FR 56201 eff. date delayed to 1–16–02 21626
121.704 Regulation at 65 FR 56202 eff. date delayed to 1–16–02 21626
121.705 Regulation at 65 FR 56203 eff. date delayed to 1–16–02 21626
121.801—121.805 (Subpart X) Added; eff. 5–12–04 19044
121 Appendix A revised; eff. 5–12–04 19044
125 Policy statement 30310
125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
125.409 Regulation at 65 FR 56203 eff. date delayed to 1–16–02 21626
125.410 Regulation at 65 FR 56204 eff. date delayed to 1–16–02 21626
129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
135 SFAR No. 50–2 reinstated and amended 1003

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

SFAR No. 50-2 revised 16584
Technical correction 28036, 28037, 31145, 31146
Policy statement..........................30310
135.177 (a)(1) revised; eff. 5-12-04 19045
135.415 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626
135.416 Regulation at 65 FR 56205 eff. date delayed to 1-16-02 21626
135.417 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
139.325 (h) redesignated as (i); new (h) added; eff. 11-14-01 37327
142.1 (a) and (b)(1) amended 21066
145.2 Heading and (a) amended 21067
145.63 (c) amended..........................21067
Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
145.79 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
161.5 Amended 21067
170.3 Amended 21067
193 Added...33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised 17356
382 Authority citation revised........22115
Nomenclature change 22115
382.39 (a)(2) revised 22115
382.40a Added 22115

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180
Regulation at 66 FR 2180 eff. date delayed..................................9509
406 Revised...2180
Regulation at 66 FR 2180 eff. date delayed..................................9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1214.900—1214.912 (Subpart 1214.9) Added 37411

Proposed Rules:

13 37520
23 ....6492, 23199
25....14504, 15203, 18214, 26942, 26948, 26956, 26964, 27582
39.........57, 59, 61, 64, 1054, 1057, 1271, 1273, 1607, 1610, 1612, 1917, 1919, 2213, 3382, 3511, 3515, 3516, 3518, 3521, 6494, 6495, 6497, 6499, 7433, 8184, 9779, 10226, 10232, 10234, 10236, 10238, 10241, 10243, 10360, 10378, 10380, 10382, 10384, 10387, 10390, 10393, 10842, 10844, 10846, 10849, 10851, 10853, 10855, 10857, 10858, 10970, 10972, 10974, 10976, 11126, 12440, 12443, 12834, 12913, 13184, 13187, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13222, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348, 14865, 14867, 15062, 15362, 15363, 15365, 15369, 15662, 15664, 15666, 15667, 15670, 15814, 15817, 16017, 16156, 16418, 16422, 17091, 17094, 17097, 17099, 17101, 17103, 17105, 17115, 17118, 17121, 17123, 17125, 17127, 17641, 18416, 18573, 18575, 18877, 18878, 18880, 18882, 18884, 18886, 19727, 20111, 20114, 20116, 20218, 20409, 20760, 20763, 20766, 20768, 20946, 20948, 20950, 20952, 20954, 20957, 21107, 21291, 21292, 21294, 21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850, 29269, 29514, 30093, 30095, 30097, 30099, 30101, 30103, 30105, 30107, 30109, 30112, 30114, 30341, 30343, 30345, 31189, 31192, 31194, 31565, 31569, 32276, 32591, 33214, 33649, 33651, 33653, 34128, 34130, 34132, 34134, 34377, 34589, 34591, 34593, 35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206,

TITLE 14 *Proposed Rules:—Con.*

38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588, 38961
61 37520
71..... 1921, 2850, 3886, 3887, 7435, 8772, 8773, 9986—9990, 10860, 10861, 12741, 17825, 17826, 17827, 18575, 18577, 18578, 18736, 18737, 19907, 19908, 19909, 21296, 22489, 22490, 29056, 29057, 29058, 29516, 30117—30120, 30654, 31196, 32593, 32781, 35914, 35916, 35917, 38223-38225, 38385, 38386, 39121
73 18055
91.......... 33215, 37520
119.......... 37520
121 .... 21492, 21494
125.......... 37520
135.......... 37520
136.......... 21264
142.......... 37520
183.......... 38387
255.......... 13860
413.......... 9635, 10979
415.......... 9635, 10979
417.......... 9635, 10979

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

101.1 Revised 11232
101.2 Removed.......... 11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised.......... 28832
Nomenclature change 28832
301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832
301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833
301.3 (d) amended; (f) redesignated as (g); new (f) added 28833
301.4 (a)(1) and (2) revised; (a)(3) amended 28833
301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added.......... 28833
301.6 (a) and (c) revised 28834
301.7 (a) amended 28834
301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834
301.9 (a) introductory text amended 28834
301.10 Revised 28834
303.2 (a)(5), (13) and (b)(1) amended.......... 34812
303.12 (a)(1) revised 34812
303.16 (a)(9) amended.......... 34812
303.16 (b)(1) amended.......... 34813
303.17 (b)(4) amended.......... 34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

738 Authority citation revised.......... 12846, 18402
738 Supplement No. 1 amended 12846, 18402
740 Authority citation revised 5444, 6465, 12846, 18402, 36680
740.1 (a) revised; interim.......... 36680
740.2 (a)(6) added; interim 36680
740.7 Revised 5444
  (d)(1) revised.......... 12847
  (d)(4) amended.......... 6465
740.18 Added; interim.......... 36680
740 Supplement No. 1 amended 12847, 18402
742 Authority citation revised 5444, 36680
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim 36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim 36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended 5446

CHANGES JANUARY 2, 2001 THROUGH JULY 31, 2001

742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim 36682
744 Authority citation revised....12846, 18402, 24265
744.16 Added 12847
744 Supplement No. 3 amended 18402
Supplement No. 4 amended 24265
746 Authority citation revised....12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim 36682
746.3 (a) introductory text revised; interim 36682
746.7 Amended; interim 36683
746.9 Revised 12847
748 Authority citation revised 5444, 6465
748.10 (b)(3) revised 5447
(b)(3)(i) amended 6465
772 Authority citation revised 18402, 36680
772.1 Amended 18402
Amended; interim 36683
Amended; introductory text revised 36910
774 Authority citation revised 18403, 36680
774 Supplement No. 1, Category 3 (ECCN 3A001) 18403
Supplement No. 1, Category 3 (ECCN 4A003) 18405
Supplement No. 1, Category 1 (ECCN 1C997) amended; interim 36683
Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5 (ECCN 5A991) and Category 7 (ECCN 7A003) amended 36912
Supplement No. 1, Category 7 (ECCN 7E004) amended 36913

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table corrected (OMB numbers) 3451, 21643, 24056, 30652
922.161 Revised 4369
Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.162 Amended 4369
Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added 4369
Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.166 Heading revised 4369
Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.167 Redesignated as 922.168 4369
Added 4370
Regulations at 66 FR 4369 4370 eff. date confirmed 16120, 33462
922.160—922.167 (Subpart P) Appendix VII table amended 34534
922.168 Redesignated from 922.167; new 922.168 revised 4369
Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
Regulation at 66 FR 4370 eff. date confirmed 16120, 33462

Proposed Rules:

303 28404
922 ....26822, 30828
990 39464

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

2 Authority citation revised 8721
Technical correction 20527
2.20 (Subpart B) Added; interim 8721
2.41 (a) amended; interim 17628
3.12 (a) revised; interim 17628
(a)(1) corrected 20527
3.21 (b) amended; interim 17628
3.22 (b) revised; (c) amended; interim 17628
3.24 (a)(2) amended; interim 17628
3.25 (c) Revised; interim 17628
3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim 17628

TITLE 16 Chapter I—Con.

(b)(3) corrected 20527
3.33 (a) amended; interim 17629
3.34 Heading revised; (c) amended; interim 17629
3.36 Revised; interim 17629
(a) corrected 20527
3.39 (a) introductory text amended; interim 17629
(a) corrected 20527
3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
3.43 (b) revised; interim 17629
Designation, (b) introductory text and (2) corrected 20527
3.44 (c) amended; interim 17630
3.45 Revised; interim 17630
(b)(2) and (d) corrected 20527
3.46 (b)(7) and (c)(4) amended; interim 17631
3.51 (c)(1) amended; (c)(3) removed; interim 17631
3.52 Revised; interim 17631
(b), (e), (f)(2) and (j) corrected 20527
4 Authority citation revised 17632
4.1 (b)(1)(iv) note removed 13645
4.2 Revised; interim 17632
(c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
4.3 (d) added; interim 17633
4.4 (a)(3) and (c) revised; (b) amended; interim 17633
(a)(3) and (b) corrected 20527
4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim 17633
4.10 (g)(1) revised; interim 17633
305 Energy efficiency ranges 19389
305.5 (a) revised 27858
305.6 (a) revised 27858
305.9 (a) revised 27858
801 Authority citation revised 8687
801.1 (h), (j) and (m) revised; interim 8687
(j) revised; interim 23565
801.2 (d) Examples 2 and 3 revised; interim 8688
801.4 (b) Examples 1 and 5 revised; interim 8688
801.10 Example revised; interim 8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim 8688
801.12 Heading revised; (c) and (d) removed; interim 8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim 8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim 8689
801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim 8689
801.20 Examples 1 and 2 revised; interim 8690
801.21 Introductory text revised; interim 8690
801.30 (b)(2) and Example 2 revised; interim 8690
801.31 Example revised; interim 8690
801.32 Example revised; interim 8690
801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim 8690
801.90 Examples 1 and 2 revised; interim 8691
802 Authority citation revised 8691
802.1 Examples 1 through 7, 9 and 10 revised; interim 8691
802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim 8692
(g) revised; interim 23565
802.3 Examples 2 and 3 revised; interim 8692
802.4 (a) and (c) Examples 1 and 2 revised; interim 8693
802.5 Example 2 revised; interim 8693
802.6 (b)(2)(ii) revised; interim 8693
802.9 Example 1 revised; interim 8693
802.20 Removed; interim 8693
802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim 8693
802.23 Example 2 revised; interim 8694
802.31 Example revised; interim 8694

802.35 Examples 1 and 2 revised; interim 8694
802.41 Examples 1 and 2 revised; interim 8694
802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim....8694
803 Authority citation revised....8694
803.1 (a) revised; interim....8695
803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim....8695
  (b) introductory text, (1) introductory text and (c) introductory text revised; interim 23565
803.5 (a)(2) Examples 2 and 3 revised; interim 8695
803.7 Example revised; interim 8695
803.9 Added; interim....8695
803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added 8696
803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim....8697
803 Appendix revised; interim....8697
  Appendix amended; interim 23566
  Appendix amended 35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.26 Amended 38369
1000.27 Amended 38369
1500.18 (a)(18) added 13650
  Corrected....15997
1500.86 (a)(7) and (8) added 13651

Proposed Rules:

432....12915
801....8723
802....8723
1115....30655
1500....10863
1700....18738, 22491

TITLE 17
SECU

Chapter
Trading
1—199)

1 Fee sched
Order ......
1.3 (gg)(3) a
1.12 (b)(2) re
1.17 (a)(1)(i)
(h)(2)(vi
(B)(2),
and (v)(
1.37 (a) re
(a)(2) ad
1.68 Added..
30 Order.....
160 Added...
160.18 (b)(1)
(a) correc
190.01 (bb) r

Chapter
change
200—39

200 Comme
200.30-3 (a)(
(a)(73) ad
(a)(74) ad
200.30-4 (a)(
200.30-18 (h
as (i) a
....
210 Policy s
211 Staff ac
Policy st
231 Interpre
239.32 Form
239.33 Form
240 Author
Comment
240.3a4-2 Ad
240.3a4-3 Ad
240.3a4-4 Ad
240.3a4-5 Ad
240.3a4-6 Ad
240.3a5-1 Ad
240.3b-17 Ad
240.3b-18 Ad
240.15a-7 Ad
240.15a-8 Ad
240.15a-9 Ad
240.17a-24 A

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule	32737
Order	34110
1.3 (gg)(3) and (uu) added	20744
1.12 (b)(2) revised	20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) amended	20744
1.37 (a) redesignated as (a)(1); (a)(2) added	20744
1.68 Added	20744
30 Order	27859, 34110
160 Added	21252
160.18 (b)(1) revised	24061
(a) corrected	24183
190.01 (bb) revised	20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended	38370
200.30-3 (a)(72) added; interim	27796
(a)(73) added	31840
(a)(74) added	35842
200.30-4 (a)(12) added	35842
200.30-18 (h) and (i) redesignated as (i) and (j); new (h) added	35842
210 Policy statement	38149
211 Staff accounting bulletin	36457
Policy statement	38149
231 Interpretive releases	33176
239.32 Form F-2 amended	32539
239.33 Form F-3 amended	32539
240 Authority citation revised	21659
Comment period extended	38370
240.3a4-2 Added; interim	27796
240.3a4-3 Added; interim	27796
240.3a4-4 Added; interim	27796
240.3a4-5 Added; interim	27796
240.3a4-6 Added; interim	27796
240.3a5-1 Added; interim	27798
240.3b-17 Added; interim	27798
240.3b-18 Added; interim	27798
240.15a-7 Added; interim	27799
240.15a-8 Added; interim	27799
240.15a-9 Added; interim	27799
240.17a-24 Added	35843
240.17Ad-7 (f) revised; authority citation removed	21659
241 Interpretive releases	22921, 33176
249.1a Correctly removed; CFR correction	36701
249.220f Form 20-F amended	32539
251 Interpretive releases	33176
257 Authority citation added	29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j)	29474
257.2 Authority citation removed	29474
270 Technical correction	30311
270.2a-7 (a)(5), (11) and (20) revised	36161
270.5b-3 Added	36161
270.12d3-1 (d)(8) note removed	36162
270.31a-2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added	29228
271 Interpretive releases	33177
274.101 Form N-SAR amended	36162
275 Technical correction	30311
275.204-2 (g)(1) and (2) revised; (g)(3) added; authority citation removed	29228

Chapter IV—Department of the Treasury (Parts 400—499)

450 Authority citation revised	28655
450.2 (e) revised	28655
(e) table corrected	29888

Proposed Rules:

3	27476, 33494
39	24306
41	20118, 27560, 29517, 34864, 36218, 37932
140	20118, 29517
155	36218
170	27476, 33494
202	26978
240	26978, 27560, 34042, 34864, 38390
248	34042
249	26978, 34042

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

No amendments to 18 CFR have been published in the FEDERAL REGISTER since March 1, 2001.

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting	19720
10.184 Undesignated center heading added; section revised; interim	20395
24.24 (e)(4)(i) and (ii)(A) corrected; interim	21086
(e) heading and (4) revised; (e)(2)(ii) amended	34818
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim	21661
Table corrected	23981
132 Authority citation amended	21666
Technical correction	27454
132.18 Added; interim	21666
159.4 Corrected	20589
159.5 Corrected	20589
159.6 Corrected	20589
159.7 Corrected	20589
159.21 Corrected	20589
159.22 Corrected	20589
159.44 Corrected	20589
159.46 Corrected	20589
159.55 Corrected	20589
159.57 Corrected	20589
163 Appendix amended; interim	21667
Technical correction	27454

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim	32218

Proposed Rules:

4	21705
24	21705
101	21705
159	33920
177	37370, 39293

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim	28961
30 (Subchapter C) Added; interim	28962
30.100 OMB number pending	28962
30.101 OMB number pending	28962
30.102 OMB number pending	28962
30.111 OMB number pending	28962
30.112 OMB number pending	28962
30.206 OMB number pending	28962
30.207 OMB number pending	28962
30.213 OMB number pending	28962
30.214 OMB number pending	28962
30.216 OMB number pending	28962
30.217 OMB number pending	28962
30.401 OMB number pending	28962
30.415 OMB number pending	28962
30.416 OMB number pending	28962
30.417 OMB number pending	28962
30.420 OMB number pending	28962
30.421 OMB number pending	28962
30.505 OMB number pending	28962
30.617 OMB number pending	28962
30.700 OMB number pending	28962
30.701 OMB number pending	28962
30.702 OMB number pending	28962

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added	27454
369 Added	29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised	38906
404.401 (c) revised	38906
404.1203 OMB number	28836
404.1204 OMB number	28836
404.1214 OMB number	28836
404.1215 OMB number	28836
404.1216 OMB number	28836
404.1220 OMB number	28836
404.1225 OMB number	28836
404.1237 OMB number	28836
404.1239 OMB number	28836
404.1242 OMB number	28836

404.1243 OMB number 28836
404.1247 OMB number 28836
404.1249 OMB number 28836
404.1251 OMB number 28836
404.1265 OMB number 28836
404.1271 OMB number 28836
404.1272 OMB number 28836
404.1292 OMB number 28836
404.1501—404.1599 (Subpart P) Appendix 1 amended 34362
416.501—416.586 (Subpart E) Authority citation revised 38906
416.570 Amended 38906
416.572 Added 38906

Proposed Rules:

416........................38963

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5 Revised 30993
14.75 Regulation at 66 FR 1259 withdrawn 20401
50 Authority citation revised 20597
50.1 (a) amended; interim 20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim 20597
50.50—50.56 (Subpart D) Added; interim 20598
56 Authority citation revised 20599
56.101 (a) amended; interim 20599
56.102 (b)(21), (22) and (23) added; interim 20599
56.109 (h) added; interim 20599
56.111 (c) added; interim 20599
101 Policy statement 30311
165.110 (b)(1)(ii) revised 35373
172.615 (a) table amended 38153
172.892 (i) introductory text revised; (i) table amended 17509
173.115 Added 27022
173.325 (b)(1)(iii), (iv) and (v) amended 22922
(f) redesignated as (g); new (f) added 31841
173.368 Added 33830
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added 18539
510.600 (c)(1) table and (2) table amended......17510, 22117, 22118, 23588, 32739, 36162
520.445b (b) and (d)(4)(iii)(C) amended 35898
520.1196 (b) amended 35756
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 21282
(d)(1)(iii)(C) amended 29020
520.2095 Removed 21282
520.2460 Removed 22117
520.2460a Removed 22117
520.2460b Removed 22117
520.2520a Removed 23588
522.313 Heading revised; (d)(8) added 21283
(d)(1)(i) amended 32540
522.1081 (b) removed 22117
522.1183 (c) removed 22117
522.1258 Removed 23588
522.1451 Added 35756
522.1680 (b) amended 22117
522.1704 (b) removed 23588
522.1884 (c) amended; (d)(2)(iv) removed 23589
522.2095 Removed 21282
522.2120 (b) amended 22118
522.2640b Revised 22117
524.321 Revised 22117
524.2640 Removed 22117
529.360 Removed 22117
529.1186 (b) amended 17510
556.163 Revised 35544
556.347 Revised 19854
556.428 Revised 23589
556.594 Removed 21282
558.4 (d) amended 21862
558.55 (d)(2) table amended 20083, 20402
558.95 (d)(5)(iv) and (v) amended 27022
558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended 22118
(a)(2), (4) and (c)(1) table amended; (a)(3) removed 23589
558.311 (e)(1) table amended 29020
558.363 (d)(1)(xii) added 27022
558.450 (a)(1), (d)(1) table and (2) table amended 32740
558.500 (d)(1) revised 21284
558.625 (f)(2)(vii) added 21284
(b)(2), (13) and (73) removed 22117
(b)(16), (19) and (34) removed; (b)(79) amended 22118
(b)(17) removed 23589
(b)(9) removed 36162
558.630 (b)(8) amended 22118
(b)(4) removed; (b)(10) amended 23589
(b)(10) amended 36162

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 21 Chapter I—Con.

579.22 Heading, introductory text and (b) revised	18540
606.100 (b)(20) added	31176
606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended	31162
606.160 (b)(1)(ix), (x) and (xi) added	31176
607.65 (g) removed	31162
610.40—610.47 (Subpart E) Heading revised	31162
610.40 Revised	31162
610.41 Revised	31164
610.42 Added	31164
610.44 Added	31164
610.45 Removed	31165
630 Added	31176
640.2 (d) removed	31165
640.5 (f) revised	31165
640.14 Amended	31165
640.23 (a) amended	31165
640.33 (a) amended	31165
640.53 (a) amended	31165
640.67 Revised	31165
640.70 (a)(2) revised	31165
660.20 Regulation at 65 FR 77499 confirmed	20402
660.21 Regulation at 65 FR 77499 confirmed	20402
660.42 Removed	31165
660.50 Regulation at 65 FR 77499 confirmed	20402
660.51 Regulation at 65 FR 77499 confirmed	20402
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff)	23156
803.10 (b) revised; (c)(5) removed	23157
803.17 (b)(3) revised	23157
803.19 (a)(2) revised	23157
803.20 (a) introductory text, (2) and (c)(1) revised	23157
803.50 (b)(1)(i) and (2) revised	23157
803.52 (d)(1), (f)(11)(i) and (ii) revised	23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5)	23157
809.20 (b) revised	31165
862.1190 (b) revised	38787
862.1210 (b) revised	38787
862.1255 (b) revised	38787
862.1290 (b) revised	38787
862.1305 (b) revised	38787
862.1320 (b) revised	38787
862.1365 (b) revised	38787
862.1380 (b) revised	38787
862.1420 (b) revised	38788
862.1470 (b) revised	38788
862.1490 (b) revised	38788
862.1515 (b) revised	38788
862.1565 (b) revised	38788
862.1575 (b) revised	38788
862.1640 (b) revised	38788
862.1670 (b) revised	38788
862.1720 (b) revised	38788
862.1815 (b) revised	38788
862.2050 (b) revised	38788
862.2100 (b) revised	38788
862.2230 (b) revised	38788
862.2310 (b) revised	38788
862.2320 (b) revised	38788
862.2485 (b) revised	38788
862.2720 (b) revised	38788
862.2800 (b) revised	38788
862.2920 (b) revised	38788
864.1850 (b) revised	38789
864.2220 (a) revised	27024
(b) revised	38789
864.2240 (b) revised	38789
864.2260 (b) revised	38789
864.2360 (b) revised	38789
864.2800 (b) revised	38789
864.2875 (b) revised	38789
864.3010 (b) revised	38789
864.3300 (b) revised	38789
864.3400 (b) revised	38789
864.3600 (b) revised	38789
864.3800 (b) revised	38789
864.3875 (b) revised	38789
864.4010 (b) revised	38789
864.4400 (b) revised	38789
864.5350 (b) revised	38789
864.5800 (b) revised	38790
864.5850 (b) revised	38790
864.6160 (b) revised	38790
864.6600 (b) revised	38790
864.6700 (b) revised	38790
864.7660 (b) revised	38790
864.7675 (b) revised	38790
864.7900 (b) revised	38790
864.8200 (b) revised	38790
864.8500 (b) revised	38790
864.8540 (b) revised	38790
866.2050 (b) revised	38790
866.2120 (b) revised	38790
866.2160 (b) revised	38790
866.2170 (b) revised	38790
866.2180 (b) revised	38790
866.2300 (b) revised	38790
866.2320 (b) revised	38790

866.2330 (b) revised 38791
866.2350 (b) revised 38791
866.2360 (b) revised 38791
866.2440 (b) revised 38791
866.2450 (b) revised 38791
866.2460 (b) revised 38791
866.2500 (b) revised 38791
866.2540 (b) revised 38791
866.2580 (b) revised 38791
866.2600 (b) revised 38791
866.3010 (b) revised 38791
866.3020 (b) revised 38791
866.3035 (b) revised 38791
866.3065 (b) revised 38791
866.3125 (b) revised 38791
866.3205 (b) revised 38791
866.3250 (b) revised 38791
866.3255 (b) revised 38791
866.3270 (b) revised 38792
866.3330 (b) revised 38792
866.3340 (b) revised 38792
866.3400 (b) revised 38792
866.3410 (b) revised 38792
866.3470 (b) revised 38792
866.3490 (b) revised 38792
866.3520 (b) revised 38792
866.3630 (b) revised 38792
866.3700 (b) revised 38792
866.3720 (b) revised 38792
866.4100 (b) revised 38792
866.4500 (b) revised 38792
866.4520 (b) revised 38792
866.4540 (b) revised 38792
866.4600 (b) revised 38792
866.4800 (b) revised 38792
866.4830 (b) revised 38792
866.4900 (b) revised 38792
866.5170 (b) revised 38793
866.5220 (b) revised 38793
866.5230 (b) revised 38793
866.5360 (b) revised 38793
866.5370 (b) revised 38793
866.5520 (b) revised 38793
866.5530 (b) revised 38793
866.5540 (b) revised 38793
866.5700 (b) revised 38793
866.5800 (b) revised 38793
866.5860 (b) revised 38793
868.1030 (b) revised 38793
868.1100 (b) revised 38793
868.1575 (b) revised 38793
868.1870 (b) revised 38793
868.1930 (b) revised 38793
868.1965 (b) revised 38793
868.1975 (b) revised 38793
868.2300 (b) revised 38794
868.2320 (b) revised 38794
868.2340 (b) revised 38794
868.2350 (b) revised 38794
868.2610 (b) revised 38794
868.2620 (b) revised 38794
868.2700 (b) revised 38794
868.2875 (b) revised 38794
868.2885 (b) revised 38794
868.5100 (b) revised 38794
868.5110 (b) revised 38794
868.5220 (b) revised 38794
868.5240 (b) revised 38794
868.5260 (b) revised 38794
868.5300 (b) revised 38794
868.5310 (b) revised 38794
868.5320 (b) revised 38794
868.5340 (b) revised 38794
868.5350 (b) revised 38794
868.5365 (b) revised 38794
868.5375 (b) revised 38795
868.5420 (b) revised 38795
868.5460 (b) revised 38795
868.5530 (b) revised 38795
868.5540 (b) revised 38795
868.5550 (b) revised 38795
868.5560 (b) revised 38795
868.5570 (b) revised 38795
868.5580 (b) revised 38795
868.5590 (b) revised 38795
868.5600 (b) revised 38795
868.5760 (b) revised 38795
868.5770 (b) revised 38795
868.5780 (b) revised 38795
868.5790 (b) revised 38795
868.5795 (b) revised 38795
868.5810 (b) revised 38795
868.5820 (b) revised 38795
868.5860 (b) revised 38796
868.5975 (b) revised 38796
868.5995 (b) revised 38796
868.6100 (b) revised 38796
868.6175 (b) revised 38796
868.6225 (b) revised 38796
868.6400 (b) revised 38796
868.6700 (b) revised 38796
868.6820 (b) revised 38796
868.6885 (b) revised 38796
870.1875 (a)(2) revised 38796
870.2300 (b) revised 38796
870.2600 (b) revised 38796
870.2620 (b) revised 38796
870.2640 (b) revised 38796
870.2810 (b) revised 38796
870.3450 Revised 18542
870.3460 Removed 18542
870.3620 (b) revised; (c) removed 18542

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 21 Chapter I—Con.

870.3650 (b) revised 38796
870.3670 (b) revised 38796
870.3690 (b) revised 38796
870.3730 (b) revised 38797
870.3800 (b) revised; (c) removed 18542
870.3945 (b) revised 38797
870.4230 (b) revised; (c) removed 18542
870.4260 (b) revised; (c) removed 18542
870.4350 (b) revised; (c) removed 18542
870.4500 (b) revised 38797
872.1500 (b) revised 38797
872.1730 (b) revised 38797
872.1820 (b) revised 38797
872.1840 (b) revised 38797
872.1850 (b) revised 38797
872.1905 (b) revised 38797
872.3080 (b) revised 38797
872.3100 (b) revised 38797
872.3110 (b) revised 38797
872.3130 (b) revised 38797
872.3140 (b) revised 38797
872.3150 (b) revised 38797
872.3165 (b) revised 38797
872.3220 (b) revised 38797
872.3240 (b) revised 38798
872.3285 (b) revised 38798
872.3330 (b) revised 38798
872.3350 (b) revised 38798
872.3360 (b) revised 38798
872.3410 (b) revised 38798
872.3490 (b) revised 38798
872.3520 (b) revised 38798
872.3530 (b) revised 38798
872.3580 (b) revised 38798
872.3670 (b) revised 38798
872.3730 (b) revised 38798
872.3740 (b) revised 38798
872.3810 (b) revised 38798
872.3830 (b) revised 38798
872.3840 (b) revised 38798
872.3850 (b) revised 38798
872.3900 (b) revised 38798
872.3910 (b) revised 38799
872.4130 (b) revised 38799
872.4565 (b) revised 38799
872.4620 (b) revised 38799
872.4630 (b) revised 38799
872.4730 (b) revised 38799
872.5410 (b) revised 38799
872.5525 (b) revised 38799
872.6010 (b) revised 38799
872.6030 (b) revised 38799
872.6050 (b) revised 38799
872.6100 (b) revised 38799
872.6140 (b) revised 38799
872.6200 (b) revised 38799
872.6290 (b) revised 38799
872.6475 (b) revised 38799
872.6510 (b) revised 38800
872.6570 (b) revised 38800
872.6650 (b) revised 38800
872.6670 (b) revised 38800
872.6710 (b) revised 38800
872.6855 (b) revised 38800
872.6865 (b) revised 38800
872.6870 (b) revised 38800
872.6880 (b) revised 38800
872.6890 (b) revised 38800
874.1060 (b) revised 38800
874.1080 (b) revised 38800
874.3375 (b) revised 38800
874.4140 (b) revised 38800
874.4175 (b) revised 38801
874.4350 (b) revised 38801
874.4750 (b) revised 38801
874.4770 (b) revised 38801
874.5220 (b) revised 38801
874.5800 (b) revised 38801
876.1075 (b)(2) revised 38801
876.1500 (b)(2) revised 38801
876.4530 (b) revised 38801
876.4560 (b) revised 38801
876.4590 (b) revised 38801
876.4730 (b) revised 38801
876.4890 (b)(2) revised 38801
876.5030 (b) revised 38801
876.5090 (b)(2) revised 38801
876.5130 (b)(2) revised 38801
876.5250 (b)(2) revised 38802
876.5450 (b) revised 38802
876.5520 (b)(2) revised 38801
876.5540 (b)(4) revised 38801
876.5820 (b)(2) revised 38802
876.5885 Added 27025
876.5900 (b) revised 38802
876.5920 (b) revised 38802
876.5970 (b) revised 38802
878.1800 (b) revised 38802
878.3750 (b) revised 38802
878.3800 (b) revised 38802
878.3900 (b) revised 38802
878.4160 (b) revised 38802
878.4380 (b) revised 38802
878.4440 (b) revised 38803
878.4450 (b) revised 38803
878.4460 (b) revised 38803
878.4470 (b) revised 38803
878.4635 (b) revised 38803

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

878.4660 (b) revised	38803
878.4700 (b) revised	38803
878.4730 (b) revised	38803
878.4800 (b) revised	38803
878.4810 (b)(2) revised	38803
878.4930 (b) revised	38803
878.4950 (b) revised	38803
878.5350 (b) revised	38803
878.5900 (b) revised	38803
878.5910 (b) revised	38803
880.2400 (b) revised	38803
880.2700 (b) revised	38803
880.2720 (b) revised	38803
880.2740 (b) revised	38804
880.2900 (b) revised	38804
880.5075 (b) revised	38804
880.5110 (b) revised	38804
880.5120 (b) revised	38804
880.5150 (b) revised	38804
880.5160 (b) revised	38804
880.5180 (b) revised	38804
880.5210 (b) revised	38804
880.5240 (b) revised	38804
880.5300 (b) revised	38804
880.5510 (b) revised	38804
880.5560 (b) revised	38804
880.5630 (b) revised	38804
880.5640 (b) revised	38804
880.5680 (b) revised	38805
880.5740 (b) revised	38805
880.5780 (b)(2) revised	38805
880.5820 (b) revised	38805
880.5950 (b) revised	38805
880.6025 (b) revised	38805
880.6050 (b) revised	38805
880.6060 (b) revised	38805
880.6070 (b) revised	38805
880.6080 (b) revised	38805
880.6085 (b) revised	38805
880.6140 (b) revised	38805
880.6150 (b) revised	38805
880.6185 (b) revised	38806
880.6190 (b) revised	38806
880.6200 (b) revised	38806
880.6230 (b) revised	38806
880.6250 (b) revised	38806
880.6265 (b) revised	38806
880.6280 (b) revised	38806
880.6320 (b) revised	38806
880.6350 (b) revised	38806
880.6375 (b) revised	38806
880.6430 (b) revised	38806
880.6450 (b) revised	38806
880.6730 (b) revised	38806
880.6760 (b) revised	38806
880.6785 (b) revised	38807
880.6800 (b) revised	38807
880.6820 (b) revised	38807
880.6900 (b) revised	38807
880.6960 (b) revised	38807
880.6970 (b) revised	38807
880.6980 (b) revised	38807
882.1030 (b) revised	38807
882.1410 (b) revised	38807
882.1420 (b) revised	38807
882.1430 (b) revised	38807
882.1525 (b) revised	38807
882.1700 (b) revised	38807
882.1925 (b) revised	38807
882.4030 (b) revised	38808
882.4125 (b) revised	38808
882.4200 (b) revised	38808
882.4215 (b) revised	38808
882.4325 (b) revised	38808
882.4440 (b) revised	38808
882.4500 (b) revised	38808
882.4525 (b) revised	38808
882.4535 (b) revised	38808
882.4600 (b) revised	38808
882.4900 (b) revised	38808
884.1550 (b) revised	38808
884.1640 (b)(2) revised	38808
884.1690 (b)(2) revised	38808
884.1700 (b)(2) revised	38808
884.1720 (b)(2) revised	38808
884.1730 (b)(2) revised	38809
884.2900 (b) revised	38809
884.2980 (a)(2) revised	38809
884.2982 (a)(2) revised	38809
884.4520 (b) revised	38809
884.4530 (b)(2) revised	38809
884.5150 (b) revised	38809
884.5425 (b)(1) revised	38809
884.5900 (b)(2) revised	38809
884.5920 (b) revised	38809
884.6190 (b) revised	38809
886.1040 (b) revised	38809
886.1050 (b) revised	38809
886.1070 (b) revised	38810
886.1090 (b) revised	38810
886.1140 (b) revised	38810
886.1150 (b) revised	38810
886.1160 (b) revised	38810
886.1170 (b) revised	38810
886.1190 (b) revised	38810
886.1200 (b) revised	38810
886.1250 (b) revised	38810
886.1270 (b) revised	38810
886.1290 (b) revised	38810
886.1320 (b) revised	38810
886.1330 (b) revised	38810
886.1340 (b) revised	38810

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 21 Chapter I—Con.

886.1375 (b) revised	38810
886.1380 (b) revised	38810
886.1390 (b) revised	38811
886.1395 (b) revised	38811
886.1400 (b) revised	38811
886.1405 (b) revised	38811
886.1410 (b) revised	38811
886.1415 (b) revised	38811
886.1420 (b) revised	38811
886.1425 (b) revised	38811
886.1430 (b) revised	38811
886.1435 (b) revised	38811
886.1450 (b) revised	38811
886.1460 (b) revised	38811
886.1500 (b) revised	38811
886.1605 (b) revised	38811
886.1650 (b) revised	38812
886.1655 (b) revised	38812
886.1660 (b) revised	38812
886.1665 (b) revised	38812
886.1680 (b) revised	38812
886.1690 (b) revised	38812
886.1700 (b) revised	38812
886.1750 (b) revised	38812
886.1760 (b) revised	38812
886.1770 (b) revised	38812
886.1790 (b) revised	38812
886.1800 (b) revised	38812
886.1810 (b) revised	38812
886.1840 (b) revised	38812
886.1860 (b) revised	38812
886.1870 (b) revised	38813
886.1880 (b) revised	38813
886.1905 (b) revised	38813
886.1910 (b) revised	38813
886.1945 (b) revised	38813
886.3200 (b) revised	38813
886.3920 (a) amended	18542
886.4230 (b) revised	38813
886.4250 (b) revised	38813
886.4335 (b) revised	38813
886.4350 (b) revised	38813
886.4360 (b) revised	38813
886.4445 (b) revised	38813
886.4570 (b) revised	38813
886.4770 (b) revised	38813
886.4855 (b) revised	38814
886.5120 (b) revised	38814
886.5420 (b) revised	38814
886.5540 (b) revised	38814
886.5600 (b) revised	38814
886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815
888.5850 (b) revised	38815
888.5890 (b) revised	38815
888.5940 (b) revised	38815
888.5960 (b) revised	38816
888.5980 (b) revised	38816
890.1575 (b) revised	38816
890.1600 (b) revised	38816
890.1615 (b) revised	38816
890.3025 (b) revised	38816
890.3075 (b) revised	38816
890.3100 (b) revised	38816
890.3150 (b) revised	38816
890.3175 (b) revised	38816
890.3410 (b) revised	38816
890.3420 (b) revised	38816
890.3475 (b) revised	38816
890.3490 (b) revised	38816
890.3520 (b) revised	38817
890.3640 (b) revised	38817
890.3665 (b) revised	38817
890.3675 (b) revised	38817
890.3700 (b) revised	38817
890.3750 (b) revised	38817
890.3760 (b) revised	38817
890.3790 (b) revised	38817
890.3825 (b) revised	38817
890.3910 (b) revised	38817
890.3920 (b) revised	38817
890.3940 (b) revised	38817
890.5050 (b) revised	38817
890.5125 (b) revised	38818
890.5350 (b) revised	38818
890.5370 (b) revised	38818
890.5380 (b) revised	38818
890.5410 (b) revised	38818
890.5660 (b) revised	38818
890.5730 (b) revised	38818
890.5765 (b) revised	38818

890.5925 (b) revised 38818
890.5940 (b) revised 38818
890.5950 (b) revised 38818
890.5975 (b) revised 38818
892.1100 (b) revised 38818
892.1110 (b) revised 38818
892.1130 (b) revised 38818
892.1300 (b) revised 38818
892.1370 (b) revised 38818
892.1380 (b) revised 38819
892.1400 (b) revised 38819
892.1420 (b) revised 38819
892.1640 (b) revised 38819
892.1700 (b) revised 38819
892.1760 (b) revised 38819
892.1770 (b) revised 38819
892.1830 (b) revised 38819
892.1840 (b) revised 38819
892.1880 (b) revised 38819
892.1920 (b) revised 38819
892.1940 (b) revised 38819
892.1950 (b) revised 38819
892.5740 (b) revised 38819
892.5780 (b) revised 38819

Proposed Rules:

101....................................38591
192....................................17517
333....................................29059
592....................................17517
864 ....23634, 38226

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 32742, 38542
41.2 (i)(2) revised; interim 32541
41.12 Table amended 32742
 Table corrected 38153
41.81 Revised; interim......................19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
 (f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised 32742
42.11 Table amended 32742
 Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h), (i) and (j); new (b)(2), (3) and (g) added; interim.....................39437
51 Authority citation revised 29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added 29906
51.21 (d)(4)(ii) revised 29906
51.27 (b) and (d)(1)(i) introductory text revised 29906
51.40 Revised.....................................29907
51.41 Revised.....................................29907
124.2 (c) introductory text, (1) and (6) revised 35899
125.4 (c) introductory text revised 35900
126.5 (b) corrected 36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised 35900

Proposed Rules:

62 27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised........23847
630.102—630.112 (Subpart A) Revised 23847
655.601 (a) revised...........................38911
940.9 (b) amended 19856
940.11 (g) amended 19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed 20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added................................38918
1345.4 (a)(1)(iv) revised....................38918

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 23 Chapter III—Con.

1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised 38918

Proposed Rules:

655...27480
710...23636

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended 28791
5.850—5.861 (Subpart I) Added.........28792
5.901—5.961 (Subpart J) Added 28792
27.20 (f) added 35847

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added.....................................28797
207 Authority citation revised........35072
207.252 Revised; interim..................35072
207.252a Revised; interim................35073
207.254 Added; interim 35073
247.2 Amended 28797
247.3 (a)(3) revised...........................28797
290.18 Added.....................................35847

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim 35855
598.1 (a) revised; interim 35855
599 Added; interim...........................35855

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised..................28797
882.102 (a) revised; (b) amended 28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added 28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2)..28797
882.518 Added 28797
884.216 (b) revised............................28798
891.430 Revised.................................28798
891.630 Revised.................................28798
891.770 Revised.................................28798

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

960.102 (a)(1) revised........................28799
960.200—960.208 (Subpart B) Revised 28799
966 Heading and authority citation revised 28802
966.1 Revised.....................................28802
966.2 Added 28802
966.4 (d)(1), (f)(12), (l)(2), (3)(i) and (5) revised 28802
Corrected 32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added.......................28804
972 Added...33618
982.4 (a)(2) revised; (b) amended 28804
(b) amended; interim...................33613
982.54 (d)(4)(iii) added 28804
982.310 (c) revised; (h) added 28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added.......................30568
982.505 (c)(4) revised........................30568
982.551 (m) redesignated as (n); (l) revised; new (m) added.........28805

982.552 (b)(1), (c)(1)(iv) and (2) revised; (c)(1)(xi) added..........28805
982.553 Revised..........28805
982.632 (a) revised; interim..........33613
982.638 (d)(2) revised; interim..........33613
982.640 (b) revised; interim..........33613
982.642 Added; interim..........33613

Proposed Rules:

206..........30278
888..........23770
982..........32198
1000..........37098, 38965

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02..........22121
84 Added..........38923
89 Authority citation revised..........38926
89.1 Removed..........38926
89.2 Removed..........38926
89.3 Removed..........38926
89.4 Removed..........38926
89.5 Removed..........38926
89.6 Removed..........38926
89.7 Removed..........38926
89.8 Removed..........38926
89.9 Removed..........38926
89.10 Removed..........38926
89.11 Removed..........38926
89.12 Removed..........38926
89.13 Removed..........38926
89.14 Removed..........38926
89.15 Removed..........38926
89.16 Removed..........38926
89.17 Removed..........38926
89.18 Removed..........38926
89.19 Removed..........38926
89.20 Removed..........38926
89.21 Removed..........38926
89.22 Removed..........38926
89.24 Removed..........38926
89.25 Removed..........38926
89.26 Removed..........38926
151 Regulation at 66 FR 9452 and 10815 effective date delayed..........19403, 31976
183 Added..........21068

Proposed Rules:

70..........33654
151..........19403
309..........27915
502..........33494

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended..........32902, 33463, 37889, 37899
1.32-3 Added..........33637
1.32-3T Removed..........33637
1.132-9 (b) corrected..........18190
1.197-2(k) Example 23 corrected..........22286
1.401(a)(4)-0 Amended..........34540
1.401(a)(4)-8 (b)(1) revised..........34540
1.401(a)(4)-9 (b)(2)(v) added; (c)(3)(ii) revised..........34544
1.401(a)(4)-12 Amended..........34545
1.420-1 Added..........32900
1.460-1 (j) corrected..........18357
1.460-2 (b)(2)(ii) and (c)(1) corrected..........18191
1.460-4 (b)(3) and (g) corrected..........18191
1.679-0 Added..........37889
1.679-1 Added..........37889
1.679-2 Added..........37889
1.679-3 Added..........37889
1.679-4 Added..........37889
1.679-5 Added..........37889
1.679-6 Added..........37889
1.679-7 Added..........37889
1.684-1 Added..........37899
1.684-2 Added..........37899
1.684-3 Added..........37899
1.684-4 Added..........37899
1.684-5 Added..........37899
1.732-3 Added..........32902
1.958-1 (b) amended..........37897
1.958-2 (c)(1)(ii)(*b*) amended..........37897
1.985-8 (c)(3)(ii) Examples 1 and 2 correctly added..........21447
1.1441-1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*), (D)(*2*) and (*3*) corrected..........18188
1.1441-5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected..........18188
1.1441-7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected..........18189

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

TITLE 26 Chapter I—Con.

1.1461–1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M)..........18189
  (a)(1) amended..........33831
1.1502–5 (a)(1) amended..........33831
1.1502–34 Amended..........32902
1.1502–78 (e) added..........33463
1.1502–78T Removed..........33464
1.6045–1 (g)(1)(i) and (3)(iv) corrected..........18189
1.6049–5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected..........18189
1.6151–1 (d)(1) amended..........33831
1.6302–1 (d) revised..........32542
  (b)(1) amended..........33831
1.6302–2 (d) revised..........32542
  (a)(1)(i), (ii), (iv) and (b)(1) amended..........33831
1.6302–3 (a) amended..........33831
20 Authority citation amended..........38546
20.6075–1 Revised; interim..........38546
20.6081–1 Revised; interim..........38546
31 Authority citation amended..........28370
31.6071(a)–1 (a)(1) and (c) amended..........33832
31.6151–1 (b) amended..........33832
31.6302–1 (f)(4) revised..........28370
  (m)(1) revised..........32542
  (i)(3) amended..........33831
  (c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended..........33832
31.6302–1T Removed..........28370
31.6302(c)–2A (b)(1)(i) and (3) amended..........33832
31.6302(c)–3 (b)(2) amended..........33831
  (a)(1)(i), (ii), (3) and (b)(2) amended..........33832
31.6302(c)–4 (a) revised..........32542
35.3405–1T Amended..........33832
36.3121(l)(10)–4 Amended..........33832
40.6302(c)–1 (d)(1) amended..........33832
48.4081–8 Revised..........27597
301 Authority citation amended..........39438
301.6103(j)(5)–1 Added..........39438
301.6103(j)(5)–1T Removed..........39439
301.6302–1 (a), (b)(1) and (2) amended..........33832
301.6302–1T Removed..........33831
301.6323(j)–1 Added..........33465
301.6656–1 Removed; new 301.6656–1 redesignated from 301.6656–3..........32542
301.6656–2 Removed..........32542
301.6656–3 Redesignated as 301.6656–1..........32542
301.9100–5T (c) concluding text amended..........33832
601.401 (a)(5) heading, (iii) and (iv) amended..........33832
602.101 (b) table amended (OMB numbers)..........32542, 33637, 38546

Proposed Rules:

1.....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112
5c..........31850
5f..........31850
18..........31850
31..........28408, 32279
53..........26824
301...17518, 23868, 26824, 28408, 31850, 32279
602..........17518

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

4 Cross references amended..........38549
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4–1–98..........37578
4.22 (b)(5) amended; effective date retroactive to 4–1–98..........37578
5.2 Amended..........38549
7.4 Amended..........38549
9.162 Added..........29479
9.164 Added..........23592
9.166 Added..........29698
9.167 Added..........18545
9.170 Added..........26791
13.2 Added..........19085
13.11 Amended..........19085
13.20 Added..........19085
13.21 (a) amended; (b) revised..........19085
13.23 Amended..........19085
13.25 (a) and (b) amended..........19085
13.26 (a) and (b) amended..........19085
13.27 (c) amended..........19085
  (a) and (b) revised..........19086

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

13.41 Amended	19085
13.42 Amended	19085
13.43 (a) and (b) amended	19085
13.44 Revised	19086
13.45 (a) and (b) amended	19086
13.52 Amended	19085
13.53 Amended	19085
13.54 (a) and (b) amended	19085, 19086
13.61 (b) amended	19085
13.62 Revised	19086
13.71 Revised	19086
13.72 (b) amended	19086
13.74 Amended	19086
13.92 Amended	19086
17.5 Amended	38549
18 Authority citation revised	29481
18.11 Amended	29482
18.39 Added	29482
18.40 Added	29482
18.41 Added	29482
18.42 Added	29482
18.43 Added	29482
18.56 Revised	29482
19.3 Amended	38549
19.207 Added	29482
19.485 (a)(1) and (2) amended	38549
19.524 (a)(1), (b)(1) and (3) amended	38549
20.3 Amended	38549
22.3 Amended	38550
24.4 Amended	38550
24.135 (a) amended	29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4-1-98	37578
24.272 (a)(1), (b)(1) and (3) amended	38550
25.165 (a)(1), (b)(1) and (3) amended	38550
25.284 (d) corrected	17809
26 Redesignated from Part 250	38550
26.3 Amended	38550
26.11 Amended	38550
26.30 Amended	38550
26.35 (a) amended	38550
26.45 Amended	38551
26.47 Amended	38551
26.50 (a) and (b) amended	38551
26.51 (c) amended	38551
26.55 Amended	38551
26.68a Amended	38551
26.70 Amended	38551
26.71 (a) amended	38551
26.72 Amended	38551
26.73 Amended	38551
26.74 Amended	38551
26.77 (c) amended	38551
26.79 (a) amended	38551
26.80 (a) amended	38551
26.81 (a) amended	38551
26.82 Amended	38551
26.87 Amended	38551
26.95 (b) amended	38551
26.96b Amended	38551
26.104 (b) amended	38551
26.105a Amended	38551
26.107 Amended	38551
26.108 (a), (b) and (c) amended	38551
26.109 (a), (b) and (c) amended	38551
26.110 Amended	38551
26.112 (a), (c)(2), (d)(2) and (e) amended	38551
26.112a (a)(1), (b)(2) and (3) amended	38551
26.113 (c) through (f) amended	38552
26.114 Amended	38552
26.115 Amended	38552
26.163 Amended	38552
26.165 (a)(2) and (3) amended	38552
26.173 (b)(4) amended	38552
26.193 (a) and (b) amended	38552
26.194 (a) and (b) amended	38552
26.196 Amended	38552
26.199a (a) amended	38551
26.199b Amended	38551
26.200 (a) amended	38552
26.204 Amended	38552
26.205 (a)(8) introductory text, (iv) and (b) amended	38552
26.211 Amended	38552
26.220 Amended	38552
26.221 Amended	38552
26.225 Amended	38552
26.260 Amended	38552
26.261 Amended	38552
26.262 (a) and (c) amended	38552
26.263 Amended	38552
26.264 Amended	38552
26.265 Amended	38552
26.272 Amended	38552
26.273a Introductory text amended	38552
26.291 (a), (b)(1), (2) and (c) amended	38552
26.301 Amended	38552
26.302 (a) and (b) amended	38552
26.303 Amended	38552
26.309 (b)(4) and (c)(2)(viii) amended	38552
26.318 Amended	38552
Subchapter B Heading added	38550
40 Redesignated from Part 270; authority citation revised	39093

TITLE 27 Chapter I—Con.

40.11 Amended	39094
40.21 (b) amended	39094
40.31 (a) amended	39094
40.32 (b) amended	39094
40.33 (b)(3) and (c)(2) amended	39094
40.35 (a) amended	39094
40.49 Amended	39094
40.62 Amended	39094
40.63 Amended	39094
40.64 Amended	39094
40.65 Amended	39094
40.67 Amended	39094
40.68 Amended	39094
40.71 Amended	39094
40.72 Amended	39094
40.92 Amended	39094
40.101 Amended	39094
40.102 Amended	39094
40.103 Amended	39094
40.104 Amended	39094
40.111 Amended	39094
40.113 Amended	39094
40.114 Amended	39094
40.134 Amended	39094
40.135 Amended	39094
40.136 (d) amended	39094
40.140 Amended	39094
40.162 Amended	39094
40.163 Amended	39095
40.164 (a)(2) and (d)(2) amended	39095
40.165 (a) amended	39095
40.165a (a)(1), (b)(2) and (3) amended	39095
40.166 Amended	39095
40.167 (a) and (b) amended	39095
40.168 Amended	39095
40.181 Amended	39095
40.183 (e) amended	39094
40.187 Amended	39094
40.212 Amended	39094
40.216c (b) and (c) amended	39095
40.251 Amended	39095
40.252 Amended	39095
40.253 Amended	39095
40.254 Amended	39095
40.255 Amended	39095
40.282 Amended	39095
40.283 Amended	39095
40.286 Amended	39095
40.287 Amended	39095
40.301 Amended	39095
40.311 (a) and (b) amended	39095
40.313 Amended	39095
40.331 Amended	39095
40.355 (e) and (g)(2) amended	39095
40.357 (a)(1), (b)(2) and (3) amended	39095
40.371 (a) amended	39096
40.372 (b) amended	39096
40.373 (b)(3) and (c)(2) amended	39096
40.374 (a) amended	39096
40.396 Amended	39096
40.397 Amended	39096
40.402 Amended	39096
40.404 Amended	39096
40.405 Amended	39096
40.410 Amended	39096
40.421 (a)(4) amended	39096
40.461 Amended	39096
40.472 Amended	39096
40.473 Amended	39096
40.475 Amended	39096
40.476 Amended	39096
40.478 Amended	39096
46 Redesignated from Part 296	32220
46.4 (c) amended	32220
46.6 (a) and (c) amended	32220
46.7 Amended	32220
46.8 Introductory text and (f) amended	32220
46.15 Amended	32220
46.72 Amended	32220, 39093
46.81 Amended	32220
46.146 Amended	32220
46.147 (a) introductory text and (b) introductory text amended	32220
46.150 (a) amended	32220
46.153 Introductory text amended	32220
46.166 Amended	39093
46.167 (a) and (c) amended	39093
46.192 (a) amended	32220
46.194 Amended	32220
46.196 (a), (b) and (d) amended	32221
46.205 (a) and (e) amended	32221
46.206 (b) and (f) amended	32221
46.213 Amended	32221
46.221 Amended	32221
46.237 Amended	32221
46.241 (f) amended	32221
46.242 Amended	32221
46.255 (a) amended	39093
46.270 Revised	32220
53.11 Amended	19088
53.20 Added	19088
53.21 (a) amended; (b) revised	19088
53.22 (a)(1) amended	19088
53.23 (a) amended; (b) revised	19088
53.24 (a)(1) and (d)(1) amended	19088

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

53.92 (b)(2) amended 19088
53.96 (b)(4) amended 19088
53.115 (b) amended 19088
53.132 (c)(2)(ii) amended 19088
53.133 (d)(3) amended 19088
53.134 (d)(2)(ii) amended 19088
53.136 (c)(2) amended 19088
53.140 (b) amended 19088
53.142 (a) amended 19088
53.151 (b)(1) and (2) amended 19088
53.155 (a) and (b) amended 19088
53.156 (a)(1) and (c) amended 19088
53.157 (f)(1) amended 19088
53.158 (b)(1), (3) and (e) amended 19088
53.159 (d)(1) and (2) amended 19088
(j)(1) amended 19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended 19088
53.186 (a) introductory text and (4) amended 19088
55.128 Corrected 19089
55.218 Table corrected 19089
70 Technical correction 19089
70.2 (a) amended; (b) revised 29022
70.3 Added 29022
70.11 Amended 29022
70.21 Amended 29022, 29023
70.22 (a) and (b) amended; (c) removed 29023
70.23 (b) revised 29023
70.24 (b) amended 29023
70.25 (a)(4) amended 29022
70.26 (c)(2)(ii) amended 29022
70.30 Revised 29023
70.31 Revised 29023
70.32 Amended 29023
70.33 Introductory text revised 29023
70.34 Revised 29023
70.40 Revised 29023
70.41 (a), (c), (d) and (f) amended 29023
70.42 Heading, (a)(1), (b) and (c)(1) revised 29024
70.51 Revised 29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended 29022
(a)(1)(i) introductory text, (D) and (3) amended 29024
70.64 Amended 29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended 29024
70.72 Amended 29025
70.73 Amended 29024
70.74 (c)(1) and (2) amended 29024
(b) amended 29025
70.75 (b) and (c) amended 29024
(a) introductory text revised 29025
70.76 (a), (b)(3), (c) and (d) amended 29024
70.77 (a)(1), (2), (b)(1) and (2) amended 29024
70.81 (a) amended 29024
70.82 Amended 29024
70.92 (c) and (d)(2)(i) amended 29024
70.94 (a) amended 29022
70.96 (a)(1)(iv), (2), (3) and (c) amended 29024
(c) amended 29025
70.98 (b) amended 29024, 29025
70.100 Amended 29022
70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
(a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
(g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
(a)(1), (2), (b) and (c) amended 29025
(a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
(a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
(a)(2)(ii) amended 29024
(a)(4), (b)(2) introductory text and (b)(3) amended 29025

TITLE 27 Chapter I—Con.

(a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended	29026
70.168 (a) amended	29022
(b)(2) amended; (c) revised	29026
70.169 Amended	29022
70.170 (b) amended	29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended	29022
(a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended	29026
(c)(5)(ii)(E) and (c)(8) amended	29027
70.182 (a) amended	29022
(a)(2)(ii), (6)(iv), (v), (7) and (9) amended	29027
(a)(2)(i) amended	29027
70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended	29022
(b)(4), (9)(iv), (v) and (10) amended	29027
(a), (b) introductory text and (c) through (f) amended	29027
70.184 (a), (b), (c) introductory text and (1) amended	29022
70.185 (a), (b) and (c) amended	29023
70.186 (b)(2) and (c) amended	29023
(a)(5) amended	29025
70.187 (a) amended	29023
(a) and (b) amended	29025
(a) amended	29027
70.188 Amended	29023
70.191 (b) introductory text amended	29022
(a) revised	29027
70.204 concluding text amended	29025
(a) concluding text amended	29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended	29025
(b)(1) and (c)(1) amended	29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended	29023
(b)(4)(ii)(B) amended	29025
(a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised	29027
70.207 (b)(1)(iii) amended	29025
70.208 Amended	29025
70.209 (a) and (b) amended	29025
70.210 (a)(1) amended	29025
70.213 Amended	29022
70.222 (b) revised	29028
70.223 (d) amended	29025
70.224 (a)(1) and (2)(i) revised	29028
70.227 Revised	29028
70.231 (i)(3) amended	29025
70.241 (a)(8) amended	29025
70.242 (a) and (c) amended	29025
70.245 Heading, (a), (c)(2) and (d) amended	29025
70.251 (a)(2) and (b) amended	29026
(b) amended	29027
70.253 (b)(2) amended	29023
(b)(1) and (2) amended	29028
70.262 (b)(4) and (c)(2) amended	29028
70.263 (d) amended	29023
70.271 (d)(1) amended	29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended	29025
(a)(1) and (b)(2) amended	29028
70.301 (a) amended	29022
70.304 (a) and (b) amended	29028
70.306 (a) amended	29028
70.311 Amended	29022
70.333 Amended	29028
70.411 (b), (c) introductory text and (16) amended	29028
(c)(26) amended	38550
70.412 (a) amended	29028
70.413 (a) amended	29023
(c)(1) amended	29025
(b) revised	29028
70.414 (k) amended	29026
(a) revised	29028
70.416 Revised	19029
70.418 Revised	29029
70.419 Revised	29029
70.431 (b)(7) amended	32219
(b)(2) amended	39093
70.432 (a), (b) and (d) amended	29029
70.433 (a) amended	29023
(a) and (d) amended	29029
70.435 (i) amended	29023
70.438 Amended	29029
70.447 Amended	29025
70.461 Amended	38550
70.471 Revised	29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended	29025

CHANGES APRIL 2, 2001 THROUGH JULY 31, 2001

(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended	29026
(b)(1) amended	29029
70.482 (a) introductory text amended	29022
(d)(1)(i) amended	29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised	29029
70.483 Revised	29029
70.484 Amended	29030
70.485 (a) amended	29022
70.486 Amended	29025
70.504 (c)(2) amended	29023
70.506 Amended	29030
70.507 (g) amended	29023
70.601 Amended	29030
70.602 (a) and (b)(1) introductory text amended	29023
70.603 (a)(1) revised	29030
70.606 Introductory text amended	29023
70.608 Amended	29023
70.609 Amended	29023
70.701 (a)(1) revised; (c) amended	29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended	29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised	29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised	29030
200.49b (b) amended	39093
250 Redesignated as Part 26	38550
250.2 (a) amended; (b) revised	21668
250.3 Added	21668
250.11 Amended	21668, 21669
250.37 Revised	21669
250.43 Amended	21668
250.50a (b)(2) revised	21669
250.52 (b) and (c) amended	21669
250.54 Revised	21669
250.61 Revised	21669
250.62a Amended	21669
250.65 Amended	21669
250.70 Amended	21669
250.70a Amended	21669
250.71 (c) and (d) amended	21669
250.72 Amended	21669
250.74 Amended	21669
250.75 Amended	21669
250.81 Amended	21669
250.96 Amended	21669
250.105 Amended	21669
250.110 Amended	21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised	21669
250.112a (b)(1) and (c)(1) amended	21669
250.113 (a) amended	21669
250.116 Amended	21669
250.118 Amended	21669
250.119 Revised	21669
250.126 Amended	21669
250.128 Amended	21669
250.172 (a) amended; (b) revised	21669
250.173 (a) revised; (d) amended	21669
250.174 (a) and (e) amended	21669
250.193 (b) amended	21670
250.194 Amended	21669
250.197 Amended	21670
250.199f (c) revised	21670
250.209 Amended	21668
250.222 (b) and (c) amended	21669
250.224 Revised	21670
250.275 (a) revised	21670
250.276 Amended	21669, 21670
250.277 Undesignated center heading and section removed	21670
250.303 Amended	21669
250.308 (a) amended; (b) revised	21670
250.309 (a) revised; (d) amended	21670
250.310 (a) and (e) amended	21669
250.314 (b) amended	21668
(a) and (b) amended	21670
250.318 Revised	21670
250.331 (b) amended	21669
(a) and (b) amended	21670
250.314 (b) amended	21668
250.316 Amended	21668
250.319 Amended	21668
250.331 (b) amended	21668
251 Cross references amended	38550
251.1 Note revised	38550
251.48a (a) amended	38550
270 Redesignated as Part 40	39093
270.11 Amended	32220
270.49 Amended	32220
270.165 OMB number	19069
270.165a OMB number	19069
270.286 Amended	32220

TITLE 27 Chapter I—Con.

275.39 Amended	39093
275.63 (a) amended	39093
275.82 (b) amended	39093
275.85 (b) amended	39093
275.85a (c) amended	39093
275.86 (a) amended	39093
275.115a (a)(1) and (b)(1) amended	39093
275.140 Amended	39093
275.162 Amended	32220
275.205 (b) amended	32220
290.11 Amended	39093
290.67 (b) amended	39093
290.154 Amended	32220
290.184 Amended	39093
290.243 Amended	39093
295.11 Amended	39093
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
16	28135
20	37196

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended 37903
0.29d (a) revised 37903
0.29e (a)(1), (2), (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended 37903
0.29h (a) amended 37903
2.81 (d) amended 37137
16.99 (a)(3) added 35374
27.1 (b) revised 37904
27.4 Heading revised; (a) amended 37904

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim 38518

Proposed Rules:

16 37939
25 35567

TITLE 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1926.500 Regulation at 66 FR 5265 delayed 37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed 37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction 36368
2520.102-3 (d) and (j)(3) corrected 34994
2520.104b-3 (d)(3)(ii) corrected 34994
2560.503-1 (o) revised 35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4022 Appendix B amended 36702
Appendix C amended 36703
4044 Appendix B amended 36703

Proposed Rules:

102 38594
1904 35113

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed 35518
57.5065 Heading corrected; (c) removed 35520

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

756.14 (e) added 39443

Proposed Rules:

57 35521
250 37611

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

29 Authority citation revised 36705
29.102 (a) revised; (f) added; interim 36705
29.103 (a) amended; interim 36705
29.501—29.526 (Subpart E) Added; interim 36705

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised 36687
515.207 Note added; interim 36687

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

TITLE 31 Chapter V—Con.

515.533 Heading, (a) and (e) revised; (f) removed; interim 36687

515.559 Heading and note revised; interim 36687

515.560 Revised; interim 36688

535.215 (a) revised; interim 38554

535.333 Revised; interim 38554

538 Authority citation revised 36688

538.205 Revised; interim 36688

538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim 36688

538.405 (b) revised; interim 36688

538.523 Revised; interim 36688

538.524 Removed; interim 36689

538.525 Heading and (d) revised; (e) added; interim 36689

538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36689

540 Revised 38555

550 Authority citation revised 36690

550.306 Revised; interim 36690

550.308 Revised; interim 36690

550.318 Revised; interim 36690

550.405 (b) revised; interim 36690

550.569 Revised; interim 36690

550.571 Removed; interim 36691

Heading and (d) revised; new (e) added; interim 36691

550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36691

550.573 Revised; interim 36692

560 Authority citation revised 36692

560.405 (b) revised; interim 36692

560.520 Heading revised; interim 36692

560.530 Revised; interim 36692

560.531 Removed; interim 36693

560.532 Heading and (d) revised; (e) added; interim 36693

560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36693

Proposed Rules:

356 38500

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army (Parts 400—699)

668 Removed 36711

Proposed Rules:

806 36523

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

100.35–T05–029 Added (temporary) 34828

100.35–T05–030 Added (temporary) 34824

100.35–T05–031 Added (temporary) 34820

100.35–T05–032 Added (temporary) 34826

100.35–T09–001 Added (temporary) 37415

100.511 Implementation (temporary) 34828

100.1301 Revised 34822

100.1303 Implementation (temporary) 38154

117 Temporary drawbridge operations regulations .... 34829, 36162—36165, 37140, 37578, 38155, 38370, 39278

117.301 Added 36467

117.305 Revised 37580

117.733 (k) added 39445

117.801 Regulation at 66 FR 16129 eff. date extended through 8–30–01 37139

117.1051 (d)(4) added (temporary) 35902

159 Authority citation revised 38930

159.301—159.321 (Subpart E) Added 38930

165.T01–065 Added (temporary) 34839

165.T01–066 Added (temporary) 34847

165.T01–074 Added (temporary) 34849

165.T01–090 Added (temporary) 34840

165.T01–099 Added (temporary) 34832

165.T01–107 Added (temporary) 36168

165.T01–118 Added (temporary) 38158

165.T07–074 Added (temporary) 37417

165.T08–038 Added (temporary) 38936

165.T09–013 Added (temporary) 34835

165.T09–916 Added (temporary) 35546

165.T09–917 Added (temporary) 34837

165.T09–919 Added (temporary) 36167

165.T09–927 Added (temporary) 34830

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

165.T09-930 Added (temporary) 34842, 34844, 35081
165.T09-933 Added (temporary) 34846
165.T09-940 Added (temporary) 37586
165.T09-945 Added (temporary) 37585
165.T09-950 Added (temporary) 34834
165.T09-957 Added (temporary) 37142
165.T09-958 Added (temporary) 35758
165.T09-969 Added (temporary) 37583
165.T09-970 Added (temporary) 37582
165.T09-972 Added (temporary) 38156
165.T13-004 Added (temporary) 38372
165.T13-011 Added (temporary) 39447
165.T14-051 Added (temporary) 38935
165.540 Added; interim 39099
165.713 Removed.................................36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim.....................35760

Proposed Rules:

100..37200
117 ....36525, 36527, 36529, 37615
151..36530
153..36530
164..36223

TITLE 34—EDUCATION

No amendments to 34 CFR have been published in the FEDERAL REGISTER since July 2, 2001.

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER since July 2, 2000.

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

51.56 Revised......................................35083
51.57 Revised......................................35083
51.62 Revised......................................35083

Proposed Rules:

219..35918
294..35918
1228 37202

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised...39448
1.16 (a), (b), (d), (f) through (i) and (k) revised...............................39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised 39449
1.18 (a), (b) and (c) revised 39449
1.20 (e), (f) and (g) revised...............39449
1.21 (o) removed...............................39450
1.492 (a)(1), (2), (3), (5), (b) and (d) revised...39450

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

202 Authority citation revised........37149
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added 37149
202.20 (c)(2)(xx) added 37150

Proposed Rules:

1..35763
260..38226

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

17.1000—17.1008 Undesignated center heading and sections added; interim.............................36470
20.901 (a) revised; interim 38159
20.1404 (b) revised; interim 35903
20.1405 (a) revised...............................37151
20.1409 (b) revised; interim 35903
21.4131 (i) removed 38938
21.4135 (aa) removed..........................38938
21.4800—21.4856 (Subpart F-3) Removed..38938
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

TITLE 38 Chapter I—Con.

(b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised 39279
21.7131 (j) and (aa) removed 38939
21.7631 (f) removed 38939
21.7635 (w) removed 38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised 38937

Proposed Rules:

3 37940
4 37940
17 36960
260 38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

111 DMM amended; incorporation by reference 37151

Proposed Rules:

111 36224
3001 ....38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

52 Technical correction 36035
52.50 (c) table amended 36920
52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added 38568
52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added 36172
(c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added 37153
(c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added 37156
(c)(260)(i)(B) and (266)(i)(B)(*3*) added 37591
(c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added 38564
(c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added 38940
52.320 (c)(93) added 35379
52.570 (c) table and (e) table amended 35909
52.770 (c)(141) added 37419
52.1070 Regulation at 66 FR 28059 withdrawn 35546
(c)(162) added 37916
52.1320 (c) table amended 37905, 37907, 37918
52.1520 (c)(66) added 39104
52.2020 (c)(152) added 37914
52.2270 (e) table amended 35906
(c) table amended 36917, 36923
60.51b Amended 36476
62.10100 Regulation at 66 FR 22929 withdrawn 35546
62.10170 Regulation at 66 FR 22929 withdrawn 35546
63 Delegation of authority 36173
63.14 (d)(2) revised 35087
63.99 (a)(30) added 35087
63.480 (i)(2)(ii) revised 36927
63.482 (b) amended 36927
63.485 (k) amended 36928
63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended 36928
63.489 (e)(1)(ii) revised 36928
63.501 (c) revised 36928
63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended 36928
63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised 36928
63.863 (a) and (b) revised 37593
63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added 37593
63.1201 (a) amended 35103
63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised 35103
63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii); (f)(1)(ii)(D) and (xxvi) added; (n) removed 35106
63.1209 (b)(2)(ii) and (l)(2) revised 35106
63.1211 (c)(1) revised 35106
63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised 36937
63.1311 (b) revised 36937

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

63.1312 (b) amended.....36937
63.1315 (a)(9) and (d) revised.....36938
63.1316 (b)(1)(i)(B) revised.....36938
63.1318 (a) revised.....36938
63.1319 (a) amended.....36938
63.1320 (a) amended; (b)(3) revised.....36938
63.1322 (f)(1)(ii) and (g)(1)(ii) amended.....36938
63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised.....36938
63.1324 (f)(1)(ii) revised.....36938
63.1327 (b) amended.....36938
63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added.....36938
63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised.....36939
63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised.....36939
70 Appendix A amended.....38946
80.40 (c) added.....37164
80.41 (e) and (f) revised.....37164
80.65 (d)(2)(ii) revised.....37165
80.67 (g)(1) revised.....37165
80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added.....37165
80.69 Introductory text revised.....37165
81 Attainment status determinations.....36476, 38947, 38948
81.306 Table corrected.....34994
82.3 Amended; interim.....37767
82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim.....37767
82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim.....37767
152.1 Revised.....37814
152.3 Amended.....37814
152.20 (a)(1) revised; (a)(4) added.....37814
174 Added.....37814
174.475 Added.....37830
174.479 Added.....37854
180.121 Table amended.....38955
180.153 (a)(1) table amended.....38955
180.169 (a)(1) table and (c) table amended.....38955
180.183 (a)(1) table amended.....38955
180.205 (b) table amended.....37598
180.262 (a) table amended.....38955
180.416 (b) table amended.....37598
180.434 (b) table amended.....37598
180.443 (b) table amended.....37598
180.449 (b) table amended.....37598
180.474 (b) table amended.....37598
180.480 (b) table amended.....37598
180.482 (b) table amended.....37598
180.493 (b) table amended.....37598
180.499 (b) table amended.....37598
180.502 (a) table amended.....36481, 36484
180.503 (b) table amended.....37598
180.508 (b) table amended.....37598
180.535 (b) table revised.....37598
180.557 (b) table revised.....37598
197 Technical correction.....38374
261 Request for public comment.....35379
264.340 (b)(1) amended; (b)(3) added.....35106
300 Appendix B amended.....34852, 35387, 35547, 36947, 38571, 39284, 39288
712.30 (d) table and (e) table amended.....38959

Proposed Rules:

9.....35572
51.....38108
52.....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471
60.....36547
61.....35115
63.....35115, 35124, 35126, 35326, 36228, 36836
70.....34901, 35126, 38966, 39293
72.....39123
75.....39123
78.....39123
81.....38603, 38608, 38966, 38967
82.....38064
97.....39123
122.....35572
123.....35572
124.....35572
125.....35572
131.....39295
140.....38967
141.....37617
142.....37617
174.....37855
180.....35921
194.....36723
261.....36725, 38396, 38969
264.....35124, 35126
265.....35126

CHANGES JULY 2, 2001 THROUGH JULY 31, 2001

TITLE 40 *Proposed Rules:—Con.*

266 35126
268 38405
270 35126
300 .... 34906, 35395, 36966, 37439, 38571, 38610, 39299
434 39300
450 35576

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6-10 (Subpart 101.6) Revised 37733
  Technical correction 39560
102-3 Added 37733
  Technical correction 39560

Proposed Rules:

101-9 39473
102-192 39473
141 37617
142 37617
174 37855

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Chapter I Nomenclature change 39452
8 Added 4090
  Regulation at 66 FR 4090 eff. date delayed 15347
8.11 (d) revised 15347
36.201—36.237 (Subpart I) Removed **58919**
63 Authority citation revised **66512**
63.1 Revised **66512**
63.2 Amended **66513**
63.9 Revised **66513**
63.10 Amended **66513**
66 Authority citation revised 29499
66.101 Revised 29499
66.102 (d) and (g) revised 29499
66.103 (a) and (b) revised; (c) added 29500
66.104 (b)(5) revised 29500
66.105 (a), (b) introductory text and (c) revised 29500
66.106 (a)(2) introductory text revised 29500
66.110 Revised 29500
66.111 (a) introductory text, (b) introductory text and (c)(4) revised 29500
66.112 Amended; heading revised 29500
66.201 Revised 29500
66.205 (a)(1), (2) and (b) revised 29501
66.206 (a)(3) introductory text revised 29501
66.207 Amended 29501

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

Chapter IV Nomenclature change; heading revised 39452
400.200 Amended 39452
400.203 Amended 6402
  Regulation at 66 FR 6402 effective date delayed 32776
405.2175 Added 33030
409 Authority citation revised **62646**
409.1 (e) revised **62646**
409.19 Removed **62646**
410 Technical correction 13020, 13021, 16507
410.1 (a) revised **83148**
  Regulation at 65 FR 83130 confirmed 14861
410.64 Removed **62646**
410.68 (b) introductory text revised **65440**
410.140—410.146 (Subpart H) Added **83148**
  Regulation at 65 FR 83148 confirmed 14861
410.150 (b)(14) revised; eff. 10-1-01 39599
410.152 (k)(2) revised; interim 32192
411 Technical correction 3497, 8771
  Comment period extension 17813
411.1 (a) revised; eff. 1-4-02 952
411.15 (q) redesignated as (r); new (q) added 32778
  (p)(1), (2) introductory text, (i) and (3) introductory text revised; eff. 10-1-01 39600
411.350 Revised; eff. 1-4-02 952
411.351 Revised; eff. 1-4-02 952
411.352 Added; eff. 1-4-02 956
411.353 Revised; eff. 1-4-02 958
411.354 Added; eff. 1-4-02 958
411.357 (k) through (p) added; eff. 1-4-02 961
412 Technical correction 13020, 13021
412.63 (s) revised; interim 32192
412.77 Heading and (a)(1) revised; (a)(2) removed; (a)(3) and (4) redesignated as new (a)(2) and (3); interim 32192
412.92 (d)(1)(iv), (2)(i), (ii) and (iii) revised; interim 32193
412.105 (d)(3)(v) revised; interim 32193
412.106 (c)(1)(i) through (iv), (d)(2)(ii)(A) through (D), (iii), (iv) and (e)(4) revised; interim 32193
412.108 (a)(1)(iii) introductory text and (b) revised; (a)(1)(iii)(C) added; (d)(3)(iii) amended; interim 32194
413 Technical correction **59748**
  Meeting **61112**
  Technical correction 3497, 13020, 13021
  Authority citation revised 39600
413.24 Regulation at 65 FR 18537 eff. date delayed **58919**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 42 Chapter IV—Con.

413.30 (a) introductory text, (2), (c) introductory text, (2) heading, (d), (e)(3) introductory text and (ii) corrected **60104**
413.40 (c)(4)(iii) introductory text, (A), (B)(*4*)(*i*) and (d)(2) revised; interim........32194
413.65 Regulation at 65 FR 18538 eff. date delayed........**58919**
(i)(2) correctly revised........**58920**
(d)(7)(iii), (f)(3), (j)(3), (4) and (5) corrected........1599
413.70 (b)(2)(ii), (iii), (3)(ii)(B) and (3)(iii) revised; interim........32195
413.80 (h)(3) revised; (h)(4) added; interim........32195
413.85 (h) redesignated as 422.270; revised........3374
Regulation at 66 FR 3374 eff. date delayed........14342
413.86 (d)(4) revised; interim........32195
413.87 (c) introductory text, (1), (2) and (e) redesignated as (c)(1) introductory text, (i), (ii) and (f); new (c)(1), (d) introductory text, (3), new (f)(1) introductory text, (1) and (2) revised; (c)(2) and (e) added; interim........32195
413.114 (a), (c) heading and (d)(1) introductory text revised; eff. 10-1-01........39600
413.337 (e) added; eff. 10-1-01........39600
414 Technical correction........16607
414.22 (b)(5)(i) revised........**65440**
414.63 Added........**83153**
Regulation at 65 FR 83153 confirmed........14861
416.42 (b) revised........4686
Regulation at 66 FR 4686 eff. date delayed........15352
Regulation at 66 FR 4686 delayed to 11-14-01........27598
419.41 (c)(4)(i) revised; interim........**67829**
419.70 (f)(2)(ii) revised; interim........**67829**
422 Authority citation revised........3376
422.156 (e)(1) correctly revised........**59749**
(e)(1) correctly revised; CFR correction........13854
422.157 (c)(6) correctly added........**59749**
422.270 Redesignated from 413.85 (h)........3374
Revised........3376
Regulations at 66 FR 3374 and 3376 eff. date delayed........14342
424 Comment period extension........17813
424.20 (a)(2) heading revised; eff. 10-1-01........39600
424.22 (e), (f) and (g) removed; eff. 1-4-02; (d) revised........962
Regulation at 66 FR 962 eff. date corrected to 4-6-01........8771
424.32 (a)(2) and (5) revised; eff. 10-1-01........39601
424.44 (d) added........**83153**
Regulation at 65 FR 83153 confirmed........14861
424.57 Revised........**60377**
430.5 Added........6402
Regulation at 66 FR 6402 eff. date delayed........11546, 32776
431.51 (a) introductory text, (b)(1) introductory text and (2) amended; (a)(4) and (5) revised; (a)(6) added........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.55 (c)(1)(i) amended........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.200 Revised........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.201 Amended........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.220 (a) introductory text revised; (a)(1), (2) and (3) amended; (a)(5) added........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.244 (f) revised........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
431.636 Added........2666
Regulation at 66 FR 2666 eff. date delayed........11547, 31178
431.865 (b) amended........2666
Regulation at 66 FR 2666 eff. date delayed........11547, 31178
433 Authority citation revised........2666
433.10 (c)(4) added........2666
Regulation at 66 FR 2666 eff. date delayed........11547, 31178
433.11 Added........2666
Regulation at 66 FR 2666 eff. date delayed........11547, 31178
434.1 (a) revised........6403
Regulation at 66 FR 6403 eff. date delayed........11546, 32776
434.2 Amended........6403

NOTE: **Boldface page numbers indicate 2000 changes.**

Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.6 (a)(1) amended..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.20—434.38 (Subpart C) Removed..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.42—434.44 (Subpart D) Removed..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.50—434.67 (Subpart E) Removed..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.70 Revised..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
434.71 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
434.72 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
434.73 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
434.74 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
434.75 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
434.80 Removed..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
435.4 Amended..........................2666
Regulation at 66 FR 2666 eff. date delayed....................11547, 31178
435.212 Amended; heading and introductory text revised..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
435.229 Added..........................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.326 Revised..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
435.910 (h) added..........................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.1001 (a) revised..........................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.1002 (c) added..........................2667
(a) amended..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.1007 (b) and (e) revised; (f) added..........................2321
(a) amended..........................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
Regulation at 66 FR 2321 eff. date delayed..........................14343
435.1100—435.1102 (Subpart L) Added..........................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
436.3 Amended..........................2668
Regulation at 66 FR 2668 eff. date delayed....................11547, 31178
436.229 Added..........................2668
Regulation at 66 FR 2668 eff. date delayed....................11547, 31178
436.1001 (a) revised..........................2668
Regulation at 66 FR 2668 eff. date delayed....................11547, 31178
436.1002 (c) added..........................2669
Regulation at 66 FR 2669 eff. date delayed....................11547, 31178
436.1100—436.1102 (Subpart L) Added..........................2669
Regulation at 66 FR 2669 eff. date delayed....................11547, 31178
438 Added..........................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
440.168 Added..........................6426
Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
440.180 (c) heading and (1) heading revised..........................**60107**
441 Clarification..........................28116
441.151 Revised; interim..........................7160
Regulation at 66 FR 7160 eff. date delayed..........................15800
441.301 (a)(2) revised..........................**60107**
441.302 (c)(1)(i) amended; (d) introductory text revised; (i)(2) removed; (i)(3) redesignated as (i)(2)
441.307 (a) revised..........................**60107**
441.310 (a)(3) and (b) revised..........................**60107**
447.46 Added..........................6426

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 42 Chapter IV—Con.

Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
447.53 (b) introductory text amended; (b)(6) removed; (e) added 6426
Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
447.58 Amended 6426
Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
447.60 Added 6426
Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
447.272 Revised 3175
447.304 (c) and note revised...............3176
447.321 Revised 3176
447.361 Removed 6426
Regulation at 66 FR 6426 eff. date delayed....................11546, 32776
457.1—457.170 (Subpart A) Added 2670
Regulation at 66 FR 2670 eff. date delayed....................11547, 31178
457.60 Regulation at 66 FR 2671 delayed; (b)(2) revised; (b)(7) and (8) amended; interim 33822
457.203 Added 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.204 (d)(2) revised 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.208 (a) revised 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.234 Removed 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.300—457.380 (Subpart C) Added 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.301 Regulation at 66 FR 2675 delayed; amended; interim.......33823
457.320 Regulation at 66 FR 2676 delayed; (b)(4) revised; interim 33823
457.340 Regulation at 66 FR 2676 delayed; (b) through (e) redesignated as (c) through (f); new (b) added; interim 33823
457.350 Regulation at 66 FR 2677 delayed; (e)(4) and (g)(3) added; (f)(5)(iii) removed 33823
457.355 Regulation at 66 FR 2678 delayed; introductory text and (a) redesignated as (a) and (b); new (a) heading added; new (b) revised; interim 33823
457.401—457.495 (Subpart D) Added 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.450 Regulation at 66 FR 2680 delayed; revised; interim..........33823
457.495 Regulation at 66 FR 2680 delayed; (d) revised; interim 33824
457.500—457.570 (Subpart E) Added 2674
Regulation at 66 FR 2674 eff. date delayed....................11547, 31178
457.505 Regulation at 66 FR 2681 delayed; (d)(1), (3) and (e) revised; interim...........................33824
457.540 Regulation at 66 FR 2682 delayed; (f) amended; interim 33824
457.560 Regulation at 66 FR 2682 delayed; (a) and (b) removed; amended 33824
457.624 Removed 2683
Regulation at 66 FR 2683 eff. date delayed....................11547, 31178
457.700—457.750 (Subpart G) Added 2683
Regulation at 66 FR 2683 eff. date delayed....................11547, 31178
457.750 Regulation at 66 FR 2684 delayed; (b)(7) removed; new (b)(8) redesignated as new (b)(7); interim 33824
457.800—457.810 (Subpart H) Added 2683
Regulation at 66 FR 2683 eff. date delayed....................11547, 31178
457.900—457.985 (Subpart I) Added 2683
Regulation at 66 FR 2683 eff. date delayed....................11547, 31178
457.940 Regulation at 66 FR 2685 delayed; (b)(1) and (d) amended; interim 33824
457.980 Regulation at 66 FR 2686 delayed; (a) and (b) designation removed; interim 33824
457.1000—457.1015 (Subpart J) Added 2683
Regulation at 66 FR 2683 eff. date delayed....................11547, 31178

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

457.1000 Regulation at 66 FR 2686 delayed; (a)(1) and (2) amended; interim 33824
457.1005 Regulation at 66 FR 2687 delayed; heading amended; interim 33824
457.1010 Regulation at 66 FR 2687 delayed; heading amended; interim 33824
457.1100—457.1190 (Subpart K) Added 2683
  Regulation at 66 FR 2683 eff. date delayed 11547, 31178
457.1120 Regulation at 66 FR 2687 delayed; revised; interim 33824
457.1130 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1140 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1150 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1160 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1170 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1180 Regulation at 66 FR 2688 delayed; amended; interim 33824
457.1190 Regulation at 66 FR 2688 delayed; amended; interim 33824
480.111 (d) added **83154**
  Regulation at 65 FR 83154 confirmed 14861
482.52 (a) revised 4686
  Regulation at 66 FR 4686 eff. date delayed 15352
  Regulation at 66 FR 4686 delayed to 11-14-01 27598
483.350—483.376 (Subpart G) Added; interim 7161
  Regulation at 66 FR 7161 eff. date delayed 15800
483.352 Amended; interim 28116
483.358 (a), (c), (d), (f) introductory text, (g)(1), (3) and (j) revised; (b) amended; interim 28116
483.360 Introductory text revised; interim 28117
483.362 (b) and (c) revised; interim 28117
483.364 (c) and (d) revised; interim 28117
483.374 (c) added; interim 28117
484.14 (g) amended 32778
484.36 (d)(3) amended 32778
484.52 (b) amended 32778
485 Technical correction 13020, 13021
485.612 Revised; interim 32196
485.639 (c) revised 4687
  Regulation at 66 FR 4687 eff. date delayed 15352
  Regulation at 66 FR 4687 delayed to 11-14-01 27598
489 Technical correction **59748**
  Meeting **61112**
  Technical correction 3497
489.20 (a) introductory text revised; eff. 10-1-01 39601
489.21 (g) removed **62646**
  (h) revised; eff. 10-1-01 39601
489.24 Regulation at 65 FR 18548 eff. date delayed **58919**
  (i) corrected 1599
493.1202 Heading amended **82944**
493.1203 Heading amended **82944**
493.1443 (b)(3)(ii) introductory text and (C) amended **82944**
498 Meeting **61112**
498.2 Regulation at 65 FR 18549 eff. date delayed **58919**
  Amended **83154**
  Regulation at 65 FR 83154 confirmed 14861
498.3 Regulation at 65 FR 18549 eff. date delayed **58919**
  (b)(11) removed **62646**

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Chapter V Nomenclature change 39452
1000.10 Amended 39452
1003.101 Amended 39452

Proposed Rules:

36 ....**75906**
  ....10182, 11100, 12747, 15063, 17657, 27620
94 ....**70830, 82972**
100 36735
124 ....**62976**
405 22646
410 ....**62681**
 23984
411 23984
412 ....**66304, 81813**
 22646
413 ....**66304, 81813**
  ....3377, 22646, 23984
416 35395

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 42 *Proposed Rules:—Con.*

422	**61613**
	7593
424	23984
435	**64919**
447	**60151**
	17657
482	**69416**
	23984, 35395
485	**22646**, 35395
486	**22646**
489	7593, 23984
1001	**63035**, **78124**
1003	**63035**
1005	**63035**
1006	**63035**

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4 Cross reference corrected	33740
4.200—4.357 (Subpart D) Authority citation revised; amended	32888
4.201 Revised; interim	32888
Corrected	33740
4.202 Revised; interim	32888
Corrected	33740
4.210 Revised; interim	32889
4.234 Amended; interim	32889
4.241 Revised; interim	32889
4.243 Added; interim	32889
4.250 (b) through (g) redesignated as (c) through (h); (a) revised; (b) added; interim	32889
4.251 Revised; interim	32889
(a), (b)(4) and (d) corrected	33740
4.270 Revised; interim	32890
Corrected	33740
4.271 Removed; new 4.271 redesignated from 4.272; interim	32890
4.272 Redesignated as 4.271; new 4.272 redesignated from 4.273; interim	32890
4.273 Redesignated as 4.272; new 4.273 redesignated from 4.274; revised; interim	32890
(b) corrected	33740
4.274 Redesignated as 4.273; interim	32890
4.320 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; interim	32890
(a) corrected	33741

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

1821.10 (a) revised	28672
2091.2-2 (b) removed	**70112**
2091.3-2 (c) removed; (d) redesignated as new (c)	**70112**
2201.1-2 (d) removed; (e) redesignated as new (d)	**70112**
2711.5-1 Removed	**70112**
2741.7 (d) removed	**70112**
3000 Undesignated center heading and note removed; authority citation revised	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3100 Undesignated center heading and note removed; authority citation revised	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3106.7-2 Revised	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3106.7-6 Added	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3108.1 Revised	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3130 Authority citation revised	1892
3130.3 Amended	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3160 Authority citation revised	1892
3160.0-5 Amended	1892
Regulation at 66 FR 1892 eff. date delayed	9527
3162.2 Heading revised; (a) removed; (b) and (c) amended and redesignated as 3162.2-1 (a) and (b)	1892
Regulation at 66 FR 1892 eff. date delayed	9527
Regulation at 66 FR 1892 and 9527 eff. date delayed in part	16559
Regulation at 66 FR 1892 corrected	24073
3162.2-1 Added; (a) and (b) redesignated from 316.2 (b) and (c)	1892

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

Regulation at 66 FR 1892 eff. date delayed.................9527
3162.2–2 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–3 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–4 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–5 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–6 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–7 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
Regulation at 66 FR 1893 and 9527 eff. date delayed.................18569
3162.2–8 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–9 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–10 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–11 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–12 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–13 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–14 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3162.2–15 Added.................1893
Regulation at 66 FR 1893 eff. date delayed.................9527
3165.3 (a) amended; (e)(4) added.................1894
Regulation at 66 FR 1894 eff. date delayed.................9527
3165.4 (e)(4) added.................1894
Regulation at 66 FR 1894 eff. date delayed.................9527
3261.18 (a) introductory text revised.................27040
3809 Revised.................**70112**
3809.505 Revised.................32575
6300 Added.................**78372**
8560 Removed.................**78376**
9263 Added.................**70132**

Proposed Rules:

2.................36966
4.................**60602**
17.................**76460**
2090.................16162
2200.................16162
2710.................16162
2740.................16162
3000.................**78440**
.................10000, 19413
3100.................**78440**
.................10000, 19413
3195.................**79325**
3196.................**79325**
3200.................**78440**
.................10000, 19413
3400.................**78440**
.................10000, 19413
3500.................**78440**
.................10000, 19413
3600.................**78440**
.................10000, 19413
3800.................**78440**
.................10000, 16162, 19413
9260.................16162

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

59.1 Amended.................**60769**
61.10 Removed.................**60769**
61.17 Revised.................**60769**
61 Appendix A(1) revised.................**60769**
Appendix A(2) revised.................**60778**
Appendix A(3) revised.................**60785**
Appendices A(4) and A(5) revised.................**60793**
64.6 Table amended.................**61279, 61281, 75632, 78109**
Table amended.................2826, 10586, 15640, 19096, 22937, 31179, 36949
65.2 (c) added.................22442
65.4 Flood elevation determinations.................**64373, 64375, 64379, 66182, 68920, 71258, 71261**
Flood elevation determinations.................1600, 10589, 10591, 10593, 13240,

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 44 Chapter I—Con.

13264, 21099, 21103, 24281, 24282, 31181, 31183, 33891, 39105, 39108
65.5 Revised 22442
65.6 (a)(14) and (15) added 22442
67.11 Flood elevation determinations **64381, 64386, 71263, 80362, 80365**
  Flood elevation determinations..........10596, 24284, 33893, 39112
70.4 Revised 33900
152 Added....................15972
206.203 (d)(2)(iii) and (iv) redesignated as (d)(2)(iv) and (v); (d)(2)(ii) revised; new (d)(2)(iii) added; interim 22444
206.221 (e)(3) through (6) redesignated as (e)(4) through (7); new (e)(3) added; interim 22445
206.224 (a) revised....................33901
203.226 (b) through (i) redesignated as (c) through (j); new (b) added; interim....................22445
206.361 (b) revised....................22445
206.363 (b)(1) revised....................22445
209 Revised 32669
295 (Subchapter E) Revised 15959
354 Revised 32577

Proposed Rules:

7 ....**76460**
59 32293
62....................23200, 23874
64 32293
65....................**60159**
67 ....**64403, 66203, 68960, 71284, 75908**
..... 1618, 10653, 18426, 21112, 24315, 33933, 33936, 39123
206....................**58720**

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

Subtitle A Nomenclature change 39452
46 Authority citation revised..........3882
46.201—46.207 (Subpart B) Revised 3882
  Regulation at 66 FR 3882 eff. date delayed 15352
  Regulation at 66 FR 3882 delayed to 11-14-01 27599
61.3 Amended....................**70507**
146 Authority citation revised 1412
146.121 Revised; interim 1412
  (i)(1), (3)(ii)(A) introductory text and (C) Example 2 amended; interim 14078
146.125 Heading and (a)(1) revised; (a)(2) amended; interim....................1420
160 Technical correction.......**70507, 82944**
  Revised....................**82798**
  Regulation at 65 FR 82798 eff. date delayed 12434
  Comment request 12738
162 Technical correction....................**70507**
164 Added....................**82802**
  Technical correction....................**82944**
  Regulation at 65 FR 82802 eff. date delayed 12434
  Comment request 12738
164.500—164.534 (Subpart E) Authority citation revised 12434
164.534 Revised....................12434

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

Chapter II Nomenclature change 39452
270.4 (d)(1)(i) and (2)(ii) amended **75634**
  (e) revised; interim (OMB number pending) 23859
276 Removed **75634**

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

Chapter III Nomenclature change 39452
302 Authority citation revised........**82208**
302.55 Amended **82208**
303.32 Added **82165**
  Regulation at 65 FR 82165 eff. date delayed....................8074
303.35 Added....................**82208**
304.12 (d) and (e) added **82208**
305 Added....................**82208**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

308 Added.......**77750**
310 Open consultations.......**63801**

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1310 Added; eff. 1-18-02.......5311
1310.2 (c) added.......5311
1310.11 Added; eff. 1-20-04.......5312
1310.12 (a) added; eff. 1-18-06; (b) added.......5312
1310.15 (c) added; eff. 1-20-04.......5313
1310.22 (a) added; eff. 1-18-06.......5314
1355.20 Corrected.......**70507**

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1611 Appendix A revised.......16013, 17062
1628 Revised.......**66642**

Chapter XVIII—Harry S. Truman Scholarship Foundation (Parts 1800—1899)

1801 Revised.......**81406**

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2525.20 Amended.......**77821**
Regulation at 65 FR 77821 eff. date delayed.......9773

Proposed Rules:

46.......35576
74.......**68969**
80.......**64194**
84.......**64194**
86.......**64194**
90.......**64194**
91.......**64194**
92.......**68969**
146.......1421
309.......**63836**
605.......**76460**
611.......**76460**
617.......**76460**
1110.......**76460**
1151.......**76460**
1156.......**76460**
1170.......**76460**
1203.......**76460**
1232.......**76460**

1600—1699 (Ch. XVI).......**70540**

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised.......31844
1.03-15 (a) revised; (h)(5) added.......31844
1.03-50 Added.......31844
10 Policy statement.......9673
Technical correction.......24183
10.103 Amended; interim.......20935
10.201 Regulation at 65 FR 63225 eff. date delayed.......**64388**
10.203 Regulation at 65 FR 63225 eff. date delayed.......**64388**
10.205 Regulation at 65 FR 63225 eff. date delayed.......**64388**
(g)(3) revised; interim.......20935
10.209 Regulation at 65 FR 63225 eff. date delayed.......**64388**
(c)(6) revised; (c)(7) removed; interim.......20935
10.210 Added; interim.......20935
10.223 (d) added; interim.......20936
10.304 Regulation at 65 FR 63225 eff. date delayed.......**64388**
(h)(5), (6) and (7) amended; interim.......20936
10.403 Regulation at 65 FR 63227 eff. date delayed.......**64388**
10.412 Regulation at 65 FR 63228 eff. date delayed.......**64388**
(a) amended; interim.......20936
10.414 Regulation at 65 FR 63228 eff. date delayed.......**64388**
(a) amended; interim.......20936
10.418 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.420 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.424 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.426 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.442 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.444 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.446 Regulation at 65 FR 63228 eff. date delayed.......**64388**
10.452 Regulation at 65 FR 63228 eff. date delayed.......**64388**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 46 Chapter I—Con.

10.462 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.463 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; new (c) and (d) revised; interim	20936
10.464 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a), (b), (d) and (g) revised; (h) added; interim	20937
10.465 Regulation at 65 FR 63232 eff. date delayed	**64388**
(b) removed; (c) through (g) redesignated as (b) through (f); (a) and new (e) revised; interim	20940
10.466 Regulation at 65 FR 63234 eff. date delayed	**64388**
(a) revised; interim	20942
10.482 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.701 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.703 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.901 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.903 (a)(18)(iii) added; (c)(7) removed; (c)(8) through (19) redesignated as (c)(7) through (18); interim	20944
10.910 Regulation at 65 FR 63235 eff. date delayed	**64388**
15 Policy statement	9673
Technical correction	24183
15.301 Regulation at 65 FR 63235 eff. date delayed	**64388**
15.610 Regulation at 65 FR 63235 eff. date delayed	**64388**
Revised; interim	20944
15.705 Regulation at 65 FR 63235 eff. date delayed	**64388**
15.805 Regulation at 65 FR 63235 eff. date delayed	**64388**
(a)(5) revised; interim	20944
15.810 Regulation at 65 FR 63235 eff. date delayed	**64388**
(d) revised; interim	20944
15.910 Revised; interim	20944
15.915 Regulation at 65 FR 63235 eff. date delayed	**64388**
30.25–1 Table revised	**67157**
67 Policy statement	9673
67.11 (c) added	**76575**
67.21 (d) revised; (e) and (f) added	**76575**
67.31 (b) and (c) revised; (d) added	**76575**
67.35 Introductory text and (b) revised	**76575**
67.36 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised	**76576**
67.37 Revised	**76576**
67.39 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised	**76576**
67.45 Removed	**76576**
67.141 (b) revised; (c) added	**76576**
67.142 Added	**76576**
67.233 (b) revised	**76576**
67.350—67.352 (Subpart V) Added	**76576**
110.10–1 (b) amended	29910
111.60–1 (a), (b) and (c) introductory text revised	29911
111.60–3 (a) and (c) revised	29911
150 Table I revised	**67163**
Table II amended	**67180**
Appendix I amended	**67182**
151.05 Table revised	**67184**
151.05–1 (f) removed; (g) through (r) redesignated as (f) through (q)	**67183**
151.12–5 Amended	**67196**
153 Table I revised	**67196**
Table II amended	**67213**

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

205 Revised	23861
207 Removed	**77523**
310.7 (b)(6) revised	36176

Chapter III—Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Authority citation revised	36489
401.405 (a) and (b) revised	36489
401.407 (a) and (b) revised	36489
401.410 (a) and (b) revised	36490
401.420 (a), (b), (c)(1) and (3) amended	36490
401.428 Amended	36490

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

Chapter IV—Federal Maritime Commission (Parts 500—599)

Chapter IV Proceeding discontinued	37419
501 Revised	**81749**
502 Authority citation revised	**81759**
502.44 (c) revised	**81759**
502.68 (b) amended	**81759**
502.271 (f)(1) revised	**81759**
502.301 (b) revised	**81759**

Proposed Rules:

4	**65808**
	21492, 21502, 36530
5	21492, 21502
16	21492, 21502
25	**66949, 82303**
	11241, 36223
27	**66950, 82303**
	11241, 36223
66	2385
67	21902, 34603
110	1283
111	1283
140	16643, 26824
141	26824
142	26824
143	26824
144	26824
145	26824
146	16643, 26824
205	**69279**
502	27921
520	37442

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Policy statement	**80367**
Order	10965
0.457 (d)(1)(iv) revised	16879
0.458 Revised	**66185**
0.701 (Subpart G) Added	8091
1 Technical correction	6483
Actions on petitions	29722
1.80 (b)(1), (2), (3) and (5)(iii) revised; (b)(4) amended	**60868**
1.420 (g)(3) Note 1 and (h) Note 2 redesignated as (g) Note 1 and (h) Note 1	**79776**
1.719 Regulation at 65 FR 47690; effective date confirmed in part	**66934**
1.721 (a) introductory text, (8) and (13) revised; (e) redesignated as (f); new (e) added; (OMB numbers pending)	16616
OMB number	35387
1.722 Revised; (OMB numbers pending)	16616
OMB number	35387
1.724 (b) and (d) revised; (OMB numbers pending)	16617
OMB number	35387
1.726 (a) revised; (OMB numbers pending)	16617
OMB number	35387
1.735 (g) added; (OMB numbers pending)	16617
OMB number	35387
1.913 (g) added	55
1.1117 (c) revised	36202
1.1152 Revised	36202
1.1153 Revised	36204
1.1154 Revised	36205
1.1155 Revised	36205
1.1156 Revised	36205
1.1166 (d) revised	**78989**
(a) revised	36206
1.1206 (a) Note 1 revised	3501
Regulation at 66 FR 3501 eff. date confirmed; OMB number	32580
1.1307 (b)(1) Table 1 amended	**59354**
(b)(1) Table 1 amended	10613
1.1402 (m) revised	34580
1.1409 (e)(4) removed; (e)(1), (2) and (3) revised; (f) amended	34580
1.1417 (a), (b), (c) and (d) introductory text revised	34581
1.1418 Revised	34581
1.2110 (c) revised	**68924**
1.2112 (a)(6) correctly revised	**70807**
1.4000 (Subpart S) Revised (OMB number pending)	2333
OMB number	28841
2 Actions on petitions	29722
2.1 (c) amended	**60109**
2.106 Table amended	**59355, 60110, 60872, 69456**
Table amended	7405, 9218, 10614, 11114, 15642, 26798
2.962 (g)(4) revised	27601
2.1300—2.1302 (Subpart L) Removed	7580

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 47 Chapter I—Con.

13.9 (d)(2) revised 20752
13.13 (d)(2) revised 20752
15 Authority citation revised **64391**
  Actions on petitions 31556
15.3 (aa) amended (effective date pending) **64391**
  (v) revised 32582
15.19 (d)(1) through (4) added (effective date pending) **64391**
15.107 (e) introductory text revised; (e)(3) added 19098
15.109 (g) introductory text revised 19098
15.118 (a) amended (effective date pending) **64391**
15.121 (b) and (f) revised 32582
15.214 (b) revised 7580
15.255 Heading revised, (b) introductory text, (4), (c)(1), (d), (d) note, (e)(2) and (i) introductory text; (b)(2) amended 7409
19.735–203 (d) added; note amended **66185**
20 Actions on petitions **60112, 78990**
  Technical correction **62646**
  Actions on petitions 22445
20.9 (a)(6) through (9) revised 10968
20.15 (c) and (d) revised 16879
20.18 (g)(1), (2) and (i) revised **58661**
  (c) note revised **82295**
21.912 Notes 1 and 2 amended 9971
22 Actions on petitions 15041
24 Actions on petitions 9773
24.129 Revised 29920
24.130 Removed 29920
24.133 (a) introductory text revised 10968
24.709 (b)(5)(i)(D) and (ii) revised **68931**
25 Authority citation revised **59142**
  Order **59749**
25.114 (c)(6)(iii) and (21) revised **59142**
25.115 (d) revised **59142**
  (c) existing text redesignated as (c)(1); (c)(2) added 31559
25.120 (a) amended 9973
25.121 (a) revised **59142**
25.133 (b) revised **59142**
25.134 Heading revised; (a) existing text redesignated as (a)(1); new (a)(1) heading, (2) and (b) heading added 31560
25.136 Revised **59142**
25.137 (d) added **59143**
25.143 (a), (b)(1), (2), (e)(1) introductory text, (iii) and (f)(1) revised; (e)(3) added **59143**
25.146 Added 10619
25.201 Amended **59143**
  Amended 10621
25.202 (a)(4) revised **59144**
  (a)(1) revised 10622
25.203 (c) introductory text revised **59144**
  (b), (c) and (d) revised 10622
25.204 (f) revised 10623
25.208 (b) revised; (g) through (m) added 10623
25.209 (a) introductory text revised; (h) added 10630
25.212 Heading revised 10630
25.251 Revised 10630
25.271 (e) added 10631
25.279 (a) revised **59144**
27 Actions on petitions 9035
27.6 (b)(1) and (2) corrected **60113**
27.501 Undesignated text designated as (a); (b) added 10377
  (b) introductory text correctly added 21287
32 Reporting and recordkeeping requirements **58661**
36 Order **81759**
36.3 Added (OMB number pending) 33204
  OMB number 35107
36.123 (a)(5) and (6) added 33205
36.124 (c) and (d) added 33205
36.125 (h), (i) and (j) added 33205
36.126 (b)(5), (c)(4), (e)(4), (f)(1)(ii) and (2) added 33205
36.141 (c) added 33206
36.142 (c) added 33206
36.152 (d) added 33206
36.154 (g) added 33206
36.155 (b) added 33206
36.156 (c) added 33206
36.157 (b) added 33206
36.191 (d) added 33206
36.212 (c) amended 33206
36.214 (a) amended 33206
36.372 Amended 33207
36.374 (b) revised; (c) and (d) added 33207
36.375 (b)(5) and (6) added 33207
36.377 (a) introductory text revised; (a)(1)(ix), (2)(vii), (3)(vii), (4)(vii), (5)(vii), (6)(vii), (7)(i) and (ii) added 33207

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

36.378 (b)(1) added	33208
36.379 (b)(1) and (2) added	33208
36.380 (d) and (e) added	33208
36.381 (c) and (d) added	33208
36.382 Revised	33208
36.601 (c) amended	**78992**
(c) amended	30085
36.602 Added	30085
36.603 Added	30085
36.604 Added	30085
36.605 Added (OMB number pending)	30085
OMB number	34581
36.611 Introductory text revised (OMB number pending)	30086
OMB number	34581
36.612 (a) introductory text revised	30086
36.621 (a)(4) introductory text and (ii) amended; (a)(4)(i), (ii)(A), (B) and (C) revised; (a)(4)(ii)(D) added	30086
36.622 (a) introductory text amended	30087
42.10 (a) revised	16879
42.11 (a) revised	16879
43.51 Revised	16879
51 Actions on petitions	2335, 9035
51.701—51.717 (Subpart H) Heading revised	26806
51.701 (a), (c), (d) and (e) amended; (b) revised	26806
51.703 Amended	26806
51.705 Amended	26806
51.707 Amended	26806
51.709 Amended	26806
51.711 Amended	26806
51.713 Amended	26806
51.715 Amended	26806
51.717 Amended	26806
51.807 (f)(3) revised	8520
52 Actions on petitions	9674
52.15 (f)(1)(vi), (3)(ii) and (g)(3)(iv) revised; (g)(4), (h) and (k) added; (OMB numbers pending)	9531
OMB number	11236
52.16 (a) revised	9532
52.20 (c) revised	9532
53 Order	36206
54 Order	**81759**
Actions on petitions	16144
OMB approval notice	19098
54.5 Amended	30087
54.305 Existing text designated as (a); (b) through (f) added (OMB number pending)	30087
OMB number	34581
54.307 (a)(1) revised; (b) and (c) introductory text amended (OMB number pending)	30087
OMB number	34581
54.311 (d) added	**78992**
54.313 (b) and (c) redesignated as (c) and (d); heading and new (c) revised; new (b) added; new (d) amended (OMB number pending)	30088
OMB number	34581
54.314 Added (OMB number pending)	30088
OMB number	34581
54.315 Added (OMB number pending)	30089
OMB number	34581
54.400 (e) note added	**58663**
54.507 (d) revised; (OMB number pending)	38378
54.520 Added	19396
(c)(2)(iii)(A), (B), (C), (3)(i), (ii) and (f) corrected	22133
54.707 Correctly added; CFR correction	30334
54.709 (a)(3) amended	16151
54.711 (a) amended	16151
61.3 (y) revised	16881
61.19 Revised	16881
61.26 Added	27900
61.28 Revised	16881
61.62 (c) corrected	28774
61.74 (d) removed; (e) and (f) redesignated as (d) and (e)	16881
63.09 (g) added	**60116**
63.10 (c)(1) removed; (c)(2) through (6) redesignated as (c)(1) through (5)	16881
63.11 Revised (effective date pending)	**60116**
Regulation at 65 FR 60116 confirmed	**67651**
63.14 (c) revised	16881
63.17 (b)(3) revised	16881
63.18 (e)(3) amended	**60117**
63.21 (b) and (c) revised	16881
64 Reporting and recordkeeping requirements	**58661**
Actions on petitions	9674
Technical correction	30334
64.702 (e) revised	19402
64.1001 (b) revised	16882

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 47 Chapter I—Con.

64.1100 (h) added....................12892
64.1110 Regulation at 65 FR 47691; effective date confirmed in part....................**66934**
64.1120 (c)(1) and (3) revised; (d) added....................12892
(e) added (OMB number pending)....................28124
OMB number....................33208
64.1130 (a), (b), (c) and (e)(5) revised; (i) and (j) added (OMB numbers pending)....................12893
(e)(5) correctly designated....................16151
OMB number....................17083
64.1140 Regulation at 65 FR 47691; effective date confirmed in part....................**66934**
64.1150 Regulation at 65 FR 47692; effective date confirmed in part....................**66934**
64.1160 Regulation at 65 FR 47692; effective date confirmed in part....................**66934**
64.1170 Regulation at 65 FR 47693; effective date confirmed in part....................**66934**
64.1180 Added (OMB numbers pending)....................12893
OMB number....................17083
64.1190 (d)(1)(ii), (2)(i), (3)(i) and (e)(1) revised (OMB numbers pending)....................12893
OMB number....................17083
64.1195 Added (OMB numbers pending)....................12894
OMB number....................17083
64.1300 (a) revised....................21106
64.1310 (a) and (b) revised....................21106
64.2005 Regulation at 64 FR 53264 confirmed....................7865
64.2007 Regulation at 64 FR 53264 confirmed....................7865
64.2009 Regulation at 64 FR 53264 confirmed....................7865
64.2103 Revised....................22448
Corrected; CFR correction....................36711
64.2104 (a)(1)(ii) revised....................22448
Corrected; CFR correction....................36711
64.2105 Corrected; CFR correction....................36711
64.2500—64.2502 (Subpart Z) Added....................2334
68 Effective date announcement....................23625
68.2 Revised....................7580
68.3 Amended (OMB number pending)....................2335
Revised....................7581
OMB number....................28841
68.7 Added....................7581
68.100 Revised....................7581
68.102 Revised....................7582
68.104 Removed....................7582
68.105 Added (OMB number pending)....................7582
OMB number....................28841
68.106 Revised....................7582
68.108 Introductory text revised....................7583
68.110 Revised....................7583
68.162 (g)(4) revised....................27601
68.200—68.226 (Subpart C) Heading revised....................7583
68.200 Removed....................7583
68.201 Added....................7583
68.202 Removed....................7583
68.204 Removed....................7583
68.206 Removed....................7583
68.208 Removed....................7583
68.210 Removed....................7583
68.211 Revised....................7583
68.212 Removed....................7583
68.213 (b) revised....................7583
68.214 Revised....................7584
68.215 (a)(2), (3), (e)(9), (f)(4), and (g)(1) through (5) revised; (d)(2) note removed; (d)(5) amended....................7584
68.216 Removed....................7585
68.218 Revised....................7585
68.220 Removed....................7585
68.226 Removed....................7585
68.300—68.318 (Subpart D) Heading revised....................7585
68.300 (a) revised; (b) removed; (c) redesignated as new (b)....................7585
68.302 Removed....................7585
68.304 Removed....................7585
68.306 Removed....................7585
68.308 Removed....................7585
68.310 Removed....................7585
68.312 Removed....................7585
68.314 Removed....................7585
68.320 Added....................7585
68.321 Added....................7585
68.322 Added....................7586
68.324 Added....................7586
68.326 Added....................7586
68.346 Added....................7586
68.348 Added....................7586

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

68.350 Added 7587
68.354 Added 7587
68.415 Added 7587
68.417 Added 7587
68.418 Added 7587
68.419 Added 7587
68.420 Added 7588
68.423 Added 7588
68.500—68.506 (Subpart F) Removed 7588
68.602—68.614 (Subpart G) Added 7588
69.3 (e)(6), (9) and (i)(1) revised **64894**
73 Memorandum, opinion and order....**59751**
  Actions on petitions **60585, 63802, 67655, 69693, 77318, 79317**
  Actions on petitions 737, 8176, 14862, 17638, 21681, 22449, 22450, 29237
73.14 Amended 20755
73.53 (b)(5) and (12) revised; (c) removed....20755
73.54 Revised....20755
73.58 (b) removed; (c) through (f) redesignated as (b) through (e); new (d) revised 20755
73.62 (a) revised....20755
73.68 (a)(2), (d)(2) and (3) revised 20755
73.69 (a), (d)(2) and (4) revised 20756
73.151 (a)(1), (2) and (3) revised 20756
73.152 (b), (c) and (d) redesignated as (c), (d) and (e); (a), new (d) introductory text, (2) introductory text, (iii) and (iv) revised; new (b) added 20756
73.154 Revised 20756
73.158 Revised 20757
73.186 (a)(1) and (b) revised 20757
73.202 (b) table amended....**59144, 59145, 59752, 61114, 62299, 63802, 64624, 65272, 67282, 67283, 67652—67656, 70670, 71073, 71269, 71270, 77319, 79318, 80367, 80790, 81409, 82295, 82296**
  (b) table corrected **60379**
  Regulation at 65 FR 36377 confirmed 3884
  (b) table amended ....7590, 7866, 8520, 9676, 10631, 10632, 10968, 11119, 12896, 12897, 15044, 15642, 15801, 16882, 16883, 17814, 17815, 18570, 18734, 20608, 20609, 21680, 21681, 22450, 26806, 26807, 26808, 27040, 27041, 27042, 29237, 29726, 30091, 30092, 30335, 30627, 31561, 33902, 33903, 35107, 35388, 35760, 36949, 36950, 37420, 37421, 37599, 39119, 39453—39456
  (b) table corrected....35107
  (b) table corrected; CFR correction....19402
73.207 (b)(1) Table A revised **79776**
73.209 (c) revised **67299**
73.210 (a) and (b)(3)(iv) revised; (b)(3)(v) added....**79777**
73.211 (a)(1)(vii), (2) and (b)(1) introductory text table revised; (d) added....**79777**
73.215 (a)(4) and (e) table revised **79777**
  (e) table corrected 8149
73.315 (a) note removed....**79778**
73.509 (a) table revised **79778**
73.514 Revised....**67299**
73.515 Added....**79779**
73.606 (b) table amended....18735, 29724
73.607 Undesignated text designated as (a); (b) added 10208
73.622 (b) table amended....**58920, 58921, 60379, 70508, 70509, 76947**
  (b) table amended ....2336, 3884, 9036—9039, 11117, 11118, 11119, 12894, 12895, 13855, 13856, 18734, 20607, 20608, 22448, 28399, 28400, 29724—29726, 31560, 31561, 39452
  (c) existing text redesignated as (c)(1); (c)(2) added....10208
73.623 (h) added....9984
73.625 (a)(1) revised....9985
73.658 (m)(1) revised....**68101**
  (g) revised....32248
73.807 Introductory text, (a), (b), (c) introductory text, (1), (2), note, (g)(1) through (4) and (6) revised....**67299**
  (a)(1) table and (b)(1) table revised **79779**
  Introductory text, (a) table, (b) table, (c) table and (d) table amended 23963
73.809 (a), (b) and (c) revised **67302**
73.810 Added....**67302**
  (b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
73.816 Revised....**67302**
73.825 Revised....**67303**
73.827 Added....**67303**
73.854 Revised....**67303**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 47 Chapter I—Con.

- Revised 23863
- 73.855 (b) introductory text revised; (b)(4) added **67303**
- 73.860 (a) and (b) revised **67303**
  - (b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
- 73.870 (c) revised **67304**
- 73.871 Added 23863
- 73.872 (b)(3) revised **67304**
- 73.877 Revised **67304**
- 73.1020 Correctly added; CFR correction 15800
- 73.1125 (c) revised 21690
- 73.1545 (e) revised 21690
- 73.1660 (a) revised **67304**
- 73.1690 (b)(2) revised; (c)(11) added **79779**
- 73.1920 Removed **66644**
- 73.1930 Removed **66644**
- 73.3526 (e)(11)(iii) revised **67288**
  - (e)(11)(iii) eff. date confirmed; OMB number 11237
- 73.3527 Regulation at 65 FR 36378 confirmed 3884
- 73.3538 (b) revised 20758
- 73.3555 (b)(2)(ii) and (c)(3)(i) revised 9048
  - Notes 1 through 10 amended 9972
  - (f) amended 15356
  - (e)(2)(i) and (ii) correctly revised; Note 5 corrected; CFR correction 19891
- 73.3572 Regulation at 65 FR 36379 confirmed 3884
- 73.3573 Note 4 added **79780**
- 73.3584 (d) redesignated as (e); new (d) added **79780**
- 73.3612 Note added **76949**
- 73.3613 (d) amended; (e) revised 9972
- 73.3615 (a)(3)(iii)(B) amended 9972
  - Corrected 12897
- 73.6000 Revised 21690
- 73.6024 (c) revised 21690
- 73.6026 Revised 21690
- 73.7000 Amended 15356
- 73.7002 (b) revised 15356
- 73.7003 (b)(2) and (c)(1) amended; (e) and (f) added 15356
- 74.134 Removed 18572
- 74.785 Added 29046
- 74.1204 (a) introductory text and (4) revised **67304**
  - (a)(1), (2) and (3) revised **79780**
- 74.1233 (e)(3)(i) and (ii) revised 15357
- 74.1251 (b)(7) revised **79780**
- 76 Authority citation revised **68101**
  - Authority citation revised 7429
- 76.5 (ii) revised **68101**
  - (b) revised (OMB number pending) 16553
- 76.51 (a)(2) and (28) revised **68101**
- 76.56 (e) revised (OMB number pending) 16553
- 76.57 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; new (e) revised; (e) note redesignated as section note (OMB number pending) 16553
- 76.62 (b) revised; (g) added (OMB number pending) 16553
- 76.64 (f) introductory text, (4) and (k) revised (OMB number pending) 16553
- 76.66 Added (OMB number pending) 7430
  - Regulation at 66 FR 7430 corrected 34582
- 76.67 Removed **68101**
- 76.77 (a) note added; (d)(1) note, (6) note, (13) note and (15) note designated **76949**
- 76.92—76.130 (Subpart F) Revised **68101**
- 76.209 Revised **66644**
- 76.501 Notes 1 through 6 amended 9973
- 79.3 (b)(2), (3), (4)(i), (ii), (c)(2), (3), (d)(1), (e)(1)(iv), (v) and (e)(2) revised; (c)(4) redesignated as (c)(5); (a)(6), new (c)(4) and (e)(1)(vi) added, ...8529
  - (c)(2) correctly revised 16618
- 76.922 (f)(1)(vii) added; (j)(1) revised (OMB number pending) 16554
- 76.1603 (c) revised (OMB number pending) 16554
- 80.25 (b) revised **77823**
- 80.49 (a)(2) revised; (a)(3) added **77823**
- 80.105 Revised **77824**
- 80.213 (a)(2) and (d) revised **77824**
- 80.215 (h)(2) introductory text and (i) introductory text amended; (h)(5) revised; footnote 7 removed **77824**
- 80.357 (b)(2)(ii)(A), (B) and (C) removed; (b)(2)(ii) revised **77824**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

- 80.371 (b)(3) and (4) removed; (b)(1) and (2) revised........**77824**
- 80.374 (a) removed; (b) and (c) redesignated as (a) and (b)........**77826**
- 80.475 (a)(1) revised; (b) redesignated as (c); new (b) added **77826**
- 80.477 (d) added........**77827**
- 80.481 Added........**77827**
- 87 Authority citation revised........**59357**
  - Actions on petitions........29722
- 87.131 Table amended........26798
- 87.133 (a) table amended........26799
- 87.137 (a) table amended........26799
- 87.139 (a) table amended........26799
- 87.173 (b) table amended........**59357**, **60112**, 26799
- 87.187 (dd) added........26800
- 87.263 (a)(1) and (5) revised........26800
- 90 Compliance notification........**60379**
  - Actions on petitions........13022, 15041, 30335, 32778
- 90.1 (b) revised........**60874**, **66650**
- 90.7 Amended........**60874**, **66650**
- 90.20 (c)(3) table amended........**60874**
  - (c)(3) table amended; (d)(80) through (83) and (g) added........**66650**
- 90.22 Introductory text revised........**60874**
- 90.35 (b)(3) table amended; (c)(60) revised........**60874**
  - (b)(3) table amended; (c)(82) added........**66653**
  - (b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added; (b)(2)(ii) revised........8902
  - Regulation at 66 FR 8902 confirmed........39456
- 90.103 (b) amended........**69458**
- 90.135 Revised........**60875**
- 90.149 (a) revised........**60875**
- 90.155 Revised........**60875**
- 90.167 Removed........**60875**
- 90.175 (i)(14) revised........**60875**
  - (i)(15) and (16) added........**66654**
  - (b)(1), (2) and (3) revised........8903
  - Regulation at 66 FR 8903 confirmed........39456
- 90.179 (g) redesignated as (i); new (g) and (h) added........**60875**
  - (g) revised........**66654**
  - (i) revised........55
  - (j) added........10635
  - Corrected........21287
- 90.187 Revised........**60875**
- 90.203 (j)(1) added........**66654**
- 90.242 (a)(3) revised........**60877**
- 90.421 Revised........**60877**
  - (a)(3) added........10635
- 90.449 Removed........**60877**
- 90.525 Added........10635
- 90.529 Added........**66654**
- 90.531 (b)(1), (2), (3), (c)(1), (2) and (3) revised; (b)(4), (5) and (6) added........**66654**
  - (b)(1)(i), (ii), (iii) and (7) added; (b)(2) and (d) revised........10635
  - (b)(2) amended........10636
- 90.535 (a) revised........**66655**
- 90.537 Revised........**66655**
  - Revised........10636
- 90.541 (d) added........**66655**
- 90.543 (e) and (f) added........**66655**
- 90.547 Revised........**66655**
  - Revised........10636
- 90.548 Added........10636
- 90.553 Added........10636
- 90.621 (e)(2) revised (OMB number pending)........55
  - OMB number........12437
- 90.629 (a)(1) and (2) revised; (f) added........**60877**
- 95.401 (f) added........**60877**
- 95.601 Amended........**60877**
- 95.603 (g) added........**60877**
- 95.605 Amended........**60877**
- 95.631 (j) added........**60877**
- 95.632 Added........**60877**
- 95.633 (f) added........**60878**
- 95.635 (e) added........**60878**
- 95.639 (h) added........**60878**
- 95.649 Revised........**60878**
- 95.651 Revised........**60878**
- 95.601—95.673 (Subpart E) Appendix 1 revised........**60878**
- 95.803 Revised........9218
- 95.807 (a) introductory text, (1) and (4) revised........9219
- 95.811 (b) revised; (e) added........9219
- 95.812 (a) revised........9219
- 95.816 (b), (c)(3) and (5) amended 9219
- 95.819 Revised........9219
- 95.861 (c) revised........9219
- 95.1013 (a) revised........**77827**
- 95.1301—95.1309 (Subpart J) Added........**60878**
- 97.3 (a)(35) and (b) introductory text revised........20752
- 97.119 (f)(3) removed; (f)(4) redesignated as (f)(3); (f)(2) and new (f)(3) revised........20752
- 97.527 Revised........20752

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 47 Chapter I—Con.

101 Actions on petitions	29722
Authority citation amended	35110
101.1 (b) revised	**59357**
101.3 Amended	**59357**
101.21 (g) revised	**59357**
101.45 (b) introductory text revised	**59357**
101.61 Revised	**59357**
101.63 (a) revised	**59357**
101.99 Correctly designated	**60382**
101.101 Table amended	**59357**
101.105 (c)(6) introductory text revised	**59358**
(c)(5) revised	35110
101.107 (a) table amended	35110
101.109 (c) table amended	**59358**
101.111 (a)(2)(iv) added; (a)(4) introductory text revised	**59358**
101.113 (a) amended	35110
101.115 (c) table amended	**59358**
101.135 (e) revised	35110
101.139 (g) added	**59358**
101.141 (a) introductory text revised	**59358**
101.147 (r) introductory text amended; (r)(9) introductory text, (i) and (ii) revised; (r)(9)(iii) added	**59359**
(a) Note 28 and (b) introductory text revised	35110
101.305 (a), (b) and (c) revised	**59359**
101.311 Revised	**59359**
101.501—101.538 (Subpart G) Heading revised	**59359**
101.501 Revised	**59359**
101.503 Revised	**59359**
101.509 Revised	**59360**
101.511 Revised	**59360**
101.521 Revised	**59360**
101.523 Added	**59360**
101.525 Added	**59360**
101.526 Added	**59360**
101.527 Added (OMB numbers pending)	**59360**
OMB number	11113
101.529 Added (OMB numbers pending)	**59361**
OMB number	11113
101.531 Added	**59361**
101.533 Added	**59361**
101.535 Added	**59361**
101.537 Added	**59361**
101.538 Added	**59361**
101.1307 Revised	35111
101.1315 Revised	35111
101.1331 (a) and (b) revised	35111

Proposed Rules:

0—199 (Ch. I)	18059, 28410
0	**77545, 81816**
1	37943, 39128
2	35399
20	36989, 39128
25	35399
51	38611
64	35765, 37631
73	35406, 35407, 35767, 35768, 35925, 37442, 37443, 37632, 37633, 38410, 39128, 39473
101	35399
211	38411
213	38411

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular 97-20	**60542**
Small entity compliance guide	**60553, 80266**
Federal Acquisition Circular No. 97-22	2116
Small entity compliance guide	2141, 5349, 17757, 20898, 22085, 27417
Federal Acquisition Circular 97-25	22082
1.106 Table amended (OMB numbers)	2141
1.401 (a), (c) and (d) amended	2118
Regulation at 66 FR 2118 eff. date delayed	14260
2.000 Revised	2118
Regulation at 66 FR 2118 eff. date delayed	14260
2.101 Amended; interim	**60544**
Amended	2118, 20896
Regulation at 66 FR 2118 eff. date delayed	14260
Amended; interim	22083, 27409
Corrected	27012
2.201 Revised	2127
Regulation at 66 FR 2127 eff. date delayed	14260
3.302 Introductory text added	2127
Regulation at 66 FR 2127 eff. date delayed	14260
3.401 Amended; introductory text added	2127
Regulation at 66 FR 2127 eff. date delayed	14260

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

3.501–1 Amended; introductory text revised....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
3.502–1 Amended; introductory text revised....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
3.901 Introductory text added....................2127
4.501 Removed....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
4.502 (b)(4) amended; interim....................27409
4.602 (a)(2) revised; (d) removed; interim....................**60544**
4.803 (a)(4) revised; interim....................27409
4.901 Amended; heading revised....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
5.002 Introductory text amended; (c) revised; interim....................**60544**
5.003 Added; interim....................27409
5.101 Introductory text removed; (a) revised; interim....................27409
5.102 Revised; interim....................27409
5.201 Revised; interim....................27410
5.202 (a)(8) amended....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
 (a)(13)(ii) revised; interim....................27410
5.203 Introductory text, (a), (b), (e) and (h) revised; (g) amended; interim....................27410
5.204 Revised; interim....................27411
5.205 Revised; interim....................27411
5.206 (a) introductory text revised; interim....................27412
5.207 (a) through (h) redesignated as (b) through (i); new (a) and (c) Items 18 and 19 added; new (b), (c) introductory text, and (i) revised; interim....................27412
5.301 (a) introductory text, (b)(7)(ii) and (c) revised; (d) added; interim....................27412
5.404–1 (b)(3)(iii) revised; interim....................27412
5.404–2 Revised; interim....................27412
5.501 Amended; introductory text added....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
6.000 Revised....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
6.003 Removed....................2127
 Regulation at 66 FR 2127 eff. date delayed....................14260
6.302–1 (a)(2)(i)(A) revised....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
6.302–3 (a)(2)(iii) amended....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
6.303–2 (a)(6) amended; interim....................27412
7.101 Amended; introductory text added....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
7.103 (o) through (r) redesignated as (p) through (s); new (o) added....................20896
7.105 Introductory text and (b)(1) amended; interim....................**60544**
7.303 (a) introductory text and (b) introductory text amended; (b)(1) revised; interim....................27412
7.501 Removed....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
8.501 Amended; introductory text added....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
8.701 Amended; introductory text added....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
8.801 Amended; introductory text added....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
8.1101 Amended; introductory text added....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
9.101 Amended; heading revised....................2128
 Regulation at 66 FR 2128 eff. date delayed....................14260
9.103 (b) amended....................**80264**
 (c) redesignated as (d); new (c) added; interim....................17755
9.104–1 (d) revised....................**80264**
 (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; interim....................17756

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 48 Chapter 1—Con.

9.104-3 (c) and (d) redesignated as (d) and (e); new (c) added **80264**
9.201 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.204 (a) introductory text amended; (a)(1) revised; interim 27413
9.205 (a) introductory text revised; interim 27413
9.301 Amended; heading revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.400 (a)(2) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.403 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.501 Amended; heading revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.601 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.701 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
10.001 (a)(3)(vii) added 20896
11.002 (f) added 20897
11.601 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
12.202 (d) added 20897
12.603 (a), (c)(2)(xv), (3) and (4) revised; interim 27413
13.001 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
13.104 (a) introductory text and (b) amended; interim 27413
13.105 (a) introductory text, (1)(ii) and (b) amended; interim 27413
13.501 (a)(1)(i) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
14.203-2 Revised; interim 27413
14.203-3 Revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
14.404-2 (i) revised **80265**
  (j), (k) and (l) redesignated as (k), (l) and (m); new (j) added; interim 17756
14.503-2 (a)(4) and (b) revised; interim 27413
15.001 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.301 Removed 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.401 Amended; introductory text added 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.402 Introductory text, (a) introductory text, (2)(ii) and (3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403 (a)(1) revised; interim **60553**
15.403-1 (c)(3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403-4 (c) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.406-2 (a) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.407-2 (b) revised 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.408 Table amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.503 (a)(1) revised **80265**
  (a)(2) redesignated as (a)(3); new (a)(2) added; interim 17756
15.601 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.604 (a) introductory text and (1) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.103 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.201 Removed 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.501 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260

NOTE: **Boldface page numbers indicate 2000 changes.**

- 17.603 (c) added; interim 27415
- 19.000 (a)(9) and (10) amended; (a)(11) added; interim **60544**
- 19.001 Amended; interim **60544**
  - Amended; introductory text added 2129
  - Regulation at 66 FR 2129 eff. date delayed 14260
- 19.101 Amended 2129
  - Corrected; CFR correction 13856
  - Regulation at 66 FR 2129 eff. date delayed 14260
- 19.201 (a) amended; interim **60544**
- 19.202-2 Intordunctory text amended; interim **60544**
  - (c) revised; interim 27413
- 19.202-4 Introductory text amended; interim **60544**
- 19.202-5 Introductory text, (a) and (b) amended; interim **60544**
- 19.301—19.307 (Subpart 19.3) Heading revised; interim **60545**
- 19.301 (d) amended; interim **60545**
- 19.304 (b) and (c) amended; interim **60545**
- 19.402 (c)(1)(ii) amended; interim **60545**
- 19.701 Amended; introductory text added 2130
  - Regulation at 66 FR 2129 eff. date delayed 14260
- 19.702 Introductory text revised; interim **60545**
- 19.703 (a) introductory text and (1) revised; (b) amended; interim **60545**
  - (a)(1) amended 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 19.704 (a)(1) revised; (a)(2), (3), (6), (8) and (11) amended; interim **60545**
- 19.705-2 Introductory text and (d) amended; interim **60545**
- 19.705-4 Introductory text, (c), (d)(1) and (5) amended; (d)(6) added; interim **60545**
- 19.705-7 (a) and (d) amended; interim **60545**
- 19.706 (b) and (c) amended; interim **60545**
- 19.708 (c)(1), (2) and (3) amended; interim **60545**
- 19.804-2 (a) introductory text, (9) and (c) amended; interim 27413
- 19.812 (a) revised 2141
- 19.902 Heading and introductory text revised 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.12 Removed; interim 27417
- 22.101-1 (b) redesignated as (b)(1); (b)(2) added; interim 27415
- 22.103-1 Amended; heading revised 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.401 Amended; introductory text added 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.403-4 introductory text and (a) through (e) redesignated as (a) and (b)(1) through (5); new (a) and (b)(5) amended; (b) introductory text and (c) added 2141
- 22.1001 Amended; introductory text added 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.1009-4 (a) amended; (b) introductory text revised; interim 27414
- 22.1102 Amended 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.1202 Amended; introductory text added 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 22.1500—22.1505 (Subpart 22.15) Added 5347
- 23.503 Amended; introductory text added 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 23.802 Removed 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 23.904 Amended 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 24.101 Amended; introductory text added 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 26.301 Removed 2130
  - Regulation at 66 FR 2130 eff. date delayed 14260
- 27.301 Amended; introductory text added 2130

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 48 Chapter 1—Con.

Regulation at 66 FR 2130 eff. date delayed 14260
27.401 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
28.001 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
28.308 (a) amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
29.301 Removed 2131
Regulation at 66 FR 2131 eff. date delayed 14260
30.201–4 Regulation at 65 FR 36029 confirmed 2137
30.201–5 Regulation at 65 FR 36029 confirmed 2137
31.001 Amended; introductory text added 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–17 Amended; Introductory text added 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–18 (a) amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–21 Undesignated paragraph designated as (a); (b) added **80265**
31.205–32 Amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–33 (a) amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–39 Amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
31.205–47 (a) amended; (b)(2) revised **80265**
(a) amended 2131
Regulation at 66 FR 2131 eff. date delayed 14260
(a) amended; (b)(3), (4) and (5) redesignated as (b)(4), (5) and (6); new (b)(3) added; interim 17756
32.001 Amended; introductory text added 2131
Regulation at 66 FR 2131 eff. date delayed 14260
32.006–2 Amended; introductory text added 2131
Regulation at 66 FR 2132 eff. date delayed 14260
32.113 (e) amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.202–2 Amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.202–3 (d) and (e) amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.301 Amended; introductory text added 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.407 (a)(1) revised 2138
32.408 (b)(4) amended 2138
32.409–3 (a), (b)(2), (c)(2), (e) and (g) amended; (f)(1) revised 2138
32.410 Amended 2138
32.411 Revised 2138
32.412 (f) amended 2138
32.801 Amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.902 Amended; introductory text added 2132
Regulation at 66 FR 2132 eff. date delayed 14260
32.1102 Amended; introductory text added 2132
Regulation at 66 FR 2132 eff. date delayed 14260
33.101 Amended; introductory text added 2132
Regulation at 66 FR 2132 eff. date delayed 14260
33.201 Amended; introductory text added 2132
Regulation at 66 FR 2132 eff. date delayed 14260
34.001 Amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
34.005–2 (a)(1) amended; interim 27414
34.101 Amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260
35.001 Amended 2132
Regulation at 66 FR 2132 eff. date delayed 14260

NOTE: Boldface page numbers indicate 2000 changes.

- 35.004 (a) introductory text amended; (a)(1) revised; interim 27414
- 35.016 (c) revised; interim 27414
- 35.017 Amended; (b) introductory text added 2132
  - Regulation at 66 FR 2132 eff. date delayed 14260
- 36.102 Amended; introductory text added 2132
  - Regulation at 66 FR 2132 eff. date delayed 14260
- 36.202 (d) added; interim 27415
- 36.213-2 (b) introductory text amended; (b)(9) revised; interim 27414
- 36.601-3 (d) amended 2132
  - Regulation at 66 FR 2132 eff. date delayed 14260
- 37.101 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
  - Amended; interim 22083
  - Corrected 27012
- 37.102 (a) revised; interim 22083
- 37.103 (a)(1) amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 37.104 (a) amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 37.201 Amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 37.502 (a)(3) amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 39.000 Revised 20897
- 39.002 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 39.104 Added; interim 22085
- 39.201—39.204 (Subpart 39.2) Added 20897
- 42.001 Removed 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 42.201 (b) revised 2141
- 42.203 Revised 2141
- 42.302 (a) introductory text amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 42.503-2 Amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 42.701 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 42.1201 Removed 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 43.101 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 43.103 (b)(3) amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 44.101 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 46.101 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 46.701 Removed 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 46.710 (a)(1) and (b)(1) amended 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 47.001 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 47.201 Amended; introductory text added 2133
  - Regulation at 66 FR 2133 eff. date delayed 14260
- 47.401 Amended; introductory text added 2134
  - Regulation at 66 FR 2134 eff. date delayed 14260
- 47.501 Amended; introductory text added 2134
  - Regulation at 66 FR 2134 eff. date delayed 14260
- 48.001 Amended; introductory text added 2134
  - Regulation at 66 FR 2134 eff. date delayed 14260
- 49.001 Amended; introductory text added 2134
  - Regulation at 66 FR 2134 eff. date delayed 14260

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 48 Chapter 1—Con.

50.001 Amended; introductory text added....2134
  Regulation at 66 FR 2134 eff. date delayed....14260
52.101 (a) amended....2134
  Regulation at 66 FR 2134 eff. date delayed....14260
52.202-1 Amended; introductory text revised....2134
  Regulation at 66 FR 2134 eff. date delayed....14260
52.209-5 (a)(1)(i)(B) and (C) amended; (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added....**80265**
  Amended; interim....17756
  (a)(1)(i)(D) corrected....18735
52.212-3 Amended; interim....**60546**
  (h) introductory text and (2) revised; (h)(1) amended; (h)(3) and (4) added....**80266**
  Amended....2134, 5348
  Regulation at 66 FR 2134 eff. date delayed....14260
  Amended; interim....17756
  Corrected....18735
52.212-4 Amended....2139
52.212-5 Amended....5348
  Amended; interim....27417
52.213-4 Amended....2140
  Amended....5348
52.214-21 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.215-1 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.219-1 Amended; interim....**60546**
  Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.219-8 Amended; interim....**60546**
52.219-9 Amended; interim....**60547**
52.219-10 Amended; interim....**60548**
52.219-23 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.222-18 Added....5349
52.222-19 Added....5349
52.222-50 Removed; interim....27417
52.223-6 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.223-11 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.226-2 Revised....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.230-1 Regulation at 65 FR 36030 confirmed....2137
52.232-12 Amended....2138
52.232-25 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.232-26 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.232-27 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.242-3 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.244-6 Amended; heading revised....2140
52.246-3 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.246-6 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.246-8 Amended....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.246-17 Amended; introductory text revised....2135
  Regulation at 66 FR 2135 eff. date delayed....14260
52.246-18 Amended; introductory text revised....2136
  Regulation at 66 FR 2136 eff. date delayed....14260
52.246-19 Amended; introductory text revised....2136
  Regulation at 66 FR 2136 eff. date delayed....14260
52.246-20 Amended; introductory text revised....2136
  Regulation at 66 FR 2136 eff. date delayed....14260
52.247-51 Amended....2141
53.215-1 (a), (e) and (f) amended....2141
53.219 (a) and (b) amended; interim....**60548**
53.301-294 Revised; interim....**60549**
53.301-295 Revised; interim....**60551**

NOTE: **Boldface page numbers indicate 2000 changes.**

Chapter 2—Department of Defense (Parts 200—299)

Chapter 2 Appendix F corrected **69376**
204.7202-1 (c) revised....**63804**
204.7204 (b) amended....**63804**
207.105 (b)(13)(iv) amended....**63804**
209.202 (a)(1) amended....**63804**
212.503 (a)(xi) revised....**77828**
212.504 (a)(xxv) revised....**77828**
215.404-4 (b)(1) introductory text revised....**77829**
215.404-71-2 Revised....**77829**
215.404-72 (b)(1)(iii) added....**77831**
217.401 Regulation at 65 FR 50148 confirmed....**77832**
219.201 (d) revised....**63807**
  Regulation at 65 FR 50148 confirmed....**77832**
219.202-5 Introductory text amended....**63804**
219.502-3 Regulation at 65 FR 50149 confirmed....**77832**
219.1005 Regulation at 65 FR 50149 confirmed....**77832**
219.1203 Regulation at 65 FR 50149 confirmed....**77832**
225.7019-1 (a) amended....**77828**
225.7019-2 (b) revised....**77828**
225.7019-4 Revised....**77828**
225.7020 Added....**77828**
225.7020-1 Added....**77828**
225.7020-2 Added....**77828**
225.7020-3 Added....**77828**
225.7020-4 Added....**77828**
225.7103-1 Revised....**77832**
225.7103-3 Revised....**77832**
236.570 (a)(2) revised....**63804**
236.602-1 Regulation at 65 FR 50149 confirmed....**77831**
236.701 (c) revised....**63804**
236 (Appendix I) Regulation at 65 FR 50149 confirmed....**77831**
242.72 Revised....**77833**
242.002 (S-70)(iii) introductory text amended....**63804**
242.1203 (b)(1), (2)(A), (B), (C), (d), (e) and (f) redesignated as (b)(2)(A) through (D), (f), (g) and (h); new (b)(2)(A), (D), (f)(i), (g)(i), (h)(4)(A) and (B) amended....**63805**
242.1204 (e) redesignated as (i); new (i) amended....**63805**
250.201 Revised....**77836**
252.201-70 (b)(1) and (k) revised **77836**
252.212-7001 Amended....**77828**
252.225-7016 Amended....**77828**
252.225-7023 Added....**77829**
252.242.7004 Revised....**77834**
252.247-7015 Introductory text amended....**63805**
Chapter 2 Appendix F amended **63803, 63804**
  Appendices E and F amended **63805**
  Appendix G amended....**63806**

Chapter 3—Department of Health and Human Services (Parts 300—399)

Chapter 3 Revised....4220

Chapter 9—Department of Energy (Parts 900—999)

901.105 Amended....**81005**
902.200 Revised....**81005**
903.901—903.971 (Subpart 903.9) Added....**81005**
904.7200—904.7201 (Subpart 904.72) Added....**81006**
909.104-1 Amended....**81006**
911.604 (d) and (e) revised....**81006**
915.408-70 (Subpart 915.408-70) Added....**81006**
917.600 Revised....**81006**
917.601 Amended....**81006**
917.602 Revised....**81006**
917.604 Removed....**81007**
917.605 Removed....**81007**
922.7100—922.7101 (Subpart 922.71) Removed....**81007**
923.570-2 (a) and (b) amended....**81007**
923.570-3 (a) and (b)(2) amended **81007**
927 Authority citation revised....**68934**
927.303 (c) added....**68935**
  (a)(3) amended....**81007**
927.402-1 (b) amended....**81007**
927.404 (g)(4) amended....**81007**
927.409 (a)(2)(vi) amended....**81007**
931 Policy statement....19717
931.205-19 Added....4627
  Regulation at 66 FR 4627 eff. date delayed....8746
931.205-33 Added....4627
  Regulation at 66 FR 4627 eff. date delayed....8746
931.205-47 Added....**62301**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 48 Chapter 9—Con.

935.070 Removed	**81007**
941.201-71 Amended	**81007**
942.270-1—942.270-2 (Subpart 942.2) Added	**81007**
947.7001—947.7002 (Subpart 947.70) Added	**81007**
951.7002 (Subpart 951.70) Revised	**81007**
952.203-70 Added	**81008**
952.204-75 Added	**81008**
952.215-70 Added	**81008**
952.222-70 Removed	**81008**
952.223-71 Amended	**81008**
952.242-70 Added	**81008**
952.247-70 Revised	**81009**
952.250-70 (h) amended	**81009**
952.251-70 Revised	**81009**
970 Revised	**81009**
Policy statement	19717
970.2701 Revised	**68935**
970.2702 Revised	**68935**
970.2702-1 Added	**68935**
970.2702-2 Added	**68935**
970.2702-3 Added	**68935**
970.2702-4 Added	**68935**
970.2702-5 Added	**68935**
970.2702-6 Added	**68935**
970.2703 Revised	**68935**
970.2704 Revised	**68936**
970.3102-05-33 Added	4627
Regulation at 66 FR 4627 eff. date delayed	8746
970.3102-20 (c) added	**62301**
970.5204-71 Removed	**68936**
970.5204-72 Removed	**68936**
970.5204-94 Added	**68936**
970.5204-95 Added	**68937**
970.5204-96 Added	**68937**
970.5204-97 Added	**68937**
970.5204-98 Added	**68937**
970.5204-100 Added	**68938**
970.5204-101 Added	**68938**
970.5204-102 Added	**68942**
970.5204-103 Added	**68944**
970.5228-1 Amended	4627
Regulation at 66 FR 4627 eff. date delayed	8746
970.5244-1 Amended	4627
Regulation at 66 FR 4627 eff. date delayed	8746

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

Chapter 15 Nomenclature change	34376
1501.602-3 (b) redesignated as (b)(1); (b)(2) added	**80792**
1502.100 Amended	**80793**
1504 Authority citation revised	**75866**
1504.670 (Subpart 1504.6) Added	**75866**
1511.011-80 Added; interim	**58923**
1515.209 (c) added; interim	**58923**
1516.603-1 Added; interim	12900
Regulation at 66 FR 12900 confirmed	39456
1516.603-2 Added; interim	12900
Regulation at 66 FR 12900 confirmed	39456
1517.208 (a) removed; (b) through (g) redesignated as (a) through (f); new (g) added; interim	**58923**
1519.203 Added; interim	**58923**
1519.204 Added; interim	**58923**
1523.303-72 Added; interim	**58923**
1523.7003 Existing text designated as (b); (a) added; interim	**58923**
1528 Added; interim	**58923**
1535.07-070 (g) added; interim	**58923**
1542.705 Existing text designated as (a); (b) added	**58924**
1545.106 (d) added; interim	**58924**
1546.201 (Subpart 1546.2) Removed	**79784**
1552 Authority citation revised	**75866**
1552.203-70 Amended	**79784**
1552.204-70 (Subpart 1552.2) Added	**75866**
1552.208-70 Revised; interim	**58924**
1552.211-70 Amended; interim	**58924**
Amended	28674
1552.211-79 Amended; interim	**58924**
Amended	28674
1552.211-80 Added; interim	**58925**
1552.215-75 Added; interim	**58925**
1552.217-77 Added; interim	**58925**
1552.219-70 Added; interim	**58926**
Revised	28674
1552.219-71 Added; interim	**58926**
Revised	28675
1552.219-72 Added; interim	**58927**
Revised	28676
1552.219-73 Added; interim	**58927**
Revised	28676
1552.219-74 Added; interim	**58928**
1552.223-72 Added; interim	**58928**
1552.228-70 Added; interim	**58928**
1552.232-73 Amended; interim	**58928**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

Amended 28676
1552.235-80 Added; interim **58928**
1552.239-70 Added; interim **58929**
1552.242-72 Added; interim **58929**
1552.245-73 Added; interim **58929**
1552.246-70 Removed **79784**
1552.246-71 Removed **79784**
1552.246-72 Removed **79784**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1803.7000—1803.7001 (Subpart 1803.70) Added 29727
1804.470-1 Revised; interim 36491
1804.470-2 Revised; interim 36491
1804.470-3 Revised; interim 36491
1804.470-4 Revised; interim 36491
1807.105 (a)(7) revised; interim......**70315**
(b)(1) removed **82296**
1807.107 Heading revised......**58931**
1811.501 (Subpart 1811.5) Revised **58931**
1811.602 (c) amended......29727
1811.603 Revised 29727
1812.301 (f)(i)(I) through (N) redesignated as (f)(i)(J) through (O); new (I) added; interim 18052
1813.301-71 Added......**82296**
1815.203-72 Revised; interim **70316**
(a) revised......**82296**
1815.7001 Amended......**58931**
1816.203-4 (a) revised......**82296**
1816.405-274 (g)(2) and (4) amended......**58932**
(c)(4) added; interim......**70316**
1817.7101 (b) amended **58932**
1819.201 (f)(1) amended **58932**
1819.202-1 Removed **58932**
1819.1005 Revised......**58932**
1819.7208 (b)(1) amended......**58932**
1819.7209 (a)(1) and (2) amended **58932**
1823.7001 (b)(1) and (2) revised; interim **70316**
(e) added; interim......18052
1830 Regulation at 65 FR 49206 confirmed 29728
1830.201-5 Regulation at 65 FR 49206 confirmed......29727
1832.402 (e)(1)(B)(a) revised 29728
1832.702-70 (e) revised......29728
1834.003 Revised **58932**
1835.016-71 (b)(2) amended **82297**
1837.7000—1837.7001 (Subpart 1837.70) Removed......**58933**
1842.705-1 Revised......**63807**
1842.1501 Revised......**82297**
1842.7003 Added 18054
1842.7301 Revised......**82297**
1843.205 Revised **58932**
1845.608-1 (a) amended......**58932**
1845.610-4 Amended **58932**
1845.613 Amended......**58932**
1845.7101-1 (c) revised **82297**
1849.102-71 Added; interim **70316**
1852.203-70 Added 29727
1852.204-76 Revised; interim......36491
1852.223-70 Amended; interim **70316**
Amended; interim 18052
1852.223-72 Added; interim 18052
1852.223-73 Amended; interim 18053
1852.223-75 Amended; interim **70316**
Amended; interim 18053
1852.242-72 Amended **58932**
1852.247-73 (b) amended......**58932**
Amended **82297**
1852.242-78 Added 18054
1872.305 (b) amended **82297**
1872.306 Amended......**82297**
1872.307 Revised **82297**
1872.705 Amended......**82298**

Chapter 54—Defense Logistics Agency, Department of Defense (Parts 5433—5452)

5433 Added 27474
5452.233-9001 Added 27474

Proposed Rules:

2 ......**65698, 66920**
...... 7166, 39230
3......39230
4 ......**65698**
...... 39230
5......39230
6......39230
7 7166
8 ......**79702**
......2752, 39230
9......17758, 23134, 39230
10......7166
11......7166
12 ......**66920, 83292**
......7166
14 ......17758, 23134, 39230
15......17758, 23134
16......**83292**
19 39230

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 48 *Proposed Rules:—Con.*

22 39230
23 39230
25 39230
26 39230
28 39230
29 39230
31 .... **82876**
.... 17758, 23134, 39230
32 .... **66920**
35 39230
36 39230
39 7166
42 39230
47 .... **66920**,
.... 39230
51 .... **79702**
52 .... **64298**, **66920**
.... 2752, 17758, 23134, 39230
53 39230
215 .... **69895**
225 .... **63837**
801 30659
806 30659
812 30659
837 30659
852 30659
873 30659
904 .... 8560, 13473
928 .... **63809**
944 .... **63809**
952 .... **63809**
.... 8560, 13473
970 .... **63809**
.... 8560, 13473
1842 .... **76600**
1852 .... **76600**
9904 .... **59504**

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1 Authority citation revised 38380
1.46 (ttt) added 23181
(n)(1), (6), (ss), (zz), (ccc), (ddd), (eee), (fff), (ggg) and (mmm) removed; (uu) and (vv) revised 38380
1.48 (nn) added 2828
10 Appendix amended 20407
26.11 (c) revised; interim **68951**
26.21 (a)(2) and (3) revised; interim **68951**
26.37 (b) and (c) revised; interim **68951**
26.45 (a) revised; (d)(2) amended; interim **68951**
26.55 (h) revised; interim **68951**
26.89 (a)(3) amended; interim **68951**
27.72 Revised 22115
37 Technical correction 10968
37.199 Removed; interim 9053
37.213 Revised; interim 9053
37.181—37.215 (Subpart H) Appendix A revised 9054
40 Authority citation revised **79518**
Revised; eff. 8-1-01 .... **79526**
Meetings 7590
Policy statement 9673
Compliance date notification 28400, 32248
40.33 (f)(i), (ii) and (iii) correctly designated as (f)(1), (2) and (3) 3885
40.227 Correctly added 3885
40.201—40.225 (Subpart E) added **79518**
40.301—40.359 (Subpart F) added **79518**

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

171.7 (a)(3) table amended 8646
(a)(1) and (3) table amended; eff. 10-1-01 33334
171.8 Amended; eff. 10-1-01 33335
171.10 (c)(2) table amended; eff. 10-1-01 33335
171.11 Introductory text revised; (d)(6)(i), (ii) and (iv) amended; (d)(6)(vi) and (17) added; eff. 10-1-01 33336
171.12 (b) heading revised; (b)(3) amended 8646
(b)(5), (d) heading, introductory text and (4) revised; (b)(20) and (d)(7) added; (d)(5) and (6) amended; eff. 10-1-01 33336
171.12a (b)(18) added; eff. 10-1-01 33336
171.14 (d) introductory text, (1) and (2) introductory text revised; (d)(4) and (5) added; eff. 10-1-01 33336
172.101 (g) and table corrected **60382**

NOTE: Boldface page numbers indicate 2000 changes.

(b)(1), (c)(11) and table revised; (c)(16) and (k)(6) through (20) added; eff. 10-1-01 33337
Appendix B amended; eff. 10-1-01 33413
172.102 (c)(1) amended 8647
(c)(1), (2), (3) and (8) amended; (c)(4) and (7) revised; eff. 10-1-01 33414
172.202 (a)(4) and (e) revised; eff. 10-1-01 33425
172.203 (d)(11) and (n) revised; (i)(5) and (6) added; eff. 10-1-01 33425
172.330 (a)(1)(ii) amended; eff. 10-1-01 33425
172.401 (c)(1) and (2) revised 8647
172.402 (b) revised; eff. 10-1-01 33425
172.403 (a) and (g)(2) corrected **60382**
172.405 (a) introductory text amended; (a)(1) and (2) removed; eff. 10-1-01 33425
172.407 (f) revised 8647
172.411 Heading and (d) revised; (c) amended; eff. 10-1-01 33425
172.502 (b)(1) revised 8647
(b)(1) revised; eff. 10-1-01 33426
172.504 (g) existing text amended; (g)(1) through (4) added; eff. 10-1-01 33426
172.512 (a)(3) amended; eff. 10-1-01 33426
172.519 (b)(4) revised; eff. 10-1-01 33426
173.2a (b) table amended; eff. 10-1-01 33426
173.4 (a)(1) introductory text revised; eff. 10-1-01 33426
173.7 (e) corrected **60383**
173.21 (f) introductory text and (3)(ii) amended 8647
173.24 (d)(2) introductory text amended 8647
173.24b (e) added; eff. 10-1-01 33426
173.31 (b)(2)(ii) amended; eff. 10-1-01 33427
173.32 Revised; eff. 10-1-01 33427
173.32a Removed; eff. 10-1-01 33429
173.32b Removed; eff. 10-1-01 33429
173.32c Removed; eff. 10-1-01 33429
173.34 (e)(13) table amended; eff. 10-1-01 33429
173.61 (e)(3) revised; (e)(8) added; eff. 10-1-01 33429
173.62 (c) table corrected **60383**
(b) table and (c) table amended; eff. 10-1-01 33429
(c) table amended; eff. 10-1-01 33430
173.124 (a)(2)(iii)(C) amended 8647
173.128 (e) amended 8647
173.150 (d)(2) revised; eff. 10-1-01 33430
173.162 (a) introductory text and (1) revised; eff. 10-1-01 33430
173.166 (b)(2) amended 8647
173.185 (c)(3) amended 8647
Revised; eff. 10-1-01 33430
173.224 (b)(4) revised; (b)(7) table amended; (d) removed; eff. 10-1-01 33431
173.225 (b) table amended; (e) introductory text, (3) and (5) revised; eff. 10-1-01 33431
173.240 (c) and (d) revised; eff. 10-1-01 33435
173.241 (c) and (d) revised; eff. 10-1-01 33435
173.242 (c) introductory text and (d) revised; eff. 10-1-01 33435
173.243 (c) and (d) revised; eff. 10-1-01 33435
173.247 (c) revised; eff. 10-1-01 33436
173.301 (d)(2) amended; eff. 10-1-01 33436
173.304 (a)(2) table and (b) amended; eff. 10-1-01 33436
173.306 (a)(4)(iii) revised; eff. 10-1-01 33436
173.314 (c) table and (g) introductory text amended; eff. 10-1-01 33436
173.315 (a) introductory text, (i)(1)(iii), (3), (4) and (8) revised; (a) table, (b) introductory text and (h) table amended; (i)(7) removed; eff. 10-1-01 33436
173.320 (c) revised; eff. 10-1-01 33436
175.10 (a)(10) and (16) revised; (a)(17) added; eff. 10-1-01 33436
175.33 (a) introductory text revised; eff. 10-1-01 33437
175.78 Revised; eff. 10-1-01 33437
175.85 (a) revised; eff. 10-1-01 33438
176.2 Amended 8647
Amended; eff. 10-1-01 33438
176.5 (b)(8) amended 8647
176.11 (a) introductory text amended 8647
176.27 (b) amended 8647

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 49 Chapter I—Con.

- 176.30 (a) introductory text amended 8647
- 176.63 (e) added; eff. 10–1–01 33438
- 176.84 (b) table amended; (c)(1) and (2) table revised; (c)(3) removed; eff. 10–1–01 33438
- 176.128 (c) amended; eff. 10–1–01 33438
- 176.136 (e) amended; eff. 10–1–01 33438
- 176.142 (a) revised; eff. 10–1–01 33438
- 176.720 Added; eff. 10–1–01 33439
- 177.835 (g)(3) introductory text correctly revised **60383**
- 177.848 (g)(3)(vi) revised; eff. 10–1–01 33439
- 178.273 Added; eff. 10–1–01 33439
- 178.274 Added; eff. 10–1–01 33440
- 178.275 Added; eff. 10–1–01 33445
- 178.276 Added; eff. 10–1–01 33448
- 178.277 Added; eff. 10–1–01 33450
- 178.703 Heading and (a)(1) introductory text revised; (a)(1)(ii) amended; eff. 10–1–01 33451
- 178.705 Heading and (c)(1)(iv)(A) revised; (c)(1)(iv)(C) added; eff. 10–1–01 33452
- 178.801 (i) amended; eff. 10–1–01 33452
- 178.812 (c)(1) revised; (c)(3) added; eff. 10–1–01 33452
- 179.102–4 Introductory text amended; eff. 10–1–01 33452
- 180.601—180.605 (Subpart G) Added; eff. 10–1–01 33452
- 195.2 Amended **80544**
  - Regulation at 65 FR 80544 eff. date delayed 9532
- 195.6 Added **80544**
  - Regulation at 65 FR 80544 eff. date delayed 9532
- 195.450 Undesignated center heading and section added **75405**
  - Regulation at 65 FR 75405 eff. date delayed 9532
- 195.452 Undesignated center heading and section added **75405**
  - Regulation at 65 FR 75405 eff. date delayed 9532
- 195 Appendix C added **75409**
  - Regulation at 65 FR 75409 eff. date delayed 9532
- 199 Random drug testing revision **81409**

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

- 213.110 Added 1899
  - (j)(1) and (m) introductory text correctly added 8372
  - Regulations at 66 FR 1899 and 8372 eff. date delayed 9676
- 219 Authority citation revised **69885**
  - Determination **79318**
- 219.5 Amended **69885**
- 219.201 (a)(1) introductory text, (2) and (4) revised **69886**
- 225 Authority citation revised **69886**
- 225.19 (c) amended; (e) revised **69886**
- 225 Appendix B amended **69886**
- 229 Authority citation revised 4192
- 229.5 (p) added 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 229.25 (a) revised 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 229.27 (b) revised 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 229.53 Revised 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 231 Authority citation revised 4192
- 231.0 (b)(3), (4), (5) and (g) added 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 231.31 Added 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 231 Appendix A amended 4193
  - Regulation at 66 FR 4193 eff. date delayed 9906
- 232 Revised 4193
  - Regulation at 66 FR 4193 eff. date delayed; Appendix B heading revised 9906
- 232.1 (b) and (d) amended 9906
- 232.409 (c) amended 29502

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

- 375 Authority citation revised **58664**
- 375.1 (b) revised **58664**
- 385 Authority citation revised **78427**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

385.14 Added **78427**
386 Authority citation revised **58664**
  Heading and authority citation revised **78427**
386.1 Revised **78427**
386.2 Amended **78427**
386.72 (a) and (b)(1) revised **58664**
386.83 Added **78428**
386.84 Added **78428**
386 Appendix A amended **78429**
390 Authority citation revised **70514**
  Authority citation revised 2766
390.3 (f)(6) revised 2766
  Regulation at 66 FR 2766 eff. date delayed 9677
390.5 Amended 2766
  Regulation at 66 FR 2766 eff. date delayed 9677
390.19 (a) revised; (g) added; interim **70514**
391.41 (b)(1) and (2)(ii) revised **59369**
391.43 (c)(1), (d), (f), (g) and (h) revised **59369**
391.49 (d)(2) amended **59380**
393 Authority citation revised **70220**
  Authority citation revised 30339
393.13 (a) revised 30339
393.75 (g) revised **70220**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

533.5 (a) Table IV revised 17516
571 Workshop **68107**
  Policy statement 9673
  Actions on petitions 18208
571.221 Regulation at 63 FR 59740 eff. date delayed to 6-1-02 20199
571.304 Amended **64626**
571.305 Regulation at 65 FR 57988 eff. date delayed to 12-1-01 9533
571.401 Added **63020**
573.3 (a) revised; (g) added 38162
573.10 Added; interim **81413**
575 Notice of final decision 3388
578 Authority citation revised **68110**
  Heading and authority citation revised; interim **81418**
578.1 Revised; interim **81418**
578.2 Revised; interim **81418**
578.3 Revised; interim **81419**
578.4 Amended; interim **81419**
578.6 (a) revised **68110**
578.7 Added; interim **81419**
  (b) revised 38384
592 Authority citation revised **68110**
592.6 (g)(2)(i) amended **68110**
595.1—595.4 (Subpart A) Heading added 12655
595.1 Revised 12655
595.2 Revised 12655
595.5 (Subpart B) Heading added 12655
595.6—595.7 (Subpart C) Added 12655

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

611 Added **76880**
  Regulation at 65 FR 76880 eff. date stayed in part to 4-6-01 9677
660 Inseason adjustments 17639

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1002 Policy statement **76174**
1002.1 (b), (c), (e)(1) and (f)(6) table revised **77320**
  (b), (c), (e)(1) and (f)(6) table revised 10830
1002.2 (f) revised **77320**
  (f) revised 10830
1180.0 Revised 32583
1180.1 Revised 32583
1180.3 (a) and (b) revised 32586
1180.4 (a)(1), (d), (e)(2), (3) and (f)(2) revised; (a)(4) removed; (b)(4) and (c)(6)(vi) added 32586
1180.6 (b)(1) through (4), (6) and (8) revised; (b)(9) through (13) added 32587
1180.7 Revised 32588
1180.8 (a) and (b) redesignated as (b) and (c); new (a) added 32589
1180.10 Added 32589
1180.11 Added 32590
1247 Added 1052

Proposed Rules:

10 1294
21 .... **76460**
26 23208
27 .... **76460**
107 .... **76890**

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 49 *Proposed Rules:—Con.*

....22080
171..**63294**
....6942, 32420, 35155
172..**63294**
....6942
173..**63294**
....6942, 32420
174..**63294**
....2870, 32420
175..**63294**
....32420
176..**63294**
....32420
177..**63294**
....2870, 6942, 32420
178..**63294**
....6942, 32420
180..**63294**
195..**76968**
....15681, 15821
199..21492, 21506
214..1930
219..21492, 21511
229..136, 13474
350..39248
365..27059
368..22328, 32918
382..21492, 21538
383..22499, 39248
384..22499, 39248
385..2767, 22415, 27059
387..22328, 27059
390..2767, 22499
392..**79050**
393..**79050**
398..2767
534..6523
537..19132
538..20781
554..6532
567..**69810, 75222**
....90
571..........**67693, 70681, 70687, 75222, 77339, 78461**
.........968, 3527, 18581, 28875, 29747, 30366, 31883, 33657, 35177, 38982
572..**71081**
573..6532, 38247
574..**75222**
575..**75222**
....35179
576..6532
578..27621
591..**69810**
....90
593..**69810**
....90
594..**69810**
....90
653..21492, 21551
654..21492, 21551
655..21492, 21551
1180..**58974**

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

13.23 Regulation at 64 FR 32711 confirmed........................6483
13.24 Regulation at 64 FR 32711 confirmed........................6483
13.25 Regulation at 64 FR 32711 confirmed........................6483
13.29 Regulation at 64 FR 32711 confirmed........................6483
13.50 Regulation at 64 FR 32711 confirmed........................6483
17 Comment requests..............2828, 23181
17.11 (h) table amended........**58949, 60886, 63454, 63704, 69480, 69637, 69710, 81433**
  (h) table amended 8548, 8667, 8878, 9176, 9231, 9244, 9449, 14659, 15656, 18031, 21475, 22959, 29403, 32257, 33915, 35559, 36085
17.12 (h) table amended.........**62310, 81189**
  (h) table amended........................27907
17.22 Regulation at 64 FR 32711 confirmed........................6483
17.32 Regulation at 64 FR 32712 confirmed........................6483
17.40 (l) added; eff. 5-22-01 through 5-22-04........................28130
17.84 (g) amended; (g)(1) revised; (g)(6)(vi) and (9)(vi) added.........**60886**
  (l) added........................**69637**
  (h)(1), (2), (4)(ii), (iii), (iv), (5), (6), (8), (9) and (10) revised; (h)(11) and map added...............33916
17.85 Added........................32263
17.95 (c) amended........................**58949**
  (h) amended........................**63455**
  (b) amended........................**63704**
  (e) amended........................**69710**
  (b) amended........8549, 8878, 9177, 22959, 36086
  (a) amended........................8667
  (i) amended........................9231, 21475

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

(f) added 9244
(d) amended 9450, 14659
(d) corrected .....13657—13671
(e) amended 18031
(h) amended 29404
(g) added 35560
17.96 (a) amended **81189**
18.30 (a)(4)(i), (iii), (iv) and (i)(1) introductory text revised; interim 1907
18.121—18.129 (Subpart J) Correctly added; eff. 3-30-00 through 3-30-03 .....**67306**
20.21 (j) introductory text revised; (j)(1) added **76886**
(j) revised 742
20.22 (b) and (g) added 32265
20.104 Seasonal hunting adjustment; correction 1052
20.105 Seasonal hunting adjustment; correction 1052
20.107 Seasonal hunting adjustment; correction 1052
20.109 Seasonal hunting adjustment; correction 1052
20.110 Seasonal hunting adjustment **58667**
21.60 (Subpart E) Added 32265
23.23 (f) table amended 27610
25.12 Amended **62480**
25.21 Revised **62481**
25.44 Heading, (b) and (c)(1) revised; (d) removed; (e) redesignated as (d) **62482**
26.41 Added **62482**
29.1 Revised **62483**
29.3 Removed **62483**
29.21 Amended; heading revised **62483**
29.21-7 Heading revised; (c) removed **62483**
80.15 Revised 18212
80.27 Added 18212
86 Added 5286
Regulation at 66 FR 5286 eff. date delayed 9534
100 Emergency closures and adjustments 32750
100.1—242.9 (Subpart A) Revised; interim 31536
100.10—242.21 (Subpart B) Revised; interim 31536
100.24 (a)(2) revised 10145
(a)(1) revised 33748
100.25 (c) revised; eff. 3-1-01 through 6-30-01 10148
Added 33755
100.26 Added; eff. 7-1-01 through 6-30-02 33759
100.27 Added; eff. 3-1-01 through 2-28-02 10148
100.28 Added; eff. 3-1-01 through 2-28-02 10148

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Harvest estimates 33200
216.151—216.157 (Subpart N) Correctly removed; CFR correction 22133
Added 22466
222 Temporary regulations 15045, 28842, 33439
223 Determination **70514**
Temporary regulations 15045, 28842, 33439
Exemption 37599
223.102 (c) revised **60383**
223.206 (d)(2)(iv)(B) amended 1603
223.207 (c) introductory text revised 1603
(a)(7)(ii)(B) revised; interim 24288
223 Figure 16 added; interim 24289
224 Determination **70514**
224.101 (a) revised **69481**
(d) added 29055
224.103 (b) and (c) redesignated as (c) and (d); (b) added 29509
229 Temporary regulations 15045, 27042
Regulation at 66 FR 27042 eff. date corrected 29213
229.2 Amended; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.3 (h) through (k) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.32 (b), (c)(3)(ii), (4)(ii), (5)(ii), (d)(2)(ii), (3)(ii), (4)(ii) and (5)(ii) removed **70317**
(b)(1) through (d)(6)(ii) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.34 (a)(2) revised 2338
230 Quotas **75186**
Quotas 14862

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

TITLE 50

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Quotas **71270**
  Inseason adjustment **75867**
  Fishery management measures
    ....15801, 18409
300.63 (e) added....................................**67308**
  (e) corrected....................................8373
  (d)(1)(i) amended 36208
300.60—300.65 9 (Subpart E) Figure 1 amended 36208

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Fishing restrictions........**59752, 63118**
  Fishery management measures
    ....**66655**
  Technical correction....................**69376**
  Fishing restrictions...2389, 22469, 35388
  Specifications...........2338, 10209, 18409, 28676, 28846
  Technical correction 38162
600.518 (b)(1) table revised....................28132
600.525 Removed....................................**77464**
622 Temporary regulations **68951, 70317, 70808**
  Determination **70521**
  Temporary regulations 7591, 11237, 13440, 15357, 33917, 35761
  Determination....................................16618
  Inseason adjustments....................32779
622.4 (h) revised....................................**61115**
622.17 (b)(1) introductory text amended **61116**
622.31 Regulation at 65 FR 56502 eff. date extended through 9–14–01....................................14862
622.35 (e)(1)(xii) through (xviii) and (2) revised; (e)(1)(xl) through (li) added....................**61115**
622.39 (a)(4) added....................................**61115**
  (c)(1)(ii) revised 17369
622.41 (a)(4) introductory text amended **61116**
622.42 (c)(1)(i) revised....................................17369
622.44 (a)(2)(i) and (d)(4)(i) revised 17370
635 Retention limits **60118, 63807**
  Inseason adjustment **63021**
  Fishing season notification **75867**
  Quotas....................................55
  Retention limits....................................31844
  Fishing season notification..........33918
635 Quota specifications 37421
635.2 Amended; eff. 10–10–00 through 4–9–01....................................**60891**
  Amended 8904
  Amended; eff. 7–11–01 through 1–9–02 36712
635.4 (d)(3) stayed; (d)(6) added
   29511
  (b)(1) and (d)(1), (2) and (3) revised 30652
635.5 (a)(1) amended 30653
635.7 (d) revised; interim 17372
635.20 (e)(1) stayed; eff. 3–6–01 through 9–4–01 13443
635.21 (c)(2)(v) added; eff. 10–10–00 through 4–9–01....................................**60891**
  (c)(5) added; eff. 11–24–00 through 4–9–01....................................**60891**
  (c)(2)(ii) and (iii) revised 8904
  (c) introductory text amended; (c)(5) added; interim 17372
  (a)(3) added; eff. 9–15–01 through 1–9–02; (c)(2) stayed; (c)(6) added; eff. 7–15–01 through 1–9–02; (c)(5)(iii) added; eff. 8–1–01 through 1–9–02 36714
635.22 (c) amended 8904
635.27 (c)(1)(i)(A) and (3)(i) revised; (c)(1)(i)(C) and (3)(iii) added **77526**
  (b)(1)(iii) revised 8904
  (b)(1)(i), (ii), (iv)(A) and (c) stayed; (b)(1)(v) and (vi) added; eff. 3–6–01 through 9–4–01 13443
635.28 (b)(1) stayed; (b)(4) added; eff. 3–6–01 through 9–4–01 13443
635.45 Revised **77527**
635.46 Revised **77527**
635.69 Stayed 1907
635.71 (a)(33) and (34) added; eff. 10–10–00 through 4–9–01 ....**60892**
  (a)(33) and (34) added; interim
   17373
  (a)(27) amended....................................30653
648 Quotas **59758, 60586, 69585, 70522, 76577, 76578, 78993, 82945**
  Inseason adjustments........**60118, 77470**
  Suspension of surf clam minimum size limit....................................**60586**
  Daily trip limit....................................**63549**
  Temporary regulations **64627**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

Fishery management measures **66787**
Reporting and recordkeeping requirements........ **82944**
Quotas........ 8904, 27615, 29729
Regulation at 65 FR 82944 eff. date delayed........ 9778
Allowable catch levels 15812
Temporary regulations..... 16151, 27043, 29238, 31184, 33210, 37165
Specifications 28846
648.1 (a) amended........ **77464**
648.2 Amended........ **60895**, **77464**
648.4 Heading revised; (a)(10) and (c)(2)(vi) added........ **77464**
(a)(3)(iii) revised........ 36210
648.5 (a) amended........ **77465**
648.6 (a) revised........ **77465**
648.7 (a)(3)(i), (b)(1)(i), (c) and (e) revised; (f)(1)(ii), (iii) and (2) redesignated as (f)(1)(iii), (iv) and (2)(i); (f)(1)(i) and new (2)(i) amended; new (f)(1)(i) and (ii) added **60895**
(a)(1)(i) and (2)(i) amended; (f)(3) revised; (a)(3)(iii) and (b)(1)(iii) added........ **77465**
648.9 (c)(1) and (f) revised; (c)(2)(iii) added........ **77466**
648.10 (b)(1) introductory text amended........ 21643, 24056
648.11 (a) revised........ **77466**
648.12 Introductory text amended **77466**
648.13 (f) added **77466**
648.14 Regulation at 65 FR 25891 eff. date extended through 4–24–01........ **64894**
(a)(103) revised; (x)(10) and (bb) added........ **77466**
(a)(73), (122), (123), (p)(3) and (4) revised **81764**
Regulation at 65 FR 77466 eff. date delayed in part 12438
(a)(84), (92), (122) and (u)(9) revised; (a)(123) removed 12910
(a)(38), (39), (40) and (h)(27) revised; (a)(110), (111), (h)(29) through (33), (i)(8) and (9) added 21644, 24056
(aa)(7) added........ 22476
(a)(80) and (u)(2) revised 39291
648.21 (e) revised 13028
(f) revised 35566
648.22 (c) revised **81765**
(a) revised........ 13028
648.52 Heading, (a) and (c) revised; (d) and (e) added ... 21644, 24056
648.53 (b) table revised........ 21644, 24057
648.57 Added; interim 9679
Heading, (a) introductory text and (b) introductory text revised 21645, 24057
648.58 Revised........ 21645, 24057
648.80 (h)(1) revised........ 21647, 24060
648.81 (a)(1) introductory text, (b)(1) introductory text, (2)(ii) and (c)(1) introductory text revised........ 21647, 24060
648.86 (a)(2)(iii) revised........ 21648, 24060
648.88 (c) revised........ 21648, 24060
648.100 Regulation at 65 FR 47649 eff. date delayed........ 8091
Revised........ 36211
648.101 Regulation at 65 FR 47650 eff. date delayed........ 8091
648.102 Revised 36212, 39291
648.103 (b) revised 36212, 39291
648.104 Regulation at 65 FR 47650 eff. date delayed........ 8091
648.105 (a) amended 36212
(a) revised........ 39292
648.107 Regulation at 65 FR 47651 eff. date delayed........ 8091
Revised........ 36212
648.120 (b)(2) revised........ 12911
(a) revised........ 39292
648.122 (a) through (d) revised; (e) redesignated as (f); new (e) added **81766**
(a), (b) and (c) revised; (d) removed........ 12911
Heading revised; (g) added........ 39292
648.123 (a)(1) and (5) revised 12911
649.124 (b) revised........ 39292
649.125 (a) revised........ 39292
648.140 (b)(2) revised........ 12911
648.142 Revised........ 39292
648.143 (b) amended 39292
648.145 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added........ 39292
648.160 (a) revised........ 23627
648.164 (a) amended 23627
648.200—648.206 (Subpart K) Added **77467**
648.205 Regulation at 65 FR 77469 eff. date delayed in part 12438
648.230 (d)(1) revised........ 22476

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 50 Chapter VI—Con.

648.235 Regulation at 65 FR 25891 eff. date extended through 4–24–01....**64894**
  Added....22476
648.260—648.268 (Subpart M) Added; interim; eff. 5–18–01 through 11–14–01....23184
648.262 (a) amended; eff. 7–18–01 through 11–14–01; interim....38166
648.263 (a) amended; eff. 7–18–01 through 11–14–01; interim....38166
648.265 (a) stayed; (c) amended; (d) added; eff. 7–18–01 through 11–14–01; interim....38166
648.268 (a)(1) and (5) amended; eff. 7–18–01 through 11–14–01; interim....38166
660 Fishing restrictions....**59752, 63118, 67310**
  Quota....**65272**
  Fishery management measures....**66655**
  Technical correction....**69376, 69483**
  Inseason adjustment....**70523, 70524**
  Harvest guidelines....**81766**
  Fishing restrictions....2389, 11119, 22469, 35388, 35761
  Specifications...2338, 10209, 18409, 28676
  Temporary regulations....17373, 34583, 38573
  Inseason adjustments....17639, 36212
  Fishery management measures....23185
  Technical correction....38162
  Harvest guidelines....38571
660.21 (l) added; interim....31564
660.22 (hh) stayed; (kk) added; eff. 12–4–00 through 2–21–01; (ll) and (mm) added; eff. 11–3–00 through 2–21–01; interim....**66187**
  (z), (aa) and (bb) stayed; (ee) through (ll) added; interim; eff, 2–22–01 through 8–20–01....11121
  (ee) revised; eff. 3–14–01 through 8–20–01....15359
  (ee) through (ll) stayed; (mm) through (tt) added; interim....31564
660.23 (a) stayed, (c) added; interim; eff, 2–22–01 through 8–20–01....11121
  (a) stay terminated; (c) stayed; interim....31564
660.28 (c) stayed; interim; eff, 2–22–01 through 8–20–01....11121
  (c) stay terminated; interim....31564
660.32 (a)(3), (b)(4), (5) and (e) added; interim....31564
660.33 (d)(4) stayed; (d)(7) added; eff. 12–4–00 through 2–21–01; (d)(5) and (e)(2) stayed; (d)(8), (9) and (e)(7) added; eff. 11–3–00 through 2–21–01; interim....**66188**
  Added; interim; eff, 2–22–01 through 8–20–01....11121
  (a)(4) added; eff. 3–14–01 through 8–20–01....15359
  Stayed....31564
660.34 Added; interim....31564
660.35 Added; interim....31565
660.36 Added; interim....31565
660.302 Amended....**82952**
  Amended....20612, 29733
660.303 (a) revised....**82953**
660.306 (y) added....20613
660.321 (b) revised....29733
660.323 (a)(3)(vi) added; (b) revised....29733
660.333 (a) revised; (h)(1)(i) and (ii) removed; (h)(1)(iii) and (iv) redesignated as (h)(1)(i) and (ii)....29734
660.335 Removed....29734
660.337 Removed....29734
660.338 (b) removed; (c) redesignated as (b)....29734
660.360 Added....20613
660.402 Amended....29241
660.408 (c)(1)(ii) and (vi) amended; (c)(1)(v) and (A) revised; (c)(1)(viii) and (ix) redesignated as (ix) and (x); new (c)(1)(viii) added....29241
660.410 Heading, (a) and (b)(1) revised....29241
679 Temporary regulations....**59380**
  Reallocation....**62646**
  Fishery management measures....**65272, 67310, 76175**
  Notification....**76578**
  General limitations....**77836**
  Fishery management measures....742, 3501, 34125
  Authority citation revised....7309
  Temporary regulations....9679, 9680, 10637, 10969, 11123, 12739, 12912, 13028, 13266, 13671, 14343, 14863, 15201, 15359, 15360, 16155, 16409, 16410, 16619, 17373, 17087, 17088, 17089, 17815, 21691, 21806, 21887, 23196, 27043, 28133, 28679, 29241, 29511, 29512, 31849, 35761, 36213,

---

NOTE: Boldface page numbers indicate 2000 changes.

36492, 37166, 37600, 38166, 38167, 38573, 38574, 39119
Nomenclature change 27909
679.1 (j)(3) and (4) added....**78115**
Introductory text, (d) introductory text and (1)(i)(B) revised 27909
679.2 Amended **60588, 67308, 78115**
Corrected **64896**
Amended; interim 7309
Amended; interim; eff. 1-18-01 through 7-17-01 7327
Amended 13677
Corrected 16014, 34852
Amended; (A)(1) through (15) redesignated as (2) through (16); new (16) revised; new (1) added 27909
Regulation at 66 FR 7330 eff. date extended to 1-14-02 35911
Regulation at 66 FR 7309 eff. date extended 37179
679.4 (g) added **78116**
(l) added; interim; eff. 1-18-01 through 12-31-01 7310
(g)(5)(iii)(A) correctly revised 13857
(d)(1)(i) revised 27910
679.5 (a)(4)(iv), (f)(3), (l)(1)(iii) and (o) added; interim; eff. 1-18-01 through 12-31-01; (f)(4) added; interim; eff. 1-18-01 through 7-17-01 7314
(l)(7)(ii)(C)(*4*)(*i*) correctly revised 13672
(l)(1)(iv), (2)(iv)(A)(*2*), (vi), (3)(i)(A), (ii), (4) and (5)(i) revised 27910
Regulation at 66 FR 7314 eff. date extended in part 37179
679.7 (d)(9) revised **60588**
(a)(2) revised; (c)(3) added **61267**
Regulation at 65 FR 61267 eff. date corrected to 11-16-00....**63291**
(i)(3) and (7) revised; (i)(1)(iv) and (8) added **78118**
(a)(11) and (b) stayed to 7-17-01; (a)(17) and (j) added; interim; eff. 1-18-01 through 7-17-01 7315
(k) correctly added; interim 26809
(f)(14) revised 27910
(f)(4) amended 33031
Regulation at 66 FR 7315 eff. date extended in part 37179
679.20 (a)(5)(i)(A), (ii)(B) and (c)(2)(ii) stayed; (a)(5)(i)(B), (ii)(C), (c)(2)(iii) and (7) added; interim; eff. 1-18-01 through 7-17-01; (d)(1)(iv) added; interim; eff. 1-18-01 through 12-31-01 7315
(b)(1)(iii)(A) revised; (f)(3) added 13677
(a)(5)(i)(D), (E) and (c)(3)(iv) added; (d)(1)(iv) stayed; (d)(1)(v) added; eff. 1-18-01 to 7-17-01; interim 7330
Regulation at 66 FR 7330 eff. date extended to 1-14-02 35911
Regulation at 66 FR 7315 eff. date extended in part; (a)(7)(i)(C)(*2*) stayed; (a)(5)(i)(C), (7)(i)(C)(*4*) and (c)(7) added 37179
679.21 (e)(1)(vii) and (7)(viii) revised **60588**
(e)(7)(viii) correctly revised **64896**
(d)(8) and (e)(3)(v) added; interim; eff. 1-18-01 through 12-31-01 7316
679.22 (a)(8)(iii)(D) revised **61267**
(b)(5) added **67308**
(j) removed; (k) added **79785**
(k) removed; (l) added **82299**
(k) correctly designated as (l) 1375
(a)(7), (8) and (b)(2) stayed; (a)(11), (12), (13), (b)(3) and (5) added; interim; eff. 1-18-01 through 7-17-01; (a)(11)(v), (12)(v) and (b)(3)(iv) added; interim; eff. 6-10-01 through 7-17-01 7316
Corrected; (a)(11)(iv)(D)(*1*) table, (*2*), (v)(A)(*2*), (*3*) and (C) correctly added 15657
(a)(12)(iii)(A), (iv), (v)(C), (b)(3)(iv)(C) correctly added; (b)(5) correctly redesignated as (b)(6) 15658
(a)(15) and (b)(8) added; interim; eff. 6-10-01; (a)(13) and (b)(6) stayed; (a)(14) and (b)(7) added; interim; eff. 3-23-01 through 7-17-01 17086
Regulation at 66 FR 7316 eff. date extended in part 37179
(a)(5)(i) stayed; (a)(5)(iv), (11), (12)(i), (ii), (iii)(A), (iv)

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 50 Chapter VI—Con.

through (viii), (13), (b)(3), (6) and (7) added 37180
679.23 (d)(2), (e)(2) and (4)(iii) stayed; (d)(3), (4), (e)(4)(iv), (v), (5) and (6) added; interim; eff. 1-18-01 through 7-17-01 7319
(e)(6)(i) stayed; (e)(6)(iii) added; interim; eff. 3-23-01 through 7-17-01 17087
(d)(4) and (e)(6)(iii) stayed; (d)(5) and (e)(6)(iv) added; eff. 6-10-01 through 7-17-01 31848
Regulation at 66 FR 7319 eff. date extended in part 37179
(d)(4) and (e)(6)(iii) added 37182
679.26 (a)(2) and (b)(3)(iv) revised **78121**
679.28 (a) revised; (f) added **61267**
Regulation at 65 FR 61267 eff. date corrected to 11-16-00..........**63291**
679.31 (f) revised..........13678
(f) suspended; (g) added 37182
679.32 (a)(2) revised; (e) added 13678
679.40 (a)(6)(i) revised..........27910
679.41 (h)(2) and (k) revised..........27910
679.42 (j)(6) added 27911
679.43 (a) and (p) revised..........**78118**
(c) revised..........27911
679.50 (c)(4) introductory text amended; (c)(4)(iv) and (d)(4) revised; (c)(4)(v) added; (h)(1)(i)(E)(*4*) removed..........**69485**
Heading, (i)(1)(i) and (iii) revised **80383**
(c)(5) and (d)(5) added; interim; eff. 1-18-01 through 12-31-01 7320
(c)(4)(i), (5) and (d)(5) stayed; (c)(4)(vi), (6) and (d)(6) added; interim; eff. 1-18-01 through 7-17-01 7331
Regulation at 66 FR 7331 eff. date extended to 1-14-02 35911
679.59—679.64 (Subpart F) Added; interim; eff. 1-18-01 through 12-31-01..........7320
679.60 Corrected 15658
679 Figure 8 revised **60589**
Figure 18 added..........**67308**
Tables 12, 13 and 20 stayed; Table 21 added; interim; eff. 1-18-01 through 7-17-01..........7323
Corrected..........15659
Tables 21 through 24 added..........37182
697 Fishing restrictions..........13443
Fishery management measures 20202
697.2 Amended; interim..........**61121**
Regulation at 65 FR 61121 stayed eff. 10-23-00 through 10-27-00..........**63549**
Amended..........**64897**
Amended 8910, 14501
697.4 (d)(1) revised; (p) added 14501
697.7 (e) added..........**61121**
Regulation at 65 FR 61121 stayed eff. 10-23-00 through 10-27-00..........**63549**
(e) removed **64897**
(e) added 8911
(c)(1)(vii) through (x) revised 14501
(f)(4) amended..........33031
697.19 (e) added 14502
697.21 (g) added 14502
697.22 Introductory text and (a)(1) revised 8911
697.23 (f) added 8911
697.26 Added..........14502

Proposed Rules:

15 29072
17 ....**58981, 59798, 60391, 60603, 60605, 60607, 61218, 62690, 62691, 63044, 63047, 64414, 64649, 65287, 65808, 67334, 67335, 67343, 67796, 69696, 76207, 77178, 79192, 80409, 80698, 82086, 82310, 83158**
...... 345, 1295, 1628, 1632, 1633, 3964, 4782, 4783, 9476, 9540, 9683, 9806, 10419, 10440, 10469, 11131—11134, 11244, 12450, 12754, 13474, 13691, 14107, 18062, 18223, 19910, 20962, 22141, 22983, 22984, 26827, 30148, 30368, 30372, 30853, 30860, 31760, 32052, 33046, 33620, 35580, 36229, 38611
18 14352
20 ....**63225, 64650**
..........21298, 32297, 38494
21..........**69726**
32 35193
100..........10162
216..........**59164, 75230, 77546, 80815**
..........2873, 15375, 19413, 26827, 35209
222..........39474
223....9808, 17659, 17845, 31600, 31603, 32304, 32305, 32787, 35407, 39474
224 ....**66221, 79328**
.....10983, 17659, 19414, 32304, 32305, 32787
226..........**66221**
..........28141

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH JULY 31, 2001

229..........**64415**
..........6545
300..........13480, 17387, 20129, 20419, 32310
600..........**67708, 67709, 6989, 775911, 75912**
....12451, 12452, 13279, 13870, 15395, 16645, 17668, 18584, 19748, 21306, 24093, 28142, 28876, 29922, 34401, 37634, 39129, 39130, 39475
622..........**59170, 60163, 63837, 80827**
.......8567, 9813, 10268, 13692, 17519, 20129, 22144, 28725, 29924, 30866, 31608, 31609, 32312, 37634, 37635
635..........**69492, 69898, 71085, 76601, 80410, 82973**
....13692, 15396, 17389, 17520, 22994, 29529, 34401
640..........37635
648..........**60396, 64654, 65818, 66222, 66960, 70841, 75232, 75912**
...90, 1634, 8568, 9814, 10983, 12755, 13279, 13281, 13694, 13695, 17391, 17673, 20130, 28879, 29530, 30149, 34401, 36246
660..........**59814, 62692, 63047, 68971, 69898, 80411, 80828**
........1945, 2872, 9285, 13035, 13483, 14354, 17395, 17681, 18586, 23660, 27623, 29074, 29276, 30867, 30869, 32919, 39131, 39475
679..........**58727, 66223, 70328, 78126, 78131**
.....3976, 17397, 26827, 28883, 30396, 38412, 38626
697..........**61135, 70841, 75916**
..........28726

NOTE: Boldface page numbers indicate 2000 changes.

2000

65 FR Page	
58365–58899	Oct. 2
58901–59104	3
59105–59338	4
59339–59693	5
59695–60091	6
60093–60338	10
60339–60568	11
60569–60830	12
60831–61075	13
61077–61253	16
61255–62273	17
62275–62575	18
62577–62990	19
62991–63193	20
63195–63533	23
63535–63761	24
63763–64132	25
64133–64334	26
64335–64580	27
64581–64880	30
64881–65251	31
65253–65704	Nov. 1
65705–66163	2
66165–66482	3
66483–66599	6
66601–66922	7
66923–67248	8
67249–67603	9
67605–68063	13
68065–68870	14
68873–69236	15
69237–69430	16
69431–69654	17
69655–69848	20
69849–70271	21
70273–70459	22
70461–70642	24
70643–70767	27
70769–71052	28
71053–71232	29
71233–73300	30
75153–75579	Dec. 1
75581–75852	4
75853–76114	5
76115–76559	6
76561–76914	7
76915–77244	8
77245–77494	11
77459–77753	12
77755–78074	13
78075–78402	14
78403–78893	15
78895–79304	18
79305–79710	19
79711–80278	20
80279–80732	21
80733–81319	22
81325–81726	26
81727–82238	27
82239–82878	28
82879–83293	29

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19

26
27
28
29
Jan. 2
3
4
5
8
9
10
11
12
16
17
18
19
22
23
24
25
26
29
30
31
Feb. 1
2
5
6
7
8
9
12
13
14
15
16
20
21
22
23
26
27
28
Mar. 1
2
5
6
7
8
9
12
13
14
15
16
19

15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18
32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31

AG

2001

UMI

United Sta
Governm
Printing O
SUPERINTEND
OF DOCUME
Washington,
OFFICIAL BUS
Penalty for Priva

Code of Federal Regulations

LSA

List of CFR Sections Affected

August 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

```
******************3-DIGIT    481
A FR    BELLH300B JAN   02   B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR       MI   48106
```

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

August 2001

Title 1–16
Changes January 2, 2001
through August 31, 2001

Title 17–27
Changes April 2, 2001
through August 31, 2001

Title 28–41
Changes July 2, 2001
through August 31, 2001

Title 42–50
Changes October 2, 2000
through August 31, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999. 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
700-899	(869-044-00013-0)	50.00	Jan. 1, 2001
900-999	(869-044-00014-8)	54.00	Jan. 1, 2001
1000-1199	(869-044-00015-6)	24.00	Jan. 1, 2001
1200-1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600-1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900-1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940-1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
1950-1999	(869-044-00020-2)	45.00	Jan. 1, 2001
2000-End	(869-044-00021-1)	43.00	Jan. 1, 2001
8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
1-199	(869-044-00023-7)	55.00	Jan. 1, 2001
200-End	(869-044-00024-5)	53.00	Jan. 1, 2001
10 Parts:			
1-50	(869-044-00025-3)	55.00	Jan. 1, 2001
51-199	(869-044-00026-1)	52.00	Jan. 1, 2001
200-499	(869-044-00027-0)	53.00	Jan. 1, 2001
500-End	(869-044-00028-8)	55.00	Jan. 1, 2001
11	(869-044-00029-6)	31.00	Jan. 1, 2001
12 Parts:			
1-199	(869-044-00030-0)	27.00	Jan. 1, 2001
200-219	(869-044-00031-8)	32.00	Jan. 1, 2001
220-299	(869-044-00032-6)	54.00	Jan. 1, 2001
300-499	(869-044-00033-4)	41.00	Jan. 1, 2001
500-599	(869-044-00034-2)	38.00	Jan. 1, 2001
600-End	(869-044-00035-1)	57.00	Jan. 1, 2001
13	(869-044-00036-9)	45.00	Jan. 1, 2001
14 Parts:			
1-59	(869-044-00037-7)	57.00	Jan. 1, 2001
60-139	(869-044-00038-5)	55.00	Jan. 1, 2001
140-199	(869-044-00039-3)	26.00	Jan. 1, 2001
200-1199	(869-044-00040-7)	44.00	Jan. 1, 2001
1200-End	(869-044-00041-5)	37.00	Jan. 1, 2001
15 Parts:			
0-299	(869-044-00042-3)	36.00	Jan. 1, 2001
300-799	(869-044-00043-1)	54.00	Jan. 1, 2001
800-End	(869-044-00044-0)	40.00	Jan. 1, 2001
16 Parts:			
0-999	(869-044-00045-8)	45.00	Jan. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869-044-00046-6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869-044-00048-2)	45.00	Apr. 1, 2001
200–239	(869-044-00049-1)	51.00	Apr. 1, 2001
240–End	(869-044-00050-4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869-044-00051-2)	56.00	Apr. 1, 2001
400–End	(869-044-00052-1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869-044-00053-9)	54.00	Apr. 1, 2001
141–199	(869-044-00054-7)	53.00	Apr. 1, 2001
200–End	(869-044-00055-5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869-044-00056-3)	45.00	Apr. 1, 2001
400–499	(869-044-00057-1)	57.00	Apr. 1, 2001
500–End	(869-044-00058-0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869-044-00059-8)	37.00	Apr. 1, 2001
100–169	(869-044-00060-1)	44.00	Apr. 1, 2001
170–199	(869-044-00061-0)	45.00	Apr. 1, 2001
200–299	(869-044-00062-8)	16.00	Apr. 1, 2001
300–499	(869-044-00063-6)	27.00	Apr. 1, 2001
500–599	(869-044-00064-4)	44.00	Apr. 1, 2001
600–799	(869-044-00065-2)	15.00	Apr. 1, 2001
800–1299	(869-044-00066-1)	52.00	Apr. 1, 2001
1300–End	(869-044-00067-9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869-044-00068-7)	56.00	Apr. 1, 2001
300–End	(869-044-00069-5)	42.00	Apr. 1, 2001
23	(869-044-00070-9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869-044-00071-7)	53.00	Apr. 1, 2001
200–499	(869-044-00072-5)	45.00	Apr. 1, 2001
500–699	(869-044-00073-3)	27.00	Apr. 1, 2001
700–1699	(869-044-00074-1)	55.00	Apr. 1, 2001
1700–End	(869-044-00075-0)	28.00	Apr. 1, 2001
25	(869-044-00076-8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869-044-00077-6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869-044-00078-4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869-044-00079-2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869-044-00080-6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869-042-00081-1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869-044-00083-1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869-044-00084-9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869-044-00085-7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869-044-00086-5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869-044-00087-3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869-044-00088-1)	58.00	Apr. 1, 2001
2–29	(869-044-00089-0)	54.00	Apr. 1, 2001
30–39	(869-044-00090-3)	37.00	Apr. 1, 2001
40–49	(869-044-00091-1)	25.00	Apr. 1, 2001
50–299	(869-044-00092-0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0–42	(869–042–00098–6)	43.00	July 1, 2000
43–end	(869–042–00099–4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–042–00101–2)	14.00	[6]July 1, 2001
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–042–00114–4)	51.00	[6]July 1, 2001
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	[6]July 1, 2001
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–042–00153–2)	29.00	July 1, 2000
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–042–00155–9)	46.00	July 1, 2000
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*		*Revision Date*
Federal Register:			
Yearly subscription (with FR Index and LSA)	697.00		
Yearly subscription (without FR Index and LSA)	638.00		
Individual copies	9.00	....	daily

TITLE 1-

Chapter
mittee
(Parts

11.2 (a) r
11.3 (a) r
11.6 (a) r
11.7 Rev
11.8 Rev

11 ....

Tl

There
title.

TITL

Pr

Proclama

7208 *See* F
7214 *See* F
7350 *See* F
7351 *See* F
7388 *See* F
7389 ....
7390........
7391........
7392........
7393........
7394........
7395........
7396........
7397........
7398........
7399........
7400........
7401........
7402........
7403........
7404........
7405........
7406........
7407........
7408 ....
7409 ....
7410 ....
7411 ....
7412 ....
7413 ....
7414 ....

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1--49)

11.2	(a) revised	44524
11.3	(a) revised	44524
11.6	(a) revised	44524
11.7	Revised	44524
11.8	Revised	44524

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

7208 *See* Proc. 7445	30053
7214 *See* Proc. 7445	30053
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403
7458	45563

Executive Orders

10000 Amended by EO 13207	18399
12002 *See* EO 13206	18397
12170 *See* Notice of Mar. 13, 2001	15013
12214 *See* EO 18397	18397
12543 Continued by Notice of Jan. 4, 2001	1251
12544 Continued by Notice of Jan. 4, 2001	1251
12808 *See* Notice of May 24, 2001	29007

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 3 Executive Orders—Con.

12810 *See* Notice of May 24, 2001	29007
12831 *See* Notice of May 24, 2001	29007
12834 Revoked by EO 12834	867
12836 Revoked by EO 13202	11225
12846 *See* Notice of May 24, 2001	29007
12871 Revoked by EO 13203	11227
12924 Revoked by EO 13206	18397
12933 Revoked by EO 13204	11228
12934 *See* Notice of May 24, 2001	29007
12938 *See* EO 13206	18397
12947 *See* Notice of Jan. 19, 2001	7371
12957 *See* Notice of Mar. 13, 2001	15013
12959 *See* Notice of Mar. 13, 2001	15013
12981 *See* EO 13206	18397
12983 Revoked by EO 13203	11227
13035 Amended by EO 13215	30285
13047 Continued by Notice of May 15, 2001	27443
13059 *See* Notice of Mar. 13, 2001	15013
13088 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13092 *See* EO 13215	30285
13099 *See* Notice of Jan. 19, 2001	7371
13111 Amended by EO 13188	5419
Amended by EO 13218	33627
13113 *See* EO 13215	30285
13121 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13125 Amended by EO 13216	31373
13156 Revoked by EO 13203	11227
13174 Amended by EO 13218	33627
13178 Amended by EO 13196	7395
13182 Corrected	10057
13183 Amended by EO 13209	22105
13184	697
13185	701
13186	3853
13187	3857
13188	5419
13189	5421
13190	5425
13191	7271
13192	7379
See Notice of May 24, 2001	29007
13193	7387
13194	7389
See EO 13213	28829
13195	7391
13196	7391
13197	7853
13198	8497
13199	8499
13200	10183
See EO 13215	30285
13201	11221
13202	11225
Amended by EO 13208	18717
13203	11227
13204	11228
13205	15011
13206	18397
13207	18399
13208	18717
13209	22105
13210	22895
13211	28355
13212	28357
13213	28829
13214	29447
13215	30285
13216	31373
13217	33155
13218	33627
13219	34777
13220	35527
13221	40751
13222	44025

Administrative Orders

Memorandums:

June 5, 1997 (Revoked by EO 13202)	11225
Oct. 28, 1999 (Revoked by EO 13203)	11227
Mar. 3, 2000	3851
Mar. 5, 2001	14453
Mar. 28, 2001	17303
Apr. 12, 2001	20725
May 30, 2001	30629
May 31, 2001	31833
June 5, 2001	30799
July 11, 2001	37105

Notices:

Jan. 4, 2001	1251
Jan. 19, 2001	7371
Feb. 27, 2001	12841
Mar. 13, 2001	15013
May 15, 2001	27443
May 24, 2001	29007
June 11, 2001	32207
June 30, 2001	35363
July 31, 2001	40105

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

Presidential Determinations:

No. 96–7 of Dec. 27, 1995 *See* Notice of May 24, 2001 29007
No. 2001–05 of Dec. 15, 2000 223
No. 2001–06 of Dec. 15, 2000 225
No. 2001–07 of Dec. 19, 2000 1013
No. 2001–08 of Dec. 27, 2000 1561
No. 2001–09 of Jan. 3, 2001 2193
No. 2001–10 of Jan. 17, 2001 8501
No. 2001–11 of Jan. 19, 2001 8503
No. 2001–12 of Mar. 1, 2001 14454
No. 2001–13 of Apr. 17, 2001 20585
No. 2001–14 of Apr. 30, 2001 27825
No. 2001–15 of May 11, 2001 27827
No. 2001–16 of June 1, 2001 30631
No. 2001–17 of June 1, 2001 30633
No. 2001–18 of June 8, 2001 34353
No. 2001–19 of June 11, 2001 34355
No. 2001–20 of July 2, 2001 37109
No. 2001–21 of July 4, 2001 37111
No. 2001–22 of July 26, 2001 40107
No. 2001–23 of Aug. 9, 2001 44521

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 2001.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

330 Authority citation revised 6428, 29896
330.301—330.307 (Subpart C) Removed; interim 29896
330.603 Removed; interim 29896
330.610 Removed; interim 29896
330.702 Removed; interim 29896
330.710 Removed; interim 29896
330.1101 Revised; interim 6428
330.1102 Revised; interim 6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim 6429
330.1105 Revised; interim 6429
330.1106 Heading, (a) and (b) revised; interim 6429
332.314 Removed; interim 29896
351.807 (f) revised; interim 29896
353.110 (b) revised 29897
537 Added 2791
  Regulation at 66 FR 2791 eff. date delayed 9187
537.101 Revised 39406
537.102 Amended 39406
537.110 Heading revised; existing text designated as (a); (b) added 39406
575.102 (a)(5) and (6) amended; (a)(7) added 37883
575.202 (a)(5) and (6) amended; (a)(7) added 37883
575.302 (a)(5) and (6) amended; (a)(7) added 37783
731 Regulation at 65 FR 82243 eff. date delayed 7863
731.301 (b) corrected 11100
731.304 Corrected 11100
792.207 Revised 705
792.230 Revised 705
792.234 Revised 705
831 Authority citation revised 15608, 38524
831.205 Added; interim 15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim 15608
831.303 (d) added; interim 15608
831.902 Amended; interim 38524
831.908 (a) revised; interim 38524
831.910 Revised; interim 38524
831.912 Undesignated center heading and section added; interim 38524
839 Added; interim 15609
841 Authority citation revised 15618
841.604 (c) added; interim 15618
842 Authority citation revised 38525
842.802 Amended; interim 38525
842.807 Revised; interim 38525
842.810 Undesignated center heading and section added; interim 38525
846 Authority citation revised 15618
846.204 (b)(2)(i) revised; (e) added; interim 15618

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended 30635
1201 Appendix I revised 30635

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised 22069

TITLE 5 Chapter VI—Con.

1601 Revised	22093
1605 Revised	44277
1605.4 (a)(3) amended	14448
1605.6 Revised	14448
1605.8 Revised	14448
1606 Authority citation revised	44283
1606.2 Revised	44283
1606.5 Revised	44283
1606.7 Revised	44284
1606.8 Revised	44284
1606.9 (a)(3) revised	44284
1606.11 (c), (d) and (e) revised; (f) added	44284
1606.13 (a), (b) and (c) added; (d) and (e) amended; (g) removed	44285
1606.15 (a) revised	44285
1650.31 Revised	43462
1650.42 Revised	43462

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended	3439
2604.301 (a) and (b)(2) amended	3439
2604.302 (a) and (d) amended	3439
2604.303 (a), (b) introductory text and (2) amended	3439
2604.304 (a) amended	3439
2604.305 (a)(1) and (2) amended	3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended	3439

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised	8506
3101.109 (c)(1) and (3) revised	8506

Proposed Rules:

537	15202
575	5491
1600	16411
1601	16415
1604	21693
1605	20090
1606	20090
1650	36494

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

1.29 (a)(3) added	36907
1.130—1.151 (Subpart H) Authority citation revised	36908
1.131 (a) amended	36908
2 Authority citation revised	16593
2.17 (a)(21)(xi) revised	31107
2.25 (a)(2) and (6) corrected	8149
2.45—2.49 (Subpart G) Heading revised	31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added	16593
2.48 (a)(27) added	31107
2.49 (a)(1)(i) revised	16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised	21047
20 Appendix 1 amended	38527
20 Regulation at 66 FR 38527 effective date delayed to 1-11-02	44291
28.909 (b) revised	29216
28.911 (a) amended	29216
29.123 (b) revised; interim	28361
29.9251 Amended; interim	28361
54.1001—54.1034 (Subpart C) Added	1198
59 Regulation at 65 FR 75514 eff. date delayed	8151
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected	15619

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed	38349
215 Authority citation revised	2201
215.2 (aa) redesignated as (bb); (i-1), (k-1) and new (aa) added; interim	2201
215.13a (f) and (g) added; interim	2201
220.8 (c) heading correctly revised; CFR correction	33631
Regulation at 65 FR 36317 confirmed	38349

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

225.2 Amended; interim 2202
225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202
226.2 Amended; interim 2203
226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203
245 Authority citation revised 2205
245.2 (a–3), (f–1), (k) and (l) redesignated as (a–4), (f–2), (l) and (m); new (a–3), (f–1) and (k) added; interim 2205
245.6 (a)(1) revised; (f) added; interim 2205
246.2 Regulation at 65 FR 83277 eff. date delayed 8885
246.3 Regulation at 65 FR 83277 eff. date delayed 8885
246.4 Regulation at 65 FR 83277 eff. date delayed 8885
246.7 Regulation at 65 FR 83278 eff. date delayed 8885
246.12 Regulation at 65 FR 83278 eff. date delayed 8885
246.13 Regulation at 65 FR 83286 eff. date delayed 8885
246.14 Regulation at 65 FR 83286 eff. date delayed 8885
246.18 Regulation at 65 FR 83286 eff. date delayed 8885
246.19 Regulation at 65 FR 83288 eff. date delayed 8885
246.23 Regulation at 65 FR 83288 eff. date delayed 8885
246.26 Regulation at 65 FR 83288 eff. date delayed 8885
271.2 Amended 2799
Regulation at 66 FR 2799 eff. date delayed 8885, 18869
272.1 (c)(1)(vii) and (g)(165) added 4463
Regulation at 66 FR 4463 eff. date delayed 8886, 29661
272.2 (d)(1)(xiii) added 4464
Regulation at 66 FR 4464 effective date delayed in part 8886, 29661
273.1 (b)(7)(viii) through (xii) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.12 (a)(1)(viii) added 4468
Regulation at 66 FR 4468 eff. date delayed 8886, 29661
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii) 4468
Regulation at 66 FR 4468 eff. date delayed 8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added 4469
Regulation at 66 FR 4469 eff. date delayed 8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi); new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended 2799
Regulation at 66 FR 2799 eff. date delayed 8885, 18869
278.6 (a) and (g)(3) amended 2800
Regulation at 66 FR 2800 eff. date delayed 8885, 18869

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised 21050
300.1 (c) and (d) added 37400
(a) introductory text revised 45158
301 Authority citation revised 21050, 32717
301.38 Footnote 1 amended 21050
301.45 (a) amended 21050

TITLE 7 Chapter III—Con.

(a) amended; interim 37114
301.45–3 (a) amended; interim 37114
301.45–9 Amended 21050
301.48 (a) amended 21050
301.48–5 Amended 21051
301.50 Footnote 1 amended.................21051
301.50–3 Regulation at 65 FR 37842 confirmed.........................20186
(c) amended; (d) illustration revised...37403
301.50–5 (a)(3) and (b)(2) revised 21051
301.51–3 Regulation at 65 FR 54944 confirmed.........................41439
301.51–5 (a)(2) and (b)(2) revised 21051
301.52–8 Amended 21051
301.64 Footnote 1 amended.................21051
301.64–1 Amended 21051
301.64–2 Regulation at 64 FR 71269 confirmed.........................40574
301.64–3 Regulation at 64 FR 52212, 71269, 65 FR 20706 and 37006 confirmed.........................40574
301.64–5 (a)(2) and (b)(2) revised 21051
301.64–10 Regulation at 64 FR 71270 confirmed.........................40574
301.74 Footnote 1 amended.................21051
301.75–1 Amended 32717
301.75–15 (c) revised 43066
301.75–16 Added 32717
(c) corrected 33740
301.78 Footnote 1 amended.................21051
301.78–5 (a)(3) and (b)(2) revised 21051
301.80 (a) revised 21052
301.80–1 Amended 21052
301.80–8 Amended 21052
301.81–3 Regulation at 65 FR 66489 confirmed.........................20186
301.81–5 (a)(2) and (b)(2) revised 21052
301.85 (a) revised 21052
301.85–1 Amended 21052
301.85–8 Amended 21052
301.87 Heading, footnote 1 and (a) revised...21052
301.87–1 Amended 21052
301.87–5 (a)(2) and (b)(2) revised 21053
301.89–3 Amended; interim 32210
(f) amended; interim 37576
301.89–6 (a)(2) and (c)(2) revised 21053
301.89–15 Heading, introductory text, (a) introductory text, (b) introductory text and (c) introductory text revised.........40842
301.89–16 Heading, introductory text, (a), (b), (c)(1) and (2) amended 40842
301.91 Heading amended.....................21053
301.91–1 Amended 21053
301.91–5 (a)(2) and (b)(2) revised 21053
301.93 Footnote 1 amended.................21053
301.93–5 (a)(2) and (b)(2) revised 21053
301.97 Footnote 1 amended.................21053
301.97–5 (a)(3) and (b)(2) revised 21053
301.98–3 (c) revised; interim 33632
301.98—301.98–10 (Subpart) Added; interim 6433
301.98—1 Corrected..........................20186
302 Added; interim 1016
302 Authority citation revised........21054
318 Authority citation revised........21054
318.13 (a) revised 21054
318.13–12 (a) amended 21054
318.30 (b) revised 21054
318.47 (b) revised 21054
318.58 (a) revised 21054
318.60 (b) revised 21054
318.82 (a) revised 21054
319 Authority citation revised........21054
Policy statement 38137, 45921
319.8 Amended 21054
319.8–1 Amended 21055
319.8–2 Authority citation removed...21055
319.8–4 Authority citation removed...21055
319.8–5 Authority citation removed...21055
319.8–26 Amended 21055
319.15 (a) revised 21055
319.24 (b) revised 21055
319.24–1 Authority citation removed...21055
319.24–3 Authority citation removed...21055
319.24–4 Authority citation removed...21055
319.28 (a) revised 21055
319.37–1 Amended 21055
319.37–3 (c) and (f) revised; authority citation removed 21055
319.37–5 Authority citation removed...21056

319.37–7 (f)(4) amended; authority citation removed	21056
319.37–8 Authority citation removed	21056
319.37–10 Authority citation removed	21056
319.37–11 Authority citation removed	21056
319.40–4 (c) revised	21056
319.40–9 (a)(4)(1) amended	21056
319.41 (b) and (c) revised	21056
319.41–2 Authority citation removed	21056
319.41–4 Authority citation removed	21056
319.41–6 Authority citation removed	21056
319.55 (b) and (c) revised	21056
319.55–2 Authority citation removed	21056
319.55–5 Authority citation removed	21056
319.55–7 Authority citation removed	21056
319.56 (b) and (c) revised	21056
319.56–2 (h) and (j) revised	45158
319.56–2j Authority citation removed	21056
319.56–2t Table amended	45158
319.56–2u (b)(7) revised; (b)(8) removed	45160
319.56–2w Heading, introductory text and (a) revised	45160
319.56–2x Table amended	45161
319.56–2ee (a)(1) amended	45161
319.56–2hh Added	45161
319.56–2ii Added	32213
319.56–3 Authority citation removed	21056
319.56–5 Authority citation removed	21056
319.59—319.59–2 (Subpart) Authority citation removed	21056
319.59 (a) revised; (b) amended	21056
319.59–1 Amended	21057
319.75 (b) amended	21057
319.75–1 Amended	21057
319.75–3 (c) revised; authority citation removed	21057
319.75–5 Authority citation removed	21057
319.75–6 Authority citation removed	21057
319.76 (b) amended	21057
319.76–1 Amended	21057
319.76–3 (c) revised	21057
319.77–5 Amended	21057
322 Authority citation revised	21057
330 Authority citation revised	21058
330.100 Amended	21058
330.102 Revised	21058
330.106 (a) amended	21058
330.205 Amended	21058
330.207 Amended	21058
330.208 Amended	21058
330.210 Amended	21058
330.211 Heading and (c) revised	21058
330.400 (f) revised	21058
340 Authority citation revised	21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised	21058
340.3 (b)(1) amended	21058
351 Authority citation revised	21058
351.1 Revised	21059
352 Authority citation revised	21059
352.1 (b) amended	21059
352.2 (a), (b) and (c)(1) revised	21059
352.3 (a) revised	21059
352.5 (d) amended	21059
352.6 Authority citation removed	21059
352.7 Authority citation removed	21059
352.10 (a), (b)(1) and (2) amended	21059
352.13 Amended	21059
353 Auhority citation revised	21059
353.1 Amended	21059, 37400
Amended; interim	371176
353.7 (e)(4) revised; interim	37116
353.8 Amended (OMB number)	37400
353.9 Added	37400
354 Authority citation revised	21060
354.1 Authority citation removed	21060
354.3 (a) amended	21060
355 Footnotes 1 and 2 removed; authority citation revised	21060
355.1 Revised	21060
355.11 Footnote 3 revised	21060
356 Authority citation revised	21060
360 Authority citation revised	21060
360.200 Heading and introductory text revised	21060
360.300 Authority citation removed	21060
Regulation at 65 FR 41009 confirmed	32217
361 Authority citation revised	21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv)	

TITLE 7 Chapter III—Con.

redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added 21060
372 Authority citation revised 21060
380 Authority citation revised 21060
380.1 Revised 21061

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

457.151 Amended; heading and introductory text revised 42730

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

1755.30 (c)(34) revised 43313
760.1—760.34 (Subpart) Authority citation revised 2801
761 Authority citation revised 7566
761.8 Added 7566
762 Authority citation revised 7567
762.102 Amended 7567
762.105 (c)(1) revised; (c)(2)(iii) removed 7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d) 7567
762.125 (a)(2), (3), (6) and (8) revised 7567
762.142 (d)(8) revised 7567
762.145 (b)(6)(iv) revised 7567
762.146 (e)(9) revised 7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised 7567
770 Added 1567
Regulation at 66 FR 1567 eff. date delayed 8886

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 35753
(a) Table 1 corrected 36834
868.90 (a) revised 17777
868.91 Revised 17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.306 (c) and (d) revised 229
916.115 Revised; interim 17484
916.160 (c) revised; interim 39409
916.350 (d) revised; interim 17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text and (6) introductory text revised; interim 17484
(a)(1)(iv) Table 1, (4) and (6) amended 39620
917.150 Revised; interim 17485
917.178 (c) revised; interim 39409
917.442 (d) revised; interim 17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim 17486
(a)(1)(iv) Table 1 amended 39620
(a)(6) amended 39621
920.155 Removed 39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v) 39270
924.236 Revised; interim 42415
928.150 Stayed; interim 29219
928.152 Stayed; interim 29219
928.160 (a)(1) revised; interim 29219
928.313 Stayed; interim 29219
929.104 (a)(4) revised 34351
929.107 Removed 34351
929.110 (d) added 34351
929.125 Revised 34351
929.148 Removed 34351
929.149 Revised 34351
929.158 Revised 34351
929.251 Added 34352
930.16 Revised 35896
930.50 (a) revised 35896
930.54 (a) stayed in part; interim 232
Regulation at 66 FR 232 confirmed 21273
930.59 (b) suspended in part; interim 39413
930.120 Added; interim 35889

930.154 Added; eff. 5-2-01 through 6-30-01....21842

930.162 (a), (b)(3) and (c)(3) revised; interim....39413

930.163 Added; interim....35889

930.200 Revised; interim....235

Regulation at 66 FR 235 confirmed....21276

930.252 Added; eff. 5-2-01 through 6-30-01....21842

932 Marketing order....16593

932.230 Revised; interim....13391

Regulation at 66 FR 13391 confirmed....30291

944.106 (c) revised....229

946.104 Regulation at 65 FR 70463 confirmed....18721

946.120 Regulation at 65 FR 70463 confirmed....18721

946.336 Regulation at 65 FR 70463 confirmed....18721

955.209 Revised....16841

956.142 Regulation at 65 FR 61083 confirmed....13393

956.180 Regulation at 65 FR 61083 confirmed....13393

959.237 Revised; interim....16597

Regulation at 66 FR 16597 confirmed....39621

966.323 Regulation at 65 FR 66495 confirmed....13396

981.442 (a)(3) amended; (a)(5) revised....39273

982 Marketing percentages....13399

985.220 Added; eff. through 5-31-02....30296

989.156 (t) added; interim....708

Regulation at 66 FR 708 eff. date confirmed....16599

989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added....39277

989.254 Added; interim....39628

993.408 Added; eff. 8-1-01 through 7-31-02....30646

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1210.501 Revised....13402

1218.3 Amended....37118

1218.23 Amended....37118

1218.40 Undesignated center heading revised....37118

Amended....37119

1218.41 Amended....37119

1218.42 Amended....37119

1218.43 Amended....37119

1218.44 Amended....37119

1218.45 Amended....37119

1218.46 Amended....37119

1218.47 Amended....37119

1218.48 Amended....37119

1218.50 Amended....37119

1218.51 Amended....37119

1218.52 Amended....37119

1218.53 Amended....37119

1218.54 Amended....37119

1218.55 Amended....37119

1218.56 Amended....37119

1218.60 Amended....37119

1218.62 Amended....37119

1218.70 Amended....37119

1218.73 Amended....37119

1218.75 Amended....37119

1240 Heading and authority citation revised....21829

1240.1—1240.67 (Subpart A) Heading added....21829

1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2....21829

1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised....21829

1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised....21829

1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14....21829

1240.5 Redesignated as 1240.12; new 1240.5 added....21829

1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11....21829

1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20....21829

1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised....21829

1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8....21829

1240.10 Redesignated as 1240.13; new 1240.10 redesignated

TITLE 7 Chapter XI—Con.

from 1240.4; new 1240.10 revised 21829
1240.11 Redesignated as 1240.6; new 1240.11 added 21829
1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5 21829
1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised 21829
1240.14 Redesignated as 1240.4 21829
Added 21830
1240.16 Redesignated as 1240.3 21829
Added 21830
1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22 21829
1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3 21829
1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21 21829
Revised 21830
1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6 21829
1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9 21829
1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12 21829
1240.23 Added 21830
1240.24 Added 21830
1240.25 Redesignated from 1240.13 21829
Revised 21830
1240.26 Redesignated from 1240.1 21829
1240.27 Redesignated from 1240.19 21829
1240.28 Redesignated from 1240.17 21829
1240.30 Revised 21830
1240.31 Revised 21830
1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added 21830
1240.33 Added 21831
1240.34 (a) and (b) revised; (c) amended 21831
1240.35 (a) revised 21832
1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised 21832
1240.39 Undesignated center heading and text revised 21832
1240.40 (a) and (b) revised 21832
1240.41 Revised 21833
1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised 21833
1240.43 Removed; new 1240.43 redesignated from 1240.44 21829
1240.44 Redesignated as 1240.43 21829
Added 21833
1240.50 Revised 21834
1240.51 Revised 21834
1240.52 Revised 21834
1240.61 Revised 21834
1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised 21834
1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added 26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised 23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised 15176
1400.1 (g) table amended 15176
1410.12 Added 22099
1421 Authority citation revised 13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised 15176
1421.300—1421.307 (Subpart) Added 13404
1427 Authority citation revised 15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised 15176
1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176

1430.500 Amended	15176
1430.502 Amended	15177
1430.503 Amended	15177
1430.510 Revised	15177
1430.511 Added	15177
1434 Added	15177
1435.2 Amended	15182
1435.100 (a) amended	15182
1435.102 Removed; new 1435.102 redesignated from 1435.103	15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104	15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3)	15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated from 1435.106; (c) and (d)(4) revised	15182
1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107	15182
(b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised	15183
1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108	15182
1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109	15182
1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110	15182
1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111	15182
1435.111 Redesignated as 1435.110	15182
1436 Revised	4612
1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11)	17073
1439.101—1439.109 (Subpart B) Revised	15542
1439.301—1439.357 (Subpart D) Revised	15544
1439.901 Revised	15547
1439.906 (a) amended	15547
1446.102 (c) amended	1810
1446.103 Amended	1810
1446.307 (g) removed	1810
Correctly designated	10353
1469 Authority citation revised	13841
1469.201—1469.214 (Subpart C) Added	13841
1470 Added	13843
1476 Added	15183
1480 Added	14979
1481 Added	14481
1481.3 Corrected	18869
1482 Added; interim	30802

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1744 Authority citation revised	41758
1744.20 Revised	41758
1744.21 Revised	41758
1744.30 Redesignated as 1744.40	41760
1744.40 Added	41761
Redesignated as 1744.50; new 1744.40 redesignated from 1744.30	41760
1744.50 Redesignated as 1744.55; new 1744.50 redesignated from 1744.40	41760
1744.50 (a)(3) revised	41763
1744.55 Redesignated from 1744.50	41760
(a) revised; (b)(5) removed; (b)(6) redesignated as new (b)(5)	41763
1744.20—1744.59 (Subpart B) Appendices A through F added	41763
1755.30 (c)(34) revised	43313
1755.97 Heading and introductory text revised; table amended	43314
1755.97 Amended	43317
Effective date corrected	46066
1755.98 Revised	43317
1755.500 Added	43317
1755.501 Added	43317
1755.502 Added	43317
1755.503 Added	43317
1755.504 Added	43317
1755.505 Added	43317
1755.506 Added	43317
1755.507 Added	43317
1755.508 Added	43317
1755.509 Added	43317
1755.510 Added	43317

TITLE 7 Chapter XVII—Con.

1773 Authority citation revised 27830, 27835

1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835

Regulation at 66 FR 27835 confirmed 37405

1773.2 Amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773.3 (b) revised; (c) amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C), new (5)(ii) and new (6)(ii) amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773.6 (a)(1), (4) and (7) amended 27835

Heading and (a) introductory text revised 27836

Regulation at 66 FR 27835 and 27836 confirmed 37405

1773.7 (b) and (c)(4) revised 27836

Regulation at 66 FR 27835 and 27836 confirmed 37405

1773.8 (a)(2) and (c) amended 27835

(a)(1) and (c) table revised 27836

Regulation at 66 FR 27835 and 27836 confirmed 37405

1773.9 Heading, (a), (b) and (c) introductory text revised 27836

Regulation at 66 FR 27836 confirmed 37405

1773.20—1773.29 (Subpart C) Heading revised 27836

Regulation at 66 FR 27836 confirmed 37405

1773.20 (a), (b) and (c)(6) amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773.21 (a) and (b) amended 27835

Heading revised; (e) added 27836

Regulation at 66 FR 27835 and 27836 confirmed 37405

1773.30 (b) amended 27835

(a) revised 27836

Regulation at 66 FR 27835 and 27836 confirmed 37405

1773.31 Revised 27836

Regulation at 66 FR 27836 confirmed 37405

1773.32 Inroductory text, (a) through (d) and (f) note revised 27836

Regulation at 66 FR 27836 confirmed 37405

1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added 27830

Regulation at 66 FR 27830 confirmed 37405

1773.38 (b) amended 27835

Regulation at 66 FR 27835 confirmed 37405

1773 Appendices A through D removed 27837

Regulation at 66 FR 27837 confirmed 37405

1779 Added 23138

1780.10 (b)(4) amended 23151

1786 Second (c) correctly removed; CFR correction 15785

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed 1569

Regulation at 66 FR 1569 eff. date delayed 8886

1901 Authority citation revised 7568

1901.1—1901.5 (Subpart A) Removed 7568

1902 Authority citation revised 1569

1902.15 (c) amended 1569

Regulation at 66 FR 1569 eff. date delayed 8886

1910.1 (f) added; interim 1572

1910.4 (b) amended; (c) through (k) redesignated as (d)

through (l); new (c) added; interim 1572
1941.16 Introductory paragraph revised; interim 1573
1941.29 Heading and (b) revised; (d) removed 7568
1942 Authority citation revised 27014
1942.304 Amended; interim 27014
1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c) 7568
1943.79 Removed 7568
1945 Authority citation revised 7568
1945.154 (a) amended 7568
1945.163 (e) amended 7568
1951.201 Amended 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1951.221 (b) amended 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1951.222 (a)(11) removed 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1951.230 (b)(5) and (6) amended; (b)(7) removed 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1955.10 (a)(1)(ii) removed 7568
1955.104 (c) removed 7568
1956.101 Amended 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1956.105 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1956.137 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed 8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2) 7568
1965.27 (a) removed 7568
1980.1—1980.100 (Subpart A) Removed 23151
1980.801—1980.900 (Subpart I) Removed 23151

Proposed Rules:

26 21606
27—209 (Ch. I) 13267
28 20406
29 21888
50 40626
56 42456
58 42458
70 42456
80 ....19099, 27045
201 16015
246 40152
274 36495
300 ....6488, 37425
301 ....3505, 20204, 32268
318 37425
319 ....6488, 19692, 20208, 29735, 34584, 36892, 39121, 45637
400 36951
610 34584
800—899 (Ch. VIII) 13267
800 ....17817, 19606
905 39459
911 40923
916 39690
920 26810
923 ....13447, 18573
929 ....2838, 24291
930 ....1909, 26813
944 40923
948 ....40153, 40155
955 ....1915, 21288
956 21107
966 40158
981 ....21888, 31850
982 44086
985 20615
989 16621
993 ....13454, 43534
1030 31185
1205 42464
1210 ....21596, 21602
1219 ....36870, 36886, 45188
1230 42469
1410 15048
1439 13679
1710 20759
1721 1604
1773 27912
1944 29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3 Authority citation revised 37123
3.1 (d)(2)(iii) amended 6445
3.3 (b) amended 6445
3.43 Revised; interim 37123

TITLE 8 Chapter I—Con.

3.44 Added 6445
(f) corrected 8149
100.4 (e) amended; interim 29672
103 Authority citation revised....................32143
103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim 32144
103.2 (a)(7)(i) amended; intrim 29672
(f) added; interim 29685
103.7 (b)(1) amended; interim 29672
(b)(1) amended; (c)(1) revised; interim 29685
103.12 Regulation at 65 FR 82255 eff. date delayed....................7863
208.8 Regulation at 65 FR 82255 eff. date delayed....................7863
210.4 Regulation at 65 FR 82255 eff. date delayed....................7863
212 Authority citation revised....................236
212.1 (e)(3)(i) amended; interim 236
(f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised....................1018
Regulation at 66 FR 1018 eff. date delayed....................8743
(f)(2) eff. 4–6–01) and (3) amended, interim 17322
(f)(2) amended; interim....................32530
(h) revised; interim 42593
212.3 (g) added 6446
212.5 Regulation at 65 FR 82255 eff. date delayed....................7863
212.7 Heading, (a) heading and (1)(i) revised; interim 42593
212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim....................3444
214.1 (a)(2) table and (c)(1) amended; interim 31112
(a)(1)(v) revised; (a)(2) table and (c)(2) amended; interim 42593
214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim 31112
(k) heading revised; (k)(1), (2), (5) and (6)(ii) amended; (k)(6)(i) removed; (k)(7) through (11) added; interim 42593
235.3 Regulation at 65 FR 82256 eff. date delayed....................7863
235.4 Regulation at 65 FR 82256 eff. date delayed....................7863
236.14 (a) amended; interim 29672
240.15 Amended 6446
240.21 (c) amended 6446
240.53 (a) amended 6446
241 Authority citation revised....................29451
241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim 29451
241.33 Regulation at 65 FR 82256 eff. date delayed....................7863
244.1 Regulation at 64 FR 4781 confirmation delayed....................7863
244.6 Regulation at 64 FR 4781 confirmation delayed....................7863
244.10 Regulation at 64 FR 4782 confirmation delayed....................7863
244.12 Regulation at 64 FR 4782 confirmation delayed....................7863
244.15 Regulation at 64 FR 4782 confirmation delayed....................7863
244.18 Regulation at 64 FR 4782 confirmation delayed....................7863
245.1 (c)(6) revised; (i) added; interim 42594
245.2 (a)(4)(ii)(C) amended; interim 42594
245.5 Amended; interim 42595
245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim 16388
245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as (c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim....................29451
245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i);

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

(e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim 29452
245.20 Added; interim 27448
245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim 29673
245a.2 Regulation at 65 FR 82256 eff.date delayed 7863
245a.4 Regulation at 65 FR 82256 eff. date delayed 7863
245a.30—245a.37 (Subpart C) Added; interim 29673
248.1 (a) amended; interim 42595
248.3 (a) amended; interim 31114
255a.10—245a.29 (Subpart B) Added; interim 29673
274a Authority citation revised; interim 42595
274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim 29681
(a) heading, introductory text and (6) revised; (a)(9) added; interim 42595
299.1 Table amended; interim 29681, 29686, 31114
299.5 Table amended; interim 29682, 29686
310 Authority citation revised 32144
310.3 (b) amended; interim 32144
320 Added; interim 32144
322 Revised; interim 32145
334 Authority citation revised 32146
334.1 Amended; interim 32147
334.2 (a) amended; interim 32147
337 Authority citation revised 32147
337.9 (b) removed; interim 32147
338 Authority citation revised 32147
338.4 Removed; interim 32147
341 authority citation revised 32147
341.2 (a)(1) introductory text revised; interim 32147
341.7 (b) removed; interim 32147

Proposed Rules:

103 41456
211 37429
212 ....1053, 37429

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised 21061
2 Authority citation revised 239, 21061
2.129 (c) revised; (d) added 239
Regulation at 66 FR 239 eff. date delayed 8743
3.101 Revised 251
Regulation at 66 FR 251 eff. date delayed 8744
3.104 (a) revised 252
Regulation at 66 FR 252 eff. date delayed 8744
3.105 Revised 252
Regulation at 66 FR 252 eff. date delayed 8744
3.107 Revised 253
Regulation at 66 FR 253 eff. date delayed 8744
3.108 Revised 253
Regulation at 66 FR 253 eff. date delayed 8744
3.109 Revised 253
Regulation at 66 FR 253 eff. date delayed 8744
3.110 Revised 253
Regulation at 66 FR 253 eff. date delayed 8744
3.112 Revised 254
Regulation at 66 FR 254 eff. date delayed 8744
3.113 Revised 255
Regulation at 66 FR 255 eff. date delayed 8744
3.114 Revised 255
Regulation at 66 FR 255 eff. date delayed 8744
3.115 Revised 256
Regulation at 66 FR 256 eff. date delayed 8744
3.116 Revised 256
Regulation at 66 FR 256 eff. date delayed 8744
3.117 Revised 256
Regulation at 66 FR 256 eff. date delayed 8744
3.118 Revised 257

TITLE 9 Chapter I—Con.

Regulation at 66 FR 257 eff. date delayed..........8744
11 Authority citation revised..........21061
49 Authority citation revised..........21061
50 Authority citation revised..........21061
50.3 Authority citation removed..........21061
50.16 (a)(4) revised..........21061
51 Authority citation revised..........21061
51.1 Amended; authority citation removed..........21061
52 Authority citation revised..........21061
53 Authority citation revised..........21061
54 Authority citation revised..........21061
  Revised..........43982
  Technical correction..........46066
54.1 Amended..........21061
70 Authority citation revised..........21061
71 Authority citation revised..........21061
72 Authority citation revised..........21061
72.6 Revised..........21061
72.13 (a) Footnote 4 revised..........21062
73 Authority citation revised..........21062
73.2 Authority citation removed..........21062
73.3 Authority citation removed..........21062
73.5 Authority citation removed..........21062
73.6 Authority citation removed..........21062
73.12 Authority citation removed..........21062
74 Authority citation revised..........21062, 37128
74.1 Revised..........37128
75 Authority citation revised..........21062
75.4 Amended..........21062
78.41 Regulation at 65 FR 75582 confirmed..........19847
  (a) and (b) amended; interim..........20900, 32894
  Regulation at 66 FR 20900 confirmed..........45749
79 Authority citation revised..........21062
  Revised..........43990
  Technical correction..........46066
79.2 (a)(2) Footnote 1 revised..........21062
79.3 (b) Footnote 2 amended..........21062
80 Authority citation revised..........21062
82 Authority citation revised..........21062
82.30 Amended..........21062
82.32 Footnote 2 amended..........21062
82.33 (a)(2) Footnote 4 amended..........21062
82.37 Footnote 7 amended..........21062
85 Authority citation revised..........21063
85.1 Amended..........21063
89 Authority citation revised..........21063
91 Authority citation revised..........21063
92 Authority citation revised..........21063
93.301 Regulation at 65 FR 78899 eff. date delayed..........8887
  Regulation at 65 FR 78899 confirmed..........11101
93.400 Amended..........20189
93.406 (a) and (c) revised..........20190
93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised..........20190
94 Technical correction..........18357
  Authority citation revised..........21063
94.1 (a)(2) amended; interim..........9643, 14826, 29689, 36697
  (a)(1) amended; interim..........29899
94.4 (a) and (b) amended; interim..........29899
94.5 (e)(2) revised..........21063
94.11 (a) amended; interim..........9643, 14826, 29689
  (a) amended; interim..........36697
94.18 (a)(1) and (2) amended; interim..........22426
  (a)(2) amended; interim..........29900
  (b) amended; interim..........42600
94.21 Removed; interim..........29899
95 Authority citation revised..........21063
95.1 Amended; interim..........42600
95.4 Revised; interim..........42600
95.29 Added; interim..........42601
96 Authority citation revised..........21063
97 Authority citation revised..........21063
98 Authority citation revised..........21063
99 Authority citation revised..........21063
101 Authority citation revised..........21063
102 Authority citation revised..........21063
103 Authority citation revised..........21063
103.2 Authority citation removed..........21063
104 Authority citation revised..........21063
105 Authority citation revised..........21063
106 Authority citation revised..........21063
107 Authority citation revised..........21064
108 Authority citation revised..........21064
109 Authority citation revised..........21064
112 Authority citation revised..........21064
113 Authority citation revised..........21064
114 Authority citation revised..........21064
115 Authority citation revised..........21064
116 Authority citation revised..........21064
116.1 Authority citation removed..........21064

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

116.2 Authority citation removed 21064
116.3 Authority citation removed 21064
116.4 Authority citation removed 21064
116.6 Authority citation removed 21064
117 Authority citation revised........21064
118 Authority citation revised........21064
122 Authority citation revised........21064
123 Authority citation revised........21064
124 Authority citation revised........21064
130.4 Added 39631
130.8 (a) table amended................39632
145 Authority citation revised........21064
147 Authority citation revised........21064
151 Authority citation revised........21064
156 Authority citation revised........21064
160 Authority citation revised........21064
161 Authority citation revised........21064
162 Authority citation revised........21064
166 Authority citation revised........21064
166.1 Authority citation removed 21064
166.2 Authority citation removed 21064
166.10 Authority citation removed........21064
167 Authority citation revised........21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

317.8 (b)(37) and (38) added 40845
331.2 Table amended..........................2207
331.6 Table amended..........................2207
362 Authority citation revised.......21637, 22905
362.1 Revised; interim 21637, 22905
362.2 Revised; interim 21637, 22905
381.1 (b) amended; eff. 1-9-02 1770
  (b) corrected..................................19714
  (b) amended; interim 21637, 22905
381.36 (b) amended; interim...21637, 22905
381.65 Revised; eff. 1-9-02...................1771
  (e) correctly revised; (f) correctly added 19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1-9-02............1771
  (c)(1) corrected 19714
  (b) heading, (c) heading and (d)(1) revised; interim 21637, 22905
381.67 Introductory text revised; table amended; interim 21637, 22905
381.70 Existing text designated as (a); (b) added; interim 21638, 22906
381.71 Existing text designated as (a); (b) through (f) added; interim 21638, 22906
381.72 Revised; interim..........21638, 22906
381.76 (b)(1) introductory text revised; interim 21638, 22906
381.96 Revised; interim..........21638, 22906
381.117 (f) and (g) added.....................40845
381.221 Table amended.........................2207
381.224 Table amended.........................2207
441 Added; eff. 1-9-02 1771

Proposed Rules:

1 6491
93 ....19898, 20211, 29921
101...19899
113...37194
145...37919
147...37919
301...............................12590, 19102, 35112
303...............................12590, 19102, 35112
317.....4970, 12590, 19102, 20213, 35112, 41160
318...............................12590, 19102, 35112
319...............................12590, 19102, 35112
320...............................12590, 19102, 35112
325...............................12590, 19102, 35112
327...42472
331...............................12590, 19102, 35112
381 ......4970, 8178, 12590, 19102, 20213, 35112
417...............................12590, 19102, 35112
430...............................12590, 19102, 35112

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction 33013
2.1001 Amended 29465
2.1003 (a) introductory text, (2) introductory text and (xv) revised...29465
2.1009 (b) revised 29466
2.1010 (a)(2) revised 29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added.......................29466
2.1012 (a) revised 29466
5 Appendix A added 709
9.35 (a)(1) revised 22907
34.47 Regulation at 65 FR 63751 confirmed..1573
34.83 Regulation at 65 FR 63752 confirmed..1573

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 10 Chapter I—Con.

36.55 Regulation at 65 FR 63752 confirmed....1573
36.81 Regulation at 65 FR 63752 confirmed....1573
39.65 Regulation at 65 FR 63752 confirmed....1573
50.47 (b)(10) revised....5440
50.55a (b)(2)(xv)(C)(*1*)....16391
51.10—51.125 (Subpart A) Appendix B amended....39278
70.38 (e) introductory text revised....24049
72 Regulation at 65 FR 75855 confirmed....10569
72 Technical corrections....33013, 38528
72.48 (c)(2)(iii) and(vii) revised....11527
72.214 Regulation at 65 FR 60342 confirmed....1573
Amended....3448, 12437, 13409, 14486, 34525, 45752
Corrected....8150
Regulation at 65 FR 76898 confirmed....10569
Regulation at 65 FR 12437 confirmed....23537
Regulation at 66 FR 13409 confirmed....27449
Regulation at 66 FR 14486 confirmed....28641
Removed....43763
150 Technical correction....35529
150.20 (b)(1) amended....5443
(b)(2) revised....32469
170 Authority citation revised....32469
170.2 (s) added....32469
170.3 Amended....32469
170.12 (a) revised....32469
170.20 Revised....32469
170.21 Introductory text and table amended....32469
Table corrected....35529
170.31 Revised....32470
170.41 Revised....32474
171 Authority citation revised....32474
171.5 Amended....32474
171.15 (b) through (e) revised....32474
171.16 (c), (d) and (e) revised....32474
171.19 (b) and (d) revised....32478
171 Appendix A corrected....35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement....8745, 19714
Technical correction....11635
430.2 Amended....7199
Regulation at 66 FR 7199 eff. date delayed....8745, 20191
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1-20-04; Appendix J amended....3330
Appendix E amended; eff. 1-20-04....4497
Appendix J amended....8745
Regulation at 66 FR 3330 eff. date delayed....8744
430.32 (g) revised; eff. 1-20-04....3332
(d) revised....4497
(c) revised....7199
Regulation at 66 FR 7199 eff. date delayed....8745, 20191
431.701—431.704 (Subpart Q) Added....3354
Regulation at 66 FR 3354 eff. date delayed....8745
Regulation at 66 FR 3354 confirmed....27853
490 Authority citation revised....2210
490.703 (b) revised....2210
Regulation at 66 FR 2210 eff. date delayed....8746
Regulation at 66 FR 2210 confirmed....21851
490.705 (a) and (b) revised; (d) added....2210
Regulation at 66 FR 2210 eff. date delayed....8746
Regulation at 66 FR 2210 confirmed....21851
600 Authority citation revised....34784
600.6 (c)(8) revised....34784

Chapter III—Department of Energy (Parts 700—999)

719 Added....4621
Regulation at 66 FR 4621 eff. date delayed....8746
Policy statement....19717
830 Regulation at 65 FR 60308 confirmed; revised....1818
Regulation at 66 FR 1818 eff. date delayed....8746
Policy statement....19717

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised....4630
Policy statement....18721

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

1040.1 Existing text designated as (a); (b) and (c) added	4630
Regulation at 66 FR 4630 eff. date delayed	8747
1040.21—1040.57 (Subpart C) Removed	4630
Regulation at 66 FR 4630 eff. date delayed	8747
1042 Added	4630
Regulation at 66 FR 4630 eff. date delayed	8747
Policy statement	18721
1044 Added; interim	4642
Regulation at 66 FR 4642 eff. date delayed	8747
Regulation at 66 FR 4642 confirmed	23833

Proposed Rules:

1	19610, 27045
2	19610, 27045, 29741
20	36502
30	20099, 29243
34	29243
35	20214, 29243
36	29243
39	13858, 29243
40	29243
50	3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432, 40626
51	10834, 19610, 27045, 29251
52	19610, 27045
54	19610, 27045
60	19610, 27045
61	29251
70	19610, 27045, 29243, 29251
72	9055, 12439, 13459, 14503, 29243, 29251, 34508, 43810, 45788
73	10839, 19610, 27045, 29251
74	29251
75	19610, 29251
76	10839, 19610, 27045, 29243, 29251
95	10839
110	19610, 27045
150	16982, 20035, 29251
170	16982, 20035
171	16982, 20035
255	13860
430	6768, 15203, 32914, 36960, 38822, 43123, 45189
600	23197
733	19900
1008	32272

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5-9-01	23537
100.23 Regulation at 65 FR 76146 eff. 5-9-01	23537
109.1 Regulation at 65 FR 76146 eff. 5-9-01	23537
110.14 Regulation at 65 FR 76146 eff. 5-9-01	23537

Proposed Rules:

100	13681, 23628, 38576
104	23628, 38576
109	23628
113	38576

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction	36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised	34791
5.26 (e)(5) revised	34797
7 Authority citation revised	34791
Technical correction	36834
7.1021 Added	34791
7.3000 (b) amended	34791
7.4001 (a) amended	34791
7.4002 revised	34791
7.4006 Added	34791
8 Heading and authority citation revised	23153
8.2 (a)(7) and (b)(5) removed; (c) and (d) added	29893
8.6 Heading and (a) revised	23153
(c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added	29894
9.2 (g) amended; (j) and (k) added	34797
9.3 (b) revised; (c) added	34798
9.7 Added	34798
9.14 (b) revised	34798
14 Regulation at 65 FR 75839 eff. date delayed	15345
23 Technical correction	36834

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 12 Chapter I—Con.

23.21 (a)(2) revised	34792
30 Authority citation revised	8633
30.1 Revised	8633
30.2 Amended	8633
30.3 (a) revised	8633
30 Appendix B revised	8633
Appendix C removed	8634
32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added	31120
32.3 (c)(5) revised	31120
32.7 Added	31120
35 Added	2085

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised	2211, 9907, 18185, 20901, 29009, 35530, 45753
202 Compliance notification	41439
202.4 Revised; interim	17785
202.9 (h) added; interim	17785
202.17 Added; interim	17785
202 Supplement I amended; interim	17786
205 Authority citation revised	15192
Compliance notification	41439
205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim	17793
205.7 (b)(11) added	13412
205.16 Added	13412
205.17 Added; interim	17793
205 Supplement I and Appendix A amended	13412
Supplement I amended	15192
Appendix A amended; interim	17793
Supplement I amended; interim	17794
207 Added	2092
208 Authority citation revised	8634, 42933
208.3 (d)(1) revised	8634
208.71—208.77 (Subpart G) Revised	42933
208.71 (c) revised	8749
208.77 (e) revised	8749
208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed	15345
208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed	15345
208 Appendix D–2 revised	8634
211 Authority citation revised	8636
211.9 Added	8636
211.24 (i) added	8636
213 Compliance notification	41439
213.3 (a)(5) added; interim	17328
213.6 Added; interim	17328
213 Supplement I amended; interim	17328
220 OTC margin stock lists	11101, 44525
225 Authority citation amended	414, 8636
225.1 (c)(9) added	414
(c)(10) revised	8484
(c)(16) added	8636
225.2 (r)(2) and (s) revised; (t) added	414
225.4 (h) added	8636
225.14 (c)(2)(i) revised	415
225.23 (c)(2)(i) revised	415
225.81—225.94 (Subpart I) Revised	415
225.86 (e) added; interim	260
(d) and (e) added; interim	19081
225.170—225.177 (Subpart J) Revised	8484
225 Appendix F added	8636
226 Compliance notification	41439
226.5 (a)(5) added; interim	17338
226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim	17338
226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim	17338
226.15 (b) introductory text amended; interim	17338
226.16 (c) revised; interim	17338
226.17 (a)(3) added; (g) introductory text revised; interim	17338
226.23 (b)(1) amended; interim	17338
226.24 (d) revised; interim	17338
226.27 Revised; interim	17339
226.31 (b) revised; interim	17339
226.36 (Subpart F) Added; interim	17339
226 Supplement I amended; interim	17339
226 Appendix G corrected; CFR correction	43463
230 Compliance notification	41439
230.3 (a) revised; (g) added; interim	17802
230.4 (a)(1) and (2)(i) revised; interim	17802
230.6 (c) removed; interim	17802
230.10 Added; interim	17803
230 Supplement I amended; interim	17803

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

250 Authority citation revised	24233
250.243 Added	24229
250.244 Added	24299
250.245 Added	24229
250.246 Added	24225
250.247 Added; interim	24233
250.248 Added; interim	24233
261a.13 (b)(9) revised; (c)(11) added	19718
Corrected	20863
263 Authority citation revised	8637
263.302 (a) revised	8637
268 Revised; interim	7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.120 Regulation at 65 FR 15529 confirmed; revised	1027
303.121 Regulation at 65 FR 15529 confirmed	1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended	1027
303.123 Regulation at 65 FR 15530 confirmed	1027
303.141 (b)(1)(ii) revised	1028
303.142 (a), (b) and (c) amended	1028
308 Authority citation revised	8638, 9189
308.101 (b) revised	9189
308.132 (c)(3)(xv) revised	9189
308.302 (a) revised	8638
308.500—308.546 (Subpart T) Added	9189
337.4 Removed	1028
337.6 (e) removed	17622
343 Regulation at 65 FR 75843 eff. date delayed	15348
346 Added	2099
346.9 (a)(1) corrected	14071
346.11 (j)(2)(iv) corrected	14071
362 Authority citation revised	1028
362.1 (c) revised	1028
362.2 (r) revised	1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised	1028
362.5 (b)(1), (2) and (3) removed	1028
362.6 Revised	1028
362.7 (a) and (b) revised	1028
362.8 Revised	1028
362.10 (a) revised	1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended	1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised	1029
364 Authority citation revised	8638
364.101 (b) revised	8638
364 Appendix B revised	8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

502.20 Revised	33159
506.1 (b) amended; interim	15017
(c)(1)(iii) revised	15020
Regulation at 66 FR 15017 confirmed	37407
516.1—516.3 (Subpart A) Removed	13000
516.1 Added	13000
516.5 Added	13000
516.10 Added	13000
516.15—516.47 (Subpart A) Added	13000
516.55 Added	13002
516.110 Amended	13003
516.120 Revised	13003
516.130 Revised	13003
516.140 Revised	13003
516.150 Revised	13003
516.185 Added	13003
516.190 Revised	13003
516.200—516.280 (Subpart E) Added	13003
517.6 (b) revised	13005
533 Added	2106
536 Regulation at 65 FR 75845 eff. date delayed	15345
543.9 (a) revised	13005
544.2 (c) amended	13005
544.5 (c)(1)(ii) revised	13006
(c)(1)(iii) revised	15020
545.92 (b) and (d)(2) revised; (f) amended	13006
550.80 Revised	13006
550.260 (b)(2) amended	13006
550.530 Amended	13006
552.2-6 Amended	13006
Existing text designated as (a); (b) added	23154
Regulation at 66 FR 37407 confirmed	37408
552.4 (d) amended	13006
552.5 (b)(1)(ii) revised	13006
(b)(1)(iii) revised	15020

TITLE 12 Chapter V—Con.

555.310 (a) introductory text amended........13006
556.347 Revised........19854
559.3 (e)(2)(i) and (ii) amended........13006
559.4 Introductory text amended........13007
559.11 Amended........13007
559.13 (b) revised........13007
560.30 Table amended; interim........15017
  Regulation at 66 FR 15017 confirmed........15017
560.32 (c) amended........13007
560.35 (d)(3) revised........13007
560.93 (d)(3)(iii) amended........13007
560.160 (a)(1) revised........13007
562.4 (b)(1) revised........13007
  (c)(3) correctly added; CFR correction........33632
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised........13007
563.41 (e)(2)(ii)(A) revised........13008
563.81 (a)(1), (2) and (c) amended........13008
563.143 Heading revised; (a)(1) amended........13008
563.161 (a) revised; interim........15017
  Regulation at 66 FR 15017 confirmed........15017
563.171 (b)(4) revised........13008
563.180 (d)(11) revised........13008
563.183 (c)(1) revised........13008
563.555 Amended........13008
563.565 Revised........13009
563b.27 (e) footnote 1 amended........13009
563f.6 (a) amended........13009
565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended........13009
566 Removed; interim........15017
  Regulation at 66 FR 15017 confirmed........15017
567.3 (d)(2)(i) introductory text amended........13009
  (a)(2) correctly removed; CFR correction........33632
567.4 (a)(3)(i) amended........13009
567.7 (f) revised........13009
568 Authority citation revised........8639
568.1 (a) revised........8639
568.5 Added........8639
570.1 (a) and (b) amended........8639
570.2 (a) revised........8639
570 Appendix B revised........8640
574.4 (f)(2) amended........13009
574.6 (f)(4) amended........13009
575.3 (b)(2) introductory text revised........13009
575.13 (a)(1), (b), (c)(2) and (e) amended........13010
584.2–1 (a) and (c)(1) amended; interim........15017
  Regulation at 66 FR 15017 confirmed........15017
584.2–2 (b) amended........13010

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised........16843
  Regulation at 66 FR 16843 eff. 5–14–01........26785
613.3020 (c) added........28643
  Regulation at 66 FR 28643 confirmed........36908
613.3030 (a)(1) and (2) amended........28643
  Regulation at 66 FR 28643 confirmed........36908
615.5220 (a)(3) revised........16844
  Regulation at 66 FR 16844 eff. 5–14–01........26785
615.5250 (c)(2) amended........16844
  Regulation at 66 FR 16844 eff. 5–14–01........26785
620.2 (h)(1) and (2) revised........14301
  Regulation at 66 FR 14301 confirmed........21064
620.4 (b) revised........14301
  Regulation at 66 FR 14301 confirmed........21064
620.5 (a)(10) added........14301
  Regulation at 66 FR 14301 confirmed........21064
650 Authority citation revised........19064
650.20—650.31 (Subpart B) Added........19065
  Regulation at 66 FR 19064 eff. 5–23–01........28361

Chapter VII—National Credit Union Administration (Parts 700—799)

701.1 Revised; interim........15621
705.10 Regulation at 65 FR 80299 confirmed........20902
707.3 (a) revised; (g) added........33162
707.4 (a)(1) and (2)(i) revised........33163
707.6 (c) removed........33163
707.10 Added........33163
707 Appendix C amended........33163
709.0 Amended; interim........11230
  Amended........40575
709.12 Added; interim........11230

Revised 40575
712.3 (a) amended 40578
712.5 Amended 40578
712.7 Amended 40578
721 Revised 40857
748 Heading and authority citation revised 8161
748.0 (b) revised 8161
748 Appendix A added 8161
749 Revised 40579

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised 8307
915.4 Revised 8307
915.5 Revised 8308
915.6 (a)(3) revised 8308
915.7 (b)(2) amended 8308
917 Authority citation revised 8308
917.3 (b)(1) revised 8308
917.9 Existing text designated as (a); (b) added 8308
918.7 Revised; interim 24264
925.24 Revised 8308
925.25 Removed 8309
925.26 Revised 8309
925.27 Revised 8309
925.28 Removed 8310
925.29 Revised 8310
925.30 Revised 8310
930 Added 8310
931 Added 8310
932 Added 8310
933 Added 8310
956 Authority citation revised 8320
956.1 Amended 8320
956.3 (b) amended 8320
956.5 Added 8320
956.6 Added 8321
966.8 (d) added 8321

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1411 Authority citation revised 44027
1411.1 Revised 44027

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised 8489
1501.2 Redesignated as 1501.3; new 1501.2 added; interim 260
1501.3 Redesignated from 1501.2; interim 260
Revised 8750

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1701 Added 18039
1780 Authority citation revised 711, 18043
1780.1 Revised 18043
1780.80—1780.81 (Subpart E) Revised 711

Proposed Rules:

1 8178
3 10212
7 ....8178, 19901, 34855
8 ....17821, 21045
23 8178
25 ....18411, 37602
37 19901
41 16624
200—299 (Ch. II) 27912
208 ....10212, 18411
222 16624
223 ....24186, 33649
225 ....307, 10212, 12440
228 37602
303 20102
325 10212
334 16624
345 37602
369 18411
500—599 (Ch. V) 31186
502 21288
552 23196
563e 37602
567 15049
571 16624
611 ....10639, 15814, 43536
614 43536
618 ....10639, 15814
620 ....10639, 15814
700 33211
701 ....20945, 33211, 40641
702 40642
712 ....11125, 33211
715 33211
722 15055
723 33211
725 33211
741 40642

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 12 *Proposed Rules:—Con.*

742	15055
749	11239
790	33211
915	14093
917	14093
925	14093, 41462, 43961
930	14093, 41462, 41474, 43961
931	14093, 41462, 43961
932	13688, 14093, 41462, 41474, 43961
933	14093, 41462, 43961
950	36715
951	23864
952	36715
956	14093
966	14093
1501	307, 12440
1710	18709, 20217
1777	18694

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised	30647
108 Added; interim	7224
Regulation at 66 FR 7224 eff. date delayed	10811
Regulation at 66 FR 7224 eff. date delayed	20530
Regulation at 66 FR 7224 withdrawn	28602
Added	28609
Authority citation corrected	32894
108.150 (c) introductory text corrected	32894
108.2010 (b) corrected	32894
115 Authority citation revised	30804
115.12 (e)(1) and (3) amended	30804
115.19 (a) amended	30804
115.31 (d) amended	30804
115.60 (a)(1) amended	30804
115.61 Amended	30804
115.68 Amended	30804
119 Added	29013
121 Waiver	19381
121.201 Table amended	30647
Table corrected	32416
121.301 (b) and (c) revised	30648
123 Authority citation revised	38530
Undesignated center headings designated as Subparts A through E	38530
123.500—123.512 (Subpart F) Added	38530
126 Authority citation revised	4645
126.101 (c) added	4645
126.103 Amended	4645
126.204 Revised	4645
126.206 Revised	4645
126.601 (d) revised	4645

Proposed Rules:

108	20531
121	10842, 14865

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition	29416
21 SFAR No. 88 added	23129
Comment disposition	29416
21.183 (d)(2)(iv) amended	21065
21.197 (c) introductory text and (1) amended	21066
21.213 (b) amended	21066
21.329 (c) amended	21066
21.337 (e) amended	21066
23 Special FAA conditions	18186, 30649, 37128, 40580
25 Special FAA conditions	261, 8162, 11527, 12843, 15020, 17804, 19847, 22426, 22428, 26972, 32717, 36697, 37408, 39085
Comment disposition	29416
25.473 (d) revised	27394
25.723 Revised	27394
25.725 Removed	27394
25.727 Removed	27394
25.981 Revised	23129
25.1435 (a), (b) and (c) revised	27402
25.1516 Added	34024
25.1527 Revised	34024
25.1583 (c) and (f) revised	34024
25.1585 Revised	34024
25.1587 Revised	34024
25 Appendix H amended	23130
27.397 (b)(2) amended	23538
29.397 (b)(2) amended	23538
39 Technical correction	13635, 37271
39.13	1, 4, 6, 8, 264, 265, 266, 268, 1032, 1254, 1256, 1828, 1830, 2213, 3450, 3860, 4647, 4648, 4650, 4653, 4655, 4657, 4659, 6447, 6450, 6452, 6453,

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

6455, 7573, 7575, 7577, 8078, 8080, 8082, 8083, 8088, 8166, 8168, 8508, 8751, 8753, 8755, 8757, 8759, 9028, 9030, 9033, 9909, 10186, 10189, 10355, 10356, 10358, 10359, 10362, 10571, 10572, 10953, 10954, 10956, 10959, 10961, 10963, 10964, 11104, 11106, 12724, 12726, 12728, 12731, 13011, 13228, 13231, 13233, 13413, 13415, 13417, 13420, 13423, 13425, 14302, 14305, 14307, 14309, 14311, 14828, 15023, 15025, 15622, 15624, 15788, 16104, 16107, 16109, 16113, 16115, 16118, 16600, 16845, 16847, 17343, 17346, 17349, 17489, 17491, 17494, 17497, 17498, 17503, 17507, 17808, 18047, 18049, 18522, 18524, 18526, 18528, 18722, 18872, 19383, 19385, 19388, 19719, 19851, 20193, 20195, 20378, 20380, 20382, 20385, 20388, 20734, 20736, 20738, 20903, 20905, 20909, 20911, 20913, 20915, 20916, 20918, 20919, 20921, 21068, 21070, 21072, 21074, 21076, 21080, 21082, 21085, 21277, 21279, 21852, 21854, 21858, 21861, 22431, 22434, 22909, 22912, 22914, 22915, 23540, 23542, 23835, 23837, 23839, 23843, 24051, 27686, 27688, 27016, 27018, 27450, 27591, 27596, 27855, 28363, 28365, 28645, 28647, 28650, 28653, 29468, 29471, 29690, 29902, 30298, 30301, 30304, 30306, 31122, 31127, 31131, 31133, 31140, 31142, 31145, 31526, 31529, 31835, 31837, 31838, 32531, 32532, 32535, 32537, 32729, 32730, 32895, 32897, 33014, 33015, 33017, 33018, 33020, 33165, 33167, 33169, 33172, 33460, 33461, 34084, 34087—34090, 34093, 34095, 34097, 34099, 34101, 34102, 34104, 34105, 34107, 34109, 34529, 34531, 34532, 34799, 34801, 34805, 35077, 35079, 35372, 35531, 35533, 35534, 35536, 35537, 35539, 35897, 36146, 36148, 36150, 36151, 36153, 36155, 36442, 36444, 36446, 36448, 36449, 36451, 36452, 36454, 36455, 36457, 36700, 37131, 37885, 38140, 38143, 38144, 38146, 38353, 38356, 38359, 38361, 38364, 38366, 38532, 38534, 38536, 38538, 38891, 38894, 38898, 39414, 39417, 39422, 39425, 39427, 39430, 39432, 39434, 39632, 40109, 40583, 40860, 40862, 40864, 40865, 40867, 40868, 40869, 40871, 40873, 40876, 40878, 40880, 40882, 40885, 41130, 41442, 41444, 42106, 42938, 42940, 43068, 43069, 43071, 43073, 43075, 43077, 43464, 43467, 43469, 43474, 43477, 43765, 43767, 43770, 43772, 44029, 44031, 44033, 44035, 44038, 44040, 44042, 44044, 44045, 44047, 44048, 44293, 44295, 44297, 44298, 44946, 44949, 44953, 44956, 44958, 44959, 45566, 45569, 45571, 45572, 45574, 45576, 45578, 45581, 45583, 45587, 45595, 45754, 45755, 45757, 45759, 45923

Corrected............1574, 3861, 9635, 15326, 17508, 18521, 23155, 28651, 30307, 42586

43.1 (a)(2) amended..........................21066

43.3 (f) and (g) amended 21066

43.7 (e) amended..............................21066

43.9 (b) amended 21066

43.13 (c) amended 21066

43.16 Amended 21066

45.22 (c)(3) amended 21066

61 Technical correction 31145

63 Technical correction 31145

65 Technical correction 31145

65.95 (a)(1) amended 21066

65.111 (a) and (b) revised 23553

65.125 (a)(2) and (b)(2) revised 23553

71.1 ....1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20389, 20587, 20588, 21281, 23558–23561, 28909, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147–38149, 38368, 38369, 38539, 39435, 42107, 42108, 43078, 43079, 43080, 44049, 44050, 45162, 45596, 45598—45603

Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560, 45597

Regulation at 66 FR 11532 eff. date delayed 21639

73.30 45604

73.32 34809

73.63 16392

91 SFAR No. 50–2 reinstated and amended...1003

SFAR No. 50–2 revised 16584

TITLE 14 Chapter I—Con.

Policy statement.......................30310
91.23 (b)(1)(i) amended 21066
91.175 (f) amended 21066
91.207 (f)(1) corrected 16316
91.215 (a) amended 21066
91.307 (b) revised 23553
91.401 (b) amended 21066
91.403 (c) amended.........................21066
91.409 (c)(2) and (f)(1) amended........21066
91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
91.411 (b)(2)(v) removed; eff. 4-6-03..41116
91.413 (a) and (c)(2) amended...........21066
(c)(1)(iv) removed; eff. 4-6-03 41116
91 Appendix A amended; eff. 4-6-03..41116
93.301 Regulation at 65 FR 17742 eff. date delayed...............1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed.........................1005
Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed.........................1005
Regulation at 65 FR 17743 eff. date delayed 16584
95 ....9914, 18530, 30057, 39634
97.21—97.35.......2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090, 41773, 41775, 44300, 44302
105 Revised 23553
107 Revised; eff. 11-14-01..................37317
108 Technical correction 31145
Revised; eff. 11-14-01 37357
119.1 (e)(6) revised..........................23557
121 SFAR No. 50-2 reinstated and amended...1003
SFAR No. 50-2 revised 16584
Policy statement 27548, 30310
Technical correction 28036, 28037, 28369, 29888, 31145, 31146, 44050
SFAR No. 36 amended; eff. 4-6-03 41116
Policy statement..........................41955
Authority citation revised 41966
SFAR No. 89 added 44273
121.303 (b) and (d)(2) revised; eff. 5-12-04...19043
121.309 (d) removed; eff. 5-12-04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5-12-04 19043
121.325 Introductory text revised; eff. 5-12-04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
121.378 (a) revised; eff. 4-6-03..........41116
121.415 (a)(3) revised; eff. 5-12-04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5-12-04 19043
121.427 (b)(2) revised; eff. 5-12-04 19043
121.703 Regulation at 65 FR 56201 eff. date delayed to 1-16-02 21626
121.704 Regulation at 65 FR 56202 eff. date delayed to 1-16-02 21626
121.705 Regulation at 65 FR 56203 eff. date delayed to 1-16-02 21626
121.709 (c) and (d) redesignated as (d) and (e); new (c) added; (b), new (d) and (e) revised; eff. 4-6-03..41116
121.801—121.805 (Subpart X) Added; eff. 5-12-04....................19044
121 Appendix A revised; eff. 5-12-04..19044
Appendix I amended......................41966
Appendix J amended 41967
125 Policy statement..........................30310
SFAR No. 89 added 44273

125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131

125.409 Regulation at 65 FR 56203 eff. date delayed to 1-16-02 21626

125.410 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626

129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131

135 SFAR No. 50-2 reinstated and amended 1003

SFAR No. 50-2 revised 16584

Technical correction 28036, 28037, 31145, 31146, 44050

Policy statement 30310

SFAR No. 89 added 44273

135.177 (a)(1) revised; eff. 5-12-04 19045

135.415 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626

135.416 Regulation at 65 FR 56205 eff. date delayed to 1-16-02 21626

135.417 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626

135.435 (a) revised; eff. 4-6-03 41117

135.443 (c) redesignated as (d); (b) and new (d) revised; new (c) added; eff. 4-6-03 41117

139.325 (h) redesignated as (i); new (h) added; eff. 11-14-01 37327

142.1 (a) and (b)(1) amended 21066

145.1—145.5 (Subpart A) Revised; eff. 4-6-03 41117

145.2 Heading and (a) amended 21067

145.51—145.61 (Subpart B) Revised; eff. 4-6-03 41117

145.63 (c) amended 21067

Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626

145.79 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626

145.101—145.109 (Subpart C) Revised; eff. 4-6-03 41117

145.151—145.163 (Subpart D) Revised; eff. in part 4-6-03 41117

145.163 Revised; eff. 4-6-05 41117

145.201—145.223 (Subpart E) Added; eff. 4-6-03 41117

145 Appendix A removed; eff. 4-6-03 41117

161.5 Amended 21067

170.3 Amended 21067

187.1 Amended 43717

187.15 (d) revised 43718

187 Appendix B revised 43718

193 Added 33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised 17356

382 Authority citation revised 22115

Nomenclature change 22115

382.39 (a)(2) revised 22115

382.40a Added 22115

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180

Regulation at 66 FR 2180 eff. date delayed 9509

406 Revised 2180

Regulation at 66 FR 2180 eff. date delayed 9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1214.900—1214.912 (Subpart 1214.9) Added 37411

Proposed Rules:

13 37520

23 ....6492, 23199

25....14504, 15203, 18214, 26942, 26948, 26956, 26964, 27582

39.........57, 59, 61, 64, 1054, 1057, 1271, 1273, 1607, 1610, 1612, 1917, 1919, 2213,

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 14 *Proposed Rules:—Con.*

3382, 3511, 3515, 3516, 3518, 3521, 6494, 6495, 6497, 6499, 7433, 8184, 9779, 10226, 10232, 10234, 10236, 10238, 10241, 10243, 10360, 10378, 10380, 10382, 10384, 10387, 10390, 10393, 10842, 10844, 10846, 10849, 10851, 10853, 10855, 10857, 10858, 10970, 10972, 10974, 10976, 11126, 12440, 12443, 12834, 12913, 13184, 13187, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13222, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348, 14865, 14867, 15062, 15362, 15363, 15365, 15369, 15662, 15664, 15666, 15667, 15670, 15814, 15817, 16017, 16156, 16418, 16422, 17091, 17094, 17097, 17099, 17101, 17103, 17105, 17115, 17118, 17121, 17123, 17125, 17127, 17641, 18416, 18573, 18575, 18877, 18878, 18880, 18882, 18884, 18886, 19727, 20111, 20114, 20116, 20218, 20409, 20760, 20763, 20766, 20768, 20946, 20948, 20950, 20952, 20954, 20957, 21107, 21291, 21292, 21294, 21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850, 29268, 29514, 30093, 30095, 30097, 30099, 30101, 30103, 30105, 30107, 30109, 30112, 30114, 30341, 30343, 30345, 31189, 31192, 31194, 31566, 31569, 32276, 32591, 33214, 33649, 33651, 33653, 34128, 34130, 34132, 34134, 34377, 34589, 34591, 34593, 35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206, 38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588, 38961, 40161, 40162, 40645, 40646, 41808, 40926, 42970, 43124, 43126, 43228, 43130, 43811, 43814, 43815, 44089, 44093, 44311, 44313, 44316, 44319, 44320, 44322, 44323, 44326, 44553, 44556, 44558, 44560—44562, 44988, 44990, 45190, 45192, 45194, 45196, 45648, 45651, 45653, 45655, 45657, 45789, 45948, 45950, 45951

61 37520

71.....1921, 2850, 3886, 3887, 7435, 8772, 8773, 9986—9990, 10860, 10861, 12741, 17825, 17826, 17827, 18575, 18577, 18578, 18736, 18737, 19907, 19908, 19909, 21296, 22489, 22490, 29056, 29057, 29058, 29516, 30117—30120, 30654, 31196, 32593, 32781, 35914, 35916, 35917, 38223-38225, 38385, 38386, 39121, 42618, 42619, 43132, 43134, 44327, 44993, 44994, 45198, 45199, 45200, 45659, 45660

73 18055

81 44329

91....................33215, 37520

119....................37520

121....................21492, 21494, 42807

125....................37520

135....................37520

136....................21264

139....................42807

142....................37520

183....................38387

217....................45201

241....................45201

255....................13860

271....................44329

291....................45201

298....................45201

413....................9635, 10979

415....................9635, 10979

417....................9635, 10979

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

101.1 Revised....................11232

101.2 Removed....................11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised........28832

Nomenclature change 28832

301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833
301.3 (d) amended; (f) redesignated as (g); new (f) added 28833
301.4 (a)(1) and (2) revised; (a)(3) amended 28833
301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added 28833
301.6 (a) and (c) revised 28834
301.7 (a) amended 28834
301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834
301.9 (a) introductory text amended 28834
301.10 Revised 28834
303.2 (a)(5), (13) and (b)(1) amended 34812
303.12 (a)(1) revised 34812
303.16 (a)(9) amended 34812
303.16 (b)(1) amended 34813
303.17 (b)(4) amended 34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.4 (c) introductory text revised; interim 42109
738 Authority citation revised 12846, 18402
738 Supplement No. 1 amended 12846, 18402
740 Authority citation revised 5444, 6465, 12846, 18402, 36680
740.1 (a) revised; interim 36680
  (a) amended; interim 42109
740.2 (a)(6) added; interim 36680
740.7 Revised 5444
  (d)(1) revised 12847
  (d)(4) amended 6465
740.8 (c) amended; interim 42109
740.9 Heading and (a)(3)(i)(A) revised; (a)(2)(iii) amended; interim 42109
740.10 (a)(3)(iv) and (b)(3)(i)(D) amended; (b)(2)(iv) revised; interim 42110
740.13 (d)(3)(i) amended; interim 42110
740.15 (a)(1)(i), (ii), (2)(ii), (3)(iv) through (ix) amended; interim 42110
740.18 Added; interim 36680
740 Supplement No. 1 amended 12847, 18402
  Supplement No. 1 amended; interim 42110
742 Authority citation revised 5444, 36680
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim 36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim 36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended 5446
742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim 36682
744 Authority citation revised 12846, 18402, 24265
744.16 Added 12847
744 Supplement No. 3 amended 18402
  Supplement No. 4 amended 24265
746 Authority citation revised 12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim 36682
746.3 (a) introductory text revised; interim 36682
746.7 Amended; interim 36683
746.9 Revised 12847
748 Authority citation revised 5444, 6465
748.10 (b)(3) revised 5447
  (b)(3)(i) amended 6465
772 Authority citation revised 18402, 36680
772.1 Amended 18402
  Amended; interim 36683
  Amended; introductory text revised 36910
774 Authority citation revised 18403, 36680
774 Supplement No. 1, Category 3 (ECCN 3A001) 18403
  Supplement No. 1, Category 3 (ECCN 4A003) 18405

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 15 Chapter VII—Con.

- Supplement No. 1, Category 1 (ECCN 1C997) amended; interim 36683
- Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5 (ECCN 5A991) and Category 7 (ECCN 7A003) amended 36912
- Supplement No. 1, Category 7 (ECCN 7E004) amended 36913

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

- 902.1 (b) table corrected (OMB numbers) 3451, 21643, 24056, 30652
- 922.161 Revised 4369
  - Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
- 922.162 Amended 4369
  - Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
- 922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added 4369
  - Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
- 922.166 Heading revised 4369
  - Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
- 922.167 Redesignated as 922.168 4369
  - Added 4370
  - Regulations at 66 FR 4369 4370 eff. date confirmed 16120, 33462
- 922.168 Redesignated from 922.167; new 922.168 revised 4369
  - Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
- 922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
  - Appendix VII table amended 34534
  - Regulation at 66 FR 4370 eff. date confirmed 16120, 33462

Proposed Rules:

- 303 28404
- 801 45219
- 922 ....26822, 30828, 43135
- 990 39464

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

- 2 Authority citation revised 8721
  - Technical correction 20527
- 2.20 (Subpart B) Added; interim 8721
- 2.41 (a) amended; interim 17628
- 3.12 (a) revised; interim 17628
  - (a)(1) corrected 20527
- 3.21 (b) amended; interim 17628
- 3.22 (b) revised; (c) amended; interim 17628
- 3.24 (a)(2) amended; interim 17628
- 3.25 (c) Revised; interim 17628
- 3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim 17628
  - (b)(3) corrected 20527
- 3.33 (a) amended; interim 17629
- 3.34 Heading revised; (c) amended; interim 17629
- 3.36 Revised; interim 17629
  - (a) corrected 20527
- 3.39 (a) introductory text amended; interim 17629
  - (a) corrected 20527
- 3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
- 3.43 (b) revised; interim 17629
  - Designation, (b) introductory text and (2) corrected 20527
- 3.44 (c) amended; interim 17630
- 3.45 Revised; interim 17630
  - (b)(2) and (d) corrected 20527
- 3.46 (b)(7) and (c)(4) amended; interim 17631
- 3.51 (c)(1) amended; (c)(3) removed; interim 17631
- 3.52 Revised; interim 17631
  - (b), (e), (f)(2) and (j) corrected 20527
- 4 Authority citation revised 17632
- 4.1 (b)(1)(iv) note removed 13645
- 4.2 Revised; interim 17632
  - (c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
- 4.3 (d) added; interim 17633
- 4.4 (a)(3) and (c) revised; (b) amended; interim 17633
  - (a)(3) and (b) corrected 20527

4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim	17633
4.10 (g)(1) revised; interim	17633
305 Energy efficiency ranges	19389, 40110
305.5 (a) revised	27858
305.6 (a) revised	27858
305.9 (a) revised	27858
801 Authority citation revised	8687
801.1 (h), (j) and (m) revised; interim	8687
(j) revised; interim	23565
801.2 (d) Examples 2 and 3 revised; interim	8688
801.4 (b) Examples 1 and 5 revised; interim	8688
801.10 Example revised; interim	8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim	8688
801.12 Heading revised; (c) and (d) removed; interim	8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim	8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim	8689
801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim	8689
801.20 Examples 1 and 2 revised; interim	8690
801.21 Introductory text revised; interim	8690
801.30 (b)(2) and Example 2 revised; interim	8690
801.31 Example revised; interim	8690
801.32 Example revised; interim	8690
801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim	8690
801.90 Examples 1 and 2 revised; interim	8691
802 Authority citation revised	8691
802.1 Examples 1 through 7, 9 and 10 revised; interim	8691
802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim	8692
(g) revised; interim	23565
802.3 Examples 2 and 3 revised; interim	8692
802.4 (a) and (c) Examples 1 and 2 revised; interim	8693
802.5 Example 2 revised; interim	8693
802.6 (b)(2)(ii) revised; interim	8693
802.9 Example 1 revised; interim	8693
802.20 Removed; interim	8693
802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim	8693
802.23 Example 2 revised; interim	8694
802.31 Example revised; interim	8694
802.35 Examples 1 and 2 revised; interim	8694
802.41 Examples 1 and 2 revised; interim	8694
802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim	8694
803 Authority citation revised	8694
803.1 (a) revised; interim	8695
803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim	8695
(b) introductory text, (1) introductory text and (c) introductory text revised; interim	23565
803.5 (a)(2) Examples 2 and 3 revised; interim	8695
803.7 Example revised; interim	8695
803.9 Added; interim	8695
803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added	8696
803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim	8697
803 Appendix revised; interim	8697
Appendix amended; interim	23566
Appendix amended	35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.26 Amended	38369

CHANGES JANUARY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 16 Chapter II—Con.

1000.27 Amended	38369
1500.18 (a)(18) added	13650
Corrected	15997
1500.86 (a)(7) and (8) added	13651
1700.14 (a)(30) added; eff. 1-29-02	40115

Proposed Rules:

314	41162
432	12915
801	8723
802	8723
1115	30655
1500	10863, 39692
1700	18738, 22491

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule 32737
Order 34110
Authority citation revised 42269
1.1 Revised 42269
1.3 (gg)(3) and (uu) added 20744
Introductory text revised 42269
1.12 (b)(2) revised 20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) amended 20744
1.32 Revised 41133
1.37 (a) redesignated as (a)(1); (a)(2) added 20744
(c) and (d) added 42269
1.41 Removed 42269
1.41b Removed 42269
1.43 Removed 42269
1.45 Removed 42269
1.50 Removed 42269
1.51 Removed 42269
1.68 Added 20744
3.10 (a)(1)(i) revised; (a)(3) added; (d) amended 43082
5 Removed; Appendix A redesignated as Appendix A, Part 40 and heading revised; Appendix E redesignated as Appendix C, Part 40 42287
15 Authority citation revised 42269
15.05 Heading revised; (e) and (h) added 42269
30 Order 27859, 34110
36 Revised 42270
37 Added 42271
38 Added 42277
39 Added 45609
40 Added 42283
Fee schedule 42289
40 Appendices A and C redesignated from Appendices A and E, Part 5 42287
41 Added 42287, 44511
Heading and authority citation revised 44965
41.1 (a), (b) and (f) through (i) added 44965
41.31—41.34 (Subpart D) Added 44965
41.41 Added 43086
140.91 (a)(8) added 43087
140.99 (i) amended; (i)(1) and (2) revised; (i)(3) added 44967
160 Added 21252
160.18 (b)(1) revised 24061
(a) corrected 24183
166 Authority citation revised 42287
166.5 Added 42287
170 Authority citation revised 42288
170.8 Revised 42288
170.15 Revised 43083
180 Removed 42288
190.01 (bb) revised 20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended 38370
200.30–3 (a)(72) added; interim 27796
(a)(73) added 31840
(a)(74) added 35842
(a)(73)(i) and (ii) amended; (iii) added 40886
(a)(75) and (76) added 43721
200.30–4 (a)(12) added 35842
200.30–18 (h) and (i) redesignated as (i) and (j); new (h) added 35842
202.3 (b)(3) added; authority citation removed 43741
210 Policy statement 38149
211 Staff accounting bulletin 36457
Policy statement 38149
231 Interpretive releases 33176
232.301 Revised 42942
239.32 Form F–2 amended 32539
239.33 Form F–3 amended 32539
240 Authority citation revised 21659, 43741
Comment period extended 38370
240.3a4–2 Added; interim 27796
240.3a4–3 Added; interim 27796
240.3a4–4 Added; interim 27796
240.3a4–5 Added; interim 27796
240.3a4–6 Added; interim 27796
240.3a5–1 Added; interim 27798
240.3a55–1 Added 44514
240.3a55–2 Added 44514
240.3a55–3 Added 44514
240.3b–17 Added; interim 27798
240.3b–18 Added; interim 27798
240.6a–2 (e) revised; (f) added; authority citation removed 43741

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 17 Chapter II—Con.

240.6a–3 (c) added; authority citation removed 43741
240.6a–4 Added 43741
240.15a–7 Added; interim 27799
240.15a–8 Added; interim 27799
240.15a–9 Added; interim 27799
240.15a–10 Added 45146
240.15b2–2 (e)(2) and (3) amended; (e)(4) added 45147
240.15b11–1 Added 45147
240.17a–24 Added 35843
240.17Ad–7 (f) revised; authority citation removed 21659
240.19b–4 (a) revised 43743
240.19b–7 Added 43743
241 Interpretive releases 22921, 33176
248.2 Existing text designated as (a); (b) added 45147
248.3 (m)(5) and (6) amended; (m)(7) added; (n)(2)(i) removed; (n)(2)(ii) and (iii) redesignated as new (n)(2)(i) and (ii) 45147
249.1a Correctly removed; CFR correction 36701
249.10 Form 1–N Added 43743
249.220f Form 20–F amended 32539
249.501b Form BD–N added 45147
249.819 Revised; Form 19b–4 amended 43743
249.822 Form 19b–7 Added 43744
251 Interpretive releases 33176
257 Authority citation added 29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j) 29474
257.2 Authority citation removed 29474
270 Technical correction 30311
270.2a–7 (a)(5), (11) and (20) revised 36161
270.5b–3 Added 36161
270.12d3–1 (d)(8) note removed 36162
270.31a–2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added 29228
271 Interpretive releases 33177
274.101 Form N–SAR amended 36162
275 Technical correction 30311
275.204–2 (g)(1) and (2) revised; (g)(3) added; authority citation removed 29228

Chapter IV—Department of the Treasury (Parts 400—499)

450 Authority citation revised 28655
450.2 (e) revised 28655
  (e) table corrected 29888

Proposed Rules:

1 45221
3 ....27476, 33494, 45221
4 45221
39 24308
41 ....20118, 27560, 29517, 34864, 36218, 37932, 45904
140 ....20118, 29517, 45221
155 ....36218, 45221
170 ....27476, 33494
202 26978
240 ...26978, 27560, 34042, 34864, 38390, 45904
248 34042
249 ....26978, 34042

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Proposed Rules:

2 40929
35 40929
37 40929

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting 19720
10.184 Undesignated center heading added; section revised; interim 20395
24.24 (e)(4)(i) and (ii)(A) corrected; interim 21086
  (e) heading and (4) revised; (e)(2)(ii) amended 34818
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim 21661
  Table corrected 23981
132 Authority citation amended 21666
  Technical correction 27454

132.18 Added; interim.......21666
159.4 Corrected.......20589
159.5 Corrected.......20589
159.6 Corrected.......20589
159.7 Corrected.......20589
159.21 Corrected.......20589
159.22 Corrected.......20589
159.44 Corrected.......20589
159.46 Corrected.......20589
159.55 Corrected.......20589
159.57 Corrected.......20589
163 Appendix amended; interim
.......21667
Technical correction.......27454

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim.......32218

Proposed Rules:

4.......21705
12.......42163
24.......21705
101.......21705
113.......42163
122.......40649
123.......40649
151.......42163
159.......33920
162.......42163
177.......37370, 39293, 45235

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim.......28961
30 (Subchapter C) Added; interim
.......28962
30.100 OMB number pending.......28962
30.101 OMB number pending.......28962
30.102 OMB number pending.......28962
30.111 OMB number pending.......28962
30.112 OMB number pending.......28962
30.206 OMB number pending.......28962
30.207 OMB number pending.......28962
30.213 OMB number pending.......28962
30.214 OMB number pending.......28962
30.216 OMB number pending.......28962
30.217 OMB number pending.......28962
30.401 OMB number pending.......28962
30.415 OMB number pending.......28962
30.416 OMB number pending.......28962
30.417 OMB number pending.......28962
30.420 OMB number pending.......28962
30.421 OMB number pending.......28962
30.505 OMB number pending.......28962
30.617 OMB number pending.......28962
30.700 OMB number pending.......28962
30.701 OMB number pending.......28962
30.702 OMB number pending.......28962

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added.......27454
369 Added.......29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised.......38906
404.401 (c) revised.......38906
404.1203 OMB number.......28836
404.1204 OMB number.......28836
404.1214 OMB number.......28836
404.1215 OMB number.......28836
404.1216 OMB number.......28836
404.1220 OMB number.......28836
404.1225 OMB number.......28836
404.1237 OMB number.......28836
404.1239 OMB number.......28836
404.1242 OMB number.......28836
404.1243 OMB number.......28836
404.1247 OMB number.......28836
404.1249 OMB number.......28836
404.1251 OMB number.......28836
404.1265 OMB number.......28836
404.1271 OMB number.......28836
404.1272 OMB number.......28836
404.1292 OMB number.......28836
404.1501—404.1599 (Subpart P) Appendix 1 amended.......34362
Appendix 2 revised.......45166
416.501—416.596 (Subpart E) Authority citation revised.......38906
416.570 Amended.......38906
416.572 Added.......38906

TITLE 20

Chapter IV—Employees' Compensation Appeals Board, Department of Labor (Parts 500—599) Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

656 Authority citation revised........40590
656.21 (i)(6) added........40590

Proposed Rules:

404........43136
416........38963
422........43136

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5 Revised........30993
14.75 Regulation at 66 FR 1259 withdrawn........20401
50 Authority citation revised........20597
50.1 (a) amended; interim........20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim........20597
50.50—50.56 (Subpart D) Added; interim........20598
56 Authority citation revised........20599
56.101 (a) amended; interim........20599
56.102 (b)(21), (22) and (23) added; interim........20599
56.109 (h) added; interim........20599
56.111 (c) added; interim........20599
101 Policy statement........30311
151 Regulation at 66 FR 3458 eff. date delayed........42415
165.110 (b)(1)(ii) revised........35373
172.615 (a) table amended........38153
172.892 (i) introductory text revised; (i) table amended........17509
173.115 Added........27022
173.325 (b)(1)(iii), (iv) and (v) amended........22922
(f) redesignated as (g); new (f) added........31841
173.368 Added........33830
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added........18539
510.600 (c)(1) table and (2) table amended......17510, 22117, 22118, 23588, 32739, 36162
(c)(1) table amended........43773
520.445b (b) and (d)(4)(iii)(C) amended........35898
520.1196 (b) amended........35756
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended........21282
(d)(1)(iii)(C) amended........29020
520.1855 Added........43774
520.2095 Removed........21282
520.2460 Removed........22117
520.2460a Removed........22117
520.2460b Removed........22117
520.2520a Removed........23588
522.313 Heading revised; (d)(8) added........21283
(d)(1)(i) amended........32540
522.1081 (b) removed........22117
522.1183 (c) removed........22117
522.1258 Removed........23588
522.1451 Added........35756
522.1680 (b) amended........22117
522.1704 (b) removed........23588
522.1884 (c) amended; (d)(2)(iv) removed........23589
522.2095 Removed........21282
522.2120 (b) amended........22118
522.2640b Revised........22117
524.321 Revised........22117
524.390c Removed........42731
524.2140 Removed........42731
524.2640 Removed........22117
529.360 Removed........22117
529.1186 (b) amended........17510
556.163 Revised........35544
556.347 Revised........19854
556.428 Revised........23589
556.594 Removed........21282
558.4 (d) amended........21862
558.55 (d)(2) table amended....20083, 20402
558.95 (d)(5)(iv) and (v) amended........27022
558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended........22118
(a)(2), (4) and (c)(1) table amended; (a)(3) removed........23589
558.311 (e)(1) table amended........29020
558.363 (d)(1)(xii) added........27022
558.365 (d)(1)(ii) and (iii) removed; (d)(1)(i)((*a*) and (*b*) redesignated as new (d)(1)(ii) and (iii)........45167
558.450 (a)(1), (d)(1) table and (2) table amended........32740

558.500 (d)(1) revised....21284
558.625 (f)(2)(vii) added....21284
(b)(2), (13) and (73) removed....22117
(b)(16), (19) and (34) removed; (b)(79) amended....22118
(b)(17) removed....23589
(b)(9) removed....36162
558.630 (b)(8) amended....22118
(b)(4) removed; (b)(10) amended....23589
(b)(10) amended....36162
579.22 Heading, introductory text and (b) revised....18540
606.3 (j) revised....40889
606.100 (b)(20) added....31176
606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended....31162
606.151 (b) and (c) revised....40889
606.160 (b)(1)(ix), (x) and (xi) added....31176
607.65 (g) removed....31162
610.40—610.47 (Subpart E) Heading revised....31162
610.40 Revised....31162
610.41 Revised....31164
610.42 Added....31164
610.44 Added....31164
610.45 Removed....31165
630 Added....31176
640.2 (d) removed....31165
(b) revised....40889
640.3 (c)(1) revised....40889
640.4 (g) introductory text, (1), (2), (4) and (5) revised....40889
640.5 (f) revised....31165
Introductory text and (c) revised....40889
640.14 Amended....31165
640.15 Revised....40890
640.16 (a) revised....40890
640.23 (a) amended....31165
640.24 (b) revised....40890
640.33 (a) amended....31165
640.34 (a) through (d) and (e)(1) revised....40890
640.53 (a) amended....31165
640.54 (a)(2) revised....40890
640.63 (c)(11) revised....40890
640.67 Revised....31165
640.70 (a)(2) revised....31165
660.20 Regulation at 65 FR 77499 confirmed....20402
660.21 Regulation at 65 FR 77499 confirmed....20402
660.42 Removed....31165
660.50 Regulation at 65 FR 77499 confirmed....20402
660.51 Regulation at 65 FR 77499 confirmed....20402
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff)....23156
803.10 (b) revised; (c)(5) removed....23157
803.17 (b)(3) revised....23157
803.19 (a)(2) revised....23157
803.20 (a) introductory text, (2) and (c)(1) revised....23157
803.50 (b)(1)(i) and (2) revised....23157
803.52 (d)(1), (f)(11)(i) and (ii) revised....23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5)....23157
809.20 (b) revised....31165
862.1190 (b) revised....38787
862.1210 (b) revised....38787
862.1255 (b) revised....38787
862.1290 (b) revised....38787
862.1305 (b) revised....38787
862.1320 (b) revised....38787
862.1365 (b) revised....38787
862.1380 (b) revised....38787
862.1420 (b) revised....38788
862.1470 (b) revised....38788
862.1490 (b) revised....38788
862.1515 (b) revised....38788
862.1565 (b) revised....38788
862.1575 (b) revised....38788
862.1640 (b) revised....38788
862.1670 (b) revised....38788
862.1720 (b) revised....38788
862.1815 (b) revised....38788
862.2050 (b) revised....38788
862.2100 (b) revised....38788
862.2230 (b) revised....38788
862.2310 (b) revised....38788
862.2320 (b) revised....38788
862.2485 (b) revised....38788
862.2720 (b) revised....38788
862.2800 (b) revised....38788
862.2920 (b) revised....38788
864.1850 (b) revised....38789
864.2220 (a) revised....27024
(b) revised....38789
864.2240 (b) revised....38789
864.2260 (b) revised....38789
864.2360 (b) revised....38789
864.2800 (b) revised....38789
864.2875 (b) revised....38789
864.3010 (b) revised....38789

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 21 Chapter I—Con.

864.3300 (b) revised	38789
864.3400 (b) revised	38789
864.3600 (b) revised	38789
864.3800 (b) revised	38789
864.3875 (b) revised	38789
864.4010 (b) revised	38789
864.4400 (b) revised	38789
864.5350 (b) revised	38789
864.5800 (b) revised	38790
864.5850 (b) revised	38790
864.6160 (b) revised	38790
864.6600 (b) revised	38790
864.6700 (b) revised	38790
864.7660 (b) revised	38790
864.7675 (b) revised	38790
864.7900 (b) revised	38790
864.8200 (b) revised	38790
864.8500 (b) revised	38790
864.8540 (b) revised	38790
866.2050 (b) revised	38790
866.2120 (b) revised	38790
866.2160 (b) revised	38790
866.2170 (b) revised	38790
866.2180 (b) revised	38790
866.2300 (b) revised	38790
866.2320 (b) revised	38790
866.2330 (b) revised	38791
866.2350 (b) revised	38791
866.2360 (b) revised	38791
866.2440 (b) revised	38791
866.2450 (b) revised	38791
866.2480 (b) revised	38791
866.2500 (b) revised	38791
866.2540 (b) revised	38791
866.2580 (b) revised	38791
866.2600 (b) revised	38791
866.3010 (b) revised	38791
866.3020 (b) revised	38791
866.3035 (b) revised	38791
866.3065 (b) revised	38791
866.3125 (b) revised	38791
866.3205 (b) revised	38791
866.3250 (b) revised	38791
866.3255 (b) revised	38791
866.3270 (b) revised	38792
866.3330 (b) revised	38792
866.3340 (b) revised	38792
866.3400 (b) revised	38792
866.3410 (b) revised	38792
866.3470 (b) revised	38792
866.3490 (b) revised	38792
866.3520 (b) revised	38792
866.3630 (b) revised	38792
866.3700 (b) revised	38792
866.3720 (b) revised	38792
866.4100 (b) revised	38792
866.4500 (b) revised	38792
866.4520 (b) revised	38792
866.4540 (b) revised	38792
866.4600 (b) revised	38792
866.4800 (b) revised	38792
866.4830 (b) revised	38792
866.4900 (b) revised	38792
866.5170 (b) revised	38793
866.5220 (b) revised	38793
866.5230 (b) revised	38793
866.5360 (b) revised	38793
866.5370 (b) revised	38793
866.5520 (b) revised	38793
866.5530 (b) revised	38793
866.5540 (b) revised	38793
866.5700 (b) revised	38793
866.5800 (b) revised	38793
866.5860 (b) revised	38793
868.1030 (b) revised	38793
868.1100 (b) revised	38793
868.1575 (b) revised	38793
868.1870 (b) revised	38793
868.1930 (b) revised	38793
868.1965 (b) revised	38793
868.1975 (b) revised	38793
868.2300 (b) revised	38794
868.2330 (b) revised	38794
868.2340 (b) revised	38794
868.2350 (b) revised	38794
868.2610 (b) revised	38794
868.2620 (b) revised	38794
868.2700 (b) revised	38794
868.2875 (b) revised	38794
868.2885 (b) revised	38794
868.5100 (b) revised	38794
868.5110 (b) revised	38794
868.5220 (b) revised	38794
868.5240 (b) revised	38794
868.5280 (b) revised	38794
868.5300 (b) revised	38794
868.5310 (b) revised	38794
868.5320 (b) revised	38794
868.5340 (b) revised	38794
868.5350 (b) revised	38794
868.5365 (b) revised	38794
868.5375 (b) revised	38795
868.5420 (b) revised	38795
868.5460 (b) revised	38795
868.5530 (b) revised	38795
868.5540 (b) revised	38795
868.5550 (b) revised	38795
868.5560 (b) revised	38795
868.5570 (b) revised	38795
868.5580 (b) revised	38795
868.5590 (b) revised	38795
868.5600 (b) revised	38795

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

868.5760 (b) revised	38795
868.5770 (b) revised	38795
868.5780 (b) revised	38795
868.5790 (b) revised	38795
868.5795 (b) revised	38795
868.5810 (b) revised	38795
868.5820 (b) revised	38795
868.5860 (b) revised	38796
868.5975 (b) revised	38796
868.5995 (b) revised	38796
868.6100 (b) revised	38796
868.6175 (b) revised	38796
868.6225 (b) revised	38796
868.6400 (b) revised	38796
868.6700 (b) revised	38796
868.6820 (b) revised	38796
868.6885 (b) revised	38796
870.1875 (a)(2) revised	38796
870.2390 (b) revised	38796
870.2600 (b) revised	38796
870.2620 (b) revised	38796
870.2640 (b) revised	38796
870.2810 (b) revised	38796
870.3450 Revised	18542
870.3460 Removed	18542
870.3620 (b) revised; (c) removed	18542
870.3650 (b) revised	38796
870.3670 (b) revised	38796
870.3690 (b) revised	38796
870.3730 (b) revised	38797
870.3800 (b) revised; (c) removed	18542
870.3945 (b) revised	38797
870.4230 (b) revised; (c) removed	18542
870.4260 (b) revised; (c) removed	18542
870.4350 (b) revised; (c) removed	18542
870.4500 (b) revised	38797
872.1500 (b) revised	38797
872.1730 (b) revised	38797
872.1820 (b) revised	38797
872.1840 (b) revised	38797
872.1850 (b) revised	38797
872.1905 (b) revised	38797
872.3080 (b) revised	38797
872.3100 (b) revised	38797
872.3110 (b) revised	38797
872.3130 (b) revised	38797
872.3140 (b) revised	38797
872.3150 (b) revised	38797
872.3165 (b) revised	38797
872.3220 (b) revised	38797
872.3240 (b) revised	38798
872.3285 (b) revised	38798
872.3330 (b) revised	38798
872.3350 (b) revised	38798
872.3360 (b) revised	38798
872.3410 (b) revised	38798
872.3490 (b) revised	38798
872.3520 (b) revised	38798
872.3530 (b) revised	38798
872.3580 (b) revised	38798
872.3670 (b) revised	38798
872.3730 (b) revised	38798
872.3740 (b) revised	38798
872.3810 (b) revised	38798
872.3830 (b) revised	38798
872.3840 (b) revised	38798
872.3850 (b) revised	38798
872.3900 (b) revised	38798
872.3910 (b) revised	38799
872.4130 (b) revised	38799
872.4565 (b) revised	38799
872.4620 (b) revised	38799
872.4630 (b) revised	38799
872.4730 (b) revised	38799
872.5410 (b) revised	38799
872.5525 (b) revised	38799
872.6010 (b) revised	38799
872.6030 (b) revised	38799
872.6050 (b) revised	38799
872.6100 (b) revised	38799
872.6140 (b) revised	38799
872.6200 (b) revised	38799
872.6290 (b) revised	38799
872.6475 (b) revised	38799
872.6510 (b) revised	38800
872.6570 (b) revised	38800
872.6650 (b) revised	38800
872.6670 (b) revised	38800
872.6710 (b) revised	38800
872.6855 (b) revised	38800
872.6865 (b) revised	38800
872.6870 (b) revised	38800
872.6880 (b) revised	38800
872.6890 (b) revised	38800
874.1060 (b) revised	38800
874.1080 (b) revised	38800
874.3375 (b) revised	38800
874.4140 (b) revised	38800
874.4175 (b) revised	38801
874.4350 (b) revised	38801
874.4750 (b) revised	38801
874.4770 (b) revised	38801
874.5220 (b) revised	38801
874.5800 (b) revised	38801
876.1075 (b)(2) revised	38801
876.1500 (b)(2) revised	38801
876.4530 (b) revised	38801

TITLE 21 Chapter I—Con.

876.4560 (b) revised 38801
876.4590 (b) revised 38801
876.4730 (b) revised 38801
876.4890 (b)(2) revised 38801
876.5030 (b) revised 38801
876.5090 (b)(2) revised 38801
876.5130 (b)(2) revised 38801
876.5250 (b)(2) revised 38802
876.5450 (b) revised 38802
876.5520 (b)(2) revised 38801
876.5540 (b)(4) revised 38801
876.5820 (b)(2) revised 38802
876.5885 Added....................27025
876.5900 (b) revised 38802
876.5920 (b) revised 38802
876.5970 (b) revised 38802
878.1800 (b) revised 38802
878.3750 (b) revised 38802
878.3800 (b) revised 38802
878.3900 (b) revised 38802
878.4160 (b) revised 38802
878.4380 (b) revised 38802
878.4440 (b) revised 38803
878.4450 (b) revised 38803
878.4460 (b) revised 38803
878.4470 (b) revised 38803
878.4635 (b) revised 38803
878.4660 (b) revised 38803
878.4700 (b) revised 38803
878.4730 (b) revised 38803
878.4800 (b) revised 38803
878.4810 (b)(2) revised 38803
878.4930 (b) revised 38803
878.4950 (b) revised 38803
878.5350 (b) revised 38803
878.5900 (b) revised 38803
878.5910 (b) revised 38803
880.2400 (b) revised 38803
880.2700 (b) revised 38803
880.2720 (b) revised 38803
880.2740 (b) revised 38804
880.2900 (b) revised 38804
880.5075 (b) revised 38804
880.5110 (b) revised 38804
880.5120 (b) revised 38804
880.5150 (b) revised 38804
880.5160 (b) revised 38804
880.5180 (b) revised 38804
880.5210 (b) revised 38804
880.5240 (b) revised 38804
880.5300 (b) revised 38804
880.5510 (b) revised 38804
880.5560 (b) revised 38804
880.5630 (b) revised 38804
880.5640 (b) revised 38804
880.5680 (b) revised 38805
880.5740 (b) revised 38805
880.5780 (b)(2) revised 38805
880.5820 (b) revised 38805
880.5950 (b) revised 38805
880.6025 (b) revised 38805
880.6050 (b) revised 38805
880.6060 (b) revised 38805
880.6070 (b) revised 38805
880.6080 (b) revised 38805
880.6085 (b) revised 38805
880.6140 (b) revised 38805
880.6150 (b) revised 38805
880.6185 (b) revised 38806
880.6190 (b) revised 38806
880.6200 (b) revised 38806
880.6230 (b) revised 38806
880.6250 (b) revised 38806
880.6265 (b) revised 38806
880.6280 (b) revised 38806
880.6320 (b) revised 38806
880.6350 (b) revised 38806
880.6375 (b) revised 38806
880.6430 (b) revised 38806
880.6450 (b) revised 38806
880.6730 (b) revised 38806
880.6760 (b) revised 38806
880.6785 (b) revised 38807
880.6800 (b) revised 38807
880.6820 (b) revised 38807
880.6900 (b) revised 38807
880.6960 (b) revised 38807
880.6970 (b) revised 38807
880.6980 (b) revised 38807
882.1030 (b) revised 38807
882.1410 (b) revised 38807
882.1420 (b) revised 38807
882.1430 (b) revised 38807
882.1525 (b) revised 38807
882.1700 (b) revised 38807
882.1925 (b) revised 38807
882.4030 (b) revised 38808
882.4125 (b) revised 38808
882.4200 (b) revised 38808
882.4215 (b) revised 38808
882.4325 (b) revised 38808
882.4440 (b) revised 38808
882.4500 (b) revised 38808
882.4525 (b) revised 38808
882.4535 (b) revised 38808
882.4600 (b) revised 38808
882.4900 (b) revised 38808
884.1550 (b) revised 38808
884.1640 (b)(2) revised 38808
884.1690 (b)(2) revised 38808
884.1700 (b)(2) revised 38808
884.1720 (b)(2) revised 38808

884.1730 (b)(2) revised	38809
884.2900 (b) revised	38809
884.2980 (a)(2) revised	38809
884.2982 (a)(2) revised	38809
884.4520 (b) revised	38809
884.4530 (b)(2) revised	38809
884.5150 (b) revised	38809
884.5425 (b)(1) revised	38809
884.5900 (b)(2) revised	38809
884.5920 (b) revised	38809
884.6190 (b) revised	38809
886.1040 (b) revised	38809
886.1050 (b) revised	38809
886.1070 (b) revised	38810
886.1090 (b) revised	38810
886.1140 (b) revised	38810
886.1150 (b) revised	38810
886.1160 (b) revised	38810
886.1170 (b) revised	38810
886.1190 (b) revised	38810
886.1200 (b) revised	38810
886.1250 (b) revised	38810
886.1270 (b) revised	38810
886.1290 (b) revised	38810
886.1320 (b) revised	38810
886.1330 (b) revised	38810
886.1340 (b) revised	38810
886.1375 (b) revised	38810
886.1380 (b) revised	38810
886.1390 (b) revised	38811
886.1395 (b) revised	38811
886.1400 (b) revised	38811
886.1405 (b) revised	38811
886.1410 (b) revised	38811
886.1415 (b) revised	38811
886.1420 (b) revised	38811
886.1425 (b) revised	38811
886.1430 (b) revised	38811
886.1435 (b) revised	38811
886.1450 (b) revised	38811
886.1460 (b) revised	38811
886.1500 (b) revised	38811
886.1605 (b) revised	38811
886.1650 (b) revised	38812
886.1655 (b) revised	38812
886.1660 (b) revised	38812
886.1665 (b) revised	38812
886.1680 (b) revised	38812
886.1690 (b) revised	38812
886.1700 (b) revised	38812
886.1750 (b) revised	38812
886.1760 (b) revised	38812
886.1770 (b) revised	38812
886.1790 (b) revised	38812
886.1800 (b) revised	38812
886.1810 (b) revised	38812
886.1840 (b) revised	38812
886.1850 (b) revised	38812
886.1870 (b) revised	38813
886.1880 (b) revised	38813
886.1905 (b) revised	38813
886.1910 (b) revised	38813
886.1945 (b) revised	38813
886.3200 (b) revised	38813
886.3920 (a) amended	18542
886.4230 (b) revised	38813
886.4250 (b) revised	38813
886.4335 (b) revised	38813
886.4350 (b) revised	38813
886.4360 (b) revised	38813
886.4445 (b) revised	38813
886.4570 (b) revised	38813
886.4770 (b) revised	38813
886.4855 (b) revised	38814
886.5120 (b) revised	38814
886.5420 (b) revised	38814
886.5540 (b) revised	38814
886.5600 (b) revised	38814
886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815
888.5850 (b) revised	38815
888.5890 (b) revised	38815
888.5940 (b) revised	38815
888.5960 (b) revised	38816
888.5980 (b) revised	38816
890.1575 (b) revised	38816
890.1600 (b) revised	38816
890.1615 (b) revised	38816
890.3025 (b) revised	38816
890.3075 (b) revised	38816
890.3100 (b) revised	38816

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 21 Chapter I—Con.

890.3150 (b) revised 38816
890.3175 (b) revised 38816
890.3410 (b) revised 38816
890.3420 (b) revised 38816
890.3475 (b) revised 38816
890.3490 (b) revised 38816
890.3520 (b) revised 38817
890.3640 (b) revised 38817
890.3665 (b) revised 38817
890.3675 (b) revised 38817
890.3700 (b) revised 38817
890.3750 (b) revised 38817
890.3760 (b) revised 38817
890.3790 (b) revised 38817
890.3825 (b) revised 38817
890.3910 (b) revised 38817
890.3920 (b) revised 38817
890.3940 (b) revised 38817
890.5050 (b) revised 38817
890.5125 (b) revised 38818
890.5350 (b) revised 38818
890.5370 (b) revised 38818
890.5380 (b) revised 38818
890.5410 (b) revised 38818
890.5660 (b) revised 38818
890.5730 (b) revised 38818
890.5765 (b) revised 38818
890.5925 (b) revised 38818
890.5940 (b) revised 38818
890.5950 (b) revised 38818
890.5975 (b) revised 38818
892.1100 (b) revised 38818
892.1110 (b) revised 38818
892.1130 (b) revised 38818
892.1300 (b) revised 38818
892.1370 (b) revised 38818
892.1380 (b) revised 38819
892.1400 (b) revised 38819
892.1420 (b) revised 38819
892.1640 (b) revised 38819
892.1700 (b) revised 38819
892.1760 (b) revised 38819
892.1770 (b) revised 38819
892.1830 (b) revised 38819
892.1840 (b) revised 38819
892.1880 (b) revised 38819
892.1920 (b) revised 38819
892.1940 (b) revised 38819
892.1950 (b) revised 38819
892.5740 (b) revised 38819
892.5780 (b) revised 38819

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1308.14 (c)(15) through (49) redesignated as (c)(16) through (50); new (c)(15) added 42944
1310.02 Regulation at 65 FR 47316 eff. date extended 42944
1310.04 Regulation at 65 FR 47316 eff. date extended 42944
1310.08 Regulation at 65 FR 47316 eff. date extended 42944

Proposed Rules:

101..38591
151..42474
192..17517
333..29059
500..42167
592..17517
864 ....23634, 38226
874..42809

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 32742, 38542
41.2 (i)(2) revised; interim 32541
41.12 Table amended 32742
Table corrected 38153
41.81 Revised; interim 19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
(f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised 32742
42.11 Table amended 32742
Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h),

(i) and (j); new (b)(2), (3) and (g) added; interim 39437
51 Authority citation revised 29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added 29906
51.21 (d)(4)(ii) revised 29906
51.27 (b) and (d)(1)(i) introductory text revised 29906
51.40 Revised 29907
51.41 Revised 29907
62.31 (a), (c)(1), (2), (3), (e) introductory text, (3), (5), (j) and (k) revised 43087
124.2 (c) introductory text, (1) and (6) revised 35899
125.4 (c) introductory text revised 35900
126.5 (b) corrected 36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised 35900

Chapter XIII—Board for International Broadcasting (Parts 1300—1399)

Chapter XIII Removed 42731

Proposed Rules:

62 27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised 23847
630.102—630.112 (Subpart A) Revised 23847
655.601 (a) revised 38911
940.9 (b) amended 19856
940.11 (g) amended 19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed 20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added 38918
1345.4 (a)(1)(iv) revised 38918
1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised 38918

Proposed Rules:

655 27480
710 23636

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended 28791
5.850—5.861 (Subpart I) Added 28792
5.901—5.961 (Subpart J) Added 28792
27.20 (f) added 35847

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added 28797
207 Authority citation revised 35072
207.252 Revised; interim 35072
207.252a Revised; interim 35073
207.254 Added; interim 35073
247.2 Amended 28797
247.3 (a)(3) revised 28797
290.18 Added 35847

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300.3 Revised 44265
320.5 (g) revised; (h), (i) and (j) added 44265
330.5 Revised 44265
330.30 Revised 44266
350 Added 44266

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 24

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim 35855
598.1 (a) revised; interim 35855
599 Added; interim 35855

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised 28797
882.102 (a) revised; (b) amended 28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added 28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2) 28797
882.518 Added 28797
884.216 (b) revised 28798
887 Correctly removed; CFR correction 42731
891.430 Revised 28798
891.630 Revised 28798
891.770 Revised 28798

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—999)

960.102 (a)(1) revised 28799
960.200—960.208 (Subpart B) Revised 28799
966 Heading and authority citation revised 28802
966.1 Revised 28802
966.2 Added 28802
966.4 (d)(1), (f)(12), (l)(2), (3)(i) and (5) revised 28802
  Corrected 32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added 28804
972 Added 33618
982.4 (a)(2) revised; (b) amended 28804
  (b) amended; interim 33613
982.54 (d)(4)(iii) added 28804
982.310 (c) revised; (h) added 28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added 30568
982.505 (c)(4) revised 30568
982.551 (m) redesignated as (n); (l) revised; new (m) added 28805
982.552 (b)(1), (c)(1)(iv) and (2) revised; (c)(1)(xi) added 28805
982.553 Revised 28805
982.632 (a) revised; interim 33613
982.638 (d)(2) revised; interim 33613
982.640 (b) revised; interim 33613
982.642 Added; interim 33613

Proposed Rules:

206 30278
888 23770
903 42926
982 32198
1000 ....37098, 38965

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02 22121
84 Added 38923
89 Authority citation revised 38926
89.1 Removed 38926
89.2 Removed 38926
89.3 Removed 38926
89.4 Removed 38926
89.5 Removed 38926
89.6 Removed 38926
89.7 Removed 38926
89.8 Removed 38926
89.9 Removed 38926
89.10 Removed 38926
89.11 Removed 38926
89.12 Removed 38926
89.13 Removed 38926
89.14 Removed 38926
89.15 Removed 38926
89.16 Removed 38926
89.17 Removed 38926
89.18 Removed 38926

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

89.19 Removed....38926
89.20 Removed....38926
89.21 Removed....38926
89.22 Removed....38926
89.24 Removed....38926
89.25 Removed....38926
89.26 Removed....38926
151 Regulation at 66 FR 3452 and 10815 eff. date delayed....19403, 31976
Regulationat 66 FR 3458 eff. date delayed....42474
183 Added....21088

Proposed Rules:

70....33654
151....19403
309....27915
502....33494, 41810

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended....32902, 33463, 37889, 37899, 40590
Authority citation corrected....41133
1.32-3 Added....33637
1.32-3T Removed....33637
1.132-9 (b) corrected....18190
1.197-2(k) Example 23 corrected....22286
1.355-0 Amended....40591
1.355-7T Added....40591
1.401(a)(4)-0 Amended....34540
1.401(a)(4)-8 (b)(1) revised....34540
1.401(a)(4)-9 (b)(2)(v) added; (c)(3)(ii) revised....34544
1.401(a)(4)-12 Amended....34545
1.420-1 Added....32900
1.460-1 (j) corrected....18357
1.460-2 (b)(2)(ii) and (c)(1) corrected....18191
1.460-4 (b)(3) and (g) corrected....18191
1.679-0 Added....37889
1.679-1 Added....37889
1.679-2 Added....37889
1.679-3 Added....37889
1.679-4 Added....37889
1.679-5 Added....37889
1.679-6 Added....37889
1.679-7 Added....37889
1.684-1 Added....37899
1.684-2 Added....37899
1.684-3 Added....37899
1.684-4 Added....37899
1.684-5 Added....37899
1.732-3 Added....32902
1.958-1 (b) amended....37897
1.958-2 (c)(1)(ii)(*b*) amended....37897
1.985-8 (c)(3)(ii) Examples 1 and 2 correctly added....21447
1.1441-1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*); (D)(*2*) and (*3*) corrected....18188
1.1441-5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected....18188
1.1441-7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected....18189
1.1461-1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M)....18189
(a)(1) amended....33831
1.1502-5 (a)(1) amended....33831
1.1502-34 Amended....32902
1.1502-78 (e) added....33463
1.1502-78T Removed....33464
1 Authority citation corrected....41133
1.6011-4T (b)(3)(i)(F) removed; (b)(3)(ii)(B) and (C) and (g) revised; (b)(5) amended....41135
1.6045-1 (g)(1)(i) and (3)(iv) corrected....18189
1.6049-5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected....18189
1.6151-1 (d)(1) amended....33831
1.6302-1 (d) revised....32542
(b)(1) amended....33831
1.6302-2 (d) revised....32542
(a)(1)(i), (ii), (iv) and (b)(1) amended....33831
1.6302-3 (a) amended....33831
20 Authority citation amended....38546
20.6075-1 Revised; interim....38546
20.6081-1 Revised; interim....38546
31 Authority citation amended....28370
31.6071(a)-1 (a)(1) and (c) amended....33832

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 26 Chapter I—Con.

31.6151-1 (b) amended....33832
31.6205-1 (a)(6) revised....39640
31.6302-1 (f)(4) revised....28370
(m)(1) revised....32542
(i)(3) amended....33831
(c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended....33832
31.6302-1T Removed....28370
31.6302(c)-2A (b)(1)(i) and (3) amended....33832
31.6302(c)-3 (b)(2) amended....33831
(a)(1)(i), (ii), (3) and (b)(2) amended....33832
31.6302(c)-4 (a) revised....32542
35.3405-1T Amended....33832
36.3121(l)(10)-4 Amended....33832
40 Authority citation revised....41776
40.0-1 (d) and (e) removed; (f) redesignated as new (d)....41776
40.6011(a)-1 (c) removed....41776
40.6011(a)-2 (b)(2) amended; (d) removed....41776
40.6071(a)-1 (a), (b)(2) and (c) revised....41776
40.6071(a)-2 Removed....41776
40.6091-1 (d) removed....41776
40.6101-1 Revised....41776
40.6109(a)-1 Revised....41776
40.6151(a)-1 Revised....41776
40.6302(c)-1 (d)(1) amended....33832
Revised....41776
40.6302(c)-2 Revised....41777
40.6302(c)-3 (b)(1)(ii), (3), (d) and (f)(4) introductory text amended; (f)(5), (7) and (h) removed; (f)(6) redesignated as new (f)(5); (g) revised....41778
40.6302(c)-4 Removed....41778
40.9999-1 Removed....41778
48.4081-8 Revised....27597
301 Authority citation amended....39438
301.6103(j)(5)-1 Added....39438
301.6103(j)(5)-1T Removed....39439
301.6111-2T (b)(3) removed; (b)(4) through (7) redesignated as new (b)(3) through (6); new (b)(3) introductory text, (4) introductory text, (ii), (6) and (h) amended; (b)(1), new (3)(ii), (4)(i), (6) introductory text (c)(3) and (e)(2)(ii)(E) revised; new (b)(6) Example 2 redesignated as Example and amended....41135
301.6112-1T Authority citation removed....41137
301.6302-1 (a), (b)(1) and (2) amended....33832
301.6302-1T Removed....33831
301.6323(j)-1 Added....33465
301.6656-1 Removed; new 301.6656-1 redesignated from 301.6656-3....32542
301.6656-2 Removed....32542
301.6656-3 Redesignated as 301.6656-1....32542
301.7701-7 (d)(1)(iv) introductory text and (v) *Example 1* revised; (d)(1)(iv)(H) redesignated as (d)(1)(iv)(J); new (d)(1)(iv)(H), (I), (v) *Example 5* and (e)(3) added....41779
301.9100-5T (c) concluding text amended....33832
601.401 (a)(5) heading, (iii) and (iv) amended....33832
602.101 (b) table amended (OMB numbers)....32542, 33637, 38546
Corrected; CFR correction....43478

Proposed Rules:

1.....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112, 40659, 41169, 41170, 44565
5c....31850, 41170
5f....31850, 41170
18....31850, 41170
31....28408, 32279
53....26824
301....17518, 23868, 26824, 28408, 31850, 32279, 41169, 41170
602....17518

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1.1 (a) amended....42733
1.31 Amended....42733
1.35 Amended....42733
1.50 Amended....42733
1.51 Amended....42733
1.52 Amended....42733
1.57 Amended....42733

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

4 Cross references amended	38549
Amended	42733
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4–1–98	37578
4.22 (b)(5) amended; effective date retroactive to 4–1–98	37578
5.2 Amended	38549, 42733
7.4 Amended	38549, 42733
9.162 Added	29479
9.164 Added	23592
9.166 Added	29698
9.167 Added	18545
9.170 Added	26791
12.3 (a) amended	42733
13.2 Added	19085
13.11 Amended	19085
13.20 Added	19085
13.21 (a) amended; (b) revised	19085
13.23 Amended	19085
13.25 (a) and (b) amended	19085
13.26 (a) and (b) amended	19085
13.27 (c) amended	19085
(a) and (b) revised	19086
13.41 Amended	19085
13.42 Amended	19085
13.43 (a) and (b) amended	19085
13.44 Revised	19086
13.45 (a) and (b) amended	19086
13.52 Amended	19085
13.53 Amended	19085
13.54 (a) and (b) amended	19085, 19086
13.61 (b) amended	19085
13.62 Revised	19086
13.71 Revised	19086
13.72 (b) amended	19086
13.74 Amended	19086
13.92 Amended	19086
17.5 Amended	38549
17.168 (a) amended	42736
18 Authority citation revised	29481
18.11 Amended	29482
18.23 Amended	42736
18.39 Added	29482
18.40 Added	29482
18.41 Added	29482
18.42 Added	29482
18.43 Added	29482
18.56 Revised	29482
19.3 Amended	38549, 42733, 42736
19.161 (c) amended	42733
19.163 (f) amended	42733
19.164 Amended	42733
19.169 Amended	42736
19.207 Added	29482
19.485 (a)(1) and (2) amended	38549
19.524 (a)(1), (b)(1) and (3) amended	38549
19.911 (c) amended	42733
19.950 (f) amended	42733
20.3 Amended	38549, 42733, 42736
20.44 Introductory text amended	42733
20.51 Introductory text amended	42733
20.52 Amended	42733
20.66 Amended	42736
22.3 Amended	38550, 42733, 42736
22.44 Introductory text amended	42733
22.51 Introductory text amended	42733
22.52 Amended	42733
22.66 Amended	42736
24.4 Amended	38550, 42734, 42736
24.114 Amended	42737
24.135 (a) amended	29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4–1–98	37578
24.272 (a)(1), (b)(1) and (3) amended	38550
25.4 Amended	42737
25.165 (a)(1), (b)(1) and (3) amended	38550
25.284 (d) corrected	17809
26 Redesignated from Part 250	38550
26.3 Amended	38550
26.11 Amended	38550
26.30 Amended	38550
26.35 (a) amended	38550
26.45 Amended	38551
26.47 Amended	38551
26.50 (a) and (b) amended	38551
26.51 (c) amended	38551
26.55 Amended	38551
26.68a Amended	38551
26.70 Amended	38551
26.71 (a) amended	38551
26.72 Amended	38551
26.73 Amended	38551
26.74 Amended	38551
26.77 (c) amended	38551
26.79 (a) amended	38551
26.80 (a) amended	38551
26.81 (a) amended	38551
26.82 Amended	38551
26.87 Amended	38551
26.95 (b) amended	38551
26.96b Amended	38551
26.104 (b) amended	38551
26.105a Amended	38551

TITLE 27 Chapter I—Con.

26.107 Amended.......38551
26.108 (a), (b) and (c) amended.......38551
26.109 (a), (b) and (c) amended.......38551
26.110 Amended.......38551
26.112 (a), (c)(2), (d)(2) and (e) amended.......38551
26.112a (a)(1), (b)(2) and (3) amended.......38551
26.113 (c) through (f) amended.......38552
26.114 Amended.......38552
26.115 Amended.......38552
26.163 Amended.......38552
26.165 (a)(2) and (3) amended.......38552
26.173 (b)(4) amended.......38552
26.193 (a) and (b) amended.......38552
26.194 (a) and (b) amended.......38552
26.196 Amended.......38552
26.199a (a) amended.......38551
26.199b Amended.......38551
26.200 (a) amended.......38552
26.204 Amended.......38552
26.205 (a)(8) introductory text, (iv) and (b) amended.......38552
26.211 Amended.......38552
26.220 Amended.......38552
26.221 Amended.......38552
26.225 Amended.......38552
26.260 Amended.......38552
26.261 Amended.......38552
26.262 (a) and (c) amended.......38552
26.263 Amended.......38552
26.264 Amended.......38552
26.265 Amended.......38552
26.272 Amended.......38552
26.273a Introductory text amended.......38552
26.291 (a), (b)(1), (2) and (c) amended.......38552
26.301 Amended.......38552
26.302 (a) and (b) amended.......38552
26.303 Amended.......38552
26.309 (b)(4) and (c)(2)(viii) amended.......38552
26.318 Amended.......38552
Subchapter B Heading added.......38550
29 Redesignated from Part 170; heading revised.......42737
29.42 Amended.......42737
29.45 Amended.......42737
29.47 (c) amended.......42737
29.49 (c) amended.......42737
29.59 Amended.......42737
40 Redesignated from Part 270; authority citation revised.......39093
40.11 Amended.......39094
40.21 (b) amended.......39094
40.31 (a) amended.......39094
40.32 (b) amended.......39094
40.33 (b)(3) and (c)(2) amended.......39094
40.35 (a) amended.......39094
40.44 Amended.......43479
40.49 Amended.......39094
40.62 Amended.......39094
40.63 Amended.......39094
40.64 Amended.......39094
40.65 Amended.......39094
40.67 Amended.......39094
40.68 Amended.......39094
40.71 Amended.......39094
40.72 Amended.......39094
40.74 Amended.......42734
40.92 Amended.......39094
40.101 Amended.......39094
40.102 Amended.......39094
40.103 Amended.......39094
40.104 Amended.......39094
40.111 Amended.......39094
40.113 Amended.......39094
40.114 Amended.......39094
40.134 Amended.......39094
40.135 Amended.......39094
40.136 (d) amended.......39094
40.140 Amended.......39094
40.162 Amended.......39094
40.163 Amended.......39095
40.164 (a)(2) and (d)(2) amended.......39095
40.165 (a) amended.......39095
40.165a (a)(1), (b)(2) and (3) amended.......39095
40.166 Amended.......39095
40.167 (a) and (b) amended.......39095
40.168 Amended.......39095
40.181 Amended.......39095
40.183 (e) amended.......39094
40.187 Amended.......39094
40.212 Amended.......39094
40.216c (b) and (c) amended.......39095
40.233 Amended.......43479
40.235 Amended.......43479
40.251 Amended.......39095
40.252 Amended.......39095
40.253 Amended.......39095
40.254 Amended.......39095
40.255 Amended.......39095
40.282 Amended.......39095
40.283 Amended.......39095
40.286 Amended.......39095
40.287 Amended.......39095
40.301 Amended.......39095
40.311 (a) and (b) amended.......39095
40.313 Amended.......39095

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

40.331 Amended	39095
40.332 Amended	42734
40.355 (e) and (g)(2) amended	39095
40.357 (a)(1), (b)(2) and (3) amended	39095
40.371 (a) amended	39096
40.372 (b) amended	39096
40.373 (b)(3) and (c)(2) amended	39096
40.374 (a) amended	39096
40.396 Amended	39096
40.397 Amended	39096
40.402 Amended	39096
40.404 Amended	39096
40.405 Amended	39096
40.410 Amended	39096
40.421 (a)(4) amended	39096
40.451 Amended	43479
40.454 Amended	43479
40.461 Amended	39096
40.472 Amended	39096
40.473 Amended	39096
40.475 Amended	39096
40.476 Amended	39096
40.478 Amended	39096
44 Redesignated from Part 290	43480
44.31 (a) amended	43480
44.32 (b) amended	43480
44.33 (b)(3) and (c)(2) amended	43480
44.35 (a) amended	43480
44.62 Amended	43480
44.63 Amended	43480
44.67 (a) amended	43480
44.82 Amended	43480
44.83 Amended	43480
44.84 Amended	43480
44.85 Amended	43480
44.86 Amended	43480
44.87 Amended	43480
44.88 Amended	43480
44.93 Amended	43480
44.102 Amended	43480
44.104 Amended	43480
44.105 Amended	43480
44.107 Amended	43480
44.108 Amended	43480
44.110 Amended	43480
44.111 Amended	43480
44.112 Amended	43480
44.123 Amended	43480
44.124 Amended	43480
44.144 Amended	43480
44.161 Amended	43480
44.185 Authority citation revised	45618
44.200 Amended	43480
44.205 (d) amended	43480
44.222 Amended	43480
44.223 Amended	43480
44.224 Amended	43480
44.225 Amended	43480
44.226 Amended	43480
44.230 Amended	43480
44.243 Amended	43480
44.244 Amended	43480
44.245 Amended	43480
44.264 Amended	43480
44.266 Amended	43480
46 Redesignated from Part 296	32220
Cross Reference amended	43479
Authority citation revised	45618
46.4 (c) amended	32220
46.6 (a) and (c) amended	32220
46.7 Amended	32220
46.8 Introductory text and (f) amended	32220
46.15 Amended	32220
46.72 Amended	32220, 39093
46.81 Amended	32220
46.146 Amended	32220
46.147 (a) introductory text and (b) introductory text amended	32220
46.150 (a) amended	32220
46.153 Introductory text amended	32220
46.166 Amended	39093
Revised	45618
46.167 (a) and (c) amended	39093
46.192 (a) amended	32220
46.194 Amended	32220
46.196 (a), (b) and (d) amended	32221
46.205 (a) and (e) amended	32221
46.206 (b) and (f) amended	32221
46.213 Amended	32221
46.221 Amended	32221
46.237 Amended	32221
46.241 (f) amended	32221
46.242 Amended	32221
46.255 (a) amended	39093
(b) and (c) amended	43479
46.270 Revised	32220
53.11 Amended	19088
53.20 Added	19088
53.21 (a) amended; (b) revised	19088
53.22 (a)(1) amended	19088
53.23 (a) amended; (b) revised	19088
53.24 (a)(1) and (d)(1) amended	19088
53.92 (b)(2) amended	19088
53.96 (b)(4) amended	19088
53.115 (b) amended	19088

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 27 Chapter I—Con.

53.132 (c)(2)(ii) amended 19088
53.133 (d)(3) amended 19088
53.134 (d)(2)(ii) amended 19088
53.136 (c)(2) amended 19088
53.140 (b) amended 19088
53.142 (a) amended 19088
53.151 (b)(1) and (2) amended 19088
53.155 (a) and (b) amended 19088
53.156 (a)(1) and (c) amended 19088
53.157 (f)(1) amended 19088
53.158 (b)(1), (3) and (e) amended 19088
53.159 (d)(1) and (2) amended 19088
  (j)(1) amended 19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended 19088
53.186 (a) introductory text and (4) amended 19088
55.73 Amended 42734
55.75 Amended 42734
55.79 Amended 42734
55.82 Amended 42734
55.128 Corrected 19089
55.218 Table corrected 19089
70 Technical correction 19089
70.2 (a) amended; (b) revised 29022
70.3 Added 29022
70.11 Amended 29022
70.21 Amended 29022, 29023
70.22 (a) and (b) amended; (c) removed 29023
70.23 (b) revised 29023
70.24 (b) amended 29023
70.25 (a)(4) amended 29022
70.26 (c)(2)(ii) amended 29022
70.30 Revised 29023
70.31 Revised 29023
70.32 Amended 29023
70.33 Introductory text revised 29023
70.34 Revised 29023
70.40 Revised 29023
70.41 (a), (c), (d) and (f) amended 29023
70.42 Heading, (a)(1), (b) and (c)(1) revised 29024
70.51 Revised 29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended 29022
  (a)(1)(i) introductory text, (D) and (3) amended 29024
70.64 Amended 29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended 29024
70.72 Amended 29025
70.73 Amended 29024
70.74 (c)(1) and (2) amended 29024
  (b) amended 29025
70.75 (b) and (c) amended 29024
  (a) introductory text revised 29025
70.76 (a), (b)(3), (c) and (d) amended 29024
70.77 (a)(1), (2), (b)(1) and (2) amended 29024
70.81 (a) amended 29024
70.82 Amended 29024
70.92 (c) and (d)(2)(i) amended 29024
70.94 (a) amended 29022
70.96 (a)(1)(iv), (2), (3) and (c) amended 29024
  (c) amended 29025
70.98 (b) amended 29024, 29025
70.100 Amended 29022
70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
  (a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219, 42737
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
  (g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
  (a)(1), (2), (b) and (c) amended 29025
  (a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
  (a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
  (a)(2)(ii) amended 29024
  (a)(4), (b)(2) introductory text and (b)(3) amended 29025

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

(a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended 29026
70.168 (a) amended 29022
(b)(2) amended; (c) revised 29026
70.169 Amended 29022
70.170 (b) amended 29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended 29022
(a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended 29026
(c)(5)(ii)(E) and (c)(8) amended 29027
70.182 (a) amended 29022
(a)(2)(ii), (6)(iv), (v), (7) and (9) amended 29027
(a)(2)(i) amended 29027
70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended 29022
(b)(4), (9)(iv), (v) and (10) amended 29027
(a), (b) introductory text and (c) through (f) amended 29027
70.184 (a), (b), (c) introductory text and (1) amended 29022
70.185 (a), (b) and (c) amended 29023
70.186 (b)(2) and (c) amended 29023
(a)(5) amended 29025
70.187 (a) amended 29023
(a) and (b) amended 29025
(a) amended 29027
70.188 Amended 29023
70.191 (b) introductory text amended 29022
(a) revised 29027
70.204 concluding text amended 29025
(a) concluding text amended 29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended 29025
(b)(1) and (c)(1) amended 29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended 29023
(b)(4)(ii)(B) amended 29025
(a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised 29027
70.207 (b)(1)(iii) amended 29025
70.208 Amended 29025
70.209 (a) and (b) amended 29025
70.210 (a)(1) amended 29025
70.213 Amended 29022
70.222 (b) revised 29028
70.223 (d) amended 29025
70.224 (a)(1) and (2)(i) revised 29028
70.227 Revised 29028
70.231 (i)(3) amended 29025
70.241 (a)(8) amended 29025
70.242 (a) and (c) amended 29025
70.245 Heading, (a), (c)(2) and (d) amended 29025
70.251 (a)(2) and (b) amended 29026
(b) amended 29027
70.253 (b)(2) amended 29023
(b)(1) and (2) amended 29028
70.262 (b)(4) and (c)(2) amended 29028
70.263 (d) amended 29023
70.271 (d)(1) amended 29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended 29025
(a)(1) and (b)(2) amended 29028
70.301 (a) amended 29022
70.304 (a) and (b) amended 29028
70.306 (a) amended 29028
70.311 Amended 29022
70.333 Amended 29028
70.411 (b), (c) introductory text and (16) amended 29028
(c)(26) amended 38550
(c)(5) amended 42734
(c)(2) amended 42737
70.412 (a) amended 29028
70.413 (a) amended 29023
(c)(1) amended 29025
(b) revised 29028
70.414 (k) amended 29026
(a) revised 29028
70.416 Revised 19029
70.418 Revised 29029
70.419 Revised 29029
70.431 (b)(7) amended 32219
(b)(2) amended 39093
(b)(1) amended 42734
(b)(5) amended 43480
70.432 (a), (b) and (d) amended 29029
(d) amended 43480
70.433 (a) amended 29023
(a) and (d) amended 29029
70.435 (i) amended 29023

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

TITLE 27 Chapter I—Con.

70.438 Amended	29029
70.447 Amended	29025
70.461 Amended	38550
70.462 Amended	43480
70.471 Revised	29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended	29025
(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended	29026
(b)(1) amended	29029
70.482 (a) introductory text amended	29022
(d)(1)(i) amended	29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised	29029
70.483 Revised	29029
70.484 Amended	29030
70.485 (a) amended	29022
70.486 Amended	29025
70.504 (c)(2) amended	29023
70.506 Amended	29030
70.507 (g) amended	29023
70.601 Amended	29030
70.602 (a) and (b)(1) introductory text amended	29023
70.603 (a)(1) revised	29030
70.606 Introductory text amended	29023
70.608 Amended	29023
70.609 Amended	29023
70.701 (a)(1) revised; (c) amended	29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended	29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised	29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised	29030
71 Redesignated from Part 200; authority citation revised	42734
71.1 Note amended	42734
71.37 Amended	42734
71.38 Amended	42734
71.56 Note amended	42734
71.62 Amended	42734
71.63 Amended	42734
71.64 (a) amended	42734
71.74 Amended	42734
71.78 Amended	42734
71.82 Amended	42735
71.83 Amended	42735
71.96 Amended	42735
71.107a (a) amended	42735
71.108 (a) and (b) amended	42735
71.110 Amended	42735
170 Redesignated from Part 29	42737
178 Technical correction	42586
178.92 Heading and (a) revised; OMB number	40600
179 Technical correction	42586
179.102 Revised; OMB number	40601
200 Redesignated as Part 71	42734
200.49b (b) amended	39093
250 Redesignated as Part 26	38550
250.2 (a) amended; (b) revised	21668
250.3 Added	21668
250.11 Amended	21668, 21669
250.37 Revised	21669
250.43 Amended	21668
250.50a (b)(2) revised	21669
250.52 (b) and (c) amended	21669
250.54 Revised	21669
250.61 Revised	21669
250.62a Amended	21669
250.65 Amended	21669
250.70 Amended	21669
250.70a Amended	21669
250.71 (c) and (d) amended	21669
250.72 Amended	21669
250.74 Amended	21669
250.75 Amended	21669
250.81 Amended	21669
250.96 Amended	21669
250.105 Amended	21669
250.110 Amended	21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised	21669
250.112a (b)(1) and (c)(1) amended	21669
250.113 (a) amended	21669
250.116 Amended	21669
250.118 Amended	21669
250.119 Revised	21669
250.126 Amended	21669
250.128 Amended	21669
250.172 (a) amended; (b) revised	21669
250.173 (a) revised; (d) amended	21669
250.174 (a) and (e) amended	21669
250.193 (b) amended	21670
250.194 Amended	21669
250.197 Amended	21670
250.199f (c) revised	21670
250.209 Amended	21668

CHANGES APRIL 2, 2001 THROUGH AUGUST 31, 2001

250.222 (b) and (c) amended	21669
250.224 Revised	21670
250.275 (a) revised	21670
250.276 Amended	21669, 21670
250.277 Undesignated center heading and section removed	21670
250.303 Amended	21669
250.308 (a) amended; (b) revised	21670
250.309 (a) revised; (d) amended	21670
250.310 (a) and (e) amended	21669
250.314 (b) amended	21668
(a) and (b) amended	21670
250.318 Revised	21670
250.331 (b) amended	21669
(a) and (b) amended	21670
250.314 (b) amended	21668
250.316 Amended	21668
250.319 Amended	21668
250.331 (b) amended	21668
251 Cross references amended	38550
251.1 Note revised	38550
251.48a (a) amended	38550
270 Redesignated as Part 40	39093
270.11 Amended	32220
270.49 Amended	32220
270.165 OMB number	19089
270.165a OMB number	19089
270.286 Amended	32220
275.11 Amended	45618
275.39 Amended	39093
275.63 (a) amended	39093
275.82 (b) amended	39093
Revised	45618
275.83 Revised	45619
275.85 (b) amended	39093
275.85a (c) amended	39093
275.86 (a) amended	39093
275.115a (a)(1) and (b)(1) amended	39093
275.140 Amended	39093
275.162 Amended	32220
275.199 Amended	42734
275.205 (b) amended	32220
290 Redesignated as Part 44	43480
290.11 Amended	39093
290.67 (b) amended	39093
290.92 Amended	42734
290.154 Amended	32220
290.162 Amended	42734
290.184 Amended	39093
290.243 Amended	39093
295.11 Amended	39093
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
16	28135
20	37198

Chapte

0.29c (a)
amer
0.29d (a)
0.29e (a)
vised
text,
0.29h (a)
2.81 (d) a
16.99 (a)(
16.130 Ad
16.130 (b)
16.131 Ad
27.1 (b) r
27.4 Head
ed.....

Chapte tice (Part

Chapter
....

16 ....
25 ....

Chapte sion, 500--

697 Aut
....
697.1 Re
697.2 Re
697.2
697.3 Re
697.3
....
697.4 Re

Chapte Safety tion, 1900–

1926.500
delay

194

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended	37903
0.29d (a) revised	37903
0.29e (a)(1), (2), (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended	37903
0.29h (a) amended	37903
2.81 (d) amended	37137
16.99 (a)(3) added	35374
16.130 Added	41445
16.130 (b) corrected	43308
16.131 Added	41446
27.1 (b) revised	37904
27.4 Heading revised; (a) amended	37904

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim	38518

Proposed Rules:

16	37939
25	35567

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor (Parts 500--899)

697 Authority citation revised	44968
697.1 Revised	44968
697.2 Redesignated as 697.3; new 697.2 added	44969
697.3 Redesignated as 697.4; new 697.3 redesignated from 697.2	44969
697.4 Redesignated from 697.3	44969

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1926.500 Regulation at 66 FR 5265 delayed	37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed	37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction	36368
2520.102-3 (d) and (j)(3) corrected	34994
2520.104b-3 (d)(3)(ii) corrected	34994
2560.503-1 (o) revised	35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4022 Appendix B amended	36702
Appendix C amended	36703
Appendices B and C amended	42738
4044 Appendix B amended	36703, 42738

Proposed Rules:

102	38594
1904	35113

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

42 Regulation at 65 FR 59096 eff date delayed	45167
47 Regulation at 65 FR 59096 eff date delayed	45167
56.16004 Regulation at 65 FR 59096 eff date delayed	45167
56.20012 Regulation at 65 FR 59096 eff date delayed	45167
57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed	35518
57.5065 Heading corrected; (c) removed	35520
57.16004 Regulation at 65 FR 59096 eff date delayed	45167
57.20012 Regulation at 65 FR 59096 eff date delayed	45167
77.208 Regulation at 65 FR 59096 eff date delayed	45167

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 30

Chapter II—Minerals Management Service, Department of the Interior (Parts 200--299)

206.251 Amended 45769
206.254 (a) removed; (b) designation removed and amended 45769
206.257 (d)(3) amended 45769
206.259 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended 45769
206.262 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended 45769
206.263 Removed....................45769
206.453 (a) removed; (b) paragraph designation removed and amended 45769
206.456 (d)(3) amended 45769
206.458 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended....................45769
206.461 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended....................45769
206.462 Removed....................45769
210.10 Nomenclature change; (a) and (d) revised; (b)(2) and (3) amended; (b)(6), (c)(4), (11) and (12) removed; (c)(5) through (10) and (13) through through (20) redesignated as new (c)(4) through (9) and (10) through (17); (b)(6), (7), (8) and new (c)(18) through (21) added....................45769
210.200—210.204 (Subpart E) removed; new 210.200—210.206 (Subpart E) added....................45771
216.2 Amended 45773
216.6 Amended 45773
216.20 Amended....................45773
216.40 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f)....................45773
216.200—216.204 (Subpart E) removed....................45773
218 Authority citation revised 45773
218.40 (c) revised 45773
218.51 (d)(2), (3) and (e) amended 45773
218.201 Revised....................45773
218.203 (a) and (b) amended....................45773

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

756.14 (e) added 39443
904.15 Table amended....................42742
914.17 Heading and (b) revised 42750
938.15 Table amended....................42752
938.16 (p) removed....................42753
946.12 Heading revised; (c) added 43483
946.15 Table amended....................43483
946.16 Removed 43483

Proposed Rules:

57 35521
250 ....37611, 45236
913....................42813
917....................42815

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

29 Authority citation revised....................36705
29.102 (a) revised; (f) added; interim 36705
29.103 (a) amended; interim 36705
29.501—29.526 (Subpart E) Added; interim....................36705

Chapter II—Fiscal Service, Department of the Treasury (Parts 200--399)

357 Policy statement....................44526

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised....................36687
515.207 Note added; interim 36687
515.533 Heading, (a) and (e) revised; (f) removed; interim 36687
515.559 Heading and note revised; interim 36687
515.560 Revised; interim....................36688
535.215 (a) revised; interim 38554
535.333 Revised; interim....................38554
538 Authority citation revised....................36688
538.205 Revised; interim....................36688

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim....................36688
538.405 (b) revised; interim..............36688
538.523 Revised; interim...................36688
538.524 Removed; interim..................36689
538.525 Heading and (d) revised; (e) added; interim......................36689
538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim...36689
540 Revised 38555
550 Authority citation revised........36690
550.306 Revised; interim...................36690
550.308 Revised; interim...................36690
550.318 Revised; interim...................36690
550.405 (b) revised; interim..............36690
550.569 Revised; interim...................36690
550.571 Removed; interim..................36691
Heading and (d) revised; new (e) added; interim......................36691
550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim...36691
550.573 Revised; interim...................36692
560 Authority citation revised........36692
560.405 (b) revised; interim..............36692
560.520 Heading revised; interim 36692
560.530 Revised; interim...................36692
560.531 Removed; interim..................36693
560.532 Heading and (d) revised; (e) added; interim......................36693
560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim...36693

Proposed Rules:

356..38600

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

153 Added..45169
199.2 Amended; interim.........40606, 45172
199.3 (b)(2)(i)(D), (f)(3)(vi), (3)(vii) and note revised; interim.........40606
199.8 (c)(4) added; (d)(1) revised; interim...40607
199.10 (a)(1)(ii) revised; interim 40607
199.14 (h)(1)(iv)(D) and (E) added 45172
199.15 (a)(6) revised; interim 40608
199.17 (a) introductory text, (6)(i), (ii), (b) introductory text, (1), (c) introductory text, (3), (4), and (v) revised; (m)(2)(iii) and (4)(iii) removed; interim..........................40608
311.5 (a)(7)(ii) revised 41780
311.8 (c)(7) added 41780
323 Footnotes 1 through 8 revised 41781
323.2 (e) revised..................................41781
323.4 (a)(1) introductory text, (2) introductory text, (3) and (b)(4) revised; (a)(1)(v) added 41781
323.5 (b)(3)(iv), (4), (5), (c)(5)(ii), (6) introductory text, (i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (2) and (3) revised; (b)(3)(v) removed 41781
323.6 Revised......................................41782
323 Appendices A and B amended 41782
326.5 (j)(11) added 41783
326.17 (e) added 41783

Chapter V—Department of the Army (Parts 400—699)

668 Removed 36711

Proposed Rules:

199..39699
320..41811
326..43138
505 ....41814, 43818
701..43141
806b..43820
808..36523

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

100.35–T05–029 Added (temporary) 34828
100.35–T05–030 Added (temporary) 34824
100.35–T05–031 Added (temporary) 34820
100.35–T05–032 Added (temporary) 34826

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 33 Chapter I—Con.

100.35T-05-038 Added (temporary) 41144
100.35T-05-040 Added (temporary) 41142
100.35T-05-041 Added (temporary) 41140
100.35-T05-047 Added (temporary) 44052
100.35-T09-001 Added (temporary) 37415
100.506 Added 41138
100.511 Implementation (temporary) 34828
100.515 Implementation (temporary) 41140
100.1301 Revised 34822
100.1303 Implementation (temporary) 38154
117 Temporary drawbridge operations regulations ......34829, 36162—36165, 37140, 37578, 38155, 38370, 39278, 40117, 42601, 42602, 44071
117.26 (r) suspended; (vv) added (temporary) 41146
117.301 Added 36467
117.305 Revised 37580
117.733 (k) added 39445
117.795 (b) amended; (d) added (temporary) 40117
117.801 Regulation at 66 FR 16129 eff. date extended through 8-30-01 37139
117.822 Revised 40119
117.911 (e) revised 42111
117.1051 (d)(4) added (temporary) 35902
117.T394 Added (temporary) 44971
159 Authority citation revised 38930
159.301—159.321 (Subpart E) Added 38930
164.01 Regulation at 66 FR 21864 eff. date confirmed 42753
165.T-01-002 Added (temporary) 43776
165.T01-065 Added (temporary) 34839
165.T01-066 Added (temporary) 34847
165.T01-074 Added (temporary) 34849
165.T01-090 Added (temporary) 34840
165.T01-099 Added (temporary) 34832
165.T01-100 Added (temporary) 42756
165.T01-107 Added (temporary) 36168
165.T01-118 Added (temporary) 38158
165.T01-131 Added (temporary) 42604
165.T01-133 Added (temporary) 45928
165.T01-135 Added (temporary) 43090
165.T01-145 Added (temporary) 45926
165.T07-074 Added (temporary) 37417
165.T08-038 Added (temporary) 38936
165.T09-013 Added (temporary) 34835
165.T09-916 Added (temporary) 35546
165.T09-917 Added (temporary) 34837
165.T09-919 Added (temporary) 36167
165.T09-927 Added (temporary) 34830
165.T09-930 Added (temporary) 34844, 35081
165.T09-933 Added (temporary) 34846
165.T09-940 Added (temporary) 37586
165.T09-945 Added (temporary) 37585
165.T09-950 Added (temporary) 34834
165.T09-957 Added (temporary) 37142
165.T09-958 Added (temporary) 35758
165.T09-969 Added (temporary) 37583
165.T09-970 Added (temporary) 37582
165.T09-972 Added (temporary) 38156
165.T09-974 Added (temporary) 34842
  Regulation at 66 FR 34842 correctly designated 44303
165.T09-980 Added (temporary) 40121
165.T09-983 Added (temporary) 41785
165.T09-985 Added (temporary) 42754
165.T09-987 Added (temporary) 42949
165.T09-989 Added (temporary) 41787
165.T09-990 Added (temporary) 42947
165.T09-991 Added (temporary) 42605
165.T09-992 Added (temporary) 43777
  Effective date corrected 45619
165.T09-993 Added (temporary) 45775
165.T09-994 Added (temporary) 44973
165.T13-004 Added (temporary) 38372
165.T13-011 Added (temporary) 39447
165.T14-051 Added (temporary) 38935
165.T14-054 Added (temporary) 41789
165.540 Added; interim 39099
165.713 Removed 36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim 35760

Proposed Rules:

Chapter 1 45791
100 37200
117 ......36525, 36527, 36529, 37615, 42972
151 36530
153 36530
157 42170
164 36223

165	41170
334	42475, 42477, 42478

TITLE 34—EDUCATION

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

674.9 (h)(1), (2) and (3) amended	44006
674.61 (b) amended; (b)(2) removed	44007
682.201 (a)(4)(ii), (6)(iii) and (b)(1)(iv) amended	44007
682.211 (f)(5) revised; (f)(6) through (10) redesignated as (f)(7) through (11); new (f)(6) and (i)(6) added; new (f)(7) amended	44007
685.200 (a)(1)(iv)(A)(*2*) and (B)(*2*) amended	44007

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER **since July 2, 2000.**

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

51.56 Revised	35083
51.57 Revised	35083
51.62 Revised	35083

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211.16—211.18 (Subpart B) Removed	43779

Proposed Rules:

219	35918
242	45082
294	35918
1228	37202, 40166

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised	39448
1.16 (a), (b), (d), (f) through (i) and (k) revised	39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised	39449
1.18 (a), (b) and (c) revised	39449
1.20 (e), (f) and (g) revised	39449
1.21 (o) removed	39450
1.491 Revised	45777
1.492 (a)(1), (2), (3), (5), (b) and (d) revised	39450
10 Policy statement	44526

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

202 Authority citation revised	37149
202.2 Corrected	40322
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added	37149
202.17 Corrected	40322
202.20 (c)(2)(xx) added	37150

Proposed Rules:

1	35763, 45792
2	45792
201	45241
260	38226

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Chapter I Nomenclature change	44053
3.102 Amended	45630
3.156 (a) and authority citation revised	45630
3.159 Revised	45630
3.326 (a) amended	45632
3.808 (d) amended	44528

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

TITLE 38 Chapter I—Con.

17.1000—17.1008 Undesignated center heading and sections added; interim 36470
20.901 (a) revised; interim 38159
20.1404 (b) revised; interim 35903
20.1405 (a) revised 37151
20.1409 (b) revised; interim 35903
21.3303 Amended 44053
21.4005 Amended 44053
21.4131 (i) removed 38938
21.4135 (aa) removed 38938
21.4138 Amended 44053
21.4203 Amended 44053
21.4208 Amended 44053
21.4232 Amended 44053
21.4255 Amended 44053
21.4342 Amended 44053
21.4800—21.4856 (Subpart F-3) Removed 38938
21.6410 Amended 44053
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new (b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised 39279
21.7131 (j) removed 38939
  Corrected 42586
21.7135 (aa) removed 38939
  Corrected 42586
21.7301 Amended 44053
21.7631 (f) removed 38939
21.7635 (w) removed 38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised 38937

Proposed Rules:

3 ....37940, 41483, 44095, 46067
4 37940
17 36960
19 40942
20 40942
260 38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim 42112
111 DMM amended; incorporation by reference 37151
266.9 (b)(1)(vii), (2) introductory text, (i), (ii) and (iii) revised; (b)(2)(viii) added 40891

Proposed Rules:

111 ...36224, 40663, 41485, 42817, 42820, 45245
3001 ....38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9.1 Table amended (OMB numbers) 40130, 42122
51 State implementation plan determinations 40609
52 Technical correction 36035, 43796, 43797
  State implementation plan determinations 40609
  State implementation plan determinations 44973
  Policy statement 42956
52.50 (c) table amended 36920
52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added 38568
  (c)(94)(i)(E) removed 42123
52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added 36172
  (c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added 37153
  (c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added 37156
  (c)(260)(i)(B) and (266)(i)(B)(*3*) added 37591
  (c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added 38564
  (c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added 38940
  (c)(239)(i)(E)(*7*) and (278)(i)(C)(*2*) added 40901
  (c)(239)(i)(C)(*2*) and (279)(i)(A)(*4*) added 42128
  (c)(280)(i)(A)(*2*) 43485
  (c)(183)(i)(H)(*2*) through (*6*) and (281) added 44977
52.222 (a)(7)(i) added 44978
52.320 (c)(93) added 35379
52.520 (e) added 40139
52.570 (c) table and (e) table amended 35909
52.770 (c)(141) added 37419

CHANGES JULY 2, 2001 THROUGH AUGUST 31, 2001

- 52.920 (e) table amended 43491
- 52.1070 Regulation at 66 FR 28059 withdrawn 35546
  - (c)(162) added 37916
  - (c)(164) and (165) added 43488
- 52.1174 (u) added 40898
- 52.1320 (c) table amended 37905, 37907, 37918, 40903, 42607, 44304
- 52.1370 Regulation at 66 FR 32554 withdrawn 42425
  - (c)(49) added 42437
- 52.1384 Regulation at 66 FR 32554 withdrawn 42425
  - (a) added; (c) revised 42437
- 52.1520 (c)(66) added 39104
- 52.1970 (c)(134) added 40620
- 52.1977 Amended 40620
- 52.1988 (b) revised 40622
- 52.2020 (c)(152) added 37914
  - (c)(149) added 40894
  - (c)(159) added 41792
  - (c)(160) added 41795
  - (c)(158) added 42126
  - (c)(161) added 42132
  - (c)(162) added 42136
  - (c)(166) added 42140
  - (c)(171) added 42418
  - (c)(164) added 42425
  - (c)(163) added 42761
  - (c)(176) added 43497
  - (c)(165) added 43501
  - (c)(156) added 43508
  - (c)(173) added 43783
  - (c)(177) added 43788
  - (c)(172) added 43794
  - (c)(168) added 43796
  - (c)(175) added 44056
  - (c)(181) added 44060
  - (c)(170) added 44532
  - (c)(167) added 44538
  - (c)(178) added 44544
  - (c)(180) added 44547
  - (c)(184) added 45933
  - (c)(174) added 45937
  - (c)(182) added 45941
- 52.2026 Removed 44548
- 52.2038 Existing text designated as (a); (b) added 44548
- 52.2220 (c) table amended 45633
- 52.2270 (e) table amended 35906
  - (c) table amended 36917, 36923
- 52.2570 (c)(101) added 42956
- 60.4 Regulation at 66 FR 32554 withdrawn 42425
  - (a), (b) and (c) table amended 42438
- 60.13 (g) revised 44980
- 60.44a (d)(2) revised 42610
- 60.44b (l) revised 42610
- 60.51b Amended 36476
- 61.04 Regulation at 66 FR 32555 withdrawn 42425
  - (a), (b) and (c) table amended 42438
- 62.6613 Regulation at 66 FR 32556 withdrawn 42425
  - Undesignated centerheading and section added 42439
- 62.8106 Undesignated center heading and section added 41148
- 62.9640 Revised 43511
- 62.9642 Revised 43511
- 62.10100 Regulation at 66 FR 22929 withdrawn 35546
- 62.10170 Regulation at 66 FR 22929 withdrawn 35546
- 63 Delegation of authority 36173
  - Technical correction 41086
- 63.14 (d)(2) revised 35087
- 63.99 (a)(30) added 35087
- 63.480 (i)(2)(ii) revised 36927
- 63.482 (b) amended 36927
- 63.485 (k) amended 36928
- 63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended 36928
- 63.489 (e)(1)(ii) revised 36928
- 63.501 (c) revised 36928
- 63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended 36928
- 63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised 36928
- 63.863 (a) and (b) revised 37593
- 63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added 37593
- 63.1201 (a) amended 35103
- 63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised 35103
- 63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii);

TITLE 40 Chapter I—Con.

(f)(1)(ii)(D) and (xxvi) added; (n) removed 35106

63.1209 (b)(2)(ii) and (l)(2) revised 35106

63.1211 (c)(1) revised 35106

63.1250 (e) and (h)(2) revised 40131

63.1251 Amended 40131

63.1252 (h) added 40131

63.1253 (b)(2), (3), (4), (c)(2), (3) and (4) redesignated as (b)(3), (4), (5), (c)(3), (4) and (5); new (b)(2) and (c)(2) added; (e) and (f)(7)(i) amended 40132

63.1254 (a)(4) added 40132

63.1255 (b)(4)(iii)(D), (c)(2)(iii), (3)(i), (4)(ii), (5)(iv), (h)(1)(ii) and (3)(i) revised; (c)(5)(vi)(C) and (D) removed; (b)(4)(iii)(A), (e)(7)(iii) introductory text and (e)(9) amended 40132

63.1256 (c)(1)(i)(A), (e)(4)(i)(B) and (g)(10) amended; (e)(4)(iii), (g)(9)(ii) and (h) introductory text revised; (h)(5) added 40133

63.1257 (a)(6), (d)(1)(i), (2)(i)(D)(*9*), (E), (3)(iii)(B) introductory text, (e)(2)(iii)(B), (C)(*1*), (D)(*1*) and (E)(*1*) amended; (b)(10)(ii), (c)(1) introductory text and (d)(2)(i)(D)(*10*) revised 40133

63.1258 (b)(3) heading, (5)(i)(A), (ii)(A)(*2*) and (b)(8)(iii) revised; (c), (h)(1), (6) introductory text and (7) introductory text amended; (h)(10) and (i) added 40134

63.1259 (b)(5)(ii)(D), (E) and (i)(7)(i) through (viii) redesignated as (b)(5)(ii)(E), (F) and (i)(7)(ii) through (ix); (a)(3)(iii), (b)(5)(i) introductory text, (8), (10) and new (i)(7)(ii) revised; new (b)(5)(ii)(D), (13) and new (i)(7)(i) added; (i)(7) introductory text amended 40135

63.1260 (f)(7) added; (g)(1) introductory text, (2)(vi), (h)(1) introductory text and (i) revised; (g)(2)(v) introductory text and (vii) amended 40135

63.1250—63.1261 (Subpart GGG) Tables 1 amended; Table 2 revised 40136

Table 3 revised 40137

63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised 36937

63.1311 (b) revised 36937

(b) and (d)(6) revised 40907

63.1312 (b) amended 36937

63.1315 (a)(9) and (d) revised 36938

63.1316 (b)(1)(i)(B) revised 36938

63.1318 (a) revised 36938

63.1319 (a) amended 36938

63.1320 (a) amended; (b)(3) revised 36938

63.1322 (f)(1)(ii) and (g)(1)(ii) amended 36938

63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised 36938

63.1324 (f)(1)(ii) revised 36938

63.1327 (b) amended 36938

63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added 36938

63.1331 (a)(6) introductory text revised; (a)(6)(v) added 40907

63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised 36939

63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised 36939

63.5680—63.5779 (Subpart VVVV) Added 44232

70 Appendix A amended 38946, 40903, 42411, 45943

72.2 Corrected; CFR correction 42761

80.40 (c) added 37164

80.41 (e) and (f) revised 37164

80.65 (d)(2)(ii) revised 37165

80.67 (g)(1) revised 37165

80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added 37165

80.69 Introductory text revised 37165

81 Attainment status determinations ...36476, 38947, 38948, 44060, 44304

81.305 Table amended 40911

81.306 Table corrected 34994

82.3 Amended; interim 37767

82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim 37767

82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim 37767

86 Actions on petitions 45777

96 State implementation plan determinations........40609
97 State implementation plan determinations........40609
152.1 Revised........37814
152.3 Amended........37814
152.20 (a)(1) revised; (a)(4) added........37814
174 Added........37814
174.475 Added........37830
174.479 Added........37854
180.121 Table amended........38955
180.153 (a)(1) table amended........38955
180.169 (a)(1) table and (c) table amended........38955
180.183 (a)(1) table amended........38955
180.205 (b) table amended........37598
180.262 (a) table amended........38955
180.416 (b) table amended......37598, 41454
180.425 (a) table amended........39675
180.434 (b) table amended........37598
180.443 (b) table amended........37598
180.449 (b) table amended........37598
180.474 (b) table amended........37598
180.480 (b) table amended........37598
180.482 (b) table amended........37598
180.493 (b) table amended........37598
180.498 (b) introductory text revised; (b) table amended........39658
180.499 (b) table amended........37598
180.502 (a) table amended......36481, 36484
180.503 (b) table amended........37598
180.507 (b) table amended........39666
180.508 (b) table amended........37598
180.515 (b) table amended........39647
180.515 (a) table amended........39682
180.535 (b) table revised........37598
180.557 (b) table revised........37598
180.570 (a) revised........40141
180.572 (b) table amended........42772
180.573 Added........40150
180.1001 (c) table amended.....42765, 42776
(c) table, (d) table and (e) table amended........42779
180.1026 Removed........42779
180.1199 Revised........39651
180.1216 Added........42961
197 Technical correction........38374
258.28 (a)(1) and (2) amended; (a)(3) added........42449
258.41 Added........42449
(a) added........44069
261 Request for public comment........35379
Appendix IX amended........41800, 43061
264.340 (b)(1) amended; (b)(3) added........35106
271 State hazardous waste management program authorizations........40911, 42140, 42962, 43798, 44071, 44307
300 Appendix B amended......34852, 35387, 35547, 36947, 38571, 39284, 39288, 40915, 42612, 43808, 44073, 45634
712.30 (d) table and (e) table amended........38959

Proposed Rules:

3........46162
9........35572, 41817
51........38108, 46162
52....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471, 40168, 40664, 40802, 40946, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185—42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549—43551, 43822, 43823, 44096, 44097, 44568, 44571, 44574, 44578, 44580, 44581, 44582, 44995, 44997, 45661, 45797, 45800, 45806, 45953, 45954
60........36547, 42488, 44997, 46162
61........35115, 42488
62........41176, 42488, 44582
63....35115, 35124, 35126, 35326, 36228, 36836, 40166, 40324, 41718, 41823, 43142, 43552, 46162
70....34901, 35126, 38966, 39293, 40953, 42490, 42496, 45253, 46162
72........39123
75........39123
78........39123
81....38603, 38608, 38966, 38967, 40953, 42187, 44097
82........38064
86........40953
97........39123
122........35572, 41817
123........35572, 41817, 46162
124........35572, 41817
125........35572
130........41817
131........39295
136........45811
140........38967, 44585
141........37617, 42974
142........37617, 42974, 46162
145........46162
152........45661
153........40170

TITLE 40 *Proposed Rules:—Con.*

156	45661
162	46162
174	37855, 43552
180	35921, 39705, 39709, 40170
194	36723
233	46162
247	45256
257	46162
258	46162
260	42193
261	36725, 38396, 38969, 42193, 43823
262	42193
263	42193
264	35124, 35126, 42193, 43142
265	35126, 42193, 43142
266	35126, 43142
268	38405
270	35126, 43142
271	42193, 42194, 42975, 43142, 43831, 44107, 46162
281	40954, 46162
300	34906, 35395, 36966, 37439, 38571, 38610, 39299, 40957, 41177, 41179, 42620, 43831
372	44107
403	46162
434	39300
450	35576
501	46162
721	42976, 42978
745	46162
763	46162

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6-10 (Subpart 101.6) Revised	37733
Technical correction	39560
102-3 Added	37733
Technical correction	39560

Chapter 301—Temporary Duty (TDY) Travel Allowances (Parts 301-1--301-99)

Chapter 301 Appendix A revised	46070

Proposed Rules:

101-9	39473
102-192	39473
141	37617
142	37617
174	37855

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Chapter I Nomenclature change	39452
8 Added	4090
Regulation at 66 FR 4090 eff. date delayed	15347
8.11 (d) revised	15347
36.201—36.237 (Subpart I) Removed	**58919**
57.501—57.514 (Subpart F) Removed	44983
57.701—57.712 (Subpart H) Removed	44983
57.801—57.803 (Subpart I) Removed	44983
57.1101—57.1112 (Subpart L) Removed	44983
57.1601—57.1610 (Subpart Q) Removed	44983
57.1701—57.1710 (Subpart R) Removed	44983
57.1801—57.1811 (Subpart S) Removed	44983
57.2101—57.2110 (Subpart V) Removed	44983
57.2401—57.2410 (Subpart Y) Removed	44983
57.2501—57.2510 (Subpart Z) Removed	44983
57.2801—57.2810 (Subpart CC) Removed	44983
57.2901—57.2910 (Subpart DD) Removed	44983
57.3001—57.3011 (Subpart EE) Removed	44983
57.3101—57.3112 (Subpart FF) Removed	44983
57.3801—57.3813 (Subpart MM) Removed	44983
57.4001—57.4010 (Subpart OO) Removed	44983
57.4101—57.4115 (Subpart PP) Removed	44984
58.201—58.215 (Subpart C) Removed	44984
58.221—58.234 (Supbard D) Removed	44984
63 Authority citation revised	**66512**
63.1 Revised	**66512**
63.2 Amended	**66513**
63.9 Revised	**66513**
63.10 Amended	**66513**
66 Authority citation revised	29499
66.101 Revised	29499
66.102 (d) and (g) revised	29499
66.103 (a) and (b) revised; (c) added	29500
66.104 (b)(5) revised	29500
66.105 (a), (b) introductory text and (c) revised	29500
66.106 (a)(2) introductory text revised	29500
66.110 Revised	29500
66.111 (a) introductory text, (b) introductory text and (c)(4) revised	29500
66.112 Amended; heading revised	29500
66.201 Revised	29500
66.205 (a)(1), (2) and (b) revised	29501
66.206 (a)(3) introductory text revised	29501
66.207 Amended	29501
72.6 (a)(5) and (c)(1) revised; eff. 1-1-02	45945

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

Chapter IV Nomenclature change; heading revised	39452
400.200 Amended	39452
400.203 Amended	6402
Regulation at 66 FR 6402 effective date delayed	32776
Regulation at 66 FR 6402 eff. date delayed to 8-16-02	43090
405.2175 Added	33030
405.2468 (f)(6)(ii)(D) revised	39932
409 Authority citation revised	**62646**
409.1 (e) revised	**62646**
409.19 Removed	**62646**
410 Technical correction	13020, 13021, 16607
410.1 (a) revised	**83148**
Regulation at 65 FR 83130 confirmed	14861
410.64 Removed	**62646**
410.68 (b) introductory text revised	**65440**
410.140—410.146 (Subpart H) Added	**83148**
Regulation at 65 FR 83148 confirmed	14861

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 42 Chapter IV—Con.

410.150 (b)(14) revised 39599
410.152 (k)(2) revised; interim 32192
411 Technical correction 3497, 8771
  Comment period extension..........17813
411.1 (a) revised; eff. 1-4-02................952
411.15 (q) redesignated as (r); new (q) added 32778
  (p)(1), (2) introductory text, (i) and (3) introductory text revised 39600
411.350 Revised; eff. 1-4-02..................952
411.351 Revised; eff. 1-4-02..................952
411.352 Added; eff. 1-4-02 956
411.353 Revised; eff. 1-4-02..................958
411.354 Added; eff. 1-4-02 958
411.357 (k) through (p) added; eff. 1-4-02 961
412 Technical correction 13020, 13021
412.1 Revised; eff. 1-2-02..................41385
412.2 (e)(4) revised 39933
412.20 (b) redesignated as (c); (a) and new (c) introductory text revised; new (b) added; eff. 1-2-02 41386
412.22 (a), (b), (e) introductory text and (h)(2) introductory text revised; eff. 1-2-02 41386
412.23 (i) added 39933
  Introductory text, (b) introductory text, (b)(2) introductory text, (8) and (9) revised; eff. 1-2-02 41386
412.25 (f) added 39933
  (a) introductory text and (e)(2) introductory text revised; eff. 1-2-02 41387
412.29 Introductory text revised; eff. 1-2-02 41387
412.63 (s) revised; interim 32192
  (t) and (u) revised 39933
412.77 Heading and (a)(1) revised; (a)(2) removed; (a)(3) and (4) redesignated as new (a)(2) and (3); interim 32192
412.92 (d)(1)(iv), (2)(i), (ii) and (iii) revised; interim...................32193
  (b)(1)(iii)(A) amended; (c)(1) revised 39933
412.105 (d)(3)(v) revised; interim 32193
  (a)(1), (d)(3)(vi), (f)(1)(ii)(C), (iii) and (ix) revised; (d)(3)(vii) added; (f)(1)(v) and (vii) amended...........................39933
412.106 (c)(1)(i) through (iv), (d)(2)(ii)(A) through (D), (iii), (iv) and (e)(4) revised; interim 32193
  (e) heading and (5) revised..........39934
412.108 (a)(1)(iii) introductory text and (b) revised; (a)(1)(iii)(C) added; (d)(3)(iii) amended; interim 32194
  (b) revised..39932
412.113 (c) amended 39934
412.116 (a) revised; eff. 1-2-02...........41387
412.130 (a)(1), (2) and (b) revised; eff. 1-2-02 41387
412.230 (a)(5)(v) added; (e)(2) revised 39934
412.232 (d)(2) revised.........................39934
412.235 Added 39935
412.273 (b) and (c) redesignated as (c) and (d); new (b) added; Heading and new (c) revised 39935
412.274 (b) revised..............................39935
412.348 (g)(6) revised; (g)(9) added 39936
412.600—412.632 (Subpart P) Added; eff. 1-2-02 41388
413 Technical correction....................**59748**
  Meeting **61112**
  Technical correction 3497, 13020, 13021
  Authority citation revised 39600, 39932, 41394
413.1 (d)(2)(ii) revised; (d)(2)(iv) and (v) added; eff. 1-2-02 41394
413.24 Regulation at 65 FR 18537 eff. date delayed............................**58919**
413.30 (a) introductory text, (2), (c) introductory text, (2) heading, (d), (e)(3) introductory text and (ii) corrected **60104**
413.40 (c)(4)(iii) introductory text, (A), (B)(*4*)(*i*) and (d)(2) revised; interim..........................32194
  (a)(2)(i)(C) and (iii)(C) added; (a)(2)(ii) revised; eff. 1-2-02 41394
413.64 (h)(2)(i) revised; eff. 1-2-02 41394
413.65 Regulation at 65 FR 18538 eff. date delayed...........................**58919**
  (i)(2) correctly revised **58920**
  (d)(7)(iii), (f)(3), (j)(3), (4) and (5) corrected................................1599
413.70 (b)(2)(ii), (iii), (3)(ii)(B) and (3)(iii) revised; interim 32195

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

(a)(1)(iv), (3), (b)(4), (5) and (6) added; (a)(2), (b)(1) and (2)(i)(C) revised..........39936
413.80 (h)(3) revised; (h)(4) added; interim..........32195
413.85 (h) redesignated as 422.270; revised..........3374
  Regulation at 66 FR 3374 eff. date delayed..........14342
413.86 (d)(4) revised; interim..........32195
  (g)(11)(i) introductory text and (ii) introductory text amended; (g)(11)(v)(C) revised..........39932
  (e)(4)(ii)(C)(*1*), (g)(4), (5) and (8) revised; (e)(5)(iv) removed; (g)(6) amended..........39937
413.87 (c) introductory text, (1), (2) and (e) redesignated as (c)(1) introductory text, (i), (ii) and (f); new (c)(1), (d) introductory text, (3), new (f)(1) introductory text, (1) and (2) revised; (c)(2) and (e) added; interim..........32195
413.114 (a), (c) heading and (d)(1) introductory text revised..........39600
413.337 (e) added..........39600
414 Technical correction..........16607
414.22 (b)(5)(i) revised..........**65440**
414.63 Added..........**83153**
  Regulation at 65 FR 83153 confirmed..........14861
414.100—414.104 (Subpart C) Added..........45176
416.42 (b) revised..........4686
  Regulation at 66 FR 4686 eff. date delayed..........15352
  Regulation at 66 FR 4686 delayed to 11-14-01..........27598
419.41 (c)(4)(i) revised; interim..........**67829**
419.70 (f)(2)(ii) revised; interim..........**67829**
422 Authority citation revised..........3376
422.156 (e)(1) correctly revised..........**59749**
  (e)(1) correctly revised; CFR correction..........13854
422.157 (c)(6) correctly added..........**59749**
422.270 Redesignated from 413.85 (h)..........3374
  Revised..........3376
  Regulations at 66 FR 3374 and 3376 eff. date delayed..........14342
424 Comment period extension..........17813
424.20 (a)(2) heading revised..........39600
424.22 (e), (f) and (g) removed; eff. 1-4-02; (d) revised..........962
  Regulation at 66 FR 962 eff. date corrected to 4-6-01..........8771
424.32 (a)(2) and (5) revised..........39601
424.44 (d) added..........**83153**
  Regulation at 65 FR 83153 confirmed..........14861
424.57 Revised..........**60377**
430.5 Added..........6402
  Regulation at 66 FR 6402 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6402 eff. date delayed to 8-16-02..........43090
431.51 (a) introductory text, (b)(1) introductory text and (2) amended; (a)(4) and (5) revised; (a)(6) added..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6402 eff. date delayed to 8-16-02..........43090
431.55 (c)(1)(i) amended..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8-16-02..........43090
431.200 Revised..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8-16-02..........43090
431.201 Amended..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8-16-02..........43090
431.220 (a) introductory text revised; (a)(1), (2) and (3) amended; (a)(5) added..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8-16-02..........43090
431.244 (f) revised..........6403
  Regulation at 66 FR 6403 eff. date delayed..........11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8-16-02..........43090
431.636 Added..........2666
  Regulation at 66 FR 2666 eff. date delayed..........11547, 31178
431.865 (b) amended..........2666
  Regulation at 66 FR 2666 eff. date delayed..........11547, 31178
433 Authority citation revised..........2666
433.10 (c)(4) added..........2666

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 42 Chapter IV—Con.

Regulation at 66 FR 2666 eff. date delayed....................11547, 31178
433.11 Added 2666
Regulation at 66 FR 2666 eff. date delayed....................11547, 31178
434.1 (a) revised 6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.2 Amended 6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.6 (a)(1) amended..........................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.20—434.38 (Subpart C) Removed 6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.42—434.44 (Subpart D) Removed 6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.50—434.67 (Subpart E) Removed 6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.70 Revised.....................................6403
Regulation at 66 FR 6403 eff. date delayed....................11546, 32776
Regulation at 66 FR 6403 eff. date delayed to 8–16–02 43090
434.71 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
434.72 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
434.73 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
434.74 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
434.75 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
434.80 Removed.....................................6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
435.4 Amended 2666
Regulation at 66 FR 2666 eff. date delayed....................11547, 31178
435.212 Amended; heading and introductory text revised..............6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
435.229 Added......................................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.326 Revised 6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
435.910 (h) added 2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.1001 (a) revised...............................2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
435.1002 (c) added 2667
(a) amended 6404
Regulation at 66 FR 6404 eff. date delayed....................11546, 32776
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
435.1007 (b) and (e) revised; (f) added 2321
(a) amended 2667
Regulation at 66 FR 2667 eff. date delayed....................11547, 31178
Regulation at 66 FR 2321 eff. date delayed 14343

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

435.1100—435.1102 (Subpart L) Added 2667
  Regulation at 66 FR 2667 eff. date delayed....11547, 31178
436.3 Amended 2668
  Regulation at 66 FR 2668 eff. date delayed....11547, 31178
436.229 Added 2668
  Regulation at 66 FR 2668 eff. date delayed....11547, 31178
436.1001 (a) revised....2668
  Regulation at 66 FR 2668 eff. date delayed....11547, 31178
436.1002 (c) added 2669
  Regulation at 66 FR 2669 eff. date delayed....11547, 31178
436.1100—436.1102 (Subpart L) Added....2669
  Regulation at 66 FR 2669 eff. date delayed....11547, 31178
438 Added 6404
  Regulation at 66 FR 6404 eff. date delayed....11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02 43090
440.168 Added....6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
440.180 (c) heading and (1) heading revised....**60107**
441 Clarification 28116
441.151 Revised; interim 7160
  Regulation at 66 FR 7160 eff. date delayed 15800
441.301 (a)(2) revised....**60107**
441.302 (c)(1)(i) amended; (d) introductory text revised; (i)(2) removed; (i)(3) redesignated as (i)(2)
441.307 (a) revised **60107**
441.310 (a)(3) and (b) revised **60107**
447.46 Added 6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
447.53 (b) introductory text amended; (b)(6) removed; (e) added 6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
447.58 Amended 6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
447.60 Added 6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
447.272 Revised 3175
447.304 (c) and note revised....3176
447.321 Revised 3176
447.361 Removed 6426
  Regulation at 66 FR 6426 eff. date delayed....11546, 32776
  Regulation at 66 FR 6426 eff. date delayed to 8–16–02 43090
457.1—457.170 (Subpart A) Added 2670
  Regulation at 66 FR 2670 eff. date delayed....11547, 31178
457.60 Regulation at 66 FR 2671 delayed; (b)(2) revised; (b)(7) and (8) amended; interim 33822
457.203 Added....2674
  Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.204 (d)(2) revised 2674
  Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.208 (a) revised 2674
  Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.234 Removed 2674
  Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.300—457.380 (Subpart C) Added....2674
  Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.301 Regulation at 66 FR 2675 delayed; amended; interim....33823
457.320 Regulation at 66 FR 2676 delayed; (b)(4) revised; interim....33823
457.340 Regulation at 66 FR 2676 delayed; (b) through (e) redesignated as (c) through (f); new (b) added; interim 33823
457.350 Regulation at 66 FR 2677 delayed; (e)(4) and (g)(3) added; (f)(5)(iii) removed 33823
457.355 Regulation at 66 FR 2678 delayed; introductory text and (a) redesignated as (a) and (b); new (a) heading

---

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 42 Chapter IV—Con.

added; new (b) revised; interim ... 33823
457.401—457.495 (Subpart D) Added ... 2674
Regulation at 66 FR 2674 eff. date delayed ... 11547, 31178
457.450 Regulation at 66 FR 2680 delayed; revised; interim ... 33823
457.495 Regulation at 66 FR 2680 delayed; (d) revised; interim ... 33824
457.500—457.570 (Subpart E) Added ... 2674
Regulation at 66 FR 2674 eff. date delayed ... 11547, 31178
457.505 Regulation at 66 FR 2681 delayed; (d)(1), (3) and (e) revised; interim ... 33824
457.540 Regulation at 66 FR 2682 delayed; (f) amended; interim ... 33824
457.560 Regulation at 66 FR 2682 delayed; (a) and (b) removed; amended ... 33824
457.624 Removed ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.700—457.750 (Subpart G) Added ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.750 Regulation at 66 FR 2684 delayed; (b)(7) removed; new (b)(8) redesignated as new (b)(7); interim ... 33824
457.800—457.810 (Subpart H) Added ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.900—457.985 (Subpart I) Added ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.940 Regulation at 66 FR 2685 delayed; (b)(1) and (d) amended; interim ... 33824
457.980 Regulation at 66 FR 2686 delayed; (a) and (b) designation removed; interim ... 33824
457.1000—457.1015 (Subpart J) Added ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.1000 Regulation at 66 FR 2686 delayed; (a)(1) and (2) amended; interim ... 33824
457.1005 Regulation at 66 FR 2687 delayed; heading amended; interim ... 33824
457.1010 Regulation at 66 FR 2687 delayed; heading amended; interim ... 33824
457.1100—457.1190 (Subpart K) Added ... 2683
Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.1120 Regulation at 66 FR 2687 delayed; revised; interim ... 33824
457.1130 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1140 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1150 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1160 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1170 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1180 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1190 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
480.111 (d) added ... **83154**
Regulation at 65 FR 83154 confirmed ... 14861
482.52 (a) revised ... 4686
Regulation at 66 FR 4686 eff. date delayed ... 15352
Regulation at 66 FR 4686 delayed to 11-14-01 ... 27598
483.350—483.376 (Subpart G) Added; interim ... 7161
Regulation at 66 FR 7161 eff. date delayed ... 15800
483.352 Amended; interim ... 28116
483.358 (a), (c), (d), (f) introductory text, (g)(1), (3) and (j) revised; (b) amended; interim ... 28116
483.360 Introductory text revised; interim ... 28117
483.362 (b) and (c) revised; interim ... 28117
483.364 (c) and (d) revised; interim ... 28117
483.374 (c) added; interim ... 28117
484.14 (g) amended ... 32778
484.36 (d)(3) amended ... 32778
484.52 (b) amended ... 32778
485 Technical correction ... 13020, 13021
485.610 (a)(2)(ii) and (b) revised; (c) added ... 39938

NOTE: **Boldface page numbers indicate 2000 changes.**

485.612 Revised; interim 32196
485.639 (c) revised 4687
  Regulation at 66 FR 4687 eff. date delayed 15352
  Regulation at 66 FR 4687 delayed to 11-14-01 27598
  (b) revised 39938
485.643 (f) revised 39938
486.302 Amended 39938
489 Technical correction **59748**
  Meeting **61112**
  Technical correction 3497
489.20 (s) introductory text revised 39601
489.21 (g) removed **62646**
  (h) revised 39601
489.24 Regulation at 65 FR 18548 eff. date delayed **58919**
  (i) corrected 1599
493.1202 Heading amended **82944**
493.1203 Heading amended **82944**
493.1443 (b)(3)(ii) introductory text and (C) amended **82944**
498 Meeting **61112**
498.2 Regulation at 65 FR 18549 eff. date delayed **58919**
  Amended **83154**
  Regulation at 65 FR 83154 confirmed 14861
498.3 Regulation at 65 FR 18549 eff. date delayed **58919**
  (b)(11) removed **62646**

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Chapter V Nomenclature change 39452
1000.10 Amended 39452
1003.101 Amended 39452

Proposed Rules:

36 ....**75906**
  ....10182, 11100, 12747, 15063, 17657, 27620
94 ....**70830, 82972**
100 36735
124 ....**62976**
400 43614
405 ....22646, 40372
410 ....**62681**
  ....23984, 40372
411 ....23984, 40372
412 ....**66304, 81813**
 22646
413 ....**66304, 81813**
  ....3377, 22646, 23984, 44672
414 40372
415 40372
416 ....35395, 44585
419 44672
422 ....**81813**
 7593
424 23984
430 43614
431 43614
434 43614
435 ....**64919**
 43614
438 43614
440 43614
447 ....**60151**
  ....17657, 43614
482 ....**69416**
  ....23984, 35395, 44585
485 ....22646, 35395, 44585
486 22646
489 ....7593, 23984, 44672
1001 ....**63035, 78124**
1003 ....**63035**
1005 ....**63035**
1008 ....**63035**

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4 Cross reference corrected 33740
4.200—4.357 (Subpart D) Authority citation revised; amended 32888
4.201 Revised; interim 32888
  Corrected 33740
4.202 Revised; interim 32888
  Corrected 33740
4.210 Revised; interim 32889
4.234 Amended; interim 32889
4.241 Revised; interim 32889
4.243 Added; interim 32889
4.250 (b) through (g) redesignated as (c) through (h); (a) revised; (b) added; interim 32889
4.251 Revised; interim 32889
  (a), (b)(4) and (d) corrected 33740
4.270 Revised; interim 32890
  Corrected 33740
4.271 Removed; new 4.271 redesignated from 4.272; interim 32890

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 43 Subtitle A—Con.

4.272 Redesignated as 4.271; new 4.272 redesignated from 4.273; interim....32890
4.273 Redesignated as 4.272; new 4.273 redesignated from 4.274; revised; interim....32890
(b) corrected....33740
4.274 Redesignated as 4.273; interim....32890
4.320 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; interim....32890
(a) corrected....33741

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

1821.10 (a) revised....28672
2091.2–2 (b) removed....**70112**
2091.3–2 (c) removed; (d) redesignated as new (c)....**70112**
2201.1–2 (d) removed; (e) redesignated as new (d)....**70112**
2711.5–1 Removed....**70112**
2741.7 (d) removed....**70112**
3000 Undesignated center heading and note removed; authority citation revised....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3100 Undesignated center heading and note removed; authority citation revised....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3106.7–2 Revised....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3106.7–6 Added....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3108.1 Revised....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3130 Authority citation revised....1892
3130.3 Amended....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3160 Authority citation revised....1892
3160.0–5 Amended....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3162.2 Heading revised; (a) removed; (b) and (c) amended and redesignated as 3162.2–1 (a) and (b)....1892
Regulation at 66 FR 1892 eff. date delayed....9527
Regulation at 66 FR 1892 and 9527 eff. date delayed in part....18569
Regulation at 66 FR 1892 corrected....24073
Regulation at 66 FR 1892 eff. date delayed to 11–6–02....41149
3162.2–1 Added; (a) and (b) redesignated from 316.2 (b) and (c)....1892
Regulation at 66 FR 1892 eff. date delayed....9527
3162.2–2 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–3 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–4 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–5 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–6 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–7 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
Regulation at 66 FR 1893 and 9527 eff. date delayed....18569
Regulation at 66 FR 1892 eff. date delayed to 11–6–02....41149
3162.2–8 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–9 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–10 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–11 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–12 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–13 Added....1893

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–14 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3162.2–15 Added....1893
Regulation at 66 FR 1893 eff. date delayed....9527
3165.3 (a) amended; (e)(4) added 1894
Regulation at 66 FR 1894 eff. date delayed....9527
3165.4 (e)(4) added....1894
Regulation at 66 FR 1894 eff. date delayed....9527
3261.18 (a) introductory text revised....27040
3809 Revised....**70112**
3809.505 Revised....32575
6300 Added....**78372**
8560 Removed....**78376**
9263 Added....**70132**

Proposed Rules:

2....36966
4....**60602**
17....**76460**
2090....16162
2200....16162
2710....16162
2740....16162
3000....**78440**
....10000, 19413
3100....**78440**
....10000, 19413
3195....**79325**
3196....**79325**
3200....**78440**
....10000, 19413
3400....**78440**
....10000, 19413
3500....**78440**
....10000, 19413
3600....**78440**
....10000, 19413
3800....**78440**
....10000, 16162, 19413
9260....16162

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

59.1 Amended....**60769**
61.10 Removed....**60769**
61.17 Revised....**60769**
61 Appendix A(1) revised....**60769**
Appendix A(2) revised....**60778**
Appendix A(3) revised....**60785**
Appendices A(4) and A(5) revised....**60793**
62 Appendix B amended....40917
64.6 Table amended....**61279, 61281, 75632, 78109**
Table amended....2826, 10586, 15640, 19096, 22937, 31179, 36948, 43092
65.2 (c) added....22442
65.4 Flood elevation determinations....**64373, 64375, 64379, 66182, 68920, 71258, 71261**
Flood elevation determinations....1600, 10589, 10591, 10593, 13240, 13264, 21099, 21103, 24281, 24282, 31181, 31183, 33891, 39105, 39108, 43094, 43096, 44984
65.5 Revised....22442
65.6 (a)(14) and (15) added....22442
67.11 Flood elevation determinations....**64381, 64386, 71263, 80362, 80365**
Flood elevation determinations...10596, 24284, 33893, 39112, 42147
70.4 Revised....33900
152 Added....15972
206.203 (d)(2)(iii) and (iv) redesignated as (d)(2)(iv) and (v); (d)(2)(ii) revised; new (d)(2)(iii) added; interim....22444
206.221 (e)(3) through (6) redesignated as (e)(4) through (7); new (e)(3) added; interim....22445
206.224 (a) revised....33901
203.226 (b) through (i) redesignated as (c) through (j); new (b) added; interim....22445
206.361 (b) revised....22445
206.363 (b)(1) revised....22445
209 Revised....32669
295 (Subchapter E) Revised....15959

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 44 Chapter I—Con.

354 Revised 32577

Proposed Rules:

7 ....**76460**
59 32293
62....................................23200, 23874
64 32293
65..**60159**
67 ....**64403, 66203, 68960, 71284, 75908**
..... 1618, 10653, 18426, 21112, 24315, 33933,
33936, 39123, 41182, 41186
204...39715
206...**58720**

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

Subtitle A Nomenclature change
....39452
46 Authority citation revised...........3882
46.201—46.207 (Subpart B) Revised 3882
Regulation at 66 FR 3882 eff. date delayed 15352
Regulation at 66 FR 3882 delayed to 11–14–01 27599
61.3 Amended.......................................**70507**
146 Authority citation revised 1412
146.121 Revised; interim 1412
(i)(1), (3)(ii)(A) introductory text and (C) Example 2 amended; interim 14078
146.125 Heading and (a)(1) revised; (a)(2) amended; interim...1420
160 Technical correction.......**70507, 82944**
Revised...**82798**
Regulation at 65 FR 82798 eff. date delayed 12434
Comment request 12738
162 Technical correction....................**70507**
164 Added..**82802**
Technical correction.......................**82944**
Regulation at 65 FR 82802 eff. date delayed 12434
Comment request 12738
164.500—164.534 (Subpart E) Authority citation revised 12434
164.534 Revised 12434

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

Chapter II Nomenclature change
....39452
270.4 (d)(1)(i) and (2)(ii) amended
....**75634**
(e) revised; interim (OMB number pending) 23859
276 Removed **75634**

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

Chapter III Nomenclature change 39452
302 Authority citation revised........**82208**
302.55 Amended **82208**
303.32 Added **82165**
Regulation at 65 FR 82165 eff. date delayed.................................8074
303.35 Added **82208**
304.12 (d) and (e) added **82208**
305 Added...**82208**
308 Added...**77750**
310 Open consultations.........................**63801**

Chapter VI—National Science Foundation (Parts 600—699)

672 Heading revised 42451
672.3 (h) removed; (i) redesignated as new (h) 42451
673 Added...42451
673.1 OMB number 42451

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1310 Added; eff. 1–18–02 5311
1310.2 (c) added 5311
1310.11 Added; eff. 1–20–04 5312
1310.12 (a) added; eff. 1–18–06; (b) added 5312

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

1310.15 (c) added; eff. 1-20-04 5313
1310.22 (a) added; eff. 1-18-06 5314
1355.20 Corrected **70507**

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1611 Appendix A revised 16013, 17082
1628 Revised **66642**

Chapter XVIII—Harry S. Truman Scholarship Foundation (Parts 1800—1899)

1801 Revised **81406**

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2525.20 Amended **77821**
  Regulation at 65 FR 77821 eff. date delayed 9773

Proposed Rules:

46 35576
74 .... **68969**
80 .... **64194**
84 .... **64194**
86 .... **64194**
90 .... **64194**
91 .... **64194**
92 .... **68969**
146 1421
309 .... **63836**
605 .... **76460**
611 .... **76460**
617 .... **76460**
1110 .... **76460**
1151 .... **76460**
1156 .... **76460**
1170 .... **76460**
1203 .... **76460**
1232 .... **76460**
1600—1699 (Ch. XVI) **70540**

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised 31844
1.03-15 (a) revised; (h)(5) added 31844
  Regulation at 66 FR 31844 confirmed 44985
1.03-50 Added 31844
  Regulation at 66 FR 31844 confirmed 44985
4 Policy statement 41955
4.06-1 (f) removed 42967
4.06-20 (t) amended 42967
4.06-40 (b) amended 42967
4.06-50 (b) amended 42967
5 Policy statement 41955
5.569 Table amended 42967
10 Policy statement 9673
  Technical correction 24183
10.103 Amended; interim 20935
10.201 Regulation at 65 FR 63225 eff. date delayed **64388**
10.203 Regulation at 65 FR 63225 eff. date delayed **64388**
10.205 Regulation at 65 FR 63225 eff. date delayed **64388**
  (g)(3) revised; interim 20935
10.209 Regulation at 65 FR 63225 eff. date delayed **64388**
  (c)(6) revised; (c)(7) removed; interim 20935
10.210 Added; interim 20935
10.223 (d) added; interim 20936
10.304 Regulation at 65 FR 63225 eff. date delayed **64388**
  (h)(5), (6) and (7) amended; interim 20936
10.403 Regulation at 65 FR 63227 eff. date delayed **64388**
10.412 Regulation at 65 FR 63228 eff. date delayed **64388**
  (a) amended; interim 20936
10.414 Regulation at 65 FR 63228 eff. date delayed **64388**
  (a) amended; interim 20936
10.418 Regulation at 65 FR 63228 eff. date delayed **64388**
10.420 Regulation at 65 FR 63228 eff. date delayed **64388**
10.424 Regulation at 65 FR 63228 eff. date delayed **64388**
10.426 Regulation at 65 FR 63228 eff. date delayed **64388**
10.442 Regulation at 65 FR 63228 eff. date delayed **64388**
10.444 Regulation at 65 FR 63228 eff. date delayed **64388**
10.446 Regulation at 65 FR 63228 eff. date delayed **64388**
10.452 Regulation at 65 FR 63228 eff. date delayed **64388**
10.462 Regulation at 65 FR 63228 eff. date delayed **64388**

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 46 Chapter I—Con.

10.463 Regulation at 65 FR 63228 eff. date delayed.....**64388**
(a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; new (c) and (d) revised; interim.....20936
10.464 Regulation at 65 FR 63228 eff. date delayed.....**64388**
(a), (b), (d) and (g) revised; (h) added; interim.....20937
10.465 Regulation at 65 FR 63232 eff. date delayed.....**64388**
(b) removed; (c) through (g) redesignated as (b) through (f); (a) and new (e) revised; interim.....20940
10.466 Regulation at 65 FR 63234 eff. date delayed.....**64388**
(a) revised; interim.....20942
10.482 Regulation at 65 FR 63235 eff. date delayed.....**64388**
10.701 Regulation at 65 FR 63235 eff. date delayed.....**64388**
10.703 Regulation at 65 FR 63235 eff. date delayed.....**64388**
10.901 Regulation at 65 FR 63235 eff. date delayed.....**64388**
10.903 (a)(18)(iii) added; (c)(7) removed; (c)(8) through (19) redesignated as (c)(7) through (18); interim.....20944
10.910 Regulation at 65 FR 63235 eff. date delayed.....**64388**
15 Policy statement.....9673
Technical correction.....24183
15.301 Regulation at 65 FR 63235 eff. date delayed.....**64388**
15.610 Regulation at 65 FR 63235 eff. date delayed.....**64388**
Revised; interim.....20944
15.705 Regulation at 65 FR 63235 eff. date delayed.....**64388**
15.805 Regulation at 65 FR 63235 eff. date delayed.....**64388**
(a)(5) revised; interim.....20944
15.810 Regulation at 65 FR 63235 eff. date delayed.....**64388**
(d) revised; interim.....20944
15.910 Revised; interim.....20944
15.915 Regulation at 65 FR 63235 eff. date delayed.....**64388**
16 Policy statement.....41955
16.105 Amended.....42967
16.107 Added.....42967
16.109 Added.....42968
16.113 Added.....42968
16.115 Added.....42968
16.201 (a), (c) and (e) revised; (f) added.....42968
16.203 Added.....42968
16.207 Removed.....42968
16.260 (a) revised.....42968
16.301—16.370 (Subpart C) Removed.....42968
30.25–1 Table revised.....**67157**
67 Policy statement.....9673
67.11 (c) added.....**76575**
67.21 (d) revised; (e) and (f) added.....**76575**
67.31 (b) and (c) revised; (d) added.....**76575**
67.35 Introductory text and (b) revised.....**76575**
67.36 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised.....**76576**
67.37 Revised.....**76576**
67.39 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised.....**76576**
67.45 Removed.....**76576**
67.141 (b) revised; (c) added.....**76576**
67.142 Added.....**76576**
67.233 (b) revised.....**76576**
67.350—67.352 (Subpart V) Added.....**76576**
110.10–1 (b) amended.....29910
111.60–1 (a), (b) and (c) introductory text revised.....29911
111.60–3 (a) and (c) revised.....29911
150 Table I revised.....**67163**
Table II amended.....**67180**
Appendix I amended.....**67182**
151.05 Table revised.....**67184**
151.05–1 (f) removed; (g) through (r) redesignated as (f) through (q).....**67183**
151.12–5 Amended.....**67196**
153 Table I revised.....**67196**
Table II amended.....**67213**

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

205 Revised.....23861
207 Removed.....**77523**
310.7 (b)(6) revised.....36176
356.2 Added; interim.....45947

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

Chapter III—Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Authority citation revised........36489
401.405 (a) and (b) revised........36489
401.407 (a) and (b) revised........36489
401.410 (a) and (b) revised........36490
401.420 (a), (b), (c)(1) and (3) amended........36490
401.428 Amended........36490

Chapter IV—Federal Maritime Commission (Parts 500—599)

Chapter IV Proceeding discontinued........37419
501 Revised........**81749**
502 Authority citation revised........**81759**
........43512
502.44 (c) revised........**81759**
502.61 (d) revised........43512
502.62 (e) through (h) redesignated as (f) through (i); new (e) added........43513
502.68 (b) amended........**81759**
502.91 (d) revised; (e) and (f) added........43513
502.94 (c) revised........43513
502.271 (f)(1) revised........**81759**
502.301 (b) revised........**81759**
(b) revised........43513
502.401—502.411 (Subpart U) Revised........43513

Proposed Rules:

4........**65808**
........21492, 21502, 36530
5........21492, 21502
16........21492, 21502
25........**66949**, **82303**
........11241, 36223
27........**66950**, **82303**
........11241, 36223
66........2385
67........21902, 34603
110........1283
111........1283
140........16643, 26824
141........26824
142........26824
143........26824
144........26824
145........26824
146........16643, 26824
205........**69279**
221........40654
502........37921
520........37442

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Policy statement........**80367**
Order........10965
0.457 (d)(1)(iv) revised........16879
0.458 Revised........**66185**
0.467 (a)(1) amended; (a)(2) revised........42453
0.701 (Subpart G) Added........8091
1 Technical correction........6483
Actions on petitions........29722
1.80 (b)(1), (2), (3) and (5)(iii) revised; (b)(4) amended........**60868**
1.420 (g)(3) Note 1 and (h) Note 2 redesignated as (g) Note 1 and (h) Note 1........**79776**
1.719 Regulation at 65 FR 47690; effective date confirmed in part........**66934**
1.721 (a) introductory text, (8) and (13) revised; (e) redesignated as (f); new (e) added; (OMB numbers pending)........16616
OMB number........35387
1.722 Revised; (OMB numbers pending)........16616
OMB number........35387
1.724 (b) and (d) revised; (OMB numbers pending)........16617
OMB number........35387
1.726 (a) revised; (OMB numbers pending)........16617
OMB number........35387
1.735 (g) added; (OMB numbers pending)........16617
OMB number........35387
1.913 (g) added........55
1.1117 (c) revised........36202
1.1152 Revised........36202
1.1153 Revised........36204
1.1154 Revised........36205
1.1155 Revised........36205
1.1156 Revised........36205
1.1166 (d) revised........**78989**
(a) revised........36206
1.1206 (a) Note 1 revised........3501

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 47 Chapter I—Con.

  - Regulation at 66 FR 3501 eff. date confirmed; OMB number 32580
- 1.1307 (b)(1) Table 1 amended **59354**
  - (b)(1) Table 1 amended....10613
- 1.1402 (m) revised 34580
- 1.1409 (e)(4) removed; (e)(1), (2) and (3) revised; (f) amended 34580
- 1.1417 (a), (b), (c) and (d) introductory text revised 34581
- 1.1418 Revised 34581
- 1.2110 (c) revised **68924**
- 1.2112 (a)(6) correctly revised....**70807**
- 1.4000 (Subpart S) Revised (OMB number pending)....2333
  - OMB number 28841
- 2 Actions on petitions 29722
- 2.1 (c) amended **60109**
- 2.106 Table amended....**59355, 60110, 60872, 69456**
  - Table amended 7405, 9218, 10614, 11114, 15642, 26798
- 2.962 (g)(4) revised....27601
- 2.1300—2.1302 (Subpart L) Removed 7580
- 13.9 (d)(2) revised 20752
- 13.13 (d)(2) revised....20752
- 15 Authority citation revised....**64391**
  - Actions on petitions....31556
- 15.3 (aa) amended (effective date pending)....**64391**
  - (v) revised....32582
- 15.19 (d)(1) through (4) added (effective date pending)....**64391**
- 15.107 (e) introductory text revised; (e)(3) added 19098
- 15.109 (g) introductory text revised 19098
- 15.118 (a) amended (effective date pending)....**64391**
- 15.121 (b) and (f) revised 32582
- 15.214 (b) revised....7580
- 15.255 Heading revised, (b) introductory text, (4), (c)(1), (d), (d) note, (e)(2) and (i) introductory text; (b)(2) amended 7409
- 19.735–203 (d) added; note amended....**66185**
- 20 Actions on petitions **60112, 78990**
  - Technical correction....**62646**
  - Actions on petitions....22445
- 20.9 (a)(6) through (9) revised....10968
- 20.15 (c) and (d) revised....16879
- 20.18 (g)(1), (2) and (i) revised....**58661**
  - (c) note revised **82295**
- 21.912 Notes 1 and 2 amended 9971
- 22 Actions on petitions....15041
- 24 Actions on petitions 9773
- 24.129 Revised 29920
- 24.130 Removed 29920
- 24.133 (a) introductory text revised 10968
- 24.709 (b)(5)(i)(D) and (ii) revised **68931**
- 25 Authority citation revised....**59142**
  - Order....**59749**
- 25.114 (c)(6)(iii) and (21) revised **59142**
- 25.115 (d) revised....**59142**
  - (c) existing text redesignated as (c)(1); (c)(2) added....31559
- 25.120 (a) amended....9973
- 25.121 (a) revised....**59142**
- 25.133 (b) revised....**59142**
- 25.134 Heading revised; (a) existing text redesignated as (a)(1); new (a)(1) heading, (2) and (b) heading added....31560
- 25.136 Revised....**59142**
- 25.137 (d) added....**59143**
- 25.143 (a), (b)(1), (2), (e)(1) introductory text, (iii) and (f)(1) revised; (e)(3) added **59143**
- 25.146 Added....10619
- 25.201 Amended **59143**
  - Amended 10621
- 25.202 (a)(4) revised **59144**
  - (a)(1) revised....10622
- 25.203 (c) introductory text revised **59144**
  - (b), (c) and (d) revised....10622
- 25.204 (f) revised....10623
- 25.208 (b) revised; (g) through (m) added 10623
- 25.209 (a) introductory text revised; (h) added....10630
- 25.212 Heading revised 10630
- 25.251 Revised 10630
- 25.271 (e) added 10631
- 25.279 (a) revised....**59144**
- 27 Actions on petitions 9035
- 27.6 (b)(1) and (2) corrected....**60113**
- 27.501 Undesignated text designated as (a); (b) added 10377
  - (b) introductory text correctly added 21287
- 32 Reporting and recordkeeping requirements....**58661**
- 36 Order....**81759**

NOTE: **Boldface page numbers indicate 2000 changes.**

36.3 Added (OMB number pending)......33204
  OMB number......35107
36.123 (a)(5) and (6) added......33205
36.124 (c) and (d) added......33205
36.125 (h), (i) and (j) added......33205
36.126 (b)(5), (c)(4), (e)(4), (f)(1)(ii) and (2) added......33205
36.141 (c) added......33206
36.142 (c) added......33206
36.152 (d) added......33206
36.154 (g) added......33206
36.155 (b) added......33206
36.156 (c) added......33206
36.157 (b) added......33206
36.191 (d) added......33206
36.212 (c) amended......33206
36.214 (a) amended......33206
36.372 Amended......33207
36.374 (b) revised; (c) and (d) added......33207
36.375 (b)(5) and (6) added......33207
36.377 (a) introductory text revised; (a)(1)(ix), (2)(vii), (3)(vii), (4)(vii), (5)(vii), (6)(vii), (7)(i) and (ii) added......33207
36.378 (b)(1) added......33208
36.379 (b)(1) and (2) added......33208
36.380 (d) and (e) added......33208
36.381 (c) and (d) added......33208
36.382 Revised......33208
36.601 (c) amended......**78992**
  (c) amended......30085
36.602 Added......30085
36.603 Added......30085
36.604 Added......30085
36.605 Added (OMB number pending)......30085
  OMB number......34581
36.611 Introductory text revised (OMB number pending)......30086
  OMB number......34581
36.612 (a) introductory text revised......30086
36.621 (a)(4) introductory text and (ii) amended; (a)(4)(i), (ii)(A), (B) and (C) revised; (a)(4)(ii)(D) added......30086
36.622 (a) introductory text amended......30087
42.10 (a) revised......16879
42.11 (a) revised......16879
43.51 Revised......16879
51 Actions on petitions......2335, 9035
51.5 Amended......43521
51.321 (h) revised......43521
51.323 (b), (c), (e), (f) introductory text, (h), (i) introductory text and (k)(2) revised; (f)(7), (i)(4)(i) through (v), (5) and (6)(i) through (iv) added......43521
51.701—51.717 (Subpart H) Heading revised......26806
51.701 (a), (c), (d) and (e) amended; (b) revised......26806
51.703 Amended......26806
51.705 Amended......26806
51.707 Amended......26806
51.709 Amended......26806
51.711 Amended......26806
51.713 Amended......26806
51.715 Amended......26806
51.717 Amended......26806
51.807 (f)(3) revised......8520
52 Actions on petitions......9674
52.15 (f)(1)(vi), (3)(ii) and (g)(3)(iv) revised; (g)(4), (h) and (k) added; (OMB numbers pending)......9531
  OMB number......11236
52.16 (a) revised......9532
52.20 (c) revised......9532
53 Order......36206
54 Order......**81759**
  Actions on petitions......16144
  OMB approval notice......19098
54.5 Amended......30087
54.305 Existing text designated as (a); (b) through (f) added (OMB number pending)......30087
  OMB number......34581
54.307 (a)(1) revised; (b) and (c) introductory text amended (OMB number pending)......30087
  OMB number......34581
54.311 (d) added......**78992**
54.313 (b) and (c) redesignated as (c) and (d); heading and new (c) revised; new (b) added; new (d) amended (OMB number pending)......30088
  OMB number......34581
54.314 Added (OMB number pending)......30088
  OMB number......34581
54.315 Added (OMB number pending)......30089
  OMB number......34581
54.400 (e) note added......**58663**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 47 Chapter I—Con.

54.507 (d) revised; (OMB number pending) 38378
  OMB number 41149
54.520 Added 19396
  (c)(2)(iii)(A), (B), (C), (3)(i), (ii) and (f) corrected 22133
54.707 Correctly added; CFR correction 30334
54.709 (a)(3) amended 16151
54.711 (a) amended 16151
61.3 (y) revised 16881
61.19 Revised 16881
61.26 Added 27900
61.28 Revised 16881
61.62 (c) corrected 28774
61.74 (d) removed; (e) and (f) redesignated as (d) and (e) 16881
63 Policy statement 41801
63.09 (g) added **60116**
63.10 (c)(1) removed; (c)(2) through (6) redesignated as (c)(1) through (5) 16881
63.11 Revised (effective date pending) **60116**
  Regulation at 65 FR 60116 confirmed **67651**
63.14 (c) revised 16881
63.17 (b)(3) revised 16881
63.18 (e)(3) amended **60117**
63.21 (b) and (c) revised 16881
64 Reporting and recordkeeping requirements **58661**
  Actions on petitions 9674
  Technical correction 30334
64.702 (e) revised 19402
64.1001 (b) revised 16882
64.1100 (h) added 12892
64.1110 Regulation at 65 FR 47691; effective date confirmed in part **66934**
64.1120 (c)(1) and (3) revised; (d) added 12892
  (e) added (OMB number pending) 28124
  OMB number 33208
64.1130 (a), (b), (c) and (e)(5) revised; (i) and (j) added (OMB numbers pending) 12893
  (e)(5) correctly designated 16151
  OMB number 17083
64.1140 Regulation at 65 FR 47691; effective date confirmed in part **66934**
64.1150 Regulation at 65 FR 47692; effective date confirmed in part **66934**
64.1160 Regulation at 65 FR 47692; effective date confirmed in part **66934**
64.1170 Regulation at 65 FR 47693; effective date confirmed in part **66934**
64.1180 Added (OMB numbers pending) 12893
  OMB number 17083
64.1190 (d)(1)(ii), (2)(i), (3)(i) and (e)(1) revised (OMB numbers pending) 12893
  OMB number 17083
64.1195 Added (OMB numbers pending) 12894
  OMB number 17083
64.1300 (a) revised 21106
64.1310 (a) and (b) revised 21106
64.2005 Regulation at 64 FR 53264 confirmed 7865
64.2007 Regulation at 64 FR 53264 confirmed 7865
64.2009 Regulation at 64 FR 53264 confirmed 7865
64.2103 Revised 22448
  Corrected; CFR correction 36711
64.2104 (a)(1)(ii) revised 22448
  Corrected; CFR correction 36711
64.2105 Corrected; CFR correction 36711
64.2500—64.2502 (Subpart Z) Added 2334
68 Effective date announcement 23625
68.2 Revised 7580
  Regulation at 66 FR 7580 confirmed 42780
68.3 Amended (OMB number pending) 2335
  Revised 7581
  OMB number 28841
  Regulation at 66 FR 7580 confirmed; effective date corrected 42780
68.7 Added 7581
  Regulation at 66 FR 7581 confirmed 42780
68.100 Revised 7581
  Regulation at 66 FR 7581 confirmed 42780
68.102 Revised 7582
  Regulation at 66 FR 7582 confirmed 42780
68.104 Removed 7582
  Regulation at 66 FR 7582 confirmed 42780

NOTE: **Boldface page numbers indicate 2000 changes.**

- 68.105 Added (OMB number pending)....7582
  - OMB number....28841
  - Regulation at 66 FR 7582 confirmed....42780
- 68.106 Revised....7582
  - Regulation at 66 FR 7582 confirmed; effective date corrected....42780
- 68.108 Introductory text revised....7583
  - Regulation at 66 FR 7582 confirmed; effective date corrected....42780
- 68.110 Revised....7583
  - Regulation at 66 FR 7582 confirmed; effective date corrected....42780
- 68.162 (g)(4) revised....27601
- 68.200—68.226 (Subpart C) Heading revised....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.200 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.201 Added....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.202 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.204 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.206 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.208 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.210 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.211 Revised....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.212 Removed....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.213 (b) revised....7583
  - Regulation at 66 FR 7583 confirmed....42780
- 68.214 Revised....7584
  - Regulation at 66 FR 7584 confirmed....42780
- 68.215 (a)(2), (3), (e)(9), (f)(4), and (g)(1) through (5) revised; (d)(2) note removed; (d)(5) amended....7584
  - Regulation at 66 FR 7584 confirmed....42780
- 68.216 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.218 Revised....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.220 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.226 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.300—68.318 (Subpart D) Heading revised....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.300 (a) revised; (b) removed; (c) redesignated as new (b)....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.302 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.304 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.306 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.308 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.310 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.312 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.314 Removed....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.320 Added....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.321 Added....7585
  - Regulation at 66 FR 7585 confirmed....42780
- 68.322 Added....7586

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 47 Chapter I—Con.

Regulation at 66 FR 7586 confirmed.....42780
68.324 Added.....7586
Regulation at 66 FR 7586 confirmed.....42780
68.326 Added.....7586
Regulation at 66 FR 7586 confirmed.....42780
68.346 Added.....7586
Regulation at 66 FR 7586 confirmed.....42780
68.348 Added.....7586
Regulation at 66 FR 7586 confirmed.....42780
68.350 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.354 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.415 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.417 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.418 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.419 Added.....7587
Regulation at 66 FR 7587 confirmed.....42780
68.420 Added.....7588
Regulation at 66 FR 7588 confirmed.....42780
68.423 Added.....7588
Regulation at 66 FR 7588 confirmed.....42780
68.500—68.506 (Subpart F) Removed.....7588
Regulation at 66 FR 7588 confirmed.....42780
68.602—68.614 (Subpart G) Added.....7588
Regulation at 66 FR 7588 confirmed.....42780
68.610 Effective date corrected.....42779
69.3 (e)(6), (9) and (i)(1) revised.....**64894**
73 Memorandum, opinion and order.....**59751**
Actions on petitions.....**60585, 63802, 67655, 69693, 77318, 79317**
Actions on petitions.....737, 8176, 14862, 17638, 21681, 22449, 22450, 29237
73.14 Amended.....20755
73.53 (b)(5) and (12) revised; (c) removed.....20755
73.54 Revised.....20755
73.58 (b) removed; (c) through (f) redesignated as (b) through (e); new (d) revised.....20755
73.62 (a) revised.....20755
73.68 (a)(2), (d)(2) and (3) revised.....20755
73.69 (a), (d)(2) and (4) revised.....20756
73.151 (a)(1), (2) and (3) revised.....20756
73.152 (b), (c) and (d) redesignated as (c), (d) and (e); (a), new (d) introductory text, (2) introductory text, (iii) and (iv) revised; new (b) added.....20756
73.154 Revised.....20756
73.158 Revised.....20757
73.186 (a)(1) and (b) revised.....20757
73.202 (b) table amended.....**59144, 59145, 59752, 61114, 62299, 63802, 64624, 65272, 67282, 67283, 67652—67656, 70670, 71073, 71269, 71270, 77319, 79318, 80367, 80790, 81409, 82295, 82296**
(b) table corrected.....**60379**
Regulation at 65 FR 36377 confirmed.....3884
(b) table amended.....7590, 7866, 8520, 9676, 10631, 10632, 10968, 11119, 12896, 12897, 15044, 15642, 15801, 16882, 16883, 17814, 17815, 18570, 18734, 20608, 20609, 21680, 21681, 22450, 26806, 26807, 26808, 27040, 27041, 27042, 29237, 29726, 30091, 30092, 30335, 30827, 31561, 33902, 33903, 35107, 35388, 35760, 36949, 36950, 37420, 37421, 37599, 39119, 39453—39456, 44548, 44549
(b) table corrected.....35107
(b) table corrected; CFR correction.....19402
73.207 (b)(1) Table A revised.....**79776**
73.209 (c) revised.....**67299**
73.210 (a) and (b)(3)(iv) revised; (b)(3)(v) added.....**79777**
73.211 (a)(1)(vii), (2) and (b)(1) introductory text table revised; (d) added.....**79777**
73.215 (a)(4) and (e) table revised.....**79777**
(e) table corrected.....8149
73.315 (a) note removed.....**79778**
73.509 (a) table revised.....**79778**
73.514 Revised.....**67299**

NOTE: Boldface page numbers indicate 2000 changes.

73.515 Added **79779**
73.606 (b) table amended 18735, 29724
73.607 Undesignated text designated as (a); (b) added 10208
73.622 (b) table amended **58920, 58921, 60379, 70508, 70509, 76947**
  (b) table amended .... 2336, 3884, 9036—9039, 11117, 11118, 11119, 12894, 12895, 13855, 13856, 18734, 20607, 20608, 22448, 28399, 28400, 29724—29726, 31560, 31561, 39452, 39682, 39683, 42613
  (c) existing text redesignated as (c)(1); (c)(2) added 10208
73.623 (h) added 9984
73.625 (a)(1) revised 9985
73.658 (m)(1) revised **68101**
  (g) revised 32248
73.807 Introductory text, (a), (b), (c) introductory text, (1), (2), note, (g)(1) through (4) and (6) revised **67299**
  (a)(1) table and (b)(1) table revised **79779**
  Introductory text, (a) table, (b) table, (c) table and (d) table amended 23863
73.809 (a), (b) and (c) revised **67302**
73.810 Added **67302**
  (b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
73.816 Revised **67302**
73.825 Revised **67303**
73.827 Added **67303**
73.854 Revised **67303**
  Revised 23863
73.855 (b) introductory text revised; (b)(4) added **67303**
73.860 (a) and (b) revised **67303**
  (b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
73.870 (c) revised **67304**
73.871 Added 23863
73.872 (b)(3) revised **67304**
73.877 Revised **67304**
73.1020 Correctly added; CFR correction 15800
73.1125 (c) revised 21690
73.1545 (e) revised 21690
73.1660 (a) revised **67304**
73.1690 (b)(2) revised; (c)(11) added **79779**
73.1920 Removed **66644**
73.1930 Removed **66644**

73.3526 (e)(11)(iii) revised **67288**
  (e)(11)(iii) eff. date confirmed; OMB number 11237
73.3527 Regulation at 65 FR 36378 confirmed 3884
73.3538 (b) revised 20758
73.3555 (b)(2)(ii) and (c)(3)(i) revised 9048
  Notes 1 through 10 amended 9972
  (f) amended 15356
  (e)(2)(i) and (ii) correctly revised; Note 5 corrected; CFR correction 19891
73.3572 Regulation at 65 FR 36379 confirmed 3884
73.3573 Note 4 added **79780**
73.3584 (d) redesignated as (e); new (d) added **79780**
73.3612 Note added **76949**
73.3613 (d) amended; (e) revised 9972
73.3615 (a)(3)(iii)(B) amended 9972
  Corrected 12897
73.6000 Revised 21690
73.6024 (c) revised 21690
73.6026 Revised 21690
73.7000 Amended 15356
73.7002 (b) revised 15356
73.7003 (b)(2) and (c)(1) amended; (e) and (f) added 15356
74.134 Removed 18572
74.785 Added 29046
74.1204 (a) introductory text and (4) revised **67304**
  (a)(1), (2) and (3) revised **79780**
74.1233 (e)(3)(i) and (ii) revised 15357
74.1251 (b)(7) revised **79780**
76 Authority citation revised **68101**
  Authority citation revised 7429
76.5 (ii) revised **68101**
  (b) revised (OMB number pending) 16553
76.51 (a)(2) and (28) revised **68101**
76.56 (e) revised (OMB number pending) 16553
76.57 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; new (e) revised; (e) note redesignated as section note (OMB number pending) 16553
76.62 (b) revised; (g) added (OMB number pending) 16553
76.64 (f) introductory text, (4) and (k) revised (OMB number pending) 16553

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 47 Chapter I—Con.

76.66 Added (OMB number pending) 7430
Regulation at 66 FR 7430 corrected 34582
76.67 Removed **68101**
76.77 (a) note added; (d)(1) note, (6) note, (13) note and (15) note designated **76949**
76.92—76.130 (Subpart F) Revised **68101**
76.209 Revised **66644**
76.501 Notes 1 through 6 amended 9973
76.922 (f)(1)(vii) added; (j)(1) revised (OMB number pending) 16554
76.1603 (c) revised (OMB number pending) 16554
76.1622 OMB number 45177
76.1713 OMB number 45177
76.1800 OMB number 45177
79.3 (b)(2), (3), (4)(i), (ii), (c)(2), (3), (d)(1), (e)(1)(iv), (v) and (e)(2) revised; (c)(4) redesignated as (c)(5); (a)(6), new (c)(4) and (e)(1)(vi) added, ...8529
(c)(2) correctly revised 16618
80.25 (b) revised **77823**
80.49 (a)(2) revised; (a)(3) added **77823**
80.105 Revised **77824**
80.213 (a)(2) and (d) revised **77824**
80.215 (h)(2) introductory text and (i) introductory text amended; (h)(5) revised; footnote 7 removed **77824**
80.357 (b)(2)(ii)(A), (B) and (C) removed; (b)(2)(ii) revised **77824**
80.371 (b)(3) and (4) removed; (b)(1) and (2) revised **77824**
80.374 (a) removed; (b) and (c) redesignated as (a) and (b) **77826**
80.475 (a)(1) revised; (b) redesignated as (c); new (b) added **77826**
80.477 (d) added **77827**
80.481 Added **77827**
87 Authority citation revised **59357**
Actions on petitions 29722
87.131 Table amended 26798
87.133 (a) table amended 26799
87.137 (a) table amended 26799
87.139 (a) table amended 26799
87.173 (b) table amended **59357**, **60112**, 26799
87.187 (dd) added 26800
87.263 (a)(1) and (5) revised 26800
90 Compliance notification **60379**
Actions on petitions 13022, 15041, 30335, 32778
90.1 (b) revised **60874**, **66650**
90.7 Amended **60874**, **66650**
90.20 (c)(3) table amended **60874**
(c)(3) table amended; (d)(80) through (83) and (g) added **66650**
90.22 Introductory text revised **60874**
90.35 (b)(3) table amended; (c)(60) revised **60874**
(b)(3) table amended; (c)(82) added **66653**
(b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added; (b)(2)(ii) revised 8902
Regulation at 66 FR 8902 confirmed 39456
90.103 (b) amended **69458**
90.135 Revised **60875**
90.149 (a) revised **60875**
90.155 Revised **60875**
90.167 Removed **60875**
90.175 (i)(14) revised **60875**
(i)(15) and (16) added **66654**
(b)(1), (2) and (3) revised 8903
Regulation at 66 FR 8903 confirmed 39456
90.179 (g) redesignated as (i); new (g) and (h) added **60875**
(g) revised **66654**
(i) revised 55
(j) added 10635
Corrected 21287
90.187 Revised **60875**
90.203 (j)(1) added **66654**
90.242 (a)(3) revised **60877**
90.421 Revised **60877**
(a)(3) added 10635
90.449 Removed **60877**
90.525 Added 10635
90.529 Added **66654**
90.531 (b)(1), (2), (3), (c)(1), (2) and (3) revised; (b)(4), (5) and (6) added **66654**
(b)(1)(i), (ii), (iii) and (7) added; (b)(2) and (d) revised 10635
(b)(2) amended 10636
90.535 (a) revised **66655**
90.537 Revised **66655**
Revised 10636
90.541 (d) added **66655**
90.543 (e) and (f) added **66655**
90.547 Revised **66655**
Revised 10636

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

90.548 Added	10636
90.553 Added	10636
90.621 (e)(2) revised (OMB number pending)	55
OMB number	12437
90.629 (a)(1) and (2) revised; (f) added	**60877**
95.401 (f) added	**60877**
95.601 Amended	**60877**
95.603 (g) added	**60877**
95.605 Amended	**60877**
95.631 (j) added	**60877**
95.632 Added	**60877**
95.633 (f) added	**60878**
95.635 (e) added	**60878**
95.639 (h) added	**60878**
95.649 Revised	**60878**
95.651 Revised	**60878**
95.601—95.673 (Subpart E) Appendix 1 revised	**60878**
95.803 Revised	9218
95.807 (a) introductory text, (1) and (4) revised	9219
95.811 (b) revised; (e) added	9219
95.812 (a) revised	9219
95.816 (b), (c)(3) and (5) amended	9219
95.819 Revised	9219
95.861 (c) revised	9219
95.1013 (a) revised	**77827**
95.1301—95.1309 (Subpart J) Added	**60878**
97.3 (a)(35) and (b) introductory text revised	20752
97.119 (f)(3) removed; (f)(4) redesignated as (f)(3); (f)(2) and new (f)(3) revised	20752
97.527 Revised	20752
101 Actions on petitions	29722
Authority citation amended	35110
101.1 (b) revised	**59357**
101.3 Amended	**59357**
101.21 (g) revised	**59357**
101.45 (b) introductory text revised	**59357**
101.61 Revised	**59357**
101.63 (a) revised	**59357**
101.99 Correctly designated	**60382**
101.101 Table amended	**59357**
101.105 (c)(6) introductory text revised	**59358**
(c)(5) revised	35110
101.107 (a) table amended	35110
101.109 (c) table amended	**59358**
101.111 (a)(2)(iv) added; (a)(4) introductory text revised	**59358**
101.113 (a) amended	35110
101.115 (c) table amended	**59358**
101.135 (e) revised	35110
101.139 (g) added	**59358**
101.141 (a) introductory text revised	**59358**
101.147 (r) introductory text amended; (r)(9) introductory text, (i) and (ii) revised; (r)(9)(iii) added	**59359**
(a) Note 28 and (b) introductory text revised	35110
101.305 (a), (b) and (c) revised	**59359**
101.311 Revised	**59359**
101.501—101.538 (Subpart G) Heading revised	**59359**
101.501 Revised	**59359**
101.503 Revised	**59359**
101.509 Revised	**59360**
101.511 Revised	**59360**
101.521 Revised	**59360**
101.523 Added	**59360**
101.525 Added	**59360**
101.526 Added	**59360**
101.527 Added (OMB numbers pending)	**59360**
OMB number	11113
101.529 Added (OMB numbers pending)	**59361**
OMB number	11113
101.531 Added	**59361**
101.533 Added	**59361**
101.535 Added	**59361**
101.537 Added	**59361**
101.538 Added	**59361**
101.1307 Revised	35111
101.1315 Revised	35111
101.1331 (a) and (b) revised	35111

Proposed Rules:

0—199 (Ch. I)	18059, 28410
0	**77545, 81816**
1	37943, 39128
2	35399
20	36909, 39128
25	35399
51	38611, 42499
63	41823
64	35765, 37631, 40666
73	35406, 35407, 35767, 35768, 35925, 37442, 37443, 37632, 37633, 38410, 39128, 39473, 39726, 39727, 40174, 40958, 40959, 40960, 41489, 41490, 42621, 42622, 42623, 44586—44588
101	35399
211	38411

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 47 *Proposed Rules:—Con.*

213 38411

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular 97-20 ..... **60542**
  Small entity compliance guide **60553, 80266**
  Federal Acquisition Circular No. 97-22 2116
  Small entity compliance guide 2141, 5349, 17757, 20898, 22085, 27417
  Federal Acquisition Circular 97-25 22082
1.106 Table amended (OMB numbers) 2141
1.401 (a), (c) and (d) amended 2118
  Regulation at 66 FR 2118 eff. date delayed 14260
2.000 Revised 2118
  Regulation at 66 FR 2118 eff. date delayed 14260
2.101 Amended; interim **60544**
  Amended 2118, 20896
  Regulation at 66 FR 2118 eff. date delayed 14260
  Amended; interim 22083, 27409
  Corrected 27012
2.201 Revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
3.302 Introductory text added 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
3.401 Amended; introductory text added 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
3.501-1 Amended; introductory text revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
3.502-1 Amended; introductory text revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
3.901 Introductory text added 2127
4.501 Removed 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
4.502 (b)(4) amended; interim 27409
4.602 (a)(2) revised; (d) removed; interim **60544**
4.803 (a)(4) revised; interim 27409
4.901 Amended; heading revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
5.002 Introductory text amended; (c) revised; interim **60544**
5.003 Added; interim 27409
5.101 Introductory text removed; (a) revised; interim 27409
5.102 Revised; interim 27409
5.201 Revised; interim 27410
5.202 (a)(8) amended 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
  (a)(13)(ii) revised; interim 27410
5.203 Introductory text, (a), (b), (e) and (h) revised; (g) amended; interim 27410
5.204 Revised; interim 27411
5.205 Revised; interim 27411
5.206 (a) introductory text revised; interim 27412
5.207 (a) through (h) redesignated as (b) through (i); new (a) and (c) Items 18 and 19 added; new (b), (c) introductory text, and (i) revised; interim 27412
5.301 (a) introductory text, (b)(7)(ii) and (c) revised; (d) added; interim 27412
5.404-1 (b)(3)(iii) revised; interim 27412
5.404-2 Revised; interim 27412
5.501 Amended; introductory text added 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.000 Revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.003 Removed 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.302-1 (a)(2)(i)(A) revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
6.302-3 (a)(2)(iii) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
6.303-2 (a)(6) amended; interim 27412

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

7.101 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
7.103 (o) through (r) redesignated as (p) through (s); new (o) added	20896
7.105 Introductory text and (b)(1) amended; interim	**60544**
7.303 (a) introductory text and (b) introductory text amended; (b)(1) revised; interim	27412
7.501 Removed	2128
Regulation at 66 FR 2128 eff. date delayed	14260
8.501 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
8.701 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
8.801 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
8.1101 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.101 Amended; heading revised	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.103 (b) amended	**80264**
(c) redesignated as (d); new (c) added; interim	17755
9.104–1 (d) revised	**80264**
(e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; interim	17756
9.104–3 (c) and (d) redesignated as (d) and (e); new (c) added	**80264**
9.201 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.204 (a) introductory text amended; (a)(1) revised; interim	27413
9.205 (a) introductory text revised; interim	27413
9.301 Amended; heading revised	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.400 (a)(2) amended	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.403 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.501 Amended; heading revised	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.601 Amended	2128
Regulation at 66 FR 2128 eff. date delayed	14260
9.701 Amended	2128
Regulation at 66 FR 2128 eff. date delayed	14260
10.001 (a)(3)(vii) added	20896
11.002 (f) added	20897
11.601 Amended; introductory text added	2128
Regulation at 66 FR 2128 eff. date delayed	14260
12.202 (d) added	20897
12.603 (a), (c)(2)(xv), (3) and (4) revised; interim	27413
13.001 Amended	2128
Regulation at 66 FR 2128 eff. date delayed	14260
13.104 (a) introductory text and (b) amended; interim	27413
13.105 (a) introductory text, (1)(ii) and (b) amended; interim	27413
13.501 (a)(1)(i) amended	2128
Regulation at 66 FR 2128 eff. date delayed	14260
14.203–2 Revised; interim	27413
14.203–3 Revised	2128
Regulation at 66 FR 2128 eff. date delayed	14260
14.404–2 (i) revised	**80265**
(j), (k) and (l) redesignated as (k), (l) and (m); new (j) added; interim	17756
14.503–2 (a)(4) and (b) revised; interim	27413
15.001 Amended	2129
Regulation at 66 FR 2129 eff. date delayed	14260
15.301 Removed	2129
Regulation at 66 FR 2129 eff. date delayed	14260

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 48 Chapter 1—Con.

15.401 Amended; introductory text added 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.402 Introductory text, (a) introductory text, (2)(ii) and (3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403 (a)(1) revised; interim **60553**
15.403–1 (c)(3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403–4 (c) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.406–2 (a) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.407–2 (b) revised 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.408 Table amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.503 (a)(1) revised **80265**
  (a)(2) redesignated as (a)(3); new (a)(2) added; interim 17756
15.601 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.604 (a) introductory text and (1) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.103 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.201 Removed 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.501 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.603 (c) added; interim 27415
19.000 (a)(9) and (10) amended; (a)(11) added; interim **60544**
19.001 Amended; interim **60544**
  Amended; introductory text added 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
19.101 Amended 2129
  Corrected; CFR correction 13856
  Regulation at 66 FR 2129 eff. date delayed 14260
19.201 (a) amended; interim **60544**
19.202–2 Intorductory text amended; interim **60544**
  (c) revised; interim 27413
19.202–4 Introductory text amended; interim **60544**
19.202–5 Introductory text, (a) and (b) amended; interim **60544**
19.301—19.307 (Subpart 19.3) Heading revised; interim **60545**
19.301 (d) amended; interim **60545**
19.304 (b) and (c) amended; interim **60545**
19.402 (c)(1)(ii) amended; interim **60545**
19.701 Amended; introductory text added 2130
  Regulation at 66 FR 2129 eff. date delayed 14260
19.702 Introductory text revised; interim **60545**
19.703 (a) introductory text and (1) revised; (b) amended; interim **60545**
  (a)(1) amended 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
19.704 (a)(1) revised; (a)(2), (3), (6), (8) and (11) amended; interim **60545**
19.705–2 Introductory text and (d) amended; interim **60545**
19.705–4 Introductory text, (c), (d)(1) and (5) amended; (d)(6) added; interim **60545**
19.705–7 (a) and (d) amended; interim **60545**
19.706 (b) and (c) amended; interim **60545**
19.708 (c)(1), (2) and (3) amended; interim **60545**
19.804–2 (a) introductory text, (9) and (c) amended; interim 27413
19.812 (a) revised 2141
19.902 Heading and introductory text revised 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
22.12 Removed; interim 27417
22.101–1 (b) redesignated as (b)(1); (b)(2) added; interim 27415
22.103–1 Amended; heading revised 2130
  Regulation at 66 FR 2130 eff. date delayed 14260

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

22.401 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
22.403–4 introductory text and (a) through (e) redesignated as (a) and (b)(1) through (5); new (a) and (b)(5) amended; (b) introductory text and (c) added 2141
22.1001 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
22.1009–4 (a) amended; (b) introductory text revised; interim 27414
22.1102 Amended 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
22.1202 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
22.1500—22.1505 (Subpart 22.15) Added 5347
23.503 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
23.802 Removed 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
23.904 Amended 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
24.101 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
26.301 Removed 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
27.301 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
27.401 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
28.001 Amended; introductory text added 2130
  Regulation at 66 FR 2130 eff. date delayed 14260
28.308 (a) amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
29.301 Removed 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
30.201–4 Regulation at 65 FR 36029 confirmed 2137
30.201–5 Regulation at 65 FR 36029 confirmed 2137
31.001 Amended; introductory text added 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–17 Amended; Introductory text added 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–18 (a) amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–21 Undesignated paragraph designated as (a); (b) added **80265**
31.205–32 Amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–33 (a) amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–39 Amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
31.205–47 (a) amended; (b)(2) revised **80265**
  (a) amended 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
  (a) amended; (b)(3), (4) and (5) redesignated as (b)(4), (5) and (6); new (b)(3) added; interim 17756
32.001 Amended; introductory text added 2131
  Regulation at 66 FR 2131 eff. date delayed 14260
32.006–2 Amended; introductory text added 2131
  Regulation at 66 FR 2132 eff. date delayed 14260
32.113 (e) amended 2132
  Regulation at 66 FR 2132 eff. date delayed 14260
32.202–2 Amended 2132
  Regulation at 66 FR 2132 eff. date delayed 14260
32.202–3 (d) and (e) amended 2132

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 48 Chapter 1—Con.

- Regulation at 66 FR 2132 eff. date delayed 14260
32.301 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
32.407 (a)(1) revised 2138
32.408 (b)(4) amended 2138
32.409-3 (a), (b)(2), (c)(2), (e) and (g) amended; (f)(1) revised 2138
32.410 Amended 2138
32.411 Revised 2138
32.412 (f) amended 2138
32.801 Amended 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
32.902 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
32.1102 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
33.101 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
33.201 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
34.001 Amended 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
34.005-2 (a)(1) amended; interim 27414
34.101 Amended 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
35.001 Amended 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
35.004 (a) introductory text amended; (a)(1) revised; interim 27414
35.016 (c) revised; interim 27414
35.017 Amended; (b) introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
36.102 Amended; introductory text added 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
36.202 (d) added; interim 27415
36.213-2 (b) introductory text amended; (b)(9) revised; interim 27414
36.601-3 (d) amended 2132
- Regulation at 66 FR 2132 eff. date delayed 14260
37.101 Amended; introductory text added 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
- Amended; interim 22083
- Corrected 27012
37.102 (a) revised; interim 22083
37.103 (a)(1) amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
37.104 (a) amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
37.201 Amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
37.502 (a)(3) amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
39.000 Revised 20897
39.002 Amended; introductory text added 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
39.104 Added; interim 22085
39.201—39.204 (Subpart 39.2) Added 20897
42.001 Removed 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
42.201 (b) revised 2141
42.203 Revised 2141
42.302 (a) introductory text amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
42.503-2 Amended 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
42.701 Amended; introductory text added 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
42.1201 Removed 2133
- Regulation at 66 FR 2133 eff. date delayed 14260
43.101 Amended; introductory text added 2133
- Regulation at 66 FR 2133 eff. date delayed 14260

NOTE: **Boldface page numbers indicate 2000 changes.**

- 43.103 (b)(3) amended ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 44.101 Amended; introductory text added ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 46.101 Amended; introductory text added ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 46.701 Removed ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 46.710 (a)(1) and (b)(1) amended ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 47.001 Amended; introductory text added ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 47.201 Amended; introductory text added ... 2133
  - Regulation at 66 FR 2133 eff. date delayed ... 14260
- 47.401 Amended; introductory text added ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 47.501 Amended; introductory text added ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 48.001 Amended; introductory text added ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 49.001 Amended; introductory text added ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 50.001 Amended; introductory text added ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 52.101 (a) amended ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 52.202-1 Amended; introductory text revised ... 2134
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
- 52.209-5 (a)(1)(i)(B) and (C) amended; (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added ... **80265**
  - Amended; interim ... 17756
  - (a)(1)(i)(D) corrected ... 18735
- 52.212-3 Amended; interim ... **60546**
  - (h) introductory text and (2) revised; (h)(1) amended; (h)(3) and (4) added ... **80266**
  - Amended ... 2134, 5348
  - Regulation at 66 FR 2134 eff. date delayed ... 14260
  - Amended; interim ... 17756
  - Corrected ... 18735
- 52.212-4 Amended ... 2139
- 52.212-5 Amended ... 5348
  - Amended; interim ... 27417
- 52.213-4 Amended ... 2140
  - Amended ... 5348
- 52.214-21 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.215-1 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.219-1 Amended; interim ... **60546**
  - Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.219-8 Amended; interim ... **60546**
- 52.219-9 Amended; interim ... **60547**
- 52.219-10 Amended; interim ... **60548**
- 52.219-23 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.222-18 Added ... 5349
- 52.222-19 Added ... 5349
- 52.222-50 Removed; interim ... 27417
- 52.223-6 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.223-11 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.226-2 Revised ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.230-1 Regulation at 65 FR 36030 confirmed ... 2137
- 52.232-12 Amended ... 2138
- 52.232-25 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.232-26 Amended ... 2135
  - Regulation at 66 FR 2135 eff. date delayed ... 14260
- 52.232-27 Amended ... 2135

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 48 Chapter 1—Con.

Regulation at 66 FR 2135 eff. date delayed	14260
52.242-3 Amended	2135
Regulation at 66 FR 2135 eff. date delayed	14260
52.244-6 Amended; heading revised	2140
52.246-3 Amended	2135
Regulation at 66 FR 2135 eff. date delayed	14260
52.246-6 Amended	2135
Regulation at 66 FR 2135 eff. date delayed	14260
52.246-8 Amended	2135
Regulation at 66 FR 2135 eff. date delayed	14260
52.246-17 Amended; introductory text revised	2135
Regulation at 66 FR 2135 eff. date delayed	14260
52.246-18 Amended; introductory text revised	2136
Regulation at 66 FR 2136 eff. date delayed	14260
52.246-19 Amended; introductory text revised	2136
Regulation at 66 FR 2136 eff. date delayed	14260
52.246-20 Amended; introductory text revised	2136
Regulation at 66 FR 2136 eff. date delayed	14260
52.247-51 Amended	2141
53.215-1 (a), (e) and (f) amended	2141
53.219 (a) and (b) amended; interim	**60548**
53.301-294 Revised; interim	**60549**
53.301-295 Revised; interim	**60551**

Chapter 2—Department of Defense (Parts 200—299)

Chapter 2 Appendix F corrected	**69376**
204.7202-1 (c) revised	**63804**
204.7204 (b) amended	**63804**
207.105 (b)(13)(iv) amended	**63804**
209.202 (a)(1) amended	**63804**
212.503 (a)(xi) revised	**77828**
212.504 (a)(xxv) revised	**77828**
215.404-4 (b)(1) introductory text revised	**77829**
215.404-71-2 Revised	**77829**
215.404-72 (b)(1)(iii) added	**77831**
217.401 Regulation at 65 FR 50148 confirmed	**77832**
219.201 (d) revised	**63807**
Regulation at 65 FR 50148 confirmed	**77832**
219.202-5 Introductory text amended	**63804**
219.502-3 Regulation at 65 FR 50149 confirmed	**77832**
219.1005 Regulation at 65 FR 50149 confirmed	**77832**
219.1203 Regulation at 65 FR 50149 confirmed	**77832**
225.7019-1 (a) amended	**77828**
225.7019-2 (b) revised	**77828**
225.7019-4 Revised	**77828**
225.7020 Added	**77828**
225.7020-1 Added	**77828**
225.7020-2 Added	**77828**
225.7020-3 Added	**77828**
225.7020-4 Added	**77828**
225.7103-1 Revised	**77832**
225.7103-3 Revised	**77832**
236.570 (a)(2) revised	**63804**
236.602-1 Regulation at 65 FR 50149 confirmed	**77831**
236.701 (c) revised	**63804**
236 (Appendix I) Regulation at 65 FR 50149 confirmed	**77831**
242.72 Revised	**77833**
242.002 (S-70)(iii) introductory text amended	**63804**
242.1203 (b)(1), (2)(A), (B), (C), (d), (e) and (f) redesignated as (b)(2)(A) through (D), (f), (g) and (h); new (b)(2)(A), (D), (f)(i), (g)(i), (h)(4)(A) and (B) amended	**63805**
242.1204 (e) redesignated as (i); new (i) amended	**63806**
250.201 Revised	**77836**
252.201-70 (b)(1) and (k) revised	**77836**
252.212-7001 Amended	**77828**
252.225-7016 Amended	**77828**
252.225-7023 Added	**77829**
252.242.7004 Revised	**77834**
252.247-7015 Introductory text amended	**63805**
Chapter 2 Appendix F amended	**63803, 63804**
Appendices E and F amended	**63805**
Appendix G amended	**63806**

NOTE: **Boldface page numbers indicate 2000 changes.**

Chapter 3—Department of Health and Human Services (Parts 300—399)

Chapter 3 Revised 4220

Chapter 9—Department of Energy (Parts 900—999)

901.105 Amended **81005**
902.200 Revised **81005**
903.901—903.971 (Subpart 903.9) Added **81005**
904.7200—904.7201 (Subpart 904.72) Added **81006**
909.104-1 Amended **81006**
911.604 (d) and (e) revised **81006**
915.408-70 (Subpart 915.408-70) Added **81006**
917.600 Revised **81006**
917.601 Amended **81006**
917.602 Revised **81006**
917.604 Removed **81007**
917.605 Removed **81007**
922.7100—922.7101 (Subpart 922.71) Removed **81007**
923.570-2 (a) and (b) amended **81007**
923.570-3 (a) and (b)(2) amended **81007**
927 Authority citation revised **68934**
927.303 (c) added **68935**
  (a)(3) amended **81007**
927.402-1 (b) amended **81007**
927.404 (g)(4) amended **81007**
927.409 (a)(2)(vi) amended **81007**
931 Policy statement 19717
931.205-19 Added 4627
  Regulation at 66 FR 4627 eff. date delayed 8746
931.205-33 Added 4627
  Regulation at 66 FR 4627 eff. date delayed 8746
931.205-47 Added **62301**
935.070 Removed **81007**
941.201-71 Amended **81007**
942.270-1—942.270-2 (Subpart 942.2) Added **81007**
947.7001—947.7002 (Subpart 947.70) Added **81007**
951.7002 (Subpart 951.70) Revised **81007**
952.203-70 Added **81008**
952.204-75 Added **81008**
952.215-70 Added **81008**
952.222-70 Removed **81008**
952.223-71 Amended **81008**
952.242-70 Added **81008**
952.247-70 Revised **81009**
952.250-70 (h) amended **81009**
952.251-70 Revised **81009**
970 Revised **81009**
  Policy statement 19717
970.2701 Revised **68935**
970.2702 Revised **68935**
970.2702-1 Added **68935**
970.2702-2 Added **68935**
970.2702-3 Added **68935**
970.2702-4 Added **68935**
970.2702-5 Added **68935**
970.2702-6 Added **68935**
970.2703 Revised **68935**
970.2704 Revised **68936**
970.3102-05-33 Added 4627
  Regulation at 66 FR 4627 eff. date delayed 8746
970.3102-20 (c) added **62301**
970.5204-71 Removed **68936**
970.5204-72 Removed **68936**
970.5204-94 Added **68936**
970.5204-95 Added **68937**
970.5204-96 Added **68937**
970.5204-97 Added **68937**
970.5204-98 Added **68937**
970.5204-100 Added **68938**
970.5204-101 Added **68938**
970.5204-102 Added **68942**
970.5204-103 Added **68944**
970.5228-1 Amended 4627
  Regulation at 66 FR 4627 eff. date delayed 8746
970.5244-1 Amended 4627
  Regulation at 66 FR 4627 eff. date delayed 8746

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

Chapter 15 Nomenclature change 34376
1501.602-3 (b) redesignated as (b)(1); (b)(2) added **80792**
1502.100 Amended **80793**
1504 Authority citation revised **75866**
1504.670 (Subpart 1504.6) Added **75866**
1511.011-80 Added; interim **58923**
1515.209 (c) added; interim **58923**
1516.603-1 Added; interim 12900
  Regulation at 66 FR 12900 confirmed 39456
1516.603-2 Added; interim 12900
  Regulation at 66 FR 12900 confirmed 39456

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 48 Chapter 15—Con.

1517.208 (a) removed; (b) through (g) redesignated as (a) through (f); new (g) added; interim **58923**
1519.203 Added; interim **58923**
1519.204 Added; interim **58923**
1523.303–72 Added; interim **58923**
1523.7003 Existing text designated as (b); (a) added; interim **58923**
1528 Added; interim **58923**
1535.07–070 (g) added; interim **58923**
1542.705 Existing text designated as (a); (b) added **58924**
1545.106 (d) added; interim **58924**
1546.201 (Subpart 1546.2) Removed **79784**
1552 Authority citation revised **75866**
1552.203–70 Amended **79784**
1552.204–70 (Subpart 1552.2) Added **75866**
1552.208–70 Revised; interim **58924**
1552.211–70 Amended; interim **58924**
  Amended 28674
1552.211–79 Amended; interim **58924**
  Amended 28674
1552.211–80 Added; interim **58925**
1552.215–75 Added; interim **58925**
1552.217–77 Added; interim **58925**
1552.219–70 Added; interim **58926**
  Revised 28674
1552.219–71 Added; interim **58926**
  Revised 28675
1552.219–72 Added; interim **58927**
  Revised 28676
1552.219–73 Added; interim **58927**
  Revised 28676
1552.219–74 Added; interim **58928**
1552.223–72 Added; interim **58928**
1552.228–70 Added; interim **58928**
1552.232–73 Amended; interim **58928**
  Amended 28676
1552.235–80 Added; interim **58928**
1552.239–70 Added; interim **58929**
1552.242–72 Added; interim **58929**
1552.245–73 Added; interim **58929**
1552.246–70 Removed **79784**
1552.246–71 Removed **79784**
1552.246–72 Removed **79784**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1803.7000—1803.7001 (Subpart 1803.70) Added 29727
1804.470–1 Revised; interim 36491
1804.470–2 Revised; interim 36491
1804.470–3 Revised; interim 36491
1804.470–4 Revised; interim 36491
1807.105 (a)(7) revised; interim **70315**
  (b)(1) removed **82296**
1807.107 Heading revised **58931**
1811.501 (Subpart 1811.5) Revised **58931**
1811.602 (c) amended 29727
1811.603 Revised 29727
1812.301 (f)(i)(I) through (N) redesignated as (f)(i)(J) through (O); new (I) added; interim 18052
1813.301–71 Added **82296**
1815.203–72 Revised; interim **70316**
  (a) revised **82296**
1815.7001 Amended **58931**
1816.203–4 (a) revised **82296**
1816.405–274 (g)(2) and (4) amended **58932**
  (c)(4) added; interim **70316**
1817.7101 (b) amended **58932**
1819.201 (f)(1) amended **58932**
1819.202–1 Removed **58932**
1819.1005 Revised **58932**
1819.7208 (b)(1) amended **58932**
1819.7209 (a)(1) and (2) amended **58932**
1822.1503 (Subpart 1822.15) Added 41805
1823.7001 (b)(1) and (2) revised; interim **70316**
  (e) added; interim 18052
1830 Regulation at 65 FR 49206 confirmed 29728
1830.201–5 Regulation at 65 FR 49206 confirmed 29727
1832.402 (e)(1)(B)(a) revised 29728
1832.702–70 (e) revised 29728
1834.003 Revised **58932**
1835.016–71 (b)(2) amended **82297**
1837.7000—1837.7001 (Subpart 1837.70) Removed **58933**
1842.705–1 Revised **63807**
1842.1501 Revised **82297**
1842.7003 Added 18054
1842.7301 Revised **82297**
1843.205 Revised **58932**
1845.608–1 (a) amended **58932**
1845.610–4 Amended **58932**
1845.613 Amended **58932**
1845.7101 Revised 41805
1845.7101–1 (c) revised **82297**

NOTE: **Boldface page numbers indicate 2000 changes.**

(c), (d), (g)(2), (h)(2), (i)(2), (k) introductory text and (2) revised 41805
1845.7101–2 Introductory text and (c) amended 41806
1845.7101–3 (a)(12) removed; (a) amended; (e) revised 41806
1845.7101–4 (b) and (h) revised 41806
1845.7101–5 Amended 41806
1849.102–71 Added; interim **70316**
1852.203–70 Added 29727
1852.204–76 Revised; interim 36491
1852.223–70 Amended; interim **70316**
Amended; interim 18052
1852.223–72 Added; interim 18052
1852.223–73 Amended; interim 18053
1852.223–75 Amended; interim **70316**
Amended; interim 18053
1852.242–72 Amended **58932**
1852.242–78 Added 18054
1852.245–73 Amended 41806
1852.247–73 (b) amended **58932**
Amended **82297**
1872.305 (b) amended **82297**
1872.306 Amended **82297**
1872.307 Revised **82297**
1872.705 Amended **82298**

Chapter 54—Defense Logistics Agency, Department of Defense (Parts 5433—5452)

5433 Added 27474
5452.233–9001 Added 27474

Proposed Rules:

2 .... **65698, 66920**
.... 7166, 39230, 42922, 44518
3 39230
4 .... **65698**
.... 39230
5 39230
6 39230
7 .... 7166, 44518
8 .... **79702**
.... 2752, 39230, 44518
9 .... 17758, 23134, 39230
10 7166
11 7166
12 .... **66920, 83292**
.... 7166
14 .... 17758, 23134, 39230
15 .... 17758, 23134
16 .... **83292**
.... 44518
17 .... 42922, 44518
19 39230
22 39230
23 39230
25 39230
26 39230
27 42102
28 39230
29 39230
31 .... **82876**
.... 17758, 23134, 39230, 40838
32 .... **66920**
33 42922
35 39230
36 39230
39 7166
42 39230
47 .... **66920**
.... 39230
49 42922
51 .... **79702**
52 .... **64298, 66920**
.... 2752, 17758, 23134, 39230, 42102, 42922, 44288
53 39230
215 .... **69895**
225 .... **63837**
232 44588
252 44588
801 30659
806 30659
812 30659
837 30659
852 30659
873 30659
904 .... 8560, 13473
928 .... **63809**
944 .... **63809**
952 .... **63809**
.... 8560, 13473
970 .... **63809**
.... 8560, 13473
1842 .... **76600**
1852 .... **76600**
.... 45955
1872 45955
9904 .... **59504**

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1 Authority citation revised 38380
1.46 (ttt) added 23181
(n)(1), (6), (ss), (zz), (ccc), (ddd), (eee), (fff), (ggg) and (mmm)

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 49 Subtitle A—Con.

removed; (uu) and (vv) revised 38380
1.48 (nn) added 2828
10 Appendix amended 20407
26.11 (c) revised; interim **68951**
26.21 (a)(2) and (3) revised; interim **68951**
26.37 (b) and (c) revised; interim **68951**
26.45 (a) revised; (d)(2) amended; interim **68951**
26.55 (h) revised; interim **68951**
26.89 (a)(3) amended; interim **68951**
27.72 Revised 22115
37 Technical correction 10968
37.199 Removed; interim 9053
37.213 Revised; interim 9053
37.181—37.215 (Subpart H) Appendix A revised 9054
40 Authority citation revised **79518**
Revised; eff. 8-1-01 .... **79526**
Meetings 7590
Policy statement 9673, 41955
Compliance date notification 28400, 32248
40.3 Amended 41950
40.27 Redesignated as 40.29; new 40.27 added 41950
40.29 Redesignated from 40.27 41950
40.33 (f)(i), (ii) and (iii) correctly designated as (f)(1), (2) and (3) 3885
(c)(2) introductory text amended 41950
40.45 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (c)(2) amended; new (b) added 41950
40.47 Heading, (a) and (b)(2) amended 41950
40.65 (c)(3) revised 41950
40.67 (c)(1) and (d)(2) revised; (m) added 41950
40.69 (b) and (c) revised 41951
40.71 (b)(8) added 41951
40.83 (e) and (f) revised; (g) and (h) redesignated as (h) and (i); new (g) added 41951
40.89 (b) amended 41951
40.97 (a) introductory text, (b)(1)(i) and (ii) revised 41951
40.121 (d)(3) added 41951
40.127 (g) introductory text revised 41051
40.129 (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added 41952
40.131 (d) introductory text revised 41952
40.135 (e) revised 41952
40.149 (c) revised 41952
40.151 (b) revised 41952
40.155 (c) removed; (d) redesignated as new (c) 41952
40.163 Revised 41952
40.167 Heading and (c) revised; (e) added 41953
40.187 (e) and (f) redesignated as (g) and (h); new (e) and (f) added 41953
40.191 (a)(1), (2), (3), (7) and (d) introductory text revised 41953
40.193 (b)(2) and (3) revised; (c) introductory text amended; (c)(2) added 41953
40.195 Heading and (a) introductory text amended 41953
40.201—40.225 (Subpart E) added **79518**
40.203 (b) and (d)(3) revised 41954
40.205 (b)(2) revised 41954
40.208 Added 41954
40.209 Heading revised; (c) amended 41954
40.213 (c) introductory text and (e) amended 41954
40.225 (a) amended; (b)(4) revised 41954
40.227 Correctly added 3885
40.229 Amended 41954
40.253 (c) amended 41954
40.261 (a)(1), (2) and (3) revised; (a)(6) amended 41954
40.329 (c) revised 41954
40.331 (b)(2) and (c)(2) revised; (b)(3) and (c)(3) added 41955
40.333 (a)(1)(i), (ii) and (d) amended; (e) added 41955
40.349 (e) amended 41955
40.355 (a) and (j)(1) amended 41955
40.403 (a) amended 41955
40.301—40.359 (Subpart F) added **79518**
40 Appendix F amended 41955

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.1 (a) amended 45377

NOTE: **Boldface page numbers indicate 2000 changes.**

107.3 Amended 45377
107.7 (a) and (c) amended 45377
107.117 (d) introductory text and (e) amended 45377
107.127 (a) amended 45377
107.301—107.339 (Subpart D) Appendix A amended 45180
107.305 (a), (c) and (d) amended 45377
107.307 (a) introductory text and (b) amended 45377
107.309 (a) and (b)(1) amended 45377
107.310 (a), (b) introductory text and (c) amended 45377
107.317 (c) amended 45377
107.327 (a)(1) introductory text amended 45377
107.335 Amended 45377
107.401 (b) amended 45377
107.402 (b)(6) and (c) amended 45377
107.403 (a), (b) and (c) amended 45377
107.404 (a)(3) and (b) amended 45377
107.405 (a) introductory text and (b) introductory text amended....................45377
110.20 Amended 45377
110.40 (a)(7) and (b)(6) amended 45377
110.60 (a)(4) amended....................45377
110.70 (c) introductory text and (d) amended 45377
110.100 Amended 45377
110.110 Amended 45377
110.120 Amended 45377
130.5 Amended 45378
171.1 (a) introductory text amended 45378
171.7 (a)(3) table amended 8646
(a)(1) and (3) table amended 33334
(a)(2)(i) and (3) table amended 45378
171.8 Amended 33335
Amended 45182, 45378
171.10 (c)(2) table amended....................33335
(c)(2) table amended 45378
171.11 Introductory text revised; (d)(6)(i), (ii) and (iv) amended; (d)(6)(vi) and (17) added 33336
(d)(13) amended....................45182
171.12 (b) heading revised; (b)(3) amended....................8646
(b)(5), (d) heading, introductory text and (4) revised; (b)(20) and (d)(7) added; (d)(5) and (6) amended....................33336
(b)(8)(iii) and (iv) revised; (b)(8)(v), (vi) and (e) added....................44254
171.12a (b)(18) added 33336
(b)(5)(iii) and (iv) revised; new (b)(5)(v) and (vi) added....................44255
171.14 (d) introductory text, (1) and (2) introductory text revised; (d)(4) and (5) added 33336
(c) amended 45378
171.15 (b) introductory text amended 45182
171.20 (a) and (c) amended....................45378
171.21 (a) and (b) amended 45378
172.1 Amended 45379
172.101 (g) and table corrected....................**60382**
(b)(1), (c)(11) and table revised; (c)(16) and (k)(6) through (20) added 33337
Appendix B amended 33413
Appendix A amended 45182
(b)(1), (d)(2), (f), (k)(2)(i), (4), (5), (l)(2) and Appendix B amended 45379
172.102 (c)(1) amended....................8647
(c)(1), (2), (3) and (8) amended; (c)(4) and (7) revised 33414
(c)(1) and (3) amended....................45182
(c)(1), (2), (3), (5), and (7)(ii) amended 45379
172.202 (a)(4) and (e) revised 33425
172.203 (d)(11) and (n) revised; (i)(5) and (6) added 33425
(k) introductory text, (o)(3) amended 45182
(d)(7)(ii) amended 45379
172.301 (a)(3) introductory text and (b) heading amended....................45182
172.302 (b)(2) amended 45379
172.310 (a) amended....................45379
172.312 (c)(2) and (3) amended....................45379
172.322 (d)(1)(i), (ii), (2)(i), (ii) amended 45379
172.330 (a)(1)(ii) amended 33425
172.400a (d) added 44255
172.401 (c)(1) and (2) revised....................8647
(c)(1) through (4) revised 45379
172.402 (b) revised....................33425
172.403 (a) and (g)(2) corrected....................**60382**
172.405 (a) introductory text amended; (a)(1) and (2) removed....................33425
172.407 (f) revised....................8647
(f) revised 44255

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 49 Chapter I—Con.

172.411 Heading and (d) revised; (c) amended 33425
172.502 (b)(1) revised 8647
(b)(1) revised 33426
172.504 (g) existing text amended; (g)(1) through (4) added 33426
172.512 (a)(3) amended 33426
(b) heading amended 45182
172.514 (c)(4) amended 45379
172.519 (b)(4) revised 33426
(f) revised 44255
172.602 (a)(1) amended 45379
172.604 (c)(2) amended 45182
173.2a (b) table amended 33426, 45183
(c)(4) amended 45379
173.3 (c)(1) amended 45380
173.4 (a)(1) introductory text revised 33426
(a)(6) amended 45183
(c) amended 45379
(a)(1)(i) amended 45381
173.6 (a)(3) amended 45381
173.7 (e) corrected **60383**
(c) amended 45381
173.8 (b) and (c) amended 45380
173.13 (c)(1)(i) amended 45381
173.21 (f) introductory text and (3)(ii) amended 8647
(f)(3) introductory text and (i) amended 45379
(f)(3)(ii) revised 45381
173.22 (c)(2) amended 45379
(a)(3)(i) amended 45380
(a)(2)(iii) revised 45381
173.22a (b) amended 45381
173.24 (d)(2) introductory text amended 8647
(e)(3)(iii) amended 45379
(d)(2) introductory text and (i) revised 45381
173.24a (b)(4)(i), (ii), (iii) amended 45380
173.24b (e) added 33426
173.27 (c)(2)(i), (ii)(A), (B), (C) and (3)(ii) amended 45380
173.28 (b)(7)(iv)(C) amended 45183
173.28 (b)(2)(ii) and (7)(iv)(C) amended 45379
173.28 (b)(2)(i) and (4)(ii) amended 45380
173.31 (b)(2)(ii) amended 33427
(c)(3), (e)(2) introductory text, (f)(1) introductory text and (i)(A) amended 45380
(b)(2)(ii) revised; (d)(1)(vi) amended 45381
173.32 Revised 33427
173.32a Removed 33429
173.32b Removed 33429
173.32c Removed 33429
173.33 (c)(1)(iii) amended 45183
173.34 (e)(13) table amended 33429
(d)(6) and (e)(13) table amended 45183
(c)(3), (d)(1)(ii), (iii), (2), (e) Table, (2)(i), (ii) introductory text, (A), (B), (iii), (4)(iii) introductory text, (A), (v), (7)(ii), (8)(i)(C), (10), (12), (i) introductory text, (4)(i), (l) introductory text, (2) and (3) amended 45380
173.35 (a), (c), (d), (f)(1), (2), (g), (h) introductory text, (h)(1) introductory text, (i) through (iv), (2) introductory text, (j), (k), (l) heading, (1), (2), (3) and (4) amended 45380
Heading and (k) amended 45381
173.50 (b)(6) amended 45183
173.51 (a) and (b) amended 45380
173.52 (a) amended 45380
173.56 (a)(2), (b)(1) introductory text, (4), (c) introductory text, (f), (g), (i), (j) introductory text and (3) amended 45380
173.58 (d) and (e) amended 45380
173.59 Amended 45183
Amended 45380
173.61 (e)(3) revised; (e)(8) added 33429
(e)(2) revised 45381
173.62 (c) table corrected **60383**
(b) table and (c) table amended 33429
(c) table amended 33430, 45382
(a) revised; (c) table amended 45183
(c)(5) amended 45380
173.115 (a) introductory text, (1), (2), (c) introductory text, (i) and (j) amended 45380
173.115 (c)(2) amended 45381
(g) amended 45382
173.120 (d) amended 45380
(c)(3) amended 45381
173.121 (b)(2)(ii) amended 45381
173.124 (a)(2)(iii)(C) amended 8647
(a)(1)(ii) introductory text, (2)(i)(E), (iii)(D) and (c) amended 45380

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

- 173.125 (c)(2)(ii)(B), (C), (d)(1), (2) and (3) amended........45380
- 173.128 (e) amended........8647
  - (a)(3), (d)(1) introductory text amended........45380
- 173.132 (d) amended........45380
  - (a)(1)(iii)(B) revised........45382
- 173.133 (a)(2)(i) table amended........45183
  - (b)(1)(i), (ii), (iv) Table, (2)(i)(A), (ii)(A), (iii)(A), (iv)(A) and (B) amended........45381
- 173.143 (d) heading and (2) introductory text amended........45380
- 173.150 (d)(2) revised........33430
  - (d)(2) amended........45382
- 173.152 (b)(3)(i), (ii) and (4)(i) amended........45381
- 173.153 (c)(2) amended........45381
- 173.159 (d)(3)(ii) and (f) amended........45380
- 173.161 (b) amended........45831
- 173.162 (a) introductory text and (1) revised........33430
- 173.166 (b)(2) amended........8647
  - (a) amended........45183
  - (b)(1), (3)(ii), (c) and (d)(1) amended........45380
- 173.171 (d) amended........45380
- 173.172 (a) and (b) amended........45380
- 173.181 (a)(2) amended........45133
  - (a) amended........45380
- 173.185 (c)(3) amended........8647
  - Revised........33430
  - (i) amended........45380
- 173.189 (d)(4)(iii) amended........45380
- 173.194 (b)(1) amended........45183
  - (a), (b)(1) and (2) amended........45381
- 173.196 (f) amended........45380
- 173.214 Amended........45380
- 173.220 (b)(1) and (4) amended........45381
- 173.222 (b)(3) amended........45380
- 173.224 (b)(4) revised; (b)(7) table amended; (d) removed........33431
  - (c)(1) and (d) amended........45380
- 173.225 (b) table amended; (e) introductory text, (3) and (5) revised........33431
  - (b)(4) introductory text, (8) table, (c)(1), (d)(3) and (e)(5) heading and introductory text amended........45380
  - (e)(3)(i)(B) amended........45382
- 173.226 (b) introductory text amended........45380
- 173.227 (b) introductory text amended........45380
- 173.240 (c) and (d) revised........33435
  - (d) heading and introductory text, (1)(i), (2) introductory text, (i) and (ii) amended........45380
  - (d)(1)(vi) amended........45382
- 173.241 (c) and (d) revised........33435
  - (d) heading, (1) introductory text, (2) introductory text, (i), (ii) and (iii) amended........45380
- 173.242 (c) introductory text and (d) revised........33435
  - (d) heading, (1) introductory text, (i)(A), (ii)(A), (2) introductory text and (i) through (iv) amended........45380
  - (d)(1)(ii)(F) revised........45382
- 173.243 (c) and (d) revised........33435
  - (d)(1), (2)(i), (ii) and (iii) amended........45380
- 173.245 (a) and (b) amended........45380
- 173.247 (c) revised........33436
  - (g)(1)(iii)(C) and (g)(1)(iv) amended........45382
  - Introductory text and (a) amended........45183
- 173.300a (c), (d), (e), (g), (h) and (i) amended........45380
  - (a)(2) amended........45382
- 173.300b (c) through (g) amended........45380
- 173.300c (a) introductory text and (b) amended........45380
- 173.301 (d)(2) amended........33436
  - (j)(1)(i) amended........45380
  - (d)(3) Amended........45183
  - (g)(5) amended........45380
- 173.302 (c)(3) amended........45382
- 173.303 (b) amended........45380
- 173.304 (a)(2) table and (b) amended........33436
  - (a)(2) table, (e)(1) and (f)(1) amended........45382
- 173.305 (c)(1) amended........45380
- 173.306 (a)(4)(iii) revised........33436
  - (a)(3)(i), (b)(1) introductory text, (f)(4)(i), (ii), (5) and (g)(3) amended........45380
  - (b) heading amended........45382
- 173.308 (a)(1) amended........45381
- 173.309 (a)(3)(i) amended........45380, 45381
- 173.314 (c) table and (g) introductory text amended........33436
  - (c) table and (o) amended........45380
  - (c) table, (j), (l), (n) and (o) amended........45381
  - (g)(4), (l) and (o) amended........45382

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 49 Chapter I—Con.

173.315 (a) introductory text, (i)(1)(iii), (3), (4) and (8) revised; (a) table, (b) introductory text and (h) table amended; (i)(7) removed 33436
  (l)(6) amended 45184
  (i)(12), (k)(2), (n)(1) table, (3) introductory text, (i) and (n)(5)(iii) amended 45380
  (i)(2), (3), (5) through (9), (11), (13), (k)(5), (n) heading, (1) introductory text, (2)(ii), (3) heading, (ii), (o) heading, (2) and (3) amended 45381
  (i)(10), (13), (n)(1)(v) table, (i) introductory text and (4) amended 45382
173.316 (d) amended 45380
173.318 (f)(4) amended 45380
173.319 (d)(2) amended 45184
  (a)(4)(iii), (c), (e)(1) and (2)(i) amended 45380
  (e)(4) amended 45383
173.320 (c) revised 33436
173.323 (c)(1) amended 45380
  (i) amended 45383
173.334 (d) amended 45380
173.335 (a) amended 45380
173.337 Introductory text amended 45380
173.340 (a), (b) and (c)(4) amended 45380
173.403 Amended 45184, 45380
  Amended 45383
173.411 (c) amended 45380
  (b)(4)(ii) revised 45383
173.412 (f) amended 45380
  (b) amended 45381
173.416 (f) amended 45380
173.417 (a)(6)(viii), (b)(1) table, (2)(i) and (ii) Table 5 amended 45380
  (a)(6)(iv), (b)(2)(ii) and Table 5 amended 45381
173.419 (c) amended 45380
173.425 Table 7 amended 45383
173.427 (a)(1) amended 45381
173.433 (b) amended 45184
  (b) amended 45380
173.435 Table amended 45184
173.441 (b)(3) amended 45381
173.443 (d)(1) amended 45380
173.447 (a) amended 45381
173.453 (d) amended 45380
  (a), (b)(2), (3), (d) and (e) amended 45383
173.457 (b)(4) amended 45380
173.459 (b) introductory text amended 45380
173.465 (c)(2), (3), (4), (d)(1)(ii), (e)(1) and (2) amended 45380
  (b) and (e)(1) amended 45381
173.466 (a)(1) and (2) amended 45381
173.469 (c)(1)(v), (d)(1) and (2) amended 45184
  (b)(2)(i) and (3)(iv) amended 45380
  (b)(2)(ii), (3)(i) and (v) amended 45381
  (b)(1) amended 45381
173.471 (e) amended 45380
173.472 (f) amended 45380
173.473 (a)(1) amended 45380
173.476 (a) and (c) introductory text amended 45380
173 Appendix H amended 45381
174.16 (b)(1), (2) and (3) amended 45383
174.63 Heading and (a) amended 45383
174.81 (e)(5), (g)(3)(iv), (v), (h) and (i) amended 45383
174.83 (f) amended 45383
174.84 Amended 45383
174.85 (d) table amended 45383
174.101 (a), (b), (c), (d) (h), (l), (n) and (o) introductory text amended 45383
174.102 (a) and (b) amended 45383
174.103 (a) amended 45383
174.104 Heading, (a), (b) introductory text, (c), (d), (e) and (f) amended 45383
174.105 Amended 45383
174.106 Heading, (a), (b) and (c) amended 45383
174.110 Amended 45383
174.112 Heading, (a), (b), (c) introductory text and (3) amended 45383
174.115 Heading, (a), (b) and (3) amended 45383
174.700 (c) and (d) amended 45383
174.715 (b) amended 45383
175.10 (a)(10) and (16) revised; (a)(17) added 33436
  (a)(2), (4)(ii), (iv), (15) and (b)(2) amended 45383
175.30 (d)(1) and (2) revised 45184
175.31 (b)(1) amended 45184
175.33 (a) introductory text revised 33437
175.75 (a)(1) amended 45184

NOTE: Boldface page numbers indicate 2000 changes.

- 175.78 Revised 33437
  - (a) Table 1 amended 45383
- 175.85 (a) revised 33438
  - (i)(3) amended 45383
  - (c)(1)(iv) amended 45384
- 175.90 (d)(2) amended 45184
- 175.310 Introductory text, (c)(1), (2) and (3) amended 45383
- 175.320 (a) table amended 45383, 45384
- 175.701 (b)(3) and (c) introductory text amended 45383
- 175.702 (b)(2)(i)(A) and (B) amended 45383
- 176.2 Amended 8647, 33438, 45184
- 176.4 (b) introductory text and (c) amended 45384
- 176.5 (b)(8) amended 8647
- 176.9 Introductory text amended 45384
- 176.11 (a) introductory text amended 8647
- 176.27 (b) amended 8647
- 176.30 (a) introductory text amended 8647
  - (a)(5) introductory text amended 45184
  - (a)(5)(ii) revised 45384
- 176.36 (b) amended 45384
- 176.63 (e) added 33438
  - (b) amended 45184
- 176.74 (c) amended 45184
- 176.76 (d) and (f)(2) amended 45184
  - (h)(5) and (i) amended 45384
- 176.80 Heading revised 45184
- 176.83 (a)(6), (7) introductory text, (b) introductory text, (c)(2)(iii) and (iv) amended 45184
  - (a)(6), (c)(2)(ii) through (v), (f)(4) table and (g)(3) tables amended; (b), (f) and (g) revised 45384
- 176.84 (b) table amended; (c)(1) and (2) table revised; (c)(3) removed 33438
  - (a) and (c)(2) amended 45185
  - (b) table amended 45384
- 176.88 Heading revised 45185
- 176.95 Heading revised 45185
- 176.99 Amended 45384
- 176.100 Amended 45385
- 176.104 (h) introductory text and (j) introductory text amended 45384
  - (i) amended 45385
- 176.112 Heading revised 45185
  - Amended 45384
- 176.116 (e)(3) amended 45384
  - (e)(2) amended 45385
- 176.128 (c) amended 33438
  - (c) amended 45384
- 176.133 Amended 45185
- 176.136 (e) amended 33438
  - (b) and (c) amended 45185
- 176.137 (c) amended 45185
- 176.142 (a) revised 33438
  - (b)(1) amended 45384
- 176.144 (c) amended 45384
  - (a) table amended 45385
- 176.145 (b) amended 45384
- 176.150 (a) and (b) amended 45384
- 176.164 (c) amended 45384
- 176.166 (a)(1) and (b) table amended 45384
  - (b) table amended 45385
- 176.168 (d) amended 45384
- 176.172 (c) amended 45384
- 176.192 (a) amended 45384
- 176.194 (f) amended 45185
  - (c) amended 45384, 45385
- 176.210 Amended 45185
- 176.315 (a) amended 45384, 45385
- 176.340 (c) amended 45185
  - (b)(2), (7) and (8) amended 45384
- 176.400—176.415 (Subpart J) Heading amended 45385
- 176.400 Heading; (c) and (d) amended 45384
- 176.410 Heading, (a)(1) and (c) introductory text amended 45384
- 176.415 (c)(4) amended 45185
  - Heading, (b)(5), (c)(1) and (5) amended 45384
  - (a)(1) amended 45385
- 176.700 (c) amended 45385
- 176.704 (e)(2) amended 45384
  - (b) and (d) amended 45385
- 176.720 Added 33439
- 176.905 (a)(5), (i)(2) and (5) amended 45384
  - (i)(1) and (2) amended 45385
- 177.834 (i)(3) amended 45385
- 177.835 (g)(3) introductory text correctly revised **60383**
  - (c) introductory text, (f) and (j) amended 45385
- 177.840 (e) amended 45185
  - (d), (e) (g), (h) introductory text, (i), (m), (o), (p)(1), (2) introductory text, (q)(1), (r)(2), (t) and (u) amended 45385
- 177.842 (b)(2) and (f) amended 45385
- 177.848 (g)(3)(vi) revised 33439

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 49 Chapter I—Con.

(g)(3)(iv) amended	45185
(e)(5), (g)(3)(v), (h) and (i) amended	45385
177.854 (f)(1) and (g)(2)(iv) amended	45385
177.870 (d) amended	45385
178.3 (a)(2) and (b)(2) amended	45386
178.33–8 (a) amended	45387
178.33–9 (a)(2) amended	45386
178.33a–2 (b) amended	45387
178.33a–8 (a) amended	45387
178.33a–9 (a)(2) amended	45386
178.35 (f)(1)(iv) amended	45185
178.36 (j) amended	45185
178.36 (a)(1), (2), (e)(1), (f), (i)(2) and (k)(3)(iii) amended	45386
178.36 (a)(2)(iii) and (f) amended	45387
178.37 (a)(1), (2) introductory text, (e)(1), (i)(2) and (k)(3)(iii) amended	45386
178.37 (a)(2)(iii) and (f)(1) amended; (f)(2) and (3) revised	45387
178.38 (j) amended	45185
178.38 (a), (e)(1), (f), (i)(2) and (k)(3)(iii) amended	45386
178.38 (o) introductory text amended	45387
178.38 (f) amended	35288
178.39 (j) amended	45185
178.39 (a)(1), (i)(2) and (k)(3)(iii) amended	45386
178.39 (f) amended	35288
178.42 (a), (f)(1), (2) and (3) amended	45386
178.44 (l) amended	45185
178.44 (a), (f)(2), (i)(2) and (m)(3)(iii) amended	45386
178.45 (j)(4) amended	45185
178.45 (d)(1) and (2)(ii) amended	45386
178.45 (a) and (g)(4) amended	45387
178.45 (d)(2)(iii) amended	35288
178.46 (c)(5)(ii), (g)(2), (3)(i), (ii) and (iii) amended	45387
178.46 (d) amended	35288
178.47 (a) and (j)(2) amended	45386
178.47 (f) introductory text amended	45387
178.47 (f)(1) and (2) amended	35288
178.50 (d) introductory text amended	45185
178.50 (a), (f)(1)(i), (ii), (iii), (i)(2) and (k)(3)(iii) amended	45386
178.50 (f)(2) amended	35288
178.51 (g)(1) amended	45185
178.51 (a) introductory text, (f)(1)(iii), (2), (3), (j)(3)(iii), (k) and (l)(3) amended	45386
178.53 (a), (h)(2) and (j)(5)(iii) amended	45386
178.53 (e) introductory text, (1) and (2) amended	45388
178.55 (a) and (i)(2) amended	45386
178.55 (f) and (k)(3)(iii) amended	45387
178.56 (a) and (i)(2) amended	45386
178.56 (f)(1)(ii), (2), (j)(3)(iii), (k) and (l)(3) amended	45387
178.57 (a) introductory text amended	45386
178.57 (d)(3), (f)(1), (j)(3)(iii), (k) and (l)(3) amended	45387
178.57 (f)(6) amended	45388
178.58 (a) and (i)(2) amended	45386
178.58 (m)(5)(iii) amended	45387
178.58 (f)(1) and (2) amended	35288
178.59 (a) introductory text and (h)(4) amended	45386
178.59 (j)(3)(iii) amended	45387
178.60 (a) and (j)(4) amended	45386
178.60 (g)(1) introductory text, (l)(3)(iii), (m) and (n)(3) amended	45387
178.60 (g)(1)(i) amended	45388
178.61 (a), (f)(3), (j)(3)(iii), (k) and (l)(3) amended	45387
178.61 (f)(4) amended	35288
178.65 (d)(1) and (2) amended	45389
178.68 (a) amended	45386
178.68 (f)(1)(i), (2), (h)(4) introductory text and (l)(1) amended	45387
178.245–3 Note 1 amended	45387
178.270–2 (c) amended	45386
178.270–2 (b) amended	45389
178.270–4 (b)(1), (2) and (3) amended	45387
178.270–5 (d)	45387
178.270–5 (b)(1) and (2) amended	35389
178.270–9 Amended	45387
178.270–10 (a) and (b) amended	45387
178.270–11 (c)(4) amended	45386
178.270–11 (a)(2), (c)(1)(i) and (ii) amended	45387
178.270–11 (a)(1) revised; (a)(2), (3), (b)(1), (c)(2), (d)(4), (e)(2)(i), (ii), (4) amended	45389
178.270–12 (b) and (e) amended	45387
178.270–13 (a) amended	45387

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

178.270–14 (b)(7) and (c)(2) amended	45387
178.271–1 (b) amended	45387
178.272–1 (b) amended	45387
178.272–2 (b)(1) and (2) amended	45387
178.273 Added	33439
178.274 Added	33440
178.275 Added	33445
178.276 Added	33448
178.277 Added	33450
178.318–3 Amended	45185
178.337–1 (b) Note 1 amended	45387
178.337–8 (a)(3), (4)(i), (ii), (v) and (vi) amended	45387
178.338–1 (a)(1) and (f)(1) amended	45387
178.345–1 (f) amended	45387
178.345–1 (c) and (k) introductory text amended	45389
178.345–10 (b)(3)(ii) amended	45389
178.345–14 (b)(3) amended	45389
178.346–1 (b) amended	45387
178.346–3 (b)(3) amended	45389
178.347–1 (c) amended	45387
178.352–2 (a) amended	45387
178.352–2 (b) revised	45389
178.352–3 (a), (b), (c)(1), (2)(i), (ii), (iii) and (3) amended	45387
178.352–3 (a) and (c)(3) amended	45389
178.352–6 (a)(3) amended	45386
178.354–2 (a) amended	45387
178.354–3 (a) introductory text, (b), (c) introductory text and (e) amended	45387
178.356–1 (b)(1), (2) and (3) amended	45387
(c) amended	45389
178.356–2 (a)(2) and (c) amended	45387
178.356–3 (a) amended	45387
178.358–1 (b) and (c) amended	45387
178.358–2 (a) introductory text, (2) and (3) amended	45387
178.358–3 (b)(2) and (4) revised; (b)(3) amended	45389
178.358–5 (b)(5) amended	45386
178.360–1 (b) amended	45387
178.360–3 (a) amended	45387
178.362–1 (b)(1) through (6) amended	45387
178.362–2 (a)(1), (2), (b), (d)(2), (3) and (e)(1) through (5)	45387
178.362–3 (b) amended	45387
178.362–6 (b) amended	45386
178.364–1 (b) amended	45387
178.364–2 (a), (b), (d), (e) and (f) amended	45387
178.364–3 Revised	45389
Amended	45387
178.503 (a)(8) and (c)(1)(ii) amended	45386
178.509 (b)(1) amended	45386
178.601 (e), (g)(7), (h), (i) introductory text, (2) and (k) amended	45386
178.603 (b) amended	45386
178.604 (b)(2) amended	45386
178.605 (b) amended	45386
178.605 (d)(2), (3) and concluding text revised	45390
178.606 (b) and (c)(1) amended	45386
178.608 (b)(5) amended	45386
178.700 (a), (c) introductory text and (1) amended	45386
(c)(1) amended	45387
178.702 Heading, (a) introductory text, (1), (2) and (b) amended	45386
(a)(1) table amended	45387
178.703 Heading and (a)(1) introductory text revised; (a)(1)(ii) amended	33451
Heading, (a)(1) introductory text, (i), (ii), (iii)(A), (B), (C), (v), (vi), (vii), (viii), (2)(i) through (iv), (b) introductory text, (1) introductory text, (i), (2) introductory text, (i), (3), (4), (5), (6) introductory text, (i) and (ii) amended	45386
178.704 Heading, (a), (b), (c) (d) introductory text, (e) and (f) amended	45386
178.705 Heading and (c)(1)(iv)(A) revised; (c)(1)(iv)(C) added	33452
Heading, (a) introductory text, (b) introductory text, (1), (2), (c) introductory text, (1)(ii), (iii) introductory text, (ii), (2) introductory text and (i) amended	45386
(c)(1)(iii)(A), (B), (c)(1)(iv)(A), (B) (2)(i) amended	45387
178.706 Heading, (a) introductory text, (1), (3), (5), (b), (c) introductory text, (1), (3) and (4) amended	45386
178.706 (c)(4) amended	45387

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 49 Chapter I—Con.

178.707 Heading, (a)(1) introductory text, (i) through (vi), (b) introductory text, (1), (c) introductory text, (2), (3) introductory text, (iv), (4) introductory text, (5) introductory text, (i), (ii), (iv) and (6) amended 45386
(c)(3)(iv) and (6) amended 45387
178.708 Heading, (a), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (ii), (3), (4) introductory text, (4)(i), (ii) and (iv) amended.............................45386
178.709 Heading, (a) introductory text, (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i), (iv), (3), (4) introductory text, (i), (ii) and (iv) amended...45386
178.710 Heading, (a) introductory text, (b) introductory text, (1), (3), (c) introductory text, (1), (2) and (4) through (7) amended 45386
178.800—178.819 (Subpart O) Heading amended 45386
178.801 (i) amended..........................33452
(a), (b), (c)(1), through (6), (7) introductory text, (ii), (d), (e)(1), (2) introductory text, (i), (ii), (f)(1), introductory text, (i), (ii), (2), (g), (h), (i), (j) introductory text, (2), (k), (l)(1) and (2) amended 45386
178.802 Heading, (a) introductory text and (c) amended................45386
178.803 Heading, introductory text and table amended............45386
Table amended 45390
178.810 (a), (b)(1), (2), (3), (c), (d)(1) introductory text, (3)(i) and (e) amended 45386
178.811 (a) through (d) amended 45386
178.812 (c)(1) revised; (c)(3) added 33452
(a), (b)(1), (2), (c)(1), (2) introductory text and (d) amended...45386
178.813 (a) and (d) amended 45185
(a) through (d) amended 45386
178.814 (a) amended 45185
(a), (b), (c), (d)(1) through (4), (5) introductory text, (i)(A), (ii)(A), (B), (e)(1), (2) and (3) amended 45386
178.815 (a), (b)(1), (2), (c)(1), (2), (3), (4) introductory text, (i), (ii), (d), (e)(1), (2) and (3) amended 45386
178.816 (a), (b), (c), (d) introductory text and (e) amended........45186
178.817 (a) through (d) amended 45386
178.818 (a) through (d) amended 45386
178.819 (a) , (b)(1), (2), (3) and (c) amended 45386
179.2 Amended 45386
(a)(4) and (9) removed 45390
179.12 (b) amended 45390
179.15 (e) introductory text, (2), (f)(1), (3) and (4) amended 45390
179.16 (a)(3) amended........................45390
179.18 (c) amended...........................45390
179.100 Heading amended; second 179.100 redesignated as 179.101 45186
179.100–7 (b) table amended 45186
179.100–14 (a) introductory text amended 45186
179.100–18 (c) amended......................45186
179.101 Redesignated from second 179.100 45186
179.101–1 Table amended........45186, 45390
179.101–4 (i) amended........................45390
179.102–4 Introductory text amended 33452
(a) introductory text amended 45186
179.102–17 (d) revised; (l) amended 45390
179.103–5 (b)(4) amended 45186
179.200–1 Heading amended 45186
179.200–6 (a), (b) and (c) amended 45390
179.200–7 (c) table and (h) amended...45186
179.200–9 (a) and (b) amended 45186
179.200–11 Amended 45186
179.200–13 Heading amended.............45390
179.200–14 (c) and (e)(2) amended 45186
(b) amended 45390
179.201–1 Table amended 45390
179.201–3 (a)(1) and (2) amended 45186
179.201–4 Amended 45186

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

- 179.201–6 (d) amended 45186
- 179.201–8 (a) amended 45390
- 179.220–6 (a) and (b) amended 45390
- 179.220–7 (c) table amended 45186
- 179.220–24 Heading amended 45390
- 179.221–1 Table amended 45390
- 179.300–6 (a) amended 45186
  - (a) and (b) amended 45390
- 179.300–15 Heading and (c) revised 45390
- 179.300–16 (b) amended 45390
- 179.300–17 Heading and (b) revised; (c) amended 45390
- 179.301 (a) table amended 45390
- 179.400–4 (a)(5) amended 45186
- 179.400–8 (a) through (d) amended 45191
- 179.400–9 (d) amended 45391
- 179.400–17 (a)(1) amended 45186
- 179.400–20 (d) amended 45391
- 179.400–25 (a) amended 45391
- 179.401–1 Table amended 45390
- 179.500–3 (d) amended 45186
- 179.500–3 (c)(2) amended 45391
- 179.500–4 (a) amended 45391
- 179.500–7 (b) amended 45391
- 179.500–10 (a) amended 45390
- 179.500–12 (a) amended 45390
  - Heading amended 45391
- 179.500–16 Heading and (b) revised; (a) amended 45391
- 179.500–17 (a)(5) and (6) revised 45391
- 179.500–18 (c) table amended 45191
  - Appendix A amended 45390
- 180.350 Amended 45391
- 180.351 Heading, (a) and (b) amended 45391
- 180.352 Heading and (b)(1) amended 45186
- 180.352 (a), (b) heading, introductory text, (3)(i), (ii), (c)(1), (2)(i) introductory text, (A), (B), (C), (ii) introductory text, (C), (iii) introductory text, (B) and (f) amended 45391
- 180.405 (h)(2), (m)(2), (3) and (n) amended 45391
- 180.409 (b) amended 45391
- 180.415 (b) amended 45187
- 180.419 (b)(1) amended 45187
- 180.509 (h)(2)(i), (ii) and (j)(2) amended 45391
- 180.511 (e) amended 45187
- 180.515 (c) amended 45391
- 180.519 (b)(1) amended 45187
  - (b)(2), (3), (4) and (5) table amended 45391
- 180.601—180.605 (Subpart G) Added 33452
- 192.801—192.809 (Subpart N) Heading added 43523
- 192.803 Amended 43523
- 192.809 (c) revised 43524
- 195.2 Amended **80544**
  - Regulation at 65 FR 80544 eff. date delayed 9532
- 195.6 Added **80544**
  - Regulation at 65 FR 80544 eff. date delayed 9532
- 195.450 Undesignated center heading and section added **75405**
  - Regulation at 65 FR 75405 eff. date delayed 9532
- 195.452 Undesignated center heading and section added **75405**
  - Regulation at 65 FR 75405 eff. date delayed 9532
- 195.501—195.509 (Subpart G) Heading added 43524
- 195.503 Amended 43524
- 195.509 (c) revised 43524
- 195 Appendix C added **75409**
  - Regulation at 65 FR 75409 eff. date delayed 9532
- 199 Random drug testing revision **81409**
  - Policy statement 41955

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

- 213.110 Added 1899
  - (j)(1) and (m) introductory text correctly added 8372
  - Regulations at 66 FR 1899 and 8372 eff. date delayed 9676
- 219 Authority citation revised **69885**
  - Policy statement **79318**
  - Policy statement 41955
  - Revised 41973
- 219.5 Amended **69885**
- 219.201 (a)(1) introductory text, (2) and (4) revised **69886**
- 225 Authority citation revised **69886**
- 225.19 (c) amended; (e) revised **69886**
- 225 Appendix B amended **69886**
- 229 Authority citation revised 4192
- 229.5 (p) added 4192
  - Regulation at 66 FR 4192 eff. date delayed 9906
- 229.25 (a) revised 4192

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 49 Chapter II—Con.

Regulation at 66 FR 4192 eff. date delayed.....9906
229.27 (b) revised.....4192
Regulation at 66 FR 4192 eff. date delayed.....9906
229.53 Revised.....4192
Regulation at 66 FR 4192 eff. date delayed.....9906
231 Authority citation revised.....4192
231.0 (b)(3), (4), (5) and (g) added.....4192
Regulation at 66 FR 4192 eff. date delayed.....9906
231.31 Added.....4192
Regulation at 66 FR 4192 eff. date delayed.....9906
231 Appendix A amended.....4193
Regulation at 66 FR 4193 eff. date delayed.....9906
232 Revised.....4193
Regulation at 66 FR 4193 eff. date delayed; Appendix B heading revised.....9906
232.1 (b) and (d) amended.....9906
232.303 (a)(1)(iv), (e) introductory text, (1) introductory text, (iv) and (f) introductory text revised.....39687
232.305 Revised.....39688
232.307 Revised.....39688
232.309 Heading and (a) revised.....39689
232.409 (c) amended.....29502
232 Appendix A amended.....39689

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

375 Authority citation revised.....**58664**
375.1 (b) revised.....**58664**
382 Policy statement.....41955
Revised.....43102
385 Authority citation revised.....**78427**
385.14 Added.....**78427**
386 Authority citation revised.....**58664**
Heading and authority citation revised.....**78427**
386.1 Revised.....**78427**
386.2 Amended.....**78427**
386.72 (a) and (b)(1) revised.....**58664**
386.83 Added.....**78428**
386.84 Added.....**78428**
386 Appendix A amended.....**78429**
390 Authority citation revised.....**70514**
Authority citation revised.....2766
390.3 (f)(6) revised.....2766
Regulation at 66 FR 2766 eff. date delayed.....9677
390.5 Amended.....2766
Regulation at 66 FR 2766 eff. date delayed.....9677
390.19 (a) revised; (g) added; interim.....**70514**
391.41 (b)(1) and (2)(ii) revised.....**59369**
391.43 (c)(1), (d), (f), (g) and (h) revised.....**59369**
391.49 (d)(2) amended.....**59380**
393 Authority citation revised.....**70220**
Authority citation revised.....30339
393.13 (a) revised.....30339
393.75 (g) revised.....**70220**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

533.5 (a) Table IV revised.....17516
541 Appendices A, A-I, A-II and B revised.....40624
571 Workshop.....**68107**
Policy statement.....9673
Actions on petitions.....18208
571.122 Amended; eff. 8-14-02.....42617
571.221 Regulation at 63 FR 59740 eff. date delayed to 6-1-02.....20199
571.304 Amended.....**64626**
571.305 Regulation at 65 FR 57988 eff. date delayed to 12-1-01.....9533
571.401 Added.....**63020**
Revised.....43121
572.150 (a)(1) introductory text and (2) revised.....45784
572.154 (c)(7) added.....45784
572.155 (a) revised; (i)(2)(iv) added.....45784
573.3 (a) revised; (g) added.....38162
573.10 Added; interim.....**81413**
575 Notice of final decision.....3388
578 Authority citation revised.....**68110**
Heading and authority citation revised; interim.....**81418**
578.1 Revised; interim.....**81418**
578.2 Revised; interim.....**81418**
578.3 Revised; interim.....**81419**
578.4 Amended; interim.....**81419**
578.6 (a) revised.....**68110**
(f)(1) and (g)(1) amended; (g)(2) revised.....41151

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

578.7 Added; interim......**81419**
(b) revised......38384
592 Authority citation revised......**68110**
592.6 (g)(2)(i) amended......**68110**
595.1—595.4 (Subpart A) Heading added......12655
595.1 Revised......12655
595.2 Revised......12655
595.5 (Subpart B) Heading added......12655
595.6—595.7 (Subpart C) Added......12655

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

611 Added......**76880**
Regulation at 65 FR 76880 eff. date stayed in part to 4-6-01......9677
660 Inseason adjustments......17639
653 Policy statement......41955
Removed......42002
654 Policy statement......41955
Removed......42002
655 Policy statement......41955
Added......42002

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1002 Policy statement......**76174**
1002.1 (b), (c), (e)(1) and (f)(6) table revised......**77320**
(b), (c), (e)(1) and (f)(6) table revised......10830
1002.2 (f) revised......**77320**
(f) revised......10830
1180.0 Revised......32583
1180.1 Revised......32583
1180.3 (a) and (b) revised......32586
1180.4 (a)(1), (d), (e)(2), (3) and (f)(2) revised; (a)(4) removed; (b)(4) and (c)(6)(vi) added......32586
1180.6 (b)(1) through (4), (6) and (8) revised; (b)(9) through (13) added......32587
1180.7 Revised......32588
1180.8 (a) and (b) redesignated as (b) and (c); new (a) added......32589
1180.10 Added......32589
1180.11 Added......32590
1247 Added......1052
180.519 (b)(3), (4) and (5) table......45392

Proposed Rules:

10......1294
21......**76460**
26......23208
27......**76460**
71......40666
107......**76890**
......22080
171......**63294**
......6942, 32420, 35155, 40174
172......**63294**
......6942, 41490
173......**63294**
......6942, 32420, 40174
174......**63294**
......2870, 32420, 40174
175......**63294**
......32420, 40174
176......**63294**
......32420, 40174
177......**63294**
......2870, 6942, 32420, 40174
178......**63294**
......6942, 32420, 40174
180......**63294**
195......**76968**
......15681, 15821
199......21492, 21506
209......42352
214......1930
219......21492, 21511
229......136, 13474
234......42352
236......42352
350......39248
365......27059
368......22328, 32918
382......21492, 21538
383......22499, 39248
384......22499, 39248
385......2767, 22415, 27059
387......22328, 27059
390......2767, 22499
392......**79050**
393......**79050**
398......2767
534......6523
537......19132
538......20781
544......41190
554......6532
567......**69810, 75222**
......90
571......**67693, 70681, 70687, 75222, 77339, 78461**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH AUGUST 31, 2001

TITLE 49 *Proposed Rules:—Con.*

........968, 3527, 18581, 28875, 29747, 30366, 31883, 33657, 35177, 38982, 40176, 42982, 42985
572..........**71081**
573..........6532, 38247
574..........**75222**
575..........**75222**
..........35179
576..........6532
578..........27621
591..........**69810**
..........90
592..........**69810**
..........90
594..........**69810**
..........90
624..........45552
653..........21492, 21551
654..........21492, 21551
655..........21492, 21551
1180..........**58974**

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

13.23 Regulation at 64 FR 32711 confirmed..........6483
13.24 Regulation at 64 FR 32711 confirmed..........6483
13.25 Regulation at 64 FR 32711 confirmed..........6483
13.29 Regulation at 64 FR 32711 confirmed..........6483
13.50 Regulation at 64 FR 32711 confirmed..........6483
17 Comment requests..........2828, 23181
Technical correction..........43808
17.11 (h) table amended........**58949, 60886, 63454, 63704, 69480, 69637, 69710, 81433**
(h) table amended........8548, 8667, 8878, 9176, 9231, 9244, 9449, 14659, 15656, 18031, 21475, 22959, 29403, 32257, 33915, 35559, 36085
17.12 (h) table amended........**62310, 81189**
(h) table amended..........27907
17.22 Regulation at 64 FR 32711 confirmed..........6483
17.32 Regulation at 64 FR 32712 confirmed..........6483
17.40 (l) added; eff. 5–22–01 through 5–22–04..........28130
17.84 (g) amended; (g)(1) revised; (g)(6)(vi) and (9)(vi) added..........**60886**
(l) added..........**69637**
(h)(1), (2), (4)(ii), (iii), (iv), (5), (6), (8), (9) and (10) revised; (h)(11) and map added..........33916
17.85 Added..........32263
17.95 (c) amended..........**58949**
(h) amended..........**63455**
(b) amended..........**63704**
(e) amended..........**69710**
(b) amended........8549, 8878, 9177, 22959, **36086**
(a) amended..........8667
(i) amended..........9231, 21475
(f) added..........9244
(d) amended..........9450, 14659
(d) corrected..........13657—13671
(e) amended..........18031
(h) amended..........29404
(g) added..........35560
17.96 (a) amended..........**81189**
18.30 (a)(4)(i), (iii), (iv) and (i)(1) introductory text revised; interim..........1907
18.121—18.129 (Subpart J) Correctly added; eff. 3–30–00 through 3–30–03..........**67305**
20 Frameworks..........44010
Seasonal hunting adjustment..........46200
20.21 (j) introductory text revised; (j)(1) added..........**76888**
(j) revised..........742
20.22 (b) and (g) added..........32265
20.101 Seasonal hunting adjustment..........45732
20.102 Seasonal hunting adjustment..........45732
20.103 Seasonal hunting adjustment..........35733
20.104 Seasonal hunting adjustment; correction..........1052
Seasonal hunting adjustment..........45736
20.105 Seasonal hunting adjustment; correction..........1052
Seasonal hunting adjustment..........45737
20.106 Seasonal hunting adjustment..........45744
20.107 Seasonal hunting adjustment; correction..........1052
20.109 Seasonal hunting adjustment; correction..........1052

NOTE: **Boldface page numbers indicate 2000 changes.**

Seasonal hunting adjustment 45745
20.110 Seasonal hunting adjustment **58667**
21.60 (Subpart E) Added 32265
23.23 (f) table amended 27610
25.12 Amended....................**62480**
25.21 Revised....................**62481**
25.44 Heading, (b) and (c)(1) revised; (d) removed; (e) redesignated as (d) **62482**
26.41 Added....................**62482**
29.1 Revised....................**62483**
29.3 Removed....................**62483**
29.21 Amended; heading revised **62483**
29.21–7 Heading revised; (c) removed....................**62483**
80.15 Revised....................18212
80.27 Added 18212
86 Added....................5286
Regulation at 66 FR 5286 eff. date delayed....................9534
100 Emergency closures and adjustments 32750
100.1—242.9 (Subpart A) Revised; interim 31536
100.10—242.21 (Subpart B) Revised; interim....................31536
100.24 (a)(2) revised 10145
(a)(1) revised....................33748
100.25 (c) revised; eff. 3–1–01 through 6–30–01....................10148
Added 33755
100.26 Added; eff. 7–1–01 through 6–30–02....................33759
100.27 Added; eff. 3–1–01 through 2–28–02....................10148
100.28 Added; eff. 3–1–01 through 2–28–02....................10148

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Harvest estimates....................33209
216.151—216.157 (Subpart N) Correctly removed; CFR correction....................22133
Added 22466
216.170—216.178 (Subpart P) Added; eff. 9–17–01 through 9–17–06....................43458
222 Temporary regulations....................15045, 28842, 33489
223 Policy statement....................**70514**
Temporary regulations.....15045, 28842, 33489
Exemption....................37599
223.102 (c) revised **60383**
223.206 (d)(2)(iv)(B) amended 1603
(d)(6) added; interim....................44551
223.207 (c) introductory text revised 1603
(a)(7)(ii)(B) revised; interim 24288
223 Figure 16 added; interim....................24289
224 Policy statement....................**70514**
224.101 (a) revised **69481**
(d) added....................29055
224.103 (b) and (c) redesignated as (c) and (d); (b) added....................29509
224.104 Heading and (c) revised; interim 44552
229 Temporary regulations ...15045, 27042
Regulation at 66 FR 27042 eff. date corrected 29213
Fisheries List....................42780
229.2 Amended; interim....................**80377**
Regulation at 65 FR 80377 eff. date delayed....................5489
229.3 (h) through (k) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed....................5489
229.32 (b), (c)(3)(ii), (4)(ii), (5)(ii), (d)(2)(ii), (3)(ii), (4)(ii) and (5)(ii) removed **70317**
(b)(1) through (d)(6)(ii) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed....................5489
229.34 (a)(2) revised....................2338
230 Quotas **75186**
Quotas 14862

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Quotas **71270**
Inseason adjustment....................**75867**
Fishery management measures 15801, 18409
300.63 (e) added....................**67308**
(e) corrected....................8373
(d)(1)(i) amended 36208
(a)(3) and (4) redesignated as (a)(4) and (5); new (a)(3) added 42156

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 50 Chapter III—Con.

300.60—300.65 9 (Subpart E) Figure 1 amended 36208

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Fishing restrictions **59752, 63118**
  Fishery management measures **66655**
  Technical correction **69376**
  Fishing restrictions 2389, 22469, 35388
  Specifications 2338, 10209, 18409, 28676, 28846
  Technical correction 38162
600.518 (b)(1) table revised 28132
600.525 Removed **77464**
622 Temporary regulations **68951, 70317, 70808**
  Policy statement **70521**
  Temporary regulations 7591, 11237, 13440, 15357, 33917, 35761
  Policy statement 16618
  Inseason adjustments 32779
622.4 (h) revised **61115**
622.17 (b)(1) introductory text amended **61116**
622.31 Regulation at 65 FR 56502 eff. date extended through 9–14–01 14862
622.35 (e)(1)(xii) through (xviii) and (2) revised; (e)(1)(xl) through (li) added **61115**
622.39 (a)(4) added **61115**
  (c)(1)(ii) revised 17369
622.41 (a)(4) introductory text amended **61116**
622.42 (c)(1)(i) revised 17369
622.44 (a)(2)(i) and (d)(4)(i) revised 17370
635 Retention limits **60118, 63807**
  Inseason adjustment **63021**
  Fishing season notification **75867**
  Quotas 55
  Retention limits 31844, 40151
  Fishing season notification 33918
  Quota specifications 37421
  Inseason adjustment 42805
635.2 Amended; eff. 10–10–00 through 4–9–01 ....**60891**
  Amended 8904
  Amended; eff. 7–11–01 through 1–9–02 36712
635.4 (d)(3) stayed; (d)(6) added 29511
  (b)(1) and (d)(1), (2) and (3) revised 30652
635.5 (a)(1) amended 30653
  (a)(3), (b)(1)(i), (ii), (iii), (2)(i), (ii)(A) and (B) revised 42804
635.6 (b)(1) introductory text and (iii) revised 42804
635.7 (d) revised; interim 17372
635.20 (e)(1) stayed; eff. 3–6–01 through 9–4–01 13443
  (f)(1) amended 42804
635.21 (c)(2)(v) added; eff. 10–10–00 through 4–9–01 ....**60891**
  (c)(5) added; eff. 11–24–00 through 4–9–01 ....**60891**
  (c)(2)(ii) and (iii) revised 8904
  (c) introductory text amended; (c)(5) added; interim 17372
  (a)(3) added; eff. 9–15–01 through 1–9–02; (c)(2) stayed; (c)(6) added; eff. 7–15–01 through 1–9–02; (c)(5)(iii) added; eff. 8–1–01 through 1–9–02 36714
635.22 (c) amended 8904
635.27 (c)(1)(i)(A) and (3)(i) revised; (c)(1)(i)(C) and (3)(iii) added **77526**
  (b)(1)(iii) revised 8904
  (b)(1)(i), (ii), (iv)(A) and (c) stayed; (b)(1)(v) and (vi) added; eff. 3–6–01 through 9–4–01 13443
  (a)(2)(i), (ii) and (iii) revised 42805
635.28 (b)(1) stayed; (b)(4) added; eff. 3–6–01 through 9–4–01 13443
635.41 (a) introductory text, (1), (2) and (b) amended 42805
635.42 (a) heading, (1), (2), (3), (b) heading, (1), (2) and (3) amended 42805
635.43 (a)(2), (5), (12), (b) and (c) amended 42805
635.44 (a) and (b) amended 42805
635.45 Revised **77527**
  Amended 42805
635.46 Revised **77527**
635.47 Amended 42805
635.69 Stayed 1907
635.71 (a)(33) and (34) added; eff. 10–10–00 through 4–9–01 ....**60892**
  (a)(33) and (34) added; interim 17373
  (a)(27) amended 30653

NOTE: **Boldface page numbers indicate 2000 changes.**

(a)(24), (b)(25) and (26) amended; (a)(35) and (b)(28) added; (b)(5) and (6) revised 42805
648 Quotas **59758, 60586, 69886, 70522, 76577, 76578, 78993, 82945**
Inseason adjustments **60118, 77470**
Suspension of surf clam minimum size limit **60586**
Daily trip limit **63549**
Temporary regulations **64627**
Fishery management measures **65787**
Reporting and recordkeeping requirements **82944**
Quotas 8904, 27615, 29729, 41151
Regulation at 65 FR 82944 eff. date delayed 9778
Allowable catch levels 15812
Temporary regulations 16151, 27043, 29238, 31184, 33210, 37165, 41454, 43122, 45785
Specifications 28846
648.1 (a) amended **77464**
648.2 Amended **60895, 77464**
648.4 Heading revised; (a)(10) and (c)(2)(vi) added **77464**
(a)(3)(iii) revised 36210
648.5 (a) amended **77465**
648.6 (a) revised **77465**
648.7 (a)(3)(i), (b)(1)(i), (c) and (e) revised; (f)(1)(ii), (iii) and (2) redesignated as (f)(1)(iii), (iv) and (2)(i); (f)(1)(i) and new (2)(i) amended; new (f)(1)(i) and (ii) added **60895**
(a)(1)(i) and (2)(i) amended; (f)(3) revised; (a)(3)(iii) and (b)(1)(iii) added **77465**
648.9 (c)(1) and (f) revised; (c)(2)(iii) added **77466**
648.10 (b)(1) introductory text amended 21643, 24056
648.11 (a) revised **77466**
648.12 Introductory text amended **77466**
648.13 (f) added **77466**
648.14 Regulation at 65 FR 25891 eff. date extended through 4–24–01 ....**64894**
(a)(103) revised; (x)(10) and (bb) added **77466**
(a)(73), (122), (123), (p)(3) and (4) revised **81764**
Regulation at 65 FR 77466 eff. date delayed in part 12438
(a)(84), (92), (122) and (u)(9) revised; (a)(123) removed 12910
(a)(38), (39), (40) and (h)(27) revised; (a)(110), (111), (h)(29) through (33), (i)(8) and (9) added 21644, 24056
(aa)(7) added 22476
(a)(80) and (u)(2) revised 39291
(j) introductory text, (k) introductory text, (l) introductory text, (m) introductory text, (p) introductory text, (q) introductory text, (u) introductory text, (v) introductory text and (w) introductory text revised 42158
648.21 (e) revised 13028
(f) revised 35566
(a), (b) and (c) revised; (g) added 42159
648.22 (c) revised **81765**
(a) revised 13028
648.52 Heading, (a) and (c) revised; (d) and (e) added 21644, 24056
648.53 (b) table revised 21644, 24057
648.57 Added; interim 9679
Added 45785
Heading, (a) introductory text and (b) introductory text revised 21645, 24057
648.58 Revised 21645, 24057
648.80 (h)(1) revised 21647, 24060
648.81 (a)(1) introductory text, (b)(1) introductory text, (2)(ii) and (c)(1) introductory text revised 21647, 24060
648.86 (a)(2)(iii) revised 21648, 24060
648.88 (c) revised 21648, 24060
648.100 Regulation at 65 FR 47649 eff. date delayed 8091
Revised 36211
(a), (b) and (d) revised; (f) added 42160
Corrected 45187
648.101 Regulation at 65 FR 47650 eff. date delayed 8091
648.102 Revised 36212, 39291
648.103 (b) revised 36212, 39291
648.104 Regulation at 65 FR 47650 eff. date delayed 8091
648.105 (a) amended 36212
(a) revised 39292
648.107 Regulation at 65 FR 47651 eff. date delayed 8091
Revised 36212
648.120 (b)(2) revised 12911

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 50 Chapter VI—Con.

(a) revised....................................39292
(a), (b) introductory text, (1), (4) and (c) revised; (e) added 42161
Corrected; (b)(6) correctely revised 45187
648.122 (a) through (d) revised; (e) redesignated as (f); new (e) added **81765**
(a), (b) and (c) revised; (d) removed 12911
Heading revised; (g) added..........39292
648.123 (a)(1) and (5) revised 12911
649.124 (b) revised..........................39292
649.125 (a) revised..........................39292
648.140 (b)(2) revised.......................12911
(a), (b) introductory text, (1), (6) and (c) revised; (e) added 42161
648.142 Revised.................................39292
648.143 (b) amended 39292
648.145 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added..........................39292
648.160 (a) revised..........................23627
(a) through (d) revised; (h) added 42162
648.164 (a) amended 23627
648.200—648.206 (Subpart K) Added **77467**
648.205 Regulation at 65 FR 77469 eff. date delayed in part 12438
648.230 (d)(1) revised.......................22476
648.235 Regulation at 65 FR 25891 eff. date extended through 4–24–01 ....**64894**
Added 22476
648.260—648.268 (Subpart M) Added; interim; eff. 5–18–01 through 11–14–01 23184
648.262 (a) amended; eff. 7–18–01 through 11–14–01; interim 38166
648.263 (a) amended; eff. 7–18–01 through 11–14–01; interim 38166
648.265 (a) stayed; (c) amended; (d) added; eff. 7–18–01 through 11–14–01; interim 38166
648.268 (a)(1) and (5) amended; eff. 7–18–01 through 11–14–01; interim 38166
660 Fishing restrictions **59752, 63118, 67310**
Quota **65272**
Fishery management measures **66655**
Technical correction..........**69376, 69483**
Inseason adjustment..........**70523, 70524**
Harvest guidelines **81766**
Fishing restrictions 2389, 11119, 22469, 35388, 35761, 44552
Specifications...2338, 10209, 18409, 28676
Temporary regulations.....17373, 34583, 38573, 42453, 45634, 45635
Inseason adjustments 17639, 36212
Fishery management measures 23185
Technical correction 38162
Harvest guidelines.........................38571
660.21 (l) added; interim 31564
660.22 (hh) stayed; (kk) added; eff. 12–4–00 through 2–21–01; (ll) and (mm) added; eff. 11–3–00 through 2–21–01; interim **66187**
(z), (aa) and (bb) stayed; (ee) through (ll) added; interim; eff, 2–22–01 through 8–20–01 11121
(ee) revised; eff. 3–14–01 through 8–20–01 15359
(ee) through (ll) stayed; (mm) through (tt) added; interim 31564
660.23 (a) stayed, (c) added; interim; eff, 2–22–01 through 8–20–01....................................11121
(a) stay terminated; (c) stayed; interim 31564
660.28 (c) stayed; interim; eff, 2–22–01 through 8–20–01 11121
(c) stay terminated; interim 31564
660.32 (a)(3), (b)(4), (5) and (e) added; interim 31564
660.33 (d)(4) stayed; (d)(7) added; eff. 12–4–00 through 2–21–01; (d)(5) and (e)(2) stayed; (d)(8), (9) and (e)(7) added; eff. 11–3–00 through 2–21–01; interim **66188**
Added; interim; eff, 2–22–01 through 8–20–01 11121
(a)(4) added; eff. 3–14–01 through 8–20–01 15359
Stayed 31564
660.34 Added; interim.......................31564
660.35 Added; interim.......................31565
660.36 Added; interim.......................31565
660.302 Amended **82952**
Amended 20612, 29733, 40919, 41157
660.303 (a) revised **82953**
660.306 (y) added.............................20613
(n) revised 40919
(s) and (t) revised 41157
660.321 (b) revised............................29733

NOTE: Boldface page numbers indicate 2000 changes.

660.323 (a)(3)(vi) added; (b) revised 29733
(a)(2) revised 41157
660.333 (a) revised; (h)(1)(i) and (ii) removed; (h)(1)(iii) and (iv) redesignated as (h)(1)(i) and (ii) 29734
Revised 40919
(a) revised 41158
660.334 Revised 40919
(b), (c)(1)(i) and (d)(1) revised; (c)(3) and (d)(3) added 41158
Corrected 45786
660.335 Removed 29734
Added 40919
(c) through (h) redesignated as (d) through (i); new (c) added; heading, new (d)(1) and (e)(3) revised 41158
660.336 Removed 40922
660.337 Removed 29734
660.338 (b) removed; (c) redesignated as (b) 29734
Revised 40922
660.340 Revised 40922
660.360 Added 20613
660.402 Amended 29241
660.408 (c)(1)(ii) and (vi) amended; (c)(1)(v) and (A) revised; (c)(1)(viii) and (ix) redesignated as (ix) and (x); new (c)(1)(viii) added 29241
660.410 Heading, (a) and (b)(1) revised 29241
660.518 Added 44987
660.519 Added 44987
679 Temporary regulations **59380**
Reallocation **62646**
Fishery management measures **65272**, **67310**, **76175**
Notification **76578**
General limitations **77836**
Fishery management measures 742, 3501, 34125
Authority citation revised 7309
Temporary regulations 9679, 9680, 10637, 10969, 11123, 12739, 12912, 13028, 13266, 13671, 14343, 14863, 15201, 15359, 15360, 16155, 16409, 16410, 16619, 17373, 17087, 17088, 17089, 17815, 21691, 21886, 21887, 23196, 27043, 28132, 28679, 29241, 29511, 29512, 31849, 35761, 36213, 36492, 37166, 37600, 38166, 38167, 38573, 38574, 39119, 41455, 42455, 42969, 45788
Nomenclature change 27909
679.1 (j)(3) and (4) added **78115**
Introductory text, (d) introductory text and (1)(i)(B) revised 27909
679.2 Amended **60588**, **67308**, **78115**
Corrected **64896**
Amended; interim 7309
Amended; interim; eff. 1-18-01 through 7-17-01 7327
Amended 13677
Corrected 16014, 34852
Amended; (A)(1) through (15) redesignated as (2) through (16); new (16) revised; new (1) added 27909
Regulation at 66 FR 7330 eff. date extended to 1-14-02 35911
Regulation at 66 FR 7309 eff. date extended 37179
Amended 43526
679.4 (g) added **78116**
(l) added; interim; eff. 1-18-01 through 12-31-01 7310
(g)(5)(iii)(A) correctly revised 13857
(d)(1)(i) revised 27910
679.5 (a)(4)(iv), (f)(3), (i)(1)(iii) and (o) added; interim; eff. 1-18-01 through 12-31-01; (f)(4) added; interim; eff. 1-18-01 through 7-17-01 7314
(l)(7)(ii)(C)(*4*)(*i*) correctly revised 13672
(l)(1)(iv), (2)(iv)(A)(*2*), (vi), (3)(i)(A), (ii), (4) and (5)(i) revised 27910
Regulation at 66 FR 7314 eff. date extended in part 37179
(p) added 43526
679.7 (d)(9) revised **60588**
(a)(2) revised; (c)(3) added **61267**
Regulation at 65 FR 61267 eff. date corrected to 11-16-00 .... **63291**
(i)(3) and (7) revised; (i)(1)(iv) and (8) added **78118**
(a)(11) and (b) stayed to 7-17-01; (a)(17) and (j) added; interim; eff. 1-18-01 through 7-17-01 7315
(k) correctly added; interim 26809
(f)(14) revised 27910
(f)(4) amended 33031
Regulation at 66 FR 7315 eff. date extended in part 37179

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 50 Chapter VI—Con.

679.20 (a)(5)(i)(A), (ii)(B) and (c)(2)(ii) stayed; (a)(5)(i)(B), (ii)(C), (c)(2)(iii) and (7) added; interim; eff. 1–18–01 through 7–17–01; (d)(1)(iv) added; interim; eff. 1–18–01 through 12–31–01 7315

(b)(1)(iii)(A) revised; (f)(3) added 13677

(a)(5)(i)(D), (E) and (c)(3)(iv) added; (d)(1)(iv) stayed; (d)(1)(v) added; eff. 1–18–01 to 7–17–01; interim 7330

Regulation at 66 FR 7330 eff. date extended to 1–14–02 35911

Regulation at 66 FR 7315 eff. date extended in part; (a)(7)(i)(C)(*2*) stayed; (a)(5)(i)(C), (7)(i)(C)(*4*) and (c)(7) added 37179

(b)(1)(iv) removed; (b)(1)(v) redesignated as new (b)(1)(iv) 41807

679.21 (e)(1)(vii) and (7)(viii) revised **60588**

(e)(7)(viii) correctly revised **64896**

(d)(8) and (e)(3)(v) added; interim; eff. 1–18–01 through 12–31–01 7316

679.22 (a)(8)(iii)(D) revised **61267**

(b)(5) added **67308**

(j) removed; (k) added **79785**

(k) removed; (l) added **82299**

(k) correctly designated as (l) 1375

(a)(7), (8) and (b)(2) stayed; (a)(11), (12), (13), (b)(3) and (5) added; interim; eff. 1–18–01 through 7–17–01; (a)(11)(v), (12)(v) and (b)(3)(iv) added; interim; eff. 6–10–01 through 7–17–01 7316

Corrected; (a)(11)(iv)(D)(*1*) table, (*2*), (v)(A)(*2*), (*3*) and (C) correctly added 15657

(a)(12)(iii)(A), (iv), (v)(C), (b)(3)(iv)(C) correctly added; (b)(5) correctly redesignated as (b)(6) 15658

(a)(15) and (b)(8) added; interim; eff. 6–10–01; (a)(13) and (b)(6) stayed; (a)(14) and (b)(7) added; interim; eff. 3–23–01 through 7–17–01 17086

Regulation at 66 FR 7316 eff. date extended in part 37179

(a)(5)(i) stayed; (a)(5)(iv), (11), (12)(i), (ii), (iii)(A), (iv) through (viii), (13), (b)(3), (6) and (7) added 37180

679.23 (d)(2), (e)(2) and (4)(iii) stayed; (d)(3), (4), (e)(4)(iv), (v), (5) and (6) added; interim; eff. 1–18–01 through 7–17–01 7319

(e)(6)(i) stayed; (e)(6)(iii) added; interim; eff. 3–23–01 through 7–17–01 17087

(d)(4) and (e)(6)(iii) stayed; (d)(5) and (e)(6)(iv) added; eff. 6–10–01 through 7–17–01 31848

Regulation at 66 FR 7319 eff. date extended in part 37179

(d)(4) and (e)(6)(iii) added 37182

679.26 (a)(2) and (b)(3)(iv) revised **78121**

679.28 (a) revised; (f) added **61267**

Regulation at 65 FR 61267 eff. date corrected to 11–16–00 .... **63291**

679.31 (f) revised 13678

(f) suspended; (g) added 37182

679.32 (a)(2) revised; (e) added 13678

679.40 (a)(6)(i) revised 27910

679.41 (h)(2) and (k) revised 27910

679.42 (j)(6) added 27911

679.43 (a) and (p) revised **78118**

(c) revised 27911

679.50 (c)(4) introductory text amended; (c)(4)(iv) and (d)(4) revised; (c)(4)(v) added; (h)(1)(i)(E)(*4*) removed **69485**

Heading, (i)(1)(i) and (iii) revised **80383**

(c)(5) and (d)(5) added; interim; eff. 1–18–01 through 12–31–01 7320

(c)(4)(i), (5) and (d)(5) stayed; (c)(4)(vi), (6) and (d)(6) added; interim; eff. 1–18–01 through 7–17–01 7331

Regulation at 66 FR 7331 eff. date extended to 1–14–02 35911

679.59—679.64 (Subpart F) Added; interim; eff. 1–18–01 through 12–31–01 7320

679.60 Corrected 15658

679 Figure 8 revised **60589**

Figure 18 added **67308**

Tables 12, 13 and 20 stayed; Table 21 added; interim; eff. 1–18–01 through 7–17–01 7323

Corrected 15659

NOTE: **Boldface page numbers indicate 2000 changes.**

Tables 21 through 24 added..........37182
Table 14 removed; tables 14a, b, c, 16, 17 and 18 added; table 15 revised..........43527
Table 21 correctly revised..........44074
Table 22 correctly revised..........44079
Table 23 correctly revised..........44081
Table 24 correctly revised..........44084
697 Fishing restrictions..........13443
Fishery management measures..........20202
697.2 Amended; interim..........**61121**
Regulation at 65 FR 61121 stayed eff. 10–23–00 through 10–27–00..........**63549**
Amended..........**64897**
Amended..........8910, 14501
697.4 (d)(1) revised; (p) added..........14501
697.7 (e) added..........**61121**
Regulation at 65 FR 61121 stayed eff. 10–23–00 through 10–27–00..........**63549**
(e) removed..........**64897**
(e) added..........8911
(c)(1)(vii) through (x) revised..........14501
(f)(4) amended..........33031
697.19 (e) added..........14502
697.21 (g) added..........14502
697.22 Introductory text and (a)(1) revised..........8911
697.23 (f) added..........8911
697.26 Added..........14502

Proposed Rules:

14..........43554
15..........29072
17..........**58981, 59798, 60391, 60603, 60606, 60607, 61218, 62690, 62691, 63044, 63047, 64414, 64649, 65287, 66808, 67334, 67335, 67343, 67796, 69896, 76207, 77178, 79192, 80409, 80698, 82096, 82310, 83158**
..........345, 1295, 1628, 1632, 1633, 3964, 4782, 4783, 9476, 9540, 9683, 9806, 10419, 10440, 10469, 11131—11134, 11244, 12450, 12754, 13474, 13691, 14107, 18062, 18223, 19910, 20962, 22141, 22983, 22984, 26827, 30148, 30368, 30372, 30853, 30860, 31760, 32052, 33046, 33620, 35580, 36229, 38611, 40960, 42318, 43145, 45662, 45829
18..........14352
20..........**63225, 64650**
..........21298, 32297, 38494, 42712, 45516
21..........**69726**
..........45274
32..........35193
84..........43555
100..........10162, 45082
216..........**59164, 75230, 77546, 80815**
..........2873, 15375, 19413, 26827, 35209, 44109
222..........39474
223..........9808, 17659, 17845, 31600, 31603, 32304, 32305, 32787, 35407, 39474, 40176, 42499, 43150
224..........**66221, 79328**
..........10983, 17659, 19414, 32304, 32305, 32787, 42499
226..........**66221**
..........28141, 42499
229..........**64415**
..........6545
300..........13480, 17387, 20129, 20419, 32310
600..........**67708, 67709, 6989, 775911, 75912**
..........12451, 12452, 13279, 13870, 15395, 16645, 17668, 18584, 19748, 21306, 24093, 28142, 28876, 29922, 34401, 37634, 39129, 39130, 39475, 42832, 45833
622..........**59170, 60163, 63837, 80827**
..........8567, 9813, 10268, 13692, 17519, 20129, 22144, 28725, 29924, 30866, 31606, 31609, 32312, 37634, 37635, 40187
635..........**69492, 69898, 71085, 76601, 80410, 82973**
..........13692, 15396, 17389, 17520, 22994, 29529, 34401
640..........37635
648..........**60396, 64654, 65818, 66222, 66960, 70841, 75232, 75912**
..........90, 1634, 8568, 9814, 10983, 12755, 13279, 13281, 13694, 13695, 17391, 17673, 20130, 28879, 29530, 30149, 34401, 38246
660..........**59814, 62692, 63047, 68971, 69898, 80411, 80828**
..........1945, 2872, 9285, 13035, 13483, 14354, 17395, 17681, 18586, 23660, 27623, 29074, 29276, 30867, 30869, 32919, 39131, 39475, 40188, 45833
679..........**58727, 66223, 70328, 78126, 78131**
..........3976, 17397, 26827, 28883, 30396, 38412, 38626, 41664, 42833
697..........**61135, 70841, 75916**
..........28726, 42832

NOTE: Boldface page numbers indicate 2000 changes.

2000

65 FR Page	
58365–58899	Oct. 2
58901–59104	3
59105–59338	4
59339–59693	5
59695–60091	6
60093–60338	10
60339–60568	11
60569–60830	12
60831–61075	13
61077–61253	16
61255–62273	17
62275–62575	18
62577–62990	19
62991–63193	20
63195–63533	23
63535–63761	24
63763–64132	25
64133–64334	26
64335–64580	27
64581–64880	30
64881–65251	31
65253–65704	Nov. 1
65705–66163	2
66165–66482	3
66483–66599	6
66601–66922	7
66923–67248	8
67249–67603	9
67605–68063	13
68065–68870	14
68873–69236	15
69237–69430	16
69431–69654	17
69655–69848	20
69849–70271	21
70273–70459	22
70461–70642	24
70643–70767	27
70769–71052	28
71053–71232	29
71233–73300	30
75153–75579	Dec. 1
75581–75852	4
75853–76114	5
76115–76559	6
76561–76914	7
76915–77244	8
77245–77494	11
77459–77753	12
77755–78074	13
78075–78402	14
78403–78893	15
78895–79304	18
79305–79710	19
79711–80278	20
80279–80732	21
80733–81319	22
81325–81726	26
81727–82238	27
82239–82878	28
82879–83293	29

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19

15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18
32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31
39615–40105	Aug. 1
40107–40572	2
40573–40838	3
40839–41128	6
41129–41438	7
41439–41754	8
41755–42104	9
42105–42412	10
42413–42586	13
42587–42727	14
42729–42927	15
42929–43064	16
43065–43459	17
43461–43760	20
43761–44024	21
44025–44289	22
44291–44520	23
44521–44944	24
44945–45150	27
45151–45561	28
45563–45747	29

45749–45919	30
45921–46210	31

SE

2001

UMI

UMI

THE PAPER AND INK USED IN THE ORIGINAL
PUBLICATION MAY AFFECT THE QUALITY OF
THE MICROFORM EDITION.

United
Govern
Printing
SUPERINTE
OF DOCU
Washingto
OFFICIAL
Penalty for

GINAL
Y OF

Code of Federal Regulations

LSA

List of CFR Sections Affected

September 2001

Save this issue for
Titles 42—50 (Annual)

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

September 2001

Title 1–16
Changes January 2, 2001
through September 28, 2001

Title 17–27
Changes April 2, 2001
through September 28, 2001

Title 28–41
Changes July 2, 2001
through September 28, 2001

Title 42–50
Changes October 2, 2000
through September 28, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999, 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
700-899	(869-044-00013-0)	50.00	Jan. 1, 2001
900-999	(869-044-00014-8)	54.00	Jan. 1, 2001
1000-1199	(869-044-00015-6)	24.00	Jan. 1, 2001
1200-1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600-1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900-1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940-1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
1950-1999	(869-044-00020-2)	45.00	Jan. 1, 2001
2000-End	(869-044-00021-1)	43.00	Jan. 1, 2001
8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
1-199	(869-044-00023-7)	55.00	Jan. 1, 2001
200-End	(869-044-00024-5)	53.00	Jan. 1, 2001
10 Parts:			
1-50	(869-044-00025-3)	55.00	Jan. 1, 2001
51-199	(869-044-00026-1)	52.00	Jan. 1, 2001
200-499	(869-044-00027-0)	53.00	Jan. 1, 2001
500-End	(869-044-00028-8)	55.00	Jan. 1, 2001
11	(869-044-00029-6)	31.00	Jan. 1, 2001
12 Parts:			
1-199	(869-044-00030-0)	27.00	Jan. 1, 2001
200-219	(869-044-00031-8)	32.00	Jan. 1, 2001
220-299	(869-044-00032-6)	54.00	Jan. 1, 2001
300-499	(869-044-00033-4)	41.00	Jan. 1, 2001
500-599	(869-044-00034-2)	38.00	Jan. 1, 2001
600-End	(869-044-00035-1)	57.00	Jan. 1, 2001
13	(869-044-00036-9)	45.00	Jan. 1, 2001
14 Parts:			
1-59	(869-044-00037-7)	57.00	Jan. 1, 2001
60-139	(869-044-00038-5)	55.00	Jan. 1, 2001
140-199	(869-044-00039-3)	26.00	Jan. 1, 2001
200-1199	(869-044-00040-7)	44.00	Jan. 1, 2001
1200-End	(869-044-00041-5)	37.00	Jan. 1, 2001
15 Parts:			
0-299	(869-044-00042-3)	36.00	Jan. 1, 2001
300-799	(869-044-00043-1)	54.00	Jan. 1, 2001
800-End	(869-044-00044-0)	40.00	Jan. 1, 2001
16 Parts:			
0-999	(869-044-00045-8)	45.00	Jan. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869-044-00093-8)	54.00	Apr. 1, 2001
500–599	(869-044-00094-6)	12.00	[5]Apr. 1, 2001
600–End	(869-044-00095-4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869-044-00096-2)	57.00	Apr. 1, 2001
200–End	(869-044-00097-1)	26.00	Apr. 1, 2001
28 Parts:.			
0-42	(869-044-00098-9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869-042-00100-1)	33.00	July 1, 2000
100–499	(869-044-00101-2)	14.00	[6]July 1, 2001
500–899	(869-044-00102-1)	47.00	[6]July 1, 2001
900–1899	(869-044-00103-9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869-042-00104-4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869-042-00105-2)	28.00	[6]July 1, 2000
1911–1925	(869-044-00106-3)	20.00	[6]July 1, 2001
1926	(869-042-00107-9)	30.00	[6]July 1, 2000
1927–End	(869-042-00108-7)	49.00	July 1, 2000
30 Parts:			
1–199	(869-044-00109-8)	52.00	July 1, 2001
200–699	(869-044-00110-1)	45.00	July 1, 2001
700–End	(869-044-00111-7)	53.00	July 1, 2001
31 Parts:			
0–199	(869-044-00112-8)	32.00	July 1, 2001
200–End	(869-042-00113-3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869-044-00114-4)	51.00	[6]July 1, 2001
191–399	(869-044-00115-2)	57.00	July 1, 2001
400–629	(869-044-00116-8)	35.00	[6]July 1, 2001
630–699	(869-042-00117-6)	25.00	July 1, 2000
700–799	(869-044-00118-7)	42.00	July 1, 2001
800–End	(869-042-00119-2)	32.00	July 1, 2000
33 Parts:			
1–124	(869-044-00120-9)	45.00	July 1, 2001
125–199	(869-042-00121-4)	45.00	July 1, 2000
200–End	(869-044-00122-5)	45.00	July 1, 2001
34 Parts:			
1–299	(869-044-00123-3)	43.00	July 1, 2001
300–399	(869-042-00124-9)	28.00	July 1, 2000
400–End	(869-042-00125-7)	54.00	July 1, 2000
35	(869-042-00126-5)	10.00	July 1, 2000
36 Parts			
1–199	(869-044-00127-6)	34.00	July 1, 2001
200–299	(869-042-00128-1)	24.00	July 1, 2000
300–End	(869-042-00129-0)	43.00	July 1, 2000
37	(869-042-00130-3)	32.00	July 1, 2000
38 Parts:			
0–17	(869-042-00131-1)	40.00	July 1, 2000
18–End	(869-044-00132-2)	55.00	July 1, 2001
39	(869-042-00133-8)	28.00	July 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-99	(869–044–00150–1)	54.00	July 1, 2001
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*	*Revision Date*
Federal Register:		
Yearly subscription (with FR Index and LSA)	697.00	
Yearly subscription (without FR Index and LSA)	638.00	
Individual copies	9.00	daily

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1--49)

11.2 (a) revised	44524
11.3 (a) revised	44524
11.6 (a) revised	44524
11.7 Revised	44524
11.8 Revised	44524

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title.

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

7208 *See* Proc. 7445	30053
7214 *See* Proc. 7445	30053
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403
7458	45563
7459	46507
7460	47569
7461	47939
Amended by Proc. 7464	48203
7462	47947
7463	48199
See EO 13224	49079
7464	48203
7465	48317
7466	48319
7467	48321
7468	48947

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 3 Proclamations—Con.

7469	48949
7470	49505

Executive Orders

10000 Amended by EO 13207	18399
12002 *See* EO 13206	18397
12170 *See* Notice of Mar. 13, 2001	15013
12214 *See* EO 18397	18397
12543 Continued by Notice of Jan. 4, 2001	1251
12544 Continued by Notice of Jan. 4, 2001	1251
12808 *See* Notice of May 24, 2001	29007
12810 *See* Notice of May 24, 2001	29007
12831 *See* Notice of May 24, 2001	29007
12834 Revoked by EO 12834	867
12836 Revoked by EO 13202	11225
12846 *See* Notice of May 24, 2001	29007
12865 Continued by Notice of September 24, 2001	49084
12871 Revoked by EO 13203	11227
12924 Revoked by EO 13206	18397
12933 Revoked by EO 13204	11228
12934 *See* Notice of May 24, 2001	29007
12938 *See* EO 13206	18397
12947 *See* Notice of Jan. 19, 2001	7371
12957 *See* Notice of Mar. 13, 2001	15013
12959 *See* Notice of Mar. 13, 2001	15013
12981 *See* EO 13206	18397
12983 Revoked by EO 13203	11227
13035 Amended by EO 13215	30285
13047 Continued by Notice of May 15, 2001	27443
13059 *See* Notice of Mar. 13, 2001	15013
13069 *See* Notice of Sept. 24, 2001	49084
13088 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13092 *See* EO 13215	30285
13098 *See* Notice of Sept. 24, 2001	49084
13099 *See* Notice of Jan. 19, 2001	7371
13111 Amended by EO 13188	5419
Amended by EO 13218	33627
13113 *See* EO 13215	30285
13121 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13125 Amended by EO 13216	31373
13156 Revoked by EO 13203	11227
13174 Amended by EO 13218	33627
13178 Amended by EO 13196	7395
13182 Corrected	10057
13183 Amended by EO 13209	22105
13184	697
13185	701
13186	3853
13187	3857
13188	5419
13189	5421
13190	5425
13191	7271
13192	7379
See Notice of May 24, 2001	29007
13193	7387
13194	7389
See EO 13213	28829
13195	7391
13196	7391
13197	7853
13198	8497
13199	8499
13200	10183
See EO 13215	30285
13201	11221
13202	11225
Amended by EO 13208	18717
13203	11227
13204	11228
13205	15011
13206	18397
13207	18399
13208	18717
13209	22105
13210	22895
13211	28355
13212	28357
13213	28829
13214	29447
13215	30285
13216	31373
13217	33155
13218	33627
13219	34777
13220	35527
13221	40751
13222	44025
13223	48201
13224	49079

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

Administrative Orders

Memorandums:

June 5, 1997 (Revoked by EO 13202) 11225
Oct. 28, 1999 (Revoked by EO 13203) 11227
Mar. 3, 2000....3851
Mar. 5, 2001....14453
Mar. 28, 2001....17303
Apr. 12, 2001....20725
May 30, 2001....30629
May 31, 2001....31833
June 5, 2001....30799
July 11, 2001....37105
Sept. 25, 2001....49507

Notices:

Jan. 4, 2001....1251
Jan. 19, 2001....7371
Feb. 27, 2001....12841
Mar. 13, 2001....15013
May 15, 2001....27443
May 24, 2001....29007
June 11, 2001....32207
June 30, 2001....35363
July 31, 2001....40105
Sept. 24, 2001....49064

Presidential Determinations:

No. 96-7 of Dec. 27, 1995 *See* Notice of May 24, 2001....29007
No. 2000-29 of Sept. 12, 2000....47943
No. 2001-05 of Dec. 15, 2000....223
No. 2001-06 of Dec. 15, 2000....225
No. 2001-07 of Dec. 19, 2000....1013
No. 2001-08 of Dec. 27, 2000....1561
No. 2001-09 of Jan. 3, 2001....2193
No. 2001-10 of Jan. 17, 2001....8501
No. 2001-11 of Jan. 19, 2001....8503
No. 2001-12 of Mar. 1, 2001....14454
No. 2001-13 of Apr. 17, 2001....20585
No. 2001-14 of Apr. 30, 2001....27825
No. 2001-15 of May 11, 2001....27827
No. 2001-16 of June 1, 2001....30631
No. 2001-17 of June 1, 2001....30633
No. 2001-18 of June 8, 2001....34353
No. 2001-19 of June 11, 2001....34355
No. 2001-20 of July 2, 2001....37109
No. 2001-21 of July 4, 2001....37111
No. 2001-22 of July 26, 2001....40107
No. 2001-23 of Aug. 9, 2001....44521
No. 2001-24 of Aug. 18, 2001....46693
No. 2001-25 of Aug. 31, 2001....46695
No. 2001-26 of Sept. 12, 2001....47943
No. 2001-29 of Sept. 23, 2001....49075

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 2001.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

330 Authority citation revised....6428, 29896
330.301—330.307 (Subpart C) Removed; interim....29896
330.603 Removed; interim....29896
330.610 Removed; interim....29896
330.702 Removed; interim....29896
330.710 Removed; interim....29896
330.1101 Revised; interim....6428
330.1102 Revised; interim....6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim....6429
330.1105 Revised; interim....6429
330.1106 Heading, (a) and (b) revised; interim....6429
332.314 Removed; interim....29896
351.807 (f) revised; interim....29896
353.110 (b) revised....29897
537 Added....2791
Regulation at 66 FR 2791 eff. date delayed....9187
537.101 Revised....39406
537.102 Amended....39406
537.110 Heading revised; existing text designated as (a); (b) added....39406
550.301 Regulation at 44644 confirmed....49085
550.311 Regulation at 44644 confirmed....49085
550.311 (a)(5) revised....49086
550.312 Regulation at 44644 confirmed....49085
550.313 Regulation at 44644 confirmed....49085
575.102 (a)(5) and (6) amended; (a)(7) added....37883
575.202 (a)(5) and (6) amended; (a)(7) added....37883
575.302 (a)(5) and (6) amended; (a)(7) added....37783

TITLE 5 Chapter I—Con.

731 Regulation at 65 FR 82243 eff. date delayed	7863
731.301 (b) corrected	11100
731.304 Corrected	11100
792.207 Revised	705
792.230 Revised	705
792.234 Revised	705
831 Authority citation revised	15608, 38524
831.205 Added; interim	15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim	15608
831.303 (d) added; interim	15608
831.902 Amended; interim	38524
831.908 (a) revised; interim	38524
831.910 Revised; interim	38524
831.912 Undesignated center heading and section added; interim	38524
839 Added; interim	15609
841 Authority citation revised	15618
841.604 (c) added; interim	15618
842 Authority citation revised	38525
842.802 Amended; interim	38525
842.807 Revised; interim	38525
842.810 Undesignated center heading and section added; interim	38525
846 Authority citation revised	15618
846.204 (b)(2)(i) revised; (e) added; interim	15618
890.304 (d)(2) revised; interim	49086
890.806 (f)(1)(ii), (iii), (h) and (i) revised; (f)(1)(iv) added; interim	49087
890.807 (e)(2) and (4) revised; interim	49088

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended	30635
1201 Appendix I revised	30635

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised	22089
1601 Revised	22093
1605 Revised	44277
1605.4 (a)(3) amended	14448
1605.6 Revised	14448
1605.8 Revised	14448
1606 Authority citation revised	44283
1606.2 Revised	44283
1606.5 Revised	44283
1606.7 Revised	44284
1606.8 Revised	44284
1606.9 (a)(3) revised	44284
1606.11 (c), (d) and (e) revised; (f) added	44284
1606.13 (a), (b) and (c) added; (d) and (e) amended; (g) removed	44285
1606.15 (a) revised	44285
1650.31 Revised	43462
1650.42 Revised	43462

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended	3439
2604.301 (a) and (b)(2) amended	3439
2604.302 (a) and (d) amended	3439
2604.303 (a), (b) introductory text and (2) amended	3439
2604.304 (a) amended	3439
2604.305 (a)(1) and (2) amended	3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended	3439

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised	8506
3101.109 (c)(1) and (3) revised	8506

Proposed Rules:

213	46968
537	15202
575	5491
1600	16411
1601	16415
1604	21693
1605	20090
1606	20090
1650	36494
2608	48824

TITLE 6—[RESERVED]

There is no regulatory text to this title.

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

1.29 (a)(3) added 36907
1.130—1.151 (Subpart H) Authority citation revised 36908
1.131 (a) amended 36908
2 Authority citation revised....................16593
2.17 (a)(21)(xi) revised 31107
2.25 (a)(2) and (6) corrected 8149
2.45—2.49 (Subpart G) Heading revised....................................31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added....................16593
2.48 (a)(27) added....................................31107
2.49 (a)(1)(i) revised....................................16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised 21047
20 Appendix 1 amended....................................38527
20 Regulation at 66 FR 38527 effective date delayed to 1-11-02 44291
28.909 (b) revised 29216
28.911 (a) amended 29216
29.123 (b) revised; interim 28361
29.9251 Amended; interim 28361
51.630 Revised; interim 48788
51.691 Revised; interim 48788
51.692 (a) revised; interim 48788
54.1001—54.1034 (Subpart C) Added....................................1198
59 Regulation at 65 FR 75514 eff. date delayed....................................8151
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected 15619

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed 38349
215 Authority citation revised 2201
215.2 (aa) redesignated as (bb); (i-1), (k-1) and new (aa) added; interim 2201
215.13a (f) and (g) added; interim 2201
220.8 (c) heading correctly revised; CFR correction....................33631
Regulation at 65 FR 36317 confirmed....................................38349
225.2 Amended; interim 2202
225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202
226.2 Amended; interim....................2203
226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203
245 Authority citation revised 2205, 48328
245.2 (a-3), (f-1), (k) and (l) redesignated as (a-4), (f-2), (l) and (m); new (a-3), (f-1) and (k) added; interim 2205
(f-3) added; (j) amended 48328
245.5 (a) introductory text and (1)(vi) amended....................48328
245.6 (a)(1) revised; (f) added; interim....................................2205
(a) amended 48328
245.6a (a) and (2)(i) amended 48328
245.9 (b) through (g) removed; (a) heading and new (b) through (k) added 48328
246.2 Regulation at 65 FR 83277 eff. date delayed....................8885
246.3 Regulation at 65 FR 83277 eff. date delayed....................8885
246.4 Regulation at 65 FR 83277 eff. date delayed....................8885
246.7 Regulation at 65 FR 83278 eff. date delayed....................8885
246.12 Regulation at 65 FR 83278 eff. date delayed....................8885
246.13 Regulation at 65 FR 83286 eff. date delayed....................8885
246.14 Regulation at 65 FR 83286 eff. date delayed....................8885
246.18 Regulation at 65 FR 83286 eff. date delayed....................8885
246.19 Regulation at 65 FR 83288 eff. date delayed....................8885
246.23 Regulation at 65 FR 83288 eff. date delayed....................8885
246.26 Regulation at 65 FR 83288 eff. date delayed....................8885
271.2 Amended....................................2799
Regulation at 66 FR 2799 eff. date delayed 8885, 18869
272.1 (c)(1)(vii) and (g)(165) added 4463
Regulation at 66 FR 4463 eff. date delayed 8886, 29661

TITLE 7 Chapter II—Con.

272.2 (d)(1)(xiii) added....4464
  Regulation at 66 FR 4464 effective date delayed in part....8886, 29661
273.1 (b)(7)(viii) through (xii) added....4464
  Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added....4464
  Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added....4464
  Regulation at 66 FR 4464 eff. date delayed....8886, 29661
273.12 (a)(1)(viii) added....4468
  Regulation at 66 FR 4468 eff. date delayed....8886, 29661
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii)....4468
  Regulation at 66 FR 4468 eff. date delayed....8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added....4469
  Regulation at 66 FR 4469 eff. date delayed....8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi); new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended....2799
  Regulation at 66 FR 2799 eff. date delayed....8885, 18869
278.6 (a) and (g)(3) amended....2800
  Regulation at 66 FR 2800 eff. date delayed....8885, 18869

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised....21050
300.1 (c) and (d) added....37400
  (a) introductory text revised....45158
301 Authority citation revised....21050, 32717
301.38 Footnote 1 amended....21050
301.45 (a) amended....21050
  (a) amended; interim....37114
301.45–3 (a) amended; interim....37114
301.45–9 Amended....21050
301.48 (a) amended....21050
301.48–5 Amended....21051
301.50 Footnote 1 amended....21051
301.50–3 Regulation at 65 FR 37842 confirmed....20186
  (c) amended; (d) illustration revised....37403
  (d) removed; CFR correction....46509
  (d) corrected....46692
301.50–5 (a)(3) and (b)(2) revised....21051
301.51–3 Regulation at 65 FR 54944 confirmed....41439
301.51–5 (a)(2) and (b)(2) revised....21051
301.52–8 Amended....21051
301.64 Footnote 1 amended....21051
301.64–1 Amended....21051
301.64–2 Regulation at 64 FR 71269 confirmed....40574
301.64–3 Regulation at 64 FR 52212, 71269, 65 FR 20706 and 37006 confirmed....40574
301.64–5 (a)(2) and (b)(2) revised....21051
301.64–10 Regulation at 64 FR 71270 confirmed....40574
301.74 Footnote 1 amended....21051
301.75–1 Amended....32717
301.75–15 (c) revised....43066
301.75–16 Added....32717
  (c) corrected....33740
301.78 Footnote 1 amended....21051
301.78–5 (a)(3) and (b)(2) revised....21051
301.80 (a) revised....21052
301.80–1 Amended....21052
301.80–8 Amended....21052

301.81–3 Regulation at 65 FR 66489 confirmed.....20186
301.81–5 (a)(2) and (b)(2) revised.....21052
301.85 (a) revised.....21052
301.85–1 Amended.....21052
301.85–8 Amended.....21052
301.87 Heading, footnote 1 and (a) revised.....21052
301.87–1 Amended.....21052
301.87–5 (a)(2) and (b)(2) revised.....21053
301.89–3 Amended; interim.....32210
(f) amended; interim.....37576
301.89–6 (a)(2) and (c)(2) revised.....21053
301.89–15 Heading, introductory text, (a) introductory text, (b) introductory text and (c) introductory text revised.....40842
301.89–16 Heading, introductory text, (a), (b), (c)(1) and (2) amended.....40842
301.91 Heading amended.....21053
301.91–1 Amended.....21053
301.91–5 (a)(2) and (b)(2) revised.....21053
301.93 Footnote 1 amended.....21053
301.93–3 (c) revised; interim.....46366
301.93–5 (a)(2) and (b)(2) revised.....21053
301.97 Footnote 1 amended.....21053
301.97–5 (a)(3) and (b)(2) revised.....21053
301.98–3 (c) revised; interim.....33632
301.98—301.98–10 (Subpart) Added; interim.....6433
301.98—1 Corrected.....20186
302 Added; interim.....1016
302 Authority citation revised.....21054
318 Authority citation revised.....21054
318.13 (a) revised.....21054
318.13–12 (a) amended.....21054
318.30 (b) revised.....21054
318.47 (b) revised.....21054
318.58 (a) revised.....21054
318.60 (b) revised.....21054
318.82 (a) revised.....21054
319 Authority citation revised.....21054
Policy statement.....38137, 45921
319.8 Amended.....21054
319.8–1 Amended.....21055
319.8–2 Authority citation removed.....21055
319.8–4 Authority citation removed.....21055
319.8–5 Authority citation removed.....21055
319.8–26 Amended.....21055
319.15 (a) revised.....21055
319.24 (b) revised.....21055
319.24–1 Authority citation removed.....21055
319.24–3 Authority citation removed.....21055
319.24–4 Authority citation removed.....21055
319.28 (a) revised.....21055
319.37–1 Amended.....21055
319.37–3 (c) and (f) revised; authority citation removed.....21055
319.37–5 Authority citation removed.....21056
319.37–7 (f)(4) amended; authority citation removed.....21056
319.37–8 Authority citation removed.....21056
319.37–10 Authority citation removed.....21056
319.37–11 Authority citation removed.....21056
319.40–4 (c) revised.....21056
319.40–9 (a)(4)(1) amended.....21056
319.41 (b) and (c) revised.....21056
319.41–2 Authority citation removed.....21056
319.41–4 Authority citation removed.....21056
319.41–6 Authority citation removed.....21056
319.55 (b) and (c) revised.....21056
319.55–2 Authority citation removed.....21056
319.55–5 Authority citation removed.....21056
319.55–7 Authority citation removed.....21056
319.56 (b) and (c) revised.....21056
319.56–2 (h) and (j) revised.....45158
319.56–2j Authority citation removed.....21056
319.56–2t Table amended.....45158
319.56–2u (b)(7) revised; (b)(8) removed.....45160
319.56–2w Heading, introductory text and (a) revised.....45160
319.56–2x Table amended.....45161
319.56–2ee (a)(1) amended.....45161
319.56–2hh Added.....45161
319.56–2ii Added.....32213
319.56–3 Authority citation removed.....21056

TITLE 7 Chapter III—Con.

319.56–5 Authority citation removed.......21056
319.59—319.59–2 (Subpart) Authority citation removed 21056
319.59 (a) revised; (b) amended........21056
319.59–1 Amended...........................21057
319.75 (b) amended 21057
319.75–1 Amended...........................21057
319.75–3 (c) revised; authority citation removed.........................21057
319.75–5 Authority citation removed.......21057
319.75–6 Authority citation removed.......21057
319.76 (b) amended 21057
319.76–1 Amended...........................21057
319.76–3 (c) revised 21057
319.77–5 Amended...........................21057
322 Authority citation revised........21057
330 Authority citation revised........21058
330.100 Amended 21058
330.102 Revised...............................21058
330.106 (a) amended.........................21058
330.205 Amended 21058
330.207 Amended 21058
330.208 Amended 21058
330.210 Amended 21058
330.211 Heading and (c) revised 21058
330.400 (f) revised 21058
340 Authority citation revised........21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised....................21058
340.3 (b)(1) amended.........................21058
351 Authority citation revised........21058
351.1 Revised.....................................21059
352 Authority citation revised........21059
352.1 (b) amended............................21059
352.2 (a), (b) and (c)(1) revised.........21059
352.3 (a) revised...............................21059
352.5 (d) amended............................21059
352.6 Authority citation removed 21059
352.7 Authority citation removed 21059
352.10 (a), (b)(1) and (2) amended 21059
352.13 Amended...............................21059
353 Auhority citation revised 21059
353.1 Amended 21059, 37400
Amended; interim........................371176
353.7 (e)(4) revised; interim.............37116
353.8 Amended (OMB number) 37400
353.9 Added 37400
354 Authority citation revised........21060
354.1 Authority citation removed 21060
354.2 Table amended 46211
354.3 (a) amended............................21060
355 Footnotes 1 and 2 removed; authority citation revised........21060
355.1 Revised.....................................21060
355.11 Footnote 3 revised 21060
356 Authority citation revised........21060
360 Authority citation revised........21060
360.200 Heading and introductory text revised 21060
360.300 Authority citation removed.......................................21060
Regulation at 65 FR 41009 confirmed..32217
361 Authority citation revised........21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv) redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added 21060
372 Authority citation revised........21060
380 Authority citation revised........21060
380.1 Revised.....................................21061

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.700—400.713 (Subpart V) Revised; interim..........................47951
457.151 Amended; heading and introductory text revised 42730

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

735 Revised 46312
760.1—760.34 (Subpart) Authority citation revised..........................2801
761 Authority citation revised 7566
761.8 Added...7566
762 Authority citation revised 7567
762.102 Amended.............................7567
762.105 (c)(1) revised; (c)(2)(iii) removed 7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d) 7567
762.125 (a)(2), (3), (6) and (8) revised 7567
762.142 (d)(8) revised 7567
762.145 (b)(6)(iv) revised....................7567

762.146 (e)(9) revised 7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised 7567
770 Added 1567
Regulation at 66 FR 1567 eff. date delayed 8886
770.10 (e)(3)(iv) corrected; (e) correctly redesignated as (f) 47877

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 35753
(a) Table 1 corrected 36834
868.90 (a) revised 17777
868.91 Revised 17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.306 (c) and (d) revised 229
905.350 Revised; interim 49093
916.115 Revised; interim 17484
916.160 (c) revised; interim 39409
916.350 (d) revised; interim 17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text and (6) introductory text revised; interim 17484
(a)(1)(iv) Table 1, (4) and (6) amended 39620
917.150 Revised; interim 17485
917.178 (c) revised; interim 39409
917.442 (d) revised; interim 17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim 17486
(a)(1)(iv) Table 1 amended 39620
(a)(6) amended 39621
920.155 Removed 39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v) 39270
924.236 Revised; interim 42415
928.150 Stayed; interim 29219
Regulation at 66 FR 29219 confirmed 48529
928.152 Stayed; interim 29219
Regulation at 66 FR 29219 confirmed 48529
928.160 (a)(1) revised; interim 29219
Regulation at 66 FR 29219 confirmed 48529
928.313 Stayed; interim 29219
Regulation at 66 FR 29219 confirmed 48529
929.104 (a)(4) revised 34351
929.107 Removed 34351
929.110 (d) added 34351
929.125 Revised 34351
929.148 Removed 34351
929.149 Revised 34351
929.158 Revised 34351
929.251 Added 34352
930.16 Revised 35896
930.50 (a) revised 35896
930.54 (a) stayed in part; interim 232
Regulation at 66 FR 232 confirmed 21273
930.59 (b) suspended in part; interim 39413
930.120 Added; interim 35889
930.154 Added; eff. 5-2-01 through 6-30-01 21842
930.162 (a), (b)(3) and (c)(3) revised; interim 39413
930.163 Added; interim 35889
930.200 Revised; interim 235
Regulation at 66 FR 235 confirmed 21276
930.252 Added; eff. 5-2-01 through 6-30-01 21842
932 Marketing order 16593
932.230 Revised; interim 13391
Regulation at 66 FR 13391 confirmed 30291
944.106 (c) revised 229
946.104 Regulation at 65 FR 70463 confirmed 18721
946.120 Regulation at 65 FR 70463 confirmed 18721
946.336 Regulation at 65 FR 70463 confirmed 18721
948.215 Suspended; interim 48953
948.387 (d)(1) introductory text revised; (d)(1)(v) added; (g) amended 49513
955.209 Revised 16841

TITLE 7 Chapter IX—Con.

956.142 Regulation at 65 FR 61083 confirmed 13393
956.180 Regulation at 65 FR 61083 confirmed 13393
959.237 Revised; interim 16597
  Regulation at 66 FR 16597 confirmed 39621
966.323 Regulation at 65 FR 66495 confirmed 13396
  (d)(1) amended 48532
981.442 (a)(3) amended; (a)(5) revised 39273
982 Marketing percentages 13399
985.220 Added; eff. through 5-31-02 30296
989.156 (t) added; interim 708
  Regulation at 66 FR 708 eff. date confirmed 16599
989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added 39277
989.254 Added; interim 39628
993.408 Added; eff. 8-1-01 through 7-31-02 30646

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1210.501 Revised 13402
1218.3 Amended 37118
1218.23 Amended 37118
1218.40 Undesignated center heading revised 37118
  Amended 37119
1218.41 Amended 37119
1218.42 Amended 37119
1218.43 Amended 37119
1218.44 Amended 37119
1218.45 Amended 37119
1218.46 Amended 37119
1218.47 Amended 37119
1218.48 Amended 37119
1218.50 Amended 37119
1218.51 Amended 37119
1218.52 Amended 37119
1218.53 Amended 37119
1218.54 Amended 37119
1218.55 Amended 37119
1218.56 Amended 37119
1218.60 Amended 37119
1218.62 Amended 37119
1218.70 Amended 37119
1218.73 Amended 37119
1218.75 Amended 37119
1240 Heading and authority citation revised 21829
1240.1—1240.67 (Subpart A) Heading added 21829
1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2 21829
1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised 21829
1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised 21829
1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14 21829
1240.5 Redesignated as 1240.12; new 1240.5 added 21829
1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11 21829
1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20 21829
1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised 21829
1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8 21829
1240.10 Redesignated as 1240.13; new 1240.10 redesignated from 1240.4; new 1240.10 revised 21829
1240.11 Redesignated as 1240.6; new 1240.11 added 21829
1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5 21829
1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised 21829
1240.14 Redesignated as 1240.4 21829
  Added 21830
1240.16 Redesignated as 1240.3 21829
  Added 21830
1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22 21829
1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3 21829

1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21 21829
Revised 21830
1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6 21829
1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9 21829
1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12 21829
1240.23 Added 21830
1240.24 Added 21830
1240.25 Redesignated from 1240.13 21829
Revised 21830
1240.26 Redesignated from 1240.1 21829
1240.27 Redesignated from 1240.19 21829
1240.28 Redesignated from 1240.17 21829
1240.30 Revised 21830
1240.31 Revised 21830
1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added 21830
1240.33 Added 21831
1240.34 (a) and (b) revised; (c) amended 21831
1240.35 (a) revised 21832
1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised 21832
1240.39 Undesignated center heading and text revised 21832
1240.40 (a) and (b) revised 21832
1240.41 Revised 21833
1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised 21833
1240.43 Removed; new 1240.43 redesignated from 1240.44 21829
1240.44 Redesignated as 1240.43 21829
Added 21833
1240.50 Revised 21834
1240.51 Revised 21834
1240.52 Revised 21834
1240.61 Revised 21834
1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised 21834
1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added 26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised 23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised 15176
1400.1 (g) table amended 15176
1410.12 Added 22099
1421 Authority citation revised 13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised 15176
1421.300—1421.307 (Subpart) Added 13404
1427 Authority citation revised 15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised 15176
1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176
1430.500 Amended 15176
1430.502 Amended 15177
1430.503 Amended 15177
1430.510 Revised 15177
1430.511 Added 15177
1434 Added 15177
1435.2 Amended 15182
1435.100 (a) amended 15182
1435.102 Removed; new 1435.102 redesignated from 1435.103 15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104 15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3) 15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated

TITLE 7 Chapter XIV—Con.

- from 1435.106; (c) and (d)(4) revised 15182
- 1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107 15182
  - (b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised 15183
- 1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108 15182
- 1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109 15182
- 1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110 15182
- 1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111 15182
- 1435.111 Redesignated as 1435.110 15182
- 1436 Revised 4612
- 1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11) 17073
- 1439.101—1439.109 (Subpart B) Revised 15542
- 1439.301—1439.357 (Subpart D) Revised 15544
- 1439.901 Revised 15547
- 1439.906 (a) amended 15547
- 1446.102 (c) amended 1810
- 1446.103 Amended 1810
- 1446.307 (g) removed 1810
  - Correctly designated 10353
- 1469 Authority citation revised 13841
- 1469.201—1469.214 (Subpart C) Added 13841
- 1470 Added 13843
- 1476 Added 15183
- 1480 Added 14979
- 1481 Added 14481
- 1481.3 Corrected 18869
- 1482 Added; interim 30602

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

- 1744 Authority citation revised 41758
- 1744.20 Revised 41758
- 1744.21 Revised 41758
- 1744.30 Redesignated as 1744.40 41760
  - Added 41761
- 1744.40 Redesignated as 1744.50; new 1744.40 redesignated from 1744.30 41760
- 1744.50 Redesignated as 1744.55; new 1744.50 redesignated from 1744.40 41760
- 1744.50 (a)(3) revised 41763
- 1744.55 Redesignated from 1744.50 41760
  - (a) revised; (b)(5) removed; (b)(6) redesignated as new (b)(5) 41763
- 1744.20—1744.59 (Subpart B) Appendices A through F added 41763
- 1755.30 (c)(34) revised 43313
- 1755.97 Heading and introductory text revised; table amended 43314
  - Amended 43317
  - Effective date corrected 46066
- 1755.98 Revised 43317
- 1755.500 Added 43317
- 1755.501 Added 43317
- 1755.502 Added 43317
- 1755.503 Added 43317
- 1755.504 Added 43317
- 1755.505 Added 43317
- 1755.506 Added 43317
- 1755.507 Added 43317
- 1755.508 Added 43317
- 1755.509 Added 43317
- 1755.510 Added 43317
- 1773 Authority citation revised 27830, 27835
- 1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.2 Amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.3 (b) revised; (c) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C),

new (5)(ii) and new (6)(ii) amended 27835
Regulation at 66 FR 27835 confirmed....................37405
1773.6 (a)(1), (4) and (7) amended 27835
Heading and (a) introductory text revised 27836
Regulation at 66 FR 27835 and 27836 confirmed....................37405
1773.7 (b) and (c)(4) revised 27836
Regulation at 66 FR 27835 and 27836 confirmed....................37405
1773.8 (a)(2) and (c) amended....................27835
(a)(1) and (c) table revised....................27836
Regulation at 66 FR 27835 and 27836 confirmed....................37405
1773.9 Heading, (a), (b) and (c) introductory text revised 27836
Regulation at 66 FR 27836 confirmed....................37405
1773.20—1773.29 (Subpart C) Heading revised....................27836
Regulation at 66 FR 27836 confirmed....................37405
1773.20 (a), (b) and (c)(6) amended 27835
Regulation at 66 FR 27835 confirmed....................37405
1773.21 (a) and (b) amended 27835
Heading revised; (e) added....................27836
Regulation at 66 FR 27835 and 27836 confirmed....................37405
1773.30 (b) amended....................27835
(a) revised....................27836
Regulation at 66 FR 27835 and 27836 confirmed....................37405
1773.31 Revised....................27836
Regulation at 66 FR 27836 confirmed....................37405
1773.32 Inroductory text, (a) through (d) and (f) note revised....................27836
Regulation at 66 FR 27836 confirmed....................37405
1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added 27830
Regulation at 66 FR 27830 confirmed....................37405
1773.38 (b) amended....................27835
Regulation at 66 FR 27835 confirmed....................37405
1773 Appendices A through D removed....................27837
Regulation at 66 FR 27837 confirmed....................37405
1779 Added 23138
1780.10 (b)(4) amended 23151
1786 Second (c) correctly removed; CFR correction 15785

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1901 Authority citation revised 7568
1901.1—1901.5 (Subpart A) Removed 7568
1902 Authority citation revised 1569
1902.15 (c) amended....................1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1910.1 (f) added; interim 1572
1910.4 (b) amended; (c) through (k) redesignated as (d) through (l); new (c) added; interim 1572
1941.16 Introductory paragraph revised; interim 1573
1941.29 Heading and (b) revised; (d) removed 7568
1942 Authority citation revised 27014
1942.304 Amended; interim....................27014
1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c)....................7568
1943.79 Removed....................7568
1945 Authority citation revised 7568
1945.154 (a) amended....................7568
1945.163 (e) amended 7568
1951.201 Amended 1569
Regulation at 66 FR 1569 eff. date delayed....................8886

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 7 Chapter XVIII—Con.

1951.221 (b) amended 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1951.222 (a)(11) removed 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1951.230 (b)(5) and (6) amended; (b)(7) removed 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1955.10 (a)(1)(ii) removed 7568
1955.104 (c) removed....................7568
1956.101 Amended 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1956.105 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1956.137 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed....................8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2) 7568
1965.27 (a) removed 7568
1980.1—1980.100 (Subpart A) Removed....................23151
1980.801—1980.900 (Subpart I) Removed....................23151

Proposed Rules:

26 21608
27—209 (Ch. I)....................13267
28 20408
29 21888
50 40626
56 42456
58 42458
70 42456
80....................19099, 27045
201....................16015
246....................40152
274....................36495
300....................6488, 37425
301 ....3505, 20204, 32268
318....................37425
319....6488, 19892, 20208, 29735, 34584, 36892, 39121, 45637
400....................36951
610....................34584
735....................46310
736....................46310
737....................46310
738....................46310
739....................46310
740....................46310
741....................46310
742....................46310
800—899 (Ch. VIII) 13267
800 ....17817, 19608
905....................39459
911....................40923
916....................39690
920....................26810
923 ....13447, 18573
927....................48623
928....................49568
929 ....2838, 24291, 48628
930....................1909, 26813
931....................48628
944....................40923
948 ....40153, 40155
955....................1915, 21288
956....................21107
966....................40158
981 ....21888, 31850
982....................44086
985....................20615
989....................16621
993 ....13454, 43534
1030 31185
1033 49571
1205 42464
1210....................21596, 21602
1219 ....36870, 36886, 45188
1230 42469
1260 48764
1410 15048
1439 13679
1710 20759
1721....................1604
1773 27912
1944 29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3 Authority citation revised....................37123
3.1 (d)(2)(iii) amended....................6445
(a)(1) amended 47380
3.3 (b) amended 6445
3.43 Revised; interim 37123
3.44 Added 6445
(f) corrected 8149
100.4 (e) amended; interim 29672
103 Authority citation revised....................32143

103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim 32144
Regulation at 65 FR 67616 eff. date delayed to 10–1–01 49514
103.2 (a)(7)(i) amended; intrim 29672
(f) added; interim 29685
103.7 (b)(1) amended; interim 29672
(b)(1) amended; (c)(1) revised; interim 29685
Regulation at 65 FR 67616 eff. date delayed to 10–1–01 49514
103.12 Regulation at 65 FR 82255 eff. date delayed 7863
208.8 Regulation at 65 FR 82255 eff. date delayed 7863
210.4 Regulation at 65 FR 82255 eff. date delayed 7863
212 Authority citation revised 236
212.1 (e)(3)(i) amended; interim 236
(f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised 1018
Regulation at 66 FR 1018 eff. date delayed 8743
(f)(2) eff. 4–6–01) and (3) amended, interim 17322
(f)(2) amended; interim 32530
(h) revised; interim 42593
212.3 (g) added 6446
212.5 Regulation at 65 FR 82255 eff. date delayed 7863
212.7 Heading, (a) heading and (1)(i) revised; interim 42593
212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim 3444
214 Authority citation revised 46702
214.1 (a)(2) table and (c)(1) amended; interim 31112
(a)(1)(v) revised; (a)(2) table and (c)(2) amended; interim 42593
(a)(2) amended; interim 46702
Regulation at 65 FR 67616 eff. date delayed to 10–1–01 49514
214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim 31112
(k) heading revised; (k)(1), (2), (5) and (6)(ii) amended; (k)(6)(i) removed; (k)(7) through (11) added; interim 42593
(u) and (v) added; interim 46702
Regulation at 65 FR 67616 eff. date delayed to 10–1–01 49514
214.15 Added; interim 46702
235.3 Regulation at 65 FR 82256 eff. date delayed 7863
235.4 Regulation at 65 FR 82256 eff. date delayed 7863
236.14 (a) amended; interim 29672
240.15 Amended 6446
240.21 (c) amended 6446
240.53 (a) amended 6446
241 Authority citation revised 29451
241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim 29451
241.33 Regulation at 65 FR 82256 eff. date delayed 7863
244.1 Regulation at 64 FR 4781 confirmation delayed 7863
244.6 Regulation at 64 FR 4781 confirmation delayed 7863
244.10 Regulation at 64 FR 4782 confirmation delayed 7863
244.12 Regulation at 64 FR 4782 confirmation delayed 7863
244.15 Regulation at 64 FR 4782 confirmation delayed 7863
244.18 Regulation at 64 FR 4782 confirmation delayed 7863
245.1 (c)(6) revised; (i) added; interim 42594
245.2 (a)(4)(ii)(C) amended; interim 42594
(a)(4)(ii)(D) amended; interim 46704
245.5 Amended; interim 42595
245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim 16388
245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as

TITLE 8 Chapter I—Con.

(c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim............29451
245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i); (e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim............29452
245.20 Added; interim............27448
245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim............29673
245a.2 Regulation at 65 FR 82256 eff.date delayed............7863
245a.4 Regulation at 65 FR 82256 eff. date delayed............7863
245a.30—245a.37 (Subpart C) Added; interim............29673
248 Authority citation revised............46704
248.1 (a) amended; interim............42595
(a) amended; (b) introductory text revised; interim............46704
248.3 (a) amended; interim............31114
255a.10—245a.29 (Subpart B) Added; interim............29673
274a Authority citation revised; interim............42595
Authority citation revised............46704
274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim............29681
(a) heading, introductory text and (6) revised; (a)(9) added; interim............42595
(a) introductory text, (13) and (14) amended; (a)(15) added; interim............46704
287.3 (d) revised; interim............48335
299.1 Table amended; interim............29681, 29686, 31114, 46704
299.5 Table amended; interim............29682, 29686, 46705
310 Authority citation revised............32144
310.3 (b) amended; interim............32144
320 Added; interim............32144
322 Revised; interim............32145
334 Authority citation revised............32146
334.1 Amended; interim............32147
334.2 (a) amended; interim............32147
337 Authority citation revised............32147
337.9 (b) removed; interim............32147
338 Authority citation revised............32147
338.4 Removed; interim............32147
341 authority citation revised............32147
341.2 (a)(1) introductory text revised; interim............32147
341.7 (b) removed; interim............32147

Proposed Rules:

103............41456
211............37429
212............1053, 37429
214............48223

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised............21061
2 Authority citation revised............239, 21061
2.129 (c) revised; (d) added............239
Regulation at 66 FR 239 eff. date delayed............8743
3.101 Revised............251
Regulation at 66 FR 251 eff. date delayed............8744
3.104 (a) revised............252
Regulation at 66 FR 252 eff. date delayed............8744
3.105 Revised............252
Regulation at 66 FR 252 eff. date delayed............8744
3.107 Revised............253
Regulation at 66 FR 253 eff. date delayed............8744
3.108 Revised............253
Regulation at 66 FR 253 eff. date delayed............8744
3.109 Revised............253
Regulation at 66 FR 253 eff. date delayed............8744
3.110 Revised............253
Regulation at 66 FR 253 eff. date delayed............8744
3.112 Revised............254
Regulation at 66 FR 254 eff. date delayed............8744
3.113 Revised............255
Regulation at 66 FR 255 eff. date delayed............8744
3.114 Revised............255
Regulation at 66 FR 255 eff. date delayed............8744

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

- 3.115 Revised 256
  - Regulation at 66 FR 256 eff. date delayed 8744
- 3.116 Revised 256
  - Regulation at 66 FR 256 eff. date delayed 8744
- 3.117 Revised 256
  - Regulation at 66 FR 256 eff. date delayed 8744
- 3.118 Revised 257
  - Regulation at 66 FR 257 eff. date delayed 8744
- 11 Authority citation revised 21061
- 49 Authority citation revised 21061
- 50 Authority citation revised 21061
- 50.3 Authority citation removed 21061
- 50.16 (a)(4) revised 21061
- 51 Authority citation revised 21061
- 51.1 Amended; authority citation removed 21061
- 52 Authority citation revised 21061
- 53 Authority citation revised 21061
- 54 Authority citation revised 21061
  - Revised 43982
  - Technical correction 46066
  - Eff. date corrected 46686
- 54.1 Amended 21061
- 70 Authority citation revised 21061
- 71 Authority citation revised 21061
- 72 Authority citation revised 21061
- 72.6 Revised 21061
- 72.13 (a) Footnote 4 revised 21062
- 73 Authority citation revised 21062
- 73.2 Authority citation removed 21062
- 73.3 Authority citation removed 21062
- 73.5 Authority citation removed 21062
- 73.6 Authority citation removed 21062
- 73.12 Authority citation removed 21062
- 74 Authority citation revised 21062, 37128
- 74.1 Revised 37128
- 75 Authority citation revised 21062
- 75.4 Amended 21062
- 77.7 Regulation at 65 FR 70286 confirmed 49271
- 77.9 Regulation at 65 FR 70286 confirmed 49271
- 78.41 Regulation at 65 FR 75582 confirmed 19847
  - (a) and (b) amended; interim 20900, 32894
  - Regulation at 66 FR 20900 confirmed 45749
- 79 Authority citation revised 21062
  - Revised 43990
  - Technical correction 46066
  - Eff. date corrected 46686
- 79.2 (a)(2) Footnote 1 revised 21062
- 79.3 (b) Footnote 2 amended 21062
- 80 Authority citation revised 21062
- 82 Authority citation revised 21062
- 82.30 Amended 21062
- 82.32 Footnote 2 amended 21062
- 82.33 (a)(2) Footnote 4 amended 21062
- 82.37 Footnote 7 amended 21062
- 85 Authority citation revised 21063
- 85.1 Amended 21063
- 89 Authority citation revised 21063
- 91 Authority citation revised 21063
- 92 Authority citation revised 21063
- 93.301 Regulation at 65 FR 78899 eff. date delayed 8887
  - Regulation at 65 FR 78899 confirmed 11101
- 93.400 Amended 20189
- 93.406 (a) and (c) revised 20190
- 93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised 20190
- 94 Technical correction 18357
  - Authority citation revised 21063
- 94.1 (a)(2) amended; interim 9643, 14826, 29689, 36697
  - (a)(1) amended; interim 29899
- 94.4 (a) and (b) amended; interim 29899
- 94.5 (e)(2) revised 21063
- 94.11 (a) amended; interim 9643, 14826, 29689
  - (a) amended; interim 36697
- 94.18 (a)(1) and (2) amended; interim 22426
  - (a)(2) amended; interim 29900
  - (b) amended; interim 42600
- 94.21 Removed; interim 29899
- 95 Authority citation revised 21063
- 95.1 Amended; interim 42600
- 95.4 Revised; interim 42600
- 95.29 Added; interim 42601
- 96 Authority citation revised 21063
- 97 Authority citation revised 21063
- 98 Authority citation revised 21063
- 99 Authority citation revised 21063

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 9 Chapter I—Con.

101 Authority citation revised	21063
102 Authority citation revised	21063
103 Authority citation revised	21063
103.2 Authority citation removed	21063
104 Authority citation revised	21063
105 Authority citation revised	21063
106 Authority citation revised	21063
107 Authority citation revised	21064
108 Authority citation revised	21064
109 Authority citation revised	21064
112 Authority citation revised	21064
113 Authority citation revised	21064
114 Authority citation revised	21064
115 Authority citation revised	21064
116 Authority citation revised	21064
116.1 Authority citation removed	21064
116.2 Authority citation removed	21064
116.3 Authority citation removed	21064
116.4 Authority citation removed	21064
116.6 Authority citation removed	21064
117 Authority citation revised	21064
118 Authority citation revised	21064
122 Authority citation revised	21064
123 Authority citation revised	21064
124 Authority citation revised	21064
130.4 Added	39631
130.8 (a) table amended	39632
145 Authority citation revised	21064
147 Authority citation revised	21064
151 Authority citation revised	21064
156 Authority citation revised	21064
160 Authority citation revised	21064
161 Authority citation revised	21064
162 Authority citation revised	21064
166 Authority citation revised	21064
166.1 Authority citation removed	21064
166.2 Authority citation removed	21064
166.10 Authority citation removed	21064
167 Authority citation revised	21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

317.8 (b)(37) and (38) added	40845
331.2 Table amended	2207
331.6 Table amended	2207
362 Authority citation revised	21637, 22905
362.1 Revised; interim	21637, 22905
362.2 Revised; interim	21637, 22905
381.1 (b) amended; eff. 1-9-02	1770
(b) corrected	19714
(b) amended; interim	21637, 22905
381.36 (b) amended; interim	21637, 22905
381.65 Revised; eff. 1-9-02	1771
(e) correctly revised; (f) correctly added	19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1-9-02	1771
(c)(1) corrected	19714
(b) heading, (c) heading and (d)(1) revised; interim	21637, 22905
381.67 Introductory text revised; table amended; interim	21637, 22906
381.70 Existing text designated as (a); (b) added; interim	21638, 22906
381.71 Existing text designated as (a); (b) through (f) added; interim	21638, 22906
381.72 Revised; interim	21638, 22906
381.76 (b)(1) introductory text revised; interim	21638, 22906
381.96 Revised; interim	21638, 22906
381.117 (f) and (g) added	40845
381.221 Table amended	2207
381.224 Table amended	2207
441 Added; eff. 1-9-02	1771

Proposed Rules:

1	6491
51	47593
93	19898, 20211, 29921
94	46228
101	19899
113	37194
145	37919
147	37919
301	12590, 19102, 35112
303	12590, 19102, 35112
317	4970, 12590, 19102, 20213, 35112, 41160
318	12590, 19102, 35112
319	12590, 19102, 35112
320	12590, 19102, 35112
325	12590, 19102, 35112
327	42472
331	12590, 19102, 35112
381	4970, 8178, 12590, 19102, 20213, 35112
417	12590, 19102, 35112
430	12590, 19102, 35112

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction 33013
2.1001 Amended 29465
2.1003 (a) introductory text, (2) introductory text and (xv) revised 29465
2.1009 (b) revised 29466
2.1010 (a)(2) revised 29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added 29466
2.1012 (a) revised 29466
5 Appendix A added 709
9.35 (a)(1) revised 22907
34.47 Regulation at 65 FR 63751 confirmed 1573
34.83 Regulation at 65 FR 63752 confirmed 1573
36.55 Regulation at 65 FR 63752 confirmed 1573
36.81 Regulation at 65 FR 63752 confirmed 1573
39.65 Regulation at 65 FR 63752 confirmed 1573
50.47 (b)(10) revised 5440
50.55a (b)(2)(xv)(C)(*1*) 16391
51.10—51.125 (Subpart A) Appendix B amended 39278
70.38 (e) introductory text revised 24049
72 Regulation at 65 FR 75855 confirmed 10569
  Technical corrections 33013, 38528
72.48 (c)(2)(iii) and(vii) revised 11527
72.214 Regulation at 65 FR 60342 confirmed 1573
  Amended 3448, 12437, 13409, 14486, 34525, 45752
  Corrected 8150
  Regulation at 65 FR 76898 confirmed 10569
  Regulation at 65 FR 12437 confirmed 23537
  Regulation at 66 FR 13409 confirmed 27449
  Regulation at 66 FR 14486 confirmed 28641
  Removed 43763
  Regulation at 66 FR 34525 confirmed 34525
150 Technical correction 35529
150.20 (b)(1) amended 5443
  (b)(2) revised 32469
170 Authority citation revised 32469
170.2 (s) added 32469
170.3 Amended 32469
170.12 (a) revised 32469
170.20 Revised 32469
170.21 Introductory text and table amended 32469
  Table corrected 35529
170.31 Revised 32470
170.41 Revised 32474
171 Authority citation revised 32474
171.5 Amended 32474
171.15 (b) through (e) revised 32474
171.16 (c), (d) and (e) revised 32474
171.19 (b) and (d) revised 32478
171 Appendix A corrected 35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement 8745, 19714
  Technical correction 11635
430.2 Amended 7199
  Regulation at 66 FR 7199 eff. date delayed 8745, 20191
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1–20–04; Appendix J amended 3330
  Appendix E amended; eff. 1–20–04 4497
  Appendix J amended 8745
  Regulation at 66 FR 3330 eff. date delayed 8744
430.32 (g) revised; eff. 1–20–04 3332
  (d) revised 4497
  (c) revised 7199
  Regulation at 66 FR 7199 eff. date delayed 8745, 20191
431.701—431.704 (Subpart Q) Added 3354
  Regulation at 66 FR 3354 eff. date delayed 8745
  Regulation at 66 FR 3354 confirmed 27853
490 Authority citation revised 2210
490.703 (b) revised 2210
  Regulation at 66 FR 2210 eff. date delayed 8746
  Regulation at 66 FR 2210 confirmed 21851
490.705 (a) and (b) revised; (d) added 2210
  Regulation at 66 FR 2210 eff. date delayed 8746
  Regulation at 66 FR 2210 confirmed 21851
600 Authority citation revised 34784

TITLE 10 Chapter II—Con.

600.6 (c)(8) revised 34784

Chapter III—Department of Energy (Parts 700—999)

710 Authority citation revised 47062
710.1 (b) revised 47062
710.4 (c) revised; (g) added 47062
710.5 Amended 47063
710.7 (a) revised 47063
710.8 (f) amended; (g), (h), (j), (k) and (l) amended 47063
710.9 Revised 47063
710.10 (a) and (d) revised; (e) and (f) added 47064
710.21 Heading, (a) and (b)(2) revised; (c) added 47064
710.22 Revised 47064
710.23 Heading amended 47065
710.27 Heading and (d) revised; (a) amended; (e), (f) and (g) removed 47065
710.28 Revised 47065
710.29 Redesignated as 710.30; new 710.29 added 47065
710.30 Redesignated as 710.31; new 710.30 redesignated from 710.29 47065
  (a) and (b)(1) amended; (b)(2) revised 47066
710.31 Redesignated as 710.32; new 710.31 redesignated from 710.30 47065
  Revised 47066
710.32 Redesignated as 710.33; new 710.32 redesignated from 710.31 47065
  Revised 47066
710.33 Redesignated as 710.34; new 710.33 redesignated from 710.32 47065
  Revised 47067
710.34 Redesignated as 710.35; new 710.34 redesignated from 710.33 47065
710.35 Redesignated from 710.34 47065
  Revised 47067
710.36 Added 47067
710.1—710.34 (Subpart A) Appendix B added 47067
719 Added 4621
  Regulation at 66 FR 4621 eff. date delayed 8746
  Policy statement 19717
770.10 (e)(3)(iv) corrected; (e) correctly redesignated as (f) 47877
830 Regulation at 65 FR 60308 confirmed; revised 1818
  Regulation at 66 FR 1818 eff. date delayed 8746
  Policy statement 19717

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised 4630
  Policy statement 18721
1040.1 Existing text designated as (a); (b) and (c) added 4630
  Regulation at 66 FR 4630 eff. date delayed 8747
1040.21—1040.57 (Subpart C) Removed 4630
  Regulation at 66 FR 4630 eff. date delayed 8747
1042 Added 4630
  Regulation at 66 FR 4630 eff. date delayed 8747
  Policy statement 18721
1044 Added; interim 4642
  Regulation at 66 FR 4642 eff. date delayed 8747
  Regulation at 66 FR 4642 confirmed 23833

Proposed Rules:

1 .... 19610, 27045
2 .... 19610, 27045, 29741, 46230, 48828
20 .... 36502, 46230
30 .... 20099, 29243
34 29243
35 .... 20214, 29243
36 29243
39 .... 13858, 29243
40 29243
50 .... 3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432, 40626, 46230, 48828
51 .... 10834, 19610, 27045, 29251, 48828
52 .... 19610, 27045, 48828, 48832, 49324
54 .... 19610, 27045
60 .... 19610, 27045
61 29251
70 .... 19610, 27045, 29243, 29251
72 .... 9055, 12439, 13459, 14503, 29243, 29251, 34588, 43810, 45788, 47059
73 .... 10839, 19610, 27045, 29251
74 29251
75 .... 19610, 29251
76 .... 10839, 19610, 27045, 29243, 29251
95 10839

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

110	19610, 27045
150	16982, 20035, 29251
170	16982, 20035
171	16982, 20035
255	13860
430	6768, 15203, 32914, 36960, 38822, 43123, 45189, 49325
600	23197
733	19900
852	46742, 48630
1008	32272

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5–9–01	23537
100.23 Regulation at 65 FR 76146 eff. 5–9–01	23537
109.1 Regulation at 65 FR 76146 eff. 5–9–01	23537
110.14 Regulation at 65 FR 76146 eff. 5–9–01	23537

Proposed Rules:

100	13681, 23628, 38576, 47120
104	23628, 38576, 47120
109	23628
113	38576, 47120

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction	36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised	34791
5 Authority citation revised	49097
5.26 (e)(5) revised	34797
5.34 (a), (c), (d)(2), (3) and (e)(4) revised	49097
7 Authority citation revised	34791
Technical correction	36834
7.1021 Added	34791
7.3000 (b) amended	34791
7.4001 (a) amended	34791
7.4002 revised	34791
7.4006 Added	34791
8 Heading and authority citation revised	23153
8.2 (a)(7) and (b)(5) removed; (c) and (d) added	29893
8.6 Heading and (a) revised	23153
(c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added	29894
9.2 (g) amended; (j) and (k) added	34797
9.3 (b) revised; (c) added	34798
9.7 Added	34798
9.14 (b) revised	34798
14 Regulation at 65 FR 75839 eff. date delayed	15345
23 Technical correction	36834
23.21 (a)(2) revised	34792
28.15 (b) revised	49098
30 Authority citation revised	8633
30.1 Revised	8633
30.2 Amended	8633
30.3 (a) revised	8633
30 Appendix B revised	8633
Appendix C removed	8634
32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added	31120
32.3 (c)(5) revised	31120
32.7 Added	31120
35 Added	2085

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised	2211, 9907, 18185, 20901, 29009, 35530, 45753, 49096
202 Compliance notification	41439
202.4 Revised; interim	17785
202.9 (h) added; interim	17785
202.17 Added; interim	17785
202 Supplement I amended; interim	17786
205 Authority citation revised	15192
Compliance notification	41439
205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim	17793
205.7 (b)(11) added	13412
205.16 Added	13412
205.17 Added; interim	17793
205 Supplement I and Appendix A amended	13412
Supplement I amended	15192
Appendix A amended; interim	17793
Supplement I amended; interim	17794

TITLE 12 Chapter II—Con.

207 Added 2092
208 Authority citation revised 8634, 42933
208.3 (d)(1) revised 8634
208.71—208.77 (Subpart G) Revised 42933
208.71 (c) revised..............................8749
208.77 (e) revised..............................8749
208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed 15345
208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed 15345
208 Appendix D-2 revised......................8634
211 Authority citation revised 8636
211.9 Added..8636
211.24 (i) added 8636
213 Compliance notification 41439
213.3 (a)(5) added; interim................17328
213.6 Added; interim 17328
213 Supplement I amended; interim 17328
220 OTC margin stock lists ...11101, 44525
225 Authority citation amended 414, 8636
225.1 (c)(9) added 414
(c)(10) revised.................................8484
(c)(16) added 8636
225.2 (r)(2) and (s) revised; (t) added 414
225.4 (h) added 8636
225.14 (c)(2)(i) revised.........................415
225.23 (c)(2)(i) revised.........................415
225.81—225.94 (Subpart I) Revised 415
225.86 (e) added; interim 260
(d) and (e) added; interim 19081
225.170—225.177 (Subpart J) Revised 8484
225 Appendix F added 8636
Appendix E correctly revised; CFR correction..........48532
226 Compliance notification 41439
226.5 (a)(5) added; interim................17338
226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim 17338
226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim 17338
226.15 (b) introductory text amended; interim 17338
226.16 (c) revised; interim 17338
226.17 (a)(3) added; (g) introductory text revised; interim 17338
226.23 (b)(1) amended; interim 17338
226.24 (d) revised; interim 17338
226.27 Revised; interim 17339
226.31 (b) revised; interim 17339
226.36 (Subpart F) Added; interim 17339
226 Supplement I amended; interim 17339
Appendix G corrected; CFR correction..........43463
230 Compliance notification 41439
230.3 (a) revised; (g) added; interim 17802
230.4 (a)(1) and (2)(i) revised; interim 17802
230.6 (c) removed; interim 17802
230.10 Added; interim........................17803
230 Supplement I amended; interim 17803
250 Authority citation revised........24233
250.243 Added 24229
250.244 Added 24299
250.245 Added 24229
250.246 Added 24225
250.247 Added; interim 24233
250.248 Added; interim 24233
261a.13 (b)(9) revised; (c)(11) added 19718
Corrected...20863
263 Authority citation revised 8637
263.302 (a) revised 8637
268 Revised; interim...........................7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.120 Regulation at 65 FR 15529 confirmed; revised 1027
303.121 Regulation at 65 FR 15529 confirmed..........1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended..........1027
303.123 Regulation at 65 FR 15530 confirmed..........1027
303.141 (b)(1)(ii) revised 1028
303.142 (a), (b) and (c) amended 1028
308 Authority citation revised 8638, 9189
308.101 (b) revised 9189
308.132 (c)(3)(xv) revised 9189
308.302 (a) revised 8638
308.500—308.546 (Subpart T) Added..........9189
337.4 Removed 1028
337.6 (e) removed..............................17622

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

343 Regulation at 65 FR 75843 eff. date delayed 15348
346 Added 2099
346.9 (a)(1) corrected 14071
346.11 (j)(2)(iv) corrected 14071
362 Authority citation revised 1028
362.1 (c) revised 1028
362.2 (r) revised 1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised 1028
362.5 (b)(1), (2) and (3) removed 1028
362.6 Revised 1028
362.7 (a) and (b) revised 1028
362.8 Revised 1028
362.10 (a) revised 1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended 1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised 1029
364 Authority citation revised 8638
364.101 (b) revised 8638
364 Appendix B revised 8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

502.20 Revised 33159
506.1 (b) amended; interim 15017
(c)(1)(iii) revised 15020
Regulation at 66 FR 15017 confirmed 37407
516.1—516.3 (Subpart A) Removed 13000
516.1 Added 13000
516.5 Added 13000
516.10 Added 13000
516.15—516.47 (Subpart A) Added 13000
516.55 Added 13002
516.110 Amended 13003
516.120 Revised 13003
516.130 Revised 13003
516.140 Revised 13003
516.150 Revised 13003
516.185 Added 13003
516.190 Revised 13003
516.200—516.280 (Subpart E) Added 13003
517.6 (b) revised 13005
533 Added 2106
536 Regulation at 65 FR 75845 eff. date delayed 15345
543.9 (a) revised 13005
544.2 (c) amended 13005
544.5 (c)(1)(ii) revised 13006
(c)(1)(iii) revised 15020
545.92 (b) and (d)(2) revised; (f) amended 13006
550.80 Revised 13006
550.260 (b)(2) amended 13006
550.530 Amended 13006
552.2–6 Amended 13006
Existing text designated as (a); (b) added 23154
Regulation at 66 FR 37407 confirmed 37408
552.4 (d) amended 13006
552.5 (b)(1)(ii) revised 13006
(b)(1)(iii) revised 15020
555.310 (a) introductory text amended 13006
556.347 Revised 19854
559.3 (e)(2)(i) and (ii) amended 13006
559.4 Introductory text amended 13007
559.11 Amended 13007
559.13 (b) revised 13007
560.30 Table amended; interim 15017
Regulation at 66 FR 15017 confirmed 15017
560.32 (c) amended 13007
560.35 (d)(3) revised 13007
560.93 (d)(3)(iii) amended 13007
560.160 (a)(1) revised 13007
562.4 (b)(1) revised 13007
(c)(3) correctly added; CFR correction 33632
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised 13007
563.41 (e)(2)(ii)(A) revised 13008
563.81 (a)(1), (2) and (c) amended 13008
563.143 Heading revised; (a)(1) amended 13008
563.161 (a) revised; interim 15017
Regulation at 66 FR 15017 confirmed 15017
563.171 (b)(4) revised 13008
563.180 (d)(11) revised 13008
563.183 (c)(1) revised 13008
563.555 Amended 13008
563.565 Revised 13009
563b.27 (e) footnote 1 amended 13009
563f.6 (a) amended 13009
565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended 13009
566 Removed; interim 15017
Regulation at 66 FR 15017 confirmed 15017

TITLE 12 Chapter V—Con.

567.3 (d)(2)(i) introductory text amended	13009
(a)(2) correctly removed; CFR correction	33632
567.4 (a)(3)(i) amended	13009
567.7 (f) revised	13009
568 Authority citation revised	8639
568.1 (a) revised	8639
568.5 Added	8639
570.1 (a) and (b) amended	8639
570.2 (a) revised	8639
570 Appendix B revised	8640
574.4 (f)(2) amended	13009
574.6 (f)(4) amended	13009
575.3 (b)(2) introductory text revised	13009
575.13 (a)(1), (b), (c)(2) and (e) amended	13010
584.2-1 (a) and (c)(1) amended; interim	15017
Regulation at 66 FR 15017 confirmed	15017
584.2-2 (b) amended	13010

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised	16843
Regulation at 66 FR 16843 eff. 5-14-01	26785
613.3020 (c) added	28643
Regulation at 66 FR 28643 confirmed	36908
613.3030 (a)(1) and (2) amended	28643
Regulation at 66 FR 28643 confirmed	36908
615.5220 (a)(3) revised	16844
Regulation at 66 FR 16844 eff. 5-14-01	26785
615.5250 (c)(2) amended	16844
Regulation at 66 FR 16844 eff. 5-14-01	26785
620.2 (h)(1) and (2) revised	14301
Regulation at 66 FR 14301 confirmed	21064
620.4 (b) revised	14301
Regulation at 66 FR 14301 confirmed	21064
620.5 (a)(10) added	14301
Regulation at 66 FR 14301 confirmed	21064
650 Authority citation revised	19064
650.20—650.31 (Subpart B) Added	19065
Regulation at 66 FR 19064 eff. 5-23-01	28361

Chapter VII—National Credit Union Administration (Parts 700—799)

701.1 Revised; interim	15621
701.31 (d) introductory text, (1) and (2) revised	48206
705.10 Regulation at 65 FR 80299 confirmed	20902
707 Compliance date lifted	48206
707.3 (a) revised; (g) added	33162
707.4 (a)(1) and (2)(i) revised	33163
707.6 (c) removed	33163
707.10 Added	33163
707 Appendix C amended	33163
709.0 Amended; interim	11230
Amended	40575
709.12 Added; interim	11230
Revised	40575
712.3 (a) amended	40578
712.5 Amended	40578
712.7 Amended	40578
721 Revised	40857
748 Heading and authority citation revised	8161
748.0 (b) revised	8161
748 Appendix A added	8161
749 Revised	40579
Heading corrected	46307

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised	8307
915.4 Revised	8307
915.5 Revised	8308
915.6 (a)(3) revised	8308
915.7 (b)(2) amended	8308
917 Authority citation revised	8308
917.3 (b)(1) revised	8308
917.9 Existing text designated as (a); (b) added	8308
918.7 Revised; interim	24264
925.24 Revised	8308
925.25 Removed	8309
925.26 Revised	8309
925.27 Revised	8309
925.28 Removed	8310
925.29 Revised	8310
925.30 Revised	8310
930 Added	8310
931 Added	8310
932 Added	8310
933 Added	8310
956 Authority citation revised	8320
956.1 Amended	8320

956.3 (b) amended	8320
956.5 Added	8320
956.6 Added	8321
966.8 (d) added	8321

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1411 Authority citation revised	44027
1411.1 Revised	44027

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised	8489
1501.2 Redesignated as 1501.3; new 1501.2 added; interim	260
1501.3 Redesignated from 1501.2; interim	260
Revised	8750
1510 Regulation at 65 FR 12069 confirmed	47070
1510.5 (c) introductory text amended; (d) revised; interim	47071

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1750 Authority citation revised	47806
1750.10—1750.13 (Subpart B) Added	47806
1770 Added	47554
1701 Added	18039
1780 Authority citation revised	711, 18043
1780.1 Revised	18043
1780.80—1780.81 (Subpart E) Revised	711

Proposed Rules:

1	8178
3	10212
7	8178, 19901, 34855
8	17821, 21045, 48983
23	8178
25	18411, 37602
37	19901
41	16624
200—299 (Ch. II)	27912
208	10212, 18411
222	16624
223	24186, 33649
225	307, 10212, 12440
228	37602
303	20102
325	10212
334	16624
345	37602
369	18411
500—599 (Ch. V)	31186
502	21288
552	23196
563e	37602
567	15049
571	16624
611	10639, 15814, 43536
614	43536, 48098
618	10639, 15814
620	10639, 15814
700	33211
701	20945, 33211, 40641
702	40642
703	48742
704	48742
712	11125, 33211
715	33211
722	15055
723	33211
725	33211
741	40642
742	15055
749	11239
790	33211
915	14093
917	14093
925	14093, 41462, 43961
930	14093, 41462, 41474, 43961
931	14093, 41462, 43961
932	13688, 14093, 41462, 41474, 43961
933	14093, 41462, 43961
950	36715
951	23864
952	36715
956	14093
966	14093
1501	307, 12440
1710	18709, 20217, 47557
1773	47563
1777	18694

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised....30647
108 Added; interim....7224
Regulation at 66 FR 7224 eff. date delayed....10811
Regulation at 66 FR 7224 eff. date delayed....20530
Regulation at 66 FR 7224 withdrawn....28602
Added....28609
Authority citation corrected....32894
108.150 (c) introductory text corrected....32894
108.2010 (b) corrected....32894
115 Authority citation revised....30804
115.12 (e)(1) and (3) amended....30804
115.19 (a) amended....30804
115.31 (d) amended....30804
115.60 (a)(1) amended....30804
115.61 Amended....30804
115.68 Amended....30804
119 Added....29013
120.700—120.715 (Subpart G) Heading revised....47073
120.700 Amended....47073
120.701 (h) redesignated as (i); new (h) added....47073
(f) and (i) revised....47878
120.702 (a)(1) revised....47878
120.704 (b) revised....47878
120.705 Amended....47878
120.706 (a) amended....47073
120.707 (a) revised....47073
(b) amended; (c)(1) and (2) revised....47878
120.712 Heading, (b)(1) and (e) revised....47073
120.714 Heading and (b) revised; introductory text added....47073
(a) amended; (b) revised....47878
120.715 (a) revised....47073
120.716 Added....47073
121 Waiver....19381
121.201 Table amended....30647
Table corrected....32416
121.301 (b) and (c) revised....30648
123 Authority citation revised....38530
Undesignated center headings designated as Subparts A through E....38530
123.500—123.512 (Subpart F) Added....38530
126 Authority citation revised....4645
126.101 (c) added....4645
126.103 Amended....4645
126.204 Revised....4645
126.206 Revised....4645
126.601 (d) revised....4645
134.102 (l) amended; (m) redesignated as (n); new (m) added....47074

Proposed Rules:

108....20531
121....10842, 14865

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition....29416
21 SFAR No. 88 added....23129
Comment disposition....29416
21.183 (d)(2)(iv) amended....21065
21.197 (c) introductory text and (1) amended....21066
21.213 (b) amended....21066
21.329 (c) amended....21066
21.337 (e) amended....21066
23 Special FAA conditions...18186, 30649, 37128, 40580
25 Special FAA conditions....261, 8162, 11527, 12843, 15020, 17804, 19847, 22426, 22428, 26972, 32717, 36697, 37408, 39085, 46937, 49271
Comment disposition....29416
25.473 (d) revised....27394
25.723 Revised....27394
25.725 Removed....27394
25.727 Removed....27394
25.981 Revised....23129
25.1435 (a), (b) and (c) revised....27402
25.1516 Added....34024
25.1527 Revised....34024
25.1583 (c) and (f) revised....34024
25.1585 Revised....34024
25.1587 Revised....34024
25 Appendix H amended....23130
27.397 (b)(2) amended....23538
29.397 (b)(2) amended....23538
39 Technical correction....13635, 37271
39.13....1, 4, 6, 8, 264, 265, 266, 268, 1032, 1254, 1256, 1828, 1830, 2213, 3450,

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

3860, 4647, 4648, 4650, 4653, 4655, 4657, 4659, 6447, 6450, 6452, 6453, 6455, 7573, 7575, 7577, 8078, 8080, 8082, 8083, 8088, 8166, 8168, 8508, 8751, 8753, 8755, 8757, 8759, 9028, 9030, 9033, 9909, 10186, 10189, 10355, 10356, 10358, 10359, 10362, 10571, 10572, 10953, 10954, 10956, 10959, 10961, 10963, 10964, 11104, 11106, 12724, 12726, 12728, 12731, 13011, 13228, 13231, 13233, 13413, 13415, 13417, 13420, 13423, 13425, 14302, 14305, 14307, 14309, 14311, 14828, 15023, 15025, 15622, 15624, 15788, 16104, 16107, 16109, 16113, 16115, 16118, 16600, 16845, 16847, 17343, 17346, 17349, 17489, 17491, 17494, 17497, 17498, 17503, 17507, 17808, 18047, 18049, 18522, 18524, 18526, 18528, 18722, 18872, 19383, 19385, 19388, 19719, 19851, 20193, 20195, 20378, 20380, 20382, 20385, 20388, 20734, 20736, 20738, 20903, 20905, 20909, 20911, 20913, 20915, 20916, 20918, 20919, 20921, 21068, 21070, 21072, 21074, 21076, 21080, 21082, 21085, 21277, 21279, 21852, 21854, 21858, 21861, 22431, 22434, 22909, 22912, 22914, 22915, 23540, 23542, 23835, 23837, 23839, 23843, 24051, 27686, 27688, 27016, 27018, 27450, 27591, 27596, 27855, 28363, 28365, 28645, 28647, 28650, 28653, 29468, 29471, 29690, 29902, 30298, 30301, 30304, 30306, 31122, 31127, 31131, 31133, 31140, 31142, 31145, 31526, 31529, 31835, 31837, 31838, 32531, 32532, 32535, 32537, 32729, 32730, 32895, 32897, 33014, 33015, 33017, 33018, 33020, 33165, 33167, 33169, 33172, 33460, 33461, 34084, 34087—34090, 34093, 34095, 34097, 34099, 34101, 34102, 34104, 34105, 34107, 34109, 34529, 34531, 34532, 34799, 34801, 34805, 35077, 35079, 35372, 35531, 35533, 35534, 35536, 35537, 35539, 35897, 36146, 36148, 36150, 36151, 36153, 36155, 36442, 36444, 36446, 36448, 36449, 36451, 36452, 36454, 36455, 36457, 36700, 37131, 37885, 38140, 38143, 38144, 38146, 38353, 38356, 38359, 38361, 38364, 38366, 38532, 38534, 38536, 38538, 38891, 38894, 38898, 39414, 39417, 39422, 39425, 39427, 39430, 39432, 39434, 39632, 40109, 40583, 40860, 40862, 40864, 40865, 40867, 40868, 40869, 40871, 40873, 40876, 40878, 40880, 40882, 40885, 41130, 41442, 41444, 42106, 42938, 42940, 43068, 43069, 43071, 43073, 43075, 43077, 43464, 43467, 43469, 43474, 43477, 43765, 43767, 43770, 43772, 44029, 44031, 44033, 44035, 44038, 44040, 44042, 44044, 44045, 44047, 44048, 44293, 44295, 44297, 44298, 44946, 44949, 44953, 44956, 44958, 44959, 45566, 45569, 45571, 45572, 45574, 45576, 45578, 45581, 45583, 45587, 45595, 45754, 45755, 45757, 45759, 45923, 46215, 46510, 46511, 46514, 46516, 46518, 46940, 47381, 47572, 47574, 47576, 47880, 47882, 47885, 48537, 48539, 48790, 48791, 49100, 49510, 49516

Corrected............1574, 3861, 9635, 15326, 17508, 18521, 23155, 28651, 30307, 42586

43.1 (a)(2) amended..............................21066
43.3 (f) and (g) amended 21066
43.7 (e) amended..................................21066
43.9 (b) amended 21066
43.13 (c) amended 21066
43.16 Amended 21066
45.22 (c)(3) amended 21066
61 Technical correction 31145
63 Technical correction 31145
65 Technical correction 31145
65.95 (a)(1) amended 21066
65.111 (a) and (b) revised 23553
65.125 (a)(2) and (b)(2) revised 23553
71.1 ....1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20389, 20587, 20588, 21281, 23558–23561, 28369, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147–38149, 38368, 38369, 38539, 39435, 42107, 42108, 43078, 43079, 43080, 44049, 44050, 45162, 45596, 45598—45603, 46216, 46367, 47577, 48541, 48793, 48795, 49517—49520

Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560, 45597, 48953

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 14 Chapter I—Con.

Regulation at 66 FR 11532 eff. date delayed 21639
73.30 45661
73.32 34809
73.63 16392
91 SFAR No. 50–2 reinstated and amended....1003
SFAR No. 50–2 revised 16584
Policy statement....30310
SFAR No.90 added 48943
91.23 (b)(1)(i) amended 21066
91.137 Heading revised 47377
91.138 (b) revised 47377
91.145 Added....47378
91.175 (f) amended 21066
91.207 (f)(1) corrected 16316
91.215 (a) amended 21066
91.307 (b) revised 23553
91.401 (b) amended 21066
91.403 (c) amended....21066
91.409 (c)(2) and (f)(1) amended....21066
91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
91.411 (b)(2)(v) removed; eff. 4–6–03 41116
91.413 (a) and (c)(2) amended....21066
(c)(1)(iv) removed; eff. 4–6–03 41116
91 Appendix A amended; eff. 4–6–03 41116
93.301 Regulation at 65 FR 17742 eff. date delayed 1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed....1005
Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed....1005
Regulation at 65 FR 17743 eff. date delayed 16584
95....9914, 18530, 30057, 39634, 49101
97.21—97.35....2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090, 41773, 41775, 44300, 44302, 46941, 47075, 48542, 48544, 48546
99.1 (b)(2) revised; (c) removed; (d) redesignated as new (c) 49822
99.3 Revised 49822
99.9 Revised 49822
99.11 (a) revised....49822
99.42 Revised....49822
99.43 Revised....49822
103.20 Revised 47378
105 Revised 23553
107 Revised; eff. 11-14-01....37317
108 Technical correction 31145
Revised; eff. 11-14-01 37357
119.1 (e)(6) revised....23557
121 SFAR No. 50–2 reinstated and amended....1003
SFAR No. 50–2 revised....16584
Policy statement 27548, 30310
Technical correction 28036, 28037, 28369, 29888, 31145, 31146, 44050
SFAR No. 36 amended; eff. 4–6–03 41116
Policy statement....41955
Authority citation revised....41966
SFAR No. 89 added 44273
121.303 (b) and (d)(2) revised; eff. 5–12–04....19043
121.309 (d) removed; eff. 5–12–04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5–12–04 19043
121.325 Introductory text revised; eff. 5–12–04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b). through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added....23130
121.378 (a) revised; eff. 4–6–03....41116
121.415 (a)(3) revised; eff. 5–12–04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5–12–04 19043
121.427 (b)(2) revised; eff. 5–12–04 19043

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

121.703 Regulation at 65 FR 56201 eff. date delayed to 1-16-02	21626
121.704 Regulation at 65 FR 56202 eff. date delayed to 1-16-02	21626
121.705 Regulation at 65 FR 56203 eff. date delayed to 1-16-02	21626
121.709 (c) and (d) redesignated as (d) and (e); new (c) added; (b), new (d) and (e) revised; eff. 4-6-03	41116
121.801—121.805 (Subpart X) Added; eff. 5-12-04	19044
121 Appendix A revised; eff. 5-12-04	19044
Appendix I amended	41966
Appendix J amended	41967
125 Policy statement	30310
SFAR No. 89 added	44273
125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added	23131
125.409 Regulation at 65 FR 56203 eff. date delayed to 1-16-02	21626
125.410 Regulation at 65 FR 56204 eff. date delayed to 1-16-02	21626
129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added	23131
135 SFAR No. 50-2 reinstated and amended	1003
SFAR No. 50-2 revised	16584
Technical correction	28036, 28037, 31145, 31146, 44050
Policy statement	30310
SFAR No. 89 added	44273
135.177 (a)(1) revised; eff. 5-12-04	19045
135.415 Regulation at 65 FR 56204 eff. date delayed to 1-16-02	21626
135.416 Regulation at 65 FR 56205 eff. date delayed to 1-16-02	21626
135.417 Regulation at 65 FR 56206 eff. date delayed to 1-16-02	21626
135.435 (a) revised; eff. 4-6-03	41117
135.443 (c) redesignated as (d); (b) and new (d) revised; new (c) added; eff. 4-6-03	41117
139.325 (h) redesignated as (i); new (h) added; eff. 11-14-01	37327
142.1 (a) and (b)(1) amended	21066
145.1—145.5 (Subpart A) Revised; eff. 4-6-03	41117
145.2 Heading and (a) amended	21067
145.51—145.61 (Subpart B) Revised; eff. 4-6-03	41117
145.63 (c) amended	21067
Regulation at 65 FR 56206 eff. date delayed to 1-16-02	21626
145.79 Regulation at 65 FR 56206 eff. date delayed to 1-16-02	21626
145.101—145.109 (Subpart C) Revised; eff. 4-6-03	41117
145.151—145.163 (Subpart D) Revised; eff. in part 4-6-03	41117
145.163 Revised; eff. 4-6-05	41117
145.201—145.223 (Subpart E) Added; eff. 4-6-03	41117
145 Appendix A removed; eff. 4-6-03	41117
161.5 Amended	21067
170.3 Amended	21067
187.1 Amended	43717
187.15 (d) revised	43718
187 Appendix B revised	43718
193 Added	33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised	17356
382 Authority citation revised	22115
Nomenclature change	22115
382.39 (a)(2) revised	22115
382.40a Added	22115

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 14

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180
  Regulation at 66 FR 2180 eff. date delayed 9509
406 Revised 2180
  Regulation at 66 FR 2180 eff. date delayed 9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1214.900—1214.912 (Subpart 1214.9) Added 37411

Proposed Rules:

13 37520
23 ....6492, 23199
25....14504, 15203, 18214, 26942, 26948, 26956, 26964, 27582, 48836
39.........57, 59, 61, 64, 1054, 1057, 1271, 1273, 1607, 1610, 1612, 1917, 1919, 2213, 3382, 3511, 3515, 3516, 3518, 3521, 6494, 6495, 6497, 6499, 7433, 8184, 9779, 10226, 10232, 10234, 10236, 10238, 10241, 10243, 10360, 10378, 10380, 10382, 10384, 10387, 10390, 10393, 10842, 10844, 10846, 10849, 10851, 10853, 10855, 10857, 10858, 10970, 10972, 10974, 10976, 11126, 12440, 12443, 12834, 12913, 13184, 13187, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13222, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348, 14865, 14867, 15062, 15362, 15363, 15365, 15369, 15662, 15664, 15666, 15667, 15670, 15814, 15817, 16017, 16156, 16418, 16422, 17091, 17094, 17097, 17099, 17101, 17103, 17105, 17115, 17118, 17121, 17123, 17125, 17127, 17641, 18416, 18573, 18575, 18877, 18878, 18880, 18882, 18884, 18886, 19727, 20111, 20114, 20116, 20218, 20409, 20760, 20763, 20766, 20768, 20946, 20948, 20950, 20952, 20954, 20957, 21107, 21291, 21292, 21294, 21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850, 29268, 29514, 30093, 30095, 30097, 30099, 30101, 30103, 30105, 30107, 30109, 30112, 30114, 30341, 30343, 30345, 31189, 31192, 31194, 31566, 31569, 32276, 32591, 33214, 33649, 33651, 33653, 34128, 34130, 34132, 34134, 34377, 34589, 34591, 34593, 35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206, 38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588, 38961, 40161, 40162, 40645, 40646, 41808, 40926, 42970, 43124, 43126, 43228, 43130, 43811, 43814, 43815, 44089, 44093, 44311, 44313, 44316, 44319, 44320, 44322, 44323, 44326, 44553, 44556, 44558, 44560—44562, 44986, 44990, 45190, 45192, 45194, 45196, 45648, 45651, 45653, 45655, 45657, 45789, 45948, 45950, 45951, 46239, 46241, 46243, 46246, 46247, 46562, 46968, 47600, 47899, 47901, 48102, 48361, 48364, 48388, 48631, 48985, 48987, 48989, 48991, 48993, 49148, 49326
61 37520
71.....1921, 2850, 3886, 3887, 7435, 8772, 8773, 9986—9990, 10860, 10861, 12741, 17825, 17826, 17827, 18575, 18577, 18578, 18736, 18737, 19907, 19908, 19909, 21296, 22489, 22490, 29056, 29057, 29058, 29516, 30117—30120, 30654, 31196, 32593, 32781, 35914, 35916, 35917, 38223-38225, 38385, 38386, 39121, 42618, 42619, 43132, 43134, 44327, 44993, 44994, 45198, 45199, 45200, 45659, 45660, 46406, 47120, 49573, 49574, 49575
73 19055
81 44329
91..33215, 37520
119...37520
121 ....21492, 21494, 42807, 46306
125...37520
135...37520
136...21264
139 ....42807, 46308
142...37520
161...47601
183...38387
217...45201
241...45201
255...13860

271 44329
291 45201
298 45201
413 .... 9635, 10979
415 .... 9635, 10979
417 .... 9635, 10979

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

101.1 Revised 11232
101.2 Removed 11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised 28832
  Nomenclature change 28832
301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832
301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833
301.3 (d) amended; (f) redesignated as (g); new (f) added 28833
301.4 (a)(1) and (2) revised; (a)(3) amended 28833
301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added 28833
301.6 (a) and (c) revised 28834
301.7 (a) amended 28834
301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834
301.9 (a) introductory text amended 28834
301.10 Revised 28834
303.2 (a)(5), (13) and (b)(1) amended 34812
303.12 (a)(1) revised 34812
303.16 (a)(9) amended 34812
  (b)(1) amended 34813
303.17 (b)(4) amended 34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.4 (c) introductory text revised; interim 42109
736 Authority citation revised 49523
736.2 (b)(7)(i)(B) and (C) revised 49523
738 Authority citation revised 12846, 18402, 49523
738 Supplement No. 1 amended 12846, 18402, 49523
740 Authority citation revised 5444, 6465, 12846, 18402, 36680, 49523
740.1 (a) revised; interim 36680
  (a) amended; interim 42109
740.2 (a)(6) added; interim 36680
740.7 Revised 5444
  (d)(1) revised 12847
  (d)(4) amended 6465
740.8 (c) amended; interim 42109
740.9 Heading and (a)(3)(i)(A) revised; (a)(2)(iii) amended; interim 42109
740.10 (a)(3)(iv) and (b)(3)(i)(D) amended; (b)(2)(iv) revised; interim 42110
740.13 (d)(3)(i) amended; interim 42110
740.15 (a)(1)(i), (ii), (2)(ii), (3)(iv) through (ix) amended; interim 42110
740.18 Added; interim 36680
740 Supplement No. 1 amended 12847, 18402, 49524
  Supplement No. 1 amended; interim 42110
742 Authority citation revised 5444, 36680, 49525
742.2 (a)(2)(i)(C) added 49524
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim 36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim 36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended 5446
742.18 Revised 49524

CHANGES JANUARY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 15 Chapter VII—Con.

742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim 36682
744 Authority citation revised 12846, 18402, 24265
744.16 Added 12847
744 Supplement No. 3 amended 18402
  Supplement No. 4 amended 24265
745 Authority citation revised 49523
745.2 Amended 49525
745 Supplement No. 2 amended 49525
746 Authority citation revised 12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim 36682
746.3 (a) introductory text revised; interim 36682
746.7 Amended; interim 36683
746.9 Revised 12847
748 Authority citation revised 5444, 6465
748.10 (b)(3) revised 5447
  (b)(3)(i) amended 6465
770 Authority citation revised 49523
770.2 (k) introductory text amended 49525
772 Authority citation revised 18402, 36680
772.1 Amended 18402
  Amended; interim 36683
  Amended; introductory text revised 36910
774 Authority citation revised 18403, 36680, 49523
774 Supplement No. 1, Category 3 (ECCN 3A001) 18403
  Supplement No. 1, Category 3 (ECCN 4A003) 18405
  Supplement No. 1, Category 1 (ECCN 1C997) amended; interim 36683
  Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5 (ECCN 5A991) and Category 7 (ECCN 7A003) amended 36912
  Supplement No. 1, Category 7 (ECCN 7E004) amended 36913
  Supplement No. 1, Category 1 (ECCN 1C350) amended 49525
  Supplement No. 1, Category 1 (ECCN 1C355 and 1C995) amended 49527
  Supplement No. 1, Category 2 (ECCN 2B350 and 2B352) amended 49528

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table corrected (OMB numbers) 3451, 21643, 24056, 30652
922.81 Amended 46951
922.82 (a)(7) added 46951
922.161 Revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.162 Amended 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.166 Heading revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.167 Redesignated as 922.168 4369
  Added 4370
  Regulations at 66 FR 4369 4370 eff. date confirmed 16120, 33462
922.168 Redesignated from 922.167; new 922.168 revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
  Regulation at 66 FR 4370 eff. date confirmed 16120, 33462
  Appendix VII table amended 34534

Proposed Rules:

50 48013
80 48013
303 28404
801 .... 45219, 46407
922 .... 26822, 30828, 43135, 49576
990 39464

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

2 Authority citation revised 8721
Technical correction 20527
2.20 (Subpart B) Added; interim 8721
2.41 (a) amended; interim 17628
3.12 (a) revised; interim 17628
(a)(1) corrected 20527
3.21 (b) amended; interim 17628
3.22 (b) revised; (c) amended; interim 17628
3.24 (a)(2) amended; interim 17628
3.25 (c) Revised; interim 17628
3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim.......17628
(b)(3) corrected 20527
3.33 (a) amended; interim 17629
3.34 Heading revised; (c) amended; interim 17629
3.36 Revised; interim 17629
(a) corrected 20527
3.39 (a) introductory text amended; interim 17629
(a) corrected 20527
3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
3.43 (b) revised; interim 17629
Designation, (b) introductory text and (2) corrected 20527
3.44 (c) amended; interim 17630
3.45 Revised; interim 17630
(b)(2) and (d) corrected 20527
3.46 (b)(7) and (c)(4) amended; interim 17631
3.51 (c)(1) amended; (c)(3) removed; interim 17631
3.52 Revised; interim 17631
(b), (e), (f)(2) and (j) corrected 20527
4 Authority citation revised............17632
4.1 (b)(1)(iv) note removed 13645
4.2 Revised; interim........................17632
(c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
4.3 (d) added; interim........................17633
4.4 (a)(3) and (c) revised; (b) amended; interim 17633
(a)(3) and (b) corrected 20527
4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim 17633
4.10 (g)(1) revised; interim 17633
305 Energy efficiency ranges 19389, 40110
305.5 (a) revised..............................27858
305.6 (a) revised..............................27858
305.9 (a) revised..............................27858
305 Appendix C1 revised..................49531
801 Authority citation revised 8687
801.1 (h), (j) and (m) revised; interim 8687
(j) revised; interim 23565
801.2 (d) Examples 2 and 3 revised; interim 8688
801.4 (b) Examples 1 and 5 revised; interim 8688
801.10 Example revised; interim 8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim 8688
801.12 Heading revised; (c) and (d) removed; interim 8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim 8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim 8689
801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim 8689
801.20 Examples 1 and 2 revised; interim 8690
801.21 Introductory text revised; interim 8690
801.30 (b)(2) and Example 2 revised; interim 8690
801.31 Example revised; interim 8690
801.32 Example revised; interim 8690
801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim 8690
801.90 Examples 1 and 2 revised; interim 8691
802 Authority citation revised 8691
802.1 Examples 1 through 7, 9 and 10 revised; interim 8691

TITLE 16 Chapter I—Con.

802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim 8692
(g) revised; interim 23565
802.3 Examples 2 and 3 revised; interim 8692
802.4 (a) and (c) Examples 1 and 2 revised; interim 8693
802.5 Example 2 revised; interim 8693
802.6 (b)(2)(ii) revised; interim 8693
802.9 Example 1 revised; interim 8693
802.20 Removed; interim....................8693
802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim 8693
802.23 Example 2 revised; interim 8694
802.31 Example revised; interim 8694
802.35 Examples 1 and 2 revised; interim 8694
802.41 Examples 1 and 2 revised; interim 8694
802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim....................8694
803 Authority citation revised....................8694
803.1 (a) revised; interim....................8695
803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim....................8695
(b) introductory text, (1) introductory text and (c) introductory text revised; interim 23565
803.5 (a)(2) Examples 2 and 3 revised; interim 8695
803.7 Example revised; interim 8695
803.9 Added; interim....................8695
803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added 8696
803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim....................8697
803 Appendix revised; interim....................8697
Appendix amended; interim....................23566
Appendix amended 35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.26 Amended 38369
1000.27 Amended 38369
1500.18 (a)(18) added 13650
Corrected....................15997
1500.86 (a)(7) and (8) added 13651
1700.14 (a)(30) added; eff. 1-29-02 40115

Proposed Rules:

314....................41162
432....................12915
801....................8723
802....................8723
1115....................30655
1500....................10863, 39692
1700....................18738, 22491

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule	32737
Order	34110
Authority citation revised	42269
1.1 Revised	42269
1.3 (gg)(3) and (uu) added	20744
Introductory text revised	42269
1.12 (b)(2) revised	20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v.)(B) amended	20744
1.32 Revised	41133
1.37 (a) redesignated as (a)(1); (a)(2) added	20744
(c) and (d) added	42269
1.41 Removed	42269
1.41b Removed	42269
1.43 Removed	42269
1.45 Removed	42269
1.50 Removed	42269
1.51 Removed	42269
1.68 Added	20744
3 Technical correction	47059
3.10 (a)(1)(i) revised; (a)(3) added; (d) amended	43082
5 Removed; Appendix A redesignated as Appendix A, Part 40 and heading revised; Appendix E redesignated as Appendix C, Part 40	42287
15 Authority citation revised	42269
15.05 Heading revised; (e) and (h) added	42269
30 Order	27859, 34110
36 Revised	42270
37 Added	42271
38 Added	42277
39 Added	45609
40 Added	42283
Fee schedule	42289
40 Appendices A and C redesignated from Appendices A and E, Part 5	42287
41 Added	42287, 44511
Heading and authority citation revised	44965
41.1 (a), (b) and (f) through (i) added	44965
41.31—41.34 (Subpart D) Added	44965
41.41 Added	43086
140.91 (a)(8) added	43087
140.99 (i) amended; (i)(1) and (2) revised; (i)(3) added	44967
160 Added	21252
160.18 (b)(1) revised	24061
(a) corrected	24183
166 Authority citation revised	42287
166.5 Added	42287
170 Authority citation revised	42288
Technical correction	47059
170.8 Revised	42288
170.15 Revised	43083
180 Removed	42288
190.01 (bb) revised	20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended	38370
200.30–3 (a)(72) added; interim	27796
(a)(73) added	31840
(a)(74) added	35842
(a)(73)(i) and (ii) amended; (iii) added	40886
(a)(75) and (76) added	43721
200.30–4 (a)(12) added	35842
200.30–18 (h) and (i) redesignated as (i) and (j); new (h) added	35842
202.3 (b)(3) added; authority citation removed	43741
210 Policy statement	38149
211 Staff accounting bulletin	36457
Policy statement	38149
Interpretive releases	48336, 49274
231 Interpretive releases	33176, 49274
232.301 Revised	42942
239.32 Form F–2 amended	32539
239.33 Form F–3 amended	32539
240 Authority citation revised	21659, 43741
Comment period extended	38370
240.3a4–2 Added; interim	27796
240.3a4–3 Added; interim	27796
240.3a4–4 Added; interim	27796
240.3a4–5 Added; interim	27796
240.3a4–6 Added; interim	27796
240.3a5–1 Added; interim	27798
240.3a55–1 Added	44514
240.3a55–2 Added	44514
240.3a55–3 Added	44514
240.3b–17 Added; interim	27798
240.3b–18 Added; interim	27798
240.6a–2 (e) revised; (f) added; authority citation removed	43741

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 17 Chapter II—Con.

240.6a-3 (c) added; authority citation removed ... 43741
240.6a-4 Added ... 43741
240.15a-7 Added; interim ... 27799
240.15a-8 Added; interim ... 27799
240.15a-9 Added; interim ... 27799
240.15a-10 Added ... 45146
240.15b2-2 (e)(2) and (3) amended; (e)(4) added ... 45147
240.15b11-1 Added ... 45147
240.17a-24 Added ... 35843
240.17Ad-7 (f) revised; authority citation removed ... 21659
240.19b-4 (a) revised ... 43743
240.19b-7 Added ... 43743
241 Interpretive releases ... 22921, 33176, 49274
248.2 Existing text designated as (a); (b) added ... 45147
248.3 (m)(5) and (6) amended; (m)(7) added; (n)(2)(i) removed; (n)(2)(ii) and (iii) redesignated as new (n)(2)(i) and (ii) ... 45147
249.1a Correctly removed; CFR correction ... 36701
249.10 Form 1-N added ... 43743
249.220f Form 20-F amended ... 32539
249.501b Form BD-N added ... 45147
249.819 Revised; Form 19b-4 amended ... 43743
249.822 Form 19b-7 added ... 43744
251 Interpretive releases ... 33176
257 Authority citation added ... 29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j) ... 29474
257.2 Authority citation removed ... 29474
270 Technical correction ... 30311
270.2a-7 (a)(5), (11) and (20) revised ... 36161
270.5b-3 Added ... 36161
270.12d3-1 (d)(8) note removed ... 36162
270.31a-2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added ... 29228
271 Interpretive releases ... 33177
274.101 Form N-SAR amended ... 36162
275 Technical correction ... 30311
275.204-2 (g)(1) and (2) revised; (g)(3) added; authority citation removed ... 29228

Chapter IV—Department of the Treasury (Parts 400—499)

450 Authority citation revised ... 28655
450.2 (e) revised ... 28655
(e) table corrected ... 29888

Proposed Rules:

1 ... 45221
3 ... 27476, 33494, 45221
4 ... 45221
39 ... 24308
41 ... 20118, 27560, 29517, 34864, 36218, 37932, 45904
140 ... 20118, 29517, 45221
155 ... 36218, 45221
170 ... 27476, 33494
202 ... 26978
240 ... 26978, 27560, 34042, 34864, 38390, 45904
248 ... 34042
249 ... 26978, 34042

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Proposed Rules:

2 ... 40929
35 ... 40929
37 ... 40929

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting ... 19720
10.184 Undesignated center heading added; section revised; interim ... 20395
24.24 (e)(4)(i) and (ii)(A) corrected; interim ... 21086
(e) heading and (4) revised; (e)(2)(ii) amended ... 34818
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim ... 21661
Table corrected ... 23981
122.15 (b) table amended ... 49275
132 Authority citation amended ... 21666

Technical correction 27454
132.18 Added; interim 21666
148.101 *Examples 1* and *2* amended 46218
148.102 Revised 46218
159 Authority citation amended 48552
159.4 Corrected 20589
159.5 Corrected 20589
159.6 Corrected 20589
159.7 Corrected 20589
159.21 Corrected 20589
159.22 Corrected 20589
159.44 Corrected 20589
159.46 Corrected 20589
159.55 Corrected 20589
159.57 Corrected 20589
159.61—159.64 (Subpart F) Added 48552
163 Appendix amended; interim 21667
Technical correction 27454
178.2 Table amended 48555

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim 32218

Proposed Rules:

4 21705
12 42163
24 21705
101 21705
113 42163
122 40649
123 40649
151 42163
159 33920
162 42163
177 .... 37370, 39293, 45235

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim 28961
Comment period reopened 47382
30 (Subchapter C) Added; interim 28962
Comment period reopened 47382
30.100 OMB number pending 28962
30.101 OMB number pending 28962
30.102 OMB number pending 28962
30.111 OMB number pending 28962
30.112 OMB number pending 28962
30.206 OMB number pending 28962
30.207 OMB number pending 28962
30.213 OMB number pending 28962
30.214 OMB number pending 28962
30.216 OMB number pending 28962
30.217 OMB number pending 28962
30.401 OMB number pending 28962
30.415 OMB number pending 28962
30.416 OMB number pending 28962
30.417 OMB number pending 28962
30.420 OMB number pending 28962
30.421 OMB number pending 28962
30.505 OMB number pending 28962
30.617 OMB number pending 28962
30.700 OMB number pending 28962
30.701 OMB number pending 28962
30.702 OMB number pending 28962

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added 27454
369 Added 29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised 38906
404.401 (c) revised 38906
404.1203 OMB number 28836
404.1204 OMB number 28836
404.1214 OMB number 28836
404.1215 OMB number 28836
404.1216 OMB number 28836
404.1220 OMB number 28836
404.1225 OMB number 28836
404.1237 OMB number 28836
404.1239 OMB number 28836
404.1242 OMB number 28836
404.1243 OMB number 28836
404.1247 OMB number 28836
404.1249 OMB number 28836
404.1251 OMB number 28836
404.1265 OMB number 28836
404.1271 OMB number 28836
404.1272 OMB number 28836
404.1292 OMB number 28836
404.1501—404.1599 (Subpart P) Appendix 1 amended 34362
Appendix 2 revised 45166

TITLE 20 Chapter III—Con.

416.501—416.586 (Subpart E) Authority citation revised............38906
416.570 Amended 38906
416.572 Added 38906

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

655.0 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9–27–02.......................................49275
655.00 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9–27–02.......................................49275
655.90—655.113 (Subpart B) Regulation at 65 FR 43542 and 67628 eff. date delayed to 9–27–02.......................................49275
655.92 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9–27–02.......................................49275
655.100 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.101 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.103 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.104 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.105 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.106 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9–27–02.......................................49275
655.108 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9–27–02.......................................49275
655.112 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9–27–02.......................................49275
655.114 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9–27–02.......................................49275
656 Authority citation revised........40590
656.21 (i)(6) added 40590

Proposed Rules:

200..46406
404..43136
416..38963
422..43136
655..49328, 49329

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5 Revised 30993
14.75 Regulation at 66 FR 1259 withdrawn 20401
50 Authority citation revised.........20597
50.1 (a) amended; interim 20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim 20597
50.50—50.56 (Subpart D) Added; interim 20598
56 Authority citation revised.........20599
56.101 (a) amended; interim 20599
56.102 (b)(21), (22) and (23) added; interim 20599
56.109 (h) added; interim 20599
56.111 (c) added; interim 20599
101 Policy statement 30311
151 Regulation at 66 FR 3458 eff. date delayed 42415
165.110 (b)(1)(ii) revised....................35373
172.615 (a) table amended................38153
172.892 (i) introductory text revised; (i) table amended 17509
173.115 Added 27022
173.325 (b)(1)(iii), (iv) and (v) amended 22922
  (f) redesignated as (g); new (f) added 31841
173.368 Added 33830
173.370 (b) and (c) revised................48208
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added 18539
310.545 (a)(6)(iv)(D) and (d)(33) added; (d) introductory text revised...49277
341 Policy statement 49276
510.600 (c)(1) table and (2) table amended......17510, 22117, 22118, 23588, 32739, 36162, 43773, 46367, 46368, 46519, 47960
520.48 Revised 47960
520.445b (b) and (d)(4)(iii)(C) amended 35898
520.905a (b) amended 47960
520.905b (b) amended 47960
520.905c (b) amended 47960
520.905d (b) amended 47960

520.905e (b) amended	47960
520.1010 Revised	47960
520.1010a Removed	47961
520.1010b Removed	47961
520.1010c Removed	47961
520.1196 (b) amended	35756
520.1310 (a) and (d) revised	46369
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended	21282
(d)(1)(iii)(C) amended	29020
520.1840 (a), (b) and (c) revised	47963
520.1855 Added	43774
520.2095 Removed	21282
520.2460 Removed	22117
520.2460a Removed	22117
520.2460b Removed	22117
520.2520a Removed	23588
522.313 Heading revised; (d)(8) added	21283
(d)(1)(i) amended	32540
522.575 (b) amended	46705
522.1010 Revised	47961
522.1081 (b) removed	22117
522.1183 (c) removed	22117
522.1258 Removed	23588
522.1451 Added	35756
522.1680 (b) amended	22117
522.1704 (b) removed	23588
522.1884 (c) amended; (d)(2)(iv) removed	23589
522.2095 Removed	21282
522.2120 (b) amended	22118
522.2476 Revised	47961
522.2477 (b) revised	47961
522.2640b Revised	22117
524.321 Revised	22117
524.390c Removed	42731
524.520 (b) amended	46706
524.1451 (d) redesignated as (e); new (d) added; new (e)(2) revised; new (e)(3) amended	46370
524.2140 Removed	42731
524.2620 (a)(2) amended	46369
524.2640 Removed	22117
529.360 Removed	22117
529.1186 (b) amended	17510
556.163 Revised	35544
556.347 Revised	19854
556.428 Revised	23589
556.500 (b) revised	46370
556.594 Removed	21282
558.4 (d) amended	21862
558.55 (d)(2) table amended	20083, 20402
(d)(2)(iii) table amended	47962
558.58 (d)(1) table amended; (d)(1)(v) removed	46519
(d)(1)(iii) table amended	46706, 47963
(d)(1)(ii) table and (iii) table amended	47962
558.76 (d)(1)(iv) table amended	46706
558.78 (a)(1) revised; (a)(2) removed; (a)(3) redesignated as (a)(2); (d)(1) table and (2)(ii) amended	46706
558.95 (d)(5)(iv) and (v) amended	27022
(d)(1)(x) removed; (d)(1)(xi)(*b*), (xii)(*b*) and (xiv)(*b*) amended	46706
(a)(1), (2), (5), (d)(1)(vi)(*b*), (vii)(*b*), (xi)(*b*) and (xii)(*b*) amended	47962
558.115 (a) amended	47963
558.120 (d)(1)(iii)(*b*) amended	46706
558.128 (a) revised; (d)(1) table and (2) amended	46706
(a)(1) and (d)(1) table amended	47963
558.140 (a) amended	46706
558.145 (a)(1) and (2) amended	46706
558.155 (a)(1) and (2) amended	46706
558.195 (d) table amended	46706
558.198 (d)(1)(iii) table amended	47962
(d)(1)(iv) table and (v) table amended	47963
558.258 (a) amended	47962
558.265 (a) amended	47962
558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended	22118
(a)(2), (4) and (c)(1) table amended; (a)(3) removed	23589
558.305 (a) amended	46706
558.311 (e)(1) table amended	29020
(e)(1) table amended	46371
(b) and (e) amended	46706
(d)(7) added; (e)(1) table, (2)(iv) and (3)(iv) amended; (e)(1)(ix), (xii), (2)(iii) and (3)(iii) revised	47076
(b)(2) and (e)(1)(xv) amended	47963
558.340 (a) amended	46706
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended	46706
(b)(5), (12), (f)(1)(xiii)(*b*), (xx)(*b*), (xxi)(*b*), (xxii)(*b*) and (2)(iv)(*b*) amended	47963
(b)(10), (f)(2)(v)(*b*), (vi)(*b*) amended	47962
558.360 (a) amended	47963
558.363 (d)(1)(xii) added	27022

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 21 Chapter I—Con.

(a)(7) and (d)(1)(x)(B) amended 46706
(a)(4), (5), (d)(1)(vii)(B), (xii)(B) amended 47962
558.365 (d)(1)(ii) and (iii) removed; (d)(1)(i)(*a*) and (*b*) redesignated as new (d)(1)(ii) and (iii) 45167
558.366 (c) table amended 46706, 47962
558.435 (a) amended 47963
558.450 (a)(1), (d)(1) table and (2) table amended 32740
(d)(1) Table 1 amended 47963
558.460 (b) amended 47963
558.465 (a) amended 47963
558.485 (a), (b) and (d)(1) revised 47963
558.500 (d)(1) revised 21284
558.515 (a) and (d) amended 46706
(d) table amended 47963
558.550 (a)(1), (d)(1) and (3) amended; (a)(3) removed 46707
(d)(1)(x)(*c*) and (xii)(*c*) amended 47964
(a)(2), (d)(1)(xv)(*c*) and (xvi)(*c*) amended 47962
558.555 (a) revised; (c) removed; (b) redesignated as new (c); new (b) added; (d) amended 47964
558.575 (a)(1) and (2) amended 46707
558.582 (a) amended 46707
558.600 (c)(4)(ii) amended 46707
558.625 (f)(2)(vii) added 21284
(b)(2), (13) and (73) removed 22117
(b)(16), (19) and (34) removed; (b)(79) amended 22118
(b)(17) removed 23589
(b)(9) removed 36162
(b)(25) amended 47964
558.630 (b)(8) amended 22118
(b)(4) removed; (b)(10) amended 23589
(b)(10) amended 36162
558.635 (a)(1) amended 47964
579.22 Heading, introductory text and (b) revised 18540
606.3 (j) revised 40889
606.100 (b)(20) added 31176
606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended 31162
606.151 (b) and (c) revised 40889
606.160 (b)(1)(ix), (x) and (xi) added 31176
607.65 (g) removed 31162
610.40—610.47 (Subpart E) Heading revised 31162
610.40 Revised 31162
610.41 Revised 31164
610.42 Added 31164
610.44 Added 31164
610.45 Removed 31165
630 Added 31176
640.2 (d) removed 31165
(b) revised 40889
640.3 (c)(1) revised 40889
640.4 (g) introductory text, (1), (2), (4) and (5) revised 40889
640.5 (f) revised 31165
Introductory text and (c) revised 40889
640.14 Amended 31165
640.15 Revised 40890
640.16 (a) revised 40890
640.23 (a) amended 31165
640.24 (b) revised 40890
640.33 (a) amended 31165
640.34 (a) through (d) and (e)(1) revised 40890
640.53 (a) amended 31165
640.54 (a)(2) revised 40890
640.63 (c)(11) revised 40890
640.67 Revised 31165
640.70 (a)(2) revised 31165
660.20 Regulation at 65 FR 77499 confirmed 20402
660.21 Regulation at 65 FR 77499 confirmed 20402
660.42 Removed 31165
660.50 Regulation at 65 FR 77499 confirmed 20402
660.51 Regulation at 65 FR 77499 confirmed 20402
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff) 23156
803.10 (b) revised; (c)(5) removed 23157
803.17 (b)(3) revised 23157
803.19 (a)(2) revised 23157
803.20 (a) introductory text, (2) and (c)(1) revised 23157
803.50 (b)(1)(i) and (2) revised 23157
803.52 (d)(1), (f)(11)(i) and (ii) revised 23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5) 23157
809.20 (b) revised 31165
862.1190 (b) revised 38787
862.1210 (b) revised 38787

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

862.1255 (b) revised	38787
862.1290 (b) revised	38787
862.1305 (b) revised	38787
862.1320 (b) revised	38787
862.1365 (b) revised	38787
862.1380 (b) revised	38787
862.1420 (b) revised	38788
862.1470 (b) revised	38788
862.1490 (b) revised	38788
862.1515 (b) revised	38788
862.1565 (b) revised	38788
862.1575 (b) revised	38788
862.1640 (b) revised	38788
862.1670 (b) revised	38788
862.1720 (b) revised	38788
862.1815 (b) revised	38788
862.2050 (b) revised	38788
862.2100 (b) revised	38788
862.2230 (b) revised	38788
862.2310 (b) revised	38788
862.2320 (b) revised	38788
862.2485 (b) revised	38788
862.2720 (b) revised	38788
862.2800 (b) revised	38788
862.2920 (b) revised	38788
864.1850 (b) revised	38789
864.2220 (a) revised	27024
(b) revised	38789
864.2240 (b) revised	38789
864.2260 (b) revised	38789
864.2360 (b) revised	38789
864.2800 (b) revised	38789
864.2875 (b) revised	38789
864.3010 (b) revised	38789
864.3300 (b) revised	38789
864.3400 (b) revised	38789
864.3600 (b) revised	38789
864.3800 (b) revised	38789
864.3875 (b) revised	38789
864.4010 (b) revised	38789
864.4400 (b) revised	38789
864.5350 (b) revised	38789
864.5800 (b) revised	38790
864.5850 (b) revised	38790
864.6160 (b) revised	38790
864.6600 (b) revised	38790
864.6700 (b) revised	38790
864.7660 (b) revised	38790
864.7675 (b) revised	38790
864.7900 (b) revised	38790
864.8200 (b) revised	38790
864.8500 (b) revised	38790
864.8540 (b) revised	38790
866.2050 (b) revised	38790
866.2120 (b) revised	38790
866.2160 (b) revised	38790
866.2170 (b) revised	38790
866.2180 (b) revised	38790
866.2300 (b) revised	38790
866.2320 (b) revised	38790
866.2330 (b) revised	38791
866.2350 (b) revised	38791
866.2360 (b) revised	38791
866.2440 (b) revised	38791
866.2450 (b) revised	38791
866.2480 (b) revised	38791
866.2500 (b) revised	38791
866.2540 (b) revised	38791
866.2580 (b) revised	38791
866.2600 (b) revised	38791
866.3010 (b) revised	38791
866.3020 (b) revised	38791
866.3035 (b) revised	38791
866.3065 (b) revised	38791
866.3125 (b) revised	38791
866.3205 (b) revised	38791
866.3250 (b) revised	38791
866.3255 (b) revised	38791
866.3270 (b) revised	38792
866.3330 (b) revised	38792
866.3340 (b) revised	38792
866.3400 (b) revised	38792
866.3410 (b) revised	38792
866.3470 (b) revised	38792
866.3490 (b) revised	38792
866.3520 (b) revised	38792
866.3630 (b) revised	38792
866.3700 (b) revised	38792
866.3720 (b) revised	38792
866.4100 (b) revised	38792
866.4500 (b) revised	38792
866.4520 (b) revised	38792
866.4540 (b) revised	38792
866.4600 (b) revised	38792
866.4800 (b) revised	38792
866.4830 (b) revised	38792
866.4900 (b) revised	38792
866.5170 (b) revised	38793
866.5220 (b) revised	38793
866.5230 (b) revised	38793
866.5360 (b) revised	38793
866.5370 (b) revised	38793
866.5520 (b) revised	38793
866.5530 (b) revised	38793
866.5540 (b) revised	38793
866.5700 (b) revised	38793
866.5800 (b) revised	38793
866.5860 (b) revised	38793
868.1030 (b) revised	38793
868.1100 (b) revised	38793
868.1575 (b) revised	38793
868.1870 (b) revised	38793

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 21 Chapter I—Con.

868.1930 (b) revised	38793
868.1965 (b) revised	38793
868.1975 (b) revised	38793
868.2300 (b) revised	38794
868.2320 (b) revised	38794
868.2340 (b) revised	38794
868.2350 (b) revised	38794
868.2610 (b) revised	38794
868.2620 (b) revised	38794
868.2700 (b) revised	38794
868.2875 (b) revised	38794
868.2885 (b) revised	38794
868.5100 (b) revised	38794
868.5110 (b) revised	38794
868.5220 (b) revised	38794
868.5240 (b) revised	38794
868.5280 (b) revised	38794
868.5300 (b) revised	38794
868.5310 (b) revised	38794
868.5320 (b) revised	38794
868.5340 (b) revised	38794
868.5350 (b) revised	38794
868.5365 (b) revised	38794
868.5375 (b) revised	38795
868.5420 (b) revised	38795
868.5460 (b) revised	38795
868.5530 (b) revised	38795
868.5540 (b) revised	38795
868.5550 (b) revised	38795
868.5560 (b) revised	38795
868.5570 (b) revised	38795
868.5580 (b) revised	38795
868.5590 (b) revised	38795
868.5600 (b) revised	38795
868.5760 (b) revised	38795
868.5770 (b) revised	38795
868.5780 (b) revised	38795
868.5790 (b) revised	38795
868.5795 (b) revised	38795
868.5810 (b) revised	38795
868.5820 (b) revised	38795
868.5860 (b) revised	38796
868.5975 (b) revised	38796
868.5995 (b) revised	38796
868.6100 (b) revised	38796
868.6175 (b) revised	38796
868.6225 (b) revised	38796
868.6400 (b) revised	38796
868.6700 (b) revised	38796
868.6820 (b) revised	38796
868.6885 (b) revised	38796
870.1875 (a)(2) revised	38796
870.2390 (b) revised	38796
870.2600 (b) revised	38796
870.2620 (b) revised	38796
870.2640 (b) revised	38796
870.2810 (b) revised	38796
870.3450 Revised	18542
870.3460 Removed	18542
870.3620 (b) revised; (c) removed	18542
870.3650 (b) revised	38796
870.3670 (b) revised	38796
870.3690 (b) revised	38796
870.3730 (b) revised	38797
870.3800 (b) revised; (c) removed	18542
870.3945 (b) revised	38797
870.4230 (b) revised; (c) removed	18542
870.4260 (b) revised; (c) removed	18542
870.4350 (b) revised; (c) removed	18542
870.4500 (b) revised	38797
872.1500 (b) revised	38797
872.1730 (b) revised	38797
872.1820 (b) revised	38797
872.1840 (b) revised	38797
872.1850 (b) revised	38797
872.1905 (b) revised	38797
872.3080 (b) revised	38797
872.3100 (b) revised	38797
872.3110 (b) revised	38797
872.3130 (b) revised	38797
872.3140 (b) revised	38797
872.3150 (b) revised	38797
872.3165 (b) revised	38797
872.3220 (b) revised	38797
872.3240 (b) revised	38798
872.3285 (b) revised	38798
872.3330 (b) revised	38798
872.3350 (b) revised	38798
872.3360 (b) revised	38798
872.3410 (b) revised	38798
872.3490 (b) revised	38798
872.3520 (b) revised	38798
872.3530 (b) revised	38798
872.3580 (b) revised	38798
872.3670 (b) revised	38798
872.3730 (b) revised	38798
872.3740 (b) revised	38798
872.3810 (b) revised	38798
872.3830 (b) revised	38798
872.3840 (b) revised	38798
872.3850 (b) revised	38798
872.3900 (b) revised	38798
872.3910 (b) revised	38799
872.4130 (b) revised	38799
872.4565 (b) revised	38799
872.4620 (b) revised	38799
872.4630 (b) revised	38799

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

872.4730 (b) revised	38799
872.5410 (b) revised	38799
872.5525 (b) revised	38799
872.6010 (b) revised	38799
872.6030 (b) revised	38799
872.6050 (b) revised	38799
872.6100 (b) revised	38799
872.6140 (b) revised	38799
872.6200 (b) revised	38799
872.6290 (b) revised	38799
872.6475 (b) revised	38799
872.6510 (b) revised	38800
872.6570 (b) revised	38800
872.6650 (b) revised	38800
872.6670 (b) revised	38800
872.6710 (b) revised	38800, 46952
872.6855 (b) revised	38800
872.6865 (b) revised	38800
872.6870 (b) revised	38800
872.6880 (b) revised	38800
872.6890 (b) revised	38800
874.1060 (b) revised	38800
874.1080 (b) revised	38800
874.3375 (b) revised	38800
874.4140 (b) revised	38800
874.4175 (b) revised	38801
874.4350 (b) revised	38801
874.4750 (b) revised	38801
874.4770 (b) revised	38801
874.5220 (b) revised	38801
874.5800 (b) revised	38801
876.1075 (b)(2) revised	38801
876.1500 (b)(2) revised	38801
876.4530 (b) revised	38801
876.4560 (b) revised	38801
876.4590 (b) revised	38801
876.4730 (b) revised	38801
876.4890 (b)(2) revised	38801
876.5030 (b) revised	38801
876.5090 (b)(2) revised	38801
876.5130 (b)(2) revised	38801
876.5250 (b)(2) revised	38802
876.5450 (b) revised	38802
876.5520 (b)(2) revised	38801
876.5540 (b)(4) revised	38801
876.5820 (b)(2) revised	38802
876.5885 Added	27025
876.5900 (b) revised	38802
876.5920 (b) revised	38802
876.5970 (b) revised	38802
878.1800 (b) revised	38802
878.3750 (b) revised	38802
878.3800 (b) revised	38802
878.3900 (b) revised	38802
878.4160 (b) revised	38802
878.4380 (b) revised	38802
878.4440 (b) revised	38803
878.4450 (b) revised	38803
878.4460 (b) revised	38803, 46952
878.4470 (b) revised	38803
878.4635 (b) revised	38803
878.4660 (b) revised	38803
878.4700 (b) revised	38803
878.4730 (b) revised	38803
878.4800 (b) revised	38803
878.4810 (b)(2) revised	38803
878.4930 (b) revised	38803
878.4950 (b) revised	38803
878.5350 (b) revised	38803
878.5900 (b) revised	38803
878.5910 (b) revised	38803
880.2400 (b) revised	38803
880.2700 (b) revised	38803
880.2720 (b) revised	38803
880.2740 (b) revised	38804
880.2900 (b) revised	38804
880.5075 (b) revised	38804
880.5110 (b) revised	38804
880.5120 (b) revised	38804
880.5150 (b) revised	38804
880.5160 (b) revised	38804
880.5180 (b) revised	38804
880.5210 (b) revised	38804
880.5240 (b) revised	38804
880.5300 (b) revised	38804
880.5510 (b) revised	38804
880.5560 (b) revised	38804
880.5630 (b) revised	38804
880.5640 (b) revised	38804
880.5680 (b) revised	38805, 46952
880.5740 (b) revised	38805
880.5780 (b)(2) revised	38805
880.5820 (b) revised	38805
880.5950 (b) revised	38805
880.6025 (b) revised	38805
880.6050 (b) revised	38805
880.6060 (b) revised	38805
880.6070 (b) revised	38805
880.6080 (b) revised	38805
880.6085 (b) revised	38805
880.6140 (b) revised	38805
880.6150 (b) revised	38805
880.6185 (b) revised	38806
880.6190 (b) revised	38806
880.6200 (b) revised	38806
880.6230 (b) revised	38806
880.6250 (b) revised	38806, 46952
880.6265 (b) revised	38806
880.6280 (b) revised	38806
880.6320 (b) revised	38806
880.6350 (b) revised	38806
880.6375 (b) revised	38806, 46952

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 21 Chapter I—Con.

880.6430 (b) revised 38806
880.6450 (b) revised 38806
880.6730 (b) revised 38806
880.6760 (b) revised 38806, 46952
880.6785 (b) revised 38807
880.6800 (b) revised 38807
880.6820 (b) revised 38807
880.6900 (b) revised 38807
880.6960 (b) revised 38807
880.6970 (b) revised 38807
880.6980 (b) revised 38807
882.1030 (b) revised 38807, 46952
882.1410 (b) revised 38807
882.1420 (b) revised 38807, 46953
882.1430 (b) revised 38807
882.1525 (b) revised 38807
882.1700 (b) revised 38807
882.1925 (b) revised 38807
882.4030 (b) revised 38808
882.4125 (b) revised 38808
882.4200 (b) revised 38808
882.4215 (b) revised 38808
882.4325 (b) revised 38808
882.4440 (b) revised 38808
882.4500 (b) revised 38808
882.4525 (b) revised 38808
882.4535 (b) revised 38808
882.4600 (b) revised 38808
882.4900 (b) revised 38808
884.1550 (b) revised 38808
884.1640 (b)(2) revised 38808
884.1690 (b)(2) revised 38808
884.1700 (b)(2) revised 38808
884.1720 (b)(2) revised 38808
884.1730 (b)(2) revised 38809
884.2900 (b) revised 38809
884.2980 (a)(2) revised 38809, 46953
884.2982 (a)(2) revised 38809, 46953
884.4520 (b) revised 38809
884.4530 (b)(2) revised 38809
884.5150 (b) revised 38809
884.5425 (b)(1) revised 38809
884.5900 (b)(2) revised 38809
884.5920 (b) revised 38809
884.6190 (b) revised 38809
886.1040 (b) revised 38809
886.1050 (b) revised 38809
886.1070 (b) revised 38810
886.1090 (b) revised 38810
886.1140 (b) revised 38810
886.1150 (b) revised 38810
886.1160 (b) revised 38810
886.1170 (b) revised 38810
886.1190 (b) revised 38810
886.1200 (b) revised 38810
886.1250 (b) revised 38810
886.1270 (b) revised 38810
886.1290 (b) revised 38810
886.1320 (b) revised 38810
886.1330 (b) revised 38810
886.1340 (b) revised 38810
886.1375 (b) revised 38810
886.1380 (b) revised 38810
886.1390 (b) revised 38811
886.1395 (b) revised 38811
886.1400 (b) revised 38811
886.1405 (b) revised 38811
886.1410 (b) revised 38811
886.1415 (b) revised 38811
886.1420 (b) revised 38811
886.1425 (b) revised 38811
886.1430 (b) revised 38811
886.1435 (b) revised 38811
886.1450 (b) revised 38811
886.1460 (b) revised 38811
886.1500 (b) revised 38811
886.1605 (b) revised 38811
886.1650 (b) revised 38812
886.1655 (b) revised 38812
886.1660 (b) revised 38812
886.1665 (b) revised 38812
886.1680 (b) revised 38812
886.1690 (b) revised 38812
886.1700 (b) revised 38812
886.1750 (b) revised 38812
886.1760 (b) revised 38812
886.1770 (b) revised 38812
886.1790 (b) revised 38812
886.1800 (b) revised 38812
886.1810 (b) revised 38812
886.1840 (b) revised 38812
886.1860 (b) revised 38812
886.1870 (b) revised 38813
886.1880 (b) revised 38813
886.1905 (b) revised 38813
886.1910 (b) revised 38813
886.1945 (b) revised 38813
886.3200 (b) revised 38813
886.3920 (a) amended 18542
886.4230 (b) revised 38813
886.4250 (b) revised 38813
886.4335 (b) revised 38813
886.4350 (b) revised 38813
886.4360 (b) revised 38813
886.4445 (b) revised 38813
886.4570 (b) revised 38813
886.4770 (b) revised 38813
886.4855 (b) revised 38814
886.5120 (b) revised 38814
886.5420 (b) revised 38814
886.5540 (b) revised 38814
886.5600 (b) revised 38814

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815
888.5850 (b) revised	38815
888.5890 (b) revised	38815
888.5940 (b) revised	38815
888.5960 (b) revised	38816
888.5980 (b) revised	38816
890.1575 (b) revised	38816
890.1600 (b) revised	38816
890.1615 (b) revised	38816
890.3025 (b) revised	38816
890.3075 (b) revised	38816
890.3100 (b) revised	38816
890.3150 (b) revised	38816
890.3175 (b) revised	38816
890.3410 (b) revised	38816
890.3420 (b) revised	38816
890.3475 (b) revised	38816
890.3490 (b) revised	38816
890.3520 (b) revised	38817
890.3640 (b) revised	38817
890.3665 (b) revised	38817
890.3675 (b) revised	38817
890.3700 (b) revised	38817
890.3750 (b) revised	38817
890.3760 (b) revised	38817
890.3790 (b) revised	38817
890.3825 (b) revised	38817
890.3910 (b) revised	38817
890.3920 (b) revised	38817
890.3940 (b) revised	38817
890.5050 (b) revised	38817
890.5125 (b) revised	38818
890.5350 (b) revised	38818
890.5370 (b) revised	38818
890.5380 (b) revised	38818
890.5410 (b) revised	38818
890.5660 (b) revised	38818
890.5730 (b) revised	38818
890.5765 (b) revised	38818
890.5925 (b) revised	38818
890.5940 (b) revised	38818
890.5950 (b) revised	38818
890.5975 (b) revised	38818
892.1100 (b) revised	38818, 46953
892.1110 (b) revised	38818, 46953
892.1130 (b) revised	38818
892.1300 (b) revised	38818
892.1370 (b) revised	38818
892.1380 (b) revised	38819
892.1400 (b) revised	38819
892.1420 (b) revised	38819
892.1640 (b) revised	38819
892.1700 (b) revised	38819
892.1760 (b) revised	38819
892.1770 (b) revised	38819
892.1830 (b) revised	38819
892.1840 (b) revised	38819
892.1880 (b) revised	38819
892.1920 (b) revised	38819
892.1940 (b) revised	38819
892.1950 (b) revised	38819
892.5740 (b) revised	38819
892.5780 (b) revised	38819

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1308.14 (c)(15) through (49) redesignated as (c)(16) through (50); new (c)(15) added	42944
1310.02 Regulation at 65 FR 47316 eff. date extended	42944
1310.04 Regulation at 65 FR 47316 eff. date extended	42944
1310.08 Regulation at 65 FR 47316 eff. date extended	42944
1313.12 (b) and (f) revised	46520
1313.21 (b) and (e) introductory text revised	46520

Proposed Rules:

101	38591
151	42474
192	17517
333	29059
500	42167
592	17517
864	23634, 38226
874	42809

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 21 *Proposed Rules:—Con.*

888 46563
1300 46567
1301 46567
1304 46567
1305 46567
1306 46567

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 32742, 38542
41.2 (i)(2) revised; interim 32541
41.12 Table amended 32742
Table corrected 38153
41.81 Revised; interim 19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
(f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised 32742
42.11 Table amended 32742
Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h), (i) and (j); new (b)(2), (3) and (g) added; interim 39437
51 Authority citation revised 29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added 29906
51.21 (d)(4)(ii) revised 29906
51.27 (b) and (d)(1)(i) introductory text revised 29906
51.40 Revised 29907
51.41 Revised 29907
62.31 (a), (c)(1), (2), (3), (e) introductory text, (3), (5), (j) and (k) revised 43087
124.2 (c) introductory text, (1) and (6) revised 35899
125.4 (c) introductory text revised 35900
126.5 (b) corrected 36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised 35900

Chapter XIII—Board for International Broadcasting (Parts 1300—1399)

Chapter XIII Removed 42731

Proposed Rules:

41 48224
62 27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised 23847
630.102—630.112 (Subpart A) Revised 23847
655.601 (a) revised 38911
940.9 (b) amended 19856
940.11 (g) amended 19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed 20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added 38918
1345.4 (a)(1)(iv) revised 38918
1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised 38918

Proposed Rules:

625 48103
650 .... 49152, 49154
655 27480
710 23636

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended 28791
5.850—5.861 (Subpart I) Added 28792
5.901—5.961 (Subpart J) Added 28792
27.20 (f) added 35847

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added 28797
207 Authority citation revised 35072
207.252 Revised; interim 35072
207.252a Revised; interim 35073
207.254 Added; interim 35073
247.2 Amended 28797
247.3 (a)(3) revised 28797
290.18 Added 35847

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300.3 Revised 44265
320.5 (g) revised; (h), (i) and (j) added 44265
330.5 Revised 44265
330.30 Revised 44266
350 Added 44266

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim 35855
598.1 (a) revised; interim 35855
599 Added; interim 35855

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised 28797
882.102 (a) revised; (b) amended 28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added 28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2) 28797
882.518 Added 28797
884.216 (b) revised 28798
887 Correctly removed; CFR correction 42731
891.430 Revised 28798
891.630 Revised 28798
891.770 Revised 28798

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

960.102 (a)(1) revised 28799
960.200—960.208 (Subpart B) Revised 28799
966 Heading and authority citation revised 28802
966.1 Revised 28802
966.2 Added 28802
966.4 (d)(1), (f)(12), (l)(2), (3)(i) and (5) revised 28802
  Corrected 32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added 28804
972 Added 33618
982.4 (a)(2) revised; (b) amended 28804
  (b) amended; interim 33613
982.54 (d)(4)(iii) added 28804
982.310 (c) revised; (h) added 28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added 30568
982.505 (c)(4) revised 30568

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 24 Chapter IX—Con.

982.551 (m) redesignated as (n); (l) revised; new (m) added.........28805
982.552 (b)(1), (c)(1)(iv) and (2) revised; (c)(1)(xi) added.................28805
982.553 Revised.................................28805
982.632 (a) revised; interim..............33613
982.638 (d)(2) revised; interim..........33613
982.640 (b) revised; interim...............33613
982.642 Added; interim 33613
1000.156 Revised (OMB number pending) 49790
1000.158 Added (OMB number pending) 49790
1000.160 Added (OMB number pending) 49790
1000.162 Added (OMB number pending) 49790

Proposed Rules:

200...48080
203...46502
206...30278
888...23770
903...42926
982...32198
1000...37098, 38965

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02 22121
(a)(15) added; eff. to 9-18-02 48087
84 Added 38923
89 Authority citation revised.........38926
89.1 Removed 38926
89.2 Removed 38926
89.3 Removed 38926
89.4 Removed 38926
89.5 Removed 38926
89.6 Removed 38926
89.7 Removed 38926
89.8 Removed 38926
89.9 Removed 38926
89.10 Removed...................................38926
89.11 Removed...................................38926
89.12 Removed...................................38926
89.13 Removed...................................38926
89.14 Removed...................................38926
89.15 Removed...................................38926
89.16 Removed...................................38926
89.17 Removed...................................38926
89.18 Removed...................................38926
89.19 Removed...................................38926
89.20 Removed...................................38926
89.21 Removed...................................38926
89.22 Removed...................................38926
89.24 Removed...................................38926
89.25 Removed...................................38926
89.26 Removed...................................38926
103.25 Corrected 46307
151 Regulation at 66 FR 3452 and 10815 eff. date delayed.....19403, 31976
Regulation at 66 FR 3458 eff. date delayed 42415
183 Added...21088

Proposed Rules:

70 33654
151 ....19403, 42474
309..27915
502 ....33494, 41810

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended.......32902, 33463, 37889, 37899, 40590
Authority citation corrected 41133
1.32-3 Added.....................................33637
1.32-3T Removed...............................33637
1.132-9 (b) corrected........................18190
1.197-2(k) Example 23 corrected 22286
1.301-1 (g) revised.............................49278
1.301-1T Removed 49279
1.355-0 Amended 40591
1.355-7T Added 40591
1.401(a)(4)-0 Amended 34540
1.401(a)(4)-8 (b)(1) revised...............34540
1.401(a)(4)-9 (b)(2)(v) added; (c)(3)(ii) revised 34544
1.401(a)(4)-12 Amended....................34545
1.420-1 Added 32900
1.460-1 (j) corrected...........................18357
1.460-2 (b)(2)(ii) and (c)(1) corrected 18191
1.460-4 (b)(3) and (g) corrected 18191
1.679-0 Added 37889
1.679-1 Added....................................37889
1.679-2 Added 37889
1.679-3 Added 37889
1.679-4 Added 37889
1.679-5 Added 37889
1.679-6 Added 37889

1.679–7 Added 37889
1.684–1 Added 37899
1.684–2 Added 37899
1.684–3 Added 37899
1.684–4 Added 37899
1.684–5 Added 37899
1.732–3 Added 32902
1.958–1 (b) amended 37897
1.958–2 (c)(1)(ii)(*b*) amended 37897
1.985–8 (c)(3)(ii) Examples 1 and 2 correctly added 21447
1.1441–1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*), (D)(*2*) and (*3*) corrected 18188
1.1441–5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected 18188
1.1441–7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected 18189
1.1461–1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M) 18189
(a)(1) amended 33831
1.1502–5 (a)(1) amended 33831
1.1502–34 Amended 32902
1.1502–78 (e) added 33463
1.1502–78T Removed 33464
1.6011–4T (b)(3)(i)(F) removed; (b)(3)(ii)(B) and (C) and (g) revised; (b)(5) amended 41135
1.6045–1 (g)(1)(i) and (3)(iv) corrected 18189
1.6049–5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected 18189
1.6151–1 (d)(1) amended 33831
1.6302–1 (d) revised 32542
(b)(1) amended 33831
1.6302–2 (d) revised 32542
(a)(1)(i), (ii), (iv) and (b)(1) amended 33831
1.6302–3 (a) amended 33831
20 Authority citation amended 38546
20.6075–1 Revised; interim 38546
20.6081–1 Revised; interim 38546
31 Authority citation amended 28370
31.6071(a)–1 (a)(1) and (c) amended 33832
31.6151–1 (b) amended 33832
31.6205–1 (a)(6) revised 39640
31.6302–1 (f)(4) revised 28370
(m)(1) revised 32542
(i)(3) amended 33831
(c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended 33832
31.6302–1T Removed 28370
31.6302(c)–2A (b)(1)(i) and (3) amended 33832
31.6302(c)–3 (b)(2) amended 33831
(a)(1)(i), (ii), (3) and (b)(2) amended 33832
31.6302(c)–4 (a) revised 32542
35.3405–1T Amended 33832
36.3121(l)(10)–4 Amended 33832
40 Authority citation revised 41776
40.0–1 (d) and (e) removed; (f) redesignated as new (d) 41776
40.6011(a)–1 (c) removed 41776
40.6011(a)–2 (b)(2) amended; (d) removed 41776
40.6071(a)–1 (a), (b)(2) and (c) revised 41776
40.6071(a)–2 Removed 41776
40.6091–1 (d) removed 41776
40.6101–1 Revised 41776
40.6109(a)–1 Revised 41776
40.6151(a)–1 Revised 41776
40.6302(c)–1 (d)(1) amended 33832
Revised 41776
40.6302(c)–2 Revised 41777
40.6302(c)–3 (b)(1)(ii), (3), (d) and (f)(4) introductory text amended; (f)(5), (7) and (h) removed; (f)(6) redesignated as new (f)(5); (g) revised 41778
40.6302(c)–4 Removed 41778
40.9999–1 Removed 41778
48.4081–8 Revised 27597
301 Authority citation amended 39438
301.6103(j)(5)–1 Added 39438
301.6103(j)(5)–1T Removed 39439
301.6111–2T (b)(3) removed; (b)(4) through (7) redesignated as new (b)(3) through (6); new (b)(3) introductory text, (4) introductory text, (ii), (6) and (h) amended; (b)(1), new (3)(ii), (4)(i), (6) introductory text (c)(3) and (e)(2)(ii)(E) revised; new (b)(6) Example 2

TITLE 26 Chapter I—Con.

redesignated as Example and amended 41135
301.6112–1T Authority citation removed....41137
301.6302–1 (a), (b)(1) and (2) amended 33832
301.6302–1T Removed....33831
301.6323(j)–1 Added 33465
301.6656–1 Removed; new 301.6656–1 redesignated from 301.6656–3....32542
301.6656–2 Removed 32542
301.6656–3 Redesignated as 301.6656–1....32542
301.7701–7 (d)(1)(iv) introductory text and (v) *Example 1* revised; (d)(1)(iv)(H) redesignated as (d)(1)(iv)(J); new (d)(1)(iv)(H), (I), (v) *Example 5* and (e)(3) added 41779
301.9100–5T (c) concluding text amended 33832
601.401 (a)(5) heading, (iii) and (iv) amended....33832
602.101 (b) table amended (OMB numbers) 32542, 33637, 38546
  Corrected; CFR correction 43478

Proposed Rules:

1 .....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112, 40659, 41169, 41170, 44565, 49576
5c 31850, 41170, 49576
5f 31850, 41170, 49576
18 ....31850, 41170, 49576
31....28408, 32279
53 26824
301....17518, 23868, 26824, 28408, 31850, 32279, 41169, 41170, 49576
602....17518

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1.1 (a) amended 42733
1.31 Amended 42733
1.35 Amended 42733
1.50 Amended 42733
1.51 Amended 42733
1.52 Amended 42733
1.57 Amended 42733
4 Cross references amended 38549
  Amended 42733
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4–1–98....37578
4.22 (b)(5) amended; effective date retroactive to 4–1–98 37578
4.91 Amended 49280
5.2 Amended 38549, 42733
7.4 Amended 38549, 42733
9.162 Added 29479
9.164 Added 23592
9.166 Added 29698
9.167 Added 18545
9.170 Added 26791
12.3 (a) amended 42733
13.2 Added....19085
13.11 Amended 19085
13.20 Added 19085
13.21 (a) amended; (b) revised 19085
13.23 Amended 19085
13.25 (a) and (b) amended 19085
13.26 (a) and (b) amended 19085
13.27 (c) amended 19085
  (a) and (b) revised....19086
13.41 Amended 19085
13.42 Amended 19085
13.43 (a) and (b) amended 19085
13.44 Revised....19086
13.45 (a) and (b) amended 19086
13.52 Amended 19085
13.53 Amended 19085
13.54 (a) and (b) amended....19085, 19086
13.61 (b) amended 19085
13.62 Revised....19086
13.71 Revised....19086
13.72 (b) amended....19086
13.74 Amended 19086
13.92 Amended 19086
17.5 Amended....38549
17.168 (a) amended 42736
18 Authority citation revised 29481
18.11 Amended 29482
18.23 Amended 42736
18.39 Added 29482
18.40 Added 29482
18.41 Added 29482
18.42 Added 29482
18.43 Added 29482
18.56 Revised....29482
19.3 Amended 38549, 42733, 42736
19.161 (c) amended....42733
19.163 (f) amended 42733
19.164 Amended....42733

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

19.169 Amended....42736
19.207 Added....29482
19.485 (a)(1) and (2) amended....38549
19.524 (a)(1), (b)(1) and (3) amended....38549
19.911 (c) amended....42733
19.950 (f) amended....42733
20.3 Amended....38549, 42733, 42736
20.44 Introductory text amended....42733
20.51 Introductory text amended....42733
20.52 Amended....42733
20.66 Amended....42736
22.3 Amended....38550, 42733, 42736
22.44 Introductory text amended....42733
22.51 Introductory text amended....42733
22.52 Amended....42733
22.66 Amended....42736
24.4 Amended....38550, 42734, 42736
24.114 Amended....42737
24.135 (a) amended....29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4-1-98....37578
24.272 (a)(1), (b)(1) and (3) amended....38550
25.4 Amended....42737
25.165 (a)(1), (b)(1) and (3) amended....38550
25.284 (d) corrected....17809
26 Redesignated from Part 250....38550
26.3 Amended....38550
26.11 Amended....38550
26.30 Amended....38550
26.35 (a) amended....38550
26.45 Amended....38551
26.47 Amended....38551
26.50 (a) and (b) amended....38551
26.51 (c) amended....38551
26.55 Amended....38551
26.68a Amended....38551
26.70 Amended....38551
26.71 (a) amended....38551
26.72 Amended....38551
26.73 Amended....38551
26.74 Amended....38551
26.77 (c) amended....38551
26.79 (a) amended....38551
26.80 (a) amended....38551
26.81 (a) amended....38551
26.82 Amended....38551
26.87 Amended....38551
26.95 (b) amended....38551
26.96b Amended....38551
26.104 (b) amended....38551
26.105a Amended....38551
26.107 Amended....38551
26.108 (a), (b) and (c) amended....38551
26.109 (a), (b) and (c) amended....38551
26.110 Amended....38551
26.112 (a), (c)(2), (d)(2) and (e) amended....38551
26.112a (a)(1), (b)(2) and (3) amended....38551
26.113 (c) through (f) amended....38552
26.114 Amended....38552
26.115 Amended....38552
26.163 Amended....38552
26.165 (a)(2) and (3) amended....38552
26.173 (b)(4) amended....38552
26.193 (a) and (b) amended....38552
26.194 (a) and (b) amended....38552
26.196 Amended....38552
26.199a (a) amended....38551
26.199b Amended....38551
26.200 (a) amended....38552
26.204 Amended....38552
26.205 (a)(8) introductory text, (iv) and (b) amended....38552
26.211 Amended....38552
26.220 Amended....38552
26.221 Amended....38552
26.225 Amended....38552
26.260 Amended....38552
26.261 Amended....38552
26.262 (a) and (c) amended....38552
26.263 Amended....38552
26.264 Amended....38552
26.265 Amended....38552
26.272 Amended....38552
26.273a Introductory text amended....38552
26.291 (a), (b)(1), (2) and (c) amended....38552
26.301 Amended....38552
26.302 (a) and (b) amended....38552
26.303 Amended....38552
26.309 (b)(4) and (c)(2)(viii) amended....38552
26.318 Amended....38552
Subchapter B Heading added....38550
29 Redesignated from Part 170; heading revised....42737
29.42 Amended....42737
29.45 Amended....42737
29.47 (c) amended....42737
29.49 (c) amended....42737
29.59 Amended....42737
40 Redesignated from Part 270; authority citation revised....39093

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 27 Chapter I—Con.

40.11 Amended 39094, 49532
40.21 (b) amended 39094
40.31 (a) amended 39094
40.32 (b) amended 39094
40.33 (b)(3) and (c)(2) amended 39094
40.35 (a) amended 39094
40.44 Amended 43479
40.49 Amended 39094
40.62 Amended 39094
40.63 Amended 39094
40.64 Amended 39094
40.65 Amended 39094
40.67 Amended 39094
40.68 Amended 39094
40.71 Amended 39094
40.72 Amended 39094
40.74 Amended 42734
40.92 Amended 39094
40.101 Amended 39094
40.102 Amended 39094
40.103 Amended 39094
40.104 Amended 39094
40.111 Amended 39094
40.113 Amended 39094
40.114 Amended 39094
40.134 Amended 39094
40.135 Amended 39094
40.136 (d) amended 39094
40.140 Amended 39094
40.162 Amended 39094
40.163 Amended 39095
40.164 (a)(2) and (d)(2) amended 39095
40.165 (a) amended 39095
40.165a (a)(1), (b)(2) and (3) amended 39095
40.166 Amended 39095
40.167 (a) and (b) amended 39095
40.168 Amended 39095
40.181 Amended 39095
40.183 (e) amended 39094
40.187 Amended 39094
40.212 Amended 39094
40.216c (b) and (c) amended 39095
40.233 Amended 43479
40.235 Amended 43479
40.251 Amended 39095
40.252 Amended 39095
40.253 Amended 39095
40.254 Amended 39095
40.255 Amended 39095
40.282 Amended 39095
40.283 Amended 39095
40.286 Amended 39095
40.287 Amended 39095
40.301 Amended 39095
40.311 (a) and (b) amended 39095
40.313 Amended 39095
40.331 Amended 39095
40.332 Amended 42734
40.355 (e) and (g)(2) amended 39095
40.357 (a)(1), (b)(2) and (3) amended 39095
40.371 (a) amended 39096
40.372 (b) amended 39096
40.373 (b)(3) and (c)(2) amended 39096
40.374 (a) amended 39096
40.391 Revised 49532
40.396 Amended 39096
40.397 Amended 39096
40.402 Amended 39096
40.404 Amended 39096
40.405 Amended 39096
40.410 Amended 39096
40.421 (a)(4) amended 39096
40.451 Amended 43479
40.454 Amended 43479
40.461 Amended 39096
40.472 Amended 39096
40.473 Amended 39096
40.475 Amended 39096
40.476 Amended 39096
40.478 Amended 39096
44 Redesignated from Part 290 43480
44.11 Amended 49532
44.31 (a) amended 43480
44.32 (b) amended 43480
44.33 (b)(3) and (c)(2) amended 43480
44.35 (a) amended 43480
44.62 Amended 43480
44.63 Amended 43480
44.67 (a) amended 43480
44.82 Amended 43480
44.83 Amended 43480
44.84 Amended 43480
44.85 Amended 43480
44.86 Amended 43480
44.87 Amended 43480
44.88 Amended 43480
44.93 Amended 43480
44.102 Amended 43480
44.104 Amended 43480
44.105 Amended 43480
44.107 Amended 43480
44.108 Amended 43480
44.110 Amended 43480
44.111 Amended 43480
44.112 Amended 43480
44.123 Amended 43480
44.124 Amended 43480
44.144 Amended 43480

44.161 Amended	43480
44.185 Authority citation revised	45618
44.200 Amended	43480
44.205 (d) amended	43480
44.222 Amended	43480
44.223 Amended	43480
44.224 Amended	43480
44.225 Amended	43480
44.226 Amended	43480
44.230 Amended	43480
44.243 Amended	43480
44.244 Amended	43480
44.245 Amended	43480
44.264 Amended	43480
44.266 Amended	43480
46 Redesignated from Part 296	32220
Cross Reference amended	43479
Authority citation revised	45618
46.4 (c) amended	32220
46.6 (a) and (c) amended	32220
46.7 Amended	32220
46.8 Introductory text and (f) amended	32220
46.15 Amended	32220
46.72 Amended	32220, 39093
46.81 Amended	32220
46.146 Amended	32220
46.147 (a) introductory text and (b) introductory text amended	32220
46.150 (a) amended	32220
46.153 Introductory text amended	32220
46.166 Amended	39093
Revised	45618
46.167 (a) and (c) amended	39093
46.192 (a) amended	32220
46.194 Amended	32220
46.196 (a), (b) and (d) amended	32221
46.205 (a) and (e) amended	32221
46.206 (b) and (f) amended	32221
46.213 Amended	32221
46.221 Amended	32221
46.237 Amended	32221
46.241 (f) amended	32221
46.242 Amended	32221
46.255 (a) amended	39093
(b) and (c) amended	43479
46.270 Revised	32220
53.11 Amended	19088
53.20 Added	19088
53.21 (a) amended; (b) revised	19088
53.22 (a)(1) amended	19088
53.23 (a) amended; (b) revised	19088
53.24 (a)(1) and (d)(1) amended	19088
53.92 (b)(2) amended	19088
53.96 (b)(4) amended	19088
53.115 (b) amended	19088
53.132 (c)(2)(ii) amended	19088
53.133 (d)(3) amended	19088
53.134 (d)(2)(ii) amended	19088
53.136 (c)(2) amended	19088
53.140 (b) amended	19088
53.142 (a) amended	19088
53.151 (b)(1) and (2) amended	19088
53.155 (a) and (b) amended	19088
53.156 (a)(1) and (c) amended	19088
53.157 (f)(1) amended	19088
53.158 (b)(1), (3) and (e) amended	19088
53.159 (d)(1) and (2) amended	19088
(j)(1) amended	19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended	19088
53.186 (a) introductory text and (4) amended	19088
55.73 Amended	42734
55.75 Amended	42734
55.79 Amended	42734
55.82 Amended	42734
55.128 Corrected	19089
55.218 Table corrected	19089
70 Technical correction	19089
70.2 (a) amended; (b) revised	29022
70.3 Added	29022
70.11 Amended	29022
70.21 Amended	29022, 29023
70.22 (a) and (b) amended; (c) removed	29023
70.23 (b) revised	29023
70.24 (b) amended	29023
70.25 (a)(4) amended	29022
70.26 (c)(2)(ii) amended	29022
70.30 Revised	29023
70.31 Revised	29023
70.32 Amended	29023
70.33 Introductory text revised	29023
70.34 Revised	29023
70.40 Revised	29023
70.41 (a), (c), (d) and (f) amended	29023
70.42 Heading, (a)(1), (b) and (c)(1) revised	29024
70.51 Revised	29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended	29022
(a)(1)(i) introductory text, (D) and (3) amended	29024
70.64 Amended	29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended	29024

TITLE 27 Chapter I—Con.

70.72 Amended 29025
70.73 Amended 29024
70.74 (c)(1) and (2) amended 29024
  (b) amended 29025
70.75 (b) and (c) amended 29024
  (a) introductory text revised 29025
70.76 (a), (b)(3), (c) and (d) amended 29024
70.77 (a)(1), (2), (b)(1) and (2) amended 29024
70.81 (a) amended 29024
70.82 Amended 29024
70.92 (c) and (d)(2)(i) amended 29024
70.94 (a) amended 29022
70.96 (a)(1)(iv), (2), (3) and (c) amended 29024
  (c) amended 29025
70.98 (b) amended 29024, 29025
70.100 Amended 29022
70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
  (a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219, 42737
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
  (g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
  (a)(1), (2), (b) and (c) amended 29025
  (a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
  (a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
  (a)(2)(ii) amended 29024
  (a)(4), (b)(2) introductory text and (b)(3) amended 29025
  (a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended 29026
70.168 (a) amended 29022
  (b)(2) amended; (c) revised 29026
70.169 Amended 29022
70.170 (b) amended 29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended 29022
  (a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended 29026
  (c)(5)(ii)(E) and (c)(8) amended 29027
70.182 (a) amended 29022
  (a)(2)(ii), (6)(iv), (v), (7) and (9) amended 29027
  (a)(2)(i) amended 29027
70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended 29022
  (b)(4), (9)(iv), (v) and (10) amended 29027
  (a), (b) introductory text and (c) through (f) amended 29027
70.184 (a), (b), (c) introductory text and (1) amended 29022
70.185 (a), (b) and (c) amended 29023
70.186 (b)(2) and (c) amended 29023
  (a)(5) amended 29025
70.187 (a) amended 29023
  (a) and (b) amended 29025
  (a) amended 29027
70.188 Amended 29023
70.191 (b) introductory text amended 29022
  (a) revised 29027
70.204 concluding text amended 29025
  (a) concluding text amended 29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended 29025
  (b)(1) and (c)(1) amended 29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended 29023
  (b)(4)(ii)(B) amended 29025

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

(a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised	29027
70.207 (b)(1)(iii) amended	29025
70.208 Amended	29025
70.209 (a) and (b) amended	29025
70.210 (a)(1) amended	29025
70.213 Amended	29022
70.222 (b) revised	29028
70.223 (d) amended	29025
70.224 (a)(1) and (2)(i) revised	29028
70.227 Revised	29028
70.231 (i)(3) amended	29025
70.241 (a)(8) amended	29025
70.242 (a) and (c) amended	29025
70.245 Heading, (a), (c)(2) and (d) amended	29025
70.251 (a)(2) and (b) amended	29026
(b) amended	29027
70.253 (b)(2) amended	29023
(b)(1) and (2) amended	29028
70.262 (b)(4) and (c)(2) amended	29028
70.263 (d) amended	29023
70.271 (d)(1) amended	29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended	29025
(a)(1) and (b)(2) amended	29028
70.301 (a) amended	29022
70.304 (a) and (b) amended	29028
70.306 (a) amended	29028
70.311 Amended	29022
70.333 Amended	29028
70.411 (b), (c) introductory text and (16) amended	29028
(c)(26) amended	38550
(c)(5) amended	42734
(c)(2) amended	42737
70.412 (a) amended	29028
70.413 (a) amended	29023
(c)(1) amended	29025
(b) revised	29028
70.414 (k) amended	29026
(a) revised	29028
70.416 Revised	19029
70.418 Revised	29029
70.419 Revised	29029
70.431 (b)(7) amended	32219
(b)(2) amended	39093
(b)(1) amended	42734
(b)(5) amended	43480
70.432 (a), (b) and (d) amended	29029
(d) amended	43480
70.433 (a) amended	29023
(a) and (d) amended	29029
70.435 (i) amended	29023
70.438 Amended	29029
70.447 Amended	29025
70.461 Amended	38550
70.462 Amended	43480
70.471 Revised	29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended	29025
(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended	29026
(b)(1) amended	29029
70.482 (a) introductory text amended	29022
(d)(1)(i) amended	29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised	29029
70.483 Revised	29029
70.484 Amended	29030
70.485 (a) amended	29022
70.486 Amended	29025
70.504 (c)(2) amended	29023
70.506 Amended	29030
70.507 (g) amended	29023
70.601 Amended	29030
70.602 (a) and (b)(1) introductory text amended	29023
70.603 (a)(1) revised	29030
70.606 Introductory text amended	29023
70.608 Amended	29023
70.609 Amended	29023
70.701 (a)(1) revised; (c) amended	29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended	29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised	29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised	29030
71 Redesignated from Part 200; authority citation revised	42734
71.1 Note amended	42734
71.37 Amended	42734
71.38 Amended	42734
71.56 Note amended	42734
71.62 Amended	42734
71.63 Amended	42734
71.64 (a) amended	42734

CHANGES APRIL 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 27 Chapter I—Con.

71.74 Amended	42734
71.78 Amended	42734
71.82 Amended	42735
71.83 Amended	42735
71.96 Amended	42735
71.107a (a) amended	42735
71.108 (a) and (b) amended	42735
71.110 Amended	42735
170 Redesignated from Part 29	42737
178 Technical correction	42586
178.92 Heading and (a) revised; OMB number	40600
179 Technical correction	42586
179.102 Revised; OMB number	40601
200 Redesignated as Part 71	42734
200.49b (b) amended	39093
250 Redesignated as Part 26	38550
250.2 (a) amended; (b) revised	21668
250.3 Added	21668
250.11 Amended	21668, 21669
250.37 Revised	21669
250.43 Amended	21668
250.50a (b)(2) revised	21669
250.52 (b) and (c) amended	21669
250.54 Revised	21669
250.61 Revised	21669
250.62a Amended	21669
250.65 Amended	21669
250.70 Amended	21669
250.70a Amended	21669
250.71 (c) and (d) amended	21669
250.72 Amended	21669
250.74 Amended	21669
250.75 Amended	21669
250.81 Amended	21669
250.96 Amended	21669
250.105 Amended	21669
250.110 Amended	21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised	21669
250.112a (b)(1) and (c)(1) amended	21669
250.113 (a) amended	21669
250.116 Amended	21669
250.118 Amended	21669
250.119 Revised	21669
250.126 Amended	21669
250.128 Amended	21669
250.172 (a) amended; (b) revised	21669
250.173 (a) revised; (d) amended	21669
250.174 (a) and (e) amended	21669
250.193 (b) amended	21670
250.194 Amended	21669
250.197 Amended	21670
250.199f (c) revised	21670
250.209 Amended	21668
250.222 (b) and (c) amended	21669
250.224 Revised	21670
250.275 (a) revised	21670
250.276 Amended	21669, 21670
250.277 Undesignated center heading and section removed	21670
250.303 Amended	21669
250.308 (a) amended; (b) revised	21670
250.309 (a) revised; (d) amended	21670
250.310 (a) and (e) amended	21669
250.314 (b) amended	21668
(a) and (b) amended	21670
250.318 Revised	21670
250.331 (b) amended	21669
(a) and (b) amended	21670
250.314 (b) amended	21668
250.316 Amended	21668
250.319 Amended	21668
250.331 (b) amended	21668
251 Cross references amended	38550
251.1 Note revised	38550
251.48a (a) amended	38550
270 Redesignated as Part 40	39093
270.11 Amended	32220
270.49 Amended	32220
270.165 OMB number	19089
270.165a OMB number	19089
270.286 Amended	32220
275.11 Amended	45618, 49532
275.39 Amended	39093
275.63 (a) amended	39093
275.82 (b) amended	39093
Revised	45618
275.83 Revised	45619
275.85 (b) amended	39093
275.85a (c) amended	39093
275.86 (a) amended	39093
275.115a (a)(1) and (b)(1) amended	39093
275.140 Amended	39093
275.162 Amended	32220
275.199 Amended	42734
275.205 (b) amended	32220
290 Redesignated as Part 44	43480
290.11 Amended	39093
290.67 (b) amended	39093
290.92 Amended	42734
290.154 Amended	32220
290.162 Amended	42734
290.184 Amended	39093
290.243 Amended	39093

295.11 Amended	39093, 49532
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
16	28135
20	37198

Chapte

0.29c (a)
amen
0.29d (a)
0.29e (a)
vised
text,
0.29h (a)
0.111b Ad
0.116 Am
2.81 (d) a
16.99 (a)(
16.130 Ad
(b) cor
16.131 Ad
27.1 (b) r
27.4 Hea
ed....

Chapte
Offen
for t
(Parts

810 Adde

Chapte
tice
(Part

Chapter
....

16.........
25.........

Chapte
sion,
500--

697 Auth
697.1 Rev
697.2 Re
697.2
697.3 Re
697.3
....
697.4 Red

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended 37903
0.29d (a) revised 37903
0.29e (a)(1), (2), (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended 37903
0.29h (a) amended 37903
0.111b Added 47383
0.116 Amended 47380
2.81 (d) amended 37137
16.99 (a)(3) added 35374
16.130 Added 41445
(b) corrected 43308
16.131 Added 41446
27.1 (b) revised 37904
27.4 Heading revised; (a) amended 37904

Chapter VIII—Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

810 Added; interim 48337

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim 38518

Proposed Rules:

16 37939
25 ....35567, 48390

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor (Parts 500--899)

697 Authority citation revised 44968
697.1 Revised 44968
697.2 Redesignated as 697.3; new 697.2 added 44969
697.3 Redesignated as 697.4; new 697.3 redesignated from 697.2 44969
697.4 Redesignated from 697.3 44969

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1926.500 Regulation at 66 FR 5265 delayed 37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed 37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction 36368
2520.102-3 (d) and (j)(3) corrected 34994
2520.104b-3 (d)(3)(ii) corrected 34994
2560.503-1 (o) revised 35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

4022 Appendix B amended 36702
Appendix C amended 36703
Appendices B and C amended 42738, 47886
4044 Appendix B amended 36703, 42738, 47886

Proposed Rules:

102 38594
1904 35113

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

42 Regulation at 65 FR 59096 eff date delayed 45167
47 Regulation at 65 FR 59096 eff date delayed 45167
56.16004 Regulation at 65 FR 59096 eff date delayed 45167
56.20012 Regulation at 65 FR 59096 eff date delayed 45167
57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed 35518
57.5065 Heading corrected; (c) removed 35520

TITLE 30 Chapter I—Con.

57.16004 Regulation at 65 FR 59096 eff date delayed..........45167
57.20012 Regulation at 65 FR 59096 eff date delayed..........45167
77.208 Regulation at 65 FR 59096 eff date delayed..........45167

Chapter II—Minerals Management Service, Department of the Interior (Parts 200--299)

206.251 Amended..........45769
206.254 (a) removed; (b) designation removed and amended..........45769
206.257 (d)(3) amended..........45769
206.259 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended..........45769
206.262 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended..........45769
206.263 Removed..........45769
206.453 (a) removed; (b) designation removed and amended..........45769
206.456 (d)(3) amended..........45769
206.458 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended..........45769
206.461 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended..........45769
206.462 Removed..........45769
210.10 Nomenclature change; (a) and (d) revised; (b)(2) and (3) amended; (b)(6), (c)(4), (11) and (12) removed; (c)(5) through (10) and (13) through through (20) redesignated as new (c)(4) through (9) and (10) through (17); (b)(6), (7), (8) and new (c)(18) through (21) added..........45769
210.200—210.204 (Subpart E) removed; new 210.200—210.206 (Subpart E) added..........45771
216.2 Amended..........45773
216.6 Amended..........45773
216.20 Amended..........45773
216.40 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f)..........45773
216.200—216.204 (Subpart E) removed..........45773
218 Authority citation revised..........45773
218.40 (c) revised..........45773
218.51 (d)(2), (3) and (e) amended..........45773
218.201 Revised..........45773
218.203 (a) and (b) amended..........45773

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

756.14 (e) added..........39443
904.15 Table amended..........42742
914.17 Heading and (b) revised..........42750
938.15 Table amended..........42752
938.16 (p) removed..........42753
946.12 Heading revised; (c) added..........43483
946.15 Table amended..........43483
946.16 Removed..........43483

Proposed Rules:

57..........35521
250..........37611, 45236
913..........42813
914..........48390
915..........48841
917..........42815
918..........48393
943..........48396

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

1.36 (g)(1)(viii) table amended..........48556
29 Authority citation revised..........36705
29.102 (a) revised; (f) added; interim..........36705
29.103 (a) amended; interim..........36705
29.501—29.526 (Subpart E) Added; interim..........36705

Chapter II—Fiscal Service, Department of the Treasury (Parts 200--399)

357 Policy statement..........44526

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised..........36687
515.207 Note added; interim..........36687

515.533 Heading, (a) and (e) revised; (f) removed; interim 36687
515.559 Heading and note revised; interim 36687
515.560 Revised; interim 36688
535.215 (a) revised; interim 38554
535.333 Revised; interim 38554
538 Authority citation revised 36688
538.205 Revised; interim 36688
538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim 36688
538.405 (b) revised; interim 36688
538.523 Revised; interim 36688
538.524 Removed; interim 36689
538.525 Heading and (d) revised; (e) added; interim 36689
538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36689
540 Revised 38555
550 Authority citation revised 36690
550.306 Revised; interim 36690
550.308 Revised; interim 36690
550.318 Revised; interim 36690
550.405 (b) revised; interim 36690
550.569 Revised; interim 36690
550.571 Removed; interim 36691
Heading and (d) revised; new (e) added; interim 36691
550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36691
550.573 Revised; interim 36692
560 Authority citation revised 36692
560.405 (b) revised; interim 36692
560.520 Heading revised; interim 36692
560.530 Revised; interim 36692
560.531 Removed; interim 36693
560.532 Heading and (d) revised; (e) added; interim 36693
560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36693

Proposed Rules:

356 38600

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

153 Added 45169
199.2 Amended; interim 40606, 45172
199.3 (b)(2)(i)(D), (f)(3)(vi), (3)(vii) and note revised; interim 40606
199.8 (c)(4) added; (d)(1) revised; interim 40607
199.10 (a)(1)(ii) revised; interim 40607
199.14 (h)(1)(iv)(D) and (E) added 45172
199.15 (a)(6) revised; interim 40608
199.17 (a) introductory text, (6)(i), (ii), (b) introductory text, (1), (c) introductory text, (3), (4), and (v) revised; (m)(2)(iii) and (4)(iii) removed; interim 40608
230 Revised 46373
231 Revised 46708
231a Removed 46374
311.5 (a)(7)(ii) revised 41780
311.8 (c)(7) added 41780
323 Footnotes 1 through 8 revised 41781
323.2 (e) revised 41781
323.4 (a)(1) introductory text, (2) introductory text, (3) and (b)(4) revised; (a)(1)(v) added 41781
323.5 (b)(3)(iv), (4), (5), (c)(5)(ii), (6) introductory text, (i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (2) and (3) revised; (b)(3)(v) removed 41781
323.6 Revised 41782
323 Appendices A and B amended 41782
326.5 (j)(11) added 41783
326.17 (e) added 41783

Chapter V—Department of the Army (Parts 400—699)

668 Removed 36711

Proposed Rules:

199 39699
320 41811
326 43138
505 ...... 41814, 43818
701 43141
806b 43820
808 36523

CHANGES JULY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

100.35–T05–029 Added (temporary) 34828
100.35–T05–030 Added (temporary) 34824
100.35–T05–031 Added (temporary) 34820
100.35–T05–032 Added (temporary) 34826
100.35T–05–038 Added (temporary) 41144
100.35T–05–040 Added (temporary) 41142
100.35T–05–041 Added (temporary) 41140
100.35–T05–047 Added (temporary) 44052
100.35–T05–053 Added (temporary) 46378
100.35–T05–055 Added (temporary) 46376
100.35–T05–057 Added (temporary) 47385
100.35–T05–058 Added (temporary) 48955
100.35–T09–001 Added (temporary) 37415
100.35–T09–996 Added (temporary) 46522
100.506 Added 41138
100.508 Implementation 46374
100.511 Implementation (temporary) 34828
100.513 Implementation 46377
100.515 Implementation (temporary) 41140
100.1301 Revised 34822
100.1303 Implementation (temporary) 38154
110.T01–162 Added (temporary) 49283
117 Temporary drawbridge operations regulations .... 34829, 36162—36165, 37140, 37578, 38155, 38370, 39278, 40117, 42601, 42602, 44971, 46522, 46523, 46525, 47077, 47577, 47578, 48556, 48558, 48955
117.26 (r) suspended; (vv) added (temporary) 41146
117.301 Added 36467
117.305 Revised 37580
117.622 Revised 46525
117.733 (k) added 39445
117.795 (b) amended; (d) added (temporary) 40117
117.801 Regulation at 66 FR 16129 eff. date extended through 8–30–01 37139
117.822 Revised 40119
117.911 (e) revised 42111
117.936 Redesignated from 117.937 48557
117.937 Redesignated as 117.936 48557
  Added 48558
117.1051 (d)(4) added (temporary) 35902
117.T394 Added (temporary) 44971
159 Authority citation revised 38930
159.301—159.321 (Subpart E) Added 38930
164.01 Regulation at 66 FR 21864 eff. date confirmed 42753
165.T–01–002 Added (temporary) 43776
  Effective date corrected 45619
  Corrected 48209
165.T01–065 Added (temporary) 34839
165.T01–066 Added (temporary) 34847
165.T01–074 Added (temporary) 34849
165.T01–090 Added (temporary) 34840
165.T01–099 Added (temporary) 34832
165.T01–100 Added (temporary) 42756
165.T01–107 Added (temporary) 36168
165.T01–118 Added (temporary) 38158
165.T01–131 Added (temporary) 42604
165.T01–133 Added (temporary) 45928
165.T01–135 Added (temporary) 43090
165.T01–139 Added (temporary) 47387
165.T01–145 Added (temporary) 45926
165.T01–162 Added (temporary) 49283
165.T01–163 Added (temporary) 49107
165.T01–166 Added (temporary) 49537
165.T01–171 Added (temporary) 49283
165.T07–074 Added (temporary) 37417
165.T–07–095 Added (temporary) 49105
165.T07–096 Added (temporary) 48957
165.T07–097 Added (temporary) 49288
165.T07–098 Added (temporary) 49536
165.T07–101 Added (temporary) 49534
165.T08–038 Added (temporary) 38936
165.T09–013 Added (temporary) 34835
165.T09–101 Added (temporary) 49285
165.T09–102 Added (temporary) 49291
165.T09–103 Added (temporary) 49290
165.T09–916 Added (temporary) 35546
165.T09–917 Added (temporary) 34837

165.T09-919 Added (temporary) 36167
165.T09-927 Added (temporary) 34830
165.T09-930 Added (temporary) 34844, 35081
165.T09-933 Added (temporary) 34846
165.T09-940 Added (temporary) 37586
165.T09-945 Added (temporary) 37585
165.T09-950 Added (temporary) 34834
165.T09-957 Added (temporary) 37142
165.T09-958 Added (temporary) 35758
165.T09-969 Added (temporary) 37583
165.T09-970 Added (temporary) 37582
165.T09-972 Added (temporary) 38156
165.T09-974 Added (temporary) 34842
Regulation at 66 FR 34842 correctly designated 44303
165.T09-980 Added (temporary) 40121
165.T09-983 Added (temporary) 41785
165.T09-985 Added (temporary) 42754
165.T09-987 Added (temporary) 42949
165.T09-989 Added (temporary) 41787
165.T09-990 Added (temporary) 42947
165.T09-991 Added (temporary) 42605
Corrected 45619
165.T09-992 Added (temporary) 43777
165.T09-993 Added (temporary) 45775
165.T09-994 Added (temporary) 44973
165.T09-995 Added (temporary) 46220
165.T09-998 Added (temporary) 48796
165.T09-999 Added (temporary) 49286
165.T13-004 Added (temporary) 38372
165.T13-011 Added (temporary) 39447
165.T14-051 Added (temporary) 38935
165.T14-054 Added (temporary) 41789
165.540 Added; interim 39099
165.713 Removed 36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim 35760
165.2000—165.2025 (Subpart G) Added; eff. to 6-15-02 48781
165.2030 Added; eff. to 6-15-02 48784

Proposed Rules:

Chapter 1 45791
100 .... 37200, 48014
117 .... 36525, 36527, 36529, 37615, 42972, 47121, 47123, 47601
151 36530
153 36530
157 42170
164 36223
165 41170
334 .... 42475, 42477, 42478

TITLE 34—EDUCATION

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

674.9 (h)(1), (2) and (3) amended 44006
674.61 (b) amended; (b)(2) removed 44007
682.201 (a)(4)(ii), (6)(iii) and (b)(1)(iv) amended 44007
682.211 (f)(5) revised; (f)(6) through (10) redesignated as (f)(7) through (11); new (f)(6) and (i)(6) added; new (f)(7) amended 44007
685.200 (a)(1)(iv)(A)(*2*) and (B)(*2*) amended 44007

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER since July 2, 2000.

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

20.711 (c), (e) and (h) revised; (f) and (g) amended; (i) added 49538
51.56 Revised 35083
51.57 Revised 35083
51.62 Revised 35083

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211.16—211.18 (Subpart B) Removed 43779

Proposed Rules:

219 35918
242 45082
294 35918
1228 .... 37202, 40166
1230 47125
1254 46752

CHANGES JULY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised	39448
1.16 (a), (b), (d), (f) through (i) and (k) revised	39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised	39449
(h) revised	47389
1.18 (a), (b) and (c) revised	39449
1.20 (e), (f) and (g) revised	39449
1.21 (o) removed	39450
1.491 Revised	45777
1.492 (a)(1), (2), (3), (5), (b) and (d) revised	39450
6.1 Amended	48339
10 Policy statement	44526
104 Added	47390

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

202 Authority citation revised	37149
202.2 Corrected	40322
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added	37149
202.17 Corrected	40322
202.20 (c)(2)(xx) added	37150

Proposed Rules:

1	35763, 45792, 46409
2	45792
201	45241, 49330
260	38226, 46250, 48648

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Chapter I Nomenclature change	44053
3.6 (a) and (e) revised	48560
3.102 Amended	45630
3.156 (a) and authority citation revised	45630
3.159 Revised	45630
3.326 (a) amended	45632
3.353 (b)(1) amended	48560
3.452 Cross reference revised	48560
3.501 (i)(7) amended	48560
3.551 (i) amended	48560
3.557 Heading, (b) and cross reference revised; (d) amended	48560
3.558 Heading and (a) revised	48560
3.559 Heading revised; (a) and (b) amended	48561
3.808 (d) amended	44528
3.1007 Amended	48561
3.1604 (d)(1)(ii) revised	48561
13.70 (a)(2) amended	48561
13.71 (b) amended	48561
13.108 Heading revised; (a) and (c) amended	48561
17.1000—17.1008 Undesignated center heading and sections added; interim	36470
20.901 (a) revised; interim	38159
20.1404 (b) revised; interim	35903
20.1405 (a) revised	37151
20.1409 (b) revised; interim	35903
21.3303 Amended	44053
21.4005 Amended	44053
21.4131 (i) removed	38938
21.4135 (aa) removed	38938
21.4138 Amended	44053
21.4203 Amended	44053
21.4208 Amended	44053
21.4232 Amended	44053
21.4255 Amended	44053
21.4342 Amended	44053
21.4800—21.4856 (Subpart F-3) Removed	38938
21.6410 Amended	44053
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new (b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised	39279
21.7131 (j) removed	38939
Corrected	42586
21.7135 (aa) removed	38939
Corrected	42586
21.7301 Amended	44053
21.7631 (f) removed	38939
21.7635 (w) removed	38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised	38937

CHANGES JULY 2, 2001 THROUGH SEPTEMBER 28, 2001

Proposed Rules:

3..........37940, 41483, 44095, 46067, 48845
4..........37940
17..........36960, 46499
19..........40942
20..........40942
260..........38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim..........42112
111 DMM amended; incorporation by reference..........37151
266.9 (b)(1)(vii), (2) introductory text, (i), (ii) and (iii) revised; (b)(2)(viii) added..........40891

Proposed Rules:

111..........36224, 40663, 41485, 42817, 42820, 45245, 48046
3001..........38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9.1 Table amended (OMB numbers)..........40130, 42122
51 State implementation plan determinations..........40609
  Comment period extended..........47887
52 Technical correction..........36035, 43796, 43797
  State implementation plan determinations..........40609, 44973
  Policy statement..........42956
  Actions on petitions..........47578
  Comment period extended..........47887
52.50 (c) table amended..........36920
52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added..........38568
  (c)(94)(i)(E) removed..........42123
  (c)(97) added..........48089
  (c)(46)(i)(D) added..........49295
52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added..........36172
  (c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added..........37153
  (c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added..........37156
  (c)(260)(i)(B) and (266)(i)(B)(*3*) added..........37591
  (c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added..........38564
  (c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added..........38940
  (c)(239)(i)(E)(*7*) and (278)(i)(C)(*2*) added..........40901
  (c)(239)(i)(C)(*2*) and (279)(i)(A)(*4*) added..........42128
  (c)(280)(i)(A)(*2*)..........43485
  (c)(183)(i)(H)(*2*) through (*6*) and (281) added..........44977
  (c)(173)(i)(F) and (282) added..........47394
  (c)(283) added..........48347
52.222 (a)(7)(i) added..........44978
52.223 (e) added..........48347
52.237 (a)(6) added..........48347
52.242 (a)(3) added..........49297
52.320 (c)(93) added..........35379
  (c)(11)(i) added..........47086
  (c)(94) added..........47092
  (c)(92) added..........48564
52.350 Added..........47092
52.520 (e) added..........40139
52.570 (c) table and (e) table amended..........35909
52.770 (c)(141) added..........37419
  (c)(143) added..........47890
  (c)(142) added..........49299
52.920 (e) table amended..........43491
52.1070 Regulation at 66 FR 28059 withdrawn..........35546
  (c)(162) added..........37916
  (c)(164) and (165) added..........43488
  (c)(166) added..........46381
  (c)(153) added..........46729
52.1075 (h) added..........48210
52.1076 (j) added..........49109
  (f) added..........48211
52.1174 (u) added..........40898
52.1320 (c) table amended..........37905, 37907, 37918, 40903, 42607, 44304
52.1370 Regulation at 66 FR 32554 withdrawn..........42425
  (c)(49) added..........42437
  (c)(47) added..........48564
52.1384 Regulation at 66 FR 32554 withdrawn..........42425
  (a) added; (c) revised..........42437
52.1520 (c)(66) added..........39104
52.1670 (c)(101) added..........48961
52.1679 Table amended..........48961

TITLE 40 Chapter I—Con.

52.1970 (c)(134) added 40620
(c)(136) added 48354
52.1977 Amended 40620
52.1988 (b) revised 40622
52.2020 (c)(152) added 37914
(c)(149) added 40894
(c)(159) added 41792
(c)(160) added 41795
(c)(158) added 42126
(c)(161) added 42132
(c)(162) added 42136
(c)(166) added 42140
(c)(171) added 42418
(c)(164) added 42425
(c)(163) added 42761
(c)(176) added 43497
(c)(165) added 43501
(c)(156) added 43508
(c)(173) added 43783
(c)(177) added 43788
(c)(172) added 43794
(c)(168) added 43796
(c)(175) added 44056
(c)(181) added 44060
(c)(170) added 44532
(c)(167) added 44538
(c)(178) added 44544
(c)(180) added 44547
(c)(184) added 45933
(c)(174) added 45937
(c)(182) added 45941
(c)(169) added 46532
(c)(185) added 46959
(c)(179) added 47083
Regulations at 66 FR 42126, 42136 and 42140 withdrawn 48348
Regulations at 66 FR 41792, 41795 and 42132 withdrawn 48349
Regulations at 66 FR 42418, 42425 withdrawn 48806
Regulations at 66 FR 42761, 43501 and 43508 withdrawn 49108
Regulation at 66 FR 43794 and 43497 withdrawn 49292
Regulation at 66 FR 43788 and 44056 withdrawn 49293
Regulation at 66 FR 44532 withdrawn 49539
Regulations at 66 FR 44056, 44532 and 44544 withdrawn 49540
Regulations at 66 FR 44060 and 44547 withdrawn 49541
52.2026 Removed 44548
52.2038 Existing text designated as (a); (b) added 44548
52.2220 (c) table amended 45633
52.2270 (e) table amended 35906
(c) table amended 36917, 36923, 48804
Regulation at 66 FR 35906 withdrawn 46220
(c) table and (e) table amended 49293
(a) introductory text amended 49300
52.2570 (c)(101) added 42956
60.4 Regulation at 66 FR 32554 withdrawn 42425
(a), (b) and (c) table amended 42438
60.13 (g) revised 44980
60.44a (d)(2) revised 42610
60.44b (l) revised 42610
60.51b Amended 36476
61.04 Regulation at 66 FR 32555 withdrawn 42425
(a), (b) and (c) table amended 42438
(b) amended; (c)(10) table revised 48216
62.1100 (b)(5)(i) added 48356
62.3915 Undesignated centerheading and section added 46961
62.4180 Undesignated centerheading and section added 46961
62.6359 Undesignated centerheading and section added 46961
62.6613 Regulation at 66 FR 32556 withdrawn 42425
Undesignated centerheading and section added 42439
62.6915 Undesignated centerheading and section added 46961
62.8106 Undesignated center heading and section added 41148
62.9640 Revised 43511
62.9642 Revised 43511
62.10100 Regulation at 66 FR 22929 withdrawn 35546
(b)(5) and (c)(5) added 48567
62.10170 Regulation at 66 FR 22929 withdrawn 35546
Undesignated center heading and section added 48567
63 Delegation of authority 36173
Technical correction 41086
63.14 (d)(2) revised 35087
63.99 (a)(30) added 35087
(a)(38) added 47583

CHANGES JULY 2, 2001 THROUGH SEPTEMBER 28, 2001

(a)(47)(i) table revised 48218
63.480 (i)(2)(ii) revised 36927
63.482 (b) amended 36927
63.485 (k) amended 36928
63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended 36928
63.489 (e)(1)(ii) revised 36928
63.501 (c) revised 36928
63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended 36928
63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised 36928
63.863 (a) and (b) revised 37593
63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added 37593
63.1201 (a) amended 35103
63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised 35103
63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii); (f)(1)(ii)(D) and (xxvi) added; (n) removed 35106
63.1209 (b)(2)(ii) and (l)(2) revised 35106
63.1211 (c)(1) revised 35106
63.1250 (e) and (h)(2) revised 40131
63.1251 Amended 40131
63.1252 (h) added 40131
63.1253 (b)(2), (3), (4), (c)(2), (3) and (4) redesignated as (b)(3), (4), (5), (c)(3), (4) and (5); new (b)(2) and (c)(2) added; (e) and (f)(7)(i) amended 40132
63.1254 (a)(4) added 40132
63.1255 (b)(4)(iii)(D), (c)(2)(iii), (3)(i), (4)(ii), (5)(iv), (h)(1)(ii) and (3)(i) revised; (c)(5)(vi)(C) and (D) removed; (b)(4)(iii)(A), (e)(7)(iii) introductory text and (e)(9) amended 40132
63.1256 (c)(1)(i)(A), (e)(4)(i)(B) and (g)(10) amended; (e)(4)(iii), (g)(9)(ii) and (h) introductory text revised; (h)(5) added 40133
63.1257 (a)(6), (d)(1)(i), (2)(i)(D)(*9*), (E), (3)(iii)(B) introductory text, (e)(2)(iii)(B), (C)(*1*), (D)(*1*) and (E)(*1*) amended; (b)(10)(ii), (c)(1) introductory text and (d)(2)(i)(D)(*10*) revised 40133
63.1258 (b)(3) heading, (5)(i)(A), (ii)(A)(*2*) and (b)(8)(iii) revised; (c), (h)(1), (6) introductory text and (7) introductory text amended; (h)(10) and (i) added 40134
63.1259 (b)(5)(ii)(D), (E) and (i)(7)(i) through (viii) redesignated as (b)(5)(ii)(E), (F) and (i)(7)(ii) through (ix); (a)(3)(iii), (b)(5)(i) introductory text, (8), (10) and new (i)(7)(ii) revised; new (b)(5)(ii)(D), (13) and new (i)(7)(i) added; (i)(7) introductory text amended 40135
63.1260 (f)(7) added; (g)(1) introductory text, (2)(vi), (h)(1) introductory text and (i) revised; (g)(2)(v) introductory text and (vii) amended 40135
63.1250—63.1261 (Subpart GGG) Tables 1 amended; Table 2 revised 40136
Table 3 revised 40137
63.1270 (a) introductory text amended 49300
63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised 36937
63.1311 (b) revised 36937
(b) and (d)(6) revised 40907
63.1312 (b) amended 36937
63.1315 (a)(9) and (d) revised 36938
63.1316 (b)(1)(i)(B) revised 36938
63.1318 (a) revised 36938
63.1319 (a) amended 36938
63.1320 (a) amended; (b)(3) revised 36938
63.1322 (f)(1)(ii) and (g)(1)(ii) amended 36938
63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised 36938
63.1324 (f)(1)(ii) revised 36938
63.1327 (b) amended 36938
63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added 36938

CHANGES JULY 2, 2001 THROUGH SEPTEMBER 28, 2001

TITLE 40 Chapter I—Con.

63.1331 (a)(6) introductory text revised; (a)(6)(v) added 40907
63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised 36939
63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised 36939
63.5680—63.5779 (Subpart VVVV) Added 44232
70 Appendix A amended 38946, 40903, 42441, 45943, 48808, 49544
Regulation at 66 FR 38946 withdrawn 48357
72.2 Corrected; CFR correction 42761
80.40 (c) added 37164
80.41 (e) and (f) revised.......................37164
80.65 (d)(2)(ii) revised 37165
80.67 (g)(1) revised...............................37165
80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added......................37165
80.69 Introductory text revised 37165
81 Attainment status determinations............36476, 38947, 38948, 44060, 44304, 48808
81.305 Table amended......................40911
81.306 Table corrected......................34994
Table amended 47092
81.338 Table amended......................48354
82.3 Amended; interim 37767
82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim 37767
82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim 37767
86 Actions on petitions........................45777
96 State implementation plan determinations..........................40609
Comment period extended............47887
97 State implementation plan determinations..........................40609
Comment period extended............47887
Appendix A amended 48575
Appendix B amended 48576
141.35 (c) amended.........................46225
141.40 (a)(5)(ii)(G)(*1*) amended 46225
152.1 Revised 37814
152.3 Amended 37814
152.20 (a)(1) revised; (a)(4) added 37814
174 Added 37814
174.475 Added 37830
174.479 Added 37854
180.121 Table amended 38955
180.153 (a)(1) table amended 38955
180.169 (a)(1) table and (c) table amended 38955
180.183 (a)(1) table amended 38955
180.205 (b) table amended 37598
(a) table amended 48601
180.262 (a) table amended 38955
180.324 (b) added 47402
180.355 (a) introductory text and table amended 48011
180.416 (b) table amended 37598, 41454
180.418 (a)(2) revised 47993
180.425 (a) table amended 39675
180.434 (b) table amended 37598
180.442 (a) table amended 49308
180.443 (b) table amended 37598
180.449 (b) table amended 37598
180.458 Heading and (a)(3) introductory text revised; (a)(3) table amended 47979
180.474 (b) table amended 37598
180.480 (b) table amended 37598
180.482 (b) table amended 37598
180.489 (a) introductory text revised; (a) table amended 48613
180.493 (b) table amended 37598
180.495 (a) table amended 48968
180.498 (b) introductory text revised; (b) table amended 39658
180.499 (b) table amended 37598
Table amended 48585
180.502 (a) table amended 36481, 36484
180.503 (b) table amended 37598
180.507 (b) table amended 39666
(a)(1) table amended 48592
180.508 (b) table amended 37598
180.510 (b) table amended 46396
180.511 (a) table amended; (b) removed 46389
180.515 (b) table amended 39647
(a) table amended 39682
180.516 Table amended 47410
180.535 (b) table revised....................37598
(b) table amended 47971
180.546 (a) introductory text added 48003
180.557 (b) table revised....................37598
180.567 (a)(2) table amended 49118
180.570 (a) revised 40141
180.572 (b) table amended 42772
180.573 Added 40150
180.574 Added 46738
180.576 Added 49315

180.577 Added 48097
180.1001 (c) table amended 42765, 42776
(c) table, (d) table and (e) table amended 42779
180.1026 Removed 42779
180.1199 Revised 39651
180.1216 Added 42961
197 Technical correction 38374
258.28 (a)(1) and (2) amended; (a)(3) added 42449
258.41 Added 42449
(a) added 44069
261 Request for public comment 35379
Appendix IX amended 41800, 43061
264.340 (b)(1) amended; (b)(3) added 35106
271 State hazardous waste management program authorizations 40911, 42140, 42962, 43796, 44071, 44307, 46961, 49118
300 Appendix B amended 34852, 35387, 35547, 36947, 38571, 39284, 39288, 40915, 42612, 43808, 44073, 45634, 46536, 47095, 47590, 48969
712.30 (d) table and (e) table amended 38959

Proposed Rules:

3........46162
9 ....35572, 41817
51........38108, 46162
52....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471, 40168, 40664, 40802, 40946, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185—42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549—43551, 43822, 43823, 44096, 44097, 44568, 44571, 44574, 44578, 44580, 44581, 44582, 44995, 44997, 45661, 45797, 45800, 45806, 45953, 45954, 46571, 46573, 46753—46755, 46758, 46760, 46971, 47129, 47130, 47139, 47142, 47145, 47419, 47603, 48399, 48401, 48648, 48847, 48850, 48995
60 ....36547, 42488, 44997, 46162, 46415
61........35115, 42488
62 ....41176, 42488, 44582, 46972, 48401
63....35115, 35124, 35126, 35326, 36228, 36836, 40166, 40324, 41718, 41823, 43142, 43552, 46162, 47611, 48174
70....34901, 35126, 38966, 39293, 40953, 42490, 42496, 45253, 46162, 46972, 47428, 48402, 48851, 49577, 49579
72 39123
73........48851, 48852
75 39123
78 39123
81....38603, 38608, 38966, 38967, 40953, 42187, 44097, 48401
82 38064
86 40953
97 39123
122 ....35572, 41817
123........35572, 41817, 46162
124 ....35572, 41817
125........35572
130........41817
131........39295
136 ....45811, 49794
140 ....38967, 44585
141 ....37617, 42974, 46251, 46928
142........37617, 42974, 46162
145........46162
152........45661
153........40170
156........45661
162........46162
174 ....37855, 43552
180........35921, 39705, 39709, 40170, 46415
194........36723
233........46162
247........45256
257........46162
258........46162
260........42193
261........36725, 38396, 38969, 42193, 43823
262........42193
263........42193
264 ....35124, 35126, 42193, 43142
265........35126, 42193, 43142
266 ....35126, 43142
268........38405
270 ....35126, 43142
271........42193, 42194, 42975, 43142, 43831, 44107, 46162, 46976
281 ....40954, 46162
300........34906, 35395, 36966, 37439, 38571, 38610, 39299, 40957, 41177, 41179, 42620, 43831, 46574, 47153, 47612, 48010
372........44107
403........46162
434........39300
450........35576
501........46162
721 ....42976, 42978

TITLE 40 *Proposed Rules:—Con.*

745..46162
763..46162

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6-10 (Subpart 101.6) Revised
....37733
Technical correction....................39560
101-11 (Subchapter B) Added; eff.
10-22-01..48358
101-46 Revised...............................48614

Chapter 102—Federal Management Regulations (Parts 102-1—102-99)

102-3 Added.....................................37733
Technical correction....................39560
102-39 Added...................................48614
102-117.90 Amended.........................48812
102-118.40 Amended.........................48812
102-118.95 Amended.........................48812
102-118.115 Amended.......................48812
102-118.175 Amended.......................48812
102-193 Added..................................48358
102-194 Added..................................48358
102-195 Added..................................48358

Chapter 301—Temporary Duty (TDY) Travel Allowances (Parts 301-1--301-99)

Chapter 301 Appendix A revised
....46070

Proposed Rules:

101-9..39473
102-192..39473
141..37617
142..37617
174..37855

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

Chapter I Nomenclature change	39452
8 Added	4090
Regulation at 66 FR 4090 eff. date delayed	15347
8.11 (d) revised	15347
36.201—36.237 (Subpart I) Removed	**58919**
57.501—57.514 (Subpart F) Removed	44983
57.701—57.712 (Subpart H) Removed	44983
57.801—57.803 (Subpart I) Removed	44983
57.1101—57.1112 (Subpart L) Removed	44983
57.1601—57.1610 (Subpart Q) Removed	44983
57.1701—57.1710 (Subpart R) Removed	44983
57.1801—57.1811 (Subpart S) Removed	44983
57.2101—57.2110 (Subpart V) Removed	44983
57.2401—57.2410 (Subpart Y) Removed	44983
57.2501—57.2510 (Subpart Z) Removed	44983
57.2801—57.2810 (Subpart CC) Removed	44983
57.2901—57.2910 (Subpart DD) Removed	44983
57.3001—57.3011 (Subpart EE) Removed	44983
57.3101—57.3112 (Subpart FF) Removed	44983
57.3801—57.3813 (Subpart MM) Removed	44983
57.4001—57.4010 (Subpart OO) Removed	44983
57.4101—57.4115 (Subpart PP) Removed	44984
58.201—58.215 (Subpart C) Removed	44984
58.221—58.234 (Subpart D) Removed	44984
63 Authority citation revised	**66512**
63.1 Revised	**66512**
63.2 Amended	**66513**
63.9 Revised	**66513**
63.10 Amended	**66513**
66 Authority citation revised	29499
66.101 Revised	29499
66.102 (d) and (g) revised	29499
66.103 (a) and (b) revised; (c) added	29500
66.104 (b)(5) revised	29500
66.105 (a), (b) introductory text and (c) revised	29500
66.106 (a)(2) introductory text revised	29500
66.110 Revised	29500
66.111 (a) introductory text, (b) introductory text and (c)(4) revised	29500
66.112 Amended; heading revised	29500
66.201 Revised	29500
66.205 (a)(1), (2) and (b) revised	29501
66.206 (a)(3) introductory text revised	29501
66.207 Amended	29501
72.6 (a)(5) and (c)(1) revised; eff. 1-1-02	45945
124 Authority citation revised	49266
124.503 (c)(1) amended	49266
124.508 (a) heading and introductory text revised	49266
124.509 (a) heading; (e) added	49266
124.510 (a) heading revised; (b) amended	49266
124.511 (a)(3) amended; (b)(1)(iii)(C) revised	49266
124.512 (b) introductory text and (c)(1) revised	49266
124.516 Revised	49267
124.517 Redesignated as 124.518; new 124.517 added	49268
124.518 Redesignated from 124.517	49268

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

Chapter IV Nomenclature change; heading revised	39452
400.200 Amended	39452
400.203 Amended	6402
Regulation at 66 FR 6402 effective date delayed	32776
Regulation at 66 FR 6402 eff. date delayed to 8-16-02	43090
402.1 (c) introductory text, (16), (29), (d)(2), (e)(1)(ii) and (vii)	

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 42 Chapter IV—Con.

revised; (c)(31), (32) and (33) added; eff. 10–29–01 49546
402.105 (a) revised; (d)(3), (4) and (g) added; eff. 10–29–01 49546
402.107 (b)(8) revised; eff. 10–29–01 49546
405.520 (c) revised; eff. 10–29–01 49547
405.2175 Added 33030
405.2468 (f)(6)(ii)(D) revised 39932
409 Authority citation revised **62646**
409.1 (e) revised **62646**
409.19 Removed **62646**
410 Technical correction 13020, 13021, **16607**
410.1 (a) revised **83148**
  Regulation at 65 FR 83130 confirmed 14861
410.64 Removed **62646**
410.68 (b) introductory text revised **65440**
410.140—410.146 (Subpart H) Added **83148**
  Regulation at 65 FR 83148 confirmed 14861
410.150 (b)(14) revised 39599
410.152 (k)(2) revised; interim 32192
411 Technical correction 3497, 8771
  Comment period extension 17813
411.1 (a) revised; eff. 1–4–02 952
411.15 (q) redesignated as (r); new (q) added 32778
  (p)(1), (2) introductory text, (i) and (3) introductory text revised 39600
  (p)(2)(i) corrected 48078
411.350 Revised; eff. 1–4–02 952
411.351 Revised; eff. 1–4–02 952
411.352 Added; eff. 1–4–02 956
411.353 Revised; eff. 1–4–02 958
411.354 Added; eff. 1–4–02 958
411.357 (k) through (p) added; eff. 1–4–02 961
412 Technical correction 13020, 13021
412.1 Revised; eff. 1–2–02 41385
412.2 (e)(4) revised 39933
  (f)(9) added; eff. 10–9–01 46924
412.20 (b) redesignated as (c); (a) and new (c) introductory text revised; new (b) added; eff. 1–2–02 41386
412.22 (a), (b), (e) introductory text and (h)(2) introductory text revised; eff. 1–2–02 41386
412.23 (i) added 39933
  Introductory text, (b) introductory text, (b)(2) introductory text, (8) and (9) revised; eff. 1–2–02 41386
412.25 (f) added 39933
  (a) introductory text and (e)(2) introductory text revised; eff. 1–2–02 41387
412.29 Introductory text revised; eff. 1–2–02 41387
412.63 (s) revised; interim 32192
  (t) and (u) revised 39933
412.77 Heading and (a)(1) revised; (a)(2) removed; (a)(3) and (4) redesignated as new (a)(2) and (3); interim 32192
412.80—412.86 (Subpart F) Heading revised; eff. 10–9–01 46924
412.80 Undesignated center heading and (a)(3) added; heading revised; eff. 10–9–01 46924
412.87 Undesignated center heading and section added; eff. 10–9–01 46924
412.88 Added; eff. 10–9–01 46924
412.92 (d)(1)(iv), (2)(i), (ii) and (iii) revised; interim 32193
  (b)(1)(iii)(A) amended; (c)(1) revised 39933
412.105 (d)(3)(v) revised; interim 32193
  (a)(1), (d)(3)(vi), (f)(1)(ii)(C), (iii) and (ix) revised; (d)(3)(vii) added; (f)(1)(v) and (vii) amended 39933
412.106 (c)(1)(i) through (iv), (d)(2)(ii)(A) through (D), (iii), (iv) and (e)(4) revised; interim 32193
  (e) heading and (5) revised 39934
412.108 (a)(1)(iii) introductory text and (b) revised; (a)(1)(iii)(C) added; (d)(3)(iii) amended; interim 32194
  (b) revised 39932
412.113 (c) amended 39934
412.116 (a) revised; eff. 1–2–02 41387
412.130 (a)(1), (2) and (b) revised; eff. 1–2–02 41387
412.230 (a)(5)(v) added; (e)(2) revised 39934
412.232 (d)(2) revised 39934
412.235 Added 39935
412.273 (b) and (c) redesignated as (c) and (d); new (b) added; Heading and new (c) revised 39935
412.274 (b) revised 39935

NOTE: Boldface page numbers indicate 2000 changes.

- 412.348 (g)(6) revised; (g)(9) added 39936
- 412.600—412.632 (Subpart P) Added; eff. 1–2–02 41388
- 413 Technical correction **59748**
  - Meeting **61112**
  - Technical correction 3497, 13020, 13021
  - Authority citation revised 39600, 39932, 41394
- 413.1 (d)(2)(ii) revised; (d)(2)(iv) and (v) added; eff. 1–2–02 41394
- 413.24 Regulation at 65 FR 18537 eff. date delayed **58919**
- 413.30 (a) introductory text, (2), (c) introductory text, (2) heading, (d), (e)(3) introductory text and (ii) corrected **60104**
- 413.40 (c)(4)(iii) introductory text, (A), (B)(*4*)(*i*) and (d)(2) revised; interim 32194
  - (a)(2)(i)(C) and (iii)(C) added; (a)(2)(ii) revised; eff. 1–2–02 41394
- 413.64 (h)(2)(i) revised; eff. 1–2–02 41394
- 413.65 Regulation at 65 FR 18538 eff. date delayed **58919**
  - (i)(2) correctly revised **58920**
  - (d)(7)(iii), (f)(3), (j)(3), (4) and (5) corrected 1599
- 413.70 (b)(2)(ii), (iii), (3)(ii)(B) and (3)(iii) revised; interim 32195
  - (a)(1)(iv), (3), (b)(4), (5) and (6) added; (a)(2), (b)(1) and (2)(i)(C) revised 39936
- 413.80 (h)(3) revised; (h)(4) added; interim 32195
- 413.85 (h) redesignated as 422.270; revised 3374
  - Regulation at 66 FR 3374 eff. date delayed 14342
- 413.86 (d)(4) revised; interim 32195
  - (g)(11)(i) introductory text and (ii) introductory text amended; (g)(11)(v)(C) revised 39932
  - (e)(4)(ii)(C)(*1*), (g)(4), (5) and (8) revised; (e)(5)(iv) removed; (g)(6) amended 39937
- 413.87 (c) introductory text, (1), (2) and (e) redesignated as (c)(1) introductory text, (i), (ii) and (f); new (c)(1), (d) introductory text, (3), new (f)(1) introductory text, (1) and (2) revised; (c)(2) and (e) added; interim 32195
- 413.114 (a), (c) heading and (d)(1) introductory text revised 39600
- 413.337 (e) added 39600
- 414 Technical correction 16607
- 414.22 (b)(5)(i) revised **65440**
- 414.63 Added **83153**
  - Regulation at 65 FR 83153 confirmed 14861
- 414.100—414.104 (Subpart C) Added 45176
- 416.42 (b) revised 4686
  - Regulation at 66 FR 4686 eff. date delayed 15352
  - Regulation at 66 FR 4686 delayed to 11–14–01 27598
- 419.41 (c)(4)(i) revised; interim **67829**
- 419.70 (f)(2)(ii) revised; interim **67829**
- 422 Authority citation revised 3376, 47413
- 422.156 (e)(1) correctly revised **59749**
  - (e)(1) correctly revised; CFR correction 13854
- 422.157 (c)(6) correctly added **59749**
- 422.204 (b)(2)(ii) revised; eff. 10–12–01 47413
- 422.270 Redesignated from 413.85 (h) 3374
  - Revised 3376
  - Regulations at 66 FR 3374 and 3376 eff. date delayed 14342
- 424 Comment period extension 17813
- 424.20 (a)(2) heading revised 39600
- 424.22 (e), (f) and (g) removed; eff. 1–4–02; (d) revised 962
  - Regulation at 66 FR 962 eff. date corrected to 4–6–01 8771
- 424.32 (a)(2) and (5) revised 39601
- 424.44 (d) added **83153**
  - Regulation at 65 FR 83153 confirmed 14861
- 424.57 Revised **60377**
- 430.5 Added 6402
  - Regulation at 66 FR 6402 eff. date delayed 11546, 32776
  - Regulation at 66 FR 6402 eff. date delayed to 8–16–02 43090
- 431.51 (a) introductory text, (b)(1) introductory text and (2) amended; (a)(4) and (5) revised; (a)(6) added 6403
  - Regulation at 66 FR 6403 eff. date delayed 11546, 32776
  - Regulation at 66 FR 6402 eff. date delayed to 8–16–02 43090

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 42 Chapter IV—Con.

431.55 (c)(1)(i) amended......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
431.200 Revised......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
431.201 Amended......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
431.220 (a) introductory text revised; (a)(1), (2) and (3) amended; (a)(5) added......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
431.244 (f) revised......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
431.636 Added......2666
  Regulation at 66 FR 2666 eff. date delayed......11547, 31178
431.865 (b) amended......2666
  Regulation at 66 FR 2666 eff. date delayed......11547, 31178
433 Authority citation revised......2666
433.10 (c)(4) added......2666
  Regulation at 66 FR 2666 eff. date delayed......11547, 31178
433.11 Added......2666
  Regulation at 66 FR 2666 eff. date delayed......11547, 31178
434.1 (a) revised......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.2 Amended......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.6 (a)(1) amended......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.20—434.38 (Subpart C) Removed......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.42 Removed......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.44 Removed......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.50—434.67 (Subpart E) Removed......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.70 Revised......6403
  Regulation at 66 FR 6403 eff. date delayed......11546, 32776
  Regulation at 66 FR 6403 eff. date delayed to 8–16–02......43090
434.71 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02......43090
434.72 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02......43090
434.73 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02......43090
434.74 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02......43090
434.75 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776
  Regulation at 66 FR 6404 eff. date delayed to 8–16–02......43090
434.80 Removed......6404
  Regulation at 66 FR 6404 eff. date delayed......11546, 32776

NOTE: **Boldface page numbers indicate 2000 changes.**

- Regulation at 66 FR 6404 eff. date delayed to 8-16-02 43090
- 435.4 Amended 2666
  - Regulation at 66 FR 2666 eff. date delayed............11547, 31178
- 435.212 Amended; heading and introductory text revised............6404
  - Regulation at 66 FR 6404 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6404 eff. date delayed to 8-16-02 43090
- 435.229 Added............2667
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
- 435.326 Revised 6404
  - Regulation at 66 FR 6404 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6404 eff. date delayed to 8-16-02 43090
- 435.910 (h) added 2667
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
- 435.1001 (a) revised............2667
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
- 435.1002 (c) added............2667
  - (a) amended 6404
  - Regulation at 66 FR 6404 eff. date delayed............11546, 32776
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
  - Regulation at 66 FR 6404 eff. date delayed to 8-16-02 43090
- 435.1007 (b) and (e) revised; (f) added 2321
  - (a) amended 2667
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
  - Regulation at 66 FR 2321 eff. date delayed 14343
- 435.1100—435.1102 (Subpart L) Added............2667
  - Regulation at 66 FR 2667 eff. date delayed............11547, 31178
  - Amended 33822
- 436.3 Amended 2668
  - Regulation at 66 FR 2668 eff. date delayed............11547, 31178
- 436.229 Added............2668
  - Regulation at 66 FR 2668 eff. date delayed............11547, 31178
- 436.1001 (a) revised............2668
  - Regulation at 66 FR 2668 eff. date delayed............11547, 31178
- 436.1002 (c) added............2669
  - Regulation at 66 FR 2669 eff. date delayed............11547, 31178
- 436.1100—436.1102 (Subpart L) Added............2669
  - Regulation at 66 FR 2669 eff. date delayed............11547, 31178
  - Amended 33822
- 438 Added 6404
  - Regulation at 66 FR 6404 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6404 eff. date delayed to 8-16-02 43090
- 440.168 Added............6426
  - Regulation at 66 FR 6426 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6426 eff. date delayed to 8-16-02 43090
- 440.180 (c) heading and (1) heading revised 60107
- 441 Clarification 28116
- 441.151 Revised; interim 7160
  - Regulation at 66 FR 7160 eff. date delayed 15800
- 441.301 (a)(2) revised............60107
- 441.302 (c)(1)(i) amended; (d) introductory text revised; (i)(2) removed; (i)(3) redesignated as (i)(2)
- 441.307 (a) revised 60107
- 441.310 (a)(3) and (b) revised 60107
- 447.46 Added 6426
  - Regulation at 66 FR 6426 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6426 eff. date delayed to 8-16-02 43090
- 447.53 (b) introductory text amended; (b)(6) removed; (e) added 6426
  - Regulation at 66 FR 6426 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6426 eff. date delayed to 8-16-02 43090
- 447.58 Amended 6426
  - Regulation at 66 FR 6426 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6426 eff. date delayed to 8-16-02 43090
- 447.60 Added 6426
  - Regulation at 66 FR 6426 eff. date delayed............11546, 32776
  - Regulation at 66 FR 6426 eff. date delayed to 8-16-02 43090
- 447.272 Revised 3175
  - (e)(2)(ii)(A) revised; (e)(2)(ii)(D) added; eff. 11-5-01 46399
- 447.304 (c) and note revised............3176

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 42 Chapter IV—Con.

447.321 Revised....3176
(e)(2)(ii)(A) revised; (e)(2)(ii)(D) added; eff. 11-5-01....46399
447.361 Removed....6426
Regulation at 66 FR 6426 eff. date delayed....11546, 32776
Regulation at 66 FR 6426 eff. date delayed to 8-16-02....43090
457.1—457.170 (Subpart A) Added....2670
Regulation at 66 FR 2670 eff. date delayed....11547, 31178
457.60 Regulation at 66 FR 2671 delayed; (b)(2) revised; (b)(7) and (8) amended; interim....33822
457.203 Added....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.204 (d)(2) revised....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.208 (a) revised....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.234 Removed....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.300—457.380 (Subpart C) Added....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.301 Regulation at 66 FR 2675 delayed; amended; interim....33823
457.320 Regulation at 66 FR 2676 delayed; (b)(4) revised; interim....33823
457.340 Regulation at 66 FR 2676 delayed; (b) through (e) redesignated as (c) through (f); new (b) added; interim....33823
457.350 Regulation at 66 FR 2677 delayed; (e)(4) and (g)(3) added; (f)(5)(iii) removed....33823
457.355 Regulation at 66 FR 2678 delayed; introductory text and (a) redesignated as (a) and (b); new (a) heading added; new (b) revised; interim....33823
457.401—457.495 (Subpart D) Added....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.450 Regulation at 66 FR 2680 delayed; revised; interim....33823
457.495 Regulation at 66 FR 2680 delayed; (d) revised; interim....33824
457.500—457.570 (Subpart E) Added....2674
Regulation at 66 FR 2674 eff. date delayed....11547, 31178
457.505 Regulation at 66 FR 2681 delayed; (d)(1), (3) and (e) revised; interim....33824
457.540 Regulation at 66 FR 2682 delayed; (f) amended; interim....33824
457.560 Regulation at 66 FR 2682 delayed; (a) and (b) removed; amended....33824
457.624 Removed....2683
Regulation at 66 FR 2683 eff. date delayed....11547, 31178
457.700—457.750 (Subpart G) Added....2683
Regulation at 66 FR 2683 eff. date delayed....11547, 31178
457.750 Regulation at 66 FR 2684 delayed; (b)(7) removed; new (b)(8) redesignated as new (b)(7); interim....33824
457.800—457.810 (Subpart H) Added....2683
Regulation at 66 FR 2683 eff. date delayed....11547, 31178
457.900—457.985 (Subpart I) Added....2683
Regulation at 66 FR 2683 eff. date delayed....11547, 31178
457.940 Regulation at 66 FR 2685 delayed; (b)(1) and (d) amended; interim....33824
457.980 Regulation at 66 FR 2686 delayed; (a) and (b) designation removed; interim....33824
457.1000—457.1015 (Subpart J) Added....2683
Regulation at 66 FR 2683 eff. date delayed....11547, 31178
457.1000 Regulation at 66 FR 2686 delayed; (a)(1) and (2) amended; interim....33824
457.1005 Regulation at 66 FR 2687 delayed; heading amended; interim....33824
457.1010 Regulation at 66 FR 2687 delayed; heading amended; interim....33824
457.1100—457.1190 (Subpart K) Added....2683

NOTE: **Boldface page numbers indicate 2000 changes.**

Regulation at 66 FR 2683 eff. date delayed ... 11547, 31178
457.1120 Regulation at 66 FR 2687 delayed; revised; interim ... 33824
457.1130 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1140 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1150 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1160 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1170 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1180 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
457.1190 Regulation at 66 FR 2688 delayed; amended; interim ... 33824
460.111 (d) added ... **83154**
Regulation at 65 FR 83154 confirmed ... 14861
482.52 (a) revised ... 4686
Regulation at 66 FR 4686 eff. date delayed ... 15352
Regulation at 66 FR 4686 delayed to 11-14-01 ... 27598
483.350—483.376 (Subpart G) Added; interim ... 7161
Regulation at 66 FR 7161 eff. date delayed ... 15800
483.352 Amended; interim ... 28116
483.358 (a), (c), (d), (f) introductory text, (g)(1), (3) and (j) revised; (b) amended; interim ... 28116
483.360 Introductory text revised; interim ... 28117
483.362 (b) and (c) revised; interim ... 28117
483.364 (c) and (d) revised; interim ... 28117
483.374 (c) added; interim ... 28117
484.14 (g) amended ... 32778
484.36 (d)(3) amended ... 32778
484.52 (b) amended ... 32778
485 Technical correction ... 13020, 13021
485.610 (a)(2)(ii) and (b) revised; (c) added ... 39938
485.612 Revised; interim ... 32196
485.639 (c) revised ... 4687
Regulation at 66 FR 4687 eff. date delayed ... 15352
Regulation at 66 FR 4687 delayed to 11-14-01 ... 27598
(b) revised ... 39938
485.643 (f) revised ... 39938
486.302 Amended ... 39938
489 Technical correction ... **59748**
Meeting ... **61112**
Technical correction ... 3497
489.20 (s) introductory text revised ... 39601
489.21 (g) removed ... **62646**
(h) revised ... 39601
489.24 Regulation at 65 FR 18548 eff. date delayed ... **58919**
(i) corrected ... 1599
493.1202 Heading amended ... **82944**
493.1203 Heading amended ... **82944**
493.1443 (b)(3)(ii) introductory text and (C) amended ... **82944**
498 Meeting ... **61112**
498.2 Regulation at 65 FR 18549 eff. date delayed ... **58919**
Amended ... **83154**
Regulation at 65 FR 83154 confirmed ... 14861
498.3 Regulation at 65 FR 18549 eff. date delayed ... **58919**
(b)(11) removed ... **62646**

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

Chapter V Nomenclature change ... 39452
1000.10 Amended ... 39452
1003.101 Amended ... 39452

Proposed Rules:

36 ... **75906**
... 10182, 11100, 12747, 15063, 17657, 27620
94 ... **70830, 82972**
100 ... 36735
124 ... **62976**
400 ... 43614
405 ... 22646, 40372
410 ... **62681**
... 23984, 40372
411 ... 23984, 40372
412 ... **66304, 81813**
... 22646
413 ... **66304, 81813**
... 3377, 22646, 23984, 44672
414 ... 40372
415 ... 40372
416 ... 35395, 44585
419 ... 44672
422 ... **81813**
... 7593

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 42 *Proposed Rules:—Con.*

424 23984
430 43614
431 .... 43614, 46763
434 43614
435 .... **64919**
.... 43614
438 43614
440 43614
447 .... **60151**
.... 17657, 43614
482 .... **69416**
.... 23984, 35395, 44585
485 .... 22646, 35395, 44585
486 22646
489 .... 7593, 23984, 44672
1001 .... **63035, 78124**
1003 .... **63035**
1005 .... **63035**
1008 .... **63035**

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4 Cross reference corrected 33740
4.200—4.357 (Subpart D) Authority citation revised; amended 32888
4.201 Revised; interim 32888
Corrected 33740
4.202 Revised; interim 32888
Corrected 33740
4.210 Revised; interim 32889
4.234 Amended; interim 32889
4.241 Revised; interim 32889
4.243 Added; interim 32889
4.250 (b) through (g) redesignated as (c) through (h); (a) revised; (b) added; interim 32889
4.251 Revised; interim 32889
(a), (b)(4) and (d) corrected 33740
4.270 Revised; interim 32890
Corrected 33740
4.271 Removed; new 4.271 redesignated from 4.272; interim 32890
4.272 Redesignated as 4.271; new 4.272 redesignated from 4.273; interim 32890
4.273 Redesignated as 4.272; new 4.273 redesignated from 4.274; revised; interim 32890
(b) corrected 33740
4.274 Redesignated as 4.273; interim 32890
4.320 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; interim 32890
(a) corrected 33741

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

1821.10 (a) revised 28672
2091.2–2 (b) removed **70112**
2091.3–2 (c) removed; (d) redesignated as new (c) **70112**
2201.1–2 (d) removed; (e) redesignated as new (d) **70112**
2711.5–1 Removed **70112**
2741.7 (d) removed **70112**
3000 Undesignated center heading and note removed; authority citation revised 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3100 Undesignated center heading and note removed; authority citation revised 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3106.7–2 Revised 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3106.7–6 Added 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3108.1 Revised 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3130 Authority citation revised 1892
3130.3 Amended 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3160 Authority citation revised 1892
3160.0–5 Amended 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3162.2 Heading revised; (a) removed; (b) and (c) amended and redesignated as 3162.2–1 (a) and (b) 1892
Regulation at 66 FR 1892 eff. date delayed 9527
Regulation at 66 FR 1892 and 9527 eff. date delayed in part 18569

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

Regulation at 66 FR 1892 corrected 24073
Regulation at 66 FR 1892 eff. date delayed to 11-6-02 41149
3162.2-1 Added; (a) and (b) redesignated from 316.2 (b) and (c) 1892
Regulation at 66 FR 1892 eff. date delayed 9527
3162.2-2 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-3 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-4 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-5 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-6 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-7 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
Regulation at 66 FR 1893 and 9527 eff. date delayed 18569
Regulation at 66 FR 1892 eff. date delayed to 11-6-02 41149
3162.2-8 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-9 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-10 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-11 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-12 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-13 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-14 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3162.2-15 Added 1893
Regulation at 66 FR 1893 eff. date delayed 9527
3165.3 (a) amended; (e)(4) added 1894
Regulation at 66 FR 1894 eff. date delayed 9527
3165.4 (e)(4) added 1894
Regulation at 66 FR 1894 eff. date delayed 9527
3261.18 (a) introductory text revised 27040
3809 Revised **70112**
3809.505 Revised 32575
6300 Added **78372**
8560 Removed **78376**
9263 Added **70132**

Proposed Rules:

2 36966
4 ....**60602**
17 ....**76460**
2090 16162
2200 16162
2710 16162
2740 16162
3000 ....**78440**
....10000, 19413
3100 ....**78440**
....10000, 19413
3195 ....**79325**
3196 ....**79325**
3200 ....**78440**
....10000, 19413
3400 ....**78440**
....10000, 19413
3500 ....**78440**
....10000, 19413
3600 ....**78440**
....10000, 19413
3800 ....**78440**
....10000, 16162, 19413
9260 16162

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

59.1 Amended **60769**
61.10 Removed **60769**
61.17 Revised **60769**
61 Appendix A(1) revised **60769**
Appendix A(2) revised **60778**
Appendix A(3) revised **60785**
Appendices A(4) and A(5) revised **60793**

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 44 Chapter I—Con.

62 Appendix B amended 40917

64.6 Table amended ...**61279, 61281, 75632, 78109**

  Table amended..........2826, 10586, 15640, 19096, 22937, 31179, 36948, 43092

65.2 (c) added 22442

65.4 Flood elevation determinations **64373, 64375, 64379, 66182, 68920, 71258, 71261**

  Flood elevation determinations....1600, 10589, 10591, 10593, 13240, 13264, 21099, 21103, 24281, 24282, 31181, 31183, 33891, 39105, 39108, 43094, 43096, 44984, 49548, 49549

65.5 Revised 22442

65.6 (a)(14) and (15) added 22442

67.11 Flood elevation determinations **64381, 64386, 71263, 80362, 80365**

  Flood elevation determinations............10596, 24284, 33893, 39112, 42147, 49553

70.4 Revised 33900

152 Added..15972

206.203 (d)(2)(iii) and (iv) redesignated as (d)(2)(iv) and (v); (d)(2)(ii) revised; new (d)(2)(iii) added; interim 22444

206.221 (e)(3) through (6) redesignated as (e)(4) through (7); new (e)(3) added; interim 22445

206.224 (a) revised.............................33901

203.226 (b) through (i) redesignated as (c) through (j); new (b) added; interim.......................22445

206.361 (b) revised.............................22445

206.363 (b)(1) revised..........................22445

209 Revised 32669

209.2 Corrected.....................................49554

209.7 (d) correctly redesignated as (b) 49554

209.8 (c)(8)(ii) and (9)(xiii) corrected; second (c)(9) correctly designated as (c)(10) 49554

295 (Subchapter E) Revised 15959

354 Revised 32577

Proposed Rules:

7 ....**76460**

59 ....**32293**

62..**23200**, 23874

64 32293

65...**60159**

67 ....**64403, 66203, 68960, 71284, 75908**

..... 1618, 10653, 18426, 21112, 24315, 33933, 33936, 39123, 41182, 41186, 49579

204..39715

206..**58720**

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

Subtitle A Nomenclature change 39452

46 Authority citation revised............3882

46.201—46.207 (Subpart B) Revised 3882

  Regulation at 66 FR 3882 eff. date delayed 15352

  Regulation at 66 FR 3882 delayed to 11–14–01 27599

61.3 Amended.......................................**70507**

96.122 (d) and (f)(6) revised; (g)(21) removed; (g)(22) and (23) redesignated as new (g)(21) and (22); interim 46226

96.123 (a)(5) revised; interim 46227

96.130 (e) introductory text revised; interim 46227

146 Authority citation revised 1412

146.121 Revised; interim 1412

  (i)(1), (3)(ii)(A) introductory text and (C) Example 2 amended; interim 14078

146.125 Heading and (a)(1) revised; (a)(2) amended; interim...1420

160 Technical correction.......**70507, 82944**

  Revised..**82798**

  Regulation at 65 FR 82798 eff. date delayed 12434

  Comment request 12738

162 Technical correction....................**70507**

164 Added..**82802**

  Technical correction......................**82944**

  Regulation at 65 FR 82802 eff. date delayed 12434

  Comment request 12738

164.500—164.534 (Subpart E) Authority citation revised 12434

164.534 Revised 12434

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

Chapter II—Office of Family Assistance (Assistance Programs), Administration for Children and Families, Department of Health and Human Services (Parts 200—299)

Chapter II Nomenclature change	39452
270.4 (d)(1)(i) and (2)(ii) amended	**75634**
(e) revised; interim (OMB number pending)	23859
276 Removed	**75634**

Chapter III—Office of Child Support Enforcement (Child Support Enforcement Program), Administration for Children and Families, Department of Health and Human Services (Parts 300—399)

Chapter III Nomenclature change	39452
302 Authority citation revised	**82208**
302.55 Amended	**82208**
303.32 Added	**82165**
Regulation at 65 FR 82165 eff. date delayed	8074
303.35 Added	**82208**
304.12 (d) and (e) added	**82208**
305 Added	**82208**
308 Added	77750
310 Open consultations	63801

Chapter VI—National Science Foundation (Parts 600—699)

670.20 Revised	46739
670.25 Amended	46740
670.29 Amended	46740
672 Heading revised	42451
672.3 (h) removed; (i) redesignated as new (h)	42451
673 Added	42451
673.1 OMB number	42451

Chapter X—Office of Community Services, Administration for Children and Families, Department of Health and Human Services (Parts 1000—1099)

1000 Revised	48972

Chapter XI—National Foundation on the Arts and the Humanities (Parts 1100—1199)

1180—1199 (Subchapter E) Nomenclature change	47096
1180.2 Amended	47096
1180.4 Amended	47096
1180.16 (a) amended	47096
1180.20 (d) amended	47096
1180.20 (d) and (g)(2) amended	47096
1180.78 (e)(1) amended	47096

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1310 Added; eff. 1-18-02	5311
1310.2 (c) added	5311
1310.11 Added; eff. 1-20-04	5312
1310.12 (a) added; eff. 1-18-06; (b) added	5312
1310.15 (c) added; eff. 1-20-04	5313
1310.22 (a) added; eff. 1-18-06	5314
1355.20 Corrected	**70507**

Chapter XVI—Legal Services Corporation (Parts 1600—1699)

1611 Appendix A revised	16013, 17082
1628 Revised	**66642**

Chapter XVIII—Harry S. Truman Scholarship Foundation (Parts 1800—1899)

1801 Revised	**81405**

Chapter XXV—Corporation for National and Community Service (Parts 2500—2599)

2525.20 Amended	**77821**
Regulation at 65 FR 77821 eff. date delayed	9773

Proposed Rules:

46	35576
74	**68969**
80	**64194**
84	**64194**
86	**64194**
90	**64194**
91	**64194**
92	**68969**
146	1421

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 45 *Proposed Rules:—Con.*

309	**63836**
605	**76460**
611	**76460**
617	**76460**
1110	**76460**
1151	**76460**
1156	**76460**
1170	**76460**
1203	**76460**
1232	**76460**
1600—1699 (Ch. XVI)	**70540**
1611	46976
1626	46977

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised	31844
1.01-10 (b)(1) introductory text, (1)(ii)(A) and (D) amended; (b)(1)(iii) redesignated as (b)(1)(iv); new (b)(1)(iii) added	48619
1.03-15 (a) revised; (h)(5) added	31844
Regulation at 66 FR 31844 confirmed	44985
1.03-50 Added	31844
Regulation at 66 FR 31844 confirmed	44985
4 Policy statement	41955
4.06-1 (f) removed	42967
4.06-20 (b) amended	42967
4.06-40 (b) amended	42967
4.06-50 (b) amended	42967
5 Policy statement	41955
5.569 Table amended	42967
10 Policy statement	9673
Technical correction	24183
10.103 Amended; interim	20935
10.112 (b) amended	48619
10.201 Regulation at 65 FR 63225 eff. date delayed	**64388**
10.203 Regulation at 65 FR 63225 eff. date delayed	**64388**
10.205 Regulation at 65 FR 63225 eff. date delayed	**64388**
(g)(3) revised; interim	20935
10.209 Regulation at 65 FR 63225 eff. date delayed	**64388**
(c)(6) revised; (c)(7) removed; interim	20935
10.210 Added; interim	20935
10.223 (d) added; interim	20936
10.304 Regulation at 65 FR 63225 eff. date delayed	**64388**
(h)(5), (6) and (7) amended; interim	20936
10.403 Regulation at 65 FR 63227 eff. date delayed	**64388**
10.412 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a) amended; interim	20936
10.414 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a) amended; interim	20936
10.418 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.420 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.424 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.426 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.442 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.444 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.446 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.452 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.462 Regulation at 65 FR 63228 eff. date delayed	**64388**
10.463 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; new (c) and (d) revised; interim	20936
10.464 Regulation at 65 FR 63228 eff. date delayed	**64388**
(a), (b), (d) and (g) revised; (h) added; interim	20937
10.465 Regulation at 65 FR 63232 eff. date delayed	**64388**
(b) removed; (c) through (g) redesignated as (b) through (f); (a) and new (e) revised; interim	20940
10.466 Regulation at 65 FR 63234 eff. date delayed	**64388**
(a) revised; interim	20942
10.482 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.701 Regulation at 65 FR 63235 eff. date delayed	**64388**
10.703 Regulation at 65 FR 63235 eff. date delayed	**64388**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

10.901 Regulation at 65 FR 63235 eff. date delayed **64388**
10.903 (a)(18)(iii) added; (c)(7) removed; (c)(8) through (19) redesignated as (c)(7) through (18); interim 20944
10.910 Regulation at 65 FR 63235 eff. date delayed **64388**
  Table amended 48619
12.02–13 (c) amended 48619
15 Policy statement 9673
  Technical correction 24183
15.301 Regulation at 65 FR 63235 eff. date delayed **64388**
15.610 Regulation at 65 FR 63235 eff. date delayed **64388**
  Revised; interim 20944
15.705 Regulation at 65 FR 63235 eff. date delayed **64388**
15.805 Regulation at 65 FR 63235 eff. date delayed **64388**
  (a)(5) revised; interim 20944
15.810 Regulation at 65 FR 63235 eff. date delayed **64388**
  (d) revised; interim 20944
15.910 Revised; interim 20944
15.915 Regulation at 65 FR 63235 eff. date delayed **64388**
16 Policy statement 41955
16.105 Amended 42967
16.107 Added 42967
16.109 Added 42968
16.113 Added 42968
16.115 Added 42968
16.201 (a), (c) and (e) revised; (f) added 42968
16.203 Added 42968
16.207 Removed 42968
16.260 (a) revised 42968
16.301—16.370 (Subpart C) Removed 42968
28.225 (a)(1) amended 48619
28.275 (a) amended 48619
30.01–6 (a)(2)(iii) added 48619
30.25–1 Table revised **67157**
32.53–5 Revised 48619
35.20–1 (a) and (c) amended 48619
67 Policy statement 9673
67.11 (c) added **76575**
67.21 (d) revised; (e) and (f) added **76575**
67.31 (b) and (c) revised; (d) added **76575**
67.35 Introductory text and (b) revised **76575**
67.36 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised **76576**
67.37 Revised **76576**
67.39 (a) introductory text, (b) introductory text, (c) introductory text and (b)(2) revised **76576**
67.45 Removed **76576**
67.107 (b) amended 48620
67.141 (b) revised; (c) added **76576**
67.142 Added **76576**
67.233 (b) revised **76576**
67.350—67.352 (Subpart V) Added **76576**
78.05–1 (a) and (c) amended 48620
78.10–1 Amended 48620
97.05–1 (a) and (c) amended 48620
97.10–5 Amended 48620
110.10–1 (b) amended 29910
111.60–1 (a), (b) and (c) introductory text revised 29911
111.60–3 (a) and (c) revised 29911
131.910 Amended 48620
150 Table I revised **67163**
  Table II amended **67180**
  Appendix I amended **67182**
151.05 Table revised **67184**
151.05–1 (f) removed; (g) through (r) redesignated as (f) through (q) **67183**
151.12–5 Amended **67196**
153 Table I revised **67196**
  Table II amended **67213**
161.010–1 (a) amended 48620
161.010–4 (a) and (b) amended 48620
162.017–3 (b), (c) and (o) amended 48620
162.017–5 (a) amended 48620
162.017–6 (a) and (c) amended 48620
162.018–6 (a) amended 48620
162.018–7 (a) amended 48620
162.018–8 (a), (b) and (c) amended 48621
162.050–7 (a), (f) and (g) amended 48621
162.050–13 (b) amended 48621
162.050–15 (a), (e) and (h) amended 48621
167.65–45 (a) and (c) amended 48621
182.455 (c) amended 48621
196.05–1 (a) and (c) amended 48621
199.620 (a) table amended; (m) removed 48621

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 46

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

205 Revised	23861
207 Removed	**77523**
310.7 (b)(6) revised	36176
356.2 Added; interim	45947

Chapter III—Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400—499)

401 Authority citation revised	36489
401.110 (a)(9) amended	48621
401.405 (a) and (b) revised	36489
401.407 (a) and (b) revised	36489
401.410 (a) and (b) revised	36490
401.420 (a), (b), (c)(1) and (3) amended	36490
401.428 Amended	36490

Chapter IV—Federal Maritime Commission (Parts 500—599)

Chapter IV Proceeding discontinued	37419
501 Revised	**81749**
502 Authority citation revised	**81759**
	43512
502.44 (c) revised	**81759**
502.61 (d) revised	43512
502.62 (e) through (h) redesignated as (f) through (i); new (e) added	43513
502.68 (b) amended	**81759**
502.91 (d) revised; (e) and (f) added	43513
502.94 (c) revised	43513
502.271 (f)(1) revised	**81759**
502.301 (b) revised	**81759**
(b) revised	43513
502.401—502.411 (Subpart U) Revised	43513

Proposed Rules:

4	**65808**
	21492, 21502, 36530
5	21492, 21502
16	21492, 21502
25	**66949, 82303**
	11241, 36223
27	**66950, 82303**
	11241, 36223
66	2385
67	21903, 34603, 47431
68	47431
110	1283
111	1283
140	16643, 26824
141	26824
142	26824
143	26824
144	26824
145	26824
146	16643, 26824
205	**69279**
221	40664
502	27921
520	37442

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

Chapter I Policy statement	**80367**
Order	10965
0.408 Revised (OMB numbers)	48973
0.457 (d)(1)(iv) revised	16879
0.458 Revised	**66185**
0.467 (a)(1) amended; (a)(2) revised	42453
0.701 (Subpart G) Added	8091
1 Technical correction	6483
Actions on petitions	29722
1.42 (c) added; eff. 12–3–01	47895
1.77 Introductory text amended; eff. 12–3–01	47895
1.80 (b)(1), (2), (3) and (5)(iii) revised; (b)(4) amended	**60868**
1.221 (f) redesignated as (f)(1); (f)(2) added; eff. 12–3–01	47895
1.420 (g)(3) Note 1 and (h) Note 2 redesignated as (g) Note 1 and (h) Note 1	**79776**
1.719 Regulation at 65 FR 47690; effective date confirmed in part	**66934**
1.721 (a) introductory text, (8) and (13) revised; (e) redesignated as (f); new (e) added; (OMB numbers pending)	16616
OMB number	35387
(a)(13) and (14) amended; (a)(15) added; eff. 12–3–01	47895
1.722 Revised; (OMB numbers pending)	16616
OMB number	35387
1.724 (b) and (d) revised; (OMB numbers pending)	16617

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

OMB number 35387
1.726 (a) revised; (OMB numbers pending) 16617
OMB number 35387
1.735 (g) added; (OMB numbers pending) 16617
OMB number 35387
1.913 (g) added 55
1.934 (d)(2) and (3) amended; (d)(4) added; eff. 12–3–01 47895
1.1117 (c) revised 36202
1.1152 Revised 36202
1.1153 Revised 36204
1.1154 Revised 36205
1.1155 Revised 36205
1.1156 Revised 36205
1.1166 (d) revised **78989**
(a) revised 36206
1.1206 (a) Note 1 revised 3501
Regulation at 66 FR 3501 eff. date confirmed; OMB number 32580
1.1307 (b)(1) Table 1 amended **59354**
(b)(1) Table 1 amended 10613
1.1402 (m) revised 34580
1.1409 (e)(4) removed; (e)(1), (2) and (3) revised; (f) amended 34580
1.1417 (a), (b), (c) and (d) introductory text revised 34581
1.1418 Revised 34581
1.2110 (c) revised **68924**
1.2112 (a)(6) correctly revised **70807**
1.4000 (Subpart S) Revised (OMB number pending) 2333
OMB number 28841
1.8001—1.8004 (Subpart W) Added; eff. 12–3–01 47895
2 Actions on petitions 29722, 47591
2.1 (c) amended **60109**
2.106 Table amended **59356, 60110, 60872, 69456**
Table amended 7405, 9218, 10614, 11114, 15642, 26798
2.962 (g)(4) revised 27601
2.1300—2.1302 (Subpart L) Removed 7580
13.9 (d)(2) revised 20752
13.13 (d)(2) revised 20752
15 Authority citation revised **64391**
Actions on petitions 31556
15.3 (aa) amended (effective date pending) **64391**
(v) revised 32582
15.19 (d)(1) through (4) added (effective date pending) **64391**
15.107 (e) introductory text revised; (e)(3) added 19098
15.109 (g) introductory text revised 19098
15.118 (a) amended (effective date pending) **64391**
15.121 (b) and (f) revised 32582
15.214 (b) revised 7580
15.255 Heading revised, (b) introductory text, (4), (c)(1), (d), (d) note, (e)(2) and (i) introductory text; (b)(2) amended 7409
19.735–203 (d) added; note amended **66185**
20 Actions on petitions **60112, 78990**
Technical correction **62646**
Actions on petitions 22445
20.9 (a)(6) through (9) revised 10968
20.15 (c) and (d) revised 16879
20.18 (g)(1), (2) and (i) revised **58661**
(c) note revised **82295**
21.20 (b)(9) and (10) amended; (b)(11) added; eff. 12–3–01 47896
21.912 Notes 1 and 2 amended 9971
22 Actions on petitions 15041
24 Actions on petitions 9773
24.129 Revised 29920
24.130 Removed 29920
24.133 (a) introductory text revised 10968
24.709 (b)(5)(i)(D) and (ii) revised **68931**
25 Authority citation revised **59142**
Order **59749**
25.114 (c)(6)(iii) and (21) revised **59142**
25.115 (d) revised **59142**
(c) existing text redesignated as (c)(1); (c)(2) added 31559
25.120 (a) amended 9973
25.121 (a) revised **59142**
25.133 (b) revised **59142**
25.134 Heading revised; (a) existing text redesignated as (a)(1); new (a)(1) heading, (2) and (b) heading added 31560
25.136 Revised **59142**
25.137 (d) added **59143**
25.143 (a), (b)(1), (2), (e)(1) introductory text, (iii) and (f)(1) revised; (e)(3) added **59143**
25.146 Added 10619
25.201 Amended **59143**
Amended 10621
25.202 (a)(4) revised **59144**

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 47 Chapter I—Con.

(a)(1) revised	10622
25.203 (c) introductory text revised	**59144**
(b), (c) and (d) revised	10622
25.204 (f) revised	10623
25.208 (b) revised; (g) through (m) added	10623
25.209 (a) introductory text revised; (h) added	10630
25.212 Heading revised	10630
25.251 Revised	10630
25.271 (e) added	10631
25.279 (a) revised	**59144**
27 Actions on petitions	9035
27.6 (b)(1) and (2) corrected	**60113**
27.501 Undesignated text designated as (a); (b) added	10377
(b) introductory text correctly added	21287
32 Reporting and recordkeeping requirements	**58661**
36 Order	**81759**
36.3 Added (OMB number pending)	33204
OMB number	35107
36.123 (a)(5) and (6) added	33205
36.124 (c) and (d) added	33205
36.125 (h), (i) and (j) added	33205
36.126 (b)(5), (c)(4), (e)(4), (f)(1)(ii) and (2) added	33205
36.141 (c) added	33206
36.142 (c) added	33206
36.152 (d) added	33206
36.154 (g) added	33206
36.155 (b) added	33206
36.156 (c) added	33206
36.157 (b) added	33206
36.191 (d) added	33206
36.212 (c) amended	33206
36.214 (a) amended	33206
36.372 Amended	33207
36.374 (b) revised; (c) and (d) added	33207
36.375 (b)(5) and (6) added	33207
36.377 (a) introductory text revised; (a)(1)(ix), (2)(vii), (3)(vii), (4)(vii), (5)(vii), (6)(vii), (7)(i) and (ii) added	33207
36.378 (b)(1) added	33208
36.379 (b)(1) and (2) added	33208
36.380 (d) and (e) added	33208
36.381 (c) and (d) added	33208
36.382 Revised	33208
36.601 (c) amended	**78992**
(c) amended	30085
36.602 Added	30085
36.603 Added	30085
36.604 Added	30085
36.605 Added (OMB number pending)	30085
OMB number	34581
36.611 Introductory text revised (OMB number pending)	30086
OMB number	34581
36.612 (a) introductory text revised	30086
36.621 (a)(4) introductory text and (ii) amended; (a)(4)(i), (ii)(A), (B) and (C) revised; (a)(4)(ii)(D) added	30086
36.622 (a) introductory text amended	30087
42.10 (a) revised	16879
42.11 (a) revised	16879
43.51 Revised	16879
51 Actions on petitions	2335, 9035
51.5 Amended	43521
51.321 (h) revised	43521
51.323 (b), (c), (e), (f) introductory text, (h), (i) introductory text and (k)(2) revised; (f)(7), (i)(4)(i) through (v), (5) and (6)(i) through (iv) added	43521
51.701—51.717 (Subpart H) Heading revised	26806
51.701 (a), (c), (d) and (e) amended; (b) revised	26806
51.703 Amended	26806
51.705 Amended	26806
51.707 Amended	26806
51.709 Amended	26806
51.711 Amended	26806
51.713 Amended	26806
51.715 Amended	26806
51.717 Amended	26806
51.807 (f)(3) revised	8520
52 Actions on petitions	9674
52.15 (f)(1)(vi), (3)(ii) and (g)(3)(iv) revised; (g)(4), (h) and (k) added; (OMB numbers pending)	9531
OMB number	11236
52.16 (a) revised	9532
52.20 (c) revised	9532
52.111 Added	47591
53 Order	36206
54 Order	**81759**
Actions on petitions	16144
OMB approval notice	19098
54.5 Amended	30087

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

54.305 Existing text designated as (a); (b) through (f) added (OMB number pending) 30087
OMB number 34581
54.307 (a)(1) revised; (b) and (c) introductory text amended (OMB number pending) 30087
OMB number 34581
54.311 (d) added....**78992**
54.313 (b) and (c) redesignated as (c) and (d); heading and new (c) revised; new (b) added; new (d) amended (OMB number pending) 30088
OMB number 34581
54.314 Added (OMB number pending)....30088
OMB number 34581
54.315 Added (OMB number pending)....30089
OMB number 34581
54.400 (e) note added **58663**
54.507 (d) revised; (OMB number pending) 38378
OMB number 41149
54.520 Added....19396
(c)(2)(iii)(A), (B), (C), (3)(i), (ii) and (f) corrected....22133
54.707 Correctly added; CFR correction....30334
54.709 (a)(3) amended....16151
54.711 (a) amended 16151
61.1 (b) revised; eff. 12-3-01....47896
61.3 (y) revised....16881
61.15 (a)(3) amended; (a)(4) added; eff. 12-3-01 47896
61.19 Revised....16881
61.21 (a)(3) added; eff. 12-3-01 47896
61.26 Added 27900
61.28 Revised....16881
61.33 (a)(3) and (4) amended; (a)(5) added; eff. 12-3-01 47896
61.62 (c) corrected 28774
61.74 (d) removed; (e) and (f) redesignated as (d) and (e)....16881
63 Policy statement....41801
63.09 (g) added **60116**
63.10 (c)(1) removed; (c)(2) through (6) redesignated as (c)(1) through (5)....16881
63.11 Revised (effective date pending)....**60116**
Regulation at 65 FR 60116 confirmed **67651**
63.14 (c) revised....16881
63.17 (b)(3) revised....16881
63.18 (e)(3) amended **60117**
63.21 (b) and (c) revised....16881
64 Reporting and recordkeeping requirements....**58661**
Actions on petitions 9674
Technical correction....30334
64.702 (e) revised 19402
64.1001 (b) revised....16882
64.1100 (h) added....12892
64.1110 Regulation at 65 FR 47691; effective date confirmed in part....**66934**
64.1120 (c)(1) and (3) revised; (d) added 12892
(e) added (OMB number pending)....28124
OMB number 33208
64.1130 (a), (b), (c) and (e)(5) revised; (i) and (j) added (OMB numbers pending)....12893
(e)(5) correctly designated....16151
OMB number 17083
64.1140 Regulation at 65 FR 47691; effective date confirmed in part....**66934**
64.1150 Regulation at 65 FR 47692; effective date confirmed in part....**66934**
64.1160 Regulation at 65 FR 47692; effective date confirmed in part....**66934**
64.1170 Regulation at 65 FR 47693; effective date confirmed in part....**66934**
64.1180 Added (OMB numbers pending) 12893
OMB number 17083
64.1190 (d)(1)(ii), (2)(i), (3)(i) and (e)(1) revised (OMB numbers pending) 12893
OMB number 17083
64.1195 Added (OMB numbers pending) 12894
OMB number 17083
64.1300 (a) revised....21106
64.1310 (a) and (b) revised....21106
64.2005 Regulation at 64 FR 53264 confirmed....7865
64.2007 Regulation at 64 FR 53264 confirmed....7865
64.2009 Regulation at 64 FR 53264 confirmed....7865
64.2103 Revised....22448
Corrected; CFR correction 36711
64.2104 (a)(1)(ii) revised....22448
Corrected; CFR correction 36711

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 47 Chapter I—Con.

64.2105 Corrected; CFR correction....36711
64.2500—64.2502 (Subpart Z) Added....2334
68 Effective date announcement 23625
68.2 Revised....7580
Regulation at 66 FR 7580 confirmed....42780
68.3 Amended (OMB number pending)....2335
Revised....7581
OMB number....28841
Regulation at 66 FR 7580 confirmed; effective date corrected....42780
68.7 Added....7581
Regulation at 66 FR 7581 confirmed....42780
68.100 Revised....7581
Regulation at 66 FR 7581 confirmed....42780
68.102 Revised....7582
Regulation at 66 FR 7582 confirmed....42780
68.104 Removed....7582
Regulation at 66 FR 7582 confirmed....42780
68.105 Added (OMB number pending)....7582
OMB number....28841
Regulation at 66 FR 7582 confirmed....42780
68.106 Revised....7582
Regulation at 66 FR 7582 confirmed; effective date corrected....42780
68.108 Introductory text revised 7583
Regulation at 66 FR 7582 confirmed; effective date corrected....42780
68.110 Revised....7583
Regulation at 66 FR 7582 confirmed; effective date corrected....42780
68.162 (g)(4) revised....27601
68.200—68.226 (Subpart C) Heading revised....7583
Regulation at 66 FR 7583 confirmed....42780
68.200 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.201 Added....7583
Regulation at 66 FR 7583 confirmed....42780
68.202 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.204 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.206 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.208 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.210 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.211 Revised....7583
Regulation at 66 FR 7583 confirmed....42780
68.212 Removed....7583
Regulation at 66 FR 7583 confirmed....42780
68.213 (b) revised....7583
Regulation at 66 FR 7583 confirmed....42780
68.214 Revised....7584
Regulation at 66 FR 7584 confirmed....42780
68.215 (a)(2), (3), (e)(9), (f)(4), and (g)(1) through (5) revised; (d)(2) note removed; (d)(5) amended....7584
Regulation at 66 FR 7584 confirmed....42780
68.216 Removed....7585
Regulation at 66 FR 7585 confirmed....42780
68.218 Revised....7585
Regulation at 66 FR 7585 confirmed....42780
68.220 Removed....7585
Regulation at 66 FR 7585 confirmed....42780
68.226 Removed....7585
Regulation at 66 FR 7585 confirmed....42780
68.300—68.318 (Subpart D) Heading revised....7585
Regulation at 66 FR 7585 confirmed....42780
68.300 (a) revised; (b) removed; (c) redesignated as new (b) 7585
Regulation at 66 FR 7585 confirmed....42780

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

68.302 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.304 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.306 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.308 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.310 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.312 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.314 Removed 7585
  Regulation at 66 FR 7585 confirmed 42780
68.320 Added 7585
  Regulation at 66 FR 7585 confirmed 42780
68.321 Added 7585
  Regulation at 66 FR 7585 confirmed 42780
68.322 Added 7586
  Regulation at 66 FR 7586 confirmed 42780
68.324 Added 7586
  Regulation at 66 FR 7586 confirmed 42780
68.326 Added 7586
  Regulation at 66 FR 7586 confirmed 42780
68.346 Added 7586
  Regulation at 66 FR 7586 confirmed 42780
68.348 Added 7586
  Regulation at 66 FR 7586 confirmed 42780
68.350 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.354 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.415 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.417 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.418 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.419 Added 7587
  Regulation at 66 FR 7587 confirmed 42780
68.420 Added 7588
  Regulation at 66 FR 7588 confirmed 42780
68.423 Added 7588
  Regulation at 66 FR 7588 confirmed 42780
68.500—68.506 (Subpart F) Removed 7588
  Regulation at 66 FR 7588 confirmed 42780
68.602—68.614 (Subpart G) Added 7588
  Regulation at 66 FR 7588 confirmed 42780
68.610 Effective date corrected 42779
69.3 (e)(6), (9) and (i)(1) revised **64894**
73 Memorandum, opinion and order **59751**
  Actions on petitions **60585, 63802, 67655, 69693**, 77318, 79317
  Actions on petitions 737, 8176, 14862, 17638, 21681, 22449, 22450, 29237, 47411
73.14 Amended 20755
73.53 (b)(5) and (12) revised; (c) removed 20755
73.54 Revised 20755
73.58 (b) removed; (c) through (f) redesignated as (b) through (e); new (d) revised 20755
73.62 (a) revised 20755
73.68 (a)(2), (d)(2) and (3) revised 20755
73.69 (a), (d)(2) and (4) revised 20756
73.151 (a)(1), (2) and (3) revised 20756
73.152 (b), (c) and (d) redesignated as (c), (d) and (e); (a), new (d) introductory text, (2) introductory text, (iii) and (iv) revised; new (b) added 20756
73.154 Revised 20756
73.158 Revised 20757
73.186 (a)(1) and (b) revised 20757
73.202 (b) table amended .... **59144, 59145, 59752, 61114, 62299, 63802, 64624, 65272, 67282, 67283, 67652—67656, 70670, 71073, 71269, 71270, 77319, 79318, 80367, 80790, 81409, 82295, 82296**

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 47 Chapter I—Con.

(b) table corrected **60379**
Regulation at 65 FR 36377 confirmed 3884
(b) table amended .... 7590, 7866, 8520, 9676, 10631, 10632, 10968, 11119, 12896, 12897, 15044, 15642, 15801, 16882, 16883, 17814, 17815, 18570, 18734, 20608, 20609, 21680, 21681, 22450, 26806, 26807, 26808, 27040, 27041, 27042, 29237, 29726, 30091, 30092, 30335, 30827, 31561, 33902, 33903, 35107, 35388, 35760, 36949, 36950, 37420, 37421, 37599, 39119, 39453—39456, 44548, 44549, 46400, 49555
(b) table corrected 35107
(b) table corrected; CFR correction 19402
73.207 (b)(1) Table A revised **79776**
73.209 (c) revised **67299**
73.210 (a) and (b)(3)(iv) revised; (b)(3)(v) added **79777**
73.211 (a)(1)(vii), (2) and (b)(1) introductory text table revised; (d) added **79777**
73.215 (a)(4) and (e) table revised **79777**
(e) table corrected 8149
73.315 (a) note removed **79778**
73.509 (a) table revised **79778**
73.514 Revised **67299**
73.515 Added **79779**
73.606 (b) table amended 18735, 29724
(b) table amended; eff. 10-29-01 49555
73.607 Undesignated text designated as (a); (b) added 10208
73.622 (b) table amended **58920, 58921, 60379, 70508, 70509, 76947**
(b) table amended .... 2336, 3884, 9036—9039, 11117, 11118, 11119, 12894, 12895, 13855, 13856, 18734, 20607, 20608, 22448, 28399, 28400, 29724—29726, 31560, 31561, 39452, 39682, 39683, 42613, 47897, 47898
(c) existing text redesignated as (c)(1); (c)(2) added 10208
73.623 (h) added 9984
73.625 (a)(1) revised 9985
73.658 (m)(1) revised **68101**
(g) revised 32248
73.807 Introductory text, (a), (b), (c) introductory text, (1), (2), note, (g)(1) through (4) and (6) revised **67299**
(a)(1) table and (b)(1) table revised **79779**
Introductory text, (a) table, (b) table, (c) table and (d) table amended 23863
73.809 (a), (b) and (c) revised **67302**
73.810 Added **67302**
(b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
73.816 Revised **67302**
73.825 Revised **67303**
73.827 Added **67303**
73.854 Revised **67303**
Revised 23863
73.855 (b) introductory text revised; (b)(4) added **67303**
73.860 (a) and (b) revised **67303**
(b)(i) through (iv) correctly designated as (b)(1) through (4) **69458**
73.870 (c) revised **67304**
73.871 Added 23863
73.872 (b)(3) revised **67304**
73.877 Revised **67304**
73.1010 (a)(9) added; eff. 12-3-01 47896
73.1020 Correctly added; CFR correction 15800
73.1125 (c) revised 21690
73.1545 (e) revised 21690
73.1660 (a) revised **67304**
73.1690 (b)(2) revised; (c)(11) added **79779**
73.1920 Removed **66644**
73.1930 Removed **66644**
73.3526 (e)(11)(iii) revised **67288**
(e)(11)(iii) eff. date confirmed; OMB number 11237
73.3527 Regulation at 65 FR 36378 confirmed 3884
73.3538 (b) revised 20758
73.3555 (b)(2)(ii) and (c)(3)(i) revised 9048
Notes 1 through 10 amended 9972
(f) amended 15356
(e)(2)(i) and (ii) correctly revised; Note 5 corrected; CFR correction 19891
73.3572 Regulation at 65 FR 36379 confirmed 3884
73.3573 Note 4 added **79780**
73.3584 (d) redesignated as (e); new (d) added **79780**
73.3612 Note added **76949**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

73.3613 (d) amended; (e) revised	9972
73.3615 (a)(3)(iii)(B) amended	9972
Corrected	12897
73.6000 Revised	21690
73.6024 (c) revised	21690
73.6026 Revised	21690
73.7000 Amended	15356
73.7002 (b) revised	15356
73.7003 (b)(2) and (c)(1) amended; (e) and (f) added	15356
74.5 (a)(7) added; eff. 12–3–01	47896
74.134 Removed	18572
74.785 Added	29046
74.1204 (a) introductory text and (4) revised	**67304**
(a)(1), (2) and (3) revised	**79780**
74.1233 (e)(3)(i) and (ii) revised	15357
74.1251 (b)(7) revised	**79780**
76 Authority citation revised	**68101**
Authority citation revised	7429
Actions on petitions	48219
76.5 (ii) revised	**68101**
(b) revised (OMB number pending)	16553
Regulation at 66 FR 16553 eff. date confirmed	48981
76.51 (a)(2) and (28) revised	**68101**
76.56 (e) revised (OMB number pending)	16553
Regulation at 66 FR 16553 eff. date confirmed	48981
76.57 (c), (d) and (e) redesignated as (d), (e) and (f); new (c) added; new (e) revised; (e) note redesignated as section note (OMB number pending)	16553
Regulation at 66 FR 16553 eff. date confirmed	48981
76.62 (b) revised; (g) added (OMB number pending)	16553
Regulation at 66 FR 16553 eff. date confirmed	48981
76.64 (f) introductory text, (4) and (k) revised (OMB number pending)	16553
Regulation at 66 FR 16553 eff. date confirmed	48981
76.66 Added (OMB number pending)	7430
Regulation at 66 FR 7430 corrected	34582
(d)(1)(i), (2)(ii), (iii), (iv), (3)(ii), (iv) and (4) revised; eff. 10–26–01	49135
76.67 Removed	**68101**
76.77 (a) note added; (d)(1) note, (6) note, (13) note and (15) note designated	**76949**
76.92—76.130 (Subpart F) Revised	**68101**
76.209 Revised	**66644**
76.501 Notes 1 through 6 amended	9973
76.922 (f)(1)(vii) added; (j)(1) revised (OMB number pending)	16554
Regulation at 66 FR 16554 eff. date confirmed	48981
76.1603 (c) revised (OMB number pending)	16554
Regulation at 66 FR 16554 eff. date confirmed	48981
76.1610 (f) added; eff. 12–3–01	47897
76.1622 OMB number	45177
76.1713 OMB number	45177
76.1800 OMB number	45177
79.3 (b)(2), (3), (4)(i), (ii), (c)(2), (3), (d)(1), (e)(1)(iv), (v) and (e)(2) revised; (c)(4) redesignated as (c)(5); (a)(6), new (c)(4) and (e)(1)(vi) added	8529
(c)(2) correctly revised	16618
80.25 (b) revised	**77823**
80.49 (a)(2) revised; (a)(3) added	**77823**
80.105 Revised	**77824**
80.213 (a)(2) and (d) revised	**77824**
80.215 (h)(2) introductory text and (i) introductory text amended; (h)(5) revised; footnote 7 removed	**77824**
80.357 (b)(2)(ii)(A), (B) and (C) removed; (b)(2)(ii) revised	**77824**
80.371 (b)(3) and (4) removed; (b)(1) and (2) revised	**77824**
80.374 (a) removed; (b) and (c) redesignated as (a) and (b)	**77826**
80.475 (a)(I) revised; (b) redesignated as (c); new (b) added	**77826**
80.477 (d) added	**77827**
80.481 Added	**77827**
87 Authority citation revised	**59357**
Actions on petitions	29722
87.131 Table amended	26798
87.133 (a) table amended	26799
87.137 (a) table amended	26799
87.139 (a) table amended	26799
87.173 (b) table amended	**59357, 60112,** **26799**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 47 Chapter I—Con.

87.187 (dd) added.....26800
87.263 (a)(1) and (5) revised.....26800
90 Compliance notification.....**60379**
  Actions on petitions.....13022, 15041, 30335, 32778
90.1 (b) revised.....**60874, 66650**
90.7 Amended.....**60874, 66650**
90.20 (c)(3) table amended.....**60874**
  (c)(3) table amended; (d)(80) through (83) and (g) added.....**66650**
90.22 Introductory text revised.....**60874**
90.35 (b)(3) table amended; (c)(60) revised.....**60874**
  (b)(3) table amended; (c)(82) added.....**66653**
  (b)(2)(iii) redesignated as (b)(2)(iv); new (b)(2)(iii) added; (b)(2)(ii) revised.....8902
  Regulation at 66 FR 8902 confirmed.....39456
90.103 (b) amended.....**69458**
90.135 Revised.....**60875**
90.149 (a) revised.....**60875**
90.155 Revised.....**60875**
90.167 Removed.....**60875**
90.175 (i)(14) revised.....**60875**
  (i)(15) and (16) added.....**66654**
  (b)(1), (2) and (3) revised.....8903
  Regulation at 66 FR 8903 confirmed.....39456
90.179 (g) redesignated as (i); new (g) and (h) added.....**60875**
  (g) revised.....**66654**
  (i) revised.....55
  (j) added.....10635
  Corrected.....21287
90.187 Revised.....**60875**
90.203 (j)(1) added.....**66654**
90.242 (a)(3) revised.....**60877**
90.421 Revised.....**60877**
  (a)(3) added.....10635
90.449 Removed.....**60877**
90.525 Added.....10635
90.529 Added.....**66654**
90.531 (b)(1), (2), (3), (c)(1), (2) and (3) revised; (b)(4), (5) and (6) added.....**66654**
  (b)(1)(i), (ii), (iii) and (7) added; (b)(2) and (d) revised.....10635
  (b)(2) amended.....10636
90.535 (a) revised.....**66655**
90.537 Revised.....**66655**
  Revised.....10636
90.541 (d) added.....**66655**
90.543 (e) and (f) added.....**66655**
90.547 Revised.....**66655**
  Revised.....10636
90.548 Added.....10636
90.553 Added.....10636
90.621 (e)(2) revised (OMB number pending).....55
  OMB number.....12437
90.629 (a)(1) and (2) revised; (f) added.....**60877**
95.401 (f) added.....**60877**
95.601 Amended.....**60877**
95.603 (g) added.....**60877**
95.605 Amended.....**60877**
95.631 (j) added.....**60877**
95.632 Added.....**60877**
95.633 (f) added.....**60878**
95.635 (e) added.....**60878**
95.639 (h) added.....**60878**
95.649 Revised.....**60878**
95.651 Revised.....**60878**
95.601—95.673 (Subpart E) Appendix 1 revised.....**60878**
95.803 Revised.....9218
95.807 (a) introductory text, (1) and (4) revised.....9219
95.811 (b) revised; (e) added.....9219
95.812 (a) revised.....9219
95.816 (b), (c)(3) and (5) amended.....9219
95.819 Revised.....9219
95.861 (c) revised.....9219
95.1013 (a) revised.....**77827**
95.1301—95.1309 (Subpart J) Added.....**60878**
97.3 (a)(35) and (b) introductory text revised.....20752
97.119 (f)(3) removed; (f)(4) redesignated as (f)(3); (f)(2) and new (f)(3) revised.....20752
97.527 Revised.....20752
101 Actions on petitions.....29722
  Authority citation amended.....35110
101.1 (b) revised.....**59357**
101.3 Amended.....**59357**
101.21 (g) revised.....**59357**
101.45 (b) introductory text revised.....**59357**
101.61 Revised.....**59357**
101.63 (a) revised.....**59357**
101.99 Correctly designated.....**60382**
101.101 Table amended.....**59357**
101.105 (c)(6) introductory text revised.....**59358**
  (c)(5) revised.....35110
101.107 (a) table amended.....35110
101.109 (c) table amended.....**59358**
101.111 (a)(2)(iv) added; (a)(4) introductory text revised.....**59358**

NOTE: **Boldface page numbers indicate 2000 changes.**

101.113 (a) amended 35110

101.115 (c) table amended **59358**

101.135 (e) revised 35110

101.139 (g) added **59358**

101.141 (a) introductory text revised **59358**

101.147 (r) introductory text amended; (r)(9) introductory text, (i) and (ii) revised; (r)(9)(iii) added **59359**

(a) Note 28 and (b) introductory text revised 35110

101.305 (a), (b) and (c) revised **59359**

101.311 Revised **59359**

101.501—101.538 (Subpart G) Heading revised **59359**

101.501 Revised **59359**

101.503 Revised **59359**

101.509 Revised **59360**

101.511 Revised **59360**

101.521 Revised **59360**

101.523 Added **59360**

101.525 Added **59360**

101.526 Added **59360**

101.527 Added (OMB numbers pending) **59360**

OMB number 11113

101.529 Added (OMB numbers pending) **59361**

OMB number 11113

101.531 Added **59361**

101.533 Added **59361**

101.535 Added **59361**

101.537 Added **59361**

101.538 Added **59361**

101.1307 Revised 35111

101.1315 Revised 35111

101.1331 (a) and (b) revised 35111

Proposed Rules:

0—199 (Ch. I) 18059, 28410

0 ....**77545, 81816**

1 ....37943, 39128

2 ....35399, 47618, 47621

20 ....36989, 39128

25 35399

51 ....38611, 42499

63 41823

64 ....35765, 37631, 40666

69 48406

73 ....35406, 35407, 35767, 35768, 35925, 37442, 37443, 37632, 37633, 38410, 39128, 39473, 39726, 39727, 40174, 40958, 40959, 40960, 41489, 41490, 42621, 42622, 42623, 44506—44588, 46425—46427, 47432, 47433, 47903, 47904, 48107, 48108, 49330, 49593

90 ....47435, 47432, 47433, 47435

101 35399

211 38411

213 38411

571 49594

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Federal Acquisition Circular 97-20 ....**60542**

Small entity compliance guide **60553, 80266**

Federal Acquisition Circular No. 97-22 2116

Small entity compliance guide 2141, 5349, 17757, 20898, 22085, 27417

Federal Acquisition Circular 97-25 22082

1.106 Table amended (OMB numbers) 2141

1.401 (a), (c) and (d) amended 2118

Regulation at 66 FR 2118 eff. date delayed 14260

2.000 Revised 2118

Regulation at 66 FR 2118 eff. date delayed 14260

2.101 Amended; interim **60544**

Amended 2118, 20896

Regulation at 66 FR 2118 eff. date delayed 14260

Amended; interim 22083, 27409

Corrected 27012

2.201 Revised 2127

Regulation at 66 FR 2127 eff. date delayed 14260

3.302 Introductory text added 2127

Regulation at 66 FR 2127 eff. date delayed 14260

3.401 Amended; introductory text added 2127

Regulation at 66 FR 2127 eff. date delayed 14260

3.501-1 Amended; introductory text revised 2127

Regulation at 66 FR 2127 eff. date delayed 14260

3.502-1 Amended; introductory text revised 2127

Regulation at 66 FR 2127 eff. date delayed 14260

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 48 Chapter 1—Con.

3.901 Introductory text added 2127
4.501 Removed 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
4.502 (b)(4) amended; interim 27409
4.602 (a)(2) revised; (d) removed; interim **60544**
4.803 (a)(4) revised; interim 27409
4.901 Amended; heading revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
5.002 Introductory text amended; (c) revised; interim **60544**
5.003 Added; interim 27409
5.101 Introductory text removed; (a) revised; interim 27409
5.102 Revised; interim 27409
5.201 Revised; interim 27410
5.202 (a)(8) amended 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
  (a)(13)(ii) revised; interim 27410
5.203 Introductory text, (a), (b), (e) and (h) revised; (g) amended; interim 27410
5.204 Revised; interim 27411
5.205 Revised; interim 27411
5.206 (a) introductory text revised; interim 27412
5.207 (a) through (h) redesignated as (b) through (i); new (a) and (c) Items 18 and 19 added; new (b), (c) introductory text, and (i) revised; interim 27412
5.301 (a) introductory text, (b)(7)(ii) and (c) revised; (d) added; interim 27412
5.404-1 (b)(3)(iii) revised; interim 27412
5.404-2 Revised; interim 27412
5.501 Amended; introductory text added 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.000 Revised 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.003 Removed 2127
  Regulation at 66 FR 2127 eff. date delayed 14260
6.302-1 (a)(2)(i)(A) revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
6.302-3 (a)(2)(iii) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
6.303-2 (a)(6) amended; interim 27412
7.101 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
7.103 (o) through (r) redesignated as (p) through (s); new (o) added 20896
7.105 Introductory text and (b)(1) amended; interim **60544**
7.303 (a) introductory text and (b) introductory text amended; (b)(1) revised; interim 27412
7.501 Removed 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
8.501 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
8.701 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
8.801 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
8.1101 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.101 Amended; heading revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.103 (b) amended **80264**
  (c) redesignated as (d); new (c) added; interim 17755
9.104-1 (d) revised **80264**
  (e), (f) and (g) redesignated as (f), (g) and (h); new (e) added; interim 17756
9.104-3 (c) and (d) redesignated as (d) and (e); new (c) added **80264**
9.201 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.204 (a) introductory text amended; (a)(1) revised; interim 27413

NOTE: **Boldface page numbers indicate 2000 changes.**

9.205 (a) introductory text revised; interim 27413
9.301 Amended; heading revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.400 (a)(2) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.403 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.501 Amended; heading revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.601 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
9.701 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
10.001 (a)(3)(vii) added 20896
11.002 (f) added 20897
11.601 Amended; introductory text added 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
12.202 (d) added 20897
12.603 (a), (c)(2)(xv), (3) and (4) revised; interim 27413
13.001 Amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
13.104 (a) introductory text and (b) amended; interim 27413
13.105 (a) introductory text, (1)(ii) and (b) amended; interim 27413
13.501 (a)(1)(i) amended 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
14.203-2 Revised; interim 27413
14.203-3 Revised 2128
  Regulation at 66 FR 2128 eff. date delayed 14260
14.404-2 (i) revised **80265**
  (j), (k) and (l) redesignated as (k), (l) and (m); new (j) added; interim 17756
14.503-2 (a)(4) and (b) revised; interim 27413
15.001 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.301 Removed 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.401 Amended; introductory text added 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.402 Introductory text, (a) introductory text, (2)(ii) and (3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403 (a)(1) revised; interim **60553**
15.403-1 (c)(3) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.403-4 (c) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.406-2 (a) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.407-2 (b) revised 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.408 Table amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.503 (a)(1) revised **80265**
  (a)(2) redesignated as (a)(3); new (a)(2) added; interim 17756
15.601 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
15.604 (a) introductory text and (1) amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.103 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.201 Removed 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.501 Amended 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
17.603 (c) added; interim 27415
19.000 (a)(9) and (10) amended; (a)(11) added; interim **60544**
19.001 Amended; interim **60544**
  Amended; introductory text added 2129
  Regulation at 66 FR 2129 eff. date delayed 14260
19.101 Amended 2129

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 48 Chapter 1—Con.

Corrected; CFR correction 13856
Regulation at 66 FR 2129 eff. date delayed 14260
19.201 (a) amended; interim **60544**
19.202–2 Intorductory text amended; interim **60544**
(c) revised; interim 27413
19.202–4 Introductory text amended; interim **60544**
19.202–5 Introductory text, (a) and (b) amended; interim **60544**
19.301—19.307 (Subpart 19.3) Heading revised; interim **60545**
19.301 (d) amended; interim **60545**
19.304 (b) and (c) amended; interim **60545**
19.402 (c)(1)(ii) amended; interim **60545**
19.701 Amended; introductory text added 2130
Regulation at 66 FR 2129 eff. date delayed 14260
19.702 Introductory text revised; interim **60545**
19.703 (a) introductory text and (1) revised; (b) amended; interim **60545**
(a)(1) amended 2130
Regulation at 66 FR 2130 eff. date delayed 14260
19.704 (a)(1) revised; (a)(2), (3), (6), (8) and (11) amended; interim **60545**
19.705–2 Introductory text and (d) amended; interim **60545**
19.705–4 Introductory text, (c), (d)(1) and (5) amended; (d)(6) added; interim **60545**
19.705–7 (a) and (d) amended; interim **60545**
19.706 (b) and (c) amended; interim **60545**
19.708 (c)(1), (2) and (3) amended; interim **60545**
19.804–2 (a) introductory text, (9) and (c) amended; interim 27413
19.812 (a) revised 2141
19.902 Heading and introductory text revised 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.12 Removed; interim 27417
22.101–1 (b) redesignated as (b)(1); (b)(2) added; interim 27415
22.103–1 Amended; heading revised 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.401 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.403–4 introductory text and (a) through (e) redesignated as (a) and (b)(1) through (5); new (a) and (b)(5) amended; (b) introductory text and (c) added 2141
22.1001 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.1009–4 (a) amended; (b) introductory text revised; interim 27414
22.1102 Amended 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.1202 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
22.1500—22.1505 (Subpart 22.15) Added 5347
23.503 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
23.802 Removed 2130
Regulation at 66 FR 2130 eff. date delayed 14260
23.904 Amended 2130
Regulation at 66 FR 2130 eff. date delayed 14260
24.101 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
26.301 Removed 2130
Regulation at 66 FR 2130 eff. date delayed 14260
27.301 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
27.401 Amended; introductory text added 2130
Regulation at 66 FR 2130 eff. date delayed 14260
28.001 Amended; introductory text added 2130

NOTE: **Boldface page numbers indicate 2000 changes.**

Regulation at 66 FR 2130 eff. date delayed.....14260
28.308 (a) amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
29.301 Removed.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
30.201–4 Regulation at 65 FR 36029 confirmed.....2137
30.201–5 Regulation at 65 FR 36029 confirmed.....2137
31.001 Amended; introductory text added.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–17 Amended; Introductory text added.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–18 (a) amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–21 Undesignated paragraph designated as (a); (b) added.....**80265**
31.205–32 Amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–33 (a) amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–39 Amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
31.205–47 (a) amended; (b)(2) revised.....**80265**
(a) amended.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
(a) amended; (b)(3), (4) and (5) redesignated as (b)(4), (5) and (6); new (b)(3) added; interim.....17756
32.001 Amended; introductory text added.....2131
Regulation at 66 FR 2131 eff. date delayed.....14260
32.006–2 Amended; introductory text added.....2131
Regulation at 66 FR 2132 eff. date delayed.....14260
32.113 (e) amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.202–2 Amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.202–3 (d) and (e) amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.301 Amended; introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.407 (a)(1) revised.....2138
32.408 (b)(4) amended.....2138
32.409–3 (a), (b)(2), (c)(2), (e) and (g) amended; (f)(1) revised.....2138
32.410 Amended.....2138
32.411 Revised.....2138
32.412 (f) amended.....2138
32.801 Amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.902 Amended; introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
32.1102 Amended; introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
33.101 Amended; introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
33.201 Amended; introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
34.001 Amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
34.005–2 (a)(1) amended; interim.....27414
34.101 Amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
35.001 Amended.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
35.004 (a) introductory text amended; (a)(1) revised; interim.....27414
35.016 (c) revised; interim.....27414
35.017 Amended; (b) introductory text added.....2132
Regulation at 66 FR 2132 eff. date delayed.....14260
36.102 Amended; introductory text added.....2132

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 48 Chapter 1—Con.

Regulation at 66 FR 2132 eff. date delayed....14260
36.202 (d) added; interim....27415
36.213-2 (b) introductory text amended; (b)(9) revised; interim....27414
36.601-3 (d) amended....2132
Regulation at 66 FR 2132 eff. date delayed....14260
37.101 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
Amended; interim....22083
Corrected....27012
37.102 (a) revised; interim....22083
37.103 (a)(1) amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
37.104 (a) amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
37.201 Amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
37.502 (a)(3) amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
39.000 Revised....20897
39.002 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
39.104 Added; interim....22085
39.201—39.204 (Subpart 39.2) Added....20897
42.001 Removed....2133
Regulation at 66 FR 2133 eff. date delayed....14260
42.201 (b) revised....2141
42.203 Revised....2141
42.302 (a) introductory text amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
42.503-2 Amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
42.701 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
42.1201 Removed....2133
Regulation at 66 FR 2133 eff. date delayed....14260
43.101 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
43.103 (b)(3) amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
44.101 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
46.101 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
46.701 Removed....2133
Regulation at 66 FR 2133 eff. date delayed....14260
46.710 (a)(1) and (b)(1) amended....2133
Regulation at 66 FR 2133 eff. date delayed....14260
47.001 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
47.201 Amended; introductory text added....2133
Regulation at 66 FR 2133 eff. date delayed....14260
47.401 Amended; introductory text added....2134
Regulation at 66 FR 2134 eff. date delayed....14260
47.501 Amended; introductory text added....2134
Regulation at 66 FR 2134 eff. date delayed....14260
48.001 Amended; introductory text added....2134
Regulation at 66 FR 2134 eff. date delayed....14260
49.001 Amended; introductory text added....2134
Regulation at 66 FR 2134 eff. date delayed....14260
50.001 Amended; introductory text added....2134
Regulation at 66 FR 2134 eff. date delayed....14260
52.101 (a) amended....2134
Regulation at 66 FR 2134 eff. date delayed....14260
52.202-1 Amended; introductory text revised....2134

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

Regulation at 66 FR 2134 eff. date delayed 14260
52.209-5 (a)(1)(i)(B) and (C) amended; (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added **80265**
Amended; interim 17756
(a)(1)(i)(D) corrected 18735
52.212-3 Amended; interim **60546**
(h) introductory text and (2) revised; (h)(1) amended; (h)(3) and (4) added **80266**
Amended 2134, 5348
Regulation at 66 FR 2134 eff. date delayed 14260
Amended; interim 17756
Corrected 18735
52.212-4 Amended 2139
52.212-5 Amended 5348
Amended; interim 27417
52.213-4 Amended 2140
Amended 5348
52.214-21 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.215-1 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.219-1 Amended; interim **60546**
Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.219-8 Amended; interim **60546**
52.219-9 Amended; interim **60547**
52.219-10 Amended; interim **60548**
52.219-23 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.222-18 Added 5349
52.222-19 Added 5349
52.222-50 Removed; interim 27417
52.223-6 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.223-11 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.226-2 Revised 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.230-1 Regulation at 65 FR 36030 confirmed 2137
52.232-12 Amended 2138
52.232-25 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.232-26 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.232-27 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.242-3 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.244-6 Amended; heading revised 2140
52.246-3 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.246-6 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.246-8 Amended 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.246-17 Amended; introductory text revised 2135
Regulation at 66 FR 2135 eff. date delayed 14260
52.246-18 Amended; introductory text revised 2136
Regulation at 66 FR 2136 eff. date delayed 14260
52.246-19 Amended; introductory text revised 2136
Regulation at 66 FR 2136 eff. date delayed 14260
52.246-20 Amended; introductory text revised 2136
Regulation at 66 FR 2136 eff. date delayed 14260
52.247-51 Amended 2141
53.215-1 (a), (e) and (f) amended 2141
53.219 (a) and (b) amended; interim **60548**
53.301-294 Revised; interim **60549**
53.301-295 Revised; interim **60551**

Chapter 2—Department of Defense (Parts 200—299)

204.603 Revised 47096
204.670-1 (b) introductory text and (c)(3) amended 47096
204.670-2 (a)(1), (b)(1), (c)(3) and (7)(i) revised; (a)(3), (4) and (b)(3) added 47096
204.670-3 (a)(2) amended 47097
204.670-5 (a) amended 47097

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 48 Chapter 2—Con.

204.670–6 (a), (b) introductory text, (1)(i), (c)(1), (2) and (3) amended ...47097
204.7202–1 (c) revised ...**63804**
204.7204 (b) amended ...**63804**
204.7207 Added ...47097
207.103 (c), (d), (f) and (h) redesignated as (d), (e), (g) and (i); new (d)(i) introductory text revised; new (d)(ii) and (e) amended; new (h) added ...47107
207.105 (b)(13)(iv) amended ...**63804**
209.202 (a)(1) amended ...**63804**
212.503 (a)(xi) revised ...**77828**
212.504 (a)(xxv) revised ...**77828**
215.404–4 (b)(1) introductory text revised ...**77829**
215.404–71–2 Revised ...**77829**
215.404–72 (b)(1)(iii) added ...**77831**
217.401 Regulation at 65 FR 50148 confirmed ...**77832**
219.201 (d) revised ...**63807**
Regulation at 65 FR 50148 confirmed ...**77832**
219.202–5 Introductory text amended ...**63804**
219.502–3 Regulation at 65 FR 50149 confirmed ...**77832**
219.1005 Regulation at 65 FR 50149 confirmed ...**77832**
219.1203 Regulation at 65 FR 50149 confirmed ...**77832**
219.7100 Revised; interim ...47108
219.7102 (b) revised; (d)(2) amended ...47108
219.7103–2 (c) amended ...47109
225.7019–1 (a) amended ...**77828**
225.7019–2 (b) revised ...**77828**
225.7019–4 Revised ...**77828**
225.7020 Added ...**77828**
225.7020–1 Added ...**77828**
225.7020–2 Added ...**77828**
225.7020–3 Added ...**77828**
225.7020–4 Added ...**77828**
225.7103–1 Revised ...**77832**
225.7103–3 Revised ...**77832**
226.104 Introductory text revised; interim ...47111
236.570 (a)(2) revised ...**63804**
236.602–1 Regulation at 65 FR 50149 confirmed ...**77831**
236.701 (c) revised ...**63804**
236 (Appendix I) Regulation at 65 FR 50149 confirmed ...**77831**
242.72 Revised ...**77833**
242.002 (S–70)(iii) introductory text amended ...**63804**
242.1203 (b)(1), (2)(A), (B), (C), (d), (e) and (f) redesignated as (b)(2)(A) through (D), (f), (g) and (h); new (b)(2)(A), (D), (f)(i), (g)(i), (h)(4)(A) and (B) amended ...**63805**
242.1204 (e) redesignated as (i); new (i) amended ...**63805**
250.201 Revised ...**77836**
252.201–70 (b)(1) and (k) revised ...**77836**
252.204–7001 Introductory text amended ...47097
252.212–7001 Amended ...**77828**
252.225–7007 (a)(4) amended ...47112
Amended; interim ...47113
252.225–7016 Amended ...**77828**
252.225–7021 (a)(4) amended ...47112
Amended; authority citation revised; interim ...47113
252.225–7023 Added ...**77829**
252.226–7001 Added; interim ...47111
252.232–7005 Amended ...47109
252.242.7004 Revised ...**77834**
252.247–7015 Introductory text amended ...**63805**
253.204–70 Revised ...47097
(b)(12)(vii) introductory text correctly revised ...48622
253.204–71 (a)(3) introductory text and (e)(2)(i)(A)(4) amended; (c)(1) and (3) revised; (g)(1)(iii)(C) added ...47107
Chapter 2 Appendix F amended ...**63803, 63804**
Appendices E and F amended ...**63805**
Appendix G amended ...**63806**
Appendix F corrected ...**69376**
Appendix I amended; interim ...47109, 47110

Chapter 3—Department of Health and Human Services (Parts 300—399)

Chapter 3 Revised ...4220

Chapter 4—Department of Agriculture (Parts 400--499)

419.508 Amended; eff. 11–26–01 ...49317
452.219–70 Amended; eff. 11–26–01 ...49317

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

Chapter 9—Department of Energy (Parts 900—999)

901.105 Amended	**81005**
902.200 Revised	**81005**
903.901—903.971 (Subpart 903.9) Added	**81005**
904.7200—904.7201 (Subpart 904.72) Added	**81006**
909.104–1 Amended	**81006**
911.604 (d) and (e) revised	**81006**
915.408–70 (Subpart 915.408–70) Added	**81006**
917.600 Revised	**81006**
917.601 Amended	**81006**
917.602 Revised	**81006**
917.604 Removed	**81007**
917.605 Removed	**81007**
922.7100—922.7101 (Subpart 922.71) Removed	**81007**
923.570–2 (a) and (b) amended	**81007**
923.570–3 (a) and (b)(2) amended	**81007**
927 Authority citation revised	**68934**
927.303 (c) added	**68935**
(a)(3) amended	**81007**
927.402–1 (b) amended	**81007**
927.404 (g)(4) amended	**81007**
927.409 (a)(2)(vi) amended	**81007**
931 Policy statement	19717
931.205–19 Added	4627
Regulation at 66 FR 4627 eff. date delayed	8746
931.205–33 Added	4627
Regulation at 66 FR 4627 eff. date delayed	8746
931.205–47 Added	**62301**
935.070 Removed	**81007**
941.201–71 Amended	**81007**
942.270–1—942.270–2 (Subpart 942.2) Added	**81007**
947.7001—947.7002 (Subpart 947.70) Added	**81007**
951.7002 (Subpart 951.70) Revised	**81007**
952.203–70 Added	**81008**
952.204–75 Added	**81008**
952.215–70 Added	**81008**
952.222–70 Removed	**81008**
952.223–71 Amended	**81008**
952.242–70 Added	**81008**
952.247–70 Revised	**81009**
952.250–70 (h) amended	**81009**
952.251–70 Revised	**81009**
970 Revised	**81009**
Policy statement	19717
970.2701 Revised	**68935**
970.2702 Revised	**68935**
970.2702–1 Added	**68935**
970.2702–2 Added	**68935**
970.2702–3 Added	**68935**
970.2702–4 Added	**68935**
970.2702–5 Added	**68935**
970.2702–6 Added	**68935**
970.2703 Revised	**68936**
970.2704 Revised	**68936**
970.3102–05–33 Added	4627
Regulation at 66 FR 4627 eff. date delayed	8746
970.3102–20 (c) added	**62301**
970.5204–71 Removed	**68936**
970.5204–72 Removed	**68936**
970.5204–94 Added	**68936**
970.5204–95 Added	**68937**
970.5204–96 Added	**68937**
970.5204–97 Added	**68937**
970.5204–98 Added	**68937**
970.5204–100 Added	**68938**
970.5204–101 Added	**68938**
970.5204–102 Added	**68942**
970.5204–103 Added	**68944**
970.5228–1 Amended	4627
Regulation at 66 FR 4627 eff. date delayed	8746
970.5244–1 Amended	4627
Regulation at 66 FR 4627 eff. date delayed	8746

Chapter 15—Environmental Protection Agency (Parts 1500—1599)

Chapter 15 Nomenclature change	34376
1501.602–3 (b) redesignated as (b)(1); (b)(2) added	**80792**
1502.100 Amended	**80793**
1504 Authority citation revised	**75866**
1504.670 (Subpart 1504.6) Added	**75866**
1511.011–80 Added; interim	**58923**
1515.209 (c) added; interim	**58923**
1516.603–1 Added; interim	12900
Regulation at 66 FR 12900 confirmed	39456
1516.603–2 Added; interim	12900
Regulation at 66 FR 12900 confirmed	39456
1517.208 (a) removed; (b) through (g) redesignated as (a) through (f); new (g) added; interim	**58923**
1519.203 Added; interim	**58923**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 48 Chapter 15—Con.

1519.204 Added; interim **58923**
1523.303–72 Added; interim **58923**
1523.7003 Existing text designated as (b); (a) added; interim **58923**
1528 Added; interim **58923**
1535.07–070 (g) added; interim **58923**
1542.705 Existing text designated as (a); (b) added **58924**
1545.106 (d) added; interim **58924**
1546.201 (Subpart 1546.2) Removed **79784**
1552 Authority citation revised **75866**
1552.203–70 Amended **79784**
1552.204–70 (Subpart 1552.2) Added **75866**
1552.208–70 Revised; interim **58924**
1552.211–70 Amended; interim **58924**
Amended 28674
1552.211–79 Amended; interim **58924**
Amended 28674
1552.211–80 Added; interim **58925**
1552.215–75 Added; interim **58925**
1552.217–77 Added; interim **58925**
1552.219–70 Added; interim **58926**
Revised 28674
1552.219–71 Added; interim **58926**
Revised 28675
1552.219–72 Added; interim **58927**
Revised 28676
1552.219–73 Added; interim **58927**
Revised 28676
1552.219–74 Added; interim **58928**
1552.223–72 Added; interim **58928**
1552.228–70 Added; interim **58928**
1552.232–73 Amended; interim **58928**
Amended 28676
1552.235–80 Added; interim **58928**
1552.239–70 Added; interim **58929**
1552.242–72 Added; interim **58929**
1552.245–73 Added; interim **58929**
1552.246–70 Removed **79784**
1552.246–71 Removed **79784**
1552.246–72 Removed **79784**

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1803.7000—1803.7001 (Subpart 1803.70) Added 29727
1804.470–1 Revised; interim 36491
1804.470–2 Revised; interim 36491
1804.470–3 Revised; interim 36491
1804.470–4 Revised; interim 36491
1807.105 (a)(7) revised; interim **70315**
(b)(1) removed **82296**
1807.107 Heading revised **58931**
1811.501 (Subpart 1811.5) Revised **58931**
1811.602 (c) amended 29727
1811.603 Revised 29727
1812.301 (f)(i)(I) through (N) redesignated as (f)(i)(J) through (O); new (I) added; interim 18052
1813.301–71 Added **82296**
1815.203–72 Revised; interim **70316**
(a) revised **82296**
1815.7001 Amended **58931**
1816.203–4 (a) revised **82296**
1816.405–274 (g)(2) and (4) amended **58932**
(c)(4) added; interim **70316**
1817.7101 (b) amended **58932**
1819.201 (f)(1) amended **58932**
1819.202–1 Removed **58932**
1819.1005 Revised **58932**
1819.7208 (b)(1) amended **58932**
1819.7209 (a)(1) and (2) amended **58932**
1822.1503 (Subpart 1822.15) Added 41805
1823.7001 (b)(1) and (2) revised; interim **70316**
(e) added; interim 18052
(c) amended 48361
1830 Regulation at 65 FR 49206 confirmed 29728
1830.201–5 Regulation at 65 FR 49206 confirmed 29727
1832.402 (e)(1)(B)(a) revised 29728
1832.702–70 (e) revised 29728
1834.003 Revised **58932**
1835.016–71 (b)(2) amended **82297**
1837.7000—1837.7001 (Subpart 1837.70) Removed **58933**
1842.705–1 Revised **63807**
1842.1501 Revised **82297**
1842.7003 Added 18054
1842.7301 Revised **82297**
1843.205 Revised **58932**
1845.608–1 (a) amended **58932**
1845.610–4 Amended **58932**
1845.613 Amended **58932**
1845.7101 Revised 41805
1845.7101–1 (c) revised **82297**
(c), (d), (g)(2), (h)(2), (i)(2), (k) introductory text and (2) revised 41805

NOTE: **Boldface page numbers indicate 2000 changes.**

1845.7101–2 Introductory text and (c) amended 41806
1845.7101–3 (a)(12) removed; (a) amended; (e) revised 41806
1845.7101–4 (b) and (h) revised 41806
1845.7101–5 Amended 41806
1849.102–71 Added; interim **70316**
1852.203–70 Added 29727
1852.204–76 Revised; interim 36491
1852.223–70 Amended; interim **70316**
Amended; interim 18052
1852.223–72 Added; interim 18052
1852.223–73 Amended; interim 18053
Revised 48361
1852.223–75 Amended; interim **70316**
Amended; interim 18053
1852.242–72 Amended **58932**
1852.242–78 Added 18054
1852.245–73 Amended 41806
1852.247–73 (b) amended **58932**
Amended **82297**
1872.305 (b) amended **82297**
1872.306 Amended **82297**
1872.307 Revised **82297**
1872.705 Amended **82298**

Chapter 54—Defense Logistics Agency, Department of Defense (Parts 5433—5452)

5433 Added 27474
5452.233–9001 Added 27474

Proposed Rules:

2 ....**65698, 66920**
.... 7166, 39230, 42922, 44518
3 39230
4 ....**65698**
.... 39230
5 39230
6 39230
7 ....7166, 44518
8 ....**79702**
....2752, 39230, 44518
9 ....17758, 23134, 39230
10 7166
11 7166
12 ....**66920, 83292**
....7166
14 ....17758, 23134, 39230
15 ....17758, 23134
16 ....**83292**
.... 44518
17 ....42922, 44518
19 39230
22 39230
23 39230
25 39230
26 39230
27 42102
28 39230
29 39230
31 ....**82876**
....17758, 23134, 39230, 40838
32 ....**66920**
33 42922
35 39230
36 39230
39 7166
42 39230
47 ....**66920**
....39230
49 42922
51 ....**79702**
52 ....**64298, 66920**
.....2752, 17758, 23134, 39230, 42102, 42922, 44288
53 39230
211 47153
215 ....**69695**
....48649
225 ....**63837**
.... 47155
226 47158
232 44568
244 47159
247 47153
252 ....44568, 47153, 47155, 48652
801 ....30659, 49331
806 30659
812 30659
825 49331
832 49331
836 49331
837 30659
846 49331
852 ....30659, 49331
873 30659
904 ....8560, 13473
928 ....**63809**
944 ....**63809**
952 ....**63809**
.... 8560, 13473
970 ....**63809**
.... 8560, 13473
1842 ....**76600**
1852 ....**76600**
.... 45955
1872 45955
9904 ....**59504**

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1 Authority citation revised..........38380
1.46 (ttt) added..........23181
(n)(1), (6), (ss), (zz), (ccc), (ddd), (eee), (fff), (ggg) and (mmm) removed; (uu) and (vv) revised..........38380
1.48 (nn) added..........2828
10 Appendix amended..........20407
26.11 (c) revised; interim..........**68951**
26.21 (a)(2) and (3) revised; interim..........**68951**
26.37 (b) and (c) revised; interim..........**68951**
26.45 (a) revised; (d)(2) amended; interim..........**68951**
26.55 (h) revised; interim..........**68951**
26.89 (a)(3) amended; interim..........**68951**
27.72 Revised..........22115
37 Technical correction..........10968
37.199 Removed; interim..........9053
37.213 Revised; interim..........9053
37.181—37.215 (Subpart H) Appendix A revised..........9054
40 Authority citation revised..........**79518**
Revised; eff. 8-1-01..........**79526**
Meetings..........7590
Policy statement..........9673, 41955
Compliance date notification..........28400, 32248
40.3 Amended..........41950
40.27 Redesignated as 40.29; new 40.27 added..........41950
40.29 Redesignated from 40.27..........41950
40.33 (f)(i), (ii) and (iii) correctly designated as (f)(1), (2) and (3)..........3885
(c)(2) introductory text amended..........41950
40.45 (b), (c) and (d) redesignated as (c), (d) and (e); (a) and new (c)(2) amended; new (b) added..........41950
40.47 Heading, (a) and (b)(2) amended..........41950
40.65 (c)(3) revised..........41950
40.67 (c)(1) and (d)(2) revised; (m) added..........41950
40.69 (b) and (c) revised..........41951
40.71 (b)(8) added..........41951
40.83 (e) and (f) revised; (g) and (h) redesignated as (h) and (i); new (g) added..........41951
40.89 (b) amended..........41951
40.97 (a) introductory text, (b)(1)(i) and (ii) revised..........41951
40.121 (d)(3) added..........41951
40.127 (g) introductory text revised..........41051
40.129 (d), (e) and (f) redesignated as (e), (f) and (g); new (d) added..........41952
40.131 (d) introductory text revised..........41952
40.135 (e) revised..........41952
40.149 (c) revised..........41952
40.151 (b) revised..........41952
40.155 (c) removed; (d) redesignated as new (c)..........41952
40.163 Revised..........41952
40.167 Heading and (c) revised; (e) added..........41953
40.187 (e) and (f) redesignated as (g) and (h); new (e) and (f) added..........41953
40.191 (a)(1), (2), (3), (7) and (d) introductory text revised..........41953
40.193 (b)(2) and (3) revised; (c) introductory text amended; (c)(2) added..........41953
40.195 Heading and (a) introductory text amended..........41953
40.201—40.225 (Subpart E) added..........**79518**
40.203 (b) and (d)(3) revised..........41954
40.205 (b)(2) revised..........41954
40.208 Added..........41954
40.209 Heading revised; (c) amended..........41954
40.213 (c) introductory text and (e) amended..........41954
40.225 (a) amended; (b)(4) revised..........41954
40.227 Correctly added..........3885
40.229 Amended..........41954
40.253 (c) amended..........41954
40.261 (a)(1), (2) and (3) revised; (a)(6) amended..........41954
40.329 (c) revised..........41954
40.331 (b)(2) and (c)(2) revised; (b)(3) and (c)(3) added..........41955
40.333 (a)(1)(i), (ii) and (d) amended; (e) added..........41955
40.349 (e) amended..........41955
40.355 (a) and (j)(1) amended..........41955
40.403 (a) amended..........41955
40.301—40.359 (Subpart F) added..........**79518**
40 Appendix F amended..........41955

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

107.1 (a) amended	45377
107.3 Amended	45377
107.7 (a) and (c) amended	45377
107.117 (d) introductory text and (e) amended	45377
107.127 (a) amended	45377
107.305 (a), (c) and (d) amended	45377
107.307 (a) introductory text and (b) amended	45377
107.309 (a) and (b)(1) amended	45377
107.310 (a), (b) introductory text and (c) amended	45377
107.317 (c) amended	45377
107.327 (a)(1) introductory text amended	45377
107.335 Amended	45377
107.301—107.339 (Subpart D) Appendix A amended	45180
107.401 (b) amended	45377
107.402 (b)(6) and (c) amended	45377
107.403 (a), (b) and (c) amended	45377
107.404 (a)(3) and (b) amended	45377
107.405 (a) introductory text and (b) introductory text amended	45377
110.20 Amended	45377
110.40 (a)(7) and (b)(6) amended	45377
110.60 (a)(4) amended	45377
110.70 (c) introductory text and (d) amended	45377
110.100 Amended	45377
110.110 Amended	45377
110.120 Amended	45377
130.5 Amended	45378
171.1 (a) introductory text amended	45378
171.7 (a)(3) table amended	8646
(a)(1) and (3) table amended	33334
(a)(2)(i) and (3) table amended	45378
171.8 Amended	33335, 45182, 45378
171.10 (c)(2) table amended	33335, 45378
171.11 Introductory text revised; (d)(6)(i), (ii) and (iv) amended; (d)(6)(vi) and (17) added	33336
(d)(13) amended	45182
171.12 (b) heading revised; (b)(3) amended	8646
(b)(5), (d) heading, introductory text and (4) revised; (b)(20) and (d)(7) added; (d)(5) and (6) amended	33336
(b)(8)(iii) and (iv) revised; (b)(8)(v), (vi) and (e) added	44254
171.12a (b)(18) added	33336
(b)(5)(iii) and (iv) revised; new (b)(5)(v) and (vi) added	44255
171.14 (d) introductory text, (1) and (2) introductory text revised; (d)(4) and (5) added	33336
(c) amended	45378
171.15 (b) introductory text amended	45182
171.20 (a) and (c) amended	45378
171.21 (a) and (b) amended	45378
172.1 Amended	45379
172.101 (g) and table corrected	**60382**
(b)(1), (c)(11) and table revised; (c)(16) and (k)(6) through (20) added	33337
Appendix B amended	33413
Appendix A amended	45182
(b)(1), (d)(2), (f), (k)(2)(i), (4), (5), (l)(2) and Appendix B amended	45379
172.102 (c)(1) amended	8647
(c)(1), (2), (3) and (8) amended; (c)(4) and (7) revised	33414
(c)(1) and (3) amended	45182
(c)(1), (2), (3), (5), and (7)(ii) amended	45379
172.202 (a)(4) and (e) revised	33425
172.203 (d)(11) and (n) revised; (i)(5) and (6) added	33425
(k) introductory text, (o)(3) amended	45182
(d)(7)(ii) amended	45379
172.301 (a)(3) introductory text and (b) heading amended	45182
172.302 (b)(2) amended	45379
172.310 (a) amended	45379
172.312 (c)(2) and (3) amended	45379
172.322 (d)(1)(i), (ii), (2)(i), (ii) amended	45379
172.330 (a)(1)(ii) amended	33425
172.400a (d) added	44255
172.401 (c)(1) and (2) revised	8647
(c)(1) through (4) revised	45379
172.402 (b) revised	33425
172.403 (a) and (g)(2) corrected	**60382**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49 Chapter I—Con.

172.405 (a) introductory text amended; (a)(1) and (2) removed....33425
172.407 (f) revised....8647
  (f) revised....44255
172.411 Heading and (d) revised; (c) amended....33425
172.502 (b)(1) revised....8647, 33426
172.504 (g) existing text amended; (g)(1) through (4) added....33426
172.512 (a)(3) amended....33426
  (b) heading amended....45182
172.514 (c)(4) amended....45379
172.519 (b)(4) revised....33426
  (f) revised....44255
172.602 (a)(1) amended....45379
172.604 (c)(2) amended....45182
173.2a (b) table amended....33426, 45183
  (c)(4) amended....45379
173.3 (c)(1) amended....45380
173.4 (a)(1) introductory text revised....33426
  (a)(6) amended....45183
  (c) amended....45379
  (a)(1)(i) amended....45381
173.6 (a)(3) amended....45381
173.7 (e) corrected....**60383**
  (c) amended....45381
173.8 (b) and (c) amended....45380
173.13 (c)(1)(i) amended....45381
173.21 (f) introductory text and (3)(ii) amended....8647
  (f)(3) introductory text and (i) amended....45379
  (f)(3)(ii) revised....45381
173.22 (c)(2) amended....45379
  (a)(3)(i) amended....45380
  (a)(2)(iii) revised....45381
173.22a (b) amended....45381
173.24 (d)(2) introductory text amended....8647
  (e)(3)(iii) amended....45379
  (d)(2) introductory text and (i) revised....45381
173.24a (b)(4)(i), (ii), (iii) amended....45380
173.24b (e) added....33426
173.27 (c)(2)(i), (ii)(A), (B), (C) and (3)(ii) amended....45380
173.28 (b)(7)(iv)(C) amended....45183
  (b)(2)(ii) and (7)(iv)(C) amended....45379
  (b)(2)(i) and (4)(ii) amended....45380
173.31 (b)(2)(ii) amended....33427
  (c)(3), (e)(2) introductory text, (f)(1) introductory text and (i)(A) amended....45380
  (b)(2)(ii) revised; (d)(1)(vi) amended....45381
173.32 Revised....33427
173.32a Removed....33429
173.32b Removed....33429
173.32c Removed....33429
173.33 (c)(1)(iii) amended....45183
173.34 (e)(13) table amended....33429
  (d)(6) and (e)(13) table amended....45183
  (c)(3), (d)(1)(ii), (iii), (2), (e) Table, (2)(i), (ii) introductory text, (A), (B), (iii), (4)(iii) introductory text, (A), (v), (7)(ii), (8)(i)(C), (10), (12), (i) introductory text, (4)(i), (l) introductory text, (2) and (3) amended....45380
173.35 (a), (c), (d), (f)(1), (2), (g), (h) introductory text, (h)(1) introductory text, (i) through (iv), (2) introductory text, (j), (k), (l) heading, (1), (2), (3) and (4) amended....45380
  Heading and (k) amended....45381
173.50 (b)(6) amended....45183
173.51 (a) and (b) amended....45380
173.52 (a) amended....45380
173.56 (a)(2), (b)(1) introductory text, (4), (c) introductory text, (f), (g), (i), (j) introductory text and (3) amended....45380
173.58 (d) and (e) amended....45380
173.59 Amended....45183, 45380
173.61 (e)(3) revised; (e)(8) added....33429
  (e)(2) revised....45381
173.62 (c) table corrected....**60383**
  (b) table and (c) table amended....33429
  (c) table amended....33430, 45382
  (a) revised; (c) table amended....45183
  (c)(5) amended....45380
173.115 (a) introductory text, (1), (2), (c) introductory text, (i) and (j) amended....45380
  (c)(2) amended....45381
  (g) amended....45382
173.120 (d) amended....45380
  (c)(3) amended....45381
173.121 (b)(2)(ii) amended....45381
173.124 (a)(2)(iii)(C) amended....8647

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

(a)(1)(ii) introductory text, (2)(i)(E), (iii)(D) and (c) amended	45380
173.125 (c)(2)(ii)(B), (C), (d)(1), (2) and (3) amended	45380
173.128 (e) amended	8647
(a)(3), (d)(1) introductory text amended	45380
173.132 (d) amended	45380
(a)(1)(iii)(B) revised	45382
173.133 (a)(2)(i) table amended	45183
(b)(1)(i), (ii), (iv) Table, (2)(i)(A), (ii)(A), (iii)(A), (iv)(A) and (B) amended	45381
173.133 Corrected	49556
173.143 (d) heading and (2) introductory text amended	45380
173.150 (d)(2) revised	33430
(d)(2) amended	45382
173.152 (b)(3)(i), (ii) and (4)(i) amended	45381
173.153 (c)(2) amended	45381
173.159 (d)(3)(ii) and (f) amended	45380
173.161 (b) amended	45831
173.162 (a) introductory text and (1) revised	33430
173.166 (b)(2) amended	8647
(a) amended	45183
(b)(1), (3)(ii), (c) and (d)(1) amended	45380
173.171 (d) amended	45380
173.172 (a) and (b) amended	45380
173.181 (a)(2) amended	45133
(a) amended	45380
173.185 (c)(3) amended	8647
Revised	33430
(i) amended	45380
173.189 (d)(4)(iii) amended	45380
173.194 (b)(1) amended	45183
(a), (b)(1) and (2) amended	45381
173.196 (f) amended	45380
173.214 Amended	45380
173.220 (b)(1) and (4) amended	45381
173.222 (b)(3) amended	45380
173.224 (b)(4) revised; (b)(7) table amended; (d) removed	33431
(c)(1) and (d) amended	45380
173.225 (b) table amended; (e) introductory text, (3) and (5) revised	33431
(b)(4) introductory text, (8) table, (c)(1), (d)(3) and (e)(5) heading and introductory text amended	45380
(e)(3)(i)(B) amended	45382
173.226 (b) introductory text amended	45380
173.227 (b) introductory text amended	45380
173.240 (c) and (d) revised	33435
(d) heading and introductory text, (1)(i), (2) introductory text, (i) and (ii) amended	45380
(d)(1)(vi) amended	45382
173.241 (c) and (d) revised	33435
(d) heading, (1) introductory text, (2) introductory text, (i)(A), (ii) and (iii) amended	45380
173.242 (c) introductory text and (d) revised	33435
(d) heading, (1) introductory text, (i)(A), (ii)(A), (2) introductory text and (i) through (iv) amended	45380
(d)(1)(ii)(F) revised	45382
173.243 (c) and (d) revised	33435
(d)(1), (2)(i), (ii) and (iii) amended	45380
173.245 (a) and (b) amended	45380
173.247 (c) revised	33436
(g)(1)(iii)(C) and (iv) amended	45382
Introductory text and (a) amended	45183
173.300a (c), (d), (e), (g), (h) and (i) amended	45380
(a)(2) amended	45382
173.300b (c) through (g) amended	45380
173.300c (a) introductory text and (b) amended	45380
173.301 (d)(2) amended	33436
(j)(1)(i) amended	45380
(d)(3) Amended	45183
(g)(5) amended	45380
173.302 (c)(3) amended	45382
173.303 (b) amended	45380
173.304 (a)(2) table and (b) amended	33436
(a)(2) table, (e)(1) and (f)(1) amended	45382
173.305 (c)(1) amended	45380
173.306 (a)(4)(iii) revised	33436
(a)(3)(i), (b)(1) introductory text, (f)(4)(i), (ii), (5) and (g)(3) amended	45380
(b) heading amended	45382
173.308 (a)(1) amended	45381
173.309 (a)(3)(i) amended	45380, 45381

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49 Chapter I—Con.

173.314 (c) table and (g) introductory text amended....................33436
(c) table and (o) amended....................45380
(c) table, (j), (l), (n) and (o) amended....................45381
(g)(4), (l) and (o) amended....................45382
173.315 (a) introductory text, (i)(1)(iii), (3), (4) and (8) revised; (a) table, (b) introductory text and (h) table amended; (i)(7) removed....................33436
(l)(6) amended....................45184
(i)(12), (k)(2), (n)(1) table, (3) introductory text, (i) and (n)(5)(iii) amended....................45380
(i)(2), (3), (5) through (9), (11), (13), (k)(5), (n) heading, (1) introductory text, (2)(ii), (3) heading, (ii), (o) heading, (2) and (3) amended....................45381
(i)(10), (13), (n)(1)(v) table, (i) introductory text and (4) amended....................45382
173.316 (d) amended....................45380
173.318 (f)(4) amended....................45380
173.319 (d)(2) amended....................45184
(a)(4)(iii), (c), (e)(1) and (2)(i) amended....................45380
(e)(4) amended....................45383
173.320 (c) revised....................33436
173.323 (c)(1) amended....................45380
(i) amended....................45383
173.334 (d) amended....................45380
173.335 (a) amended....................45380
173.337 Introductory text amended....................45380
173.340 (a), (b) and (c)(4) amended....................45380
173.403 Amended..........45184, 45380, 45383
173.411 (c) amended....................45380
(b)(4)(ii) revised....................45383
173.412 (f) amended....................45380
(b) amended....................45381
173.416 (f) amended....................45380
173.417 (a)(6)(viii), (b)(1) table, (2)(i) and (ii) Table 5 amended....................45380
(a)(6)(iv), (b)(2)(ii) and Table 5 amended....................45381
173.419 (c) amended....................45380
173.425 Table 7 amended....................45383
173.427 (a)(1) amended....................45381
173.433 (b) amended..........45184, 45380
173.435 Table amended....................45184
173.441 (b)(3) amended....................45381
173.443 (d)(1) amended....................45380
173.447 (a) amended....................45381
173.453 (d) amended....................45380
(a), (b)(2), (3), (d) and (e) amended....................45383
173.457 (b)(4) amended....................45380
173.459 (b) introductory text amended....................45380
173.465 (c)(2), (3), (4), (d)(1)(ii), (e)(1) and (2) amended....................45380
(b) and (e)(1) amended....................45381
173.466 (a)(1) and (2) amended....................45381
173.469 (c)(1)(v), (d)(1) and (2) amended....................45184
(b)(2)(i) and (3)(iv) amended....................45380
(b)(2)(ii), (3)(i) and (v) amended....................45381
(b)(1) amended....................45381
173.471 (e) amended....................45380
173.472 (f) amended....................45380
173.473 (a)(1) amended....................45380
173.476 (a) and (c) introductory text amended....................45380
173 Appendix H amended....................45381
174.16 (b)(1), (2) and (3) amended....................45383
174.63 Heading and (a) amended....................45383
174.81 (e)(5), (g)(3)(iv), (v), (h) and (i) amended....................45383
174.83 (f) amended....................45383
174.84 Amended....................45383
174.85 (d) table amended....................45383
174.101 (a), (b), (c), (d) (h), (l), (n) and (o) introductory text amended....................45383
174.102 (a) and (b) amended....................45383
174.103 (a) amended....................45383
174.104 Heading, (a), (b) introductory text, (c), (d), (e) and (f) amended....................45383
174.105 Amended....................45383
174.106 Heading, (a), (b) and (c) amended....................45383
174.110 Amended....................45383
174.112 Heading, (a), (b), (c) introductory text and (3) amended....................45383
174.115 Heading, (a), (b) and (3) amended....................45383
174.700 (c) and (d) amended....................45383
174.715 (b) amended....................45383
175.10 (a)(10) and (16) revised; (a)(17) added....................33436
(a)(2), (4)(ii), (iv), (15) and (b)(2) amended....................45383
175.30 (d)(1) and (2) revised....................45184

NOTE: Boldface page numbers indicate 2000 changes.

175.31 (b)(1) amended	45184
175.33 (a) introductory text revised	33437
175.75 (a)(1) amended	45184
175.78 Revised	33437
(a) Table 1 amended	45383
175.85 (a) revised	33438
(i)(3) amended	45383
(c)(1)(iv) amended	45384
175.90 (d)(2) amended	45184
175.310 Introductory text, (c)(1), (2) and (3) amended	45383
175.320 (a) table amended	45383, 45384
175.701 (b)(3) and (c) introductory text amended	45383
175.702 (b)(2)(i)(A) and (B) amended	45383
176.2 Amended	8647, 33438, 45184
176.4 (b) introductory text and (c) amended	45384
176.5 (b)(8) amended	8647
176.9 Introductory text amended	45384
176.11 (a) introductory text amended	8647
176.27 (b) amended	8647
176.30 (a) introductory text amended	8647
(a)(5) introductory text amended	45184
(a)(5)(ii) revised	45384
176.36 (b) amended	45384
176.63 (e) added	33438
(b) amended	45184
176.74 (c) amended	45184
176.76 (d) and (f)(2) amended	45184
(h)(5) and (i) amended	45384
176.80 Heading revised	45184
176.83 (a)(6), (7) introductory text, (b) introductory text, (c)(2)(iii) and (iv) amended	45184
(a)(6), (c)(2)(ii) through (v), (f)(4) table and (g)(3) tables amended; (b), (f) and (g) revised	45384
176.84 (b) table amended; (c)(1) and (2) table revised; (c)(3) removed	33438
(a) and (c)(2) amended	45185
(b) table amended	45384
176.88 Heading revised	45185
176.95 Heading revised	45185
176.99 Amended	45384
176.100 Amended	45385
176.104 (h) introductory text and (j) introductory text amended	45384
(i) amended	45385
176.112 Heading revised	45185
Amended	45384
176.116 (e)(3) amended	45384
(e)(2) amended	45385
176.128 (c) amended	33438, 45384
176.133 Amended	45185
176.136 (e) amended	33438
(b) and (c) amended	45185
176.137 (c) amended	45185
176.142 (a) revised	33438
(b)(1) amended	45384
176.144 (c) amended	45384
(a) table amended	45385
176.145 (b) amended	45384
176.150 (a) and (b) amended	45384
176.164 (c) amended	45384
176.166 (a)(1) and (b) table amended	45384
(b) table amended	45385
176.168 (d) amended	45384
176.172 (c) amended	45384
176.192 (a) amended	45384
176.194 (f) amended	45185
(c) amended	45384, 45385
176.210 Amended	45185
176.315 (a) amended	45384, 45385
176.340 (c) amended	45185
(b)(2), (7) and (8) amended	45384
176.400—176.415 (Subpart J) Heading amended	45385
176.400 Heading, (c) and (d) amended	45384
176.410 Heading, (a)(1) and (c) introductory text amended	45384
176.415 (c)(4) amended	45185
Heading, (b)(5), (c)(1) and (5) amended	45384
(a)(1) amended	45385
176.700 (c) amended	45385
176.704 (e)(2) amended	45384
(b) and (d) amended	45385
176.720 Added	33439
176.905 (a)(5), (i)(2) and (5) amended	45384
(i)(1) and (2) amended	45385
177.834 (i)(3) amended	45385
177.835 (g)(3) introductory text correctly revised	**60383**
(c) introductory text, (f) and (j) amended	45385
177.840 (e) amended	45185
(d), (e) (g), (h) introductory text, (i), (m), (o), (p)(1), (2)	

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49 Chapter I—Con.

introductory text, (q)(1), (r)(2), (t) and (u) amended 45385
177.842 (b)(2) and (f) amended..........45385
177.848 (g)(3)(vi) revised 33439
  (g)(3)(iv) amended..........................45185
  (e)(5), (g)(3)(v), (h) and (i) amended 45385
177.854 (f)(1) and (g)(2)(iv) amended...45385
177.870 (d) amended..........................45385
178.3 (a)(2) and (b)(2) amended 45386
178.33-8 (a) amended 45387
178.33-9 (a)(2) amended.....................45386
178.33a-2 (b) amended.......................45387
178.33a-8 (a) amended.......................45387
178.33a-9 (a)(2) amended..................45386
178.35 (f)(1)(iv) amended..................45185
178.36 (j) amended 45185
  (a)(1), (2), (e)(1), (f), (i)(2) and (k)(3)(iii) amended.....................45386
  (a)(2)(iii) and (f) amended............45387
178.37 (a)(1), (2) introductory text, (e)(1), (i)(2) and (k)(3)(iii) amended....................45386
  (a)(2)(iii) and (f)(1) amended; (f)(2) and (3) revised..................45387
178.38 (j) amended 45185
  (a), (e)(1), (f), (i)(2) and (k)(3)(iii) amended....................45386
  (o) introductory text amended 45387
  (f) amended......................................35288
178.39 (j) amended 45185
  (a)(1), (i)(2) and (k)(3)(iii) amended 45386
  (f) amended......................................35288
178.42 (a), (f)(1), (2) and (3) amended 45386
178.44 (l) amended 45185
  (a), (f)(2), (i)(2) and (m)(3)(iii) amended 45386
178.45 (j)(4) amended 45185
  (d)(1) and (2)(ii) amended.............45386
  (a) and (g)(4) amended 45387
  (d)(2)(iii) amended 35288
178.46 (c)(5)(ii), (g)(2), (3)(i), (ii) and (iii) amended 45387
  (d) amended......................................35288
178.47 (a) and (j)(2) amended 45386
  (f) introductory text amended 45387
  (f)(1) and (2) amended 35288
178.50 (d) introductory text amended 45185
  (a), (f)(1)(i), (ii), (iii), (i)(2) and (k)(3)(iii) amended....................45386
  (f)(2) amended..................................35288
178.51 (g)(1) amended.......................45185
  (a) introductory text, (f)(1)(iii), (2), (3), (j)(3)(iii), (k) and (l)(3) amended 45386
178.53 (a), (h)(2) and (j)(5)(iii) amended 45386
  (e) introductory text, (1) and (2) amended 45388
178.55 (a) and (i)(2) amended 45386
  (f) and (k)(3)(iii) amended 45387
178.56 (a) and (i)(2) amended 45386
  (f)(1)(ii), (2), (j)(3)(iii), (k) and (l)(3) amended..........................45387
178.57 (a) introductory text amended 45386
  (d)(3), (f)(1), (j)(3)(iii), (k) and (l)(3) amended..........................45387
  (f)(6) amended..................................45388
178.58 (a) and (i)(2) amended 45386
  (m)(5)(iii) amended........................45387
  (f)(1) and (2) amended 35288
178.59 (a) introductory text and (h)(4) amended..........................45386
  (j(3)(iii) amended 45387
178.60 (a) and (j)(4) amended 45386
  (g)(1) introductory text, (l)(3)(iii), (m) and (n)(3) amended 45387
  (g)(1)(i) amended 45388
178.61 (a), (f)(3), (j)(3)(iii), (k) and (l)(3) amended..........................45387
  (f)(4) amended..................................35288
178.65 (d)(1) and (2) amended 45389
178.68 (a) amended 45386
  (f)(1)(i), (2), (h)(4) introductory text and (l)(1) amended 45387
178.245-3 Note 1 amended 45387
178.270-2 (c) amended 45386
  (b) amended......................................45389
178.270-4 (b)(1), (2) and (3) amended...45387
178.270-5 (d).......................................45387
  (b)(1) and (2) amended 45389
178.270-9 Amended 45387
178.270-10 (a) and (b) amended 45387
178.270-11 (c)(4) amended.................45386
  (a)(2), (c)(1)(i) and (ii) amended 45387
  (a)(1) revised; (a)(2), (3), (b)(1), (c)(2), (d)(4), (e)(2)(i), (ii), (4) amended 45389
178.270-12 (b) and (e) amended.........45387
178.270-13 (a) amended 45387
178.270-14 (b)(7) and (c)(2) amended...45387

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

178.271-1 (b) amended 45387
(b) amended 45387
178.272-2 (b)(1) and (2) amended 45387
178.273 Added 33439
178.274 Added 33440
178.275 Added 33445
178.276 Added 33448
178.277 Added 33450
178.318-3 Amended 45185
178.337-1 (b) Note 1 amended 45387
178.337-8 (a)(3), (4)(i), (ii), (v) and (vi) amended 45387
178.338-1 (a)(1) and (f)(1) amended 45387
178.345-1 (f) amended 45387
(c) and (k) introductory text amended 45389
178.345-10 (b)(3)(ii) amended 45389
178.345-14 (b)(3) amended 45389
178.346-1 (b) amended 45387
178.346-3 (b)(3) amended 45389
178.347-1 (c) amended 45387
178.352-2 (a) amended 45387
(b) revised 45389
178.352-3 (a), (b), (c)(1), (2)(i), (ii), (iii) and (3) amended 45387
(a) and (c)(3) amended 45389
178.352-6 (a)(3) amended 45386
178.354-2 (a) amended 45387
178.354-3 (a) introductory text, (b), (c) introductory text and (e) amended 45387
178.356-1 (b)(1), (2) and (3) amended 45387
(c) amended 45389
178.356-2 (a)(2) and (c) amended 45387
178.356-3 (a) amended 45387
178.358-1 (b) and (c) amended 45387
178.358-2 (a) introductory text, (2) and (3) amended 45387
178.358-3 (b)(2) and (4) revised; (b)(3) amended 45389
178.358-5 (b)(5) amended 45386
178.360-1 (b) amended 45387
178.360-3 (a) amended 45387
178.362-1 (b)(1) through (6) amended 45387
178.362-2 (a)(1), (2), (b), (d)(2), (3) and (e)(1) through (5) 45387
178.362-3 (b) amended 45387
178.362-6 (b) amended 45386
178.364-1 (b) amended 45387
178.364-2 (a), (b), (d), (e) and (f) amended 45387
178.364-3 Revised 45389
Amended 45387
178.503 (a)(8) and (c)(1)(ii) amended 45386
178.509 (b)(1) amended 45386
178.601 (e), (g)(7), (h), (i) introductory text, (2) and (k) amended 45386
178.603 (b) amended 45386
178.604 (b)(2) amended 45386
178.605 (b) amended 45386
(d)(2), (3) and concluding text revised 45390
178.606 (b) and (c)(1) amended 45386
178.608 (b)(5) amended 45386
178.700 (a), (c) introductory text and (1) amended 45386
(c)(1) amended 45387
178.702 Heading, (a) introductory text, (1), (2) and (b) amended 45386
(a)(1) table amended 45387
178.703 Heading and (a)(1) introductory text revised; (a)(1)(ii) amended 33451
Heading, (a)(1) introductory text, (i), (ii), (iii)(A), (B), (C), (v), (vi), (vii), (viii), (2)(i) through (iv), (b) introductory text, (1) introductory text, (i), (2) introductory text, (i), (3), (4), (5), (6) introductory text, (i) and (ii) amended 45386
178.704 Heading, (a), (b), (c) (d) introductory text, (e) and (f) amended 45386
178.705 Heading and (c)(1)(iv)(A) revised; (c)(1)(iv)(C) added 33452
Heading, (a) introductory text, (b) introductory text, (1), (2), (c) introductory text, (1)(ii), (iii) introductory text, (ii), (2) introductory text and (i) amended 45386
(c)(1)(iii)(A), (B), (c)(1)(iv)(A), (B) (2)(i) amended 45387
178.706 Heading, (a) introductory text, (1), (3), (5), (b), (c) introductory text, (1), (3) and (4) amended 45386
(c)(4) amended 45387
178.707 Heading, (a)(1) introductory text, (i) through (vi), (b)

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49 Chapter I—Con.

introductory text, (1), (c) introductory text, (2), (3) introductory text, (iv), (4) introductory text, (5) introductory text, (i), (ii), (iv) and (6) amended 45386
(c)(3)(iv) and (6) amended 45387
178.708 Heading, (a), (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (ii), (3), (4) introductory text, (4)(i), (ii) and (iv) amended 45386
178.709 Heading, (a) introductory text, (b) introductory text, (1), (c) introductory text, (1), (2) introductory text, (i), (iv), (3), (4) introductory text, (i), (ii) and (iv) amended 45386
178.710 Heading, (a) introductory text, (b) introductory text, (1), (3), (c) introductory text, (1), (2) and (4) through (7) amended 45386
178.800—178.819 (Subpart O) Heading amended 45386
178.801 (i) amended 33452
(a), (b), (c)(1), through (6), (7) introductory text, (ii), (d), (e)(1), (2) introductory text, (i), (ii), (f)(1), introductory text, (i), (ii), (2), (g), (h), (i), (j) introductory text, (2), (k), (l)(1) and (2) amended 45386
178.802 Heading, (a) introductory text and (c) amended 45386
178.803 Heading, introductory text and table amended 45386
Table amended 45390
178.810 (a), (b)(1), (2), (3), (c), (d)(1) introductory text, (3)(i) and (e) amended 45386
178.811 (a) through (d) amended 45386
178.812 (c)(1) revised; (c)(3) added 33452
(a), (b)(1), (2), (c)(1), (2) introductory text and (d) amended 45386
178.813 (a) and (d) amended 45185
(a) through (d) amended 45386
178.814 (a) amended 45185
(a), (b), (c), (d)(1) through (4), (5) introductory text, (i)(A), (ii)(A), (B), (e)(1), (2) and (3) amended 45386
178.815 (a), (b)(1), (2), (c)(1), (2), (3), (4) introductory text, (i), (ii), (d), (e)(1), (2) and (3) amended 45386
178.816 (a), (b), (c), (d) introductory text and (e) amended 45186
178.817 (a) through (d) amended 45386
178.818 (a) through (d) amended 45386
178.819 (a) , (b)(1), (2), (3) and (c) amended 45386
179.2 Amended 45386
(a)(4) and (9) removed 45390
179.12 (b) amended 45390
179.15 (e) introductory text, (2), (f)(1), (3) and (4) amended 45390
179.16 (a)(3) amended 45390
179.18 (c) amended 45390
179.100 Heading amended; second 179.100 redesignated as 179.101 45186
179.100-7 (b) table amended 45186
179.100-14 (a) introductory text amended 45186
179.100-18 (c) amended 45186
179.101 Redesignated from second 179.100 45186
179.101-1 Table amended 45186, 45390
179.101-4 (i) amended 45390
179.102-4 Introductory text amended 33452
(a) introductory text amended 45186
179.102-17 (d) revised; (l) amended 45390
179.103-5 (b)(4) amended 45186
179.200-1 Heading amended 45186
179.200-6 (a), (b) and (c) amended 45390
179.200-7 (c) table and (h) amended 45186
179.200-9 (a) and (b) amended 45186
179.200-11 Amended 45186
179.200-13 Heading amended 45390
179.200-14 (c) and (e)(2) amended 45186
(b) amended 45390
179.201-1 Table amended 45390
179.201-3 (a)(1) and (2) amended 45186
179.201-4 Amended 45186
179.201-6 (d) amended 45186
179.201-8 (a) amended 45390

NOTE: Boldface page numbers indicate 2000 changes.

179.220-6 (a) and (b) amended	45390
179.220-7 (c) table amended	45186
179.220-24 Heading amended	45390
Corrected	49556
179.221-1 Table amended	45390
179.300-6 (a) amended	45186
(a) and (b) amended	45390
179.300-15 Heading and (c) revised	45390
179.300-16 (b) amended	45390
179.300-17 Heading and (b) revised; (c) amended	45390
179.301 (a) table amended	45390
179.400-4 (a)(5) amended	45186
179.400-8 (a) through (d) amended	45191
179.400-9 (d) amended	45391
179.400-17 (a)(1) amended	45186
179.400-20 (d) amended	45391
179.400-25 (a) amended	45391
179.401-1 Table amended	45390
179.500-3 (d) amended	45186
(c)(2) amended	45391
179.500-4 (a) amended	45391
179.500-7 (b) amended	45391
179.500-10 (a) amended	45390
179.500-12 (a) amended	45390
Heading amended	45391
179.500-16 Heading and (b) revised; (a) amended	45391
179.500-17 (a)(5) and (6) revised	45391
179.500-18 (c) table amended	45191
Appendix A amended	45390
180.350 Amended	45391
180.351 Heading, (a) and (b) amended	45391
180.352 Heading and (b)(1) amended	45186
(a), (b) heading, introductory text, (3)(i), (ii), (c)(1), (2)(i) introductory text, (A), (B), (C), (ii) introductory text, (C), (iii) introductory text, (B) and (f) amended	45391
180.405 (h)(2), (m)(2), (3) and (n) amended	45391
180.409 (b) amended	45391
180.415 (b) amended	45187
180.419 (b)(1) amended	45187
180.509 (h)(2)(i), (ii) and (j)(2) amended	45391
180.511 (e) amended	45187
180.515 (c) amended	45391
180.519 (b)(1) amended	45187
(b)(2) and (5) table amended	45391
(b)(3), (4) and (5) table	45392
180.601—180.605 (Subpart G) Added	33452
192.801—192.809 (Subpart N) Heading added	43523
192.803 Amended	43523
192.809 (c) revised	43524
195.2 Amended	**80544**
Regulation at 65 FR 80544 eff. date delayed	9532
195.6 Added	**80544**
Regulation at 65 FR 80544 eff. date delayed	9532
195.450 Undesignated center heading and section added	**75405**
Regulation at 65 FR 75405 eff. date delayed	9532
195.452 Undesignated center heading and section added	**75405**
Regulation at 65 FR 75405 eff. date delayed	9532
195.501—195.509 (Subpart G) Heading added	43524
195.503 Amended	43524
195.509 (c) revised	43524
195 Appendix C added	**75409**
Regulation at 65 FR 75409 eff. date delayed	9532
199 Random drug testing revision	**81409**
Policy statement	41955
199.1—199.25 (Subpart A) heading revised	47117
199.1 Revised	47117
199.2 Added	47117
199.3 Amended; introductory text revised	47117
199.5 Revised	47118
199.7 Redesignated as 199.101; new 199.7 added	47118
199.9 Redesignated as 199.103	47118
Redesignated from 199.207; amended	47119
199.11 Redesignated as 199.105	47118
199.13 Redesignated as 199.107	47118
199.15 Redesignated as 199.109	47118
199.17 Redesignated as 199.111	47118
199.19 Redesignated as 199.113	47118
199.21 Redesignated as 199.115	47118
199.23 Redesignated as 199.117	47118
199.25 Redesignated as 199.119	47118
199.100—199.119 (Subpart B) Heading added	47118
199.100 Added	47118
199.101 Redesignated from 199.7	47118

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 49 Chapter I—Con.

199.103 Redesignated from 199.9; (a)(1) amended; (b)(2) revised 47118
199.105 Redesignated from 199.11; (b) and (e) revised; (c)(3) and (4) amended 47118
199.107 Redesignated from 199.13 47118
199.109 Redesignated from 199.15; (b), (c) and (d) revised 47118
199.111 Redesignated from 199.17; heading revised; (b) and (c) amended 47118
199.113 Redesignated from 199.19 47118
199.115 Redesignated from 199.21 47118
199.117 Redesignated from 199.23 47118
(b) amended 47119
199.119 Redesignated from 199.25 47118
199.200—199.245 (Subpart B) Redesignated as Subpart C 47118
199.201 Removed 47119
199.202 Amended 47119
199.203 Removed 47119
199.205 Removed 47119
199.207 Redesignated as 199.9 47119
199.209 Existing text designated as (a); (b) added 47119
199.213 Removed 47119
199.225 (a)(2)(ii) and (b)(4)(ii) removed 47119
199.231 (g) revised 47119

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

213.110 Added 1899
(j)(1) and (m) introductory text correctly added 8372
Regulations at 66 FR 1899 and 8372 eff. date delayed 9676
219 Authority citation revised **69885**
Policy statement **79318**
Policy statement 41955
Revised 41973
219.5 Amended **69885**
219.201 (a)(1) introductory text, (2) and (4) revised **69886**
225 Authority citation revised **69886**
225.19 (c) amended; (e) revised **69886**
225 Appendix B amended **69886**
229 Authority citation revised 4192
229.5 (p) added 4192
Regulation at 66 FR 4192 eff. date delayed 9906
229.25 (a) revised 4192
Regulation at 66 FR 4192 eff. date delayed 9906
229.27 (b) revised 4192
Regulation at 66 FR 4192 eff. date delayed 9906
229.53 Revised 4192
Regulation at 66 FR 4192 eff. date delayed 9906
231 Authority citation revised 4192
231.0 (b)(3), (4), (5) and (g) added 4192
Regulation at 66 FR 4192 eff. date delayed 9906
231.31 Added 4192
Regulation at 66 FR 4192 eff. date delayed 9906
231 Appendix A amended 4193
Regulation at 66 FR 4193 eff. date delayed 9906
232 Revised 4193
Regulation at 66 FR 4193 eff. date delayed; Appendix B heading revised 9906
232.1 (b) and (d) amended 9906
232.303 (a)(1)(iv), (e) introductory text, (1) introductory text, (iv) and (f) introductory text revised 39687
232.305 Revised 39688
232.307 Revised 39688
232.309 Heading and (a) revised 39689
232.409 (c) amended 29502
232 Appendix A amended 39689
233.9 Regulation at 61 FR 33872 confirmed 49557
234.215 Revised 49560
234.247 (b) revised 49560
235.7 Regulation at 61 FR 33872 confirmed 49557
236.590 Regulation at 61 FR 33873 confirmed 49557

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

375 Authority citation revised **58664**
375.1 (b) revised **58664**
382 Policy statement 41955
Revised 43102

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

- 385 Authority citation revised........**78427**
- 385.14 Added........**78427**
- 386 Authority citation revised........**58664**
  - Heading and authority citation revised........**78427**
- 386.1 Revised........**78427**
- 386.2 Amended........**78427**
- 386.72 (a) and (b)(1) revised........**58664**
- 386.83 Added........**78428**
- 386.84 Added........**78428**
- 386 Appendix A amended........**78429**
- 390 Authority citation revised........**70514**
  - Authority citation revised........2766
- 390.3 (f)(6) revised........2766
  - Regulation at 66 FR 2766 eff. date delayed........9677
- 390.5 Amended........2766
  - Regulation at 66 FR 2766 eff. date delayed........9677
- 390.19 (a) revised; (g) added; interim........**70514**
- 391.41 (b)(1) and (2)(ii) revised........**59369**
- 391.43 (c)(1), (d), (f), (g) and (h) revised........**59369**
- 391.49 (d)(2) amended........**59380**
- 393 Authority citation revised........**70220**
  - Authority citation revised........30339
- 393.13 (a) revised........30339
- 393.75 (g) revised........**70220**

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

- 533.5 (a) Table IV revised........17516
- 541 Appendices A, A–I, A–II and B revised........40624
- 571 Workshop........**68107**
  - Policy statement........9673
  - Actions on petitions........18208
- 571.122 Amended; eff. 8–14–02........42617
- 571.208 Amended........48221
- 571.221 Regulation at 63 FR 59740 eff. date delayed to 6–1–02........20199
- 571.304 Amended........**64626**
- 571.305 Regulation at 65 FR 57988 eff. date delayed to 12–1–01........9533
- 571.401 Added........**63020**
  - Revised........43121
- 572.150 (a)(1) introductory text and (2) revised........45784
- 572.154 (c)(7) added........45784
- 572.155 (a) revised; (i)(2)(iv) added........45784
- 573.3 (a) revised; (g) added........38162
- 573.10 Added; interim........**81413**
- 575 Notice of final decision........3388
- 578 Authority citation revised........**68110**
  - Heading and authority citation revised; interim........**81418**
- 578.1 Revised; interim........**81418**
- 578.2 Revised; interim........**81418**
- 578.3 Revised; interim........**81419**
- 578.4 Amended; interim........**81419**
- 578.6 (a) revised........**68110**
  - (f)(1) and (g)(1) amended; (g)(2) revised........41151
- 578.7 Added; interim........**81419**
  - (b) revised........38384
- 592 Authority citation revised........**68110**
- 592.6 (g)(2)(i) amended........**68110**
- 593 Apendix A revised........48363
- 595.1—595.4 (Subpart A) Heading added........12655
- 595.1 Revised........12655
- 595.2 Revised........12655
- 595.5 (Subpart B) Heading added........12655
- 595.6—595.7 (Subpart C) Added........12655

Chapter VI—Federal Transit Administration; Department of Transportation (Parts 600—699)

- 611 Added........**76880**
  - Regulation at 65 FR 76880 eff. date stayed in part to 4–6–01........9677
- 660 Inseason adjustments........17639
- 653 Policy statement........41955
  - Removed........42002
- 654 Policy statement........41955
  - Removed........42002
- 655 Policy statement........41955
  - Added........42002

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

- 1002 Policy statement........**76174**
- 1002.1 (b), (c), (e)(1) and (f)(6) table revised........**77320**
  - (b), (c), (e)(1) and (f)(6) table revised........10830
- 1002.2 (f) revised........**77320**
  - (f) revised........10830
- 1180.0 Revised........32583
- 1180.1 Revised........32583
- 1180.3 (a) and (b) revised........32586

NOTE: Boldface page numbers indicate 2000 changes.

TITLE 49 Chapter X—Con.

1180.4 (a)(1), (d), (e)(2), (3) and (f)(2) revised; (a)(4) removed; (b)(4) and (c)(6)(vi) added 32586
1180.6 (b)(1) through (4), (6) and (8) revised; (b)(9) through (13) added 32587
1180.7 Revised 32588
1180.8 (a) and (b) redesignated as (b) and (c); new (a) added 32589
1180.10 Added 32589
1180.11 Added 32590
1247 Added 1052

Proposed Rules:

10 1294
21 ....**76460**
26 23208
27 ....**76460**
71 40666
107 ....**76890**
....22080
171 ....**63294**
....6942, 32420, 35155, 40174
172 ....**63294**
....6942, 41490, 47443
173 ....**63294**
....6942, 32420, 40174
174 ....**63294**
....2870, 32420, 40174, 47443
175 ....**63294**
....32420, 40174, 47443
176 ....**63294**
....32420, 40174, 47443
177 ....**63294**
....2870, 6942, 32420, 40174, 47443
178 ....**63294**
....6942, 32420, 40174
180 ....**63294**
195 ....**76968**
....15681, 15821
199 ....21492, 21506
209 42352
214 1930
219 ....21492, 21511
229 ....136, 13474
234 42352
236 42352
350 39248
365 27059
368 ....22328, 32918
382 ....21492, 21538
383 ....22499, 39248
384 ....22499, 39248
385 ....2767, 22415, 27059
387 ....22328, 27059
390 ....2767, 22499
392 ....**79050**
393 ....**79050**
398 2767
534 6523
537 19132
538 20781
544 41190
554 6532
567 ....**69810, 75222**
....90
571 ....**67693, 70681, 70687, 75222, 77339, 78461**
....968, 3527, 18581, 28875, 29747, 30366, 31883, 33657, 35177, 38982, 40176, 42982, 42985
572 ....**71081**
573 ....6532, 38247
574 ....**75222**
575 ....**75222**
....35179
576 6532
578 27621
591 ....**69810**
....90
592 ....**69810**
....90
594 ....**69810**
....90
604 48110
624 45552
653 ....21492, 21551
654 ....21492, 21551
655 ....21492, 21551
1111 48853
1180 ....**58974**

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

13.23 Regulation at 64 FR 32711 confirmed 6483
13.24 Regulation at 64 FR 32711 confirmed 6483
13.25 Regulation at 64 FR 32711 confirmed 6483
13.29 Regulation at 64 FR 32711 confirmed 6483
13.50 Regulation at 64 FR 32711 confirmed 6483
17 Comment requests 2828, 23181
Technical correction 43808

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

17.11 (h) table amended........**58949, 60886, 63454, 63704, 69480, 69637, 69710, 81433**
(h) table amended 8548, 8667, 8878, 9176, 9231, 9244, 9449, 14659, 15656, 18031, 21475, 22959, 29403, 32257, 33915, 35559, 36085
(h) table amended; eff. 10–9–01 46560
17.12 (h) table amended.........**62310, 81189**
(h) table amended 27907, 49567
(h) table amended; eff. 10–9–01 46546
17.22 Regulation at 64 FR 32711 confirmed........6483
17.32 Regulation at 64 FR 32712 confirmed........6483
17.40 (l) added; eff. 5–22–01 through 5–22–04........28130
17.84 (g) amended; (g)(1) revised; (g)(6)(vi) and (9)(vi) added **60886**
(l) added **69637**
(h)(1), (2), (4)(ii), (iii), (iv), (5), (6), (8), (9) and (10) revised; (h)(11) and map added..............33916
17.85 Added 32263
17.95 (c) amended........**58949**
(h) amended **63455**
(b) amended........**63704**
(e) amended........**69710**
(b) amended 8549, 8878, 9177, 22959, **36086**
(a) amended 8667
(i) amended........9231, 21475
(f) added........9244
(d) amended........9450, 14659
(d) corrected ....13657—13671
(e) amended 18031
(h) amended........29404
(g) added........35560
(e) table amended; eff. 10–9–01 46560
17.96 (a) amended........**81189**
(a) amended; eff. 10–9–01 46546
18.30 (a)(4)(i), (iii), (iv) and (i)(1) introductory text revised; interim 1907
18.121—18.129 (Subpart J) Correctly added; eff. 3–30–00 through 3–30–03........**67306**
20 Frameworks......................44010, 49478
Seasonal hunting adjustment 46200
20.21 (j) introductory text revised; (j)(1) added........**76888**
(j) revised 742
20.22 (b) and (g) added 32265
20.101 Seasonal hunting adjustment........45732
20.102 Seasonal hunting adjustment........45732
20.103 Seasonal hunting adjustment........35733
20.104 Seasonal hunting adjustment; correction 1052
Seasonal hunting adjustment 45736, 49750
20.105 Seasonal hunting adjustment; correction 1052
Seasonal hunting adjustment 45737, 49751
20.106 Seasonal hunting adjustment 45744, 49767
20.107 Seasonal hunting adjustment; correction 1052
Seasonal hunting adjustment 49768
20.109 Seasonal hunting adjustment; correction 1052
Seasonal hunting adjustment 45745, 49768
20.110 Seasonal hunting adjustment........**58667**
(a), (b), (f), (h), (k), (l), (p), (q), (r) and (t) revised; (u) through (cc) added........49776
21.60 (Subpart E) Added 32265
23.23 (f) table amended 27610
25.12 Amended........**62480**
25.21 Revised........**62481**
25.44 Heading, (b) and (c)(1) revised; (d) removed; (e) redesignated as (d) **62482**
26.41 Added........**62482**
29.1 Revised........**62483**
29.3 Removed........**62483**
29.21 Amended; heading revised **62483**
29.21–7 Heading revised; (c) removed........**62483**
32.7 Amended 46353
32.20 Amended 46353
32.22 Amended 46353
32.24 Amended 46354
32.27 Amended 46355
32.28 Amended 46355
32.29 Amended 46355
32.31 Amended 46355
32.32 Amended 46356
32.33 Amended 46356
32.34 Amended 46356
32.36 Amended 46357

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 50 Chapter I—Con.

32.37 Amended 46357
32.38 Amended 46358
32.40 Amended 46358
32.42 Amended 46358
32.43 Amended 46358
32.44 Amended 46359
32.47 Amended 46360
32.49 Amended 46360
32.50 Amended 46360
32.52 Amended 46360
32.53 Amended 46360
32.55 Amended 46361
32.56 Amended 46361
32.57 Amended 46361
32.60 Amended 46361
32.61 Amended 46361
32.62 Amended 46361
32.63 Amended 46361
32.67 Amended 46362
32.69 Amended 46362
32.72 Amended 46363
80.15 Revised 18212
80.27 Added 18212
86 Added 5286
Regulation at 66 FR 5286 eff. date delayed 9534
100 Emergency closures and adjustments 32750
100.1—242.9 (Subpart A) Revised; interim 31536
100.10—242.21 (Subpart B) Revised; interim 31536
100.24 (a)(2) revised 10145
(a)(1) revised 33748
100.25 (c) revised; eff. 3–1–01 through 6–30–01 10148
Added 33755
100.26 Added; eff. 7–1–01 through 6–30–02 33759
100.27 Added; eff. 3–1–01 through 2–28–02 10148
100.28 Added; eff. 3–1–01 through 2–28–02 10148

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

216 Harvest estimates 33209
216.151—216.157 (Subpart N) Correctly removed; CFR correction 22133
Added 22466
216.170—216.178 (Subpart P) Added; eff. 9–17–01 through 9–17–06 43458
222 Temporary regulations 15045, 28842, 33489
223 Policy statement **70514**
Temporary regulations 15045, 28842, 33489
Exemption 37599
223.102 (c) revised **60383**
223.206 (d)(2)(iv)(B) amended 1603
(d)(6) added; interim 44551
223.207 (c) introductory text revised 1603
(a)(7)(ii)(B) revised; interim 24288
223 Figure 16 added; interim 24289
224 Policy statement **70514**
224.101 (a) revised **69481**
(d) added 29055
224.103 (b) and (c) redesignated as (c) and (d); (b) added 29509
224.104 Heading and (c) revised; interim 44552
229 Temporary regulations 15045, 27042
Regulation at 66 FR 27042 eff. date corrected 29213
Fisheries List 42780
229.2 Amended; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.3 (h) through (k) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.32 (b), (c)(3)(ii), (4)(ii), (5)(ii), (d)(2)(ii), (3)(ii), (4)(ii) and (5)(ii) removed **70317**
(b)(1) through (d)(6)(ii) revised; interim **80377**
Regulation at 65 FR 80377 eff. date delayed 5489
229.34 (a)(2) revised 2338
230 Quotas **75186**
Quotas 14862

Chapter III—International Regulatory Agencies (Fishing and Whaling) (Parts 300—399)

300 Quotas **71270**
Inseason adjustment **75867**
Fishery management measures 15801, 18409
Policy statement 46740
300.22 Heading revised; existing text designated as (a); (b) added; eff. 10–29–01 49320

NOTE: **Boldface page numbers indicate 2000 changes.**

300.28 (h) through (l) added; eff. 10–29–01 49320
300.29 (e) added; eff. 10–29–01 49320
300.63 (e) added **67308**
  (e) corrected 8373
  (d)(1)(i) amended 36208
  (a)(3) and (4) redesignated as (a)(4) and (5); new (a)(3) added 42156
300.60—300.65 9 (Subpart E) Figure 1 amended 36208

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Fishing restrictions **59752, 63118**
  Fishery management measures **66655**
  Technical correction **69376**
  Fishing restrictions ... 2389, 22469, 35388
  Specifications 2338, 10209, 18409, 28676, 28846
  Technical correction 38162
600.518 (b)(1) table revised 28132
600.525 Removed **77464**
622 Temporary regulations **68951, 70317, 70808**
  Policy statement **70521**
  Temporary regulations 7591, 11237, 13440, 15357, 33917, 35761
  Policy statement 16618
  Inseason adjustments 32779
622.4 (h) revised **61115**
622.17 (b)(1) introductory text amended **61116**
622.31 Regulation at 65 FR 56502 eff. date extended through 9–14–01 14862
622.35 (e)(1)(xii) through (xviii) and (2) revised; (e)(1)(xl) through (li) added **61115**
622.39 (a)(4) added **61115**
  (c)(1)(ii) revised 17369
622.41 (a)(4) introductory text amended **61116**
622.42 (c)(1)(i) revised 17369
622.44 (a)(2)(i) and (d)(4)(i) revised 17370
635 Retention limits **60118, 63807**
  Inseason adjustment **63021**
  Fishing season notification **75867**
  Quotas 55, 46400, 46401, 49321
  Retention limits 31844, 40151
  Fishing season notification 33918
  Quota specifications 37421
  Inseason adjustment 42805
  Temporary regulations 46401, 48221
635.2 Amended; eff. 10–10–00 through 4–9–01 .... **60891**
  Amended 8904
  Amended; eff. 7–11–01 through 1–9–02 36712
635.4 (d)(3) stayed; (d)(6) added 29511
  (b)(1) and (d)(1), (2) and (3) revised 30652
635.5 (a)(1) amended 30653
  (a)(3), (b)(1)(i), (ii), (iii), (2)(i), (ii)(A) and (B) revised 42804
635.6 (b)(1) introductory text and (iii) revised 42804
635.7 (d) revised; interim 17372
635.20 (e)(1) stayed; eff. 3–6–01 through 9–4–01 13443
  (f)(1) amended 42804
635.21 (c)(2)(v) added; eff. 10–10–00 through 4–9–01 .... **60891**
  (c)(5) added; eff. 11–24–00 through 4–9–01 .... **60891**
  (c)(2)(ii) and (iii) revised 8904
  (c) introductory text amended; (c)(5) added; interim 17372
  (a)(3) added; eff. 9–15–01 through 1–9–02; (c)(2) stayed; (c)(6) added; eff. 7–15–01 through 1–9–02; (c)(5)(iii) added; eff. 8–1–01 through 1–9–02 36714
  (a)(3) suspended; (a)(4) added; eff. 9–15–01 through 1–9–02 48813
635.22 (c) amended 8904
635.27 (c)(1)(i)(A) and (3)(i) revised; (c)(1)(i)(C) and (3)(iii) added **77526**
  (b)(1)(iii) revised 8904
  (b)(1)(i), (ii), (iv)(A) and (c) stayed; (b)(1)(v) and (vi) added; eff. 3–6–01 through 9–4–01 13443
  (a)(2)(i), (ii) and (iii) revised 42805
635.28 (b)(1) stayed; (b)(4) added; eff. 3–6–01 through 9–4–01 13443
635.41 (a) introductory text, (1), (2) and (b) amended 42805
635.42 (a) heading, (1), (2), (3), (b) heading, (1), (2) and (3) amended 42805
635.43 (a)(2), (5), (12), (b) and (c) amended 42805

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 50 Chapter VI—Con.

635.44 (a) and (b) amended....42805
635.45 Revised....**77527**
  Amended....42805
635.46 Revised....**77527**
635.47 Amended....42805
635.69 Stayed....1907
635.71 (a)(33) and (34) added; eff. 10-10-00 through 4-9-01....**60892**
  (a)(33) and (34) added; interim....17373
  (a)(27) amended....30653
  (a)(24), (b)(25) and (26) amended; (a)(35) and (b)(28) added; (b)(5) and (6) revised....42805
640 Figure 1 correctly added; CFR correction....49135
648 Quotas....**59758, 60586, 69886, 70522, 76577, 76578, 78993, 82945**
  Inseason adjustments....**60118, 77470**
  Suspension of surf clam minimum size limit....**60586**
  Daily trip limit....**63549**
  Temporary regulations....**64627**
  Fishery management measures....**65787**
  Reporting and recordkeeping requirements....**82944**
  Quotas....8904, 27615, 29729, 41151
  Regulation at 65 FR 82944 eff. date delayed....9778
  Allowable catch levels....15812
  Temporary regulations....16151, 27043, 29238, 31184, 33210, 37165, 41454, 43122, 45785, 48011
  Specifications....28846
  Technical corrections....47413
648.1 (a) amended....**77464**
  (a) amended; eff. 11-01-01....49142
648.2 Amended....**60895, 77464**
  Amended; eff. 11-01-01....49142
648.4 Heading revised; (a)(10) and (c)(2)(vi) added....**77464**
  (a)(3)(iii) revised....36210
  (a)(12) added; (b) revised; eff. 11-01-01....49142
648.5 (a) amended....**77465**
  (a) amended; eff. 11-01-01....49143
648.6 (a) revised....**77465**
  (a)(1) revised; eff. 11-01-01....49144
648.7 (a)(3)(i), (b)(1)(i), (c) and (e) revised; (f)(1)(ii), (iii) and (2) redesignated as (f)(1)(iii), (iv) and (2)(i); (f)(1)(i) and new (2)(i) amended; new (f)(1)(i) and (ii) added....**60895**
  (a)(1)(i) and (2)(i) amended; (f)(3) revised; (a)(3)(iii) and (b)(1)(iii) added....**77465**
  (a)(2)(i) amended; (b)(1)(iv) added; eff. 11-01-01....49144
648.9 (c)(1) and (f) revised; (c)(2)(iii) added....**77466**
648.10 (b)(1) introductory text amended....21643, 24056
648.11 (a) revised....**77466**
  (a) amended; (e) revised; eff. 11-01-01....49144
648.12 Introductory text amended....**77466**
  Introductory text revised; eff. 11-01-01....49144
648.13 (f) added....**77466**
648.14 Regulation at 65 FR 25891 eff. date extended through 4-24-01....**64894**
  (a)(103) revised; (x)(10) and (bb) added....**77466**
  (a)(73), (122), (123), (p)(3) and (4) revised....**81764**
  Regulation at 65 FR 77466 eff. date delayed in part....12438
  (a)(84), (92), (122) and (u)(9) revised; (a)(123) removed....12910
  (a)(38), (39), (40) and (h)(27) revised; (a)(110), (111), (h)(29) through (33), (i)(8) and (9) added....21644, 24056
  (aa)(7) added....22476
  (a)(80) and (u)(2) revised....39291
  (j) introductory text, (k) introductory text, (l) introductory text, (m) introductory text, (p) introductory text, (q) introductory text, (u) introductory text, (v) introductory text and (w) introductory text revised....42158
  (x)(11) and (cc) added; eff. 11-01-01....49144
648.21 (e) revised....13028
  (f) revised....35566
  (a), (b) and (c) revised; (g) added....42159
648.22 (c) revised....**81765**
  (a) revised....13028
648.52 Heading, (a) and (c) revised; (d) and (e) added....21644, 24056
648.53 (b) table revised....21644, 24057
648.57 Added; interim....9679
  Added....45785

NOTE: Boldface page numbers indicate 2000 changes.

Heading, (a) introductory text and (b) introductory text revised 21645, 24057
648.58 Revised 21645, 24057
648.80 (h)(1) revised 21647, 24060
648.81 (a)(1) introductory text, (b)(1) introductory text, (2)(ii) and (c)(1) introductory text revised 21647, 24060
648.86 (a)(2)(iii) revised 21648, 24060
648.88 (c) revised 21648, 24060
648.100 Regulation at 65 FR 47649 eff. date delayed 8091
Revised 36211
(a), (b) and (d) revised; (f) added 42160
Corrected 45187
648.101 Regulation at 65 FR 47650 eff. date delayed 8091
648.102 Revised 36212, 39291
648.103 (b) revised 36212, 39291
648.104 Regulation at 65 FR 47650 eff. date delayed 8091
648.105 (a) amended 36212
(a) revised 39292
648.107 Regulation at 65 FR 47651 eff. date delayed 8091
Revised 36212
648.120 (b)(2) revised 12911
(a) revised 39292
(a), (b) introductory text, (1), (4) and (c) revised; (e) added 42161
Corrected; (b)(6) correctely revised 45187
648.122 (a) through (d) revised; (e) redesignated as (f); new (e) added **81765**
(a), (b) and (c) revised; (d) removed 12911
Heading revised; (g) added 39292
648.123 (a)(1) and (5) revised 12911
649.124 (b) revised 39292
649.125 (a) revised 39292
648.140 (b)(2) revised 12911
(a), (b) introductory text, (1), (6) and (c) revised; (e) added 42161
648.142 Revised 39292
648.143 (b) amended 39292
648.145 Introductory text removed; (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added 39292
648.160 (a) revised 23627
(a) through (d) revised; (h) added 42162
648.164 (a) amended 23627
648.200—648.206 (Subpart K) Added **77467**
648.205 Regulation at 65 FR 77469 eff. date delayed in part 12438
648.230 (d)(1) revised 22476
648.235 Regulation at 65 FR 25891 eff. date extended through 4-24-01 ....**64894**
Added 22476
648.260—648.268 (Subpart M) Added; interim; eff. 5-18-01 through 11-14-01 23184
648.262 (a) amended; eff. 7-18-01 through 11-14-01; interim 38166
648.263 (a) amended; eff. 7-18-01 through 11-14-01; interim 38166
648.265 (a) stayed; (c) amended; (d) added; eff. 7-18-01 through 11-14-01; interim 38166
648.268 (a)(1) and (5) amended; eff. 7-18-01 through 11-14-01; interim 38166
648.290—648.294 (Subpart N) Added; eff. 11-01-01 49145
660 Fishing restrictions **59752**, **63118**, **67310**
Quota **65272**
Fishery management measures **66655**
Technical correction **69376**, **69483**
Inseason adjustment **70523**, **70524**
Harvest guidelines **81766**
Fishing restrictions 2389, 11119, 22469, 35388, 35761, 44552
Specifications ...2338, 10209, 18409, 28676
Temporary regulations 17373, 34583, 38573, 42453, 45634, 45635
Inseason adjustments 17639, 36212, 46403, 46966, 49322
Fishery management measures 23185
Technical correction 38162
Harvest guidelines 38571
Specifications 48370
660.21 (l) added; interim 31564
660.22 (hh) stayed; (kk) added; eff. 12-4-00 through 2-21-01; (ll) and (mm) added; eff. 11-3-00 through 2-21-01; interim **66187**
(z), (aa) and (bb) stayed; (ee) through (ll) added; interim; eff. 2-22-01 through 8-20-01 11121

NOTE: **Boldface page numbers indicate 2000 changes.**

TITLE 50 Chapter VI—Con.

(ee) revised; eff. 3-14-01 through 8-20-01 15359
(ee) through (ll) stayed; (mm) through (tt) added; interim 31564
660.23 (a) stayed, (c) added; interim; eff, 2-22-01 through 8-20-01 11121
(a) stay terminated; (c) stayed; interim 31564
660.28 (c) stayed; interim; eff, 2-22-01 through 8-20-01 11121
(c) stay terminated; interim 31564
660.32 (a)(3), (b)(4), (5) and (e) added; interim 31564
660.33 (d)(4) stayed; (d)(7) added; eff. 12-4-00 through 2-21-01; (d)(5) and (e)(2) stayed; (d)(8), (9) and (e)(7) added; eff. 11-3-00 through 2-21-01; interim **66188**
Added; interim; eff, 2-22-01 through 8-20-01 11121
(a)(4) added; eff. 3-14-01 through 8-20-01 15359
Stayed 31564
660.34 Added; interim 31564
660.35 Added; interim 31565
660.36 Added; interim 31565
660.302 Amended **82952**
Amended 20612, 29733, 40919, 41157
660.303 (a) revised **82953**
660.306 (y) added 20613
(n) revised 40919
(s) and (t) revised 41157
660.321 (b) revised 29733
660.323 (a)(3)(vi) added; (b) revised 29733
(a)(2) revised 41157
660.333 (a) revised; (h)(1)(i) and (ii) removed; (h)(1)(iii) and (iv) redesignated as (h)(1)(i) and (ii) 29734
Revised 40919
(a) revised 41158
660.334 Revised 40919
(b), (c)(1)(i) and (d)(1) revised; (c)(3) and (d)(3) added 41158
Corrected 45786
660.335 Removed 29734
Added 40919
(c) through (h) redesignated as (d) through (i); new (c) added; heading, new (d)(1) and (e)(3) revised 41158
660.336 Removed 40922
660.337 Removed 29734
660.338 (b) removed; (c) redesignated as (b) 29734
Revised 40922
660.340 Revised 40922
660.360 Added 20613
660.402 Amended 29241
660.408 (c)(1)(ii) and (vi) amended; (c)(1)(v) and (A) revised; (c)(1)(viii) and (ix) redesignated as (ix) and (x); new (c)(1)(viii) added 29241
660.410 Heading, (a) and (b)(1) revised 29241
660.518 Added 44987
660.519 Added 44987
679 Temporary regulations **59380**
Reallocation **62646**
Fishery management measures **65272, 67310, 76175**
Notification **76578**
General limitations **77836**
Fishery management measures 742, 3501, 34125
Authority citation revised 7309
Temporary regulations 9679, 9680, 10637, 10969, 11123, 12739, 12912, 13028, 13266, 13671, 14343, 14863, 15201, 15359, 15360, 16155, 16409, 16410, 16619, 17373, 17087, 17088, 17089, 17815, 21691, 21886, 21887, 23196, 27043, 28132, 28679, 29241, 29511, 29512, 31849, 35761, 36213, 36492, 37166, 37600, 38166, 38167, 38573, 38574, 39119, 41455, 42455, 42969, 45786, 46404, 46967, 47417, 47418, 47591, 48822, 48823
Nomenclature change 27909
Reallocation 49146
679.1 (j)(3) and (4) added **78115**
Introductory text, (d) introductory text and (1)(i)(B) revised 27909
679.2 Amended **60588, 67308, 78115**
Corrected **64896**
Amended; interim 7309
Amended; interim; eff. 1-18-01 through 7-17-01 7327
Amended 13677, 43526, 47417
Corrected 16014, 34852
Amended; (A)(1) through (15) redesignated as (2) through (16); new (16) revised; new (1) added 27909
Regulation at 66 FR 7330 eff. date extended to 1-14-02 35911

NOTE: Boldface page numbers indicate 2000 changes.

Regulation at 66 FR 7309 eff. date extended 37179
679.4 (g) added **78116**
(l) added; interim; eff. 1–18–01 through 12–31–01 7310
(g)(5)(iii)(A) correctly revised 13857
(d)(1)(i) revised 27910
(k)(2)(iv), (4)(i) through (v), (5) introductory text, (i) introductory text, (ii) and (6)(iv)(D) revised; (k)(3)(ii)(D), (iv) in part, (5)(iii) through (vi) and (7)(ix) added; eff. 10–24–01; (k)(3)(i) revised; (k)(3)(iv)(A) added; eff. 1–1–02 48817
679.5 (a)(4)(iv), (f)(3), (i)(1)(iii) and (o) added; interim; eff. 1–18–01 through 12–31–01; (f)(4) added; interim; eff. 1–18–01 through 7–17–01 7314
(l)(7)(ii)(C)(*4*)(*i*) correctly revised 13672
(l)(1)(iv), (2)(iv)(A)(*2*), (vi), (3)(i)(A), (ii), (4) and (5)(i) revised 27910
Regulation at 66 FR 7314 eff. date extended in part 37179
(p) added 43526
679.7 (d)(9) revised **60588**
(a)(2) revised; (c)(3) added **61267**
Regulation at 65 FR 61267 eff. date corrected to 11–16–00 ....**63291**
(i)(3) and (7) revised; (i)(1)(iv) and (8) added **78118**
(a)(11) and (b) stayed to 7–17–01; (a)(17) and (j) added; interim; eff. 1–18–01 through 7–17–01 7315
(k) correctly added; interim 26809
(f)(14) revised 27910
(f)(4) amended 33031
Regulation at 66 FR 7315 eff. date extended in part 37179
(i)(6) revised; eff. 10–24–01; (i)(9) added; eff. 1–1–02 48817
679.20 (a)(5)(i)(A), (ii)(B) and (c)(2)(ii) stayed; (a)(5)(i)(B), (ii)(C), (c)(2)(iii) and (7) added; interim; eff. 1–18–01 through 7–17–01; (d)(1)(iv) added; interim; eff. 1–18–01 through 12–31–01 7315
(b)(1)(iii)(A) revised; (f)(3) added 13677
(a)(5)(i)(D), (E) and (c)(3)(iv) added; (d)(1)(iv) stayed; (d)(1)(v) added; eff. 1–18–01 to 7–17–01; interim 7330
Regulation at 66 FR 7330 eff. date extended to 1–14–02 35911
Regulation at 66 FR 7315 eff. date extended in part; (a)(7)(i)(C)(*2*) stayed; (a)(5)(i)(C), (7)(i)(C)(*4*) and (c)(7) added 37179
(b)(1)(iv) removed; (b)(1)(v) redesignated as new (b)(1)(iv) 41807
679.21 (e)(1)(vii) and (7)(viii) revised **60588**
(e)(7)(viii) correctly revised **64896**
(d)(8) and (e)(3)(v) added; interim; eff. 1–18–01 through 12–31–01 7316
679.22 (a)(8)(iii)(D) revised **61267**
(b)(5) added **67308**
(j) removed; (k) added **79785**
(k) removed; (l) added **82299**
(k) correctly designated as (l) 1375
(a)(7), (8) and (b)(2) stayed; (a)(11), (12), (13), (b)(3) and (5) added; interim; eff. 1–18–01 through 7–17–01; (a)(11)(v), (12)(v) and (b)(3)(iv) added; interim; eff. 6–10–01 through 7–17–01 7316
Corrected; (a)(11)(iv)(D)(*1*) table, (*2*), (v)(A)(*2*), (*3*) and (C) correctly added 15657
(a)(12)(iii)(A), (iv), (v)(C), (b)(3)(iv)(C) correctly added; (b)(5) correctly redesignated as (b)(6) 15658
(a)(15) and (b)(8) added; interim; eff. 6–10–01; (a)(13) and (b)(6) stayed; (a)(14) and (b)(7) added; interim; eff. 3–23–01 through 7–17–01 17086
Regulation at 66 FR 7316 eff. date extended in part 37179
(a)(5)(i) stayed; (a)(5)(iv), (11), (12)(i), (ii), (iii)(A), (iv) through (viii), (13), (b)(3), (6) and (7) added 37180
(a)(12)(vii) correctly removed; (a)(12)(viii) correctly redesignated as (a)(12)(vii);

NOTE: Boldface page numbers indicate 2000 changes.

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

TITLE 50 Chapter VI—Con.

(a)(13)(iii)(C) and (b)(7)(ii)(B) correctly added; Tables 22, 23 and 24 correctly revised; interim 48372
679.23 (d)(2), (e)(2) and (4)(iii) stayed; (d)(3), (4), (e)(4)(iv), (v), (5) and (6) added; interim; eff. 1-18-01 through 7-17-01 7319
(e)(6)(i) stayed; (e)(6)(iii) added; interim; eff. 3-23-01 through 7-17-01 17067
(d)(4) and (e)(6)(iii) stayed; (d)(5) and (e)(6)(iv) added; eff. 6-10-01 through 7-17-01 31848
Regulation at 66 FR 7319 eff. date extended in part 37179
(d)(4) and (e)(6)(iii) added 37182
679.26 (a)(2) and (b)(3)(iv) revised **78121**
679.28 (a) revised; (f) added **61267**
Regulation at 65 FR 61267 eff. date corrected to 11-16-00 .....**63291**
679.31 (f) revised 13678
(f) suspended; (g) added 37182
679.32 (a)(2) revised; (e) added 13678
679.40 (a)(6)(i) revised 27910
679.41 (h)(2) and (k) revised 27910
679.42 (j)(6) added 27911
679.43 (a) and (p) revised **78118**
(c) revised 27911
679.50 (c)(4) introductory text amended; (c)(4)(iv) and (d)(4) revised; (c)(4)(v) added; (h)(1)(i)(E)(*4*) removed **69485**
Heading, (i)(1)(i) and (iii) revised **80383**
(c)(5) and (d)(5) added; interim; eff. 1-18-01 through 12-31-01 7320
(c)(4)(i), (5) and (d)(5) stayed; (c)(4)(vi), (6) and (d)(6) added; interim; eff. 1-18-01 through 7-17-01 7331
Regulation at 66 FR 7331 eff. date extended to 1-14-02 35911
679.59—679.64 (Subpart F) Added; interim; eff. 1-18-01 through 12-31-01 7320
679.60 Corrected 15658
679 Figure 8 revised **60589**
Figure 18 added **67308**
Tables 12, 13 and 20 stayed; Table 21 added; interim; eff. 1-18-01 through 7-17-01 7323
Corrected 15659
Tables 21 through 24 added 37182
Table 14 removed; tables 14a, b, c, 16, 17 and 18 added; table 15 revised 43527
Table 21 correctly revised 44074
Table 22 correctly revised 44079
Table 23 correctly revised 44081
Table 24 correctly revised 44084
697 Fishing restrictions 13443
Fishery management measures 20202
697.2 Amended; interim **61121**
Regulation at 65 FR 61121 stayed eff. 10-23-00 through 10-27-00 .....**63549**
Amended **64897**
Amended 8910, 14501
697.4 (d)(1) revised; (p) added 14501
697.7 (e) added **61121**
Regulation at 65 FR 61121 stayed eff. 10-23-00 through 10-27-00 .....**63549**
(e) removed **64897**
(e) added 8911
(c)(1)(vii) through (x) revised 14501
(f)(4) amended 33031
697.19 (e) added 14502
697.21 (g) added 14502
697.22 Introductory text and (a)(1) revised 8911
697.23 (f) added 8911
697.26 Added 14502

Proposed Rules:

14 43554
15 29072
17 .....**58981, 59798, 60391, 60603, 60606, 60607, 61218, 62690, 62691, 63044, 63047, 64414, 64649, 65287, 66808, 67334, 67335, 67343, 67796, 69896, 76207, 77178, 79192, 80409, 80698, 82086, 82310, 83158**
.....345, 1295, 1628, 1632, 1633, 3964, 4782, 4783, 9476, 9540, 9683, 9806, 10419, 10440, 10469, 11131—11134, 11244, 12450, 12754, 13474, 13691, 14107, 18062, 18223, 19910, 20962, 22141, 22983, 22984, 26827, 30148, 30368, 30372, 30853, 30860, 31760, 32052, 33046, 33620, 35580, 36229, 38611, 40960, 42318, 43145, 45662, 45829, 46251, 46428, 46575, 48225, 48227, 48228, 49158, 49608
18 14352
20 .....**63225, 64660**

NOTE: **Boldface page numbers indicate 2000 changes.**

CHANGES OCTOBER 2, 2000 THROUGH SEPTEMBER 28, 2001

	21298, 32297, 38494, 42712, 45516
21	**69726**
	45274
32	35193
84	43555
100	10162, 45082
216	**59164, 75230, 77546, 80815**
	2873, 15375, 19413, 26827, 35209, 44109, 47905
222	39474
223	9808, 17659, 17845, 31600, 31603, 32304, 32305, 32787, 35407, 39474, 40176, 42499, 43150, 47625
224	**66221, 79328**
	10983, 17659, 19414, 32304, 32305, 32787, 42499
226	**66221**
	28141, 42499
229	**64415**
	6545
300	13480, 17387, 20129, 20419, 32310
600	**67708, 67709, 6989, 775911, 75912**
	12451, 12452, 13279, 13870, 15395, 16645, 17668, 18584, 19748, 21306, 24093, 28142, 28876, 29922, 34401, 37634, 39129, 39130, 39475, 42832, 45833
622	**59170, 60163, 63837, 80827**
	8567, 9813, 10268, 13692, 17519, 20129, 22144, 28725, 29924, 30866, 31608, 31609, 32312, 37634, 37635, 40187
635	**69492, 69898, 71085, 76601, 80410, 82973**
	13692, 15396, 17389, 17520, 22994, 29529, 34401
640	37635
648	**60396, 64654, 65818, 66222, 66960, 70841, 75232, 75912**
	90, 1634, 8568, 9814, 10983, 12755, 13279, 13281, 13694, 13695, 17391, 17673, 20130, 28879, 29530, 30149, 34401, 36246, 46978, 46979, 48020, 48996
660	**59814, 62692, 63047, 68971, 69898, 80411, 80828**
	1945, 2872, 9285, 13035, 13483, 14354, 17395, 17681, 18586, 23660, 27623, 29074, 29276, 30867, 30869, 32919, 39131, 39475, 40188, 45833
679	**58727, 66223, 70328, 78126, 78131**
	3976, 17397, 26827, 28883, 30396, 38412, 38626, 41664, 42833, 48410
697	**61135, 70841, 75916**
	28726, 42832, 48853

NOTE: Boldface page numbers indicate 2000 changes.

2000

65 FR Page	
58365–58899	Oct. 2
58901–59104	3
59105–59338	4
59339–59693	5
59695–60091	6
60093–60338	10
60339–60568	11
60569–60830	12
60831–61075	13
61077–61253	16
61255–62273	17
62275–62575	18
62577–62990	19
62991–63193	20
63195–63533	23
63535–63761	24
63763–64132	25
64133–64334	26
64335–64580	27
64581–64880	30
64881–65251	31
65253–65704	Nov. 1
65705–66163	2
66165–66482	3
66483–66599	6
66601–66922	7
66923–67248	8
67249–67603	9
67605–68063	13
68065–68870	14
68873–69236	15
69237–69430	16
69431–69654	17
69655–69848	20
69849–70271	21
70273–70459	22
70461–70642	24
70643–70767	27
70769–71052	28
71053–71232	29
71233–73300	30
75153–75579	Dec. 1
75581–75852	4
75853–76114	5
76115–76559	6
76561–76914	7
76915–77244	8
77245–77494	11
77459–77753	12
77755–78074	13
78075–78402	14
78403–78893	15
78895–79304	18
79305–79710	19
79711–80278	20
80279–80732	21
80733–81319	22
81325–81726	26
81727–82238	27
82239–82878	28
82879–83293	29

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19

15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18
32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31
39615–40105	Aug. 1
40107–40572	2
40573–40838	3
40839–41128	6
41129–41438	7
41439–41754	8
41755–42104	9
42105–42412	10
42413–42586	13
42587–42727	14
42729–42927	15
42929–43064	16
43065–43459	17
43461–43760	20
43761–44024	21
44025–44289	22
44291–44520	23
44521–44944	24
44945–45150	27
45151–45561	28
45563–45747	29
45749–45919	30
45921–46210	31
46211–46363	Sept. 4
46365–64506	5
46509–46692	6

46693–46935	7
46937–47059	10
47061–47378	11
47379–47570	12
47571–47875	13
47877–47948	14
47949–48083	17
48085–48202	18
48203–48322	19
48323–48526	20
48527–48784	21
48785–48948	24
48949–49084	25
49085–49269	26
49271–49510	27
49511–49822	28

OC

2001

UMI

United Sta
Governme
Printing Of
SUPERINTENDEN
OF DOCUMENT
Washington, DC

OFFICIAL BUSIN
Penalty for Private

Code of Federal Regulations

LSA

List of CFR Sections Affected

October 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

******************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

NATIONAL ARCHIVES AND REC

1985

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

October 2001

Title 1–16
Changes January 2, 2001
through October 31, 2001

Title 17–27
Changes April 2, 2001
through October 31, 2001

Title 28–41
Changes July 2, 2001
through October 31, 2001

Title 42–50
Changes October 1, 2001
through October 31, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41—as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999, 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (**2** Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869–044–00002–4)	36.00	[1]Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1, 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4]Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4]Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1, 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1, 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869–044–00082–2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0–42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–042–00133–8)	28.00	July 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3]July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3]July 1, 1984
3–6		14.00	[3]July 1, 1984
7		6.00	[3]July 1, 1984
8		4.50	[3]July 1, 1984
9		13.00	[3]July 1, 1984
10–17		9.50	[3]July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3]July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3]July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3]July 1, 1984
19–100		13.00	[3]July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*	*Revision Date*
Federal Register:		
Yearly subscription (with FR Index and LSA)	764.00	
Yearly subscription (without FR Index and LSA)	699.00	
Individual copies	10.00	daily

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1—49)

11.2 (a) revised	44524
11.3 (a) revised	44524
11.6 (a) revised	44524
11.7 Revised	44524
11.8 Revised	44524

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title

12798*See* Notice of October 16. 2001	53073

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

7208 *See* Proc. 7445	30053
7214 *See* Proc. 7445	30053
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403
7458	45563
7459	46507
7460	47569
7461	47939
Amended by Proc. 7464	48203
7462	47947
7463	48199
See EO 13224	49079
7464	48203
7465	48317
7466	48319

TITLE 3 Proclamations—Con.

7467 48321
7468 48947
7469 48949
7470 49505
7471 50097
7472 50099
7473 50287
7474 50289
7475 50525
7476 50527
7477 51295
7478 51297
7479 51807
7480 51808
7481 51810
7482 52011
7483 52015
7484 52303
7485 52845
7486 52847
7487 53943
7488 54903
7489 54905
7490 54907

Executive Orders

10000 Amended by EO 13207 18399
10789 Amended by EO 13232 53941
11145 Amended by EO 13225 50291
11183 Amended by EO 13225 50291
11287 Amended by EO 13225 50291
12002 *See* EO 13206 18397
12131 Amended by EO 13225 50291
12170 *See* Notice of Mar. 13, 2001 15013
12196 Amended by EO 13225 50291
12214 *See* EO 18397 18397
12216 Amended by EO 13225 50291
12333 See EO 13231 53063
12345 Amended by EO 13225 50291
12367 Amended by EO 13225 50291
12382 Amended by EO 13225 50291
  See EO 13231 53063
12472 See EO 13231 53063
12543 Continued by Notice of Jan. 4, 2001 1251
12544 Continued by Notice of Jan. 4, 2001 1251
12656 Amended by EO 13228 51812
12808 *See* Notice of May 24, 2001 29007
12810 *See* Notice of May 24, 2001 29007
12831 *See* Notice of May 24, 2001 29007
12834 Revoked by EO 12834 867
12836 Revoked by EO 13202 11225
12846 *See* Notice of May 24, 2001 29007
12865 Continued by Notice of September 24, 2001 49084
12871 Revoked by EO 13203 11227
12882 Amended by EO 13226 50523
12900 Amended by EO 13225 50291
  Revoked by EO 13230 52841
12905 Amended by EO 13225 50291
12924 Revoked by EO 13206 18397
12933 Revoked by EO 13204 11228
12934 *See* Notice of May 24, 2001 29007
12938 *See* EO 13206 18397
12947 *See* Notice of Jan. 19, 2001 7371
12957 *See* Notice of Mar. 13, 2001 15013
12958 *See* EO 13231 53063
12959 *See* Notice of Mar. 13, 2001 15013
12798 *See* Notice of October 16, 2001 53073
12981 *See* EO 13206 18397
12983 Revoked by EO 13203 11227
12994 Amended by EO 13225 50291
13021 Amended by EO 13225 50291
13035 Amended by EO 13215 30285
13045 Amended by EO 13229 52013
13047 Continued by Notice of May 15, 2001 27443
13059 *See* Notice of Mar. 13, 2001 15013
13069 *See* Notice of Sept. 24, 2001 49084
13075 Amended by EO 13225 50291
13080 Amended by EO 13225 50291
13088 Amended by EO 13192 7379
  See Notice of May 24, 2001 29007
13090 Amended by EO 13225 50291
13092 *See* EO 13215 30285
13098 *See* Notice of Sept. 24, 2001 49084
13099 *See* Notice of Jan. 19, 2001 7371
13111 Amended by EO 13188 5419
  Amended by EO 13218 33627
13113 *See* EO 13215 30285
13121 Amended by EO 13192 7379
  See Notice of May 24, 2001 29007
13125 Amended by EO 13216 31373
13130 Revoked by EO 13231 53063
13134 Amended by EO 13225 50291
13136 Amended by EO 13225 50291
13138 Amended by EO 13226 50523

13156 Revoked by EO 13203	11227
13168 Amended by EO 13225	50291
13174 Amended by EO 13218	33627
13178 Amended by EO 13196	7395
13182 Corrected	10057
13183 Amended by EO 13209	22105
13184	697
13185	701
13186	3853
13187	3857
13188	5419
13189	5421
13190	5425
13191	7271
13192	7379
See Notice of May 24, 2001	29007
13193	7387
13194	7389
See EO 13213	28829
13195	7391
13196	7391
13197	7853
13198	8497
13199	8499
13200	10183
See EO 13215	30285
13201	11221
13202	11225
Amended by EO 13208	18717
13203	11227
13204	11228
13205	15011
13206	18397
13207	18399
13208	18717
13209	22105
13210	22895
13211	28355
13212	28357
13213	28829
13214	29447
13215	30285
13216	31373
13217	33155
13218	33627
13219	34777
13220	35527
13221	40751
13222	44025
13223	48201
13224	49079
13225	50291
13226	50523
13227	51287
13228	51812
See EO 13231	53063
13229	52013
13230	52841
13231	53063
13232	53941

Administrative Orders

Memorandums:

June 5, 1997 (Revoked by EO 13202)	11225
Oct. 28, 1999 (Revoked by EO 13203)	11227
Mar. 3, 2000	3851
Mar. 5, 2001	14453
Mar. 28, 2001	17303
Apr. 12, 2001	20725
May 30, 2001	30629
May 31, 2001	31833
June 5, 2001	30799
July 11, 2001	37105
Sept. 25, 2001	49507

Notices:

Jan. 4, 2001	1251
Jan. 19, 2001	7371
Feb. 27, 2001	12841
Mar. 13, 2001	15013
May 15, 2001	27443
May 24, 2001	29007
June 11, 2001	32207
June 30, 2001	35363
July 31, 2001	40105
Sept. 24, 2001	49084
Oct. 16, 2001	53073

Presidential Determinations:

No. 96–7 of Dec. 27, 1995 *See* Notice of May 24, 2001	29007
No. 2000–29 of Sept. 12, 2000	47943
No. 2001–05 of Dec. 15, 2000	223
No. 2001–06 of Dec. 15, 2000	225
No. 2001–07 of Dec. 19, 2000	1013
No. 2001–08 of Dec. 27, 2000	1561
No. 2001–09 of Jan. 3, 2001	2193
No. 2001–10 of Jan. 17, 2001	8501
No. 2001–11 of Jan. 19, 2001	8503
No. 2001–12 of Mar. 1, 2001	14454
No. 2001–13 of Apr. 17, 2001	20585
No. 2001–14 of Apr. 30, 2001	27825
No. 2001–15 of May 11, 2001	27827
No. 2001–16 of June 1, 2001	30631
No. 2001–17 of June 1, 2001	30633
No. 2001–18 of June 8, 2001	34353
No. 2001–19 of June 11, 2001	34355
No. 2001–20 of July 2, 2001	37109
No. 2001–21 of July 4, 2001	37111
No. 2001–22 of July 26, 2001	40107

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 3 Administrative Orders—Con.

No. 2001-23 of Aug. 9, 2001	44521
No. 2001-24 of Aug. 18, 2001	46693
No. 2001-25 of Aug. 31, 2001	46695
No. 2001-26 of Sept. 12, 2001	47943
No. 2001-27 of Sept. 18, 2001	50807
No. 2001-28 of Sept. 22, 2001	50095
No. 2001-29 of Sept. 23, 2001	49075
No. 2001-30 of Sept. 28, 2001	51291
No. 2001-31 of Sept. 28, 2001	51293
No. 2002-02 of Oct. 16, 2001	53503
No. 2002-03 of Oct. 16, 2001	53505

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 2001.

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

330 Authority citation revised	6428, 29896
330.301—330.307 (Subpart C) Removed; interim	29896
330.603 Removed; interim	29896
330.610 Removed; interim	29896
330.702 Removed; interim	29896
330.710 Removed; interim	29896
330.1101 Revised; interim	6428
330.1102 Revised; interim	6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim	6429
330.1105 Revised; interim	6429
330.1106 Heading, (a) and (b) revised; interim	6429
332.314 Removed; interim	29896
351.807 (f) revised; interim	29896
353.110 (b) revised	29897
537 Added	2791
Regulation at 66 FR 2791 eff. date delayed	9187
537.101 Revised	39406
537.102 Amended	39406
537.110 Heading revised; existing text designated as (a); (b) added	39406
550.301 Regulation at 44644 confirmed	49085
550.311 Regulation at 44644 confirmed	49085
550.311 (a)(5) revised	49086
550.312 Regulation at 44644 confirmed	49085
550.313 Regulation at 44644 confirmed	49085
550.342 Correctly removed; CFR correction	53507
575.102 (a)(5) and (6) amended; (a)(7) added	37883
575.202 (a)(5) and (6) amended; (a)(7) added	37883
575.302 (a)(5) and (6) amended; (a)(7) added	37783
731 Regulation at 65 FR 82243 eff. date delayed	7863
731.301 (b) corrected	11100
731.304 Corrected	11100
792.207 Revised	705
792.230 Revised	705
792.234 Revised	705
831 Authority citation revised	15608, 38524
831.205 Added; interim	15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim	15608
831.303 (d) added; interim	15608
831.902 Amended; interim	38524
831.908 (a) revised; interim	38524
831.910 Revised; interim	38524
831.912 Undesignated center heading and section added; interim	38524
839 Added; interim	15609
841 Authority citation revised	15618
841.604 (c) added; interim	15618
842 Authority citation revised	38525
842.802 Amended; interim	38525
842.807 Revised; interim	38525
842.810 Undesignated center heading and section added; interim	38525
846 Authority citation revised	15618
846.204 (b)(2)(i) revised; (e) added; interim	15618
890.304 (d)(2) revised; interim	49086
890.806 (f)(1)(ii), (iii), (h) and (i) revised; (f)(1)(iv) added; interim	49087
890.807 (e)(2) and (4) revised; interim	49088

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended	30635

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

1201 Appendix I revised....................30635

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised....................22089
1601 Revised....................22093
1604 Added....................50713
1605 Revised....................44277
1605.4 (a)(3) amended....................14448
1605.6 Revised....................14448
1605.8 Revised....................14448
1606 Authority citation revised....................44283
1606.2 Revised....................44283
1606.5 Revised....................44283
1606.7 Revised....................44284
1606.8 Revised....................44284
1606.9 (a)(3) revised....................44284
1606.11 (c), (d) and (e) revised; (f) added....................44284
1606.13 (a), (b) and (c) added; (d) and (e) amended; (g) removed....................44285
1606.15 (a) revised....................44285
1650.31 Revised....................43462
1650.42 Revised....................43462

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended....................3439
2604.301 (a) and (b)(2) amended....................3439
2604.302 (a) and (d) amended....................3439
2604.303 (a), (b) introductory text and (2) amended....................3439
2604.304 (a) amended....................3439
2604.305 (a)(1) and (2) amended....................3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended....................3439

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised....................8506
3101.109 (c)(1) and (3) revised....................8506

Proposed Rules:

213....................46968
537....................15202
575....................5491
1600....................16411
1601....................16415
1604....................21693
1605....................20090
1606....................20090
1650....................36494
2608....................48824

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

1.29 (a)(3) added....................36907
1.130—1.151 (Subpart H) Authority citation revised....................36908
1.131 (a) amended....................36908
2 Authority citation revised....................16593
2.17 (a)(21)(xi) revised....................31107
2.25 (a)(2) and (6) corrected....................8149
2.45—2.49 (Subpart G) Heading revised....................31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added....................16593
2.48 (a)(27) added....................31107
2.49 (a)(1)(i) revised....................16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised....................21047
20 Appendix 1 amended....................38527
20 Regulation at 66 FR 38527 effective date delayed to 1-11-02....................44291
28.909 (b) revised....................29216
28.911 (a) amended....................29216
29.123 (b) revised; interim....................28361
29.8001 Table amended....................53075
29.9251 Amended; interim....................28361
51.630 Revised; interim....................48788
51.691 Revised; interim....................48788
51.692 (a) revised; interim....................48788
54.1001—54.1034 (Subpart C) Added....................1198
59 Regulation at 65 FR 75514 eff. date delayed....................8151
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected....................15619

TITLE 7

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed 38349

215 Authority citation revised 2201

215.2 (aa) redesignated as (bb); (i–l), (k–l) and new (aa) added; interim 2201

215.13a (f) and (g) added: interim 2201

220.8 (c) heading correctly revised; CFR correction 33631

Regulation at 65 FR 36317 confirmed 38349

225.2 Amended; interim 2202

225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202

226.2 Amended: interim 2203

226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203

245 Authority citation revised 2205, 48328

245.2 (a–3), (f–1), (k) and (l) redesignated as (a–4), (f–2), (l) and (m); new (a–3), (f–1) and (k) added; interim 2205

(f–3) added; (j) amended 48328

245.5 (a) introductory text and (1)(vi) amended 48328

245.6 (a)(1) revised; (f) added; interim 2205

(a) amended 48328

245.6a (a) and (2)(i) amended 48328

245.9 (b) through (g) removed; (a) heading and new (b) through (k) added 48328

246.2 Regulation at 65 FR 83277 eff. date delayed 8885

Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849

246.3 Regulation at 65 FR 83277 eff. date delayed 8885

Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849

246.4 Regulation at 65 FR 83277 eff. date delayed 8885

Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849

246.7 Regulation at 65 FR 83278 eff. date delayed 8885

Regulation at 65 FR 83278 eff. date delayed to 10–1–02 52849

246.12 Regulation at 65 FR 83278 eff. date delayed 8885

Regulation at 65 FR 83278 eff. date delayed to 10–1–02 52849

246.13 Regulation at 65 FR 83286 eff. date delayed 8885

Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849

246.14 Regulation at 65 FR 83286 eff. date delayed 8885

Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849

246.18 Regulation at 65 FR 83286 eff. date delayed 8885

Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849

246.19 Regulation at 65 FR 83288 eff. date delayed 8885

Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849

246.23 Regulation at 65 FR 83288 eff. date delayed 8885

Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849

246.26 Regulation at 65 FR 83288 eff. date delayed 8885

Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849

271.2 Amended 2799

Regulation at 66 FR 2799 eff. date delayed 8885, 18869

272.1 (c)(1)(vii) and (g)(165) added 4463

Regulation at 66 FR 4463 eff. date delayed 8886, 29661

272.2 (d)(1)(xiii) added 4464

Regulation at 66 FR 4464 effective date delayed in part 8886, 29661

273.1 (b)(7)(viii) through (xii) added 4464

Regulation at 66 FR 4464 eff. date delayed 8886, 29661

273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added 4464

Regulation at 66 FR 4464 eff. date delayed 8886, 29661

273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added 4464

Regulation at 66 FR 4464 eff. date delayed 8886, 29661

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

273.12 (a)(1)(viii) added 4468
  Regulation at 66 FR 4468 eff. date delayed 8886, 29661
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii) 4468
  Regulation at 66 FR 4468 eff. date delayed 8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added 4469
  Regulation at 66 FR 4469 eff. date delayed 8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi); new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended 2799
  Regulation at 66 FR 2799 eff. date delayed 8885, 18869
278.6 (a) and (g)(3) amended 2800
  Regulation at 66 FR 2800 eff. date delayed 8885, 18869

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised 21050
300.1 (c) and (d) added 37400
  (a) introductory text revised 45158
301 Authority citation revised 21050, 32717
301.38 Footnote 1 amended 21050
301.45 (a) amended 21050
  (a) amended; interim 37114
301.45-3 (a) amended; interim 37114
301.45-9 Amended 21050
301.48 (a) amended 21050
301.48-5 Amended 21051
301.50 Footnote 1 amended 21051
301.50-3 Regulation at 65 FR 37842 confirmed 20186
  (c) amended; (d) illustration revised 37403
  (d) removed; CFR correction 46509
  (d) corrected 46692
301.50-5 (a)(3) and (b)(2) revised 21051
301.51-3 Regulation at 65 FR 54944 confirmed 41439
301.51-5 (a)(2) and (b)(2) revised 21051
301.52-8 Amended 21051
301.64 Footnote 1 amended 21051
301.64-1 Amended 21051
301.64-2 Regulation at 64 FR 71269 confirmed 40574
301.64-3 Regulation at 64 FR 52212, 71269, 65 FR 20706 and 37006 confirmed 40574
301.64-5 (a)(2) and (b)(2) revised 21051
301.64-10 Regulation at 64 FR 71270 confirmed 40574
301.74 Footnote 1 amended 21051
301.75-1 Amended 32717
301.75-15 (c) revised 43066
301.75-16 Added 32717
  (c) corrected 33740
301.78 Footnote 1 amended 21051
301.78-5 (a)(3) and (b)(2) revised 21051
301.80 (a) revised 21052
301.80-1 Amended 21052
301.80-8 Amended 21052
301.81-3 Regulation at 65 FR 66489 confirmed 20186
301.81-5 (a)(2) and (b)(2) revised 21052
301.85 (a) revised 21052
301.85-1 Amended 21052
301.85-8 Amended 21052
301.87 Heading, footnote 1 and (a) revised 21052
301.87-1 Amended 21052
301.87-5 (a)(2) and (b)(2) revised 21053
301.89-3 Amended; interim 32210
  (f) amended; interim 37576
301.89-6 (a)(2) and (c)(2) revised 21053
301.89-15 Heading, introductory text, (a) introductory text, (b) introductory text and (c) introductory text revised 40842

TITLE 7 Chapter III—Con.

301.89-16 Heading, introductory text, (a), (b), (c)(1) and (2) amended....40842
301.91 Heading amended....21053
301.91-1 Amended....21053
301.91-5 (a)(2) and (b)(2) revised....21053
301.93 Footnote 1 amended....21053
301.93-3 (c) revised; interim....46366
301.93-5 (a)(2) and (b)(2) revised....21053
301.97 Footnote 1 amended....21053
301.97-5 (a)(3) and (b)(2) revised....21053
301.98-3 (c) revised; interim....33632
301.98—301.98-10 (Subpart) Added; interim....6433
301.98—1 Corrected....20186
302 Added; interim....1016
302 Authority citation revised....21054
302.2 Revised....54641
318 Authority citation revised....21054
318.13 (a) revised....21054
318.13-12 (a) amended....21054
318.30 (b) revised....21054
318.47 (b) revised....21054
318.58 (a) revised....21054
318.60 (b) revised....21054
318.82 (a) revised....21054
319 Authority citation revised....21054
Policy statement....38137, 45921
319.8 Amended....21054
319.8-1 Amended....21055
319.8-2 Authority citation removed....21055
319.8-4 Authority citation removed....21055
319.8-5 Authority citation removed....21055
319.8-26 Amended....21055
319.15 (a) revised....21055
319.24 (b) revised....21055
319.24-1 Authority citation removed....21055
319.24-3 Authority citation removed....21055
319.24-4 Authority citation removed....21055
319.28 (a) revised....21055
319.37-1 Amended....21055
319.37-3 (c) and (f) revised; authority citation removed....21055
319.37-5 Authority citation removed....21056
319.37-7 (f)(4) amended; authority citation removed....21056
319.37-8 Authority citation removed....21056
319.37-10 Authority citation removed....21056
319.37-11 Authority citation removed....21056
319.40-4 (c) revised....21056
319.40-9 (a)(4)(1) amended....21056
319.41 (b) and (c) revised....21056
319.41-2 Authority citation removed....21056
319.41-4 Authority citation removed....21056
319.41-6 Authority citation removed....21056
319.55 (b) and (c) revised....21056
319.55-2 Authority citation removed....21056
319.55-5 Authority citation removed....21056
319.55-7 Authority citation removed....21056
319.56 (b) and (c) revised....21056
319.56-2 (h) and (j) revised....45158
319.56-2j Authority citation removed....21056
319.56-2t Table amended....45158
319.56-2u (b)(7) revised; (b)(8) removed....45160
319.56-2w Heading, introductory text and (a) revised....45160
319.56-2x Table amended....45161
319.56-2ee (a)(1) amended....45161
319.56-2hh Added....45161
319.56-2ii Added....32213
319.56-3 Authority citation removed....21056
319.56-5 Authority citation removed....21056
319.59—319.59-2 (Subpart) Authority citation removed....21056
319.59 (a) revised; (b) amended....21056
319.59-1 Amended....21057
319.75 (b) amended....21057
319.75-1 Amended....21057
319.75-3 (c) revised; authority citation removed....21057
319.75-5 Authority citation removed....21057
319.75-6 Authority citation removed....21057
319.76 (b) amended....21057
319.76-1 Amended....21057
319.76-3 (c) revised....21057
319.77-5 Amended....21057
322 Authority citation revised....21057

330 Authority citation revised........21058
330.100 Amended 21058
330.102 Revised..........21058
330.106 (a) amended..........21058
330.205 Amended 21058
330.207 Amended 21058
330.208 Amended 21058
330.210 Amended 21058
330.211 Heading and (c) revised 21058
330.400 (f) revised 21058
340 Authority citation revised........21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised..........21058
340.3 (b)(1) amended 21058
351 Authority citation revised........21058
351.1 Revised..........21059
352 Authority citation revised........21059
352.1 (b) amended..........21059
352.2 (a), (b) and (c)(1) revised..........21059
352.3 (a) revised..........21059
352.5 (d) amended..........21059
352.6 Authority citation removed 21059
352.7 Authority citation removed 21059
352.10 (a), (b)(1) and (2) amended 21059
352.13 Amended..........21059
353 Auhority citation revised..........21059
353.1 Amended..........21059, 37400
Amended; interim..........371176
353.7 (e)(4) revised; interim..........37116
353.8 Amended (OMB number) 37400
353.9 Added 37400
354 Authority citation revised........21060
354.1 Authority citation removed 21060
354.2 Table amended 46211
354.3 (a) amended..........21060
355 Footnotes 1 and 2 removed; authority citation revised........21060
355.1 Revised..........21060
355.11 Footnote 3 revised 21060
356 Authority citation revised........21060
360 Authority citation revised........21060
360.200 Heading and introductory text revised 21060
360.300 Authority citation removed..........21060
Regulation at 65 FR 41009 confirmed..........32217
361 Authority citation revised........21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv) redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added 21060
372 Authority citation revised........21060
380 Authority citation revised........21060
380.1 Revised..........21061

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.700—400.713 (Subpart V) Revised; interim..........47951
457.151 Amended; heading and introductory text revised..........42730
Regulation at 66 FR 42730 corrected 53076

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

718 Authority citation revised........53509
718.102 (b)(4) revised..........53509
723 Policy statement 53945
723.206 (c)(1) revised..........53509
723.216 (e)(5)(iv), (e)(6)(ii)(B) and (i)(6) revised 53509
723.503 (a)(3) revised..........53509
735 Revised 46312
760.1—760.34 (Subpart) Authority citation revised..........2801
761 Authority citation revised 7566
761.8 Added..........7566
762 Authority citation revised..........7567
762.102 Amended..........7567
762.105 (c)(1) revised; (c)(2)(iii) removed 7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d) 7567
762.125 (a)(2), (3), (6) and (8) revised 7567
762.142 (d)(8) revised 7567
762.145 (b)(6)(iv) revised..........7567
762.146 (e)(9) revised 7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised 7567
770 Added 1567
Regulation at 66 FR 1567 eff. date delayed..........8886
770.10 (e)(3)(iv) corrected; (e) correctly redesignated as (f) 47877

TITLE 7

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 35753
  (a) Table 1 corrected 36834
868.90 (a) revised 17777
868.91 Revised 17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.306 (c) and (d) revised 229
905.350 Revised; interim 49093
916.115 Revised; interim 17484
916.160 (c) revised; interim 39409
916.234 Revised 52309
916.350 (d) revised; interim 17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text and (6) introductory text revised; interim 17484
  (a)(1)(iv) Table 1, (4) and (6) amended 39620
917.150 Revised; interim 17485
917.178 (c) revised; interim 39409
917.442 (d) revised; interim 17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim 17486
  (a)(1)(iv) Table 1 amended 39620
  (a)(6) amended 39621
920.155 Removed 39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v) 39270
  (a)(4)(iv) table revised 54414
924.236 Revised; interim 42415
928.150 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.152 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.160 (a)(1) revised; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.313 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
929.104 (a)(4) revised 34351
929.107 Removed 34351
929.110 (d) added 34351
929.125 Revised 34351
929.148 Removed 34351
929.149 Revised 34351
929.158 Revised 34351
929.251 Added 34352
930.16 Revised 35896
930.50 (a) revised 35896
930.54 (a) stayed in part; interim 232
  Regulation at 66 FR 232 confirmed 21273
930.59 (b) suspended in part; interim 39413
930.120 Added; interim 35889
930.154 Added; eff. 5-2-01 through 6-30-01 21842
930.162 (a), (b)(3) and (c)(3) revised; interim 39413
930.163 Added; interim 35889
930.200 Revised; interim 235
  Regulation at 66 FR 235 confirmed 21276
930.252 Added; eff. 5-2-01 through 6-30-01 21842
932 Marketing order 16593
932.230 Revised; interim 13391
  Regulation at 66 FR 13391 confirmed 30291
944.106 (c) revised 229
946.104 Regulation at 65 FR 70463 confirmed 18721
946.120 Regulation at 65 FR 70463 confirmed 18721
946.336 Regulation at 65 FR 70463 confirmed 18721
948.215 Suspended; interim 48953
948.216 Revised 52312
948.387 (d)(1) introductory text revised; (d)(1)(v) added; (g) amended 49513
955.209 Revised 16841
956.142 Regulation at 65 FR 61083 confirmed 13393
956.180 Regulation at 65 FR 61083 confirmed 13393
959.237 Revised; interim 16597

Regulation at 66 FR 16597 confirmed........39621
966.323 Regulation at 65 FR 66495 confirmed........13396
(d)(1) amended........48532
981.442 (a)(3) amended; (a)(5) revised........39273
982 Marketing percentages........13399
985.220 Added; eff. through 5-31-02........30296
989.156 (t) added; interim........708
Regulation at 66 FR 708 eff. date confirmed........16599
989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added........39277
989.254 Added; interim........39628
Regulation at 66 FR 39628 confirmed........53950
993.408 Added; eff. 8-1-01 through 7-31-02........30646

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1007.7 (c) correctly revised; CFR correction........54909

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1210.501 Revised........13402
1218.3 Amended........37118
1218.23 Amended........37118
1218.40 Undesignated center heading revised........37118
Amended........37119
1218.41 Amended........37119
1218.42 Amended........37119
1218.43 Amended........37119
1218.44 Amended........37119
1218.45 Amended........37119
1218.46 Amended........37119
1218.47 Amended........37119
1218.48 Amended........37119
1218.50 Amended........37119
1218.51 Amended........37119
1218.52 Amended........37119
1218.53 Amended........37119
1218.54 Amended........37119
1218.55 Amended........37119
1218.56 Amended........37119
1218.60 Amended........37119
1218.62 Amended........37119
1218.70 Amended........37119
1218.73 Amended........37119
1218.75 Amended........37119
1240 Heading and authority citation revised........21829
1240.1—1240.67 (Subpart A) Heading added........21829
1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2........21829
1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised........21829
1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised........21829
1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14........21829
1240.5 Redesignated as 1240.12; new 1240.5 added........21829
1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11........21829
1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20........21829
1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised........21829
1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8........21829
1240.10 Redesignated as 1240.13; new 1240.10 redesignated from 1240.4; new 1240.10 revised........21829
1240.11 Redesignated as 1240.6; new 1240.11 added........21829
1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5........21829
1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised........21829
1240.14 Redesignated as 1240.4........21829
Added........21830
1240.16 Redesignated as 1240.3........21829
Added........21830

TITLE 7 Chapter XI—Con.

1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22 21829
1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3 21829
1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21 21829
Revised 21830
1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6 21829
1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9 21829
1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12 21829
1240.23 Added 21830
1240.24 Added 21830
1240.25 Redesignated from 1240.13 21829
Revised 21830
1240.26 Redesignated from 1240.1 21829
1240.27 Redesignated from 1240.19 21829
1240.28 Redesignated from 1240.17 21829
1240.30 Revised 21830
1240.31 Revised 21830
1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added 21830
1240.33 Added 21831
1240.34 (a) and (b) revised; (c) amended 21831
1240.35 (a) revised 21832
1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised 21832
1240.39 Undesignated center heading and text revised 21832
1240.40 (a) and (b) revised 21832
1240.41 Revised 21833
1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised 21833
1240.43 Removed; new 1240.43 redesignated from 1240.44 21829
1240.44 Redesignated as 1240.43 21829
Added 21833
1240.50 Revised 21834
1240.51 Revised 21834
1240.52 Revised 21834
1240.61 Revised 21834
1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised 21834
1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added 26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised 23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised 15176
1400.1 (g) table amended 15176
1410.12 Added 22099
1421 Authority citation revised 13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised 15176
1421.300—1421.307 (Subpart) Added 13404
1427 Authority citation revised 15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised 15176
1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176
1430.500 Amended 15176
1430.502 Amended 15177
1430.503 Amended 15177
1430.510 Revised 15177
1430.511 Added 15177
1434 Added 15177
1435.2 Amended 15182
1435.100 (a) amended 15182
1435.102 Removed; new 1435.102 redesignated from 1435.103 15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104 15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated

from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3) 15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated from 1435.106; (c) and (d)(4) revised 15182
1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107 15182
(b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised 15183
1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108 15182
1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109 15182
1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110 15182
1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111 15182
1435.111 Redesignated as 1435.110 15182
1436 Revised 4612
1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11) 17073
1439.101—1439.109 (Subpart B) Revised 15542
1439.301—1439.357 (Subpart D) Revised 15544
1439.901 Revised 15547
1439.906 (a) amended 15547
1446.102 (c) amended 1810
1446.103 Amended 1810
1446.307 (g) removed 1810
Correctly designated 10353
1464 Authority citation revised 53509
1464.8 (d)(1) revised 53509
1464.401 (a) revised 53509
1464.403 Revised 53509
1464.404 Amended 53510
1469 Authority citation revised 13841
1469.201—1469.214 (Subpart C) Added 13841
1470 Added 13843
1476 Added 15183
1480 Added 14979
1481 Added 14481
1481.3 Corrected 18869
1482 Added; interim 30802

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1744 Authority citation revised 41758
1744.20 Revised 41758
1744.21 Revised 41758
1744.30 Redesignated as 1744.40 41760
Added 41761
1744.40 Redesignated as 1744.50; new 1744.40 redesignated from 1744.30 41760
1744.50 Redesignated as 1744.55; new 1744.50 redesignated from 1744.40 41760
1744.50 (a)(3) revised 41763
1744.55 Redesignated from 1744.50 41760
(a) revised; (b)(5) removed; (b)(6) redesignated as new (b)(5) 41763
1744.20—1744.59 (Subpart B) Appendices A through F added 41763
1755.30 (c)(34) revised 43313
1755.97 Heading and introductory text revised; table amended 43314
Amended 43317
Effective date corrected 46066
1755.98 Revised 43317
1755.500 Added 43317
1755.501 Added 43317
1755.502 Added 43317
1755.503 Added 43317
1755.504 Added 43317
1755.505 Added 43317
1755.506 Added 43317
1755.507 Added 43317
1755.508 Added 43317
1755.509 Added 43317
1755.510 Added 43317
1773 Authority citation revised 27830, 27835
1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835
Regulation at 66 FR 27835 confirmed 37405
1773.2 Amended 27835
Regulation at 66 FR 27835 confirmed 37405
1773.3 (b) revised; (c) amended 27835

TITLE 7 Chapter XVII—Con.

Regulation at 66 FR 27835 confirmed..........37405
1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended..........27835
Regulation at 66 FR 27835 confirmed..........37405
1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C), new (5)(ii) and new (6)(ii) amended..........27835
Regulation at 66 FR 27835 confirmed..........37405
1773.6 (a)(1), (4) and (7) amended..........27835
Heading and (a) introductory text revised..........27836
Regulation at 66 FR 27835 and 27836 confirmed..........37405
1773.7 (b) and (c)(4) revised..........27836
Regulation at 66 FR 27835 and 27836 confirmed..........37405
1773.8 (a)(2) and (c) amended..........27835
(a)(1) and (c) table revised..........27836
Regulation at 66 FR 27835 and 27836 confirmed..........37405
1773.9 Heading, (a), (b) and (c) introductory text revised..........27836
Regulation at 66 FR 27836 confirmed..........37405
1773.20—1773.29 (Subpart C) Heading revised..........27836
Regulation at 66 FR 27836 confirmed..........37405
1773.20 (a), (b) and (c)(6) amended..........27835
Regulation at 66 FR 27835 confirmed..........37405
1773.21 (a) and (b) amended..........27835
Heading revised; (e) added..........27836
Regulation at 66 FR 27835 and 27836 confirmed..........37405
1773.30 (b) amended..........27835
(a) revised..........27836
Regulation at 66 FR 27835 and 27836 confirmed..........37405
1773.31 Revised..........27836
Regulation at 66 FR 27836 confirmed..........37405
1773.32 Inroductory text, (a) through (d) and (f) note revised..........27836
Regulation at 66 FR 27836 confirmed..........37405
1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added..........27830
Regulation at 66 FR 27830 confirmed..........37405
1773.38 (b) amended..........27835
Regulation at 66 FR 27835 confirmed..........37405
1773 Appendices A through D removed..........27837
Regulation at 66 FR 27837 confirmed..........37405
1779 Added..........23138
1780.10 (b)(4) amended..........23151
1786 Second (c) correctly removed; CFR correction..........15785

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed..........1569
Regulation at 66 FR 1569 eff. date delayed..........8886
1901 Authority citation revised..........7568
1901.1—1901.5 (Subpart A) Removed..........7568
1902 Authority citation revised..........1569
1902.15 (c) amended..........1569
Regulation at 66 FR 1569 eff. date delayed..........8886
1910.1 (f) added; interim..........1572
1910.4 (b) amended; (c) through (k) redesignated as (d) through (l); new (c) added; interim..........1572
1941.16 Introductory paragraph revised; interim..........1573
1941.29 Heading and (b) revised; (d) removed..........7568
1942 Authority citation revised..........27014
1942.304 Amended; interim..........27014

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c) 7568
1943.79 Removed 7568
1945 Authority citation revised 7568
1945.154 (a) amended 7568
1945.163 (e) amended 7568
1951.201 Amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.221 (b) amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.222 (a)(11) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.230 (b)(5) and (6) amended; (b)(7) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1955.10 (a)(1)(ii) removed 7568
1955.104 (c) removed 7568
1956.101 Amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1956.105 (k) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1956.137 (k) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2) 7568
1965.27 (a) removed 7568
1980.1—1980.100 (Subpart A) Removed 23151
1980.801—1980.900 (Subpart I) Removed 23151

Proposed Rules:

26 21608
27—209 (Ch. I) 13267
28 20408
29 21888
50 40626
56 42456
58 42458
70 42456
75 53550
80 ....19099, 27045
201 16015
246 40152
274 36495
300 ....6488, 37425
301 ....3505, 20204, 32268, 53123
318 37425
319 ....6488, 19892, 20208, 29735, 34584, 36892, 39121, 45637
330 51340
400 36951
610 34584
735 46310
736 46310
737 46310
738 46310
739 46310
740 46310
741 46310
742 46310
800—899 (Ch. VIII) 13267
800 ....17817, 19608
905 39459
911 40923
916 39690
920 26810
923 ....13447, 18573
927 48623
928 49568
929 ....2838, 24291, 48628
930 ....1909, 26813
931 48628
944 40923
948 ....40153, 40155
955 ....1915, 21288
956 21107
966 40158
981 ....21888, 31850
982 44086
985 20615
987 52363
989 16621
993 ....13454, 43534
1000 54064
1001 54064
1005 54064
1006 54064
1007 54064
1030 ....31185, 54064
1032 ....53551, 54064
1033 ....49571, 54064
1124 54064
1126 54064
1131 54064
1135 54064
1205 42464
1210 ....21596, 21602
1219 ....36870, 36886, 45188
1230 42469
1260 ....53124, 53127
1280 48764

TITLE 7 *Proposed Rules:—Con.*

- 1410 15048
- 1439 13679
- 1710 20759
- 1721 1604
- 1773 27912
- 1944 29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

- 3 Authority citation revised 37123, 54911
- 3.1 (d)(2)(iii) amended 6445
  - (a)(1) amended 47380
- 3.3 (b) amended 6445
- 3.19 (i)(2) revised; interim 54911
- 3.43 Revised; interim 37123
- 3.44 Added 6445
  - (f) corrected 8149
- 100.4 (e) amended; interim 29672
- 103 Authority citation revised 32143
- 103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim 32144
  - Regulation at 65 FR 67616 eff. date delayed to 10-1-01 49514
- 103.2 (a)(7)(i) amended; intrim 29672
  - (f) added; interim 29685
- 103.7 (b)(1) amended; interim 29672
  - (b)(1) amended; (c)(1) revised; interim 29685
  - Regulation at 65 FR 67616 eff. date delayed to 10-1-01 49514
- 103.12 Regulation at 65 FR 82255 eff. date delayed 7863
- 204.13 Added; interim 51821
- 208.8 Regulation at 65 FR 82255 eff. date delayed 7863
- 210.4 Regulation at 65 FR 82255 eff. date delayed 7863
- 212 Authority citation revised 236
- 212.1 (e)(3)(i) amended; interim 236
  - (f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised 1018
  - Regulation at 66 FR 1018 eff. date delayed 8743
  - (f)(2) eff. 4-6-01) and (3) amended, interim 17322
  - (f)(2) amended; interim 32530
  - (h) revised; interim 42593
  - Regulation at 66 FR 236 confirmed 51822
- 212.3 (g) added 6446
- 212.5 Regulation at 65 FR 82255 eff. date delayed 7863
- 212.7 Heading, (a) heading and (1)(i) revised; interim 42593
- 212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim 3444
- 214 Authority citation revised 46702
- 214.1 (a)(2) table and (c)(1) amended; interim 31112
  - (a)(1)(v) revised; (a)(2) table and (c)(2) amended; interim 42593
  - (a)(2) amended; interim 46702
  - Regulation at 65 FR 67616 eff. date delayed to 10-1-01 49514
- 214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim 31112
  - (k) heading revised; (k)(1), (2), (5) and (6)(ii) amended; (k)(6)(i) removed; (k)(7) through (11) added; interim 42593
  - (u) and (v) added; interim 46702
  - Regulation at 65 FR 67616 eff. date delayed to 10-1-01 49514
- 214.15 Added; interim 46702
- 235.3 Regulation at 65 FR 82256 eff. date delayed 7863
- 235.4 Regulation at 65 FR 82256 eff. date delayed 7863
- 236.14 (a) amended; interim 29672
- 240.15 Amended 6446
- 240.21 (c) amended 6446
- 240.53 (a) amended 6446
- 241 Authority citation revised 29451
- 241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim 29451
- 241.33 Regulation at 65 FR 82256 eff. date delayed 7863
- 244.1 Regulation at 64 FR 4781 confirmation delayed 7863

244.6 Regulation at 64 FR 4781 confirmation delayed....7863

244.10 Regulation at 64 FR 4782 confirmation delayed....7863

244.12 Regulation at 64 FR 4782 confirmation delayed....7863

244.15 Regulation at 64 FR 4782 confirmation delayed....7863

244.18 Regulation at 64 FR 4782 confirmation delayed....7863

245.1 (c)(6) revised; (i) added; interim....42594

245.2 (a)(4)(ii)(C) amended; interim....42594

(a)(4)(ii)(D) amended; interim....46704

245.5 Amended; interim....42595

245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim....16388

245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as (c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim....29451

245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i); (e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim....29452

245.20 Added; interim....27448

245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim....29673

245a.2 Regulation at 65 FR 82256 eff.date delayed....7863

245a.4 Regulation at 65 FR 82256 eff. date delayed....7863

245a.30—245a.37 (Subpart C) Added; interim....29673

248 Authority citation revised....46704

248.1 (a) amended; interim....42595

(a) amended; (b) introductory text revised; interim....46704

248.3 (a) amended; interim....31114

255a.10—245a.29 (Subpart B) Added; interim....29673

274a Authority citation revised; interim....42595

Authority citation revised....46704

274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim....29681

(a) heading, introductory text and (6) revised; (a)(9) added; interim....42595

(a) introductory text, (13) and (14) amended; (a)(15) added; interim....46704

287.3 (d) revised; interim....48335

299.1 Table amended; interim....29681, 29686, 31114, 46704

299.5 Table amended; interim....29682, 29686, 46705

310 Authority citation revised....32144

310.3 (b) amended; interim....32144

320 Added; interim....32144

322 Revised; interim....32145

334 Authority citation revised....32146

334.1 Amended; interim....32147

334.2 (a) amended; interim....32147

337 Authority citation revised....32147

337.9 (b) removed; interim....32147

338 Authority citation revised....32147

338.4 Removed; interim....32147

341 authority citation revised....32147

341.2 (a)(1) introductory text revised; interim....32147

341.7 (b) removed; interim....32147

Proposed Rules:

103....41456

211....37429

212....1053, 37429

214....48223

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised....21061

2 Authority citation revised....239, 21061

2.129 (c) revised; (d) added....239

Regulation at 66 FR 239 eff. date delayed....8743

TITLE 9 Chapter I—Con.

3.101 Revised...251
  Regulation at 66 FR 251 eff. date delayed..............................8744
3.104 (a) revised.....................................252
  Regulation at 66 FR 252 eff. date delayed..............................8744
3.105 Revised...252
  Regulation at 66 FR 252 eff. date delayed..............................8744
3.107 Revised...253
  Regulation at 66 FR 253 eff. date delayed..............................8744
3.108 Revised...253
  Regulation at 66 FR 253 eff. date delayed..............................8744
3.109 Revised...253
  Regulation at 66 FR 253 eff. date delayed..............................8744
3.110 Revised...253
  Regulation at 66 FR 253 eff. date delayed..............................8744
3.112 Revised...254
  Regulation at 66 FR 254 eff. date delayed..............................8744
3.113 Revised...255
  Regulation at 66 FR 255 eff. date delayed..............................8744
3.114 Revised...255
  Regulation at 66 FR 255 eff. date delayed..............................8744
3.115 Revised...256
  Regulation at 66 FR 256 eff. date delayed..............................8744
3.116 Revised...256
  Regulation at 66 FR 256 eff. date delayed..............................8744
3.117 Revised...256
  Regulation at 66 FR 256 eff. date delayed..............................8744
3.118 Revised...257
  Regulation at 66 FR 257 eff. date delayed..............................8744
11 Authority citation revised.........21061
49 Authority citation revised.........21061
50 Authority citation revised.........21061
50.3 Authority citation removed
 21061
50.16 (a)(4) revised..........................21061
51 Authority citation revised.........21061
51.1 Amended; authority citation removed...................................21061
52 Authority citation revised.........21061
53 Authority citation revised.........21061
54 Authority citation revised.........21061
  Revised...43982
  Technical correction...................46066
  Eff. date corrected.........................46686
54.1 Amended.......................................21061
70 Authority citation revised.........21061
71 Authority citation revised.........21061
72 Authority citation revised.........21061
72.6 Revised...21061
72.13 (a) Footnote 4 revised............21062
73 Authority citation revised.........21062
73.2 Authority citation removed
 21062
73.3 Authority citation removed
 21062
73.5 Authority citation removed
 21062
73.6 Authority citation removed
 21062
73.12 Authority citation removed
 21062
74 Authority citation revised........21062, 37128
74.1 Revised...37128
75 Authority citation revised.........21062
75.4 Amended.......................................21062
77.7 Regulation at 65 FR 70286 confirmed.......................................49271
77.9 Regulation at 65 FR 70286 confirmed.......................................49271
78.41 Regulation at 65 FR 75582 confirmed.......................................19847
  (a) and (b) amended; interim
  ....20900, 32894
  Regulation at 66 FR 20900 confirmed.......................................45749
79 Authority citation revised.........21062
  Revised...43990
  Technical correction...................46066
  Eff. date corrected.........................46686
79.2 (a)(2) Footnote 1 revised..........21062
79.3 (b) Footnote 2 amended...........21062
80 Authority citation revised.........21062
82 Authority citation revised.........21062
82.30 Amended.....................................21062
82.32 Footnote 2 amended...............21062
82.33 (a)(2) Footnote 4 amended
 21062
82.37 Footnote 7 amended...............21062
85 Authority citation revised.........21063
85.1 Amended.......................................21063
89 Authority citation revised.........21063
91 Authority citation revised.........21063
92 Authority citation revised.........21063
93.301 Regulation at 65 FR 78899 eff. date delayed..............................8887
  Regulation at 65 FR 78899 confirmed.......................................11101
93.400 Amended.....................................20189

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

93.406 (a) and (c) revised 20190
93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised 20190
94 Technical correction 18357
  Authority citation revised 21063
94.1 (a)(2) amended; interim 9643, 14826, 29689, 36697
  (a)(1) amended; interim 29899
94.4 (a) and (b) amended; interim 29899
94.5 (e)(2) revised 21063
94.11 (a) amended; interim 9643, 14826, 29689
  (a) amended; interim 36697
94.18 (a)(1) and (2) amended; interim 22426
  (a)(2) amended; interim 29900
  (b) amended; interim 42600
  (a)(1) amended; interim 52484
  (a)(1) and (2) amended; interim 54643
94.21 Removed; interim 29899
95 Authority citation revised 21063
95.1 Amended; interim 42600
95.4 Revised; interim 42600
95.29 Added; interim 42601
96 Authority citation revised 21063
97 Authority citation revised 21063
98 Authority citation revised 21063
99 Authority citation revised 21063
101 Authority citation revised 21063
102 Authority citation revised 21063
103 Authority citation revised 21063
103.2 Authority citation removed 21063
104 Authority citation revised 21063
105 Authority citation revised 21063
106 Authority citation revised 21063
107 Authority citation revised 21064
108 Authority citation revised 21064
109 Authority citation revised 21064
112 Authority citation revised 21064
113 Authority citation revised 21064
114 Authority citation revised 21064
115 Authority citation revised 21064
116 Authority citation revised 21064
116.1 Authority citation removed 21064
116.2 Authority citation removed 21064
116.3 Authority citation removed 21064
116.4 Authority citation removed 21064
116.6 Authority citation removed 21064
117 Authority citation revised 21064
118 Authority citation revised 21064
122 Authority citation revised 21064
123 Authority citation revised 21064
124 Authority citation revised 21064
130.4 Added 39631
130.8 (a) table amended 39632
145 Authority citation revised 21064
147 Authority citation revised 21064
151 Authority citation revised 21064
156 Authority citation revised 21064
160 Authority citation revised 21064
161 Authority citation revised 21064
162 Authority citation revised 21064
166 Authority citation revised 21064
166.1 Authority citation removed 21064
166.2 Authority citation removed 21064
166.10 Authority citation removed 21064
167 Authority citation revised 21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

317.8 (b)(37) and (38) added 40845
  (b)(39) added 54915
317.21 (b) revised 52486
319.15 (d) revised 54916
319.81 Amended 54916
319.104 (d) revised 54916
319.140 Amended 54916
319.143 Amended 54916
319.180 (e) revised 54916
331.2 Table amended 2207
331.6 Table amended 2207
362 Authority citation revised 21637, 22905
362.1 Revised; interim 21637, 22905
362.2 Revised; interim 21637, 22905
381.1 (b) amended; eff. 1-9-02 1770
  (b) corrected 19714
  (b) amended; interim 21637, 22905
381.36 (b) amended; interim 21637, 22905
381.65 Revised; eff. 1-9-02 1771
  (e) correctly revised; (f) correctly added 19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1-9-02 1771
  (c)(1) corrected 19714
  (b) heading, (c) heading and (d)(1) revised; interim 21637, 22905

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 9 Chapter III—Con.

381.67 Introductory text revised; table amended; interim 21637, 22906
381.70 Existing text designated as (a); (b) added; interim 21638, 22906
381.71 Existing text designated as (a); (b) through (f) added; interim 21638, 22906
381.72 Revised; interim 21638, 22906
381.76 (b)(1) introductory text revised; interim 21638, 22906
381.96 Revised; interim 21638, 22906
381.117 (f) and (g) added 40845
381.121d (b) revised 52486
381.129 (e) added 54916
381.159 (a) revised 54916
381.221 Table amended 2207
381.224 Table amended 2207
441 Added; eff. 1–9–02 1771

Proposed Rules:

1 6491
51 47593
93 ....19898, 20211, 29921
94 46228
101 19899
113 37194
145 37919
147 37919
301 ....12590, 19102, 35112
303 ....12590, 19102, 35112
317 ....4970, 12590, 19102, 20213, 35112, 41160
318 ....12590, 19102, 35112
319 ....12590, 19102, 35112
320 ....12590, 19102, 35112
325 ....12590, 19102, 35112
327 42472
331 ....12590, 19102, 35112
381 ....4970, 8178, 12590, 19102, 20213, 35112, 52715
391 52548
417 ....12590, 19102, 35112
430 ....12590, 19102, 35112
441 52715
590 52548
592 52548

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction 33013
2.1001 Amended 29465
2.1003 (a) introductory text, (2) introductory text and (xv) revised 29465
2.1009 (b) revised 29466
2.1010 (a)(2) revised 29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added 29466
2.1012 (a) revised 29466
5 Appendix A added 709
9.35 (a)(1) revised 22907
30.11 (b) added 51838
34.47 Regulation at 65 FR 63751 confirmed 1573
34.83 Regulation at 65 FR 63752 confirmed 1573
36.55 Regulation at 65 FR 63752 confirmed 1573
36.81 Regulation at 65 FR 63752 confirmed 1573
39.65 Regulation at 65 FR 63752 confirmed 1573
50.47 (b)(10) revised 5440
50.55a (b)(2)(xv)(C)(*1*) 16391
51.10—51.125 (Subpart A) Appendix B amended 39278
55.4 Amended 52667
55.8 (c)(3) and (4) removed 52667
55.31 (a)(5) revised 52667
55.45 (b) revised 52667
55.46 Added 52667
55.59 (c)(4)(iv) revised 52668
70.1 (c)(1) and (2) revised 51838
70.38 (e) introductory text revised 24049
72 Regulation at 65 FR 75855 confirmed 10569
  Technical corrections 33013, 38528
  Heading revised 51838
72.1 Revised 51838
72.2 (a) and (c) revised 51838
72.3 Amended 51839
72.6 Revised 51839
72.16 (d) revised 51839
72.22 (e)(3) revised 51839
72.24 Introductory text and (i) revised 51839
72.28 (d) revised 51840
72.30 (a) revised 51840
72.40 (b) revised 51840
72.44 (b)(4), (c)(3)(i), (5), (d) introductory text and (g)(2) revised 51840
72.48 (c)(2)(iii) and(vii) revised 11527
72.52 (b)(2), (c) and (e) revised 51840
72.54 (c)(1) revised 51840
72.60 (c) revised 51841

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

72.72 (a), (b) and (d) revised 51841
72.75 (b) introductory text, (2), (3), (6), (c) introductory text, (d)(1)(iv) and (2)(ii)(L) revised 51841
72.76 (a) revised 51841
72.78 (a) revised 51841
72.80 (g) revised 51841
72.82 (a) and (b) revised 51842
72.106 (b) revised 51842
72.108 Revised 51842
72.120 Revised 51842
72.122 (b)(2), (h)(2), (5), (i) and (l) revised 51842
72.128 Heading and (a) introductory text revised 51843
72.140 (c)(2) revised 51843
72.214 Regulation at 65 FR 60342 confirmed 1573
Amended 3448, 12437, 13409, 14486, 34525, 45752
Corrected 8150
Regulation at 65 FR 76898 confirmed 10569
Regulation at 65 FR 12437 confirmed 23537
Regulation at 66 FR 13409 confirmed 27449
Regulation at 66 FR 14486 confirmed 28641
Removed 43763
Regulation at 66 FR 34525 confirmed 34525
Amended 52489
150 Technical correction 35529
150.15 (a)(7) revised; (a)(8) added 51843
150.20 (b)(1) amended 5443
(b)(2) revised 32469
170 Authority citation revised 32469
170.2 (s) added 32469
170.3 Amended 32469
170.12 (a) revised 32469
170.20 Revised 32469
170.21 Introductory text and table amended 32469
Table corrected 35529
170.31 Revised 32470
170.41 Revised 32474
171 Authority citation revised 32474
171.5 Amended 32474
171.15 (b) through (e) revised 32474
171.16 (c), (d) and (e) revised 32474
171.19 (b) and (d) revised 32478
171 Appendix A corrected 35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement 8745, 19714
Technical correction 11635
430.2 Amended 7199
Regulation at 66 FR 7199 eff. date delayed 8745, 20191
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1-20-04; Appendix J amended 3330
Appendix E amended; eff. 1-20-04 4497
Appendix J amended 8745
Regulation at 66 FR 3330 eff. date delayed 8744
430.32 (g) revised; eff. 1-20-04 3332
(d) revised 4497
(c) revised 7199
Regulation at 66 FR 7199 eff. date delayed 8745, 20191
431.701—431.704 (Subpart Q) Added 3354
Regulation at 66 FR 3354 eff. date delayed 8745
Regulation at 66 FR 3354 confirmed 27853
490 Authority citation revised 2210
490.703 (b) revised 2210
Regulation at 66 FR 2210 eff. date delayed 8746
Regulation at 66 FR 2210 confirmed 21851
490.705 (a) and (b) revised; (d) added 2210
Regulation at 66 FR 2210 eff. date delayed 8746
Regulation at 66 FR 2210 confirmed 21851
600 Authority citation revised 34784
600.6 (c)(8) revised 34784

Chapter III—Department of Energy (Parts 700—999)

710 Authority citation revised 47062
710.1 (b) revised 47062
710.4 (c) revised; (g) added 47062
710.5 Amended 47063
710.7 (a) revised 47063
710.8 (f) amended; (g), (h), (j), (k) and (l) amended 47063
710.9 Revised 47063
710.10 (a) and (d) revised; (e) and (f) added 47064
710.21 Heading, (a) and (b)(2) revised; (c) added 47064

TITLE 10 Chapter III—Con.

710.22 Revised 47064
710.23 Heading amended....47065
710.27 Heading and (d) revised; (a) amended; (e), (f) and (g) removed....47065
710.28 Revised 47065
710.29 Redesignated as 710.30; new 710.29 added 47065
710.30 Redesignated as 710.31; new 710.30 redesignated from 710.29....47065
(a) and (b)(1) amended; (b)(2) revised....47066
710.31 Redesignated as 710.32; new 710.31 redesignated from 710.30....47065
Revised....47066
710.32 Redesignated as 710.33; new 710.32 redesignated from 710.31....47065
Revised....47066
710.33 Redesignated as 710.34; new 710.33 redesignated from 710.32....47065
Revised....47067
710.34 Redesignated as 710.35; new 710.34 redesignated from 710.33....47065
710.35 Redesignated from 710.34 47065
Revised....47067
710.36 Added....47067
710.1—710.34 (Subpart A) Appendix B added....47067
719 Added 4621
Regulation at 66 FR 4621 eff. date delayed....8746
Policy statement....19717
830 Regulation at 65 FR 60308 confirmed; revised 1818
Regulation at 66 FR 1818 eff. date delayed....8746
Policy statement....19717

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised 4630
Policy statement....18721
1040.1 Existing text designated as (a); (b) and (c) added....4630
Regulation at 66 FR 4630 eff. date delayed....8747
1040.21—1040.57 (Subpart C) Removed 4630
Regulation at 66 FR 4630 eff. date delayed....8747
1042 Added....4630
Regulation at 66 FR 4630 eff. date delayed....8747
Policy statement....18721
1044 Added; interim....4642
Regulation at 66 FR 4642 eff. date delayed....8747
Regulation at 66 FR 4642 confirmed....23833
1044.01 Revised....54645

Proposed Rules:

1 ....19610, 27045
2 ....19610, 27045, 29741, 46230, 48828, 52721
15....50860, 54061
20 ....36502, 46230, 52551
30....20099, 29243
34 29243
35....20214, 29243
36 29243
39....13858, 29243
40 29243
50 ....3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432, 40626, 46230, 48828, 51884, 52065, 52551
51 ....10834, 19610, 27045, 29251, 48828
52 ....19610, 27045, 48828, 48832, 49324
54....19610, 27045
60....19610, 27045
61 29251
70....19610, 27045, 29243, 29251
72 ....9055, 12439, 13459, 14503, 29243, 29251, 34588, 43810, 45788, 47059, 52554
73....10839, 19610, 27045, 29251
74 29251
75....19610, 29251
76 ....10839, 19610, 27045, 29243, 29251
95 10839
110 ....19610, 27045
150....16982, 20035, 29251
170 ....16982, 20035
171 ....16982, 20035
255....13860
430....6768, 15203, 32914, 36960, 38822, 43123, 45189, 49325, 53554
431....50355
600....23197
733....19900
852....46742, 48630, 53130
1008 32272

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5-9-01 23537
100.23 Regulation at 65 FR 76146 eff. 5-9-01 23537
109.1 Regulation at 65 FR 76146 eff. 5-9-01 23537
110.14 Regulation at 65 FR 76146 eff. 5-9-01 23537

Proposed Rules:

100........13681, 23628, 38576, 47120, 50358
104........23628, 38576, 47120
109........23628
113........38576, 47120
114........50358
117........50358

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction 36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised 34791
5 Authority citation revised........49097
5.26 (e)(5) revised 34797
5.34 (a), (c), (d)(2), (3) and (e)(4) revised........49097
7 Authority citation revised........34791
  Technical correction........36834
7.1021 Added........34791
7.3000 (b) amended 34791
7.4001 (a) amended 34791
7.4002 revised 34791
7.4006 Added........34791
8 Heading and authority citation revised........23153
8.2 (a)(7) and (b)(5) removed; (c) and (d) added 29893
8.6 Heading and (a) revised 23153
  (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added........29894
9.2 (g) amended; (j) and (k) added 34797
9.3 (b) revised; (c) added 34798
9.7 Added 34798
9.14 (b) revised 34798
14 Regulation at 65 FR 75839 eff. date delayed 15345
23 Technical correction 36834
23.21 (a)(2) revised........34792
28.15 (b) revised........49098
30 Authority citation revised........8633
30.1 Revised........8633
30.2 Amended 8633
30.3 (a) revised........8633
30 Appendix B revised 8633
  Appendix C removed 8634
32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added 31120
32.3 (c)(5) revised 31120
32.7 Added........31120
35 Added........2085

Chapter II—Federal Reserve System (Parts 200—299)

201.51 Revised........2211, 9907, 18185, 20901, 29009, 35530, 45753, 49098
  Revised........52850
202 Compliance notification 41439
202.4 Revised; interim........17785
202.9 (h) added; interim........17785
202.17 Added; interim........17785
202 Supplement I amended; interim 17786
204.9 Revised........53078
205 Authority citation revised........15192
  Compliance notification........41439
205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim 17793
205.7 (b)(11) added 13412
205.16 Added........13412
205.17 Added; interim........17793
205 Supplement I and Appendix A amended........13412
  Supplement I amended........15192
  Appendix A amended; interim 17793
  Supplement I amended; interim 17794
207 Added 2092
208 Authority citation revised 8634, 42933
208.3 (d)(1) revised 8634
208.71—208.77 (Subpart G) Revised 42933
208.71 (c) revised........8749
208.77 (e) revised........8749

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 12 Chapter II—Con.

208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed 15345
208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed 15345
208 Appendix D-2 revised 8634
211 Authority citation revised 8636
211.1—211.13 (Subpart A) Revised 54374
211.9 Added 8636
211.20-211.30 (Subpart B) Revised 54374
211.24 (i) added 8636
211.31—211.34 (Subpart C) Revised 54374
213 Compliance notification 41439
213.3 (a)(5) added; interim 17328
213.6 Added; interim 17328
213 Supplement I amended; interim 17328
220 OTC margin stock lists 11101, 44525
225 Authority citation amended 414, 8636
225.1 (c)(9) added 414
(c)(10) revised 8484
(c)(16) added 8636
225.2 (r)(2) and (s) revised; (t) added 414
225.4 (h) added 8636
225.14 (c)(2)(i) revised 415
225.23 (c)(2)(i) revised 415
225.81—225.94 (Subpart I) Revised 415
225.86 (e) added; interim 260
(d) and (e) added; interim 19081
225.170—225.177 (Subpart J) Revised 8484
225 Appendix F added 8636
Appendix E correctly revised; CFR correction 48532
226 Compliance notification 41439
226.5 (a)(5) added; interim 17338
226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim 17338
226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim 17338
226.15 (b) introductory text amended; interim 17338
226.16 (c) revised; interim 17338
226.17 (a)(3) added; (g) introductory text revised; interim 17338
226.23 (b)(1) amended; interim 17338
226.24 (d) revised; interim 17338
226.27 Revised; interim 17339
226.31 (b) revised; interim 17339
226.36 (Subpart F) Added; interim 17339
226 Supplement I amended; interim 17339
Appendix G corrected; CFR correction 43463
230 Compliance notification 41439
230.3 (a) revised; (g) added; interim 17802
230.4 (a)(1) and (2)(i) revised; interim 17802
230.6 (c) removed; interim 17802
230.10 Added; interim 17803
230 Supplement I amended; interim 17803
250 Authority citation revised 24233
250.243 Added 24229
250.244 Added 24299
250.245 Added 24229
250.246 Added 24225
250.247 Added; interim 24233
250.248 Added; interim 24233
261a.13 (b)(9) revised; (c)(11) added 19718
Corrected 20863
263 Authority citation revised 8637
263.302 (a) revised 8637
265.5 (d)(3) added 54397
265.6 (f) revised 54397
265.7 (d)(4) revised; (d)(9) through (14) added 54397
265.11 (d)(8) and (11) revised; (d)(12) added 54398
268 Revised; interim 7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.14 Added 54650
303.120 Regulation at 65 FR 15529 confirmed; revised 1027
303.121 Regulation at 65 FR 15529 confirmed 1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended 1027
303.123 Regulation at 65 FR 15530 confirmed 1027
303.141 (b)(1)(ii) revised 1028
303.142 (a), (b) and (c) amended 1028
308 Authority citation revised 8638, 9189
308.101 (b) revised 9189
308.132 (c)(3)(xv) revised 9189

308.302 (a) revised....8638
308.500—308.546 (Subpart T) Added....9189
337.4 Removed....1028
337.6 (e) removed....17622
343 Regulation at 65 FR 75843 eff. date delayed....15348
346 Added....2099
346.9 (a)(1) corrected....14071
346.11 (j)(2)(iv) corrected....14071
362 Authority citation revised....1028
362.1 (c) revised....1028
362.2 (r) revised....1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised....1028
362.5 (b)(1), (2) and (3) removed....1028
362.6 Revised....1028
362.7 (a) and (b) revised....1028
362.8 Revised....1028
362.10 (a) revised....1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended....1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised....1029
364 Authority citation revised....8638
364.101 (b) revised....8638
364 Appendix B revised....8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

502.20 Revised....33159
506.1 (b) amended; interim....15017
  (c)(1)(iii) revised....15020
  Regulation at 66 FR 15017 confirmed....37407
516.1—516.3 (Subpart A) Removed....13000
516.1 Added....13000
516.5 Added....13000
516.10 Added....13000
516.15—516.47 (Subpart A) Added....13000
516.55 Added....13002
516.110 Amended....13003
516.120 Revised....13003
516.130 Revised....13003
516.140 Revised....13003
516.150 Revised....13003
516.185 Added....13003
516.190 Revised....13003
516.200—516.280 (Subpart E) Added....13003
517.6 (b) revised....13005
533 Added....2106
536 Regulation at 65 FR 75845 eff. date delayed....15345
543.9 (a) revised....13005
544.2 (c) amended....13005
544.5 (c)(1)(ii) revised....13006
  (c)(1)(iii) revised....15020
545.92 (b) and (d)(2) revised; (f) amended....13006
550.80 Revised....13006
550.260 (b)(2) amended....13006
550.530 Amended....13006
552.2-6 Amended....13006
  Existing text designated as (a); (b) added....23154
  Regulation at 66 FR 37407 confirmed....37408
552.4 (d) amended....13006
552.5 (b)(1)(ii) revised....13006
  (b)(1)(iii) revised....15020
555.310 (a) introductory text amended....13006
556.347 Revised....19854
559.3 (e)(2)(i) and (ii) amended....13006
559.4 Introductory text amended....13007
559.11 Amended....13007
559.13 (b) revised....13007
560.30 Table amended; interim....15017
  Regulation at 66 FR 15017 confirmed....15017
560.32 (c) amended....13007
560.35 (d)(3) revised....13007
560.93 (d)(3)(iii) amended....13007
560.160 (a)(1) revised....13007
562.4 (b)(1) revised....13007
  (c)(3) correctly added; CFR correction....33632
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised....13007
563.41 (e)(2)(ii)(A) revised....13008
563.81 (a)(1), (2) and (c) amended....13008
563.143 Heading revised; (a)(1) amended....13008
563.161 (a) revised; interim....15017
  Regulation at 66 FR 15017 confirmed....15017
563.171 (b)(4) revised....13008
563.180 (d)(11) revised....13008
563.183 (c)(1) revised....13008
563.555 Amended....13008
563.565 Revised....13009
563b.27 (e) footnote 1 amended....13009
563f.6 (a) amended....13009

TITLE 12 Chapter V—Con.

565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended 13009
566 Removed; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
567.3 (d)(2)(i) introductory text amended 13009
  (a)(2) correctly removed; CFR correction 33632
567.4 (a)(3)(i) amended 13009
567.7 (f) revised 13009
568 Authority citation revised 8639
568.1 (a) revised 8639
568.5 Added 8639
570.1 (a) and (b) amended 8639
570.2 (a) revised 8639
570 Appendix B revised 8640
574.4 (f)(2) amended 13009
574.6 (f)(4) amended 13009
575.3 (b)(2) introductory text revised 13009
575.13 (a)(1), (b), (c)(2) and (e) amended 13010
584.2-1 (a) and (c)(1) amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
584.2-2 (b) amended 13010

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised 16843
  Regulation at 66 FR 16843 eff. 5-14-01 26785
613.3020 (c) added 28643
  Regulation at 66 FR 28643 confirmed 36908
613.3030 (a)(1) and (2) amended 28643
  Regulation at 66 FR 28643 confirmed 36908
615.5220 (a)(3) revised 16844
  Regulation at 66 FR 16844 eff. 5-14-01 26785
615.5250 (c)(2) amended 16844
  Regulation at 66 FR 16844 eff. 5-14-01 26785
620.2 (h)(1) and (2) revised 14301
  Regulation at 66 FR 14301 confirmed 21064
620.4 (b) revised 14301
  Regulation at 66 FR 14301 confirmed 21064
620.5 (a)(10) added 14301
  Regulation at 66 FR 14301 confirmed 21064
650 Authority citation revised 19064
650.20—650.31 (Subpart B) Added 19065
  Regulation at 66 FR 19064 eff. 5-23-01 28361

Chapter VII—National Credit Union Administration (Parts 700—799)

701.1 Revised; interim 15621
701.31 (d) introductory text, (1) and (2) revised 48206
705.10 Regulation at 65 FR 80299 confirmed 20902
707 Compliance date lifted 48206
707.3 (a) revised; (g) added 33162
707.4 (a)(1) and (2)(i) revised 33163
707.6 (c) removed 33163
707.10 Added 33163
707 Appendix C amended 33163
709.0 Amended; interim 11230
  Amended 40575
709.12 Added; interim 11230
  Revised 40575
712.3 (a) amended 40578
712.5 Amended 40578
712.7 Amended 40578
721 Revised 40857
748 Heading and authority citation revised 8161
748.0 (b) revised 8161
748 Appendix A added 8161
749 Revised 40579
  Heading corrected 46307

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised 8307
915.4 Revised 8307
915.5 Revised 8308
915.6 (a)(3) revised 8308
915.7 (b)(2) amended 8308
917 Authority citation revised 8308
917.3 (b)(1) revised 8308
917.9 Existing text designated as (a); (b) added 8308
918.7 Revised; interim 24264
  Regulation at 66 FR 24264 confirmed 54918
925.24 Revised 8308
925.25 Removed 8309
925.26 Revised 8309
  (b) revised 54107
925.27 Revised 8309

(c) revised	54107
925.28 Removed	8310
925.29 Revised	8310
925.30 Revised	8310
930 Added	8310
930.1 Amended	54107
931 Added	8310
931.4 (a) amended	54108
931.6 Amended	54108
931.7 (a) amended	54108
931.8 Existing text redesignated as (a); heading and new (a) heading revised; (b) added	54108
932 Added	8310
932.4 (d) heading and (f)(1) Table 2 revised; (e)(2)(ii)(E) amended	54108
933 Added	8310
933.2 (e), (f) and (g) redesignated as (f), (g) and (h); new (f)(4), (5) and (6) redesignated as (f)(5), (6) and (7); new (f)(3) revised; new (e) and (f)(4) added	54108
933.5 Added	54109
950.1 Amended	50295
951 Nomenclature change	50301
951.3 (a)(1) revised	50301
951.4 (a), (b), (f)(1) and (3) amended	50302
951.5 (a)(7)(iii) amended	50302
951.8 (c)(3) amended; (c)(3)(i) designation and heading removed; (c)(3)(ii) redesignated as (c)(4); new (c)(4) heading revised	50302
951.10 (a)(1)(ii) revised; (a)(2)(ii) amended; (b)(2)(i) designation and (ii) removed	50302
951.15 (a)(2)(ii) amended; (a)(2)(iii) added; concluding text designated as (a)(3)	50302
952.2 Amended	50295
952.3 Amended	50295
952.5 (a)(3), (c), (d) heading, (2), (3), (5) and (6)(i) amended	50296
952.7 (a) and (c) amended	50296
956 Authority citation revised	8320
956.1 Amended	8320
956.3 (b) amended	8320
956.5 Added	8320
956.6 Added	8321
966.8 (d) added	8321

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1411 Authority citation revised	44027
1411.1 Revised	44027

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised	8489
1501.2 Redesignated as 1501.3; new 1501.2 added; interim	260
1501.3 Redesignated from 1501.2; interim	260
Revised	8750
1510 Regulation at 65 FR 12069 confirmed	47070
1510.5 (c) introductory text amended; (d) revised; interim	47071

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1750 Authority citation revised	47806
1750.10—1750.13 (Subpart B) Added	47806
1770 Added	47554
1701 Added	18039
1780 Authority citation revised	711, 18043
1780.1 Revised	18043
1780.80—1780.81 (Subpart E) Revised	711

Proposed Rules:

1	8178
3	10212
7	8178, 19901, 34855
8	17821, 21045, 48983
23	8178
25	18411, 37602
37	19901
41	16624
200—299 (Ch. II)	27912
208	10212, 18411
211	54399
222	16624
223	24186, 33649
225	307, 10212, 12440

TITLE 12 *Proposed Rules:—Con.*

228 37602
303 20102
325 10212
334 16624
345 37602
369 18411
500—599 (Ch. V) 31186
502 21288
552 23198
563e 37602
567 15049
571 16624
609 53348
611 .... 10639, 15814, 43536
614 .... 43536, 48098
618 .... 10639, 15814
620 .... 10639, 15814, 53348
700 33211
701 .... 20945, 33211, 40641
702 40642
703 .... 48742, 54168
704 48742
712 .... 11125, 33211
715 33211
722 15055
723 33211
725 33211
741 40642
742 15055
749 11239
790 33211
900—999 (Ch. IX) 50366
915 14093
917 14093
925 .... 14093, 41462, 43961
930 .... 14093, 41462, 41474, 43961
931 .... 14093, 41462, 43961
932 .... 13688, 14093, 41462, 41474, 43961
933 .... 14093, 41462, 43961
950 36715
951 23864
952 36715
956 14093
966 14093
1501 .... 307, 12440
1710 .... 18709, 20217, 47557
1773 47563
1777 18694

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised 30647
108 Added; interim 7224
  Regulation at 66 FR 7224 eff. date delayed 10811
  Regulation at 66 FR 7224 eff. date delayed 20530
  Regulation at 66 FR 7224 withdrawn 28602
  Added 28609
  Authority citation corrected 32894
108.150 (c) introductory text corrected 32894
108.2010 (b) corrected 32894
115 Authority citation revised 30804
115.12 (e)(1) and (3) amended 30804
115.19 (a) amended 30804
115.31 (d) amended 30804
115.60 (a)(1) amended 30804
115.61 Amended 30804
115.68 Amended 30804
119 Added 29013
120.700—120.715 (Subpart G) Heading revised 47073
120.700 Amended 47073
120.701 (h) redesignated as (i); new (h) added 47073
  (f) and (i) revised 47878
120.702 (a)(1) revised 47878
120.704 (b) revised 47878
120.705 Amended 47878
120.706 (a) amended 47073
120.707 (a) revised 47073
  (b) amended; (c)(1) and (2) revised 47878
120.712 Heading, (b)(1) and (e) revised 47073
120.714 Heading and (b) revised; introductory text added 47073
  (a) amended; (b) revised 47878
120.715 (a) revised 47073
120.716 Added 47073
121 Waiver 19381
121.201 Table amended 30647
  Table corrected 32416
121.301 (b) and (c) revised 30648
123 Authority citation revised 38530
  Undesignated center headings designated as Subparts A through E 38530
123.500—123.512 (Subpart F) Added 38530
123.600—123.606 (Subpart G) Added; interim 53331
126 Authority citation revised 4645
126.101 (c) added 4645
126.103 Amended 4645

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

126.204 Revised 4645
126.206 Revised 4645
126.601 (d) revised 4645
134.102 (l) amended; (m) redesignated as (n); new (m) added 47074

Chapter IV—Emergency Steel Guarantee Loan Board (Parts 400—499)

400.2 (h) through (l) redesignated as (i) through (m); (a), new (j) and (l) revised; new (h), (n) and (o) added 53079
400.106 Revised....................................53079
400.201 (c) and (d) revised....................53079
400.203 Revised....................................53080
400.204 (c)(2)(i) and (3) revised 53080
400.205 (a) revised; (b)(10) and (11) amended; (b)(12) added.......53080
400.207 (b)(1) revised..........................53080
400.208 (a)(3) revised..........................53080
400.210 Revised....................................53080
400.215 Added 53080

Proposed Rules:

108....................................20531
121....................................10842, 14865

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition 29416
13.401 (Subpart I) Added 55048
21 SFAR No. 88 added 23129
  Comment disposition 29416
21.183 (d)(2)(iv) amended 21065
21.197 (c) introductory text and (1) amended 21066
21.213 (b) amended 21066
21.329 (c) amended..........................21066
21.337 (e) amended..........................21066
23 Special FAA conditions ...18186, 30649, 37128, 40580, 50809, 50819
25 Special FAA conditions........261, 8162, 11527, 12843, 15020, 17804, 19847, 22426, 22428, 26972, 32717, 36697, 37408, 39085, 46937, 49271, 51299, 52017, 54062, 54414
  Comment disposition 29416
25.473 (d) revised 27394
25.723 Revised 27394
25.725 Removed 27394
25.727 Removed 27394
25.981 Revised 23129
25.1435 (a), (b) and (c) revised..........27402
25.1516 Added 34024
25.1527 Revised..............................34024
25.1583 (c) and (f) revised 34024
25.1585 Revised..............................34024
25.1587 Revised..............................34024
25 Appendix H amended....................23130
27.397 (b)(2) amended......................23538
29.397 (b)(2) amended......................23538
35 Special FAA conditions 50302
39 Technical correction 13635, 37271
39.13.........1, 4, 6, 8, 264, 265, 266, 268, 1032, 1254, 1256, 1828, 1830, 2213, 3450, 3860, 4647, 4648, 4650, 4653, 4655, 4657, 4659, 6447, 6450, 6452, 6453, 6455, 7573, 7575, 7577, 8078, 8080, 8082, 8083, 8088, 8166, 8168, 8508, 8751, 8753, 8755, 8757, 8759, 9028, 9030, 9033, 9909, 10186, 10189, 10355, 10356, 10358, 10359, 10362, 10571, 10572, 10953, 10954, 10956, 10959, 10961, 10963, 10964, 11104, 11106, 12724, 12726, 12728, 12731, 13011, 13228, 13231, 13233, 13413, 13415, 13417, 13420, 13423, 13425, 14302, 14305, 14307, 14309, 14311, 14828, 15023, 15025, 15622, 15624, 15788, 16104, 16107, 16109, 16113, 16115, 16118, 16600, 16845, 16847, 17343, 17346, 17349, 17489, 17491, 17494, 17497, 17498, 17503, 17507, 17808, 18047, 18049, 18522, 18524, 18526, 18528, 18722, 18872, 19383, 19385, 19388, 19719, 19851, 20193, 20195, 20378, 20380, 20382, 20385, 20388, 20734, 20736, 20738, 20903, 20905, 20909, 20911, 20913, 20915, 20916, 20918, 20919, 20921, 21068, 21070, 21072, 21074, 21076, 21080, 21082, 21085, 21277, 21279, 21852, 21854, 21858, 21861, 22431, 22434, 22909, 22912, 22914, 22915, 23540, 23542, 23835, 23837, 23839, 23843, 24051, 27686, 27688, 27016, 27018, 27450, 27591, 27596, 27855, 28363, 28365, 28645, 28647, 28650, 28653, 29468, 29471, 29690, 29902, 30298, 30301, 30304, 30306, 31122, 31127, 31131, 31133, 31140, 31142, 31145, 31526, 31529, 31835, 31837, 31838, 32531, 32532, 32535, 32537, 32729, 32730,

TITLE 14 Chapter I—Con.

32895, 32897, 33014, 33015, 33017, 33018, 33020, 33165, 33167, 33169, 33172, 33460, 33461, 34084, 34087—34090, 34093, 34095, 34097, 34099, 34101, 34102, 34104, 34105, 34107, 34109, 34529, 34531, 34532, 34799, 34801, 34805, 35077, 35079, 35372, 35531, 35533, 35534, 35536, 35537, 35539, 35897, 36146, 36148, 36150, 36151, 36153, 36155, 36442, 36444, 36446, 36448, 36449, 36451, 36452, 36454, 36455, 36457, 36700, 37131, 37885, 38140, 38143, 38144, 38146, 38353, 38356, 38359, 38361, 38364, 38366, 38532, 38534, 38536, 38538, 38891, 38894, 38898, 39414, 39417, 39422, 39425, 39427, 39430, 39432, 39434, 39632, 40109, 40583, 40860, 40862, 40864, 40865, 40867, 40868, 40869, 40871, 40873, 40876, 40878, 40880, 40882, 40885, 41130, 41442, 41444, 42106, 42938, 42940, 43068, 43069, 43071, 43073, 43075, 43077, 43464, 43467, 43469, 43474, 43477, 43765, 43767, 43770, 43772, 44029, 44031, 44033, 44035, 44038, 44040, 44042, 44044, 44045, 44047, 44048, 44293, 44295, 44297, 44298, 44946, 44949, 44953, 44956, 44958, 44959, 45566, 45569, 45571, 45572, 45574, 45576, 45578, 45581, 45583, 45587, 45595, 45754, 45755, 45757, 45759, 45923, 46215, 46510, 46511, 46514, 46516, 46518, 46940, 47381, 47572, 47574, 47576, 47880, 47882, 47885, 48537, 48539, 48790, 48791, 49100, 49510, 49516, 49824, 49827, 50305, 50307, 50308, 50530, 51556, 51848, 51852, 51855, 51857, 51859, 51861, 52022, 52026, 53028, 52313, 52315, 52491, 52495, 52497, 52499, 52669, 53333, 53336, 53338, 53082, 53084, 54117, 54119, 54417, 54419, 54422, 54424, 54426, 54652, 54655, 54657, 54660, 54662, 54919, 54922

Corrected............1574, 3861, 9635, 15326, 17508, 18521, 23155, 28651, 30307, 42506, 52312, 54110

43.1 (a)(2) amended..............................21066
43.3 (f) and (g) amended 21066
43.7 (e) amended..................................21066
43.9 (b) amended 21066
43.13 (c) amended 21066
43.16 Amended 21066
45.22 (c)(3) amended 21066
61 Technical correction 31145
SFAR No. 93 added 52279
63 Technical correction 31145
SFAR No. 93 added 52279
65 Technical correction 31145
65.95 (a)(1) amended 21066
65.111 (a) and (b) revised 23553
65.125 (a)(2) and (b)(2) revised 23553

71.1 ....1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20389, 20587, 20588, 21281, 23558–23561, 28369, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147–38149, 38368, 38369, 38539, 39435, 42107, 42108, 43078, 43079, 43080, 44049, 44050, 45162, 45596, 45598—45603, 46216, 46367, 47577, 48541, 48793, 48795, 49517—49520, 50101, 50102, 53951

Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560, 45597, 48953, 53950

Regulation at 66 FR 11532 eff. date delayed 21639

73.30 45661
73.32...34809, 50310
73.44 53951
73.63...16392, 54436
91 SFAR No. 50–2 reinstated and amended...1003
SFAR No. 50–2 revised 16584
Policy statement....................................30310
SFAR No.90 added 48943
SFAR No. 91 added 50533
91.23 (b)(1)(i) amended 21066
91.137 Heading revised 47377
91.138 (b) revised 47377
91.145 Added...47378
91.175 (f) amended 21066
91.207 (f)(1) corrected 16316
91.215 (a) amended 21066
91.307 (b) revised 23553
91.401 (b) amended 21066
91.403 (c) amended................................21066
91.409 (c)(2) and (f)(1) amended.........21066
91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

(a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
91.411 (b)(2)(v) removed; eff. 4–6–03 41116
91.413 (a) and (c)(2) amended 21066
(c)(1)(iv) removed; eff. 4–6–03 41116
91 Appendix A amended; eff. 4–6–03 41116
93.301 Regulation at 65 FR 17742 eff. date delayed 1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed 1005
Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed 1005
Regulation at 65 FR 17743 eff. date delayed 16584
95 ....9914, 18530, 30057, 39634, 49101
97.21—97.35 ....2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090, 41773, 41775, 44300, 44302, 46941, 47075, 48542, 48544, 48546, 50822, 50824, 53086, 53088
99.1 (b)(2) revised; (c) removed; (d) redesignated as new (c) 49822
99.3 Revised 49822
99.9 Revised 49822
99.11 (a) revised 49822
99.42 Revised 49822
99.43 Revised 49822
103.20 Revised 47378
105 Revised 23553
107 Revised; eff. 11–14–01 37317
108 Technical correction 31145
Revised; eff. 11–14–01 37357
119.1 (e)(6) revised 23557
121 SFAR No. 50–2 reinstated and amended 1003
SFAR No. 50–2 revised 16584
Policy statement 27548, 30310
Technical correction 28036, 28037, 28369, 29888, 31145, 31146, 44050
SFAR No. 36 amended; eff. 4–6–03 41116
Policy statement 41955
Authority citation revised 41966
SFAR No. 89 added 44273
SFAR No. 92 added 51548
SFAR No. 93 added 52279
SFAR No. 92 removed; SFAR No. 92–1 added; eff. through 4–9–03 52836
121.303 (b) and (d)(2) revised; eff. 5–12–04 19043
121.309 (d) removed; eff. 5–12–04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5–12–04 19043
121.325 Introductory text revised; eff. 5–12–04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
121.378 (a) revised; eff. 4–6–03 41116
121.415 (a)(3) revised; eff. 5–12–04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5–12–04 19043
121.427 (b)(2) revised; eff. 5–12–04 19043
121.703 Regulation at 65 FR 56201 eff. date delayed to 1–16–02 21626
121.704 Regulation at 65 FR 56202 eff. date delayed to 1–16–02 21626
121.705 Regulation at 65 FR 56203 eff. date delayed to 1–16–02 21626
121.709 (c) and (d) redesignated as (d) and (e); new (c) added; (b), new (d) and (e) revised; eff. 4–6–03 41116
121.801—121.805 (Subpart X) Added; eff. 5–12–04 19044
121 Appendix A revised; eff. 5–12–04 19044
Appendix I amended 41966
Appendix J amended 41967
125 Policy statement 30310

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 14 Chapter I—Con.

SFAR No. 89 added 44273
125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
125.409 Regulation at 65 FR 56203 eff. date delayed to 1-16-02 21626
125.410 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626
129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
135 SFAR No. 50-2 reinstated and amended 1003
SFAR No. 50-2 revised 16584
Technical correction 28036, 28037, 31145, 31146, 44050
Policy statement 30310
SFAR No. 89 added 44273
SFAR No. 93 added 52279
135.177 (a)(1) revised; eff. 5-12-04 19045
135.415 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626
135.416 Regulation at 65 FR 56205 eff. date delayed to 1-16-02 21626
135.417 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
135.435 (a) revised; eff. 4-6-03........................41117
135.443 (c) redesignated as (d); (b) and new (d) revised; new (c) added; eff. 4-6-03 41117
139.325 (h) redesignated as (i); new (h) added; eff. 11-14-01 37327
142.1 (a) and (b)(1) amended 21066
145.1—145.5 (Subpart A) Revised; eff. 4-6-03 41117
145.2 Heading and (a) amended 21067
145.51—145.61 (Subpart B) Revised; eff. 4-6-03 41117
145.63 (c) amended........................21067
Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
145.79 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
145.101—145.109 (Subpart C) Revised; eff. 4-6-03 41117
145.151—145.163 (Subpart D) Revised; eff. in part 4-6-03 41117
145.163 Revised; eff. 4-6-05........................41117
145.201—145.223 (Subpart E) Added; eff. 4-6-03 41117
145 Appendix A removed; eff. 4-6-03 41117
161.5 Amended 21067
170.3 Amended 21067
187.1 Amended 43717
187.15 (d) revised 43718
187 Appendix B revised 43718
193 Added........................33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised 17356
330 Added........................54620
382 Authority citation revised........................22115
Nomenclature change 22115
382.39 (a)(2) revised 22115
Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556
382.40a Added 22115
Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180
Regulation at 66 FR 2180 eff. date delayed........................9509
406 Revised........................2180
Regulation at 66 FR 2180 eff. date delayed........................9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1214.900—1214.912 (Subpart 1214.9) Added 37411
1260.10 (c)(1) and (4) revised 54121

CHANGES JANUARY 2, 2001 THROUGH OCTOBER 31, 2001

1260.11 (b) amended....54121
1260.22 Introductory text amended....54121
1260.26 Amended....54121
1260.1—1260.77 (Subpart A) Appendix amended....54121
1260.134 (a) amended....54125
1260.152 (b) removed; (c) redesignated as new (b)....54125

Chapter VI—Office of Management and Budget (Parts 1300—1399)

Chapter VI Established....52272

Proposed Rules:

13....37520, 52878
23....6492, 23199
25....14504, 15203, 18214, 26942, 26948, 26956, 26964, 27582, 48836
39....57, 59, 61, 64, 1054, 1057, 1271, 1273, 1607, 1610, 1612, 1917, 1919, 2213, 3382, 3511, 3515, 3516, 3518, 3521, 6494, 6495, 6497, 6499, 7433, 8184, 9779, 10226, 10232, 10234, 10236, 10238, 10241, 10243, 10360, 10378, 10380, 10382, 10384, 10387, 10390, 10393, 10842, 10844, 10846, 10849, 10851, 10853, 10855, 10857, 10858, 10970, 10972, 10974, 10976, 11126, 12440, 12443, 12834, 12913, 13184, 13187, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13222, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348, 14865, 14867, 15062, 15362, 15363, 15365, 15369, 15662, 15664, 15666, 15667, 15670, 15814, 15817, 16017, 16156, 16418, 16422, 17091, 17094, 17097, 17099, 17101, 17103, 17105, 17115, 17118, 17121, 17123, 17125, 17127, 17641, 18416, 18573, 18575, 18877, 18878, 18880, 18882, 18884, 18886, 19727, 20111, 20114, 20116, 20218, 20409, 20760, 20763, 20766, 20768, 20946, 20948, 20950, 20952, 20954, 20957, 21107, 21291, 21292, 21294, 21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850, 29268, 29514, 30093, 30095, 30097, 30099, 30101, 30103, 30105, 30107, 30109, 30112, 30114, 30341, 30343, 30345, 31189, 31192, 31194, 31566, 31569, 32276, 32591, 33214, 33649, 33651, 33653, 34128, 34130, 34132, 34134, 34377, 34589, 34591, 34593, 35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206, 38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588, 38961, 40161, 40162, 40645, 40646, 41808, 40926, 42970, 43124, 43126, 43228, 43130, 43811, 43814, 43815, 44089, 44093, 44311, 44313, 44316, 44319, 44320, 44322, 44323, 44326, 44553, 44556, 44558, 44560—44562, 44988, 44990, 45190, 45192, 45194, 45196, 45648, 45651, 45653, 45655, 45657, 45789, 45948, 45950, 45951, 46239, 46241, 46243, 46246, 46247, 46562, 46968, 47600, 47899, 47901, 48102, 48381, 48384, 48388, 48631, 48985, 48987, 48989, 48991, 48993, 49148, 49326, 50125, 50578, 50580, 50582, 50584, 50586, 50588, 50870, 50872, 50873, 50875, 50877, 50880, 50882, 50884, 50886, 50888, 50891, 50894, 50897, 50899, 50901, 50903, 50906, 50910, 50912, 50915, 50917, 51358, 51607, 51609, 51611, 52066, 52068, 52070, 52072, 52073, 53131, 53738, 53741, 53743, 54171, 54173, 54453, 54463, 54465, 54466, 54725, 54727, 54729, 54731, 54960
61....37520, 52878
71....1921, 2850, 3886, 3887, 7435, 8772, 8773, 9986—9990, 10860, 10861, 12741, 17825, 17826, 17827, 18575, 18577, 18578, 18736, 18737, 19907, 19908, 19909, 21296, 22489, 22490, 29056, 29057, 29058, 29516, 30117—30120, 30654, 31196, 32593, 32781, 35914, 35916, 35917, 38223—38225, 38385, 38386, 39121, 42618, 42619, 43132, 43134, 44327, 44993, 44994, 45198, 45199, 45200, 45659, 45660, 46406, 47120, 49573, 49574, 49575, 52076
73....18055, 53132
81....44329
91....33215, 37520
119....37520, 52878
121....21492, 21494, 42807, 46308
125....37520, 52878
135....37520, 52878
136....21264

TITLE 14 *Proposed Rules:—Con.*

139 ...... 42807, 46308
142 ...... 37520, 52878
161 47601
183 38387
217 45201
241 45201
255 13860
271 44329
291 45201
298 45201
413 ...... 9635, 10979
415 ...... 9635, 10979
417 ...... 9635, 10979
1260 54468
1274 54468

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

14 Nomenclature change 49828
14.25 (f) revised 49828
14 Appendix A amended 49828
101.1 Revised 11232
101.2 Removed 11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised 28832
  Nomenclature change 28832
301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832
301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833
301.3 (d) amended; (f) redesignated as (g); new (f) added 28833
301.4 (a)(1) and (2) revised; (a)(3) amended 28833
301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added 28833
301.6 (a) and (c) revised 28834
301.7 (a) amended 28834
301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834
301.9 (a) introductory text amended 28834
301.10 Revised 28834
303.2 (a)(5), (13) and (b)(1) amended 34812
303.12 (a)(1) revised 34812
303.16 (a)(9) amended 34812
  (b)(1) amended 34813
303.17 (b)(4) amended 34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.4 (c) introductory text revised; interim 42109
736 Authority citation revised 49523
736.2 (b)(7)(i)(B) and (C) revised 49523
738 Authority citation revised 12846, 18402, 49523
738 Supplement No. 1 amended 12846, 18402, 49523
740 Authority citation revised 5444, 6465, 12846, 18402, 36680, 49523
740.1 (a) revised; interim 36680
  (a) amended; interim 42109
740.2 (a)(6) added; interim 36680
740.7 Revised 5444
  (d)(1) revised 12847
  (d)(4) amended 6465
740.8 (c) amended; interim 42109
740.9 Heading and (a)(3)(i)(A) revised; (a)(2)(iii) amended; interim 42109
740.10 (a)(3)(iv) and (b)(3)(i)(D) amended; (b)(2)(iv) revised; interim 42110
740.13 (d)(3)(i) amended; interim 42110
740.15 (a)(1)(i), (ii), (2)(ii), (3)(iv) through (ix) amended; interim 42110
740.18 Added; interim 36680
740 Supplement No. 1 amended 12847, 18402, 49524
  Supplement No. 1 amended; interim 42110

742 Authority citation revised........5444, 36680, 49523, 50091
742.2 (a)(2)(i)(C) added........49524
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim........36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim........36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended........5446
742.16 Removed........50091
742.18 Revised........49524
742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim........36682
744 Authority citation revised........12846, 18402, 24265, 50091
744.1 (c) amended........50091
744.11 Removed........50091
744.12 Removed........50091
744.16 Added........12847
744 Supplement No. 3 amended 18402
Supplement No. 4 amended........24265, 50091
745 Authority citation revised........49523
745.2 Amended........49525
745 Supplement No. 2 amended 49525
746 Authority citation revised........12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim........36682
746.3 (a) introductory text revised; interim........36682
746.7 Amended; interim........36683
746.9 Revised........12847
748 Authority citation revised........5444, 6465
748.10 (b)(3) revised........5447
(b)(3)(i) amended........6465
770 Authority citation revised........49523
770.2 (k) introductory text amended........49525
772 Authority citation revised........18402, 36680
772.1 Amended........18402
Amended; interim........36683
Amended; introductory text revised........36910
774 Authority citation revised........18403, 36680, 49523
774 Supplement No. 1, Category 3 (ECCN 3A001)........18403
Supplement No. 1, Category 3 (ECCN 4A003)........18405
Supplement No. 1, Category 1 (ECCN 1C997) amended; interim........36683
Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5 (ECCN 5A991) and Category 7 (ECCN 7A003) amended........36912
Supplement No. 1, Category 7 (ECCN 7E004) amended........36913
Supplement No. 1, Category 1 (ECCN 1C350) amended........49525
Supplement No. 1, Category 1 (ECCN 1C355 and 1C995) amended........49527
Supplement No. 1, Category 2 (ECCN 2B350 and 2B352) amended........49528

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table corrected (OMB numbers)........3451, 21643, 24056, 30652
922.81 Amended........46951
922.82 (a)(7) added........46951
922.161 Revised........4369
Regulation at 66 FR 4369 eff. date confirmed........16120, 33462
922.162 Amended........4369
Regulation at 66 FR 4369 eff. date confirmed........16120, 33462
922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added........4369
Regulation at 66 FR 4369 eff. date confirmed........16120, 33462
922.166 Heading revised........4369
Regulation at 66 FR 4369 eff. date confirmed........16120, 33462
922.167 Redesignated as 922.168........4369
Added........4370
Regulations at 66 FR 4369 4370 eff. date confirmed........16120, 33462
922.168 Redesignated from 922.167; new 922.168 revised........4369

TITLE 15 Chapter IX—Con.

Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
Regulation at 66 FR 4370 eff. date confirmed 16120, 33462
Appendix VII table amended 34534

Proposed Rules:

50 48013
80 48013
303 28404
801 ....45219, 46407
922 ....26822, 30828, 43135, 49576
990 ....39464, 50919

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

2 Authority citation revised 8721
Technical correction 20527
2.20 (Subpart B) Added; interim 8721
2.41 (a) amended; interim 17628
3.12 (a) revised; interim 17628
(a)(1) corrected 20527
3.21 (b) amended; interim 17628
3.22 (b) revised; (c) amended; interim 17628
3.24 (a)(2) amended; interim 17628
3.25 (c) Revised; interim 17628
3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim 17628
(b)(3) corrected 20527
3.33 (a) amended; interim 17629
3.34 Heading revised; (c) amended; interim 17629
3.36 Revised; interim 17629
(a) corrected 20527
3.39 (a) introductory text amended; interim 17629
(a) corrected 20527
3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
3.43 (b) revised; interim 17629
Designation, (b) introductory text and (2) corrected 20527
3.44 (c) amended; interim 17630
3.45 Revised; interim 17630
(b)(2) and (d) corrected 20527
3.46 (b)(7) and (c)(4) amended; interim 17631
3.51 (c)(1) amended; (c)(3) removed; interim 17631
3.52 Revised; interim 17631
(b), (e), (f)(2) and (j) corrected 20527
4 Authority citation revised 17632
4.1 (b)(1)(iv) note removed 13645
4.2 Revised; interim 17632
(c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
4.3 (d) added; interim 17633
4.4 (a)(3) and (c) revised; (b) amended; interim 17633
(a)(3) and (b) corrected 20527
4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim 17633
4.10 (g)(1) revised; interim 17633
6 Authority citation revised 51863
6.101 Amended 51863
6.103 Amended 51863
6.152 Revised 51863
6.170 (b) amended; (d)(3) and (i)(2) revised 51864
305 Energy efficiency ranges 19389, 40110
305.5 (a) revised 27858
305.6 (a) revised 27858
305.9 (a) revised 27858
305 Appendix C1 revised 49531
801 Authority citation revised 8687
801.1 (h), (j) and (m) revised; interim 8687
(j) revised; interim 23565
801.2 (d) Examples 2 and 3 revised; interim 8688
801.4 (b) Examples 1 and 5 revised; interim 8688
801.10 Example revised; interim 8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim 8688
801.12 Heading revised; (c) and (d) removed; interim 8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim 8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim 8689

- 801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim 8689
- 801.20 Examples 1 and 2 revised; interim 8690
- 801.21 Introductory text revised; interim 8690
- 801.30 (b)(2) and Example 2 revised; interim 8690
- 801.31 Example revised; interim 8690
- 801.32 Example revised; interim 8690
- 801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim....8690
- 801.90 Examples 1 and 2 revised; interim 8691
- 802 Authority citation revised 8691
- 802.1 Examples 1 through 7, 9 and 10 revised; interim 8691
- 802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim 8692
  - (g) revised; interim 23565
- 802.3 Examples 2 and 3 revised; interim 8692
- 802.4 (a) and (c) Examples 1 and 2 revised; interim 8693
- 802.5 Example 2 revised; interim 8693
- 802.6 (b)(2)(ii) revised; interim 8693
- 802.9 Example 1 revised; interim 8693
- 802.20 Removed; interim....8693
- 802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim 8693
- 802.23 Example 2 revised; interim 8694
- 802.31 Example revised; interim 8694
- 802.35 Examples 1 and 2 revised; interim 8694
- 802.41 Examples 1 and 2 revised; interim 8694
- 802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim....8694
- 803 Authority citation revised 8694
- 803.1 (a) revised; interim 8695
- 803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim....8695
  - (b) introductory text, (1) introductory text and (c) introductory text revised; interim 23565
- 803.5 (a)(2) Examples 2 and 3 revised; interim 8695
- 803.7 Example revised; interim 8695
- 803.9 Added; interim....8695
- 803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added 8696
- 803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim....8697
- 803 Appendix revised; interim 8697
  - Appendix amended; interim 23566
  - Appendix amended 35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

- 1000.26 Amended 38369
- 1000.27 Amended 38369
- 1115.12 (f) introductory text revised 54925
- 1500.18 (a)(18) added 13650
  - Corrected....15997
- 1500.86 (a)(7) and (8) added 13651
- 1700.14 (a)(30) added; eff. 1-29-02 40115
  - (a)(31) and (32) added; eff. 10-25-02....53956

Proposed Rules:

- 312....54963
- 314....41162
- 432....12915
- 801 8723
- 802 8723
- 1115 30655
- 1500....10863, 39692
- 1633 51886
- 1700....18738, 22491

TITLE 1
SEC

Chapter
Trading
1—199

1 Fee sche
Order ...
Authori
1.1 Revise
1.3 (gg)(3)
Introduc
(g) adde
1.10 (a)(2)
1.12 (b)(2)
1.17 (a)(1)(
(h)(2)(
(B)(*2*),
and (v
(a)(1)(ii)
(a)(1)(i
....
1.32 Revise
1.33 (g) add
1.37 (a) r
(a)(2) a
(c) and (
1.41 Remov
1.41b Remo
1.43 Remov
1.45 Remov
1.46 (a) int
revised
and (9)
1.50 Remov
1.51 Remov
1.55 (d) and
1.68 Added
3 Technica
Authorit
3.1 (a)(1) an
3.10 (a)(1)(i
(d) ame
(a)(2)(ii)
designa
3.21 (c) intr
....
3.31 (a) re
(a)(2) a
3.32 Remov
3.34 Remov
3 Appendix
3 Appendix
4.10 (e)(1) r
4.24 (f)(1)(v)

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule 32737
  Order 34110
  Authority citation revised 42269
1.1 Revised 42269
1.3 (gg)(3) and (uu) added 20744
  Introductory text revised 42269
  (g) added 53516
1.10 (a)(2) and (j)(8) revised 53516
1.12 (b)(2) revised 20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) amended 20744
  (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added 53517
1.32 Revised 41133
1.33 (g) added 53517
1.37 (a) redesignated as (a)(1); (a)(2) added 20744
  (c) and (d) added 42269
1.41 Removed 42269
1.41b Removed 42269
1.43 Removed 42269
1.45 Removed 42269
1.46 (a) introductory text and (e) revised; (d)(4) through (7) and (9) removed 53517
1.50 Removed 42269
1.51 Removed 42269
1.55 (d) and (f) revised 53518
1.68 Added 20744
3 Technical correction 47059
  Authority citation revised 53518
3.1 (a)(1) and (2) revised 53518
3.10 (a)(1)(i) revised; (a)(3) added; (d) amended 43082
  (a)(2)(ii) removed; (a)(2)(i) redesignated as (a)(2) 53518
3.21 (c) introductory text revised 53518
3.31 (a) redesignated as (a)(1); (a)(2) added 53518
3.32 Removed 53518
3.34 Removed 53518
3 Appendix A amended 53518
3 Appendix B amended 53521
4.10 (e)(1) revised 53522
4.24 (f)(1)(v) and (h)(2) revised 53522
4.32 Added 53522
4.34 (f)(1)(ii) and (h) revised 53522
5 Removed; Appendix A redesignated as Appendix A, Part 40 and heading revised; Appendix E redesignated as Appendix C, Part 40 42287
15 Authority citation revised 42269
15.05 Heading revised; (e) and (h) added 42269
30 Order 27859, 34110
  Compliance date 50102
36 Revised 42270
37 Added 42271
38 Added 42277
39 Added 45609
  Compliance date 50102
40 Added 42283
  Fee schedule 42289
  Compliance date 50103
40 Appendices A and C redesignated from Appendices A and E, Part 5 42287
41 Added 42287, 44511
  Heading and authority citation revised 44965
41.1 (a), (b) and (f) through (i) added 44965
41.31—41.34 (Subpart D) Added 44965
41.41 Added 43086
140.91 (a)(8) added 43087
  (a)(7) added 53523
140.99 (i) amended; (i)(1) and (2) revised; (i)(3) added 44967
155.3 (b)(2) revised 53523
155.4 (b)(2) revised 53523
155.6 Added 53523
160 Added 21252
160.18 (b)(1) revised 24061
  (a) corrected 24183
166 Authority citation revised 42287
166.5 Added 42287
170 Authority citation revised 42288
  Technical correction 47059
170.8 Revised 42288
170.15 Revised 43083
180 Removed 42288
190.01 (bb) revised 20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended 38370
200.30–3 (a)(72) added; interim 27796
  (a)(73) added 31840
  (a)(74) added 35842

TITLE 17 Chapter II—Con.

(a)(73)(i) and (ii) amended; (iii) added 40886
(a)(75) and (76) added 43721
200.30–4 (a)(12) added 35842
200.30–18 (h) and (i) redesignated as (i) and (j); new (h) added 35842
202.3 (b)(3) added; authority citation removed 43741
204 Authority citation revised 54130
204.1 (b) revised 54130
204.2 (a) revised 54130
204.3 (a) removed; (b) through (f) redesignated as (a) through (e); new (b), (c) and (e) revised 54130
204.4 (a) and (b) removed; (c) and (d) redesignated as new (a) and (b); new (a) revised 54130
204.5 Introductory text revised 54130
204.6 (a) and (d) revised 54131
204.8 Amended 54131
204.9 (c) and (d) revised 54131
204.10 Removed 54131
204.11 Amended 54131
204.30—204.44 (Subpart B) Authority citation revised 54131
204.31 (a) amended 54131
204.32 Amended 54131
204.33 Introductory text and (c) revised; (f) amended 54131
204.35 (a) amended 54131
204.36 (b) amended 54131
204.38 (a) amended 54132
204.40 (b) introductory text, (2) and (e) amended 54132
204.43 (a) introductory text revised; (a)(6) amended 54132
204.44 Amended 54132
204.50—204.56 (Subpart C) Authority citation revised 54132
204.50 Revised 54132
204.51 Removed 54132
204.52 (a) revised; (b) introductory text and (2) amended; (c) added 54132
204.53 Removed 54132
204.54 (a) introductory text amended; (b) removed; (c) redesignated as new (b); new (b) revised 54132
204.55 Revised 54132
204.56 Revised 54132
204.60—204.65 (Subpart D) Added 54132
204.75—204.77 (Subpart D) Redesignated as Subpart E 54132
204.76 (a) amended 54135
204.77 (c) removed; (a) and (b)(5) revised 54135
210 Policy statement 38149
211 Staff accounting bulletin 36457
Policy statement 38149
Interpretive releases 48336, 49274
231 Interpretive releases 33176, 49274
232.301 Revised 42942, 49830
239.32 Form F–2 amended 32539
239.33 Form F–3 amended 32539
240 Authority citation revised 21659, 43741
Comment period extended 38370
240.3a4–2 Added; interim 27796
240.3a4–3 Added; interim 27796
240.3a4–4 Added; interim 27796
240.3a4–5 Added; interim 27796
240.3a4–6 Added; interim 27796
240.3a5–1 Added; interim 27798
240.3a55–1 Added 44514
240.3a55–2 Added 44514
240.3a55–3 Added 44514
240.3b–17 Added; interim 27798
240.3b–18 Added; interim 27798
240.6a–2 (e) revised; (f) added; authority citation removed 43741
240.6a–3 (c) added; authority citation removed 43741
240.6a–4 Added 43741
240.15a–7 Added; interim 27799
240.15a–8 Added; interim 27799
240.15a–9 Added; interim 27799
240.15a–10 Added 45146
240.15b2–2 (e)(2) and (3) amended; (e)(4) added 45147
240.15b11–1 Added 45147
240.17a–24 Added 35843
240.17Ad–7 (f) revised; authority citation removed 21659
240.19b–4 (a) revised 43743
240.19b–7 Added 43743
241 Interpretive releases 22921, 33176, 49274
248.2 Existing text designated as (a); (b) added 45147
248.3 (m)(5) and (6) amended; (m)(7) added; (n)(2)(i) removed; (n)(2)(ii) and (iii) redesignated as new (n)(2)(i) and (ii) 45147
249.1a Correctly removed; CFR correction 36701
249.10 Form 1–N added 43743

249.220f Form 20-F amended	32539
249.501b Form BD-N added	45147
249.819 Revised; Form 19b-4 amended	43743
249.822 Form 19b-7 added	43744
251 Interpretive releases	33176
257 Authority citation added	29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j)	29474
257.2 Authority citation removed	29474
270 Technical correction	30311
Compliance date	50102
270.2a-7 (a)(5), (11) and (20) revised	36161
270.5b-3 Added	36161
270.12d3-1 (d)(8) note removed	36162
270.31a-2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added	29228
271 Interpretive releases	33177
274 Compliance date	50102
274.101 Form N-SAR amended	36162
275 Technical correction	30311
275.204-2 (g)(1) and (2) revised; (g)(3) added; authority citation removed	29228

Chapter IV—Department of the Treasury (Parts 400—499)

450 Authority citation revised	28655
450.2 (e) revised	28655
(e) table corrected	29888

Proposed Rules:

1	45221, 50786
3	27476, 33494, 45221
4	45221
39	24308
41	20118, 27560, 29517, 34864, 36218, 37932, 45904, 50720, 50786
140	20118, 29517, 45221
155	36218, 45221
170	27476, 33494
190	50786
202	26978
230	50744
232	50744
239	50744
240	26978, 27560, 34042, 34864, 38390, 45904, 49877, 50744, 50786
242	50720
248	34042
249	26978, 34042, 50744
269	50744

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Proposed Rules:

1—399 (Ch. I)	50591
2	40929
35	40929
37	40929, 50919
161	50919
250	50919
284	50919, 53134
358	50919

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting	19720
10 Authority citation amended	50537
10.184 Undesignated center heading added; section revised; interim	20395
10.222 Introductory text amended; interim	50537
10.223 (a)(6) and (7) amended; interim	50537
10.228 Added; interim	50537
(c)(3)(ii) introductory text and (E) corrected	51864
24.24 (e)(4)(i) and (ii)(A) corrected; interim	21086
(e) heading and (4) revised; (e)(2)(ii) amended	34818
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim	21661
Table corrected	23981
122.15 (b) table amended	49275, 50104
132 Authority citation amended	21666
Technical correction	27454
132.18 Added; interim	21666
148.101 *Examples 1* and *2* amended	46218
148.102 Revised	46218

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 19 Chapter I—Con.

159 Authority citation amended 48552
159.4 Corrected..........20589
159.5 Corrected..........20589
159.6 Corrected..........20589
159.7 Corrected..........20589
159.21 Corrected..........20589
159.22 Corrected..........20589
159.44 Corrected..........20589
159.46 Corrected..........20589
159.55 Corrected..........20589
159.57 Corrected..........20589
159.61—159.64 (Subpart F) Added 48552
163 Appendix amended; interim 21667, 50541
  Technical correction..........27454
178.2 Table amended..........48555

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim..........32218

Proposed Rules:

4..........21705
12..........42163
24..........21705
101..........21705
113..........42163
122..........40649
123..........40649
151..........42163
159..........33920
162..........42163
177..........37370, 39293, 45235

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim..........28961
  Comment period reopened..........47382
30 (Subchapter C) Added; interim 28962
  Comment period reopened..........47382
30.100 OMB number pending..........28962
30.101 OMB number pending..........28962
30.102 OMB number pending..........28962
30.111 OMB number pending..........28962
30.112 OMB number pending..........28962
30.206 OMB number pending..........28962
30.207 OMB number pending..........28962
30.213 OMB number pending..........28962
30.214 OMB number pending..........28962
30.216 OMB number pending..........28962
30.217 OMB number pending..........28962
30.401 OMB number pending..........28962
30.415 OMB number pending..........28962
30.416 OMB number pending..........28962
30.417 OMB number pending..........28962
30.420 OMB number pending..........28962
30.421 OMB number pending..........28962
30.505 OMB number pending..........28962
30.617 OMB number pending..........28962
30.700 OMB number pending..........28962
30.701 OMB number pending..........28962
30.702 OMB number pending..........28962

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added..........27454
369 Added..........29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised..........38906
404.401 (c) revised..........38906
404.1203 OMB number..........28836
404.1204 OMB number..........28836
404.1214 OMB number..........28836
404.1215 OMB number..........28836
404.1216 OMB number..........28836
404.1220 OMB number..........28836
404.1225 OMB number..........28836
404.1237 OMB number..........28836
404.1239 OMB number..........28836
404.1242 OMB number..........28836
404.1243 OMB number..........28836
404.1247 OMB number..........28836
404.1249 OMB number..........28836
404.1251 OMB number..........28836
404.1265 OMB number..........28836
404.1271 OMB number..........28836
404.1272 OMB number..........28836
404.1292 OMB number..........28836
404.1501—404.1599 (Subpart P) Appendix 1 amended..........34362
  Appendix 2 revised..........45166
416.501—416.586 (Subpart E) Authority citation revised..........38906
416.570 Amended..........38906
416.572 Added..........38906

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

655.0 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.00 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.90—655.113 (Subpart B) Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.92 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.100 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.101 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.103 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.104 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.105 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.106 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.108 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.112 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
655.114 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02....................49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....................51095
656 Authority citation revised....................40590
656.21 (i)(6) added....................40590

Proposed Rules:

200....................46408
404....................43136
416....................38963
422....................43136
655....................49328, 49329, 53745, 53746

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

5 Revised....................30993
14.75 Regulation at 66 FR 1259 withdrawn....................20401
50 Authority citation revised....................20597
50.1 (a) amended; interim....................20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim....................20597
50.50—50.56 (Subpart D) Added; interim....................20598
56 Authority citation revised....................20599
56.101 (a) amended; interim....................20599

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 21 Chapter I—Con.

56.102 (b)(21), (22) and (23) added; interim 20599
56.109 (h) added; interim 20599
56.111 (c) added; interim 20599
101 Policy statement 30311
  Comment period reopened 50824
151 Regulation at 66 FR 3458 eff. date delayed 42415
165.110 (b)(1)(ii) revised 35373
172.615 (a) table amended 38153
  (a) table corrected 53711
172.892 (i) introductory text revised; (i) table amended 17509
173.115 Added 27022
173.325 (b)(1)(iii), (iv) and (v) amended 22922
  (f) redesignated as (g); new (f) added 31841
173.368 Added 33830
173.370 (b) and (c) revised 48208
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added 18539
310 Technical correction 53088
310.545 (a)(6)(iv)(D) and (d)(33) added; (d) introductory text revised 49277
341 Policy statement 49276
510.600 (c)(1) table and (2) table amended 17510, 22117, 22118, 23588, 32739, 36162, 43773, 46367, 46368, 46519, 47960
520.48 Revised 47960
520.445b (b) and (d)(4)(iii)(C) amended 35898
520.905a (b) amended 47960
520.905b (b) amended 47960
520.905c (b) amended 47960
520.905d (b) amended 47960
520.905e (b) amended 47960
520.1010 Revised 47960
520.1010a Removed 47961
520.1010b Removed 47961
520.1010c Removed 47961
520.1196 (b) amended 35756
520.1310 (a) and (d) revised 46369
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 21282
  (d)(1)(iii)(C) amended 29020
520.1840 (a), (b) and (c) revised 47963
520.1855 Added 43774
520.2095 Removed 21282
520.2460 Removed 22117
520.2460a Removed 22117
520.2460b Removed 22117
520.2520a Removed 23588
522.313 Heading revised; (d)(8) added 21283
  (d)(1)(i) amended 32540
522.575 (b) amended 46705
522.1010 Revised 47961
522.1081 (b) removed 22117
522.1183 (c) removed 22117
522.1258 Removed 23588
522.1451 Added 35756
522.1680 (b) amended 22117
522.1704 (b) removed 23588
522.1884 (c) amended; (d)(2)(iv) removed 23589
522.2095 Removed 21282
522.2120 (b) amended 22118
522.2476 Revised 47961
522.2477 (b) revised 47961
522.2640b Revised 22117
524.321 Revised 22117
524.390c Removed 42731
524.520 (b) amended 46706
524.1451 (d) redesignated as (e); new (d) added; new (e)(2) revised; new (e)(3) amended 46370
524.2140 Removed 42731
524.2620 (a)(2) amended 46369
524.2640 Removed 22117
529.360 Removed 22117
529.1186 (b) amended 17510
556.163 Revised 35544
556.347 Revised 19854
556.428 Revised 23589
556.500 (b) revised 46370
556.594 Removed 21282
558.4 (d) amended 21862
558.55 (d)(2) table amended 20083, 20402
  (d)(2)(iii) table amended 47962
558.58 (d)(1) table amended; (d)(1)(v) removed 46519
  (d)(1)(iii) table amended 46706, 47963
  (d)(1)(ii) table and (iii) table amended 47962
558.76 (d)(1)(iv) table amended 46706
558.78 (a)(1) revised; (a)(2) removed; (a)(3) redesignated as (a)(2); (d)(1) table and (2)(ii) amended 46706
558.95 (d)(5)(iv) and (v) amended 27022
  (d)(1)(x) removed; (d)(1)(xi)(*b*), (xii)(*b*) and (xiv)(*b*) amended 46706
  (a)(1), (2), (5), (d)(1)(vi)(*b*), (vii)(*b*), (xi)(*b*) and (xii)(*b*) amended 47962
558.115 (a) amended 47963

558.120 (d)(1)(iii)(*b*) amended 46706
558.128 (a) revised; (d)(1) table and (2) amended 46706
(a)(1) and (d)(1) table amended 47963
558.140 (a) amended 46706
558.145 (a)(1) and (2) amended 46706
558.155 (a)(1) and (2) amended 46706
558.195 (d) table amended 46706
558.198 (d)(1)(iii) table amended 47962
(d)(1)(iv) table and (v) table amended 47963
558.258 (a) amended 47962
558.265 (a) amended 47962
558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended 22118
(a)(2), (4) and (c)(1) table amended; (a)(3) removed 23589
558.305 (a) amended 46706
558.311 (e)(1) table amended 29020
(e)(1) table amended 46371
(b) and (e) amended 46706
(d)(7) added; (e)(1) table, (2)(iv) and (3)(iv) amended; (e)(1)(ix), (xii), (2)(iii) and (3)(iii) revised 47076
(b)(2) and (e)(1)(xv) amended 47963
558.340 (a) amended 46706
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended 46706
(b)(5), (12), (f)(1)(xiii)(*b*), (xx)(*b*), (xxi)(*b*), (xxii)(*b*) and (2)(iv)(*b*) amended 47963
(b)(10), (f)(2)(v)(*b*), (vi)(*b*) amended 47962
558.360 (a) amended 47963
558.363 (d)(1)(xii) added 27022
(a)(7) and (d)(1)(x)(B) amended 46706
(a)(4), (5), (d)(1)(vii)(B), (xii)(B) amended 47962
558.365 (d)(1)(ii) and (iii) removed; (d)(1)(i)((*a*) and (*b*) redesignated as new (d)(1)(ii) and (iii) 45167
558.366 (c) table amended 46706, 47962
558.435 (a) amended 47963
558.450 (a)(1), (d)(1) table and (2) table amended 32740
(d)(1) Table 1 amended 47963
558.460 (b) amended 47963
558.465 (a) amended 47963
558.485 (a), (b) and (d)(1) revised 47963
558.500 (d)(1) revised 21284
558.515 (a) and (d) amended 46706
(d) table amended 47963
558.550 (a)(1), (d)(1) and (3) amended; (a)(3) removed 46707
(d)(1)(x)(*c*) and (xii)(*c*) amended 47964
(a)(2), (d)(1)(xv)(*c*) and (xvi)(*c*) amended 47962
558.555 (a) revised; (c) removed; (b) redesignated as new (c); new (b) added; (d) amended 47964
558.575 (a)(1) and (2) amended 46707
558.582 (a) amended 46707
558.600 (c)(4)(ii) amended 46707
558.625 (f)(2)(vii) added 21284
(b)(2), (13) and (73) removed 22117
(b)(16), (19) and (34) removed; (b)(79) amended 22118
(b)(17) removed 23589
(b)(9) removed 36162
(b)(25) amended 47964
558.630 (b)(8) amended 22118
(b)(4) removed; (b)(10) amended 23589
(b)(10) amended 36162
558.635 (a)(1) amended 47964
579.22 Heading, introductory text and (b) revised 18540
606.3 (j) revised 40889
606.100 (b)(20) added 31176
606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended 31162
606.151 (b) and (c) revised 40889
606.160 (b)(1)(ix), (x) and (xi) added 31176
607.65 (g) removed 31162
610.40—610.47 (Subpart E) Heading revised 31162
610.40 Revised 31162
610.41 Revised 31164
610.42 Added 31164
610.44 Added 31164
610.45 Removed 31165
630 Added 31176
640.2 (d) removed 31165
(b) revised 40889
640.3 (c)(1) revised 40889
640.4 (g) introductory text, (1), (2), (4) and (5) revised 40889
640.5 (f) revised 31165
Introductory text and (c) revised 40889
640.14 Amended 31165

TITLE 21 Chapter I—Con.

640.15 Revised 40890
640.16 (a) revised 40890
640.23 (a) amended 31165
640.24 (b) revised 40890
640.33 (a) amended 31165
640.34 (a) through (d) and (e)(1) revised 40890
640.53 (a) amended 31165
640.54 (a)(2) revised 40890
640.63 (c)(11) revised 40890
640.67 Revised 31165
640.70 (a)(2) revised 31165
660.20 Regulation at 65 FR 77499 confirmed 20402
660.21 Regulation at 65 FR 77499 confirmed 20402
660.42 Removed 31165
660.50 Regulation at 65 FR 77499 confirmed 20402
660.51 Regulation at 65 FR 77499 confirmed 20402
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff) 23156
803.10 (b) revised; (c)(5) removed 23157
803.17 (b)(3) revised 23157
803.19 (a)(2) revised 23157
803.20 (a) introductory text, (2) and (c)(1) revised 23157
803.50 (b)(1)(i) and (2) revised 23157
803.52 (d)(1), (f)(11)(i) and (ii) revised 23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5) 23157
809.20 (b) revised 31165
862.1190 (b) revised 38787
862.1210 (b) revised 38787
862.1255 (b) revised 38787
862.1290 (b) revised 38787
862.1305 (b) revised 38787
862.1320 (b) revised 38787
862.1365 (b) revised 38787
862.1380 (b) revised 38787
862.1420 (b) revised 38788
862.1470 (b) revised 38788
862.1490 (b) revised 38788
862.1515 (b) revised 38788
862.1565 (b) revised 38788
862.1575 (b) revised 38788
862.1640 (b) revised 38788
862.1670 (b) revised 38788
862.1720 (b) revised 38788
862.1815 (b) revised 38788
862.2050 (b) revised 38788
862.2100 (b) revised 38788
862.2230 (b) revised 38788
862.2310 (b) revised 38788
862.2320 (b) revised 38788
862.2485 (b) revised 38788
862.2720 (b) revised 38788
862.2800 (b) revised 38788
862.2920 (b) revised 38788
864.1850 (b) revised 38789
864.2220 (a) revised 27024
(b) revised 38789
864.2240 (b) revised 38789
864.2260 (b) revised 38789
864.2360 (b) revised 38789
864.2800 (b) revised 38789
864.2875 (b) revised 38789
864.3010 (b) revised 38789
864.3300 (b) revised 38789
864.3400 (b) revised 38789
864.3600 (b) revised 38789
864.3800 (b) revised 38789
864.3875 (b) revised 38789
864.4010 (b) revised 38789
864.4400 (b) revised 38789
864.5350 (b) revised 38789
864.5800 (b) revised 38790
864.5850 (b) revised 38790
864.6160 (b) revised 38790
864.6600 (b) revised 38790
864.6700 (b) revised 38790
864.7660 (b) revised 38790
864.7675 (b) revised 38790
864.7900 (b) revised 38790
864.8200 (b) revised 38790
864.8500 (b) revised 38790
864.8540 (b) revised 38790
866.2050 (b) revised 38790
866.2120 (b) revised 38790
866.2160 (b) revised 38790
866.2170 (b) revised 38790
866.2180 (b) revised 38790
866.2300 (b) revised 38790
866.2320 (b) revised 38790
866.2330 (b) revised 38791
866.2350 (b) revised 38791
866.2360 (b) revised 38791
866.2440 (b) revised 38791
866.2450 (b) revised 38791
866.2480 (b) revised 38791
866.2500 (b) revised 38791
866.2540 (b) revised 38791
866.2580 (b) revised 38791
866.2600 (b) revised 38791
866.3010 (b) revised 38791
866.3020 (b) revised 38791
866.3035 (b) revised 38791

866.3065 (b) revised	38791
866.3125 (b) revised	38791
866.3205 (b) revised	38791
866.3250 (b) revised	38791
866.3255 (b) revised	38791
866.3270 (b) revised	38792
866.3330 (b) revised	38792
866.3340 (b) revised	38792
866.3400 (b) revised	38792
866.3410 (b) revised	38792
866.3470 (b) revised	38792
866.3490 (b) revised	38792
866.3520 (b) revised	38792
866.3630 (b) revised	38792
866.3700 (b) revised	38792
866.3720 (b) revised	38792
866.4100 (b) revised	38792
866.4500 (b) revised	38792
866.4520 (b) revised	38792
866.4540 (b) revised	38792
866.4600 (b) revised	38792
866.4800 (b) revised	38792
866.4830 (b) revised	38792
866.4900 (b) revised	38792
866.5170 (b) revised	38793
866.5220 (b) revised	38793
866.5230 (b) revised	38793
866.5360 (b) revised	38793
866.5370 (b) revised	38793
866.5520 (b) revised	38793
866.5530 (b) revised	38793
866.5540 (b) revised	38793
866.5700 (b) revised	38793
866.5800 (b) revised	38793
866.5860 (b) revised	38793
868.1030 (b) revised	38793
868.1100 (b) revised	38793
868.1575 (b) revised	38793
868.1870 (b) revised	38793
868.1930 (b) revised	38793
868.1965 (b) revised	38793
868.1975 (b) revised	38793
868.2300 (b) revised	38794
868.2320 (b) revised	38794
868.2340 (b) revised	38794
868.2350 (b) revised	38794
868.2610 (b) revised	38794
868.2620 (b) revised	38794
868.2700 (b) revised	38794
868.2875 (b) revised	38794
868.2885 (b) revised	38794
868.5100 (b) revised	38794
868.5110 (b) revised	38794
868.5220 (b) revised	38794
868.5240 (b) revised	38794
868.5280 (b) revised	38794
868.5300 (b) revised	38794
868.5310 (b) revised	38794
868.5320 (b) revised	38794
868.5340 (b) revised	38794
868.5350 (b) revised	38794
868.5365 (b) revised	38794
868.5375 (b) revised	38795
868.5420 (b) revised	38795
868.5460 (b) revised	38795
868.5530 (b) revised	38795
868.5540 (b) revised	38795
868.5550 (b) revised	38795
868.5560 (b) revised	38795
868.5570 (b) revised	38795
868.5580 (b) revised	38795
868.5590 (b) revised	38795
868.5600 (b) revised	38795
868.5760 (b) revised	38795
868.5770 (b) revised	38795
868.5780 (b) revised	38795
868.5790 (b) revised	38795
868.5795 (b) revised	38795
868.5810 (b) revised	38795
868.5820 (b) revised	38795
868.5860 (b) revised	38796
868.5975 (b) revised	38796
868.5995 (b) revised	38796
868.6100 (b) revised	38796
868.6175 (b) revised	38796
868.6225 (b) revised	38796
868.6400 (b) revised	38796
868.6700 (b) revised	38796
868.6820 (b) revised	38796
868.6885 (b) revised	38796
870.1875 (a)(2) revised	38796
870.2390 (b) revised	38796
870.2600 (b) revised	38796
870.2620 (b) revised	38796
870.2640 (b) revised	38796
870.2810 (b) revised	38796
870.3450 Revised	18542
870.3460 Removed	18542
870.3620 (b) revised; (c) removed	18542
870.3650 (b) revised	38796
870.3670 (b) revised	38796
870.3690 (b) revised	38796
870.3730 (b) revised	38797
870.3800 (b) revised; (c) removed	18542
870.3945 (b) revised	38797
870.4230 (b) revised; (c) removed	18542
870.4260 (b) revised; (c) removed	18542
870.4350 (b) revised; (c) removed	18542

TITLE 21 Chapter I—Con.

870.4500 (b) revised	38797
872.1500 (b) revised	38797
872.1730 (b) revised	38797
872.1820 (b) revised	38797
872.1840 (b) revised	38797
872.1850 (b) revised	38797
872.1905 (b) revised	38797
872.3080 (b) revised	38797
872.3100 (b) revised	38797
872.3110 (b) revised	38797
872.3130 (b) revised	38797
872.3140 (b) revised	38797
872.3150 (b) revised	38797
872.3165 (b) revised	38797
872.3220 (b) revised	38797
872.3240 (b) revised	38798
872.3285 (b) revised	38798
872.3330 (b) revised	38798
872.3350 (b) revised	38798
872.3360 (b) revised	38798
872.3410 (b) revised	38798
872.3490 (b) revised	38798
872.3520 (b) revised	38798
872.3530 (b) revised	38798
872.3580 (b) revised	38798
872.3670 (b) revised	38798
872.3730 (b) revised	38798
872.3740 (b) revised	38798
872.3810 (b) revised	38798
872.3830 (b) revised	38798
872.3840 (b) revised	38798
872.3850 (b) revised	38798
872.3900 (b) revised	38798
872.3910 (b) revised	38799
872.4130 (b) revised	38799
872.4565 (b) revised	38799
872.4620 (b) revised	38799
872.4630 (b) revised	38799
872.4730 (b) revised	38799
872.5410 (b) revised	38799
872.5525 (b) revised	38799
872.6010 (b) revised	38799
872.6030 (b) revised	38799
872.6050 (b) revised	38799
872.6100 (b) revised	38799
872.6140 (b) revised	38799
872.6200 (b) revised	38799
872.6290 (b) revised	38799
872.6475 (b) revised	38799
872.6510 (b) revised	38800
872.6570 (b) revised	38800
872.6650 (b) revised	38800
872.6670 (b) revised	38800
872.6710 (b) revised	38800, 46952
872.6855 (b) revised	38800
872.6865 (b) revised	38800
872.6870 (b) revised	38800
872.6880 (b) revised	38800
872.6890 (b) revised	38800
874.1060 (b) revised	38800
874.1080 (b) revised	38800
874.3375 (b) revised	38800
874.4140 (b) revised	38800
874.4175 (b) revised	38801
874.4350 (b) revised	38801
874.4750 (b) revised	38801
874.4770 (b) revised	38801
874.5220 (b) revised	38801
874.5800 (b) revised	38801
876.1075 (b)(2) revised	38801
876.1500 (b)(2) revised	38801
876.4530 (b) revised	38801
876.4560 (b) revised	38801
876.4590 (b) revised	38801
876.4730 (b) revised	38801
876.4890 (b)(2) revised	38801
876.5030 (b) revised	38801
876.5090 (b)(2) revised	38801
876.5130 (b)(2) revised	38801
876.5250 (b)(2) revised	38802
876.5450 (b) revised	38802
876.5520 (b)(2) revised	38801
876.5540 (b)(4) revised	38801
876.5820 (b)(2) revised	38802
876.5885 Added	27025
876.5900 (b) revised	38802
876.5920 (b) revised	38802
876.5970 (b) revised	38802
878.1800 (b) revised	38802
878.3750 (b) revised	38802
878.3800 (b) revised	38802
878.3900 (b) revised	38802
878.4160 (b) revised	38802
878.4380 (b) revised	38802
878.4440 (b) revised	38803
878.4450 (b) revised	38803
878.4460 (b) revised	38803, 46952
878.4470 (b) revised	38803
878.4635 (b) revised	38803
878.4660 (b) revised	38803
878.4700 (b) revised	38803
878.4730 (b) revised	38803
878.4800 (b) revised	38803
878.4810 (b)(2) revised	38803
878.4930 (b) revised	38803
878.4950 (b) revised	38803
878.5350 (b) revised	38803
878.5900 (b) revised	38803
878.5910 (b) revised	38803
880.2400 (b) revised	38803
880.2700 (b) revised	38803
880.2720 (b) revised	38803

880.2740 (b) revised	38804
880.2900 (b) revised	38804
880.5075 (b) revised	38804
880.5110 (b) revised	38804
880.5120 (b) revised	38804
880.5150 (b) revised	38804
880.5160 (b) revised	38804
880.5180 (b) revised	38804
880.5210 (b) revised	38804
880.5240 (b) revised	38804
880.5300 (b) revised	38804
880.5510 (b) revised	38804
880.5560 (b) revised	38804
880.5630 (b) revised	38804
880.5640 (b) revised	38804
880.5680 (b) revised	38805, 46952
880.5740 (b) revised	38805
880.5780 (b)(2) revised	38805
880.5820 (b) revised	38805
880.5950 (b) revised	38805
880.6025 (b) revised	38805
880.6050 (b) revised	38805
880.6060 (b) revised	38805
880.6070 (b) revised	38805
880.6080 (b) revised	38805
880.6085 (b) revised	38805
880.6140 (b) revised	38805
880.6150 (b) revised	38805
880.6185 (b) revised	38806
880.6190 (b) revised	38806
880.6200 (b) revised	38806
880.6230 (b) revised	38806
880.6250 (b) revised	38806, 46952
880.6265 (b) revised	38806
880.6280 (b) revised	38806
880.6320 (b) revised	38806
880.6350 (b) revised	38806
880.6375 (b) revised	38806, 46952
880.6430 (b) revised	38806
880.6450 (b) revised	38806
880.6730 (b) revised	38806
880.6760 (b) revised	38806, 46952
880.6785 (b) revised	38807
880.6800 (b) revised	38807
880.6820 (b) revised	38807
880.6900 (b) revised	38807
880.6960 (b) revised	38807
880.6970 (b) revised	38807
880.6980 (b) revised	38807
882.1030 (b) revised	38807, 46952
882.1410 (b) revised	38807
882.1420 (b) revised	38807, 46953
882.1430 (b) revised	38807
882.1525 (b) revised	38807
882.1700 (b) revised	38807
882.1925 (b) revised	38807
882.4030 (b) revised	38808
882.4125 (b) revised	38808
882.4200 (b) revised	38808
882.4215 (b) revised	38808
882.4325 (b) revised	38808
882.4440 (b) revised	38808
882.4500 (b) revised	38808
882.4525 (b) revised	38808
882.4535 (b) revised	38808
882.4600 (b) revised	38808
882.4900 (b) revised	38808
884.1550 (b) revised	38808
884.1640 (b)(2) revised	38808
884.1690 (b)(2) revised	38808
884.1700 (b)(2) revised	38808
884.1720 (b)(2) revised	38808
884.1730 (b)(2) revised	38809
884.2900 (b) revised	38809
884.2980 (a)(2) revised	38809, 46953
884.2982 (a)(2) revised	38809, 46953
884.4520 (b) revised	38809
884.4530 (b)(2) revised	38809
884.5150 (b) revised	38809
884.5425 (b)(1) revised	38809
884.5900 (b)(2) revised	38809
884.5920 (b) revised	38809
884.6190 (b) revised	38809
886.1040 (b) revised	38809
886.1050 (b) revised	38809
886.1070 (b) revised	38810
886.1090 (b) revised	38810
886.1140 (b) revised	38810
886.1150 (b) revised	38810
886.1160 (b) revised	38810
886.1170 (b) revised	38810
886.1190 (b) revised	38810
886.1200 (b) revised	38810
886.1250 (b) revised	38810
886.1270 (b) revised	38810
886.1290 (b) revised	38810
886.1320 (b) revised	38810
886.1330 (b) revised	38810
886.1340 (b) revised	38810
886.1375 (b) revised	38810
886.1380 (b) revised	38810
886.1390 (b) revised	38811
886.1395 (b) revised	38811
886.1400 (b) revised	38811
886.1405 (b) revised	38811
886.1410 (b) revised	38811
886.1415 (b) revised	38811
886.1420 (b) revised	38811
886.1425 (b) revised	38811
886.1430 (b) revised	38811
886.1435 (b) revised	38811
886.1450 (b) revised	38811

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 21 Chapter I—Con.

886.1460 (b) revised	38811
886.1500 (b) revised	38811
886.1605 (b) revised	38811
886.1650 (b) revised	38812
886.1655 (b) revised	38812
886.1660 (b) revised	38812
886.1665 (b) revised	38812
886.1680 (b) revised	38812
886.1690 (b) revised	38812
886.1700 (b) revised	38812
886.1750 (b) revised	38812
886.1760 (b) revised	38812
886.1770 (b) revised	38812
886.1790 (b) revised	38812
886.1800 (b) revised	38812
886.1810 (b) revised	38812
886.1840 (b) revised	38812
886.1860 (b) revised	38812
886.1870 (b) revised	38813
886.1880 (b) revised	38813
886.1905 (b) revised	38813
886.1910 (b) revised	38813
886.1945 (b) revised	38813
886.3200 (b) revised	38813
886.3920 (a) amended	18542
886.4230 (b) revised	38813
886.4250 (b) revised	38813
886.4335 (b) revised	38813
886.4350 (b) revised	38813
886.4360 (b) revised	38813
886.4445 (b) revised	38813
886.4570 (b) revised	38813
886.4770 (b) revised	38813
886.4855 (b) revised	38814
886.5120 (b) revised	38814
886.5420 (b) revised	38814
886.5540 (b) revised	38814
886.5600 (b) revised	38814
886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815
888.5850 (b) revised	38815
888.5890 (b) revised	38815
888.5940 (b) revised	38815
888.5960 (b) revised	38816
888.5980 (b) revised	38816
890.1575 (b) revised	38816
890.1600 (b) revised	38816
890.1615 (b) revised	38816
890.3025 (b) revised	38816
890.3075 (b) revised	38816
890.3100 (b) revised	38816
890.3150 (b) revised	38816
890.3175 (b) revised	38816
890.3410 (b) revised	38816
890.3420 (b) revised	38816
890.3475 (b) revised	38816
890.3490 (b) revised	38816
890.3520 (b) revised	38817
890.3640 (b) revised	38817
890.3665 (b) revised	38817
890.3675 (b) revised	38817
890.3700 (b) revised	38817
890.3750 (b) revised	38817
890.3760 (b) revised	38817
890.3790 (b) revised	38817
890.3825 (b) revised	38817
890.3910 (b) revised	38817
890.3920 (b) revised	38817
890.3940 (b) revised	38817
890.5050 (b) revised	38817
890.5125 (b) revised	38818
890.5350 (b) revised	38818
890.5370 (b) revised	38818
890.5380 (b) revised	38818
890.5410 (b) revised	38818
890.5660 (b) revised	38818
890.5730 (b) revised	38818
890.5765 (b) revised	38818
890.5925 (b) revised	38818
890.5940 (b) revised	38818
890.5950 (b) revised	38818
890.5975 (b) revised	38818
892.1100 (b) revised	38818, 46953
892.1110 (b) revised	38818, 46953
892.1130 (b) revised	38818
892.1300 (b) revised	38818
892.1370 (b) revised	38818
892.1380 (b) revised	38819
892.1400 (b) revised	38819
892.1420 (b) revised	38819
892.1640 (b) revised	38819

892.1700 (b) revised 38819
892.1760 (b) revised 38819
892.1770 (b) revised 38819
892.1830 (b) revised 38819
892.1840 (b) revised 38819
892.1880 (b) revised 38819
892.1920 (b) revised 38819
892.1940 (b) revised 38819
892.1950 (b) revised 38819
892.5740 (b) revised 38819
892.5780 (b) revised 38819

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1308 Interpretation 51530
1308.14 (c)(15) through (49) redesignated as (c)(16) through (50); new (c)(15) added 42944
1308.35 Undesignated center heading and section added 51544
1309.29 Revised 52674
1310.02 Regulation at 65 FR 47316 eff. date extended 42944
  (a)(25), (26) and (27) added 52675
1310.04 Regulation at 65 FR 47316 eff. date extended 42944
  (g)(1)(ii), (iii) and (iv) added 52675
  Corrected 54061
1310.06 Regulation at 65 FR 47316 eff. date extended 42944
  (j) added 52675
1310.09 (d) added 52675
1313.12 (b) and (f) revised 46520
1313.21 (b) and (e) introductory text revised 46520

Proposed Rules:

101 38591
151 42474
192 17517
333 29059
500 42167
589 50929
592 17517
864 ......23634, 38226
874 42809
888 46563
1300 46567
1301 46567
1304 46567
1305 46567
1306 46567
1308 ......51530, 51535
1310 53746

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 32742, 38542
41.2 (i)(2) revised; interim 32541
41.12 Table amended 32742
  Table corrected 38153
41.57 Second 41.57 correctly revised; CFR correction 49830
  (b) revised; interim 52502
  Table corrected 53711
41.81 Revised; interim 19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
  (f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised 32742
42.11 Table amended 32742
  Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h), (i) and (j); new (b)(2), (3) and (g) added; interim 39437
  (b)(3) introductory text and (i) revised 45136
51 Authority citation revised 29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added 29906
51.21 (d)(4)(ii) revised 29906
51.27 (b) and (d)(1)(i) introductory text revised 29906
51.40 Revised 29907
51.41 Revised 29907
62.31 (a), (c)(1), (2), (3), (e) introductory text, (3), (5), (j) and (k) revised 43087
124.2 (c) introductory text, (1) and (6) revised 35899
125.4 (c) introductory text revised 35900
126.5 (b) corrected 36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised 35900

TITLE 22 Chapter I—Con.

139 Authority citation revised	52504
139.3 (d) and (e) amended; (f) and (g) added; interim	52504
139.4 (a), (c)(2), (e), (g) and (h) amended; (i) added; interim	52505
139.5 Introductory text and (d)(2) revised; (b) amended; (e) added; interim	52505
139.6 Amended; interim	52505
139.7 (a)(1) and (f) amended; interim	52506
139.8 Revised; interim	52506

Chapter XIII—Board for International Broadcasting (Parts 1300—1399)

Chapter XIII Removed	42731

Proposed Rules:

41	48224
62	27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

630 Authority citation revised	23847
630.102—630.112 (Subpart A) Revised	23847
655.601 (a) revised	38911
940.9 (b) amended	19856
940.11 (g) amended	19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed	20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added	38918
1345.4 (a)(1)(iv) revised	38918
1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised	38918

Proposed Rules:

625	48103
627	53288, 54964
635	53288, 54964
636	53288, 54964
637	53288, 54964
650	49152, 49154
655	27480
710	23636, 53288, 54964

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended	28791
5.850—5.861 (Subpart I) Added	28792
5.901—5.961 (Subpart J) Added	28792
27.20 (f) added	35847

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added	28797
207 Authority citation revised	35072
207.252 Revised; interim	35072
207.252a Revised; interim	35073
207.254 Added; interim	35073
247.2 Amended	28797
247.3 (a)(3) revised	28797
290.18 Added	35847

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300.3 Revised	44265
320.5 (g) revised; (h), (i) and (j) added	44265
330.5 Revised	44265
330.30 Revised	44266
350 Added	44266

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim 35855
598.1 (a) revised; interim 35855
599 Added; interim 35855
599.107 (a)(3) amended; interim 52675

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised 28797
882.102 (a) revised; (b) amended 28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added 28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2) 28797
882.518 Added 28797
884.216 (b) revised 28798
887 Correctly removed; CFR correction 42731
888 Fair market rent schedules 50024
891.430 Revised 28798
891.630 Revised 28798
891.770 Revised 28798

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

960.102 (a)(1) revised 28799
960.200—960.208 (Subpart B) Revised 28799
966 Heading and authority citation revised 28802
966.1 Revised 28802
966.2 Added 28802
966.4 (d)(1), (f)(12), (l)(2), (3)(i) and (5) revised 28802
Corrected 32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added 28804
972 Added 33618
982.4 (a)(2) revised; (b) amended 28804
(b) amended; interim 33613
982.54 (d)(4)(iii) added 28804
982.310 (c) revised; (h) added 28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added 30568
982.505 (c)(4) revised 30568
982.551 (m) redesignated as (n); (l) revised; new (m) added 28805
982.552 (b)(1), (c)(1)(iv) and (2) revised; (c)(1)(xi) added 28805
982.553 Revised 28805
982.632 (a) revised; interim 33613
982.638 (d)(2) revised; interim 33613
982.640 (b) revised; interim 33613
982.642 Added; interim 33613
985.3 (n) revised; interim 50005
985.101 (a)(1) revised; interim 50006
1000.156 Revised (OMB number pending) 49790
1000.158 Added (OMB number pending) 49790
1000.160 Added (OMB number pending) 49790
1000.162 Added (OMB number pending) 49790

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3500 Policy statement 53052

Proposed Rules:

200 ....48080, 53930
203 ....46502, 53930
206 30278
888 23770
903 42926
982 32198
1000 ....37098, 38965

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02 22121
(a)(15) added; eff. to 9-18-02 48087
84 Added 38923
89 Authority citation revised 38926
89.1 Removed 38926
89.2 Removed 38926
89.3 Removed 38926
89.4 Removed 38926
89.5 Removed 38926
89.6 Removed 38926
89.7 Removed 38926
89.8 Removed 38926
89.9 Removed 38926
89.10 Removed 38926
89.11 Removed 38926
89.12 Removed 38926
89.13 Removed 38926
89.14 Removed 38926
89.15 Removed 38926
89.16 Removed 38926
89.17 Removed 38926
89.18 Removed 38926
89.19 Removed 38926
89.20 Removed 38926
89.21 Removed 38926
89.22 Removed 38926
89.24 Removed 38926
89.25 Removed 38926
89.26 Removed 38926
103.25 Corrected 46307
151 Regulation at 66 FR 3452 and 10815 eff. date delayed 19403, 31976
Regulation at 66 FR 3458 eff. date delayed 42415
183 Added 21088

Proposed Rules:

70 33654
151 ....19403, 42474
309 27915
502 ....33494, 41810
580 50127

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 32902, 33463, 37889, 37899, 40590
Authority citation corrected 41133
1.32-3 Added 33637
1.32-3T Removed 33637
1.125-3 Added 52677
1.125-4 (g) amended 52680
1.132-9 (b) corrected 18190
1.197-2(k) Example 23 corrected 22286
1.301-1 (g) revised 49278
1.301-1T Removed 49279
1.355-0 Amended 40591
1.355-7T Added 40591
1.401(a)(4)-0 Amended 34540
1.401(a)(4)-8 (b)(1) revised 34540
1.401(a)(4)-9 (b)(2)(v) added; (c)(3)(ii) revised 34544
1.401(a)(4)-12 Amended 34545
1.420-1 Added 32900
1.460-1 (j) corrected 18357
1.460-2 (b)(2)(ii) and (c)(1) corrected 18191
1.460-4 (b)(3) and (g) corrected 18191
1.679-0 Added 37889
1.679-1 Added 37889
1.679-2 Added 37889
1.679-3 Added 37889
1.679-4 Added 37889
1.679-5 Added 37889
1.679-6 Added 37889
1.679-7 Added 37889
1.684-1 Added 37899
1.684-2 Added 37899
1.684-3 Added 37899
1.684-4 Added 37899
1.684-5 Added 37899
1.732-3 Added 32902
1.958-1 (b) amended 37897
1.958-2 (c)(1)(ii)(*b*) amended 37897
1.985-8 (c)(3)(ii) Examples 1 and 2 correctly added 21447
1.1441-1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*), (D)(*2*) and (*3*) corrected 18188

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

1.1441–5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected 18188
1.1441–7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected 18189
1.1461–1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M)..........18189
(a)(1) amended 33831
1.1502–5 (a)(1) amended....................33831
1.1502–34 Amended 32902
1.1502–78 (e) added....................33463
1.1502–78T Removed 33464
1.6011–4T (b)(3)(i)(F) removed; (b)(3)(ii)(B) and (C) and (g) revised; (b)(5) amended..........41135
1.6045–1 (g)(1)(i) and (3)(iv) corrected 18189
1.6049–5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected 18189
1.6151–1 (d)(1) amended....................33831
1.6302–1 (d) revised 32542
(b)(1) amended 33831
1.6302–2 (d) revised 32542
(a)(1)(i), (ii), (iv) and (b)(1) amended 33831
1.6302–3 (a) amended 33831
20 Authority citation amended 38546
20.6075–1 Revised; interim....................38546
20.6081–1 Revised; interim....................38546
31 Authority citation amended 28370
31.6071(a)–1 (a)(1) and (c) amended....................33832
31.6151–1 (b) amended....................33832
31.6205–1 (a)(6) revised....................39640
31.6302–1 (f)(4) revised 28370
(m)(1) revised....................32542
(i)(3) amended....................33831
(c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended 33832
31.6302–1T Removed 28370
31.6302(c)–2A (b)(1)(i) and (3) amended 33832
31.6302(c)–3 (b)(2) amended....................33831
(a)(1)(i), (ii), (3) and (b)(2) amended 33832
31.6302(c)–4 (a) revised....................32542
35.3405–1T Amended 33832
36.3121(l)(10)–4 Amended....................33832
40 Authority citation revised 41776
40.0–1 (d) and (e) removed; (f) redesignated as new (d) 41776
40.6011(a)–1 (c) removed 41776
40.6011(a)–2 (b)(2) amended; (d) removed..........41776
40.6071(a)–1 (a), (b)(2) and (c) revised 41776
40.6071(a)–2 Removed 41776
40.6091–1 (d) removed 41776
40.6101–1 Revised..........41776
40.6109(a)–1 Revised..........41776
40.6151(a)–1 Revised..........41776
40.6302(c)–1 (d)(1) amended 33832
Revised..........41776
40.6302(c)–2 Revised..........41777
40.6302(c)–3 (b)(1)(ii), (3), (d) and (f)(4) introductory text amended; (f)(5), (7) and (h) removed; (f)(6) redesignated as new (f)(5); (g) revised..........41778
40.6302(c)–4 Removed..........41778
40.9999–1 Removed..........41778
48.4081–8 Revised..........27597
301 Authority citation amended 39438, 50544
301.6103(j)(5)–1 Added 39438
301.6103(j)(5)–1T Removed 39439
301.6111–2T (b)(3) removed; (b)(4) through (7) redesignated as new (b)(3) through (6); new (b)(3) introductory text, (4) introductory text, (ii), (6) and (h) amended; (b)(1), new (3)(ii), (4)(i), (6) introductory text (c)(3) and (e)(2)(ii)(E) revised; new (b)(6) Example 2 redesignated as Example and amended 41135
301.6112–1T Authority citation removed..........41137
301.6221–1 Added..........50544
301.6221–1T Removed..........50545
301.6222(a)–1 Added..........50545
301.6222(a)–1T Removed..........50545
301.6222(a)–2 Added..........50545
301.6222(a)–2T Removed..........50546
301.6222(b)–1 Added..........50546
301.6222(b)–1T Removed..........50546
301.6222(b)–2 Added..........50546
301.6222(b)–2T Removed..........50546
301.6222(b)–3 Added..........50546
301.6222(b)–3T Removed..........50547
301.6223(a)–1 Added..........50547
301.6223(a)–1T Removed..........50547
301.6223(a)–2 Added..........50547

TITLE 26 Chapter I—Con.

301.6223(a)-2T Removed..........50547
301.6223(b)-1 Added..........50547
301.6223(b)-1T Removed..........50548
301.6223(c)-1 Added..........50548
301.6223(c)-1T Removed..........50549
301.6223(e)-1 Added..........50549
301.6223(e)-1T Removed..........50550
301.6223(e)-2 Added..........50550
301.6223(e)-2T Removed..........50550
301.6223(f)-1 Added..........50550
301.6223(f)-1T Removed..........50550
301.6223(g)-1 Added..........50550
301.6223(g)-1T Removed..........50551
301.6223(h)-1 Added..........50551
301.6223(h)-1T Removed..........50551
301.6224(a)-1 Added..........50551
301.6224(a)-1T Removed..........50551
301.6224(b)-1 Added..........50551
301.6224(b)-1T Removed..........50551
301.6224(c)-1 Added..........50551
301.6224(c)-1T Removed..........50552
301.6224(c)-2 Added..........50552
301.6224(c)-2T Removed..........50552
301.6224(c)-3 Added..........50552
301.6224(c)-3T Removed..........50553
301.6226(a)-1 Added..........50553
301.6226(a)-1T Removed..........50553
301.6226(b)-1 Added..........50553
301.6226(b)-1T Removed..........50554
301.6226(e)-1 Added..........50554
301.6226(e)-1T Removed..........50554
301.6226(f)-1 Added..........50554
301.6226(f)-1T Removed..........50554
301.6227(b)-1T Removed..........50554
301.6227(c)-1 Added..........50554
301.6227(c)-1T Removed..........50554
301.6227(d)-1 Added..........50555
301.6229(b)-1 Added..........50555
301.6229(b)-1T Removed..........50555
301.6229(b)-2 Added..........50555
301.6229(b)-2T Removed..........50555
301.6229(e)-1 Added..........50555
301.6229(e)-1T Removed..........50555
301.6229(f)-1 Added..........50555
301.6229(f)-1T Removed..........50556
301.6230(b)-1 Added..........50556
301.6230(b)-1T Removed..........50556
301.6230(c)-1 Added..........50556
301.6230(c)-1T Removed..........50556
301.6230(e)-1 Added..........50556
301.6230(e)-1T Removed..........50556
301.6231(a)(1)-1 Added..........50556
301.6231(a)(1)-1T Removed..........50557
301.6231(a)(2)-1 Added..........50557
301.6231(a)(2)-1T Removed..........50557
301.6231(a)(5)-1 Added..........50557
301.6231(a)(5)-1T Removed..........50558
301.6231(a)(6)-1 Added..........50558
301.6231(a)(6)-1T Removed..........50558
301.6231(a)(7)-1 Added..........50558
301.6231(a)(7)-1T Removed..........50559
301.6231(a)(12)-1 Added..........50559
301.6231(a)(12)-1T Removed..........50559
301.6231(c)-1 Added..........50559
301.6231(c)-1T Removed..........50560
301.6231(c)-2 Added..........50560
301.6231(c)-2T Removed..........50560
301.6231(c)-3 Added..........50560
301.6231(c)-3T Removed..........50561
301.6231(c)-4 Added..........50561
301.6231(c)-4T Removed..........50561
301.6231(c)-5 Added..........50561
301.6231(c)-5T Removed..........50561
301.6231(c)-6 Added..........50561
301.6231(c)-6T Removed..........50561
301.6231(c)-7 Added..........50561
301.6231(c)-7T Removed..........50561
301.6231(c)-8 Added..........50561
301.6231(c)-8T Removed..........50562
301.6231(d)-1 Added..........50562
301.6231(d)-1T Removed..........50562
301.6231(e)-1 Added..........50562
301.6231(e)-1T Removed..........50562
301.6231(e)-2 Added..........50562
301.6231(e)-2T Removed..........50563
301.6231(f)-1 Added..........50563
301.6231(f)-1T Removed..........50563
301.6233-1 Added..........50563
301.6233-1T Removed..........50563
301.6302-1 (a), (b)(1) and (2) amended..........33832
301.6302-1T Removed..........33831
301.6323(j)-1 Added..........33465
301.6656-1 Removed; new 301.6656-1 redesignated from 301.6656-3..........32542
301.6656-2 Removed..........32542
301.6656-3 Redesignated as 301.6656-1..........32542
301.7701-7 (d)(1)(iv) introductory text and (v) *Example 1* revised; (d)(1)(iv)(H) redesignated as (d)(1)(iv)(J); new (d)(1)(iv)(H), (I), (v) *Example 5* and (e)(3) added..........41779
301.9100-5T (c) concluding text amended..........33832
601.401 (a)(5) heading, (iii) and (iv) amended..........33832
602.101 (b) table amended (OMB numbers)......32542, 33637, 38546, 50563
Corrected; CFR correction..........43478

Proposed Rules:

1.....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112, 40659, 41169, 41170, 44565, 49576, 53555
5c..........31850, 41170, 49576
5f..........31850, 41170, 49576
18..........31850, 41170, 49576
31..........28408, 32279
48..........53564
53..........26824
301..........17518, 23868, 26824, 28408, 31850, 32279, 41169, 41170, 49576
602..........17518

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1.1 (a) amended..........42733
1.31 Amended..........42733
1.35 Amended..........42733
1.50 Amended..........42733
1.51 Amended..........42733
1.52 Amended..........42733
1.57 Amended..........42733
4 Cross references amended..........38549
  Amended..........42733
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4–1–98..........37578
4.22 (b)(5) amended; effective date retroactive to 4–1–98..........37578
4.91 Amended..........49280
5.2 Amended..........38549, 42733
7.4 Amended..........38549, 42733
9.53 (c)(6) revised; (c)(7) removed..........50565
9.64 (c) introductory text and (1) revised..........50565
9.162 Added..........29479
9.164 Added..........23592
9.166 Added..........29698
9.167 Added..........18545
9.170 Added..........26791
12.3 (a) amended..........42733
13.2 Added..........19085
13.11 Amended..........19085
13.20 Added..........19085
13.21 (a) amended; (b) revised..........19085
13.23 Amended..........19085
13.25 (a) and (b) amended..........19085
13.26 (a) and (b) amended..........19085
13.27 (c) amended..........19085
  (a) and (b) revised..........19086
13.41 Amended..........19085
13.42 Amended..........19085
13.43 (a) and (b) amended..........19085
13.44 Revised..........19086
13.45 (a) and (b) amended..........19086
13.52 Amended..........19085
13.53 Amended..........19085
13.54 (a) and (b) amended..........19085, 19086
13.61 (b) amended..........19085
13.62 Revised..........19086
13.71 Revised..........19086
13.72 (b) amended..........19086
13.74 Amended..........19086
13.92 Amended..........19086
17.5 Amended..........38549
17.168 (a) amended..........42736
18 Authority citation revised..........29481
18.11 Amended..........29482
18.23 Amended..........42736
18.39 Added..........29482
18.40 Added..........29482
18.41 Added..........29482
18.42 Added..........29482
18.43 Added..........29482
18.56 Revised..........29482
19.3 Amended..........38549, 42733, 42736
19.161 (c) amended..........42733
19.163 (f) amended..........42733
19.164 Amended..........42733
19.169 Amended..........42736
19.207 Added..........29482
19.485 (a)(1) and (2) amended..........38549
19.524 (a)(1), (b)(1) and (3) amended..........38549
19.911 (c) amended..........42733
19.950 (f) amended..........42733
20.3 Amended..........38549, 42733, 42736
20.44 Introductory text amended..........42733
20.51 Introductory text amended..........42733
20.52 Amended..........42733
20.66 Amended..........42736
22.3 Amended..........38550, 42733, 42736
22.44 Introductory text amended..........42733
22.51 Introductory text amended..........42733
22.52 Amended..........42733
22.66 Amended..........42736
24.4 Amended..........38550, 42734, 42736

TITLE 27 Chapter I—Con.

24.114 Amended	42737
24.135 (a) amended	29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4-1-98	37578
24.272 (a)(1), (b)(1) and (3) amended	38550
25.4 Amended	42737
25.165 (a)(1), (b)(1) and (3) amended	38550
25.284 (d) corrected	17809
26 Redesignated from Part 250	38550
26.3 Amended	38550
26.11 Amended	38550
26.30 Amended	38550
26.35 (a) amended	38550
26.45 Amended	38551
26.47 Amended	38551
26.50 (a) and (b) amended	38551
26.51 (c) amended	38551
26.55 Amended	38551
26.68a Amended	38551
26.70 Amended	38551
26.71 (a) amended	38551
26.72 Amended	38551
26.73 Amended	38551
26.74 Amended	38551
26.77 (c) amended	38551
26.79 (a) amended	38551
26.80 (a) amended	38551
26.81 (a) amended	38551
26.82 Amended	38551
26.87 Amended	38551
26.95 (b) amended	38551
26.96b Amended	38551
26.104 (b) amended	38551
26.105a Amended	38551
26.107 Amended	38551
26.108 (a), (b) and (c) amended	38551
26.109 (a), (b) and (c) amended	38551
26.110 Amended	38551
26.112 (a), (c)(2), (d)(2) and (e) amended	38551
26.112a (a)(1), (b)(2) and (3) amended	38551
26.113 (c) through (f) amended	38552
26.114 Amended	38552
26.115 Amended	38552
26.163 Amended	38552
26.165 (a)(2) and (3) amended	38552
26.173 (b)(4) amended	38552
26.193 (a) and (b) amended	38552
26.194 (a) and (b) amended	38552
26.196 Amended	38552
26.199a (a) amended	38551
26.199b Amended	38551
26.200 (a) amended	38552
26.204 Amended	38552
26.205 (a)(8) introductory text, (iv) and (b) amended	38552
26.211 Amended	38552
26.220 Amended	38552
26.221 Amended	38552
26.225 Amended	38552
26.260 Amended	38552
26.261 Amended	38552
26.262 (a) and (c) amended	38552
26.263 Amended	38552
26.264 Amended	38552
26.265 Amended	38552
26.272 Amended	38552
26.273a Introductory text amended	38552
26.291 (a), (b)(1), (2) and (c) amended	38552
26.301 Amended	38552
26.302 (a) and (b) amended	38552
26.303 Amended	38552
26.309 (b)(4) and (c)(2)(viii) amended	38552
26.318 Amended	38552
Subchapter B Heading added	38550
29 Redesignated from Part 170; heading revised	42737
29.42 Amended	42737
29.45 Amended	42737
29.47 (c) amended	42737
29.49 (c) amended	42737
29.59 Amended	42737
40 Redesignated from Part 270; authority citation revised	39093
40.11 Amended	39094, 49532
40.21 (b) amended	39094
40.31 (a) amended	39094
40.32 (b) amended	39094
40.33 (b)(3) and (c)(2) amended	39094
40.35 (a) amended	39094
40.44 Amended	43479
40.49 Amended	39094
40.62 Amended	39094
40.63 Amended	39094
40.64 Amended	39094
40.65 Amended	39094
40.67 Amended	39094
40.68 Amended	39094
40.71 Amended	39094
40.72 Amended	39094
40.74 Amended	42734
40.92 Amended	39094
40.101 Amended	39094
40.102 Amended	39094
40.103 Amended	39094

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

40.104 Amended 39094
40.111 Amended 39094
40.113 Amended 39094
40.114 Amended 39094
40.134 Amended 39094
40.135 Amended 39094
40.136 (d) amended 39094
40.140 Amended 39094
40.162 Amended 39094
40.163 Amended 39095
40.164 (a)(2) and (d)(2) amended 39095
40.165 (a) amended 39095
40.165a (a)(1), (b)(2) and (3) amended 39095
40.166 Amended 39095
40.167 (a) and (b) amended 39095
40.168 Amended 39095
40.181 Amended 39095
40.183 (e) amended 39094
40.187 Amended 39094
40.212 Amended 39094
40.216c (b) and (c) amended 39095
40.233 Amended 43479
40.235 Amended 43479
40.251 Amended 39095
40.252 Amended 39095
40.253 Amended 39095
40.254 Amended 39095
40.255 Amended 39095
40.282 Amended 39095
40.283 Amended 39095
40.286 Amended 39095
40.287 Amended 39095
40.301 Amended 39095
40.311 (a) and (b) amended 39095
40.313 Amended 39095
40.331 Amended 39095
40.332 Amended 42734
40.355 (e) and (g)(2) amended 39095
40.357 (a)(1), (b)(2) and (3) amended 39095
40.371 (a) amended 39096
40.372 (b) amended 39096
40.373 (b)(3) and (c)(2) amended 39096
40.374 (a) amended 39096
40.391 Revised 49532
40.396 Amended 39096
40.397 Amended 39096
40.402 Amended 39096
40.404 Amended 39096
40.405 Amended 39096
40.410 Amended 39096
40.421 (a)(4) amended 39096
40.451 Amended 43479
40.454 Amended 43479
40.461 Amended 39096
40.472 Amended 39096
40.473 Amended 39096
40.475 Amended 39096
40.476 Amended 39096
40.478 Amended 39096
44 Redesignated from Part 290 43480
44.11 Amended 49532
44.31 (a) amended 43480
44.32 (b) amended 43480
44.33 (b)(3) and (c)(2) amended 43480
44.35 (a) amended 43480
44.62 Amended 43480
44.63 Amended 43480
44.67 (a) amended 43480
44.82 Amended 43480
44.83 Amended 43480
44.84 Amended 43480
44.85 Amended 43480
44.86 Amended 43480
44.87 Amended 43480
44.88 Amended 43480
44.93 Amended 43480
44.102 Amended 43480
44.104 Amended 43480
44.105 Amended 43480
44.107 Amended 43480
44.108 Amended 43480
44.110 Amended 43480
44.111 Amended 43480
44.112 Amended 43480
44.123 Amended 43480
44.124 Amended 43480
44.144 Amended 43480
44.161 Amended 43480
44.185 Authority citation revised 45618
44.200 Amended 43480
44.205 (d) amended 43480
44.222 Amended 43480
44.223 Amended 43480
44.224 Amended 43480
44.225 Amended 43480
44.226 Amended 43480
44.230 Amended 43480
44.243 Amended 43480
44.244 Amended 43480
44.245 Amended 43480
44.264 Amended 43480
44.266 Amended 43480
46 Redesignated from Part 296 32220
  Cross Reference amended 43479
  Authority citation revised 45618
46.4 (c) amended 32220
46.6 (a) and (c) amended 32220

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 27 Chapter I—Con.

46.7 Amended	32220
46.8 Introductory text and (f) amended	32220
46.15 Amended	32220
46.72 Amended	32220, 39093
46.81 Amended	32220
46.146 Amended	32220
46.147 (a) introductory text and (b) introductory text amended	32220
46.150 (a) amended	32220
46.153 Introductory text amended	32220
46.166 Amended	39093
Revised	45618
46.167 (a) and (c) amended	39093
46.192 (a) amended	32220
46.194 Amended	32220
46.196 (a), (b) and (d) amended	32221
46.205 (a) and (e) amended	32221
46.206 (b) and (f) amended	32221
46.213 Amended	32221
46.221 Amended	32221
46.237 Amended	32221
46.241 (f) amended	32221
46.242 Amended	32221
46.255 (a) amended	39093
(b) and (c) amended	43479
46.270 Revised	32220
53.11 Amended	19088
53.20 Added	19088
53.21 (a) amended; (b) revised	19088
53.22 (a)(1) amended	19088
53.23 (a) amended; (b) revised	19088
53.24 (a)(1) and (d)(1) amended	19088
53.92 (b)(2) amended	19088
53.96 (b)(4) amended	19088
53.115 (b) amended	19088
53.132 (c)(2)(ii) amended	19088
53.133 (d)(3) amended	19088
53.134 (d)(2)(ii) amended	19088
53.136 (c)(2) amended	19088
53.140 (b) amended	19088
53.142 (a) amended	19088
53.151 (b)(1) and (2) amended	19088
53.155 (a) and (b) amended	19088
53.156 (a)(1) and (c) amended	19088
53.157 (f)(1) amended	19088
53.158 (b)(1), (3) and (e) amended	19088
53.159 (d)(1) and (2) amended	19088
(j)(1) amended	19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended	19088
53.186 (a) introductory text and (4) amended	19088
55.73 Amended	42734
55.75 Amended	42734
55.79 Amended	42734
55.82 Amended	42734
55.128 Corrected	19089
55.218 Table corrected	19089
70 Technical correction	19089
70.2 (a) amended; (b) revised	29022
70.3 Added	29022
70.11 Amended	29022
70.21 Amended	29022, 29023
70.22 (a) and (b) amended; (c) removed	29023
70.23 (b) revised	29023
70.24 (b) amended	29023
70.25 (a)(4) amended	29022
70.26 (c)(2)(ii) amended	29022
70.30 Revised	29023
70.31 Revised	29023
70.32 Amended	29023
70.33 Introductory text revised	29023
70.34 Revised	29023
70.40 Revised	29023
70.41 (a), (c), (d) and (f) amended	29023
70.42 Heading, (a)(1), (b) and (c)(1) revised	29024
70.51 Revised	29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended	29022
(a)(1)(i) introductory text, (D) and (3) amended	29024
70.64 Amended	29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended	29024
70.72 Amended	29025
70.73 Amended	29024
70.74 (c)(1) and (2) amended	29024
(b) amended	29025
70.75 (b) and (c) amended	29024
(a) introductory text revised	29025
70.76 (a), (b)(3), (c) and (d) amended	29024
70.77 (a)(1), (2), (b)(1) and (2) amended	29024
70.81 (a) amended	29024
70.82 Amended	29024
70.92 (c) and (d)(2)(i) amended	29024
70.94 (a) amended	29022
70.96 (a)(1)(iv), (2), (3) and (c) amended	29024
(c) amended	29025
70.98 (b) amended	29024, 29025
70.100 Amended	29022

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
(a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219, 42737
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
(g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
(a)(1), (2), (b) and (c) amended 29025
(a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
(a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
(a)(2)(ii) amended 29024
(a)(4), (b)(2) introductory text and (b)(3) amended 29025
(a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended 29026
70.168 (a) amended 29022
(b)(2) amended; (c) revised 29026
70.169 Amended 29022
70.170 (b) amended 29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended 29022
(a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended 29026
(c)(5)(ii)(E) and (c)(8) amended 29027
70.182 (a) amended 29022
(a)(2)(ii), (6)(iv), (v), (7) and (9) amended 29027
(a)(2)(i) amended 29027
70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended 29022
(b)(4), (9)(iv), (v) and (10) amended 29027
(a), (b) introductory text and (c) through (f) amended 29027
70.184 (a), (b), (c) introductory text and (1) amended 29022
70.185 (a), (b) and (c) amended 29023
70.186 (b)(2) and (c) amended 29023
(a)(5) amended 29025
70.187 (a) amended 29023
(a) and (b) amended 29025
(a) amended 29027
70.188 Amended 29023
70.191 (b) introductory text amended 29022
(a) revised 29027
70.204 concluding text amended 29025
(a) concluding text amended 29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended 29025
(b)(1) and (c)(1) amended 29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended 29023
(b)(4)(ii)(B) amended 29025
(a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised 29027
70.207 (b)(1)(iii) amended 29025
70.208 Amended 29025
70.209 (a) and (b) amended 29025
70.210 (a)(1) amended 29025
70.213 Amended 29022
70.222 (b) revised 29028
70.223 (d) amended 29025
70.224 (a)(1) and (2)(i) revised 29028
70.227 Revised 29028
70.231 (i)(3) amended 29025
70.241 (a)(8) amended 29025
70.242 (a) and (c) amended 29025
70.245 Heading, (a), (c)(2) and (d) amended 29025
70.251 (a)(2) and (b) amended 29026
(b) amended 29027
70.253 (b)(2) amended 29023

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 27 Chapter I—Con.

(b)(1) and (2) amended 29028
70.262 (b)(4) and (c)(2) amended 29028
70.263 (d) amended 29023
70.271 (d)(1) amended 29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended 29025
(a)(1) and (b)(2) amended 29028
70.301 (a) amended 29022
70.304 (a) and (b) amended 29028
70.306 (a) amended 29028
70.311 Amended 29022
70.333 Amended 29028
70.411 (b), (c) introductory text and (16) amended 29028
(c)(26) amended 38550
(c)(5) amended 42734
(c)(2) amended 42737
70.412 (a) amended 29028
70.413 (a) amended 29023
(c)(1) amended 29025
(b) revised 29028
70.414 (k) amended 29026
(a) revised 29028
70.416 Revised 19029
70.418 Revised 29029
70.419 Revised 29029
70.431 (b)(7) amended 32219
(b)(2) amended 39093
(b)(1) amended 42734
(b)(5) amended 43480
70.432 (a), (b) and (d) amended 29029
(d) amended 43480
70.433 (a) amended 29023
(a) and (d) amended 29029
70.435 (i) amended 29023
70.438 Amended 29029
70.447 Amended 29025
70.461 Amended 38550
70.462 Amended 43480
70.471 Revised 29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended 29025
(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended 29026
(b)(1) amended 29029
70.482 (a) introductory text amended 29022
(d)(1)(i) amended 29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised 29029
70.483 Revised 29029
70.484 Amended 29030
70.485 (a) amended 29022
70.486 Amended 29025
70.504 (c)(2) amended 29023
70.506 Amended 29030
70.507 (g) amended 29023
70.601 Amended 29030
70.602 (a) and (b)(1) introductory text amended 29023
70.603 (a)(1) revised 29030
70.606 Introductory text amended 29023
70.608 Amended 29023
70.609 Amended 29023
70.701 (a)(1) revised; (c) amended 29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended 29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised 29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised 29030
71 Redesignated from Part 200; authority citation revised 42734
71.1 Note amended 42734
71.37 Amended 42734
71.38 Amended 42734
71.56 Note amended 42734
71.62 Amended 42734
71.63 Amended 42734
71.64 (a) amended 42734
71.74 Amended 42734
71.78 Amended 42734
71.82 Amended 42735
71.83 Amended 42735
71.96 Amended 42735
71.107a (a) amended 42735
71.108 (a) and (b) amended 42735
71.110 Amended 42735
170 Redesignated from Part 29 42737
178 Technical correction 42586
178.92 Heading and (a) revised; OMB number 40600
179 Technical correction 42586
179.102 Revised; OMB number 40601
200 Redesignated as Part 71 42734
200.49b (b) amended 39093
250 Redesignated as Part 26 38550
250.2 (a) amended; (b) revised 21668
250.3 Added 21668
250.11 Amended 21668, 21669

CHANGES APRIL 2, 2001 THROUGH OCTOBER 31, 2001

250.37 Revised	21669
250.43 Amended	21668
250.50a (b)(2) revised	21669
250.52 (b) and (c) amended	21669
250.54 Revised	21669
250.61 Revised	21669
250.62a Amended	21669
250.65 Amended	21669
250.70 Amended	21669
250.70a Amended	21669
250.71 (c) and (d) amended	21669
250.72 Amended	21669
250.74 Amended	21669
250.75 Amended	21669
250.81 Amended	21669
250.96 Amended	21669
250.105 Amended	21669
250.110 Amended	21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised	21669
250.112a (b)(1) and (c)(1) amended	21669
250.113 (a) amended	21669
250.116 Amended	21669
250.118 Amended	21669
250.119 Revised	21669
250.126 Amended	21669
250.128 Amended	21669
250.172 (a) amended; (b) revised	21669
250.173 (a) revised; (d) amended	21669
250.174 (a) and (e) amended	21669
250.193 (b) amended	21670
250.194 Amended	21669
250.197 Amended	21670
250.199f (c) revised	21670
250.209 Amended	21668
250.222 (b) and (c) amended	21669
250.224 Revised	21670
250.275 (a) revised	21670
250.276 Amended	21669, 21670
250.277 Undesignated center heading and section removed	21670
250.303 Amended	21669
250.308 (a) amended; (b) revised	21670
250.309 (a) revised; (d) amended	21670
250.310 (a) and (e) amended	21669
250.314 (b) amended	21668
(a) and (b) amended	21670
250.318 Revised	21670
250.331 (b) amended	21669
(a) and (b) amended	21670
250.314 (b) amended	21668
250.316 Amended	21668
250.319 Amended	21668
250.331 (b) amended	21668
251 Cross references amended	38550
251.1 Note revised	38550
251.48a (a) amended	38550
270 Redesignated as Part 40	39093
270.11 Amended	32220
270.49 Amended	32220
270.165 OMB number	19089
270.165a OMB number	19089
270.286 Amended	32220
275.11 Amended	45618, 49532
275.39 Amended	39093
275.63 (a) amended	39093
275.82 (b) amended	39093
Revised	45618
275.83 Revised	45619
275.85 (b) amended	39093
275.85a (c) amended	39093
275.86 (a) amended	39093
275.115a (a)(1) and (b)(1) amended	39093
275.140 Amended	39093
275.162 Amended	32220
275.199 Amended	42734
275.205 (b) amended	32220
290 Redesignated as Part 44	43480
290.11 Amended	39093
290.67 (b) amended	39093
290.92 Amended	42734
290.154 Amended	32220
290.162 Amended	42734
290.184 Amended	39093
290.243 Amended	39093
295.11 Amended	39093, 49532
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
40	52730
16	28135
20	37198

Ti
A

Chapter

0.29c (a)
amend
0.29d (a) re
0.29e (a)(1
vised;
text, (
0.29h (a) ar
0.111b Add
0.116 Amen
2.23 (a) am
2.81 (d) am
16.76 (b)(1
16.99 (a)(3)
16.130 Adde
(b) corre
16.131 Adde
27.1 (b) rev
27.4 Headi
ed.......

Chapter
partme
500—5

500.1 (c) rev
501.2 (c) r
terim ..
501.3 (c) rev
as (e);
interim

Chapter
Offend
for the
(Parts 8

810 Added:

Chapter
tice an
(Part 11

Chapter XI
....

16..........
25..........
100..........

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended 37903
0.29d (a) revised 37903
0.29e (a)(1), (2), (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended 37903
0.29h (a) amended 37903
0.111b Added 47383
0.116 Amended 47380
2.23 (a) amended 51302
2.81 (d) amended 37137
16.76 (b)(1) revised 54663
16.99 (a)(3) added 35374
16.130 Added 41445
 (b) corrected 43308
16.131 Added 41446
27.1 (b) revised 37904
27.4 Heading revised; (a) amended 37904

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (c) revised; interim 55065
501.2 (c) revised; (e) added; interim 55065
501.3 (c) revised; (d) redesignated as (e); new (d) and (f) added; interim 55065

Chapter VIII—Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

810 Added; interim 48337

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim 38518

Proposed Rules:

16 37939
25 ....35567, 48390
100 50931

TITLE 29—LABOR

Chapter I—National Labor Relations Board (Parts 100—199)

102.117 (a) through (d) revised 50311

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

697 Authority citation revised 44968
697.1 Revised 44968
697.2 Redesignated as 697.3; new 697.2 added 44969
697.3 Redesignated as 697.4; new 697.3 redesignated from 697.2 44969
697.4 Redesignated from 697.3 44969

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1904 Authority citation revised 52034
1904.10 (c) and note added 52034
1904.12 Note added 52034
1904.29 (b)(7)(vi) revised 52034
1926.500 Regulation at 66 FR 5265 delayed 37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed 37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction 36368
2520.102–3 (d) and (j)(3) corrected 34994
2520.104b–3 (d)(3)(ii) corrected 34994
2560.503–1 (o) revised 35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

Chapter XL Policy statement 51864
4022 Appendix B amended 36702
 Appendix C amended 36703
 Appendices B and C amended 42738, 47886
 Appendices B and C table amended 52316

TITLE 29 Chapter XL—Con.

4044 Appendix B amended.....36703, 42738, 47886

Appendix B table amended..........52316

Proposed Rules:

102..........38594
470..........50010
1904..........35113

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

42 Regulation at 65 FR 59096 eff date delayed..........45167
47 Regulation at 65 FR 59096 eff date delayed..........45167
56.16004 Regulation at 65 FR 59096 eff date delayed..........45167
56.20012 Regulation at 65 FR 59096 eff date delayed..........45167
57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed..........35518
57.5065 Heading corrected; (c) removed..........35520
57.16004 Regulation at 65 FR 59096 eff date delayed..........45167
57.20012 Regulation at 65 FR 59096 eff date delayed..........45167
77.208 Regulation at 65 FR 59096 eff date delayed..........45167

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

206.251 Amended..........45769
206.254 (a) removed; (b) designation removed and amended..........45769
206.257 (d)(3) amended..........45769
206.259 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended..........45769
206.262 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended..........45769
206.263 Removed..........45769
206.453 (a) removed; (b) designation removed and amended..........45769
206.456 (d)(3) amended..........45769
206.458 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended..........45769
206.461 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended..........45769
206.462 Removed..........45769
210.10 Nomenclature change; (a) and (d) revised; (b)(2) and (3) amended; (b)(6), (c)(4), (11) and (12) removed; (c)(5) through (10) and (13) through through (20) redesignated as new (c)(4) through (9) and (10) through (17); (b)(6), (7), (8) and new (c)(18) through (21) added..........45769
210.200—210.204 (Subpart E) removed; new 210.200—210.206 (Subpart E) added..........45771
210.201 (c)(3)(i) corrected..........50827
216.2 Amended..........45773
216.6 Amended..........45773
216.20 Amended..........45773
216.40 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f)..........45773
216.200—216.204 (Subpart E) removed..........45773
218 Authority citation revised..........45773
218.40 (c) revised..........45773
218.51 (d)(2), (3) and (e) amended..........45773
218.201 Revised..........45773
218.203 (a) and (b) amended..........45773
(b) corrected..........50827

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

756.14 (e) added..........39443
904.15 Table amended..........42742
914.17 Heading and (b) revised..........42750
920.15 Table amended..........50829
920.16 (l) removed..........50829
938.15 Table amended..........42752
938.16 (p) removed..........42753
946.12 Heading revised; (c) added..........43483
946.15 Table amended..........43483
946.16 Removed..........43483

Proposed Rules:

57..........35521
250..........37611, 45236
901..........52879

CHANGES JULY 2, 2001 THROUGH OCTOBER 31, 2001

904..........50952
913..........42813
914..........48390
915..........48841
917..........42815
918..........48393
943..........48396
948..........53749
950..........51891

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

1.36 (g)(1)(viii) table amended..........48556
29 Authority citation revised..........36705
29.102 (a) revised; (f) added: interim..........36705
29.103 (a) amended: interim..........36705
29.501—29.526 (Subpart E) Added: interim..........36705

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

285.11 (b)(3), (c), (e)(3) and (g) revised..........51868
357 Policy statement..........44526

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised..........36687
515.207 Note added; interim..........36687
515.533 Heading, (a) and (e) revised; (f) removed: interim..........36687
515.559 Heading and note revised; interim..........36687
515.560 Revised; interim..........36688
535.215 (a) revised; interim..........38554
535.333 Revised; interim..........38554
538 Authority citation revised..........36688
538.205 Revised; interim..........36688
538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim..........36688
538.405 (b) revised; interim..........36688
538.523 Revised; interim..........36688
538.524 Removed; interim..........36689
538.525 Heading and (d) revised; (e) added; interim..........36689
538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36689
540 Revised..........38555
550 Authority citation revised..........36690
550.306 Revised; interim..........36690
550.308 Revised; interim..........36690
550.318 Revised; interim..........36690
550.405 (b) revised; interim..........36690
550.569 Revised; interim..........36690
550.571 Removed; interim..........36691
Heading and (d) revised; new (e) added; interim..........36691
550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36691
550.573 Revised; interim..........36692
560 Authority citation revised..........36692
560.405 (b) revised; interim..........36692
560.520 Heading revised; interim..........36692
560.530 Revised; interim..........36692
560.531 Removed: interim..........36693
560.532 Heading and (d) revised; (e) added: interim..........36693
560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36693
586 Authority citation revised..........50508
586.201 (a) note, (b) note and (d) note added: (c) and endnote revised; interim..........50509
586.204 Note added; interim..........50509
586.302 Revised: interim..........50509
586.319 Revised; interim..........50509
586.405 Revised: interim..........50509
586.406 (a) amended; interim..........50509
586.501 Amended: interim..........50509
586.517 Added: interim..........50509
586.518 Added: interim..........50509
586.519 Added: interim..........50510
586.701 Revised; interim..........50510
586.702 Revised; interim..........50510
586.703 Revised; interim..........50510
586.704 Revised; interim..........50511
586.705 Revised; interim..........50511
587 Added; interim..........50511
Chapter V Appendix A amended..........54404

Proposed Rules:

1..........54175
356..........38600

CHANGES JULY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

40 Removed	53958
42 Removed	53958
46 Removed	53958
51 Removed	53958
55 Removed	53958
62 Removed	53958
63 Removed	53958
65 Removed	53958
72 Removed	53958
76 Removed	53958
79 Removed	53958
89 Removed	53958
98 Removed	53958
102 Removed	53958
103 Removed	53958
111 Removed	53958
114 Removed	53958
115 Removed	53958
132 Removed	53958
153 Added	45169
157 Removed	53958
159 Removed	53958
159a Removed	53958
171 Removed	53958
186 Removed	53958
188 Removed	53958
194 Removed	53958
199.2 Amended; interim	40606, 45172
199.3 (b)(2)(i)(D), (f)(3)(vi), (3)(vii) and note revised; interim	40606
199.8 (c)(4) added; (d)(1) revised; interim	40607
199.10 (a)(1)(ii) revised; interim	40607
199.14 (h)(1)(iv)(D) and (E) added	45172
199.15 (a)(6) revised; interim	40608
199.17 (a) introductory text, (6)(i), (ii), (b) introductory text, (1), (c) introductory text, (3), (4), and (v) revised; (m)(2)(iii) and (4)(iii) removed; interim	40608
230 Revised	46373
231 Revised	46708
231.5 (g)(5)(i) through (ix) corrected	54136
231.8 Heading correctly revised	54136
231.9 Heading, (a) through (p)(1), (2) and (q) through (cc) correctly designated	54136
231a Removed	46374
311.5 (a)(7)(ii) revised	41780
311.8 (c)(7) added	41780
320 Revised	52681
323 Footnotes 1 through 8 revised	41781
323.2 (e) revised	41781
323.4 (a)(1) introductory text, (2) introductory text, (3) and (b)(4) revised; (a)(1)(v) added	41781
323.5 (b)(3)(iv), (4), (5), (c)(5)(ii), (6) introductory text, (i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (2) and (3) revised; (b)(3)(v) removed	41781
323.6 Revised	41782
323 Appendices A and B amended	41782
326.5 (j)(11) added	41783
326.17 (e) added	41783
(f) and (g) added	54926

Chapter V—Department of the Army (Parts 400—699)

668 Removed	36711

Chapter VI—Department of the Navy (Parts 700—799)

701.118 (v) and (w) added	54928
706.2 Table Three amended	53523
706.2 Table Four amended	53524
706.2 Table Five amended	53533
706.2 Tables Four and Five amended	53525, 53526, 53527, 53530, 53531, 53532
706.2 Tables Two and Five amended	53528
706.2 Table Two amended	53529

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended	54930

Proposed Rules:

199	39699
320	41811
326	43138
505	41814, 43818
701	43141
806b	43820
808	36523

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

100.35-T05-029 Added (temporary) 34828
100.35-T05-030 Added (temporary) 34824
100.35-T05-031 Added (temporary) 34820
100.35-T05-032 Added (temporary) 34826
100.35T-05-038 Added (temporary) 41144
100.35T-05-040 Added (temporary) 41142
100.35T-05-041 Added (temporary) 41140
100.35-T05-047 Added (temporary) 44052
100.35-T05-053 Added (temporary) 46378
100.35-T05-055 Added (temporary) 46376
100.35-T05-057 Added (temporary) 47385
100.35-T05-058 Added (temporary) 48955
100.35T-07-119 Added (temporary) 54138
100.35T-07-121 Added (temporary) 54140
100.35-T09-001 Added (temporary) 37415
100.35-T09-996 Added (temporary) 46522
100.506 Added 41138
100.508 Implementation 46374
100.511 Implementation (temporary) 34828
100.513 Implementation 46377
100.515 Implementation (temporary) 41140
100.1301 Revised 34822
100.1303 Implementation (temporary) 38154
110.T01-162 Added (temporary) 49283
110.157 (b)(11) added 50317
117 Temporary drawbridge operations regulations .... 34829, 36162—36165, 37140, 37578, 38155, 38370, 39278, 40117, 42601, 42602, 44971, 46522, 46523, 46525, 47077, 47577, 47578, 48556, 48558, 48955, 51302—51305, 52317, 52685, 52689, 54931
Technical correction 53089
117.26 (r) suspended; (vv) added (temporary) 41146
117.301 Added 36467
117.305 Revised 37580
117.T394 Added (temporary) 44971
117.505 (d) revised 52687
117.597 Suspended (temporary) 54141
117.T602 Added (temporary) 54141
117.T793 (d) added (temporary) 52685
117.622 Revised 46525
117.733 (k) added 39445
117.789 (c) suspended; (g) added (temporary) 52688
117.795 (b) amended; (d) added (temporary) 40117
117.801 Regulation at 66 FR 16129 eff. date extended through 8-30-01 37139
(g) suspended; (h) added (temporary) 52689
117.822 Revised 40119
117.899 Revised 51557
117.911 (e) revised 42111
117.936 Redesignated from 117.937 48557
117.937 Redesignated as 117.936 48557
Added 48558
117.1051 (d)(4) added (temporary) 35902
159 Authority citation revised 38930
159.301—159.321 (Subpart E) Added 38930
160 Authority citation revised 50572
160.201 (c) and (d) suspended; (e), (f) and (g) added (temporary) 50572
160.203 Suspended in part (temporary) 50572
160.T204 Added (temporary) 50572
160.207 Suspended (temporary) 50572
160.T208 Added (temporary) 50572
160.211 Suspended (temporary) 50573
160.T212 Added (temporary) 50573
160.213 Suspended (temporary) 50574
160.T214 Added (temporary) 50574
164.01 Regulation at 66 FR 21864 eff. date confirmed 42753
165.T-01-002 Added (temporary) 43776
Effective date corrected 45619
Corrected 48209
165.T01-065 Added (temporary) 34839

TITLE 33 Chapter I—Con.

165.T01-066 Added (temporary) 34847
165.T01-074 Added (temporary) 34849
165.T01-090 Added (temporary) 34840
165.T01-099 Added (temporary) 34832
165.T01-100 Added (temporary) 42756
165.T01-102 Added (temporary) 51309
165.T01-107 Added (temporary) 36168
165.T01-118 Added (temporary) 38158
165.T01-131 Added (temporary) 42604
165.T01-133 Added (temporary) 45928
165.T01-135 Added (temporary) 43090
165.T01-139 Added (temporary) 47387
165.T01-145 Added (temporary) 45926
165.T01-162 Added (temporary) 49283
165.T01-163 Added (temporary) 49107
165.T01-164 Added (temporary) 50106
165.T01-165 Added (temporary) 51311, 51561
165.T01-166 Added (temporary) 49537, 51312, 51561
165.T01-170 Added (temporary) 51307
165.T01-171 Added (temporary) 49283
165.T01-175 Added (temporary) 50108
165.T05-060 Added (temporary) 50317
165.T07-037 Added (temporary) 51565
165.T07-074 Added (temporary) 37417
165.T-07-095 Added (temporary) 49105
165.T07-096 Added (temporary) 48957
165.T07-097 Added (temporary) 49288
165.T07-098 Added (temporary) 49536
165.T07-101 Added (temporary) 49534
165.T07-110 Added (temporary) 52690
165.T08-036 Added (temporary) 50109
165.T08-038 Added (temporary) 38936
165.T09-013 Added (temporary) 34835
165.T09-101 Added (temporary) 49285
165.T09-102 Added (temporary) 49291
165.T09-103 Added (temporary) 49290
165.T09-105 Added (temporary) 52036
165.T09-109 Added (temporary) 52038
165.T09-110 Added (temporary) 52042
165.T09-111 Added (temporary) 52044
165.T09-113 Added (temporary) 53959
165.T09-118 Added (temporary) 54142
165.T09-135 Added (temporary) 52041
165.T09-136 Added (temporary) 52039
165.T09-916 Added (temporary) 35546
165.T09-917 Added (temporary) 34837
165.T09-919 Added (temporary) 36167
165.T09-927 Added (temporary) 34830
165.T09-930 Added (temporary) 34844, 35081
165.T09-933 Added (temporary) 34846
165.T09-940 Added (temporary) 37586
165.T09-945 Added (temporary) 37585
165.T09-950 Added (temporary) 34834
165.T09-957 Added (temporary) 37142
165.T09-958 Added (temporary) 35758
165.T09-969 Added (temporary) 37583
165.T09-970 Added (temporary) 37582
165.T09-972 Added (temporary) 38156
165.T09-974 Added (temporary) 34842
  Regulation at 66 FR 34842 correctly designated.......................44303
165.T09-980 Added (temporary) 40121
165.T09-983 Added (temporary) 41785
165.T09-985 Added (temporary) 42754
165.T09-987 Added (temporary) 42949
165.T09-989 Added (temporary) 41787
165.T09-990 Added (temporary) 42947
165.T09-991 Added (temporary) 42605
  Corrected..45619
165.T09-992 Added (temporary) 43777
165.T09-993 Added (temporary) 45775
165.T09-994 Added (temporary) 44973
165.T09-995 Added (temporary) 46220
165.T09-998 Added (temporary) 48796
  (a) corrected; eff. through 6-15-02 52851
165.T09-999 Added (temporary) 49286
165.T11-055 Added (Temporary).......53715
165.T11-094 Added (temporary) 52693
165.T11-095 Added (temporary) 54666
165.T13-004 Added (temporary) 38372
165.T13-011 Added (temporary) 39447
165.T14-051 Added (temporary) 38935
165.T14-054 Added (temporary) 41789
165.T14-058 Added (temporary) 52694
165.501 (d)(14) added (Temporary) 53713
165.540 Added; interim 39099
165.713 Removed..............................36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim....................35760
165.2000—165.2025 (Subpart G) Added; eff. to 6-15-02 48781
165.2030 Added; eff. to 6-15-02..........48784

Proposed Rules:

Chapter 1 45791
100 ....37200, 48014
117............36525, 36527, 36529, 37615, 42972, 47121, 47123, 47601, 51614
151..36530
153..36530
155..49877
156..49877
157..42170
164..36223

165 ....41170, 52365
173..........53754
334..........42475, 42477, 42478

TITLE 34—EDUCATION

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

674.9 (h)(1), (2) and (3) amended 44006
674.61 (b) amended; (b)(2) removed..........44007
682.201 (a)(4)(ii), (6)(iii) and (b)(1)(iv) amended..........44007
682.211 (f)(5) revised; (f)(6) through (10) redesignated as (f)(7) through (11); new (f)(6) and (i)(6) added; new (f)(7) amended 44007
685.200 (a)(1)(iv)(A)(*2*) and (B)(*2*) amended 44007

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER **since July 2, 2000.**

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

20.711 (c), (e) and (h) revised; (f) and (g) amended; (i) added..........49538
51.56 Revised..........35083
51.57 Revised..........35083
51.62 Revised..........35083

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211.16—211.18 (Subpart B) Removed..........43779
242 Temporary regulations ...54931, 54934

Proposed Rules:

219..........35918
242..........45082
294..........35918

1228..........37202, 40166
1230 47125
1234 51740
1254 46752

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised..........39448
1.16 (a), (b), (d), (f) through (i) and (k) revised..........39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised 39449
(h) revised 47389
1.18 (a), (b) and (c) revised 39449
1.20 (e), (f) and (g) revised..........39449
1.21 (o) removed 39450
1.491 Revised..........45777
1.492 (a)(1), (2), (3), (5), (b) and (d) revised..........39450
6.1 Amended 48339
10 Policy statement..........44526
104 Added..........47390

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

202 Authority citation revised..........37149
202.2 Corrected..........40322
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added 37149
202.17 Corrected 40322
202.20 (c)(2)(xx) added 37150

Proposed Rules:

1..........35763, 45792, 46409
2..........45792
201 ....45241, 49330
260 ....38226, 46250, 48648, 51617

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Chapter I Nomenclature change 44053

CHANGES JULY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 38 Chapter I—Con.

3.6 (a) and (e) revised....................48560
3.102 Amended....................45630
3.156 (a) and authority citation revised....................45630
3.159 Revised....................45630
3.326 (a) amended....................45632
3.353 (b)(1) amended....................48560
3.452 Cross reference revised....................48560
3.501 (i)(7) amended....................48560
3.551 (i) amended....................48560
3.557 Heading, (b) and cross reference revised; (d) amended....................48560
3.558 Heading and (a) revised....................48560
3.559 Heading revised; (a) and (b) amended....................48561
3.808 (d) amended....................44528
3.1007 Amended....................48561
3.1604 (d)(1)(ii) revised....................48561
13.70 (a)(2) amended....................48561
13.71 (b) amended....................48561
13.108 Heading revised; (a) and (c) amended....................48561
17.1000—17.1008 Undesignated center heading and sections added; interim....................36470
19.35 Amended....................53339
20.101 (c) revised; (d) and (e) added....................53339
20.203 Removed....................23340
20.302 (b) revised....................50318
20.304 Revised....................50319
20.901 (a) revised; interim....................38159
20.1404 (b) revised; interim....................35903
20.1405 (a) revised....................37151
20.1409 (b) revised; interim....................35903
21.3303 Amended....................44053
21.4005 Amended....................44053
21.4131 (i) removed....................38938
21.4135 (aa) removed....................38938
21.4138 Amended....................44053
21.4203 Amended....................44053
21.4208 Amended....................44053
21.4232 Amended....................44053
21.4255 Amended....................44053
21.4342 Amended....................44053
21.4800—21.4856 (Subpart F-3) Removed....................38938
21.6410 Amended....................44053
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new (b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised....................39279
21.7131 (j) removed....................38939
Corrected....................42586
21.7135 (aa) removed....................38939
Corrected....................42586
21.7301 Amended....................44053
21.7631 (f) removed....................38939
21.7635 (w) removed....................38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised....................38937

Proposed Rules:

3.....37940, 41483, 44095, 46067, 48845, 49886, 53139, 53565
4....................37940, 49886
17....................36960, 46499, 50594
19....................40942
20....................40942
36....................51893
260....................38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim....................42112, 53089
111 DMM amended; incorporation by reference....................37151
266.9 (b)(1)(vii), (2) introductory text, (i), (ii) and (iii) revised; (b)(2)(viii) added....................40891

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.57 Added....................54438
3001.58 Added....................54438
3001.59 Added....................54438
3001.60 Added....................54438
3001.69 Added....................54440
3001.69a Added....................54440
3001.69b Added....................54440
3001.69c Added....................54440
3001.161—3001.166 (Subpart I) Added....................54441
3001.171—3001.176 (Subpart J) Added....................54443
3001.181—3001.182 (Subpart K) Added....................54444

Proposed Rules:

20....................52555
111....................36224, 40663, 41485, 42817, 42820, 45245, 48846, 51617
3001....................38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

- 9.1 Table amended (OMB numbers)....40130, 42122
  - Regulation at 65 FR 43661 eff. 4-30-03....53048
- 51 State implementation plan determinations....40609
  - Comment period extended....47887
- 52 Technical correction....36035, 43796, 43797
  - State implementation plan determinations....40609, 44973
  - Policy statement....42956
  - Actions on petitions....47578
  - Comment period extended....47887, 52533
  - Determination....51574
- 52.50 (c) table amended....36920
- 52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added....38568
  - (c)(94)(i)(E) removed....42123
  - (c)(97) added....48089
  - (c)(46)(i)(D) added....49295
  - (c)(98) added....51873
- 52.170 (c) table amended....51316
- 52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added....36172
  - (c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added....37153
  - (c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added....37156
  - (c)(260)(i)(B) and (266)(i)(B)(*3*) added....37591
  - (c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added....38564
  - (c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added....38940
  - (c)(239)(i)(E)(*7*) and (278)(i)(C)(*2*) added....40901
  - (c)(239)(i)(C)(*2*) and (279)(i)(A)(*4*) added....42128
  - (c)(280)(i)(A)(*2*)....43485
  - (c)(183)(i)(H)(*2*) through (*6*) and (281) added....44977
  - (c)(173)(i)(F) and (282) added....47394
  - (c)(283) added....48347
  - (c)(279)(i)(A)(*5*) and (284) added....50321
  - (c)(175)(i)(B)(*2*) added....51568
  - (c)(277)(i)(C)(*7*) added....51570
  - (c)(285) added....51578
  - (c)(27)(vii)(C), (42)(x)(B), (279)(i)(A)(*6*), (280)(i)(B)(*2*), (281)(i)(A)(*2*) added....51581
  - (c)(285)(i)(B) added....53342
- 52.222 (a)(7)(i) added....44978
- 52.223 (e) added....48347
- 52.237 (a)(6) added....48347
- 52.242 (a)(3) added....49297
- 52.320 (c)(93) added....35379
  - (c)(11)(i) added....47086
  - (c)(94) added....47092
  - (c)(92) added....48564
- 52.350 Added....47092
- 52.426 Heading revised; existing text designated as (a); (b), (c) and (d) added....54614
- 52.520 (e) added....40139
- 52.570 (c) table and (e) table amended....35909
- 52.720 (c)(158) added....52359
- 52.770 (c)(141) added....37419
  - (c)(143) added....47890
  - (c)(142) added....49299
- 52.777 (x) added....53684
- 52.920 (e) table amended....43491
  - (b)(1) and (2) revised; (c) table added....53659
  - (c) table, (d) table and (e) table amended....53664
  - (d) table and (e) table amended....53684
  - (c) table amended....53689
- 52.930 (k) added....53665
- 52.1070 Regulation at 66 FR 28059 withdrawn....35546
  - (c)(162) added....37916
  - (c)(164) and (165) added....43488
  - (c)(166) added....46381
  - (c)(153) added....46729
- 52.1075 (h) added....48210
- 52.1076 (j) added....49109
  - (f) added....48211
  - Heading revised; (h) and (i) added....54596
  - (k) and (l) added....54687
- 52.1174 (u) added....40898
- 52.1320 (c) table amended....37905, 37907, 37918, 40903, 42607, 44304, 52361
- 52.1370 Regulation at 66 FR 32554 withdrawn....42425
  - (c)(49) added....42437
  - (c)(47) added....48564
- 52.1384 Regulation at 66 FR 32554 withdrawn....42425

CHANGES JULY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 40 Chapter I—Con.

(a) added; (c) revised 42437
52.1520 (c)(66) added..........................39104
52.1670 (c)(101) added 48961
52.1679 Table amended 48961
52.1919 (a)(4) added 51572
52.1970 (c)(134) added 40620
(c)(136) added 48354
52.1977 Amended 40620
52.1988 (b) revised...............................40622
52.2020 (c)(152) added 37914
(c)(149) added 40894
(c)(159) added........................41792, 52856
(c)(160) added........................41795, 52862
(c)(158) added........................42126, 52521
(c)(161) added........................42132, 52874
(c)(162) added........................42136, 52867
(c)(166) added........................42140, 52511
(c)(171) added........................42418, 52327
(c)(164) added........................42425, 52060
(c)(163) added........................42761, 52527
(c)(176) added........................43497, 52338
(c)(165) added........................43501, 52055
(c)(156) added........................43508, 54941
(c)(173) added........................43783, 52710
(c)(177) added........................43788, 52049
(c)(172) added........................43794, 52516
(c)(168) added 43796
(c)(175) added........................44056, 52343
(c)(181) added........................44060, 52332
(c)(170) added........................44532, 52700
(c)(167) added........................44538, 52532
(c)(178) added........................44544, 52705
(c)(180) added........................44547, 52322
(c)(184) added........................45933, 54953
(c)(174) added........................45937, 54715
(c)(182) added........................45941, 54709
(c)(169) added........................46532, 54947
(c)(185) added........................46959, 54697
(c)(179) added........................47083, 54704
Regulations at 66 FR 42126, 42136 and 42140 withdrawn 48348
Regulations at 66 FR 41792, 41795 and 42132 withdrawn 48349
Regulations at 66 FR 42418, 42425 withdrawn..........................40806
Regulations at 66 FR 42761, 43501 and 43508 withdrawn 49108
Regulation at 66 FR 43794 and 43497 withdrawn..........................49292
Regulation at 66 FR 43788 and 44056 withdrawn..........................49293
Regulation at 66 FR 44532 withdrawn 49539
Regulations at 66 FR 44056, 44532 and 44544 withdrawn 49540
Regulations at 66 FR 44060 and 44547 withdrawn..........................49541
Regulation at 66 FR 43783 withdrawn 50829
Regulations at 66 FR 45933, 45937 and 45941 withdrawn 51869
Regulation at 66 FR 47083 withdrawn 52695
Regulations at 66 FR 46532 and 46959 withdrawn..........................52705
(c)(186) added 53094
(c)(188) added 53106
52.2026 Removed.................................44548
52.2027 (a) added.................................52534
(b) added 54699
52.2036 Heading revised; (m) added 53106
52.2037 Removed.................................53106
Heading revised; (i), (j) and (k) added 54164
52.2038 Existing text designated as (a); (b) added 44548
52.2220 (c) table amended 45633
52.2270 (e) table amended 35906
(c) table amended 36917, 36923, 48804, 54691
Regulation at 66 FR 35906 withdrawn 46220
(c) table and (e) table amended 49293
(a) introductory text amended 49300
52.2299 (c)(121) added 54691
52.2570 (c)(101) added 42956
52.2585 (o) added.................................51574
55.14 (e)(2)(i)(A) revised 53534
55 Appendix A amended......................53534
60 Delegation of authority 50110
60.4 Regulation at 66 FR 32554 withdrawn 42425
(a), (b) and (c) table amended 42438
60.13 (g) revised..................................44980
60.41b Amended...................................49834
60.44a (d)(2) revised 42610
60.44b (l) revised 42610
60.51b Amended...................................36476
61 Delegation of authority 50110
61.04 Regulation at 66 FR 32555 withdrawn 42425
(a), (b) and (c) table amended 42438
(b) amended; (c)(10) table revised 48216
62.1100 (b)(5)(i) added 48356

62.3915 Undesignated centerheading and section added 46961
62.4180 Undesignated centerheading and section added 46961
62.6358 (d) added 52062
62.6359 Undesignated centerheading and section added 46961
62.6613 Regulation at 66 FR 32556 withdrawn 42425
Undesignated centerheading and section added 42439
62.6915 Undesignated centerheading and section added 46961
62.8106 Undesignated center heading and section added 41148
62.9640 Revised 43511
62.9642 Revised 43511
62.10100 Regulation at 66 FR 22929 withdrawn 35546
(b)(5) and (c)(5) added 48567
62.10170 Regulation at 66 FR 22929 withdrawn 35546
Undesignated center heading and section added 48567
62.10850 (b)(4), (c)(3) and (4) added 49836
62.10910 Undesignated center heading and section added 49836
62.10911 Added 49836
62.11460 Undesignated center heading and section added 52537
62.13100—62.13104 (Subpart BBB) Undesignated heading added 54718
62.13105 Added 54718
63 Delegation of authority 36173, 50110
Technical correction 41086
63.14 (d)(2) revised 35087
(d)(3)(iii) added 50124
63.99 (a)(30) added 35087
(a)(38) added 47583
(a)(47)(i) table revised 48218
(a)(8)(ii) through (v) added 50124
63.459 Introductory text, (a)(2) and (3) revised 52538
63.480 (i)(2)(ii) revised 36927
63.482 (b) amended 36927
63.485 (k) amended 36928
63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended 36928
63.489 (e)(1)(ii) revised 36928
63.501 (c) revised 36928
63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended 36928
63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised 36928
63.863 (a) and (b) revised 37593
63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added 37593
63.1201 (a) amended 35103
63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised 35103
Regulation at 66 FR 35103, 35104 and 35105 withdrawn in part 52362
63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii); (f)(1)(ii)(D) and (xxvi) added; (n) removed 35106
Regulation at 66 FR 35106 withdrawn in part 52362
63.1209 (b)(2)(ii) and (l)(2) revised 35106
63.1211 (c)(1) revised 35106
63.1250 (e) and (h)(2) revised 40131
63.1251 Amended 40131
63.1252 (h) added 40131
63.1253 (b)(2), (3), (4), (c)(2), (3) and (4) redesignated as (b)(3), (4), (5), (c)(3), (4) and (5); new (b)(2) and (c)(2) added; (e) and (f)(7)(i) amended 40132
63.1254 (a)(4) added 40132
63.1255 (b)(4)(iii)(D), (c)(2)(iii), (3)(i), (4)(ii), (5)(iv), (h)(1)(ii) and (3)(i) revised; (c)(5)(vi)(C) and (D) removed; (b)(4)(iii)(A), (e)(7)(iii) introductory text and (e)(9) amended 40132
63.1256 (c)(1)(i)(A), (e)(4)(i)(B) and (g)(10) amended; (e)(4)(iii), (g)(9)(ii) and (h) introductory text revised; (h)(5) added 40133
63.1257 (a)(6), (d)(1)(i), (2)(i)(D)(*9*), (E), (3)(iii)(B) introductory

CHANGES JULY 2, 2001 THROUGH OCTOBER 31, 2001

TITLE 40 Chapter I—Con.

text, (e)(2)(iii)(B), (C)(*1*), (D)(*1*) and (E)(*1*) amended; (b)(10)(ii), (c)(1) introductory text and (d)(2)(i)(D)(*10*) revised 40133

63.1258 (b)(3) heading, (5)(i)(A), (ii)(A)(*2*) and (b)(8)(iii) revised; (c), (h)(1), (6) introductory text and (7) introductory text amended; (h)(10) and (i) added 40134

63.1259 (b)(5)(ii)(D), (E) and (i)(7)(i) through (viii) redesignated as (b)(5)(ii)(E), (F) and (i)(7)(ii) through (ix); (a)(3)(iii), (b)(5)(i) introductory text, (8), (10) and new (i)(7)(ii) revised; new (b)(5)(ii)(D), (13) and new (i)(7)(i) added; (i)(7) introductory text amended 40135

63.1260 (f)(7) added; (g)(1) introductory text, (2)(vi), (h)(1) introductory text and (i) revised; (g)(2)(v) introductory text and (vii) amended 40135

63.1250—63.1261 (Subpart GGG) Tables 1 amended; Table 2 revised 40136

Table 3 revised 40137

63.1270 (a) introductory text amended 49300

63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised 36937

63.1311 (b) revised 36937

(b) and (d)(6) revised 40907

63.1312 (b) amended 36937

63.1315 (a)(9) and (d) revised 36938

63.1316 (b)(1)(i)(B) revised 36938

63.1318 (a) revised 36938

63.1319 (a) amended 36938

63.1320 (a) amended; (b)(3) revised 36938

63.1322 (f)(1)(ii) and (g)(1)(ii) amended 36938

63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised 36938

63.1324 (f)(1)(ii) revised 36938

63.1327 (b) amended 36938

63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added 36938

63.1331 (a)(6) introductory text revised; (a)(6)(v) added 40907

63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised 36939

63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised 36939

63.5680—63.5779 (Subpart VVVV) Added 44232

63.5710 (c) corrected 50504

63.5680—63.5779 (Subpart VVVV) Table 3 corrected 50504

70 Appendix A amended 38946, 40903, 42441, 45943, 48808, 49544, 49839, 48941, 50325, 50329, 50575, 51317, 51320, 51585, 52544, 52876, 54446, 54955

Regulation at 66 FR 38946 withdrawn 48357

72.2 Corrected; CFR correction 42761

80.24 (c) added 54959

80.40 (c) added 37164

80.41 (e) and (f) revised 37164

80.65 (d)(2)(ii) revised 37165

80.67 (g)(1) revised 37165

80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added 37165

80.69 Introductory text revised 37165

81 Attainment status determinations 36476, 38947, 38948, 44060, 44304, 48808, 53106

81.305 Table amended 40911

81.306 Table corrected 34994

Table amended 47092

81.315 Table amended 53685

81.318 Table amended 53685

81.338 Table amended 48354

81.339 Table amended 53106

82.3 Amended; interim 37767

82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim 37767

82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim 37767

86 Actions on petitions 45777

96 State implementation plan determinations 40609

Comment period extended 47887

97 State implementation plan determinations 40609

Comment period extended 47887

Appendix A amended 48575

Appendix B amended 48576

122.44 Regulation at 65 FR 43661 eff. 4–30–03 53048
123.44 Regulation at 65 FR 43661 eff. 4–30–03 53048
124.7 Regulation at 65 FR 43661 eff. 4–30–03 53048
124.8 Regulation at 65 FR eff. 4–30–03 53048
130.0—130.7 (Subpart A) Regulation at 65 FR 43662 eff. 4–30–03 53048
130.1 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.2 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.3 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.4 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.5 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.6 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.7 (d)(1) amended; Regulation at 65 FR 43663 eff. 4–30–03 53048
130.8 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.9 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.10—130.11 (Subpart B) Regulation at 65 FR 43662 eff. 4–30–03 53048
130.10 Regulation at 65 FR 43662 and 43663 eff. 4–30–03 53048
130.11 Regulation at 65 FR 43662 and 43664 eff. 4–30–03 53048
130.12 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.15 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.20—130.37 (Subpart C) Regulation at 65 FR 43664 eff. 4–30–03 53048
130.50—130.51 (Subpart D) Regulation at 65 FR 43662 and 43670 eff. 4–30–03 53048
130.50 Regulation at 65 FR 43662 and 43670 eff. 4–30–03 53048
130.51 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.60—130.64 (Subpart E) Regulation at 65 FR 43662 eff. 4–30–03 53048
130.60 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.61 Regulation at 65 FR 43662 and 43670 eff. 4–30–03 53048
130.62 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.63 Regulation at 65 FR 43662 eff. 4–30–03 53048
130.64 Regulation at 65 FR 43662 and 43670 eff. 4–30–03 53048
141.35 (c) amended........46225
141.40 (a)(5)(ii)(G)(*1*) amended........46225
152.1 Revised........37814
152.3 Amended........37814
152.20 (a)(1) revised; (a)(4) added 37814
174 Added........37814
174.475 Added........37830
174.479 Added........37854
180.121 Table amended........38955
180.153 (a)(1) table amended........38955
180.169 (a)(1) table and (c) table amended........38955
180.183 (a)(1) table amended........38955
180.205 (b) table amended........37598
(a) table amended........48601
180.206 (a) table amended........50833
180.214 (a) table amended........50833
180.215 (a)(1) table amended........50833
180.262 (a) table amended........38955
180.298 (a)(1) redesignated as (a) and amended........50833
180.324 (b) added........47402
180.355 (a) introductory text and table amended........48011
180.404 (a) table amended........50833
180.412 (b) table amended........51594
180.416 (b) table amended 37598, 41454
180.418 (a)(2) revised........47993
180.425 (a) table amended........39675
180.434 (b) table amended........37598
180.442 (a) table amended........49308
180.443 (b) table amended........37598
180.449 (b) table amended........37598
180.458 Heading and (a)(3) introductory text revised; (a)(3) table amended........47979
180.474 (b) table amended........37598
180.480 (b) table amended........37598
180.482 (b) table amended 37598, 50332
180.489 (a) introductory text revised; (a) table amended........48613
180.493 (b) table amended........37598
180.495 (a) table amended........48968
180.498 (b) introductory text revised; (b) table amended........39658
180.499 (b) table amended........37598
Table amended........48585

TITLE 40 Chapter I—Con.

180.502 (a) table amended 36481, 36484
180.503 (b) table amended 37598
180.507 (b) table amended 39666
(a)(1) table amended 48592
180.508 (b) table amended 37598
180.510 (b) table amended 46396
180.511 (a) table amended; (b) removed 46389
180.515 (b) table amended 39647
(a) table amended 39682
180.516 Table amended 47410
180.535 (b) table revised....................37598
(b) table amended 47971
180.546 (a) introductory text added 48003
180.557 (b) table revised....................37598
180.567 (a)(2) table amended 49118
180.570 (a) revised...........................40141
180.572 (b) table amended 42772
180.573 Added 40150
180.574 Added 46738
180.576 Added 49315
180.577 Added 48097
180.1001 (c) table amended 42765, 42776
(c) table, (d) table and (e) table amended 42779
Technical correction 51587
(c) table and (e) table amended 53719, 53723
180.1026 Removed 42779
180.1199 Revised 39651
180.1212 Added 53346
180.1216 Added 42961
197 Technical correction 38374
257 Authority citation revised........53542
257.2 Amended 53542
258.2 Amended 53542
258.28 (a)(1) and (2) amended; (a)(3) added 42449
258.41 Added 42449
(a) added 44069
261 Request for public comment 35379
261.3 (a)(2)(iv) revised; (g)(4) added 50333
261 Appendix IX amended......41800, 43061
264.340 (b)(1) amended; (b)(3) added 35106
271 State hazardous waste management program authorizations............40911, 42140, 42962, 43798, 44071, 44307, 46961, 49118, 49841
Regulation at 66 FR 44071 withdrawn 50833
272.750 Removed................................53728
272.751 Revised..................................53728
272 Appendix A amended 53730
300 Appendix B amended 34852, 35387, 35547, 36947, 38571, 39284, 39288, 40915, 42612, 43808, 44073, 45634, 46536, 47095, 47590, 48969
330 Added 54620
403.20 Added 50339
712.30 (d) table and (e) table amended 38959

Proposed Rules:

1—799 (Ch. I) 55050
3 ....46162, 54178
9 ....35572, 41817
51.........................38108, 46162, 50135, 54178
52....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471, 40168, 40664, 40802, 40946, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185—42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549—43551, 43822, 43823, 44096, 44097, 44568, 44571, 44574, 44578, 44580, 44581, 44582, 44995, 44997, 45661, 45797, 45800, 45806, 45953, 45954, 46571, 46573, 46753—46755, 46758, 46760, 46971, 47129, 47130, 47139, 47142, 47145, 47419, 47603, 48399, 48401, 48648, 48847, 48850, 48995, 50252, 50375, 51359, 51619, 52367, 52560, 54733
60....36547, 42488, 44997, 46162, 46415, 49894, 54178
61...35115, 42488
62....41176, 42488, 44582, 46972, 48401, 49895, 52077, 52561, 54734
63....35115, 35124, 35126, 35326, 36228, 36836, 40166, 40324, 41718, 41823, 43142, 43552, 46162, 47611, 48174, 50135, 50768, 54178
70....34901, 35126, 38966, 39293, 40953, 42490, 42496, 45253, 46162, 46972, 47428, 48402, 48851, 49577, 49579, 49895, 50136, 50375, 50378, 50379, 51359, 51360, 51620, 51895, 52368, 52561, 52562, 53354, 53370, 52881, 52882, 53140, 53148, 53151, 53155, 53159, 53163, 53167, 53170, 53174, 53178, 53966, 53969, 54178, 54734, 54737, 54739
72...39123, 53755
73...48851, 48852
75 39123
78 39123

80 54965
81 .... 38603, 38608, 38966, 38967, 40953, 42187, 44097, 48401
82 38064
86 40953
89 51098
90 51098
91 51098
93 50954
94 51098
97 39123
122 .... 35572, 41817
123 .... 35572, 41817, 46162, 54178
124 .... 35572, 41817, 52192
125 35572
130 41817
131 39295
136 .... 45811, 49794, 51518
140 .... 38967, 44585
141 .... 37617, 42974, 46251, 46928, 50961
142 .... 37617, 42974, 46162, 50961, 54178
145 .... 46162, 54178
152 45661
153 40170
156 45661
162 .... 46162, 54178
174 .... 37855, 43552
180 .... 35921, 39705, 39709, 40170, 46415
194 36723
228 51628
233 .... 46162, 54178
247 45256
257 .... 46162, 53566, 54178
258 .... 46162, 53566, 54178
260 .... 42193, 52192
261 .... 36725, 38396, 38969, 42193, 43823, 50379
262 42193
263 42193
264 .... 35124, 35126, 42193, 43142
265 .... 35126, 42193, 43142
266 .... 35126, 43142
267 52192
268 38405
270 .... 35126, 43142, 52192
271 .... 42193, 42194, 42975, 43142, 43831, 44107, 46162, 46976, 49896, 54178
272 53755
281 .... 40954, 46162, 50963, 54178
300 .... 34906, 35395, 36966, 37439, 38571, 38610, 39299, 40957, 41177, 41179, 42620, 43831, 46574, 47153, 47612, 48018, 50360
372 44107
403 .... 46162, 54178
434 39300
450 35576
501 .... 46162, 54178
721 .... 42976, 42978, 54742
745 .... 46162, 54178
763 .... 46162, 54178
1048 51098
1051 51098
1065 51098
1068 51098

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 61—Office of the Assistant Secretary for Veterans Employment and Training, Department of Labor (Parts 61-1—61-999)

Chapter 61 Revised 52002

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6–10 (Subpart 101.6) Revised 37733
  Technical correction 39560
101–11 (Subchapter B) Added; eff. 10–22–01 48358
101–46 Revised 48614

Chapter 102—Federal Management Regulations (Parts 102-1—102-99)

102–3 Added 37733
  Technical correction 39560
102–39 Added 48614
102–39.45 (l) correctly designated 51095
102–117.90 Amended 48812
102–118.40 Amended 48812
102–118.95 Amended 48812
102–118.115 Amended 48812
102–118.175 Amended 48812
102–193 Added 48358
102–194 Added 48358
102–195 Added 48358

Chapter 301—Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)

Chapter 301 Appendix A revised 46070

TITLE 41

Proposed Rules:

101-9	39473
102-192	39473
141	37617
142	37617
174	37855

......37617
......37617
......37855

CHANGES OCTOBER 1, 2001 THROUGH OCTOBER 31, 2001

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

51d Added; interim 51877

Proposed Rules:

81 50967
82 50978
403........54179
408........54186
416........54179
418........54179
460........54179
482........54179
483........54179

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2560 Authority citation revised 52547
2568.20 (b) revised; (c) redesignated as (d); new (c) added 52547
2568.50 (c) revised........52547
2568.60 Introductory text revised 52547
2568.92 Removed........52547
3809.2 (a) amended 54860
3809.5 Amended 54860
3809.31 (e) amended........54860
3809.116 (a) revised 54860
3809.401 (b)(5)(ii) amended........54860
3809.411 (d)(3)(iii) revised 54860
3809.415 (d) removed........54861
3809.420 Revised 54861
3809.421 Added........54862
3809.598 Revised 54862
3809.604 (a) amended 54862
3809.702 Removed........54862
3809.703 Removed 54862

Proposed Rules:

3800 54863

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

64.6 Table amended 51321, 54719
65.4 Flood elevation determinations........53112, 53116, 53114
67.11 Flood elevation determinations........53117

Proposed Rules:

67........53182, 53190

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

Chapter V—Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)

Chapter V Revised........49844
506.18 Heading corrected........54061

Proposed Rules:

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised........31844
126.235 Added 53544

Proposed Rules:

32 49877

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.231 (e) revised........50834
1.1103 Table amended........50840
1.2105 (c)(1) revised; (c)(6) redesignated as (c)(7); new (c)(6) added........54452

CHANGES OCTOBER 1, 2001 THROUGH OCTOBER 31, 2001

TITLE 47 Chapter I—Con.

2.1 (c) amended 50840
2.106 Table amended 53963
2.925 (e) and (f) redesignated as (f) and (g); new (e) added 50840
2.932 (e) added 50840
2.944 Added 50840
2.1043 (a) and (b) revised 50840
22 Compliance date extended....................50841
24 Compliance date extended....................50841
27 Actions on petitions....................51594
64 Compliance date extended....................50841
Policy statement....................53545
64.601 Amended 54165
64.603 Introductory text revised 54165
73 Actions on petitions 50843, 53730
73.202 (b) table amended....................50576, 51322, 52712, 53731
73.606 (b) table amended 52712
73.622 (b) table amended....................52547, 53730

Proposed Rules:

2....................51905, 53191, 53973
21 51905
54 54967
64....................50139, 50140
73 ....50602, 50991, 51360, 51361, 51905, 52565—52567, 52733, 52734, 52735, 53192, 53755, 54190, 54191, 54970, 54971, 54972
76....................51905, 54972

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Summary disposition 53478
Small entity compliance guide 53500
1.106 Table amended (OMB numbers) 53480
2.101 Amended 53484, 53488
Amended; interim 53486
12.102 (d) redesignated as (e); new (d) added 53484
12.209 Revised 53484
12.503 Heading and (a) introductory text amended; (a)(5) added 53488
13.005 (a)(10) added 53488
17.705–4 (c), (d)(1) and (5) amended; interim 543493
19.704 (a)(1), (2), (3), (6), (8) and (11) amended; interim....................53493
19.705–2 (d) amended; interim 53493
19.705–7 (a) and (d) amended; interim 53493
19.706 (b) and (c) amended; interim 53493
19.708 (c)(1), (2) and (3) amended; interim 53493
19.901 (c) amended....................53500
22.403–4 (b)(5) amended....................53480
22.404–1 (a)(1) and (b) amended....................53480
22.404–2 (a) revised 53480
22.404–3 (c) amended; (d) removed; (e) redesignated as new (d)....................53480
22.404–6 (a) revised; (d) added....................53480
22.404–7 Revised 53480
22.404–10 Amended 53481
22.404–11 Amended 53481
22.404–12 Added 53481
22.406–3 (e) added 53481
22.406–10 (e) amended 53481
22.407 (e), (f) and (g) added 53481
22.1300—22.1310 (Subpart 22.13) Revised....................53488
32.902 Amended; interim....................53486
32.905 (e) through (j) redesignated as (f) through (k); (a) introductory text, new (f) introductory text and (g) introductory text amended; new (e) added; interim....................53486
32.907–1 (a)(5) added; (b)(1) and (2) amended; interim 53486
32.908 (c)(4) added; interim 53486
46.801 (a) amended 53484
46.804 Removed 53484
52.202–1 Amended....................53484
52.212–4 Amended....................53485
52.212–5 Amended....................53489
52.213–4 Amended....................53489
52.219–9 Amended; interim....................53493
52.219–10 Amended; interim 53493
52.222–30 Added 53482
52.222–31 Added 53482
52.222–32 Added 53482
52.222–35 Revised....................53490
52.222–37 Revised....................53491
52.222–38 Added 53491
52.232–25 Alternate I added; interim 53486
52.244–6 Amended....................53491
53.219 (a) and (b) amended; interim 53493
53.301–294 Revised; interim 53494

53.301–295 Revised; interim 53494

Chapter 2—Department of Defense (Parts 200—299)

202.101 Amended 49860
204.7205 (a) and (b) amended 49861
211.503 Redesignated from 211.504 49861
211.504 Redesignated as 211.503 49861
212.301 (f)(iii) amended 49861
212.503 Regulation at 65 FR 77828 confirmed 49862
212.504 Regulation at 65 FR 77828 confirmed 49862
215.404–4 (c)(2)(C)*(1)(i)* revised 49863
215.404–76 (a) and (c) revised 49863
219.800 (a) amended 49863
219.1005 (a)(3)(A) introductory text, *(1)* through *(4)* and (B) redesignated as (a)(i) introductory text, (A) through (D) and (ii); new (a)(ii) amended 49861
223.404 Removed 49864
223.405 Added 49864
225.7019–1 Regulation at 65 FR 77828 confirmed 49862
225.7019–2 Regulation at 65 FR 77828 confirmed 49862
225.7019–4 Regulation at 65 FR 77828 confirmed 49862
225.7020 Regulation at 65 FR 77828 confirmed 49862
225.7020–1 Regulation at 65 FR 77828 confirmed 49862
225.7020–2 Regulation at 65 FR 77828 confirmed 49862
225.7020–3 Regulation at 65 FR 77828 confirmed 49862
225.7020–4 Regulation at 65 FR 77828 confirmed 49862
226.104 Technical correction 50504
232.501–1 Revised 49865
232.502–4–70 (b) revised 49865
236.201 (c)(1)(A)*(1)* and (B) revised 49861
236.206 Amended 49861
236.274 (a) introductory text amended 49861
237.201 Heading and introductory text revised 49861
242.202 (e)(1)(A) amended 49861
242.302 (a)(13)(B)*(1)* amended 49861
243.204–71 Added 49865
243.205–70 Removed; new 243.205–70 redesignated from 243.205–71 49865
243.205–71 Redesignated as 243.205–70; new 243.205–71 redesignated from 243.205–72 49865
243.205–72 Redesignated as 243.705–71 49865
245.302–1 (a)(4)(C)*(2)* amended 49861
248 Removed 49865
252.211–7005 Amended 49861
252.212–7001 Regulation at 65 FR 77828 confirmed 49862
252.225–7007 (a) correctly designated 50504
252.225–7016 Regulation at 65 FR 77828 confirmed 49862
252.225–7021 (e)(4) corrected 50504
252.225–7023 Regulation at 65 FR 77829 confirmed 49862
252.226–7001 (b), (c), (d)(1) and (e)(1)(i) corrected 50504
252.227–7005 Amended 49861
252.232–7004 Revised 49865
252.237–7000 Introductory text amended 49861
252.239–7000 Introductory text amended 49861
252.243–7000 Removed 49865
252.243–7001 Introductory text amended 49865
252.243–7002 Introductory text amended 49865
252.247–7011 Amended 49861
252.248–7000 Removed 49866
  Technical correction 51515
253 Technical correction 51515
253.204–70 Corrected 50504
253.215–70 (b)(7) revised 49863
Chapter II Appendices F and G amended 49861
Chapter II Appendix G amended 49862

Chapter 4—Department of Agriculture (Parts 400—499)

442.1502 Revised 49867

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.402 Revised 53546
1804.570–1 Revised 53546
1804.570–2 Revised 53546
1804.7103 (b) amended 53546

TITLE 48 Chapter 18—Con.

1807.105 (b)(10) revised	53546
1807.7103 Revised	53546
1808.802 Revised	53546
1815.404-2 Amended	53547
1815.604 (a) amended	53547
1816.104-70 (a) amended	53547
1816.405-274 (g)(1) and (4) revised; (h) and (i) redesignated as (i) and (j); new (h) added	53547
1816.603-2 Added	53547
1817.503 (c) added	53547
1819.201 (a)(i) and (ii) amended	53547
1819.202 Removed	53547
1819.302 (Subpart 1819.3) Heading revised	53547
1819.705-470 Amended	53547
1822 Nomenclature change	53547
1832.006-2 Heading revised	53547
1832.410 (b)(ii) amended	53547
1835.016-71 (b)(1) revised; (c)(2)(i)(B) through (G) redesignated as (c)(2)(i)(C) through (H); new (c)(2)(i)(B) added; (d)(4) amended	53547
1836.602-1 (a)(7) redesignated as (a)(6)	53548
1837.104 (b) amended	53548
1837.203 (c) amended	53548
1842.302 Amended	53548
1842.7301 (e)(1) introductory text and (e)(1)(ii) revised	53548
1843.205-70 (a)(1) amended	53548
1843.7002 Revised	53548
1843.7003 (a) revised; (b)(1) amended	53548
1843.7004 (a) introductory text revised	53548
1844.302-70 Introductory text, (c) and (e) amended	53548
1844.302-71 Introductory text amended	53548
1852.204-74 Clause amended	53548
1852.208-81 Revised	53548
1852.223-73 Alternate I amended	53549
1852.243-70 Clause amended	53549

Proposed Rules:

1	53314
36	53314
52	53050
53	53314
552	53193

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

27.72 Regulation at 66 FR 22115 eff. date corrected to 11-9-01	51556

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

325 Nomenclature change; authority citation revised	49869
325.13 (d)(3) revised	49869
325.93 (b) amended	49869
355 Appendix A amended	49870
356 Authority citation revised	49870
356.13 Amended	49870
360 Nomenclature change; authority citation revised	49870
360.1 (c) and (d)(2) amended	49870
360.3 (a)(2) revised	49870
360.5 (d)(4) amended	49870
365 Nomenclature change; authority citation revised	49870
365.105 Revised	49870
365.107 (g) note amended	49870
365.109 (a)(4) amended	49870
365.117 Amended	49870
365.205 (d) amended	49870
365.301 Amended	49870
365.413 (a) introductory text, (b) introductory text and (5) amended	49870
366 Authority citation revised	49870
366.5 Amended	49870
367 Authority citation revised	49870
367 Appendix A amended	49870
370 Authority citation revised	49870
370.7 (b) amended	49871
371 Authority citation revised	49871
371.10 Amended	49871
372 Authority citation revised	49871
372.107 (a), (b) and (e) amended	49871
372.109 Introductory text and (b) amended	49871
372.231 Amended	49871
373 Authority citation revised	49871
374 Authority citation revised	49871
374.303 (g) amended	49871
374.311 (b) amended	49871
374.315 Amended	49871

374.319 (a) and (b) amended 49871
374.403 (b) amended 49871
375 Nomenclature change 49871
375.1 (b)(8) amended 49871
375.2 (b)(1) and (2) amended 49871
375.5 (a) introductory text amended 49871
375.17 (b) amended 49871
375.18 (a), (b) and (c) amended 49871
376 Nomenclature change; authority citation revised 49871
377 Authority citation revised 49871
377.201 (a) amended 49871
377.215 (c)(2) and (3)(iii) amended 49871
378 Authority citation revised 49871
379 Authority citation revised 49871
379 Appendix A amended 49871
381 Nonmenclature change; authority citation revised 49872
381.200 (d)(3) amended 49872
381.210 (c)(4) amended 49872
383 Authority citation revised 49872
383.5 Amended 49872
383.53 (b)(1) and (2) amended 49872
383.72 Revised 49872
383.73 (a)(3)(iii) introductory text amended; (a)(4) revised 49872
383.75 (a)(2)(i) amended 49872
384 Nonmenclature change; authority citation revised 49872
384.303 Removed 49872
384.305 (a) amended 49872
385 Nomenclature change 49873
385.19 (b) amended; (c) revised 49872
385 Appendix B amended 49873
386.37 Amended 49872
386.54 (b) introductory text revised 49872
387.301—387.323 (Subpart C) Authority citation removed 49872
387.401—387.419 (Subpart D) Authority citation removed 49872
387 Nomenclature change 49873
387.7 (d)(3) amended 49873
387.15 Illustrations I and II amended 49873
387.17 Amended 49873
387.41 Amended 49873
387.301 (a)(1), (b) and (c) amended 49873
387.307 (c) amended 49873
387.311 (c) amended 49873
387.313 (a)(3) and (5) amended; cross reference removed 49873
387.321 Amended 49873
387.323 (c) introductory text revised 49873
388 Nomenclature change; authority citation revised 49873
388.1 Amended 49873
388.5 (a) amended 49873
389 Nomenclature change; authority citation revised 49873
390 Nomenclature change 49873
390.5 Amended 49873
390.16 Amended 49873
390.19 (a)(4) removed 49873
391 Nomenclature change 49874
391.31 (f) amended 49874
391.47 (c), (d)(1), (2) and (f) amended 49874
391.51 (b)(8) amended 49874
392 Authority citation revised 49874
392.2 Amended 49874
392.5 (d)(2) and (e) amended 49874
392.7 Amended 49874
393 Nomenclature change 49874
393.47 Amended 49874
393.80 (b)(3) amended 49874
395 Nomenclature change; authority citation revised 49874
395.3 (a) introductory text amended 49874
395.13 (c)(2) amended 49874
396 Nomenclature change; authority citation revised 49874
397 Nomenclature change; authority citation revised 49874
397.71 Footnote 1 amended 49874
397.73 (b) amended 49874
397.75 (b)(1) amended 49874
397.101 (g) introductory text revised 49874
397.103 (c) and (d) revised 49874
397.205 (b)(1) amended 49875
397.213 (b)(1) amended 49875
398 Nomenclature changes; authority citation revised 49875
399 Authority citation revised 49875
350—399 (Subchapter B) Appendixes B, F and G amended 49875

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

544.5 (a) revised 53733
544 Appendices A and B revised 53733
Appendix C revised 53734

CHANGES OCTOBER 1, 2001 THROUGH OCTOBER 31, 2001

TITLE 49 Chapter V—Con.

572.113 (b)(2), (3) and (4) revised 51882

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1244.3 Heading revised; (c) through (f) added 53735

Proposed Rules:

171 50147
173 50147
174 50147
175 50147
176 50147
177 50147
178 50147
209 51362
234 51362
236 51362
390 53373
391 53373
392 53373
393 53373
395 53373
396 53373
571 ....51629, 53376
579 51907
587 51629

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

17.11 (h) table amended 50350, 51339
17.12 (h) table amended 51606
18.30 Regulation at 66 FR 1907 confirmed; (a)(4)(iv) revised 50851
100 Temporary regulations ...54931, 54934

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

223.206 (d)(7) added; interim 50354
(d)(2)(ii)(A)(3) corrected 52362
230 Quotas 52712

Chapter III—International Fishing and Related Activities (Parts 300—399)

300 Quotas 53735

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Inseason adjustments 50851
Temporary regulations 54721
622 Temporary regulations 54723
635 Quotas 53346
Temporary regulations 54165
648 Suspension of surf clam minimum size limit 54723
660 Fishing restrictions 49875
Inseason adjustments 50851, 52062
Reallocation 54166
Temporary regulations 54721
679 Temporary regulations 50576, 52713, 53736
Reallocation 50858
679.26 (b)(1)(vi) corrected 53122

Proposed Rules:

10 52282
17 ....50383, 51362, 53573, 53756, 54808
20 ....51919, 52077
21 52077
222 ....50148, 53385, 53194
223 ....50148, 52567, 53194, 53195, 53385
229 ....49896, 50160, 50390
600 ....53575, 54192
622 ....52370, 53579
648 ....51000, 53575, 53769, 53770, 54498
660 51367
679 ....49908, 51001, 52090

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19
15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18

32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31
39615–40105	Aug. 1
40107–40572	2
40573–40838	3
40839–41128	6
41129–41438	7
41439–41754	8
41755–42104	9
42105–42412	10
42413–42586	13
42587–42727	14
42729–42927	15
42929–43064	16
43065–43459	17
43461–43760	20
43761–44024	21
44025–44289	22
44291–44520	23
44521–44944	24
44945–45150	27
45151–45561	28
45563–45747	29
45749–45919	30
45921–46210	31
46211–46363	Sept. 4
46365–64508	5
46509–46692	6
46693–46935	7
46937–47059	10
47061–47378	11
47379–47570	12
47571–47875	13
47877–47948	14
47949–48083	17
48085–48202	18
48203–48322	19
48323–48526	20
48527–48784	21
48785–48948	24
48949–49084	25
49085–49269	26
49271–49510	27
49511–49822	28
49823–50093	Oct. 1
50095–50285	2
50287–50524	3
50525–50807	4
50809–51289	5
51291–51553	9
51555–51817	10
51819–52013	11
51555–52306	12
52307–52481	15
52483–52656	16
52657–52848	17
52849–53071	18
53073–53328	19
53329–53501	22
53503–53710	23
53711–53941	24
53943–54096	25
54097–54409	26
54411–54640	29
54641–54908	30
54909–55066	31

... 24
... 27
... 28
... 29
... 30
... 31
... Sept. 4
... 5
... 6
... 7
... 10
... 11
... 12
... 13
... 14
... 17
... 18
... 19
... 20
... 21
... 24
... 25
... 26
... 27
... 28
... Oct. 1
... 2
... 3
... 4
... 5
... 9
... 10
... 11
... 12
... 15
... 16
... 17
... 18
... 19
... 22
... 23
... 24
... 25
... 26
... 29
... 30
... 31

NO

2001

UMI

United St
Governm
Printing O
SUPERINTEND
OF DOCUME
Washington,
OFFICIAL BUS
Penalty for Priv

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

November 2001

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

*****************3-DIGIT 481
A FR BELLH300B JAN 02 B
BELL & HOWELL
BONNIE COLVIN
300 N ZEEB RD
ANN ARBOR MI 48106

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

November 2001

Title 1–16
Changes January 2, 2001
through November 30, 2001

Title 17–27
Changes April 2, 2001
through November 30, 2001

Title 28–41
Changes July 2, 2001
through November 30, 2001

Title 42–50
Changes October 1, 2001
through November 30, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1-16—as of Jan. 1
17-27—as of April 1
28-41—as of July 1
42-50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999, 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1-16; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (**2** Reserved)	(869–044–00001–6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869–044–00002–4)	36.00	[1]Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4]Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1, 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4]Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4]Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1, 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1, 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1, 2001

1000–End
17 Parts:
1–199
200–239
240–End
18 Parts:
1–399
400–End
19 Parts:
1–140
141–199
200–End
20 Parts:
1–399
400–499
500–End
21 Parts:
1–99
100–169
170–199
200–299
300–499
500–599
600–799
800–1299
1300–End
22 Parts:
1–299
300–End
23
24 Parts:
0–199
200–499
500–699
700–1699
1700–End
25
26 Parts:
§§1.0-1–1.60
§§1.61–1.169
§§1.170–1.30
§§1.301–1.40
§§1.401–1.44
§§1.441–1.50
§§1.501–1.64
§§1.641–1.85
§§1.851–1.90
§§1.908–1.10
§§1.1001–1.1
§§1.1401–En
2–29
30–39
40–49
50–299

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued
(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200–End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1-199	(869-042-00168-1)	50.00	Oct. 1, 2000
200-499	(869-044-00173-0)	31.00	Oct. 1, 2001
500-1199	(869-042-00170-2)	45.00	Oct. 1, 2000
1200-End	(869-044-00175-6)	55.00	Oct. 1, 2001
46 Parts:			
1-40	(869-042-00172-9)	42.00	Oct. 1, 2000
41-69	(869-042-00173-7)	34.00	Oct. 1, 2000
70-89	(869-042-00174-5)	13.00	Oct. 1, 2000
90-139	(869-042-00175-3)	41.00	Oct. 1, 2000
140-155	(869-044-00180-2)	24.00	Oct. 1, 2001
156-165	(869-042-00177-0)	31.00	Oct. 1, 2000
166-199	(869-042-00178-8)	42.00	Oct. 1, 2000
200-499	(869-044-00183-7)	36.00	Oct. 1, 2001
500-End	(869-044-00184-5)	23.00	Oct. 1, 2001
47 Parts:			
0-19	(869-042-00181-8)	54.00	Oct. 1, 2000
20-39	(869-042-00182-6)	41.00	Oct. 1, 2000
40-69	(869-042-00183-4)	41.00	Oct. 1, 2000
70-79	(869-042-00184-2)	54.00	Oct. 1, 2000
80-End	(869-042-00185-1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1-51)	(869-042-00186-9)	57.00	Oct. 1, 2000
1 (Parts 52-99)	(869-042-00187-7)	45.00	Oct. 1, 2000
2 (Parts 201-299)	(869-044-00192-6)	53.00	Oct. 1, 2001
3-6	(869-042-00189-3)	40.00	Oct. 1, 2000
7-14	(869-042-00190-7)	52.00	Oct. 1, 2000
15-28	(869-044-00195-1)	53.00	Oct. 1, 2001
29-End	(869-044-00196-9)	38.00	Oct. 1, 2001
49 Parts:			
1-99	(869-044-00197-7)	55.00	Oct. 1, 2001
1100-185	(869-044-00202-7)	26.00	Oct. 1, 2001
186-199	(869-042-00195-8)	17.00	Oct. 1, 2000
200-399	(869-042-00196-6)	57.00	Oct. 1, 2000
400-999	(869-042-00197-4)	58.00	Oct. 1, 2000
1000-1199	(869-044-00202-7)	26.00	Oct. 1, 2001
1200-End	(869-042-00199-1)	21.00	Oct. 1, 2000
50 Parts:			
1-199	(869-042-00200-8)	55.00	Oct. 1, 2000
200-599	(869-042-00201-6)	35.00	Oct. 1, 2000
600-End	(869-042-00202-4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869-044-00047-4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the 11 CFR volumes issued as of July 1, 1984, containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1, 1990 to March 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

Order from Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Other Related Publications

Title	*Price*	*Revision Date*
Federal Register:		
Yearly subscription (with FR Index and LSA)	764.00	
Yearly subscription (without FR Index and LSA)	699.00	
Individual copies	10.00	daily

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1—49)

11.2 (a) revised	44524
11.3 (a) revised	44524
11.6 (a) revised	44524
11.7 Revised	44524
11.8 Revised	44524

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

7208 *See* Proc. 7445	30053
See Proc. 7502	57837
7214 *See* Proc. 7445	30053
7273 *See* Proc. 7505	59353
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403
7458	45563
7459	46507
7460	47569
7461	47939
Amended by Proc. 7464	48203
7462	47947
7463	48199
See EO 13224	49079
See Military Order of Nov. 13, 2001	57833
See EO 13235	58343

TITLE 3 Proclamations—Con.

7464 48203
7465 48317
7466 48319
7467 48321
7468 48947
7469 48949
7470 49505
7471 50097
7472 50099
7473 50287
7474 50289
7475 50525
7476 50527
7477 51295
7478 51297
7479 51807
7480 51808
7481 51810
7482 52011
7483 52015
7484 52303
7485 52845
7486 52847
7487 53943
7488 54903
7489 54905
7490 54907
7491 55555
7492 56031
7493 56425
7494 57627
7495 57631
7496 57633
7497 57635
7498 57637
7499 57639
7500 57641
7501 57643
7502 57837
7503 58049
7504 58347
7505 59353
7506 59529

Executive Orders

10000 Amended by EO 13207 18399
10789 Amended by EO 13232 53941
11145 Amended by EO 13225 50291
11183 Amended by EO 13225 50291
11287 Amended by EO 13225 50291
12002 *See* EO 13206..........18397
12131 Amended by EO 13225 50291
12170 *See* Notice of Mar. 13, 2001 15013
  See Notice of Nov. 9, 2001 56966
12196 Amended by EO 13225 50291
12214 *See* EO 18397..........18397
12216 Amended by EO 13225 50291
12333 See EO 13231..........53063
12345 Amended by EO 13225 50291
12367 Amended by EO 13225 50291
12382 Amended by EO 13225 50291
  See EO 13231 53063
12472 See EO 13231..........53063
12543 Continued by Notice of Jan. 4, 2001 1251
12544 Continued by Notice of Jan. 4, 2001 1251
12656 Amended by EO 13228 51812
12667 Revoked by EO 13233 56025
12798 *See* Notice of Oct. 16, 2001 53073
12808 *See* Notice of May 24, 2001 29007
12810 *See* Notice of May 24, 2001 29007
12831 *See* Notice of May 24, 2001 29007
12834 Revoked by EO 12834 867
12836 Revoked by EO 13202 11225
12846 *See* Notice of May 24, 2001 29007
12865 Continued by Notice of Sept. 24, 2001..........49084
12871 Revoked by EO 13203 11227
12882 Amended by EO 13226 50523
12900 Amended by EO 13225 50291
  Revoked by EO 13230 52841
12905 Amended by EO 13225 50291
12924 Revoked by EO 13206 18397
12933 Revoked by EO 13204 11228
12934 *See* Notice of May 24, 2001 29007
12938 *See* EO 13206..........18397
  See Notice of Nov. 9, 2001 56965
12947 *See* Notice of Jan. 19, 2001 7371
12957 *See* Notice of Mar. 13, 2001 15013
12958 *See* EO 13231..........53063
  See Military Order of Nov. 13, 2001 57833
12959 *See* Notice of Mar. 13, 2001 15013
12981 *See* EO 13206..........18397
12983 Revoked by EO 13203 11227
12994 Amended by EO 13225 50291
13021 Amended by EO 13225 50291
13035 Amended by EO 13215 30285
13045 Amended by EO 13229 52013
13047 Continued by Notice of May 15, 2001 27443

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

13059 *See* Notice of Mar. 13, 2001 15013
EO 13067 *See* Notice of Oct. 31, 2001....55869
13069 *See* Notice of Sept. 24, 2001 49084
13075 Amended by EO 13225....50291
13080 Amended by EO 13225....50291
13088 Amended by EO 13192....7379
  See Notice of May 24, 2001....29007
13090 Amended by EO 13225....50291
13092 *See* EO 13215....30285
13098 *See* Notice of Sept. 24, 2001 49084
13099 *See* Notice of Jan. 19, 2001 7371
13111 Amended by EO 13188....5419
  Amended by EO 13218....33627
13113 *See* EO 13215....30285
13121 Amended by EO 13192....7379
  See Notice of May 24, 2001....29007
13125 Amended by EO 13216....31373
13130 Revoked by EO 13231....53063
13134 Amended by EO 13225....50291
13136 Amended by EO 13225....50291
13138 Amended by EO 13226....50523
13156 Revoked by EO 13203....11227
13168 Amended by EO 13225....50291
13174 Amended by EO 13218....33627
13178 Amended by EO 13196....7395
13182 Corrected....10057
13183 Amended by EO 13209....22105
13184....697
13185....701
13186....3853
13187....3857
13188....5419
13189....5421
13190....5425
13191....7271
13192....7379
  See Notice of May 24, 2001....29007
13193....7387
13194....7389
  See EO 13213....28829
13195....7391
13196....7391
13197....7853
13198....8497
13199....8499
13200....10183
  See EO 13215....30285
13201....11221
13202....11225
  Amended by EO 13208....18717
13203....11227
13204....11228
13205....15011
13206....18397
13207....18399
13208....18717
13209....22105
13210....22895
13211....28355
13212....28357
13213....28829
13214....29447
13215....30285
13216....31373
13217....33155
13218....33627
13219....34777
13220....35527
13221....40751
13222....44025
13223....48201
13224....49079
13225....50291
13226....50523
13227....51287
13228....51812
  See EO 13231....53063
13229....52013
13230....52841
13231....53063
13232....53941
13233....56025
13234....57355
13235....58343
13236....59671
13237....59851

Administrative Orders

Memorandums:

June 5, 1997 (Revoked by EO 13202)....11225
Oct. 28, 1999 (Revoked by EO 13203)....11227
Mar. 3, 2000....3851
Mar. 5, 2001....14453
Mar. 28, 2001....17303
Apr. 12, 2001....20725
May 30, 2001....30629
May 31, 2001....31833
June 5, 2001....30799
July 11, 2001....37105
Sept. 25, 2001....49507
Nov. 9, 2001....57357, 57359

Military Orders:

Nov. 13, 2001....57833

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 3 Administrative Orders—Con.

Notices:

Nov. 14, 1995 *See* Notice of Nov. 9, 2001 56965
Nov. 12, 1996 *See* Notice of Nov. 9, 2001 56965
Nov. 13, 1997 *See* Notice of Nov. 9, 2001 56965
Nov. 12, 1998 *See* Notice of Nov. 9, 2001 56965
Nov. 10, 1999 *See* Notice of Nov. 9, 2001 56965
Nov. 12, 2000 *See* Notice of Nov. 9, 2001 56965
Jan. 4, 2001 1251
Jan. 19, 2001 7371
Feb. 27, 2001 12841
Mar. 13, 2001 15013
May 15, 2001 27443
May 24, 2001 29007
June 11, 2001 32207
June 30, 2001 35363
July 31, 2001 40105
Sept. 24, 2001 49084
Oct. 16, 2001 53073
Oct. 31, 2001 55869
Nov. 9, 2001 ....56965, 56966

Presidential Determinations:

No. 96-7 of Dec. 27, 1995 *See* Notice of May 24, 2001 29007
No. 2000-29 of Sept. 12, 2000 47943
No. 2001-05 of Dec. 15, 2000 223
No. 2001-06 of Dec. 15, 2000 225
No. 2001-07 of Dec. 19, 2000 1013
No. 2001-08 of Dec. 27, 2000 1561
No. 2001-09 of Jan. 3, 2001 2193
No. 2001-10 of Jan. 17, 2001 8501
No. 2001-11 of Jan. 19, 2001 8503
No. 2001-12 of Mar. 1, 2001 14454
No. 2001-13 of Apr. 17, 2001 20585
No. 2001-14 of Apr. 30, 2001 27825
No. 2001-15 of May 11, 2001 27827
No. 2001-16 of June 1, 2001 30631
No. 2001-17 of June 1, 2001 30633
No. 2001-18 of June 8, 2001 34353
No. 2001-19 of June 11, 2001 34355
No. 2001-20 of July 2, 2001 37109
No. 2001-21 of July 4, 2001 37111
No. 2001-22 of July 26, 2001 40107
No. 2001-23 of Aug. 9, 2001 44521
No. 2001-24 of Aug. 18, 2001 46693
No. 2001-25 of Aug. 31, 2001 46695
No. 2001-26 of Sept. 12, 2001 47943
No. 2001-27 of Sept. 18, 2001 50807
No. 2001-28 of Sept. 22, 2001 50095
No. 2001-29 of Sept. 23, 2001 49075
No. 2001-30 of Sept. 28, 2001 51291
No. 2001-31 of Sept. 28, 2001 51293
No. 2002-02 of Oct. 16, 2001 53503
No. 2002-03 of Oct. 16, 2001 53505

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER **since January 1, 2001.**

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

330 Authority citation revised 6428, 29896
330.301—330.307 (Subpart C) Removed; interim 29896
330.603 Removed; interim 29896
330.610 Removed; interim 29896
330.702 Removed; interim 29896
330.710 Removed; interim 29896
330.1101 Revised; interim 6428
330.1102 Revised; interim 6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim 6429
330.1105 Revised; interim 6429
330.1106 Heading, (a) and (b) revised; interim 6429
332.314 Removed; interim 29896
351.807 (f) revised; interim 29896
353.110 (b) revised 29897
537 Added 2791
Regulation at 66 FR 2791 eff. date delayed 9187
537.101 Revised 39406
537.102 Amended 39406
537.110 Heading revised; existing text designated as (a); (b) added 39406
550.301 Regulation at 44644 confirmed 49085
550.311 Regulation at 44644 confirmed 49085
550.311 (a)(5) revised 49086
550.312 Regulation at 44644 confirmed 49085
550.313 Regulation at 44644 confirmed 49085

550.342 Correctly removed; CFR correction....53507
575.102 (a)(5) and (6) amended; (a)(7) added....37883
575.202 (a)(5) and (6) amended; (a)(7) added....37883
575.302 (a)(5) and (6) amended; (a)(7) added....37783
591.205 (a) introductory text and (b)(1)(i) revised; interim....56752
591.207 Removed; interim....56752
591.211 Revised; interim....56752
591.201—591.212 (Subpart B) Appendix A revised; interim....46752
  Regulation at 65 FR 44100 confirmed....56740
630.308 (a) revised; interim....55558
  Regulation at 66 FR 55558 eff. date corrected....56033
630.311 Added; interim....55558
  Regulation at 66 FR 55558 eff. date corrected....56033
731 Regulation at 65 FR 82243 eff. date delayed....7863
731.301 (b) corrected....11100
731.304 Corrected....11100
792.207 Revised....705
792.230 Revised....705
792.234 Revised....705
831 Authority citation revised....15608, 38524
831.205 Added; interim....15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim....15608
831.303 (d) added; interim....15608
831.902 Amended; interim....38524
831.908 (a) revised; interim....38524
831.910 Revised; interim....38524
831.912 Undesignated center heading and section added; interim....38524
839 Added; interim....15609
841 Authority citation revised....15618
841.604 (c) added; interim....15618
842 Authority citation revised....38525
842.802 Amended; interim....38525
842.807 Revised; interim....38525
842.810 Undesignated center heading and section added; interim....38525
846 Authority citation revised....15618
846.204 (b)(2)(i) revised; (e) added; interim....15618
890.304 (d)(2) revised; interim....49086
890.806 (f)(1)(ii), (iii), (h) and (i) revised; (f)(1)(iv) added; interim....49087
890.807 (e)(2) and (4) revised; interim....49088

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended....30635
1201 Appendix I revised....30635
  Appendix II amended....57841

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised....22089
1601 Revised....22093
1604 Added....50713
1605 Revised....44277
1605.4 (a)(3) amended....14448
1605.6 Revised....14448
1605.8 Revised....14448
1606 Authority citation revised....44283
1606.2 Revised....44283
1606.5 Revised....44283
1606.7 Revised....44284
1606.8 Revised....44284
1606.9 (a)(3) revised....44284
1606.11 (c), (d) and (e) revised; (f) added....44284
1606.13 (a), (b) and (c) added; (d) and (e) amended; (g) removed....44285
1606.15 (a) revised....44285
1650.31 Revised....43462
1650.42 Revised....43462

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended....3439
2604.301 (a) and (b)(2) amended....3439
2604.302 (a) and (d) amended....3439
2604.303 (a), (b) introductory text and (2) amended....3439
2604.304 (a) amended....3439
2604.305 (a)(1) and (2) amended....3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended....3439
630.308 (a) revised; interim....55558
  Regulation at 66 FR 55558 eff. date corrected....56033
630.311 Added; interim....55558

TITLE 5 Chapter XVI—Con.

Regulation at 66 FR 55558 eff. date corrected 56033
2634.903 (d) revised 55872
2635.807 (a)(2)(iii)(D) Note and Examples 1, 2 and 4 revised 59674

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised 8506
3101.109 (c)(1) and (3) revised 8506

Chapter LIX—National Aeronautics and Space Administration (Part 6901)

6901 Authority citation revised 59136
6901.102 Removed 59136

Proposed Rules:

213 46968
537 15202
575 5491
591 56741
1600 16411
1601 16415
1604 21693
1605 20090
1606 20090
1650 36494
2608 48824

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

1.29 (a)(3) added 36907
1.130—1.151 (Subpart H) Authority citation revised 36908
1.131 (a) amended 36908
2 Authority citation revised 16593
2.17 (a)(21)(xi) revised 31107
2.25 (a)(2) and (6) corrected 8149
2.45—2.49 (Subpart G) Heading revised 31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added 16593
2.48 (a)(27) added 31107
2.49 (a)(1)(i) revised 16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised 21047
20 Appendix 1 amended 38527
Regulation at 66 FR 38527 effective date delayed to 1-11-02 44291
28.909 (b) revised 29216
28.911 (a) amended 29216
29.123 (b) revised; interim 28361
29.8001 Table amended 53075
29.9251 Amended; interim 28361
51.630 Revised; interim 48788
51.691 Revised; interim 48788
51.692 (a) revised; interim 48788
54.1001—54.1034 (Subpart C) Added 1198
59 Regulation at 65 FR 75514 eff. date delayed 8151
80 Revised 58349
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected 15619

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed 38349
215 Authority citation revised 2201
215.2 (aa) redesignated as (bb); (i-1), (k-1) and new (aa) added; interim 2201
215.13a (f) and (g) added; interim 2201
220.8 (c) heading correctly revised; CFR correction 33631
Regulation at 65 FR 36317 confirmed 38349
225.2 Amended; interim 2202
225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202
226.2 Amended; interim 2203
226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203
245 Authority citation revised 2205, 48328
245.2 (a-3), (f-1), (k) and (l) redesignated as (a-4), (f-2), (l) and

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

(m); new (a–3), (f–1) and (k) added; interim 2205
(f–3) added; (j) amended 48328
245.5 (a) introductory text and (1)(vi) amended 48328
245.6 (a)(1) revised; (f) added; interim 2205
(a) amended 48328
245.6a (a) and (2)(i) amended 48328
245.9 (b) through (g) removed; (a) heading and new (b) through (k) added 48328
246.2 Regulation at 65 FR 83277 eff. date delayed 8885
Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849
246.3 Regulation at 65 FR 83277 eff. date delayed 8885
Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849
246.4 Regulation at 65 FR 83277 eff. date delayed 8885
Regulation at 65 FR 83277 eff. date delayed to 10–1–02 52849
246.7 Regulation at 65 FR 83278 eff. date delayed 8885
Regulation at 65 FR 83278 eff. date delayed to 10–1–02 52849
246.12 Regulation at 65 FR 83278 eff. date delayed 8885
Regulation at 65 FR 83278 eff. date delayed to 10–1–02 52849
246.13 Regulation at 65 FR 83286 eff. date delayed 8885
Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849
246.14 Regulation at 65 FR 83286 eff. date delayed 8885
Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849
246.18 Regulation at 65 FR 83286 eff. date delayed 8885
Regulation at 65 FR 83286 eff. date delayed to 10–1–02 52849
246.19 Regulation at 65 FR 83288 eff. date delayed 8885
Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849
246.23 Regulation at 65 FR 83288 eff. date delayed 8885
Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849
246.26 Regulation at 65 FR 83288 eff. date delayed 8885
Regulation at 65 FR 83288 eff. date delayed to 10–1–02 52849
271.2 Amended 2799
Regulation at 66 FR 2799 eff. date delayed 8885, 18869
272.1 (c)(1)(vii) and (g)(165) added 4463
Regulation at 66 FR 4463 eff. date delayed 8886, 29661
272.2 (d)(1)(xiii) added 4464
Regulation at 66 FR 4464 effective date delayed in part 8886, 29661
273.1 (b)(7)(viii) through (xii) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.2 OMB numbers 59357
273.4 OMB number 59357
273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added 4464
Regulation at 66 FR 4464 eff. date delayed 8886, 29661
273.12 (a)(1)(viii) added 4468
Regulation at 66 FR 4468 eff. date delayed 8886, 29661
OMB numbers 59357
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii) 4468
Regulation at 66 FR 4468 eff. date delayed 8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added 4469
Regulation at 66 FR 4469 eff. date delayed 8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi);

TITLE 7 Chapter II—Con.

new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended 2799
Regulation at 66 FR 2799 eff. date delayed 8885, 18869
278.6 (a) and (g)(3) amended 2800
Regulation at 66 FR 2800 eff. date delayed 8885, 18869

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised 21050
300.1 (c) and (d) added 37400
(a) introductory text revised 45158
(a) introductory text revised; eff. 1-7-02 56428
301 Authority citation revised 21050, 32717
301.38 Footnote 1 amended 21050
301.45 (a) amended 21050
(a) amended; interim 37114
301.45-3 (a) amended; interim 37114
301.45-9 Amended 21050
301.48 (a) amended 21050
301.48-5 Amended 21051
301.50 Footnote 1 amended 21051
301.50-3 Regulation at 65 FR 37842 confirmed 20186
(c) amended; (d) illustration revised 37403
(d) removed; CFR correction 46509
(d) corrected 46692
301.50-5 (a)(3) and (b)(2) revised 21051
301.51-3 Regulation at 65 FR 54944 confirmed 41439
(c) amended; interim 56430
301.51-5 (a)(2) and (b)(2) revised 21051
301.52-8 Amended 21051
301.64 Footnote 1 amended 21051
301.64-1 Amended 21051
301.64-2 Regulation at 64 FR 71269 confirmed 40574
301.64-3 Regulation at 64 FR 52212, 71269, 65 FR 20706 and 37006 confirmed 40574
301.64-5 (a)(2) and (b)(2) revised 21051
301.64-10 Regulation at 64 FR 71270 confirmed 40574
301.74 Footnote 1 amended 21051
301.75-1 Amended 32717
301.75-15 (c) revised 43066
301.75-16 Added 32717
(c) corrected 33740
301.78 Footnote 1 amended 21051
301.78-5 (a)(3) and (b)(2) revised 21051
301.80 (a) revised 21052
301.80-1 Amended 21052
301.80-8 Amended 21052
301.81-3 Regulation at 65 FR 66489 confirmed 20186
301.81-5 (a)(2) and (b)(2) revised 21052
301.85 (a) revised 21052
301.85-1 Amended 21052
301.85-8 Amended 21052
301.87 Heading, footnote 1 and (a) revised 21052
301.87-1 Amended 21052
301.87-5 (a)(2) and (b)(2) revised 21053
301.89-3 (f) amended; interim 32210, 37576
301.89-6 (a)(2) and (c)(2) revised 21053
301.89-15 Heading, introductory text, (a) introductory text, (b) introductory text and (c) introductory text revised 40842
301.89-16 Heading, introductory text, (a), (b), (c)(1) and (2) amended 40842
301.91 Heading amended 21053
301.91-1 Amended 21053
301.91-5 (a)(2) and (b)(2) revised 21053
301.93 Footnote 1 amended 21053
301.93-3 (c) revised; interim 46366
(c) amended; interim 55068
301.93-5 (a)(2) and (b)(2) revised 21053
301.97 Footnote 1 amended 21053
301.97-5 (a)(3) and (b)(2) revised 21053
301.98-3 (c) revised; interim 33632
301.98—301.98-10 (Subpart) Added; interim 6433
301.98—1 Corrected 20186
302 Added; interim 1016
Authority citation revised 21054
302.2 Revised 54641
318 Authority citation revised 21054
318.13 (a) revised 21054
318.13-12 (a) amended 21054

318.30 (b) revised 21054
318.47 (b) revised 21054
318.58 (a) revised 21054
318.60 (b) revised 21054
318.82 (a) revised 21054
319 Authority citation revised....21054
  Policy statement 38137, 45921
319.8 Amended 21054
319.8–1 Amended 21055
319.8–2 Authority citation removed 21055
319.8–4 Authority citation removed 21055
319.8–5 Authority citation removed 21055
319.8–26 Amended 21055
319.15 (a) revised 21055
319.24 (b) revised 21055
319.24–1 Authority citation removed 21055
319.24–3 Authority citation removed 21055
319.24–4 Authority citation removed 21055
319.28 (a) revised 21055
319.37–1 Amended 21055
319.37–3 (c) and (f) revised; authority citation removed 21055
319.37–5 Authority citation removed 21056
319.37–7 (f)(4) amended; authority citation removed 21056
319.37–8 Authority citation removed 21056
319.37–10 Authority citation removed 21056
319.37–11 Authority citation removed 21056
319.40–4 (c) revised 21056
319.40–9 (a)(4)(i) amended 21056
319.41 (b) and (c) revised 21056
319.41–2 Authority citation removed 21056
319.41–4 Authority citation removed 21056
319.41–6 Authority citation removed 21056
319.55 (b) and (c) revised 21056
319.55–2 Authority citation removed 21056
319.55–5 Authority citation removed 21056
319.55–7 Authority citation removed 21056
319.56 (b) and (c) revised 21056
319.56–2 (h) and (j) revised 45158
319.56–2j Authority citation removed 21056
319.56–2t Table amended 45158
319.56–2u (b)(7) revised; (b)(8) removed 45160
319.56–2w Heading, introductory text and (a) revised 45160
319.56–2x Table amended 45161
319.56–2ee (a)(1) amended 45161
319.56–2ff Heading, introductory text, (a)(2), (3), (c)(3)(vii), (f)(1), (g) and (i) revised; (e)(2) and (3) amended 55551
319.56–2hh Added 45161
319.56–2ii Added 32213
319.56–3 Authority citation removed 21056
319.56–5 Authority citation removed 21056
319.59—319.59–2 (Subpart) Authority citation removed 21056
319.59 (a) revised; (b) amended 21056
319.59–1 Amended 21057
319.75 (b) amended 21057
319.75–1 Amended 21057
319.75–3 (c) revised; authority citation removed 21057
319.75–5 Authority citation removed 21057
319.75–6 Authority citation removed 21057
319.76 (b) amended 21057
319.76–1 Amended 21057
319.76–3 (c) revised 21057
319.77–5 Amended 21057
322 Authority citation revised....21057
330 Authority citation revised....21058
330.100 Amended 21058
330.102 Revised 21058
330.106 (a) amended 21058
330.205 Amended 21058
330.207 Amended 21058
330.208 Amended 21058
330.210 Amended 21058
330.211 Heading and (c) revised 21058
330.400 (f) revised 21058
340 Authority citation revised....21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised 21058
340.3 (b)(1) amended 21058
351 Authority citation revised....21058
351.1 Revised 21059
352 Authority citation revised....21059
352.1 (b) amended 21059
352.2 (a), (b) and (c)(1) revised....21059

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 7 Chapter III—Con.

352.3 (a) revised	21059
352.5 (d) amended	21059
352.6 Authority citation removed	21059
352.7 Authority citation removed	21059
352.10 (a), (b)(1) and (2) amended	21059
352.13 Amended	21059
353 Auhority citation revised	21059
353.1 Amended	21059, 37400
Amended; interim	37116
353.7 (e)(4) revised; interim	37116
353.8 Amended (OMB number)	37400
353.9 Added	37400
354 Authority citation revised	21060
354.1 Authority citation removed	21060
354.2 Table amended	46211
354.3 (a) amended	21060
355 Footnotes 1 and 2 removed; authority citation revised	21060
355.1 Revised	21060
355.11 Footnote 3 revised	21060
356 Authority citation revised	21060
360 Authority citation revised	21060
360.200 Heading and introductory text revised	21060
360.300 Authority citation removed	21060
Regulation at 65 FR 41009 confirmed	32217
361 Authority citation revised	21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv) redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added	21060
372 Authority citation revised	21060
380 Authority citation revised	21060
380.1 Revised	21061

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.700—400.713 (Subpart IV) Revised; interim	47951
457.151 Amended; heading and introductory text revised	42730
Regulation at 66 FR 42730 corrected	53076

Chapter V—Agricultural Research Service, Department of Agriculture (Parts 500—599)

510 Revised	57841

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

718 Authority citation revised	53509
718.102 (b)(4) revised	53509
723 Policy statement	53945
723.206 (c)(1) revised	53509
Corrected	59675
723.216 (e)(5)(iv), (e)(6)(ii)(B) and (i)(6) revised	53509
723.503 (a)(3) revised	53509
735 Revised	46312
760.1—760.34 (Subpart) Authority citation revised	2801
761 Authority citation revised	7566
761.8 Added	7566
762 Authority citation revised	7567
762.102 Amended	7567
762.105 (c)(1) revised; (c)(2)(iii) removed	7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d)	7567
762.125 (a)(2), (3), (6) and (8) revised	7567
762.142 (d)(8) revised	7567
762.145 (b)(6)(iv) revised	7567
762.146 (e)(9) revised	7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised	7567
770 Added	1567
Regulation at 66 FR 1567 eff. date delayed	8886
770.10 (e)(3)(iv) corrected; (e) correctly redesignated as (f)	47877

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended	35753
(a) Table 1 corrected	36834
868.90 (a) revised	17777
868.91 Revised	17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.235 Revised; interim 56597
905.306 (c) and (d) revised 229
905.350 Revised; interim 49093
916.115 Revised; interim 17484
916.160 (c) revised; interim 39409
916.234 Revised 52309
916.350 (d) revised; interim 17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text and (6) introductory text revised; interim 17484
  (a)(1)(iv) Table 1, (4) and (6) amended 39620
917.150 Revised; interim 17485
917.178 (c) revised; interim 39409
917.442 (d) revised; interim 17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim 17486
  (a)(1)(iv) Table 1 amended 39620
  (a)(6) amended 39621
920.155 Removed 39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v) 39270
  (a)(4)(iv) table revised 54414
923.4 Revised 58356
923.14 (a) and (b) revised 58356
923.20 Amended 58356
923.25 Revised 58356
923.41 (c) added 58356
923.52 (a)(3) amended 58356
923.54 (b) and (c) amended 58356
924.236 Revised; interim 42415
  Regulation at 66 FR 42415 confirmed 59677
928.150 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.152 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.160 (a)(1) revised; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
928.313 Stayed; interim 29219
  Regulation at 66 FR 29219 confirmed 48529
929.104 (a)(4) revised 34351
929.107 Removed 34351
929.110 (d) added 34351
929.125 Revised 34351
929.148 Removed 34351
929.149 Revised 34351
929.158 Revised 34351
929.251 Added 34352
930.16 Revised 35896
930.50 (a) revised 35896
930.54 (a) stayed in part; interim 232
  Regulation at 66 FR 232 confirmed 21273
930.59 (b) suspended in part; interim 39413
  Regulation at 66 FR 39413 confirmed 58362
930.83 (d) suspended in part 58359
930.120 Added; interim 35889
  Regulation at 66 FR 35891 confirmed 56599
930.154 Added; eff. 5-2-01 through 6-30-01 21842
930.162 (a), (b)(3) and (c)(3) revised; interim 39413
  Regulation at 66 FR 39413 confirmed 58362
930.163 Added; interim 35889
  Regulation at 66 FR 35891 confirmed 56599
930.200 Revised; interim 235
  Regulation at 66 FR 235 confirmed 21276
930.252 Added; eff. 5-2-01 through 6-30-01 21842
931.231 Revised 59679
932 Marketing order 16593
932.230 Revised; interim 13391
  Regulation at 66 FR 13391 confirmed 30291
944.106 (c) revised 229
946.104 Regulation at 65 FR 70463 confirmed 18721
946.120 Regulation at 65 FR 70463 confirmed 18721
946.336 Regulation at 65 FR 70463 confirmed 18721
948.215 Suspended; interim 48953
948.216 Revised 52312

TITLE 7 Chapter IX—Con.

948.387 (d)(1) introductory text revised; (d)(1)(v) added; (g) amended 49513
955.209 Revised 16841
956.142 Regulation at 65 FR 61083 confirmed 13393
956.160 Regulation at 65 FR 61083 confirmed 13393
959.237 Revised; interim 16597
  Regulation at 66 FR 16597 confirmed 39621
966.234 Revised; interim 56602
966.323 Regulation at 65 FR 66495 confirmed 13396
  (d)(1) amended 48532
981.442 (a)(3) amended; (a)(5) revised 39273
982 Marketing percentages 13399
984.347 Revised; interim 58364
985.220 Added; eff. through 5–31–02 30296
989.156 (t) added; interim 708
  Regulation at 66 FR 708 eff. date confirmed 16599
989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added 39277
989.254 Added; interim 39628
  Regulation at 66 FR 39628 confirmed 53950
993.347 Revised 56604
993.408 Added; eff. 8–1–01 through 7–31–02 30646

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1007.7 (c) correctly revised; CFR correction 54909

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205.510 (b)(2) and (3)(ii) table revised 58052
1210.301—1210.367 (Subpart) Revised and designated as (Subpart A) 56388
1210.400—1210.405 (Subpart) Revised and designated as (Subpart B) 56388
1210.500—1210.540 (Subpart) Revised and designated as (Subpart C) 56388
1210.501 Revised 13402
1210.600—1210.607 (Subpart D) Added 56388
1218.3 Amended 37118
1218.23 Amended 37118
1218.40 Undesignated center heading revised 37118
  Amended 37119
1218.41 Amended 37119
1218.42 Amended 37119
1218.43 Amended 37119
1218.44 Amended 37119
1218.45 Amended 37119
1218.46 Amended 37119
1218.47 Amended 37119
1218.48 Amended 37119
1218.50 Amended 37119
1218.51 Amended 37119
1218.52 Amended 37119
1218.53 Amended 37119
1218.54 Amended 37119
1218.55 Amended 37119
1218.56 Amended 37119
1218.60 Amended 37119
1218.62 Amended 37119
1218.70 Amended 37119
1218.73 Amended 37119
1218.75 Amended 37119
1218.77 Amended 37119
1240 Heading and authority citation revised 21829
1240.1—1240.67 (Subpart A) Heading added 21829
1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2 21829
1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised 21829
1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised 21829
1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14 21829
1240.5 Redesignated as 1240.12; new 1240.5 added 21829
1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11 21829

1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20 21829
1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised 21829
1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8 21829
1240.10 Redesignated as 1240.13; new 1240.10 redesignated from 1240.4; new 1240.10 revised 21829
1240.11 Redesignated as 1240.6; new 1240.11 added 21829
1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5 21829
1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised 21829
1240.14 Redesignated as 1240.4 21829
Added 21830
1240.16 Redesignated as 1240.3 21829
Added 21830
1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22 21829
1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3 21829
1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21 21829
Revised 21830
1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6 21829
1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9 21829
1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12 21829
1240.23 Added 21830
1240.24 Added 21830
1240.25 Redesignated from 1240.13 21829
Revised 21830
1240.26 Redesignated from 1240.1 21829
1240.27 Redesignated from 1240.19 21829
1240.28 Redesignated from 1240.17 21829
1240.30 Revised 21830
1240.31 Revised 21830
1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added 21830
1240.33 Added 21831
1240.34 (a) and (b) revised; (c) amended 21831
1240.35 (a) revised 21832
1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised 21832
1240.39 Undesignated center heading and text revised 21832
1240.40 (a) and (b) revised 21832
1240.41 Revised 21833
1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised 21833
1240.43 Removed; new 1240.43 redesignated from 1240.44 21829
1240.44 Redesignated as 1240.43 21829
Added 21833
1240.50 Revised 21834
1240.51 Revised 21834
1240.52 Revised 21834
1240.61 Revised 21834
1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised 21834
1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added 26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised 23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised 15176
1400.1 (g) table amended 15176
1410.12 Added 22099
1421 Authority citation revised 13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised 15176
1421.300—1421.307 (Subpart) Added 13404

TITLE 7 Chapter XIV—Con.

1427 Authority citation revised 15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised 15176
1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176
1430.500 Amended 15176
1430.502 Amended 15177
1430.503 Amended 15177
1430.510 Revised 15177
1430.511 Added 15177
1434 Added 15177
1435.2 Amended 15182
1435.100 (a) amended 15182
1435.102 Removed; new 1435.102 redesignated from 1435.103 15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104 15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3) 15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated from 1435.106; (c) and (d)(4) revised 15182
1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107 15182
(b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised 15183
1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108 15182
1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109 15182
1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110 15182
1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111 15182
1435.111 Redesignated as 1435.110 15182
1436 Revised 4612
1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11) 17073
1439.101—1439.109 (Subpart B) Revised 15542
1439.301—1439.357 (Subpart D) Revised 15544
1439.901 Revised 15547
1439.906 (a) amended 15547
1446.102 (c) amended 1810
1446.103 Amended 1810
1446.307 (g) removed 1810
Correctly designated 10353
1464 Authority citation revised 53509
1464.8 (d)(1) revised 53509
1464.401 (a) revised 53509
1464.403 Revised 53509
1464.404 Amended 53510
1469 Authority citation revised 13841
1469.201—1469.214 (Subpart C) Added 13841
1470 Added 13843
1476 Added 15183
1480 Added 15979
1481 Added 14481
1481.3 Corrected 18869
1482 Added; interim 30802

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1744 Authority citation revised 41758
1744.20 Revised 41758
1744.21 Revised 41758
1744.30 Redesignated as 1744.40 41760
Added 41761
1744.40 Redesignated as 1744.50; new 1744.40 redesignated from 1744.30 41760
1744.50 Redesignated as 1744.55; new 1744.50 redesignated from 1744.40 41760
(a)(3) revised 41763
1744.55 Redesignated from 1744.50 41760
(a) revised; (b)(5) removed; (b)(6) redesignated as new (b)(5) 41763
1744.20—1744.59 (Subpart B) Appendices A through F added 41763
1755.30 (c)(34) revised 43313

- 1755.97 Heading and introductory text revised; table amended 43314
  - Amended 43317
  - Effective date corrected 46066
- 1755.98 Revised 43317
- 1755.500 Added 43317
- 1755.501 Added 43317
- 1755.502 Added 43317
- 1755.503 Added 43317
- 1755.504 Added 43317
- 1755.505 Added 43317
- 1755.506 Added 43317
- 1755.507 Added 43317
- 1755.508 Added 43317
- 1755.509 Added 43317
- 1755.510 Added 43317
- 1773 Authority citation revised 27830, 27835
- 1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.2 Amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.3 (b) revised; (c) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C), new (5)(ii) and new (6)(ii) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.6 (a)(1), (4) and (7) amended 27835
  - Heading and (a) introductory text revised 27836
  - Regulation at 66 FR 27835 and 27836 confirmed 37405
- 1773.7 (b) and (c)(4) revised 27836
  - Regulation at 66 FR 27835 and 27836 confirmed 37405
- 1773.8 (a)(2) and (c) amended 27835
  - (a)(1) and (c) table revised 27836
  - Regulation at 66 FR 27835 and 27836 confirmed 37405
- 1773.9 Heading, (a), (b) and (c) introductory text revised 27836
  - Regulation at 66 FR 27836 confirmed 37405
- 1773.20—1773.29 (Subpart C) Heading revised 27836
  - Regulation at 66 FR 27836 confirmed 37405
- 1773.20 (a), (b) and (c)(6) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773.21 (a) and (b) amended 27835
  - Heading revised; (e) added 27836
  - Regulation at 66 FR 27835 and 27836 confirmed 37405
- 1773.30 (b) amended 27835
  - (a) revised 27836
  - Regulation at 66 FR 27835 and 27836 confirmed 37405
- 1773.31 Revised 27836
  - Regulation at 66 FR 27836 confirmed 37405
- 1773.32 Inroductory text, (a) through (d) and (f) note revised 27836
  - Regulation at 66 FR 27836 confirmed 37405
- 1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added 27830
  - Regulation at 66 FR 27830 confirmed 37405
- 1773.38 (b) amended 27835
  - Regulation at 66 FR 27835 confirmed 37405
- 1773 Appendices A through D removed 27837
  - Regulation at 66 FR 27837 confirmed 37405
- 1779 Added 23138
- 1780.10 (b)(4) amended 23151
- 1786 Second (c) correctly removed; CFR correction 15785

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 7

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1901 Authority citation revised 7568
1901.1—1901.5 (Subpart A) Removed 7568
1902 Authority citation revised 1569
1902.15 (c) amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1910.1 (f) added; interim 1572
1910.4 (b) amended; (c) through (k) redesignated as (d) through (l); new (c) added; interim 1572
1941.16 Introductory paragraph revised; interim 1573
1941.29 Heading and (b) revised; (d) removed 7568
1942 Authority citation revised 27014
1942.304 Amended; interim 27014
1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c) 7568
1943.79 Removed 7568
1945 Authority citation revised 7568
1945.154 (a) amended 7568
1945.163 (e) amended 7568
1951.201 Amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.221 (b) amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.222 (a)(11) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1951.230 (b)(5) and (6) amended; (b)(7) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1955.10 (a)(1)(ii) removed 7568
1955.104 (c) removed 7568
1956.101 Amended 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1956.105 (k) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1956.137 (k) removed 1569
  Regulation at 66 FR 1569 eff. date delayed 8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2) 7568
1965.27 (a) removed 7568
1980.1—1980.100 (Subpart A) Removed 23151
1980.801—1980.900 (Subpart I) Removed 23151

Chapter XXX—Office of Chief Financial Officer, Department of Agriculture (Parts 3000—3099)

3404 Revised 57842
3601 Revised 57843
3701 Revised 57845

Proposed Rules:

3 56247
26 21608
27—209 (Ch. I) 13267
28 20408
29 21888
50 40626
56 42456
58 42458
70 42456
75 53550
80 ....19099, 27045
201 16015
246 40152
274 36495
300 ....6488, 37425
301 ....3505, 20204, 32268, 53123, 59175
318 37425
319 ....6488, 19892, 20208, 29735, 34584, 36892, 39121, 45637
330 51340
400 36951
584 56488
610 34584
735 46310
736 46310
737 46310
738 46310
739 46310
740 46310
741 46310

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

742	46310
800—899 (Ch. VIII)	13267
800	17817, 19608
905	39459
911	40923
916	39690
920	26810
923	13447, 18573
927	48623
928	49568
929	2838, 24291, 48628
930	1909, 26813
931	48628
944	40923
948	40153, 40155
955	1915, 21288
956	21107
966	40158
981	21888, 31850
982	44086
985	20615
987	52363
989	16621
993	13454, 43534
1000	54064, 59546
1001	54064, 59546
1005	54064, 59546
1006	54064, 59546
1007	54064, 59546
1030	31185, 54064, 59546
1032	53551, 54064, 59546
1033	49571, 54064, 59546
1124	54064, 57889, 59546
1126	54064, 59546
1131	54064, 59546
1135	54064, 59546
1205	42464
1210	21596, 21602, 56391
1219	36870, 36886, 45188
1230	42469
1260	53124, 53127
1280	48764
1410	15048
1439	13679
1710	20759
1717	55130
1721	1604
1773	27912
1944	29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3 Authority citation revised	37123, 54911, 56976
3.1 (d)(2)(iii) amended	6445
(a)(1) amended	47380
(a)(1) amended; (b)(14) added; interim	56976
3.3 (b) amended	6445
3.19 (i)(2) revised; interim	54911
3.43 Revised; interim	37123
3.44 Added	6445
(f) corrected	8149
100.4 (e) amended; interim	29672
103 Authority citation revised	32143
103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim	32144
Regulation at 65 FR 67616 eff. date delayed to 10-1-01	49514
103.2 (a)(7)(i) amended; intrim	29672
(f) added; interim	29685
103.7 (b)(1) amended; interim	29672
(b)(1) amended; (c)(1) revised; interim	29685
Regulation at 65 FR 67616 eff. date delayed to 10-1-01	49514
103.12 Regulation at 65 FR 82255 eff. date delayed	7863
204.13 Added; interim	51821
208.8 Regulation at 65 FR 82255 eff. date delayed	7863
210.4 Regulation at 65 FR 82255 eff. date delayed	7863
212 Authority citation revised	236
212.1 (e)(3)(i) amended; interim	236
(f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised	1018
Regulation at 66 FR 1018 eff. date delayed	8743
(f)(2) eff. 4-6-01) and (3) amended, interim	17322
(f)(2) amended; interim	32530
(h) revised; interim	42593
Regulation at 66 FR 236 confirmed	51822

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 8 Chapter I—Con.

212.3 (g) added	6446
212.5 Regulation at 65 FR 82255 eff. date delayed	7863
212.7 Heading, (a) heading and (1)(i) revised; interim	42593
212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim	3444
214 Authority citation revised	46702
214.1 (a)(2) table and (c)(1) amended; interim	31112
(a)(1)(v) revised; (a)(2) table and (c)(2) amended; interim	42593
(a)(2) amended; interim	46702
Regulation at 65 FR 67616 eff. date delayed to 10–1–01	49514
214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim	31112
(k) heading revised; (k)(1), (2), (5) and (6)(ii) amended; (k)(6)(i) removed; (k)(7) through (11) added; interim	42593
(u) and (v) added; interim	46702
Regulation at 65 FR 67616 eff. date delayed to 10–1–01	49514
214.15 Added; interim	46702
235.3 Regulation at 65 FR 82256 eff. date delayed	7863
235.4 Regulation at 65 FR 82256 eff. date delayed	7863
236.14 (a) amended; interim	29672
240.15 Amended	6446
240.21 (c) amended	6446
240.53 (a) amended	6446
241 Authority citation revised	29451
241.4 (g) heading amended; (g)(1) through (4) redesignated as (g)(2) through (5); (b)(4), new (g)(1) and (i)(7) added; new (g)(5) revised; interim	56976
(c)(1), (2), (h)(1), (k)(1)(i) and (ii) amended; interim	56977
241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim	29451
241.13 Added; interim	56977
241.14 Added; interim	56979
241.33 Regulation at 65 FR 82256 eff. date delayed	7863
244.1 Regulation at 64 FR 4781 confirmation delayed	7863
244.6 Regulation at 64 FR 4781 confirmation delayed	7863
244.10 Regulation at 64 FR 4782 confirmation delayed	7863
244.12 Regulation at 64 FR 4782 confirmation delayed	7863
244.15 Regulation at 64 FR 4782 confirmation delayed	7863
244.18 Regulation at 64 FR 4782 confirmation delayed	7863
245.1 (c)(6) revised; (i) added; interim	42594
245.2 (a)(4)(ii)(C) amended; interim	42594
(a)(4)(ii)(D) amended; interim	46704
245.5 Amended; interim	42595
245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim	16388
245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as (c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim	29451
245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i); (e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim	29452
245.20 Added; interim	27448
245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim	29673
245a.2 Regulation at 65 FR 82256 eff.date delayed	7863
245a.4 Regulation at 65 FR 82256 eff. date delayed	7863

245a.30—245a.37 (Subpart C) Added; interim 29673
248 Authority citation revised....46704
248.1 (a) amended; interim....42595
(a) amended; (b) introductory text revised; interim....46704
248.3 (a) amended; interim....31114
255a.10—245a.29 (Subpart B) Added; interim....29673
274a Authority citation revised 42595, 46704
274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim....29681
(a) heading, introductory text and (6) revised; (a)(9) added; interim....42595
(a) introductory text, (13) and (14) amended; (a)(15) added; interim....46704
287.3 (d) revised; interim....48335
299.1 Table amended; interim....29681, 29686, 31114, 46704
299.5 Table amended; interim....29682, 29686, 46705
310 Authority citation revised....32144
310.3 (b) amended; interim....32144
320 Added; interim....32144
322 Revised; interim....32145
334 Authority citation revised....32146
334.1 Amended; interim....32147
334.2 (a) amended; interim....32147
337 Authority citation revised....32147
337.9 (b) removed; interim....32147
338 Authority citation revised....32147
338.4 Removed; interim....32147
341 authority citation revised....32147
341.2 (a)(1) introductory text revised; interim....32147
341.7 (b) removed; interim....32147

Proposed Rules:

103....41456
211....37429
212....1053, 37429
214....48223

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised....21061
2 Authority citation revised....239, 21061
2.129 (c) revised; (d) added....239
Regulation at 66 FR 239 eff. date delayed....8743
3.101 Revised....251
Regulation at 66 FR 251 eff. date delayed....8744
3.104 (a) revised....252
Regulation at 66 FR 252 eff. date delayed....8744
3.105 Revised....252
Regulation at 66 FR 252 eff. date delayed....8744
3.107 Revised....253
Regulation at 66 FR 253 eff. date delayed....8744
3.108 Revised....253
Regulation at 66 FR 253 eff. date delayed....8744
3.109 Revised....253
Regulation at 66 FR 253 eff. date delayed....8744
3.110 Revised....253
Regulation at 66 FR 253 eff. date delayed....8744
3.112 Revised....254
Regulation at 66 FR 254 eff. date delayed....8744
3.113 Revised....255
Regulation at 66 FR 255 eff. date delayed....8744
3.114 Revised....255
Regulation at 66 FR 255 eff. date delayed....8744
3.115 Revised....256
Regulation at 66 FR 256 eff. date delayed....8744
3.116 Revised....256
Regulation at 66 FR 256 eff. date delayed....8744
3.117 Revised....256
Regulation at 66 FR 256 eff. date delayed....8744
3.118 Revised....257
Regulation at 66 FR 257 eff. date delayed....8744
11 Authority citation revised....21061
49 Authority citation revised....21061
50 Authority citation revised....21061
50.3 Authority citation removed 21061
50.16 (a)(4) revised....21061
51 Authority citation revised....21061
51.1 Amended; authority citation removed....21061
52 Authority citation revised....21061

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 9 Chapter I—Con.

53 Authority citation revised 21061
54 Authority citation revised 21061
  Revised 43982
  Technical correction 46066
  Eff. date corrected 46686
54.1 Amended 21061
70 Authority citation revised 21061
71 Authority citation revised 21061
72 Authority citation revised 21061
72.6 Revised 21061
72.13 (a) Footnote 4 revised 21062
73 Authority citation revised 21062
73.2 Authority citation removed 21062
73.3 Authority citation removed 21062
73.5 Authority citation removed 21062
73.6 Authority citation removed 21062
73.12 Authority citation removed 21062
74 Authority citation revised 21062, 37128
74.1 Revised 37128
75 Authority citation revised 21062
75.4 Amended 21062
77.7 Regulation at 65 FR 70286 confirmed 49271
77.9 Regulation at 65 FR 70286 confirmed 49271
78.41 Regulation at 65 FR 75582 confirmed 19847
  (a) and (b) amended; interim 20900, 32894
  Regulation at 66 FR 20900 confirmed 45749
79 Authority citation revised 21062
  Revised 43990
  Technical correction 46066
  Eff. date corrected 46686
79.2 (a)(2) Footnote 1 revised 21062
79.3 (b) Footnote 2 amended 21062
80 Authority citation revised 21062
82 Authority citation revised 21062
82.30 Amended 21062
82.32 Footnote 2 amended 21062
82.33 (a)(2) Footnote 4 amended 21062
82.37 Footnote 7 amended 21062
85 Authority citation revised 21063
85.1 Amended 21063
89 Authority citation revised 21063
91 Authority citation revised 21063
92 Authority citation revised 21063
93.301 Regulation at 65 FR 78899 eff. date delayed 8887
  Regulation at 65 FR 78899 confirmed 11101
  (h)(6) and (7) amended 55071
93.308 (a)(3) revised 56034
93.400 Amended 20189
93.406 (a) and (c) revised 20190
93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised 20190
94 Technical correction 18357
  Authority citation revised 21063
94.1 (a)(2) amended; interim 9643, 14826, 29689, 36697
  (a)(1) amended; interim 29899
  (a)(2) amended 55876
94.4 (a) and (b) amended; interim 29899
94.5 (e)(2) revised 21063
94.11 (a) amended; interim 9643, 14826, 29689, 36697
  (a) amended 55876
94.18 (a)(1) and (2) amended; interim 22426
  (a)(2) amended; interim 29900
  (b) amended; interim 42600
  (a)(1) amended; interim 52484
  (a)(1) and (2) amended; interim 54643
94.21 Removed; interim 29899
95 Authority citation revised 21063
95.1 Amended; interim 42600
95.4 Revised; interim 42600
95.29 Added; interim 42601
96 Authority citation revised 21063
97 Authority citation revised 21063
98 Authority citation revised 21063
99 Authority citation revised 21063
101 Authority citation revised 21063
102 Authority citation revised 21063
103 Authority citation revised 21063
103.2 Authority citation removed 21063
104 Authority citation revised 21063
105 Authority citation revised 21063
106 Authority citation revised 21063
107 Authority citation revised 21064
108 Authority citation revised 21064
109 Authority citation revised 21064
112 Authority citation revised 21064
113 Authority citation revised 21064
114 Authority citation revised 21064
115 Authority citation revised 21064
116 Authority citation revised 21064

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

116.1 Authority citation removed 21064
116.2 Authority citation removed 21064
116.3 Authority citation removed 21064
116.4 Authority citation removed 21064
116.6 Authority citation removed 21064
117 Authority citation revised 21064
118 Authority citation revised 21064
122 Authority citation revised 21064
123 Authority citation revised 21064
124 Authority citation revised 21064
130.4 Added 39631
130.8 (a) table amended 39632
145 Authority citation revised 21064
147 Authority citation revised 21064
151 Authority citation revised 21064
156 Authority citation revised 21064
160 Authority citation revised 21064
161 Authority citation revised 21064
162 Authority citation revised 21064
166 Authority citation revised 21064
166.1 Authority citation removed 21064
166.2 Authority citation removed 21064
166.10 Authority citation removed 21064
167 Authority citation revised 21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

317.8 (b)(37) and (38) added 40845
  (b)(39) added 54915
317.21 (b) revised 52486
319.15 (d) revised 54916
319.81 Amended 54916
319.104 (d) revised 54916
319.140 Amended 54916
319.143 Amended 54916
319.180 (e) revised 54916
331.2 Table amended 2207
331.6 Table amended 2207
362 Authority citation revised 21637, 22905
362.1 Revised; interim 21637, 22905
362.2 Revised; interim 21637, 22905
381.1 (b) amended; eff. 1–9–02 1770
  (b) corrected 19714
  (b) amended; interim 21637, 22905
381.36 (b) amended; interim 21637, 22905
381.65 Revised; eff. 1–9–02 1771
  (e) correctly revised; (f) correctly added 19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1–9–02 1771
  (c)(1) corrected 19714
  (b) heading, (c) heading and (d)(1) revised; interim 21637, 22905
381.67 Introductory text revised; table amended; interim 21637, 22906
381.70 Existing text designated as (a); (b) added; interim 21638, 22906
381.71 Existing text designated as (a); (b) through (f) added; interim 21638, 22906
381.72 Revised; interim 21638, 22906
381.76 (b)(1) introductory text revised; interim 21638, 22906
381.96 Revised; interim 21638, 22906
381.117 (f) and (g) added 40845
381.121d (b) revised 52486
381.129 (e) added 54916
381.159 (a) revised 54916
381.221 Table amended 2207
381.224 Table amended 2207
441 Added; eff. 1–9–02 1771

Proposed Rules:

1 6491
51 47593
93 .... 19898, 20211, 29921
94 46228
101 19899
113 37194
145 37919
147 37919
301 .... 12590, 19102, 35112
303 .... 12590, 19102, 35112
317 .... 4970, 12590, 19102, 20213, 35112, 41160
318 .... 12590, 19102, 35112
319 .... 12590, 19102, 35112, 55601
320 .... 12590, 19102, 35112
325 .... 12590, 19102, 35112
327 42472
331 .... 12590, 19102, 35112
381 .... 4970, 8178, 12590, 19102, 20213, 35112, 52715
391 52548
417 .... 12590, 19102, 35112
430 .... 12590, 19102, 35112
441 52715
590 52548
592 52548

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction 33013
2.101 (f)(1) and (5) revised................55787
2.103 (a) revised................................55787
2.104 (e) revised................................55787
2.105 (a)(5) revised...........................55787
2.106 (c) revised................................55787
2.714 (d) revised................................55788
2.1001 Amended 29465, 55788
2.1003 (a) introductory text, (2) introductory text and (xv) revised....................................29465
2.1009 (b) revised..............................29466
2.1010 (a)(2) revised 29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added....................29466
2.1012 (a) revised..............................29466
2.1013 (a)(2) and (c)(1) revised..........55788
2.1014 (a)(1) introductory text and (a)(4) introductory text revised.......................................55788
2.1021 (a) introductory text revised...55788
2.1023 (a) introductory text revised...55789
5 Appendix A added 709
9.35 (a)(1) revised 22907
19.2 Revised 55789
19.3 Amended...55789
19.20 Revised...55789
20.1002 Revised....................................55789
20.1003 Amended 55789
20.1401 (a) revised................................55789
20.2001 (a)(1) and (b)(5) revised........55789
20.2206 (a)(4) revised...........................55789
21.2 (a) revised 55790
21.3 Amended..55790
21.21 (d)(1)(i) and (ii) revised...........55790
30.11 (b) added.....................................51838
  (c) revised...55790
34.47 Regulation at 65 FR 63751 confirmed...1573
34.83 Regulation at 65 FR 63752 confirmed...1573
36.55 Regulation at 65 FR 63752 confirmed...1573
36.81 Regulation at 65 FR 63752 confirmed...1573
39.65 Regulation at 65 FR 63752 confirmed...1573
40.14 (c) revised.....................................55790
50.47 (b)(10) revised..............................5440
50.55a (b)(2)(xv)(C)(*1*)........................16391
51.20 (b)(13) revised 55790
51.22 (c)(3) introductory text, (10), (12) and (d) revised 55790
51.26 (c) revised......................................55791
51.67 (a) and (b) revised........................55791
51.10—51.125 (Subpart A) Appendix B amended.......................................39278
55.4 Amended 52667
55.8 (c)(3) and (4) removed...................52667
55.31 (a)(5) revised...................................52667
55.45 (b) revised.......................................52667
55.46 Added 52667
55.59 (c)(4)(iv) revised 52668
60.1 Revised 55791
61.1 (b) revised...55791
61.2 Amended...55792
61.55 (a)(2)(iv) revised 55792
63 Added 55792
70.1 (c)(1) and (2) revised......................51838
70.17 (c) revised.......................................55815
70.38 (e) introductory text revised..24049
72 Regulation at 65 FR 75855 confirmed..10569
  Technical corrections........33013, 38528
  Heading revised.................................51838
72.1 Revised 51838
72.2 (a) and (c) revised 51838
72.3 Amended...51839
72.6 Revised 51839
72.16 (d) revised.......................................51839
72.22 (e)(3) revised....................................51839
72.24 Introductory text and (i) revised...51839
72.28 (d) revised.......................................51840
72.30 (a) revised.......................................51840
72.40 (b) revised.......................................51840
72.44 (b)(4), (c)(3)(i), (5), (d) introductory text and (g)(2) revised..51840
  (g)(1) and (3) revised 55815
72.48 (c)(2)(iii) and(vii) revised........11527
72.52 (b)(2), (c) and (e) revised.........51840
72.54 (c)(1) revised...................................51840
72.60 (c) revised.......................................51841
72.72 (a), (b) and (d) revised 51841
72.75 (b) introductory text, (2), (3), (6), (c) introductory text, (d)(1)(iv) and (2)(ii)(L) revised..51841
72.76 (a) revised.......................................51841
72.78 (a) revised.......................................51841
72.80 (g) revised.......................................51841
72.82 (a) and (b) revised........................51842
72.106 (b) revised.....................................51842

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

72.108 Revised 51842
72.120 Revised 51842
72.122 (b)(2), (h)(2), (5), (i) and (l) revised 51842
72.128 Heading and (a) introductory text revised 51843
72.140 (c)(2) revised 51843
72.214 Regulation at 65 FR 60342 confirmed 1573
  Amended; interim 3448, 12437, 13409, 14486, 34525, 45752
  Corrected 8150
  Regulation at 65 FR 76898 confirmed 10569
  Regulation at 65 FR 12437 confirmed 23537
  Regulation at 66 FR 13409 confirmed 27449
  Regulation at 66 FR 14486 confirmed 28641
  Amended 43763, 52489
  Regulation at 66 FR 34525 confirmed 34525
  Regulation at 66 FR 43763 confirmed 55559
  Amended; eff. 1-28-02 56985
  Regulation at 66 FR 45752 confirmed 58056
  Amended; eff. 2-12-02 59534
73.1 (b)(6) revised 55816
73.51 (a) revised 55816
75.4 (k)(5) revised 55816
150 Technical correction 35529
150.15 (a)(7) revised; (a)(8) added 51843
150.20 (b)(1) amended 5443
  (b)(2) revised 32469
170 Authority citation revised 32469
170.2 (s) added 32469
170.3 Amended 32469
170.12 (a) revised 32469
170.20 Revised 32469
170.21 Introductory text and table amended 32469
  Table corrected 35529
170.31 Revised 32470
170.41 Revised 32474
171 Authority citation revised 32474
171.5 Amended 32474
171.15 (b) through (e) revised 32474
171.16 (c), (d) and (e) revised 32474
171.19 (b) and (d) revised 32478
171 Appendix A corrected 35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement 8745, 19714
  Technical correction 11635
430.2 Amended 7199, 57848
  Regulation at 66 FR 7199 eff. date delayed 8745, 20191
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1-20-04; Appendix J amended 3330
  Appendix E amended; eff. 1-20-04 4497
  Appendix J amended 8745
  Regulation at 66 FR 3330 eff. date delayed 8744
430.32 (g) revised; eff. 1-20-04 3332
  (d) revised 4497
  (c) revised 7199
  Regulation at 66 FR 7199 eff. date delayed 8745, 20191
431.123 (a) amended 56607
431.701—431.704 (Subpart Q) Added 3354
  Regulation at 66 FR 3354 eff. date delayed 8745
  Regulation at 66 FR 3354 confirmed 27853
440.14 (c)(6)(ix) removed 58366
440.18 (b) introductory text and (2) removed; (b)(1) introductory text, (1)(i), (ii) introductory text, (A) and (B) redesignated as new (b) introductory text, (1) and (2) introductory text, (i) and (ii); (a), new (b) introductory text revised 58366
490 Authority citation revised 2210
490.703 (b) revised 2210
  Regulation at 66 FR 2210 eff. date delayed 8746
  Regulation at 66 FR 2210 confirmed 21851
490.705 (a) and (b) revised; (d) added 2210
  Regulation at 66 FR 2210 eff. date delayed 8746
  Regulation at 66 FR 2210 confirmed 21851
600 Authority citation revised 34784
600.6 (c)(8) revised 34784

Chapter III—Department of Energy (Parts 700—999)

710 Authority citation revised 47062

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 10 Chapter III—Con.

710.1 (b) revised....47062
710.4 (c) revised; (g) added....47062
710.5 Amended....47063
710.7 (a) revised....47063
710.8 (f) amended; (g), (h), (j), (k) and (l) amended....47063
710.9 Revised....47063
710.10 (a) and (d) revised; (e) and (f) added....47064
710.21 Heading, (a) and (b)(2) revised; (c) added....47064
710.22 Revised....47064
710.23 Heading amended....47065
710.27 Heading and (d) revised; (a) amended; (e), (f) and (g) removed....47065
710.28 Revised....47065
710.29 Redesignated as 710.30; new 710.29 added....47065
710.30 Redesignated as 710.31; new 710.30 redesignated from 710.29....47065
 (a) and (b)(1) amended; (b)(2) revised....47066
710.31 Redesignated as 710.32; new 710.31 redesignated from 710.30....47065
 Revised....47066
710.32 Redesignated as 710.33; new 710.32 redesignated from 710.31....47065
 Revised....47066
710.33 Redesignated as 710.34; new 710.33 redesignated from 710.32....47065
 Revised....47067
710.34 Redesignated as 710.35; new 710.34 redesignated from 710.33....47065
710.35 Redesignated from 710.34....47065
 Revised....47067
710.36 Added....47067
710.1—710.34 (Subpart A) Appendix B added....47067
719 Added....4621
 Regulation at 66 FR 4621 eff. date delayed....8746
 Policy statement....19717
830 Regulation at 65 FR 60308 confirmed; revised....1818
 Regulation at 66 FR 1818 eff. date delayed....8746
 Policy statement....19717
960 Heading and authority citation revised....57334
960.1 Amended....57334
960.2 Amended....57334
960.3 Amended....57334
960.3–1–4–4 Removed....57334
960.3–1–5 Revised....57334
960.3–2 Amended....57335
960.3–2–4 Removed....57335
960 Appendix III amended....57335
963 Added....57336

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised....4630
 Policy statement....18721
1040.1 Existing text designated as (a); (b) and (c) added....4630
 Regulation at 66 FR 4630 eff. date delayed....8747
1040.21—1040.57 (Subpart C) Removed....4630
 Regulation at 66 FR 4630 eff. date delayed....8747
1042 Added....4630
 Regulation at 66 FR 4630 eff. date delayed....8747
 Policy statement....18721
1044 Added; interim....4642
 Regulation at 66 FR 4642 eff. date delayed....8747
 Regulation at 66 FR 4642 confirmed....23833
1044.01 Revised....54645

Proposed Rules:

1....19610, 27045
2....19610, 27045, 29741, 46230, 48828, 52721
15....50860, 54061
20....36502, 46230, 52551
30....20099, 29243
34....29243
35....20214, 29243
36....29243
39....13858, 29243
40....29243
50....3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432, 40626, 46230, 48828, 51884, 52065, 52551, 57001, 59546
51....10834, 19610, 27045, 29251, 48828
52....19610, 27045, 48828, 48832, 49324
54....19610, 27045
60....19610, 27045
61....29251
70....19610, 27045, 29243, 29251

72 ..... 9055, 12439, 13459, 14503, 29243, 29251, 34588, 43810, 45788, 47059, 52554, 57002, 59546
73 ..... 10839, 19610, 27045, 29251, 55603
74 29251
75 ..... 19610, 29251
76 ..... 10839, 19610, 27045, 29243, 29251
95 10839
110 ..... 19610, 27045
150 ..... 16982, 20035, 29251
170 ..... 16982, 20035, 55604
171 ..... 16982, 20035
255 13860
430 ..... 6768, 15203, 32914, 36960, 38822, 43123, 45189, 49325, 53554
431 50355
600 23197
733 19900
852 ..... 46742, 48630, 53130
1008 32272
1707 57003

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5–9–01 23537
100.23 Regulation at 65 FR 76146 eff. 5–9–01 23537
104.3 (b)(4)(i)(A) and (B) added 59680
109.1 Regulation at 65 FR 76146 eff. 5–9–01 23537
110.14 Regulation at 65 FR 76146 eff. 5–9–01 23537
111.30 Revised 59681

Proposed Rules:

100 ..... 13681, 23628, 38576, 47120, 50358
104 ..... 23628, 38576, 47120
106 56247
109 23628
113 ..... 38576, 47120
114 50358
117 50358

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction 36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised 34791
3.4 Existing text designated as (a) and amended; new (a) heading and (b) added 59630
3 Appendix A amended 59630
5 Authority citation revised 49097
5.26 (e)(5) revised 34797
5.34 (a), (c), (d)(2), (3) and (e)(4) revised 49097
7 Authority citation revised 34791
  Technical correction 36834
7.1021 Added 34791
7.3000 (b) amended 34791
7.4001 (a) amended 34791
7.4002 revised 34791
7.4006 Added 34791
8 Heading and authority citation revised 23153
8.2 (a)(7) and (b)(5) removed; (c) and (d) added 29893
  (a) revised 57647
  (a) table corrected 58786
8.6 Heading and (a) revised 23153
  (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added 29894
9.2 (g) amended; (j) and (k) added 34797
9.3 (b) revised; (c) added 34798
9.7 Added 34798
9.14 (b) revised 34798
14 Regulation at 65 FR 75839 eff. date delayed 15345
23 Technical correction 36834
23.21 (a)(2) revised 34792
28.15 (b) revised 49098
30 Authority citation revised 8633
30.1 Revised 8633
30.2 Amended 8633
30.3 (a) revised 8633
30 Appendix B revised 8633
  Appendix C removed 8634
32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added 31120
  (f)(1)(iii), (iv) and (m)(1) revised 55072
32.3 (c)(5) revised 31120
  (a) and (b)(5) introductory text revised; (b)(1)(i) amended 55072
32.7 Added 31120
35 Added 2085

TITLE 12

Chapter II—Federal Reserve System (Parts 200—299)

- 201.51 Revised.......2211, 9907, 18185, 20901, 29009, 35530, 45753, 49098, 52850, 57848
- 202 Compliance notification...........41439
- 202.4 Revised; interim.....................17785
- 202.9 (h) added; interim...................17785
- 202.17 Added; interim......................17785
- 202 Supplement I amended; interim..........17786
- 204.9 Revised..............................53078
- 205 Authority citation revised........15192
  - Compliance notification..............41439
- 205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim..........17793
- 205.7 (b)(11) added 13412
- 205.16 Added..................................13412
- 205.17 Added; interim......................17793
- 205 Supplement I and Appendix A amended..............................13412
  - Supplement I amended................15192
  - Appendix A amended; interim 17793
  - Supplement I amended; interim..........17794
- 207 Added 2092
- 208 Authority citation revised........8634, 42933
- 208.3 (d)(1) revised 8634
- 208.71—208.77 (Subpart G) Revised..........42933
- 208.71 (c) revised...............................8749
- 208.77 (e) revised...............................8749
- 208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed.......15345
- 208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed.......15345
- 208 Appendix D–2 revised..................8634
  - Appendix A amended.....................59636
  - Appendix B amended.....................59643
- 211 Authority citation revised 8636
- 211.1—211.13 (Subpart A) Revised 54374
- 211.5 (h)(2)(ii) revised; (l) added 58655
- 211.8 (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); new (c)(3)((ii) added..................58655
- 211.9 Added.......................................8636
  - Footnote 5 amended....................58655
- 211.20–211.30 (Subpart B) Revised 54374
- 211.24 (i) added 8636
- 211.31—211.34 (Subpart C) Revised 54374
- 213 Compliance notification 41439
- 213.3 (a)(5) added; interim................17328
- 213.6 Added; interim 17328
- 213 Supplement I amended; interim..........17328
- 220 OTC margin stock lists ...11101, 44525
- 225 Authority citation amended 414, 8636
- 225.1 (c)(9) added 414
  - (c)(10) revised...............................8484
  - (c)(16) added 8636
- 225.2 (r)(2) and (s) revised; (t) added..........414
- 225.4 (h) added 8636
- 225.14 (c)(2)(i) revised..........................415
- 225.23 (c)(2)(i) revised..........................415
- 225.81—225.94 (Subpart I) Revised 415
- 225.86 (e) added; interim 260
  - (d) and (e) added; interim 19081
- 225.170—225.177 (Subpart J) Revised 8484
- 225 Appendix F added 8636
  - Appendix E correctly revised; CFR correction..........48532
  - Appendix A amended....................59643
  - Appendix D amended....................59651
- 226 Compliance notification 41439
- 226.5 (a)(5) added; interim................17338
- 226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim...........17338
- 226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim..........17338
- 226.15 (b) introductory text amended; interim......................17338
- 226.16 (c) revised; interim 17338
- 226.17 (a)(3) added; (g) introductory text revised; interim 17338
- 226.23 (b)(1) amended; interim 17338
- 226.24 (d) revised; interim 17338
- 226.27 Revised; interim 17339
- 226.31 (b) revised; interim 17339
- 226.36 (Subpart F) Added; interim..........17339
- 226 Supplement I amended; interim..........17339
  - Appendix G corrected; CFR correction..........43463
  - Supplement No. 1 amended; eff. 1–1–02..........57849

230 Compliance notification 41439
230.3 (a) revised; (g) added; interim 17802
230.4 (a)(1) and (2)(i) revised; interim 17802
230.6 (c) removed; interim 17802
230.10 Added; interim 17803
230 Supplement I amended; interim 17803
250 Authority citation revised..........24233
250.243 Added 24229
250.244 Added 24299
250.245 Added 24229
250.246 Added 24225
250.247 Added; interim 24233
250.248 Added; interim 24233
261a.13 (b)(9) revised; (c)(11) added 19718
Corrected..........20863
263 Authority citation revised 8637
263.302 (a) revised 8637
265.5 (d)(3) added 54397
(d)(3) revised..........58655
265.6 (f) revised 54397
265.7 (d)(4) revised; (d)(9) through (14) added..........54397
265.11 (d)(8) and (11) revised; (d)(12) added 54398
(d)(11) revised 58656
268 Revised; interim..........7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.14 Added..........54650
303.120 Regulation at 65 FR 15529 confirmed; revised 1027
303.121 Regulation at 65 FR 15529 confirmed..........1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended..........1027
303.123 Regulation at 65 FR 15530 confirmed..........1027
303.141 (b)(1)(ii) revised 1028
303.142 (a), (b) and (c) amended 1028
308 Authority citation revised 8638, 9189
308.101 (b) revised..........9189
308.132 (c)(3)(xv) revised 9189
308.302 (a) revised 8638
308.500—308.546 (Subpart T) Added..........9189
325.2 (g) through (x) redesignated as (i) through (z); new (g) and (h) added; new (v) and (x) revised 59652
325.3 (b)(1) amended 59652
325.5 (f) and (g)(2) revised 59652
325.103 (b) amended..........59653
325 Appendix A amended 59653
Appendix B amended 59661
337.4 Removed 1028
337.6 (e) removed..........17622
343 Regulation at 65 FR 75843 eff. date delayed 15348
346 Added 2099
346.9 (a)(1) corrected 14071
346.11 (j)(2)(iv) corrected..........14071
362 Authority citation revised 1028
362.1 (c) revised 1028
362.2 (r) revised 1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised 1028
362.5 (b)(1), (2) and (3) removed 1028
362.6 Revised 1028
362.7 (a) and (b) revised 1028
362.8 Revised 1028
362.10 (a) revised..........1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended 1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised 1029
364 Authority citation revised 8638
364.101 (b) revised 8638
364 Appendix B revised..........8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

502.20 Revised 33159
506.1 (b) amended; interim..........15017
(c)(1)(iii) revised..........15020
Regulation at 66 FR 15017 confirmed..........37407
516.1—516.3 (Subpart A) Removed 13000
516.1 Added 13000
516.5 Added 13000
516.10 Added..........13000
516.15—516.47 (Subpart A) Added 13000
516.55 Added..........13002
516.110 Amended 13003
516.120 Revised..........13003
516.130 Revised..........13003
516.140 Revised..........13003
516.150 Revised..........13003

TITLE 12 Chapter V—Con.

516.185 Added 13003
516.190 Revised 13003
516.200—516.280 (Subpart E) Added 13003
517.6 (b) revised 13005
533 Added 2106
536 Regulation at 65 FR 75845 eff. date delayed 15345
543.9 (a) revised 13005
544.2 (c) amended 13005
544.5 (c)(1)(ii) revised 13006
  (c)(1)(iii) revised 15020
545.92 (b) and (d)(2) revised; (f) amended 13006
550.80 Revised 13006
550.260 (b)(2) amended 13006
550.530 Amended 13006
552.2–6 Amended 13006
  Existing text designated as (a); (b) added 23154
  Regulation at 66 FR 37407 confirmed 37408
552.4 (d) amended 13006
552.5 (b)(1)(ii) revised 13006
  (b)(1)(iii) revised 15020
555.310 (a) introductory text amended 13006
556.347 Revised 19854
559.3 (e)(2)(i) and (ii) amended 13006
559.4 Introductory text amended 13007
559.11 Amended 13007
559.13 (b) revised 13007
560.30 Table amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
560.32 (c) amended 13007
560.35 (d)(3) revised 13007
560.93 (d)(3)(iii) amended 13007
560.160 (a)(1) revised 13007
562.4 (b)(1) revised 13007
  (c)(3) correctly added; CFR correction 33632
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised 13007
563.41 (e)(2)(ii)(A) revised 13008
563.81 (a)(1), (2) and (c) amended 13008
563.143 Heading revised; (a)(1) amended 13008
563.161 (a) revised; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
563.171 (b)(4) revised 13008
563.180 (d)(11) revised 13008
563.183 (c)(1) revised 13008
563.555 Amended 13008
563.565 Revised 13009
563b.27 (e) footnote 1 amended 13009
563f.6 (a) amended 13009
565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended 13009
566 Removed; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
567.1 Amended 59661
567.2 (a)(1)(i) revised 59663
567.3 (d)(2)(i) introductory text amended 13009
  (a)(2) correctly removed; CFR correction 33632
567.4 (a)(3)(i) amended 13009
567.5 (a)(2)(iii) added 59663
567.6 (a) introductory text, (1), (ii)(R), (iii)(C), (iv)(J), (M), (2) introductory text, (i)(B) and (ii)(A) revised; (a)(1)(ii)(H), (iv)(N), (2)(i)(A), (C) and (3) removed; (b) added 59663
567.7 (f) revised 13009
567.9 (c)(1) revised 59666
567.11 (c) redesignated as (c)(1); (c)(2) and (3) added 59666
567.12 Heading, (a) and (e) revised; (b)(4) added 59667
568 Authority citation revised 8639
568.1 (a) revised 8639
568.5 Added 8639
570.1 (a) and (b) amended 8639
570.2 (a) revised 8639
570 Appendix B revised 8640
574.4 (f)(2) amended 13009
574.6 (f)(4) amended 13009
575.3 (b)(2) introductory text revised 13009
575.13 (a)(1), (b), (c)(2) and (e) amended 13010
584.2–1 (a) and (c)(1) amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
584.2–2 (b) amended 13010

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised 16843
  Regulation at 66 FR 16843 eff. 5–14–01 26785
613.3020 (c) added 28643

Regulation at 66 FR 28643 confirmed.........36908
613.3030 (a)(1) and (2) amended.........28643
Regulation at 66 FR 28643 confirmed.........36908
615.5220 (a)(3) revised.........16844
Regulation at 66 FR 16844 eff. 5-14-01.........26785
615.5250 (c)(2) amended.........16844
Regulation at 66 FR 16844 eff. 5-14-01.........26785
620.2 (h)(1) and (2) revised.........14301
Regulation at 66 FR 14301 confirmed.........21064
620.4 (b) revised.........14301
Regulation at 66 FR 14301 confirmed.........21064
620.5 (a)(10) added.........14301
Regulation at 66 FR 14301 confirmed.........21064
650 Authority citation revised.........19064
650.20—650.31 (Subpart B) Added.........19065
Regulation at 66 FR 19064 eff. 5-23-01.........28361

Chapter VII—National Credit Union Administration (Parts 700—799)

701.1 Revised; interim.........15621
701.31 (d) introductory text, (1) and (2) revised.........48206
705.10 Regulation at 65 FR 80299 confirmed.........20902
707 Compliance date lifted.........48206
707.3 (a) revised; (g) added.........33162
707.4 (a)(1) and (2)(i) revised.........33163
707.6 (c) removed.........33163
707.10 Added.........33163
707 Appendix C amended.........33163
709.0 Amended; interim.........11230
Amended.........40575
709.12 Added; interim.........11230
Revised.........40575
712.3 (a) amended.........40578
712.5 Amended.........40578
712.7 Amended.........40578
721 Revised.........40857
722.3 (a)(1) amended; eff. 3-1-02.........58662
742 Added; eff. 3-1-02.........58662
748 Heading and authority citation revised.........8161
748.0 (b) revised.........8161
748 Appendix A added.........8161
749 Revised.........40579

Heading corrected.........46307

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised.........8307
915.4 Revised.........8307
915.5 Revised.........8308
915.6 (a)(3) revised.........8308
915.7 (b)(2) amended.........8308
917 Authority citation revised.........8308
917.3 (b)(1) revised.........8308
917.9 Existing text designated as (a); (b) added.........8308
918.7 Revised; interim.........24264
Regulation at 66 FR 24264 confirmed.........54918
925.24 Revised.........8308
925.25 Removed.........8309
925.26 Revised.........8309
(b) revised.........54107
925.27 Revised.........8309
(c) revised.........54107
925.28 Removed.........8310
925.29 Revised.........8310
925.30 Revised.........8310
930 Added.........8310
930.1 Amended.........54107
931 Added.........8310
931.4 (a) amended.........54108
931.6 Amended.........54108
931.7 (a) amended.........54108
931.8 Existing text redesignated as (a); heading and new (a) heading revised; (b) added.........54108
932 Added.........8310
932.4 (d) heading and (f)(1) Table 2 revised; (e)(2)(ii)(E) amended.........54108
933 Added.........8310
933.2 (e), (f) and (g) redesignated as (f), (g) and (h); new (f)(4), (5) and (6) redesignated as (f)(5), (6) and (7); new (f)(3) revised; new (e) and (f)(4) added.........54108
933.5 Added.........54109
950.1 Amended.........50295
951 Nomenclature change.........50301
951.3 (a)(1) revised.........50301
951.4 (a), (b), (f)(1) and (3) amended.........50302
951.5 (a)(7)(iii) amended.........50302
951.8 (c)(3) amended; (c)(3)(i) designation and heading removed; (c)(3)(ii) redesignated

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 12 Chapter IX—Con.

as (c)(4); new (c)(4) heading revised 50302
951.10 (a)(1)(ii) revised; (a)(2)(ii) amended; (b)(2)(i) designation and (ii) removed 50302
951.15 (a)(2)(ii) amended; (a)(2)(iii) added; concluding text designated as (a)(3) 50302
952.2 Amended 50295
952.3 Amended 50295
952.5 (a)(3), (c), (d) heading, (2), (3), (5) and (6)(i) amended 50296
952.7 (a) and (c) amended 50296
956 Authority citation revised 8320
956.1 Amended 8320
956.3 (b) amended 8320
956.5 Added 8320
956.6 Added 8321
966.8 (d) added 8321

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1411 Authority citation revised 44027
1411.1 Revised 44027

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised 8489
1501.2 Redesignated as 1501.3; new 1501.2 added; interim 260
1501.3 Redesignated from 1501.2; interim 260
Revised 8750
1510 Regulation at 65 FR 12069 confirmed 47070
1510.5 (c) introductory text amended; (d) revised; interim 47071

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1701 Added 18039
1750 Authority citation revised 47806
1750.10—1750.13 (Subpart B) Added 47806
1770 Added 47554
1780 Authority citation revised 711, 18043
1780.1 Revised 18043
1780.80—1780.81 (Subpart E) Revised 711

Proposed Rules:

1 8178
3 10212
7 ....8178, 19901, 34855
8 ....17821, 21045, 48983
23 8178
25 ....18411, 37602
37 19901
41 16624
200—299 (Ch. II) 27912
208 ....10212, 18411, 59176
211 54399
222 16624
223 ....24186, 33649
225 ....307, 10212, 12440, 59176
228 37602
303 20102
325 10212
334 16624
345 37602
369 18411
500—599 (Ch. V) 31186
502 21288
552 23198
560 59050
563e 37602
567 15049
571 16624
584 56488
609 53348
611 ....10639, 15814, 43536
614 ....43536, 48098
618 ....10639, 15814
620 ....10639, 15814, 53348
700 33211
701 ....20945, 33211, 40641
702 40642
703 ....48742, 54168
704 48742
712 ....11125, 33211
715 33211
722 15055
723 33211
725 33211
741 40642
742 15055
749 11239
790 33211
900—999 (Ch. IX) 50366
915 14093
917 14093
925 ....14093, 41462, 43961

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

930 .... 14093, 41462, 41474, 43961
931 .... 14093, 41462, 43961
932 .... 13688, 14093, 41462, 41474, 43961
933 .... 14093, 41462, 43961
950 36715
951 23864
952 36715
956 14093
966 14093
1501 .... 307, 12440
1710 .... 18709, 20217, 47557, 56619
1773 47563
1777 18694

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised 30647
108 Added; interim 7224
  Regulation at 66 FR 7224 eff. date delayed 10811
  Regulation at 66 FR 7224 eff. date delayed 20530
  Regulation at 66 FR 7224 withdrawn 28602
  Added 28609
  Authority citation corrected 32894
108.150 (c) introductory text corrected 32894
108.2010 (b) corrected 32894
115 Authority citation revised 30804
115.12 (e)(1) and (3) amended 30804
115.19 (a) amended 30804
115.31 (d) amended 30804
115.60 (a)(1) amended 30804
115.61 Amended 30804
115.68 Amended 30804
119 Added 29013
120.131 Revised 56987
120.151 Amended 56988
120.210 Amended 56988
120.220 (a) revised; (b) and (c) redesignated as (e) and (f); introductory text, new (b), new (c) and (d) added 56988
120.223 Added 56988
120.613 (b) revised 56988
120.700—120.715 (Subpart G) Heading revised 47073
120.700 Amended 47073
120.701 (h) redesignated as (i); new (h) added 47073
  (f) and (i) revised 47878
120.702 (a)(1) revised 47878
120.704 (b) revised 47878
120.705 Amended 47878
120.706 (a) amended 47073
120.707 (a) revised 47073
  (b) amended; (c)(1) and (2) revised 47878
120.712 Heading, (b)(1) and (e) revised 47073
120.714 Heading and (b) revised; introductory text added 47073
  (a) amended; (b) revised 47878
120.715 (a) revised 47073
120.716 Added 47073
120.845 Introductory text amended; (h) removed 56988
120.862 (b)(3) revised 56988
120.870 (c) revised 56989
120.931 Revised 56989
121 Waiver 19381
121.201 Table amended 30647
  Table corrected 32416
121.301 (b) and (c) revised 30648
123 Authority citation revised 38530
  Undesignated center headings designated as Subparts A through E 38530
123.500—123.512 (Subpart F) Added 38530
123.600—123.606 (Subpart G) Added; interim 53331
126 Authority citation revised 4645
126.101 (c) added 4645
126.103 Amended 4645
126.204 Revised 4645
126.206 Revised 4645
126.601 (d) revised 4645
134.102 (l) amended; (m) redesignated as (n); new (m) added 47074

Chapter IV—Emergency Steel Guarantee Loan Board (Parts 400—499)

400.2 (h) through (l) redesignated as (i) through (m); (a), new (j) and (l) revised; new (h), (n) and (o) added 53079
400.106 Revised 53079
400.201 (c) and (d) revised 53079
400.203 Revised 53080
400.204 (c)(2)(i) and (3) revised 53080
400.205 (a) revised; (b)(10) and (11) amended; (b)(12) added 53080
400.207 (b)(1) revised 53080

TITLE 13 Chapter IV—Con.

400.208 (a)(3) revised........................53080
400.210 Revised................................53080
400.215 Added 53080

Proposed Rules:

108..20531
121 ....10842, 14865
559..55131
560..55131

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition 29416
  Compliance date delayed.............56989
13.401 (Subpart I) Added 55048
21 SFAR No. 88 added 23129
  Comment disposition 29416
  Compliance date delayed.............56989
21.183 (d)(2)(iv) amended 21065
21.197 (c) introductory text and
  (1) amended 21066
21.213 (b) amended 21066
21.329 (c) amended...........................21066
21.337 (e) amended...........................21066
23 Special FAA conditions...18186, 30649,
  37128, 40580, 50809, 50819
25 Special FAA conditions........261, 8162,
  11527, 12843, 15020, 17804, 19847,
  22426, 22428, 26972, 32717, 36697,
  37408, 39085, 46937, 49271, 51299,
  52017, 54062, 54414, 56195, 56197,
  57648, 57650
  Comment disposition 29416
  Compliance date delayed.............56989
25.473 (d) revised 27394
25.723 Revised 27394
25.725 Removed 27394
25.727 Removed 27394
25.981 Revised 23129
25.1435 (a), (b) and (c) revised..........27402
25.1516 Added 34024
25.1527 Revised...............................34024
25.1583 (c) and (f) revised 34024
25.1585 Revised...............................34024
25.1587 Revised...............................34024
25 Appendix H amended...................23130
27.397 (b)(2) amended.......................23538
29.397 (b)(2) amended.......................23538
35 Special FAA conditions 50302
39 Technical correction 13635, 37271
39.13.........1, 4, 6, 8, 264, 265, 266, 268, 1032,
  1254, 1256, 1828, 1830, 2213, 3450,
  3860, 4647, 4648, 4650, 4653, 4655,
  4657, 4659, 6447, 6450, 6452, 6453,
  6455, 7573, 7575, 7577, 8078, 8080,
  8082, 8083, 8088, 8166, 8168, 8508,
  8751, 8753, 8755, 8757, 8759, 9028,
  9030, 9033, 9909, 10186, 10189, 10355,
  10356, 10358, 10359, 10362, 10571,
  10572, 10953, 10954, 10956, 10959,
  10961, 10963, 10964, 11104, 11106,
  12724, 12726, 12728, 12731, 13011,
  13228, 13231, 13233, 13413, 13415,
  13417, 13420, 13423, 13425, 14302,
  14305, 14307, 14309, 14311, 14828,
  15023, 15025, 15622, 15624, 15788,
  16104, 16107, 16109, 16113, 16115,
  16118, 16600, 16845, 16847, 17343,
  17346, 17349, 17489, 17491, 17494,
  17497, 17498, 17503, 17507, 17808,
  18047, 18049, 18522, 18524, 18526,
  18528, 18722, 18872, 19383, 19385,
  19388, 19719, 19851, 20193, 20195,
  20378, 20380, 20382, 20385, 20388,
  20734, 20736, 20738, 20903, 20905,
  20909, 20911, 20913, 20915, 20916,
  20918, 20919, 20921, 21068, 21070,
  21072, 21074, 21076, 21080, 21082,
  21085, 21277, 21279, 21852, 21854,
  21858, 21861, 22431, 22434, 22909,
  22912, 22914, 22915, 23540, 23542,
  23835, 23837, 23839, 23843, 24051,
  27686, 27688, 27016, 27018, 27450,
  27591, 27596, 27855, 28363, 28365,
  28645, 28647, 28650, 28653, 29468,
  29471, 29690, 29902, 30298, 30301,
  30304, 30306, 31122, 31127, 31131,
  31133, 31140, 31142, 31145, 31526,
  31529, 31835, 31837, 31838, 32531,
  32532, 32535, 32537, 32729, 32730,
  32895, 32897, 33014, 33015, 33017,
  33018, 33020, 33165, 33167, 33169,
  33172, 33460, 33461, 34084,
  34087—34090, 34093, 34095, 34097,
  34099, 34101, 34102, 34104, 34105,
  34107, 34109, 34529, 34531, 34532,
  34799, 34801, 34805, 35077, 35079,
  35372, 35531, 35533, 35534, 35536,
  35537, 35539, 35897, 36146, 36148,
  36150, 36151, 36153, 36155, 36442,
  36444, 36446, 36448, 36449, 36451,
  36452, 36454, 36455, 36457, 36700,
  37131, 37885, 38140, 38143, 38144,
  38146, 38353, 38356, 38359, 38361,
  38364, 38366, 38532, 38534, 38536,
  38538, 38891, 38894, 38898, 39414,

39417, 39422, 39425, 39427, 39430, 39432, 39434, 39632, 40109, 40583, 40860, 40862, 40864, 40865, 40867, 40868, 40869, 40871, 40873, 40876, 40878, 40880, 40882, 40885, 41130, 41442, 41444, 42106, 42938, 42940, 43068, 43069, 43071, 43073, 43075, 43077, 43464, 43467, 43469, 43474, 43477, 43765, 43767, 43770, 43772, 44029, 44031, 44033, 44035, 44038, 44040, 44042, 44044, 44045, 44047, 44048, 44293, 44295, 44297, 44298, 44946, 44949, 44953, 44956, 44958, 44959, 45566, 45569, 45571, 45572, 45574, 45576, 45578, 45581, 45583, 45587, 45595, 45754, 45755, 45757, 45759, 45923, 46215, 46510, 46511, 46514, 46516, 46518, 46940, 47381, 47572, 47574, 47576, 47880, 47882, 47885, 48537, 48539, 48790, 48791, 49100, 49510, 49516, 49824, 49827, 50305, 50307, 50308, 50530, 51556, 51848, 51852, 51855, 51857, 51859, 51861, 52022, 52026, 52028, 52313, 52315, 52491, 52495, 52497, 52499, 52669, 53333, 53336, 53338, 53082, 53084, 54117, 54119, 54417, 54419, 54422, 54424, 54426, 54652, 54655, 54657, 54660, 54662, 54919, 54922, 55074, 55077, 55561, 56200, 56204, 56754, 56756, 56990, 57363, 57366, 57654, 57854, 57856, 57860, 58368, 58665, 58914, 58917, 58921, 58924, 58926, 58929, 58931, 58934

Corrected..........1574, 3861, 9635, 15326, 17508, 18521, 23155, 28651, 30307, 42586, 52312, 54110, 58007, 58932, 59358

Eff. 1-4-02.......57851, 57858, 59683, 59686, 59688, 59690, 59691

43.1 (a)(2) amended..........................21066

43.3 (f) and (g) amended 21066

43.7 (e) amended..............................21066

43.9 (b) amended 21066

43.13 (c) amended 21066

43.16 Amended 21066

45.22 (c)(3) amended 21066

61 Technical correction 31145

SFAR No. 93 added 52279

63 Technical correction 31145

SFAR No. 93 added 52279

65 Technical correction 31145

65.95 (a)(1) amended 21066

65.111 (a) and (b) revised 23553

65.125 (a)(2) and (b)(2) revised 23553

71.1..........1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20389, 20587, 20588, 21281, 23558-23561, 28369, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147-38149, 38368, 38369, 38539, 39435, 42107, 42108, 43078, 43079, 43080, 44049, 44050, 45162, 45596, 45598—45603, 46216, 46367, 47577, 48541, 48793, 48795, 49517—49520, 50101, 50102, 53951, 56607

Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560, 45597, 48953, 53950, 56902

Regulation at 66 FR 11532 eff. date delayed 21639

Eff. 2-21-02..................................59136

73.30 45661

73.32.................................34809, 50310

73.44 53951

73.63.................................16392, 54436

91 SFAR No. 50-2 reinstated and amended......................................1003

SFAR No. 50-2 revised 16584

Policy statement..............................30310

SFAR No.90 added 48943

SFAR No. 91 added 50533

Comment request 59692

91.23 (b)(1)(i) amended 21066

91.137 Heading revised 47377

91.138 (b) revised 47377

91.145 Added..................................47378

91.175 (f) amended 21066

91.207 (f)(1) corrected 16316

91.215 (a) amended 21066

91.307 (b) revised 23553

91.401 (b) amended 21066

91.403 (c) amended............................21066

91.409 (c)(2) and (f)(1) amended..............21066

91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 14 Chapter I—Con.

91.411 (b)(2)(v) removed; eff. 4–6–03 41116
91.413 (a) and (c)(2) amended 21066
  (c)(1)(iv) removed; eff. 4–6–03 41116
91 Appendix A amended; eff. 4–6–03 41116
93.301 Regulation at 65 FR 17742 eff. date delayed 1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed 1005
  Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
  Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed 1005
  Regulation at 65 FR 17743 eff. date delayed 16584
95 ......9914, 18530, 30057, 39634, 49101, 56205
97.21—97.35 ....2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090, 41773, 41775, 44300, 44302, 46941, 47075, 48542, 48544, 48546, 50822, 50824, 53086, 53088, 55564, 55565, 57862, 57864, 59360
99.1 (b)(2) revised; (c) removed; (d) redesignated as new (c) 49822
99.3 Revised 49822
99.9 Revised 49822
99.11 (a) revised 49822
99.42 Revised 49822
99.43 Revised 49822
103.20 Revised 47378
105 Revised 23553
107 Revised; eff. 11–14–01 37317
108 Technical correction 31145
  Revised; eff. 11–14–01 37357
119.1 (e)(6) revised 23557
121 SFAR No. 50–2 reinstated and amended 1003
  SFAR No. 50–2 revised 16584
  Policy statement 27548, 30310
  Technical correction 28036, 28037, 28369, 29888, 31145, 31146, 44050
  SFAR No. 36 amended; eff. 4–6–03 41116
  Policy statement 41955
  Authority citation revised 41966
  SFAR No. 89 added 44273
  SFAR No. 92 added 51548
  SFAR No. 93 added 52279
  SFAR No. 92 removed; SFAR No. 92–1 added; eff. through 4–9–03 52836
  Appendices I and J amended 57866
  SFAR No. 92–1 removed; SFAR No. 92–2 added; eff. to 4–9–03 58652
  SFAR No. 92–2 corrected 59611
  Comment request 59692
121.303 (b) and (d)(2) revised; eff. 5–12–04 19043
121.309 (d) removed; eff. 5–12–04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5–12–04 19043
121.325 Introductory text revised; eff. 5–12–04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
121.378 (a) revised; eff. 4–6–03 41116
121.415 (a)(3) revised; eff. 5–12–04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5–12–04 19043
121.427 (b)(2) revised; eff. 5–12–04 19043
121.703 Regulation at 65 FR 56201 eff. date delayed to 1–16–02 21626
  Regulation at 65 FR 56201 eff. date delayed to 1–16–03 58912
121.704 Regulation at 65 FR 56202 eff. date delayed to 1–16–02 21626
  Regulation at 65 FR 56202 eff. date delayed to 1–16–03 58912
121.705 Regulation at 65 FR 56203 eff. date delayed to 1–16–02 21626
  Regulation at 65 FR 56203 eff. date delayed to 1–16–03 58912

121.709 (c) and (d) redesignated as (d) and (e); new (c) added; (b), new (d) and (e) revised; eff. 4–6–03 41116

121.801—121.805 (Subpart X) Added; eff. 5–12–04 19044

121 Appendix A revised; eff. 5–12–04 19044

Appendix I amended 41966

Appendix J amended 41967

125 Policy statement 30310

SFAR No. 89 added 44273

125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131

125.409 Regulation at 65 FR 56203 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56203 eff. date delayed to 1–16–03 58912

125.410 Regulation at 65 FR 56204 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56204 eff. date delayed to 1–16–03 58912

129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131

135 SFAR No. 50–2 reinstated and amended 1003

SFAR No. 50–2 revised 16584

Technical correction 28036, 28037, 31145, 31146, 44050

Policy statement 30310

SFAR No. 89 added 44273

SFAR No. 93 added 52279

Comment request 59692

135.177 (a)(1) revised; eff. 5–12–04 19045

135.415 Regulation at 65 FR 56204 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56204 eff. date delayed to 1–16–03 58912

135.416 Regulation at 65 FR 56205 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56205 eff. date delayed to 1–16–03 58912

135.417 Regulation at 65 FR 56206 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56206 eff. date delayed to 1–16–03 58912

135.435 (a) revised; eff. 4–6–03 41117

135.443 (c) redesignated as (d); (b) and new (d) revised; new (c) added; eff. 4–6–03 41117

139.325 (h) redesignated as (i); new (h) added; eff. 11–14–01 37327

142.1 (a) and (b)(1) amended 21066

145 Comment request 59692

145.1—145.5 (Subpart A) Revised; eff. 4–6–03 41117

145.2 Heading and (a) amended 21067

145.51—145.61 (Subpart B) Revised; eff. 4–6–03 41117

145.63 (c) amended 21067

Regulation at 65 FR 56206 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56206 eff. date delayed to 1–16–03 58912

145.79 Regulation at 65 FR 56206 eff. date delayed to 1–16–02 21626

Regulation at 65 FR 56206 eff. date delayed to 1–16–03 58912

145.101—145.109 (Subpart C) Revised; eff. 4–6–03 41117

145.151—145.163 (Subpart D) Revised; eff. in part 4–6–03 41117

145.163 Revised; eff. 4–6–05 41117

145.201—145.223 (Subpart E) Added; eff. 4–6–03 41117

145 Appendix A removed; eff. 4–6–03 41117

161.5 Amended 21067

170.3 Amended 21067

187.1 Amended 43717

187.15 (d) revised 43718

187 Appendix B revised 43718

193 Added 33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised 17356

CHANGES JANUARY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 14 Chapter II—Con.

330 Added 54620
330.11 (b) corrected 55554
382 Authority citation revised.........22115
  Nomenclature change 22115
382.39 (a)(2) revised 22115
  Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556
382.40a Added 22115
  Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180
  Regulation at 66 FR 2180 eff. date delayed..............................9509
406 Revised...2180
  Regulation at 66 FR 2180 eff. date delayed..............................9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1207 Authority citation revised 59137
1207.102 Revised 59137
1207.103 Added..................................59138
1214.900—1214.912 (Subpart 1214.9) Added 37411
1260.10 (c)(1) and (4) revised 54121
1260.11 (b) amended...........................54121
1260.22 Introductory text amended...54121
1260.26 Amended 54121
1260.1—1260.77 (Subpart A) Appendix amended..........................54121
1260.134 (a) amended 54125
1260.152 (b) removed; (c) redesignated as new (b) 54125

Chapter VI—Office of Management and Budget (Parts 1300—1399)

Chapter VI Established 52272

Proposed Rules:

13...37520, 52878
23 ....6492, 23199
25....14504, 15203, 18214, 26942, 26948, 26956, 26964, 27582, 48836
39.........57, 59, 61, 64, 1054, 1057, 1271, 1273, 1607, 1610, 1612, 1917, 1919, 2213, 3382, 3511, 3515, 3516, 3518, 3521, 6494, 6495, 6497, 6499, 7433, 8184, 9779, 10226, 10232, 10234, 10236, 10238, 10241, 10243, 10360, 10378, 10380, 10382, 10384, 10387, 10390, 10393, 10842, 10844, 10846, 10849, 10851, 10853, 10855, 10857, 10858, 10970, 10972, 10974, 10976, 11126, 12440, 12443, 12834, 12913, 13184, 13187, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13222, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348, 14865, 14867, 15062, 15362, 15363, 15365, 15369, 15662, 15664, 15666, 15667, 15670, 15814, 15817, 16017, 16156, 16418, 16422, 17091, 17094, 17097, 17099, 17101, 17103, 17105, 17115, 17118, 17121, 17123, 17125, 17127, 17641, 18416, 18573, 18575, 18877, 18878, 18880, 18882, 18884, 18886, 19727, 20111, 20114, 20116, 20218, 20409, 20760, 20763, 20766, 20768, 20946, 20948, 20950, 20952, 20954, 20957, 21107, 21291, 21292, 21294, 21697, 21699, 21700, 21703, 21892, 21893, 21896, 21898, 22478, 22479, 22482, 22484, 22486, 23632, 24304, 24306, 26815, 26817, 26819, 27475, 27914, 28133, 28402, 28850, 29268, 29514, 30093, 30095, 30097, 30099, 30101, 30103, 30105, 30107, 30109, 30112, 30114, 30341, 30343, 30345, 31189, 31192, 31194, 31566, 31569, 32276, 32591, 33214, 33649, 33651, 33653, 34128, 34130, 34132, 34134, 34377, 34589, 34591, 34593, 35912, 36215, 36509, 36513, 36516, 36520, 37197, 37435, 38168, 38170, 38173, 38176, 38178, 38180, 38183, 38185, 38188, 38191, 38193, 38195, 38198, 38200, 38203, 38206, 38209, 38211, 38214, 38217, 38220, 38583, 38585, 38587, 38588, 38961, 40161, 40162, 40645, 40646, 41808, 40926, 42970, 43124, 43126, 43228, 43130, 43811, 43814, 43815, 44089, 44093, 44311, 44313, 44316, 44319, 44320, 44322, 44323, 44326, 44553, 44556, 44558, 44560—44562, 44988, 44990, 45190, 45192, 45194, 45196, 45648, 45651, 45653, 45655, 45657, 45789, 45948, 45950, 45951, 46239, 46241, 46243, 46246, 46247, 46562, 46968, 47600, 47899, 47901, 48102, 48381, 48384, 48388, 48631, 48985,

48987, 48989, 48991, 48993, 49148, 49326, 50125, 50578, 50580, 50582, 50584, 50586, 50588, 50870, 50872, 50873, 50875, 50877, 50880, 50882, 50884, 50886, 50888, 50891, 50894, 50897, 50899, 50901, 50903, 50906, 50910, 50912, 50915, 50917, 51358, 51607, 51609, 51611, 52066, 52068, 52070, 52072, 52073, 53131, 53738, 53741, 53743, 54171, 54173, 54453, 54463, 54465, 54466, 54725, 54727, 54729, 54731, 54960, 55138, 55894, 55896, 55898, 56248, 56493, 56783, 57007, 57891, 57896, 57900, 57904, 57905, 57908, 58075, 58077, 58678, 58680, 58682, 58684, 58687, 58689, 58691, 58983, 59178, 59180, 59183, 59185, 59374, 59375, 59377, 59378, 59382, 59384, 59387, 59390

61 .... 37520, 52878

71 ..... 1921, 2850, 3886, 3887, 7435, 8772, 8773, 9986—9990, 10860, 10861, 12741, 17825, 17826, 17827, 18575, 18577, 18578, 18736, 18737, 19907, 19908, 19909, 21296, 22489, 22490, 29056, 29057, 29058, 29516, 30117—30120, 30654, 31196, 32593, 32781, 35914, 35916, 35917, 38223-38225, 38385, 38386, 39121, 42618, 42619, 43132, 43134, 44327, 44993, 44994, 45198, 45199, 45200, 45659, 45660, 46406, 47120, 49573, 49574, 49575, 52076, 56250, 56251, 56257—56259, 58080, 58081, 58082

73 .... 18055, 53132

81 44329

91 .... 33215, 37520

119 .... 37520, 52878

121 .... 21492, 21494, 42807, 46308, 55506

125 .... 37520, 52878, 55506

129 55506

135 .... 37520, 52878

136 21264

139 .... 42807, 46308

142 .... 37520, 52878

161 47601

183 38387

217 45201

241 45201

255 13860

271 44329

291 45201

298 45201

413 .... 9635, 10979

415 .... 9635, 10979

417 .... 9635, 10979

1260 54468

1274 54468

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

14 Nomenclature change 49828

14.25 (f) revised 49828

14 Appendix A amended 49828

101.1 Revised 11232

101.2 Removed 11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised 28832

Nomenclature change 28832

301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832

301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833

301.3 (d) amended; (f) redesignated as (g); new (f) added 28833

301.4 (a)(1) and (2) revised; (a)(3) amended 28833

301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added 28833

301.6 (a) and (c) revised 28834

301.7 (a) amended 28834

301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834

301.9 (a) introductory text amended 28834

301.10 Revised 28834

303.2 (a)(5), (13) and (b)(1) amended 34812

303.12 (a)(1) revised 34812

303.16 (a)(9) amended 34812

TITLE 15 Chapter III—Con.

(b)(1) amended 34813
303.17 (b)(4) amended....34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.4 (c) introductory text revised; interim....42109
736 Authority citation revised....49523
736.2 (b)(7)(i)(B) and (C) revised 49523
738 Authority citation revised....12846, 18402, 49523
738 Supplement No. 1 amended 12846, 18402, 49523
740 Authority citation revised 5444, 6465, 12846, 18402, 36680, 49523
740.1 (a) revised; interim....36680
(a) amended; interim....42109
740.2 (a)(6) added; interim....36680
740.7 Revised 5444
(d)(1) revised....12847
(d)(4) amended....6465
740.8 (c) amended; interim 42109
740.9 Heading and (a)(3)(i)(A) revised; (a)(2)(iii) amended; interim 42109
740.10 (a)(3)(iv) and (b)(3)(i)(D) amended; (b)(2)(iv) revised; interim 42110
740.13 (d)(3)(i) amended; interim 42110
740.15 (a)(1)(i), (ii), (2)(ii), (3)(iv) through (ix) amended; interim 42110
740.18 Added; interim....36680
740 Supplement No. 1 amended 12847, 18402, 49524
Supplement No. 1 amended; interim 42110
742 Authority citation revised....5444, 36680, 49523, 50091
742.2 (a)(2)(i)(C) added....49524
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim....36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim 36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended....5446
742.16 Removed 50091
742.18 Revised 49524
742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim 36682
744 Authority citation revised....12846, 18402, 24265, 50091
744.1 (c) amended 50091
744.11 Removed 50091
744.12 Removed 50091
744.16 Added....12847
744 Supplement No. 3 amended 18402
Supplement No. 4 amended 24265, 50091
745 Authority citation revised....49523
745.2 Amended 49525
745 Supplement No. 2 amended 49525
746 Authority citation revised....12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim 36682
746.3 (a) introductory text revised; interim....36682
746.7 Amended; interim 36683
746.9 Revised....12847
748 Authority citation revised....5444, 6465
748.10 (b)(3) revised....5447
(b)(3)(i) amended....6465
770 Authority citation revised....49523
770.2 (k) introductory text amended 49525
772 Authority citation revised 18402, 36680
772.1 Amended 18402
Amended; interim 36683
Amended; introductory text revised....36910
774 Authority citation revised 18403, 36680, 49523
774 Supplement No. 1, Category 3 (ECCN 3A001)....18403
Supplement No. 1, Category 3 (ECCN 4A003)....18405
Supplement No. 1, Category 1 (ECCN 1C997) amended; interim 36683
Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5

(ECCN 5A991) and Category 7 (ECCN 7A003) amended 36912
Supplement No. 1, Category 7 (ECCN 7E004) amended 36913
Supplement No. 1, Category 1 (ECCN 1C350) amended 49525
Supplement No. 1, Category 1 (ECCN 1C355 and 1C995) amended 49527
Supplement No. 1, Category 2 (ECCN 2B350 and 2B352) amended 49528

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table corrected (OMB numbers) 3451, 21643, 24056, 30652
922.81 Amended 46951
922.82 (a)(7) added 46951
922.122 (a)(2) revised............58371
922.161 Revised 4369
Regulation at 66 FR 4369 eff. date confirmed............16120, 33462
922.162 Amended 4369
Regulation at 66 FR 4369 eff. date confirmed............16120, 33462
922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added 4369
Regulation at 66 FR 4369 eff. date confirmed............16120, 33462
922.166 Heading revised 4369
Regulation at 66 FR 4369 eff. date confirmed............16120, 33462
922.167 Redesignated as 922.168 4369
Added............4370
Regulations at 66 FR 4369 4370 eff. date confirmed............16120, 33462
922.168 Redesignated from 922.167; new 922.168 revised 4369
Regulation at 66 FR 4369 eff. date confirmed............16120, 33462
922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
Regulation at 66 FR 4370 eff. date confirmed............16120, 33462
Appendix VII table amended 34534

Proposed Rules:

50 48013
80 48013
303............28404
700—799 (Ch. VII) 56260
801 ....45219, 46407
922 ....26822, 30828, 43135, 49576
990 ....39464, 50919

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

2 Authority citation revised 8721
Technical correction............20527
2.20 (Subpart B) Added; interim 8721
2.41 (a) amended; interim 17628
3.12 (a) revised; interim 17628
(a)(1) corrected 20527
3.21 (b) amended; interim 17628
3.22 (b) revised; (c) amended; interim 17628
3.24 (a)(2) amended; interim 17628
3.25 (c) Revised; interim 17628
3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim............17628
(b)(3) corrected 20527
3.33 (a) amended; interim 17629
3.34 Heading revised; (c) amended; interim 17629
3.36 Revised; interim 17629
(a) corrected 20527
3.39 (a) introductory text amended; interim 17629
(a) corrected 20527
3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
3.43 (b) revised; interim 17629
Designation, (b) introductory text and (2) corrected 20527
3.44 (c) amended; interim 17630
3.45 Revised; interim 17630
(b)(2) and (d) corrected 20527
3.46 (b)(7) and (c)(4) amended; interim 17631
3.51 (c)(1) amended; (c)(3) removed; interim............17631
3.52 Revised; interim 17631
(b), (e), (f)(2) and (j) corrected 20527
4 Authority citation revised............17632
4.1 (b)(1)(iv) note removed 13645
4.2 Revised; interim............17632

TITLE 16 Chapter I—Con.

(c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
4.3 (d) added; interim 17633
4.4 (a)(3) and (c) revised; (b) amended; interim 17633
(a)(3) and (b) corrected 20527
4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim 17633
4.10 (g)(1) revised; interim 17633
6 Authority citation revised 51863
6.101 Amended 51863
6.103 Amended 51863
6.152 Revised 51863
6.170 (b) amended; (d)(3) and (i)(2) revised 51864
305 Energy efficiency ranges 19389, 40110
Technical correction 59050
305.5 (a) revised 27858
305.6 (a) revised 27858
305.9 (a) revised 27858
305 Appendix C1 revised 49531
Appendices A1, A2 and A3 revised; eff. 2-19-02 57868
Appendices A4 and A5 revised; eff. 2-19-02 57869
Appendices A6 and A7 revised; eff. 2-19-02 57870
Appendices A8, B1 and B2 revised; eff. 2-19-02 57871
Appendix B3 revised; Appendices H and I amended; eff. 2-19-02 57872
801 Authority citation revised 8687
801.1 (h), (j) and (m) revised; interim 8687
(j) revised; interim 23565
801.2 (d) Examples 2 and 3 revised; interim 8688
801.4 (b) Examples 1 and 5 revised; interim 8688
801.10 Example revised; interim 8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim 8688
801.12 Heading revised; (c) and (d) removed; interim 8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim 8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim 8689
801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim 8689
801.20 Examples 1 and 2 revised; interim 8690
801.21 Introductory text revised; interim 8690
801.30 (b)(2) and Example 2 revised; interim 8690
801.31 Example revised; interim 8690
801.32 Example revised; interim 8690
801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim 8690
801.90 Examples 1 and 2 revised; interim 8691
802 Authority citation revised 8691
802.1 Examples 1 through 7, 9 and 10 revised; interim 8691
802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim 8692
(g) revised; interim 23565
802.3 Examples 2 and 3 revised; interim 8692
802.4 (a) and (c) Examples 1 and 2 revised; interim 8693
802.5 Example 2 revised; interim 8693
802.6 (b)(2)(ii) revised; interim 8693
802.9 Example 1 revised; interim 8693
802.20 Removed; interim 8693
802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim 8693
802.23 Example 2 revised; interim 8694
802.31 Example revised; interim 8694
802.35 Examples 1 and 2 revised; interim 8694
802.41 Examples 1 and 2 revised; interim 8694
802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim 8694

803 Authority citation revised	8694
803.1 (a) revised; interim	8695
803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim	8695
(b) introductory text, (1) introductory text and (c) introductory text revised; interim	23565
803.5 (a)(2) Examples 2 and 3 revised; interim	8695
803.7 Example revised; interim	8695
803.9 Added; interim	8695
803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added	8696
803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim	8697
803 Appendix revised; interim	8697
Appendix amended; interim	23566
Appendix amended	35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.26 Amended	38369
1000.27 Amended	38369
1115.12 (f) introductory text revised	54925
1500.18 (a)(18) added	13650
Corrected	15997
1500.86 (a)(7) and (8) added	13651
1700.14 (a)(30) added; eff. 1-29-02	40115
(a)(31) and (32) added; eff. 10-25-02	53956

Proposed Rules:

312	54963
314	41162
432	12915
801	8723
802	8723
1115	30655
1500	10863, 39692
1633	51886
1700	18738, 22491

C

TITLE 1
SECU

Chapter
Trading
1—199)

1 Fee sche
Order ....
Authorit
1.1 Revised
1.3 (gg)(3) a
Introduc
(g) added
1.10 (a)(2) a
1.12 (b)(2) r
1.17 (a)(1)(i
(h)(2)(v
(B)(*2*),
and (v)
(a)(1)(ii)
(a)(1)(i
....
1.32 Revise
1.33 (g) add
1.37 (a) r
(a)(2) a
(c) and (
1.41 Remov
1.41b Remo
1.43 Remov
1.45 Remov
1.46 (a) int
revised
and (9)
1.50 Remov
1.51 Remov
1.55 (d) and
1.68 Added
3 Technica
Authorit
3.1 (a)(1) a
3.10 (a)(1)(i
(d) ame
(a)(2)(ii)
designa
3.21 (c) int
....
3.31 (a) r
(a)(2) a
3.32 Remov
3.34 Remov
3 Appendi
Appendi
4.10 (e)(1) r
4.24 (f)(1)(v

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule 32737
  Order 34110
  Authority citation revised 42269
1.1 Revised 42269
1.3 (gg)(3) and (uu) added 20744
  Introductory text revised 42269
  (g) added 53516
1.10 (a)(2) and (j)(8) revised 53516
1.12 (b)(2) revised 20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) amended 20744
  (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added 53517
1.32 Revised 41133
1.33 (g) added 53517
1.37 (a) redesignated as (a)(1); (a)(2) added 20744
  (c) and (d) added 42269
1.41 Removed 42269
1.41b Removed 42269
1.43 Removed 42269
1.45 Removed 42269
1.46 (a) introductory text and (e) revised; (d)(4) through (7) and (9) removed 53517
1.50 Removed 42269
1.51 Removed 42269
1.55 (d) and (f) revised 53518
1.68 Added 20744
3 Technical correction 47059
  Authority citation revised 53518
3.1 (a)(1) and (2) revised 53518
3.10 (a)(1)(i) revised; (a)(3) added; (d) amended 43082
  (a)(2)(ii) removed; (a)(2)(i) redesignated as (a)(2) 53518
3.21 (c) introductory text revised 53518
3.31 (a) redesignated as (a)(1); (a)(2) added 53518
3.32 Removed 53518
3.34 Removed 53518
3 Appendix A amended 53518
  Appendix B amended 53521
4.10 (e)(1) revised 53522
4.24 (f)(1)(v) and (h)(2) revised 53522
4.32 Added 53522
4.34 (f)(1)(ii) and (h) revised 53522
5 Removed; Appendix A redesignated as Appendix A, Part 40 and heading revised; Appendix E redesignated as Appendix C, Part 40 42287
15 Authority citation revised 42269
15.05 Heading revised; (e) and (h) added 42269
30 Order 27859, 34110
  Compliance date 50102
36 Revised 42270
37 Added 42271
38 Added 42277
39 Added 45609
  Compliance date 50102
40 Added 42283
  Fee schedule 42289
  Compliance date 50103
40 Appendices A and C redesignated from Appendices A and E, Part 5 42287
41 Added 42287, 44511
  Heading and authority citation revised 44965
41.1 (a), (b) and (f) through (i) added 44965
41.21—41.25 (Subpart C) Added 55083
41.31—41.34 (Subpart D) Added 44965
41.41 Added 43086
140.91 (a)(8) added 43087
  (a)(7) added 53523
140.99 (i) amended; (i)(1) and (2) revised; (i)(3) added 44967
155.3 (b)(2) revised 53523
155.4 (b)(2) revised 53523
155.6 Added 53523
160 Added 21252
160.18 (b)(1) revised 24061
  (a) corrected 24183
166 Authority citation revised 42287
166.5 Added 42287
170 Authority citation revised 42288
  Technical correction 47059
170.8 Revised 42288
170.15 Revised 43083
180 Removed 42288
190.01 (bb) revised 20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended 38370
200.30-3 (a)(72) added; interim 27796
  (a)(73) added 31840

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 17 Chapter II—Con.

- (a)(74) added 35842
- (a)(73)(i) and (ii) amended; (iii) added 40886
- (a)(75) and (76) added 43721

200.30–4 (a)(12) added 35842
200.30–18 (h) and (i) redesignated as (i) and (j); new (h) added 35842
202.3 (b)(3) added; authority citation removed 43741
204.1—204.29 Authority citation revised 54130
204.1 (b) revised 54130
204.2 (a) revised 54130
204.3 (a) removed; (b) through (f) redesignated as (a) through (e); new (b), (c) and (e) revised 54130
204.4 (a) and (b) removed; (c) and (d) redesignated as new (a) and (b); new (a) revised 54130
204.5 Introductory text revised 54130
204.6 (a) and (d) revised 54131
204.8 Amended 54131
204.9 (c) and (d) revised 54131
204.10 Removed 54131
204.11 Amended 54131
204.30—204.44 (Subpart B) Authority citation revised 54131
204.31 (a) amended 54131
204.32 Amended 54131
204.33 Introductory text and (c) revised; (f) amended 54131
204.35 (a) amended 54131
204.36 (b) amended 54131
204.38 (a) amended 54132
204.40 (b) introductory text, (2) and (e) amended 54132
204.43 (a) introductory text revised; (a)(6) amended 54132
204.44 Amended 54132
204.50—204.56 (Subpart C) Authority citation revised 54132
204.50 Revised 54132
204.51 Removed 54132
204.52 (a) revised; (b) introductory text and (2) amended; (c) added 54132

- (c) corrected 56383

204.53 Removed 54132

- Corrected 56383

204.54 (a) introductory text amended; (b) removed; (c) redesignated as new (b); new (b) revised 54132
204.55 Revised 54132
204.56 Revised 54132
204.60—204.65 (Subpart D) Added 54132
204.75—204.77 (Subpart D) Redesignated as Subpart E 54132
204.76 (a) amended 54135
204.77 (c) removed; (a) and (b)(5) revised 54135
210 Policy statement 38149
211 Staff accounting bulletin 36457

- Policy statement 38149
- Interpretive releases 48336, 49274

231 Interpretive releases 33176, 49274
232.301 Revised 42942, 49830
239.32 Form F–2 amended 32539
239.33 Form F–3 amended 32539
240 Authority citation amended 21659, 43741, 55837

- Comment period extended 38370

240.3a4–2 Added; interim 27796
240.3a4–3 Added; interim 27796
240.3a4–4 Added; interim 27796
240.3a4–5 Added; interim 27796
240.3a4–6 Added; interim 27796
240.3a5–1 Added; interim 27798
240.3a55–1 Added 44514
240.3a55–2 Added 44514
240.3a55–3 Added 44514
240.3b–17 Added; interim 27798
240.3b–18 Added; interim 27798
240.6a–2 (e) revised; (f) added; authority citation removed 43741
240.6a–3 (c) added; authority citation removed 43741
240.6a–4 Added 43741
240.15a–7 Added; interim 27799
240.15a–8 Added; interim 27799
240.15a–9 Added; interim 27799
240.15a–10 Added 45146
240.15b2–2 (e)(2) and (3) amended; (e)(4) added 45147
240.15b11–1 Added 45147
240.17a–3 (a)(6), (7), (12)(i) introductory text and (ii) revised; (a)(12)(i)(*a*) through (*h*) redesignated as (a)(12)(i)(A) through (H); (a)(17) through (22), (f) and (g) added; authority citation removed; eff. 5–2–03 55838

- (a) introductory text, (5), (11)(ii), (12)(i)(A) through (F) and (H) amended; eff. 5–2–03 55840

240.17a–4 Authority citation removed....55838
  (a), (b) introductory text, (1), (4), (c), (d), (e) introductory text and (j) revised; (e)(5) through (8), (k) and (l) added: eff. 5–2–03....55840
  (b)(7), (e)(1), (f)(3)(ii) and (vii) amended; eff. 5–2–03....55841
240.17a–24 Added....35843
240.17Ad–7 (f) revised; authority citation removed....21659
240.19b–4 (a) revised....43743
240.19b–7 Added....43743
241 Interpretive releases....22921, 33176, 49274
242.303 (d) amended; eff. 5–2–03....55841
248.2 Existing text designated as (a); (b) added....45147
248.3 (m)(5) and (6) amended; (m)(7) added; (n)(2)(i) removed; (n)(2)(ii) and (iii) redesignated as new (n)(2)(i) and (ii)....45147
249.1a Correctly removed; CFR correction....36701
249.10 Form 1–N added....43743
249.220f Form 20–F amended....32539
249.501b Form BD–N added....45147
249.819 Revised: Form 19b–4 amended....43743
249.822 Form 19b–7 added....43744
251 Interpretive releases....33176
257 Authority citation added....29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j)....29474
257.2 Authority citation removed....29474
270 Technical correction....30311
  Compliance date....50102
270.2a–7 (a)(5), (11) and (20) revised....36161
270.5b–3 Added....36161
270.12d3–1 (d)(8) note removed....36162
270.31a–2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added....29228
271 Interpretive releases....33177
274 Compliance date....50102
274.101 Form N-SAR amended....36162
275 Technical correction....30311
275.204–2 (g)(1) and (2) revised; (g)(3) added; authority citation removed....29228

Chapter IV—Department of the Treasury (Parts 400—499)

242.303 (d) amended; eff. 5–2–03....55841
450 Authority citation revised....28655
450.2 (e) revised....28655
  (e) table corrected....29888

Proposed Rules:

1....45221, 50786, 55608
3....27476, 33494, 45221
4....45221
39....24308
41....20118, 27560, 29517, 34864, 36218, 37932, 45904, 50720, 50786, 55608, 56902, 58007
140....20118, 29517, 45221
155....36218, 45221
170....27476, 33494
190....50786, 55608
202....26978
230....50744
232....50744
239....50744
240....26978, 27560, 34042, 34864, 38390, 45904, 49877, 50744, 50786, 55608
242....50720, 55608, 56902, 58007
248....34042
249....26978, 34042, 50744
269....50744
270....57602, 57614, 58412

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

11 Appendix A revised....59361

Proposed Rules:

1—399 (Ch. I)....50591
2....40929
35....40929, 55140
37....40929, 50919, 55900
161....50919, 55900
250....50919, 55900
284....50919, 53134, 55900
358....50919, 55900

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting........................19720
10 Authority citation amended 50537
10.184 Undesignated center heading added; section revised; interim........................20395
10.222 Introductory text amended; interim 50537
10.223 (a)(6) and (7) amended; interim 50537
10.228 Added; interim........................50537
  (c)(3)(ii) introductory text and (E) corrected 51864
24.24 (e)(4)(i) and (ii)(A) corrected; interim........................21086
  (e) heading and (4) revised; (e)(2)(ii) amended 34818
101 Authority citation amended 56431
101.5 Revised........................56431
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim........................21661
  Table corrected 23981
122.15 (b) table amended........49275, 50104
132 Authority citation amended 21666
  Technical correction........................27454
132.18 Added; interim........................21666
148.101 *Examples 1* and *2* amended 46218
148.102 Revised........................46218
159 Authority citation amended 48552
159.4 Corrected........................20589
159.5 Corrected........................20589
159.6 Corrected........................20589
159.7 Corrected........................20589
159.21 Corrected........................20589
159.22 Corrected........................20589
159.44 Corrected........................20589
159.46 Corrected........................20589
159.55 Corrected........................20589
159.57 Corrected........................20589
159.61—159.64 (Subpart F) Added 48552
163 Appendix amended; interim 21667, 50541
  Technical correction........................27454
178.2 Table amended........................48555

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim 32218

Proposed Rules:

4........................21705
12........................42163
24........................21705
101........................21705
113........................42163
122........................40649
123........................40649
141........................57688
142........................57688
151........................42163
159........................33920
162........................42163
177........................37370, 39293, 45235

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim 28961
  Comment period reopened........................47382
30 (Subchapter C) Added; interim 28962
  Comment period reopened........................47382
30.100 OMB number pending 28962
30.101 OMB number pending 28962
30.102 OMB number pending 28962
30.111 OMB number pending 28962
30.112 OMB number pending 28962
30.206 OMB number pending 28962
30.207 OMB number pending 28962
30.213 OMB number pending 28962
30.214 OMB number pending 28962
30.216 OMB number pending 28962
30.217 OMB number pending 28962
30.401 OMB number pending 28962
30.415 OMB number pending 28962
30.416 OMB number pending 28962
30.417 OMB number pending 28962
30.420 OMB number pending 28962
30.421 OMB number pending 28962
30.505 OMB number pending 28962
30.617 OMB number pending 28962
30.700 OMB number pending 28962

30.701 OMB number pending 28962
30.702 OMB number pending 28962

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added....27454
369 Added....29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised....38906
404.401 (c) revised....38906
404.1203 OMB number....28836
404.1204 OMB number....28836
404.1214 OMB number....28836
404.1215 OMB number....28836
404.1216 OMB number....28836
404.1220 OMB number....28836
404.1225 OMB number....28836
404.1237 OMB number....28836
404.1239 OMB number....28836
404.1242 OMB number....28836
404.1243 OMB number....28836
404.1247 OMB number....28836
404.1249 OMB number....28836
404.1251 OMB number....28836
404.1265 OMB number....28836
404.1271 OMB number....28836
404.1272 OMB number....28836
404.1292 OMB number....28836
404.1501—404.1599 (Subpart P) Appendix 1 amended....34362, 58037, 58040, 58041, 58044, 58045
  Appendix 2 revised....45166
416.501—416.586 (Subpart E) Authority citation revised....38906
416.570 Amended 38906
416.572 Added 38906
416.926a (m)(2) and (4) revised 58045
416.933 Amended 58046
416.934 (a) and (h) removed; (b) through (g), (i) and (j) redesignated as (a) through (h)....58046

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.2 (c) added; interim....56962
655.0 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.00 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.90—655.113 (Subpart B) Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.92 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.100 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.101 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.103 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.104 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.105 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
  Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.106 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275

TITLE 20 Chapter V—Con.

Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02........51095
655.108 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02........49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02........51095
655.112 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02........49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02........51095
655.114 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02........49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02........51095
656 Authority citation revised........40590
656.21 (i)(6) added........40590

Proposed Rules:

200........46408
217........59548
404........43136, 57009, 59306
416........38963
422........43136
655........49328, 49329, 53745, 53746

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1 Nomenclature change........56034
5 Revised........30993
Nomenclature change........56034
10 Nomenclature change........56034
14.75 Regulation at 66 FR 1259 withdrawn........20401
50 Authority citation revised........20597
50.1 (a) amended; interim........20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim........20597
50.50—50.56 (Subpart D) Added; interim........20598
56 Authority citation revised........20599
56.101 (a) amended; interim........20599
56.102 (b)(21), (22) and (23) added; interim........20599
56.109 (h) added; interim........20599
56.111 (c) added; interim........20599
70 Nomenclature change........56034
71 Nomenclature change........56034
73 Nomenclature change........56034
80 Nomenclature change........56034
100 Nomenclature change........56034
101 Policy statement........30311
Comment period reopened........50824
Nomenclature change........56034
102 Nomenclature change........56034
106 Nomenclature change........56034
107 Nomenclature change........56034
108 Nomenclature change........56034
109 Nomenclature change........56034
110 Nomenclature change........56034
130 Nomenclature change........56034
151 Regulation at 66 FR 3458 eff. date delayed........42415
161 Nomenclature change........56034
165 Nomenclature change........56034
165.110 (b)(1)(ii) revised........35373
170 Nomenclature change........56034
172 Nomenclature change........56034
172.615 (a) table amended........38153
(a) table corrected........53711
172.892 (i) introductory text revised; (i) table amended........17509
173 Nomenclature change........56034
173.115 Added........27022
173.325 (b)(1)(iii), (iv) and (v) amended........22922
(f) redesignated as (g); new (f) added........31841
173.368 Added........33830
173.370 (b) and (c) revised........48208
175 Nomenclature change........56034
176 Nomenclature change........56034
177 Nomenclature change........56034
178 Nomenclature change........56034
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added........18539
180 Nomenclature change........56034
181 Nomenclature change........56034
184 Nomenclature change........56034
189 Nomenclature change........56034
190 Nomenclature change........56034
207 Authority citation revised........59156
207.3 (a)(5) revised; (a)(11) added........59156
207.7 (a) revised........59156
207.10 Heading and introductory text revised........59156
207.20 (a) and (c) revised........59157
207.21 (a) revised........59157
207.37 (a) introductory text and (b) revised........59157

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

207.40 Revised 59157
211 Nomenclature change 56034
310 Technical correction 53088
310.545 (a)(6)(iv)(D) and (d)(33) added; (d) introductory text revised 49277
341 Policy statement 49276
510.600 (c)(1) table and (2) table amended......17510, 22117, 22118, 23588, 32739, 36162, 43773, 46367, 46368, 46519, 47960, 56035
520.48 Revised 47960
520.445b (b) and (d)(4)(iii)(C) amended 35898
520.905a (b) amended 47960
520.905b (b) amended 47960
520.905c (b) amended 47960
520.905d (b) amended 47960
520.905e (b) amended 47960
520.1010 Revised 47960
520.1010a Removed 47961
520.1010b Removed 47961
520.1010c Removed 47961
520.1196 (b) amended 35756
520.1310 (a) and (d) revised 46369
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 21282
(d)(1)(iii)(C) amended 29020
(a)(9), (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 58935
520.1840 (a), (b) and (c) revised 47963
520.1855 Added 43774
520.2095 Removed 21282
520.2460 Removed 22117
520.2460a Removed 22117
520.2460b Removed 22117
520.2520a Removed 23588
522.313 Heading revised; (d)(8) added 21283
(d)(1)(i) amended 32540
522.575 (b) amended 46705
522.840 (b) amended 56035
522.1010 Revised 47961
522.1081 (b) removed 22117
522.1183 (c) removed 22117
522.1258 Removed 23588
522.1451 Added 35756
522.1680 (b) amended 22117
522.1704 (b) removed 23588
522.1884 (c) amended; (d)(2)(iv) removed 23589
522.2095 Removed 21282
522.2120 (b) amended 22118
522.2476 Revised 47961
522.2477 (b) revised 47961
522.2640b Revised 22117
524.321 Revised 22117
524.390c Removed 42731
524.520 (b) amended 46706
524.1451 (d) redesignated as (e); new (d) added; new (e)(2) revised; new (e)(3) amended 46370
524.2140 Removed 42731
524.2620 (a)(2) amended 46369
524.2640 Removed 22117
529.360 Removed 22117
529.1186 (b) amended 17510
556.163 Revised 35544
556.347 Revised 19854
556.428 Revised 23589
556.500 (b) revised 46370
556.594 Removed 21282
558.4 (d) amended 21862
558.55 (d)(2) table amended 20083, 20402
(d)(2)(iii) table amended 47962
558.58 (d)(1) table amended; (d)(1)(v) removed 46519
(d)(1)(iii) table amended.....46706, 47963
(d)(1)(ii) table and (iii) table amended 47962
558.62 (c)(1) table amended 57873
558.76 (d)(1)(iv) table amended 46706
558.78 (a)(1) revised; (a)(2) removed; (a)(3) redesignated as (a)(2); (d)(1) table and (2)(ii) amended 46706
558.95 (d)(5)(iv) and (v) amended 27022
(d)(1)(x) removed; (d)(1)(xi)(*b*), (xii)(*b*) and (xiv)(*b*) amended 46706
(a)(1), (2), (5), (d)(1)(vi)(*b*), (vii)(*b*), (xi)(*b*) and (xii)(*b*) amended 47962
558.115 (a) amended 47963
558.120 (d)(1)(iii)(*b*) amended 46706
558.128 (a) revised; (d)(1) table and (2) amended 46706
(a)(1) and (d)(1) table amended 47963
558.140 (a) amended 46706
558.145 (a)(1) and (2) amended 46706
558.155 (a)(1) and (2) amended 46706
558.195 (d) table amended 46706
558.198 (d)(1)(iii) table amended 47962
(d)(1)(iv) table and (v) table amended 47963
558.258 (a) amended 47962
Revised 58935
558.265 (a) amended 47962

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 21 Chapter I—Con.

558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended 22118
  (a)(2), (4) and (c)(1) table amended; (a)(3) removed..........23589
558.305 (a) amended..........46706
558.311 (e)(1) table amended..........29020
  (e)(1) table amended..........46371
  (b) and (e) amended..........46706
  (d)(7) added; (e)(1) table, (2)(iv) and (3)(iv) amended; (e)(1)(ix), (xii), (2)(iii) and (3)(iii) revised..........47076
  (b)(2) and (e)(1)(xv) amended..........47963
558.340 (a) amended..........46706
558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended..........46706
  (b)(5), (12), (f)(1)(xiii)(*b*), (xx)(*b*), (xxi)(*b*), (xxii)(*b*) and (2)(iv)(*b*) amended..........47963
  (b)(10), (f)(2)(v)(*b*), (vi)(*b*) amended..........47962
558.360 (a) amended..........47963
558.363 (d)(1)(xii) added..........27022
  (a)(7) and (d)(1)(x)(B) amended..........46706
  (a)(4), (5), (d)(1)(vii)(B), (xii)(B) amended..........47962
558.365 (d)(1)(ii) and (iii) removed; (d)(1)(i)((*a*) and (*b*) redesignated as new (d)(1)(ii) and (iii)..........45167
558.366 (c) table amended..........46706, 47962
558.435 (a) amended..........47963
558.450 (a)(1), (d)(1) table and (2) table amended..........32740
  (d)(1) Table 1 amended..........47963
558.460 (b) amended..........47963
558.465 (a) amended..........47963
558.485 (a), (b) and (d)(1) revised..........47963
558.500 (d)(1) revised..........21284
558.515 (a) and (d) amended..........46706
  (d) table amended..........47963
558.550 (a)(1), (d)(1) and (3) amended; (a)(3) removed..........46707
  (d)(1)(x)(*c*) and (xii)(*c*) amended..........47964
  (a)(2), (d)(1)(xv)(*c*) and (xvi)(*c*) amended..........47962
558.555 (a) revised; (c) removed; (b) redesignated as new (c); new (b) added; (d) amended..........47964
558.575 (a)(1) and (2) amended..........46707
558.582 (a) amended..........46707
558.600 (c)(4)(ii) amended..........46707
558.625 (f)(2)(vii) added..........21284
  (b)(2), (13) and (73) removed..........22117
  (b)(16), (19) and (34) removed; (b)(79) amended..........22118
  (b)(17) removed..........23589
  (b)(9) removed..........36162
  (b)(25) amended..........47964
558.630 (b)(8) amended..........22118
  (b)(4) removed; (b)(10) amended..........23589
  (b)(10) amended..........36162
558.635 (a)(1) amended..........47964
579.22 Heading, introductory text and (b) revised..........18540
606.3 (j) revised..........40889
606.100 (b)(20) added..........31176
606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended..........31162
606.151 (b) and (c) revised..........40889
606.160 (b)(1)(ix), (x) and (xi) added..........31176
607 Authority citation revised..........59158
607.3 (b) and (e) revised; (j) added..........59158
607.7 (b) and (c) revised..........59158
607.20 (a) revised..........59158
607.22 Revised..........59158
607.25 (a) amended; (b)(3) revised..........59158
607.26 Amended..........59158
607.31 Revised..........59158
607.35 (a) revised..........59159
607.37 (a) introductory text and (b) revised..........59159
607.40 Revised..........59159
607.65 (g) removed..........31162
  Introductory text revised..........59159
610.40—610.47 (Subpart E) Heading revised..........31162
610.40 Revised..........31162
610.41 Revised..........31164
610.42 Added..........31164
610.44 Added..........31164
610.45 Removed..........31165
630 Added..........31176
640.2 (d) removed..........31165
  (b) revised..........40889
640.3 (c)(1) revised..........40889
640.4 (g) introductory text, (1), (2), (4) and (5) revised..........40889
640.5 (f) revised..........31165
  Introductory text and (c) revised..........40889
640.14 Amended..........31165

640.15 Revised 40890
640.16 (a) revised 40890
640.23 (a) amended 31165
640.24 (b) revised 40890
640.33 (a) amended 31165
640.34 (a) through (d) and (e)(1) revised 40890
640.53 (a) amended 31165
640.54 (a)(2) revised 40890
640.63 (c)(11) revised 40890
640.67 Revised 31165
640.70 (a)(2) revised 31165
660.20 Regulation at 65 FR 77499 confirmed 20402
660.21 Regulation at 65 FR 77499 confirmed 20402
660.42 Removed 31165
660.50 Regulation at 65 FR 77499 confirmed 20402
660.51 Regulation at 65 FR 77499 confirmed 20402
701 Nomenclature change 56034
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff) 23156
803.10 (b) revised; (c)(5) removed 23157
803.17 (b)(3) revised 23157
803.19 (a)(2) revised 23157
803.20 (a) introductory text, (2) and (c)(1) revised 23157
803.50 (b)(1)(i) and (2) revised 23157
803.52 (d)(1), (f)(11)(i) and (ii) revised 23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5) 23157
807 Authority citation revised 59159
807.3 (b) and (r) revised 59159
807.20—807.39 (Subpart B) Heading revised 59160
807.20 (a) revised 59160
807.25 (a) amended 59160
807.40 Revised 59160
807.65 Introductory text revised 59160
809.20 (b) revised 31165
862.1190 (b) revised 38787
862.1210 (b) revised 38787
862.1255 (b) revised 38787
862.1290 (b) revised 38787
862.1305 (b) revised 38787
862.1320 (b) revised 38787
862.1365 (b) revised 38787
862.1380 (b) revised 38787
862.1420 (b) revised 38788
862.1470 (b) revised 38788
862.1490 (b) revised 38788
862.1515 (b) revised 38788
862.1565 (b) revised 38788
862.1575 (b) revised 38788
862.1640 (b) revised 38788
862.1670 (b) revised 38788
862.1720 (b) revised 38788
862.1815 (b) revised 38788
862.2050 (b) revised 38788
862.2100 (b) revised 38788
862.2230 (b) revised 38788
862.2310 (b) revised 38788
862.2320 (b) revised 38788
862.2485 (b) revised 38788
862.2720 (b) revised 38788
862.2800 (b) revised 38788
862.2920 (b) revised 38788
864.1850 (b) revised 38789
864.2220 (a) revised 27024
(b) revised 38789
864.2240 (b) revised 38789
864.2260 (b) revised 38789
864.2360 (b) revised 38789
864.2800 (b) revised 38789
864.2875 (b) revised 38789
864.3010 (b) revised 38789
864.3300 (b) revised 38789
864.3400 (b) revised 38789
864.3600 (b) revised 38789
864.3800 (b) revised 38789
864.3875 (b) revised 38789
864.4010 (b) revised 38789
864.4400 (b) revised 38789
864.5350 (b) revised 38789
864.5800 (b) revised 38790
864.5850 (b) revised 38790
864.6160 (b) revised 38790
864.6600 (b) revised 38790
864.6700 (b) revised 38790
864.7660 (b) revised 38790
864.7675 (b) revised 38790
864.7900 (b) revised 38790
864.8200 (b) revised 38790
864.8500 (b) revised 38790
864.8540 (b) revised 38790
866.2050 (b) revised 38790
866.2120 (b) revised 38790
866.2160 (b) revised 38790
866.2170 (b) revised 38790
866.2180 (b) revised 38790
866.2300 (b) revised 38790
866.2320 (b) revised 38790
866.2330 (b) revised 38791
866.2350 (b) revised 38791
866.2360 (b) revised 38791

TITLE 21 Chapter I—Con.

866.2440 (b) revised....38791
866.2450 (b) revised....38791
866.2480 (b) revised....38791
866.2500 (b) revised....38791
866.2540 (b) revised....38791
866.2580 (b) revised....38791
866.2600 (b) revised....38791
866.3010 (b) revised....38791
866.3020 (b) revised....38791
866.3035 (b) revised....38791
866.3065 (b) revised....38791
866.3125 (b) revised....38791
866.3205 (b) revised....38791
866.3250 (b) revised....38791
866.3255 (b) revised....38791
866.3270 (b) revised....38792
866.3330 (b) revised....38792
866.3340 (b) revised....38792
866.3400 (b) revised....38792
866.3410 (b) revised....38792
866.3470 (b) revised....38792
866.3490 (b) revised....38792
866.3520 (b) revised....38792
866.3630 (b) revised....38792
866.3700 (b) revised....38792
866.3720 (b) revised....38792
866.4100 (b) revised....38792
866.4500 (b) revised....38792
866.4520 (b) revised....38792
866.4540 (b) revised....38792
866.4600 (b) revised....38792
866.4800 (b) revised....38792
866.4830 (b) revised....38792
866.4900 (b) revised....38792
866.5170 (b) revised....38793
866.5220 (b) revised....38793
866.5230 (b) revised....38793
866.5360 (b) revised....38793
866.5370 (b) revised....38793
866.5520 (b) revised....38793
866.5530 (b) revised....38793
866.5540 (b) revised....38793
866.5700 (b) revised....38793
866.5800 (b) revised....38793
866.5860 (b) revised....38793
868.1030 (b) revised....38793
868.1100 (b) revised....38793
868.1150 (b) revised; (c) removed
....57368
868.1170 (b) revised; (c) removed
....57368
868.1200 (b) revised; (c) removed
....57368
868.1575 (b) revised....38793
868.1870 (b) revised....38793
868.1930 (b) revised....38793
868.1965 (b) revised....38793
868.1975 (b) revised....38793
868.2300 (b) revised....38794
868.2320 (b) revised....38794
868.2340 (b) revised....38794
868.2350 (b) revised....38794
868.2610 (b) revised....38794
868.2620 (b) revised....38794
868.2700 (b) revised....38794
868.2875 (b) revised....38794
868.2885 (b) revised....38794
868.5100 (b) revised....38794
868.5110 (b) revised....38794
868.5220 (b) revised....38794
868.5240 (b) revised....38794
868.5280 (b) revised....38794
868.5300 (b) revised....38794
868.5310 (b) revised....38794
868.5320 (b) revised....38794
868.5340 (b) revised....38794
868.5350 (b) revised....38794
868.5365 (b) revised....38794
868.5375 (b) revised....38795
868.5420 (b) revised....38795
868.5460 (b) revised....38795
868.5530 (b) revised....38795
868.5540 (b) revised....38795
868.5550 (b) revised....38795
868.5560 (b) revised....38795
868.5570 (b) revised....38795
868.5580 (b) revised....38795
868.5590 (b) revised....38795
868.5600 (b) revised....38795
868.5760 (b) revised....38795
868.5770 (b) revised....38795
868.5780 (b) revised....38795
868.5790 (b) revised....38795
868.5795 (b) revised....38795
868.5810 (b) revised....38795
868.5820 (b) revised....38795
868.5860 (b) revised....38796
868.5975 (b) revised....38796
868.5995 (b) revised....38796
868.6100 (b) revised....38796
868.6175 (b) revised....38796
868.6225 (b) revised....38796
868.6400 (b) revised....38796
868.6700 (b) revised....38796
868.6820 (b) revised....38796
868.6885 (b) revised....38796
870.1875 (a)(2) revised....38796
870.2390 (b) revised....38796
870.2600 (b) revised....38796
870.2620 (b) revised....38796
870.2640 (b) revised....38796
870.2810 (b) revised....38796

870.3450 Revised	18542
870.3460 Removed	18542
870.3620 (b) revised; (c) removed	18542
870.3650 (b) revised	38796
870.3670 (b) revised	38796
870.3690 (b) revised	38796
870.3730 (b) revised	38797
870.3800 (b) revised; (c) removed	18542
870.3945 (b) revised	38797
870.4230 (b) revised; (c) removed	18542
870.4260 (b) revised; (c) removed	18542
870.4350 (b) revised; (c) removed	18542
870.4500 (b) revised	38797
872.1500 (b) revised	38797
872.1730 (b) revised	38797
872.1820 (b) revised	38797
872.1840 (b) revised	38797
872.1850 (b) revised	38797
872.1905 (b) revised	38797
872.3080 (b) revised	38797
872.3100 (b) revised	38797
872.3110 (b) revised	38797
872.3130 (b) revised	38797
872.3140 (b) revised	38797
872.3150 (b) revised	38797
872.3165 (b) revised	38797
872.3220 (b) revised	38797
872.3240 (b) revised	38798
872.3285 (b) revised	38798
872.3330 (b) revised	38798
872.3350 (b) revised	38798
872.3360 (b) revised	38798
872.3410 (b) revised	38798
872.3490 (b) revised	38798
872.3520 (b) revised	38798
872.3530 (b) revised	38798
872.3580 (b) revised	38798
872.3670 (b) revised	38798
872.3730 (b) revised	38798
872.3740 (b) revised	38798
872.3810 (b) revised	38798
872.3830 (b) revised	38798
872.3840 (b) revised	38798
872.3850 (b) revised	38798
872.3900 (b) revised	38798
872.3910 (b) revised	38799
872.4130 (b) revised	38799
872.4565 (b) revised	38799
872.4620 (b) revised	38799
872.4630 (b) revised	38799
872.4730 (b) revised	38799
872.5410 (b) revised	38799
872.5525 (b) revised	38799
872.6010 (b) revised	38799
872.6030 (b) revised	38799
872.6050 (b) revised	38799
872.6100 (b) revised	38799
872.6140 (b) revised	38799
872.6200 (b) revised	38799
872.6290 (b) revised	38799
872.6475 (b) revised	38799
872.6510 (b) revised	38800
872.6570 (b) revised	38800
872.6650 (b) revised	38800
872.6670 (b) revised	38800
872.6710 (b) revised	38800, 46952
872.6855 (b) revised	38800
872.6865 (b) revised	38800
872.6870 (b) revised	38800
872.6880 (b) revised	38800
872.6890 (b) revised	38800
874.1060 (b) revised	38800
874.1080 (b) revised	38800
874.3375 (b) revised	38800
874.4140 (b) revised	38800
874.4175 (b) revised	38801
874.4350 (b) revised	38801
874.4750 (b) revised	38801
874.4770 (b) revised	38801
874.5220 (b) revised	38801
874.5800 (b) revised	38801
876.1075 (b)(2) revised	38801
876.1500 (b)(2) revised	38801
876.4530 (b) revised	38801
876.4560 (b) revised	38801
876.4590 (b) revised	38801
876.4730 (b) revised	38801
876.4890 (b)(2) revised	38801
876.5030 (b) revised	38801
876.5090 (b)(2) revised	38801
876.5130 (b)(2) revised	38801
876.5250 (b)(2) revised	38802
876.5450 (b) revised	38802
876.5520 (b)(2) revised	38801
876.5540 (b)(4) revised	38801
876.5820 (b)(2) revised	38802
876.5885 Added	27025
876.5900 (b) revised	38802
876.5920 (b) revised	38802
876.5970 (b) revised	38802
878.1800 (b) revised	38802
878.3750 (b) revised	38802
878.3800 (b) revised	38802
878.3900 (b) revised	38802
878.4160 (b) revised	38802
878.4380 (b) revised	38802
878.4440 (b) revised	38803

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 21 Chapter I—Con.

878.4450 (b) revised..........38803
878.4460 (b) revised..........38803, 46952
878.4470 (b) revised..........38803
878.4635 (b) revised..........38803
878.4660 (b) revised..........38803
878.4700 (b) revised..........38803
878.4730 (b) revised..........38803
878.4800 (b) revised..........38803
878.4810 (b)(2) revised..........38803
878.4930 (b) revised..........38803
878.4950 (b) revised..........38803
878.5350 (b) revised..........38803
878.5900 (b) revised..........38803
878.5910 (b) revised..........38803
880.2400 (b) revised..........38803
880.2700 (b) revised..........38803
880.2720 (b) revised..........38803
880.2740 (b) revised..........38804
880.2900 (b) revised..........38804
880.5075 (b) revised..........38804
880.5110 (b) revised..........38804
880.5120 (b) revised..........38804
880.5150 (b) revised..........38804
880.5160 (b) revised..........38804
880.5180 (b) revised..........38804
880.5210 (b) revised..........38804
880.5240 (b) revised..........38804
880.5300 (b) revised..........38804
880.5510 (b) revised..........38804
880.5560 (b) revised..........38804
880.5630 (b) revised..........38804
880.5640 (b) revised..........38804
880.5680 (b) revised..........38805, 46952
880.5740 (b) revised..........38805
880.5780 (b)(2) revised..........38805
880.5820 (b) revised..........38805
880.5950 (b) revised..........38805
880.6025 (b) revised..........38805
880.6050 (b) revised..........38805
880.6060 (b) revised..........38805
880.6070 (b) revised..........38805
880.6080 (b) revised..........38805
880.6085 (b) revised..........38805
880.6140 (b) revised..........38805
880.6150 (b) revised..........38805
880.6185 (b) revised..........38806
880.6190 (b) revised..........38806
880.6200 (b) revised..........38806
880.6230 (b) revised..........38806
880.6250 (b) revised..........38806, 46952
880.6265 (b) revised..........38806
880.6280 (b) revised..........38806
880.6320 (b) revised..........38806
880.6350 (b) revised..........38806
880.6375 (b) revised..........38806, 46952
880.6430 (b) revised..........38806
880.6450 (b) revised..........38806
880.6730 (b) revised..........38806
880.6760 (b) revised..........38806, 46952
880.6785 (b) revised..........38807
880.6800 (b) revised..........38807
880.6820 (b) revised..........38807
880.6900 (b) revised..........38807
880.6960 (b) revised..........38807
880.6970 (b) revised..........38807
880.6980 (b) revised..........38807
882.1030 (b) revised..........38807, 46952
882.1410 (b) revised..........38807
882.1420 (b) revised..........38807, 46953
882.1430 (b) revised..........38807
882.1525 (b) revised..........38807
882.1700 (b) revised..........38807
882.1925 (b) revised..........38807
882.4030 (b) revised..........38808
882.4125 (b) revised..........38808
882.4200 (b) revised..........38808
882.4215 (b) revised..........38808
882.4325 (b) revised..........38808
882.4440 (b) revised..........38808
882.4500 (b) revised..........38808
882.4525 (b) revised..........38808
882.4535 (b) revised..........38808
882.4600 (b) revised..........38808
882.4900 (b) revised..........38808
884.1550 (b) revised..........38808
884.1640 (b)(2) revised..........38808
884.1690 (b)(2) revised..........38808
884.1700 (b)(2) revised..........38808
884.1720 (b)(2) revised..........38808
884.1730 (b)(2) revised..........38809
884.2900 (b) revised..........38809
884.2980 (a)(2) revised..........38809, 46953
884.2982 (a)(2) revised..........38809, 46953
884.4520 (b) revised..........38809
884.4530 (b)(2) revised..........38809
884.5150 (b) revised..........38809
884.5425 (b)(1) revised..........38809
884.5900 (b)(2) revised..........38809
884.5920 (b) revised..........38809
884.6190 (b) revised..........38809
886.1040 (b) revised..........38809
886.1050 (b) revised..........38809
886.1070 (b) revised..........38810
886.1090 (b) revised..........38810
886.1140 (b) revised..........38810
886.1150 (b) revised..........38810
886.1160 (b) revised..........38810
886.1170 (b) revised..........38810
886.1190 (b) revised..........38810
886.1200 (b) revised..........38810
886.1250 (b) revised..........38810
886.1270 (b) revised..........38810

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

886.1290 (b) revised	38810
886.1320 (b) revised	38810
886.1330 (b) revised	38810
886.1340 (b) revised	38810
886.1375 (b) revised	38810
886.1380 (b) revised	38810
886.1390 (b) revised	38811
886.1395 (b) revised	38811
886.1400 (b) revised	38811
886.1405 (b) revised	38811
886.1410 (b) revised	38811
886.1415 (b) revised	38811
886.1420 (b) revised	38811
886.1425 (b) revised	38811
886.1430 (b) revised	38811
886.1435 (b) revised	38811
886.1450 (b) revised	38811
886.1460 (b) revised	38811
886.1500 (b) revised	38811
886.1605 (b) revised	38811
886.1650 (b) revised	38812
886.1655 (b) revised	38812
886.1660 (b) revised	38812
886.1665 (b) revised	38812
886.1680 (b) revised	38812
886.1690 (b) revised	38812
886.1700 (b) revised	38812
886.1750 (b) revised	38812
886.1760 (b) revised	38812
886.1770 (b) revised	38812
886.1790 (b) revised	38812
886.1800 (b) revised	38812
886.1810 (b) revised	38812
886.1840 (b) revised	38812
886.1860 (b) revised	38812
886.1870 (b) revised	38813
886.1880 (b) revised	38813
886.1905 (b) revised	38813
886.1910 (b) revised	38813
886.1945 (b) revised	38813
886.3200 (b) revised	38813
886.3920 (a) amended	18542
886.4230 (b) revised	38813
886.4250 (b) revised	38813
886.4335 (b) revised	38813
886.4350 (b) revised	38813
886.4360 (b) revised	38813
886.4445 (b) revised	38813
886.4570 (b) revised	38813
886.4770 (b) revised	38813
886.4855 (b) revised	38814
886.5120 (b) revised	38814
886.5420 (b) revised	38814
886.5540 (b) revised	38814
886.5600 (b) revised	38814
886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815
888.5850 (b) revised	38815
888.5890 (b) revised	38815
888.5940 (b) revised	38815
888.5960 (b) revised	38816
888.5980 (b) revised	38816
890.1575 (b) revised	38816
890.1600 (b) revised	38816
890.1615 (b) revised	38816
890.3025 (b) revised	38816
890.3075 (b) revised	38816
890.3100 (b) revised	38816
890.3150 (b) revised	38816
890.3175 (b) revised	38816
890.3410 (b) revised	38816
890.3420 (b) revised	38816
890.3475 (b) revised	38816
890.3490 (b) revised	38816
890.3520 (b) revised	38817
890.3640 (b) revised	38817
890.3665 (b) revised	38817
890.3675 (b) revised	38817
890.3700 (b) revised	38817
890.3750 (b) revised	38817
890.3760 (b) revised	38817
890.3790 (b) revised	38817
890.3825 (b) revised	38817
890.3910 (b) revised	38817
890.3920 (b) revised	38817
890.3940 (b) revised	38817
890.5050 (b) revised	38817
890.5125 (b) revised	38818
890.5350 (b) revised	38818
890.5370 (b) revised	38818
890.5380 (b) revised	38818

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 21 Chapter I—Con.

890.5410 (b) revised 38818
890.5660 (b) revised 38818
890.5730 (b) revised 38818
890.5765 (b) revised 38818
890.5925 (b) revised 38818
890.5940 (b) revised 38818
890.5950 (b) revised 38818
890.5975 (b) revised 38818
892.1100 (b) revised 38818, 46953
892.1110 (b) revised 38818, 46953
892.1130 (b) revised 38818
892.1300 (b) revised 38818
892.1370 (b) revised 38818
892.1380 (b) revised 38819
892.1400 (b) revised 38819
892.1420 (b) revised 38819
892.1640 (b) revised 38819
892.1650 (b) revised 57369
892.1700 (b) revised 38819
892.1760 (b) revised 38819
892.1770 (b) revised 38819
892.1830 (b) revised 38819
892.1840 (b) revised 38819
892.1880 (b) revised 38819
892.1920 (b) revised 38819
892.1940 (b) revised 38819
892.1950 (b) revised 38819
892.5740 (b) revised 38819
892.5780 (b) revised 38819
1240 Nomenclature change 56034
1250 Nomenclature change 56034

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1306 Policy statement 56607
1308 Policy statement 51530
1308.14 (c)(15) through (49) redesignated as (c)(16) through (50); new (c)(15) added 42944
1308.35 Undesignated center heading and section added 51544
1309.29 Revised 52674
1310.02 Regulation at 65 FR 47316 eff. date extended 42944
(a)(25), (26) and (27) added 52675
1310.04 Regulation at 65 FR 47316 eff. date extended 42944
(g)(1)(ii), (iii) and (iv) added 52675
Corrected 54061
1310.08 Regulation at 65 FR 47316 eff. date extended 42944
(j) added 52675
1310.09 (d) added 52675
1313.12 (b) and (f) revised 46520
1313.21 (b) and (e) introductory text revised 46520

Proposed Rules:

101 38591
151 42474
192 17517
333 29059
500 42167
589 50929
592 17517
864 ....23634, 38226
874 42809
888 46563
1300 46567
1301 46567
1304 46567
1305 46567
1306 46567
1308 ....51530, 51535
1310 53746

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised 32742, 38542
41.2 (i)(2) revised; interim 32541
41.12 Table amended 32742
Table corrected 38153
41.57 Second 41.57 correctly revised; CFR correction 49830
(b) revised; interim 52502
Table corrected 53711
41.81 Revised; interim 19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
(f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised 32742
42.11 Table amended 32742
Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h),

(i) and (j); new (b)(2), (3) and (g) added; interim......39437
(b)(3) introductory text and (i) revised......45136
51 Authority citation revised......29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added......29906
51.21 (d)(4)(ii) revised......29906
51.27 (b) and (d)(1)(i) introductory text revised......29906
51.40 Revised......29907
51.41 Revised......29907
62.31 (a), (c)(1), (2), (3), (e) introductory text, (3), (5), (j) and (k) revised......43087
124.2 (c) introductory text, (1) and (6) revised......35899
125.4 (c) introductory text revised......35900
126.5 (b) corrected......36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised......35900
139 Authority citation revised......52504
139.3 (d) and (e) amended; (f) and (g) added; interim......52504
139.4 (a), (c)(2), (e), (g) and (h) amended; (i) added; interim......52505
139.5 Introductory text and (d)(2) revised; (b) amended; (e) added; interim......52505
139.6 Amended; interim......52505
139.7 (a)(1) and (f) amended; interim......52506
139.8 Revised; interim......52506

Chapter XIII—Board for International Broadcasting (Parts 1300—1399)

Chapter XIII Removed......42731

Proposed Rules:

41......48224
62......27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

1.11 (a) revised......58666
630 Authority citation revised......23847
630.102—630.112 (Subpart A) Revised......23847
655.601 (a) revised......38911
940.9 (b) amended......19856
940.11 (g) amended......19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed......20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added......38918
1345.4 (a)(1)(iv) revised......38918
1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised......38918

Proposed Rules:

420......59188
625......48103
627......53288, 54964
635......53288, 54964
636......53288, 54964
637......53288, 54964
650......49152, 49154
655......27480
710......23636, 53288, 54964
1331......56261

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended......28791
5.850—5.861 (Subpart I) Added......28792
5.901—5.961 (Subpart J) Added......28792
27.20 (f) added......35847

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added......28797

TITLE 24 Chapter II—Con.

201.2 Amended	56419
201.24 (a) revised	56420
201.26 (a)(6) and (7) redesignated as (a)(8) and (9); new (a)(6) and (7) added	56420
201.27 (a)(1) revised; eff. 5-7-02	56420
201.30 (a) revised	56420
201.31 (a) amended; (b)(2) revised	56420
202.8 (b)(1) revised; eff. 5-7-02	56420
207 Authority citation revised	35072
207.252 Revised; interim	35072
207.252a Revised; interim	35073
207.254 Added; interim	35073
247.2 Amended	28797
247.3 (a)(3) revised	28797
290.18 Added	35847

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300.3 Revised	44265
320.5 (g) revised; (h), (i) and (j) added	44265
330.5 Revised	44265
330.30 Revised	44266
350 Added	44266

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim	35855
598.1 (a) revised; interim	35855
599 Added; interim	35855
599.107 (a)(3) amended; interim	52675

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised	28797
882.102 (a) revised; (b) amended	28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added	28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2)	28797
882.518 Added	28797
884.216 (b) revised	28798
887 Correctly removed; CFR correction	42731
888 Fair market rent schedules	50024, 59052
891.430 Revised	28798
891.630 Revised	28798
891.770 Revised	28798

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

960.102 (a)(1) revised	28799
960.200—960.208 (Subpart B) Revised	28799
966 Heading and authority citation revised	28802
966.1 Revised	28802
966.2 Added	28802
966.4 (d)(1), (f)(12), (l)(2), (3)(i) and (5) revised	28802
Corrected	32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added	28804
972 Added	33618
982.4 (a)(2) revised; (b) amended	28804
(b) amended; interim	33613
982.54 (d)(4)(iii) added	28804
982.310 (c) revised; (h) added	28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added	30568
982.505 (c)(4) revised	30568
982.551 (m) redesignated as (n); (l) revised; new (m) added	28805
982.552 (b)(1), (c)(1)(iv) and (2) revised; (c)(1)(xi) added	28805
982.553 Revised	28805
982.632 (a) revised; interim	33613
982.638 (d)(2) revised; interim	33613
982.640 (b) revised; interim	33613
982.642 Added; interim	33613
985.3 (n) revised; interim	50005
985.101 (a)(1) revised; interim	50006
1000.156 Revised (OMB number pending)	49790

1000.158 Added (OMB number pending) 49790
1000.160 Added (OMB number pending) 49790
1000.162 Added (OMB number pending) 49790

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3500 Policy statement........53052

Proposed Rules:

5........60132
200........48080, 53930, 60128
202........60132
203........46502, 53930
206........30278
888........23770
903........42926
982........32198
1000........37098, 38965

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02........22121
(a)(15) added; eff. to 9-18-02........48087
84 Added........38923
89 Authority citation revised........38926
89.1 Removed........38926
89.2 Removed........38926
89.3 Removed........38926
89.4 Removed........38926
89.5 Removed........38926
89.6 Removed........38926
89.7 Removed........38926
89.8 Removed........38926
89.9 Removed........38926
89.10 Removed........38926
89.11 Removed........38926
89.12 Removed........38926
89.13 Removed........38926
89.14 Removed........38926
89.15 Removed........38926
89.16 Removed........38926
89.17 Removed........38926
89.18 Removed........38926
89.19 Removed........38926
89.20 Removed........38926
89.21 Removed........38926
89.22 Removed........38926
89.24 Removed........38926
89.25 Removed........38926
89.26 Removed........38926
103.25 Corrected........46307
151 Regulation at 66 FR 3452 and 10815 eff. date delayed.....19403, 31976
Regulation at 66 FR 3458 eff. date delayed........42415
Regulations at 66 FR 3458, 8899, 10816, 19403, 31976 and 42415 withdrawn........56608
183 Added........21088

Chapter III—National Indian Gaming Commission (Parts 500—599)

513 Added; interim........58057

Proposed Rules:

70........33654
151........19403, 42474
309........27915
502........33494, 41810
580........50127, 56619

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended.......32902, 33463, 37889, 37899, 40590
Authority citation corrected........41133
1.32-3 Added........33637
1.32-3T Removed........33637
1.125-3 Added........52677
1.125-4 (g) amended........52680
1.132-9 (b) corrected........18190
1.141-3 (c)(3), (d)(3)(i)(A), (ii)(A), (f) *Examples 10, 12, 13, 15* and *16* amended........58062
1.141-15 (b) existing text designated as (b)(1); new (b)(1) heading and (2) added........58062
1.197-2(k) Example 23 corrected........22286
1.301-1 (g) revised........49278
1.301-1T Removed........49279
1.355-0 Amended........40591
1.355-7T Added........40591

TITLE 26 Chapter I—Con.

1.401(a)(4)–0 Amended 34540
1.401(a)(4)–8 (b)(1) revised 34540
1.401(a)(4)–9 (b)(2)(v) added; (c)(3)(ii) revised 34544
1.401(a)(4)–12 Amended 34545
1.420–1 Added 32900
1.460–1 (j) corrected 18357
1.460–2 (b)(2)(ii) and (c)(1) corrected 18191
1.460–4 (b)(3) and (g) corrected 18191
1.679–0 Added 37889
1.679–1 Added 37889
1.679–2 Added 37889
1.679–3 Added 37889
1.679–4 Added 37889
1.679–5 Added 37889
1.679–6 Added 37889
1.679–7 Added 37889
1.684–1 Added 37899
1.684–2 Added 37899
1.684–3 Added 37899
1.684–4 Added 37899
1.684–5 Added 37899
1.732–3 Added 32902
1.958–1 (b) amended 37897
1.958–2 (c)(1)(ii)(*b*) amended 37897
1.985–8 (c)(3)(ii) Examples 1 and 2 correctly added 21447
1.1441–1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*), (D)(*2*) and (*3*) corrected 18188
1.1441–5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected 18188
1.1441–7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected 18189
1.1461–1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M) 18189
  (a)(1) amended 33831
1.1502–5 (a)(1) amended 33831
1.1502–34 Amended 32902
1.1502–78 (e) added 33463
1.1502–78T Removed 33464
1.6011–4T (b)(3)(i)(F) removed; (b)(3)(ii)(B) and (C) and (g) revised; (b)(5) amended 41135
1.6045–1 (g)(1)(i) and (3)(iv) corrected 18189
1.6049–5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected 18189
1.6151–1 (d)(1) amended 33831
1.6302–1 (d) revised 32542
  (b)(1) amended 33831
1.6302–2 (d) revised 32542
  (a)(1)(i), (ii), (iv) and (b)(1) amended 33831
1.6302–3 (a) amended 33831
20 Authority citation amended 38546
20.6075–1 Revised; interim 38546
20.6081–1 Revised; interim 38546
31 Authority citation amended 28370
31.6071(a)–1 (a)(1) and (c) amended 33832
31.6151–1 (b) amended 33832
31.6205–1 (a)(6) revised 39640
31.6302–1 (f)(4) revised 28370
  (m)(1) revised 32542
  (i)(3) amended 33831
  (c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended 33832
31.6302–1T Removed 28370
31.6302(c)–2A (b)(1)(i) and (3) amended 33832
31.6302(c)–3 (b)(2) amended 33831
  (a)(1)(i), (ii), (3) and (b)(2) amended 33832
31.6302(c)–4 (a) revised 32542
35.3405–1T Amended 33832
36.3121(l)(10)–4 Amended 33832
40 Authority citation revised 41776
40.0–1 (d) and (e) removed; (f) redesignated as new (d) 41776
40.6011(a)–1 (c) removed 41776
40.6011(a)–2 (b)(2) amended; (d) removed 41776
40.6071(a)–1 (a), (b)(2) and (c) revised 41776
40.6071(a)–2 Removed 41776
40.6091–1 (d) removed 41776
40.6101–1 Revised 41776
40.6109(a)–1 Revised 41776
40.6151(a)–1 Revised 41776
40.6302(c)–1 (d)(1) amended 33832
  Revised 41776
40.6302(c)–2 Revised 41777
40.6302(c)–3 (b)(1)(ii), (3), (d) and (f)(4) introductory text amended; (f)(5), (7) and (h) removed; (f)(6) redesignated as new (f)(5); (g) revised 41778

40.6302(c)-4 Removed....................41778
40.9999-1 Removed....................41778
48.4081-8 Revised....................27597
301 Authority citation amended
......................39438, 50544
301.6103(j)(5)-1 Added....................39438
301.6103(j)(5)-1T Removed....................39439
301.6111-2T (b)(3) removed; (b)(4) through (7) redesignated as new (b)(3) through (6); new (b)(3) introductory text, (4) introductory text, (ii), (6) and (h) amended; (b)(1), new (3)(ii), (4)(i), (6) introductory text (c)(3) and (e)(2)(ii)(E) revised; new (b)(6) Example 2 redesignated as Example and amended....................41135
301.6112-1T Authority citation removed....................41137
301.6221-1 Added....................50544
301.6221-1T Removed....................50545
301.6222(a)-1 Added....................50545
301.6222(a)-1T Removed....................50545
301.6222(a)-2 Added....................50545
301.6222(a)-2T Removed....................50546
301.6222(b)-1 Added....................50546
301.6222(b)-1T Removed....................50546
301.6222(b)-2 Added....................50546
301.6222(b)-2T Removed....................50546
301.6222(b)-3 Added....................50546
301.6222(b)-3T Removed....................50547
301.6223(a)-1 Added....................50547
301.6223(a)-1T Removed....................50547
301.6223(a)-2 Added....................50547
301.6223(a)-2T Removed....................50547
301.6223(b)-1 Added....................50547
301.6223(b)-1T Removed....................50548
301.6223(c)-1 Added....................50548
301.6223(c)-1T Removed....................50549
301.6223(e)-1 Added....................50549
301.6223(e)-1T Removed....................50550
301.6223(e)-2 Added....................50550
301.6223(e)-2T Removed....................50550
301.6223(f)-1 Added....................50550
301.6223(f)-1T Removed....................50550
301.6223(g)-1 Added....................50550
301.6223(g)-1T Removed....................50551
301.6223(h)-1 Added....................50551
301.6223(h)-1T Removed....................50551
301.6224(a)-1 Added....................50551
301.6224(a)-1T Removed....................50551
301.6224(b)-1 Added....................50551
301.6224(b)-1T Removed....................50551
301.6224(c)-1 Added....................50551
301.6224(c)-1T Removed....................50552
301.6224(c)-2 Added....................50552
301.6224(c)-2T Removed....................50552
301.6224(c)-3 Added....................50552
301.6224(c)-3T Removed....................50553
301.6226(a)-1 Added....................50553
301.6226(a)-1T Removed....................50553
301.6226(b)-1 Added....................50553
301.6226(b)-1T Removed....................50554
301.6226(e)-1 Added....................50554
301.6226(e)-1T Removed....................50554
301.6226(f)-1 Added....................50554
301.6226(f)-1T Removed....................50554
301.6227(b)-1T Removed....................50554
301.6227(c)-1 Added....................50554
301.6227(c)-1T Removed....................50554
301.6227(d)-1 Added....................50555
301.6229(b)-1 Added....................50555
301.6229(b)-1T Removed....................50555
301.6229(b)-2 Added....................50555
301.6229(b)-2T Removed....................50555
301.6229(e)-1 Added....................50555
301.6229(e)-1T Removed....................50555
301.6229(f)-1 Added....................50555
301.6229(f)-1T Removed....................50556
301.6230(b)-1 Added....................50556
301.6230(b)-1T Removed....................50556
301.6230(c)-1 Added....................50556
301.6230(c)-1T Removed....................50556
301.6230(e)-1 Added....................50556
301.6230(e)-1T Removed....................50556
301.6231(a)(1)-1 Added....................50556
301.6231(a)(1)-1T Removed....................50557
301.6231(a)(2)-1 Added....................50557
301.6231(a)(2)-1T Removed....................50557
301.6231(a)(5)-1 Added....................50557
301.6231(a)(5)-1T Removed....................50558
301.6231(a)(6)-1 Added....................50558
301.6231(a)(6)-1T Removed....................50558
301.6231(a)(7)-1 Added....................50558
301.6231(a)(7)-1T Removed....................50559
301.6231(a)(12)-1 Added....................50559
301.6231(a)(12)-1T Removed....................50559
301.6231(c)-1 Added....................50559
301.6231(c)-1T Removed....................50560
301.6231(c)-2 Added....................50560
301.6231(c)-2T Removed....................50560
301.6231(c)-3 Added....................50560
301.6231(c)-3T Removed....................50561
301.6231(c)-4 Added....................50561
301.6231(c)-4T Removed....................50561
301.6231(c)-5 Added....................50561
301.6231(c)-5T Removed....................50561
301.6231(c)-6 Added....................50561
301.6231(c)-6T Removed....................50561
301.6231(c)-7 Added....................50561
301.6231(c)-7T Removed....................50561

TITLE 26 Chapter I—Con.

301.6231(c)-8 Added 50561
301.6231(c)-8T Removed 50562
301.6231(d)-1 Added 50562
301.6231(d)-1T Removed 50562
301.6231(e)-1 Added 50562
301.6231(e)-1T Removed 50562
301.6231(e)-2 Added 50562
301.6231(e)-2T Removed 50563
301.6231(f)-1 Added 50563
301.6231(f)-1T Removed 50563
301.6233-1 Added 50563
301.6233-1T Removed 50563
301.6302-1 (a), (b)(1) and (2) amended 33832
301.6302-1T Removed 33831
301.6323(j)-1 Added 33465
301.6656-1 Removed; new 301.6656-1 redesignated from 301.6656-3 32542
301.6656-2 Removed 32542
301.6656-3 Redesignated as 301.6656-1 32542
301.7701-7 (d)(1)(iv) introductory text and (v) *Example 1* revised; (d)(1)(iv)(H) redesignated as (d)(1)(iv)(J); new (d)(1)(iv)(H), (I), (v) *Example 5* and (e)(3) added 41779
301.9100-5T (c) concluding text amended 33832
601.401 (a)(5) heading, (iii) and (iv) amended 33832
602.101 (b) table amended (OMB numbers) 32542, 33637, 38546, 50563
  Corrected; CFR correction 43478

Proposed Rules:

1 ....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112, 40659, 41169, 41170, 44565, 49576, 53555, 56262, 57021, 57023, 57400
5c 31850, 41170, 49576
5f 31850, 41170, 49576
18 ....31850, 41170, 49576
31 ....28408, 32279, 57023
48 53564
53 26824
301 ....17518, 23868, 26824, 28408, 31850, 32279, 41169, 41170, 49576
602 17518

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1.1 (a) amended 42733
1.31 Amended 42733
1.35 Amended 42733
1.50 Amended 42733
1.51 Amended 42733
1.52 Amended 42733
1.57 Amended 42733
4 Cross references amended 38549
  Amended 42733
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4-1-98 37578
  (e)(5) amended 58944
4.22 (b)(5) amended; effective date retroactive to 4-1-98 37578
4.91 Amended 49280
5.2 Amended 38549, 42733
7.4 Amended 38549, 42733
9.53 (c)(6) revised; (c)(7) removed 50565
9.64 (c) introductory text and (1) revised 50565
9.162 Added 29479
9.164 Added 23592
9.166 Added 29698
9.167 Added 18545
9.170 Added 26791
12.3 (a) amended 42733
13.2 Added 19085
13.11 Amended 19085
13.20 Added 19085
13.21 (a) amended; (b) revised 19085
13.23 Amended 19085
13.25 (a) and (b) amended 19085
13.26 (a) and (b) amended 19085
13.27 (c) amended 19085
  (a) and (b) revised 19086
13.41 Amended 19085
13.42 Amended 19085
13.43 (a) and (b) amended 19085
13.44 Revised 19086
13.45 (a) and (b) amended 19086
13.52 Amended 19085
13.53 Amended 19085
13.54 (a) and (b) amended 19085, 19086
13.61 (b) amended 19085
13.62 Revised 19086
13.71 Revised 19086

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

13.72 (b) amended	19086
13.74 Amended	19086
13.92 Amended	19086
17.5 Amended	38549
17.168 (a) amended	42736
18 Authority citation revised	29481
18.11 Amended	29482
18.23 Amended	42736
18.39 Added	29482
18.40 Added	29482
18.41 Added	29482
18.42 Added	29482
18.43 Added	29482
18.56 Revised	29482
19.3 Amended	38549, 42733, 42736
19.161 (c) amended	42733
19.163 (f) amended	42733
19.164 Amended	42733
19.169 Amended	42736
19.207 Added	29482
19.485 (a)(1) and (2) amended	38549
19.524 (a)(1), (b)(1) and (3) amended	38549
19.911 (c) amended	42733
19.950 (f) amended	42733
20.3 Amended	38549, 42733, 42736
20.44 Introductory text amended	42733
20.51 Introductory text amended	42733
20.52 Amended	42733
20.66 Amended	42736
22.3 Amended	38550, 42733, 42736
22.44 Introductory text amended	42733
22.51 Introductory text amended	42733
22.52 Amended	42733
22.66 Amended	42736
24.4 Amended	38550, 42734, 42736, 58944
24.114 Amended	42737
24.135 (a) amended	29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4-1-98	37578
24.257 (a) revised	58944
24.272 (a)(1), (b)(1) and (3) amended	38550
25.4 Amended	42737
25.165 (a)(1), (b)(1) and (3) amended	38550
25.284 (d) corrected	17809
26 Redesignated from Part 250	38550
26.3 Amended	38550
26.11 Amended	38550
26.30 Amended	38550
26.35 (a) amended	38550
26.45 Amended	38551
26.47 Amended	38551
26.50 (a) and (b) amended	38551
26.51 (c) amended	38551
26.55 Amended	38551
26.68a Amended	38551
26.70 Amended	38551
26.71 (a) amended	38551
26.72 Amended	38551
26.73 Amended	38551
26.74 Amended	38551
26.77 (c) amended	38551
26.79 (a) amended	38551
26.80 (a) amended	38551
26.81 (a) amended	38551
26.82 Amended	38551
26.87 Amended	38551
26.95 (b) amended	38551
26.96b Amended	38551
26.104 (b) amended	38551
26.105a Amended	38551
26.107 Amended	38551
26.108 (a), (b) and (c) amended	38551
26.109 (a), (b) and (c) amended	38551
26.110 Amended	38551
26.112 (a), (c)(2), (d)(2) and (e) amended	38551
26.112a (a)(1), (b)(2) and (3) amended	38551
26.113 (c) through (f) amended	38552
26.114 Amended	38552
26.115 Amended	38552
26.163 Amended	38552
26.165 (a)(2) and (3) amended	38552
26.173 (b)(4) amended	38552
26.193 (a) and (b) amended	38552
26.194 (a) and (b) amended	38552
26.196 Amended	38552
26.199a (a) amended	38551
26.199b Amended	38551
26.200 (a) amended	38552
26.204 Amended	38552
26.205 (a)(8) introductory text, (iv) and (b) amended	38552
26.211 Amended	38552
26.220 Amended	38552
26.221 Amended	38552
26.225 Amended	38552
26.260 Amended	38552
26.261 Amended	38552
26.262 (a) and (c) amended	38552
26.263 Amended	38552
26.264 Amended	38552
26.265 Amended	38552
26.272 Amended	38552

TITLE 27 Chapter I—Con.

26.273a Introductory text amended	38552
26.291 (a), (b)(1), (2) and (c) amended	38552
26.301 Amended	38552
26.302 (a) and (b) amended	38552
26.303 Amended	38552
26.309 (b)(4) and (c)(2)(viii) amended	38552
26.318 Amended	38552
Subchapter B Heading added	38550
29 Redesignated from Part 170; heading revised	42737
29.42 Amended	42737
29.45 Amended	42737
29.47 (c) amended	42737
29.49 (c) amended	42737
29.59 Amended	42737
40 Redesignated from Part 270; authority citation revised	39093
40.11 Amended	39094, 49532
40.21 (b) amended	39094
40.31 (a) amended	39094
40.32 (b) amended	39094
40.33 (b)(3) and (c)(2) amended	39094
40.35 (a) amended	39094
40.44 Amended	43479, 56758
40.49 Amended	39094
40.62 Amended	39094
40.63 Amended	39094
40.64 Amended	39094
40.65 Amended	39094
40.67 Amended	39094
40.68 Amended	39094
40.71 Amended	39094
40.72 Amended	39094
40.74 Amended	42734
40.92 Amended	39094
40.101 Amended	39094
40.102 Amended	39094
40.103 Amended	39094
40.104 Amended	39094
40.111 Amended	39094
40.113 Amended	39094
40.114 Amended	39094
40.134 Amended	39094
40.135 Amended	39094
40.136 (d) amended	39094
40.140 Amended	39094
40.162 Amended	39094
40.163 Amended	39095
40.164 (a)(2) and (d)(2) amended	39095
40.165 (a) amended	39095
40.165a (a)(1), (b)(2) and (3) amended	39095
40.166 Amended	39095
40.167 (a) and (b) amended	39095
40.168 Amended	39095
40.181 Amended	39095
40.183 (e) amended	39094
40.187 Amended	39094
40.212 Amended	39094
40.216c (b) and (c) amended	39095
40.233 Amended	43479
40.234 Amended	56758
40.235 Amended	43479
40.251 Amended	39095
40.252 Amended	39095
40.253 Amended	39095
40.254 Amended	39095
40.255 Amended	39095
40.282 Amended	39095
40.283 Amended	39095
40.286 Amended	39095
40.287 Amended	39095
40.301 Amended	39095
40.311 (a) and (b) amended	39095
40.313 Amended	39095
40.331 Amended	39095
40.332 Amended	42734
40.355 (e) and (g)(2) amended	39095
40.357 (a)(1). (b)(2) and (3) amended	39095
40.371 (a) amended	39096
40.372 (b) amended	39096
40.373 (b)(3) and (c)(2) amended	39096
40.374 (a) amended	39096
40.384 Amended	56758
40.391 Revised	49532
40.396 Amended	39096
40.397 Amended	39096
40.402 Amended	39096
40.404 Amended	39096
40.405 Amended	39096
40.410 Amended	39096
40.421 (a)(4) amended	39096
40.451 Amended	43479
40.453 Amended	56758
40.454 Amended	43479
40.461 Amended	39096
40.472 Amended	39096
40.473 Amended	39096
40.475 Amended	39096
40.476 Amended	39096
40.478 Amended	39096
44 Redesignated from Part 290	43480
44.11 Amended	49532
44.31 (a) amended	43480
44.32 (b) amended	43480
44.33 (b)(3) and (c)(2) amended	43480

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

44.35 (a) amended	43480
44.62 Amended	43480
44.63 Amended	43480
44.67 (a) amended	43480
44.82 Amended	43480
44.83 Amended	43480
44.84 Amended	43480
44.85 Amended	43480
44.86 Amended	43480
44.87 Amended	43480
44.88 Amended	43480
44.93 Amended	43480
44.102 Amended	43480
44.104 Amended	43480
44.105 Amended	43480
44.107 Amended	43480
44.108 Amended	43480
44.110 Amended	43480
44.111 Amended	43480
44.112 Amended	43480
44.123 Amended	43480
44.124 Amended	43480
44.144 Amended	43480
44.161 Amended	43480
44.185 Authority citation revised	45618
44.200 Amended	43480
44.205 (d) amended	43480
44.222 Amended	43480
44.223 Amended	43480
44.224 Amended	43480
44.225 Amended	43480
44.226 Amended	43480
44.230 Amended	43480
44.243 Amended	43480
44.244 Amended	43480
44.245 Amended	43480
44.264 Amended	43480
44.266 Amended	43480
45 Redesignated from Part 295; note amended	56758
45.34 Amended	56758
45.43 OMB number	56758
46 Redesignated from Part 296	32220
Cross Reference amended	43479
Authority citation revised	45618
46.4 (c) amended	32220
46.6 (a) and (c) amended	32220
46.7 Amended	32220
46.8 Introductory text and (f) amended	32220
46.15 Amended	32220
46.72 Amended	32220, 39093
46.81 Amended	32220
46.146 Amended	32220
46.147 (a) introductory text and (b) introductory text amended	32220
46.150 (a) amended	32220
46.153 Introductory text amended	32220
46.166 Amended	39093
Revised	45618
46.167 (a) and (c) amended	39093
46.192 (a) amended	32220
46.194 Amended	32220
46.196 (a), (b) and (d) amended	32221
46.205 (a) and (e) amended	32221
46.206 (b) and (f) amended	32221
46.213 Amended	32221
46.221 Amended	32221
46.237 Amended	32221
46.241 (f) amended	32221
46.242 Amended	32221
46.255 (a) amended	39093
(b) and (c) amended	43479
46.270 Revised	32220
53.11 Amended	19088
53.20 Added	19088
53.21 (a) amended; (b) revised	19088
53.22 (a)(1) amended	19088
53.23 (a) amended; (b) revised	19088
53.24 (a)(1) and (d)(1) amended	19088
53.92 (b)(2) amended	19088
53.96 (b)(4) amended	19088
53.115 (b) amended	19088
53.132 (c)(2)(ii) amended	19088
53.133 (d)(3) amended	19088
53.134 (d)(2)(ii) amended	19088
53.136 (c)(2) amended	19088
53.140 (b) amended	19088
53.142 (a) amended	19088
53.151 (b)(1) and (2) amended	19088
53.155 (a) and (b) amended	19088
53.156 (a)(1) and (c) amended	19088
53.157 (f)(1) amended	19088
53.158 (b)(1), (3) and (e) amended	19088
53.159 (d)(1) and (2) amended	19088
(j)(1) amended	19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended	19088
53.186 (a) introductory text and (4) amended	19088
55.73 Amended	42734
55.75 Amended	42734
55.79 Amended	42734
55.82 Amended	42734
55.128 Corrected	19089
55.218 Table corrected	19089
70 Technical correction	19089

TITLE 27 Chapter I—Con.

70.2 (a) amended; (b) revised 29022
70.3 Added 29022
70.11 Amended 29022
70.21 Amended 29022, 29023
70.22 (a) and (b) amended; (c) removed 29023
70.23 (b) revised 29023
70.24 (b) amended 29023
70.25 (a)(4) amended 29022
70.26 (c)(2)(ii) amended 29022
70.30 Revised 29023
70.31 Revised 29023
70.32 Amended 29023
70.33 Introductory text revised 29023
70.34 Revised 29023
70.40 Revised 29023
70.41 (a), (c), (d) and (f) amended 29023
70.42 Heading, (a)(1), (b) and (c)(1) revised 29024
70.51 Revised 29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended 29022
  (a)(1)(i) introductory text, (D) and (3) amended 29024
70.64 Amended 29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended 29024
70.72 Amended 29025
70.73 Amended 29024
70.74 (c)(1) and (2) amended 29024
  (b) amended 29025
70.75 (b) and (c) amended 29024
  (a) introductory text revised 29025
70.76 (a), (b)(3), (c) and (d) amended 29024
70.77 (a)(1), (2), (b)(1) and (2) amended 29024
70.81 (a) amended 29024
70.82 Amended 29024
70.92 (c) and (d)(2)(i) amended 29024
70.94 (a) amended 29022
70.96 (a)(1)(iv), (2), (3) and (c) amended 29024
  (c) amended 29025
70.98 (b) amended 29024, 29025
70.100 Amended 29022
70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
  (a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219, 42737
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
  (g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
  (a)(1), (2), (b) and (c) amended 29025
  (a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
  (a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
  (a)(2)(ii) amended 29024
  (a)(4), (b)(2) introductory text and (b)(3) amended 29025
  (a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended 29026
70.168 (a) amended 29022
  (b)(2) amended; (c) revised 29026
70.169 Amended 29022
70.170 (b) amended 29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended 29022
  (a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended 29026
  (c)(5)(ii)(E) and (c)(8) amended 29027
70.182 (a) amended 29022
  (a)(2)(ii), (6)(iv), (v), (7) and (9) amended 29027
  (a)(2)(i) amended 29027

70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended	29022
(b)(4), (9)(iv), (v) and (10) amended	29027
(a), (b) introductory text and (c) through (f) amended	29027
70.184 (a), (b), (c) introductory text and (1) amended	29022
70.185 (a), (b) and (c) amended	29023
70.186 (b)(2) and (c) amended	29023
(a)(5) amended	29025
70.187 (a) amended	29023
(a) and (b) amended	29025
(a) amended	29027
70.188 Amended	29023
70.191 (b) introductory text amended	29022
(a) revised	29027
70.204 (a) concluding text amended	29025, 29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended	29025
(b)(1) and (c)(1) amended	29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended	29023
(b)(4)(ii)(B) amended	29025
(a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised	29027
70.207 (b)(1)(iii) amended	29025
70.208 Amended	29025
70.209 (a) and (b) amended	29025
70.210 (a)(1) amended	29025
70.213 Amended	29022
70.222 (b) revised	29028
70.223 (d) amended	29025
70.224 (a)(1) and (2)(i) revised	29028
70.227 Revised	29028
70.231 (i)(3) amended	29025
70.241 (a)(8) amended	29025
70.242 (a) and (c) amended	29025
70.245 Heading, (a), (c)(2) and (d) amended	29025
70.251 (a)(2) and (b) amended	29026
(b) amended	29027
70.253 (b)(2) amended	29023
(b)(1) and (2) amended	29028
70.262 (b)(4) and (c)(2) amended	29028
70.263 (d) amended	29023
70.271 (d)(1) amended	29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended	29025
(a)(1) and (b)(2) amended	29028
70.301 (a) amended	29022
70.304 (a) and (b) amended	29028
70.306 (a) amended	29028
70.311 Amended	29022
70.333 Amended	29028
70.411 (b), (c) introductory text and (16) amended	29028
(c)(26) amended	38550
(c)(5) amended	42734
(c)(2) amended	42737
70.412 (a) amended	29028
70.413 (a) amended	29023
(c)(1) amended	29025
(b) revised	29028
70.414 (k) amended	29026
(a) revised	29028
70.416 Revised	19029
70.418 Revised	29029
70.419 Revised	29029
70.431 (b)(7) amended	32219
(b)(2) amended	39093
(b)(1) amended	42734
(b)(5) amended	43480
(b)(6) amended	56758
70.432 (a), (b) and (d) amended	29029
(d) amended	43480
70.433 (a) amended	29023
(a) and (d) amended	29029
70.435 (i) amended	29023
70.438 Amended	29029
70.447 Amended	29025
70.461 Amended	38550
70.462 Amended	43480
70.471 Revised	29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended	29025
(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended	29026
(b)(1) amended	29029
70.482 (a) introductory text amended	29022
(d)(1)(i) amended	29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised	29029
70.483 Revised	29029
70.484 Amended	29030
70.485 (a) amended	29022

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 27 Chapter I—Con.

70.486 Amended 29025
70.504 (c)(2) amended 29023
70.506 Amended 29030
70.507 (g) amended 29023
70.601 Amended 29030
70.602 (a) and (b)(1) introductory text amended 29023
70.603 (a)(1) revised 29030
70.606 Introductory text amended 29023
70.608 Amended 29023
70.609 Amended 29023
70.701 (a)(1) revised; (c) amended 29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended 29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised 29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised 29030
70 Appendix A amended 59537
71 Redesignated from Part 200; authority citation revised 42734
71.1 Note amended 42734
71.37 Amended 42734
71.38 Amended 42734
71.56 Note amended 42734
71.62 Amended 42734
71.63 Amended 42734
71.64 (a) amended 42734
71.74 Amended 42734
71.78 Amended 42734
71.82 Amended 42735
71.83 Amended 42735
71.96 Amended 42735
71.107a (a) amended 42735
71.108 (a) and (b) amended 42735
71.110 Amended 42735
92.120 (c)(2)(v) corrected; CFR correction 59602
92.121 (b)(2)(vi), (ix), (xi)(A) and (4)(iv) correctly revised; CFR correction 59602
92.132 Correctly revised; CFR correction 59602
170 Redesignated from Part 29 42737
178 Technical correction 42586
178.92 Heading and (a) revised; OMB number 40600
179 Technical correction 42586
179.102 Revised; OMB number 40601
200 Redesignated as Part 71 42734
200.49b (b) amended 39093
250 Redesignated as Part 26 38550
250.2 (a) amended; (b) revised 21668
250.3 Added 21668
250.11 Amended 21668, 21669
250.37 Revised 21669
250.43 Amended 21668
250.50a (b)(2) revised 21669
250.52 (b) and (c) amended 21669
250.54 Revised 21669
250.61 Revised 21669
250.62a Amended 21669
250.65 Amended 21669
250.70 Amended 21669
250.70a Amended 21669
250.71 (c) and (d) amended 21669
250.72 Amended 21669
250.74 Amended 21669
250.75 Amended 21669
250.81 Amended 21669
250.96 Amended 21669
250.105 Amended 21669
250.110 Amended 21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised 21669
250.112a (b)(1) and (c)(1) amended 21669
250.113 (a) amended 21669
250.116 Amended 21669
250.118 Amended 21669
250.119 Revised 21669
250.126 Amended 21669
250.128 Amended 21669
250.172 (a) amended; (b) revised 21669
250.173 (a) revised; (d) amended 21669
250.174 (a) and (e) amended 21669
250.193 (b) amended 21670
250.194 Amended 21669
250.197 Amended 21670
250.199f (c) revised 21670
250.209 Amended 21668
250.222 (b) and (c) amended 21669
250.224 Revised 21670
250.275 (a) revised 21670
250.276 Amended 21669, 21670
250.277 Undesignated center heading and section removed 21670
250.303 Amended 21669
250.308 (a) amended; (b) revised 21670
250.309 (a) revised; (d) amended 21670
250.310 (a) and (e) amended 21669
250.314 (b) amended 21668
(a) and (b) amended 21670

CHANGES APRIL 2, 2001 THROUGH NOVEMBER 30, 2001

250.318 Revised	21670
250.331 (b) amended	21669
(a) and (b) amended	21670
250.314 (b) amended	21668
250.316 Amended	21668
250.319 Amended	21668
250.331 (b) amended	21668
251 Cross references amended	38550
251.1 Note revised	38550
251.48a (a) amended	38550
270 Redesignated as Part 40	39093
270.11 Amended	32220
270.49 Amended	32220
270.165 OMB number	19089
270.165a OMB number	19089
270.286 Amended	32220
275.11 Amended	45618, 49532
275.39 Amended	39093
275.63 (a) amended	39093
275.82 (b) amended	39093
Revised	45618
275.83 Revised	45619
275.85 (b) amended	39093
275.85a (c) amended	39093
275.86 (a) amended	39093
275.115a (a)(1) and (b)(1) amended	39093
275.140 Amended	39093
275.162 Amended	32220
275.199 Amended	42734
275.205 (b) amended	32220
290 Redesignated as Part 44	43480
290.11 Amended	39093
290.67 (b) amended	39093
290.92 Amended	42734
290.154 Amended	32220
290.162 Amended	42734
290.184 Amended	39093
290.243 Amended	39093
295 Redesignated as Part 45	56758
295.11 Amended	39093, 49532
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
40	52730
16	28135
20	37198
55	57404

C

TIT
A

Chapter I

0.29c (a)
amende
0.29d (a) rev
0.29e (a)(1)
vised;
text, (i)
16.130 Adde
(b) correc
16.131 Adde
27.1 (b) revi
27.4 Headin
ed........

Chapter V
partmen
500—59

500.1 (c) rev
501.2 (c) re
terim ..
501.3 (c) rev
as (e);
interim

Chapter V
Offende
for the
(Parts 8

810 Added;

Chapter
tice an
(Part 11

Chapter XI
....

16..............
25..............
100............
104............
801............

T

Chap
Relation

102.117 (a)

197-0

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended 37903
0.29d (a) revised 37903
0.29e (a)(1), (2), (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended 37903
16.130 Added 41445
(b) corrected 43308
16.131 Added 41446
27.1 (b) revised 37904
27.4 Heading revised; (a) amended 37904

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (c) revised; interim 55065
501.2 (c) revised; (e) added; interim 55065
501.3 (c) revised; (d) redesignated as (e); new (d) and (f) added; interim 55065

Chapter VIII—Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

810 Added; interim 48337

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim 38518

Proposed Rules:

16 37939
25 ....35567, 48390
100 50931
104 55901
801 58083

TITLE 29—LABOR

Chapter I—National Labor Relations Board (Parts 100—199)

102.117 (a) through (d) revised 50311

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

697 Authority citation revised 44968
697.1 Revised 44968
697.2 Redesignated as 697.3; new 697.2 added 44969
697.3 Redesignated as 697.4; new 697.3 redesignated from 697.2 44969
697.4 Redesignated from 697.3 44969

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1904 Authority citation revised 52034
1904.10 (c) and note added 52034
1904.12 Note added 52034
1904.29 (b)(7)(vi) revised 52034
1926.500 Regulation at 66 FR 5265 delayed 37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed 37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction 36368
2520.102–3 (d) and (j)(3) corrected 34994
2520.104b–3 (d)(3)(ii) corrected 34994
2560.503–1 (o) revised 35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

Chapter XL Policy statement 51864
4011 Appendix B amended 59693
4022 Appendix B amended 36702
  Appendix C amended 36703
  Appendices B and C amended 42738, 47886, 52316, 57370
  Appendix D amended 59694
4044 Appendix B amended 36703, 42738, 47886, 52316, 57371
  Appendix D amended 59695

Proposed Rules:

102 38594

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 29 *Proposed Rules:—Con.*

104	55901
470	50010
1904	35113
1953	56043

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

42 Regulation at 65 FR 59096 eff date delayed	45167
47 Regulation at 65 FR 59096 eff date delayed	45167
56.16004 Regulation at 65 FR 59096 eff date delayed	45167
56.20012 Regulation at 65 FR 59096 eff date delayed	45167
57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed	35518
57.5065 Heading corrected; (c) removed	35520
57.16004 Regulation at 65 FR 59096 eff date delayed	45167
57.20012 Regulation at 65 FR 59096 eff date delayed	45167
77.208 Regulation at 65 FR 59096 eff date delayed	45167

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

206.251 Amended	45769
206.254 (a) removed; (b) designation removed and amended	45769
206.257 (d)(3) amended	45769
206.259 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended	45769
206.262 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended	45769
206.263 Removed	45769
206.453 (a) removed; (b) designation removed and amended	45769
206.456 (d)(3) amended	45769
206.458 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended	45769
206.461 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended	45769
206.462 Removed	45769
210.10 Nomenclature change; (a) and (d) revised; (b)(2) and (3) amended; (b)(6), (c)(4), (11) and (12) removed; (c)(5) through (10) and (13) through through (20) redesignated as new (c)(4) through (9) and (10) through (17); (b)(6), (7), (8) and new (c)(18) through (21) added	45769
210.200—210.204 (Subpart E) removed; new 210.200—210.206 (Subpart E) added	45771
210.201 (c)(3)(i) corrected	50827
216.2 Amended	45773
216.6 Amended	45773
216.20 Amended	45773
216.40 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f)	45773
216.200—216.204 (Subpart E) removed	45773
218 Authority citation revised	45773
218.40 (c) revised	45773
218.51 (d)(2), (3) and (e) amended	45773
218.201 Revised	45773
218.203 (a) and (b) amended	45773
(b) corrected	50827

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

723 Authority citation revised	58646
723.14 Table revised	58646
723.15 (b) amended	58646
756.14 (e) added	39443
845 Authority citation revised	58647
845.14 Table revised	58647
845.15 (b) amended	58647
904.15 Table amended	42742
913.15 Table amended	58375
914.15 Table amended	57659
914.16 (jj), (kk), (ll) and (mm) added	57659
914.17 Heading and (b) revised	42750
920.15 Table amended	50829
920.16 (l) removed	50829
926.15 Table amended	58381
934.15 Table amended	57662
938.11 (i) removed	57665
938.15 Table amended	42752, 57665
938.16 (p) removed	42753
946.12 Heading revised; (c) added	43483

946.15 Table amended..........43483
946.16 Removed..........43483

Proposed Rules:

57..........35521
250..........37611, 45236, 56620
901..........52879
904..........50952
913..........42813, 59201
914..........48390
915..........48841
916..........59751
917..........42815
918..........48393, 55609
924..........55611
935..........56263
943..........48396
948..........53749
950..........51891

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

1.36 (g)(1)(viii) table amended..........48556
29 Authority citation revised..........36705
29.102 (a) revised; (f) added; interim..........36705
29.103 (a) amended; interim..........36705
29.501—29.526 (Subpart E) Added; interim..........36705

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

285.11 (b)(3), (c), (e)(3) and (g) revised..........51868
337.0 Revised..........56432
337.2 Revised..........56432
337.4 (a) revised..........56432
337.14 Revised..........56432
337.15 Revised..........56432
356.13 (b) revised..........56761
357 Policy statement..........44526

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised..........36687
515.207 Note added; interim..........36687
515.533 Heading, (a) and (e) revised; (f) removed; interim..........36687
515.559 Heading and note revised; interim..........36687
515.560 Revised; interim..........36688
535.215 (a) revised; interim..........38554
535.333 Revised; interim..........38554
538 Authority citation revised..........36688
538.205 Revised; interim..........36688
538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim..........36688
538.405 (b) revised; interim..........36688
538.523 Revised; interim..........36688
538.524 Removed; interim..........36689
538.525 Heading and (d) revised; (e) added; interim..........36689
538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36689
539 Authority citation amended..........57381
Appendix I amended..........57381
540 Revised..........38555
550 Authority citation revised..........36690
550.306 Revised; interim..........36690
550.308 Revised; interim..........36690
550.318 Revised; interim..........36690
550.405 (b) revised; interim..........36690
550.569 Revised; interim..........36690
550.571 Removed; interim..........36691
Heading and (d) revised; new (e) added; interim..........36691
550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36691
550.573 Revised; interim..........36692
560 Authority citation revised..........36692
560.405 (b) revised; interim..........36692
560.520 Heading revised; interim..........36692
560.530 Revised; interim..........36692
560.531 Removed; interim..........36693
560.532 Heading and (d) revised; (e) added; interim..........36693
560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim..........36693
586 Authority citation revised..........50508
586.201 (a) note, (b) note and (d) note added; (c) and endnote revised; interim..........50509
586.204 Note added; interim..........50509
586.302 Revised; interim..........50509
586.319 Revised; interim..........50509
586.405 Revised; interim..........50509
586.406 (a) amended; interim..........50509
586.501 Amended; interim..........50509

TITLE 31 Chapter V—Con.

586.517 Added; interim	50509
586.518 Added; interim	50509
586.519 Added; interim	50510
586.701 Revised; interim	50510
586.702 Revised; interim	50510
586.703 Revised; interim	50510
586.704 Revised; interim	50511
586.705 Revised; interim	50511
587 Added; interim	50511
Chapter V Appendix A amended	54404, 57373, 57379—57381
Appendix B amended	57373

Proposed Rules:

1	54175, 59754
356	38600

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

3 Revised	57383
40 Removed	53958
42 Removed	53958
46 Removed	53958
51 Removed	53958
55 Removed	53958
62 Removed	53958
63 Removed	53958
65 Removed	53958
72 Removed	53958
76 Removed	53958
79 Removed	53958
89 Removed	53958
98 Removed	53958
102 Removed	53958
103 Removed	53958
111 Removed	53958
114 Removed	53958
115 Removed	53958
132 Removed	53958
153 Added	45169
157 Removed	53958
159 Removed	53958
159a Removed	53958
171 Removed	53958
186 Removed	53958
188 Removed	53958
194 Removed	53958
199.2 Amended; interim	40606, 45172
199.3 (b)(2)(i)(D), (f)(3)(vi), (3)(vii) and note revised; interim	40606
199.8 (c)(4) added; (d)(1) revised; interim	40607
199.10 (a)(1)(ii) revised; interim	40607
199.14 (h)(1)(iv)(D) and (E) added	45172
199.15 (a)(6) revised; interim	40608
199.17 (a) introductory text, (6)(i), (ii), (b) introductory text, (1), (c) introductory text, (3), (4), and (v) revised; (m)(2)(iii) and (4)(iii) removed; interim	40608
230 Revised	46373
231 Revised	46708
231.5 (g)(5)(i) through (ix) corrected	54136
231.8 Heading correctly revised	54136
231.9 Heading, (a) through (p)(1), (2) and (q) through (cc) correctly designated	54136
231a Removed	46374
311.5 (a)(7)(ii) revised	41780
311.8 (c)(7) added	41780
320 Revised	52681
323 Footnotes 1 through 8 revised	41781
323.2 (e) revised	41781
323.4 (a)(1) introductory text, (2) introductory text, (3) and (b)(4) revised; (a)(1)(v) added	41781
323.5 (b)(3)(iv), (4), (5), (c)(5)(ii), (6) introductory text, (i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (2) and (3) revised; (b)(3)(v) removed	41781
323.6 Revised	41782
323 Appendices A and B amended	41782
326.5 (j)(11) added	41783
326.17 (e) added	41783
(f) and (g) added	54926

Chapter V—Department of the Army (Parts 400—699)

505.5 (e)(1), (5), (6), (12), (19), (29) introductory text, (i), (ii), (31) introductory text, (i), (ii) and (32) revised	55876
668 Removed	36711

Chapter VI—Department of the Navy (Parts 700—799)

701.118 (v) and (w) added	54928
706.2 Table Three amended	53523

Table Four amended 53524
Table Five amended 53533
Tables Four and Five amended 53525, 53526, 53527, 53530, 53531, 53532
Tables Two and Five amended 53528
Table Two amended....................53529
Regulation at 66 FR 53528 eff. date corrected 56383

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended....................54930

Proposed Rules:

3....................58422
199....................39699
320....................41811
326....................43138
505....................41814, 43818
701....................43141
806b....................43820
808....................36523

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

84.25 Added 55091
100 Temporary regulations list 56035
100.35–T05–029 Added (temporary) 34828
100.35–T05–030 Added (temporary) 34824
100.35–T05–031 Added (temporary) 34820
100.35–T05–032 Added (temporary) 34826
100.35T–05–038 Added (temporary) 41144
100.35T–05–040 Added (temporary) 41142
100.35T–05–041 Added (temporary) 41140
100.35–T05–047 Added (temporary) 44052
100.35–T05–053 Added (temporary) 46378
100.35–T05–055 Added (temporary) 46376
100.35–T05–057 Added (temporary) 47385
100.35–T05–058 Added (temporary) 48955
100.35T–07–119 Added (temporary) 54138
100.35T–07–121 Added (temporary) 54140
100.35–T09–001 Added (temporary) 37415
100.35–T09–996 Added (temporary) 46522
100.506 Added 41138
100.508 Implementation 46374
100.511 Implementation (temporary) 34828
100.513 Implementation 46377
100.515 Implementation (temporary) 41140
100.522 Added 57875
100.526 Added 57876
100.1301 Revised 34822
100.1303 Implementation (temporary) 38154
110.T01–162 Added (temporary) 49283
110.157 (b)(11) added 50317
117 Temporary drawbridge operations regulations....................34829, 36162—36165, 37140, 37578, 38155, 38370, 39278, 40117, 42601, 42602, 44971, 46522, 46523, 46525, 47077, 47577, 47578, 48556, 48558, 48955, 51302—51305, 52317, 52685, 52689, 54931, 59695
Technical correction....................53089
117.T394 Added (temporary)....................44971
117.T602 Added (temporary)....................54141
117.T793 (d) added (temporary) 52685
117.26 (r) suspended; (vv) added (temporary)....................41146
117.301 Added 36467
117.305 Revised....................37580
117.331 Added 57385
117.467 (b) revised....................56208
117.505 (d) revised....................52687
117.597 Suspended (temporary) 54141
117.611 (a) suspended; (c) added (temporary)....................58063
117.622 Revised....................46525
117.733 (k) added 39445
117.789 (c) suspended; (g) added (temporary)....................52688
117.795 (b) amended; (d) added (temporary)....................40117

TITLE 33 Chapter I—Con.

117.801 Regulation at 66 FR 16129 eff. date extended through 8-30-01	37139
(g) suspended; (h) added (temporary)	52689
117.802 (a)(2) suspended; (a)(3) added (temporary)	56992
117.822 Revised	40119
117.899 Revised	51557
117.911 (e) revised	42111
117.936 Redesignated from 117.937	48557
117.937 Redesignated as 117.936	48557
Added	48558
117.1051 (d)(4) added (temporary)	35902
(e)(4) added	59535
150.250 Amended	55574
151.01 Note removed	55570
151.05 Amended	55570
151.08 (a) amended	55570
151.10 Heading revised	55571
151.13 (b)(3) revised; (f) amended	55571
151.19 (e) introductory text revised	55571
151.25 (d)(2), (3) and (e)(10) amended	55571
151.26 (b)(3)(i)(A), (B), (ii) table and (iii)(B) amended	55571
151.55 (a)(1), (2) and (b) introductory text revised; (a)(3) added	55571
151.1510 (a)(1) revised	58390
151.1516 (a) introductory text revised	58391
151.2005 (b) revised	58391
151.2010 (b) and (d) revised	58391
151.2020 Removed	58391
151.2035 (b)(1) revised	58391
151.2040 Heading, (c)(1), (2) and (4)(ii) revised; (c)(4)(iv) added	58391
151.2041 Added	58391
151.2045 Heading and (a) introductory text revised	58391
151.2000—151.2065 (Subpart D) Appendix D amended	58391
155.330 Heading and (b) amended	55571
155.350 Heading and (a)(2) revised; (b) amended	55571
155.360 Heading and (e) revised; (a), (b) introductory text and (2) amended	55571
155.370 (b) introductory text, (1) and (2) amended; (d) removed; (e) and (f) redesignated as new (d) and (e); heading, (a) and new (e) revised	55571
155.380 (c) removed; (d) redesignated as new (c)	55572
155.410 (a) revised; (b) amended	55572
155.420 (a)(4) and (5) redesignated as (a)(5) and (6); (a)(3), new (a)(5) and (b) amended; new (a)(4) added	55572
155.430 (a) introductory text revised	55572
155.440 Heading amended	55572
155.810 Revised	55572
155.1015 (a) and (c)(2) amended	55572
155.1020 Amended	55572
157.03 Amended	55572
157.04 (b) amended	55573
157.07 Amended	55573
157.11 (a) amended	55573
157.12 (b)(2) amended	55573
157.15 (b) introductory text revised	55573
157.17 Heading, (a), (b) and (c) amended	55573
157.22 Added	55573
157.24 (c)(2) amended	55573
157.24a (b)(2) amended	55573
157.33 Amended	55573
157.37 Heading and (e) introductory text revised; (a)(3), (7) and (b) amended	55573
157.39 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3); (a), (b) introductory text and new (b)(2) amended	55573
157.43 (b) introductory text amended	55573
157.118 (a)(1)(ii) and (2)(i) amended	55573
157.138 (a)(1) amended	55573
157.140 (a)(1) amended	55573
157.160 (a)(2) and (b)(3) amended	55573
157.216 (a)(1)(ii) and (2)(i) amended	55573
157.224 (a) amended	55573
157.302 (b)(3) and (6) amended	55573
157.304 (a) amended	55573
157.310 (c) amended	55573
157.400 (b)(2) amended	55573

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

157 Appendices B and D amended 55573
158.100 (b)(1) amended 55573
158.110 (a)(1) amended 55574
158.120 Amended; heading revised 55574
158.133 (a) amended 55574
158.135 (a) amended 55574
158.200—158.250 (Subpart B) Heading revised 55574
158.200 (a)(2), (3)(i), (ii), (iii) and (b) amended 55574
158.210 (a), (b) and (c) amended 55574
158.220 (a) through (d) amended 55574
158.230 (a) and (b) amended 55574
158.240 (a), (b), (c) introductory text and (d) introductory text revised 55574
158.250 Amended 55574
159 Authority citation revised 38930
159.301—159.321 (Subpart E) Added 38930
160 Authority citation revised 50572
160.T204 Added (temporary) 50572
160.T208 Added (temporary) 50572
  Regulation at 66 FR 50572 corrected 57877
160.T212 Added (temporary) 50573
  Regulation at 66 FR 50573 corrected 57877
160.T214 Added (temporary) 50574
  Regulation at 66 FR 50574 corrected 57877
160.201 (c) and (d) suspended; (e), (f) and (g) added (temporary) 50572
  Regulation at 66 FR 50572 corrected 57877
160.203 Suspended in part (temporary) 50572
160.207 Suspended (temporary) 50572
160.211 Suspended (temporary) 50573
160.213 Suspended (temporary) 50574
164.01 Regulation at 66 FR 21864 eff. date confirmed 42753
165 Temporary regulations list 56035
165.T-01-002 Added (temporary) 43776
  Effective date corrected 45619
  Corrected 48209
165.T01-065 Added (temporary) 34839
165.T01-066 Added (temporary) 34847
165.T01-074 Added (temporary) 34849
165.T01-090 Added (temporary) 34840
165.T01-099 Added (temporary) 34832
165.T01-100 Added (temporary) 42756
165.T01-102 Added (temporary) 51309
165.T01-107 Added (temporary) 36168
165.T01-118 Added (temporary) 38158
165.T01-131 Added (temporary) 42604
165.T01-133 Added (temporary) 45928
165.T01-135 Added (temporary) 43090
165.T01-139 Added (temporary) 47387
165.T01-145 Added (temporary) 45926
165.T01-162 Added (temporary) 49283
165.T01-163 Added (temporary) 49107
165.T01-164 Added (temporary) 50106
165.T01-165 Added (temporary) 51311, 51561
165.T01-166 Added (temporary) 49537, 51312, 51561
165.T01-170 Added (temporary) 51307
165.T01-171 Added (temporary) 49283
165.T01-175 Added (temporary) 50108
165.T01-193 Added (temporary) 57387
165.T01-197 Added (temporary) 56216
165.T01-198 Added (temporary) 55576
165.T01-214 Added (temporary) 59698
165.T05-060 Added (temporary) 50317
165.T07-037 Added (temporary) 51565
165.T07-074 Added (temporary) 37417
165.T-07-095 Added (temporary) 49105
165.T07-096 Added (temporary) 48957
165.T07-097 Added (temporary) 49288
165.T07-098 Added (temporary) 49536
165.T07-101 Added (temporary) 49534
165.T07-110 Added (temporary) 52690
165.T08-036 Added (temporary) 50109
165.T08-038 Added (temporary) 38936
165.T09-013 Added (temporary) 34835
165.T09-101 Added (temporary) 49285
165.T09-102 Added (temporary) 49291
165.T09-103 Added (temporary) 49290
165.T09-105 Added (temporary) 52036
165.T09-109 Added (temporary) 52038
165.T09-110 Added (temporary) 52042
165.T09-111 Added (temporary) 52044
165.T09-113 Added (temporary) 53959
165.T09-118 Added (temporary) 54142
165.T09-135 Added (temporary) 52041
165.T09-136 Added (temporary) 52039
165.T09-916 Added (temporary) 35546
165.T09-917 Added (temporary) 34837
165.T09-919 Added (temporary) 36167
165.T09-927 Added (temporary) 34830
165.T09-930 Added (temporary) 34844, 35081
165.T09-933 Added (temporary) 34846

TITLE 33 Chapter I—Con.

165.T09–940 Added (temporary) 37586
165.T09–945 Added (temporary) 37585
165.T09–950 Added (temporary) 34834
165.T09–957 Added (temporary) 37142
165.T09–958 Added (temporary) 35758
165.T09–969 Added (temporary) 37583
165.T09–970 Added (temporary) 37582
165.T09–972 Added (temporary) 38156
165.T09–974 Added (temporary) 34842
  Regulation at 66 FR 34842 correctly designated 44303
165.T09–980 Added (temporary) 40121
165.T09–983 Added (temporary) 41785
165.T09–985 Added (temporary) 42754
165.T09–987 Added (temporary) 42949
165.T09–989 Added (temporary) 41787
165.T09–990 Added (temporary) 42947
165.T09–991 Added (temporary) 42605
  Corrected 45619
165.T09–992 Added (temporary) 43777
165.T09–993 Added (temporary) 45775
165.T09–994 Added (temporary) 44973
165.T09–995 Added (temporary) 46220
165.T09–998 Added (temporary) 48796
  (a) corrected; eff. through 6–15–02 52851
165.T09–999 Added (temporary) 49286
165.T11–055 Added (Temporary).......53715
165.T11–094 Added (temporary) 52693
165.T11–095 Added (temporary) 54666
165.T13–004 Added (temporary) 38372
165.T13–011 Added (temporary) 39447
165.T14–051 Added (temporary) 38935
165.T14–054 Added (temporary) 41789
165.T14–058 Added (temporary) 52694
165.T17–003 Added (temporary) 56213
165.T17–004 Added (temporary) 56212
165.T17–005 Added (temporary) 56210
165.T17–008 Added (temporary) 56218
165.103 Suspended 58066
165.110 Suspended (temporary) 59698
165.501 (d)(14) added (Temporary) 53713
165.540 Added; interim 39099
165.713 Removed 36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim 35760
165.2000—165.2025 (Subpart G) Added; eff. to 6–15–02 48781
165.2030 Added; eff. to 6–15–02 48784
169 Authority citation revised 58070
169.5 Revised 58070
169.100 Note revised 58070
169.120 Revised 58070
169.125 Revised 58070
169.135 (a) revised 58070
169.140 Revised 58070
183.5 (b) amended 55091
183.801—183.810 (Subpart M) Added 55091

Proposed Rules:

1—199 (Ch. 1) 45791
100 ....37200, 48014
117 ....36525, 36527, 36529, 37615, 42972, 47121, 47123, 47601, 51614
151 36530
153 36530
155 49877
156 49877
157 42170
164 36223
165 ....41170, 52365
173 53754
175 56627
334 ....42475, 42477, 42478

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

75.224 Added 60138
75.225 Added 60138

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

674.9 (h)(1), (2) and (3) amended 44006
674.61 (b) amended; (b)(2) removed 44007
682.201 (a)(4)(ii), (6)(iii) and (b)(1)(iv) amended 44007
682.211 (f)(5) revised; (f)(6) through (10) redesignated as (f)(7) through (11); new (f)(6) and (i)(6) added; new (f)(7) amended 44007
685.200 (a)(1)(iv)(A)(*2*) and (B)(*2*) amended 44007

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER since July 2, 2000.

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

20.711 (c), (e) and (h) revised; (f) and (g) amended; (i) added........49538
51.56 Revised........35083
51.57 Revised........35083
51.62 Revised........35083
73.7 Revised; interim........57880
73.9 Revised; interim........57881

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211.16—211.18 (Subpart B) Removed........43779
242 Temporary regulations ...54931, 54934
Emergency closures and adjustments........55092, 56610

Proposed Rules:

219........35918
242........45082
294........35918
1228........37202, 40166
1230........47125
1234........51740
1254........46752

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised........39448
1.16 (a), (b), (d), (f) through (i) and (k) revised........39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised........39449
(h) revised........47389
1.18 (a), (b) and (c) revised........39449
1.20 (e), (f) and (g) revised........39449
1.21 (o) removed........39450
1.491 Revised........45777
1.492 (a)(1), (2), (3), (5), (b) and (d) revised........39450
6.1 Amended........48339
10 Policy statement........44526
104 Added........47390

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

202 Authority citation revised........37149
202.2 Corrected........40322
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added........37149
202.17 Corrected........40322
202.20 (c)(2)(xx) added........37150
253.5 (c)(1) through (3) revised........59699

Proposed Rules:

1........35763, 45792, 46409
2........45792
201........45241, 49330
260........38226, 46250, 48648, 51617

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Chapter I Nomenclature change 44053
3.6 (a) and (e) revised........48560
3.102 Amended........45630
3.103 (b)(2) heading; (3) introductory text, (i) and authority citation revised; (b)(3)(ii) through (vi) amended; (b)(4) added........56613
3.156 (a) and authority citation revised........45630
3.159 Revised........45630
3.204 (a)(1) amended........56614
3.217 Added........56614
3.256 (a) introductory text amended (OMB number)........56614
3.277 (b) introductory text amended (OMB number)........56614
3.317 (a)(1)(i) amended; interim 56615
3.326 (a) amended........45632
3.353 (b)(1) amended........48560
3.452 Cross reference revised........48560
3.501 (i)(7) amended........48560
3.551 (i) amended........48560
3.557 Heading, (b) and cross reference revised; (d) amended 48560

TITLE 38 Chapter I—Con.

3.558 Heading and (a) revised 48560
3.559 Heading revised; (a) and (b) amended 48561
3.808 (d) amended 44528
3.1007 Amended 48561
3.1604 (d)(1)(ii) revised 48561
13.70 (a)(2) amended 48561
13.71 (b) amended 48561
13.108 Heading revised; (a) and (c) amended 48561
17.1000—17.1008 Undesignated center heading and sections added; interim 36470
19.35 Amended 53339
20.101 (c) revised; (d) and (e) added 53339
20.203 Removed 23340
20.302 (b) revised 50318
20.304 Revised 50319
20.901 (a) revised; interim 38159
20.1404 (b) revised; interim 35903
20.1405 (a) revised 37151
20.1409 (b) revised; interim 35903
21.3303 Amended 44053
21.4005 Amended 44053
21.4131 (i) removed 38938
21.4135 (aa) removed 38938
21.4138 Amended 44053
21.4203 Amended 44053
21.4208 Amended 44053
21.4232 Amended 44053
21.4255 Amended 44053
21.4342 Amended 44053
21.4800—21.4856 (Subpart F-3) Removed 38938
21.6410 Amended 44053
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new (b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised 39279
21.7131 (j) removed 38939
Corrected 42586
21.7135 (aa) removed 38939
Corrected 42586
21.7301 Amended 44053
21.7631 (f) removed 38939
21.7635 (w) removed 38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised 38937

Proposed Rules:

3 .....37940, 41483, 44095, 46067, 48845, 49886, 53139, 53565
4 ....37940, 49886, 55614
17 ....36960, 46499, 50594
19 40942
20 40942
36 51893
260 38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim 42112, 53089
111 DMM amended; incorporation by reference 37151, 56433, 56437, 56995, 58945
266.9 (b)(1)(vii), (2) introductory text, (i), (ii) and (iii) revised; (b)(2)(viii) added 40891
501.18 Redesignated as 501.19; new 501.18 added 55097
501.19 Redesignated as 501.20; new 501.19 redesignated from 501.18 55097
501.20 Redesignated as 501.21; new 501.20 redesignated from 501.19 55097
501.21 Redesignated as 501.22; new 501.21 redesignated from 501.20 55097
501.22 Redesignated as 501.23; new 501.22 redesignated from 501.21 55097
501.23 Redesignated as 501.24; new 501.23 redesignated from 501.22 55097
501.24 Redesignated as 501.25; new 501.24 redesignated from 501.23 55097
501.25 Redesignated as 501.26; new 501.25 redesignated from 501.24 55097
501.26 Redesignated as 501.27; new 501.26 redesignated from 501.25 55097
501.27 Redesignated as 501.28; new 501.27 redesignated from 501.26 55097
501.28 Redesignated as 501.29; new 501.28 redesignated from 501.27 55097
501.29 Redesignated as 501.30; new 501.29 redesignated from 501.28 55097
501.30 Redesignated from 501.29 55097

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

960.6 (b) amended....55577
960.7 (a) amended....55577

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.57 Added....54438
3001.58 Added....54438
3001.59 Added....54438
3001.60 Added....54438
3001.69 Added....54440
3001.69a Added....54440
3001.69b Added....54440
3001.69c Added....54440
3001.161—3001.166 (Subpart I) Added....54441
3001.171—3001.176 (Subpart J) Added....54443
3001.181—3001.182 (Subpart K) Added....54444

Proposed Rules:

20....52555
111....36224, 40663, 41485, 42817, 42820, 45245, 48846, 51617
3001....38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

9.1 Table amended (OMB numbers)....40130, 42122
Regulation at 65 FR 43661 eff. 4-30-03....53048
51 State implementation plan determinations....40609
Comment period extended....47887
52 Technical correction....36035, 43796, 43797
State implementation plan determinations....40609, 44973, 53787, 58070
Policy statement....42956
Actions on petitions....47578
Comment period extended....47887, 52533
Determination....51574
52.50 (c) table amended....36920
(c) and (e) table amended...56219, 56224
52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added....38568
(c)(94)(i)(E) removed....42123
(c)(97) added....48089
(c)(46)(i)(D) added....49295
(c)(98) added....51873
(c)(94)(i)(E) added....59702
52.170 (c) table amended....51316
52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added....36172
(c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added....37153
(c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added....37156
(c)(260)(i)(B) and (266)(i)(B)(*3*) added....37591
(c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added....38564
(c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added....38940
(c)(239)(i)(E)(*7*) and (278)(i)(C)(*2*) added....40901
(c)(239)(i)(C)(*2*) and (279)(i)(A)(*4*) added....42128
(c)(280)(i)(A)(*2*)....43485
(c)(183)(i)(H)(*2*) through (*6*) and (281) added....44977
(c)(173)(i)(F) and (282) added....47394
(c)(283) added....48347
(c)(279)(i)(A)(*5*) and (284) added....50321
(c)(175)(i)(B)(*2*) added....51568
(c)(277)(i)(C)(*7*) added....51570
(c)(285) added....51578
(c)(27)(vii)(C), (42)(x)(B), (279)(i)(A)(*6*), (280)(i)(B)(*2*), (281)(i)(A)(*2*) added....51581
(c)(285)(i)(B) added....53342
(c)(282) removed....57387
(c)(230)(i)(D)(*2*), (269)(i)(C)(*2*) and (277)(i)(D) added....57668
52.222 (a)(7)(i) added....44978
52.223 (e) added....48347
52.237 (a)(6) added....48347
52.242 (a)(3) added....49297
52.320 (c)(93) added....35379
(c)(11)(i) added....47086
(c)(94) added....47092
(c)(92) added....48564
52.332 Heading revised; (k) added....55105
52.350 Added....47092
52.426 Heading revised; existing text designated as (a); (b), (c) and (d) added....54614
52.470 (c) table amended....55102
52.520 (e) added....40139

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 40 Chapter I—Con.

52.570 (c) table and (e) table amended 35909
52.720 (c)(158) added....52359
(c)(159) added 56454
(c)(157) added 56465
(c)(161) added 59704
(c)(162) added 59706
52.726 (dd) added 56931
52.770 (c)(141) added....37419
(c)(143) added 47890
(c)(142) added 49299
(c)(144) added 56476
(c)(145) added 56958
(c)(146) added 59711
52.777 (x) added 53684
(y) added....56958
52.920 (e) table amended 43491
(b)(1) and (2) revised; (c) table added 53659
(c) table, (d) table and (e) table amended 53664
(d) table and (e) table amended 53684
(c) table amended 53689
52.930 (k) added 53665
52.1070 Regulation at 66 FR 28059 withdrawn 35546
(c)(162) added 37916
(c)(164) and (165) added 43488
(c)(166) added 46381
(c)(153) added 46729
(c)(160), (169) and (170) added....56221
(c)(163) added 56223
(c)(167) added 57396
52.1075 (h) added....48210
52.1076 (j) added 49109
(f) added 48211
Heading revised; (h) and (i) added 54596
(k) and (l) added 54687
52.1174 (u) added....40898
52.1320 (c) table amended 37905, 37907, 37918, 40903, 42607, 44304, 52361
(d) amended....57391
(c) table amended 59708
52.1370 Regulation at 66 FR 32554 withdrawn 42425
(c)(49) added....42437
(c)(47) added....48564
(c)(51) introductory text and (i)(B)(5) revised....55098
(c)(54) added....57394
(c)(47)(i)(A) corrected 57883
52.1374 Existing text designated as (a); (b) added 55105
52.1375 Added 55098
52.1384 Regulation at 66 FR 32554 withdrawn 42425
(a) added; (c) revised 42437
(b) added....55099
52.1520 (c)(66) added....39104
52.1670 (c)(101) added 48961
52.1679 Table amended 48961
52.1919 (a)(4) added....51572
52.1970 (c)(134) added 40620
(c)(136) added 48354
(c)(135) added 55111
52.1977 Amended 40620
52.1988 (b) revised....40622
52.2020 (c)(152) added 37914
(c)(149) added 40894
(c)(159) added....41792, 52856
(c)(160) added....41795, 52862
(c)(158) added....42126, 52521
(c)(161) added....42132, 52874
(c)(162) added....42136, 52867
(c)(166) added....42140, 52511
(c)(171) added....42418, 52327
(c)(164) added....42425, 52060
(c)(163) added....42761, 52527
(c)(176) added....43497, 52338
(c)(165) added....43501, 52055
(c)(156) added....43508, 54941
(c)(173) added....43783, 52710
(c)(177) added....43788, 52049
(c)(172) added....43794, 52516
(c)(168) added 43796
(c)(175) added....44056, 52343
(c)(181) added....44060, 52332
(c)(170) added....44532, 52700
(c)(167) added....44538, 52532
(c)(178) added....44544, 52705
(c)(180) added....44547, 52322
(c)(184) added....45933, 54953
(c)(174) added....45937, 54715
(c)(182) added....45941, 54709
(c)(169) added....46532, 54947
(c)(185) added....46959, 54697
(c)(179) added....47083, 54704
Regulations at 66 FR 42126, 42136 and 42140 withdrawn 48348
Regulations at 66 FR 41792, 41795 and 42132 withdrawn 48349
Regulations at 66 FR 42418, 42425 withdrawn....48906
Regulations at 66 FR 42761, 43501 and 43508 withdrawn 49108
Regulation at 66 FR 43794 and 43497 withdrawn....49292
Regulation at 66 FR 43788 and 44056 withdrawn....49293
Regulation at 66 FR 44532 withdrawn 49539

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

  - Regulations at 66 FR 44056, 44532 and 44544 withdrawn 49540
  - Regulations at 66 FR 44060 and 44547 withdrawn........................49541
  - Regulation at 66 FR 43783 withdrawn 50829
  - Regulations at 66 FR 45933, 45937 and 45941 withdrawn 51869
  - Regulation at 66 FR 47083 withdrawn 52695
  - Regulations at 66 FR 46532 and 46959 withdrawn........................52705
  - (c)(186) added 53094
  - (c)(188) added 53106
  - (c)(187) added 55883
- 52.2026 Removed..................................44548
- 52.2027 (a) added..................................52534
  - (b) added..................................54699
- 52.2036 Heading revised; (m) added 53106
- 52.2037 Removed..................................53106
  - Heading revised; (i), (j) and (k) added 54164
- 52.2038 Existing text designated as (a); (b) added 44548
- 52.2220 (c) table amended 45633
- 52.2270 (e) table amended 35906, 57195, 57222, 57251
  - (c) table amended 36917, 36923, 48804, 54691, 57218, 57222, 57229, 57244, 57260, 57264
  - Regulation at 66 FR 35906 withdrawn 46220
  - (c) table and (e) table amended 49293
  - (a) introductory text amended 49300
  - (d) table amended..........................57222
  - Regulation at 66 FR 48804 withdrawn 58667
- 52.2299 (c)(121) added 54691
- 52.2570 (c)(101) added 42956
  - (c)(102) added 56449
  - (c)(103) added 56943
- 52.2585 (o) added..................................51574
  - (p) added..................................56943
- 55.14 (e)(2)(i)(A) revised 53534
- 55 Appendix A amended....................53534
- 60 Delegation of authority 50110
- 60.4 Regulation at 66 FR 32554 withdrawn 42425
  - (a), (b) and (c) table amended 42438
- 60.13 (g) revised..................................44980
- 60.41b Amended..................................49834
- 60.44a (d)(2) revised 42610
- 60.44b (l) revised 42610
- 60.51b Amended..................................36476
- 60.58b (a)(1) introductory text revised; (a)(1)(iii) added 57827
- 61 Delegation of authority 50110
- 61.04 Regulation at 66 FR 32555 withdrawn 42425
  - (a), (b) and (c) table amended 42438
  - (b) amended; (c)(10) table revised 48216
- 62.1100 (b)(5)(i) added 48356
- 62.3335 Undesignated center heading and section added 59713
- 62.3915 Undesignated centerheading and section added 46961
- 62.4180 Undesignated centerheading and section added 46961
- 62.6358 (d) added..................................52062
- 62.6359 Undesignated centerheading and section added 46961
- 62.6613 Regulation at 66 FR 32556 withdrawn 42425
  - Undesignated centerheading and section added..........................42439
- 62.6915 Undesignated centerheading and section added 46961
- 62.8106 Undesignated center heading and section added 41148
- 62.9640 Revised..................................43511
- 62.9642 Revised..................................43511
- 62.10100 Regulation at 66 FR 22929 withdrawn..........................35546
  - (b)(5) and (c)(5) added 48567
- 62.10170 Regulation at 66 FR 22929 withdrawn..........................35546
  - Undesignated center heading and section added..........................48567
- 62.10850 (b)(4), (c)(3) and (4) added 49836
- 62.10910 Undesignated center heading and section added 49836
- 62.10911 Added..................................49836
- 62.11460 Undesignated center heading and section added 52537
- 62.13100—62.13104 (Subpart BBB) Undesignated heading added 54718
- 62.13105 Added..................................54718
- 63 Delegation of authority 36173, 50110
  - Technical correction 41086
- 63.14 (d)(2) revised..................................35087

TITLE 40 Chapter I—Con.

(d)(3)(iii) added ... 50124
63.99 (a)(30) added ... 35087
(a)(38) added ... 47583
(a)(47)(i) table revised ... 48218
(a)(8)(ii) through (v) added ... 50124
(a)(3) revised ... 57670
63.360 Table 1 amended; (g)(7) through (10) removed ... 55582
63.361 Amended ... 55583
63.362 (a) Table 1 revised; (e) removed ... 55583
63.363 Revised ... 55583
63.364 (b) introductory text, (c) introductory text, (d) and (e) revised; (b)(2) and (c)(4) amended; (c)(1), (2), (3) and (f) removed ... 55584
63.365 (b)(1) introductory text, (iv)(B), (c), (d) and (h) revised; (b)(1)(iv)(C) and (f) removed ... 55584
63.366 (a)(3) revised ... 55585
63.367 Revised ... 55585
63.459 Introductory text, (a)(2) and (3) revised ... 52538
63.480 (i)(2)(ii) revised ... 36927
63.482 (b) amended ... 36927
63.485 (k) amended ... 36928
63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended ... 36928
63.489 (e)(1)(ii) revised ... 36928
63.501 (c) revised ... 36928
63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended ... 36928
63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised ... 36928
63.863 (a) and (b) revised ... 37593
63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added ... 37593
63.1101 Amended ... 55847
63.1103 (a)(1)(i)(A) revised ... 55847
63.1201 (a) amended ... 35103
63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised ... 35103
Regulation at 66 FR 35103, 35104 and 35105 withdrawn in part ... 52362
63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii); (f)(1)(ii)(D) and (xxvi) added; (n) removed ... 35106
Regulation at 66 FR 35106 withdrawn in part ... 52362
63.1209 (b)(2)(ii) and (l)(2) revised ... 35106
63.1211 (c)(1) revised ... 35106
63.1250 (e) and (h)(2) revised ... 40131
63.1251 Amended ... 40131
63.1252 (h) added ... 40131
63.1253 (b)(2), (3), (4), (c)(2), (3) and (4) redesignated as (b)(3), (4), (5), (c)(3), (4) and (5); new (b)(2) and (c)(2) added; (e) and (f)(7)(i) amended ... 40132
63.1254 (a)(4) added ... 40132
63.1255 (b)(4)(iii)(D), (c)(2)(iii), (3)(i), (4)(ii), (5)(iv), (h)(1)(ii) and (3)(i) revised; (c)(5)(vi)(C) and (D) removed; (b)(4)(iii)(A), (e)(7)(iii) introductory text and (e)(9) amended ... 40132
63.1256 (c)(1)(i)(A), (e)(4)(i)(B) and (g)(10) amended; (e)(4)(iii), (g)(9)(ii) and (h) introductory text revised; (h)(5) added ... 40133
63.1257 (a)(6), (d)(1)(i), (2)(i)(D)(*9*), (E), (3)(iii)(B) introductory text, (e)(2)(iii)(B), (C)(*1*), (D)(*1*) and (E)(*1*) amended; (b)(10)(ii), (c)(1) introductory text and (d)(2)(i)(D)(*10*) revised ... 40133
63.1258 (b)(3) heading, (5)(i)(A), (ii)(A)(*2*) and (b)(8)(iii) revised; (c), (h)(1), (6) introductory text and (7) introductory text amended; (h)(10) and (i) added ... 40134
63.1259 (b)(5)(ii)(D), (E) and (i)(7)(i) through (viii) redesignated as (b)(5)(ii)(E), (F) and (i)(7)(ii) through (ix); (a)(3)(iii), (b)(5)(i) introductory text, (8), (10) and new (i)(7)(ii) revised; new (b)(5)(ii)(D), (13) and new (i)(7)(i) added; (i)(7) introductory text amended ... 40135

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

63.1260 (f)(7) added; (g)(1) introductory text, (2)(vi), (h)(1) introductory text and (i) revised; (g)(2)(v) introductory text and (vii) amended 40135
63.1250—63.1261 (Subpart GGG) Tables 1 amended; Table 2 revised 40136
Table 3 revised 40137
63.1270 (a) introductory text amended 49300
63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised............36937
63.1311 (b) revised............36937
(b) and (d)(6) revised............40907
63.1312 (b) amended 36937
63.1315 (a)(9) and (d) revised............36938
63.1316 (b)(1)(i)(B) revised 36938
63.1318 (a) revised............36938
63.1319 (a) amended 36938
63.1320 (a) amended; (b)(3) revised 36938
63.1322 (f)(1)(ii) and (g)(1)(ii) amended 36938
63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised............36938
63.1324 (f)(1)(ii) revised............36938
63.1327 (b) amended 36938
63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added 36938
63.1331 (a)(6) introductory text revised; (a)(6)(v) added 40907
63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised............36939
63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised............36939
63.1361 Amended 58399
63.1368 (e) introductory text amended 58396
63.5680—63.5779 (Subpart VVVV) Added 44232
63.5710 (c) corrected 50504
63.5680—63.5779 (Subpart VVVV) Table 3 corrected............50504
70.2 Amended 59166
70.6 (c)(5)(iii)(C) revised............55884
70 Appendix A amended 38946, 40903, 42441, 45943, 48808, 49544, 49839, 48941, 50325, 50329, 50575, 51317, 51320, 51585, 52544, 52876, 54446, 54955, 55115, 57000, 58400, 59537
Regulation at 66 FR 38946 withdrawn 48357
Appendix B amended............55892
Regulation at 66 FR 52544 withdrawn 58952
71.6 (c)(5)(iii)(C) revised............55885
72.2 Corrected; CFR correction 42761
80.24 (c) added............54959
80.40 (c) added............37164
80.41 (e) and (f) revised............37164
80.65 (d)(2)(ii) revised 37165
80.67 (g)(1) revised............37165
80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added............37165
80.69 Introductory text revised 37165
80.162 (a)(3)(i)(B), (ii) and (d) revised 55889
80.169 (c)(4)(i)C)(*2*) revised............55890
81 Attainment status determinations............36476, 38947, 38948, 44060, 44304, 48808, 53106
81.305 Table amended 40911, 56482
81.306 Table corrected............34994
Table amended 47092
81.315 Table amended............53685
81.318 Table amended............53685
81.338 Table amended............48354
81.339 Table amended............53106
82.3 Amended; interim 37767
82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim 37767
82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim 37767
82.62 Amended 57522
82.65 (h) and (i) added 57522
82.66 (c) revised; (d)(2)(ii) through (iv), (ix) and (xi) removed; (d)(2)(v) through (viii) and (x) redesignated as (d)(2)(ii) through (v) and (vi); (e) added 57522
86 Actions on petitions............45777
92.120 (c)(2)(v) corrected; CFR correction 58953, 59602
92.121 (b)(2)(vi), (ix), (xi)(A) and (4)(iv) correctly revised; CFR correction 58953, 59602
92.132 Correctly revised; CFR correction 58953, 59602
96 State implementation plan determinations............40609
Comment period extended............47887

TITLE 40 Chapter I—Con.

97 State implementation plan determinations..........40609

Comment period extended..........47887

Appendix A amended..........48575

Appendix B amended..........48576

122.44 Regulation at 65 FR 43661 eff. 4-30-03..........53048

123.44 Regulation at 65 FR 43661 eff. 4-30-03..........53048

124.7 Regulation at 65 FR 43661 eff. 4-30-03..........53048

124.8 Regulation at 65 FR eff. 4-30-03..........53048

130.0—130.7 (Subpart A) Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.1 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.2 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.3 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.4 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.5 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.6 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.7 (d)(1) amended; Regulation at 65 FR 43663 eff. 4-30-03..........53048

130.8 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.9 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.10—130.11 (Subpart B) Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.10 Regulation at 65 FR 43662 and 43663 eff. 4-30-03..........53048

130.11 Regulation at 65 FR 43662 and 43664 eff. 4-30-03..........53048

130.12 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.15 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.20—130.37 (Subpart C) Regulation at 65 FR 43664 eff. 4-30-03..........53048

130.50—130.51 (Subpart D) Regulation at 65 FR 43662 and 43670 eff. 4-30-03..........53048

130.50 Regulation at 65 FR 43662 and 43670 eff. 4-30-03..........53048

130.51 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.60—130.64 (Subpart E) Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.60 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.61 Regulation at 65 FR 43662 and 43670 eff. 4-30-03..........53048

130.62 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.63 Regulation at 65 FR 43662 eff. 4-30-03..........53048

130.64 Regulation at 65 FR 43662 and 43670 eff. 4-30-03..........53048

141.35 (c) amended..........46225

141.40 (a)(5)(ii)(G)(*1*) amended..........46225

148.18 (k) revised; (l) added..........58297

152.1 Revised..........37814

152.3 Amended..........37814

152.20 (a)(1) revised; (a)(4) added..........37814

174 Added..........37814

174.475 Added..........37830

174.479 Added..........37854

180.121 Table amended..........38955

180.153 (a)(1) table amended..........38955

180.169 (a)(1) table and (c) table amended..........38955

180.183 (a)(1) table amended..........38955

180.205 (b) table amended..........37598

(a) table amended..........48601

180.206 (a) table amended..........50833

180.214 (a) table amended..........50833

180.215 (a)(1) table amended..........50833

180.262 (a) table amended..........38955

180.275 (b) table amended..........56245

180.298 (a)(1) redesignated as (a) and amended..........50833

180.324 (b) added..........47402

180.355 (a) introductory text and table amended..........48011

180.404 (a) table amended..........50833

180.412 (b) table amended..........51594

180.416 (b) table amended......37598, 41454

180.418 (a)(2) revised..........47993

180.425 (a) table amended..........39675

180.434 (b) table amended..........37598

180.442 (a) table amended..........49308

180.443 (b) table amended..........37598

180.449 (b) table amended..........37598

180.458 Heading and (a)(3) introductory text revised; (a)(3) table amended..........47979

180.472 (b) table amended..........56233

180.474 (b) table amended..........37598

180.480 (b) table amended..........37598

180.482 (b) table amended......37598, 50332

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

180.489 (a) introductory text revised; (a) table amended..........48613
180.493 (b) table amended..................37598
180.495 (a) table amended..................48968
180.498 (b) introductory text revised; (b) table amended..........39658
180.499 (b) table amended..................37598
  Table amended..........................48585
180.502 (a) table amended 36481, 36484
180.503 (b) table amended..................37598
180.507 (b) table amended..................39666
  (a)(1) table amended.....................48592
  (b) introductory text revised 58408
180.508 (b) table amended..................37598
180.510 (b) table amended..................46396
180.511 (a) table amended; (b) removed..................................46389
180.515 (b) table amended..................39647
  (a) table amended..........................39682
180.516 Table amended......................47410
180.535 (b) table revised....................37598
  (b) table amended..........................47971
180.544 (b) amended..........................55593
180.546 (a) introductory text added..48003
180.557 (b) table revised....................37598
180.567 (a)(2) table amended............49118
180.570 (a) revised..............................40141
180.572 (b) table amended..................42772
180.573 Added 40150
180.574 Added 46738
180.576 Added 49315
180.577 Added 48097
180.1001 (c) table amended....42765, 42776, 57678
  (c) table, (d) table and (e) table amended 42779
  Technical correction......................51587
  (c) table and (e) table amended 53719, 53723
180.1026 Removed 42779
180.1199 Revised 39651
180.1212 Added....................................53346
180.1216 Added....................................42961
197 Technical correction 38374
257 Authority citation revised........53542
257.2 Amended 53542
258.2 Amended 53542
258.28 (a)(1) and (2) amended; (a)(3) added..................................42449
258.41 Added..42449
  (a) added..44069
261 Request for public comment 35379
261.3 (a)(2)(iv) revised; (g)(4) added 50333
261.4 (b)(15) revised 58297
261.32 Table amended..........................58297
261 Appendix IX amended......41800, 43061
  Appendix VII amended 58297
264.340 (b)(1) amended; (b)(3) added 35106
268.36 Added..58298
268.40 Table amended..........................58298
271 State hazardous waste management program authorizations............40911, 42140, 42962, 43798, 44071, 44307, 46961, 49118, 49841, 55115, 57679
  Regulation at 66 FR 44071 withdrawn 50833
271.1 (j) Table 1 and Table 2 amended 58299
272.2251 Added....................................58971
272.750 Removed..................................53728
272.751 Revised....................................53728
272 Appendix A amended.......53730, 58972
281 State underground storage tank program authorizations 59713
300 Appendix B amended......34852, 35387, 35547, 36947, 38571, 39284, 39288, 40915, 42612, 43808, 44073, 45634, 46536, 47095, 47590, 48969, 55892, 56486, 57686, 59367, 59719
302.4 Table amended 58300
330 Added..54620
403.20 Added..50339
712.30 (d) table and (e) table amended 38959

Proposed Rules:

1—799 (Ch. I) 55050
3 ....46162, 54178, 56629, 59392
9 ....35572, 41817
50 57268
51.....38108, 46162, 50135, 54178, 56629, 59392
52....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471, 40168, 40664, 40802, 40946, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185—42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549—43551, 43822, 43823, 44096, 44097, 44568, 44571, 44574, 44578, 44580, 44581, 44582, 44995, 44997, 45661, 45797, 45800, 45806, 45953, 45954, 46571, 46573, 46753—46755, 46758, 46760, 46971, 47129, 47130, 47139, 47142, 47145, 47419, 47603,

CHANGES JULY 2, 2001 THROUGH NOVEMBER 30, 2001

TITLE 40 *Proposed Rules:—Con.*
48399, 48401, 48648, 48847, 48850,
48995, 50252, 50375, 51359, 51619,
52367, 52560, 54733, 55143, 55144,
56496, 57407, 57408, 57692, 57693,
57911, 57914, 57911, 57914, 59205,
59755—59757
60....36547, 42488, 44997, 46162, 46415, 49894,
54178, 56629, 57829, 59392
61....35115, 42488
62....41176, 42488, 44582, 46972, 48401, 49895,
52077, 52561, 54734, 59757
63....35115, 35124, 35126, 35326, 36228, 36836,
40166, 40324, 41718, 41823, 43142,
43552, 46162, 47611, 48174, 50135,
50768, 54178, 56629, 57696, 57917,
57917, 58425, 58427, 58610, 59392
70....34901, 35126, 38966, 39293, 40953, 42490,
42496, 45253, 46162, 46972, 47428,
48402, 48851, 49577, 49579, 49895,
50136, 50375, 50378, 50379, 51359,
51360, 51620, 51895, 52368, 52561,
52562, 53354, 53370, 52881, 52882,
53140, 53148, 53151, 53155, 53159,
53163, 53167, 53170, 53174, 53178,
53966, 53969, 54178, 54734, 54737,
54739, 55144, 56629, 59392
72....39123, 53755
73....48851, 48852
75....39123
78....39123
80....54965, 55905
81....38603, 38608, 38966, 38967, 40953, 42187,
44097, 48401
82....38064, 55145
86....40953
89....51098, 55617, 58085
90....51098, 55617
91....51098, 55617
93....50954
94....51098, 55617
97....39123
122....35572, 41817, 58556
123...35572, 41817, 46162, 54178, 56629, 59392
124....35572, 41817, 52192
125....35572
130....41817
131....39295
136....45811, 49794, 51518, 58693
140....38967, 44585
141....37617, 42974, 46251, 46928, 50961
142....37617, 42974, 46162, 50961, 54178,
56629, 59392
145....46162, 54178, 56629, 59392
147....56496, 56503
152....45661
153....40170
156....45661
162....46162, 54178, 56629, 59392
174....37855, 43552
180....35921, 39705, 39709, 40170, 46415
194....36723, 59207, 59208
228....51628
233....46162, 54178, 56629, 59392
247....45256
257....46162, 53566, 54178, 56629, 59392
258....46162, 53566, 54178, 56629, 59392
260....42193, 52192
261....36725, 38396, 38969, 42193, 43823,
50379, 57918
262....42193
263....42193
264....35124, 35126, 42193, 43142, 58085
265....35126, 42193, 43142
266....35126, 43142
267....52192
268....38405
270....35126, 43142, 52192
271....42193, 42194, 42975, 43142, 43831,
44107, 46162, 46976, 49896, 54178,
56629, 57697, 59392
272....53755, 58985
281...40954, 46162, 50963, 54178, 56629, 59392
300....34906, 35395, 36966, 37439, 38571,
38610, 39299, 40957, 41177, 41179,
42620, 43831, 46574, 47153, 47612,
48018, 50380, 55907, 56507, 59393,
59758, 59759
372....44107
403....46162, 54178, 56629, 59392
412....58556
434....39300
450....35576
501....46162, 54178, 56629, 59392
721....42976, 42978, 54742
745....46162, 54178, 56629, 59392
763....46162, 54178, 56629, 59392
1048....51098, 55617
1051....51098, 55617
1065....51098, 55617
1068....51098, 55617

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 61—Office of the Assistant Secretary for Veterans Employment and Training, Department of Labor (Parts 61-1—61-999)

Chapter 61 Revised....52002

61–250.11 (b) corrected 56761

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6–10 (Subpart 101.6) Revised 37733
  Technical correction 39560
101–3 Revised; interim 55594
101–11 (Subchapter B) Added; eff. 10–22–01 48358
101–46 Revised 48614

Chapter 102—Federal Management Regulations (Parts 102-1—102-99)

102–3 Added 37733
  Technical correction 39560
102–39 Added 48614
102–39.45 (l) correctly designated 51095
102–84 Added; interim 55594
102–117.90 Amended 48812
102–118.40 Amended 48812
102–118.95 Amended 48812
102–118.115 Amended 48812
102–118.175 Amended 48812
102–193 Added 48358
102–194 Added 48358
102–195 Added 48358

Chapter 300—General (Parts 300-1—300-70)

300–2.22 Table revised 58195
300–3.1 Amended 58195
300–70.2 (d) amended; (e) redesignated as (f); new (e) added 58196

Chapter 301—Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)

Chapter 301 Appendix A revised 46070

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

Chapter 302 Revised 58196

Proposed Rules:

101–9 39473
102–192 39473
141 37617
142 37617
174 37855

C

TITL

Chapte Depa Huma

51d Adde
130 (Subc
65 FF
130.20 (b)
....
130.21 OM
130.22 OM
130.23 OM
130.24 Ad
130.30 OM
130.31 OM
130.33 (c)
....

Chapte ing A of He (Parts

405.534 In
....
405.535 F
ducto
410.3 (a)(
410.10 (x)
410.21 Re
....
410.22 R
new
410.23
410.23 Re
new
410.26 (a)
(b) a
headi
410.28 (f)
410.32 (d)
(1) th
as (
and
(d)(1)
throu
410.130—
Adde
410.37 (d)
(e)(3)
410.46 Ad
410.56 (b)
and (
410.78 Re

CHANGES OCTOBER 1, 2001 THROUGH NOVEMBER 30, 2001

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

51d Added; interim	51877
130 (Subchapter L) Regulation at 65 FR 34864 confirmed	58671
130.20 (b) amended; OMB number	58671
130.21 OMB number	58672
130.22 OMB number	58672
130.23 OMB number	58672
130.24 Added (OMB number)	58672
130.30 OMB number	58672
130.31 OMB number	58672
130.33 (c) amended; (d)(2) revised	58672

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

405.534 Introductory text added	55328
405.535 Heading revised; introductory text amended	55328
410.3 (a)(1) revised	55328
410.10 (x) added	55328
410.21 Redesignated from 410.22	55328
410.22 Redesignated as 410.21; new 410.22 redesignated from 410.23	55328
410.23 Redesignated from 410.22; new 410.23 added	55328
410.26 (a) and (b) redesignated as (b) and (c); new (a) and (c) heading added	55328
410.28 (f) added; eff. 11-25-02	58809
410.32 (d) introductory text and (1) through (7) redesignated as (d)(1) introductory text and (i) through (vii); new (d)(1) heading and (2) through (e) added	58809
410.130—410.134 (Subpart G) Added	55331
410.37 (d), (e)(2) and (g) revised; (e)(3) added	55329
410.46 Added	55329
410.56 (b)(1), (2) introductory text and (3) revised	55329
410.78 Revised	55330
411.15 (a)(1) revised; (k)(10) added	55331
Corrected	58786
413.24 (d)(6) revised; (d)(7) added	59920
413.65 (a)(1), (b) (c), (d) introductory text, (7), (g)(7), (i)(1) introductory text, (1)(ii) and (2) revised; (a)(2) amended	59920
414.2 Amended	55332
414.64 Added	55332
414.65 Revised	55332
415.130 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; new (b)(3) and (4) amended; new (d) revised	55332
416.42 Regulation at 66 FR 4686 withdrawn; (b) revised; (d) added	56768
419.2 (c) revised	59922
419.20 (a) revised; (b)(3) and (4) added	59922
419.22 (r) added	59922
419.32 (b)(1) revised	59922
419.40 Revised	59922
419.41 Amended; heading revised; (c)(4)(ii) redesignated as (c)(4)(iv); new (c)(4)(ii) and (iii) added	59923
419.42 (a), (c) and (e) revised	59923
419.43 (e) removed; (f) redesignated as new (e); new (e) revised; interim	55856
Heading and (a) amended	59923
419.62 (d) added	55865
419.60 (e) revised; interim	55856
419.62—419.66 (Subpart G) Added; interim	55856
419.70 (Subpart G) Redesignated as (Subpart H); interim	55856
(d)(2) revised	59923
482.52 Regulation at 66 FR 4686 withdrawn	56768
(a) revised; (c) added	56769
485.639 Regulation at 66 FR 4687 withdrawn	56768
(c) revised; (e) added	56769
489.24 (i)(2) introductory text and (ii) revised	59923

Proposed Rules:

81	50967
82	50978
100	55908
403	54179
408	54186

CHANGES OCTOBER 1, 2001 THROUGH NOVEMBER 30, 2001

TITLE 42 *Proposed Rules:—Con.*

416 54179
418 54179
447 58694
460 54179
482 54179
483 54179

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2560 Authority citation revised 52547
2568.20 (b) revised; (c) redesignated as (d); new (c) added 52547
2568.50 (c) revised 52547
2568.60 Introductory text revised 52547
2568.92 Removed 52547
3162.2-7 Regulation at 66 FR 9527 confirmed 56616
3600 Revised 58901
3610 Removed 58909
3620 Heading and authority citation revised 58909
3621.1—3621.2 (Subpart 3621) Removed 58909
3622.1 (b) revised 58909
3622.2 Amended 58909
3622.4 (a)(2), (4) and (b) amended 58909
3809.2 (a) amended 54860
3809.5 Amended 54860
3809.31 (e) amended 54860
3809.101 (d) revised 58910
3809.116 (a) revised 54860
3809.401 (b)(5)(ii) amended 54860
3809.411 (d)(3)(iii) revised 54860
3809.415 (d) removed 54861
3809.420 Revised 54861
3809.421 Added 54862
3809.598 Revised 54862
3809.604 (a) amended 54862
3809.702 Removed 54862
3809.703 Removed 54862

Proposed Rules:

3800 54863

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

2.81 Added (OMB numbers) 57347
9 Authority citation revised 57347
9.5 (c)(6) revised 57347
10.8 (d)(2)(xix)(N) revised 57347
59.1 Amended 59170
64.3 (a)(1) introductory text revised; (a)(1) table and concluding text amended 59170
64.6 Table amended 51321, 54719
65.4 Flood elevation determinations ... 53112, 53116, 53114, 56770, 56774
67.11 Flood elevation determinations 53117
204 Added 57347
206.2 (a)(3)(i) revised 57352
(a)(20) revised 57353

Proposed Rules:

67 .... 53182, 53190, 56785, 56788

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

46 Authority citation revised 56778
46.201—46.207 (Subpart B) Revised 56778

Chapter V—Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)

Chapter V Revised 49844
506.18 Heading corrected 54061
Corrected 56383

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1355.20 (a) amended; (b) designated 58675
1355.30 (n)(2) revised; (n)(3) removed; (n)(4) and (5) redesignated as (n)(3) and (4) 58675

1355.32 (d)(4) amended	58675
1355.33 (b)(2) revised; second (b)(1) and (2) redesignated as (b)(5) and (6); (c)(6) and (d)(2) amended	58675
1355.34 (b)(4) amended; (c)(2)(v) and (4)(v) revised	58675
1355.35 (e)(1) revised	58675
1355.36 (b)(5)(i) revised	58675
1355.38 (b)(1) amended; (b)(4), (f), (g)(1)(i), (4), (h) introductory text and (2) revised	58676
1355.40 OMB number	58676
1356.20 (c) removed; (d) through (f) redesignated as (c) through (e); OMB number	58676
1356.21 (b)(1)(i), (2)(i), (i)(1)(i)(A) and (k)(1)(i) revised; (j) amended; OMB number	58676
1356.22 (a)(3) revised	58677
1356.50 (c) revised	58677
1356.60 OMB number	58677
1356.71 (a)(3) revised; (j)(2) amended	58677
1356.80 Removed	58677
1357.15 OMB number	58677
1357.16 OMB number	58677

Proposed Rules:

1639	58986
2553	56793

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised	31844
20.10-1—25.10-3 (Subpart 25.10) Added	55092
25.01-3 (b) amended	55091
126.235 Added	53544
172.048 Added	55574
172.065 Table amended	55574
172.070 Added	55575

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

221.15 Introductory text added	55596

Proposed Rules:

32	49677

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.231 (e) revised	50834
1.1103 Table amended	50840
1.2105 (c)(1) revised; (c)(6) redesignated as (c)(7); new (c)(6) added	54452
2.1 (c) amended	50840
2.106 Table amended	53963
2.925 (e) and (f) redesignated as (f) and (g); new (e) added	50840
2.932 (e) added	50840
2.944 Added	50840
2.1043 (a) and (b) revised	50840
20.18 (j) revised (OMB number pending)	55623
OMB number	59719
22 Compliance date extended	50841
24 Compliance date extended	50841
27 Actions on petitions	51594
54.5 Amended	59726
54.307 (a)(1) and (b) amended; (c) revised	59726
54.315 Heading, (a), (b)(4), (c)(5), (e)(1), (4) through (7) and (f)(1) through (4) revised	59727
54.701 (g)(1)(iii) revised	59727
54.702 (a) revised; (i) amended	59727
54.705 (c)(1) introductory text, (i), (ii), (iv) and (v) revised	59728
54.715 (c) amended	59728
54.901—54.904 (Subpart K) Added	59728
64 Compliance date extended	50841
Policy statement	53545
64.601 Amended	54165
64.603 Introductory text revised	54165
69.2 (ww) added	59730
69.4 (b)(2), (d) and (g) revised; (c) removed; (j) added	59730
69.104 (a) amended; (c) through (f) revised; (j) through (l) removed; (n) through (r) added	59730
69.105 (a) revised; (d) added	59731
69.106 (g) revised; (h) added	59731
69.111 (m) added	59732
69.124 (a) revised	59732
69.130 Added	59732
69.131 Added	59732

TITLE 47 Chapter I—Con.

69.306 (d) revised 59732
69.307 (c) revised; (e) added 59732
69.415 Added 59733
69.501 (b), (c) and (e) revised; (f) added 59733
69.502 (d) and (e) added 59733
69.603 (g) and (h)(5) amended 59733
69.609 (b) amended 59733
73 Actions on petitions 50843, 53730, 56038, 58409
73.202 (b) table amended ....50576, 51322, 52712, 53731, 55597, 55598, 56486, 56487, 56617, 58408—48410
73.606 (b) table amended 52712, 55893, 57884
73.621 (i) added 58982
73.622 (b) table amended 52547, 53730, 55892, 55893, 56616
73.624 (g) introductory text, (2)(i) and (ii) amended 58982
73.642 (a)(1) and (e) introductory text revised; (b) amended 58982
73.644 (a) amended 58982
90.494 (g) removed 57885

Proposed Rules:

1 58697
2 ......51905, 53191, 53973, 56048, 57408, 59209
15 ....56793, 59209
18 59209
21 51905
51 59759
54 ....54967, 59761
64 ....50139, 50140
68 58703
69 59761
73 ....50602, 50991, 51360, 51361, 51905, 52565—52567, 52733, 52734, 52735, 53192, 53755, 54190, 54191, 54970, 54971, 54972, 56507, 56629, 56630, 56794, 58428, 58429
76 ....51905, 54972
90 59209

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Summary disposition 53478
Small entity compliance guide 53500
1.106 Table amended (OMB numbers) 53480
2.101 Amended 53484, 53488
Amended; interim 53486
12.102 (d) redesignated as (e); new (d) added 53484
12.209 Revised 53484
12.503 Heading and (a) introductory text amended; (a)(5) added 53488
13.005 (a)(10) added 53488
17.705–4 (c), (d)(1) and (5) amended; interim 543493
19.704 (a)(1), (2), (3), (6), (8) and (11) amended; interim 53493
19.705–2 (d) amended; interim 53493
19.705–7 (a) and (d) amended; interim 53493
19.706 (b) and (c) amended; interim 53493
19.708 (c)(1), (2) and (3) amended; interim 53493
19.901 (c) amended 53500
22.403–4 (b)(5) amended 53480
22.404–1 (a)(1) and (b) amended 53480
22.404–2 (a) revised 53480
22.404–3 (c) amended; (d) removed; (e) redesignated as new (d) 53480
22.404–6 (a) revised; (d) added 53480
22.404–7 Revised 53480
22.404–10 Amended 53481
22.404–11 Amended 53481
22.404–12 Added 53481
22.406–3 (e) added 53481
22.406–10 (e) amended 53481
22.407 (e), (f) and (g) added 53481
22.1300—22.1310 (Subpart 22.13) Revised 53488
32.902 Amended; interim 53486
32.905 (e) through (j) redesignated as (f) through (k); (a) introductory text, new (f) introductory text and (g) introductory text amended; new (e) added; interim 53486
32.907–1 (a)(5) added; (b)(1) and (2) amended; interim 53486
32.908 (c)(4) added; interim 53486
46.801 (a) amended 53484
46.804 Removed 53484
52.202–1 Amended 53484
52.212–4 Amended 53485
52.212–5 Amended 53489
52.213–4 Amended 53489
52.219–9 Amended; interim 53493
52.219–10 Amended; interim 53493
52.222–30 Added 53482

52.222-31 Added 53482
52.222-32 Added 53482
52.222-35 Revised 53490
52.222-37 Revised 53491
52.222-38 Added 53491
52.232-25 Alternate I added; interim 53486
52.244-6 Amended 53491
53.219 (a) and (b) amended; interim 53493
53.301-294 Revised; interim 53494
53.301-295 Revised; interim 53494

Chapter 2—Department of Defense (Parts 200—299)

202.101 Amended 49860
204.7205 (a) and (b) amended 49861
204.7303 (a)(2) amended 55121
207.471 (b) amended 55121
211.503 Redesignated from 211.504 49861
211.504 Redesignated as 211.503 49861
212.301 (f)(iii) amended 49861
(f)(iii) amended; (f)(v) and (vi) redesignated as (f)(vi) and (vii); new (f)(v) added 55122
212.503 Regulation at 65 FR 77828 confirmed 49862
212.504 Regulation at 65 FR 77828 confirmed 49862
213.301 (3) added 55123
Heading and (3) corrected 56902
215.404-4 (c)(2)(C)*(1)(i)* revised 49863
215.404-76 (a) and (c) revised 49863
219.800 (a) amended 49863
219.1005 (a)(3)(A) introductory text, *(1)* through *(4)* and (B) redesignated as (a)(i) introductory text, (A) through (D) and (ii); new (a)(ii) amended 49861
223.404 Removed 49864
223.405 Added 49864
225.7019-1 Regulation at 65 FR 77828 confirmed 49862
225.7019-2 Regulation at 65 FR 77828 confirmed 49862
225.7019-4 Regulation at 65 FR 77828 confirmed 49862
225.7020 Regulation at 65 FR 77828 confirmed 49862
225.7020-1 Regulation at 65 FR 77828 confirmed 49862
225.7020-2 Regulation at 65 FR 77828 confirmed 49862
225.7020-3 Regulation at 65 FR 77828 confirmed 49862
225.7020-4 Regulation at 65 FR 77828 confirmed 49862
226.104 Technical correction 50504
232.501-1 Revised 49865
232.502-4-70 (b) revised 49865
236.201 (c)(1)(A)*(1)* and (B) revised 49861
236.206 Amended 49861
236.274 (a) introductory text amended 49861
237.201 Heading and introductory text revised 49861
242.202 (e)(1)(A) amended 49861
242.302 (a)(13)(B)*(1)* amended 49861
243.204-71 Added 49865
243.205-70 Removed; new 243.205-70 redesignated from 243.205-71 49865
243.205-71 Redesignated as 243.205-70; new 243.205-71 redesignated from 243.205-72 49865
243.205-72 Redesignated as 243.705-71 49865
245.302-1 (a)(4)(C)*(2)* amended 49861
248 Removed 49865
252.204-7004 Clause amended 55121
252.204-7005 Clause amended 55121
252.211-7005 Amended 49861
252.212-7001 Revised 55122
Regulation at 65 FR 77828 confirmed 49862
252.225-7007 (a) correctly designated 50504
252.225-7016 Regulation at 65 FR 77828 confirmed 49862
252.225-7021 (e)(4) corrected 50504
252.225-7023 Regulation at 65 FR 77829 confirmed 49862
252.226-7001 (b), (c), (d)(1) and (e)(1)(i) corrected 50504
252.227-7005 Amended 49861
252.232-7004 Revised 49865
252.237-7000 Introductory text amended 49861
252.239-7000 Introductory text amended 49861
252.243-7000 Removed 49865
252.243-7001 Introductory text amended 49865
252.243-7002 Introductory text amended 49865
252.247-7011 Amended 49861
252.248-7000 Removed 49866
Technical correction 51515

TITLE 48 Chapter 2—Con.

253 Technical correction 51515
253.204–70 Corrected 50504
  (e)(4) amended 55121
253.215–70 (b)(7) revised 49863
Chapter 2 Appendices F and G amended 49861
  Appendix G amended 49862, 55121

Chapter 4—Department of Agriculture (Parts 400—499)

442.1502 Revised 49867

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.402 Revised 53546
1804.570–1 Revised 53546
1804.570–2 Revised 53546
1804.7103 (b) amended 53546
1807.105 (b)(10) revised 53546
1807.7103 Revised 53546
1808.802 Revised 53546
1815.404–2 Amended 53547
1815.604 (a) amended 53547
1816.104–70 (a) amended 53547
1816.405–274 (g)(1) and (4) revised; (h) and (i) redesignated as (i) and (j); new (h) added 53547
1816.603–2 Added 53547
1817.503 (c) added 53547
1819.201 (a)(i) and (ii) amended 53547
1819.202 Removed 53547
1819.302 (Subpart 1819.3) Heading revised 53547
1819.705–470 Amended 53547
1822 Nomenclature change 53547
1832.006–2 Heading revised 53547
1832.410 (b)(ii) amended 53547
1835.016–71 (b)(1) revised; (c)(2)(i)(B) through (G) redesignated as (c)(2)(i)(C) through (H); new (c)(2)(i)(B) added; (d)(4) amended 53547
1836.602–1 (a)(7) redesignated as (a)(6) 53548
1837.104 (b) amended 53548
1837.203 (c) amended 53548
1842.302 Amended 53548
1842.7301 (e)(1) introductory text and (e)(1)(ii) revised 53548
1843.205–70 (a)(1) amended 53548
1843.7002 Revised 53548
1843.7003 (a) revised; (b)(1) amended 53548
1843.7004 (a) introductory text revised 53548
1844.302–70 Introductory text, (c) and (e) amended 53548
1844.302–71 Introductory text amended 53548
1852.204–74 Clause amended 53548
1852.208–81 Revised 53548
1852.223–73 Alternate I amended 53549
1852.243–70 Clause amended 53549

Proposed Rules:

1 53314
32 57294
36 53314
52 ....53050, 57294
53 53314
203 55157
552 53193
1827 57028
1835 57028
1852 57028

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1.56a (j) added 55599
27.72 Regulation at 66 FR 22115 eff. date corrected to 11–9–01 51556

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

300 Inseason orders 59171
325 Nomenclature change; authority citation revised 49869
325.13 (d)(3) revised 49869
325.93 (b) amended 49869
355 Appendix A amended 49870
356 Authority citation revised 49870
356.13 Amended 49870
360 Nomenclature change; authority citation revised 49870
360.1 (c) and (d)(2) amended 49870
360.3 (a)(2) revised 49870
360.5 (d)(4) amended 49870
365 Nomenclature change; authority citation revised 49870
365.105 Revised 49870
365.107 (g) note amended 49870

365.109 (a)(4) amended....49870
365.117 Amended....49870
365.205 (d) amended....49870
365.301 Amended....49870
365.413 (a) introductory text, (b) introductory text and (5) amended....49870
366 Authority citation revised....49870
366.5 Amended....49870
367 Authority citation revised....49870
367 Appendix A amended....49870
370 Authority citation revised....49870
370.7 (b) amended....49871
371 Authority citation revised....49871
371.10 Amended....49871
372 Authority citation revised....49871
372.107 (a), (b) and (e) amended....49871
372.109 Introductory text and (b) amended....49871
372.231 Amended....49871
373 Authority citation revised....49871
374 Authority citation revised....49871
374.303 (g) amended....49871
374.311 (b) amended....49871
374.315 Amended....49871
374.319 (a) and (b) amended....49871
374.403 (b) amended....49871
375 Nomenclature change....49871
375.1 (b)(8) amended....49871
375.2 (b)(1) and (2) amended....49871
375.5 (a) introductory text amended....49871
375.17 (b) amended....49871
375.18 (a), (b) and (c) amended....49871
376 Nomenclature change; authority citation revised....49871
377 Authority citation revised....49871
377.201 (a) amended....49871
377.215 (c)(2) and (3)(iii) amended....49871
378 Authority citation revised....49871
379 Authority citation revised....49871
379 Appendix A amended....49871
381 Nonmenclature change; authority citation revised....49872
381.200 (d)(3) amended....49872
381.210 (c)(4) amended....49872
383 Authority citation revised....49872
383.5 Amended....49872
383.53 (b)(1) and (2) amended....49872
383.72 Revised....49872
383.73 (a)(3)(iii) introductory text amended; (a)(4) revised....49872
383.75 (a)(2)(i) amended....49872
384 Nonmenclature change; authority citation revised....49872
384.303 Removed....49872
384.305 (a) amended....49872
385 Nomenclature change....49873
385.19 (b) amended; (c) revised....49872
385 Appendix B amended....49873
386.37 Amended....49872
386.54 (b) introductory text revised....49872
387.301—387.323 (Subpart C) Authority citation removed....49872
387.401—387.419 (Subpart D) Authority citation removed....49872
387 Nomenclature change....49873
387.7 (d)(3) amended....49873
387.15 Illustrations I and II amended....49873
387.17 Amended....49873
387.41 Amended....49873
387.301 (a)(1), (b) and (c) amended....49873
387.307 (c) amended....49873
387.311 (c) amended....49873
387.313 (a)(3) and (5) amended; cross reference removed....49873
387.321 Amended....49873
387.323 (c) introductory text revised....49873
388 Nomenclature change; authority citation revised....49873
388.1 Amended....49873
388.5 (a) amended....49873
389 Nomenclature change; authority citation revised....49873
390 Nomenclature change....49873
390.5 Amended....49873
390.16 Amended....49873
390.19 (a)(4) removed....49873
391 Nomenclature change....49874
391.31 (f) amended....49874
391.47 (c), (d)(1), (2) and (f) amended....49874
391.51 (b)(8) amended....49874
392 Authority citation revised....49874
392.2 Amended....49874
392.5 (d)(2) and (e) amended....49874
392.7 Amended....49874
393 Nomenclature change....49874
393.47 Amended....49874
393.80 (b)(3) amended....49874
395 Nomenclature change; authority citation revised....49874
395.3 (a) introductory text amended....49874
395.13 (c)(2) amended....49874
396 Nomenclature change; authority citation revised....49874

CHANGES OCTOBER 1, 2001 THROUGH NOVEMBER 30, 2001

TITLE 49 Chapter III—Con.

397 Nomenclature change; authority citation revised 49874
397.71 Footnote 1 amended..............49874
397.73 (b) amended 49874
397.75 (b)(1) amended........................49874
397.101 (g) introductory text revised 49874
397.103 (c) and (d) revised................49874
397.205 (b)(1) amended 49875
397.213 (b)(1) amended 49875
398 Nomenclature changes; authority citation revised 49875
399 Authority citation revised.........49875
350—399 (Subchapter B) Appendixes B, F and G amended 49875

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

544.5 (a) revised...................................53733
544 Appendices A and B revised 53733
Appendix C revised..........................53734
572.113 (b)(2), (3) and (4) revised 51882

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

660 Temporary regulations..............59173

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1201 Amended 56245
1244.3 Heading revised; (c) through (f) added.........................53735

Proposed Rules:

171 ....50147, 59220
173 ....50147, 59220
174 ....50147, 59220
175 ....50147, 59220
176 ....50147, 59220
177 ....50147, 59220
178 ....50147, 59220
209..51362
234..51362
236..51362
390..53373
391..53373
392..53373
393..53373
395..53373
396..53373
571.............51629, 53376, 55623, 59549, 59769
575..56048
579..51907
587..51629

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

17.11 (h) table amended 50350, 51339, 59373
(h) table amended; eff. to 7–29–02..59545, 59749
17.12 (h) table amended....................51606
18.30 Regulation at 66 FR 1907 confirmed; (a)(4)(iv) revised 50851
20.105 Table corrected 56780, 56781
100 Temporary regulations ...54931, 54934
Emergency closures and adjustments...........................55092, 56610

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

223 Policy statement 55749
223.206 (d)(7) added; interim............50354
(d)(2)(ii)(A)(3) corrected 52362
224 Policy statement 55749
230 Quotas...52712

Chapter III—International Fishing and Related Activities (Parts 300—399)

300 Quotas 53735, 58073
Fishing restrictions 56038

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Inseason adjustments 50851
Temporary regulations 54721

CHANGES OCTOBER 1, 2001 THROUGH NOVEMBER 30, 2001

Technical correction 55599
600.120 Revised 57886
600.125 Revised 57887
600.135 Revised 57887
600.150 Revised 57887
600.155 Revised 57887
600.205 Revised 57888
600.245 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c) 57888
622 Temporary regulations 54723, 57396, 58410
635 Quotas 53346, 57397
Temporary regulations 54165
648 Suspension of surf clam minimum size limit 54723
Temporary regulations 55599, 56041, 58074
Inseason adjustment 56039
Daily trip limit 56040
Quotas 57398, 58073
648.260—648.268 (Subpart M) Regulation at 66 FR 23184 eff. date extended 56781
660 Fishing restrictions 49875, 57687
Inseason adjustments 50851, 52062
Reallocation 54166
Temporary regulations 54721
Technical correction 55599
679 Temporary regulations 50576, 52713, 53736, 55128
Reallocation 50858
Table 14A correctly added 55124
Table 15 correctly revised 55125
Table 16 correctly added 55126
Table 18 correctly added 55128
679.26 (b)(1)(vi) corrected 53122

Proposed Rules:

10 52282
17....50383, 51362, 53573, 53756, 54808, 56265, 56508, 57526, 57560, 58706, 59550, 59769
20 ....51919, 52077, 56266, 58707
21 ....52077, 56266
216 55909
222 ....50148, 53385, 53194, 57930
223 ...50148, 52567, 53194, 53195, 53385, 57930
229 ....49896, 50160, 50390, 59394
600 ....53575, 54192, 59552, 59553
622 ....52370, 53579, 55910, 59221
635 57409
648 ....51000, 53575, 53769, 53770, 54498, 56052, 58097, 59404
660 51367
679 ...49908, 51001, 52090, 59225, 59228, 59771

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19
15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18

26
27
28
29
30
Apr. 2
3
4
5
6
9
10
11
12
13
16
17
18
19
20
23
24
25
26
27
30
May 1
2
3
4
7
8
9
10
11
14
15
16
17
18
21
22
23
24
25
29
30
31
June 1
4
5
6
7
8
11
12
13
14
15
18

32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31
39615–40105	Aug. 1
40107–40572	2
40573–40838	3
40839–41128	6
41129–41438	7
41439–41754	8
41755–42104	9
42105–42412	10
42413–42586	13
42587–42727	14
42729–42927	15
42929–43064	16
43065–43459	17
43461–43760	20
43761–44024	21
44025–44289	22
44291–44520	23
44521–44944	24
44945–45150	27
45151–45561	28
45563–45747	29
45749–45919	30
45921–46210	31
46211–46363	Sept. 4
46365–64508	5
46509–46692	6
46693–46935	7
46937–47059	10
47061–47378	11
47379–47570	12
47571–47875	13
47877–47948	14
47949–48083	17
48085–48202	18
48203–48322	19
48323–48526	20
48527–48784	21
48785–48948	24
48949–49084	25
49085–49269	26
49271–49510	27
49511–49822	28
49823–50093	Oct. 1
50095–50285	2
50287–50524	3
50525–50807	4
50809–51289	5
51291–51553	9
51555–51817	10
51819–52013	11
51555–52306	12
52307–52481	15
52483–52656	16
52657–52848	17
52849–53071	18
53075–53328	19
53329–53501	22
53503–53710	23
53711–53941	24
53943–54096	25
54097–54409	26
54411–54640	29
54641–54908	30
54909–55066	31
55067–55554	Nov. 1
55555–55869	2
55871–56029	5
56031–56193	6
56195–56424	7
56425–56594	8
56595–56752	9
56753–56966	13
56967–57353	14
57355–57644	15
57645–57836	16
57837–58047	19
58049–58348	20
58349–58653	21
58655–58912	23
58913–59134	26
59135–59351	27
59353–59528	28
59529–59671	29
59673–59671	30

DE

2001

UMI

United St
Governm
Printing O
SUPERINTEND
OF DOCUM
Washington,
OFFICIAL BU
Penalty for Priv

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

December 2001

Save this issue for Titles
1—16 (Annual)

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for Private Use, $300

PERIODICALS
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097-6326)

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Code of Federal Regulations

LSA

List of CFR Sections Affected

December 2001

Title 1–16
Changes January 2, 2001
through December 31, 2001

Title 17–27
Changes April 2, 2001
through December 31, 2001

Title 28–41
Changes July 2, 2001
through December 31, 2001

Title 42–50
Changes October 1, 2001
through December 31, 2001

LSA—LIST OF CFR SECTIONS AFFECTED

The LSA (List of CFR Sections Affected) is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
28–41—as of July 1
42–50—as of Oct. 1

To bring these regulations up to date, consult the most recent LSA for any changes, additions, or removals published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

The page numbers listed to the right of each LSA entry indicate where the specific amendments begin in the Federal Register. **Boldface** page numbers under a particular title indicate that the page numbers span 2 years. **Boldface** is used to distinguish the previous year from the current year.

Cite a page reference from this publication using the volume number (64 FR for 1999, 65 FR for 2000) and the page number. Example: 24727 in bold cite as 64 FR 24727. For your convenience, the volume number has been included in the Table of Federal Register Issue Pages and Dates.

ISSUES TO BE SAVED

There is no single annual issue of the LSA. Four ANNUAL ISSUES must be saved; the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the volume number, the inclusive page numbers, and the corresponding Federal Register issue dates for the period covered.

INDEXES

An INDEX to the daily Federal Register is published monthly and is cumulated for 12 months. A separate volume, the CFR Index and Finding Aids to the entire Code of Federal Regulations, is revised as of January 1 each year.

LSA ONLINE

The LSA can be found on the Internet at http://www.access.gpo.gov/nara/lsa/aboutlsa.html.

INQUIRIES AND SUGGESTIONS

Brian Swidal was Chief Editor of the LSA, assisted by Shelley C. Featherson. The LSA was prepared under the direction of Raymond A. Mosley, assisted by Gwen Henderson. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to Raymond A. Mosley, Director, Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408 or e-mail info@fedreg.nara.gov.

CHECKLIST OF CFR VOLUMES FOR THIS MONTH

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-044-00001-6)	6.50	[4]Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101).	(869-044-00002-4)	36.00	[1]Jan. 1, 2001
4	(869-044-00003-2)	9.00	Jan. 1, 2001
5 Parts:			
1-699	(869-044-00004-1)	53.00	Jan. 1, 2001
700-1199	(869-044-00005-9)	44.00	Jan. 1, 2001
1200-End, 6 (6 Reserved)	(869-044-00006-7)	55.00	Jan. 1, 2001
7 Parts:			
1-26	(869-044-00007-5)	40.00	[4]Jan. 1, 2001
27-52	(869-044-00008-3)	45.00	Jan. 1, 2001
53-209	(869-044-00009-1)	34.00	Jan. 1, 2001
210-299	(869-044-00010-5)	56.00	Jan. 1, 2001
300-399	(869-044-00011-3)	38.00	Jan. 1, 2001
400-699	(869-044-00012-1)	53.00	Jan. 1, 2001
700-899	(869-044-00013-0)	50.00	Jan. 1, 2001
900-999	(869-044-00014-8)	54.00	Jan. 1, 2001
1000-1199	(869-044-00015-6)	24.00	Jan. 1, 2001
1200-1599	(869-044-00016-4)	55.00	Jan. 1, 2001
1600-1899	(869-044-00017-2)	57.00	Jan. 1, 2001
1900-1939	(869-044-00018-1)	21.00	[4]Jan. 1, 2001
1940-1949	(869-044-00019-9)	37.00	[4]Jan. 1, 2001
1950-1999	(869-044-00020-2)	45.00	Jan. 1, 2001
2000-End	(869-044-00021-1)	43.00	Jan. 1, 2001
8	(869-044-00022-9)	54.00	Jan. 1, 2001
9 Parts:			
1-199	(869-044-00023-7)	55.00	Jan. 1, 2001
200-End	(869-044-00024-5)	53.00	Jan. 1, 2001
10 Parts:			
1-50	(869-044-00025-3)	55.00	Jan. 1, 2001
51-199	(869-044-00026-1)	52.00	Jan. 1, 2001
200-499	(869-044-00027-0)	53.00	Jan. 1, 2001
500-End	(869-044-00028-8)	55.00	Jan. 1, 2001
11	(869-044-00029-6)	31.00	Jan. 1, 2001
12 Parts:			
1-199	(869-044-00030-0)	27.00	Jan. 1, 2001
200-219	(869-044-00031-8)	32.00	Jan. 1, 2001
220-299	(869-044-00032-6)	54.00	Jan. 1, 2001
300-499	(869-044-00033-4)	41.00	Jan. 1, 2001
500-599	(869-044-00034-2)	38.00	Jan. 1, 2001
600-End	(869-044-00035-1)	57.00	Jan. 1, 2001
13	(869-044-00036-9)	45.00	Jan. 1, 2001
14 Parts:			
1-59	(869-044-00037-7)	57.00	Jan. 1, 2001
60-139	(869-044-00038-5)	55.00	Jan. 1, 2001
140-199	(869-044-00039-3)	26.00	Jan. 1, 2001
200-1199	(869-044-00040-7)	44.00	Jan. 1, 2001
1200-End	(869-044-00041-5)	37.00	Jan. 1, 2001
15 Parts:			
0-299	(869-044-00042-3)	36.00	Jan. 1, 2001
300-799	(869-044-00043-1)	54.00	Jan. 1, 2001
800-End	(869-044-00044-0)	40.00	Jan. 1, 2001
16 Parts:			
0-999	(869-044-00045-8)	45.00	Jan. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–044–00051–2)	56.00	Apr. 1, 2001
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–044–00054–7)	53.00	Apr. 1, 2001
200–End	(869–044–00055–5)	20.00	[5]Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–044–00057–1)	57.00	Apr. 1, 2001
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–044–00070–9)	40.00	Apr. 1, 2001
24 Parts:			
0–199	(869–044–00071–7)	53.00	Apr. 1, 2001
200–499	(869–044–00072–5)	45.00	Apr. 1, 2001
500–699	(869–044–00073–3)	27.00	Apr. 1, 2001
700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–044–00075–0)	28.00	Apr. 1, 2001
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–044–00080–6)	41.00	Apr. 1, 2001
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–044–00085–7)	54.00	Apr. 1, 2001
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5]Apr. 1, 2001
600–End	(869–044–00095–4)	15.00	Apr. 1, 2001
27 Parts:			
1–199	(869–044–00096–2)	57.00	Apr. 1, 2001
200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–044–00098–9)	55.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001
29 Parts:			
0–99	(869–044–00100–4)	45.00	July 1, 2001
100–499	(869–044–00101–2)	14.00	[6]July 1, 2001
500–899	(869–044–00102–1)	47.00	[6]July 1, 2001
900–1899	(869–044–00103–9)	33.00	July 1, 2001
1900–1910 (§§ 1900 to 1910.999)	(869–044–00104–7)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869–044–00105–5)	42.00	July 1, 2001
1911–1925	(869–044–00106–3)	20.00	[6]July 1, 2001
1926	(869–044–00107–1)	45.00	July 1, 2001
1927–End	(869–044–00108–0)	55.00	July 1, 2001
30 Parts:			
1–199	(869–044–00109–8)	52.00	July 1, 2001
200–699	(869–044–00110–1)	45.00	July 1, 2001
700–End	(869–044–00111–7)	53.00	July 1, 2001
31 Parts:			
0–199	(869–044–00112–8)	32.00	July 1, 2001
200–End	(869–044–00113–6)	56.00	July 1, 2001
32 Parts:			
1–39, Vol. I		15.00	[2]July 1, 1984
1–39, Vol. II		19.00	[2]July 1, 1984
1–39, Vol. III		18.00	[2]July 1, 1984
1–190	(869–044–00114–4)	51.00	[6]July 1, 2001
191–399	(869–044–00115–2)	57.00	July 1, 2001
400–629	(869–044–00116–8)	35.00	[6]July 1, 2001
630–699	(869–044–00117–9)	34.00	July 1, 2001
700–799	(869–044–00118–7)	42.00	July 1, 2001
800–End	(869–044–00119–5)	44.00	July 1, 2001
33 Parts:			
1–124	(869–044–00120–9)	45.00	July 1, 2001
125–199	(869–044–00121–7)	55.00	July 1, 2001
200–End	(869–044–00122–5)	45.00	July 1, 2001
34 Parts:			
1–299	(869–044–00123–3)	43.00	July 1, 2001
300–399	(869–044–00124–1)	40.00	July 1, 2001
400–End	(869–044–00125–0)	56.00	July 1, 2001
35	(869–044–00126–8)	10.00	[6]July 1, 2001
36 Parts			
1–199	(869–044–00127–6)	34.00	July 1, 2001
200–299	(869–044–00128–4)	33.00	July 1, 2001
300–End	(869–044–00129–2)	55.00	July 1, 2001
37	(869–044–00130–6)	45.00	July 1, 2001
38 Parts:			
0–17	(869–044–00131–4)	53.00	July 1, 2001
18–End	(869–044–00132–2)	55.00	July 1, 2001
39	(869–044–00133–1)	37.00	July 1, 2001

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
40 Parts:			
1–49	(869–044–00134–9)	54.00	July 1, 2001
50–51	(869–044–00135–7)	38.00	July 1, 2001
52 (52.01–52.1018)	(869–044–00136–5)	50.00	July 1, 2001
52 (52.1019–End)	(869–044–00137–3)	55.00	July 1, 2001
53–59	(869–044–00138–1)	28.00	July 1, 2001
60 (60.1–End)	(869–044–00139–0)	53.00	July 1, 2001
60 (Apps)	(869–044–00140–3)	51.00	July 1, 2001
61–62	(869–044–00141–1)	35.00	July 1, 2001
63 (63.1–63.599)	(869–044–00142–0)	53.00	July 1, 2001
63 (63.600–63.1199)	(869–044–00143–8)	44.00	July 1, 2001
63 (63.1200–End)	(869–044–00144–6)	56.00	July 1, 2001
64–71	(869–044–00145–4)	26.00	July 1, 2001
72–80	(869–044–00146–2)	55.00	July 1, 2001
81–85	(869–044–00147–1)	45.00	July 1, 2001
86 (86.1–86.599–99)	(869–044–00148–9)	52.00	July 1, 2001
86 (86.600–1–End)	(869–044–00149–7)	45.00	July 1, 2001
87–99	(869–044–00150–1)	54.00	July 1, 2001
100–135	(869–044–00151–9)	38.00	July 1, 2001
136–149	(869–044–00152–7)	55.00	July 1, 2001
150–189	(869–044–00153–5)	52.00	July 1, 2001
190–259	(869–044–00154–3)	34.00	July 1, 2001
260–265	(869–044–00155–1)	45.00	July 1, 2001
266–299	(869–044–00156–0)	45.00	July 1, 2001
300–399	(869–044–00157–8)	41.00	July 1, 2001
400–424	(869–044–00158–6)	51.00	July 1, 2001
425–699	(869–044–00159–4)	55.00	July 1, 2001
700–789	(869–044–00160–8)	55.00	July 1, 2001
790–End	(869–044–00161–6)	44.00	July 1, 2001
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–044–00162–4)	22.00	July 1, 2001
101	(869–044–00163–2)	45.00	July 1, 2001
102–200	(869–044–00164–1)	33.00	July 1, 2001
201–End	(869–044–00165–9)	24.00	July 1, 2001
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–044–00168–3)	58.00	Oct. 1, 2001
43 Parts:			
1–999	(869–044–00169–1)	45.00	Oct. 1, 2001
1000–end	(869–044–00170–5)	56.00	Oct. 1, 2001
44	(869–044–00171–3)	45.00	Oct. 1, 2001
45 Parts:			

CHECKLIST OF CFR VOLUMES FOR THIS MONTH—Continued

(Comprising a Complete CFR Set)

Title	Stock Number	Price	Revision Date
1–199	(869–044–00172–1)	53.00	Oct. 1, 2001
200–499	(869–044–00173–0)	31.00	Oct. 1, 2001
500–1199	(869–044–00174–8)	45.00	Oct. 1, 2001
1200–End	(869–044–00175–6)	55.00	Oct. 1, 2001
46 Parts:			
1–40	(869–044–00176–4)	43.00	Oct. 1, 2001
41–69	(869–044–00177–2)	35.00	Oct. 1, 2001
70–89	(869–044–00178–1)	13.00	Oct. 1, 2001
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–044–00180–2)	24.00	Oct. 1, 2001
156–165	(869–044–00181–1)	31.00	Oct. 1, 2001
166–199	(869–044–00182–9)	42.00	Oct. 1, 2001
200–499	(869–044–00183–7)	36.00	Oct. 1, 2001
500–End	(869–044–00184–5)	23.00	Oct. 1, 2001
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–044–00186–1)	43.00	Oct. 1, 2001
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–044–00192–6)	53.00	Oct. 1, 2001
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–044–00196–9)	38.00	Oct. 1, 2001
49 Parts:			
1–99	(869–044–00197–7)	55.00	Oct. 1, 2001
100–185	(869–044–00202–7)	26.00	Oct. 1, 2001
186–199	(869–044–00199–3)	18.00	Oct. 1, 2001
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–044–00202–7)	26.00	Oct. 1, 2001
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–044–00205–1)	36.00	Oct. 1, 2001
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1. 1985 edition of 32 CFR Parts 1 to 189 contains a note only for Parts 1 to 39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1 to 39. consult the three CFR volumes issued as of July 1. 1984. containing those parts.

[3] The July 1. 1985 edition of 41 CFR Chapters 1 to 100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49. consult the 11 CFR volumes issued as of July 1. 1984. containing those chapters.

[4] No amendments to this volume were promulgated during the period April 1. 1990 to March 31. 1997. The CFR volume issued April 1. 1990. should be retained.

[5] No amendments were promulgated during the period October 1. 1995 to September 30. 1996. The CFR volume issued October 1. 1995 should be retained.

[6] No amendments to this volume were promulgated during the period July 1. 1996 to June 30. 1997. The volume issued July 1. 1996. should be retained.

Order from Superintendent of Documents. Attn: New Orders. PO Box 371954. Pittsburgh. PA 15250-7954. Charge orders (VISA. MasterCard. or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 512-1800 from 8:00 a.m. to 4:00 p.m. eastern time. Monday-Friday (except holidays).

Other Related Publications

Title	Price	Revision Date
Federal Register:		
Yearly subscription (with FR Index and LSA)	764.00	
Yearly subscription (without FR Index and LSA)	699.00	
Individual copies	10.00	daily

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register (Parts 1—49)

11.2 (a) revised	44524
11.3 (a) revised	44524
11.6 (a) revised	44524
11.7 Revised	44524
11.8 Revised	44524

Proposed Rules:

11	30340

TITLE 2—[RESERVED]

There is no regulatory text to this title

TITLE 3—THE PRESIDENT

Presidential Documents

Proclamations

6641 *See* Proc. 7515	66549
6763 *See* Proc. 7515	66549
7208 *See* Proc. 7445	30053
See Proc. 7502	57837
7214 *See* Proc. 7445	30053
7273 *See* Proc. 7505	59353
7350 *See* Proc. 7400	7373
7351 *See* Proc. 7400	7373
See Proc. 7515	66549
7388 *See* Proc. 7400	7373
7389	703
7390	5417
7391	7205
7392	7335
7393	7339
7394	7343
7395	7347
7396	7351
7397	7354
7398	7359
7399	7364
7400	7373
7401	7375
7402	7855
7403	7861
7404	9025
7405	9639
7406	9759
7407	9761
7408	12989
7409	12991
7410	13639
7411	13641
7412	13643
7413	14067
7414	14069
7415	14477
7416	15783
7417	16591
7418	17317
7419	17319
7420	18035
7421	18183
7422	18395
7423	18867
7424	19077
7425	19079
7426	19845
7427	20081
7428	20183
7429	21629
7430	22103
7431	22423
7432	23533
7433	23535
7434	23831
7435	24043
7436	24045
7437	24046
7438	28045
7439	28047
7440	28049
7441	28353
7442	28639
7443	28825
7444	29445
7445	30053
7446	30287
7447	31367
7448	31371
7449	31375
7450	32205
7451	32891
7452	34775
7453	35361
7454	35365
7455	37103
7456	38889
7457	39403
7458	45563
7459	46507
7460	47569
7461	47939
Amended by Proc. 7464	48203
7462	47947
7463	48199
See EO 13224	49079

TITLE 3 Proclamations—Con.

See Military Order of Nov. 13, 2001	57833
See EO 13235	58343
7464	48203
7465	48317
7466	48319
7467	48321
7468	48947
7469	48949
7470	49505
7471	50097
7472	50099
7473	50287
7474	50289
7475	50525
7476	50527
7477	51295
7478	51297
7479	51807
7480	51808
7481	51810
7482	52011
7483	52015
7484	52303
7485	52845
7486	52847
7487	53943
7488	54903
7489	54905
7490	54907
7491	55555
7492	56031
7493	56425
7494	57627
7495	57631
7496	57633
7497	57635
7498	57637
7499	57639
7500	57641
7501	57643
7502	57837
7503	58049
7504	58347
7505	59353
7506	59529
7507	62907
7508	62909
7509	62911
7510	63149
7511	63899
7512	64497
See Proc. 7515	66549
7513	64095
7514	65089
7515	66549

Executive Orders

10000 Amended by EO 13207	18399
10513 Revoked by EO 13245	66268
10789 Amended by EO 13232	53941
11145 Amended by EO 13225	50291
11183 Amended by EO 13225	50291
11274 Revoked by EO 13243	66262
11287 Amended by EO 13225	50291
11487 Revoked by EO 13244	66267
11582 *See* EO 13238	63903
11822 Revoked by EO 13246	66270
11880 Revoked by EO 13242	66260
11957 Revoked by EO 13241	66258
12002 *See* EO 13206	18397
12131 Amended by EO 13225	50291
12170 *See* Notice of Mar. 13, 2001	15013
See Notice of Nov. 9, 2001	56966
12196 Amended by EO 13225	50291
12214 *See* EO 18397	18397
12216 Amended by EO 13225	50291
12333 See EO 13231	53063
12345 Amended by EO 13225	50291
12367 Amended by EO 13225	50291
12382 Amended by EO 13225	50291
See EO 13231	53063
12472 See EO 13231	53063
12543 Continued by Notice of Jan. 4, 2001	1251
12544 Continued by Notice of Jan. 4, 2001	1251
12608 Revoked in part by EO 13242	66260
12656 Amended by EO 13228	51812
12667 Revoked by EO 13233	56025
12798 *See* Notice of Oct. 16, 2001	53073
12808 *See* Notice of May 24, 2001	29007
12810 *See* Notice of May 24, 2001	29007
12831 *See* Notice of May 24, 2001	29007
12834 Revoked by EO 12834	867
12836 Revoked by EO 13202	11225
12846 *See* Notice of May 24, 2001	29007
12865 Continued by Notice of Sept. 24, 2001	49084
12871 Revoked by EO 13203	11227
12882 Amended by EO 13226	50523
12900 Amended by EO 13225	50291
Revoked by EO 13230	52841
12905 Amended by EO 13225	50291
12924 Revoked by EO 13206	18397
12933 Revoked by EO 13204	11228

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

12934 *See* Notice of May 24, 2001	29007
12938 *See* EO 13206	18397
See Notice of Nov. 9, 2001	56965
12947 *See* Notice of Jan. 19, 2001	7371
12957 *See* Notice of Mar. 13, 2001	15013
12958 *See* EO 13231	53063
See Military Order of Nov. 13, 2001	57833
See Order of Dec. 10, 2001	64347
12959 *See* Notice of Mar. 13, 2001	15013
12981 *See* EO 13206	18397
12983 Revoked by EO 13203	11227
12994 Amended by EO 13225	50291
12998 Revoked by EO 13242	66260
13021 Amended by EO 13225	50291
13035 Amended by EO 13215	30285
13045 Amended by EO 13229	52013
13047 Continued by Notice of May 15, 2001	27443
13059 *See* Notice of Mar. 13, 2001	15013
EO 13067 *See* Notice of Oct. 31, 2001	55869
13069 *See* Notice of Sept. 24, 2001	49084
13075 Amended by EO 13225	50291
13080 Amended by EO 13225	50291
13088 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13090 Amended by EO 13225	50291
13092 *See* EO 13215	30285
13098 *See* Notice of Sept. 24, 2001	49084
13099 *See* Notice of Jan. 19, 2001	7371
13111 Amended by EO 13188	5419
Amended by EO 13218	33627
13113 *See* EO 13215	30285
13121 Amended by EO 13192	7379
See Notice of May 24, 2001	29007
13125 Amended by EO 13216	31373
13130 Revoked by EO 13231	53063
13134 Amended by EO 13225	50291
13136 Amended by EO 13225	50291
13138 Amended by EO 13226	50523
13156 Revoked by EO 13203	11227
13168 Amended by EO 13225	50291
13174 Amended by EO 13218	33627
13178 Amended by EO 13196	7395
13182 Corrected	10057
13183 Amended by EO 13209	22105
13184	697
13185	701
13186	3853
13187	3857
13188	5419
13189	5421
13190	5425
13191	7271
13192	7379
See Notice of May 24, 2001	29007
13193	7387
13194	7389
See EO 13213	28829
13195	7391
13196	7391
13197	7853
13198	8497
13199	8499
13200	10183
See EO 13215	30285
13201	11221
13202	11225
Amended by EO 13208	18717
13203	11227
13204	11228
13205	15011
13206	18397
13207	18399
13208	18717
13209	22105
13210	22895
13211	28355
13212	28357
13213	28829
13214	29447
13215	30285
13216	31373
13217	33155
13218	33627
13219	34777
13220	35527
13221	40751
13222	44025
13223	48201
13224	49079
13225	50291
13226	50523
13227	51287
13228	51812
See EO 13231	53063
13229	52013
13230	52841
13231	53063
13232	53941
13233	56025
13234	57355
13235	58343

TITLE 3 Executive Orders—Con.

13236	59671
13237	59851
13238	63903
13239	64907
13240	66257
13241	66258
13242	66260
13243	66262
13244	66267
13245	66268
13246	66270
13247	66271
13248	66705

Administrative Orders

Memorandums:

June 5, 1997 Revoked by EO 13202	11225
Oct. 28, 1999 Revoked by EO 13203	11227
Mar. 3, 2000	3851
Mar. 5, 2001	14453
Mar. 28, 2001	17303
Apr. 12, 2001	20725
May 30, 2001	30629
May 31, 2001	31833
June 5, 2001	30799
July 11, 2001	37105
Sept. 25, 2001	49507
Nov. 9, 2001	57357, 57359
Dec. 7, 2001	64735

Notices:

Nov. 14, 1995 *See* Notice of Nov. 9, 2001	56965
Nov. 12, 1996 *See* Notice of Nov. 9, 2001	56965
Nov. 13, 1997 *See* Notice of Nov. 9, 2001	56965
Nov. 12, 1998 *See* Notice of Nov. 9, 2001	56965
Nov. 10, 1999 *See* Notice of Nov. 9, 2001	56965
Nov. 12, 2000 *See* Notice of Nov. 9, 2001	56965
Jan. 4, 2001	1251
Jan. 19, 2001	7371
Feb. 27, 2001	12841
Mar. 13, 2001	15013
May 15, 2001	27443
May 24, 2001	29007
June 11, 2001	32207
June 30, 2001	35363
July 31, 2001	40105
Sept. 24, 2001	49084
Oct. 16, 2001	53073
Oct. 31, 2001	55869
Nov. 9, 2001	56965, 56966

Military Orders:

Nov. 13, 2001	57833

Orders:

Dec. 10, 2001	64347

Presidential Determinations:

No. 96–7 of Dec. 27, 1995 *See* Notice of May 24, 2001	29007
No. 2000–29 of Sept. 12, 2000	47943
No. 2001–05 of Dec. 15, 2000	223
No. 2001–06 of Dec. 15, 2000	225
No. 2001–07 of Dec. 19, 2000	1013
No. 2001–08 of Dec. 27, 2000	1561
No. 2001–09 of Jan. 3, 2001	2193
No. 2001–10 of Jan. 17, 2001	8501
No. 2001–11 of Jan. 19, 2001	8503
No. 2001–12 of Mar. 1, 2001	14454
No. 2001–13 of Apr. 17, 2001	20585
No. 2001–14 of Apr. 30, 2001	27825
No. 2001–15 of May 11, 2001	27827
No. 2001–16 of June 1, 2001	30631
No. 2001–17 of June 1, 2001	30633
No. 2001–18 of June 8, 2001	34353
No. 2001–19 of June 11, 2001	34355
No. 2001–20 of July 2, 2001	37109
No. 2001–21 of July 4, 2001	37111
No. 2001–22 of July 26, 2001	40107
No. 2001–23 of Aug. 9, 2001	44521
No. 2001–24 of Aug. 18, 2001	46693
No. 2001–25 of Aug. 31, 2001	46695
No. 2001–26 of Sept. 12, 2001	47943
No. 2001–27 of Sept. 18, 2001	50807
No. 2001–28 of Sept. 22, 2001	50095
No. 2001–29 of Sept. 23, 2001	49075
No. 2001–30 of Sept. 28, 2001	51291
No. 2001–31 of Sept. 28, 2001	51293
No. 2002–02 of Oct. 16, 2001	53503
No. 2002–03 of Oct. 16, 2001	53505
No. 2002–04 of Nov. 21, 2001	63487
No. 2002–05 of Dec. 14, 2001	66707

TITLE 4—ACCOUNTS

No amendments to 4 CFR have been published in the FEDERAL REGISTER since January 1, 2001.

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Office of Personnel Management (Parts 1—1199)

213.3102 (t) amended	66709
250.101 Amended	66709
250.103 Amended	66709
293.103 (b) amended	66709
293.302 Amended	66709
293.306 (b)(3) amended	66709
293.309 Amended	66709
293.405 (a) amended	66709
293.504 (a) amended	66709
294.106 Heading, (a)(1) and (d) amended	66710
294.301 (a) amended	66710
300.501 (c) amended	66710
300.503 (b) amended	66710
300.603 (b)(6) amended	66710
302.106 Added; eff. 1-10-02; interim	63906
315.603 (a)(1)(iv) (2)(ii) and (3)(iv) amended	66710
315.606 Amended	66710
315.701 (a)(2) amended	66710
315.704 (b)(2) amended	66710
315.707 (a)(1) amended	66710
315.710 (a) amended	66710
316.403 (a)(3) amended	66710
317 Authority citation revised	63906
317.501 (b)(2) revised; eff. 1-10-02; interim	63906
330 Authority citation revised	6428, 29896, 63906
330.301—330.307 (Subpart C) Removed; interim	29896
330.603 Removed; interim	29896
330.610 Removed; interim	29896
330.702 Removed; interim	29896
330.707 (b)(14) added; eff. 1-10-02; interim	63906
330.710 Removed; interim	29896
330.1101 Revised; interim	6428
330.1102 Revised; interim	6429
330.1103 (b) removed; (c), (d) and (e) redesignated as (b), (c) and (d); new (b), (c) and (d) revised; interim	6429
330.1105 Revised; interim	6429
330.1106 Heading, (a) and (b) revised; interim	6429
332.301 (b) amended	66710
332.312 Introductory text amended	66710
332.314 Removed; interim	29896
332.406 (e) amended	66710
333.102 Revised; eff. 1-10-02; interim	63906
335.105 Revised; eff. 1-10-02; interim	63906
339.202 (b) amended; (c) removed	66710
351.205 Amended	66710
351.807 (f) revised; interim	29896
352.304 Amended	66710
352.310 (c) amended	66710
353.110 (b) revised	29897
531 Authority citation revised	67070
531.602 Amended	67070
531.604 (c) revised; (d) added	67070
534 Authority citation revised	63908
534.503 (a) amended	66711
534.601—534.605 (Subpart F) Added; interim	63908
537 Added	2791
Regulation at 66 FR 2791 eff. date delayed	9187
537.101 Revised	39406
537.102 Amended	39406
537.110 Heading revised; existing text designated as (a); (b) added	39406
550.301 Regulation at 44644 confirmed	49085
550.311 Regulation at 44644 confirmed	49085
(a)(5) revised	49086
(a)(3) amended	67477
550.312 Regulation at 44644 confirmed	49085
550.313 Regulation at 44644 confirmed	49085
550.342 Correctly removed; CFR correction	53507
550.504 (b) amended	66711
575.102 (a)(5) and (6) amended; (a)(7) added	37883
575.202 (a)(5) and (6) amended; (a)(7) added	37883
575.302 (a)(5) and (6) amended; (a)(7) added	37783
591.203 (a)(8) added; interim	63909
591.205 (a) introductory text and (b)(1)(i) revised; interim	56752
591.207 Removed; interim	56752
591.211 Revised; interim	56752
591.201—591.212 (Subpart B) Appendix A revised; interim	46752
Regulation at 65 FR 44100 confirmed	56740

TITLE 5 Chapter I—Con.

630.308 (a) revised; interim	55558
Regulation at 66 FR 55558 eff. date corrected	56033
630.311 Added; interim	55558
Regulation at 66 FR 55558 eff. date corrected	56033
720.306 (b) amended	66711
731 Regulation at 65 FR 82243 eff. date delayed	7863
731.301 (b) corrected	11100
731.304 Corrected	11100
732.102 (a) amended	66711
732.201 (b) amended	66711
732.301 (e) amended	66711
792.207 Revised	705
792.230 Revised	705
792.234 Revised	705
831 Authority citation revised	15608, 38524
831.102 Amended	66711
831.111 (a) and (b)(2) amended	66711
831.205 Added; interim	15608
831.301 (a)(3)(ii) revised; (b)(3) amended; interim	15608
831.303 (d) added; interim	15608
831.613 (d) amended	66711
831.902 Amended; interim	38524
831.908 (a) revised; interim	38524
831.910 Revised; interim	38524
831.912 Undesignated center heading and section added; interim	38524
831.1907 Removed	66711
831.2103 Amended	66711
831.2106 (c) amended	66711
831.2107 (a)(5) amended	66711
837.304 (a), (b) and (c) amended	66711
839 Added; interim	15609
841 Authority citation revised	15618
841.604 (c) added; interim	15618
841.1008 Removed	66711
842 Authority citation revised	38525
842.802 Amended; interim	38525
842.807 Revised; interim	38525
842.810 Undesignated center heading and section added; interim	38525
846 Authority citation revised	15618
846.204 (b)(2)(i) revised; (e) added; interim	15618
890.304 (d)(2) revised; interim	49086
890.806 (f)(1)(ii), (iii), (h) and (i) revised; (f)(1)(iv) added; interim	49087
890.807 (e)(2) and (4) revised; interim	49088
930.110 Amended	66712
930.115 Amended	66712
930.210 (a) revised; interim	63909
960.108 Amended	66712

Chapter II—Merit Systems Protection Board (Parts 1200—1299)

1201.3 (a)(6) and (7) amended	30635
1201 Appendix I revised	30635
Appendix II amended	57841

Chapter VI—Federal Retirement Thrift Investment Board (Parts 1600—1699)

1600 Revised	22089
1601 Revised	22093
1604 Added	50713
1605 Revised	44277
1605.4 (a)(3) amended	14448
1605.6 Revised	14448
1605.8 Revised	14448
1606 Authority citation revised	44283
1606.2 Revised	44283
1606.5 Revised	44283
1606.7 Revised	44284
1606.8 Revised	44284
1606.9 (a)(3) revised	44284
1606.11 (c), (d) and (e) revised; (f) added	44284
1606.13 (a), (b) and (c) added; (d) and (e) amended; (g) removed	44285
1606.15 (a) revised	44285
1650.31 Revised	43462
1650.42 Revised	43462

Chapter XVI—Office of Government Ethics (Parts 2600—2699)

2604.103 Amended	3439
2604.301 (a) and (b)(2) amended	3439
2604.302 (a) and (d) amended	3439
2604.303 (a), (b) introductory text and (2) amended	3439
2604.304 (a) amended	3439
2604.305 (a)(1) and (2) amended	3439
2604.402 (c) introductory text, (2), (e) introductory text, (3), (f), (g)(1) and (4) amended	3439
2634.903 (d) revised	55872
2635.807 (a)(2)(iii)(D) Note and Examples 1, 2 and 4 revised	59674

Chapter XXI—Department of the Treasury (Parts 3100—3199)

3101 Authority citation revised	8506
3101.109 (c)(1) and (3) revised	8506

Chapter L—Department of Transportation (Part 6001)

6001 Authority citation revised	60140
6001.104 (b) revised; (d) redesignated as (e); new (d) added	60140

Chapter LIX—National Aeronautics and Space Administration (Part 6901)

6901 Authority citation revised	59136
6901.102 Removed	59136

Proposed Rules:

213	46968
537	15202
575	5491
591	56741
890	64160
1600	16411
1601	16415
1604	21693
1605	20090
1606	20090
1650	36494
2608	48824

TITLE 6—[RESERVED]

There is no regulatory text to this title.

TITLE 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture (Parts 0—26)

1.29 (a)(3) added	36907
1.130—1.151 (Subpart H) Authority citation revised	36908
1.131 (a) amended	36908
2 Authority citation revised	16593
2.17 (a)(21)(xi) revised	31107
2.25 (a)(2) and (6) corrected	8149
2.45—2.49 (Subpart G) Heading revised	31107
2.47 (a)(4)(vi) through (x) redesignated as (a)(4)(vii) through (xi); new (a)(4)(vi) added	16593
2.48 (a)(27) added	31107
2.49 (a)(1)(i) revised	16593
6.20—6.37 (Subpart) Appendices 1, 2 and 3 revised	21047
20 Appendix 1 amended	38527
Regulation at 66 FR 38527 effective date delayed to 1-11-02	44291

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 27—209)

28.909 (b) revised	29216
28.911 (a) amended	29216
29.123 (b) revised; interim	28361
29.8001 Table amended	53075
29.9251 Amended; interim	28361
51.630 Revised; interim	48788
51.691 Revised; interim	48788
51.692 (a) revised; interim	48788
54.1001—54.1034 (Subpart C) Added	1196
56.46 (b) and (c) revised	66713
56.52 (a)(4) revised	66714
59 Regulation at 65 FR 75514 eff. date delayed	8151
70.71 (b) and (c) revised	66714
70.77 (a)(4) revised	66714
80 Revised	58349
205—209 (Subchapter A) Regulation at 65 FR 80637 eff. date corrected	15619

Chapter II—Food and Nutrition Service, Department of Agriculture (Parts 210—299)

210.10 Regulation at 65 FR 36317 confirmed	38349
(o)(2) corrected	65597
215 Authority citation revised	2201
215.2 (aa) redesignated as (bb); (i-1), (k-1) and new (aa) added; interim	2201
215.13a (f) and (g) added; interim	2201
220.8 (c) heading correctly revised; CFR correction	33631
Regulation at 65 FR 36317 confirmed	38349

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 7 Chapter II—Con.

225.2 Amended; interim....................2202
225.15 (f)(4)(iv) revised; (g) and (h) redesignated as (h) and (i); new (g) added; interim 2202
226.2 Amended; interim....................2203
226.20 (b)(4), (c)(3) table and (c)(4) table corrected..........................65597
226.23 (e)(1)(ii)(F) revised; (i) added; interim 2203
245 Authority citation revised........2205, 48328
245.2 (a–3), (f–1), (k) and (l) redesignated as (a–4), (f–2), (l) and (m); new (a–3), (f–1) and (k) added; interim 2205
(f–3) added; (j) amended...............48328
245.5 (a) introductory text and (1)(vi) amended..........................48328
245.6 (a)(1) revised; (f) added; interim..2205
(a) amended..................................48328
245.6a (a) and (2)(i) amended...........48328
245.9 (b) through (g) removed; (a) heading and new (b) through (k) added 48328
246 Technical amendment 52849
246.2 Regulation at 65 FR 83277 eff. date delayed..........................8885
246.3 Regulation at 65 FR 83277 eff. date delayed..........................8885
246.4 Regulation at 65 FR 83277 eff. date delayed..........................8885
246.7 Regulation at 65 FR 83278 eff. date delayed..........................8885
246.12 Regulation at 65 FR 83278 eff. date delayed..........................8885
246.13 Regulation at 65 FR 83286 eff. date delayed..........................8885
246.14 Regulation at 65 FR 83286 eff. date delayed..........................8885
246.18 Regulation at 65 FR 83286 eff. date delayed..........................8885
246.19 Regulation at 65 FR 83288 eff. date delayed..........................8885
246.23 Regulation at 65 FR 83288 eff. date delayed..........................8885
246.26 Regulation at 65 FR 83288 eff. date delayed..........................8885
271.2 Amended..................................2799
Regulation at 66 FR 2799 eff. date delayed.....................8885, 18869
272.1 (c)(1)(vii) and (g)(165) added 4463
Regulation at 66 FR 4463 eff. date delayed.....................8886, 29661
272.2 (d)(1)(xiii) added........................4464
Regulation at 66 FR 4464 effective date delayed in part 8886, 29661
273.1 (b)(7)(viii) through (xii) added 4464
Regulation at 66 FR 4464 eff. date delayed.....................8886, 29661
273.2 (f)(8)(i)(C) redesignated as (f)(8)(i)(D); (f)(1)(xiv), new (f)(8)(i)(C) and (j)(2)(vii)(D) added 4464
Regulation at 66 FR 4464 eff. date delayed.....................8886, 29661
OMB numbers...................................59357
273.4 OMB number 59357
273.11 (c) introductory text, (1) heading, introductory text, (2) heading, introductory text, (4)(ii) and (j) revised; (k) through (q) added..................4464
Regulation at 66 FR 4464 eff. date delayed.....................8886, 29661
273.12 (a)(1)(viii) added......................4468
Regulation at 66 FR 4468 eff. date delayed.....................8886, 29661
OMB numbers...................................59357
273.16 (a)(1) amended; (b), (c), (e)(8)(i) revised; (e)(8)(iii), (f)(2)(iii), (g)(2)(ii), (h)(2)(ii) removed; (e)(8)(iv), (f)(2)(iv), (g)(2)(iii) and (h)(2)(iii) redesignated as new (e)(8)(iii), (f)(2)(iii), (g)(2)(ii) and (h)(2)(ii)..4468
Regulation at 66 FR 4468 eff. date delayed.....................8886, 29661
273.24 (a)(1), (2) and (b) through (e) redesignated as (a)(5), (6) and (g) through (j); heading, (a) introductory text, new (g) heading revised; new (a)(1) through (4), (b) and (f) added 4469
Regulation at 66 FR 4469 eff. date delayed.....................8886, 29661
278.1 (b)(1)(i) and (ii) revised; (b)(1)(iii) and (iv) redesignated as (b)(1)(v) and (vi); new (b)(1)(iii), (iv) and (t) added; (q) introductory text and (3)(iii) amended 2799
Regulation at 66 FR 2799 eff. date delayed.....................8885, 18869
278.6 (a) and (g)(3) amended..............2800
Regulation at 66 FR 2800 eff. date delayed.....................8885, 18869

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

Chapter III—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300—399)

300 Authority citation revised........21050
300.1 (c) and (d) added 37400
  (a) introductory text revised 45158
  (a) introductory text revised; eff. 1-7-02 56428
  Regulation at 66 FR 56428 confirmed...67071
301 Authority citation revised 21050, 32717
301.38 Footnote 1 amended..............21050
301.45 (a) amended 21050
  (a) amended; interim.......................37114
301.45-3 (a) amended; interim 37114
301.45-9 Amended 21050
301.48 (a) amended 21050
301.48-5 Amended 21051
301.50 Footnote 1 amended..............21051
301.50-3 Regulation at 65 FR 37842 confirmed...........................20186
  (c) amended; (d) illustration revised...37403
  (d) removed; CFR correction 46509
  (d) corrected 46692
301.50-5 (a)(3) and (b)(2) revised 21051
301.51-3 Regulation at 65 FR 54944 confirmed...........................41439
  (c) amended; interim 56430
301.51-5 (a)(2) and (b)(2) revised 21051
301.52-8 Amended 21051
301.64 Footnote 1 amended..............21051
301.64-1 Amended 21051
301.64-2 Regulation at 64 FR 71269 confirmed...........................40574
301.64-3 Regulation at 64 FR 52212, 71269, 65 FR 20706 and 37006 confirmed...........................40574
301.64-5 (a)(2) and (b)(2) revised 21051
301.64-10 Regulation at 64 FR 71270 confirmed...........................40574
301.74 Footnote 1 amended..............21051
301.75-1 Amended 32717
301.75-15 (c) revised..........................43066
301.75-16 Added 32717
  (c) corrected 33740
301.78 Footnote 1 amended..............21051
301.78-5 (a)(3) and (b)(2) revised 21051
301.80 (a) revised 21052
301.80-1 Amended 21052
301.80-8 Amended 21052
301.81-3 Regulation at 65 FR 66489 confirmed...........................20186
301.81-5 (a)(2) and (b)(2) revised 21052
301.85 (a) revised 21052
301.85-1 Amended 21052
301.85-8 Amended 21052
301.87 Heading, footnote 1 and (a) revised..21052
301.87-1 Amended 21052
301.87-5 (a)(2) and (b)(2) revised 21053
301.89-3 (f) amended; interim 32210, 37576
  (f) revised 63152
301.89-6 (a)(2) and (c)(2) revised 21053
301.89-15 Heading, introductory text, (a) introductory text, (b) introductory text and (c) introductory text revised.........40842
301.89-16 Heading, introductory text, (a), (b), (c)(1) and (2) amended 40842
301.91 Heading amended..................21053
301.91-1 Amended 21053
301.91-5 (a)(2) and (b)(2) revised 21053
301.93 Footnote 1 amended..............21053
301.93-3 (c) revised; interim 46366
  (c) amended; interim 55068
301.93-5 (a)(2) and (b)(2) revised 21053
301.97 Footnote 1 amended..............21053
301.97-5 (a)(3) and (b)(2) revised 21053
301.98-3 (c) revised; interim 33632
301.98—301.98-10 (Subpart) Added; interim 6433
301.98—1 Corrected..........................20186
302 Added; interim 1016
  Authority citation revised 21054
302.2 Revised.......................................54641
318 Authority citation revised........21054
318.13 (a) revised 21054
318.13-12 (a) amended.......................21054
318.30 (b) revised 21054
318.47 (b) revised 21054
318.58 (a) revised 21054
318.60 (b) revised 21054
318.82 (a) revised 21054

TITLE 7 Chapter III—Con.

319 Authority citation revised........21054
  Policy statement..............38137, 45921
319.8 Amended..............................21054
319.8-1 Amended............................21055
319.8-2 Authority citation removed..........21055
319.8-4 Authority citation removed..........21055
319.8-5 Authority citation removed..........21055
319.8-26 Amended..........................21055
319.15 (a) revised.........................21055
319.24 (b) revised.........................21055
319.24-1 Authority citation removed.........21055
319.24-3 Authority citation removed.........21055
319.24-4 Authority citation removed.........21055
319.28 (a) revised.........................21055
319.37-1 Amended..........................21055
319.37-3 (c) and (f) revised; authority citation removed.........21055
319.37-5 Authority citation removed.........21056
319.37-7 (f)(4) amended; authority citation removed.........21056
319.37-8 Authority citation removed.........21056
319.37-10 Authority citation removed........21056
319.37-11 Authority citation removed........21056
319.40-4 (c) revised........................21056
319.40-9 (a)(4)(i) amended..................21056
319.41 (b) and (c) revised.................21056
319.41-2 Authority citation removed.........21056
319.41-4 Authority citation removed.........21056
319.41-6 Authority citation removed.........21056
319.55 (b) and (c) revised.................21056
319.55-2 Authority citation removed.........21056
319.55-5 Authority citation removed.........21056
319.55-7 Authority citation removed.........21056
319.56 (b) and (c) revised.................21056
319.56-2 (h) and (j) revised...............45158
319.56-2j Authority citation removed........21056
319.56-2t Table amended....................45158
319.56-2u (b)(7) revised; (b)(8) removed.........45160
319.56-2w Heading, introductory text and (a) revised.........45160
319.56-2x Table amended....................45161
319.56-2ee (a)(1) amended..................45161
319.56-2ff Heading, introductory text, (a)(2), (3), (c)(3)(vii), (f)(1), (g) and (i) revised; (e)(2) and (3) amended.........55551
319.56-2hh Added..........................45161
319.56-2ii Added...........................32213
319.56-3 Authority citation removed.........21056
319.56-5 Authority citation removed.........21056
319.59—319.59-2 (Subpart) Authority citation removed.........21056
319.59 (a) revised; (b) amended............21056
319.59-1 Amended..........................21057
319.75 (b) amended.........................21057
319.75-1 Amended..........................21057
319.75-3 (c) revised; authority citation removed.........21057
319.75-5 Authority citation removed.........21057
319.75-6 Authority citation removed.........21057
319.76 (b) amended.........................21057
319.76-1 Amended..........................21057
319.76-3 (c) revised........................21057
319.77-5 Amended..........................21057
322 Authority citation revised...............21057
330 Authority citation revised...............21058
330.100 Amended............................21058
330.102 Revised.............................21058
330.106 (a) amended........................21058
330.205 Amended............................21058
330.207 Amended............................21058
330.208 Amended............................21058
330.210 Amended............................21058
330.211 Heading and (c) revised.........21058
330.400 (f) revised.........................21058
340 Authority citation revised...............21058
340.0 (a)(2) Footnote 1 and (b) Footnote 2 revised.........21058
340.3 (b)(1) amended........................21058
351 Authority citation revised...............21058
351.1 Revised...............................21059
352 Authority citation revised...............21059
352.1 (b) amended..........................21059
352.2 (a), (b) and (c)(1) revised.........21059
352.3 (a) revised...........................21059
352.5 (d) amended..........................21059
352.6 Authority citation removed.........21059

352.7 Authority citation removed 21059
352.10 (a), (b)(1) and (2) amended 21059
352.13 Amended 21059
353 Authority citation revised 21059
353.1 Amended 21059, 37400
  Amended; interim 37116
353.7 (e)(4) revised; interim 37116
353.8 Amended (OMB number) 37400
353.9 Added 37400
354 Authority citation revised 21060
354.1 Authority citation removed 21060
354.2 Table amended 46211
354.3 (a) amended 21060
355 Footnotes 1 and 2 removed; authority citation revised 21060
355.1 Revised 21060
355.11 Footnote 3 revised 21060
356 Authority citation revised 21060
360 Authority citation revised 21060
360.200 Heading and introductory text revised 21060
360.300 Authority citation removed 21060
  Regulation at 65 FR 41009 confirmed 32217
361 Authority citation revised 21060
371.3 (b)(2)(i) through (v) removed; (b)(2)(vi) through (xv) redesignated as (b)(2)(i) through (b)(2)(x); new (b)(2)(iii) and (v) revised; new (b)(2)(ix) and (x) amended; new (b)(2)(xi) added 21060
372 Authority citation revised 21060
380 Authority citation revised 21060
380.1 Revised 21061

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture (Parts 400—499)

400.700—400.713 (Subpart IV) Revised; interim 47951
457.151 Amended; heading and introductory text revised 42730
  Regulation at 66 FR 42730 corrected 53076

Chapter V—Agricultural Research Service, Department of Agriculture (Parts 500—599)

510 Revised 57841

Chapter VII—Farm Service Agency, Department of Agriculture (Parts 700—799)

718 Authority citation revised 53509
718.102 (b)(4) revised 53509
723 Policy statement 53945
723.206 (c)(1) revised 53509
  Corrected 59675
723.216 (e)(5)(iv), (e)(6)(ii)(B) and (i)(6) revised 53509
723.503 (a)(3) revised 53509
760.1—760.34 (Subpart) Authority citation revised 2801
761 Authority citation revised 7566
761.8 Added 7566
762 Authority citation revised 7567
762.102 Amended 7567
762.105 (c)(1) revised; (c)(2)(iii) removed 7567
762.122 (a) and (b) removed; (c) through (f) redesignated as new (a) through (d) 7567
762.125 (a)(2), (3), (6) and (8) revised 7567
762.142 (d)(8) revised 7567
762.145 (b)(6)(iv) revised 7567
762.146 (e)(9) revised 7567
762.150 (a)(1) introductory text, (i), (b)(2), (3), (4) and (g)(2) revised 7567
770 Added 1567
  Regulation at 66 FR 1567 eff. date delayed 8886
770.10 (e)(3)(iv) corrected; (e) correctly redesignated as (f) 47877

Chapter VIII—Grain Inspection, Packers and Stockyard Administration (Federal Grain Inspection Service), Department of Agriculture (Parts 800—899)

800.71 (a) amended 35753
  (a) Table 1 corrected 36834
868.90 (a) revised 17777
868.91 Revised 17778

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900—999)

905.146 (c)(1) revised 229
905.235 Revised; interim 56597

TITLE 7 Chapter IX—Con.

905.306 (c) and (d) revised	229
905.350 Revised; interim	49093
916.115 Revised; interim	17484
916.160 (c) revised; interim	39409
916.234 Revised	52309
916.350 (d) revised; interim	17484
916.356 (a)(1) introductory text, (iv) Table 1, (3) introductory text, (4) introductory text and (6) introductory text revised; interim	17484
(a)(1)(iv) Table 1, (4) and (6) amended	39620
917.150 Revised; interim	17485
917.178 (c) revised; interim	39409
917.442 (d) revised; interim	17485
917.459 (a)(1) introductory text, (iv) Table 1, (2) introductory text, (3) introductory text, (5) introductory text and (6) introductory text revised; interim	17486
(a)(1)(iv) Table 1 amended	39620
(a)(6) amended	39621
920.155 Removed	39270
920.302 (a)(4)(iii) removed; (a)(4)(iv), (v) and (vi) redesignated as new (a)(4)(iii), (iv) and (v)	39270
(a)(4)(iv) table revised	54414
923.4 Revised	58356
923.14 (a) and (b) revised	58356
923.20 Amended	58356
923.25 Revised	58356
923.41 (c) added	58356
923.52 (a)(3) amended	58356
923.54 (b) and (c) amended	58356
924.236 Revised; interim	42415
Regulation at 66 FR 42415 confirmed	59677
928.150 Stayed; interim	29219
Regulation at 66 FR 29219 confirmed	48529
928.152 Stayed; interim	29219
Regulation at 66 FR 29219 confirmed	48529
928.160 (a)(1) revised; interim	29219
Regulation at 66 FR 29219 confirmed	48529
928.313 Stayed; interim	29219
Regulation at 66 FR 29219 confirmed	48529
929.104 (a)(4) revised	34351
929.107 Removed	34351
929.110 (d) added	34351
929.125 Revised	34351
929.148 Removed	34351
929.149 Revised	34351
929.158 Revised	34351
929.251 Added	34352
930.16 Revised	35896
930.50 (a) revised	35896
930.54 (a) stayed in part; interim	232
Regulation at 66 FR 232 confirmed	21273
930.59 (b) suspended in part; interim	39413
Regulation at 66 FR 39413 confirmed	58362
930.83 (d) suspended in part	58359
930.120 Added; interim	35889
Regulation at 66 FR 35891 confirmed	56599
930.154 Added; eff. 5–2–01 through 6–30–01	21842
930.162 (a), (b)(3) and (c)(3) revised; interim	39413
Regulation at 66 FR 39413 confirmed	58362
930.163 Added; interim	35889
Regulation at 66 FR 35891 confirmed	56599
930.200 Revised; interim	235
Regulation at 66 FR 235 confirmed	21276
930.252 Added; eff. 5–2–01 through 6–30–01	21842
931.231 Revised	59679
932 Marketing order	16593
932.230 Revised; interim	13391
Regulation at 66 FR 13391 confirmed	30291
944.106 (c) revised	229
946.104 Regulation at 65 FR 70463 confirmed	18721
946.120 Regulation at 65 FR 70463 confirmed	18721
946.336 Regulation at 65 FR 70463 confirmed	18721
948.215 Suspended; interim	48953
948.216 Revised	52312
948.387 (d)(1) introductory text revised; (d)(1)(v) added; (g) amended	49513
955.209 Revised	16841
956.142 Regulation at 65 FR 61083 confirmed	13393
956.180 Regulation at 65 FR 61083 confirmed	13393
959.237 Revised; interim	16597

Regulation at 66 FR 16597 confirmed..........39621
966.234 Revised; interim..........56602
966.323 Regulation at 65 FR 66495 confirmed..........13396
(d)(1) amended..........48532
981.442 (a)(3) amended; (a)(5) revised..........39273
982 Marketing percentages..........13399
984.347 Revised; interim..........58364
985.220 Added; eff. through 5-31-02..........30296
989.156 (t) added; interim..........708
Regulation at 66 FR 708 eff. date confirmed..........16599
(k) revised; interim..........65425
989.173 (d)(1)(iii) revised; (g), (h) and (i) redesignated as (h), (i) and (j); new (g) added..........39277
989.254 Added; interim..........39628
Regulation at 66 FR 39628 confirmed..........53950
993.347 Revised..........56604
993.408 Added; eff. 8-1-01 through 7-31-02..........30646

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000—1199)

1007.7 (c) correctly revised; CFR correction..........54909

Chapter XI—Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200—1299)

1205.510 (b)(2) and (3)(ii) table revised..........58052
1210.301—1210.367 (Subpart) Revised and designated as (Subpart A)..........56388
1210.400—1210.405 (Subpart) Revised and designated as (Subpart B)..........56388
1210.500—1210.540 (Subpart) Revised and designated as (Subpart C)..........56388
1210.501 Revised..........13402
1210.600—1210.607 (Subpart D) Added..........56388
1218.3 Amended..........37118
1218.23 Amended..........37118
1218.40 Undesignated center heading revised..........37118
Amended..........37119
1218.41 Amended..........37119
1218.42 Amended..........37119
1218.43 Amended..........37119
1218.44 Amended..........37119
1218.45 Amended..........37119
1218.46 Amended..........37119
1218.47 Amended..........37119
1218.48 Amended..........37119
1218.50 Amended..........37119
1218.51 Amended..........37119
1218.52 Amended..........37119
1218.53 Amended..........37119
1218.54 Amended..........37119
1218.55 Amended..........37119
1218.56 Amended..........37119
1218.60 Amended..........37119
1218.62 Amended..........37119
1218.70 Amended..........37119
1218.73 Amended..........37119
1218.75 Amended..........37119
1218.77 Amended..........37119
1230.110 Revised; eff. 1-28-02..........67073
1240 Heading and authority citation revised..........21829
1240.1—1240.67 (Subpart A) Heading added..........21829
1240.1 Redesignated as 1240.26; new 1240.1 redesignated from 1240.2..........21829
1240.2 Redesignated as 1240.1; new 1240.2 redesignated from 1240.18; new 1240.2 revised..........21829
1240.3 Redesignated as 1240.18; new 1240.3 redesignated from 1240.16; new 1240.3 revised..........21829
1240.4 Redesignated as 1240.10; new 1240.4 redesignated from 1240.14..........21829
1240.5 Redesignated as 1240.12; new 1240.5 added..........21829
1240.6 Redesignated as 1240.20; new 1240.6 redesignated from 1240.11..........21829
1240.7 Redesignated as 1240.8; new 1240.7 redesignated from 1240.20..........21829
1240.8 Redesignated as 1240.9; new 1240.8 redesignated from 1240.7; new 1240.8 revised..........21829

TITLE 7 Chapter XI—Con.

1240.9 Redesignated as 1240.21; new 1240.9 redesignated from 1240.8........21829
1240.10 Redesignated as 1240.13; new 1240.10 redesignated from 1240.4; new 1240.10 revised........21829
1240.11 Redesignated as 1240.6; new 1240.11 added........21829
1240.12 Redesignated as 1240.22; new 1240.12 redesignated from 1240.5........21829
1240.13 Redesignated as 1240.25; new 1240.13 redesignated from 1240.10; new 1240.13 revised........21829
1240.14 Redesignated as 1240.4........21829
  Added........21830
1240.16 Redesignated as 1240.3........21829
  Added........21830
1240.17 Redesignated as 1240.28; new 1240.17 redesignated from 1240.22........21829
1240.18 Redesignated as 1240.2; new 1240.18 redesignated from 1240.3........21829
1240.19 Redesignated as 1240.27; new 1240.19 redesignated from 1240.21........21829
  Revised........21830
1240.20 Redesignated as 1240.7; new 1240.20 redesignated from 1240.6........21829
1240.21 Redesignated as 1240.19; new 1240.21 redesignated from 1240.9........21829
1240.22 Redesignated as 1240.17; new 1240.22 redesignated from 1240.12........21829
1240.23 Added........21830
1240.24 Added........21830
1240.25 Redesignated from 1240.13........21829
  Revised........21830
1240.26 Redesignated from 1240.1........21829
1240.27 Redesignated from 1240.19........21829
1240.28 Redesignated from 1240.17........21829
1240.30 Revised........21830
1240.31 Revised........21830
1240.32 (b)(6) removed; (b)(7) and (8) redesignated as (b)(6) and (7); (a)(1), (3), (b)(1), (2), new (6) and (7) revised; (b)(8) through (12) added........21830
1240.33 Added........21831
1240.34 (a) and (b) revised; (c) amended........21831
1240.35 (a) revised........21832
1240.38 (c), (d), (e), (j), (g), (k), (l) and (m) revised........21832
1240.39 Undesignated center heading and text revised........21832
1240.40 (a) and (b) revised........21832
1240.41 Revised........21833
1240.42 (c) and (f) removed; (d) and (e) redesignated as (c) and (d); (a), new (c) and (d) revised........21833
1240.43 Removed; new 1240.43 redesignated from 1240.44........21829
1240.44 Redesignated as 1240.43........21829
  Added........21833
1240.50 Revised........21834
1240.51 Revised........21834
1240.52 Revised........21834
1240.61 Revised........21834
1240.62 (a) amended; (c) removed; (d) redesignated as (c); new (c) revised........21834
1260.314 (b) revised; (c) redesignated as (e); new (c) and (d) added........26784

Chapter XIII—Northeast Dairy Compact Commission (Parts 1300—1399)

1309.4 Revised........23833

Chapter XIV—Commodity Credit Corporation, Department of Agriculture (Parts 1400—1499)

1400 Authority citation revised........15176
1400.1 (g) table amended........15176
1410.12 Added........22099
1421 Authority citation revised........13404, 15176
1421.1 (e) introductory text, (1), (2) introductory text and (v) revised........15176
1421.300—1421.307 (Subpart) Added........13404
1427 Authority citation revised........15176
1427.1 (d) introductory text, (1), (2) introductory text and (v) revised........15176

1430.2 (a)(1) revised 15541
1430.401 (a) revised 15541
1430.403 (a) revised 15541
1430.407 (a)(2) revised 15541
1430.500—1430.509 (Subpart D) Authority citation revised 15176
1430.500 Amended 15176
1430.502 Amended 15177
1430.503 Amended 15177
1430.510 Revised 15177
1430.511 Added 15177
1434 Added 15177
1435.2 Amended 15182
1435.100 (a) amended 15182
1435.102 Removed; new 1435.102 redesignated from 1435.103 15182
1435.103 Redesignated as 1435.102; new 1435.103 redesignated from 1435.104 15182
1435.104 Redesignated as 1435.103; new 1435.104 redesignated from 1435.105; (g)(2) removed; (g)(3) and (4) redesignated as new (g)(2) and (3) 15182
1435.105 Redesignated as 1435.104; new 1435.105 redesignated from 1435.106; (c) and (d)(4) revised 15182
1435.106 Redesignated as 1435.105; new 1435.106 redesignated from 1435.107 15182
(b) removed; (c) through (h) redesignated as new (b) through (g); new (g) introductory text revised 15183
1435.107 Redesignated as 1435.106; new 1435.107 redesignated from 1435.108 15182
1435.108 Redesignated as 1435.107; new 1435.108 redesignated from 1435.109 15182
1435.109 Redesignated as 1435.108; new 1435.109 redesignated from b1435.110 15182
1435.110 Redesignated as 1435.109; new 1435.110 redesignated from 1435.111 15182
1435.111 Redesignated as 1435.110 15182
1436 Revised 4612
1436.5 Second (a)(6) and (7) through (10) correctly redesignated as (a)(7) through (11) 17073
1439.101—1439.109 (Subpart B) Revised 15542
1439.301—1439.357 (Subpart D) Revised 15544
1439.901 Revised 15547
1439.906 (a) amended 15547
1446.102 (c) amended 1810
1446.103 Amended 1810
1446.307 (g) removed 1810
Correctly designated 10353
1464 Authority citation revised 53509
1464.8 (d)(1) revised 53509
1464.401 (a) revised 53509
1464.403 Revised 53509
1464.404 Amended 53510
1469 Authority citation revised 13841
1469.201—1469.214 (Subpart C) Added 13841
1470 Added 13843
1476 Added 15183
1480 Added 15979
1481 Added 14481
1481.3 Corrected 18869
1482 Added; interim 30802

Chapter XVII—Rural Utilities Service, Department of Agriculture (Parts 1700—1799)

1710 Heading revised; eff. 2-11-02 66294
1710.51 Redesignated as 1710.52; new 1710.51 added; eff. 2-11-02 66294
1710.52 Redesignated from 1710.51; eff. 2-11-02 66294
1710.102 (b) and (c) redesignated as (c) and (d); new (b) added; eff. 2-11-02 66294
1710.400—1710.407 (Subpart I) Heading revised; eff. 2-11-02 66295
1710.401 (a)(2)(i) revised 66295
1744 Authority citation revised 41758
1744.20 Revised 41758
1744.21 Revised 41758
1744.30 Redesignated as 1744.40 41760
Added 41761
1744.40 Redesignated as 1744.50; new 1744.40 redesignated from 1744.30 41760
1744.50 Redesignated as 1744.55; new 1744.50 redesignated from 1744.40 41760
(a)(3) revised 41763

TITLE 7 Chapter XVII—Con.

1744.55 Redesignated from 1744.50 41760
  (a) revised; (b)(5) removed; (b)(6) redesignated as new (b)(5) 41763
1744.20—1744.59 (Subpart B) Appendices A through F added 41763
1755.30 (c)(34) revised 43313
1755.97 Heading and introductory text revised; table amended 43314
  Amended 43317
  Effective date corrected 46066
1755.98 Revised 43317
1755.500 Added 43317
1755.501 Added 43317
1755.502 Added 43317
1755.503 Added 43317
1755.504 Added 43317
1755.505 Added 43317
1755.506 Added 43317
1755.507 Added 43317
1755.508 Added 43317
1755.509 Added 43317
1755.510 Added 43317
1773 Authority citation revised 27830, 27835
1773.1 (a) and (d) amended; (c) and (d)(6) revised 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.2 Amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.3 (b) revised; (c) amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.4 (4)(d) revised; (f) introductory text, (1) and (g) amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.5 (c)(5) and (d) removed; (c)(6) and (7) redesignated as (c)(5) and (6); (c)(4)(iii)(C), new (5)(ii) and new (6)(ii) amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.6 (a)(1), (4) and (7) amended 27835
  Heading and (a) introductory text revised 27836
  Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.7 (b) and (c)(4) revised 27836
  Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.8 (a)(2) and (c) amended 27835
  (a)(1) and (c) table revised 27836
  Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.9 Heading, (a), (b) and (c) introductory text revised 27836
  Regulation at 66 FR 27836 confirmed 37405
1773.20—1773.29 (Subpart C) Heading revised 27836
  Regulation at 66 FR 27836 confirmed 37405
1773.20 (a), (b) and (c)(6) amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773.21 (a) and (b) amended 27835
  Heading revised; (e) added 27836
  Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.30 (b) amended 27835
  (a) revised 27836
  Regulation at 66 FR 27835 and 27836 confirmed 37405
1773.31 Revised 27836
  Regulation at 66 FR 27836 confirmed 37405
1773.32 Inroductory text, (a) through (d) and (f) note revised 27836
  Regulation at 66 FR 27836 confirmed 37405
1773.33 (e)(1)(i), (2)(i), (B) through (ii) and (iv) removed; (e)(1)(ii), (iii), (2)(i)(A) and (iii) redesignated as (e)(1)(i), (ii), (2)(i) and (ii); (c)(1), (5), (e) introductory text, (1) introductory text, (2) inroductory text, new (e)(1)(i) and (2)(i) revised; (i) added 27830
  Regulation at 66 FR 27830 confirmed 37405
1773.38 (b) amended 27835
  Regulation at 66 FR 27835 confirmed 37405
1773 Appendices A through D removed 27837
  Regulation at 66 FR 27837 confirmed 37405
1779 Added 23138
1780.10 (b)(4) amended 23151

1786 Second (c) correctly removed; CFR correction 15785

Chapter XVIII—Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency, Department of Agriculture (Parts 1800—2099)

1823 Removed 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1901 Authority citation revised 7568
1901.1—1901.5 (Subpart A) Removed 7568
1902 Authority citation revised 1569
1902.15 (c) amended..................................1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1910.1 (f) added; interim 1572
1910.4 (b) amended; (c) through (k) redesignated as (d) through (l); new (c) added; interim 1572
1941.16 Introductory paragraph revised; interim 1573
1941.29 Heading and (b) revised; (d) removed 7568
1942 Authority citation revised 27014
1942.304 Amended; interim.............27014
1943.29 Heading and (b) revised; (c) removed; (d) redesignated as new (c) 7568
1943.79 Removed 7568
1945 Authority citation revised 7568
1945.154 (a) amended..........................7568
1945.163 (e) amended 7568
1951.201 Amended 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1951.221 (b) amended..........................1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1951.222 (a)(11) removed 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1951.230 (b)(5) and (6) amended; (b)(7) removed 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1955.10 (a)(1)(ii) removed 7568
1955.104 (c) removed..........................7568
1956.101 Amended 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1956.105 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1956.137 (k) removed 1569
Regulation at 66 FR 1569 eff. date delayed..................................8886
1965.13 (e)(1) removed; (e)(2) and (3) redesignated as new (e)(1) and (2) 7568
1965.27 (a) removed 7568
1980.1—1980.100 (Subpart A) Removed 23151
1980.801—1980.900 (Subpart I) Removed 23151

Chapter XXIX—Cooperative State Research, Education, and Extension Service, Department of Agriculture (Parts 3400—3499)

3404 Revised 57842

Chapter XXVI—National Agricultural Statistics Service, Department of Agriculture (Parts 3600—3699)

3601 Revised 57843

Chapter XXXVII—Economic Research Service, Department of Agriculture (Parts 3700—3799)

3701 Revised 57845

Proposed Rules:

3..56247
26 21608
27—209 (Ch. I)..13267
28 20408
29 21888
50 40626
56 42456
58 42458
70 42456
75 53550
80..19099, 27045
81 64918
201..16015
246..40152
274..36495
300 ....6488, 37425, 67123

TITLE 7 *Proposed Rules:—Con.*

301 ....3505, 20204, 32268, 53123, 59175
318..37425
319....6488, 19892, 20208, 29735, 34584, 36892, 39121, 45637, 67123
330..51340
352..63004
400..36951
584..56488
610..34584
735 ....46310, 46312
736..46310
737..46310
738..46310
739..46310
740..46310
741..46310
742..46310
800—899 (Ch. VIII) 13267
800 ....17817, 19608
905..39459
911..40923
916..39690
920..26810
923 ....13447, 18573
927..48623
928..49568
929 ....2838, 24291, 48628
930...1909, 26813
931..48628
944..40923
948 ....40153, 40155
955...1915, 21288
956..21107
966..40158
981 ....21888, 31850
982..44086
985..20615
987..52363
989..16621
993 ....13454, 43534
1000.......................................54064, 59546
1001.......................................54064, 59546
1005.......................................54064, 59546
1006.......................................54064, 59546
1007.......................................54064, 59546
1030 ....31185, 54064, 59546
1032 ....53551, 54064, 59546
1033 ....49571, 54064, 59546
1124 ....54064, 57889, 59546
1126.......................................54064, 59546
1131.......................................54064, 59546
1135.......................................54064, 59546
1205 42464
1210 ....21596, 21602, 56391
1219 ....36870, 36886, 45188
1230 42469
1260.......................................53124, 53127
1280 48764
1410.......................................15048, 63339
1439 13679
1710.......................................20759, 66359
1717 55130
1721..1604
1773 27912
1944 29739

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice (Parts 1—599)

3 Authority citation revised 37123, 54911, 56976
3.1 (d)(2)(iii) amended..........................6445
  (a)(1) amended 47380
  (a)(1) amended; (b)(14) added; interim 56976
3.3 (b) amended 6445
3.19 (i)(2) revised; interim..................54911
3.43 Revised; interim 37123
3.44 Added 6445
  (f) corrected 8149
100.4 (e) amended; interim 29672
103 Authority citation revised..........32143
103.1 (f)(3)(iii)(MM) amended; (f)(3)(iii)(NN) added; interim 32144
  Regulation at 65 FR 67616 eff. date delayed to 10-1-02 49514
103.2 (a)(7)(i) amended; intrim 29672
  (f) added; interim 29685
103.7 (b)(1) amended; interim 29672
  (b)(1) amended; (c)(1) revised; interim 29685
  Regulation at 65 FR 67616 eff. date delayed to 10-1-02 49514
  (b)(1) amended; eff. 2-19-02 65816
103.12 Regulation at 65 FR 82255 eff. date delayed...........................7863
204.13 Added; interim..........................51821
208.8 Regulation at 65 FR 82255 eff. date delayed...........................7863
210.4 Regulation at 65 FR 82255 eff. date delayed...........................7863
212 Authority citation revised...........236
212.1 (e)(3)(i) amended; interim 236
  (f)(2) removed; (f)(3) and (4) redesignated as new (f)(2) and (3); new (f)(2) revised..................1018

Regulation at 66 FR 1018 eff. date delayed 8743

(f)(2) and (3) amended, interim 17322

(f)(2) amended; interim 32530

(h) revised; interim 42593

Regulation at 66 FR 236 confirmed 51822

212.3 (g) added 6446

212.5 Regulation at 65 FR 82255 eff. date delayed 7863

212.7 Heading, (a) heading and (1)(i) revised; interim 42593

212.15 (c)(4) through (7), (g)(4)(iv) and (v) added; (e)(1) and (g)(3)(i) revised; interim 3444

214 Authority citation revised 46702

214.1 (a)(2) table and (c)(1) amended; interim 31112

(a)(1)(v) revised; (a)(2) table and (c)(2) amended; interim 42593

(a)(2) amended; interim 46702

Regulation at 65 FR 67616 eff. date delayed to 10–1–02 49514

214.2 (h)(1)(i), (ii)(A), (2)(i)(A), (D), (E), (3) heading, (iii) introductory text, (A), (v)(B), (C), (4)(v)(A) and (D) amended; (h)(2)(ii), (3)(i)(A), (B), (D), (iii)(B), (iv), (v)(A), (B), (vi)(A), (8)(ii)(A), (13)(ii), (v), (15)(ii)(A) and (16)(i) revised; (h)(3)(ii) and (v)(D) removed; (h)(8)(ii)(A), (F) and (9)(iii)(D) added; interim 31112

(k) heading revised; (k)(1), (2), (5) and (6)(ii) amended; (k)(6)(i) removed; (k)(7) through (11) added; interim 42593

(u) and (v) added; interim 46702

Regulation at 65 FR 67616 eff. date delayed to 10–1–02 49514

214.15 Added; interim 46702

235.3 Regulation at 65 FR 82256 eff. date delayed 7863

235.4 Regulation at 65 FR 82256 eff. date delayed 7863

236.14 (a) amended; interim 29672

240.15 Amended 6446

240.21 (c) amended 6446

240.53 (a) amended 6446

241 Authority citation revised 29451

241.4 (g) heading amended; (g)(1) through (4) redesignated as (g)(2) through (5); (b)(4), new (g)(1) and (i)(7) added; new (g)(5) revised; interim 56976

(c)(1), (2), (h)(1), (k)(1)(i) and (ii) amended; interim 56977

241.8 (d) and (e) redesignated as (e) and (f); new (d) added; interim 29451

241.13 Added; interim 56977

241.14 Added; interim 56979

241.33 Regulation at 65 FR 82256 eff. date delayed 7863

244.1 Regulation at 64 FR 4781 confirmation delayed 7863

244.6 Regulation at 64 FR 4781 confirmation delayed 7863

244.10 Regulation at 64 FR 4782 confirmation delayed 7863

244.12 Regulation at 64 FR 4782 confirmation delayed 7863

244.15 Regulation at 64 FR 4782 confirmation delayed 7863

244.18 Regulation at 64 FR 4782 confirmation delayed 7863

245.1 (c)(6) revised; (i) added; interim 42594

245.2 (a)(4)(ii)(C) amended; interim 42594

(a)(4)(ii)(D) amended; interim 46704

245.5 Amended; interim 42595

245.10 (c) removed; heading, new (b) introductory text, (4), (5), (7), (c) introductory text, (d), (e) and (f) revised; (a) and (b) redesignated as (b) and (c); new (a), (h) through (n) added; new (c)(3) amended; interim 16388

245.13 (a) introductory text, (n)(3)(i) and (ii) amended; (c) existing text and (d)(4) existing text redesignated as (c)(1) and (d)(4)(i); (c)(1) heading, (2), (d)(4)(ii) and (n)(3)(iii) added; (d) heading and (m) revised; interim 29451

245.15 (b) introductory text, (s)(4)(i) and (ii) amended; (g)(3) introductory text, (i) and (ii) redesignated as (g)(3)(i), (iii) and (iv); (r)(1) text designated as (r)(1)(i); (e)(3), new (g)(3)(ii), (r)(1)(ii), (4) and (s)(4)(iii) added; interim 29452

TITLE 8 Chapter I—Con.

245.20 Added; interim....................27448
245a.1—245a.5 (Subpart A) Designated as Subpart A; Heading added; interim....................29673
245a.2 Regulation at 65 FR 82256 eff.date delayed....................7863
245a.4 Regulation at 65 FR 82256 eff. date delayed....................7863
245a.30—245a.37 (Subpart C) Added; interim....................29673
248 Authority citation revised....................46704
248.1 (a) amended; interim....................42595
  (a) amended; (b) introductory text revised; interim....................46704
248.3 (a) amended; interim....................31114
255a.10—245a.29 (Subpart B) Added; interim....................29673
274a Authority citation revised 42595, 46704
274a.12 (a) introductory text, (12) and (13) amended; (a)(14) and (c)(24) added; interim....................29681
  (a) heading, introductory text and (6) revised; (a)(9) added; interim....................42595
  (a) introductory text, (13) and (14) amended; (a)(15) added; interim....................46704
287.3 (d) revised; interim....................48335
299.1 Table amended; interim....................29681, 29686, 31114, 46704
299.5 Table amended; interim....................29682, 29686, 46705
310 Authority citation revised....................32144
310.3 (b) amended; interim....................32144
320 Added; interim....................32144
322 Revised; interim....................32145
334 Authority citation revised....................32146
334.1 Amended; interim....................32147
334.2 (a) amended; interim....................32147
337 Authority citation revised....................32147
337.9 (b) removed; interim....................32147
338 Authority citation revised....................32147
338.4 Removed; interim....................32147
341 authority citation revised....................32147
341.2 (a)(1) introductory text revised; interim....................32147
341.7 (b) removed; interim....................32147

Proposed Rules:

103....................41456
211....................37429
212....................1053, 37429
214....................48223

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1—199)

1 Authority citation revised....................21061
2 Authority citation revised....................239, 21061
2.129 (c) revised; (d) added....................239
  Regulation at 66 FR 239 eff. date delayed....................8743
3.101 Revised....................251
  Regulation at 66 FR 251 eff. date delayed....................8744
3.104 (a) revised....................252
  Regulation at 66 FR 252 eff. date delayed....................8744
3.105 Revised....................252
  Regulation at 66 FR 252 eff. date delayed....................8744
3.107 Revised....................253
  Regulation at 66 FR 253 eff. date delayed....................8744
3.108 Revised....................253
  Regulation at 66 FR 253 eff. date delayed....................8744
3.109 Revised....................253
  Regulation at 66 FR 253 eff. date delayed....................8744
3.110 Revised....................253
  Regulation at 66 FR 253 eff. date delayed....................8744
3.112 Revised....................254
  Regulation at 66 FR 254 eff. date delayed....................8744
3.113 Revised....................255
  Regulation at 66 FR 255 eff. date delayed....................8744
3.114 Revised....................255
  Regulation at 66 FR 255 eff. date delayed....................8744
3.115 Revised....................256
  Regulation at 66 FR 256 eff. date delayed....................8744
3.116 Revised....................256
  Regulation at 66 FR 256 eff. date delayed....................8744
3.117 Revised....................256
  Regulation at 66 FR 256 eff. date delayed....................8744
3.118 Revised....................257
  Regulation at 66 FR 257 eff. date delayed....................8744
11 Authority citation revised....................21061

49 Authority citation revised 21061
50 Authority citation revised 21061
50.3 Authority citation removed 21061
50.16 (a)(4) revised 21061
51 Authority citation revised 21061
51.1 Amended; authority citation removed 21061
52 Authority citation revised 21061
53 Authority citation revised 21061
54 Authority citation revised 21061
Revised 43982
Technical correction 46066
Eff. date corrected 46686
54.1 Amended 21061
70 Authority citation revised 21061, 63615
70.1 Amended; eff. 2-5-02 63615
71 Authority citation revised 21061
71.1 Amended; eff. 1-22-02 65602
71.19 (a)(1) introductory text amended; (h) and (i) added; eff. 1-22-02 65603
72 Authority citation revised 21061
72.6 Revised 21061
72.13 (a) Footnote 4 revised 21062
73 Authority citation revised 21062
73.2 Authority citation removed 21062
73.3 Authority citation removed 21062
73.5 Authority citation removed 21062
73.6 Authority citation removed 21062
73.12 Authority citation removed 21062
74 Authority citation revised 21062, 37128
74.1 Revised 37128
75 Authority citation revised 21062
75.4 Amended 21062
77.7 Regulation at 65 FR 70286 confirmed 49271
77.9 Regulation at 65 FR 70286 confirmed 49271
78.41 Regulation at 65 FR 75582 confirmed 19847
(a) and (b) amended; interim 20900, 32894
Regulation at 66 FR 20900 confirmed 45749
Regulation at 66 FR 32894 confirmed 63910
79 Authority citation revised 21062
Revised 43990
Technical correction 46066
Eff. date corrected 46686
79.2 (a)(2) Footnote 1 revised 21062
79.3 (b) Footnote 2 amended 21062
80 Authority citation revised 21062
82 Authority citation revised 21062
82.30 Amended 21062
82.32 Footnote 2 amended 21062
82.33 (a)(2) Footnote 4 amended 21062
82.37 Footnote 7 amended 21062
85 Authority citation revised 21063
85.1 Amended 21063
85.7 (b)(3)(i), (ii) and (c)(1) amended; eff. 1-22-02 65604
85.8 (a)(3) amended; (a)(4) added; eff. 1-22-02 65604
88 Added; eff. 2-5-02 63615
89 Authority citation revised 21063
91 Authority citation revised 21063
92 Authority citation revised 21063
93.301 Regulation at 65 FR 78899 eff. date delayed 8887
Regulation at 65 FR 78899 confirmed 11101
(h)(6) and (7) amended 55071
93.308 (a)(3) revised 56034
93.400 Amended 20189
93.406 (a) and (c) revised 20190
93.427 (c)(1) removed; (c)(2) through (5) redesignated as (c)(1) through (4); new (c)(2) and (3) revised 20190
94 Technical correction 18357
Authority citation revised 21063
94.1 (a)(2) amended; interim 9643, 14826, 29689, 36697
(a)(1) amended; interim 29899
(a)(2) amended 55876
94.4 (a) and (b) amended; interim 29899
94.5 (e)(2) revised 21063
94.11 (a) amended; interim 9643, 14826, 29689, 36697
(a) amended 55876
94.18 (a)(1) and (2) amended; interim 22426
(a)(2) amended; interim 29900
(b) amended; interim 42600
(a)(1) amended; interim 52484
(a)(1) and (2) amended; interim 54643
(a)(1) and (2) amended; interim 62914
Regulation at 66 FR 29899 confirmed 63910

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 9 Chapter I—Con.

Regulation at 66 FR 29900 confirmed 63911
Regulation at 66 FR 22426 confirmed 63912
94.21 Removed; interim 29899
95 Authority citation revised 21063
95.1 Amended; interim 42600
95.4 Revised; interim 42600
95.29 Added; interim 42601
96 Authority citation revised 21063
97 Authority citation revised 21063
98 Authority citation revised 21063
99 Authority citation revised 21063
101 Authority citation revised 21063
102 Authority citation revised 21063
103 Authority citation revised 21063
103.2 Authority citation removed 21063
104 Authority citation revised 21063
105 Authority citation revised 21063
106 Authority citation revised 21063
107 Authority citation revised 21064
108 Authority citation revised 21064
109 Authority citation revised 21064
112 Authority citation revised 21064
113 Authority citation revised 21064
114 Authority citation revised 21064
115 Authority citation revised 21064
116 Authority citation revised 21064
116.1 Authority citation removed 21064
116.2 Authority citation removed 21064
116.3 Authority citation removed 21064
116.4 Authority citation removed 21064
116.6 Authority citation removed 21064
117 Authority citation revised 21064
118 Authority citation revised 21064
122 Authority citation revised 21064
123 Authority citation revised 21064
124 Authority citation revised 21064
130.4 Added 39631
130.8 (a) table amended 39632
145 Authority citation revised 21064
147 Authority citation revised 21064
151 Authority citation revised 21064
156 Authority citation revised 21064
160 Authority citation revised 21064
161 Authority citation revised 21064
162 Authority citation revised 21064
166 Authority citation revised 21064
166.1 Authority citation removed 21064
166.2 Authority citation removed 21064
166.10 Authority citation removed 21064
167 Authority citation revised 21064

Chapter III—Food Safety and Inspection Service, Department of Agriculture (Parts 300—599)

317.8 (b)(37) and (38) added 40845
(b)(39) added 54915
317.21 (b) revised 52486
319.15 (d) revised 54916
319.81 Amended 54916
319.104 (d) revised 54916
319.140 Amended 54916
319.143 Amended 54916
319.180 (e) revised 54916
331.2 Table amended 2207
331.6 Table amended 2207
362 Authority citation revised 21637, 22905
362.1 Revised; interim 21637, 22905
362.2 Revised; interim 21637, 22905
381.1 (b) amended; eff. 1-9-02 1770
(b) corrected 19714
(b) amended; interim 21637, 22905
381.36 (b) amended; interim 21637, 22905
381.65 Revised; eff. 1-9-02 1771
(e) correctly revised; (f) correctly added 19714
381.66 (a), (c) and (d) revised; (f)(6) removed; eff. 1-9-02 1771
(c)(1) corrected 19714
(b) heading, (c) heading and (d)(1) revised; interim 21637, 22905
381.67 Introductory text revised; table amended; interim 21637, 22906
381.70 Existing text designated as (a); (b) added; interim 21638, 22906
381.71 Existing text designated as (a); (b) through (f) added; interim 21638, 22906
381.72 Revised; interim 21638, 22906
381.76 (b)(1) introductory text revised; interim 21638, 22906
381.96 Revised; interim 21638, 22906
381.117 (f) and (g) added 40845
381.121d (b) revised 52486
381.129 (e) added 54916
381.159 (a) revised 54916
381.221 Table amended 2207
381.224 Table amended 2207
441 Added; eff. 1-9-02 1771

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

Proposed Rules:

1	6491
51	47593
93	19898, 20211, 29921
94	46228, 63633
101	19899
113	37194
145	37919
147	37919
301	12590, 19102, 35112
303	12590, 19102, 35112
317	4970, 12590, 19102, 20213, 35112, 41160
318	12590, 19102, 35112
319	12590, 19102, 35112, 55601
320	12590, 19102, 35112
325	12590, 19102, 35112
327	42472
331	12590, 19102, 35112
381	4970, 8178, 12590, 19102, 20213, 35112, 52715
391	52548
417	12590, 19102, 35112
430	12590, 19102, 35112
441	52715
590	52548
592	52548

TITLE 10—ENERGY

Chapter I—Nuclear Regulatory Commission (Parts 0—199)

2 Technical correction	33013
2.101 (f)(1) and (5) revised	55787
2.103 (a) revised	55787
2.104 (e) revised	55787
2.105 (a)(5) revised	55787
2.106 (c) revised	55787
2.714 (d) revised	55788
2.1001 Amended	29465, 55788
2.1003 (a) introductory text, (2) introductory text and (xv) revised	29465
2.1009 (b) revised	29466
2.1010 (a)(2) revised	29466
2.1011 (b), (c)(3) and (4) revised; (c)(6) and (7) added	29466
2.1012 (a) revised	29466
2.1013 (a)(2) and (c)(1) revised	55788
2.1014 (a)(1) introductory text and (a)(4) introductory text revised	55788
2.1021 (a) introductory text revised	55788
2.1023 (a) introductory text revised	55789
5 Appendix A added	709
9.35 (a)(1) revised	22907
19.2 Revised	55789
19.3 Amended	55789
19.20 Revised	55789
20.1002 Revised	55789
20.1003 Amended	55789
20.1401 (a) revised	55789
20.2001 (a)(1) and (b)(5) revised	55789
20.2103 (b)(3) amended	64737
20.2201 (c) amended	64738
20.2206 (a)(4) revised	55789
21.2 (a) revised	55790
21.3 Amended	55790
21.21 (d)(1)(i) and (ii) revised	55790
30.11 (b) added	51838
(c) revised	55790
30.37 (a) amended	64738
32.21 (a)(2) amended	64738
34.47 Regulation at 65 FR 63751 confirmed	1573
34.53 Amended	64738
34.83 Regulation at 65 FR 63752 confirmed	1573
36.55 Regulation at 65 FR 63752 confirmed	1573
36.81 Regulation at 65 FR 63752 confirmed	1573
39.65 Regulation at 65 FR 63752 confirmed	1573
40.14 (c) revised	55790
40.42 (j)(2), (k)(3)(i) and (ii) amended	64738
50 Authority citation revised	64738
50.47 (b)(10) revised	5440
50.49 (b)(2) amended	64738
50.55a (b)(2)(xv)(C)(*1*)	16391
50.59 (b) amended	64738
51.20 (b)(13) revised	55790
51.22 (c)(3) introductory text, (10), (12) and (d) revised	55790
51.26 (c) revised	55791
51.67 (a) and (b) revised	55791
51.10—51.125 (Subpart A) Appendix B amended	39278, 64738
55.4 Amended	52667
55.8 (c)(3) and (4) removed	52667
55.31 (a)(5) revised	52667
55.45 (b) revised	52667
55.46 Added	52667
55.59 (c)(4)(iv) revised	52668
60.1 Revised	55791
61.1 (b) revised	55791
61.2 Amended	55792
61.55 (a)(2)(iv) revised	55792
63 Added	55792

TITLE 10 Chapter I—Con.

70.1 (c)(1) and (2) revised....51838
70.17 (c) revised....55815
70.38 (e) introductory text revised....24049
72 Regulation at 65 FR 75855 confirmed....10569
  Technical corrections....33013, 38528
  Heading revised....51838
  Regulation at 66 FR 52489 confirmed....67073
72.1 Revised....51838
72.2 (a) and (c) revised....51838
72.3 Amended....51839
72.6 Revised....51839
72.16 (d) revised....51839
72.22 (e)(3) revised....51839
72.24 Introductory text and (i) revised....51839
72.28 (d) revised....51840
72.30 (a) revised....51840
72.40 (b) revised....51840
72.44 (b)(4), (c)(3)(i), (5), (d) introductory text and (g)(2) revised....51840
  (g)(1) and (3) revised....55815
72.48 (c)(2)(iii) and(vii) revised....11527
72.52 (b)(2), (c) and (e) revised....51840
72.54 (c)(1) revised....51840
72.60 (c) revised....51841
72.72 (a), (b) and (d) revised....51841
72.75 (b) introductory text, (2), (3), (6), (c) introductory text, (d)(1)(iv) and (2)(ii)(L) revised....51841
72.76 (a) revised....51841
72.78 (a) revised....51841
72.80 (g) revised....51841
72.82 (a) and (b) revised....51842
72.106 (b) revised....51842
72.108 Revised....51842
72.120 Revised....51842
72.122 (b)(2), (h)(2), (5), (i) and (l) revised....51842
72.128 Heading and (a) introductory text revised....51843
72.140 (c)(2) revised....51843
72.214 Regulation at 65 FR 60342 confirmed....1573
  Amended; interim....3448, 12437, 13409, 14486, 34525, 45752
  Corrected....8150
  Regulation at 65 FR 76898 confirmed....10569
  Regulation at 65 FR 12437 confirmed....23537
  Regulation at 66 FR 13409 confirmed....27449
  Regulation at 66 FR 14486 confirmed....28641
  Amended....43763, 52489
  Regulation at 66 FR 34525 confirmed....34525
  Regulation at 66 FR 43763 confirmed....55559
  Amended; eff. 1-28-02....56985
  Regulation at 66 FR 45752 confirmed....58056
  Amended; eff. 2-12-02....59534
73.1 (b)(6) revised....55816
73.51 (a) revised....55816
75.4 (k)(5) revised....55816
150 Technical correction....35529
150.15 (a)(7) revised; (a)(8) added....51843
150.20 (b)(1) amended....5443
  (b)(2) revised....32469
170 Authority citation revised....32469
170.2 (s) added....32469
170.3 Amended....32469
170.12 (a) revised....32469
170.20 Revised....32469
170.21 Introductory text and table amended....32469
  Table corrected....35529
170.31 Revised....32470
170.41 Revised....32474
171 Authority citation revised....32474
171.5 Amended....32474
171.15 (b) through (e) revised....32474
171.16 (c), (d) and (e) revised....32474
171.19 (b) and (d) revised....32478
171 Appendix A corrected....35529

Chapter II—Department of Energy (Parts 200—699)

430 Policy statement....8745, 19714
  Technical correction....11635
430.2 Amended....7199, 57848
  Regulation at 66 FR 7199 eff. date delayed....8745, 20191
430.22 (b)(1) introductory text revised; (b)(7) added; eff. 6-17-02....65095
430.23 Heading and (c) revised; eff. 6-17-02....65095
430.21—430.27 (Subpart B) Appendix J1 amended; eff. 1-20-04; Appendix J amended....3330
  Appendix E amended; eff. 1-20-04....4497
  Appendix J amended....8745

Regulation at 66 FR 3330 eff. date delayed........8744
Appendix C revised; eff. 6-17-02........65096
430.32 (g) revised; eff. 1-20-04........3332
(d) revised........4497
(c) revised........7199
Regulation at 66 FR 7199 eff. date delayed........8745, 20191
(f) revised; eff. 6-17-02........65097
431.123 (a) amended........56607
431.701—431.704 (Subpart Q) Added........3354
Regulation at 66 FR 3354 eff. date delayed........8745
Regulation at 66 FR 3354 confirmed........27853
440.14 (c)(6)(ix) removed........58366
440.18 (b) introductory text and (2) removed; (b)(1) introductory text, (1)(i), (ii) introductory text, (A) and (B) redesignated as new (b) introductory text, (1) and (2) introductory text, (i) and (ii); (a), new (b) introductory text revised........58366
490 Authority citation revised........2210
490.703 (b) revised........2210
Regulation at 66 FR 2210 eff. date delayed........8746
Regulation at 66 FR 2210 confirmed........21851
490.705 (a) and (b) revised; (d) added........2210
Regulation at 66 FR 2210 eff. date delayed........8746
Regulation at 66 FR 2210 confirmed........21851
600 Authority citation revised........34784
600.6 (c)(8) revised........34784

Chapter III—Department of Energy (Parts 700—999)

710 Authority citation revised........47062
710.1 (b) revised........47062
710.4 (c) revised; (g) added........47062
710.5 Amended........47063
710.7 (a) revised........47063
710.8 (f) amended; (g), (h), (j), (k) and (l) amended........47063
710.9 Revised........47063
710.10 (a) and (d) revised; (e) and (f) added........47064
710.21 Heading, (a) and (b)(2) revised; (c) added........47064
710.22 Revised........47064
710.23 Heading amended........47065
710.27 Heading and (d) revised; (a) amended; (e), (f) and (g) removed........47065
710.28 Revised........47065
710.29 Redesignated as 710.30; new 710.29 added........47065
710.30 Redesignated as 710.31; new 710.30 redesignated from 710.29........47065
(a) and (b)(1) amended; (b)(2) revised........47066
710.31 Redesignated as 710.32; new 710.31 redesignated from 710.30........47065
Revised........47066
710.32 Redesignated as 710.33; new 710.32 redesignated from 710.31........47065
Revised........47066
710.33 Redesignated as 710.34; new 710.33 redesignated from 710.32........47065
Revised........47067
710.34 Redesignated as 710.35; new 710.34 redesignated from 710.33........47065
710.35 Redesignated from 710.34........47065
Revised........47067
710.36 Added........47067
710.1—710.34 (Subpart A) Appendix B added........47067
719 Added........4621
Regulation at 66 FR 4621 eff. date delayed........8746
Policy statement........19717
830 Regulation at 65 FR 60308 confirmed; revised........1818
Regulation at 66 FR 1818 eff. date delayed........8746
Policy statement........19717
960 Heading and authority citation revised........57334
960.1 Amended........57334
960.2 Amended........57334
960.3 Amended........57334
960.3-1-4-4 Removed........57334
960.3-1-5 Revised........57334
960.3-2 Amended........57335
960.3-2-4 Removed........57335
960 Appendix III amended........57335
963 Added........57336

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 10

Chapter X—Department of Energy (General Provisions) (Parts 1000—1099)

1040 Authority citation revised 4630
Policy statement....................18721
1040.1 Existing text designated as (a); (b) and (c) added....................4630
Regulation at 66 FR 4630 eff. date delayed....................8747
1040.21—1040.57 (Subpart C) Removed....................4630
Regulation at 66 FR 4630 eff. date delayed....................8747
1042 Added....................4630
Regulation at 66 FR 4630 eff. date delayed....................8747
Policy statement....................18721
1044 Added; interim....................4642
Regulation at 66 FR 4642 eff. date delayed....................8747
Regulation at 66 FR 4642 confirmed....................23833
1044.01 Revised....................54645

Chapter XVII—Defense Nuclear Facilities Safety Board (Parts 1700—1799)

1707 Added; eff. 1-28-02....................66715

Proposed Rules:

1....................19610, 27045
2......19610, 27045, 29741, 46230, 48828, 52721
15....................50860, 54061
20....................36502, 46230, 52551
30....................20099, 29243
34....................29243
35....................20214, 29243
36....................29243
39....................13858, 29243
40....................29243
50.....3886, 13267, 19610, 22134, 27045, 29243, 29244, 37432, 40626, 46230, 48828, 51884, 52065, 52551, 57001, 59546, 65661
51..............10834, 19610, 27045, 29251, 48828
52..............19610, 27045, 48828, 48832, 49324
54....................19610, 27045, 65141
60....................19610, 27045
61....................29251
70....................19610, 27045, 29243, 29251
72.....9055, 12439, 13459, 14503, 29243, 29251, 34588, 43810, 45788, 47059, 52554, 57002, 59546, 63964
73..............10839, 19610, 27045, 29251, 55603
74....................29251
75....................19610, 29251
76..............10839, 19610, 27045, 29243, 29251
95....................10839
110....................19610, 27045
150....................16982, 20035, 29251
170....................16982, 20035, 55604
171....................16982, 20035
255....................13860
430....6768, 15203, 32914, 36960, 38822, 43123, 45189, 49325, 53554
431....................50355
600....................23197
733....................19900
852....................46742, 48630, 53130
1008....................32272
1707....................57003

TITLE 11—FEDERAL ELECTIONS

Chapter I—Federal Election Commission (Parts 1—9099)

100.16 Regulation at 65 FR 76145 eff. 5-9-01....................23537
100.23 Regulation at 65 FR 76146 eff. 5-9-01....................23537
104.3 (b)(4)(i)(A) and (B) added....................59680
109.1 Regulation at 65 FR 76146 eff. 5-9-01....................23537
110.14 Regulation at 65 FR 76146 eff. 5-9-01....................23537
111.30 Revised....................59681

Proposed Rules:

100.............13681, 23628, 38576, 47120, 50358
104....................23628, 38576, 47120
106....................56247, 66813
109....................23628
113....................38576, 47120
114....................50358
117....................50358

TITLE 12—BANKS AND BANKING

Chapter I—Comptroller of the Currency, Department of the Treasury (Parts 1—199)

1 Technical correction....................36834
1.2 (g) through (m) redesignated as (h) through (n); new (g) added; new (j)(4), (k)(1) and (l) revised....................34791

- 3.4 Existing text designated as (a) and amended; new (a) heading and (b) added 59630
- 3 Appendix A amended 59630
- 5 Authority citation revised 49097
  - Authority citation corrected 62914
- 5.26 (e)(5) revised 34797
- 5.34 (a), (c), (d)(2), (3) and (e)(4) revised 49097
  - (d)(2) and (3)(ii) corrected 62914
- 7 Authority citation revised 34791
  - Technical correction 36834
- 7.1021 Added 34791
- 7.3000 (b) amended 34791
- 7.4001 (a) amended 34791
- 7.4002 revised 34791
- 7.4006 Added 34791
- 8 Heading and authority citation revised 23153
- 8.2 (a)(7) and (b)(5) removed; (c) and (d) added 29893
  - (a) revised 57647
  - (a) table corrected 58786
- 8.6 Heading and (a) revised 23153
  - (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); (c)(1)(iii) and new (3)(ii) added 29894
- 9.2 (g) amended; (j) and (k) added 34797
- 9.3 (b) revised; (c) added 34798
- 9.7 Added 34798
- 9.14 (b) revised 34798
- 14 Regulation at 65 FR 75839 eff. date delayed 15345
- 23 Technical correction 36834
- 23.21 (a)(2) revised 34792
- 28.15 (b) revised 49098
- 30 Authority citation revised 8633
- 30.1 Revised 8633
- 30.2 Amended 8633
- 30.3 (a) revised 8633
- 30 Appendix B revised 8633
  - Appendix C removed 8634
- 32.2 (i) through (n), (o) and (p) redesignated as (j) through (o), (q) and (s); new (i), (p) and (r) added 31120
  - (f)(1)(iii), (iv) and (m)(1) revised 55072
- 32.3 (c)(5) revised 31120
  - (a) and (b)(5) introductory text revised; (b)(1)(i) amended 55072
- 32.7 Added 31120
- 35 Added 2085

Chapter II—Federal Reserve System (Parts 200—299)

- 201.51 Revised 2211, 9907, 18185, 20901, 29009, 35530, 45753, 49098, 52850, 57848, 65817
- 202 Compliance notification 41439
- 202.4 Revised; interim 17785
- 202.9 (h) added; interim 17785
- 202.17 Added; interim 17785
- 202 Supplement I amended; interim 17786
- 203 Supplement I amended 66295
- 204.9 Revised 53078
- 205 Authority citation revised 15192
  - Compliance notification 41439
- 205.4 (a) redesignated as (a)(1); (a)(2) added; (c) revised; interim 17793
- 205.7 (b)(11) added 13412
- 205.16 Added 13412
- 205.17 Added; interim 17793
- 205 Supplement I and Appendix A amended 13412
  - Supplement I amended 15192
  - Appendix A amended; interim 17793
  - Supplement I amended; interim 17794
- 207 Added 2092
- 208 Authority citation revised 8634, 42933
- 208.3 (d)(1) revised 8634
- 208.71—208.77 (Subpart G) Revised 42933
- 208.71 (c) revised 8749
- 208.77 (e) revised 8749
- 208.81—208.86 (Subpart H) Regulation at 65 FR 75841 eff. date delayed 15345
- 208.100—208.101 (Subpart I) Regulation at 65 FR 75841 eff. date delayed 15345
- 208 Appendix D–2 revised 8634
  - Appendix A amended 59636, 67074
  - Appendix B amended 59643
- 211 Authority citation revised 8636
- 211.1—211.13 (Subpart A) Revised 54374
- 211.5 (h)(2)(ii) revised; (l) added 58655
- 211.8 (c)(3)(ii) and (iii) redesignated as (c)(3)(iii) and (iv); new (c)(3)((ii) added 58655
- 211.9 Added 8636
  - Footnote 5 amended 58655

TITLE 12 Chapter II—Con.

211.20-211.30 (Subpart B) Revised 54374
211.24 (i) added 8636
211.31—211.34 (Subpart C) Revised 54374
213 Compliance notification 41439
213.3 (a)(5) added; interim 17328
213.6 Added; interim 17328
213 Supplement I amended; interim 17328
220 OTC margin stock lists ...11101, 44525
225 Authority citation amended 414, 8636
225.1 (c)(9) added 414
  (c)(10) revised 8484
  (c)(16) added 8636
225.2 (r)(2) and (s) revised; (t) added 414
225.4 (h) added 8636
225.14 (c)(2)(i) revised 415
225.23 (c)(2)(i) revised 415
225.81—225.94 (Subpart I) Revised 415
225.86 (e) added; interim 260
  (d) and (e) added; interim 19081
225.170—225.177 (Subpart J) Revised 8484
225 Appendix F added 8636
  Appendix E correctly revised; CFR correction 48532
  Appendix A amended 59643, 67074
  Appendix D amended 59651
226 Compliance notification 41439
226.1 (b) and (d)(5) revised 65617
226.5 (a)(5) added; interim 17338
226.5a (b)(1)(ii) and (c) revised; (b)(1)(iii) added; interim 17338
226.5b (c) redesignated as (c)(1); (c)(1) heading and (2) added; interim 17338
226.15 (b) introductory text amended; interim 17338
226.16 (c) revised; interim 17338
226.17 (a)(3) added; (g) introductory text revised; interim 17338
226.23 (b)(1) amended; interim 17338
226.24 (d) revised; interim 17338
226.27 Revised; interim 17339
226.31 (b) revised; interim 17339
226.32 (a)(1)(i), (b)(1), (c) introductory text, (3) and (d) introductory text revised; (c)(5) and (d)(8) added; (e) removed 65617
226.34 Added 65618
226.36 (Subpart F) Added; interim 17339
226 Supplement I amended; interim 17339
  Appendix G corrected; CFR correction 43463
  Supplement I amended; eff. 1-1-02 57849
  Appendix H amended 65618
230 Compliance notification 41439
230.3 (a) revised; (g) added; interim 17802
230.4 (a)(1) and (2)(i) revised; interim 17802
230.6 (c) removed; interim 17802
230.10 Added; interim 17803
230 Supplement I amended; interim 17803
250 Authority citation revised 24233
250.243 Added 24229
250.244 Added 24299
250.245 Added 24229
250.246 Added 24225
250.247 Added; interim 24233
250.248 Added; interim 24233
261a.13 (b)(9) revised; (c)(11) added 19718
  Corrected 20863
263 Authority citation revised 8637
263.302 (a) revised 8637
265.5 (d)(3) added 54397
  (d)(3) revised 58655
265.6 (f) revised 54397
265.7 (d)(4) revised; (d)(9) through (14) added 54397
265.11 (d)(8) and (11) revised; (d)(12) added 54398
  (d)(11) revised 58656
268 Revised; interim 7704

Chapter III—Federal Deposit Insurance Corporation (Parts 300—399)

303.14 Added 54650
303.120 Regulation at 65 FR 15529 confirmed; revised 1027
303.121 Regulation at 65 FR 15529 confirmed 1027
303.122 Regulation at 65 FR 15530 confirmed; (a) and (b) amended 1027
303.123 Regulation at 65 FR 15530 confirmed 1027
303.141 (b)(1)(ii) revised 1028
303.142 (a), (b) and (c) amended 1028

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

308 Authority citation revised........8638, 9189
308.101 (b) revised........9189
308.132 (c)(3)(xv) revised........9189
308.302 (a) revised........8638
308.500—308.546 (Subpart T) Added........9189
325.2 (g) through (x) redesignated as (i) through (z); new (g) and (h) added; new (v) and (x) revised........59652
325.3 (b)(1) amended........59652
325.5 (f) and (g)(2) revised........59652
325.103 (b) amended........59653
325 Appendix A amended........59653
Appendix B amended........59661
337.4 Removed........1028
337.6 (e) removed........17622
343 Regulation at 65 FR 75843 eff. date delayed........15348
346 Added........2099
346.9 (a)(1) corrected........14071
346.11 (j)(2)(iv) corrected........14071
362 Authority citation revised........1028
362.1 (c) revised........1028
362.2 (r) revised........1028
362.4 (b)(5)(ii) introductory text and (c)(2)(vi) revised........1028
362.5 (b)(1), (2) and (3) removed........1028
362.6 Revised........1028
362.7 (a) and (b) revised........1028
362.8 Revised........1028
362.10 (a) revised........1029
362.12 (b)(2)(i) and (4) removed; (c) heading and (b)(1) amended........1029
362.16—362.18 (Subpart E) Regulation at 65 FR 15530 confirmed; revised........1029
364 Authority citation revised........8638
364.101 (b) revised........8638
364 Appendix B revised........8638

Chapter V—Office of Thrift Supervision, Department of the Treasury (Parts 500—599)

500 Heading revised........65819
502.20 Revised........33159
505.1 (b) amended........65819
505.2 Revised........65819
505.3 Amended........65819
505.4 Amended........65819
506.1 (b) amended; interim........15017
(c)(1)(iii) revised........15020
Regulation at 66 FR 15017 confirmed........37407
(b) table amended........65819
516 Heading revised........65820
516.1—516.3 (Subpart A) Removed........13000
516.1 Added........13000
516.5 Added........13000
516.10 Added........13000
516.15—516.47 (Subpart A) Added........13000
516.40 (a)(2) revised........65820
516.55 Added........13002
516.110 Amended........13003
516.120 Revised........13003
516.130 Revised........13003
516.140 Revised........13003
516.150 Revised........13003
516.185 Added........13003
516.190 Revised........13003
516.200—516.280 (Subpart E) Added........13003
517 Heading revised........65820
517.6 (b) revised........13005
533 Added........2106
536 Regulation at 65 FR 75845 eff. date delayed........15345
541 Heading revised........65820
543 Heading revised........65820
543.9 (a) revised........13005
544 Heading revised........65820
544.2 (c) amended........13005
544.5 (c)(1)(ii) revised........13006
(c)(1)(iii) revised........15020
545 Heading revised........65820
545.92 (b) and (d)(2) revised; (f) amended........13006
(d)(2) revised........65820
545.93 Redesignated from 556.5........65820
546 Heading revised........65820
550.80 Revised........13006
550.260 (b)(2) amended........13006
550.530 Amended........13006
552 Heading revised........65820
552.2-6 Amended........13006
Existing text designated as (a); (b) added........23154
Regulation at 66 FR 37407 confirmed........37408
552.4 (d) amended........13006
552.5 (b)(1)(ii) revised........13006
(b)(1)(iii) revised........15020
555.310 (a) introductory text amended........13006
556 Removed........65820
556.5 Redesignated as 545.93........65820

TITLE 12 Chapter V—Con.

556.347 Revised 19854
559.3 (e)(2)(i) and (ii) amended 13006
559.4 Introductory text amended 13007
  Introductory text, (g)(3), (h)(2), (3) and (i) revised; (j) added 65824
559.11 Amended 13007
559.13 (b) revised 13007
560.3 Amended 65825
560.30 Table amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
  Revised 65825
560.32 (c) amended 13007
560.35 (d)(3) revised 13007
560.36 Revised 65826
560.40 (a)(2)(ii) amended; (c) added 65826
560.42 Revised 65826
560.93 (d)(3)(iii) amended 13007
560.101 Appendix amended 65821
560.160 (a)(1) revised 13007
561 Heading revised 65821
562.4 (b)(1) revised 13007
  (c)(3) correctly added; CFR correction 33632
563 Heading revised 65821
563.22 (b)(1)(ii), (2), (d)(4), (f)(1) and (h)(2) revised 13007
563.41 (e)(2)(ii)(A) revised 13008
563.81 (a)(1), (2) and (c) amended 13008
563.143 Heading revised; (a)(1) amended 13008
563.161 (a) revised; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
563.171 (b)(4) revised 13008
563.180 (d)(11) revised 13008
563.183 (c)(1) revised 13008
563.555 Amended 13008
563.565 Revised 13009
563b.27 (e) footnote 1 amended 13009
563d.1 Amended 65821
563d.2 Amended 65821
563f.6 (a) amended 13009
563g.5 (b)(1) introductory text, (1)(i) and (2) revised 65821
563g.18 (a) amended 65821
565.4 (b)(2)(iii)(B), (3)(iii)(B) and (c)(2) note 1 amended 13009
  (b)(1)(iv) revised 65821
566 Removed; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
567.1 Amended 59661
567.2 (a)(1)(i) revised 59663
567.3 (d)(2)(i) introductory text amended 13009
  (a)(2) correctly removed; CFR correction 33632
567.4 (a)(3)(i) amended 13009
567.5 (a)(2)(iii) added 59663
567.6 (a) introductory text, (1), (ii)(R), (iii)(C), (iv)(J), (M), (2) introductory text, (i)(B) and (ii)(A) revised; (a)(1)(ii)(H), (iv)(N), (2)(i)(A), (C) and (3) removed; (b) added 59663
567.7 (f) revised 13009
567.9 (c)(1) revised 59666
567.11 (c) redesignated as (c)(1); (c)(2) and (3) added 59666
567.12 Heading, (a) and (e) revised; (b)(4) added 59667
568 Authority citation revised 8639
  Heading and authority citation revised 65821
568.1 (a) revised 8639
568.5 Added 8639
570 Heading revised 65821
570.1 (a) and (b) amended 8639
570.2 (a) revised 8639
570 Appendix B revised 8640
573.15 (a)(7)(ii) revised 65822
574.4 (f)(2) amended 13009
574.6 (f)(4) amended 13009
575.3 (b)(2) introductory text revised 13009
575.13 (a)(1), (b), (c)(2) and (e) amended 13010
583 Heading revised 65822
584.2–1 (a) and (c)(1) amended; interim 15017
  Regulation at 66 FR 15017 confirmed 15017
584.2–2 (b) amended 13010
590.3 (c) revised 65822

Chapter VI—Farm Credit Administration (Parts 600—699)

611.1135—611.1137 (Subpart I) Revised 16843
  Regulation at 66 FR 16843 eff. 5–14–01 26785
613.3020 (c) added 28643
  Regulation at 66 FR 28643 confirmed 36908
613.3030 (a)(1) and (2) amended 28643

Regulation at 66 FR 28643 confirmed..........36908
615.5220 (a)(3) revised..........16844
Regulation at 66 FR 16844 eff. 5-14-01..........26785
615.5250 (c)(2) amended..........16844
Regulation at 66 FR 16844 eff. 5-14-01..........26785
620.2 (h)(1) and (2) revised..........14301
Regulation at 66 FR 14301 confirmed..........21064
620.4 (b) revised..........14301
Regulation at 66 FR 14301 confirmed..........21064
620.5 (a)(10) added..........14301
Regulation at 66 FR 14301 confirmed..........21064
650 Authority citation revised..........19064
650.20—650.31 (Subpart B) Added..........19065
Regulation at 66 FR 19064 eff. 5-23-01..........28361

Chapter VII—National Credit Union Administration (Parts 700—799)

700.1 Redesignated as 700.2; new 700.1 added; eff. 1-22-02..........65624
700.2 Redesignated from 700.1; (h) and (j) removed; (e), (f), (g) and (i) redesignated as (g), (h), (i) and (e); new (f) and (j) added; eff. 1-22-02..........65624
701.1 Revised; interim..........15621, 65626
701.14 (b)(3)(ii) and (4)(ii) revised; eff. 1-22-02..........65624
701.31 (d) introductory text, (1) and (2) revised..........48206
701.33 (b)(2)(i) amended; eff. 1-22-02..........65629
705.10 Regulation at 65 FR 80299 confirmed..........20902
707 Compliance date lifted..........48206
707.3 (a) revised; (g) added..........33162
707.4 (a)(1) and (2)(i) revised..........33163
707.6 (c) removed..........33163
707.10 Added..........33163
707 Appendix C amended..........33163
709.0 Amended; interim..........11230
Amended..........40575
709.12 Added; interim..........11230
Revised..........40575
712.2 (d) revised; eff. 1-22-02..........65624
712.3 (a) amended..........40578
712.5 Amended..........40578
712.7 Amended..........40578
715 Authority citation revised..........65624
715.2 (l) amended; eff. 1-22-02..........65624
721 Revised..........40857
722.3 (a)(1) amended; eff. 3-1-02..........58662
723.4 Amended; eff. 1-22-02..........65624
725.2 (o) revised; eff. 1-22-02..........65624
742 Added; eff. 3-1-02..........58662
748 Heading and authority citation revised..........8161
748.0 (b) revised..........8161
748 Appendix A added..........8161
749 Revised..........40579
Heading corrected..........46307
790.2 (b)(13) heading revised; eff. 1-22-02..........65624

Chapter IX—Federal Housing Finance Board (Parts 900—999)

915.3 (b) introductory text and (3) revised..........8307
915.4 Revised..........8307
915.5 Revised..........8308
915.6 (a)(3) revised..........8308
915.7 (b)(2) amended..........8308
917 Authority citation revised..........8308
917.3 (b)(1) revised..........8308
917.9 Existing text designated as (a); (b) added..........8308
918.7 Revised; interim..........24264
Regulation at 66 FR 24264 confirmed..........54918
925.24 Revised..........8308
925.25 Removed..........8309
925.26 Revised..........8309
(b) revised..........54107
925.27 Revised..........8309
(c) revised..........54107
925.28 Removed..........8310
925.29 Revised..........8310
925.30 Revised..........8310
930 Added..........8310
930.1 Amended..........54107
Amended; eff. 3-27-02..........66728
931 Added..........8310
931.4 (a) amended..........54108
931.6 Amended..........54108
931.7 (a) amended..........54108
931.8 Existing text redesignated as (a); heading and new (a) heading revised; (b) added..........54108
932 Added..........8310
932.4 (d) heading and (f)(1) Table 2 revised; (e)(2)(ii)(E) amended..........54108
932.9 Revised; eff. 3-27-02..........66728

TITLE 12 Chapter IX—Con.

933 Added 8310

933.2 (e), (f) and (g) redesignated as (f), (g) and (h); new (f)(4), (5) and (6) redesignated as (f)(5), (6) and (7); new (f)(3) revised; new (e) and (f)(4) added 54108

933.5 Added 54109

950.1 Amended 50295

951 Nomenclature change 50301

951.3 (a)(1) revised 50301

951.4 (a), (b), (f)(1) and (3) amended 50302

951.5 (a)(7)(iii) amended 50302

951.8 (c)(3) amended; (c)(3)(i) designation and heading removed; (c)(3)(ii) redesignated as (c)(4); new (c)(4) heading revised 50302

951.10 (a)(1)(ii) revised; (a)(2)(ii) amended; (b)(2)(i) designation and (ii) removed 50302

951.15 (a)(2)(ii) amended; (a)(2)(iii) added; concluding text designated as (a)(3) 50302

952.2 Amended 50295

952.3 Amended 50295

952.5 (a)(3), (c), (d) heading, (2), (3), (5) and (6)(i) amended 50296

952.7 (a) and (c) amended 50296

956 Authority citation revised 8320

956.1 Amended 8320

956.3 (b) amended 8320

956.5 Added 8320

956.6 Added 8321

966.8 (d) added 8321

Chapter XIV—Farm Credit System Insurance Corporation (Parts 1400—1499)

1411 Authority citation revised 44027

1411.1 Revised 44027

Chapter XV—Department of the Treasury (Parts 1500—1599)

1500 Revised 8489

1501.2 Redesignated as 1501.3; new 1501.2 added; interim 260

1501.3 Redesignated from 1501.2; interim 260

Revised 8750

1510 Regulation at 65 FR 12069 confirmed 47070

1510.5 (c) introductory text amended; (d) revised; interim 47071

Chapter XVII—Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development (Parts 1700—1799)

1701 Added 18039

1750 Authority citation revised 47806

1750.10—1750.13 (Subpart B) Added 47806

1770 Added 47554

1773 Added 65101

1780 Authority citation revised 711, 18043

1780.1 Revised 18043

1780.80—1780.81 (Subpart E) Revised 711

Proposed Rules:

1 8178

3 10212

7 ..... 8178, 19901, 34855

8 ..... 17821, 21045, 48983

23 8178

25 ..... 18411, 37602

37 19901

41 16624

200—299 (Ch. II) 27912

208 ..... 10212, 18411, 59176

211 54399

222 16624

223 ..... 24186, 33649

225 ..... 307, 10212, 12440, 59176

226 64381

228 37602

303 20102

325 10212

334 16624

345 37602

360 65144

369 18411

500—599 (Ch. V) 31186

502 21288

552 23198

560 59050

563e 37602

567 15049

571 16624

584 ..... 56488, 63517

609 53348

611 ..... 10639, 15814, 43536

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

614	43536, 48098
618	10639, 15814
620	10639, 15814, 53348
700—799 (Ch. VII)	66359
700	33211
701	20945, 33211, 40641, 65662
702	40642
703	48742, 54168
704	48742
712	11125, 33211
715	33211
722	15055
723	33211
725	33211
741	40642
742	15055
749	11239
790	33211
900—999 (Ch. IX)	50366, 63007
915	14093
917	14093
925	14093, 41462, 43961
930	14093, 41462, 41474, 43961
931	14093, 41462, 43961
932	13688, 14093, 41462, 41474, 43961
933	14093, 41462, 43961
950	36715
951	23864, 66813
952	36715
956	14093
966	14093
1501	307, 12440
1710	18709, 20217, 47557, 56619
1750	65146
1773	47563
1777	18694

TITLE 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration (Parts 1—199)

107.710 (a) revised	30647
108 Added; interim	7224
Regulation at 66 FR 7224 eff. date delayed	10811
Regulation at 66 FR 7224 eff. date delayed	20530
Regulation at 66 FR 7224 withdrawn	28602
Added	28609
Authority citation corrected	32894
108.150 (c) introductory text corrected	32894
108.2010 (b) corrected	32894
115 Authority citation revised	30804
115.12 (e)(1) and (3) amended	30804
115.19 (a) amended	30804
115.31 (d) amended	30804
115.60 (a)(1) amended	30804
115.61 Amended	30804
115.68 Amended	30804
119 Added	29013
120.131 Revised	56987
Regulation at 66 FR 56987 withdrawn	64739
120.151 Amended	56988
Regulation at 66 FR 56988 withdrawn	64739
120.210 Amended	56988
Regulation at 66 FR 56988 withdrawn	64739
120.220 (a) revised; (b) and (c) redesignated as (e) and (f); introductory text, new (b), new (c) and (d) added	56988
Regulation at 66 FR 56988 withdrawn	64739
120.223 Added	56988
Regulation at 66 FR 56988 withdrawn	64739
120.613 (b) revised	56988
Regulation at 66 FR 56988 withdrawn	64739
120.700—120.715 (Subpart G) Heading revised	47073
120.700 Amended	47073
120.701 (h) redesignated as (i); new (h) added	47073
(f) and (i) revised	47878
120.702 (a)(1) revised	47878
120.704 (b) revised	47878
120.705 Amended	47878
120.706 (a) amended	47073
120.707 (a) revised	47073
(b) amended; (c)(1) and (2) revised	47878
120.712 Heading, (b)(1) and (e) revised	47073
120.714 Heading and (b) revised; introductory text added	47073
(a) amended; (b) revised	47878
120.715 (a) revised	47073
120.716 Added	47073
120.845 Introductory text amended; (h) removed	56988
Regulation at 66 FR 56988 withdrawn	64739
120.862 (b)(3) revised	56988

TITLE 13 Chapter I—Con.

Regulation at 66 FR 56988 withdrawn 64739
120.870 (c) revised....56989
Regulation at 66 FR 56989 withdrawn 64739
120.931 Revised....56989
Regulation at 66 FR 56989 withdrawn 64739
121 Waiver 19381
121.201 Table amended 30647
Table corrected 32416
121.301 (b) and (c) revised....30648
123 Authority citation revised....38530
Undesignated center headings designated as Subparts A through E....38530
123.500—123.512 (Subpart F) Added 38530
123.600—123.606 (Subpart G) Added; interim 53331
126 Authority citation revised....4645
126.101 (c) added 4645
126.103 Amended....4645
126.204 Revised 4645
126.206 Revised 4645
126.601 (d) revised 4645
134.102 (l) amended; (m) redesignated as (n); new (m) added 47074

Chapter IV—Emergency Steel Guarantee Loan Board (Parts 400—499)

400.2 (h) through (l) redesignated as (i) through (m); (a), new (j) and (l) revised; new (h), (n) and (o) added....53079
400.106 Revised....53079
400.201 (c) and (d) revised....53079
400.203 Revised....53080
400.204 (c)(2)(i) and (3) revised....53080
400.205 (a) revised; (b)(10) and (11) amended; (b)(12) added 53080
400.207 (b)(1) revised....53080
400.208 (a)(3) revised....53080
400.210 Revised....53080
400.215 Added 53080

Proposed Rules:

108....20531
121....10842, 14865
559....55131
560....55131

TITLE 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation (Parts 1—199)

11 Comment disposition 29416
Compliance date delayed....56989
13.401 (Subpart I) Added 55048
21 SFAR No. 88 added 23129
Comment disposition 29416
Compliance date delayed....56989
21.183 (d)(2)(iv) amended 21065
21.197 (c) introductory text and (1) amended 21066
21.213 (b) amended 21066
21.329 (c) amended....21066
21.337 (e) amended....21066
23 Special FAA conditions...18186, 30649, 37128, 40580, 50809, 50819
25 Special FAA conditions....261, 8162, 11527, 12843, 15020, 17804, 19847, 22426, 22428, 26972, 32717, 36697, 37408, 39085, 46937, 49271, 51299, 52017, 54062, 54414, 56195, 56197, 57648, 57650, 64349
Comment disposition 29416
Compliance date delayed....56989
25.473 (d) revised 27394
25.723 Revised 27394
25.725 Removed 27394
25.727 Removed....27394
25.981 Revised 23129
25.1435 (a), (b) and (c) revised....27402
25.1516 Added 34024
25.1527 Revised....34024
25.1583 (c) and (f) revised 34024
25.1585 Revised....34024
25.1587 Revised....34024
25 Appendix H amended....23130
27.397 (b)(2) amended....23538
29.397 (b)(2) amended....23538
35 Special FAA conditions 50302
39 Technical correction 13635, 37271
39.13....1, 4, 6, 8, 264, 265, 266, 268, 1032, 1254, 1256, 1828, 1830, 2213, 3450, 3860, 4647, 4648, 4650, 4653, 4655, 4657, 4659, 6447, 6450, 6452, 6453, 6455, 7573, 7575, 7577, 8078, 8080, 8082, 8083, 8088, 8166, 8168, 8508, 8751, 8753, 8755, 8757, 8759, 9028, 9030, 9033, 9909, 10186, 10189, 10355, 10356, 10358, 10359, 10362, 10571, 10572, 10953, 10954, 10956, 10959, 10961, 10963, 10964, 11104, 11106,

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

12724, 12726, 12728, 12731, 13011,
13228, 13231, 13233, 13413, 13415,
13417, 13420, 13423, 13425, 14302,
14305, 14307, 14309, 14311, 14828,
15023, 15025, 15622, 15624, 15788,
16104, 16107, 16109, 16113, 16115,
16118, 16600, 16845, 16847, 17343,
17346, 17349, 17489, 17491, 17494,
17497, 17498, 17503, 17507, 17808,
18047, 18049, 18522, 18524, 18526,
18528, 18722, 18872, 19383, 19385,
19388, 19719, 19851, 20193, 20195,
20378, 20380, 20382, 20385, 20388,
20734, 20736, 20738, 20903, 20905,
20909, 20911, 20913, 20915, 20916,
20918, 20919, 20921, 21068, 21070,
21072, 21074, 21076, 21080, 21082,
21085, 21277, 21279, 21852, 21854,
21858, 21861, 22431, 22434, 22909,
22912, 22914, 22915, 23540, 23542,
23835, 23837, 23839, 23843, 24051,
27686, 27688, 27016, 27018, 27450,
27591, 27596, 27855, 28363, 28365,
28645, 28647, 28650, 28653, 29468,
29471, 29690, 29902, 30298, 30301,
30304, 30306, 31122, 31127, 31131,
31133, 31140, 31142, 31145, 31526,
31529, 31835, 31837, 31838, 32531,
32532, 32535, 32537, 32729, 32730,
32895, 32897, 33014, 33015, 33017,
33018, 33020, 33165, 33167, 33169,
33172, 33460, 33461, 34084,
34087—34090, 34093, 34095, 34097,
34099, 34101, 34102, 34104, 34105,
34107, 34109, 34529, 34531, 34532,
34799, 34801, 34805, 35077, 35079,
35372, 35531, 35533, 35534, 35536,
35537, 35539, 35897, 36146, 36148,
36150, 36151, 36153, 36155, 36442,
36444, 36446, 36448, 36449, 36451,
36452, 36454, 36455, 36457, 36700,
37131, 37885, 38140, 38143, 38144,
38146, 38353, 38356, 38359, 38361,
38364, 38366, 38532, 38534, 38536,
38538, 38891, 38894, 38898, 39414,
39417, 39422, 39425, 39427, 39430,
39432, 39434, 39632, 40109, 40583,
40860, 40862, 40864, 40865, 40867,
40868, 40869, 40871, 40873, 40876,
40878, 40880, 40882, 40885, 41130,
41442, 41444, 42106, 42938, 42940,
43068, 43069, 43071, 43073, 43075,
43077, 43464, 43467, 43469, 43474,
43477, 43765, 43767, 43770, 43772,
44029, 44031, 44033, 44035, 44038,
44040, 44042, 44044, 44045, 44047,
44049, 44293, 44295, 44297, 44298,
44946, 44949, 44953, 44956, 44958,
44959, 45566, 45569, 45571, 45572,
45574, 45576, 45578, 45581, 45583,
45587, 45595, 45754, 45755, 45757,
45759, 45923, 46215, 46510, 46511,
46514, 46516, 46518, 46940, 47381,
47572, 47574, 47576, 47880, 47882,
47885, 48537, 48539, 48790, 48791,
49100, 49510, 49516, 49824, 49827,
50305, 50307, 50308, 50530, 51556,
51848, 51852, 51855, 51857, 51859,
51861, 52022, 52026, 52028, 52313,
52315, 52491, 52495, 52497, 52499,
52669, 53333, 53336, 53338, 53082,
53084, 54117, 54119, 54417, 54419,
54422, 54424, 54426, 54652, 54655,
54657, 54660, 54662, 54919, 54922,
55074, 55077, 55561, 56200, 56204,
56754, 56756, 56990, 57363, 57366,
57654, 57854, 57856, 57860, 58368,
58665, 58914, 58917, 58921, 58924,
58926, 58929, 58931, 58934, 60141,
62916, 63156, 63158, 63161, 63308,
63622, 63914

Corrected............1574, 3861, 9635, 15326,
17508, 18521, 23155, 28651, 30307,
42586, 52312, 54110, 58007, 58932,
59358, 64739, 66296

Eff. 1-4-02.......57851, 57858, 59683, 59686,
59688, 59690, 59691, 65631

Eff. 1-7-02........60143, 60145, 60146, 65833

Eff. 1-15-02 ....63912, 63916

Eff. 1-16-02 .....64098, 64100, 64101, 64103,
64105, 64106, 64108, 64111, 64113,
64115, 64117, 64119, 64121, 64123,
64124, 64127, 64129, 64131, 64133,
64134, 64137, 64139

Eff. 1-2-02 65103

Eff. 1-23-02 ....65427, 65428

Eff. 1-25-02 ....65828, 65831

Eff. 1-30-02 .....66298, 66300, 66303, 66306,
67475

Eff. 1-18-02..66732

Eff. 1-31-02 ....66734, 66736

Eff. 1-11-02 ....66738, 66741

Eff. 1-14-02..67075

43.1 (a)(2) amended..................................21066

43.3 (f) and (g) amended 21066

43.7 (e) amended......................................21066

43.9 (b) amended 21066

43.13 (c) amended 21066

43.16 Amended 21066

45.22 (c)(3) amended 21066

61 Technical correction 31145

SFAR No. 93 added 52279

TITLE 14 Chapter I—Con.

63 Technical correction 31145
SFAR No. 93 added 52279
65 Technical correction 31145
65.95 (a)(1) amended 21066
65.111 (a) and (b) revised 23553
65.125 (a)(2) and (b)(2) revised 23553
71.1 ....1832, 2214, 2802, 6457, 6458, 6459, 8169—8172, 8174, 8358, 8359, 8360, 8362, 8363, 8365, 9911, 9912, 9913, 10190, 10812, 10813, 11231, 11530, 11531, 11532, 12732, 13012, 15027, 15028, 15991, 16119, 16120, 16849, 16850, 17352, 18051, 18187, 18529, 19083, 19084, 19853, 20389, 20587, 20588, 21281, 21639, 23558–23561, 28369, 29017, 29018, 29019, 29691, 32538, 32732, 32733, 32734, 32735, 32736, 32737, 33174, 34110, 34807, 34808, 35080, 35541, 36701, 36909, 38147–38149, 38368, 38369, 38539, 39435, 42107, 42108, 43078, 43079, 43080, 44049, 44050, 45162, 45596, 45598—45603, 46216, 46367, 47577, 48541, 48793, 48795, 49517—49520, 50101, 50102, 53951, 56607, 63623, 66741
Corrected....1033, 6456, 9903, 9913, 17352, 18530, 29019, 33829, 39560, 45597, 48953, 53950, 56902, 63489
Eff. 2–21–02 ....59136, 65835, 64910, 64911
Eff. 4–18–02 63490
73.30 45661
73.32 ....34809, 50310
73.44 53951
73.63 ....16392, 54436,
Corrected 63433
91 SFAR No. 50–2 reinstated and amended 1003
SFAR No. 50–2 revised 16584
Policy statement 30310
SFAR No.90 added 48943
SFAR No. 91 added 50533
Comment request 59692
91.23 (b)(1)(i) amended 21066
91.137 Heading revised 47377
91.138 (b) revised 47377
91.145 Added 47378
91.175 (f) amended 21066
91.207 (f)(1) corrected 16316
91.215 (a) amended 21066
91.307 (b) revised 23553
91.401 (b) amended 21066
91.403 (c) amended 21066
91.409 (c)(2) and (f)(1) amended 21066
91.410 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
91.411 (b)(2)(v) removed; eff. 4–6–03 41116
91.413 (a) and (c)(2) amended 21066
(c)(1)(iv) removed; eff. 4–6–03 41116
91 Appendix A amended; eff. 4–6–03 41116
Appendix G amended 63895
93.301 Regulation at 65 FR 17742 eff. date delayed 1005, 16584
93.305 Regulation at 65 FR 69847 eff. date delayed 1005
Regulations at 61 FR 69330 and 65 FR 17742 eff. dates delayed 16584
(a) through (d) eff. date delayed to 2–20–03 63296
93.307 Regulations at 65 FR 69846 and 69847 eff. dates delayed 1005
Regulations at 61 FR 69330 and 65 FR 17743 eff. dates delayed 16584
93.309 Regulation at 65 FR 69847 eff. date delayed 1005
Regulation at 65 FR 17743 eff. date delayed 16584
95 ....9914, 18530, 30057, 39634, 49101, 56205
97.21—97.35 ....2803, 2804, 9916, 9918, 9920, 9922, 9924, 11533, 11535, 14313, 14315, 15993, 15994, 15996, 18534, 18536, 20390, 20392, 22436, 22438, 27451, 27453, 29692, 29694, 33633, 33635, 34358, 34359, 34361, 37133, 37135, 39088, 39090, 41773, 41775, 44300, 44302, 46941, 47075, 48542, 48544, 48546, 50822, 50824, 53086, 53088, 55564, 55565, 57862, 57864, 59360, 64141, 64142
99.1 (b)(2) revised; (c) removed; (d) redesignated as new (c) 49822
99.3 Revised 49822
99.9 Revised 49822
99.11 (a) revised 49822
99.42 Revised 49822
99.43 Revised 49822
103.20 Revised 47378
105 Revised 23553
107 Revised; eff. 11–14–01 37317
107.209 Revised 63481

108 Technical correction 31145
  Revised; eff. 11-14-01 37357
108.229 Revised 63484
119.1 (e)(6) revised 23557
121 SFAR No. 50-2 reinstated and amended 1003
  SFAR No. 50-2 revised 16584
  Policy statement 27548, 30310
  Technical correction 28036, 28037, 28369, 29888, 31145, 31146, 44050
  SFAR No. 36 amended; eff. 4-6-03 41116
  Policy statement 41955
  Authority citation revised 41966
  SFAR No. 89 added 44273
  SFAR No. 92 added 51548
  SFAR No. 93 added 52279
  SFAR No. 92 removed; SFAR No. 92-1 added; eff. through 4-9-03 52836
  Appendices I and J amended 57866
  SFAR No. 92-1 removed; SFAR No. 92-2 added; eff. to 4-9-03 58652
  SFAR No. 92-2 corrected 59611
  Comment request 59692
121.303 (b) and (d)(2) revised; eff. 5-12-04 19043
121.309 (d) removed; eff. 5-12-04 19043
121.310 (m) revised 20740
121.323 Introductory text revised; eff. 5-12-04 19043
121.325 Introductory text revised; eff. 5-12-04 19043
121.370 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23130
121.378 (a) revised; eff. 4-6-03 41116
121.415 (a)(3) revised; eff. 5-12-04 19043
121.417 (b)(2)(ii) and (3)(iv) removed; eff. 5-12-04 19043
121.427 (b)(2) revised; eff. 5-12-04 19043
121.703 Regulation at 65 FR 56201 eff. date delayed to 1-16-02 21626
  Regulation at 65 FR 56201 eff. date delayed to 1-16-03 58912
121.704 Regulation at 65 FR 56202 eff. date delayed to 1-16-02 21626
  Regulation at 65 FR 56202 eff. date delayed to 1-16-03 58912
121.705 Regulation at 65 FR 56203 eff. date delayed to 1-16-02 21626
  Regulation at 65 FR 56203 eff. date delayed to 1-16-03 58912
121.709 (c) and (d) redesignated as (d) and (e); new (c) added; (b), new (d) and (e) revised; eff. 4-6-03 41116
121.801—121.805 (Subpart X) Added; eff. 5-12-04 19044
121 Appendix A revised; eff. 5-12-04 19044
  Appendix I amended 41966
  Appendix J amended 41967
125 Policy statement 30310
  SFAR No. 89 added 44273
125.248 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
125.409 Regulation at 65 FR 56203 eff. date delayed to 1-16-02 21626
  Regulation at 65 FR 56203 eff. date delayed to 1-16-03 58912
125.410 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626
  Regulation at 65 FR 56204 eff. date delayed to 1-16-03 58912
129.32 Heading revised; introductory text, (a) introductory text, (1), (2), (3) and (b) through (l) redesignated as (a) introductory text, (1) introductory text, (i), (ii), (iii) and (2) through (12); new (b) added 23131
135 SFAR No. 50-2 reinstated and amended 1003
  SFAR No. 50-2 revised 16584
  Technical correction 28036, 28037, 31145, 31146, 44050
  Policy statement 30310
  SFAR No. 89 added 44273
  SFAR No. 93 added 52279

TITLE 14 Chapter I—Con.

Comment request 59692
135.177 (a)(1) revised; eff. 5-12-04 19045
135.415 Regulation at 65 FR 56204 eff. date delayed to 1-16-02 21626
Regulation at 65 FR 56204 eff. date delayed to 1-16-03 58912
135.416 Regulation at 65 FR 56205 eff. date delayed to 1-16-02 21626
Regulation at 65 FR 56205 eff. date delayed to 1-16-03 58912
135.417 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
Regulation at 65 FR 56206 eff. date delayed to 1-16-03 58912
135.435 (a) revised; eff. 4-6-03 41117
135.443 (c) redesignated as (d); (b) and new (d) revised; new (c) added; eff. 4-6-03 41117
139.325 (h) redesignated as (i); new (h) added; eff. 11-14-01 37327
142.1 (a) and (b)(1) amended 21066
145 Comment request 59692
145.1—145.5 (Subpart A) Revised; eff. 4-6-03 41117
145.2 Heading and (a) amended 21067
145.51—145.61 (Subpart B) Revised; eff. 4-6-03 41117
145.63 (c) amended 21067
Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
Regulation at 65 FR 56206 eff. date delayed to 1-16-03 58912
145.79 Regulation at 65 FR 56206 eff. date delayed to 1-16-02 21626
Regulation at 65 FR 56206 eff. date delayed to 1-16-03 58912
145.101—145.109 (Subpart C) Revised; eff. 4-6-03 41117
145.151—145.163 (Subpart D) Revised; eff. in part 4-6-03 41117
145.163 Revised; eff. 4-6-05 41117
145.201—145.223 (Subpart E) Added; eff. 4-6-03 41117
145 Appendix A removed; eff. 4-6-03 41117
161.5 Amended 21067
170.3 Amended 21067
187.1 Amended 43717
187.15 (d) revised 43718
187 Appendix B revised 43718
193 Added 33805

Chapter II—Office of the Secretary, Department of Transportation (Aviation Proceedings) (Parts 200—399)

255.12 Revised 17356
330 Added 54620
330.11 (b) corrected 55554
382 Authority citation revised 22115
Nomenclature change 22115
382.39 (a)(2) revised 22115
Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556
382.40a Added 22115
Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556

Chapter III—Commercial Space Transportation, Federal Aviation Administration, Department of Transportation (Parts 400—499)

405.7 Removed 2180
Regulation at 66 FR 2180 eff. date delayed 9509
406 Revised 2180
Regulation at 66 FR 2180 eff. date delayed 9509

Chapter V—National Aeronautics and Space Administration (Parts 1200—1299)

1207 Authority citation revised 59137
1207.102 Revised 59137
1207.103 Added 59138
1214.900—1214.912 (Subpart 1214.9) Added 37411
1260.10 (c)(1) and (4) revised 54121
1260.11 (b) amended 54121
1260.22 Introductory text amended 54121
1260.26 Amended 54121
1260.1—1260.77 (Subpart A) Appendix amended 54121
1260.134 (a) amended 54125
1260.152 (b) removed; (c) redesignated as new (b) 54125

Chapter VI—Office of Management and Budget (Parts 1300—1399)

Chapter VI Established 52272

Proposed Rules:

13...37520, 52878
23 ....6492, 23199
25....14504, 15203, 18214, 26942, 26948, 26956,
26964, 27582, 48836
39.........57, 59, 61, 64, 1054, 1057, 1271, 1273,
1607, 1610, 1612, 1917, 1919, 2213,
3382, 3511, 3515, 3516, 3518, 3521,
6494, 6495, 6497, 6499, 7433, 8184,
9779, 10226, 10232, 10234, 10236,
10238, 10241, 10243, 10360, 10378,
10380, 10382, 10384, 10387, 10390,
10393, 10842, 10844, 10846, 10849,
10851, 10853, 10855, 10857, 10858,
10970, 10972, 10974, 10976, 11126,
12440, 12443, 12834, 12913, 13184,
13187, 13189, 13192, 13195, 13198,
13201, 13204, 13207, 13210, 13213,
13216, 13219, 13222, 13269, 13271,
13858, 14094, 14096, 14345, 14346,
14348, 14865, 14867, 15062, 15362,
15363, 15365, 15369, 15662, 15664,
15666, 15667, 15670, 15814, 15817,
16017, 16156, 16418, 16422, 17091,
17094, 17097, 17099, 17101, 17103,
17105, 17115, 17118, 17121, 17123,
17125, 17127, 17641, 18416, 18573,
18575, 18877, 18878, 18880, 18882,
18884, 18886, 19727, 20111, 20114,
20116, 20218, 20409, 20760, 20763,
20766, 20768, 20946, 20948, 20950,
20952, 20954, 20957, 21107, 21291,
21292, 21294, 21697, 21699, 21700,
21703, 21892, 21893, 21896, 21898,
22478, 22479, 22482, 22484, 22486,
23632, 24304, 24306, 26815, 26817,
26819, 27475, 27914, 28133, 28402,
28850, 29268, 29514, 30093, 30095,
30097, 30099, 30101, 30103, 30105,
30107, 30109, 30112, 30114, 30341,
30343, 30345, 31189, 31192, 31194,
31566, 31569, 32276, 32591, 33214,
33649, 33651, 33653, 34128, 34130,
34132, 34134, 34377, 34589, 34591,
34593, 35912, 36215, 36509, 36513,
36516, 36520, 37197, 37435, 38168,
38170, 38173, 38176, 38178, 38180,
38183, 38185, 38188, 38191, 38193,
38195, 38198, 38200, 38203, 38206,
38209, 38211, 38214, 38217, 38220,
38583, 38585, 38587, 38588, 38961,
40161, 40162, 40645, 40646, 41808,
40926, 42970, 43124, 43126, 43228,
43130, 43811, 43814, 43815, 44089,
44093, 44311, 44313, 44316, 44319,
44320, 44322, 44323, 44326, 44553,
44556, 44558, 44560—44562, 44988,
44990, 45190, 45192, 45194, 45196,
45648, 45651, 45653, 45655, 45657,
45789, 45948, 45950, 45951, 46239,
46241, 46243, 46246, 46247, 46562,
46968, 47600, 47899, 47901, 48102,
48381, 48384, 48388, 48631, 48985,
48987, 48989, 48991, 48993, 49148,
49326, 50125, 50578, 50580, 50582,
50584, 50586, 50588, 50870, 50872,
50873, 50875, 50877, 50880, 50882,
50884, 50886, 50888, 50891, 50894,
50897, 50899, 50901, 50903, 50906,
50910, 50912, 50915, 50917, 51358,
51607, 51609, 51611, 52066, 52068,
52070, 52072, 52073, 53131, 53738,
53741, 53743, 54171, 54173, 54453,
54463, 54465, 54466, 54725, 54727,
54729, 54731, 54960, 55138, 55894,
55896, 55898, 56248, 56493, 56783,
57007, 57891, 57896, 57900, 57904,
57905, 57908, 58075, 58077, 58678,
58680, 58682, 58684, 58687, 58689,
58691, 58983, 59178, 59180, 59183,
59185, 59374, 59375, 59377, 59378,
59382, 59384, 59387, 59390, 63008,
63009, 63341, 64925, 64928, 64931,
65663, 65666, 66360, 66819, 66821,
66823, 66828
61...37520, 52878
71.....1921, 2850, 3886, 3887, 7435, 8772, 8773,
9986—9990, 10860, 10861, 12741,
17825, 17826, 17827, 18575, 18577,
18578, 18736, 18737, 19907, 19908,
19909, 21296, 22489, 22490, 29056,
29057, 29058, 29516, 30117—30120,
30654, 31196, 32593, 32781, 35914,
35916, 35917, 38223-38225, 38385,
38386, 39121, 42618, 42619, 43132,
43134, 44327, 44993, 44994, 45198,
45199, 45200, 45659, 45660, 46406,
47120, 49573, 49574, 49575, 52076,
56250, 56251, 56257—56259, 58080,
58081, 58082, 60162, 63517, 66832,
67632
73...18055, 53132
81 44329
91...33215, 37520
93 64778
119 ....37520, 52878

TITLE 14 *Proposed Rules:—Con.*

121 ....21492, 21494, 42807, 46308, 55506
125 ....37520, 52878, 55506
129 55506
135 ....37520, 52878
136 21264
139 ....42807, 46308
142 ....37520, 52878
154 66238
161 47601
183 38387
217 45201
234 66833
241 45201
255 13860
271 44329
291 45201
298 45201
413 ....9635, 10979
415 ....9635, 10979
417 ....9635, 10979
1260 54468
1274 54468

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce (Parts 0—29)

4 Revised 65632
4a Revised 65650
4b Removed 65651
14 Nomenclature change 49828
14.25 (f) revised 49828
14 Appendix A amended 49828

Chapter I—Bureau of the Census, Department of Commerce (Parts 30—199)

101.1 Revised 11232
101.2 Removed 11233

Chapter II—National Institute of Standards and Technology, Department of Commerce (Parts 200—299)

285 Revised 29221

Chapter III—International Trade Administration, Department of Commerce (Parts 300—399)

301 Authority citation revised........28832
Nomenclature change 28832
301.1 (b)(1) and (d) amended; (b)(3), (c)(1) and (2) revised; (c)(4) added 28832
301.2 (f), (h), (k), (r) and (s) amended; (f)(5) revised 28833
301.3 (d) amended; (f) redesignated as (g); new (f) added 28833
301.4 (a)(1) and (2) revised; (a)(3) amended 28833
301.5 (a)(1), (2), (3), (4)(v), (6), (c)(2), (3), (d)(1)(i), (ii) and (e)(5) amended; (a)(5), (b), (e) introductory text, (2) and (3) revised; (a)(7) and (e)(9) removed; (d)(5) added..................28833
301.6 (a) and (c) revised 28834
301.7 (a) amended 28834
301.8 (a)(1), (5), (b) and (c) amended; (d) revised 28834
301.9 (a) introductory text amended 28834
301.10 Revised 28834
303.2 (a)(5), (13) and (b)(1) amended..34812
303.12 (a)(1) revised 34812
303.16 (a)(9) amended..........................34812
(b)(1) amended 34813
303.17 (b)(4) amended..........................34813
303.19 (a)(1) revised 34813
335 Added; interim 6461
340 Added; interim 6461

Chapter VII—Bureau of Export Administration, Department of Commerce (Parts 700—799)

734.4 (c) introductory text revised; interim 42109
736 Authority citation revised........49523
736.2 (b)(7)(i)(B) and (C) revised 49523
738 Authority citation revised.......12846, 18402, 49523
738 Supplement No. 1 amended 12846, 18402, 49523
740 Authority citation revised 5444, 6465, 12846, 18402, 36680, 49523
740.1 (a) revised; interim.................36680
(a) amended; interim....................42109
740.2 (a)(6) added; interim 36680
740.7 Revised 5444
(d)(1) revised...................................12847
(d)(4) amended.................................6465
740.8 (c) amended; interim 42109

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

740.9 Heading and (a)(3)(i)(A) revised; (a)(2)(iii) amended; interim 42109
740.10 (a)(3)(iv) and (b)(3)(i)(D) amended; (b)(2)(iv) revised; interim 42110
740.13 (d)(3)(i) amended; interim 42110
740.15 (a)(1)(i), (ii), (2)(ii), (3)(iv) through (ix) amended; interim 42110
740.18 Added; interim 36680
740 Supplement No. 1 amended 12847, 18402, 49524
  Supplement No. 1 amended; interim 42110
742 Authority citation revised 5444, 36680, 49523, 50091
742.2 (a)(2)(i)(C) added 49524
742.8 (a)(4)(ii) amended; interim 36682
742.9 (a)(3)(ii) amended; (b)(1)(viii) added; interim 36682
742.10 (a)(4)(ii) amended; (b)(1)(ix) added; interim 36682
742.12 (a) and (b)(3) revised; (b)(2) removed; (d) amended 5446
742.16 Removed 50091
742.18 Revised 49524
742.19 (b)(1)(xviii) added; interim 36682
742 Supplement No. 2 amended; interim 36682
744 Authority citation revised 12846, 18402, 24265, 50091
744.1 (c) amended 50091
744.11 Removed 50091
744.12 Removed 50091
744.16 Added 12847
744 Supplement No. 3 amended 18402
  Supplement No. 4 amended 24265, 50091, 65836
745 Authority citation revised 49523
745.2 Amended 49525
745 Supplement No. 2 amended 49525
746 Authority citation revised 12846, 36680
746.2 (d) redesignated as (e); (a)(1)(xii) and new (d) added; (b)(1) introductory text, (3)(iii)(B), (D), (4)(iii) and new (e) revised; interim 36682
746.3 (a) introductory text revised; interim 36682
746.7 Amended; interim 36683
746.9 Revised 12847
748 Authority citation revised 5444, 6465
748.10 (b)(3) revised 5447
  (b)(3)(i) amended 6465
770 Authority citation revised 49523
770.2 (k) introductory text amended 49525
772 Authority citation revised 18402, 36680
772.1 Amended 18402
  Amended; interim 36683
  Amended; introductory text revised 36910
774 Authority citation revised 18403, 36680, 49523
774 Supplement No. 1, Category 3 (ECCN 3A001) 18403
  Supplement No. 1, Category 3 (ECCN 4A003) 18405
  Supplement No. 1, Category 1 (ECCN 1C997) amended; interim 36683
  Supplement No. 1, Category 0 (ECCN 0B001), Category 1 (ECCN 1C012), Category 4 (ECCN 4A994), Category 5 (ECCN 5A991) and Category 7 (ECCN 7A003) amended 36912
  Supplement No. 1, Category 7 (ECCN 7E004) amended 36913
  Supplement No. 1, Category 1 (ECCN 1C350) amended 49525
  Supplement No. 1, Category 1 (ECCN 1C355 and 1C995) amended 49527
  Supplement No. 1, Category 2 (ECCN 2B350 and 2B352) amended 49528

Chapter VIII—Bureau of Economic Analysis, Department of Commerce (Parts 800—899)

801.9 (b)(4)(ii) revised; eff. 1-10-02 63917
801.10 Revised; eff. 1-10-02 63919

Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900—999)

902.1 (b) table corrected (OMB numbers) 3451, 21643, 24056, 30652
922.81 Amended 46951

CHANGES JANUARY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 15 Chapter IX—Con.

922.82 (a)(7) added 46951
922.122 (a)(2) revised 58371
922.161 Revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.162 Amended 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.164 (d)(1)(v), (vi) and (g) revised; (d)(1)(vii) and (ix) added 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.166 Heading revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.167 Redesignated as 922.168 4369
  Added 4370
  Regulations at 66 FR 4369 4370 eff. date confirmed 16120, 33462
922.168 Redesignated from 922.167; new 922.168 revised 4369
  Regulation at 66 FR 4369 eff. date confirmed 16120, 33462
922.160—922.168 (Subpart P) Appendices I, II, IV, V, VI and VII revised 4370
  Regulation at 66 FR 4370 eff. date confirmed 16120, 33462
  Appendix VII table amended 34534

Proposed Rules:

50 48013
80 48013
303 28404
700—799 (Ch. VII) 56260
738 65666
742 65666
801 ....45219, 46407
922 ....26822, 30828, 43135, 49576
990 ....39464, 50919

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission (Parts 0—999)

2 Authority citation revised 8721
  Technical correction 20527
2.20 (Subpart B) Added; interim 8721
2.41 (a) amended; interim 17628
3.12 (a) revised; interim 17628
  (a)(1) corrected 20527
3.21 (b) amended; interim 17628
3.22 (b) revised; (c) amended; interim 17628
3.24 (a)(2) amended; interim 17628
3.25 (c) revised; interim 17628
  (c) revised 64143
3.31 (b)(3) added; (c)(4)(i) introductory text revised; (c)(4)(iii) removed; interim 17628
  (b)(3) corrected 20527
3.33 (a) amended; interim 17629
3.34 Heading revised; (c) amended; interim 17629
3.36 Revised; interim 17629
  (a) corrected 20527
3.39 (a) introductory text amended; interim 17629
  (a) corrected 20527
  (a) introductory text and (1) revised; (a)(2) amended 64143
3.42 (c)(10) amended; (c)(11) redesignated as (c)(12); new (c)(11) added; interim 17629
3.43 (b) revised; interim 17629
  Designation, (b) introductory text and (2) corrected 20527
3.44 (c) amended; interim 17630
3.45 Revised; interim 17630
  (b)(2) and (d) corrected 20527
3.46 (b)(7) and (c)(4) amended; interim 17631
3.51 (c)(1) amended; (c)(3) removed; interim 17631
3.52 Revised; interim 17631
  (b), (e), (f)(2) and (j) corrected 20527
4 Authority citation revised 17632
4.1 (b)(1)(iv) note removed 13645
  (a)(2)(ii) revised 64143
4.2 Revised; interim 17632
  (c) introductory text, (2), (f) introductory text, (2) and (g) corrected 20527
4.3 (d) added; interim 17633
4.4 (a)(3) and (c) revised; (b) amended; interim 17633
  (a)(3) and (b) corrected 20527
4.8 (c), (e), (g) and (h) amended 64144
4.9 (b)(10)(xiii) and (xiv) redesignated as (b)(10)(xiv) and (xv); new (b)(10)(xiii) added; interim 17633
  (a)(4)(i) amended 64144
4.10 (g)(1) revised; interim 17633

4.11 (a)(2)(i)(A)(1), (2), (3), (ii)(A)(1) and (2) redesignated as (a)(2)(i)(A)(*1*), (*2*), (*3*), (ii)(A)(*1*) and (*2*); (a)(1)(i)(A), (E), (iii)(A) through (D), (iv)(A), (B), (C) and new (a)(2)(i)(A)(*1*) amended	64144
4.13 (i)(2)(i) and (c) amended	64144
6 Authority citation revised	51863
6.101 Amended	51863
6.103 Amended	51863
6.152 Revised	51863
6.170 (b) amended; (d)(3) and (i)(2) revised	51864
305 Energy efficiency ranges	19389, 40110
Technical correction	59050
305.5 (a) revised	27858
305.6 (a) revised	27858
305.9 (a) revised	27858
305 Appendix C1 revised	49531
Appendices A1, A2 and A3 revised; eff. 2-19-02	57868
Appendices A4 and A5 revised; eff. 2-19-02	57869
Appendices A6 and A7 revised; eff. 2-19-02	57870
Appendices A8, B1 and B2 revised; eff. 2-19-02	57871
Appendix B3 revised; Appendices H and I amended; eff. 2-19-02	57872
Appendix A2 corrected	63749
801 Authority citation revised	8687
801.1 (h), (j) and (m) revised; interim	8687
(j) revised; interim	23565
801.2 (d) Examples 2 and 3 revised; interim	8688
801.4 (b) Examples 1 and 5 revised; interim	8688
801.10 Example revised; interim	8688
801.11 (b) introductory text, example, (e)(2)(ii) and Examples 1 through 4 revised; interim	8688
801.12 Heading revised; (c) and (d) removed; interim	8689
801.13 (a) Examples 1, 4, and (b)(2)(ii) revised; interim	8689
801.14 Introductory text and (b) Examples 1 and 2 revised; interim	8689
801.15 Introductory text and (c) Examples 1, 2, 4, 6 and 7 revised; interim	8689
801.20 Examples 1 and 2 revised; interim	8690
801.21 Introductory text revised; interim	8690
801.30 (b)(2) and Example 2 revised; interim	8690
801.31 Example revised; interim	8690
801.32 Example revised; interim	8690
801.40 Example redesignated as Example 1; (b), (c), (d) and new Example 1 revised; (e) and Example 2 added; interim	8690
801.90 Examples 1 and 2 revised; interim	8691
802 Authority citation revised	8691
802.1 Examples 1 through 7, 9 and 10 revised; interim	8691
802.2 Examples 3, 4, 5, 7, 9, 10 and 12 revised; interim	8692
(g) revised; interim	23565
802.3 Examples 2 and 3 revised; interim	8692
802.4 (a) and (c) Examples 1 and 2 revised; interim	8693
802.5 Example 2 revised; interim	8693
802.6 (b)(2)(ii) revised; interim	8693
802.9 Example 1 revised; interim	8693
802.20 Removed; interim	8693
802.21 Introductory text and (c) Examples 1 through 5 removed; (a) and (b) revised; (a) Examples 1 through 4 and (b) Examples 1 through 4 added; interim	8693
802.23 Example 2 revised; interim	8694
802.31 Example revised; interim	8694
802.35 Examples 1 and 2 revised; interim	8694
802.41 Examples 1 and 2 revised; interim	8694
802.64 (b)(3), (4) and (c) Example 1 revised; (b)(5) removed; interim	8694
803 Authority citation revised	8694
803.1 (a) revised; interim	8695

TITLE 16 Chapter I—Con.

803.2 (b) introductory text added; (b)(1) introductory text, (2), example and (c) introductory text revised; interim 8695
(b) introductory text, (1) introductory text and (c) introductory text revised; interim 23565
803.5 (a)(2) Examples 2 and 3 revised; interim 8695
803.7 Example revised; interim 8695
803.9 Added; interim 8695
803.10 (b)(1), (2), (c)(1) and second example revised; first example removed; (b)(3) added 8696
803.20 (b)(2)(i), (ii), (c)(2) and example revised; interim............... 8697
803 Appendix revised; interim........... 8697
Appendix amended; interim 23566
Appendix amended 35542

Chapter II—Consumer Product Safety Commission (Parts 1000—1799)

1000.26 Amended 38369
1000.27 Amended 38369
1115.12 (f) introductory text revised 54925
1500.18 (a)(18) added 13650
Corrected.. 15997
1500.86 (a)(7) and (8) added 13651
1700.14 (a)(30) added; eff. 1-29-02 40115
(a)(31) and (32) added; eff. 10-25-02.. 53956
(a)(30)(i) corrected 65837
1702.16 (b) removed; eff. 1-29-02 40115

Proposed Rules:

312.. 54963
314.. 41162
432.. 12915
801 8723
802 8723
1115 30655
1500... 10863, 39692
1633 51886
1700.. 18738, 22491

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Futures Trading Commission (Parts 1—199)

1 Fee schedule 32737
  Order 34110
  Authority citation revised 42269
1.1 Revised 42269
1.3 (gg)(3) and (uu) added 20744
  Introductory text revised 42269
  (g) added 53516
1.10 (a)(2) and (j)(8) revised 53516
1.12 (b)(2) revised 20744
1.17 (a)(1)(i)(B) revised; (e)(1)(ii), (h)(2)(vi)(C)(*2*), (vii)(A)(*2*), (B)(*2*), (viii)(A)(*2*), (3)(ii)(B) and (v)(B) amended 20744
  (a)(1)(ii) redesignated as (a)(1)(iii); new (a)(1)(ii) added 53517
1.32 Revised 41133
1.33 (g) added 53517
1.37 (a) redesignated as (a)(1); (a)(2) added 20744
  (c) and (d) added 42269
1.41 Removed 42269
1.41b Removed 42269
1.43 Removed 42269
1.45 Removed 42269
1.46 (a) introductory text and (e) revised; (d)(4) through (7) and (9) removed 53517
1.50 Removed 42269
1.51 Removed 42269
1.55 (d) and (f) revised 53518
1.68 Added 20744
3 Technical correction 47059
  Authority citation revised 53518
3.1 (a)(1) and (2) revised 53518
3.10 (a)(1)(i) revised; (a)(3) added; (d) amended 43082
  (a)(2)(ii) removed; (a)(2)(i) redesignated as (a)(2) 53518
3.21 (c) introductory text revised 53518
3.31 (a) redesignated as (a)(1); (a)(2) added 53518
3.32 Removed 53518
3.34 Removed 53518
3 Appendix A amended 53518
  Appendix B amended 53521
4.10 (e)(1) revised 53522
4.24 (f)(1)(v) and (h)(2) revised 53522
4.32 Added 53522
4.34 (f)(1)(ii) and (h) revised 53522
5 Removed; Appendix A redesignated as Appendix A, Part 40 and heading revised; Appendix E redesignated as Appendix C, Part 40 42287
15 Authority citation revised 42269
15.05 Heading revised; (e) and (h) added 42269
30 Order 27859, 34110
  Compliance date 50102
36 Revised 42270
37 Added 42271
38 Added 42277
39 Added 45609
  Compliance date 50102
40 Added 42283
  Fee schedule 42289
  Compliance date 50103
40 Appendices A and C redesignated from Appendices A and E, Part 5 42287
41 Added 42287, 44511
  Heading and authority citation revised 44965
41.1 (a), (b) and (f) through (i) added 44965
41.21—41.25 (Subpart C) Added 55083
41.31—41.34 (Subpart D) Added 44965
41.41 Added 43086
140.91 (a)(8) added 43087
  (a)(7) added 53523
140.99 (i) amended; (i)(1) and (2) revised; (i)(3) added 44967
155.3 (b)(2) revised 53523
155.4 (b)(2) revised 53523
155.6 Added 53523
160 Added 21252
160.18 (b)(1) revised 24061
  (a) corrected 24183
166 Authority citation revised 42287
166.5 Added 42287
170 Authority citation revised 42288
  Technical correction 47059
170.8 Revised 42288
170.15 Revised 43083
180 Removed 42288
190.01 (bb) revised 20745

Chapter II—Securities and Exchange Commission (Parts 200—399)

200 Comment period extended 38370
200.30–3 (a)(72) added; interim 27796
  (a)(73) added 31840

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 17 Chapter II—Con.

(a)(74) added 35842
(a)(73)(i) and (ii) amended; (iii) added 40886
(a)(75) and (76) added 43721
200.30–4 (a)(12) added 35842
200.30–18 (h) and (i) redesignated as (i) and (j); new (h) added 35842
202.3 (b)(3) added; authority citation removed 43741
204.1—204.29 Authority citation revised 54130
204.1 (b) revised 54130
204.2 (a) revised 54130
204.3 (a) removed; (b) through (f) redesignated as (a) through (e); new (b), (c) and (e) revised 54130
204.4 (a) and (b) removed; (c) and (d) redesignated as new (a) and (b); new (a) revised 54130
204.5 Introductory text revised 54130
204.6 (a) and (d) revised 54131
204.8 Amended 54131
204.9 (c) and (d) revised 54131
204.10 Removed 54131
204.11 Amended 54131
204.30—204.44 (Subpart B) Authority citation revised 54131
204.31 (a) amended 54131
204.32 Amended 54131
204.33 Introductory text and (c) revised; (f) amended 54131
204.35 (a) amended 54131
204.36 (b) amended 54131
204.38 (a) amended 54132
204.40 (b) introductory text, (2) and (e) amended 54132
204.43 (a) introductory text revised; (a)(6) amended 54132
204.44 Amended 54132
204.50—204.56 (Subpart C) Authority citation revised 54132
204.50 Revised 54132
204.51 Removed 54132
204.52 (a) revised; (b) introductory text and (2) amended; (c) added 54132
(c) corrected 56383
204.53 Removed 54132
Corrected 56383
204.54 (a) introductory text amended; (b) removed; (c) redesignated as new (b); new (b) revised 54132
204.55 Revised 54132
204.56 Revised 54132
204.60—204.65 (Subpart D) Added 54132
204.75—204.77 (Subpart D) Redesignated as Subpart E 54132
204.76 (a) amended 54135
204.77 (c) removed; (a) and (b)(5) revised 54135
210 Policy statement 38149
211 Staff accounting bulletin 36457
Policy statement 38149
Interpretive releases 48336, 49274
231 Interpretive releases 33176, 49274
232.301 Revised 42942, 49830
239.32 Form F–2 amended 32539
239.33 Form F–3 amended 32539
240 Authority citation amended 21659, 43741, 55837
Comment period extended 38370
240.3a4–2 Added; interim 27796
240.3a4–3 Added; interim 27796
240.3a4–4 Added; interim 27796
240.3a4–5 Added; interim 27796
240.3a4–6 Added; interim 27796
240.3a5–1 Added; interim 27798
240.3a55–1 Added 44514
240.3a55–2 Added 44514
240.3a55–3 Added 44514
240.3b–17 Added; interim 27798
240.3b–18 Added; interim 27798
240.6a–2 (e) revised; (f) added; authority citation removed 43741
240.6a–3 (c) added; authority citation removed 43741
240.6a–4 Added 43741
240.15a–7 Added; interim 27799
240.15a–8 Added; interim 27799
240.15a–9 Added; interim 27799
240.15a–10 Added 45146
240.15b2–2 (e)(2) and (3) amended; (e)(4) added 45147
240.15b11–1 Added 45147
240.17a–3 (a)(6), (7), (12)(i) introductory text and (ii) revised; (a)(12)(i)(*a*) through (*h*) redesignated as (a)(12)(i)(A) through (H); (a)(17) through (22), (f) and (g) added; authority citation removed; eff. 5–2–03 55838
(a) introductory text, (5), (11)(ii), (12)(i)(A) through (F) and (H) amended; eff. 5–2–03 55840

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

240.17a–4 Authority citation removed....55838
(a), (b) introductory text, (1), (4), (c), (d), (e) introductory text and (j) revised; (e)(5) through (8), (k) and (l) added; eff. 5–2–03....55840
(b)(7), (e)(1), (f)(3)(ii) and (vii) amended; eff. 5–2–03....55841
240.17a–24 Added....35843
240.17Ad–7 (f) revised; authority citation removed....21659
240.19b–4 (a) revised....43743
240.19b–7 Added....43743
241 Interpretive releases....22921, 33176, 49274
242.303 (d) amended; eff. 5–2–03....55841
248.2 Existing text designated as (a); (b) added....45147
248.3 (m)(5) and (6) amended; (m)(7) added; (n)(2)(i) removed; (n)(2)(ii) and (iii) redesignated as new (n)(2)(i) and (ii)....45147
249.1a Correctly removed; CFR correction....36701
249.10 Form 1–N added....43743
249.220f Form 20–F amended....32539
249.501b Form BD–N added....45147
249.819 Revised; Form 19b–4 amended....43743
249.822 Form 19b–7 added....43744
251 Interpretive releases....33176
257 Authority citation added....29474
257.1 (e) through (h) and authority citation removed; new (e) added; (i) through (m) redesignated as (f) through (j)....29474
257.2 Authority citation removed....29474
270 Technical correction....30311
Compliance date....50102
270.2a–7 (a)(5), (11) and (20) revised....36161
270.5b–3 Added....36161
270.12d3–1 (d)(8) note removed....36162
270.31a–2 (f)(1) and (2) revised; (f)(3) redesignated as (f)(4); new (f)(3) added....29228
271 Interpretive releases....33177
274 Compliance date....50102
274.101 Form N–SAR amended....36162
275 Technical correction....30311
275.204–2 (g)(1) and (2) revised; (g)(3) added; authority citation removed....29228
242.303 (d) amended; eff. 5–2–03....55841

Chapter IV—Department of the Treasury (Parts 400—499)

450 Authority citation revised....28655
450.2 (e) revised....28655
(e) table corrected....29888

Proposed Rules:

1....45221, 50786, 55608
3....27476, 33494, 45221
4....45221
15....64383
35....65858
39....24306
41....20118, 27560, 29517, 34864, 36218, 37932, 45904, 50720, 50786, 55608, 56902, 58007
140....20118, 29517, 45221
155....36218, 45221
170....27476, 33494
190....50786, 55608
202....26978
230....50744, 66839
232....50744
239....50744
240....26978, 27560, 34042, 34864, 38390, 45904, 49877, 50744, 50786, 55608
242....50720, 55608, 56902, 58007
248....34042
249....26978, 34042, 50744
269....50744
270....57602, 57614, 58412

TITLE 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Energy Regulatory Commission, Department of Energy (Parts 1—399)

11 Appendix A revised....59361
141.61 Revised....67078
381.302 (a) amended....63163
381.303 (a) amended....63163
381.304 (a) amended....63163
381.305 (a) amended....63163
381.403 Amended....63163
381.505 (a) amended....63163
381.801 Amended....63163
385.2011 (a)(8) added....67078
385.2201 (e)(1)(viii) and (g)(3) added....67482

TITLE 18

Proposed Rules:

1—399 (Ch. I) 50591
2 ....40929, 67134
35 ....40929, 55140, 65858, 67134
37 ....40929, 50919, 55900, 67134
161 ....50919, 55900
250 ....50919, 55900
284 ....50919, 53134, 55900
358 ....50919, 55900

TITLE 19—CUSTOMS DUTIES

Chapter I—United States Customs Service, Department of the Treasury (Parts 1—199)

4 Meeting 19720
10 Authority citation amended 50537
10.184 Undesignated center heading added; section revised; interim 20395
10.222 Introductory text amended; interim 50537
10.223 (a)(6) and (7) amended; interim 50537
10.228 Added; interim 50537
  (c)(3)(ii) introductory text and (E) corrected 51864
12.104g (a) table and (b) table amended 63499
24.24 (e)(4)(i) and (ii)(A) corrected; interim 21086
  (e) heading and (4) revised; (e)(2)(ii) amended 34818
101 Authority citation amended 56431
101.5 Revised 56431
102.21 (e) introductory text redesignated as (e)(1); new (e)(1) revised; new (e)(1) table amended; (e)(2) added; interim 21661
  Table corrected 23981
122 Authority citation amended 67484
122.15 (b) table amended 49275, 50104
122.49a Added 67484
132 Authority citation amended 21666
  Technical correction 27454
132.18 Added; interim 21666
148.101 *Examples 1* and *2* amended 46218
148.102 Revised 46218
159 Authority citation amended 48552
159.4 Corrected 20589
159.5 Corrected 20589
159.6 Corrected 20589
159.7 Corrected 20589
159.21 Corrected 20589
159.22 Corrected 20589
159.44 Corrected 20589
159.46 Corrected 20589
159.55 Corrected 20589
159.57 Corrected 20589
159.61—159.64 (Subpart F) Added 48552
163 Appendix amended; interim 21667, 50541
  Technical correction 27454
178.2 Table amended; OMB numbers 48555, 67485

Chapter II—United States International Trade Commission (Parts 200—299)

206.52 (c) added; interim 32218

Proposed Rules:

4 21705
12 42163
24 21705
101 21705
113 42163
122 40649
123 40649
141 57688
142 57688
151 42163
159 33920
162 42163
177 ....37370, 39293, 45235

TITLE 20—EMPLOYEES' BENEFITS

Chapter I—Office of Workers' Compensation Programs, Department of Labor (Parts 1—199)

1 Revised; interim 28961
  Comment period reopened 47382
30 (Subchapter C) Added; interim 28962
  Comment period reopened 47382

Chapter II—Railroad Retirement Board (Parts 200—399)

217.8 (m) through (u) redesignated as (n) through (v); new (m) added....27454
369 Added....29475

Chapter III—Social Security Administration (Parts 400—499)

404.401—404.480 (Subpart E) Authority citation revised....38906
404.401 (c) revised....38906
404.1501—404.1599 (Subpart P) Appendix 1 amended....34362, 58037, 58040, 58041, 58044, 58045
Appendix 2 revised....45166
411 Added....67420
416.501—416.586 (Subpart E) Authority citation revised....38906
416.570 Amended....38906
416.572 Added....38906
416.590 Added....67081
416.926a (m)(2) and (4) revised....58045
416.933 Amended....58046
416.934 (a) and (h) removed; (b) through (g), (i) and (j) redesignated as (a) through (h)....58046
416.1400—416.1499 (Subpart N) Authority citation revised....67081
416.1403 (a)(16) and (17) amended; (a)(18) and (19) added....67081
422.301—422.317 (Subpart D) Authority citation revised....67081
422.301 (b) amended....67081
422.305 Heading and (a) amended....67081

Chapter V—Employment and Training Administration, Department of Labor (Parts 600—699)

625.2 (c) added; interim....56962
655.0 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.00 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.90—655.113 (Subpart B) Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.92 Regulation at 65 FR 43542 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.100 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.101 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.103 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.104 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.105 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.106 Regulation at 65 FR 43543 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095
655.108 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9-27-02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9-27-02....51095

TITLE 20 Chapter V—Con.

655.112 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9–27–02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9–27–02....51095
655.114 Regulation at 65 FR 43544 and 67628 eff. date delayed to 9–27–02....49275
Regulation at 66 FR 49275 eff. date correctly extended to 9–27–02....51095
655.700 (b)(1) amended....63300
655.705 (c) revised....63300
655.720 Revised....63301
655.730 (b) and (c)(1) introductory text revised....63301
655.731 Introductory text, (a) and (b)(1) amended....63302
655.732 Introductory text amended....63302
655.733 Introductory text amended....63302
655.734 Introductory text and (b) amended; (a)(3) revised....63302
655.736 (e) amended....63302
655.740 (a)(1) amended; (a)(2)(i) and (ii) revised....63302
655.750 (a) revised....63302
655.760 (a)(1) revised....63302
655.805 (d) revised....63302
656 Authority citation revised....40590
656.21 (i)(6) added....40590

Proposed Rules:

200....46408
217....59548
404....43136, 57009, 59306, 63634
416....38963
422....43136
655....49328, 49329, 53745, 53746

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health and Human Services (Parts 1—1299)

1 Nomenclature change....56034
Authority citation revised....65447
1.101 Added....65447
5 Revised....30993
Nomenclature change....56034
10 Nomenclature change....56034
10.20 (f) amended....66742
14.75 Regulation at 66 FR 1259 withdrawn....20401
50 Authority citation revised....20597
50.1 (a) amended; interim....20597
50.3 (b)(23), (24), (25) and (n) through (s) added; interim....20597
50.50—50.56 (Subpart D) Added: interim....20598
56 Authority citation revised....20599
56.101 (a) amended; interim....20599
56.102 (b)(21), (22) and (23) added; interim....20599
56.109 (h) added; interim....20599
56.111 (c) added; interim....20599
70 Nomenclature change....56034
71 Nomenclature change....56034
73 Nomenclature change....56034, 66742
80 Nomenclature change....56034
100 Nomenclature change....56034
101 Policy statement....30311
Comment period reopened....50824
Nomenclature change....56034, 66742
102 Nomenclature change....56034
106 Nomenclature change....56034
107 Nomenclature change....56034
108 Nomenclature change....56034
109 Nomenclature change....56034
110 Nomenclature change....56034
130 Nomenclature change....56034
151 Regulation at 66 FR 3458 eff. date delayed....42415
161 Nomenclature change....56034
165 Nomenclature change....56034
165.110 (b)(1)(ii) revised....35373
170 Nomenclature change....56034
172 Nomenclature change....56034, 66742
172.615 (a) table amended....38153
(a) table corrected....53711
172.892 (i) introductory text revised; (i) table amended....17509
173 Nomenclature change....56034, 66742
173.115 Added....27022
173.325 (b)(1)(iii), (iv) and (v) amended....22922
(f) redesignated as (g); new (f) added....31841
173.368 Added....33830
173.370 (b) and (c) revised....48208
175 Nomenclature change....56034
176 Nomenclature change....56034
177 Nomenclature change....56034, 66742
178 Nomenclature change....56034, 66742
179.21 (a)(4), (b)(1)(iii) and (2)(iv) added....18539
180 Nomenclature change....56034

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

181 Nomenclature change 56034
184 Nomenclature change......56034, 66742
189 Nomenclature change 56034
190 Nomenclature change 56034
207 Authority citation revised.........59156
207.3 (a)(5) revised; (a)(11) added 59156
207.7 (a) revised....................59156
207.10 Heading and introductory text revised 59156
207.20 (a) and (c) revised 59157
207.21 (a) revised 59157
207.37 (a) introductory text and (b) revised....................59157
207.40 Revised 59157
211 Nomenclature change 56034
310 Technical correction 53088
310.545 (a)(6)(iv)(D) and (d)(33) added; (d) introductory text revised....................49277
341 Policy statement 49276
352 Stayed 67485
510.600 (c)(1) table and (2) table amended......17510, 22117, 22118, 23588, 32739, 36162, 43773, 46367, 46368, 46519, 47960, 56035, 63163, 63164, 63500, 66742
520.48 Revised 47960
520.309 (a) amended; (d) revised 63165
520.445b (b) and (d)(4)(iii)(C) amended 35898
520.905a (b) amended 47960
520.905b (b) amended 47960
520.905c (b) amended 47960
520.905d (b) amended 47960
520.905e (b) amended 47960
520.1010 Revised 47960
520.1010a Removed 47961
520.1010b Removed 47961
520.1010c Removed 47961
520.1195 (b), (c)(2) and (3) amended; (c) heading and (1) revised....................63166
520.1196 (b) amended 35756
520.1310 (a) and (d) revised 46369
520.1660d (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 21282
(d)(1)(iii)(C) amended 29020
(a)(9), (d)(1)(ii)(A)(*3*), (B)(*3*), (C)(*3*) and (iii)(C) amended 58935
520.1840 (a), (b) and (c) revised 47963
520.1855 Added 43774
520.2095 Removed 21282
520.2460 Removed 22117
520.2460a Removed 22117
520.2460b Removed 22117
520.2520a Removed 23588
522.313 Heading revised; (d)(8) added 21283
(d)(1)(i) amended 32540
522.575 (b) amended 46705
522.840 (b) amended 56035
522.1010 Revised 47961
522.1081 (b) removed 22117
522.1183 (c) removed 22117
522.1258 Removed 23588
522.1451 Added 35756
522.1680 (b) amended 22117
522.1704 (b) removed 23588
522.1884 (c) amended; (d)(2)(iv) removed....................23589
522.2095 Removed 21282
522.2120 (b) amended 22118
522.2476 Revised 47961
522.2477 (b) revised 47961
522.2640b Revised 22117
524.321 Revised....................22117
524.390c Removed 42731
524.520 (b) amended 46706
524.1193 (b) and (e)(2) amended 63165
524.1451 (d) redesignated as (e); new (d) added; new (e)(2) revised; new (e)(3) amended 46370
524.2140 Removed 42731
524.2620 (a)(2) amended....................46369
524.2640 Removed 22117
529.360 Removed....................22117
529.1186 (b) amended 17510
556.163 Revised....................35544
556.175 Redesignated as 556.185........62917
556.185 Redesignated from 556.175; (b)(1) revised; (b)(2) added 62917
556.347 Revised....................19854
556.428 Revised....................23589
556.500 (b) revised....................46370
556.594 Removed....................21282
558.4 (d) amended....................21862
558.55 (d)(2) table amended....20083, 20402
(d)(2)(iii) table amended 47962
558.58 (d)(1) table amended; (d)(1)(v) removed 46519
(d)(1)(iii) table amended.....46706, 47963
(d)(1)(ii) table and (iii) table amended 47962
558.62 (c)(1) table amended....................57873
558.76 (d)(1)(iv) table amended 46706
558.78 (a)(1) revised; (a)(2) removed; (a)(3) redesignated as (a)(2); (d)(1) table and (2)(ii) amended 46706

TITLE 21 Chapter I—Con.

- 558.95 (d)(5)(iv) and (v) amended 27022
  - (d)(1)(x) removed; (d)(1)(xi)(*b*), (xii)(*b*) and (xiv)(*b*) amended 46706
  - (a)(1), (2), (5), (d)(1)(vi)(*b*), (vii)(*b*), (xi)(*b*) and (xii)(*b*) amended 47962
- 558.108 (b) and (d)(1) amended; (d)(2) added 62917
- 558.115 (a) amended 47963
- 558.120 (d)(1)(iii)(*b*) amended 46706
- 558.128 (a) revised; (d)(1) table and (2) amended 46706
  - (a)(1) and (d)(1) table amended 47963
- 558.140 (a) amended 46706
- 558.145 (a)(1) and (2) amended 46706
- 558.155 (a)(1) and (2) amended 46706
- 558.195 (d) table amended 46706
- 558.198 (d)(1)(iii) table amended 47962
  - (d)(1)(iv) table and (v) table amended 47963
  - (b) and (d)(1) amended; (d)(2) added 62917
- 558.258 (a) amended 47962
  - Revised 58935
- 558.265 (a) amended 47962
- 558.274 (a)(5) removed; (a)(7), (c)(1)(i) and (ii) amended 22118
  - (a)(2), (4) and (c)(1) table amended; (a)(3) removed 23589
- 558.305 (a) amended 46706
- 558.311 (e)(1) table amended 29020
  - (e)(1) table amended 46371
  - (b) and (e) amended 46706
  - (d)(7) added; (e)(1) table, (2)(iv) and (3)(iv) amended; (e)(1)(ix), (xii), (2)(iii) and (3)(iii) revised 47076
  - (b)(2) and (e)(1)(xv) amended 47963
- 558.340 (a) amended 46706
- 558.355 (b)(8), (9), (f)(1)(iv)(*b*), (v)(*b*), (xiv)(*b*), (xv)(*b*) and (xvi)(*b*) amended 46706
  - (b)(5), (12), (f)(1)(xiii)(*b*), (xx)(*b*), (xxi)(*b*), (xxii)(*b*) and (2)(iv)(*b*) amended 47963
  - (b)(10), (f)(2)(v)(*b*), (vi)(*b*) amended 47962
  - (f)(3)(v)(*a*) revised 63500
- 558.360 (a) amended 47963
- 558.363 (d)(1)(xii) added 27022
  - (a)(7) and (d)(1)(x)(B) amended 46706
  - (a)(4), (5), (d)(1)(vii)(B), (xii)(B) amended 47962
- 558.365 (d)(1)(ii) and (iii) removed; (d)(1)(i)((*a*) and (*b*) redesignated as new (d)(1)(ii) and (iii) 45167
- 558.366 (c) table amended 46706, 47962
  - (a) revised; (b) and (c) redesignated as (c) and (d); new (b) added; (d) table amended 63500
- 558.435 (a) amended 47963
- 558.450 (a)(1), (d)(1) table and (2) table amended 32740
  - (d)(1) Table 1 amended 47963
- 558.460 (b) amended 47963
- 558.465 (a) amended 47963
- 558.485 (a), (b) and (d)(1) revised 47963
- 558.500 (d)(1) revised 21284
- 558.515 (a) and (d) amended 46706
  - (d) table amended 47963
- 558.550 (a)(1), (d)(1) and (3) amended; (a)(3) removed 46707
  - (d)(1)(x)(*c*) and (xii)(*c*) amended 47964
  - (a)(2), (d)(1)(xv)(*c*) and (xvi)(*c*) amended 47962
- 558.555 (a) revised; (c) removed; (b) redesignated as new (c); new (b) added; (d) amended 47964
- 558.575 (a)(1) and (2) amended 46707
- 558.582 (a) amended 46707
- 558.600 (c)(4)(ii) amended 46707
- 558.625 (f)(2)(vii) added 21284
  - (b)(2), (13) and (73) removed 22117
  - (b)(16), (19) and (34) removed; (b)(79) amended 22118
  - (b)(17) removed 23589
  - (b)(9) removed 36162
  - (b)(25) amended 47964
- 558.630 (b)(8) amended 22118
  - (b)(4) removed; (b)(10) amended 23589
  - (b)(10) amended 36162
- 558.635 (a)(1) amended 47964
- 579.22 Heading, introductory text and (b) revised 18540
- 606.3 (j) revised 40889
- 606.100 (b)(20) added 31176
- 606.121 (e)(5)(ii) revised; (g) removed; (h)(2) and (3) amended 31162
- 606.151 (b) and (c) revised 40889
- 606.160 (b)(1)(ix), (x) and (xi) added 31176

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

607 Authority citation revised........59158
607.3 (b) and (e) revised; (j) added 59158
607.7 (b) and (c) revised........59158
607.20 (a) revised........59158
607.22 Revised........59158
607.25 (a) amended; (b)(3) revised 59158
607.26 Amended........59158
607.31 Revised........59158
607.35 (a) revised........59159
607.37 (a) introductory text and (b) revised........59159
607.40 Revised........59159
607.65 (g) removed........31162
  Introductory text revised........59159
610.40—610.47 (Subpart E) Heading revised........31162
610.40 Revised........31162
610.41 Revised........31164
610.42 Added........31164
610.44 Added........31164
610.45 Removed........31165
630 Added........31176
640.2 (d) removed........31165
  (b) revised........40889
640.3 (c)(1) revised........40889
640.4 (g) introductory text, (1), (2), (4) and (5) revised........40889
640.5 (f) revised........31165
  Introductory text and (c) revised........40889
640.14 Amended........31165
640.15 Revised........40890
640.16 (a) revised........40890
640.23 (a) amended........31165
640.24 (b) revised........40890
640.33 (a) amended........31165
640.34 (a) through (d) and (e)(1) revised........40890
640.53 (a) amended........31165
640.54 (a)(2) revised........40890
640.63 (c)(11) revised........40890
640.67 Revised........31165
640.70 (a)(2) revised........31165
660.20 Regulation at 65 FR 77499 confirmed........20402
660.21 Regulation at 65 FR 77499 confirmed........20402
660.42 Removed........31165
660.50 Regulation at 65 FR 77499 confirmed........20402
660.51 Regulation at 65 FR 77499 confirmed........20402
701 Nomenclature change........56034
803.3 (f) and (r)(2)(ii) revised; second (ee) redesignated as (ff) 23156
803.10 (b) revised; (c)(5) removed 23157
803.17 (b)(3) revised........23157
803.19 (a)(2) revised........23157
803.20 (a) introductory text, (2) and (c)(1) revised........23157
803.50 (b)(1)(i) and (2) revised........23157
803.52 (d)(1), (f)(11)(i) and (ii) revised........23157
803.58 (b)(3) removed; (b)(4), (5) and (6) redesignated as new (b)(3), (4) and (5)........23157
807 Authority citation revised........59159
807.3 (b) and (r) revised........59159
807.20—807.39 (Subpart B) Heading revised........59160
807.20 (a) revised........59160
807.25 (a) amended........59160
807.40 Revised........59160
807.65 Introductory text revised 59160
809.20 (b) revised........31165
862.1190 (b) revised........38787
862.1210 (b) revised........38787
862.1255 (b) revised........38787
862.1290 (b) revised........38787
862.1305 (b) revised........38787
862.1320 (b) revised........38787
862.1365 (b) revised........38787
862.1380 (b) revised........38787
862.1420 (b) revised........38788
862.1470 (b) revised........38788
862.1490 (b) revised........38788
862.1515 (b) revised........38788
862.1565 (b) revised........38788
862.1575 (b) revised........38788
862.1640 (b) revised........38788
862.1670 (b) revised........38788
862.1720 (b) revised........38788
862.1815 (b) revised........38788
862.2050 (b) revised........38788
862.2100 (b) revised........38788
862.2230 (b) revised........38788
862.2310 (b) revised........38788
862.2320 (b) revised........38788
862.2485 (b) revised........38788
862.2720 (b) revised........38788
862.2800 (b) revised........38788
862.2920 (b) revised........38788
864.1850 (b) revised........38789
864.2220 (a) revised........27024
  (b) revised........38789
864.2240 (b) revised........38789

TITLE 21 Chapter I—Con.

864.2260 (b) revised 38789
864.2360 (b) revised 38789
864.2800 (b) revised 38789
864.2875 (b) revised 38789
864.3010 (b) revised 38789
864.3300 (b) revised 38789
864.3400 (b) revised 38789
864.3600 (b) revised 38789
864.3800 (b) revised 38789
864.3875 (b) revised 38789
864.4010 (b) revised 38789
864.4400 (b) revised 38789
864.5350 (b) revised 38789
864.5800 (b) revised 38790
864.5850 (b) revised 38790
864.6160 (b) revised 38790
864.6600 (b) revised 38790
864.6700 (b) revised 38790
864.7660 (b) revised 38790
864.7675 (b) revised 38790
864.7900 (b) revised 38790
864.8200 (b) revised 38790
864.8500 (b) revised 38790
864.8540 (b) revised 38790
866.2050 (b) revised 38790
866.2120 (b) revised 38790
866.2160 (b) revised 38790
866.2170 (b) revised 38790
866.2180 (b) revised 38790
866.2300 (b) revised 38790
866.2320 (b) revised 38790
866.2330 (b) revised 38791
866.2350 (b) revised 38791
866.2360 (b) revised 38791
866.2440 (b) revised 38791
866.2450 (b) revised 38791
866.2480 (b) revised 38791
866.2500 (b) revised 38791
866.2540 (b) revised 38791
866.2580 (b) revised 38791
866.2600 (b) revised 38791
866.3010 (b) revised 38791
866.3020 (b) revised 38791
866.3035 (b) revised 38791
866.3065 (b) revised 38791
866.3125 (b) revised 38791
866.3205 (b) revised 38791
866.3250 (b) revised 38791
866.3255 (b) revised 38791
866.3270 (b) revised 38792
866.3330 (b) revised 38792
866.3340 (b) revised 38792
866.3400 (b) revised 38792
866.3410 (b) revised 38792
866.3470 (b) revised 38792
866.3490 (b) revised 38792
866.3520 (b) revised 38792
866.3630 (b) revised 38792
866.3700 (b) revised 38792
866.3720 (b) revised 38792
866.4100 (b) revised 38792
866.4500 (b) revised 38792
866.4520 (b) revised 38792
866.4540 (b) revised 38792
866.4600 (b) revised 38792
866.4800 (b) revised 38792
866.4830 (b) revised 38792
866.4900 (b) revised 38792
866.5170 (b) revised 38793
866.5220 (b) revised 38793
866.5230 (b) revised 38793
866.5360 (b) revised 38793
866.5370 (b) revised 38793
866.5520 (b) revised 38793
866.5530 (b) revised 38793
866.5540 (b) revised 38793
866.5700 (b) revised 38793
866.5800 (b) revised 38793
866.5860 (b) revised 38793
868.1030 (b) revised 38793
868.1100 (b) revised 38793
868.1150 (b) revised; (c) removed 57368
868.1170 (b) revised; (c) removed 57368
868.1200 (b) revised; (c) removed 57368
868.1575 (b) revised 38793
868.1870 (b) revised 38793
868.1930 (b) revised 38793
868.1965 (b) revised 38793
868.1975 (b) revised 38793
868.2300 (b) revised 38794
868.2320 (b) revised 38794
868.2340 (b) revised 38794
868.2350 (b) revised 38794
868.2610 (b) revised 38794
868.2620 (b) revised 38794
868.2700 (b) revised 38794
868.2875 (b) revised 38794
868.2885 (b) revised 38794
868.5100 (b) revised 38794
868.5110 (b) revised 38794
868.5220 (b) revised 38794
868.5240 (b) revised 38794
868.5280 (b) revised 38794
868.5300 (b) revised 38794
868.5310 (b) revised 38794
868.5320 (b) revised 38794
868.5340 (b) revised 38794
868.5350 (b) revised 38794
868.5365 (b) revised 38794

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

868.5375 (b) revised 38795
868.5420 (b) revised 38795
868.5460 (b) revised 38795
868.5530 (b) revised 38795
868.5540 (b) revised 38795
868.5550 (b) revised 38795
868.5560 (b) revised 38795
868.5570 (b) revised 38795
868.5580 (b) revised 38795
868.5590 (b) revised 38795
868.5600 (b) revised 38795
868.5760 (b) revised 38795
868.5770 (b) revised 38795
868.5780 (b) revised 38795
868.5790 (b) revised 38795
868.5795 (b) revised 38795
868.5810 (b) revised 38795
868.5820 (b) revised 38795
868.5860 (b) revised 38796
868.5975 (b) revised 38796
868.5995 (b) revised 38796
868.6100 (b) revised 38796
868.6175 (b) revised 38796
868.6225 (b) revised 38796
868.6400 (b) revised 38796
868.6700 (b) revised 38796
868.6820 (b) revised 38796
868.6885 (b) revised 38796
870.1875 (a)(2) revised 38796
870.2390 (b) revised 38796
870.2600 (b) revised 38796
870.2620 (b) revised 38796
870.2640 (b) revised 38796
870.2810 (b) revised 38796
870.3450 Revised 18542
870.3460 Removed 18542
870.3620 (b) revised; (c) removed
....................18542
870.3650 (b) revised 38796
870.3670 (b) revised 38796
870.3690 (b) revised 38796
870.3730 (b) revised 38797
870.3800 (b) revised; (c) removed
....................18542
870.3945 (b) revised 38797
870.4230 (b) revised; (c) removed
....................18542
870.4260 (b) revised; (c) removed
....................18542
870.4350 (b) revised; (c) removed
....................18542
870.4500 (b) revised 38797
872.1500 (b) revised 38797
872.1730 (b) revised 38797
872.1820 (b) revised 38797
872.1840 (b) revised 38797
872.1850 (b) revised 38797
872.1905 (b) revised 38797
872.3080 (b) revised 38797
872.3100 (b) revised 38797
872.3110 (b) revised 38797
872.3130 (b) revised 38797
872.3140 (b) revised 38797
872.3150 (b) revised 38797
872.3165 (b) revised 38797
872.3220 (b) revised 38797
872.3240 (b) revised 38798
872.3285 (b) revised 38798
872.3330 (b) revised 38798
872.3350 (b) revised 38798
872.3360 (b) revised 38798
872.3410 (b) revised 38798
872.3490 (b) revised 38798
872.3520 (b) revised 38798
872.3530 (b) revised 38798
872.3580 (b) revised 38798
872.3670 (b) revised 38798
872.3730 (b) revised 38798
872.3740 (b) revised 38798
872.3810 (b) revised 38798
872.3830 (b) revised 38798
872.3840 (b) revised 38798
872.3850 (b) revised 38798
872.3900 (b) revised 38798
872.3910 (b) revised 38799
872.4130 (b) revised 38799
872.4565 (b) revised 38799
872.4620 (b) revised 38799
872.4630 (b) revised 38799
872.4730 (b) revised 38799
872.5410 (b) revised 38799
872.5525 (b) revised 38799
872.6010 (b) revised 38799
872.6030 (b) revised 38799
872.6050 (b) revised 38799
872.6100 (b) revised 38799
872.6140 (b) revised 38799
872.6200 (b) revised 38799
872.6290 (b) revised 38799
872.6475 (b) revised 38799
872.6510 (b) revised 38800
872.6570 (b) revised 38800
872.6650 (b) revised 38800
872.6670 (b) revised 38800
872.6710 (b) revised 38800, 46952
872.6855 (b) revised 38800
872.6865 (b) revised 38800
872.6870 (b) revised 38800
872.6880 (b) revised 38800
872.6890 (b) revised 38800
874.1060 (b) revised 38800
874.1080 (b) revised 38800

TITLE 21 Chapter I—Con.

874.3375 (b) revised 38800
874.4140 (b) revised 38800
874.4175 (b) revised 38801
874.4350 (b) revised 38801
874.4750 (b) revised 38801
874.4770 (b) revised 38801
874.5220 (b) revised 38801
874.5800 (b) revised 38801
876.1075 (b)(2) revised 38801
876.1500 (b)(2) revised 38801
876.4530 (b) revised 38801
876.4560 (b) revised 38801
876.4590 (b) revised 38801
876.4730 (b) revised 38801
876.4890 (b)(2) revised 38801
876.5030 (b) revised 38801
876.5090 (b)(2) revised 38801
876.5130 (b)(2) revised 38801
876.5250 (b)(2) revised 38802
876.5450 (b) revised 38802
876.5520 (b)(2) revised 38801
876.5540 (b)(4) revised 38801
876.5820 (b)(2) revised 38802
876.5885 Added 27025
876.5900 (b) revised 38802
876.5920 (b) revised 38802
876.5970 (b) revised 38802
878.1800 (b) revised 38802
878.3750 (b) revised 38802
878.3800 (b) revised 38802
878.3900 (b) revised 38802
878.4160 (b) revised 38802
878.4380 (b) revised 38802
878.4440 (b) revised 38803
878.4450 (b) revised 38803
878.4460 (b) revised 38803, 46952
878.4470 (b) revised 38803
878.4635 (b) revised 38803
878.4660 (b) revised 38803
878.4700 (b) revised 38803
878.4730 (b) revised 38803
878.4800 (b) revised 38803
878.4810 (b)(2) revised 38803
878.4930 (b) revised 38803
878.4950 (b) revised 38803
878.5350 (b) revised 38803
878.5900 (b) revised 38803
878.5910 (b) revised 38803
880.2400 (b) revised 38803
880.2700 (b) revised 38803
880.2720 (b) revised 38803
880.2740 (b) revised 38804
880.2900 (b) revised 38804
880.5075 (b) revised 38804
880.5110 (b) revised 38804
880.5120 (b) revised 38804
880.5150 (b) revised 38804
880.5160 (b) revised 38804
880.5180 (b) revised 38804
880.5210 (b) revised 38804
880.5240 (b) revised 38804
880.5300 (b) revised 38804
880.5510 (b) revised 38804
880.5560 (b) revised 38804
880.5630 (b) revised 38804
880.5640 (b) revised 38804
880.5680 (b) revised 38805, 46952
880.5740 (b) revised 38805
880.5780 (b)(2) revised 38805
880.5820 (b) revised 38805
880.5950 (b) revised 38805
880.6025 (b) revised 38805
880.6050 (b) revised 38805
880.6060 (b) revised 38805
880.6070 (b) revised 38805
880.6080 (b) revised 38805
880.6085 (b) revised 38805
880.6140 (b) revised 38805
880.6150 (b) revised 38805
880.6185 (b) revised 38806
880.6190 (b) revised 38806
880.6200 (b) revised 38806
880.6230 (b) revised 38806
880.6250 (b) revised 38806, 46952
880.6265 (b) revised 38806
880.6280 (b) revised 38806
880.6320 (b) revised 38806
880.6350 (b) revised 38806
880.6375 (b) revised 38806, 46952
880.6430 (b) revised 38806
880.6450 (b) revised 38806
880.6730 (b) revised 38806
880.6760 (b) revised 38806, 46952
880.6785 (b) revised 38807
880.6800 (b) revised 38807
880.6820 (b) revised 38807
880.6900 (b) revised 38807
880.6960 (b) revised 38807
880.6970 (b) revised 38807
880.6980 (b) revised 38807
882.1030 (b) revised 38807, 46952
882.1410 (b) revised 38807
882.1420 (b) revised 38807, 46953
882.1430 (b) revised 38807
882.1525 (b) revised 38807
882.1700 (b) revised 38807
882.1925 (b) revised 38807
882.4030 (b) revised 38808
882.4125 (b) revised 38808
882.4200 (b) revised 38808
882.4215 (b) revised 38808
882.4325 (b) revised 38808

882.4440 (b) revised	38808
882.4500 (b) revised	38808
882.4525 (b) revised	38808
882.4535 (b) revised	38808
882.4600 (b) revised	38808
882.4900 (b) revised	38808
884.1550 (b) revised	38808
884.1640 (b)(2) revised	38808
884.1690 (b)(2) revised	38808
884.1700 (b)(2) revised	38808
884.1720 (b)(2) revised	38808
884.1730 (b)(2) revised	38809
884.2900 (b) revised	38809
884.2980 (a)(2) revised	38809, 46953
884.2982 (a)(2) revised	38809, 46953
884.4520 (b) revised	38809
884.4530 (b)(2) revised	38809
884.5150 (b) revised	38809
884.5425 (b)(1) revised	38809
884.5900 (b)(2) revised	38809
884.5920 (b) revised	38809
884.6190 (b) revised	38809
886.1040 (b) revised	38809
886.1050 (b) revised	38809
886.1070 (b) revised	38810
886.1090 (b) revised	38810
886.1140 (b) revised	38810
886.1150 (b) revised	38810
886.1160 (b) revised	38810
886.1170 (b) revised	38810
886.1190 (b) revised	38810
886.1200 (b) revised	38810
886.1250 (b) revised	38810
886.1270 (b) revised	38810
886.1290 (b) revised	38810
886.1320 (b) revised	38810
886.1330 (b) revised	38810
886.1340 (b) revised	38810
886.1375 (b) revised	38810
886.1380 (b) revised	38810
886.1390 (b) revised	38811
886.1395 (b) revised	38811
886.1400 (b) revised	38811
886.1405 (b) revised	38811
886.1410 (b) revised	38811
886.1415 (b) revised	38811
886.1420 (b) revised	38811
886.1425 (b) revised	38811
886.1430 (b) revised	38811
886.1435 (b) revised	38811
886.1450 (b) revised	38811
886.1460 (b) revised	38811
886.1500 (b) revised	38811
886.1605 (b) revised	38811
886.1650 (b) revised	38812
886.1655 (b) revised	38812
886.1660 (b) revised	38812
886.1665 (b) revised	38812
886.1680 (b) revised	38812
886.1690 (b) revised	38812
886.1700 (b) revised	38812
886.1750 (b) revised	38812
886.1760 (b) revised	38812
886.1770 (b) revised	38812
886.1790 (b) revised	38812
886.1800 (b) revised	38812
886.1810 (b) revised	38812
886.1840 (b) revised	38812
886.1860 (b) revised	38812
886.1870 (b) revised	38813
886.1880 (b) revised	38813
886.1905 (b) revised	38813
886.1910 (b) revised	38813
886.1945 (b) revised	38813
886.3200 (b) revised	38813
886.3920 (a) amended	18542
886.4230 (b) revised	38813
886.4250 (b) revised	38813
886.4335 (b) revised	38813
886.4350 (b) revised	38813
886.4360 (b) revised	38813
886.4445 (b) revised	38813
886.4570 (b) revised	38813
886.4770 (b) revised	38813
886.4855 (b) revised	38814
886.5120 (b) revised	38814
886.5420 (b) revised	38814
886.5540 (b) revised	38814
886.5600 (b) revised	38814
886.5800 (b) revised	38814
886.5810 (b) revised	38814
886.5820 (b) revised	38814
886.5840 (b) revised	38814
886.5842 (b) revised	38814
886.5844 (b) revised	38814
886.5870 (b) revised	38814
886.5900 (b) revised	38814
886.5910 (b) revised	38814
886.5915 (b) revised	38815
888.1100 (b)(2) revised	38815
888.1520 (b) revised	38815
888.3000 (b) revised	38815
888.3070 Revised	28053
888.4150 (b) revised	38815
888.4200 (b) revised	38815
888.4210 (b) revised	38815
888.4220 (b) revised	38815
888.4230 (b) revised	38815
888.4300 (b) revised	38815
888.4540 (b) revised	38815
888.4600 (b) revised	38815
888.4800 (b) revised	38815

TITLE 21 Chapter I—Con.

888.5850 (b) revised 38815
888.5890 (b) revised 38815
888.5940 (b) revised 38815
888.5960 (b) revised 38816
888.5980 (b) revised 38816
890.1575 (b) revised 38816
890.1600 (b) revised 38816
890.1615 (b) revised 38816
890.3025 (b) revised 38816
890.3075 (b) revised 38816
890.3100 (b) revised 38816
890.3150 (b) revised 38816
890.3175 (b) revised 38816
890.3410 (b) revised 38816
890.3420 (b) revised 38816
890.3475 (b) revised 38816
890.3490 (b) revised 38816
890.3520 (b) revised 38817
890.3640 (b) revised 38817
890.3665 (b) revised 38817
890.3675 (b) revised 38817
890.3700 (b) revised 38817
890.3750 (b) revised 38817
890.3760 (b) revised 38817
890.3790 (b) revised 38817
890.3825 (b) revised 38817
890.3910 (b) revised 38817
890.3920 (b) revised 38817
890.3940 (b) revised 38817
890.5050 (b) revised 38817
890.5125 (b) revised 38818
890.5350 (b) revised 38818
890.5370 (b) revised 38818
890.5380 (b) revised 38818
890.5410 (b) revised 38818
890.5660 (b) revised 38818
890.5730 (b) revised 38818
890.5765 (b) revised 38818
890.5925 (b) revised 38818
890.5940 (b) revised 38818
890.5950 (b) revised 38818
890.5975 (b) revised 38818
892.1100 (b) revised....38818, 46953
892.1110 (b) revised....38818, 46953
892.1130 (b) revised 38818
892.1300 (b) revised 38818
892.1370 (b) revised 38818
892.1380 (b) revised 38819
892.1400 (b) revised 38819
892.1420 (b) revised 38819
892.1640 (b) revised 38819
892.1650 (b) revised 57369
892.1700 (b) revised 38819
892.1760 (b) revised 38819
892.1770 (b) revised 38819
892.1830 (b) revised 38819
892.1840 (b) revised 38819
892.1880 (b) revised 38819
892.1920 (b) revised 38819
892.1940 (b) revised 38819
892.1950 (b) revised 38819
892.5740 (b) revised 38819
892.5780 (b) revised 38819
1240 Nomenclature change....56034
1250 Nomenclature change....56034

Chapter II—Drug Enforcement Administration, Department of Justice (Parts 1300—1399)

1306 Policy statement....56607
1308 Policy statement....51530
1308.14 (c)(15) through (49) redesignated as (c)(16) through (50); new (c)(15) added....42944
1308.35 Undesignated center heading and section added 51544
1309.29 Revised....52674
1310.02 Regulation at 65 FR 47316 eff. date extended....42944
(a)(25), (26) and (27) added....52675
1310.04 Regulation at 65 FR 47316 eff. date extended....42944
(g)(1)(ii), (iii) and (iv) added....52675
Corrected....54061
1310.08 Regulation at 65 FR 47316 eff. date extended....42944
(j) added 52675
1310.09 (d) added....52675
1313.12 (b) and (f) revised 46520
1313.21 (b) and (e) introductory text revised 46520

Proposed Rules:

101....38591
151....42474
192....17517
333....29059
500 ....42167, 63519, 67152, 67154
589....50929
592....17517
864 ....23634, 38226
874....42809
888....46563
1300 46567
1301 46567
1304 46567
1305 46567
1306 46567
1308....51530, 51535
1310....53746, 64173

TITLE 22—FOREIGN RELATIONS

Chapter I—Department of State (Parts 1—199)

41 Authority citation revised........32742, 38542
41.2 (i)(2) revised; interim...............32541
41.12 Table amended 32742
  Table corrected 38153
41.57 Second 41.57 correctly revised; CFR correction...............49830
  (b) revised; interim 52502
  Table corrected 53711
41.81 Revised; interim......................19393
41.86 Added; interim 19393
41.101 (g) added; interim 38542
41.102 (c) added; interim 38542
41.103 (c) added; interim 38542
41.104 (e) added; interim 38543
41.107 (e) redesignated as (e)(1); (e)(2) added 17511
  (f) added; interim 38543
41.112 (b)(1) revised; (f) added; interim 38543
41.113 (i), (j) and (k) added; interim 38543
41.122 (i) and (j) added; interim 38544
42 Authority citation revised.........32742
42.11 Table amended 32742
  Table corrected 38154
42.33 (a)(1), (3), (b)(1), (e) revised; (b)(2), (3), (g), (h) and (i) redesignated as (b)(4), (5), (h), (i) and (j); new (b)(2), (3) and (g) added; interim.....................39437
  (b)(3) introductory text and (i) revised...45136
51 Authority citation revised.........29906
51.1 (g) and (h) redesignated as (h) and (i); new (g) added..........29906
51.21 (d)(4)(ii) revised......................29906
51.27 (b) and (d)(1)(i) introductory text revised 29906
51.40 Revised......................................29907
51.41 Revised......................................29907
62.31 (a), (c)(1), (2), (3), (e) introductory text, (3), (5), (j) and (k) revised 43087
124.2 (c) introductory text, (1) and (6) revised 35899
125.4 (c) introductory text revised 35900
126.5 (b) corrected 36834
126.14 (a) introductory text, (1), (2), (3)(i) and (4) revised............35900
139 Authority citation revised........52504
139.3 (d) and (e) amended; (f) and (g) added; interim........................52504
139.4 (a), (c)(2), (e), (g) and (h) amended; (i) added; interim 52505
139.5 Introductory text and (d)(2) revised; (b) amended; (e) added; interim 52505
139.6 Amended; interim 52505
139.7 (a)(1) and (f) amended; interim 52506
139.8 Revised; interim........................52506

Chapter XIII—Board for International Broadcasting (Parts 1300—1399)

Chapter XIII Removed.......................42731

Proposed Rules:

41 48224
62 27046

TITLE 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation (Parts 1—999)

1.11 (a) revised 58666
630 Authority citation revised........23847
630.102—630.112 (Subpart A) Revised 23847
655.601 (a) revised.............................38911
940.9 (b) amended 19856
940.11 (g) amended 19856

Chapter II—National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200—1299)

1240 Regulation at 63 FR 57909 confirmed 20926

Chapter III—National Highway Traffic Safety Administration, Department of Transportation (Parts 1300—1399)

1345.3 (f) added 38918
1345.4 (a)(1)(iv) revised......................38918
1345.5 (c)(4) added; (d)(2), (5), (e)(1)(ii), (2)(i) and (ii) amended; (e)(1)(iv) revised 38918

TITLE 23

Proposed Rules:

420	59188
625	48103
627	53288, 54964
635	53288, 54964
636	53288, 54964
637	53288, 54964
650	49152, 49154
655	27480
710	23636, 53288, 54964
1331	56261

TITLE 24—HOUSING AND URBAN DEVELOPMENT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0—99)

5.100 Amended	28791
5.850—5.861 (Subpart I) Added	28792
5.901—5.961 (Subpart J) Added	28792
27.20 (f) added	35847
30 Authority citation revised	63441
30.5 (f) added	63441
30.45 Revised	63441
30.68 Added	63442
30.80 (k) introductory text revised	63442

Chapter II—Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200—299)

200.37 Added	28797
201.2 Amended	56419
201.24 (a) revised	56420
201.26 (a)(6) and (7) redesignated as (a)(8) and (9); new (a)(6) and (7) added	56420
201.27 (a)(1) revised; eff. 5-7-02	56420
201.30 (a) revised	56420
201.31 (a) amended; (b)(2) revised	56420
202.8 (b)(1) revised; eff. 5-7-02	56420
207 Authority citation revised	35072
207.252 Revised; interim	35072
207.252a Revised; interim	35073
207.254 Added; interim	35073
247.2 Amended	28797
247.3 (a)(3) revised	28797
290.18 Added	35847

Chapter III—Government National Mortgage Association, Department of Housing and Urban Development (Parts 300—399)

300.3 Revised	44265
320.5 (g) revised; (h), (i) and (j) added	44265
330.5 Revised	44265
330.30 Revised	44266
350 Added	44266

Chapter V—Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500—599)

598 Heading revised; interim	35855
598.1 (a) revised; interim	35855
599 Added; interim	35855
599.107 (a)(3) amended; interim	52675

Chapter VIII—Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Section 8 Housing Assistance Programs and Section 202 Direct Loan Program) (Parts 800—899)

880.607 (b)(1)(iii) revised	28797
882.102 (a) revised; (b) amended	28797
882.511 (a) existing text redesignated as (a)(1); (a)(2) added	28797
882.514 (a)(2) and (g) removed; (a)(3) redesignated as new (a)(2)	28797
882.518 Added	28797
884.216 (b) revised	28798
887 Correctly removed; CFR correction	42731
888 Fair market rent schedules	50024, 59052
891.430 Revised	28798
891.630 Revised	28798
891.770 Revised	28798

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

Chapter IX—Office of Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (Parts 900—1699)

960.102 (a)(1) revised	28799
960.200—960.208 (Subpart B) Revised	28799
966 Heading and authority citation revised	28802
966.1 Revised	28802
966.2 Added	28802
966.4 (d)(1). (f)(12). (l)(2). (3)(i) and (5) revised	28802
Corrected	32875, 33134
966.51 (a)(2)(i)(A) and (B) revised; (a)(2)(i)(C) added	28804
972 Added	33618
982.4 (a)(2) revised; (b) amended	28804
(b) amended; interim	33613
982.54 (d)(4)(iii) added	28804
982.310 (c) revised; (h) added	28804
982.503 (b)(2) and (c)(2)(i) amended; (c)(2)(iii) added	30568
982.505 (c)(4) revised	30568
982.551 (m) redesignated as (n); (l) revised; new (m) added	28805
982.552 (b)(1). (c)(1)(iv) and (2) revised; (c)(1)(xi) added	28805
982.553 Revised	28805
982.632 (a) revised; interim	33613
982.638 (d)(2) revised; interim	33613
982.640 (b) revised; interim	33613
982.642 Added; interim	33613
985.3 (n) revised; interim	50005
985.101 (a)(1) revised; interim	50006
1000.156 Revised (OMB number pending)	49790
1000.158 Added (OMB number pending)	49790
1000.160 Added (OMB number pending)	49790
1000.162 Added (OMB number pending)	49790

Chapter XX—Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 3200—3899)

3500 Policy statement	53052

Proposed Rules:

5	60132, 65162
200	48080, 53930, 60128
202	60132, 65152
203	46502, 53930
206	30278
888	23770
903	42926
982	32198
1000	37098, 38965

TITLE 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior (Parts 1—299)

11.100 (a)(14) added; eff. 5-3-01 through 5-1-02	22121
(a)(15) added; eff. to 9-18-02	48087
84 Added	38923
89 Authority citation revised	38926
89.1 Removed	38926
89.2 Removed	38926
89.3 Removed	38926
89.4 Removed	38926
89.5 Removed	38926
89.6 Removed	38926
89.7 Removed	38926
89.8 Removed	38926
89.9 Removed	38926
89.10 Removed	38926
89.11 Removed	38926
89.12 Removed	38926
89.13 Removed	38926
89.14 Removed	38926
89.15 Removed	38926
89.16 Removed	38926
89.17 Removed	38926
89.18 Removed	38926
89.19 Removed	38926
89.20 Removed	38926
89.21 Removed	38926
89.22 Removed	38926
89.24 Removed	38926
89.25 Removed	38926
89.26 Removed	38926
103.25 Corrected	46307
151 Regulation at 66 FR 3452 and 10815 eff. date delayed	19403, 31976
Regulation at 66 FR 3458 eff. date delayed	42415
Regulations at 66 FR 3458, 8899, 10816, 19403, 31976 and 42415 withdrawn	56608

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 25 Chapter I—Con.

183 Added 21088

Chapter III—National Indian Gaming Commission (Parts 500—599)

513 Added; interim 58057

Proposed Rules:

70 33654
151 ....19403, 42474
292 66847
309 27915
502 ....33494, 41810
542 66500
580 ....50127, 56619

TITLE 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury (Parts 1—799)

1 Authority citation amended 32902, 33463, 37889, 37899, 40590, 66310, 67083
  Authority citation corrected 41133
1.32–3 Added 33637
1.32–3T Removed 33637
1.45D–1T Added (temporary) 66310
1.125–3 Added 52677
  Corrected 63920
1.125–4 (g) amended 52680
1.132–9 (b) corrected 18190
1.141–3 (c)(3), (d)(3)(i)(A), (ii)(A), (f) *Examples 10, 12, 13, 15* and *16* amended 58062
1.141–15 (b) existing text designated as (b)(1); new (b)(1) heading and (2) added 58062
1.197–2(k) *Example 23* corrected 22286
1.301–1 (g) revised 49278
1.301–1T Removed 49279
1.355–0 Amended 40591
1.355–7T Added 40591
1.401(a)(4)–0 Amended 34540
1.401(a)(4)–8 (b)(1) revised 34540
1.401(a)(4)–9 (b)(2)(v) added; (c)(3)(ii) revised 34544
1.401(a)(4)–12 Amended 34545
1.420–1 Added 32900
1.460–1 (j) corrected 18357
1.460–2 (b)(2)(ii) and (c)(1) corrected 18191
1.460–4 (b)(3) and (g) corrected 18191
1.679–0 Added 37889
1.679–1 Added 37889
1.679–2 Added 37889
1.679–3 Added 37889
1.679–4 Added 37889
1.679–5 Added 37889
1.679–6 Added 37889
1.679–7 Added 37889
1.684–1 Added 37899
1.684–2 Added 37899
1.684–3 Added 37899
1.684–4 Added 37899
1.684–5 Added 37899
1.732–3 Added 32902
1.861–8 (e)(7)(iii) and (8) revised; authority citation removed 67083
1.861–8T (e)(1) and (3) through (11) revised; (h) amended; authority citation removed 67083
1.865–1 Added 67083
1.865–1T Removed 67085
1.865–2 (a)(1) and (3)(ii) amended; (b)(1)(iv) *Example 6* and (4)((iv) *Example 3* added; (b)(4)(iii), (d)(3), (e)(1) and (2)(i) revised 67086
1.865–2T Removed 67086
1.904–4 (c)(2)(ii)(A) amended 67086
1.958–1 (b) amended 37897
1.958–2 (c)(1)(ii)(*b*) amended 37897
1.985–8 (c)(3)(ii) *Examples 1* and *2* correctly added 21447
1.1441–1 (b)(3)(ii)(C) and (e)(5)(V)(C)(*2*) correctly revised; (b)(3)(vi), (vii)(B), (c)(14), (e)(3)(iii)(D), (iv)(C)(*1*), (*2*), (D)(*2*) and (*3*) corrected 18188
1.1441–5 (e)(5)(*ii*) correctly designated as (e)(5)(ii); new (e)(5)(ii) corrected 18188
1.1441–7 (b)(4)(i) correctly revised; (b)(5)(i)(A)(*1*) and (10)(ii) corrected 18189
1.1461–1 Heading, (c)(1)(ii)(A)(*1*), (2)(i) and (ii)(H) corrected; (c)(2)(i)(M) correctly removed; (c)(2)(i)(N) correctly designated as (c)(2)(i)(M) 18189
  (a)(1) amended 33831
1.1502–5 (a)(1) amended 33831
1.1502–34 Amended 32902
1.1502–78 (e) added 33463
1.1502–78T Removed 33464

1.6011-4T (b)(3)(i)(F) removed; (b)(3)(ii)(B) and (C) and (g) revised; (b)(5) amended	41135
1.6045-1 (g)(1)(i) and (3)(iv) corrected	18189
1.6049-5 (b)(12), (c)(4) introductory text, (d)(2)(i), (ii), (3)(i), (ii), (iii)(A) and (B) corrected	18189
1.6050I-0 Amended	67687
1.6050I-1 (a)(1) redesignated as (a)(1)(i); new (a)(1) heading and (ii) added	67687
1.6151-1 (d)(1) amended	33831
1.6302-1 (d) revised	32542
(b)(1) amended	33831
1.6302-2 (d) revised	32542
(a)(1)(i), (ii), (iv) and (b)(1) amended	33831
1.6302-3 (a) amended	33831
20 Authority citation amended	38546
20.6075-1 Revised; interim	38546
20.6081-1 Revised; interim	38546
31 Authority citation amended	28370
31.6071(a)-1 (a)(1) and (c) amended	33832
31.6151-1 (b) amended	33832
31.6205-1 (a)(6) revised	39640
31.6302-1 (f)(4) revised	28370
(m)(1) revised	32542
(i)(3) amended	33831
(c)(1), (2)(i) introductory text, (3), (i)(3) and (5) amended	33832
31.6302-1T Removed	28370
31.6302(c)-2A (b)(1)(i) and (3) amended	33832
31.6302(c)-3 (b)(2) amended	33831
(a)(1)(i), (ii), (3) and (b)(2) amended	33832
31.6302(c)-4 (a) revised	32542
35.3405-1T Amended	33832
36.3121(l)(10)-4 Amended	33832
40 Authority citation revised	41776
40.0-1 (d) and (e) removed; (f) redesignated as new (d)	41776
40.6011(a)-1 (c) removed	41776
40.6011(a)-2 (b)(2) amended; (d) removed	41776
40.6071(a)-1 (a), (b)(2) and (c) revised	41776
40.6071(a)-2 Removed	41776
40.6091-1 (d) removed	41776
40.6101-1 Revised	41776
40.6109(a)-1 Revised	41776
40.6151(a)-1 Revised	41776
40.6302(c)-1 (d)(1) amended	33832
Revised	41776
40.6302(c)-2 Revised	41777
40.6302(c)-3 (b)(1)(ii), (3), (d) and (f)(4) introductory text amended; (f)(5), (7) and (h) removed; (f)(6) redesignated as new (f)(5); (g) revised	41778
40.6302(c)-4 Removed	41778
40.9999-1 Removed	41778
48.4081-8 Revised	27597
301 Authority citation amended	39438, 50544, 64352, 64742
301.6103(j)(5)-1 Added	39438
301.6103(j)(5)-1T Removed	39439
301.6103(k)(9)-1 Added	64742
301.6103(k)(9)-1T Removed	64743
301.6103(p)(2)(B)-1 Removed	64352
301.6103(p)(2)(B)-1T Added	64352
301.6311-1 (a)(1)(i) amended	64743
301.6311-2 Added	64743
301.6111-2T (b)(3) removed; (b)(4) through (7) redesignated as new (b)(3) through (6); new (b)(3) introductory text, (4) introductory text, (ii), (6) and (h) amended; (b)(1), new (3)(ii), (4)(i), (6) introductory text (c)(3) and (e)(2)(ii)(E) revised; new (b)(6) *Example 2* redesignated as *Example* and amended	41135
Removed	64744
301.6112-1T Authority citation removed	41137
301.6221-1 Added	50544
301.6221-1T Removed	50545
301.6222(a)-1 Added	50545
301.6222(a)-1T Removed	50545
301.6222(a)-2 Added	50545
301.6222(a)-2T Removed	50546
301.6222(b)-1 Added	50546
301.6222(b)-1T Removed	50546
301.6222(b)-2 Added	50546
301.6222(b)-2T Removed	50546
301.6222(b)-3 Added	50546
301.6222(b)-3T Removed	50547
301.6223(a)-1 Added	50547
301.6223(a)-1T Removed	50547
301.6223(a)-2 Added	50547
301.6223(a)-2T Removed	50547
301.6223(b)-1 Added	50547
301.6223(b)-1T Removed	50548
301.6223(c)-1 Added	50548
301.6223(c)-1T Removed	50549

TITLE 26 Chapter I—Con.

301.6223(e)-1 Added..........50549
301.6223(e)-1T Removed..........50550
301.6223(e)-2 Added..........50550
301.6223(e)-2T Removed..........50550
301.6223(f)-1 Added..........50550
301.6223(f)-1T Removed..........50550
301.6223(g)-1 Added..........50550
301.6223(g)-1T Removed..........50551
301.6223(h)-1 Added..........50551
301.6223(h)-1T Removed..........50551
301.6224(a)-1 Added..........50551
301.6224(a)-1T Removed..........50551
301.6224(b)-1 Added..........50551
301.6224(b)-1T Removed..........50551
301.6224(c)-1 Added..........50551
301.6224(c)-1T Removed..........50552
301.6224(c)-2 Added..........50552
301.6224(c)-2T Removed..........50552
301.6224(c)-3 Added..........50552
301.6224(c)-3T Removed..........50553
301.6226(a)-1 Added..........50553
301.6226(a)-1T Removed..........50553
301.6226(b)-1 Added..........50553
301.6226(b)-1T Removed..........50554
301.6226(e)-1 Added..........50554
301.6226(e)-1T Removed..........50554
301.6226(f)-1 Added..........50554
301.6226(f)-1T Removed..........50554
301.6227(b)-1T Removed..........50554
301.6227(c)-1 Added..........50554
301.6227(c)-1T Removed..........50554
301.6227(d)-1 Added..........50555
301.6229(b)-1 Added..........50555
301.6229(b)-1T Removed..........50555
301.6229(b)-2 Added..........50555
301.6229(b)-2T Removed..........50555
301.6229(e)-1 Added..........50555
301.6229(e)-1T Removed..........50555
301.6229(f)-1 Added..........50555
301.6229(f)-1T Removed..........50556
301.6230(b)-1 Added..........50556
301.6230(b)-1T Removed..........50556
301.6230(c)-1 Added..........50556
301.6230(c)-1T Removed..........50556
301.6230(e)-1 Added..........50556
301.6230(e)-1T Removed..........50556
301.6231(a)(1)-1 Added..........50556
301.6231(a)(1)-1T Removed..........50557
301.6231(a)(2)-1 Added..........50557
301.6231(a)(2)-1T Removed..........50557
301.6231(a)(5)-1 Added..........50557
301.6231(a)(5)-1T Removed..........50558
301.6231(a)(6)-1 Added..........50558
301.6231(a)(6)-1T Removed..........50558
301.6231(a)(7)-1 Added..........50558
301.6231(a)(7)-1T Removed..........50559
301.6231(a)(12)-1 Added..........50559
301.6231(a)(12)-1T Removed..........50559
301.6231(c)-1 Added..........50559
301.6231(c)-1T Removed..........50560
301.6231(c)-2 Added..........50560
301.6231(c)-2T Removed..........50560
301.6231(c)-3 Added..........50560
301.6231(c)-3T Removed..........50561
301.6231(c)-4 Added..........50561
301.6231(c)-4T Removed..........50561
301.6231(c)-5 Added..........50561
301.6231(c)-5T Removed..........50561
301.6231(c)-6 Added..........50561
301.6231(c)-6T Removed..........50561
301.6231(c)-7 Added..........50561
301.6231(c)-7T Removed..........50561
301.6231(c)-8 Added..........50561
301.6231(c)-8T Removed..........50562
301.6231(d)-1 Added..........50562
301.6231(d)-1T Removed..........50562
301.6231(e)-1 Added..........50562
301.6231(e)-1T Removed..........50562
301.6231(e)-2 Added..........50562
301.6231(e)-2T Removed..........50563
301.6231(f)-1 Added..........50563
301.6231(f)-1T Removed..........50563
301.6233-1 Added..........50563
301.6233-1T Removed..........50563
301.6302-1 (a), (b)(1) and (2) amended..........33832
301.6302-1T Removed..........33831
301.6323(j)-1 Added..........33465
301.6656-1 Removed; new 301.6656-1 redesignated from 301.6656-3..........32542
301.6656-2 Removed..........32542
301.6656-3 Redesignated as 301.6656-1..........32542
301.7701-3 (g)(2) redesignated as (g)(2)(i); new (g)(2)(i) heading and (ii) added; (g)(4) amended..........64912
301.7701-7 (d)(1)(iv) introductory text and (v) *Example 1* revised; (d)(1)(iv)(H) redesignated as (d)(1)(iv)(J); new (d)(1)(iv)(H), (I), (v) *Example 5* and (e)(3) added..........41779
301.9100-5T (c) concluding text amended..........33832
601.401 (a)(5) heading, (iii) and (iv) amended..........33832
602.101 (b) table amended (OMB numbers).....32542, 33637, 38546, 50563, 64352, 66314
Table corrected..........64076

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

Corrected; CFR correction 43478

Proposed Rules:

1 .....17517, 17518, 19104, 21110, 21297, 21844, 23868, 26823, 28407, 28408, 31197, 31850, 32279, 32782, 34136, 35112, 40659, 41169, 41170, 44565, 49576, 53555, 56262, 57021, 57023, 57400, 63203, 64385, 64904, 66362, 66376
5c 31850, 41170, 49576
5f 31850, 41170, 49576
18 ....31850, 41170, 49576
31 ....28408, 32279, 57023
48 53564
53 26824
301 ....17518, 23868, 26824, 28408, 31850, 32279, 41169, 41170, 49576, 64386
602 ....17518, 64386

TITLE 27—ALCOHOL, TOBACCO PRODUCTS AND FIREARMS

Chapter I—Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1—299)

1.1 (a) amended 42733
1.31 Amended 42733
1.35 Amended 42733
1.50 Amended 42733
1.51 Amended 42733
1.52 Amended 42733
1.57 Amended 42733
4 Cross references amended 38549
  Amended 42733
4.21 (d)(1)(i) and (e)(1)(i) amended; effective date retroactive to 4-1-98 37578
  (e)(5) amended 58944
4.22 (b)(5) amended; effective date retroactive to 4-1-98 37578
4.91 Amended 49280
5.2 Amended 38549, 42733
7.4 Amended 38549, 42733
9.53 (c)(6) revised; (c)(7) removed 50565
9.64 (c) introductory text and (1) revised 50565
9.162 Added 29479
9.164 Added 23592
9.166 Added 29698
9.167 Added 18545
9.170 Added 26791
12.3 (a) amended 42733
13.2 Added 19085
13.11 Amended 19085
13.20 Added 19085
13.21 (a) amended; (b) revised 19085
13.23 Amended 19085
13.25 (a) and (b) amended 19085
13.26 (a) and (b) amended 19085
13.27 (c) amended 19085
  (a) and (b) revised 19086
13.41 Amended 19085
13.42 Amended 19085
13.43 (a) and (b) amended 19085
13.44 Revised 19086
13.45 (a) and (b) amended 19086
13.52 Amended 19085
13.53 Amended 19085
13.54 (a) and (b) amended 19085, 19086
13.61 (b) amended 19085
13.62 Revised 19086
13.71 Revised 19086
13.72 (b) amended 19086
13.74 Amended 19086
13.92 Amended 19086
17.5 Amended 38549
17.168 (a) amended 42736
18 Authority citation revised 29481
18.11 Amended 29482
18.23 Amended 42736
18.39 Added 29482
18.40 Added 29482
18.41 Added 29482
18.42 Added 29482
18.43 Added 29482
18.56 Revised 29482
19.3 Amended 38549, 42733, 42736
19.161 (c) amended 42733
19.163 (f) amended 42733
19.164 Amended 42733
19.169 Amended 42736
19.207 Added 29482
19.485 (a)(1) and (2) amended 38549
19.524 (a)(1), (b)(1) and (3) amended 38549
19.911 (c) amended 42733
19.950 (f) amended 42733
20.3 Amended 38549, 42733, 42736
20.44 Introductory text amended 42733
20.51 Introductory text amended 42733
20.52 Amended 42733
20.66 Amended 42736
22.3 Amended 38550, 42733, 42736
22.44 Introductory text amended 42733
22.51 Introductory text amended 42733

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 27 Chapter I—Con.

22.52 Amended 42733
22.66 Amended 42736
24.4 Amended 38550, 42734, 42736, 58944
24.114 Amended 42737
24.135 (a) amended 29483
24.178 (b)(3) and (4) revised; effective date retroactive to 4-1-98 37578
24.257 (a) revised 58944
24.272 (a)(1), (b)(1) and (3) amended 38550
25.4 Amended 42737
25.165 (a)(1), (b)(1) and (3) amended 38550
25.284 (d) corrected 17809
26 Redesignated from Part 250 38550
26.3 Amended 38550
26.11 Amended 38550
26.30 Amended 38550
26.35 (a) amended 38550
26.45 Amended 38551
26.47 Amended 38551
26.50 (a) and (b) amended 38551
26.51 (c) amended 38551
26.55 Amended 38551
26.68a Amended 38551
26.70 Amended 38551
26.71 (a) amended 38551
26.72 Amended 38551
26.73 Amended 38551
26.74 Amended 38551
26.77 (c) amended 38551
26.79 (a) amended 38551
26.80 (a) amended 38551
26.81 (a) amended 38551
26.82 Amended 38551
26.87 Amended 38551
26.95 (b) amended 38551
26.96b Amended 38551
26.104 (b) amended 38551
26.105a Amended 38551
26.107 Amended 38551
26.108 (a), (b) and (c) amended 38551
26.109 (a), (b) and (c) amended 38551
26.110 Amended 38551
26.112 (a), (c)(2), (d)(2) and (e) amended 38551
26.112a (a)(1), (b)(2) and (3) amended 38551
26.113 (c) through (f) amended 38552
26.114 Amended 38552
26.115 Amended 38552
26.163 Amended 38552
26.165 (a)(2) and (3) amended 38552
26.173 (b)(4) amended 38552
26.193 (a) and (b) amended 38552
26.194 (a) and (b) amended 38552
26.196 Amended 38552
26.199a (a) amended 38551
26.199b Amended 38551
26.200 (a) amended 38552
26.204 Amended 38552
26.205 (a)(8) introductory text, (iv) and (b) amended 38552
26.211 Amended 38552
26.220 Amended 38552
26.221 Amended 38552
26.225 Amended 38552
26.260 Amended 38552
26.261 Amended 38552
26.262 (a) and (c) amended 38552
26.263 Amended 38552
26.264 Amended 38552
26.265 Amended 38552
26.272 Amended 38552
26.273a Introductory text amended 38552
26.291 (a), (b)(1), (2) and (c) amended 38552
26.301 Amended 38552
26.302 (a) and (b) amended 38552
26.303 Amended 38552
26.309 (b)(4) and (c)(2)(viii) amended 38552
26.318 Amended 38552
Subchapter B Heading added 38550
29 Redesignated from Part 170; heading revised 42737
29.42 Amended 42737
29.45 Amended 42737
29.47 (c) amended 42737
29.49 (c) amended 42737
29.59 Amended 42737
40 Redesignated from Part 270; authority citation revised 39093
40.11 Amended 39094, 49532
40.21 (b) amended 39094
40.31 (a) amended 39094
40.32 (b) amended 39094
40.33 (b)(3) and (c)(2) amended 39094
40.35 (a) amended 39094
40.44 Amended 43479, 56758
40.49 Amended 39094
40.62 Amended 39094
40.63 Amended 39094
40.64 Amended 39094
40.65 Amended 39094
40.67 Amended 39094
40.68 Amended 39094
40.71 Amended 39094
40.72 Amended 39094
40.74 Amended 42734

40.92 Amended	39094
40.101 Amended	39094
40.102 Amended	39094
40.103 Amended	39094
40.104 Amended	39094
40.111 Amended	39094
40.113 Amended	39094
40.114 Amended	39094
40.134 Amended	39094
40.135 Amended	39094
40.136 (d) amended	39094
40.140 Amended	39094
40.162 Amended	39094
40.163 Amended	39095
40.164 (a)(2) and (d)(2) amended	39095
40.165 (a) amended	39095
40.165a (a)(1), (b)(2) and (3) amended	39095
40.166 Amended	39095
40.167 (a) and (b) amended	39095
40.168 Amended	39095
40.181 Amended	39095
40.183 (e) amended	39094
40.187 Amended	39094
40.212 Amended	39094
40.216c (b) and (c) amended	39095
40.233 Amended	43479
40.234 Amended	56758
40.235 Amended	43479
40.251 Amended	39095
40.252 Amended	39095
40.253 Amended	39095
40.254 Amended	39095
40.255 Amended	39095
40.282 Amended	39095
40.283 Amended	39095
40.286 Amended	39095
40.287 Amended	39095
40.301 Amended	39095
40.311 (a) and (b) amended	39095
40.313 Amended	39095
40.331 Amended	39095
40.332 Amended	42734
40.355 (e) and (g)(2) amended	39095
40.357 (a)(1), (b)(2) and (3) amended	39095
40.371 (a) amended	39096
40.372 (b) amended	39096
40.373 (b)(3) and (c)(2) amended	39096
40.374 (a) amended	39096
40.384 Amended	56758
40.391 Revised	49532
40.396 Amended	39096
40.397 Amended	39096
40.402 Amended	39096
40.404 Amended	39096
40.405 Amended	39096
40.410 Amended	39096
40.421 (a)(4) amended	39096
40.451 Amended	43479
40.453 Amended	56758
40.454 Amended	43479
40.461 Amended	39096
40.472 Amended	39096
40.473 Amended	39096
40.475 Amended	39096
40.476 Amended	39096
40.478 Amended	39096
44 Redesignated from Part 290	43480
44.11 Amended	49532
44.31 (a) amended	43480
44.32 (b) amended	43480
44.33 (b)(3) and (c)(2) amended	43480
44.35 (a) amended	43480
44.62 Amended	43480
44.63 Amended	43480
44.67 (a) amended	43480
44.82 Amended	43480
44.83 Amended	43480
44.84 Amended	43480
44.85 Amended	43480
44.86 Amended	43480
44.87 Amended	43480
44.88 Amended	43480
44.93 Amended	43480
44.102 Amended	43480
44.104 Amended	43480
44.105 Amended	43480
44.107 Amended	43480
44.108 Amended	43480
44.110 Amended	43480
44.111 Amended	43480
44.112 Amended	43480
44.123 Amended	43480
44.124 Amended	43480
44.144 Amended	43480
44.161 Amended	43480
44.185 Authority citation revised	45618
44.200 Amended	43480
44.205 (d) amended	43480
44.222 Amended	43480
44.223 Amended	43480
44.224 Amended	43480
44.225 Amended	43480
44.226 Amended	43480
44.230 Amended	43480
44.243 Amended	43480
44.244 Amended	43480
44.245 Amended	43480

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 27 Chapter I—Con.

44.264 Amended 43480
44.266 Amended 43480
45 Redesignated from Part 295; note amended 56758
45.34 Amended 56758
45.43 OMB number 56758
46 Redesignated from Part 296 32220
 Cross Reference amended 43479
 Authority citation revised 45618
46.4 (c) amended 32220
46.6 (a) and (c) amended 32220
46.7 Amended 32220
46.8 Introductory text and (f) amended 32220
46.15 Amended 32220
46.72 Amended 32220, 39093
46.81 Amended 32220
46.146 Amended 32220
46.147 (a) introductory text and (b) introductory text amended 32220
46.150 (a) amended 32220
46.153 Introductory text amended 32220
46.166 Amended 39093
 Revised 45618
46.167 (a) and (c) amended 39093
46.192 (a) amended 32220
46.194 Amended 32220
46.196 (a), (b) and (d) amended 32221
46.205 (a) and (e) amended 32221
46.206 (b) and (f) amended 32221
46.213 Amended 32221
46.221 Amended 32221
46.237 Amended 32221
46.241 (f) amended 32221
46.242 Amended 32221
46.255 (a) amended 39093
 (b) and (c) amended 43479
46.270 Revised 32220
53.11 Amended 19088
53.20 Added 19088
53.21 (a) amended; (b) revised 19088
53.22 (a)(1) amended 19088
53.23 (a) amended; (b) revised 19088
53.24 (a)(1) and (d)(1) amended 19088
53.92 (b)(2) amended 19088
53.96 (b)(4) amended 19088
53.115 (b) amended 19088
53.132 (c)(2)(ii) amended 19088
53.133 (d)(3) amended 19088
53.134 (d)(2)(ii) amended 19088
53.136 (c)(2) amended 19088
53.140 (b) amended 19088
53.142 (a) amended 19088
53.151 (b)(1) and (2) amended 19088
53.155 (a) and (b) amended 19088
53.156 (a)(1) and (c) amended 19088
53.157 (f)(1) amended 19088
53.158 (b)(1), (3) and (e) amended 19088
53.159 (d)(1) and (2) amended 19088
 (j)(1) amended 19089
53.172 (a)(3)(ii)(A), (B) and (b)(2)(iii) amended 19088
53.186 (a) introductory text and (4) amended 19088
55.73 Amended 42734
55.75 Amended 42734
55.79 Amended 42734
55.82 Amended 42734
55.128 Corrected 19089
55.218 Table corrected 19089
70 Technical correction 19089
70.2 (a) amended; (b) revised 29022
70.3 Added 29022
70.11 Amended 29022
70.21 Amended 29022, 29023
70.22 (a) and (b) amended; (c) removed 29023
70.23 (b) revised 29023
70.24 (b) amended 29023
70.25 (a)(4) amended 29022
70.26 (c)(2)(ii) amended 29022
70.30 Revised 29023
70.31 Revised 29023
70.32 Amended 29023
70.33 Introductory text revised 29023
70.34 Revised 29023
70.40 Revised 29023
70.41 (a), (c), (d) and (f) amended 29023
70.42 Heading, (a)(1), (b) and (c)(1) revised 29024
70.51 Revised 29024
70.61 (a)(1)(i) introductory text, (C) and (2) amended 29022
 (a)(1)(i) introductory text, (D) and (3) amended 29024
70.64 Amended 29024
70.71 Introductory text, (a), (b)(1)(ii) and (2) amended 29024
70.72 Amended 29025
70.73 Amended 29024
70.74 (c)(1) and (2) amended 29024
 (b) amended 29025
70.75 (b) and (c) amended 29024
 (a) introductory text revised 29025
70.76 (a), (b)(3), (c) and (d) amended 29024

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

70.77 (a)(1), (2), (b)(1) and (2) amended 29024
70.81 (a) amended 29024
70.82 Amended 29024
70.92 (c) and (d)(2)(i) amended 29024
70.94 (a) amended 29022
70.96 (a)(1)(iv), (2), (3) and (c) amended 29024
  (c) amended 29025
70.98 (b) amended 29024, 29025
70.100 Amended 29022
70.101 Amended 29024
70.113 (b) amended 29024
70.122 Amended 29024
70.123 (b)(1) and (2) amended 29024
  (a)(2) amended 29025
70.124 Amended 29025
70.125 (a) and (c) revised; (b) amended 29025
70.126 Amended 29025
70.131 (b) amended 32219, 42737
70.149 (a)(3) introductory text and (b)(2)(i)(A) amended 29025
70.150 (a) introductory text revised; (a)(1), (2), (b), (c)(1), (2), (3), (d), (e)(1) introductory text, (2)(i) introductory text and (B) amended 29025
70.151 (a), (b), (d), (e)(1), (f)(3) and (g) amended 29025
  (g) amended 29026
70.161 (a)(4)(i)(B) amended 29022
  (a)(1), (2), (b) and (c) amended 29025
  (a)(1) amended 29026
70.162 (a) through (d) amended 29025
70.163 (a)(1), (b)(1) and (c) amended 29025
  (a)(2)(ii) introductory text revised 29026
70.164 (b)(1) introductory text, (i), (ii), (2)(i), (ii) and (c) amended 29025
70.165 Amended 29026
70.167 (b)(1) concluding text amended 29022
  (a)(2)(ii) amended 29024
  (a)(4), (b)(2) introductory text and (b)(3) amended 29025
  (a)(1), (2)(i)(C), (D), (a)(4) and (b)(1) introductory text revised; (a)(2)(i) introductory text and (a)(3) amended 29026
70.168 (a) amended 29022
  (b)(2) amended; (c) revised 29026
70.169 Amended 29022
70.170 (b) amended 29025
70.181 (b)(1), (2), (c)(1)(i), (ii), (2), (3)(i), (4)(i) introductory text, (ii)(D) concluding text, (4)(iv) introductory text, (5) introductory text, (ii)(B) and (c)(8) amended 29022
  (a), (b)(1), (c)(2), (3)(ii), (4)(iii) and (5)(ii)(D) amended 29026
  (c)(5)(ii)(E) and (c)(8) amended 29027
70.182 (a) amended 29022
  (a)(2)(ii), (6)(iv), (v), (7) and (9) amended 29027
  (a)(2)(i) amended 29027
70.183 (b)(2), (3), (6), (7) introductory text, (9)(ii) and (11) amended 29022
  (b)(4), (9)(iv), (v) and (10) amended 29027
  (a), (b) introductory text and (c) through (f) amended 29027
70.184 (a), (b), (c) introductory text and (1) amended 29022
70.185 (a), (b) and (c) amended 29023
70.186 (b)(2) and (c) amended 29023
  (a)(5) amended 29025
70.187 (a) amended 29023, 29027
  (a) and (b) amended 29025
70.188 Amended 29023
70.191 (b) introductory text amended 29022
  (a) revised 29027
70.204 (a) concluding text amended 29025, 29027
70.205 (a)(1), (2)(i), (ii)(C), (b)(1), (2), (c)(1), (e)(2), (3) and (4) amended 29025
  (b)(1) and (c)(1) amended 29027
70.206 (a)(1), (b)(3)(ii), (4)(ii) introductory text, (A), concluding text, (iii), (c)(2) and (3) amended 29023
  (b)(4)(ii)(B) amended 29025
  (a)(1), (b)(1) introductory text and (b)(4)(ii)(B) concluding text amended; (c)(1) and (4) revised 29027
70.207 (b)(1)(iii) amended 29025
70.208 Amended 29025
70.209 (a) and (b) amended 29025
70.210 (a)(1) amended 29025
70.213 Amended 29022
70.222 (b) revised 29028
70.223 (d) amended 29025
70.224 (a)(1) and (2)(i) revised 29028

TITLE 27 Chapter I—Con.

70.227 Revised 29028
70.231 (i)(3) amended 29025
70.241 (a)(8) amended....................29025
70.242 (a) and (c) amended....................29025
70.245 Heading, (a), (c)(2) and (d) amended 29025
70.251 (a)(2) and (b) amended....................29026
(b) amended 29027
70.253 (b)(2) amended....................29023
(b)(1) and (2) amended 29028
70.262 (b)(4) and (c)(2) amended 29028
70.263 (d) amended 29023
70.271 (d)(1) amended....................29025
70.281 (b)(2) introductory text, (vi) (3)(iv) and (v) amended 29025
(a)(1) and (b)(2) amended 29028
70.301 (a) amended 29022
70.304 (a) and (b) amended 29028
70.306 (a) amended 29028
70.311 Amended 29022
70.333 Amended 29028
70.411 (b); (c) introductory text and (16) amended 29028
(c)(26) amended....................38550
(c)(5) amended 42734
(c)(2) amended 42737
70.412 (a) amended 29028
70.413 (a) amended 29023
(c)(1) amended 29025
(b) revised....................29028
70.414 (k) amended 29026
(a) revised....................29028
70.416 Revised 19029
70.418 Revised 29029
70.419 Revised 29029
70.431 (b)(7) amended....................32219
(b)(2) amended 39093
(b)(1) amended 42734
(b)(5) amended 43480
(b)(6) amended 56758
70.432 (a), (b) and (d) amended 29029
(d) amended 43480
70.433 (a) amended 29023
(a) and (d) amended....................29029
70.435 (i) amended 29023
70.438 Amended 29029
70.447 Amended 29025
70.461 Amended 38550
70.462 Amended 43480
70.471 Revised 29029
70.481 (a), (b)(2)(ii), (3)(ii) and (4)(iii) amended 29025
(b)(2) introductory text, (3)(i), (ii)(B) and (4) introductory text amended....................29026
(b)(1) amended 29029
70.482 (a) introductory text amended 29022
(d)(1)(i) amended 29026
(d)(1)(ii) through (v) removed; (d)(1)(vi) redesignated as (d)(1)(ii); new (d)(1)(ii) amended; (e) introductory text and concluding text revised 29029
70.483 Revised 29029
70.484 Amended 29030
70.485 (a) amended 29022
70.486 Amended 29025
70.504 (c)(2) amended....................29023
70.506 Amended 29030
70.507 (g) amended 29023
70.601 Amended 29030
70.602 (a) and (b)(1) introductory text amended....................29023
70.603 (a)(1) revised 29030
70.606 Introductory text amended 29023
70.608 Amended 29023
70.609 Amended 29023
70.701 (a)(1) revised; (c) amended 29030
70.801 (d)(2)(i)(A), (iv)(A), (B) and (C) amended....................29030
70.802 (a), (b)(1) and (d) through (g) amended; (b)(2) removed; (c) revised....................29030
70.803 (c), (e)(3) and (f) amended; (d), (e)(1), (e)(2), (4) and (5) revised....................29030
70 Appendix A amended 59537
71 Redesignated from Part 200; authority citation revised....................42734
71.1 Note amended 42734
71.37 Amended 42734
71.38 Amended 42734
71.56 Note amended....................42734
71.62 Amended 42734
71.63 Amended 42734
71.64 (a) amended....................42734
71.74 Amended 42734
71.78 Amended 42734
71.82 Amended 42735
71.83 Amended 42735
71.96 Amended 42735
71.107a (a) amended....................42735
71.108 (a) and (b) amended 42735
71.110 Amended 42735

92.120 (c)(2)(v) corrected; CFR correction....59602
92.121 (b)(2)(vi), (ix), (xi)(A) and (4)(iv) correctly revised; CFR correction....59602
92.132 Correctly revised; CFR correction....59602
170 Redesignated from Part 29....42737
178 Technical correction....42586
178.92 Heading and (a) revised; OMB number....40600
179 Technical correction....42586
179.102 Revised; OMB number....40601
200 Redesignated as Part 71....42734
200.49b (b) amended....39093
250 Redesignated as Part 26....38550
250.2 (a) amended; (b) revised....21668
250.3 Added....21668
250.11 Amended....21668, 21669
250.37 Revised....21669
250.43 Amended....21668
250.50a (b)(2) revised....21669
250.52 (b) and (c) amended....21669
250.54 Revised....21669
250.61 Revised....21669
250.62a Amended....21669
250.65 Amended....21669
250.70 Amended....21669
250.70a Amended....21669
250.71 (c) and (d) amended....21669
250.72 Amended....21669
250.74 Amended....21669
250.75 Amended....21669
250.81 Amended....21669
250.96 Amended....21669
250.105 Amended....21669
250.110 Amended....21669
250.112 (c)(1), (4) and (e) amended; (c)(3) revised....21669
250.112a (b)(1) and (c)(1) amended....21669
250.113 (a) amended....21669
250.116 Amended....21669
250.118 Amended....21669
250.119 Revised....21669
250.126 Amended....21669
250.128 Amended....21669
250.172 (a) amended; (b) revised....21669
250.173 (a) revised; (d) amended....21669
250.174 (a) and (e) amended....21669
250.193 (b) amended....21670
250.194 Amended....21669
250.197 Amended....21670
250.199f (c) revised....21670
250.209 Amended....21668
250.222 (b) and (c) amended....21669
250.224 Revised....21670
250.275 (a) revised....21670
250.276 Amended....21669, 21670
250.277 Undesignated center heading and section removed....21670
250.303 Amended....21669
250.308 (a) amended; (b) revised....21670
250.309 (a) revised; (d) amended....21670
250.310 (a) and (e) amended....21669
250.314 (b) amended....21668
(a) and (b) amended....21670
250.318 Revised....21670
250.331 (b) amended....21669
(a) and (b) amended....21670
250.314 (b) amended....21668
250.316 Amended....21668
250.319 Amended....21668
250.331 (b) amended....21668
251 Cross references amended....38550
251.1 Note revised....38550
251.48a (a) amended....38550
270 Redesignated as Part 40....39093
270.11 Amended....32220
270.49 Amended....32220
270.165 OMB number....19089
270.165a OMB number....19089
270.286 Amended....32220
275.11 Amended....45618, 49532
275.39 Amended....39093
275.63 (a) amended....39093
275.82 (b) amended....39093
Revised....45618
275.83 Revised....45619
275.85 (b) amended....39093
275.85a (c) amended....39093
275.86 (a) amended....39093
275.115a (a)(1) and (b)(1) amended....39093
275.140 Amended....39093
275.162 Amended....32220
275.199 Amended....42734
275.205 (b) amended....32220
290 Redesignated as Part 44....43480
290.11 Amended....39093
290.67 (b) amended....39093
290.92 Amended....42734
290.154 Amended....32220
290.162 Amended....42734
290.184 Amended....39093
290.243 Amended....39093
295 Redesignated as Part 45....56758

CHANGES APRIL 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 27 Chapter I—Con.

295.11 Amended	39093, 49532
295.34 Amended	39093
295.51 (a) introductory text amended	39093
295.42 Amended	39093
295.45c (b) and (c) amended	39093
296 Redesignated as Part 46	32220

Proposed Rules:

4	19738, 37609
9	18579, 21707
40	52730
16	28135
20	37198
55	57404

TITLE 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice (Parts 0—199)

0.29c (a) revised; (c) and (d) amended 37903
0.29d (a) revised 37903
0.29e (a)(1), (2); (3) and (5) revised; (a)(6) introductory text, (i) and (7) amended 37903
16.130 Added 41445
(b) corrected 43308
16.131 Added 41446
27.1 (b) revised 37904
27.4 Heading revised; (a) amended 37904
104 Added; interim 66282

Chapter V—Bureau of Prisons, Department of Justice (Parts 500—599)

500.1 (c) revised; interim 55065
501.2 (c) revised; (e) added; interim 55065
501.3 (c) revised; (d) redesignated as (e); new (d) and (f) added; interim 55065

Chapter VIII—Court Services and Offender Supervision Agency for the District of Columbia (Parts 800—899)

810 Added; interim 48337

Chapter XI—Department of Justice and Department of State (Part 1100)

Chapter XI Established; interim 38518

Proposed Rules:

16 37939
25 ....35567, 48390
97 64934
100 50931
104 55901
801 58083

TITLE 29—LABOR

Chapter I—National Labor Relations Board (Parts 100—199)

102.117 (a) through (d) revised 50311

Chapter V—Wage and Hour Division, Department of Labor (Parts 500—899)

578 Authority citation revised 63502
578.1 Revised 63503
578.3 Heading and (a) revised 63503
579 Authority citation revised 63503
579.1 Heading revised; (b) redesignated as (c); new (b) added 63503
579.5 Heading and (a) revised; (e) amended 63503
579.9 Removed 63503
580 Authority citation revised 63503
580.5 Amended 63503
697 Authority citation revised 44968
697.1 Revised 44968
697.2 Redesignated as 697.3; new 697.2 added 44969
697.3 Redesignated as 697.4; new 697.3 redesignated from 697.2 44969
697.4 Redesignated from 697.3 44969

Chapter XVII—Occupational Safety and Health Administration, Department of Labor (Parts 1900—1999)

1904 Authority citation revised 52034
1904.10 (c) and note added 52034
1904.12 Note added 52034
1904.29 (b)(7)(vi) revised 52034
1926.500 Regulation at 66 FR 5265 delayed 37137
1926.750—1926.761 (Subpart R) Regulation at 66 FR 5265 delayed 37137

Chapter XXV—Pension and Welfare Benefits Administration, Department of Labor (Parts 2500—2599)

2520 Technical correction 36368
2520.102–3 (d) and (j)(3) corrected 34994
2520.104b–3 (d)(3)(ii) corrected 34994

TITLE 29 Chapter XXV—Con.

2560.503-1 (o) revised 35887

Chapter XL—Pension Benefit Guaranty Corporation (Parts 4000—4999)

Chapter XL Policy statement 51864
4011 Appendix B amended 59693
4022 Appendix B amended 36702
  Appendix C amended 36703
  Appendices B and C amended 42738, 47886, 52316, 57370, 64745
  Appendix D amended 59694
4044 Appendix B amended....36703, 42738, 47886, 52316, 57371, 64745
  Appendix D amended 59695

Proposed Rules:

102 38594
104 55901
470 ....50010, 65163
1904 35113
1910 64946
1915 64946
1926 64946
1928 64946
1953 56043

TITLE 30—MINERAL RESOURCES

Chapter I—Mine Safety and Health Administration, Department of Labor (Parts 1—199)

42 Regulation at 65 FR 59096 eff date delayed 45167
47 Regulation at 65 FR 59096 eff date delayed 45167
56.16004 Regulation at 65 FR 59096 eff date delayed 45167
56.20012 Regulation at 65 FR 59096 eff date delayed 45167
57.5060—57.5075 (Subpart D) Regulation at 66 FR 5907 confirmed 35518
57.5065 Heading corrected; (c) removed 35520
57.16004 Regulation at 65 FR 59096 eff date delayed 45167
57.20012 Regulation at 65 FR 59096 eff date delayed 45167
77.208 Regulation at 65 FR 59096 eff date delayed 45167

Chapter II—Minerals Management Service, Department of the Interior (Parts 200—299)

206.251 Amended 45769
206.254 (a) removed; (b) designation removed and amended 45769
206.257 (d)(3) amended 45769
206.259 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended 45769
206.262 (a)(1), (b)(1), (c)(1)(i), (2)(i), (d)(1), (e)(1) and (2) amended 45769
206.263 Removed 45769
206.453 (a) removed; (b) designation removed and amended 45769
206.456 (d)(3) amended 45769
206.458 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended 45769
206.461 (c)(1)(i), (2)(i), (4), (d)(1), (e)(1) and (2) amended 45769
206.462 Removed 45769
210.10 Nomenclature change; (a) and (d) revised; (b)(2) and (3) amended; (b)(6), (c)(4), (11) and (12) removed; (c)(5) through (10) and (13) through through (20) redesignated as new (c)(4) through (9) and (10) through (17); (b)(6), (7), (8) and new (c)(18) through (21) added 45769
210.200—210.204 (Subpart E) removed; new 210.200—210.206 (Subpart E) added 45771
210.201 (c)(3)(i) corrected 50827
216.2 Amended 45773
216.6 Amended 45773
216.20 Amended 45773
216.40 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 45773
216.200—216.204 (Subpart E) removed 45773
218 Authority citation revised 45773
218.40 (c) revised 45773
218.51 (d)(2), (3) and (e) amended 45773
218.201 Revised 45773
218.203 (a) and (b) amended 45773
  (b) corrected 50827

256.52 (b)(1) revised; (d), (e), (g) introductory text, (1) and (2) amended	60150
256.58 Revised	60150

Chapter VII—Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700—999)

723 Authority citation revised	58646
723.14 Table revised	58646
723.15 (b) amended	58646
756.14 (e) added	39443
845 Authority citation revised	58647
845.14 Table revised	58647
845.15 (b) amended	58647
904.15 Table amended	42742
913.15 Table amended	58375
914.15 Table amended	57659
914.16 (jj), (kk), (ll) and (mm) added	57659
914.17 Heading and (b) revised	42750
915.15 Table amended	66747, 64749
(a) table amended	66317
918.15 Table amended	64749
920.15 Table amended	50829
920.16 (l) removed	50829
926.15 Table amended	58381
934.15 Table amended	57662
938.11 (i) removed	57665
938.12 Added	67063
938.15 Table amended	42752, 57665, 67064
938.16 (p) removed	42753
(hhhh) through (bbbbbb) added	67064
944.15 Table amended	62935
946.12 Heading revised; (c) added	43483
946.15 Table amended	43483, 62935
946.16 Removed	43483
948.10 Revised	67453
948.15 Table amended	67454
948.16 (kkk) removed; (jjj) revised	67454
948.20 Revised	67454

Proposed Rules:

57	35521
250	37611, 45236, 56620, 66848, 66851
901	52879
904	50952
913	42813, 59201
914	48390
915	48841
916	59751
917	42815
918	48393, 55609, 66377
924	55611
935	56263
936	63968, 65858
943	48396
948	53749, 67455
950	51891

TITLE 31—MONEY AND FINANCE: TREASURY

Subtitle A—Office of the Secretary of the Treasury (Parts 0—50)

1.36 (g)(1)(viii) table amended	48556
29 Authority citation revised	36705
29.102 (a) revised; (f) added; interim	36705
29.103 (a) amended; interim	36705
29.501—29.526 (Subpart E) Added; interim	36705

Chapter I—Monetary Offices, Department of the Treasury (Parts 51—199)

103 Policy statement	67086
Authority citation revised	67681
103.30 Added; interim	67680

Chapter II—Fiscal Service, Department of the Treasury (Parts 200—399)

211.1 (a) revised	63623
285.11 (b)(3), (c), (e)(3) and (g) revised	51868
337.0 Revised	56432
337.2 Revised	56432
337.4 (a) revised	56432
337.14 Revised	56432
337.15 Revised	56432
356.13 (b) revised	56761
357 Policy statement	44526

Chapter V—Office of Foreign Assets Control, Department of the Treasury (Parts 500—599)

515 Authority citation revised	36687
515.207 Note added; interim	36687
515.533 Heading, (a) and (e) revised; (f) removed; interim	36687
515.559 Heading and note revised; interim	36687

TITLE 31 Chapter V—Con.

515.560 Revised; interim 36688
535.215 (a) revised; interim 38554
535.333 Revised; interim 38554
538 Authority citation revised 36688
538.205 Revised; interim 36688
538.211 (b) through (e) redesignated as (c) through (f); new (b) added; interim 36688
538.405 (b) revised; interim 36688
538.523 Revised; interim 36688
538.524 Removed; interim 36689
538.525 Heading and (d) revised; (e) added; interim 36689
538.526 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36689
539 Authority citation amended 57381
Appendix I amended 57381
540 Revised 38555
550 Authority citation revised 36690
550.306 Revised; interim 36690
550.308 Revised; interim 36690
550.318 Revised; interim 36690
550.405 (b) revised; interim 36690
550.569 Revised; interim 36690
550.571 Removed; interim 36691
Heading and (d) revised; new (e) added; interim 36691
550.572 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36691
550.573 Revised; interim 36692
560 Authority citation revised 36692
560.405 (b) revised; interim 36692
560.520 Heading revised; interim 36692
560.530 Revised; interim 36692
560.531 Removed; interim 36693
560.532 Heading and (d) revised; (e) added; interim 36693
560.533 Heading, (a), (b) introductory text, (1) and (2) revised; interim 36693
586 Authority citation revised 50508
586.201 (a) note, (b) note and (d) note added; (c) and endnote revised; interim 50509
586.204 Note added; interim 50509
586.302 Revised; interim 50509
586.319 Revised; interim 50509
586.405 Revised; interim 50509
586.406 (a) amended; interim 50509
586.501 Amended; interim 50509
586.517 Added; interim 50509
586.518 Added; interim 50509
586.519 Added; interim 50510
586.701 Revised; interim 50510
586.702 Revised; interim 50510
586.703 Revised; interim 50510
586.704 Revised; interim 50511
586.705 Revised; interim 50511
587 Added; interim 50511
Chapter V Appendix A amended ....54404, 57373, 57379—57381
Appendix B amended 57373

Proposed Rules:

1 ....54175, 59754
103 ....67670, 67685
104 67460
356 38600

TITLE 32—NATIONAL DEFENSE

Chapter I—Office of the Secretary of Defense (Parts 1—399)

3 Revised 57383
40 Removed 53958
42 Removed 53958
46 Removed 53958
51 Removed 53958
55 Removed 53958
62 Removed 53958
63 Removed 53958
65 Removed 53958
72 Removed 53958
76 Removed 53958
79 Removed 53958
89 Removed 53958
98 Removed 53958
102 Removed 53958
103 Removed 53958
111 Removed 53958
114 Removed 53958
115 Removed 53958
132 Removed 53958
153 Added 45169
157 Removed 53958
159 Removed 53958
159a Removed 53958
171 Removed 53958
186 Removed 53958
188 Removed 53958
194 Removed 53958
199.2 Amended; interim 40606, 45172
199.3 (b)(2)(i)(D), (f)(3)(vi), (3)(vii) and note revised; interim 40606
199.8 (c)(4) added; (d)(1) revised; interim 40607
199.10 (a)(1)(ii) revised; interim 40607

199.14 (h)(1)(iv)(D) and (E) added 45172
199.15 (a)(6) revised; interim 40608
199.17 (a) introductory text, (6)(i), (ii), (b) introductory text, (1), (c) introductory text, (3), (4), and (v) revised; (m)(2)(iii) and (4)(iii) removed; interim 40608
230 Revised 46373
231 Revised 46708
231.5 (g)(5)(i) through (ix) corrected 54136
231.8 Heading correctly revised 54136
231.9 Heading, (a) through (p)(1), (2) and (q) through (cc) correctly designated 54136
231a Removed 46374
311.5 (a)(7)(ii) revised 41780
311.8 (c)(7) added 41780
320 Revised 52681
323 Footnotes 1 through 8 revised 41781
323.2 (e) revised 41781
323.4 (a)(1) introductory text, (2) introductory text, (3) and (b)(4) revised; (a)(1)(v) added 41781
323.5 (b)(3)(iv), (4), (5), (c)(5)(ii), (6) introductory text, (i), (f)(3), (h)(6), (i)(5)(ii), (j)(5), (k), (l)(1), (2) and (3) revised; (b)(3)(v) removed 41781
323.6 Revised 41782
323 Appendices A and B amended 41782
326.5 (j)(11) added 41783
326.17 (e) added 41783
  (f) and (g) added 54926

Chapter V—Department of the Army (Parts 400—699)

505.5 (e)(1), (5), (6), (12), (19), (29) introductory text, (i), (ii), (31) introductory text, (i), (ii) and (32) revised 55876
619 Removed 65652
668 Removed 36711

Chapter VI—Department of the Navy (Parts 700—799)

701.118 (v) and (w) added 54928
706.2 Table Three amended 53523
  Table Four amended 53524
  Table Five amended 53533
  Tables Four and Five amended 53525, 53526, 53527, 53530, 53531, 53532
  Tables Two and Five amended 53528
  Table Two amended 53529
  Regulation at 66 FR 53528 eff. date corrected 56383

Chapter VII—Department of the Air Force (Parts 800—1099)

806b Appendix C amended 54930

Proposed Rules:

3 58422
199 39699
320 41811
326 43138
505 .... 41814, 43818
701 43141
806b 43820
808 36523

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

84.25 Added 55091
100 Temporary regulations list 56035
100.35-T05-029 Added (temporary) 34828
100.35-T05-030 Added (temporary) 34824
100.35-T05-031 Added (temporary) 34820
100.35-T05-032 Added (temporary) 34826
100.35T-05-038 Added (temporary) 41144
100.35T-05-040 Added (temporary) 41142
100.35T-05-041 Added (temporary) 41140
100.35-T05-047 Added (temporary) 44052
100.35-T05-053 Added (temporary) 46378
100.35-T05-055 Added (temporary) 46376
100.35-T05-057 Added (temporary) 47385

TITLE 33 Chapter I—Con.

100.35–T05–058 Added (temporary) 48955
100.35T–07–119 Added (temporary) 54138
100.35T–07–120 Added (temporary) 63626
100.35T–07–121 Added (temporary) 54140
100.35–T09–001 Added (temporary) 37415
100.35–T09–996 Added (temporary) 46522
100.506 Added 41138
100.508 Implementation 46374
100.511 Implementation (temporary) 34828
100.513 Implementation 46377
100.515 Implementation (temporary) 41140
100.522 Added 57875
100.526 Added 57876
100.1301 Revised 34822
100.1303 Implementation (temporary) 38154
110.157 (b)(11) added 50317
110.T01–162 Added (temporary) 49283
110.83 (a) suspended (temporary) 66749
110.205 (a)(1) and (5) suspended (temporary) 66751
117 Temporary drawbridge operations regulations ....34829, 36162—36165, 37140, 37578, 38155, 38370, 39278, 40117, 42601, 42602, 44971, 46522, 46523, 46525, 47077, 47577, 47578, 48556, 48558, 48955, 51302—51305, 52317, 52685, 52689, 54931, 59695, 62939, 62940, 63626, 63627
  Technical correction 53089
117.26 (r) suspended; (vv) added (temporary) 41146
117.299 Removed 65105
117.301 Added 36467
117.305 Revised 37580
117.311 Revised 65105
117.331 Added 57385
117.411 (a) revised 62938
117.467 (b) revised 56208
117.505 (d) revised 52687
117.523 Suspended (temporary) 62939
117.597 Suspended (temporary) 54141
117.611 (a) suspended; (c) added (temporary) 58063
117.622 Revised 46525
117.687 (a) revised 62938
117.691 Revised 62938
117.733 (k) added 39445
117.789 (c) suspended; (g) added (temporary) 52688
  (e) revised 62936
117.795 (b) amended; (d) added (temporary) 40117
117.801 Regulation at 66 FR 16129 eff. date extended through 8–30–01 37139
  (g) suspended; (h) added (temporary) 52689
117.802 (a)(2) suspended; (a)(3) added (temporary) 56992
117.822 Revised 40119
117.899 Revised 51557
117.911 (e) revised 42111
117.936 Redesignated from 117.937 48557
117.937 Redesignated as 117.936 48557
  Added 48558
117.1051 (d)(4) added (temporary) 35902
  (e)(4) added 59535
117.T392 Added (temporary) 66753
117.T394 Added (temporary) 44971
117.T524 Added (temporary) 62939
117.T602 Added (temporary) 54141
117.T793 (d) added (temporary) 52685
150.250 Amended 55574
151.01 Note removed 55570
151.05 Amended 55570
151.08 (a) amended 55570
151.10 Heading revised 55571
151.13 (b)(3) revised; (f) amended 55571
151.19 (e) introductory text revised 55571
151.25 (d)(2), (3) and (e)(10) amended 55571
151.26 (b)(3)(i)(A), (B), (ii) table and (iii)(B) amended 55571
151.55 (a)(1), (2) and (b) introductory text revised; (a)(3) added 55571
151.1510 (a)(1) revised 58390
151.1516 (a) introductory text revised 58391
151.2005 (b) revised 58391
151.2010 (b) and (d) revised 58391
151.2020 Removed 58391
151.2035 (b)(1) revised 58391
151.2040 Heading, (c)(1), (2) and (4)(ii) revised; (c)(4)(iv) added 58391
151.2041 Added 58391

151.2045 Heading and (a) introductory text revised	58391
151.2000—151.2065 (Subpart D) Appendix D amended	58391
155.330 Heading and (b) amended	55571
155.350 Heading and (a)(2) revised; (b) amended	55571
155.360 Heading and (e) revised; (a), (b) introductory text and (2) amended	55571
155.370 (b) introductory text, (1) and (2) amended; (d) removed; (e) and (f) redesignated as new (d) and (e); heading, (a) and new (e) revised	55571
155.380 (c) removed; (d) redesignated as new (c)	55572
155.410 (a) revised; (b) amended	55572
155.420 (a)(4) and (5) redesignated as (a)(5) and (6); (a)(3), new (a)(5) and (b) amended; new (a)(4) added	55572
155.430 (a) introductory text revised	55572
155.440 Heading amended	55572
155.810 Revised	55572
155.1015 (a) and (c)(2) amended	55572
155.1020 Amended	55572
157.03 Amended	55572
157.04 (b) amended	55573
157.07 Amended	55573
157.11 (a) amended	55573
157.12 (b)(2) amended	55573
157.15 (b) introductory text revised	55573
157.17 Heading, (a), (b) and (c) amended	55573
157.22 Added	55573
157.24 (c)(2) amended	55573
157.24a (b)(2) amended	55573
157.33 Amended	55573
157.37 Heading and (e) introductory text revised; (a)(3), (7) and (b) amended	55573
157.39 (b)(1) removed; (b)(2), (3) and (4) redesignated as (b)(1), (2) and (3); (a), (b) introductory text and new (b)(2) amended	55573
157.43 (b) introductory text amended	55573
157.118 (a)(1)(ii) and (2)(i) amended	55573
157.138 (a)(1) amended	55573
157.140 (a)(1) amended	55573
157.160 (a)(2) and (b)(3) amended	55573
157.216 (a)(1)(ii) and (2)(i) amended	55573
157.224 (a) amended	55573
157.302 (b)(3) and (6) amended	55573
157.304 (a) amended	55573
157.310 (c) amended	55573
157.400 (b)(2) amended	55573
157 Appendices B and D amended	55573
158.100 (b)(1) amended	55573
158.110 (a)(1) amended	55574
158.120 Amended; heading revised	55574
158.133 (a) amended	55574
158.135 (a) amended	55574
158.200—158.250 (Subpart B) Heading revised	55574
158.200 (a)(2), (3)(i), (ii), (iii) and (b) amended	55574
158.210 (a), (b) and (c) amended	55574
158.220 (a) through (d) amended	55574
158.230 (a) and (b) amended	55574
158.240 (a), (b), (c) introductory text and (d) introductory text revised	55574
158.250 Amended	55574
159 Authority citation revised	38930
159.301—159.321 (Subpart E) Added	38930
160 Authority citation revised	50572
160.T204 Added (temporary)	50572
160.T208 Added (temporary)	50572
Regulation at 66 FR 50572 corrected	57877
160.T212 Added (temporary)	50573
Regulation at 66 FR 50573 corrected	57877
160.T214 Added (temporary)	50574
Regulation at 66 FR 50574 corrected	57877
160.201 (c) and (d) suspended; (e), (f) and (g) added (temporary)	50572
Regulation at 66 FR 50572 corrected	57877
160.203 Suspended in part (temporary)	50572
160.207 Suspended (temporary)	50572
160.211 Suspended (temporary)	50573
160.213 Suspended (temporary)	50574

CHANGES JULY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 33 Chapter I—Con.

164.01 Regulation at 66 FR 21864 eff. date confirmed 42753
165 Temporary regulations list 56035
(a)(1) suspended; (a)(13), (d)(15) and (16) added (temporary) 66754
165.121 Suspended (temporary) 64146
165.T–01–002 Added (temporary) 43776
Effective date corrected 45619
Corrected 48209
165.T01–065 Added (temporary) 34839
165.T01–066 Added (temporary) 34847
165.T01–074 Added (temporary) 34849
165.T01–090 Added (temporary) 34840
165.T01–099 Added (temporary) 34832
165.T01–100 Added (temporary) 42756
165.T01–102 Added (temporary) 51309
165.T01–107 Added (temporary) 36168
165.T01–118 Added (temporary) 38158
165.T01–131 Added (temporary) 42604
165.T01–133 Added (temporary) 45928
165.T01–135 Added (temporary) 43090
165.T01–139 Added (temporary) 47387
165.T01–145 Added (temporary) 45926
165.T01–162 Added (temporary) 49283
165.T01–163 Added (temporary) 49107
165.T01–164 Added (temporary) 50106
165.T01–165 Added (temporary) 51311, 51561
165.T01–166 Added (temporary) 49537, 51312, 51561
165.T01–170 Added (temporary) 51307
165.T01–171 Added (temporary) 49283
165.T01–175 Added (temporary) 50108
165.T01–188 Added (temporary) 64146
165.T01–193 Added (temporary) 57387
165.T01–197 Added (temporary) 56216
165.T01–198 Added (temporary) 55576
165.T01–206 Added (temporary) 65107
165.T01–207 Added (temporary) 67488
165.T01–214 Added (temporary) 59698
165.T05–060 Added (temporary) 50317
165.T07–037 Added (temporary) 51565
165.T07–074 Added (temporary) 37417
165.T–07–095 Added (temporary) 49105
165.T07–096 Added (temporary) 48957
165.T07–097 Added (temporary) 49288
165.T07–098 Added (temporary) 49536
165.T07–101 Added (temporary) 49534
165.T07–108 Added (temporary) 62942
165.T07–110 Added (temporary) 52690
165.T07–129 Added (temporary) 60152
165.T07–139 Added (temporary) 65839
165.T08–036 Added (temporary) 50109
165.T08–038 Added (temporary) 38936
165.T08–080 Added (temporary) 64914
165.T09–013 Added (temporary) 34835
165.T09–101 Added (temporary) 49285
165.T09–102 Added (temporary) 49291
165.T09–103 Added (temporary) 49290
165.T09–105 Added (temporary) 52036
165.T09–109 Added (temporary) 52038
165.T09–110 Added (temporary) 52042
165.T09–111 Added (temporary) 52044
165.T09–112 Added (temporary) 66751
165.T09–113 Added (temporary) 53959
165.T09–118 Added (temporary) 54142
165.T09–123 Added (temporary) 66749
165.T09–135 Added (temporary) 52041
165.T09–136 Added (temporary) 52039
165.T09–916 Added (temporary) 35546
165.T09–917 Added (temporary) 34837
165.T09–919 Added (temporary) 36167
165.T09–927 Added (temporary) 34830
165.T09–930 Added (temporary) 34844, 35081
165.T09–933 Added (temporary) 34846
165.T09–940 Added (temporary) 37586
165.T09–945 Added (temporary) 37585
165.T09–950 Added (temporary) 34834
165.T09–957 Added (temporary) 37142
165.T09–958 Added (temporary) 35758
165.T09–969 Added (temporary) 37583
165.T09–970 Added (temporary) 37582
165.T09–972 Added (temporary) 38156
165.T09–974 Added (temporary) 34842
Regulation at 66 FR 34842 correctly designated 44303
165.T09–980 Added (temporary) 40121
165.T09–983 Added (temporary) 41785
165.T09–985 Added (temporary) 42754
165.T09–987 Added (temporary) 42949
165.T09–989 Added (temporary) 41787
165.T09–990 Added (temporary) 42947
165.T09–991 Added (temporary) 42605
Corrected 45619
165.T09–992 Added (temporary) 43777
165.T09–993 Added (temporary) 45775
165.T09–994 Added (temporary) 44973
165.T09–995 Added (temporary) 46220
165.T09–998 Added (temporary) 48796
(a) corrected; eff. through 6–15–02 52851
165.T09–999 Added (temporary) 49286
165.T11–055 Added (Temporary).......53715
165.T11–094 Added (temporary) 52693
165.T11–095 Added (temporary) 54666
165.T13–004 Added (temporary) 38372
165.T13–011 Added (temporary) 39447

165.T14-051 Added (temporary) 38935
165.T14-054 Added (temporary) 41789
165.T14-058 Added (temporary) 52694
165.T17-003 Added (temporary) 56213
165.T17-004 Added (temporary) 56212
165.T17-005 Added (temporary) 56210
165.T17-008 Added (temporary) 56218
165.103 Suspended 58066
165.110 Suspended (temporary) 59698
165.501 (d)(14) added (Temporary) 53713
165.540 Added; interim 39099
165.713 Removed.............................36170
165.907 Implementation (temporary) 37580
165.1114 (c)(7) revised; interim 38374
165.1311 Added; interim...................35760
165.2000—165.2025 (Subpart G) Added; eff. to 6-15-02 48781
165.2030 Added; eff. to 6-15-02..........48784
169 Authority citation revised........58070
169.5 Revised....................................58070
169.100 Note revised 58070
169.120 Revised.................................58070
169.125 Revised.................................58070
169.135 (a) revised............................58070
169.140 Revised.................................58070
183.5 (b) amended............................55091
183.801—183.810 (Subpart M) Added 55091

Proposed Rules:

1—199 (Ch. 1)...................................45791
1...63640
100 ....37200, 48014
117............36525, 36527, 36529, 37615, 42972, 47121, 47123, 47601, 51614, 66865
147..63642
151..36530
153..36530
155..49877
156..49877
157..42170
164..36223
165 ....41170, 52365, 64778, 66380
173..53754
175 ....56627, 63645
181..63650
334...............................42475, 42477, 42478

TITLE 34—EDUCATION

Subtitle A—Office of the Secretary, Department of Education (Parts 1—99)

75.224 Added.......................................60138
75.225 Added.......................................60138

Chapter VI—Office of Postsecondary Education, Department of Education (Parts 600—699)

674.9 (h)(1), (2) and (3) amended 44006
674.61 (b) amended; (b)(2) removed 44007
682.201 (a)(4)(ii), (6)(iii) and (b)(1)(iv) amended.........................44007
682.211 (f)(5) revised; (f)(6) through (10) redesignated as (f)(7) through (11); new (f)(6) and (i)(6) added; new (f)(7) amended 44007
685.200 (a)(1)(iv)(A)(*2*) and (B)(*2*) amended 44007

Proposed Rules:

600—694 (Ch. VI)..............................63203

TITLE 35—PANAMA CANAL

No amendments to 35 CFR have been published in the FEDERAL REGISTER **since July 2, 2000.**

TITLE 36—PARKS, FORESTS, AND PUBLIC PROPERTY

Chapter I—National Park Service, Department of the Interior (Parts 1—199)

18 Revised..66759
20.711 (c), (e) and (h) revised; (f) and (g) amended; (i) added........49538
51.56 Revised......................................35083
51.57 Revised......................................35083
51.62 Revised......................................35083
73.7 Revised; interim 57880
73.9 Revised; interim 57881

TITLE 36

Chapter II—Forest Service, Department of Agriculture (Parts 200—299)

211.16—211.18 (Subpart B) Removed 43779
242 Temporary regulations ... 54931, 54934
Emergency closures and adjustments 55092, 56610

Chapter XII—National Archives and Records Administration (Parts 1200—1299)

1202 Revised 65652

Proposed Rules:

219 35918
242 45082
294 35918
600—694 (Ch. VI) 63203
1228 ..... 37202, 40166
1230 47125
1234 51740
1254 46752

TITLE 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—United States Patent and Trademark Office, Department of Commerce (Parts 1—199)

1.1 (a) introductory text and (d) revised 39448
1.14 (i)(2) revised 67094
1.16 (a), (b), (d), (f) through (i) and (k) revised 39449
1.17 (a)(2) through (5), (b) through (e), (m), (r), (s) and (t) revised 39449
(h) revised 47389
1.18 (a), (b) and (c) revised 39449
1.20 (e), (f) and (g) revised 39449
1.21 (o) removed 39450
1.55 (a)(1)(i) and (c) revised 67094
1.78 (a) revised 67095
1.311 (a) revised 67096
1.434 (d)(2) revised 67096
1.491 Revised 45777
1.492 (a)(1), (2), (3), (5), (b) and (d) revised 39450
6.1 Amended 48339
10 Policy statement 44526
104 Added 47390

Chapter II—Copyright Office, Library of Congress (Parts 200—299)

201.8 Added; interim 62944
Corrected 63920
202 Authority citation revised 37149
202.2 Corrected 40322
202.3 (b)(9) redesignated as (b)(10); new (b)(9) added 37149
202.17 Corrected 40322
202.20 (c)(2)(xx) added 37150
253.5 (c)(1) through (3) revised 59699

Proposed Rules:

1 ..... 35763, 45792, 46409
2 45792
201 ..... 45241, 49330
255 64783
260 ..... 38226, 46250, 48648, 51617

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Department of Veterans Affairs (Parts 0—99)

Chapter I Nomenclature change 44053, 67667
3.6 (a) and (e) revised 48560
3.8 Redesignated as 3.40 66767
3.9 Redesignated as 3.41 66767
3.40 Redesignated from 3.8; (c)(1) amended 66767
3.41 Redesignated from 3.9 66767
3.42 Added 66767
3.43 Added 66768
3.102 Amended 45630
3.103 (b)(2) heading; (3) introductory text, (i) and authority citation revised; (b)(3)(ii) through (vi) amended; (b)(4) added 56613
3.156 (a) and authority citation revised 45630
3.159 Revised 45630
3.204 (a)(1) amended 56614
3.217 Added 56614
3.256 (a) introductory text amended (OMB number) 56614
3.277 (b) introductory text amended (OMB number) 56614
3.317 (a)(1)(i) amended; interim 56615

3.326 (a) amended 45632
3.353 (b)(1) amended 48560
3.405 Added 66768
3.452 Cross reference revised 48560
3.501 (i)(7) amended 48560
3.505 Added 66768
3.551 (i) amended 48560
3.557 Heading, (b) and cross reference revised; (d) amended 48560
3.558 Heading and (a) revised 48560
3.559 Heading revised; (a) and (b) amended 48561
3.808 (d) amended 44528
3.1007 Amended 48561
3.1604 (d)(1)(ii) revised 48561
13.70 (a)(2) amended 48561
13.71 (b) amended 48561
13.108 Heading revised; (a) and (c) amended 48561
17 Technical correction 64904
17.108 Added; interim 63448
17.110 Added 63451
17.1000—17.1008 Undesignated center heading and sections added; interim 36470
19.35 Amended 53339
20.101 (c) revised; (d) and (e) added 53339
20.203 Removed 23340
20.302 (b) revised 50318
20.304 Revised 50319
20.502 Revised 60153
20.901 (a) revised; interim 38159
20.1404 (b) revised; interim 35903
20.1405 (a) revised 37151
20.1409 (b) revised; interim 35903
21.3303 Amended 44053
21.4005 Amended 44053
21.4131 (i) removed 38938
21.4135 (aa) removed 38938
21.4138 Amended 44053
21.4203 Amended 44053
21.4208 Amended 44053
21.4232 Amended 44053
21.4255 Amended 44053
21.4342 Amended 44053
21.4800—21.4856 (Subpart F-3) Removed 38938
21.6410 Amended 44053
21.7020 (b)(6)(v) and (vi) redesignated as (b)(6)(vi) and (vii); (b)(6)(iv), new (vi), (b)(23)(ii) and (iii) amended; new (b)(6)(v), (23)(iv), (45) and (46) added; (b)(23) authority citation revised 39279
21.7131 (j) removed 38939
  Corrected 42586
21.7135 (aa) removed 38939
  Corrected 42586
21.7301 Amended 44053
21.7631 (f) removed 38939
21.7635 (w) removed 38939
21.7636 (a)(1), (2) introductory text, (i) and (3) revised 38937

Proposed Rules:

3 ....37940, 41483, 44095, 46067, 48845, 49886, 53139, 53565, 64174
4 ....37940, 49886, 55614
17 ....36960, 46499, 50594
19 40942
20 ....40942, 65861
36 51893
260 38226

TITLE 39—POSTAL SERVICE

Chapter I—United States Postal Service (Parts 1—999)

20 IMM amended; incorporation by reference; interim 42112, 53089, 64353
  IMM amended; incorporation by reference 65780
111 DMM amended; incorporation by reference 37151, 56433, 56437, 56995, 58945
266.9 (b)(1)(vii), (2) introductory text, (i), (ii) and (iii) revised; (b)(2)(viii) added 40891
501.18 Redesignated as 501.19; new 501.18 added 55097
501.19 Redesignated as 501.20; new 501.19 redesignated from 501.18 55097
501.20 Redesignated as 501.21; new 501.20 redesignated from 501.19 55097
501.21 Redesignated as 501.22; new 501.21 redesignated from 501.20 55097
501.22 Redesignated as 501.23; new 501.22 redesignated from 501.21 55097
501.23 Redesignated as 501.24; new 501.23 redesignated from 501.22 55097

CHANGES JULY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 39 Chapter I—Con.

501.24 Redesignated as 501.25; new 501.24 redesignated from 501.23..........55097
501.25 Redesignated as 501.26; new 501.25 redesignated from 501.24..........55097
501.26 Redesignated as 501.27; new 501.26 redesignated from 501.25..........55097
501.27 Redesignated as 501.28; new 501.27 redesignated from 501.26..........55097
501.28 Redesignated as 501.29; new 501.28 redesignated from 501.27..........55097
501.29 Redesignated as 501.30; new 501.29 redesignated from 501.28..........55097
501.30 Redesignated from 501.29 55097
960.6 (b) amended..........55577
960.7 (a) amended..........55577

Chapter III—Postal Rate Commission (Parts 3000—3099)

3001.57 Added 54438
3001.58 Added 54438
3001.59 Added 54438
3001.60 Added 54438
3001.69 Added 54440
3001.69a Added 54440
3001.69b Added 54440
3001.69c Added..........54440
3001.161—3001.166 (Subpart I) Added 54441
3001.171—3001.176 (Subpart J) Added 54443
3001.181—3001.182 (Subpart K) Added 54444

Proposed Rules:

20..........52555
111..........36224, 40663, 41485, 42817, 42820, 45245, 48846, 51617, 65668
3001..........38602, 39560

TITLE 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency (Parts 1—799)

8 Revised 63468
9.1 Table amended (OMB numbers) 40130, 42122, 65337
Regulation at 65 FR 43661 eff. 4-30-03..........53048
51 State implementation plan determinations..........40609
Comment period extended..........47887
52 Technical correction 36035, 43796, 43797
State implementation plan determinations 40609, 44973, 53787, 58070
Policy statement..........42956
Actions on petitions..........47578
Comment period extended..........47887, 52533
Determination..........51574
52.50 (c) table amended 36920
(c) and (e) table amended...56219, 56224
52.120 (c)(18)(iv)(D) through (G), (46)(i)(B) and (C) added 38568
(c)(94)(i)(E) removed 42123
(c)(97) added..........48089
(c)(46)(i)(D) added 49295
(c)(98) added..........51873
(c)(94)(i)(E) added 59702
correctly removed; CFR correction..........66769
52.170 (c) table amended 51316
52.220 (c)(159)(iii)(C), (254)(i)(D)(*5*), (279)(i)(A)(*2*), and (B)(*2*) added..........36172
(c)(182)(i)(F)(*4*), (196)(i)(F)(*4*) and (279)(i)(B)(*3*) added 37153
(c)(277)(i)(C)(*5*) and (280)(i)(B)(*1*) added..........37156
(c)(260)(i)(B) and (266)(i)(B)(*3*) added 37591
(c)(255)(i)(A)(*5*), (D)(*2*), (264)(i)(D)(*1*), (273)(i)(A)(*2*) and (277)(i)(C)(*6*) added 38564
(c)(266)(i)(B)(*4*) and (279)(i)(A)(*3*) added..........38940
(c)(239)(i)(E)(*7*) and (278)(i)(C)(*2*) added 40901
(c)(239)(i)(C)(*2*) and (279)(i)(A)(*4*) added..........42128
(c)(280)(i)(A)(*2*)..........43485
(c)(183)(i)(H)(*2*) through (*6*) and (281) added 44977
(c)(173)(i)(F) and (282) added 47394
(c)(283) added 48347
(c)(279)(i)(A)(*5*) and (284) added 50321
(c)(175)(i)(B)(*2*) added..........51568
(c)(277)(i)(C)(*7*) added..........51570
(c)(285) added 51578

(c)(27)(vii)(C), (42)(x)(B), (279)(i)(A)(*6*), (280)(i)(B)(*2*), (281)(i)(A)(*2*) added..........51581
(c)(285)(i)(B) added..........53342
(c)(282) removed..........57387
(c)(230)(i)(D)(*2*), (289)(i)(C)(*2*) and (277)(i)(D) added..........57668
52.222 (a)(7)(i) added..........44978
52.223 (e) added..........48347
52.237 (a)(6) added..........48347
52.242 (a)(3) added..........49297
52.320 (c)(93) added..........35379
(c)(11)(i) added..........47086
(c)(94) added..........47092
(c)(92) added..........48564
(c)(96) added..........64757
52.332 Heading revised; (k) added..........55105
52.349 (g) added..........64757
52.350 Added..........47092
52.351 Added..........64758
52.370 (c)(90) added..........63312
52.377 (b) revised; (c) and (d) added..........63938
52.385 Table amended..........63312
52.426 Heading revised; existing text designated as (a); (b), (c) and (d) added..........54614
52.470 (c) table amended..........55102
52.520 (e) added..........40139
52.570 (c) table and (e) table amended..........35909
52.720 (c)(158) added..........52359
(c)(159) added..........56454
(c)(157) added..........56465
(c)(161) added..........59704
(c)(162) added..........59706
52.720 (c)(160) added..........64148
52.726 (dd) added..........56931
52.770 (c)(141) added..........37419
(c)(143) added..........47890
(c)(142) added..........49299
(c)(144) added..........56476
(c)(145) added..........56958
(c)(146) added..........59711
52.777 (x) added..........53684
(y) added..........56958
52.870 (c) table amended..........64150
52.920 (e) table amended..........43491
(b)(1) and (2) revised; (c) table added..........53659
(c) table, (d) table and (e) table amended..........53664
(d) table and (e) table amended..........53684
(c) table amended..........53689
52.930 (k) added..........53665
52.975 (f) revised..........66321
52.1070 Regulation at 66 FR 28059 withdrawn..........35546
(c)(162) added..........37916
(c)(164) and (165) added..........43488
(c)(166) added..........46381
(c)(153) added..........46729
(c)(160), (169) and (170) added..........56221
(c)(163) added..........56223
(c)(167) added..........57396
52.1075 (h) added..........48210
52.1076 (j) added..........49109
(f) added..........48211
Heading revised; (h) and (i) added..........54596
(k) and (l) added..........54687
52.1174 (u) added..........40898
52.1320 (c) table amended.....37905, 37907, 37918, 40903, 42607, 44304, 52361
(d) amended..........57391
(c) table amended..........59708
52.1370 Regulation at 66 FR 32554 withdrawn..........42425
(c)(49) added..........42437
(c)(47) added..........48564
(c)(51) introductory text and (i)(B)(5) revised..........55098
(c)(54) added..........57394
(c)(47)(i)(A) corrected..........57883
52.1374 Existing text designated as (a); (b) added..........55105
52.1375 Added..........55098
52.1384 Regulation at 66 FR 32554 withdrawn..........42425
(a) added; (c) revised..........42437
(b) added..........55099
52.1520 (c)(66) added..........39104
52.1670 (c)(101) added..........48961
52.1679 Table amended..........48961
52.1919 (a)(4) added..........51572
52.1970 (c)(134) added..........40620
(c)(136) added..........48354
(c)(135) added..........55111
52.1977 Amended..........40620
52.1988 (b) revised..........40622
52.2020 (c)(152) added..........37914
(c)(149) added..........40894
(c)(159) added..........41792, 52856
(c)(160) added..........41795, 52862
(c)(158) added..........42126, 52521
(c)(161) added..........42132, 52874
(c)(162) added..........42136, 52867
(c)(166) added..........42140, 52511
(c)(171) added..........42418, 52327
(c)(164) added..........42425, 52060

TITLE 40 Chapter I—Con.

(c)(163) added....................42761, 52527
(c)(176) added....................43497, 52338
(c)(165) added....................43501, 52055
(c)(156) added....................43508, 54941
(c)(173) added....................43783, 52710
(c)(177) added....................43788, 52049
(c)(172) added....................43794, 52516
(c)(168) added....................43796
(c)(175) added....................44056, 52343
(c)(181) added....................44060, 52332
(c)(170) added....................44532, 52700
(c)(167) added....................44538, 52532
(c)(178) added....................44544, 52705
(c)(180) added....................44547, 52322
(c)(184) added....................45933, 54953
(c)(174) added....................45937, 54715
(c)(182) added....................45941, 54709
(c)(169) added....................46532, 54947
(c)(185) added....................46959, 54697
(c)(179) added....................47083, 54704
Regulations at 66 FR 42126, 42136 and 42140 withdrawn........48348
Regulations at 66 FR 41792, 41795 and 42132 withdrawn........48349
Regulations at 66 FR 42418, 42425 withdrawn........48806
Regulations at 66 FR 42761, 43501 and 43508 withdrawn........49108
Regulation at 66 FR 43794 and 43497 withdrawn........49292
Regulation at 66 FR 43788 and 44056 withdrawn........49293
Regulation at 66 FR 44532 withdrawn........49539
Regulations at 66 FR 44056, 44532 and 44544 withdrawn........49540
Regulations at 66 FR 44060 and 44547 withdrawn........49541
Regulation at 66 FR 43783 withdrawn........50829
Regulations at 66 FR 45933, 45937 and 45941 withdrawn........51869
Regulation at 66 FR 47083 withdrawn........52695
Regulations at 66 FR 46532 and 46959 withdrawn........52705
(c)(186) added........53094
(c)(188) added........53106
(c)(187) added........55883
52.2026 Removed........44548
52.2027 (a) added........52534
(b) added........54699
52.2036 Heading revised; (m) added........53106
52.2037 Removed........53106
Heading revised; (i), (j) and (k) added........54164
52.2038 Existing text designated as (a); (b) added........44548
52.2220 (c) table amended........45633
52.2270 (e) table amended.....35906, 57195, 57222, 57251
(c) table amended....36917, 36923, 48804, 54691, 57218, 57222, 57229, 57244, 57260, 57264
Regulation at 66 FR 35906 withdrawn........46220
(c) table and (e) table amended........49293
(a) introductory text amended........49300
(d) table amended........57222
Regulation at 66 FR 48804 withdrawn........58667
52.2299 (c)(121) added........54691
52.2570 (c)(101) added........42956
(c)(102) added........56449
(c)(103) added........56943
(c)(104) added........64751
52.2585 (o) added........51574
(p) added........56943
55.14 (e)(2)(i)(A) revised........53534
55 Appendix A amended........53534
60 Delegation of authority........50110
60.4 Regulation at 66 FR 32554 withdrawn........42425
(a), (b) and (c) table amended........42438
60.13 (g) revised........44980
60.41b Amended........49834
60.44a (d)(2) revised........42610
60.44b (l) revised........42610
60.51b Amended........36476
60.58b (a)(1) introductory text revised; (a)(1)(iii) added........57827
61 Delegation of authority........50110
61.04 Regulation at 66 FR 32555 withdrawn........42425
(a), (b) and (c) table amended........42438
(b) amended; (c)(10) table revised........48216
62.640 Undesignated center heading and section added........67098
62.1100 (b)(5)(i) added........48356
62.1125 Undesignated center heading and section added........67098
62.1500 (b)(2) added........63313
62.2850 (Subpart M) Added........67098
62.3335 Undesignated center heading and section added........59713

62.3913 (d) added....64154
62.3914 (d) added....64152
62.3915 Undesignated centerheading and section added....46961
62.4179 (d) added....65450
62.4180 Undesignated centerheading and section added....46961
62.6358 (d) added....52062
62.6359 Undesignated centerheading and section added....46961
62.6613 Regulation at 66 FR 32556 withdrawn....42425
  Undesignated centerheading and section added....42439
62.6915 Undesignated centerheading and section added....46961
62.7125 Undesignated center heading and section added....67098
62.8106 Undesignated center heading and section added....41148
62.9640 Revised....43511
62.9642 Revised....43511
62.10100 Regulation at 66 FR 22929 withdrawn....35546
  (b)(5) and (c)(5) added....48567
62.10170 Regulation at 66 FR 22929 withdrawn....35546
  Undesignated center heading and section added....48567
62.10850 (b)(4), (c)(3) and (4) added....49836
62.10910 Undesignated center heading and section added....49836
62.10911 Added....49836
62.11460 Undesignated center heading and section added....52537
62.11480 Undesignated center heading and section added....63940
62.13100—62.13104 (Subpart BBB) Undesignated heading added....54718
62.13105 Added....54718
63 Delegation of authority....36173, 50110
  Technical correction....41086
63.14 (d)(2) revised....35087
  (d)(3)(iii) added....50124
63.99 (a)(30) added....35087
  (a)(38) added....47583
  (a)(47)(i) table revised....48218
  (a)(8)(ii) through (v) added....50124
  (a)(3) revised....57670
  (a)(9) added....66324
63.360 Table 1 amended; (g)(7) through (10) removed....55582
63.361 Amended....55583
63.362 (a) Table 1 revised; (e) removed....55583
63.363 Revised....55583
63.364 (b) introductory text, (c) introductory text, (d) and (e) revised; (b)(2) and (c)(4) amended; (c)(1), (2), (3) and (f) removed....55584
63.365 (b)(1) introductory text, (iv)(B), (c), (d) and (h) revised; (b)(1)(iv)(C) and (f) removed....55584
63.366 (a)(3) revised....55585
63.367 Revised....55585
63.459 Introductory text, (a)(2) and (3) revised....52538
63.480 (i)(2)(ii) revised....36927
63.482 (b) amended....36927
63.485 (k) amended....36928
63.487 (a)(1)(i) and (b)(2) revised; (f)(1)(ii) and (g)(1)(ii) amended....36928
63.489 (e)(1)(ii) revised....36928
63.501 (c) revised....36928
63.506 (e)(5)(i) introductory text, (e)(7)(ii)(A) and (B) revised; (e)(5)(ii)(D) and (6)(iii)(A) amended....36928
63.480—63.506 (Subpart U) Tables 1, 2, 5, 6 and 9 revised....36928
63.600 (a) revised; (e) added....65076
63.602 (d) revised....65076
63.603 (c) revised....65076
63.605 (a) redesignated as (a)(1); new (a)(1), (b)(2), (d)(1) and (2) revised; (a)(2) added....65076
63.600—63.610 (Subpart AA) Appendix A amended....65077
63.620 (a) revised; (e) added....65077
63.625 (f)(1) and (2) revised....65077
63.620—63.631 (Subpart BB) Appendix A amended....65078
63.863 (a) and (b) revised....37593
63.865 (a) introductory text, (b) introductory text, (2), (4), (c) introductory text and (d) introductory text revised; (a)(3) and (4) removed; (b)(5) and (6) added....37593
63.1101 Amended....55847
63.1103 (a)(1)(i)(A) revised....55847
63.1201 (a) amended....35103

TITLE 40 Chapter I—Con.

63.1206 (a)(4) added; (b)(1)(ii), (6)(i), (7)(i)(B), (ii)(B), (8)(v), (13)(i), (14) and (c)(7)(ii) revised 35103

Regulation at 66 FR 35103, 35104 and 35105 withdrawn in part 52362

(a)(1), (2)(ii), (4), (b)(6)(i), (7)(i)(B) and (ii)(B) revised 63317

63.1207 (c)(2)(i), (f)(1)(ii)(A), (ii)(B), (ii)(C), (x)(C) and (l)(1) introductory text revised; (f)(1)(xxvi) redesignated as (f)(1)(xxvii); (f)(1)(ii)(D) and (xxvi) added; (n) removed 35106

Regulation at 66 FR 35106 withdrawn in part 52362

(l) introductory text redesignated as (l)(1); (c)(2)(i)(A) and new (l)(1) revised 63318

63.1209 (b)(2)(ii) and (l)(2) revised 35106

63.1211 (c)(1) revised 35106

63.1250 (e) and (h)(2) revised 40131

63.1251 Amended 40131

63.1252 (h) added 40131

63.1253 (b)(2), (3), (4), (c)(2), (3) and (4) redesignated as (b)(3), (4), (5), (c)(3), (4) and (5); new (b)(2) and (c)(2) added; (e) and (f)(7)(i) amended 40132

63.1254 (a)(4) added 40132

63.1255 (b)(4)(iii)(D), (c)(2)(iii), (3)(i), (4)(ii), (5)(iv), (h)(1)(ii) and (3)(i) revised; (c)(5)(vi)(C) and (D) removed; (b)(4)(iii)(A), (e)(7)(iii) introductory text and (e)(9) amended 40132

63.1256 (c)(1)(i)(A), (e)(4)(i)(B) and (g)(10) amended; (e)(4)(iii), (g)(9)(ii) and (h) introductory text revised; (h)(5) added 40133

63.1257 (a)(6), (d)(1)(i), (2)(i)(D)(*9*), (E), (3)(iii)(B) introductory text, (e)(2)(iii)(B), (C)(*1*), (D)(*1*) and (E)(*1*) amended; (b)(10)(ii), (c)(1) introductory text and (d)(2)(i)(D)(*10*) revised 40133

63.1258 (b)(3) heading, (5)(i)(A), (ii)(A)(*2*) and (b)(8)(iii) revised; (c), (h)(1), (6) introductory text and (7) introductory text amended; (h)(10) and (i) added 40134

63.1259 (b)(5)(ii)(D), (E) and (i)(7)(i) through (viii) redesignated as (b)(5)(ii)(E), (F) and (i)(7)(ii) through (ix); (a)(3)(iii), (b)(5)(i) introductory text, (8), (10) and new (i)(7)(ii) revised; new (b)(5)(ii)(D), (13) and new (i)(7)(i) added; (i)(7) introductory text amended 40135

63.1260 (f)(7) added; (g)(1) introductory text, (2)(vi), (h)(1) introductory text and (i) revised; (g)(2)(v) introductory text and (vii) amended 40135

63.1250—63.1261 (Subpart GGG) Tables 1 amended; Table 2 revised 40136

Table 3 revised 40137

63.1270 (a) introductory text amended 49300

63.1310 (i)(1)(i) introductory text, (2)(ii) and (iii) revised 36937

63.1311 (b) revised 36937

(b) and (d)(6) revised 40907

63.1312 (b) amended 36937

63.1315 (a)(9) and (d) revised 36938

63.1316 (b)(1)(i)(B) revised 36938

63.1318 (a) revised 36938

63.1319 (a) amended 36938

63.1320 (a) amended; (b)(3) revised 36938

63.1322 (f)(1)(ii) and (g)(1)(ii) amended 36938

63.1323 (b)(6)(i)(C) amended; (h)(1) introductory text revised 36938

63.1324 (f)(1)(ii) revised 36938

63.1327 (b) amended 36938

63.1330 (a), (b)(8)(i) and (ii) revised; (d) and (e) added 36938

63.1331 (a)(6) introductory text revised; (a)(6)(v) added 40907

63.1335 (e)(5)(i) introductory text, (7)(ii)(A) and (B) revised 36939

63.1310—63.1335 (Subpart JJJ) Tables 1, 6, 7 and 9 revised 36939

63.1361 Amended 58399

63.1368 (e) introductory text amended 58396

63.5680—63.5779 (Subpart VVVV) Added 44232

63.5710 (c) corrected 50504

63.5680—63.5779 (Subpart VVVV) Table 3 corrected 50504

70.2 Amended 59166
70.6 (c)(5)(iii)(C) revised 55884
70 Appendix A amended 38946, 40903, 42441, 45943, 48808, 49544, 49839, 48941, 50325, 50329, 50575, 51317, 51320, 51585, 52544, 52876, 54446, 54955, 55115, 57000, 58400, 59537, 62946, 62949, 62951, 62954, 62960, 62967, 62969, 62972, 63168, 63170, 63175, 63180, 63184, 63188, 63192, 63331, 63510
Regulation at 66 FR 38946 withdrawn 48357
Appendix B amended 55892
Regulation at 66 FR 52544 withdrawn 58952
71.6 (c)(5)(iii)(C) revised 55885
72.2 Corrected; CFR correction 42761
80.24 (c) added 54959
80.40 (c) added 37164
80.41 (e) and (f) revised 37164
80.65 (d)(2)(ii) revised 37165
(i) revised 67105
80.67 (g)(1) revised 37165
80.68 (c)(8)(ii)(B) amended; (c)(8)(ii)(C) added 37165
80.69 Introductory text revised 37165
80.74 (b)(5) and (6) amended; (b)(7) added 67106
80.75 (a)(2)(vi) and (vii) amended; (a)(2)(viii) added 67106
80.78 (a)(5) and (10) revised; (a)(7)(i) and (ii) amended; (a)(7)(iii) and (11) added 67106
80.81 (a) correctly revised; CFR correction 66769
80.101 (g)(9) added 67107
80.104 (a)(2)(xii) added 67107
80.105 (a)(5)(vi) added 67108
80.131 Added 67108
80.162 (a)(3)(i)(B), (ii) and (d) revised 55889
80.169 (c)(4)(i)C)(*2*) revised 55890
80.340 (c) added 67108
81 Attainment status determinations 36476, 38947, 38948, 44060, 44304, 48808, 53106
81.305 Table amended 40911, 56482
81.306 Table corrected 34994
Table amended 47092, 64758
81.315 Table amended 53685
81.318 Table amended 53685
81.319 Table amended 66321
81.338 Table amended 48354
81.339 Table amended 53106
82.3 Amended; interim 37767
82.4 (a), (c) and (k) redesignated as (a)(1), (c)(1) and (k)(1); (a)(2), (c)(2) and (k)(2) added; interim 37767
82.13 (f)(2)(xvii), (xviii), through (xix), (3)(xiii), (xiv), (xv), (g)(1)(xvii), (xviii), (xix), (4)(xv), (xvi), (xvii), (aa), (bb) and (cc) added; (h) revised; interim 37767
82.62 Amended 57522
82.65 (h) and (i) added 57522
82.66 (c) revised; (d)(2)(ii) through (iv), (ix) and (xi) removed; (d)(2)(v) through (viii) and (x) redesignated as (d)(2)(ii) through (v) and (vi); (e) added 57522
86 Actions on petitions 45777
92.120 (c)(2)(v) corrected; CFR correction 58953, 59602
92.121 (b)(2)(vi), (ix), (xi)(A) and (4)(iv) correctly revised; CFR correction 58953, 59602
92.132 Correctly revised; CFR correction 58953, 59602
96 State implementation plan determinations 40609
Comment period extended 47887
97 State implementation plan determinations 40609
Comment period extended 47887
Appendix A amended 48575
Appendix B amended 48576
122.21 (r) added 65337
122.44 Regulation at 65 FR 43661 eff. 4-30-03 53048
(b)(3) added 65337
123.25 (a)(36) revised 65338
123.44 Regulation at 65 FR 43661 eff. 4-30-03 53048
124.7 Regulation at 65 FR 43661 eff. 4-30-03 53048
124.8 Regulation at 65 FR eff. 4-30-03 53048
124.10 (d)(1)(ix) redesignated as (d)(1)(x); new (d)(1)(ix) added 65358
125.80—125.89 (Subpart I) Heading removed; new heading and sections added 65338
130.0—130.7 (Subpart A) Regulation at 65 FR 43662 eff. 4-30-03 53048

CHANGES JULY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 40 Chapter I—Con.

130.1 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.2 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.3 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.4 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.5 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.6 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.7 (d)(1) amended; Regulation at 65 FR 43663 eff. 4-30-03 53048
130.8 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.9 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.10—130.11 (Subpart B) Regulation at 65 FR 43662 eff. 4-30-03 53048
130.10 Regulation at 65 FR 43662 and 43663 eff. 4-30-03 53048
130.11 Regulation at 65 FR 43662 and 43664 eff. 4-30-03 53048
130.12 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.15 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.20—130.37 (Subpart C) Regulation at 65 FR 43664 eff. 4-30-03 53048
130.50—130.51 (Subpart D) Regulation at 65 FR 43662 and 43670 eff. 4-30-03 53048
130.50 Regulation at 65 FR 43662 and 43670 eff. 4-30-03 53048
130.51 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.60—130.64 (Subpart E) Regulation at 65 FR 43662 eff. 4-30-03 53048
130.60 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.61 Regulation at 65 FR 43662 and 43670 eff. 4-30-03 53048
130.62 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.63 Regulation at 65 FR 43662 eff. 4-30-03 53048
130.64 Regulation at 65 FR 43662 and 43670 eff. 4-30-03 53048
141.35 (c) amended 46225
141.40 (a)(5)(ii)(G)(*1*) amended 46225
148.18 (k) revised; (l) added 58297
152.1 Revised 37814
152.3 Amended 37814
152.6 Added 64763
152.8 (a), (b), (c) introductory text, (2), (3) and (4) removed; (c)(1) and (d) redesignated as (a) and (b) 64764
152.20 (a)(1) revised; (a)(4) added 37814
 (b) revised 64764
152.25 (d) removed; (e), (f) and (g) redesignated as (d), (e) and (f) 64764
152.44 (b)(3) removed; (b)(4) redesignated as (b)(3); (c) added 64764
153.155 (c) revised 66772
156.10 (a)(1)(vii) revised; (h) removed 64764
156.60—156.78 (Subpart D) Added 64764
156.80—156.85 (Subpart E) Added 64767
174 Added 37814
174.475 Added 37830
174.479 Added 37854
180.110 (b) table amended 64773
180.121 Table amended 38955
180.153 (a)(1) table amended 38955
180.169 (a)(1) table and (c) table amended 38955
180.176 (b) table amended 64773
180.183 (a)(1) table amended 38955
180.190 (a) revised 63198
180.205 (b) table amended 37598
 (a) table amended 48601
180.206 (a) table amended 50833
180.209 (a) revised 63198
180.214 (a) table amended 50833
180.215 (a)(1) table amended 50833
180.231 (a) revised 63198
180.242 (b) table amended 64773
180.262 (a) table amended 38955
180.275 (b) table amended 56245
180.284 (b) table amended 64773
180.298 (a)(1) redesignated as (a) and amended 50833
180.324 (b) added 47402
180.301 (b) table amended 64773
180.317 (b) table amended 64773
180.332 (a) table revised 63198
180.353 (b) table amended 64773
180.355 (a) introductory text and table amended 48011
180.361 (a) revised; (c) text removed 63199
180.368 (b) table amended 64773
180.404 (a) table amended 50833

CHANGES JULY 2, 2001 THROUGH DECEMBER 31, 2001

180.412 (b) table amended 51594, 65452
180.416 (b) table amended 37598, 41454
180.418 (a)(2) revised........................47993
180.425 (a) table amended................39675
180.428 (b) table amended................64773
180.431 (b) table amended................64774
180.434 (b) table amended................37598
 (b) table amended.........................64774
180.442 (a) table amended................49308
 (b) table amended.........................64774
180.443 (b) table amended................37598
180.449 (b) table amended................37598
 (b) table amended.........................64774
180.458 Heading and (a)(3) introductory text revised; (a)(3) table amended............................47979
 (b) added...67493
180.466 (b) table amended................64774
180.472 (b) table amended................56233
180.474 (b) table amended................37598
 (b)(1) table amended.....................64774
180.475 (b) table amended................64774
180.479 (a)(2) table amended............66340
 (b) amended.......................................66786
180.480 (b) table amended 37598, 64774
180.482 (b) table amended 37598, 50332
180.489 (a) introductory text revised; (a) table amended...........48613
180.490 (b) table revised...................64774
 (a) revised; (b) text removed
66332
180.493 (b) table amended................37598
180.495 (a) table amended................48968
180.498 (b) introductory text revised; (b) table amended...........39658
180.499 (b) table amended 37598, 48585
180.502 (a) table amended 36481, 36484
180.503 (b) table amended................37598
180.505 (b) table revised...................64774
180.507 (b) table amended................39666
 (a)(1) table amended......................48592
 (b) introductory text revised
58408
180.508 (b) table amended................37598
 (a) revised..66777
180.509 (b) table amended................64775
180.510 (b) table amended................46396
180.511 (a) table amended; (b) removed...46389
180.515 (b) table amended................39647
 (a) table amended.........................39682
180.516 table amended.......................47410
 (b) table amended.........................64775
180.532 (b) table amended................64775
180.535 (b) table revised...................37598
 (b) table amended.........................47971

180.542 Removed..............................63199
180.544 (b) amended.........................55593
180.546 (a) introductory text added...48003
180.551 (a) table amended................65850
180.556 (a) revised...........................66794
180.557 (b) table revised...................37598
180.567 (a)(2) table amended............49118
180.570 (a) revised...........................40141
180.572 (b) table amended................42772
180.573 Added..................................40150
180.574 Added..................................46738
180.576 Added..................................49315
180.577 Added..................................48097
180.1001 (c) table amended....42765, 42776, 57678, 65855
 (c) table, (d) table and (e) table amended...42779
 Technical correction........................51587
 (c) table and (e) table amended
 ....53719, 53723, 66772
180.1026 Removed............................42779
180.1199 Revised..............................39651
180.1212 Added................................53346
180.1216 Added................................42961
180.2000—180.2020 (Subpart E) Added..66772
197 Technical correction 38374
257 Authority citation revised........53542
257.2 Amended 53542
 Regulation at 66 FR 53542 withdrawn 67108
258.2 Amended 53542
 Regulation at 66 FR 53542 withdrawn 67108
258.28 (a)(1) and (2) amended; (a)(3) added.....................................42449
258.41 Added....................................42449
 (a) added...44069
261 Request for public comment
35379
261.3 (a)(2)(iv) revised; (g)(4) added..50333
 Regulation at 66 FR 50333 eff. date delayed 60153
261.4 (b)(15) revised 58297
261.32 Table amended........................58297
261 Appendix IX amended.....41800, 43061, 62975
 Appendix VII amended 58297
264.340 (b)(1) amended; (b)(3) added..35106
268.36 Added....................................58298
268.40 Table amended........................58298

TITLE 40 Chapter I—Con.

271 State hazardous waste management program authorizations............40911, 42140, 42962, 43798, 44071, 44307, 46961, 49118, 49841, 55115, 57679, 63331, 66340, 66342
  Regulation at 66 FR 44071 withdrawn 50833
271.1 (j) Table 1 and Table 2 amended 58299
272.2251 Added 58971
272.750 Removed..................................53728
272.751 Revised..................................53728
272 Appendix A amended.......53730, 58972
281 State underground storage tank program authorizations 59713
300 Appendix B amended......34852, 35387, 35547, 36947, 38571, 39284, 39288, 40915, 42612, 43808, 44073, 45634, 46536, 47095, 47590, 48969, 55892, 56486, 57686, 59367, 59719, 64358
302.4 Table amended 58300
330 Added..................................54620
403.20 Added..................................50339
712.30 (d) table and (e) table amended 38959
721.3460 Removed 63942
721.6820 Removed 63942

Proposed Rules:

1—799 (Ch. I) 55050
3 ....46162, 54178, 56629, 59392
9 ....35572, 41817
50 57268
51.....38108, 46162, 50135, 54178, 56629, 59392
52....34864, 34878, 35573, 35920, 36226, 36370, 36532, 36542, 36656, 36717, 36963, 36964, 37203, 37204, 37439, 37941—37943, 38229, 38231, 39122, 39471, 40168, 40664, 40802, 40946, 40947, 40953, 41174, 41486, 41822, 41823, 42172, 42185—42187, 42479, 42487, 42488, 42620, 42831, 42974, 43549—43551, 43822, 43823, 44096, 44097, 44568, 44571, 44574, 44578, 44580, 44581, 44582, 44995, 44997, 45661, 45797, 45800, 45806, 45953, 45954, 46571, 46573, 46753—46755, 46758, 46760, 46971, 47129, 47130, 47139, 47142, 47145, 47419, 47603, 48399, 48401, 48648, 48847, 48850, 48995, 50252, 50375, 51359, 51619, 52367, 52560, 54733, 55143, 55144, 56496, 57407, 57408, 57692, 57693, 57911, 57914, 57911, 57914, 59205, 59755—59757, 63204, 63343, 63972, 63982, 64176, 64783, 66382, 67497
60....36547, 42488, 44997, 46162, 46415, 49894, 54178, 56629, 57829, 59392, 64176
61..................................35115, 42488
62....41176, 42488, 44582, 46972, 48401, 49895, 52077, 52561, 54734, 59757, 63985, 64207, 64208, 67152
63....35115, 35124, 35126, 35326, 36228, 36836, 40166, 40324, 41718, 41823, 43142, 43552, 46162, 47611, 48174, 50135, 50768, 54178, 56629, 57696, 57917, 57917, 58425, 58427, 58610, 59392, 65079, 66381
70....34901, 35126, 38966, 39293, 40953, 42490, 42496, 45253, 46162, 46972, 47428; 48402, 48851, 49577, 49579, 49895, 50136, 50375, 50378, 50379, 51359, 51360, 51620, 51895, 52368, 52561, 52562, 53354, 53370, 52881, 52882, 53140, 53148, 53151, 53155, 53159, 53163, 53167, 53170, 53174, 53178, 53966, 53969, 54178, 54734, 54737, 54739, 55144, 56629, 59392
72..................................39123, 53755
73..................................48851, 48852
75 39123
78 39123
80 ....54965, 55905, 60163, 65164, 66867
81....38603, 38608, 38966, 38967, 40953, 42187, 44097, 48401, 66382
82..................................38064, 55145
86 40953
89..........................51098, 55617, 58085, 65164
90 ....51098, 55617, 65164
91 ....51098, 55617, 65164
93 50954
94 ....51098, 55617, 65164
97 39123
122..................................35572, 41817, 58556
123 ...35572, 41817, 46162, 54178, 56629, 59392
124..................................35572, 41817, 52192
125..................................35572
130..................................41817
131..................................39295
136 ....45811, 49794, 51518, 58693
140 ....38967, 44585
141.............37617, 42974, 46251, 46928, 50961
142............37617, 42974, 46162, 50961, 54178, 56629, 59392
145 ....46162, 54178, 56629, 59392
147 ....56496, 56503
152..................................45661
153..................................40170
156..................................45661
162 ....46162, 54178, 56629, 59392

174	37855, 43552
180	35921, 39705, 39709, 40170, 46415
194	36723, 59207, 59208
228	51628
233	46162, 54178, 56629, 59392
247	45256
257	46162, 53566, 54178, 56629, 59392
258	46162, 53566, 54178, 56629, 59392, 67152
260	42193, 52192
261	36725, 38396, 38969, 42193, 43823, 50379, 57918
262	42193
263	42193
264	35124, 35126, 42193, 43142, 58085
265	35126, 42193, 43142
266	35126, 43142
267	52192
268	38405
270	35126, 43142, 52192
271	42193, 42194, 42975, 43142, 43831, 44107, 46162, 46976, 49896, 54178, 56629, 57697, 59392, 66382, 66383
272	53755, 58985
281	40954, 46162, 50963, 54178, 56629, 59392
300	34906, 35395, 36966, 37439, 38571, 38610, 39299, 40957, 41177, 41179, 42620, 43831, 46574, 47153, 47612, 48018, 50380, 55907, 56507, 59393, 59758, 59759, 64387
372	44107
403	46162, 54178, 56629, 59392
412	58556
434	39300
450	35576
501	46162, 54178, 56629, 59392
721	42976, 42978, 54742
745	46162, 54178, 56629, 59392
763	46162, 54178, 56629, 59392
1048	51098, 55617, 65164
1051	51098, 55617, 65164
1065	51098, 55617, 65164
1068	51098, 55617, 65164

TITLE 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 61—Office of the Assistant Secretary for Veterans Employment and Training, Department of Labor (Parts 61-1—61-999)

Chapter 61 Revised	52002
61–250.10 (a)(3) amended	65453
61–250.11 Amended	65453
61–250.11 (b) corrected	56761

Chapter 101—Federal Property Management Regulations (Parts 101-1—101-99)

101.6–10 (Subpart 101.6) Revised	37733
Technical correction	39560
101–3 Revised; interim	55594
101–11 (Subchapter B) Added; eff. 10–22–01	48358
101–46 Revised	48614

Chapter 102—Federal Management Regulations (Parts 102-1—102-99)

102–3 Added	37733
Technical correction	39560
102–39 Added	48614
102–39.45 (l) correctly designated	51095
102–84 Added; interim	55594
102–117.90 Amended	48812
102–118.40 Amended	48812
102–118.95 Amended	48812
102–118.115 Amended	48812
102–118.175 Amended	48812
102–193 Added	48358
102–194 Added	48358
102–195 Added	48358

Chapter 300—General (Parts 300-1—300-70)

300–2.22 Table revised	58195
300–3.1 Amended	58195
300–70.2 (d) amended; (e) redesignated as (f); new (e) added	58196

Chapter 301—Temporary Duty (TDY) Travel Allowances (Parts 301-1—301-99)

Chapter 301 Appendix A revised	46070
Appendix A amended	66795

Chapter 302—Relocation Allowances (Parts 302-1—302-99)

Chapter 302 Revised	58196

Proposed Rules:

62	65460
101–9	39473

CHANGES JULY 2, 2001 THROUGH DECEMBER 31, 2001

TITLE 41 *Proposed Rules:—Con.*

102–192	39473
141	37617
142	37617
174	37855

TITLE 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health and Human Services (Parts 1—199)

51d Added; interim 51877
130 (Subchapter L) Regulation at 65 FR 34864 confirmed 58671
130.20 (b) amended; OMB number 58671
130.21 OMB number 58672
130.22 OMB number 58672
130.23 OMB number 58672
130.24 Added (OMB number) 58672
130.30 OMB number 58672
130.31 OMB number 58672
130.33 (c) amended; (d)(2) revised 58672

Chapter IV—Health Care Financing Administration, Department of Health and Human Services (Parts 400—499)

405.534 Introductory text added 55328
405.535 Heading revised; introductory text amended 55328
410.3 (a)(1) revised 55328
410.10 (x) added 55328
410.21 Redesignated from 410.22 55328
410.22 Redesignated as 410.21; new 410.22 redesignated from 410.23 55328
410.23 Redesignated from 410.22; new 410.23 added 55328
410.26 (a) and (b) redesignated as (b) and (c); new (a) and (c) heading added 55328
410.28 (f) added; eff. 11-25-02 58809
410.32 (d) introductory text and (1) through (7) redesignated as (d)(1) introductory text and (i) through (vii); new (d)(1) heading and (2) through (e) added 58809
410.130—410.134 (Subpart G) Added 55331
410.37 (d), (e)(2) and (g) revised; (e)(3) added 55329
410.46 Added 55329
410.56 (b)(1), (2) introductory text and (3) revised 55329
410.78 Revised 55330
411.15 (a)(1) revised; (k)(10) added 55331
Corrected 58786
411.354 Regulation at 66 FR 958 eff. date delayed to 1-6-03 60155
413.24 (d)(6) revised; (d)(7) added 59920
413.65 (a)(1), (b) (c), (d) introductory text, (7), (g)(7), (i)(1) introductory text, (1)(ii) and (2) revised; (a)(2) amended 59920
414.2 Amended 55332
414.64 Added 55332
414.65 Revised 55332
415.130 (a), (b) and (c) redesignated as (b), (c) and (d); new (a) added; new (b)(3) and (4) amended; new (d) revised 55332
416.42 Regulation at 66 FR 4686 withdrawn; (b) revised; (d) added 56768
419.2 (c) revised 59922
419.20 (a) revised; (b)(3) and (4) added 59922
419.22 (r) added 59922
419.32 (b)(1) revised 59922
Regulation at 66 FR 59922 delayed in part 67494
419.40 Revised 59922
419.41 Amended; heading revised; (c)(4)(ii) redesignated as (c)(4)(iv); new (c)(4)(ii) and (iii) added 59923
419.42 (a), (c) and (e) revised 59923
419.43 (e) removed; (f) redesignated as new (e); new (e) revised; interim 55856
Heading and (a) amended 59923
419.62 (d) added 55865
419.60 (e) revised; interim 55856
419.62—419.66 (Subpart G) Added; interim 55856
419.62 Regulation at 66 FR 55865 delayed 67494
419.70 (Subpart G) Redesignated as (Subpart H); interim 55856
(d)(2) revised 59923
482.52 Regulation at 66 FR 4686 withdrawn 56768
(a) revised; (c) added 56769
485.639 Regulation at 66 FR 4687 withdrawn 56768
(c) revised; (e) added 56769
486.301 (b)(4) added 67111
486.309 Added 67111

TITLE 42 Chapter IV—Con.

489.24 (i)(2) introductory text and (ii) revised 59923

Chapter V—Office of Inspector General-Health Care, Department of Health and Human Services (Parts 1000—1999)

1001.952 (v) added 62989
(v)(4)(iii) corrected 63749
1001.101—1001.1701 (Subpart C) Appendix A added....62991

Proposed Rules:

81 50967
82 50978
100....55908
403....54179
408....54186
416....54179
418....54179
447....58694
460....54179
482....54179
483....54179
493....67163
1001 65460

TITLE 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior (Parts 1—199)

4.200—4.323 Undesignated center heading and sections revised 67656

Chapter II—Bureau of Land Management, Department of the Interior (Parts 1000—9999)

2560 Authority citation revised 52547
2568.20 (b) revised; (c) redesignated as (d); new (c) added 52547
2568.50 (c) revised....52547
2568.60 Introductory text revised 52547
2568.92 Removed....52547
3162.2-7 Regulation at 66 FR 9527 confirmed 56616
3600 Revised....58901
Regulation at 66 FR 58901; eff. date corrected 63334
3610 Removed....58909
Regulation at 66 FR 58909; eff. date corrected 63334
3620 Heading and authority citation revised 58909
Regulation at 66 FR 58909; eff. date corrected 63334
3621.1—3621.2 (Subpart 3621) Removed....58909
Regulation at 66 FR 58909; eff. date corrected 63334
(b) revised....58909
3622.1 (b) revised 58909
Regulation at 66 FR 58909; eff. date corrected....6333
3622.2 Amended....58909
Regulation at 66 FR 58909; eff. date corrected 63334
3622.4 (a)(2), (4) and (b) amended 58909
Regulation at 66 FR 58909; eff. date corrected....6333
3809.2 (a) amended 54860
3809.5 Amended 54860
3809.31 (e) amended 54860
3809.101 (d) revised 58910
Regulation at 66 FR 58910; eff. date corrected 63334
3809.116 (a) revised 54860
3809.401 (b)(5)(ii) amended....54860
3809.411 (d)(3)(iii) revised 54860
3809.415 (d) removed....54861
3809.420 Revised 54861
3809.421 Added....54862
3809.598 Revised 54862
3809.604 (a) amended 54862
3809.702 Removed 54862
3809.703 Removed 54862

Proposed Rules:

3800 54863

TITLE 44—EMERGENCY MANAGEMENT AND ASSISTANCE

Chapter I—Federal Emergency Management Agency (Parts 0—399)

2.81 Added (OMB numbers) 57347
9 Authority citation revised....57347
9.5 (c)(6) revised....57347
10.8 (d)(2)(xix)(N) revised 57347
59.1 Amended....59170

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

64.6 Table amended......51321, 54719, 63628
65.4 Flood elevation determinations............53112, 53116, 53114, 56770, 56774, 65108, 65110
67.11 Flood elevation determinations......................53117, 65115, 65121
204 Added..57347
206.2 (a)(3)(i) revised 57352
(a)(20) revised 57353

Proposed Rules:

61 60176
67.....53182, 53190, 56785, 56788, 65668, 65671

TITLE 45—PUBLIC WELFARE

Subtitle A—Department of Health and Human Services (Parts 1—199)

46 Authority citation revised 56778
46.201—46.207 (Subpart B) Revised 56778

Chapter V—Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500—599)

Chapter V Revised................................49844
506.18 Heading corrected..................54061
Corrected..56383

Chapter XIII—Office of Human Development Services, Department of Health and Human Services (Parts 1300—1399)

1355.20 (a) amended; (b) designated 58675
1355.30 (n)(2) revised; (n)(3) removed; (n)(4) and (5) redesignated as (n)(3) and (4) 58675
1355.32 (d)(4) amended 58675
1355.33 (b)(2) revised; second (b)(1) and (2) redesignated as (b)(5) and (6); (c)(6) and (d)(2) amended 58675
1355.34 (b)(4) amended; (c)(2)(v) and (4)(v) revised 58675
1355.35 (e)(1) revised............................58675
1355.36 (b)(5)(i) revised 58675
1355.38 (b)(1) amended; (b)(4), (f), (g)(1)(i), (4), (h) introductory text and (2) revised.....................58676
1355.40 OMB number 58676
1356.20 (c) removed; (d) through (f) redesignated as (c) through (e); OMB number.........58676
1356.21 (b)(1)(i), (2)(i), (i)(1)(i)(A) and (k)(1)(i) revised; (j) amended; OMB number 58676
1356.22 (a)(3) revised..........................58677
1356.50 (c) revised...............................58677
1356.60 OMB number 58677
1356.71 (a)(3) revised; (j)(2) amended 58677
1356.80 Removed...............................58677
1357.15 OMB number 58677
1357.16 OMB number 58677

Proposed Rules:

1639 58986
2553 56793

TITLE 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation (Parts 1—199)

1 Authority citation revised............31844
20.10-1—25.10-3 (Subpart 25.10) Added 55092
25.01-3 (b) amended 55091
126.235 Added 53544
172.048 Added 55574
172.065 Table amended 55574
172.070 Added 55575

Chapter II—Maritime Administration, Department of Transportation (Parts 200—399)

221.15 Introductory text added 55596

Proposed Rules:

32..49877
67 64784

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission (Parts 0—199)

0.231 (e) revised..................................50834
1 Policy statement 62991
1.813 Removed.....................................67112
1.1103 Table amended..........................50840

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

TITLE 47 Chapter I—Con.

1.2105 (c)(1) revised; (c)(6) redesignated as (c)(7); new (c)(6) added 54452
2.1 (c) amended 50840
2.106 Table amended 53963
2.925 (e) and (f) redesignated as (f) and (g); new (e) added 50840
2.932 (e) added 50840
2.944 Added 50840
2.1043 (a) and (b) revised 50840
20 Technical correction 63093
20.18 (j) revised (OMB number pending) 55623
OMB number 59719
22 Compliance date extended..........50841
24 Compliance date extended..........50841
25.138 (a)(6) revised 63515
25.145 (h) revised; (i) removed 63515
25.202 (a)(1) table amended 63515
25.208 (c) revised; (d) removed; (e) and (f) redesignated as (d) and (e) 63515
27 Actions on petitions..........51594
36.605 (c)(3)(ii) corrected 65856
43.61 (a)(1) revised..........67112
54 Actions on petitions 64775, 67112
Order 65856
54.5 Amended..........59726
54.307 (a)(1) and (b) amended; (c) revised..........59726
54.315 Heading, (a), (b)(4), (c)(5), (e)(1), (4) through (7) and (f)(1) through (4) revised..........59727
54.701 (g)(1)(iii) revised 59727
54.702 (a) revised; (i) amended..........59727
54.705 (c)(1) introductory text, (i), (ii), (iv) and (v) revised 59728
54.715 (c) amended..........59728
54.901—54.904 (Subpart K) Added 59728
63.24 (b) revised..........67112
63.52 Heading revised 67112
64 Compliance date extended..........50841
Policy statement..........53545
64.601 Amended 54165
64.603 Introductory text revised 54165
Introductory text revised..........67114
69.2 (ww) added 59730
69.4 (b)(2), (d) and (g) revised; (c) removed; (j) added 59730
69.104 (a) amended; (c) through (f) revised; (j) through (l) removed; (n) through (r) added 59730
69.105 (a) revised; (d) added..........59731
69.106 (g) revised; (h) added..........59731
69.111 (m) added 59732
69.124 (a) revised 59732
69.130 Added..........59732
69.131 Added..........59732
69.306 (d) revised 59732
69.307 (c) revised; (e) added 59732
69.415 Added..........59733
69.501 (b), (c) and (e) revised; (f) added 59733
69.502 (d) and (e) added..........59733
69.603 (g) and (h)(5) amended 59733
69.609 (b) amended 59733
73 Actions on petitions 50843, 53730, 56038, 58409
73.202 (b) table amended..........50576, 51322, 52712, 53731, 55597, 55598, 56486, 56487, 56617, 58408—48410, 60156, 60157, 63199, 63628, 63629, 63630, 64777, 66346, 66803
73.606 (b) table amended..........52712, 55893, 57884
73.621 (i) added 58982
73.622 (b) table amended..........52547, 53730, 55892, 55893, 56616
73.623 (h) revised..........65134
73.624 (g) introductory text, (2)(i) and (ii) amended..........58982
(b), (d)(3)(ii) and (iv) revised..........65135
73.625 (a)(1) revised 65135
73.642 (a)(1) and (e) introductory text revised; (b) amended 58982
73.644 (a) amended 58982
76 Policy statement..........62991
76.1700 Heading and (a) introductory text revised 67117
90.494 (g) removed..........57885
101.85 (b) revised 63516
101.91 (c) amended..........63516
101.95 Heading revised 63516
101.97 (a)(9) added 63516
101.147 (r) introductory text revised; (r)(10)(iv) amended 63516

Proposed Rules:

1..........58697, 64785, 65866
2..........51905, 53191, 53973, 56048, 57408, 59209, 64785
15..........56793, 59209
18 59209
21 51905
51 ....59759, 63651, 64946
54 ....54967, 59761, 67165
64..........50139, 50140
68 58703

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

69 .... 59761, 67165
73 .... 50602, 50991, 51360, 51361, 51905, 52565—52567, 52733, 52734, 52735, 53192, 53755, 54190, 54191, 54970, 54971, 54972, 56507, 56629, 56630, 56794, 58428, 58429, 63209, 63653, 63654, 63986, 63997, 64792, 65164, 65872, 65873, 66383, 66384, 66867
76 .... 51905, 54972
87 64785
90 59209

TITLE 48—FEDERAL ACQUISITION REGULATIONS SYSTEM

Chapter 1—Federal Acquisition Regulation (Parts 1—99)

Chapter 1 Summary disposition 53478
  Small entity compliance guide 53500, 65372
  Federal Acquisition Circular 2001–02 .... 65348, 65352
  Federal Acquisition Circular 2001–03 .... 66984, 66990
2.101 Amended 53484, 53488
  Amended; interim ... 53486, 65350, 65352, 65354
1.106 Table amended (OMB numbers) 53480
5.205 Regulation at 65 FR 46056 confirmed 65370
8.001 (c) revised 65367
8.003 Revised 65368
9.103 Regulation at 65 FR 80264 and 66 FR 17755 stay terminated 66985
  (c) removed; (d) redesignated as (c) 66986
  (b) amended 66989
9.104–1 Regulation at 65 FR 80264 and 66 FR 17756 stay terminated 66985
  (e) removed; (f), (g) and (h) redesignated as (e), (f) and (g) 66986
  (d) revised 66989
9.104–3 (c) removed; (d) and (e) redesignated as new (c) and (d) 66989
11.002 (d) revised 65352
11.101 (b) revised 65352
12.102 (d) redesignated as (e); new (d) added 53484
12.209 Revised 53484
12.503 Heading and (a) introductory text amended; (a)(5) added 53488
12.603 Regulation at 65 FR 46056 confirmed 65370
13.005 (a)(10) added 53488
14.404–2 Regulation at 65 FR 80265 and 66 FR 17756 stay terminated 66985
  (j) removed; (k), (l) and (m) redesignated as (j), (k) and (l) 66986
  (i) revised 66989
15.306 (d)(1) amended; (d)(3) revised; (d)(4) redesignated as (d)(5); new (d)(4) added 65369
15.401 Amended 65369
15.407–1 (b)(7)(i) Amended 65354
15.503 Regulation at 65 FR 80265 and 66 FR 17756 stay terminated 66985
  (a)(2) removed; (a)(3) redesignated as (a)(2) 66986
  (a)(1) revised 66990
15.603 (e) added 65352
17.705–4 (c), (d)(1) and (5) amended; interim 543493
19.001 Regulation at 65 FR 46056 confirmed 65370
19.102 Regulation at 65 FR 46056 confirmed; (h) revised 65370
19.201 Regulation at 65 FR 46056 confirmed 65370
19.303 Regulation at 65 FR 46056 and 46057 confirmed 65370
19.501 Regulation at 65 FR 46056 confirmed 65370
19.704 (a)(1), (2), (3), (6), (8) and (11) amended; interim 53493
19.705–2 (d) amended; interim 53493
19.705–7 (a) and (d) amended; interim 53493
19.706 (b) and (c) amended; interim 53493
19.708 (c)(1), (2) and (3) amended; interim 53493
19.803 Regulation at 65 FR 46057 confirmed 65370
19.804–2 Regulation at 65 FR 46057 confirmed 65370
19.805–1 Regulation at 65 FR 46056 confirmed 65370
19.810 Regulation at 65 FR 46057 confirmed 65370
19.901 (c) amended 53500

TITLE 48 Chapter 1—Con.

19.1002 Regulation at 65 FR 46056 confirmed....65370
19.1005 Regulation at 65 FR 46057 confirmed; (a) table amended....65370
19.1007 Regulation at 65 FR 46057 confirmed....65370
19.1102 Regulation at 65 FR 46057 confirmed....65370
19.1201 Regulation at 65 FR 46057 confirmed....65370
19.1202-1 Regulation at 65 FR 46057 confirmed....65370
19.1202-2 Regulation at 65 FR 46057 confirmed....65370
19.1202-4 Regulation at 65 FR 46057 confirmed....65370
19.1203 Regulation at 65 FR 46057 confirmed....65370
19.1306 Regulation at 65 FR 46057 confirmed....65370
22.403-4 (b)(5) amended....53480
22.404-1 (a)(1) and (b) amended....53480
22.404-2 (a) revised....53480
22.404-3 (c) amended; (d) removed; (e) redesignated as new (d)....53480
22.404-6 (a) revised; (d) added....53480
22.404-7 Revised....53480
22.404-10 Amended....53481
22.404-11 Amended....53481
22.404-12 Added....53481
22.406-3 (e) added....53481
22.406-10 (e) amended....53481
22.407 (e), (f) and (g) added....53481
22.1300—22.1310 (Subpart 22.13) Revised....53488
22.1503 (b)(4) amended....65371
23 Heading revised....65352
23.7 Heading revised....65353
23.000 Revised....65352
23.200—23.204 (Subpart 23.2) Revised....65352
23.700—23.705 (Subpart 23.7) Heading revised....65353
23.700 Revised....65353
23.702 (e) removed; (f) redesignated as (e); new (f) added....65353
23.703 (a) and (b)(2) revised....65353
23.906 Regulation at 65 FR 46058 confirmed....65370
25.003 Amended....65350, 65371
31.205-21 Amended....66990
31.205-47 Regulation at 65 FR 80265 and 66 FR 17756 stay terminated....66985
(a) amended; (b)(3) removed; (b)(4), (5) and (6) redesignated as (b)(3), (4) and (5)....66986
31.205-47 (a) amended; (b)(2) revised....66990
32.001 Amended....65354
32.007 Added....65355
32.102 (d) revised....65355
32.900 Revised....65355
32.901 Revised....65355
32.902 Amended; interim....53486
Revised....65355
32.903 Removed; new 32.903 redesignated from 32.904....65355
32.904 Redesignated as 32.903; new 32.904 redesignated from 32.905....65355
32.905 (e) through (j) redesignated as (f) through (k); (a) introductory text, new (f) introductory text and (g) introductory text amended; new (e) added; interim....53486
Redesignated as 32.904; new 32.905 redesignated from 32.906....65355
32.906 Redesignated as 32.905; new 32.906 added....65355
32.907 Revised....65355
32.907-1 (a)(5) added; (b)(1) and (2) amended; interim....53486
Removed....65355
32.907-2 Removed....65355
32.908 (c)(4) added; interim....53486
Revised....65355
32.909 Revised....65355
42.302 (a)(68) revised....65353
44.202-2 (a) introductory text amended; (a)(4) revised....65368
46.801 (a) amended....53484
46.804 Removed....53484
52.202-1 Clause amended....53484
52.208-9 Heading revised; clause amended....65368
52.209-5 Regulation at 65 FR 80265 and 66 FR 17756 stay terminated....66985
Clause amended....66990, 66986
52.212-1 Regulation at 65 FR 46058 confirmed....65370
52.212-3 Regulation at 65 FR 46058 confirmed....65370

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

Regulation at 65 FR 80266 and 66 FR 17756 stay terminated 66985
Clause amended 66990, 66986
52.212-4 Clause amended 53485, 65360
52.212-5 Clause amended 53489
52.213-4 Clause amended 53489
52.213-4 Clause amended 65360
52.216-7 Clause amended 65360
52.216-13 Clause amended 65361
52.219-1 Regulation at 65 FR 46058 confirmed 65370
52.219-9 Clause amended; interim 53493
Regulation at 65 FR 46058 confirmed 65370
52.219-10 Clause amended; interim 53493
52.219-19 Regulation at 65 FR 46058 confirmed 65370
52.219-24 Regulation at 65 FR 46058 confirmed 65370
52.219-26 Regulation at 65 FR 46058 confirmed 65370
52.222-19 Clause amended 65371
52.222-30 Added 53482
52.222-31 Added 53482
52.222-32 Added 53482
52.222-35 Revised 53490
52.222-37 Revised 53491
52.222-38 Added 53491
52.223-13 Regulation at 65 FR 46058 confirmed 65370
52.223-14 Regulation at 65 FR 46058 confirmed 65370
52.225-1 Clause amended 65350
52.225-3 Clause amended 65350
52.225-5 Clause amended 65350, 65371
52.225-9 Clause amended 65350
52.225-11 Clause amended 65351, 65371
52.232-7 Clause amended; Alternate II revised 65361
52.232-8 Clause amended 65361
52.232-16 Clause and Alternate III amended; Alternate II revised 65361
52.232-25 Alternate I added; interim 53486
Revised 65361
52.232-26 Revised 65361
52.232-27 Revised 65361
52.232-29 Clause amended 65366
52.232-32 Clause amended 65367
52.244-6 Clause amended 53491
53.204-2 Regulation at 65 FR 46058 confirmed 65370
53.219 Clause amended; interim 53493
Regulation at 65 FR 46058 confirmed 65370
53.301-279 Regulation at 65 FR 46058 confirmed 65370
53.301-294 Revised; interim 53494
53.301-295 Revised; interim 53494

Chapter 2—Department of Defense (Parts 200—299)

202.101 Amended 49860, 63335
204.7205 (a) and (b) amended 49861
204.7303 (a)(2) amended 55121
207.471 (b) amended 55121
211.503 Redesignated from 211.504 49861
211.504 Redesignated as 211.503 49861
212.1 Added; interim 63336
212.301 (f)(iii) amended 49861
(f)(iii) amended; (f)(v) and (vi) redesignated as (f)(vi) and (vii); new (f)(v) added 55122
212.503 Regulation at 65 FR 77828 confirmed 49862
212.504 Regulation at 65 FR 77828 confirmed 49862
213.301 (3) added 55123
Heading and (3) corrected 56902
215.404-4 (c)(2)(C)*(1)(i)* revised 49863
215.404-71-3 (e)(3) amended 63335
215.404-76 (a) and (c) revised 49863
(b) table revised 63335
217.170 Revised 63337
217.171 Revised 63337
217.172 Revised 63337
219.800 (a) amended 49863
219.1005 (a)(3)(A) introductory text, *(1)* through *(4)* and (B) redesignated as (a)(i) introductory text, (A) through (D) and (ii); new (a)(ii) amended 49861
223.404 Removed 49864
223.405 Added 49864
225.7019-1 Regulation at 65 FR 77828 confirmed 49862
225.7019-2 Regulation at 65 FR 77828 confirmed 49862
225.7019-4 Regulation at 65 FR 77828 confirmed 49862
225.7020 Regulation at 65 FR 77828 confirmed 49862
225.7020-1 Regulation at 65 FR 77828 confirmed 49862

TITLE 48 Chapter 2—Con.

225.7020-2 Regulation at 65 FR 77828 confirmed 49862
225.7020-3 Regulation at 65 FR 77828 confirmed 49862
225.7020-4 Regulation at 65 FR 77828 confirmed 49862
226.104 Technical correction 50504
232.501-1 Revised 49865
232.502-4-70 (b) revised 49865
236.201 (c)(1)(A)*(1)* and (B) revised 49861
236.206 Amended 49861
236.274 (a) introductory text amended 49861
237.6 Added; interim 63336
237.201 Heading and introductory text revised 49861
242.202 (e)(1)(A) amended 49861, 63335
242.302 (a)(13)(B)*(1)* amended 49861, 63335
243.204-71 Added 49865
243.205-70 Removed; new 243.205-70 redesignated from 243.205-71 49865
243.205-71 Redesignated as 243.205-70; new 243.205-71 redesignated from 243.205-72 49865
243.205-72 Redesignated as 243.705-71 49865
245.302-1 (a)(4)(C)*(2)* amended 49861
248 Removed 49865
252.204-7004 Clause amended 55121
252.204-7005 Clause amended 55121
252.211-7005 Clause amended 49861
252.212-7001 Revised 55122
  Regulation at 65 FR 77828 confirmed 49862
252.225-7007 (a) correctly designated 50504
252.225-7016 Regulation at 65 FR 77828 confirmed 49862
252.225-7021 (e)(4) corrected 50504
252.225-7023 Regulation at 65 FR 77829 confirmed 49862
252.226-7001 (b), (c), (d)(1) and (e)(1)(i) corrected 50504
252.227-7005 Amended 49861
252.232-7004 Revised 49865
252.237-7000 Introductory text amended 49861
252.239-7000 Introductory text amended 49861
252.243-7000 Removed 49865
252.243-7001 Introductory text amended 49865
252.243-7002 Introductory text amended 49865
252.247-7011 Amended 49861
252.248-7000 Removed 49866
  Technical correction 51515
253 Technical correction 51515
253.204-70 Corrected 50504
  (e)(4) amended 55121
253.215-70 (b)(7) revised 49863
Chapter 2 Appendices F and G amended 49861
  Appendix G amended 49862, 55121

Chapter 4—Department of Agriculture (Parts 400—499)

442.1502 Revised 49867

Chapter 18—National Aeronautics and Space Administration (Parts 1800—1899)

1804.402 Revised 53546
1804.570-1 Revised 53546
1804.570-2 Revised 53546
1804.7103 (b) amended 53546
1807.105 (b)(10) revised 53546
1807.7103 Revised 53546
1808.802 Revised 53546
1815.404-2 Amended 53547
1815.604 (a) amended 53547
1816.104-70 (a) amended 53547
1816.405-274 (g)(1) and (4) revised; (h) and (i) redesignated as (i) and (j); new (h) added 53547
1816.603-2 Added 53547
1817.503 (c) added 53547
1819.201 (a)(i) and (ii) amended 53547
1819.202 Removed 53547
1819.302 (Subpart 1819.3) Heading revised 53547
1819.705-470 Amended 53547
1822 Nomenclature change 53547
1832.006-2 Heading revised 53547
1832.410 (b)(ii) amended 53547
1835.016-71 (b)(1) revised; (c)(2)(i)(B) through (G) redesignated as (c)(2)(i)(C) through (H); new (c)(2)(i)(B) added; (d)(4) amended 53547
1836.602-1 (a)(7) redesignated as (a)(6) 53548
1837.104 (b) amended 53548
1837.203 (c) amended 53548
1842.302 Amended 53548

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

1842.7301 (e)(1) introductory text and (e)(1)(ii) revised 53548
1843.205–70 (a)(1) amended 53548
1843.7002 Revised 53548
1843.7003 (a) revised; (b)(1) amended 53548
1843.7004 (a) introductory text revised 53548
1844.302–70 Introductory text, (c) and (e) amended 53548
1844.302–71 Introductory text amended 53548
1852.204–74 Clause amended 53548
1852.208–81 Revised 53548
1852.223–73 Alternate I amended 53549
1852.243–70 Clause amended 53549

Proposed Rules:

1 ....53314, 65792
32 57294
36 ....53314, 65792
52 ....53050, 57294
53 ....53314, 65792
203 55157
235 ....63348, 65676
552 53193
1823 64391
1827 57028
1835 57028
1836 64391
1852 ....57028, 64391

TITLE 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation (Parts 1—99)

1 Authority citation revised 67118
1.2 Amended 67118
1.3 (b)(12) added 67118
1.4 (n) added 67118
1.56a (j) added 55599
27.72 Regulation at 66 FR 22115 eff. date corrected to 11-9-01 51556

Chapter I—Research and Special Programs Administration, Department of Transportation (Parts 100—199)

195.3 (b)(8) and (c)(7) added 67004
195.5 (b) revised 67004
195.402 (c)(3) revised 67004
195.404 (a)(1)(v) removed; (a)(1)(vi), (vii) and (viii) redesignated as (a)(1)(v), (vi) and (vii) 67004
195.236 Removed 67004
195.238 Removed 67004
195.242 Removed 67004
195.244 Removed 67004
195.414 Removed 67004
195.416 Removed 67004
195.418 Removed 67004
195.551—195.589 (Subpart H) Added 67004

Chapter II—Federal Railroad Administration, Department of Transportation (Parts 200—299)

225.19 (c) amended; (e) revised 66348
225 Appendix B revised 66348
241 Added; interim 63959

Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation (Parts 300—399)

300 Inseason orders 59171
325 Nomenclature change; authority citation revised 49869
325.13 (d)(3) revised 49869
325.93 (b) amended 49869
355 Appendix A amended 49870
356 Authority citation revised 49870
356.13 Amended 49870
360 Nomenclature change; authority citation revised 49870
360.1 (c) and (d)(2) amended 49870
360.3 (a)(2) revised 49870
360.5 (d)(4) amended 49870
365 Nomenclature change; authority citation revised 49870
365.105 Revised 49870
365.107 (g) note amended 49870
365.109 (a)(4) amended 49870
365.117 Amended 49870
365.205 (d) amended 49870
365.301 Amended 49870
365.413 (a) introductory text, (b) introductory text and (5) amended 49870
366 Authority citation revised 49870
366.5 Amended 49870
367 Authority citation revised 49870
367 Appendix A amended 49870
370 Authority citation revised 49870
370.7 (b) amended 49871
371 Authority citation revised 49871
371.10 Amended 49871

TITLE 49 Chapter III—Con.

372 Authority citation revised........49871
372.107 (a), (b) and (e) amended 49871
372.109 Introductory text and (b) amended 49871
372.231 Amended 49871
373 Authority citation revised........49871
374 Authority citation revised........49871
374.303 (g) amended........49871
374.311 (b) amended........49871
374.315 Amended 49871
374.319 (a) and (b) amended........49871
374.403 (b) amended........49871
375 Nomenclature change 49871
375.1 (b)(8) amended........49871
375.2 (b)(1) and (2) amended 49871
375.5 (a) introductory text amended 49871
375.17 (b) amended 49871
375.18 (a), (b) and (c) amended 49871
376 Nomenclature change; authority citation revised 49871
377 Authority citation revised........49871
377.201 (a) amended........49871
377.215 (c)(2) and (3)(iii) amended 49871
378 Authority citation revised........49871
379 Authority citation revised........49871
379 Appendix A amended 49871
381 Nonmenclature change; authority citation revised 49872
381.200 (d)(3) amended........49872
381.210 (c)(4) amended........49872
383 Authority citation revised........49872
383.5 Amended 49872
383.53 (b)(1) and (2) amended........49872
383.72 Revised 49872
383.73 (a)(3)(iii) introductory text amended; (a)(4) revised........49872
383.75 (a)(2)(i) amended........49872
384 Nonmenclature change; authority citation revised 49872
384.303 Removed........49872
384.305 (a) amended........49872
385 Nomenclature change 49873
385.19 (b) amended; (c) revised........49872
385 Appendix B amended........49873
386.37 Amended........49872
386.54 (b) introductory text revised........49872
387.301—387.323 (Subpart C) Authority citation removed........49872
387.401—387.419 (Subpart D) Authority citation removed 49872
387 Nomenclature change........49873
387.7 (d)(3) amended........49873
387.15 Illustrations I and II amended........49873
387.17 Amended........49873
387.41 Amended........49873
387.301 (a)(1), (b) and (c) amended 49873
387.307 (c) amended........49873
387.311 (c) amended........49873
387.313 (a)(3) and (5) amended; cross reference removed........49873
387.321 Amended........49873
387.323 (c) introductory text revised........49873
388 Nomenclature change; authority citation revised 49873
388.1 Amended 49873
388.5 (a) amended........49873
389 Nomenclature change; authority citation revised 49873
390 Nomenclature change........49873
390.5 Amended 49873
390.16 Amended........49873
390.19 (a)(4) removed........49873
391 Nomenclature change........49874
391.31 (f) amended........49874
391.47 (c), (d)(1), (2) and (f) amended........49874
391.51 (b)(8) amended........49874
392 Authority citation revised........49874
392.2 Amended 49874
392.5 (d)(2) and (e) amended 49874
392.7 Amended 49874
393 Nomenclature change........49874
393.47 Amended........49874
393.75 (f) and (g) revised........67694
393.80 (b)(3) amended........49874
395 Nomenclature change; authority citation revised 49874
395.3 (a) introductory text amended 49874
395.13 (c)(2) amended........49874
396 Nomenclature change; authority citation revised 49874
397 Nomenclature change; authority citation revised 49874
397.71 Footnote 1 amended........49874
397.73 (b) amended 49874
397.75 (b)(1) amended........49874
397.101 (g) introductory text revised........49874
397.103 (c) and (d) revised........49874
397.205 (b)(1) amended........49875
397.213 (b)(1) amended........49875
398 Nomenclature changes; authority citation revised 49875
399 Authority citation revised........49875

350—399 (Subchapter B) Appendixes B, F and G amended 49875

Chapter V—National Highway Traffic Safety Administration, Department of Transportation (Parts 500—599)

544.5 (a) revised 53733
544 Appendices A and B revised 53733
  Appendix C revised 53734
571 Regulation at 66 FR 20199 withdrawn 64358
571.121 Amended 64158
571.208 Amended 65403
571.221 Amended 64366
571.305 Amended 60160
572.113 (b)(2), (3) and (4) revised 51882
572.140 (a)(1) introductory text, (2) and (b)(1) revised 64376
572.144 (b)(1) revised; (c)(7) added 64376
572.146 (a) and Figure P4 revised; (1)(2)(iv) added 64376

Chapter VI—Federal Transit Administration, Department of Transportation (Parts 600—699)

660 Temporary regulations 59173

Chapter X—Surface Transportation Board, Department of Transportation (Parts 1000—1399)

1201 Amended 56245
1244.3 Heading revised; (c) through (f) added 53735

Chapter XII—Transportation Security Administration, Department of Transportation (Part 1510)

Chapter XII Established; interim 67701

Proposed Rules:

107 63096
171 ....50147, 59220, 63096
172 63096
173 ....50147, 59220, 63096
174 ....50147, 59220
175 ....50147, 59220
176 ....50147, 59220
177 ....50147, 59220, 63096
178 ....50147, 59220, 63096
180 63096
209 51362
219 64000
234 51362
236 51362
390 53373
391 53373
392 53373
393 53373
395 53373
396 53373
567 65536
571 ...51629, 53376, 55623, 59549, 59769, 65536
573 ....64078, 64087, 65165
574 ....66190, 65536
575 ....56048, 65536
576 66190
577 ....64078, 64087
579 ....51907, 66190
587 51629

TITLE 50—WILDLIFE AND FISHERIES

Chapter I—United States Fish and Wildlife Service, Department of the Interior (Parts 1—199)

17.11 (h) table amended 50350, 51339, 59373, 63001, 63775, 66811
17.12 (h) table amended 51606
17.95 (b) amended 63776
18.30 Regulation at 66 FR 1907 confirmed; (a)(4)(iv) revised 50851
20.105 Table corrected 56780, 56781
100 Temporary regulations ...54931, 54934
  Emergency closures and adjustments 55092, 56610

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200—299)

222 Fishing restrictions 65658
223 Policy statement 55749
  Fishing restrictions 65658
223.206 (d)(7) added; interim 50354
  (d)(2)(ii)(A)(3) corrected 52362
  (d)(1) revised 67496
224 Policy statement 55749

CHANGES OCTOBER 1, 2001 THROUGH DECEMBER 31, 2001

TITLE 50 Chapter II—Con.

224.104 (d) added..............................67496
230 Quotas..............................52712, 64378

Chapter III—International Fishing and Related Activities (Parts 300—399)

300 Quotas..............................53735, 58073
  Fishing restrictions....................56038

Chapter VI—Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600—699)

600 Inseason adjustments......50851, 63199
  Temporary regulations................54721
  Technical correction...................55599
600.120 Revised..............................57886
600.125 Revised..............................57887
600.135 Revised..............................57887
600.150 Revised..............................57887
600.155 Revised..............................57887
600.205 Revised..............................57888
600.245 (a) removed; (b), (c) and (d) redesignated as (a), (b) and (c)..............................57888
622 Temporary regulations............54723, 57396, 58410, 60161
635 Quotas..............................53346, 57397
  Temporary regulations................54165
  Closure..............................63002
  Inseason adjustment..................64378
635.20 (e)(1) suspended (temporary)..............................67121
635.27 (b)(1)(i), (ii), (iv)(A) and (C) suspended; (b)(1)(iv)(D), (v) and (vi) added..............................67121
648 Suspension of surf clam minimum size limit..............................54723
  Temporary regulations.....55599, 56041, 58074
  Inseason adjustment..................56039
  Daily trip limit..............................56040
  Quotas...57398, 58073, 63002, 65660, 67122
  Fishery management measures; interim..............................65454
648.14 (a)(92) and (u)(1) revised........66357
648.123 (a)(1) revised........................66357
648.143 (a) revised............................66357
648.144 (a)(1)(i) and (b)(2) revised..............................66357
648.145 (d) revised............................66358
648.260—648.268 (Subpart M) Regulation at 66 FR 23184 eff. date extended..............................56781
660 Fishing restrictions........49875, 57687
  Inseason adjustments.......50851, 52062, 63199, 66811
  Reallocation..............................54166
  Temporary regulations................54721
  Technical correction...................55599
660.12 Amended; eff. to 6–8–02; interim..............................63632
660.35 (a)(7) suspended; (a)(10) added; eff. through 6–8–02; interim..............................63632
  (h) table amended; eff. to 7–29–02..............................59545, 59749, 63001
679 Temporary regulations............50576, 52713, 53736, 55128, 64380
  Reallocation..............................50858
  Table 14A correctly added...........55124
  Table 15 correctly revised...........55125
  Table 16 correctly added.............55126
  Table 18 correctly added.............55128
  Notification..............................64915
679.26 (b)(1)(vi) corrected................53122

Proposed Rules:

10..............................52282
17:...50383, 51362, 53573, 53756, 54808, 56265, 56508, 57526, 57560, 58706, 59550, 59769, 63349, 63654, 66384, 67165, 66868
20..............51919, 52077, 56266, 58707, 63665
21..............................52077, 56266, 63349, 63665
216..............................55909
222...50148, 53385, 53194, 57930, 64793, 65873
223............50148, 52567, 53194, 53195, 53385, 57930, 64793, 65676
224..............................64793, 65676
229..............................49896, 50160, 50390, 59394
600..............................53575, 54192, 59552, 59553
622..............................52370, 53579, 55910, 59221
635..............................57409, 66386
648............51000, 53575, 53769, 53770, 54498, 56052, 58097, 59404, 63012, 63666, 64392, 67166
660..............................51367
679............49908, 51001, 52090, 59225, 59228, 59771, 65028, 66390

2001

66 FR Page	
1–225	Jan. 2
227–703	3
705–1011	4
1013–1251	5
1253–1559	8
1561–1805	9
1807–2192	10
2193–2793	11
2795–3437	12
3439–3851	16
3853–4605	17
4607–5419	18
5421–6426	19
6427–7371	22
7373–7563	23
7565–7702	24
7703–7861	25
7863–8076	26
8077–8150	29
8151–8356	30
8357–8500	31
8501–8741	Feb. 1
8743–8884	2
8885–9026	5
9027–9185	6
9187–9507	7
9509–9640	8
9641–9762	9
9763–9906	12
9907–10182	13
10183–10351	14
10353–10567	15
10569–10809	16
10811–10950	20
10951–11100	21
11101–11228	22
11229–11526	23
11527–12434	26
12435–12721	27
12723–12842	28
12843–12992	Mar. 1
12993–13225	2
13227–13387	5
13389–13644	6
13645–13838	7
13839–14070	8
14071–14298	9
14299–14477	12
14479–14823	13
14825–15013	14
15015–15815	15
15817–15343	16
15345–15618	19
15619–15783	20
15785–15989	21
15991–16101	22
16103–16382	23
16383–16591	26
16593–16837	27
16839–17072	28
17073–17320	29
17321–17478	30
17479–17619	Apr. 2
17621–17774	3
17775–18034	4
18035–18184	5
18185–18393	6
18395–18520	9
18521–18715	10
18717–18867	11
18869–19079	12
19081–19379	13
19381–19711	16
19713–19846	17
19847–20080	18
20081–20181	19
20183–20376	20
20377–20584	23
20585–20732	24
20733–20898	25
20899–21045	26
21047–21270	27
21271–21630	30
21631–21850	May 1
21851–22105	2
22107–22420	3
22421–22898	4
22899–23134	7
23135–23532	8
23533–23830	9
23831–24042	10
24043–24261	11
24263–26782	14
26783–27012	15
27013–27442	16
27443–27589	17
27591–27823	18
27825–28048	21
28049–28358	22
28359–28637	23
28639–28830	24
28831–29008	25
29009–29213	29
29215–29443	30
29445–29659	31
29661–29894	June 1
29895–30055	4
30057–30285	5
30287–30627	6
30629–30800	7
30801–31105	8
31107–31373	11
31375–31833	12
31835–32206	13
32207–32528	14
32529–32711	15
32713–32890	18

32891–33012	19
33013–33154	20
33155–33457	21
33459–33629	22
33631–33827	25
33829–34081	26
34083–34352	27
34353–34522	28
34523–34781	29
34783–35075	July 2
35077–35363	3
35365–35527	5
35529–35749	6
35751–35888	9
35889–36143	10
36145–36440	11
36441–36694	12
36695–36905	13
36907–37102	16
37103–37395	17
37397–37574	18
37575–37882	19
37883–38135	20
38137–38348	23
38349–38522	24
38523–38890	25
38891–39084	26
39085–39265	27
39267–39404	30
39405–39613	31
39615–40105	Aug. 1
40107–40572	2
40573–40838	3
40839–41128	6
41129–41438	7
41439–41754	8
41755–42104	9
42105–42412	10
42413–42586	13
42587–42727	14
42729–42927	15
42929–43064	16
43065–43459	17
43461–43760	20
43761–44024	21
44025–44289	22
44291–44520	23
44521–44944	24
44945–45150	27
45151–45561	28
45563–45747	29
45749–45919	30
45921–46210	31
46211–46363	Sept. 4
46365–64508	5
46509–46692	6
46693–46935	7
46937–47059	10
47061–47378	11
47379–47570	12
47571–47875	13
47877–47948	14
47949–48083	17
48085–48202	18
48203–48322	19
48323–48526	20
48527–48784	21
48785–48948	24
48949–49084	25
49085–49269	26
49271–49510	27
49511–49822	28
49823–50093	Oct. 1
50095–50285	2
50287–50524	3
50525–50807	4
50809–51289	5
51291–51553	9
51555–51817	10
51819–52013	11
51555–52306	12
52307–52481	15
52483–52656	16
52657–52848	17
52849–53071	18
53075–53328	19
53329–53501	22
53503–53710	23
53711–53941	24
53943–54096	25
54097–54409	26
54411–54640	29
54641–54908	30
54909–55066	31
55067–55554	Nov. 1
55555–55869	2
55871–56029	5
56031–56193	6
56195–56424	7
56425–56594	8
56595–56752	9
56753–56966	13
56967–57353	14
57355–57644	15
57645–57836	16
57837–58047	19
58049–58348	20
58349–58653	21
58655–58912	23
58913–59134	26
59135–59351	27
59353–59528	28
59529–59671	29
59673–59671	30
60139–62906	Dec. 3
62907–63147	4
63149–63306	5
63307–63486	6
63487–63620	7
63621–63903	10

63905–64093	11
64095–64347	12
64349–64734	13
64735–64907	14
64909–65090	17
65091–65421	18
65423–65595	19
65597–65810	20
65811–66291	21
66293–66704	26
66705–67067	27
65597–67476	28
67477–67702	31

END